


In the Royal Court of Jersey

Samedi Division

In the year two thousand and five, the fourteenth day of January.

Before Francis Charles Hamon, O.B.E., Commissioner, assisted by Jurats Roy Malcolm Bullen, M.B.E. and Geoffrey Charles Allo.

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 relating to Field 1218, Mont à l'Abbé, St Helier, a copy of which is annexed hereto.


Greffier Substitute

LOD
Reg. Pub. ✓

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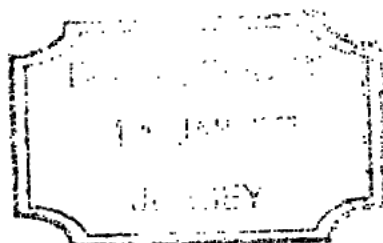


**In the Royal Court of Jersey
(Samedi Division)**

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 relating to Field 1218, Mont à L'Abbé, St. Helier.



H.M. Solicitor General



*FCM KJWS GCA
leg'd.*



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

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PLANNING OBLIGATION AGREEMENT

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

BETWEEN

WILLIAM JOHN MORVAN

AND

MARETT HOMES LIMITED

AND

THE PARISH OF ST. HELIER

AND

THE ENVIRONMENT AND PUBLIC SERVICES COMMITTEE

REGARDING

FIELD 1218, MONT A L'ABBE, ST HELIER

Law Officers' Department

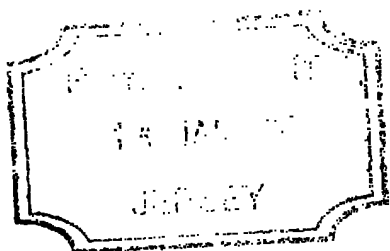
Morier House

St Helier

Jersey

JE1 1DD

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1. Parties

- 1.1 Mr William John Morvan of Shore Park, La Route De La Haule, St Lawrence, JE3 1BA (hereinafter called "the Owner" which expression where the context so admits shall include his heirs, assigns and successors in title); and
- 1.2 Marett Homes Limited whose registered office is at Suite 1, First Floor, 94 Halkett Place, St. Helier, JE2 4WH (hereinafter called "the Developer" which expression where the context so admits shall include its assigns and successors in title); and
- 1.3 The Parish of St. Helier, (hereinafter called "the Parish" which expression where the context so admits shall include its assigns and successors in title); and
- 1.4 The Environment and Public Services Committee of the States of Jersey (hereinafter called "the Committee" which expression where the context so admits shall include its assigns and successors in title).

2. Whereas:

- 2.1 The Committee is the Committee of the States charged with the administration of the Island Planning (Jersey) Law, 1964 ("the Law") by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Law.
- 2.2 Field 1218 St Helier is owned by the Owner who has right in perpetuity (*à fin d'héritage*) thereto by contract passed before the Royal Court on 14th December 1987.
- 2.3 The Owner and the Developer have entered into a legally binding agreement whereby the Owner will sell to the Developer, and the Developer will buy from the Owner part of Field 1218 (as shown outlined by alternate dots and dashes on the Location Plan 4363 which is at Schedule 1 to this Agreement) ("the Land").
- 2.4 By Act dated the 6th October, 2004, the Assembly of Principals and Electors of the Parish agreed to adopt, once completed, the Public Areas, (as defined in clause 3.1 below).
- 2.5 Wherefore the Owner, the Developer, and the Parish have interests in the Land within the meaning of paragraph (1) of Article 8A of the Island Planning (Jersey) Law 1964 ("the Law").
- 2.6 An application (hereinafter called "the Development Application") has been made for permission to develop the Land (Application reference no P/2003/2411) for the construction of 125 housing units (subsequently modified to 123 homes) comprising 1, 2, 3 and 4 bedroom properties with garaging, parking, parkland and a community building at Mont à l'Abbé, St Helier

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- 2.7 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 (hereinafter called "the Development Permission") could properly be granted in respect of the Development Application conditional on the Owner and the Developer having first entered into this Agreement.

