



Party Wall Essentials

When one should consider the intricacies of Party Wall legislation and steps to take thereafter

Introduction



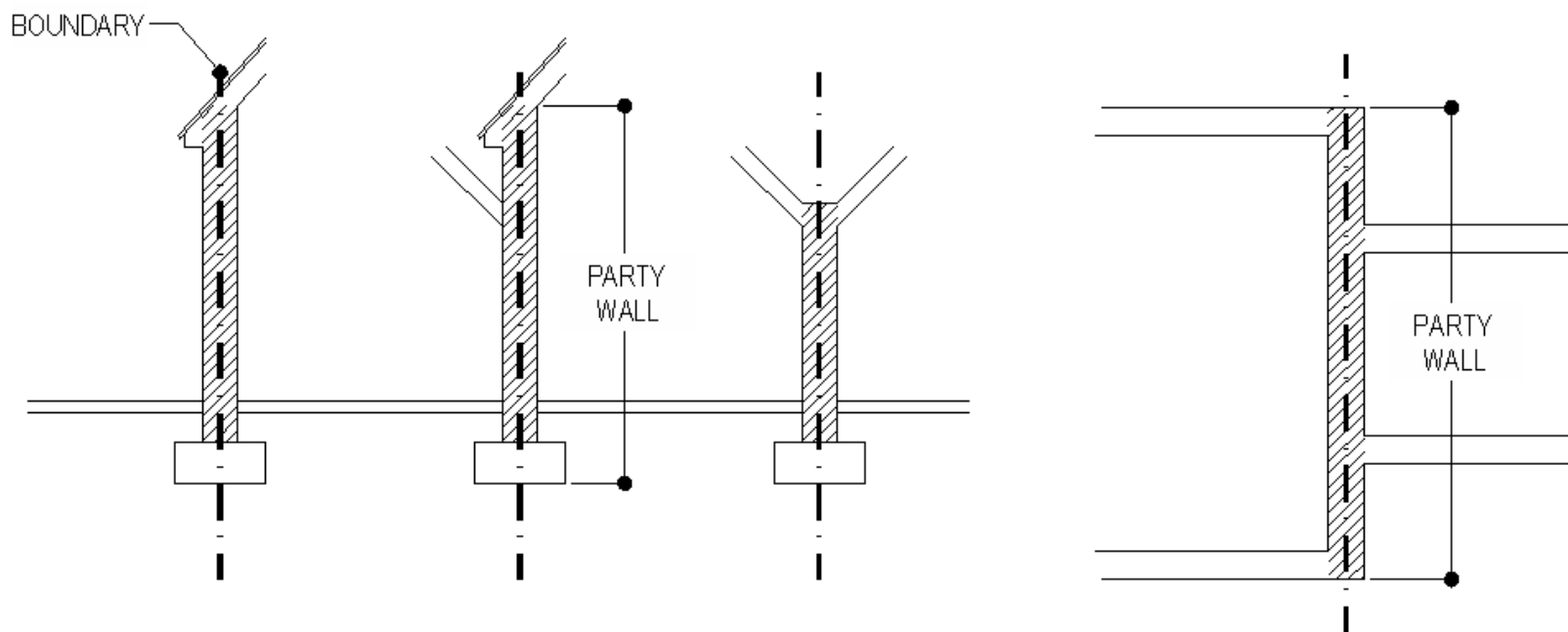
When do I need to consider party wall matters?

- Where it is proposed to build on or adjacent to a boundary (Line of Juncture)
- Where it is proposed to carry out works to an existing party structure
- Where it is proposed to excavate within a given distance from an adjoining owner's building

Section 20(a)

A Party Wall is defined as:

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

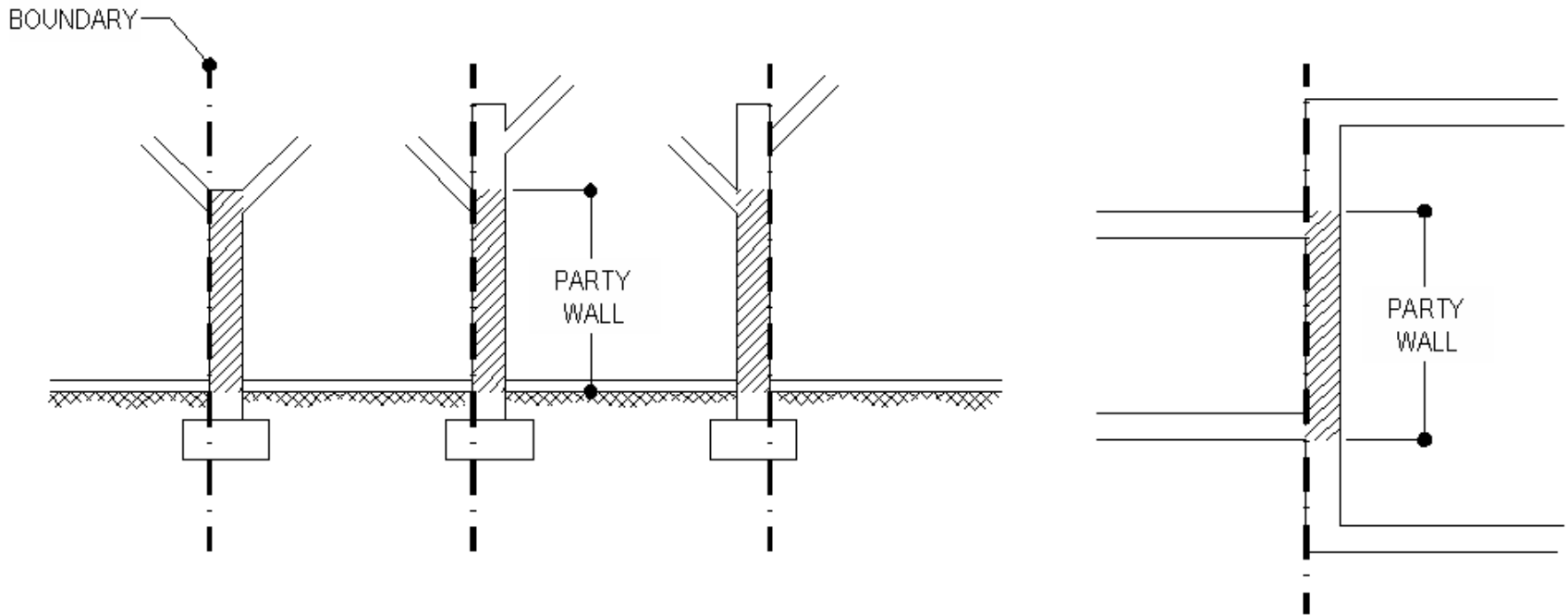


Section 20(b)



Or:

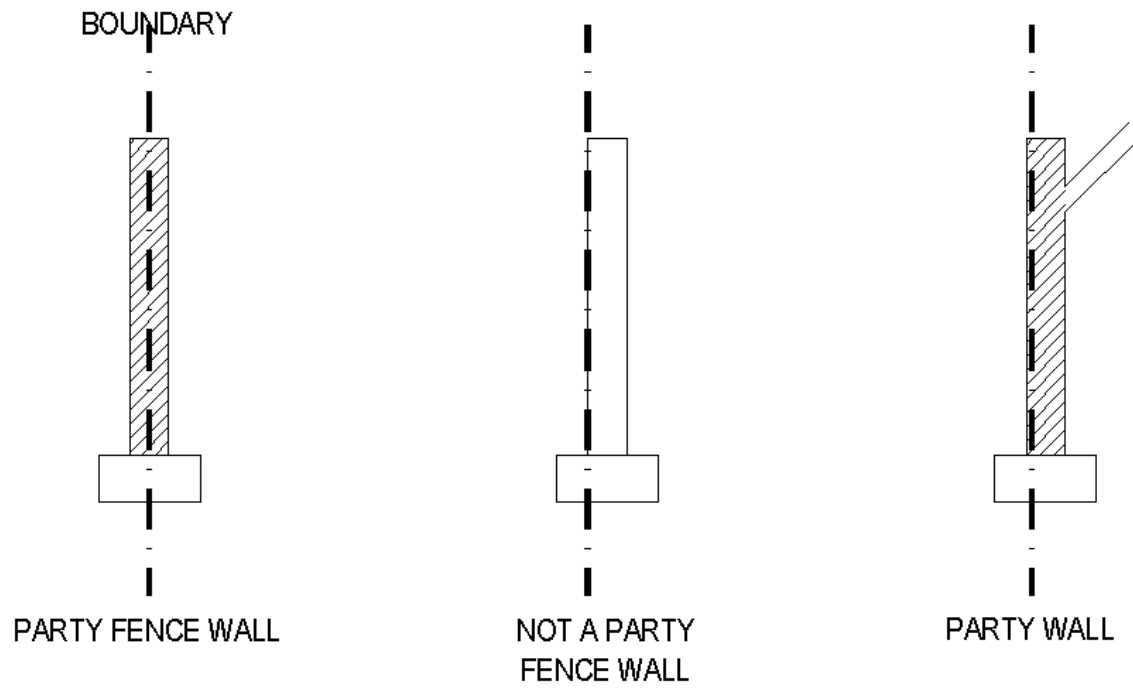
A wall that separates buildings belonging to different owners but which is not astride a Line of Junction



