

Re: Aldwark Bridge Toll Review Application

Re: Section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 for the Revision of charges by independent harbour undertakings, etc.

Opening submissions on behalf of the Applicant

1. Introduction

- 1.1 This is an application by Aldwark Toll Bridge LLP (“the Applicant”) to raise tolls on the Aldwark Toll Bridge (“the toll bridge”) over the River Ure near Linton-on-Ouse, North Yorkshire pursuant to section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 and Part 1 of the Aldwark Bridge Act 1772.

2. Factual background

Geographical context

- 2.1 The toll bridge is a privately owned toll bridge carrying a minor road over the River Ure some 16 km (10 miles) northwest of the City of York. The bridge provides the only crossing of the river between the A1237 York Ring Road and the B6265 at Boroughbridge, a total distance of some 26 km (16 miles) measured in a straight line but much further measured along the minor roads available as alternative routes.
- 2.2 The rivers of this part of the Vale of York include the River Nidd, the River Ure and the River Swale, which combine to form the River Ouse upstream of the City of York. The road bridges over these three rivers are some distance upstream of their confluences. As a result, there is a large approximately rectangular swathe of country bounded by the villages of Boroughbridge, Brafferton, Skelton and Green Hammerton which is without any cross-cutting through road except Aldwark toll bridge.

Structure of the bridge

- 2.3 The bridge approaches on both sides consist of about 75 m of brick arches across the flood plain. The river crossing consists of four 13-15 m spans of upstand lattice trusses supported on intermediate iron columns. The two-layer timber deck of the river crossing sits on steel crossbeams which are bolted to the bottom flanges of the lattice trusses.
- 2.4 The bridge is only wide enough for one-way traffic and vehicles must wait at the approaches in order to allow opposing traffic to pass. The informatory and mandatory approach signs to the bridge from both directions show that there is a weight limit of 7.5 tonnes.

Refurbishment works

- 2.5 The Applicant has undertaken a significant refurbishment of the bridge, costing in excess of £700,000, with total capital now employed being a total of £2,090,829. The toll bridge has many known (or reasonably known) fixed costs and the Applicant has now owned the bridge for a number of years so can reliably forecast on future costings based on recent historic levels of expenditure.

Previous application

- 2.6 By an application dated 8 September 2020, the Applicant made a previous application to increase tolls on the toll bridge (application reference number DPI/P2475/21/4). Following an inquiry in 2022, Inspector Heward recommended that the Applicant had failed to satisfy the statutory

conditions in section 6(3) of the 1954 Act and recommended that the Secretary of State refuse to make a Toll Revision Order. In her decision letter dated 30th September 2022, the then Secretary of State agreed with the Inspector and decided that the application for a Toll Revision Order should not be approved.

2.7 The principal concerns identified by the Secretary of State were set out in paragraphs 11 and 12 of her decision letter were as follows:

‘11. The Secretary of State has noted the Inspector’s conclusions at paragraph 6 of the IR. She agrees with the Inspector’s conclusions made on: -

1) Income (paragraph 6.17 of the IR), traffic flow data (paragraph 6.18 – 6.33 of the IR), the effects of COVID-19 (paragraphs 6.34 – 6.40 of the IR), the impact of RAF Linton On Ouse and Aldwark Manor Hotel (paragraphs 6.41 – 6.54 of the IR) as well as seasonal variations (paragraphs 6.55 – 6.67 of the IR) and the evidence of ticket sales income and traffic movements reconciliation (paragraphs 6.68 – 6.79 of the IR). She has also considered the Inspectors conclusions regarding expenditure required on the working, management, maintenance (etc) of the bridge (paragraphs 6.80 – 6.130 of the IR), the heritage evidence (paragraphs 6.95 – 6.100 of the IR) and

2) the contributions to any reserve, contingency, or other funds (paragraphs 6.131 – 6.139 of the IR) as well as

3) a reasonable return (paragraphs 6.140 – 6.145 of the IR).

12. In addition, the Secretary of State agrees with the Inspectors comments and conclusions regarding annual revenue being neither substantially less nor substantially more than adequate (paragraphs 6.146 – 6.155 of the IR).’

