

Building Control Solutions

Homeowner Guide 13

The Party Wall Act



The Party Wall etc. Act 1996

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The Party Wall etc Act came into force on 1st July 1997 and aims to prevent neighbour disputes arising over party walls and boundaries which may end up in court, by setting down a procedure for consultation before work starts and agreed rules of conduct for the duration of the works.

The Act contains provisions relating to the construction, alteration and repair of walls, on the line of junction between adjoining properties and adjacent excavations and construction in close proximity to adjacent property.

These are essentially matters of private law between the owners concerned.

The Party Wall etc. Act cannot be enforced by the local authority. The Council only has powers if the works carried out require Building Regulations and / or Planning Permission. The Party Wall, etc, Act is additional and separate legislation.

What is a Party Wall?

A party wall is one of the following:-

- a) A party wall is a wall forming part of the building that stands on land of different owners.
- b) A party wall is a wall forming part of the building standing entirely within the boundaries of one property but to which the adjoining owner has attached an enclosing structure, that part of the wall then becoming a party wall.

'A party fence wall' (e.g. garden wall) is not part of a building, and stands astride the boundary of land belonging to two or more owners. It is used or constructed to be used for separating adjoining lands.

The act sets out the rights and responsibilities of building owners and adjoining owners.

Existing Walls

In the case of existing party walls or "party fence walls", a building owner is given various rights under the Act to repair, alter, strengthen and to conform with statutory requirements.

A notice must be served on the relevant adjoining owner(s) with details of the proposed work not less than two months before the date on which the work is to begin.

On receiving the notice the adjoining owner may, within fourteen days serve a counter notice requiring specific additional works reasonably needed for their convenience. This must be complied with by the building owner, unless there is a good reason not to do so. If an adjoining owner does not reply to the written notice within fourteen days, it is deemed a dispute has arisen.

Building Owner and Adjoining Owner / Occupier

- a) The building owner is the owner of the property at which the building work is to be undertaken.
- b) The adjoining owner refers to the owner and / or occupier of land and buildings adjoining that of the building owner. All such includes any person(s) with an interest greater than 12 months duration in the adjoining property. (e.g. Leaseholder).

New Walls and Adjacent Excavation and Construction

If a building owner wishes to build a new party wall or 'party fence wall' on the line of junction (boundary), he or she must give the adjoining owner one months written notice.

If the adjoining owner gives consent the wall may be built half on the land of each owner or in such a position as they both agree. If consent is not given, the building owner may only build the wall wholly on his own land.

If the wall is constructed upon the line of junction of the two properties but wholly within the boundaries of the property of the building owner, the building owner may construct the foundations to such a wall into the sub-soil within the boundaries of the property of the adjoining owner only if necessary. (Owners wishing to build in this situation should take care not to build any foundation on an adjoining owners land without their permission).

Excavations

A building owner who proposes to excavate to a greater depth than the adjoining owner's structure and / or build within 3 metres or in certain circumstances, 6 metres of any building or structure of an adjoining owner must, before undertaking ANY works, serve upon the adjoining owner notice providing plans and brief description of the works to be undertaken. The Notice given must be of one month's

duration. If the adjoining owner does not give written consent within 14 days of the date of the Notice, a dispute shall be deemed to have arisen under the Act.

The adjoining owner may serve a Counter Notice requiring the building owner to carry out works to underpin, strengthen or safe guard the foundations of the building of the adjoining owner. Such proposed works may require Building Regulations Permission. (See diagram for explanation of the 3 metre distance and 6 metre distance).

At least one months notice of the proposals must be given to the adjoining owner, and if the Adjoining Owner does not give their written consent within fourteen days a dispute shall be deemed to have arisen under the act. (See diagram for explanation of the 3 metre distance and 6 metre distance).

Disputes

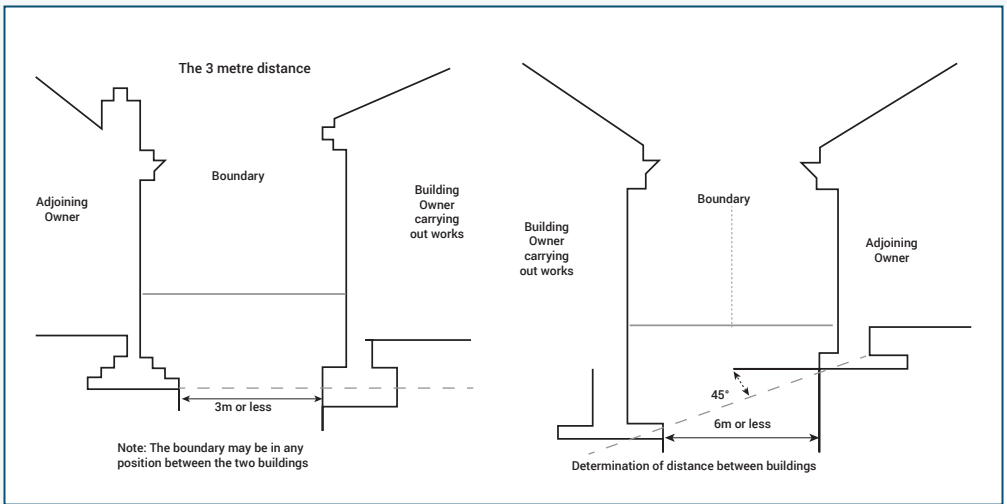
If a dispute occurs then the persons involved can each appoint their own Surveyor or appoint the same Surveyor to act as the Agreed Surveyor.

The Surveyor(s) will draw up an 'award' laying out how and when the work can be carried out, and various other matters as they sodetermine.

Summary

In either of the following cases, the permission of the Adjoining Owner / Occupier should be obtained in writing prior to undertaking ANY works.

- 1) **If you are undertaking any work to an existing**
- 2) **If you are building a party wall or party fence wall which affects the Adjoining Owners land.**



3) If your work involves:-

- a) Excavation and construction of foundations for a new building, all within 3 metres horizontally of the Adjoining Owner's nearest building / structure and the excavation is to be deeper than the foundation supporting the Adjoining Owner's nearest structure. Or
- b) If the work involved is excavating or constructing foundations for a new building within 6 metres horizontally of the Adjoining Owner's nearest structure and where that work will cut a line drawn at 45 degrees from the bottom of the Adjoining Owner's foundations.

This written notice must state the date on which the work is intended to commence and provide sufficient plans of the proposed works. Prior notice should be as follows: -

Item 1 above – Two months

Item 2 above – One month

Item 3 above – One month

Further information

For further advice contact Faculty of Party Wall Surveyors on 01424 883 300.

Website: www.fpws.org.uk

This note is not an authoritative interpretation of the law and an owner wishing a fuller explanation should take advice from a suitably qualified surveyor or legal expert.



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