

**RIGHT OF LIGHT
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Dear Katie

Application Reference No. 21/01251/FUL

**Proposed Development at 7 Hawkwell Park Drive, SS5 4HA
Impact on 1 Park Gardens, Hockley SS5 4HE**

We are appointed by Mrs Sylvia Brown, the owner of 1 Park Gardens. Mrs Brown is concerned about the impact that the proposed development at 7 Hawkwell Park Drive will have on the natural light receivable by her property. The development is formed of three plots, of which two are unlikely to affect our client's property. The dwelling labelled 'Plot 3' is directly adjacent to 1 Park Gardens on the other side of the boundary fence.

As a matter of formality, please treat this letter as an objection on behalf of our client. However, we are instructed that our client does not object in principle to the plots at No. 7 being redeveloped. This is providing any proposal is designed in accordance with the relevant standards relating to daylight, sunlight and overshadowing.

Having reviewed the planning submission, we note the absence of a daylight and sunlight assessment. Given the scale of the proposal and its proximity to main habitable room windows and the outdoor amenity areas at 1 Park Gardens, we are of the opinion that an assessment is needed in order to properly consider the impact on three separate material planning considerations – namely, daylight, sunlight and overshadowing.

We are of the opinion that it would be unreasonable to grant planning permission without an assessment being undertaken. We anticipate that an assessment may show that some adjustment to the design is needed in order to reasonably safeguard the amenity of our client's property. This is discussed further below, with reference to specific planning policy and the objective tests used to assess natural lighting.

Planning Policy

Rochford District Council's Housing Design Guidance (SPD2) forms part of the Local Plan. Section 18.3 deals with residential amenity as follows:



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“No scheme should give rise to unacceptable overlooking of private garden areas or loss of privacy or daylighting to adjoining properties...”

The BRE guide is the standard ordinarily applied by Rochford District Council and indeed most, if not all, local authorities in England and Wales. We would expect the applicant to submit a daylight and sunlight assessment prepared in accordance with the BRE guide.

Application of BRE Site Layout Planning for Daylight and Sunlight: A guide to good practice

When considering daylight (light from the sky) it is necessary to establish the main windows in a room. The main window is generally considered to be the largest window serving the room.



On the side elevation of 1 Park Gardens (shown in the image above), there are four glazed apertures which currently receive a good level of daylight and sunlight over the proposed development site and have done for a very long time. When applying the BRE daylight and sunlight tests, the primary focus is the impact on any habitable room windows and also outdoor amenity areas.

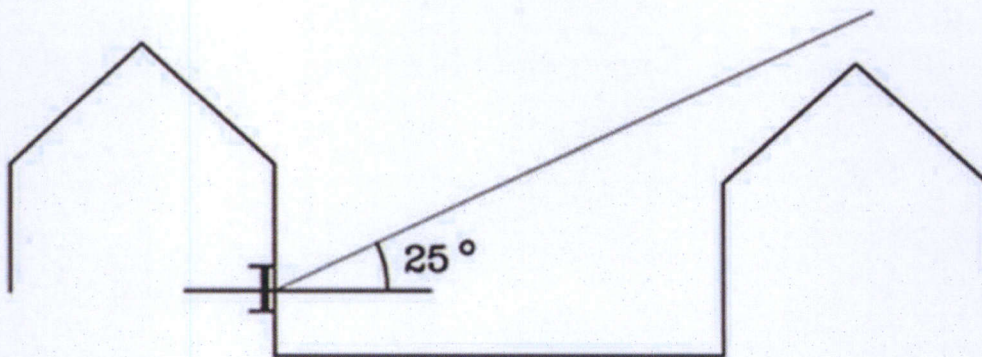
Two of the side windows serve a bathroom and a dressing room, so are unlikely to be considered as serving habitable rooms. Notwithstanding this, care should be taken not to detrimentally affect the daylight and sunlight received by these windows as good levels of natural light in these rooms is likely to be more pleasant for the occupants. Furthermore, our

clients assure us that when the bathroom is not in use, the door is left open to provide more natural light into the house.

