Section 1 General information

Guide to Building Control: For Domestic Buildings, First Edition. Anthony Gwynne.

Introduction

This document has been produced for home owners/occupiers, students, builders, designers and other property professionals who have a basic knowledge of building construction and require easy-to-understand guidance on the building regulations for domestic building projects in England and Wales.

The document intends to provide education and guidance on how some of the more common technical design and construction requirements of the building regulations can be achieved and met for single-occupancy domestic extensions, new dwellings, loft conversions and conversions of existing buildings, up to three storeys in height, as well as single-storey garages.

Typical details, tables and illustrations have been provided in this guidance document for the more common construction methods used in dwellings; they have been adapted from the technical details contained within the Approved Documents of the Building Regulations and from experience gained by the author. The diagrams and details produced in the document are for guidance only and are *only* the author's interpretation of how the requirements of the building regulations can be met. The actual diagrams and details *must* be agreed and approved by building control at an early stage and before work commences. You must comply with the requirements of the Building Regulations, so you are advised to fully refer to the Approved Documents and contact a suitably qualified and experienced property professional for details and specifications for the most suitable form and method of construction for your project.

Please note that details, values, standards, documents, products, manufacturers, etc. contained in this guidance may have changed, been superseded, or disappeared altogether between the time when it was written and when it was read; they should be checked by the person using the guidance.

The Building Act 1984 and the Building Regulations 2010

The power to make building regulations is contained within Section 1 of the Building Act 1984 and deals with the powers of the Secretary of State to make building regulations for the following purposes:

- securing the health, safety, welfare and convenience of people in or about buildings
- conservation of fuel and power
- preventing waste, undue consumption, and misuse or contamination of water.

The current building regulations are the Building Regulations 2010 and The Building (Approved Inspectors etc.) Regulations 2010, which came into force on 1 October 2010 and apply to England and Wales (a separate system of building control will apply in Wales from 2013). A separate system of building control applies in Scotland and Northern Ireland. The 2010 Regulations in both cases consolidate the Building Regulations 2000 and the Building (Approved Inspectors etc.) Regulations 2000, incorporating amendments since 2000.

The Building Regulations are very short, contain no technical details and are expressed as functional requirements, so they are difficult to interpret or understand. For this reason, the Department for Communities and Local Government publishes guidance on meeting the requirements in a series of documents known as 'Approved Documents'.

Approved Documents

The Approved Documents are intended to provide guidance on how to achieve the requirements of the building regulations, and they make reference to other guidance and standards. In themselves the Approved Documents are not mandatory and there is no obligation to adopt any particular solution contained within them if the required result can be achieved in some other way. In all cases it is the responsibility of the designer, applicant/owner and contractor to ensure the works are carried out in compliance with the building regulations.

The current Approved Documents are listed below and are available to view on the Department for Communities and Local Government website: www.communities.gov.uk or to purchase from The Stationery Office (TSO) on line at www.tsoshop.co.uk or by telephone on 0870 600 5522.

TRADA Technology span tables are available from www.trada.co.uk/bookshop.

Approved Documents and sections they cover

A: Structure (2004 edition with 2010 amendments), including span tables for solid timber members in floors, ceilings and roofs for dwellings (2nd edition) and Eurocode 5 span tables for solid timber members in floors, ceilings and roofs for dwellings (3rd edition), published by TRADA Technology

B1: Fire safety in dwelling houses (2006 edition with 2010 amendments)

C: Site preparation and resistance to contaminants and moisture (2004 edition with 2010 amendments)

D: Toxic substances (1992 with 2002 and 2010 amendments)

E: Resistance to the passage of sound (2003 with 2004 and 2010 amendments)

F: Ventilation (2010 edition with further amendments)

G: Sanitation, hot-water safety and water efficiency (2010 edition with further amendments)

H: Drainage and waste disposal (2002 edition with 2010 amendments)

J: Combustion appliances and fuel storage systems (2010 edition with further amendments);

K: Protection from falling, collision and impact (1998 with 2000 and 2010 amendments)

L1A: Conservation of fuel and power in new dwellings (2010 edition with further amendments)

L1B: Conservation of fuel and power in existing dwellings (2010 edition with further 2010 and 2011 amendments)

M: Access to and use of buildings (2004 edition with 2010 amendments)

N: Glazing – safety in relation to impact, opening and cleaning (1998 with 2000 and 2010 amendments)

P: Electrical safety (2006 edition with further 2010 amendments)

Regulation 7: Materials and workmanship (1999 edition with 2010 amendments).

