

In the Royal Court of Jersey

Samedi Division

In the year two thousand and sixteen, the first day of November.

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 Ronald Leslie Mitchell and Jennifer Pauline Mitchell, née Bird in relation to Le Havret, Le Mont de Gouray, St Martin, 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 the development of Le Havret, Le Mont de Gouray, St. Martin, JE3 6ET

Dated

31st October 2016

2016

The Chief Officer for the Environment (1)

Ronald Leslie Mitchell and Jennifer Pauline Mitchell (2)

DATE

31st October

2016

PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("**the Chief Officer**");
- (2) Ronald Leslie Mitchell and Jennifer Pauline Mitchell ("**the Owners**") both of La Vielle Davisonnerie, La Route de la Hougue Bie, St. Saviour, JE2 7UX

RECITALS

- 1 The Owners warrants that by right under hereditary contract of purchase from June Helen Gracey née Hollick dated 1 August 2014 they are the owners in perpetuity (*à fin d'héritage*) as to the Site.
- 2 The Owner submitted an application (accorded the reference P/2016/0695) 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 for a financial contribution to the Eastern Cycle Route Network as required by the Island Plan, 2011.
- 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 dwelling and construct 4no. two bed and 1no. three bed apartments with associated parking." and given the reference P/2016/0695;
"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;
"Cycleway Contribution"	the sum of five thousand pounds (£5,000) to be paid by the Owners to the Treasurer of the States to be applied by the Minister for Infrastructure towards the development or enhancement of the Eastern Cycle Network.
"Development"	the development of the Site as set out in the Application;
"Eastern Cycle Network"	the cycle network area referred to in Policy TT3 of the Island Plan 2011;
"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;
"Minister for Infrastructure"	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
"Plan"	the plan of the Site attached at the First Schedule to this Agreement;
"Planning Permit"	the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Second 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"	Le Havret, Le Mont de Gouray, St. Martin, JE3 6ET, as shown for the purpose of identification edged by a thick black line and cross-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 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 Third 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 CHIEF OFFICER COVENANTS

The Chief Officer covenants with the Owner as set out in the Fourth 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 of Planning at Planning and Building Services South Hill St Helier Jersey JE2 4US 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 post to and addressed to such party at the 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 ownership of its interest in the Site occurring before all the obligations under this Agreement have been discharged.

11 INDEXATION

Any sum referred to in the Third 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

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 JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of the Island of Jersey.



