

In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty-two, the ninth day of February.

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, LEM Properties Limited and Lloyds Bank International Limited (formerly Lloyds TSB Offshore Limited) in relation to Units A, B and C Springside Industrial Estate, La Rue de la Monnaie Trinity 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 Units A, B & C Springside Industrial Estate, La Rue de la Monnaie Trinity Jersey

Dated

9th February

2022

The Chief Officer for the Environment (1)

LEM Properties Limited (2)

Lloyds Bank Corporate Markets Plc (formerly Lloyds Bank International Limited and previously
Lloyds TSB Offshore Limited) (3)

DATE

9th February

2022

PARTIES

- (1) The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**") and
- (2) LEM Properties Limited, a company incorporated in Jersey with company number 21523, the registered office of which is situate at Le Marquand Bros, West Park, St Helier, Jersey ("**the Owner**") and
- (3) Lloyds Bank Corporate Markets Plc (formerly Lloyds Bank International Limited and previously Lloyds TSB Offshore Limited) of 11-12 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 as described in the First Schedule.
- 2 The Lender has an interest in the Site by virtue of judicial hypothecs (hypothèques judiciaire) which were registered in the Public Registry on 11th October 2013 (RP 144/894) and 11th June 2020 (two entries - (RP 136/197 and RP 136/198), the latter two under the Lender's former name of Lloyds TSB Offshore Limited.
- 3 By an Act registered in the Public Registry on 20 November 2019 Lloyds Bank Corporate Markets Plc succeeded Lloyds Bank International Limited which company had itself changed its name from Lloyds TSB Offshore Limited by Special Resolution registered in the Public Registry on 24th September, 2013.
- 4 With the agreement of the Owner, an application (accorded the reference P/2021/0282) for planning permission for the Development has been submitted by Castletree Group.
- 5 Pursuant to Article 9(5)(b) of the Law, the Chief Officer referred the Application to the Planning Committee for determination by that Committee.
- 6 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 recommended approval of the grant of planning permission 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 planning permission in respect of the Site and described as "Demolish existing industrial buildings and ancillary structures. Construct 3 No. steel frame industrial units to South-East of site with associated car parking" and given the reference P/2021/0282;
"Bus Service Contribution"		means the sum of four thousand two hundred and fifty six pounds (£4,256) to be paid by the Owner to the Treasurer of the States to be applied by the Minister towards the provision of a bus service to/from the site to be managed by IHE/ Transport;
"Bus Shelter Contribution"		means the sum of eleven thousand five hundred pounds (£11,500) to be paid by the Owner to the Treasurer of the States to be applied by the Minister towards the provision of a bus shelter in the vicinity of the site to be managed by IHE/ Transport;
"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 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;
"Cycling/walking Contribution"		means the sum of eleven thousand six hundred and forty six pounds (£11,646) to be paid by the Owner to the Treasurer of the States to be applied by the Minister towards improvements for walking/cycling to the site to be managed by IHE/ Transport;
"Development"		the development of the Site as set out in the Application;
"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 HSBC 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;
"Plan"		the plan contained in the Second Schedule to this agreement.
"Planning Permit"		the planning permission for the Development as applied for and described in the Application (P/2021/0282) a copy of which is attached in 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.

"Royal Court"		the Royal Court of the Island of Jersey.
"Site"		Units A, B & C Springside Industrial Estate, La Rue de la Monnaie Trinity Jersey identified coloured red on the Plan upon which the Development is to be carried out.

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 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 MINISTERIAL COVENANTS

The Chief Officer covenants with the Owners as set out in the Fifth 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 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.
- 8.2 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 registered 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 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.
- 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 herein.
- 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 herein.
- 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 legal ownership of the Site occurring before all the obligations under this Agreement have been discharged.

11 INDEXATION

Any sum referred to in the Fourth 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 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.

16 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 Springside Rue de la Monnaie Trinity, Jersey by virtue of a contract dated 20 June 1997 from Le Marquands (Properties) Limited

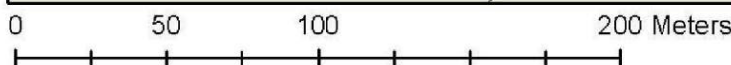
The Site is shown for the purposes of identification on the Plan.

SECOND SCHEDULE
The Plan



Royal Jersey Showground

© Government of Jersey



Date: 11/02/2021

Location Plan

SCALE 1:2,500



THIRD SCHEDULE
The Planning Permit

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0282

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
SUBJECT TO A PLANNING OBLIGATION AGREEMENT
to develop land under Article 19 of the Planning and Building(Jersey) Law 2002;

In respect of the following development:

Demolish existing industrial buildings and ancillary structures. Construct 3 No. steel frame industrial units to South-East of site with associated car parking.