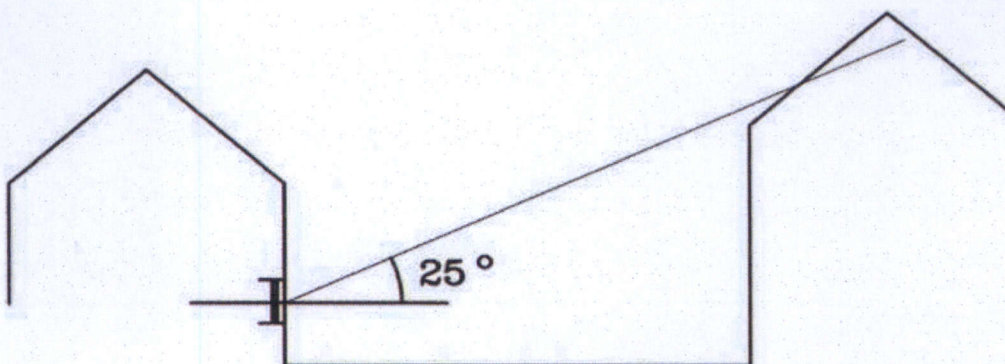
The two remaining side window apertures serve a kitchen towards the rear of the property. One of these apertures forms part of a glazed door which provides daylight and sunlight into the room. Given that the side apertures face within 90 degrees of due south and the rear facing apertures into the same room do not, under the BRE guide, the side apertures should be considered as the main windows for sunlight. The lounge at 1 Park Gardens, which is attached to the kitchen also currently benefits from borrowed light from the two aforementioned south facing windows.

The BRE guide contains preliminary 25° and 45° tests. In this instance, the 25° test is the appropriate test, since 1 Park Gardens has main habitable room windows opposite the proposed extension.

The diagrams below help to explain the application of the 25° test. The first step is to draw a section in a plane perpendicular to each affected main window of the existing building. If 'any part' of the new development crosses a line drawn at 25° from the horizontal, from the centre of the window, more detailed checks are needed. In order to pass the test, the whole development must be below the 25° line, not just the part of the development which is directly perpendicular to the centre of the window.

