

# *In the Royal Court of Jersey*

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**Samedi Division**

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**In the year two thousand and nineteen, the tenth day of September.**

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 Lilac Limited and RS Fund II LP in relation to Little Grove Nursing Home, La Rue de Haut, St Lawrence, 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 Little Grove Nursing Home, La Rue de Haut, St Lawrence, Jersey, JE3 1JZ

Dated

5<sup>th</sup> SEPTEMBER

2019

The Chief Officer for the Environment (1)

LV Lilac Limited (2)

RS Fund II, LP (3)

DATE 5<sup>th</sup> SEPTEMBER 2019

#### PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("**the Chief Officer**");
- (2) LV Lilac Limited of 2<sup>nd</sup> Floor Charles House, Charles Street, St Helier, Jersey, JE2 4SF ("**the Owner**")
- (3) RS Fund II, LP ("**the Lender**") a limited partnership without separate legal personality registered in Jersey acting by its general partner RS Fund II GP Limited, a company incorporated in Jersey of 11-15 Seaton Place, St Helier, Jersey JE4 0QH

#### RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site as described in the First Schedule.
- 2 The Lender has an interest in the Site by virtue of a judicial hypothec (*hypothèques judiciaire*) registered in the Public Registry of Jersey on 1 December 2017.
- 3 The Owner(s) submitted an application (accorded the reference P/2019/0267) for planning permission for the Development.
- 4 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Chief Officer is minded to approve the grant of planning permission for the Development subject to the prior completion of this Agreement to secure the obligations contained herein.
- 5 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 6 The parties acknowledge that this Agreement is legally binding.
- 7 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;
<b>"Application"</b>		the application for planning permission in respect of the Site and described as "Construct three storey extension with external terraces and connecting linking corridor to East of site to create 15 No. care home rooms and ancillary services with associated hard and soft landscaping. 3D Model Available." and given the reference P/2019/0267;
<b>"Chief Officer"</b>		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;
<b>"Commencement"</b>		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;
<b>"Financial Contributions"</b>		<ol style="list-style-type: none"> <li>1. the sum of eleven thousand five hundred pounds (£11,500.00) to be paid by the Owners to the Treasurer of the States to be applied by the Minister for Infrastructure towards improvements for public transport users by the provision of a bus shelter (together with accommodation and installation works and design fees) on La Vallee de St. Pierre;</li> <li>2. the sum of twelve thousand three hundred and eighteen pounds and thirty pence (£12,318.30) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure towards the provision of new lengths of</li> </ol>

		<p>footpaths in the environ of the Site to improve opportunities to walk to work; and</p> <p>3. a sum of ten thousand pounds (£10,000.00) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure towards improvements for public transport users by a kerb build out to accommodate the shelter close to the junction of La Rue de Haut with La Vallee de St Pierre as set out in drawing 1746/SK005.</p>
<b>"Development"</b>		the development of the Site as set out in the Application;
<b>"Dwelling Unit"</b>		a residential unit forming part of the Development to be constructed pursuant to the Planning Permit;
<b>"GST"</b>		goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
<b>"Index"</b>		the All items Index of Retail Prices for Jersey as issued from time to time by the Statistics Unit to the States of Jersey;
<b>"Interest"</b>		interest at three per cent above the base lending rate of the HSBC Bank Plc from time to time;
<b>"Island Plan 2011"</b>		the States of Jersey Island Plan, 2011 (as amended from time to time);
<b>"Law"</b>		the Planning and Building (Jersey) Law 2002;
<b>"Minister for"</b>		the Minister for Infrastructure, including his



<b>"Infrastructure"</b>		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;
<b>"Occupation, Occupy and Occupied"</b>		occupation for the purposes permitted by the Planning Permit but not including occupation by personnel engaged in demolition, site clearance, construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;
<b>"Plan"</b>		the plan of the Site attached at the Second Schedule to this Agreement;
<b>"Planning Permit"</b>		the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Third Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time;
<b>"Royal Court"</b>		the Royal Court of the Island of Jersey;
<b>"Site"</b>		Little Grove Nursing Home, La Rue de Haut, St Lawrence, Jersey, JE3 1JZ, the whole as shown for the purpose of identification edged by a broken black 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 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 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 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. CHIEF OFFICER COVENANTS**

The Chief Officer covenants with the Owner as set out in the Fifth 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 Planning and Building Services La Motte Street St Helier Jersey 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 or recorded 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 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 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 legal ownership of the Site occurring before all the obligations under this Agreement have been discharged.

