Building Surveying, Property Consultancy and Party Wall specialists

www.cardoemartinburr.co.uk

Cardoe Martin Burr

About Us

Cardoe Martin Burr Limited provide Building Surveying and Property Consultancy services to corporate, institutional and individual clients. The practice is wholly owned by its Directors share the belief that excellence in service is the key to creating a successful business. Our role as Chartered Building Surveyors involves the care of all types of property within the built environment and our success as a practice is based upon our ability to perform this role for a broad range of property owners and occupiers.

The majority of our work is undertaken for clients in London and the South East but we regularly provide building surveying services for institutional, pension fund and some private clients throughout the UK.

Cardoe Martin Burr is a Quality Assured company and operates a company management system to the requirements of ISO 9001:2008.

We are Chartered Building Surveyors and operate in accordance with the professional standards required by The Royal Institution of Chartered Surveyors and hold £5 million professional indemnity insurance cover for each and every claim.

Cardoe Martin Burr are delighted to announce that they have recently joined with Rendall and Rittner, one of the leading residential property practices in London.

As well as the day-to-day management of developments, Rendall and Rittner are actively involved in the early stages of estate management strategies for large, complex mixed used use developments, working with clients from the early concept stages through to implementation when the first phases of occupation commence.

For more information see **www.rendallandrittner.co.uk**

Contact us

Cardoe Martin Burr Limited
Portsoken House
155-157 Minories
London EC3N 1LJ

Tel: 020 7563 8900
Fax: 020 7563 8901
enquiries@cardoemartinburr.co.uk

Consultancy

Building Surveys

We undertake building surveys of all types of office, industrial, retail, residential and public buildings on behalf of occupational users and institutional investors throughout the UK. Environmental audits and services inspections are also arranged.

Recent Instructions include:

Building survey of several warehouse units for an institutional purchaser

Building survey of a Victorian terrace house for a residential private client.

Project Management

We recognise that handling a construction project requires firm and positive management to achieve satisfactory completion of the works on time and within the client's budget.

Recent instructions include:

Overseeing the clearance of a 3.5 acre site and the refurbishment of a building being retained as part of the proposals for a leading property investor.

Stripping out and refurbishment of a retail unit and upper parts prior to re-letting for a pension fund client.

Development Monitoring

Cardoe Martin Burr act as the lenders surveyor for the development of speculative and pre-let warehouse and office schemes which involves assessing the design and monitoring the works from commencement through to completion.

Recent Instructions Include:

Development monitoring of new warehouse units for a pension fund client.

Development monitoring of a new build pre-let warehouse and laboratory facility on behalf of a pension fund client.

Fire Insurance Valuations

Cardoe Martin Burr undertake insurance valuations for building reinstatement purposes on behalf of commercial and residential property owners and occupiers.

The valuations are undertaken by our Building Surveyors in conjunction with our Consultant Quantity Surveyors and information is drawn from an extensive database of client portfolios.

Recent Instructions Include:

Insurance valuation for reinstatement purposes of a retail centre for an Investment Manager.

Insurance valuation for reinstatement purposes of a hotel for an Investment Manager.

Dilapidations Advice

Liability to repair under the terms of a lease can vary significantly under current statute and case law. Currently numerous pension fund clients benefit from our watchful eye upon their tenants repairing strategies – or lack of them!

Recent Instructions include:

Overseeing dilapidations works for a tenant to minimise their liability prior to lease expiry, after a schedule of dilapidations was served on them by their landlord. A successful handover to the landlord was achieved prior to the termination of the lease enabling the client to achieve a substantial saving on their damages claim.

Preparation of a terminal schedule of dilapidations on behalf of a pension fund for service upon a commercial tenant.

Negotiation of a dilapidations claim on behalf of a commercial tenant wishing to exercise a break option in their lease.

Defect Diagnosis

This has proved an effective service to many clients. The early diagnosis of building defects can reduce the cost and complexity of repairs and minimise disruption to building occupiers and staff.

Recent Instructions Include:

The eradication of an acute condensation issue within several flats that form part of a mixed use development.

The initial identification and organisation of remedial works in relation to an outbreak of dry rot within a residential dwelling.

Planned Maintenance

Efficient planning of a building's maintenance can prolong the life of the fabric and finishes and minimise repair costs. We have successfully prepared detailed planned maintenance programs for various buildings typically for periods ranging between 5 and 30 years, with our costs prepared by our Chartered Quantity Surveyors.

