

NEWSLETTER

Spring 2008



SILVERSTONE CONFERENCE 14th MAY 2008

Repairing old - and new – buildings

Not every day does a surveyor get to advise on Stonehenge, but for Bob Bennett this is 'par for the course' – just one of many well-respected speakers who will be attending the ISA annual conference at Silverstone on May 14th.

Bob Bennett MBE – a veteran in building conservation, raconteur, keeper of llamas and avid private pilot, who intends flying to Silverstone Race-Course in his Cessna 172, and is providing his services for 'a tank full of fuel' was awarded the MBE in 2002, for 'long service to building conservation', and has worked on a number of high profile buildings internationally, including Windsor Castle, the Statue of Liberty, recreation of The Globe Theatre, as well as the pile of rocks featured above. He established and runs The Lime Centre, at Morestead, near Winchester, attracting participants for training courses from all over the world, and lectures internationally.

There are many topics which Bob is qualified to talk about, as those of us who have attended his courses can testify, but at our request, on the 14th, the topic is lime mortars, plasters and renders – subjects of concern and interest to all surveyors. **Don't miss Silverstone 2008** - over 7 hours of LLL – it could be one of the best days of professional development so far.

Chinese Plywood

Paul Franklin, technical manager for the Flat Roofing Alliance (info@fra.org.uk), has written to ISA to offer the following warning:

In early 2000 there was a huge influx of 'Elliotti' plywood from Brazil. After several reports from members regarding its low quality, we issued a full statement and recommended that contractors steer well clear of this type of board.

A similar situation has arisen with Chinese Plywood imports. Certain price-only suppliers and merchants are offering this product at cut prices without understanding its (lack of) quality or its origins.

There are two key issues regarding Chinese plywood that you need to be aware of:-

Grades/ Quality:

Hardwood plywood has been coming from China for a couple of years, but softwood plywood, manufactured from pine or poplar core with a pine face, is starting to appear. The supply is from a variety of different manufacturers, and as a result, quality is variable.

Some batches are arriving in this country with what would appear to the layman, or even to the experienced contractor, as a "CE" mark. It appears thus:



The mark does NOT indicate that the product has undergone a full and thorough testing to achieve a European mark, but stands for 'Chinese Export' and is intended to mislead the merchant and the end purchaser/user

There are no quality controls on these sheets; no test reports, no BBA certification, no Forestry Commission cert – i.e. nothing to support suitability for structural use, or for use in a humid environment. Naturally UK membrane manufacturers will not warrant a roof founded on such materials, no matter how well installed it may be.

Environmental issues

GreenPeace has recently issued a detailed 20-page exposé of a number of UK Timber importers who have allegedly been importing illegally-sourced plywood.

Their report alleges that much of the Chinese product arriving here is from protected rainforests in Papua New Guinea (PNG). Illegally felled logs are shipped to China for processing and then to customers including the UK.

Producers of quality plywoods (e.g. Finnish, American Plywood Association, etc) all produce stable, durable sheets, as do Norbord and Smartply, the producers of fully-certified OSB3 boards. Be warned!

Legal Matters



Rights of Way; The 1910 Finance Act

Sometimes a review of old legislation throws up useful information which is of value a century later - the Finance Act of 1910 for example. In this case, the Act provided for levying an incremental tax each time a piece of land changed hands, excluding any increase in value resulting from crops and buildings, and it applied to all land except agricultural land at agricultural value and to some smallholdings of less than 50 acres.

Of course, the initial assessment, which became known colloquially as the “Second Domesday” was hotly disputed, as indeed was the legislation to enact it; nevertheless in the period between 1910, and when the Act was repealed in 1920, the whole country was surveyed by the Valuation Department of the Inland Revenue. The fact of statutory authority meant criminal sanctions against falsification of evidence, and this alone, means that there can be little argument about the legal validity of the plans and records which were produced.

Seven thousand assessors were appointed nationally - local people with local knowledge to undertake the critical task of identifying each hereditament – (why does this remind us of Home Inspectors?); their duty being to plot and record every piece of land; to allocate a unique holding number, and to provide ownership and occupation details.

100 years on, the interest in these old records, where they remain available, lies with the fact that ‘Tax Relief’ was allowed where land was subject to any public ‘right of way’ i.e a deduction would be made from the Gross Value to reflect the amount by which the land value was diminished, if sold subject to the rights of others across it. The deduction could be significant: for instance in *Lumsden-v-IRC* (1914:AC877), £90 was allowed as a deduction from a total incremental value of £215.