Section 20



One can see from the below diagram the difference between party walls and party fence walls

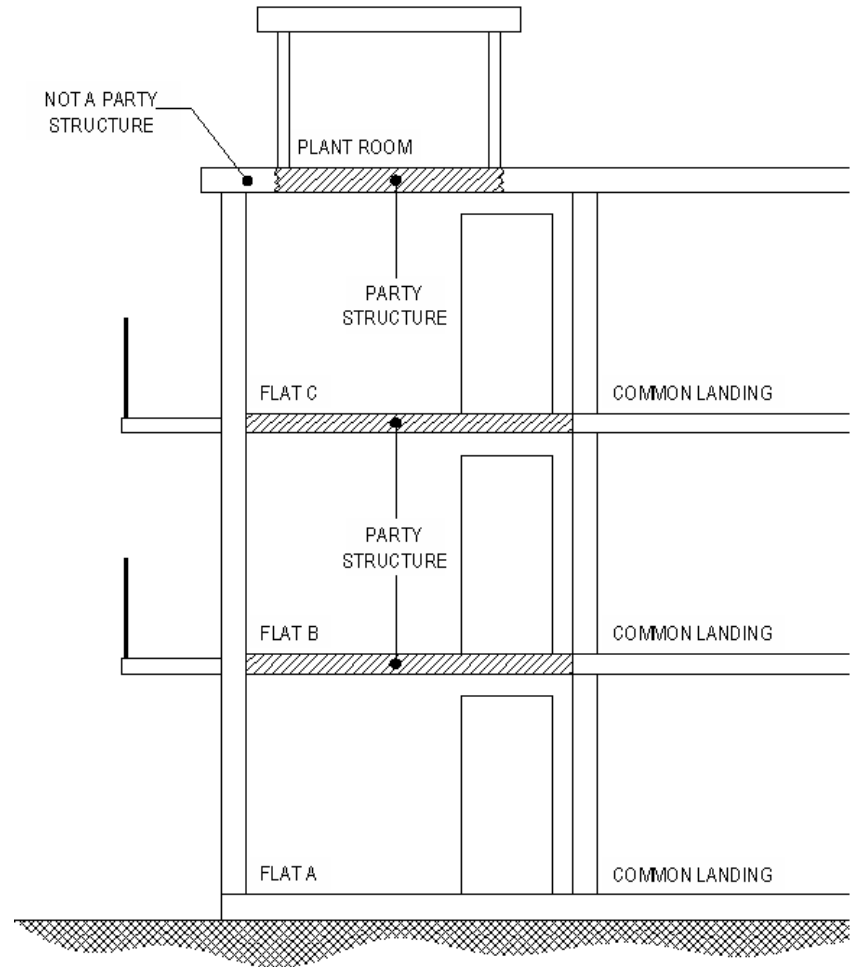


Section 20



A Party Structure means:

