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for Transport

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Your Ref:

Our Ref:

Date: 30 September 2022

Dear Mr Bell

ALDWARCK TOLL BRIDGE LLP – PROPOSED REVISION OF TOLLS

SECRETARY OF STATE'S DECISION – ORDER WILL NOT BE MADE

1. In accordance with Section 6 of The Transport Charges &c. (Miscellaneous provisions) Act 1954 and the Aldwark Bridge Act 1772, the Secretary of State for Transport (the Secretary of State) has decided that the application made by the Aldwark Toll Bridge LLP (the Company) for a Toll Revision Order (the Order), should not be approved.

CONSIDERATIONS FOR DECISION

2. The application was referred to the Secretary of State for a decision. As 105 objections remained outstanding at the end of the consultation period, it was decided that a local Public Inquiry should be held. The Inquiry was eventually held on 25, 26, 27, 28 April and 3 May 2022 as a virtual event before Inspector Helen Heward BSc Hons MRTPI, an independent Inspector appointed by the Secretary of State.
3. The Inquiry originally opened on 25 October 2021 and the Inspector heard a few procedural concerns. As a result, the Inquiry was adjourned for the Applicant to produce additional evidence, for the objectors and interested parties to have time to consider any new evidence and for the placing of a new public notice. The Applicant agreed that this would be a reasonable, fair, and proportionate way forward. A pre-inquiry meeting was held later the same day when the Applicant set out the additional evidence they intended to produce and a timetable for events. A further pre-inquiry meeting was held 23 February 2022. It was agreed that the Applicant would submit proofs of evidence in relation to accountancy, engineering, transportation and heritage matters by 17 March 2022 and the main objectors would submit statements and/or proofs of evidence by 14 April 2022. The Inquiry resumed on 25 April 2022 and sat 25-28 April and 3 May 2022 with the Inspector conducting an accompanied site visit on 4 May 2022.

4. The Inspector considered all representations and objections about the Order during the Inquiry and has since submitted a report to the Secretary of State, a copy of which is enclosed with this letter
5. The Secretary of State has considered the Inspector's Report (IR) as well as her obligations under Section 6(3) of the 1954 Act (as amended) that she must:

'.....have regard to the financial position and future prospects of the undertaking and shall not make any revision of charges which in her 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
6. The Secretary of State has also considered the various representations and objections against the application, the material points of which are set out in the Inspector's report at paragraphs 5.1 to 5.163. The Secretary of State accepts the opinion of the Inspector in her conclusions found in the report at paragraphs 6.1 to 6.182.
7. The Secretary of State has considered information supplied by the Company on past, current and future performance, and future expenditure on the maintenance of the undertaking. The Applicant's updated statement of case summarised the amended application proposals. The proposal (as amended) would see the toll charges for a vehicle weighing up to 3.5 tonnes maximum weight increased from 40p to 80p and toll charges for vehicles or goods vehicles with a trailer or weighing over 3.5 tonnes increased from £1 to £1.50. At the opening of the Inquiry the Applicant clarified aspects of what was applied for. The Inspector has confirmed these at para 3.3 of the IR. The case for the Applicant is outlined in paragraphs 4.1 to 4.78 of the IR.

VALIDITY OF THE APPLICATION

8. The Secretary of State has considered the validity of the application which was questioned by objectors and referred to at paragraphs 6.1 to 6.9 of the IR. She agrees with the Inspector that there are no sound reasons to find the application invalid.

STATUTORY CRITERIA

9. Section 6(3) of the 1954 Act states that 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: -

- 1) 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,
 - 2) including reasonable contributions to any reserve, contingency or other fund; and
 - 3) where appropriate, a reasonable return upon the paid-up share capital of the investment.
10. At a pre-inquiry meeting the parties agreed that these three distinct considerations formed the basis for the main issues to be examined at the Inquiry. Objectors argued that within the legislation the working, management and maintenance of the bridge is prioritised over revenue, reserves, contingency and where appropriate, a reasonable return. The Secretary of State agrees with the Inspector that in the legislation there is no stated order of priority only a list of the statutory considerations which are to be considered equally.

CONCLUSIONS OF THE INSPECTOR

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).

OTHER MATTERS

13. Paragraph 6.156 of the IR confirms that the Applicant agrees that the powers to make an Order are discretionary and that the Secretary of State, having due regard to the financial position and future prospects of the company, may take into account other matters such as the public interest where appropriate. The Inspector made comment and conclusions on previous repairs of the bridge and safeguarding of funds (Paragraphs 6.157 – 6.165 of the IR), the effects of raising tolls or closing the bridge would have on the community (paragraphs 6.166 – 6.178 of the IR) and some unrelated other matters (paragraphs 6.179 – 6.182 of the IR). The Secretary of State

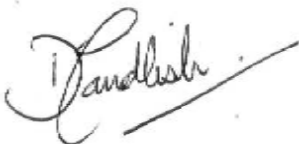
accepts the Inspector's comments and conclusions on all of the issues raised as other matters.

14. In her conclusions and recommendation (paragraphs 7.1 – 7.4 of the IR), the Inspector states that after having taken all matters into consideration, she concludes that the Applicant has failed to satisfy the statutory conditions in section 6(3) of the 1954 Act and recommends that the Secretary of State refuses to make a Toll Revision Order.
15. After the Public Inquiry closed and before the Inspector submitted her report, the Secretary of State received post Inquiry correspondence on 12 May 2022. This correspondence wished to draw to the attention of the Secretary of State matters relating to the accounts for Aldwark Bridge Ltd for the period to 31 March 2021 which had been recently lodged at Companies House. The post Inquiry correspondence suggested that there might be a connection between the applicant and the previous owners of the bridge. The Secretary of State has consulted relevant agencies and concludes that no further action can be taken in relation to this allegation and it is therefore disregarded for the purpose of her decision.

CONCLUSIONS OF THE SECRETARY OF STATE

16. On the basis of the evidence before her and having regard to her obligations under section 6 of the 1954 Act, the Secretary of State is not satisfied that the proposed toll revisions are justified. The Secretary of State has, therefore, decided to refuse to make the Order as requested.
17. In making this decision, the Secretary of State has relied on the information that the parties have provided, as contained in the application and related statements and correspondence, as being factually correct.
18. A copy of this letter and a copy of the Inspector's report has been sent to the objectors and copies will also be made available, on request, to any other persons directly concerned. Any person entitled to a copy of the Inspector's report may apply to the Secretary of State to view any document appended to the report. This must be done by writing to the above address within 6 weeks of receipt of this letter.

Yours sincerely,



DAVE CANDLISH

Authorised by the Secretary of State for Transport
to sign in that behalf



Report to the Secretary of State for Transport

by **Helen Heward BSc Hons MRTPI**
an Inspector appointed by the Secretary of State

Date: 18 August 2022

ALDWARD BRIDGE ACT 1772
AND THE
TRANSPORT CHARGES &C. (MISCELLANEOUS PROVISIONS) ACT 1954
APPLICATION FOR AN ORDER TO REVISE TOLL CHARGES FOR THE USE OF
ALDWARD BRIDGE

The Inquiry opened on 25 October 2021 and was adjourned.

The Inquiry reopened 25 April 2022 and sat 25-28 April and 3 May 2022

An accompanied site visit was carried out on 4 May 2022

File Ref: DPI/P2475/21/4.

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File Ref: DPI/P2475/21/4

Aldwark Toll Bridge, Aldwark, North Yorkshire

- The application is made by the Aldwark Toll Bridge LLP under section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954.
- The Aldwark Toll Bridge LLP has applied to the Secretary of State for Transport for a Toll Revision Order, by an application dated 8 September 2020.
- The effect of the proposal, if approved, would be to increase the tolls chargeable for use of the Aldwark Bridge.

Summary of Recommendation: I recommend that the application for a Toll Revision Order is refused.

1. PROCEDURAL MATTERS AND STATUTORY FORMALITIES

- 1.1 All pre-inquiry meetings and sittings for the Inquiry were held in a virtual format.
- 1.2 Unless otherwise stated, document references, including the cases for the various parties, are to the Core Document Library listed at the end of this Report and which can be found on the Programme Officers' website.¹
- 1.3 An Order revising the tolls for the use of Aldwark Bridge was last made on 14 July 2005.² On 8 September 2020 Aldwark Bridge Toll LLP made the application for a revision of the toll charges subject of this Inquiry.³
- 1.4 As required by s.6(4) of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 (the 1954 Act), the application was advertised in the Easingwold Advertiser on 10 October 2020. A total of 98 objections were received and two letters in support. None were withdrawn. In light of the objections, the Secretary of State caused this Inquiry to be held. Interested parties raised concerns about a number of matters regarding the press notice.
- 1.5 On 5 October 2021, shortly before the scheduled opening of the Inquiry an objector introduced a witness statement⁴ and the Applicant appointed Counsel who advised that the Applicant intended to submit additional evidence.⁵
- 1.6 Mindful that new evidence may have implications not only for the case made by the Applicant, but also for others who may have an interest in the outcome of the application, and bearing in mind that the Secretary of State would need to be fully informed, I determined that the interests of all would be best served by adjourning the Inquiry. I provided prior notification of that intention.
- 1.7 At the programmed opening on 25 October 2021, I heard a number of procedural concerns. I determined that the notification placed in the Easingwold Advertiser and Weekly News was misleading. I concluded that the errors could be corrected by the Applicant placing a new notification under s.6(4) of the Act. The notice should be placed both in the Easingwold Advertiser and the York Press.

¹ <https://programmeofficers.co.uk/aldwarkbridge/>

² CD4.2 Statutory Instrument 2005 No 2117 and application No TS/26/2/2)

³ CD1.1

⁴ CD9.1.4

⁵ CD5.6

- 1.8 The Inquiry was adjourned for the Applicant to produce additional evidence, for the objectors and interested parties to have time to consider any new evidence, and for the placing of a new public notice.
- 1.9 The Applicant agreed that this would be a reasonable, fair, and proportionate way forward. A pre-inquiry meeting was held later the same day when the Applicant set out the additional evidence they intended to produce and a timetable for events.⁶
- 1.10 The Applicant submitted a new Statement of Case on 26 November 2021⁷, and an updated notice of the proposed toll revisions as required by s.6(4) of the 1954 Act was placed in the Easingwold Advertiser and Weekly News and the York Press on 27 November 2021.⁸ As a result a further 15 representations and four updated statements of case from the main objectors were received.⁹ All the representations can be found on the Inquiry Website.¹⁰
- 1.11 A further pre-inquiry meeting was held 23 February 2022. It was agreed that the Applicant would submit proofs of evidence in relation to accountancy, engineering, transportation, and heritage matters by 17 March 2022 and the main objectors would submit statements and/or proofs of evidence by 14 April 2022.
- 1.12 The Inquiry resumed on 25 April and sat for a total of 5 days. I closed the Inquiry on 3 May. I carried out an accompanied site visit at Aldwark Bridge on 4 May, and undertook unaccompanied site visits of the surroundings on 4 and 9 May. These included various places and points of interest suggested by the main parties including the primary school at Great Ouseburn, Aldwark Manor Hotel, and housing at Linton on Ouse. My visits included crossing the bridge as a member of the public.

2. ALDWARK BRIDGE AND ITS SURROUNDINGS¹¹

- 2.1 Aldwark Bridge was built as a toll bridge under the Aldwark Bridge Act 1772 to replace a ferry service at the same point on the River Ure. The central section spanning the river had to be rebuilt after it was washed away by a destructive flood towards the end of 19th Century. The bridge surviving nowadays has retained almost all of its original features with some 20th Century and more recent interventions.
- 2.2 It 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.
- 2.3 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

⁶ CD5.7 Note of pre-inquiry meeting 25 October 2021

⁷ CD6.9

⁸ CD6.10

⁹ CD11.1-CD11.4

¹⁰ <https://programmeofficers.co.uk/aldwarkbridge/>

¹¹ Largely taken from the Applicant's updated Statement of Case CD6.9, section 2 : factual background

upstream of their confluences and there is a large swathe of country bounded by the villages of Boroughbridge, Brafferton, Skelton and Green Hammerton which is without any cross-cutting through road except for Aldwark Toll Bridge. Other crossings include the 'free-to-use' road bridge at both Thornton Bridge and Boroughbridge, both approximately 8 miles (by road) to the north.

- 2.4 The bridge approaches on both sides consist of about 75m of brick arches across the flood plain. The river crossing consists of four 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.
- 2.5 Tolls are collected for traffic in both directions at the western approach. The bridge is only wide enough for one-way traffic and vehicles must wait at the approaches to allow opposing traffic to pass. Approach signs to the bridge from both directions show that there is a weight limit of 7.5 tonnes.

