APPEALS FROM PARTY WALL AWARDS
– How to Avoid Them and How to Manage Them

Part 2 ‘A Surveyor’s View’

A paper for
Property Litigation Association
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by

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Chris Dowsing is a member of the Royal Institution of Chartered Surveyors with many years’ experience across a number of building surveying disciplines having a particular interest in the Party Wall etc Act 1996 and neighbourly matters. Chris started his career with GIA, one of London’s largest specialist Rights of Light and Party Wall practices, where he was lead party wall surveyor on a variety of high value and technically demanding commercial building developments involving the successful conclusion of numerous party wall Awards. This culminated in the delivery of the HMCS Rolls Building on Fetter Lane, London which provided a number of challenges including acting as key witness for the Building Owner when an Award was appealed and later upheld at County Court. Chris is now the Director of Webber Partnership based in Central London where he continues to practice as a building surveyor and specialist party wall and neighbourly matters consultant in the commercial and residential sectors.
1. Introduction

1.1. It has been some years since the London Building Acts (Amendment) Act 1939 was
revised and subsumed into the Party Wall etc. Act 1996 (PWA). Much has been written
by commentators in the surveying and legal professions regarding the differing
approaches offered by the change in statute and how these may be interpreted in the
courts.

1.1. Paul Cynoweth¹ has described how the courts appear to be moving toward a more
literal approach when dealing with Appeals such that Party Wall Surveyors (PWS) should
conduct their work in a more precise manner acting in a quasi-Judicial capacity. The
All ER 295 is often referred to thus;

...the steps laid down by the Act should be scrupulously followed throughout, and short-
cuts are not desirable...the approach of surveyors to those requirements ought not to be
casual...

1.3. It is fair to suggest that most surveyors tend to follow the dictum of what is loosely
referred to as ‘acting within the spirit of the Act’ in their dealings. This involves a
general sense of fair play between surveyors whilst acting as problem solvers; providing
common-sense solutions to matters which fall within the Act and related peripheral
items. The received wisdom is that the intent of the Act is to allow surveyors to resolve
deemed ‘disputes’ pragmatically without the ‘owners’ having to enter into protracted
litigation. Such an approach was borne of the previous London Building Acts and
continues to this day reflecting the John Anstey school of collaboration and impartiality.
However as appeals casework develops, the courts are, in a piecemeal fashion,
gradually interpreting the wording of the PWA into a more precise instrument.
Surveyors and legal advisers must therefore ensure they are vigilant, anticipating
potential pitfalls as they arise. The processes enshrined within the Act must be carried
out diligently in order to avoid appeals and to withstand scrutiny at trial if an appeal is
heard.

It could be said that to an extent most surveyors would wish to have at least some tracts of the PWA revised. Despite this the Act surely does succeed in generally providing an effective mechanism for permitting and regulating works that affect the property rights of individuals such that appeals are fairly limited in number when compared with the thousands of Awards which are made and served across England and Wales. In the commentary that follows, various aspects of the Act are discussed, with particular focus on appeals. Specific elements will be referenced to the recent appeal of Gross & Klein v Delancey where the author advised the building owner.

2.0 ENSURE NOTICES ARE VALID

2.1 It is an unfortunate and regular occurrence that party wall Notices are often prepared and served incorrectly. One of the many serious consequences of this is that the Award can be invalidated resulting in the document being rescinded on appeal due to being ‘wrong.’

2.2 As a starting point it is imperative that sufficient research is performed in order to establish the ownership profile of buildings which will be affected by development works. Normally, ownership will be determined by reference to HM Land Registry records. On occasion however, these records prove to be inaccurate or obsolete. As such surveyors should also check Companies House for more up to date company registration information where the owners are a commercial interest. Furthermore, Post Office records should also be viewed in order to determine if there are other owners within a given property, where for instance a commercial lease is held with under five years in duration or if a property has been developed into flats. If the surveyor has the opportunity they should visit the site and surrounding properties taking note of property layouts and details contained on name plates or via building managers.

2.3 It is common practice for building owner details to change during the course of a large scheme. Often the entity which purchases a site will be re-formed into a development vehicle during the early stages of site activity. Where this should occur PWA procedures will start de Novo and all Notices must be served again with the new building owner details. Sometimes the PWS may not become aware of these changes until the Awards
are complete and ready for signature, so it is vitally important that records are kept up to date.

