

**Section 84 of the Law of Property Act  
1925:  
A short guide to a difficult provision**

**Tom Weekes QC  
Landmark Chambers**

George Bartlett QC complained about:

- “...the difficult of reading and navigating section 84”.

The Law Commission:

- “[section 84 is] unusually long”.
- “the interrelationship of some of its provisions is not clear.”
- “the practice of the...Lands Chamber...in applying the section 84 grounds has evolved over the years and is not readily discernable from the section itself.”

Tulk v Moxhay (1848) 41 ER 1143



Winkworth v Edward Baron Development Co Ltd [1986] 1 WLR 1512, Lord Wilberforce (at 1516):

- “...equity is not a computer”.

Equity refused to enforce restrictive covenants:

- Acquiescence in breaches.
- Character of the neighbourhood changed.
- At least by an injunction, in an exceptional case if only trivial harm would be caused by the breach and if it would be oppressive to grant an injunction.

- Ground (a): “the restriction ought to be deemed obsolete.”
- Ground (b): those with the benefit of the restriction “have agreed, either expressly or by implication, by their acts or omissions, to the [restriction] being discharged or modified.”
- Ground (aa): bears some similarity to the circumstances in which the Court would refuse to grant an injunction.

## Ground (aa):

- The restriction impedes “some reasonable user of the land for public or private purposes...”.
- In impeding that user, the restriction “...does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them”.
- And “that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification”.

Re: Lloyds Bank Ltd's Application (1976) 35 P&CR 126, Russell-Davis FRICS:

- “All that an applicant...has to show, so far as this part of the legislation is concerned, is that he has a definite project, that it is a reasonable one and that the unmodified restriction impedes it. There can be few applicants who would fail to do that.”



Re Martin's Application (1989) 57 P&CR 119, Fox LJ (at page 126):

- “If the covenant is of value to the corporation for the protection of the public interest in the preservation of the amenities, it is difficult to see how a money payment could be adequate compensation.”

# Re Zenios [2011] EWCA Civ 645:

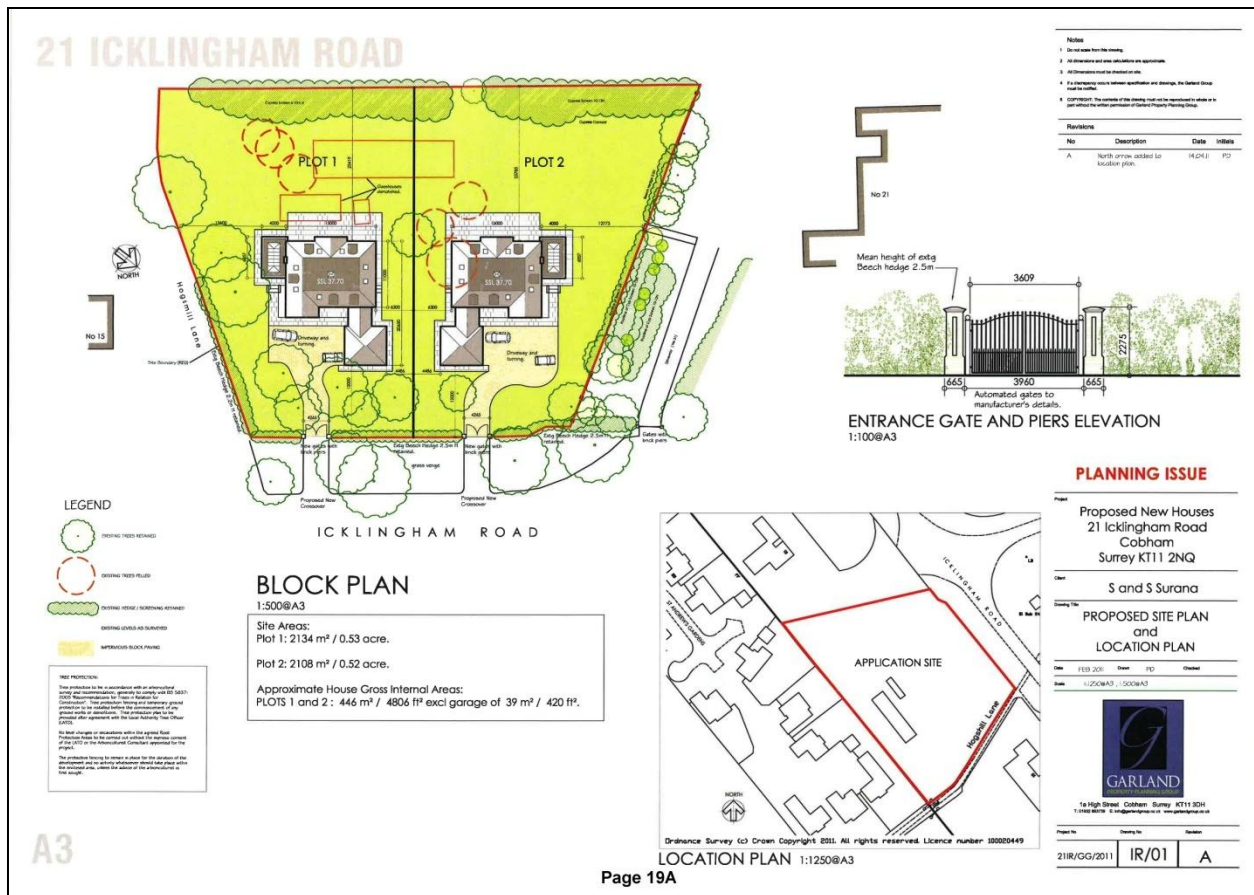


Stanborough's Application [2012] JPL 756.

- Question: Do you agree that it would be difficult for the Tribunal to form any clear idea of what you might do if your application was dismissed?
- Answer: Yes.

Re Clearwater Properties Ltd [2013] UKUT 210 (LC)

# Re Surana's Application [2016] UKUT 368 (LC)





Page



Page 540

Re University of Chester's Application [2016] UKUT 457 (LC)