Note: References made in this guidance to Approved Documents are abbreviated as AD – for example, reference to Approved Document A: Structure (2004 edition with 2010 amendments) will be abbreviated to ADA.

Additional requirements for the conservation of fuel and power

It's important to note that many local authority planning departments are now imposing planning conditions that require energy-efficiency standards in buildings that are above the minimum

standards stipulated under the building regulations. Since 31 December 2011 the Welsh Assembly Government requires that all new residential properties in Wales meet an 8 per cent improvement over the 2010 Code level 3 for sustainable homes (ENE.1). Guidance on the code for sustainable homes is contained in Section 3 of this document. You are advised to contact your local planning department at an early stage for their specific requirements.

Materials and workmanship

All materials used for a specific purpose should be assessed for suitability using the following aids (see Approved Document: Regulation 7 for full details):

- British Standards or European Standards (or other acceptable national and international technical specifications and technical approvals)
- Product Certification schemes (Kite marks)
- Quality Assurance schemes
- British Board of Agreement Certificates (BBA)
- Construction Product Directives (CE Marks)
- Local Authority National Type Approvals (System Approval Certification)
- In certain circumstances, materials (and workmanship) can be assessed by past experience – for example, a building already in use, providing it is capable of performing the function for which it was intended – subject to building control approval.

All materials must be fixed in strict accordance with manufacturer's printed details. Workmanship should be in strict accordance with Regulation 7 and BS 8000: Workmanship on Building Sites – Parts 1 to 16. Where materials, products and workmanship are not fully specified or described, they are to be 'fit for purpose', stated or inferred, and in accordance with recognised best practice.

Other ways of satisfying the Building Regulations requirements

The Building Regulations requirements may be satisfied in other ways, or in non-standard ways, by calculations or test details from a manufacturer, supplier, specialist, or by an approved third-party method of certification such as a British Board of Agreement (BBA or other third-party-accredited) Certification.

Technical and condensation risks

The technical details in this guidance document should be read in conjunction with the BRE publication 'Thermal Insulation Avoiding Risks', which explains the technical risks and condensation risks that may be associated with meeting the building regulation requirements for thermal insulation for the major elements of the building. A copy of the publication can be obtained from www.brebookshop.com.

A condensation risk analysis (including interstitial condensation risk) should be carried out for the details and diagrams produced in this guidance for particular situations and construction projects, following the procedures set out in BS 5250:2002 (Code of practice for the control of condensation in buildings). The insulation manufacturer's technical services department will normally carry out this service.

Timber-sizing tables independently calculated by GEOMEX for solid timber members

The timber-sizing tables in this guidance have been independently calculated by Geomex Ltd (Consulting Structural Engineers) and have been carried out totally independently of TRADA Technology's span tables.

The timber sizes stated in the tables in this guidance are commonly available for solid timber members used in the construction of floors, ceilings, cut roofs (excluding manufactured trusses) and flat roofs for single-occupancy dwellings up to three storeys in height (measured above ground level). Normally, two grades of timber are commercially available: strength grades C16 and C24 (grade C24 being stronger than C16).

Grade C24 timber has been used for the calculation of all values for particular imposed and dead loadings as contained in timber-sizing tables in this guidance. Each case should be separately analysed and assessed, since site parameters may change, including wind and snow loadings for particular geographical areas.

Where possible the calculations have been performed using current timber Eurocodes based on the latest release of TEDDS design software. The TEDDS design software is the design package employed to undertake the calculations. However, where the software does not include the Eurocode standards, British Standards have been used. These are still recognised as design standards and we understand that they will remain acceptable for most building control bodies until 2013. Please note that the TRADA Technology span tables have not been reproduced in this guidance.

Engaging a property professional

The design and construction of extensions, garages and new dwellings, and the conversions of existing buildings, are normally complex projects, so unless you are experienced in design and construction you are advised to get some professional advice and help as follows:

1. Appoint a suitably qualified and experienced property professional who will prepare drawings and designs for your proposal, obtain the necessary approvals and, if required, will also help you to find a suitable builder and manage the project for you, or,
2. Appoint a specialist company who can offer a complete design-and-build package for your proposal. They can usually prepare drawings and designs for your proposal, obtain the necessary approvals and carry out all the necessary construction works and project management to complete the project.
3. Use an experienced builder.

Obtaining Building Regulations approval

There are three alternative routes available to the applicant to obtain Building Regulations approval, as detailed below. Option 1 is the local authority route, option 2 is an Approved Inspector route and is a private system of certification and option 3 is a Competent Person Scheme.

