

Case summary

Issue(s)

The correct approach to the 'public interest' requirement on an application for the modification or discharge of restrictive covenants under section 84 of the Law of Property Act 1925.

Facts

The appellant's predecessor in title, Millgate Developments Ltd, built housing units on land near Maidenhead, in breach of restrictive covenants benefitting the adjoining land where a children's hospice has been constructed. After the housing units were completed, Millgate applied for the modification or discharge of the restrictive covenants pursuant to s 84 Law of Property Act 1925. The Upper Tribunal granted the application, subject to the payment of compensation to the respondent, but the Court of Appeal overturned that decision and refused the s 84 application.