ES4.2

Brian Brooks
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21st May 2012

Mr Vincent Maher
Planning Inspector

Dear Mr Maher,

I am the owner of Jesmond Dene Stadium, Tredegar (Blaenau Gwent LDP Ref. H1.4). Blaenau Gwent Borough Council (BGBC) are asking you to delete this proposed site from your Forward Planning Strategy, saying that a small part of that land might be unstable. This is **not** true.

Three separate geologists cannot find any instabilities. The first geological inspection was carried out by **Terra Firma** in about 2004-2005. The second inspection was carried out by **Dr J Stewart Noake** (Consulting Geologist), who is highly qualified and has had many commissions from the NCB over 40 years, and so has a very good knowledge and understanding of shale tips (his inspection and consultation was commissioned by me). The third inspection was executed by **Capita Symonds**, a very reputable consultancy employed by BGBC, who have not found any instability, but have asked to be commissioned over the next few years to investigate further.

The developers of Marion Close (a housing site developed this past decade on land adjacent to Jesmond Dene Stadium) employed an architect who made a blunder on his elevation calculations This error was discovered halfway through the development of the site, after an expensive raft had been placed ready for the house of one of the developers (Mr Gary Williams). The raft was situated far too high to get transport from the road to that house, and after an argument over who was to blame for the error, the raft was removed and the elevation of that house and of four other sites was lowered by an average of two metres, and the developers constructed a retaining wall against the foot of my shale tips, leaving the largest of the shale tips in a potentially precarious position. The developers then removed two smaller shale tips from the slope themselves, to stabilize the remaining slope behind their development. Everything seemed okay for a while, but when things went wrong, the developers left me holding the can for the results of their actions.

B Brooks

The argument between BGBC and myself if over the retaining wall built by the developers at the foot of the slope. Two geologists have declared the wall unsafe, although I think it is okay. BGBC claim that the wall is a party wall, rather than a retaining wall, but my argument is that it is definitely a retaining wall, and there is nothing tipped behind it. The shale tip behind the retaining wall was completely removed, and carried away from the wall to a distance of about 100 metres.

If it were a party wall, there is some argument that it did not require amended planning consent. If it were a retaining wall, against a 2.2 metre cut-away bank, then it would definitely require amended planning permission, with reference to its construction and the materials used. I have asked to see the amended Planning Permission, but the construction of the wall, and the prior change in elevation of the site, have been done without planning consent. The original plans show a fence made of 6 foot by 6 foot wooden panels, with no mention of concrete block walls.

BGBC are now asking for permission to enter the land so that Capita Symonds can make further diagnosis. The main thing they wish to do, is to dig behind the wall to examine its construction and foundations; they also wish to check out a few other items. The BGBC have already been given the answers they needed in the Terra Firma report. I welcome the visit and inspection, and have already given my consent. However, BGBC wish to charge me ~~£1320~~ £13,200 BB for the investigation they want to have carried out. I refuse to pay, since the wall they wish to examine from the land on my side of said wall is ~~not~~ BB mine, and was not built by me and is not my property.

I would welcome the developers to come onto my land with an independent building surveyor to examine the wall down to its foundations. Such an inspection could solve all arguments between the BGBC, the original developers and myself over the matter of this wall built against the foot of the slopes on my land.

Nobody has ever spoken to me about the Party Wall Act (1996) throughout this whole procedure, including the Initial Planning Consent. This Act is very important – under it, it is suggested that the Developers usually pay – that is the norm.

I move that you leave the planning application for site H1.4 as it is, and do not delete the entire site from the Forward Planning Strategy of the BG LDP.

Yours sincerely,

B Brooks

Brian Brooks.

ENC. – Appendix 1

Appendix 1

The Party Wall Act 1996 explained

The Party Wall Act 1996 came into force in 1997, so it is now law and gives you rights and responsibilities whichever the side of the 'wall' you are on i.e. whether you are planning/doing work on a relevant structure or if your neighbour is.

The Party Wall Act does not affect any requirement for Planning Permission or Building Regulation Approval for any work undertaken. Likewise, having Planning Permission and/or Building Regulation Approval does not negate the requirements under the Party Wall Act.

The Party Wall Act comes into effect if someone is planning to do work on a relevant structure, for the purposes of the Act 'party wall' does not just mean the wall between two semi-detached properties, it covers:

- A wall forming part of only one building but which is on the boundary line between two (or more) properties.
- A wall which is common to two (or more) properties, this includes where someone built a wall and a neighbour subsequent built something butting up to it.
- A garden wall, where the wall is astride the boundary line (or butts up against it) and is used to separate the properties but is not part of any building.
- Floors and ceilings of flats etc.
- Excavation near to a neighbouring property.

