

## **Burnett, James**

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**From:** Planning Comments (SMDC)  
**Subject:** FW: Right To Light SMDC/2016/0811  
**Attachments:** RICS-Right-to-Light.pdf; ATT00001.txt

-----Original Message-----

From: Victoria Hughes  
Sent: Saturday, April 22, 2017 9:41 AM  
To: Planning (SMDC)  
Subject: Right To Light SMDC/2016/0811

Dear Sir/Madam,

Please find attached Right To Light document.

The document and law refers to properties over 20 years old. Our properties are 27 years old.

Since we were first notified of the above planning application, I have painstakingly requested a Light Deprivation report, to no avail.

I have also invited members of the planning department to visit my home so that can witness the issue for themselves. I urge you to take up this offer.

I have no doubt whatsoever, that the proposed housing development will cause light deprivation in my property and for other residents living on Tenford Lane.

Our properties sit significantly below pavement level and as a result already have a lower than average level of light being afforded to them. The proposed housing development is on land which is significantly elevated above pavement level and building properties on the land will most certainly reduce the level of light further.

I look forward to hearing from you.

Kind regards  
Mrs Victoria Hughes



A clear, impartial guide to  
**Right to light**



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# Right to light

In your home, just over half the room should be lit by natural light and about half the room in a commercial building.

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 for more than a year.'**

Your right to light is protected under common law, adverse possession and in England and Wales by the Prescription Act 1832.

There is no statutory right to light in Scotland. If you live in Scotland and are concerned about limited light, an RICS member practising in Scotland will be able to advise you and may also be able to help you with any negotiations.

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 to safeguard your light.

Home 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 right to light specialist – the first they know of a problem is when they receive a letter from their neighbour's solicitor.

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# 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.



## Consult the experts

Always get professional advice before starting legal proceedings against your neighbour or a commercial developer.

**Speak to an RICS member who specialises 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, your RICS member adviser will be able to estimate the amount of light that is likely to be lost as a result of the new structure. They will make a visual assessment and help you decide whether or not you have a sufficiently strong enough case to go to court.

Some firms use three-dimensional modeling software 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.

There are several specialists who can carry out this type of assessment. Some RICS members will either carry out the procedure themselves or recommend another RICS surveying firm to do it for you.



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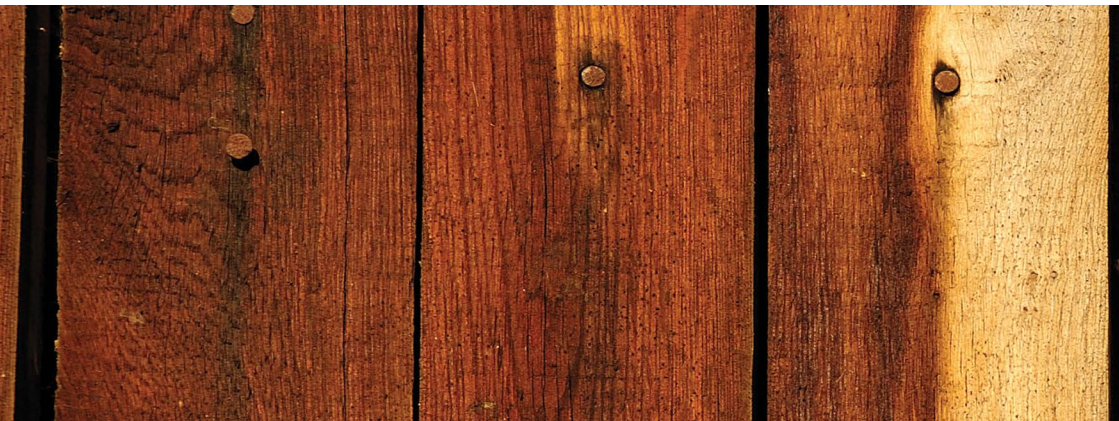
## Existing buildings

You might still be able to take legal action if you are concerned that the light coming into your house or business has been affected by an existing structure.

**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.**

Again, consult an RICS member specialising in this area and they will help you through the process for seeking compensation or other positive action.

Note: if you do find yourself in a dispute over right to light, take advice from a professional but remember you may have to pay for their advice and modify your plans to keep the peace with your neighbours.



