

STEP 5

MAPPING THE ASSET

This guide outlines why and when mapping of a proposed community owned asset is needed.

You will also find an overview of some of the main considerations to bear in mind when co-ordinating the mapping exercise.



MAPPING IS IMPORTANT FOR ALL PROPERTY ACQUISITIONS TO BE SURE THAT YOU KNOW EXACTLY WHAT IS BEING ACQUIRED, BOTH ON THE GROUND AND IN TERMS OF ANY AREAS OF RESTRICTIONS OR BURDENS. THIS IS PARTICULARLY VALUABLE FOR ESTATES AND OTHER LARGE AREAS OF LAND.

WHAT DOES MAPPING INVOLVE?

Mapping is the process of identifying the extent of the land to be acquired. This involves clarifying its boundaries and identifying any areas subject to specific rights, burdens or restrictions. It also entails matching what is in the title deeds with what is on the ground and on any maps used in acquisition negotiations.

If the property has not previously been registered in the Land Register, mapping makes applying to Registers of Scotland (RoS) a quicker and simpler process. First registration requires a satisfactory description and plan so that the area being acquired can be accurately identified on an Ordnance Survey (OS) map. Once title is confirmed by RoS and entered into the Land Register, the legal ownership of the land is protected from future challenge.

Knowing the exact location of boundaries and areas subject to wayleaves, designations or restrictions also has ongoing benefits including:

- Making conveyancing cheaper and simpler for any subsequent sale of parts of or all of the land.
- For decrofting.
- Effective and efficient management of larger areas of land and estates.

WHEN SHOULD YOU GET THE MAPPING DONE?

The mapping is part of the conveyancing process but will also continue after the conveyancing has been completed (see 'Conveyancing'). Once the transfer happens then your group's solicitor applies to RoS to register the title. This is the point at which anomalies in the deeds may become apparent and they will need to be looked at in detail to try and get them resolved. However, identifying potentially significant anomalies before the sale is concluded minimises surprises or mistakes.

WHAT SORT OF ISSUES MIGHT BE DISCOVERED?

Potential issues and anomalies will depend on the asset being purchased and could include:

- The peripheral boundaries of the property may be disputed.
- The quality and accuracy of the plans submitted may be poor or insufficient for RoS
- The legal extent of the title does not match the area of land actually occupied.
- Properties sold out of the original title ('island properties' that have been 'split off') that have not been clearly recorded in the deeds so the extent of what has been sold previously is not clear. This could include house plots or crofts within an estate that have been sold.
- Rights or burdens attaching to the land, which may facilitate, restrict or prevent future development.

Investigating these issues can become complex due to historic changes in ownership/topography and previous inaccurate or vague mapping.

WHERE AND WHEN YOU CAN GET HELP

If you are purchasing a large or complex estate it is worth using the Plan Assistance Service (PAS) run by RoS, or other mapping support services, before the conveyancing process starts. This will give you an idea of the extent of the potential anomalies. The Service will look through the title deeds and identify where there might be issues. This information then informs the amount of work that needs to be done post registration.

You need to obtain the following documents from the seller:

- Owner's name.
- Copy of the Original Title Deed for the Estate (the Register calls this the Major Area Deed).
- Information on all properties sold out of the estate (called 'split offs') – ideally copies of the Deeds if the estate has them as the RoS will charge for obtaining copies. If copies of the Deeds aren't available then you must provide dates and the parties to the Deed.
- Any properties sold from the estate by the seller since registration in the Land Register became compulsory. In these cases the sales will have Title Certificates and the RoS only needs the Title numbers.

You can then ask the PAS to:

- Confirm if the Estate is identifiable on the OS map.
- Confirm if the split-offs are identifiable on the OS map.
- Identify any anomalies such as competing titles or irregular boundaries.

PAS will review the documents and provide an estimated cost for looking at the above issues. Their work will identify the Title issues that need to be dealt with, from which a brief and costing can be developed for post-acquisition mapping costs. They are happy to discuss commissions in advance by phone.

During the period while the anomalies are being sorted out, the seller will usually give you some form of obligation for a period that they will assist with sorting these matters out. However, you will still have to do or organise the majority of the work as it is in your interests to obtain a guarantee of Title from the RoS.

FOR FURTHER INFORMATION PLEASE SEE

www.hie.co.uk/ten-steps

or contact us on community.assets@hient.co.uk

