



Rights of Light and Planning Permission

Question: A developer has planning permission to erect a building which will take light away from my house. Can I do anything to stop it?

There is a common misconception that the grant of planning permission will give a developer the right to proceed with its development even where this would interfere with a neighbour's rights of light. This misunderstanding no doubt arises because the planning authority is obliged to consider questions of daylight and sunlight when assessing a planning application. If a neighbour has acquired an easement of light, however, the grant of planning permission cannot override that right and the neighbour would be entitled to object to the development proceeding if the development would reduce the light to the neighbour's building below acceptable levels. What constitutes an acceptable level of light is a complex and technical area of law but, broadly, the neighbour would be entitled to bring proceedings if the development would have the effect that less than 55% of a room would have access to 0.2% of sky visibility at the working plane, i.e., 850mm above floor level. You will need a rights of light surveyor to assess the extent of the likely light reduction. The primary remedy if you bring proceedings would be an injunction to restrain the developer from erecting the development in breach of your rights and, in the absence of special circumstances, you can be confident that an injunction would be granted. This will force the developer to reconfigure the development so that no actionable loss of light will arise. If the developer has pressed ahead with its plans and has already built the offending building, you would nevertheless be a

strong position to ask the court to make an order requiring that the offending parts of the building be removed. There have recently been a number of cases where courts have granted injunctions to that effect, much to the horror of the developers affected. Do not rely on an assumption that you would succeed in getting an injunction after the event, however – in cases such as this, it is essential to get advice immediately a problem becomes apparent.

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The information in this article is intended for general guidance only. It provides useful information in a concise form and is not a substitute for obtaining legal advice. If you would like advice specific to your circumstances please contact us.

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