

[2025] UKFTT 00834 (PC)



REF/2024/0350

**PROPERTY CHAMBER, LAND REGISTRATION DIVISION
FIRST-TIER TRIBUNAL**

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY

BETWEEN

ROSALIND JOYCE RITSON

Applicant

and

JEANIE ANDREA PAMELA SHIELD

Respondent

**Property Address: (1) Sandypath Cottage, 1 Shotley Grove, Shotley Bridge,
Consett, DH8 8SD**

**(2) Land on the south-east side of Shotley Grove Road,
Shotley Bridge**

Title Number: (1) DU226069 (2) DU292349

Before: Judge Laura D’Cruz

Sitting at: North Shields County Court & Family Court

On: 11th March 2025

Representation: Abigail Cheetham of Counsel, instructed by Hay & Kilner LLP, for the Applicant; the Respondent appeared in person, assisted by her son

DECISION

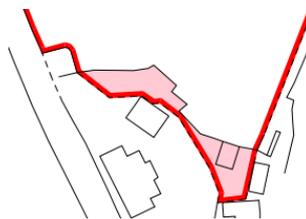
1. The matter that has been referred to the Tribunal is the Applicant’s application for alteration of the register, to remove a parcel of land from the Respondent’s title and add it to her own title (“the Disputed Land”).

2. The Applicant is the registered proprietor of Sandypath Cottage, 1 Shotley Grove, Shotley Bridge, Consett, DH8 8SD, registered under title number DU226069 (“Sandypath Cottage”). An extract from the title plan is below.



Sandypath Cottage

3. The Applicant’s case is that she and her husband (who has since passed away) purchased Sandypath Cottage from Alan and & Teresa Cartmell by a conveyance dated 14th January 1983 (“the 1983 Conveyance”), with the Cartmells retaining the land that now forms the Respondent’s title. It was first registered on 13th February 1999.
4. The Respondent is the registered proprietor of Land on the south-east side of Shotley Grove Road, Shotley Bridge, registered under title number DU292349 (“the Land”). The Land is a large area to the north and west of Sandypath Cottage. This matter only concerns its southern boundary; the relevant part can be seen on the Notice Plan extract set out further below.
5. The Land was first registered on 14th July 2006. The Respondent purchased the Land from Anthony Cartmell & Christine Louise McArdle, the children of Alan & Teresa Cartmell, by a transfer dated 25th June 2021, and was registered as proprietor on 5th July 2021.
6. The Disputed Land is shown on an extract from the Notice Plan produced by HM Land Registry below. This is one parcel of land, albeit very narrow in the middle.



Notice Plan

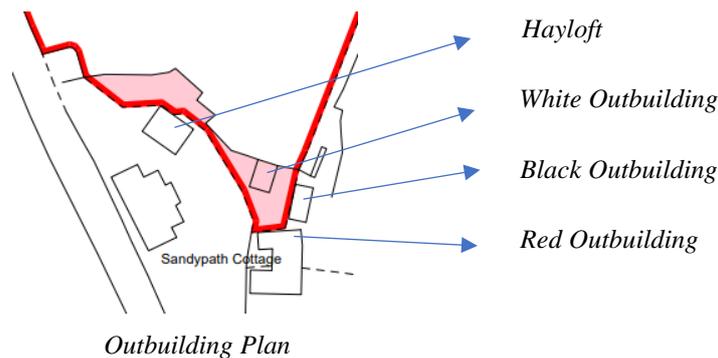
7. I note for completeness that the original application included a further parcel of land along the eastern boundary of the Applicant’s title to the north of the Disputed Land, but HM Land Registry was not satisfied that that part of the application should proceed as it was not supported by undisputed possession. Also, the small square area to the west of the Applicant’s title is unregistered land which is not (and never was) part of the application.

8. The photograph below illustrates the area of the Disputed Land, which I was able to see myself on a site visit. This view is looking east across Sandypath Cottage. From left to right, it is possible to see a field entrance (“the Field Entrance”), a tarmac driveway leading to the rear of Sandypath Cottage (“the Driveway”), a driveway used for parking adjacent to the house, and the house itself (“the House”). To the top right, some outbuildings are visible.



