

6 September 2019

Dear Kirklees Council Planning,

RE: Planning Application 2019/62/91837/W: Boundary between 18 and 20 Forest Road

In reply to the Surveyor's email dated 22 August 2019, which compares on-site measurements with measurements scaled-up from the land registry title plan boundaries and the Ordnance Survey (OS) 1250 MasterMap, and concludes that the boundary between 18 and 20 Forest Road on their latest plans is correct, I refer you to the following information highlighting the inadequacy of this approach.

I make three points in this letter:

1. There is a key difference between a General Boundary and a Legal Boundary.
2. There are legislative and measurement limitations of Land Registry and OS map data. Consequently, using scaled-up measurements taken from Land Registry and OS maps to define distances between legal boundaries in the real world is not a valid nor accepted approach.
3. There is a valid and accepted method of defining legal boundaries – using relevant physical features in the real world.

I then draw conclusions, relating the evidence to the boundary between 18 and 20 Forest Road.

1. The Key Difference between a General Boundary and a Legal Boundary

The Land Registry and the OS draw an important distinction between a 'general boundary' and a 'legal boundary'

A **general boundary** is "the boundary of a property in relation to a given physical feature on the ground such as a wall or hedge as identified on the Ordnance Survey map."

A **legal boundary** is "the precise separation of ownership of land. It is an invisible line dividing one person's land from another's. It does not have thickness or width."

2. Legislative and Measurement Limitations of Land Registry and OS maps

Neither the Land Registry's maps nor the OS's maps can be used to show the position of legal boundaries.

The Land Registry is required by Section 60 of the Land Registration Act, 2002 to show **only general boundaries, not the exact legal boundaries**. [The Land Registry website](#) states this explicitly:

"If you live in England or Wales, there's usually no record of:

- the exact boundary between two properties
- who owns the hedge, wall, tree or fence between 2 properties

You can get an **idea** of where the boundaries for your property are by looking at its title plan. **Most title plans don't show exact boundaries.**"

In agreement, the [Ordnance Survey](#) states that Land Registry plans cannot identify the exact location of a boundary:

"The red edging on a HM Land Registry title plan is not definitive as to the precise position of the boundaries. For this reason official copies of title plans carry the following warning: **'This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground.'** This is a clear statement that HM Land Registry is unable to tell you precisely where a property boundary is located."

This is acknowledged by [the Royal Institution of Chartered Surveyors \(RICS\)](#):

"Land Registry title plans usually show only general boundaries. As a result **it is not possible to identify the precise position of the legal boundary from the register and title plan.**" (RICS professional standards, page 8, paragraph 5).

In regard to the legal boundary, the [Ordnance Survey property boundaries webpage](#) states:

"The legal boundary usually, but not always, falls somewhere in or along a physical boundary feature such as a wall, fence or hedge. The exact positions of the legal boundaries are almost never shown on registered title plans and are not shown on Ordnance Survey maps."

Even though OS maps do not contain boundary information, Section 12 of the Ordnance Survey Act, 1841, nevertheless states that OS maps "shall not extend, or be deemed or be construed to extend, to **ascertain, define, alter, enlarge, increase or decrease, nor in any way to affect, any Boundary or Boundaries of any Land or Property**".

In regard to the OS's maps, the [Land Registry states](#):

"Utilising their standard surveying and mapping processes, it is not possible for Ordnance Survey to replicate the exact position of each physical feature on the ground."

It is for these reasons that [OS](#) explicitly state:

“It is not possible to be sure of the position of a legal property boundary from our maps.”

In 2013, OS published a large scale analysis of the accuracy of their maps, based on more than 40 years of accuracy testing. They found that for their 1:1250 scale maps there is only a 68% statistical confidence that any line, point or area is within **40cm** of the true location. The 95% statistically significant confidence interval – the benchmark for accuracy in statistics - is at **90cm**. This means that they are 95% confident that any line, point or area on their 1:1250 maps is only accurate within 90cm (See [OS Product support](#) (Under the sub-heading: ‘How accurate are your products?’), see also: [Using OS maps](#)).