Option 1: Local Authority route

The building owner or agent must make a Building Regulations application and pay a fee for the construction of new works. All works must comply with the 2010 Building Regulations.

The person carrying out the building works must liaise with and meet the requirements of the Local Authority Building Control and give the required notice for certain key stages of works, as detailed in the guidance below

There are two methods of making a Building Regulations application, as follows.

(i) Full Plans application

This is often thought of as the traditional way of applying for Building Regulations approval. The building designer will draw up detailed plans, specification and supporting information for the proposed scheme and will send them to the local authority, together with a completed application form and the necessary fee. The authority will then check the details and, following any necessary consultations and liaisons with the building designer, a Building Regulations approval or conditional approval will be issued. The approvals can also be dealt with in stages when design information becomes available; this can be on a rolling programme agreed between the parties as the information becomes available. Applications can be rejected in certain instances.

Work can start at any time after the application has been submitted, together with the correct fee, has been accepted as a valid application, although it is wise to wait until the scheme has had its initial check under the Building Regulations, which usually takes between two and three weeks. The building control surveyor will normally liaise with the builder/owner and inspect the work as it progresses on site. When the project is satisfactorily completed a Building Regulations Completion Certificate will normally be Issued.

(ii) Building Notice application

This system is best suited to minor domestic work carried out by a competent builder. Under this scheme no formal approval of plans is issued and work is approved on site as it progresses.

To use the Building Notice process, the owner or agent will need to submit a completed Building Notice application form, together with a site location plan and the required fee. Work can commence 48 hours after the notice has been received. When work does commence, the person carrying out the works should contact the council's surveyor to discuss the proposals, to agree how the work should be carried out and when it will need to be inspected, and to establish whether any further information will be required, e.g. drawings, specifications or other information. When the project is satisfactorily completed, a Building Regulations Completion Certificate will normally be Issued.

Regularisation certificates

For unauthorised works, an application can be made to the local authority in certain instances to regularise the works, which is a retrospective form of application for unauthorised works carried out on or after 11 November 1985; please contact your local authority's building control department for more information.

Relaxation of Building Regulations requirements

In certain circumstances, local authorities have powers to dispense with or relax regulation requirements. However, a majority of the regulation requirements cannot be relaxed because they require something to be adequate or reasonable, and to grant a relaxation could mean acceptance of something that was inadequate or unreasonable. For more advice please contact your local authority building control department.

Contraventions

Where works are carried out in contravention of the Building Regulations, the local authority may require their alteration or removal within a period of time by serving notice on the building owner. Failure to comply with the notice can result in the work being carried out by the local authority, who can recover their expenses from the defaulter. The person who contravened the building regulations also renders themselves liable to prosecution for the offence in a magistrate's court.

To find your local authority building control in England and Wales, contact Local Authority Building Control (LABC) at: www.labc.uk.com.

Option 2: Approved Inspector route

The applicant can employ an approved inspector, who must be approved by the Construction Industry Council (CIC), either corporately or individually to carry out the functions of an approved inspector. The inspector must give to the local authority an initial notice in a prescribed form before the work commences on site.

The approved inspector should ensure that all the relevant information is provided in the prescribed form, because if the local authority is not satisfied that the notice contains sufficient information, or if the works start before they receive it, they can reject it within five working days and it is of no effect.

Once the notice has been accepted or is deemed to have been accepted by the passing of five days, the approved inspector is responsible for inspecting the works and issuing the appropriate certificates to the Client and local authority as required under the Building (Approved Inspectors etc.) Regulations 2010.

The building designer will draw up detailed plans, a specification and supporting information for the proposed scheme and will send them to the approved inspector; that can be done on a rolling programme agreed between the parties as the information becomes available. When the project is satisfactorily completed a Building Regulations Completion Certificate has to be issued to the applicant and local authority.

Contraventions

Unlike the local authority, the Approved Inspector has no direct power to enforce the Building Regulations if the works are in contravention of those regulations. If the Approved Inspector is not satisfied with the works and cannot resolve the matter, the inspector will not issue the 'final certificate' and will cancel the initial notice, thereby terminating the inspector's involvement in the project. Cancelling the initial notice results in the building control function being taken on by the local authority, which has enforcement powers to ensure the works comply.

A list of approved inspectors is available from the Construction Industry Council's website at: www.cic.org.uk.

