

JCT NEWS

THE JCT CONTRACTS UPDATE FOR THE CONSTRUCTION PROFESSIONAL

BRIXTON WINDMILL COMMUNITY CENTRE

London's last surviving working mill gets an upgrade with a new community centre, built on a JCT Intermediate Contract.

The new community centre at Brixton Windmill has been a project many years in the planning for the Friends of Windmill Hill (FoWH), which was completed last year with funding from Lambeth Council. The charity is responsible for the preservation and maintenance of the Grade II listed windmill, the last remaining working flour mill in London. The brief for the new community centre was to provide a flexible building for a range of community activities, allow FoWH to continue their work in the preservation of this heritage site, and enable the mill to serve future generations.

There are two main functions that the new building supports. One is providing a resource for FoWH to be able to preserve and maintain the historic windmill as a functioning mill and education space. It does this by creating much needed space for learning workshops run by engaging local schools, supporting adult education initiatives, and housing a visitor centre and configurable exhibition areas. The venue can also be hired for events, such as birthdays and weddings which provides a revenue source.



Image: Jack Hobhouse

Brixton Windmill

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The second main function is the centre's role to support community engagement and social enterprise. The space can be used for a variety of community group activities, including an annual beer and bread festival. The centre can store the flour and grain milled by the windmill and increases milling activity by running baking workshops on-site and selling the traditionally milled flour to local bakeries, restaurants, and shops. During the Covid-19 pandemic, the flour has also been delivered to local food banks to provide further community support.

Externally, the building takes its cues from the existing windmill, and its one-storey structure references the original miller's outbuildings, which gave way in the 1960s as the development of the Windmill Gardens park came in as a response to over-urbanisation. Modern materials and construction however brings the building up to date and facilitates its flexible use. Douglas Fir tapered columns are used to craft a contemporary dark-grey pitched roof which employs skylights to allow the internal space to be flooded with natural light. Dark weatherboard clads the exterior, and the structure is supported at each end by two gable walls built in a soot-washed Staffordshire Blue engineering brick to match the black painted windmill tower.

A simple and elegant exposed timber frame forms the interior. Alongside the pale grey under heated screed/resin flooring, ply-lined walls, and suspended pendant lights, it presents a neutral, warm palette that supports the centre's various uses

and functions. In addition to the skylights in the roof, full-height, bi-fold glazed doors open out to a deck terrace that overlooks the park. Sliding panels of vertical slats allow the light into the space and provide security when the building is unoccupied. The functional but stylish theme continues in the café where plywood joinery is a feature of the serving area. Other features include space for a pop-up shop with in-built display areas, and low-level units which can be used in a variety of ways: tables, storage, museum/shop display, or seating. The other building functions are arranged behind the main space, and include the kitchen, toilets, grain store, cycle parking and administration space.

The development of the Brixton Windmill Community Centre has provided a new lease of life to an important local landmark for the Brixton area. Although the mill has itself provided an important community service for many years, the new centre enables local residents, community, and education groups to reconnect to this historic and vital site in a fresh, engaging way. The use of the JCT Intermediate Building Contract (IC) enables contracting arrangements to be suitably set out where there are some complex provisions required and where a variety of trades, skills and disciplines are needed to complete the project. In the case of Brixton Windmill Community Centre, the IC form provides a widely regarded and well known contract to give all parties confidence to deliver a project with collaboration and community at its heart.

PROJECT DATA

START:.....	NOVEMBER 2018
COMPLETION:.....	AUGUST 2020
GROSS INTERNAL FLOOR AREA:.....	170M ²
COST:	£750,000
CONTRACT:.....	JCT INTERMEDIATE BUILDING CONTRACT
ARCHITECT:	SQUIRE AND PARTNERS
CLIENT:.....	LAMBETH COUNCIL FRIENDS OF WINDMILL GARDENS (FOWG)
CONTRACTOR:.....	LOGAN'S CONSTRUCTION
STRUCTURE:.....	HEGRE TILLET STEEL
OAK FRAME:	CARPENTER OAK
BESPOKE JOINERY:.....	MODWOOD
SERVICES:.....	HOARE LEA
COST CONSULTANT:.....	EQUALS CONSULTING
CULTURAL AMBASSADORS:	ELEY KISHIMOTO

