

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-two, the first day of August.

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 El Sol (Channel Islands) Limited in relation to Jacksons, La Rue Fondon, 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 Jacksons La Rue Fondon, St. Peter
JE3 7BF

Dated 1st August
~~July~~ 2022

(1) The Chief Officer for the Environment

And

(2) El Sol (Channel Islands) Limited

DATE

1st August
~~July~~ 2022

PARTIES

- (1) The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**");
- (2) El Sol (Channel Islands) Limited a company incorporated in Jersey with registered number 10199 whose registered office is at Jackson House, La Rue Fondon, St Peter, Jersey, JE3 7BF ("**the Owner**");
- (3)

RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site to which it has right pursuant to a hereditary purchase contract dated 19th December 2014 from Lapwing Investments Limited.
- 2 The Jacksons (C.I.) Limited submitted an application (accorded the reference P/2021/1424) 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 on 24 January instructed that planning permission is to be granted for the Development subject first to the prior completion of this Agreement.
- 4 On 25 March 2022 the elected members of the States of Jersey approved, in accordance with Article 3(1) of the Planning and Building (Jersey) Law 2002, as amended by the Covid-19 (Island Plan) (Jersey) Regulations 2021, the Island Plan 2022-25, the draft for which had been lodged *au greffe* on 19 April 2021.
- 5 The Chief Officer is satisfied that in all of the circumstances, and subject to the prior completion of this Agreement, that a decision notice can be issued.

- 6 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 7 The parties acknowledge that this Agreement is legally binding.
- 8 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 "Construct first floor car storage deck and ramp to South of existing car showroom." and given the reference P/2021/1424;
"Chief Officer"	the person appointed from time to time as the chief executive officer (or equivalent) of the administration of the Government 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 Contribution"	the sum of five thousand pounds (£5,000) to be paid by the Owner to the Treasurer of the States by cheque or as otherwise agreed between the

	parties and which shall be applied by the Minister for Infrastructure towards the construction/development of a bus shelter in the vicinity of the Site;
"Development"	the development of the Site as set out in 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 Government 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);
"Island Plan 2022"	The States of Jersey Island Plan, 2022 (as amended from time to time);
"Law"	the Planning and Building (Jersey) Law 2002, as amended;
"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;
"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, in or substantially in the form of the draft 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"	the site known as Jacksons La Rue Fondon, St. Peter JE3 7BF as shown edged by a 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 Government 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 upon:

- (i) the grant of the Planning Permit; and
- (ii) the Commencement of Development

save for the provisions of Clauses 10, 11 and 13 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'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 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 at Growth Housing Environment – Regulation PO Box 228, St Helier Jersey JE4 9SS 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 addresses 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.
- 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 Neither the Owner shall 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 the date on which this Agreement is registered in the Public Registry of Contracts until 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.