3. THE PROPOSAL

- 3.1 The proposal (as amended) would see the toll charges for a vehicle weighing up to 3.5 tonnes maximum weight increased from 40p to 80p and toll charges for vehicles or goods vehicles with a trailer or weighing over 3.5 tonnes increased from £1 to £1.50.
- 3.2 The Applicant's updated Statement of Case summarises the amended application proposals:

"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:

40 pence per crossing for vehicles weighing less than 3.5 tonnes

£1 per crossing for vehicles up to the weight limit of 7.5 tonnes

The current application seeks authority to increase tolls in accordance with the following schedule:

80 pence per crossing for any vehicle less than 3.5 tonnes

£1.50 per crossing for any vehicle (1) with a caravan/trailer or (2) over the weight limit of 3.5 tonnes (and up to the weight limit of 7.5 tonnes)." ¹²

- 3.3 At the opening of the Inquiry the Applicant clarified aspects of what was applied for. The main points are set out below, and this report has been written with these in mind:
- The amended application does not seek to charge a toll of 50 pence for a motorcycle.
 - The Applicant agrees that in the proposed schedule the words "passenger" in sections 1 and 2, and the words "or goods" in section 2

¹² CD6.9 Paragraph 1.2 Updated Statement of Case

could be deleted. The proposed schedule would refer only to vehicles weighing less than, or more than 3.5 tonnes

- The proposed toll revisions sought would include charges for all trailers. Each trailer would be subject to an additional charge equivalent to the toll for the drawing vehicle.
- The effect of this would be that a vehicle weighing less than 3.5 tonnes with a trailer would be subject to an increase in charges from 40p to £1.60 (i.e. 80p + 80p).
- A vehicle weighing in excess of 3.5 tonnes with a trailer would be subject to an increase in toll from £1 to £3 (i.e. £1.50 + £1.50).
- A statement under the proposed schedule that "*vehicles not specified above, with an operating weight not exceeding 3,500kg [3.5 tonnes], will be charged at the rate applicable to that of the nearest similar vehicle*" should be deleted.
- The weight limit of 7.5 tonnes is the subject of a Traffic Regulation Order (TRO) and could only be varied by a new TRO which would be a separate matter for North Yorkshire County Council and is not within the remit of this inquiry.
- Tolls are presently not collected overnight. This is a matter for the Applicant. Should the Applicant introduce any change to this practice then the proposed tolls could apply to vehicles crossing at times when they presently do not pay.
- The Applicant confirmed that a proposal to increase the charges by 5p in each of the years 2021-2024 had been withdrawn.
- Discounts for pre-purchased tickets and other discretionary discounts have been given in the past, this too is a matter for the Applicant and the schedule of charges does not cover discounts.

4. THE CASE FOR ALDWARCK TOLL BRIDGE LLP (THE APPLICANT)

The case for Aldwark Toll Bridge LLP is reported substantially in the form set out in the application and in closing submissions.

4.1 The reasons for the variation in tolls sought set out in the original application latter dated 8 September 2020¹³ are:-

"1. In pure inflationary terms, the increase from 2005 to 2020 would put the charge for a single vehicle at 67 pence and for a larger vehicle at £1.67. In addition to that staffing costs, which constitute the largest outgoing of the business, have risen from £5.05 in 2005 to £10.00 in 2020 and will continue to rise.

2. Referring to the last filed accounts as being the only year's accounts provided to our client on its acquisition of the bridge, it is claimed that the accounts demonstrate that the operation of the bridge is barely

¹³ CD1.1

profitable. Projected adjusted management accounts from 1st August 2020 show a loss of £116,640.

3. The bridge will require substantial investment due to a lack of investment in the upkeep of the bridge for a number of years and immediate and significant essential works are required. A report commissioned from a firm of surveyors, Mason Clark Associates, shows the extent of works required and that immediate attention is required to arrest the long-term structural damage. From the report, it is claimed that the Applicant needs to invest circa £100,000 given the lack of investment over the past 20 years.

4. Traffic flow is seasonal but this is difficult to gauge currently due to COVID-19. This will continue to affect traffic flow and additionally one significant customer being the RAF base at Linton-On-Ouse will be lost as the base is due for closure.

5. The proposed toll remissions are in line with other similar bridges. For example Batheaston Bridge, which has a similar number of crossings to Aldwark Bridge, has recently increased its toll for vehicles up to 3.5 tonnes to 80 pence per vehicle.

6. The increase in charges are not unreasonable because if the bridge was not subject to substantial investment and thus unable to be used the use of the bridge would be subject to a 22-mile detour which in fuel alone would cost approximately £3.00. If the bridge closed the loss to the community would be more severe than the proposed increases and would result in adverse environmental consequences."

Closing Submissions on behalf of the Applicant

- 4.7 By the time the Inquiry sat the application and supporting evidence had been amended. The Closing Submissions on behalf of the Applicant represent the amended proposals sought and the case presented. They are reported in full, save for the factual background which is already set out in Section 2.

Introduction

- 4.8 The Closing Submissions were made on behalf of Aldwark Toll Bridge LLP ("the Applicant) in support of its application 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 1954 Act and Part 1 of the Aldwark Bridge Act 1772.
- 4.9 Notwithstanding the promise of the Conservative-Liberal Democrat Coalition Government in 2014 to reform and simplify the procedure for raising local tolls at the 11 affected English toll crossings, nothing came to pass. As a result, the procedure under the 1954 Act remains cumbersome and expensive for operators such as the Applicant when decisions should really be made at the local level.
- 4.10 Political objection to tolls as a matter of principle are not a matter for this Inquiry. The witness for NAAT believes that the Secretary of State does not understand the 1954 Act; he says so expressly in his evidence. That is a

matter for him to take up elsewhere if he wants to but such a misguided objection cannot lawfully result in refusal of this application.

- 4.11 So far as local residents are concerned, as the cross-examination of The Chairperson for Aldwark Area Parish Council (AAPC) on Thursday afternoon demonstrated, there is very little in dispute. The following matters were agreed:
- (1) the toll bridge is in serious need of repair;
 - (2) the full extent of the works proposed by Mason Clark Associates is accepted to be reasonable for the statutory purposes of working, management, and maintenance of the toll bridge;
 - (3) the result of the competitive tendering exercise is agreed; the price of the works is not disputed;
 - (4) the only source of income to fund the works is toll revenue;
 - (5) the current usage levels are agreed, verified by the accounts and what is being banked;
 - (6) national travel growth forecasts are accepted; and
 - (7) a 5% upscaling factor for local developments including (but not limited to) Aldwark Manor Hotel and the potential for an asylum centre is reasonable.
- 4.12 Indeed, the single issue which remains live is whether or not a 10% upscaling factor to take account of COVID-19 is appropriate. That is a matter for judgement. The Applicant has called expert evidence from the Transport Consultant and Accountant who both say that it is and provide cogent reasons for their opinions. Such professional evidence must carry more weight than the unevidenced scepticism of local residents.
- 4.13 So far as the Applicant is aware, there have been no examples of a toll bridge operator being denied an application for an increase in tolls under the 1954 Act. The reason for that is because operators will only go to the considerable time and expense of making an application if they have cogent evidence of it being required. This application is a case in point; at considerable expense, the Applicant has assembled a professional team to provide evidence based, detailed support for its case. Whilst there is an understandable and considerable amount of disquiet amongst local residents, there is nothing of substance which they raise which should lead to this application being rejected pursuant to the 1954 Act when it is properly understood.

Toll increases at Aldwark

- 4.14 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:
- 40 pence per crossing for vehicles weighing less than 3.5 tonnes
 - £1 per crossing for vehicles up to the weight limit of 7.5 tonnes
- 4.15 The current application seeks authority to increase tolls in accordance with the following schedule:
- 80 pence per crossing for any vehicle less than 3.5 tonnes
 - £1.50 per crossing for any vehicle (1) with a caravan/trailer or (2) over the weight limit of 3.5 tonnes (and up to the weight limit of 7.5 tonnes)

Ownership of the toll bridge

- 4.16 The toll bridge was formerly owned by Aldwark Bridge Limited (company number 04021548). Aldwark Bridge Limited had acquired the toll bridge from previous owners in July 2000. The previous owners had agreed to fund urgent works of repair personally and Aldwark Bridge Limited was formed so that a loan agreement could be formalised.
- 4.17 The toll bridge is currently owned by the Applicant which is Aldwark Toll Bridge LLP (company number OC432465). The Applicant was incorporated on 7 July 2020 and is unconnected with previous owners. The Applicant has two directors called Alex Bell and Vicky Bell, both c/o The Westwick Group. Whilst local residents spend a considerable amount of time focusing on previous owners and corporate entities, the Applicant says that it is of no, or at best, little relevance.
- 4.18 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.
- 4.19 By making this application and in seeking the proposed toll increases, the directors are looking to achieve the following prioritized objectives:
- (1) to meet running expenses
 - (2) to accumulate funds for future substantial repairs
 - (3) to make a reasonable return on capital invested.

Legislative provisions

- 4.20 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 a 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."

- 4.21 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.
- 4.22 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.
- 4.23 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. As was agreed in cross-examination by NAAT's witness, Mr John McGoldrick, the list expressly covers building up reserves for future repairs and is non-exhaustive. As the Applicant's accountancy witness (the Accountant) clearly explained, if the £1,050,000 introduced by Mr Bell is not treated as capital it would be classed as a loan on which interest would be due at the same risk weighted rate of 6%. Mr John McGoldrick is entirely misconceived in his submission that the 1954 Act only allows for a reasonable return to be made on paid up share capital. That is not what the statutory provision on its face provides.
- 4.24 This is the only test to be satisfied. There is no further requirement that any increases should be linked to or justified in relation to inflation or any other index. In this regard, applications will only be considered after the expiration of at least one year since the previous application.
- 4.25 Mr Bell made no secret of the fact that it has been clear to him since purchase of the toll bridge that an increase in tolls would be essential to ensure financial

viability of the business. In order to substantiate the current application for increases to the tolls, the Applicant has presented a detailed case based on:

- Physical condition of the toll bridge
- Heritage
- Accurate costings
- Traffic forecasts
- Financial forecasts.

- 4.26 All parties acknowledge the importance of the toll bridge. It is of paramount concern that it should remain open as an important and functional part of the local highway network and that it should operate safely. With the many competing interests appropriately balanced, the Applicant submits that the proposed tolls are justified on grounds of fairness to all involved, public safety and sound financial planning.
- 4.27 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. However, the powers to make an Order are discretionary and the Applicant accepts that the Secretary of State, having due regard to the financial position and future prospects of the company, may take into account other matters such as the public interest where appropriate.
- 4.28 It is accepted by the Applicant that the effect of increased tolls will fall heavily on some members of the community who use the bridge regularly. However, the Applicant is not a charity, and it operates legally under Parliamentary legislation. The Applicant submits that the impact of 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 1954 legislation. Having now heard all of the evidence in this Inquiry, that would not be the case here.

Validity of the application

- 4.29 Mr John McGoldrick witness persisted with a number of objections based on validity of the application. None of them are well-founded:
- (1) the application no longer proposes to increase charges by 5 pence in each of the years 2021-2024 and the Applicant has been crystal clear on this point.
 - (2) under section 6(4)(a) of the 1954 Act, the notifications in the press only have to provide an indication of the "general effect" of the proposed toll increase; whilst none are accepted, even if there were any minor corrections to be made, they would not invalidate either the press notices or the application as a whole. The Department for Transport confirmed that all statutory requirements had been complied with on 7 January 2022.
 - (3) use of the word "passenger vehicle" can be changed to "vehicle" without prejudice to any party.

Case presented on behalf of the Applicant

- 4.30 In presenting its case at the inquiry, the Applicant called witness evidence on the following topics:
- (1) Client evidence: Alex Bell: Aldwark Toll Bridge LLP

- (2) Engineering evidence (physical condition and works required): Mason Clark Associates/Dossor MCA
- (3) Engineering evidence (costing): Mason Clark Associates
- (4) Heritage evidence: PPIY Architects
- (5) Transport evidence: Local Transport Projects
- (6) Accountancy: BHP Accountants.

4.31 As stated above, very large parts of the expert evidence is unchallenged. In particular, little is said about (1) engineering (physical condition and works required) (2) engineering evidence (costing) and (3) heritage. The only live issue remains the impact of COVID-19 on traffic numbers and how that has been built into the financial modelling by the Accountant.

Client evidence

4.32 The Applicant presented evidence on the following matters:

- Track record of the Directors in running successful businesses spanning a professional career of 30 years
- Explanation of the structure of the Applicant
- Extent of due diligence at the time of purchase of the toll bridge
- Operation of the toll bridge
- Requirement for maintenance and capital outlay
- Procurement of contracts for assessment of the toll bridge and subsequent works which are required
- Future plans for the toll bridge including the potential for Automatic Number Plate Recognition (ANPR) technology/automation.

4.33 What was clear from the evidence of Mr Bell is that he is an experienced businessman who has a conviction for doing the right thing for the toll bridge. Whether or not the objectors think that he undertook sufficient due diligence or should not just have bought the asset is irrelevant to the statutory question; as is his personal wealth or lack of it. The issues before this inquiry are limited to those raised in the 1954 Act.

Engineering evidence (physical condition and works required)

4.34 Evidence was presented by the Structural Engineer on the following matters:

- Professional credentials of the business and specialist experience in bridge assessment
- Review of the 2020 Principal Inspection report and 2021 Principal Inspection report and updates which are required
- Requirement for undertaking necessary structural repairs to the bridge
- Requirement for on-going maintenance of the bridge
- Technical consents for required works including those from the Environment Agency, Canal and Rivers Trust and North Yorkshire County Council.

4.35 The Applicant's Advocate submitted that the Structural Engineer's professional qualifications and experience in relation to bridges and his knowledge of the toll bridge in particular are unimpeachable.

