LANDS TRIBUNAL FOR NORTHERN IRELAND

LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964

RATES (NORTHERN IRELAND) ORDER 1977

IN THE MATTER OF AN APPEAL

VR/9/2016

BETWEEN

BELFAST INTERNATIONAL AIRPORT LIMITED – APPELLANT

AND

THE COMMISSIONER OF VALUATION – RESPONDENT

Re: 166 Airport Road, Crumlin

Lands Tribunal – The Honourable Mr Justice Horner and

Henry M Spence MRICS Dip Rating IRRV (Hons)

Background

1. Belfast International Airport Limited ("the appellant") is the owner and ratepayer of 166 Airport Road, Crumlin, commonly known as Belfast International Airport ("BIA"). It was previously known as and is still referred to as Aldergrove Airport, after the nearby village of Aldergrove which lies to the west.

2. BIA is located 18.4 miles north west of Belfast, at the end of the A57 Airport Road and some 7 miles from the M2 motorway. There are no rail links to the airport.

3. The terminal and apron, together with the necessary passenger facilities, were built in 1963 and the airport officially opened on 28th October 1963. Since that time various piecemeal additions have been made to BIA with the latest in 2010 being known as "Project Phoenix".

This project altered access to the terminal, replaced the autowalk link from the entrance and made alterations to the primary reception building. These improvements were necessary as the autowalk no longer complied with the Disability Discrimination Act 1995.

4. The airport has two cross runways, the majority of the airport facilities being located on the north side of the main runway. To the south of the main runway is the military zone which is separate to the operational airport. Airport facilities include:

- passenger terminal building
- police station
- administration building (Medway building)
- car parking
- runway and taxiway system with two runways
- runway 1 – 2,780m x 45m
- runway 2 – 1,891m x 45m
- parking apron which can accommodate 11 aircraft
- air traffic control tower
- fire station
- motor transport department
- cargo centre
- ancillary facilities

5. The Commissioner of Valuation ("the respondent") had provided a useful table which detailed how the main terminal building had increased in size since its original construction in 1963:

Year	**Gross External Area ("GEA")**
1963	12,480m^2
1988	17,666m^2
1997	20,489m^2
2003	27,173m^2
2006	30,470m^2
2014	32,452m^2

The GEA of 32,452m^2, at the date of the District Valuer's certificate of 10th February 2015 ("the valuation date"), had been agreed between the parties.

Rates Valuation History

6. BIA had been assessed at a Net Annual Value ("NAV") of £2.65 million at the Non-Domestic General Revaluation which came into effect on 1st April 2003. At that time the NAV was agreed between the respondent and the agent acting for the appellant.

7. Following alterations to the airport the District Valuer increased the NAV to £2.8 million on 18th July 2006. This NAV was also agreed between the respondent and the agent for the appellant at that time.

8. On 23rd April 2014 an application to the District Valuer was lodged by the current agents representing the appellant, Dunlop Heywood, stating the grounds of appeal as:

> "Material facts manifest in the locality of the appeal property have not been taken into consideration at the material day, as such the NAV is excessive, bad in law and should be reduced to £100."

9. On 10th February 2015 the District Valuer issued a certificate increasing the NAV from £2.8 million to £3.315 million to reflect which he considered "additional alterations" to the airport. This certificate stated:

> "Valuation, as amended, is considered fair and reasonable in comparison to similar properties."

10. Subsequently, on 13th February 2015, the appellant lodged an appeal to the respondent against the District Valuer's decision. The respondent issued his decision by certificate dated 29th February 2016 and which reduced the NAV to £3.0 million. This certificate stated:

> "Net Annual Value amended to reflect survey error and disadvantages of the physical layout of the terminal and airport location."

11. An appeal, dated 24th March 2016, against the respondent's decision was then lodged with the Lands Tribunal. The correctness or otherwise of the respondent's £3.0 million NAV assessment was the issue to be decided by the Tribunal.

Procedural Matters

12. Mr Richard Glover QC instructed by Carson McDowell, solicitors, represented the appellant. Mr Stephen Shaw QC instructed by the Departmental Solicitor's Office, appeared on behalf of the respondent.

13. Mr Stuart Hicks, chartered surveyor, provided written and oral expert evidence on behalf of the appellant. Mr Peter Bell, chartered surveyor, provided reciprocal expert evidence on behalf of the respondent. Mr Hicks and Mr Bell are experienced rating surveyors and both hold the Royal Institution of Chartered Surveyors Rating Diploma.

14. The Tribunal also received factual evidence from Mr Uel Hoey, a Director in the appellant company and expert evidence from Mr Shaun Ferguson, Head of Aviation, Todd Architects, with regard to a modern substitute terminal building.

15. Post hearing the Tribunal received written submissions from both parties in response to eight questions posed by the Tribunal.

16. The Tribunal is grateful to the parties for their helpful submissions.

Statute

17. The relevant sections of the Rates (Northern Ireland) Order 1977 ("the Order") are:

> "Basis of Valuation
>
> 39.-(1) For the purposes of this Order every hereditament shall, except as provided by paragraphs (1A) to (1C), be valued upon an estimate of its net annual value.
>
> (1A) …
>
> (1B) …
>
> (1C) …
>
> (2) Without prejudice to any other statutory provision but subject to Article 39(A), Schedule 12 shall have effect for the purpose of providing for the manner in which the net annual value or the capital value of a hereditament is to be, or may be, estimated, and the other provisions of that Schedule shall have effect."

And

> "39A.-(1) Any net annual value to be ascribed to any hereditament in a new NAV list coming into force on 1st April in any year shall be ascertained by reference to such earlier time as the Department may by order subject to negative resolution specify, but on the assumption that at the time specified in the order the hereditament was in the same state and circumstances as at the time when the list comes in to force."

And

> "Appeal from decision of Commissioner
>
> 54.-(1) Any person, other than the Department, who is aggrieved by –

(a) the decision of the Commissioner under Article 49A or on an appeal under Article 51; or

(b) an alteration made by the Commissioner in a valuation list in consequence of such a decision, may appeal to the appropriate Tribunal.

(2) On appeal under this article the Tribunal may –

(a) make any decision that the Commissioner might have made; and

(b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly.

(3) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown."

And

"SCHEDULE 12

BASIS OF VALUATION

PART I – GENERAL RULE

1. Subject to the provisions of this schedule, for the purposes of this Order the net annual value of a hereditament shall be the rent for which, one year with another, the hereditament might, in its actual state, be reasonably expected to let from year to year, the probable average annual cost of repairs, insurance and other expenses (if any) necessary to maintain the hereditament in its actual state, and all rates, taxes or public charges (if any), being paid by the tenant.

2.-(1) Subject to sub-paragraph (2), in estimating the net annual value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the net annual values in that list of comparable hereditaments which are in the same state and circumstances as the hereditament whose net annual value is being revised."

Authorities

18. The Tribunal was referred to the following authorities:

- London County Council v Churchwardens & Overseers of Parish of Erith and Others [1893] AC 562.
- Liverpool County Council (Corporation) v Chorley Union [1912] 1 KB 270 (Court of Appeal, upheld in the House of Lords: [1913] AC 197).
- Magdalen, Jesus and Keble Colleges, Oxford v Howard [1959] 7 RRC 123.
- Dawkins (VO) v Royal Leamington Spa Corporation and Warwickshire County Council [1961] 8 RRC 241
- Eton College v Lane [1971] 17 RRC 152
- Moyle District Council v Commissioner of Valuation VR/26 & 33/1984
- McKeown Vintners Ltd v Commissioner of Valuation VR/9/1985
- Trustees of Glenkeen Orange Hall v Commissioner of Valuation VR/31/1993
- Monsanto plc v Farris [1998] RA 107
- Eastbourne Borough Council and Wealden District Council v Allen (VO) [2001] RA 273
- A-Wear Ltd v Commissioner of Valuation VR/3/2001
- Elias Altrincham Properties v Commissioner of Valuation VR/15/2011
- British Car Auctions (t/a Blackbushe Airport Ltd) v Hazell [2015] RA 108
- Debenhams plc v Commissioner of Valuation for Northern Ireland [2014] NICA 49; [2015] RA 319

Texts

19. The Tribunal was also referred to the following texts:

- The Contractors Basis of Valuation for Rating Purposes a Guidance Note [1995]
- New Valuation List (Time and Class of Hereditament) Order (Northern Ireland) 2000
- Valuation for Rating (Decapitalisation Rates) Regulations (Northern Ireland) 2003
- Extract from Valentine: All Laws of Northern Ireland Article 39A of the Rates (Northern Ireland) Order 1977
- Explanatory Notes Rates (Amendment) Act (Northern Ireland) 2012

Position of the Parties

20. There was much agreement between the parties and their respective experts, including:

(i) The subject reference concerned a revision to the 5th General Revaluation List which became operative on 1st April 2003 and expired on 31st March 2015.

(ii) The antecedent valuation date ("AVD") for this list was 1st April 2001.

(iii) The valuation list date ("VLD") for the list was 1st April 2003.

(iv) In assessing the NAV of the hereditament Schedule 12 of the Order must be followed and in particular paragraphs 1 and 2(1).

(v) The date for fixing the physical state of the hereditament was the date of the District Valuer's certificate, 10th February 2015.

(vi) The appropriate valuation method to assess the NAV of the hereditament was the Contractor's Method.

(vii) The only comparable hereditaments in the valuation list were the two other airports in the Northern Ireland jurisdiction, namely Belfast City Airport ("BCA") and City of Derry Airport ("CODA").

