



Eatons

Put Up or Shut Up

In conducting legal disputes, it is normally important to raise the issues you want to contest at the beginning of the proceedings.

Otherwise, there is a risk that the court will not allow them to be argued, or possibly that it will make an unfavourable order for the division of legal costs.

A recent case illustrates the point. A property dispute had arisen because a house builder, which had used the claimants' land to construct a sewer, had failed to reinstate the land as required under their agreement. The land owners issued a statement of claim. The builder wished to argue that the claim was issued in the wrong court, which, in its view, did not have jurisdiction to hear the matter in dispute.

However, the acknowledgement of claim did not indicate that the matter of the court's jurisdiction was to be argued, with the result that the Court of Appeal ruled that the house builder had accepted the jurisdiction of the court. The Court therefore rejected the house builder's right to argue the point.

For advice on any commercial property matter, please contact Jeremy Parker on Tel: 01274 728 327.

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