



Report to the Secretary of State for Transport

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WHITCHURCH BRIDGE ACTS 1792 & 1988

TRANSPORT CHARGES & C (MISCELLANEOUS PROVISIONS) ACT 1954

THE COMPANY OF PROPRIETORS OF WHITCHURCH BRIDGE

**APPLICATION FOR AN ORDER TO REVISE TOLL CHARGES FOR
THE USE OF WHITCHURCH BRIDGE**

Dates of Inquiry: 2-4 June 2009

Ref: DPI/U3100/09/30

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CASE DETAILS

- This Application under Section 6 of the Transport Charges &c (Miscellaneous Provisions) Act 1954 is for an Order to revise toll charges for crossing Whitchurch Bridge over the River Thames between Whitchurch in Oxfordshire and Pangbourne in West Berkshire.
- The Application is dated 31 October 2008 and there were some 260 objections outstanding to it at the commencement of the local Inquiry.
- The Application is for an Order that would authorise an increase in tolls to a maximum of 40p per crossing for vehicles weighing less than 3.5 tonnes mgw and to £3 per crossing for vehicles exceeding this weight.

Summary of Recommendation: I recommend that the Order should be made in accordance with the Application.

1 PREAMBLE

- 1.1 The effect of the Order if made would be to increase the vehicle tolls for use of the Whitchurch Bridge over the River Thames on the B471 between Whitchurch in Oxfordshire and Pangbourne in West Berkshire. The existing Order allows vehicles up to 3.5 tonnes mgw to be charged 20p per crossing and heavier vehicles charged £2 per crossing. The proposed maximum tolls are 40p per crossing for vehicles under 3.5 tonnes and £3 per crossing for heavier vehicles. There is no charge (existing or proposed) for pedestrians or cyclists and there is a concessionary scheme for frequent users.
- 1.2 I have been appointed as Inspector by the Secretary of State for Transport in pursuance of subsection 5 of Section 6 of the Transport Charges &c (Miscellaneous Provisions) Act 1954. I am to hold a Public Local Inquiry to hear objections and any representations concerning the Application by The Company of Proprietors of Whitchurch Bridge (The Company) for an Order to revise the tolls. I am to report to the Secretary of State for Transport.
- 1.3 I held the Inquiry at the Elephant Hotel, Pangbourne, sitting for two days from Tuesday 2 June 2009. I made an unaccompanied site visit to the bridge and to the diversion routes on Monday 1 June and an accompanied site visit to inspect the bridge on Thursday 4 June.
- 1.4 At the start of the Inquiry, some 280 letters from objectors to the Application had been received and these accounted for 260 separate objections. A further written objection was received during the Inquiry and was not withdrawn.

1.5 Seven objectors and one interested party chose to make appearances. Detailed proofs of evidence were submitted by Whitchurch-on-Thames Parish Council, Mr Cooper on behalf of Tollfreeze, Mr Morfey and Oxfordshire County Council. The mains grounds of objection are:

- that the proposed toll increases are excessive and are not related to general inflation and would have an adverse effect on the community, including residents, the local schools and businesses;
- that the proposed expenditure on maintenance is excessive and could be reduced if heavy lorries were not provided for;
- that the Company shareholders are making excessive profits;
- that the bridge should be taken out of private hands and made toll-free for the use of all.

1.6 The Applicant confirmed during the Inquiry that the necessary statutory formalities had been observed (Doc PA/1/1&2). The background documents supplied to me (Docs PA/1 & PA/2) before the opening of the Inquiry had been available to the objectors in the local library and on the Company's web-site and were placed in the Inquiry library.

1.7 This report contains a brief description of the bridge (the subject of the Application) and its surroundings, the gist of the cases presented, and my conclusions and recommendations. Lists of Inquiry Documents are in an Appendix. I have attached all documents and plans submitted to the Inquiry, including proofs of evidence. The proofs are generally as originally submitted – unless otherwise marked they do not take account of how the evidence may have been affected by cross-examination or other aspects of the Inquiry. My report, however, does take account of the evidence as given at the Inquiry, including points arising from cross-examination.