Notices of stages of works

Site inspections are normally carried out by building control at key stages to ensure the works are being carried out in compliance with the building regulations. The period of notice required for site inspections is to be agreed with building control and the number of site inspections will depend on the type and complexity of the works being carried out.

The key stages of work typically include:

- Commencement of works
- Foundation excavations before any concrete is laid
- Over-site covering to ground floors before any concrete is laid
- Below-ground foul and surface water drainage before any pipes are covered over
- Structural elements and components (i.e. upper-storey floor joists, structural beams/columns/connections and roof structure, etc.) before any coverings are fixed
- Any other area of work as required by building control, including unusual design or methods of construction
- Completion of building prior to occupation.

More than one inspection may be carried out for each key stage and where possible additional items for inspection are normally carried out at the same time as the key stages – for example:

- Fire safety and means of escape
- Hidden areas of works
- Any other area of work as required by building control.

Check with building control how they accept notices of stages of work (typically by telephone or e-mail). Building control do not supervise the works, or provide a quality check, and specialists should be independently employed by the building owner if this is required.

Exempt buildings and work

The following list is a brief extract of the more common buildings and works that are exempt from the Building Regulations; for full details see Regulation 9 and Schedule 2 of the Building Regulations 2010. Note: although these works may be exempt, ADP may apply to any electrical installations – see Part P – Electrical Installations in section 2 of this guidance.

Greenhouses and agricultural buildings

Buildings used for agriculture, including horticulture (i.e. growing of fruit, vegetables, plants, seeds and fish farming) or principally for the keeping of animals; providing in each case that:

- no part of the building is used as a dwelling;
- the building is at least one and a half times its height from a building that contains sleeping accommodation;
- the maximum distance to a fire exit or point of escape from the building is 30 m;
- the building is not used for retailing, packing or exhibiting.

Temporary buildings

These are buildings that are not intended to remain where they are erected for more than 28 days.

Ancillary buildings

This covers buildings used only in connection with the sale of buildings or plots on that site; or on a site of construction or civil-engineering works that is intended to be used only during the course of those works and contains no sleeping accommodation; or a building, other than a building containing a dwelling or used as an office or showroom, erected for use on the site of and in connection with a mine or quarry.

Small detached buildings (garages, workshops or sheds)

These would be detached, single-storey buildings with less than 30 m^2 internal floor area, with no sleeping accommodation. If constructed substantially of combustible materials, such a building must be positioned at least one metre from the boundary of its curtilage. A detached building with less than 15 m^2 internal floor area, with no sleeping accommodation, does not have any boundary restrictions.

Conservatory, porch, covered yard/way and carports

This would be the extension of a building by the addition of a single-storey building at ground level of:

(a) a conservatory, porch, covered yard or covered way; or
(b) a car port open on at least two sides,

where the floor area of that extension is less than 30 m^2 internal floor area, and providing the glazed area satisfies the requirements of ADN for safety glazing. (Please note that as there is no definition of 'conservatory' in the Building Regulations 2010, and owing to the variation in interpretation of the building regulations, building control may require a percentage of the walls and roof in a conservatory formed from translucent materials to be exempt – typically 75 per cent of the roof and 50 per cent of the walls. You are advised to contact your building control provider for their specific requirements.) Additional requirements: existing walls/doors/windows of the building separating the conservatory or porch are to be retained or, if removed, are to be replaced with elements that meet the energy-efficiency requirements of ADL1B; and the heating system of the dwelling must not be extended into the conservatory or porch.

Option 3: Competent Person Schemes

Certain works can be carried out by an installer who is registered with a Competent Persons Scheme and will not require Building Regulations approval.

Competent Person Schemes (CPS) were introduced by the UK Government to allow individuals and enterprises to self-certify that their work complies with the Building Regulations, as an alternative to submitting a building notice or using an approved inspector. A Competent Person must be registered with a scheme that has been approved by the Department for Communities and

Local Government (DCLG). Schemes authorised by the DCLG are listed on its website at http://www.communities.gov.uk.

An installer registered with a Competent Person Scheme will notify the local authority on your behalf and will issue a certificate on completion, which can be used as proof of compliance. It will also show up on a solicitor's local authority search.

To understand why you should use a Competent Person, a consumer booklet can be downloaded from the DCLG website above, which has been developed by a collaboration of all the approved scheme providers so as to provide the consumer with the ability to search for a Competent Person registered with one of the schemes.

