

# CONSULTATION SUMMARY

## Case reference number(s)

2016/6543/P

## Case Officer:

Leela Muthoora

## Application Address:

42 Fairfax Road

London

NW6 4HA

## Proposal(s)

Erection of single storey rear extension at ground floor level to house.

## Representations

<b>Consultations:</b>	No. notified	0	No. of responses	0	No. of objections	1
					No of comments	0
					No of support	0

## Summary of representations

### *(Officer response(s) in italics)*

A representation on behalf of the owner/occupier of No's 44 objecting to the application on the following grounds:

1. In the absence of a side elevation to my clients' property it is not possible to measure the height of the elevation and to assess whether it complies with the provisions of Class A in respect of height.

2. Whilst the technical guide seeks to define the height of eaves on a flat roof with a parapet we suggest that in this case the parapet and flat roof are indistinguishable and that the height of the flank wall to my client's property should be restricted to 3 metres as that comprises the eaves.

For the purposes of eaves height and Class A the Government must have

had in mind the total vertical height of a structure relative to a neighbour in seeking to restrict the height and thus the harm to the amenity of a neighbour by way of permitted buildings or structures on or close to boundaries. To restrict an eaves to 3 metres makes total sense in that regard. However, to allow a parapet to be erected atop such a building, where there is no way of distinguishing from the side view, the eaves and top of parapet, makes no sense and is perverse as it then counters the effect of (and presumably the rationale behind) the restriction on the height of eaves.

The technical guide is not statute and has recently been found by the courts to be wrong in terms of its interpretation of other parts of the GPDO (see for instance *Hilton v Secretary of State for Communities and Local Government* (CO/309/2016), respectfully we suggest this could be another case where it is wrong.

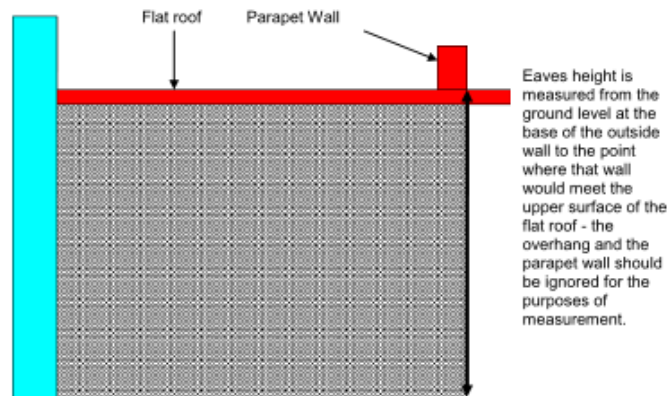
***(Commentary on the grounds of representation, including balanced reasoning for recommendation)***

- 1. The applicant has submitted a side elevation from the point of view of no. 44. This shows the total boundary wall height of 3.267m including the parapet, behind which is the roof itself of 3m height.*
- 2. Class A is limited by 1(i) in that, the development would not be permitted if the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3 metres.*

*The technical guidance published by the Department for Communities and Local Government April 2016 states that 'For the purpose of measuring height, the eaves of a house are the point where the lowest point of a roof slope or a flat roof meets the outside wall. The height of the eaves will be measured from the ground level at the base of the external wall of the extension to the point where the external wall would meet (if projected upwards) the upper surface of the roof slope. Parapet walls and overhanging part of eaves should not be included in any calculation of eaves height.'*

*The guidance also provides a drawing to demonstrate this, as below.*

Where there is a flat roof, a similar approach should be taken for measuring eaves:



*Following the comments made, the applicant has provided a side (south) elevation to show the flank wall height as viewed from no. 44. The side elevation, read with the proposed rear elevation and proposed section drawings, demonstrate the height of the flat roof is 3m and meets the limitations of Class A.1(i).*

*The objectors' assertion that the parapet height should be included in calculating the total vertical height of a structure relative to a neighbour is not confirmed by the legislation or the technical guidance.*

*It is agreed the technical guidance is a supportive guide to the GPDO; however, it is considered that the proposed roof height of the extension complies with the limitations and conditions of Class A as set out in both, and that the parapet height should not be included in this measurement.*

*The example given in the objection as a case where the technical guidance was incorrect refers to a Court of Appeal case which turned upon the meaning of "the enlarged part of the dwellinghouse". The criticism of the technical guidance was its definition of the 'original', 'existing' and 'enlarged part of the house'. The case found that the enlarged part of the dwellinghouse includes cumulative extensions, in addition to the further extension proposed. The proposal in this application does not include previous enlargements to the property as the proposal is to the rear wall of the original dwellinghouse. As such, the Court of Appeal case quoted is not relevant to the proposal under consideration.*

**Recommendation:-**

**Grant lawful development certificate.**