



**BAILY
GARNER**

PARTY WALL SURVEYING
A GUIDE

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WHO IS BAILY GARNER?

Baily Garner is a multi-disciplinary consultancy trading for more than forty-five years and specialising in many facets of the built environment, including but not limited to: Architecture, Mechanical and Electrical Engineering, Cost Consultancy, Building Surveying, Quality Control and Quantity Surveying. As a multi-disciplinary practice, we believe we have an inherent advantage in adding value through our ability to draw upon our significant expertise and skillset across many different specialisms, one of which is Party Wall Surveying.

We recognise that Party Wall matters can seem a daunting ordeal, so we have produced this guidance document to inform our network regarding matters, provisions and processes relating to the Party Wall Etc. Act 1996.

**A COLLABORATIVE
MULTI-DISCIPLINARY
CULTURE**

ARCHITECTURE
BUILDING SERVICES ENGINEERING
BUILDING SURVEYING
CDM
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PROFESSIONAL SERVICES
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QUALITY CONTROL INSPECTORS

BUILDING SUCCESS
DELIVERING QUALITY

THE PARTY WALL ETC. ACT 1996

What is the Party Wall etc. Act 1996?

The Party Wall etc. Act 1996 is a piece of legislation which provides a framework for preventing and resolving disputes between neighbouring properties over construction activities relating to a 'Party Wall', 'Party Structure' boundary walls and within six metres of neighbouring foundations.

Who does it affect?

There are two principal duty holders under the act - the Building Owner and the Adjoining Owner(s).

Who is potentially an owner under the act?

- Individual(s) holding the freehold title.
- Individual(s) holding a leasehold title for a period exceeding one year.
- Individuals(s) under contract to purchase such a freehold or leasehold title.
- Individual(s) entitled to receive rents from the property.

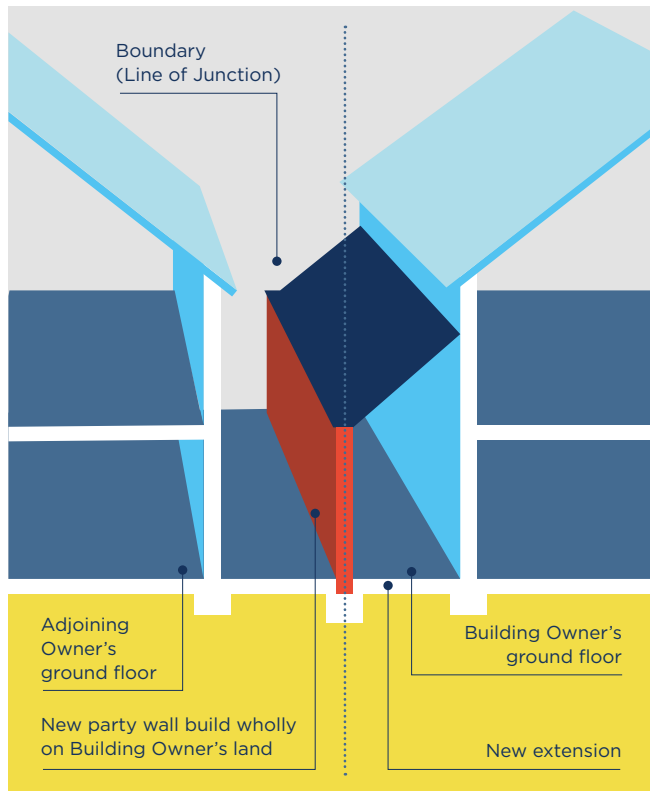
What does it provide?

- The act creates a legally binding agreement between two or more parties, allowing works to proceed with a set of proposed rules and agreements to which the parties must adhere to.
- Subject to formal agreement between parties, it allows the Building Owner to carry out building works to a party wall/structure etc without unfounded objection from the Adjoining Owner. This includes access into the neighbouring property if required.
- It enables the Adjoining Owner to ensure works are undertaken correctly, safely and with all necessary insurances in place.
- It protects the pre-commencement condition of the Adjoining Owner's property and places an obligation on the Building Owner to restore their neighbour's property to its original state if the work activities are deemed to have had a detrimental effect.
- It protects the Building Owner from spurious damage claims alleged to have resulted from the notifiable works.

