The Final Inspection - A Surveyor’s Perspective

It is customary for the AO’s surveyor to re-inspect following completion of the notifiable works, in most cases the AO’s surveyor’s fees are awarded as inclusive of such an inspection.

A number of questions arise: How frequently does such an inspection take place? What is the object of the exercise? What is the surveyors’ remit? What procedure follows such an inspection?

Well, I think we all know that many surveyors include a fee for this inspection then show little or no inclination to undertake the exercise. The Act contains no provision for a ‘final inspection’ it has become customary as there is no other way of bringing the process to a close. There is no ‘sign off’ system; something which conveyancing solicitors sometimes seem to find hard to grasp.

The purpose of the inspection is to try to draw a line under matters so that the owners can move on (sometimes literally) and thereafter consider the process completed; but what can we, as the appointed surveyors, say? Assuming the best, the answer is we can only confirm that no damage is apparent consequent upon the works and there is no requirement for repairs or financial compensation. However this does not mean the adjoining owner can no longer bring a claim or that the building owner is “in the clear”. The award remains valid for 6 years (subject to various legal tests?) then it becomes time barred by the Limitations Act 1980. If damage should arise, the building owner is still liable, assuming he can be tracked down.

The surveyors’ remit is to establish whether damage has occurred and how, if so, it should be rectified i.e. repair or, if not the extent of the payment in lieu (how much).

This is the final part of the party wall procedure and one which often results in the third surveyor being “brought in to bat”. It is also probably the area where greater impartiality is shown by appointed surveyors.

The reality is, all the conveyancing solicitor can actually ask the seller’s surveyor to demonstrate is that there is no ongoing dispute. A statement to that effect by the surveyors should suffice.

Simon J Price BSc (Hons) FRICS FFPWS
Price Partnership

BARRISTER’S ADVICE, ADVOCACY & REPRESENTATION IN ALL ASPECTS OF THE PARTY WALL ETC. ACT 1996 PROCEEDINGS AND COST RECOVERY
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Biblical Walls

If I may be allowed some journalistic licence I will set out below elements of party wall matters that we can find in the Bible – it may do you good to read them!

Isaiah 5 v 8 ‘Woe unto them that join house to house (making a party wall between them)... till there be no place’....Caution to Planners also!

Ezra 6 v 11 ‘I have made a decree, that whosoever shall alter this word, (Award) let timber be pulled down from his house, and being set up, let him be hanged thereon; and let his house be made a dunghill for this.’....Quite drastic actions actually for a breach of an Award!

I Kings 6 v 5 ‘And against the wall of the house be built chambers round about’. No mention of enclosure costs here then!

I Kings 6 v 7 And the house, when it was in building, was built of stone made ready before it was brought thither: so that there was neither hammer nor axe nor any tool of iron heard in the house, while it was in building.’....No Noise clause!

II Kings 12 v 7 Then Jehoash (Adjoining Owner) called for Jehoiada (Building Owner) and others and said unto them, why repair ye not the breaches of the house?....A duty to repair!

I Cor 3 v 10 According to the grace of God which is given unto me (Building Owner), as a wise master builder, I have laid the foundation, and another buildeth thereon. But let every man take heed how he buildeth thereon.’....They just might be Special Foundations eh!

Job 24 v 6 In the dark they dig through houses, which they had marked for themselves in the daytime.’....Injunction time maybe...cheats!

Psalm 101 v 7 ‘He that worketh deceit shall not dwell within my house: he that telleth lies shall not tarry in my sight’. ...Possibly no Notice or an invalid Notice then!

Psalm 127 v 1 ‘Except the Lord build the house, they labour in vain that build it’. ...A competent builder with insurance cover no doubt!

Proverbs 24 v 3 ‘Through wisdom is an house built; and by understanding it is established’ ....Appoint a party wall surveyor from the Faculty for goodness sake!

II Chron 34 v 15 ‘And Hilkiah (Building Owner) answered and said to Shaphan (Adjoining Owner), I have found the book of the law (Party Wall Act) in the house of the Lord (Government). And Hilkiah delivered (should have served) the book to Shaphan’.

Isaiah 24 v 10 ‘The city of confusion is broken down every house is shut up, that no man may come in’. ...But surely section 8 applies for access rights here!

Ezekiel 8 v 7 ‘And he brought me to the door of the court; and when I looked, behold a hole in the wall’.........So, cutting into the wall without a Notice eh!

Joshua 6 v 20 ‘So the people shouted when the priests (court judges) blew the trumpets: (court order) and it came to pass, when the people heard the sound of the trumpet, (received the court order) and the people shouted with a great shout, (served the court order) that the wall fell down flat.’....So, make enough noise and you will get the demolition order!

Nehemiah 9 v 25 ‘And they possessed houses full of all goods, wells digged, vineyards, and olive yards, and fruit trees in abundance.’ ...A well taken Schedule of Condition!

Amos 7 v 7 ‘Thus he showed me: and, behold the Lord (Building Owner) stood upon a wall made by a plumbline, with a plumbline in his hand.’....Just checking!

Nehemiah 4 v 19 ‘And I said unto the nobles, (Surveyors) and to the rulers (Owners), and to the rest of the people (Occupiers), The work is great and large, and we are separated upon the wall, one from another.’ ...Call in the third surveyor then!

Nehemiah 13 v 21 ‘Then I testified against them, and said unto them, why lodge ye about the wall? If ye do so again, I will lay hands on you. From that time forth came they no more on the Sabbath.’...I told you...No Sunday working!

Ezekiel 8 v 8 ‘Then said he unto me, Son of man, dig now in the wall: and when I had digged in the wall, behold a door.’....So secret work without a Notice then!

AND FINALLY

Isaiah 36 v 12 ‘Hath my master (Adjoining Owner) sent me (AO Surveyor) to thy master (Building Owner) and to thee (BO Surveyor) to speak these words? Hath he not sent me to you that sit upon the wall, that you may eat your own dung, and drink your own p**s? ...Some surveyors are very difficult to get on with aren’t they!

Alex Frame—ADS Property Services

FFPWS MSc MRICS FASI FCIOB MCI
Is the parte over?

James McAllister, Director of The Party Wall Consultancy, discusses the implications of a recent Court of Appeal case concerning the appeal of ex parte awards.

Introduction
The recent Court of Appeal decision in Patel v Peters & Anors¹ has provided some welcome clarification on the validity of ex parte awards pursuant to the operation of sections 10(6) and 10(7) in connection with fees, particularly where a late, but effective, response is received prior to issue of the ex parte award. This case also outlines the correct methodology and procedure for resolving disputes over fees.

The Background
This case concerned notifiable works proposed by the Building Owner (Patel), which affected three adjoining properties. Notices were served and surveyors were duly appointed in the usual manner. The various Adjoining Owners had collectively appointed one surveyor to act for each of them.

