DATED 28 January 2016

EASTLEIGH BOROUGH COUNCIL

and

THE BRENDONCARE FOUNDATION

and

PERBURY (DEVELOPMENTS) LIMITED

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 relating to land adjacent to Penarth House, Otterbourne Hill, Eastleigh, Hampshire, SO50 4LJ

A R Ward
Head of Legal & Democratic Services
Eastleigh Borough Council
Eastleigh House
Upper Market Street
EASTLEIGH
SO50 9YN
KL/6/13/769/10355

THIS DEED is made on 28 January 2016

BETWEEN

(1) EASTLEIGH BOROUGH COUNCIL of Eastleigh House Upper Market Street Eastleigh Hampshire SO50 9YN ("the Council")

(2) THE BRENDONCARE FOUNDATION (Company No. 01791733) whose registered address is The Old Malthouse, Victoria Road, Winchester, Hants SO23 7DU ("the Developer")

(3) PERBURY (DEVELOPMENTS) LIMITED (Company No. 00733312) whose registered address is 3 West Links, Tollgate, Chandlers Ford, Eastleigh, Hampshire, SO53 3TG ("the Owner")

RECITALS

A. The Council is the local planning authority for the purposes of the Act for the area within which the Site is situated

B. The Owner is the registered proprietor of the Site described in Schedule One

C. The Developer has by written application numbered F/15/77022 and dated 3 August 2015 applied to the Council for Planning Permission for the Development of the Site

D. The Council is desirous of granting planning permission for the Development of the Site subject to the conditions contained in the Planning Permission and subject to the Owner and Developer entering into this Deed

(Definitions)

1. In this Deed in addition to the defined expressions herein referred to the following expressions shall have the following meanings:

"the Act"	means the Town and Country Planning Act 1990 as amended from time to time
"Affordable Housing"	means low cost housing which shall be offered for sale or rent including shared equity or shared ownership schemes
"Affordable Housing Contribution"	means the sum of Eighty Six Thousand Pounds (£86,000) index linked in accordance with Clause 11 of this agreement in respect of the provision of Affordable Housing accommodation or facilities associated therewith within the Borough of Eastleigh
"Annual Performance Report"	means the annual report to be submitted to the Council for the Council's approval indicating how the Development Travel Plan has been performing and if appropriate the proposals and remedies to improve performance of the Travel Plan to meet the agreed objectives and targets described in the Travel Plan

"Artist"	means a professional artist to design and implement the Public Art
"Commencement of Development"	means the carrying out in relation to the Development of any Material Operation as defined by section 56 (4) of the Act but disregarding for the purposes of this deed and for no other purposes, the following operations: - Site clearance - Site preparation; - Evaluation and investigation for the purposes of assessing contamination and any remedial action in respect of any contamination; and the expression "commenced" and "commences" shall be construed accordingly
"Community Infrastructure Contribution"	means a contribution in the sum of Twelve Thousand Six Hundred and Fifty-nine Pounds and fifty pence (£12,659.50) indexed linked in accordance with Clause 11 of this Deed and to be used towards the provision or improvement of a Community Centre for the Parish of Allbrook

"Contribution Payments"	means the payments to be made to the Council in respect of: (i) the Affordable Housing Contribution; (ii) the Community Infrastructure Contribution; (iii) the Sustainable Integrated Transport Contribution; (iv) the Travel Plan Sum; and all of which are index linked in accordance with clause 11 of this Deed
"Day Dementia Club"	has the meaning given in Schedule Nine
"Default Interest Rate"	means interest at four per cent (4%) above the base lending rate of Barclays Bank plc base rate from time to time
"Dementia"	means the condition of dementia or a dementia like condition or related impairment which requires care and/or support as a result of any one or more of the following: • memory loss

- problems with reasoning and communication skills
- a reduction in a person's ability and skill in carrying out activities of daily living
- a reduction in a person's ability to care for themselves

"Development"	means the development described in Schedule Two
"Local Area"	means the area of Eastleigh
"Occupation and Occupied"	means occupation or occupied by residents and reference to "Occupy" shall be construed accordingly
"On-Site Open Space Land"	means an area of not less than 0.69 hectares of public open space to be provided on the Site, shaded yellow on the plan
"Owner"	means the Owner and his respective successors in title to the Site
"Plan"	means the Plan annexed hereto

"Planning Permission"	means planning permission for the development of the Site described in Schedule Three and numbered F/15/77022
"Public Art"	means a process of making the art work or works provided on the Site a unique public space by engaging artists' creative ideas in the public realm through the process detailed in Schedule Eight
"Public Art Contribution"	means the costs to be paid by the Owner to implement the Public Art associated with compliance with the obligations in Schedule Eight in the sum of Fourteen Thousand Five Hundred Pounds (£14,500) which shall be increased by the percentage by which the Retail Prices Index (excluding mortgages) ("RPIX") published by the Office for National Statistics (or amendment or replacement thereof) increased from and including October 2015 until the date of this deed
"Public Art Statement"	means a strategy statement prepared by the Owner to be approved in writing by the Council detailing the

intended strategy for the delivery of the Public Art. It shall include:

(i) Mechanisms for appointing and coordinating a steering group responsible for the commission and delivery of the Public Art Work;

(ii) Mechanisms for the appointment of the Artist;

(iii) Mechanisms for evaluating concept designs relating to the Public Art;

(iv) Mechanisms for approval by the Council of the Owner's spending in relation to the Public Art

