

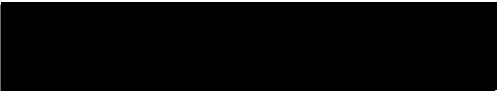
In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-one, the fourteenth 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 Fort D'Auvergne Hotel Limited in relation to Fort D'Auvergne Hotel, Havre des Pas, 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 (as amended)**

relating to the development of Fort d'Auvergne Hotel, Havre des Pas, St. Helier, JE2 4UL

Dated:

13th January

2021

The Chief Officer for the Environment (1)

Fort d'Auvergne Hotel Limited (2)

DATE

13th January

2021

PARTIES

- (1) The Chief Officer for the Environment of PO Box 55, La Motte Street, St Helier, Jersey JE4 SPE ("**the Chief Officer**"); and
- (2) Fort d'Auvergne Hotel Limited (Co Reg 3227), 57 Rouge Bouillon St Helier Jersey JE2 3UZ ("**the Owner**")

RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site.
- 2 An application (accorded the reference P/2020/0700) for planning permission for the Development has been submitted to the Chief Officer.
- 3 Having regard to the purposes of the Law the States of Jersey Island Plan 2011 (as amended from time to time) 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.
- 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 part of existing hotel to South elevation to create new residential accommodation and convert the remaining tourism accommodation to North elevation to create a total of 3 no. 1 bed and 22 no. 2 bed

		residential units with associated parking and amenity space. 3D Model available. AMENDED PLANS RECEIVED. Sections, Floor Plans and Elevations" and given the reference P/2020/0700;
"Bus Shelter Contribution"		a financial contribution of Eleven Thousand and Five Hundred and Fifty Pounds (£11,500) Sterling Index-Linked towards the provision a bus shelter in the environ of the Site
"Chief Officer"		the person appointed from time to time as the chief executive officer (or equivalent) of the administration of the States of Jersey 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;
"Cycle Network Contribution"		a financial contribution of Thirty One Thousand and Fifty Pounds (£31,050) Sterling Index-Linked towards the Eastern Cycle Route Network
"Development"		the development of the Site as set out in the Application;
"Eastern Cycle Route Network"		a commuter cycle route linking Gorey with St. Helier.
"GST"		goods and services tax or GST under the Goods and Services Tax (Jersey) Law 2007;

"Index"		the all items Retail Prices Index for Jersey as issued from time to time by the Statistics Unit to the States of Jersey;
"Index-Linked"		where any sum or contribution is expressed to be "Index-Linked" then that sum or contribution shall be adjusted in accordance with the provisions of clause 10 prior to payment;
"Interest"		interest at three per cent (3%) 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 annexed to this Agreement as part of the First Schedule;
"Planning Permit"		the planning permission for the Development, a copy of which is attached at the Second Schedule, and references to the Planning Permit include where the context permits any variations and amendments to the said planning permission from time to time;
"Royal Court"		the Royal Court of the Island of Jersey;
"Site"		Fort d'Auvergne Hotel, Havre des Pas, St. Helier, JE2 4UL as shown for identification purposes only edged by a red line and hatched in diagonal black lines on the Plan and as is more fully described in the First Schedule 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 and shall come into effect upon the grant of the Planning Permit.

5 OWNER'S 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 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 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, PO Box 55, La Motte Street, St Helier, Jersey JE4 8PE or such other address as is notified by the Chief Officer by notice in writing to the Owner for this purpose.
- 7.2 Any notices to be served on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to the Owner at 57 Rouge Bouillon St Helier Jersey JE2 3UZ or such other address as is notified by the Owner by notice in writing to the Chief Officer for this purpose.
- 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, cancelled, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified (other than by process of Article 10 of the Law) by any statutory procedure or expires prior to Commencement.
- 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 of the Island of Jersey (in its public 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 The Owner shall not be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein.

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

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 from acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

The Owner agrees with the Chief Officer to give the Chief Officer written notice (as soon as reasonably practicable following such change) of any change in ownership of any of their interest 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 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 the date on which this Agreement is registered in the Public Registry of Contracts until 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 (7) working days to the arbitration of an independent arbitrator under the provisions of the Arbitration (Jersey) Law 1998 such arbitrator to be named by the agreement of the parties to the dispute or in default of agreement by the President for the time being of the Royal Institution of Arbitrators upon the application of any party to the dispute.

13 GOODS AND SERVICES TAX

13.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable in respect thereof.