Various awards were issued in relation to the notified works, each containing a clause entitling the Adjoining Owner’s Surveyor (“AOS”) to be paid, by the Building Owner, his reasonable expenses in connection with the preparation of the award and one subsequent inspection. Each award also allowed: “the quantum of such expenses to be agreed or awarded by any 2 of the 3 surveyors”. The escalating fees of the AOS soon became a matter of dispute as the Building Owner’s Surveyor (“BOS”) was not prepared to accept them. The AOS sought payment on the basis of time expended, as evidenced by his supporting timesheets. The BOS rejected the AOS’s timesheets as irrelevant and instead suggested that the fees of the AOS should be determined by making an objective assessment of a reasonable fee based on the time commitment a competent surveyor should have spent on the matter.

In the event this could not be agreed, it was the BOS’s contention that the matter should be referred to the third surveyor for determination. This was not acceptable to the AOS. Predictably, relations between the surveyors deteriorated, which later invited judicial scrutiny as to the general conduct of the surveyors. However, although this was considered by the judges in both the County Court hearing at first instance and in the Court of Appeal as being largely irrelevant to the material issue of the appeal, it does, at least, set the scene as to how the following circumstances unfolded.

The embryo of the subsequent litigation concerned the validity of a request to act served upon the BOS by the AOS pursuant to section 10(7), and the validity of the consequential ex parte awards issued by the AOS. Following prior attempts to engage the BOS on the issue of agreeing fees, the AOS had served a letter on 21st December 2011 requesting the BOS to act effectively within 10 days by reviewing his timesheets and agree his outstanding fees. The Christmas period then ensued and the BOS did not respond within 10 days of the request. Interestingly, the AOS considered it to be “ungentlemanly” to serve a 10 day notice over a holiday period going on to state that he would not consider the 10 days to have expired “until the public holidays have been adjusted for”, thereby inferring a modification to the statutory 10 day period. The BOS had not only failed to respond within the 10 day period following the request, but had not responded within the extension to the 10 day period purported to have been permitted by the AOS by accounting for public holidays. The BOS did, however, finally respond on 6 January 2012, but the AOS had taken the view that his entitlement to proceed ex parte had now been invoked and no action (however effective) by the BOS could now reverse this. The AOS then proceeded to award his fees in three ex parte awards a month later.

The County Court hearing
The Building Owner appealed the ex parte awards in accordance with section 10(17) and the matter came before HHJ Hand QC in the central London County Court. The preliminary issues before the court (as later modified) were as follows:

i) Was the letter dated 21st December 2011 a valid notice under section 10(7)?
ii) Did the wording of the letter alter the 10 day period stipulated by section 10(7)?
iii) Did the BOS respond in time?
iv) Did the BOS refuse or neglect to act effectively?

¹ [2014] EWCA Civ 335.
² There was one ex parte award between the Building Owner and each Adjoining Owner.
³ There was a fifth preliminary issue which considered whether a clause in the earlier awards precluded the AOS from making any awards under sections 10(6) and 10(7) of the Act; however, this was later discarded.
Is the parte over?

Continued from page 3

The judge conjoined issues 1 and 2 and held that the 10(7) notice was valid and the wording concerning an adjustment for bank holidays did not alter the 10 day period in any way that invalidated the request to act. On issue 3, the judge decided that whilst the BOS did not respond within the 10 day period, a valid response could have been made outside the 10 day period provided that the ‘requesting’ surveyor had not yet issued the ex parte award. He contrasted the time frame for compliance stipulated in section 10(7) with the 14 day period set out in section 10(17) for award appeals, suggesting that the latter is set in stone, whereas the flexibility of the provisions contained in section 10(17) are determined by the decided action of the responding party. In other words, there might be some scope to keep alive the ability of the ‘defaulting’ surveyor to act beyond the 10 day period, provided they act effectively, although the judge declined to lay down any decisive rule on the issue. As for issue 4, the judge held that the BOS had both refused and neglected to act effectively, albeit the absence of a response alone was not determinative. Instead, the judge looked at the character of the BOS’s response. Given that the BOS was not prepared to consider the timesheets of the AOS, which were the subject matter of the request, the judge was satisfied that this was both a refusal to act and neglecting to act effectively. Therefore, a late response by the defaulting surveyor (BOS), albeit dealing with the subject matter of the request effectively, might have precluded the ability of the requesting surveyor (AOS) to then proceed ex parte.

The Court of Appeal hearing

The Building Owner did not accept this decision and was given permission to appeal in the Court of Appeal on the basis that a case raised important points of principle under the Act. However, despite the written and oral submissions of counsel for the Building Owner, and the representative for the Adjoining Owners’ arguably raising points of principle, Lord Justice Richards was of the view that the resolution of the dispute turned on the particular facts of the case, rather than points of law. Notwithstanding this, the points arising in the judgment have undoubtedly placated the demand for greater clarity in such matters.

The central issue before the court was whether the BOS had refused or neglected to act effectively, thereby empowering the AOS to act ex parte in the subsequent issue of awards in relation to his fees.

The first ground of appeal related to the first and second preliminary issues in the County Court. LJJ Richards, Beatson and Briggs agreed with the earlier decision of HHJ Hand QC that the notice was indeed a valid request under section 10(7) and the wording in the notice regarding allowance for bank holidays did not invalidate the notice. It was reiterated that the 10 day period in section 10(7) is laid down by statute and cannot be altered by either party, thereby mirroring the rigidity of other timeframes set out within the Act. The issue of whether an estoppel might arise in preventing the requesting surveyor from acting before the purported extension to the 10 day period had expired was briefly raised, although no guidance was given since the issue did not arise out of the facts of this particular case.

Ironically, what became a pivotal issue in the Court of Appeal hearing was overlooked by the County Court judge as not being relevant on the basis it was not covered by the preliminary issues, despite the fact he did then tentatively take over the issue. The issue being whether, as the County Court judge put it, section 10(7) creates “a continuing state of affairs” such that a surveyor who neglects to act effectively within the 10 day period may act effectively after that period, and thus prevent the requesting surveyor from acting ex parte. Fortunately, the lord justices of appeal in the Court of Appeal felt the point did warrant determination as it was integral to their ability to later ascertain whether the ex parte awards were valid.

The Court of Appeal decided that whilst section 10(7) empowers a requesting surveyor to act ex parte on the subject matter of the request if the defaulting surveyor fails to respond within 10 days of the request, there is nothing in this subsection of the Act to suggest that the defaulting surveyor cannot bring an end to his neglect by acting effectively before the requesting surveyor has proceeded to act ex parte. This affirms that there is an opportunity for a surveyor who has failed to offer a timely response to a request to act to then halt the ex parte actions of the requesting surveyor, even if the 10 days have passed, provided the response is an effective action. Again, a distinction was drawn between sections 10(7) and 10(17) where expiry of the 14 day appeal period ‘debars’ any late action by the appellant.