2 DESCRIPTION OF THE BRIDGE AND ITS SURROUNDINGS

2.1 Whitchurch Bridge is a privately-owned toll bridge carrying the B471 over the River Thames and is the only vehicular crossing of the river between Reading to the east and Goring to the West. The bridge provides access to the shops and amenities of Pangbourne for the residents of the parish of Whitchurch, as well as providing a convenient north-south link between other settlements in the area. Without the bridge, residents of Whitchurch would have a 14 km (9 mile) diversion to Pangbourne via Goring.

2.2 The present bridge was built in 1902 and is an attractive Grade II listed structure. It comprises four spans, each approximately 20.5m in length. Each span consists of a pair of longitudinal wrought iron lattice girder trusses with transverse beams and jack arch buckle plates. The bridge is supported by brickwork abutments on each bank and by three intermediate piers in the river, each of which is made up of a pair of piled cast iron columns and associated cross bracing. The overall width of the bridge is

7.2m, with a 5.2m single carriageway carrying two-way traffic and a narrow footway on one side only.

- 2.3 Tolls are collected at the northern approach to the bridge, where there is a toll house and rising barriers. The approach signs to the bridge from both directions show that there is a weight limit of 7.5 tonnes.

3 THE CASE FOR THE BRIDGE COMPANY

The material points are:

Current Position

- 3.1 The Company of Proprietors of Whitchurch Bridge is a Company by Statute established under the Whitchurch Bridge Acts of 1792 and 1988. The Company's principle obligation is to provide and maintain at all times a safe and reliable crossing across the Thames between Whitchurch-on-Thames and Pangbourne.
- 3.2 The Whitchurch Bridge Act 1792 authorised the construction of a bridge to replace a ferry across the River Thames at this point. Responsibility for maintenance of the bridge rests with the owners, not the local highway authority, and is to be financed out of the tolls collected. Any toll increase has to be authorised by later Acts of Parliament or by Statutory Instrument, most recently in accordance with the Transport Charges &c (Miscellaneous Provisions) Act 1954, as amended by the Whitchurch Bridge Act 1988.
- 3.3 The 1988 Act provides for tolls to be charged in order to pay for the day-to-day cost of operating the bridge, to build up a reserve fund or to repay loans required for its repair or replacement and to pay dividends to the shareholders.
- 3.4 The Company operates a concessionary toll scheme for frequent users which offers a discounted rate for those who use a pre-paid swipe-card. About 60 percent of these users live in the immediate locality. The extent of the discount, which currently amounts to just over 30 percent of the full toll, is in the gift of the Company who attempt to balance a reasonable level of tolls to frequent users with the need to build up sufficient funds to maintain the bridge. Currently some 6,000 vehicle movements are made each weekday and about 50 percent of them use the concessionary card. This results in the average toll paid being 16.9p per crossing and results in an annual revenue of some £284,000.

- 3.5 The toll was last increased in 2004 and was justified on the basis of the bridge needing a major refurbishment in 2015 at a cost of some £1.26m at today's prices. The Company's engineering advisors are now suggesting that the bridge needs to be rebuilt by 2015 at the latest and that the cost will be £3.22m. This major escalation in the predicted cost cannot be accommodated within the previously accepted financial plan and has led to the current Application for an upward revision in the tolls.

