

STATES OF JERSEY



DRAFT HOWARD DAVIS FARM (PARTIAL ABROGATION OF COVENANT) (JERSEY) LAW 200-

**Lodged au Greffe on 21st December 2006
by the Minister for Treasury and Resources**

STATES GREFFE



Jersey

**DRAFT HOWARD DAVIS FARM (PARTIAL
ABROGATION OF COVENANT) (JERSEY)
LAW 200-**

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources the provisions of the Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

REPORT

Introduction

Members will be aware of the generosity of Thomas Benjamin Frederick Davis and the many gifts he made to the Island. It is the view of the Minister that it continues to be essential to honour and recognize the importance of T.B. Davis as an extremely generous benefactor to the people of Jersey, and to retain the tributes to the memory of his son Howard who served with distinction and died in service for his country and the freedom of future generations.

Parkfield (later to be named Howard Davis Farm), amounting to the house, farm buildings and 40 vergées of land, was gifted to the Public of the Island by T.B. Davis and accepted by the Act of the States on the 17th December 1927. A covenant attached to the gifting imposed certain conditions as to the use of the land and buildings. It was one of four separate corpus-fundi transferred by Mr. Davis to the Public of the Island in perpetuity and gifted for –

“the purpose of establishing there, under the administration of the Committee of Agriculture of the States, an experimental farm for developing the study of agriculture and for instructing in that science young people and other interested parties”

A very small percentage of the current uses actually fall within the uses permitted under the terms of this covenant with the decline in Island agriculture and the need for research and training within the industry.

Proposed Use

For some time now Property Holdings, and formerly the Department of Property Services, has been negotiating with the Jersey Dairy which wishes to relocate its milk product processing and manufacturing facility from Five Oaks to a new site. Part of the existing and mostly redundant glasshouse complex at Field 562, Howard Davis Farm site, as shown outlined on the attached Drawing No. 845/06/102, has been identified as being suitable for a new plant. The Minister for Planning and Environment has given Development Approval for a commercial dairy and milk processing facility, of approximately 26,500 square feet, together with ancillary offices, storage, vehicle parking and new road access over part of the adjacent Field 827. Subject to States approval for the revision of the covenant and the lease of the land to the Jersey Milk Marketing Board it is planned to commence building work as soon as possible.

The surviving members of the Davis family are being kept apprised of these proposals. Discussions will continue with them on the future uses of other land at Howard Davis Farm and any necessary revision of the covenant to permit those uses will be the subject of a later Proposition to the States.

Revision of Covenant

To enable the Jersey Dairy to relocate to Howard Davis Farm and construct and operate a commercial dairy on the identified site it is necessary to ask the States to pass a law which revises or partially abrogates the conditions of the original 1927 Deed of Gift by T.B. Davis. Previous examples of this being done on land in the

Public ownership include the former Maternity Hospital in St. Saviour's Road, now used as offices and Le Bas Centre, and the former Westaway Crèche, which is now used as accommodation for medical and nursing staff.

The need for an experimental or training facility in the Island devoted to agriculture has diminished and there is a need for the land and buildings at Howard Davis Farm to have alternative acceptable uses, especially in this case, to enable an area of land to be leased to the Jersey Milk Marketing Board. It is essential therefore that, even though retained in Public ownership, the States are asked to adopt a law which revises or partially abrogates the existing covenant to allow the alternative use for a commercial dairy and ancillary purposes of the land, affected by the covenant, as shown hatched on Drawing No. 845/06/102.

Trust Fund

It is not considered acceptable for the States to accept a gift of this nature and then to simply pass a law revising the conditions relating to the charitable purposes of the gift and use the site for other, non-charitable, purposes with no further reference to the purpose for which the gift was given.

In asking the States to adopt the law, the Minister will therefore also seek for any rental or other income (less any expenses incurred in leasing or preparing the land for leasing) that may be received from the lease of the land, which is currently included in the 1927 Deed of Gift, to be vested in the Treasurer of the States and kept by him in a separate interest earning account until such time that provision has been made by statute for the setting up of a trust fund which is within the spirit of the original charitable purposes of the T.B. Davis gift.

Financial and manpower implications

There are no other financial or manpower implications for the States arising from this draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 20th December 2006 the Minister for Treasury and Resources made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Treasury and Resources the provisions of the Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 is an interpretative provision.

Article 2 specifies that a part of the land comprising Howard Davis Farm may be leased by the Public of the Island to a person, free of the condition that it be used for the purposes for which the gift to the Public of the Island of the property was made.

The lease shall be subject to the condition that the land may only be used by a person for the construction and operation of a commercial dairy and milk processing facility and for ancillary purposes, and for other purposes, if any, authorized by the States.

Article 3 requires the Treasurer to keep the proceeds of the lease in an interest-bearing account, separate from other monies of the States, until the proceeds, and any interest accruing on them, can be placed in a fund established for the purposes of promoting training and research in respect of agriculture in Jersey or other countries or territories.

