

## Arrested Development?

A tenant of business premises has a right under the Landlord and Tenant Act 1954 to a new lease when its lease expires. There are a limited number of statutory grounds that a landlord can rely on to oppose the grant of a new lease. The most common is usually referred to as the 'redevelopment ground' or 'ground (f)', but what does a landlord have to do to rely on that ground? In this article, Paul Greatholder looks at some questions that are frequently asked by those involved in letting premises about this right of refusal.

Whilst ground (f) is a common area where tenants and landlords have questions, the general law on tenant's rights to renew leases of business premises is also complex and can often be confusing. Rachael Beaumont and Ed Cracknell have produced a handy 10 point guide on the essential information that you need to know if you are a landlord or tenant with a lease that will shortly expire. Our website ([www.russell-cooke.co.uk](http://www.russell-cooke.co.uk)) has a number of other useful resources for clients both on the resources page and articles on specific topics on the web pages for those areas. See the articles on our commercial property investment page by clicking [here](#).

With suitable advanced planning a tenant's right to renew should not be an obstacle to a landlord's redevelopment plans. The law does try to strike a balance between the interests of landlords and tenants. Therefore a landlord considering opposing a tenant's right to renew on the basis of ground (f) does need to undertake an early review of what is needed and what is possible in the circumstances to maximize its chances of getting the premises back for development. In the absence of an agreement any dispute between the landlord and the tenant will need to be resolved by a Court.

### FAQ's

#### 1. What is ground (f)?

Section 30 (1)(f) of the Landlord and Tenant Act 1954 allows a landlord to oppose the grant a new tenancy where '*...on 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 and that he could not reasonably do so without obtaining possession of the holding.*'

#### 2. What must the landlord prove to a Court?

An intention to demolish, reconstruct or carry out substantial works of construction. The landlord (and not a third party such as a developer to whom he will sell) needs to

evidence definite plans to carry out the works and overcome the practical hurdles to developing (e.g. planning, funding).

**3. What is demolition of an internal demise?**

Demolition of the internal 'skin' of the demise e.g. floors, walls, ceilings.

**4. What counts as reconstruction?**

This is a physical test not merely a change in identity

**5. What are substantial works of construction?**

Substantial means having a notable impact in terms of scale and time (see below). As to scale, the creation of a new structure is likely to be required not merely altering physical characteristics. A court will look at the totality of what is being done and the extent of the holding and it will then be a question of fact and degree whether the proposals are substantial works of construction.

Works that will not meet the criteria:

- Removing or adding demountable partitioning.
- Works to wiring, boilers or toilets.
- Works to parts of the building which are not part of the demise e.g. to the common parts.
- Works the landlord is permitted to do under the lease already.

**6. Is there a minimum period of time for the works to last, and for the tenant to have to move out, to be 'substantial'?**

Again it will depend upon the facts of the case. However, reported cases have suggested that complete exclusion for two months is substantial, as is interference with a café business for 12 weeks, but two weeks exclusion is not.

**7. What if a landlord changes its mind?**

A recent case shows that the landlord must notify the tenant as soon as possible or risk a claim for misrepresentation.

**8. Can a tenant offer to co-operate with the landlord's works in order to protect the right to take a new lease?**

Yes, a tenant can allow a landlord to work around it or offer to take a new lease of part only of the holding under s31A of the Landlord and Tenant Act 1954.

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