

Blinded by the lights? Guidance on handling rights of light disputes



RICS have published an updated, third, edition of the professional standards for RICS members and regulated firms when acting on rights of light disputes.

Guidance for professionals to provide clients with accurate and comprehensible information to clients is clearly a good starting point. What is of particular interest is:

- How the law on considering reasonable future layouts has been highlighted following the recent case of *Beaumont Business Centres vs Flora Properties Ltd* [2020] EWHC 550 (Ch). What can be overlooked in initial claimant analysis that looks at alternative internal arrangements is that an alternative future internal arrangement must be credible as a reasonable or reasonably foreseeable use of the space. The courts have before dismissed dominant building owners claims to take into account alternative future internal arrangements based on them not being supported by credible evidence such as professional plans and planning approval. The 2014 Law Commission Rights to Light report summed up the reality that a “dominant owner is not entitled simply to dream up a plan and claim the light needed for it”. If you are a developer that comes across these types of arguments then the focus should be on establishing what credible evidence there is, or even what value there would be to the neighbouring owner in amending its internal layout.
- The number of references to the compulsory purchase and appropriation process under s203 of the Housing and Planning Act 2016 to remove the threat of injunction. The guidance reminds surveyors that this process does not finalise all matters between the parties as the dominant owner may still be able to claim compensation based on any diminution in value to the dominant building. There are statutory provisions to deal with such compensation. There are legal requirements that need to be demonstrated in



order to justify the appropriation powers being used, not least that the development must be genuinely threatened by the risk of a neighbour seeking an injunction. That can lead to a difficult decision for neighbouring owners – do they confirm that they would be satisfied with a compensation payment in exchange for a release (with that compensation likely being higher than that based on the diminution on value statutory provisions if s203 is used) or do they maintain the threat of injunction with the risk that s203 is used?

The [RICS Rights of Light Professional Standards document](#) can be accessed via their website

How we can help

[Contact us](#) to speak to our rights of light team about any issues that you encounter.



[James Blyth](#)

Managing Associate