THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating / cement works, pipeline & quarry, closed at the material day and whether capable of beneficial occupation, failure of Appellant to satisfy burden of proof, appeals lost but partial list amendment undertaken to correct entry following breaks to pipeline.

Re: Cement Works and Premises, Portland Cement Manufacturers (A), Trowbridge Road, Westbury, Wilts BA13 4LX

APPEAL NUMBERS: 394023506439/541N10, 394025383369/537N10, 394025385104/537N10, 394025499208/538N10 (1)

Re: Pipeline and Appurtenances, APCM, Westbury Cement Works Quarry, Westbury, Wilts BA13 3AY

APPEAL NUMBERS: 394025388338/537N10, 394025385071/537N10 (2)

Re: Quarry and Premises, Blue Circle Industries Limited, Westbury Down, Westbury, Wilts BA13 4LX

APPEAL NUMBERS: 394025388344/537N10 (3)

BETWEEN: *Lafarge Tarmac Cement & Lime Ltd* Appellant

(now known as *Tarmac Cement & Lime Ltd*)

and

Andrew Corkish Respondent

(Valuation Officer)

BEFORE: Mr A Clark (a Vice - President of the Tribunal)

REGISTRAR & CHIEF CLERK: Mr J Bestow

REMOTE HEARING: 18 March 2021

Appearances:

Mr M Banton of Gerald Eve appeared on behalf of the Appellant as advocate and expert witness.

Mr T O'Dwyer of the VOA appeared on behalf of the Valuation Officer as advocate and expert witness in respect of hereditaments (1) & (2) with Mr A Jones taking on the same role in respect of the quarry hereditament (3).

Initially in the submissions and close to the hearing Mr Banton had raised a question about the report from Mr O'Dwyer and whether the roles of advocacy and expert witness had been clearly stated. However, at the hearing no such issue was raised with me.

Summary of decision

1. None of the appeals are allowed as insufficient evidence was provided to convince me that as of 1 April 2010 the cement works hereditament had changed to a Cement Depot on the basis of an overt act which resulted in it being no longer capable of beneficial occupation as a cement works.
2. However, from 31 December 2010 the pipeline was no longer capable of being used and it was accepted by the Respondent that the assessment should reflect that clinker production was no longer required as it could be transported in. The list is therefore altered in respect of the cement works to reflect the removal from the assessment of items of clinker production and the partial change of use to cement depot to:

   > Portland Cement Manufacturers (A), Trowbridge Road, Westbury, Wilts BA13 4LX RV £610,000 with effect from 31 December 2010.

Introduction

3. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating

Appeals) (Procedure) Regulations 2009. By virtue of Part 2 regulation (5)(arrangement for appeals) and Regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

4. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to face to face hearings. The Tribunal's Consolidated Practice Statement has been amended to reflect this.
5. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by me before coming to a decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.
6. These appeals were heard together in accordance with the Tribunal's procedure regulations. In accordance with the Tribunal's Consolidated Practice Statement the Appellant's case was presented first.
7. The parties' bundles were provided in advance of the hearing and I was grateful that following discussion between the parties a number of the previously listed appeals were settled which reduced significantly the length of the hearing.

Background

Re: Portland Cement Manufacturers (A), Trowbridge Road, Westbury, Wilts BA13 4LX (the cement works)

The Hereditament

8. Westbury Cement Works was part of the Blue Circle post war development that was planned in September 1945, but construction did not commence until 1960. It used to supply cement to the Southwest of England via rail and was capable of supplying the London area if needed.
9. The property was capable of producing 700,000 tonnes of cement annually. The plant used a wet kiln process which in more recent times was deemed to be expensive and inefficient compared to the processing techniques adopted in more recently constructed cement plants or where recent alterations have occurred on older plants. The average costs of clinker production at the

hereditament in 2005 and 2006 were the highest of the 25 cement plants operated by Lafarge Cement worldwide.

10. Cement production ceased in April 2009.
11. The circumstances concerning these appeals was helpfully set out in the Respondent’s case:
12. Compiled List (394023506439/541N10) - A proposal was made by MTS Consultancy Ltd on behalf of Portland Cement Manufacturers (A) on 7 January 2014 on the grounds that 'The rateable value altered to £1 with effect from 1 April 2010. The rateable value shown in the Rating List on 1 April 2010 was inaccurate. The cement works is derelict and beyond economic repair and the property's use has now been changed from Cement Works to a Depot and therefore the valuation is excessive and bad in law'.
13. Proposed MCC (394025383369/537N10) 1 April 2010 - A proposal was made by Gerald Eve LLP on behalf of Lafarge Tarmac Cement & Lime Ltd. on 27 March 2015 on the grounds that 'The existing entry divided into 2 with effect from 1 April 2010. The property should be shown as more than one assessment. The entry and assessment of the hereditament is bad in law. The value is excessive, incorrect and unfair and should be reduced. The property should be split into various parts. The Rating List as it relates to the hereditament should be altered as follows: from Cement Works and Premises (N23800900450000) -RV £1,010,000; to Cement Storage, Bagging and Distribution Depot and Premises -RV £1 and Cement Works and Premises RV £1.'
14. Proposed MCC (394025385104/537N10) 31 December 2010 - A proposal was made by Gerald Eve LLP on behalf of Lafarge Tarmac Cement & Lime Ltd on 27 March 2015 on the grounds that 'The rateable value altered to £1 with effect from 31 December 2010. The entry and assessment of the hereditament is bad in law. The value is excessive, incorrect and unfair and should be reduced. Chalk slurry could not be transported to the cement works. The rateable value should be reduced accordingly.'
15. Proposed MCC (394025499208/538N10) 31 December 2010 - A proposal was made by Gerald Eve LLP on behalf of Lafarge Tarmac Cement & Lime Ltd. on 30 March 2015 on the grounds that 'The existing entry divided into 2 with effect from 31 December 2010. The property should be shown as more than one assessment. The entry and assessment of the hereditament is bad in law. The value is excessive, incorrect and unfair and should be reduced. The property

should be split into various parts. The Rating List as it relates to the hereditament should be altered as follows: from Cement Works and Premises (N23800900450000) -RV £1,010,000; to Cement Storage, Bagging and Distribution Depot and Premises -RV £1 and Cement Works and Premises RV £1.'

