In the Royal Court of Jersey

Samedi Division

In the year two thousand and seventeen, the sixth 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 (i) The Chief Officer for the Environment, (ii) Dandara (Roseville) Limited and (iii) HSBC Bank PLC, in relation to 1-4, Hastings Terrace, Hastings Road, 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 1-4 Hastings Terrace, Hastings Road, St Helier

Dated

6 MARCH

2017

The Chief Officer for the Environment(1)

Dandara (Roseville) Limited (2)

HSBC Bank plc (3)

P&B SERVICES

- 3 MAR 2017

HECEIVED

6 MARCH DATE

2017

PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("the Chief Officer")
- Dandara (Roseville) Limited of 13-14 Esplanade, St (2)Helier, Jersey JE1 1EE ("the Owner")
- HSBC Bank ple acting through its office at 2nd Floor, 4 (3)Hardman Square, Spinningfields, Manchester, M3 3EB ("the Lender")

RECITALS

Table 1387 Page 74

- The Owner warrants that it is the owner in perpetuity (à fin d'héritage) of the Site to which it has title as set out in the First Schedule.
- The Lender has an interest in the Site by virtue of a judicial hypothec £) registered in favour of the Lender against the Site dated 18 December 2015.
- With the agreement of the Owner, the Planning Application has 3 been submitted by Dandara Jersey Limited.
- Having regard to the purpose of the Law the Island Plan 2011 and all 4 other material considerations planning permission is to be granted for the Development subject to the completion of this Agreement that provision should be made for regulating or facilitating the development or use of the Site in the manner hereinafter appearing and without such planning permission would not be so granted.
- The parties hereto have agreed to enter into this Agreement in order 5 to secure the planning obligations contained herein.
- The parties acknowledge that this Agreement is legally binding. 6
- This Agreement shall be construed so as to give effect to the purpose 7 and intention of the Law.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS: OPERATIVE PART

DEFINITIONS

Table 1387 Page 75

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

"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 (but not including any enabling, exploratory or investigative works, nor asbestos removal or demolition works) 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.
"Cycleway Contribution"	the sum of twenty-two thousand pounds (£22,000) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure for the purposes of the Eastern Cycle Network.
"Development"	the development of the Site in accordance with the Planning Permit.
"Dwelling Unit"	a residential unit forming part of the Development to be constructed pursuant to the Planning Permit.
"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.
"Law"	the Planning and Building (Jersey) Law 2002.
-	
"Minister for Infrastructure"	the Minister for Infrastructure, including his or her successor and any person or body to whom the functions of the Minister for Infrastructure may be transferred hereafter or lawfully delegated from time to time
"Occupation" "Occupy" and "Occupied"	means occupation for the purposes permitted by the Planning Permit but not including occupation by personnel engaged in 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.
6673	
"Planning Application"	the application for planning permission in respect of the Site and described as "Demolish existing dwellings and construct 16 No. two bed and 6 No. one bed apartments" and given the reference P/2016/1824.

"Planning Permit"	the planning permission for the Development as applied for and described in the Planning Application (P/2016/1824) a copy of which is attached in the Third Schedule.
"Roadside Works"	the works to be carried out pursuant to the Roadside Works Specification, and as referred to on the Roadside Works Plan, comprising footpath widening, marking out of public parking spaces, reinstatement of dropped kerbs, retention of granite kerbs, resurfacing of the public footpath and any necessary public pay signage.
"Roadside Works Plan"	the plan contained at the Sixth Schedule.
"Roadside Works Specification"	such specification for the Roadside Works as is agreed by the Owner with the Minister for Infrastructure (each acting reasonably)
"Royal Court"	the Royal Court of the Island of Jersey.
"Site"	1-4 Hastings Terrace, St Helier, Jersey JE2 4PH identified by thick black edging and hatched black on the Plan (and 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 and the Minister for Infrastructure the successors to their respective 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 EFFECTIVE DATE

This Agreement shall come into effect immediately upon the date which this Agreement has been recorded as registered in the Royal Court as evidenced by an Act of the said Court.