The lord justices of appeal reiterated that the underlying purpose of section 10(7) was to avoid delay in section 10 proceedings being imposed by one of the surveyors failing to properly cooperate. Therefore, once the defaulting surveyor has brought to an end his neglect by acting effectively, “the rationale for empowering the requesting surveyor to act ex parte has disappeared”.

The surveyor who served the request to act on the other surveyor.

The surveyor in receipt of the request to act.

It should be noted that this was a County Court hearing and no rule would bind any other court, albeit persuasive in future proceedings.

Dr Levy appeared as a litigant in person on behalf of the other Adjoining Owners.

Albeit this was subsequently not pursued by the appellants.


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Having settled the legal framework to support the validity of late, but effective, action to end the neglect (and with it, the ex parte process\textsuperscript{11}), the court turned to the facts of the present case to adduce whether the BOS had refused to act effectively pursuant to section 10(6). Reversing the County Court decision, and in so doing the validity of the AOS’s ex parte awards, the lord justices of appeal held that, whilst the BOS had refused to review the AOS’s timesheets in the pursuit of agreeing fees, a reasoned justification for the refusal was given. The BOS had proffered an alternative basis for fee assessment, which comprised an objective calculation on the time input that a competent surveyor should have spent in fulfilling his duties. According to Richards LJ, he had “engaged head-on with the subject-matter of the request and set out his position in respect of it”. In his view, “this came nowhere near to a refusal or neglect to act effectively”.

The focus of the counter-argument propounded by the Adjoining Owners was that the RICS Guidance Note: ‘Party wall legislation and procedure’\textsuperscript{12} contemplates that an award typically includes for fees “as a lump sum based on time incurred”\textsuperscript{13}. Thus, the BOS’s demand to consider an alternative ‘summary assessment’ method was a refusal to act effectively on the basis this departs from the industry-recognised norm. Richards LJ did not accept this argument and was satisfied that the alternative method of assessing reasonable fees on the basis of what a competent surveyor should have charged was an effective proposition, meaning that the actions of the BOS were neither refusal nor neglect.

As an aside, Richards LJ also stated that this type of dispute between surveyors “cried out for referral to the third surveyor”\textsuperscript{14}. This provides a clear indication of the settlement procedure preferred by the courts in such circumstances. Since it is usually a dispute over fees that catalyses the breakdown in relations between surveyors culminating in a demand from one to the other to act on the issue, it begs the question whether, in light of this case, ex parte awards will become less common.

One final point concerns the terminology laid down in the awards in respect of the determination of fees. The awards stated: “the quantum of such expenses to be agreed or awarded by any 2 of the 3 surveyors”. Richards considered that whilst this “purported to lay down specific machinery for the determination of the expenses”\textsuperscript{15}, it was not legally effective and did nothing to displace the statutory provisions governing the making of awards on the matter of costs.

Conclusion
This case illustrates that there is a tendency for surveyors to adopt a literal interpretation of the Act without having regard to the underlying purpose. This contrasts with the ‘purposive’ approach adopted by the courts. Sections 10(6) and 10(7) were clearly contemplated by the statutory draftsmen as a mechanism to keep matters moving forward in the event of a breakdown in cooperation by one of the appointed surveyors. Whilst rigid timeframes are needed for matters such as an appeal against an award, the rationale consistently adopted by the judiciary in both the aforementioned hearings was that other aspects of the Act can be more flexibly applied if the desired outcome contemplated by the Act is ultimately achieved, even if it is a little late in the day. Accordingly, a degree of caution needs to be exercised before dismissing the ability of our opposite numbers to act once the allotted time period for them to do so has expired, particularly if we (as the requesting surveyor) have not yet got our act together and issued the ex parte award.

The Court of Appeal decision in this case also makes clear that surveyors should not assume they have carte blanch to go ex parte once the 10 days is up following a section 10(7) request if their opposite number later responds in a way that can be construed as ‘effective’ before the ex parte award has been issued. The concept of what is deemed to be acting effectively has also been helpfully explored in this case which may avoid unnecessary, and invalid, ex parte awards.

This decision also advises surveyors in dispute over fees that referral to the third surveyor is the correct approach and further demonstrates the practical intention of the three-surveyor tribunal.

Unfortunately, this case inadvertently brings the concept of hypothetical fee assessments to the table. Whilst it remains to be seen whether this will open the floodgates to an abuse of the duties of Building Owner Surveyors in keeping their appointing owner’s costs down by suppressing the fees of others, it may equally discourage Adjoining Owner Surveyors from artificially ramping up costs under the misapprehension that it isn’t their appointing owner they will need to go cap in hand to for payment.

\textsuperscript{11}On the basis an ex parte award had not been issued at the time the defaulting surveyor acted effectively.
\textsuperscript{12}[30] Richards LJ.
\textsuperscript{13}ibid.
\textsuperscript{14}6\textsuperscript{th} edition.
\textsuperscript{15}ibid, para 7.5.1.
\textsuperscript{16}[30] para 7.1.
\textsuperscript{17}[10] Richards LJ.

James McAllister
FFPWS LLM BSc(Hons) MRICS MCIArb
The Awarding Body for the Built Environment (ABBE) in collation with and assisted by the Faculty of Party Wall Surveyors (FPWS) have developed the first formal qualification in party wall studies to be accredited by Ofqual.

The qualification is aimed at those studying for: construction; building engineering; property surveying and architectural qualifications and those intending to practice in party wall matters who wish to obtain a formally accredited qualification in support of their education development and or applications for employment and professional development.

The qualification is a Level 3 Award in Understanding The Party Wall etc. Act 1996 (QCF) and is credited with 3 credit units on the Qualification Credit Framework.

The award is available through ABBE Assessment Centres of which the FPWS are a registered centre. Applicants can apply directly to the FPWS or via the ABBE website. Significantly the award will be delivered by examination at Pearson Vue centres throughout England and Wales making it locally accessible with no set examination dates.

The Award will be available for applications very soon and will be priced competitively.

Applicants to the FPWS will automatically become eligible to be a student member of the Faculty (where they are non practicing surveyors) free of charge with access to the learning resources available that come with Faculty membership. In addition an experienced party wall surveyor will be nominated a regional mentor for each applicant to help them through the qualification process.

We would be grateful if you could bring this new qualification to the attention of any students who may be interested in obtaining the qualification in support of their learning and applications for employment.

THE THIRD SURVEYOR - A GUIDE
This book explains the process whereby one arrives correctly at the appointment of a Third Surveyor in an easily digestible and comprehensible manner and then proceeds to explain in clear and concise terms the need for extensive and wide ranging abilities and knowledge necessary for a Third Surveyor to be able to provide advice, guidance and assistance to party wall surveyors, including a section at the end of the book providing an example of a Third Surveyor model award.

