

JCTNEWS

THE JCT CONTRACTS UPDATE FOR THE CONSTRUCTION PROFESSIONAL

81-87 WESTON STREET, LONDON

Solidspace's *Tetris*-style mansion apartment building at 81-87 Weston Street in Bermondsey, London, is the result of a 10-year collaboration between the developer and architect firm, Allford Hall Monaghan Morris (AHMM). Defined as 'slow architecture', the time taken to develop the design and the approach, using finely crafted and bespoke materials, brings an elegance that redefines brutalism for the 21st century. A JCT Major Project Construction Contract provided the contract solution.

81-87 Weston Street epitomises Solidspace's development speciality—finding gap sites and pocket sites, which are challenging due to the technical/spacial constraints and the context of layers of historical architectural styles—and transforming them into extraordinary homes. Weston Street is based on the idea of providing high-end 'mansion flats' which offers luxurious materials and bespoke craftsmanship, and aesthetically sets out to offer a distinctiveness of style that is often missing from average luxury apartment developments. Weston Street goes further by also utilising its design to provide a more communal feel for its residents.

Situated on the south side of the Thames close to London Bridge on the site of what was previously a small warehouse, the site is bordered by Guy Street Park to the east and west. The building comprises two interlocking staggered sections, each stacked around a stair and lift core. The long southern face is formed at ground level by the wall of the original warehouse, serving as the boundary to Guy Street Park. This

establishes the new building in the history of the site as well as providing privacy. The appearance is of a turreted town rising above a city wall.

The scheme provides a ground floor 470m² office space and a residential space totalling 1,400m². The eight apartments comprising the residential area are made up of 5 two bedroom and 3 three bedroom units ranging in size from 118m² to 155m². The entrance to the office is on the shorter eastern facade, whilst the north houses the entrance to the apartments from a mews-style court.

The large open-plan office has a meeting room, with service spaces tucked between the cores. Two dominating windowless concrete walls are given life by the use of strip skylights and an oculus set in the terrace above.

All apartments are split-level and open-plan, providing living, kitchen, dining, and study areas. The design is based on Solidspace's 'DNA: eat, live, work' philosophy. The interlocking living spaces are arranged at half levels around a double-height volume. The living, kitchen and dining areas are separated by stairs rather



81-87 Weston Street

Image: Timothy Soar

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than doors, which contributes to the unbroken, flowing feel of space and also maximises the sense of space available in a tight footprint. This layout is supported by an innovative sprinkler system which removes the need for fire doors in the apartments. Only the bathrooms and bedrooms are separated by doors, often on different levels.

The overall structure is a concrete shell, cast in-situ using rough-sawn douglas fir panelling. This gives a textured patterned surface where exposed that exudes calm. The building is faced with creamy-blond Weinerberger brick—lighter than usually seen in London, which helps give the building contrast in its surroundings but matches with the pre-cast concrete balconies. The balconies are cantilevered in an exaggerated way so that residents are able to stand fully away from the building and look back at it.

The fenestration is in the form of large anodised aluminium spandrel window panels which are

oak framed internally and set in deep reveals. On the south facade the windows are large L and T shapes to mirror the interconnected spaces within each apartment and which visually help contribute to the 'tetris' appearance. The bronze colour adds warmth and contrast.

Both internally and externally the building reflects AHMM's design philosophy—"essential architecture"—where nothing can be taken away and nothing needs to be added. An example on the exterior is the way in which ventilation is achieved. Instead of installing air vents, the brickwork itself is opened up to create decorative lattices that provide practical air ventilation. For the interior, the simple but highly crafted surfaces and limited palette of terrazzo, parquet, oak, walnut, aluminium and concrete are designed as a nod to post-war Milanese apartment blocks. Everywhere, the quality of the materials is allowed to dominate, without adding any extraneous details or clutter.

