



The Party Wall Etc. Act 1996

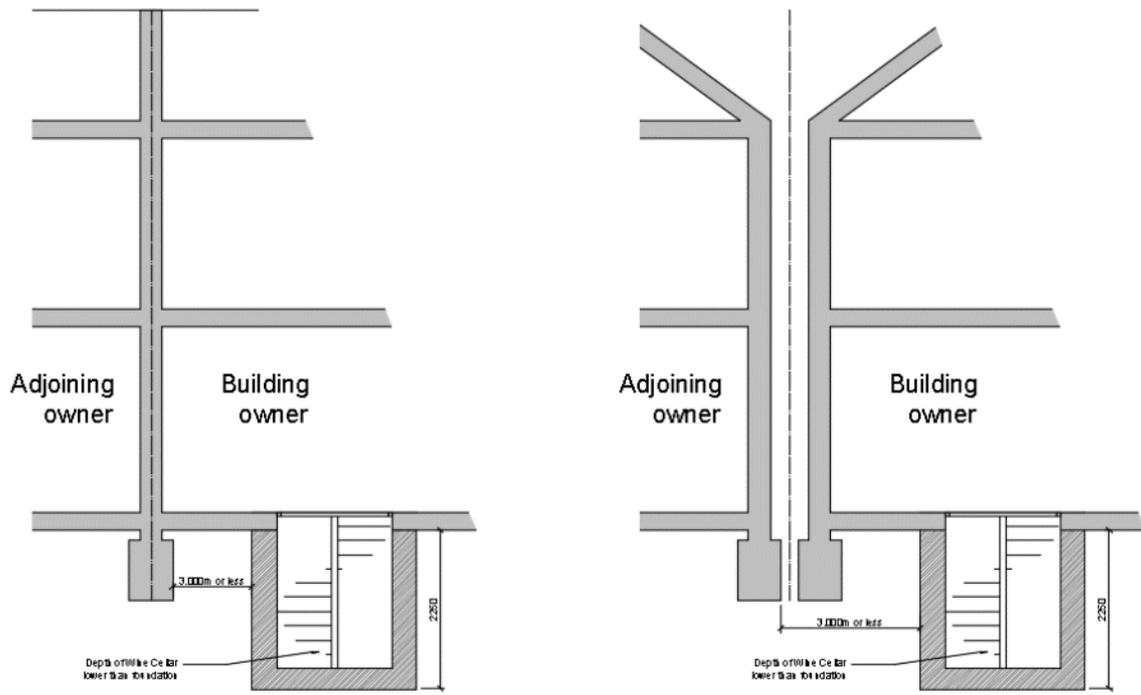
Introduction

The Party Wall Etc. Act 1996 is designed to enable a building owner to work on, under and close to party walls or the adjoining owners' property while keeping both their and the adjoining owners' interests protected. It sets out a framework for building owners to adhere to when their proposed works may affect their neighbours' properties.

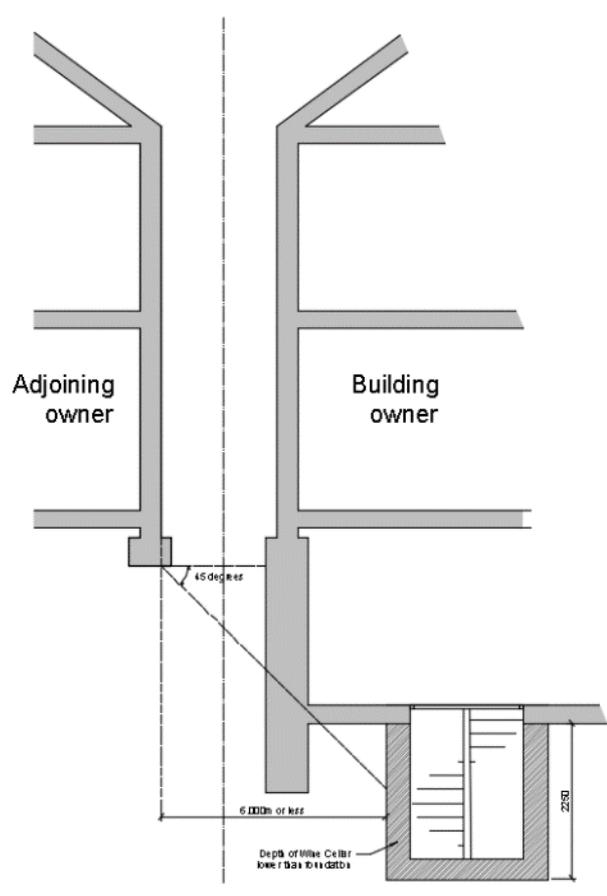
In the context of a Wine Cellar, this will typically relate to the depth and proximity of the cellar to a neighbouring property. This will only have an impact if the cellar is within 3m (or 6m in the case of deep excavations) and the excavation exceeds the depth of the foundations of the adjoining owners' property.

