

# *In the Royal Court of Jersey*

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Samedi Division

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**In the year two thousand and four, the twenty-fourth day of December.**

Before Sir Philip Martin Bailhache, Kt., Bailiff of Jersey, assisted by Jurats  
Geoffrey Charles Allo and Stanley John Le Cornu.

Upon the application of Her Majesty's Solicitor General, the Court ordered the registration in the Public Registry of this Island of the Planning Obligation Agreement annexed hereto.

  
Greffier Substitute

LOD

L1178-618--

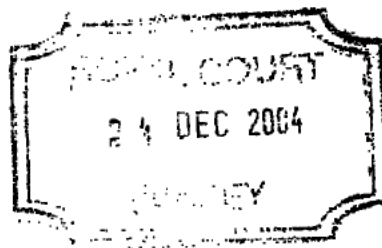
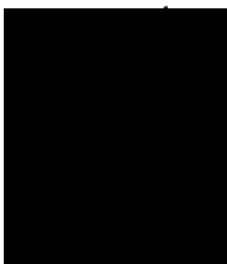


**In the Royal Court of Jersey  
(Samedi Division)**

Her Majesty's Solicitor General has the honour to request the Court to order the registration in the Public Registry of this Island of the Planning Obligation Agreement attached hereto.



H. M. Solicitor General



**Law Officers of the Crown  
H. M. Solicitor General**

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**EPSGENA-067 SCN/PW**

**PLANNING OBLIGATION AGREEMENT**

**ARTICLE 8A of the ISLAND PLANNING (JERSEY) LAW 1964**

**BETWEEN**

**(1) HOTEL DES ARBRES LIMITED**

**(2) HOTEL BERGERAC LIMITED,**

**(3) ROBERT PETER BESLIEVRE,**

**SUSAN JENNIFER LLOYD BESLIEVRE née SMITH,**

**(4) BERGERAC DEVELOPMENTS LIMITED**

**AND**

**(5) THE ENVIRONMENT AND PUBLIC SERVICES COMMITTEE**

**REGARDING**

**(1) BERGERAC APARTMENTS, NOIRMONT, ST BRELADE**

**AND**

**(2) THE BERGERAC HOTEL, NOIRMONT, ST. BRELADE**

**Law Officers' Department  
Morier House  
St Helier  
Jersey  
JE1 1DD**

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## 1. Parties

- 1.1 Hotel des Arbres Limited whose registered office is 44, The Esplanade, St. Helier (hereinafter called “the Apartments Owner” which expression where the context so admits shall include its assigns and successors in title); and
- 1.2 Hotel Bergerac Limited whose registered office is 44, The Esplanade, St Helier (hereinafter called “the Hotel Owner” which expression where the context so admits shall include shall include its assigns and successors in title); and
- 1.3 Bergerac Developments Limited whose registered office is 40, The Esplanade, St Helier (hereinafter called “the Developer” which expression where the context so admits shall include its assigns and successors in title); and
- 1.4 Robert Peter Beslièvre and Susan Jennifer Lloyd Beslièvre, née Smith (hereinafter called the Personal Guarantors which expression where the context so admits shall include their respective heirs and assigns); and
- 1.5 The Environment and Public Services Committee (hereinafter called “the Committee” which expression where the context so admits shall include its assigns).

## 2. Recitals:

- 2.1 The Apartments Owner is the owner in perpetuity (*à fin d'héritage*) of the property known as Bergerac Apartments, land and appurtenances in the parish of St. Brelade (hereinafter called “Bergerac Apartments”) to which it has a right by deed of purchase from Christopher Savva passed before Court on the 11<sup>th</sup> May, 1984.
- 2.2 The Hotel Owner is the owner in perpetuity (*à fin d'héritage*) of –
  - 2.2.1 The property known as Bergerac Hotel, land and appurtenances in the parish of St. Brelade, hereinafter called “Bergerac Hotel”, to which it has a right by deed of purchase from Ronald Edward Goode and Anna Pelagie Goode, née Tanguy passed before the Royal Court under its former name of C.A.B. Entertainments Limited on the 2<sup>nd</sup> November, 1973;
  - 2.2.2 A private roadway in the parish of St. Brelade (hereinafter called “the roadway”) to which it has right by deed of purchase under its

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former name of C.A.B. Entertainments Limited from Bridgemere Developments Limited passed before Court on the 30<sup>th</sup> May, 2003.

