

LDC Report	09/08/2019
Officer	Application Number
Nora-Andreea Constantinescu	2019/2820/P
Application Address	Recommendation
12 Maresfield Gardens London NW3 5SU	Approve certificate of lawful development
1st Signature	2nd Signature (if refusal)
Proposal	
Existing use of the site as a dwelling house (Class C3) following the vacation of the occupier Anna Freud Centre as per planning permission G6/9/B/27665.	
Assessment	
<p>The application site is located on the eastern side of Maresfield Gardens. The application relates to a four storey semi-detached building. The building is not listed and is located in the Fitzjohns and Netherhall Conservation Area.</p> <p>The application building has been occupied by The Hampstead Child Therapy Course and Clinic (HCTCC) since 1951 and was extended to incorporate no. 14 Maresfield Gardens in 1967. Following the death of Anna Freud in 1982, the HCTCC changed its name to the Anna Freud National Centre for Children and Families (Anna Freud Centre).</p> <p>Planning application ref no. G6/9/B/09/10/51 was granted in 1951 for "The use, for a limited period, of No. 12 Maresfield Gardens, Hampstead, as a child guidance clinic". This permission was subject to conditions which limited the operation of the clinic to five years. Subsequent planning applications were submitted and approved in 1956, 1961, 1966, 1973, and 1974, to allow the continuation of the clinic use for a limited period of time.</p> <p>Subject to planning permission ref no. G6/9/B/27665 granted in 1979, the use of the building has been changed to "clinical and educational purposes and use of part of the top floor for staff accommodation". The permission has been granted subject to the following conditions:</p> <ol style="list-style-type: none"> 1) <i>This permission shall be personal to the Hampstead Child Therapy Course and Clinic during their occupation and shall not endure for the benefit of the land. On their vacating the premises the use shall revert to the lawful use of residential purposes.</i> 2) <i>The residential appearance of the premises shall be maintained.</i> <p>As the latest permission granted in relation to the use of the premises, this would govern the current certificate of lawful development.</p> <p>The building has been extended with a single storey rear extension, subject to permission granted in 2005, under application ref no. 2005/3566/P, which relates to both no. 12 and no. 14</p>	

Maresfield Garden. The permission does not specify the extension's use in relation to the host building.

The Anna Freud Centre vacated the premises at nos. 12 and 14 Maresfield Gardens on 8 April 2019, and relocated.

The applicant is required to demonstrate that the premises have been vacated and subsequently could be occupied by residential purposes.

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- Letter from Chief Operating officer for Anna Freud National Centre for Children and Families confirming that the premises have been vacated since April 2019.
- Planning statement by Savills dated May 2019 including Appendices 1 – 13.

The applicant has also submitted the following plans:

- A site location plan outlining the application site, L00 and A 01
- Existing floor plans for lower ground, upper ground, first and second floor levels showing the pre-existing use as a clinic.
- Proposed floor plans lower ground, upper ground, first and second floor levels showing the premises as a single family dwelling.

Council's Evidence

Relevant planning history on the subject site:

G6/9/B/09/10/51 - The use, for a limited period, of No. 12 Maresfield Gardens, Hampstead, as a child guidance clinic. – **Granted for limited period – 8 November 1951**

G6/9/B/06/07/56 - Continuance of use of 12, Maresfield Gardens, NW3 as a Child Guidance Clinic – **Granted for limited period – 23 August 1956**

G6/9/30/10/61 - Continuance of use of 12, Maresfield Gardens, NW3 as a Child Guidance Clinic – **Granted for limited period – 15 November 1961**

G6/9/B/2707 - The continued use, of a further limited period, of the lower ground floors for clinical and educational work, and the top floor for staff accommodation at No. 12 Maresfield Gardens, Camden. – **Granted for limited period - 15 November 1966**

G6/9/B/15317 - The continuation of use for a further limited period of the lower floors of 12 Maresfield Gardens, NW3 for clinical and educational purposes, as an extension to the child therapy clinic at No. 12 Maresfield Gardens, NW3. – **Granted for limited period – 7 February 1973**

G6/9/B/17731 - The continuation of use for a further limited period of the lower floors of 12 Maresfield Gardens, NW3 for clinical and educational purposes and the top floor for staff Accommodation – **Granted for limited period – 17 January 1974**

G6/9/B/27665 - Continued use of lower ground floors for clinical and educational purposes and use of part of the top floor for staff accommodation. – **Granted conditional permission 29 March 1979**

2005/3566/P – The Anna Freud Centre 12-14 Maresfield Gardens - Erection of a single-storey rear extension with a roof terrace and metal railings on top, alterations to the front garden involving formation of an access ramp with retaining wall and hand rail plus, associated alterations to fenestration, to provide additional accommodation and disabled access for the mental health care centre – **Granted 11 November 2005**

2005/3565/P - The Anna Freud Centre 12-14 Maresfield Gardens - Alterations to front garden including formation of an access ramp with retaining wall and hand rail, plus associated alteration to fenestration, to provide disabled access for the mental health centre – **Granted 11 November 2005**

A site visit to the property was undertaken on the 19 of July 2019. The officer was satisfied that the premises have been vacated for some time.

Assessment

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the “balance of probability”, and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided the applicant’s evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The planning history of the site demonstrates that the use of the premises should revert back to residential purposes, on vacation by the Anna Freud Centre. The information provided by the applicant as well as the officer’s visit to the premises, confirm that the premises are now vacated and therefore the residential use should be reinstated.

The proposed drawings show the premises as a single family dwelling house (C3 residential use). The existing rear extension, given there are no limitations on its use, would also be used for residential purposes.

The Council does not have any evidence to contradict or undermine the applicant’s version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the premises have been vacated and their use would be only for residential purposes.

Recommendation: Approve certificate of lawful development