



Planning Committee C

Report title:

BLACKHEATH HOSPITAL, 40-42 LEE TERRACE, LONDON, SE3 9UD

Date: 24th February 2022

Key decision: No

Class: Part 1

Ward(s) affected: Blackheath

Contributors: Thomas Simnett

Outline and recommendations

This report sets out the officer's recommendation of approval for the above proposal subject to, the conditions and informatives

The report has been brought before Committee for a decision due to the submission of seven objections from local residents and one objection from a Hatcliffe Close Residents Association.

Application details

Application reference number(s): DC/21/123944

Application Date: 19 October 2021

Applicant: Walsingham Planning submitted on behalf of Circle Health Group

Proposal: The installation of a rooftop plant and all associated works at Blackheath Hospital 40-42 Lee Terrace SE3.

Background Papers: (1) Submission Drawings
(2) Submission technical reports and supporting documents
(3) Internal consultee responses

Designation: PTAL 4
Local Open Space Deficiency
Air Quality
Blackheath Conservation Area
Locally List Building

Screening: Not applicable

1 SITE AND CONTEXT

Site description and current use

- 1 The application site is located on the southern side of Lee Terrace between the residential streets of Hatcliffe Close and Tristan Square. Adjoining the rear of the property are two-storey semi-detached and detached residential dwellings fronting Lock Chase.
- 2 The application property is the BMI Blackheath Hospital which is formed of Nos. 40 and 42 Lee Terrace, No. 40 Lee Terrace is to the west and No. 42 Lee Terrace is to the east. No 42 features a grey brick (now painted) façade with stucco dressings while No 40 has a wholly stuccoed finish with tower.
- 3 The two buildings merged around 1983 when a new link building was built between to allow the site to be used as a single hospital, No. 40 Lee Terrace was also extensively rebuilt and extended at this time.

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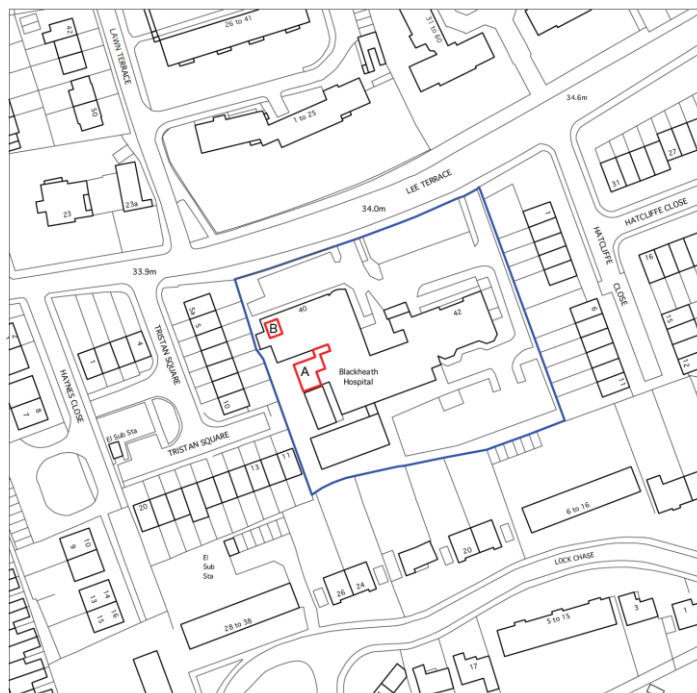


Figure 1 – Site location plan

Character of area

- 4 The hospital is bounded by residential development with Hatcliffe Close adjoining the site to the east, Tristan Square to the west and Lock Chase to the south.

Heritage/archaeology

- 5 The application site is located within the Blackheath Conservation Area and contains two locally listed buildings, which form the principal elevation of the Hospital to Lee Terrace.
- 6 The Local List Descriptions are as follows:

No 40 Lee Terrace

Villa. Detached. 1868. Stucco, stone and slate. Central/principal section built to three storeys with basement and tower. Four bays. Corniced string at second floor level. Slightly projecting quoined entrance bay to left. Flat-arched entrance flanked by Tuscan columns and surmounted by round-arch window with splayed moulded reveal and keystone. This surmounted by cambered-arch window with keystone and decorative stone balustrade; this supported by large enriched brackets. Above parapet, terminates in tower with pyramidal roof, finial and deep projecting eaves with paired brackets. One round-arch window flanked by two blind round-arch windows. To right, low pitched roof surmounted by decorative iron balustrade. To left, bowed section of three bays with half-blind six-pane sashes surmounted by stone balustrade parapet. Corniced string at first floor level. To right, two storey, two bay extension under plain parapet with further, recessed extension of one bay. With no. 42, now part of Blackheath Hospital.