BETTER INFORMATION MANAGEMENT

Chair's Letter



Richard Saxon CBE

Readers may be familiar with my interest in Building Information Modelling or BIM. Since the turn of the century I have been involved with the concept, helping to spur the government to make it their policy to mandate its use. In 2012 I was commissioned to produce a report for what is now BEIS on 'BIM for Growth', the potential effect on economic growth of the uptake of BIM in the UK. I became 'UK BIM Ambassador for Growth' in 2012-13. A place on the Steering Committee of the BIM Task Group was also provided as it evolved what became BIM Level 2 and the PAS 1192 set of draft standards in 2013. British BIM shot forward and became the world leader as the government mandate arrived in 2016.

BIM evolves rapidly however, and in moving to the next stage, a world BIM standard based on the UK model, the concept shifted markedly. In the opening pages of my 2013 report I did an infographic showing all the possible combinations of meanings to the letters B, I and M. One of them was Better Information Management. The term Building Information Modelling was controversial from the start: Civil engineers didn't see how Building could apply to infrastructure and the Modelling word, a computing term rather than an architectural one, seemed to imply that geometry ruled. Nobody argued about the Information word, however.

The global standard, the ISO 19650 series, arrived at the end of 2018 and guidance on its use has blossomed through 2020. Guidance has been led by the UK BIM Alliance, a voluntary body set up to carry the ball after the government declared victory in April 2016 as the mandate arrived. It left the industry to pick the ball up and the UKBIMA set as its goal to make BIM Business as Usual by 2020. That was hugely ambitious goal as it quickly realised. However, along came Covid 19, shutting offices and pushing everyone onto digital media to do their work. Suddenly, BIM showed its advantages to mainstream professionals who were waiting to be convinced. McKinsey, which has been studying the construction industry for a few years now, reckoned that we advanced three years at least in just six months. Trends which were apparent became dominant. The use of data became an everyday thing in leading firms, with the most advanced using flying or walking scanners to check sitework against what it should be and installing sensors to make digital twins of the physical and virtual buildings. The data suddenly became an asset itself.

The new centroid of BIM is Information Management. Whereas the game started with architects and engineers revelling in 3D geometry, it now centres on the good organisation of client information requirements, starting with the end in mind. The biggest payback from digital information in built assets is to be able to operate and maintain the asset more economically, and with higher performance. So, what we want the asset to do and what information we need to run it become central questions. The design process becomes steered by the information brief, not just the conventional design brief. This brief is partly formed of the Project Information Requirement, together with the Asset Information Requirement for the in-use stage. Those who will take decisions through the project are asked to set out what those decisions need as supporting evidence and when they need it. The project can then move more smoothly through its stages, with the information model providing the quality-assured outputs and all participants sharing a single source of information, never relying on their own versions.

Setting up this way of working is not yet familiar, quick or cheap. It may become so as guidance improves, and artificial intelligence provides help. The payback in the capital phase is to speed the execution of work, avoiding changes of mind and errors as far as possible. Digital design also opens the way to more offsite fabrication as well as to automation of the working building, delivering a service, not a product. The prospect of 'Industry 4.0', the digital transformation that other industries are experiencing, is nearing every day, with the strange year of 2020 accelerating things markedly. The JCT Povey Lecture for 2020 was focussed on just this change, with Dr Damien Buie of Laing O'Rourke pointing up the way construction can find 'Safety in Numbers'. See the recording of the lecture on the JCT website at <https://corporate.jctltd.co.uk/jct-povey-lecture-2020>.

This is work I will continue to contribute to and to follow, after I move on from the chair of JCT at the end of February 2021. Follow me at Deploi.co.uk. Thank you for your support during my term and good luck in the digital future.

