

In the Royal Court of Jersey

Samedi Division

In the year two thousand and nineteen, the fifth day of June.

Before the Judicial Greffier.

Upon the application of Her Majesty's Attorney General, IT IS ORDERED that the Planning Obligation Agreement between (1) The Chief Officer for the Environment and (2) Kenneth Moore and Susan Mary Moore, née Andrews in relation to Rockdene, La Grande Route des Sablons, Grouville, 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 Rockdene, La Grande Route des Sablons, Grouville, JE3
9FN

Dated

5 JUNE

2019

The Chief Officer for the Environment (1)

Kenneth Moore and Susan Mary Moore née Andrews (2)

DATE

5 JUNE

2019

PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("**the Chief Officer**");
- (2) Kenneth Moore and Susan Mary Moore née Andrews ("**the Owners**") of Rockdene, La Grande Route des Sablons, Grouville, JE3 9FN

RECITALS

- 1 The Owners warrant's that he owns in perpetuity (à fin d'héritage) the Site by virtue of a hereditary contract of purchase dated 27 April 1990 from Annie Frances Blampied and Clare Edith Pallet née Blampied.
- 2 The Owners submitted an application accorded the reference P/2018/1293.
- 3 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 revised plans for the Development subject to the prior completion of this Agreement.
- 4 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 5 The parties acknowledge that this Agreement is legally binding.
- 6 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 in respect of the Site and described as "Demolish existing dwelling. Construct 1No. three bed dwelling with associated amenity and parking. Construct garage with 1No. one bed flat above to West of new dwelling" and given the

	reference P/2018/1293;
"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;
"Decision Notice"	the decision notice reflecting 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 Decision Notice include where the context permits any variations to the said permission from time to time;
"Development"	the development of the Site as set out in the Application;
"Island Plan 2011"	The States of Jersey Island Plan, 2011 (as amended from time to time);
"Occupation" "Occupy" and "Occupied"	occupation for the purposes permitted by the Decision Notice but not including occupation by personnel engaged in demolition, construction, decontamination, surveying, surfacing, fitting out or decoration
"Law"	the Planning and Building (Jersey) Law 2002;
"Plan"	the plan of the Site attached at the First Schedule to this Agreement;
"Royal Court"	the Royal Court of the Island of Jersey;
"Site"	Rockdene, La Grande Route des Sablons, Grouville, JE3 9FN, as shown for the

	purpose of identification hatched black on the Plan.
"Garage Accommodation"	The living accommodation above the detached garage (as shown on the approved plan listed in the Decision Notice as P6-B) forming part of the Development;

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 Owners under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Chief Officer against the Owners.

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 OWNERS COVENANTS

The Owners covenant and agree with the Chief Officer as set out in the Third Schedule so that this Agreement shall be enforceable without limit of time against the Owners and any person claiming or deriving title through or under the Owners to the Site or any part or parts thereof.

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 Owners 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 South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing.
- 7.2 Any notices on the Owners 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 Decision Notice shall be quashed, cancelled, revoked or otherwise withdrawn or (without the consent of the Owners) 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.
- 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 Decision Notice) 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 Owners 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 herein shall be construed as obviating the need for the Owners 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 Owners as contained herein.
- 7.10 The Owners shall not be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein.
- 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 Owners agree 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 their 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 Chartered 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 JURISDICTION

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

FIRST SCHEDULE

The Plan



SECOND SCHEDULE

The Decision Notice

Draft Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/1293

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:

Demolish existing dwelling. Construct 1No. three bed dwelling with associated amenity and parking. Construct garage with 1No. one bed flat above to West of new dwelling.

To be carried out at:

Rockdene, La Grande Route des Sablons, Grouville, JE3 9FN.

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. Notably, the relationship with neighbours has been specifically considered with regards to overlooking, overbearing and visual impact from the shoreline. Based on submissions and consultation responses it is considered that the proposal will not result in unreasonable harm to the amenities of neighbours or the appearance of the shoreline. Further to this, the vehicle access is an improvement from the existing and measures have been taken to ensure that best visibility is maintained at all times.

The applicant's attention is drawn to the Highways Comments dated 28/2/19 published on the planning portal. In particular the requirements under the Road Works and Events (Jersey) Law 2016 should be noted.

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

APPROVED

Draft Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/1293

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.

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. Prior to commencement of the development hereby approved, a scheme of landscaping shall be submitted to and approved in writing by the Department of the Environment. The scheme of landscaping shall provide details of the following;
 - i) 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;
 - ii) other landscape treatments to be carried out including any excavation works, surfacing treatments, or means of enclosure;
 - iii) A landscape management plan for the maintenance of the landscaped areas.
 Once agreed, the approved scheme shall be implemented in full and thereafter retained and maintained as such.
2. No part of the development hereby approved shall be occupied until all hard and soft landscape works as indicated on the approved plan have been carried out in full. Following completion, the landscaping areas shall be thereafter maintained as such.
3. Prior to the development being brought into first use, visibility splays shall be laid out and constructed in accordance with the approved plans. The visibility splays shall then be maintained thereafter and no visual obstruction of any kind over the height of 900mm shall be erected within them.
4. No part of the development hereby approved shall be occupied until the

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Draft Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/1293

most northerly balcony on the east / north elevation at floor level is fitted with an obscure privacy screen along the length of the northern side, to a height of 1800mm from finished floor level. Once constructed, the screen shall be maintained as such thereafter.

Reason(s):

1. To safeguard the character and appearance of the area in accordance with Policies GD1, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
2. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of the site in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
3. In the interests of highway safety, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
4. To safeguard the amenities and privacy of the occupants of the adjoining properties 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
Amended Proposed Site Plan Section P1-C
Proposed Ground Floor Plan P2-A
Amended Proposed First Floor Plan P3-A
Proposed Second floor Plan P4-A
Amended Proposed Elevations P5-A
Proposed Plans & Elevations (garage and unit above) P6-B

DECISION DATE:

APPROVED

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/1293

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 Owners's Covenants with the Chief Officer

The Owners covenant, agree and undertake:

1. To ensure that the Garage Accommodation shall not be used or Occupied or permitted to be used or Occupied otherwise than in conjunction with and ancillary to the main house known as Rockdene.
2. The Garage Accommodation shall not be sold let alienated or otherwise disposed of separately from the main house known as Rockdene.

Signed on behalf of the Chief Officer

by ...

[Redacted signature]

(PETER LE GREY) (handwritten)

in the presence of ...

[Redacted name]

this 5th day of June 2019

SIGNED by Kenneth Moore

[Redacted signature]

in t

[Redacted name]

witness

This day of 2019

SIGNED by Susan Mary Moore née Andrews

[Redacted signature]

in the p

[Redacted name]

witness

This day of 2019