



THE ADJOINING OWNER'S GUIDE TO: THE PARTY WALL ACT 1996

Construction Works about to take place near your property?

If your property is in very close proximity to construction works which are planned to take place, legally you have a right to be notified about the works under the Party Wall Act 1996. If that happens you should be contacted by an independent surveyor to provide an interface between you and the person instructing the construction works, to ensure that the structural boundaries between your property and the construction works are properly and adequately maintained.

To explain the Party Wall Act and its provisions in more detail, we have produced this short guide, which we hope you will find useful.

What is a Party Wall Agreement?

In simple terms, a "Party Wall" divides the buildings of two different owners. In most cases the boundary line between the properties runs along the centre line of the wall but not in all cases. A party wall can stand astride the boundary and this is typically the case for houses and buildings that are semi-detached or terraced.

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 1996 Act was set-up to provide protection to all parties, to allow development to be undertaken with due consideration to all parties BUT without unreasonable refusal or action and without involving the courts and the subsequent expense that route might attract.

Parties Involved

The Building Owner

This is the person or company that is carrying out works on or near the Party Wall. This may be an individual who is building an extension / carrying out works or it may be a Property Developer who is building adjacent to your property, or excavating within certain distances.

The Adjoining Owner (You)

This is anyone who has an interest in a property of at least 1 year's duration (lease) and can be the owner, landlord or tenant of either the property which bounds the party wall, or the site adjacent within certain defined distances of excavations / works being carried out by the Building Owner.

The Party Wall Surveyor

Usually this will be a construction professional with knowledge of the Act and construction legislation. Although appointed by the Building Owner, the Party Wall Surveyor is an independent Dutyholder under the Party Wall Act and will look after the interests of all parties to ensure that the works can proceed as proposed without damage to the adjacent properties.

Under the provisions of the Act, there can be up to three Surveyors involved, these being;

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 (in this case a third surveyor is also agreed up front between the two surveyors in case of dispute between the two appointed surveyors).



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Costs

The costs of preparing and issuing the award together with the survey and any remedial costs are usually borne by the Building Owner.

Process

Once ownership or any interest in an adjoining property has been established, the Party Wall Surveyor will write to you, issuing certain Notices under the Act, outlining what the proposed works are and how close the works are to your property, usually providing drawings etc. You will also have the opportunity to discuss any concerns or questions that you might have at this stage with the Party Wall Surveyor.

Any Notice has to be issued by the Surveyor on behalf of the Building Owner, to all interested parties within certain time limits and responses must also be received within certain timescales otherwise a dispute is automatically assumed and certain legal procedures must then be followed (including the appointment of other surveyors if required).

There are a number of different types of Notices and these will be issued depending upon the nature and type of works to be undertaken adjacent to, or affecting, your property. With every notice, the Adjoining Owner (you!) has 14 days to respond before they are automatically deemed to be 'in dispute' (meaning you don't automatically agree to; the works as set out or; to proceed without further advice). That means you are then obliged to appoint a Party Wall Surveyor (Agreed Surveyor or Adjoining Owner's Surveyor).

Although technically this is known as "dissent" (where a "dispute" has occurred), it simply means that you want to appoint your own representation (i.e. a Surveyor as above) to look after your interests, to ensure that your property and rights are properly protected during the proposed works.

Appointing a surveyor can mean either consenting to an Agreed Surveyor or appointing your own surveyor. It is important to note that both of these are independent roles and as a professional, the Surveyor appointed will not "side" with the party who has appointed them just because of that appointment; as a Surveyor, they are legally and professionally obliged to act in an unbiased advisory role to both parties.

Further Details

To discuss your Party Wall situation with GHPC Group Ltd – please contact Paul Davies BSc (Hons) MRICS IMaPS Tech IOSH MIOd

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