2.8 Clearly, the Applicant has paid very careful attention to the concerns expressed by Inspector Heward and which were accepted by the Secretary of State. The situation now is materially different, not least because the necessary refurbishment works have been completed and their cost is known but also because the uncertainty which COVID-19 brought has long gone and there is now a very substantial period of traffic monitoring data available. This current application responds to all such concerns and those raised by local objectors and seeks authority to increase tolls over a 10 year period (calculated by reference to the date of any Toll Revision Order) as set out below.

3. Legislative provisions

3.1 The Aldwark Bridge Act 1772 authorised the construction of a bridge to replace a ferry across the River Ure from Great Ouseburn to Aldwark. Responsibility for maintenance of the bridge rests with the owners and not the highway authority and is to be financed out of tolls collected. Any increase in tolls has to be authorised by later Act of Parliament or by Statutory Instrument, most recently in accordance with section 6(3) of the 1954 Act which provides as follows:

“In making any order on an application under this section, the Minister shall have regard to the financial position and future prospects of the undertaking and shall not make any revision of charges which in his opinion would be likely to result in the undertaking receiving an annual revenue either substantially less or substantially more than adequate to meet such expenditure on the working, management and maintenance of the undertaking and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue, including reasonable

contributions to any reserve, contingency or other fund and, where appropriate, a reasonable return upon the paid up share capital of the undertaking:

Provided that where the Minister is satisfied that, in view of the financial position of the undertaking during such period immediately preceding the application as may appear to him appropriate, there are special circumstances affecting the undertaking, the Minister may make such revision of charges as he may consider just and reasonable in the light of those special circumstances, notwithstanding that it is in his opinion likely to result in the undertaking receiving an annual revenue substantially less than adequate for the purposes aforesaid.”

- 3.2 Breaking the statutory provision down, the Applicant would identify the following elements:
- (1) the Secretary of State shall have regard to the financial position and future prospects of the undertaking
 - (2) the Secretary of State shall not make a revision of charges which in his opinion would be likely to result in the undertaking receiving an annual revenue either substantially less or substantially more than adequate to meet such expenditure on the
 - (a) working
 - (b) management; and
 - (c) maintenance of the undertakingand such other costs, charges and expenses of the undertaking as are properly chargeable to revenue, including reasonable contributions to any reserve, contingency or other fund and, where appropriate, a reasonable return upon the paid up share capital of the undertaking

- 3.3 Accordingly, in responding to an application from the Applicant, the Secretary of State shall have regard to the current financial position and future prospects of the owning company and to its proposed annual revenue to ensure that it would not be substantially less or substantially more than adequate to meet expenditure.

- 3.4 Allowable expenditure is defined as being on the working, management and maintenance of the undertaking and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue. These may include reasonable contributions to any reserve, contingency or other fund and where appropriate a reasonable return upon the paid-up share capital of the undertaking. The controlling requirement is that “such other costs, charges and expenses” have to be properly chargeable to revenue. The current financial position and future prospects of the Applicant are the only matters to which the Secretary of State is required to have regard.

4. Toll increases at Aldwark

- 4.1 The most recent increase in tolls for the toll bridge was in 2005, following an application by the then owners and a local inquiry. Pursuant to the 2005 Order, tolls were increased to:
- (1) 40 pence per crossing for vehicles weighing less than 3.5 tonnes; and
 - (2) £1 per crossing for vehicles up to the weight limit of 7.5 tonnes.
- 4.2 The revised tolls are sought in accordance with the following schedule:

Proposed Schedule	Proposed Toll		
	Year (anniversary of date of revision Order)		
Vehicle class	1-3	4-6	7-9
1. Motorcycle with no more than 3 wheels	Free	Free	Free
2. Passenger vehicle with an operating weight not exceeding 3,500 Kilograms	£1.00	£1.20	£1.30
3. Passenger of goods vehicle with a trailer or an operating weight exceeding 3,500 Kilograms	£2.00	£2.20	£2.40

4.3 Following discussions with the Department for Transport about how best to structure this application, the Applicant feels that a planned and regular interval to review tolls fees periodically is the right course of action to ensure delivery of a sustainable ten-year plan for the bridge. The toll bridge has not had an uplift in toll fees for a considerable amount of time and at current toll fee levels this is not commercially viable.