No 42 Lee Terrace

Villa. Detached. 1870. Latterly painted brick and slate with stone and stucco Blackheath Conservation Area dressings. Two storeys with attics. Symmetrical façade. Three bays flanked by two projecting bays. Pitched roof to central section, pyramidal roof with highly

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decorative oculus dormers to projecting bays. Deep bracketed eaves. Central bays have replaced casements with at first floor, fine iron balconets over corniced string. Ground floor windows are flat arched with central flower motif and spaced by archlevel nail-head strings. To projecting bays, three-light sash windows to ground floor separated by plain columns and flanked by plain pilasters. Columns and pilasters surmounted by variation on composite capitals. To first floor, three light sashes similarly divided but surmounted by plain frieze with central cherub motif enriched by foliage. This in turn surmounted by flat cornice with central camber. Original bricks dark grey. Although now painted, original effect of contrasting brick and stucco still clear. With no. 40, now part of Blackheath Hospital.

Local environment

- 7 The site falls within Air Quality Management Area.

Transport

- 8 The site has a Public Transport Accessibility Level (PTAL) score of 4 on a scale of 1-6b, 1 being lowest and 6b the highest.
- 9 Blackheath Railway Station is located approximately 0.2 miles to the north-east of the application site.

2 RELEVANT PLANNING HISTORY

- 10 There have been fifteen applications on this site historically, the most recent applications are:-
- 11 **DC/21/124085:** Certificate of Lawfulness (proposed) pursuant to The Town and Country Planning (General Permitted Development) Order 2015 (as amended), Schedule 2, Part 7, Class M for the construction of a single-storey entrance lobby extension at the front of Blackheath Hospital, 40-42 Lee Terrace SE3. **Granted**
- 12 **DC/21/122611:** Construction of a single storey glazed entrance lobby extension at the front of Blackheath Hospital 40-42 Lee Terrace SE3, together with roof top plant equipment and 2 Air Conditioning condenser units on the side elevations. **Refused – reasons for refusal:**
- 1) The proposed single storey extension to the front, by reason of its scale, design and materials would be an incongruous and architecturally inappropriate addition that would result in substantial harm to the character and appearance of the host locally listed buildings and surrounding Blackheath Conservation Area contrary to NPPF (2021) Paragraph 202, Policy HC1 Heritage conservation and growth of the London Plan (March 2021); Policy 15 High quality design for Lewisham and Policy 16 Conservation areas, heritage assets and the historic environment of the Core Strategy (June 2011), DM Policies 30 Urban design and local character, 31 Alterations and extensions to existing buildings including residential extensions; 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens; DM Policy 37 Non designated heritage assets including locally listed buildings, areas of special local character and areas of archaeological interest and the Blackheath Conservation Area Appraisal and SPD

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- 2) By virtue of insufficient details and mitigation measures on proposed equipment (external plant, air handling equipment and air condition condenser units) the proposal fails to demonstrate that there would be no adverse impact on surrounding properties in terms of increased noise contrary to Paragraph 130 of NPPF (2021), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policy 26 Noise and Vibration and 31 Alterations and extensions to existing buildings including residential extensions of the Development Management Local Plan (November 2014).

- 13 **DC/16/099401** - Application submitted under Section 73 of the Town and Country Planning Act 1990 for a minor material amendment to allow the variation of Condition (1) of the planning permission DC/03/54427 dated 23 September 2003 for the construction of a single storey modular building linked to the rear of Blackheath Hospital, 40-42 Lee Terrace SE3 to provide additional clinical facilities for a temporary period, as amended by the minor material amendment under Section 73 (DC/15/92524) granted on 27th October 2015, **in order to allow the retention of the temporary building for a further year. Granted.**
- 14 **DC/15/094861** - Demolition of two existing buildings, serving as the Endoscopy Department and ancillary office space, located in the south-western corner of Blackheath Hospital, 40-42 Lee Terrace SE3, together with the construction of a part single part two-storey extension to the south-western corner of the main building for use as an Endoscopy Department and an Intensive Treatment Unit (ITU) in connection with the existing hospital use (Class C2) with ancillary plant room, new roof plant and landscaping works, including replacement trees and the provision of covered bicycle store at the far south-eastern side of the site. **Granted.**