MISUNDERSTANDINGS AND GUIDANCE (Second Edition)
This book includes material related to changes in some parts of CPR, the effects of case laws, together with further clarification of misunderstandings throughout the book.

Misunderstandings and Guidance and The Third Surveyor are available at a cost of £29.50 each + postage and packaging and please note that if both books are purchased, a £5.00 discount will be given.

Both books are a 'must have' for all practising party wall surveyors. Please contact the Administration office on 01424 883300 or by email enq@fpws.org.uk for details on how to purchase these books.
I seem to remember, that I mentioned last time, something about a delightful summer. That seems an age ago with all that we have been putting up with over the last few winter months and I totally sympathise with all those people who had to endure flooding to their homes and property.

For all those budding inventors perhaps this is the time to invent quickly installed demountable flood defence systems? Sand bags seem so unimaginative and not very practical!

I am delighted with the progress that is being made in the FPWS by the Directors and Regional representatives. Members cannot have failed to have noticed the number of local events that are now being presented I would urge you to endeavour to attend these formal meetings and gain invaluably knowledge on matters relating to Party wall and Boundary disputes.

I mention Boundary disputes as well because we now have a course open to Faculty members to attend on this particular subject as so many party wall aspects seem to over-lap and combine boundary situations. It is therefore necessary that our members are completely aware and knowledgeable on these matters as well as party wall issues. It should help with your understanding of this subject if you so wish and to provide another source of income. You should however remember to keep party wall and boundary issues totally separate.

You will soon receive information on our new initiative for a NVQ in party wall matters set at level 3 and directed at students who require the basic information on party wall aspects and to help reinforce their professionalism in every part of the construction industry. This has been developed in association with ABBE and will shortly be available for those students who wish to add additional points for their degrees. So if you have students that are working for you and who require an additional topic to their studies then I can recommend this subject. Look out for the launch by the FPWS and subject matter produced by ABBE.

In addition there will be CPD study matter on Party Walls available soon “on line” as a distance learning package providing 7 hours of CPD.

Remember, as a member of FPWS, you are obliged to maintain 20 hours of CPD on relevant subject matter.

A new book simplifying Party wall matters in a form of an “Easy Guide” for anyone interested in furthering their knowledge in this matter and in practical terms will soon be available.

As the Faculty expands the membership grows and the work that the Officers are involved also increases. This requires help either by supplying good articles for the FPWS magazine or your help on a working party or support for your Local Forum. If you have an expertise or wish to be more engaged with the Faculty then please contact the Office in the first instance and speak to Nicky. Your help will be very much appreciated.

Finally, look out for the information and advantage of early booking for our CPD seminar to be held in Swindon on 18th September that will include our Annual Dinner and the AGM on 22nd May 2014 in London.

I will look forward to seeing and meeting you then.

Malcolm Lelliott
President FPWS
Your Faculty Needs Newsletter Articles From YOU

...by July 30th 2014
New Members

We are very pleased to welcome the following individuals into the Faculty:

**Associate** membership is aimed at part time students and less experienced party wall surveyors who are working towards full membership of the Faculty. Please do not hesitate to call upon the Regional Director (see www.fpws.org.uk) in your area should you require help or advice.

**ASSOCIATES:**
- Michael Warren—Datum Building Consultancy, Hertfordshire
- Goa Shorney—GBS Architectural Ltd, London
- Claire O’Sullivan—Sanderson Weatherall LLP, London
- Tina Patel—Formed Architects & Designers LLP, Middlesex
- Daljit Sharma—OM Safety Solutions Ltd, Coventry
- Nicholas Herridge—Antony Patrick Associates Ltd, London
- Peter Jones—Sanderson Weatherall LLP, Newcastle

**MEMBERS:**
- Anthony Evans—Berkshire
- Jamie Sutton—DBK Partners LLP, Birmingham
- Alan Wiesenfeld—London
- Albert Wellington—London
- Jiten Patel—London
- John Martin—Oxfordshire
- Sandra Pike—Paul Carpenter Associates, Devon
- Philip Ward—Argyle Design Ltd, Cambridgeshire
- Richard Mullineaux—London
- David Hollingsworth—Nottingham
- Nick Sutcliffe—Bristol
- Simon Jones—Ideality Consultants Limited, Leicestershire
- Ben Mackie—The Hopps Partnership, Essex
- Michael Hill—Surrey
- James Bruce—Mcleod Contracting Ltd, Kent
- Carl Woodham—Kent

New Members

Terrent Beggs—Surrey
Gavin Bashford—Kent
Mark Hawkins—Staffordshire
James Dean—Western Building Consultants Ltd, Bath
Elliott Pardington—Monmouthshire
Toni Vacher—Middlesex
Keith Chandler—Surrey
Dave Loughlin—Norfolk
Keith Holdcroft—CPR Ltd, Staffordshire
Maxine Parker—East Sussex
Phillip Dewey—Berkshire
Usman Yaqub—Studio Yaqub Limited, Bristol
Anthony Fieldhouse—Anthony Fieldhouse & Co, Middlesex
Luke Thorburn—Thorburn Property Consultants, West Sussex
Colin Chambers—Clarion Chartered Surveyors, West Sussex
Stefan Smereka—Smereka Associates, London
James Byrne—Eames Limited, Surrey
Ian Clarke—Binnacle Design, Oxfordshire
Jonathan Ranson—Romans Surveyors & Valuers, Middlesex
Douglas Jones—London
Brendan Barry—London
Daniel Watts—London
Tajinder Rehal—Kent

**UPGRADE TO MEMBER:**
- Stephen Bubb—Kent
- Brendan O’Callaghan—Surrey
- Caroline Hampton—Surrey
- Freddie Skeggs—Jameson Surveyors Ltd, Surrey

**UPGRADE TO FELLOW:**
- Nigel Soloman—Bennington Green Associates, Dorset
- James Lewis—James Lewis Surveyors Ltd, Surrey

If you have good experience in party wall surveying, you might be looking to upgrade to *Fellow* status. This would entail attending our ‘Third Surveyor’ course on 24th September 2014 for upgrade to be considered.

Please contact Nicky in the Administration office on 01424 883300 or by email enq@fpws.org.uk for details.

**RETIRED:**
- Paul Rogers
- John Cox
- Jeremy Drewe
Why would an architect from Dublin want to become a member of the Faculty of Party Wall Surveyors?

This was a question that was put to me on a number of occasions commencing with attending a course on Party Wall Surveying by James Jackson in Liverpool in September 2011. I subsequently attended interview with James and Alex Frame in London later that month and was admitted as a member.

