IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2017 RATING LIST APPEAL

Case No: CHG100617423

Sitting remotely using Microsoft Teams

Date: 29 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rates; 2017 Rating List appeal; completion notices; Appellants contended that the notices had not been served; Schedule 4A Local Government Finance Act 1988; appeal allowed

Before:
MR PA JENNINGS
MR N DE FREITAS

Between:

STANDARD LIFE ASSURANCE LIMITED **Appellant**

- and -

AMANDA HITCHINGS (VALUATION OFFICER) **Respondent**

Regarding:
4 KNOWSLEY PLACE, DUKE STREET, BURY, LANCS BL9 0EJ
(the "subject property")

Appearances:
Simon Reay-Jones from BNP Paribas, for the **Appellant**
Carlene Cantrill, for the **Respondent**

Hearing date: 12 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed. The Tribunal Panel determined that the completion notice had not been validly served. Consequently, the subject property was deleted from the rating list, with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: 4 Knowsley Place, Duke Street, Bury, Lancs BL9 0EJ which was entered in the 2017 Rating List as 'offices and premises' at £72,500 RV effective from 1 April 2017.

3. A challenge was submitted on 16 February 2021 which proposed a deletion of the entry in the 2017 list on the basis that the property was not complete and was incapable of occupation, thus not a hereditament. Furthermore, no completion notice had been served. The respondent's challenge decision upheld the 2017 list entry and stated that a completion notice had been served and a copy was provided. The appellant disputes the validity of the completion notice and therefore made an appeal against the challenge decision.

4. Ms Cantrill, for the respondent appeared before the panel in the capacity of advocate only. Mr Reay-Jones, for the appellant, appeared in a dual role of advocate and expert witness. He confirmed that he accepted and understood that his overriding duty was to the Tribunal. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), it was declared that he was not instructed under a conditional fee.

5. This statement of reasons is not and does not purport to be a full verbatim record of

Issue and Relevant Law

6. The issue before the panel was whether the completion notice was correctly served.

7. The statutory framework for non-domestic rating completion notices is provided in Section 46A and schedule 4A of the Local Government Finance Act 1988. The provisions place an obligation on Billing Authorities to issue a completion notice if a property is complete, or it is substantially complete and reasonably capable of completion within three months. As far as relevant to this appeal, schedule 4A provides the following:

   Schedule 4A Non- Domestic Rating: New Buildings (Completion Days)

   1

   (1) If it comes to the notice of a billing authority that the work remaining to be done on a new building in its area is such that the building can reasonably be expected to be completed within 3 months, the authority shall serve a notice under this paragraph on the owner of the building as soon as is reasonably practicable unless the valuation officer otherwise directs in writing.

   (2) If it comes to the notice of a billing authority that a new building in its area has been completed, the authority may serve a notice under this paragraph on the owner of the building unless the valuation officer otherwise directs in writing.

………

2

(1) A completion notice shall specify the building to which it relates and state the day which the authority proposes as the completion day in relation to the building.

(2) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is not completed, the authority shall propose as the completion day such day, not later than 3 months from and including the day on which the notice is served, as the authority considers is a day by which the building can reasonably be expected to be completed.

(3) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is completed, the authority shall propose as the completion day the day on which the notice is served.

……..

7

(1) A billing authority shall supply to the valuation officer a copy of the completion notice served by it.

………

8

Without prejudice to any other mode of service, a completion notice may be served on a person-

> (a) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
>
> (b) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter or by the recorded delivery service addressed to the secretary or clerk of the company or body at that office; or
>
> (c) where the name or address of that person cannot be ascertained after reasonable inquiry, by addressing it to him by the description of “owner” of the building (describing it) to which the notice relates and by affixing it to some conspicuous part of the building.

Discussion

8. In the case under consideration, the appellant’s representative submitted a challenge on the grounds that the subject property was not complete as at 1 April 2017, nor had a completion notice been issued. The panel was aware that the Valuation Officer can enter a completed building into the rating list without a completion notice, however, in *Porter(VO) v Trustees of Gladman Sipps* [2011] UKUT 204, the Upper Tribunal President held, that a building is only a

hereditament when it is ready for occupation in the manner of which it is designed. Therefore, if any work (however minor but required before occupation can take place) is outstanding a completion notice must be served. On that basis, the valuation officer cannot bring an incomplete property into the rating list without a valid completion notice having been served. This view was further supported in *Aviva Investors Property Developments Ltd v Whitby (VO)* [2013] UKUT 0430 (LC) where the Upper Tribunal held that industrial/warehouses which were missing small power distribution units and lighting could not be held to be complete and completion notices needed to be served (which hadn't been).

9. The appellant's original contention was that the subject property was not complete and details of what works remained outstanding had been referred to. There was no opposing argument presented from the respondent in this regard, rather, the respondent's position was that the list entry was correct as there had been a completion notice served on 10 November 2016 which provided a completion date of 16 November 2016. The issue therefore was whether the completion notice in question had been validly served.