3. Interpretation

3.1 In this Agreement:

"development" shall have the same meaning as defined in the Law;

"the Development" shall mean the construction on the Land of 123 dwelling units and associated amenities and appurtenances in accordance with the Development Permission;

"First Time Buyer" shall mean any person who :

Either:

- (1) (i) Does not own, and has not previously owned, whether as sole owner or jointly or in common with any other person or persons:
- (a) Any immovable property
 - (b) Either in his own name or as beneficial owner, shares in any company, ownership of which confers the right to occupy residential accommodation;
- and
- (ii) Is neither married to, nor buying as co-owner with, any person who does not fall within (i) above
- or
- (2) Has been approved by Housing as being a person who would be in need of assistance in order to acquire property and to whom consent should be granted to acquire or to occupy the residential accommodation as the case may be, notwithstanding the fact that he does not fall within (1) above; any refusal by Housing to approve a person as being in need of assistance to acquire or occupy property being subject to review by the Committee, which shall have power to overrule the decision of Housing

"Public Areas" shall mean the roadways, pavements, planting, community centre, and other public areas and facilities (including lighting) at the



Development as shown (for ease of reference only) on drawing no 4363-007B annexed at Schedule 2 to this Agreement and including (1) those parts of the Track and (2) the reinforced hedgerow along the northern boundary of the Land which are not shown on the said drawings;

“Public Services” shall mean the Public Services Department of the Committee;

“Social Rental Accommodation” shall mean accommodation which is let for rental by a Social Rental Landlord approved for that purpose by Housing to a person or persons who satisfy Housing's criteria and qualifications.

“Social Rental Landlord” shall mean:

- (a) the Public
- (b) a Parish
- (c) a Housing Trust

when discharging their function of providing housing for those persons whom the Social Rental Landlord considers, having regard to the criteria set out from time to time by the States or by Housing as the case may be, to be in need of financial and/or social assistance for obtaining accommodation suitable for their needs.

“the Strip of Land” shall mean the strip of land running along the western boundary of the Site between the Site and the eastern wall of Mont à l'Abbé Cemetery.

“the Track” shall mean the cycle and pedestrian roadway to be constructed on Field 1219 and more fully described in clause 5.10 hereof.

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 Owner and the Developer and their respective heirs, assigns and successors in title and any persons claiming under or through them **SAVE AND EXCLUDING** the purchasers of completed dwelling units and/or tenants and occupiers of dwelling units constructed in accordance with the Development Permission, who will only be bound by Clause 5.7 of this Agreement.
- 4.2 The Obligation assumed by the Owner and the Developer by Clause 5 of 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 the Development Permission by the Committee in respect of the Land and the commencement of the Development within six months of the issue of the Development Permission.

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- 4.4 In the event that the Developer fails to commence the Development within six months of the issue of the Development Permission the Development Permission shall lapse.
- 4.5 If the Development Permission lapses, then this Agreement shall automatically lapse and be of no further force or effect.
- 4.6 Should the Owner cease to have an interest in the Land, the Owner shall no longer be bound by this Agreement.
- 4.7 Should the Developer cease to have an interest in the Land, the Developer shall no longer be bound by this Agreement, save for the obligations in respect of the provision of a defect liability period and/or guarantee pursuant to Clause 5.14 of this Agreement..

5. The Obligation

- 5.1 It is agreed that 56% of the dwelling units permitted by the Committee to be constructed on the Land shall be sold to First Time Buyers and 44% of the dwelling units shall be utilised to provide Social Rental Accommodation.
- 5.2 The Developer agrees and undertakes to give effect to the said tenure division by constructing 69 First Time Buyer dwelling units and 54 Social Rental Accommodation dwelling units on the Land.
- 5.3 The Owner will transfer the Land to the Developer prior to the commencement of the Development and prior to the first conveyance of any of the dwelling units or the sites thereof constructed on the Land taking place.
- 5.4 At or prior to the completion of the Development, which the Developer will carry out as expeditiously as reasonably possible, the Developer shall place the First Time Buyer dwelling units or the sites thereof as the case may be on the open market and shall take all reasonable steps to facilitate the sale of those units or sites to First Time Buyers.
- 5.5 At or prior to the completion of the Development, which the Developer will carry out as expeditiously as reasonably possible, the Developer will sell, gift or otherwise transfer the Social Rental Accommodation or the sites thereof to a Social Rental Landlord approved as such by Housing
- 5.6 The transfer of a site to a First Time Buyer or Social Rental Landlord as the case may be prior to the completion of the construction thereon of a First Time Buyer dwelling unit or Social Rental Accommodation respectively shall not operate to transfer to the purchaser any obligation to which the Developer is subject by this Agreement until final completion of the Development and sale or other alienation of all units of accommodation thereon.
- 5.7 All subsequent transfers of first time buyer units shall be to First Time Buyers reasonably approved as such by Housing and all subsequent transfers of Social

