

MSJ Design Ltd  
Consulting Civil and Structural Engineers  
Party Wall Surveyors

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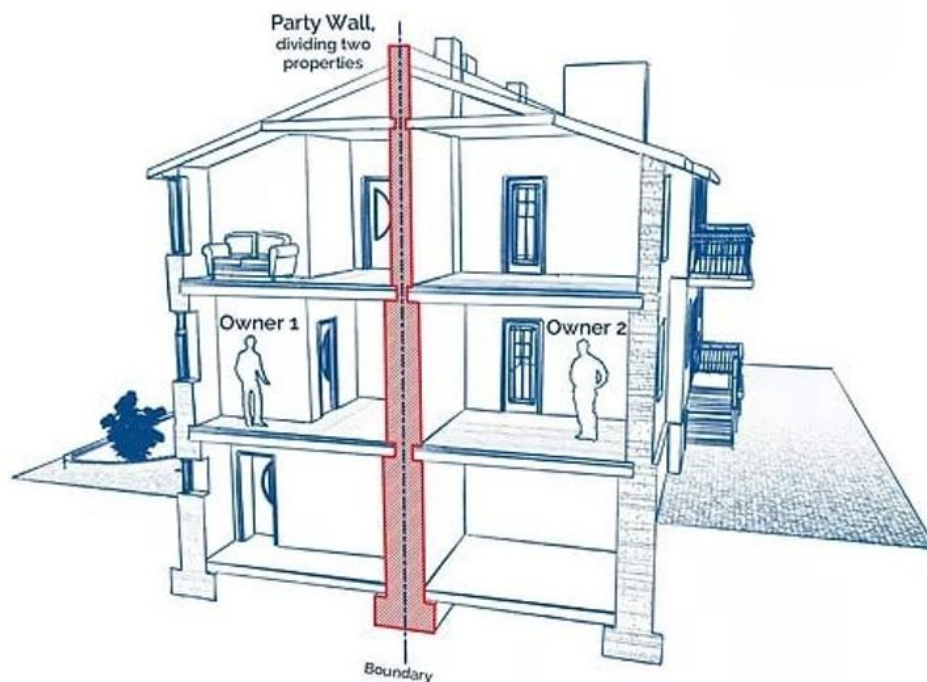
MSJ are a niche multi-disciplinary practice specialising in all aspects of design, alterations and defect remediation of a building fabric, "the envelope".

Led by a RIBA Chartered Architect and MStructE MICE Chartered Structural Engineer, our practice combines the expertise of both disciplines under one roof, offering a comprehensive range of architectural and structural engineering consultancy services, in addition to providing structural surveys and party wall consultancy services on a wide variety of small to medium size projects.

MSJ have more than 20 years of experience in providing Party Wall Advisory Service for building owners and adjoining owners alike.

Party Wall Act

The Party Wall etc. Act 1996 ('Act') provides a legal framework in England and Wales for preventing and resolving disputes between neighbouring property owners when building works are planned.



To initiate the procedure under the Party Wall Act, a "building owner" must give a formal written notice to "adjoining owners" about their intentions to carry out work to a party wall, party structure, or excavation near a neighbouring property.

If the neighbours do not agree, the Act provides a dispute resolution process, including the involvement of party wall surveyors.

This is a link to Government website which contains a set of explanatory notes:

<https://www.gov.uk/government/publications/preventing-and-resolving-disputes-in-relation-to-party-walls/the-party-wall-etc-act-1996-explanatory-booklet>

### Tips for Adjoining Owners

If you are an owner of the property which adjoins a property on which works are being proposed, you are defined as an Adjoining Owner. We can advise you as the Adjoining Owner on what to expect and how your property should be protected during proposed works.

The building owner planning to undertake work must comply with the provisions of the Party Wall Act. Whatever the extent of work, if it affects a shared structure the Party Wall Act provides important rights and protections for all neighbours affected by such building works.

What Party Wall rights does an Adjoining Owner have?

Under the Act an Adjoining Owner has the right to:

- Appoint a surveyor to resolve any dispute.
- Require reasonable necessary measures to be taken to protect their property from damage and for their security.
- Not to endure any unnecessary inconvenience.
- Be compensated for loss or damage caused by building works.
- Request security for expenses before work starts under the Act. This is to guard against any potential loss, such as if works are not completed for instance.

This also includes the duty placed upon the Building Owner to notify you in advance of work starting. Restrictions can be imposed on when noisy works are undertaken. The Act also provides a mechanism for resolving disputes if damage occurs for instance.

