

Right of Light Consulting

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Ms Michelle Payne
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 9SA

24 January 2023

Dear Ms Payne,

**Application Reference No. 22/01441/FUL
Proposed Development at 10 Selkirk Street, Cheltenham, Gloucestershire GL52 2HH
Impact on Larkspur House GL52 2PX**

We are appointed by [REDACTED] the owner of Larkspur House, following concerns that the proposed three storey self-build dwelling at Land Adjacent to 10 Selkirk Street will impact upon the daylight and sunlight receivable by their property and other properties in the vicinity.

The Building Research Establishment (BRE) "Site Layout Planning for Daylight and Sunlight 2022, 3rd Edition provides guidance for the planning department to consider.

The introduction to the BRE guide at 1.1 suggests that "people expect good natural lighting in their homes and in a wide range of non-domestic buildings. Daylight makes an interior look more attractive and interesting as well as providing light to work or read by. Access to skylight and sunlight helps make a building energy efficient; effective daylighting will reduce the need for electric light, while winter solar gain can meet some of the heating requirements."

We understand that the applicant has instructed T16 Design to undertake a daylight and sunlight study. The results of which indicate a number of windows would breach the BRE Daylight and Sunlight tests.

In the first instance, we note that in section 2.4 of the applicant's report, they identify that 10 and 10a Selkirk Street are identified as under the same freehold ownership as the development site, and therefore any loss of light to these properties should be afforded less weight in the decision-making process. We consider this to be misleading. It is well established that the ownership of surrounding properties is not a material planning consideration with reference the daylight and sunlight. The property at 10a is leased and therefore the owner/occupier is completely separate to the freehold owner. The light received by their property should be afforded as much weight as any other neighbouring property, regardless of the freehold ownership. Secondly, the freehold ownership of these properties could change in the future. To suggest any impact to these properties should be given less weight in the decision-making process is incorrect.

Additionally, the report does not contain a detailed list of the sources used in the construction of the 3D model that is the basis of the assessment and results. It is normal practice to list the drawings used which should match the relevant planning application drawings. It is also stated that 'sufficient detail is added to the model for the analysis'. We are of the opinion that a more detailed account of what is considered 'sufficient detail', and the sources used to model these details, are required before the report and results can be considered an accurate representation of the loss of light. You will therefore appreciate we are unable to confirm to our client that the results are an accurate interpretation of the anticipated light loss.

The results of the assessment show that three windows at 10/10a Selkirk Street would fall short of the BRE Vertical Sky Component (VSC) test. We understand that windows 1 and 2 (as labelled in the applicant's report) serve the kitchen/living room of 10a Selkirk Street and window 3 serves the kitchen at 10 Selkirk Street. We have included an image of the results table from the applicant's report below for reference.

Vertical Sky Component				
Window	Existing VSC	Proposed VSC	% Retained	Meets BRE Guidance?
1	13.953	6.664	47.76%	No
2	21.332	9.306	43.62%	No
3	26.551	18.227	68.65%	No
4	11.057	10.897	98.56%	Yes
5	26.391	22.829	86.50%	Yes

Windows 1 and 2 serving the kitchen/living room at 10a Selkirk Street already have low existing VSC scores before the proposed development, given they are at the basement level. With the proposed development in place, both windows would lose over half the daylight they currently receive. We would consider this a major loss of daylight which would severely impact the use and enjoyment of this room, which is the main living space at No. 10a.

The loss of light to window 3 would also breach the BRE VSC recommendations, given it would lose over 30% of its existing daylight.

In relation to the daylight distribution test, it appears to have only been applied to rooms with windows that fall short of the VSC test. The BRE guide states that both the total amount of skylight and its distribution within a building are important (2.2.5). The daylight distribution test should therefore be applied to all properties affected where internal layouts are known. We would be pleased to arrange access into our client's property at Larkspur House to inspect the internal arrangement so the assessment can be updated to include the daylight distribution results within the report.

