

THE PARTY WALL ETC ACT 1996

HOW IT MIGHT AFFECT YOU

If you wish to carry out structural alterations to your house, one of the first questions may have to be “how will it affect the neighbours?” If the work requires planning permission, then they will have the opportunity to object to your proposals – but can they stop you doing in the work. At one time, even if you got planning consent your neighbours might be able to stop you by refusing you access over their land, or refusing to let you do work like tying in to their building. The Party Wall Etc Act 1996 (a bit of a mouthful, so PWA for short) provides a way of dealing with that sort of problem

What the Act does

The PWA provides the framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings. If you intend to carry out building work which involves

work on an existing wall shared with another property; or
building on the boundary with a neighbouring property; or
excavating near a neighbouring building

the work may be covered by the Act. If it is then you must notify all adjoining owners (which includes freeholders and leaseholders, but not tenants) whose property will be affected.

Getting Advice

Robert Batho is a Chartered Surveyor who can give you detailed advice as to whether the Act applies in your particular circumstances. I have prepared this document as a basic guide to the sorts of thing you need to consider, and the procedure that may be involved – but each situation must be considered on its own merits, so it does not provide all of the answers. I should be happy to discuss your detailed plans and advise on how the PWA may apply to what you propose. I can then act as your Party Wall Surveyor and he will deal with service the necessary notices and making the necessary agreements. I will work with you and with your architects and builders as necessary.

If it is your neighbour who is doing work and has served you with a notice under the Act (in which case, the Act calls you “*the adjoining owner*”) then I can act on your behalf to make sure your building is properly protected.

You can contact me

by post at Lawrence House 41 South Street ST AUSTELL Cornwall PL25 5BJ
by telephone on 01726 77550
by e-mail sent to rob@batho.co.uk

What has to be done

If you are the person who is going to be doing the work (“*the building owner*”) then, in the circumstances specified by the Act (for which, see below), you must notify your neighbours of what you are going to do. Generally speaking, provided that you have the necessary planning and building regulation consents, your neighbours cannot stop you doing the work, and indeed the Act gives you certain rights to interfere with their property in order to get the work done, but they may ask you to do it in a different way, either in order to protect their property or to make work which they had planned easier to carry out.

Whilst you are doing the work, you owe a duty of care to the neighbouring owner, and you must act in a way which causes them the minimum of inconvenience, essentially it is the buildings that matter, rather than the personal preferences of the building owners.

What is a Party Wall?

The PWA provides that a wall is a party wall if either

It stands astride the boundary of land belonging to two (or more) different owners; or

It belongs totally to one owner, but is used by two (or more) owners to separate their buildings.

Where one person has built the wall in the first place, and another has butted their building up against it without constructing their own wall, only the part of the wall that does the separating is “party” – sections on either side or above are not “party”.

The Act also refers to a “party fence wall” which is a wall which is not part of a building but one which stands astride the boundary line between lands of different owners and is used to separate those lands: this might include a garden wall, but it would not include a wooden fence.

A “party structure” can include a floor partition or other structure separating buildings or parts of buildings approached by separate staircases or entrances, for example flats.

What the Act allows

Section 2 of the Act grants rights to undertake certain types of work to certain types of boundary structures: these structures are usually party walls, party fences walls or party structures but in some cases there are rights in respect of structures which abut a boundary line but which are situated entirely on the adjoining land.

The rights granted include

underpinning thickening raising repairing
demolishing and rebuilding rebuilding cutting into
cutting away or cutting off projections reducing the height or exposing.

The means, for example, that you will be able to cut into a wall to take the bearing of a beam, or to insert a damp proof course all the way through the wall. You could raise the whole of the party wall and, if necessary, cut off any projections which would otherwise prevent you from doing so. You may demolish and rebuild the party wall, or underpin it. You may carry out work to protect two adjoining walls, such as by putting a flashing from the higher over the lower.

If you intend to carry out any of these works then you have to inform the neighbouring owners: you cannot even cut into your half of the wall without telling them first, and if you start work without telling them then they can get the courts to stop you, although that does not prevent you from doing such things as drilling into your side of the wall to put up some shelving, or in connection with rewiring or carrying out re-plastering. What is important is whether the work which you intend to do could affect the structural strength or support function of the party wall.

The PWA also covers the situation where you are doing something which involves **excavating near a neighbouring building**. If your excavation is going to be within three metres of the neighbouring owner’s building, and it will go deeper than their foundations, then you will have to give them notice. You may also have to give them notice if the work you propose involves deeper excavation up to six metres away from their building.

A third situation which you will have to notify your neighbours is **if you are going to build something immediately adjacent to or across the boundary line**. You do not actually have the right to go across the boundary line – for this, your neighbour must give you permission, and if he does not then you cannot do it, although you may be able to build foundations for the wall which project into the neighbour’s land.

How much Notice must I give?

If you are going to work on the party wall then you have to give your neighbour at least two months’ notice, but if you are going to build close to the boundary, or if you are going to carry out excavations near your neighbour’s building, then you only need to give one month’s notice. Once you have served the notice you have twelve months within which to do the work.

What happens once Notice has been served?

It may be that, for simple works, your neighbour will simply agree to what you propose but, even if they do, it is important to give proper definition to what they are agreeing to: you will still owe them a duty of care, which may mean that you have to protect their property in some way, and if the works that you do cause damage then you will have to put the damage right.

For more complicated works, there will probably need to be some negotiation about how the works are to be done, working hours and any special protection that may need to be given to the neighbour’s building, or to minimise inconvenience. The adjoining owner might want a change which allows for work that he had planned, or to overcome a situation that you had not foreseen. In those circumstances it is usual for each party to be represented by their own surveyor.

The surveyors will agree a formal document called an Award, but this will also make provision for the appointment of a third surveyor who will resolve any arguments between the building owners' surveyors. The Award will also usually include a record of the condition of the adjoining owner's building: this may be important at a later stage, if it is alleged that any damage has been done, since it will help to identify the nature and extent of that damage. If damage is caused by the works, then it will be your responsibility to put it right.

While the work is being done, your surveyor and builders will have certain rights of access onto the adjoining owner's property; the adjoining owners surveyor will normally have a right of access onto your property (under the Award) so that he can check that what is being done is what was agreed.

Can the neighbours stop me by doing nothing?

No. The PWA provides that they must respond to your notice within two weeks. If they do not, or if they object to what you propose, a dispute is deemed to have arisen and the PWA lays down a procedure for dealing with that. The procedure requires that each party should have their own surveyor, but if the adjoining owner fails to appoint one then there is provision for you to appoint one on his behalf.

What does it all cost?

This, of course, will involve some cost. The building owner will, in any event, have to pay their own surveyor's fees. It is usual for them to pay the adjoining owner's fees as well. I can give you clearer advice about this once I know what you propose, although I will only be able to give an approximate indication of what an adjoining owner's surveyor might charge..