16. The Valuation Officer ("VO") did not consider the proposals to be well founded and in accordance with Regulation 13(1) the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended), the VO referred the disagreement to the Tribunal.
17. There were a number of appeals outstanding when the hearing notices issued but by the time of the hearing the contentions of the parties had been reduced to:
    a. Appellant: Rateable Value £ 214,000 with effect from 1 April 2010 & 31 December 2010; or
    b. Respondent: Rateable Value £ 1,010,000 with effect from 1 April 2010 & £610,000 with effect from 31 December 2010.

Facts

18. No statement of agreed facts had been provided although the parties agreed that at 1 April 2008 (AVD) all cement plants in England and Wales were at full production due to demand at that time and as at 31 December 2010 Mr Hulin, a third party, was in occupation of part of the pipeline assessment. This effectively severed the link between the cement works and its main raw material source, the quarry.

Issues

19. Whether or not the cement production works was capable of beneficial occupation or beyond economic repair as at 1 April 2010. There had, according to the Respondent, been a partial use change to a depot and whether the assessment should be split and if the valuation was excessive.
20. Whether or not the assessment on the cement production plant was excessive as at 31 December 2010 as chalk slurry could not be transported to the cement plant and in the alternative if a split of the assessment was justified to reflect the partial use as a depot.

Background

Re: APCM, Westbury Cement Works Quarry, Westbury, Wilts BA13 3AY (the pipeline)

The Hereditament

21. This hereditament linked the cement production plant to the quarry which supplied most of the raw materials required for the manufacture of cement. The appeal property originally comprised two metal pipelines constructed below ground with one used to supply water to the quarry from the cement plant to create chalk slurry, the other used for transporting the slurry from the quarry to the cement plant, both in the same pipe track. There was also an electric cable supplying power to the quarry from the cement production plant. The pipes cross over a network rail railway and the ratepayer's own internal rail sidings both next to the cement production plant via a concrete bridge. The pipes also pass under two minor roads. Subsequently a third plastic pipe was laid as part of the pipeline operations.
22. A Mr Hulin, third party, took over occupation of part of the pipeline in late 2010 as a conduit for his new water pipe which rendered the whole operational pipeline system incapable of transporting chalk slurry from the quarry to the cement works.
23. With the commencement of demolitions of the cement production plant on 7 March 2016 the pipeline assessment was originally deleted from the rating list although by the time of the hearing, the effective date of the alteration had been altered to 31 December 2010.
24. The circumstances concerning these appeals was set out in the Respondent's case:

    Compiled List (394025388338/537N10) - A proposal was made by Gerald Eve LLP on behalf of Lafarge Tarmac Cement and Lime Ltd, on 27 March 2015 on the grounds that 'The Rateable Value altered to £1 with effect from 1 April 2010. The Rateable Value shown in the Rating List on 1 April 2010 was inaccurate.'

    Proposed MCC (394025388344/537N10) 31 December 2010 - A proposal was made by Gerald Eve LLP on behalf of Lafarge Tarmac Cement and Lime Ltd, on 27 March 2015 on the grounds that 'The Rateable Value altered to £1 with effect from 31 December 2010. Circumstances affecting the rateable value of the property changed on 31 December 2010. The entry and assessment of the hereditament is bad in law. The value is excessive, incorrect and unfair and should be reduced. The pipeline ceased to be capable of transporting slurry from the quarry to the cement works.'

25. The Valuation Officer ("VO") did not initially consider the proposals to be well founded and in accordance with Regulation 13(1) the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the VO referred the disagreement to the Tribunal.
26. However, by the time of the hearing the Valuation Officer had given effect to the MCC proposal by deleting the entry from that date.
27. There were a number of appeals outstanding when the hearing notices issued but by the time of the hearing the contentions of the parties had been reduced to:

    Appellant: Rateable Value £0 with effect from 1 April 2010;

    Respondent Rateable Value £61,000 with effect from 1 April 2010

Facts

28. No statement of agreed facts had been provided

Issue

29. The issue as to whether the pipeline was capable of beneficial occupation at 1 April 2010

Background

Re: Blue Circle Industries Limited, Westbury Down, Westbury, Wilts BA13 4LX (the quarry)

Hereditament

30. Chalk was extracted from the Quarry using specialist excavators.
31. The circumstances concerning the outstanding appeal was helpfully set out in the Respondent’s case:

(394025388344) Proposed RV reduction at 1 April 2010 A proposal was made by Gerald Eve LLP on behalf of Lafarge Tarmac Cement & Lime Ltd on 27 March 2015 to alter the rateable value to £1 with effect from 1 April 2010 on the grounds that the Rating List entry was incorrect.

Detailed reasons given as:

1 The entry(ies) and/or assessment(s) of the hereditament(s) is/are bad in law; and

2 The value(s) is/are excessive, incorrect and unfair and should be reduced

32. The Valuation Officer ("VO") did not consider the proposal to be well founded and in accordance with Regulation 13(1) the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the VO referred the disagreement to the Tribunal.

Facts

33. No statement of agreed facts had been provided but it appeared to the Respondent that the component parts of the Rateable Value of £66,500 were not in dispute other than whether the value should be reduced to £1 or the entry deleted at 1 April 2010.
34. The appeal was requesting a reduction to £1RV. At this date it is understood that all rateable buildings, plant and machinery remained in situ in the quarry and were capable of beneficial occupation and it is understood that the occupier had only mothballed the site.
35. The quarry also had the benefit of three leases to extract the mineral. All three leases commenced in January 2000 for periods of 40 years. All allowed for a Certain Rent together with a Royalty Rent payable for each tonne of mineral extracted. No evidence had been provided that any or all of these leases had been terminated and the latest payment details provided by the Respondent were as follows:
    a. Lessor - Sir Michael William Hanham, Corydon Putt Luxmoore and Paul Richard Causton from 1 January 2000 for 40 years with the last rent review on 1 January 2006 and a certain rent of £5,000 pa.

b. Lessor - The Secretary of State for Defence from 1 January 2000 for 40 years with the last rent review on 1 January 2013 and a certain rent of £65,775 pa.
c. Lessor - Church Commissioners for England 1 January 2000 for 40 years with the last rent review on 1 January 2009 and a certain rent of £11,492 pa.