(v) A timetable for design and implementation and delivery of the Public Art detailing key milestones including:

a) Details of preferred Artist
b) Approval of concept design or designs
c) Approval of final design
d) Approval of completed Public Art

"Site" means the land described in Schedule One

"Services"	means pipes wires sewers drain cables and other works including (if applicable) any underground on line storage facilities and other works
"Statement of Operation"	means a statement setting out how the Development is to be managed and operated to deliver the service and which shall include details of the relationship between the care home, the hub and the Supported Apartments
"SUDS"	means a sustainable urban drainage system to be managed and maintained by the Owner on the site in accordance with the provisions of Schedule Twelve
"Supported Apartment"	means one of the Twenty (20) support apartments to be provided as part of the Development and "Supported Apartments" shall be construed accordingly
"Sustainable Integrated Transport Contribution"	means a contribution in the sum of Sixty-one Thousand Five Hundred and Nineteen Pounds and twenty-seven pence (£61,519.27) index

linked in accordance with clause 11 of this Deed in respect of sustainable transport measures to be used towards any or all of:

- Eastleigh Bus Station improvements;
- raised kerbs at localised bus stops;
- the provision of real-time information at localised bus stops;
- an improved crossing point at Otterbourne Hill; and/or
- Delivery of sections of the Chandlers Ford Cycle Route, being:
    - Thornden School to Merdon Avenue;
    - Merdon Avenue / King Rufus to Kings Road;
    - Kings Road to Chandlers Ford Precinct;
    - Chandler's Ford Precinct to Leigh Road;
    - Leigh Road to Asda roundabout; and/or
    - Asda roundabout to Southampton City Council boundary

"Travel Plan"	means a travel plan to be submitted to and approved in writing by the Council which is designed to manage the demand for transport to and from the Development and to secure a modal shift away from the private car in favour of public transport and other means of travel
"Travel Plan Sum"	means the sum of Five Thousand Nine Hundred Pounds (£5,900) index linked from the date of this agreement in accordance with clause 11 of this Deed to be paid to the Council for the approval, monitoring and review of the Travel Plan
"Woodland"	means that part of the Land known as Pitmore Copse shown edged yellow on the Plan
"Woodland Management Plan"	means the Woodland Management Plan referred to in Schedule Seven submitted to and approved in writing by the Council in respect of the management of the Woodland for a period of 10 years

OPERATIVE PROVISIONS :-

1. This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers and in consideration of the covenants contained in this Deed

2. The obligations by the Owner in this Deed are deemed to be planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council

3. The Owner for themselves and their respective successors in title hereby covenant with the Council with the intent of binding the Site so that such covenants shall be enforceable against successors in title and any person claiming through or under them to observe the restrictions and to perform the obligations contained in Schedule Four to Schedule Thirteen inclusive

4. Notwithstanding anything to the contrary contained in this Deed and with effect from the date on which the Developer completes its acquisition of the freehold of the land edged red on the attached conveyance plan dated October 2015 and a long leasehold of 999 years of the land edged blue on the attached conveyance plan dated October 2015 from the Owner the Developer shall indemnify the Owner against all actions proceedings losses damages costs claims and expenses which are suffered by the Owner and which are attributable to this Deed and/or under the Planning Permission until such time as the Developer has transferred its interest in the land edged red on the attached conveyance plan dated October 2015 to a third party who is of no less covenant strength than the Developer and that the transferee has supplied the Owner with a deed of covenant in its favour which unconditionally and without qualification indemnifies the Owner for all actions proceedings losses damages costs claims and expenses which are suffered by the Owner

and which are attributable to this Deed and/or under the Planning Permission from the date on which the initial indemnity under this clause 4 commenced.

5.1 The Council and the Developer hereby agree that Perbury (Developments) Limited only shall not be liable for any breach of the restrictions obligations rights and duties on the Owner's part set out in this Deed but without prejudice to liability for any subsisting breach arising prior to parting with such interest upon:

a) The disposal of Perbury (Developments) Limited's freehold interest in that part of the LAND shown edged red on the attached conveyance plan dated October 2015; and

b) The creation of a long leasehold of 999 years in favour of the Developer over the land shown edged blue on the attached conveyance plan dated October 2015.

5.2 Clause 5.1 above shall only be effective from the date of completion of the events described in 5.1 (a) and (b) provided that it shall have no further effect in respect of the specific provisions which relate to the land edged blue on the conveyance plan only should:

(a) the long leasehold interest referred to in clause 5(b) determine (whether by surrender or forfeiture or otherwise); and

(b) at the date of such determination the ownership of the reversion of the long lease remains with Perbury (Developments) Limited

whereupon the Owner (in this case meaning Perbury (Developments) Limited) shall again become liable for any breach of the restrictions obligations rights and duties on the Owner's part in respect of the specific provisions which relate to the land edged blue on the conveyance plan only set out in this deed but only those which occur on or after the date of such determination

5.3 The Owner to any part of the Site, the Woodland and the Open Space, shall not be liable for any breach of the restrictions and obligations on their part set out in this Deed where such breach arises after the Owner shall have parted

with their interest in the Site and the Woodland and the Open Space (or the relevant part of it) but without prejudice to liability for any subsisting breach arising prior to parting with such interest, save as provided for in 5.1

5.4 The Developer confirms that upon the creation of a long leasehold of 999 years by the Owner in favour of the Developer over the land shown edged blue on the attached conveyance plan dated October 2015 it will be responsible for the planning obligations in this Deed attaching to that land as successor in title to the Owner whilst it retains such interest in the long lease BUT FOR THE AVOIDANCE OF DOUBT clause 5.3 above will apply to the Developer upon parting with its interest in the SAID LAND EDGED BLUE (or part thereof) whereupon responsibility for the relevant planning obligations will either (IN THE EVENT THAT THE LEASE IS DETERMINED) revert to Perbury (Developments) Limited or their successor in title to the freehold of the land edged blue as set out in clause 5.2(b) or (IN THE EVENT THAT THE LEASE CONTINUES TO SUBSIST) pass to a successor in title to the Owner and Developer of the remainder of the long lease.

