

# **Addendum**

## **LA01/2018/1112/F**

### **Update**

An email was received on the 21.11.18 from the Agent. The following points were raised in this email;

The Agent argues in an urban area some degree of overlooking is inevitable. Few households cannot claim to be overlooked to some degree, but account have to be taken of number of windows, type of glazing, boundary treatment and if the room is for primary occupation.

The Agent states there is no material difference in the position of the previous bedroom window and the new window. The window could be installed closer under permitted development.

The Agent argues that contrary to para 8.23 and 8.25 of the officer's report please see attached email thread which demonstrates there was no issue from the council. The report is inaccurate and seeks to misinform.

The Agent contends that the applicant can implement the window under Permitted Development rights which were not removed under LA01.2016.1200.F and can put in a 2 storey extension 3m from the back. This is a material fact not a fall-back.

The Agent states an appropriately worded condition could be attached to address the concerns regarding overlooking. The report is incorrect at paragraph 8.26.

### **Consideration**

A degree of overlooking can be inevitable in an urban environment. However, one must assess whether this degree of overlooking will be unacceptable. As concluded in the case officer's report (para 8.19) the proposed first floor rear bedroom window will result in a degree of

unacceptable overlooking that is considered detrimental to the residential amenity of no. 13 Randal Park.

The previous rear bedroom window was removed from the previous application (LA01/2016/1200/F). The removal of this window from the previous application highlights that it was considered unacceptable and detrimental to residential amenity. The insertion of this window again under the current application and the fact that it has been brought a further 1.6m closer to the boundary is material. The window will result in intrusive overlooking and loss of privacy to no.13 Randal Park.

Para 8.23 and 8.25 of the case officers report are not inaccurate. The facts of the case are that concerns were raised with the first floor bedroom window on the previous application and it was subsequently removed from the scheme. The stage these concerns were raised by the Council during the application process is irrelevant. The facts are that on the previous application the window was removed due to overlooking concerns.

As identified in the Planning Committee Report (Paragraph 8.24) the Council made an error in not removing Permitted Development rights under the previous application. Greater weight is given to the harm that would be caused by this window by reason of unacceptable overlooking. The scale of harm decisively outweighs the fall-back position. Considering the fact that the window was removed from the previous approval makes apparent the harm that it would cause.

Paragraph 8.24 of the Committee Report refers to Permitted Development rights. Further clarification is provided below:

Although there may be a fall-back position in relation to the extant planning permission the fact remains that as the approved dwelling was not built in accordance with the approved plans, it is unauthorised and Permitted Development rights do not exist for the development proposed under this current application. This is a change of house type application and as such should be considered under the relevant planning policy as outlined in Part 7 of the Committee Report. As set out in para 8.23 of the Committee Report the applicant/agent was fully aware that the window was contrary to policy due to overlooking. The unauthorised dwelling is substantially complete and therefore it is

questionable whether there is a greater than theoretical possibility that the previously approved development might take place as ruled by the Courts. To do so would require the substantial demolition of the unauthorised development that is the subject of this application. It would require the original permission approved under LA01/2016/1200/F to be substantially complete before Permitted Development Rights could be implemented. Therefore, Planning Officials give limited weight to the fall-back position.

Para 8.26 of the case officers report is not inaccurate. Conditioning for obscure glazing in the window would not adequately address the harm with a strong perception of overlooking remaining.

Appeal Reference 2016/A0008 for a loft conversion at 18 Willowfield Gardens, Coleraine is relevant to the application. This appeal discusses the perception of overlooking and notes at paragraph 7; *“Whilst the subject window is glazed in obscure glass... its opening permits direct views in close proximity towards the decked area of no.17... Irrespective of the appellant’s assertion that the bedroom is not actively used, there nonetheless would be a clear perception of overlooking from what is a main room which I consider unacceptably detracts from the privacy and amenity of the adjoining property”*.

Similar to the conclusions drawn in this appeal, the proposed window permits direct views to the rear of no.13 Randal Park. There would be a clear perception of overlooking from this bedroom window which is considered a main room. The window would detract from the privacy and amenity of no. 13 Randal Park.

## **Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to refuse, as set out in paragraph 9.1 of the Planning Committee Report.