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Rental Houses shall be to Social Rental Landlords reasonably approved as such by Housing.

- 5.8 The Developer will, at its own expense, undertake works of highway improvement at the junction of Tower Road and St John's Road in the Parish of St Helier namely the widening of St John's Road at or around the junction with Tower Road and the provision of a pedestrian refuge or "traffic island" in the vicinity of the junction, the whole in accordance with drawing no. 2592/02B prepared by Ross Gower Associates and to the satisfaction of Public Services. On satisfactory completion of the said road widening works, the relevant strips of land shall be ceded, free of all charges and encumbrances, by the Developer to the Public by contract to be passed before the Royal Court. The Developer shall pay the costs of and incidental to the said transfer, including all and any costs reasonably incurred by the Public.
- 5.9 Prior to commencement of the Development, the Developer will pay to the Committee the sum of £7000 being an agreed figure to cover the cost of erecting a bus shelter on the eastern side of Queen's Road in the Parish of St Helier at a suitable point upon the route of the southbound bus route to St Helier, or at an alternative site to be determined by the Committee.
- 5.10 Subject to the provisions of Clause 5.11 of this Agreement, the Developer will construct a new roadway to be used by pedestrians and cyclists on the neighbouring land known as "Field 1219", Mont à l'Abbé in the Parish of St Helier. The Developer shall submit plans to the Committee and Public Services and shall obtain all necessary consents. The Developer will be responsible for acquiring the land required for these works and for passing the necessary contract before the Royal Court. For the avoidance of any doubt, the Developer shall pay all costs and fees of and incidental to this acquisition.
- 5.11 In the alternative, the Developer will undertake the following to the satisfaction of the Committee. On fulfilment of these, the Developer shall not be bound by the provisions of Clause 5.10 of this Agreement:
- 5.11.1 Prior to commencement of the Development, the Developer will pay to the Committee the sum of £46,000, for the acquisition of the land required for the establishment of the Track, including the cost of the Land, feasibility studies in respect of the Land, professional fees, including legal fees, the cost of any Arbitration Board and the cost of regrading the bank at the eastern end of the proposed route of the Track. For the avoidance of any doubt, the Developer will pay the consideration monies, and all reasonable fees and other expenses relating to the acquisition, provided that the maximum amount which the Developer is liable to pay under this sub-clause shall not exceed £46,000.
- 5.11.2 Upon the vesting of the land in the Public, the Committee will repay to the Developer any unexpended monies paid by the Developer pursuant to clause 5.11.1 hereof, and the Developer will pay to the Committee the sum of £36,000 in respect of the construction costs of the Track;

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provided that the developer shall be entitled, at its option, to undertake itself the work of construction, such option to be exercised by giving the Committee notice in writing to that effect within ten days of its being notified by the Committee of the date upon which the land has vested or is to vest in the Public.

5.11.3 The sum of £46,000 paid by the Developer to the Committee in pursuance of clause 5.11.1 above shall be held in an escrow account. The Committee shall be entitled to deduct therefrom from time to time such sums as it may require for any expenses necessarily and properly incurred in connection with its attempts to acquire the land required for the Track, whether by negotiation or compulsory purchase.

5.11.4 Subject to clause 5.11.5 below, any unexpended monies paid by the Developer pursuant to clauses 5.11.1 and 5.11.2 hereof shall be refunded to the Developer in the event that the Committee is unable to acquire the neighbouring land upon which it is proposed to build the said Track within a period of three years from the date hereof.