5 OWNER'S 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 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 at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice 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 such party at the address referred to above or as otherwise notified for the purpose by notice in writing or by electronic mail (or other similar form of computer or electronic communication system in use) to any address which the Owner may notify to the Chief Officer. A notice given by email shall be deemed to have been given at the time it is sent (and an automated confirmation of the message having being successfully sent to the addressee's email address shall be conclusive evidence that the notice was given).
- 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 under Article 10 of the Law) 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 Owners in favour of the Chief Officer under this Agreement are in addition to any of the Chief Officer's 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 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 (including, where permitted by this Agreement, email).

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 practical following such change) of any change in ownership of any of its interest in the Site occurring before all the obligations under this Agreement have been discharged but this obligation shall not extend to the disposal by the Owner of each Dwelling Unit to a purchaser for his own or his family or his tenant's Occupation.

10 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 paid.

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 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 not otherwise have any 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.

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

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

The houses with dependant gardens and land bearing the numbers 1, 2, 3 and 4 "Hastings Terrace", with the party ownership of the wall of the East towards the property bearing the number 5 "Hastings Terrace" ("5 Hastings Terrace") and the ownership of the walls of the South towards the public road called "Hastings Road" JOINING by the West, by the North and partly by the East to the property also owned by the Owner generally known as the "Hotel Metropole" site, by the remainder of the East to 5 Hastings Terrace belonging to "Hastings Holdings Limited" (having right by contract dated 28th February 1992 of hereditary gift cession and transfer from "Hastings Property and Investment Trust Limited") and bordering by the South onto Hastings Road.

The whole situate in the Parish of in the Parish of St Helier, Vingtaine of Haut de la Ville, and being part of the property to which the Owner has right by contract dated 18th December 2015 of hereditary purchase from Hotel Metropole (Jersey) Limited.

