THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating: Completion Notice Appeals; Section 46A and Schedule 4A of the Local Government Finance Act 1988; was the completion date set by the billing authority reasonable; outstanding works; appeal dismissed.

Re: Unit 1 D H Engineering, North Leigh Business Park, Witney, OX29 6SN

Unit 2 D H Engineering, North Leigh Business Park, Witney, OX29 6SN

APPEAL NUMBERS: VT00006854 & VT00006853

BETWEEN:	D H Building Services	Appellant
	and	
	West Oxfordshire District Council (Billing Authority)	Respondent

BEFORE: Ms J Routledge (Senior Member)

CLERK: Mrs C McAvoy

REMOTE HEARING No.1 on 26 May 2021

APPEARANCES:

Mrs Tracy Eason (on behalf of the appellant)

Summary of decision

1. Appeals dismissed; the completion date set by the billing authority was considered reasonable.

Introduction

2. These appeals were brought in respect of completion notices issued by the billing authority (BA) for Unit 1 and Unit 2 North Leigh Business Park, Witney, OX29 6SN. Both notices were issued on 11 November 2019 and stated that

the property would be treated as complete for rating purposes with effect from 25 November 2019.

3. The subject properties were two new industrial units. The appellant disputed the completion date in an appeal to the Valuation Tribunal, which was received on 10 February 2020. Such appeals should be made within 28 days of the completion notice being served, however, an out of time application was made to this Tribunal. A decision was issued on 1 April 2020 to allow the appeals to be accepted.

4. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)(arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

5. Therefore, in pursuance of regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

6. The Tribunal Business Arrangements provide that a hearing will normally take place before a panel of two Members of the Tribunal, including at least one Senior Member. However, the arrangements also provide that a Senior Member may sit alone to avoid a postponement of the hearing where a second Member of the Tribunal is unable to sit.

7. In respect of this hearing, another Member of the Tribunal was unable to sit. I am therefore satisfied that, in order to avoid a postponement of the hearing, I am authorised by the Tribunal Business Arrangements to hear and determine this appeal sitting alone.

8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered before coming to my decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

9. The issue before me was, having regard to the amount of works outstanding as at 11 November 2019, was the completion date set by the BA of 25 November 2019 reasonable?

Evidence and submissions

10. The BA served, prior to the hearing, an evidence bundle containing its submission. A copy of the completion notice for each unit was included and the relevant law was referred to.

11. The responding BA had contacted the Tribunal and asked for the matter to be heard in its absence, content with its written submission forming its case.

12. Prior to the hearing, I was presented with the originating appeal form and the appellant's supporting letter which outlined the works remaining. The appellant contacted the Tribunal and authorised Mrs Tracy Eason, the company's bookkeeper, to attend the hearing on his behalf.

Decision and reasons

13. When arriving at my decision, I had regard to section 46A of, and Schedule 4A to, the Local Government Finance Act 1988. Essentially, a BA has the power to serve a completion notice if a new or altered building is complete; or propose a completion day, if at the time of serving the notice, the remaining work could reasonably be expected to be completed by that day. The proposed date cannot be later than three months from and including the day on which the notice is served.

14. Both units were newly built, and the BA served a completion notice for each unit on 11 November 2019, which stated that the property would be treated as complete for rating purposes with effect from 25 November 2019.

15. A copy of an internal email was provided, which stated that the BA's inspection officer visited the site on 8 November 2019. No one was present, but the officer reported that there were two new industrial units which appeared ready inside and had a parking area immediately outside. It was acknowledged that the access road was still to be finished. The BA issued a completion notice and considered it fair to allow a couple of weeks for the completion of the remaining work.

16. I had regard to the appellant's correspondence which listed the state of the properties as at the middle of November 2019:

    - Both units were shells of buildings
    - There was electricity supply to both units but no light fittings/sockets nor power to the roller shutter doors, so they were incapable of being opened
    - There was a gas supply to both units, but appliances had not been purchased, installed nor commissioned
    - There was a water supply but no internal plumbing works
    - The access road was a narrow unmetalled track so a wider suitably finished hard road needed to be installed

17. When asked, Mrs Eason stated that the properties were used as a small office, with some storage of equipment needed for site work. The units mirrored each other and contained a kitchen area and a toilet. She submitted that DH building services moved into one unit in September 2020 and both units had recently been sold.

18. The access road remains incomplete, albeit Mrs Eason considered that it was likely to be in a better condition now to what it was in November 2019. I had regard to the fact that the properties have been in use with the road seemingly unfinished; and I also considered that the car park spaces were present and complete when the BA visited.

19. I was content that the properties had a water, gas, and electricity supply, as at the date the completion notice was served. I understood that the internal appliances and fixtures were still required but I considered that the two-week time frame was reasonable for this work to have been completed.

20. I had to consider what further work was essential for the purpose of occupation of that building and the assumption is continual progress. I therefore did not consider the lack of funds available at the time to be a persuasive factor. By Mrs Eason's own admission, if the funds had been available the work may have been possible to complete within the two weeks provided.

21. Ultimately, I was not presented with any compelling evidence to persuade me that the works outstanding could not have reasonably been completed within the two weeks. I therefore found nothing erroneous with the completion day set by the BA.

22. For the reasons stated, the appeal was dismissed.

Date: 3 June 2021

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