Article 4 specifies that the Royal Court shall, when it orders the registration of this Law, also order the registration of a copy of this Law in the Public Registry of Contracts.

Article 5 cites the name by which the Law may be cited and that it shall come into force 7 days after it is registered.



Jersey

**DRAFT HOWARD DAVIS FARM (PARTIAL
ABROGATION OF COVENANT) (JERSEY)
LAW 200-**

Arrangement

Article

1	Interpretation	9
2	Partial abrogation of covenant regarding use	10
3	Money to be held by Treasurer	10
4	Registration of Law in Public Registry	10
5	Citation and commencement	10

SCHEDULE **11**

RELEVANT LAND	11
PART 1	11
PART 2	13



Jersey

DRAFT HOWARD DAVIS FARM (PARTIAL ABROGATION OF COVENANT) (JERSEY) LAW 200-

A LAW to abrogate, in relation to part of the property known as Howard Davis Farm, a condition subject to which the property was gifted to the States, so that the part of the property may be leased to a person for use as a commercial dairy and milk processing facility and for ancillary purposes, and for other purposes authorized by the States; and the proceeds of the lease used so as to enable the purposes of that gift to continue to be fulfilled; and for connected purposes.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law –

“Howard Davis Farm” means the house, farm buildings and land formerly known as ‘Parkfield’ which were gifted to the Public of the Island by the late Thomas Benjamin Frederick Davis and accepted by Act of the States of 28th November 1927;

“relevant land” means the area of Howard Davis Farm shown on the map in Part 2 of the Schedule as the hatched area bounded by a thick black line extending, as indicated on the map, between the boundary points specified in Part 1 of the Schedule.

2 Partial abrogation of covenant regarding use

- (1) Notwithstanding the terms of the deed by which Howard Davis Farm was gifted to the Public of the Island by the late Thomas Benjamin Frederick Davis, it shall be lawful for the Public of the Island to lease the relevant land to a person, free from the covenant requiring that the relevant land be used as part of an experimental farm for developing the study of agriculture and for instructing in that science young people and other interested parties.
- (2) It is a condition of any lease that it shall be lawful to grant under paragraph (1) that the relevant land shall only be used for –
 - (a) the purposes of the construction and operation of a commercial dairy and milk processing facility, and for ancillary purposes; and
 - (b) purposes, if any, authorized under paragraph (3).
- (3) The States may authorize the use of the relevant land for the purposes the States think fit.

3 Money to be held by Treasurer

- (1) If the relevant land is leased by the Public of the Island to a person in accordance with Article 2, the proceeds of the lease shall be held by the Treasurer of the States and, subject to paragraph (3), be retained, separately from other monies of the States, in an interest-bearing account.
- (2) The proceeds of the lease referred to in paragraph (1), and any interest accrued on the proceeds, shall not be dealt with except in accordance with paragraph (3).
- (3) The Treasurer shall, as soon as practicable after first receiving the proceeds of any lease under paragraph (1), transfer the proceeds, and any interest accrued on the proceeds, to a fund established for the purposes of promoting training and research in respect of agriculture in Jersey or other countries or territories.

4 Registration of Law in Public Registry

- (1) The Royal Court shall, when it orders the registration of this Law, also order the registration of a copy of this Law, signed by the Greffier of the States, in the Public Registry of Contracts.
- (2) The registration of a copy of this Law in the Public Registry of Contracts shall have like effect as a contract passed before the Royal Court.
- (3) No fees shall be payable under the Stamp Duties and Fees (Jersey) Law 1998¹ in relation to the registration of a copy of this Law as required by paragraph (1).

5 Citation and commencement

This Law may be cited as the Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

SCHEDULE

(Article 1)

RELEVANT LAND

PART 1

Howard Davis Farm, La Route de La Trinité, Trinity.