## **11 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 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 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 otherwise have no liability under this Agreement unless it takes title to the Site in which case it too will be bound by the obligations as a person deriving title from the Owner.

## **16 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**

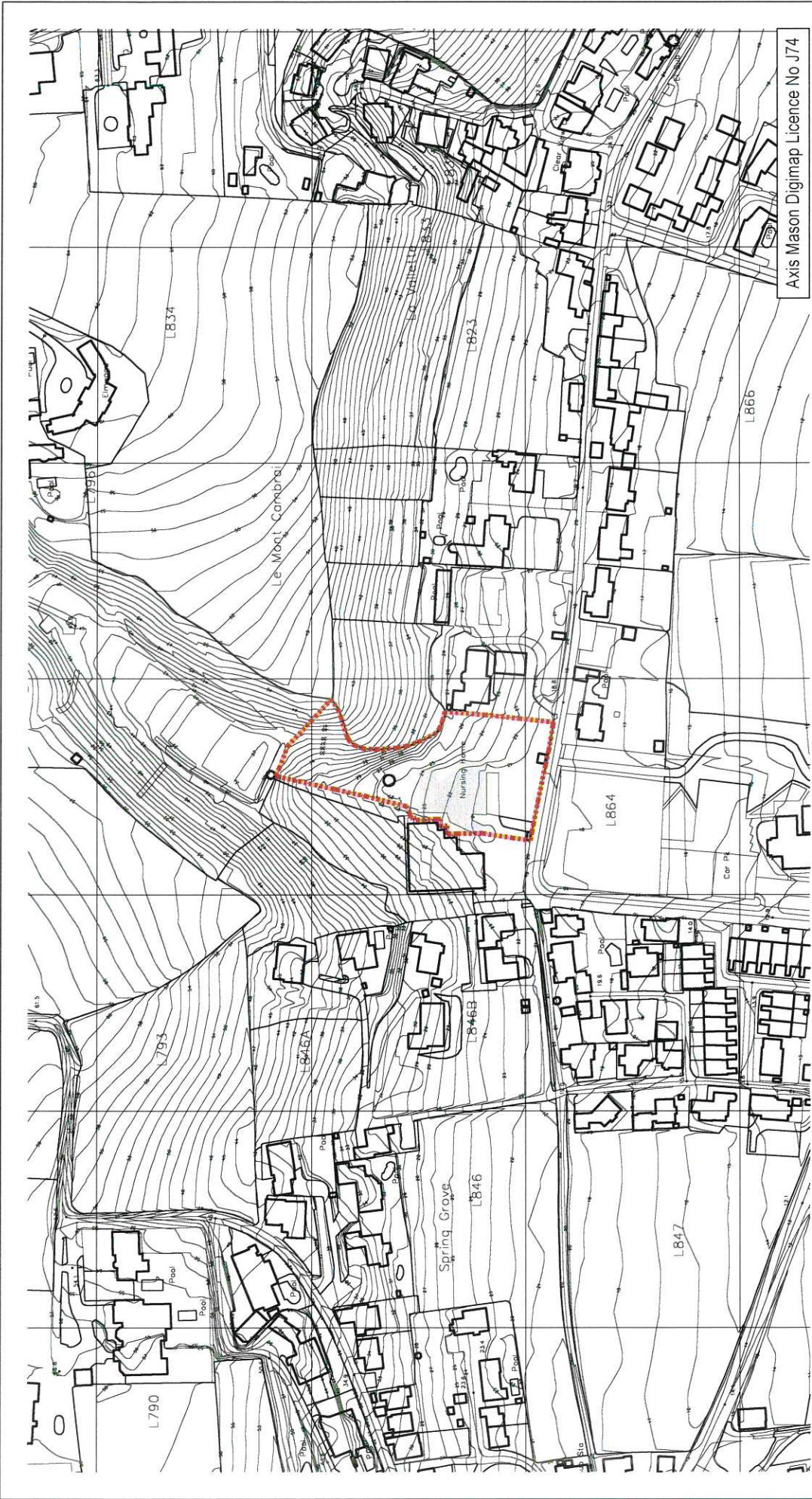
The Owner is the owner of all that immovable property known as Little Grove Nursing Home, La Rue de Haut, St Lawrence, Jersey by virtue of two contracts of purchase from Guardian Nursing Services Limited to the Owner (in their previous name of Little Grove (Development) Limited) and both passed before the Royal Court on 19 December 2014.