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81-87 WESTON STREET: PROJECT SUMMARY

Start on site:	July 2015
Completion:	February 2018
Internal area:	1,926m ²
Contract:	JCT Major Project Construction Contract
Client/Project Manager:	Solidspace
Architect:	Allford Hall Monaghan Morris (AHMM)
Contractor:	Bryen & Langley
Quantity Surveyor/Cost Consultant/	
CDM Coordinator:	Orbell Associates
Structural Engineer:	Form Structural Design
M&E Consultant:	Desco
Landscape Architect:	Coe Design
Fire Consultant:	Optimize Europe
Acoustic Consultant:	Sandy Brown Associates
Concrete Frame:	Oliver Connell & Son
Environment Consultant:	Hilson Moran
Planning Consultant:	AZ Urban Studio
Party Wall Surveyor:	Andrew Karoly
Approved Building Inspector:	MLM
CAD software:	MicroStation
Estimated Annual CO ₂ emissions:	9.9kg/m ²

PROFESSIONAL FUTURES

Chairman's Letter



Richard Saxon CBE

Every part of the construction industry is challenged by rapidly evolving threats: stagnant productivity, falling human resources, failing business models, climate change, globalisation, advancing computer power, to name some of them. Most attention is paid to the plight of contractors and specialists, but the world of consultancy also faces these same issues. Professionals additionally face falling credibility and authority as respect for expertise declines. Their professional institutions seem powerless to communicate the value of the professional contribution to the public, to clients and to government.

A new book, 'Professionalism for the Built Environment', by Simon Foxell¹, provides a guide to the recent thinking of the professions' leaders as set out in the Edge Commission's review, chaired by former Government Chief Construction Adviser Paul Morrell. He also proposes several ways to address these issues. Simon charts the 200-year rise of the three main disciplines, civil engineering, architecture and surveying, from their formation to the present. He sets out clearly the need for a new bargain between society and the professions.

All professions are similarly challenged as their standing has been compromised. Their historic model of standing outside the state and the commercial world has been eroded during the later twentieth century by government and client pressure to be more pragmatic and engaged. Their protected fee model was outlawed. Large professional service firms have evolved as a result, but these changes also undermined the public service ethos. Professionals are often perceived now as working for their own interest, either commercially or intellectually, rather than for society or their paying customers.

Foxell sets down a model charter for all the built environment professions: their various versions are quite close to each other already. To paraphrase, professionals should:

- deploy their expertise with competence and integrity, on an evidence basis and in good faith.

- put interests in this order: worldwide, society, client, colleagues, profession, self, taking full responsibility and considering all involved in making and living with the product.
- keep themselves up to date, educating colleagues, society and rising new professionals and researching outcomes to provide shared feedback.
- in exchange, government and clients should extend trust and respect, recognise professional independence, offer exclusiveness in key service delivery and provide fair payment.

The nostalgia in this formulation is evidence of the fall from grace.

Foxell's stance comes through as idealist. He thinks that true professionals must stand up to clients who ask for things considered to be against the public interest. The late Colonel Siefert, doyen of the property boom of the 1960s-80s, openly acted as a hired gun, pushing his clients' interest to the limit and expecting the authorities to contain him with their own expertise. With public bodies now largely stripped of such capacity, that 'hired gun' approach becomes un-professional, in Foxell's view. Simon's stance raises a host of issues for construction professionals with mouths to feed, and for their institutions. But, as Lampedusa says in 'The Leopard', "to stay as they are, things will have to change". The announced shift to an 'Outcomes-Based' approach to public procurement, based increasingly on data flowing from people's use of services and their facilities, opens a road to a more professional, evidence-based approach to what is of value.

The book is an engrossing read and a good source for policy development. It should be read alongside another excellent new book, 'Why Architects Matter', by Flora Samuel, published by Routledge. That focuses on improving the value proposition of architects but much of it applies to all built environment professions.

¹Professionalism for the Built Environment. Simon Foxell. Earthscan from Routledge, 2018.



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WHAT'S WRONG WITH RETENTION?

PETER HIBBERD



Peter Hibberd

Retentions meet a real need and aren't a problem in themselves – it's how they are administered that needs fixing

The clarion call for no retention has persisted for many years and has once more initiated action. This time BEIS undertook a consultation “on the practice of cash retention under construction contracts”, with its outcome imminent. Meanwhile a private members’ bill from Peter Aldous received its first reading but its second is delayed until October. The cynical might consider this a deliberate ploy but it is probably more about the consultation outcome and the possibility of government itself legislating.

