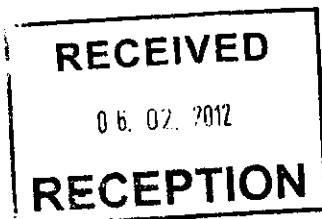


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FOR ROBERT DAVIS.

BY HAND



03 February 2012

Mr Shaun Scrutton
Head of Planning and Transportation
Rochford District Council
Council Offices
South Street
Rochford
Essex
SS4 1BW

Dear Mr Scrutton

Application No: **12/00045/FUL**
Applicant: **Mr and Mrs Norton**
Site Location: **20 Harrow Gardens Hawkwell Essex SS5 4HG**
Proposal: **Single Storey Rear and Side Extension incorporating Roof Lantern to rear, Extend Roof from Hip to Gable with Rear Rooflight and Front Porch Roof Extension**

We write to acknowledge receipt of your letter of 26 January 2012.

Having viewed the Council's website we understand that the applicant's last plans have been rejected on the grounds that the Juliet Balcony at the rear of the property on the first floor would interfere with the adjoining neighbour's privacy. (No 18).

We enclose a copy of our letter dated 25 November 2011 stating our objections to the side extension. These objections still remain with the new application.

We refer to the Officer Report detailed in the Application. It states that the original first floor extension has been in existence for nearly four decades. We would like to inform you that the original neighbour who built this extension very kindly built it on pillars to enable minimum loss of light [REDACTED] and for this reason daylight continues through the pillars. By filling this in a substantial amount of light will be lost. You cannot compare the original extension to the planned extension. Despite the fact that you consider 'it would be unreasonable to refuse a full planning application as the remaining aspects of the proposal, aside from the balcony, are not considered to cause any loss of amenity to neighbouring properties' – do you not consider loss of light to be a loss of amenity? We would also point out that the

proposed new rear extension will make the light situation [REDACTED] worse as it [REDACTED] Plus the filling in of the carport and the hip to gable roof extension will cast a huge shadow across our property to the side and front.

We would like to draw your attention to Point 1 of our letter of the 25 November 2011. We reiterate the fact that the intended extension with its massive wall would overshadow [REDACTED] and in this connection we are enclosing two references to "Right to Light" (based on the Ancient Lights Law) and have highlighted what we believe to be an important point as we have lived in our house for over 40 years with our windows receiving uninterrupted natural daylight for over 35 years.

Finally, if the extension is allowed to go ahead the light [REDACTED] on the ground floor will be dramatically reduced [REDACTED] [REDACTED] there is a side window which brings light into that room and the upstairs landing. This was put in forty years ago to give us more light upstairs.

We look forward to your comments.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Right to light

From Wikipedia, the free encyclopedia

Right to light is a form of easement in English law that gives a long-standing owner of a building with windows a right to maintain the level of illumination. It is based on the **Ancient Lights** law.^[1] The rights are most usually acquired under the Prescription Act 1832.

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Ancient Lights signs in Clerkenwell, London, England

The rights

In effect, the owner of a building with windows that have received natural daylight for 20 years or more is entitled to forbid any construction or other obstruction that would deprive him or her of that illumination. Neighbours cannot build anything that would block the light without permission. The owner may build more or larger windows but cannot enlarge his new windows before the new period of 20 years has expired. It is also possible for a right to light to exist if granted expressly by deed, or granted impliedly, for example under the rule in *Wheeldon v. Burrows* (1879).

Once a right to light exists the owner of the right is entitled to "sufficient light according to the ordinary notions of mankind": *Colls v. Home & Colonial Stores Ltd* (1904). Courts rely on expert witnesses to define this term. Since the 1920s, experts have used a method proposed by Percy Waldram to assist them with this. Waldram suggested that ordinary people require 1 foot-candle of illuminance (approximately 10 lux) for reading and other work involving visual discrimination. This equates to a sky factor (similar to the daylight factor) of 0.2%. Today, Waldram's methods are increasingly subject to criticism^{[2][3]} and the future of expert evidence in rights to light cases is currently the subject of much debate within the surveying profession.^[4]

After the Second World War, owners of buildings could gain new rights by registering properties that had been destroyed in bombings and the period was temporarily increased to 27 years.

In the centre of London near Chinatown and Covent Garden, particularly in back alleyways, signs saying "Ancient Lights" can be seen marking individual windows. The design and construction of Broadcasting House was also affected by locals declaring their right to ancient lights. It resulted in a unique asymmetrical sloped design that allowed for sunlight to pass over the building to the residential quarters eastwards, long since demolished and now home to the new Egton Wing.

Recent case law from 2010, relating to a commercial development in the centre of Leeds, UK, (*HKRUK II v Heany*) has significantly changed the perceptions of risk associated with Right to Light, particularly in the context of commercial schemes. This case upheld an injunction against a commercial property. The result of this is that many developers are now looking to work with the Local Authorities to try and use Section 237 of The Town and County Planning Act. This allows potentially an injunction to a scheme that has over-riding social and/or economic advantages to an area, to proceed, thus removing the risk of injunction, or, the extortion of over valued compensation in lieu of an



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A member of the Royal Institution
of Chartered Surveyors



rights of light

As a property owner you can acquire a legal right to a certain amount of natural light.