5. Supporting evidence

5.1 The Management of the Applicant is requesting an uplift to toll fees to ensure that the toll bridge can continue to operate on a commercially viable basis and to ensure a comprehensive ten year budgeting plan for the on-going maintenance works required to keep the bridge in good working order for many years to come.

5.2 At the time the application was made, supporting information was as follows:

- (1) Inspector Heward's Report and the decision letter of the Secretary of State in Application reference number DPI/P2475/21/4
- (2) Accountancy report (Hawsons)
- (3) Traffic and transport report (LTP)
- (4) Structural engineering report (Mason Clark).

5.3 Proofs of evidence have been submitted and supporting evidence will be given by:

- (1) Alex Bell (Applicant)
- (2) Scott Sanderson (Accountant)
- (3) Steve Windass (Transport)

6. Main issues

6.1 The Applicant has carefully considered each and every objection which has been raised against the toll increase. It is with a sense of regret that a number of the objections amount to personal attacks on the integrity of Mr. Bell and his company. Such attacks are baseless and it is hoped that local objectors will not be allowed to perpetuate such attacks at the inquiry. Beyond that, there is also considerable repetition which, in the circumstances, is understandable but which does nothing to advance matters.

6.2 Whilst there are, of course, other objectors, the main outstanding substantive issues appear to be those captured in the most recent submissions of Aldwark Parish Council. Each separate objection in the Traffic and Accountancy parts of the Parish Council's response has been given a number by the Applicant for ease of reference. The wording of the objection set out below in italics is lifted directly from the Parish Council's response. In these Opening Submissions and in

order to summarise the case which is going to be made, the Applicant would respond to those issues as follows:

Traffic

Traffic Issue (1)

The applicant has updated the original Traffic & Transport Proof of Evidence (PoE) report, dated July 2024, with an updated version dated February 2025. The updated report now includes bridge traffic data for a longer period (February 2024 to January 2025). This new report shows an increase in traffic over Aldwark Bridge since the original report submitted with the application.

Response

Mr. Windass's Proof of Evidence has analysed almost one full year of data since the bridge reopened in February 2024, including the busier summer months. The previous report from July 2024 was only able to utilise data for the months Feb-May 2024. There are no directly comparable figures across both reports as the Proof of Evidence analysed more refined data for the specific chargeable time period (07:00-19:30) and not 24h data.

Traffic Issue (2)

It is disappointing to note that the updated Transport Report no longer shows traffic volumes outside the applicant's current charging period and therefore it is impossible to determine what number of vehicles are crossing the bridge in a 24hr period. This omission is a shortcoming of the traffic evidence given to the Inquiry. It was the clear view of Inspector Heward, in her report to the Secretary of State for Transport dated 18 August 2022 (S6.24 to S6.31), that there is nothing in the 2005 Toll Order to prevent tolls being charged at other times and neither is the applicant proposing any time limits.

Response

The reason for this was explained in paragraph 2.2.8 of Mr. Windass's Proof of Evidence. He was able to open up further analysis tools within the traffic counter supplier's raw data portal and able to analyse data disaggregated into 30 minute time periods (rather than the hourly data previously analysed). The 24h data is still briefly analysed in Section 3.2.

Traffic Issue (3)

Inspector Heward highlighted that the period for charging tolls is at the discretion of the Applicant and the highway evidence suggests that the increase in income from being able to charge for crossings outside of the present toll hours could be quite substantial; potentially up to an additional 18% of chargeable crossings.

Response

Staffing the bridge overnight would result in a financial loss which would therefore require a further increase in tolls to compensate. This would necessarily affect users during the daytime period).

Traffic Issue (4)

Inspector Heward also observed that Mr Bell was in discussions with Automatic Number Plate Recognition (ANPR) operators to determine if cameras can be used to assist with traffic flow management, monitor whether vehicles have prepaid, count the number of crossings of each user, and email users directly.

Response

ANPR is only being considered to help monitor traffic flows and is not considered to be feasible for toll collection.

Traffic Issue (5)

Inspector Heward commented that it was plausible that within the 10-year period of the projected accounts some form of automated payment system would be introduced such that it would no longer be necessary to restrict charging times to when toll collectors are at the bridge. She concluded by stating "It is a shortcoming that the traffic forecasting relies only on the ATC traffic flow data for the current daily charging period only".