The financial implication, or eventual “carrot” thus encouraged landowners to make full and frank disclosure of rights of way, so that valuable information can be deduced from the old records, in circumstances where proof of a right of way is required, subject of course, to the exception of those landowners, who on balance, found tactical preference in paying more tax rather than admitting the existence of a right of way (rather like the initial inverse snobbery of not appealing against a high Council Tax band for fear such a move might diminish ‘market value’ in the eyes of the neighbours).

The view is that the Finance (1909-10) Act 1910 records (ie Field Books and plans, including the 2nd edition O.S sheets) can be useful to rights of way researchers in establishing and retaining public rights of way – or indeed in assisting to disprove such rights if the documents are silent.

The Myth of the Common Law Marriage

Although of marginal interest to surveyor-practitioners, take note of *Stack-v-Dowden* in the House of Lords early in 2007. The case has legal and financial implications for couples who co-habit, because the law treats them more commercially than it does those who are married.

Stack and *Dowden* had been living together for 27 years, and had produced four children in the relationship. Ownership of their home should have meant that the proceeds of sale would have been equally divided when they separated, yet their contributions were vastly different, and in its landmark judgement, the House of Lords allowed deviation from equality to account for these contributions. Regrettably for him, Mr *Stack*’s legal costs swallowed up most of the share he had been awarded.

Anyone consequently living together in an ‘unmarried’ relationship, might be advised to consider entering into a ‘Living-Together Agreement’. It needn’t be like a ‘celebrity prenup’, but can be used to sort out day-to-day workings of living together, and protect both parties whatever might happen to the relationship in the future. In fact the agreement helps to organise finances (who pays for what), and avoids the niggling which can sometimes take place about who’s paying for food, council tax, gas bills and so forth. Such an agreement can also be of assistance for couples who have co-habited for many years, without marriage in prospect. Indeed an agreement can also be helpful where there is no sexual relationship – in the case of students sharing a house together. Most family lawyers now offer this type of service.

Building better houses by legislation

Whilst design trends, to create warmer more efficient and 'pleasing-to-live-in' dwellings, are welcomed, the UK seems to have a wide breach between legislation and better practice. The Energy Performance Certificate is a case in point.

Some practices now, as a matter of course, endeavour to review the relevant parts of a Home Information Pack contemporaneously with a Building Survey or HSV. Few EPCs are accurate in all details - and errors are frequent; examples such as suspended timber floors being described as 'solid'; cavity-wall insulation being overlooked and the walls described as "uninsulated" with a recommendation for insulation. No attention is given to draught-proofing - one of the major causes of 'air-change' and heat loss from a building and arguably of greater importance than the almost-standard advice in many reports where installation of solar panels is recommended, or where perfectly good and serviceable boilers are recommended for replacement with condensing boilers.

Regrettably, Home Inspectors and DEAs, whether they like the description or not, have become agents of national government and the value of the HIP for the end-buyer remains in doubt. Can a purchaser reliably trust a pack which is over six months old - a scenario which will apply currently to many unsold dwellings in a less active market, bearing in mind that a pack remains valid throughout a period of continuous marketing until the property has been sold ?

Undoubtedly HIPs, despite their blandness and uniformity of information - or lack of it - do throw up more questions than answers, even if they include HCRs. In many instances the pack does need to be professionally interpreted and, as many professionals forecast, does little to speed up the selling process. Drainage searches are often either inaccurate or provide incomplete information, even in relation to houses which have changed hands in the previous few years with registered title. A member of ISA reports dealing with two separate locations where a dwelling is described as being served by septic tank but is connected to a public sewer, but where the statutory authority in each case is unaware of the connection. The buyer's solicitor will not be aware of such aspects unless a professional survey is carried out to verify the standard information - but where is the 'Condition Report' in this scenario?.

ISA has recently been advised of a situation where a Domestic Energy Assessor travelled 40 miles to assess a terraced dwelling, but was in a rush to meet deadlines, didn't make an appointment through the selling agent, and couldn't gain access to the property. Not to be defeated, he went next door - a property of similar type - and asked if he could make an inspection, which amazingly the neighbour agreed to - and prepared his report on the basis of this information. The matter only came to light when the Agent (a qualified DEA himself) queried the report and complained.

Another case involves an EPC of a 1970s dwelling where the assessor couldn't be bothered to access the roof void, and made the assumption that the insulation standard was "poor" when this was not the case, also missing clear evidence of cavity wall insulation in the same house.