2.4 The details which the Notices must contain are set out in various publications such as the RICS Guidance Notes, but errors do still often occur. Cases have been heard in court where Awards have been appealed on the basis that they attempted to authorise works which were not on the original Notice. It is therefore essential that Party Structure Notices in particular should set out the intended work and further Notices should be served where there is a clear and anticipated variation to the original work scheme.

2.5 In the circumstance that a building owner changes toward the end of a development, any damage resulting from notifiable works under the Act will be attributed to the owner at the time of the event; not the accession owner.

3.0 MAINTAIN EFFECTIVE COMMUNICATION

3.1 Although as commonly held the PWS ‘acts for the wall,’ surveyors are frequently put under pressure to act on a partial basis for the benefit of their Appointing Owner. Unlike in other professions where a client relationship can be terminated, a PWS must remain appointed under most normal circumstances. A further difficulty can arise in relation to the level of involvement an owner should have with the dealings of their surveyor. Appeals sometimes occur due to the owner’s perception that their PWS either has not acted in their interest or has otherwise failed to communicate the agreed terms between the joint surveyors. The PWS must therefore communicate clearly to their Appointing Owners at an early stage that they are not acting as their advocate, but as an appointee to determine matters as a statutory duty in accordance with the Act.

3.2 There is clearly a delicate balance to be struck. During the development of the HMCS Rolls Building on Fetter Lane, a ‘hands-on’ approach was struck in order to involve the adjoining owners at an early stage. Owners included included a firm of accountants, the Maughan Library of Kings College London and a firm of barristers, or in other words ‘sensitive receptors.’ Thereafter, the PWS and the advising structural engineers for the adjoining owners’ surveyors worked with the principal design engineers to develop appropriate temporary works in order to safeguard the surrounding buildings and
manage disruption. As the development progressed, the PWS would meet with their Appointing Owners and work through the content and wording of draft Awards before publishing for signature. This level of involvement was commensurate to the scale of the building works being performed and helped to ensure that the Awards were robust thereby avoiding appeal.

3.3 Once development works are in progress, surveyors should then encourage the process of having regular meetings between development site personnel and adjoining owners where minutes are taken and subsequently circulated. Surveyors should also maintain accurate records of paper and email correspondence. During Appeal proceedings in Gross & Klein v Delancey, records kept by the surveyors and the development team played a key role in ensuring that evidence brought before the Judge could be fully substantiated.

4.0 DISRUPTION AND UNNECESSARY INCONVENIENCE

4.1 Appeals from owners often include provision within the heads of claim for failure of surveyors to attend properly to the matter of unnecessary inconvenience pursuant of s.11(11) of the Act. Surveyors and indeed the courts have found this part of the PWA particularly troublesome given the question of whether it replaces, or is subjugated, by the common law tort of nuisance. Following the case of Hiscox Syndicates Ltd & Another -v- The Pinnacle Ltd & Others[2008] All ER (D) 193, developers need to show that they have employed more than just reasonable endeavours on construction sites in order to minimise disruption to neighbouring owners and occupiers. For unnecessary inconvenience to succeed in respect of the PWA, legal advisers and surveyors need to offer convincing evidence that notifiable works have been expedited unlawfully. The case of Andreae v Selfridge and Co. Ltd [1937] 3 All ER 255 CA is often cited as authority that notifiable works can be necessarily convenient if undertaken in a lawful manner.

4.2 There are already separate regulatory controls for the management of noise, dust and vibration on construction sites. Frequently, surveyors become involved in the general routine checking of work practices put in place to meet these regulations, i.e. for non-notifiable works. Time would perhaps be better spent assessing whether adjoining
owners positioned around a site, could have specific requirements which would entail
the provision of additional control measures beyond regulatory minimums. Examples
might include an owner of a recording studio or a building which on account of its
construction, is susceptible to ground transmitted vibration.

4.3 Technology has progressed in recent years to more effectively manage disruption. It is
normal practice for building sites to employ dust particle monitors, seismograph
vibration measuring devices with text alert, noise monitors, laser target movement
monitoring and dust suppression plant. Surveyors can provide a useful function in co-
ordinating effective monitoring regimes tailored to individual needs in anticipation of
notifiable works which may give rise to disruption. Building owners must ensure that
sufficient budgets are set aside so that these systems are effectively utilised.
Furthermore, they should provide evidence of planned proactive and reactive measures
in the event that problems occur later into the build. Such actions will provide an
effective defence against claims for unnecessary inconvenience or nuisance. The
measures outlined must of course be commensurate with the works being undertaken.

