

1970's construction elements and was a steel portal frame with brick walls to the lower sections and profile metal cladding to the upper elevations.

4. The RV of the property was £53,000 but through the Check, Challenge, Appeal (CCA) process the valuation officer (VO) found that a reduction to the £/m² from £55/m² to £50/m² was reasonable in light of the evidence discussed and a previous VT decision. The RV was reduced to £47,000 with effect from 1 April 2017.
5. The appellant's representative still proposed that the appeal property should be valued on a rate of £45/m² giving an RV of £42,500 and appealed to the valuation tribunal.
6. Mr Ken Batty appeared on behalf of the appellant as expert witness and advocate. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), his declaration of truth included a statement that he was instructed on a contingency fee basis. He 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.
7. 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.
8. This is not intended to be an exhaustive record of the proceedings. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

9. The RV of the appeal property.

Evidence and submissions

10. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, assessment summaries and the appellant's challenge submission.
11. The appellant's representative advised the tribunal that there had been some discussion over the size of the mezzanine floor internal storage area but that this had since been agreed at 55.8m².

Decision and reasons

12. The panel referred to the Local Government Finance Act 1988 in respect of the definition of rateable value in paragraph 2(1), Schedule 6 to the Act (as amended). In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015.
13. The material day for this appeal was 1 April 2017.

14. The panel referred to the hierarchy of rental evidence that should be used to determine the RV of the appeal property as detailed in the authoritative and binding Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. In addition, the RV's of other comparable properties should be considered.
15. However, the current occupiers acquired the long leasehold interest of the appeal property in the 1990's and therefore no subject rent was available for the panel to consider.
16. The panel was presented with the rental details in respect of Units 2 & 3 Wingates Industrial Estate. The effective date of the rent was 17 June 2014, nine months prior to the AVD, for £65,000 per annum which analysed to £49.90/m². The property was larger than the appeal property and the panel found that this was good evidence supporting the £50/m² rate.
17. The panel noted that the appellant's representative had not submitted any further comparable property evidence for consideration by the VO after the rate was reduced to £50/m² and the RV to £47,000. There were a variety of comparable assessments submitted ranging between £35/m² to £50/m² and the panel noted that for those in Bolton, the rate was clearly £50/m².
18. The panel found that this was good evidence for the valuation of the appeal property at £50/m².
19. The panel also referred to Unit 3 at 240 Blackburn Road and noted that this was valued on a rate of £65/m². This property was 10% smaller than the appeal property but had a better location and better access. The panel noted that this was reflected in the higher rate but also found that it supported the lower rate of £50/m² for the appeal property.
20. The property at Unit 4, Boundary Industrial Estate was very close in size to the appeal property and was valued on a rate of £47.50/m². However, the appeal property was in a better location and had had a significant fit-out making it a superior property.
21. The panel found that, in cases of this nature, the onus is on the appellant to prove his case. The panel found that his case had not been proven and dismissed the appeal.
22. The panel confirmed the RV as £47,000 with effect from 1 April 2017.

Date: 4 August 2023

Appeal number: CHG100842322

Rights of appeal

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.