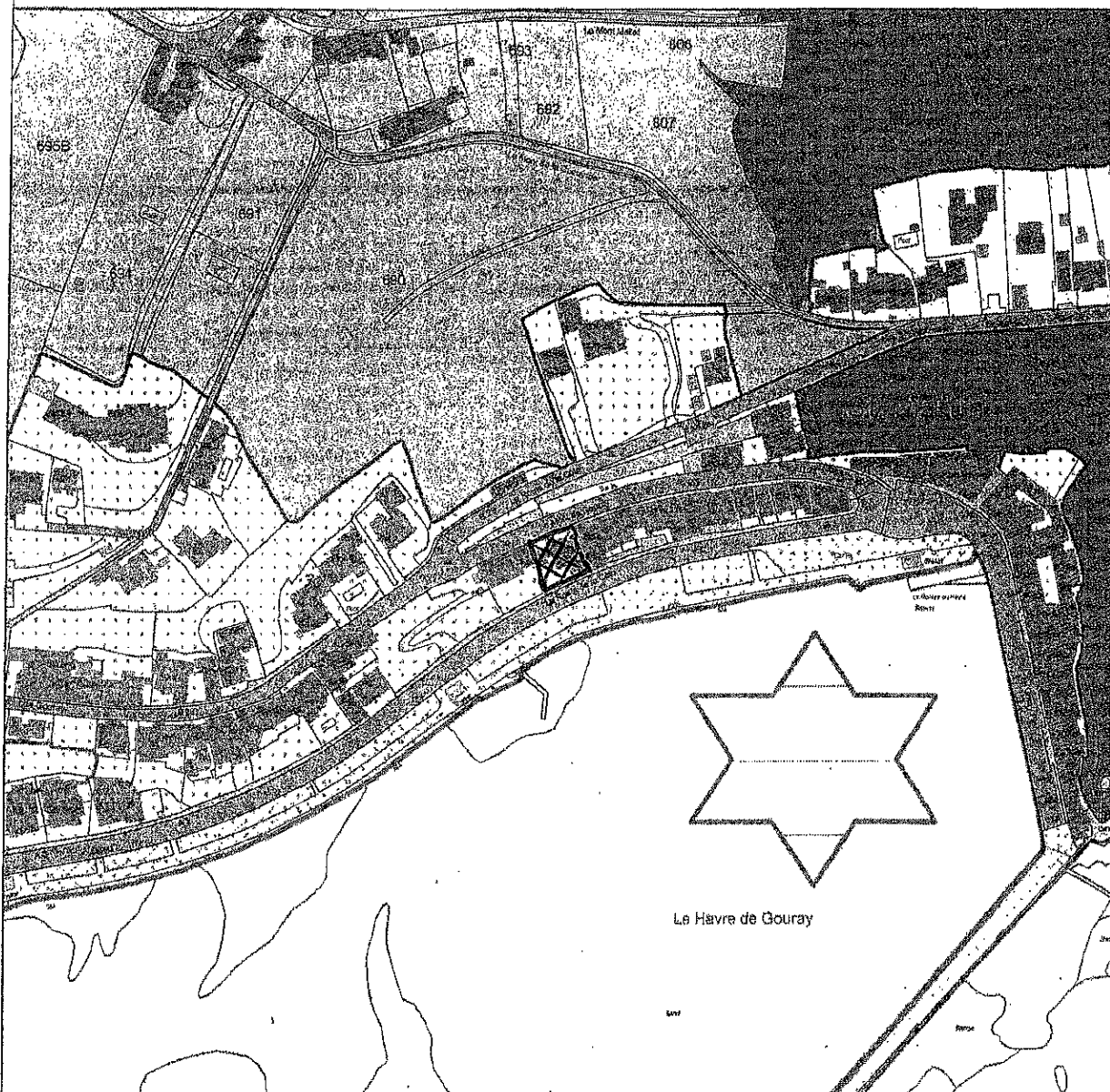
FIRST SCHEDULE

The Plan

MS

Map of the States of Jersey

Licence No. 64



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Scale 1:2,500

Copyright States of Jersey 2016



LE HAVRET
LE MONT DE GOURAY
ST. MARTIN
ST. MARTIN
JE3 6ET

Vingtaine : de Faldouet
Type : Residential
UPRN : 69125543



SECOND SCHEDULE
The Planning Permit

Department of the Environment
Planning and Building Services
South Hill
St Helier, Jersey, JE2 4US
Tel: +44 (0)1534 445508



Mr Stein
MS Planning Ltd
First Floor, Union House
Union Street
St Helier
Jersey JE2 3RF

Planning Application Number P/2016/0695

Dear Mr Stein

Application Address:	Le Havret, Le Mont de Gouray, St. Martin, JE3 6ET.
Description of Work:	Demolish existing dwelling and construct 4no. two bed and 1no. three bed apartments with associated parking.

Please find enclosed the decision notice for the above application.

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 please 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. How to do this is set out in Supplementary Planning Guidance Practice Note No. 3 available online at www.gov.je

Yours sincerely

Ginny Duffell BSc (Hons) Dip TP MRTPI
Assistant Senior Planner | Development Control
Department of the Environment | States of Jersey
Planning & Building Services | South Hill | St Helier | JE2 4US
T: +44(0)1534 443405 | E: g.duffell@gov.je | W: www.gov.je

Department of the Environment
Planning and Building Services
 South Hill
 St Helier, Jersey, JE2 4US
 Tel: +44 (0)1534 445508



Planning Application Number P/2016/0695

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

In accordance with Article 19(8) of the Planning and Building Law 2002, as 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:

Demolish existing dwelling and construct 4no. two bed and 1no. three bed apartments with associated parking.

To be carried out at:

Le Havret, Le Mont de Gouray, St. Martin, JE3 6ET.

Reasons for Approval

Permission has been granted having taken into account the relevant policies of the approved Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received.

In addition, the representations raised to the scheme on the grounds of loss of light; loss of privacy; overbearing and at odds with the character of the area have been assessed. However, it is considered that the proposal accords with the terms of Policy GD1 and GD7 of the 2011 Island Plan (Revised 2014) in that it does not unreasonably harm the amenities of neighbouring users nor is it considered harmful to the character of the area.

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2016/0695

Informative 1

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that permission must be obtained from Transport and Technical Services - Highways Maintenance and/or Streetworks Team on +44 (0)1534 445509 . The agreed work will be required to be carried out by an approved contractor to the TTS's specification at the cost of the developer.

Informative 2

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that any sign, structure, or object which overhangs a public footway or highway requires an encroachment permit from TTS Highways Department under the Highways (Jersey) Law 1956.

Informative 3

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 4

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:
http://www.london.gov.uk/thelondonplan/guides/bpg/bpg_04.jsp

Informative 5

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 6

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that the site has been identified as having the possible presence of protected wildlife species. It is the responsibility of the applicant to inform all site workers of the possibility of protected species on site and the

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2016/0695

implications under the Conservation of Wildlife (Jersey) Law (2000) and you are advised that it is your duty under the Law to stop work and notify the Department of Environment on +44 (0) 1534 441600 immediately should any species be found.

This permission is granted subject to compliance with the following conditions and approved plan(s):

- A. The development shall commence within five 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.

