

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty, the ninth day of July.

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 Hillwest Association in relation to 17 Hilary Street and 4&6 Wesley 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**

This Planning Obligation Agreement relates to the development of 17 Hilary Street and 4&6 Wesley Street, St Helier.

Dated :

8th July 2020

The Chief Officer for the Environment (1)
Hillwest Association (2)

DATE

8th July .

2020

PARTIES

- (1) The Chief Officer for the Environment of States Offices, La Motte Street, St Helier, Jersey ("the Chief Officer")
- (2) Hillwest Association ("the Owner") represented by the Association Representative Mr John Fraser Garrey Quemard ("the Association Representative")

RECITALS

- 1 The Owner warrants and confirms that it is the owner in perpetuity (à fin d'héritage) of the Property by virtue of the Declaration of Co-Ownership of the Hillwest Association that was registered and established on 20 March 2020.
- 2 With the agreement of the Association Representative De Montford Developments Limited ("the Developer") has submitted an application (accorded the reference P/2019/1661) for planning permission for the Development on behalf of the Owner.
- 3 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations planning permission is to be granted for the Development subject to the prior completion of this Agreement to secure the obligations contained therein.
- 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 submitted to the Chief Officer by the Developer for the Development and allocated reference number P/2019/1661;
"Chief Officer"		the person appointed from time to time as the chief executive officer (or equivalent) of the administration of the States department 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;
"Development"		the change of use of the first, second and third floor offices to form four No. one bed and six No. two bed Dwelling Units with associated existing parking and to make alterations to create a roof terrace and to extend the bin store at the Site, as set out in the Application;
"Dwelling Unit"		a residential unit forming part of the Development pursuant to the Planning Permit;
"GST"		goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
"Interest"		interest at three per cent above the base lending rate of the Bank of England from time to time;
"Island Plan 2011"		the States of Jersey Island Plan, 2011 (as amended from time to time);
"Law"		the Planning and Building (Jersey) Law 2002;

"Occupation" "Occupy" and "Occupied"		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;
"Pedestrian Footway Contributions"		a financial contribution totalling thirteen thousand five hundred pounds (£13,500) sterling to be provided to the Treasurer of the States to be used towards footpath improvements in or around Hilary Street;
"Planning Permit"		the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached in the Third Schedule;
"Public"		the Public of the Island of Jersey;
"Royal Court"		the Royal Court of the Island of Jersey;
"Site"		17 Hilary Street and 4&6 Wesley Street, St Helier shown for the purpose of identification by a thick black edging and hatched black line on the Plan upon which the Development is to be carried out;

2 CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.

- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to a law of the States of Jersey shall include any modification, extension or re-enactment of that law for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that law or deriving validity from it.
- 2.6 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Chief Officer the successors to his statutory functions.
- 2.7 This Agreement shall be construed so as to give effect to the purpose of the Law.

3 LEGAL BASIS

- 3.1 This Agreement is made pursuant to Article 25 of the Law.
- 3.2 The covenants, restrictions and requirements imposed upon the Owners 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

- 4.1 This Agreement is conditional upon:
- 4.1.1 the grant of the Planning Permit; and
- 4.1.2 the Commencement of the Development;

save for any relevant provision which shall come into effect immediately upon the date on which this Agreement has been recorded as registered in the Royal Court as evidenced by an Act of the said Court.

5 OWNER COVENANTS

The Owner covenants and agrees with the Chief Officer as set out in the 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'S COVENANTS

The Chief Officer covenants and agrees with the Owner as set out in the Fourth Schedule so that this Agreement shall be enforceable without limit of time against the Chief Officer.

7 PUBLIC REGISTRY OF CONTRACTS

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

8 MISCELLANEOUS

- 8.1 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Chief Officer under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction may be given on behalf of the Chief Officer by the Director - Development Control of Planning and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Director - Development Control at Customer and Local Services, PO Box 55, La Motte Street, St Helier, Jersey JE4 8PE 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 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.

- 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 any of its interest in the Site occurring before all the obligations under this Agreement have been discharged.

