

# The issue of the Railway Boundary at Moray Place

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**(Fence graphic revised Nov 2016)**

## Summary

The railway line has two boundaries, the legal boundary of their land, and the physical boundary.

It was the habit of the Barrhead & Neilston Direct Railway Co to place their physical boundary 3 feet inside their legal boundary.

The post & wire fence at the SW end of Moray Place, and the stone wall at the NE end are remnants of the original physical boundary, approx 5 feet from the Moray Place road edge.

Thus a line drawn between them approximates to the original physical boundary.

The legal boundary lies 3 feet closer to the road, approximately 1-2 feet from the edge.

The hoop topped fence is not on either of these boundaries, and lies on residents' land, which extends 1-2 feet beyond the road edge.

The findings are my personal opinion based on my research, and presented in good faith.

## Introduction

The line of the boundary between the railway line (Network Rail's property) and Moray Place has been an issue of debate for some time, most notably when Network Rail began clearing vegetation from the line in 2004-05, and more recently when they proposed further vegetation clearance to renew the boundary fence in January 2015.

We understand Network Rail wishes to place a new fence along its boundary, which they believe is along the edge of the Moray Place roadway. This may include the removal of the metal hooped fence.



Moray Place metal hooped fence at Marywood Square, c 1990

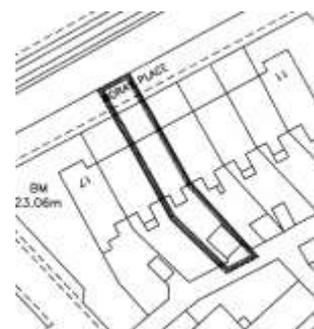


Moray Place fence before and after Network Rail “vegetation management” in 2004-05, showing relationship of fence to houses and railway line

## The Land Register

Title is currently defined by a map kept in the Land Registry, for any purchase made since 1981. This title map is an extract of an OS Map, with the subject of the title outlined, often in red. An example is shown on the right.

The map is the Keeper's one off interpretation of the original deeds, but is not thought legally binding, as it is only representative of the deeds. The deeds, however, were often destroyed once the entry had been



made. Experience suggests these title maps are inconsistent, and have often just been drawn to the edge of the road on the modern map, as in this example, suggesting the hooped metal fence is the boundary, and leaving it unclear who owns it. Review of the collective title maps provided by Network Rail supports this; every one is different, despite every property being derived from a single land purchase and deed.

It is likely the railway itself is not entered in the Land Registry as it has not changed hands since it was built.

