

What lies beneath...

March 2019

If you're investing in or developing property, be aware that any mines and minerals beneath the surface could be owned by someone else.

Back in 2013, prompted by changes under the [Land Registration Act 2002](#), some estate owners had their legal advisers trawl through their old deeds to identify and register certain interests which needed protecting.

In doing this, they uncovered evidence that title to some mines and minerals had been severed from the ownership of the surface land, decades or even centuries earlier. Whilst not all rights to mines and minerals needed protecting by registration, estate owners applied to register them voluntarily anyway.

Prior to this, when a surface owner bought (as it thought) the whole of the land, it may not have known about such mines and mineral rights because many had not been registered at that time.

So, what's the position if you own the surface property, someone else has the rights to the mines and minerals and you want to carry out works beneath the surface, such as laying foundations?

Some of these interests limit mines and minerals to a certain depth. So, if you don't excavate to that depth, then it may not be an issue. However, if you do, the owner could technically claim trespass, but they would need to establish that they had suffered some loss.

What if you're buying a property and such interests beneath the surface are revealed, what's the risk and what can you do?

Mines and minerals don't have to be anything valuable and the [Land Registry](#) have been known to register title where they formed the ordinary bedrock of the local area. These interests often cover vast areas of land. So, whilst such interests may exist, the commercial risk of anything happening with them could be low.

What remedies are open to me?

A mining search should be obtained and generally it will always be prudent to seek title indemnity insurance to cover the risk. Be wary of approaching a minerals owner to find out if it is prepared to sell its title as this would likely result in any such insurance being unavailable.

[Michael Goodman](#) has over 15 years' experience dealing in commercial property. Call him with your query today.

Michael Goodman
020 7299 6923
michael.goodman@riaabg.com
www.riaabarkergillette.com



[Click here to make an appointment](#)

Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