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

14 JURISDICTION

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

FIRST SCHEDULE

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

A certain property known as 'Fort d'Auvergne Hotel' and bearing the number 21 Havre des Pas comprising formerly the following properties; a certain house called 'Fort d'Auvergne' together with a small cottage to the east of the said house called 'Fort d'Auvergne Cottage' with land in front and garden to the rear and east of the said house; a certain house known as 'Mont Aubin' and bearing the number 19 Havre des Pas with land and garden to the front and rear; a certain house known as 'Stanley Lodge' and bearing the number 17 Havre des Pas with lands and gardens to the front and rear; a house bearing the number 15 Havre des Pas with land to the front and rear.

The whole joined together and forming one corpus fundi, acquired by Fort d'Auvergne Hotel Limited from David Cabeldu by contract of hereditary purchase dated 1st August 1986.

The whole situate in the Parish of St Helier, Vingtaine of Haut de la Ville.

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

FIRST SCHEDULE
Site Plan



Project Address
Havre des Pas
St Helier
Jersey

Mapping Copyright License Number: J51

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Waddington Architects, Interiors & Landscape own the copyright of this drawing and information.
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is not intended for use by any other person or for any other purpose. This drawing is protected by
copyright law and the statute of the Copyright, Designs & Patents Act 1988. All rights Reserved.
Any discrepancy between any drawings and/or documents must be notified to the architects,
prior to proceeding with the work. Work to figured dimensions only, do not scale from drawings.
All dimensions to be checked on site.

Date
13/02/2020
Drawn By
MR
Sheet Scale
1:2500 @ ISO A4

Client
Fort d'Auvergne Hotel Limited
Project Title
Fort d'Auvergne
Sheet Title
Location Plan
Status
Feasibility

Date
13/02/2020
No.
Revision Notes

WDDINGTON
people-centred design

Sheet No.
5521-WA-00-XX-DR-A-001A
Project No.
44(0)1534 765738
44(0)1534 280100
44(0)1534 625222

SECOND SCHEDULE

The Planning Permit

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0700

DRAFT PLANNING PERMISSION

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 part of existing hotel to South elevation to create new residential accommodation and convert the remaining tourism accommodation to North elevation to create a total of 3 no. 1 bed and 22 no. 2 bed residential units with associated parking and amenity space. 3D Model available. AMENDED PLANS RECEIVED. Sections, Floor Plans and Elevations.

To be carried out at:

Fort d'Auvergne Hotel, Havre des Pas, St. Helier, JE2 4UL.

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.

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0700

Condition(s):

1. Prior to their first use on site, samples of all external materials to be used (including 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.

2. Prior to commencement of the development hereby approved, a Demolition/Construction Environmental Management Plan shall be submitted to and approved by the Department of the Environment.

The Demolition/Construction Environmental Management Plan shall be thereafter implemented in full until the completion of the development and any variations agreed in writing by the Department prior to such work commencing. The Plan shall secure an implementation programme of mitigation measures to minimise the adverse effects of the proposal on the environment, and shall include but not be limited to:

A. A demonstration of compliance with best practice in controlling, monitoring, recording and reporting on any emissions to the environment (such as noise and vibration, air, land and water pollution);

B. Details of a publicised complaints procedure, including office hours and out-of-hours contact numbers;

C. Details of any proposed crushing/ sorting of waste material on site;

D. Specified hours of working;

E. *The proposed parking of vehicles of site personnel, operatives and visitors;* and

F. Details of the proposed loading and unloading of plant and materials and the subsequent storage thereof.

3. Waste management shall be implemented in full accordance with the approved Waste Management Strategy. Any variations shall be agreed to in writing by the Department of the Environment prior to the commencement of such work.

4. No part of the development hereby approved shall be occupied until the means of vehicular and pedestrian access as indicated on the approved plan drawing no. 011 Rev C has been wholly constructed in accordance with the approved plans and shall thereafter be retained as such.

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0700

The works shall include the provision of a continuous footway across the vehicular access, with the land shaded in red on the plan ceded to the public prior to first occupation of the development.

5. No part of the development hereby approved shall be occupied until the cycle parking and charging 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.

6. No part of the development hereby approved shall be occupied until the vehicular manoeuvring area and respective car parking spaces have been laid out, surfaced and drained as indicated on the approved plans. The car parking spaces shall thereafter be retained solely for the use of occupants of the development and shall not be sub-let for any other purpose.

7. No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to and approved in writing by the Department of the Environment. The submitted scheme shall include details of the proposed arrangements for the protection of the sewer connections during demolition and piling operations and precise details of the proposed separation of the foul and surface water to the public sewer. The approved scheme shall be implemented in full before the development is first brought into use and shall be retained and maintained as such.

8. Prior to first occupation of the development hereby approved, the crime reduction measures indicated in the submitted Crime Impact Statement shall be implemented.

9. 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 retained as such.