5.11.5 Provided that, if at the expiry of three years from the date hereof, the Committee has begun proceedings under the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961, for the acquisition of the land required for the Track the provisions of clause 5.11.4 hereof shall not apply and the Developer shall not be entitled to the refund of the monies or any part thereof, save to the extent that the Developer is entitled following the vesting of the land to the return of any unexpended monies in accordance with clause 5.11.2.

5.11.6 Provided further that the obligations imposed upon the Developer pursuant to Clause 5.10 hereof shall be deemed to have been discharged in the event that the Developer has elected to proceed under this Clause and the Committee is unable to acquire the neighbouring land upon which it is proposed to build the Track, and has not commenced compulsory purchase proceedings in respect thereof within a period of three years from the date hereof.

5.12 Subject to the provisions of the sub-clauses of this clause, the Developer shall be responsible for ensuring to the satisfaction of the Committee that the future maintenance of the Public Areas is assured pending their transfer for the Parish in accordance with clause 5.12.1 below. The Developer shall ensure that the Public Areas are completed within 3 months of the Completion of the Development (save and except where, with regard to the Track, the Developer proceeds under clause 5.10 of this Agreement. If the Developer has not succeeded in acquiring the Land required for the construction of the Track by the expiry of three months from the Completion of the Development, the Committee shall be entitled to require the Developer to proceed mutatis mutandis in accordance with the provisions of clause 5.11 hereof, and the Developer will pay to the Committee the sum of £10,000 as a contribution to

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the costs of maintenance of the said Track. immediately upon completion of the construction of the Track.

5.12.1 The Developer will convey or procure the conveyance of to the Parish, and the Parish will accept from the Developer or the relevant third party owner, the Public Areas.

5.12.2 For the avoidance of doubt, the Public Areas will be conveyed to the Parish together with everything which has been constructed, erected or planted on or in the Public Areas, and the Parish will not be required to make any payment or contribution in respect of anything so constructed, erected or planted.

5.12.3 The Developer will pay all and any costs and fees, including for the avoidance of doubt any costs and fees incurred by the Parish of and incidental to such conveyance or conveyances.

5.13.1 The Developer shall undertake works to construct a wall bordering the Western side of the site where the same adjoins "St Anne's Terrace", the height of the said wall to be set at 2.10 metres the whole in accordance with drawings no. 1387/108/P1 and 1387/004/P4 prepared by Michael Felton Limited. It will be the responsibility of the Developer to obtain all necessary permits and consents in relation to these works. On completion of the said works the land to the West of the said wall shall be ceded to Gordon Basil Bullock or his successor in title and the Developer shall pass contract before the Royal Court and meet the fees and costs in respect of this transfer. The Developer shall ensure that the said contract before the Royal Court reserves a right of access to the said wall in favour of the owner or owners of the wall.

5.13.2 Should the said Gordon Basil Bullock or his successor in title as the case may be fail or refuse to accept title to the land to the west of the said wall, the Developer will ensure that adequate provision is made for the future maintenance thereof

5.14 The Developer undertakes to provide the Public with a defect liability period and/or guarantee of twelve months in respect of the works carried out in accordance with Clauses 5.8, 5.10 and 5.13 of this Agreement.

5.15.1 The Parish will transfer to the Developer all and such right as the Parish may have to the Strip of Land.

5.15.2 The cost of such transfer will be paid by the Developer.

5.15.3 The transfer will be without guarantee of title.

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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 (subject to the provisions of Clause 4.1 of this Agreement) pursuant to paragraph (7) of Article 8A of the Law.

Signed by William John Morvan

in the presence of ...

his attorney Mr. Morrison.

This *14th* day of January 2005

Signed on behalf of Marett Homes Limited

by

in the presence of

This *13th* day of January 2005

Signed on behalf of the Parish of St. Helier

by

In the presence of ...