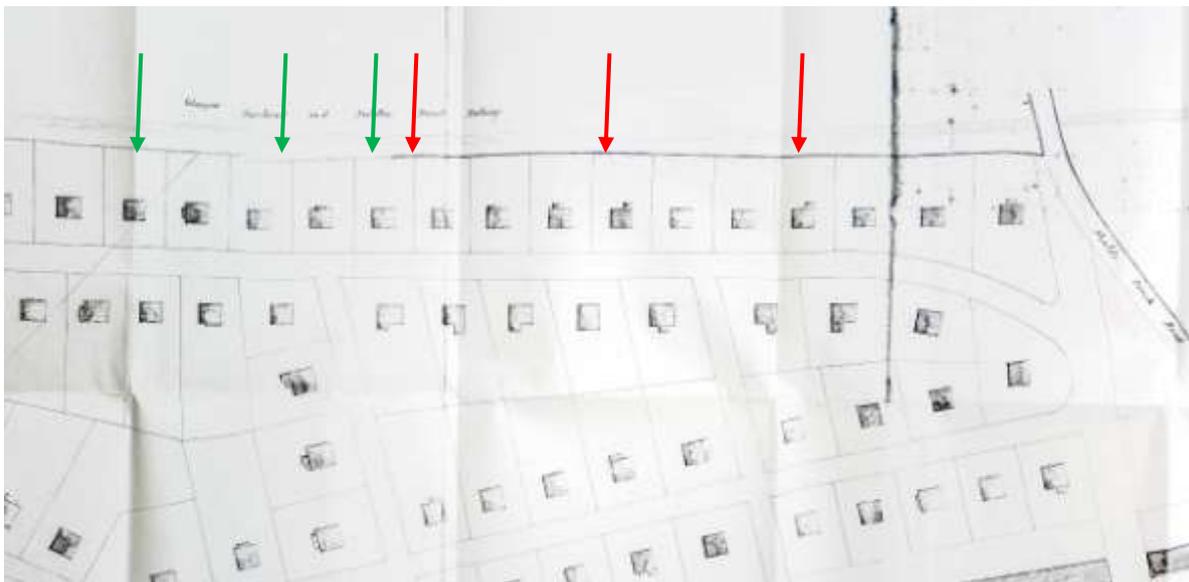
## The Evidence

Several neighbours have provided Land Registry Title maps for properties on Moray Place. Some use the current fence as the boundary (e.g. 15, 23 & 30 Moray Place), others extend just beyond it (e.g. 22 Moray Place). These maps are therefore inconsistent.

So can we define the original boundary? Well, yes, from old documents, we can.

The railway line opened in 1848, before any building in Strathbungo.

A proposed but unexecuted feuing map from 1859<sup>1</sup> for the land now known as Strathbungo clearly shows the stone wall boundary to the line, extending from the road bridge at Nithsdale Road to approximately where Marywood Square is now, with a hedge extending along the remainder of the boundary.



*The feuing map of 1859<sup>1</sup>, although unexecuted, clearly shows the railway boundary stone wall (red) and hedge (green) existed before the building of Strathbungo.*

The original feu disposition between Sir John Maxwell and the developer William Stevenson and others in 1860<sup>2</sup> for the building of what we now consider Strathbungo defines the boundary as "...on the north west by north by the property of the Glasgow Barrhead and Neilston direct Railway Company along which it extends one thousand seven hundred and seventy one feet or thereby on a line parallel to and situated at the distance of three feet southeast by southward from the centre of the present thorn hedge and from the southeast by south face of the present stonewall ..." Thus the boundary is three feet on the South East, residential, side of the original stone wall or hedge.

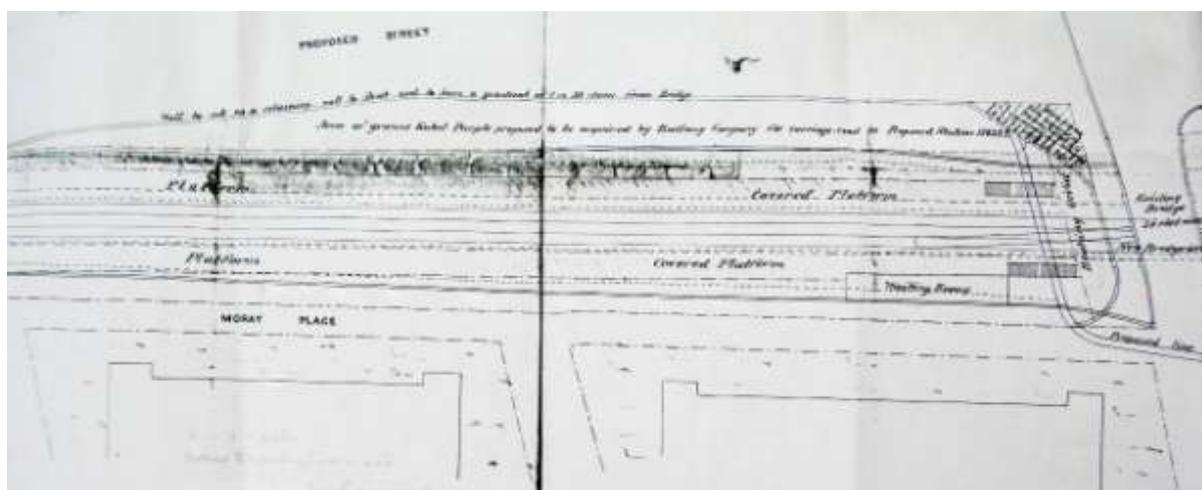
The original deeds and plan for No 1<sup>3</sup> confirm the boundary as three feet from the wall. The current title of 22 Moray Place includes a note referencing the three feet distance, but in the absence of the original deeds the note makes no sense in relation to the Land Registry title map.

