

valuation officer's (VO) decision notice issued on 23rd May 2018, an appeal was made to the Valuation Tribunal Service (VTS) on 19th September 2018.

4. The appeal property is an industrial unit, built in the late 1990's, of steel portal frame construction with profile metal clad elevations and concrete floor. It is 503.23 m² in size. The appellant's representative is seeking a revised RV of £22,500 with effect from 1st April 2017.
5. The property is occupied by the appellant on a leasehold basis.
6. For this appeal, the material day is 1st April 2017.

Issues

7. The issue for the panel to determine was the correct rateable value to be attributed to the appeal property in the 2017 Rating List from 1st April 2017.

Evidence and Submissions

8. Mr Hawkins, representing the appellant, contended that the best evidence to determine the RV is where a new tenant comes to the market taking a new lease on a building. This is supported by the case of *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.
9. The current lease on the appeal property is for 11 years from 15th May 2015 with the Heads of Terms originally agreed in February 2015. A stepped rent was agreed as follows:

Year 1:	£18,000 per annum
Year 2:	£20,000 per annum
Year 3:	£23,000 per annum
Year 4 & 5:	£26,000 per annum
Year 6:	£28,000 per annum

Mr Hawkins contended that the average rent over the six years was, therefore, £23,500 and as it was close to the antecedent valuation date (AVD) of 1st April 2015, supported his contention for a reduction in RV to £22,500.

10. Ms Ferreira, representing the VO, stated that the rent relied upon by Mr Hawkins was not a clean, open market rent, and that it required adjusting in order to give a true reflection. It was her contention that the rental evidence that she had provided supported her valuation of £65m² to arrive at a RV of £32,000.
11. Rental evidence of four units was provided by Ms Ferreira and, in her opinion, there supported her valuation of £65m² and requested that the panel dismiss the appeal.

Decision and Reasons

12. Having carefully considered the parties respective submissions, the panel reaches the following conclusions.
13. The panel is satisfied that, for the purposes of the 2017 Rating List, it must seek to assess the value of the appeal property as the open market annual rent that could reasonably be achieved for it at the AVD of 1 April 2015, as set out in the statutory definition of rateable value provided by paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 (as amended).
14. The panel notes and accepts Mr Hawkins' submission regarding the relevance of the passing rent on the appeal property at an average of £23,500 pa with a start date being 1 month and 15 days post AVD. As a result, the panel places great weight on this evidence.
15. However, the panel also has regard to Ms Ferreira's contention that, as the rent is stepped, it is not considered a "clean" rent and would require adjustments to bring it into line with the regulation's definition in terms of rental value.
16. Ms Ferreira had provided the panel with rental analysis evidence of four units in Top Angel, Buckingham Industrial Park which she believed supported her valuation of £65m² for the appeal property. She stated that she attached most weight to Unit 10 as it was a similar size to the appeal property at 490.48m², has a rent only seven months from the AVD, is a clean rent and is supported by the rental evidence of her other proposed comparable properties, units 3, 9, and 25. Unit 10 is valued at £65m². The panel notes that the rent on unit 10 was agreed five months post AVD and has a break option in the third year. The panel had regard to the fact that, as also decided in the case of "Lotus & Delta", the rent should be the starting point when determining the value and other matters should also be taken into consideration.
17. The panel is mindful of Mr Hawkins' contention that Ms Ferreira's most weighted comparable property is not part of the same development as the appeal property and that the occupier's acquisition of this unit was overflow space, with the company's head office being located very near, so the rent needed to be considered within the context that the occupier was limited in terms of alternative locations. It also has regard to the fact that units 9 and 25 are less than half the size of the appeal property and for that reason treats the evidence with caution.
18. The panel notes the similarity in sizes between unit 3 and the appeal property. However, the lease on unit 3 is a renewal and not an open market rent and it is the panel's opinion that new leases carry more weight than renewals.
19. In analysing all of these rents it is clear to the panel that the closest rent to the AVD is that which has been granted in respect of the appeal property. The panel notes that using six years of the stepped rent does, indeed, give an average of £23,500 per annum. However, the panel does not consider

that this is a fair representation of an open market rent. Although stepped rents are common, the panel is of the opinion that the earlier years lower figures reflect a discount to attract the tenant, due to the fact that the appeal property had been unoccupied for nine months.

20. The panel is mindful of Ms Ferreira's contentions that the lease on the appeal property was outside of the Landlord and Tenant Act 1954 (Part II) as amended, thereby not giving automatic renewal rights at the end of the term, and that the appellants had conducted a degree of improvements to the appeal property after the lease was agreed. It therefore considers, despite Mr Hawkins evidence, that the rent reflects an element of discount.

21. For these reasons, the panel forms the opinion that £45m² is too low a figure in determining the RV of the appeal property and has regard to *Lotus & Delta* in that the rent should be the starting point, and not necessarily the ending point, since in this case, there are other issues to consider. Whilst the rent in respect of the appeal property is not clean, there are elements in the rents of the LO's comparable properties that do not, in the panels opinion, provide a clear and direct comparison.

22. Taking all of the above into account, the panel is of the opinion that £45m² is incorrect the panel considers that the price per m² of £65 in the LO's valuation should be reduced to £56m² as this is a fairer representation for the appeal property, thereby giving a RV for the appeal property of £28,180, rounded to £28,000.

Order

23. Under the provisions of Regulation 38(2) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to alter the Valuation List within two weeks of the date of this order to show the rateable value for Unit 21, Top Angel, Buckingham Industrial Park, Buckingham MK18 1TH at £28,000 with effect from 1st April 2017.

Date: 12th March 2019

Appeal number: CHG100016953