



Party Wall Matters – Phase 1 Report

Garages to the South
Kier Hardie Way
Dagenham
IG11 9NY

Prepared on behalf of

BeFirst
9th Floor
Maritime House
1 Linton Road
Barking
London IG11 8HG

Job No: 32922

Date: January 2021

Baily Garner LLP
146-148 Eltham Hill,
London SE9 5DY
T. 020 8294 1000
E. reception@bailygarner.co.uk
www.bailygarner.co.uk

CONTENTS

1.	INTRODUCTION	3
2.	PARTY WALL LAW	4
3.	THE DEVELOPMENT SITE – AS EXISTING	4
4.	PARTY WALL NOTICES	10
5.	ADJOINING OWNERS	11
6.	BUDGET FEES	13

Date of Report:	January 2021
Report Prepared by:	James Thacker MRICS

Authorised for Issue:

Digitally signed by Joe Jackson

For and on behalf of Baily Garner LLP

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1. INTRODUCTION

1.1. CLIENT

1.1.1. BeFirst, Innovative Sites Programme Manager

1.2. RELIANCE

1.2.1. This report is for the benefit of BeFirst. Baily Garner cannot accept any liability to any third party for the whole or any part of its contents. Neither, the whole or any part of this report, or any reference from within, may be included in any documents or statement, or published or reproduced in any way, without our prior approval in writing.

1.3. INSTRUCTION

1.3.1. We received instruction from BeFirst to undertake a Phase 1 Party Wall Report for this project on 18 September 2020 via email.

1.3.2. Our instruction was to inspect the site and provide an assessment of likely party wall matters in relation to redevelopment.

1.3.3. We understand no architectural or engineering details are yet available for the development, although we are advised the site is to be utilised for housing. This report can therefore only be used currently as a preliminary assessment. We recommend the findings in this report are reviewed once the site layout and design are established to better determine the Notices required under the Party Wall etc Act 1996.

1.4. INSPECTION

1.4.1. The inspection was undertaken by James Thacker BSc (Hons) MRICS of Baily Garner LLP on 16 October 2020. The weather at the time of our inspection was overcast and cloudy.

1.4.2. During the time of our visit the Covid-19 Virus was a prevalent issue in the United Kingdom and therefore safe working processes were employed. As this visit was to an unoccupied external site the risk was deemed low.

1.4.3. Record photographs of the boundaries were taken, where it was practical and safe for reporting purposes. In addition, we have included the street layout plans provided by BeFirst to confirm the site locations and overview images of the site to assist.

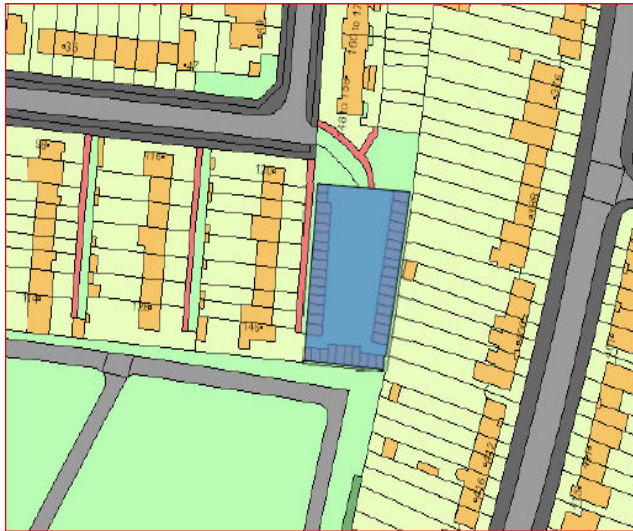
2. PARTY WALL LAW

- 2.1. We have been asked to consider the requirement to follow party wall process for redevelopment of the site. The 'Party Wall Etc Act 1996' is a statutory piece of legislation which was introduced and effective from 1997, created to facilitate development works at the boundary line; or within certain lateral dimensions in respect of excavations from neighbouring buildings and structures, and for works on Party Walls / Party Structures.
- 2.2. The Act is designed to facilitate development by providing certain limited rights to Developers, which require the formal service of statutory notices on all relevant adjoining owners before these rights can be enacted.
- 2.3. There are three basic notices required under the legislation, summarised below:-
 1. Section 1 Notice (Line of Junction Notice) – Works against the boundary with a one-month Notice period
 2. Section 3 Notice (Party Structure Notice) – Works upon party structures / floors or into adjacent external walls with a two-month Notice period
 3. Section 6 Notice (Excavations and Foundations Notice) – Excavation works close to adjacent buildings or structures with a one-month Notice period
- 2.4. Each of these Notice requirements is considered within this report.
- 2.5. Please note, for the purposes of this report we are reporting solely on the provisions required under party wall legislation and have not dealt with any aspects in relation to any general neighbourly matters (i.e. scaffold licence agreements, crane oversailing agreements, hoarding licence agreements etc). We would be happy to provide separate advice if required on these matters.

