

# Satisfying requirements of ground (f)

**Q&A** Georgina Redsell and Shaiba Ilyas explain how to establish an intention under this ground

## WHERE DO I STAND?

### QUESTION

I am a landlord intending to redevelop a hotel and serve a section 25 notice under the Landlord and Tenant Act 1954, relying on ground (f). I am going to demolish some partitions and reconfigure a few of the rooms but none of the works are to any of the structural or load-bearing walls. Does that mean that I will not satisfy ground (f)?

### ANSWER

It is a question of fact and degree, looking at the proposed works as a whole, whether ground (f) is made out. The works do not necessarily have to include works to structural or load-bearing walls.

## WHAT EVIDENCE IS REQUIRED?

### QUESTION

What evidence will I need to establish an intention under ground (f)? When do I have to prove that intention?

### ANSWER

You will need to produce evidence at trial that you have a firm and settled intention to carry out works that fall within the scope of ground (f) by demonstrating that you have taken practical steps towards implementing that intention.

## EXPLANATION

The court will consider all of the work that you intend to carry out to the tenant's premises and decide whether they amount to demolition or reconstruction of a substantial part of the premises, or the carrying out of substantial work of construction on them.

There is nothing in the wording of ground (f) that requires the demolition or reconstruction of structural or load-bearing features. The fact that relevant parts of the premises are load-bearing is simply one of the factors that the court will consider in assessing whether the works amount to demolition or reconstruction of a substantial part or substantial work of construction for the purposes of ground (f). If the works are works of construction then the court will consider whether the works themselves are substantial enough. However, if you are proposing works of demolition and reconstruction then the court will look at the question of substantiality in terms of how much of the premises will be affected.

In *Marazzi v Global Grange Ltd* [2003]

EWHC 3010 (Ch); [2003] 2 EGLR 42 the judge found that the removal and replacement of stud partitioning merely rearranged the internal layout and did not amount to works of demolition, reconstruction or construction.

However, this can be contrasted to the decision reached in *Ivorygrove Ltd v Global Range Ltd* [2003] EWHC 1409 (Ch); [2003] 2 EGLR 87. On appeal it was confirmed that while ground (f) would not apply to demountable office partitioning, it will be a matter of fact and degree as to whether the removal and replacement of the partitioning concerned would satisfy ground (f). In this case the partitions were not lightweight and would have to be knocked down with sledgehammers, which would markedly damage skirting boards and plaster on walls and ceilings. While these works alone were sufficient to satisfy the ground, other works, including the construction of a large lift, the construction of two steel beams, as well as making openings in some load-bearing internal walls, also satisfied ground (f).

## EXPLANATION

There will be a number of factors to consider to demonstrate that you have thought out your proposals and taken steps towards implementing them, depending on the nature of your plans.

You will need to describe your intended works by detailed drawings and/or specifications. It is not necessary to have settled precisely on the nature of the works provided that all of the proposals under consideration will satisfy the ground. If you need planning permission or other consents, then the best evidence is that these have been obtained by the date of the hearing, otherwise you will need to engage an expert to give evidence that you are likely to obtain them within a reasonable timescale.

The court will also want proof that you have the necessary funding in place to be able to carry out the works. It will also assist your case if you can show that you have entered into a building contract for the execution of the works or will be doing so within a reasonable timescale.

Finally, if any part of the property

required in order for your works to be carried out is subject to other tenancies, you will need to demonstrate that you have a good prospect of obtaining vacant possession of all of the property within a reasonable time after the termination of this tenancy.

The relevant date to show your intention will be the date of trial. It is not necessary for you to be ready with bulldozers the moment the tenancy expires but you should be able to persuade a judge that your plans have moved from "a castle in the air to a castle on the ground" (*Fleet Electrics Ltd v Jacey Investments Ltd* [1956] 1 WLR 1027). Many cases, of course, do not reach trial and it is always advisable to be organised regarding your plans and to try and seek an early settlement by negotiation if at all possible.

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