

Dated 20<sup>TH</sup> JANUARY 201~~8~~20

Broadland District Council

-and-

Serruys Property Company Limited

**DEED OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**

relating to land East of Pound Lane, Thorpe St Andrew  
Norfolk NR7 0UB

**THIS DEED** is dated

20<sup>TH</sup> JANUARY.

2019 20

**PARTIES:**

- (1) BROADLAND DISTRICT COUNCIL, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk NR7 0DU (referred to as "the Council")
- (2) SERRUYS PROPERTY COMPANY LIMITED, (Co. Regn. No. 01137245) of SPC House, Atlas Works, Norwich Road, Lenwade, Norwich NR9 5SN (referred to as "the Owner")

together referred to as 'the Parties'

**INTRODUCTION**

- (A) The Council is the local planning authority for the purposes of this deed for the area within which the Site is located.
- (B) A planning application has been made to the Council for the Permission and the Council has resolved to grant the Permission provided the Parties enter into this Deed.
- (C) The Owner owns the freehold of the Site which is registered at the Land Registry within title numbers NK476502, NK239364, and NK60678 and held free from encumbrances

**1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990 as amended.
Care Commission	Quality An executive non-departmental public body of the Department of Health and Social Care of the United Kingdom with responsibility for regulating monitoring and inspecting health and social care services in England
Care Village	That part of the Development comprising 80 no. bed care home (C2 use); 19 no. assisted living bungalows (C2 use) and associated outbuildings

Commencement	<p>The date on which a material operation (as defined in Section 56(4) of the Act) forming part of the Development is first carried out, except (for the purposes of this Deed only) operations consisting of:</p> <ul style="list-style-type: none"> <li>a. site clearance including removal of hedging</li> <li>b. demolition</li> <li>c. archaeological investigations</li> <li>d. ground surveys</li> <li>e. removal of contamination or other adverse ground conditions</li> <li>f. erection of temporary fences and/or</li> <li>g. temporary display of site notices and/or advertisements</li> </ul> <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
Development	The Development of the Site in accordance with the Permission
Dwelling	Any of the 19 assisted living bungalows to be built on part of the Site as part of the Care Village and "Dwellings" shall be construed accordingly
Nominated Officer	The senior officer of the Council responsible for development management or other officer of the Council notified to the Owners
Occupation	<p>Occupation of the Site, or any part of it for any purpose authorised by the Permission, but excluding occupation for the purposes of:</p> <ul style="list-style-type: none"> <li>a. construction</li> <li>b. internal and external refurbishment</li> <li>c. decoration</li> <li>d. fitting-out and/or</li> <li>e. marketing</li> </ul> <p>and 'Occupy' and 'Occupier' will be construed accordingly</p>
Permission	The planning permission to be granted by the

	Council for 80 no. bed care home (C2 use); 19 no. assisted living bungalows (C2 use); associated outbuildings, car parking and new vehicular access and allocated reference number 20190016
Plan	The plan attached to this Deed and marked as such
Site	The land known as Land East of Pound Lane, Thorpe St Andrew, Norfolk NR7 0UB and registered at H M Land Registry within title numbers NK476502, NK239364, and NK60678 shown edged in red on the Plan
the Age	The age of 75 years or such other age as may from time to time be agreed in writing between the Council and the Owner or operator of the Care Village
Trigger	The date of Commencement and any trigger or threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

## **2. LEGAL BASIS**

- 2.1 This Deed is made pursuant to Section 106 of the Act and, to the extent that it does not contain planning obligations, under Section 111 of the Local Government Act 1972 and all other enabling powers.
- 2.2 The covenants and obligations contained in this Deed create planning obligations for the purposes of section 106 of the Act enforceable by the Council and relate to the Site.
- 2.3 Covenants given by more than one party can be enforced against them individually or jointly.
- 2.4 A reference to an Act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that Act, and reference to a gender or person includes all genders or classes of person.
- 2.5 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done.
- 2.6 References to any party to this Deed shall include successors in title to that

party in respect of the Site and to any person deriving title to the Site through or under that party and in the case of the Council the successors to its statutory functions.

- 2.7 Representatives of the Council may enter the Site at any reasonable time to ascertain whether the terms of this Deed are being or have been complied with provided that:

2.7.1 they do not enter any individual Dwelling; and

2.7.2 they adhere to all reasonable health and safety requirements.

### **3. CONDITIONALITY**

This Deed is conditional upon:

- 3.1 The grant of the Permission; and

- 3.2 Commencement

Save for the provisions of this clause and clauses 5.4 and 5.12 which shall come into effect immediately on completion of this Deed.

### **4 COVENANTS**

- 4.1 The Owner covenants with the Council for itself and its successors in title to observe and perform the obligations and stipulations contained in this Deed.

- 4.2 The Council covenants with the Owner to comply with its obligations contained in this Deed.