6. The parties hereby agree that where under the terms of this Deed the consent or approval or confirmation of the Council or its respective officers is required then such consent or approval or confirmation shall not be unreasonably withheld or delayed and the parties shall use their respective reasonable endeavours to raise and answer any queries arising from submission for consents or approvals or confirmations as promptly as reasonably practicable to enable the Council to make the relevant decision on an informed basis

7. The performance of the obligations by the Owner aforesaid shall be subject to the provisos (if any) contained in Schedule Four to Schedule Thirteen inclusive

8. This Deed is a local land charge and will be registered as such

9. The Developer shall pay the Council's and the Owner's proper reasonable legal costs and disbursements and other costs in connection with the preparation, negotiation and completion of this Deed

10. Save in respect of any provision requiring any disagreement or dispute between the parties to be referred to arbitration, if any dispute or difference shall arise between the parties then the following provisions shall apply

10.1 the dispute or difference may on written notice by any party at any time and served on the other parts (the "Determination Notice") be referred to and determined by an independent person (the "Independent Person") who shall have been qualified in respect of the general subject matter of the dispute or difference for not less than ten (10) years and who shall be a specialist in relation to such subject matter

10.2 the Independent Person shall be appointed by agreement between the relevant parties (if within 10 working days after service of the Determination Notice they have been unable to agree) on the application of any relevant party by the President for the time being of the Law Society or his or her duly appointed deputy or any other person authorised by him or her to make appointments on his or her behalf

10.3 the Independent Person to be appointed under this Clause shall act as an expert and the following provisions shall have effect:

10.3.1 the Independent Person shall act as an expert and not as an arbitrator and his or her decision shall be final and binding upon the parties to the dispute or disagreement (save in the case of manifest error)

10.3.2 the Independent person shall consider (inter alia) any written representations made on behalf of any party (if made reasonably promptly) but shall not be bound by them

10.3.3 the parties to the dispute or disagreement shall use all reasonable endeavours to procure that the Independent Person shall give his or her decision as promptly as possible;

10.3.4 the cost of appointing the Independent Person and his or her costs and disbursements in connection with his or her duties under this agreement shall be shared between the parties to the dispute or disagreement in such proportions as the Independent Person shall determine, or in the absence of such determination equally between such parties; and

10.3.5 if the Independent Person shall be or become unable or unwilling to act then the above procedure for the appointment of an expert may be repeated as often as necessary until a decision is obtained

11 It is agreed between the parties that:

11.1 the Sustainable Integrated Transport Contribution to be paid to the Council by the Owner hereunder is required to be index linked and each relevant payment shall be increased by reference to the Retail Price Index ("RPI") published by the Office for National Statistics (or amendment or replacement thereof) from and including the date of this Deed to the date that the payment is received by the Council

11.2 with the exception of the Sustainable Integrated Transport Contribution which shall be index linked in accordance with 11.1 above, the Contribution Payments to be paid to the Council by the Owner under the terms of this Deed are required to be index linked and in this respect each relevant payment shall be increased by the percentage by which the Retail Prices Index (excluding mortgages) ("RPIX") published by the Office for National Statistics (or amendment or replacement thereof) increased from and including the date of this Deed to the date the relevant payment is received by the Council

12 If any sum or amount has not been paid to the Council by the date it is due, the Owner shall pay the Council interest on that amount at Default Interest Rate (both before and after any judgment) and such interest shall accrue on a daily basis for the period from the due date and including the date of payment

13 Nothing (contained or implied) in this deed shall fetter or restrict the Council's statutory rights, powers, discretions and responsibilities

14 No failure or delay by the Council to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy

15 Nothing in this agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission

16 The parties agree that:

16.1 Nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and

16.2 Nothing in this deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function

17 Any person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term under this Deed

save that this clause will not prevent the County Council enforcing any provision of this Deed even if they are not a party

18 The Owner agrees with the Council to give the Council immediate written notice of any change of ownership of any of its interest in the Site occurring before all the obligations under this Deed have been discharged by the Council and such notice shall give details of the transferees full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation acquired by the transferee by reference to a plan

19 The Owner warrants that as at the date of this Agreement their legal interest in the Site is as set out in this Agreement at Recital B.

20 In this Deed:

20.1 the masculine and the feminine and neuter gender include each of the other genders and the singular includes the plural and vice versa and references to persons include firms corporations and unincorporated associations;

20.2 a reference to a statute refers to the statute as it applies at the date of this Deed and any later amendment or re-enhancement of it and any regulations or statutory instrument made under it; and

20.3 a reference to a clause or schedule is a reference to a clause or schedule contained in this Deed

21 This Deed is to be governed by and interpreted in accordance with the law of England and is enforceable in the Courts of England and Wales

INDEX OF SCHEDULES

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SCHEDULE ONE

(Description of Site)

The freehold land edged red on the Plan comprising:

a) land lying to the South of Boyatt Lane, Otterbourne, the whole of which is registered at the Land Registry with title absolute under title number HP254398; and

b) the part of the land lying to the south and west of Boyatt Lane, Otterbourne, Winchester, which is registered at the Land Registry with title absolute under title number HP459395

SCHEDULE TWO

(Proposed Development of Site)

Erection of dementia care centre comprising 64x care beds and 20x 1 and 2 bed support apartments, associated access off Otterbourne Hill, car parking, amenity space, boundary treatments and landscaping.