(viii) The costs used at Stage 1 of the Contractor's Method should be contemporary with the 5th General Revaluation (on that basis the unit building costs, the land values and

the plant and machinery costs had been agreed between the parties prior to hearing).

(ix) The extent and dimensions of the actual hereditament.

(x) The appropriate age and obsolescence allowances were those outlined in Monsanto.

21. The areas of disagreement between the parties concerned:

(i) The date at which the economic circumstances of the hereditament should be applied, with the appellant proposing the AVD of 1st April 2001 and the respondent contending for 1st April 2003, the date the 5th General Revaluation List came into effect ("the legal issue").

(ii) The way the Contractor's Method fell to be applied in the subject reference and in particular:

a. The appropriate functional obsolescence to be applied to the NAV assessment, described by Mr Hicks as "superfluity" or "over capacity". This was the main valuation issue between the parties.

b. The appropriate allowance to be made at Stage 5 of the Contractor's Method.

(iii) The NAV assessment of the Apron.

(iv) The NAV assessment of the Second Runway.

(v) The valuation of the land. Both experts had agreed that resolution of the issues in respect of superfluity of the land should follow the resolution of those about the terminal, the aprons and the second runway.

22. If 1st April 2001 was the correct date to take the economic circumstances of the hereditament Mr Hicks proposed a NAV assessment of £2,169,000. If 1st April 2003 was the correct date Mr Hicks contended for a NAV assessment of £2,290,000. Mr Bell's position was that the current

5th Valuation List assessment of £3 million was fair and reasonable compared to other similar properties in the Valuation List.

23. Having considered all of the evidence the Tribunal invited the parties to respond to 8 questions which the Tribunal considered were relevant to the outcome of the subject appeal. These questions were to be addressed in closing submissions post hearing.

Response to Questions Posed by the Tribunal

24. **Q1. In ex PARTE Quintavalle [2003] UKHL 13 Lord Bingham said at [8]:**

> **"The court's task within the permissible bounds of interpretation, is to give effect to Parliament's Purpose. So, the controversial provisions should be read in the context of the statute as a whole, and the statute as a whole should be read in a historical context of a situation which led to its enactment."**

The Lands Tribunal will endeavour to follow this advice. In respect of the disputed statutory interpretations, set out:

(a) how that interpretation gives effect to Parliament's purpose; and

(b) how the interpretation of the other side fails to give effect to Parliament's purpose?

Although it was acknowledged by both sides that the question of statutory interpretation would have only a modest effect on the NAV, it was an important issue and considerable time and energy had been devoted to it by both sides. Further, it was an issue which had not been the subject of any definitive ruling in any other appeal before this Tribunal.

The dispute arose out of the 5th General Revaluation List that came into force on 1st April 2003, the VLD. Under Article 40(1) of the Rates (NI) Order 1970 the Commissioner had a duty to maintain that list which, pursuant to Article 10(2), must show each hereditament and its

NAV. The appellant said that the NAV should be assessed against an economic landscape of 1st April 2001, the AVD. The respondent said it should be assessed at 1st April 2003, the VLD.

Mr Shaw QC for the respondent pithily put this task of statutory interpretation for the Tribunal as follows. Is it:

(a) as the appellant maintained, to place the hereditament as it was physically on 1st April 2015 into the established economic landscape of 1st April 2001 that is the AVD; or

(b) as the respondent claimed, to place it in the economic landscape of 1st April 2003 that is the VLD?

The Respondent

Mr Shaw QC submitted:

(i) There was a vital distinction between:

(a) a revision; and

(b) a revaluation.

Article 39(A) did not apply to a revision and the relevant statutory provisions could be found in Schedule 1 and in particular paragraph 2(1). The appellant failed to follow the guideline of the tone of the list and had sought to raise issues that could only be relevant on a revaluation. The only matter for consideration was the tone of the list rather than how the entries were assessed.

(ii) By custom and practice over many years, the respondent and his staff do use rental data from the AVD (where it was available), nevertheless even with such rental data for the AVD, since the economic circumstances affecting the hereditament might change by the time the List takes effect (1st April 2003), they assessed these at the date when the List came into force, that was the VLD.

(iii) The practice of distinguishing between on the one hand rental data and economic circumstances on the other was consistent with the language of Schedule 12 of the Order which was the only provision dealing expressly with revision to a List.

(iv) Moreover, the distinction between rental data taken at the AVD and the economic circumstances taken at the material date when the List came into effect, the VLD, finds support from the decision of the Lands Tribunal in Elias Altrincham at paragraph 23.

(v) In the alternative if Article 39(A) does apply then the closing words of the provision still bring one back to the economic circumstances of 1st April 2003 when the List came into force and not to 1st April 2001.

The Appellant

Mr Glover QC submitted:

(i) The combined operation of Articles 39 and 39(A) together with paragraph 1 of Schedule 12 and Article 4 of the new Valuation List (Time and Class of Hereditaments) Order (Northern Ireland) 2000 provided the regime by which NAV was to be identified on the 2003 revaluation; and of particular importance for these purposes, they provided for the date at which economic conditions were to be taken in a revaluation.

(ii) If a valuation made of an individual hereditament and a subsequent revision were to be at a level that was fair and uniform with entries already in the list (as the law required it to be), it had to be carried out on the assumption that economic conditions were as they were taken to be for the revaluation.

(iii) There was little hope of achieving the required fairness and uniformity if, on revision, economic conditions were taken which were different from the data which were used for the original revaluation.

(iv) There was no evidence of the respondent's practice. This was a mere assertion. In fact such evidence as there was contradicted this assertion. The original valuation of the appeal hereditament had an allowance which was identified for the hereditament

being "below capacity". The note of Mr Barratt compared throughput and capacity in "Y/E2001". (The appellant denied that this note had significance by claiming as a note to self and not agreed by the ratepayer's then valuer.) The assessment by the Commissioner was to make an allowance for overcapacity, by reference to 2003 and not 2001. Further, the alteration of the List in 2006 was marked "as previous". Thus demand was taken by reference to 2001 and not 2003.

(v) The Commissioner and the Tribunal had taken the level of demand at the AVD and not at the VLD in other cases: see A-Wear at paragraph 39 and Elias Altrincham at paragraph 23.

The Tribunal

As the Tribunal has already noted, both sides had agreed that the difference, depending on whether it was the AVD or the VLD on which the NAV which was chosen, was likely to be relatively modest. There was no real dispute between the parties on the legislative purpose of permitting revision of NAVs of different hereditaments. The appellant set out a number of propositions which seemed to be uncontroversial and which the respondent did not seem to contradict. They were:

(i) The legislature's purpose was to secure uniformity and fairness between ratepayers.

(ii) The statutory task was to identify a hereditament's NAV and the different methods of valuation (rental comparison or contractor's basis) were different means to the same end.

(iii) The legislature did not seek to treat NAV derived from an assessment of rents differently from NAV derived by the contractor's basis method.

(iv) The aim for uniformity and fairness included that they be achieved as between:

(a) the ratepayer whose hereditament was being valued for revision; and

(b) the ratepayer whose hereditaments remained in the list at the NAV identified on revaluation.

25. It was clear that a revision was different from a revaluation or valuation. This had been the subject of comment in other Lands Tribunal cases: eg see Glenkeen and McKeown Vintners Ltd (at pages 3 to 7).

26. In Debenhams Girvan LJ giving judgment for the Court of Appeal said:

> "[24] In McKeown Vinters Ltd v The Commissioner of Valuation for Northern Ireland [VR-9-1995] and in the Trustees of Glenkeen Orange Hall v The Commissioner of Valuation for Northern Ireland [VR-31 1993] Judge Gibson QC as President of the Tribunal and Mr Curry as Member of the Tribunal respectively provided illuminating expositions of relevant legal principles relating to the valuation of hereditaments for rating purposes. Lord Pearce in Dawkins (Valuation Officer) v Ash Bros and Heaton Ltd [1969] 2 AC 366 at 381-382 set out the matter thus:
>
> > 'Rating seeks a standard by which every hereditament in this country can be measured in relation to every other hereditament. It is not seeking to establish the true value of any particular hereditament, but rather its value in comparison that has chosen the annual letting value. This is appropriate since the tax is charged annually. One therefore has to estimate "the rent at which the hereditament might reasonably be expected to let from year to year" the tenant paying rates repairs etc. This standard must be universal even though in many cases it demands various hypothesis.'
>
> As Lord Pearce's comments show, there is an inevitable issue of relativity within a class in the valuation list.

[25] The fact that there has to be a determination of a hereditament's valuation made by way of comparison with the respective valuations of the rest of the hereditaments in the list demand that the focus is not on the current true value but on achieving a proportional and uniformly balanced valuation of properties inter se. At the time of a general revaluation there can be no entries of NAVs until all hereditaments have been assessed and thus at that stage there are no net annual values of comparable hereditaments in the list. As Judge Gibson QC pointed out in McKeown Vinters, at the stage of general revaluation the concept of comparables (which underpins paragraph 2(1) of Schedule 12 of the 1977 Order) cannot play any part in the assessment process. When, however, a revision of an entry in a valuation list arises for consideration at a later stage different principles come into play, in particular the principle of comparability under paragraph 2(1). The completion of the list at the general revaluation by itself creates comparables. At that stage paragraph 2(1) begins to have a role to play. As time progresses, if actual rental values and turnover figures were used in the revision of a particular entry in the valuation list, it would inevitably result in that entry being increased to a level significantly different from other entries in the list. As Judge Gibson QC pointed out, there must be a limiting factor and that is provided by paragraph 2(1) which produces what is often termed a tone of the list or, as Mr Curry described in in Glenkeen, a "tone of the comparables" so as to ensure fairness and uniformity to meet the issue of relativity to which Lord Pearce refers. Judge Gibson QC further pointed out that Article 54(2) imposes an onus on the rate-payer to prove that an entry in the list is incorrect. This has been construed as meaning that all entries in the valuation list are deemed correct until the contrary is shown. The combination of Article 54(2) and paragraph 2(1) underpins the tone of the list".

