

Home extensions:

The Party Wall etc. Act 1996 protects you and your neighbours during any home improvements – If you are building an extension within 3 metres or in some cases 6 metres of a neighbouring property you must have a written agreement with the neighbouring owner before work starts.- Failure to follow the correct procedures could land you with a hefty bill.

As anyone who is considering building an extension will have realised, neighbours have an important role to play in many aspects of the planning process.

They will experience some of the pain of the work without enjoying the benefits, so it is crucial to keep them informed and on side. It is also a point of law that you must give them notice before starting work close to the boundary with their property or structure. Getting this wrong could delay your build and make your project more costly. Getting it right will provide the foundations for a smooth build.

It is a legal requirement that you serve a Party Wall Notice on your neighbours. This must be done at least two months before the notifiable works begin, and at least one month before the notifiable excavation works begin. Notifiable work is either building work which affects a party wall or boundary line, or excavations within three or six metres of a neighbouring property or structure (depending on the depth of the foundations you are making). This will include most extensions and basement and loft conversions.

It is important to note that just because you have planning permission it does not mean you can legally start work. The Party Wall Act is totally separate from planning permission or permitted development and is not part of the planning or building control process.

You need to serve notice on all the owners of every neighbouring property affected by the works, both freeholders and leaseholders. You don't need planning permission for your plans to serve notice, and once you've done so you can take up to a year to start work.

If your plans change slightly after you've served notice – for example, if you decide to increase the depth of your extension – you should be able to submit revised drawings to your neighbour without having to serve a new notice.

There is real potential for damage when undertaking party wall works or works close to a boundary, according to the Royal Institution of Chartered Surveyors (RICS). So it is not surprising that failure to comply with the act could result in your neighbour taking you to court and obtaining – at your expense – an injunction to prevent you from continuing with the work. And that's not the worst of it. If you haven't obeyed the act and you cause damage to your neighbour's property, the judge can award compensation for any loss or damage resulting from the works, including legal costs.

If, on the other hand, you correctly serve notice on your neighbours and damage occurs, any disputes over that damage will be dealt with by surveyors rather than at common law. Surveyors have no scope to award damages for non-quantifiable things such as stress and inconvenience, unlike the courts, so costs would typically be much lower.

Surveyors and other professionals charge about £65 for a notice, but you can serve the relevant documents on your neighbours yourself. Use the example letters in the government's Party Wall booklet or generate a notice for free via the My Property Guide website. Be sure to fill in the blanks correctly, otherwise the notice will not be valid.

Typical mistakes include failing to include a start date or a providing a drawing showing the foundations. Another common mistake is assuming you know who owns the house next door; to be on the safe side get details of all the current legal owners from the Land Registry website.

To make sure you are serving notice under all the relevant sections of the act, read the government's Party Wall explanatory booklet and take advantage of the free 30 minutes of advice you can get from the RICS helpline (020 7222 7000) and the Faculty of Party Wall Surveyors (01424 883300).

The Party Wall process

Once you have served notice, your neighbours, known as "the adjoining owners", have 14 days to respond. Work can go ahead immediately if they agree in writing. If they dissent or fail to reply the matter automatically goes into dispute, and this is when it can become expensive.

You should give your adjoining owners at least 10 days to decide whether one surveyor can act for both of you or whether two surveyors should be involved in drawing up a party wall award, which lays out the rules your builder must adhere to while carrying out the party wall works. Your neighbour's property will also be surveyed both before and after the works are carried out to see if any damage has occurred, which you'll need to repair.

You could save at least £500-£1,000 if you can agree with your neighbour on the appointment of a single surveyor or architect, known as the "agreed surveyor". For this reason it's a good idea to talk to your neighbours before you formally serve notice and ask them if they are planning to dissent. If so, ask them whether there is a surveyor they'd like to use. That way you can appoint one surveyor from the start that you can both agree on, and save yourself time and a second surveyor's fees.

Whatever you do, don't appoint anyone who is personally employed on the project, such as the architect or surveyor who is working on the build, as they are unlikely to be perceived as neutral by your neighbours.

Timeline

Day one You serve notice to all the legal owners citing the relevant sections of the

Party Wall Act and stating when the works will start, which must be no sooner than two months time.

Day 15 Your neighbour must have agreed in writing to your notice. If they fail to reply they are deemed to have dissented. If they dissent you should send them another letter stating they must appoint a party wall surveyor within 10 days or you will appoint one on their behalf.

Day 26 Your neighbour should have decided at this point whether they wish to appoint a surveyor. If they haven't you can appoint one on their behalf, but this must not be the same surveyor you are using. You pay for all surveyors' fees, so it is in your interest to get your neighbour to agree on a single surveyor.

Day 27 From this point on you are in the hands of the appointed surveyor(s), who will make a record of the existing condition of your neighbour's property so any damage can be fairly assessed later. You will also receive a party wall award laying out rules your builder will have to follow, such as restrictions on when and how the party wall works should be carried out, and any additional work needed to protect your neighbour's property. Your builder will also be allowed to legally trespass on your neighbour's property if the surveyors deem it necessary to carry out the party wall works.

Day one plus two months Work can begin if the party wall award has been agreed by all surveyors.

Day one plus 12 months Work must have started by now.

If you are not sure how to proceed you should seek professional legal advice from a suitably qualified person.