



GILES DIXON
SOLICITORS

Copyright – Architect’s Drawings - Planning Application – Developer

Use another architect’s designs at your peril, even if you are only modifying designs for a previous planning consent

This risk is illustrated by the recent case of *Lennox Estates v. S&W Ventures Ltd.* In 2016 Lennox Estates Ltd. obtained an option to buy and develop a site from the owner, Cherubond Ltd. They appointed an architect, Matthew Allchurch Associates (MAA), who prepared designs for the development and in due course planning permission was obtained.

Before they developed the site, Lennox Estates allowed their option to lapse and another property developer, S&W Ventures, bought the site in 2020 from the owner, Cherubond, who provided the new developer with a set of MAA’s drawings. S&W Ventures appointed a new firm of architects, Places Architects, to prepare new drawings for a new planning application, varying the previous application which had been granted.

Lennox Estates, who acquired the copyright in the original designs prepared by MAA brought a claim against S&W ventures. They claimed that their copyright had been infringed as the new designs had, in effect, been copied from those prepared by MAA.

The judge in the Intellectual Property Enterprise Court agreed with Lennox and awarded them summary judgement. He was satisfied that the designs prepared by MAA were original works (and not copied from somebody else) and therefore that the new developer and their architect had no chance of showing that there was no infringement of copyright.

The judge also considered whether the owner of the site, Cherubond, had either an express or implied licence to make use of the original drawings that were prepared for the original planning application that was granted. But he decided that this was not the case, not least because the designs were commissioned and paid for by Lennox Estates who also obtained the planning consent, not by Cherubond, the owner of the site. Moreover, the option agreement between Cherubond and Lennox Estates said nothing about what would happen to the designs prepared on behalf of Lennox Estates if they did not proceed with their development.

So, if you are a site owner who allows a developer to make a planning application for a development on your land, be sure to retain an interest in the drawings if the developer does not proceed with the project for any reason. Or, if you are a developer who wants to take over a development project from a previous owner of the site, be sure to sort out the copyright situation if you are going to rely on designs already prepared for a previous planning application by another developer or architect