[footer date]July/August 2020

[strap]Property Neighbourly matters

[headline]The business of neighbourly matters

[standfirst] Neighbourly issues is an expanding area of professional practice of concern for all chartered surveying businesses

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In this article we depart from the traditional focus on professional neighbourly matters practice for individuals and address the topic from the viewpoint of a chartered surveying business. In 2019 RICS updated the suite of supporting consultant contracts and associated scopes of service for the majority of professional practice areas in England and Wales, with the intention that Scotland and Northern Ireland would be covered in the 2020 release. Historically, the party wall practice scope of service formed a section within the wider building surveying scope. However, the 2019 update has provided an opportunity for more substantive reform. Due to the expansion of neighbourly matters as a distinct discipline of practice which is now supported by four professional guidance notes, there was a need for a separate suite of documents. In addition, as right of light has proven a success in providing a specialist and separate pathway within the Assessment of Professional Competence (APC), the need for clearer scope of service was recognised.

While some parts of neighbourly matters are controlled under a statutory process, that does not remove the obligations that exist on all UK RICS businesses to confirm their terms of business and the method for calculation of payment terms in writing. The RICS Boundaries and Party Walls Panel has therefore used this opportunity to update and widen the historic scope to cover all business lines under the neighbourly matters heading.

Three scopes of service have been created to cover the geographic areas of England and Wales, Scotland, and Northern Ireland. This division is required as some neighbourly matters topics do not have full UK coverage.

The unifying areas that cross all UK national lines are boundary disputes and the technical role of reporting on design impact under the Building Research Establishment *BR 209 Site layout planning for daylight and sunlight: a guide to good practice, 2nd Edition*, published in 2011.

Neighbourly matters businesses have been early adopters of 3D computer technology with the current technical packages continuing to evolve since 1991. While the surrounding planning system differs in different areas the technical standard of BR209 remains constant, with the software being capable of making the necessary geographic corrections within the assessment figures. Having a computer-aided design team based in West Sussex, therefore, does not prevent both UK- and Europe-wide generation of daylighting model assessment calculations with the commissioning local practitioner placing the figures into local legislative context in Manchester for example.

Scotland differs in that there is no common law right of light, but a major site development in Scotland is still subject to overshadowing objections and may be under consideration via environmental impact assessment reports.

Northern Ireland is a more interesting situation as it does enjoy a right of light and in technical calculation terms the practice is similar. However, this similarity is deceptive and an English practitioner traveling across the water must exercise considerable caution, as similar does not mean the same. Legislation such as the Right of Lights Act exists in both the English and Northern Irish jurisdiction with both having the concept of a light obstruction notice . Detailed reading of the two Acts, however, will bring out differences in the administrative details. The RICS scope of service excludes the Republic of Ireland as it is envisaged that the Society of Chartered Surveyors Ireland will create their own scope, building upon their own rights of light guidance note. This difference and exclusion will be important for practices generating 3D technical models for development schemes in the Republic of Ireland. Once again, great care is required as the technical models being the same can provide a false level of comfort. Rights of light is driven by case law, and the two separate High Court jurisdictions, while starting from a common point, have departed over time.

Areas of best practice in the format of data capture via 3D laser scanning technology is now common across the UK and this is not sensitive the local legislative changes.

England and Wales has the Party Wall etc. Act 1996, and this service line is dealt with both in terms of wider consultancy advice and performing the duties under the legislation. A common dispute between surveyors and clients in this area occurs when the client expects that they have commissioned wider strategic consultancy and design team support when in reality they have not, and quite often design meetings to decide on party wall facilitation rights, guidance on programme, and cost risk are not part of the intended service. This support is normally excluded from a pure statutory appointment but is a common layer of additional service provided by experienced neighbourly matters practitioners and could be added to the scope of service.

Both rights of light and party walls have in recent years seen the introduction of insurance policies. This has resulted in a new type of consultancy service supporting the insurance broker or loss adjuster with the technical understanding of this area of practice.

In planning, the appointment ofsecond reviewers for daylight (sunlight) models on major schemes is now common and the new scope allows for this type of appointment by a local authority. This could be for the neighbouring property assessment or the checking of the calculations presented to support the fitness for human habitation checks for social housing schemes. On a similar theme the review of daylight calculations for BREEAM, Housing Quality Mark or RICS SKA rating, has also been factored into the scope.

Neighbourly matters is an expanding area of professional practice and the new scope of service has been created to support RICS members operating across the UK for the full width of potential service offering.

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In addition to the more formal guidance notes that are created for the benefit of explaining professional practice to members, the panel also supports RICS firms via the creation of public facing information leaflets. The party wall leaflet has been updated to ensure the commentary is in line with the most recent case law and the 7th Edition guidance note.

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**Related competencies: tbc**

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The RICS Boundaries and Party Walls Panel is responsible for the following guidance notes:

*Party Wall legislation and procedure*, 7th edition, 2019

*Rights of Light,* 2nd edition, 2011

Daylighting and sunlighting, 1st edition, 2012

Boundaries: Procedures for Boundary Identification, Demarcation and Dispute Resolution, 3rd edition 2014

[Pull-out] Areas of best practice in the format of data capture via 3D laser scanning technology is now common across the UK and this is not sensitive the local legislative changes