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 15 This application relates to the installation of a rooftop plant and all associated works at Blackheath Hospital 40-42 Lee Terrace SE3.
- 16 The proposal follows the Hospital's plans to convert its in-patient bedrooms to out-patient consulting and treatment rooms following the Covid-19 pandemic.
- 17 The conversion of in-patient bedrooms to out-patient consulting and treatment rooms, requires some external plant to safely service two Ear, Noise and Throat (ENT) consulting rooms, a minor operating theatre and two treatment rooms.
- 18 The majority of this plant is proposed on an area of existing flat roof on the west side of the building as shown as Area A on drawing 201048-1002 REV P03. This consists of air handling plant. There will also be a door inserted into the north elevation of the screening department to allow for access to the rooftop.
- 19 Additionally, two VRV air conditioning system condenser units are required on the roof of the second storey. These will be set back from the north elevation parapet will be positioned to the side (east) of the stair core which is shown as Area B on drawing 201048-1002 REV P03

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3.2 COMPARISON WITH PREVIOUS SCHEME

- 20 The previous application also related to an extension, however this application deals solely with the rooftop plant equipment.
- 21 A proposed west elevation extent of visibility plan was submitted demonstrating the two AC condensing units to the front elevation would not be visible from street level.
- 22 A further noise report was submitted, which the Environmental Health Team have confirmed the mitigation measures proposed are appropriate.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

- 23 There was no pre-application engagement conducted by the applicant.

4.2 APPLICATION PUBLICITY

- 24 Site notices were displayed on 03 November 2021 and a press notice was published on 03 November 2021.
- 25 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 15 December 2021.
- 26 8no number responses received, comprising 7no neighbour objections and 1no objection from a resident's association.

4.2.1 Comments in objection from neighbours

Comment	Para where addressed
Increase in noise and disturbance	Para 80
Queried whether there are enough mitigation measures	para 81
Lack of screening to plant works	Para 65
Does not address the reasons for refusal of previously refused application (DC/21/122611)	Para 78
Loss of privacy from new access point onto west elevation flat roof	Para 74

- 27 A number of other comments were also raised as follows:
- 28 Concerns were raised over the existing MRI scanner and associated cooling plant on the east elevation which has been the cause of noise disturbances for a number of years. According to the objector despite planning conditions to limit the noise of these units there is still an issue surrounding noise disturbance. Officers can only make an assessment based on the proposed development.

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- 29 Comments were also made that if planning permission is granted that Lewisham should withhold permission until the issues around the MRI scanner cooling unit is resolved. The Local Planning Authority is unable to withhold any permission to compel the resolution of non-material issues unrelated to that permission. Comments were received alleging the exact positions of the proposed units are unknown. Officers consider the position of proposed development is shown on the plans. If any development is not installed as approved, this would be an enforcement matter.
- 30 Comments were also received which questioned whether the drawings are detailed enough to make a full assessment, Officers consider that that the proposed drawings are adequate for an assessment to be carried out.
- 31 A number of comments were raised relating to a previously installed TV aerial, lopping of trees, and the staff smoking area. These are not material planning considerations in the assessment of this application.
- 32 Comments were received that stated no alternative locations were proposed for the plant equipment, Officers do not consider this necessary as it would appear from the noise report that adequate mitigation would limit the noise generated to acceptable levels.

32.1.1 **Comments in objection from residents association**

Comment	Para where addressed
Increase in noise and disturbance	Para 80
Queried whether there are enough mitigation measures	para 81

- 33 A number of other comments were also raised as follows:
- 34 Comments were received relating to a previous grant of planning permission that had not complied with permitted noise levels. Officers are only able to make an assessment whether the proposed development would be acceptable in terms of design and impact on neighbouring amenity, they are not able to make an assessment on the previously approved application. This would be a planning enforcement matter.

4.3 INTERNAL CONSULTATION

- 35 The following internal consultees were notified on 15 December 2021.
- 36 Environmental Protection: raised no objections subject to conditions. See para 78 for further details.
- 37 Conservation: raised no objections subject to conditions. See para 62 and 64 for further details.

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5 POLICY CONTEXT

5.1 LEGISLATION

38 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

39 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

5.2 MATERIAL CONSIDERATIONS

40 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

41 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

42 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to aforementioned directions and the test of reasonableness.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

43 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

44 Lewisham SPD:

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- Alterations and Extensions Supplementary Planning Document (April 2019)

5.6 OTHER MATERIAL DOCUMENTS

- Blackheath Conservation Area Character Appraisal

6 PLANNING CONSIDERATIONS

45 The main issues are:

- Principle of Development
- Urban Design
- Impact on Adjoining Properties

6.1 PRINCIPLE OF DEVELOPMENT

General policy

46 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

47 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

48 LP Policy S2 states that development proposals that support the provision of high-quality new and enhanced health and social care facilities to meet identified need and new models of care should be supported.

49 The Development Plan is generally supportive of health facilities extending or altering their premises. The principle of development is supported, subject to details.

