

UPPER TRIBUNAL (LANDS CHAMBER)

UT Neutral citation number: [2022] UKUT 120 (LC) UTLC Case Number: LC-2021-64

Location: Royal Courts of Justice

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RESTRICTIVE COVENANTS - DISCHARGE OR MODIFICATION - proposal to demolish a house and replace with a building comprising eight flats in breach of single dwellinghouse covenant - whether the covenant is obsolete - whether discharge or modification will injure anyone - practical benefits of substantial value or advantage - covenant discharged.

AN APPLICATION UNDER SECTION 84(1) OF THE LAW OF PROPERTY ACT 1925

BETWEEN:

HAE DEVELOPMENTS LIMITED

Applicant

-and-

(1) THE CROFT EALING LTD

(2) - (27) LEASEHOLDERS AT THE CROFT

Objectors

Re: 26A and 26B Park Hill,

London,

W5 2JN

Judge Elizabeth Cooke and Mrs D Martin MRICS FAAV

Heard on: 23-24 March 2022

Decision date: 11 May 2022

William Moffett for the applicant, instructed by Blaser Mills Law

Andrew Bruce for the objectors, instructed by Charles Douglas Solicitors LLP

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The following cases are referred to in this decision:

Chatsworth Estates Ltd v Fewell [1931] 1 Ch 224

Creebray Limited v Dennison[2020] UKUT 262 (LC)

Re Bass's application [1973] P & CR 156

Shephard v Turner [2006] EWCA Civ 8

Introduction

1.

This is an application for the Tribunal to discharge or modify restrictive covenants that burden the title to 26A and 26B Park Hill in Ealing, London ("the property"). The applicant, HAE Developments

Limited, has planning permission to demolish the present house on the property and to construct eight flats, in breach of the covenants which include a single dwelling house covenant; they were imposed in 1955 when the property was created by a sale of part of the garden of The Croft, an adjoining Victorian residence standing in substantial grounds.

2.

The current dwelling on the property was built in the late 1950s as a two-storey house; it has two postal addresses and two front doors, but has an internal connection, as if for a family annexe, so is not entirely separated into two dwellings.

3.

The remainder of The Croft was developed in the 1960s to provide 11 flats and 22 maisonettes, within four three-storey blocks, together with 33 associated garages and spacious mature grounds. The freehold of The Croft is owned by The Croft Ealing Limited ("TCEL"), whose shareholders are the lessees of the flats and maisonettes which are held on 999-year leases. TCEL and 26 of the 33 lessees (whose names are set out in the Schedule to this decision) are the objectors to the application.

4.

We made an accompanied site visit to the property on 22 March 2022. We are grateful to the applicant for marking out the extent of the proposed new building and indicating the height of the proposed balconies to upper floors. We are grateful to the owners of Flats 1, 7 and 11 for inviting us into their homes to assist us in understanding the outlook from their properties. We walked around the grounds of The Croft, to observe visibility of the property from various positions, and we walked the length of Park Hill to observe the nature of the neighbourhood and adjoining properties.

5.

We heard the application at the Royal Courts of Justice on 23 and 24 March 2022. The applicant was represented by Mr William Moffett and the objectors by Mr Andrew Bruce and we are grateful for their submissions. We heard evidence for the applicant from Mr Joseph Murphy of Gecko Developments Limited, a joint venture partner of the applicant, and Mr Steve Machin of SLM Associates, the architect of the development. Expert evidence was provided for the applicant by Ms Victoria Seal MRICS, a director and Deputy Head of London Development and Planning at BNP Paribas Real Estate. We heard evidence for the objectors from Mrs Demertzi of No.1 The Croft, Mr Faulkner of No.7, Mr Traynor of No.11, Mr Beadsworth of No.18, Mr McHugh of No.20, Mr Jones of No.12 and Mr Wilson of No.22. Expert evidence was provided for the objectors by Mr Ruairaidh Adams-Cairns BSc (Est Man) FRICS, a director and Head of Litigation Support at Savills (UK) Ltd.

6.

In this decision we provide the factual background to the application, together with the details of the proposed development. We set out the legal background of the covenants which burden the property and the provisions of s.84, which must be considered by the Tribunal in deciding whether it has jurisdiction to discharge or modify the covenants. We then consider the evidence of fact and the expert evidence given for the parties before explaining our conclusion.

The factual background

7.

Park Hill is a wide, tree-lined road rising gently on a curve within the Montpelier Park Conservation Area in the London Borough of Ealing. It was developed in the late Victorian era to provide large detached houses, set back from the street in relatively narrow plots with spacious rear gardens. The

predominant house style is two-storey gabled red brick, with slate roofs and white painted stucco window surrounds. Many of the houses have windows in their roofs and gables, and those at the upper end of the road, adjacent to the property, have three storeys with an attic or roof space above. The Montpelier Park Conservation Area includes the property, although its design and style are conspicuously from a later era, but excludes the Croft. It is agreed that 10 of the original 31 houses on Park Hill have been converted into flats, whilst No.32 was demolished and replaced with a block of flats in around 1990. Park Hill is a controlled parking zone for permit holders only between the hours of 9.00 – 10.00 am and 3.00 – 4.00 pm on weekdays.

8.

The plan below shows the property and The Croft on the upper part of Park Hill.

9.

24 Park Hill, next door to the property at a slightly lower level, has been converted and extended to the rear to provide eight flats. It has windows in the flank wall facing the property, most of which are not opaque. We observed during our inspection that a number of houses in Park Hill have windows in their long flank walls, with only a small gap between the houses. The front elevation of 24 Park Hill retains its original appearance, which has been adopted in part for the design of the proposed new building at the property.

10.

The north eastern boundary of the property sits adjacent to the gable end of the first three-storey block in The Croft, which fronts onto Park Hill. The gable end comprises 1 The Croft ("No.1"), which is a maisonette over first and second floors, and 2 The Croft ("No.2), which is a ground floor flat. There is a window on each floor in the end elevation of the block facing the property. The ground floor window in No.2 is to a bathroom with obscure glass. The windows at first and second floor level in No. 1 are to landings, although at first floor level the landing has been opened up to the adjacent living area. The side wall of the existing house is on the boundary between the property and The Croft, and there is a 1m high (on The Croft side) red brick wall to the garden. On The Croft's side of the boundary wall there is a mature 8m tall Lawson cypress hedge.

