



LP/32/2006

LANDS TRIBUNAL ACT 1949

RESTRICTIVE COVENANT – discharge – bungalow – restriction to one bungalow with garage – no appearance by applicant at hearing – application dismissed

**IN THE MATTER OF AN APPLICATION UNDER SECTION 84 OF THE
LAW OF PROPERTY ACT 1925**

BY

SAMANTHA JANE WOOLARD

**Re: Plot 23
Grove Hill Park
Gorslas
Carmarthenshire**

Before: N J Rose FRICS

**Sitting at Swansea Civil Justice Centre, Caravella House, Quay West,
Quay Street, Swansea, South Wales, SA1 1SP
on 17 February 2009**

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DECISION

1. This is an application by Ms Samantha Jane Woolard under section 84(1) of the Law of Property Act 1925 for the discharge of a restrictive covenant affecting freehold land known as Plot 23, Grove Hill Park, Gorslas, Carmarthenshire so as to permit, retrospectively, the erection of two semi-detached bungalows on the site.

2. The restriction was imposed by a conveyance dated 27 July 1983 between Sleygrange Limited (the Vendor) and Edward John Parker (the Purchaser). Clauses 1, 2 and 3 of the preamble to the conveyance read as follows:

“1. The Vendor being seised of certain properties situate at Gorslas in the county of Dyfed and delineated on the plan annexed hereto and thereon edged green for an estate in fee simple in possession free from encumbrances has laid out the same in plots as a building estate as shown on the said plan and has thereon and thereunder constructed certain roads, drains and sewers for the convenience of the persons erecting houses on such estate.

2. The land described in Part I of the First Schedule hereto forms one plot on the said building estate.

3. The Vendor has already sold and conveyed to purchasers certain of the said plots with the right to use the said roads drains and sewers but subject to covenants on the part of each purchaser to observe certain stipulations similar in all respects to the stipulations set out in the Second Schedule hereto it being intended (as the Purchaser is aware) that all purchasers of plots forming part of the said building estate should (subject as is hereinafter provided) enter into similar covenants so as to create a building scheme and so as to entitle the purchaser of any one of the said plots to enforce the covenants entered into by the purchasers of all other plots in whatever order of time the respective purchases were made.”

3. By Clause 2 of the Deed the Purchaser covenanted

“For the benefit and protection of the lands comprised in the said building estate or any part or parts thereof other than the land hereby conveyed and so as to bind the land hereby conveyed unto whosoever hands the same may come ... that the Purchaser and those deriving title under him will at all times hereafter observe and perform the stipulations set out in the Second Schedule hereto.”

4. Para 2 of the Second Schedule provided that:

“There shall not be erected on the said land any building other than one bungalow of block brick or stone or of both materials with garage and necessary outbuildings.”

5. On 18 December 2003 full planning permission was granted for the erection of one pair of semi-detached bungalows, without garages, on the application site. That consent has been implemented. The applicant has applied to the Tribunal to discharge the covenant to permit such development on grounds (a), (aa), (b) and (c) of section 84(1) of the Act.

6. There are outstanding admitted objections from the following residents of Grove Hill Park: Mr G and Mrs P Davis (No.73), Mr and Mrs R G Jones (No.75), Mr V and Mrs V Rayner (No.72) and Mr K K Martin (No.71).

7. The application was listed for hearing at Swansea Civil Justice Centre at 10.30 am on 17 February 2009. By 10.50 am on that day there had been no appearance by or on behalf of the applicant and the Tribunal has received no communication from her to explain her non-appearance. Two of the objectors, Mr Rayner and Mr Martin, did attend, but they made it clear that their presence was as observers only.

8. By Rule 49(1) of the Lands Tribunal Rules 1996

“If on ... an application under Part V [relating to applications under Section 84] the ... applicant fails to attend or be represented at the hearing the Tribunal may dismiss the ... application”.

Accordingly I hereby dismiss the application.

Dated 9 March 2009

N J Rose FRICS