

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-one, the fifteenth 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, Mace Holdings Limited and SLH Finance Limited in relation to Pinocchios, La Route de St Aubin, Jersey, 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 Pinocchios, La Route de St.Aubin, Jersey

Dated

15th September

2021

The Chief Officer for the Environment (1)

Mace Holdings Limited (2)

SLH Finance Limited (3)

DATE

15th September

2021

PARTIES

1. The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**");
2. Mace Holdings Limited, a limited liability company registered in Jersey with company number 131711 whose registered office is BCK Private Office, Belmont House, La Route de Beaumont, St. Peter, Jersey. JE3 7BR ("**the Owner**"); and
3. SLH Finance Limited, a limited liability company registered in Jersey with company number 111441 whose registered office is 28 Esplanade, St. Helier, Jersey, JE2 3QA ("**the Lender**")

RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site by hereditary purchase by contract dated 9th October 2020 from Benjamin J. Limited.
- 2 The Lender has an interest in the Site by virtue of a judicial hypothec (*hypothèque judiciaire*) dated 9th October 2020.
- 3 The Owner submitted the Application (accorded the reference P/2020/1701) 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.
- 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 "Change of Use from (Class B) restaurant and construct second floor to create 2 No.1 bed, 5 No.2 bed and 1 No. 3 bed residential units with associated parking. AMENDED PLANS RECEIVED: Reduction in height and scale of the building." and given the reference P/2020/1701;
"Ceded Land"	the area of land forming part of the Site adjacent to La Route de St. Aubin and indicated by cross hatching on the Ceded Land Plan to be ceded to the Public by the Owner;
"Ceded Land Plan"	the plan of the Ceded Land being Plan B forming part of the First Schedule;
"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 construction 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 Site, any clearance of the Site, removal of any asbestos from the Site and any

	demolition on the Site and "Commence" and "Commenced" shall be construed accordingly;
"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;
"Infrastructure Department"	the Department of Infrastructure, Housing and Environment of the Government of Jersey;
"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 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
"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;
"Royal Court"	the Royal Court of the Island of Jersey;
"Site"	the site comprising the property known as Pinocchios, La Route de St.Aubin Jersey the whole as shown for the purposes of identification on the Site Plan;

"Site Plan"	the plan of the Site being Plan A forming part of 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 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.

6. 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.

7 MISCELLANEOUS

- 7.1 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 of Planning at Planning and Building Services PO Box 228, St Helier Jersey JE4 9SS or as otherwise notified for the purpose by notice in writing.
- 7.2 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.
- 7.3 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.
- 7.4 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 .
- 7.5 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.
- 7.6 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.
- 7.7 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.

- 7.8 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.
- 7.9 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.
- 7.10 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.
- 7.11 All communications and notices served or made under this Agreement shall be in writing.

8 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.

9 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.

10 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.

11 GOODS AND SERVICES TAX

- 11.1 All *cause* given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable in respect thereof.
- 11.2 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.

12 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 possession of the Site in which case it too will be bound by the obligations as a person deriving title from the Owner.