This *13th* day of January 2005

Signed on behalf of the Environment and Public Services Committee

by

The Greffier of the States of Jersey

in the presence of ..

this *14th* day of January, 2005

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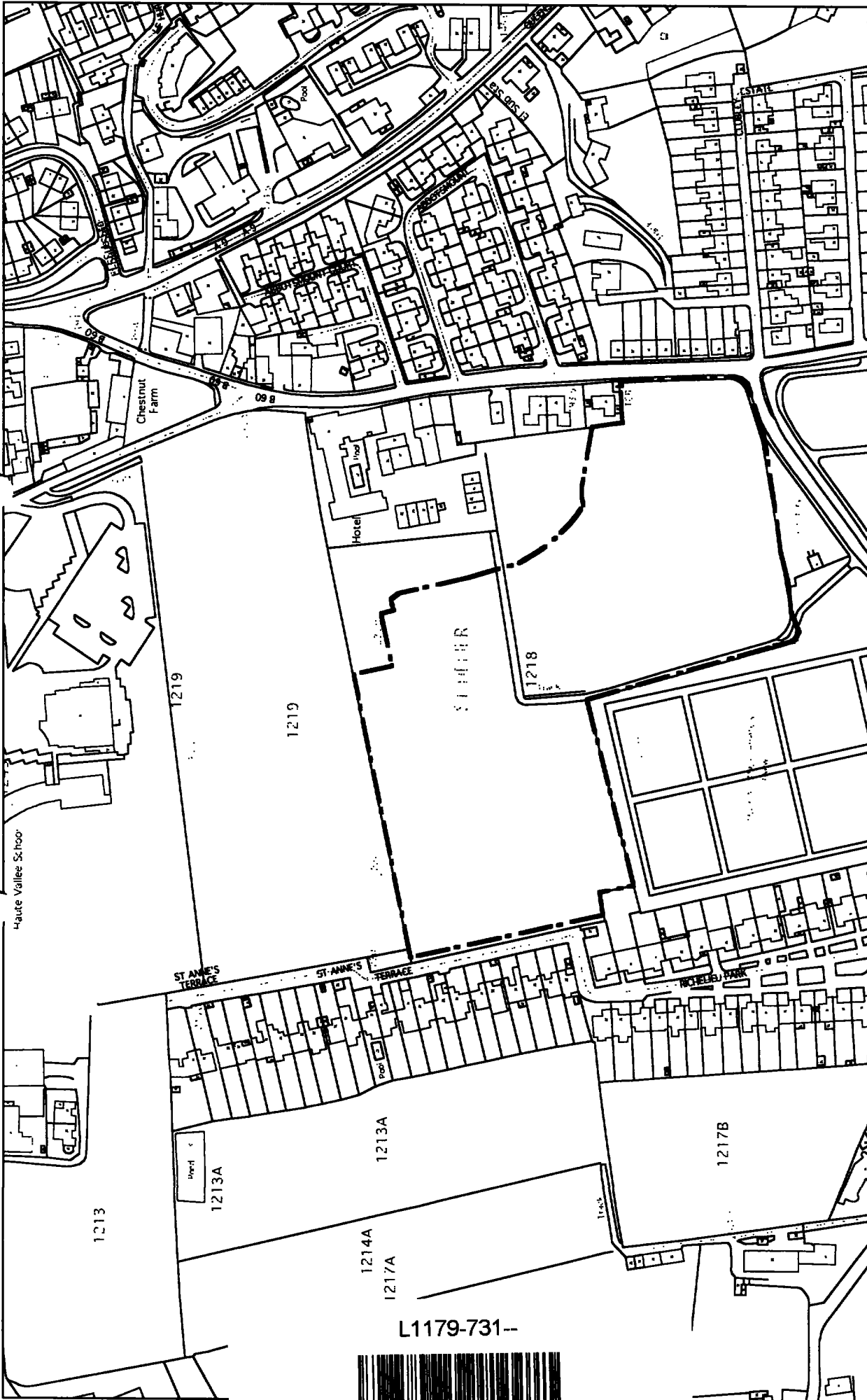


SCHEDULE 1

The Land

L1179-730-





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 Jersey JE2 3P
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LOCATION PLAN

SCALE 1-2500

P & E C / CROWN COPYRIGHT RESERVED LICENCE No 98

PROJECT: FIELD 1218, MONT A L'ABBE

JOB No: 4363

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SCHEDULE 2
The Public Areas

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