11.

As can be seen from the plan, three of the four blocks of flats and maisonettes at The Croft surround the garden, which is an open space with some mature trees along the southern boundary; the focal point of the open area is a rather stately cedar tree. The ground floor flats have glazed doors giving access to small paved sitting areas and the garden. The maisonettes have first floor balconies which look out over it. The direct outlook from the block comprising Nos. 1 to 9 is south east across the open area towards the cedar tree. The block comprising Nos. 10 - 19 looks south/southwest across the open area past the cedar tree to the boundary with the property some 40m away. The majority of the boundary is screened by the tall cypress hedge, but the hedge stops just short of the building line, leaving a narrow gap through which the roof of the current two-storey building at the property can be seen above some smaller shrubs. From the flats and maisonettes in each block one can see the other blocks, including the sitting out areas and balconies; the garden is surrounded by their windows and balconies.

12.

All the leases of properties in The Croft have covenants requiring compliance with the regulations imposed by TCEL which restrict activities within the grounds and on the balconies and sitting out areas of individual properties, to protect the residents from disturbance. A majority of the properties

are sub-let, and the long leases require the lessees to notify TCEL of each sub-letting, but there is no requirement for TCEL's consent or approval. Each property has an allocated garage in an adjacent area under the control of TCEL where a controlled parking scheme has been introduced to deter unauthorised parking in front of the garages.

13.

The applicant purchased the property in 2018; the planning consent granted on 7 October 2020 is for: "Construction of a 3 storey building with basement level to include 8 self-contained flats, provision of a rear communal garden and associated forecourt landscaping, parking, refuse storage facilities and cycle storage (following demolition of existing building)." Flat 1 (a 2-bed unit) would be on the lower ground floor, at the front of the building, but with side access to the rear communal garden. Flats 2 and 3 (3-bed units) would be at the rear of the building each over the lower ground and ground floors, with private sunken gardens at lower ground floor level. Flats 4 and 5 (1-bed units) would be on the ground floor at the front of the building and would use shared access to the communal garden. Flats 6 and 7 (2-bed units) would be on the first floor with private balconies overlooking the rear garden. Flat 8 (a 3-bed unit) would be on the second floor with private roof gardens on the west edge of the building at the front and rear. The net internal area of the building would be 8,200 sq ft and it would be set away from the boundary to The Croft by 1.8m. The east elevation, facing The Croft, would have five ground floor windows, three first floor windows and one second floor window, together with six skylights. Two car parking spaces would be provided at the front of the development and one resident's parking permit will continue to be available, limiting the expected number of cars at the development to three in total.

14.

Conditions attached to the consent of relevance to this application include: prior approval of artificial external lighting; provision of privacy screening to 1.8m on the flanks of rear balconies; flank windows facing 24 Park Hill to be obscure glazed and top opening only at 1.8m above internal floor level; compliance with the approved Arboricultural Report and Impact Assessment by Crown Tree Consultancy dated 16 April 2019 ("the Crown Tree Report"); submission for approval of a Demolition and Construction Management plan. Reasonable working hours for building sites in Ealing Borough are considered to be 8.00 am to 6.00 pm Monday to Friday and 8.00 am to 1.00 pm on Saturday.

15.

The Crown Tree Report of April 2019 identified six small trees, of relatively low amenity value, in the rear garden of the property. The development would involve removal of two of those trees, which the report stated was not considered to be a material planning consideration. The report identified that excavation for the development might have an impact on the root protection area of the cypress hedge growing in The Croft along the boundary with the property. Mitigation was recommended by the installation of sheet piling along the edge of the excavation works, and advised reduction in the height of the hedge to 4m, to reduce the demand for water and nutrients from the root system as well as to be more compliant with the High Hedges Regulations.

16.

Crown Tree Consultancy provided a further report, dated 22 November 2021, following a supervised excavation at a section of the boundary beside the cypress hedge to catalogue the extent of the root growth and required protection area. We return to this report in reviewing Mr Murphy's evidence.

The legal background

17.

The property is burdened with two sets of covenants. First are restrictions imposed by conveyances in 1855 and 1892 ("the Victorian covenants") which impose requirements about the building line, fencing, the size and value of the house to be constructed, and so on. The objectors do not claim the benefit of these covenants; inquiries have been made in accordance with the Tribunals requirements and no-one has claimed the benefit or objected to their discharge or modification.

18.

The restrictive covenants relevant to this application arise out of a transfer of land described as "forming part of the garden of No.26 Park Hill, Ealing" dated 6 September 1955 made between William George Booth as transferor and William Reginald Searles Peacock as transferee. The covenants are introduced and then set out as follows:

"And the said William Reginald Searles Peacock hereby covenants with the said William George Booth for the benefit of the remainder of the land comprised in the above title or the part thereof for the time being remaining unsold as follows:

...

2. There shall not be erected on the said land any building other than one dwellinghouse of brick or stone or of both materials with necessary outbuildings garage accommodation and greenhouses.

3. No building shall be erected on the said land which shall not be approved in writing by the said William George Booth.

4. No trade or business shall be carried on upon the said land or any part thereof but the same shall be used only as a private dwellinghouse and no act or thing shall be done or suffered thereon which shall be a nuisance or annoyance to the owners or occupiers of adjacent land."

19.

It is accepted that the covenant numbered 3 is obsolete as William George Booth cannot be traced, but the objectors claim the benefit of the covenants numbered 2 and 4 (to which we refer as "the covenants"). The applicant reserves its position as to whether they have that benefit, in light of the fact that the covenants were imposed only for the benefit of Mr Booth's unsold land; The Croft was of course at some stage sold by Mr Booth. That is not a matter for the Tribunal to determine.

20.

[Section 84](#) of the [Law of Property Act 1925](#) provides, so far as is relevant:

"(1)The Upper Tribunal shall ... have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction on being satisfied-

(a) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Upper Tribunal may deem material, the restriction ought to be deemed obsolete; or

(aa) that (in a case falling within subsection (1A) below) the continued existence thereof would impede some reasonable user of the land for public or private purposes or, as the case may be, would unless modified so impede such user; or

...