Decision on the Legal Issue

27. There could be no doubt that Article 39(A) of the 1977 Order required that the NAV must be "ascertained by reference to" the AVD. Further, the Order also enjoins that the "state and circumstances" would be at the VLD. It was important to appreciate that nowhere in the Order did it say that the value was to be determined at the VLD, which was an obvious option open to the draftsman. Rent and value were inextricably linked. The rent obtained for a hereditament was largely, if not exclusively, determined by demand. That was the way the

market worked. We agree with the submission of the appellant that demand is fundamental to the assessment of value. The suggestion by the respondent that on a revision, which dealt with the tone of the list, and with the rents of comparables, a date different to the date when the comparable rates were assessed should be taken, makes no sense. As the appellant submits " the valuer has little chance of having regard to the tone of the list that paragraph 2(1) of the Schedule 12 requires, if, in his revision valuation, he took general economic conditions (including demand) at a date different from the date at which they were taken for the revaluation".

28. We consider that "state and circumstances" should be given a narrow meaning. The meaning of the word "circumstances" is heavily dependent on context. In Debenhams plc v Commissioner of Valuation (VR/32/2001) at para [27] the Member said that the phrase "state and circumstances" should be given "a narrow rather than a broad interpretation so the inquiry need not be extensive and also the number of potential subsequent appeals should be limited". In this case the Order requires the valuation to be taken at a date different from the date at which the state and circumstances of the hereditament are taken. Mr Glover QC suggested that "state" goes to the hereditament itself and that "circumstances" to its environs, which in our opinion accords with the purpose and sense of the legislation.

29. The Tribunal was in no doubt that the Commissioner must take the demand as at the AVD in assessing value, otherwise he subverts the legislature's purpose. The appellant has a good point when it complains that if a valuation made of an individual hereditament at a subsequent revision is to be at a level that is fair and uniform, with entries already in the list, as it required by the Order, it must be carried out on the basis that economic circumstances were the same as they were for the revaluation. If that is not done, and economic circumstances are taken at a different date from the one used at the revaluation, it is hard to see how any result can be fair and uniform. Furthermore, on a revision, although the Commissioner was concerned with comparables, he was looking at rents which were determined by the demand as at the date of the AVD. It must necessarily follow that the date

for the assessment of the economic circumstances was 1st April 2001, the AVD and not 1st April 2003, the VLD.

30. In answer to the specific arguments raised by the respondent, the Tribunal says as follows:

(i) While a revision and revaluation are different, they were both concerned with, inter alia, value (which would necessarily include the assessment of demand) and it would be inconsistent to assess value at different dates.

(ii) The respondent claimed that it had been his custom and practice to use the VLD but, as the appellant pointed out, no evidence had been adduced to support such an assertion. Indeed, such evidence as had been placed before the Tribunal, namely the notes of Mr Barratt, flatly contradicted this claim.

(iii) It was inconsistent and contradictory to try and distinguish rental data and economic circumstances because they were inextricably linked, and for the most part demand determined the rent which would be paid.

(iv) Paragraph 23 of the decision of the Lands Tribunal in Elias Altrincham did not provide support for there being a distinction between rental data being taken at the AVD and the economic circumstances being taken at the VLD. If it did, it was in error.

(v) Economic circumstances had to be given a restricted meaning as the value had to be ascertained by reference to the AVD. It would have been a simple matter for the legislature to have expressly stated that value was to be ascertained by reference to the VLD. It did not do so.

31. Finally, it seems to us that the purpose of the legislation, namely to achieve fairness and uniformity among ratepayers of different hereditaments, is much better achieved if demand, which dictates value, is assessed at the AVD both for revaluation and revision.

32. **Q2. Should the Tribunal grant a specific "over capacity" allowance when assessing the correct rateable value of the reference property and if so what is the most accurate way of calculating that allowance?**

The Respondent

Mr Shaw QC submitted:

(i) No specific allowance was required.

(ii) The guidance of paragraph 3.5.5 of the Rating Forum Guidance Note 1995, which Mr Bell followed, stated that "it may be appropriate at this final stage (Stage 5) to reflect the economic state of the subject industry, business or organisation". "Over capacity" as referred to in the Monsanto case was one of several factors that had been considered by Mr Bell in arriving at his Stage 5 end allowance for the hereditament.

(iii) The aim of Stage 5, as stated in the guidance at paragraph 3.5.10, was "to establish an assessment, the level of which fitted within the general framework or pattern of values in the area but which, first and foremost, reflected the demand for the class of property involved". Mr Bell, when arriving at his end allowance, complied with the provisions of Schedule 12 of the Order and he said he considered the Stage 5 allowance in the context of the physical state and circumstances of the hereditament at the date of revision in 2015, the economic circumstances as at 1st April 2003 and the relevant value at the AVD of 1st April 2001.

(iv) Mr Hicks, however, had applied a simplistic "straight-line depreciation" approach to determine a specific additional Stage 2 allowance. This ignored two important matters. Firstly the rating hypothesis of a hypothetical landlord and tenant being reasonable people seeking to reach an agreed rent, but neither being desperate to secure a tenancy. Secondly, it ignored the operation of real world market practice of the negotiations as well as the "higgling" that takes place during negotiations. The Rating Forum Guidance at paragraphs 3.6.1 and 3.6.2 referred to these points.

(v) By comparison Mr Bell confirmed in his expert and oral evidence that he did reflect the disadvantages and advantages of the occupation and use of the property as a whole in his Stage 5 allowance (in line with Rating Forum Guidance paragraph 3.6.1). By doing so he included "over capacity" as at 2003 in so far as it affected value, rather than a straight-line depreciation approach. Consequently, there was no need for a specific "over capacity" allowance to be applied.

The Appellant

In response Mr Glover QC submitted:

(i) Mr Bell agreed in cross-examination that, if "over capacity" were shown to exist, then it was a feature for which allowance should be made in a contractor's basis valuation. So, the issue was not one of the Tribunal "granting" an over capacity allowance, but of it deciding whether the facts indicated that, absent an over capacity allowance, the assessment would be excessive.

(ii) The evidence showed that there was "over capacity" in the terminal (whatever the date at which economic conditions were taken).

(iii) The Contractor's Method started from the cost of replicating the hereditament. The terminal's value lay in the ability that it gave the hypothetical tenant to process passengers at an appropriate standard of service. If it could process, to that standard, in a smaller terminal all the passengers that it expected to achieve, then, the actual terminal was no greater value to it than would be a smaller terminal. So, the cost of replicating the actual terminal – with all of its capacity – was a sum greater than the value of the hereditament to the occupier. Thus, on the evidence, the "over capacity" that had been shown affected the value of the hereditament. Consequently an "over capacity" allowance needed to be made.

(iv) Should that allowance be "specific" (in the sense of "individual") or should it be incorporated in some broad-brush allowance, bundled up with other features?

(v) The allowance should be as accurate as the evidence allowed. Where the evidence was available, the most accurate means of assessing that allowance was by reference to a modern equivalent.

(vi) The respondent challenged none of the inputs to the modern equivalent allowance for the terminal made by Mr Hicks. Indeed, in cross-examination, Mr Bell agreed that the Tribunal had before it "a modern equivalent terminal which the evidence showed would provide all that the hypothetical tenant would require". He also agreed that it would cost less to construct than the actual.

(vii) In the circumstances there could be no justification for making an "over capacity" allowance in respect of the terminal which was less than that shown by the cost of the modern equivalent terminal.

(viii) No case was put by the respondent that Mr Bell's approach was more accurate. Mr Bell could not even say what his "over capacity" allowance amounted to (if anything).

(ix) There was nothing in paragraph 2(1) of Schedule 12 to prevent an "over capacity" allowance, or to prevent it being made by the most accurate means available. So:

a. the Tribunal should make a specific "over capacity" allowance in respect of the terminal, the aprons, the second runway and the land; and

b. the most accurate way of calculating those allowances was by the means that Mr Hicks had used.

The Tribunal

(i) Both parties were agreed that an allowance for "over capacity" should be made. Mr Bell did not make a specific allowance but he gave evidence that an allowance for "over capacity" had been included in his Stage 5 allowance of 15%. When challenged by Mr Glover QC, however, he failed to confirm exactly what percentage of the 15% had been allocated to "over capacity".

(ii) Mr Hicks had included in his valuation a specific allowance for "over capacity" at Stage 2, which was based on the proposition of a modern equivalent terminal, as detailed by Mr Ferguson in his expert evidence.

(iii) In assessing the NAV of the subject hereditament Schedule 12 paragraph 2(1) required the Tribunal to "have regard to" the NAVs of properties in the "same state and circumstances" already in the valuation list. Both parties had agreed that, in this reference, the only two suitable comparables were BCA and CODA.

