

LexisNexis Practical Research – Property Scotland

Our client, Alexander Limited, is buying a site for re-development for housing. We have examined title to the site and there are two real burdens affecting the site which may impact on the client's proposed re-development. The real burdens were created in 1998. The site formed part of a larger area of ground (the Estate). The rest of the Estate was sold as 3 plots (Plots 1, 2 and 3) to 3 separate purchasers in 1998.

Burden 1 states:

“the Subjects shall be used for a use within classes 4 or 5 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and for no other purpose whatsoever without the consent of the Superior”

Burden 2 states:

“our said disponees and their foresaids are prohibited from making any alterations to the buildings or other erections on the Subjects without the prior consent of the Superior.”

We are meeting with the client this afternoon to run through the offer and report on the title issues. The partner has asked you to consider:

1. Are the real burdens still valid and effective?
2. If so who can enforce them?
3. Is there any way to remove the real burdens?