This inaccuracy invalidates the method of scaling-up their maps to prove distance or the precise geographical location of any feature. The [Land Registry](#) specifically dismisses this methodology and points out two further problems with the approach:

“Measurements scaled between features shown on Ordnance Survey mapping may not exactly match the actual distance measured between the same features on the ground. Different levels of accuracy apply dependent on the scale of the map and the original survey method used to create it. As a general guide, the width of a line on a 1:1250 Ordnance Survey map roughly represents 0.3 metres on the ground ... It is for these reasons that HM Land Registry is unable to provide scaled measurements from title plans or from Ordnance Survey mapping. Where an Ordnance Survey map has been enlarged from its original scale, the degree of accuracy remains the same as the original map specification ... It should be noted that copying, reducing or enlarging a plan is likely to distort its accuracy.”

The [boundary problems website](#) also dismisses the methodology and points out another problem with this approach:

“Whilst Ordnance Survey maps enjoy a worldwide reputation for accuracy, it is very unwise to attempt to measure distances from them in order to scale those distances up and to set out on the ground the theoretical position of the boundary. One reason for this is that any error you make in measuring distances on the map is magnified by the scale of the map when you set it out on the ground. So if you make an error of half a millimetre (one-fiftieth of an inch) in measuring on a 1:1250 scale map, you will produce an error of 625 mm (about 2 feet) on the ground.”

3. Defining the legal boundary

The dry stone wall

I argue that the legal boundary is marked by the dry stone boundary wall which was built to mark the boundary, regardless of its alleged ownership. This marks the **legal boundary** between 18 and 20 Forest Road. Where it is missing at the front, a straight line should be drawn from that point to the

street, following the same angle as the wall.

This approach is endorsed by [Ordnance Survey](#) (Under the sub-heading: ‘What feature does the line on the map represent?’):

“The general boundaries rule means that the line on the map may not be the legal boundary. It is the position of the actual feature on the ground, not the position of the line on the map that is important in attempting to trace the position of the legal boundary.”

Evidence of ownership of boundaries

In regard to ownership of a boundary wall, fence or hedge, OS states:

“If ownership or maintenance is important to you, you may, for example, need to talk to neighbours and/or previous owners. We cannot provide information on either property extent or land ownership.” ([Ordnance Survey](#) (Under the sub-heading: ‘What is the difference between a Physical Boundary and a Legal Boundary’))

My property’s **Property Information Form states that I am responsible for the 18-20 Forest Road boundary** and the owner of 22 Forest Road is responsible for the 20-22 Forest Road boundary

In addition, I have freehold

ownership of 20 Forest Road

whereas the applicant owns a lease for 18 Forest Road

The boundary plan for 16 Forest Road states that the owner of 18 Forest Road has shared responsibility for the 16-18 and 16-14 Forest Road boundaries

The garage and more modern retaining wall adjacent to the dry stone wall at 20 Forest Road were built around 1981 when planning permission for the garage was granted (ref: 81/62/05026/B1), and so have been in place without dispute for around 38 years.

4. Conclusion

In regard to the planning application, my objection is entirely reasonable. I seek assurance that development **will not encroach onto my land as marked by the dry stone boundary wall and that this boundary wall will not be damaged by the building work.**

In later versions of the boundary maps, amended from the initial versions ([File reference 743953](#)) and ([File reference 747266](#)), the applicant met these assurances by situating their boundary line on the boundary wall. I replied as such on the 16 April 2019 ([File reference 744729](#)), withdrawing my objection of where the boundary line was situated on their plans. I was therefore very surprised the boundary had been moved yet again, with no explanation.

The Surveyor now assures you that the legal boundary is accurate on the plans this time because on-site measurements have been taken and compared to measurements scaled up from the **general boundary** lines on the land registry title plan. Measurements and calculations are not provided in

sufficient detail to check that this was undertaken accurately. Even if the measurements and scaling up have been undertaken accurately, this approach is not endorsed by Land Registry, OS nor RICS.

Land Registry and OS clearly state that their maps are not suitable for defining the legal boundary between two properties and this is decreed in legislation and acknowledged by RICS.

I argue that the legal boundary between 18 and 20 Forest Road is marked by the dry stone wall and have shown that this approach is endorsed by OS and is consistent with my property's legal documentation.

Please contact me if you need any further information on any of the contents of this letter.

Yours faithfully