External Drainage										
	Clean and flush through				1,000.00			1,000.00		
Redecoration										
	Public seating within courtyard / bollards			700.00					700.00	
	Timbers forming cowshed			2,000.00					2,000.00	
	Signage / lighting standards etc.			3,000.00					3,000.00	
Services										
Wiring / light fittings	Upgrading and repairs / Maintenance and replacement of fittings		10,000.00	300.00	300.00	300.00	300.00	300.00	300.00	300.00

Neighbourly Matters

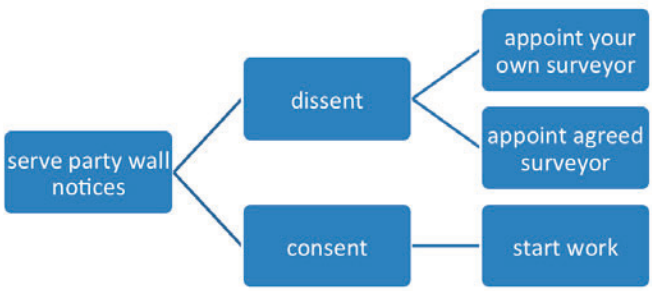
Party Wall etc. Act 1996

So why employ a party wall surveyor? The Party Wall etc. Act 1996 was a carefully written piece of legislation. Can you do it all yourself?

Cardoe Martin Burr have a Neighbourly matters division which deals solely with Party Wall matters. We are extremely experienced and have a dedicated team which ensures that we are efficient. We are also selected as third surveyor for referrals in disputes and as expert witnesses. As Chartered Building Surveyors we also have an excellent knowledge of building pathology and defect analysis to aid in the party wall process.

You can do some of it yourself, but there are a lot of pitfalls. You can serve notice by yourself, but once you have served notice and dissent occurs, surveyor(s) must be appointed, as you cannot act on your own behalf, whether as building owner or adjoining owner.

The Act wasn't written to cover every eventuality. This can lead to conflict between surveyors and how it is interpreted. Some surveyors, not all, use the differences in interpretation to create a situation and difficulties that are unnecessary. Below is a flow chart showing the initial process:



So, starting at the very beginning, taking this from the stance of being the person who wants to undertake the work, you firstly need to decide whether or not you are going to serve party wall notices – do you know enough about the process? There are statutory timescales to be followed and different types of notice. Cardoe Martin Burr are very experienced in the process and can take the headache out of potentially getting it very wrong!

So there are 3 types of notice:

Party structure notice – this is for work to the party wall, party fence wall or party structure. It carries a statutory time-scale of two months.

3m/6m Notice – This is for excavation within the distances specified. The 3m rule applies where foundations go lower than the adjoining owner's property and the 6m rule is within 45degrees. So if the excavation is within 5m and 5.5m deep, the Act applies. This carries a statutory notice period of one month.

Line of junction Notice – this applies when building on the line of junction, whether astride it or close to it, and if foundations project onto the adjoining owners land. It is nearly impossible to serve a party wall notice unless you determine the location of the boundary, ie. is it a party wall, party fence wall or boundary wall? If you don't get it right then the notice is invalid or the award is meaningless, that is where Cardoe Martin Burr can advise you properly. This carries a statutory notice period of one month.

Whilst there are statutory notice periods, it isn't as simple as that. Once notice has been served the adjoining owner has 14 days to respond. If they do nothing that DOES NOT mean you can just get on with the work. You have to give them a further 10 days to respond. If they still do nothing you are obliged to appoint a surveyor to act on their behalf – it does not mean consent.

Whilst on the face of it, serving notice shouldn't be that complicated, the Act is open to interpretation, which is why we are here to advise as we have significant experience in the field.

Raising a wall upwards or along the boundary line – The boundary has already been built on whether it is going up to the sky or down the line of junction on either the building owners side or the adjoining owners side, so is notice needed under s1(5)?

Is notice required to put a mansard roof on top of a block of flats? – This depends on who owns the roof space and what the deeds say. If you do not own the space you do not have the right to extend into it.

Definitions of 'party structure' – 'a party wall and also a floor partition or other structure separating buildings or parts of buildings approached solely by separate staircases or separate entrances'.

Definition of adjoining owner – 'adjoining owner' vs 'adjoining occupier', respectively mean any owner and any occupier of land, buildings, storeys or rooms adjoining those of the building and for the purposes only of section 6 within the distances specified in that section'.

This argument could also be extended to foundations and enclosing walls – what if you, as a leaseholder, only own the 'surfaces'?

How long is a letter of appointment valid for? We would say until an Award is in place. A notice could expire but does that stop you from reserving notice if you have already appointed a surveyor? You shouldn't assume that the adjoining owner would appoint the same surveyor again.

Even if you have a property portfolio you should sign a letter of appointment for each of the properties to avoid any confusion about ownership. Companies quite often have a portfolio of properties that may be held in different names under a 'holding company', and it is important that you get ownership details correct otherwise the process is invalidated. Likewise, if part way through the construction project you decide to sell the building, the process starts 'de Nouvo'. So you should think carefully about the issue of ownership if you are a developer.

That is different if you are an adjoining owner. I have known some adjoining owners consent to a notice or appoint an agreed surveyor and then they sell the property, and the new owner, once an award is served, is left with the decisions made by someone else.