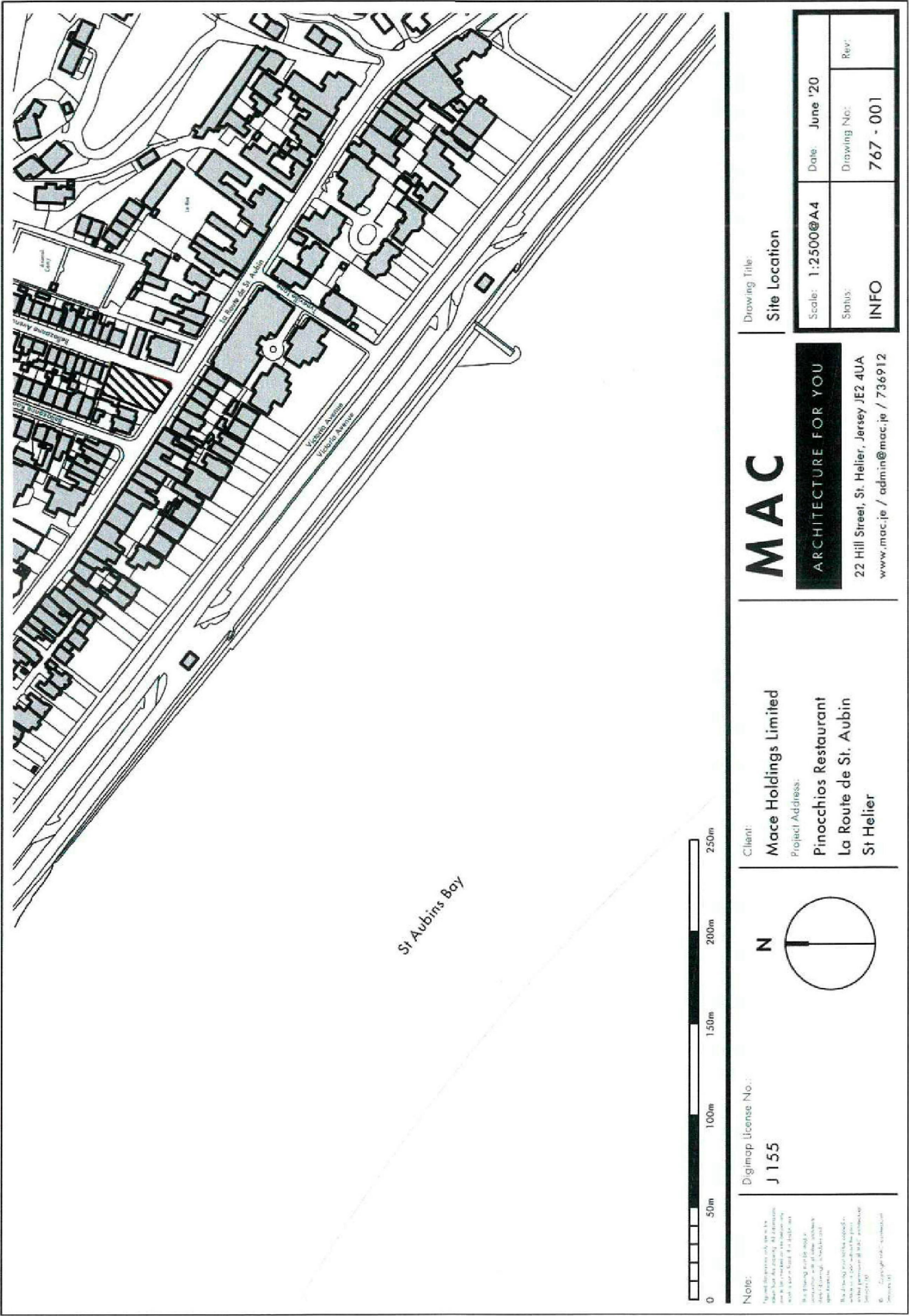
13 COUNTERPART

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.