(iv) CODA had been given a specific 60% allowance for "under utilisation". This was in effect a specific allowance for "over capacity" at the airport. A 6% allowance had been allocated at BCA for "under utilisation" of the airport due to restricted opening hours. Specific allowances had therefore been granted on these two comparables for issues similar to "over capacity". Indeed the submitted evidence had confirmed that the 2003 Fifth Revaluation NAV for the subject hereditament contained a 20% allowance for "Below capacity, reduced profitability etc." with an explanatory note: "Airport capacity equates to 4½ million passengers. Actual Y/E 2001 equates to 3½ million passengers". The respondent had agreed this assessment with the BIA agent and it was therefore clear that a specific allowance for "over capacity", based on the evidence available, had been granted by the respondent at that time. This specific allowance was replicated at a subsequent 2006 revision of BIA and was again agreed between the respective valuers acting for both parties at that time.

(v) Even more relevant was the direct comparison between BCA and BIA. BCA came into operation in 2001 which was concurrent with the AVD. Mr Ferguson's opinion was that, in effect, BCA was the modern equivalent for BIA. Mr Hicks' evidence, which was not challenged, was, at the AVD, the size of the BCA terminal was 13,234m^2 which was designed to accommodate 3 million passengers. At that time passenger numbers at BIA were 3.155 million and the terminal size was 27,173m^2, which subsequently increased to 32,452m^2 at the valuation date in 2015. The Tribunal accepts that some of these figures may be approximate, nonetheless it was clear from the comparable evidence that there was significant "over capacity" at BIA if 3 million passengers could be accommodated by a terminal of 13,234m^2 at BCA. The Tribunal considers that this "over capacity" was mainly due to the piecemeal development of the airport from

1988 onwards and the physical drawbacks of a drop of 4 metres from apron to kerbside.

(vi) Mr Glover QC had contended that any allowance for "over capacity" should be as accurate as the evidence permitted. The Tribunal agrees.

(vii) In their respective assessments of NAV Mr Hicks and Mr Bell had commenced by costing a modern equivalent of the actual hereditament. This figure had been agreed. Mr Hicks then deducted the Monsanto allowances for physical obsolescence, as did Mr Bell. Mr Hicks considered at that stage there should be an additional allowance for functional obsolescence or "over capacity" on the Terminal Building, which had been "flagged up" by the functional comparison with the Terminal Building at BCA. He compared the size of the modern equivalent terminal, which had been assessed by Mr Ferguson and which had not been challenged by the respondent, with the size of the actual terminal. Based on this evidence he made a further deduction of 48% for functional obsolescence on his valuation which took the economic circumstances as at the AVD.

(viii) There may have been a misconception that Mr Hicks had based his NAV assessment on a modern equivalent building. This was not the case. He had assessed the cost of replacing the actual terminal and had used the concept of the modern equivalent terminal solely to assess an amount to be deducted for functional obsolescence.

(ix) Mr Shaw QC referred to the "higgling" between the landlord and tenant. He submitted that in the "real world" the tenant would not get the full benefit of the straight-line depreciation of 48%.

(x) Mr Glover QC considered that Mr Hicks' assessment of the "over capacity" allowance was not a "straight-line depreciation", rather it was a careful evaluation of the cost of providing a terminal that would provide to the hypothetical tenant everything required for an airport dealing with a similar number of passengers. He submitted that the Stage 4 figure was a ceiling value (which Mr Bell had agreed in his oral evidence) and the landlord and tenant would only "higgle" on what extent the rent should be below the ceiling value, but that higgling would not result in a capital figure

higher than the age depreciated cost of a terminal that would provide all that was of value to the hypothetical tenant.

(xi) The Tribunal agrees with Mr Glover QC, that Mr Hicks had used the concept of a modern equivalent terminal as a tool to assess the extent of "over capacity" in the actual terminal. This tool had been used extensively in the rating assessment of airports in GB and had been accepted in the decided authorities including Monsanto and Eastbourne. The Tribunal also agrees with Mr Glover QC, that the time for "higgling" would be after the Stage 4 ceiling value had been reached.

(xii) In answer to Question 2, based on the submitted factual and comparable evidence, the Tribunal finds that a specific allowance for "over capacity" was warranted and Mr Hicks' method was the most accurate means of calculating that allowance.

33. **Q3. The practice and procedure adopted by the Commissioner of Valuation in this jurisdiction seems to have been not to grant specific "over capacity" allowances in contractor's valuations. Is this correct and if so is the Tribunal prohibited by statute from granting an "over capacity" allowance in this reference?**

The Respondent

Mr Shaw QC concluded that the Tribunal was not prohibited by statute from granting a specific "over capacity" allowance in this reference but he asked the Tribunal to note:

(i) The Lands Tribunal correctly appreciated the practice and procedure of the Commissioner which was, he submitted, consistent with the Rating Forum Guidance.

(ii) According to that Guidance "over capacity" may be considered at Stage 5 along with other relevant matters not so far considered in previous stages in arriving at a Stage 5 end allowance. The Rating Forum Guidance emphasised that adjustments at Stage 5 were to reflect factors "which affect the value of a property as a whole, including such items as poor access, cramped site, inadequate layout etc." (paragraph 3.5.2) and to "distinguish between the adjustments necessary to reflect the advantages and

disadvantages of the hereditament as a whole e.g. access, layout etc." (paragraph 3.6.1).

(iii) Stage 5 involved the valuer taking an overview of the value as he sought to make an assessment within the general framework or pattern of values in the area but which, first and foremost, reflected the demand for the class of property involved. This approach fully aligned with the statutory provisions of Schedule 12 paragraph 2(1) to the Order relating to revision of an entry in the Valuation List and (especially) revision of a property in the settled 2003 List now superseded by the 2015 List.

The Appellant

Mr Glover QC also agreed that the statue did not prohibit the Tribunal from making a specific "over capacity" allowance where one was appropriate and in response to Mr Shaw's QC comments he submitted:

(i) The method of valuation required allowance to be made where the evidence indicated that "over capacity" affected value.

(ii) The respondent's practice had been to make "over capacity" allowances – see the original 5th Revaluation List entry for the subject hereditament, the revised 2006 entry for the subject hereditament and the valuation of CODA.

(iii) Both parties were agreed that valuers should act scrupulously. Mr Bell agreed in cross-examination that, if, in considering "over capacity", we did the best we could with the evidence available at the appeal hereditament, we would reach a valuation on the same footing as that in the list of CODA. As well as being interest in the context of comparison with other hereditaments, that agreement indicated as common ground the proposition that the valuer should do the best he could on the evidence to be as accurate as he could in his valuation.

(iv) If it be that, in previous cases, the valuers did not have sufficient evidence to make comparison with a modern equivalent, that was no reason to ignore modern equivalent evidence when it was available.

(v) Statute required the Tribunal to make an "over capacity" allowance where the evidence warranted it.

The Tribunal

(i) The parties were agreed that the Tribunal was not prohibited by statute from making a specific "over capacity" allowance in the subject reference. The comments of the respective counsel are also noted but the Tribunal agrees with Mr Glover QC there was clear evidence that warranted the making of a specific "over capacity" allowance in the subject reference.

(ii) The Tribunal also refers to a Land & Property Services Guidance note for the 2015 General Revaluation:

"LAND AND PROPERTY SERVICES

NON-DOMESTIC REVALUATION 2015

GUIDANCE NOTE

CONTRACTOR'S METHOD OF VALUATION

5.2 STAGE 2 – ADJUSTED REPLACEMENT COST

(b) Functional obsolescence may occur when the functional capability of the property is not comparable to new building or design standards in the sector. Functional obsolescence may take the form of the building exceeding the required capacity or quality compared to current market standards or conversely being less than adequate for the intended purpose."

(iii) At the time of the 2015 Revaluation the respondent had therefore accepted that (a) functional obsolescence, over and above physical obsolescence, was a valid concept, (b) "over capacity" was a form of functional obsolescence and (c) functional obsolescence should be accounted for at Stage 2 of the Contractor's Valuation process.

34. **Q4. How does the NAV of Belfast International Airport sit in relation to the NAV of Belfast City Airport?**

The Respondent

The respondent submitted the following table and explanatory notes:-

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FACTOR	BELFAST INTERNATIONAL (BIA)	BELFAST CITY (BCA)	COMMENT
NAV	£3,000,000	£1,021,000	BCA NAV not under challenge. BCA is the best comparison for BIA.
Passenger Numbers	3,954,000 – 2003* 5,236,000 – 2007**	1,974,000 – 2003 2,187,000 - 2007	32.4% growth at BIA versus 10.8% at BCA 2003-2007. BIA had capacity for growth at AVD
Terminal Capacity 2003	6,000,000	2,500,000	
Terminal Capacity 2015	6,000,000	3,250,000	
Agreed Terminal Pricings	£860/m^2 (Large Regional Airport)	£800/m^2 (Medium Regional Airport)	Agreed pricings reflect relative status of BIA and BCA.
Terminal Age	Built 1963 and extended from 1980s on.	Constructed 2001	BCA of more modern design and layout.
Category	Main runway is suitable for Category II/III operations (as per UK Civil Aviation Authority). (Mr Bell's Report of Facts page 5, bundle page 652, and Statement of Mr Hoey***)	Not equipped for CAT II/III operations (as per UK Civil Aviation Authority). (Statement of Mr Hoey***)	BIA has the superior category classification allowing automated landing.
Total Acreage	814 acres	291 acres	No room for runway extension at BCA.
Runway Length	9,121ft 13.5% of passengers using routes too distant to be offered from BCA runway.	6,001ft BCA cannot accommodate wide-bodied aircraft.	BIA has a major advantage in this respect.