Engineering Considerations

- 3.6 In 1997 the Company appointed Oxfordshire County Council to advise them on the maintenance of the bridge and the extent of any major refurbishment or replacement that would be needed. A maintenance strategy was prepared which identified the need for its reconstruction in 2015 when the current structure would be 113 years old. This strategy was re-evaluated in 2004 and confirmed that the bridge was nearing the end of its useful life and that the reconstruction should not be deferred beyond 2015.
- 3.7 Since 2004 further Special Inspections have been carried out to monitor the condition of the bridge and these have identified the rate of deterioration of certain structural components, as well as the need for two major items of maintenance in the next 5 years. These matters, taken together with other Load Assessment and Risk Management issues, have led to the commissioning of further detailed design work to identify the most acceptable scheme of works to rebuild the bridge together with an up to date cost estimate.
- 3.8 The proposed scheme would maintain the general appearance of the bridge reflecting its Grade II listing, although the acceptability of this is subject to planning permission. The rebuilt bridge would be no wider than the existing bridge and there is no intention to remove the current weight limit. The new bridge would however meet current loading and safety standards. This would enable it to maintain its structural integrity should an overweight vehicle stray onto the bridge or a vehicle side-swipe the longitudinal lattice girders, both being incidents which have occasionally occurred in the past.
- 3.9 The cost of the works is now estimated to be some £3.22m based upon all the works being undertaken in one operation in about 2013. While options to phase the work have been explored, the high cost of temporary works, the need to close the bridge for any construction periods and the impact on the navigable river, all lead to a single operation being the most cost effective and convenient to users.
- 3.10 The cost identified allows for such matters as the above inflation rise in the cost of steel, but does still contain estimates to cover matters which are currently uncertain, particularly the cost and time involved in gaining planning permission.

Financial Considerations

- 3.11 At the time of the last toll application in 2004, the Company prepared a 20 year financial plan which reflected the then expectations regarding the various factors which influence the balance sheet. At that time, it was anticipated that the reserve fund could be built up to a sufficient level to fund the planned refurbishment work that would be required. After learning of the increased cost of rebuilding the bridge, the Company took all reasonable action to increase the reserve fund, including reducing the planned dividend and restricting the toll concessions. Not paying any dividend would have made only a marginal difference to the fund.
- 3.12 To accommodate the level of expenditure now predicted, the tolls must rise. This is required both to increase the contributions to the reserve fund before the work is undertaken and then to be able to repay the borrowings which will have to be arranged to meet the balance of the rebuilding costs.
- 3.13 While the maximum toll for vehicles under 3.5 tonnes needs to rise to 40p, it will be possible to reduce the impact on regular users by only gradually increasing the concessionary toll to a level of 20p by 2012 and then to limit any further rises in this toll to 30p. In practice, it is anticipated that the concessionary toll can be limited to 20p, but this could not be guaranteed while there is uncertainty about the final cost of the works and the level of income which will be generated by the toll increases.

4 THE CASE FOR THE OBJECTORS

The material points are:

Pearl Slatter

- 4.1 Mrs Slatter spoke as the Local Councillor on the South Oxford District Council. Although her Council had not objected to the Application, it had resolved to request a public inquiry.
- 4.2 Speaking on behalf of her constituents she was concerned that many of them had no choice but to use the bridge when going about their daily business. In these circumstances the doubling of the tolls would cause great hardship to many families, particularly in the current financial climate.

Whitchurch-upon-Thames Parish Council

- 4.3 The Parish Council was concerned that the price of the cash toll was doubled from 10p to 20p in 2005 and it is now proposed to double it again only 4 years later. The increased cost to a family which has to use the bridge to access local services could be as much £1,165 per year. This would cause considerable hardship.
- 4.4 While the concessionary toll scheme does provide some relief for local people who are dependant upon the bridge, the Company arbitrarily

abandoned the previous scheme which made specific provision for local residents. The Parish Council considers that this should be reinstated with a minimum concession of 50 percent.

