

82 Lampreys Lane  
South Petherton  
TA13 5DU



For the attention of :-

- a) SSDC Planning Officers
- b) South Petherton Ward Members - Adam Dance & Crispin Raikes
- c) Elected members of SSDC Area North Planning Committee

**Reference :-** Land Os 0150, Lampreys Lane, South Petherton, TA13 5DU  
21/00265/REM Reserved Matters application following outline approval 17/02709/OUT  
seeking consent for the appearance, landscaping, layout and scale

1<sup>st</sup> October 2022

Dear Sir / Madam

In our previous correspondence to SSDC, in March 2021, my wife Carol & I laid out some information for SSDC Planning Officers and our elected councillors to consider in respect of this application. We would like to emphasise the following key points.

1 We would like to make it clear that we do not object to the core principle of the development but we do strongly object to the proposed layout, specifically the positioning of Plot 1 & the lack of landscaping between Plot 1 and an existing property.

Building a 2 storey house in the location indicated, will have an adverse impact on the **Residential Amenity** of 82 Lampreys Lane, including an adverse impact on the mental health of the residents. It will also create **Overlooking** and a **Loss of Privacy**, all of which we understand are relevant in planning.

2 The details of Appearance, Layout & Landscaping, clarified in the Reserved Matters application, are controversial.

**Appearance** - The proposed appearance totally ignores detail from The South Petherton Neighbourhood Plan

**Layout** - If the current layout is approved it will have a traumatic and life changing impact on the amenity value to the residents of 82 Lampreys Lane.

**Landscaping** - In order to accommodate Plot 1, this application seeks permission that, to the rear of 82 Lampreys Lane, the footpath width will be reduced and no trees or a hedge will be planted as a buffer.

Carol and I have lived at 82 Lampreys Lane for 23 years and following research, including clarification from Claire Acklam, a solicitor of Walker Morris in Leeds, who specialises in commercial disputes and resolutions, we have conclude that much of the available information is incomprehensible to the average person, but notwithstanding that, we have done our best to understand the legislation and we would like to provide the following information in respect of our legal Right to Light.



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10 OCT 2022

POSTROOM

## Chris & Carol Hockey – The Right to Light for 82 Lampreys Lane

We understand that, because we have enjoyed light through defined apertures of our home for an uninterrupted period of over 20 years, our right to light was acquired under the Prescription Act of 1832 and amended by

### The Rights of Light Act 1959

s 3, Claim to the use of light enjoyed for 20 years.

"When the access and use of light to and for any dwelling house, workshop, or other building shall have been actually enjoyed therewith for the full period of twenty years without interruption, the right thereto shall be deemed absolute and indefeasible, any local usage or custom to the contrary notwithstanding, unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing".

The garden room of our home, built in 1999, which we use extensively throughout the year, has a directly south facing window and half glazed doors, located some 3 meters from our garden boundary. The location of the proposed 2 storey house for Plot 1 is 3 meters outside our boundary and directly south of our property. If, as shown on the reserved matters of this application, the property is permitted to be built as shown on Plot 1, our home will suffer substantial loss of light. The windows of our garden room, kitchen, dining room and lounge will all be affected.

A case in law underlines the necessity of resolving rights to light issues early, to avoid injunctions or even demolition orders. In 2014 the Supreme Court confirmed, in *Coventry vs Lawrence*, that the courts should take a flexible approach when considering whether to order damages instead of an injunction in relation to the protection and enforcement of property rights. There has, since that decision, been a tendency for developers and professional advisers to assume that the courts will be slow to order an injunction and will generally opt to award financial compensation (damages) instead.

**However**, the High Court's decision in April 2020 in the case of *Beaumont Business Centres vs Floral Properties Ltd* puts paid to that notion. Admittedly this case involved commercial properties and the potential impact on rental values, but we are advised that the principle set by the High court also applies to domestic properties.

The decision in *Beaumont Business Centres Limited v Floral Properties Limited* [i] has highlighted the need for developers to have regard to potential claims for infringement of rights to light and air when designing and implementing schemes. The decision of the judge, Mr Peter Knox QC, to award an injunction requiring Floral to take down part of an extension to a building to prevent loss of light to Beaumont's building reinforces the danger of ignoring third party rights affecting a development site.



More details of the court case confirms that Beaumont had become aware of Floral's plans to redevelop its property in a way that might interfere with the light to Beaumont's office building. The parties entered into neighbourly discussions, but negotiations broke down. Floral commenced works and Beaumont issued court proceedings seeking an injunction and damages for wrongful interference with its right to light.

The High Court decided that Beaumont would be entitled to an injunction requiring the cutback of Floral's now completed redevelopment, plus compensatory damages.