Issue

36. The issue as to whether the quarry was capable of beneficial occupation at 1 April 2010
37. It was said by the Respondent that the quarry was capable of beneficial occupation as:
    a. Extant planning permission and sufficient reserves available to be extracted and a number of leases were in place to allow this extraction.
    b. The rateable buildings, plant and machinery were still present on site and at that date were maintained in such a state that they could be occupied for the purposes of mineral extraction.
    c. The pipeline was still intact.

The Process

38. The Appellant's representative set out in his case the process and the sequence of events:

    6.3 Chalk was extracted from the Quarry using specialist excavators. The excavators loaded articulated dump trucks which hauled the chalk up to the processing plant area. Here it was tipped into a stockpile which was used to feed a primary crusher. The primary crusher reduced the size of the lumps of excavated chalk to a uniform size of below circa 40mm diameter. This crusher was removed between 1 April 2009 and 1 April 2010.

    6.4. I understand that this smaller size chalk was then loaded into a secondary crusher (also removed prior to 1 April 2010) where the particle size of the chalk was further reduced. The crushed chalk was then fed into a ball mill housed in one of the plant buildings.

6.5. The ball mill is a substantial item of plant; a steel cylinder with a diameter of circa 2m set on foundations at a slight incline. It contained hundreds of steel ball bearings about the size of tennis balls. The crushed chalk was fed into the raised end of the mill which was rotated by an electric motor. The ball bearings smashed the chalk and ground it to a fine powder. The powder was then mixed with water to form a chalk slurry in the agitation tanks next to the ball mill. The water was added to enable the chalk, suspended in solution with a creamy milk like consistency, to be pumped through pipework.

6.6. The slurry was then pumped from the smaller tanks in the plant area up to a larger concrete tank at the top of the hill. The chalk slurry was gravity-fed through the Pipeline in order to supply it to the Cement Works circa 2km to the north.

6.7. The Pipeline passed under public roads and private land in third party ownership before passing over the London to Bristol railway line on a dedicated private bridge, and into the Works. I understand that "the Pipeline" actually consists of several pipes and cables; two pipes that transport the cement slurry downhill, a pipe used to transport water uphill from the Works and telemetry cables to control and monitor the Pipeline.

6.8. There was no source of water at the Quarry (which is located less than a kilometre from the Westbury White Horse on a dry chalk escarpment) so the waterpipe was essential to transport water from the valley below to the Quarry to enable the production of the chalk slurry. Without the water pipeline the whole process would literally run dry and cease to operate; chalk dust cannot be pumped and will not flow downhill in a 2km pipe.

6.9. At the Cement Works the slurry mix was heated to evaporate off the water. It was mixed with clay and the complex process was undertaken to produce cement.

6.10. The Works used the obsolete wet process method, in use during World War II, which had very high operational costs. I understand that its energy consumption was almost double that of a modern pre-calciner *plant; since World War II there have been considerable improvements in technology and more efficient processes have been developed.*

6.11. The average costs of clinker production (the first stage of producing cement) at Westbury in 2005 and 2006 were the highest of the 25 cement plants operated worldwide by Lafarge Cement (who were the operating company of Westbury in 2007).

6.12. Once produced the cement, a fine grey powder, was stored in silos at the Works. It was then either dispatched in bulk by road in specialist tankers, or it was bagged in small, man handleable sacks for dispatch by road.

6.13. The above historic operations ceased prior to the start of the 2010 Rating List, i.e., on 1 April 2009. However, they were being undertaken on 1 April 2008 so the sequence of events leading up to the permanent closure of the Quarry, the Pipeline and the Cement Works is relevant.

Sequence of events.

7.1. 1 April 2008

The Quarry, Pipeline and Works were occupied and working as one integrated operation as described above. There were considerable company concerns regarding the condition of the Works (which was then circa 50 years old), increasing coal prices and industry wide concerns regarding carbon emissions and the costs and uncertainties of carbon trading etc. Under the long term planning for the business in the UK, closure of Westbury was actually planned in the early 2000s, well prior to the actual dates above. This was as a result of the proposal for the company to develop a new cement plant in the South East of England - a facility that would be the state of the art technology with low power and manning costs. In the end, due to the 1980s recession this new works was not constructed, but Westbury still closed. However, on 1 April 2008, before the 2008 recession, the combined facility continued in costly operation.

7.2. 1 January 2009

The Works operated two cement kilns. The oldest, Kiln A1, operated from 1 September 1962 until 18 September 2008. Its closure was announced as being effective from 1 January 2009. It was not, as announced in a press release at the time, "mothballed." It was simply switched off without any of the usual shutdown maintenance or other corrosion / damage prevention works being undertaken, as one would expect to be performed on a valuable item of plant that was intended to be used in the future.

6 March 2009 Operations at the Quarry ceased. Chalk extraction ceased. Chalk grinding ceased and shortly thereafter (before 1 April 2009) the chalk slurry tanks at the Quarry were emptied and the Pipeline was used for the last time to transport chalk slurry to the Works.

7.3. 1 April 2009

The second of the two kilns, Kiln A2 was shut down in April 2009 and the Cement Works closed permanently. Again, to ease the blow to the local economy and prevent adverse publicity the press announcement referred to "mothballing" the kiln and Works. However, no maintenance or other corrosion / damage prevention or shutdown works was undertaken.

7.4. Work was undertaken to the rail dispatch facility over the next few months. Pipework, pumps, silos and other equipment was installed to enable the facility to offload cement from tanker trains (rather than loading trains as had happened in the past). This enabled parts of the Works to be used as a cement bagging and distribution depot. Cement powder was, and continues, to be imported in bulk and stored in silos. It was then dispatched in HGV tankers or it was bagged and dispatched in 20kg bags by the pallet load on articulated HGVs to customers.

7.5. 1 April 2010

2010 Rating List commenced on this date. The Quarry was assessed at a Rateable Value of £66,500. The valuation comprises of buildings, plant and machinery and a small amount of specified land only. No mineral was included in the valuation as the Quarry had by then closed.

7.6. Appendix 2 shows the changes in the Rateable Value of the Quarry. As set out in the green coloured heading the draft 2010 RV was £149,000. This included an element for chalk which, correctly, was removed by the time the 2010 List became effective, to reflect the fact that extraction had ceased, and the Quarry was not in operation.