4.36 The 2020 inspection was undertaken by Mason Clark Associates in accordance with BD 63/17 "Inspection of Highway Structures" (now withdrawn and

superseded by CS 450) from the carriageway, riverbanks and from the River Ure using a pontoon and scaffold tower. No inspection of the underwater elements was undertaken.

- 4.37 The inspection highlighted that the bridge is in fair condition with primary defects noted as follows:
- i. There are several hollow sounding areas of masonry.
 - ii. There are several places where the masonry arch spandrel walls appear to be bulging outwards.
 - iii. Large cracks in arch barrels.
 - iv. The concrete parapets are defective in many areas and require repairs.
 - v. Brick loss in some areas of the masonry spans.
 - vi. Most of the drainage outlets from the deck appear to be blocked.
 - vii. Rotten timber decking and loss of fittings along the river spans.
 - viii. Substandard timber rails and concrete posts acting as parapets on the masonry arches.
 - ix. Vegetation and tree growth along the face of the spandrel walls.
 - x. Corrosion and paint loss to the river spans.
- 4.38 The 2021 report also included an underwater survey of the river span piers and scour survey and show continued deterioration of the structure.
- 4.39 The structural engineer's evidence also covered the need for ongoing maintenance works, both those highlighted in the 2020 and 2021 reports, as well as routine works and any reactive maintenance that may be required. This will include works which are not to be undertaken as part of the current repair scheme, but which are planned for the coming years.
- 4.40 Subsequent to the purchase of the bridge by the Applicant, Mason Clark Associates was commissioned to undertake a load assessment of the structure to confirm the 7.5 tonnes imposed weight restriction. This was undertaken to CS 454 "Assessment of Highway Bridges and Structures" and associated codes, with completion in March 2021. The assessment showed the following results:
- i. The masonry arches, in their current condition, fail for 18t assessment load but pass for 7.5 tonnes assessment load. Once repaired, they would pass for 18t.
 - ii. The river spans pass for a 7.5 tonnes assessment load but only with a higher grade of timber to that which is currently forming the deck.
- 4.41 Evidence was given on the assessment conclusions and the need to renew the existing timber deck.
- 4.42 Finally, evidence was given on technical permits which have been applied for in order to undertake the current repair scheme from the Environment Agency, the Canal and Rivers Trust as well as North Yorkshire County Council with regard to a road closure.

The works proposed by Mason Clark Associates are not a 'nice to have'. According to both structural engineers they are essential. Their evidence is that the works are neither substantially less nor substantially more than will be adequate. Straightforward reasoning was presented as to why the entirety of

the wooden decking has to be replaced as opposed to some sort of partial replacement. Finally, they confirmed that the timber decking was only suitable for vehicles up to 7.5 tonnes. Their evidence is agreed.

Engineering evidence (costing)

- 4.43 The Quantity Surveyor presented evidence on the quantification of cost for required engineering works, routine and reactive maintenance works and future works. He was subject to virtually no cross-examination and his evidence is agreed.

Heritage

- 4.44 The Conservation Surveyor gave evidence on the following matters:
- Heritage significance of the bridge
 - Potential impact on significance of the bridge of the required engineering works, routine and reactive maintenance works and future works
 - Legislative and policy protection
 - Listed Building Consent application process.
- 4.45 The Conservation Surveyor was a manifestly straightforward and reliable witness and very helpful to the inquiry process. He was not present when the highway and structural engineers gave their evidence and that provided very real corroboration of their evidence. The Conservation Surveyor provided independent verification of what was said in relation to the urgent need for works, extent of works and nature of works required.
- 4.46 The Conservation Surveyor provided cogent evidence on the reasons for delays in undertaking any works. After an initial pre-application consultation with Historic England, MCA submitted in July 2021 a Listed Buildings Consent (LBC) application to Hambleton District Council (Ref. 21/01722/LBC). This could not be considered until a heritage statement was provided to assess the impact of the proposed works on the significance of Aldwark Bridge. An additional LBC application had to be submitted to Harrogate Borough Council. As indicated, Harrogate Borough Council has now granted listed building consent.
- 4.47 PPIY Architects were appointed to assist with the LBC process and also address some concerns raised by Historic England regarding the proposed cleaning methods of the historic metalwork and the extent of the timber deck replacement.
- 4.48 As recorded in the 2005 proof of evidence by Richard Gibson Associates during the main 2000 refurbishment works the timber decking had been fully replaced and the metalwork cleaned and fully recoated, while all but the principle cross beams had been replaced with new steel sections. Since then, only limited localised repairs have been undertaken to include: replacement of individual boards from the top layer; tightening of fixings where loose; and replacement of fixings where missing. Richard Gibson Associates expected the 2000 installed timber decking to require a full replacement in 2025.
- 4.49 The above information formed the basis to assess significance and the impact of the proposed works in the Heritage Statement submitted by PPIY Architects to both Local Planning Authorities as part of the LBC application on 2 March

2022. Importantly, proposals have been supported subsequently by Historic England in their letter dated 3 March 2022.

Highway evidence

4.50 Important evidence was presented by the Transport Consultant on the following matters:

- Existing traffic including data from electronic traffic counter undertaken in November 2021
- Traffic growth forecasting
- Classification of vehicles
- Alternative routes and potential for diversion
- Average motoring costs
- Signage
- Potential use of ANPR technology/Automation.

COVID-19

- 4.51 In relation to the only remaining live issue of COVID-19, the Transport Consultant acknowledged that the baseline traffic data is, to some degree, influenced by the effects of the COVID-19 pandemic, particularly the likely longer-term new trends of working from home. However, as he indicated, there were no specific restrictions on travel in place during November 2021 that would materially suppress traffic flow levels. Accordingly, the baseline data is sufficiently representative of traffic flows during the era of the 'new normal' work, lifestyle, and travel patterns.
- 4.52 The Transport Consultant does not expect traffic flows, on the whole, to return to pre-pandemic levels in the short-term. Data provided by the Department for Transport charts the change in traffic flow across a mix of road types and locations across Great Britain since the start of the COVID-19 pandemic, measured for the equivalent day of the week against a baseline of the first week in February 2020 (which was not a school holiday and is considered to be suitably representative of typical pre-pandemic traffic flows).
- 4.53 Such data indicates that, in general terms, traffic flows in November 2021 and March 2022 were comparable across the country, and both of these periods experienced lower levels of weekday traffic than pre-pandemic levels, potentially highlighting that traffic flows during these periods are representative of the 'new normal'.
- 4.54 Such data indicates that November 2021 traffic flows were 94%-98% of the traffic levels seen on weekdays in the first week of February 2020. There were generally slightly higher levels of weekend traffic, 100%-107% of the traffic levels in the first week of February 2020 (with the exception of one Saturday in November 2021).
- 4.55 This is also similar to the latest figures for March 2022 (that is, after the lifting of 'Plan B' COVID-19 restrictions at the end of January 2022), which indicate that traffic flows were 93%-99% of the equivalent weekday traffic levels seen in the first week of February 2020. Again, there were generally slightly higher levels of weekend traffic, 100%-113% of the traffic levels in the first week of February 2020 (with the exception of one Saturday in March 2022).

- 4.56 The Transport Consultant's expert opinion is that a trend towards a 5% or 10% change in traffic levels is significant, from his perspective as a transport professional whose day-to-day work relates to traffic flow levels and capacity. Although he could not speak for the Accountant, this change may not be perceived as significant for non-transport professionals. But regardless, he agreed with the Accountant during the production of the Applicant's evidence that a 10% factor was a reasonable, robust, and justifiable estimate.

Aldwark Manor and other local development

- 4.57 Again, the Transport Consultant acknowledged that there are several local factors that may increase or decrease traffic flows on the bridge in the future and changes such as the popularity of Aldwark Manor. There have been 16 planning applications to Hambleton District Council at Aldwark Manor in the last 3 years (July 2019 to April 2022), which includes an application for 3 pools, a gym, spa/treatment rooms, conference facilities, 27-bedroom suites and other elements (Ref: 20/01035/FUL). This recent consent would increase the number of hotel bedrooms from 55 to 82 (+27).
- 4.58 None of these recent applications required any transport appraisal, so it would be reasonable to assume that the traffic impact was not expected to be significant. Most planning applications require a Transport Statement (TS) or Transport Assessment (TA) where the proposals are expected to generate more than circa 30 two-way trips in the peak hours, or circa 100 two-way trips per day.
- 4.59 The Aldwark Manor site may be able to generate additional traffic through changes that do not require additional planning consent, for example reduced pricing could theoretically increase custom for the site, and therefore vehicular traffic. However, the Transport Consultant had not seen any evidence to suggest that the potential increase would be significant, particularly in terms of traffic levels on Aldwark Bridge.
- 4.60 The Transport Consultant considered that the upscaling factor of a 5% increase in bridge traffic levels associated with changes at Aldwark Manor and other potential changes for local sites, is reasonable. Particularly since a robust 10% increase associated with the impacts of COVID-19 has been applied, as well as an additional 4.6% traffic growth factor over the next 10 years; so effectively an increase of circa 20% in total, accounting for all of these upscale factors.

RAF Linton-on-Ouse Asylum Centre

- 4.61 The Transport Consultant acknowledged that there are several local factors that may increase or decrease traffic flows on the bridge in the future, and reoccupation of the RAF base for any purpose, as well as reoccupation of residential properties, are examples of factors that may increase traffic flows. At the time the Inquiry sat the Home Office acknowledged that details for the asylum reception centre were "being finalised". It was difficult for the Applicant to comment specifically on the proposals. No planning applications have been made and no transport impact appraisals have been completed for the proposals.
- 4.62 Information from the Home Office indicates that the site is intended to be self-sufficient in order to "minimise the impact on local communities and services". On the basis of information currently available, the Transport Consultant was

clear that the upscaling factors would satisfactorily accommodate any new asylum centre.

RAF Linton-on-Ouse Exemptions

- 4.63 Exemptions are only for operational military vehicles. Therefore the significant major impact of the RAF base closure on paying bridge traffic is associated with the families and personnel stationed at the base and their journeys unrelated to military operations.

November 2021 baseline data suitability

- 4.64 The November 2021 data was contextualised through comparison against revenue figures for every month in 2021. The baseline data was also validated against February 2022 logbook figures. The Transport Consultant acknowledged that, even without changes associated with COVID-19 restrictions, traffic flows fluctuate month to month, and the variations were discussed in his proof. Accordingly, the November 2021 baseline data was sufficient to inform this inquiry, and arguably it was representative (if not more representative) than data obtained during any other period.
- 4.65 In relation to length of data collection, the Transport Consultant made reference to guidance and indicated that Automatic Traffic Counter (ATC) surveys are often undertaken for 7-days for many transport planning purposes. Data for a full month is more than is typically available for many projects. Accordingly, 1 month of survey data is sufficient to help provide a suitable baseline to inform this Inquiry. Most importantly, the traffic data is consistent with the money which is being banked by the Applicant. There can be no sensible dispute that the evidence of the Applicant represents the current position.

Deterrence

- 4.66 In theory, the transport consultant accepted that the state of repair on the bridge could partially influence the routing decisions of some drivers. However, the alternative routes for drivers are often substantially longer, and his view was that any impact on traffic flow levels is not expected to be notable.
- 4.67 Similarly, the difference in the number of required junctions and turns on alternative routes is only expected to be a minor factor on motoring costs, particularly as this may be balanced out by the higher likelihood of congestion on more major routes. The unavailability of the toll bridge would require a significant alternative route for many local journeys, and even, in theory, if the alternative routes were more fuel efficient, this would be notably outweighed by the extra travel distance for many journeys.

Accountancy evidence

- 4.68 Evidence was presented by the Accountant on the following matters:
- Purchase price of £1,060,000 by the Applicant which has no connection with any previous owners
 - Further personal funds of around £600,000 will need to be introduced to fund refurbishment of bridge and cottage, including professional and planning costs

- A reasonable return needs to be made on these funds introduced and 6% is assumed bearing in mind that the bridge is a high-risk asset for which bank funding is not available and bearing in mind comparable investments
 - When the Applicant purchased the bridge, it purely bought the physical asset, and it did not acquire the previous sinking funds and no allowance was given for the condition of the structure
 - In order to provide for the next major refurbishment cycle in 20 years' time the Applicant needs to set up an annual reserve of approximately £40,000 per annum to allow for cost inflation
 - Full annual costs will be budgeted for repairs and inspection costs to ensure that the bridge is maintained in a satisfactory condition
 - 10-year forecasts illustrate profitability and cash generation on two bases being (1) current fee levels and (2) revised fee levels as per the application to ensure that revenue is neither substantially less nor more than adequate to meet expenditure
 - Forecasts presented to this inquiry include profit and loss accounts, balance sheets and cash flows. The following key assumptions have been applied to the forecasts:
 - i) Current major refurbishment cost of £600,000
 - ii) Fee levels based on:
 - (a) Takings recorded since LLP purchased the bridge; and
 - (b) Data from the electronic trip counter
 - iii) Wages based on specified hours worked by staff employed
 - iv) Other expenses for the working, management and maintenance of the bridge based on historic figures and current experience as illustrated in the accounts for the first year of trading to 31 July 2021, together with such other costs properly chargeable to revenue
 - v) Reserve for dilapidations - £40,000 pa as above
 - vi) Return on capital of 6%
 - vii) Amortisation of current major refurbishment costs over 20 years
 - viii) Amortisation of acquisition cost of bridge over 50 years.
 - Full consideration is to be given to possibility of installing ANPR and resultant traffic flow management.
- 4.69 Attacks on the Accountant's independence are unacceptable. He is a well-respected and long-standing practitioner who gave his evidence in accordance with all professional standards. As became clear, he has a very detailed knowledge of the toll bridge and the business affairs of Mr Bell. He is not someone who has just been 'parachuted' in for a limited purpose.
- 4.70 The Accountant gave evidence that total payable crossings for the 4 weeks to 28 November 2021 were 27,713 per the traffic movement recorder, but 28,503 tickets were issued. He used this higher figure and income in the month of £11,348 as the initial base for his forecasts. As he was at pains to point out, the number of tickets issued was higher than the paying customers per the traffic movement recorder and this gave him confidence that all revenue was being accounted for.
- 4.71 BHP LLP has provided certified accounts for the Applicant. Audited accounts are not required for the purposes of the 1954 Act.

