

### **You may be aware that rules exist with regard to walls separating buildings with different owners, and some walls dividing land in different ownerships, and these rules affect works to such walls.**

These rules are set out in the Party Wall Etc Act 1996 which provides a framework for both preventing, and where that proves not possible, resolving, disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.

Until the Act came into force, only those living in Bristol or London benefitted from legislation relating to party walls. Elsewhere one had to cope with the vagaries of common law in dealing with walls separating neighbours.

Whilst it is not unknown for people to consider the Act as a means to prevent their neighbour from carrying out works they are often surprised, for the Act grants building owners numerous rights to carry out works in respect of party walls and structures. Its' purpose is to enable building owners to exercise such rights and for works to be undertaken easily by the Building Owner whilst minimising inconvenience to Adjoining Owners.

With rights come duties. Since 1 July 1996, throughout England and Wales, anyone proposing to carry work of the kind described in the Act must give Adjoining Owners notice of their intentions. This notice must still be given even if the works do not extend beyond the centreline of the party wall.

An Adjoining Owner cannot prevent someone from exercising the rights given to them by the Act, but he can influence how and when the work is done. The Act requires that the person carrying out the work, the Building Owner, must not cause unnecessary inconvenience to the Adjoining Owners and that he must provide compensation for any damage and temporary protection for buildings and property where necessary.

**If the Act is properly used it should minimise disputes and take away the need to seek legal redress through the courts should something go wrong in the carrying out of the works. Prior to the introduction of the Act the only redress for action was at Common Law.**

## ■ The Party Wall Etc Act 1996

### **What is a Party Wall?**

- A wall which forms part of a building and stands on lands of different owners or
- A wall which belongs to one owner but is used by two or more owners to separate their buildings for such extent as the wall is used to separate the buildings only. Beyond that point the wall ceases to be a Party Wall.

### **Who can act as Party Wall Surveyor?**

- The Act provides for anyone who is not a party to the matter to be a Party Wall Surveyor, ie anyone who is not one of the Owners to the dispute. It is strongly recommended that you choose a Party Wall Surveyor who has an appropriate knowledge of construction and carries Professional Indemnity Insurance covering this service.

### **Can the Party Wall Surveyors determine the position of my boundary?**

- The Surveyors have no power under the Act to determine the position of a boundary.

### **My Neighbour has started work but has not served any Notice, what can I do?**

- You cannot do anything under the Act. However you can seek an injunction from the court to have the work stopped, but this can present many pitfalls. If the work is completed, then the matter under the Act is closed because you cannot work the Act retrospectively.

### **What Excavations are covered by the Act?**

- Excavations within 3 metres of any part of an adjoining building or structure where any part of the proposed excavation will extend to a lower level than the bottom of the foundations of the adjoining building or structure
- Excavations within 6 metres of any part of an adjoining building or structure which will within those 6 metres meet a plane drawn downwards in the direction of the excavation at an angle of 45degrees from the line formed by the intersection of the line of the outer face of the wall of the adjoining structure with the bottom of the foundation.

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### **The Act covers :**

- various works that are going to be carried out to a party wall
- constructing a wall against or astride the boundary line between two properties in different ownerships
- excavation within 3 or 6 metres of a neighbouring structure, depending upon the depth of the hole or the foundations of the neighbouring structure.

### **Who should I inform?**

Your Adjoining Owner, or Owners.

### **Who is an Adjoining Owner?**

This is anyone with an interest greater than a tenancy from year to year in the adjoining property. If the next door property is occupied by a long term tenant then it will be necessary for you to notify the landlord as well. Where there is more than one owner of the property, or where there is more than one property, it is your duty to notify all of them.

### **How do I inform the Adjoining Owner(s)?**

It is usually best to discuss your plans with your neighbours before you, or your professional adviser, gives formal written notice of what

you plan to do. Whilst there is no official form for giving notice the Act sets out what must be included. The more information that can be given at the outset the more likely the Adjoining Owner is to agree to the works as proposed. It is important that the Notice is correct as a defective Notice can lead to unnecessary costs.

### **When do I serve Notice?**

At least two months before you wish to start work to the party wall. This period drops to one month for some other works covered by the Act. The Notice is effective for 1 year.

### **After the Notice?**

If you have already ironed out possible snags with your neighbours, this should mean that they will readily give consent in response to your Notice. This consent should be in writing. If, after a period of 14 days from the service of a Notice, no response has been received, a dispute is deemed to have arisen.

### **What if there is a Dispute?**

The Building Owner and the Adjoining Owner each make

an appointment of a Party Wall Surveyor or an Agreed Surveyor may be appointed by both the Building Owner and the Adjoining Owner. In most circumstances the costs of the the Adjoining Owners surveyor are met by the Building Owner. The two surveyors will nominate a 'third surveyor' who would be called if the two surveyors can't agree.

### **What does the Party Wall Surveyor do?**

The primary duty of a Party Wall Surveyor is to resolve any disputes between the Owners and not to seek to be an advocate for their Appointing Owner.

The Surveyor(s) will prepare an 'Award'. This a document which:

- sets out the work (covered by the Act) that will be carried out
- says when and how the work is to be carried out (eg not at weekends)
- records the condition of the adjoining property before the work begins, so that any damage can be properly attributed and dealt with.
- allows access for the surveyors to inspect the works whilst they are going on, to see that they are in accordance with the award.

## ■ Further Reading

- Party Wall Etc Act 1996
- Party Wall Etc Act 1996 *explanatory booklet* : published by Dept for Communities and Local Government
- Misunderstandings & Guidance, The Party Wall Etc Act 1996 : *The Faculty of Party Wall Surveyors*

## ■ Find a Surveyor

- Faculty of Party Wall Surveyors, PO Box 86, Rye, TN31 8BN
- [www.fpws.org.uk/findasurveyor.aspx](http://www.fpws.org.uk/findasurveyor.aspx)
- Telephone: (+44) (0)1424 883300
- e-mail: [enq@fpws.org.uk](mailto:enq@fpws.org.uk)

## ■ More Information

- Contact David Davis, [david.davis@djdgroup.co.uk](mailto:david.davis@djdgroup.co.uk), 01905 612864  
David is a member of the Faculty of Party Wall Surveyors
- This Briefing Paper is provided for general information only and specific, professional advice should always be sought. DJD Group Limited and its subsidiaries accept no liability arising from use of information provided in this paper.

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