

PUBLIC INQUIRY – 19th MAY 2015
APPLICATION TO INCREASE THE TOLLS AT WHITCHURCH BRIDGE

Rebuttal statement by Geoffrey Weir

Objections Received

1. The 42 day statutory public consultation period on the Whitchurch Bridge Company's Toll Application dated 5th November ran from 21st November 2014 to 2nd January 2015. During this period a total of 28 written objections were received by the Secretary of State for Transport.
2. The Department for Transport decided to extend the consultation period to 20th April 2015, and received a further 280 objections. .

Issues Raised by Objectors

3. The issues mentioned by the objectors are as follows:
 - 3.1 Management of the Reconstruction Project
Reconstruction costs not estimated correctly
Funds not built up soon enough
Wrong choice of contract model
Works should have been done in the summer to avoid flooding issues
Mismanagement of the project during the works
 - 3.2 Bank Borrowing
Loan Repayment period should be longer than 15 years
Bridge users shouldn't have to pay all the costs
 - 3.3 Shareholders
There should be no dividends whilst loans are being repaid
Shareholder dividends are too high
Interest rate on Shareholder Loan Stock is too high
Shareholders should contribute more to the reconstruction costs
 - 3.4 Communications about the Toll Application
The Company didn't advertise the Toll Application and Public Inquiry effectively
 - 3.5 Concessionary Tolls
No safeguard on discounted Toll
Company will not re-introduce concession for local residents
 - 3.6 Forecast of Traffic Volumes
Forecast of Traffic volumes too pessimistic
 - 3.7 Status of Company
Local highways authority should "take over" and/or provide funding for the Bridge
Company is a monopoly and unregulated

Management of the Reconstruction Project

4. Document 13 of our Statement of Reasons (SOR) explains how the Bridge Reconstruction Project was managed. It explains how we began planning this work back in 2005, and in particular that we consulted the Environment Agency (EA) 5 years before work started, in 2008. Appendix 1 of Document 13 includes some of the correspondence and notes of meetings we had with the EA. The EA's position on only permitting works which impeded navigation to take place between November and Easter (and even then with conditions) is clear.
5. We of course knew that carrying out the works over winter would increase the risks of flooding delays and thus costs, and this was referred to in our 2008 Toll Application (Document 6, Appendix 2, page iii – the 5th para starting "Because...." . It is because of risks such as this, together with the need to work from pontoons and to locate the contractors' compound on a flood plain that the NEC3 Option C Contract Model was chosen. Mr M Brain will give more details of the choice of contract model in his witness statement.
6. The contention by some objectors that we could have gone for a simple fixed price, fixed duration contract, with penalties for late re-opening, is based on a misunderstanding of the particular circumstances of a complex projects such as ours.
7. We followed the NEC3 project management processes meticulously: all the key roles -our Project Manager, our Designer and our Contract Supervisor - were undertaken by individuals with the right expertise and experience for a Bridge reconstruction project such as ours.
8. In addition, our bankers Barclays employed WSP as monitoring surveyors throughout the works – WSP's function was to independently verify, on behalf of Barclays, that the project was being properly managed and that costs were being properly incurred, verified and certified.
9. The Company is satisfied that the Project was properly managed and that costs were properly controlled, and so far as the Company is aware no evidence has been produced which indicates otherwise.
10. On the wider point that some objectors contend that the Company has been mismanaged, this was raised at the 2009 PI and the Inspector concluded (Document 7, para 6.19) that there was *"...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"*.

Bank Borrowing

11. Document 13, section 6 gives details of our Bank borrowing. Our bankers, Barclays, have been helpful and supportive throughout the project. It is a reflection of the confidence that Barclays have in the Company's management that they agreed to lend a substantial amount in the first place, and to increase the loan as costs increased due to the exceptional flooding events in early 2014.
12. The type of business loan that Barclays were prepared to give the Company, based on the unusual nature of its business, is known as a "Cashflow Loan". These are designed to help Companies overcome fairly short term cashflow problems, and are normally for terms of 3 – 5 years. Because of the specific circumstances Barclays initially agreed to a 12 year term and as our costs and thus borrowing requirements increased Barclays agreed to extend this to 15 years. A term as long as this for a cashflow loan is highly unusual and was only allowed by Barclays because of the exceptional circumstances, and Barclays have made it clear to us that there is no possibility of a longer term being agreed.
13. It is important to understand that business loans such as that given to the Company cannot be compared to a mortgage-type loans on domestic properties which may offer longer repayment terms.
14. The Company is satisfied that it got the best possible terms it could have done for its Bank borrowing, and so far as the Company is aware no evidence has been produced which indicates otherwise.