(c) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction;

and an order discharging or modifying a restriction under this subsection may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of consideration as the Tribunal may think it just to award under one, but not both, of the following heads, that is to say, either—

(i) a sum to make up for any loss or disadvantage suffered by that person in consequence of the discharge or modification; or

(ii) a sum to make up for any effect which the restriction had, at the time when it was imposed, in reducing the consideration then received for the land affected by it.

(1A) Subsection (1)(aa) above authorises the discharge or modification of a restriction by reference to its impeding some reasonable user of the land in any case in which the Upper Tribunal is satisfied that the restriction, in impeding that user, either –

(a) does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them; or

(b) is contrary to the public interest;

and that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification.

(1B) In determining whether a case is one falling within section (1A) above, and in determining whether (in any such case or otherwise) a restriction ought to be discharged or modified, the Upper Tribunal shall take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.

21.

The applicant says that the covenants can be discharged, or modified to permit the development, under ground (a) because they are obsolete, or alternatively under grounds (c) or (aa).

22.

The objectors say that the covenants are not obsolete because they were imposed to protect the character of the locality and to preserve the amenity of The Croft; as to grounds (c) and (aa) they argue that the development would trouble them because their properties and garden would be overlooked, and it would give rise to increased noise, light pollution, cooking odours and parking congestion. They say that if the development is permitted the value of the properties at The Croft would be diminished by over £500,000 in total. That sum is apportioned between the flats and maisonettes in proportion to what the lessees say would be the loss in value of their properties as a result of the development; so it is said that Flat 1 will be devalued by nearly £60,000 while the property furthest from the development will lose just over £2,000 of its value.

The factual evidence

23.

Evidence of fact was given for the applicant by Mr Murphy, whose company is in a joint venture with the applicant for the development of the property, and Mr Machin the architect of the development.

Mr Murphy explained how the detail of the consented development had evolved over the period from the initial pre-application submission in October 2018, through the planning application in July 2019 to the decision issued in October 2020. In consultation with the planning officer numerous amendments had been made to accommodate the comments of the planning officer and the concerns expressed in the 117 objections to the planning application.

24.

Mr Murphy explained that he had instructed Crown Tree Consultancy to carry out a supervised excavation in November 2021 of a sample 3.1m trench on the boundary to establish the extent of likely damage to roots of the cypress hedge from excavation for the development. This would always have been done ahead of excavation, to comply with the Crown Tree Report, but was brought forward due to the objectors' concerns for the future of the cypress hedge. The report found that the largest root likely to belong to the cypress hedge was 20mm in diameter, with the remaining roots having a diameter of 10mm or less. The report concluded, by extrapolation, that excavation for the basement would not require the severance of significant roots belonging to the cypress hedge, and it would not suffer any detrimental impact due to the development. Mr Murphy confirmed in his oral evidence that there is now no intention to ask for the cypress hedge to be reduced in height to 4m, as originally recommended in the Crown Tree Report of April 2019. This would preserve the screening benefit of the hedge for residents of The Croft, but he agreed that a future occupant of the development could seek to use the High Hedges Regulations to require the height of the hedge to be reduced at some point in the future.

25.

In response to the concerns of objectors that the development would be overbearing and visible to them from their balconies and the garden, Mr Murphy had commissioned some computer generated imagery ("CGI") to show the appearance and scale of the development in 'before and after' pictures. He had also commissioned some photographs to be taken by drone, looking towards the application site at the level of first floor balconies and also looking out from it, across the boundary with The Croft, at the level of proposed new balconies.

26.

The CGI was helpful in demonstrating which of the windows and skylights in the east elevation would be visible to The Croft and have the potential to overlook it. Most of the nine windows would not be visible because they would either be between the two buildings or at ground level, behind the boundary. A kitchen window to Flat 6 at first floor level (described as "window H") would be visible from The Croft through the gap in the hedge next to No.1. That window would have an outlook into The Croft towards the balconies of the nearest block, albeit slightly lower than the level of the first floor balconies. It is not a condition of planning consent that any windows facing The Croft should have obscure glazing, but Mr Murphy offered to install obscure glazing to the lower half of window H. He also offered to install obscure glazing to the bottom of the sole window at second floor level in the east elevation ("window C"), a kitchen window which would face onto the side of No. 1. He admitted that any glazing could be changed in future, but said this would be unlikely as leaseholders in the development would be subject to covenants in their leases, compliance with which would be ensured through a management company, as is the case at The Croft.

27.

Mr Murphy estimated that construction works would last for at least 18 months, of which the first four to six month period would cover the noisy work of demolition and excavation. The concerns of

objectors over noise during development would be addressed by the Demolition and Construction Management plan to be approved by Ealing Council as a condition of the planning consent.

28.

Concerns that the development would give rise to additional pressure on parking in the streets around The Croft had been addressed by the legal agreement with Ealing Council to limit parking provision at the development to three cars in total.

29.

Mr Machin had drawn up the plans which were approved in the planning consent and answered questions on dimensions and measurements. The ridge height of the new roofline would be 2.6m higher than the present ridge, and just a little lower than that of The Croft. The new boundary between the property and The Croft was designed to be a replacement brick wall, 1m high on The Croft side. However, this could be increased to a height of 1.8m, by adding trellis on the top, in order to limit visibility into The Croft. The cypress hedge could be reduced in height from over 8m down to between 5 and 6m and still screen the Croft from the windows and balconies at the rear of the development.

30.

We now turn to the evidence of fact given for the objectors.

31.

Mrs Demertzi and her husband bought No.1 in 2008. She was concerned that the landing windows at the side of her property would lose light as a result of the development and be overlooked by windows in its east elevation. The first floor landing was open through into the living area and so loss of light from that window would have a greater impact than for a simple landing. The current view over London rooftops from the second floor landing window would be lost. The first floor balcony to her living room would be visible from window H, although Mrs Demertzi agreed that the balcony was already open to view from the balcony of her neighbour in No.3, as well as people using the open space, and so was not private. The oblique outlook from her second floor bedroom would be altered by the extended height and depth of the development. Enjoyment of her property would also be affected by noise and light spillage from the windows and openings in the east elevation of the development. Mrs Demertzi agreed that obscure glazing to the lower half of windows H and C would mitigate the effect of overlooking and that she could install net curtains or blinds to her landing windows to protect privacy. Her main objection was to the height of the development; she said that she expected that a house built in compliance with the covenants would be of two storeys, but she accepted that there was nothing in the terms of the covenants to restrict the height of the house.