So whether you're a building owner or adjoining owner, you need to know who can sign a letter of appointment or acknowledge a notice:

Who can sign for;

Companies – a Director

Executors – a trustee of the estate or a solicitor

Guardians – only those named

Charities – only those individuals named

Trust funds – normally a solicitor

And finally – the mad woman who dies and leaves her property to the cat.....

Minor bureaucratic errors – this can be as simple as business partners putting the property in individuals names rather than a company name because the bank won't lend them money, but because of the name change, notices have to be reserved or an Award becomes invalid. What if a Guernsey Based Trust is dissolved but the land registry details are not updated and the property then becomes in the ownership of another company, spelt marginally differently and now based in the States?

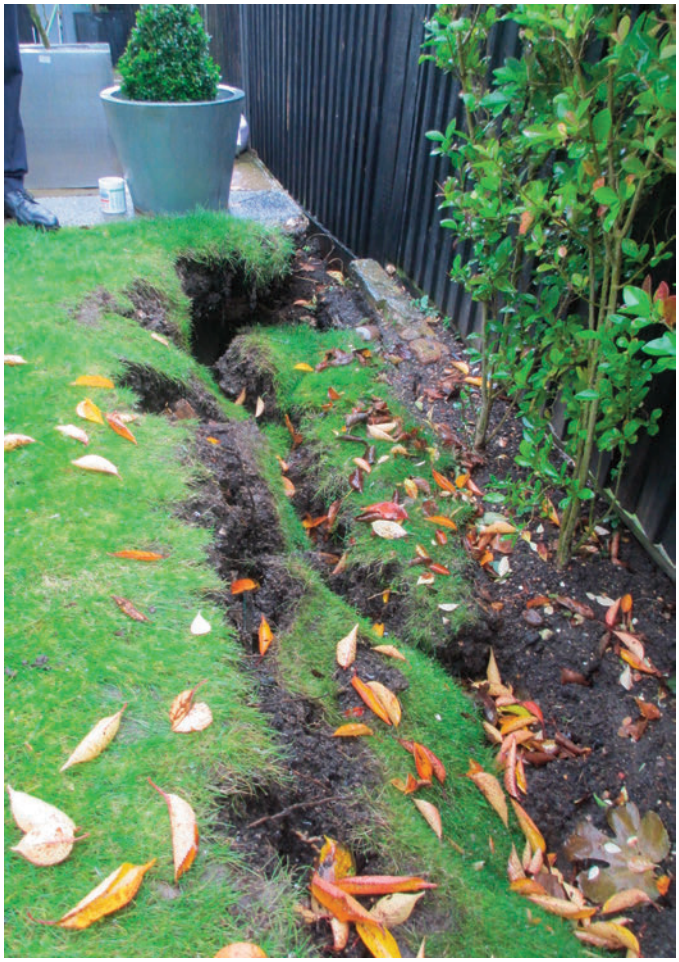
So what happens if you serve notice and then you decide not to proceed with the works? The notices can expire without any work having been undertaken by surveyors. However, if you do decide not to go ahead and surveyors are appointed, then you should be aware that surveyors will have incurred fees for which you would be liable. You cannot withdraw a notice, unless it is invalid, in which case it is void anyway. So if a notice is valid then surveyors can still award fees.

Who do you serve notice on? I find it is always more personal to do your homework using a land registry search so that you can address the notice and the letter accordingly. If you address it to the owner occupier, then you should really be fixing it to the door and taking a photograph of service rather than relying on the post. Sometimes, land registry information can become out of date and no-one bothers to update it. However, when that happens and you have served notice based on this information, then you have done so at the last known address and thus the notice is valid.

So those are the basics and the pitfalls, but it is much more complex than that. There is a lot of case law now for which surveyors use the precedent.

What if an adjoining owner consents to a notice and then damage is caused? Onigbanjo vs Pearson upheld that the Adjoining Owner is still protected by the Act. If owners can agree repairs then there is no dispute. If they can't, then both parties should appoint surveyors to act, and if necessary, the Adjoining Owner should serve notice on the Building Owner to put right damage.

What happens if your work does cause damage – can your builder put the damage right? That very much depends on the adjoining owner and how well you have got on during the project. The adjoining owner could obtain quotations for the repair work or could accept compensation in lieu.



How often is damage caused? In my experience, relative to the volume of party wall projects, damage is fairly rare. How much damage caused varies and depends on the proposed works, how carefully the works were considered, and the method statements that were provided. Whilst I wouldn't expect to see a method statement for a concrete padstone and inserting a beam into the party wall, that can only be completed successfully and without damage if either beam is spliced, or the 'slot' in the party wall is long enough. You do not have the right to go into the party wall more than half its thickness – if you do, damage is inevitable.

Sometimes damage is caused by accident and not by negligence. Vibration can also cause damage. With larger basement schemes it is becoming more popular for works to be monitored so that trigger levels can be established and work stopped if they are reached, what are acceptable levels? Buildings move quite often due to fluctuations in temperature and weather conditions.

