

Landlords and The Party Wall Act

Article by Justin Burns BSc MRICS of Peter Barry

Being a Landlord you rely upon your tenants to do many things; pay the rent and look after your property would be the main two but passing correspondence on to you can be equally important, particularly when protecting your property from structural damage could depend upon you receiving that correspondence.

As prices have risen over the last few years more and more owners have decided to extend their homes as a cheaper alternative to moving. Many of these alterations will put adjoining properties at risk of damage and structural movement which is why they fall within the scope of The Party Wall etc. Act 1996.

Many owners believe that the Act only covers work which involves alterations to a party wall but the scope of the Act is much wider than that. It also covers adjacent excavations (such as those for the foundations of extensions) and under the Act 'adjacent' means within three or six metres depending upon the depth of the excavation. This means that as well as loft conversions most domestic single storey extensions, even on semi-detached or detached houses, require notice to be served under the Act.

So how can you ensure that you are given the opportunity to examine the proposals, and if necessary appoint a surveyor, before work commences? The procedures laid down in the Act are actually very helpful to adjoining owners if only owners planning building work followed them.

The Act requires notice to be addressed to the owner at their current address or alternatively to 'The Owner' at the adjoining property. If it is addressed to 'The Owner' it should be pinned in a prominent position on the adjoining property rather than posted. This is all very well but as it is usually the owner, as opposed to a surveyor, serving the notice they are unlikely to be aware of this caveat and simply drop it in the door of the neighbouring property only for it to sit on a hall table until your next property inspection.

There are two important time periods associated with party wall notices. The first is fourteen days and is the time allowed for an adjoining owner to consent to the proposals and the second is the notice period, which is either one or two months depending upon the type of notice.

The problem is that owners planning work assume that if the notice has not been replied to by either of those dates they are free to start work. Fortunately this is not the case as your tenant will almost certainly not have passed the notice on to you by the first date and possible not even by the second. If you do not reply to

the notice you are deemed to have dissented and must appoint a surveyor. The surveyor will then prepare a [Party Wall Agreement](#) (known as an 'Award')

So what can be done if you only become aware of the work when it is already underway? If you catch it early you can request that work stops until you appoint a surveyor. Owners and builders normally do not react kindly to such a request as it is very disruptive but if they had followed the rules they wouldn't be in that position.

If they refuse to stop work you can apply for and should obtain an injunction. There are two problems with this; if the notifiable part of the work has already been completed an injunction is no longer an option (the Act does not allow for retrospective awards) and injunctions are expensive. It is better all round if you receive the notice and reply to it before work is due to commence.

So the next time you give your tenant that list of reminders at the start of the tenancy, asking them to keep the heat on low on frosty nights or report and leaks immediately, remember to include a request to pass on all post immediately, even the boring looking brown envelopes from the Local Authority, and to make you aware if scaffolding starts to go up outside the neighbour's property.

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