

Boundary and Other Disputes

The exact position of the boundary lines of a property is not always something to which landowners give a great deal of thought. However, there are times when this becomes a key issue in a dispute between neighbours.

Common Disputes

Examples of such disputes include:-

- a new fence or wall being erected along a disputed alignment;
- an extension being built that overlaps on to neighbouring land;
- guttering, satellite dishes, aerials or ventilation shafts overhanging neighbouring land;
- the removal of trees or hedgerows by a neighbour where there may be uncertainty about which side of the boundary line they actually grow from;
- trespass or encroachment on to land by a neighbour (or sometimes an unconnected third party) that may allow them to claim that the legal ownership of that land has passed to them (sometimes referred to as a claim to “adverse possession” or “squatter’s rights”);
- uncertainty about who is responsible for the repair and upkeep of any physical boundary features, such as walls, fences, ditches or hedges;
- uncertainty about who is liable for any damages or injury caused by any physical boundary features;
- uncertainty about how far back you can cut any roots or branches which have grown under or over your land.

There is often no clear way immediately to identify the exact position of a boundary line between two properties. There are a number of legal presumptions that may come into play, but, as the term implies, these may be disproved if there is any evidence to show that something different was intended. It is important to check all relevant title deeds, plans and any agreements which may have been entered into at any time to identify exactly what, if anything, has been specifically agreed in respect of the boundaries.

For registered land, the title plans held by the Land Registry usually show only the approximate boundary of the property and do not identify the exact line of the boundary. For example, if a boundary line is shown as running along a wall or hedge, there will not usually be any indication given as to whether the boundary line lies along the centre of that wall or hedge, or along either side of it.

The accuracy of these plans cannot be relied upon. The written entries that are shown at the Land Registry against the registered title of the property should also be looked at, as these may cast further light on dimensions or features that are either included or excluded from the legal title to the property.

The Land Registration Act 2002 now allows a landowner to apply to the Land Registry to determine and record the exact line of the property boundaries instead of

just showing the approximate boundaries. This will usually involve a detailed, scaled plan being prepared by a qualified surveyor, and may require appropriate legal documentation to be drawn up. Determining the boundaries of your property in this way should help to prevent any future lengthy boundary disputes arising.

Applications should ideally be made with the consent of any affected neighbours, although there is a procedure for making the application without their agreement, in which case, notice of the application will be served on them. If any neighbours formally object and agreement cannot be reached with them about the exact position of this boundary line, the matter may either be referred to an adjudicator or to a Court Judge.

This can be a costly exercise, which is why it is preferable to agree matters with the neighbours first where possible.

Other common neighbour disputes on which we can provide advice and guidance include:-

- damage or injury being caused by roots or branches that have grown under or over your property from adjoining land;
- proposed extensions or walls on neighbouring land that would detrimentally affect the amount of light that is currently enjoyed by your property;
- rights of way over neighbouring land either being abused or prevented;
- hedges being allowed to grow to great heights by a neighbour.

It is important to seek legal advice as quickly as possible if any boundary or other property dispute arises. This will help to ensure that your legal rights and interests are properly protected as swiftly and amicably as possible and that any agreement that is reached is legally binding on both parties, so that future disputes are avoided.

Further Help & Advice

We would be delighted to assist you further and to answer any specific queries you may have.

For further advice contact our team direct on 01273 480616 or talk to your usual contact in the firm.

Adams & Remers Solicitors: Lewes Office

Trinity House, School Hill, Lewes

Sussex, BN7 2NN

Tel: 01273 480616

Fax: 01273 480618

Email: lewes@adams-remers.co.uk

Adams & Remers Solicitors: Brighton Office

35 High Street, Rottingdean, Brighton

Sussex, BN2 7HE

Tel: 01273 304441

Fax: 01273 301906

Email: brighton@adams-remers.co.uk

Regulated by the Solicitors Regulation Authority