Can compensation be paid for necessary inconvenience? The act requires that an adjoining owner should not be inconvenienced unnecessarily and surveyors should be able to ensure that this is avoided. However, in some situations inconvenience cannot be avoided due to noise, loss of amenity or loss of rent in extreme situations. An adjoining owner should not expect to be paid compensation just because they are living next to a building site – sometimes it is unavoidable.

Security for expenses – under the Act the adjoining owner is entitled to request this prior to works commencing. Surveyors determine the amount to be held and how it is to be held. Some surveyors have client's accounts and are happy to hold the funds, otherwise the money is held by the building owners solicitor in either a client account or in escrow.

It's unfortunate that Kaye vs Lawrence came along and put a 'a cat amongst the pigeons' and turned on its head what most surveyors believe – you can't

have security for expenses for causing damage because you have no right under the Act to cause damage. Security in my view can only be used for the likelihood of non completion of the notifiable works. There is a rare occasion when an ornate garden could be destroyed by the proposed works, or a party fence wall demolished and not rebuilt, or a basement excavation started and not completed.

What does it mean when a surveyor says they are going to go 'ex parte'? Why would they want to, it's very lonely! It should be very rare that a situation arises where you have to threaten another surveyor with s10(6) or (7) and to actually then have to make an award. I find that normally an issue works itself out as most surveyors wouldn't like it if you proceed ex parte – it doesn't show them in a very good light. But if a surveyor finds themselves in that position, then there is normally a good reason why they are neglecting or refusing to Act. Before they do so, they must establish what the issues are that need to be remedied to avoid them proceeding down a course of action. Refusing to sign an award because fees are not agreed is one of the common grounds. This can be pre-empted by putting in a clause covering what is a reasonable fee, and then to suggest that if they want any additional fee that they ask the 3rd surveyor. This normally brings the desired response of an award being signed, and I am yet to have an adjoining owner's surveyor refer a matter of fees to the third surveyor. After all, neither the adjoining owner or the building owner are going to want to pay the third surveyor's fees to see what he thinks – the only one to benefit would be the surveyor.

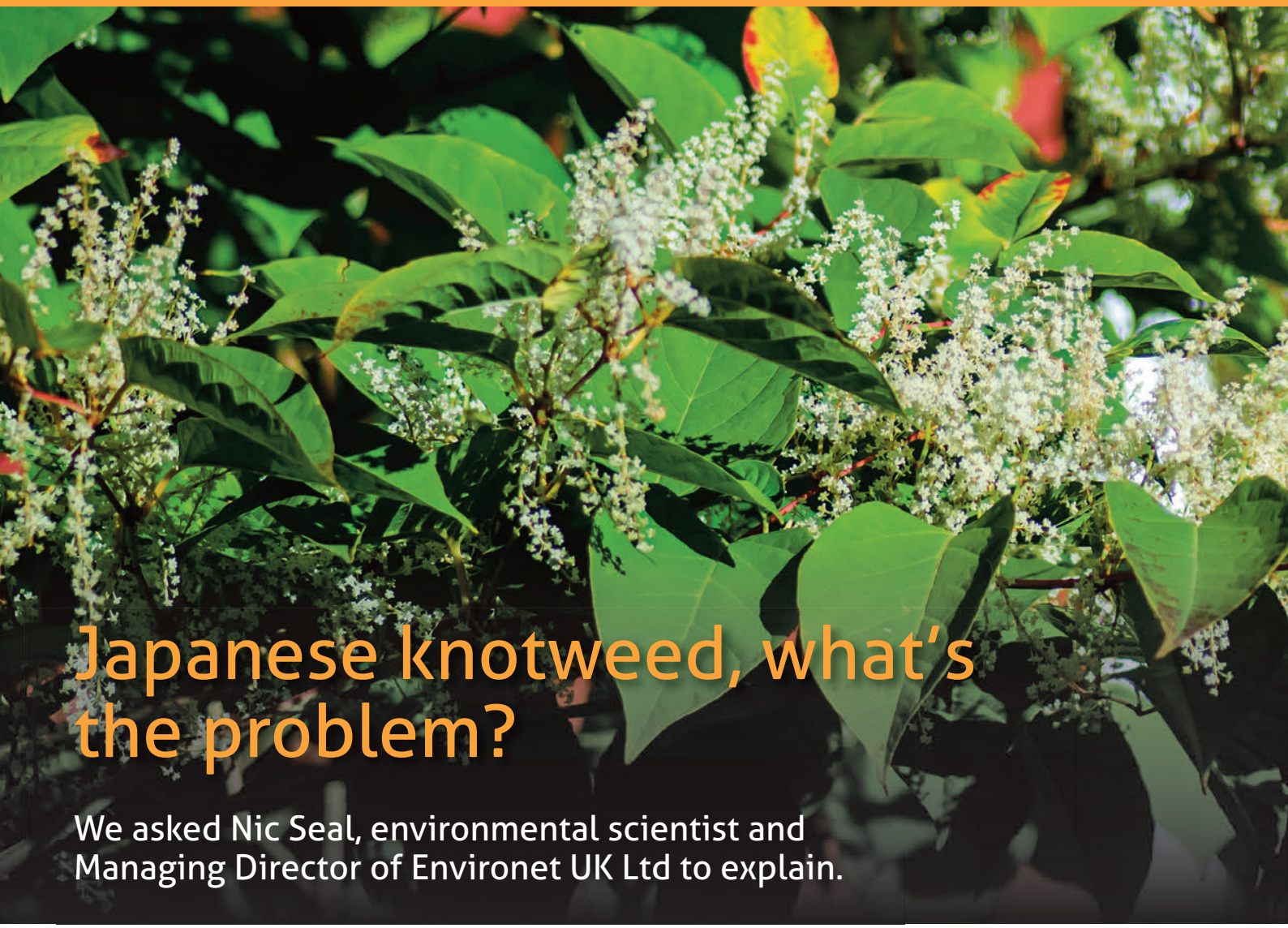
Another tricky decision – do you really want to appoint an 'agreed' surveyor? Is the matter going to be straightforward or are you putting a surveyor in the middle of neighbours' with an underlying conflict? As Party wall surveyors, we are required to act in the best interests of the wall.