- 4.5 While the Parish Council accepts that the bridge needs to be adequately maintained, it also believes that expenditure could be deferred by reducing the weight limit to 3 tonnes, thus allowing further reserves to be accumulated for the repairs.
- 4.6 The Parish Council believes that the Company's need for a further increase in the tolls arises out of its failure to put aside sufficient monies into the reserve fund and this has been done at the expense of paying excessive dividends to its shareholders. This is contrary to the terms of the 1988 Act which sets out priorities for the use of the tolls. The Company has paid dividends to its shareholders at a time when it was evident that there were insufficient reserve funds to maintain the bridge. It has also paid them out of investment rather than toll income, contrary to section 7(3) of the 1988 Act.
- 4.7 The Council invites the Secretary of State to consider this Application in the context of section 3(2) of the 1988 Act whereby Secretary of State may consider that special circumstances apply, arising out of the application of the toll revenue and the burden upon regular users. This would then require the Company to explore other options to fund the essential maintenance of the bridge in accordance with its duties under the 1792 and 1988 Acts.

Goring Heath Parish Council

- 4.8 Goring Heath Parish Council believes that an increase in bridge tolls is not justified and that the shareholders of the Company should fund the works necessary to maintain the bridge in a satisfactory condition. The Company, which is exempt from tax, is being used to generate unreasonable profits for its shareholders based upon an inflated asset value.
- 4.9 The calculation of a reasonable rate of return should not include the value of the reserve fund or that of incidental property such as the toll house.

Pangbourne Parish Council

- 4.10 Pangbourne Parish Council believes that the excessive toll increase proposed will have an adverse impact on local businesses and other services. The problems will be further exacerbated by the need to close the bridge for a lengthy period of time while the proposed extensive reconstruction work is undertaken.
- 4.11 The Council's view is that the bridge does not have to be rebuilt to allow for 44/40 ton vehicles and that would allow a lesser scheme of refurbishment to be pursued.

Colin Cooper of Tollfreeze

- 4.12 Mr Cooper and his supporters believe that the current shareholders have mismanaged the affairs of the Company. They failed to take adequate advice on the need to rebuild the bridge at the appropriate time, they have failed to get reliable estimates for the likely cost of the works and failed to make adequate provision in the reserve fund.
- 4.13 He also believes that they are continuing to draw excessive dividends, contrary to clause 4 of the 1988 Act which says that they are only entitled to a dividend if there is any balance remaining after satisfying their obligations to maintain the bridge. Rather than paying themselves a 2.3% rate of return as claimed, they paid themselves 12.6% in 2008 and are planning to pay themselves 57.6% after reconstruction.
- 4.14 Oxfordshire County Council, who is the Local Highway Authority, should themselves be taking responsibility for the bridge and its maintenance, rather than making money out of the enterprise by providing inadequate and untimely advice.

Graham Morfey

- 4.15 Mr Morfey questioned the presentation of the accounts and offered an alternative proposal based upon a 30p cash toll, 20p for regular users and 10p for local residents.
- 4.16 He contended that such a toll regime would pay for the reconstruction of the bridge if the existing shareholders provided additional share capital and did not take a dividend until 2033, that rising administration costs were cut and that a more realistic forecast of future traffic usage was assumed.

Mike Scott

- 4.17 Mr Scott emphasised the hardship which would be caused by the steep rise in the cost of the toll, particularly for parents having to use the bridge to access their local schools. While he accepted that the regular user concession was helpful, it was only at the discretion of the Company and they had reduced it significantly in recent years.
- 4.18 He suggested that the funds for rebuilding the bridge should be raised by issuing new shares. In his view many local residents would be attracted to take up such an offer.

5 THE CASE FOR THE INTERESTED PARTY

- 5.1 Although Oxfordshire County Council has not reached a formal position on the toll increase, the Cabinet Member for Transport and the Head of Transport have previously made representations in writing. They accept that the Company needs to ensure that sufficient funds are available for the reconstruction of the bridge.

- 5.2 They do however recognise the concern of local people and believe that the Company should commit itself to maintaining a discount of at least 50% to regular users. The level of toll should also be reviewed when the bridge has been reconstructed and paid for.
- 5.3 The County Council has no plans to acquire the bridge and, in any event, it would be unlikely to consider such a move before the bridge was reconstructed and fully paid for. Even then it would need to consider the traffic impacts on the wider highway network, recognising that the presence of the tolls results in lower levels of traffic through Whitchurch and other local villages than would otherwise have been the case.