3. THE DEVELOPMENT SITE – AS EXISTING

3.1. THE DEVELOPMENT SITE

- 3.1.1. The existing development site is currently a dilapidated compound with a number of brick-built garages.
- 3.1.2. The existing site location and image of the site are shown in the images below.



Garage Blocks Site location plan at Kier Hardie Way



Garage compound looking south from the main entrance



Garages Block – Outlined in 'Red' in above image

- 3.1.3. Using the online Promap software the overall site area (indicated in blue on the above site location plan) is circa 1,449.3 M² (15,600.12 sq ft) in size and located to the south east corner of Kier Hardie Way, immediately adjacent to Rippleside Cemetery.
- 3.1.4. The site is bounded at the north by the north walls to the garage blocks, brick piers, steel fencing and entrance gates.
- 3.1.5. To the west of the site the garage blocks compound is bounded predominantly by the rear brick walls serving the backs of the garages, with a small section of infilled boundary walling towards the south west corner. Immediately beyond this lies a small grass verge strip and a common alleyway access to reach the terraced properties 130 to 146 Kier Hardie Way.
- 3.1.6. To the east of the site, no access was available given the areas form the rear gardens to 390 to 406 Lodge Avenue. Some of these adjoining properties have garden sheds and outbuildings to the far end of their rear gardens closest to the garage compound and would be deemed as 'structures'.
- 3.1.7. We have reviewed the physical boundary forming the garage compound on site and for ease of reference, provide commentary alongside photographs in the table beneath. No access was available to the east boundary, as mentioned above, but attempts to view the rear gardens has been made via Google Earth.
- 3.1.8. We have acquired a copy of the Land Registry title plan for this property as it was unclear if the boundaries fell beyond the bounding walls to the garage compound. From our review it appears the walls may form the boundary line and include a partial element of the entrance road and grassed area to the north west. Notwithstanding, the location of the legal boundary line, this should be established going forwards, including ownership of the fences separating the cemetery to the south and any fences to the east (if they exist) in advance of serving Notices. From the Google Earth review it is difficult to see if fences exist to the rear of properties in Lodge Avenue.

North Boundary – The site is secured to the entrance by brick piers and steel fencing and gates.



North Boundary – Access to the garage blocks is from a small access road off Kier Hardie Way. The site is secured by lockable painted steel gates.



West Boundary – (looking south) The brick-built walls forming the rear to garage blocks sits at the boundary (we presume). Note adjacent residential properties.



West Boundary – (looking north)



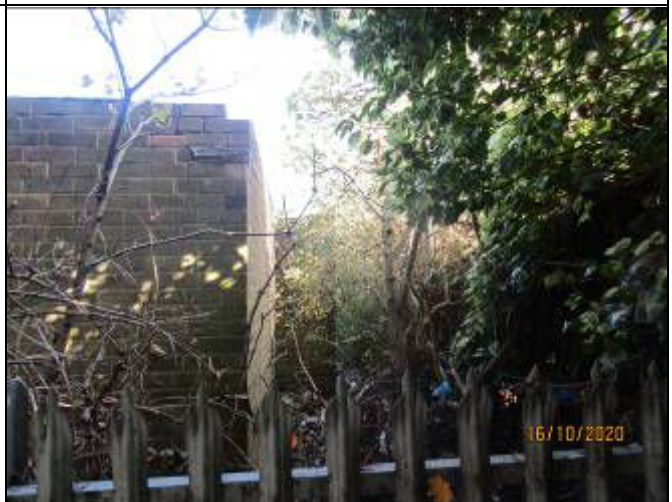
West Boundary – (looking south towards the Rippleside Cemetery). Photograph taken at frontage of 146 Kier Hardie Way.



West Boundary – (looking west at south east corner within garages compound). Boundary brick-built wall continues between the garage blocks.



East Boundary – (looking north from cemetery side). The rear brick-built walls to the garage blocks appear to form the boundary.



