

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2018/0138/P
<b>Officer</b>		<b>Expiry date</b>	
Leela Muthoora		13/03/2018	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
The Anna Freud Centre 21 Maresfield Gardens London NW3 5SD			
<b>Conservation Area</b>		<b>Article 4</b>	
Fitzjohns/Netherhall		None	
<b>Proposal</b>			
Proposed use of the site as a dwelling house (Class C3) following the vacation of the current occupier and removal of existing outbuilding to rear.			
<b>Recommendation:</b>		Grant lawful development certificate	

<b>Site description</b>
<p>The application site comprises of a detached property arranged over 4 storeys situated on the western side of Maresfield Gardens. The site is within the Fitzjohns/Netherhall Conservation Area and is identified as a building that makes a positive contribution. The site is not subject to any Article 4 directives, which might remove these permitted rights.</p> <p>The site is currently in use as a teaching centre for postgraduate students of child psychology.</p>
<b>Relevant policies</b>
<p>The scheme can only be assessed against the relevant planning legislation which is the Town and Country Planning Act 1990, the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GPDO") and the Town and Country Planning (Use Classes) Order 1987.</p> <p>This lawful development certificate is to determine whether the proposed use represents a material change of use from the existing use. If it were found that the proposed change would not constitute a material change of use, then this change would be 'permitted' and hence could go ahead without the specific grant of planning permission from the local planning authority.</p> <p>An assessment of its planning merits as to its acceptability under current policies is therefore not relevant or possible here, as this is purely a legal determination.</p>
<b>Relevant History</b>
<p><b><u>Main building</u></b>  <b>TP40625/2867</b> - The use of as a Child Guidance Clinic, for a limited period.  <b>Conditional permission granted 13/09/1955</b></p>

Conditions

- a) The use being discontinued and determined on or before 30/09/1962.
  - b) The residential appearance of the premises being maintained and the windows kept curtained.
  - c) This permission being personal to the Hampstead Child Therapy Course and Clinic.
- The applicant was Dr. A. Freud

**TP40625/280762** - The use of no.21 Maresfield Gardens as a Child Guidance Clinic for a limited period.

**Conditional permission granted 05/10/1962**

Conditions

1. The use being discontinued and determined on or before 30/09/1969.
2. The residential appearance of the premises being maintained and the windows kept curtained.
3. This permission being personal to the Hampstead Child Therapy Course and Clinic and not enuring for the benefit of the land.

The applicant was Miss. A. Freud LLD

**7725** - Continuation and use for a further limited period for clinical and teaching purposes.

**Conditional permission granted 12/11/1969.**

Conditions

1. The limited period for the use shall be until 31/12/1976 by which date the use shall be discontinued and determined.
2. This permission shall be personal to The Hampstead Child Therapy Course and Clinic during their occupation and shall not enure for the benefit of the land.

The applicant was Miss. A. Freud LLD

**G6/8/8/23687** - The continued use for a further limited period for clinical and teaching purposes.

**Conditional permission granted 02/12/1976.**

Conditions

1. The limited period for the continuation of the use shall be until 31/01/1979 by which date the use shall be discontinued and determined.
2. This permission shall be personal to Hampstead Child Therapy Course and Clinic during their occupation and shall not enure for the benefit of the land. On their vacating the premises the use shall revert to the authorised use for residential purposes.
3. The residential appearance of the premises shall be maintained and the windows kept shall not be used for display purposes.

The applicant was Miss. A. Freud

**G6/8/8/27668** – Continued use for clinical and teaching purposes.

**Conditional permission granted 29/03/1979.**

Conditions

1. This permission shall be personal to the Hampstead Child-Therapy Course and Clinic during their occupation and shall not enure for the benefit of the land. On their vacating the premises, the use shall revert to the lawful use for residential purposes.
2. The residential appearance of the premises shall be maintained.

**Timber outbuilding**

In addition, the planning history includes conditional temporary permissions for a single storey timber structure to the rear garden of the site.

**TP40625/58005** - The erection of a temporary single-storey timber classroom at the rear of No. 21 Maresfield Gardens.

**Conditional permission granted 06/06/1958**

Conditions

1. The building being removed on or before 30/09/1962
2. This permission being personal to the Hampstead Child Therapy Course and Clinic and not enuring for the benefit of the land.

**TP40625/3382** - The retention for a limited period of a single-storey timber building at the rear of No. 21 Maresfield Gardens and its use as a nursery school.

**Conditional permission granted 16/11/1962**

Conditions

1. The limited period for the retention of the building and the use permitted shall be until 30/09/1969 on or before the expiration of which period the building shall be removed and the use discontinued and determined.

**7732** - Continued use for a further limited period of single storey timber building as nursery school for blind children at rear.

**Conditional permission granted 12/11/1969**

Condition

1. The period for the retention of the building and the continuation of use shall be until 31/12/1976, by which date the building shall be removed and the use discontinued and determined.

**23688** - Retention and continued use for a further limited period of single storey timber building as nursery school for blind children.