For more information on how to protect your property and manage any impact from neighbouring building works as an Adjoining Owner, check our FAQ section below.

## Tips for Building Owners

If you are planning to carry out building works on your property that might be covered by the Party Wall Act you will be designated as a Building Owner. We would recommend that before work starts you have your plans checked by a suitably qualified and experienced party wall surveyor. This proactive approach would allow you, the Building Owner, to understand the implications of proposed works under the Party Wall etc Act 1996 and adequately manage the risks and liabilities.

We can advise at pre-planning or pre-building stages on what issues are likely to be affected by the Party Wall Act, including advices on the strategic approach for dealing with neighbouring properties.

As a Building Owner you must inform your neighbours prior to any works starting, if you intend to:

- Build on or at the boundary of your two properties, for example removing a garden fence and replacing with solid wall.
- Work on an existing party wall or party structure, for example cutting into a party wall to insert beams or flashing or perhaps lowering, or raising the height of a party wall or removing a chimney breast that is connected to a party wall.
- Excavate below and near to the foundation level of their building or structure, for example creating a half-basement or full basement.
- Then you must serve a written Notice to your adjoining owner(s) to inform them of your intentions.

You do not need to inform your neighbour about minor works, such as plastering, adding or replacing electrical wiring or sockets, and drilling the wall to put up shelves or cabinets.

Your neighbour can't prevent you from making changes to your property that are within the law. However, they can affect how and when your works are carried out.

In addition to our broad experience in party wall matters, our extensive in-house experience in architecture and structural engineering, often enables us to identify and mitigate potential physical and construction issues which can help the party wall negotiations as well as the work that follows to proceed efficiently and in a timely manner.

If you need guidance on whether the Act applies to the work you are planning please send us the plans. We will check the proposed work and clarify whether it comes within the scope of the Act.

For more information on the Party Wall process for Building Owners, check our FAQ section below.

## Some Possible Scenarios

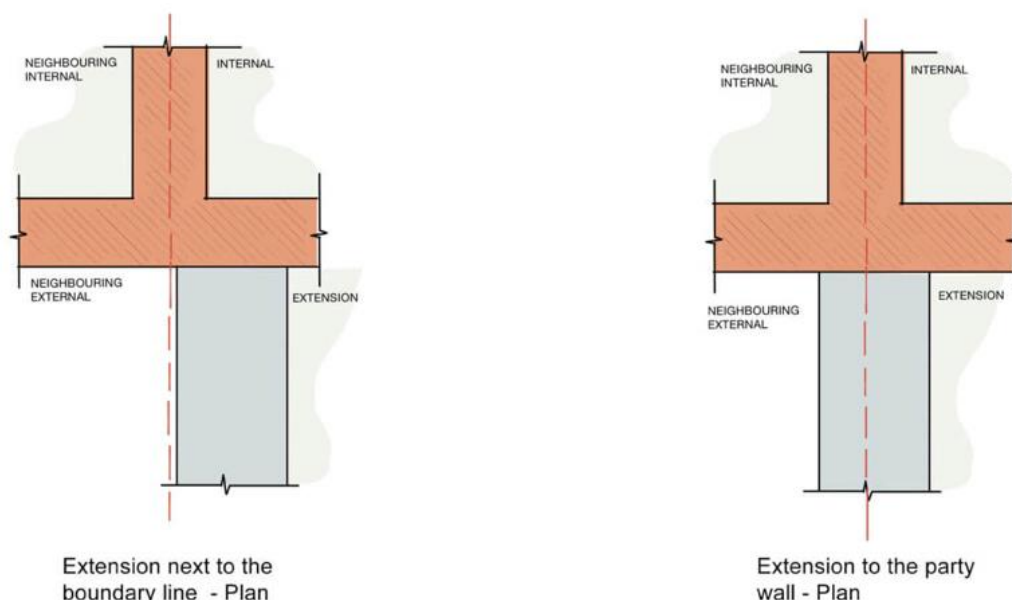
Party Wall Act is invoked in a variety of scenarios.

### Scenario 1

For example, your neighbour wishes to build an extension. This would involve building a new external wall. This new wall can be set on his land or it could be set on the line of junction. The neighbour would have to serve at least a Section 1 Notice and at this time he would become known as Building Owner. In a nutshell, he would be allowed to build on his land whether you agree or not, but he could also be allowed to build on the line of junction (boundary line), if you gave your express agreement.

Even if your relationship with your neighbour is excellent and you are keen to agree to his proposals without involvement of surveyors, it is really important to avoid the temptation of an 'over the fence' agreement. Things may happen during the building process that are out of your control or entirely unexpected and this could not only strain your personal relationship with the neighbour but also have potentially severe financial consequences.

