

HERBERT SMITH FREEHILLS REPRESENTS TATE GALLERY IN COURT OF APPEAL WIN IN DISPUTE CONCERNING VIEWING PLATFORM OVERLOOKING RESIDENTIAL FLATS

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Deals and cases

Herbert Smith Freehills acted successfully for Tate Gallery in defeating an appeal by residents of four flats in the Neo Bankside development on the South Bank, who claimed in private nuisance on the basis that their flats were overlooked by Tate's viewing platform.

The firm's London team was led by Matthew Bonye, head of real estate dispute resolution, supported by senior associate real estate disputes specialist Frances Edwards.

The Court of Appeal has set down important principles about whether nuisance can ever apply to overlooking cases. Responding to the handing down of the judgment, Matthew Bonye said:

"We welcome the Court of Appeal's decision. The residents had sought an injunction to require Tate to close off part of its viewing platform, but the Court of Appeal has upheld the High Court's decision to reject the claim. The Court of Appeal panel of the Master of the Rolls, Lewison LJ and Rose LJ concluded that mere overlooking is not capable, as a matter of law, of giving rise to an action in nuisance. Owners are protected in other ways such as planning controls."

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