But that does not answer the question. My curiosity had been raised in relation to the Party Wall etc. Act 1996 and its practical application in dealing with party wall matters and disputes over the period of its implementation and before. The basis of this curiosity was that an amendment to Irish legislation under the Land and Conveyancing Law Reform Act 2009 included provisions for dealing with party wall matters. While this clearly was different legislation (and I will outline some of the differences) it appeared that there may be some benefit in having an understanding of how party wall matters are dealt with in the UK.

The process of introduction of our new legislation was a review of laws across a wide spectrum. Approximately 60,000 pieces of legislation predated independence in 1921, and much of this was no longer applicable. Under the Statute Law Revision Project, the Law Reform Commission was set up to review this and with the remit to replace all old legislation.

Prof John Wylie of Cardiff University, an acknowledged authority in land law matters in Ireland, was appointed leader of the relevant project in Land Law reform. This was subsequently passed into legislation and included Chapter 3: Party Structures, which according to Prof Wylie he drafted one evening. I have had two interesting meetings with Prof Wylie who described the process and how his original draft went through unchallenged and without amendment.

In preparing this piece of legislation, the Law Reform Commission acknowledged a little used piece of legislation, being a section of the Dublin Corporation Act of 1890. This sets out party wall procedures and which are very familiar in form in that they are similar to the party wall section of the London Act of 1894. However, it was only in the course of my curiosity in relation to party wall legislation that I became aware of the Dublin Corporation Act. Many solicitors in Dublin are unaware of its procedures, and in the words of a well-respected conveyancing solicitor, Rory O’Donnell, the procedures are deemed cumbersome.

The procedures he referred to are almost identical to those set out in the Party Wall etc. Act and earlier such statutes. Interestingly, this local Act, applying to the administrative area of Dublin City Council only, has not been repealed, as other sections continue to be proactively used (for example in relation to naming of streets and powers with respect to dangerous buildings).

However, in practice the lawyers have turned to the new provisions provided for in the Reform Act. When compared with the Party Wall etc. Act, the procedures are much simpler. In summary the Act describes the works that can be carried out by a building owner, and makes it clear that these can be undertaken. There are no procedures for notification, for formal appointments, nor for written agreements. The procedure basically entail the rights of the building owner to seek an Order from the District Court (being the lowest court in the Irish judicial system) if he so wishes, or if the adjoining owner is in dispute (albeit there is no dispute procedure). It is a simply laid out piece of legislation, extending to a mere 4 pages within the overall Act.

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And that is not where the differences end. Provisions for access are also made rather than having a separate act as in the case of Access to Neighbouring Lands Act. And, from my understanding, the access afforded under Irish legislation is more extensive than under the UK Act. It is broad ranging, including access for surveys or to enable works on the building owner’s land, even where inconvenience is caused, but that it is not reasonably practicable to carry out the works from within the land. While there are a series of works listed as permissible or for consideration, there is also a general provision clarifying that this is a non-exclusive list. It goes well beyond the works allowed under the Access to Neighbouring Lands Act.

A further interest is the matter of the location of the legal boundary. In essence, the legislation sidesteps matters arising in terms of identifying the line of junction. The definition party structure includes features such as hedges, trees, ditches and other objects close to the boundary and which may be entirely on one of the properties.

In practice to date, the legislation differs in not being tied up with procedural matters as is the case of the Party Wall etc. Act. As an outside observer, much of the Faculty correspondence and advice centres around the potential pitfalls in engaging, notifying, and completion of awards. My interests and experiences lie more with the practicalities of detailing and interface between structures, as well as the legal entitlements as defined by precedence. Therefore it is issues that arise under Cubitt v Porter, Weston v Arnold, Barry v Minturn and other cases that deal with the aspects of legal entitlement independent of the provisions of the Party Wall etc. Act. It may be worth mentioning that a further difference between Irish legislation and that of the UK, is that independence occurred in 1921 and therefore predated the Property Act of 1925. As a result, party walls held as tenants in common still exist in Ireland.

The scope of work in this area for me has been advising both building and adjoining owners as works are proposed or commence, and assessing and giving opinions on the location of boundaries. I deliver CPD presentations to legal practices in relation to my experience and understanding of Party Wall issues, and this has led to other Legal/Property related work.

I have yet to attend a court hearing in implementing the procedures set out in our Act. The experience to date is that the Act sets out in a clear enough manner the entitlements of both parties. It therefore performs a function as a carrot or stick in cases of disputes or potential disputes arising. To date, this has resulted in potential disputes being settled through correspondence, discussion, and negotiation.

However there are failings, and lessons to be learnt from the Party Wall etc. Act. At my first meeting with Prof Wylie he anticipated my leading question and identified the oversight in the omission of any form of notification procedure to the adjoining owner, or to dispute the position. Prof Wylie has gone on to project lead a review of land reform provisions in Northern Ireland (as most of your readers will be aware, the provisions of the Party Wall etc. Act do not extend to Northern Ireland).

This has resulted in the Northern Ireland Law Commission reform report NILC 8, and which includes party structure provisions. The proposed legislation is modelled on the Irish law but with some significant differences. Firstly there is a notification procedure with a related timeline. Secondly, allowable works are determined by an expert from an appointed panel and appeals are determined by the Lands Tribunal – an expert Statutory appointed Body. As a result there is no court procedure, and this is favourable given experiences here (and similarly reported from the UK) that property and boundary disputes are one of the least popular issues for most judges to consider.
In preparing NILC, consultation was invited by any party, and also stakeholders. One of the noticeable differences between the Party Wall etc. Act and NILC 8 is in relation to consultation by the adjoining owner. While a Notice has to be served accompanied by an award from the appointed surveyor, the adjoining owner has the right to consult with that surveyor. This may be found to be a more transparent process than that of the Party Wall etc. Act. In addition, at the dispute stage, the Lands Tribunal may postpone a determination to facilitate Alternative Dispute Resolution options.

So are there lessons to be learnt? Generally the Law evolves, as has been the case for Party Wall legislation from the Rebuilding of London Act of 1666 through the various Metropolitan and London Building Acts and on to the Party Wall etc. Act. The Boundary Dispute Resolution Bill reflects the never ending need for new or reviewed legislation. While the Party Wall etc. Act entails an arbitration based process, the current procedures might be assessed in the context of legal process move towards ADR. This might acknowledge the expertise of the trained and experienced Party Wall Surveyor, resulting in a process less prone to legal challenge, and therefore less costly.

I believe it is worth considering an updating of the Party Wall etc. Act, and to review in light of the differences, good or bad, of the Irish Legislation, and more so the form proposed under NILC 8. There is also sound argument in the Plain English campaign to make legal documents understandable in wording and intent. Indeed in that context it might be interesting to gather views from Party Wall Surveyors on the areas within the Party Wall etc. Act that might be modified.

The relevant sections of the Dublin Corporation Act appear to be dead, if not yet buried. The 1996 Act is basically 80 years old, having been lifted from the London Act of 1937. There can be little harm in reviewing it in modern terms and context, even if it is to remain unchanged.

