

RHODES & PARTNERS

CONSULTING STRUCTURAL & CIVIL ENGINEERS

GEO-ENVIRONMENTAL ENGINEERS

PARTY WALL SURVEYORS

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Disclaimer: the following is a brief summary of some key points of the Party Wall Act presented as an introduction only - there are many details and procedures omitted and this summary cannot be used as a definitive guide to conforming with the Act.

The Party Wall etc Act 1996 sets out certain rights and responsibilities when someone proposes to do any of the following:

- Build a new wall (eg for a house extension or certain types of boundary wall) on or adjacent to the legal boundary between neighbouring properties where no such wall currently exists
- Underpin, raise, thicken, make good, repair, demolish & re-build, cut into or cut away from an existing party structure between neighbouring properties - these party structures can be walls of buildings, certain types of boundary or fence wall or even floors between apartments
- Excavate (e.g. dig a trench for a drain or foundation) within 3 metres horizontally of any part of a neighbouring building or structure (e.g. house, garage, certain types of boundary wall) to a depth greater than the lowest part of that neighbouring structure (i.e. its foundations)
- Excavate within 6 metres horizontally of any part of a neighbouring building or structure where the excavation would cross a line drawn at 45 degrees downwards from any part of a neighbouring building or structure - this is relevant for deep excavations (e.g. for basements)

If you are the person proposing to do any of the above, then it is likely that the law requires you to serve a formal Notice on the affected neighbour(s). The Party Wall Act specifies what form these Notices must take, what information needs to be included, how the neighbour can respond and the timescales involved. The Act includes measures which prevent neighbours from unreasonably obstructing certain building works that have secured the necessary permissions (eg Planning, Building Regulations, Listed Building Consent etc). The overall purpose of the Notice is to request consent to the proposed works from each affected neighbour.

If you are the neighbour of a building owner who is proposing to do work of the type described above, then it is likely that they will need to gain your consent to the works before commencing. The building owner should serve a Notice under the Party Wall Act on you. This should contain enough information for you to be able to assess if there is any risk to your property from the works. You have the choice of formally consenting (specifying conditions if you feel it is necessary) or dissenting (you do not have to provide any justification for this, but doing so can help to maintain good neighbourly relations). If you consent, the building owner can progress with the proposed works in the timescales agreed. If you dissent, or do not reply within a certain time, then a Dispute Process defined by the Act is entered into.

Party Wall Surveyors are only involved in the process if and when the Dispute Process commences. Notices under the Act must have already been served (resulting in failure to secure consent) before Party Wall Surveyors can be appointed. Any professional advising the building owner or an affected neighbour before this point is purely acting in an advisory role - they are not working as Party Wall Surveyors (the same advisors may go on to perform this role).

In a Dispute, the building owner and the neighbour(s) each appoint their own Party Wall Surveyor (or there can be one Agreed Surveyor appointed by all parties) - they are not working for their appointing owners - they are independent professionals who are tasked with making reasonable decisions on how (if at all) the works should progress and who should pay for what. Their decisions are communicated through one or more Awards which are normally legally binding.

The Award from the Party Wall Surveyors will determine who pays the costs of making the Award. Normally, the building owner doing the works is likely to be responsible for these costs, but there are many circumstances where this is not true and the neighbour(s) may be also liable for some costs.

Rhodes & Partners has extensive experience in serving notices, receiving responses from adjoining owners and acting as Party Wall Surveyors in the case of a dispute. We offer a fixed fee service for activities up to the point where the affected neighbour(s) consent, dissent or don't reply. If we are appointed as Party Wall Surveyors, we offer competitive fee rates which are charged by the ¼ hour.

A note of caution. Some companies use the databases of successful planning applications to send generalised letters to every neighbour in the vicinity. These letters can be worded in a way that causes worry and uncertainty to neighbours. If you receive such a letter, or you become aware that your neighbour is about to undertake building works which seem to fall into one or more of the categories above, please call Rhodes & Partners and we would be happy to have an initial ½ hour discussion with you to help you decide on the best way forward. The initial consultation, if held at our office, would be at no cost and no obligation.

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Party Wall Surveyor

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