Richard Saxon CBE is a client and business adviser and was chair of JCT from 2015 to 2021. He was also the first Povey lecturer in 2003.



ASSESSING THE DRAFT BUILDING SAFETY BILL

MICHAEL O'CONNOR – PARTNER, CHARLES RUSSELL SPEECHLYS LLP

Taken with various accompanying measures relating to building safety – such as the Fire Safety Bill currently passing through Parliament, various changes to the Building Regulations and the establishment of funds for the replacement of both ACM and Non-ACM cladding and the cost of waking watches, worth £1.6bn – there is no doubt that the measures comprise the most wide-ranging reforms in building safety for 40 years.

Building Safety Regulator

Initially confirmed by the Government in January 2020, Part 2 of the Bill sets out the functions of a new Building Safety Regulator (BSR), operating within the Health and Safety Executive.

The BSR will be responsible for overseeing the safety and standard of all buildings and will also have a duty to improve the competence of all persons involved in the built environment industry. Notably it will directly oversee the competence and performance of 'building control approvers', which replace Approved Inspectors, who will be required to register with the Regulator and may be guilty of a criminal offence and liable for a fine or imprisonment up to two years if found to have provided false or misleading information.

A new stricter regime for 'higher risk buildings'

The BSR will be directly responsible for implementing and enforcing a new stricter regime for 'higher-risk buildings' and for making key regulatory decisions at points during the design, construction, occupation and refurbishment of buildings. Responsibility for determining the parameters of which buildings will be deemed a 'higher-risk building' will fall to the Secretary of State, who must consult the BSR, though it is currently understood it will apply to all buildings of 18 metres or more in height, or more than six storeys.

The Bill also sets out that the 'accountable person', deemed to have responsibility for various tasks relating to building safety and engagement with residents, would be the person who holds a legal estate in possession of any part of the common parts of a building or who is under a relevant repairing obligation in relation to any part of the common parts.

The Bill also includes various provisions relating to Dame Hackitt's proposals for a 'golden thread' of digitally stored data relating to Building Safety, which must be updated and made accessible to the BSR and to residents throughout the lifecycle of the building.

More detail needed

Whilst the Bill and the policy intention behind it is welcomed, the current draft lacks the detail as to how those policy changes are to be implemented and to fully assess the impact the Bill will have on the industry.

When the Bill was published, the Government said it was keen to receive further views from parliamentarians, residents and industry via the Parliamentary process of pre-legislative scrutiny, before the Bill is then introduced to Parliament.

On 24 November 2020, the Housing, Communities and Local Government Committee published its report on the Building Safety Bill. The Committee stressed that the Bill needed much more detail on the procedures to be implemented by the Bill, particularly in respect of the "Gateways" process and the regulation of construction projects. The Report also recommended:

- Publication of a timetable or commencement so it is clear by when the industry has to demonstrate compliance.
- An express definition of "higher risk buildings" and the factors that must be considered in the future when the scope of the regime is expanded – the ability of residents to evacuate a building being a principal factor.
- Including within the Bill provisions for establishing a national system of third-party accreditation and registration for all professionals working on the design and construction of higher-risk buildings.
- Imposing a duty to co-operate where there is more than one "accountable person" for individual buildings.
- Implementation of a national system of accreditation to agreed common standards and for a central register of building safety managers.
- Greater transparency on the testing regime of construction products and the publication of test failures and re-run tests.

At this stage, there has been no response from the Government to the Committee's report, nor has it given any indication as to when (or if) it will publish a further draft of the Bill before it is put before Parliament. Many of the recommendations by the Committee are sensible and will either need to be included in the main legislation or secondary legislation. The devil, as ever, will be in the detail.

CONSTRUCTION'S NEW PLAYBOOK

RICHARD SAXON CBE – JCT CHAIR

You may not know that I have been a long-time fan of American Football. The game is sometimes called 'violent chess' as it's based on pre-planned 'plays' by one side's offence team and the other's defence team. The plays are radioed into the quarterback, the leader of the offence, by a coach on the sideline and the whole team must remember the moves implied by the coded name of the play, then execute it flawlessly. All the team's plays are set down in their playbook, a secret document that team members must learn by heart and practice continuously. New plays are devised all the time too. No wonder the game originated in colleges.