6 THE RESPONSE BY THE COMPANY

The material points are:

- 6.1 All parties to this Inquiry acknowledge the importance of the bridge. The Company is particularly mindful of the fact that the bridge is a valuable and important utility for local residents and others who rely on it to provide a convenient crossing of the Thames. The Company has introduced the concessionary toll scheme for frequent users to lessen the financial burden on those who are dependant upon the crossing and also to reduce the administrative costs of collecting the tolls. Reverting to a complex concessionary scheme based upon local addresses would not be cost effective.
- 6.2 Many of the written objections are concerned that the proposed toll increases are not linked to inflation and, although the process by which they are authorised results in a 'step' increase, the proposed increase averaged over the 20 year period covered by the financial plan does equate to the anticipated rate of inflation. Furthermore, the Company proposes a gradual increase in the concessionary tolls charged and this would further reduce the impact of the proposed increase on regular users.
- 6.3 A number of objectors have suggested what the annual cost of the increase would be to a typical user, but the Company believe these to be exaggerated claims. Currently an average concessionary toll card user makes 4.8 crossings per week. The immediate impact of the proposed increase would be to raise this by some £15 per year, which the Company do not consider to be unduly burdensome. Given that the alternative journey using one of the adjacent bridges is 8 -10 miles longer at a cost of at least 40p per mile, the bridge crossing would remain excellent value for money.
- 6.4 The engineering evidence is clear and the estimates of the cost of the work have not been seriously questioned. While some objectors have suggested that the life of the bridge could be extended by further reducing the weight limit of vehicles being able to use it and that future provision need not be made for heavier lorries, both these alternatives involve unacceptable safety risks and, in any event, would not be cost effective.

- 6.5 A number of objectors have suggested that the reconstruction of the bridge should be funded either by the existing or new shareholders. The Company consider that this would be a more expensive solution because shareholders in a private company expect a higher return than the interest on a loan and this would lead to higher, rather than lower, tolls.
- 6.6 Some objectors have suggested that the Company should increase the size of the loan, but this would be more expensive to service and hence result in the need for a greater increase in the tolls.
- 6.7 Many objectors have questioned the payment of dividends to shareholders by the Company, but such payments are reasonable and appropriate and in accordance with the 1954 Act, as modified. The 1988 Act provides for such payments to be made on the value of the Company's assets and these are defined as including those of whatever description for the time are being held or used by the Company in connection with the bridge. The Company's understanding of the Acts is consistent with that endorsed by the Inspector who reported on a recent Application for Dunham Bridge (Doc PA/6) and by the Inland Revenue Commissioners in connection with this bridge (Doc PA/4).
- 6.8 The Company chooses to restrict dividends to a maximum of 2.3% of the value of the assets, which is considered to be low return when compared to other regulated utility companies. The Company considers this level of return to be entirely reasonable and appropriate. The Company do not use investment income for the payment of dividends, which is an assertion made on the basis of a misunderstanding of the accounts.
- 6.9 There is no evidence to show that the Company has been using revenue for a purpose not specified in section 4 of the 1988 Act, or that there had been an unreasonable burden on regular users leading up to the Application. There is therefore no basis for the Secretary of State to decide that special circumstances have existed which would justify restricting the Company's ability to generate the income it considers is necessary.
- 6.10 Some objectors believe that such special circumstances may occur after the bridge has been rebuilt, however, it is evident from the Company's plans that the income from the tolls will be needed at that time to repay the outstanding loan which will be required to complete the funding of the works. Any objector who believed such circumstances had occurred after the bridge has been rebuilt would have recourse to make an Application to the Secretary of State to reduce the tolls at that time.
- 6.11 In respect of the Company's on-going commitment to limit the cost of the toll for regular users, it has undertaken to limit the concessionary toll to 20p up until 1 January 2013 and 30p thereafter. It will also make available a copy of the Company's accounts to any local Parish or District Council so that they may satisfy themselves that the Company is continuing to operate within the terms of its statutory obligations.