- 2.3 The Apartments Owner, the Hotel Owner, the Developer and the Personal Guarantors have entered into a legally binding agreement (which takes the form of an Agreement dated 24<sup>th</sup> July 2003, together with an addendum dated 6<sup>th</sup> September 2004) which provides that –
- 2.3.1 the Apartments Owner will sell and convey Bergerac Apartments to the Developer;
- 2.3.2 the Hotel Owner will sell and convey the Bergerac Hotel and the roadway to the Developer;
- 2.3.3 the Developer will buy and take a conveyance of the Bergerac Apartments and the Bergerac Hotel, or, in default, pay an agreed sum by way of damages;
- 2.3.4 the Personal Guarantors inter alia guarantee the due and punctual payment by the Developer and/or its nominee of the agreed liquidated damages to the Apartments Owner and the Hotel Owner.
- 2.4 Wherefore the Apartments Owner, the Hotel Owner, the Developer and the Personal Guarantors have interests in the Land (as defined by clause 3.1 below) within the meaning of paragraph (1) of Article 8A of the Island Planning (Jersey) Law 1964.
- 2.5 The Developer has applied to the Committee for permission under Article 6 of the Island Planning (Jersey) Law 1964 (“the Law”) to redevelop the Land (as defined in clause 3.1 below).
- 2.6 The Committee considers it expedient in the interests of proper planning that provision should be made for regulating or facilitating the development or use of the Land in the manner hereinafter appearing and it is satisfied that development permission could properly be granted conditional on the Owners and the Developer having first entered into this agreement.

### 3. Interpretation

3.1 In this agreement the expressions in the left-hand column below have the meaning attributed to them in the right-hand column below –

The Committee	The Environment and Public Services Committee
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Demolition	The total de-construction, removal from site and proper disposal of the building and all parts thereof to which the said term is applied. For the avoidance of any doubt, "demolition" shall be taken to include the excavation and removal of foundations, the sealing and/or making good of all service pipes, cables and conduits and the undertaking of any other works rendered necessary to bring about complete site clearance and the proper disposal of all demolition material.
development	The same meaning as defined in the Law
The Development	The development for which the Developer has applied to the Committee as set out I clause 2.5 of this Agreement
The Hotel Building	All buildings currently forming part of the Bergerac Hotel
The Land	(1) Bergerac Apartments, land and appurtenances, as described in the Deed of the 11 <sup>th</sup> May, 1984; (2) Bergerac Hotel, land and appurtenances, as described in the Deed of the 2 <sup>nd</sup> November, 1973; and (3) The roadway, as described in the Deed of the 30 <sup>th</sup> May, 2003.
The Law	The Island Planning (Jersey) Law, 1964
Public Services Department	The Public Services Department of the Committee
The Site	The area being approximately the southern and the eastern portions of the Land outlined in alternate dash-dot bold type and designated "PHASE TWO" on the layout plan dated August 2004 numbered 60.399.03 A and shown at Schedule 1 hereof.
Works of Demolition	The demolition of the Hotel buildings.

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#### **4. It is agreed as follows:**

- 4.1 This **AGREEMENT** is made pursuant to all powers enabling the parties and in particular to Article 8A of the Law and with the intent that it shall bind the Apartments Owner, the Hotel Owner, the Developer and the Personal Guarantors and their respective heirs, assigns and successors in title and any persons claiming under or through them.
- 4.2 The Obligation assumed by the Apartments Owner, the Hotel Owner, the Developer and the Personal Guarantors by this Agreement is a planning obligation for the purposes of Article 8A of the Law.
- 4.3 This Agreement is conditional upon the grant of development permission by the Committee in respect of the Land and the commencement of the Development.
- 4.4 If the development permission lapses, then this Agreement shall automatically lapse and be of no further force or effect.
- 4.5 Should the Apartments Owner or the Hotel Owner cease to have an interest in the Land, that Owner shall no longer be bound by this Agreement, save and except the provisions set out in Clause 5.5 of this Agreement.
- 4.6 Should the Developer cease to have an interest in the Land, the Developer shall no longer be bound by the Obligation in this Agreement, save and except the provisions set out in clauses 5.5 and 5.6 of this Agreement.
- 4.7 Should the Developer fulfil the obligation set out at Clauses 5.1 and 5.2 of this Agreement, the Personal Guarantors shall no longer be bound by the Obligation in this Agreement.