To raise a party wall full width or not – think of the later implications. It's not just the unsightly appearance, but what happens when the adjoining owner wants to do the same in the future – a horrible detail between two junctions that can't be weathered properly. This doesn't just affect mansard roof constructions, but single storey extensions built up to the line of junction rather than a party wall. As soon as you see this situation you know there was disagreement between neighbours.

When should you consider serving notice under s2(2)? – it should really be of structural consequence. Does your neighbour really need to know that you want to fix some shelves or a picture to the wall?

Finally, who is the third surveyor and what do they do? When two surveyors are appointed, it is their first duty to select a third surveyor. The third surveyor in essence adjudicates when the two surveyors can't agree. Sometimes that is also because their respective owners don't like what is being proposed. They are very rarely on technical matters for interpreting the Act. Articles written by a couple of the renowned third surveyors show that these relate to fees, extent of repair, whether a notice is valid, security for expenses etc etc etc.

So you can issue your own party wall notices but after that you have to appoint a surveyor to act on your behalf. Cardoe Martin Burr are here to help.



Japanese knotweed, what's the problem?

We asked Nic Seal, environmental scientist and Managing Director of Environet UK Ltd to explain.

According to the Environment Agency **"Japanese knotweed is indisputably the UK's most aggressive, destructive and invasive plant".**

Whereas rabbits are pre-programmed to eat grass and to go forth and multiply, Japanese knotweed DNA is hell bent on **dominance, destruction and survival.**

Dominance, because it spreads like wildfire, being present in nearly every 10 sq km of the UK

Destruction, because it loves to damage human property, growing through asphalt, destroying walls and underground drains, and

Survival, because it's extremely difficult to kill, it laughs at DIY methods, and even shrugs off many so called "professional" attempts.

The success in tackling Japanese knotweed lies in understanding the plant's biology. It's no good just spraying it with herbicide and hoping the problem will go away. It's much more likely that the herbicide will just induce temporary dormancy, with the result that you'll get regrowth when you least want it.

Japanese knotweed has a propensity to grow along site boundaries, encroaching into adjoining land. Neighbour disputes lead to litigation unless an out of court settlement can be found. Whatever the outcome, the costs can be high, so it's always best to tackle the knotweed as soon as possible, rather than wait for the inevitable – more growth, more spread, more damage.