6.12 Those objectors who believe that the alternative is for the Local Highway Authority to acquire the Bridge will be aware that Oxfordshire County Council has no such proposal. There is therefore no evidence of an alternative to considering the Company's Application which is before this Inquiry.

CONCLUSIONS

Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, reference being given in square brackets to earlier paragraphs where appropriate.

Basis of Assessment of the Application

- 6.13 Section 6 of the Transport Charges & (Miscellaneous Provisions) Act 1954 (Doc PA/1/5), as amended by sections 2 and 3 of the Whitchurch Bridge Act 1988 (Doc PA/1/4), sets out the basis on which this application should be considered. The Secretary of State must have regard to the financial position and future prospects of the Applicant, and must not revise charges in such a way as to result in the receipt of annual revenue substantially less or substantially more than adequate to meet 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 investment of the Company of Proprietors of Whitchurch Bridge in the bridge, as defined in the Act.
- 6.14 There is, in addition, a proviso in both Acts which requires the Secretary of State to consider if special circumstances have existed whereby the Company has used its revenue for purposes other than those specified in the Acts or created an unreasonable burden on regular users of the bridge having regard to any concessionary rate of tolls. Other than this, the current financial position and future prospects of the Company are the only matters to which the Secretary of State is required to have regard. However, the powers to make an Order are discretionary and it seems to me that the Secretary of State, having given due regard to the financial position and future prospects of the Company, may take into account other matters such as the public interest if appropriate.

The Current Financial Position of the Company

- 6.15 The current financial position of the Company was not seriously disputed, although some thought that more prudent management by the Company could have made provision for the cost of the major works needed [4.6]. The evidence is that there was a sound financial plan in place at the time of the previous Application in 2004 (Doc PA/1/7) and when the Company were made aware in 2005 of the likely increased cost of rebuilding the bridge, it took what measures it could, including reducing the planned dividend and increasing the concessionary toll in order to increase the contributions to the reserve fund [3.11].
- 6.16 Some objectors believe that the shareholders were not entitled to any dividend under these circumstances [4.6 et al], but the Acts do specifically provide for such payment to be made. Certain objectors [4.6 et al] highlighted the wording of section 4 of the 1988 Act, which refers to 'any balance' being used for dividends, but I consider that the Company is

entitled to determine its contributions to the reserve fund in accordance with a long term financial plan which ensures that such a balance will exist to pay reasonable dividends.

- 6.17 Many of the same objectors questioned whether the extent of the past dividends was reasonable, particularly given that although the rate of return is low, the dividend reflects the recent large increases in the calculated asset value of the Company [4.8]. I agree with those objectors who recognised the illogically of a company becoming more valuable as its principle asset nears the end of its life and when the cost of its replacement is escalating, but the fact of the matter is that this is a consequence of the amendments made by the 1988 Act which effectively values the right to provide and operate the crossing.
- 6.18 While it must be true that the value of the shares in the Company will have benefited from the definition of the assets as set out in the 1988 Act, the extent of the dividends paid have been relatively modest, as reflected by the unusually low rate of return [6.8]. Moreover, in the final analysis, it is evident that even eliminating the payment of a dividend would have made very little difference to the need to increase the tolls [3.11].
- 6.19 I conclude that there is little evidence to suggest that the Company is, or has been in the recent past, operating in a manner which is not within their statutory remit or could not be seen as acceptable and reasonable [4.7]. I am satisfied that the special circumstances, as defined in the 1954 and 1988 Acts [6.14], do not exist.

Future Prospects of the Company

- 6.20 The future prospects of the Company depend on the outcome of a number of unknowns; most significantly, the timing and cost of future major maintenance, toll revenue and inflation.

