



THE SURVEY
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CLIENT GUIDE TO **DETERMINED BOUNDARIES**

Information Leaflets produced by the TSA are intended to provide members and their Clients with guidance on various aspects of surveying. In particular on procedures and regulations which may govern how a particular aspect of the survey is carried out. Where possible contact details are given so that further information specific to a particular requirement may be obtained.

The Development of the Register in Determined Boundaries England and Wales

- The purpose of registration is to provide a safe, simple and economic system of Land Transfer
- The system was originally introduced on a voluntary basis in England and Wales in 1862
- In excess of eighty percent of titles are currently registered in England and Wales; some 21 million properties
- Approximately 3 million property transactions are undertaken each year throughout England and Wales
- The land registration system underpins the property market in England and Wales and guarantees title to £2000Bn worth of property
- The Land Registration Act of 1925 under the rule 278 describes the system as a 'General Boundaries' system

Four major concepts of the General Boundaries System:

- 1 Physical Boundary; the physical feature delineating the boundary of a property e.g. walls, fences, hedges and ditches
- 2 Legal Boundary; an imaginary line being the precise boundary of a property in law
- 3 Defined Boundary; a boundary of a property in which the precise position has been concluded by adjudication
- 4 General Boundary; a boundary of a property in relationship to which the precise position of the legal boundary has not been determined by adjudication

A hedge and ditch presumption may be applicable where a boundary is an ancient one. It usually only applies in rural areas and goes back to the days when the boundary between two rural properties was first formed. One of the adjacent neighbouring owners would agree to form a boundary feature and it was the custom to dig a ditch up to (but not beyond) the boundary. The soil from the ditch excavation would be thrown "over one's shoulder" onto one's own land. This excavated soil would form a bank upon which, in the following years, a hedge would usually be planted.

The resulting configuration would be a ditch and a bank (upon which a hedge would grow). The legal boundary remains as being the far edge (when seen from the hedge side) of the ditch.

However, Ordnance Survey (OS) usually show hedge root lines only where a hedge and ditch scenario exists. This does not matter, except that OS field numbers and areas (once on acres, now in hectares) are taken up to the hedge root line shown on the OS map. Conveyancers are invariably unaware of this and convey land by reference to the OS field number, causing either a shortfall or an overlap of ownership, depending upon which side of the hedge and ditch is being conveyed.





It is also the case that, for the hedge and ditch presumption to prevail, the ditch cannot be a stream and must have been dug for the purpose of defining the original boundary between two properties.

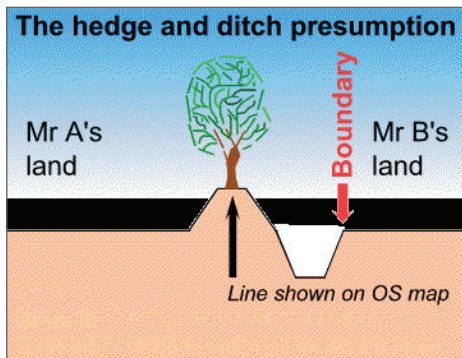
Surveyors often have to explain this situation to lawyers and, whilst in most cases it can be resolved, in some cases it can pass to a Judge to decide where the boundary lies.

Justification for Change

- Registrations do not show the exact position or every boundary and this is a fundamental defect of the current system.
- The eradication of this defect would be the introduction of defined boundaries, which would greatly avoid the need for boundary disputes and or litigation.
- If registered title is to show defined boundaries their position first has to be determined in law.
- Commonly the boundary position may be subject to 'presumption' i.e. to the centre line of road, middle of watercourse, river, or ditch; or the post line in a fence.

Determined Boundaries

The Land Registration Act 2002 received Royal assent from Her Majesty the Queen on 26 February 2003. The Act, which came into effect on 13 October 2003, supersedes the original 1925 act, and will improve the existing outdated system for both conveyancing and the boundary demarcation process. Furthermore, it will curtail the rights of squatters or encroaching neighbours on registered property.