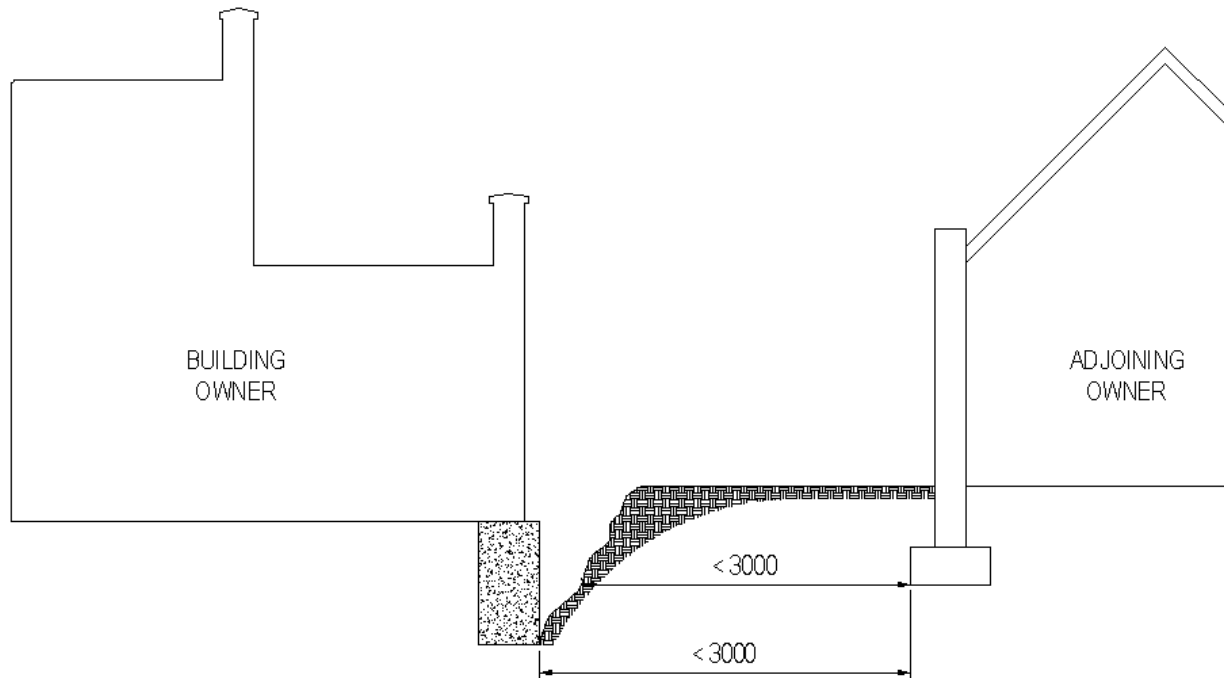
A party wall and also a floor partition or other structure separating buildings or parts of buildings approached solely by separate staircases or separate entrances



Section 6(1)



