

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-one, the eleventh day of November.

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 Island Padel Limited in relation to the Padel Courts at St Clements Golf & Sports Centre, Plat Douet Road, St Clement, 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 Padel Courts at St. Clements Golf & Sports Centre, Plat
Douet Road, St. Clement, JE2 6PN

Dated

10th November

2021

The Chief Officer for the Environment (1)

Island Padel Limited (2)

DATE

10th November

2021

PARTIES

1. The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**");
2. Island Padel Limited (Reg No 33976) of St Clements Golf & Sports Centre, Plat Douet Road, St. Saviour, JE2 6PN, Jersey ("**the Owner**");

RECITALS

- 1 The Owner warrants that it is the tenant of the Site by virtue of a contract lease with the Jersey Recreation Grounds Company Limited passed before the Royal Court on 23 July 2021.
- 2 With the consent of the Jersey Recreation Grounds Company Limited the Owner submitted the Application (accorded the reference P/2021/0823) for planning permission for the Development.
- 3 Pursuant to Article 9(5)(b) of the Law, the Chief Officer referred the Application to the Planning Committee for determination by that Committee.
- 4 Having regard to the purposes of the Law, the Island Plan 2011 and all other material considerations the Planning Committee at its meeting on 21 October 2021 resolved to approve the grant of planning permission for the Development subject to the prior completion of this Agreement for a contribution to the Eastern Cycle Route as required by Policy TT3 of the Island Plan.
- 5 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 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;

"Application"	the application for planning permission in respect of the Site and described as "Construct 3 no. covered padel courts and associated landscaping in place of 2 no. disused tennis courts and 2 no. padel court footings." and given the reference P/2021/0823;
"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;
"Cycle Route Contribution"	a financial contribution of Eight Thousand One Hundred Pounds (£8,100.00) Sterling towards the Eastern Cycle Route Network;
"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 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;
"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;
"Royal Court"	the Royal Court of the Island of Jersey;
"Site"	the site comprising the property at St. Clements Golf Club, Recreation Ground, Plat Douet Road, St. Clement the whole as shown for the purposes of identification edged red 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 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 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 Head of Development and Land and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Head of Development and Land PO Box 228, St Helier Jersey JE4 9SS or as otherwise notified for the purpose by notice in writing.
- 8.2 Any notices served 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 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 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 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 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 Site



Location Plan	Project Padel Courts St Clements Golf & Sports Centre Plot Daniel Road St Clement	2703	Drawing No. SL1	Scale 1:2500 @ A1	JS LIVINGSTON ARCHITECTURAL SERVICES 9 The Arcade Area 2 View, 4th Floor 100 High Street Livingston, W. Lothian EH54 6JF Tel: 01515 230027	LICENCE NUMBER J168

SECOND SCHEDULE

The Planning Permit

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0823

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** permission to develop land under Article 19 of the Planning and Building (Jersey) Law 2002;

In respect of the following development:

Construct 3 no. covered padel courts and associated landscaping in place of 2 no. disused tennis courts and 2 no. padel court footings.

To be carried out at:

St. Clements Golf Club, Recreation Ground, Plat Douet Road, St. Clement, JE2 6PN.

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.

In this instance the proposal is not considered to cause serious harm to landscape character in accordance with Policy NE7 nor to cause unreasonable harm to the amenities of neighbouring users, in accordance with Policy GD1 of the Adopted Island Plan 2011 (revised 2014).

This permission is granted subject to a Planning Obligation Agreement (POA) and 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/2021/0823

- 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. Notwithstanding the details on the plans hereby approved, the padel courts shall only operate between the hours of 07:00-21:30 hours on weekdays, and between 08:00-21:30 on weekends/Public Holidays/Bank Holidays, unless otherwise agreed in writing with the Department. For the avoidance of doubt the site shall not be lit outside of these hours.
2. No part of the development hereby permitted shall be begun until a scheme of landscaping has been submitted to and approved in writing by the Department of the Environment. The scheme of landscaping shall provide details of the following:
 - i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site;
 - ii) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
 - iii) other landscape treatments to be carried out including any excavation works, surfacing treatments, or means of enclosure;
 - iv) the measures to be taken to protect existing trees and shrubs;
 - v) the presence of any invasive plant species on site, and if present, a detailed method statement for the removal and long-term management/eradication of the species; and,
 - vi) A landscape management plan for the maintenance of the landscaped areas.

Prior to first use of the development, the approved landscape scheme shall be implemented in full and should thereafter retained as such.

3. Prior to first use of the development hereby approved, details of the covered cycle parking facilities, including electric cycle recharging, shall be submitted to and approved in writing by the Department. Following written agreement and prior to first use of the development, the facilities shall be implemented in full and thereafter retained as such.

Reasons:

1. In order to protect the amenities of occupiers or neighbouring properties, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
2. To safeguard the character and appearance of the area in accordance

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0823

with Policies GD7 and NE7 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).

FOR YOUR INFORMATION

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

The following documents have been approved:

IPL Floodlighting Report 20 08 21
Island Padel Light Computer Design Print 20 08 21
Floodlight and Lamp Data Sheets
IPL Environmental Noise Assessment
Court Floodlight Data Sheet
Noise report - Padel Tennis
Padel Tennis Court 300 Lux
SL1-Location Plan
P1-Contextual Site Plan
P2-Site Plan
P3-Typical Elevations
P4-Sections and Elevations

DECISION DATE: Final Decision Pending completion of POA

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

APPROVED

¹ 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.

(P1; «P_Ref_no»; Page 1)

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

The Owner covenants, agrees and undertakes to pay the Cycle Route Contribution to the Treasurer of the States forthwith on the completion of this Agreement.

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 five years of the date of receipt by the Treasurer of the States of such payment.
3. In the case of the Minister allowing an appeal under article 108(2)(a) of the Law which results in the cancellation of the Planning Permit (or any other appeal procedure which results in the cancellation of the Planning Permit) the Chief Officer covenants with the Owner that he will procure or arrange that the Treasurer of the States will repay to the Owner forthwith the Cycle Route Contribution.

SIGNED ON BEHALF OF THE CHIEF OFFICER

by

in the presence of

this 10th day of November 2021

Signed on behalf of Island Padel Limited

in the presence of

this 9th day of November 2021