

# Boundary Disputes – where do you draw the line?

Litigation & Dispute Resolution



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**“To hear the words ‘a boundary dispute’ is to fill a judge, even of the most stalwart and amiable disposition, with a deep foreboding since disputes with neighbours tend always to compel... some unreasonable and extravagant display of unneighbourly behaviour which profits no one but the lawyers”**

A little cynical, perhaps; but that was Lord Justice Ward’s view in the leading case of *Alan Wibberley Building v Insley* (1998), who rightfully observes, that whilst every dispute has the potential to become personal to the parties involved – the parties become entrenched and it becomes a “matter of principle” – that is even more so, when the parties are engaged in a boundary dispute.

Often, the land subject to the dispute has little or no substantial monetary value; but it may have a real non-money value to the parties concerned, in terms of their enjoyment of their property and sense of ownership.

These factors help to then outweigh the limited monetary value of the land in dispute and explain why such cases often proceed to trial, at great expense to the parties concerned.

As in the case of *Rimmer v Pearson* (2000), where the parties spent 22 days litigating over an infringement of about 3 feet.

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Boundary Disputes – where do you draw the line?

Whilst, if successful, you would expect your opponent to be ordered to pay you the majority of your costs, this is always subject to their ability to pay.

Our philosophy here in the Dispute Resolution department is to try and resolve a dispute before it gets that far.

After all, unless the parties intend selling their properties after the dispute, and moving away, they will still have to live next to each other.

The starting point in trying to resolve any boundary dispute is to look at the title documents and plans, which should help to ascertain the position of the boundary.

Were the 2 properties ever in common ownership?

If the title documents and plans do not provide the answer, or only a partial answer, you can look at extrinsic evidence and see if that assists - such as old photographs; aerial photographs (especially if they show the position of physical features that are indicative of the boundary, which may have been referred to in an earlier conveyance); and old plans.

You can even take statements from people who used to live at the property before you, as to the position of the boundary, assuming you can track them down.

And then you should come and see us.

**Ware & Kay**

good on paper, even better in person

**Contact us**

For advice on contract disputes, contact a member of our litigation and dispute resolution team on York **01904 716000** or Wetherby **01937 583210**.