4.4 In Gross Klein v. Delaney the Appellants were unable to uphold a claim for unnecessary
inconvenience in part because the developer had employed some of the measures
detailed above. In addition to establishing a case for unlawful works, appellants must
also prove that notifiable works under the Act, as opposed to general site works, are the
cause of the inconvenience. On larger sites this can be especially difficult to prove. As
such an aggrieved adjoining owner and their advisers must prepare a detailed case in
advance of an appeal and show that approaches were made to the building owner to
manage issues as they arose, rather than after the event.

5.0 DEALING WITH COMPENSATION

5.1 Where claims for compensation are made pursuant of s.7(1) of the Act, surveyors are
well enough equipped to settle disputes when physical damage has occurred. In the
event that claims are of a more complex nature, difficulties start to arise in how best
the PWS should prepare or defend any such claims.

5.2 Little if any formal guidance exits for surveyors to assist them in respect of a best
practice approach for more complex claims under the Act.
The preparation of an Award for compensation in connection with the Rolls development posed a number of issues in respect of the eventual Appellants Gross & Klein. The joint surveyors and both sets of owners had invested considerable effort to formalise the best course of action in order to agree the heads of claim. The Appellants eventually submitted a set of estimates and receipts for repairs already carried out, along with annual accounts for their business and details of rental income. Physical damage was dealt with in the Award by way of a Scott-type schedule but there was disagreement between owners in respect to the extent of damage. Despite requests from the joint surveyors, sufficient supporting evidence was not provided to substantiate the non-damage elements of the claim.

5.3 On the matter of physical damage and burden of proof, Chadwick LJ offers the following from Road Runner Properties Ltd v. Dean [2003] EWCA Civ 186;

...a court can take a reasonably robust approach where the damage to the adjoining owner’s property is of the sort one would expect to result from the building owner’s work...

In Gross & Klein v. Delancey the judge described his position at para.[11] thus:

...It remains the position that the Adjoining Owner must establish a casual link between the works and the damage to his building in accordance with ordinary principles. Nevertheless a reasonably robust approach to causation will usually be appropriate in a Party Wall award appeal...and while the onus of proof remains on the Adjoining Owner it may readily be discharged where there is a reasonable basis for linking the damage to works carried out by the Building Owner.

The judge dismissed the appeal in relation to modifying the Scott Schedule for repairs to rectify damage resulting from notifiable works. On the matter of invoices and estimates for repair works already carried out, it is worth reiterating that the papers provided by the adjoining owners were incomplete and not supported with any detailed commentary. Some elements of the invoices were clearly attributable to damage and could be compensated without the need for explanation. For many of the invoices this however was not the case. The joint surveyors took the view at the time of making the
Award, that to entirely omit this element of the claim would be to invite an immediate appeal.

As such an attempt was made to apportion cost sums to items of work, which could have been necessary on account of damage from notifiable works. The judge however took the view at para.[18] that:

…it would always have been possible for the Surveyors to refuse to make an Award without been given further explanation.

The judge then allowed a re-hearing on this particular element of the claim based on verbal evidence from the litigant in person. Some of the costs allowed by the joint surveyors were then modified by the judge even though the surveyors could only have apportioned the costs using the evidence before them on the day the Award was made. As such the author maintains the Award could not have been been wrong nor could it have been correct for the surveyors to simply have refused to make an Award on this part of the claim. In any event, the Award was quite specific in stating that further Awards could be made by the joint surveyors which would have allowed for adjustments or variation if and when further evidence could later be provided.

5.4 With respect to the loss of rent and profits claim, the judge acknowledged that the accompanying evidence was not sufficient for a non-expert to make an Award at paras. [66-67];

It would not be right for the court to ‘give guidance’ to surveyors who have not shown themselves unable to approach the matter properly and who have declined, perfectly reasonably in my view, to make an award on the material put before them.

I have seen the available material for the loss of rent and profit claims. The approach of the surveyors was entirely appropriate. There was quite insufficient material on which a reasonable Party Wall Surveyor might make an award against the Building Owner.