7.7. 31 October 2010

As the Works would never operate again there was no longer any requirement for the Works Sports and Social Club, "the Club", so Lafarge Tarmac decided to sell off this surplus asset. It was sold in 2010 to a Mr Derek Hulin.

7.8. The approximate route of water main that supplied the Quarry ran from the Works, over the private rail bridge, and then under the fields. This water main also provided water to the Sports and Social Club. When it was sold I understand that Mr Hulin was given 6 months to install and connect his own dedicated water supply; the Works was closed permanently and the private rail bridge over which the pipes ran was a long term liability, so was to be demolished. Severing the Pipeline.

7.9. Mr Hulin's son installed a new water main. I am advised that he dug a trench across the fields to lay the pipe from the old Bratton Road, i.e. Westbury Road. When he reached the private road that served the Club he did not dig up the road.

7.10. As the large diameter water main that used to supply the Quarry with water from the Works was disused, he used it as a conduit through which he passed his new smaller diameter water main. This avoided having to dig up the road and the costs of having to resurface it with asphalt.

7.11. Therefore, the water main that provided water to the Quarry was severed in two places and a circa 50m length of the main was used for another purpose, a conduit. This prevented its use as a watermain to supply water to the Quarry. This is confirmed in the email from Mr Hulin.

7.12. It was therefore impossible for water to be supplied to the Quarry. Consequently, it was impossible for chalk slurry to be produced at the

Quarry. As a result the Pipeline could not be occupied or used. The Works could not be supplied with chalk slurry. Therefore it could not be occupied or used as described in the rating list, as a Cement Works and Premises. It was only capable of being occupied as a Cement Depot.

7.13. 31 December 2010

As set out above when Mr Hulin purchased the Club he was given 6 months to install his replacement water supply. I understand that he ran very close to this deadline, or possibly a few days over the 6 months' permitted period. The Lafarge Tarmac Estates Manager responsible for the site at the time has informed me that he did not inspect the site to verify that the works had been undertaken until several weeks later. They had certainly been completed well before the 31 December 2010. The relevance of this date is therefore a date by which the works severing the Pipeline (and hence the connection between the Quarry and Works) had definitely taken place.

The condition of the plant and Machinery at the Works and Quarry

39. The plant and machinery had stood silent for a year at the material day. It was said by Mr Banton that due to its obsolete engineering and dilapidated condition it had no value. He reported that Tarmac engineering staff and two independent engineers (Independent Cement Consultants Ltd) who inspected the Works formed such an opinion. No supporting evidence was produced.

Planning Permission

40. The planning situation was disputed. The Appellant's representative said that no planning permission existed for the importation of clinker at the material days. Without such a permission and with the Quarry and Pipeline no longer in use the Works could not be used to grind clinker into cement. The Respondent's representative didn't agree and Mr O'Dwyer stated he had received contradictory information from the operators.
41. However, I don't believe that it was disputed that the existing planning permission (one assumes granted in the 1960's) was still in effect which allowed the operation to continue using the quarry and pipeline.

42. An email dated 26 February 2021 from Dr Christopher Down, former acting National Planning Manager to Lafarge Cement advised that it took 6 months to obtain planning permission in order to import cement and operate the Works as a Depot. Planning permission was in place prior to 1 April 2010.

43. He also advised that Lafarge were considering many uses for the Works site and that there was an active protest group that wanted the site closed. On 27 July 2010 Lafarge applied for a certificate of lawful use (planning permission) to import clinker but it was not until over 2 years and 3 months later, on 22 November 2012, that it was issued. The effective date was 27 July 2010, i.e., several months after 1 April 2010.

44. An email dated 1 March 2021 from Mr Allan Hampshire, National Engineering Manager for Tarmac who confirmed the history of the closure of the Works. Most importantly he advised that "*The Westbury Cement producing facility, plant, and equipment ceased operation in 2009*" and that "*the plant was simply turned off, and not correctly "mothballed" and did not have a care and maintenance plan in place*".

The operation chain

45. It was argued that there were three separate assessments but they were all part of the integral production chain. If any link was missing then the chain was broken. Mr Banton stated:

> *10.1. On the material day of 1 April 2010 the situation was as follows: -*
>
> *(i) The Quarry was closed and it was not producing chalk.*
>
> *(ii) The Quarry was not capable of producing chalk as the chalk extraction contractors had vacated the Quarry a year before and removed their mobile plant and equipment, including their crushing equipment.*
>
> *(iii) The fixed Quarry plant was not operational and it was not producing a chalk slurry.*
>
> *(iv) I expect that (but cannot be certain) the fixed Quarry plant was not capable of producing chalk slurry as the plant had not been used for over a year and no maintenance work had been undertaken. When I inspected the Quarry several years later all copper cables of any value had been*

stolen so the plant was not connected to the mains electricity and could not operate.

(v) The Pipeline was not in use to transport chalk slurry from the Quarry to the Works.

(vi) The Pipeline could not be used to transport chalk slurry from the Quarry to the Works, as no slurry was being produced or was capable of being produced.

(vii) Part of the Works had been converted to a Depot reliant on the bulk importation of cement by rail. Pumps, pipework and motors etc had previously been installed to enable cement to be imported and stored in silos at the Depot. The cement production part of the Works had been severed from the depot part of the Works as pipework that used to supply cement had been disconnected. Bagged cement was distributed by road from the Depot.

46. As at the material day the mode and category of use was that of a Cement Storage Depot and Premises. The Quarry was no longer being occupied nor was the pipeline so the cement works could not be used.

47. I was advised that both the Quarry and Pipeline assessments were no longer liable for rates as they were both granted relief for the 2010 Rating List as empty.

The Law

48. The statutory hypothesis is contained in paragraph 2 of Schedule 6 to the Local Government Finance Act 1988. The statutory definition of rateable value is as follows;

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(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.

49. For the purposes of these valuations I am considering the rental value at 1 April 2008 (AVD). Although the rateable value is determined having regard to the AVD, the valuation must reflect physical facts relating to the property and its locality as at the time the date the assessment is made or amended (called the material day). Paragraph 2 (6) and 2(7) of Schedule 6 to the Local Government Finance 1988 set out the matters which are relevant for these appeals:

(6) Where the rateable value is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force) the matters mentioned in sub-paragraph (7) below shall be taken to be as they are assumed to be on the material day.