**Conditional permission granted 02/12/1976**

Condition.

1. The limited period for the retention of the building shall be until 31/01/1979 by which date the building shall be removed.

**27667** - Retention and continued use of the single-storey timber building at the rear as a nursery school.

**Conditional permission granted 29/03/1979**

1. The limited period for the retention of the building shall be until 31/03/1984 by which date the building shall be removed.

**8400501** - Retention and continued use of the single storey timber building at the rear as a nursery school.

**Conditional permission granted 12/07/1984**

Condition

1. The limited period for the retention of the building shall be until 29/05/1987 by which date the building shall be removed.

**8700973** - Retention of a timber structure in the garden at the rear of the premises.

**Conditional permission granted 08/07/1987**

1. The limited period for the retention of the building shall be until 30/06/1990 by which date the building shall be removed.

**9005379** - Retention of a timber structure in the garden at rear.

**Conditional permission granted 30/11/1990**

Condition

1. The limited period for the retention of the timber structure shall be until 31/10/1993 by which date the building shall be removed.

**PW9902978** - The retention of a temporary timber classroom hut in the rear garden for use as

ancillary space to the Anna Freud Centre.

### **Conditional permission granted 03/04/2001**

#### **Condition**

1. This permission shall relate to the use of the hut as ancillary space for the Anna Freud Centre only, and shall not inure for the benefit of the land. In the event of the main building changing use, the retention of the hut shall be reconsidered in the light of the new use.

The planning history includes a withdrawn application for the change of use of the basement.

Withdrawn 30/03/1989

8804624 - Change of use of basement for offices of Association of Child Psychology and Psychiatry.

## **Assessment**

### **1. Proposal**

- 1.1** The applicant seeks to establish whether the proposed use of the site as a residential dwelling house and associated domestic garden following the vacation of the current occupiers is residential is lawful under the Town and Country Planning Act 1990 (as amended).
- 1.2** The site is currently used as an education centre for post graduate students of child psychology. This use would be considered to fall within Class D1c of the Town and Country Planning (Use Classes) Order 1987, a non-residential institution for the provision of education. The use has been established and in situ since 1955.
- 1.3** The proposals do not include any alterations that materially affect the external appearance of the main building. The proposals include the demolition of a timber garden outbuilding ancillary to the main use.

### **2. Site visit**

- 2.1** A site visit to the property was undertaken on 25/01/2018. The officer was satisfied that the use of the building seen on site were consistent with those described in the proposal as provision of education and ancillary office use.

### **3. Assessment**

- 3.1** Section 55 of the Town and Country Planning Act 1990 defines "development" as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- 3.2** A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.
- 3.3** The planning history makes evident that a series of conditional planning permissions were granted for limited periods of time and were restricted to the use being operated by The Hampstead Child Therapy Course and Clinic between 1955 and 1979. The most recent permission regarding the continued use for clinical and teaching purposes granted in 1979, omitted the time limit condition but included the restriction of the use to the Hampstead Child-

Therapy Course and Clinic and the condition to retain the residential appearance of the premises.

- 3.4** The applicant states the centre was originally called the 'Hampstead Child Therapy Course and Clinic' which is confirmed by the planning history. Dr Anna Freud remained involved until 1982 when the Clinic name was changed to the Anna Freud Centre, in honour of her, and subsequently renamed The Anna Freud National Centre for Children and Families in 2016. This is confirmed by information on the organisational website and the Valuation Office Agency descriptions from 2010.
- 3.5** The conditions attached to the planning permissions indicate the Council's intention of retaining a residential appearance to the building during The Hampstead Child Therapy Course and Clinic's occupation and a return to residential use following their vacating the premises when the use shall revert to the 'authorised use for residential purposes.'
- 3.6** The use of the main building and its occupation by the organisation has been referred to in subsequent applications for the timber structure outbuilding in the garden, which was also granted a series of consents for a limited period of time. The first permission granted for the 'classroom' in 1958 included a condition stating it was personal to the Hampstead Child Therapy Course and Clinic. The most recent permission granted in 2001 included a condition stating the 'use of the hut as ancillary space for the Anna Freud Centre only'.
- 3.7** The intention that the timber classroom hut in the garden be temporary is evident by the condition attached to the 2001 permission that is 'ancillary space for the Anna Freud Centre only, and shall not inure for the benefit of the land.' Furthermore, the condition states that 'in the event of the main building changing use, the retention of the hut shall be reconsidered in the light of the new use.' Therefore, the Council considers the removal of the outbuilding to be in accordance with this condition.
- 3.8** In summary, the Council is in agreement with the applicant that the planning history is of key significance in this case in establishing the lawful uses of the site. The proposed change of use from a non-residential institution for educational purposes (Class D1c) to a residential dwelling house (Class C3), is not considered to fall within the "meaning of development" requiring planning permission as defined by Section 55 of the Town and Country Planning Act 1990 as it does not constitute a material change of use but in this instance, compliance with a stated condition to return to the authorised and lawful use.

**Recommendation:** Grant certificate of lawful use.