### **5. OTHER PROVISIONS**

- 5.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site or the part of the Site in respect of which such breach occurs (unless the breach occurred before he disposed of his interest). For the avoidance of doubt, the reservation of any rights easements or the inclusion of any covenants or restrictions in any transfer shall not constitute an interest for the purposes of this clause.

- 5.2 The Owners confirm that they are the owners of the Site with full power to enter into this Deed and that there is no person or body with an interest in the Site whose consent is necessary to make this Deed binding on all interests in the Site.

- 5.3 The covenants, restrictions and requirements contained in this Deed shall not

be enforceable against any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site.

- 5.4 On completion the Owner will pay the Council's reasonable legal costs in connection with this Deed.
- 5.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 5.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions.
- 5.7 No waiver, express or implied, by the Council of any breach or failure to perform or observe any of the covenants, terms or conditions of this Deed constitutes a continuing waiver, nor prevents the Council from enforcing any of the provisions in this Deed.
- 5.8 If the Permission is quashed revoked or expires before Commencement then, save for clause 5.4, this Deed will cease to have effect (insofar only as it has not already been complied with).
- 5.9 Nothing in this deed prohibits or limits the right to develop any part of the Site in accordance with a planning permission (other than the Permission) granted before or after the date of this Deed.
- 5.10 This Deed is registrable as a local land charge.
- 5.11 An agreement, approval, consent or expression of satisfaction required by the Owner from the Council under the terms of this Deed must be given in writing and shall not be unreasonably withheld or delayed.
- 5.12 The provisions of this Deed (other than this clause which takes immediate effect) will be of no effect until this deed has been dated.
- 5.13 Nothing contained or implied in this Deed will fetter, prejudice or affect the rights, discretions, powers, duties and obligations of the Council in the exercise of any of its functions as local authority.
- 5.14 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Permission nor those deriving title from them.

## **6. DISPUTES**

- 6.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding.
- 6.2 The expert is to be replaced by a fresh appointee in the event that he becomes at any time unable or unwilling for any reason to proceed to discharge his functions. The fresh appointee is to be appointed in the manner prescribed in this clause.
- 6.3 The expert is to make his decision within 6 weeks of being appointed.
- 6.4 The costs of appointing the expert are to be shared equally by the parties to the dispute except where the expert takes the view that one party has acted unreasonably. In that case the expert has binding discretion as to apportionment of the costs.
- 6.5 Nothing in this clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings.

## **7. NOTIFICATIONS**

- 7.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded or special delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received.
- 7.2 If the Owner disposes of its interest in all or part of the Site it will notify the Nominated Officer within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site.