WHAT WORK DOES THE ACT COVER?

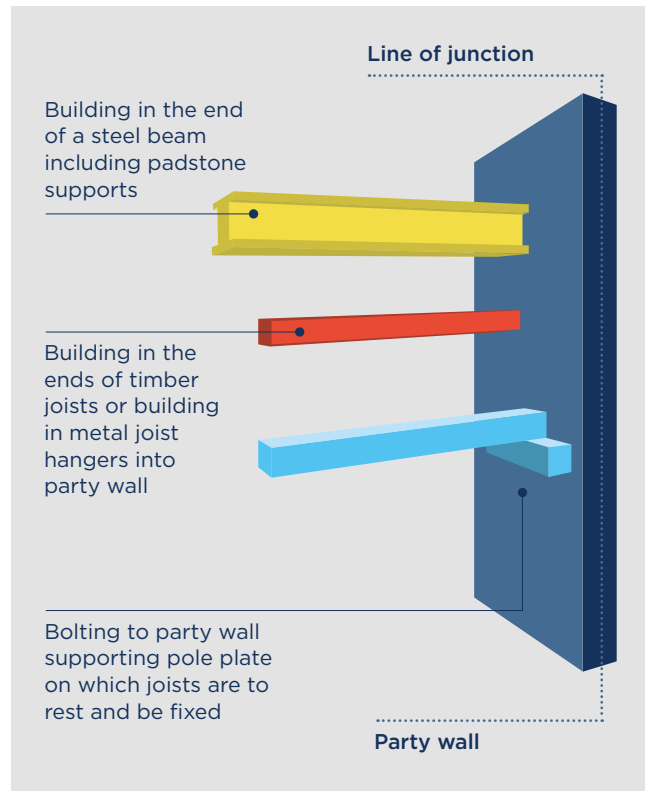
Section 1

Construction of new walls up to or astride boundary line (such as extensions, as illustrated in the below image).



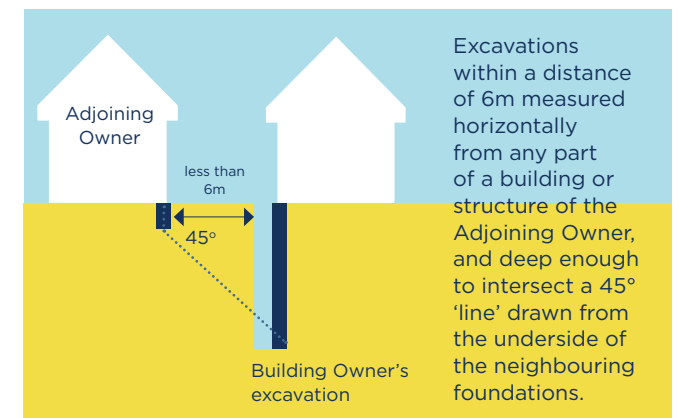
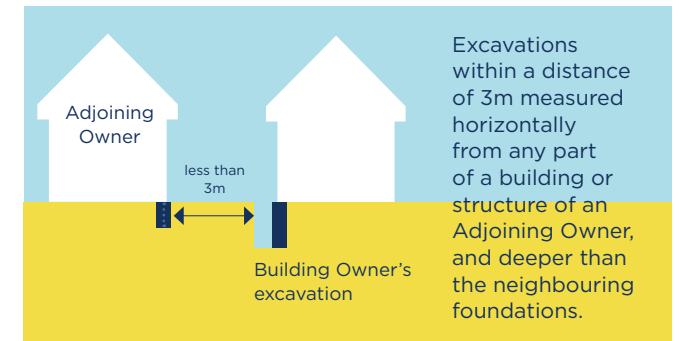
Section 2

Construction activities carried out to, or cutting into, an existing party wall or structure, including the removal of chimney breasts.



Section 6

Excavations within either 3 or 6 meters of an adjoining property.



WHAT CONSTITUTES A PARTY WALL?