(6A) For the purposes of sub-paragraph (6) above the material day shall be such day as is determined in accordance with rules prescribed by regulations made by the Secretary of State.

(7) The matters are—

(a) matters affecting the physical state or physical enjoyment of the hereditament,

(b) the mode or category of occupation of the hereditament,

(c) the quantity of minerals or other substances in or extracted from the hereditament, (cc)…,

(d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and

(e) the use or occupation of other premises situated in the locality of the hereditament.

50. The material days for the appeals still in dispute appeared to be either 1 April 2010 or 31 December 2010. Nothing appeared to turn on those dates and the parties appeared to agree the circumstances surrounding each hereditament at the material days.

51. In *Cemex UK Operations Ltd v O'Dwyer (VO)* [2019] UKUT 0106 (LC) the main issue in dispute was whether the assessment should be altered to reflect overcapacity issues when demand for cement fell in the market place. When demand fell, Cemex effectively mothballed some of the works like conveyor belts and kilns and operated at a reduced capacity. When demand picked up, the plant was brought fully back into use. As economic factors were fixed at the AVD, the VTE did not have much sympathy with the ratepayer's argument and dismissed the appeal. The VTE's decision was upheld by the Upper Tribunal. The UT stated:

16. The Works has two functioning cement production lines. Central to each of these lines is a kiln. The two kilns are identified as Kiln 2 and Kiln 3 (there is no kiln 1).

17. At the AVD of 1 April 2008 the level of demand for cement was such that Kilns 2 and 3, and the buildings, plant and machinery associated with them were in full operation. Extraction of raw materials from the Quarry was at a level which serviced the requirements of both Kilns.

18. The effect of the global financial crisis of 2008 on the UK cement industry was to cause several cement plants to close, including Cemex's operation in Barrington in Cambridgeshire. Quarry production at the appeal property began to decline but not until after the AVD, with the first noticeable drop occurring in June 2008.

19. By 2009 demand for cement had dropped and output had fallen to such a level that Kiln 2 was shut down and its associated buildings, plant and machinery were taken out of use. Kiln 3 and its cement production line remained in operation. That was the state of affairs at the material day, 1 April 2010.

20. Although it was out of normal operation, Kiln 2 was not wholly redundant and was kept on stand-by. Together with another plant at Tilbury it was brought back into use at short notice when the company's operation at Rugby was shut down temporarily in 2012. Its state of readiness was evidenced by an article in an in-house magazine:

> *"with just a few days' notice, South Ferriby's newly refurbished kiln 2 came into service alongside kiln 3. As Rugby ran down its own stocks of clinker, South Ferriby worked flat out to fill the gap…"*

52. On the point concerning Kiln 2 the Upper Tribunal said:

42. *Even if we had been in agreement with Mr Wilcox that the capacity of the hereditament to produce cement must be taken to be limited by reference to the output which could be achieved assuming 2010 levels of sand and chalk extraction from the Quarry, we would not have accepted Mr Clarke's contention that little or no value should therefore be attributed to one of the Kilns and its production line. The notional rent which is to be determined under paragraph 2 of Schedule 6, LGFA 1988 is a rent for the whole of the hereditament, including both production lines and Kilns. Unless it was suggested that the second Kiln was entirely redundant it would be wrong in principle to value the hereditament without regard to its presence. The second Kiln was clearly not redundant, as the appellant's decision to refurbish it and its subsequent use when the appellant's operation at Rugby was interrupted for ten weeks demonstrate. As the changes in the demand for cement between the AVD and the material day also illustrate, fluctuation is a feature of the market for the supply of materials for the construction industry which the hereditament is designed to service.*

Discussion.

Burden of proof

53. The Appellant's representative in his summing up stated that the Valuation Officer had failed to prove, amongst a list of items, that the cement works should be valued as such at 1 April 2010 or any later date. It is rare that I need to address the burden of proof point but in this case with neither Mr O'Dwyer nor Mr Jones ever having inspected the hereditaments and Mr Banton only sometime after, and the evidence containing a mixture of conflicting evidential and hearsay statements, it appeared to me to become an important point.
54. The legal burden falls on the person who takes the consequence that an issue cannot be established or the person who seeks to disturb the status quo at the time of the case (the person making the appeal). The legal burden never changes. It only becomes a consideration if the Tribunal is unable to make findings of fact relevant to the issue before them on a 'balance of probabilities' basis.
55. The evidential burden determines who has to produce (further) evidence in order to succeed on a particular issue. It will often vary from party to party during the hearing, depending on the state of the evidence at any particular time. It tends to be referred to as the weight of evidence.
56. The standard of proof is the degree of likelihood with which an issue must be established. It is seldom possible to establish facts with certainty. In practice, the law usually has to be applied to facts established on the basis of probability rather than certainty. Probability is the measure of confidence that a Tribunal has in its finding of facts. The civil standard of proof was addressed by Denning J in *Miller v Minister of Pensions* [1947] 2 All ER 372:

If the evidence is such that the tribunal can say 'We think it more probable than not', the burden is discharged…

57. In *Irving Brown and Daughter* v *Smith (VO)* RA/421/1993 the Lands Tribunal looked at this point. Mr P H Clarke FRICS said on the point in respect of an appeal on a former shop and mode and category of use:

Thus the onus is on Mr Brown to show me that the decision of the valuation tribunal is wrong and that his contention is well founded. The evidential burden is placed on both Mr Brown and the valuation officer in respect of the issues of *fact on which each has put forward evidence. To succeed each must prove the facts he puts forward.*

58. Mr Clarke then went on to say:

The final question of law relates to the onus of proof. As I understand his argument, Mr Brown maintains that the burden of proof is wholly on the valuation officer in this appeal. I do not agree. There are two aspects to the burden of proof: the persuasive or legal burden, which is general and is summarised in the maxim "he who asserts must prove"; and the evidential burden, which is specific and requires a party wishing to put a fact before the tribunal to prove it, usually by evidence.