SCHEDULE THREE

(Draft Planning Permission)

The Planning Permission proposed to be issued by the Council following completion of this Deed a draft of which is annexed to this Deed

SCHEDULE FOUR

(Notification)

1. The Owner shall notify the Council in writing or procure that they are so notified of each of the following events within 21 days of such event occurring:

   1.1. Commencement of Development

   1.2. Occupation of the 10th Supported Apartment

   1.3. Occupation of the 19th Supported Apartment

SCHEDULE FIVE

Payments to the Council

1. Prior to Commencement of Development of the Site the Owner shall pay to the Council:

   1.1 50% of the Community Infrastructure Contribution; and

   1.2 50% of the Sustainable Integrated Transport Contribution

2. Prior to Occupation of the 10th Supported Apartment constructed on the Site the Owner shall pay to the Council:

   2.1. 50% of the Affordable Housing Contribution;

   2.2. the remaining balance (being 50%) of the Community Infrastructure Contribution; and

   2.3. the remaining balance (being 50%) of the Sustainable Integrated Transport Contribution

3. Prior to Occupation of the 19th Supported Apartment the Owner shall pay to the Council the remaining balance (being 50%) of the Affordable Housing Contribution

4. The Owner covenants that it shall not:

   4.1. Commence Development nor allow Development to be Commenced until 50% of the Sustainable Integrated Transport Contribution and 50% of the Community Infrastructure Contribution have been paid to the Council

   4.2. Occupy nor cause or allow to be Occupied the 10th or additional Supported Apartment(s) until 50% of the Affordable Housing Contribution, the balance of the Community Infrastructure Contribution

and the balance of the Sustainable Integrated Transport Contribution have been paid to the Council; and

4.3. Occupy nor cause or allow to be Occupied the 19th Supported Apartment(s) until the balance of the Affordable Housing Contribution has been paid to the Council in full.

SCHEDULE SIX

(On-Site Open Space Land)

1. Within 3 (three) months of the Commencement of the Development the Owner shall submit to the Council for the Council's approval a specification detailing the layout landscaping and maintenance for the On-Site Open Space Land and the Council shall not unreasonably withhold or delay the provision of its approval, and once such approval has been given, such specification shall be "the Approved Specification"

2. Prior to Occupation the Owner shall lay out the On-Site Open Space in accordance with the Approved Specification

3. On satisfactory completion of the laying out of the On-Site Open Space Land in accordance with the Approved Specification to the satisfaction of the Council (acting reasonably) the On-Site Open Space Land shall be maintained by the Owner to the satisfaction of the Council (acting reasonably) for a period of twelve months commencing on the date that completion of the layout is confirmed by the Council in writing (such confirmation not to be unreasonably withheld or delayed) during which time (or as soon as is reasonably practical thereafter) defects properly identified by the Council shall be made good by the Owner

4. On expiry of the 12 months maintenance period the On-Site Open Space Land, subject to a satisfactory final inspection by the Council, shall then be maintained in perpetuity (and the Council shall not unreasonably withhold or delay in providing confirmation that an inspection was satisfactory)

SCHEDULE SEVEN

(Woodland)

a. Within 3 (three) months of the Commencement of the Development the Owner shall submit to the Council for its approval a Ten (10) year plan for the future management and maintenance of the Woodland to include public access on foot only ("the Woodland Management Plan")

b. The Owner shall implement the approved Woodland Management Plan and maintain it for the duration of the Woodland Management Plan

SCHEDULE EIGHT

(Public Art)

1. Within three (3) months of the Commencement of Development the Owner shall submit to the Council details of a Public Art Statement for the Council's written approval (which shall not be unreasonably withheld).

2. Following approval of the Public Art Statement, the Owner, in consultation with the appointed steering group (as referred to in the definition of Public Art Statement), shall be responsible for the overall implementation of the Public Art in accordance with the Public Art Statement as agreed by the Council.

3. The Owner and the Council shall ensure as far as possible that all Public Art is provided in accordance with the Council's Public Art Strategy and creates a high quality urban environment on the Site and takes account of the nature of the Development, to ensure that it is appropriate for care home residents, other occupiers and visitors to the Development.

4. The Owner shall maintain appropriate financial records and audit trails in respect of the Public Art Contribution and make these available to the Council if requested.

5. For the avoidance of doubt, the Owner's maximum liability under this Schedule shall be the Public Art Contribution.

SCHEDULE NINE

(Operation of the Site)

1. Upon Occupation the Owner covenants that the principal operation at the Site will be for a service supporting people living with Dementia
2. Prior to Occupation, a Statement of Operation shall be submitted to the Council for its approval.