'Party Wall'

Under the act, a 'Party Wall' is categorised into two different types:

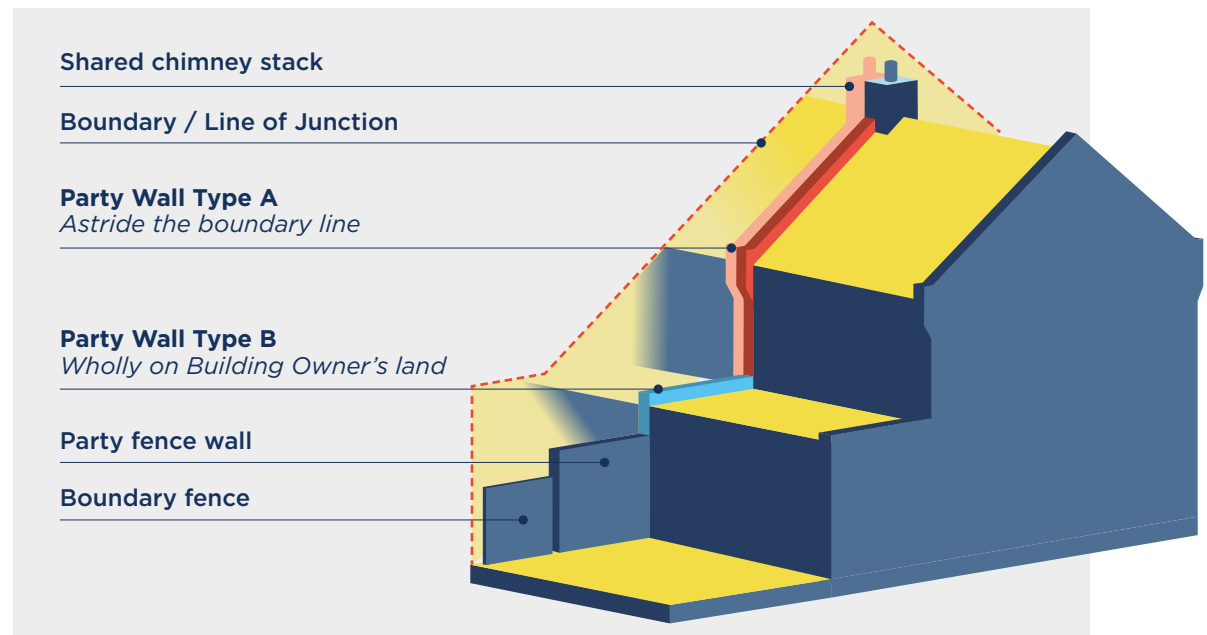
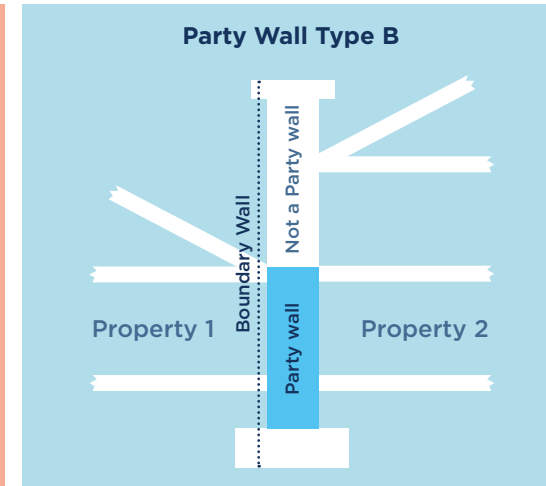
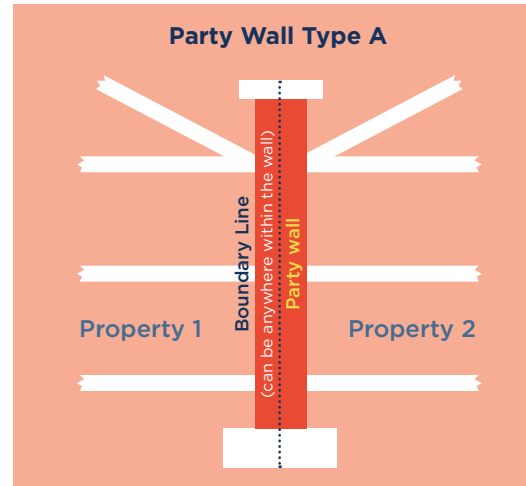
Type A

A Party Wall, typically of brick construction, which stands astride the boundary of two (or more) properties, and with ownership of the wall shared between the property(s). It can be:

- Part of a building
- Separating two buildings
- A Party Fence Wall (separating land rather than buildings)

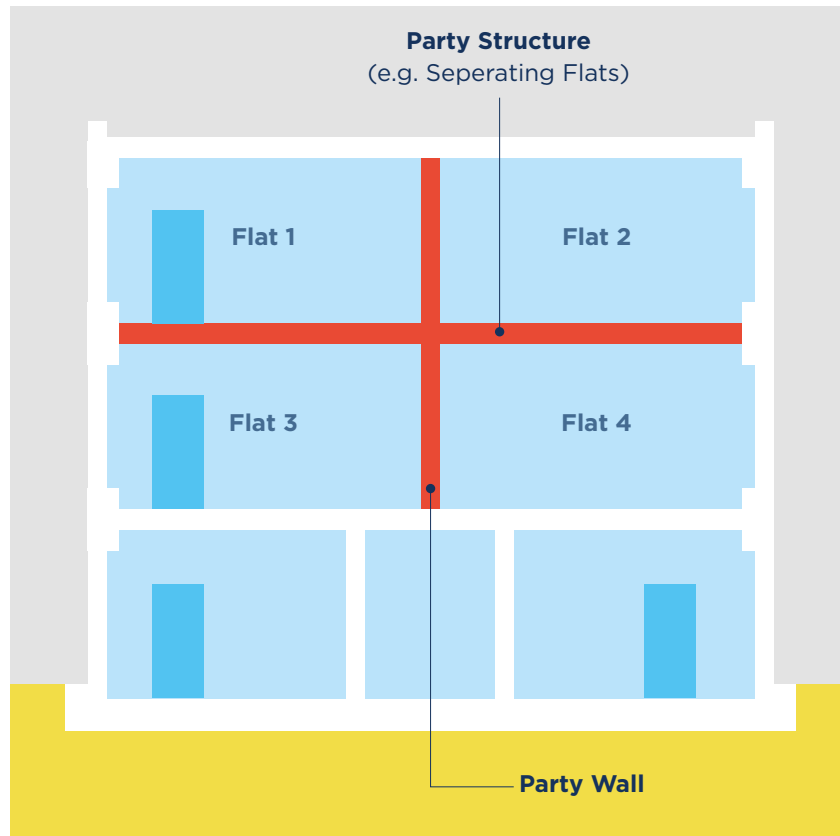
Type B

A Party Wall which stands wholly on one owner's land, but is used by two (or more) owners to separate their buildings. For example, a neighbour has a structure, such as a garage, that butts up against a wall that is owned by the other neighbour. The section of the wall that separates the properties constitutes the Party Wall, while the sections above or to the side are not considered part of the Party Wall.