Response

As above, staffing the bridge overnight would result in a financial loss, which would therefore require a further increase in tolls to compensate. This would necessarily affect users during the daytime period.

Traffic Issue (6)

The Transport Report now states (clause 3.2.2) that there are an average of 1064 chargeable vehicle crossings with an all vehicle count of 1098 average daily crossings during the charging period.

Response

This is agreed albeit it relates to the chargeable period only.

Traffic Issue (7)

The Parish Council also notes that the applicant excludes a number of vehicles from charges, reducing its potential revenue. Whilst the 2005 Toll Order allows for charging for all motor vehicles 24 hours per day, 365 days per year (all income being tax-free). They choose to give free-concessions to:

- a. Motorcycles;*
- b. Staff and their families;*
- c. Emergency vehicles; and*
- d. All vehicles travelling between 19:30 and 07:00 (48% of the permitted charging period).*

Response

The levels of traffic for all of these categories are low, with very low levels for (b) and (c), less than 34 in (a), and circa 144 in (d). Whilst 19:30 to 07:00 might represent 48% of the 24h period, it only represents 12% of chargeable vehicle types (144/1208).

Traffic Issue (8)

By excluding vehicles crossings outside the current charging hours and all vehicles given a discretionary concession from the Applicant's business case, the applicant is seeking to unfairly transfer all costs to a limited group of uses of the bridge. The Parish Council contests that this is allowable under the terms of the 1954 act. This was also a point upheld by Inspector Heward in her report in 2022 and agreed by the Secretary of State.

Response

There were an average of 1064 are chargeable vehicles during the chargeable period, which represents 86% of the total 24h users (1064/1244), so not a "limited group of uses of the bridge", but in fact a large majority of the users.

Traffic Issue (9)

The Transport Report now includes projected growth percentages against the bridge usage data but fails to consider the potential positive impacts from major developments such as the redevelopment of the ex-RAF Linton-on-Ouse site and the New Parks Estate site off the A19, both of which have been included in North Yorkshire County Council's Local Plan Call for Sites (<https://app.maptionnaire.com/q/3jx9zjn6zcy6>).

Response

These sites have not been assessed in any form by North Yorkshire Council and are therefore only speculative possible future developments. When assessing sites the Government's Planning Practice Guidance suggests that schemes are only 'committed development' if "consented or allocated where there is a reasonable degree of certainty will proceed within the next 3 years". Whilst this refers to Transport Assessments for a planning application, the Applicant submits that it is useful guidance as to when schemes should be considered as part of future traffic forecasting. These sites are neither allocated nor consented. Even if the Council considered these sites to be suitable (which remains to be seen), it is unlikely that the schemes would be approved (which would likely require allocation in the Local Plan) and built to any significant degree within the 10 year period considered by this inquiry.

Traffic Issue (10)

At para 3.1.3 of the Transport Report, Mr Windass states: "I understand there are no major planned new developments in the local area around the bridge". This is a similar statement made by him in evidence provided to the 2021 Inquiry. It is a serious shortcoming of Mr Windass' PoE to restrict any development search to only the rural areas around the bridge, Inspector Heward, in her 2022 report wrote (S3.12) "The locality is rural but Aldwark Bridge also serves traffic movements to large, urbanised areas on both sides of the river. The Transport Consultant's own evidence (CD13.5.1 paragraph 2.10.1) was that Aldwark Bridge serves a wide community due to the lack of other bridges over the River Nidd and the River Swale". It is therefore important to look at the scale of development across a larger area which Mr Windas has failed to consider. Omissions include:

Response

Mr. Windass does not only consider the “*the rural areas around the bridge*”. The quoted reference to the 2022 inspector report was in a statement from the inspector (paras 6.64-6.67) related to the traffic growth forecasts and requested a growth forecast covering a wider area, which has been reflected in the forecasts for this inquiry.

Traffic Issue 10(a)

The Former RAF-Linton site (Linton-on-Ouse): The Ministry of Defence has appointed Savills as property advisors to help them with the strategy, planning and ultimate disposal of surplus assets, including assisting with the delivery of new and refurbished military accommodation. Within this Savills are seeking residential development of the former RAF-Linton site which covers an area of 278.08Ha (678 acre). The site has been included within the proposed North Yorkshire Council Local Plan which is currently at the public consultation phase.

