

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-one, the twenty-second 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, LV St Josephs Limited, Oaknorth Bank PLC and RS Fund II, LP in relation to Jeanne Jugan Residence, St Johns 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 The Jeanne Jugan Residence and Apartments, St John's Road, St Helier, Jersey

Dated *20th January* 2020

The Chief Officer for the Environment (1)

LV St Josephs Limited (2)

Oaknorth Bank Plc (3)

RS Fund II, LP (acting by its general partner RS Fund II GP, Limited) (4)

DATE

20th January

2020

PARTIES

1. The Chief Officer for the Environment of PO Box 228, St Helier, Jersey JE4 9SS ("**the Chief Officer**");
2. LV St Josephs Limited of 2nd Floor Charles House, Charles Street, St Helier, Jersey, JE2 4SF ("**the Owner**");
3. Oaknorth Bank Plc of 3rd Floor, 57, Broadwick Street, Soho, London, England, W1F 9QS (the "**First Lender**"); and
4. RS Fund II, LP (acting by its general partner RS Fund II GP, Limited) of 11-15 Seaton Place St Helier Jersey JE4 0QH (the "**Second Lender**").

RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site by hereditary gift, cession and transfer by contract dated 5th December 1986 from Sarah Jane Quinn.
- 2 The First Lender has an interest in the Site by virtue of a judicial hypothec (hypothèque judiciaire) dated 20th December 2019.
- 3 The Second Lender has an interest in the Site by virtue of a judicial hypothec (hypothèque judiciaire) dated 20th December 2019.
- 4 The Owner submitted the Application for planning permission for the Development.
- 5 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.
- 6 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 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 "Various internal alterations to Lower Ground, Ground and First floors to create 34 No. new residential care bedrooms. Install canopy and various alterations to parking and landscaping to North elevation. Construct two storey extension to South elevation. Alteration to vehicle access onto St John's road. Install air-conditioning plant to roof" and given the reference P/2020/0429;
"Bus Shelter Contribution"	the sum of eleven thousand five hundred pounds (£11,500) to be paid by the Owner to the Treasurer of the States to be applied by the Minister of Infrastructure for a bus shelter at "Abbotsmount" to be constructed for bus users;
"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 constructions works forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out to exclude, for the avoidance of doubt, any investigation of the Sites, any clearance of the Sites, removal of any asbestos from the Sites and any demolition on the Sites and "Commence" and "Commenced" shall be construed accordingly;
"Development"	the development of the Site as set out in the Planning Permit;

"Footpath Contribution"	the sum of ten thousand pounds (£10,000) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure for the purposes of increasing the width of the footpath for the bus shelter at "Abbotsmount";
"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 Barclays 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;
"Minister of Infrastructure"	The Minister for Infrastructure including his or her successor and any person or body to whom the functions of the Minister of Infrastructure may be transferred 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;
"Planning Permit"	the planning permission for the

	Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Second Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time;
"Public"	the Public of the Island of Jersey;
"Royal Court"	the Royal Court of the Island of Jersey; and
"Site"	The site comprising the property known as The Jeanne Jugan residence and Apartments, St John's Road, St Helier, the whole as shown for the purposes of identification only hatched in diagonal line on the plan forming the First Schedule.

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 upon:

- (i) the grant of the Planning Permit; and
- (ii) 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'S COVENANTS

The Owner covenants and agrees with the Chief Officer as set out in the Third Schedule. This Agreement shall be enforceable against any successor in title to 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 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, PO Box 208, St Helier, Jersey, JE4 9SS or as otherwise notified for the purpose by notice in writing.
- 8.2 Any notices served on the 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 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 in this Agreement shall be construed as obviating the need for the 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 the Owner as contained in this Agreement.
- 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 in this Agreement.
- 8.11 All communications and notices served or made under this Agreement shall be in writing.

9 WAIVER

No waiver (whether expressed or implied) by the Chief Officer of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Chief Officer from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

10 CHANGE IN OWNERSHIP

The Owner agrees with the Chief Officer to give the Chief Officer written notice (as soon as reasonably practical following such change) of any change in ownership of its interest in the Site occurring before all the obligations under this Agreement have been discharged.

11 INDEXATION

Any sum referred to in the Third Schedule shall be increased by an amount equivalent to the increase in the Index from (a) the date on which the Planning Permit becomes capable of implementation following the elapse of the statutory period for the making of a third party appeal without any such appeal having been made or, if applicable, the final determination of any third party appeal until (b) the date on which such sum is payable.

12 INTEREST

If any payment due under this Agreement is paid late, Interest will be payable from the date payment is due to the date of payment.

13 DISPUTE RESOLUTION

In the event that any dispute shall arise in respect of any provision of this Agreement it shall be referred if not resolved within seven working days to the arbitration of an independent arbitrator under the provisions of the Arbitration (Jersey) Law 1998 such arbitrator to be named by the agreement of the parties to the dispute or in default of agreement by the President for the time being of the Royal Institution of Arbitrators upon the application of any party to the dispute.