The Home Information Pack could be of considerable value if it was compiled as follows:

An individual wishes to offer a property for sale - The first step is to notify the fact to his or her approved Conveyancer, Solicitor, or licensed Estate Agent - and there is good reason to license Estate Agents: A series of questions are asked to determine the extent of information available about the property. Documents are collated which might be requested by a potential seller; plans for a modern property for example, guarantee certificates, Building Regulation Completion Certificates and similar data for extensions or significant alterations; a schedule of fixtures and fittings to be included in the sale, or specific reference to anything which is to be 'unscrewed' and taken away; servicing records for gas-fired appliances together with any installation certificates or periodic inspection certificates for electric wiring. The Seller would also be asked to provide formal answers to a range of standard questions to ensure complete transparency. An energy report would be compiled by the DEA, with a guarantee to update the document free-of charge if a mistake becomes apparent within a period (of say) three years.

Taking into account what is being charged currently for HIPs, there is no reason why the job cannot be carried out properly, and in a manner which gives satisfaction and credibility to all parties.

What other experiences do you have - write or e-mail mail@surveyorsweb.co.uk and let us know.

Habitus Surveyors Ltd - Update: Creditors Meeting 5th February 2008

David Hamilton and I attended the meeting, as did Jeremy Hackett FRICS (recently deceased – see obituary). Jeremy was concerned that RICS had not been pro-active in investigating the demise of Habitus Surveyors Ltd (HSL), and was anxious to gather facts - particularly taking into account that a former RICS President (Peter McKendrick PP1997/98), is involved as a director of the failed company.

In the event, Gary Beggan from RICS, turned up at the meeting, but did not sign the register, did not introduce himself to the Liquidator (she says), and did not make himself known either to Jeremy Hackett or myself, although we both spoke publicly and made our respective positions clear at the meeting.

I had arranged for Heath Sinclair, of accountants and insolvency practitioners, Mazars, to attend the meeting, and had previously obtained their agreement to be formally nominated and to act as liquidator, if agreed by the meeting. The idea was to appoint Mazars, as a firm totally unconnected previously with Habitus. You will recall that B&C Associates had been involved since early December 2007 in providing advice to Habitus about its options.

I had also been in contact with the representative of the Crown (HMRC) - a creditor to the tune of £500K, who indicated that HMRC would 'go along with us'. In the

event I formally nominated Mazars, the Crown suggested a joint appointment with B&C and the matter went to a vote.

Location Matters Ltd (owed £600,000 by HSL) was represented by the Chairman of the meeting, Brendan Doyle i.e. the Chairman of Habitus Surveyors Ltd, and Location Matters Ltd, and had nominated himself as the firm's proxy to vote for B&C Associates Ltd, and said that he had no authority to vary his voting instruction! This meant that we were out-voted.

I then put forward a resolution for the appointment of a Creditors Committee, which was successful. I am one of the members of the committee.

The liquidator is Filippa Connor, and from discussing the issues involved, I have found her to be thoroughly professional and alert to our concerns about the behaviour of HSL. She is, of course, concerned only with Habitus Surveyors Ltd, and not the other companies in the group. Furthermore she is not empowered to take any action unless it is likely to be commercially viable in recovering funds for creditors. She will however report to the DTI any wrongful trading or misfeasance, should this come to light during her investigation.

Initial estimates are that unsecured creditors will only recover, at best, 2p in the £. On this basis creditors can have little comfort that their losses are likely to be significantly recovered.

The creditors meeting learnt from Mr Doyle that all the company records (including minutes of monthly directors' meetings) had been seized by bailiffs acting for the Landlord, who had distrained upon HSL for the rent of the firms premises (Hanover Place) held under a lease granted to Location Matters.

So what has the Independent Surveyor's Association been doing in the meantime? Firstly, we have provided several reports to the liquidator, about the company structures and information received from individual creditors and others about the manner in which the company and its directors have been behaving. Secondly, we have been in contact with former directors and staff members, and are in the process of obtaining formal statements from various parties with relevant information to offer. We have also been in contact with various creditors - not just surveyors but also other trade creditors, building up a detailed knowledge to pass on to the liquidator and others. We have accrued a significant knowledge of how the businesses have been conducted, and the circumstances which led to the initial take-over of HSL by Location Matters Ltd. We have also made a detailed search of public records with regard to the history of the firms' trademarks, leases, franchise agreements, and other matters, including the involvement of chartered-surveyor members of HSL.

We tried to arrange a meeting with RICS and the liquidator to discuss our findings (and

the liquidator was keen on such a meeting) but the offer was declined by RICS, although I have subsequently spoken with and given advice to Diane Telford of RICS.

I have also had a long meeting with the liquidator at Mill Hill, and passed over information from our files to assist her investigation.

ISA is still conducting its investigation and will be pleased to receive any further information from members and others to build up its evidence portfolio. If required for particular reasons, any information offered will be treated in confidence.