In all scenarios, it is always prudent to have what is termed a Schedule of Condition of the areas of your property that are likely to be affected by the works. It is highly advisable to keep written records; in some cases, these may be potentially used in court.

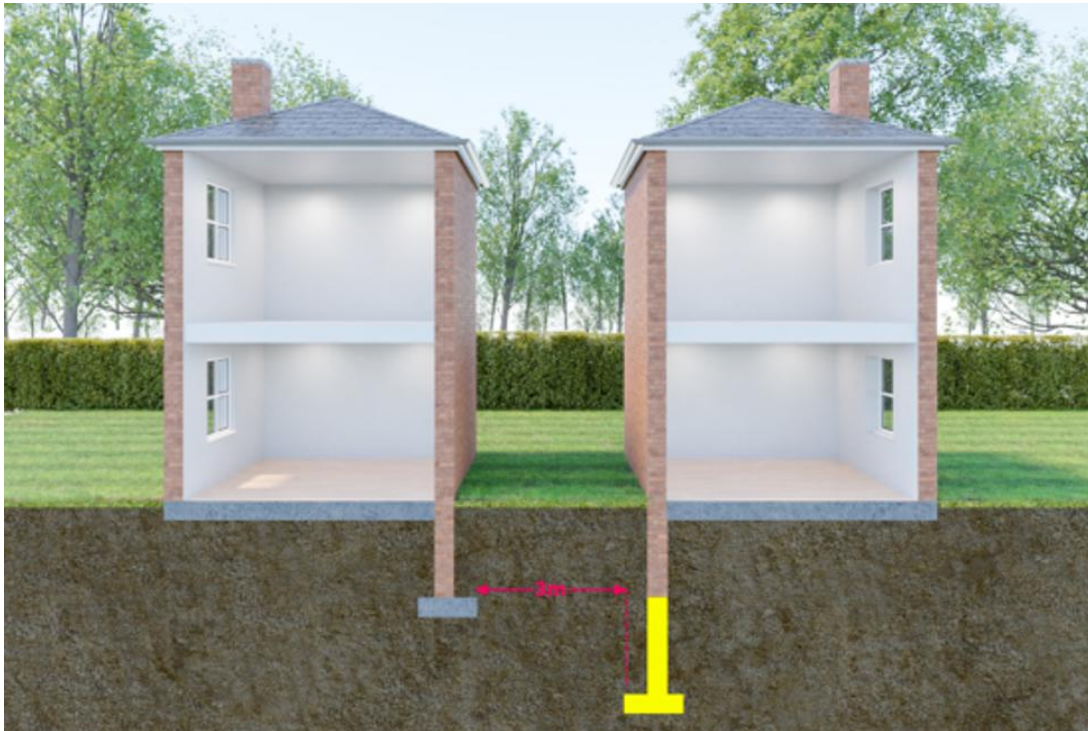


The neighbour could decide not to serve any notices. The Party Wall Act would not be invoked but the works would then be undertaken in contravention of the Party Wall Act which you would then have to pursue mainly through legal avenues.

## Scenario 2

You intend to build a basement. Your house is less than 3m away from the neighbour's house and the neighbour does not have a basement. Under the Act, you have to serve a Section 6 Notice (excavation Notice).

It goes without saying that your basement must be designed by a competent structural engineer so to make sure that the neighbour is not affected by your works. Specialist considerations of ground conditions, temporary works, sometimes special foundations, would all have to be reviewed and implemented by experienced professionals.



## Scenario 3

Reverting to the Scenario 1 above, your neighbour has built his extension. There is a wall present, jutting into the back garden. You now decide to build an extension as well. You serve notices and you are now Building Owner, and your neighbour is Adjoining Owner.

