



Hamer Associates

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Statement

Prologue – Hamer Associates

Hamer Associates are a niche firm of Chartered Surveyors who specialise in Electricity Wayleaves, Easements and Consents. Managing Director Charles Hamer spent over 25 years in the electricity industry and co-wrote 'Electricity Wayleaves, Easements and Consents'. The book covers all matters involving electricity wayleaves, easements and consents and the application of litigation, practice and procedure.

The company currently works with a number of public and private sector companies in dealing with utility related matters and have completed a number of projects in delivering complex development schemes restricted by overhead lines and underground mains.

Introduction

Hamer Associates have been instructed by Taylor Wimpey to prepare a statement regarding the overhead lines crossing the site known at Roeshot Hill, Christchurch. We understand that the site is being considered for a significant housing allocation through the forthcoming Core Strategy Inquiry process. This statement is provided to give the local authority and the Inspector comfort regarding the implications of the overhead lines and the constraints they impose. For the avoidance of doubt this statement does not cover any cost or compensation implications associated with diverting the overhead lines.

This statement relates to the high voltage overhead line crossing the site. The line enters the site at the north eastern corner and traverses the length of the site leaving the site at the south western corner.

Electricity Wayleave

Unlike an easement a wayleave is '*... usually granted in the form of a contractual licence either for a fixed term or subject to the right on the part of the grantor to terminate it upon notice.*'

'Being a contractual licence, apart from any provision relating to termination included in the licence itself, the wayleave automatically terminates in the following circumstances:

- *If the grantor ceases to own the land over which the wayleave is granted*
- *The grantor permits another to occupy the land with a superior estate or interest*
- *The grantor dies'*

Wayleaves are not registrable interests for the purpose of the Land Registration Act 2002. It is not possible to ascertain whether any wayleave exists except by factual enquiry' 1

¹ Electricity Wayleaves, Easements and Consents – Litigation Practice and Procedure - by Charles Hamer and Gary O'Brien

Statutory Rights

Rights for electricity lines are protected under the Electricity Act 1989. The rights within the Act regulate the distribution and supply of electricity across the UK. As the existing rights would be terminated through a change in land ownership or via serving a termination notice there is no protection for the old agreements as they no longer exist. The Electricity Act 1989 does however provide rights for electricity companies to maintain their network requirements.

New rights can be determined at a necessary wayleave hearing. In our experience very few cases go to a wayleave hearing as a viable new route is often agreed, without the unnecessary cost and time of preparing and attending a hearing.

If however both parties wish to be heard they are entitled to a hearing and the inspector would be assisted by statutory guidance to determine his recommendations to the SoS. At the hearing the inspector, under the guidance notes as set out in 'PG2.9 - Procedural Guidance for Acquisition of Wayleaves / Continuation of Wayleaves Hearings S.10(1) & Schedule 4, para 6-8 of the Electricity Act 1989' would consider the new rights for retaining the overhead line in its existing location against alternative routes.

Assuming the two electricity circuits carried by the overhead line are still required these can be maintained by installing underground cable either through the site, on third party land or following existing highways. The most practical route would be immediately adjacent to the railway line. Terminal towers would be required to connect the underground cables to the overhead lines which can either be constructed in-line near the site boundary or on adjacent third party land. The area of land to accommodate the underground cables would need to be no more than 6 metres wide.

The lead time for ordering this type of underground cable is typically 6 months. The installation work can be carried out at anytime but connections to the existing line and work requiring the overhead line to be taken out of commission is likely to only be possible between April and October when electrical load is lowest.

Conclusion

By providing a new cable route through the development the electricity company would benefit from a permanent right for uninterrupted use to maintain their network connections. In turn the developer and local planning authority will benefit in delivering a scheme which will maximise the development potential of the land.

We consider that there is no impediment that would prevent the lines from being replaced with underground cable in a different location across the site.