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KNOW YOUR BOUNDARIES

We all like to think we live in a quiet serene neighbourhood where everyone gets along just fine. However, this is far from the case in many areas.

In most residential roads and streets in Britain, someone is battling with their neighbours.

A frosty “nod but not speak” standoff can in some cases escalate to property damage and at worst even physical violence. Either way, it is not going to be all rosy in the garden any more. But boundary disputes are probably the most common cause of stress between neighbours.

Crossed the Line?

Whether somebody is encroaching on your land because the boundary line isn't clear, or their trees are hanging over onto your land, the majority of cases are caused because neither party knows where their boundary finishes and next doors starts. Unfortunately, the approximate thickness of the Land Registry boundary line as is shown on Title Plans, where properties are registered, equates to 3 feet wide! In the absence of any dimensions it is thus very difficult to advise property owners where a particular boundary should be,

It can be a tricky – and expensive – issue to resolve and, as with many other legal issues around property, a little knowledge can be a dangerous thing, so it pays to do your research and understand what rights you have first.

There are a lot of urban myths and misconceptions about what you can and cannot do with regard to boundaries. It is not worth risking an all out war, if you get it wrong.

Root cause

Shrubbery (trees, bushes and hedges) is another subject which can cause untold antagonism.

Trees and bushes can be any height, provided they are on your land and not your neighbours. Evergreen hedges which exceed 2 metres can constitute a nuisance under the Anti-Social Behaviour Act 2003 if they affect your access or the light to your property, or the enjoyment of your home or garden. Your local authority can demand appropriate action be taken-if the owner ignores it, the council can do the work and charge for it, and the court can fine the owner up to £1000.

There are also no clear guidelines about pruning and lopping. So if next door's ivy is hanging over your fence causing a problem, there is a fine line between your removing the offending branches in order to preserve your own property and hacking the whole thing down. Do that and you could find yourself in trouble.

The usual rule of thumb is that where branches or bushes belonging to your neighbours are encroaching/overhanging your property, you are entitled to trim the same, provided you return such branches, in an orderly fashion to your neighbour. This would not include cutting a large branch down and simply throwing it over into your neighbour's garden!

The Dark Side

There is also a myth that you have rights to "light and air". The fact is you do not, unless you live in a flat, in which case it is likely to be specifically written into your Lease. That means, if next door's new extension is blocking out your light and making your kitchen darker, there is not much you can do about it, unless your neighbour has erected such an extension without the required Local Authority Planning Permission/Building Regulations Approval. If such Permission has been sought by the neighbour, the process will already have allowed you to make your just and proper objection, on the grounds of the extension being too close to your property. The Local Authority will then

make their decision, based on specific guidelines, which they as the Planning Authority have to adhere to.

Hit a brick wall

Walls and fences cause more problems, particularly when they need replacing, but both properties claim they are not on their land, so do not have to do anything about it. Unfortunately, there are many many occasions where we, as lawyers, cannot confirm who specifically owns which boundary as the title deeds are “silent” as regards the future maintenance responsibility of the same.

We also hear of nightmares as regards angry neighbours knocking down offending walls, which they believe encroach onto their boundary line. Similar problems can occur if an extension overlaps onto a pathway between two houses.

Everybody needs good neighbours

As with all these things, prevention is better than the cure and as my mother would always say: “Treat as you would be treated”.

Be a good neighbour. If you have trees, shrubs or bushes in your garden, which overhang, offer to sort them out BEFORE they become a nuisance.

Building a new fence or extension? Check your boundary line FIRST and then double check it with next door before you do anything, to make sure that you are both clear about the situation.

Then document it, so that if there are any issues at some point in the future, you both have the paperwork to refer back to.

However, if you are on the receiving end of a boundary encroachment, try to keep things calm and approach the situation rationally. Provide evidence of the problem –

photographs are always a good idea – and more importantly, suggest a realistic way to resolve it.

Nobody likes a moaner, but if you are pleasant and approach the problem with a smile, you are likely to get a lot further than you will with a series of scowls over the fence and nasty notes through the letterbox.

Meet in the middle

If the polite approach does not work, you may need to get a third party involved.

The cheapest way is mediation. Most Local Authorities have a Specialist free service for boundary disputes. You can get in touch with them via your Local Community Safety Partnership, or Citizens Advice Bureau. They will invite both you and your neighbour along to a meeting where both sides can air their grievances and hopefully help you both negotiate a mutually acceptable solution.

Court in the middle

Unfortunately, if the boundary dispute has gone too far for mediation, you will need to instruct a Solicitor to assist.

You will need a Specialist Property Litigation Solicitor, who can help you to prove that your neighbour is ignoring your property rights.

The final line of defence is an Injunction (a Court Order) to stop your neighbour from doing whatever it is that is illegally affecting your boundary.

BUT you will only be able to get the Courts to find in your favour if you have not been the cause of OR provoked the problem in the first place.

So make sure you stick strictly within the Law and do not aggravate the situation because moving house to escape the neighbours is not a cheap option and legally, when you sell your property and provide the Property Information Form to your Buyer's

Solicitors, the fact that you have had a neighbour dispute may well put off a future Buyer. Why would a Buyer wish to inherit from you a nuisance neighbour, when they can buy a property without any prior neighbour disputes? So remember, it costs nothing to be polite and neighbourly and it is likely to work in your favour in the long run. Talk politely and sensibly as regards any queries and ALWAYS do your homework, to check out your title deeds and plans to see what rights you have legally, prior to speaking to your neighbours, as regards any boundary situations.

If you need further help, contact me or my colleague David Helman on **01288 35 9000**.

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