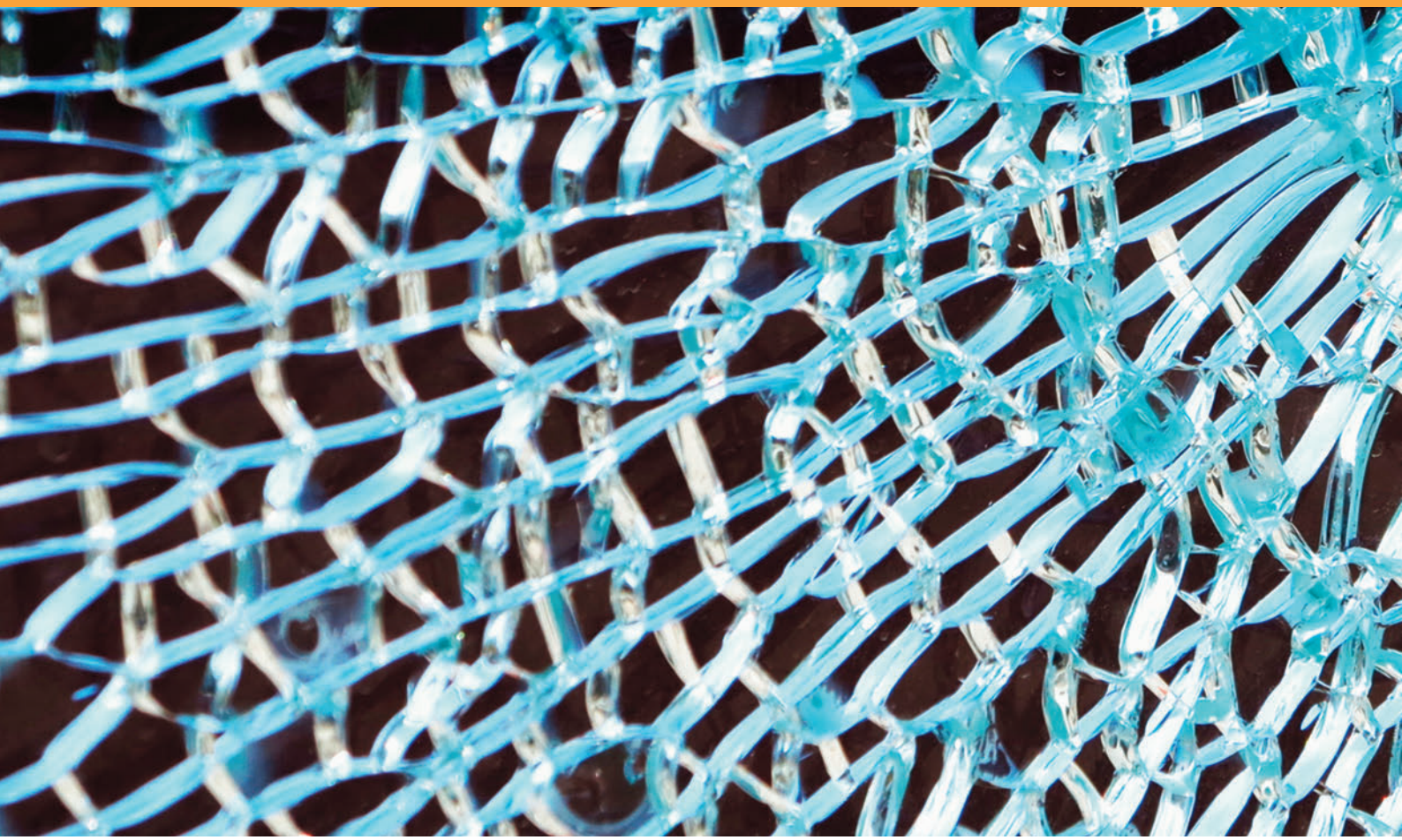
Where knotweed infested land is to be disturbed, for example during construction or landscaping works, you'll need a more robust method than

"Environet UK supports property managers, owners and developers of commercial and residential property with cost effective Japanese knotweed solutions that come with a 10 year insurance backed guarantee underwritten by Lloyd's of London".

herbicide treatment. Environet UK has been at the forefront of R&D into removal methods and has developed Xtract™, a unique and patented eco-innovative solution that enables the root/rhizome system to be removed from the ground without sending any waste material to landfill. It's half the cost of the dig and dump alternative, and does not require the use of any chemical herbicide.

Legislation, more legislation and yet more legislation... Beware of the obvious such as the Environmental Protection Act 1990 and the Wildlife and Countryside Act 1981. Beware also of the new Infrastructure Act 2015, which came into force in February 2015, and for the first time makes it a potential criminal offence to have knotweed on your land. Would you believe you could also be served an ASBO for not dealing with Japanese knotweed on your land – it's true following recent guidance issued by the Home Office. And the EU passed new legislation in January 2015 on Invasive Alien Species, we'll have to wait with baited breath to see what effect that will have.

Despite the costs, the hype and scare stories, there are solutions, just make sure you speak to the right people with the right methods and who can provide the best guarantees available. More knotweed info at **environetuk.com**