Concluding remarks

- 4.72 The present bridge dates from about 1873 and is a Grade II listed structure. It has become clear that if the bridge is not maintained, it will, at some point in the future, become unpassable. As the Conservation Surveyor indicated, the toll bridge also contributes hugely to the character and appearance of the local area and needs to be maintained for this and future generations to enjoy. The finances currently generated by the toll bridge simply are not enough to meet its needs. The Applicant was aware of this financial difficulty at the point of purchase; there is nothing untoward about that.
- 4.73 Quite rightly, the process for applying for an increase to the tolls involves a number of checks and balances. The Applicant must comply with all aspects of the Act and must be able to demonstrate that the increases fall within the ambit of the legislation by reference to credible professional evidence.
- 4.74 In this case, the evidence submitted by the Applicant has justified the proposed increases within the ambit of the statutory provisions. The proposed tolls are a reasonable proposal with regard to the current financial position and future position of the Applicant and would be neither substantially less nor substantially more than is adequate to meet expenditure on the matters listed in s.6(3) of the 1954 Act.
- 4.75 Leaving aside Mr John McGoldrick's objection in principle to tolls on a privately owned bridge which he thinks should be taken on by the Council, the only remaining issue relates to the impact of COVID-19 on traffic numbers and how that should be accounted for in the 10-year forecast. On this, the Applicant has relied on expert evidence from two witnesses which should be preferred to the unevidenced scepticism of local residents. The Transport Consultant has to deal with the impact of COVID-19 on traffic generation every week of his professional life; his approach is systematic and reliable.
- 4.76 Whilst there is an element of uncertainty in any future forecasting, it comes down to this. Given the upscale factors which amount to 20%+ in the next ten years, the Applicant's assumptions would have to be so wildly wrong that the 20% allowance would not be sufficient and those mistakes would have to result in revenue which was in excess of a level which was "substantially more" than was required to meet the agreed cost of the works. Analysed properly, the objections do not even come close to being enough to justify this application.
- 4.77 As the Accountant states in his evidence, a summary of the 10-year forecasts is as follows:

A. Without increases – see his Appendix 3a

Over the period to 31 January 2032 the bridge accumulates losses of £1,325,000 and is forecast to have an overdraft of £233,000 at that date, which would have to be funded by the owners, in addition to their loan of £582,000K for the refurbishment and their initial loan capital.

This financial position is such that no funding is available to meet the provision of £525,000 at 31 January 2032 for refurbishments and clearly does not meet the requirements of s.6(3) of the 1954 Act:

- i) the annual revenue is substantially less than adequate to meet the expenditure of the working, management and maintenance of the undertaking and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue;
- ii) reasonable contributions have been allocated to a sinking fund for future refurbishments, but no cash is available to cover this fund;
- iii) a reasonable return of 6% has been allocated on the initial capital introduced but the owners have had to increase their investment by £749,000 with no return, i.e., they have had to contribute more capital than the return they have received.

B. With increase applied for – see his Appendix 3b

Over the period to 31 January 2032 trading profits post the re-opening of the bridge average around £12,000 per annum and are gradually reducing the losses accumulated in the first three years. The owners' loan for £582,000K for the initial refurbishment has been repaid and there is "cash at bank" of £435,000K which is available to cover the sinking fund of £525,000 established for future refurbishments.

In terms of the requirements of s.6(3) of the 1954 Act:

- i) the annual revenue is not substantially more than adequate to meet the expenditure of the working, management and maintenance of the undertaking and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue;
- ii) reasonable allocations have been made to a sinking fund for future refurbishments, and cash is available to cover this fund, although at this date the owners would need to input a further £90,000K to fully fund the reserve;
- iii) a reasonable return of 6% has been made on the initial capital introduced.

- 4.78 Accordingly, on the basis of the evidence it has called, the Applicant has clearly satisfied the statutory conditions in s.6(3) of the 1954 Act and respectfully requests that the application is granted in the form in which it has been sought.

5 THE CASE FOR THE OBJECTORS

Aldwark Area Parish Council (AAPC)

- 5.1 AAPC, is an elected body working on behalf of the residents of the villages of Aldwark, Youlton and Flawith. The Parish Council represented the views of the local community who have raised objections to proposed increases in charges to cross the River Ure. AAPC consulted with residents in the parishes of Aldwark, Flawith and Youlton and established an Advisory Group to review and scrutinise the application. The Advisory Group is made up of interested parties from within the Aldwark area and other adjacent parishes.
- 5.2 The case for AAPC is reported substantially as given in their closing statement to the inquiry.

- 5.3 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.
- 5.4 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.
- 5.5 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.
- 5.6 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 £1,000,000 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.
- 5.7 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.
- 5.8 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 the Accountant that suggests the current levels of income are insufficient to meet the running costs and the necessary repairs and future maintenance.
- 5.9 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.
- 5.10 The application and financial model include a 6% return on capital, being the purchase price, even though s6 of the 1954 Act only allows for a reasonable return upon the paid-up share capital of the undertaking.
- 5.11 The Accountant 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.

- 5.12 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 the Accountant to attribute a useful life of just 50 years to the bridge, with 2% depreciation per year.
- 5.13 The accountancy evidence provided by the Accountant raises significant concerns as to its veracity. The Accountant 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.
- 5.14 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 the Accountant puts on his evidence, projections, and ten-year forecasting.
- 5.15 The 4-week November 2021 data from the ATC measured almost 30,000 crossings in the chargeable period, yet the Accountant 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.
- 5.16 The Accountant accepts there was a significant impact on traffic volumes in 2021, but he keeps this at a mere 10% based on the Transport Consultant's November 2021 comparison with February 2020. Whilst this estimate is disputed, the Inspector will realise that the Accountant 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.
- 5.17 To apply the Department for Transport values for November 2021 across all revenues shows a fundamental misrepresentation of the evidence. In some weeks during the 2021 period the Department for Transport data shows a 70% difference in traffic volumes compared with February 2020 and therefore it is clearly erroneous to apply only a 10% uplift.
- 5.18 It was also concerning to learn that the Transport Consultant, and therefore the accountant, is using traffic growth data from the Department for Transport 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 Department for Transport's forecast of future growth based upon new housing development in areas which Local Authorities deliberately avoid.
- 5.19 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.

- 5.20 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.
- 5.21 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.
- 5.22 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.
- 5.23 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.

National Alliance Against Tolls (NAAT)

- 5.24 NAAT is an umbrella group that has been involved in opposing various forms of tolls since 2004. They were not involved in the 2005 Aldwark Bridge Toll Increase Inquiry, but since then had a little contact with one parish council and with a few users of the bridge. The witness for NAAT, Mr John McGoldrick, was contacted by Aldwark Bridge Users' Group (ABUG) and submitted an objection (CD2.89) in November 2020. The Closing statement from Mr John McGoldrick is reported substantially as given to the Inquiry and summarises the points that arose during the inquiry which they considered to be the most significant.
- 5.25 This has been an unusual Inquiry in several ways. One is that this Inquiry was due to take place on 22 June 2021, that was postponed to 25 October and then adjourned for six months. Apart from anything else this delay of ten months has meant that most of the evidence submitted by the Applicant did not exist at the time of the application. It has also meant that there has been a substantial number of documents for all those involved to consider, albeit that they still do not include the information for prior years that should have been made available when the application was made.
- 5.26 During the Inquiry NAAT was asked whether the NAAT was 'political' and whether we had a 'beef' about private tolls. NAAT was formed in 2004 by four groups that were opposing tolls, all in the public sector.
- 5.27 The areas that NAAT later got involved in are mainly in the public sector, including 'congestion charging' and 'road pricing'. NAAT have also provided advice to some local groups that opposed the tolls in both the private and

public sector. NAAT's proof of evidence did suggest that ideally as with nearly all other bridges, this crossing would be the responsibility of the local authority. But that was because a private operator is unlikely to be philanthropic. The tolls that were removed from thousands of turnpikes and bridges in the late 1800s and early 1900s were either already in the public sector or were taken over.

5.28 In the case of Aldwark Bridge toll, Mr John McGoldrick was contacted by the founder of ABUG. Prior to that there had been some intermittent contact over the last fifteen years or so with others in the area including Linton-on-Ouse Parish Council who had been the main objectors in 2005.

5.29 There was and is on the home page of the No Tolls web site a list headed "Reasons Why We Oppose Tolls". There are eleven of them and two- tolling is an inefficient system and it is unfair.

There were about 105 objections to this increase, including from five Parish Councils. From what has happened elsewhere that these formal objections are the 'tip of the iceberg'. When in 2004 Mr John McGoldrick gave evidence at an Inquiry into a proposed toll rise on the Forth road bridge there was only one objector- a man from Fife.

The validity of the application and the notice of the proposed increase

5.30 NAAT considers both the application and the notice to be invalid. The legal representative of the Applicant will be making a legal submission on this.

5.31 The Inquiry started with the counsel for the Applicant being asked questions about what some of the wording of the notice meant. The impression was that this might affect the wording of any toll revision order made by the Minister. This would not be appropriate. Any order should follow the wording of the notice of the increase which in turn should follow the wording of the application.

The change of ownership

5.32 Toll increases apply to an '*undertaking*'. It should not be relevant who owns the undertaking, though changes of ownership are infrequent and it is unheard of for the ownership to change just before an application to increase tolls.

5.33 This particular change of ownership has been done in such a way that in effect the new owner is saying that it is a different undertaking, and that what was paid by the new owner for the undertaking should be the basis for determining the toll.

5.34 It is normal with any toll increase application that records going back some years are made available at the time of application or soon after. Those records would include details of traffic, the tolls income, a breakdown of the expenditure and an account of any monies that the owners had taken out of the undertaking whether as dividend or in another form. The Applicant has claimed that because of the way the change of ownership was done, they were not required to provide any of that. NAAT does not agree.

5.35 Parliament could not have intended that the requirements of the Act could be circumvented in this way. It is the same as someone buying a regulated undertaking, such as for water services, and then expecting that the regulator

will allow prices to be increased based on whatever the new owner has paid and ignoring what the income and expenditure was before the change in ownership. If this is allowed by the Minister then it is likely that this device will be used on other controlled tolls.

- 5.36 The impression had been given that the new owners happened to see "*the particulars of sale*" (CD13.1) somewhere or other. The accountancy witness did not know where and when the offer for sale was advertised. When the new owner was asked where he saw "*the particulars of sale*" he said that he knew that the bridge was to be sold because he happened to "*bump*" into the previous owner, and that the sale of the undertaking had not been advertised. This was an unexpected reply as previously there was no indication that the new owners had any connection at all with the previous owners. NAAT does not know the extent of the connection, but whatever it may be, it should be taken into consideration when assessing the Applicant's view that what went on before they took over is not relevant.
- 5.37 The last published accounts of Aldwark Bridge Ltd are for the year to 31 March 2020. They show '*Post balance sheet events*'. One is the sale of the bridge on "*31 July 2020 for £1,050,000*". The other is "*a new freehold property purchased for £720,000*". When asked whether he or his businesses were in any way involved with the property purchased by Aldwark Bridge Ltd, the new owner replied that he did not know,. It was disquieting that the new owners could not remember whether they had sold a property to the bridge company.
- 5.38 The evidence from the Accountant said that "*The bridge was purchased....on an arm's length basis from the previous owners, Aldwark Bridge Limited.*" Although NAAT believes that the bridge was owned by Aldwark Bridge Ltd, even that is not entirely clear if you go by the evidence before this Inquiry. The new owner said that he bought the bridge from "Mr Anthony Barney". The surveyors seem to have thought that it was owned by "Country Wide Park Homes" as did the current manager of the bridge (CD7.10). The 'Ownership of Aldwark Bridge' document (CD6.2) implies that the ultimate owner was Aldwark Toll LLP. And though the bridge was apparently bought at the end of July 2020, the Conservation Surveyor thought that the Mason Clark March 2020 principal survey report had been commissioned by the new owners. When asked why he thought that he said that was what he had been told. This confusion, over when the new owner took over, was even in the original application of 8 September 2020 (CD1.1) which included a copy of the March 2020 report which, it said the Applicant "*has commissioned*".
- 5.39 When asked why the Land Registry entry (CD14.1) for the property showed that the title was for the bridge and not for the land it stood on, the new owner said that he did not know
- 5.40 Objectors have queried whether there was due diligence prior to purchase, and whether the price that was apparently paid took into account the condition of the bridge.
- 5.41 From the evidence of the Accountant and the owner, it seems that there was not the diligence that most people would have expected. The accountancy witness said that before the purchase he had access to the full records of the previous owners for a number of years. But it seems that they were not

studied and that the advice that the Applicant asked for was mainly related to tax issues.

