

# THE VALUATION TRIBUNAL FOR ENGLAND



*Council tax completion notice appeal; section 17 Local Government Finance Act 1992; Schedule 4A to the Local Government Finance Act 1988; new dwelling; the panel held that the billing authority had allowed the appellant sufficient time for completion of the remaining work; appeal dismissed.*

Re: 6 South View, Hunton, Bedale, North Yorkshire, DL8 1QH

APPEAL NUMBER: VT00006793

BETWEEN:	Ms S Anderson	Appellant
	and	
	Richmondshire District Council	Respondent
	(Billing Authority)	

PANEL: Mrs A Fielder (Senior Member -Chairman)  
Dr P Thomson

CLERK: Mr G Wayman

REMOTE HEARING on 25 November 2021

## APPEARANCES:

Mr C Bruin – representing the appellant

Mr G Lennox (on behalf of the Billing Authority)

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## Summary of decision

1. Appeal dismissed; the panel found that the date set by the Billing Authority (BA) was reasonable.

## Introduction

2. This appeal was brought in respect of a completion notice issued by the BA for 6 South View, Hunton, Bedale, North Yorkshire, DL8 1QH on 12 November 2020. The notice provided that the property would be treated as complete for council tax purposes with effect from 12 February 2021.
3. The appellant disagreed with the date used on the completion notice for council tax purposes being 12 February 2021. The panel was informed that the appellant was a sole trader and small-scale property developer and the appeal property was purchased on 17 June 2014 as a project. The appellant was of the opinion that the completion notice was issued unlawfully because the BA had failed to adhere to the Equality Act 2010 by not taking into consideration her disability. The appellant was also of the opinion that the three-month completion period allowed by the respondent was unreasonable for completion of the property. It was argued the delay in completing the property was due to the appellant's poor health, personal issues and the COVID-19 global pandemic and these were all genuine reasons for not completing the work earlier.
4. The BA argued that the appeal property had reached an advanced level of completion, therefore taking everything into account the 3 months given in the completion notice was fair and reasonable.
5. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)( arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.
6. Therefore, in pursuance of regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.
7. Mr Bruin who was representing the appellant joined the meeting by telephone and the BA's representative joined by Microsoft Teams.
8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

## Issue

9. The issue before the panel was, having regard to the amount of works outstanding as at the date the completion notice was issued on 12 November 2020, was the completion date set by the BA of 12 February 2021 reasonable?

## Decision and reasons

10. The statutory framework for council tax completion notices was provided in section 17 of the 1992 Act. It placed an obligation on billing authorities to issue completion notices under the provisions of Schedule 4A to the 1988 Act (which had previously only applied to non-domestic properties).
11. Section 17 essentially allowed both complete and incomplete dwellings to be deemed to have come into existence for council tax purposes. Schedule 4A provided the rules within which each billing authority had to operate.
12. Paragraph 1(1) of Schedule 4A provided the following:

“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 three 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.”
13. Paragraph 2(2) of Schedule 4A further provided:

“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 three 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.”
14. Thus, a BA is under a statutory duty to serve a council tax completion notice in respect of a complete dwelling 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 provided it fell within three months of the date the completion notice was served.
15. In this case, the BA had served a completion notice on the appeal property. The notice was issued on 12 November 2020 and provided that the appeal property would be treated as complete for council tax purposes with effect from 12 February 2021.
16. The appellant’s main contention was that the BA had not taken into account her disabilities and mental health, when issuing the completion notice. The appellant stated that the completion notice was not validly served as the BA had not complied with the Equality Act 2010 and should have made reasonable adjustments before issuing the completion notice. The appellant also contended that the time given to complete the property was insufficient as due to her health and Covid there was a problem obtaining materials which slowed down the development.
17. Prior to proceedings, the clerk to the tribunal had provided all parties with a copy of the President of the VTE’s decision, *Delph Property Group Ltd v Alexander (VO) and Leicester City Council* [VTE, 246525454690/538N10, 17 JANUARY 2018]. The President found that a completion notice appeal can only decide whether the date set on the completion notice was correct, it could not decide whether or not a completion notice had been served. This would

appear to meet the words of Mr Justice Holgate when he heard the judicial review application in *Reeves (VO) v. VTE (and others)* [2015] EWHC 973 (Admin):