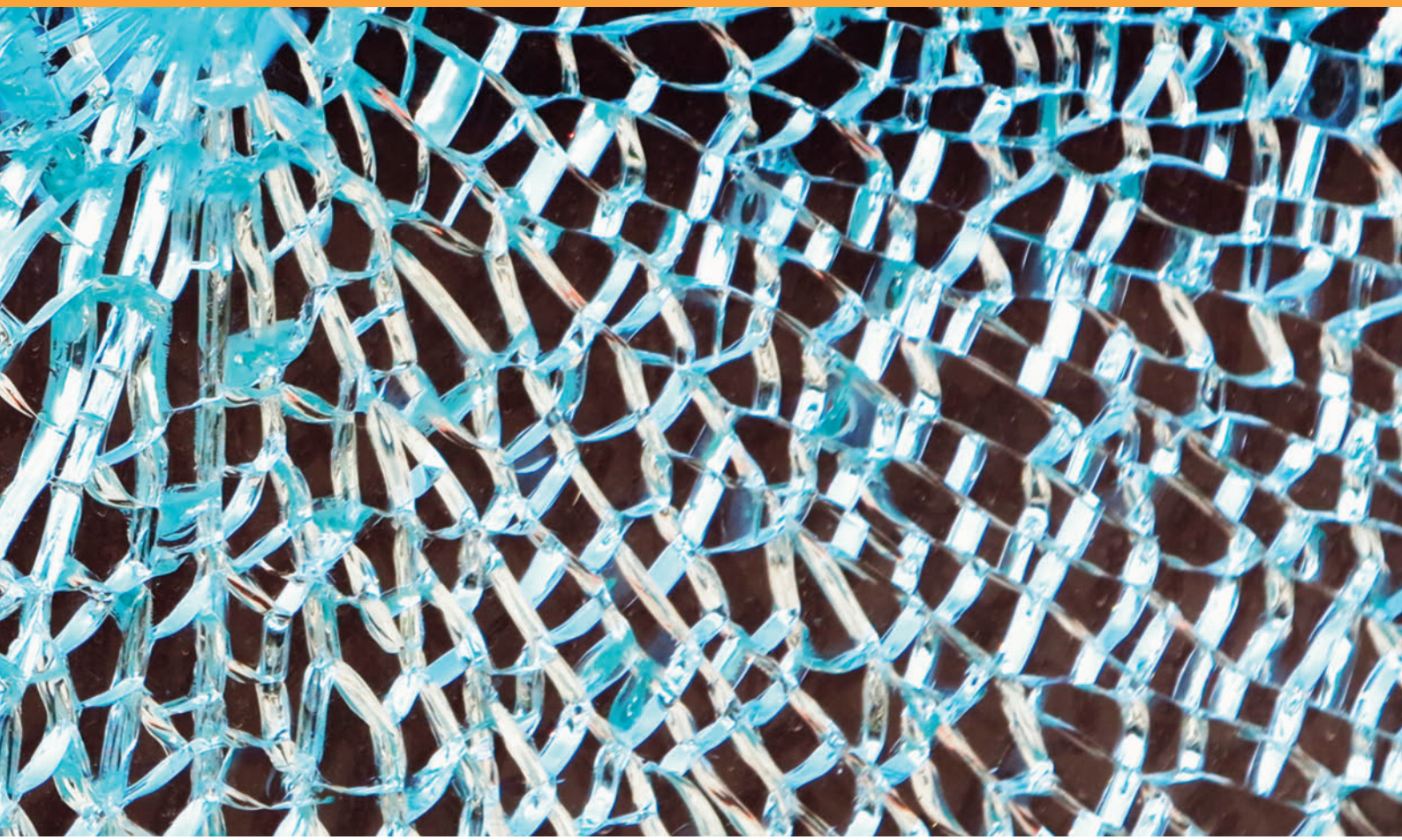
Nickel suphide inclusions in glass

Toughened or tempered glass has been an increasingly used material in modern construction, but with this ever growing popularity comes additional post construction issues. One issue which affects glazed construction elements, which can be in the form of curtain walls, balcony or railing infill panels and roofing – causing panes of glass to spontaneously shatter in their frame, is the presence of nickel sulphide inclusions within the glass.

Nickel sulphide particles occur during the process of creating toughened glass, during which the chemical constituents of glass are heated and rapidly cooled to create the harder glass structure in the finished product. During the tempering process, the particles of nickel sulphide shrink beyond their natural size, and as the glass is 'set' at this stage, the molecule is encapsulated within the pane in this much smaller form. Over a period of time, as long as 5-10 years after manufacture, this particle slowly expands to its original size. In the event that the expansion cannot be accommodated, the particle expansion forces the spontaneous shattering of the glass panel into small, generally blunt, cube shaped pieces.

The resultant damage, if the pane remains in situ, displays a distinctive cuboidal patterned fracture with a characteristic 'butterfly' pattern at the point in the glass where the particle has expanded and caused this dramatic failure.

Unfortunately, nickel sulphide inclusions are impossible to detect during the manufacturing process



and the arising damage cannot be avoided. As such, glass manufacturers and insurers exclude this damage from policies and warranties. Without any answer from the industry to offer glass guaranteed to be free from these inclusions at the present time, there is little which can be done.

On the positive side, it is thought that the phenomenon affects around 1 in 500 panes in a batch at the manufacturing stage, making eventual failure due to nickel sulphide inclusions a rare event. High profile cases involving this phenomenon, such as the failure of the glazed roof at the Waterloo Station International Terminal mean that manufacturers, architects, and building managers have become aware of this inherent risk in extensive use of glass as a building material. In many instances, structural glass is often used in a laminated form (where two panes areas are bonded to each other with a sheet of PVB) or an anti shatter film is applied, both of which can prevent any shattered glass from falling out of its frame. This prevents risks to public safety and permits diagnosis of the mechanism of the failure.