Schemes authorised include:

- Installation of cavity wall insulation
- Installation of gas appliances
- Installation or replacement of hot-water and heating systems connected to gas appliances
- Installation or replacement of oil-fired boilers, tanks and associated hot-water and heating systems
- Installation or replacement of solid-fuel burners and associated hot-water and heating systems
- Installation of fixed air-conditioning or mechanical ventilation systems
- Electrical work in dwellings
- Electrical work only in association with other work (e.g. kitchen installations, boiler installations)
- Replacement windows, doors, roof windows or roof lights in dwellings
- Installation of plumbing and water-supply systems, bathrooms and sanitary ware
- Replacement of roof coverings on pitched and flat roofs (not including solar panels)
- Installation of micro-generation or renewable technologies.

This list can be altered at any time; for a current list of all registered scheme members go to the DCLG website above.

Preliminary works

Certain works should be considered or undertaken before submitting a building regulation application as follows:

Site assessment

A desk study and initial walk-over of the site and surrounding area should be carried out by a suitable person to identify any potential hazards and problems at an early stage. Items to be taken into account should include:

- Geology of the area, including any protection measures required for radon ground gas
- Landfill and tipping, including any protection measures required for methane and carbon monoxide ground gases and foundation design requirements
- Surface and ground water, including flooding
- Soils and previous industrial, commercial or agricultural uses, including any protection measures required for ground contaminates
- Mining and quarrying, including any special foundation design requirements.

Further guidance on site preparation and the resistance to contaminants and moisture is provided in ADC and Part C of this guidance. Typical construction details in Part A of this guidance contain information on how to achieve basic and full radon protection in sub-structures.

Sources of information include: local authority (building control, planning departments, environmental health departments), the Environment Agency, the Coal Authority, utility companies, the Health Protection Agency, the British Geological Survey, Ordinance Survey Maps, etc.

Where hazards are suspected, a detailed site investigation should be carried out by a specialist.

Demolitions

Where the demolition of a structure or part of a structure exceeds 50 m^3, a notice of the proposed demolition must be sent to the local authority's building control (and planning) department before works commence even if using an approved inspector. For further information please contact your local authority's planning and building control departments. The Construction (Design and Management) Regulations 2007 will apply to demolition works (see guidance below for details).

Statutory service authorities

Prior to and during works, the person carrying out the works is to liaise with and meet the requirements of the relevant statutory service authorities/utility companies, including the provision and protection of new services and sewers, and the location and protection of all existing services/sewers as necessary.

Public sewers

The owner/developer of a building being constructed, extended or underpinned within 3 m of a public sewer, as indicated on the relevant water authority's sewer maps, is required to consult with the water authority and, where necessary, obtain consent and enter into an agreement to build close to or over the public sewer before works commence on site. Further information is provided in Part H of this Guidance for domestic extensions

The owner/developer of a building with new drainage connections or indirect drainage connections being made to a public sewer, as indicated on the relevant water authority's sewer maps, is required to consult with the water authority and, where necessary, obtain consent before works commence on site. Protection of the sewer pipe and systems is to be carried out in compliance with the relevant water authority's requirements.

Since the implementation of the Private Sewer Transfer Regulations on 1 October 2011, all lateral drains and sewers, i.e. those serving two or more properties that connect to the public sewer network, will be adopted by the relevant water authority, and the above requirements for building over/close to and/or making new connections to public sewers will apply. Further information is available from www.defra.gov.uk/environment/quality/water/sewage/sewers and www.water.org.uk/home/policy/private-sewer-transfer.

Existing services

Plumbing, drainage, heating appliances, electrical services, etc. that need to be altered, modified, adjusted or re-sited to facilitate the new building works should be carried out by suitably qualified

and experienced specialists or registered competent persons, with tested and appropriate certification issued where necessary. Existing services should be located, altered, modified or relocated as necessary, including sealing up, capping off, disconnecting and removing redundant services where that is required.

Structural timber

All structural timber should be stress graded as either C16 or C24 to BS 4978, and sawn to BS 4471. C16-graded timber has a lesser strength than C24-graded timber, and *C24 timber has been used for the calculation of all values contained in Geomex timber-sizing tables in this guidance*. All timber is to be protected on site to minimise moisture content, which must not exceed 22 per cent. Preservative treatment of timber should be in accordance with the requirements of BS 8417, and treatment against house longhorn beetles should be carried out in certain geographical areas in accordance with Table 1 of ADA.

Opening up of the existing structure

The builder should open up the existing structure where required for inspection purposes in areas or locations as requested by building control or a structural engineer, and should allow for making good all disturbed structures and finishes to match existing ones on completion. For example, the exposure and inspection of the existing foundations and/or lintels of a building may be required to determine whether they are adequate to support the increased loadings of a new storey.