*“9. In effect, Schedule 4A contains provisions for determining the date on which the new building is deemed to be completed. Under paragraph 3 an agreement may be made between the owner and the billing authority as to the completion date, in which case the completion notice is treated as having been withdrawn. Under paragraph 5 if no appeal is made against the completion notice, and no agreement reached under paragraph 3, the completion date is taken to be the date stated in the notice. But where an appeal is made the completion date is the date determined by the Tribunal (paragraph 4(2)).*

*10. Where an appeal against a completion notice is made, the only question which the Tribunal is asked by Schedule 4A to answer is: what is the completion date?”*

18. Therefore, the panel was unable to consider the arguments surrounding the appellant's contention that the completion notice had not been validly served. However, the panel gave due consideration to whether the completion date of 12 February 2021, set by the BA, was reasonable.
19. An inspection was undertaken, by a BA visiting officer, on 28 September 2020 with the appellant present. The inspector provided a report describing the status of the appeal property at the time of the inspection along with photographs. The report described the property as follow;
- 1<sup>st</sup> fix was complete. Cutting / laying of joist, erecting studwork/partitioning, fixing of door linings, fixing of window boards, plasterboards and fixing of cable network around the shell all complete.
  - The staircase was in place but still required the balustrade to be completed.
  - On the 2<sup>nd</sup> fix it stated that internal and external doors were in place. Gutting and down pipes were fitted. The electricity connected. Work had started on skirting, architraves and decorative mouldings. Power points, light fittings, handles and locks.
20. The appellant pointed out that at the time of the inspection works were still needed to complete the property which included, the bathroom and kitchen. Pipework needed to be completed. Work was needed on the rear garden area to make it safe. Disposal of rubbish was required. Certificates for electrical works and building control were still needed.
21. Before the completion notice is served, the new building must have reached the stage of structural completion. Generally speaking, this means that the building is wind and watertight with four walls and a roof. For dwelling houses, however, the first fix should have been done. To ensure the completion notice is accurate the BA visits a property, photographs are taken, a 'finished work' matrix is completed and a written report is submitted by the visiting officer. The photographic evidence and visiting officer's report before the panel appeared to show the appeal property had reached a stage of substantial completion. The basic structure was complete, i.e., all external walls and roofs were in place and it appeared to the panel that the house was wind and watertight. The panel was therefore satisfied that the house had reached the "first fix" stage when the completion notice was served on 12 November 2020 and work was, on that date, progressing on the second fix stage

22. In accordance with the legislation, the panel had regard to the fact that the completion day is to be established in terms of the work remaining to be done to the property, not in relation to whether or not the owner has the financial means or ability to complete it, and that an owner's personal circumstances and/or financial means cannot be taken into consideration in determining the completion day of a new dwelling for council tax purposes. While the panel had sympathy with the appellant and to the situation she found herself regarding her health, personal issues and the COVID-19 situation, it nevertheless accepted the BA's position in that had the work continued at a reasonable rate when the completion notice was served then the appeal property could have been completed by 12 February 2021.
23. In appeals such as this, the burden of proof rests upon the appellant to satisfy the panel that the appeal should be allowed. It had regard to the works remaining to be done on the building but considered that the appellant could still have completed the works by the date stated on the notice and what was required to be done would not have any bearing on the substantially complete building. Indeed, during the site visit by the visiting officer it was noted that the appellant's representative thought that the proposed completion date was achievable.
24. The panel had regard to the fact that the appellant had been unable to complete the work on the appeal property because of her health and personal issues. However, the panel considered that it was not incumbent on the appellant to personally complete the work and if the work had continued at a reasonable rate when the completion notice was served then the appeal property could have been completed by 12 February 2021. The corollary of the above is that the panel should calculate the time period needed for completion on the assumption that the contractors are on site.
25. The panel was made aware that the appellant was dissatisfied as to how the BA had dealt with her appeal prior to the hearing. However, the issue of any alleged mishandling of the appeal by the BA is not a matter for this Tribunal. Therefore, the panel makes no comment on this issue.
26. Having considered all of the available evidence presented, the panel was not persuaded that the completion date set by the BA was unreasonable. The subject property appeared to be substantially complete when the notice was issued, and no evidence has been supplied to show why any remaining works could not be finalised by the date set. The appeal is therefore dismissed, and the completion date of 12 February 2021 confirmed as the date the dwelling is deemed complete and entered into the council tax valuation list.

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Dated: 7 December 2021