Aerial Photograph

9. The Applicant’s case is essentially that the Driveway was part of the land conveyed to her and her husband in 1983, and that there is a mistake on the register as the title plans do not reflect this.
10. The Respondent avers that the Driveway, and indeed three of the outbuildings to the rear of Sandypath Cottage, are part of the Land that she purchased in 2021. As was explained during the hearing, only one of these – the White Outbuilding – falls within the Disputed Land; the others are within the Applicant’s registered title.

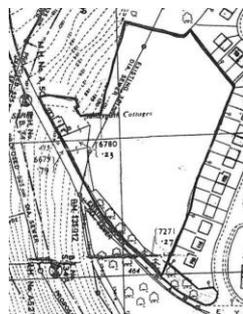


Outbuilding Plan

Mistake

11. The first issue to determine is whether there is a mistake on the register. This begins with a consideration of the boundary between the two titles, which can then be compared to the title plans.
12. As to the boundary between the two titles, the Applicant’s case is that this was created when the Cartmells conveyed part of their land to the Applicants by the 1983 Conveyance.

13. I note for completeness that the Applicant relies on a desktop report from Mr Lorimer, who concludes that the 1983 Conveyance Plan is the “*overriding plan*”. I do not consider that this report really adds anything – it is an analysis of the documents that the Tribunal is well able to conduct for itself, rather than providing any expert surveying evidence. The following is my own analysis, without reliance on the report.
14. The 1983 Conveyance describes the property conveyed as “ALL the property described in the Schedule”, with the Schedule stating as follows: “FIRSTLY ALL THAT piece of land with dwellinghouse and premises erected thereon situate and known as Numbers 1 and 2 Sandypath Cottages Shotley Bridge Consett in the County of Durham more particularly described in a Conveyance dated the 1st day of December 1970... and SECONDLY ALL THAT piece of land adjacent to the property firstly described containing approximately 2¼ acres or thereabouts more particularly described in a Conveyance dated 18th July 1974... ALL of which land firstly and secondly described is more particularly delineated on the plan attached hereto and thereon coloured round with red”. Copies of the 1970 & 1974 conveyances are not available.
15. An extract from the plan attached to the 1983 Conveyance is below left. A colour copy is not available. However, two days ahead of the 1983 Conveyance, Alan Cartmell provided a statutory declaration, attached to which was a plan which is available in colour, extract below right.



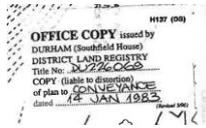
1983 Conveyance Plan



1983 Statutory Declaration Plan

16. The statutory declaration effectively confirms that Alan Cartmell believed he was the paper title owner of the land edged red, having purchased the cottages in 1970 and adjacent land in 1974. This reflects the verbal descriptions of the land conveyed in the 1983 Conveyance. I also bear in mind that the two documents are only two days apart. It seems to me more likely than not that the 1983 Statutory Declaration Plan is substantively the same as the 1983 Conveyance Plan.
17. The Respondent, however, contests these documents. In relation to the 1983 Conveyance Plan, she avers that it was not a plan that had anything to do with conveyancing, but rather was a plan to do with water. It is right that there are lines on the 1983 Conveyance Plan labelled existing sewer and proposed sewer, but that does not mean that it is not the 1983 Conveyance Plan. It closely matches the 1983 Statutory

Declaration Plan, which is consistent with it being the 1983 Conveyance Plan. Perhaps most importantly, the copy provided is stamped as below.

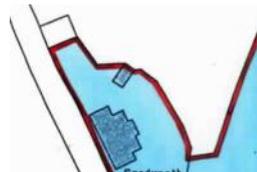


Stamp

18. I note for completeness that the register for Sandypath Cottages records that the land tinted blue on the title plan has the benefit of rights contained in a deed from 1939, supplemented by an agreement from 1953. Both the deed and the agreement were provided in the bundle. They relate to a private water system, which might explain the Respondent's references to the same.
19. I am satisfied that the 1983 Conveyance created the boundary between the two titles, and that the 1983 Conveyance Plan is its plan.
20. Below are close ups of the 1983 Conveyance Plan and the title plan to Sandypath Cottage. It is obvious that they do not show the same boundary line.



1983 Conveyance Plan close up



Title Plan close up

21. However, the Applicant is not applying to alter the register so that it completely matches the lines on the 1983 plans, as can be seen by a comparison of the plan extracts below.



