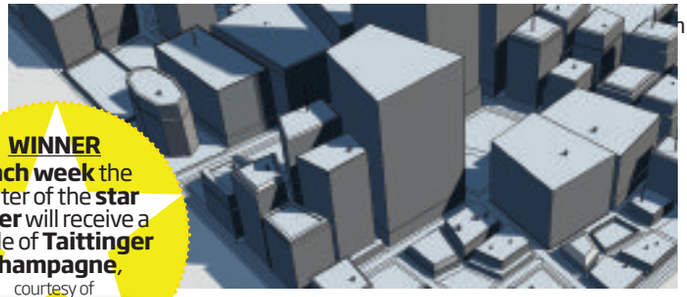
FEEDBACK Have your say

Light relief for 'reasonable' property developers



WINNER
Each week the writer of the **star letter** will receive a bottle of **Taittinger champagne**, courtesy of Restaurant Property

Editor: We have noted with interest that the first court case on rights of light since both Coventry v Lawrence and the Law Commission's recommended reforms, has now been determined, perhaps indicating the direction in which judges may be inclined on future determinations – something that property developers should take note of.

While Scott v Aimiuwu is a county court rather than High Court or Court of Appeal judgment and offers no significant concrete direction on the future of rights of light, there are a few questions and 'what ifs' raised that may have wider implications.

For one, the potential lack of injunctive proceedings sought before a development is implemented may mean that the opportunity to receive an injunction afterwards is more limited. Moreover, in relation to damages, a negotiated settlement approach based on uplift in assets' book value was deemed most appropriate. The works on the building were also well advanced, meaning that ordering the removal of the extension would have been deemed oppressive, as the impact on the defendants would outweigh the benefit to the claimants.

However, it should be noted that the injury to secondary space still commanded a large sum of money. There are also questions surrounding what the outcome would have been if the circumstances had been different. For example, if this development had been a for-profit scheme, would the judge have granted an injunction more readily, or adopted profit-related damages? Or if the impact had been on primary habitable rooms, would the judge have readily given injunction after the building had been built?

One of the most significant things that has come out of Scott v Aimiuwu is the change in attitude towards the threat of injunction, a direct impact of Coventry v Lawrence. We are seeing a move towards judgments that take reasonable action into account. This in no way gives developers carte blanche, but does suggest that if the nuisance is small, they have acted reasonably and there is no involvement of residential accommodation, that the threat of injunction is significantly reduced.

Furthermore, although this case does not offer precedence, we are seeing the beginning of new guidelines, that are not so rigidly set (ie the four conditions of Shelfer), which is seeing cases being decided on individual merit. Although this removes the predictability of the outcome, it is moving into line with the suggestions from the Law Commission report as well as the impact of Coventry v Lawrence. This is leading to positive changes as to how rights-of-light cases are determined, and will continue to influence the judiciary in rights-of-light litigation, even at county court level.

Gordon Ingram, senior partner, GIA

Sign up to the PW Diversity Charter...

Editor:
Occasionally, something comes along that makes the industry sit up and listen... or should do.

This magazine's Open Plan crusade is one such campaign and the Diversity Charter that you first published in February is another.

The charter does what it says on the tin. It aims to improve diversity across the property and construction industries by presenting us all with 10 very sensible, achievable goals. All we collectively have to do is sign up.

Therefore, in my role heading the Association of Women in Property and as part of an organisation – DTZ – that is already feeling the positive repercussions of our internal work to improve diversity, I would urge you to make that move, sign up to the charter and be part of something that really will make a difference.

This is a tremendously important opportunity for the industry and, be in no doubt, your colleagues, clients and bottom line will all reap the benefits.

Elspeth Burrage, National chairman of Association of Women in Property

... Here's why

Editor: It has often struck me that the commentators in *Property Week* lack diversity (ie they are all white, middle-class, middle-aged and male). But the Opinion section on 29.05.15 took the biscuit, with Philip Dunne expounding the virtues of 'women on board' with not a petticoat in sight.

Mickola Wilson, Seven Dials Fund Management

(Editor responds: Last I looked, I was female and not so pale. But you're right, there isn't enough diversity, which is why we're urging readers to sign up to our charter. Come on people, you know it make sense.)

PW+ Posts and tweets

Hugely sad to hear of death of Clive Dutton. A total inspiration to new creatives in #urbanrenewal. Always encouraging. Forever supportive.
@davidbarrie

Incredibly sad to read that Clive Dutton has died. A visionary in urban renewal in Birmingham and Newham
@johnprevc

Brandon Lewis... quality of design important so we can be proud of what we have done... hence bought architecture into Housing and Planning
@makeken

'We basically want sticks to beat developers & local authorities with & some carrots to offer them' - Dep Mayor Eddie Lister
@Davidntaylor

Shocking surely that HSBC will trade in UK under new name? Implies UK will be cut loose from rest of huge global group in few years
@Peston

Have you signed the @ PropertyWeek Diversity Charter? No? There's still time: http://bit.ly/1Hm4xzn
@RhiannonBury

Send letters to: *Property Week*, Metropolis International, 6th floor, Davis House, 2 Robert Street, Croydon CR0 1QQ

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