Freight Traffic	32,000 tonnes 2004 Which equates to 14.2% of total aircraft tonnage 2001/02.	1,000 tonnes 2005 No significant freight traffic.	BIA has major advantage in terms of landings/ tonnage revenue.
MOD Traffic	Significant 6.1% of total aircraft tonnage 2001/02.	Nil/Negligible	BIA advantage with a significant number of MOD flights.
Location	Located 18 miles by road from Belfast. Central location in NI.	Located 3 miles from Belfast city centre.	BCA operations severely restricted by planning conditions. No similar planning restrictions at BIA.
Access	Motorway and single carriageway. No nearby rail link.	Dual carriageway and nearby rail link.	BCA has superior access links.
Operating Hours	Unrestricted	06.30hrs – 21.30hrs	BIA has major advantage.
Seat Limit	Unrestricted	1,500,000 leaving the airport.	BIA has major advantage.

* Mr Ferguson uses 02/03 throughput of 3,669,000 passengers in assessing the size of the modern equivalent at 1st April 2003. It is assumed these figures relate to the financial year 1st April 2002 to 31st March 2003. The figures provided by Mr Hoey at bundle page 208 and 211 are understood to relate to the relevant calendar years. The passenger numbers for the 2003 calendar year is 3.958 million, see Mr Hoey's statement.

The figures provided by Mr Bell at bundle page 668 (CAA statistics taken from the Airportwatch website) are similar to Mr Hoey's figure at around 4 million, and any differences are not considered to be significant.

There is a discrepancy since Mr Hicks used Mr Ferguson's figure of 3.669 million, plus 20% for growth, in assessing the size of a modern equivalent (20,580m^2) at 1st April 2003 and thus calculating the amount of his specific Stage 2 allowance for "over capacity" at 38%.

If Mr Hoey's passenger numbers of 3.958 million plus 20% are applied then the modern equivalent increases in size to 22,216m^2 or would indicate a 33% "over capacity" allowance.

** 2007 is shown for illustrative purposes reflecting the hypothetical tenant standing at 1st April 2003 looking forward to determine the amount of rent to be paid.

*** Appendix Belfast International – Project Jewel Project Review Slide name: Belfast International – Project Jewel Strengths Page 10 (bundle page 365) and Slide name: Project Jewel Operational Comparison Page 14."

The Appellant

The appellant made the following observations:

(i) At both hereditaments the valuations were on the contractor's basis. The costs used at Stage 1 were contemporary with the General Revaluation. The presumption from Article 54(3) was that the valuation in the List for BCA was correct. That meant that the presumption (unless otherwise shown) was that, in valuing BCA, the respondent did the best that he could on the evidence available to make the appropriate adjustments in the assessment of NAV – whether those adjustments were at Stage 2 or Stage 5.

(ii) It was common ground previously that, if the Tribunal did the best it could with the evidence available at the appeal hereditament, it would reach a valuation on the same footing as that at CODA. That proposition applied with equal force if one substitutes BCA for CODA. If the Tribunal in valuing the appeal hereditament applied its judgement to the evidence available, its valuation would be consistent with the tone of the list.

(iii) The evidence clearly was that there should be a significant allowance at BIA for "over capacity". The critical question was whether there was something in the comparison with the assessment of BCA which prevented the inclusion of that allowance. There

was nothing. Indeed, the indication was that the respondent's assessment for the subject hereditament was too high when compared with BCA. On the other hand comparison between Mr Hick's valuation and the assessment in the list for BCA showed no cause for even intuitive concern.

The Tribunal

(i) The respondent had provided useful data concerning the relative advantages and disadvantages of BIA and BCA. Regrettably he did not state how these advantages and disadvantages translated into the relativity between the respective NAVs for each airport, that is, did the advantages of BIA over BCA warrant a differential of £2,079,000 in their respective NAVs?

(ii) The appellant's evidence with regard to the relativity of the respective NAVs was also inconclusive but the Tribunal accepts the appellant's assertion that there was nothing in the comparison with BCA which prevented the inclusion of an allowance for "over capacity" in the NAV assessment of BIA.

(iii) With regard to the disputed number of passenger for Y/E 31st March 2003, paragraph 50(b) of Mr Hoey's evidence stated that figure to be 3.669 million, which was in accord with the figure used by Mr Ferguson.

(iv) At paragraph 76 of his evidence Mr Hoey stated the 2003 passenger numbers to be 3.958 million but this was for the Y/E 31st December 2003. In any case the Tribunal had already decided that the economic circumstances should be taken as at 1st April 2001.

35. **Q5. Are the *Monsanto* and *Eastbourne* cases relevant in this jurisdiction and if so what is their significance to this reference?**

The Respondent

Mr Shaw QC made three general points before considering each of the authorities:

- Unlike the binding decisions of the superior courts in this jurisdiction, neither the Lands Tribunal for Northern Ireland nor the Commissioner and District Valuers were bound by decisions of the Tribunal in England and Wales, which were subject to different legislation.

- It was well established that GB rating cases were not necessarily followed here, for example, the Court of Appeal for Northern Ireland did not follow Gilbert (VO) v S Hickinbottom & Sons Ltd [1956] CA 2 QB 40 in the Belfast Collar Co [1960] NILR 198.

- However, it was not unusual for a GB decision to be considered and implemented where it was considered to aid best practice.

With regard to Monsanto Mr Shaw QC made the following comments:

(i) This case dating from 1998 was heard initially by Mr Hoyes FRICS who died before giving his "final decision": see the Addendum at internal page 201 by Mr Clarke FRICS who was appointed to complete the case.

(ii) Mr Clarke noted that Mr Hoyes had "helpfully set out a Summary of Conclusions in his decision": Addendum at internal page 206. The summary consisted of 27 points found at internal page 199.

(iii) Among the Summary of Conclusions under the hearing "Valuation Principles" at §7 et seq on internal page 199, Mr Hoyes observed that the explanation in Dawkins was a statement of principle but it did not prescribe either (a) the method or (b) basis of valuation. His fuller treatment of that topic was located at internal page 138 and following where he rehearsed the five stages of the contractor's basis of valuation.

(iv) At the top of internal page 140 at line 2 Mr Hoyes explained (a) the method of valuation was the five stage approach whereas (b) the basis of valuation was Schedule 6 to the Local Government Finance Act 1988 para 1 interpreted in line with relevant legal authorities.

(v) The respondent submits that the case was of interest on methodology. As a worked example (in depth) of the five stage approach, however:

a) there was nothing that contradicted the 1995 Rating Forum Guidance which Mr Bell cited (and followed); and

b) since the GB legislation of 1988 did not carry the tone of the list provision that marks the Order, it was of no assistance as to the basis of valuation.

(vi) Accordingly, among the points of interest for the present case the respondent highlights:

a) The object was to give an economic framework for valuation which should be maintained to afford credibility to the contractor's basis: §9 at internal page 199.

b) The fundamental question was to ask whether the hypothetical tenant could reasonably be expected to pay a rent commensurate with estimated capital value reached at Stage 3: §11 internal page 200.

c) Stage 2 was the principle stage for turning Stage 1 estimated replacement cost into effective capital value, the bedrock of the ultimate rental value: §14 internal page 200.

d) In the absence of actual evidence of the effect of age upon the capital value of buildings, civil engineering and plant, scales were the best tool available to valuers seeking a consistent approach, but a measure of objective judgement was necessary in their interpretation and application. Even with this they could not be expected to meet perfectly all the circumstances encountered: see internal page 180 under Heading "Scales for Physical Obsolescence Generally"; see also §17 at internal page 200.

e) The scales put forward in Monsanto had been adopted and accepted by professionals in the public and private sector alike, in both this jurisdiction and in the rest of the UK, to assess age and obsolescence factors at Stage 2 that were applicable to the individual properties.

f) Circumstances not considered at Stages 2 and 3 which were peculiar to a tenant were to be dealt with at Stage 5: §16 internal page 200.

g) The appropriate end allowance, if any, which the tenant could secure at Stage 5 was a matter of "judgement for valuers": see internal pages 184-5. The tenant must identify factors internal to the hereditament which he considered would convince the landlord that the Stage 4 ceiling value was excessive: internal page 185.

h) Regarding obsolescence: The respondent draws attention to internal pages 182-3 to notice that:

(i) functional obsolescence was principally to be taken at "over capacity" in whatever form that presented itself; and

(ii) technical obsolescence was intended to have regard to a facility which had become outmoded due to technical changes.

i) At internal page 184, the Tribunal was unconvinced on the evidence as to "over capacity" of bund areas and of "over design" of bund walls, no functional and or technical allowances were accorded to bunds.

(vii) The respondent contends the appellant here presented a calculation for over design at Stage 2 (which the respondent submits was unconvincing) whereas the respondent included a consideration of "over capacity", amongst other factors, at Stage 5.

With regard to Eastbourne Mr Shaw QC made the following comments:

(i) This 2001 decision of the English Lands Tribunal delivered by the President (Mr Bartlett QC) and Mr Rose FRICS concerned two loss-making leisure centres operated by two local authorities where the parties were at odds on the proper method to be used to assess rates.

(ii) The public authority ratepayers had provided facilities for socio-economic reasons. Not only did they not return a profit but it was agreed that they could not be expected to make a profit: Headnote internal page 274 line 14. Here the appellant, a

commercial operator, makes a profit as the evidence showed and was not shy about promoting the virtues of the facilities it offered at the hereditament. The financial considerations relevant to the local authority's decision to make the capital investment in the leisure centre would be different from those affecting the rent the hypothetical tenant would be prepared to pay.