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

## SECOND SCHEDULE

**The Plan**





NOTES

Figured dimensions only are to be taken from this drawing. All dimensions are to be checked on site before any work is put in hand. If in doubt, seek confirmation.

The drawing must be read in conjunction with the relevant drawings, specifications, schedules and specifications.

All drawings are to be read in conjunction with relevant drawings from other consultants. In the case of discrepancies, the drawings must not be copied in whole or in part without the prior written permission of Axis Mason Ltd.

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Rev

Description

Dwn

Ckd

Date

P1	PLANNING ISSUE	DC	TB	22/02/18
P2	PLANNING ISSUE	DC	TB	31/02/18

DRAWING KEY:

SITE BOUNDARY LINE

EXISTING BUILDINGS

Client:

LV CARE GROUP

Project:

LITTLE GROVE CARE HOME - PHASE 2  
ST. LAWRENCE, JERSEY

Drawing Title:

SITE LOCATION PLAN

**AXIS MASON**

3 Mulcaster St Helier  
Jersey JE2 3NJ  
01534 870 137 WWW.AXISMASON.COM

LONDON GLASGOW JERSEY GDANSK DUBAI

Scale @ A4: 1:2500

Date: FEBRUARY 2018

Project Co-ordinator: TB

Issue Status: PLANNING

Job No: 3359

Drawing No: 005

Revision: P2

THIRD SCHEDULE  
**The Planning Permit**



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0267

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

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

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

This is notification of the decision to **GRANT** planning permission  
**SUBJECT TO A PLANNING OBLIGATION AGREEMENT**  
 to develop land under Article 19 of the Planning and Building (Jersey) Law 2002

### In respect of the following development:

Construct three storey extension with external terraces and connecting linking corridor to East of site to create 15 No. care home rooms and ancillary services with associated hard and soft landscaping.

### To be carried out at:

Little Grove Nursing Home, La Rue De Haut, St. Lawrence, JE3 1JZ.

**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.

The objection received to the scheme on the grounds that the proposal is out of character and overbearing on the existing Listed building, will build on an existing green space and may lead to highway safety issues has been considered. The mass, scale and design of the proposal has been carefully considered. The stepped nature, set back and styling of the proposal will diffuse its size and allow the Listed building to remain the dominant form on the site, viewed from La Rue de Haut. The site is within the Built-Up Area of the Island where the presumption is in favour of development, and an extant permission exists for a detached house on this same site, which is a material consideration. Issues of highway safety have been carefully considered by GHE-Transport as the highways authority, who support the proposal. On this basis the application is recommended for approval with conditions to ensure that the proposal is constructed in line with the relevant policies of the Adopted Island Plan 2011 (Revised 2014).

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0267

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.
- 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.

### Conditions:

1. No roof stripping of Little Grove house, or tree felling, hedge removal or any shrub clearance works within the site shall be undertaken between 1st March and 30th September in any calendar year, unless a written statement has been submitted from a qualified and competent person confirming that there are no nesting birds, dens or roosts, or other protected wildlife within the roof or in any of the trees or hedgerows to be felled or removed. The written statement shall be submitted to and approved by the Department of the Environment at least 10 working days in advance of any felling or clearance works.
2. The findings and required mitigation measures outlined in the Initial Ecological Assessment, including the Species Protection Plan (Ref NE/ES/LG.02, revised July 2017 Nurture Ecology) and the agreed Bat Survey Results Report (Ref NE/ES/LG0.3, 30 June 2017) 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.
3. No part of the development hereby permitted shall be begun until details in respect of the following matters have been submitted to and approved in writing by the Department of the Environment. These works shall thereafter be carried out in full in accordance with such approved details:
  - a) All external materials for the building;
  - b) All external materials for paving, terraces and steps;
  - c) All window and door details.
4. The provisions identified within the Travel Action Plan dated January 2019 shall be implemented in full.
5. No part of the development hereby permitted shall be begun until a management plan detailing the method for the protection all existing trees, and especially the TPO on site for the duration of the development works has been

APPROVED



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0267

submitted to and approved in writing by the Department of the Environment. The plan shall include details of:

- 1.) all protective fencing to be erected around each tree(s) and shall include details of the height of the fencing and distance from the tree trunk(s) or the crown spread.
- 2.) the appropriate handling of spoil/waste/storage of other materials generated during development works on site, to ensure the protection of all existing tree(s).
- 3.) Any excavations, including any trench for services or drains that may be in close proximity to existing trees.