Whether retention can ever be abolished depends on how it is defined. BEIS research paper 17 (October 2017) stated “retention is a sum of money withheld from the payments of a construction sector project in order to mitigate the risk that such projects are not completed [...] to the required quality standard”. Furthermore, it is “a safeguard against defects which may subsequently develop and which the contractor may fail to remedy”. Whereas under the Aldous bill reference is made specifically to “cash retention [...] monies which are withheld from monies which would otherwise be due under a construction contract, the effect of which is to provide the payer with security for the current and future performance by the payee of any or all of the latter's obligations under the contract” and to a retention deposit scheme.

The voices for abolishing retention have risen following the collapse of Carillion because this has highlighted the issue of firms not being paid for work done, but there is a significant difference between security of payment in the event of insolvency and that of retention. Although both impact upon cash flow, they are quite different in their nature and potential effect.

Retention deposit schemes are appealing but are not problem-free. Their administration brings bureaucracy and associated costs, and implementation depends upon some form of certification – a process as open to abuse as any other. Also any form of regulation brings with it unintended consequences sometimes through creative actions to circumvent the impact of the restriction. In this case the point at which sums become due, their certification and the payment period become the pertinent issues; consequently cash flow may be changed. The total abolition of retention is inappropriate, and even the universal abolition of cash retention is undesirable because the alternatives are not always appropriate to all forms of construction project.

Retention is about risk management and, as a risk of defects will always exist, those who employ firms to carry out construction work will seek to protect themselves. If it is not through retention monies, it will be through other means. Whether alternative forms of protection are better for the parties depends on how well they are administered. Cash retention per se is not a problem: yes, it does mean

capital resources need to be somewhat greater, but cash flow should not be a problem so long as the constructor carries out the work properly and the certifier of the work and the payer properly carry out their respective roles under the contract. The non-release of retention is not always wrong—it might arise because work has not been properly remedied and so the retention release is not due. Where it has been properly remedied the retention should be released, but it is evident that there is abuse of the situation. Although there are already appropriate legal remedies available, some believe they are too unwieldy for the sums sometimes involved. However, it seems that if parties cannot act properly in regard to cash retention then it is unlikely they will act any differently under other systems.

Ways of improving the operation of retention have been developed for over 50 years. One of the first developments was for retention to be held by the employer as trustee for the contractor (JCT 63). The employer holds the contractor's money but this is subject to the right of the employer to have recourse for payment of any amount it becomes entitled to under the contract. The nature of this arrangement was confirmed by *Rayack Construction Ltd vs Lampeter Meat Co Ltd* (1979). This position, which is primarily about security of monies, was reflected in JCT 98 by providing the contractor can request retention be held in a separate bank account. More importantly, JCT 98 introduced a contractor's bond in lieu of retention as an optional provision. Nevertheless, calls for abolishing retention have continued.

The use of a retention provision or bond in lieu of retention are provided for in JCT 2016, but to recognise some projects may justify no retention the contract particulars make clear that inserting “nil” in those particulars is the way to achieve this. Those seeking wider protection should consider a performance bond. A potentially greater problem exists for subcontractors in that monies including retention released by employers to contractors in respect of subcontractors' work may not flow to them on account of the contractor's insolvency—but this is the security of payment previously mentioned, which requires an entirely different approach, such as the use of a JCT project bank account. Because of the difficulties with small retentions, the JCT subcontract has a provision for a minimum retention—retention is not deducted where it is less than the amount specified.

Although retention bonds, performance bonds and project bank accounts may be preferable in some instances, the answer must be the proper administration of whatever approach is adopted—something that is frequently lacking. Clearly, it is difficult to change behaviour, otherwise the Supply Chain Payment Charter and other initiatives would already have achieved their objective; hence the repeated calls for legislation. Nevertheless, choice is preferable to legislating—which has the potential to create other problems.

NIGERIAN CONSTRUCTION INDUSTRY MODERNISES BY ADOPTING UPDATED JCT CONTRACTS

The Nigerian construction industry is adopting up-to-date editions of JCT contracts as part of an initiative to modernise and adopt best practice.

JCT contracts (albeit much earlier editions) have been adapted for use in Nigeria for some time, however this new initiative, spearheaded by the Nigerian Institute of Quantity Surveyors (NIQS), aims to put a more formal process in place for the adoption of current JCT contracts and provide the Nigerian construction industry with training, advice and guidance about the up-to-date JCT editions and current legal and contractual processes.