Protection of Bats

The protection of bats is required when undertaking all works, including demolition, conversions, extensions and/or alterations that would involve changes to the roof space. Please note that all bat species are protected under Schedule 5 of the Wildlife and Countryside Act 1981, and also under Schedule 2 of the Conservation of Habitats and Species Regulations 2010. It is an offence to: intentionally or recklessly kill, injure or capture (take) bats; intentionally or to recklessly disturb bats (whether in a roost or not), or to damage, destroy or obstruct access to bat roosts. If you think that bats may be using the property, or you discover a bat while development work is being undertaken, stop the work immediately and contact the National Bat Helpline on 0845 1300 228.

Protection of the works

Adequate precautions should be taken on site to protect the work, particularly the laying of concrete and other wet trades or processes in accordance with product manufacturers' details or specialists' requirements, in the following circumstances:

- When the air temperature is below or likely to fall below 2°C (additional consideration should be made for wind chill and freezing conditions).
- No concrete should be placed into or onto frozen surfaces or excavations.
- Ready-mixed concrete should be delivered to site at a minimum temperature of 5°C, in accordance with BS 5328.
- No frozen materials should be used in the works.
- Works should not continue until the site is free of frost and frozen materials.

- When there is a possibility that new work will be affected by frost or freezing before it has set. Curing periods may need to be extended in accordance with product manufacturers' details.

Short- and long-term protection and storage of material on site should be in accordance with product manufacturers' details. The use of admixtures must also be carried out in accordance with product manufacturers' details.

Adequate precautions should be taken to protect the works, in accordance with product manufacturers' details or specialists' requirements. Typically, polythene sheeting or hessian should be used to protect works in progress from becoming saturated, and to prevent drying out from direct winds and sun. Wetting may also be required to ensure that mortars, rendering, plastering, screeds, slabs, etc. do not dry out too quickly and cause failures.

Japanese knotweed

Japanese knotweed is an invasive weed and it spreads through its crown, rhizome (underground stem) and stem segments, rather than its seeds. The weed can grow rapidly causing heave below concrete and tarmac, coming up through the resulting cracks and damaging buildings and roads. A small section of rhizome (stem) can produce a new plant in 10 days. Rhizome segments can remain dormant in soil for 20 years before producing new plants.

Under the Wildlife and Country Act 1981, it is an offence to plant or cause Japanese knotweed to spread and all waste containing Japanese knotweed comes under the control of Part II of the Environmental Protection Act 1990.

Details on Japanese knotweed and how to control and dispose of it can be found via the following link: http://www.environment-agency.gov.uk/homeandleisure/wildlife/130079.aspx. The knotweed code of practice can be found on the following link: http://www.environment-agency.gov.uk/static/documents/Leisure/Knotweed_CoP.pdf. For more information telephone: 03708 506 506 or email enquiries@environment-agency.gov.uk

Matters related to the Building Regulations

The following are related to, but are not enforced under, the requirements of the Building Regulations.

Planning Permission, listed building and conservation area consents

Planning permission or listed building/conservation area consents may be required for the proposed development and no works should be commenced until approval has been given by the relevant local authority planning department.

If the requirements of the Building Regulations will unacceptably alter the character or appearance of a historic or listed building, ancient monument or building within a conservation area, then the requirements may be exempt or relaxed to what is reasonably practical or acceptable, while ensuring – in consultation with the local planning authorities conservation officer – that any exemption or relaxation would not increase the risk of deterioration of the building fabric or fittings. Any such exemption or relaxation must be approved before works commence. For further information, please contact your local authority planning department and building control body.

Health and safety at work

All necessary health and safety requirements must be provided, including all necessary personal protective equipment; site security; scaffolding; access ladders; material hoists; temporary protection and working platforms, etc., which are to be erected, maintained, certificated, dismantled and removed by suitably qualified and insured specialists.

The Health and Safety at Work etc Act 1974

The Health and Safety at Work etc. Act 1974 (HSWA) is enforced by the Health and Safety Executive. The HSWA requires persons in control of premises to make broad provisions for the health, safety and welfare of people, including visitors and other users of the premises.

The HSWA also requires all persons at work (i.e. contractors) to ensure, so far as is reasonably practical, the health and safety of themselves and any other people who may be affected by their work.

Construction (Design and Management) Regulations 2007 (CDM)

The Construction (Design and Management) Regulations 2007 apply to most construction projects. If you are about to undertake construction work – which could include alterations, extensions, routine maintenance, new build or demolitions – then you need to know to what extent these Regulations will apply to you and whether you are a duty holder under the Regulations.