#### **5. The Obligation**

- 5.1 The use of the Bergerac Hotel as a Hotel will cease on or before the 30<sup>th</sup> October, 2005.
- 5.2 The Developer will demolish the Hotel Buildings and clear the Site to the satisfaction of the Committee by or before the 31<sup>st</sup> March 2006; it being expressly agreed and understood that:
  - 5.2.1 The Developer will be liable for the costs of and incidental to the demolition works.

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- 5.2.2 The Developer will engage the services of a reputable demolition contractor, who will be responsible for the management and carrying out the demolition works.
- 5.2.3 The demolition works shall be undertaken following consultation with the Committee and demolition works shall be undertaken to the satisfaction of the Committee.
- 5.3 In the event that the Developer neglects, refuses or otherwise fails to fulfil the obligation set out in Clause 5.2 hereof, -
- 5.3.1 the Committee shall (without prejudice to its right to take injunctive proceedings against the Developer) be authorised to enter the Land and carry out, or cause to be carried, out the demolition works. The Developer shall allow the Committee access to the Land and shall otherwise provide all such assistance as may be required by the Committee in connection with the demolition works.
- 5.3.2 the Developer shall allow the Committee access to the Land and shall other provide all such assistance as may be required by the Committee in connection with the demolition works.
- 5.3.3 the Committee shall be entitled to recover from the Developer or the Personal Guarantors (the Personal Guarantors hereby agreeing to waive any right pursuant to the *droit de discussion* or *droit de division* which might arise) the costs, fees and other expenses of and incidental to the works undertaken pursuant to this Clause 5.3.
- 5.4 The contingent liability of the Developer and the Personal Guarantors in accordance with 5.3 above will be secured by a judicial hypothec created in accordance with the provisions of Article 13 of the *Loi (1880) sur la propriété foncière*, as amended.
- 5.5 The Developer, the Personal Guarantors and the Hotel Owner will execute a form of acknowledgement in the form set out in Schedule 2 hereto whereby --
- 5.5.1 the Developer will acknowledge its contingent liability to the Committee in accordance with clause 5.3 hereof.
- 5.5.2 the Personal Guarantors will acknowledge their guarantee thereof;

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5.5.3 the Hotel Owner will declare that it will not avail itself to the prejudice of the judicial hypothec created in favour of the Committee of any conventional hypothec created or consented or any judicial hypothec created and secured upon the Land or any part thereof.

5.6.1 The Developer will pay to the Committee before the commencement of any work in pursuance of the Development permit the sum of three thousand pounds (£3,000) for the erection by the Public Services Department of a bus shelter as shown on the Location Plans dated 20 December 2004 I 1:500 and 1:2500 scale respectively and shown at Schedule 3 hereof, or in substantially the same area upon a bus route passing in the vicinity of the Land as may be determined by the Public Services Department.

5.6.2 If the Public Services Department has not erected a bus shelter in pursuance of 5.6.1 hereof at the expiry of three years from the date of payment by the Developer to the Treasurer of the States of the said sum of £3,000, as much of the said sum of £3,000 as has not been expended in preparatory works for the erection of such a shelter shall be repaid without interest by the Committee to the Developer.

**6. Enforcement of the Obligation**

6.1 The Committee is the planning authority with responsibility for achieving the purposes of the Law and the Committee has the power to enforce this agreement against the parties to the Agreement and any person who derives title to the Land from any such party pursuant to paragraph (7) of Article 8A of the Law.

Signed on behalf of **Hotel des Arbres Limited** .....

In the presence of.....

Signed on behalf of **Hotel Bergerac Limited** .....

in the presence of .....

Signed on behalf of **Bergerac Developments Limited**

by .....



in the presence of ..... [Redacted] .....

Signed by **Robert Peter Beslièvre**

..... [Redacted] .....

in the presence of ..... [Redacted] .....

Signed by **Susan Jennifer Lloyd Beslièvre, née Smith**

..... [Redacted] .....

in the presence of ..... [Redacted] .....

Signed on behalf of the **Environment and Public Services Committee**

by ..... [Redacted] .....

