Ownership of land is defined by plans. Plans prepared for all property transactions including land sales, leases and applications to the Land Registry ("deed plans") must be accurate and definitive.

The Land Registry uses deed plans to prepare its own ownership ("title") plans based on the Ordnance Survey definitive large-scale digital map data. For this reason, with the coming into force next month of the Land Registration Act 2002 ("LRA 2002"), the Land Registry has laid down new detailed guidelines for deed plans, to ensure that they contain all the requisite information and exclude disclaimers or extraneous information which might lead to confusion.

Plans prepared for other purposes, e.g. architectural or engineering drawings, are frequently not suitable because they may contain extraneous information or because the scale is often too large.

A deed may be rejected by the Land Registry for reasons which include where deed plans:-

- do not enable the Land Registry to identify the boundaries clearly on the OS map, or
- bear any disclaimer or any statement that the plans are for identification purposes only, or
- have been reduced in size but still bear the scale endorsement of the original (larger) copy.

This could have serious consequences for a client, who could fail to obtain good title to the land for which it has paid.

Guidelines for Deed Plans

- show orientation (for example, a north point)
- use a metric (not imperial) scale and state the scale. Preferred scales are 1/1250 - 1/500 for urban properties and 1/2500 for rural properties
- do not reduce in size from the original scale plan
- do not mark or refer to as being for "identification only"
- do not show statements of disclaimer used under the Property Misdescriptions Act 1991
- show sufficient detail for the boundaries of the property to be identified on the Ordnance Survey map. Show its general location by showing neighbouring roads, road junctions or other landmarks
- show buildings in their correct (or intended) position
- show access drives or pathways if they form part of property boundaries
- show the land and property clearly (see Colouring Conventions below) and have edgings of a thickness that does not obscure any other detail
- show separate parts by suitable plan markings (parking space, dustbin space)
- identify different floor levels (see Additional Plans for Leases and Colouring Conventions below)
- show intricate boundaries with a larger scale or inset plan
- show measurements in metric units only, to two decimal places. Marked measurements should correspond to scaled measurements
- accurately show boundaries which do not follow physical features, preferably by plotting a dotted line and, where necessary, by reference to measurements
- generally comply with BS 1192 Part 1 (British Standard for Construction Drawing Practice)
Additional Plans for Leases

Leases often contain more detailed larger scale plans, e.g. floor plans identifying which part of the floor is included in the let premises. These larger scale plans are still important, but from now on leases must contain an additional plan, complying with the Guidelines for Deed Plans above, to enable the Land Registry to identify the premises (not just the building) on the OS map. If the extent of the premises is different at different floor levels, an additional plan will be required for each floor level, each showing the land at ground level overlaid with a line identifying the extent of the premises on the relevant floor.

Property Descriptions

In addition to plans, many aspects of the modern conveyancing process require a full postal address. Wherever possible, please supply:
- building name
- building number. Where the property includes several buildings numbers (e.g. 7 - 11 (odd nos), please provide all the numbers.
- road name
- locality or estate
- town
- local authority
- postcode. If the property spans several postcodes, please provide all the postcodes.

Colouring Conventions

The Land Registry uses coloured lines, tinting and hatching to denote the boundary of a property and areas or physical features having legal significance. It applies the conventions in BS1192 Part 3 (the British Standard for Construction Drawing Practice). Where possible these conventions should be adopted for deed plans. Practice varies as to whether the colouring is added to deed plans by legal or property professionals.

<table>
<thead>
<tr>
<th>Boundary of Property</th>
<th>Red edging following the inside of the line marking the physical boundary or the plotted line of a non-physical boundary</th>
</tr>
</thead>
<tbody>
<tr>
<td>An island of land</td>
<td>Green tinting (or green hatching)</td>
</tr>
<tr>
<td>Right of way over</td>
<td>Blue tinting (or blue hatching)</td>
</tr>
<tr>
<td>the property for use by others</td>
<td></td>
</tr>
<tr>
<td>Right of way across other land and serving this property</td>
<td>Brown tinting (or brown hatching)</td>
</tr>
<tr>
<td>Route of specific drainage rights</td>
<td>Coloured broken line. The descending order of preference of colours is blue, yellow, brown, mauve.</td>
</tr>
<tr>
<td>Extent of premises at different floor levels</td>
<td>Blue tinting</td>
</tr>
<tr>
<td>Other features and areas having legal significance</td>
<td>Edging, hatching or tinting in a colour not already used. The descending order of preference of colours is pink (use for tinting only), blue (unless already used), yellow, brown (unless already used), mauve. Black and green should not be used.</td>
</tr>
</tbody>
</table>