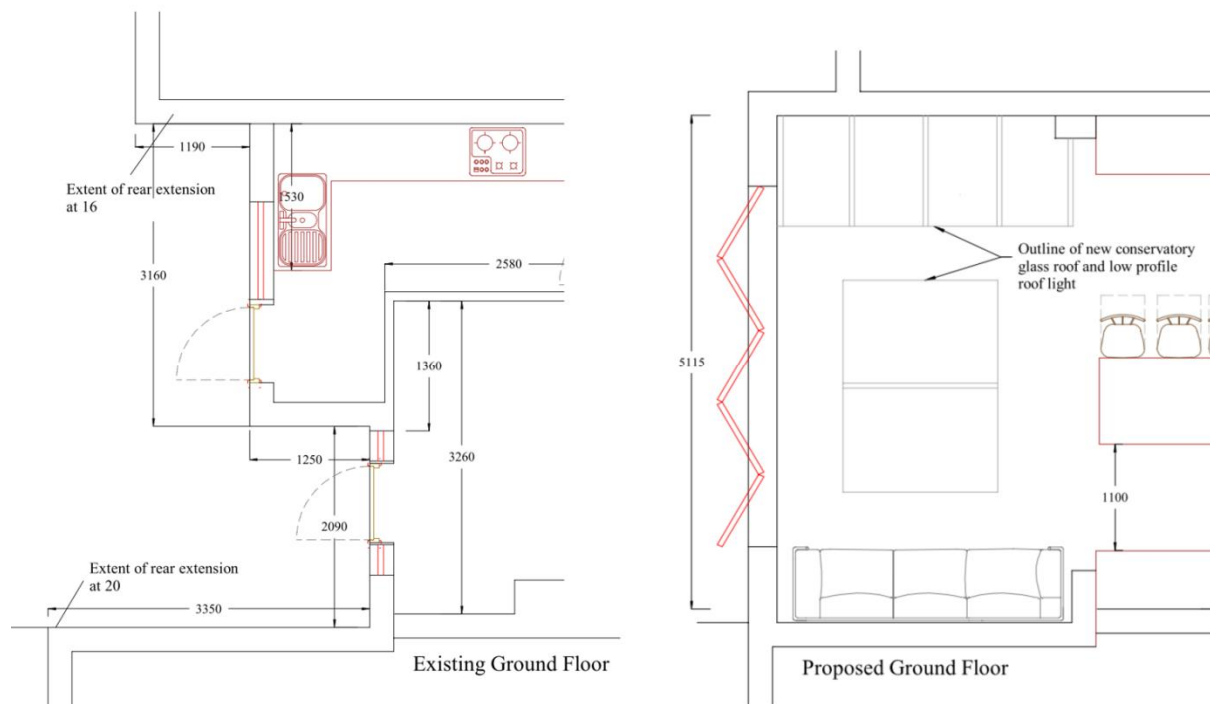
You wish to enclose upon the wall that he built a few years ago. This will result in the scenario whereby the Adjoining Owner needs to be reimbursed for the sum of money that the Building Owner intends to gain the benefit from through the preexisting wall that the Adjoining Owner would had built in the past.

The party wall surveyor(s) would assess the sum payable, using drawings you will have to have prepared on your behalf and which will clearly show the before and after situations and proposed area of the planned making use of enclosure.

## Example1

A little while ago we had an interesting scenario on in what started as a typical small build operation in a terrace of houses in Fulham SW6.

Building Owner (Owner of No18 The Street), appointed a named surveyor from MSJ Design Ltd to act for him. The proposed works were an extension to the rear of the property, infilling the gap between previously built extensions at Nos 16 and 20. Extension at No16 was shorter than that proposed at No18, so that on side of No16, it was proposed to enclose upon the wall already built at No 16 and also to extend along the boundary line for the rest of the extension.



So far, so good.

However, after MSJ served Notices on Building Owner's behalf, Owners of No16 did not respond at all despite chasing. We therefore had to appoint a Surveyor to act on behalf of the missing Adjoining Owner from No16. This Surveyor then tried to arrange access for the purposes of creating a Schedule of Conditions (SOC), but without success.

