



VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Completion Notice appeal: 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.

APPEAL NUMBER: VT00022860

RE: R/O 39 High Street, Newport Pagnell, Milton Keynes, MK16 8AR
(the "subject property")

BETWEEN:	Joan Foster	Appellant
	and	
	Milton Keynes Council (Billing Authority)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 15 October 2024.

BEFORE: Ms JL Hadley, Presiding Senior Member
Mrs NC Yang, Senior Member

CLERK: Mr J Massey IRRV(Dip)

APPEARANCES: Mrs J Foster, the appellant
Mr R Hayle, representing the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.
2. The Tribunal Panel considered the completion date set by the billing authority (BA) was reasonable.

Introduction

3. This appeal was brought in respect of a completion notice issued by the BA for R/O 39 High Street, Newport Pagnell, Milton Keynes, MK16 8AR. The notice was issued on 22 March 2024 and stated that the property would be treated as complete for rating purposes with effect from 21 June 2024.
4. With the agreement of the parties the panel varied the procedure outlined in the Consolidated Practice Statement PS8- Model Procedure and requested the respondent to present his evidence first.
5. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

6. The subject property was located to the rear of a retail unit in Newport Pagnell with an approximate area of 100m². It had previously been used as part of the nearby retail premises but had been deleted from the rating list in 2019 when it was split from the retail premises.

Relevant Law

7. The relevant law was as follows:
 - (a) Section 17, Local Government Finance Act 1992
 - (b) Schedule 4A, Local Government Finance Act 1988
8. 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.*
9. 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.

...

Discussion

10. The respondent had provided a joint evidence bundle which included contributions from both parties to the appeal. Amongst other things, it included the respondent's skeleton arguments, excerpts from relevant legislation, a copy of the completion notice, the appellant's grounds for appeal, location plans and photograph of the exterior of the subject property, and a copy of the Upper Tribunal judgement *London Borough of Newham v RAD Phase 1 Type B Property Company No.1 Limited* [2020] UKUT 203.
11. Having regard to the legislation, it was apparent to the panel that a billing authority must serve a completion notice if it comes to its attention that a new or altered building is complete or if it is structurally complete and the remaining work can be completed within three months. In the appeal before it, the billing authority had issued a completion notice under paragraph 1(1) of schedule 4A of the Local Government Finance Act 1988 giving the maximum period allowed under paragraph 2(2) of three months for the completion of the property. The panel was aware that if it did not consider the date set out in the completion notice to be reasonable, it could set an alternative date by which it considered the subject property could reasonably be completed. Having reviewed the case of *London Borough of Newham v RAD Phase 1* provided by the respondent it found that this date could be later than the maximum three months specified in the completion notice.
12. The respondent argued that when the subject property was removed from the rating list, it remained complete to shell and core standard. Whilst some of its facilities and its utilities had been previously shared with the retail unit from which it was now split, Mr Hayle considered the utilities could reasonably be reconnected within the three months specified in the completion notice. He also considered that due to the size of the subject property itself, the timescale of any works required to be brought back into use for some purpose would be less than the specified three months.

13. The appellant stated that no works had been carried out on the subject property since it was removed from the rating list in 2019. She stated that it had no water, gas or electricity supplies as these had previously come from the retail unit – they could not be reconnected to the supplies to the retail unit as it was separately let. The appellant described the interior of the subject property as an empty shell with no partitions. She stated there was no kitchen, bathroom or toilet within the subject property and it was not suitable for a dwelling or retail use. There was currently no work planned or being carried out to the subject property as its future use had not been determined.
14. The panel had regard to the photograph of the exterior of the subject property provided by the respondent, which it considered depicted a building which was reasonably complete, and wind and watertight. Neither party had specifically outlined the work required to complete the subject property, and the panel could understand the difficulty experienced by the appellant in determining this due to uncertainty over the building's future. However, having regard to the parties' descriptions of the subject property as it stood at the date the completion notice was issued, it was satisfied that works to complete the subject property could reasonably have been completed by the completion date of 21 June 2024 specified in the completion notice.

Disposal

15. In view of the foregoing, the panel upheld the BA's decision that as of 22 March 2024, it had been reasonable to assume that the outstanding works could be completed by 21 June 2024. Accordingly, the appeal was dismissed.

Date issued to parties: 11 November 2024

Right of further appeal

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the High Court on a question of law. Any such appeal should be made within four weeks of the date of this decision notice.
