IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A NON-DOMESTIC COMPLETION NOTICE APPEAL

Case Nos: VT00027372
VT00027374

Sitting remotely using Microsoft Teams

Date: 27 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Completion Notice appeal: Local Government Finance Act 1992; could the works remaining to be completed be completed by the date in the Completion Notice or should a later date be applied; appeals allowed or allowed in part

Before:
MRS M CHAGGAR
MS L DUBOW

Between:

FRIMLEY BUSINESS PARK INVESTMENT LLP — **Appellant**

- and -

SURREY HEATH BOROUGH COUNCIL (BILLING AUTHORITY) — **Respondent**

Regarding:
100 FRIMLEY BUSINESS PARK, FRIMLEY, CAMBERLEY, GU16 7SG
500 FRIMLEY BUSINESS PARK, FRIMLEY, CAMBERLEY, GU16 7SG
(the “subject properties”)

Mr A Moore of Ryan representing the appellant
Ms E White for the Respondent

Hearing date: 1 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. Appeal number VT00027372 was allowed and appeal number VT00027374 was allowed in part. The panel confirmed the completion date to be 11 February 2025 for 100 Frimley Business Park and 11 March 2025 for 500 Frimley Business Park.

Introduction

2. The billing authority (BA) issued completion notices for the subject properties on the 8 November 2024 stating that the properties could reasonably be expected to be completed by 1 January 2025. The appellant's representative lodged appeals against the completion notices on the 6 December 2024.

3. Mr Moore appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Moore's declaration of truth included a statement that he was instructed under any conditional fee arrangement.

4. Mr Moore declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client's case.

5. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

6. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Preliminary Issue

8. The appellant's representative provided his rebuttal evidence on the 29 April 2025 in the form of an internal email from the original person dealing with the appeals. This was in breach of the standard direction served with the Notice of Hearing which allows for any rebuttal evidence to be served at least two weeks before the hearing. Mr Moore stated that his colleague, who had been dealing with the appeals, was not available for the hearing and that he had been allocated the appeals on 25 April 2025 with the information contained in the email being matters his colleague would have dealt with at the hearing if he was able to attend. The respondent stated that she had no objection to the inclusion of the rebuttal evidence.

9. In considering the breach of the Tribunal's directions, the panel must have regard to the three-stage test set out in *Denton* v *TH White Ltd* [2014] 1 WLR 3926 before applying sanctions. Stage one requires the Tribunal to determine the significance and seriousness of the breach; if the breach is neither, then relief should usually be granted. At stage two the Tribunal must consider the reasons why the failure and default occurred; if the defaulting party has good reasons to explain what happened, relief should usually be granted. Finally,

at the third stage, the Tribunal must have regard to all of the circumstances of the case, the need for litigation to be conducted efficiently and at proportionate costs, that the failure to grant relief may leave an incorrect liability and the need to enforce compliance with the rules, directions and orders of the Tribunal.

10. The panel considered that a breach had occurred and that the breach was serious. However, as the respondent raised no objection to the inclusion of the rebuttal evidence the panel admitted the rebuttal evidence.

Issue

11. 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.

Relevant Law

12. 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.

Decision and reasons

13. Mr Moore stated that the appellant purchased the site in June 2021. It contained a number of 1980/90s buildings which had been vacated over the years. The buildings were demolished in 2023 and five buildings constructed in their place. The new units ranged in size from 760 m² to 3,207 m² with the subject properties being 1,392 m² for 100 Frimley Business Park and 3,207 m² for 500 Frimley Business Park. The buildings reached practical completion on 28 October 2024.