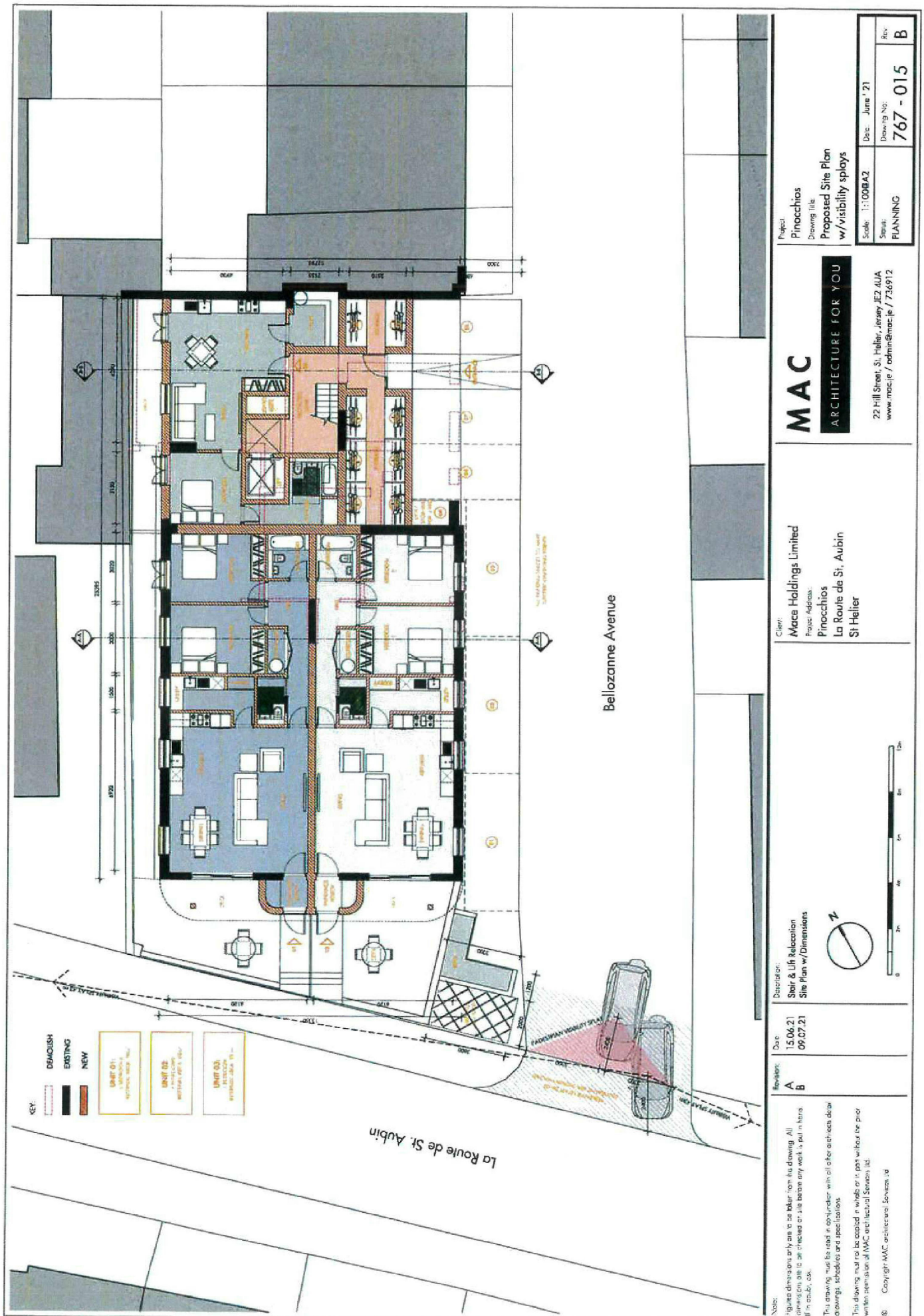
14 JURISDICTION

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

FIRST SCHEDULE**Plan A - The Site**



Plan B - The Ceded Land



SECOND SCHEDULE
The Planning Permit

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/1701

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:

Change of use from (Class B) restaurant and construct second floor to create 2 No. 1 bed, 5 No. 2 bed and 1 No. 3 bed residential units with associated parking. AMENDED PLANS RECEIVED: Reduction in the height and scale of the building.

To be carried out at:

Pinocchios, La Route de St. Aubin, St Helier, JE2 3SD

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

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

- A.** The development shall commence within three years of the decision date.

Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/1701

- 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. All of the obscure glazing (including privacy screens), identified within the approved plans, must be installed prior to the first occupation of the development. Thereafter, these shall be maintained as such for the lifetime of the development.
2. The new bicycle storage areas, together with all electric bicycle and electric vehicle charging points, as agreed by the applicant, must be installed prior to the first occupation of the development. Thereafter, these shall be maintained as such for the lifetime of the development.

Reason(s):

1. To safeguard the amenities and privacy of the occupants of the adjoining properties in accordance with Policy GD 1 of the Jersey Island Plan 2011 (revised 2014).
2. To ensure that these facilities are delivered in a timely manner, in the interests of the general residential amenity of the new occupants of the development, in accordance with Policies SP 6 and GD 1 of the Jersey Island Plan 2011 (revised 2014).

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2020/1701

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:

767-001 – Site Location
767-002 – Existing Plans & Photographs
767-003 A – Existing Elevations & Sections
767-004 F – Proposed Floor Plans
767-005 C – Proposed Elevations
767-006 D – Proposed South Elevation & Section
767-015 A – Proposed Site Plan w / visibility splays
767-016 – Typical Store 3d
Drainage Report
Initial Ecological Assessment: March 2021

DECISION DATE: xx/xx/xxxx

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

THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

COMMENCEMENT

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

TRANSFER OF CEDED LAND

- 2 (a) On the condition that the Ceded Land will be incorporated within and form part of a new bus stop the Owner shall cede and transfer and the Public shall take conveyance of the Ceded Land free of all charges and encumbrances by contract to be passed before the Royal Court. Subject to (b) and subject to the Public being ably to comply with Standing Orders of the States, the parties to such contract shall use all reasonable endeavours to pass the contract before the Royal Court within one month prior to the completion of the Development.


(b) Where the Public is not in a position to pass contract in the timescale set out in (a), the Owner shall be permitted to allow Occupation of the Development but shall restrict access to the Ceded Land until such time as the contract referred to in (a) has been passed.

Signed on behalf of the Chief Officer

by

..... PETER LE GRESLEY

in the presence of

..... LAWRENCE DAVIES

this 15th day of September 2021

Signed on

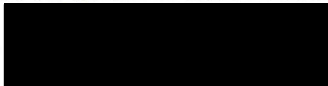
by

in the pres

this 13th day of September 2021

Signed on behalf of SLH Finance Limited

by

..... SAFFRON MARJOR- DILLON

in the presence of

..... DENIS LEUNG

this 9th day of September 2021