# Dealing with disputes – Neighbour Disputes Service

**The key to resolving a dispute speedily and successfully is to seek expert advice as soon as possible.**

Neighbour disputes almost always involve emotive issues. RICS has developed an innovative form of alternative dispute resolution which is specifically designed to resolve a wide range of neighbour disputes. This service offers a significantly cheaper and quicker alternative to the courts.

Specialist RICS members are independently appointed by RICS to provide impartial advice to anyone involved in a neighbour dispute.

These professionals are knowledgeable experts who understand technical and/or legal matters, and can provide neutral advice on neighbour disputes and other property related matters.

Full detail of this service and other RICS dispute resolution services such as planning and environmental mediation service can be found at [www.rics.org/drs](http://www.rics.org/drs) or:

**e: [drs@rics.org](mailto:drs@rics.org)**

**t: 020 7334 3806**

Contact details for dispute resolution services in Scotland are:

**e: [drsscotland@rics.org](mailto:drsscotland@rics.org)**

**t: 0131 225 7078**



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# Free RICS guides

RICS has a range of free guides available for the property issues listed here.

## **Development issues**

Compulsory purchase  
Home extensions

## **Home hazards**

Dilapidations  
Flooding  
Japanese knotweed  
Subsidence

## **Neighbour issues**

Boundary disputes  
Party walls  
Right to light

## **Residential**

Buying a home  
Buying and selling art and antiques at auction  
Home surveys  
Letting a property  
Property auctions  
Renting a property  
Selling a home

## Further information

We hope this guide is useful to you. If you'd like to know more about right to light or how RICS can help, please contact us.

### Visit our website

[rics.org/consumerguides](https://www.rics.org/consumerguides)

alternatively email

[contactrics@rics.org](mailto:contactrics@rics.org) or call the RICS Contact Centre **02476 868 555**

### Consumer helplines

RICS offers telephone helplines giving you 30 minutes of free advice on:

- Boundary disputes
- Party walls
- Compulsory purchase.

Just call **02476 868 555** and you will be put in touch with an RICS member local to you, willing to provide a free 30 minute initial consultation. Lines are open

**0830 –1730 [GMT], Monday to Friday.**

## Find a Surveyor

Contact us if you want to find independent, impartial advice from a qualified professional with good local knowledge.

Look out for firms that are 'Regulated by RICS'. Estate agents and surveying firms that are regulated by RICS are easy to spot as they use 'Regulated by RICS' on their stationery and promotional material.

To find an RICS firm in your area visit

[www.ricsfirms.com](https://www.ricsfirms.com)

alternatively email

[contactrics@rics.org](mailto:contactrics@rics.org) or call the RICS Contact Centre **02476 868 555**

# Are you faced with a Right of Light issue?

Call today to speak with one of our experts

Whether you are a home owner, or involved with residential or commercial property on a larger scale, we can help you to safeguard your property interests.

Right of Light Consulting have offices nationwide providing a variety of services, from reports for new developments ensuring they meet planning requirements through to design advice and legal rights to light reports.

We recognise that not all cases are the same and in the first instance we welcome you to contact us where we will be happy to discuss your specific situation and provide you with some initial telephone advice.

## Our Services for Neighbours

- **Step 1:** Case Appraisal
- **Step 2:** Act on your behalf
- **Step 3:** Expert Evidence

## Our Services for Developers

- BRE: Daylight & Sunlight Planning Reports Neighbour & or Within
- Rights to Light Calculations & Reports
- Rights to Light Strategy and Advice
- Maximum Envelopes



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## Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to the markets we serve.

We accredit 118,000 professionals and any individual or firm registered with RICS is subject to our quality assurance. Their expertise covers property, asset valuation and real estate management; the costing and leadership of construction projects; the development of infrastructure; and the management of natural resources, such as mining, farms and woodland. From environmental assessments and building controls to negotiating land rights in an emerging economy; if our members are involved the same professional standards and ethics apply.

We believe that standards underpin effective markets. With up to seventy per cent of the world's wealth bound up in land and real estate, our sector is vital to economic development, helping to support stable, sustainable investment and growth around the globe.

With offices covering the major political and financial centres of the world, our market presence means we are ideally placed to influence policy and embed professional standards. We work at a cross-governmental level, delivering international standards that will support a safe and vibrant marketplace in land, real estate, construction and infrastructure, for the benefit of all.

We are proud of our reputation and we guard it fiercely, so clients who work with an RICS professional can have confidence in the quality and ethics of the services they receive.

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