In your home, just over half the room should be lit by natural light and about half the room in a commercial building. Broadly speaking, the minimum standard is equivalent to the light from one candle, one foot away. So how do you know whether or not your right to light is being affected, and if you think it is, what can you do about it?

What is a 'right to light'?

A right to light may be acquired by 'anyone who has had uninterrupted use of something over someone else's land for 20 years without consent, openly and without threat, and without interruption of more than a year.'

Your right to light is protected in England and Wales under common law, adverse possession or by the Prescription Act 1832. If a new building limits the amount of light coming in through a window and the level of light inside falls below the accepted level, then this constitutes an obstruction. Unless you waive your rights you are entitled to take legal action against your neighbour.

Any kind of 'development' can potentially block the light coming into your home. For instance:

- A neighbour's new shed
- Garden walls
- Extensions
- Part of a new housing or commercial development.

If the developer hasn't taken your right to light into consideration, you may have a case for compensation or for negotiating changes to that development. Most cases usually involve a combination of both.

House extensions are a common cause of right to light disputes as homeowners may employ a local building firm to extend their property without knowing the development could affect their neighbours. The most common problem is where the neighbour has a window to the side of their house to which the light is blocked by a high wall. On a small building project people rarely employ a chartered surveyor, or a right to light specialist - the first they know of a problem is when they receive a letter from their neighbour's solicitor.

What can you do?

If you know a planned development may restrict your right to light, even after planning permission has been granted, you are within your rights to oppose it.

Depending on the extent of the problem, should construction go ahead, the courts are able to either award compensation, cut back the offending part of the development or a combination of both. In extreme cases, the court may issue an injunction to prevent the development altogether.

However, a court is unlikely to grant an injunction against a developer in cases where a small financial payment can be made as compensation - especially for minor matters or late applications. So think carefully before pursuing this route, as injunctive proceedings can be very expensive.

However, if you do have a good case against a commercial developer the law may uphold the rights of residential rather than commercial property owners.

Consult the experts

We have specialists in right to light work. They will be able to explain exactly what your rights are and help you resolve the problem, if possible without having to go to court.

If a development is still at the planning stage, we will be able to estimate the amount of light that is likely to be lost as a result of the new structure.

We will make a visual assessment, and help you decide whether or not you have a sufficiently strong enough case to go to court.

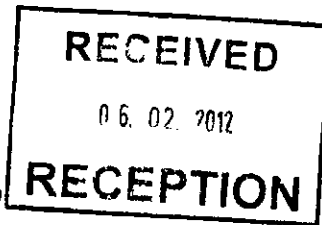
We can use 3D modelling to calculate how the existing light will be affected by any proposed change in the way light enters the building. By working out the amount of light left, it is possible to assess how much compensation might be paid.

Existing buildings

If you are concerned that the light coming into your house or business has been affected by an existing structure you might still be able to take legal action. In some cases, even after completion, the courts may demand that a development is altered to minimise the impact on your property. This is rare but does happen. Consult us as soon as possible so we can help you through the process for seeking compensation or other positive action.

BY HAND

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25 November 2011

Mr Shaun Scrutton
Head of Planning and Transportation
Rochford District Council
Council Offices
South Street
Rochford
Essex
SS4 1BW

Dear Mr Scrutton

Application No: **11/00685/FUL**
Applicant: **Mr and Mrs Norton**
Site Location: **20 Harrow Gardens Hawkwell Essex SS5 4HG**
Proposal: **Single Storey Rear/Side Extension incorporating Roof Lantern, Enclose Carport and Extend Front Porch Roof. Extend Roof from Hip to Gable End Incorporating Rear Velux Window. Juliet Balcony to Rear at First Floor**

We are writing in response to your letter of 15 November 2011.

After studying the plans at the Council Offices and speaking to one of your Planning Officers we have many concerns with the above planning application and would like to raise the following objections.

1. Firstly, and most importantly, the extension of the roof from hip to gable end will create a massive wall overshadowing [REDACTED] especially as the plans show that the space between the pillars will be filled in beneath the first floor extension. The size of the building will be totally out of keeping with the rest of the road.
2. We cannot see how this work can be carried out without scaffolding being erected on our driveway. Would they like this on their property if it was on the other foot! We will not consent to this as it will affect the day to day use of our property. [REDACTED] tegular blocks which I am sure you are well aware are one of the more expensive type of blocks which we do not wish to have damaged. Why should we have all the inconvenience and the

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mess that would come with this build [REDACTED] which could go on for months!

3. At the present time they have room for parking four cars plus the use of a garage. If this extension goes ahead the parking will be reduced to two spaces plus the new garage. With two teenage boys one can only imagine that shortly there could possibly be four cars within that household. As the bungalows/chalets opposite are all shared driveways this obviously does create a problem even now with the abundance of cars parked on the road.
4. We are also concerned about the drains (which seem to be a bit sketchy on the plans) as occasionally, in the past, the drain has blocked up under the existing extension. This then causes us a problem as we are the 'end of the line' and cannot flush our toilet until the blockage has been cleared.

In summing up we would like to reiterate our strong feelings with regard to the future look of the property in relation to the existing properties in the road which are predominantly bungalows/chalets.

Yours sincerely

[REDACTED]