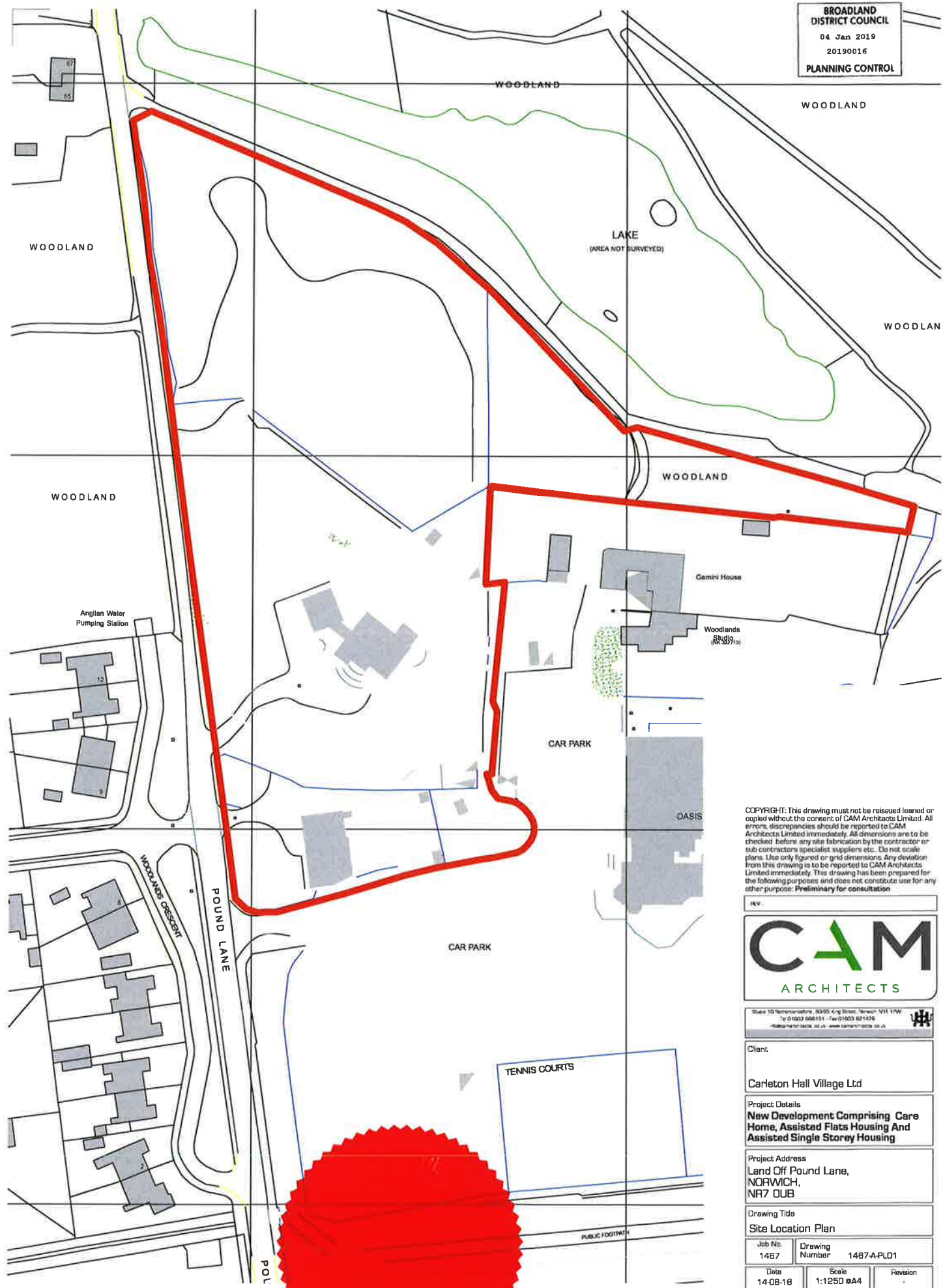
## **8. JURISDICTION**

This deed is governed by and interpreted in accordance with the law of England and Wales.

## SCHEDULE 1

### Plan



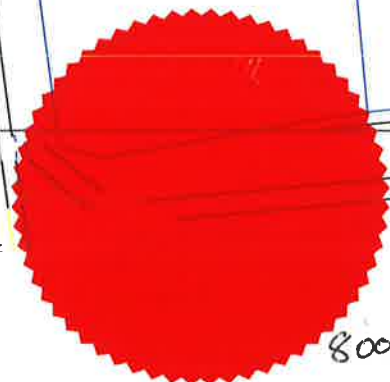


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Client		
Carleton Hall Village Ltd		
Project Details <b>New Development Comprising Care Home, Assisted Flats Housing And Assisted Single Storey Housing</b>		
Project Address Land Off Pound Lane, NORWICH, NR7 0UB		
Drawing Title <b>Site Location Plan</b>		
Job No. 1487	Drawing Number 1487-A-PLD1	
Date 14-08-18	Scale 1:1250 @A4	Revision -
Drawn EA	Checked JUM	CSO Date



8003

*Deputy Monitoring Officer*

## SCHEDULE 2

### The Care Village


The Owner hereby covenants with the Council as follows:

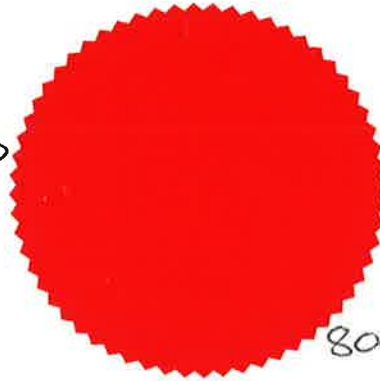
1. That prior to first Occupation the operator of the Care Village will ensure that it is registered with, and care operations at the Care Village are regulated by, the Care Quality Commission
2. That the operator of the Care Village will ensure that the Occupiers of each of the Dwellings are from the commencement of their Occupation, contractually bound and required to pay for a minimum amount of at least 4 hours of care each week
3. That the operator of the Care Village will ensure that the minimum age of at least one Occupier of any of the Dwellings is the Age dating from the date of their first Occupation PROVIDED THAT this restriction shall not prohibit or affect the continued Occupation of a Dwelling by any surviving Occupier following the death of any other Occupier of that Dwelling notwithstanding the age of such surviving Occupier
4. That the operator of the Care Village will ensure that at least one Occupier of each Dwelling will from their date of first Occupation be contractually bound and required to pay a weekly maintenance fee to contribute towards the costs of daily bin collections from and structural maintenance of the relevant bungalow
5. That the operator of the Care Village will ensure that each of the Dwellings will from the date of first Occupation contain level access bathing/showering facilities, accessible doorways and internal circulation, higher level electrical sockets and emergency alarm systems with pull cords all in accordance with the requirements of the Care Quality Commission

IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

THE COMMON SEAL OF Broadland District Council )  
was affixed in the presence of: )

Authorised Signatory:

 L M Mackford  
Deputy Monitoring officer



EXECUTED AS A DEED by ~~ANDRE PAUL SERRUYS~~  
<sup>DIRECTOR FOR</sup>  
SERRUYS PROPERTY COMPANY LIMITED

in the presence of:

Signature of witness



Printed name of witness

LETICIA SERRUYS

Address of witness

STANFORD HALL NR189RT  
Norfolk.