

RIGHTS TO LIGHT

50/50

The 50/50 rule – a traditional guideline used by surveyors to assess whether a room has enough light – is no longer accepted as a fixed rule by the courts

Traditionally, surveyors have adopted standard guidelines for determining whether a particular reduction in light to a property constitutes a right to light injury.

Commonly known as the 50/50 rule, the guideline is that a room has enough light if it can receive light from more than 0.2% of the sky over more than half the room area at a working plane height of 850mm above floor level.

As shown in three high profile recent cases however, the courts are increasingly making it clear that they do not always accept these traditional Rights of Light 'rules' used by surveyors.

Recent case law

In the case of *Midtown v City of London Real Property Co*, the judge ruled that the injured parties could not obtain an injunction as their properties did not rely on receiving natural light because they were offices.

In contrast, the Court of Appeal case of *Regan v Paul Properties* overturned the High Court's judgement and held that the claimant was *prima facie* entitled to an injunction against a person committing a wrongful act and in this case, an injunction was granted.

Finally, in *Tamares v Fairpoint Properties*, the judge awarded damages based on one third of the developer's profit.

What we do

Our building surveying team are able to advise developers, designers and neighbours on the following areas:

- > initial advice on the likely interference from a development
- > investigation of neighbours' rights and review of relevant legal documentation
- > offer risk management advice regarding the likelihood of an injunction compared to compensation and possible remodelling
- > detailed analysis including computer modelling, generation of light contour plans and light loss calculations
- > negotiation and settlement of claims
- > advice on Light Obstruction Notices
- > expert witness evidence
- > advising on the implications of Section 237 of the Town and Country Planning Act 1990

OUR TRACK RECORD AND SPECIALIST EXPERTISE

Case study: large town centre redevelopment in Stoke-on-Trent

In this instance, we advised a developer who was embarking on the redevelopment of a corner plot in Stoke city centre. The existing buildings were two storeys, whilst the proposed scheme was a six storey office development.

In conjunction with our client's solicitors, our building surveyors reviewed and commented on the various legal documents — the terms of which will generally override the Common Law position — and advised the client on the Common Law Right to Light position and recommended certain risk management steps.

Case study: large redevelopment site in Sheffield

Our building surveyors were asked to advise a neighbour on the implications of a significant redevelopment scheme in Sheffield. Without the benefit of Section 237 of the Town & Country Planning Act 1990, the development would have caused 'an injunctable actionable nuisance' to our client's property.

We inspected our client's building and reviewed the developer's contour drawings and light loss calculations. Through our knowledge and experience of the Act, we were able to double the level of compensation that the developer paid to our client, and met our own fees in addition.

Other neighbourly matters services

'Neighbourly matters' is a collective term which covers a number of specialist building surveying skills that we undertake, including:

- > access agreements
- > Access to Neighbouring Land Act 1992
- > boundary disputes
- > construction noise and pollution
- > daylight and sunlight
- > expert witness
- > Party Wall Act 1996
- > rights to light
- > rights of way and escape
- > schedules of condition

The firm

Gerald Eve LLP is a leading firm of chartered surveyors and property consultants operating from a network of nine offices across the UK. We have achieved one star accreditation and are classified as a 'first class place to work' by The Sunday Times Best Companies to Work For' survey.

Our clients – including 40 per cent of the FTSE100 – hold some of the largest property portfolios in the country. We provide advice to ensure that our clients' operational and non-operational properties cost them as little as possible and deliver the maximum return possible.

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