

Basements and the Party Wall Act

If you plan to retro fit a basement to a terraced or semi-detached house you will need to consider the Party Wall etc. Act 1996. The Party Wall Act was introduced to enable owners living in close proximity to one another to develop their properties without causing unnecessary inconvenience to their neighbours.

A typical retro fit basement to a property that shares at least one party wall with an Adjoining Owner will include works covered by Sections 2 & 6 of the Act.

Section 2 covers work directly to a party wall, including downward extensions of the wall, underpinning and the cutting away of projections such as original brick footings. The statutory notice period for Section 2 works is two months.

Section 6 of the Act covers excavation work within three or six metres of a shared or neighbouring structure, including digging out a basement or excavating below a party wall which is to be underpinned. The statutory notice period for Section 6 works is one month.

Upon receipt of a notice an Adjoining Owner has two options:

1. To consent to the works going ahead as described in the notice. A consenting Adjoining Owner retains all of his rights under the Act including his right to appoint a surveyor later in the process if there is a dispute at that stage.
2. To dissent and appoint a surveyor. The party undertaking the works must also appoint a surveyor so that an Award can be agreed although the Act allows the Owners to concur in the appointment of a single 'Agreed' surveyor.

The Owner undertaking the works (known as the 'Building Owner') will generally be responsible for the costs of making an Award including the surveyors' reasonable fees. With basement work it is not unusual for the Adjoining Owner's surveyor to request the input of a checking engineer, whose reasonable fee will also have to be paid by the Building Owner.

Although it is important to serve the notice early in the process the actual notice periods will not normally dictate the timescale, if the Adjoining Owner consents to the work they will generally waive the notice period whereas if they dissent and surveyors are appointed to agree an Award the works cannot commence until that Award has been served on the Owners; regardless of whether the notice period has run or not.

It is always worth discussing building work with Adjoining Owners early in the process but even more so with retro fit basements. You won't want to spend thousands of pounds having a scheme designed only for it to be blocked by the Adjoining Owner.

We sometimes see basement schemes that include mass concrete underpinning to the party wall. If that underpinning is thicker than the wall above it will restrict the Adjoining Owner from making full use of their basement in the future and is unlikely to be accepted by their surveyor. The alternative is to design a slimmer wall that is reinforced with steel bars, known as 'Special Foundations' under the Act, but Special Foundations require the Adjoining Owner's consent.

It's possible that your neighbour is also planning to add a basement to their property in the near future and may want to make use of the downward extension to the party wall or underpinning.

That scenario is covered in Section 11 of the Act which gives the Adjoining Owner the option to make a contribution when the work is being done or at such a time in the future when they make use of the wall; costs are apportioned according to the use each owner makes.

If some of these practical issues can be agreed with the Adjoining Owner at an early stage it will save time and money later.

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