The persuasive burden in this appeal is based on the ratepayers as appellant, not on the valuation officer by virtue of his statutory duty to prepare and alter the rating list. To succeed in this appeal Mr Brown must persuade me that the decision of the valuation tribunal is wrong…"

"Thus, the onus is on Mr Brown to show me that the decision of the valuation tribunal is wrong and that his contention is well founded. The evidential burden is placed on both Mr Brown and the valuation officer in respect of the issues of fact on which each has put forward evidence. To succeed each must prove the facts he puts forward. "

59. I believe that the issue before me can largely be addressed through adopting the test set out by the Supreme Court in *Newbigin (VO)* v. *S J & J Monk* [2017] UKSC 14. I say that as what the Appellant was arguing before me was that following the closure of the cement works and consequential stoppage of use of the quarry and pipeline at the compiled list date the value of the cement works element of the hereditament was £1 as it was not capable of beneficial occupation. If he failed on that point then he considered that the cement works use had changed to that of storage and packaging only (change of mode or category of use) or in the alternative that the equipment wasn't capable of economic repair (repair issues). These tests were set out in *Monk* by an intervention of the Rating Surveyors' Association as a three stage test:

> Is the property still a hereditament that is capable of beneficial occupation?

If so, what is the mode or category (use) of that occupation?

Is it in a state of reasonable repair consistent with such use?

60. To answer those questions I needed to consider in respect of the first two the reality principle as identified in *Monk*:

12. *For many years and long before Parliament enacted Schedule 6 to the 1988 Act, it had been an established principle of rating law that a hereditament is to be valued as it in fact existed at the material day. This principle, which in the past was described by the Latin phrase, rebus sic stantibus (ie as things stand), and is often referred to as "the principle of reality" or "the reality principle", was stated by Lord Buckmaster in Poplar Assessment Committee v Roberts [1922] 2 AC 93, 103, thus: "[Al]though the tenant is imaginary, the conditions in which his rent is to be determined cannot be imaginary. They are the actual conditions affecting the hereditament at the time when the valuation is made."*

13. *In Dawkins (VO) v Ash Brothers and Heaton Ltd [1969] 2 AC 366, in which the House of Lords held that the Lands Tribunal had been correct to take account of an existing demolition order in assessing the hypothetical rent, Lord Pearce stated (382):*

> *"one must assume a hypothetical letting (which in many cases would never in fact occur) in order to do the best one can to form some estimate of what value should be attributed to a hereditament on the universal standard, namely a letting 'from year to year'. But one only excludes the human realities to a limited and necessary extent, since it is only the human realities that give any value at all to hereditaments. They are excluded in so far as they are accidental to the letting of a hereditament. They are acknowledged in so far as they are essential to the hereditament itself."*

In the same case, Lord Wilberforce described the reality principle thus (385-386):

> *"The principle that the property must be valued as it exists at the relevant date is an old one … The principle was mainly devised to meet, and it does deal with, an obvious type of case where the character or condition of the property either has undergone a change or is about to do so: thus a house in course of construction cannot be rated: nor can a*

> *building be rated by reference to changes which might be made in it either as to its structure or its use."*

In this passage Lord Wilberforce referred to each of what is generally regarded as the two limbs of the reality principle, namely the physical state of the property and its use.

14. *The reality principle continues to be a fundamental principle of rating and is manifested in Schedule 6 to the 1988 Act, in particular in para 2(6) and (7). In Scottish & Newcastle Retail Ltd v Williams (VO) [2001] 1 EGLR 157 the Court of Appeal upheld the decision of the Lands Tribunal that the reality principle meant that it was assumed that a hereditament was in the same physical state as upon the material day, save for minor alterations, and could be occupied only for a purpose within the same mode or category of purpose as that for which it was occupied on the material day. Thus in that case two public houses in a shopping centre had to be valued as public houses and not as retail units.*

Is each assessment still a hereditament that is capable of beneficial occupation?

61. This point appeared to me to have two strands to it. The first being the impact of the closure of the works, quarry and pipeline on each hereditament and the second being whether closure of one (or all) meant that the operational chain had been broken.

Impact of the closure

62. The circumstances and dates of the closure of the three hereditaments have been set out earlier. There was no dispute between the parties, as far as I could tell, that the pipeline was capable of being operated at 1 April 2010. Nothing had changed in respect of the pipeline at that date and the entry had been deleted from 31 December 2010.
63. The quarry was slightly more complicated in that the non-rateable portable crushers had been removed by the material day. The state of the permanent equipment was unknown (wiring had been stolen but this wasn't found to be the case until many years later on inspection). The question it seemed to me was whether an overt act had occurred. In *Monk* it wasn't simply that the office was empty but that it had been stripped back to such an extent that it was no longer a hereditament, having lost its identity. I say that as otherwise it became a repair issue. I heard from both parties that there was sufficient chalk

available for the operation to continue and it seemed to me there was nothing to stop the contractors returning to the quarry and operations commencing again.

64. The cement works was slightly more difficult to address. The operation was closed in April 2009 when Kiln A2 was shut down (with Kiln A1 having been shut in September 2008). It was said by Mr Banton (who had no involvement with the company or the site at that time) that it was switched off without any of the usual shutdown maintenance or other corrosion/damage prevention works being undertaken which would be performed on a valuable item of plant. It was said at that date to be obsolete and in a dilapidated condition.

65. It was also said by Mr Banton that part of the Works had been converted to a cement depot reliant on the bulk importation of cement by rail. Pumps, pipework and motors had been installed to enable cement to be imported and stored in silos at the depot. The cement production part of the Works had been severed from the depot part of the Works as pipework that used to supply cement had been disconnected. Bagged cement was distributed by road from the Depot. I understood from Mr Banton that temporary planning permission to import cement in bulk by rail was granted by Wiltshire Council on 17 June 2009. There was also no dispute that the original planning permission to allow for the process that started in the 1960's (the transporting of cement slurry through a pipe from the quarry) was still effective.

66. There was no evidence put to me that any change in process from April 2010 affected the rateable plant and machinery at the Cement Works which had been in situ when the Works closed down. Some pipes at the works may have been split but that was all. In order to meet the test in *Monk* something more had to be demonstrated such as the stripping back of production items so it was no longer capable of occupation as a Works.

