

SPACE FOR CONFUSION

James Lawrence, partner in Viberts property team, looks at the issue of parking when buying property

'RENTED parking available', 'Designated', 'Allocated', 'On street', 'Parking for 4+ cars', 'Residents' parking', 'Permit parking', 'Ample free parking nearby', 'Plus visitor parking'...

As a parking space in Jersey can cost £50,000 or more and a rental space can be hundreds of pounds per month, it is important to know what these descriptions mean.

All of them are used as reassurance that a property has parking. The question is whether it really will be yours. As with all matters, it is important to know what is being sold and whether it really includes parking.

I frequently come across confusion. Parking 'rights' may be better described as parking 'arrangements'. They may be unique to the owner and, even if they have been parking in an area for years, that right may not be passed on to a new owner. It is a detail which is frequently overlooked.

From a legal perspective, there are two types of parking space:

- Those which are on the property – ie where the owner has land upon which they can park.
- Those which are on other people's land (or sometimes on land owned in common with neighbours) for which an exclusive and 'in perpetuity' right to park has been granted to the owner in the property deeds.

CHALLENGE EVERYTHING

Even if there is a right to park, it may still not be straight forward. It is common to find restrictions on what can and cannot be parked on the space. It may be an empty space but there are often rules which say that commercial vehicles, boats and jet skis, caravans and lorries are forbidden in residential developments. Is a commercial van that has been converted to a campervan permitted?

It is also common for restrictions to be placed on the number of vehicles which can be parked in a particular space. Do not assume that a space big enough to squeeze two cars onto can be used in that way.

Parking spaces are also commonly subject to restrictions preventing them from being used by

anyone who does not live at the property. Do not assume that a parking space can be rented out for extra income.

I regularly meet prospective purchasers who have assumed that they are permitted to convert an existing garden into a parking area. It is important to remember that not every piece of land which can accommodate a car can become a parking space. Rules apply. For example:

1. The land must be approved by the authorities for use as parking. There are various policies and guidelines which will dictate suitability for parking including whether or not it is safe to enter and exit with a car from a public road. This may be less likely if the property in question is listed for its heritage value.
2. If the land in question is accessed via a private road or neighbouring property, it must have the benefit of a vehicular right of way. (Some gardens are only served by pedestrian access).
3. The land must not be subject to restrictions preventing it from being used for parking, or subject to neighbour's rights which will be prejudiced by that use.

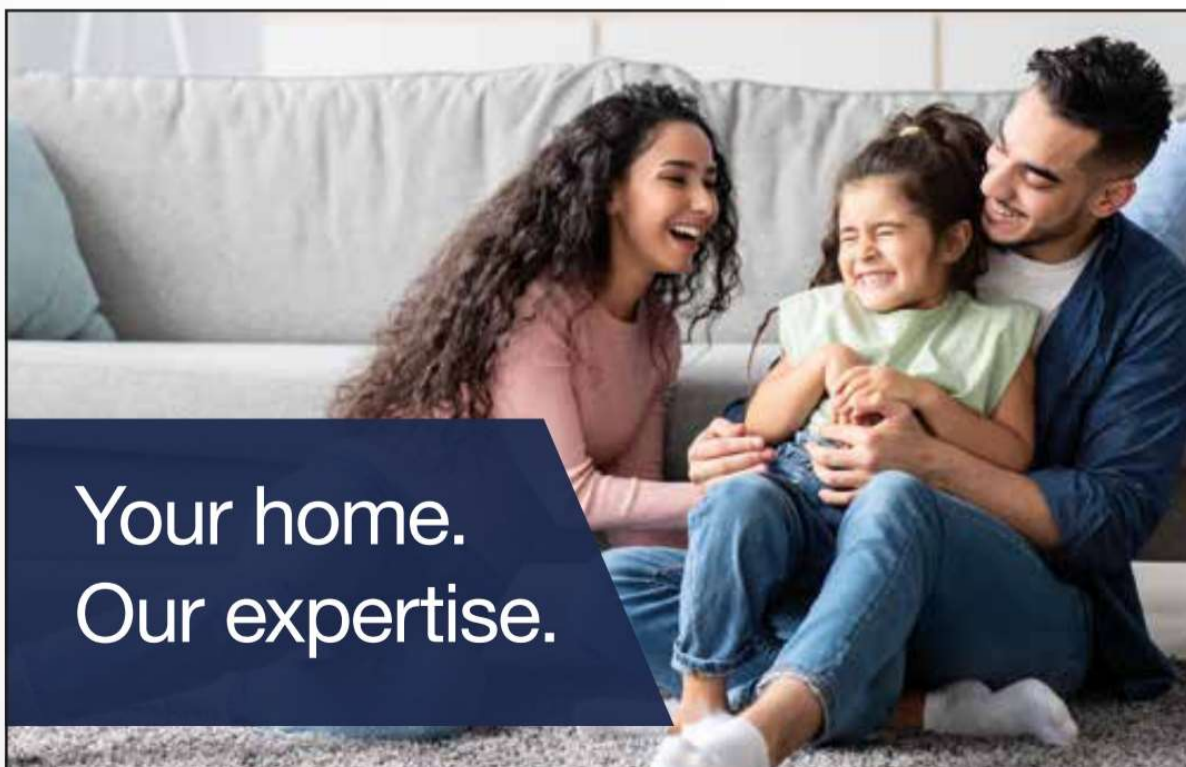
The above may sound complicated but you do not need to worry. If a purchaser is considering buying a property where a material change is a prerequisite, such as the creation of further parking, pick up the phone and speak to a lawyer. They will quickly clarify the legal position or provide direction on what is required.

I have commonly seen property advertised with parking on adjacent private roads (and, in one memorable case, on a public road, although this was obviously quickly found to be a mistake). Unless parking rights are granted in the deeds for this purpose, roads are generally subject to rights of way, meaning that if an owner's car is in the way of, or causes irritation or inconvenience to, a neighbour, that neighbour could stop them from parking there.

In summary, a buyer of a property is best advised to check anything they are unsure

of or which sounds unlikely with their legal advisers before they proceed too far with the transaction.

Viberts has an experienced conveyancing team who will investigate all property deeds and identify any ambiguous or problematic clauses. When it comes to parking arrangements for property, if a person is unclear what the property advert means, always consult a property lawyer who will provide the legal position and red flag any causes for concern.



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