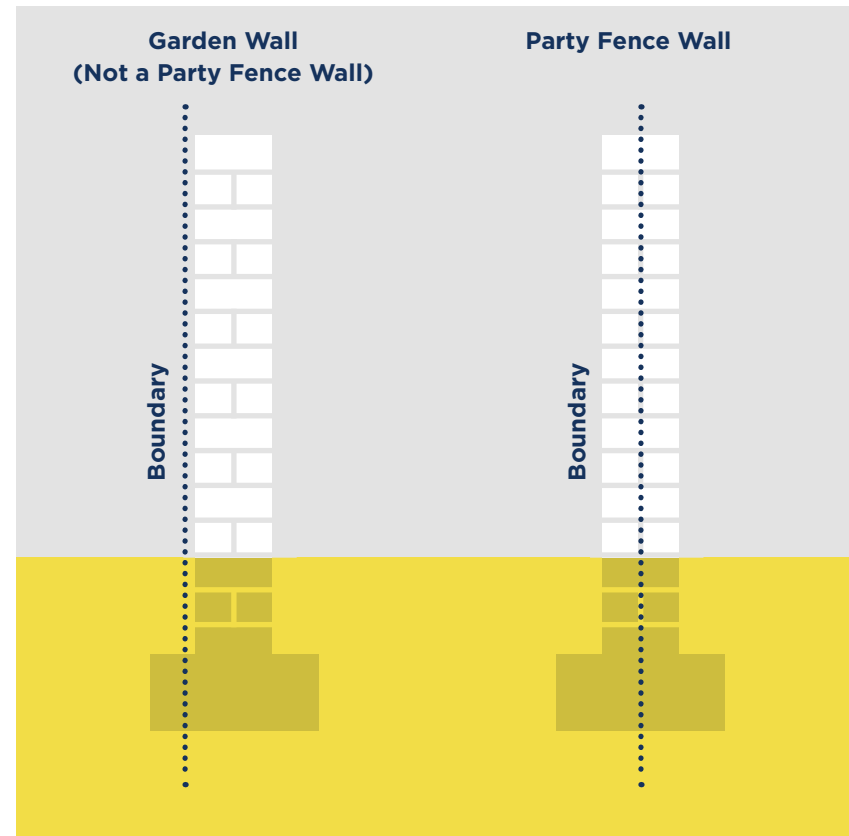
Party Structure

A 'Party Structure' is typically a floor or roof that separates buildings or parts of buildings with different owners, with flats being the most common example.



Party Fence Wall

A 'Party Fence Wall' is a wall that stands on the boundary, but has no buildings attached to it. The classic example is a garden wall, though it should be noted that wooden fences are not considered a Party Fence Wall and therefore not applicable to the act.



THE PARTY WALL AWARD

What is a Party Wall Award?

The Party Wall Award is the final, legally binding document between both owners that defines their respective roles and responsibilities under the act.

The Party Wall Award will ordinarily include:

- A description of the works being undertaken.
- A timeline for completion of the works.
- Details concerning permission for access (if applicable).
- Method statements and drawings for safely executing the works and minimising disruption to the Adjoining Owner.
- Requirement for relevant insurances.
- An agreed Schedule of Conditions (SoCs) that documents evidence of the neighbouring property's condition prior to the works, to be consulted in the event that the works have a detrimental impact.

The Party Wall Award is drafted and agreed by the 'Two Surveyors' appointed to act on behalf of the Owners. If agreed by the Owner's, an Agreed Surveyor can act on behalf of the two parties and serve the Award.

The works must commence within 12 months of the Party Wall Agreement.

HOW DOES THE ACT AFFECT ME?

If you intend to carry out any of the following, it's likely that the act will apply:

- Works to an existing wall, ceiling or floor structure shared with another property. Such works may include:
 - Loft conversions
 - Rear extensions
 - Chimney breast removal
 - Installation of steel beams or wider structural alterations
 - Boundary wall repairs
- Building on or at the boundary with another property
- Excavating near a neighbouring building or structure

Determining if a particular building project is within the scope of the act is often more complex than simply checking the general criteria stated above. Failure to correctly identify the status of your project could result in the building works being unlawful and cause long delays to the project programme. Baily Garner will gladly assist with this process and provide a proposal to manage the process on your behalf if required.

THE PARTY WALL AWARD PROCESS

What is the Party Wall Award process?

1 ▶

Baily Garner prepare and issue notices to Adjoining Owner(s).

The Adjoining Owner has 14 days to respond to the notice. If they provide consent within this period, an Adjoining Owner's surveyor need not be appointed and the works can proceed, though Baily Garner would recommend a prior SoCs inspection as per stage 4.

2 ▶

The Adjoining Owner responds, confirming dissent and the appointment of their Surveyor or Baily Garner acting as the 'Agreed Surveyor'.

If the Adjoining Owner does not respond within the 14 day notice period, a further 10 day notice period will apply and will require them to appoint a surveyor, otherwise the Building Owner may appoint one of their behalf.

3 ▶

Baily Garner will arrange a joint inspection with the Adjoining Owner's Surveyor (if not acting on behalf of both parties) and undertake a SoCs to document the condition of each property prior to the notifiable works taking place. In the event of potential damages, this document will be used for reference.

4 ▶

Baily Garner will prepare and distribute the draft Award and SoCs to the Adjoining Owner's Surveyor for negotiation and agreement.

5 ▶

Baily Garner will finalise and serve the signed Party Wall Award to the Appointed Owners.

6

The notifiable works may commence upon service of the Award and to be completed within the time frame agreed between parties.