Condition(s):

1. No part of the development hereby approved shall be occupied until the kerbs have been dropped to a point approximately 1.5m each side of the widened access opening. The footpath will need to be reinstated and reinforced to the Department's specification. The boundary with the pavement must be finished with a reinforced edging to prevent subsidence of the asphalt.
2. No part of the development hereby approved shall be occupied until the means of VEHICULAR and PEDESTRIAN access as indicated on the approved plan has been wholly constructed in accordance with the approved plans and shall thereafter be retained and maintained as such.
3. No part of the development hereby approved shall be occupied until the vehicular manoeuvring area and respective car parking spaces have been laid out, surfaced and drained as indicated on the approved plans. The car parking spaces shall thereafter be retained solely for the use of occupants of the development and shall not be sub-let for any other purpose.
4. No part of the development hereby approved shall be occupied until the following has been submitted to the Department of the Environment:
 - i) Precise details relating to the exact form which the Percentage for Art contribution will take.
 Thereafter, the approved work of art must be installed prior to the first occupation of any part of the development hereby approved.

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2016/0695

5. Prior to commencement of the development hereby approved, a Demolition/Construction Environmental Management Plan shall be submitted to and approved by the Department of the Environment. The Demolition/Construction Environmental Management Plan shall be thereafter implemented in full until the completion of the development and any variations agreed in writing by the Department prior to such work commencing. The Plan shall secure an implementation programme of mitigation measures to minimise the adverse effects of the proposal on the environment, and shall include but not be limited to:

- A. A demonstration of compliance with best practice in controlling, monitoring, recording and reporting on any emissions to the environment (such as noise and vibration, air, land and water pollution);
- B. Details of a publicised complaints procedure, including office hours and out of hours contact numbers;
- C. Details of any proposed crushing/ sorting of waste material on site;
- D. Specified hours of working;

6. Waste management shall be implemented in full accordance with the approved Waste Management Strategy. Any variations shall be agreed to in writing by the Department of the Environment prior to the commencement of such work.

Reason(s):

1. In the interests of highway safety, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

2. In the interests of highway safety, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

3. To ensure that the development provides adequate provision for off-street parking and manoeuvring for users of the site, in the interests of highway safety and the general amenities of the area, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

4. In accord with the provisions of Policy GD8 of the Adopted Island Plan 2011 (Revised 2014).

5. To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policies GD1, GD6 and WM1 of the Adopted Island Plan 2011 (Revised 2014).

6. To protect the amenities of the occupiers of neighbouring properties and the visual amenities of the surrounding area, in accordance with Policies GD1 and WM1 of the Adopted Island Plan 2011 (Revised 2014).

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2016/0695

FOR YOUR INFORMATION

The approved plans can be viewed on the Planning Register at www.gov.ie/planning

The following plan(s) has/have been approved:

- 1-Location Plan
- 2-Proposed Ground Floor Plan PL03 B
- 3-Proposed First Floor Plan PL04 A
- 4-Proposed Second Floor Plan PL05 B
- 5-Proposed Third Floor Plan PL06 A
- 6-Proposed Fourth Floor Plan PL07 A
- 7-Proposed East & West Elevations & Typical Section A-A PL08 C
- 8-Proposed North & South Elevations PL09 C
- 9-Proposed Site Plan PL10 A
- 10-3D Visualizations PL11A
- 11-Waste Management Report
- 12-Initial Ecological Assessment
- 13-Public Art Statement
- 14-Planning and Design Statement

DECISION DATE:

The development may also require building permission, for which a separate application will need to be made. If you are in any doubt as to whether building permission is required please telephone the Building Applications Team on 448407.

APPROVED

THIRD 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.

CYCLEWAY CONTRIBUTION

- 2 To pay the Cycleway Contribution to the Treasurer of the States prior to the Commencement of the Development.
- 3 Not to Commence the Development until such time as the Cycleway Contribution has been paid to the Treasurer of the States.

FOURTH SCHEDULE

Chief Officer's covenants

1. The Chief Officer covenants with the Owner to, at the written request of the Owner from time to time, to provide written confirmation of the discharge of the obligations contained in this Agreement (or any of them) when and to the extent that the Chief Officer is satisfied that such obligations have been performed.
2. 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.
3. 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 seven years of the date of receipt by the Treasurer of the States of such payment.

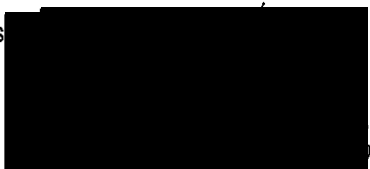


Signed on behalf of the Chief Officer:



Name and Position: *ANDREW SCATE CHIEF OFFICER DEPT. ENVIRONMENT*

in the pres



Name and Position: *Ginny Russell, Assistant Senior Planner*

this *31st* day of *OCTOBER* 2016

Signed by *Ronald Leslie Mitchell*



in the presence of



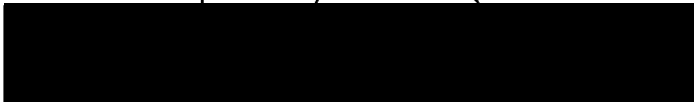
Name and Position: *Mark Le Boulthier, Collas Call*

this *21* day of *October* 2016

Signed by Jennifer Pauline Mitchell



in the presence of



Name and Position: *Mark Le Boulthier, Collas Call*

this *21* day of *October* 2016