Party Wall Notice(s)

Firstly, the proposed cellar location will need to be assessed to determine whether it is deemed 'notifiable work' under the Act. Typical arrangements for where a new Wine Cellar is 'notifiable' are shown in the images below.



Section 6(1) – excavation to a lower depth and within 3m.



Section 6(2) – excavation to a lower depth and within 6m of the proposed Wine Cellar where the line of spread from the adjoining owners’ foundations intersects any part of the foundation.

Where the works are deemed notifiable, it will be necessary to ascertain details of the adjoining owners and this is usually obtained via the Land Registry portal.

The numbers of adjoining owners may vary depending on the location of the works, where there are leasehold and freehold interests and where blocks of flats are positioned on the adjoining land. An ‘owner’ is a person or entity with a legal interest in the land / property which exceeds one year.

Initial notices can be prepared by the building owner themselves, however, we would not recommend this course of action. In addition, the building owner will be unable to conduct party wall related discussions because they are a party to a potential dispute.

The Cellar Company would, therefore, recommend that the process be administered by a chartered building surveyor who specialises in this area of work. Notices cannot be served until a formal written appointment has been issued giving the surveyor statutory authority to serve, receive, respond and make any necessary appointments on behalf of the building owner.

In the event, notices need to be served to comply with the Act these will take one or both of the following formats. These are:

1. A party structure notice.
2. Notice of adjacent excavation.

The following options will be provided to adjoining owners in responding to the above notices. These are:

1. They can consent to the Notice.
2. They can dissent to the Notice and appoint an ‘Agreed Surveyor’.
3. They can dissent to the Notice and appoint an independent Surveyor.
- 4.

Party Wall Award

If the adjoining either fails to respond or dissents to the notice a ‘dispute’ is deemed to have occurred under the Act. Once a dispute has occurred an Award is required to remedy the dispute. The Award will set out the rights and responsibilities for both the building owner and adjoining owner, as well as any costs.

Where the adjoining owner fails to respond the building owner within 14 days of service a further letter is issued calling upon them to appoint a surveyor within 10 days to act on their behalf. Should they fail to do so the building owner can appoint a surveyor to act on their behalf under section 10(4)b of the Act. This would normally be an independent appointment and would be legally binding on the adjoining owner.

A schedule of condition will also be recorded and incorporated within the Award. This will provide a record against which any new damage can be compared, and an agreement reached as to how it will be made good.

The Wine Cellar Company would recommend that schedules of condition are recorded even if a Party Wall Award is not required.

The Works

It can take anywhere between two – eight weeks to agree an Award. Once an Award has been published on the owners it becomes legally enforceable and gives both the building owner and adjoining owner a right to appeal the Award within 14 days of service.

If consent from the adjoining owner has been obtained or upon expiry of the 14 day appeal period following publication of an Award the ‘notifiable works’ can commence. The works should be undertaken in accordance with The Wine Cellar Company’s details, as well as any requirements contained within the Award.

Costs

The cost of appointing a party wall surveyor will vary from project to project and will be based upon the complexity of the works, the number of adjoining owners and whether the works are consented to or surveyors are required to prepare an Award.

In addition to the building owner’s surveyor’s fees you will also be responsible for the adjoining owners’ surveyor’s fees. As a guide, we have set out below typical costs that you should expect when dealing with party wall matters:

Building Owners Surveyor	(one adjoining owner)	£1,550.00
	(each additional adjoining owner in the same building)	£930.00
Adjoining Owners Surveyor	(per Award)	£1,250.00

The above are exclusive of VAT, disbursements & expenses.

Where any involvement is required by a party wall surveyor to deal with ‘neighbourly matters’ not forming part of the ‘notifiable works’ these would be subject to an additional charge.

Where damage has occurred as a result of the 'notifiable works' then it is likely that you will need to make a payment to the adjoining owner in lieu of carrying out remedial works. The surveyors appointed will agree the level of payment required. Where this occurs additional surveyors' fees would be chargeable based on an hourly rate calculation.

Failure To Follow The Process

If notifiable works are started without serving notices, consent having been obtained or an Award being published then the adjoining owners can apply to the Courts for an injunction to stop the works. This can be time consuming and expensive and will inevitably lead to delays to the works.