



## Legal Corner



**Q: What are my rights if I want to prevent my neighbour from either extending his property or, worse, building a house in his garden?**

**A: Howard Gardener, solicitor specializing in disputes and family law at Phillips, answers:**

‘There is neither a quick nor an easy answer to this I’m afraid,’ says Howard Gardener, solicitor specialising in disputes and family law at Phillips ‘but going to court should always be a last resort. You may have heard of a ‘restrictive covenant’ which is a promise not to do something on land for the benefit of other land, but the law is extremely complex. For example, if you have a covenant that was entered into by a former owner of your house, you must prove that you own the land and the benefit of the covenant must have passed to you.

So the first thing to do is to examine your deeds and establish that your covenant is still valid, that it has been correctly registered and is genuinely restrictive in nature. Generally, a restrictive covenant will be enforceable between the original parties as a matter of contract. But the situation becomes more complicated if your covenant was entered into by the former owner and the benefit has not been passed to you.’

‘If all else fails,’ concludes Howard, ‘going to court can be an effective way to resolve matters. Primarily, the court will decide whether or not to grant an injunction prohibiting the development or grant damages. Either option is drastic so make sure you properly evaluate the merits of a claim and take legal advice at an early stage. Clearly there is a lot to think about so my advice is try to negotiate with your neighbour before any building work starts and before bad feeling between you spoils your home life.’

Howard Gardener is a director at Phillips Solicitors, Basingstoke, specialising in dispute resolution and family law. Call Howard direct on 01256 854632, email: [hgardener@phillips-law.co.uk](mailto:hgardener@phillips-law.co.uk)

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