We also note that in sections 8.5 and 8.6 of the applicant's report, it is stated that the daylight distribution test is 'more detailed and represents better the actual impact on a room... As such, it is generally given more weight in assessing whether or not a level of impact is considered unacceptable.' We consider this to also be incorrect and misleading. As above, section 2.2.5 of the BRE Guide explicitly makes clear that both the VSC and daylight distribution tests are important. In the case of *Guerry V LB Hammersmith and Fulham (2018)* the judge ruled that

that to base the impact on daylight from one daylight test over the other is incorrect, and the results for each test are separate and distinct. The breaches of the VSC test therefore need to be considered as separate from the results of the daylight distribution test. The statements in 8.8 and 10.7 in the applicant's report are therefore also misleading, as the proposed development cannot be considered fully compliant in relation to daylight when there are main habitable rooms windows that fall short of the VSC test.

In terms of the sunlight results, we have included the results table from the applicant's report below for reference.

Window	Annual Sunlight Hours			Winter Sunlight Hours			Meets BRE Guidance?
	Ex. Hrs Received (%)	Prop. Hrs Received	% Retained	Ex. Hrs Received	Prop. Hrs Received	% Retained	
1	13.306	0.000	0.00%	0.000	0.000	100.00%	Yes
2	25.572	3.950	15.45%	2.079	0.000	0.00%	Yes
3	37.283	25.557	N/ A	4.019	0.000	0.00%	Yes
5	56.757	50.104	N/ A	13.652	6.999	N/ A	Yes

As can be seen above, window 1 would lose all of the sunlight it currently receives, and window 2 would also lose a significant amount. The table above incorrectly shows that all windows pass the BRE Annual Probable Sunlight Hours test (ASPH).

The BRE guide states that sunlight may be adversely affected if the window:

- Receives less than 25% of annual probable sunlight hours and less than 0.8 times its former annual value; or less than 5% of annual sunlight hours between 21 September and 21 March and less than 0.8 times its former value during that period;
- And also has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

Despite being rated as compliant in the table above, it is acknowledged within section 9 of the applicant's report that 'there is some loss of sunlight beyond the BRE guidance, although only to 10 and 10a Selkirk Street'. We would not consider the loss of all sunlight received by window 1 to be 'some loss', nor the nearly 85% loss to window 2. We consider the loss of sunlight to be significant and will detrimentally impact the use and enjoyment of these rooms. As identified above, the fact that 10 and 10a Selkirk Street have the same freehold owner as the development site is irrelevant.

Window 3 would also breach the BRE ASPH test as although it retains above 25% annually, it would be left with less than 5% in the winter months, with a reduction ratio of 0, and have a greater than 4% reduction over the whole year. Marking the above results as compliant could be considered misleading as three windows would fall short of the ASPH test.

We also notice the absence of the BRE overshadowing to gardens and open space test. Our client's property at Larkspur House, highlighted in the image below, has external amenity space to the north of the development. The proposed development is likely to increase the level of overshadowing in our client's garden, and therefore a decision in favour of the application should not be made until the applicant instructs their surveyor to include the BRE Overshadowing to Gardens and Open Spaces test within their assessment.



In summary, we request that no decision is made in favour of the existing application until the scheme is redesigned to overcome the non-compliance in relation to the BRE Daylight and Sunlight tests, and an amended study is presented.

In addition to planning considerations, it is useful to assess the risk of any potential civil action from the outset and mitigate any future costs which could be incurred defending a claim. Our client is disappointed that they have been obliged to respond negatively to the application, but feels compelled to oppose a development which they consider will have such an oppressive and overbearing impact on the way they enjoy their property.

Please acknowledge receipt of this letter and respond accordingly with your assurance. Should you wish to discuss any aspect please do not hesitate to contact me.

I look forward to hearing from you shortly.

Yours sincerely



Alice Cook BA (Hons)
Right of Light Surveyor

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