

Third Party Walls and the Scaffolding Contractor

Issued – September 2025

1. INTRODUCTION

This guidance has been prepared to enable scaffolding contractors and others to understand their obligations when accessing land belonging to a third party, and their duties under the Party Wall etc. Act 1996 (applicable to England & Wales only) and Access to Neighbouring Land Act 1992.

Scaffolding contractors are usually acting on the instruction of their customer (the property owner) and most litigation is between the owners of the respective properties, rather than the contractors or subcontractors.

However, that does not stop the scaffolder being the “first person on the ground” and being subjected to initial anger from neighbours arriving home to find scaffolding erected on their property. Moreover, scaffolders are often the first to deal with a police presence if tensions escalate (even if the trespass is a civil matter).

Therefore, the NASC recommends that scaffolding contractors ensure that their terms and conditions (T&C's) are such that they are not responsible for arranging and agreeing access over neighbouring land, and their client or the principal contractor is wholly responsible to have this arranged if required.

There is not always a right to enter neighbouring land. In the event that access is required and denied, it would then be prudent to speak to a specialist surveyor or solicitor.

2. PLANNING REQUIRED BY THE DOMESTIC CLIENT (E.G. HOME OWNER), NEIGHBOUR, PRINCIPAL CONTRACTOR, CONTRACTOR, AND LANDLORD

All construction work should be planned in advance in line with the Construction (Design & Management) Regulations 2015 (CDM).

NOTE: With domestic clients (e.g. home owners), CDM duties normally fall to the contractors on site (see Appendix A).

With regard to planning arrangements, typically “neighbour A” would speak to “neighbour B” and ask permission for a scaffold to be erected on neighbour B’s property.

In the majority of cases where the neighbours are civil then they would agree terms directly between one another. This may be a verbal conversation.

However, the NASC recommend that this agreement is recorded in writing and provided to the principal contractor or contractor where applicable. Often it is in both neighbours’ interests to ensure works can be properly undertaken with neighbour B also benefiting from living next to a well-maintained property.

If access cannot be agreed directly between the neighbours, or there is a misunderstanding of the terms of such access, then a dispute arises and input from a specialist surveyor or solicitor may be required to assist in such matters.

3. LICENCE AGREEMENT

In many circumstances, there is no specific right of access to place scaffolding on neighbouring land and therefore any agreement and acceptance is a privately negotiated agreement between neighbour A and neighbour B.

The NASC recommend any access agreement is recorded in the form of a licence agreement (i.e. a written document) so there is no ambiguity over the agreed terms.

The licence should include as a minimum:

- the area in which scaffolding is to be erected,
- the start date of works,
- the access areas and arrangements for entering neighbour B's property,
- any consideration given or requests from neighbour B,
- any protections agreed to the scaffolding and property,
 - o e.g. plastic caps fixed to scaffold tubes butting against neighbour B's property to stabilise the scaffold
- duration of scaffolding,
- provisions for any overrun to the scaffolding period.

Arrangements could be detailed on how neighbour A's contractors will work considerately and take measures to prevent debris falling into neighbour B's property. It could also detail the arrangements to remove debris from neighbour B's property in the event this occurred, including cleaning arrangements.

If permission is granted by neighbour B for scaffolding to be erected on their property, and the scaffold remains in place longer than agreed, then this may breach the terms of the license agreement and could constitute a trespass.

The risk of ensuing litigation would depend on the circumstances of what was agreed with neighbour B prior to placing scaffolding. Ideally, access and possible overrun should be recorded in writing in a licence so that overrun can be dealt with via an agreed mechanism ahead of time.

Depending on the potential complexity of the project, it may be prudent to engage a specialist surveyor or solicitor to draw up the licence agreement.

NOTE: The licence agreement could also include the arrangements regarding the overrun of the scaffold in the event that the principal contractor (e.g. the builder) goes into liquidation, which might include payments to neighbour B for the additional delay.

4. SCAFFOLDING AND LEASEHOLDERS/TENANTS

Licence agreements allowing the erection of scaffolding are not usually required between a property owner and the leaseholder/tenant unless the location of the scaffolding is specifically included within their leasehold demise.

If the property owner is undertaking works affecting leaseholders and/or tenants, any arising issues will depend on the rights given in the terms of the lease or rental agreement.

If there are issues regarding scaffolding it may be prudent for affected parties involved to speak to a specialist surveyor or solicitor for legal advice.

5. INFRINGING ACCESS

Scaffolding should not be placed in any locations which infringes the ability of a neighbour to access or exit their property. Doing so would likely mean they are unnecessarily inconvenienced and could also present a fire evacuation risk.

If it is not possible to erect scaffolding without blocking doorways and pathways, then this temporary restriction should be risk assessed.