The judge did however leave the option open to the Appellants to compile and submit a fully prepared claim for economic loss for later submission to the joint surveyors.
5.5  From the above, it would seem that there are important lessons for surveyors and legal advisers preparing claims for compensation under the Act. Firstly that where possible, both owners should make all reasonable attempts to settle matters amicably and entrust surveyors to assist where disputes fall within the Act. Owners must be able to offer the joint surveyors adequate assistance so that claims for physical damage can be prepared thoroughly. Where the joint surveyors are of the opinion that elements of a claim are incomplete or require further evidence, they should not attempt to deduce the claim in the Award. They should instead state in the Award that they have considered the claim but are not in a position to make an Award until further evidence is provided. Surveyors do not have the forensic expertise in relation to complex claims for economic loss, which would more normally be in the realm of accountants, lawyers and insurance advisers. These claims should therefore be thoroughly prepared and presented to surveyors fully complete. Problems still remain with this approach to the extent that even if a fully prepared forensic economic claim were presented to the surveyors, they would still be lacking the expertise to fully evaluate the process and method used by another expert employed to compile such a claim. This is one of the reasons why the courts have been reluctant to rule on complex economic claims in party wall Awards, the judge in *Gross & Klein v. Delancey* did not seemingly offer any further guidance on this matter.

5.6  An additional problem for an owner claiming economic loss relates to the issue of costs incurred employing specialists to prepare a claim for submission to the surveyors. If the surveyors subsequently determine that the loss claim was not allowable, the owner would be left with a significant outlay in respect of fees. Even if the surveyors did accept the claim, the case of *Blake v Reeves [2010] 1 WLR 1, CA* does not provide sufficient comfort that the surveyors could, in the eventual Award, defray specialists’ fees in favour of an owner especially where Notices were not served for notifiable works.

6.0  **EX PARTE AWARDS**

6.1  In the event that one of the joint surveyors refuses to act or neglects to act effectively, the other surveyor may make an Award as if an Agreed Surveyor. *Ex parte* Awards should be avoided if at all possible for the simple reason that they are prone to appeal.
In many situations and despite impartiality on the part of the remaining surveyor, the reality is that the owner whose surveyor is no longer appointed will often lack confidence in any subsequent Award.

6.2 Where *ex parte* Awards are appealed the Judge will expect that the correct procedure has been fully adhered to and may rescind an Award if this has not been the case. These matters were explored in *Frances Holland School v Wassef* [2001] 29 EG 123 where the Judge was clear that the remaining surveyor should set out in the Award, the detailed grounds on which the other surveyor had not acted effectively upon. It follows that these same grounds must also be set out in the 10 day notice letter sent beforehand to the surveyor who had neglected to act effectively. The standard wording of these letters is of a simple nature and it is advised that practitioners instead adopt a detailed setting out as per the example letter at Appendix 1. Adopting this approach will enable a judge to determine immediately if due procedure has been adopted and whether the Award is therefore valid under appeal. This approach also provides comfort to the owners that the remaining surveyor is dealing with the matter fairly and professionally.

7.0 SCHEDULES OF CONDITION

7.1 A proficient party wall Award should always include a full schedule of condition for relevant parts of a structure or building, which may be affected by notifiable works. The document protects the interests of the building and adjoining owners and every effort should be made by them to facilitate access for inspections. In the process of conducting the schedule, surveyors have an opportunity to form opinions on other related matters relevant to the building itself and adjacent development works. These might include an assessment as to whether the building is being maintained by the owners, whether there are structural issues or otherwise if there are concerns regarding materials used in the building’s construction. These factors may influence possible alterations to the building owner’s intended work scheme or signify a requirement for additional environmental monitoring.

7.2 Accurate and well prepared schedules of condition form primary evidence to assist surveyors when assessing physical damage and are invaluable to a judge if an Award is
appealed. The schedules of condition undertaken by the joint surveyors in *Gross & Klein v. Delancey* provided an accurate picture of the prevailing condition of the building, which assisted the judge in his findings. Where adjacent building works are lengthy or when damage has been alleged, it is always advisable to re-visit and update the schedules for the duration of relevant building works. As a matter of good practice, photographs should be saved electronically so that the date on which the photographs are taken is fully recorded. Additional photographs and site notes should be undertaken by surveyors to include other parts of buildings or land that may be outside of the notifiable zone, but which could be affected by dust, vibration or site traffic.

