

## 28 Redington Road, London NW3

### OPINION

#### Introduction

1. Ms Farstad and Mr Wood have applied to the London Borough of Camden for a certificate of lawfulness confirming that 28 Redington Road (“the Property”) can be lawfully used as a single dwellinghouse.
2. I am asked to advise Ms Farstad and Mr Wood whether the certificate should be issued.
3. In my view the answer to this question is “yes”.
4. I set out my reasoning below, referring as appropriate to the evidence that has been submitted in support of the application.

#### Analysis

5. The evidence shows that in 1969 the Property was in use as a “single family residence”: see the Council’s refusal of planning application E5/5/6 at Appendix 1 to the application.
6. The evidence then shows that the Property was used “for many years” up to 2015 by the Columban Brotherhood: see the sworn affidavit of Father Peter Hughes at Appendix 2 to the application.
7. Father Hughes states that the Property was used “as a single residence”. The Property was laid out “as a house” with at least six members of the Brotherhood living in the Property. It was also used “from time to time over the years by visiting missionaries who were also Members of the Society who came and stayed for periods of time to suit their missionary and/or travel arrangements in connection therewith”. The Health and Safety Report provided at Appendix 3 to the application confirms that at the time of the Report 7 people lived at the Property. Father Hughes confirms that the Property had a single electricity meter, a single gas meter, and was subject to Council Tax demands from the Council.

8. The question here is whether the use of the Property by the Columban Brotherhood amounted to a material change of use from its previous use as a single residence (see the 1969 planning application).
9. As set out above, the evidence is that when the Property was owned by the Brotherhood it was laid out as a house and was occupied as a single residence.
10. In terms of the number of people living in the Property, there is no evidence to suggest how many people were living in the Property prior to its occupation by the Columban Brotherhood. Father Hughes states that there were at least six people living in the Property when the Property was occupied by the Brotherhood. But even if there was a change in the number of people living in the Property this would not necessarily mean that there was a material change of use. The approach here to be taken to this issue is as set out in the Appeal Decisions at Appendix 4 to the application.
11. In short, there is no evidence to suggest that the use of the Property by the Brotherhood had any materially different planning impacts to the previous use of the Property as a “single family residence”.
12. Importantly, I note in this regard that the Council itself has already confirmed in the context of a statutory planning appeal that the Brotherhood occupied the Property as a single dwellinghouse. This can be seen from paragraph 1.8 of the Statement of Common Ground in relation to planning appeal reference APP/X5210/W/16/3164577 at appendix 5 to the application, which endorses the conclusion at paragraph 3.2 of the Applicant’s Planning Statement at appendix 6 to the application:

“Council Tax records show the property is registered as a single dwelling and it is considered that the property’s lawful use is residential (Class C3)”.

13. A copy of the Council Tax records for the last period of the Brotherhood’s occupation of the Property is provided at Appendix 7 to the application. This shows that the Council considered that the Property constituted a dwelling for the purposes of the Council Tax legislation.

14. All of the above points strongly to the conclusion that the Property has remained in use as a single dwellinghouse at all material times and so its use for that purpose now would be lawful (i.e. the Council could not seek to restrain it by serving an enforcement notice).
  
15. For completeness, I note that here is one piece of inconsistent evidence here. The sales particulars provided at Appendix 8 to the application state that the agents had been advised that the Property was in sui generis use. There is however no information as to who gave this advice, or the basis for their conclusion. In my view this evidence cannot therefore properly be given any significant weight. It is plainly not sufficient to outweigh the substantial evidence referred to above all of which supports the conclusion that the Property has always been in use as a single residential dwelling.
  
16. In my view the evidence demonstrates that on the balance of probability the Property has been used at all material times as a single dwellinghouse. It follows that the certificate application should be approved.

**Robert Walton QC**

**Landmark Chambers**

**8<sup>th</sup> August 2019**

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