Greffier of the States

in the presence of ..... [Redacted] .....

this *24<sup>th</sup>* day of December, 2004

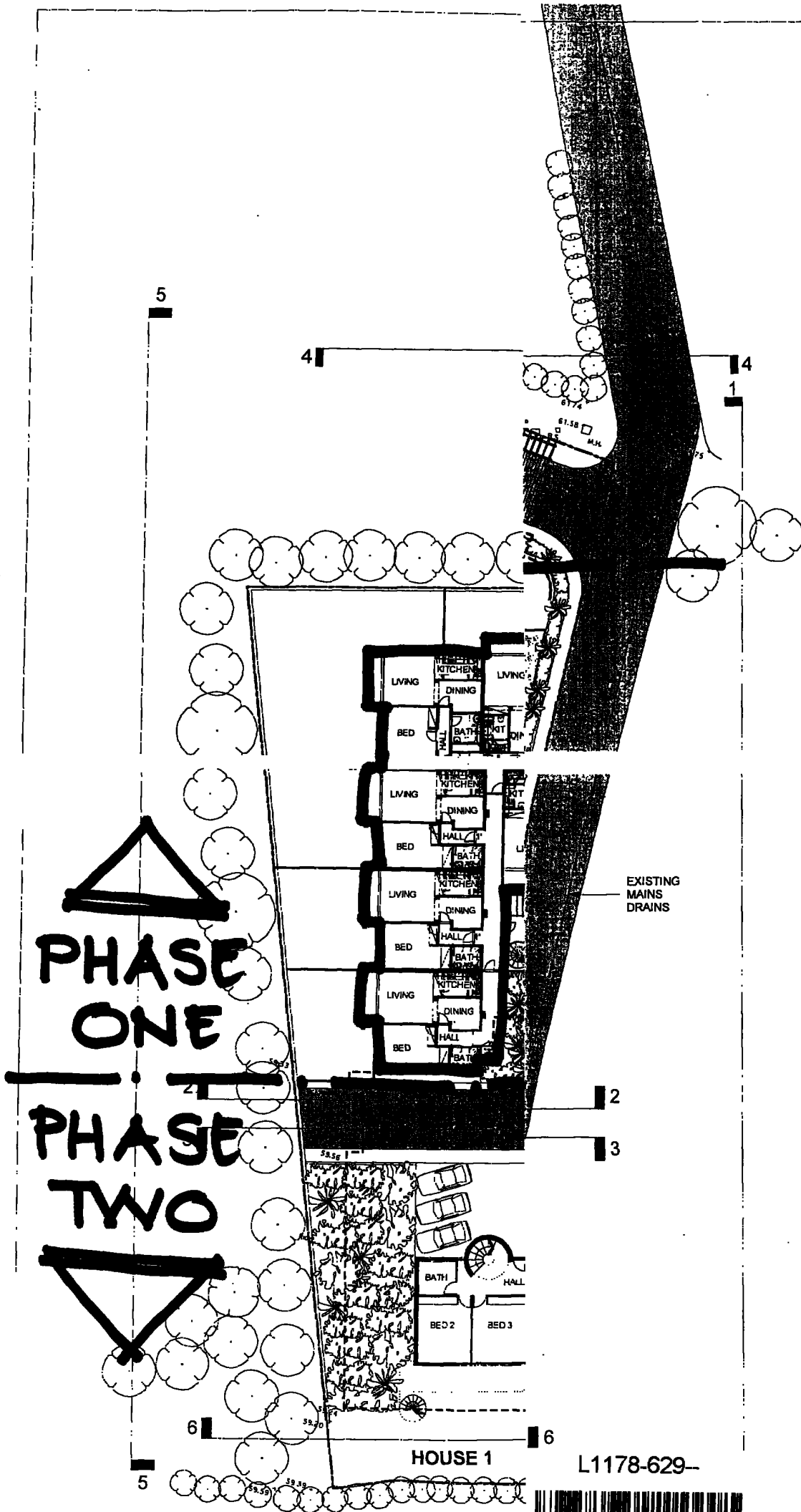
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## Schedule 1

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**GENERAL NOTES:**  
 This drawing must not be copied in whole or in part without prior written permission of Riva Architects Limited. This drawing must be read in conjunction with other architect drawing No's 04 & 05, 378, 02 & all schedules/Building Bye-Law check list and with all relevant structural engineering drawings, details and specifications. It is the contractor's responsibility to ensure that all work is carried out in accordance with all statutory requirements and with the approval of the building control officer (B.C.O.). The contractor is responsible for the setting out of the works. Any discrepancy found between this drawing and any other dimensions, All dimensions must be checked on site. The relevant British Standards for materials and their uses are to be adhered to. Manufacturers installation & fitting instructions must be obtained and adhered to at all times.