Timing and Cost of Future Major Maintenance

- 6.21 With respect to the timing and cost of the rebuilding of the bridge, the advice from the Company's advisors was clear and unequivocal [3.6]. I was also able to see its structural failings at first hand when I undertook my site visits. I have no doubt that the bridge is nearing the end of its useful life and that a rebuilding scheme, similar to that proposed [3.8], will be necessary in the near future.
- 6.22 The only dissenting voices were those objectors who believed the life of the bridge might be extended by further restricting heavy vehicle movements [4.5 & 4.11]. While in some circumstances there could have been merit in this, the evidence suggests [3.9] that this would not save money because of the need to undertake a significant proportion of the work in any event. The Company were also unwilling to accept the increased risk to users and the loss of utility to others including the local bus service [6.4] and I agree that these would be additional benefits of the preferred scheme of works.

Toll Revenue

- 6.23 Toll revenue depends on traffic flow, tolling hours, and toll level. The forecasts for traffic flow are relatively simplistic in assuming the continuation of a recent 6% fall (Doc PA/1/L). There will be a significant loss of revenue during the period when the bridge is rebuilt and there are a great number of other factors which could influence usage, as explained by the witness from Oxfordshire County Council [5.3].
- 6.24 The projection was questioned by one of the objectors [4.16] and, given the recent buoyancy of the toll revenue, the projection might appear conservative. I would expect some initial resistance to paying the higher toll, but traffic levels would then recover as the real cost falls and the convenience of using the bridge becomes the dominant determining factor. The variations in traffic flow are however something which the Company will need to understand when monitoring their financial plan.
- 6.25 The Company has no plans to change the hours of toll collection and nobody has suggested that this is an issue. I accept that the percentage of revenue lost due to none collection is unlikely to vary significantly.
- 6.26 The toll revenue is dependant upon the take up of the concessionary scheme and the size of the discount. These variables will in fact be related. The financial plan sets out the Company's assumptions (Doc PA/1/L) and, because the discount is within their gift, they are able to adjust this if circumstances dictate. They have however given an undertaking on the level of concessions to be offered [6.11] and this will restrict their flexibility.
- 6.27 Many local objectors believe that there should be a special concession for local residents [4.4 et al], but the 1988 Act refers to regular users and I consider that the Company's scheme meets this obligation in a cost effective manner.

Inflation

- 6.28 With the exception of the complications concerning the escalating cost of the works, assumptions concerning inflation were not an issue.

Conclusion on the Company's Future Prospects

- 6.29 It was not disputed that there would be insufficient monies in the renewal fund to pay for the replacement of the bridge when it was required. Whatever the source of funds to cover this deficit, these monies would need to be repaid in an appropriate manner and that would not be possible without a toll increase. I can see no reason to dispute the Company's conclusion that raising a loan is the most cost effective way of filling the funding gap. It is also relevant that this would require the lender, or for that matter any other person asked to provide funds, to be confident that the Company's prospects were sound.

- 6.30 There is still some uncertainty about the cost of the rebuilding works as further detailed design work and the process of gaining planning permission are still outstanding. While the Company retains some flexibility in determining its revenue through its control of the concessionary element of the tolls, it has made significant commitments on the discount. In these circumstances, I consider that the increase requested would not provide an unduly generous return to the investors. Moreover, if circumstances were to arise where the shareholders were seen to benefit at the expense of the concessionary toll scheme then the objectors could make an Application for the Secretary of State to redress the position.
- 6.31 I conclude that the future prospects of the Company would become viable with the proposed toll increases. Its proposed annual revenue would not be substantially less or substantially more than adequate to meet expenditure, as far as can be reasonably forecast.

