VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Completion Notice appeal: Local Government Finance Act 1992; London Borough of Newham v Rad Phase 1 Type B property Company No.1 Ltd [2020] UKUT203 (LC); Aviva Investors Property Developments Ltd v Whitby (VO) [2013] UKUT 0430 (LC); appeal allowed in part.

APPEAL NUMBER:	Please see attached schedule	
RE:	Please see attached schedule (the “subject properties”)	
BETWEEN:	CB Tolworth Investments LLB	Appellant
	and	
	Royal Borough of Kingston upon Thames (Billing Authority)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	24 January 2025	
BEFORE:	Ms C Edwards, Presiding Senior Member Ms R Sharma, Senior Member	
CLERK:	Mrs S Hodgson IRRV(Dip)	
APPEARANCES:	Mr P Sewell for the appellant company Mr P Grocott for the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are allowed-in-part.

2. The Tribunal Panel found that although the billing authority (BA) was correct to serve completion notices, it should have allowed more time for completion of the remaining work at the date the notices were served. The dates of completion were amended from 12 August 2024 to 1 November 2024.

Introduction

3. These appeals were against the completion notices which the BA served on the appellant company on 1 August 2024. The BA proposed completion dates of 12 August 2024, as it considered that the remaining works could be completed within eleven days.

4. Mr Sewell, on behalf of the appellant company, appealed to this Tribunal on 23 August 2024, on the grounds that the subject properties were not, and could not be, completed by the completion dates.

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

Background

6. The subject properties were nine industrial units with offices above, being built by the appellant company. The BA had inspected the units externally and issued completion notices for all units on 1 August 2024, with completion dates of 12 August 2024.

Relevant Law

The Local Government Finance Act 1992

7. Section 17 of the Act is 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.

The Local Government Finance Act 1988

8. Schedule 4A, 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. Therefore, a BA was under a statutory duty to serve a council tax completion notice in respect of a complete building or one where the work remaining to be done could reasonably be expected to be completed within three months. The authority could propose a date of completion it considered was reasonable providing it fell within three months of the date the completion notice was served.

Discussion

10. During the hearing Mr Sewell requested that the completion notice was quashed if the panel were to find the remaining works would take in excess of three months to complete.

11. The clerk clarified that the Tribunal 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] UKUT 203 (LC), but the panel had the jurisdiction to substitute the completion date for a new date which could be more than three months after the completion notice was served.

12. Mr Sewell described the subject properties as all being in the same condition and standard during the week beginning 12 August 2024 when he inspected them. He stated they were completed to a ‘stair core’ standard which meant that the industrial parts of the units were missing lighting, communications, racking, partitions, heating, and kitchen and toilet facilities.

13. Mr Sewell stated that similar units with the same finish had been agreed with other BA’s. He stated that the subject properties differed slightly to previous agreements as they were open plan for future office use at upper levels, which would save time in the completion process of the units.

14. The panel were referred to the decision of *Aviva Investors Property Developments Ltd v Whitby (VO)* [2013] UKUT 0430 (LC) where the Upper Tribunal held that industrial/warehouse units which were missing small power distribution units and lighting could not be held to be complete. Mr Sewell likened the subject properties to the properties in the Aviva case in terms of their finish.

15. Based on the list of works that were still required, including the lighting to the subject properties, the panel accepted that they were not complete when the notices were served on 1 August 2024. It therefore had to determine when the subject properties could reasonably be completed by.

16. Evidence was provided of a similar property in Coventry where the BA had withdrawn the original completion notices, and the unit was then entered into the rating list four and a half months later once it was complete.

17. As it was confirmed the completion notice could not be quashed, Mr Sewell was seeking completion dates of 24 May 2025 for all the subject properties, which was four months from the date of the hearing as he stated no further development had continued since the completion notices were served.

18. During the hearing, Mr Grocott stated he did not have a copy of Mr Sewell's evidence. This was the first time he had raised this issue. The clerk confirmed the evidence was sent to the BA on 16 January 2025.

19. The panel adjourned the hearing for a short period for the bundle to be resent to Mr Grocott and for him to look through it. After the adjournment, Mr Grocott confirmed he was satisfied to proceed with the hearing.

20. At the hearing, Mr Grocott conceded that the subject properties could not have been completed within the eleven days provided for by the completion notices. He referred to the Mr Sewell's evidence that the property in Coventry took four and a half months to complete and noted that the subject properties were smaller than those put forward by Mr Sewell and would therefore not take as long to complete. He did not take any issue with any of the agreements with the other BA's but did contend that as the subject properties were not identical, they would not take the same amount of time.

21. The panel reviewed all of the evidence put before it, including photographs from both parties, and descriptions of the work that remained to be done at the subject properties. The panel found that there was a size difference between the subject properties and the other units put forward as evidence. When taking this into account, alongside Mr Sewell's written and oral submissions that due to the type of finish the subject properties could be completed quicker than the others, it was the panel's opinion that the works remaining could reasonably have been completed within three months of the completion notices being served.

22. Whilst Mr Sewell stated that no further works had taken place, this was not something the panel could account for, as on the date the completion notices were served, the units could have reasonably been completed by 1 November 2024.

Disposal

23. In view of the above findings, the Tribunal Panel concluded that as at the date of service of the completion notices on 1 August 2024, a reasonable date to complete the remaining work was 1 November 2024.

24. The Tribunal Panel orders that under paragraph 4(2) of Schedule 4A the completion dates for the subject properties, on the attached schedule, must be changed from 12 August 2024 to 1 November 2024.

Date issued to parties: 23 February 2025

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.

SCHEDULE OF APPEALS

Appeal Number	Address
VT00025520	Unit 1 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025546	Unit 2 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025547	Unit 3 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025548	Unit 4 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025549	Unit 5 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025550	Unit 6 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025551	Unit 7 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025552	Unit 8 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB
VT00025553	Unit 9 Metroplex, 230 Red Lion Road, Surbiton KT6 7QB