- 5.42 When the owner was asked, it was difficult from his answer to tell whether the price he paid took into account the state of the bridge. If it did not, then it begs the question why. And if it did, then it begs the question why the new owner wants a toll increase. But whether the price did or did not take the state of the bridge into account, the timing of the application, only six weeks after the purchase, suggests that, at the time of the purchase, the new owner must have intended to apply for a doubling of tolls.
- 5.43 And here, the way that the ownership changed is crucial because the old owners when applying for an increase would have found it difficult not to provide recent historical information, not to explain what had happened to the toll income and reserves, and not to explain how the bridge got into the state that it is in.

The state of the bridge

- 5.44 Objectors accept that the bridge is in a poor state, despite the principal survey reports of 2020 and 2022 both concluding that the bridge was in 'fair' condition. When questioned about the 'fair' rating, the reply from the engineering survey witness seemed to indicate that this only meant that the bridge did not need to be immediately closed to traffic.
- 5.45 There is an issue with the 2020 Principal Inspection report. The Inspector noticed an anomalous date and I then noticed that the version submitted to the Department for Transport at the time of the application (CD6.1) was R1. The version that was submitted as an appendix to the engineering survey evidence (CD13.4.2) was R3. After the Inquiry was adjourned on Thursday, the witness gave an explanation (CD13.4.3). They said that the changes from version R1 in March 2020 to R2, which was also in March 2020, was because R2 *"appears to have had minor text amendments from R1"*. The change from R2 to R3 in February 2022 was said to be because one page had 'EYRC' removed.
- 5.46 It is not appropriate that a past document should be edited at all, let alone for such a trivial reason. The R3 version has slightly different page numbering to R1 and that caused some confusion when trying to see what changes might have been made.
- 5.47 Now that we know of the different versions, it is also not clear why the new owner had submitted the R1 version of the document to the Department for Transport on 8 September 2020, when you would have expected him, when he was buying the bridge, to have had the R2 version, i.e. the second and not the first of the two March 2020 versions.
- 5.48 As well as the 2020 Principal Inspection report we also were given as evidence a Principal Inspection report of February 2022 *"commissioned by a private individual named Alex Bell"*. The engineering survey witness said that these principal inspections were usually carried out at eight-year intervals. As there is only a two-year interval between the reports, it seems that this 2022 report will have been done for this Inquiry. Though oddly the 2022 report plays no part in the spending forecasts provided.

- 5.49 The forecasts are based on tenders received on 4 August 2021, as adjusted for inflation 2021 to 2022, a contingency and the use of a higher grade of bolts. The work specified for those tenders cannot have been based on an inspection carried out over six months later. In any case those August 2021 tenders can no longer be valid. It is also not clear what happened to earlier tenders that the current Bridge Manager thought were submitted before 9 November 2020 (CD7.10).
- 5.50 Between the two reports it is clear that there has been substantial further deterioration of the bridge. It is also clear from the surveyor's report that the deterioration is largely because of the failure to act in a timely way on the recommendations in the 2020 report. If they had been acted on within the recommended timescale, the work would all have been done by now. Though when questioned the engineering survey witness said that they did not expect people to adhere to the recommendations.
- 5.51 The masonry arches are in a poor state and yet the tendered work does not include anything for them. We were told that the masonry work would be done over an unspecified number of years spending £7,500 each year. It was amazing that the experts proposed not to deal with e cracks now when some of this work was assessed as High or Medium priority at the beginning of 2020 and was also said on 19 October 2020 (CD1.4d) to be 'urgent' in a letter that was written by the witness. The policy intended for the masonry work also seems to go against the advice in the engineering survey evidence that putting off work "substantially" increases costs.
- 5.52 Both the witness from Mason Clark Associates and the Conservation surveyor made it clear that the state of the bridge was because little had been done since 2000. The Heritage witness in the Heritage Statement (CD13.6.2) said *"Unfortunately, as the bridge is privately owned, its condition depends largely on the good intentions and responsible maintenance management by its owners, with the last ones not having stood particularly efficiently to these, though not legally bound, responsibilities for a listed property."* When questioned the witness seemed to indicate that there were legal obligations for a listed property but that there was little enforcement. He was asked what made him think that it would be different in future and it seemed to come down to his personal assessment of the Applicant.
- 5.53 There has been an amazing escalation in the estimated cost of the work. The 2020 report estimated the cost as £75,000 plus VAT and fees, which would give an inclusive figure of about £100,000. By the time of the engineering surveyor's October 2020 letter that had escalated to £150,000 plus VAT which would give an inclusive figure of about £180,000. Now, only eighteen months later, we are being told that the estimated cost is just over £582,000, even though it now excludes the masonry work. This is an incredible increase. When I asked the witness about this, his reply, broadly, was that an estimate was only an estimate.

The delays in getting work done

- 5.54 Any increase in tolls that may be granted by the Minister will not immediately provide the £582,000 that is said to be required. It also appears that the Applicant may have difficulty in getting a bank loan to cover the work and

therefore plans to initially meet the expenditure from his own funds. That begs the question of why the work has not been started.

- 5.55 When asked the Applicant said the delay was because of the time taken to get the special consents needed. The main consents seem to be the heritage related ones. Though the Heritage witness said that he thought that the major work done in 2000 was done without applying for consents.
- 5.56 The Heritage witness was asked how long it took to get consents and he said that it was 'lengthy'. When asked when he was appointed to help with getting the consents, one of which had just come in, the witness said that he did not know. After the Inquiry was adjourned on Thursday the witness provided a 'timeline' (CD13.6.4). That timeline shows that his firm was only appointed on 22 November 2021 and that he did his first site visit on 7 December.
- 5.57 The appointment of the Heritage consultant to help with getting the approvals from Historic England and the two local authorities was over a year after the Applicant bought the bridge. In any case it is not apparent why firms were invited to tender by 4 August 2021, when the necessary consents, including any possible changes to the proposed works, had not been received.

Traffic flow

- 5.58 Much of this Inquiry has been concerned with traffic flows, both current and over the ten years that the Applicant has given a forecast for.
- 5.59 A traffic counter was installed towards the end of 2021 to provide information for this Inquiry. Unfortunately the witness who gave evidence on this was not involved with the traffic counter and in the event there only seems to have been one month, November 2021, whose figures were used. Though to be more correct, none of the traffic counter figures were used in the ten-year forecast as somehow the income figures in the accounts indicated a higher level of traffic than the traffic count indicated. And the accountants used the accounts figures.
- 5.60 The forecast of future traffic flow seems to have largely been based on national patterns and the view that in November 2021 there was little effect from COVID. But in all the circumstances mentioned during the Inquiry, it is difficult to predict what the traffic will be this year, never mind in each of the years up to 2032.
- 5.61 We know from the 2005 inquiry report (CD4.1) that traffic flow over a full week was about 14,000 vehicles; 10,500 on weekdays and 3,500 at weekends. There was also an upward trend. The figures from the traffic counter for November indicate only 994 vehicles a day, i.e. about 7,000 vehicles a week. So traffic has apparently halved. The Traffic expert in his proof said that there has *"been a notable reduction in bridge traffic since the time of the previous 2005 inquiry. No data is available to fully explain this difference."* When asked he seemed to think that it would be interesting to know why traffic had fallen. He could not say what the reasons were but suggested that it was mainly because of RAF Linton-on-Ouse closing. There was some evidence about what was currently intended for that base, but given the current international situation it might even return to its former use.

- 5.62 Traffic figures going back towards 2005 might have helped to explain what has happened and to indicate whether recent traffic figures were either a fluke or inaccurate, but in his proof the traffic witness said, "*No historic traffic flow data has been made available to inform this proof of evidence*".
- 5.63 He did not say that there was no data; he thought that traffic figures were only available for very recent months, but he was not sure. One would have thought that a toll operator would always keep a record of traffic or at least ticket sales. It is not clear whether such records were not kept or were lost or were just ignored.

Accountancy

- 5.64 NAAT suggested at a pre-Inquiry meeting that the Inspector should have access to independent advice on accountancy..
- 5.65 Normally when looking at a toll increase the Applicant would be expected to provide full accounts for several years at least. This has not happened here, though when the accountancy witness was questioned it emerged that the Applicant before the purchase was given at least three years of full accounts. The reason given for not submitting them to the Department for Transport or to the Inquiry was that with the change of ownership they were said to be not relevant.
- 5.66 One reason for having access to the accounts for previous years is to see what profits were being made and what happened to those profits. In this case it is fairly clear that the profits were not being used for timely essential repairs and maintenance.
- 5.67 Another reason for having the full accounts is that knowing in detail for previous years, the expenditure and income, and what happened to profits, is a test of how normal or representative the current period is and also a test of how reasonable the forecasts are.
- 5.68 Though there are no reliable figures for previous years, the last accounts, for the year to 31 March 2020, sent by Aldwark Bridge Ltd to Companies House have been submitted (CD9.1.3). As was the case with all the accounts submitted by that company from 2009 onwards there is unfortunately no profit and loss account. But there is a balance sheet which shows the balance on the company's profit and loss account. It increased by nearly £9,000 in that year, from £80,439 to £89,298. The Applicant also had as part of the original application to the Department for Transport an uncertified summary (CD1.4c) of the figures which were said to be the profit and loss account of Aldwark Toll LLP, the former 'operators', for the same 12 months which on the bottom-line shows 'Net profit after tax' of £32,104.
- 5.69 Adding the two sets of figures for the year to 31 March 2020 together there is an increase in the balance on the profit and loss accounts of about £40,000. Yet the profit and loss account for the LLP set up by the Applicant for the period up to 31 July 2021 shows a loss of nearly £71,717 (CD13.3.2). That is quite a reversal from a profit of £40,000 and raises the question of how normal the first accounts of the new LLP, Aldwark Toll Bridge LLP, are?
- 5.70 The accountancy witness was very knowledgeable about the accounting figures that had been submitted to the Inquiry, but the start of his proof contained

major reservations. These reservations were raised with the witness by objectors and it is not clear from the answers who is responsible for the figures.

- 5.71 Objectors also questioned the witness about none of the documents in the appendices being audited and none being certified apart from the first-year accounts of the new LLP. Even that document (start of CD13.3.2) is only certified at page 2 by a member of the LLP. The following page's 'accountant's report to the members' seems to deny responsibility for the figures. When questioned the witness said that this was all normal for an LLP. That may well be so, but it is still a point which should be considered by the Inspector.
- 5.72 Two errors in the accountancy proof were noted. One was that the balance sheet figures at 5.3 were not from the 31 July 2021 certified accounts, they were from the 31 January 2022 management accounts. The other error was that there were two different figures shown for tickets 'issued' in January, 27,094 at paragraph 6.4 and 24,312 at paragraph 6.6. That did not seem to be a clerical error.. The accountancy witness was not able to give any explanation of the discrepancy even though it had been raised in proofs of evidence..
- 5.73 The case for the Applicant largely rests on the idea that the Applicant is entitled to use the price that he apparently paid for the bridge when calculating any sinking fund provisions, depreciation provisions and return on capital. The accountancy witness was asked what if the Applicant had paid £2 million for the bridge, would they then have been asking for an even bigger increase in tolls? He seemed to say that what might have happened in that case was not relevant. But it is relevant as it demonstrates that it is not appropriate to base any of these provisions or return figures on the price paid to the former owners of the undertaking.
- 5.74 NAAT's proof of evidence includes an 'appendix'.¹⁴ Summary totals for the profit and loss account forecast figures from August 2020 to January 2032 show that the bulk of the amounts shown in the forecasts over the ten and a half years to January 2032 was not on the running of the bridge; see witness's Appendix 3b.¹⁵ The expenditure not on the running of the bridge added up to £1,862,685 over the ten and a half years.
- 5.75 £758,107 of that was money that was to be taken out of the undertaking by the owners, £128,107 as loan interest and £630,000 as 'return on capital'. The other £1,104,578 was provisions going either into a sinking fund reserve or depreciation. These are not cash transactions. They are of concern because, as seems to have happened under the previous owners, these provisions can sink without trace, particularly when what is sold is the bridge rather than the company that owns it. This evidence was not questioned in cross examination.
- 5.76 Counsel mainly asked about s 6.3 of the 1954 Act. He pointed out that the first paragraph includes the word "*including*". It is agreed that meant that what followed immediately after was not an exclusive list. But the listed items must have been the main items that were expected by the drafters of the legislation.