**8.0 KEEP WITHIN THE ACT**

8.1 Surveyors must be aware of the limits of their statutory powers when making party wall Awards. It is common for owners to pressure their surveyors to adjudicate matters which are outside the Act. This creates the possible danger that the Award could be appealed and found to be *ultra vires*. Commonly, matters that are put to surveyors include items such as the location and duration of scaffold for non-notifiable works, access to conduct non-notifiable works, routing of site traffic and hours of work for general building activities. This can certainly be a problematic area for the surveyor and they must ensure that appointing owners are aware at the outset of the need to ring-fence what is or is not, related to the works which are the subject of the Award. Evidenced across a number of cases the courts have demonstrated a fairly strict interpretation and the PWS must tread carefully or risk having an Award modified or rescinded. See *Woodhouse v Consolidated Property Corporation Ltd* (1992) 66 P & CR 234 [1993] 1 EGLR 174 (CA) and *Burlington Property Company Ltd v Consolidated Property Corporation Ltd* [1939] 1 KB 633 but also read the contradicting and possibly erroneous judgement in *R Howes and N Howes v R D Ripley and CA Ripley* [2011].

**9.0 AWARDS SHOULD BE SITE SPECIFIC**

9.1 Surveyors are advised to take account of any local conditions or circumstances which might affect the way notifiable works are carried out. Many surveyors employ only the standard wording for Awards recommended in guidance notes and feel uncomfortable straying too far from these standard formats. This policy could leave surveyors at risk of
having Awards appealed because they have not shown the owners that they have considered certain key aspects relevant to the proposed works. This risk extends to problems at trial if an Award fails to mention detailed aspects in the worded clauses. It is often difficult for surveyors to strike the correct balance in respect to the level of detail and content of Awards, especially given that a layperson might not fully understand matters that the surveyors take for granted as being self evident.

9.2 Below is an example of an Award clause which has been amended in its entirety from the corresponding standard clause and which relates to access, protection measures and making good:

(a) carry out the whole of the said works, as far as practicable, from the Building Owners’ side as follows:

The new footings to the party flank wall being excavated and concreted and (if possible) built up to ground level prior to the fence being removed (subject to the fence not obstructing the agreed building line);

All access for personnel and materials being through the Building Owners’ property;

The existing sections of redundant fence and wall being removed and disposed of by the Building Owners’ contractor and the retained section of fence and wall at the rear being adapted and fixed to the new wall upon completion;

Erect a painted temporary timber hoarding or Heras fence of a height to match the existing fence being placed around the work area especially where open excavations are being carried out;

Plants in the affected side area e.g. the clematis climber should be preserved in-situ where possible. If this is not possible, affected items should be lifted and stored in large diameter earth filled containers (kept watered until re-bedding) and then reinstated in the same locations on completion. Any plants that fail to survive for 6 months consequential upon the works after they are re-planted, shall be replaced with similar plants of normal nursery size.

The adjacent areas being cleared of dust and rubbish at regular intervals and at the end of works each day.
Where access is required to be able to carry out the work 7 days prior notification must be given to the Adjoining Owner’s Surveyor or by local agreement with the Adjoining Owner directly.

*(NOTE: A right of access under the Act is only given for the execution of the works listed in section 2 of this Award. If access is required for any other reason the Adjoining Owner’s permission must be obtained). Where access is required to the Adjoining Owner’s land to carry out excavations for foundation and/or erect and point the new flank party wall, the adjacent paving slabs must be protected by plyboard and thick grade polythene sheeting.*

10.0 **BOUNDARIES AND ACCESS**

10.1 A common source of dispute and conflict between owners relates to line of junction problems rising from works pursuant of sections 1 & 2 of the Act. Boundary issues are notoriously difficult and often costly to resolve. Surveyors can help alleviate future problems by undertaking simple steps at an early stage to help ensure accurate positioning of boundary structures thereby avoiding potential trespass.

10.2 As a starting point, where a wall is to be demolished or a new wall is to be built at a line of junction, surveyors should meet on site and agree how they should proceed. They should then record the position of an existing wall or boundary using a series of static measurements taken from exiting static objects such as the flank walls of adjoining rear additions or between corresponding sets of windows. If the wall and/or boundary is of an extended length, the owners should consider instructing a full measured survey with GPS co-ordinates. If this is impractical, the surveyors should provide a worded clause in the Award to describe how the contractor should undertake the setting out of a new wall. Furthermore, it is not unreasonable to make an allowance in the Award for an additional interim visit by one of the two surveyors to check setting out especially on the occasions where the work scheme is not project managed by a qualified architect.

10.3 Access rights to undertake notifiable works pursuant of s.8 of the Act should be clearly explained to owners at the early stages of a construction project. In respect of the building owner, access requirements should be established and agreed along with the limitations imposed by the Act. These requirements and the rights which permit them, should then be communicated to relevant adjoining owners.
All too often this basic service is neglected and often the first occasion when an adjoining owner learns that scaffold is to be placed on their land is when they receive a signed Award or worse still, builders try to enter their land without due notice having been given. It is the responsibility of surveyors to agree and formalise access authorised by the Act before then setting these requirements out in the Award. Entering land of an adjoining owner must be controlled. If access rights are misused, the injured party may be entitled to claim for unnecessary inconvenience or trespass.