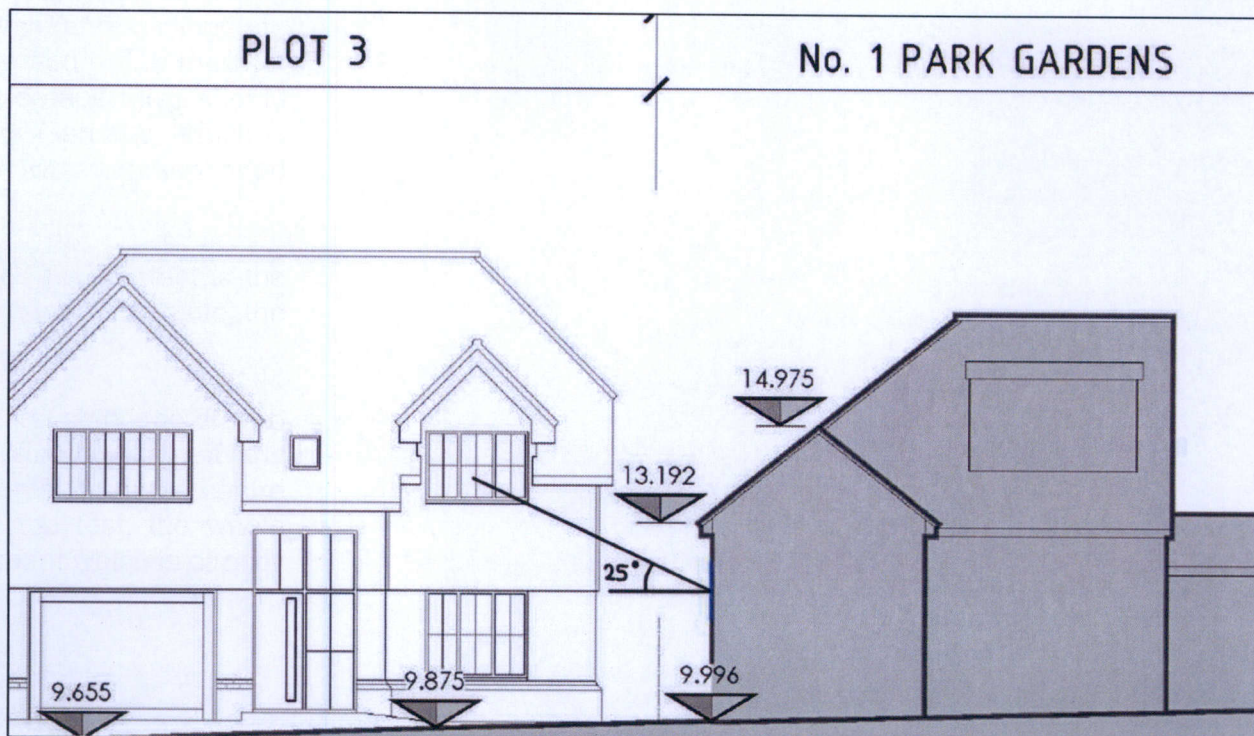


Daylight and sunlight likely to be acceptable



Detailed daylight and sunlight study required

Using the proposed street elevation planning drawings, we have been able to plot the approximate position of the centre of the window in question. It is evident from the drawing overleaf that the proposed extension does not satisfy the 25° test, and by a significant margin.



Although the proposed extension does not satisfy the preliminary 25° test, it does not always follow that daylight and sunlight will be adversely affected, although it would seem that in this instance given the proximity and height of the plot 3 relative to our client's boundary that daylight and sunlight will be adversely affected with respect to any side windows at the property.

In any case, breaching the test signifies that further detailed tests are needed. We would therefore expect the council to require the applicant to carry out an assessment in accordance with the BRE guide. The assessment should include the following tests:

- Vertical Sky Component
- Daylight Distribution
- Annual Probable Sunlight Hours
- Overshadowing to Gardens and Open Spaces

Whilst all above mentioned tests should be carried out, we are of the opinion that the main area of concern is the impact on the direct daylight and sunlight receivable by the side kitchen windows. This is because the windows are the only windows in the rooms that face within 90 degrees of due south, and because the proposed extension is sited due south of those windows. There is also some concern about the impact on the overshadowing to the rear garden at 1 Park Gardens.

In addition to planning considerations, it is useful to assess the risk of any potential civil action from the outset and mitigate any future costs which could be incurred defending a claim. Our

client is disappointed that she has been obliged to respond negatively to the application, but feels compelled to oppose an extension which they consider will have such an oppressive and overbearing impact on the way she enjoys her property.

If our client is forced to seek an injunction from the court preventing the construction of the proposal any fees that are incurred will be sought for reimbursement from the applicant. We aim to avoid these further courses of action. Therefore, we strongly advocate that the issue is resolved during the planning stage – in particular, to avoid planning permission being granted for a development that may not be built due to legal rights of light restrictions.


Conclusion

On behalf of our client, we request that no decision is made in favour of the application until:

- 1) the applicant has submitted a complete and accurate daylight and sunlight assessment prepared in accordance with the BRE guide, and
- 2) the assessment shows that the proposed design; or amended design, complies with the BRE guide, Rochford District Council's planning policy and civil legal rights of light criteria.

Should you have any queries, or would like to discuss the above concerns, please do not hesitate to contact me.

Yours sincerely



Joe Palmer *BEng (Hons) DIS*
Right of Light Surveyor