Falcon Chambers

In this series of articles, we aim to highlight 3 of the most interesting cases in our field decided in the past month. This month, unusually, two County Court decisions (on Landlord and Tenant Act 1954 s 30(1)(f) and on the terms of relief against forfeiture), as well as an Upper Tribunal decision the correct approach to challenging improvement notices.

MARCH 2025

Spirit Pub Company (Managed) Limited v Pridewell Properties (London) Limited (County Court at Mayor's and City of London, 14 March 2025)

Summary

The County Court upheld the tenant's claim for a new tenancy under Landlord and Tenant Act 1954, despite the landlord's reliance on ground (f) in opposition.

The premises were a public house. The landlord opposed on the ground contained in s.30(1)(f) of the Act, stating a desire to redevelop the premises by constructing mews houses in the beer garden and converting other parts of the existing building to residential units, albeit retaining a public house at ground level.

The tenant challenged the landlord's ability to make out ground (f) on several bases. Although the court was satisfied that the works were sufficiently substantial to require possession of the holding, and that the landlord's intention to carry out the works was genuine, firm and settled, the landlord's termination claim ultimately failed on the basis of objective intention, the court not being satisfied on the evidence that the landlord had a real prospect of being able to finance the development since no evidence of the means of the directors to support personal guarantees, or their willingness to give them, had been provided. Accordingly, the tenant's claim to a new tenancy succeeded.

Why it's important

It is often instructive to consider how a court assesses the evidence on a termination claim, and this case is no different. However, there are also some legal points of possible broader significance (bearing in mind that this is a County Court authority, and therefore not binding).

Firstly, the judge declined to extend the 'conditionality' principle found in *Franses v Cavendish* to the timing of the works, rather than their scope. Although the judge accepted that the landlord had accelerated both the decision to press ahead with the development and the timing of the development itself in order to meet ground

(f), the Court was satisfied that the landlord intended to do the works whether or not the tenant vacated voluntarily, and that was sufficient.

Secondly, the decision contains interesting consideration of what constitutes a 'reasonable time' from the termination of the current tenancy for the landlord to commence the works. Here, the judge accepted that the tenant was intending to get on with the necessary preparatory works promptly at the end of the tenancy, and that a period of 14 months between the end of the tenancy and the commencement of construction was reasonable on the particular facts, including that the tenant had refused extracontractual access for pre-development works; while the tenant had been within its rights to refuse, that affected the length of the reasonable period for the landlord to commence works.

The judgment can be found here.

Derwent Lodge Estates Limited v Signature Living Hotel Limited [2025] 3 WLUK 402

Summary

A circuit judge dismissed an appeal against the terms on which a vesting order was made in favour of subtenants where the headlease had been forfeited.

The proceedings concerned a mixed-use building subject to a number of different leases. The freeholder granted various commercial leases and then a lease of the entire building to a company, Signature Living, which was to develop certain floors for residential use. Signature Living did so, and granted long residential leases. Signature Living then granted an intermediate lease of the residential flats (referred to as 'the Grey Lease'), at a peppercorn rent, with Signature Living retaining the common parts.

Signature Living's lease was forfeited, causing the Grey Lease also to determine. A number of residential undertenants (and their mortgagees) sought relief from forfeiture, as initially did Grey, but Grey discontinued its claim.

The dispute between the parties was as to the terms on which relief should be granted to the residential undertenants. The freeholder argued that there should be vested in the residential tenants a lease on the same terms as Signature Living's lease (over the whole building, rendering them the commercial tenants' landlord, and containing a substantive rental obligation as well as repairing and insuring obligations). The residential tenants argued there should be vested in them a lease on the terms of the Grey Lease (over the apartments only at a peppercorn rent and without repairing and insurance obligations).

After considering the various possibilities, the first instance judge determined that the vesting order should be on the terms of the Signature Living lease, and made

it a condition of relief that (as well as paying all the arrears) the residential subtenants would transfer that new lease to a management company, who would grant leasebacks equivalent to their original underleases to each of the residential subtenants. HHJ Cadwaller dismissed the appeal against that determination, holding that the district judge acted within the bounds of her discretion.

Why it's important

The manner in which the court's wide discretion as to the terms of relief from forfeiture is exercised in the context of a mixed-use building is not a subject rich in authority (though the previous authorities are neatly summarised in the judgment). This judgment illustrates the practical difficulties generated by the various solutions which might be suggested. The starting point (from which the court's considerable discretion should then be exercised) was in this case no different to in any other, namely that the landlord should be put back in the position should be put back in the same position as prior to the breach giving rise to the forfeiture.

Manaquel Company LTD v London Borough of Lambeth [2025] UKUT 97 (LC)

Summary

The Upper Tribunal refused to set aside the FtT's decision not to make an order for costs in favour of a landlord who succeeded in obtaining an Order quashing of an improvement notice issued by the local authority under Part 1 of the Housing Act 2004..

The FtT only had jurisdiction to make a costs order if the local authority acted unreasonably in bringing, defending or conducting proceedings. The landlord argued that the local authority had been unreasonable because the notice was inadequately particularised and it had persisted in defending the proceedings, rather than "correcting" the notice to reflect works done since the date it was served. Despite condemning the notice as "seriously flawed" and the authority's approach to the proceedings as 'incompetent', the FtT also considered that the landlord had failed to engage, and ultimately concluded there had been no unreasonable conduct by the local authority and accordingly declined to make an order for costs. The building owner appealed the costs decision.

Martin Rodger KC (Deputy Chamber President) began by considering whether the FTT had, when making the criticisms it had of the local authority's conduct, been considering the correct matters. He concluded that it had not: the relevant date for assessing the correctness of a decision to serve an improvement notice is the date when the decision is made to serve the notice, not the date when any challenge is heard. Accordingly, many of the matters which had concerned the FTT

were not relevant to the matters the FTT had to determine. The remaining points of criticism were of lesser significance.

It followed that, in making its costs decision, the FTT had considered irrelevant matters. It had also simply asserted a lack of unreasonable conduct, without considering whether there was a reasonable explanation for the conduct. As a result, the decision was flawed. However, the Tribunal was not in a position to re-make the decision, so it had to consider whether to remit the matter to the FtT. Given the different analysis applied by the Upper Tribunal, few of the building owner's arguments in favour of a costs order would be available if the decision were remitted. Accordingly, the interests of justice were best served by leaving the decision undisturbed.

Why it's important

Although ultimately an appeal on costs, this decision is of note because of the more general guidance given about how to deal with disputes about improvement notices. As well as confirming the date at which matters should be considered, the Tribunal also gave guidance about the extent to which particulars of the works were required to be stated in the notice, and confirmed that the burden of proof was on the landlord to demonstrate that the decision to issue the notice was wrong.

If works are carried out subsequent to the notice, the appropriate course of action for the recipient of a notice is to seek to vary it so that the works in fact undertaken are those specified; the original notice will remain unaffected by the later events, and it is not for the authority or for the Tribunal to put forward possible variations.

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