Response

This site is not allocated in the Local Plan, and the Local Plan is not out to consultation yet. Any redevelopment is not allocated or consented, and has not even been considered by NYC as part of the Local Plan process.

Traffic Issue 10(b)

Former MOD-properties (Linton-on-Ouse): The refurbishment of 56 three-bedroomed properties formally housing MOD staff are being refurbished in three phases starting 2022. Sixteen of the houses are likely to be used to re-home Afghanistan refugee families. The refurbishment and release of all 56 properties is ongoing.

Response

If some of the properties have already been occupied, then it is unclear how many of the 56 remain unoccupied. Regardless, this site would not be expected to materially change traffic flows across the bridge and is expected to be reflected by the TEMPro growth forecasts.

Traffic Issue 10(c)

The Manor House Development (Linton-upon-Ouse): A 17 house development, including a mix of affordable and open-market homes, in a cul-de-sac. Approved in Q4 of 2022, development is ongoing.

Response

This site would not be expected to materially change traffic flows across the bridge and is expected to be reflected by the TEMPro growth forecasts.

Traffic Issue 10(d)

Land between Tollerton and Huby (6.3 miles from Aldwark bridge): A site of 866.8Ha (2,140 acres) has been submitted to North Yorkshire Council for residential development, and included within its Local Plan which is currently at the public consultation phase.

Response

This site is not allocated in the Local Plan, and the Local Plan is not out to consultation yet. Any redevelopment is not allocated or consented and has not even been considered by NYC as part of the Local Plan process.

Traffic Issue 10(e)

Branton Lane Development (Great Ouseburn) Planning granted for 50 dwellings. Development is ongoing.

Response

Some of the properties have already been occupied, therefore it's unclear how many of the 50 remain unoccupied. Regardless, this site would not be expected to materially change traffic flows across the bridge and is expected to be reflected by the TEMPro growth forecasts.

Traffic Issue 10(f)

Malkiln: Malkiln is a proposed town-sized garden village centred around Cattal railway station. The proposal includes 3,000 to 4,000 homes and in excess of 8,000 residents. Plans include two 420-place primary schools and space set aside for an upper school.

Response

Mr. Windass addresses this in para 3.1.3 of his Proof of Evidence and it is not an omission.

Traffic Issue 10(g)

The Aldwark Manor Estate Hotel (adjacent to the Aldwark Toll Bridge) is in the middle of a major redevelopment which includes:

o A redeveloped 18-hole golf course opened in 2024, including the addition of the Bunkers clubhouse. Membership is now open. The Bunkers clubhouse includes a sports bar, restaurant, golf shop, and private room.

o A new Spa and leisure complex. The spa will include a mezzanine pool, beauty treatment areas, leisure pool, gym, and conference centre.

o A new fine dining restaurant called Chartwell opened in 2024. Chartwell includes a mezzanine floor with a private dining room, speakeasy, and wine tasting room.

o A boathouse for paddleboarding and meeting spaces, kayaking and an hotel-owned boat for river cruises.

o 24 additional guest rooms will be added, and meeting rooms upgraded with conference facilities for 240 delegates and car parking for 200 vehicles.

Response

Again, this is not an omission. Mr. Windass deals with in paragraph 3.1.2 of his Proof of Evidence. Most of these facilities have already opened, and are therefore accounted for in the recorded traffic flow levels.

Traffic Issue (11)

It is worth noting that both the increase in traffic recorded and the growth forecasts now included in the Transport Report contradicts the previous assertions of the transport consultant in his report dated July 2024.

Response

Mr. Windass analysed more data on recorded traffic flows. There were no growth forecasts in the July24 report and so there are therefore no contradictory forecasts.

Accountancy Report

Accountancy Issue (1)

Have the accounts for Aldwark Toll Bridge LLP (“LLP”) been prepared for the year ended 31 July 2024? It does not matter that they have to be filed with Companies House by 30 April 2025 – they could still have been prepared and submitted to the enquiry to help establish the current costs of operating the bridge.