Richard Hulls

LETTERS

Tom Littler, ISA Council member, re-visits the 'small firm -v- corporate' issue in relation to mortgage lending.....

Over the past 15-20 years some in the corporate sector of the Residential Survey, Valuation, and Estate Agency Industries have been keen to portray smaller independent practices as being less efficient and less reliable than their own multi-branch/ multi-£ million businesses. Lenders particularly have been seduced away from retention of sole or dual partner practices by the unfounded arguments that such firms are firstly more vulnerable to insolvency in the event of PII claims, and secondly, more exposed to the temptation of fraud.

Recent events, widely reported in both property and general media, must now surely explode that myth. Following the financial collapse of Erinaceous it is reported that there are at least £16m of active claims against the company and its subsidiaries that are now unlikely to be resolved, whilst the Cheshire Building Society still awaits a £10m interim payment from the same company over its involvement in an alleged commercial mortgage fraud.

Expansion of the national multi-disciplinary property consultancy Humberts has reached a juddering halt as its AIM share price crashes, and there are reported threats of a winding up petition by a former senior Director. In other corporate sized businesses, cost saving measures such as Branch closures and redundancies, are understandably being taken - reflecting the current problems resulting from the "credit crunch".

So, whilst no-one takes pleasure in reading reports of any business failure, can we at least use this bad news to see the mirage of small is bad, big is good, for what it is. The fact is that clients of both large and small businesses are potentially exposed to the same risks, though they should also remember the maxim "the bigger you are, the harder you fall"!

WEBSITES

Client-referral websites

We receive regular unsolicited calls from different individuals, offering introductions to carry out building surveys, or HSVs – usually the call goes something like this ... “*would you be able to carry out a building survey and are you interested in this type of work on a regular basis?...*” If the reply is affirmative, and let’s face it, many of us are looking for instructions in what is currently a quiet market, the caller goes on to explain the catch. Usually he or she is representing one of the property websites, and there are an increasing number of these, and will explain that they are receiving increasing numbers of enquiries for surveys in your post-code area, but do not yet have the ‘coverage’... “*would you like to subscribe?*”...they say. It sounds promising, until they tell you the price. For example, *Customer Street*, an internet marketing enterprise, not just for surveying services, but for other products, has recently been offering post code exposure for £299, as an up-front payment, followed by a monthly charge of £59 thereafter. Alternatively *Localsurveyorsdirect* (website for those who are interested www.localsurveyorsdirect.co.uk), charge £250 for an extended trial of their system, and thereafter a proportion of the fees received on a monthly-based estimate. Obviously the web-sites are making money from the systems, but what about the surveyors who take up the offers?

ISA members who do not subscribe, report surveyors who are not locally-based but who are entering their ‘territory’, often from far-afield, undertaking domestic valuation work for unsustainable fees. One of our members from SY13 (Whitchurch, Shropshire), cites examples of valuers visiting from Doncaster and Birmingham as well as Telford and Chester. “*How can you value a property competently in Shropshire,*” he argues: “*when your practice is based in Doncaster – a hundred miles away.*”

The questions to be considered, particularly after the Habitus Surveyors debacle, is should ISA be challenging information put out by such websites, by notifying Trading Standards or taking up the matter with the Advertising Complaints Authority (AAA) about false representation of what is, or might be reasonably regarded as ‘local’, to members of the public.

So that ISA can form a balanced opinion, in the light of ‘Red Book’ requirements, let us have your own experiences – either as exponents of work generated by subscription-based web-sites, or as members affected by fees-undercutting by others from outside your area. Replies will be treated in confidence.

Traditional Houses – or something else?



BRE publication 469, 2004, ...'Non-Traditional Houses' (cost £275) lists approximately 450 different types of dwelling, from the Shipston Aluminium where only one example was built, to the Easiform Type II (as photograph) where over 100,000 were constructed between 1920 and 1970.

Many types, such as Airey (26,000 examples); Cornish Units (30,000), Orllit (17,000) and Unity Types I and II (19,000) are designated "defective" under the Housing Defects Act 1984 (now part XVI of the Housing Act 1985) and are not regarded favourably for mortgage lending until repairs/upgrading have been completed under an approved scheme.

Others, such as the steel-framed Dorlonco, comprising elements of rendered EML and clinker block, or the Easiform Type II, of in-situ cast cavity concrete construction, have problems and, whilst not designated 'defective' under the Act, are nevertheless regarded as poor security by most lenders and will be valued accordingly.

