

LANDS TRIBUNAL

APPLICATION UNDER SECTION 84 OF THE LAW OF PROPERTY ACT 1925 TO DISCHARGE OR MODIFY A RESTRICTIVE COVENANT

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- An application to discharge or modify a restrictive covenant must contain the following information, and the Lands Tribunal will not register it if the information is incomplete.
 - It should be adapted from the layout below and typed or printed on plain A4 paper.
 - The application must be signed at the end and dated.
 - The application should be sent to the Tribunal together with the fee payable and such plans and other documents as are relevant.
1. **Applicant:** Give the name, address, and telephone number of the Applicant or Applicants.
 2. **Applicant's representative:** Give the name, address, telephone number, and status (e.g. solicitor; surveyor).
Note: All correspondence will be with the representative and not the applicant direct. A DX address is acceptable.
 3. **Application land:** Give the postal address (or OS number) and area.
Note: The Application Land must be marked in red on an attached plan. State if the land is registered and attach a copy of the Land Registry entry.
 4. **Applicant's interest in the land:** State whether freehold or leasehold or contractual.
Note: If leasehold, give the name and address of the landlords and state whether they consent to the application.
 5. **Land in which the applicant has an interest**
Note: Include not only application land but also any adjacent land in respect of which the applicant has an interest. State the nature of the applicant's interest (whether freehold or otherwise) and give details. Outline the land in green on the plan if it consists of more than the application land.
 6. **Land subject to the burden of the restrictive covenant.**
Note: This may be the same as, or a larger area that includes the application land. If it is a larger area it should be outlined in blue on the plan.

7. Land to which the benefit of the covenant is believed to attach.

Note: This should be marked in yellow or brown on the plan, and the names and addresses, if known, of all those believed to be entitled to the benefit of the covenant should be listed.

If there is uncertainty the Tribunal will assume until the matter is clarified that the benefit attaches to all land in the immediate neighbourhood of the application land. Any statement made by the applicant under this heading is without prejudice to contentions the applicant may later advance as to the entitlement of particular objectors. If the successors to the original covenantees are not known, give details of the steps taken to identify those entitled to the benefit.

8. The legal instrument under which the restriction was imposed.

Note: Identify the document (deed, conveyance, transfer, etc.) that imposed the restriction including its date and the parties to it. Copies of the instrument should be attached or, if steps taken to obtain a copy of the instrument are unsuccessful, other documentary evidence of the restriction (e.g. in the case of registered land, an entry in the Register of Title) must be attached.

9. Whether the applicant is in breach of any of the restrictions imposed by the legal instrument under which the covenant was imposed.

Note: If so, state whether the application is being made following a stay of proceedings under section 84(9) of the Law of Property Act 1925, and give details.

10. The restriction(s) the subject of this application.

Note: The text of each restriction to be discharged or modified must be set out in full word for word. Do not include any other restrictions on the form. It is for you to specify the relevant restrictions, the Tribunal cannot pick out the relevant ones from a list of all restrictions. Restrictions means covenants with a negative (restraining) effect; the Tribunal has no powers regarding positive covenants.

11. Whether the application is for

- (i) discharge, or
- (ii) modification, or
- (iii) discharge or modification in the alternative

*Note: One of the three options must be chosen. If option (i), complete 12 below. If option (ii), complete 13 below. If option (iii) completes **both 12 and 13** below)*

12. If the application is for discharge of the restriction:

12.1 Specify which of grounds (a), (aa), (b) and (c) of section 84(1) of the Law of Property Act 1925 (as amended) are relied on

Note: Applicants should satisfy themselves that the grounds set out can properly be relied on in the circumstances of the case. It will be rare, for instance, for ground (aa) to be relevant to an application to discharge.

- Ground (a)
- Ground (aa)
- Ground (b)
- Ground (c)

12.2 Set out, under each of the grounds relied on, relevant particulars of the grounds.

Note: relevant particulars will include some or all of the following:

- (a) changes in the character of the property;
changes in the character of the neighbourhood;
other circumstances by reason of which the restriction ought to be deemed obsolete.
- (aa) the reasonable user that is impeded by the restriction;
the relevant provisions of the development plan;
planning permissions applied for, granted or refused relating to the application land in the last 5 years or if relevant earlier;
planning permissions or refusals of planning permission showing a pattern for the relevant area;
the period at which and the context in which the restriction was imposed;
other circumstances;
if money is said to be adequate compensation.
- (b) express agreements to discharge or modification;
acts or omissions that imply agreement to discharge or modification.
- (c) any matters relied on as showing that there would be no injury.

13. If the application is for modification of the restriction:

13.1 Set out the modification that is sought and specify which of grounds (a), (aa), (b) and (c) of section 84(1) of the Law of Property Act 1925 (as amended) are relied on. *Note: This is **not** to be combined with 12 above.*

Applicants should satisfy themselves that the grounds they set out can properly be relied on in the circumstances of the case. Ground (a), for instance, will not usually be relevant to an application to modify.

- Ground (a)
- Ground (aa)
- Ground (b)
- Ground (c)

13.2 Set out, under each of the grounds relied on, relevant particulars of the grounds

Note: relevant particulars will include some or all of the following:

- (a) changes in the character of the property;
changes in the character of the neighbourhood;
other circumstances by reason of which the restriction ought to be deemed obsolete.
- (aa) the reasonable user that is impeded by the restriction;
the relevant provisions of the development plan;
planning permissions applied for, granted or refused relating to the application land in the last 5 years or if relevant earlier;

planning permissions or refusals of planning permission showing a pattern for the relevant area;
the period at which and the context in which the restriction was imposed;
other circumstances;
if money is said to be adequate compensation.

- (b) express agreements to discharge or modification;
acts or omissions that imply agreement to discharge or modification.
- (c) any matters relied on as showing that there would be no injury.

14. Signature and Date

- Sign and date the form
- Also write your name legibly in capitals
- State whether you are:
 - the applicant
 - the solicitor for the applicant
 - the agent for the applicant (in which case enclose a signed authority to act)
- Write the words:
“I have paid the setting-down fee of **£ 200** and I accept responsibility for the conduct of the case and the payment of later fees”.

15. What to do next

Send the form, the fee (make cheques or postal orders payable to the “Tribunals Service”), and all relevant documents (these include: a copy of the instrument that imposed the restriction including a coloured copy of any attached plan, an Ordnance Survey plan site-centered showing all land within 200 meters of the application land to the scale of 1:1250; title deeds, Land Registry entries, any planning permissions, and plans of proposed development) to:

The Registrar

Lands Tribunal

43-45 Bedford SquareDX: 149065 (Bloomsbury 9)
London..... Tel: 020 7612 9710
WC1B 3ASFax: 020 7612 9723

The Tribunal office will acknowledge receipt of the Application and the fee, and will inform you of the next steps to take.

The Lands Tribunal Rules 1996, which govern procedure in the Lands Tribunal; the Lands Tribunal (Fees) Rules 1996, which set out the fees which must be paid at various stages of the proceedings and for applications; the President’s Practice Directions, which explain how the Rules are applied; the Restrictive Covenants Procedure Flowchart, which sets out the procedure for applications; and the Explanatory Leaflet, which contains general information about the Lands Tribunal and other information that may assist parties to understand and comply with our rules and procedures are all available on our website at www.landtribunal.gov.uk