Once agreed, the management plan shall be implemented in full and retained during development works unless otherwise agreed in writing with the Department.

### Reasons:

1. To ensure the protection of any nesting birds and any recognised species in accordance with Policies NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
2. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
3. These details are not included in the application and are required to be submitted and agreed by the Department of the Environment to ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building or place, in accordance with Policies SP4, HE1, HE2, HE5 of the Adopted Island Plan 2011 (Revised 2014).
4. To ensure that adequate provision is made for those travelling to the site by alternative means to private car, to comply with policies SP6, GD1, TT2, TT5, and TT8 of the Adopted Island Plan 2011 (Revised 2014).
5. To prevent trees on site from being damaged during building works in accordance with Policies GD1, SP4, NE4 of the Adopted Island Plan 2011 (Revised 2014).

### **FOR YOUR INFORMATION**

The approved plans can be viewed on the Planning Register at [www.gov.je/planning](http://www.gov.je/planning)

The following plans have been approved:

1. Location Plan
2. Proposed Site Plan 105 P6
3. Proposed Ground and First Floor Plan 115 P3
4. Proposed Second and Roof Floor Plan 116 P3
5. Proposed Elevations Sheet 1 of 1 156 P3
6. Proposed Elevations Sheet 2 of 2 157 P3
7. Section A-A and B-B 165 P3
8. Proposed Landscape Plan 117 P3

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0267

**DECISION DATE: 05/09/19**

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](http://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](http://www.gov.je/planning)

APPROVED

## FOURTH SCHEDULE

**The Owner's Covenants with the Chief Officer**

The Owners covenant, agree and undertake:

**COMMENCEMENT**

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

**FINANCIAL CONTRIBUTIONS**

- 2 To pay the Financial Contributions to the Treasurer of the States prior to the Commencement of any part of the Development.
- 3 Not to Commence any part of the Development until such time as the Financial Contributions has been paid to the Treasurer of the States.

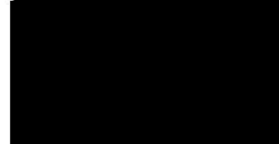
## FIFTH SCHEDULE

**Chief Officer's Covenant**

1. The Chief Officer hereby covenants with the Owners to use all sums received by the Treasurer of the States from the Owners 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 Owners that he will procure or arrange that the Treasurer of the States will pay to the Owners such amount of any payment made by the Owners to the Treasurer of the States under this Agreement which has not been expended in accordance with the provisions of this Agreement within seven years of the date of receipt by the Treasurer of the States of such payment.



Signed on behalf of the Chief Officer:



Name and Position: .....

(PETER LE GREGUEN) DIRECTOR

in the presence of

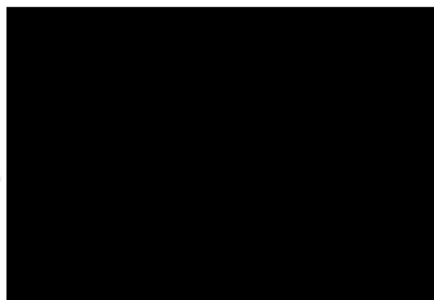


Name and Position: .....

ELIZABETH STABLES - SENIOR PLANNER

this            day of            2019

Signed by LV Lilac Limited:



in the presence of



Name and Position: .....

JACK DE GRUCHY - ACCOUNTANT

this 29<sup>th</sup> day of AUGUST 2019

Signed on behalf of RS Fund II, LP  
acting by its general partner,  
RS FUND II GP, LIMITED

.....  
[REDACTED]  
.....  
Eliam Jones  
Director

in the presence of *THOMAS LARAGE* [REDACTED] .....

this *29<sup>th</sup>* day of *August* 2019

*11-15 SUTTON PLACE  
ST. HELENS  
JERSEY  
JE4 0QH*