

Legal Alert

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Redevelopment balance shifts in tenant's favour

The judgment of the Supreme Court today in *S Franses Ltd v The Cavendish Hotel (London) Ltd [2018] UKSC 62*, will significantly impact on a landlord's ability to oppose its tenant's right to a new business tenancy on the grounds of redevelopment under s30(1)(f) of the Landlord and Tenant Act 1954.

The Cavendish Hotel (London) Limited, the landlord, owns a building in Central London which it operates as a hotel from the upper floors. Part of the ground and basement floors are leased to S Franses Limited, which runs a textile dealership. The Cavendish proposed a scheme which had no immediate practical use: the aim being to obtain vacant possession which would, in the future, facilitate the creation of more hotel rooms. The Cavendish gave an undertaking to the court that it would undertake the works. In the County Court, The Cavendish successfully established that it had a genuine intention to redevelop the premises and the tenant was ordered to give up possession of the premises. This decision was upheld on appeal in the High Court.

On a leapfrog appeal from the High Court, the Supreme Court overturned the decision. It has held that The Cavendish's intention was conditional on the tenant failing to leave the premises independently. As such, it did not have a fixed and settled intention required by the 1954 Act.

The decision will be welcomed by tenants because a landlord will have to prove to the court that the development works upon which it relies will be undertaken irrespective of whether its tenant fights to stay in the premises, or leaves voluntarily. In other words, a landlord will no longer be able either to devise a scheme of works solely to oppose a new tenancy or to enhance a scheme in order to satisfy the, often stringent, requirements of the 1954 Act.

This will require a fundamental change to the way landlords approach redevelopment of their assets where there are 1954 Act protected tenants:

- They will need to start planning much earlier
- Their schemes will need to be effective first time, or else be at risk of challenge that any changes are for other than legitimate reasons
- It will be necessary for them to show unequivocally that they are prepared to carry out the proposed works come what may

As Lord Briggs commented, a consequence of the decision is that these cases: "will probably give rise to factual questions of some nicety, incapable of resolution by the proffer of a simple undertaking to the court, as happens at present. This may introduce an element of complexity and expense into proceedings in the County Court which, for many years, have yielded to a simple technique for speedy resolution."

It will be more difficult and expensive for landlords to get premises back for redevelopment. As a result, landlords will be more cautious about granting 1954 Act protected tenancies in the first place. Given that tenants are already asking for shorter leases and more flexibility, the 1954 Act may, as a result of this case, become less relevant in the market.

Maples Teesdale acted for the landlord in this case. For advice on the full implications of the decision, please contact [Dellah Gilbert](#).