

BY EMAIL

**Attention: Eze Ekleo**

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16 February 2021

Dear Sirs

**SJH - PHASE 1 APPLICATION 18/00288/OUT - CURTILAGE LISTING ISSUE**

We act on behalf of the Homes England in relation to the above matter.

Further to the advice which the Council received from Robert Walton QC, Homes England's advice from Peter Village QC and the contentions of the Milton Neighbourhood Planning Forum it is clear that the Council will need to come to a well reasoned opinion based on the evidence before it as to whether the Fairoak and Beeches villas ("**Villas**") can be considered to be 'curtilage listed'. This opinion will ultimately determine whether demolition of the Villas would require listed building consent.

Clearly if the Council did determine that the Villas were curtilage listed this would incur cost and delay to the programme for this project which will deliver much needed housing to the city.

Taking this into account, and to assist the Council in making a robust decision in relation to the issue of curtilage listing, Homes England has commissioned the enclosed report from Fielden and Mawson ("**Report**") which seeks to set out a definitive position on the status of the Villas in the context of the main hospital building and the chapel. The Report sets out a response to the statements made by Milton Neighbourhood Planning Forum, noting in particular that many of their key claims are not supported by evidence.

As the Counsels' Opinions confirm the key tests for considering whether a building can be considered to be part of the curtilage of a listed building (and thus subject to listed building consent requirements) are the physical layout of the subject building and the listed building, the function of the subject buildings alongside the listed building and the ownership position across the buildings.

The Report firmly establishes that:

- whilst the Villas, hospital buildings and chapel have all been owned by the NHS over time they have been owned by different parts of the NHS which have different functions and operational objectives;

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- the physical layout of the site, in particular the landscaping establishes that there is a clear physical separation both in actual and setting terms between the Villas and the hospital/chapel; and
- from the start of the use of the Villas they have taken on a role of performing different health functions to that carried out in the main hospital building and its associated chapel.

As such, it is clear that the Villas do not meet the tests for them to be considered as 'curtilage listed' to the main hospital building and chapel.

As the report notes the contentions of the Milton Neighbourhood Planning Forum to the contrary are lacking in evidence. Furthermore, the lack of conclusive proof as to when the Villas were actually built (rather than commissioned) does not negate any of the points expressed above.

In conclusion, the Council will need to consider the evidence for the respective positions put forward by Homes England and the Forum in reaching a view as to whether the Villas should be curtilage listed. Homes England's firm position, as evidenced by the Report, is that the Villas should not be curtilage listed.

If we can assist further please do not hesitate to contact us.

Yours faithfully

**Pinsent Masons LLP**

*sent electronically and so unsigned*

Copy to: Peter Wynn, Homes England

Enclosure(s): Fielden and Mawson Curtilage Listing Report