

inaccurate. The proposal contended that the entry in the rating list should describe the correct extent of the hereditament and the entry was excessive, unfair, incorrect and/or bad in law.

3. The appeal property comprises a basement workshop, ground floor shop and four floors of offices from the first to the fourth floors. The ground and upper floors have separate accesses from a recessed open lobby. The total area of the property has been agreed at 292.01 m².
4. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it having been overlooked by the panel.

Issues

5. The issues before the panel were the appropriate level of allowances, if any, to be applied to the upper floors of the property to reflect its hybrid status and the external access to the upper floors. Mr Hoskins sought a revised RV of £80,500 incorporating a 25% allowance (£14,388) for hybrid property and a further allowance of 5% (£2,878) for external access; Miss John sought dismissal of the appeal contending that the existing 15% hybrid property line adjustment was sufficient.

Evidence and Submissions

6. Mr Hoskins referred the panel to his statement of case and provided a submission containing; a copy of the proposal; a location plan, photographs, the current valuation, a copy of VOA Scale reference: VXS2ZONED1, showing the relativities to be applied to upper floor offices and a valuation assessing the property on a non-hybrid basis. He also included a lease summary showing the initial rent at £33,000 per annum from 1 June 1996 which was reviewed to £72,500 with effect from 24 June 2001 and then reviewed again to £61,500 on 21 September 2009; together with details of comparable properties, 9 and 11 Maddox Street and 35 St George Street and copies of the Valuation Tribunal decisions in *Butler & Wilson and Mr M Dunlevey (VO)* and *Carluccio's Ltd and VO* and his revised valuation.
7. Referring to *Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council*, Mr Hoskins argued that based on the rents passing on the appeal property, other assessments in the vicinity and the decisions of the Valuation Tribunal, allowances should be made for the hybrid nature of the property of 25% with an additional allowance of 5% for external access. Mr Hoskins argued that the basic price for the 1st floor should be £362 per m² in line with 11 Maddox Street and not £450 per m², as argued by the VO. He contended that the VO had not made any adjustment for the appeal property being a hybrid property. He also stated that the percentage of space affected by the appeal property being hybrid, at 59%, was greater at the appeal property, than in *Butler & Wilson and Mr M Dunlevey (VO)*, where 40% of the property was affected and an allowance of 15% was confirmed, with a further 5% for external access and *Carluccio's*, where 33% of the property was affected and the allowance was 24.44%.
8. Miss John provided the panel with a submission containing photographs of the property, a map showing the position of the property, the current valuation, an appeal history and comments on the comparable properties referred to by Mr Hoskins, with photographs and valuations of them. She also included copies of the two Valuation Tribunal decisions, which she had annotated with her comments. Miss John stated that the basic price for the 1st floor was £450 per m² which when adjusted for 15% for being a hybrid property resulted in a rate of £382.50 per m², with the second floor receiving a further 5%

allowance for no lift and the third and fourth floors receiving an extra 15% for poor quality timber construction. As such she argued that she had adjusted each line of the valuation to reflect the particular circumstances.

9. Miss John argued that the rents on the appeal property were too far before and after the AVD to support any reduction in the assessment. She also considered 11 Maddox Street and 9 Maddox Street to be inferior to the appeal property, which was reflected in their lower valuations. In *Butler & Wilson and Mr M Dunlevey (VO)* she highlighted that the panel in that case had attached little weight to a later rent from 29 November 2011; it also considered a 25% allowance for hybrid property to be excessive and had confirmed 15% with a further 5% for external access. Commenting on *Carluccio's Ltd and VO*, Miss John pointed out that the property in that case was a restaurant which was a different mode or category of occupation and was not comparable but even so it confirmed a 15% allowance for hybrid property to be reasonable. In conclusion Miss John sought dismissal of the appeal.