Alexandra Redmond BSc(Hons) MRICS
Chartered Building Surveyor

The Pyramus Party

Sara Burr, London Chair and Vice Chair of the Pyramus & Thisbe Club highlights their 40th Anniversary Conference

On the 20th March 2014 we held the 40th Anniversary Conference of the Pyramus & Thisbe Club. It was held at the Institution of Civil Engineers, Great George Street, London. The venue holds 240 delegates and was sold out 6 weeks before the event – in fact we had a waiting list which was closed when it got to 30. It is a members only event. It is held every other year and whilst it is held in London many members travel quite some distance to attend. Michael Kemp, the current London Chair ran the morning session and I as Chair in waiting, ran the afternoon.

Our various speakers were introduced by sporting commentators, Andrew Schofield and David Moon, to add an informative yet entertaining start to each session.

The day started with Alan Gillett, a founder member, giving an insight into when and why the club was started and by whom. In 1974 there was a committee formed and 100 members allowed to join. It should be remembered that at that time it was the London Building Act 1937, for which the clue is in the name! The Act went nationwide in 1996 and was then renamed.

'What is a land surveyor' was next up with David Powell giving an insight into the life of a land surveyor and his travels across the world, to countries that you would never imagine there being boundary disputes. It is a shame to think that it is a dying breed.

We always enjoy a legal update and to hear the latest opinions on particular issues. James Beat and Richard Webber gave an informative joint talk on 'Appeals' and 'Injunctions' with a snooker theme. Of course we all know that lawyers look for positioning as part of their game plan, so that was most apt. It was also useful for surveyors to understand the process of both matters and the costs that can be

incurred and what happens with those costs ie who bears them.

Piling Techniques cover a wide variety of issues and Derek Glenister covered them all in great detail, including whether or not some of the types involve excavation and should be notified or not.

Along with myself, Hugh Cross, David Moon, Ashley Patience and Chris Zurowski then entertained the delegates with a pre lunch slot focused around obscure party wall situations. Warring neighbours, deep basements, access to carry out the work, attending with police, selecting the third surveyor were just a few of the topics covered.

Lunch was a jovial affair centred around a buffet sit down lunch. As always the staff are always very well organised and the varied menu and quality of the food well received. It is quite a feat to ensure that 240 people all have enough to eat.

The grave yard slot after lunch was filled by William Minting and Mikael Rust with Alistair Redler acting as 'ref' to ensure that the topic of 'There is devilry in the detail' was kept in line.

Edward Cox and Nick Isaac did battle over Awards with the pitfalls and the different formats and clauses and the pitfalls from a Surveying and Legal perspective.

Two of the younger surveyors, Jack Norton and Stuart Cobbold, talking about their experiences of becoming party wall surveyors and some of their concerns.

I started the round up to the day presenting the new P&T ebook which Adjacent Digital Politics Ltd have produced; David Moon updated on Whispers, the success of evening events and the Subterranean Development Bill; Andrew Schofield updated us on the Boundary Dispute Resolution Bill and Michael Kemp rounded up the event with a summary of what we have achieved as a branch.

All of the speakers have been asked to write articles based on their talks for the next edition of Whispers. So if you are interested in reading what they really had to say, then please contact me or another member of the Pyramus & Thisbe Club and sign up today!

Sara Burr BSc(hons) FRICS
London Chair and Vice Chair
National and London
Committees of the
Pyramus & Thisbe Club
Tel: 028 4063 2083
info@partywalls.org.uk
www.partywalls.org.uk

Projects

The Projects division of Cardoe Martin Burr specialise in administering works to residential mansions blocks, estates and large developments and providing all other building surveying management services. We have overseen complex renovation and refurbishment projects upon vacant and occupied buildings, including schemes requiring sensitive handling of occupiers requirements. Recent assignments include listed and character buildings, prestige and mixed use developments.

External projects

Recent instructions include:

Repairs and restoration to Grade II listed central London residence

External repairs and decorations to a prestigious west London mansion block

Internal Projects

Cardoe Martin Burr endeavour to build strong working relationships with Property Managers, Client Representatives, Resident Organisations, Landlords, and Occupiers to ensure that our schemes are prepared and managed as efficiently as possible. We understand the balance that must be achieved between successful completion of the project to agreed costs and standards, whilst minimizing disruption to building occupiers.

Recent instructions include:

Internal repairs and redecorations to a prestigious West End residential block

Comprehensive refurbishment scheme to landmark Chelsea mansion block

Licence for alterations

Under the terms of most residential and commercial leases, the Lessee (tenant) is required to obtain the Landlords approval prior to undertaking significant alterations to the building. Cardoe Martin Burr provides specialist advice to Landlords and Tenants upon such matters to allow consents to be issued and we check the works in progress and at completion.

Recent instructions include:

Structural alterations to a West London block in a conservation area

Advising the landlord and their solicitors on proposed alterations to a flat internal gas supply

www.cardoemartinburr.co.uk