Party Wall Matters – Phase 1 Report

Garage Blocks
Claridge Road
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RM8 1TT

Prepared on behalf of

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Job No: 32922

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Date of Report:	May 2021
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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 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 dry and sunny.

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 vacant 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 location and overview images of the site to assist understanding.

2. PARTY WALL LAW

2.1.1. 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.

2.1.2. 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.

2.1.3. There are three basic notices required under the legislation, summarised below:-

2.1.4. 1. Section 1 Notice (Line of Junction Notice) – Works against the boundary with a one-month Notice period

2.1.5. 2. Section 3 Notice (Party Structure Notice) – Works upon party structures / floors or into adjacent external walls with a two-month Notice period

2.1.6. 3. Section 6 Notice (Excavations and Foundations Notice) – Excavation works close to adjacent buildings or structures with a one-month Notice period

2.1.7. Each of these Notice requirements is considered within this report.

2.1.8. 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 utilised as three distinct and separate blocks of garages. One block is in a particularly dilapidated state to the south west and a number of doors open prised open. The garages are of concrete panel construction with metal up and over doors and metal roof sheets.

3.1.2. The existing site location and images of the site are shown below.



Garage blocks – Shown in blue on location plan



Garages – Example of typical block at North West



Three separate garages Blocks – 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 1,133.28 M2 (12,198.51sq ft) in size. This includes the hardstanding areas in front of the garages as depicted on the BeFirst plan above.

3.1.4. We have not accessed any of the adjacent neighbouring properties, however, from our internet searches, using visual mapping aids, were able to determine generally, the manner in which the boundary has been developed. This information may not be current, but provides us with a credible indication of the likely position to produce our initial analysis. This analysis would, however, need further investigation going forwards once the design scheme proposals are known in conjunction with Land Registry checks.

3.1.5. From this internet search and our on-site observations. The north west garage block (to the north) is comprised of 7 No. system built concrete panelled garage structures finished with a ‘spa-dashing’ and metal up and over doors. The northern most garage block walls physically separate the rear gardens to No’s 4, 6 and 8 Kemp Road. According to the Land Registry title plan these garage walls are built inside of the boundary and not at it (see comments in paragraph 3.1.10 below). There are timber shed structures close to these garages within the rear gardens of 4 and 6 Kemp Road.

3.1.6. In addition, the north west garage block, also has a smaller block of 4 No. similar constructed garages that form a small island site, which is located inside the council boundary.

3.1.7. The north east garage block virtually replicates the above block, in terms of layout and construction, with the exception this block contains 8 No. garages at the northern most end. The northern most garage block, is again, physically separated from the rear gardens of adjacent properties at No's. 22, 24 and 26 Kemp Road. As above, according to the Land Registry title plan these garage walls are built inside of the boundary and not at it (see comments in paragraph 3.1.10 below). There is a substantial structure built adjacent these garages (we believe) at 26 Kemp Road, which looks to have a tiled roof and conservatory from it into the rear garden of that property.

3.1.8. The last block of garages is located to the south west of Claridge Road at the far end of the road. This is a detached block with 6 No. garages, on an island site, and of the same construction as the garages mentioned above.

3.1.9. For the purposes of this analysis we have presumed the various garden fences forming the enclosure to all neighbouring properties at the site belong to the neighbouring properties and will remain in place as part of any future development works.

3.1.10. We have acquired a copy of the Land Registry title plan for this property (EGL395307) 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 ’44, 46 and 55 Inskip Road, 2,5,10,12,22,26 and 28 Claridge Road, Dagenham. This states the property is as outlined in red, and excludes the properties in green. The red line on the Land Registry plan at the north, is shown located further into the gardens of the properties in Kemp Road than the walls forming the north east and west garage structures. You / your legal team should consider this in the context of the

development as in instances the neighbour's structures appear to have been built over the council's land.

3.1.11. Notwithstanding, the location of the legal boundary line from the title plan extract seen, this should be established for the entire site with your legal team going forwards, including ownership of the fences separating the adjacent neighbouring dwellings in Valence Avenue, Kemp Road, Lymington Road and Inskip Road.

North east garage block off Claridge Road. Ownerships of the fences to Lymington Road will need to be established.	
North east garage block off Claridge Road.Ownerships of the fences to Claridge Road will need to be established.	

North west block off Claridge Road.Ownerships of the fences to Kemp Road will need to be established.	
North east garage block off Claridge Road.Ownerships of the fences to Claridge Road will need to be established.	
North east garage block off Claridge Road.	

