

Do stated dimensions take precedence over scales and other features on a Transfer Plan?

The importance of accurate contract plans cannot be over-emphasised. Though many may feel that the costs and time delays of a land surveyor are not necessary in preparing contract plans spare a thought for the parties in the case of *Cook v JD Wetherspoon Plc*.

In this case, recently decided at the Court of Appeal, a dispute arose over the area of land transferred to the Developer and retained by the owner. In the Transfer the land transferred was "defined on the attached plan and edged red". The plan to the Transfer was a copy of an OS plan with a scale at 1/1250. It was not based on the latest version of the registered title.

The dispute arose as to the extent of the Retained Land. On the Transfer the Retained Land was stated as being measured at 40 feet. However, the scale and one topographical feature represented by a line on the Transfer plan suggested that the Retained Land was 30 feet.

The County Court ruled that the Retained Land was 30 feet. Cook appealed stating that the dimensions on the plan should take precedence over any scaling or lines or topographical features on the plan. The Court of Appeal dismissed the appeal and supported the earlier ruling

The decision confirms that as far as the courts are concerned there is no rule to say that dimensions stated on the plan have precedence over scaling or other topographical features from a plan or visa versa.

The Transfer which lead to the dispute was dated 20th March 2000. No doubt the parties having spent 6 years in litigation would on reflection felt that accurate plans would have been a worthwhile investment from the outset.

If you wish to discuss the issues above further in relation to your particular circumstances please contact Tim Hardesty on 01276-686222