As with all work affecting neighbours, it is always better to reach a friendly agreement rather than resort to any law. Even where the work requires a notice to be served, it is better to informally discuss the intended work, consider the neighbours comments, and amend your plans (if appropriate) before serving the notice.

What work can be done without notice/permission.

Under the Party Wall Act some work is not covered. Such work include:

- Putting up shelves and wall units.
- Replastering.
- Electrical rewiring.

What work needs a notice and permission.

The general principle of the Party Wall Act is that all work which ***might*** have an effect upon the structural strength or support function of the party wall or might cause damage

to the neighbouring side of the wall ***must*** be notified. If in doubt, advice should be sought from a local Building Control Office or professional surveyor/architect.

Work covered by the Party Wall Act include:

- To demolish and/or rebuild a party wall.
- To increase the height or thickness of a party wall.
- Insertion of a damp proof coarse (either chemical injection or a physical dpc).
- Cutting into the party wall to take load bearing beams.
- Underpinning a party wall.
- Excavations within 3 metres of a neighbouring building where the excavation will go below the bottom of the foundations of the neighbouring building.
- Excavations within 6 metres of a neighbouring building where the excavation will go below a line drawn 45° downwards from the bottom of the foundations of the neighbouring building.

What is required in a notice.

If the planned work to an existing structure falls under the Party Wall Act, a notice must be issued to all affected neighbouring parties. The notice must include (see sample letters in Part 5 of the Party Wall leaflet):

- The owners of the property undertaking the work.
- The address of the property.
- The names of all the owners of the adjoining property.
- A description of the proposed work, usually a single line giving a brief description.
- The proposed start date for the work.
- A clear statement that the notice is being served under The Party Wall etc Act 1996.
- The date the notice is being served.
- If the notice is for excavation work, then a drawing showing the position and depth of the excavation must be included.

The process of serving a notice under the Party Wall Act is as follows:

- The person intending to carryout the work must serve a written notice on the owners of the adjoining property at least two months before the intended start of

the work to every neighbouring party giving details of the work to be carried out.

- Each neighbouring party should respond in writing giving consent or registering dissent - if a neighbouring party does nothing within 14 days of receiving the notice, the effect is to put the notice into dispute.

- No work may commence until all neighbouring parties have agreed in writing to the notice (or a revised notice).

If any of the information is missing from a served noticed, it will be invalid in which case, any subsequent award will also be invalid.

See below regarding what happens in the event of a dispute/objection.

New boundary walls

If the planned work is a new boundary wall up to or astride the boundary line, the process is similar to the above but the notice needs to be served at least one month before the planned start date of the work. Neighbouring parties must give written agreement within 14 days for walls astride the boundary (or a dispute is deemed to have occurred), however no formal agreement is needed for a wall up to the boundary line, the neighbour just needs not to object in writing.

See below regarding what happens in the event of a dispute/objection.

Excavations

If the planned work is an excavation within the distance/depth covered by the Party Wall Act, the notice needs to be served at least one month before the planned start day of the work. Neighbouring parties must give written agreement within 14 days or a dispute is deemed to have occurred.

See below regarding what happens in the event of a dispute/objection.

What happens if a dispute arises

If agreement cannot be reached between neighbouring parties, the process is as follows:

- A Surveyor or Surveyors is/are appointed to determine a fair and impartial Award, either:

    - An 'Agreed Surveyor' (someone acceptable to all parties).
      or

    - Each party appoints their own Surveyor to represent the individual parties.

The first option should be cheaper as the costs should be reduced - the Surveyor (or Surveyors) will decide who pays the fees - usually it will be the party undertaking the work; the exception being where the owner of the adjoining property calls on the Surveyor unnecessarily. It should be noted that any Surveyor(s) must act within their statutory responsibilities and propose a fair and

impartial Award.

- The Agreed Surveyor, or the individual Surveyors jointly, will produce an Award which must be fair and impartial to all parties.
- Once an Award has been made, all parties have 14 days to appeal to a County Court against the Award.

Once you have agreement

Once you have agreement, all work must comply with the notice. All the agreements should be retained to ensure that a record of the granted permission is kept; a subsequent purchaser of the property may wish to establish that the work was carried out in accordance with the Party Wall Act requirements.

Remember:

- We've only given a brief outline of the Party Wall Act here but have a look at the Communities and Local Government website for a more comprehensive explanatory booklet including example letters for notices and responses.
- Discussing intended work with neighbours is free and can avoid misunderstanding which might arise if a notice arrives unexpectedly.
- Your local Building Control Office may be able to give free advice regarding the Party Wall Act and how it applies to particular circumstances.