Other Considerations

Community Effects

- 6.32 I accept that the effect of increased tolls will fall heavily on some members of the community who use the bridge regularly [4.2 et al]. The concessionary scheme operated by the Company will continue to help in some degree [3.4], but the proposed changes in the toll from the current 13.89p rising rapidly to 30p per car is substantial in percentage terms.
- 6.33 However, the Company is not a charity and it operates legally under Parliamentary Act. It seems to me that the impact of the increases on the community would have to be very substantial for any public interest concern to outweigh the matters to which the Secretary of State must have regard as laid down in the Transport Charges &c (Miscellaneous Provisions) Act 1954, as amended by the Whitchurch Bridge Act 1988.
- 6.34 I accept that without a reasonable increase in toll the Company would not be able to rebuild the bridge and the future of the bridge would be at risk [6.4]. I consider that this would represent a much more serious threat to the community than the proposed increase and that it would be very substantially inconvenienced if the link were lost.
- 6.35 Given that the increased cost to a motorist of using one of the diversion routes instead of the bridge is very much greater than the toll cost [6.3], it seems to me that the bridge is a significant asset to the community. There is no prospect of the local highway authority taking over the bridge or providing a replacement [5.3] and I conclude that, although any increase in tolls is understandably unwelcome in the community, this is not a sufficient matter to outweigh the requirement to have regard to the Company's reasonable financial prospects.

Other Written Objections

6.36 I accept the Company's breakdown and response to the concerns of those making written objection (Docs OB/10 & 11). There are no other substantial matters not covered by my report and the Company's responses.

Overall Conclusion

6.37 I am grateful to all those who contributed to the Inquiry for the helpful, measured and considered way in which evidence was offered and cross-examination took place. Inquiries such as this are not without their difficulties and I recognised the problems experienced by the objectors resulting from their lack of professional support and the challenges faced by the Company in responding to proofs of evidence some of which were only submitted at the Inquiry. However, I consider that I have gained a full understanding of the proposals, the reasons for them, and the effect they would have on the community and other interests and that no party was materially disadvantaged by the procedures followed.

6.38 I conclude that, in the circumstances existing, it would be proper to make an Order increasing the toll charges for use of the Whitchurch Bridge as set out in the Application. I conclude that this would represent a reasonable proposal with regard to the current financial position and future prospects of the Company. I consider that the Company's proposed annual revenue would be neither substantially less nor substantially more than adequate to meet expenditure on the matters listed in Section 6(3) of the Transport Charges & c (Miscellaneous Provisions) Act 1954.

6.39 There are no other matters of sufficient weight to alter my recommendation to the Secretary of State that the Application should be accepted and the Order should be made.

7 RECOMMENDATION

7.1 I recommend that the Secretary of State for Transport should make an Order under Section 6 of the Transport Charges & c (Miscellaneous Provisions) Act 1954 in accordance with the formal Application.

Martyn P Heyes

INSPECTOR

APPENDIX

Documents

No. Document Title

Inquiry Documents

IN/1 Attendance Registers

IN/2 Appearances

Applicant's Documents

PA/1 Statement of Reasons and List of Documents

PA/2 Proofs of Evidence (3)

PA/3 Rebuttal by Mr Geoffrey Weir

PA/4 Revenue Appeal Decision 2002

PA/5 Alternative Presentation of Accounts

PA/6 Extract from Dunham Bridge Inspectors Report 2006

PA/7 Counsel's outline of closing submissions on behalf of Applicant

Objectors' Documents

OB/1 Proof of Evidence of Mr Vincent Aldridge

OB/2 Memorandum prepared by Mr A J Kerevan FCA

OB/3 Statement read by Mr Peter Dragoneti

OB/4 Statement read by Mrs Elizabeth White

OB/5 Proof of Evidence of Mr Colin Cooper obo Tollfreeze

OB/6 Forecast Model Spreadsheet

OB/7 Notice of Application 2004

OB/8 Proof of Evidence of Mr Morfey

OB/9 Statement read by Mr Mike Scott

OB/10 Schedule and letters of objection received before Inquiry (280)

OB/11 Letters of objection received during Inquiry (2)

Interested Party's Document

IP/1 Proof of Evidence of Mr Owen South