



## **Party Wall Matters – Phase 1 Report**

Land Adjacent to 186 Goresbrook Road  
Dagenham  
RM9 6XS

### **Prepared on behalf of**

BeFirst  
9<sup>th</sup> 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](mailto:reception@bailygarner.co.uk)  
**[www.bailygarner.co.uk](http://www.bailygarner.co.uk)**

## CONTENTS

1.	INTRODUCTION	3
2.	PARTY WALL LAW	4
3.	THE DEVELOPMENT SITE – AS EXISTING	4
4.	PARTY WALL NOTICES	11
5.	ADJOINING OWNERS	13
6.	BUDGET FEES	14

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

For more info on digital signatures see <http://www.bailygarner.co.uk/digitalsignatures/>

26 January 2021 16:13:40



## **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 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 22 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 cleared section of land which up until recently was overgrown with trees and shrubs.
- 3.1.2. The existing site location and image of the site are shown in the images below.



186 Goresbrook Road - site location plan



Vacant site looking south towards Goresbrook Road



Vacant site – approximate site area outlined in red pen above.

3.1.3. Using the online Promap software the overall site area (indicated in blue on the above site location plan) is not clear as the programme does not show the site split away from 186 Goresbrook Road (we presume this land has been acquired from the 186 Goresbrook Road



plot). The approximate measure is circa 250 M2 (2,690.98 sq ft) in size. The site entrance is found at Goresbrook Road, centrally between Elstow Road and Vincent Road.

- 3.1.4. During our visit to the property carriageway works for gas pipe renewals appeared in progress, therefore pavement areas barriered off. The site entrance is currently secured by a set of green painted metal gates and padlocked.
- 3.1.5. The North boundary to the site is denoted by a low-level concrete posted fence with chainlink fencing between and a number of shrubs grown against the fencing. The squint shaped boundary meets with two immediate neighbouring properties at 184 Goresbrook Road and 3 Vincent Road. It is uncertain whom has the ownership of this fence at the boundary.
- 3.1.6. The West boundary between the subject site and 190 Goresbrook Road is denoted by a concrete posted timber fence predominantly taken the full length of the site, with the exception of the north west section where the remnants of a dilapidated low-level timber fence exist with a concrete panelled garage behind. Within the site to the section of fencing where this garage is located there is a further section of the concrete posted chainlink fencing. On the presumption this timber fence sits behind the line of the concrete posted fence on the subject site, we believe this fence may belong to 190 Goresbrook Road.
- 3.1.7. The West boundary is provided with a low level brick built wall to the very front of 190 Goresbrook Road which appears to be constructed on their land.
- 3.1.8. To East boundary between the site and 186 Goresbrook Road is denoted by a timber posted timber fence which runs the length of the boundary on the site. The facing side of this fence looks onto 186 Goresbrook Road, therefore we presume this fence may belong to this property.
- 3.1.9. The South boundary onto Goresbrook Road is finished with a concrete posted timber fence with a set of green painted metal gates. There are two significant mature trees either side of these gates on the land.
- 3.1.10. We have acquired a copy of the Land Registry title plan for this property (EGL405637) using the online Land Registry portal (although not a full copy of the register or an official copy). This extract shows the land in the property title for '186 Goresbrook Road, 7,15,19,23,25,33,35,37 and 41 Vincent Road are on the same title plan. This states the property is as outlined in red, and excludes the property titles in green. The red line for the subject site is not, however, clearly defined in alignment with our site observations so this should be reviewed by your legal team.
- 3.1.11. The location of the legal boundary line should be established with your legal team going forwards, including ownership of the fences separating the adjacent neighbouring dwellings in Goresbrook Road, Elsworth Road and Vincent Road.

Site entrance – Green painted locked gates secure the site currently.



West Boundary – To frontage and Goresbrook Road. There is a brick built wall in place which appears to fall within the ownership of 190 Goresbrook Road.



East Boundary – To frontage and onto Goresbrook Road has no physical boundary wall or fence in position. The boundary between 186 Goresbrook Road appears to be denoted by concrete edging stones between the two properties.



General view of the site looking North from the site entrance gate.



East Boundary – Timber fencing in place, which appears to belong to the owner at 186 Goresbrook Road (presuming the best side of the fence facing their land). Although this fence may sit with the ownership of this vacant site, given the comments on the fence to 190 Goresbrook Road beneath.



East Boundary – Timber fencing in place which appears to belong to the owner at 186 Goresbrook Road (presuming the best side of the fence facing their land).





East Boundary – View of side / rear garden area to 186 Goresbrook Road.



West Boundary – Relatively new concrete post and timber fence is provided between the subject site and 190 Goresbrook Road.



North west boundary – Areas of new timber fencing between concrete posts and a system-built concrete panelled garage at the boundary. Note remnants of older style concrete post and chainlink fencing in place which appears to fall within the ownership of the subject site.



West Boundary – looking south west towards Goresbrook Road.




West Boundary – Far north of the boundary captures a small section (circa 1200 mm's) of boundary line with the adjacent property at 4 Elstow Road.



West Boundary – Side view of garden area to 190 Goresbrook Road.





<p>North Boundary – A low level concrete posted and chainlink fence separates the subject site from 3 Vincent Road.</p>	
<p>North Boundary – A low level concrete posted and chainlink fence separates the subject site from 184 Goresbrook Road.</p>	

## 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 new structures and services on the vacant land, along with any new walls proposed up 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 are also some opinions 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. The service of a Notice rarely requires an Award, although there could be issues raised in the context of where the boundary/line of junction is located, as on site this may not always be obvious.
- 4.3.3. In this instance, the boundaries have not been built upon, other than the fencing found in position. If the new buildings or new brick-built boundary walls were constructed on the line of junction / boundary, then notices will be required. You should establish whom has the legal ownership of the existing fences at the boundary ahead of construction works and in the context of the scheme proposals, once better known.
- 4.3.4. If the scheme proposals were to include for a new structures at / up to the line of junction, then Notices may be required on the ownerships listed beneath.
- 184 Goresbrook Road
  - 186 Goresbrook Road
  - 190 Goresbrook Road
  - 4 Elstow Road
  - 3 Vincent Road

#### **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. Given the boundary conditions at this site we can see no provision for the service of 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 equally includes 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, so determining this is not always straightforward.
- 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. We have presumed the new main structures for the occupied premises would be built on new piled foundations. 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):-



- 186 Goresbrook Road
- 190 Goresbrook Road

## 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 the initial Land Registry details seen signify most of the adjacent owner's to be residential dwelling houses with 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)
184 Goresbrook Road	1	0
186 Goresbrook Road	1	0
190 Goresbrook Road	1	0
4 Elstow Road	1	0
3 Vincent Road	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 its 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, which appears to align with the listing from Land Registry search results.

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 £ 11,000 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 or the fences retained at boundaries. Further early legal checks using your in-house legal team would be beneficial to identify fence ownerships at the boundaries.

## **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 7 Notices may need to be served and presuming dissent to works is received, then estimating up to 2 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 £ 5,500 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 £ 5,500 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.