South west garage block	
South west garage block	
South west garage block	

General view looking from the south to north at the west end of Claridge Road garages. Ownerships of the fences to Claridge Road will need to be established.	

4. PARTY WALL NOTICES

4.1.1. 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 land of the garages, along with any new walls to the boundaries. For this assessment we have presumed both the various timber fences and external brick walls forming and separating adjoining neighbouring properties belong to those neighbours and not the council. These are presumed to remain for the duration and following the development.

4.1.2. Using a 'hypothetical approach' for the analysis the potential requirement for party wall notices to be served on adjoining owner's is summarised beneath:-

4.2. Line of Junction Works

4.2.1. 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 process / legislation that maintain clearance of the site and reconstruction at the boundary may form a requirement for service of Notice, although not necessarily widely adopted.

4.2.2. The service of a Line of Junction Notice rarely requires an Award, although there could be issues raised in the context of where the boundary/line of junction is located with neighbours in instances, as on site the position may not always be obvious.

4.2.3. In this instance, the boundaries appear to be largely constructed upon/denoted by timber fences or the external walls / boundary walls separating the adjoining neighbouring properties. We would presume these will remain untouched in the new development. However, once the garage blocks to the north east and west have been removed, there would be no boundary wall or fencing securing off the adjacent neighbouring sites. In this case we have taken the view a new boundary wall or wall structure for the new development would be built back.

4.2.4. If the scheme proposals were to include for a new structure at / up to the line of junction, then Notices may be required on the ownerships listed beneath. As mentioned earlier in this report the neighbour's appear to have built over the council's 'red boundary line' from the Land Registry extract. This issue along with the general ownerships of site walls / fences would need to be considered in advance of development.

- 4, 6 and 8 Kemp Road
- 22, 24 and 26 Kemp Road

4.3. Party Structure Works

4.3.1. 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).

4.3.2. From the land registry extract plan reviewed, we have presumed the external walls to the garages blocks all fall within the council's land ownership and are not shared with any adjacent neighbours. This will need to be verified via your legal team, however, currently we assess there is no requirement for Party Structure Notices for this development.

4.4. Excavation Works

4.4.1. 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 or any adapted underground services to and across the site.

4.4.2. 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. Determining what structures may be contained to the far rear gardens of properties in Kemp Road, other than seen to date in our internet searches would prove beneficial, particularly if anything is attached to the garages in some way which may be the case with 26 Kemp Road

4.4.3. 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 development proposals would include for piled foundations and that adjoining buildings / structures would be on conventional strip footings. This, however, can be reviewed further once you have more information.

4.4.4. 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):-

- 4, 6 and 26 Kemp Road
- 17, 28, 29, 34 and 35 Claridge Road

5. ADJOINING OWNERS

5.1.1. 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.

5.1.2. 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 the residential dwelling houses are 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.

5.1.3. 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.

5.1.4. 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)
2 Kemp Road	1	0
4 Kemp Road	1	0
6 Kemp Road	1	0
22 Kemp Road	1	0
24 Kemp Road	1	0
26 Kemp Road	1	0
17 Claridge Road	1	0
18 Claridge Road	1	0

20 Claridge Road	1	0
21 Claridge Road	1	0
28 Claridge Road	1	0
29 Claridge Road	1	0
34 Claridge Road	1	0
35 Claridge Road	1	0

5.2. Party Wall Process

5.2.1. 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

5.2.2. 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.

5.2.3. 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

6.1.1. 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.

6.1.2. 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.

6.1.3. 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 £ 77,000 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.

6.1.4. 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 (to be confirmed). Further early legal checks on boundary lines and investigation of rear gardens to adjacent properties would assist in firming up matters.

6.2. Budget Fees – Building Owner (developer)

6.2.1. The Building Owner (Developer) surveyor fees will be subject to the number of Notices served, schedules of condition being recorded and ensuing Awards necessary.

6.2.2. Based on our preliminary assessment, there is a potential that up to 20 Notices may need to be served and presuming dissent to works is received, then estimating up to 14 schedules of condition and Awards prior to works commencing.

6.2.3. 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 £ 38,500 plus Vat.

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

6.3.1. 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.

6.3.2. We recommend a similar budget figure of £ 38,500 plus Vat for the Adjoining Owner's surveyor services.

6.4. Party Wall Process - Timescales

6.4.1. 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.

6.4.2. 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.

6.4.3. 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.