With non-domestic* projects expected to last longer than 30 days, or more than 500 man-hours, you will require the assistance of an advisor called a CDM coordinator, who should be appointed at the earliest opportunity, before detailed design work is complete. If you are a client thinking of commissioning work, a designer appointed to work on a project, or a builder/developer about to undertake work, you should be aware of your responsibilities or duties under CDM 2007.

(*Non-domestic clients are people who commission building works related to a trade or business, whether for profit or not. This work can be carried out on a domestic property; it is not the type of property that matters, but the type of client – for example, a private landlord.)

Asbestos, contaminated materials, lead paint, etc.

Any suspected asbestos, contaminated material or soil, or lead paint is to be inspected by a specialist and any necessary remedial works are to be carried out in accordance with their requirements by a specialist. Asbestos is to be removed and disposed of off-site by a specialist licensed contractor, as required under the Control of Asbestos Regulations 2012.

Further information regarding the above can be obtained from the Health and Safety Executive at: www.hse.gov.uk.

The Party Wall Act 1996

Introduction

The Party Wall etc. Act 1996 (the Act) is a law that must be followed in certain circumstances. The Act does not apply to all building work, but its requirements are quite separate from those of Planning and Building Regulations. Professional advice about the Act should be considered by both building owners and neighbours (neighbours affected are called ‘adjoining owners’ under the Act).

Where the Act applies

The following are examples of where a building owner is required by law to serve a formal notice on adjoining owners. A notice must show the details of the relevant proposals and other necessary information, and is valid only for one year.

When building work is planned on a boundary with a neighbouring property
Examples are building a garden wall, or the outside wall of a new building or extension, at the boundary. Section 1 of the Act applies and a 'Line of Junction Notice' must be served at least one month in advance of the work.

When work is planned directly to an existing wall or other structure which is shared with another property
This includes party walls, and the outside wall of a neighbour's building, but also separating floors between flats and garden walls built astride the boundary. Examples are underpinning or thickening of foundations, repair, inserting a damp-proof course or flashing, cutting off projections, strengthening, opening up and exposing the structure. Section 2 of the Act applies and a 'Party Structure Notice' must be served under Section 3 of the Act at least two months in advance. These notices frequently occur in roof-space conversions, building in (or removing) beams, removing chimney breasts, altering chimneys, roofs or floors, demolitions, and sometimes in extensions.

When an excavation is planned within three metres of a neighbour's building or other structure, where it will be to a lower level than the underside of the neighbour's foundation
Examples are foundations to a building or extension, but include excavations for drain or services trenches within three metres. Section 6(1) of the Act applies: An 'Adjacent Excavation and Construction Notice' must be served at least one month in advance. These types of notice frequently occur in new building work and in extensions, but can apply to structural alterations.

When an excavation is planned within six metres of a neighbour's building or other structure, where that excavation would cut a line drawn downwards at 45° from the underside of the neighbour's foundation
Examples are especially deep foundations or drains within six metres. Section 6(2) of the Act applies: An 'Adjacent Excavation and Construction Notice' must be served, again at least one month in advance. Again, these types of notice frequently occur in new building work, extensions and structural alterations.

Disputes under the Act

Agreeing in writing to a notice allows the work to proceed in due course. However, if a neighbour does not agree (including not replying in writing within14 days) a dispute arises. For a dispute, Section 10 of the Act (Resolution of disputes) applies, necessitating the appointment of surveyors. The building owner and adjoining owner must either:

(a) agree to appoint one surveyor (an 'agreed surveyor'), or
(b) each appoint their own surveyor. (Those two surveyors then select a third surveyor, but only in case of a dispute between themselves.)

The dispute procedure may well be longer than the period required for the notice, and in complex cases can be several months.

An Award

By appointing surveyors, the dispute is resolved by them on behalf of the owners, and the result is the service of an 'Award' for each dispute. An Award is a legal document describing when, where and how the work subject to the Act is to be carried out. An Award cannot deal with matters outside the Act, and cannot deal with other work on site. Once served, both the building owner and the adjoining owner each have a right to appeal the Award in the county court, but only for a period of 14 days. After that the Award is *totally* binding *and shall not be questioned in any court.* This is a very powerful provision and must be most carefully considered by all involved.