Now we have a Government Construction Playbook. It's not a secret playbook, but one to be understood by the whole industry. It builds on the long-term goals of the government, to build better, faster, greener and for less cost. But it adds policies that are deemed to enable those goals to be scored. These policies, or plays, are partly familiar but partly radical and a major change from the implicit playbook of today.

Intriguingly, BEIS agreed the playbook during the Covid 19 restrictions by working with bodies from across the industry in weekly online videoconferences. It would have taken far longer to emerge from conventional meetings, would have cost more and would have emitted more carbon dioxide. The process thus encapsulates the playbook's ideas.

The core play in the book is based on the realisation that essential innovation won't happen if government goes on buying projects one at a time on a price-led basis. The long-established assumption that single-project competitive tenders deliver best value is out. Twenty-two years after the Egan Report, which called for an end to this kind of tendering, the playbook agrees. Long-term alliances are to be set up for multiple projects, to encourage research, development and innovation, offsite manufacturing and digital methods. Outcome-based briefs will be set, enabling teams to respond without pre-defined designs and to learn and improve continuously. Teams will be encouraged to stay together, with Tier 2 and 3 players involved early. Whole-life value will be sought, with benchmarks for what particular types of facilities should cost.

Fourteen key groups of policies are in the playbook:

1. Published pipelines of projects to give confidence to the market.
2. Long-term partnerships for high volume, repeated asset types.
3. Market health checks to take advantage of innovations and act on limitations.
4. Early supplier involvement, abandoning single-stage procurement.
5. Rationalised demand for standardised, offsite approaches to construction.
6. Outcome based approach, based on a 'five-capitals' scorecard for sustainable value solutions and with transparent reporting.
7. Doubling down on digital: embedding the ISO 19650 process and the emergent Digital Twin concept.
8. Assessment of alternative delivery models for public works.
9. Benchmarking to provide a 'should cost' guide for whole-life, zero-carbon.
10. Better risk allocation through market engagement and incentives.
11. Pricing and payment mechanisms to incentivise agreed outcomes.
12. More effective contracts to support data exchange, collaboration, value and risk management, with continuous improvement.
13. Better assessment of supplier financial standing, to set minimum standards.
14. Resolution planning to ensure ability to protect projects from supplier failure.

We should all be working on forms that meet emerging public requirements, for multi-project alliances, digital working and reward from value delivered.

The sea change implied in the playbook is to listen to Egan at last. He pushed for a manufacturing-style of industry, with a few dominant suppliers with long-term supply chains, able to invest in innovation and aiming at perceived customer value. That logic is now irresistible as the government adopts the manufacturing model. The EU approach of giving every qualified supplier a crack at every job is rejected as perpetuating poor performance. It will not be popular and push-back can be expected, but it is the essential modernising that the industry needs.

I got into the subject of reforming the industry back in 1994 with the Latham Review. It will have been about 27 years by the time I step down as chair of the JCT in February 2021. It has been a bumpy road, with progress reversed several times as recessions drove back reform. Let's hope I'm retiring as the pendulum swings towards long-term change and a brighter future.

Richard Saxon CBE was chair of JCT from 2015 to 2021.





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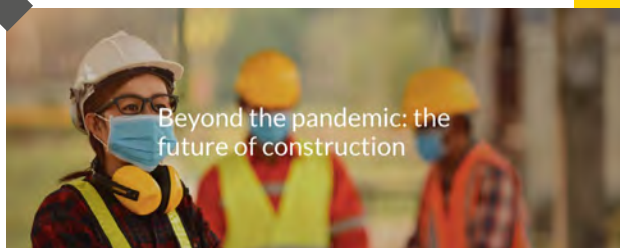
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JCT TRAINING ONLINE – FLEXIBLE LEARNING OPTIONS FOR JCT CONTRACT USERS

JCT has developed a new package of online training to sit alongside its traditional, face-to-face courses. The programme aims to provide more flexibility for contract users following the restrictions and wider working implications of the Covid-19 pandemic.

