

Landlord and Tenant Act 1954

Opposition to a lease renewal due to
redevelopment – Ground (f)

22nd May 2018

© Boodle Hatfield LLP. All rights reserved.

Summary of points to cover

- Discuss ground (f) requirements generally – breaking down into parts (what, where, how and when)
- Recent case law
- Practical examples

© Boodle Hatfield LLP. All rights reserved.

Ground (f) wording

Section 30(1)(f) of the LTA 1954, states that the landlord can oppose a lease renewal if:

"... on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof that he could not reasonably do so without obtaining possession of the holding."

Example scenario

The building is mixed use with residential flats above, offices and two retail units (ground floor and basement). There are two retail and two office tenants all with leases granted in 2008 for ten years.

S25 notices have been served on the two retail tenants opposing a lease renewal (ground (f)) as the landlord proposes to carry out works to the building.



Example scenario (cont'd)

The scheme of work includes:

- Refurbishing the office space;
- Reconfiguring the layout of the residential flats;
- Reconfiguring the ground floor retail units to create one large unit including moving a staircase and removal of a structural wall.

Ground (f) elements – What?

1. Works - demolition/reconstruction

The works must be either:

- i) demolition
- ii) substantial work of construction
- iii) reconstruction

Litigation risk - case examples:

- *Marazzi v Global Grange Ltd [2003]*
- *Ivorygrove v Global Grange Ltd [2003]*

Ground (f) elements –Where and How?

2. The premises/holding

“the holding” is the part of the premises that the tenant occupies for business purposes

3. Obtaining possession of the holding

- Check lease provisions
- Consider whether the work could reasonably be carried out with the tenant in situ

Ground (f) elements – When?

4. Intention

- Relevant date = date of hearing
- Firm and settled intention (subjective test)
- Realistic prospect of implementing the intention (objective test)
 - Plans
 - Planning permission
 - Consents
 - Building contract
 - Financing
 - Vacant possession

Recent Case Law

S Franes Limited v Cavendish Hotel (London) Ltd (2017)

It was irrelevant that the landlord's works made little commercial or practical sense and that the scheme was essentially designed to get rid of the tenant. The test is in respect of intention. The landlord's motive is irrelevant.

Permission to appeal was granted by the Supreme Court on 22 January 2018.

Ground (f) breakdown

1. Demolish the premises comprised in the holding; or
2. Demolish a substantial part of those premises; or
3. Reconstruct the premises comprised in the holding; or
4. Reconstruct a substantial part of those premises; or
5. Carry out substantial work of construction on the holding;
or
6. Carry out substantial work of construction on part of the holding.

Scheme A

1. The removal of the stud partitions and the replacement so as to enlarge the bedrooms. Plywood was to be inserted to stiffen the partitions.
2. Levelling out floors on two storeys with the incorporation of plywood. This involved lifting the floorboards from the joists, inserting a sheet of plywood and then nailing the floorboards back down again.
3. The renewal and modernisation rearrangement and extension of the utility services. This was principally installation of bathrooms and a larger drain to service the hotel and a bigger public sewer connection because of the increase in the number of bathrooms.

© Boodle Hatfield LLP. All rights reserved.

Scheme A (cont'd)

4. The removal of a basement wall in one of the houses and its replacement with a steel beam.
5. The installation of a lift.
6. The removal of part of the roof associated with the lift.
7. The removal and restoration of part of a staircase in one of the houses.
8. The opening and restoration of one external door and window.

© Boodle Hatfield LLP. All rights reserved.

Scheme B

1. Alterations to masonry walls. Removal of basement floor, reconstruction of lift shaft, new structural steel work and structural wall reinforcement.
2. Joist strengthening and levelling
3. Removal of non load bearing walls
4. Plywood flooring
5. Construction of new conservatories
6. Crack stitching to external walls
7. Construction of new partitions

© Boodle Hatfield LLP. All rights reserved.

Will the Landlord succeed?

1. Total demolition
2. Demolishing part
3. Reconstructing the whole
4. Reconstructing part
5. Substantial work of construction

© Boodle Hatfield LLP. All rights reserved.

Contact details



Colin Young – Partner

t: +44 (0)207 079 8188

e: cyoung@boodlehatfield.com



Kellie Jones – Senior Associate

t: +44 (0)207 079 8293

e: kjones@boodlehatfield.com



Nikki Yates – Associate

t: +44 (0)207 079 8253

e: nyates@boodlehatfield.com