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

SECOND SCHEDULE

The Plan

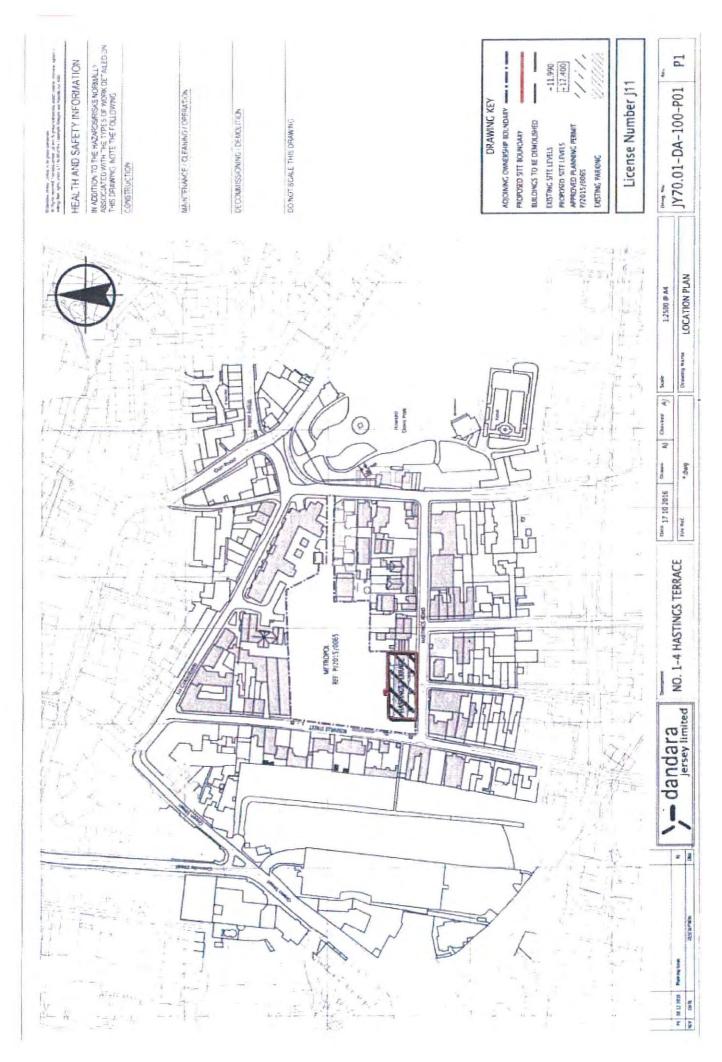


Table 1387 Page 85

THIRD SCHEDULE

The Planning Permit

Department of the Environment
Planning and Building Services

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

Tel: +44 (0)1534 445508

Dandara Jersey Limite



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

Planning Application Number P/2016/1824

Dear Sir

Application Address: 1 - 4, Hastings Terrace, Hastings Road, St. Helier.

Description of Work: Demolish existing dwellings and construct 16 No. two bed

and 6 No. one bed apartments.

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

Planning Application Number P/2016/1824

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: Demolish existing dwellings and construct 16 No. two bed and 6 No. one bed apartments.

To be carried out at:

1 - 4. Hastings Terrace, Hastings Road, St. Helier.

accordance with the details approved.

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.

This permission is granted subject to compliance with the following conditions and approved plan(s):

- A. The development shall commence within five 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

Condition(s):

- 1. 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.
- 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.
- 3. 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. <any other specific issues raised through the consultation process>.
- 4. Prior to commencement of the development hereby approved, a scheme of landscaping shall be submitted to and approved in writing by the Department of the Environment. The scheme of landscaping shall provide details of the following;
- i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site;
- ii) 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:
- iii) other landscape treatments to be carried out including any excavation works, surfacing treatments, or means of enclosure;
- iv) the measures to be taken to protect existing trees and shrubs;
- v) the presence of any invasive plant species on site, and if present, a detailed method statement for the removal and long-term management/ eradication of the species; and,
- vi) A landscape management plan for the maintenance of the landscaped areas.
- Once agreed, the approved scheme shall be implemented in full and thereafter retained and maintained as such.
- 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.

Reason(s):

- To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 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 GD1 and WM1 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 GD1, GD6 and WM1 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).
- 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).

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:

Percentage for Art Statement

Demolition and Construction Environmental Management Plan

Initial Ecological Assessment

Crime Impact Statement

Site Waste Management Plan

Planning Statement

Design and Access Statement

Technical Note: Drainage Strategy Philosophy

Sustainability Report

Location Plan

Drainage Strategy Layout E4579/400B

Existing Site Plan & Photos 100.P02 P1

Existing Lower Ground & First Floor Plans 100.P03 P1

Existing Second & Third Floor Plans 100.P04 P1

Existing Roof Plan 100.P05 P1

Existing North & South Elevations 100.E01 P1

Existing Photographs & Section 1 100.S01 P1

Proposed Site Plan 203.P01 P1

Proposed Level 0 203.P02 P1

Proposed Level 1 203.P03 P1

Proposed Level 2 203.P04 P1

Proposed Level 3 203.P05 P1

Proposed Roof Plan 203.P06 P1

Proposed Layout for Typical 1 & 2 Bed Units 203.P07 P1
Proposed South Elevation 203.E01 P1
Proposed North, East & West Elevations 203.E02 P1
Proposed Section A-A 203.S01 P1
Proposed Section B-B 203.S02 P1
Proposed Landscape Plan 900 P1

DECISION DATE:

The development <u>may</u> 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.

FOURTH SCHEDULE The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

COMMENCEMENT

Not to Commence (there being disregarded for the purposes of this paragraph 1 only the words "(but not including any enabling, exploratory or investigative works, nor asbestos removal or demolition works)" in the definition of Commencement) the Development until this Agreement has been registered in the Public Registry of Contracts and the Owner has given to the Chief Officer not less than seven (7) days' notice in writing of its intention so to do.