Response

The accounts for the year ended 31 July 2024 are yet to be prepared. The bridge owners and the accountants have focused on this application and inquiry, which has required significantly more work by the accountants to verify all costings presented in their report. The LLP is not unusual by working to the filing deadlines set out by Companies House.

Accountancy Issue (2)

In para 6 of the Accountancy Report prepared by Mr Scott Sanderson of Hawsons, Mr Sanderson states he has “satisfied myself, so far as possible, that the information presented is consistent with information and explanation given to me during the course of the initial work undertaken in May 2024, and with the information I have reviewed within the LLP accounts”. In addition, at para 3.3 of Appendix I, Mr Sanderson says: “Our projections are based on a limited review and on less information than would be required if the bridge was to undertake a statutory audit. We have not carried out any kind of audit or due diligence exercise and have not in any way sought to verify the truth or accuracy or any representations made to us”. This seems to conflict with the point at paragraph 6.3. If Mr Sanderson is “satisfied” how did he reach that view given what he says above and why hasn’t he undertaken an audit of the information? This obviously raises concerns about the accuracy and veracity of the report.

Response

The initial work undertaken in May 2024 was prepared on the basis of information and explanations provided by the bridge owners. They were prepared on a limited review basis at that time, without checking each and every cost to supporting purchase invoices. It should also be noted that at the time of the initial work the bridge had recently reopened.

The updated financial costings work carried out in February 2025 has been checked to supporting invoices and that is why the accountancy report conclusions are much stronger in terms of verification of costings. The costings in the report have been verified to supporting invoices, bank statements and taking on board the views of the relevant professionals for items such as future maintenance costs.

Accountancy Issue (3)

In para 6.4 Mr Sanderson states that *“we have based our projections on reasonable assumptions and forecasted trends to provide a sensible and sustainable plan for the bridge for a ten year period.”* We contend that it is impossible to provide any meaningfully accurate 10 year forecast as recent history so emphatically shows. Further, in para 7.1.1 Mr Sanderson says he considers the projections are a *“reliable projection of the financial position of the bridge moving forward”*. How can they be reliable over 10 years given what has happened in the last 10 years – this is contradictory.

Response

The ten year plan was actually a suggestion made by the Department for Transport. The bridge owners have therefore set out a ten year plan and based cost increases on wages and general government inflation targets. It should be noted that the current level of inflation is significantly higher than the 2% used in the financial projections, which as a consequence reduces the return on capital.

Accountancy Issue (4)

Para 4.4 of Appendix 1 says the owners of the LLP are looking to uplift fees to ensure the bridge can operated on a “commercially viable basis”. This is not the correct basis – the Act states: “In making any order on an application under this section, the Minister shall have regard to the financial position and future prospects of the undertaking and shall not make any revision of charges which in his opinion would be likely to result in the undertaking receiving an annual revenue either substantially less or substantially more than adequate to meet such expenditure on the working, management and maintenance of the undertaking and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue...”. Commercial viability comes into play where there are no restrictions on a business as to what they can charge. This is not the case here – the LLP is restricted in that it cannot raise prices without the consent of “the Minister”. This is an important distinction. How can a business seek to be commercially viable when it cannot raise its own prices of its own volition?

Response

‘Commercially viable’ is a commonly used phrase to describe a business/trade that is not financially viable. The phrase is not contradictory to the Act which allows for annual revenues to be at a level to meet expenditure and provide a return on capital to the bridge owners. At the current income levels the bridge is not viable, which is why the owners are seeking the toll increases to support current and future running costs, in accordance with the Act.

Accountancy Issue (6)

In addition, is it correct to ask for multiple price rises as shown at Appendix 1 Para 4.8? The Act suggests that each price rise must be applied for separately. The applicant seems to want to get a number of decisions through all at once which appears to contradict Paragraph 2 of Section 6 of the Act: “for the revision of any of the charges which the undertakers are for the time being authorised to demand”.

Response

As above, this was a suggestion of the Department for Transport and is a methodology which has been used for other toll bridges.

Accountancy Issue (7)

The updated Accountancy Report shows proposed annual income of £372,591 on the basis of the new toll fees. This is an increase from the Accountancy Report submitted with the application, which showed a projected annual income of £368,538. There is no narrative to determine the reason behind this increase but one assumes that this is derived from the increased traffic.

