

VALUATION TRIBUNAL FOR ENGLAND



*Completion Notice Appeals; Section 17 Local Government Finance Act 1992;
Schedule 4A to the Local Government Finance Act 1988; domestic dwellings;
determination of correct completion day; appeals allowed.*

RE: 1 to 4 Workhouse Court, Victoria Road, Wellington, Telford, Shropshire TF1 1AJ
and 24 to 29 Walker Street, Wellington, Telford, Shropshire TF1 1BD

APPEAL NUMBERS: 3240M261122/283C, 3240M261123/283C,
3240M261124/283C, 3240M261125/283C, 3240M261116/283C,
3240M261117/283C, 3240M261118/283C, 3240M261119/283C,
3240M261120/283C and 3240M261121/283C

BETWEEN:	Mr P Davies	Appellant
	and	
	Telford and Wrekin Borough Council	Respondent
	(Billing Authority)	

PANEL: Mr W Read (Chairman)
Mr A Davies

SITTING AT: The Lantern, Shrewsbury

ON: Friday 18 October 2019

APPEARANCES: Mr P Davies – Appellant

Miss C Dunbar – Billing Authority's representative

Summary of decision

1. The appeals were allowed. The panel determined the following completion dates:

30 June 2019 for numbers 24, 28 and 29 Walker Street,
15 July 2019 for numbers 25 to 27 Walker Street and
28 July 2019 for the four properties at Workhouse Court.

Introduction

2. The appeals arose against ten Completion Notices that were issued under Schedule 4A (2) to the Local Government Finance Act 1988 by the billing authority on 24 April 2019. The billing authority had specified a completion date of 6 May 2019 for numbers 24, 28 and 29 Walker Street, 27 May 2019 for numbers 25, 26 and 27 Walker Street and 28 June 2019 for 1 - 4 Workhouse Court, as it was of the view that the dwellings should be ready for occupation by those dates.
3. The appeal properties were six houses in Walker Street which had been converted out of an existing building and four new apartments at Workhouse Court.
4. The absence in this decision text of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as it being overlooked by the panel.

Issue

5. The issue in dispute was the appropriate completion day having regard to the works that were outstanding.

Evidence and submissions

6. The appellant believed that the properties were not complete on the dates specified by the billing authority in the completion notices, as there were still utility services to be connected, some plaster work to be completed, permanent stairs to be fixed in place and the kitchens and bathrooms were not functional. With the aid of photographic evidence, he also stated that the external works to the car park, driveway and landscaping were nowhere near complete. On his appeal forms, the appellant estimated that the outstanding works would be

completed by 30 June 2019 for numbers 24, 28 and 29 Walker Street, by 15 July 2019 for numbers 25 to 27 Walker Street and 28 July 2019 for the four properties at Workhouse Court.

7. The appellant explained that he first purchased the site of the former library around 4/5 years ago. The building dated back to 1850 with additional parts being added in 1910 and 1960. No alterations could be made to the Victorian façade. He stated that as a small company, it was difficult to keep the project going and there were times when work was suspended due to the escalating costs.
8. The appellant stated that connecting the services was a problem as they had had to rely on an easement from a local store which took around 20 months to finalise. He confirmed that work began again on site in January 2019 at which time approximately 20% of the work had been completed.
9. The appellant provided a chronology of events and a bundle of photographs which showed the progress being made on the site each month. The appellant gave the dates when the electric meters were to be installed into the properties. He also stated that between 15 and 17 July 2019, the three-phase electricity supply which originally supplied the library was to be removed. Following the stripping out of the electrics, work could commence on 26 and 27 Walker Street which included work to the entrance door, plasterboard and skim, 2nd fix electrics, skirting boards and decoration work.
10. In relation to the other works, the drainage and garden work were under way in April 2019, the gravel for the car park went down in May/June 2019 with landscaping and excavation work continuing. The kitchens and bathrooms were fitted during June 2019. There was still outside work to be completed in July, August and September with work to the car park, bin store and pathways. The appellant confirmed that an estate agent was going to market the properties, which were not already occupied, within the next few days.
11. The billing authority's representative provided a bundle which included a chronology of events, a summary of the planning application, inspection reports, the completion notices, photographs, correspondence exchanged between the parties, two Valuation Tribunal decisions (appeal numbers 1845M2707070/226C and 4240M21180/113C and others) which challenged the completion dates and council tax legislation.
12. The billing authority's representative stated that a number of inspections had been made by the billing authority since planning permission was sought in December 2014. Each visit made was recorded and included details of the work in progress. In January 2019, the visiting officer recorded that workmen were on site and having spoken to one of the builders, it was established that there were delays in connecting the services.
13. Official addresses were provided by the Building Control team along with anticipated completion dates on 5 February 2019.
14. A further visit was made to the site in March 2019. The visiting officer noted there were cleaners on site and that work was being carried out on the driveway. A further discussion was had with the appellant, who stated that the properties would not be finished until at least June 2019.

