

THE VALUATION TRIBUNAL FOR ENGLAND



Completion Notice Appeal – could property have been completed within the time period stated on the Completion Notice – informed work to complete hereditament would take 36 weeks – Ravenscroft Properties Ltd v Newham London Borough Council (RA [1975] 414) - Post Office v Nottingham City Council - London Borough of Newham v Rad Phase 1 Type B property Company No.1 Ltd [2020] UKUT203 (LC) - appeal allowed in part

Re: Building 2, Buckshaw Station Approach, Buckshaw Village, Chorley PR7 7NR

APPEAL NUMBER: VT00011402

BETWEEN:	LT	Appellant
	and	
	Chorley Borough Council	Respondent
	(Billing Authority)	

PANEL: Mrs A Fielder (Senior Member)
Mrs V Hollender

CLERK: Mr A Jolly

REMOTE HEARING: Wednesday 5 April 2023

APPEARANCES: LT (appellant)
Mr K Parkinson representing the billing authority (respondent)

Summary of decision

1. Appeal allowed in part. The completion date was amended to 31 December 2022.

Introduction

2. This appeal has been brought in respect of the following: The billing authority (BA) issued a completion notice on 28 March 2022 stating that the appeal hereditament could reasonably be expected to be completed by 27 June 2022. The appellant appealed the completion notice to the Valuation Tribunal on 22 April 2022 as he believed the hereditament could not be completed in the time stated and sought for the completion notice to be quashed. At the hearing the appellant sought confirmation of the 30 August 2023 as the completion date.
3. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

4. The parties were given the opportunity to vary the procedure outlined in the Valuation Tribunal for England Consolidated Practice Statement but the appellant wished to present his case first.

Issues

5. The issue before the panel concerned what date could it reasonably be expected that the works outstanding at the date of the service of notice could be completed.
6. The parties were informed that the panel did not have the jurisdiction to quash a completion notice in line with the Upper Tribunal decision of *London Borough of Newham v Rad Phase 1 Type B property Company No.1 Ltd [2020] UKUT203 (LC)* but the panel had the jurisdiction to substitute the completion date for a new date.

Evidence and submissions

7. The bundle provided by the BA contained the submissions of both parties. This included the reasons for resisting the appeal; a copy of the completion notice; the appellant's appeal and supporting information; photographs of the appeal hereditament; an extract of the relevant legislation; the appellant's submissions; a schedule of the works required with a time line for those works; references to relevant case law and the BA's rebuttal.

Decision and reasons

8. The relevant law was as follows:
 - (a) Section 17, Local Government Finance Act 1992
 - (b) Schedule 4A, Local Government Finance Act 1988

Section 17 of the 1992 Act was as follows:

(1) Subject to the provisions of this section, Schedule 4A to the 1988 Act (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall, with the exception of paragraph 6, apply for the purposes of this Part as it applies for the purposes of Part III of that Act.

(2) Any reference in this section to the Schedule is a reference to Schedule 4A to the 1988 Act as it applies for the purposes of this Part.

Schedule 4A of the 1988 Act, so far as is relevant for the purposes of this appeal, is as follows:

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.

1 (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 (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.

2 (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.

4 (1) A person on whom a completion notice is served may appeal to a valuation tribunal against the notice on the ground that the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the day stated in the notice.

4 (2) Where a person appeals against a completion notice and the appeal is not withdrawn or dismissed, the completion day shall be such day as the tribunal shall determine. ...

9 (1) This paragraph applies in the case of a building to which work remains to be done which is customarily done to a building of the type in question after the building has been substantially completed.

9 (2) It shall be assumed for the purposes of this Schedule that the building has been or can reasonably be expected to be completed at the end of such period beginning with the date of its completion apart from the work as is reasonably required for carrying out the work.

9. The appellant stated that on the date of the service of the completion notice that there was no data cabling, partitions, wiring, suspended ceilings or raised floors and there was no electric substation. He referred to *Ravenseft Properties Ltd v Newham London Borough Council* (RA [1975] 414) and *Post Office v Nottingham City Council* where it had been held that if services were not present in a hereditament it could not be ready for occupation.
10. The appellant provided a schedule of works and a time line for those works and considered that the works, including ordering and installing the electric substation, would take 36 weeks and that works did not start until approximately November 2022. He also referred to the BA records which stated that there had been no change to the building between an inspection in October 2021 and the inspection in March 2022. He requested the panel confirm a new date of 30 August 2023 when the works should be completed.
11. The BA representative stated the issue concerned when could the property be substantially complete and not when the property was actually completed. He stated that the appeal hereditament had been inspected in October 2021 and March 2022 when it was considered by the BA that the property was substantially complete and only required fitting out works. Following the March inspection the BA served the completion notice dated on 28 March 2022 allowing until 27 June 2022 for the remaining works to be completed.
12. However, the BA representative stated that having regards to the appellant's submissions it appeared the timeline for the works was approximately five months and therefore he stated

that the completion notice date could be substituted to have regards to that period of works or a later date if the panel considered the works could not have been completed by that period.

13. The panel had to consider whether the works that remained outstanding at the date the BA had served its completion notice could have been completed by the date given in the notice of 27 June 2022 or whether a different date should be applied.
14. The panel noted that the appellant was seeking 30 August 2023 as the completion date which was the date work should be completed after starting around November 2022. However, the panel had to consider the length of time the works would take to complete from the date of service of the notice which was March 2022 not from the date the works actually started.
15. The panel had been informed by the appellant that the works would take a period of 36 weeks which included the time for equipment and materials to be ordered and works completed which had not been disputed by the BA. These works include ordering and installing an electric sub-station and general fitting out of the hereditament.
16. The panel considered that as the works required to be completed at the 28 March 2022, the date of service, would take approximately 36 weeks to complete and therefore, the property could have been completed by 31 December 2022. The panel therefore allowed the appeal in part and confirm the date of completion to be 31 December 2022.

Order

17. Under the provisions of Regulation 38 (1) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the VTE determined that the completion date of Building 2, Buckshaw Station Approach, Buckshaw Village, Chorley, PR7 7NR is 31 December 2022, and it orders all relevant records are to be accordingly altered within two weeks of the date of this order.

Date: Monday 24 April 2023

Appeal number: VT00011402

Right of Appeal:

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.