If necessary, it is recommended this temporary restriction in access should form part of any agreement with neighbour B.

NOTE: The above arrangements are unlikely to apply where safe access is of primary importance, such as for care homes and similar establishments, which require unimpeded access.

In the event of restricted access causing potential safety issues for neighbour B, they should consider speaking to neighbour A, and/or the principal contractor's site manager (and principal contractor's liaison officer if available).

If this fails, neighbour B may have to escalate their concerns and contact the local authority environmental health officer (EHL) or refuse the terms of such access.

6. TRESPASS

Where scaffolding has been erected on a neighbour's property without permission, the NASC recommends that neighbours resolve issues amicably and avoid legal action and potential costs.

Where this is not possible, neighbour B could then speak to the local council, specialist surveyor or solicitor for advice before considering taking legal action.

7. AIRSPACE TRESPASS

The ownership of a property usually includes the airspace above it.

Where neighbour A arranges scaffolding without consulting neighbour B, which protrudes over neighbour B's airspace, this could constitute a trespass.

Therefore, neighbour A may need to agree a licence with neighbour B, even if the scaffolding does not physically touch neighbour B's ground or property.

8. POTENTIAL DAMAGE TO NEIGHBOUR B'S PROPERTY AND INSURANCE CLAIMS

Where the façade of the building is the boundary line between neighbour A and B, but the façade is part of neighbour B's property there is unlikely to be any risk of trespass with scaffold tubes that butt against the façade (provided they do not cross the legal boundary).

NOTE: Scaffold tubes should never butt against fragile surfaces such as windows and plastic vents, and must never block fire escapes or flues.

Typically, plastic end caps are fitted to the end of scaffold tubes butting against buildings to eliminate the risk of damage.

NOTE: Scaffolding contractors should avoid butting against neighbouring properties, and instead should stabilise the scaffold by fixing mechanical or anchor ties where possible, to prevent potential conflict with neighbours.

Where scaffolders have butted "bare" scaffold tubes against neighbour B's property (such as against brickwork) the NASC recommends that neighbour B asks neighbour A to arrange for the tubes to be removed or plastic caps to be fitted where required.

Where neighbour A refuses, it may be sensible for neighbour B to take photographs – but without trespassing on neighbour A's property – so that evidence can be provided to their insurance company in the event of damage.

NOTE: The above measures could also apply to similar façades such as sheds, fence panels and posts, conservatories etc.

9. WHO TO CONTACT IF YOU HAVE SAFETY CONCERNS

Where neighbour A arranges scaffolding on their own property, which does not impinge on neighbour B's property, neighbour B has no rights to demand any additional control measures.

However, UK legislation requires that construction and maintenance work should be done in a safe manner.

If neighbour B is concerned during scaffolding operations and/or construction works that works are being carried out unsafely or risk causing harm to others, neighbour B should first attempt to resolve the issue directly with neighbour A or the contractor responsible. If the problem can't be resolved directly, or if the scaffolding poses an immediate danger, neighbour B should contact the local council's building control department. They can also investigate and take action if a structure is considered hazardous. The contact details for the building control department can usually be found on your local council's website.

Where neighbour B remains concerned or the issue persists then they should contact the Health and Safety Executive and explain their concerns: <https://www.hse.gov.uk/contact/tell-us-about-a-health-and-safety-issue.htm>

10. PARTY WALL ETC. ACT 1996

If neighbour A is undertaking works under the Party Wall etc. Act 1996 (applicable to England & Wales only) then scaffolding contractors should ask neighbour A, or the principal contractor, for a copy of any Party Wall Awards which have been served.

An Award is a written document agreed by Party Wall Surveyors which will clarify the extent of any agreed scaffolding over neighbour B's property.

11. ACCESS TO NEIGHBOURING LAND ACT 1992

If neighbour B refuses access, then depending on the type of work being undertaken neighbour A can apply for an order under the Access to Neighbouring Land Act 1992.

Such access can only be granted if it is reasonably necessary for the preservation of a property (not being development) and neighbour B is refusing to permit this without fair reason.

In this instance, we would recommend a specialist surveyor or solicitor is consulted with regards to specific advice and application.

12. REFERENCES AND FURTHER GUIDANCE

Legislation:

- Access to Neighbouring Land Act 1992.
- Building Regulations 2010, including approved document M.
- Construction (Design & Management) Regulations 2015.
- Health and Safety at Work Act 1974.
- Party Wall etc. Act 1996 (applicable to England & Wales only).

HSE Guidance:

- Domestic clients: roles and responsibilities: <https://www.hse.gov.uk/construction/cdm/2015/domestic-clients.htm>
- Scaffolds: <https://www.hse.gov.uk/construction/safetytopics/scaffoldinginfo.htm>

NASC Guidance, including:

- CG12 Contract Clauses.
- CG13 Pre-Tender Information from Client.