14 GOODS AND SERVICES TAX

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

15 LENDER'S CONSET

- 15.1 The First 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 First Lender over the Site shall take effect subject to this Agreement PROVIDED THAT the First Lender shall otherwise have no 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.
- 15.2 The Second 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 Second Lender over the Site shall take effect subject to this Agreement PROVIDED THAT the Second Lender shall otherwise have no 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.

16 COUNTERPART

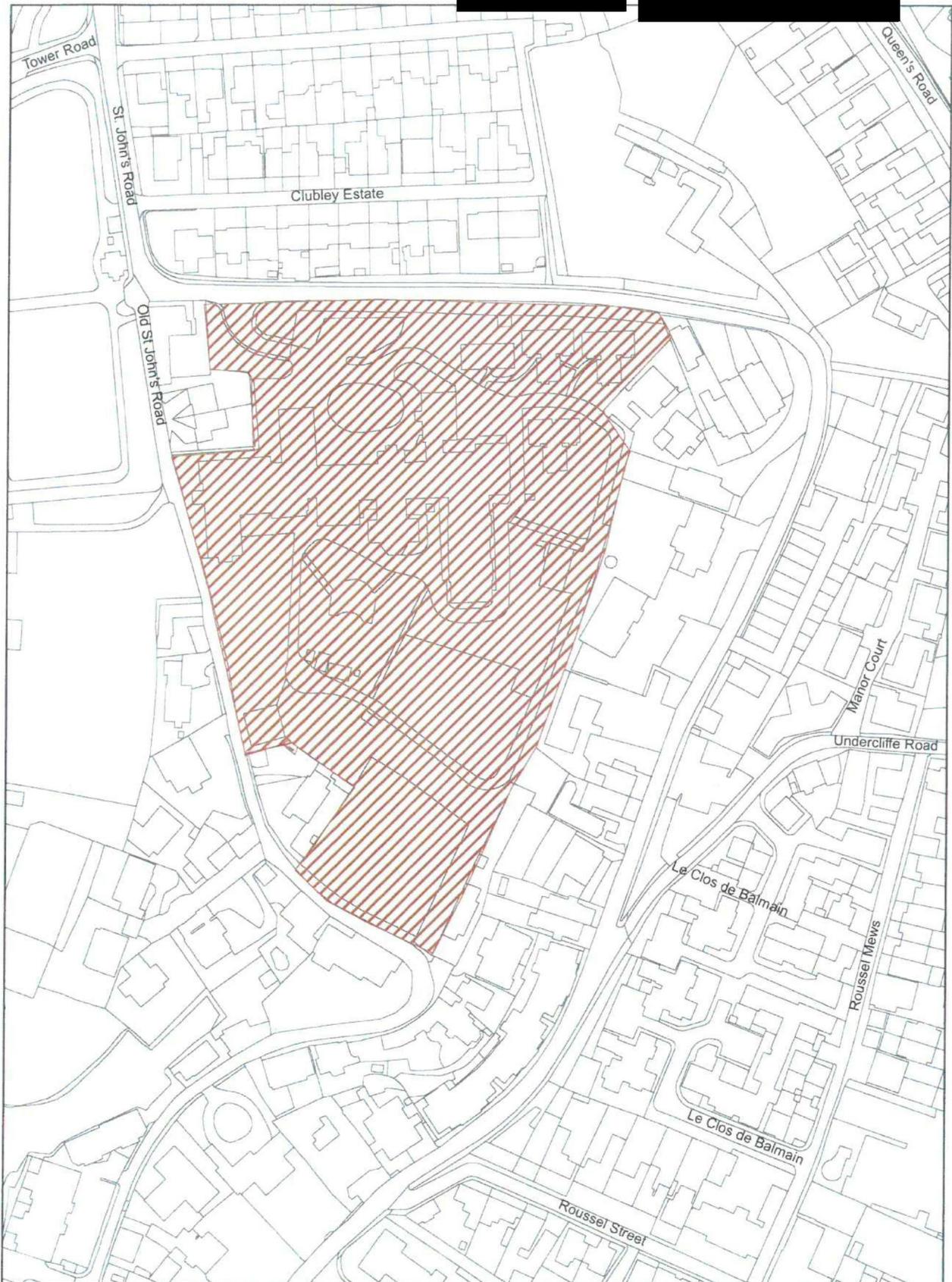
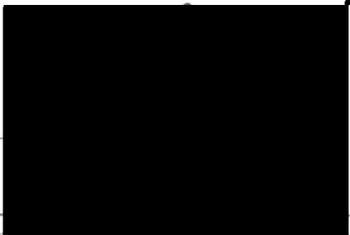
This Agreement may be executed in any number of counterparts by the parties hereto on different counterparts, but shall not be effective until each party has executed at least one counterpart and each counterpart shall constitute an original of this Agreement but all the counterparts shall together constitute one and the same Agreement.

17 JURISDICTION

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

FIRST SCHEDULE

The Site



© States of Jersey 2019



License No: 34



THE JEANNE JUGAN RESIDENCE AND APARTMENTS
ST JOHN'S ROAD
ST HELIER

1:1,705



SECOND SCHEDULE
The Planning Permit

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0429

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

Various internal alterations to Lower Ground, Ground and First floor to create 34 No. new residential care bedrooms. Install canopy for various alterations to parking and landscaping to North elevation. Construct two storey extension to South elevation. Alteration to vehicle access onto St John's road. Install air-conditioning plant to roof.

