

# *In the Royal Court of Jersey*

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**Samedi Division**

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**In the year two thousand and twenty, the twenty eighth day of May.**

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 Gerald Abraham Davidson in relation to St Mannelier, La Vielle Maison d'Ecole, la Rue de St Mannelier, St Saviour, JE2 7HJ, 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 St. Mannelier, La Vielle Maison d'Ecole, La Rue de St. Mannelier, St. Saviour, JE2  
7HJ

Dated

27<sup>th</sup> May

2020

The Chief Officer for the Environment (1)

Gerald Abraham Davidson (2)

DATE

27<sup>th</sup> May

2020

## PARTIES

- (1) The Chief Officer for the Environment of States Offices, La Motte Street, St Helier, Jersey ("**the Chief Officer**");
- (2) Gerald Abraham Davidson of St. Mannelier, La Vielle Maison d'Ecole, La Rue de St. Mannelier, St. Saviour, Jersey ("**the Owner**")

## RECITALS

- 1 The Owner warrants that he is the owner in perpetuity (*à fin d'héritage*) of the Site as described in the First Schedule.
- 2 The Owner submitted an application (accorded the reference P/2019/0860) for planning permission for the Development.
- 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 grant of planning permission for the Development subject to the prior completion of this Agreement to secure the obligations contained herein.
- 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 planning permission in respect of the Site and described as "Change of use of land from agricultural to residential use in connection with St. Mannelier. Various landscape and land level alterations to site. Construct garden store to South-West of site. Extend plant area to North elevation.

		Construct replacement swimming pool and plant room and install 3 No. air source heat pumps to East of main house. Construct new and alter existing terracing to South and East elevations. Replace 2 No. gates to West roadside boundary. Construct wall and install 1 No. gate to North of staff cottage" and given the reference P/2019/0860;
<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>"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>"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 Infrastructure"</b>		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;
<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>		St. Mannelier, La Vielle Maison d'Ecole, La Rue de St. Mannelier, St. Saviour, Jersey, 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**

- 4.1 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 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 at Planning and Building Services La Motte Street St Helier Jersey or as otherwise notified for the purpose by notice in writing.
- 7.2 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.
- 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 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 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 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.

- 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 herein.
- 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 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 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.

**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 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**

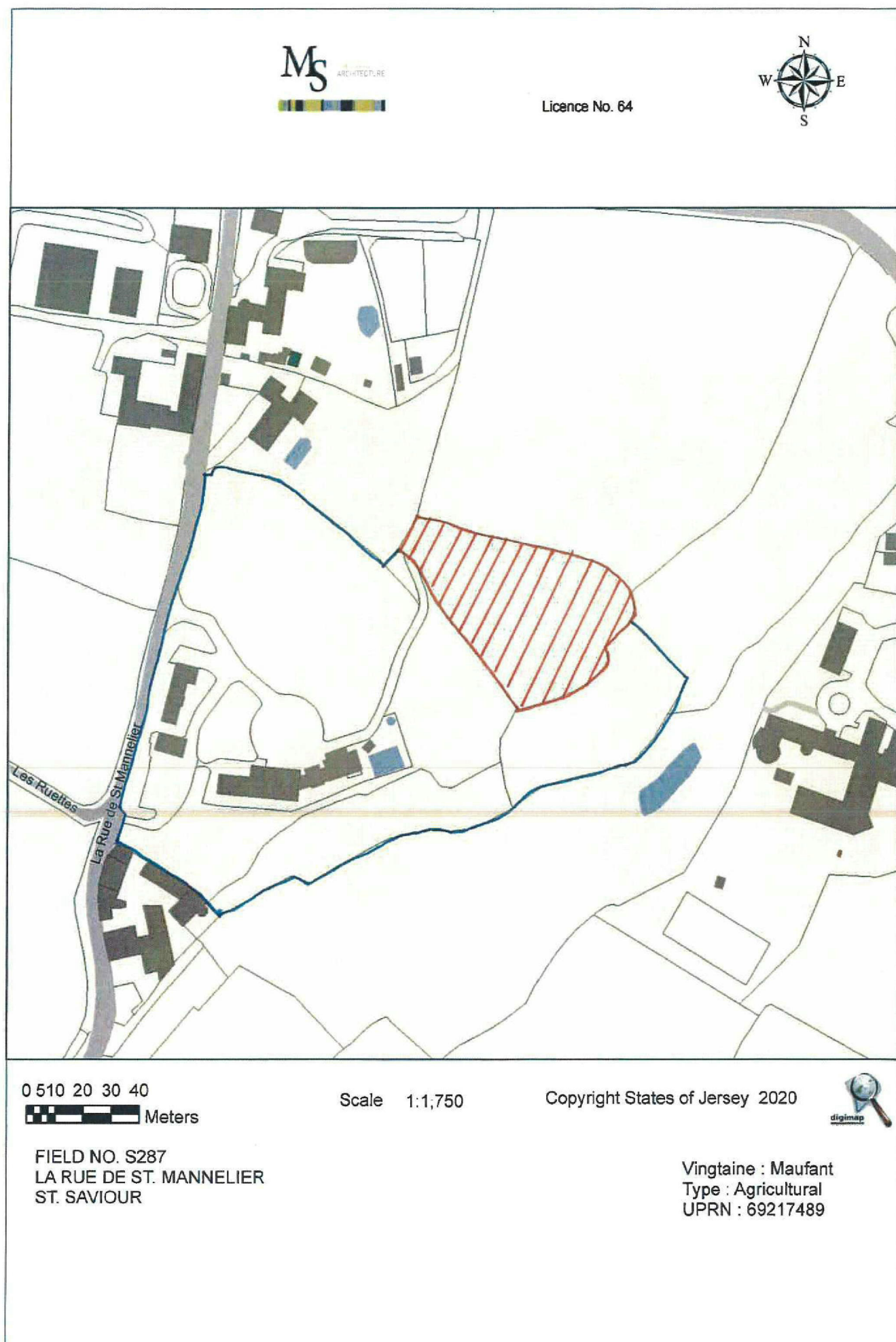
The Owner is the owner of all that immovable property known as St. Mannelier, La Vielle Maison d'Ecole, La Rue de St. Mannelier, St. Saviour, Jersey by virtue of a contract of purchase from St. Mannelier Limited passed before the Royal Court on 2 February 2018.