15. In April 2019, the appellant emailed the billing authority to say that the electricity meters were being installed on the following dates:

24, 28 and 29 Walker Street – 6 May 2019

25 to 27 Walker Street - 27 May 2019

1 to 4 Workhouse Court – 28 June 2019

16. The billing authority responded by stating that its procedure was to provide one month for the installation of the services, as a reasonable timeframe. The billing authority argued that the dates for the electricity meter installation would be the completion dates. Legislation does not provide for delays or personal circumstances and additional time had already been allowed for the issue with the services.

17. The appellant had also stated in his email dated 16 July that numbers 26 and 28 Walker Street and 1 Workhouse Court were completed on 30 June 2019 and occupied by 12 July 2019. Although in his submission, he stated that number 27 Walker Street was complete as opposed to number 26.

18. As Completion Notices were based on the amount of time taken to complete the work, the billing authority's representative believed that the completion dates stated in the Notices were reasonable.

Decision and reasons

19. The legislation governing the service of Completion Notices on newly constructed or altered domestic property was contained in Section 17 of the Local Government Finance Act 1992 which was subject to the provisions of Schedule 4A to the Local Government Finance Act 1988 (which makes provision with respect to the determination of a day as the completion day in relation to a new building).

20. The relevant law was as follows:

(a) Section 17, Local Government Finance Act 1992

(b) Schedule 4A, Local Government Finance Act 1988

21. 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.

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.

22. Under the legislation referred to above, the billing authority had the statutory power to serve a Completion Notice upon the owner of a dwelling, if it had reason to believe that the building was complete. Alternatively, a Completion Notice could be served in respect of an incomplete building if any work remaining outstanding on it could reasonably have been expected to be completed within a maximum of three months. In the cases under consideration, the billing authority believed that the outstanding works could be completed within 12 days for numbers 24, 28 and 29 Walker Street and within 33 days for 25 to 27 Walker Street and within 65 days for Workhouse Court.

23. Having regard to the facts in these appeals, the panel found that in each case, each property had reached the stage of structural completion where the work remaining could be

completed within three months. In accordance with paragraph 4 (2) above, in considering an appeal the tribunal had the power to determine a different completion date to that determined by the billing authority.

24. Having regard to the appeal dwellings, when the completion notices were served, deemed to be effective from 29 April 2019 as second class post was used and 28th was a Sunday, the panel accepted that there was still some work outstanding on each property, before they could be occupied as a dwelling. A photograph of Workhouse Court in June 2019 showed that there were temporary stairs in the building, kitchens and bathrooms needed fitting and there was still plumbing, tiling and carpentry work to be completed. Given the works outstanding, the panel determined that the completion dates proposed by the appellant for 25, 26 and 27 Walker Street and for Workhouse Court were reasonable. However, it was established that at the end of June 2019, three dwellings at 24, 28 and 29 Walker Street were ready for occupation. The work outstanding on the other dwellings included fitting out in readiness for occupation plus some external ground works which prevented uninhibited access to the dwelling(s).

25. The billing authority accepted that there was still some ground work to be finished which included the driveway, the carpark area and some external work within the curtilage of the dwellings. This meant its proposed completion dates were unreasonable. As previously stated, having taken everything into account, the panel was of the opinion that the completion dates as suggested by the appellant for the 10 properties was fair and reasonable. Consequently, the panel determined the following completion dates:

30 June 2019 for numbers 24, 28 and 29 Walker Street,
15 July 2019 for numbers 25 to 27 Walker Street and
28 July 2019 for the four properties at Workhouse Court.

Order

26. The billing authority is ordered to amend its records, to reflect the revised completion dates as determined by the tribunal above.

Date: Thursday 14 November 2019

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