

Restrictive Covenant Application: Publicity notice

Take notice that an application under section 84 of the Law of Property Act 1925 to discharge a restrictive covenant affecting the land referred to below has been made to the Tribunal. If you are legally entitled to the benefit of the covenant and you wish to object to the application, you should object within 1 month of the date of this notice.

The application relates to land at rear of 68 Sutton Road, Maidstone, ME15 9AL.....

The applicant is Mrs Susan Palmer.....

of 68 Sutton Road.....

The covenant contained in a conveyance dated 5 June 1928 made between William Harold Poole and James Richard Eastwood (purchaser) in respect of which the application is made contains the following restriction:

No message or building should be erected upon said piece of land of less value than £500 (calculated upon net its cost in labour and materials only at lowest current prices) and shall be built of brick or stone and roofed with tiles and should be erected in accordance with plans and specifications to be approved in writing by Messrs. Wm. Day Son & White of Maidstone (or other the Surveyors for time being of Vendor or his successors in title) and their fee of One Guinea for certifying such approval and should be paid by Purchaser and Purchaser should not at any time erect any other building on said piece of land but this clause should not prevent the erection or the usual outbuildings in addition to any dwelling house provided proposed site for and plans & specifications of such outbuildings are first approved in writing by said Surveyors and their fee for certifying such approval is paid by the Purchaser.

The application seeks the discharge of the restriction on the following grounds

- (a) that the restriction ought to be deemed obsolete;
The reason it should be deemed obsolete is that the area is now different than when the covenant was put in place. There has already been some development of new buildings on the land adjoining the covenanted land and a road (adopted by Maidstone District) runs between the newer buildings and the property with the covenant attached. The road gives complete access to the area as and when needed.
- (b) that the persons of full age and capacity entitled to the benefit of the restriction have agreed, expressly or by implication, by their acts or omissions to the discharge of the restriction;
- (c) that the proposed discharge will not injure the persons entitled to the benefit of the restriction.

You may inspect the application, plan and other documents at 68 Sutton Road, Maidstone, Kent, ME15 9AL.....during office working hours. A copying charge may be payable if copies are required.

If you are a person legally entitled to the benefit of the restrictive covenant and you wish to object to the application, you may download a Notice of Objection form from the Lands Chamber website or contact: **The Registrar, Lands Chamber, 5th Floor, Rolls Building, 7 Rolls Building, Fetter Lane, London EC4A 1NL** (or telephone 020 7612 9710) and ask for a form of objection (Form LPD). The form should be completed and signed and sent to the Tribunal and to the applicant(s) or, if they are represented, their solicitors **within 1 month of the date of this notice. You may apply for an extension of this time period.**

Persons who file objections become parties to the case, and, provided they are entitled to object, they may appear at the hearing of the application, if there is one. Objecting to an application is the assertion of a property right. The Applicant will be asked whether it accepts that the person giving notice of objection is entitled to the benefit of the restriction of which discharge or modification is sought. If it does not accept this, it will be for the Tribunal to determine whether or not the objector appears to be so entitled and should therefore be admitted to oppose the application. If such a determination has to be made the general rule is that the unsuccessful party will pay the costs of the party in whose favour the determination is made.

Regarding the application to discharge or modify a restrictive covenant, when there is a person or people entitled to its benefit the applicant is seeking to have a property right removed from them. For this reason, successful objectors may normally expect to have their legal costs paid by the unsuccessful applicant. Likewise, although they will usually pay their own costs, unsuccessful objectors will not normally be ordered to pay the costs of successful applicants. Only an objector who acts unreasonably may be required to pay some or all of the applicant's costs.

The applicant may rely on a lack of objections, or a failure on the part of any particular person to object, in support of the application.

If you are unsure of your position you should seek legal advice.

Signed Date

Status Applicant.....