



The Clark (Kent) Partnership Ltd

## Stage One Party Wall Matters Report

LB of Waltham Forest, site at:

Land Adj 73 Kings Road E11 1AU

28<sup>th</sup> November 2019

### **Prepared by**

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## **Appendices**

### **APPENDIX A: SCOPE OF SERVICE PARTY WALL MATTERS**

## **Limitations**

This document has been prepared for the stated objective for use by London Borough Waltham Forest (the Client), and should not be used for any other purpose without the prior written authority of The Clark (Kent) Partnership Ltd; we accept no responsibility or liability for the consequences of this document being used for a purpose other than for which it was commissioned / by a Third Party without contractual link.

## EXECUTIVE SUMMARY – LAND ADJACENT TO 73 KINGS ROAD

- This development site is rectangular in plan and appears to have no structures built on it. The site has some hardstanding and appears to have been more recently used by the neighbouring ambulance service located at 66 Queens Road. There appear to be two large mature trees located to the fenced front boundary abutting Kings Road.
- We have assumed for the purposes of this report that the proposed new structure will adopt broadly similar scale, size and character as immediate neighbouring properties and therefore that simple deep strip concrete foundations have been assumed.
- We have assumed that the two trees to the front boundary will be retained and not removed.
- In the absence of any drawing proposals at this time we have assumed that any proposed new building structure will not project beyond the existing neighbouring front elevation 'building line'.
- To the north westerly boundary is the building and gardens of 73 Kings Road. A boundary garden wall exists to the front and timber fence to the rear. In order to maximise the proposed building's footprint, it will be necessary to cut away this neighbour's projecting footings and serve a Three Metre Notice for excavations within 3m of their building and front garden wall.
- To the south (rear boundary) and east is 66 Queens Road (Ambulance Station and associated driveway). This ownership is shown as 'leasehold' only and with no details registered for freehold ownership, we have assumed the freehold ownership to be held by LB Waltham Forest. Whilst the building structure owned by the neighbour appears to be more than 6 metres away from the site boundary and therefore will not require an excavation Notice, it is likely that in order to maximise the proposed building's footprint that it is built to immediately abut the boundaries with this neighbour and so a Line of Junction Notice will need to be served.
- The neighbouring properties at 75 and 75a Kings Road lay approximately 6 metres to the east of the site boundary and so do not need to be considered further for the purposes of Party Wall matters.

Property	Section 1 Line of Junction	Section 3 Party Structure	Section 6 Three Metre/Six Metre
73 Kings Road	No	Yes	Yes
75 & 75a Kings Road	No	No	No
66 Queens Road	Yes	No	No

## **1 INSTRUCTIONS AND BRIEF**

1.1 We have been asked to undertake a desktop study and report on likely Party Wall matters on the basis that the below site is developed with such design broadly in keeping with immediately adjacent neighbouring properties:

- Land Adjacent to 73 Kings Road, Leytonstone, E11 1AU

1.2 In accordance with instructions received from GL Hearn (the Consultant) on 8<sup>th</sup> November 2019, on behalf of London Borough Waltham Forest (the Client), we have undertaken the above study. It should be noted that our study has been based purely on a desktop study - site inspections have not been instructed or carried out. We would advocate that once designs are firmed up that a 'Stage Two Report' is commissioned, incorporating a site inspection and firming up details / Notices to be served.

1.3 Our report has been undertaken in accordance with the current The Clark (Kent) Partnership Ltd Terms of Business and as per the Stage One Services detailed in our Scope of Service; both documents are appended to this report.

## **2 PARTY WALL MATTERS**

### **2.1 Building Owner**

2.1.1 The "Building Owner" for the purposes of the Party Wall Act is the person or company in whose name Notices are served and Party Wall proceedings are undertaken. They must be "an owner of land who is desirous of exercising rights under the Act". An "Owner" is defined by Section 20 of the Act as a person in receipt of or entitled to receive rents or profits of land, a person in possession of land, otherwise as a mortgagee or as a tenant from year to year, or a purchaser of an interest in land under a contract for purchase or under an agreement for a lease.