(iii) The Tribunal rejected the ratepayers' proposed method (a percentage of receipts/outgoings) in favour of the contractor's basis: Headnote § (1) and (2) at internal page 277-8. In doing so, the Tribunal not only mentioned Monsanto but expressly endorsed the Rating Forum Guidance Note of November 1995 which Mr Bell cited and applied. The respondent rejects any suggestion that this case in any way undermined the Guidance note or what Mr Bell did.

(iv) Significantly for the present case, the Tribunal said of the contractor's basis, "though proceeding in formalised stages, it is not a magic formula for reaching a rateable value independently of any exercise of valuation judgement": Decision §130 internal page 317. The respondent submits that Mr Bell proceeded through the stages correctly and throughout applied his judgement soundly, as he explained in his evidence. Just as in Eastbourne, Mr Bell's valuation used Stage 5 to look and address all the factors that had not so far been reflected.

(v) If the contractor's basis were to be deployed the parties in Eastbourne had agreed some issues while differing on others upon which the Tribunal ruled: see headnote internal page 275 line 7.

(vi) One issue of dispute was the size of a teaching/training pool. Both parties agreed that some reduction in size was appropriate but differed on the degree of reduction: internal page 275 line 23; headnote § (3)(b) internal page 279 and decision §82. The Tribunal produced its own assessment on the agreed assumption that it was too large.

(vii) Of interest to the present case was the discussion of "over capacity or under utilisation" at decision §124-5 internal page 315; headnote § (5) internal pages 280-1. The Tribunal considered the ratepayer had confused full utilisation with optimum utilisation. No allowances were made by the Tribunal at Stage 5 for under utilisation

or over capacity, beyond that which resulted from the calculation there of a modern substitute.

(viii) On the evidence the Tribunal ruled there was no justification for any Stage 5 allowance: decision §141; headnote § (8) internal page 281 referring to the decision §130 internal page 317. By doing so, the Tribunal (unlike Mr Hicks) avoided double counting, a key consideration of the Rating Forum Guidance, see 3.5.1.

(ix) The respondent submits the piecemeal approach of Mr Hicks of partial adoption of a modern substitute was not best practice; it was an interesting valuation tool at best. The Commissioner was not required to adopt such a piecemeal approach and did not in fact adopt it at revaluation stage.

The Appellant

With regard to question 5 Mr Glover QC made the following points:

(i) Mr Bell had agreed that Monsanto and Eastbourne were two of the three leading cases on the contractor's basis method of valuation. Further, he agreed that the cases were not just the best explanation of the rationale of the method but also of the means of putting it into operation. He confirmed that the scales he used for the age allowances were derived directly from Monsanto.

(ii) In his closing submissions, Mr Shaw QC recognised that "it is not unusual for a GB decision to be considered and implemented [in Northern Ireland] where it is considered to aid best practice". In the light of Mr Bell's answers in cross-examination, it was common ground that Monsanto and Eastbourne represented best practice. So, both were clearly agreed to be relevant in this jurisdiction.

(iii) From Monsanto onwards, it had been generally accepted (a) that physical obsolescence (that is, physical deterioration due to age) should be assessed separately from other heads of obsolescence, (b) that it should be assessed by means of scales, (c) that functional obsolescence covered "over capacity", (d) that it should be assessed by reference to experience and understanding of the appeal hereditament.

(iv) Monsanto and Eastbourne showed the importance of expert and informed evidence in assessing functional obsolescence. Indeed, Mr Bell agreed in cross-examination that, as the advantages and disadvantages of an airport terminal in terms of size, layout and design, were not within the experience of a rating surveyor, he would be well-advised to pay attention to those who specialised in the relevant business.

(v) It was common practice to assess the extent of "over capacity" (whether in a hereditament as a whole or in one or more of its component elements) by reference to a modern equivalent. After Mr Bell's cross-examination, no criticism of the method could properly be made by the respondent. In reality, no attempt had been made to indicate that, in this case, there was a better means of assessing as accurately as possible the extent of the "over capacity" allowance than by reference to a modern equivalent.

The Tribunal

(i) The decisions in Monsanto and Eastbourne had followed the guidance as set out in the Rating Forum Guidance Note, which Mr Bell submitted he had followed and Mr Bell had accepted in cross-examination that they provided best practice in the operation of the Contractor's Method of Valuation.

(ii) The Tribunal agrees with Mr Glover's QC useful summary in that, from Monsanto onwards, it was generally accepted that:

a. physical obsolescence should be assessed separately from other heads of obsolescence.

b. it should be assessed by means of scales as outlined in Monsanto.

c. functional obsolescence covered "over capacity".

d. that it should be assessed by experience and understanding of the appeal hereditament. The Tribunal refers to page 150 of Monsanto:

> "In the nature of things and from the evidence it is clear that the correct allowances for functional and technical obsolescence must be a matter of judgement by valuers based upon experience and understanding of the operation of the appeal hereditament and or similar premises. As support for his evidence Mr Needham adopted that of Mr Burge [the chemical engineer employed by the ratepayer] in relation to these aspects and where feasible endeavoured to analyse and quantify the extent of disability or defect by reference to modern equivalent items, be it a building, over designed steel structure or bund, or over capacity to raise steam, cool water or distribute electricity etc."

(iii) It was clear in the subject reference that Mr Hicks had employed Mr Ferguson, a chartered architect and Head of Aviation at Todd Architects, to gather a better understanding of the operation of the appeal hereditament. The respondent had not submitted any such reciprocal evidence.

36. **Q6. In Mr Hicks' valuation 582A, at Stage 2 line 1 "Terminal Building", is a 15% allowance for age and obsolescence, over and above the 38% "over capacity" allowance, double counting?**

The Respondent

Mr Shaw QC made the following submissions:

(i) Mr Hicks' valuation at bundle page 582A had introduced an additional adjustment of 38% to reflect "over capacity". This allowance was based on the design of a modern equivalent terminal (only) by Mr Ferguson. As stated by Mr Ferguson: "The concept of the modern equivalent is that it will be constructed from modern materials at the relevant valuation date, it will be designed to minimise inefficiencies in the layout of the existing facility and will exclude unwanted excess capacity."

(ii) As Mr Hicks was basing his 38% "over capacity" allowance on the design of Mr Ferguson's modern equivalent "at the relevant valuation date" it would not be

appropriate to retain the agreed age and obsolescence of 15% that reflected the deficiencies of the existing terminal i.e. age and obsolescence. There was an element of double counting at Stage 2.

(iii) Mr Hicks' costing exercise had effectively reduced the terminal size at 2003 by 12,286m^2 (total terminal area plus Medway building excluding autowalk less 38%) even though the actual terminal was fully utilised by BIA.

(iv) He also effectively applied a 15% Stage 2 allowance to the reduced area. As stated previously this use of a straight-line depreciation calculation to determine a specific additional Stage 2 allowance ignored the rating hypothesis of a hypothetical landlord and tenant being reasonable people seeking to reach an agreed rent, but neither being desperate to obtain a tenancy. It also ignored the operation of real world market practice of the negotiations that take place, considering all factors as well as the "higgling" that takes place during negotiations. Mr Hicks had essentially provided the tenant with the upper hand in any negotiations.

(v) Moreover, he had ignored that this was a List revision exercise under the statutory provisions of paragraph 2(1) to Schedule 12 of the Order. This revision concerned a property in the long-settled 2003 List (now superseded by the 2015 List) where the allowances that applied to similar and other properties in the superseded List were applied to the subject hereditament.

(vi) The appellant had quoted the Eastbourne case in support of his position. It was noted that in this case the Tribunal's valuation of the Sovereign Centre was not based on a full modern equivalent but was based on the design of other existing leisure centres including Goldsmiths.

The Appellant

Mr Glover QC submitted:

(i) The point was fully addressed and agreed in Mr Bell's cross-examination.

(ii) He accepted that, if, at Stage 1 you cost a part of the hereditament which was larger than the hypothetical tenant had use for, the result was greater than the value of that part of the hereditament. The allowance (in fact, 38% on the valuation which took demand at 1st April 2003 and 48% on the valuation which took demand on 1st April 2001) reflected the fact that the cost of constructing a terminal that would provide to the hypothetical tenant all that he had use for was that much less than the cost of replicating the actual hereditament.

(iii) Mr Bell also accepted the making of an allowance "to reflect increasing repair costs and reducing life expectancy as buildings … get older" (quotation from Mr Bell's expert evidence). He then, claimed that, in his mind, it reflected physical obsolescence and other (undefined) features. Early in cross-examination, he said that the 15% allowance did not include any allowance for "over capacity". So, Mr Bell's own evidence was directly contrary to any submission that there was any double-counting of the sort envisaged by this question.

(iv) At that early stage of his cross-examination, Mr Bell suggested that the 15% that he used included, he believed, an element of allowance for layout (but he could not identify the features of the terminal's layout that it reflected or the quantum of the allowance attributable to layout). Later in his cross-examination, he acknowledged that the scales he used had been derived entirely from the Monsanto scales; nothing had been added. The Monsanto allowances were solely for physical obsolescence; and contained no element for any other factor (be it layout or whatever).

The Tribunal

(i) At Stage 2 of their respective valuations Mr Hicks and Mr Bell had started off by costing a modern equivalent replacement of the actual terminal, which was agreed. They further agreed that an allowance of 15% should be made for physical obsolescence, which was based on the Monsanto scales.

