

Summary of S Pole paper for Whispers on basements and Special Foundations (my opinion only). June 2011.

1. Role of Surveyors- to BOTH look after the reasonable interests of the AO whilst allowing the BO re go about his reasonable business.
2. 100 years of case law and pontification by the legal profession conclude that the role of the Surveyor(s) is one of performing like a quasi ARBITRATOR (but not dealing with matters of 'contract'. Evidence is not heard and findings not published) and is more akin to one of 'EXPERT DETERMINATION'. This requires professionalism and no bias. Similar to CPR 35 for Experts. The role of the Surveyors is therefore to Act cautiously to protect te interests of the AO when considering PW notifiable work.
3. The Act is for dispute resolution and is not a technical instrument. Section 20 uses outdated lay person English language' interpretation' dating from the 1930 London Building Acts (section 1) to describe important engineering terms which is insufficient to define their engineering characteristics and the way they can compromise the Adjoining Owner. Top down basements were not considered in the 1930's.
4. Works below ground involving excavation and concreting is called foundation works (Underpinning!). It is preposterous to suggest that the geometrical proportions of such construction turn a foundation into a wall. To even try and argue this is to be the BO Advocate, to avoid SF discussions. There can be no other reason for wanting to do so? Structural blinding and spurious blocks of mass concrete ditto! NB A retaining WALL is a FOUNDATION (!) in engineering language. It is not 2 separate components stuck together without interdependent function. The combined stem (not wall) and base resist 3 types of forces IN COMBINATION- vertical loads, twisting (overturning) forces (from eccentric vertical loads and soil weight, and horizontal loads causing sliding.
5. The AO rights possibly go too far, in allowing them to simply refuse Special Foundation without reason. Many such proposed do not compromise future AO rights. SOME DO and increasingly more so with basements and piling. This is why I see so many BOS use tricks of the trade to avoid Special Foundation discussions.
6. The Act does not go far enough or rather is inexplicit with regard to how the rights of the AO are protected in section 7. It should include financial loss (in 7(2)) if proposals prevent reasonable future enjoyment (eg to convert ones loft or basement). The AO might have to underpin/ strengthen etc BUT it must be reasonably feasible to do same. Some schemes prevent future development of the AO property which or not Special Foundation under the Act and this is a particular concern. Others avoid scrutiny because of the 'tricks of the trade' deployed to avoid SF discussions.
7. If I lived next door to someone converting their loft and was told that their work would physically prevent me from ever enjoying the same loft conversion (even with underpinning), I would suffer loss of enjoyment and loss of value to my home. This would seem inequitable in my view. Special foundations' sometimes cause this.

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