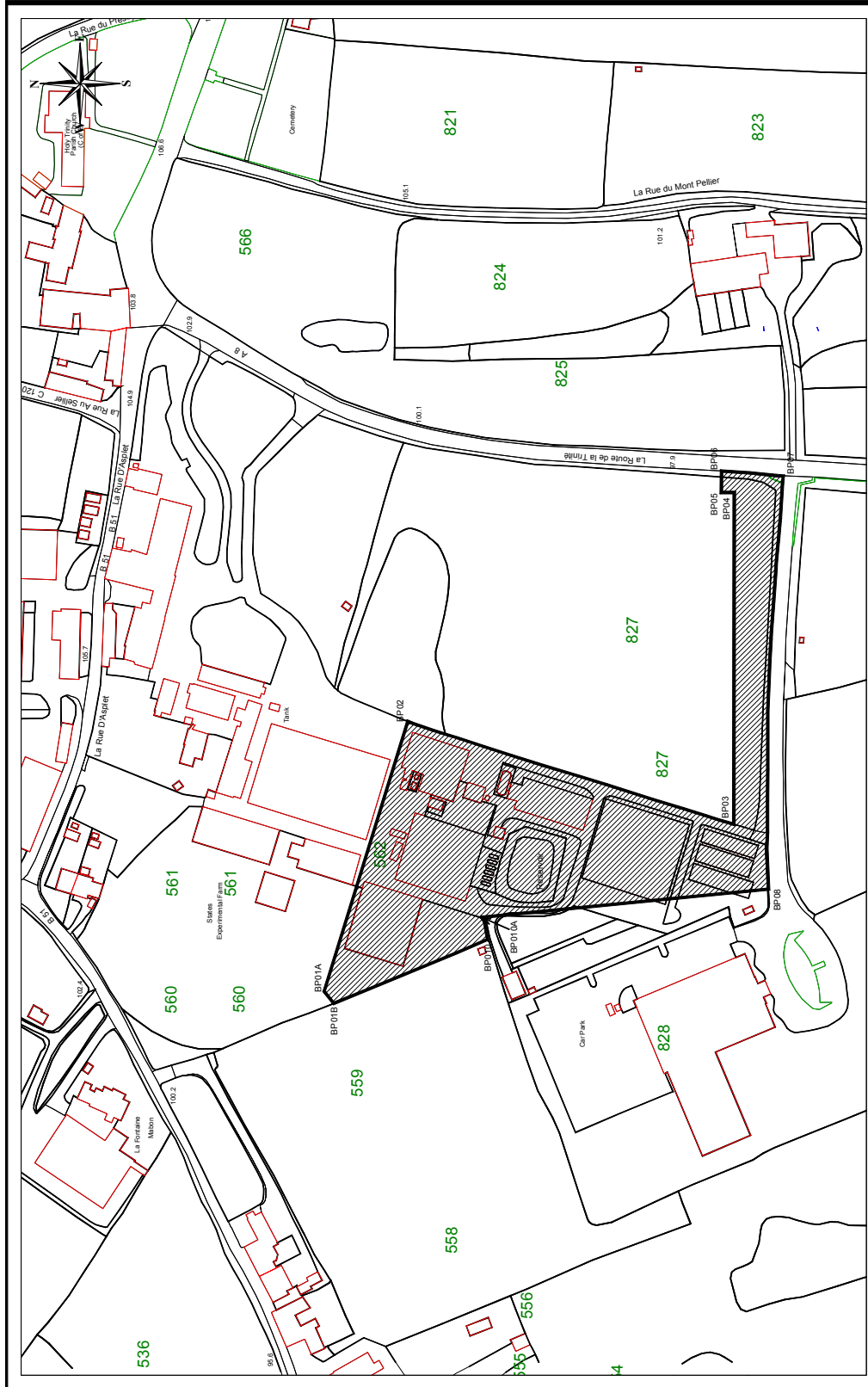
Co-ordinate and Descriptive Definition of the Boundary Points.

The following coordinate listing and description apply to drawing number 845/06/102. Boundary points have coordinates currently used in the Jersey Map Grid System 2004. The following coordinates represent the boundary points.

Point No.	Easting	Northing	Description
BP01A	42824.77E	70880.41N	Boundary point situated at end of hedge and forms corner of original site
BP01B	42817.37E	70873.26N	Boundary Point situated 10.90 metres south of BP01 along Eastern edge of Field 599
BP02	42928.81E	70849.24N	Boundary point situated on kerb line at Western edge of Field 827
BP03	42888.56E	70721.70N	Boundary point situated on kerb line at Western edge of Field 827, South West of BP02
BP04	43018.80E	70720.98N	Boundary point situated in Field 827, 7 metres West of La Route de la Trinité footpath & 19.5 metres North of Howard Davis Farm access road
BP05	43018.82E	70724.98N	Boundary point situated 4 metres North of BP04
BP06	43026.06E	70727.77N	Boundary point situated at The back of Footpath West side of La Route de la Trinité, and 23.5 metres North of Southern entrance to Howard Davis Farm
BP07	42023.98E	70701.00N	Boundary point situated at the Southern entrance to Howard Davis Farm

Point No.	Easting	Northing	Description
BP08	42863.72E	70707.10N	Boundary point situated at North side of Southern Entrance to Howard Davis Farm, and 15 metres West of Internal Access Road
BP10	42843.59E	70817.20N	Boundary point situated in South Eastern corner of Field 559, and 16.0 metres East of animal cremator
BP10A	42851.99E	70819.59N	Boundary point situated 9.0 metres East of BP10

PART 2



COPYRIGHT
STATES OF
JERSEY



Site of Proposed Dairy Subject to Covenant

Boundary Information Supplied by the States of Jersey Planning Office, but no responsibility can be accepted for error.

Drawing No:
845/06/102

¹ *chapter 24.960*