2.1.2 A Building Owner cannot devolve himself of his statutory obligations, for example by contracting them onto others or by selling on. If he sells his interests during works, before or after an Award has been drawn up, then the whole proceedings must start again with the new Building Owner.

### **2.2 Serving Notices**

- 2.2.1 There are three principle types of Notice under the Act. Briefly, they are as follows:
- 2.2.2 Line of Junction Notice – For a wall to be built at or astride the “Line of Junction” (i.e. boundary), which is not itself built on at present, other than with a boundary wall (not being an external wall of a building or a party fence wall). (Minimum notice period: one month)
- 2.2.3 Party Structure Notice – For work to a party structure, including, for example, underpinning, raising, cutting-in, repairing, demolishing and rebuilding, etc. Also, for flashing into an adjacent independent building or cutting away projections therefrom. (Minimum notice period: two months)
- 2.2.4 Three metre / Six Metre Notice – For excavations within three metres of and below the levels of the foundations of the adjoining owner’s properties, or within six metres of them and bisecting a 45-degree angle drawn down from their base. (Minimum notice period: one month)
- 2.2.5 Where possible, we generally recommend preparing Notices under the Act approximately three months before work starts. This will allow time to identify all adjoining owner interests, serve all relevant Notices, prepare Schedules of Condition of adjoining properties and enter into Awards. Close liaison will be needed with the Project Architects and the Engineers. Information will also be required from the contractor, including method statements and temporary works proposals.

## 2.3 Assessment of Party Wall Notices

My estimation as to the party wall issue is as follows:

### 2.3.1 **Land adjacent to 73 Kings Road**

A Party Structure Notice and Three Metre / Six Metre Notice (Excavation Notice) will most likely need to be served on the freehold owners of 73 Kings Road.

A Line of Junction Notice will most likely need to be served on the leasehold owners of 66 Queens Road (Ambulance Station) where the proposed building footprint will most likely abut the rear and side boundaries with this neighbour.

## 2.4 Identifying Adjoining Owners

The identity of the adjoining owners needs to be established in order to serve the necessary Notices. Usually, we would establish their identity through a mixture of information provided by our client, cold calling by knocking on doors, making telephone enquiries and by undertaking Land Registry searches.

If it is impossible to establish the identity of the adjoining owners, the Act does provide for serving Notice on “the Owner” by affixing the Notice to a conspicuous part of their property. This is usually done as a last resort and is unlikely to be necessary for this project.

### **3 SCHEDULES OF CONDITION AND NEIGHBOURLY LIAISON**

- 3.1 Where the proposed works fall under the jurisdiction of the Party Wall etc. Act 1996 Schedules of Condition will be taken of the relevant parts of the adjoining properties and land. These will be agreed with the Surveyors who may be appointed by the Adjoining Owners and bound into the relevant Awards.
- 3.2 The need to take Schedules of Condition does not extend to properties where the proposed works do not fall within the provisions of the Act. We would recommend that Schedules of Condition are recorded to protect your interests. Given the size of the scheme and extent of the works we would recommend making direct contact with a number of the adjoining owners whose properties are close to the site well in advance of the construction works commencing so that this relationship can be managed throughout the project.
- 3.3 We recognise the importance of maintaining good neighbourly relations throughout the whole development programme and have tailored a service to assist LB Waltham Forest in this important exercise.

This service includes:

- Researching the ownership and occupancy details of the relevant adjoining properties and compiling a register of adjoining owners.
- Writing to their neighbours with details of the project, timeframes and programme.
- Issuing follow-up letters to absent occupiers and non-respondents.
- Arranging access to the adjoining properties, clarifying any queries in relation to the project and recording Schedules of Condition of the adjoining properties.

- Issuing copies of the Schedules to the relevant adjoining owners for their records together with updates on the programme as required.
- Recording all complaints and responding.
- Assess reports of nuisance/damage/disruption and make recommendations to LB Waltham Forest.
- Liaising with yourselves and the contractors to arrange immediate repairs to any damaged property.
- Maintaining dialogue with the adjoining owners and undertaking follow-up inspections on completion of the repairs.