Decision and Reasons

10. The panel gave careful consideration to all of the evidence presented and allowed the appeal in part.
11. In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:
 - 2(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—
 - (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
 - (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;
 - (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.
12. In respect of an appeal against an entry in the 2010 rating list, the Rating Lists (Valuation Date) (England) Order 2008 requires the rental levels to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2008. The material day was that provided by the Non-Domestic (Material Day for List Alterations) Regulations 1992, as amended. In respect of the subject compiled list appeal, the material day is 1 April 2010.
13. The Panel found guidance from the Lands Tribunal's judgment in *Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council* [1976] RA 141, regarding the weighting of evidence, in that, the passing rent, where available on the appeal property should be used as the starting point in its consideration of the rateable value for the appeal property. In this case however the rents were £72,500 with effect from 24 June 2001 and then reviewed to £61,500 on 21 September 2009. Even though the 2001 rent was reviewed in 2006 with a nil increase the panel found the rental evidence provided little guidance to values at the 1 April 2008 AVD as the rents were too far removed.

14. The panel therefore had regard to the comparable properties and noted the difference in basic prices adopted for the first floor. Mr Hoskins contended it should be £362 per m², before any adjustment for hybrid property, in line with the valuation of 2nd floor 11 Maddox Street on the VOA website, which confirmed that the basic price was £362 per m². Whereas, Miss John had contended that the basic price was £450 per m² and the price adopted of £382.50 per m² reflected a 15% adjustment for hybrid property but had produced no evidence to support that basic price.
15. Miss John had argued that 2nd floor 11 Maddox Street, was also based on £450 per m² with deductions of 5% for no lift, 5% for quality and 15% for hybrid property which she calculated to £343 per m² but the panel found that this property was not a hybrid property so no 15% adjustment was warranted, which cast the calculation in doubt. In contrast starting with £362 per m², shown on the valuation provided by Mr Hoskins and deducting 5% for no lift resulted in the figure shown in the valuation of £343.90 per m².
16. Miss John had also argued that 9 Maddox Street had a basic price for the 1st floor of £450 per m² for the gallery with separate access; which was adjusted by 15% because it was a hybrid property. However, the price shown in the valuation of £307.91 per m² was equivalent to a 15% reduction from the £362 per m² basic price adopted for 11 Maddox Street. Rather than being £450 per m² the basic price for this part of Maddox Street, the panel found, was £362 per m² and the panel adopted this as the basic price for the appeal property.
17. Both parties agreed the appeal property was a hybrid property, as there was separate access to the upper floors, although the property was all in a single occupation and both parties agreed that the standard adjustment for a hybrid property was 15%. However, Mr Hoskins sought an increased adjustment of 25%, in line with Carluccio's, which was settled on consent at that level following an appeal to the Upper Tribunal.
18. Having regard to the photographs and valuations of the two properties the panel considered that an allowance of 25% for the appeal property would be excessive, as it was more in the nature of a standard hybrid property, with offices above retail, rather than Carluccio's, which was a restaurant in King Street, Covent Garden.
19. The panel did find however that the percentage of hybrid property at the appeal property of 59% was greater than the comparables, with Carluccio's having 33% and 20 South Molton Street in the *Butler & Wilson* appeal having 40%. The panel therefore increased the allowance above the standard adjustment from 15% to 20%.
20. As regards the appellant's request for a further 5% allowance for external access the panel found the upper floors were accessed by a lobby rather than from outside the building and considered that no further allowance should be given.
21. The panel therefore allowed the appeal in part and confirmed a reduction to £86,000 RV. The panel adopted the approach of the VO, of applying an adjustment to the lines affected rather than applying an end allowance, which produced the following valuation:

Line	Description	Area m2	Rate £/m2	Value £
1	Bst Workshop	46.80	45.00	2106
2	Grd Zone A	22.20	900.00	19980
3	Grd Zone B	29.70	450.00	13365
4	Grd Zone C	21.60	225.00	4860

5	1st Offices	43.30	289.60	12540
6	2nd Offices	43.70	275.12	12023
7	3rd Offices	43.70	260.64	11390
8	4th Offices	41.01	246.00	10088
				86352

Say £86,000 RV

Order

22. Under the provisions of Regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry for the appeal property to rateable value £86,000 with effect from 1 April 2010.
23. Under Regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date: 23 November 2015

Appeal number: 599024513826/538N10