

COBURNS PARTY WALL

Party Wall and Neighbourly Matters

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GUIDANCE NOTE

ADVISING ENGINEER

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It is expected that any engineer taking on the role of advising engineer has a good understanding of the requirements of the Party Wall Act etc. 1996 and has his own broad experience in designing projects similar to those upon which he is being asked to advise.

Where an engineer is suitably experienced but unfamiliar with the role of an advising engineer, it is incumbent on his instructing surveyor to give clear guidance on what is required.

A competent engineer, whether experienced in the advising role or not, should rarely need to expend more than a couple of hours to understand all but the most extreme or unusual proposals. Therefore, the involvement of an advising engineer should not lead to an undue delay.

They should be able to offer straightforward, ideally non-technical guidance to their instructing surveyor so that they have a sufficient understanding of the key risks associated with the structural design and its potential impact on an adjoining owner's property. This should allow the surveyor to proceed with making the appropriate comments on the draft award.

Any surveyor who accepts an appointment under the Act should make their appointing owner aware of their intention to instruct an advising engineer as early as possible. Ideally prior to being appointed. Such a need would usually be expected to have been identified by any competent party wall surveyor when they first review the notice/s and accompanying drawings.

There are surveyors who neglect to review notice/s and drawings or offer advice prior to accepting an appointment. As well as ignoring the potential for consent, such surveyors put themselves and their appointing owners at risk of incurring costs.

Where drawings are sufficient for having served notice/s, but insufficient to understand the structural design and its potential impact on an adjoining owner's property, a competent surveyor would be expected to be able to request such drawings prior to instructing an engineer.

There is no need for an advising engineer to chase information.

Financial arrangements between the surveyor and the engineer should be avoided. Where any exists, it should be disclosed at the earliest opportunity.

The advising engineer should act impartially at all times. There is no need for him to take instruction from his instructing surveyor or the related appointing owner. Doing so could lead to complications should the matter become contentious.

The engineer is to advise his instructing surveyor - not the adjoining owner. That would be the role of the appointed surveyor. If appointed to advise the adjoining owner, the building owner is unlikely to have any liability for his fees.

Any instruction taken from the adjoining owner should be disclosed at the earliest opportunity.

An advising engineer should generally limit his involvement to checking that the project engineer is acting safely and responsibly in respect of the notifiable works and its impact on the property that he has been asked to consider.

He might also offer advice where he reasonably believes the proposed work could prejudice the adjoining owner's future rights from a structural perspective.

The advising engineer should be careful to restrict his advice to matters relating only to the notifiable works. His focus should be helping his instructing surveyor understand how the proposals are likely to affect the party wall/the adjoining owner's building. This could include temporary works proposals where they are unusual. If they are not unusual, additional inputs may not be necessary.

It is rarely necessary to check the proposals (or calculations) in detail. Instead, the advising engineer should seek to establish that the structural design is adequate and practical and is based on good practice that mitigates against unnecessary inconvenience to the adjoining owner/occupier. If the principles and assumptions upon which the proposal are based are what is commonly considered acceptable the role of the advising engineer need not progress

If the principles and assumptions upon which the proposal are based are unusual or are too optimistic, or if the conclusions appear inconsistent, it is reasonable to point this out to the project engineer. The project engineer should be given the opportunity to address such issues without interference from the advising engineer.

A site inspection is unlikely to be necessary. There is no need for the advising engineer to accompany the project engineer on-site visits for the purpose of inspecting trial holes or progress of the works etc. The project engineer's reports should be sufficient.

In the same way that the surveyors have no role in policing the works or enforcing the award, nor does the advising engineer.

Details provided by the project engineer should be sufficiently detailed to allow the advising engineer to form a substantive view. Insufficient detail may lead to further time input from the advising engineer.

Where the project engineer clearly lacks the necessary experience or knowledge to address the advising engineer's relevant and reasonable queries, it would be prudent for the building owner to consider instructing someone more appropriate for the role rather than having the advising engineer becoming overly involved.

It has become common practice for advising engineers to advise the need for movement monitoring, Such a request should be accompanied by site-specific reasoning. Unless existing movement has been identified or considerable movement is expected*, monitoring serves little real-world benefit and need not be specified.

*Such a proposal should not usually be considered unacceptable.

FEES

Prior to instruction, the advising engineer should be provided with the relevant and necessary information to allow him to offer an outline quotation although this is not a necessity.

Where drawings are insufficient to understand the structural design and its potential impact on an adjoining owner's property, a competent surveyor would be expected to be able to request such drawings prior to instructing an engineer.

The instructing surveyor's failure to ask for and provide information to his advising engineer can lead to unnecessary time being expended and this should be taken into account when determining costs for inclusion in an award.

An engineer with reasonable experience of party wall matters should readily be able to give his instructing surveyor at least an outline range of what his costs might be. Most projects are likely to be similar to those they have seen before so the quoted range costs should be fairly accurate.

Where an instructing surveyor does not control his advising engineer's costs, that is not a matter for the building owner to resolve.

The advising engineer's fee forms part of the instructing surveyor's costs. He cannot enforce the award himself and therefore there is no need for a separate clause in respect of his fee.

Liability to pay his costs sits with the instructing surveyor. The costs incurred in instructing an advising engineer are not a disbursement as they were not spent on behalf of the building owner.

It should be noted that the advising engineer is taking on a portion of what would usually be an instructing surveyor's role. Consequently, that surveyor's fee should be lower than if he had not instructed an advising engineer.

His future involvement need not be considered at the time of making the first award.