10. Having later received a copy of the completion notice (as part of the challenge exchange), the appellant's representative's position was that this had not been received previously. He submitted that there was no evidence or record of the notice being served and in any case, the completion notice was addressed to the wrong owner.

11. In its fact finding exercise, the panel considered the copy of the completion notice as provided by the respondent. It was dated 10 November 2016 and set a completion date of 16 November 2016. On the face of it, it appeared to have been issued under Schedule 4A 2(3) as opposed to 4A 2(2) so arguably it should not have set a completion date beyond the date of the notice, however, the panel was mindful that the Billing Authority had submitted that this is to allow for postage. The address on the completion notice stated: 'Standard Life Investment Funds Limited, Property Management, Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH.' The panel heard that Standard Life Investment Funds Limited ceased to operate, as can be confirmed by the Land Registry, in 2012. The appellant company, Standard Life Assurance Limited took over and therefore was the owner in 2016, when the completion notice was supposedly served.

12. The Supreme Court judgment, *UKI (Kingsway) Limited (Respondent) v Westminster City Council* (Appellant) [2017] EWCA Civ 430 which considered whether a completion notice had been validly served had been provided to the parties. In this case, the Billing Authority had asked the agents to confirm the identity of the owner of the building, the agents had declined to do so without obtaining the instructions from their client, which were not forthcoming. At the time, the building was managed by Eco FM under a contract with UKI but Eco FM had no authority to accept service of documents on UKI's behalf. The Billing Authority delivered the completion notice by hand to the building. The notice was addressed to 'The Owner' and handed to the receptionist employed by Eco FM, who scanned and emailed a copy of the notice to UKI. An appeal was lodged on the grounds that the service of the completion notice was invalid. The Supreme Court found that the completion notice in that appeal had been validly served.

13. The panel found that this case differed from the appeal before it. In *Kingsway* the completion notice had been hand delivered to the building, whereas the question here was whether it had been served at all. The appellant had referred to a Valuation Tribunal decision, *The Old Sorting Office Limited v VO* (VTE number CHG100661436, dated 30 November 2022) which

had been determined by the former vice president of this Tribunal. Whilst decisions of the Tribunal are not binding on the panel, it did find it to be of assistance. The vice president dismissed the appeal as the respondent had not discharged the evidential burden placed upon it to prove that such notices were served.

14. The respondent submitted that it would have received a copy of the completion notice from the Billing Authority in 2016 via its usual reporting, but it did not hold any further details such as when and how it had been served. The respondent had liaised with the Billing Authority who had stated 'a notification was received on 11 December 2017 from Real estate BNP Paribas that "Standard Life" were liable for the Business Rates. A letter of authority from Standard Life Investments was received saying BNP Paribas could act on their behalf. The Completion Notice was sent to the address 30 Lothian Road, Edinburgh, EH1 2DH which is also the same address listed for Standard Life Assurance Limited. (ref Companies House)'. There was no further detail presented in respect of how the completion notice was served, for example, the date it was sent, was it sent via recorded delivery, and was there any proof/tracking to confirm postage. As the former Vice president had stated, the evidential burden was on the Billing Authority to prove it was served, and the panel found that the respondent should have obtained further information to satisfy both itself and the panel that the completion notice being relied on was actually served. In the absence of this information, the panel concluded that such burden had not been discharged. It therefore follows to question how could one reach the conclusion that the completion notice had been validly served.

15. The panel placed weight on the letter provided from the asset manager responsible for the property in 2016. He stated that there was a system in place to record mail received, for example, barcodes were kept for recorded and special delivery mail. He submitted that he had no recollection of this notice and he had further reviewed his hard copy and electronic file and cannot find any evidence to suggest that this was received. This statement, when viewed in conjunction with the other facts of this case, namely, the lack of evidence to prove postage/service, supported the appellant's assertion that the completion notice was not issued.

16. In conclusion, the panel found that the completion notice was not validly served as it determined that the completion notice was not served at all.

Determination

17. In view of the above findings and conclusions, the appeal is allowed.

18. Under the provisions of regulations 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to delete the subject property's entry in the rating list with effect from 1 April 2017. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

19. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

20. Any party who is aggrieved at the Tribunal's decision, and who appeared or was represented at the hearing, has a statutory right of further appeal to the Upper Tribunal (Lands Chamber) pursuant to Regulation 42 of the Tribunal Procedure Regulations. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the Upper Tribunal (Lands Chamber) within **four weeks** of the date this decision and statement of reasons is issued.

21. Further information regarding this statutory right of further appeal, and the parties' other rights, is contained in the guidance booklet "*A guide to tribunal decisions"* available on the Tribunal's website at www.valuationtribunal.gov.uk/guidance-booklets/.

Mr PA Jennings, Senior Member (Presiding)

Mr N De Freitas, Senior Member

29 May 2025

Mrs C McAvoy
Clerk to the Tribunal
Date issued to the parties: 29 May 2025