Response

Section 8.20 of the updated Accountancy Report sets out the changes made as a result of the Traffic Report from Steven Windass.

Accountancy Issue (8)

There is no mention made of pre-paid ticket income. Currently 50 tickets can be purchased for a total cost of £19.05 – leading to a crossing costing 38.1 pence. How has the use of pre-paid tickets been factored into the income figures? Para 8.3 does not mention the pre-paid tickets and neither does Appendix 3. This appears to be a flaw in the income reasonableness test shown at Appendix 3.

Response

All income derived from the sale of pre-paid tickets is within the total income figures used in the financial projections. The workings in Appendix 3 already account for these sales and the figures are included in the bank receipts of the LLP.

Accountancy Issue (9)

Forecast wage costs are now being shown as £98,833 versus £85,000 in the Report submitted with the application. Again, there is no narrative to explain the reason for this increase nor how the wages have been calculated in the first place. There is a reference to the National Living Wage and National Minimum Wage (clause 5.1) but no detail has been provided as to the numbers of staff and overall hours worked to determine whether the wage costs have been inflated.

Response

Section 9.5.2 of the updated Accountancy Report sets out changes made were as a result of the announcement in October 2024 that the new National Living Wage rates, effective from April 2025. It should be noted the timing of the government's announcement of the new rates came 5 months after the initial financial projections were prepared.

Accountancy Issue (10)

As set out in our original objection letter, the Accountancy Report contains a number of cost headings which appear to over inflate the operating costs of the business (Travel & Subsistence, Advertising, Accountancy Fees, Legal & Consultancy Fees and Management Fees). These costs are significantly higher than the costs from previous years and cynically one might assume that they have been inflated purely to support the toll fee increase.

Response

This is a direct attack on the honesty and integrity of the Applicant and is matter of regret. Such an attack is unevidenced and undifferentiated. All of the cost headings are accurate and explained in witness evidence.

Accountancy Issue (11)

The Parish Council is extremely concerned that any annual provisions for Repairs & Maintenance and Future Refurbishment need to be deposited into a secure account that can only be used for the described purposes and not raided by the owner to boost his profits.

Response

Such an allegation makes no sense. The owners of the bridge would not seek to damage the on-going viability of the asset which would have the effect of reducing its on-going sale value.

Accountancy Issue (12)

The Parish Council challenges why depreciation should be charged in the forecast profit and loss account. The asset in question appears to meet the definition of an investment property in accounting standards. The definition of an investment property per Financial Reporting Standard 102 ("FRS 102") is "Property (land or a building, or part of a building, or both) held by the owner... to earn rentals or for the capital appreciation of both, rather than for (a) use in the production or supply of goods or services or for administrative purposes, or (b) sale in the ordinary course of business".

Response

The Applicant disagrees with the treatment of the bridge being an investment property under FRS102. The bridge is not a plot of land, a building or both; it is a bridge. It should be noted that the depreciation charge made in the financial projections has been discounted when calculating the return on capital, following criticism made by Inspector Heward at the previous inquiry.

Accountancy Issue (13)

The toll fees can be interpreted as a quasi rental income and FRS 102 does not require depreciation to be recognised on investment properties. Therefore, it is unclear why the forecasts provided by the applicant include an amount for depreciation given the above points.

Response

The Applicant disagrees with the interpretation of toll fees being a quasi-rental income. As above, depreciation had been discounted when calculating the return on capital.

Accountancy Issue (14)

In addition, it is likely that the bridge will appreciate in value over the period that the applicant owns the property, and not depreciate as the applicant is asserting. It is noted that the following values have been attributed to the bridge previously:

- Purchase price 31 July 1995: £121,550;
- Purchase price 28 January 2014: £340,000 (an increase of 179% over the 18+ years from 31 July 1995); and

• Purchase price 31 July 2020: £1,049,996 (an increase of 209% over the 6+ years from 28 January 2014).

Response

This is not relevant.

