

Your Legal Questions

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Q. A developer has constructed an office block on the land next to my house. It is blocking the light to the windows on one side of my house. What can I do?

A. Unless there is something in your deeds to the contrary, you have a right of light to the windows of your house and if the developer significantly interferes with that right you can make a claim against him.

Unfortunately, the present law is not clear on whether you can go so far as to get him to remove the offending part of the building which is blocking your light or whether he can simply pay damages by way of compensation instead.

Damages are often an unsatisfactory remedy, particularly for residential occupiers, whose primary concern is to enjoy their home and not to recover money. The problem is that the Court has discretion in whether or not to grant an order, known as an injunction, to require someone to remove or demolish a building and you do not know until you get to Court whether you will be successful.

In the past, developers have been somewhat gung-ho in their attitude towards unlawful construction because the Courts have been reluctant to grant injunctions preferring to award damages instead. But recent cases have shown a change of approach in both residential and commercial cases with developers being required to take down large parts of buildings to restore access to light. This has been particularly evident in cases involving residential occupiers when the Court considers there is real damage which cannot be adequately compensated with a money payment.

However, the state of the law, which is the subject of a recent Law Commission report, is very uncertain and professional advice is essential at the earliest opportunity to assess whether you may be able to obtain an injunction.

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