(ii) Mr Hicks then considered that a further allowance of 38% for functional obsolescence should be made if the economic circumstances were to be taken at 1st April 2003 and

a 48% allowance if the economic circumstances were to be taken at 1st April 2001. In calculating these allowances Mr Hicks had used the concept of a modern equivalent terminal to assess "over capacity" at the terminal. The Tribunal does not consider this to be double counting. This allowance was based on:

a. the expert evidence of Mr Ferguson.

b. the factual evidence at the hereditament.

c. comparison with BCA.

d. best practice as outlined in Monsanto and Eastbourne and accepted in the NAV assessments of airports in GB.

37. **Q7. In Mr Hicks' valuation 582A is the application of a further end allowance of 15% at Stage 5 warranted?**

The Respondent

Mr Shaw QC submitted that the further end allowance of 15% in Mr Hicks' valuation 582A was not warranted:

(i) Stage 5 was referred to as the "stand back and look stage". However, to apply this stage correctly it must comprise two elements –

a. the consideration of reflecting any factors (both positive and negative) that would affect the rental value of the property; and

b. then to "stand back and look" at the result and try to evaluate whether it fairly represented the rental value of the property on statutory terms in comparison to other properties in the Valuation List.

(ii) Mr Hicks' valuation at page 582A applied a 15% end allowance but made no reference to any of the positive features of BIA. For instance –

- Unconstrained year-round, 24-hour operation capability

- No restriction on passenger numbers
- Cargo flights (14.2% of total of Aircraft tonnage)
- Military flights (6.1% of total of Aircraft tonnage)
- A longer runway than Belfast City Airport – which meant more routes could be offered.

(iii) In his oral evidence, Mr Hicks referred to the benefits of the cargo business and MOD flights being "reflected" in the extra length of runway and the second runway being used as a taxiway as part of the costing exercise. However, these benefits had not been quantified or calculated by Mr Hicks or his expert, Mr Ferguson, anywhere in the evidence presented.

(iv) To highlight the point: if the cargo doubled or halved would the runway shrink or lengthen as part of a costing exercise? The preferable approach, as per the Rating Forum Guidance on Stage 5, was to stand back and look to reflect the advantages or disadvantages of the occupation of the hereditament.

(v) Mr Hicks referred to "Layout (piecemeal development) and location issues" in his end allowance at Stage 5 as the only two factors in his valuation at page 582A. But Mr Glover QC commented that an allowance for superfluity was part of the assessment for revaluation. According to the respondent's notes and understanding of the evidence (subject to the Tribunal's note), he contended that (a) Mr Bell's Statement of Facts made no allowance for superfluity and (b) Mr Bell made a factual error in thinking no superfluity was applied at Revaluation, whereas in fact there was.

(vi) In oral evidence, on the subject of the modern substitute, Mr Hicks confirmed that it was not necessary to consider the remaining elements of the airport as the actual would fully meet the requirements of a tenant. Mr Hicks, however, then proceeded to apply a Stage 5 end allowance of 15% (made up of 5% for location and 10% for piecemeal development) against the whole hereditament even though the remaining elements were as required by a tenant in their actuality. The respondent contends that the addition of the 10% piecemeal allowance was not necessary and amounted to double counting as Mr Hicks had already applied an allowance to the Terminal at his

Stage 2 costing exercise to reflect a modern design and layout (eliminating the piecemeal development).

The Appellant

Mr Glover QC submitted that the 15% allowance was warranted:

(i) Both valuers converge on 5% as the allowance for location. So the issue was whether Mr Hicks was justified in allowing a further 10%.

(ii) The modern equivalent exercise indicated that the annual value of the hereditament was not greater than the capitalised costs (after allowance for age) of the modern equivalent. It did not address the question whether it was less. The hypothetical tenant would occupy the actual hereditament. If the annual costs of operating it was greater than the annual cost of operating the modern equivalent, then, clearly, the annual value of the actual hereditament was less than the annual value of the modern equivalent. Allowance had not yet been made for that difference.

(iii) Mr Hoey gave unchallenged evidence about the extra security costs that the existing arrangements imposed on the operator: £223,280. The actual Terminal also involved operating costs greater than the modern equivalent: utility costs, cleaning costs and maintenance costs. There was no clear and unambiguous means of measuring the extent of that undoubted extra cost. Mr Hoey offered exercises that indicated the price psm incurred under those heads. Aggregated they amounted to £47.31 psm. He was not challenged on the figures. On the valuation which took demand at 1st April 2001, the modern equivalent terminal was 15,987m^2 smaller than the actual.

(iv) The 15% allowance that Mr Hicks made at Stage 5 in the valuation that took economic circumstances at 1st April 2001 equated to £382,862. With location at 5%, the remainder for the deficiencies of layout equated to £255,241. In the light of Mr Hoey's figures for extra security and other operating costs, it might be possible to criticise that allowance as too small; but not as too large. If he kept the allowance down to that level the hypothetical landlord had higgled successfully.

The Tribunal

(i) In his valuation at "582A" Mr Hicks had allocated a 15% allowance at Stage 5 for "Layout (piecemeal development) and location issues". Both experts had agreed that a 5% allowance for location was appropriate.

(ii) The respondent contended that the addition of a 10% allowance for piecemeal development amounted to double counting, as the application of an "over capacity" allowance at Stage 2, to reflect a modern design and layout, had effectively eliminated piecemeal development.

(iii) The Tribunal notes that in the examples of GB airports provided by Mr Hicks, where "over capacity" allowances had been applied, namely Liverpool, Newcastle and Norwich, Stage 5 end allowances of 2.5%, 5% and 10% respectively were granted for location only. None were granted for "piecemeal development". There may, of course, be other reasons for this, not before the Tribunal.

(iv) The Tribunal, however, agrees with Mr Shaw QC that an additional Stage 5 allowance of 10% for piecemeal development was not warranted, as that issue had already been accounted for in the Stage 2 allowance for "over capacity".

(v) At Stage 5 of Mr Hicks valuation which took economic circumstances at 1st April 2001, the Tribunal finds that the allowance should be reduced to 10% to reflect location (5%) and additional operating costs as demonstrated by Mr Hoey (5%).

38. **Q8. What does the respondent say is included in Mr Bell's 15% Stage 5 end allowance and what is the evidence to support the 15%?**

The Respondent

Mr Shaw QC submitted submitted:

(i) The 15% end allowance at Stage 5 considered all factors not already reflected in Stages 1-4 and adequately reflected all the advantages and disadvantages relating to the subject, when compared to the comparable properties. These factors included location and access, physical configuration and layout (including "over capacity"), freight business, MOD flights, unrestricted operating hours and availability and use of the second runway.

(ii) The 15% end allowance was a global figure that reflected all of the above factors and had been arrived at by reference to the following:

a. The end allowances given at the comparable airports. BCA attracted a 6% allowance to reflect the severe operating restrictions imposed under its planning agreement. The valuation for CODA enjoyed a 60% allowance to reflect that any potential rental bid would be made in the knowledge that the airport had never made a profit and had required substantial financial support from the local Council throughout its history.

b. Mr Bell spoke of his experience of Stage 5 allowances given at other contractor's based properties, such as universities and hospitals. He explained that where allowances had been made, they were generally in the range of 5% to 15% and in some severe cases more.

c. At revaluation in 2003 the valuation of the subject property included an end allowance of 20%. This figure was negotiated and agreed between two experienced chartered surveyors and reflected "over capacity" and other factors including age and obsolescence.

The Appellant

Although the question was directed at the respondent nonetheless Mr Glover QC submitted:

(i) It was a pertinent question because, in cross-examination, Mr Bell was unable to articulate what was included in his end allowance. 5 percentage points were for location, he said. As for the remaining 10 percentage points, he could not have been

more opaque. All that was apparent was that the allowance would have been greater had not some sort of upward adjustment been made for factors such as freight business.

(ii) Upward adjustment of that sort was misconceived; because it ignored one of the critical principles (derived from Leamington Spa and endorsed by Mr Bell) that the result of the first four stages of the contractor's basis was a ceiling value.

(iii) Both Mr Bell and Mr Shaw QC sought to distinguish Mr Bell's end allowance as a valuers judgement. There was a difference between a judgement and a guess. The person making a judgement could identify the factors that weigh in the judgement and the evidence that he had used to assess the effect of those factors on the size of his allowance; he could articulate the process by which the judgement had been reached. Mr Bell could not do that.

The Tribunal

The Tribunal agrees with Mr Glover QC; Mr Bell failed to clearly articulate the process by which he had arrived at his 15% Stage 5 allowance, the specific factors that were included in that allowance and the amount of allowance for each factor.

Summary of the Tribunal's Findings

39. Having considered the evidence the Tribunal finds:

(i) The date at which the economic circumstances were to be taken was 1st April 2001.

(ii) A specific allowance for "over capacity" was warranted at Stage 2 of the valuation.

(iii) The most accurate means of assessing "over capacity" allowance had been provided by Mr Hicks.

(iv) The parties were agreed that the Tribunal was not prohibited by statute from granting an "over capacity" allowance in the subject reference.

(v) There was nothing in the comparison with BCA which prevented the Tribunal from including an allowance for "over capacity" at BIA. Rather the comparison with BCA, as directed by Schedule 12 paragraph 2(1) of the Order, confirmed that an "over capacity" allowance was warranted.

(vi) Monsanto and Eastbourne provided best practice in the operation of the Contractor's Method of Valuation.

(vii) In Mr Hicks' valuations a 15% Stage 2 allowance for age and obsolescence, over and above the allowances for "over capacity", was not double counting.