3. Operation of the Site shall accord with the principles set out in the approved Statement of Operation.

4. If there is a need to alter the operation of the Development to fall outside of the Statement of Operation, the Owner shall not implement any changes to the operation unless and until they have been agreed in writing by the Council (whose consent shall not be unreasonably withheld)

5. The Owner covenants that upon Occupation the operation of the Site will include a membership club allowing such persons who live locally to have access to the support facilities within the Development where there are staff experienced in coping with the challenges of Dementia

6. The Owner covenants with the Council that:

   6.1 notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), the use of the Development hereby permitted shall be mixed Class C2 and C3b only.

   6.2 Occupation of the Supported Apartments shall be limited to:

6.2.1 persons requiring care and/or support now for Dementia, or with a reasonable expectation of needing care and/or support for Dementia in the foreseeable future;

6.2.2 persons living as part of a single household with persons requiring such care and/or support for Dementia now or within the foreseeable future; and

6.2.3 persons who were living in a Supported Apartment on site as part of a single household with such a person or persons as defined in 6.2.1 who have either:

6.2.3.1 died while living in a Supported Apartment, or

6.2.3.2 moved to reside in the associated care home or have moved to alternative care provision

6.3 If there is a need to alter the operation of the Development to fall outside of the provisions of Clause 6.2, the Owner shall not implement any changes to the operation unless and until they have been agreed in writing by the Council (whose consent shall not be unreasonably withheld)

7. The Owner covenants that a minimum of two of the Supported Apartments will be available for rent on the open market

SCHEDULE TEN

(Travel Plan)

1. The Owner hereby covenants with the Council:

1.1 Not to Commence any part of the Development until the Travel Plan Sum has been paid to the Council and further to notify the Council that such payment has been made with 14 days of such payment;

1.2 Not to Commence any part of the Development until the Travel Plan has been submitted to and approved by the Council (such approval not to be unreasonably withheld or delayed);

1.3 In the event that the Council declines to approve the Travel Plan to submit a revised Travel Plan as requested by the Council to the Council within a further period of one month from receipt by the Owner of the Council's notification of the Travel Plan not being acceptable and the revised Travel Plan shall address the Council's reason for refusal. This process shall be repeated as often as necessary until the Travel Plan is approved in writing by the Council;

1.4 Not to Occupy or permit occupation of any part of the Development until appointing and funding a suitably qualified Travel Plan co-ordinator(s) with the responsibilities and duties set out in the Travel Plan and to ensure that the Council is notified of the identity of the Travel Plan co-ordinator(s) immediately following their nomination and that any changes in their nomination or responsibilities are notified to the Council immediately;

1.5 Once approved by the Council to implement the Travel Plan in accordance with the programme of implementation set out in the Travel Plan;

1.6 To produce and submit to the Council the Annual Performance Report in respect of the Travel Plan (which shall include as appropriate the remedies required as set out in the Travel Plan) for approval in writing in respect of the Development in accordance with the Travel Plan. In the event that the Annual Performance Report is submitted which does not in the opinion of the

Council achieve the objectives and/or targets of the Travel Plan to submit proposals and/or remedies to the Council in writing for the Council's approval. This process shall be repeated as often as necessary until such revised proposals and/or remedies to the Travel Plan are approved by the Council;

1.7 To implement the Travel Plan and any modifications arising from the Annual Performance Report approved in writing by the Council;

1.8 To submit a copy of any modified Travel Plan (following the Annual Performance Report or otherwise) approved by the Council; and

1.9 The matters to be included within the Travel Plan may be subject to variation by written agreement with the Council

SCHEDULE ELEVEN
(Sustainable Urban Drainage System)

1. The Owner shall not Commence Development until a plan detailing the SUDS shall have been submitted to and approved in writing by the Council (such approval not to be unreasonably withheld or delayed) ("the Approved SUDS Plan"). The Approved SUDS Plan shall include the following:

   1.1. A management and maintenance plan for SUDS for the lifetime of the Development (including but not limited to) the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the SUDs system during the lifetime of the Development;

   1.2. Arrangements for surface water drainage; and

   1.3. A timetable for implementation of SUDS

2. The Approved SUDS Plan shall be implemented and the SUDS shall thereafter be managed and maintained in accordance with the Approved SUDS Plan in perpetuity

In Witness hereof the parties hereto have today executed and delivered this agreement as a Deed

EXECUTED as a DEED by affixing)
THE COMMON SEAL of EASTLEIGH)
BOROUGH COUNCIL in the)
presence of:)

[redacted]

Head of Legal and Democratic Services

EXECUTED as a DEED by)
THE BRENDONCARE FOUNDATION)
in the presence of:)

2016/1

Authoris[redacted]
Witness[redacted]

EXECUTED as a DEED by)
PERBURY (DEVELOPMENTS) LIMITED)
in the presence of:)

[redacted]

Authorised Director

[redacted]

EASTLEIGH BOROUGH COUNCIL

Development Management
My ref F/15/77022
Your ref
Please ask for Kitty Budden
Direct dial 023 8068 8266
Hours of work
e-mail kitty.budden@eastleigh.gov.uk

Hunters
Space One
Beadon Road
London
W6 0EA

27 January 2016

DRAFT

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015

Application No. F/15/77022

In pursuance of their powers under the above Act and in accordance with your application received on 3 August 2015, with subsequent amendments dated

19/10/2015; 28/10/2015; 18/11/2015; 19/11/2015

the Council, as Local Planning Authority hereby PERMIT the following:

Description: Erection of dementia care centre comprising 64no. care beds and 20no. 1 & 2 bed supported apartments with associated access off Otterbourne Hill, car parking, amenity space, boundary treatments and landscaping.