¹⁴ CD15.4.2 – Inspector's note – table found after page 25 headed "sheet 1" (not Appendix)

¹⁵ Contained in CD13.3.2

- 5.77 The wording at the end of the paragraph "*and, where appropriate, a reasonable return upon the paid-up share capital of the undertaking...*" indicates that this is an additional item to what might be properly included under "*costs, charges and expenses of the undertaking as are properly chargeable to revenue*". It is therefore difficult to conceive that some other form of return should be included under "*costs, charges and expenses of the undertaking as are properly chargeable to revenue*", even if there really had been any new capital put into the undertaking.
- 5.78 What is included as either expenditure or return on capital, however defined, is to some extent guided by the Minister's '*opinion*'. And that in particular any "*contributions to any reserve, contingency or other fund*" have to be "*reasonable*". Given the past history of this undertaking ANY contributions to reserves, contingencies or funds is not reasonable.
- 5.79 Pages 23 and 24 of NAAT's proof of evidence set out why there should be no allowance made in the forecasts for loan interest, reserve for refurbishment-sometimes referred to as 'sinking fund', depreciation, and return on capital other than on the paid-up share capital. This was not cross examined in detail. Neither the Applicant nor NAAT submitted evidence on how these items affect, or not, the bottom line of the other twenty or so tolled undertakings that are privately or publicly owned.
- 5.80 Whatever might be an accepted accounting treatment in some undertakings, the forecast provided with the application did not include depreciation. It was only added after the Department for Transport suggested it. In the case of this undertaking there is good reason to be wary of allowing any large reserves to be built up by the new LLP. It seems to be agreed by both parties that the sinking funds that the 2005 Public Inquiry was told were to be provided for meeting major expenditure, up to and including 2025, were not passed to the new owners.
- 5.81 The bridge was sold for a sum, £1,050,000, far in excess of its net value, £379,600 in the Aldwark Bridge Limited accounts. So the depreciation provision was obviously unnecessary.

Conclusion

- 5.82 If nothing else is clear from the evidence that has been considered by this Inquiry, it should at least be clear that if the previous owner had made an application to increase the tolls, then it is extremely unlikely that the Minister would have approved it.
- 5.83 But in circumstances that are not wholly clear there was a change in ownership such that the new owners have claimed that what went on before, including the accounts, records, funds, and the state of the bridge, is nothing to do with them. That cannot be right.
- 5.84 The new owners have said that the price they paid did not allow for the poor condition of the bridge. That is an unusual way of making any purchase. If the price had allowed for the condition of the bridge, then the new owner would then have had the money to put right the years of neglect without increasing the tolls. But instead it seems that at the time of purchase the intention was to apply for the tolls to be doubled. Again, that cannot be right.

- 5.85 If it is decided that drivers should be forced, in effect, to pay for the repairs a second time, then in calculating what, if any, toll increase might be required then, as I explained earlier, you should first remove certain items that the Applicant has included in the forecasts. The items are, firstly what they want as a return on what is said to have been paid to the previous owners, as it is not relevant and was not put into the undertaking. And, secondly, the non-cash provisions for depreciation and sinking funds, as in the circumstances it is not reasonable to allow any provision to reserves which are not needed now and might disappear at some time.
- 5.86 Excluding those items, there should be adequate income without the applied for increase in tolls.
- 5.87 NAAT respectfully request that the Inspector recommends to the Minister that the Minister should not make a Toll Revision Order.

Aldwark Bridge Users Group (ABUG)

- 5.88 ABUG was setup by Mr Gary Roberts in response to the application, is hosted on Facebook and has an open membership with 218 members. It attempts to represent views of members who wish to oppose the rise in tolls. Members are from a broad section of the community, but predominantly are regular users of the bridge, living in neighbouring parishes.
- 5.89 The representative for NAAT, Mr John McGoldrick, helped prepare the ABUG Statement of Case (CD8.8), the Aldwark Bridge History of Tolls and Finance document (CD8.9), ABUG 'further doc' (CD9.7) and spoke on behalf of ABUG.
- 5.90 The ABUG representative was only present on the last day when he addressed the inquiry but did not submit closing comments. The case for ABUG reported here is from the Opening Statement submitted by Mr Gary Roberts for ABUG before the Applicant's evidence was heard. He is a resident of Linton on Ouse, located to the East of the River Ure and 2 miles from Aldwark Bridge.
- 5.91 The group recognises that the bridge is in very poor state of repair, evidenced by recent engineering reports, and that a number of repairs have required "urgent attention" for some time, this is clearly visible for any bridge user with looseness of its rattling wooden boarded deck in crossing, the faded and extensively peeling paintwork and disconnected fencing on each approach.
- 5.92 The group submit that the bridge should have been maintained using the monies gained from the previous increase, as required within the terms of the s6(3) of the 1954 Act. This has clearly not been the case and it seems that the previous owner is not being held to account to this fact.
- 5.93 The group submit that the current owner should be responsible in bringing the bridge into good condition and only be allowed to apply for increase of toll on the basis afforded under the Act i.e., does not include funding to bring it into good state of repair. The bridge should have been maintained in good repair using monies taken from the previous toll increase as required by the law.
- 5.94 The cost of repair for the bridge should not fall upon motorists who have already paid for the upkeep of the bridge within tolls since the last increase.

- 5.95 ABUG hope that the increase is not granted and the new owner brings the bridge condition up to good standard before considering whether any further increase is necessary, or calculating a reasonable and evidenced increase for its maintenance before any further application.

Individual objector Ms Kaye Carl

- 5.96 Ms Kaye Carl is an individual objector. With over 40 years professional experience and experience of employment tribunal advocacy. KC was assisting objectors on a voluntary basis. Unfortunately KC was unable to attend the inquiry in full. Ms Kaye Carl did not submit an opening or closing statement. Her case is reported substantially in the form of her proof of evidence (CD15.3).
- 5.97 Aldwark Bridge carries a public highway. The Applicant has called four engineering witnesses to this Inquiry and their evidence is not disputed. Both parties agree that the bridge has been neglected, is in a very poor state, and that the 2005 toll increase was never spent on maintenance and repairs as it should have been.
- 5.98 The statutory requirements, set out in the 1954 Act, must be followed and there are several instances when they have not.

The notices and letters of application

- 5.99 The Notices and the two letters of Application, one dated 8 September 2020 (CD1.1) and the other dated 4 November 2020 (CD7.14), both contain errors and conflicting information and fail to give the general effect of the application as required by the 1954 Act that *"the undertakers shall furnish the Minister with such information and particulars, certified in such manner, as the Minister may require, and the Applicant shall publish in such newspapers as the Minister may require a notice stating — (a) the general effect of the application"*.
- 5.100 There are anomalies between the latest Notice and the 2005 schedule,. The Applicant was given the opportunity of rewriting and resubmitting to the local papers a Notice correcting the errors, but the majority of corrections were not made. (CD6.10.1)
- 5.101 The latest Notice still does not reflect the Aldwark Bridge Revision of Tolls Order 2005. Nor does it give the general effect of the application. It does not give a maximum weight of vehicles permitted to cross, it refers to a phased increase, it refers to a toll for the use of "the ferry", the weight is shown in kilograms instead of in tonnes and it refers to the drawing of a trailer and the additional cost.
- 5.102 In December 2021 the Applicant was asked for a copy of the latest Notice giving clarity about the proposal to increase charges by 5p a year between 2021 and 2024. The Applicant responded promptly and said, "The increase year on year has been removed from the new application following advice from my legal team". An amendment to an application is important and the new application omitting the phased increase is not in the document library.

The 1954 Act

- 5.103 The 1954 Act requires certified information immediately preceding the application. "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". The accountants were not engaged until 9 September 2021, over a year after the toll increase application was submitted. The accountants have stated that they have not been instructed to carry out an audit or to review of the financial statements of Aldwark Toll Bridge LLP. (Appendix 1). The Applicant was, therefore, unable to provide certified information immediately preceding the application.
- 5.104 The 1954 Act sets out allowable expenditure "*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*". The amount of the paid-up share capital is shown in the Aldwark Bridge Limited Financial Statements, and it is this amount to which the reasonable return refers. If it had been intended that the test should be "*a reasonable return on capital invested*" as stated in the Applicant's Statement of Case, then the Act would have said so.
- 5.105 The amount paid for the bridge is irrelevant, as far as the 1954 Act is concerned, as the reasonable return to be achieved is "upon the paid-up share capital" and not the amount paid when the bridge is bought. Having said that, it should be noted that the price paid was an over-valuation and the Applicant seems to be asking for a "reasonable return" of 6% on this figure.
- 5.106 The Accountant, in his proof of evidence (7.1 xiv) says "There is a strong argument that the requirement for over £500,000 of refurbishment expenditure indicates that the bridge is currently over-valued". Had the Applicant paid the true valuation for the bridge he would have had funds left over for repairs.
- 5.107 The reasons why the Applicant paid an over-valuation of £1,050,000 for a bridge in disrepair, and why he did not ask for the sinking funds, have not been disclosed. In his proof of evidence he states that there is much interest in a quirky business and he had to act quickly. The structural engineer in his proof of evidence points out "*The Applicant, by currently taking professional advice, has become aware of the lack of repair and maintenance.*" The Applicant should have ensured he was aware of the lack of repairs and maintenance at the time of purchase.

- 5.108 It cannot have been the intention of the 1954 Act to allow a new buyer to immediately apply for an increase in tolls, as it is impossible for a new owner to provide certified information and particulars "*immediately preceding the application*" as required by the 1954 Act. (CD1.4c). An Act would not place a new buyer in an impossible position nor would it expect an Inquiry to allow a tolls increase application to bypass its intent. Unless the Act is interpreted as intended, an increase in tolls could be applied for by new undertakers within the 12-month timeframe each time a bridge is bought or handed over to someone else.
- 5.109 We are dealing with ancient legislation but, if we must follow the 1772 Aldwark Bridge Act enabling the bridge owners to receive income free from all tax, we must also follow the wording in the 1954 Act requiring toll bridge owners to provide certified information and to receive "*a reasonable return on the paid-up-share capital of the undertaking*". The present toll price gives much more than a reasonable return on the paid-up share capital of the undertaking, after meeting expenditure itemised in the 1954 Act, an increase in tolls is not justified. Using the 2005 certified volume of traffic, 702,325 vehicles were crossing the bridge annually giving an annual turnover, at 40p per crossing, of approximately £280,000 tax free. It was noted that the vehicle counter was 95% accurate. (CD4.1 paragraphs 4.14 and 4.15)
- 5.110 It is not necessary to double the toll price to achieve the three prioritised objectives itemised in 3.4 of the Applicant's Statement of Case – meeting running expenses, accumulating funds for future substantial repairs, and making a reasonable return on paid-up share capital. The Applicant stated the third objective in his Statement Of Case 3.4 as to "*make a reasonable return on capital invested*", which is not a requirement of the 1954 Act.
- 5.111 The Applicant states in their Statement of Case "*quite rightly, the process for applying for an increase to the tolls involves a number of checks and balances. The Applicant must comply with all aspects of the Act and must be able to demonstrate that the increases fall within the ambit of the legislation by reference to credible professional evidence*".

The Applicant's witnesses

- 5.112 There is no dispute between the parties about the poor condition of the bridge and four engineering witnesses have given a proof of evidence. Relevant witnesses, however, have not been called to give evidence. Conspicuous by their absence are the professionals who gave general advice before purchase, gave specific advice to the Applicant to purchase the asset and not the company for £1,050,000 and, gave specific advice about leaving the sinking funds with the previous owners when the last owners did not have a Bridge to repair. There is no evidence also from professionals who gave specific advice about the possibility of a toll increase being approved without the benefit of audited accounts and those who gave specific advice concerning the accounts provided by the seller before purchase. This Inquiry may legitimately ask why these witnesses with their proof of evidence have not been called by the Applicant.
- 5.113 A witness from Barber, Harrison and Platt, the accountants who we are told were employed in 2020 to prepare the accounts and projections, has also not been called. (CD10.4) The Accountant who has been called is employed by

BHP Ltd which is possibly the same firm, as they are registered at the same address in Sheffield, and if so audited accounts dated 31 July 2021 could have been provided if the Applicant had asked for them.

Traffic Volume

- 5.114 Traffic is likely to increase from the 2005 certified annual volume instead of decrease as projected by the Applicant. There has been a recent announcement that the RAF site at Linton-on-Ouse will be used as an asylum seeker accommodation and processing centre. At capacity it is expected that there should be around 300 jobs created on the site and a number of new business opportunities in catering and other areas.
- 5.115 This is in addition to the opening of the Aldwark Manor Estate Hotel and Leisure Facilities, adjacent to the Aldwark Toll Bridge, which is in the middle of a major re-development costing over £30m. It started in 2019 and is due to be completed in 2023. The latter part of 2022 will see the opening of a new spa and leisure complex which includes a pool, gymnasium, and exercise rooms. It also has an 18-hole golf course, conference facilities for 240 delegates and car parking for 200 vehicles. When they return, guests and visitors to the hotel will add significantly to the volume of traffic using the bridge.
- 5.116 The Applicant's ten-year forecast (CD6.7 and CD6.8) gives no explanation as to why less than 50% of previous traffic volumes is shown.
- 5.117 It is usual practice, when a toll increase application is made, for the Applicant to provide actual and accurate, certified traffic volume over a number of years as well as certified accounts. See Aldwark Bridge 2005 Inquiry where the Applicant's counsel produced evidence giving accurate certified figures over three years to justify a toll increase and Sandbanks Ferry 2021 Inquiry where 10 years' traffic volume was submitted; the reduction in traffic owing to Covid 19 was recognised by the Sandbanks Ferry Inquiry and the last "normal" years were used to justify a toll increase and not 2020 and 2021, the years affected by Covid¹⁶.
- 5.118 In paragraph 13 of his statement, (CD9.1.4) the previous Manager from 2000 – 2019, said that the traffic counter was in position at the side of the bridge in 2019.¹⁷ (showing the traffic counter on the right-hand side when looking at the photo). When the road was resurfaced, he advised the workmen of its existence and asked them to take care as the cable ran underneath the road. When the bridge was sold in 2014, the key was not passed on to the new owner. Had the previous owner and the Applicant attempted to use the traffic movement recorder, by obtaining a key and having it serviced, reliable data over a longer period could have been achieved from that. The 1954 Act requires certified information "*immediately preceding the application*" and not 16 months afterwards. In the absence of a vehicle counter recording traffic over the past three years, there was no system to certify the number of vehicles crossing Aldwark Bridge annually and no system to certify that all

¹⁶ CD15.3.1 Appendix 6

¹⁷ CD15.3.1. Photograph of bridge and traffic counter with "7" written on bottom right hand side of sheet

those crossing pay a toll. In an attempt to rectify this omission, the Applicant installed a traffic movement recorder, which was subject to vandalism, recording vehicles crossing in November 2021. It has to be remembered that 2021 was not a "normal" year and November 2021 was not a "normal" month and the volume would be higher before and after Covid lockdowns and working from home guidance. Even if the traffic movement recorder figures represented normal traffic there is a discrepancy between the annual toll income which would have been received using the volume recorded in November 2021 and the actual amount received shown in the Applicant's latest profit and loss account and in the 10-year projections.

