

**Planning Obligation Agreement under Article
25 of the Planning and Building (Jersey) Law
2002**
relating to St Peter La Rocque Chapel

Dated :

2010

The Minister for Planning and Environment (1)

The Very Reverend Robert Key, Dean of Jersey, the Reverend Michael Lange –
Smith, Rector of Grouville, Brigadier Bruce Willing, and Mr William James Bailhache,
in their capacity as trustees of the St Peter La Rocque Chapel (2)

DATE

2010

PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St. Helier, Jersey, JE2 4US ("the Minister"); and
- (2) The Very Reverend Robert Key, Dean of Jersey, the Reverend Michael Lange – Smith, Rector of Grouville, Brigadier Bruce Willing, and Mr William James Bailhache, in their capacity as trustees of the St Peter La Rocque Chapel Trust, ("the Owner"), care of the Rector of Grouville, The Rectory, Rue a Don, Grouville JE3 9GB

RECITALS

- 1 The Minister is the Minister of the States charged with the administration of the Law by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Law.
- 2 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site thereto by virtue of those matters referred to in the First Schedule.
- 3 The Owner submitted the Application to the Minister and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 4 The Owner was established by a fidéicommis in accordance with the provisions of Articles 1 and 3 of the *Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations*, as amended
- 5 The Owner acknowledges that this Agreement is legally binding.
- 6 Having regard to the purposes of the Law the Island Plan 2002 and all other material considerations the Minister granted planning permission for the Development subject to the completion of this Agreement.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Agreement the following expressions shall have the following meanings:

"Bank Account"	a bank account that conforms with the requirements of Schedule 3
"the Chapel"	St Peter La Rocque Chapel
"The Development"	the development of the Field in accordance with and under the Permit
"the Field"	Field 552, La Rue au Tcian, Grouville
"Law"	the Planning and Building (Jersey) Law 2002
"Passing of Contract"	passing of contract by the Owner after the date hereof for the sale of the Field

"Plan"	the plan attached to this Agreement
"Planning Permit"	the planning permission dated 7 April 2010 and allocated reference number PP/2009/1819 granted by the Minister
"Proceeds of Sale"	the net proceeds of sale of the Field, after payment of estate agents' commission and legal fees, including any fees incurred in relation to the preparation and completion of this Agreement
"Site"	the land against which this Agreement may be enforced as shown hatched black 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 interchangeable 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 Minister 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 Minister against the Owner.

4 CONDITIONALITY

This Agreement is conditional upon:

- 4.1 being registered in the Royal Court as evidenced by an Act of the said Court; and
- 4.2 the Passing of Contract

save for the provisions of Clause 10 (jurisdiction clause) which shall come into effect immediately upon completion of this Agreement.

5 THE OWNER'S COVENANTS

The Owner covenants and agrees with the Minister as set out in the Second Schedule to the intent 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 Minister 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 Minister 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 Minister by the Director of Planning and notice or communication to the Minister pursuant to the provisions of this Agreement shall be addressed to the Director at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing.

7.3 Any notices shall be deemed to have been properly served on the Owner if sent by recorded delivery to and addressed to it at the address set out above or as otherwise notified for the purpose by notice in writing and that service on one party at that address shall also be deemed to be service on the other.

7.4 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.

7.5 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permit shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

7.6 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.

7.7 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 Minister and without prejudice to the generality of the foregoing it is agreed between the parties hereto that any benefit or power conferred on the Minister by any of the obligations or covenants by the Owner in favour of the Minister under this Agreement are in addition to any of the Ministers' statutory powers under the Law.

7.8 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 Minister as a result of the Minister agreeing to accept the covenants agreements and undertakings on the part of the Owner as contained herein.

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

8 WAIVER

No waiver (whether expressed or implied) by the Minister 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 Minister from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

The Owner agrees with the Minister to give the Minister immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

10 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 has an interest in the Site as follows:

All that land acquired by the Owners' predecessors in title, the Reverend Abraham le Sueur, Charles Bertram and Hugh Godfray, from Thomas Filleul by contract passed before the Royal Court on 26 June 1852, on which land has been constructed the building known as St Peter La Rocque Chapel.

SECOND SCHEDULE

The Owner's Covenants with the Minister

The Owner covenants and agrees and undertakes:

1. To deposit the Proceeds of Sale in a Bank Account or investments such account and/or investments to be operated in accordance with the Third Schedule
2. For the avoidance of doubt should the Repairs to the Chapel necessitate the obtaining of any planning permission or other statutory permission approval or consent then it shall be for the Owner to obtain the same and nothing in this Agreement shall operate so as to fetter the Minister's statutory discretion in any way.
3. The Owner shall maintain accurate and up to date records and books of account of all expenditure incurred and any binding commitments in respect of the Repairs to the Church in accordance with good accounting practice and ensure that such accounts are prepared by the Owner on the basis of a separate cost centre and permit the Minister the opportunity to inspect such records and accounts from time to time on reasonable notice or if requested to provide photocopies thereof to the Minister
4. The Owner shall not use or apply any of the Proceeds of Sale or any investment thereof other than for the purpose of securing providing and furthering the renewal, maintenance, repair and refurbishment of the Chapel.