14. Mr Moore stated that the completion notices did not allow sufficient time for the remaining works to be completed on the two subject properties. He considered that nine weeks and two days from practical completion was sufficient with the works required to be completed and set out the works remaining:

Warehouses

- no lighting
- Power to fuse board but no small power or distribution beyond this to actually allow it to be usable
- No heating
- No racking
- No mezzanines
- No welfare facilities

Offices

- A standard Category A finish i.e lighting and sockets in place but no carpets, partitioning, kitchen facilities; distribution of data or power below the floor etc

15. Mr Moore stated that advice had been taken in relation to how long fitting out a unit would take and considered that a period of approximately 12 weeks period should be applied. He therefore sought the 11 February 2025 for 100 Frimley Business Park and as 500 Frimley Business Park was considerably larger, he considered extra time was required and that the completion date should be 31 March 2025. He stated that he had included an extra two weeks onto the dates due to the Christmas break.

16. Mr Moore stated that whilst the respondent is stating that the completion date had been agreed during an inspection on 6 November 2024 this was not the case with the BA not willing to agree a later date than 1 January 2025.

17. In support of his contention that the completion date was unreasonable Mr Moore provided Valuation Tribunal decisions which confirmed fitting out needed to be considered from the practical completion date and that regard had to be had to the fact that the power distribution was not in situ. He accepted that previous Valuation Tribunal decisions were not binding on this panel.

18. Mr Moore confirmed that they had not proceeded with appeals on the other units due to either already tenanted or due to the size the date was acceptable.

19. Ms White stated that the development was a speculative development with no tenants in situ when building started and therefore the properties were left at a certain level of complete until a tenant was found. She considered that the BA were correct in serving notices to bring the units into rating and had had regards to all factors including the Christmas period in considering the date to use.

20. Ms White stated that during their inspection on 6 November 2024 it was noted that offices were carpeted, there was lighting, heating and working lifts. She also considered that all units were structurally wind and watertight. In her opinion the remaining works could be completed within the time given within the completion notices and asked the panel to confirm the date of 1 January 2025.

21. The panel noted that both parties had agreed that practical completion of the two subject properties was 28 October 2024 and therefore this is the date the panel considered as the start date for the remaining works. The panel had been provided with photographs which showed the warehouses were bare but did have lighting and that the lift area was carpeted but no photographs were provided to show the offices had been carpeted. The panel therefore accept the situation explained by the appellant’s representative regarding the works requiring to be completed.

22. For the property to be completed and for occupation it required fitting out including power from the fuse box, heating, data and electrical distribution, w.c. etc. It is normal for these works to take approximately three months if works commenced on the date of practical completion.

23. The panel noted that the BA had included a two week period for the Christmas break understanding that minimal works are completed during this period and therefore the panel also included a two week period for the Christmas period when considering the date for

completion. It therefore accepted the 11 February 2025, which was three months and two weeks from the date of practical completion for 100 Frimley Business Park. The panel then considered the larger unit at 500 Frimley Business Park. Whilst it accepted that works for the larger unit may take longer than the smaller unit it was not satisfied that this work would take an extra six weeks and considered that an extra one month would see the remaining works completed. The panel therefore considered that 11 March 2025 should be the completion date for 500 Frimley Business Park.

Determination

24. In view of the above findings and conclusions, the panel allows the appeal for 100 Frimley Business Park and confirms 11 February 2025 as the completion date and allows the appeal in part in relation to 500 Frimley Business Park confirming 11 March 2025 as the completion date.

25. 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 100 Frimley Business Park, Frimley, GU16 7SG is 11 February 2025 and the completion date of 500 Frimley Business Park, Frimley, GU16 7SG is 11 March 2025, and it orders all relevant records are to be accordingly altered within two weeks of the date of this order.

Right of further appeal

26. Any party who is aggrieved at the Tribunal's decision has a statutory right of further appeal to the Upper Tribunal (Lands Chamber) on a point of law 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 within **four weeks** of the date that this interim decision and statement of reasons is issued.

27. 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/.

Mrs M Chaggar, Senior Member (Presiding)

Ms L Dubow, Senior Member

27 May 2025

Mr A Jolly
Clerk to the Tribunal
Date issued to the parties: 27 May 2025