East Boundary – (looking east from within the south east corner of the garage compound). Boundary brick-built wall continues between the garage blocks.



South Boundary – (looking north from cemetery side). The rear brick-built walls to the garage block is constructed close to the steel palisade fencing to the neighbouring Rippleside Cemetery.



4. PARTY WALL NOTICES

- 4.1. As mentioned under the 'instruction' section of our report this preliminary assessment will need to be reviewed again once the scheme proposals are further developed to determine the location of the structures and services on the land of the garages, along with any new walls to the boundaries.
- 4.2. Using a 'hypothetical approach' for the analysis the potential requirement for party wall notices to be served on adjoining owner's is summarised beneath:-

4.3. Line of Junction Works

- 4.3.1. Line of Junction works require Notice where the Building Owner wishes to construct a new wall against or astride the boundary (where the boundary is not currently built upon or only to the extent of a boundary wall being in position). There is also some thoughts surrounding party wall legislation that clearance of the site and reconstruction at the boundary may determine requirement for service of Notice, although not necessarily widely adopted.
- 4.3.2. In this instance, the boundaries appear to have already been predominantly built upon by virtue of the garage structures, but there are elements where only boundary walls are in position. If the new buildings were constructed on these lines or within the site back from this point, then it is unlikely notice is required, albeit some pockets to the boundary may still apply.
- 4.3.3. If the site is cleared of the garage structures and new boundary walls constructed to the perimeter of the site on the same lines we would not expect this to invoke a notice, although given the viewpoint in 4.3.1 above, this should be reviewed in more detail once proposals are better known. Further investigation of the rear gardens to Lodge Avenue properties should also be instigated in some way and we would be happy to assist if required.
- 4.3.4. If the scheme proposals were to include for a structure at the line of junction, then Notices may be required on the ownerships listed beneath. We are presuming the grass strip and access pathway to the west is within council ownership forming part of the common highway pavement.
- 390 – 408 Lodge Avenue
 - Rippleside Cemetery (potentially)
 - Land to the north east of the site on the entrance way

4.4. Party Structure Works

- 4.4.1. Party structure works require Notice where the Building Owner wishes to carry out works directly onto a shared party wall or external wall of an adjoining owner's property (ie; where the void between the new construction and a neighbour's structure may require weathering or cutting away projections).
- 4.4.2. We have presumed the external walls to the garages blocks and boundary walls are likely to form and sit to the boundary of your ownership, rather than being built astride the boundary

line for the purposes of this analysis. This will need to be verified via your legal team, but at present assumed no party structure notices would be required.

4.5. Excavation Works

- 4.5.1. Excavation works within close proximity of neighbouring structures (normally 3 metres, but in instances 6 metres) requires Notice. This is usually required where new foundations are required, but could equally include new hidden underground services to and across the site.
- 4.5.2. The requirement for Notice will be subject to the depths of excavations and how close these are to the adjacent owner's properties / structures. Unfortunately the definition of a 'structure' is not clearly defined in the legislation, and determining what structures may be contained to the far rear gardens of properties in Lodge Avenue and whether there are any fences in place, immediately behind the garage block which might influence matters.
- 4.5.3. At the present time without knowing the fuller design and location of the proposals we have taken an overview that not all adjoining owners' would require Excavation Notices to be served. This can be reviewed further once you have more information.
- 4.5.4. From our site visit, it is anticipated some requirement for Excavation Notices may, however, be required on the following properties (subject to further investigation once the fuller design and site layout is known):-
 - Rippleside Cemetery (potentially)
 - 398 Lodge Avenue
 - 400 Lodge Avenue
 - 402 Lodge Avenue
 - 408 Lodge Avenue

5. ADJOINING OWNERS

- 5.1. We have established the 'potential' of Notices required under the 'hypothetical situation' in the brief analysis above. Notices are required on all 'owners' as laid down in the legislation which would include freehold, as well as leasehold interests. Generally, those parties with an interest of less than one year in term and tenants at will for example would not be entitled to Notice, although circumstances can change so full checks should always be carried out.
- 5.2. We have not undertaken official Land Registry searches at this stage, but given the adjacent properties are all residential dwelling houses we have assumed most of these to be held as freehold ownerships. On this presumption we have indicated, in the table beneath, the following number of interests may be likely to require service of Notice.
- 5.3. Land Registry checks should be undertaken in advance of serving Notices once the scheme proposals are better evolved. This to include location of structures and services on the site,

design depths and type of construction to 'ratify' those adjacent owners' affected under the Party Wall etc Act 1996 legislation.