JCT council and drafting sub-committee member, Peter Barnes, was invited by the NIQS to present two full-day seminars in July to delegates within the Nigerian construction industry, in order to bring them up-to-date in respect of the current editions of JCT contracts, and current best practice from the UK perspective.

The two seminars, held in Lagos and Abuja, were attended by approximately 550 construction industry professionals,

including ministers from the Nigerian government, who are keen for the updated JCT contracts to be adopted.

Following the seminars the NIQS announced that they would be adopting up-dated JCT contracts, both in practice and for use in their future examinations.

Peter Barnes said:

“The Nigerian Institute of Quantity Surveyors, led by its President, Mr. Obafemi Onashile should be congratulated on spearheading the initiative to get updated versions of the JCT Contracts used in Nigeria.

“The two full day Seminars that I gave in Lagos and Abuja were very well attended, and there was great interest shown by all those present at the conferences about the up-dated versions of the JCT Contracts.

“At a personal level, it was a great experience for me, and it is an experience that I hope to repeat before too long as the JCT Contracts become more widely used in Nigeria.”



Pictured (L-R): Dr Segun Faniran, Obafemi Onashile (President, NIQS), Peter Barnes and Matthew Davies



EVERYONE WINS WHEN OPEN BOOK IS TRULY OPEN

JAMES GREEN – PARTNER, PELLINGS

When all parties play fairly, open book procurement can be a positive experience for the whole project team, as consultant Pellings, architect PRP and contractor Bouygues found on a recent housing scheme in Kent.

Open book procurement has its supporters and detractors, with the latter often claiming that contractors are up to no good, or manipulating the process. But if all parties play the game fairly, the experience should only be positive.

That has been the experience of Pellings, working as employer's agent and cost consultant for Ashford Borough Council, with architect PRP and contractor Bouygues, on a £17m 104-unit "extra-care" housing scheme for older people at Farrow Court in Ashford, Kent. The scheme started in 2013 with a four-year programme.

Ashford had previously gone down the fixed-price procurement route on smaller, infill residential projects. With Farrow Court as a flagship scheme it wanted to ensure the best chance of a successful outcome and chose the "open book" route. The appeal was the desire to use a collaborative approach, where the council, Pellings and Bouygues would work as partners to reach mutual decisions at each stage.

Adopting a two-stage tender process, Bouygues was appointed at an early stage, even before planning consent was obtained, so it could work with the client and the architect to bottom out what would work.

The advantage of this was to shorten the timespan between consent and starting on site. Invariably a planning consent is followed by many months of procuring the contract, but at Ashford, consent was forthcoming in May 2013 and construction work started in September.

As part of Pellings' role, we discussed the right contractual route with the team and advised on the preferred approach.

PPC 2000 was considered but, because of lack familiarity with it, we chose the Standard JCT Design & Build contract that included a mechanism bolted on to deal with the pain/gain open book process.

Construction with no surprises

The ethos of this approach is that it creates open dialogue. As much as possible there are no surprises; the client understands the contractor's challenges and the contractor is given time to understand the client's objectives.

With this approach, Ashford was able to agree a ring-fenced margin for Bouygues, together with agreed preliminaries budgets and subcontractor packages in advance.

To incentivise the contractor to deliver to cost, a pain and gain contingency was added, where if the subcontractor package costs came in below budget the client and contractor would share in the bonus or contingency. If it was over, the contractor was penalised.

This route delivered value for money, allowed a collaborative approach and enabled the parties to manage risks, so that unexpected problems were resolved by all parties working together and reducing any cost over-runs.

Reviewing subcontractor packages

All subcontractors were engaged on the basis that there was a break clause between phases so that the subcontractors could walk away if the commencement of phase two sat outside the time window. By the same token, the client could terminate subcontractor packages where performance was below the expected standard.

The client team as part of the open book method came together to review these packages and as a result of their performance decided that it would be beneficial to procure new brickwork, steelwork and drylining packages.



We were also required to change the phase two demolition contractor at the start of this phase, as the original subcontractor demanded a significant price increase. A quick decision meant a new subcontractor was engaged without impact to the programme.

As an additional bonus, taking the "openbook" approach has helped to inform another similar extra-care project in nearby Tenterden, where experiences have been shared in workshops on ideal kitchens and bathrooms for elderly residents, for example.