32.

Evidence from the other objectors covered the shared concerns that the development would impact on enjoyment of the open space by residents of The Croft. Particular concerns were about overlooking from the first floor balcony at the rear of the development, and from window H, along with intrusive noise from the balconies and light pollution from the windows. The outlook from No.11 and No.12 is towards the boundary with the property, but at a distance of some 40m and the affected objectors agreed that retention of the cypress hedge, and the installation of obscure balcony screens to a height of 1.8m (required as part of the planning permission), would mitigate visibility of the development and overlooking from it. In particular, the balcony screen would mean that The Croft and its garden would be invisible from the balcony unless someone deliberately peered round the screen at the very edge of

the balcony or stood on tiptoe to look over. Intrusive noise from the property had been a problem on a previous occasion.

33.

A concern of all objectors was that the development and its eight flats would give rise to pressure on the availability of parking space on Park Hill. They could not imagine that the occupants of the five flats without parking provision would actually be car free households, and in any event those occupants would have visitors who might come by car. Although each property at The Croft has a garage, these were described as too small for modern cars and therefore most residents use the on-street parking on Park Hill. Outside the two designated one hour slots on weekdays, when Park Hill is a controlled parking zone for permit holders only, the rest of the time parking is freely available and would be used by residents of the development and their visitors in competition with residents of The Croft.

The expert evidence

34.

Expert evidence for the applicant was given by Ms Victoria Seal MRICS of BNP Paribas Real Estate, an RICS Registered Valuer with 15 years' experience who specialises in the valuation of residential properties and development land in London and the south east. Expert evidence for the objectors was given by Mr Ruaraidh Adams-Cairns FRICS of Savills, an RICS Registered Valuer with 39 years post-qualification experience who specialises in the valuation of residential property and residential development sites. Both experts had been instructed to provide their opinion on the matters the Tribunal is required by [s.84](#) to consider in deciding whether it has discretion to discharge or modify the covenant. We summarise here their observations first as to whether the covenants are obsolete, relevant to ground (a), and then as to the benefits secured by the covenants, relevant to grounds (aa) and (c), and as to the adequacy of monetary compensation, relevant to ground (aa).

Are the covenants obsolete?

35.

Ms Seal considered that the relevant neighbourhood for this consideration was primarily Park Hill. It had been agreed that of 32 properties on the road, 11 are in use as flats, but it was not known for certain how many of these would have been in this use when the covenants were imposed in 1955. It was Ms Seal's opinion that in 1955 most of the houses would have been in single family ownership, with conversions to flats taking place in later decades as the population of London grew. In 1955 flats outside of key London postcodes would have been associated with accommodation for poor families and overcrowding, following the wartime loss of housing stock, whereas now the perception of flats is very different. If the covenant was intended to protect the respectability of the neighbourhood then the changes in the neighbourhood would suggest it is no longer relevant. The Croft itself comprises flats and it shares a boundary with six other properties which are blocks of flats.

36.

Mr Adams-Cairns assumed that the covenants anticipated the development of the Croft and expressed the view that it would be illogical to suggest that the covenants had been made obsolete by the development that it was created to protect.

Does impeding the proposed use secure practical benefits to the objectors?

37.

Ms Seal had considered the issues raised by the objectors concerning visibility, over-looking and loss of privacy, the risk to the cypress hedge, noise and anti-social behaviour, light spillage, pressure on car parking and disturbance during construction. She considered the extent to which any of these issues would be greater for the development than for a large single house of 6,000 – 7,000 sq ft with a basement and windows on all elevations. She also had in mind the nature of The Croft as a development of 33 flats and maisonettes around a central open space.

38.

Ms Seal had inspected the application site and The Croft open space but had not gained access to No. 1 or any other property. She concluded that the visibility of the development for most properties in The Croft would be largely screened by the cypress hedge and mature trees in the garden. Nos. 10 – 19 would look across the garden at the boundary and see part of the development through the gap beside Nos. 1 and 2. Visibility of the development would largely affect Nos. 1 and 2 through their end elevation windows. The bathroom window to No. 2 currently faces the boundary wall to the property and after the development would face a higher wall set back more than 1m from the current position. The end windows to No. 1 are both landing windows. The daylight and sunlight report submitted with the planning application had identified a material reduction in light through the gable end windows at ground and first floor levels but, as the windows are to non-habitable rooms, this was not a significant factor in planning terms. Ms Seal returned to this under her consideration of compensation.

39.

Similarly, because the cypress hedge is an established element of the feel of the communal gardens at The Croft, its retention without cutting back would mitigate feelings over over-looking and loss of privacy. However, The Croft is not in essence a private site as all flats and areas of the grounds are over-looked by a number of residents. Window H, the only window which would be visible and overlook The Croft, could well exist in an alternative single dwelling which complied with the covenant.

40.

Considering potential noise and anti-social behaviour arising from the development, it was Ms Seal's opinion that the enhanced controls provided by leases within a block of flats would give better protection to the objectors than would be possible for a single house. External lighting was subject to approval as a planning condition and additional light spillage from windows in the development would be de minimis in the context of light already visible in other residential developments of flats around The Croft and street lighting. An alternative single dwelling would also create additional light spillage.

41.

Ms Seal relied on the restriction on parking through the planning consent to say that there would be no impact from additional parking. Any additional cars visiting residents of the development would park in spaces on the road, like those visiting any other property on Park Hill. When she had visited the property there had been spaces available.

42.

Turning finally to the likelihood of disturbance during development, it was Ms Seal's opinion that the disturbance of demolition and construction for the development would be little different from that incurred by development of an alternative single dwelling. Planning conditions and controls over construction works have the objective of reducing the impact on the amenity of neighbours.

43.

Mr Adams-Cairns had inspected the application site, The Croft and the interior of Nos.1 and 11. We are grateful for the annotated plans which he provided in his report, identifying specific windows in the development, and in the end elevation of Nos.1 and 2, and showing hand-drawn sightlines between them. In reviewing the same issues as Ms Seal, Mr Adams-Cairns concluded that impeding the development would secure practical benefits to the objectors because the development would impact in a negative fashion on the amenity of The Croft. He considered that an alternative single dwelling would not protrude so far into the rear of the property as the development and that many of the objectors' concerns would fall away in that case because it would not be an overbearing structure.

