

# Case Study: Development proceeds despite receiving mines and minerals notice



**A developer's plans were at risk when it received notice regarding mines and minerals rights on the site. First Title ensured the risks were mitigated and the development was able to proceed.**

## Background

First Title was approached by solicitors on behalf of their developer client.

The developer had obtained planning permission for a luxury residential development. There were no objections to the planning proposal and the development proceeded.

## Risk

However, following completion of part of the development, the developer received a Land Registry letter advising of the registration of a unilateral notice on the title in respect of manorial rights - mines and minerals.

The developer subsequently received a letter from the law firm acting for the Lord of the Manor advising that the development was trespassing into the beneficiary's mines and minerals.

The developer required insurance against these assertions to enable the completion of the development within the tight timescales agreed with the plot buyers.

The foundations of the houses being built did trespass into the mines and minerals.

There was, therefore, a potential claim for damages, although the injunctive risk was remote as the development was already built.

The Lord of the Manor was an active beneficiary, known to First Title for trying to enforce its rights. Nevertheless, following the assessment of the risk, the client was offered a policy that enabled the development to be built out and plot sales to proceed.

Two premium options were offered to the client:

- a) One-off premium.
- b) Premium with an excess.

Given the sensitivity of the risk and in order to keep the client informed, the client was consulted and advised on First Title's potential strategy if a claim arose.

## Solution

The client chose option a) in order to avoid contingent liability following plot sales. The skill and experience of the First Title underwriter played a significant role in understanding the complexities of the transaction, structuring the policy and ensuring it was fit for purpose at a cost acceptable to the client.

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