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

SECOND SCHEDULE

**The Plan**





THIRD SCHEDULE  
**The Planning Permit**

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0860

In accordance with Article 19(8) of the Planning and Building (Jersey) Law 2002, if 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 of land from agricultural to residential use in connection with St. Mannelier. Various landscape and land level alterations to site. Construct garden store to South-West of site. Extend plant area to North elevation. Construct replacement swimming pool and plant room and install 3 No. air source heat pumps to East of main house. Construct new and alter existing terracing to South and East elevations. Replace 2 No. gates to West roadside boundary. Construct wall and install 1 No. gate to North of staff cottage.

### To be carried out at:

St. Mannelier, La Vieille Maison d'Ecole, La Rue de St. Mannelier, St. Saviour, JE2 7HJ

**Reason For Approval:** The proposed development is considered to be acceptable having due regard all of the material considerations raised. In particular, the development has been assessed against Policy NE7 and ERE1 of the Adopted Island Plan 2011 (Revised 2014), in which a change of use of agricultural land is presumed against. In this case, the proposed landscaping works would bring the land back into some productive use which would also be of greater ecological value and would eradicate the currently stark appearance of the areas laid to grass. The land has not been used as farmland since 2007, and the departments agricultural advisor has no objections.

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.

APPROVED



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0860

**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. The recommendations and mitigation measures outlined in the Initial Ecological Assessment and Ecological Enhancement Strategy (04/02/19) shall be implemented in full and retained thereafter. Any variation that may be required as a result of findings on site shall be agreed in writing with the Department of the Environment prior to works being undertaken.
2. Any tree felling, hedge removal or any clearance works shall only be undertaken between the months of 1st October to 1st March in any calendar year, unless a written statement has been submitted from a qualified and competent person confirming that there are no nesting birds or other protected wildlife 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 5 working days in advance of any felling or clearance works.

### Reasons:

1. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
2. 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).

### **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 01 Rev A
3. Proposed Swimming Pool Details 02
4. Section through Swimming Pool, East Elevation and Part Site Plan 03
5. Proposed Part Site Plan and Details of Garden Store 04
6. Existing and Proposed West Elevation 05

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0860

- 7. Proposed Main Entrance Gates 06
- 8. Proposed Staff Cottage Gates and Wall 07
- 9. Proposed Staff Cottage and Garden 08
- 10. Proposed Side Entrance Gates 09
- 11. Proposed Trellis and Gates 10

DECISION DATE: **AS YET UNDATED**

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 Owner covenants, agrees and undertakes:

**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.

**RESTRICTION ON FIELD S287**

- 2 That the Occupation of Field S287 at the Site, being that area shown hatched in red on the Plan, be restricted to only allow its use as a fruit orchard.



Signed on behalf of the Chief Officer:



Name and Position: .....

*PETER LE GRESLEY*

in the presence of



Name and Position: .....

*CHRISTOPHER JONES - SENIOR*

*PLANNING OFFICER*

this

*27<sup>th</sup>*

day of

*May*

2020

Signed by Gerald Abraham Davidson:



in the presence of



Name and Position: .....

*JONATHAN HARRIS, PORTAL OFFICER*

this

*19*

day of

*May*

2020