

# CONSULTATION SUMMARY

## Case reference number(s)

2020/0913/P

## Case Officer:

Leela Muthoora

## Application Address:

21 Maresfield Gardens

London

NW3 5SD

## Proposal(s)

Erection of a garden building for use incidental to dwelling house (Class C3).

## Representations

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

## Summary of representations

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

The owner/occupier of 19 Maresfield Gardens has objected to the application on the following grounds:

1. The site is in the Fitzjohns/Netherhall Conservation Area and therefore the proposals are not considered permitted development and a full application is required.
2. Reference to Fitzjohns/Netherhall Conservation Area Statement guideline F/N32 with specific reference to development in rear gardens.
3. Structure would be more than 2.5m to the rear due to difference in ground level. The proposed structure abuts the rear boundary line with 8 Netherhall Gardens which has a ground level at least 1m lower. The Section AA drawing incorrectly indicates the neighbouring

garden level as the same as 21 Maresfield Gardens.

4. The floor level of the proposed building would sit below the existing ground level making the building height 3.1m which exceeds the is more than 2.5m due to internal level beneath ground level.

*Officer response:*

1. *Some Classes of pd include further restrictions by virtue of the site's location within a Conservation Area; however, this is not a condition of Class E.*
2. *Were the application made under planning permission this would be a material consideration. However, the application has been made as confirmation that the proposal complies with the GPDO therefore, local policy and guidance are not relevant. The guidance raised in this objection cannot be applied to the conditions of Class E.*
3. *As the objection states, "Section AA...[shows] the building height [as] 2.4m, which is the proposed parapet height above the existing ground level". Therefore the proposal meets condition E.1.(e)(ii) in that it is 2.5 metres within 2 metres of the boundary of the curtilage of the dwellinghouse.*

*The 'Permitted development rights for householders Technical Guidance' September 2019, states, on page 6, that for references to height within the GPDO "ground level is the surface of the ground immediately adjacent to the building in question... Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.)"*

*The guidance also states in the section regarding Class E, on page 43, "The height of the building, enclosure or container should be measured from the highest ground level immediately adjacent to the building, enclosure, or container to its highest point."*

*The proposal is assessed against Class E and the guidance within the curtilage of the site, which requires the development to be assessed in relation to the distance to the boundary (condition E.1.(e)(i)) and not in relation to neighbouring site's ground levels.*

*According to the technical guidance and recent appeal decisions, the building height satisfies condition E.1.(e)(ii) regarding building height.*

4. *According to the technical guidance, the building height satisfies condition E.1.(e)(ii) in that it is no higher than 2.5m above adjoining ground levels, regardless of whether the building is sunken into the*

*ground to give a higher headroom.*

*The application for a certificate for proposed lawful development cannot be rejected based on the site's location within a Conservation Area.*

*The garden development meets all the conditions and limitations for Schedule 2, Part 1, Class E of the GPDO.*

**Recommendation: Grant lawful development certificate**