- 5.119 The Department for Transport Road Traffic Estimates for Great Britain 2019 shows that traffic consistently rose annually by 2.1% on minor roads after 2005.¹⁸ . This has not been taken into account when the Applicant prepared his projected figures. The Manager, who worked at the bridge from 2000 to 2019, says, in his witness statement, that he was banking £3,000 each week, and this can be confirmed from the bank paying in slips. 50% of those crossing bought prepaid tickets, which is confirmed by the Applicant. (CD7.13). These figures show that £312,000 was being taken annually in 2019 amounting to 780,000 vehicles crossing a year. ($£6,000 \times 52 = £312,000$ which represents 780,000 vehicles @ 40p a crossing).
- 5.120 We note that, according to the Transport Consultant's proof of evidence, Aldwark Toll Bridge LLP owns three properties and the residents of these do not pay a toll charge. These properties are not listed in the Aldwark Toll Bridge LLP accounts. We note also that relatives of the toll bridge operators do not pay a toll charge.

Accountancy

- 5.121 There are issues with regard to accountancy as the figures differ between those provided earlier and the Appendices the Accountant has provided. (See CD10.2.1, 10.2.2, 13.3.2). As can be seen from paragraph 13 the vehicles recorded crossing the bridge in November 2021 brought in significantly more income, if calculated over the year, than that shown in the accounts and projections.
- 5.122 There are several errors in the unaudited, uncertified accounts. Most of the figures cannot be checked but the wage costs can. The toll keepers are paid for 13 hours a day from Monday to Friday – 7 am to 8 pm not 13.5 hours a day as stated by the Accountant. They are paid for 12 hours a day on Saturdays and Sundays and work 89 hours a week. Clarification of the Manager's salary is required. The Accountant's Appendix 4 C Wages costs includes , £1,690, Management salary for the month of January 2022¹⁹. It is not clear if this is the Manager's salary or if it includes a shift collecting tolls as, if so, the tollkeepers' 89 hours need to be reduced.
- 5.123 It is also not clear if this includes management charges relating to work done at Head Office by staff there as the projections refer to an annual management figure of £12,000 (CD1.4c). Excluding the Management figure, the toll

¹⁸ CD15.3.1 Appendix 8

¹⁹ CD13.3.2

keepers receive approximately £50,000 pa including holiday pay which is a significantly lower annual amount than the figure quoted in its projections 6.7 and 6.8. for the year ended July 2021, £78,285. As wages are the largest expense, the amount paid does need to be quantified. An inaccurate figure renders the entire projection inaccurate too.

- 5.124 The Accountant gave an explanation about the purchase of the bridge but not the company in his proof of evidence *"The asset was purchased rather than the company as the purchaser did not want to take on the unknown risk of the history of Aldwark Bridge Limited and its associated group. The complex structure of the previous ownership with both an LLP and a Limited Company within a larger group also meant that a purchase of the asset was more straightforward"*.
- 5.125 There are two sides to this unusual state of affairs. One of the companies referred to, Aldwark Toll LLP, was compulsorily dissolved in August 2021 and the Applicant could be negatively impacted as he now owns the bridge and collects tolls. Had this company been part of the purchase then it would have been transferred to the Applicant and would now be in its 7th year of trading. There would have been no need to set up a new LLP which has no history and which cannot provide the certified evidence this Inquiry requires. Had the Applicant bought the company as well as the bridge that would have been more straightforward. The setting up of a new company with no track record, and with a similar name causes confusion.

Bridge refurbishment

- 5.126 The structural engineer, in his Summary proof of evidence, paragraph 9.4 says that he has been advised *"that the Applicant has decided to undertake proposed refurbishment works only to the iron-framed spans of the bridge as an initial priority, on account of the extent and severity of the defects in the timber of the deck and the painting of the ironwork, but to consider annual maintenance and repair works to the masonry arches"*.
- 5.127 The accountant, in his proof of evidence executive Summary, paragraph 8B, (CD13.3) expected that the owner will spend £582k on the refurbishment which would cover all the works and he makes no mention of the Applicant's decision to undertake the refurbishment works only to the iron-framed spans of the bridge. Presumably this immediate work will be paid for by the Applicant, either through a loan or from personal funds, but all the works in the Report should be the responsibility of the Applicant and not paid for through an increase in tolls for annual repairs and maintenance. The current repairs and maintenance which need to be done have already been paid for through an increase in tolls in 2005 and those crossing should not be asked to pay again.
- 5.128 It is disappointing that the tollkeepers' cottage refurbishment was given priority over the bridge and the bridge has been allowed to deteriorate until it is in an appalling state. We note that £62,061 was spent refurbishing the cottage and the Applicant is very pleased with the results. Major structural works were recommended for the bridge due to the extent and severity of the defects, to arrest further degradation, and this has not yet started. These are the works which should have been prioritised. We are told by the structural engineer in his proof of evidence, *"from the descriptions and 'high' rankings of*

recorded defects for the iron framed spans, the degradation between 2020 and 2022 increased from 65.6% to 77.8% in a relatively short interval of time and, in themselves were very high ranked defects". This demonstrates very clearly why toll bridges on a public highway should be managed by knowledgeable local authorities and not by people who would allow a bridge to deteriorate by 12.2% whilst at the same time having a cottage completely refurbished.

- 5.129 It is wrong to expect the bridge users to pay for the failures of the previous owner who did not maintain the bridge, as set out in the 2005 Inquiry, and for the failure of the present owner to obtain the sinking funds which were set aside for "future major works" as stated in the 2005 Report.

The sinking funds

- 5.130 In the 2005 Report the contributions to the sinking funds are referred to - "Accordingly it is assumed that annual contributions would be made to sinking funds to cover the estimated future costs of replacing the timber groynes in 2012 and of the major refurbishment in 2025".
- 5.131 There were two funds set aside for repairs to the bridge. A "sinking fund" of £125,528 in the Aldwark Bridge Limited accounts and a "repairs to the bridge" fund in the Aldwark Toll LLP accounts. No reason has been given explaining why these monies were not received when the bridge was purchased. If the sinking funds had been received on purchasing the bridge the work could have started in 2020 and saved a 12% deterioration.
- 5.132 The Inspector in his 2005 Report did not consider that, on buying the bridge, a purchaser would not have the foresight to ask for the sinking funds but would put forward an application for a toll increase. It is a case of a stitch in time Had the repairs been carried out when they were first needed then the sinking funds would have been used and the extent of the repairs would not have escalated.
- 5.133 After the sale of the bridge in 2020, the company, Aldwark Toll LLP, continued for a further 12 months with the same Directors who were the previous owners of the bridge. The latest accounts, to 31 March 2019, show, as well as a fund of £40,692 set aside for "repairs to the bridge", a "discretionary division" to members of £36,664, which was taken. This company was compulsorily dissolved in August 2021 by Companies House and it is unclear what happened to the repairs fund. At the time of writing this proof of evidence, a sinking fund of £125,528 is still being shown in the Aldwark Bridge Limited accounts owned by the previous Bridge owners and the accounts are overdue. Aldwark Toll 6 LLP was dissolved because of overdue accounts and it is possible that the Aldwark Bridge Limited could also be dissolved with the sinking funds which were paid for by those crossing the bridge.

Funding by the Applicant

- 5.134 The Applicant in his Statement Of Case observes that the bridge is a high-risk asset for which bank funding is not available (CD5.13). It is clear that money has been made available in the past to the Applicant when needed. In the Westwick Parking Limited accounts ended 31 March 2019 it is shown that the Applicant obtained a loan during the year of £1m from that company, paying interest at 3%. In the Westwick Group of Businesses Limited accounts dated 31 March 2019, it is stated that "within other creditors are loans with a total

value of £400,000 from companies under common control” and in the 2021 accounts this amount had reduced to £240,000. (CD15.3.1 Appendix 9).

Permanent Closure of the bridge if the toll increase is not approved

- 5.135 In paragraph 6 of his letter of application permanent bridge closure was threatened, with the effect this would have on the community, if the application to increase the tolls is refused. Contradicting this statement, in his proof of evidence the Applicant says that the funding gap will be met by him personally. In the past when the Applicant has needed funds, he has obtained a loan from one of his companies and a loan would enable the bridge to be repaired and maintained without asking those crossing to pay again for the same repairs, for which they have already paid.
- 5.136 If the bridge closed permanently, there would be a great impact to the owners as they would receive no income. It is not apparent why anyone would spend one million pounds when that would be wasted if a 100% toll increase was not granted and the bridge closed. It would make sound business sense to obtain a loan from a company under common control for repairs required, and continue with the present tolls which would provide a tax-free income of at least £280,000 each year, using the 2005 volume of traffic, enabling repayment of the loans within a few years. Once the bridge is refurbished the Applicant would benefit as he should then own an asset worth more. Any person buying a shop/bridge/property in disrepair would expect to pay for the refurbishment himself. Customers using business premises would not be expected to pay to bring them up to Health and Safety standards.

Conclusion/summary

- 5.137 The statutory requirements in the 1954 Act have not been followed.
- 5.138 The bridge was purchased after the first lockdown and we are not aware whether or not the Applicant negotiated a reduction in price. The Applicant projects a significant decrease in traffic volume over the next ten years from the certified figures recorded in 2005. He paid an over-valuation for the bridge and did not take into account the cost of repairs. He failed to receive the sinking funds. He did not receive audited accounts, nor has he had audited accounts produced for his first year's trading for the year ended 31 July 2021. The Applicant should have taken professional advice before he bought the bridge and if he had we would not now be in the position where he is seeking to double the tolls.
- 5.139 The Applicant has failed to call relevant witnesses to this Inquiry. Evidence from the professionals who gave advice before and during purchase has not been provided. The accountancy witness has not provided evidence about the purchase as he cannot, as he was not appointed until 13 months after the toll increase application had been submitted. There is also no evidence from a witness who gave legal advice before, during and after purchase.
- 5.140 Had the Applicant taken professional advice when submitting the Notices for the revision of charges there would not have been so many errors in those Notices which remain uncorrected.
- 5.141 There are several issues with regard to accountancy. Unfortunately, the accountancy witness was not employed before, during and immediately after

the acquisition of the bridge and he did not have the opportunity of studying the accounts before purchase.

- 5.142 Both parties agree that the bridge is in a poor state of repair and both agree that the increased toll income, received from 2005, was not spent on the bridge as it should have been.
- 5.143 Permanent closure of the bridge has been threatened if a toll increase is not approved. There are alternative ways of obtaining funds and closure of the bridge would be fatal for the Applicant who would receive no income from his investment. Had the Applicant not paid an over-valuation for the bridge, and had he received the sinking funds, he would have had sufficient monies to pay for repairs which could have commenced in 2020 before the bridge had deteriorated further. The Applicant has, in the past, obtained loans from related companies when needed.
- 5.144 There is no justification for the doubling of the toll which would provide an annual tax-free income of approximately £620,000 which is substantially more than adequate to meet expenditure on the working, management, and maintenance of the undertaking (80p x 780,000) using the 2019 traffic volume. Toll income, using the 2005 certified volume of traffic, since the last Inquiry has brought in a minimum of £4,213,950 tax-free which is substantially more than adequate to meet expenditure on the working, management, and maintenance of the bridge many times over. (702,325 x 40p x 15 years). This toll income appears to have gone with the wind with little evidence of any expenditure on the bridge.
- 5.145 The Applicant's ten-year forecast (CD6.7 and CD6.8) gives no explanation why less than 50% of previous traffic volumes is shown.
- 5.146 Reliance cannot be placed on unaudited, uncertified, unsigned accounts produced after the toll increase was applied for. As Sandbanks Ferry Inquiry recognised, traffic volume during the years 2020 and 2021 should not be used as an indication of future traffic volume owing to significantly fewer vehicles on the roads in view of the pandemic. To justify Sandbanks toll increase application, the last "normal" year for traffic volume was used, 2018.²⁰ This Inquiry should use 2019, the last "normal" year for traffic volume. We are also asking this Inquiry to consider that the RAF Linton on Ouse site is to be used as an asylum seeker accommodation and processing centre where there is an estimation of 300 jobs and a number of new business opportunities. This will undoubtedly increase the volume of traffic crossing the bridge as will the developments at Aldwark Manor Estate Hotel with its leisure facilities.
- 5.147 The Accountant's proof of evidence was qualified. *"Neither BHP nor I have audited the FY21 Accounts, the Jan 22 Management Accounts, the information underpinning traffic movement recorder reconciliation or the information contained in the projections nor have we sought to assess the reasonableness of the assumptions which underpin the projections and accordingly express no assurance opinion on any of the outputs or documents described".*²¹ I respectfully suggest that this Inquiry considers this caveat when considering

²⁰ CD15.3.1 paragraph 20

²¹ CD13.3.1 paragraph 2.8

the source, accuracy and validity of the uncertified accounts and projections. I ask the Inspector to recommend that this toll increase application is refused.