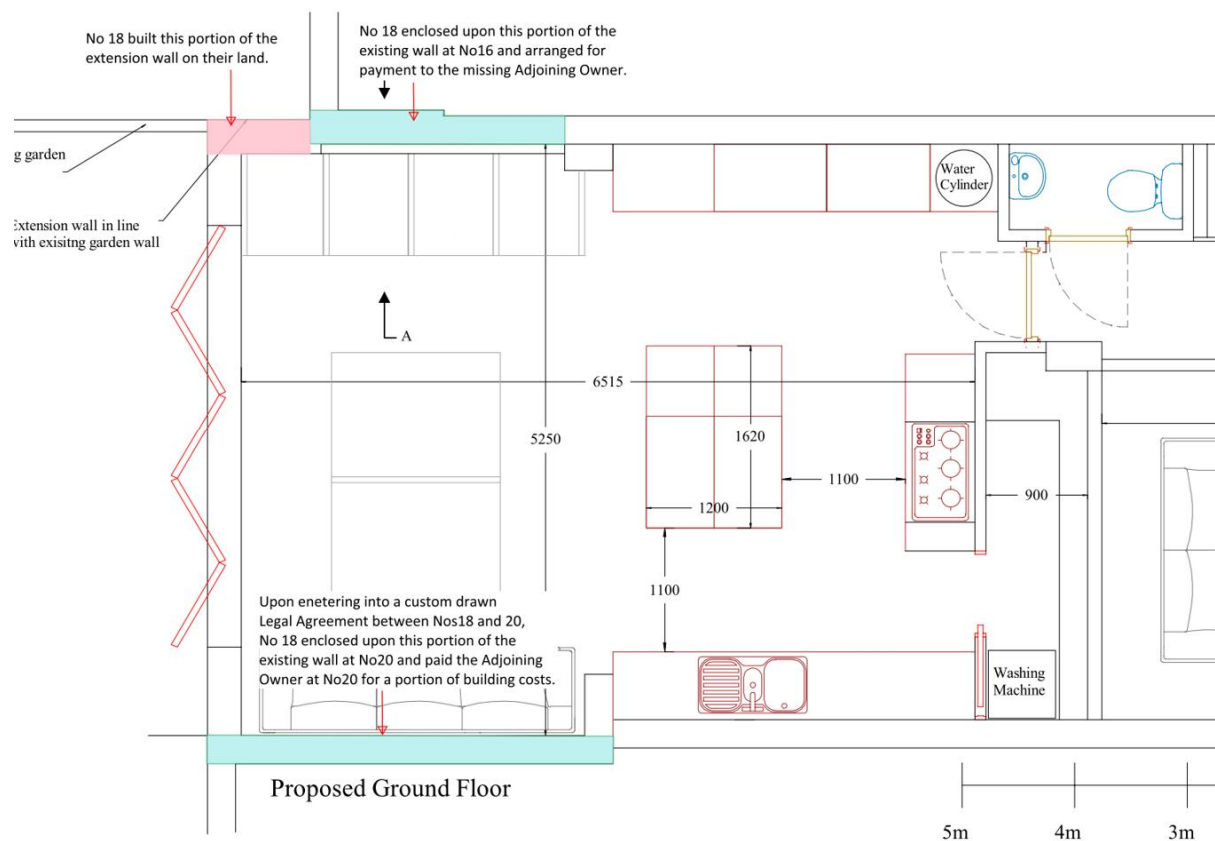
Owners of No20 did respond and appointed their surveyor. We met with the AOs Surveyor to create the SOC but then we found out and agreed that the extension of No20 was built exclusively on the land of No20. Thus the Building owner was not entitled under the Act to enclose upon the wall on that side.



The Surveyor acting for No16 then agreed with MSJ the sum of money to be paid by the Building Owner to the Adjoining Owner, at a date when Adjoining Owner became present. However the Adjoining Owner's Surveyor was not entitled to decide on behalf of the missing AO that the extending section of the wall may be built on the line of junction. The consent to build on the Adjoining Owner's land can only be agreed to by the Land Owner. It was ultimately agreed that the extending section of wall at side of No16 was to be built exclusively on the land of No18.

At No20, Adjoining Owner's expressed willingness to allow the Building Owner to enclose upon their wall. However this became a matter outside of Party Wall Act. MSJ consulted with one of their Solicitors contacts, specialists in Party Wall matters. Solicitors advised that they should prepare a Legal Agreement between owners of No18 and No20, allowing Owners of No 18 to enclose upon the existing wall at No20, with the appropriate payment naturally.

The end situation looked like this.



A simple situation of infilling the gap between existing extensions, expanded into appointing a Surveyor on behalf of missing Adjoining Owner and engaging a Solicitor to draft a Legal Agreement to enclose upon the other Adjoining Owner's property.

## Party Wall Award

The party wall deliberations are summarised in a document called Party Wall Award.

This is a very important and legally binding document. It specifies the rights and obligations of the two neighbors, the Building and Adjoining Owner. If this was to be properly drafted and published, then either of them would only have two weeks within which to try and have this Award quashed in the County Court. If that Award remained unchallenged, then after the expiration of two weeks, the Award would become immutable and would have a weight of a Court Order.

The Award sets out a variety of information, for example:

- A Schedule of Conditions
- Drawings and details of the works
- Neighbour's surveyor's fees
- Insurance details
- Time limits and working hours

## MSJ Fees

As a guidance;

- If acting as Building Owner's Appointed Surveyor, our fees for preparation of one Award start at £1,100.
- If acting as Adjoining Owner's Appointed Surveyor, our fees for preparation of one Award start at £900.
- If acting as Agreed Surveyor, our fees for preparation of one Award start at £1,100.
- If we are asked to prepare a small Schedule of Condition we can normally undertake this for a fee of £450.