By way of example, BRE 469 describes Easiform Type II as affected by ..."complete carbonisation of concrete cover to dense RC external walls particularly in properties built before 1960" meaning that any steel reinforcement, wall ties and the EML bonding between outer and inner leaves at joints between 'lifts', are likely to be corroded but difficult to assess when carrying out a non-invasive survey.

Similar comments apply to the Dorlonco where the steel frame is concealed within the structure and may not be obvious within a roof void, tends to suffer minor to severe corrosion of the RSJ stanchions, particularly at the bases, as well as corrosion of wall ties.

Type-identification and even recognition of some types as non-traditional housing can be difficult, particularly where roofs are of low-hipped construction and access within the void is limited. The matter becomes more complex where - in the case of Dorlonco houses - the outer walls can be clad in stone or brick and initially can appear as traditional cavity construction. Recognition of Easiform Type II can also be difficult, where outer walls superficially resemble cavity block construction except for being marginally thinner in width.

Members are reminded, in a recessive market, to take care when inspecting former local authority housing stock, particularly when carrying out a survey on an unfamiliar estate. Anything that appears 'odd', or different, usually is. If in doubt, a call to the local Building Inspector or Council Housing Manager can often reveal useful historical information and save grief by avoiding a possible PI claim for mis-description and over-valuation.

NEW MEMBERS

ISA is delighted to welcome the following new members who have joined this year

Gary Bradshaw BA MRICS MFPWS	Bradshaw Associates	TEDDINGTON
Byron Evans MRICS	Byron Evans & Co	HAVERFORDWEST
Martin Andrews MRICS	Byron Evans & Co	CARMARTHEN
Clive Rose FRICS C.ENG MICE AFFIL BIFM	Clive Rose FRICS	HENLEY ON THAMES
Steven Way BSc MRICS	Collier Stevens	CHISLEHURST
Martin Cotsen FRICS	Martin Cotsen & Co	CARDIFF
Graham Shone MRICS MCIQB FBEng MFPWS	Freetec Associates Ltd Chartered Surveyors	HUYTON
Rob Davies BSc (Est Man) FRICS MIRPM	Ian Gibbs Chartered Surveyors	ENFIELD
Kevin Gregory FRICS FNAEA DIPHI	Gregory Residential Ltd	LEICESTER
Nigel Lively MRICS HI DEA	Lively Surveyors Ltd	TIBBERTON
Stuart Murray FRICS	Murrayhighnam Ltd	HARTLEPOOL
Andrea Sweeney BSc (Hons) MRICS	RR Surveyors T/as Robsons	BROMLEY
Nigel Paterson FRICS	Surveyors Lincolnshire	SKEGNESS
Paul Naylor BSc MRICS DipHI	Trafford Surveyors Ltd	ALTRINCHAM
Gary Wood MRICS DipHI	Woods Surveyors Ltd	GOSPORT
Alan Wright BSc (Hons) MRICS MIMBM	Alan Wright Building Surveyors Ltd	ORMSKIRK

OBITUARY

Jeremy David Hackett FRICS: 1942 - 2008

Members will be saddened to learn of the death of Jeremy Hackett, who died whilst attending a meeting of RICS Governing Council in Krakow, Poland.

Jeremy was never a member of ISA but was a fearless advocate for transparency and fair regulation within RICS. He was the instigator of the 'Stop-the-Rot Campaign' and a champion of surveyors working in small practices.

Jeremy will be sadly missed and our condolences go out to his wife, Janet, and to his family.

Other News, in brief

sellyoursurvey.com: Members will recall the approach from Eddie O'Hara last year, to participate in his web marketing scheme for the re-sale of surveys, where the original client had decided not to proceed with purchase – offering the opportunity to make more profit by selling-on the original survey.

Mr O'Hara's claim was that a major proportion of the ISA membership had shown interest in the scheme, yet a show of hands at Silverstone 2007, proved this not to be the case. Furthermore, on advice from Towergate, we advised against entering the scheme, in view of the PI implications.

Mr O'Hara has subsequently written to ISA to advise that as he is a marketing man, rather than a surveyor, would ISA like to purchase sellyoursurvey.com. Our silence has been deafening – any other takers?

AND finally . . .

We recently heard the story about a young *Domestic Energy Assessor* working for a large regional firm of Estate Agents, who was just about to leave the office at 6:00 p.m, when she noticed the senior partner standing in front of the shredder with a piece of paper in his hand. “Listen,” said the senior partner, “*this is important, and my secretary has left for the day. Can you make this thing work?*”... “Certainly,” said the young girl. She turned the machine on, inserted the paper, and pressed the start-button. “*Excellent, excellent!*” said the senior partner as his paper disappeared inside the machine. “*I just need one copy, that's all!*”

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