To be carried out at:

Unit A, B & C, Springside Industrial Estate, La Rue de la Monnaie, Trinity, JE3 5DG.

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 EIW1, EIW2, GD1, GD7 and E1 of the Adopted Island Plan 2011 (Revised 2014).

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.
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.

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0282

Conditions:

1. No external storage of materials, equipment, waste, goods and/or other products shall take place on site, unless shown on the approved plans.
2. The findings and required mitigation measures outlined in the Ecological Method Statement contained within the Initial Ecological Assessment Report (NE/ES/SS.01, Nurture Ecology) shall be fully implemented prior to and throughout the approved works. Any variations that may be required to the method statement as a result of findings on site are to be agreed in writing by the department prior to works being undertaken.
3. 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. The scheme of landscaping shall provide details of the following:
 - i) all existing trees, hedgerows and other plants which it is proposed to remove from the site (tree felling and hedgerow removal to be undertaken only between the months of 1st October to 1st March in any calendar year unless otherwise agreed with the department);
 - ii) all existing trees, hedgerows and other plants which it is proposed to retain on the site;
 - iii) the position of all new trees and/or shrubs proposed on site, the position of these to include both the areas of new planting indicated on Drawing PL-20 Rev P2 together with the area annotated on this drawing as 'Grassed Area' to the north of the proposed car park. This must include sufficient trees, hedgerows and other plants to replace those to be removed from the site. The species of plants/trees to be planted, their size, number and spacing and the means to be used to support and protect them;
 - 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. Once agreed, the approved scheme shall be implemented in full and thereafter retained as such.

Reasons:

1. To protect the amenities of the occupiers of neighbouring properties and the visual amenities of the surrounding area, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
2. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
3. To safeguard the character and appearance of the area and to ensure the protection of any nesting birds in accordance with Policies GD1, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0282

FOR YOUR INFORMATION

Informative 1: The applicant's attention is drawn to the consultation response received from IHE-Drainage dated 20/04/21 with regard to the need to contact them prior to the start of works.

Informative 2: Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware of the possible presence of ASBESTOS within the development site. It is recommended that further advice is sought from a suitably qualified professional prior to the commencement of development so as to reduce the risk to public health.

Informative 3: Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should refer to the guidance on The Control of Dust and Emissions from Construction and Demolition, which can be found online at:

<https://www.gov.je/industry/construction/pages/constructionsite.aspx>

Informative 4: Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should refer to the guidance contained in the document 'Guidelines on Noise Control for Construction Sites' which is available online at

<http://www.gov.je/Industry/Construction/Pages/ConstructionSite.aspx>

and 'British Standard BS5228:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites'.

Informative 5: Any plant or machinery shall be installed, maintained and operated to such specification that noise generated from these units shall be at least 5dBA below background noise levels when measured, in accordance with BS4142:2014, from within the curtilage of any nearby property.

The approved plans can be viewed on the Planning Register at

www.gov.je/planning

The following plans have been approved:

1. Location Plan
2. Proposed Site Layout - PL-20 Rev P2
3. Proposed Ground Floor Layout – PL-21 Rev P3
4. Proposed First Floor/Mezzanine Floor Plan – PL-22 Rev P2
5. Proposed Elevations – PL-31 Rev P1
6. Proposed Sections – PL-41 Rev P1

DECISION DATE: **CURRENTLY UNDATED**

Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0282

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

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 have given to the Chief Officer fourteen (14) days' notice in writing of its intention so to do.

CYCLING/WALKING IMPROVEMENTS

2 To pay the Cycling/walking Contribution to the Treasurer of the States prior to the Commencement of any part of the Development

3 Not to Commence the Development until such time as the Cycling/walking Contribution has been paid to the Treasurer of the States.

BUS SHELTER CONTRIBUTION

3 To pay the Bus Shelter Contribution to the Treasurer of the States prior to the Commencement of any part of the Development

4 Not to Commence the Development until such time as the Bus Shelter Contribution has been paid to the Treasurer of the States.

BUS SERVICE CONTRIBUTION

5 To pay the Bus Service Contribution to the Treasurer of the States prior to the Commencement of any part of the Development

6 Not to Commence the Development until such time as the Bus Service Contribution has been paid to the Treasurer of the States.

FIFTH 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.

Signed on behalf of the Chief Officer:

.....

Name a

in

Name and Position

this

9th day of February 2022

Signed on behalf of LEM Properties Limited:

in the presence of

Name and Position. . .

this

17th day of December 2021

Sig

LLOYDS BANK CORPORATE MARKETS PLC

by

in the presence of . .

this

14 day of January 2022