The key word in "open book" is "open" where the contractual parties are totally open about the project procurement and work together to deliver what the client wants. Where this happens, there is more likelihood of a project being delivered on time and on budget.

James Green is a partner at Pellings.

This article was originally published in the 4th February 2018 edition of Construction Manager.

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The project is very much a celebration of the craftsman and the specialist. The joinery, in particular, is a major feature of each apartment as it forms walls of shelving, cupboards and panelling, which conceal the storage areas and bathrooms. Such was the complexity of the joinery that a workshop was set up on site utilising the ground floor office space. A team of specialists worked to template, manufacture, lip, produce and soft fit all of the bespoke oak and walnut panelling before it was sent off to be veneered and finished.

There is no doubt that this level of quality and attention to detail comes at a price, and these luxury apartments are unmistakably high-end. They

challenge the status quo of luxury developments by favouring hand-made materials over manufactured. However the length of the development time, and the close collaboration between client and architect has been crucial in enabling the project to maximise spatial and architectural value. This is not only in the selection and quality of materials—the exposed, textured concrete, bespoke joinery, brick envelope and anodised aluminium—but also in creating innovative solutions to provide space and light within a tight sight. Not forgetting also the logistics of building within a confined space at the same time that redevelopment works of the neighbouring London Bridge Station were also being carried out.

A building of this nature requires experience of complex projects right through the supply chain, from the client/developer, architect, contractor, through to the various specialists, sub-contractors and crafts. The JCT Major Project Construction Contract is suited where, such as in this case, a very experienced developer is able to work with the project team for a period of time to develop their vision of the project. The Major Project Construction Contract allows the flexibility for parties who have their own bespoke requirements and are able to work collaboratively. For Weston Street, it is a testament to the construction process that a ten-year labour of love between developer and architect is able to achieve such a striking result.



Met Office has teamed up with JCT to offer a comprehensive range of location-based reports, designed to help minimise the impact of weather on projects and support extension of time claims.

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THE ROLE OF THE CLERK OF WORKS

RACHEL MORRIS – CEO, INSTITUTE OF CLERKS OF WORKS & CONSTRUCTION INSPECTORATE

The Institute of Clerks of Works and Construction Inspectorate (ICWCI) defines the role of the Clerk of Works as:

“A person whose duty is to superintend the construction and maintenance of buildings, or other works for the purpose of ensuring proper use of labour and materials.”

Clients (including employers, local authorities, housing associations etc) have the challenge of ensuring that their construction projects achieve value for money and are completed to a high quality in terms of workmanship, materials, construction standards and building regulation statutory compliance.

Let us first consider recent history.... prior to the mid-1990's most local authorities employed teams of Clerks of Works that sat under the Architects and Engineering Department. Under that regime, the Clerk of Works role was very much valued, understood and respected. However, as the country hit the recession of the 90's, it brought cut backs, rationalisation and compulsory competitive tendering. This resulted in out-sourcing of professional services to facilities management companies; and although Clerk of Works services were not immediately affected, over time it has become apparent that as local authority Clerks of Works have retired, they have too often not been replaced.

Forms of contract have changed over the years and the general consensus of the ICWCI is that Design and Build contracts have diluted the Clerk of Works role. Many Clients consider it a saving if the Contractor is carrying the risk, particularly if they do not factor in the cost of a Clerk of Works or understand the benefits of having a Clerk of Works as part of the design team.

In the case of the Joint Contract Tribunal (JCT) standard or traditional form contract, the Architect is the lead and the Clerk of Works is named and reasonably empowered.

The financial challenges today that the management companies are tied into often result in *they themselves* being replaced and unfortunately those all too important resources (including Clerks of Works) are regularly not factored in or are only appointed for occasional site visits or to provide part-time services.



Rachel Morris

The benefits of employing Clerks of Works today:

Independent third party inspection helps to protect the Clients interests throughout the construction process. When employing/appointing a Clerk of Works or Construction Inspector, the Client will not only benefit in terms of experience; they will also have the reassurance that their interests are being safeguarded.