1983 Conveyance Plan close up



Notice Plan close up

22. Rather, she argues that the boundary follows the line of the fence that is currently in situ along the northern boundary of the Disputed Land. Below is an extract from a photograph from HM Land Registry's survey, showing the turns in the fence opposite the Hayloft, which can just be seen on the right hand side.

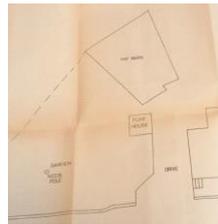


Fence Photograph

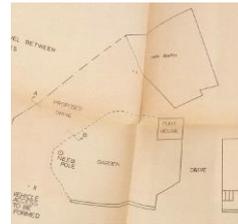
23. The Applicant's evidence is that there was no boundary feature along this line when they purchased Sandypath Cottage. The Driveway did not yet exist, nor was there any access to the road. She says that she and her husband put in a fence along this line to mark the new boundary, and that, nearer the entrance to the Driveway, it was a wall rather than a fence. They installed the Driveway shortly afterwards, reducing the size of the Hayloft so that the Driveway could continue round towards the other outbuildings.

24. The following evidence is consistent with this:

- (a) a statutory declaration made by the Applicant's husband in 1999, in which he states, "*The land when we purchased it was completely fenced and we have maintained the fencing during the whole period of our ownership*";
- (b) plans relating to planning permission for the Driveway, which confirm the absence of access point and the relative position and size of the Hayloft (the pole is still in situ and provides a useful reference point);



Before



After

- (c) an undated, but historic, photograph which mirrors the Fence Photograph above.



Historic Photograph

25. There are also two objective considerations that support the Applicant's position:

- (a) it makes sense that a fence would have been erected to mark the boundary between Sandypath Cottage and the land retained by the Cartmells. Insofar as it might be argued that the boundary is marked by fencing to the other side of the Driveway/Disputed Land, it is notable that the fencing is not complete and includes a well-established access point down to the rear of the House, which is consistent with the Disputed Land forming part of Sandypath Cottage;

- (b) it does not make sense for the title to Sandypath Cottage to include the entrance to the Driveway, but not the part of the Disputed Land behind the House (near to the outbuildings). As the title plans are now, the Respondent would have to cross part of Sandypath Cottage to access the area behind the House from the road. Moreover, there is no obvious demarcation as to where on the Driveway the title of Sandypath Cottage ends. The Respondent does have access to the Land using the Field Entrance.
26. There are several points taken by the Respondent in response. Firstly, she relies on a letter from Mrs McArdle (daughter of the Cartmells) to HM Land Registry, which states that at no point to her knowledge was a parcel of land including a driveway and buildings included in the property sold to the Applicant and her husband. It is not a witness statement supported by a statement of truth. Mrs McArdle did not attend to give evidence. The letter is very brief and the basis and extent of her own knowledge of the land is not explained. It is not persuasive evidence.
27. Secondly, although it did not strictly come out in formal evidence, the Respondent's son Curtis Shield maintained that the Hayloft had never been any bigger. Neither the Respondent nor her son claim to have any direct knowledge of Sandypath Cottage or the Land prior to recent years, and so have no basis for contradicting the Applicant's evidence that the Hayloft was reduced in size in the 1980s.
28. Thirdly, the Respondent avers that there was no fence along this line when she viewed the Land prior to her purchase, and that it has been installed in the last few years. The Applicant's response to this in cross examination was that there has always been a fence in this position – the current fence is a replacement fence, and indeed the previous fence may not have been visible due to vegetation. This strikes me as a plausible explanation for the apparently conflicting evidence.
29. Finally, the Respondent avers that the Applicant cannot be correct because of things that have been said recently that run counter to her position. One is that, during a conversation shortly after the Respondent purchased the Land, the Applicant's husband referred to "*grandad rights*", which I understand to refer to what is commonly known as squatters' rights, or adverse possession. The other is that there was a discussion between the parties in which the Applicant talked about buying the Disputed Land, which she would not need to do if she already owned it (there was some discussion about whether this was without prejudice, but ultimately the Applicant did not object to me watching a video of part of it).
30. It seems to me that these statements show nothing more than that (a) the Applicant's husband may not have been entirely sure of the strict position according to the plans, but did know that he had been in possession of the Disputed Land for some time; and (b) the Applicant was aware of the possibility of litigation and was willing to at least consider taking a commercial view of the situation.