THIRD SCHEDULE

Bank Account

1. The Account shall be a deposit account in the names of the Trustees as trustees of the St Peter La Rocque Chapel Trust opened and maintained in a bank in Jersey or the Jersey branch of a reputable clearing bank established elsewhere.
2. The Account shall be an interest-bearing account and interest earned therefrom shall be added to the Account.
3. The Account shall be maintained separately from all other accounts of the St Peter La Rocque Chapel Trust
4. Notwithstanding the foregoing, monies credited to the Account may be invested by the Trustees in accordance with their powers under the fideicomis ordered by the Royal Court on 10th August, 2007, provided that
 - i) any income deriving therefrom shall either be reinvested in such investments and treated as subject to the obligations herein, or credited to the Account; and
 - ii) on the sale of such investments, the net proceeds of sale after payment of commissions or duty, shall either be reinvested and subject to the obligations herein or credited to the Account.



Signed by the Very Reverend Robert Ke



In the presence of



This 19th day of June 2010

Signed by the Reverend Michael Lange-Smith

By



In the presence of



This 20th day of June 2010

Signed



By

In the presence of



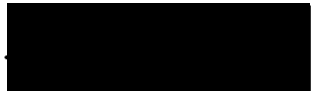
This 20th day of June 2010

Signed by William James Bailhache

By



In the presence of



This 20th day of June 2010

Signed on behalf of the Planning Minister

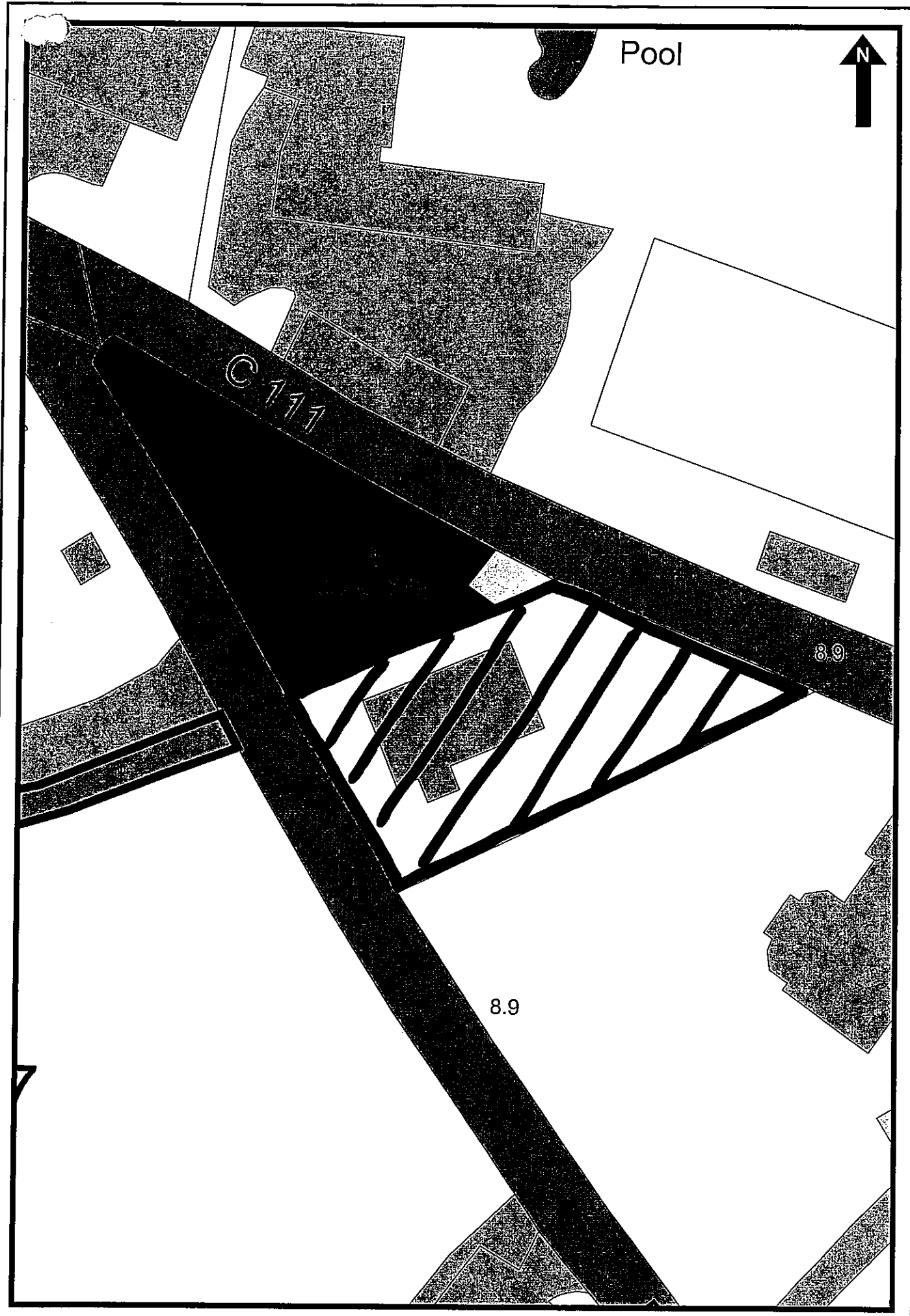


by



in the presence of

this 29 day of June 2010



17 June 2010

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mapping@gov.je



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States of Jersey