6.1.1 Principle of development conclusions

50 The principle of development is supported.

6.2 URBAN DESIGN AND IMPACT ON HERITAGE ASSET

General Policy

51 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

52 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

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- 53 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 54 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.

Policy

- 55 London Plan Policy D3 states that development proposals should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character. It should also be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well.
- 56 Core Strategy Policy 15 High quality design for Lewisham repeats the necessity to achieve high quality design but also confirms a requirement for new developments to minimise crime and the fear of crime.
- 57 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.
- 58 DMLP 30 - Urban design and local character states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity. The London Plan, Lewisham Core Strategy and Lewisham DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design. DM Policy 33 seek to protect and enhance the Borough's character and street frontages through appropriate and high-quality design.
- 59 DMP 31 states that extensions will not be permitted where they would adversely affect the architectural integrity of a group of buildings as a whole or cause an incongruous element in terms of the important features of a character area.
- 60 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.
- 61 DMP 37 sets out a framework for the protection of the borough's non-designated heritage assets.

Discussion

- 62 The extent of visibility plans submitted confirm that the two AC condenser units installed at roof level to Area B would not be visible from the front of the property. Conservation Officers concluded based on the information submitted that there would be no harm to the host property which is a locally listed building and within the conservation area.

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- 63 The proposed plant equipment to Area A would not be visible from the public realm and as such is not considered to adversely affect character and appearance of host building and conservation area. The equipment is modest in size and would be set against the backdrop of the existing building.
- 64 Conservation Officers requested that the GRP enclosure is painted the same colour as the render to the front of the building, this will be secured by way of condition.
- 65 Although there had been an objection over the proposal's design and lack of proposed screening to the whole plant equipment in Area A, given its location and the existing use of the site Officers do not consider it necessary to provide screening to all of the plant equipment in Area A. It is also noted that there are trees and shrubs on the boundary of the hospital with the properties that back onto it on Tristan Square would provide natural screening of the plant equipment.
- 66 The proposed insertion of a door into the first floor level to the west elevation would allow access to the flat roof that would contain the main plant equipment, this door is considered acceptable and given that the proposed door would be located in a non-original part of the building.
- 67 Officers consider that the current proposal would lead to no harm to the Blackheath Conservation Area and the locally Listed Building.

6.2.1 Urban design and impact on heritage assets conclusion

- 68 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character and appearance of Blackheath Conservation Area.
- 69 Officers consider the proposals design to be acceptable subject to conditions.

6.3 IMPACT ON ADJOINING NEIGHBOURS

General Policy

- 70 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 180 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.
- 71 This is reflected in relevant policies of the London Plan (LPP D3), the Core Strategy (CP15), the Local Plan (DMP32).
- 72 The main impacts on amenity that generally arise from this type of development include: (i) loss of privacy; (iii) noise and disturbance.

6.3.1 Privacy

Policy

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73 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy for its neighbours

Discussion

74 Concerns were raised through objections that the proposed door to the west elevation flat roof would reduce the privacy of Tristan Square properties which back onto the elevation where the main plant equipment would be located. Officers are satisfied that this rooftop would not become a rooftop terrace and the access door would be used to access the equipment for maintenance purposes only.

6.3.2 Noise and disturbance

Policy

75 The NPPF at para 170(e) states decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. At para 180(a) of the NPPF states that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

76 The National Planning Policy Guidance for Noise (July 2019) advises on how planning can manage potential noise impacts in new development. It states that local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider whether or not:

- a significant adverse effect is occurring or likely to occur;
- an adverse effect is occurring or likely to occur; and
- a good standard of amenity can be achieved.

77 DMP 26 states that the Council will require a Noise and Vibration Assessment for noise and/or vibration generating development or equipment and new noise sensitive development, where appropriate, to identify issues and attenuation measures, prepared by a qualified acoustician

Discussion

78 A Noise Assessment has been submitted, undertaken in accordance with BS4141:2014 "Methods for Rating Industrial and Commercial Sound, 2014" (Reference 1) which provides the method for rating the effects of industrial and commercial sound on residential areas. The noise impact assessment report was reviewed by the Environmental Health Officer and considered acceptable subject to a pre-commencement condition securing a ventilation system report in order to mitigate air pollution.

79 Table 1 on page 7 of the Assessment states the most noise sensitive receivers were calculated to have a background sound level of 45dB during the daytime period and 44dB 24 hour operation. This report considers the proposed plant equipment, both within buildings and located within acoustic enclosures on the roof, and concludes that the

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proposal would achieve maximum noise emission levels which are 5dB below the existing background level at any time.