44.

It was Mr Adams-Cairns' opinion that residents of The Croft were at risk of exposure to the development, and overlooking from it, if the cypress hedge was damaged or reduced in height as a result of the development or at some point in the future. He did not have confidence in the conclusions of the Crown Tree Report, and the subsequent supervised excavation, that the cypress hedge would remain undamaged during development. He also felt the height of the hedge might need to be reduced in future, either by TCEL to reduce shading of the open area, or following a complaint by an occupant of the development. Mr Adams-Cairns described overlooking as "much a feeling as a reality" when a window to a neighbouring property is visible. He considered that any obscure glazing provided to windows H and C could not be relied on into the future. He agreed that the open space is already overlooked by Nos. 1 to 19, and the side windows to Nos. 20 and 21, but it was Mr Adams-Cairns' opinion that the high level of privacy from external view was at risk. He told us that "humans have a clan feel" and whilst properties in The Croft and the open space are already overlooked internally, being overlooked externally is different. He agreed that as some 65% of the properties in The Croft are let, there would already be strangers within The Croft overlooking other residents.

45.

Mr Adams-Cairns' view of likely noise and anti-social behaviour was that as the development could house over 30 people there was likely to be an increased level of noise over the present position. Light pollution from visible windows would occur even if the screening benefit of the cypress hedge was retained. He felt that the concerns of objectors regarding parking were a reasonable and realistic concern. The concerns regarding disturbance during construction were dealt with as an element in Mr Adams-Cairns' assessment of compensation.

Would money be adequate compensation for the loss of practical benefits?

46.

In Ms Seal's report she had referred to the visibility of the development to Nos. 1 and 2 and loss of light to their end elevation windows at ground and first floor levels. In order to see whether there was additional benefit and value in the market for flats and maisonettes at The Croft with gable end windows, Ms Seal analysed Land Registry data of sales from 1995, plotting sale prices for gable end properties against those for non-gable properties. Prices for both types of property followed a similar upward trend over time, but there was no discernible evidence of higher value for gable end properties. Ms Seal concluded that change in view or reduction in light to gable end windows would not affect market value. In cross-examination she was challenged to say how the evidence could be regarded as sound considering there were so many other variables unaccounted for between the properties that were sold and no known context for their sales. Ms Seal acknowledged that the evidence was imperfect, but maintained that any variables such as property condition, number of bedrooms or urgency of sale would apply equally across the period and range to both types of property.

47.

Using her own experience of the residential market, Ms Seal considered whether the loss of a view over London rooftops from the second floor landing window of No.1 would cause a meaningful reduction in value, which she said would need to be at least 1%. Taking a value for No.1 of £575,000 (derived from Mr Weill, as explained below) a 1% reduction would be in the order of £5,500 to £6,000 and she concluded that a purchaser would prefer to spend such a sum on fixtures, fittings or redecoration rather than to secure a view.

48.

Ms Seal relied on a valuation of No.1 prepared for the applicant in December 2021 by Mr Laurence Weill FRICS, a local valuer with long experience of the Ealing residential micro-market. In his report he valued No.1 at £575,000 in both the existing situation and on the assumption that the development had been completed because there was not a quantifiable difference in value between the flat with and without the second floor landing view. He commented that a flat with a partial view might sell before one without, but the price would be unlikely to alter.

49.

Ms Seal concluded that no properties within The Croft would be reduced in value as a result of the development.

50.

Mr Adams-Cairns reviewed sales of properties in The Croft and, without a full inspection of each and accepting their differences, sought to arrive at a reliable average value, which he concluded was £575,000 (£18,975,000 for all 33 properties). He then apportioned part of the total value to the amenity of the open space, using 15% for the six ground floor flats opening onto it, 10% for the 12 maisonettes looking out over it and 5% to the other 15 properties. This came to a total value of £1,638,750 or 8.6% of the total value.

51.

In order to assess compensation for loss of practical benefits should the development proceed, Mr Adams-Cairns made the assumption that the cypress hedge did not exist, as he was not confident that it would continue to do so. He assessed loss of value to the open space at 7.5% of its total value and used a scale of percentage losses to the individual properties ranging from 10% for No.1 down to 3% for the properties Nos.10 - 19. No loss of value was attributed to the remaining flats, except for the loss of their element of open space value. The total loss across all properties amounted to £524,400.

52.

Mr Adams-Cairns introduced a further element of compensation for loss of amenity during the period of construction, based on a loss of rental value of 15% over the first four months and 5% over the next eight months. Assuming a typical rent of £1,700 per month and a diminishing scale as before, the loss of rental value across all properties amounted to £15,902. Total compensation for loss of value and rent for individual properties ranged from £57,763 for No.1 down to £20,439 for a maisonette in Nos. 10-19 and down further to £2,222 for the remaining 15 properties.

53.

The final total of compensation, including temporary loss of rental value, assessed by Mr Adams-Cairns for all properties in the Croft was just over £540,000.

The arguments and our conclusion about ground (a): should the covenants be discharged because they are obsolete?

54.

[Section 84](#) (a) enables the Tribunal to discharge or modify the covenants if “by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Upper Tribunal may deem material, the restriction ought to be deemed obsolete”.

55.

Mr Bruce, for the objectors, expressed some surprise that ground (a) was being pursued and observed in his skeleton argument that it is a difficult ground to satisfy. He suggested that the starting point for consideration of ground (a) is the judgment of Farwell J in *Chatsworth Estates Ltd v Fewell* [1931] 1 Ch 224 at 229:

“To succeed on [ground (a)] the defendant must show that there has been so complete a change in the character of the neighbourhood that there is no longer any value left in the covenants at all.”

56.

Mr Bruce argued that the purpose of the covenants was not to preserve the existence of houses, as opposed to flats, on Park Hill because they only applied to the development itself; Mr Booth of course could not impose any control on the rest of the street. The purpose was to protect The Croft itself by limiting the development next door to one dwellinghouse, and that can still be achieved. There has been no material change in the character of the property itself since 1955 in that it was intended for the construction of a single home and that single building still stands on it. As to the neighbourhood, the vast majority of the surrounding houses, and all the ones opposite The Croft, are houses used as single dwellings.

57.