Paul Keenan BArch FRSAI Dip Arb MFPWS is a director of Keenan Lynch Architects and Mypartywall.ie. He is a Technical Assessor for the Architects Registration Board, and has a Diploma in Arbitration. He has a Certificate in Party Wall Studies and is a member of the Faculty of Party Wall Surveyors (UK). He has experience as an Expert Witness in Licensing and Construction matters.
A Junior’s Perspective

It was exactly 1 year 8 months and 18 days (at the time of writing) since I was given the opportunity to understand and learn the legislation behind the Party Wall etc Act 1996 and apply it in an impartial, effective and thorough manner to my appointing owners and counterparts.

Since that day it is fair to say I speak for everyone who has dealt with party wall matters that they have had their fair share of receptive, kind, understanding and helpful owners and also the owners from a galaxy far distant from our own where manners are non-existent, contact null and void and disputes rife.

I’m fairly certain that these ‘owners from hell’ believe that party wall surveyors are:

1. Miracle workers with knowledge and expertise in areas far beyond our remit.
2. Entities without feelings, emotion or reasoning; we are merely beings seduced by defects.

In my experience I will admit that it is only 1 in every 10 owners that places a dark shadow over the work but they certainly make up for it.

One particular matter comes to mind where, in a nutshell, my appointing owners, who were the adjoining owners subjected to a relatively straightforward section 3 notice detailing the raising and cutting into of a party fence wall under 2 (2) (a) and (f) for the construction of a ground floor rear extension and a notice of adjacent excavation under section 6(1).

From the word go there was evidence the road ahead was so winding and extensive it presented us with a hazardous warning sign upon arrival. Never in my life have I come across individuals so articulate with words and baffled ideas of what the role of a party wall surveyor is. At first I was amused with their level of obnoxiousness but it soon became evident this is what I would have to address twice, three times a day for the next 6 months. I’m still haunted at the thought...and I’ve still the re-inspection to do!

As for the surveyors I’ve met and dealt with, you seem to be a delightful bunch!

Steven Vaughan
Price Partnership

Training Events

TWO-DAY COURSES

This course is suitable for Estate Managers; Property Developers; Architects; Architectural Technologists; Surveyors; Engineers; Building Control Officers and all personnel with a responsibility for dealing with commercial or residential properties.

It is for those that have little experience in party wall matters but would like to become more proficient with the workings of the Party Wall etc. Act 1996.

London 11/12 September 2014
Cost is £395.

A two-day course is also run by the Chartered Association of Building Engineers (CABE) in conjunction with the Faculty at the following locations:

Northampton 14/15 October 2014
Plymouth 16/17 December 2014
Northampton 3/4 March 2015
Bolton 12/13 May 2015

Please contact: Kate Denne direct at the ABE for booking details, including their costs, on 01604 404121.

TWO HALF DAY SEMINARS

London 17 June & 1 July — FULL
Birmingham 25 June 2014
London September/October 2014 date to be confirmed

Two half-day seminars (attend morning or afternoon session or both ) Morning Session: Interpretation; Owners/Surveyors; Notifiable Works; Procedures; Disputes/Awards; Post Award. The Afternoon Session consists of: Works before Notice; Rogue Surveyors; Life of Notices; Foundations; Security for Expenses; Enclose of Costs; Payment of Costs. Cost for each session is £99 or for both £190.

THIRD SURVEYOR COURSE

London 24 September 2014
Any member that has good experience can attend the course and if members are considering upgrading to fellow status, they should be aware that you have to attend this course to be considered. The course cost is £250.

BOUNDARIES

Birmingham 10 June 2014
This will be an interactive one-day session on the following subjects - Definition of a Boundary; Types of Boundaries, Types of Disputes; Collecting Evidence and Resolving a Dispute. The course cost is £250.

CPD EVENT & ANNUAL DINNER

Swindon 18 September 2014
Details regarding this dual event will be circulated to members shortly.

Please contact: Nicky Castell on 01424 883300 or by e-mail nicky@fpws.org.uk for further information.
Regional Forums

**EAST ANGLIA (Essex)**
**DATE:** 11th September 2014.
**TIME:** To be confirmed.
**GUEST SPEAKER:** Stuart Frame Staple Inn Chambers
**CONTACT:** Alan Bright Tel: 01277 233988
E-mail: admin@alanbright.co.uk

**WEST MIDLANDS**
**DATE:** 20th May 2014.
**TIME:** 6.30 p.m. until 9.00 p.m.
**VENUE:** The Red Lion, Warstone Lane, Jewellery Quarter, Hockley, Birmingham, B18 6NG
**GUEST SPEAKER:** Shaw Kelly Staple In Chambers.
**CONTACT:** James Jackson 0121 233 4145
jamesk.jackson@btconnect.com

**LONDON (North)**
**DATE:** 9th June 2014.
**TIME:** 6.30 p.m. and 8.00 p.m.
**VENUE:** The Kings Head, 1 The Green, London N21 1BB
**GUEST SPEAKER:** Matthew Hearsum Morrisons Solicitors.
**CONTACT:** Richard Garry 020 8886 0400
r@garry.uk.net

**LONDON (South)**
**DATE:** To be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Simon Price 0207 736 7311
info@pricepartnership.co.uk

**NORTHERN HOME COUNTIES (Berkshire)**
**DATE:** To be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Vicki Dewey-Bruce 0800 311 2077
vdb@party-wall-services.co.uk

**NORTHERN HOME COUNTIES (Oxford)**
**DATE:** July—date to be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Jill Thompson 01608 646408
jill@jtconsulting.co.uk

**SOUTH EAST (Hampshire)**
**DATE:** To be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Arthur Cross 01420 84263
arthurcross@btinternet.com

**SEVERNSIDE**
**DATE:** To be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Andrew McAllister 0117 944 4419
info@mcallisterassociates.co.uk
Or
Phillip Beck 01874 713133
admin@htbconsult.co.uk

**SOUTH WEST (Plymouth)**
**DATE:** To be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Sarah Harrower 01726 833438
t.hp@btinternet.com

**EAST MIDLANDS**
**DATE:** To be confirmed.
**TIME:** To be confirmed.
**CONTACT:** Tony Rellis 07802 591 388
tony.rellis@crawco.co.uk

**EAST ANGLIA (Norfolk)**
**DATE:** 5th June 2014
**TIME:** 5.30 p.m. until 8.00 p.m.
**VENUE:** David Taylor Associates UK Limited, Curzon House, Riverside Business Centre, Crossbank Road, Kings Lynn, Norfolk PE30 2HD
**GUEST SPEAKERS:** Stuart Frame Staple Inn Chambers
**CONTACT:** David Taylor 01553 764160
david.taylor@dtauk.co.uk

Please liaise with your Forum Chairman on subjects you wish to be included, particularly in respect of obtaining the services of Barristers from Staple Inn Chambers so that they can select one of their barristers who specialise in the subject.
Stuart Frame revisits the scenario of the Building Owner who conducts works without first serving notice

A building owner conducts works which are notifiable under the Party Wall etc. Act 1996 (“the 1996 Act”), but without first serving notice of his intention to do so. Damage may or may not have been caused by the unauthorised works, which may or may not be ongoing.