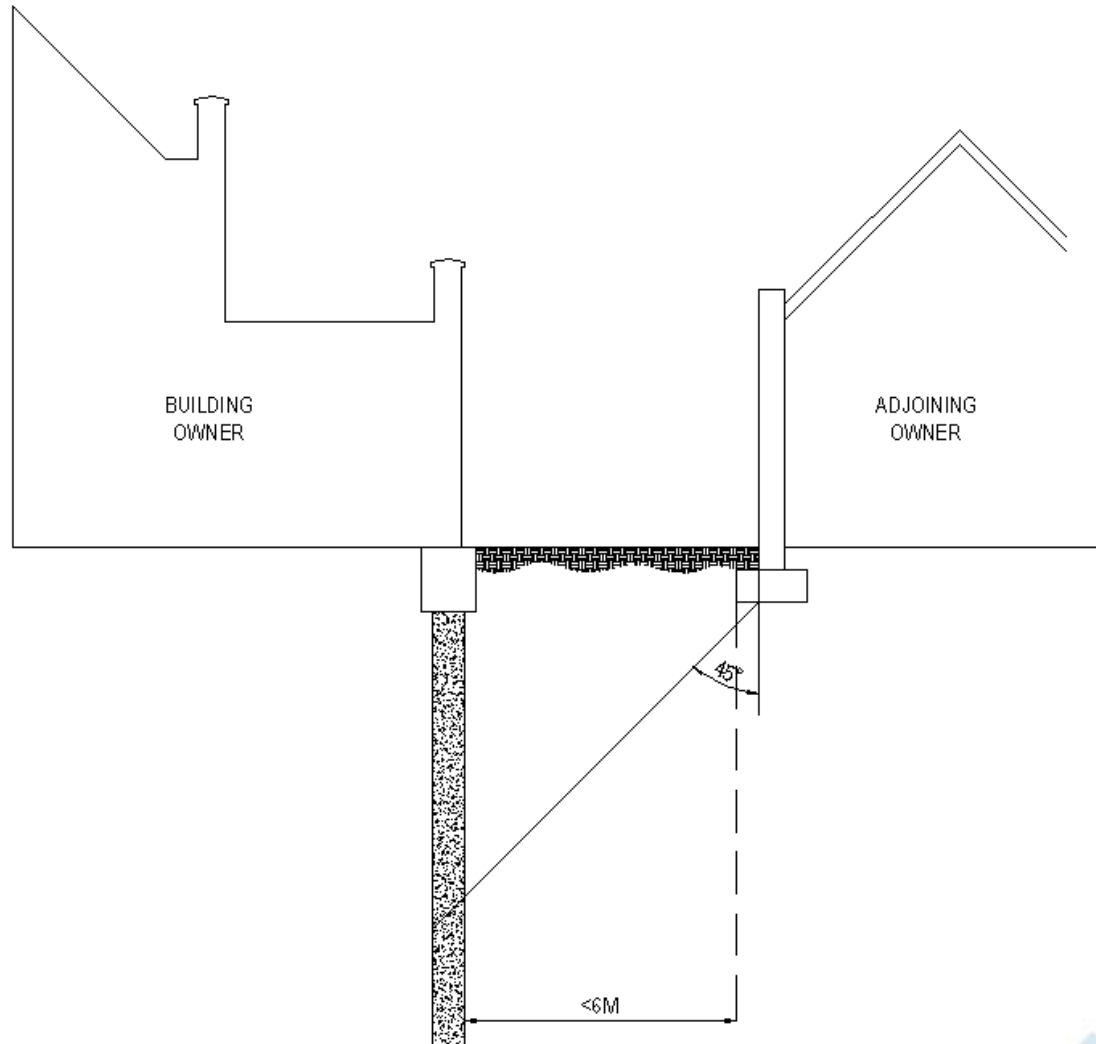
Excavations within 3 metres of an adjoining owner's building fall within the remit of this legislation where the excavation will be lower than that of the adjoining owner's foundations



Section 6(2)