NOTE: NASC guidance is generally updated every five years so please consult website for latest version.

The NASC thanks **Anstey Horne** (www.ansteyhorne.co.uk) for their kind assistance in producing this guidance note.

APPENDIX A – CONSTRUCTION (DESIGN & MANAGEMENT) REGULATIONS 2015

Duties under CDM

It is important that scaffolding contractors understand their duties under the Construction (Design & Management) Regulations 2015 (CDM): <https://www.hse.gov.uk/construction/cdm/2015/index.htm>

Typically, scaffolding contractors are contractors under CDM, and their duties are:

- plan, manage and monitor construction work under their control so it is carried out without risks to health and safety,
- for projects involving more than one contractor, coordinate their activities with others in the project team – in particular, comply with directions given to them by the principal designer or principal contractor,
- for single contractor projects, prepare a Construction Phase Plan.

NOTE: the NASC recommend that scaffolding contractors consult the HSE's guidance <https://www.hse.gov.uk/pubns/cis80.pdf> and include anything relevant in their site-specific Risk Assessment / Method Statement (RAMS) which will act as the Construction Phase Plan.

Domestic Clients

It is also important that scaffolding contractors are aware of the distinction between domestic clients and commercial clients (<https://www.hse.gov.uk/construction/cdm/2015/commercial-clients.htm>), who commission construction work as part of their business.

A domestic client (<https://www.hse.gov.uk/construction/cdm/2015/domestic-clients.htm>) is any individual who has construction work carried out on their home, or the home of a family member, that is **not** done as part of any business. While CDM 2015 places client duties on commercial clients in full, such duties for domestic clients normally pass to:

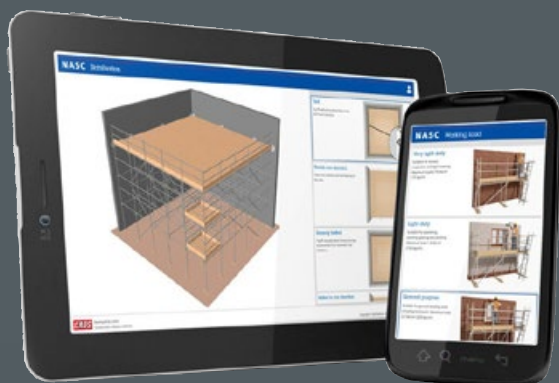
- the contractor (<https://www.hse.gov.uk/construction/cdm/2015/contractors.htm>), if it is a single contractor project, who must take on the legal duties of the client in addition to their own as contractor. In practice, this should involve little more than what they normally do in managing health and safety risks.
- the principal contractor (<https://www.hse.gov.uk/construction/cdm/2015/principal-contractors.htm>), for projects with more than one contractor, who must take on the legal duties of the client in addition to their own as principal contractor. If the domestic client has not appointed a principal contractor, the client duties must be carried out by the contractor in control of the construction work.

If a domestic client has appointed an architect (or other designer (<https://www.hse.gov.uk/construction/cdm/2015/designers.htm>)) on a project involving more than one contractor, they can ask them to manage the project and take on the client duties instead of the principal contractor. The designer then takes on the responsibilities of principal designer (<https://www.hse.gov.uk/construction/cdm/2015/principal-designers.htm>) and must have a written agreement with the domestic client, confirming they have agreed (as principal designer) to take on the client duties as well as their own responsibilities.

Any designer in charge of coordinating and managing a project is assumed to be the principal designer. However, if they do not have a written agreement with the domestic client to confirm they are taking on the client duties, those duties automatically pass to the principal contractor.

Further guidance for domestic clients is available at: <https://www.hse.gov.uk/construction/areyou/domestic-client.htm>

Guidance that makes a difference



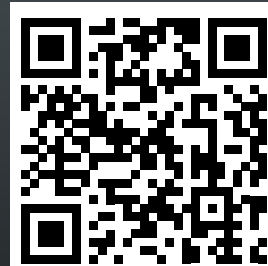
- Comprehensive industry guidance, recognised by the Health & Safety Executive (HSE)
- Targets all safety and commercial risks, ensuring your business remains safe and profitable
- Meticulously researched and written by experienced professionals, focused on improving the scaffolding industry
- Aimed at the busy general manager with user friendly, step-by-step advice
- Cutting edge technical guidance on best practice, including ePortal and compliance sheets, that could save you thousands of pounds
- Guidance used by the whole industry – but NASC members receive much of it free and the rest at a huge discount of up to 82%.

“Setting the Standard for Scaffolding”



National Access & Scaffolding Confederation
4th Floor, 12 Bridewell Place, London. EC4V 6AP

Tel: +44 (0)20 7822 7400
Email: enquiries@nasc.org.uk



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