Site: Land Adjacent To Penarth House, Otterbourne Hill, Eastleigh, SO50 4LJ

Subject to due compliance with the following conditions:

(1) The development hereby permitted shall start no later than three years from the date of this decision. Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

(2) The development hereby permitted shall be implemented in accordance with the following plans numbered: APL001 REV B, APL002, APL003 REV G, APL004 REV B, APL005 REV G, APL006 REV E, APL007 REV E, APL008 REV C, APL009,

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN
T: 023 8068 8000 F: 023 8064 3952 E: direct@eastleigh.gov.uk W: www.eastleigh.gov.uk

The development shall not be occupied until the approved details have been fully implemented unless agreed in writing by the Local Planning Authority.
Reason: To limit the impact the development has on the locality.

(5) Prior to commencement, a scheme of mitigation measures for the protection of the development from road noise and vibration shall be submitted to, and approved in writing by, the Local Planning Authority. This scheme must reference final building layout, floor plans and elevational details, and must be submitted for approval by the Local Planning Authority. All works, which form part of the scheme approved by the Local Planning Authority, must be completed before any of the permitted dwellings is occupied [unless agreed by the Local Planning Authority] The scheme shall be fully implemented, unless varied with the written permission of the Local Planning Authority in advance of implementation. Reason: To protect the amenity of future occupiers.

(6) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable for its implementation and a management/ maintenance plan for the lifetime of the development including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime. The system shall be implemented and thereafter managed and maintained in accordance with the approved details. Reason: To reduce the surface water run off from the site, prevent an increased risk of flooding, improve and protect water quality and water flows to the River Itchen; and to ensure future maintenance of the surface water drainage system.

(7) No development shall start until details for the disposal of foul sewerage from the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall then accord with the approved details. Reason: To ensure satisfactory provision of foul and surface water drainage.

(8) Within 3 months of development commencing on site, a BREEAM 'Excellent' interim stage certificate and sustainability report, demonstrating how all of the essential requirements for non-residential development of the Eastleigh Borough Council adopted Supplementary Planning Document 'Environmentally Sustainable Development' are to be met, have been submitted to, and approved in writing, by the Local Planning Authority. Reason: To ensure the development meets the requirements of the adopted Supplementary Planning Document 'Environmentally Sustainable Development'.

(9) Within 3 months of first occupation, a BREEAM 'Excellent' final stage certificate and sustainability report, highlighting how all of the essential requirements for non-residential development of the Eastleigh Borough Council adopted Supplementary Planning Document 'Environmentally Sustainable Development' have been met, have been submitted to, and approved in writing by, the Local Planning Authority. Reason: To ensure the development meets the requirements of the adopted Supplementary Planning Document 'Environmentally Sustainable Development'.

(10) No work shall commence on site until the following has been submitted to, and approved in writing by the Local Planning Authority:

(a) Report of preliminary investigation comprising a Desk Study, Conceptual Site Model and Preliminary Risk Assessment documenting previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Reports Nos. 11 CLR11, and BS10175:2011+A1 2013 Investigation of potentially contaminated sites Code of Practice, and, unless otherwise agreed with the Local Planning Authority;

(b) A report of a site investigation documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the Preliminary Investigation in accordance with BS10175:2011+A1 2013 and BS8576:2013, and, unless otherwise agreed with the Local Planning Authority;

(c) A detailed site specific scheme for remedial works and measures to be undertaken to avoid the risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works. Reason: To minimise the risk from land contamination for the safety of the building's occupiers.

(11) The development hereby permitted shall not be occupied/brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of the above condition 10(c) that any remediation scheme required and approved under the provisions of the above condition 10(c) has been implemented in full in accordance with the approved details [unless varied with the written permission of the Local Planning Authority in advance of implementation]. Unless agreed in writing with the Local Planning Authority such verification shall comply with the guidance contained in CLR11 and EA guidance for the safe development of housing on land affected by contamination - R&D Publication 66:2008. Typically such a report would comprise:-

(a) A description of the site and its background, and summary of relevant site information

(b) A description of the remediation objectives and redial works carried out

(c) Verification data including - sample locations/ analytical results, as built drawings of

the implemented scheme, photographs of the remediation works in progress, etc

(d) Certificates demonstrating that imported and /or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the approved scheme under condition 10(c). Reason: To ensure the necessary site remediation works are completed.

(12) Within the first growing season following the discharge of the pre-commencement conditions, the trees numbered 52-66 on the submitted, (but not approved), landscape plan APL004 Rev B, [the details of which to be agreed with the Local Planning Authority], will be planted. Tree Protection Fencing shall be erected around these trees and thereafter no access by vehicles, storage or use of machinery, equipment or materials shall take place within the fenced area. Reason: In the interests of visual amenity for nearby residents.

(13) A reptile translocation, habitat creation, management and monitoring strategy will be submitted and agreed before construction commences. This strategy will be informed by updated reptile survey following Natural England's Standing Advice. Monitoring will be undertaken as laid out within the strategy with monitoring reports submitted to and agreed by Eastleigh Borough Council.
Reason: To ensure the protection of the reptile population.

(14) Immediately before any work is due to commence on site a badger survey should be undertaken and submitted to and agreed by Eastleigh Borough Council. To compensate for badger foraging habitat pasture land and fruit and nut bearing species will be incorporated within the landscaping strategy.
Reason: To ensure the protection of badger setts and the provision of compensatory foraging habitat

(15) Notwithstanding the submitted landscape plan, following completion of the reptile survey and approval of the reptile strategy, a landscape plan incorporating badger and reptile needs shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall cover all hard and soft landscaping [including trees and boundary treatment] and shall provide details of timings for all landscaping and any future maintenance. The works shall be carried out in accordance with the approved plans and to the appropriate British Standard. Reason: To enhance the ecological benefits of the open space and in the interests of the visual amenities of the locality.

