



A GUIDE TO: THE PARTY WALL ACT 1996

What is a Party Wall Agreement?

In simple terms a Party Wall divides the buildings of two owners with the boundary between ownerships usually, but not always, positioned at the centre of the wall (*see definitions below*). A Party Wall Agreement is a legally binding agreement between all parties outlining rights, access arrangements and liabilities.

It allows all parties to be aware of; what is happening and how it might affect their property; costs; making good; working procedures including times and noise levels; and it provides a document to outline certain conditions and working arrangements.

The Act was set up to provide protection to all parties but also to allow development to be undertaken with due consideration to all parties without unreasonable refusal or action and without involving the courts and the subsequent expense that route might attract.

Do I Need a Party Wall Award?

If in doubt ask! However, if there is any potential for damage to an adjacent building or structure as a consequence of the works that you are proposing on your land then seek advice.

It is always worth having a pre-condition survey of adjoining buildings or structures before demolition and/or building works even where they might not fall within the Party Wall Act, as this can avoid potential future claims for damage, which can be readily defended if a pre-condition survey or award is already in place, executed by an independent surveyor.

For the Building Owner the Act:

- Ensures that damage to the Adjoining Owner's property is properly attributed
- Provides rights of access to the Adjoining Owner's property to execute work in pursuance of the Act

For the Adjoining Owner the Act:

- Limits the hours during which the notifiable work can be executed
- Includes provisions for making good damages without the need for a civil claim
- Provides assurances that their land or buildings will not be compromised during the course of the work
- Ensures that the Building Owner's contractor has suitable public liability insurance

Although the Adjoining Owner receives the greater number of benefits, those received by the Building Owner can be very important, particularly in providing rights of access and protecting themselves from non-genuine claims.

When do I need to appoint a Surveyor and issue Notices?

You will need to appoint a Party Wall Surveyor when you are carrying out **notifiable works** within a certain distance of a Party Wall.

1. Work which has a direct effect on a Party Wall (or other party structure)

Where the proposed works for your development/proposal directly affect the adjoining structures/buildings, namely; **removing/demolition, increasing the height of, underpinning or cutting into the separating structure**, formal notices must be issued to any persons or body that have an interest in the adjoining property.

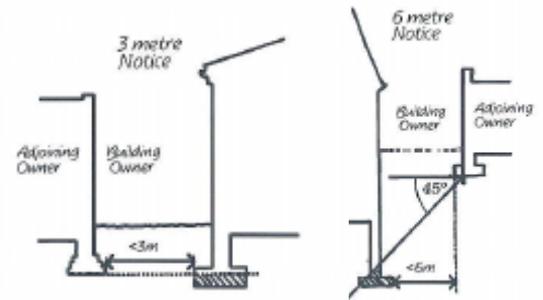
2. Excavating close to an adjoining owner's building

More commonly are 'Excavation Notices' where formal notices should be issued where excavating within 3m or 6m of the adjacent property, this could include service trenches as well as excavations for foundations and/or piling.

Notices of Adjacent Excavation are concerned with works notifiable under section 6 of the Act.

There are 2 types of excavations that are covered;

- Excavating **within 3 metres** of your neighbour's building and to a depth lower than the bottom of their foundations
- Excavating **within 6 metres** of your neighbour's building, if any part of that excavation intersects with a plane drawn downwards at an angle of 45 degrees from the bottom of their foundations, taken at a line level with the face of their external wall (this will normally mean that you are using piled foundations).



The notice must contain the same information as a Party Structure Notice but also plans and sections showing the proposed excavation and a block plan showing the location of the new building or structure.

3. The construction of a new wall at the line of junction between two properties

This category covers the construction of new walls at the line of junction i.e. the boundary line between two properties in different ownership. The new wall may be built up to the boundary line but wholly on the land of the Building Owner or astride the boundary line i.e. with part of it on each owner's side. If the Adjoining Owner refuses consent then the wall must be built wholly on the Building Owner's side. The construction of new wall at the line of junction are covered under section 1 of the Act.

With each of these types of notices, the adjoining owner has 14 days to respond before they are automatically deemed to be 'in dispute' and obliged to appoint a Party Wall Surveyor.

Any notice has to be issued by the surveyor to all interested parties within certain time limits and receive responses within certain timescales otherwise a dispute and/or consent is automatically assumed and certain legal procedures need to be followed, including the appointment of other surveyors.

Who can be a Party Wall Surveyor?

There is no statutory person or qualification which determines a suitable Party Wall Surveyor, however you cannot represent yourself or your company as the role is required to be legally independent under the Act.

Normally, the Party Wall Surveyor will be someone from a construction background such as a Chartered Surveyor, Architect or experienced construction professional with surveying/construction knowledge and associated knowledge and experience of the Act.

What are the costs associated with a Party Wall Agreement?

Costs associated with a Party Wall Agreement will include; fees for the **Appointed Party Wall Surveyor**; fees for the **Adjoining Owner's Appointed Surveyor** (if they do not agree to a single appointment – the Act entitles the Adjoining Owner to this decision); **costs of any additional works and/or rectification of damage/making good required to the adjoining property as a consequence of the proposed works**. These costs will normally be met by the Building Owner (Developer) i.e. the party carrying out the works.

