

Macey v Pizza Express (Restaurants) Ltd [2021] EWHC 2847 (Ch)

A landlord did not demonstrate the requisite intention required to oppose a statutory lease renewal under ground (g).

05 January 2022

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Facts

The landlord (M) served a notice on its tenant in relation to a restaurant in Exeter under section 25 of the Landlord and Tenant Act 1954 (the 1954 Act) opposing renewal on ground (g) (in section 30(1) of the 1954 Act) (the landlord intends to occupy the holding for the purpose of a business to be carried on by him). M's stated intention was to use the property as a bistro.

Issue

Was the County Court judge correct in deciding that M had not shown a sufficiently formed intention of its plans?

Decision

M had not shown the subjective element required to satisfy ground (g). There was no reason to overturn the County Court judge's decision, who had not been satisfied on the evidence that M's plans had been fully formed. In particular, there was a lack of any significant financial commitment to progress any plans and the accountants (involved in business planning) and M's children (said to be involved in the new business venture) had not been called to give evidence in support.

Points to note/consider

Whilst there is no new law here, the case is a useful reminder of the level of intention that a landlord has to show to satisfy both grounds (f) (the redevelopment ground) and ground (g). In particular, a landlord has to show:

- a subjective element – a firm and settled intention to bring about a certain state of affairs supported by evidence that is not tentative or indefinite (which is where M fell down here);
- an objective element – a reasonable prospect of being able to carry out its intention (i.e. the outcome is capable of achievement on an objective basis); and
- that its intention is not conditional – the intention would be conditional if the landlord has a firm and settled intention, but only so as to ensure the termination of the lease, so that if the tenant left voluntarily, the landlord would not proceed with its plans.

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