Mr Bruce referred to [section 84](#)(1B), which requires the Tribunal, in considering whether and how to exercise its discretion, to take into account “the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.” No evidence, he said, has been put forward about the development plan, nor about the history of the property or of The Croft. Ms Seal’s observations do not, he said, address the evidence required by the Tribunal under this provision.

58.

Starting with [section 84](#)(1B), the covenants were imposed in 1955, when the cedar tree was still young and the houses on Park Hill were no doubt all still single dwellings. It is obvious to us from our own observation and from the evidence that the pattern of planning permissions on Park Hill has allowed numerous large houses to be converted into flats, and some flats to be built anew. The Croft is an example of the latter, but it is inconceivable that anything resembling The Croft would be permitted in the conservation area. Indeed, the development proposed at the property is not only consistent with the development plan, as we can see from the planning permission itself, but entirely in keeping with its surroundings and consistent with the pattern of permissions nearby. As to the period and context in which the restriction was imposed, we know that it was imposed in 1955 at a time when flatted developments are unlikely to have been common if there were any at all nearby. The building of blocks of flats and maisonettes at The Croft itself in the 1960s may have been a startling change for the nearby residents, although of course it is now overlooked from the south by similar buildings.

59.

We agree that obviously the character of the property itself has not changed, or at least not since the house was built. The neighbourhood has changed considerably since 1955. We have noted that many of the surrounding houses, in the conservation area, are divided into flats. It may be that the purpose of the covenants was to help ensure that Park Hill remained a street of single dwellinghouses; obviously Mr Booth could only control the development of the property itself, but he ensured that number 26 was not going to change the environment. If that was the intention, then the neighbourhood (being Park Hill itself including The Croft) has changed, and there is no purpose in a single dwellinghouse covenant to protect it; that battle, if anyone ever fought it, has been lost.

60.

We agree with Mr Bruce that certainly the intention of the covenants was to protect The Croft itself from being adjoined by flats.

61.

It was suggested in the course of argument that The Croft was already a “flatted development” in 1955; the only reason for that suggestion is the fact that one of the witnesses to Mr Booth’s signature on the 1955 conveyance gave her address as “Flat 5, The Croft”. We think it highly unlikely that The Croft consisted entirely of flats at that date and we agree with Ms Seal’s suggestion that it is far more likely that there was a substantial house with flats for staff. We reject Mr Adams-Cairns’ assumption that the covenants were imposed for the benefit of the flats at The Croft, because we do not understand why it would have been imposed in that case; it would be superfluous to impose a covenant to protect people living in flats from having flats next door.

62.

Living in that substantial house and enjoying his big garden, William Booth did not want flats next door. We take the view that manifestly the change in the character of The Croft, namely the construction on it of blocks of flats and maisonettes, makes that purpose entirely superfluous. Each of the objectors is already surrounded by them. We are entirely unimpressed by the idea that flats in the adjoining property are somehow more objectionable than the flats contiguous to one’s own, or that the neighbours at the property catching the occasional glimpse of the garden, or looking out of window H at the nearby first floor balconies, is somehow worse than the current environment at The Croft. We agree that the garden is lovely, but it is surrounded on three sides already by windows and balconies and is not in any sense private.

63.

We conclude therefore that the covenants are obsolete and we see no reason not to exercise the Tribunal’s discretion to discharge them insofar as they prevent the proposed development (we come back to the precise terms of the order below).

The arguments and our conclusion about grounds (c) and (aa)

64.

Because grounds (c) and (aa) were argued we will also give a decision on those grounds. Again we have regard to [section 84\(1B\)](#) and the factors we have already looked at under ground (a), including the nature of the surrounding developments, and the context in which the covenants were imposed. Crucially, in order to assess the prejudice that would be caused to the objectors by the discharge or modification of the covenants we first remind ourselves of what the covenants do and do not provide; their text is set out at paragraph 18 above.

65.

The first of the two covenants in issue (numbered 2 in the 1955 transfer) restricts development to “one dwellinghouse of brick or stone or of both materials with necessary outbuildings garage accommodation and greenhouses.”

66.

The covenant numbered 3 in the 1955 transfer is not in issue. The second of the two covenants in issue (numbered 4 in the 1955 transfer) is in two parts.. First, it restricts the use of the property to a single dwellinghouse. Second, it provides that “no act or thing shall be done or suffered thereon which shall be a nuisance or annoyance to the owners or occupiers of adjacent land.” There is no suggestion in the pleadings or in the skeleton arguments that the prohibition of nuisance or annoyance would prevent overlooking, or building in a way that might reduce the light to the windows at The Croft. A faint suggestion to that effect was made by Mr Bruce towards the end of the hearing and we reject it; in a context where building was to be permitted, had the parties intended any specific restriction on the shape or height of the building they would have made explicit provision.

67.

Accordingly the relevant covenants are the covenant numbered 2 in the 1955 transfer, and that part of the covenant numbered 4 in the 1955 transfer that prevents use other than as a single dwelling.

68.

There is nothing in the covenants about the height of the building on the property, nor about its size, nor about its distance from the boundary (and indeed the pattern of building along Park Hill today is of houses standing elbow to elbow with very little space between them). Nothing prevents the building having windows in the flank wall, nor does anything prevent windows at the back of the property from overlooking the garden of The Croft. There is nothing to protect the view from any part of The Croft over London.

69.

With that background we can turn to grounds (aa) and (c), focussing on ground (aa) and the familiar questions set out in *Re Bass’s application* [1973] P & CR 156 of which the objectors ask us to look at four.

(1) Is the proposed use of the property reasonable?

70.

Mr Bruce acknowledges that the proposed development has planning permission but relies upon the level of objections and upon the significant revisions required in the process. He points out that that permission was conditional upon compliance with the arboricultural report which suggested that the cypress hedge be reduced in height, which he says would significantly affect the objectors to their detriment.

71.

In our judgment the proposed use of the property, for much-needed housing, and in a style entirely in keeping with the conservation area following a thorough scrutiny in the planning process, is entirely reasonable.

72.

The latest arboricultural report concluded that there is no real risk to the hedge; but if the development did have an adverse effect upon the hedge that would not make the use of the property unreasonable although of course it is relevant under the next question.

(2) Do the covenants, in impeding the development, secure practical benefits to the objectors?

73.

We consider the different types of prejudice under the headings used by counsel in their skeleton arguments.

Overlooking

74.

