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### **Guideline advice: Right to light: What every property owner should know**

As a property owner, one can acquire a legal right to a certain amount of light. In anyones home, just over half the room should be lit by natural light. In general terms, the minimum amount of light is equivalent to the light from one candle, one foot away.

#### **What is a “right to light”?**

Firstly you do not want to find yourself in a position where your neighbour takes legal action against you for blocking their light into their property as this can be expensive, cause delays and possibly stopping development. To avoid this issue we always advise clients to consult

Most planning departments will protect your neighbours rights to light in habitable rooms and garden areas. They often apply what is called the 45 degree rule which is included in most Councils Residential Design guidelines. Basically an imaginary line is drawn at 45 degrees from the mid point of your neighbours nearest windows across the boundary and no part of your proposed extension should cross this line. However this rule, dependant on the site can be flexible and is not applied in all cases. The direction of sunlight and shadow fall over your neighbours property as a result of an extension is also a planning consideration.

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 for more than one year.



A 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 your neighbour waives their rights, they are entitled to take action against you.

Any kind of development can potentially block the light coming into your home. Examples: a neighbour's shed, garden walls, extensions, new housing and commercial developments.

If you have not taken into account your neighbours rights to light, they may have a case for compensation against you or for negotiating changes to the development. Most cases involve a combination of both.

House extensions to be built under your Permitted Development rights [ not requiring planning permission ] are a common cause of right of light disputes because planning permission is not required and as such your neighbours are not consulted as part of the planning process. In these cases if your extension does affect their right to light and you are not prepared to revise the plans then their only recourse is to enter into a legal dispute.

The most common problem is where the neighbour has a window on the side of their house, to which light is blocked by a high wall.

On small building projects people rarely employ a surveyor or a right to light specialist. Often they first become aware of a problem when they receive a letter from their neighbour's solicitor.

### **What can you do?**

If you know a proposed development may restrict your neighbours right to light, even after planning permission has been granted or you are building under your Permitted Development rights, they have the right to oppose the extension being built.

Depending on the particular circumstances, if construction proceeds, 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.

Bear in mind that a court is unlikely to grant an injunction against a developer in cases where a small payment can be made as compensation, especially for minor matters.



You should also bear in mind that legal proceedings, particularly those leading to an injunction can be very expensive.

If you have a good case against a commercial development, the law may uphold the rights of residential rather than commercial property owners.

If you find yourself in a dispute over right to light, you should seek the advice of a professional rights to light expert and bear in mind that your plans may have to be modified to keep the peace with your neighbours.

A specialist will be able to explain exactly what your rights are and help you resolve the problem, if possible without having to go to court.

When a Building Regulations application is checked, right to light is not considered.

### **Rights to Light Calculations**

A common myth is that rights to light can be assessed using this '45 degree rule'. The 45 degree rule is often used to assess planning applications but is not used in legal rights to light cases.

The so called '50:50 rule' is generally accepted as the appropriate way to measure light levels for rights to light cases. The 50:50 rule involves calculating the percentage of a room's area which can receive adequate light. The calculations are undertaken at a working plane 850mm above the floor. A point on the working plane is considered adequately lit if it can receive at least 0.2% of the total illumination received from the sky. An injury is generally deemed to be caused where the area of a room receiving light from at least 0.2% of the sky is reduced to less than 50% to 55%.