To be carried out at

Jeanne Jugan Residence, St Johns Road, St Helier, JE2 4XZ.

REASON FOR APPROVAL: Permission has been granted having taken into account the relevant policies of the approved Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that the site has been identified as having the possible presence of protected wildlife species. It is the responsibility of the applicant to inform all site workers of the possibility of protected species on site and the implications under the Conservation of Wildlife (Jersey) Law (2000) and you are advised that it is your duty under the Law to stop work and notify the Department of Environment on +44 (0) 1534 441600 immediately should any species be found.

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

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APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0429

cost of the developer.

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

- A. The development shall commence within three years of the decision date.
Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.
- B. The development hereby approved shall be carried out entirely in accordance with the plans, drawings, written details and documents which form part of this permission.
Reason: To ensure that the development is carried out and completed in accordance with the details approved.

Condition(s):

1. No part of the development hereby approved shall be occupied until details of the electric car charging facilities have been submitted to and approved by the Planning section of IHE and shall thereafter be 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.
2. No part of the development hereby approved shall be occupied until details of the cycle parking facilities (10 or 12 covered cycle spaces) have been submitted to and approved by the Planning section of IHE and thereafter 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 vehicular access and footpath improvements to the application site entrance as indicated on the approved plans has been wholly constructed in accordance with the approved plans and shall thereafter be retained and maintained as such.
4. No part of the development hereby approved shall be occupied until the 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, staff and visitors to the development and shall not be sub-let for any other purpose.

Reason(s):

1. In the interests of promoting sustainable patterns of development, in accordance with Policies TT9 and SP6 of the Adopted Island Plan 2011 (Revised 2014).

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0429

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

FOR YOUR INFORMATION

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

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

Location Plan
 Transport Statement Report
 Waste Management Plan
 Plant Noise Assessment
 Kitchen Supply Pipe
 Kitchen Extract
 012 P1 Proposed Site Plan
 015 P1 Proposed Lower Ground Floor Plan
 016 P1 Proposed Ground Floor Plan
 017 P1 Proposed First Floor Plan
 018 P1 Proposed Second Floor Plan
 019 P1 Proposed Third Floor Plan
 020 P1 Roof Plan
 022 P1 Proposed Elevation Sheet 1
 023 P1 Proposed Elevation Sheet 2

DECISION DATE:

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APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/0429

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

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APPROVED

THIRD SCHEDULE**The Owner Covenants with the Chief Officer**

The Owner covenants, agrees and undertakes:

COMMENCEMENT

- 1 Not to Commence the Development until the Owner has given to the Chief Officer seven (7) days' notice in writing of its intention so to do.

CONTRIBUTIONS

- 2 To pay each of the Bus Shelter Contribution and the Footpath Contribution to the Treasurer of the States prior to the Commencement of the Development.
- 3 Not to Commence the Development until such time as each of the Bus Shelter Contribution and the Footpath Contribution have been paid to the Treasurer of the States.

FOURTH SCHEDULE**Chief Officer's covenants**

1. The Chief Officer hereby covenants with the Owner to use all sums received by the Treasurer of the States from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
2. The Chief Officer covenants with the Owner that he will procure or arrange that the Treasurer of the States will pay to the Owner such amount of any payment made by the Owner to the Treasurer of the States under this Agreement which has not been expended in accordance with the provisions of this Agreement within four years of the date of receipt by the Treasurer of the States of such payment.

Signed on behalf of [REDACTED]
by (PETER LE GIBBY)

in the presence of [REDACTED] (CHRISTOPHER JONES)
this 20th day of January 2020²⁰²¹

Signed on behalf of LV St Josephs Limited
by [REDACTED]
NICHOLA BETTANY

in the presence of [REDACTED] CHARA STEWART
this 12 day of JANUARY 2020

Signed on behalf of Oaknorth Bank Plc
by [REDACTED]
ANNE SINGH

in the presence of [REDACTED]
this 18 day of 12 2020

Signed on behalf of RS Fund II, LP (acting by its general partner RS Fund II GP,
Limited)
by

in the presence of
this day of 2020

Signed on behalf of the Chief Officer

by

in the presence of

this day of

Signed on behalf of LV St Josephs Limited

by

in the presence of

this day of

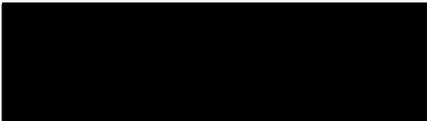
Signed on behalf of Oaknorth Bank Plc

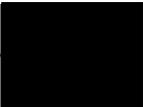
by

in the presence of

this day

Signed on behalf of RS Fund II, LP (acting by its general partner RS Fund II GP, Limited)

by 

in the presence of 
Liam Jones
Director
REGNATA BANYTKA
FUND ACCOUNTANT

this 11 day of JANUARY 2021