31. For all of the above reasons, I am satisfied that there has been a fence in the same position as the current fence since shortly after the Applicant and her husband purchased Sandypath Cottage.
32. I am also satisfied that the wall and fence mark the boundary between the properties. Insofar as there is a discrepancy between this and the 1983 Conveyance Plan, and bearing in mind that there was no boundary feature on the ground at the time of the 1983 Conveyance, I am satisfied that the erection of the wall/fence without any dispute from the Cartmells amounts to a boundary agreement fixing the boundary along the line of the wall/fence. Alternatively, the Applicant can rely on 12 years' adverse possession prior to first registration in 1999.
33. I am therefore satisfied that there is a mistake on the register.

Alteration

34. Applications to alter the register are governed by Schedule 4 of the Land Registration Act 2002. Paragraph 5(a) provides a discretion to alter the register to correct a mistake. How that discretion should be exercised depends on whether it is a case of rectification or not.
35. Rectification is a type of alteration which involves the correction of a mistake *and* prejudicially affects the title of a registered proprietor (Schedule 4 paragraph 1). Although it is a subset of alteration, it is common to refer to them as alternatives.
36. It is important to have in mind that HM Land Registry's plans show general boundaries only; filed plans do not show exact boundary lines (Land Registration Act 2002 section 60). This means that, perhaps slightly counterintuitively, removing land from a registered title plan does not always prejudicially affect the title of a registered proprietor – it may not actually take anything away from them, but rather record the position of their boundary, according to the title documents, in a more accurate position that it was before [see *Derbyshire County Council v Fallon* [2007] EWHC 1326 (Ch)].
37. It seems to me that this is such a boundary dispute. The Disputed Land is a relatively small area of land along the boundary. If the Respondent's title is to be altered, it is not to take away land that properly falls within her title, but to better record the boundary. I therefore find that this a case of alteration rather than rectification.
38. Pursuant to Schedule 4 paragraph 1, there is a discretion whether to alter the register for the purpose of correcting a mistake. Paragraph 6(3) provides that, in rectification cases, if there is the power to make the alteration, the application must be approved, unless there are exceptional circumstances which justify not making the alteration. The same approach should be applied where the alteration does not amount to rectification [see again *Derbyshire County Council v Fallon* [2007] EWHC 1326 (Ch)].

39. Guidance as to the meaning of exceptional circumstances was given in *Paton and another v Todd* [2012] EWHC 1248 (Ch). There are two questions to consider: firstly, are there exceptional circumstances; and secondly, do those exceptional circumstances justify not making the alteration. Exceptional has its ordinary meaning, that is to say, out of the ordinary course, or unusual.
40. Exceptional circumstances was not something that had been addressed by the Respondent in her statement of case or her witness evidence. However, in closing, she said she would not have bought the Land if it did not include the Outbuildings – she has constructed a barn at the other end of the Land, and hopes to do so here, and it is easier to get planning permission if there is already a building there. She said she thought the Disputed Land was derelict.
41. I do not consider that a mistake as to the extent of the Land amounts to exceptional circumstances. Title plans show general boundaries only. Moreover, the title plans as they are now do not make sense, as noted above. The fact that the Respondent considered the Disputed Land (and indeed the other Outbuildings) to be derelict does not affect this.
42. I am satisfied that the register should be altered.

Conclusion

43. For the reasons given above, I shall direct the Chief Land Registrar to give effect to the original application of the Applicant dated 21st November 2022 for alteration of the register to remove the Disputed Land from the Land and include it in Sandypath Cottage.
44. Ordinarily, the unsuccessful party will be ordered to pay the costs of the successful party: see rule 13(1)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and paragraph 9.1(b) of the Practice Direction. Here, that would mean an order that the Respondent pay the Applicant's costs. My preliminary view is that the Respondent should pay the Applicant's costs of the proceedings (from the date the matter was referred, that is, 15th May 2024), to be summarily assessed if not agreed. An inability to pay is not a good reason not to make a costs order.
45. Any application for costs should be sent to the Tribunal and the other side by 5pm on 30th June 2025, and should include an estimate of the amount of costs sought. Further directions will then be given as appropriate.

Dated this Monday 2nd June 2025

Laura D'Cruz

BY ORDER OF THE TRIBUNAL

