

QUESTION OF THE WEEK

Q I live in North Yorkshire and am worried that my property may be affected by fracking in the future. What are the legal obligations of the government and fracking companies to property owners? If there is shale under my house, do I have a right to refuse to permit drilling underneath me?

R Wilkinson, via email

A Shale gas is owned by the Crown. Various consents are needed for its exploitation, including a petroleum exploration and development licence (PEDL) and planning permission. In addition, consent is needed from landowners who are affected.

The Oil and Gas Authority (OGA) determines PEDL applications and will check such things as the competence of the proposed operator, as well as the financial viability of the company and safety management systems. If granted, the PEDL will have clauses containing detailed provisions that operators must comply with. There is no right for a third party to make representations to the OGA.

The minerals planning authority – that is, your local council – will determine the planning application. Depending on the size of the proposed fracking operations, an environmental impact assessment may be required. Friends of the Earth has just applied for a judicial review of the permission granted for shale gas operations at Kirby Misperton, in North Yorkshire, on the grounds of environmental impact. Such a challenge needs to get permission before proceeding to a full

hearing, which would be in about five months' time. If the permission is found to be unlawful and quashed, you will want to be familiar with the reasons why. If a planning application is made for horizontal drilling beneath your land, you will have the right to object to the council. You will not be automatically notified of an application, so keep an eye on the local press. Issues on which objections could be made might include traffic, impacts on land that is protected for ecological or landscape value, and restoration obligations.

As regards consent to drill under your property, there are now statutory rights (Infrastructure Act 2015) for an operator to do so at a depth of 300 metres or more. These were introduced to assist shale gas operators and to prevent landowners who have not agreed to allow drilling from claiming a trespass has occurred. The secretary of state has the power to make regulations requiring companies to make payments in return for the right to use the land. However, in a case prior to introduction of these rights where a technical trespass was found, only very limited damages were awarded. In addition to the rights in the Infrastructure Act, statutory ancillary rights are available to the holder of a PEDL where voluntary agreement cannot be reached; compensation could be paid for these. The nature of any compensation and to whom it might be paid is a matter the government has recently indicated it is reviewing.

Ed Cracknell is a senior associate at Russell-Cooke Solicitors; russell-cooke.co.uk

Q Six years ago, we purchased a house and only after moving in did we discover an estate of social housing outside our back garden gate. We don't wish to appear snobbish, but this has had an impact on our life in terms of noise, litter, children playing and so on (we are retired). Should we have been told about these houses by the estate agent or by our solicitor? Do we have some recourse?

DC, via email

A Many homebuyers are not aware of this, but solicitors' standard "property searches" do not check the status of all the land or properties surrounding the house, for example planning permissions in place or pending (such as for a social housing development).

Specialist best practice conveyancing solicitors go beyond the minimum expectations and usually undertake additional searches, which may well have picked up these issues prior to your purchase. Nevertheless, neither the sellers nor the estate agents owe you a positive duty of disclosure. As such, provided they did not make any factual inaccuracies, or misleading written statements to you or to your solicitor in the replies to inquiries

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raised, it is unlikely you would be able to pursue either party. If consistent noise and disruption is being caused by a particular neighbour, contact your local authority.

Simon Thomas is a director of the property law specialist Thomas Legal Group; thomaslegallgroup.co.uk

Q Last year, when my neighbours went on holiday, I noticed their hydrangeas wilting in the front garden, so I watered them. This year, they've asked me to water their entire front and back gardens while they are away. Should I ask for payment? Also, I'm no plant expert. What if they die under my care?

CG, Balham

A You are certainly a good neighbour, but you have been hoist by your own petard. Is it your own water you will be using for watering or have you access to their outside tap? If you're using your own, then you need to broach the issue of payment. If you are using theirs, then I'd be inclined to just do them the favour – it's only a week, and you can visit in return for payment? Also, I'm no plant expert. What if they die under my care?

Upon accepting, ask them nicely for any specific notes on care of shrubs or plants or whether they just want a general water. Make a joke, by way of a throwaway line: "Don't shoot me if any die!" (Chortle, nudge.) This should cover you should anything go on to the big Chelsea Flower Show in the sky during your care.

William Hanson is a gardening etiquette coach; williamhanson.co.uk

Q We live in a period block of four flats, and recently there was a leak from our balcony, which sits on top of the bay window underneath. A local firm carried out a repair by coating the surface of our balcony with Cromapal acrylic roof coating. Before the work was carried out, we were concerned that this coating would not set hard enough to walk on; the workmen reassured us it would be fine.

This has turned out not to be the case. More than two months later, the surface still feels tacky and is easily damaged by shoes and chair legs. The grey colour of the coating is ugly and allows the previous black surface to show through. Although the water ingress has stopped, we're disappointed with the finish. What can I do?

Tim and Audrey McVain Jefferson, via email

A Acrylic roof coatings such as Cromapal are particularly effective as a secondary waterproofing membrane and generally perform very well – they maintain flexibility, which is ideal for waterproofing and can cope with a change in temperatures – but they are not suitable for trafficked areas such as walkways and balcony decks with furniture.

The product will have bonded with the substrate below and removal is not practical. We would suggest installing timber decking over the membrane. You will also need to install a sacrificial layer under the timber bearers, such as green mineral felt or rubber, to prevent any damage to the coating below. The deck will add about 50mm of height, so you must check that there will be a minimum 110mm between the balustrade or parapet wall and the finished floor, which is a regulatory requirement.

You should be able to purchase the materials for about £20 per sq metre and if you are not competent at DIY, a carpenter would complete the job in about two hours on a typical private balcony, for a price in the region of £140.

Duncan Macleod is director of Harrington Grey, a home refurbishment company in north London; harringtongrey.co.uk



Illustration: Russell Newman

TOP TIPS

Our experts have washed and dried mountains of laundry to test how well 12 airers (from hanging racks to heated models) performed.

OVERALL WINNER
Lakeland Deluxe Easy Up Concertina Indoor Clothes Aier
98/100; £46; lakeland.co.uk

- Fifteen metres of drying space
- Sturdy and easy to open and close, with safety locks
- Net bag stretches over bars to create a flat drying area
- Eight wide anti-crease bars and four corner hooks



WINNING HEATED AIRER
John Lewis Three-Tier Heated Indoor Clothes Aier

93/100; £100; johnlewis.com

- Eighteen metres of drying space
- Temperature range 40C–50C, 300W output
- Dries clothes fast
- Large surface makes it easy to lay items flat
- Four hooks at the base ideal for drying slippers and socks
- Costs about 4p an hour to run, but no auto shut-off

goodhousekeeping.co.uk/institute

Home help

If you have a household problem, whether it's watering a neighbour's garden or fending off fracking, our experts are on hand