The residents at The Croft are extremely concerned about being overlooked by the development at the property. At the hearing it was suggested by Mr Moffett in cross-examining a number of the objectors that they could prevent the overlooking of the garden altogether by growing taller trees in the gap at the end of the cypress hedge. We are sceptical about that, and any such screening would take time to grow. Inevitably it will be possible to see the garden of The Croft from window H (see paragraph 26 above), the kitchen window of the first floor flat. In fairness to the objectors we consider the matter of overlooking on the assumption that neither window H nor window C will have obscure glazing – although we expect they will, to protect their own residents – and on the assumption that the cypress hedge may in the future be trimmed or even die. When we visited in the early afternoon in March the hedge cast a shadow over a large proportion of the garden of The Croft and at some stage the residents themselves will probably want it trimmed.

75.

Even on those assumptions in the objectors' favour, their concern about overlooking was difficult to understand for three reasons:

76.

First, the actual extent of the overlooking from the development will be minimal. The upper storeys may see a little of the garden of The Croft from their rear windows if the hedge dies – but there will be no view from the first floor balcony because of the screen. The upper landing of Flat 1 will be visible from window C, and window H (the kitchen of the first floor flat) will look into the garden of The Croft and will be able to see the balconies of flats 1 and 3.

77.

Second, each of the properties at The Croft is already thoroughly overlooked by their immediate neighbours. The garden is surrounded by windows and balconies. As we said above, we fail to see that the addition of the development will make that any worse. The idea that the people next door are strangers whereas one's neighbours at The Croft are a community makes no sense; most of the flats are sub-let, there is a high turn-over of tenants, and any resident walking in the garden or sitting on their balcony is seen by strangers. Mr Faulkner expressed concern that if he screened his balcony from the garden of The Croft and sat on it in swimming trunks he would be seen from window H. But he did not suggest that on any occasion he has actually screened his balcony for that purpose from his neighbours at The Croft and we do not believe that he would start to do so in the future.

78.

So we do not see that being overlooked from the development (to the minimal extent that it will happen) will trouble the objectors.

79.

Third, and most importantly, the covenants do not prevent The Croft being overlooked from the property.

80.

In this respect the present application raises different considerations from that in *Creebray Limited v Dennison* [2020] UKUT 262 (LC), where one of the reasons why the Tribunal refused the application for modification of the covenant was that the covenant itself was designed to prevent overlooking (among other objectives) by imposing a building line. The house proposed was going to be in front of that line, looking directly into the objectors' garden, and we were unimpressed by the applicant's argument that the objectors would be protected by the beech hedge between their properties. In the present case the covenant says nothing about the position of the dwelling on the property and does nothing to prevent overlooking.

81.

The covenant would not be breached by the construction of a single dwelling with side and rear windows, without screening to prevent overlooking at the side, and extending further into the back garden than does the present house. The covenants do not secure a benefit to the objectors by preventing those disadvantages. A single dwelling would probably be of three storeys, in keeping both with The Croft and, more importantly, with the similar-styled housing on the side from number 24 onwards. We are not here considering an exaggerated proposal, out of keeping with its surroundings, but a single dwellinghouse of realistic size for which planning permission would be obtained. It would overlook The Croft, it could overlook more than would the flats proposed, and it would be unlikely to have the protective screening that has been required for the balconies to the flats.

82.

The objectors' case insofar as it is based on overlooking is misconceived and we do not understand how, for example, Mrs Demertzi could have had the impression that the covenants would ensure that a house next door would have only two storeys.

83.

We do have sympathy with Mr and Mrs Demertzi because their flat will lose some light, and a view, and perhaps some privacy in that their upper landing may be visible from window C. But the covenants do not prevent any of that. The builder of the blocks that comprise The Croft chose to build flats 1 and 2 right up against the boundary, making them inevitably vulnerable to loss of light and more overlooking in the event that the present house was replaced with one more in keeping with the rest of Park Hill, with three storeys, and windows in the side.

84.

Accordingly we find that the retention of the covenants does not secure to the objectors any advantage in terms of not being overlooked.

Overbearing structure

85.

The objectors are also concerned about what they regard as the overbearing nature of the proposed building. We do not understand this concern. The ridge of the roof will be lower than that of The Croft itself, and the building will be far more in keeping with the conservation area and the surrounding houses than is the present house (or indeed the Croft itself). We do not see that there would be any advantage to the objectors in preventing this. The covenants do not really do so except insofar as a single dwelling would be smaller, but we do not regard the proposed building as overbearing in its setting.

86.

More objective than the idea of a building being overbearing is the fact that it may lead to the loss of natural light. That could only be the case for flats 1 and 2. The new building will be taller than the present one, but also further away. So far as flat 2 is concerned the only window affected is a bathroom; as to flat 1, the windows are landing windows although the first floor landing is open to the living room. We accept that Mr and Mrs Demertzi will lose some light and perhaps some direct sunlight from the south-west. Again, there is nothing in the terms of the covenants that prevents this.

87.

It is worth adding that in light of the tired state of the present house on the property, and its style which is out of keeping with its surroundings, the development proposed will be an improvement on what is there at the moment.

Intensive development nearby

88.

The objectors are unhappy about the move from a single family next door to a building that could potentially house up to 33 people, with the resulting intensification of noise, light pollution and cooking smells.

89.

We accept that there will be more people next door than would live in a single dwelling. It is not clear that flat dwellers would overall create more noise; it is likely that regulations similar to those at The Croft would be in place in order to encourage considerate behaviour. The communal garden will not be big enough to facilitate large parties, which could well be hosted by a single family.

90.

Most importantly, every resident at The Croft is surrounded by neighbours at very close quarters. Noise, light or cooking smells from the property will be far outweighed by the same from the other residents at The Croft, which is itself a very intensive development. We fail to see that the addition of eight flats next door will make any difference. It is not conceivable that it will detract from the value of any of the objectors' properties.

Traffic and parking

91.

The increase in traffic and in parking problems was another cause for concern.

92.

Park Hill is a quiet road. As we mentioned, there are parking restrictions in force that prevent all day parking on the street, and The Croft itself has a scheme to prevent parking beside its garages. Only three of the new flats at the property will have parking spaces or a permit and for the most part therefore the individuals living there will not have cars. Visitors will be able to park in the street except at restricted hours. We do not see that there will be any disadvantage to the residents from a traffic or parking point of view, because the position has been taken care of by the terms of the planning permission and the local traffic and parking regulations.