This is no doubt a common scenario which many of you hear from concerned adjoining owners, and one which remains a consistently popular topic for debate. One only has to consider the subject matter of the Faculty’s various forums around the country to see what a hot issue this is amongst surveyors, one that is often referred to as the ‘retrospective’ application of the Act.

The traditional view in such circumstances is that where the Building Owner has conducted works not authorised by the 1996 Act’s processes when in fact they should have been, then such works are subject only to the common law regime. The surveyors have no jurisdiction to make a subsequent award assessing compensation or authorising the works retrospectively. Consequently, the only recourse that the Adjoining Owner may have for any loss or damage suffered as a result of those works is to sue the Building Owner for nuisance, trespass, negligence and the like.

This traditional view has been predominantly based on two Court of Appeal authorities, namely Louis v Sadiq and Woodhouse v Consolidated Property Corporation which are quite clear in their message: where the necessary statutory authority for the works has not been obtained, then any liability arising remains to be dealt with at common law, with the surveyors having no jurisdiction to produce subsequent awards dealing with matters arising from those works.

The one exception to the above premise is where the Building Owner and the Adjoining Owner expressly agree to utilise the 1996 Act’s dispute resolution procedures, and to use appointed surveyors to make an award that deals with the matters in dispute arising out of the unauthorised works. Such express agreement between the parties to use the statutory regime to nevertheless resolve any dispute arising out of the unauthorised works was a course of action taken in the 1907 case of Adams v Marylebone BC, where it was said,

“...it was agreed between the parties that the notice should be given nunc pro tunc, and that the work already done should thenceforward be treated as if it had been done under a notice duly given under the Act”

Accordingly, my advice to my clients, and indeed to members at various Faculty forums in the past, has been that the subsequent use of the 1996 Act’s procedures to deal with matters arising out of notifiable but unauthorised works, can only be achieved with the express agreement between the parties. Such an express agreement was approved in the recent county court case of TPS Developments v Barker & Barker.

However, this traditional view has been challenged, and in particular because of the fact that whilst the cases of Louis v Sadiq and Woodhouse v Consolidated Property Corporation are relatively modern cases, they were nevertheless cases which were decided under the old London Building Acts (Amendment) Act 1939 (“the 1939 Act”).

The difference in the wording of the 1939 Act and the 1996 Act were of course matters which were considered in Robin Ainsworth’s recent article in the autumn 2013 newsletter, entitled “Can the Act be invoked if no primary notice is served?” Robin cogently argued that even if works which fall within the 1996 Act’s remit are conducted without a notice first being served, the adjoining owner still has the option of obtaining an award to resolve any outstanding matters in dispute arising from those unauthorised works, presumably as well as the normal common law route of bringing a claim for nuisance, negligence and trespass.

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At first blush that argument appears to be contrary to the *Louis v Sadiq* and *Woodhouse v Consolidated Property Corporation* Court of Appeal decisions, but reliance is placed upon the difference in the wording between section 10(10) of the 1996 Act, and its equivalent predecessor, section 55(i) of the 1939 Act. These sections deal with the jurisdiction that the surveyors have when making awards. Robin pointed out in his article that the earlier s55(i) of the 1939 Act makes express reference to ‘notices’, whereas it descendant, section 10(10) of the 1996 Act makes no such reference, instead preferring the phrase “work to which this Act relates”.

Consequently, it is argued that even previously unauthorised work is “work to which this Act relates” and therefore that surveyors do now have the jurisdiction under the 1996 Act to determine matters which are in dispute and arising out of works which have not been authorised by the statutory regime.

Such matters have now been considered by Mr. Justice Akenhead (who sits in the Technology and Construction Court of the High Court in London) at a moot in November 2013. The hypothetical factual scenario put forward in the moot was as follows:

(i) Works to a party wall caused damage to the Adjoining owners bedroom, and a party fence wall had also been erected astride the line of junction. In each case, the relevant notice under section 3 and section 1(2) had not been served. The works were completed over the course of a single weekend.

(ii) The offending building owner was then subsequently requested to appoint a surveyor to act for him within ten days, pursuant to section 10(4) of the Act. He did not appoint a surveyor, and accordingly one was appointed for him.

(iii) The two surveyors produced an award determining, (a) a compensation figure payable to the adjoining owner for the damaged party wall, (b) that the wall constructed astride the boundary be demolished, and (c) that the building owner pay the surveyors’ fees for making the award.

(iv) The building owner then appealed the award, alleging that it had been made without jurisdiction and was therefore invalid.

The traditional argument, based on the *Louis v Sadiq* and *Woodhouse v Consolidated Property Corporation* cases, was put forward on behalf of the hypothetical building owner, namely that the award was invalid as it dealt with unauthorised works where no notice had been served, that the adjoining owner’s only recourse was to sue at common law, and therefore the surveyors had exceeded their jurisdiction in producing the award they did.

The alternative view, based on the difference in the wording between section 10(10) of the 1996 Act and section 55(i) of the 1939 Act, and as put forward by Robin Ainsworth in the last newsletter, was put forward on behalf of the hypothetical adjoining owner.

Mr. Justice Akenhead determined the matter in favour of the latter argument, holding that the changed wording in section 10(10) of the 1996 Act now enabled surveyors to deal with matters which were in dispute between the parties, and connected to any work to which the Act relates, even where the works had not been previously authorised by the statutory regime. His Lordship felt that the 1996 Act had deliberately changed the law from what it was previously, and this was due to the changed wording of section 10(10) from its predecessor in section 55(i). Robin’s arguments in the last newsletter therefore appeared prescient.

Interestingly however, his Lordship also stated that the clause in the award which ordered the demolition of the party fence wall was in fact invalid. This was due to the fact that such an order was effectively an equitable or common law remedy in the nature of an injunction, and the recent case of *Blake v Reeves* clearly states that surveyors do not have the jurisdiction to give such remedies.

Where does all this leave party wall surveyors in practice? My own opinion, which I emphasise is merely that, opinion, is that a strict legal analysis of the authorities does not necessarily support the view that the changed wording of section 55(i) of the 1939 Act to the current section 10(10) in the 1996 Act has been deliberately done to enable surveyors to claim subsequent jurisdiction even where no notice has been served. The fact that the introductory words to section 55 of the 1939 Act are identical in terms to section 10(1) of the Act is but one point that seems to have been missed by many, and also that the Court of Appeal in *Reeves v Blake* expressly endorsed the *Louis v Sadiq* and *Woodhouse v Consolidated Property Corporation* cases is another.

