

A LEGAL RIGHT TO LAY A CABLE OVER A NEIGHBOUR'S LAND - BUT THERE WAS STILL A PROBLEM

In a recent case of particular interest to developers, William Old International Limited v Arya, a developer was given by a neighbouring landowner the standard legal right to lay service media across the neighbour's land. However, one of the statutory undertakers (EDF Energy) insisted that the neighbour enter into a deed of grant directly with them before it would lay a cable across the neighbour's land to connect an electricity supply to the developer's new office building. This is a pretty common requirement of statutory undertakers, but in this case the neighbour refused to execute the deed. The High Court held that there was no implied obligation on the neighbour to execute a deed of grant that was satisfactory to EDF, even if this ancillary obligation was necessary for the use and enjoyment of the express easement that had already been granted. Careful drafting of any rights to lay service media will be needed in order to close this loophole.

If you wish to discuss any of the issues raised in this article, or for information on any other commercial property matters, please contact Jenny Harbord on 01872 226994, or by email: jenny@murrellashworth.co.uk.

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