- 5.4. Land Registry searches may not, however, always identify leasehold interests where these may not have been registered or fall within a shorter term (ie: within 7 years). We would always therefore recommend the freehold owners' are directly asked to declare any leases / tenants in existence. In addition, checks should be made with the local council to determine whether any sitting tenants might exist at the properties.

Property Address	Freehold Owner (presumed)	Leasehold Owner (presumed)
398 Lodge Avenue	1	0
400 Lodge Avenue	1	0
406 Lodge Avenue	1	0
408 Lodge Avenue	1	0
Rippleside Cemetery	1	0

5.5. Party Wall Process

- 5.5.1. Once Notices are served on adjoining owner's three options apply:-

1/ Consent to works

2/ Dissent to works and appoint an agreed single surveyor (usually the Building Owner's surveyor)

3/ Dissent to the works and appoint their own separate surveyor

- 5.5.2. If a dispute arises surveyors would need to be appointed to produce an Award document detailing the timing of works, the manner in which the works are undertaken and it's execution. This only applies to the 'Notifiable' party wall element of the project, not the general building works, beyond this.

- 5.5.3. Once the Award is agreed and published the Building Owner (developer) is at liberty, if they so choose, to undertake the works 'Awarded'.

6. BUDGET FEES

- 6.1. We have established the 'potential' of Notices required under the 'hypothetical situation' in the brief analysis above. Notices are required on all 'owners' as laid down in the legislation and this will include freehold, as well as leasehold interests. Generally, those parties with an interest of less than one year in term or tenants at will for example would not be entitled to Notice, although circumstances can change so checks should always be carried out.
- 6.2. We have not undertaken official Land Registry searches at this stage (except the subject site), but given the adjacent properties are all residential dwelling houses we have presumed most of these to be held as freehold ownerships.
- 6.3. With respect to fees this will be dependent on the eventual number of Notices, schedules of condition and Awards required. For the purposes of this preliminary assessment a total fee budget of circa £ 44,000 plus Vat might be applicable for the process broken down between the Building Owner / Adjoining Owner's (50% / 50% although the Building Owner/developer normally pays 100% of all party wall fees). Once the development proposals have been provided, we would be happy to provide advice at the design stage along with a definitive fee budget.
- 6.4. It may be possible to reduce the number of Notices/Awards if the development works are positioned away from the adjoining buildings and boundaries, although this may already be the case. Further early legal checks on boundary lines and investigation of rear gardens to Lodge Avenue would assist in firming up matters.

6.5. Budget Fees – Building Owner (developer)

- 6.5.1. The Building Owner (Developer) surveyor fees will be subject to the number of Notices served, schedules of condition being recorded and ensuing Awards necessary.
- 6.5.2. Based on our preliminary assessment, there is a potential that up to 15 Notices may need to be served and presuming dissent to works is received, then estimating up to 8 schedules of condition and Awards prior to works commencing.
- 6.5.3. We recommend a budget figure of £2,750 plus Vat is allowed for each affected adjoining owner equating to a total fee for the Building Owner's surveyor services of up to £22,000 plus Vat.

6.6. Budget Fees – Adjoining Owner's (Adjacent neighbouring owner's)

- 6.6.1. The Building Owner (Developer) would normally be responsible for the neighbouring owner's surveyor's fees in party wall matters. This can sometimes include for the appointment by the neighbour's surveyor of a checking engineer.
- 6.6.2. We recommend a similar budget figure of £ 22,000 plus Vat for the Adjoining Owner's surveyor services.

6.7. Party Wall Process - Timescales

- 6.7.1. The Party Wall etc Act 1996 sets out definitive timescales for Notice periods. Line of Junction and Excavation Notices require Notice be served at least one month in advance of the works, whereas a Party Structure Notice requires a two-month Notice period. In addition to initial Notice periods the Act requires a further ten-day Notice period if no response is received to the initial Notice.
- 6.7.2. Given the Notice duration can therefore be extended and no responses sometimes occurring in the process, Awards may take longer than anticipated to reach agreement. We would recommend you allow at least three months from the service of Notices to agree Awards and six months as a worse-case scenario.
- 6.7.3. The Award agreement will ultimately be subject to the timely supply of design information, early access to record schedules of condition and continued dialogue with the adjoining owner's surveyor to conclude the Award.