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Strict legal principles and interpretation do not however always lead to the best route in justice. The adoption of the traditional view which follows strict legal principles would of course leave the aggrieved adjoining owner with no option other than to pursue the matter via costly and protracted litigation through the courts. Such a scenario is one which could create further injustice, particularly in circumstances where the humble individual homeowner is faced with the might of a property developing corporation as building owner.

Perhaps another example of this was the *Kaye v Lawrence* case, where the argument that there was a differentiation to be made between “rights conferred by this Act” and “work in pursuance of the Act” appeared legally sound. However, Mr. Justice Ramsey, in seeking to achieve justice in that case, decided that the differences in such wording were merely historical anomalies, and went on to find that security for expenses pursuant to section 12(1) of the 1996 Act could be claimed for section 6 excavation works – a decision that most will agree accords with common sense.

The fact therefore remains that the courts today are interpreting matters in an increasingly ‘purposive’ manner – that is to say in a way which reflects the purpose or intention of the statute. In *Reeves v Blake*, the Court of Appeal said that the Act was designed to ‘avoid recourse to the courts’.

The view espoused by Robin Ainsworth, and effectively endorsed by a High Court judge specialising in such matters does just that, achieving justice for the aggrieved adjoining owner in a readily accessible manner, namely via the section 10 award procedure. Perhaps this is the more important point. My advice therefore to surveyors encountering the common situation where a building owner has conducted works without first obtaining statutory authority and where those works have caused damage or loss to the adjoining owner, is to always attempt to get the express written agreement of the parties to adopt the Act’s dispute resolution procedures in dealing with the matter. Any sensible building owner facing the alternatives of court action or resolution via surveyors’ award will normally agree to the latter route.

However, if such an express written agreement cannot be achieved, then the section 10(4) route of unilaterally appointing a surveyor to act for the intransigent building owner can be adopted, albeit not without risk, as this procedure has not been tested definitively in the courts. Nevertheless, and irrespective of strict legal principles and earlier Court of Appeal authorities, it is likely, especially at county court level, that the adjoining owner who adopts the section 10(4) procedure in such circumstances will nevertheless be indulged by the courts, due to his occupation of the moral high ground. This is of course subject to the court being given a foundation around which to base their decision: the changed wording of section 10(10) of the 1996 Act from section 55(i) of the 1939 Act provides just that foundation.

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To advertise here
Please contact Nicky Castell
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About Us

Prior to 1997 procedures covering works to party walls, party structures and certain excavations close to adjoining properties were generally limited to central London; although historically similar legislation covered cities such as Bristol, this had long since fallen by the wayside. Consequently, there were few surveyors practicing in this field.

In 1997 the Government introduced party wall legislation across the whole of England & Wales in the form of the Party Wall etc. Act 1996. It was recognised by a number of experienced practitioners that the shortage of surveyors available to administer this legislation had to be addressed and the Faculty was born out of this national need for education and support for surveyors but also to enhance awareness and provide advice and guidance to the general public.

The objective of the Faculty of Party Wall Surveyors is to promote the highest standards of professional practice in this field of expertise and to expand the knowledge and study of all matters to do with party walls, to encourage the exchange of information and ideas amongst its Members.

We have enjoyed steady and continual growth nationally since our inception and we now benefit from legal support and counsel when required; this is available to all Members. Referrals for appointments as Party Wall Surveyors are also provided to Members via our website.

The Faculty of Party Wall Surveyors is a company limited by guarantee Registered in England & Wales Reg. No. 4190892
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Influence

Our Members belong to various professional bodies in the construction and property sectors such as RICS, RIBA, ICE, IStructE, CIOB, CIAT and CABE. We maintain strong links with many professional associations and Local and Central Government departments.

The Faculty provides training in a number of formats including a Certificate of Party Wall Studies through the Association of Building Engineers and seminars on the role of the Third Surveyor. Short talks are also offered to professional organisations and Local Government.

Forums

As a national organisation we aim to raise awareness of current developments in the party wall arena and promote dialogue between Members and other practitioners through regular regional forum meetings and seminars.

Publications

The Faculty currently produces the quarterly newsletter ‘Party Wall Surveyor’ with relevant articles and information keeping Members in touch and up to date with developments. Our website provides a Members Area with a library of case law, legal advice, guidance and templates available for download. The Faculty currently publishes two books by Alex Frame: Misunderstanding & Guidance, and The Third Surveyor.

SE Hampshire Forum News

The second Faculty forum evening event, of the SE Hants area, was held 1st May at the Potters Heron Hotel Ampfield. The first, similar event was held in the same venue 17th October 2013.

The attendance, for both meetings was thirteen, including five guests.

The inaugural meeting attracted the presence of the Faculty President Malcolm Lelliott, Vice President Alex Frame and the Training and Education Chairman, James Jackson.

The speaker for the first event was Charlotte Brazier, a Barrister from the Staple Inn Chambers, who spoke about Boundary disputes and the associated Laws and precedents on the subject whilst James Jackson, gave a general talk on the Act, highlighting the problems which have arisen from the grey areas of wording which have emerged since 1997.

The second event speaker, also a Barrister from Staple Inn Chambers, was Stuart Frame who discussed the considerable current topic in party wall circles of invoking the Act without serving a primary notice, also the consideration surrounding the use by appointed surveyors acting ex-parte where in the Act, such action is permissible.

It is intended to hold further Forum events in the area, details of which will be notified by Nicky Castell in the Faculty Administration office, and it is hoped for more members and guests to support the Faculty’s efforts to keep members informed of the latest precedents resulting from the implementation of the Act.

It is considered that more points, or benefit are to be gained from these forums, and will be enhanced if attendees can notify the host in advance, of any topics they wish to be discussed. This is particularly important if we can advise Staple Inn Chambers of such topics, so that they can select one of their Barristers who specialise in the subject.

Arthur Cross
FFPWS FCIOB FASI

Membership

The Faculty is a professional examining body, which provides education and support. Details of the examinations and admission regulations may be obtained from the Faculty’s administrative headquarters.

National approved levels of entry provide the standard of acceptance. Progression is by a recognised examination structure. It is expected that an applicant will have had practical training and experience appropriate to his/her grade of membership.

All practising Members are required to ensure the appropriate level of Professional Liability Insurance covering their professional activities is maintained and all Members are bound by our Code of Conduct.

Grades of Membership include Student, Affiliate, Associate, Member & Fellow. The Faculty also offers Honorary Membership or Honorary Fellowship to those individuals it recognises as having made a significant contribution in the field of party walls or related professional activities.

An NVQ in party wall studies has been approved in conjunction with ABBE. More details to follow.