(16) The landscape scheme to be approved must be completed within 12 months from the completion of the building shell, or by such later date as the Local Planning Authority may determine. Any trees or plants which die, are removed or become seriously damaged or diseased during the first five years must be replaced during the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. Reason: To ensure that the appearance of the development is satisfactory.

(17) No development shall start until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. The development must accord with the approved details and to the appropriate British Standard. Prior to commencement, the approved Tree Protection Fencing shall be erected and a site meeting attended by the Arboricultural Consultant and Site Manager has taken place where a representative from the Local Planning Authority has inspected and approved the fencing. Once approved no access by vehicles, storage or use of machinery, equipment or materials shall take place within the fenced area. The fencing shall be retained in its approved form for the duration of the work. Reason: To retain and protect the existing trees which form an important part of the amenity of the locality.

(18) No construction or deliveries to the site shall take place during the construction period except between the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1300 on Saturdays and not at all on Sundays or Bank Holidays. Reason: To protect the amenities of the occupiers of nearby dwellings.

(19) No burning of materials obtained by site clearance or any other source shall take place during the demolition, construction and fitting out process. Reason: To protect the amenities of the occupiers of nearby properties.

(20) Details of all crime prevention proposals must be submitted to and approved in writing by the Local Planning Authority within three months of development commencing. The development must then accord with these approved details. Reason: In the interests of crime prevention.

(21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), the use of the development hereby permitted shall be as a mixed Class C2 and C3b only. Reason: In order to comply with the special planning circumstances given in justifying the development in its countryside location.

(22) Prior to installation, the siting and installation of plant and equipment, including process exhausts, which gives rise, or is likely to give rise, to emissions to air of either ash, dust, fume, gases, grit, odours or soot shall be approved in writing by the Local Planning Authority. Any plant or equipment used for the purpose of air conditioning shall be provided with suitable acoustic attenuation, or sited at agreed locations, to mitigate the effects of noise as approved in writing by the local planning authority. Reason: In the interests of residential amenity.

(23) The development hereby permitted shall not be brought into use until the car park has been constructed, surfaced and marked out in accordance with the approved plan. The approved parking area shall not thereafter be used for any purpose other than the turning, parking, loading and unloading of vehicles. Reason: To make provision for off street parking for the purpose of highway safety.

(24) Within three months of the commencement of occupation of the approved development, the existing access/egress arrangement via Winchester Road to the site which is to be used for construction traffic shall be stopped up and abandoned and the footway/verge/crossing shall be reinstated in accordance with details to be approved in writing by the Local Planning Authority. Reason: In the interests of highway safety and visual amenity, and to ensure that there is only one vehicular access to the property.

Note to Applicant: It is considered that, subject to compliance with the conditions and any obligations attached to this permission, the proposed development is acceptable because it will not materially harm the character of the area, the amenity of neighbours or highway safety and it is in accordance with the policies and proposals of the development plan, comprising the Eastleigh Borough Local Plan Review 2001-2011, and after due regard to all other relevant material considerations including the National Planning Policy Framework and the Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014 the Submitted Local Plan comprising: the Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and the Schedule of Proposed Minor Changes, submitted to the Secretary of State in July 2014', the local planning authority is of the opinion that permission should be granted.

The following development plan saved policies and emerging draft local plan policies are relevant to this decision and the conditions attached to it:

Eastleigh Borough Local Plan Review [2001-2011] saved Policy 1.CO, 18.CO, 23.NC, 25.NC, 28.ES, 30.ES, 31.ES, 34.ES, 36.ES, 37.ES, 45.ES, 59.BE, 63.BE, 74.H, 100.T, 101.T, 102.T, 104.T, 190.IN, 191.IN.

Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, the Submitted Local Plan, Policy S1, S2, S3, S5, S8, S9, S11, DM1, DM2, DM5, DM7, DM9, DM23, DM24M DM28, DM29, DM32, DM33, DM37.

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Under the Town and Country Planning England Regulations 2012, a fee is required for Discharge of Condition Applications. N.B. Conditions not fully discharged, invalidate the planning permission.

Note to Applicant: A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 1SW [Tel. 03303030199] or www.southernwater.co.uk.

Note to Applicant: Detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.

Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers it is possible a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW [Tel: 0330 303 0119] or www.southernwater.co.uk.

L O'Driscoll

Louise O'Driscoll
Head of Development Management

N.B. SEE ENCLOSED NOTES (PER)



B 13-01-16 JW Updated to align Yellow Boundary with ownership, and removal of Penarth House ownership from red line boundary.