The scheme started on the 26 November 2020, where two courses, “**JCT Design and Build Contract 2016**” and “**JCT Contracts 2016: The Legal Perspective**”, were delivered as live, interactive webinars.

The new digital JCT Training comes from the same expert trainers as the physical courses – all either past or current members of the JCT Council or JCT Drafting Sub-Committee.

As well as being broadcast live, the lecture-style courses also provide interactivity for attendees who will be able to ask questions of the trainers during specially set-aside Q&A segments.

When booking a course, attendees are sent a questionnaire to complete in advance, to identify priority areas and highlight any specific questions that the trainers can incorporate into their session.

The courses are 3-hours in duration, and once attendees have booked a place, they will be sent relevant course materials and be able to test and troubleshoot any technology issues ahead of time to make sure their course runs smoothly on the day.

JCT chief executive, Neil Gower, said:

“As the industry begins to recover from the Covid-19 pandemic, it is vital that training can also continue, as it has never been more important that contract users are able to get the information and skills they need to work with their contracts successfully.”

“Our new online JCT Training programme delivers a high quality service that suits home or office working, and ensures that restrictions due to Covid-19 are not a barrier to JCT users accessing the services they need.”

“Alongside our digital drafting services, JCT Construct and JCT On Demand, online training is another important step in delivering JCT’s digital future”.

More information about the courses and booking is available at www.jctltd.co.uk/jct-training.



JCT POVEY LECTURE 2020 – WEBINAR REACHES WIDEST JCT AUDIENCE TO DATE

“Safety in Numbers: Resilience and Certainty Through Data” was the topic of the 2020 JCT Povey Lecture, presented by Dr Damien Buie, group technical director at Laing O’Rourke, on Wednesday, 18 November 2020.

The JCT Povey Lecture was broadcast live as a webinar for the first time, in light of the restrictions in place due to Covid-19. Attendees were able to register in advance via the event website and the interactive online interface enabled questions and comments to be submitted in real time.

With over 400 registered attendees, it made the event the largest JCT Povey Lecture to date, in terms of audience.

Dr Buie described Laing O’Rourke’s own journey toward Construction 4.0 – a strategy to deliver closer alignment with clients, create a safe working environment, and consistently deliver quality engineering solutions that are on time, on budget, and sustainable across the project lifecycle – by harnessing the power of data.

Dr Buie explained that data not only enables a culture of transparency and collaboration that is more customer focused, it also provides greater ability to resist and absorb shocks and unknown events – particularly relevant as we go through the Covid-19 pandemic – and provides more certainty and confidence in particular outcomes:

“Building a data driven culture is in the best interest of our clients and key stakeholders across the construction industry. It will translate into greater value and lower risks.

“The world of opportunity around data is broader than any company’s ability to address it. You need to partner and collaborate to achieve the scale and pace required to win.

“While there are barriers to building a customer aligned industry, the steps to move forward are simple.”

The full presentation of the JCT Povey Lecture 2020 is available via the JCT website at <https://corporate.jctltd.co.uk/jct-povey-lecture-2020>, or via JCT’s YouTube channel.

JCT chair, Richard Saxon CBE, who hosted the event, was also able to inform the audience about JCT’s wider digital strategy, aimed at providing a range of JCT digital products to meet the demands of a modern industry, and assist in flexible working by delivering practical working and learning tools for professionals as the industry gets back on its feet.

A range of online contract tools are available at www.jctltd.co.uk/jct-digital, and a new online training programme, is available at www.jctltd.co.uk/jct-training.



The JCT Povey Lecture 2020: (l-r) Speaker, Dr Damien Buie and JCT Chair, Richard Saxon CBE

JCT INTERVIEWS...