67. In *Cemex UK Operations Ltd v O'Dwyer (VO)* [2019] UKUT 0106 (LC) the Upper Tribunal said, in relation to a Kiln which had been closed down when demand was reduced, the following:

> *"Even if we had been in agreement with Mr Wilcox that the capacity of the hereditament to produce cement must be taken to be limited by reference to the output which could be achieved assuming 2010 levels of sand and chalk extraction from the Quarry, we would not have accepted Mr Clarke's contention that little or no value should therefore be attributed to one of*

the Kilns and its production line. The notional rent which is to be determined under paragraph 2 of Schedule 6, LGFA 1988 is a rent for the whole of the hereditament, including both production lines and Kilns. Unless it was suggested that the second Kiln was entirely redundant it would be wrong in principle to value the hereditament without regard to its presence. The second Kiln was clearly not redundant, as the appellant's decision to refurbish it and its subsequent use when the appellant's operation at Rugby was interrupted for ten weeks demonstrate. As the changes in the demand for cement between the AVD and the material day also illustrate, fluctuation is a feature of the market for the supply of materials for the construction industry which the hereditament is designed to service."

68. In order for me to find the works were redundant it seemed to me that something more had to be demonstrated other than the hearsay evidence from Mr Banton and an email from Mr Allan Hampshire, National Engineering Manager for Tarmac, who confirmed that the plant was turned off. I don't believe from the sparse information provided that a sufficient (overt) act to change the character of the hereditament occurred; indeed the owners were stating that it still had potential for use as a cement works. The burden was on the Appellant to satisfy me that the works undertaken were of such a nature that the hereditament was no longer capable of beneficial occupation as a cement works, the general evidence provided just didn't do that.
69. I say that as there is evidence to the contrary from the Respondent that the works were not redundant at 1 April 2010 and capable of being used again. In July 2020 Lafarge Cement made an application for a certificate of lawfulness of proposed use or development for the Westbury Works. In that document it was stated in the introduction:

'On 17 June 2010 Lafarge Cement UK announced that as a result of economic and market conditions the cement kilns, chalk and clay quarries at Westbury Cement Works would be permanently closed. This followed the mothballing of the site with effect from February 2009. This formally brought to an end the cement clinker manufacturing process that commenced at Westbury in 1962'

70. Furthermore, at 4.4 of the report Lafarge Cement UK go on to say:

'Henceforward however Lafarge Cement UK plans to retain the Westbury Works milling capacity for processing clinker into finished cement products on site'.

71. In support of his case Mr O'Dwyer quoted his valuation approach in respect of the Barrington site (a similar wet process facility) where an entry remained in the Rating List until demolition occurred. I didn't find this so called comparable helpful in this case where I needed to understand the circumstances that existed at the material days and test that against the case law provided.
72. It would appear to me that the cement works closed and were not open at the material day 1 April 2010 as it was not of benefit to the company due to the market conditions that were prevalent at the time. It wasn't until after that date that the owners made an announcement and at the material day the site was 'mothballed'. Mr Banton admitted that at AVD the works were making a profit (albeit probably a smaller one than other sites due to the age and production technique).
73. In conclusion, I could not find from the limited evidence before me that on the balance of probabilities that the cement works was redundant at the material day of 1 April 2010. On that basis, the Appellant's proposed nominal entries were not justified.
74. It wasn't until December 2010 that the pipeline between the quarry and works was severed resulting in part of the site no longer being used for the carrying of the slurry thus creating a different hereditament.
75. By the second material day of 31 December 2010 had things significantly changed? By that date the pipeline was no longer possible of being used as it had been cut in two places. Clearly there could no longer be a value for the pipeline which had been deleted from the Rating List by the time of the hearing. The quarry still had reserves available and a rent was being paid. Nothing appeared to have changed from the earlier material day for the quarry or cement works. Demolition didn't commence on the cement works until March 2016.
76. However, the planning position was slightly more complicated at 31 December 2010. Mr Banton said there was no permission in place for the import of clinker but this was disputed by Mr O'Dwyer, although neither party produced any documentary evidence to substantiate their respective version of events. It may well have been the position that the original planning consent (although

not provided in evidence) would have been given for the cement works operating in tandem with the quarry and pipeline only. This meant that under the reality principle there may well have not been any permission to import clinker. But did the Appellant satisfy me that was the case? Given that Mr O'Dwyer disputed the permission he did not.

77. Furthermore, if the market had changed would the Appellant have sought it? Given their statement of intention it appeared to me most likely they would have, and given the original planning permission and the additional permission to import cement by rail, I could see no reason why such permission would not have been granted. However, would such a position taken by me offend the reality principle? I probably don't need to answer that due to the lack of evidence on what permission was in place.

78. One of the proposals sought a split between the cement works and the cement depot that existed at 31 December 2010. Mr O'Dwyer had recognised the existence of the two aspects by including figures in his assessment for the cement storage operation and removing those elements that focused on the clinker operation. I didn't hear any argument from Mr Banton on why a split should take place, both were in the same ownership and the operations at both parts appeared to me to sit well together and I heard no argument about boundaries or access. Therefore, I saw no reason to split the assessment.

The Operational chain

79. The point in dispute was that if valuing the cement works at 1 April 2010 'vacant and to let' the assumption would be that a tenant was available who would be willing to rent it. However, under the reality principle the quarry and pipeline were not in use at that time and the Appellant argued that no hypothetical tenant would pay a rent for a cement works where there was no planning permission in force to supply it with the chalk slurry required other than by pipe from a quarry, neither of which were in use.

80. The Respondent refers to case law on the point. In *Celsa Steel (UK) Ltd* and *Stephen Clive Webb* [2017] UKUT 0133 (LC) the Upper Tribunal was asked to decide whether the most likely the hypothetical tenant of Tremorfa Steelworks would also be the hypothetical tenant of Castle Works. The point being that if such an assumption wasn't made then the value of Tremorfa Steelworks (which relied on Castle Works) would be affected. The UT said on the point:

"49. We have no difficulty in accepting that the most likely hypothetical tenant would also be the occupier of Castle Works. Indeed (despite the suggestions of Mr Emmott and Mr Webb) we think it highly unlikely that there would be any other tenant. There are a variety of reasons for this. First Tremorfa Works and Castle Works have always been run as an integrated operation; second there are many of the points made by Mr Beattie. There are no other examples of a successful melt shop without a guaranteed downstream user of its product; the two works are close together and can operate as an integrated operation. The volume of billets that can be produced by Temorfa Works is precisely that required by Castle Works. Thus Castle Works would have the advantage of a guaranteed supply of quality billets which can be delivered almost instantaneously. We think it highly unlikely that any of the other steel makers would consider taking a tenancy of Tremorfa Works unless they also were in occupation of Castle Works.