**CHATEAU**  
 8 No 1 Bed Flats

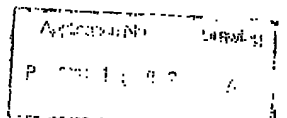
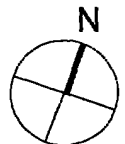
**BLOCK 1**  
 16 No 1 Bed Flats

**BLOCK 2**  
 16 No 1 Bed Flats

**BLOCK 3**  
 12 No 1 Bed Flats

**70 Parking Spaces**  
 52 Resident  
 18 Visitor

**HOUSES 1 - 5**  
 5 No 4 Bed Houses  
 with own parking



A	BLOCK 3 REDUCED IN SIZE & SEPERATED FROM BLOCK 2, AS REQD BY PLANNERS	13/10/08
REV	DESCRIPTION	DAT.
JOB TITLE		

**THE PALMS**  
 (Formerly The Bergerac Hotel)  
 La Rue Voina,  
 St. Brevide.

for  
 Bergerac Developments Limited

DRAWING TITLE  
**LAYOUT PLAN**

ISSUE:  
 DATE  
**AUG 2004**  
 SCALE  
**1:200**

**RIVA**  
 ARCHITECTS

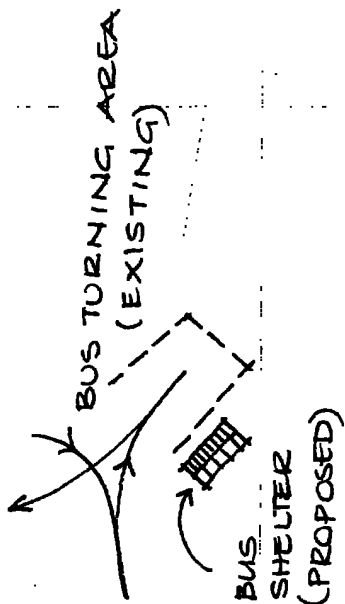
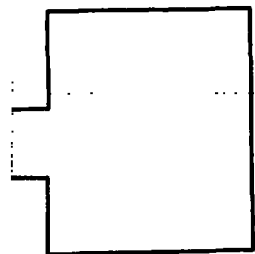
DRAWN  
**DCT**      CHECKED

DRAWING NO  
**60.399.03**      REV  
**A**

157 FLOOR, 125/125B THE HOLF  
 BED HOUSE, ST. BRIEUX  
 (URSELY JF - 6L)  
 TEL: 4184911 FAX: 4992048

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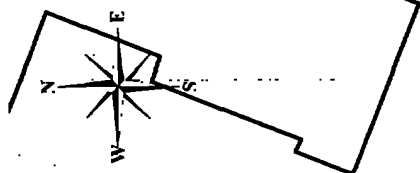




204.5

OLD PORTELET INN  
Car Park

PH



**LOCATION PLAN**  
SCALE 1: 500

20 December 2004

L1178-630-



## Schedule 2

L1178-631--



**EPSGENA-067 SCN/PW**

**SCHEDULE 2**

**IN THE ROYAL COURT OF JERSEY**

**BEFORE THE JUDICIAL GREFFIER**

**The     day of     , 200**

1. BETWEEN Bergerac Developments Limited (hereinafter called “the first defendant”,) Robert Peter Beslièvre and Susan Jennifer Lloyd Smith, his wife, (hereinafter called “the second and third defendants” respectively) and Hotel Bergerac Limited (hereinafter call “the fourth defendant”), OF THE ONE PART; and the Environment and Public Services Committee (hereinafter called “the plaintiff”), OF THE OTHER PART; actioning the defendants as follows:-

- (1) the first defendant to acknowledge its contingent liability in accordance with the terms of a Planning Obligation Agreement entered into between the parties and Hotel des Arbres Limited and registered in the Public Registry in accordance with the provision of the Island Planning (Jersey) Law, 1964;
- (2) the second and third defendants to acknowledge their joint and several guarantee to the said Planning Obligation Agreement;
- (3) the fourth defendant to declare that it will not avail itself of any hypothecary rights which it may have in respect of the property known as

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Bergerac Hotel, land and appurtenances to the prejudice of the judicial hypothec hereby created.

2. By his/her signature by the signature of his/her/its advocates/solicitors/attorney/authorised signatory hereto,

(1) the first defendant acknowledges its contingent liability to the plaintiff;

(2) the second and third defendants acknowledge their contingent indebtedness as joint and several guarantors of the said Planning Obligation Agreement; and

(3) the fourth defendant gives the aforesaid undertaking;

(4) all defendants consent to the immediate registration of this acknowledgment in the Public Registry.

