

<b>LDC Report</b>		22/10/2019
<b>Officer</b>		<b>Application Number</b>
Nora-Andreea Constantinescu		2019/4354/P
<b>Application Address</b>		<b>Recommendation</b>
14 Maresfield Gardens London NW3 5SU		Approve certificate of lawful development
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>		
Existing use of the site as a dwelling house (Class C3) following the vacation of the occupier The Anna Freud Centre as per planning permission G6/9/B/27666.		
<b>Assessment</b>		
<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 neighbouring building at no. 12 Maresfield Gardens has been occupied by The Hampstead Child Therapy Course and Clinic (HCTCC) since 1951 and was extended to incorporate the application site at no. 14 Maresfield Gardens in 1967. Following the death of Anna Freud in 1982, the HCTCC changes its name to the Anna Freud National Centre for Children and Families (Anna Freud Centre).</p> <p>Planning application ref no. G6/9/B/3094 was granted in 1967 for "Change the use of No. 14 Maresfield Gardens, Camden by incorporation with Clinic at no.12 Maresfield Gardens, Camden." This permission was subject to conditions which limited the operation of the clinic to five years, and deemed the permission personal to Hampstead Child Therapy Course and Clinic. Subsequent planning applications were submitted and approved in 1976 and 1979 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/27666 granted in 1979 for "Continued use for clinical and teaching purposes". The permission has been granted subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1) <i>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 of residential purposes.</i></li> <li>2) <i>The residential appearance of the premises shall be maintained.</i></li> </ol> <p>As the latest permission granted in relation to the use of the premises, this would govern the current certificate of lawful development.</p>		

The building has been extended with a single storey rear extension, subject to permission granted in 2007, under application 2007/0772/P. Permission was granted for a similar extension at no. 12, under application 2005/3566/P. The permission at the application site, nor the one at no. 12, specify the extension's use in relation to the host building. The use of the extension in relation to the residential use shall therefore be acceptable.

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 dated May 2019 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/3094** - Change of use of No. 14 Maresfield Gardens, Camden by incorporation with Clinic at No. 12 Maresfield Gardens, Camden – **Granted for limited period – 10 March 1967**

**G6/9/B/23672** - The continued use for a further limited period for clinical and teaching purposes.  
- **Granted for limited period – 2 December 1976**

**G6/9/B/27666** - Continued use for clinical and teaching purposes. – **Granted for limited period – 29 March 1979**

**2007/0772/P** - Erection of a single storey rear extension to provide additional accommodation for the existing Class D1 research facility, plus installation of a disabled access ramp and other hard and soft landscaping to the front of the building – **Granted – 2 May 2007**

**2019/2820/P** - 12 Maresfield Gardens - 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. – **Granted – 22 August 2019**

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 of 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 could be reinstated.

The proposed drawings show the premises as a single family dwelling which is considered acceptable. 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**