50. If our view of the hypothetical tenant is correct most of the points taken by Celsa Steel vanish. There is a guaranteed user for the billets and there is no risk that Castle Works will purchase its billet elsewhere. The operation will continue precisely as it did before. We take this into account under the principle of reality discussed above. It is supported by cases cited by Mr Flanagan in paragraph 19 of his skeleton argument such as Robinson Bros v Durham Assessment Committee [1938] AC 321.

51. On this basis most of the arguments suggested by Mr Beattie fall away. The only basis that could be raised to persuade the landlord to reduce the rent would be that there is no pool of tenants and that of itself should justify a reduction under stage 5. However, there are many examples under the Contractor's basis where the occupier is the sole possible hypothetical tenant – Sellafield was cited as a prime example. We do not think that that is sufficient to justify a stage 5 reduction. Thus we agree with the Valuation Officer that there should be no additional reduction in this case.

52. If, contrary to our view, there is a hypothetical tenant who is not also the occupier of Castle Works, we think that the asymmetry arguments have been overstated. In our view the advantages to the occupier of Castle Works in coming to an agreement with the occupier of Tremorfa Works are so strong that some agreement would almost certainly have been reached which would have removed the uncertainties upon which Celsa Steel's case is based. We accordingly think that these uncertainties are more apparent than real. We agree with Mr Webb that they do not justify the making of any further reduction at stage 5.

81. Mr O’Dwyer put to me that Mr Banton was ‘overplaying’ the asymmetry point. Prior to the material day, and up to closure, all three hereditaments had been operated together. The planning permission allowed for it to happen (of that I was certain!). At the material day all three were under the control of the Appellant. I had no doubt that if demand for cement had reached the levels seen at AVD then, on the basis of my finding earlier in respect of the three hereditaments, they would all have been up and running. Therefore, it would be reasonable to assume that the potential tenant of the Works would also be the tenant of the pipeline and quarry.
82. I was satisfied that the reason that the cement works had closed when it did, which was just a year before the material day of 1 April 2010, was due to demand. It may have become outdated, although Mr O’Dwyer stated he had come across older buildings, but it was still clearly performing at a level which was acceptable to the occupier. If I decided in Mr Banton’s favour on this point I was doing no more than giving effect to the consequences of the economic situation at the material day rather than at the AVD. However, this would be wrong, as economic factors were fixed as at the AVD.
83. With the pipeline no longer capable of being used by 31 December 2010 the question was no longer relevant. The question then was whether the Cement Works was capable of operating without the pipeline and quarry. I found earlier that it could.

Mode or category of use

84. Mr Banton considered that the mode or category of use had changed at the material day of 1 April 2010 as part of the cement works was being used as storage. It would appear from the planning permission granted at the time and the evidence provided that this was the case. However, the cement works was still capable of being used as a cement works in tandem with the quarry and pipeline at that time. The reason why it wasn’t and part of the hereditament used as a depot was purely one of demand for cement at the material day. On that basis I had no doubt that, as demonstrated at AVD, the whole works would have been operational as such and valued on that basis. Whilst actual use may have changed the cement works was still, in my opinion, capable of being used as a cement works.
85. However, by 31 December 2010 things had changed. The pipeline had been split and it was no longer possible to use the three hereditaments in tandem.

This then changed the valuation of the site. The appellant indicated in their business plan that they would utilise rail (or road) connections to bring clinker to the cement works and therefore the works still had value, although there was a dispute over whether planning permission for this to occur was required. However, the certificate of lawfulness gave a strong indication that this was a potential future use. Did the reality principle, that planning permission hadn't yet been granted, prevent such a valuation? I decided earlier that it did not. The Respondent had reflected the change in the make-up and the use of part of the site as a depot for the storage of cement. But that didn't mean that the remainder, only some 20 months after closure, should no longer be valued as a cement works in the absence of evidence to the contrary. If empty at the material day and with demand for cement at the level seen at AVD what was the most likely use of the hereditament? Clearly to make cement from clinker for part and the other for the storage of cement.

Reasonable repair

86. On this point I was looking at the repair issue in relation to the statutory terms of the hypothetical tenancy. The Appellant claimed that the cost of repairs were in the region of £40 million. Mr Banton had said that the works were obsolete and in a dilapidated condition. As discussed above such a statement was contrary to what the company was promoting at the time. No expert witness report on the breakdown of those costs was provided, no details on whether all or some of the items in that figure were rateable plant and machinery, or even if the costs quoted reflected improvements or just repairs.
87. The burden was on the Appellant and I could not, from what was no more than appeared to be a speculative figure, find for the Appellant on the point.

The Decision

88. In conclusion I decided that the cement works, quarry and pipeline were still capable of being used as such on 1 April 2010 and therefore all associated appeals were dismissed.
89. By 31 December 2010 the pipeline had been severed and I understood that the entry in relation to that assessment has now been deleted. As a result of that various aspects of the cement works associated with the clinker production were no longer of use and the Respondent had altered his valuation to reflect

their removal. This then left a valuation of £610,000 RV as proposed by the Respondent to reflect the cement works part which could be used and the cement depot.

90. The initial 15% end allowance for the whole site to reflect the inefficiency of the wet process had been removed as they reflected the manufacture of clinker from slurry which of course was no longer valued.

91. In conclusion I was satisfied with the Respondent's approach to the valuation which required an alteration to the Rating List.

Order of the Tribunal

The Valuation Officer is ordered to amend the Rating List within two weeks to:

Portland Cement Manufacturers (A), Trowbridge Road, Westbury, Wilts BA13 4LX RV £610,000 with effect from 31 December 2010.

Date: 26 March 2021

Appeal numbers:

APPEAL NUMBERS: 394023506439/541N10, 394025383369/537N10, 394025385104/537N10, 394025499208/538N10, 394025388338/537N10, 394025385071/537N10, 394025388344/537N10

Vice - President

Registrar