3. The plaintiff's advocate by his/her signature hereto, hereby requests the immediate registration of this acknowledgment.

**Law Officers of the Crown**

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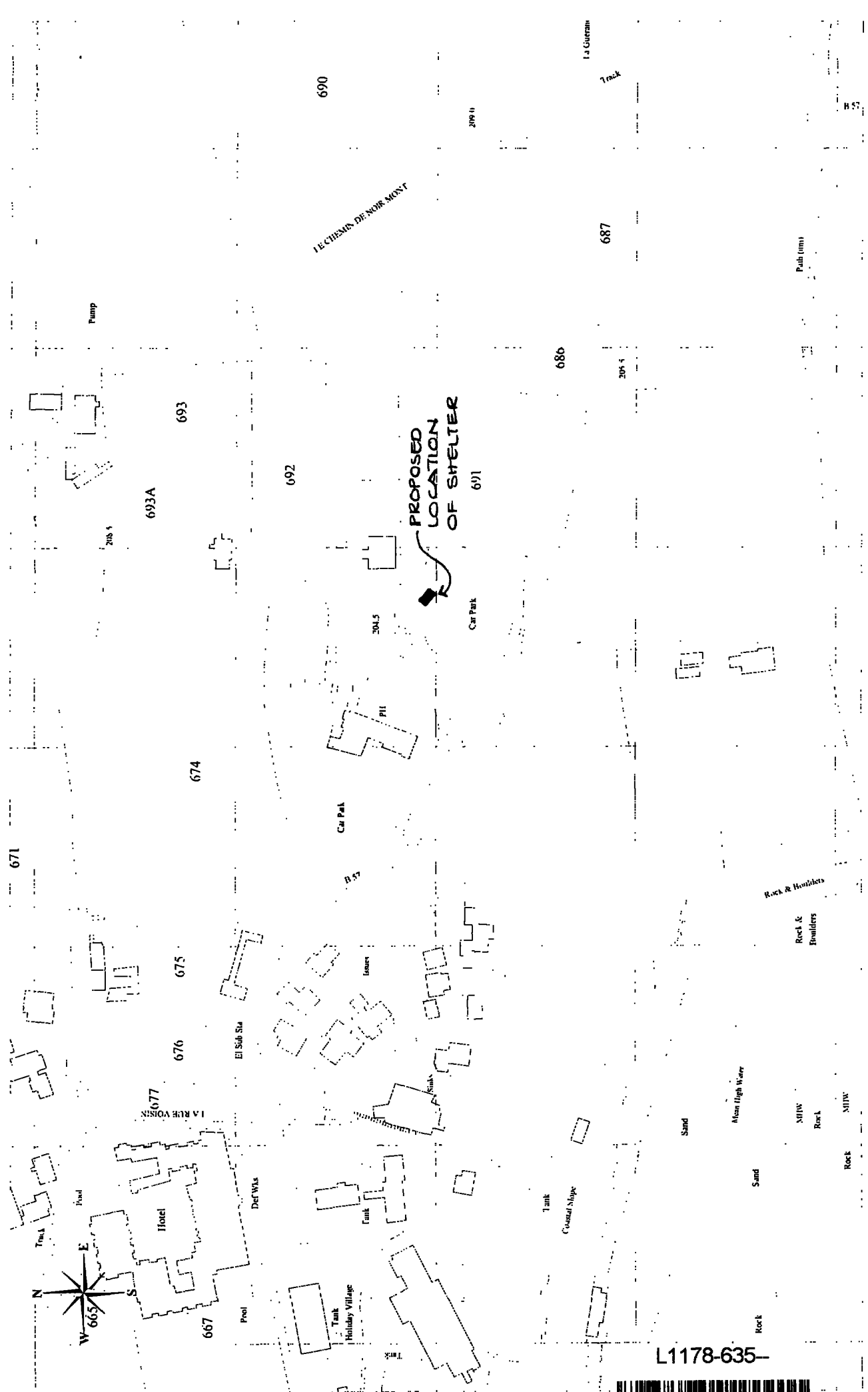




### Schedule 3

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**PROPOSED  
LOCATION  
OF SHELTER**

# LOCATION PLAN

## SCALE 1: 2500

L1178-635-



**20 December 2004**