BAILY GARNER PARTY WALL SURVEYING

Baily Garner act as Party Wall Surveyors for Building Owners, Adjoining Owners and as the Agreed Surveyor. We provide an expert and efficient service to ensure that the party wall process is followed in accordance with the act, ensuring that it is as seamless as it can be for all parties, with minimal disruption and risk of dispute.

Our full party wall surveying services include:

- informing all parties of their obligations under the act.
- drafting and serving relevant notices.
- advising Adjoining Owners once they have received a notice.
- undertaking Schedules of Conditions.
- preparing, negotiating and agreeing Party Wall Awards.

FREQUENTLY ASKED QUESTIONS

Do I need to serve a party wall notice?

If you're intending to carry out one or more of the following, it's likely that it will fall under the provisions of the act and therefore notice must be served:

- Build on or at the boundary of your property with a neighbouring property.
- Work on an existing party wall or structure.
- Excavate below and/or near to the foundation level of a neighbour's or neighbouring property.

What notice period do I have to give before starting works under the act?

It can vary depending on the work carried out and the specific provisions outlined in the application section of the act. Ordinarily, the Building Owner is required to provide a 2-month initial notice period before commencing any work on site. However, this period may be shortened by mutual agreement with the Adjoining Owner, although the latter is not obligated to agree.

Who pays a Party Wall surveyor's fees?

Typically, the Building Owner will pay all costs associated with the Award, as the works are solely for their benefit. This includes fees for the Adjoining Owner's surveyor.

What is the role of the Third Surveyor?

The 'Third Surveyor' is an independent, highly qualified Party Wall Surveyor appointed by the 'Two Surveyors' to resolve any dispute that the surveyors cannot reach an agreement on.

Can you reach a Party Wall agreement without a surveyor?

In short, yes. A Building Owner can issue an initial notice and provided it is considered valid, the Adjoining Owner can give their consent. In this case, neither Owner requires input from a Party Wall Surveyor.

However, it's not recommended as a Party Wall Surveyor will ensure that the correct processes are adopted and the interests of both parties are suitably protected. If you are an Adjoining Owner and are agreeable to a notice served to you, we suggest a SoCs inspection to document the condition of your property before works commence on site.

Does a party wall award transfer to a new Adjoining Owner?

An Award transfers to any new Adjoining Owner(s), though if the new owner proposes a change of work, the Award is voided and the process must begin anew.

Is a Party Wall Agreement mandatory?

As active legislation, it is a legal obligation to fulfil your duties under the act if undertaking notifiable works. Failure to comply could lead to legal action of varying degrees, including work stoppage and potential liability on the Building Owner for damages to the neighbouring property not directly caused by the notifiable works.

How long is the Party Wall process?

This ultimately depends on the nature of the notifiable works and responsiveness of the respective parties. A typical time allowance should be between 6-12 weeks.

How much does the process cost?

As a Building Owner you can expect to cover the costs of your Surveyor, your neighbour's surveyors, any necessary structural engineering costs and any making good as a result of the works. The cost of the overall process is typically dependant on a number of additional variables, including the complexity of the works undertaken and the time taken to negotiate and agree the final Award.

Does the act permit access into a neighbouring property?

Yes, if the works cannot be conducted by another means, the Adjoining Owner must grant access to their property for the works to be conducted.

What do I do once I receive a Party Wall Notice?

As an Adjoining Owner you have 14 days to respond to a notice. You may consent and therefore not require a formal Party Wall Award, but should only do so with an agreed SoCs. Should you dissent, a formal Award must be agreed. You have the choice of whether to allow an 'Agreed Surveyor' to represent both owners, or you may insist on your own surveyor who acts solely on your behalf.

How do I notify an Adjoining Owner?

You must provide a written notice, by post or hand-delivered, at least 2 months before the notifiable works. The notice must:

- Give the name and address of the Building Owner. If there is more than one owner, all must be named.
- Be signed, either by the Building Owners or their authorised representative.
- Be dated. The date should be the delivery date if done in person, or the date of it posted. This is important as the notice period starts running from the stated date.
- Be served on all neighbours (Adjoining Owners) as defined by the act. This can include both freehold and leasehold owners.
- Give sufficient detail and description of the intended works, including drawings, details etc, and the date you want to start the works.

For further information on how Baily Garner can help you navigate party wall issues, contact us today.

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