Other Items

The Act cannot be used to resolve a boundary dispute, and neighbours cannot use it to prevent approved work from being carried out. The Act deals with many matters not covered above and only the Act should be relied on for the scope and meaning of any item. There are many guides available relating to the Act, but even they should not be relied on in preference to the Act.

Reference sources

The Party Wall etc Act 1996 (published by HMSO, ISBN 0-10-544096-5) http://www.legislation.gov.uk/ukpga/1996/40/contents

The Party Wall etc. Act 1996 Explanatory Booklet (published by the Department for Communities and Local Government) http://www.communities.gov.uk/documents/planningandbuilding/pdf/133214.pdf

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Rights of Light

Introduction

Rights of Light are rights enjoyed by a building. Put simply, they are the rights of a building to have light cross someone else's land. They are protected by law, and court action can be brought against someone who has 'injured' them or, quite importantly, someone who intends to injure them. The general principles summarised below are not an entire list of all the principles involved, and are not legal definitions. Expert advice is usually needed for any particular situation, and legal advice is usually necessary relating to Deeds. None of the following involves a much quoted, and quite incorrect, '45-degree rule'.

Does a Right of Light exist?

A room within a building may enjoy a right of light, but it does not necessarily do so. Usually a right of light has to be gained over time, unless it has been granted, for example, by a Deed. Normally, the law sets a period of 20 years for a room to gain a right of light through its window(s). However, the ability to gain a right can be prevented (for all time) by restrictive wording in the Deeds, or temporarily by obstruction during the 20-year period, or by other legal means. A room cannot gain a right to a view or a right to sunlight. Also, open spaces such as garden areas cannot gain Rights of Light.

What is a Right of Light?

Where a right of light exists the building has an Easement over the land the light crosses. In confined spaces this may not be just an immediate neighbour, but in most instances it is the adjoining property. Even with a right of light in place there is nothing to prohibit a new building or extension reducing the amount of light entering a room, so long as a certain minimal standard remains. However, if that minimal standard is transgressed, an 'injury' results, which is actionable at law. Further, the right to light is a property right and so action can be taken in advance of a transgression, so as to prevent the injury.

So what is an Injury?

It is accepted by the courts that the amount of natural light on a working plane (table-top level) in a room should not be less than one lumen. That is a fairly low level of natural light, and is equivalent to one candle held one foot away from a surface, with no other light input. Even then there is a 'working rule' that an 'injury' would only be proved if the room in question were to be left with less than about half its area (50/50) receiving one lumen.

Where domestic properties are concerned, the 'working rule' of 50/50 has been slightly modified, and it has been shown that up to 55 per cent of the working plane should remain 'well lit' by natural light to the one-lumen standard. If less than 50 per cent remains, an injury would be proved, but if 50–55 per cent remains well lit, the injury is not so clear-cut. Over 55 per cent remaining well lit (again to the one-lumen standard) shows no injury. Artificial lighting cannot be argued as a substitute for natural light.

How do you establish if there is an Injury?

The method is to have a recognised expert carry out calculations, either by detailed diagrams or computer programs, to create a line, drawn on the plan of the room, where just one lumen of natural light is received on the working plane.

To do this the expert knows that the whole hemisphere of the sky provides 500 lumens (accepted by the courts as being equivalent to an overcast winter sky). Therefore, for the one-lumen level, a point on the working plane must receive just one five-hundredth of that amount. That is, a point on the working plane must be able to 'see' just 0.2 per cent of the sky – quite a small amount.

These techniques map the window(s) to a room, and the obstructions outside, onto a grid of the sky so as to correct for curvature. Examining the results allows a line to be drawn on a plan of the room, at working-plane level, showing the limits of where the one-lumen requirement is achieved. The expert then calculates what percentage of the room receives one lumen or more, and what does not.

If a new obstruction, such as a building or extension, is proposed near a room's windows and can be shown by these calculations to reduce the amount of light to below the working rule level (the 50/50 or 55/45 rule), only then an 'injury' can be proved in court.

What happens where there is an Injury?

A right of light is protected by law and if any owner injures a right in the way described, an Injunction may be obtained through the courts. This means the building work can be prevented or, if it is

under way, stopped. Even more dramatic is the likelihood of the offending part of a new building having to be knocked down.

The courts may hold, but only in a minority of circumstances, that damages are more appropriate than an Injunction. An award of damages does allow the 'offending' development to remain (or to proceed), but awards compensation.

Reference sources

For further information and interpretation of all the above expert, and probably legal, advice is required. See 'Anstey's Rights of Light', published by the Royal Institution of Chartered Surveyors (RICS Books, ISBN 9781842192221).

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