

Header: Project Planning

Stand first: Wayne Reynolds, Director of Atriarc Planning offers an overview of Land Disputes

When ownership boundaries are challenged this often results in rising tensions between parties, especially in respect of smaller land holdings, residential gardens and driveways, or where neighbours have longstanding grievances.

Many of the issues surrounding disputes stem from inaccurate or vague historical records. For instance, if you are familiar with scale plans, the thickness of a pen line on a 1:1250 scale map can result in inaccuracies typically varying between 1 and 3 meters. Farm boundaries are often noted as areas for contention as historical title records can be recorded on maps dating back to when the registry was first created in 1862.

When disputes are focussed on a garden or driveway, this can have profound consequences. In some instances historical records may show incorrect boundaries, where two parties both believe they own the same piece of land. Whilst you may think this is an historical problem, mistakes still occur when incorrect boundaries are registered for new build properties.

Boundary disputes are often noted when a new property purchaser reviews title plans. In many instances fence lines may have been erected with the agreement of the former landowner, however, if land titles have not been formally updated, when a new owner purchases the land, they are generally within their rights to seek to move fences to the original state.

In the farming sector boundary disputes can arise if lands bound watercourses that may have migrated over time. Whilst the land ownership remains as identified on plan, some landowners will seek to re-fence to maintain boundaries, which can cause disagreement. When re-fencing perimeter boundaries; it is advisable to consult up-to-date land registry records. This can assist limiting conflict in the future. It is also courteous where hedge-rows are being altered, to consult neighbours prior to work commencing. If new access points are to be created or sections of vegetated hedge to be removed, you may also require Hedge Row Regulations consent – a simple call to the Local Planning Authority (LPA) can assist with enquiries. If tree removal works also form part of your re-fencing strategy you may also wish to consult the LPA to see if any trees are protected by a preservation order.

Where a dispute cannot be agreed between parties, in most instances landowners will seek to appoint an independent mediator or arbitrator to review the titles and area of conflict, to seek to reach an amicable position. Alternatively you could escalate the dispute to County or High Court, however this is not typically recommended unless significant land assets are being disputed (or ones which have profound implications on land value).

In the first instance, it is always advisable to seek professional assistance in overcoming any of the above issues where updated plans can be drafted in agreement with both parties. For further advice or assistance please contact Wayne Reynolds on 01994 220 667 or email wayne@atriarcgroup.com

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