3.4 This approach not only provides adjoining owners with a conduit through which they can direct their concerns, but also helps in keeping them informed as the development progresses. We always take the view that we are dealing with potential customers and, as such, it is vital that we communicate with adjoining owners and are seen to represent their interests.

3.5 On the basis set out above, we would recommend that dialogue be opened at an appropriate time and Schedule of Conditions recorded of the following properties:

- 75 & 75a Kings Road

## **4 ACCESS ISSUES**

4.1 It is frequently necessary to obtain access onto or over adjoining owners' property to facilitate demolition and construction work close to adjoining land and buildings; for example, with hoardings, fans, scaffolds and oversailing cranes. It is possible that this will be the case with your proposed development, although the full extent of any access requirements can only be established when we have received the Contractor's proposals in this regard.

4.2 The Party Wall etc. Act 1996 and the Access to Neighbouring Land Act 1992 enable LB Waltham Forest to procure access to adjoining land, but only under very specific circumstances. If the erection of scaffolding or an oversailing crane proceeds without first obtaining the Adjoining Owner's consent the result and the trespass can be prevented by an injunction. The law on this matter is relatively simple and will not favour LB Waltham Forest.



- 4.3 It must be appreciated that there is no obligation on such adjoining owners to give permission for the scaffolding or crane oversail. If an adjoining owner permits the encroachment, a payment might be requested and other terms for such permission imposed in a formal access agreement, usually a license document. There are no standard charges in the marketplace for such encroachments.
- 4.4 Where access agreements are required, I suggest discussions are commenced with the relevant adjoining owners as soon as possible. Suitable drawings and information will be required, including the type of scaffolding or crane, the method of erection, the type of works to be carried out and a likely time-period.
- 4.5 We would recommend that Schedules of Condition are recorded of the parts of the adjoining owner's property over which access will be required, to protect your interests against any claims for damage arising from the works.
- 4.6 At this stage without the contractor's proposals it is difficult to advise you accurately on the extent of any consents that will be required. The most likely significant issue will come from the works at St Patrick's Court if a crane is required, as these works will not fall under the Party Wall Act and any access requirements will require the consent of the adjoining owners.

## **5 SUMMARY, TIMEFRAME AND COSTS**

- 5.1 The development involves work for which Notices under the Party Wall etc. Act 1996 must be served on various adjoining owners at least two months in advance, although we recommend allowing at least three months. When Notices are served, the adjoining owners may disagree with the proposals and appoint surveyors with whom we, if appointed, will agree matters in a series of Party Wall Awards. The 'building owner' under the Act (currently, London Borough of Waltham Forest) will be responsible for the fees of the adjoining owners' Party Wall Surveyors and any engineers they may wish to consult. I am happy to provide cost estimates for Stage Two and Three Party Wall services and additionally, the allowances for the fees of the adjoining owners' surveyors and consulting engineers. I will be able to provide you with a more accurate fee budget once we have completed our Stage Two Services, i.e. established the precise ownership details of the adjoining properties and received responses to the Notices served.

- 5.2 We have recommended that Schedules of Condition are recorded on several other adjoining properties which fall outside of the Party Wall Act statutory distances and will not require Notice. This will be supplemented by our Neighbourly Matters Liaison Service to maintain good relationships with the neighbours and deal directly and effectively with any complaints arising throughout the construction process. We would suggest a fee of **£5,000** for this service. As I am sure you will appreciate, it is difficult to quantify the level of work involved and the number, if any, of any complaints that might arise, and we therefore propose dealing with these matters on a time-expended basis.
- 5.3 Several neighbourly issues may arise from your contractor's proposals. In particular, scaffolding or other temporary works will need to be carried out on or over neighbouring properties for which no rights under the Party Wall etc. Act 1996 can be claimed. Consent will need to be obtained from the adjoining owners and an approach should be made in good time. The adjoining owners are not obliged to give consent, and this should be borne in mind when the approaches are made.
- 5.4 Please note that all budget costs quoted above are exclusive of VAT and disbursements.