Fees for Surveyors differ greatly around the country and will be dependent upon the nature of the works, the number of parties involved and the number of awards/notices required. It is normal for fees to be charged at an hourly rate plus disbursements (this will almost certainly be the case for the Adjoining Owner's Surveyor and Third Surveyor) as it is never clear how long an award will take to finalise into a legal status, however in certain circumstances an agreed or fixed fee may well be possible.

FURTHER DETAILS

To discuss your Party Wall situation with GHPC Group Ltd, please contact us;

Paul Davies BSc (Hons) MRICS MIoD Tech IOSH RMaPS FRSA

T: 01344 304 800

E: paul.davies@ghpcgroup.co.uk

W: www.ghpcgroup.co.uk

DEFINITIONS

'The Owner'

Basically an Owner is anyone who has an interest in the neighbouring property which will be affected by the works, these include the person or body:

- holding the freehold title, or
- holding a leasehold title for a period exceeding one year, or
- under contract to purchase such a title, or
- entitled to receive rents from the property.

'The Building Owner'

The person proposing to build on or make alterations to the land adjacent to the party wall i.e. The Developer

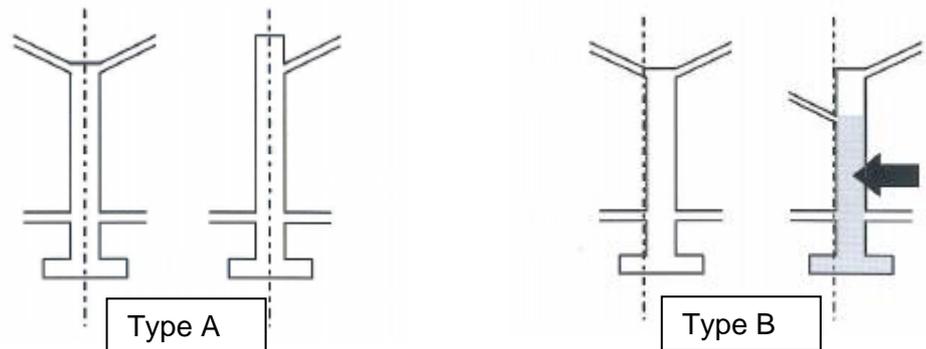
'The Adjoining Owner'

Anyone defined above as 'owner' who has an interest in the adjoining property.

If there is more than one adjoining owner or adjoining property, it is the duty of the Building Owner (or his Surveyor) to notify ALL interested parties.

'Party Wall'

A Party Wall has two definitions; it can either be a wall standing on the land of two owners, to a greater extent than simply projecting foundations (Type A), or a wall wholly on the land of one owner but providing support to an enclosed building/structure to the adjoining owner (Type B).



'Party Structure'

A Party Wall OR floor separating parts of a building with separate entrances i.e. apartments/flats, terraced or semi-detached houses

'Party Wall Fence'

A freestanding wall, not part of a building, that stands across the line of junction



'Line of Junction Works'

Occurs where a boundary line is not built on at all, or where the only structure built on it is a free-standing boundary wall which does not straddle the boundary line. The building owner is required to issue a notice where he intends to build one of the following structures along the line of junction:

- a party wall;
- a party fence wall; or
- a wall on his or her own land up to the line of junction



A GUIDE TO: THE PARTY WALL ACT 1996

'Building Owner's Surveyor'

This is the surveyor who is appointed by the person instigating works on a site (the Building Owner) that will impact on the adjacent owners/property. Please note that this role is an independent role and although the Building Owners make the appointment and pay the costs, the surveyor **MUST** be independent of the control or direction of all parties including the Building Owner.

'Agreed Surveyor'

Where both or all parties agree to use the services of one surveyor (the Building Owner's surveyor).

'Adjoining Owner's Surveyor'

Where the Adjoining Owner does not wish to use the Building Owner's surveyor (an agreed surveyor) to act for them, then he is entitled to appoint his own surveyor to represent him and liaise with the Building Owner's surveyor.

'Third Surveyor'

Where two separate surveyors are appointed they must first decide upon a named Third Surveyor who will only be called upon when and if a dispute arises between the two appointed surveyors or where agreement cannot be reached. Sometimes the cost of this surveyor will be split between both parties but more often, as with all costs, this is met by the Building Owner.

'Notice'

Various notices can be served depending upon the works being carried out and the proximity of those works to the adjacent structures/Party Wall, whether these directly affect the adjoining structure or whether there is merely the potential for an effect on that structure (e.g. excavations within certain distances and depths). Notices have differing time limits within which they must be served, and expiration timescales depending on the nature of works.

'Award'

If consent is not given directly, either unconditionally or conditionally by the Adjoining Owner to the proposed works, the Party Wall Surveyor(s) will draw up an award, outlining the proposed works and the existing condition of the adjoining structure as well as any conditions which need to be applied to the proposed works and/or outcome. This award, once agreed and signed by the various surveyors, is a legally binding agreement on all parties.

Please note: the award is only valid for 12 months as such works should commence within that period or a new award should be drawn up.