

Introduction

Rights of Light (RoL) is a legal concept in England and Wales (and similar jurisdictions) where a property owner has a right to receive natural light through defined apertures (windows, roof lights) if that light has been enjoyed for 20+ years without interruption.

For banks and funders, RoL is a development risk because:

- RoL infringements can **delay or stop development**.
 - Breach of RoL may lead to **injunctions or compensation claims**.
 - Costs to resolve RoL claims can **significantly affect project viability**.
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Key Risks to Banks and Funders

1. Injunction Risk

- Courts can stop a development if it illegally blocks light to neighbouring properties.
- Injunctions can delay construction or force redesign.

2. Financial Risk

- Compensation may be payable to affected parties (can reach millions for large projects).
- Redesign or mitigation costs can exceed projected contingency budgets.

3. Reputation & Legal Risk

- Funding a project halted by RoL claims can damage lender credibility.
- Complex litigation can drag on for months or years, delaying project completion.

4. Valuation & Security Risk

- If RoL claims materialise, the asset value may fall, affecting collateral security.
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Due Diligence for Banks and Funders

This requires a thorough audit of project RoL risk, including:

3.1 Legal Review

- Confirm whether neighbouring properties have rights of light.
- Review of title for beneficial/ burdensome RoL agreements.
- Opportunities to serve "Light Obstruction Notices" to derisk specific properties.

3.2 Technical Assessment

- Engage specialist RoL surveyors to measure impacts of the project to existing light levels.
- Assess likelihood of injunction vs. negotiated settlements. Identify uninjured properties.

3.3 Financial Analysis

- Estimate potential compensation payments or redesign costs.
- Consider insurance products that financially cover RoL claims.
- Factor in contingency buffers in project cash flow.

Structuring Funding and Risk Allocation

Banks and funders can manage RoL risk by:

1. Conditional Drawdown

- Release funds only once RoL risk mitigation or agreements are in place.

2. RoL Insurance

- Covers potential damages and legal costs. Can also cover delay costs arising due to RoL matters.
- Reduces lender financial exposure if claims arise.

3. Covenants and Warranties

- Require borrowers to warrant no existing RoL infringements or obtain mitigation agreements.
- Include covenants to notify lenders of any claims promptly.

Risk Mitigation Strategies for Developers

Banks should encourage developers to implement:

1. Negotiation with Neighbours

- Securing Deeds of Release to avoid injunctions.

2. Design Solutions

- Setbacks, slimmer building profiles, or repositioning tall elements to reduce light obstruction whilst preserving asset value.

3. Insurance Coverage

- Ensure policies cover legal costs and compensation claims for potential RoL infringement. Consider delay costs cover.

Red Flags for Lenders

- Sites in dense urban areas with tall buildings nearby.
- Projects near long-standing properties with uninterrupted light.
- History of litigation over RoL in the locality.
- Developers with limited experience in managing RoL risks.

Checklist for Banks and Funders

Step Action

- 1 Legal search for existing RoL claims or easements.
- 2 Engage RoL surveyor.
- 3 Include RoL contingency in project budget.
- 4 Assess viability with potential redesign or compensation costs.
- 5 Ensure borrower obtains insurance if appropriate.
- 6 Incorporate covenants/warranties in finance agreements.
- 7 Monitor ongoing construction and RoL compliance.

Summary

- RoL risk is real and potentially costly, especially in urban developments.
- Banks and funders must identify, quantify, and mitigate this risk early as a key part of their wider due diligence.
- Effective strategies include legal review, technical assessment, insurance, conditional funding, and monitoring.
- Clear contractual protection and proactive engagement with developers significantly reduce exposure.

With over 100 years of combined expertise, **ULS** provides clear, practical guidance on managing Rights to Light risk from feasibility through to completion.

We work to:

- Identify and quantify potential infringements.
- Support design optimisation to limit exposure.
- Negotiate and/or help insure risks to protect value and programme.

ULS — Managing Light, Maximising Value.

Successfully guiding developers through the technical and legal complexities of Rights to Light.

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