

NO RIGHT TO A VIEW - BUT A RIGHT TO PREVENT AN ANNOYANCE

In law there is no right to a “view”. However, a recent case Dennis v Davies shows that if you have the benefit of a restrictive covenant against neighbouring land not to cause “nuisance or annoyance” then the “annoyance” factor can be used to protect a view.

The case involved a house where planning permission had been obtained to build a three-storey side extension. Five neighbours objected because the extension would partially obscure their views of a river. They relied on a restrictive covenant affecting the house not to cause “nuisance or annoyance”. The High Court held that whilst the obstruction of the view would not amount to a legal nuisance it could amount to an “annoyance”. The test for “annoyance” was whether “reasonable people, having regard to the ordinary use of a house for pleasurable enjoyment, would be annoyed or aggrieved” - to be judged by “robust and common sense standards”.

On that basis, the obstruction of the view did amount to an “annoyance” and the extension could therefore be prevented.

Developers therefore need to be aware of “nuisance or annoyance” covenants, which can prevent building works even where there is no covenant against building.

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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