11.0 GOOD HOUSE-KEEPING

11.1 In closing and at the risk of stating the obvious, recent involvement in an appeal and subsequent trial underlines the importance of maintaining good records which in the event, were of considerable value to the legal advisers and judge involved with the appeal. Surveying practices will have their own methods for storing information but it is imperative that copies are kept of all emails, letters, Awards and signed pages, schedules of condition, minutes, photographs etc. Surveyors should also familiarise themselves with the rules of disclosure which will help determine the best procedure for sourcing information relevant to an appeal.

Chris Dowsing MRICS

WEBBER PARTNERSHIP
October 2013
Appendix 1

Mr AN Other  
Party Walls Are Us Limited  
London  
EC1 1AA

BY POST AND EMAIL TO: another@partywall.com

Dear Mr Other,

RE: WORKS AT 10 LONDON ROAD, LONDON E1 AFFECTING 11 LONDON ROAD, LONDON E1  
PARTY WALL ETC ACT 1996

NOTICE PURSUANT TO S.10(7) OF THE PARTY WALL ETC. ACT 1996

Further to our recent correspondence, please find enclosed a revised draft Award for your  
consideration.

I note that I have still not received any correspondence from you in respect to the matters under our  
consideration. In order that the Building Owner’s programme is not further delayed I must call on you,  
in light of a failure on your part to act effectively as one of the appointed surveyors making this Award,  
to act effectively and with haste within a period of 10 days from the date of this letter in accordance  
with the provisions of s.10(7) of the Act.

To be clear, please accept this letter as formal Notice under Section 10(7) of the Party Wall etc. Act 1996  
to act effectively by undertaking the following actions and responding to the matters set out below:

1) Please confirm that all information listed in the Document Issue Register to the enclosed  
draft Award has been passed to your advising structural engineer for consideration.
2) Please confirm that you have advised your structural engineer of the 10 day deadline within  
which his advice must be received as set out below.
3) Please confirm whether your advising structural engineer has any comment to make on any  
of the documents listed on the Document Issue Register to the enclosed draft Award, and  
provide the said comments.
4) Please consider the enclosed draft Award and advise of those Clauses that are agreed and  
any comment that you may have on the remainder.
5) Please consider the content of the Document Issue Register to the enclosed draft Award  
and advise of any comment that you may have on the content of the Document Issue  
Register.
6) Please advise the sum of your fee for insertion into the Award, together with a breakdown  
of the time expended.
7) Please advise the sum of your consulting structural engineer’s fee for insertion into the  
Award, together with a breakdown of the time expended.
8) Please confirm whether your Appointing Owner intends to seek security for expenses to  
cover the works pursuant of s.12(1) of the Act and provide a copy of their Notice to this  
effect.
If I do not receive effective responses to each of the above points by the morning of 21st October 2013 I will proceed to Act ex parte on the 22nd October 2013 and shall determine the above points as follows:

1) I will assume that all information has been so provided.
2) I will assume that your advising structural engineer has been advised of the timescale set out at s.10(7) of the Act.
3) I will assume that your advising structural engineer has reviewed the drawings contained within the Document Issue Register and in making no further comment is satisfied with the proposals and method thus outlined. In particular the detailed design of the piled foundation solution and attendant temporary works proposals.
4) If I have not received your comments on the Award, the wording of the Award shall stand as proposed in the enclosed draft.
5) If I have not received your comments on the Document Issue Register to the Award, the content of the Document Issue Register shall stand as proposed in the enclosed draft.
6) If I am not advised of your fee with accompanying breakdown, I will insert provision for the payment of ‘reasonable fees’ into the Award.
7) If I am not advised of your consulting structural engineer’s fee with accompanying breakdown, I will insert provision for the payment of ‘reasonable fees’ into the Award.
8) If I have not received evidence of a Notice under s.12(1) of the Act, I will assume that security for expenses is not sought at present.

I look forward to receiving substantive and effective responses to the above matters before 21st October 2013 as set out above and in accordance with s.10(7) of the Act.

Yours sincerely

CHRIS DOWSING MRICS
Director

Encl. Draft Award

Cc. Building Owner