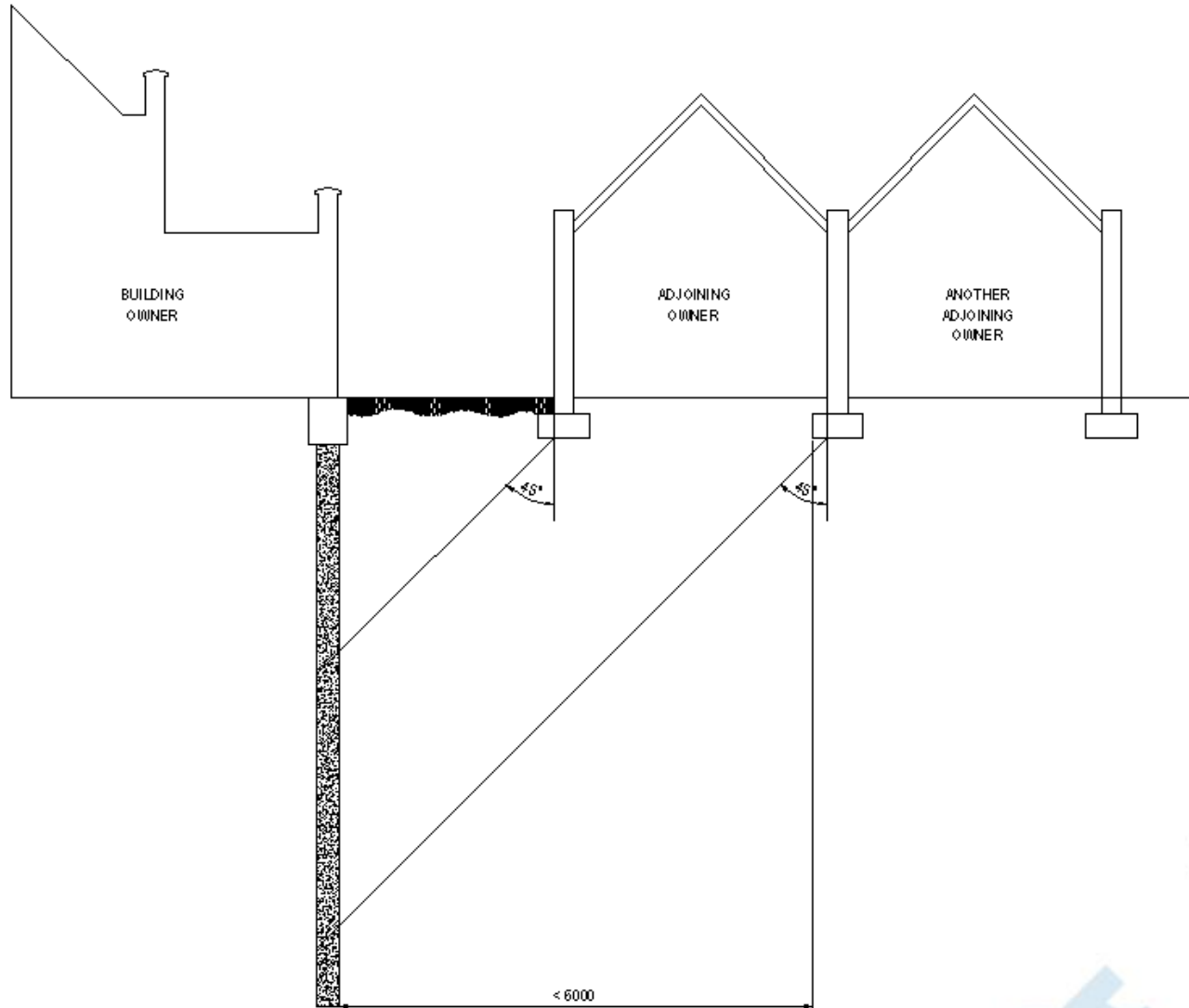
Further to the 3 metre rule, where an excavation is proposed within 6 metres of an adjoining owner's building and a plane extended at 45° from the bottom of the foundation of the adjoining owner's building would intersect with the proposed excavation, this would also fall within the remit of this legislation



Section 6(2)



Where there are more than one adjoining owners within the distances given, those additional owners should be equally involved in the proceedings



What to do



If you feel that one of the above scenarios applies to a project you are undertaking please consult a Party Wall Surveyor.

Be aware that many people may present themselves as knowledgeable on the subject as most cases are straightforward. However, should something go wrong the repercussions could be significant

If there is an issue



A properly qualified Party Wall Surveyor can:

- Advise on what notices should be served and to whom
- Investigate adjoining owners
- Prepare and serve any relevant notices to the appropriate parties

Upon receipt of a notice the adjoining owner is given 14 days in which to respond

If there is an issue



The adjoining owner can respond by consenting to the works or dissenting and appointing his own surveyor

It is possible for the adjoining owner to nominate the same surveyor as the building owner, an “agreed surveyor”

Where an adjoining owner appoints his own surveyor, he and the building owner’s surveyor must choose a third surveyor who may act where the two appointed surveyors disagree

Programme considerations



Minimum periods of notice prior to commencement of works:

- New Structure (Section 1) – One month
- Existing Structure (Section 2) – Two months
- Excavations (Section 6) - One month

The above periods may be foreshortened by prior arrangement between the owners

It should be noted that any agreement to commence works expires 12 months from the date it was given

Failure to respond



Should the adjoining owner dissent the proceedings could take considerably longer before the awards are in place

A failure to respond to a notice within 14 days of receipt is deemed as a dissent

Should this occur, the owner must give the adjoining owner a further 10 days in which to appoint a surveyor

Following which, he may appoint a surveyor on behalf of the adjoining owner

Surveyors' role



The surveyors' role is to settle by award any dispute

The award may determine:

- The right to execute any work
- The time and manner of execution of that work
- Any other matter arising out of or incidental to the dispute, including costs

Any award is binding on both owners and may only be overturned by a court where it is found that it was improperly made

Penalties



The Act contains provisions for fines as a result of a breach of the Act

The primary consequence of a breach, however, is that the adjoining owner obtains an injunction, in this case a interlocutory order, to prevent further works

Interlocutory orders in these cases are easy to obtain and require little evidence