NB: Bear in mind the suitability of the plan for photocopying in colour.
Fixing Precise Boundaries

English land law, dating back to the middle ages, has a legacy of imprecise boundaries, and even rules of law whereby certain boundaries (e.g. those formed by a natural non-tidal river or stream) move with the natural movement of the physical feature. Even with the Land Registry’s new guidelines for plans, most plans will be at too small a scale to denote the boundary with any degree of precision. For this reason, most land is registered with general boundaries only, meaning that other evidence, such as inspecting the physical boundary features, and legal rules, may be relevant to determine the precise boundary. Plans conforming to the above guidelines are sufficient for the Land Registry to plot general boundaries.

The LRA 2002 now encourages the fixing of precise boundaries (“determined boundaries”), which give a degree of protection against encroachment by an adjoining owner. Boundaries can be “determined” on the application of a landowner if he establishes certain grounds or if the adjoining owner does not object.

Determined boundaries can also be registered on the initiative of the Land Registry when registering a transfer or letting of part of a property, if the deed plans contain sufficient information. This might be because the deed plans are particularly detailed or include National Grid co-ordinates. The Land Registry has issued guidelines on the detail it requires in order to fix a precise (“determined”) boundary.

A land owner or mortgagee who receives notice that a neighbour has applied to determine the boundary has only a short period to object, (normally until 12 noon on the twentieth business day after the date of issue of the notice). Failure to object in time will result in the boundary being determined in accordance with the neighbour’s application.

The effect of having a determined boundary is:

- to fix the precise legal boundary, outsting other evidence and legal presumptions, and
- to prevent an adjoining owner who encroaches over the determined boundary from acquiring the land on which he encroaches by adverse possession in the reasonable belief that he owns it. (Registering a determined boundary does not prevent loss of title by adverse possession on one of the other grounds.)

### Plans to Fix a Determined Boundary

The Plan should:

- identify the start, end and any turning points of the determined boundary
- draw the boundary accurately and to a stated recognised scale, generally no smaller than 1/200
- have measurements which are both precise and accurate to 10 mm and should be taken horizontally from at least two defined points on a surrounding permanent feature (i.e. a physical feature which it is reasonable to assume will remain in position for at least 10 years and which is not subject to natural growth or decay). The measurements must be from precise points on the physical features, e.g from corners of buildings
- show the specific relationship of the boundary to a physical feature, for example on which side of the feature the boundary line runs or through which point on the feature it passes.
- include only information and detail that is relevant; superfluous information should be excluded
- be no larger than A3 size (if necessary more than one plan can be used)
- where National Grid co-ordinates are used (which is optional) be precise to 10 mm and be to a relative accuracy of 10 mm and absolute (positional) accuracy of 300 mm. They must be recorded as a set of 2 eight-digit metric numbers with the Eastings first, e.g. Easting (m) 652,968.97, Northing (m) 303,713.39
- be endorsed by a chartered land surveyor or other suitably qualified professional as follows: “I certify that the measurements as shown on this plan are accurate to 10 mm” If National Grid co-ordinates are shown, the certificate should continue “…and that the National Grid co-ordinates shown have a relative accuracy of 10 mm and an absolute (positional) accuracy of 300 mm”
Further Information

This commentary is a publication of Jones Day Gouldens. The contents are for general informational purposes only and are intended to raise your awareness of certain issues (as at September 2003) under the laws of England and Wales. This commentary is not comprehensive or a substitute for proper advice, which should always be taken for particular queries. It may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at its discretion. The mailing of this publication is not intended to create, and receipt of it does not constitute, a solicitor-client relationship.

If you have any queries in relation to the Land Registration Act 2002 or any of the above, please get in touch with your usual Jones Day Gouldens contact or:

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