Disturbance during construction

93.

Finally, the residents are troubled by the possible disturbance from construction. The covenants were imposed with a view to the construction of a house on the property; and houses do not last for ever

and therefore re-building was inevitable at some point and the covenants restricting the building to a single dwelling, and restricting use to that of a single dwelling, cannot be read as preventing the construction work. Nor can the covenant preventing nuisance or annoyance, in light of the Court of Appeal's decision in *Shephard v Turner* [2006] EWCA Civ 8 (and in particular the comments of Carnwath LJ at paragraph 60).

94.

The covenants do not prevent construction and its impact upon the residents at The Croft. Again, a choice was made when The Croft was built to put the first block very close to the boundary and therefore flats 1 and 2 will be the most affected, but the covenants do not prevent this. Planning requirements are in place, as discussed above (paragraph 14), that protect all the neighbours insofar as practicable.

95.

Mr Bruce accepts that temporary disturbance during construction works cannot stand alone as a practical benefit of the covenants, but says that it should be dealt with by way of an award of compensation should the application succeed. The application succeeds, but because the disturbance of construction is not prevented by the covenants there will be no award of compensation.

Conclusion

96.

To spell that out a little further, either the disadvantages feared are not prevented by the covenants (overlooking) or they are illusory and we find the disadvantages feared will simply not happen (traffic and parking; overbearing); or they are illusory in the sense that the residents of The Croft suffer the disadvantages concerned already from their own neighbours and will not be troubled by any addition from the property (noise, light, cooking smells).

97.

It follows that ground (c) is made out.

98.

Ground (aa) is therefore superfluous and we can summarise briefly; the covenants in impeding the proposed development on the property will prevent a reasonable use of the land for housing, and do not secure to the objectors any practical benefit.

99.

Accordingly we have discretion under either ground to discharge or modify the covenants, and we see no reason not to do so.

100.

It follows also that there is no basis on which compensation can be awarded, because there will be no loss suffered from the discharge or modification. We do not therefore need to discuss the valuers' evidence in any detail. For completeness, we observe that we accept Ms Seal's evidence that there is no reason to suppose that the residents of The Croft will find that their homes are devalued by the development. Mr Adams-Cairns was sceptical of Ms Seal's evidence of sale prices, and bravely asserted that he was unimpressed by empirical evidence. The Tribunal has to look at evidence objectively and prefers data to gut feeling. The available data on sale prices, collated by Ms Seal, indicates that a flat with a gable end does not fetch a higher price than the other flats in the blocks; the evidence of Mr Weill, with his local experience (paragraph 48) was to the same effect. Mr Adams-

Cairns was not able to offer any evidence to the contrary. His suggestion that flat 1 would lose 10% of its value as a result of the development is fanciful.

101.

But the valuation evidence is in any event irrelevant in the light of our conclusion that the objectors are not protected by the covenants from any of the disadvantages they fear.

The Tribunal's order

102.

We see no reason not to discharge the covenants insofar as they prevent the development proposed by the applicant on the basis that they are obsolete under ground (a). We see no reason to modify them, by permitting only the present proposal, because they are entirely obsolete insofar as they prevent the construction and use of anything other than a single dwellinghouse.

103.

It is convenient to repeat the text of the covenants:

"2. There shall not be erected on the said land any building other than one dwellinghouse of brick or stone or of both materials with necessary outbuildings garage accommodation and greenhouses.

3. No building shall be erected on the said land which shall not be approved in writing by the said William George Booth.

4. No trade or business shall be carried on upon the said land or any part thereof but the same shall be used only as a private dwellinghouse and no act or thing shall be done or suffered thereon which shall be a nuisance or annoyance to the owners or occupiers of adjacent land."

104.

It follows from what we have said that the first of these three covenants shall be discharged entirely. Likewise the second, which is not relied upon by the objectors. As to the final covenant it shall be discharged insofar as it prevents the use of the property as more than one dwellinghouse. It should be retained insofar as it prevents business use. We see no reason to discharge the prohibition on causing a nuisance or annoyance, which it is well-established will not be breached by the disturbance caused by construction. The Tribunal will provide a draft of the proposed order and will consider any representations the parties may wish to make about it.

105.

The Tribunal will also discharge the Victorian covenants which have not been in issue in these proceedings, on the basis that they are obsolete because it is not possible to identify any land or any persons benefiting from them.

Upper Tribunal Judge Elizabeth Cooke Mrs Diane Martin MRICS FAAV

Judge Member

11 May 2022

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month

after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.

Schedule

1. The Croft Ealing Limited (Freeholder)
2. Elli Demertzi of 1, The Croft
3. Stuart Clark of 2, The Croft
4. Mary Davies and Nick Coleman of 3, The Croft
5. Yousef Pournaghi-Azar and Sorayya Mirfakharaei of 4, The Croft
6. Alan Faulkner and Bernadette Faulkner of 7, The Croft
7. Mandana Garnham and Ian Garnham of Flat 8, The Croft
8. Nathanael Jegunma and Shona Jegunma of 9, The Croft
9. John Attrill and Joanne Attrill of 10, The Croft
10. Nick Traynor of 11, The Croft
11. Philip Jones of 12, The Croft
12. Jyotibala Damani of 14, The Croft
13. Rav Bahl of 15, The Croft
14. Sheena Tadjkarimi and Samad Tadjkarimi of 17, The Croft
15. Shaun Beadsworth and Vanessa Beadsworth of 18, The Croft
16. Mandy Chao and Abir Mukherjee of 19, The Croft
17. Sean McHugh and Claire McHugh of 20, The Croft
18. Fred Wilson of 22, The Croft
19. Ann Hill of 24, The Croft
20. Pe Peng Pirie of 25, The Croft
21. Jaspal Singh Gill and Harminder Gill of 27, The Croft
22. AS Gill of 27, The Croft
23. Helen Irwin-Childs and Christopher Irwin-Childs of 29, The Croft
24. William O'Reilly and Maram Al-Fozam of 30, The Croft

25. George Lazaridis and Fontini Lazaridis of 31, The Croft
26. Mary Sandra Nolan of 32, The Croft
27. Honey Soleyamani of 33, The Croft
28. William Fox and Diany Jaimes of 34, The Croft