Shareholders

15. Document 15 gives details of the Company Dividend Policy and Dividends paid in the past and planned for the future. It is important to note that shareholder return is defined as their return on the assets of the Company: this has been unusually low in the past and will continue to be in the future. The Company considers this a prudent way forward until all loans have been repaid.
16. Para 6.18 of the Inspector's Report from the 2009 Public Inquiry (Document 7) states
"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]".
17. Since 2009 shareholder return has been below the 2.3 % forecast at the 2009 PI, and will continue to fall to 1.4 % by 2023. This should be compared with what may be considered a reasonable rate of return of 6 % for a Company such as ours. Mr M Beckley will give more details of shareholder return in his witness statement.
18. Shareholders have contributed £500k through an Unsecured Loan Stock scheme: the 6% interest offered takes account of its unsecured status, and that it is a "second tier" loan behind Barclays, and that no repayments are allowed until 2029.
19. It should be noted that it is normal and not unusual for a Company to pay shareholder dividends while it is repaying debt, and there is thus no rationale for the contention by some objectors that the Company should suspend dividend payments until all debt has been repaid.
20. There is no evidence for the contention by objectors that dividend payments to shareholders have been excessive: The evidence is, in fact, to the contrary, and that dividend payments will continue to be, in the words of the Inspector at the 2009 PI, *"relatively modest, as reflected by the unusually low rate of return"*.

Communications

21. Document 11 gives details of how the Company communicates, and in particular how we publicised our Toll Application and the Toll Application process including this Public Inquiry.
22. We use our website, Twitter and local Parish magazines to communicate, and during the reconstruction works our website received around 6,000 visits per month. Local radio and television have regularly carried items about the Bridge since the reconstruction works started in summer 2013, and in recent months have covered our Toll Application.
23. We have done far more to publicise our Toll Application than we were required to by the relevant Acts and by the DfT. Our website has at all times carried the latest information about the Toll Application, the statutory consultation process, the DfT's latest guidance to objectors, our Statement of Reasons, and details of this Public Inquiry.
24. The Company therefore rejects completely the assertion by some objectors that it has failed to adequately publicise its Toll Application. The Company believes that no Toll undertaking in the country has done more to ensure that its Toll Application is publicised and the approval process explained.

Concessionary Tolls

25. A geographically-based concession (ie a cheaper Toll for local residents) has been sought by some local objectors, Whitchurch-on-Thames residents in particular. The Company will not be introducing such a concession because the Company needs a certain level of revenue, and believes that it is inherently unfair that, for example, residents of Whitchurch-on-Thames should be subsidised by residents of other Parishes.
26. The Company confirms that it will retain its Bridge Card system which gives a discount of not less than 25% of the regulated Class 1 Toll. We are looking at enabling Bridge Card top-ups via the internet.
27. The Company also confirms that it will retain its Frequent User Scheme, which give unlimited crossings for a fixed monthly fee. This scheme was introduced following the 2009 PI, but takeup has been lower than expected. We will look at pricing and publicity to increase takeup. It is worth noting, however, in the first 7 months of Toll collection since re-opening that
 - 6,327 Bridge Cards were used (out of 11,000 issued) with an average of 10 uses per Card per month
 - Only 49 Bridge Cards had an average use of more than 2 uses per day
28. We are also looking at putting a daily limit on the number of Card crossings charged per day, perhaps at 5 or 6. So, for example, if a Card user in exceptional circumstances crossed the Bridge 8 times in 1 day they would only be charged for say 5 crossings.

Forecast of Traffic Volumes

29. The Company based its forecast of an average 1,400,000 vehicles pa in collecting hours over the next 8 years (para 5.5.2 of the Toll Application) on the historical data available since 2005 – see graph below. The crossings data since reopening in September 2015 indicates that this figure is certainly not an underestimation and may well be slightly optimistic.



The Company therefore rejects the assertion that it has significantly underestimated the number of crossings in collecting hours in the forecast period.

Status of the Company

30. The Company of Proprietors of Whitchurch Bridge is a Company by Statute, and Document 9 explains the legislative framework within which the Company operates. Any change to the Company's status would need to be enacted through changes to the current legislation.
31. Changes to the Company's status, including the proposition that ownership of the Company and/or the Bridge should be transferred from the shareholders to the local Highways authority, is, we contend, outside the scope of this Public Inquiry. In any case Oxfordshire County Council has expressed no interest in acquiring ownership of the Bridge.
32. The Company is not an unregulated monopoly, as this Public Inquiry shows. The Company cannot raise its Tolls without the permission of the Secretary of State for Transport, and every aspect of the Company's operations is controlled by the 1954 Act and the Whitchurch Bridge Acts of 1792 and 1988.

Conclusion

33. When the Company first published its Toll Application it stated that a Toll increase was regrettable but necessary, and urged people to read the Toll Application to understand the reasons why. The Company is disappointed by the number of objectors, but believes that many of the views expressed by the objectors are, whilst sincerely held, not based on correct assertions which are relevant to this Public Inquiry.
34. The Company believes that none of the objections put forward represent any significant challenge to the justification for the Toll increase sought by the Company in accordance with the relevant Acts.

Geoffrey Weir
16th May 2015