The wall still exists from 1 to 6 Moray Place.

The feu to the builder of 18-25 Moray Place in 1874<sup>4</sup> states the building line must be 46 feet from the boundary to ensure the building 18-25 Moray Place is exactly in line with the previous two terraces, 1-10 and 11-17. It was built thus, and so the boundary can be calculated back 46 feet from the building.

A further map prepared by the railway company c. 1875<sup>5</sup> to acquire additional land on the other side of the line for the construction of Strathbungo Station again shows the stone wall, but also the first three terraces along Moray Place, thus allowing us to measure the distance from the building line to the stone wall to within a foot or so, and this measures approximately 50 feet. Thus the boundary would be 3 feet from the wall, and so 47 feet from the building line. This is in reasonable agreement with the 46 feet calculated above.

The stone wall no longer exists from 7 Moray Place onwards, and has been replaced by a hooped metal fence, erected probably 1870-1890. This was perhaps when Strathbungo Station was built, the station opening in 1877, and the platforms extending as far as Marywood Square.



*The proposal for Strathbungo Station, 1875, again shows the wall, 49-50ft from the building line of the houses on Moray Place. The original boundary was 46ft from the building line, and the current hooped fence is 45ft from the building line, and so on residents' property.*

I measured the distance from the hooped metal fence to the face of the buildings by laser measure in March 2015 at seven different points along Moray Place<sup>6</sup>, and it is on average 45 feet from the building line, placing the boundary one foot on the railway side of the metal fence, and implying the original stone wall was some 4 feet further back on the embankment than the current metal fence.

Thus the current metal fence is on residents' property, their boundary extending 1 foot the other side of it.

When the houses were built between Vennard and Carswell Gardens, in 1927, the feu disposition defines the properties as three feet southeast by south of a sleeper fence erected along the railway. While the position of the fence is not defined, it presumably lies along the line of the original hedge, as this land was included in the original feu disposition of Sir John Maxwell to William Stevenson in 1860, and that boundary would still apply when the land was feued by William Stevenson's trustees to the builder.

The sleeper fence is clearly visible in contemporary photographs c. 1930<sup>7</sup>, some 5 feet from the kerb. The sleeper fence appears to correspond fairly accurately to the current post and wire fence. Thus the boundary long this section likely lies three feet to the South East, residential side, of the current fence.



*In the second photo at Vennard Gardens, the hooped fence can be seen forward of the sleeper fence.*

### **Network Rail's Claim**

In correspondence, Network Rail officials have claimed the land to the metal hooped fence, and the fence itself, as their own. They base their claim on a supplied copy of the Disposition of land to the Glasgow & Barrhead Direct Railway Company of 1858<sup>8</sup>, but this has insufficient detail to determine any boundary accurately, as there is no detailed description and only a small scale map with no geographical features. From their letter of 6 November 2015<sup>9</sup>:

“Our mapping team has plotted Network Rail’s title in relation to the relevant area at Moray Place. A copy of the mapping exercise is enclosed and shows Network Rail’s title coloured blue. The mapping exercise also shows the purported title boundaries of the houses in Moray Place. In some cases, the apparent title plans for the houses appear to encroach on Network Rail’s title.

“Network Rail has executed an inspection and maintenance regime for the fence that is currently in situ at Moray Place for a number of years. Accordingly, Network Rail has possession of the fence and the land on which it is erected. Conversely, the proprietors of the houses (the title of which appears to encroach on Network Rail’s land) cannot show possession of the fence, despite the fact that their title plan purports to include it. Consequently, Network Rail (as holder of a valid title and with possession of the land (and fence) within that title boundary) has good title. The house owners’ apparently competing title does not defeat Network Rail’s title as proprietor in possession. Indeed, it

would be open to us to seek to rectify those titles as being inaccuracies on the Register (although we have no plans to do so at present).”

They supply a map showing land they claim to own in blue<sup>10</sup>, but we see no legal basis to this map. They claim where it overlaps our titles, their claim takes precedence, but again with no obvious basis for this. They claim maintaining the fence gives them possession, but we believe there is no basis for this in Scottish law. The option to rectify titles is a threat that again we believe has no legal basis. The documentation available to Network Rail does not allow them to define their boundary with any accuracy. It should be noted they talk of their “title”, and our “purported title”, when we believe it should be the other way around.