- 80 The calculations in the report demonstrates that, with the recommended mitigation measures, noise levels associated with the proposed plant would achieve the established maximum noise levels at the nearest receptors and would therefore be in conformity with relevant BS Standards related to noise.
- 81 While it is recognised that there are already noise related issues from the hospital the proposed development with the mitigation measures as set out in the noise report would not give rise to an unacceptable increase in noise pollution which would harm neighbouring amenity. While there were objections which questioned whether enough mitigation measures have been proposed, the noise report suggests that the proposed mitigation measures would be adequate to ensure there is no increase to noise levels.
- 82 Environmental Health Officers have requested a condition be placed on any planning consent which requires a ventilation system report to be submitted prior to commencement of development in order to mitigate air pollution from the proposed plant handling equipment.
- 83 It is recommended that a condition be placed on any planning consent which requires that the noise generated not exceed the expected maximum levels as detailed in the Noise report. This condition would afford the Council additional enforcement powers to ensure that noise emissions are maintained at a neighbourly level. Officers are satisfied that the submitted noise assessment report addresses the reasons for refusal of (DC/21/122611) and there would not be an unacceptable increase in noise.

6.3.3 Impact on adjoining neighbours conclusion

- 84 Officers consider the proposed development would not give rise to an unacceptable impact on the living conditions of neighbours subject to conditions

7 LOCAL FINANCE CONSIDERATIONS

- 85 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

- 86 The weight to be attached to a local finance consideration remains a matter for the decision maker.

- 87 The CIL is not liable and is therefore not a material consideration.

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8 EQUALITIES CONSIDERATIONS

88 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

89 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

90 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

91 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

92 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

93 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

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94 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

95 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

96 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

97 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

98 This application has the legitimate aim of providing additional capacity with health uses. The rights potentially engaged by this application, including Article 8 and Protocol 1 Article 1 are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

99 This application has been considered in the light of policies set out in the development plan and other material considerations.

100 Officers consider that the proposals would enable the Hospital to provide additional out-patient services which would not negatively affect the character and appearance of the host property and Blackheath conservation area. Through the imposition of planning conditions impact's on urban design and the amenities of adjoining occupiers will be appropriately mitigated.

11 RECOMMENDATION

101 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

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11.1 CONDITIONS

1) **FULL PLANNING PERMISSION TIME LIMIT**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

2) **APPROVED PLANS**

The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

201048-1000 REV P03; 201048-1001 REV P03; 201048-1001 REV P03; 201048-1005 REV P01; 201048-1006 REV P02; 201048-1007 REV P01; 201048-1008 REV P02; 201048-1010 REV P02; 201048-1011 REV P01; 201048-1013 REV P1; R9080-1 REV 1 (**Received 19 November 2021**)

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

3) **NOISE ASSESSMENT**

(a) In accordance with the Noise Assessment (Technical Report: R9080-1 Rev 1 dated 27 September 2021) the rating level of the noise emitted from fixed plant on the site shall be 5dB below the existing background level at any time. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS4142:2014.

(b) The scheme shall be maintained in perpetuity.

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

4) **MATERIALS**

The hereby approved GRP enclosure shall be painted to match the colour of the front elevation as shown on plan 201048-1010 REV P02 and maintained thereafter.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

5) **Ventilation**

Prior to the commencement of development, a Ventilation system report in order to mitigate air pollution shall be submitted to and approved in writing by the Council. The report shall include the following information:

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- a) Details and locations of the air intake locations of the mechanical ventilation system, or
- b) Details of filtration system to remove airborne pollutants. The filtration system shall have a minimum efficiency of 75% in the removal of Nitrogen Oxides/Dioxides, and Particulate Matter (PM2.5, PM10) in accordance with BS EN ISO 10121-1:2014 and BS EN ISO 16890.

Ventilation intakes shall be positioned a suitable distance away from chimney/boiler flues, ventilation extracts, and roads. The maintenance and cleaning of the systems shall be undertaken regularly in accordance with manufacturer specifications, and shall be the responsibility of the primary owner of the property. A post installation certificate of the approved ventilation strategy shall be submitted to the Council for approval prior to the occupation/use of the development. Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

Reason: To manage and prevent further deterioration of existing low quality air across London in accordance with London Plan policy 5.3 and 7.14, and NPPF 181.

11.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.

12 BACKGROUND PAPERS

- (1) Submission Drawings
- (2) Submission technical reports and supporting documents
- (3) Internal consultee responses

13 REPORT AUTHOR AND CONTACT

102 Thomas Simnett Thomas.simnett@lewisham.gov.uk 020 8314 6284 (ext. 46284)

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