10. Before any development first commences on site (to include the erection of any scaffolding around the buildings in question), a revised roost inspection shall be undertaken by a competent ecologist and the results, together with required mitigation works shall be submitted to and approved by the Department. If any mitigation works are required, they shall be undertaken in accordance with the approved details prior to the development approved first being brought into use and thereafter retained as such.

11. Prior to the commencement of development on site, precise details of the proposed Percentage for Art scheme shall be submitted and approved in writing by the Department. The approved scheme shall be implemented in full prior to first occupation and thereafter retained as such.

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0700

12. Prior to commencement of development on site, a schedule of landscape maintenance for a minimum period of *five years* shall be submitted to and approved in writing by the Department of the Environment. The schedule shall include details of the arrangements for its implementation and ongoing maintenance. The maintenance shall be continued in accordance with the approved schedule unless otherwise agreed in writing by the Department.

Reason(s):

To promote good design and to safeguard the character and appearance of the surrounding area in accordance with Policies GD 1 and GD 7 of the Adopted Island Plan 2011 (Revised 2014).

To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policies GD 1, GD 6 and WM 1 of the Adopted Island Plan 2011 (Revised 2014).

To protect the amenities of the occupiers of neighbouring properties and the visual amenities of the surrounding area, in accordance with Policies GD 1 and WM 1 of the Adopted Island Plan 2011 (Revised 2014).

In the interests of promoting sustainable patterns of development, in accordance with Policies TT 9 and SP 6 of the Adopted Island Plan 2011 (Revised 2014).

In the interests of highway safety, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

To ensure that the development provides adequate provision for off-street parking and manoeuvring for users of the site, in the interests of highway safety and the general amenities of the area, in accordance with Policy GD 1 of the Adopted Island Plan 2011 (Revised 2014).

To ensure satisfactory drainage arrangements and to avoid flooding in accordance with the requirements of Policies LWM 2 and LWM 3 of the Adopted Island Plan 2011 (Revised 2014).

To ensure the provision of satisfactory crime reduction measures in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011 (Revised 2014) and Supplementary Planning Guidance Note No. 18 – Crime Impact Statements dated March 2012.

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 GD 1, GD 7, NE 1, NE 2 and NE 4 of the Adopted Island Plan 2011 (Revised 2014).

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0700

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).

To ensure provision of a Percentage for Art scheme as required by Policy GD 8 of the Adopted Island Plan 2011 (Revised 2014).

To safeguard the character and appearance of the area in accordance with Policies GD1, 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 plans have been approved:

Report On Structural Condition
34C North Elevation
018A North Elevation
5521 Site Waste Management Plan
08A Ground Floor Demo Plan
Crime Impact Statement
011C Proposed Ground Floor Plan
Transport Statement
017B East Elevation
016B South Elevation
020B North Elevation South Wing
Proposed Landscape Sections
009A 1st Floor Demo Plan
013B Proposed Second Floor Plan
010A 2nd Floor Demo Plan
Location Plan
701E Proposed Plan-Landscape Context
Site Plan
Design Statement
704E Proposed Landscape Sections 2
Heritage Assessment
012B Proposed First Floor Plan
Amended Ecology Report
014B Proposed Third Floor Plan
021C Sections
019B Courtyard Elevations & Sections
702E Proposed Landscape-Ground Floor Plan
015B Proposed Fourth Floor Plan
153A – Proposed South Elevation for 15 Havre des Pas

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0700



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

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

APPROVED

THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner in regard to the Site covenants, agrees and undertakes with the Chief Officer:

COMMENCEMENT

- 1 Not to Commence the Development until the Owner has given to the Chief Officer not less than twenty-eight (28) days' notice in writing of its intention so to do.

CONTRIBUTIONS

- 2 To pay to the Treasurer of the States the Bus Shelter Contribution prior to the Commencement of the Development.
- 3 Not to Commence the Development until the Bus Shelter Contribution shall have been paid to the Treasurer of the States.
- 4 To pay to the Treasurer of the States the Cycle Network Contribution prior to the Commencement of the Development.
- 5 Not to Commence the Development until the Cycle Network Contribution shall have been paid to the Treasurer of the States.

FOURTH SCHEDULE

Chief Officer's Covenants

Repayment of contributions

- 1 The Chief Officer hereby covenants with the Owner to use or procure the use of 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 or for such other planning purposes arising from the Development as the Chief Officer shall in his discretion consider to be reasonably appropriate in the circumstances.
- 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 (5) years of the date of receipt by the Treasurer of the States of such payment.

Signed on behalf of the Chief Officer

by

PETER LE GRESLEY

in the presence of

CHRISTOPHER JONES.

this 13th day of January 2021

Signed on behalf of Fort d'Auvergne Limited

by

(PAUL MORVAN, DIRECTOR)

in the presence of

(ADRIAN T. GORDON)

this 13th day of JANUARY 2021