

## Manorial rights - mines and minerals

### Introduction

A Land Registry title is not a complete picture as it does not show all the rights and obligations affecting and benefitting registered land.

One type of rights that do not appear on the register are called overriding interests and these can still affect the land even though they are unregistered.

Manorial rights fall into this category. Consequently, when acquiring a property, detailed questions are usually asked of a seller about the existence of any such rights as they are often difficult or impossible to discover.

### What are manorial rights?

Manorial rights arose under our feudal system of land holding which was abolished in the main on 1st January 1926. Generally they were rights which were retained by the Lord of the Manor after that date.

The manorial rights which continue to be of relevance today are:

- Sporting rights (e.g. the right to hunt game and fish)
- Mineral rights (the right to work mines and minerals); and
- Rights to hold markets and fairs – although these are rare and do not normally give rise to any issues.

### What will the title show?

Discovering the existence and ownership of manorial rights is problematic. Since 13 October 2013 they must be protected by

registration, either by registering them in their own right (in which case they will be noted as a burden on any title that is affected) or by protecting them by placing a notice on any affected title. However, they are still be capable of protection by one of these two methods after this date unless land is registered and there has been a transfer for valuable consideration; this is one where an appropriate payment has been made and is usually as a result of a sale on the open market. If an owner leaves his property to a beneficiary in a will, or makes a lifetime gift, the manorial rights will continue until there is a transfer of the property for valuable consideration.

Where a notice is placed on a title to claim a manorial right (as opposed to the substantive registration of the right in its own right), the owner of the affected land can request its cancellation. This will oblige the party claiming the right to prove its title. The party wishing to establish title will need to provide a high level of evidence stretching back many years. Given the ancient nature of these rights, the title deeds and documents required to prove title to these interests may have been lost or destroyed and in such cases the manorial right will have been lost and any notice protecting it will be cancelled.

### Why are mines and minerals causing a problem?

With the exception of oil, gas, gold, and silver, which in their natural state belong to the Crown, and coal, which belongs to the Coal Authority, it is possible for other mines and minerals below the surface of a property to belong to someone other than the owner of the surface by way of a manorial right.

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Historically, the most valuable manorial rights have been sporting rights, which, once established can be sold or leased for large sums of money. However, more recently the need to protect manorial rights by registration once their overriding status started to be lost after 13 October 2013, has led to more focus being placed on manorial rights to mines and minerals.

Whilst the ownership of mines and minerals does not carry with it the right to enter on to the surface of the land to work them, unless such a right has been expressly granted, carrying out development on land where manorial rights to mines and minerals exist could interfere with those rights if foundations need to be dug or other works undertaken below the surface of the land. In such cases the owners of manorial rights to mines and minerals have been able to stall or halt development projects whilst negotiations are undertaken to reach a settlement.

The increased awareness of the value that can be obtained from mineral rights has resulted in more applications to the Land Registry being made by Lords of the Manor to protect claims they may have to mineral rights.

### What if the manorial right has been lost?

It should be noted that even where a title is registered and manorial rights can be ruled out (because there has been a transfer for value of that title since 13 October 2013), it is not a guarantee that rights to mines and minerals belong to the property. Such rights may have been severed from the property in other ways many years ago, and no such guarantee will be given by the Land Registry unless the title specifically states

that mines and minerals are included in the title. This will only be the case where certain detailed evidence has been given to the Land Registry.

### Conclusion

A landowner who is concerned about a third party claiming rights affecting his property which are not apparent or have not been disclosed can consider obtaining indemnity insurance. This may be available to cover the possible loss of value of a property, for example if mines and minerals are worked and the surface of the property is affected or if the existence of mines or minerals would prevent development.

### Further information

This information sheet is not intended to be a substitute for specific advice and is for general guidance only. It is based upon our understanding of the legal position as at March 2019 and may be affected by subsequent changes in the law.

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