CYCLEWAY CONTRIBUTION

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

ROADSIDE WORKS

- At the Owner's expense to carry out or cause to be carried out the Roadside Works the whole in accordance with the approved Roadside Works Specification.
- To ensure that the Roadside Works are carried out and completed no later than the date upon which any part of the Development is first Occupied.
- Not to Occupy the Development until such time as the Roadside Works have been carried out and completed to the reasonable satisfaction of the Minister for Infrastructure.

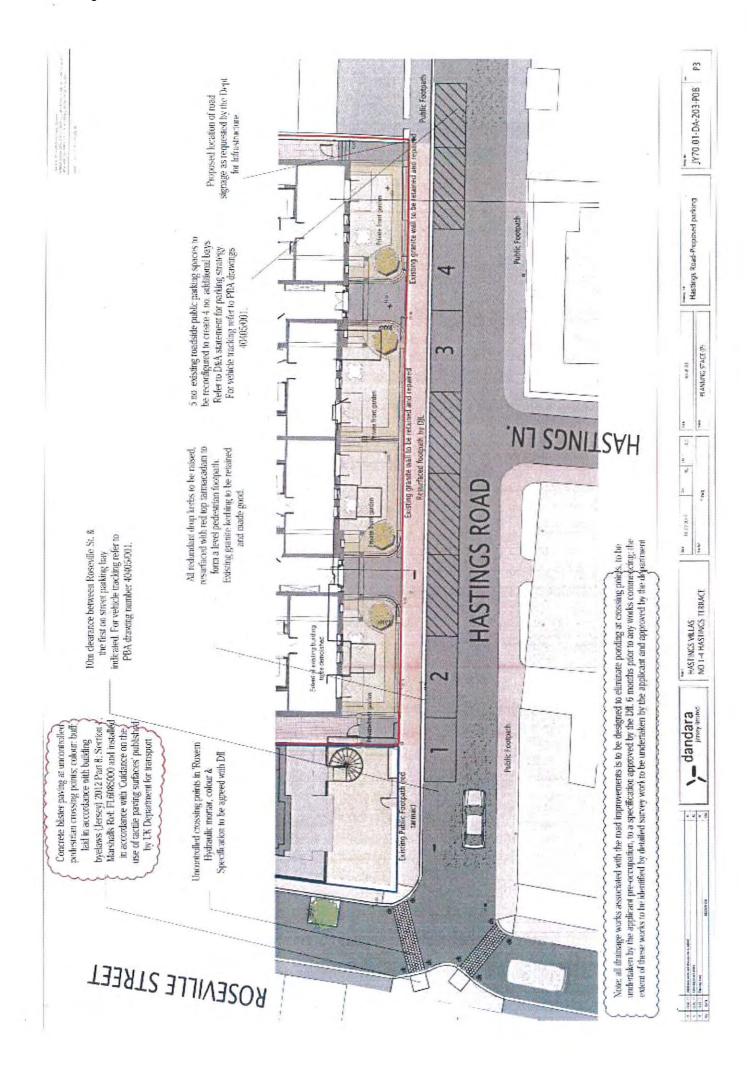
FIFTH SCHEDULE

Chief Officer's Covenants

- 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.
- 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.

SIXTH SCHEDULE

Roadside Works Plan



Signed on L. L. C. L. Chi. C. C. C.
by
in the presence of .
this 3rd day of March, 2017
Signed on behalf of Dandara (Roseville) Limited
by MAMA CLANG.
in the presence of
this 02 nd day of March 2017
Signed on behalf of HSBC Bank plc
K. Morshall as Attorney
in the presence ofPartner
this 1st day of March 2017 44 Esplanade St Heller, Jersey Channel Islands

JE4 9WG