

**Supplementary Information
Planning Committee on 24 February,
2010**

Item No. **16**
Case No. 09/2415

Location Land next to Central Middlesex Hospital, Acton Lane, London, NW10
Description Approval of reserved matters relating to appearance, landscaping, scale and access of outline planning permission reference 08/1043.

Application 08/1043, dated 13/11/09 for erection of three linked buildings for mixed-use development on land next to Central Middlesex Hospital to provide up to 650m² of creche/primary health-care facility (Use Class D1), up to 2,160m² of retail (Use Class A1), up to 467m² of cafe/restaurant (Use Class A3) floorspace, up to 13,480m² of care and treatment facilities (Use Class C2/C2A) and up to 5,370m² of Use Class B1(b)/additional care and treatment (Use Class C2/C2A), formation of refuse storage, loading bay, cycle storage and 32 car-parking spaces, to include 2 disabled parking spaces on ground floor and associated landscaping.

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The Committee report referred to the need for several revised drawings which reflected the amendments to the design of the building to provide a design feature on the south-western corner of the Plot 1 building. These drawings have now been received.

. A certain level of security can be provided within Use Class C2 units and primary nature of the use was considered to be that of care and treatment.

Revised drawings

The applicants have revised the Material Schedule and two of the three dimensional views so that they detail the revised corner feature on the south-western corner of the Plot 1 building.

Revised condition 1 (approved drawings and documents)

Add: 050_032_revA

Replace 050_050, 050_051 and 050_052 with 050_050_revA, 050_051_revA and 052_revA

Comments from Transportation regarding revised drawings

Transportation have commented that TfL (London Buses) have confirmed that they are happy with the introduction of a 3m wide lay-by for occasional use by ambulances within the bus standing area at the rear of the building. The revised proposals also retain adequate footway width past this lay-by. Transportation have accordingly specified that they do not object to the revised drawings.

Judicial Review

The "Central and North West London NHS Foundation Trust" and Brent Teaching Primary Care Trust (later referred to as the NHS Trust and the PCT) have issued proceedings for a Judicial Review of the Outline Planning Consent for this site (our reference 08/1043).

This does not affect the Council's ability to determine this Reserved Matters application or the application to vary condition 10 (reference 10/0140).

The NHS Trust and PCT have cited the failure to consider the following issues as the grounds for their challenge:

1. It was not demonstrated whether a Use Class C2A (Secure Residential Institutions) in

- this location is in accordance with current local and national planning policy and guidance;
2. It was not demonstrated whether class C2A Use will have a significant affect on the external appearance of the building and whether it was appropriate for the matter to be brought forward as an outline application;
 3. The extent to which boundaries will be affected by the need to provide fencing associated with the secure use;
 4. Consideration of the number of patients and beds which would be provided within the secure unit and the nature of patients who would likely to be accommodated, the impact this may have on the overall provision of such services within the area, and the impact that it may have on the provision of other health services (e.g. GP services);
 5. The extent to which public perception of the scheme would be affected by the introduction of a secure element within Class C2A.

The NHS Trust and PCT also consider that the Reserved Matters are Ultra Vires, as they include Appearance, Landscaping, Scale and Access where the application, as considered by the Committee only included Appearance and Landscaping.

Neither the NHS Trust, or the PCT have commented on this Reserved Matters Application which demonstrates the proposed treatment of external appearance (Point 2), boundary treatment (Point 3), number of beds and types of uses (Point 4) within Use Class C2/C2A (as restricted by condition 6 to *residential accommodation and care to people in need of care or as a hospital or nursing home and for no other purposes within Class C2 or C2A*).

The full discussion of the appearance of the building (being a Reserved Matter) is included within the committee report. Members should note that no perimeter fencing is proposed.

In relation to the other issues raised by the NHS Trust and PCT, neither the Council or the Mayor of London have any planning policies or guidance directly relating to Secure Residential Institutions, a Use Class which was introduced in 2006, and as such, applications are considered on individual merits. Your officers are not aware of any Central Government Planning Guidance directly relating to such uses. The proposal was limited to care and treatment and the application considered on that basis.

Following the consideration of the Outline application by the Planning Committee and the Mayor of London but prior to the determination of the application, the applicants requested that Scale and Access be treated as Reserved Matters as the requirements of potential occupiers had changed since first submission. This would still allow these matters to be considered by local owners and occupiers, and the determination of these matters to be made by the Planning Committee within the Reserved Matters Application. However, the Mayor of London would no longer be a Statutory Consultee regarding the application. The Greater London Authority provided written confirmation that they considered it acceptable to treat Scale and Access as Reserved Matters.

With regard to consultation, the secure nature of the use was restricted to care and treatment and accordingly did not include other uses Class C2A such as a prison, young offenders institution, detention centre or secure training. A certain level of security can be provided within Use Class C2 units and primary nature of the use was considered to be that of care and treatment.

Recommendation: Remains approval subject to revised condition 1.