



Setting Out

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There is no doubt that setting out can cause problems. There is seldom a single point of responsibility for the production of setting out drawings. Instead the process is collaborative, involving the various designers responsible for the building, the landscaping, the roads and drains. There is also no clear boundary between the design and the physical process of locating the building on the ground. The designers work with the contractors resolving queries as the building is set out. A mistake of a few centimetres can be out of all proportion to the error, provoking an action for trespass, a hurried application to the planners, feverish negotiations with potential tenants and, if all else fails, demolition. Once the dust has settled, the task of finding where the buck stops, begins.

Standard forms of contract tend to be silent on the question of setting out. Instead various contractual phrases, along the lines of, 'the designers will satisfy themselves as to the accuracy of any survey information' or 'drawings issued for construction should be checked by the contractor' are relied upon in an attempt to point the finger. The number of potential culprits, the complexity of the process and the size of the financial loss is a recipe for litigation as architects, Graham Whitehouse Practice (GWP) found in the case of Hodson Developments Limited v GTA Civils (Judgment 13.7.2005).

GWP were engaged by the claimant developer for a housing development near Aylesbury. The planners were concerned about the layout of one particular property which occupied a dominant position. They imposed a condition that it be set back further from the road. GWP's drawings, which complied with the planning conditions, were subsequently changed by the defendant civil engineers who moved the location of the house to improve access. Crucially the engineers did not notify anyone of the change and it was not until the house was constructed to wall plate level that the planners spotted it. They described it as 'a strident and oppressive feature over dominant in the street scene' and issued an enforcement notice requiring its demolition. After an unsuccessful appeal the house was demolished and rebuilt in the right place.

The developers claimed losses of over £100,000. One of the various issues for the court was whether the architects ought to have checked the engineers' drawings and spotted the change of position. The judge held that GWP were under no contractual duty to examine the drawings in

detail and were entitled to expect that the engineers would merge their drawings without changing them. Whilst they were obliged to make a cursory examination for glaring errors, the change of location would not have been readily apparent. The engineers were liable for the developer's losses.

Whilst it may not be unreasonable for designers to be held responsible for their own mistakes, as setting out involve various disciplines, you may want to make sure that your contract makes it clear that you will not be responsible for the mistakes of others.