[redacted]

LEGEND:

- Permissive P[redacted]
- Vehicular access to Open Space
- RED Line - Application Site
- YELLOW Line - Pitmore Copse Woodland
- Open Space

N

0 10m 20m 50m 100m

1:1250@A2

project name:	OTTERBOURNE DEMENTIA CARE HOME
drawing reference:	S106 PLAN
job number:	M9038
drawing number:	ASK204
revision:	B
status:	LEGAL
cad ref:	M9038_ASK204_-_S106 PLAN_OTTERBOURNE_1-1250@A2.dwg
date:	OCT 2015
sheet:	
drawn:	JW
scale:	1:1250@A2
checked:	

Use figured dimensions only. All levels and dimensions to be checked on site. This drawing is to be read in conjunction with all other relevant drawings and specifications.
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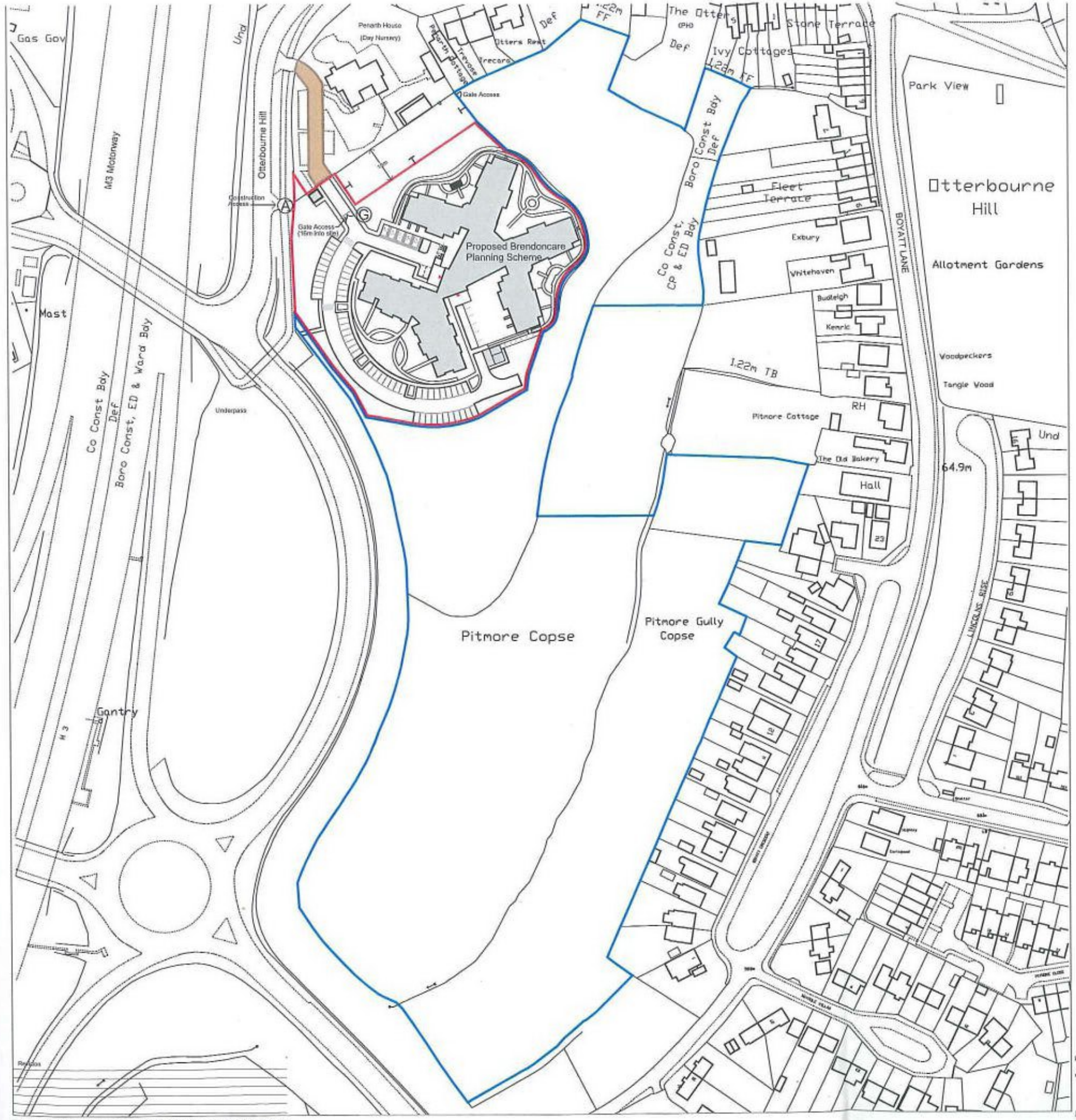
hunters
Space One Beadon Road
London W6 0EA
T 020 8237 8200
F 020 8741 2814
mail@hunters.co.uk
www.hunters.co.uk



[redacted]

LEGEND:

- Ⓖ Operation Access Gate
- Ⓐ Construction Access Point
- BROWN Hatch - Proposed Brendoncare right of access through Yellowdot Nursery.
- RED Line - Brendoncare Care Scheme development boundary.
- BLUE Line - Existing ownership boundary of the Perbury Group.

N

0 10m 20m 50m 100m

1:1250@A2

A	06-10-2015	JW	Updated as Michael O'Brien email dated 17/09/15.
B	22-10-15	JW	Updated as telephone call dated 22/10/2015 and email dated 19/10/15.

project name: OTTERBOURNE DEMENTIA CARE HOME

drawing reference: CONVEYANCE PLAN

date: OCT 2015

sheet:

drawn: JW

scale: 1:1250@A2

checked:

job number: M9038

drawing number: ASK203

revision: B

status: LEGAL

cad ref: M9038_ASK203_-_CONVEYANCE PLAN_OTTERBOURNE_1-1250@A2.dwg

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Space One Beadon Road London W6 0EA

T 020 8237 8200
F 020 8741 2814
mail@hunters.co.uk

www.hunters.co.uk