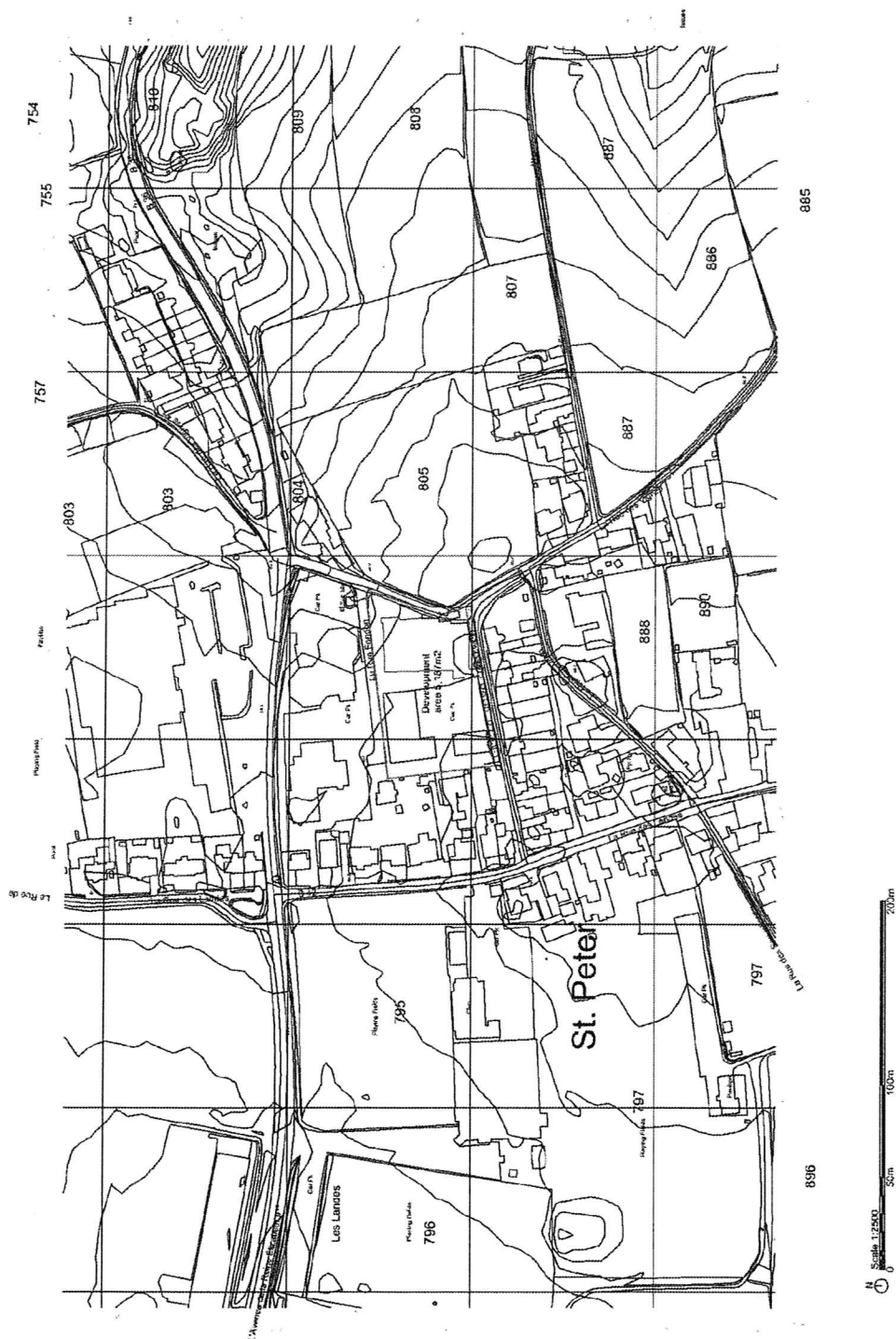
15 JURISDICTION

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

FIRST SCHEDULE
The Plan

The Contractor is to erect and verify all building and site dimensions, levels, masses, etc. in accordance with the approved drawings and specifications. Any discrepancy is to be notified to HOD & Architects. **DO NOT SCALE FROM THE DRAWING.** This may lead to any building works required are the copyright of HOD & Architects and may not be reproduced or amended without written permission. The levels, walling, foundations, etc. are to be checked closely by other persons.

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A	8/21/1949	246	None	246



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**JACKSONS JERSEY
NEW CAR STORAGE DECK**

TRAINING SITE LOCATION PLAN

DATE	1/12/2020	DESCRIPTION	DS
DATE	19-08-2021	ORGAN	DN
DATE	M1258.CD.A.0.01	REVISION	A

PLANNING

SECOND SCHEDULE
The Draft Planning Permit

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1424

In accordance with Article 19(8) of the Planning and Building (Jersey) Law 2002, if representations were made in connection with this application, this decision shall not have effect during the period of 28 days immediately after the decision date.

This permission enures (unless otherwise stated) for the benefit of the land to which it relates and of each person for the time being having an estate or interest in that land.

This decision does not absolve the parties concerned from obtaining, nor does it overrule, any other permission that may be required under any other law. In addition, it does not overrule any private property rights, nor does it absolve the need to obtain the permission of the owner of the land to which this permission relates.

This is notification of the decision to **GRANT** permission to develop land under Article 19 of the Planning and Building (Jersey) Law 2002;

In respect of the following development:

Construct first floor car storage deck and ramp to South of existing car showroom.

To be carried out at:

Jacksons CI Ltd, La Rue Fondon, St. Peter, JE3 7BF.

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 representation received.

Notably, the proposed first floor car deck has been specifically considered in relation to the visual impact on the area and increase in traffic generation. Based on submissions and consultation responses it is considered that the proposal will not result in serious harm to the character to the area.

This application is the subject of a Planning Obligation Agreement.

This permission is granted subject to compliance with the following conditions and approved plans:

- 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.

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1424

- 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.

Additional Conditions:

1. No part of the development hereby approved shall be commence until the additional planting to the Southern boundary as indicated on the approved plan have been carried out in full and shall be thereafter maintained as such.
2. Prior to commencement of the development hereby approved, a schedule of maintenance of the green wall to the South of the first deck for a minimum period of 5 years shall been 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.

Reasons:

1. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of the site in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
2. To safeguard the amenities of the occupants of the adjoining properties in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

Informative:

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should follow the provisions of the Drainage (Jersey) Law 2005. Further advice can be obtained from Transport and Technical Services - Maintenance Works on +44 (0) 1534 445509.

FOR YOUR INFORMATION

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

The following plans have been approved:

M1258.A.0.01A Site Location Plan
M1258.A.1.01B Proposed Site Plan
M1258.A.1.02B Proposed Ground Floor Plan
M1258.A.1.03B Proposed First Floor Plan
M1258.A.1.04B Proposed Roof Plan
M1258.A.5.03B Proposed Elevations
Green Wall Brochure

APPROVED

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

CAUTION

This decision is purely permissive and in no way absolves 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 an applicant from the need to obtain the permission of the owner of the land to which a permission relates.

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THIRD SCHEDULE
The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

CONTRIBUTION

- 1 That the Owner shall pay the Bus Shelter Contribution to the Treasurer of the States prior to the commencement of the Development.
- 2 Not to commence the Development until such time as the Bus Shelter Contribution has been paid to the Treasurer of the States.

FOURTH SCHEDULE

Chief Officer's covenants

1. The Chief Officer covenants with the the Owner to, at the written request of the Owner from time to time, provide written confirmation of the discharge of the obligations contained in this Agreement when and to the extent that the Chief Officer is satisfied that such obligations have been performed.
2. 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.
3. 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 years of the date of receipt by the Treasurer of the States of such payment.

Signed on behalf of the Chief Officer:

.....
[Redacted Signature]

Name and Position: *PETER LE GREGORY*
HEAD OF DEVELOPMENT & LAND

in the presence of

.....
[Redacted Signature]

Name and Position: *GEMMA VASSELIN* *PLANNER*

this *1st* day of *August* 2022

Signed on behalf of the Owner

.....
[Redacted Signature]

Name and Position: *STEVE GARDIN* *DIRECTOR*

in the presence of

.....
[Redacted Signature] Advocate C D Philpott

Name and Position: *Chris Philpott* *Advocate*

this *26th* day of *July* 2022