

University of Chester covenant modification



Determining authority: Upper Tribunal (Lands Chamber)

CLIENT

Dr R Witter

STATUS

Case determined

SERVICES

Expert Witness

Our role

- Case brought by the University of Chester, who had secured planning permission for a new boathouse on the River Dee, on land that benefitted from an 1896 restrictive covenant and were seeking a modification of its restrictions.
- Evidence given on behalf of the objector to the modification.
- Consideration of (i) whether, for the purposes of ground (a) of section 84(1) of the Law of Property Act 1925, the covenant restrictions ought to be deemed to be obsolete and (ii) whether the development would have a harmful impact on the amenity of the land with the benefit of the restrictions.

Results

- The Upper Tribunal agreed the development would have an extremely harmful impact on the amenity and enjoyment of Dr Witter's riverside garden and refused to modify the covenants.