Stage One Party Wall Matters Report, 28th November 2019  
GL Hearn for LB Waltham Forest.  
Site at 73 Kings Road E11 1AU

## **APPENDIX A**

### **SCOPE OF SERVICE PARTY WALL MATTERS**

# Scope of service: party wall matters

## Stages of Involvement and Typical Activities when acting for a Building Owner (Developer)

### Stage One Services

- Reviewing the architect's and structural engineer's drawings and liaising with them as necessary to identify the works which will require notice to be served under the Party Wall etc.1996 ('the Act').
- Inspecting the site/property to establish the relationship between the properties in connection with the proposed works.
- Appraising any relevant legal documents or old awards available and advising on the implication of the documents on the proposed development.
- Preparation of a report detailing the surrounding properties and the types of notice required for each property, your rights and obligations under the Act and details of any other neighbourly matters which may arise from the proposed development.

### Stage Two Services

- Establishing the identity of the parties in the adjoining properties entitled to notice.
- Further liaison with the project team to obtain the necessary drawings/details to accompany the notices.
- Formalising our appointment to act as appointed surveyor and preparing and serving the notices on the adjoining owners with accompanying correspondence.
- Preparation of a combined directory of adjoining owners and status report.
- Dealing with responses to the notices and, should adjoining owners fail to respond, appointing surveyors on behalf of the building owner.

### Stage Three Services

- Preparing schedules of condition and agreeing their content with the adjoining owners' surveyors.
- Drafting awards, negotiating their content with the adjoining owners' surveyors and preparing the award documentation for service.

### On-Going Services

- Attending project meetings as required.
- Updating the status report to advise on progress.
- Dealing with any variations or discrepancies arising following service of notice/awards and, where required, serving further notices and agreeing further awards.

- Dealing with any claims for damage received from adjoining owners and their surveyors and agreeing, where necessary, the extent of any repairs or payment in lieu.

### **Typical Activities when Acting for an Adjoining Owner**

- Advising on the validity of notices served, and your rights and obligations, under the Act.
- Reviewing details of the proposed works to ensure they are suitable and will not cause unnecessary inconvenience.
- Checking and agreeing schedules of condition.
- Negotiation of party wall awards with the building owner's surveyor.
- Inspecting the works to ensure they comply with the requirements of the award.
- Dealing with any variations or discrepancies arising following the service of notice/awards and, where necessary, agreeing further awards with the building owner's surveyor.
- Dealing with any issues of damage arising; agreeing the extent of any remedial work necessary and/or the level of any payment in lieu.

### **Limitations**

- Surveys, inspections, reports and other advice whether verbal or written will be deemed to incorporate the limitations of service as set out below, as The Clark (Kent) Partnership Ltd Standard Limitations clauses.

### **Limitations of the Report**

- The information contained in this report has been obtained by the inspection of those parts of the building which were visible, and it is not so complete as that which may be obtained when the various parts of the building can be opened for inspection. This report does not, therefore, guarantee that works of opening up will not reveal that additional costs may be required to eradicate damage due to rot and infestation of woodwork or structural timbers. We would point out also that wood boring insects may be present in timber without there being any evidence such as flight holes and we are, therefore, unable to state categorically that areas of woodworm did not exist at the date of our inspection.

### **High Alumina Cement, Asbestos**

- We must stress that we have not carried out any detailed investigations of the fabric of the building and are, therefore, unable to report that the buildings are free from defect arising from the use of high alumina cement. If further investigation of the property is required, we recommend that a qualified civil or structural engineer carry out this work.
- No enquiries have been made to determine whether any asbestos has been used in the fabric, finishes or services to the premises, which may need removal by a licensed operator, or sealing permanently. The Control of Asbestos at Work Regulations 2002 and subsequent Amendments, which came into force on 13 November 2006, place a number of responsibilities on 'dutyholders', those who are responsible in any way for the running and upkeep of a building. We are happy to expand on the general requirements of the regulations, but it is a specialist area of expertise and

not within the remit of this report. We are able to arrange for a specialist survey to be undertaken should you wish.

### **Third Parties and Publications**

- This report is intended solely for the use of the instructing clients to whom it is addressed, and no responsibility is accepted to any third party for the whole or part of its contents.

Neither the whole nor any part of this report may be included in any professional document, circular or statement, nor published, reproduced or referred to in any way without our written approval of the form and context in which it may appear.