(viii) Mr Hicks' 15% allowance at Stage 5 of his valuation should be reduced to 10%.

(ix) Mr Bell had failed to detail exactly what factors had been included in his Stage 5 allowance of 15% and the amount allocated to each factor.

Other NAV Issues

NAV of the Aprons

40. In his expert report Mr Ferguson had estimated the amount of excess apron, based on the modern equivalent, at 17,535m^2 which translated to a 17% over capacity. Based on that evidence Mr Hicks had applied a 17% functional obsolescence allowance to the NAV assessment of the aprons.

41. Mr Bell disputed this allowance. He referred the Tribunal to a "Statement of Uel Hoey" which was "part of a report to highlight the urgent requirement for an apron extension to be built at Belfast International Airport during the next financial year 200-2001". The report recommended:- "Build the apron extension as a matter of priority to offset potential litigation problems and loss of business and to create enough infrastructure for business to grow in the short term." Mr Bell accepted that this report predated the valuation list publication on 1st April 2003 but his opinion was that the circumstances would have been similar in 2003 through to the date of the current appeal in 2015. He considered that there was no evidence

to suggest that any allowance, other than the agreed age and obsolescence, was warranted in respect of the aprons.

42. In his expert evidence Mr Ferguson had shown the modern equivalent terminal overlayed on the existing terminal. Using the required number of aircraft stands as existing at the valuation date, he detailed the area of existing aircraft parking apron which was surplus to requirements for the modern equivalent. This area measured 17,535m^2.

43. The Tribunal notes Mr Bell's views, which were based on statements by Mr Hoey, but these were in relation to the actual terminal. Mr Ferguson's evidence relating to surplus aprons was based on the modern substitute terminal. Mr Ferguson was an expert on airport design and the respondent had not submitted any expert evidence to dispute Mr Ferguson's assessment that the modern substitute terminal could function with smaller aprons. The Tribunal therefore finds that a 17% "over capacity" allowance on the aprons was warranted.

NAV of the Second Runway

44. Mr Hicks submitted that the modern equivalent did not require the existing cross runway for operational use other than as a taxiway from the main runway to the passenger aircraft parking aprons and to the southern MOD facilities. Mr Ferguson assessed the total area of cross runway surplus to requirements at 77,723m^2 which Mr Hicks translated to a 70% "over capacity" allowance.

45. Mr Bell considered the cross runway to be an integral and important feature of BIA. He referred the Tribunal to an article published in the Belfast Telegraph on 8th June 2015 and in which the Managing Director of BIA stated: "We have two runways and we have a cross runway. When the wind blows in Dublin in the wrong way, the aircraft pile in here." The second runway was therefore used in certain wind conditions and on that basis Mr Bell did not consider that any further allowance was warranted.

46. Mr Hoey gave evidence that the need for a cross runway for large modern commercial aircraft had now passed. He referred the Tribunal to Heathrow and Gatwick airports. Gatwick had one runway, Heathrow had two but that was about capacity rather than crosswind capability. He considered that a modern airport would not require a cross runway and that the only benefit provided by the cross runway to operations at BIA was as a taxiway. He asked the Tribunal to note that BCA did not have a cross runway. He also advised the Tribunal that the closure of the cross runway had been previously considered, in order to reduce maintenance costs, but this did not happen due to capital cost implications.

47. Based on the evidence of Mr Ferguson and Mr Hoey the Tribunal considers that an "over capacity" allowance of 70% was warranted on the second runway.

Conclusion

48. In essence the Tribunal agrees with Mr Hicks "1st April 2001" NAV assessment (see Appendix 1) up to and including Stage 4:

Stage 4	£2,552,412	
Less Stage 5	- 10%	[for location (5%) and additional operating costs (5%)]
	£2,297,170	

Say £2,300,000 NAV

49. The Tribunal therefore allows the appeal and directs that the NAV of BIA in the valuation list be altered to £2,300,000.

ORDERS ACCORDINGLY

11th September 2017

The Honourable Mr Justice Horner and
Henry M Spence MRICS Dip.Rating IRRV (Hons)
LANDS TRIBUNAL FOR NORTHERN IRELAND

<u>Appearances</u>:

Appellant – Mr Richard Glover QC, instructed by Carson McDowell, solicitors.

Respondent – Mr Stephen Shaw QC, instructed by the Departmental Solicitor's Office.

Appendix 1 – Mr Hicks' Valuation 1st April 2001

SUPERFLUITY ASSESSED AT 1 APRIL 2001

Address:
Airport Terminal, 166 Airport Road, Aldergrove, Crumlin, BT29 4AA

Effective Date: 29 October 2010

	STAGE 1					STAGE 2				
Description	**Volume / GEA Area / No**	**Unit**	**Cost £**	**ERC**	**Age**	**Age and Obs**	**ARC**	**Exemption / Other Allowances**	**Adjusted ARC**	**Comments**
TERMINAL										
Terminal Building	30,856.0	sqm	£860	£26,536,160	1963	15%	£22,555,736	48%	£11,728,983	15% A & O represents average of ages.
Terminal Building (Phoenix GF)	353.5	sqm	£860	£304,010	2010	0%	£304,010	48%	£158,085	
Terminal Building (Phoenix FF)	922.6	sqm	£860	£793,436	2010	0%	£793,436	48%	£412,587	
Terminal Building (Autowalk)	320.0	sqm	£860	£275,200	1981	15%	£233,920	100%	£0	Obsolete. Its exclusion from the valuation is agreed with the Respondent.
Medway Building	1,061.3	sqm	£520	£551,876	1975	25%	£413,907	48%	£215,232	
Canopy	1,470.0	sqm	£125	£183,750	1970	20%	£147,000		£147,000	
AT MT BUILDING										
MT Engineering Building	3,537.0	sqm	£520	£1,839,240	1980	15%	£1,563,354		£1,563,354	
19 car spaces	182.0	sqm	£22.50	£4,095	1980	7.5%	£3,788		£3,788	
Tarmac Storage	8,193.0	sqm	£22.50	£184,343	1980	7.5%	£170,517		£170,517	
Wash Bay	130.0	sqm	£22.50	£2,925	1980	7.5%	£2,706		£2,706	
Storage	120.0	sqm	£22.50	£2,700	1980	7.5%	£2,498		£2,498	
OTHER										
Fire Station	901.3	sqm	£560	£504,728	1963	35%	£328,073		£328,073	
Police Station	270.0	sqm	£560	£151,200	1978	17.5%	£124,740		£124,740	
Car Park	400.0	sqm	£22.50	£9,000	1978	7%	£8,370		£8,370	
Car Pound	120.0	sqm	£22.50	£2,700	1978	7%	£2,511		£2,511	
Car Parking	135,050.0	sqm	£22.50	£3,038,625	1963	7.0%	£2,825,921		£2,825,921	
Nose Loader (Air Bridge)	1.0	No	£165,000	£165,000	2008	0%	£165,000		£165,000	
Waste Disposal	1.0	No	£21,441	£21,441	1985	0%	£21,441		£21,441	
Boiler House	189.7	sqm	£335	£63,550	1978	17.5%	£52,428		£52,428	
INTERNAL ROADS										
Main	21,700.0	sqm	£22.50	£488,250	1963	6%	£458,955		£458,955	
Secondary	21,875.0	sqm	£18	£393,750	1963	6%	£370,125		£370,125	
Security Fencing	12,950.0	lin m	£25	£323,750	1963	15%	£275,188		£275,188	
ELECTRIC RING MAIN & ASSOCIATED P & M										
See LPS Schedule	1.0	No	£330,000	£1,000,000		0%	£1,000,000		£1,000,000	
RUNWAYS										
Main PCN 71	124,965.0	sqm	£57.50	£7,123,005	1963	6%	£6,695,625		£6,695,625	
Secondary PCN 71	83,025.0	sqm	£57.50	£4,732,425	1963	6%	£4,448,480	70%	£1,334,544	
Taxiways PCN 71	89,659.0	sqm	£57.50	£5,110,563	1963	6%	£4,803,929		£4,803,929	
APRONS										
Main PCN 71	95,080.0	sqm	£57.50	£5,419,560	1963	6%	£5,094,386	10%	£4,584,948	
GA PCN 15	6,000.0	sqm	£30	£180,000	1963	6%	£169,200	10%	£152,280	
					Average A & O:	10%	£53,035,243		£37,608,826	

Appendix 1 – Mr Hicks' Valuation 1st April 2001

Totals			£59,405,281		**£53,035,243**	**£37,608,826**
Location Factor applied to ERC:	**0.0%**					£37,608,826
Contract Size Adjustment:	**0.0%**					£37,608,826
Fees:	**7.5%**					£40,429,488
STAGE 3	**Acres**	**£/acre**		**Excess Area**		
Land under terminal	11.66	£200,000	£2,332,000	71%	£676,280	£41,105,768
Land under other buildings	2.56	£100,000	£256,000		£256,000	£41,361,768
Land under runways, Car parks & aprons	135.78	£20,000	£2,715,600	12.0%	£2,389,728	£43,751,496
Agricultural land	664.00	£4,000	£2,656,000		£2,656,000	£46,407,496
Totals			**£60,994,843**		**£43,586,834**	**£46,407,496**
STAGE 4	Decapitalise				**5.5%**	£2,552,412
STAGE 5	End Allowance: Layout (piecemeal development) and location issues.				**15%**	£2,169,550
					Say RV	**£2,169,000**

Superfluity as a Percentage of Capital Value 29%
Equals (60,994,843-43586,834)/60,994,843 =