

RESOLUTION

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Professional Quantity Surveying Services & Alternative Dispute Resolution Services

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The key members of the Arbicon Team:

Ian J Purser - Director

Jon Nugent - Director

Mike Norrish -
Senior Consultant

Tim Dyson -
Senior Consultant

Louise Steel -
Marketing Manager

Regulated by RICS

Arbicon celebrate opening of largest B&Q and associated stores in Peterborough

Arbicon are delighted to have been part of the successful project team who have delivered the new B&Q and Matalan stores in Peterborough, both of which had their spectacular openings recently.

The new B&Q store, which is 142,000 sq ft and has 32,000 different product lines, has a unique format with a number of specialist areas and an expert available in each area. The new Matalan store has also just opened and at 40,000 sq ft is three times the size of the previous Matalan store in Peterborough.

Arbicon have provided the Quantity Surveying Services to the Main Contractor on the project and are a local firm who specialise in Dispute Resolution Services and Professional Quantity Surveying Services to the Construction Industry.

Director of Arbicon, Ian Purser, had this to say about our involvement in the project; "We are delighted to be involved in a project of such status with a prestigious client which was completed both to budget and on programme and is located within a high profile location within Peterborough".

We would be pleased to hear from any local clients or contractors interested in developing within the Cambridgeshire area, we can provide PQS, contracting and dispute resolution services for the full range of surveying functions and would be happy to consider fixed fee arrangements.



Work in progress



The finished B&Q building

What right does a main contractor have to supplement labour on a sub-contract and who pays for it?

A familiar aspect of a project completing late is the need to increase labour on site to supplement the efforts to finish. Whilst the main contractor is applying pressure on the sub-contractor he may bring additional labour on to site, either by agreement or unilaterally. Such instances lead to disputes over contra changes to the sub contractors accounts, which are inevitably levied in the commercial settlement of the account.

So is the main contractor entitled to act in this manner and make such charges?

There are a number of remedies and rights to consider here and as always it depends on what is agreed in the contract. It is possible very simply for a clause to be incorporated into the contract entitling the main contractor to supplement the sub-contractors works. A clause of this type is likely to be expressed as "in the

opinion" of the main contractor, works are not progressing adequately, the main contractor can supplement the labour at the expense of the sub-contractor. This is perfectly legal if you are a sub-contractor you should beware of this type of clause as it will cost you !

In the absence of a clause to supplement the labour the main contractor may run the risk of breaching the contract. In **Sweatfield v Hathaway Roofing (1997)**, the relationship between the parties was strained, main contractors Sweatfield gave notice to Hathaway that they were not progressing "regularly and diligently". Hathaway responded by saying they were being hampered by the poor workmanship of Sweatfield. Sweatfield then instructed Hathaway to increase its labour. Hathaway refused saying it was impractical. Sweatfield took

matters into its own hands and brought labour onto the site. Hathaway reacted by withdrawing from site citing the bringing onto site of the Sweatfield labour was a breach of contract. It was held that Sweatfield were in breach of contract. So main contractors should take care when considering forcing the issue of more labour this could well result in the payment of damages in addition to delayed completion and increased productivity costs.

In conclusion a main contractor who brings labour on to the site or introduces another sub-contractor to supplement the work, risks a claim for breach of contract from the official sub-contractor. However if a clause has been drafted into the sub-contract giving the main contractor express power to bring in extra labour, there will be a right to do so. Depending on the wording, the right to employ and set off will be to the main contractors advantage.

It should be noted that if a sub-contractor is failing to proceed regularly and diligently with the sub-contract work, there is usually an entitlement to terminate the sub-contract.

As a footnote the legal meaning of "regularly and diligently" and the extent of "failure" to allow termination are the subject of a further more complex area of construction law!



Arbicon ADR is now regulated by the Royal Institution of Chartered Surveyors (RICS)

Arbicon is a leading provider of Professional Quantity Surveying and Cost Management Services and Alternative Dispute Resolution Services including the following:

Pre-contract services

- Cost planning
- Estimating and tendering including audits
- Bills of quantities preparation and production
- Commercial audits and reports
- Budget and cash flow forecasting
- Quantity and procurement checks
- Material scheduling
- Contract procurement

Arbicon are actively seeking good quality QS staff to join their team and would like to hear from anyone interested in joining via email or by phone 01480 426560.

Post Contract services

- Preparation of final accounts
- Contractual procedures advice
- Re-measurement
- Cost reconciliation reports
- Subcontract account management
- Valuations for interim payments
- Variation and day work account valuation and control
- Extension of time claims
- Loss and expense claims
- Dispute resolution/mediation/

adjudication/arbitration

- Support in litigation
- Risk management and dispute prevention
- Expert witness

**Call us now on
01480 426560
to see how
we can help you**

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