

Councillor Maria Higson

Conservative Party
Hampstead Town Ward



21st March 2018

Dear Mr Fowler,

Re: Additional information in respect of application number 2019/0953/P: Confirmation that the lawful use of the Queen Marys Hospital (23 East Heath Road) is a residential institution (Class C2) with ancillary staff accommodation

Further to my email sent and received on Monday 17th March, I would like to provide additional information as to why it is my strong belief that application 2019/0953/P should be refused. My argument is based on the principle that the site cannot be proved to be a single-use planning unit and so the application must be rejected.

- The legal framework underpinning this application, clearly states that the onus of proof is on the applicant. Subsection (4) of section 191 of the Town and Country Planning Act 1990 states that, *"If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."*
- The application presumes that the site is to be treated as a single "planning unit" in that it does not separate between the various buildings or areas of the site. This is despite the clear composite nature of the site between clinical and residential use.
- The applicant is unable to provide information satisfying the lawfulness of the whole of the planning unit as Class C2 as only a small percentage of the site has been converted to such a use. The remainder of the site remains Class D1 (for clinical use), with a clinical service remaining operational on the site at present (as evidenced by the recent NHS job advertisement for the site, available at <https://www.jobs.nhs.uk/showvac/1/2/915439453>).
- On this basis, the Certificate of Lawfulness cannot be granted as the required information has not been, and cannot be, provided.
- If the Certificate of Lawfulness were to be granted in this case, it would be subject to future challenge on this basis. The Planning Practice Guidance issued by the Department for Communities and Local Government at ID 17c-010 states, *"Where a certificate is granted for one use on a "planning unit" which is in mixed or composite use, that situation may need to be carefully reflected in the certificate. Failure to do so may result in a loss of control over any subsequent intensification of the certified use."* The application clearly does not fulfil this criterion.

For the above rationale, and for those reasons submitted within my previous objection, I again ask that the application be rejected.

Yours Sincerely,

ClIr Maria Higson