11 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

12 GOODS AND SERVICES TAX

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

- 12.2 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

13 JURISDICTION


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

FIRST SCHEDULE

The Plan



0510203040

 Meters

Scale 1:2,500

Copyright States of Jersey 2019



17 HILARY STREET
ST. HELIER

Vingtaine : de Haut de la Ville
Type : Base Property Unit
UPRN : 69003003

SECOND SCHEDULE

The Planning Permit

THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

COMMENCEMENT

- 1 To procure that the Developer does not Commence the Development until the Chief Officer has been given fourteen (14) days' notice in writing of its intention so to do.

PEDESTRIAN FOOTWAY CONTRIBUTIONS

- 2 To procure that the Developer shall pay to the Treasurer of the States the Pedestrian Footway Contributions prior to the Commencement.
- 3 Not to Commence the Development until such time as the Pedestrian Footway Contributions has been paid to the Treasure of the States.

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/1661

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:

Change of use of first, second and third floor offices to form 4 Nos. one bed and 6 No. two bed residential units with associated existing parking. Alterations to create roof terrace and extend bin store.

To be carried out at:

17 Hilary Street and, 4 & 6 Wesley Street, St. Helier.

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 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):

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/1661

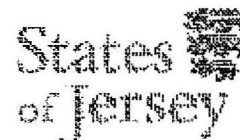
1. No part of the development hereby approved shall be occupied until the respective car parking and motorbike spaces have been laid out, surfaced and drained as indicated on the approved plans. The car parking spaces shall thereafter be retained solely for the use of occupants of the development and shall not be sub-let for any other purpose.
2. No part of the development hereby approved shall be occupied until the electric car and bicycle charging facilities 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.
3. No part of the development hereby approved shall be occupied until the cycle parking facilities have been constructed as indicated on the approved plan. The proposed vertical bicycle storage arrangement shall comprise 'Cycloc Endo' units (or similar to be agreed by the Planning GHE Department prior to their installation). The cycle units (which shall be installed in such a way to allow a bicycle wheel to retain contact with the floor for ease of use) shall thereafter be retained solely for the use of occupants of the development and maintained as such.
4. No part of the development hereby approved shall be occupied until literature/advertising in the building showing details of car clubs close to the application site has been produced to be provided for (future) residents. These details shall thereafter be retained and amended as necessary for the use of occupants of the development and maintained as such.
5. A Percentage for Art contribution must be delivered in accordance with the submitted Public Art Statement and the final detail of the public art proposal shall be submitted to and approved by the Planning GHE Department. The approved work of art must be installed prior to the first occupation of any part of the development hereby approved.

Reason(s):

1. To ensure that the development provides adequate provision for off-street parking for users of the site, in the interests of highway safety and the general amenities of the area, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
2. In the interests of promoting sustainable patterns of development, in accordance with Policies TT9 and SP6 of the Adopted Island Plan 2011 (Revised 2014).
3. In the interests of promoting sustainable patterns of development, in accordance with Policies TT9 and SP6 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

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/1661

(Revised 2014).

5. To accord with the provisions of Policy GD8 of the Jersey Island Plan 2011 (Revised 2014).

FOR YOUR INFORMATION

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

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

Location Plan

2699_PL06_Proposed Site Plan.pdf

2699_PL07_Rev B Proposed Ground & First Floor Plan.pdf

2699_PL08_Proposed Second & Third Floor Plan.pdf

2699_PL10_Proposed Sections AA, BB & CC.pdf

2699_PL9_Proposed East & West Elevations.pdf

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

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

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 or Developer 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 Developer such amount of any payment made to the Treasurer of the States under this Agreement which has not been expended in accordance with the provisions of this Agreement within five years of the date of receipt by the Treasurer of the States of such payment.

Signed on behalf of the Chief Officer

by

PETER LE GRESLEY

in the presence of

CHRISTOPHER JONES.

this

8th day of July . 2020

Signed by the Association Representative on behalf of Hillwest Association

In the presence of

this

7th day of July 2020