

DPI/P2475/21/4 Aldwark Bridge Toll Review Application

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

Closing Statement by John Topliss, Chair of Aldwark Area Parish Council

Although the evidence presented to the Inquiry has been helpful, there remains some fundamental issues that have not been addressed and it remains the contention of the Parish Council that the Applicant has failed to establish a justifiable business case for the proposed toll increase in line with the requirements of the 1954 Act.

All parties have acknowledged that the bridge is in need of repair and refurbishment, however, the evidence of the Applicant himself, as well as the accountancy and traffic evidence is disputed, as follows:

The Applicant's purchase of the bridge, almost seemingly at a whim, without conducting appropriate due diligence to establish the condition of the structure, the market value of the property, and the treatment of sinking funds accrued by the previous owners for the repair and maintenance of the structure, is staggering. At best this shows a naïve and foolhardy approach to business; at worst this is tantamount to a clear breach of Mr Bell's fiduciary duties to the LLP that acquired the bridge.

The Applicant's account of the purchase is littered with contradictions. Initially he claims he was attracted after seeing '*particulars of sale*', but later stated it wasn't ever advertised for sale and he purchased it directly from the previous owner, Mr Barney, after a chance meeting. He also says he didn't undertake any due diligence, being only aware of the 23-year-old report from 1997. He says he paid the full asking price of just over £1m without an independent valuation. He was aware of significant issues with the bridge, but no allowance was made in the price he agreed to pay. He also confirmed he purchased the bridge knowing he would immediately apply to the Secretary of State for Transport to recover all his costs, including major renovations, the purchase price and all future expenses.

To avoid taking on any liabilities from the previous owners, the Applicant says he didn't purchase the previous company operating the undertaking, which would have included the sinking funds that had been set aside for repairs and a major refurbishment in 2025. Instead, he feels it appropriate that these will be recovered by increased charges and has included them in his application.

It is telling that Mr Bell has failed to demonstrate that the price paid for the bridge represented the market value and, consequently, there is a clear possibility that an over-market price has been paid. The likelihood of this is high bearing in mind the evidence from Mr Warner that suggests the current levels of income are insufficient to meet the running costs and the necessary repairs and future maintenance.

The financial model presented is impacted by the price paid for the bridge by the LLP with the 6% return on capital and the depreciation charge both directly correlated to the purchase price. If, as we contend, the purchase price was significantly over the market value then these costs are demonstrably wrong.

The application and financial model includes a 6% return on capital, being the purchase price, even though Section 6 of the 1954 Act only allows for a reasonable return upon the paid up share capital of the undertaking.

Mr Warner in his Proof of Evidence contends that the Bridge is not an investment property as it is used in the trade of the LLP. An alternative view is that the Bridge could be considered an investment property as it generates an annual investment income as well as being an appreciating asset as evidenced through the increases in sale prices paid for the Bridge over the years. The fact that the structure is also Listed means that the owners are obligated to keep the Bridge in an appropriate state of repair, so it is inappropriate for Mr Warner to attribute a useful life of just 50 years to the Bridge, with 2% depreciation per year.

The Accountancy evidence provided by Mr Warner raises significant concerns as to its veracity. Mr Warner says he hasn't audited the accounts or the information contained in any projections; he hasn't sought to assess the reasonableness of the assumptions underpinning those

projections; and he expresses no assurance or opinions on any of the outputs of his financial model. Rarely does someone put so much distance between themselves and the evidence they present and accordingly we ask the Inspector to take notice of all the health warnings Mr Warner puts on his evidence, projections and ten-year forecasting.

The 4-week November 2021 data from the Automatic Traffic Counter (ATC) measured almost 30,000 crossings in the chargeable period, yet Mr Warner has not included this in his modelling. Instead, he substitutes an unrelated value of revenue he says came from unaudited accounts. This has the impact of reducing the potential revenue by 17% in one month alone. When this type of under-reporting is applied across a whole year, as well as to a ten-year forecast, the potential for an incorrect financial model is large.

Mr Warner accepts there was a significant impact on traffic volumes in 2021, but he keeps this at a mere 10% based on Mr Windass's November 2021 comparison with February 2020. Whilst this estimate is disputed, the Inspector will realise that Mr Warner isn't using November 2021 traffic numbers in his model as he has substituted the measured volumes with revenues he claims came from the Applicant's 2021 accounts. To apply the DfT values for November 2021 across all revenues shows a fundamental misrepresentation of the evidence. In some weeks during the 2021 period the DfT data shows a 70% difference in traffic volumes compared with February 2020 and therefore it is clearly erroneous to apply only a 10% uplift.

It was also concerning to learn that Mr Windass, and therefore Mr Warner, is using traffic growth data from the DfT for only two rural areas surrounding the bridge; he neatly sidesteps any area that included a town or services where development might be taking place. The impact of this is that he is showing the DfT's forecast of future growth based upon new house development in areas which Local Authorities deliberately avoid. It seems no coincidence that he didn't think it appropriate to include any of the areas which include the towns of Boroughbridge, Wetherby, Knaresborough, Harrogate or Rippon; all areas where new housing development is focused within Local Development Plans.

The long-term effects of the pandemic on work-based bridge use are unknown and therefore forecasting future traffic volumes cannot be done with any certainty. It is unhelpful that the ATC data is limited to just the month of November 2021 and a longer period of data collection may present a different picture of actual and future usage.

It is for the Applicant to demonstrate his business case for any increase in tolls by presenting evidence to support it. The lack of due diligence prior to the purchase of the undertaking, as well as the failure to provide full accounts from the previous owners, undermines the business case this Inquiry has considered.

It should also be noted that the justification for the previous approved toll rise in 2005 was the need to undertake appropriate repairs and maintenance. It is clear that little work was carried out resulting in the current poor condition of the structure. This is both a failure of the previous ownership and the lack of oversight from any statutory body, with the result that under the proposed increases, bridge users would have to pay in effect a second time for the same major refurbishment of the bridge.

The Parish Council, representing the views of the local community, respectfully requests the Inspector to carefully consider the evidence provided by the Applicant and his consultants. In doing so, the Inspector should be able to determine that the business case has not been proven and consequently the Application should be rejected.

Ends.