

The Party Wall etc. Act, 1996

Guidance for Clients & Consultants

Hourican Associates Limited operate a specialist division of Party Wall Surveyors who undertake appointments on behalf of developers (Building Owners) or neighbouring owners (Adjoining Owners) within the residential and commercial environment.

Are you a Client or Client's representative? Will your proposals require the following types of work :

1. *Forming a building foundation within 3 metres and to a lower level of a neighbour's property?*
2. *Constructing a building or a boundary wall up to or astride the boundary line?*
3. *Raising, lowering, cutting into or underpinning a boundary wall or party wall?*

If the answer is 'yes' to one or all of the above works, there is a statutory requirement that you follow a strict process set out in the Party Wall etc. Act, 1996. We recommend that you contact Hourican Associates Ltd for further advice.

Introduction

The Party Wall etc. Act, 1996 hereon referred to as 'The Act' was introduced in the House of Lords by the Earl of Lytton and repealed the London Building Act (Amendment Act) 1939. The Act came into force on 1st June 2007 extending party wall legislation to the whole of England and Wales.

In summary, the Act is a mechanism that facilitates boundary and excavation resolution in strict accordance with the principles laid down in the Act, between a developer and his neighbour(s), herein referred to as the Building Owner and Adjoining Owner respectively.

Certain works are notifiable under the Act and a formal procedure in accordance under statutory law should be followed.

The notifiable works defined below will be discussed shortly. First it is important to understand where these types of work may occur.

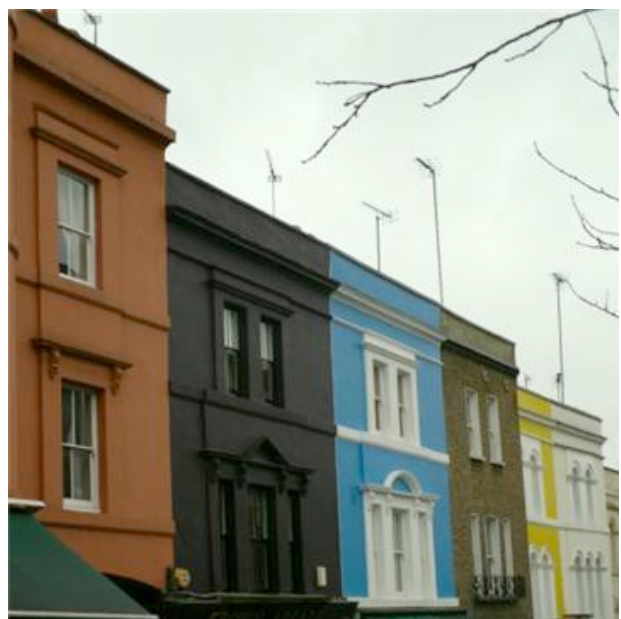
Party Walls, Party Fence Walls or Party Structures - What Are They?

The term 'Party Wall' describes more than one type of shared wall or structure; an element that is in the ownership or interest of two or more owners.

Please be aware that a 'Wall' is a collaborative term used to describe both walls and structures.

There are three categories of walls defined under the act as follows:

1. **Party Wall**
2. **Party Structure**
3. **Party Fence Wall**



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1. Party Wall

A wall that divides the buildings of two or more owners with the boundary between different ownerships, usually but not always, positioned parallel to, and at the centre of the wall.

However, the Act differentiates between two specific types and these are referred to as Type A and B.

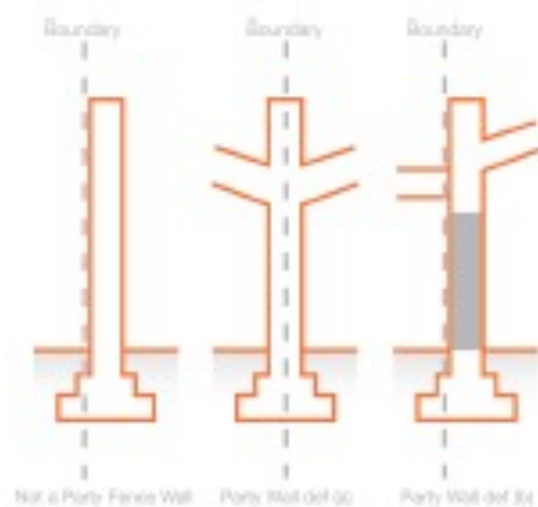


Figure 1: What is a Party Wall?

Type A Wall: A wall which forms part of a building and stands on lands of different owners to a greater extent than the projection of any artificially formed support on which the wall rests. Examples include a typical terrace property divided by a solid masonry wall.

Type B Wall: A wall that stands wholly on one owner's land, but is used by two (or more) owners to separate their buildings. Examples include where one Adjoining Owner has a structure that leans against a wall that is owned by the other Adjoining Owner. Only the part of the wall that is enclosed by the lean-to is a Party Wall.

2. Party Fence Wall

A wall (not being part of a building) which stands on lands of different owners and is used or constructed to be used for separating such adjoining lands, typically referred to as a garden or boundary wall.

This does not include a wall constructed on the land of one owner the artificially formed support of which projects into the land of another owner. Wooden fences, or even fences with concrete posts, are not party fence walls.