From information provided by Claire Acklam of Walker Morris, we understand that the judgment bears reading in its entirety as it covers a number of issues pertinent to the obtaining of injunctions and the calculation of damages in a development context, as well as containing detailed analysis of how to quantify loss of light. When it comes to the protection and enforcement of rights to light, however, the key points to note are:

- An injunction is the court's primary remedy for a rights to light infringement.
- While the court does have discretion and a flexible approach should be adopted, the burden remains on a respondent to prove that an injunction should not be awarded.
- To enforce its right to light, an applicant must demonstrate that its property will be or has been made substantially less comfortable or convenient due to the reduction in light. In this case, that was demonstrated by a reduction in lettings and rental income.
- The fact that a property or room might already be poorly lit and dependent upon artificial light is irrelevant. An applicant will still be entitled to an injunction if a proposed neighbouring development makes things worse.
- The fact that Floral's development had been completed by the date of the hearing was irrelevant and did not affect Beaumont's entitlement to an injunction.
- Factors weighing in favour of the grant of the injunction were that Floral had proceeded with development in full knowledge of Beaumont's concerns and had therefore acted in a "high handed, or at least unfair and unneighbourly manner".

In view of the solicitor's point as highlighted above, we have commissioned an independent report & valuation for 82 Lampreys Lane and a copy is enclosed. This valuation confirms the stark fact that if the proposed 2 storey property is permitted to be built on Plot 1, with the resulting loss of light, it will have an impact on "*the quality of enjoyment*" of our home, it will "*place your sunny and private garden in shade*" and it will result in us being "*overlooked*". The report & valuation also confirms that the property value of 82 Lampreys Lane will reduce by some £85,000 and the potential rental income will reduce by 20%!

Wow, that was an eye opener.



Another case from 2020 also focused on parties' conduct in injunction cases. As we understand it, an injunction is an equitable remedy, underpinned by fundamental fairness and awarded by the court at its discretion. The Supreme Court in *Alexander Devine Children's Cancer Trust vs Housing Solutions Ltd* [2020] UKSC 45 held that, in exercising its discretion, the court can and should take conduct into account. It took a dim view of what it termed the developer's "deliberate and cynical breach" and ordered that a party must not be allowed to benefit from presenting the courts with a *fait accompli*.

Apart from providing a stark reminder that, if there has been a right to light infringement, the courts will not shy away from ordering a developer to demolish a completed project, *Beaumont vs Florala* provides guidance as to when an infringement might be proven. As we further understand it, hopefully, these legal rulings mean that when it comes to the protection and enforcement of rights to light, any developer should take the threat of an injunction seriously and they should ensure that their conduct is exemplary and should, ideally, work co-operatively with neighbours to resolve any potential issues before building works commence.

We read that it is recommended by the courts that the **rights of light** implications of any proposed development must be considered from the early planning stage. If these are not taken into account and resolved from the outset, opposition from neighbours alleging interference can result in delays, the need to redesign and re-submit plans, or even the wholesale demolition of structures found to obstruct rights of light.

Chris and Carol Hockey are most reluctant to formerly involve a specialist firm of solicitors in anything other than guidance and we therefore politely request that this matter is resolved by the planning officers / planning committee by requesting that the developer resubmits a plan that does not include the erection of a building that would interfere with our legal Right to Light.

Yours faithfully

Chris and Carol Hockey





34 St James Street  
South Petherton  
Somerset  
TA13 5BW

Mr and Mrs C Hockey  
82 Lampreys Lane  
South Petherton  
TA13 5DU

24th August 2022



Dear Chris and Carol

**Re: 82 Lampreys Lane, South Petherton, TA13 5DU**

Thank you for inviting me to your property earlier this week for the purposes of a valuation for both the sales and rental market.

We discussed the plans that currently have outline approval for 15 new houses to be built in the land directly behind your property. I understand that although you have no objection to the development in principle, there is one particular property, Plot 1, that will undoubtedly have a significant impact on the value of your home. This reflects the dominant nature and close proximity (approximately 3 meters from your boundary wall) of the proposed two storey gable wall which will block out a considerable amount of light from your property, obstruct your access to light in general and the impact that may have on the quality of enjoyment of your home and place your now sunny and private garden in shade for much of the day along with being overlooked.

With the above in mind, and based on the fact that the new development will be built, please find below my valuations of the market value of 82 Lampreys Lane should Plot 1 be built in its present suggested location:

**Sales Valuation**

**Without Plot 1 in current suggested position: £510,000**

**With Plot 1 in current suggested position: £435,000 (differential of c.14%)**

**Rental Valuation**


**Without Plot 1 in current suggested position: £1500pcm**

**With Plot 1 in current suggested position: £1200pcm (a decrease of c.20%)**

I hope this information meets your current requirements. However if I can be of further assistance, please do not hesitate to contact me.

With kind regards

Yours sincerely

  
**Rachel Crane**  
**Managing Director**  