Clerks of Works will have the ability to: anticipate; interpret; inspect; record; report; advise and guide; help reduce risk; provide guidance on health and safety matters; assist in getting it right first time! Extending on this they will have:

- A good general understanding of the specific construction inspection process (in particular around the inspection of materials and workmanship)
- An understanding of the obligations of all parties (requirements and boundaries)
- Foresight; i.e. identification of issues/potential issues and the ability to suggest alternative methods or mitigation techniques
- A focus on quality; promoting right first time initiatives, reducing rework and double handling

- They are impartial, with a fair, considered and independent approach to ensuring value for money for the Client
- They have an awareness of acceptable standards, benchmarking and identifying non-conformance
- The ability to produce concise recordings of their findings
- They will have a professional opinion and make recommendations to alternative approaches and corrective actions
- Knowledge of construction materials and components, including their use, limitations and possible alternatives
- An understanding and knowledge of the practical and legal aspects of health and safety.

When a Clerk of Works is appointed, there are a number of factors that he/she can focus on; these will include:

Compliance – buildings need to be inspected for safety and structural integrity to ensure that they conform to statutory regulations and laws.

Workmanship – needs to be monitored and inspected at regular intervals to minimise problems, defects and rework.

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JCT INTERVIEWS...

PETER BARNES

“ ”



Director, Blue Sky ADR Ltd
Member of the JCT Council
Member of the JCT Drafting Sub-Committee
Member of the JCT Construction Dispute Resolution Group

In this series we shed some light on some of the key people who are involved with or give their time to support JCT, to ensure that all areas of the construction industry are represented and can contribute to the development of our contracts. We will look at how our interviewees contribute to JCT specifically, and gain their views on JCT's wider role within the industry.

Peter Barnes Msc (Construction Law and Arbitration), DiplCarb, FCIArb, FCIQB, MRICS, MCInstCES, MICE, is a Director of Blue Sky ADR Ltd, and has been actively involved in the construction industry for over 40 years. Following an extensive contracting background, in his consultancy work, Peter specialises in quantum and planning claims, contract and commercial advice, dispute avoidance and dispute resolution services in relation to the construction industry. Peter frequently gives seminars on contracts and commercial issues and also evaluates

contracts and sub-contracts for construction works. Peter is a Chartered Arbitrator, a Panel Adjudicator, a Registered Mediator, a Chartered Environmentalist, and a Council Member of JCT.

Peter has had several books and articles published. Recent publications include *The JCT 2011 Building Sub-Contracts*, *BIM in Principle and in Practice*, 2nd Edition, and *Delay and Disruption Claims in Construction*, 3rd Edition.

JCT: Peter, how did you first come to be involved with JCT? Why do you think it is important to be involved?

PB: I was introduced to the JCT Council over 10 years ago, through the RICS's Contracts Panel where I was at that time a member. Due to some restructuring by the RICS, I am now a representative of the Chartered Institution of Civil Engineering Surveyors within the Consultants' College of the JCT Council.

I consider it important for me to be involved with JCT as I can bring many years of wide experience working with various JCT contracts to discussions in respect of the use of, amendments to, and development of JCT contracts, sub-contracts and other documents. I have used JCT contracts in various formats for over 40 years and, as far as I am concerned, they are the bedrock of the UK construction industry.

JCT: Can you tell us about any specific work you're currently doing with JCT – for instance, your work on JCT Training and conference in Nigeria?

PB: For many years, I have provided training on the various JCT contracts. This year JCT has launched a new initiative and is providing a range of training courses. I have been asked by JCT to present some of those courses, and I was very pleased to have the opportunity to pass on my knowledge to others in the construction industry in that way.

Due to some of my other JCT seminars appearing on YouTube, I received an invitation from the Nigerian Institute of

Quantity Surveyors (NIQS) to present two full day courses on JCT contracts, one in Lagos and one in Abuja. JCT contracts (albeit the 1963 RIBA / JCT version) are extensively used domestically in Nigeria and I was invited to help them start using more updated JCT Editions. The seminars were very well attended (about 550 people attending the two seminars) and there were government ministers present who were keen to push forward with the use of the updated JCT contracts. The seminars were reported in the Nigerian National Guardian Newspaper, and the JCT contracts received were recommended for use by the NIQS and will be used by the NIQS in its future examinations.

JCT: Do you have any personal career highlights? What are you most proud of about the construction industry as a whole and where do you think it most needs to improve?