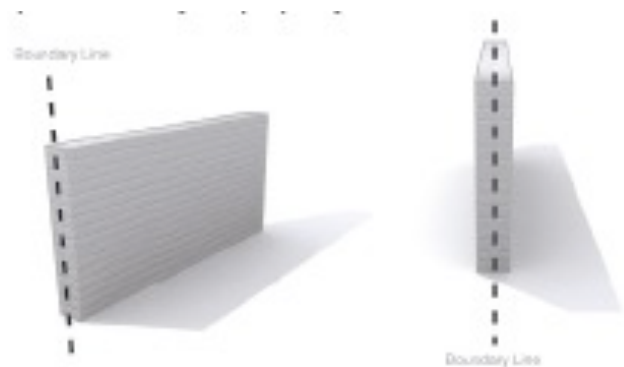


Figure 2: What is a Party Fence Wall?

3. Party Structure

Any party wall, floor partition, or other structure separating buildings or parts of buildings approached solely by separate staircases or separate entrances.



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Definitions of the Act

The Act requires Building Owners to notify their Adjoining Owners of the following types of works: -

1. **Excavation** for foundations within 3 or 6 metres.
2. **Erection** of new party walls or party fence walls.
3. **Raising**, lowering, cutting into or repairing a party wall or party fence wall.

1. **Excavation**

There are two types of notifiable excavation works under the Act, referred to as the Three and Six Metre rules.

Three Metre Rule - What is it?

Any excavation within 3 metres measured horizontally that extends to a lower level than an Adjoining Owner's foundation.

The vast majority of low rise residential excavations within 3 metres invariably will go deeper than an Adjoining Owners, due to revisions to Approved Document B of the Building Regulations.



Figure 3: Excavation within 3 Metres

Six Metre Rule - What Is It?

Any excavation horizontally within 6 metres, which when a 45 degree plane is drawn from the toe of an Adjoining Owner's foundation, intersects the proposed foundation of the Building Owner's.

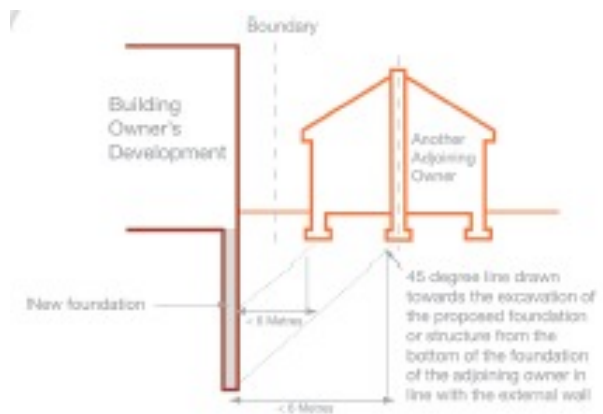


Figure 4: Excavation within 6 Metres

This scenario is most common where a Building Owner intends to excavate foundations significantly deeper than the adjoining owners, for example piled foundations. In the example above, two adjoining owners fall within the 6 metre rule.

Both types of work require a minimum statutory notice period of 1 month to elapse prior to the commencement of works.

2. **Erection of New Walls**

A Building Owner may propose to build a boundary garden wall or the flank elevation of a building on the line of junction (boundary line) or astride the line of junction so that only the foundations project into the Adjoining Owners land.

Prior to the commencement of these works, a minimum statutory notice period of 1 month must elapse.

3. Works to Existing Party Walls

A Building Owner may propose to insert steel beams into a party wall (internal reconfiguration), raise or lower a party wall (construct an additional storey), cut into a party wall (install DPC), make good or cut away and demolish.

Prior to the commencement of these works, a minimum statutory notice period of 2 months must elapse.

The Procedure

A Building Owner must serve notice of the proposed works in accordance with the specific clauses of the Act prior to the commencement of works. The Adjoining Owner has a right to consent or dissent to the proposed works and in the scenario of dissent, a surveyor must be appointed to prepare and agree a party wall Award.

The Award will detail caveats and conditions of the works, as agreed, referencing where applicable, sections and drawings, method statements, engineer's calculations, private and public liability insurances, schedules of condition and schedules of record photographs and a works programme.

Should the Adjoining Owner consent to the works, a Schedule of Condition and Schedule of Record Photographs would be recorded and issued to the Building Owner and Adjoining Owner.

Notice under the Act should be served on all respective Adjoining Owners. It is not unusual to have more than one owner of a particular building and this will include freeholders and any leaseholders with a term greater than one year.

Importantly the aforementioned minimum statutory notice period for each type of notifiable works must elapse prior to the commencement of works, unless explicit consent in writing is received from the Adjoining Owner.

How Can We Help You?

Hourican Associates Ltd are experienced surveyors, who have undertaken numerous appointments under the Act for Building Owners and Adjoining Owners. Our experience includes many private commercial, retail and residential clients throughout London.

We liaise with architects, structural engineers, project managers and other appointed party wall surveyors to complete matters under the Act as efficiently as possible. We recommend that we are appointed early into the design to enable full benefit of the Act and mitigation of delays.

We would be happy to provide a complimentary assessment of any party wall implications to your scheme.

For more information, please contact:

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