Accountancy Issue (15)

The increase of £928,446 in value between 1995 and 2020 demonstrated that the bridge is an investment designed to get capital value, and just for generating revenue through tolls. The Parish Council notes that none of the applicant's accounts or forecasts appears to have taken the likely further increase in the overall value of the bridge in to account. This appears to be another fundamental flaw in the forecasts presented so far by the applicant

Response

Such calculations above are speculative and do not take in to account the requirements of the Act.

Accountancy Issue (16)

Why is 8.38% considered to be a reasonable rate of return? The Act talks about a rate of return on share capital whereas the LLP does not have share capital. It's noted that share capital is not mentioned in Appendix 1. How has the return on share capital been calculated? What has substituted for share capital in the calculations? The share capital has been calculated on what appears to be the costs of acquiring the bridge plus the refurbishment costs.

Response

Section 10.5 of the updated Accountancy Report explains what is deemed to be a reasonable rate of return. Inspector Heward dealt with the legal structure of the Applicant in her report.

Accountancy Issue (17)

Whilst the Act allows a reasonable Return on Share Capital, we understand that profits from the bridge operation are tax-free and therefore the projected average blended return rate of 8.38% is excessive. The inflated costs across most headings and understated traffic/toll revenues combine to potentially significantly increase this return to even higher and disproportionately excessive levels.

Response

Under the current structure the bridge profits (or losses) are tax-free for the owners of the LLP – as granted to the bridge owners by Royal Assent when the bridge was originally constructed. It should be noted that if the owners of the bridge had operated the bridge through a limited company then the profits (or losses) would be subject to both Value Added Tax (tax rate currently 20%) and Corporation Tax (tax rate currently 25%). Both of these additional taxes would have a significant impact on toll fees charged to bridge users if the ownership structure was not that of an LLP.

Accountancy Issue (18)

In Para 10.6 Mr Sanderson refers to the Rixton and Warburton Bridge Order dated 13 July 2023 (report DPI/B4215/22/3). This case seems to be under a different Act and so its relevance to

Aldwark Bridge is unclear. The Order seems to suggest that a change was required to the 1954 Act to change “share capital” to “any amounts invested in the Undertaking...”.

Response

The reference point made in paragraph 10.5 (not 10.6) is a reference specifically to what the Inspector in the case of Rixton and Warburton Bridge considered to be an appropriate rate of return on capital. The Applicant does not consider the point of that inquiry being under a different Act to have any bearing on what is deemed to be an appropriate return on capital, nor did the Inspector in that case when he referenced the Mercer report.

6. Concluding Remarks

- 6.1. The Parish Council (and other objectors) are concerned about the robustness of the Applicant’s business case and the level of toll fees being sought. Objectors comment that the proposed increase has the potential to seriously adversely impact users of the bridge and urge the Inspector to consider the areas of concern that they have highlighted. As above, all such concerns have been dealt with fully by the Applicant.
- 6.2. The directors of the Applicant are in an unenviable position, with a conflict of duties and responsibilities. As long term owners, they accept that they have a moral duty to help the community and to keep this important link available. The bridge carries a public right of way and there is a statutory duty not to obstruct it. On the other hand, all company directors have a duty not to let a company become insolvent and pursuant to the legislation are entitled to make a reasonable return. However some may with the situation to be different, the bridge is a privately owned asset. Local residents have a choice as to whether or not they use it.
- 6.3. Pursuant to the statute, the Applicant is permitted to make a reasonable return on capital. As is clearly the case, this is not currently being achieved and the bridge is not commercially viable. The purposes of this application are to:
 - (1) put the toll bridge on a sound financial footing;
 - (2) ensure that it is available for safe passage by the local community;
 - (3) provide certainty for a 10 year period; and
 - (4) create a reasonable return on capital for the Applicant.
- 6.4. As will have become clear from the detailed evidence already submitted, the Applicant has verified all amounts of income and expenditure. The 2% inflationary uplifts are below current inflation levels. If VAT and CT were applicable then it stands to reason that the costings would need to be much higher.
- 6.5. On the basis of the written evidence which forms part of this application and the witness evidence it will call, the Applicant clearly satisfies the statutory conditions in section 6(3) of the 1954 Act. In due course, it will respectfully request that it be recommended that the application for a Toll Revision Order is granted in the form in which it has been sought.

David Hardy (Partner)

18th March 2025

CMS Cameron McKenna Nabarro Olswang LLP