Essential Features

Any owner of Registered Land may apply to have their land determined and recorded on the register subject to fulfilling the following criteria:

- The owner will supply an appropriately surveyed plan delineating the existing features surrounding the registered land parcel
- The surveyed plan will be supplemented by an extract from the latest OS large-scale (1:2500,1:1250) mapping
- Critical dimensions and or coordinates of turning points of the boundary will be detailed on the extract
- The Registrar should be satisfied that the applicant has identified the boundary to an appropriate accuracy
- On receipt of application the land registry will serve notice on adjoining land owners and resolve any boundary anomalies which currently exist
- With a Defined Boundary (LR Determined Boundary) a SEPARATE survey and application is required for EACH mutual boundary (not one for the complete boundary). That is, for example, if you live on a typical housing estate with a neighbour either side and one at the back, and you want your boundary to be determined/fixed at LR, then you need three separate exercises (i.e. survey drawing and application), one for each mutual boundary

If unchallenged the registrar will record the exact line of the boundary as stated in the register.

Measurement Practice

- All measured survey undertaken shall be in accordance with the current edition of the RICS specification for Surveys of Land, Buildings and Utility Services at scales of 1:500 and Larger
- Where co-ordinate transformation systems are deployed both the date and transformation details should accompany the co-ordinate information generated from the transformation
- Where the land parcel is depleted of 'hard detail' or 'reputable' physical features 'permanent' monumentation shall be established which shall remain for a minimum of 10 years
- The Surveyor must adopt a process of due diligence and act with full integrity during the entire process



Plan Requirements

- The boundary must be presented on the latest edition of the large scale Ordnance Survey Mapping; as defined by the file plan
- If the plan does not allow the boundary to be identified on the Ordnance Survey Map the application will be rejected
- In addition, a detailed boundary survey depicting "pertinent detail" must be presented at a recognized scale not less than 1:200. This survey will supplement the file plan providing a higher level of detail and accuracy
- Where coordinates determine the start, ends and any turning points of the determined boundary, these should be referenced to the National Grid
- The applicant must also include the evidence that he is seeking to rely upon to establish the exact line of the boundary
- Two copies of the plan should accompany the application Form DB
- The plan should be no larger than A3 size (More than one plan can be used)



Following appointment the Surveyor will undertake a comprehensive inspection and review of the existing boundaries associated with the individual land parcel. Boundary descriptions will be noted together with details of ownership and or responsibility i.e. 'rights of support'.

The Surveyor shall be enquiring of the titled ownership to deduce the boundary history during the registered occupation and or knowledge under the previous ownership. He will prepare graphical details depicting any visible differences, which exist between the original Land Registry file plan and the boundary features represented on the ground. This information will accompany the final report.

Summary

- If the registered title is to show defined boundaries their position first has to be determined in law.
- For a registered land owner to have their land determined, they must provide an appropriately surveyed plan, supported by a current OS map extract at either 1:1250 or 1:2500 scale.
- The registrar needs to be satisfied that the boundary has been suitably identified and will contact adjoining landowners to ensure any boundary anomalies are resolved
- The survey will be undertaken in accordance with available best practice guides issued by the Royal Institution of Chartered Surveyors

HM Land Registry expects a significant increase in requests from property owners to adopt the approach, as it is seen as an insurance against potential boundary litigation and dispute. Therefore the Surveyor must adopt a process of due diligence and act with full integrity during the entire process.

Determined Boundaries

Full details of the land registration act can be found at:

www.landreg.gov.uk/legislation/lract2002/

Best Practice Guidance for carrying out Surveys of Land Buildings and Utility Services at scales of 1:500 and larger can be found at:

www.rics.org

The TSA would like to acknowledge David J Powell FRICS for his contribution to this Client Guide.

The Survey Association

Formed in 1979 as The UK Land and Hydrographic Association, TSA is now established as the representative organisation for UK private surveying firms. The Association's aims are:

- > To provide a vehicle for members to act effectively together on agreed courses of action
- > To promote the interests of the profession to all those who determine the economic and social conditions in which the industry operates
- > To identify and represent the views of the industry.

Using a TSA member

By using a TSA member you can be assured that your project will get off to the best possible start. Whatever the size of project, you can be certain that TSA member companies are expert in the provision and management of spatially related data on which to base your concept, design and construction.

Professional attention from a TSA surveyor will reduce risk, repetition, possibly save you money and will ensure that your project receives the best possible attention.

TSA Contact Details

If you would like any more information about the TSA or its members or about other Information leaflets then please contact Rachel Tyrrell at:

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