PB: I have many career highlights. In contracting, I particularly enjoyed working on projects of historical importance or interest, such as the Queen's House at the National Maritime Museum at Greenwich, and the Ropery Building at Chatham Dockyard. By working on projects with such heritage and history, a perspective of the role that the construction industry has played and continues to play in society can be best obtained. In consultancy work, becoming a Chartered Arbitrator was a particular highlight as was the publication of several books on topics including BIM, Delay and Disruption and, of course, JCT Sub-Contracts.

What I am most proud of about the construction industry as a whole is how so many different people from so many diverse disciplines and backgrounds all come together to create, in a relatively short period of time, a building or an infrastructure project through teamwork, co-operation and sheer hard work. In my view, no other industry can achieve this in the way that the construction industry does.

Where the construction industry needs

to improve is through the adoption of the technological advances that are coming through (for example BIM), the acceptance of changes in the processes that are currently used (for example more off-site production), and through even more collaboration to achieve the desired results (through training and the choice of the most appropriate contract forms to be used). As an industry, we are infinitely stronger, more effective and efficient when we openly work together as a team rather than working as individuals to our own closed agendas.

JCT: What do you see as the main challenges for the construction industry over the next five years?

PB: I consider that one major challenge that the construction industry will face over the next five years is lack of resources, particularly trained operatives and trained staff. Obviously, Brexit may have an impact on this matter, but in a wider sense, the construction industry needs to 'sell itself'

to the younger generation. It must be seen for what it is - a great career opportunity in a great industry. With the technological advances that are coming through at the moment, it needs to be seen as an opportunity for younger people to get involved with a forward thinking and rapidly developing industry, rather than being held back by the 'muck and bullets' stereotype that may exist in some people's minds. Obviously, combined with the need to attract young people to the construction industry, there needs to be first class training to assist people in their progression, and there also needs to be equality and opportunity for all, so that the best people are attracted to, rather than deterred from, joining the construction industry.

JCT: Does JCT have a wider role to play in the industry beyond producing contracts?

PB: In my view, JCT already plays a much wider role than simply producing contracts.

In addition to the training and the guidance that JCT provides, and in addition to the promotion of the construction industry that JCT advances through its flagship events such as the Parliamentary Reception and the Povey Lecture, JCT through its very constitution encourages collaboration. The JCT Council comprises representatives from Public and Private Clients, Contractors, Consultants, Specialist Contractors and Sub-Contractors and it brings those people together to produce contracts, sub-contracts and other documents that all participants agree represent a fair allocation of risk between the various parties in the construction industry. It is this general collaborative approach at JCT Council level that then emanates out to the construction industry at large and, by continuing to develop and update its contract forms, JCT is at the forefront of the collaborative approach that is so important to the future of the construction industry.

>> Continued from page 9

Materials – should be inspected to ensure that they are correct and of a suitable, appropriate quality to fit their purpose.

Defects – can be minimised and resolved when regular thorough inspection is factored into the construction process.

Recommendations – Clerks of Works can make recommendations to the Client throughout the construction process.

Note: All of the above will depend on what basis the individual is contractually employed.

When should a Clerk of Works be appointed?

The earlier the better! Starting pre-construction and throughout each stage of construction thereon is recommended. It is usual for a Clerk of Works to be employed as a representative of the employer/Client, typically under the direction of the Architect, Engineer or Project Manager.

Employing a Clerk of Works is not a

mandatory requirement; it is however highly recommended. As the professional body for Clerks of Works and Construction Inspectors we welcome the ear of Government on this very subject. Our perspective has previously been presented to the inquiry into the quality of new build housing; shared with the independent inquiry into the Grenfell Tower disaster. We are now seeking assistance regarding funding for future Clerk of Works training. If Clerks of Works were a mandatory requirement on every construction project and resourced appropriately more Clients will benefit and appreciate the important value of their presence!

"The Cost of a Clerk of Works per annum is cheaper than a day in court!" Quote from Tony Bingham Arbitrator, Adjudicator, Mediator and Barrister.

For further information about Clerks of Works, please contact ICWCI on 01733 405160.



The logo features the text 'JCT' in white on a black rectangular background, followed by 'TRAINING' in white on a transparent background. This is set against a backdrop of overlapping diamond shapes in orange, purple, blue, and red.

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New training courses on JCT contracts, directly from the construction professionals involved in creating the JCT suite of contracts.

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