One thing to note from the 1858 Disposition is the comment on the small scale maps that the boundary at a number of points extends three feet beyond the boundary feature (railings, etc). While this is not mentioned on the Strathbungo section, it would appear to confirm the three feet beyond the original wall & hedge does belong to Network Rail, and that it was standard practice of the Barrhead & Neilston Direct Railway Company to erect their boundary markers three feet inside their land boundary.

## Conclusion

The original boundary was three feet South East of the railway boundary wall and hedge.

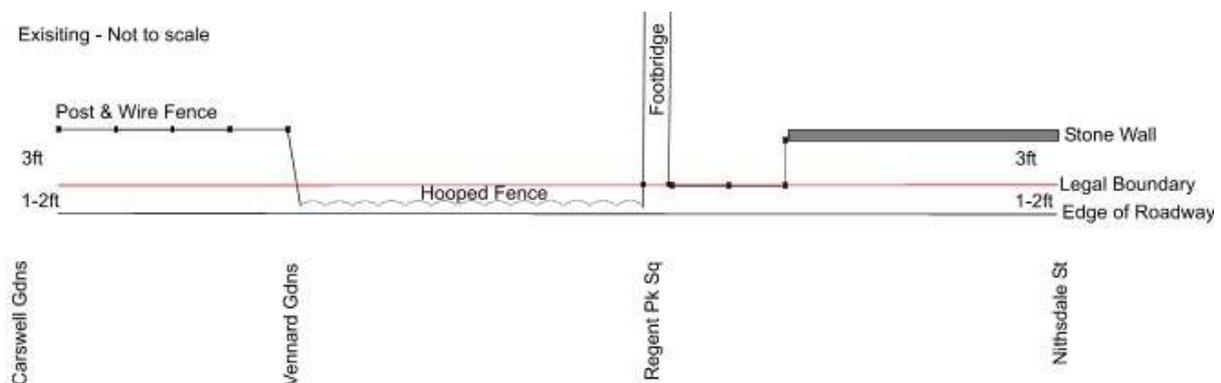
While only a short section of wall remains, the line of the boundary can be clearly seen on old plans, and determined from measurements included in the original feu documents.

The boundary is 3 feet from the stone wall at 1-6 Moray Place, and thus 47 feet from the building line there, by laser measure. The boundary is likely the same for 7-10, and thus at the wooden fence, which is 47 feet from the building line.

Beyond the footbridge at Regent Park Square, a more recent metal hooped fence runs to Vennard Gardens, replacing the original stone wall, but closer to the buildings by 4 feet. This lies 45 feet from the building line, and therefore 1 or 2 feet inside the residents' boundary, which is stated in the feu documents as 46 feet from the building line.

Beyond Vennard Gardens, the current fence likely follows the line of the previous sleeper fence, and the hedge before it, and thus the boundary lies 3 feet South East of the current fence.

This is summarised in the graphic below, not to scale:



## References

1. Unexecuted feuing plan for the lands of Regents Park, 1859. Mitchell Library, Maxwell Collection.
2. Feu disposition between Sir John Maxwell and William Stevenson & others, 1860. Andrew Downie.
3. Feu disposition between William Stevenson and Alexander Thomson at purchase of 1 Moray Place, with plans, 1860. Andrew Greg.
4. Feu disposition between William Stevenson's trustees and William Brown, builder of 18-25 Moray Place, 1874. Andrew Downie.
5. Proposed plans for construction of Strathbungo Railway Station, c 1875. Mitchell Library, Maxwell Collection.
6. Laser measurements, March 2015, on file. Andrew Downie.
7. Photographs of Moray Place from Carswell Gardens and from junction of Vennard Gardens, c. 1930. Mitchell Library.
8. Disposition by Sir John Maxwell, Baronet, in favour of The Glasgow, Barrhead & Neilston Direct Railway Company, 1858
9. Letter from Niamh Hegarty, Network Rail, 6 November 2015.
10. Network Rail Pollokshields West Moray Place Title Land Certificates Map, 17 April 2015.