VICTORIA PECKETT

**Partner, head of construction,
CMS-CMNO
chair, JCT Drafting Sub-Committee**

In a special edition of 'JCT Interviews...', we talk once again with Victoria Peckett, chair of the JCT Drafting Sub-Committee (DSC), to update us on JCT's current work and what we can expect from the next edition of the JCT contract suite.



JCT: Victoria, thanks for joining us again. You are about to embark on your next term as chair of the DSC. What do you find enjoyable/rewarding about the role, what are the biggest challenges?

VP: It is great to help JCT shape contracts that will suit the construction industry for the future. We are all used to dealing with the day-to-day challenges our roles send our way. Getting the chance to consider how to future-proof contracts that need to work for many years to come is a bit of a change from those challenges, and seeing those changes come to fruition is very rewarding!

JCT: What do you feel are the main strengths that you bring to the role? How does your professional role help inform your work with the DSC?

VP: My main aim is to try to reach a consensus across all parts of the industry on the updates to the JCT suite that we are considering. People are very passionate about what they feel the contracts should say and often can have wildly different views about this. I hope that one of the main skills I bring is the

ability to find a consensus that works for everyone. I think my work as a lawyer seeking to find solutions that work best for my clients really encourages me to dig deep to find out what the real blockages are and how they might be overcome – and this helps to find a consensus which may otherwise be difficult to create.

JCT: The DSC is currently busy working on the next JCT edition. In terms of broad themes, what can we expect from the next update to the suite?

VP: There are some key themes that have been affecting the industry over the past year or so (some of which we will touch on shortly) which will need to be addressed in the updated JCT suite. Some of these – like the Building Safety Bill – will be driven by legislative change. Some by updating the suite to reflect best practice and, increasingly, different ways of working. Some to reflect aspects of case law where JCT decides that adaptations should be made to the suite to deal with issues arising from certain judgments. And we are instituting a general update to the suite to adopt gender neutral wording.

JCT: The impact of Covid-19, the Grenfell tragedy, and climate change will have wide reaching implications, not least contractually, for the industry. What do you see as JCT's role in responding to these issues?

VP: These are huge issues for the world, not just the construction industry or JCT! But JCT can help the

construction industry by increasing awareness of the issues and how JCT tackles – and will tackle – them, for example by publishing articles and guidance. That is of course in addition to producing updated editions of the JCT suite to provide the parties with appropriate contract clauses dealing with these issues.

JCT: Getting the industry back on its feet post Covid-19 remains a huge challenge. What do you see as the other major challenges facing the industry once a sense of normality can be restored?

VP: Indeed yes, getting back to some sort of normality will be a big challenge in itself. And as you have already mentioned reforming the industry to prevent Grenfell ever happening again will be a key challenge. Along with climate change and adopting new ways of working to embrace the digital age and increasing use of offsite manufacturing.

JCT: What role does JCT have to play in assisting the industry with its recovery and moving forward?

VP: We have already touched on some of these. Increasing awareness of the key issues and how JCT tackles them is one area. Producing contracts which parties can adopt which will fit their chosen procurement method and nature of project enable them to get into contract quicker and more cost effectively is another.



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- JCT Construction Manager Collateral Warranty for a Funder (CMWa/F)
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- JCT Management Building Contract (MC)
- JCT Management Works Contract Agreement and Conditions (MCWC/A and MCWC/C)
- JCT Management Works Contractor/Employer Agreement (MCWC/E)
- JCT Management Building Contract Guide (MC/G)
- JCT Works Contractor Collateral Warranty for a Funder (WCWa/F)
- JCT Works Contractor Collateral Warranty for a Purchaser or Tenant (WCWa/P&T)
- JCT Management Contractor Collateral Warranty for a Funder (MCWa/F)
- JCT Management Contractor Collateral Warranty for a Purchaser or Tenant (MCWa/P&T)
- JCT Constructing Excellence Contract (CE)
- JCT Constructing Excellence Contract Guide (CE/G)
- JCT Constructing Excellence Contract Project Team Agreement (CE/P)
- JCT Consultancy Agreement (Public Sector) (CA)
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