Individual objector Mr Richard Bray

- 5.148 Mr Richard Bray attended the Inquiry every day. Mr Richard Bray did not submit a proof of evidence, opening or closing statement. In the main he represented the Aldwark Area Parish Council at the Inquiry because the Chairperson was not able to be present on all days. Mr Richard Bray submitted a number of documents (CD2.26, CD8.4 CD8.5 and CD9.3). I have reported here from CD8.4.
- 5.149 Increased prices will drive down volumes and result in further increases on a captive market as the owner seeks to maintain and increase profits. Increasing toll charges to the levels proposed will push a significant amount of traffic onto alternate routes in order to avoid paying tolls. This will inevitably increase costs to those who need to use the bridge where the alternative route is not cost effective as the owner will be seeking to get the same revenue from fewer people. The motorists with little option but to use the bridge are a 'captive market' who typically make the short journey from one side to the other (e.g. for schools and to use services in neighbouring villages across the other side of the river).
- 5.150 The impact:
1. Further increases in toll charges;
 2. Increased traffic on alternative routes;
 3. Increased time travelling with associated impact on the environment.
- 5.151 Moving traffic onto alternative routes would be contrary to Government policy aimed at reducing the total distance travelled by vehicles on UK roads.
- 5.152 The Applicant's letter (CD1.1) states "*We believe the increase in charges are not unreasonable as if the bridge was not subject to substantial investment and thus unable to be used the use of the bridge would be subject to a 22-mile detour which in fuel alone would cost approximately £3.00. If the bridge closed the loss to the community would be more severe than the proposed increases. Our client would also submit that would result in adverse environmental consequences*".
- 5.153 It is my view that this statement is wrong as it implies that the impact of closure is uniform across all motorists, it also inflates the size of any detour and the costs associated with it in order to suggest the proposed increases are appropriate.
- 5.154 Traffic using the bridge has a range of different origins and destinations and without surveying motorists it isn't possible to accurately predict how many journeys might easily move onto diversionary routes to avoid paying the increased toll charges. It is however relatively easy to show the scope and extent that alternative diversionary routes might impact a motorist on specific journeys in the region. Mr Richard Bray did this by comparing routes using the bridge against alternatives routes avoiding the tolls, taking note of any additional mileage and time for each journey.

- 5.155 Using data sourced from the Department of Transport (Department for Transport) and the Royal Automobile Club (RAC), it can be shown that any alternative route of 7 miles or less for petrol and 6.5 miles or less for diesel cars is a viable cheaper alternative. It then becomes a decision as to convenience on the time saved which is a subjective decision for individual motorists. Department for Transport and RAC data has been used to calculate the cost of any additional mileage. Note: when calculating the cost of using an alternative route it is only the additional cost that the alternative route will place on the motorists (i.e. fuel) and not a pro-rata percentage of the cost of owning and running a vehicle (e.g. road tax, depreciation, and insurance).
- 5.156 Using an originating point of Aldwark village and likely destinations where it might be considered convenient to use the toll bridge, Google Maps were used to provide journey times and distance.
- 5.157 Using information obtained from Department for Transport and RAC Mr Richard Bray submitted that whilst it is often convenient to use the toll bridge it is now at the point that it is not always economical to do so. This will inevitably result in fewer crossings by price sensitive motorists should the increase be allowed. This is because whilst five out of eight destinations require a commuter to travel further using an alternative route, the cost benefit for three out of the five is in favour of the alternative route and the other two are almost cost neutral. The main exception and the one most often quoted when arguing in favour of an increase, is those motorists travelling a short distance from one side of the bridge to the other. For these journeys the alternative is an additional 13.1 miles (16 miles on the alternate route compared to 2.9 miles when using the bridge). These are typically those people taking children to school in Great Ouseburn or those people wanting to visit friends and neighbours across the river. They are the Applicant's captive market, but given that most drivers in the UK are able to transport children to school or visit relations and friends without having to pay a toll, it is unfair that these people will be expected to pay even more in order to generate the profit that the new owner hopes for. It will be even more unfair if that toll increase results in another increase in a year or so as more and more traffic diverts away from the bridge.
- 5.158 The Applicant has also suggested that his 'captive market' would be further hurt if his proposed increase is not granted and the bridge closes, but he should carry on with less profit or seek to sell the bridge to someone else who is not seeking the same returns, ideally the new owner would be the local authority who would remove the tolls and make sure that the bridge was properly maintained.

Written Representations supporters and objectors

In Objection

- 5.159 There are just over 100 written representations in the Core Document Library. A few are by the main objectors already reported, but by far the majority are from other individuals.

Neutral

5.160 An individual unable to comment on what the tolls should be feels strongly that teaching staff should be exempt. Parents of school students should be exempt or subsidised. They support contactless payment. (CD2.100)

In support

5.161 A resident of Alne, 6 miles from Aldwark Bridge works in Harrogate, and the most direct route from home to work using Aldwark Bridge is 19 miles, and takes roughly ½ an hour. The route without the bridge via Boroughbridge would be 27 miles and approximately 48 minutes; an extra 4 hours a week, more pollution, wear, and tear. They estimate that even with the increased tolls they save £11 a week in fuel. They consider that there are only a few objectors, most objections are copied/duplicates. People are in business to make profit, what the previous owners did is nothing to do with Mr Bell and a statement made on behalf of Mr Bell by his manager advises that a large amount of money was ring fenced to complete extensive refurbishment when the bridge was purchased and that the community will be given some kind of privileged access as they are now by way of discount (CD2.98).

5.162 Another person supports the increase in the tolls, as applied for because over the last 5 years, the bridge has slowly fallen into disrepair, with a lack of investment and/or upgrade. To make profit is the reason for making any kind of investment. Mr Bell comes across as a man of integrity and good business sense.

5.163 Mr Bell owns and runs another company in a different market sector, and is very successful. There is no reason to suspect that he will be any less in this new venture, and no doubt the local community will see the benefit of this in time (CD2.99).

6 INSPECTOR'S CONCLUSIONS

The following conclusions are based on the oral and written representations to the Inquiry and on my inspections of the site and its surroundings.

Validity of the Application

- 6.1 The toll bridge was formerly owned by Aldwark Bridge Limited (company number 04021548). It is currently owned by the Applicant which is Aldwark Toll Bridge LLP (company number OC432465) (not Aldwark Bridge Toll LLP). The Applicant was incorporated on 7 July 2020 (CD6.3).
- 6.2 On 26 April 2021²² Mr Bell wrote "*the company which owns Aldwark Bridge is Aldwark Toll Bridge LLP*" and he described this company as brand new and having not yet filed accounts.²³ The bridge was acquired by Aldwark Toll Bridge LLP from Aldwark Bridge Limited. Aldwark Bridge Limited is owned by Aldwark Toll LLP which was the operating company of the bridge.²⁴ Mr Bell advised that he never had anything to do with these companies.

²² CD5.4.2

²³ CD6.3 Certificate of incorporation of Aldwark Toll Bridge LLP dated 7 July 2020

²⁴ CD6.2

- 6.3 The Applicant now has a substantial interest in the bridge and satisfies requirements for the making of an application for revision of any of any of the charges as set out in s.6(1)(d) and s.6(2) of the 1954 Act (CD3.2).
- 6.4 Objectors argued that various mistakes invalidated the initial application and that both the initial and revised public notices were invalid. I set out the procedures followed in order to remedy problems with the initial press notice in Section 1. The Applicant's clarifications about the revised notice and amended revisions to the tolls sought are set out in Section 3.
- 6.5 Weight limits are variously referred to in kilograms and tonnes, but it was evident that persons at the Inquiry were not confused by this, and I think it unlikely that the public at large would have been.
- 6.6 Objectors argued that it is usual when applying for a tolls increase that the Applicant will submit full audited accounts for at least the last three years of the undertaking. However, I find nothing in the legislation to set out such a requirement. Nor that evidence cannot be submitted after an application has been made. Arguments that the accountancy and other evidence such as transportation was inadequate go to the merits of the case rather than the validity of the application.
- 6.7 The Department for Transport confirmed that all statutory requirements had been complied with on 7 January 2022 (CD6.11).
- 6.8 S.6(4)(a) of the 1954 Act requires that the notifications in the press have to provide an indication of the "general effect" of the proposed toll increase.
- 6.9 I am satisfied that the revised notices set out the general effect of the proposed toll increases, and that the clarifications and amendments can be accepted. It is respectfully submitted that there are no sound reasons to find the application invalid.

The Statutory Criteria

- 6.10 S.6(3) of the 1954 Act (CD3.2) states that 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:-
 - 1) expenditure required on the working, management, maintenance (etc) of the undertaking, and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue,
 - 2) including any reasonable contributions to any reserve, contingency, or other fund; and
 - 3) where appropriate, a reasonable return on the paid-up share capital of the investment.

- 6.11 At a pre-inquiry meeting the parties agreed that these three distinct considerations formed the basis for the main issues to be examined at the Inquiry, and within this report.²⁵
- 6.12 Objectors argued that within the legislation the working, management and maintenance of the bridge is prioritised over revenue, reserves, contingency and then finally where appropriate, a reasonable return. However there is no stated order of priority. It is a list; the statutory considerations are to be considered equally. A hierarchy or priorities cannot be implied.
- 6.13 S.6(3) also states that "*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*".
- 6.14 Aldwark Toll Bridge LLP was formed in July 2020. Nonetheless, the Applicant agrees that the powers to make an Order are discretionary and that the Secretary of State, having due regard to the financial position and future prospects of the company, may take into account other matters such as the public interest where appropriate. BHP LLP, accountants for the Applicant, provided certified accounts. Audited accounts are not required for the purposes of the 1954 Act.

Background

- 6.15 The last increase in tolls was authorised in 2005 and is set out in Statutory Instrument 2005 No 2117 (CD4.2). There has been no increase since.
- 6.16 The tolls applied for are set out in Section 3 of this report. The tolls proposed are intended to fund works to the bridge in the short term, an ongoing programme of works, a future major refurbishment fund in the longer term, and to provide a return on investment for shareholders.

Income

- 6.17 The only income received is from tolls charged for vehicles crossing the bridge.

Traffic flow evidence

Current or base line traffic flow data from the electronic trip counter

- 6.18 To inform the Inquiry the Applicant agreed that it was important to calculate the number of chargeable vehicle movements across the bridge as a baseline for predicting future income. At the pre-inquiry meeting on 25 October 2021 the Applicant indicated that a traffic count survey would be undertaken for two months, November and December 2021, and that the automatic traffic count (ATC) would give a level of assurance of the number of journeys made over

²⁵ At a pre-inquiry meeting held 19 April 2021

the bridge. Survey equipment was vandalised. Only the November data was used.

- 6.19 Transport Analysis Guidance indicates that traffic data obtained in December may not represent a 'neutral period' and advice is to survey "from March through to November". This guidance is primarily for the appraisal of large-scale transport schemes seeking Department for Transport funding. Nonetheless, it is not unreasonable to assume that vehicular movements in December could be unusual for a number of reasons, including holidays and weather.
- 6.20 The Applicant's case in 2005 was that "extensive data" had been collected which could be relied upon as being around 95% accurate (CD4.1 paragraph 4.14). It states that the "*electronic traffic counter was installed in September 2001*". There is nothing to say data was only collected in that month. Rather in the section where the Inspector summarises the case for the applicant, it refers to "*an annual measured total of 702,325 vehicles in 2004*" (CD4.1 paragraph 4.15). The electronic counter is still in place but the key to the cupboard is lost and the wires used to count vehicles crossing the bridge now buried under surfacing material laid on the approach to the bridge.

Effect of the current daily charging period on baseline traffic flow data

- 6.21 The Applicant's Transport Consultant for the current application calculated that the daily average total for all vehicles crossing Aldwark Bridge recorded by the ATC between 0000-0000 hours was 1,215. This would result in an annual vehicle flow of 450,000 vehicles.
- 6.22 When considering the effects of closure of the bridge on diversions the Transport Consultant considered 450,000 a reasonable current estimate of traffic flow (CD13.5.1 paragraph 2.10.7). However, for forecasting future traffic over the bridge he used only the ATC data for traffic crossing the bridge during the time period when tolls are presently charged. That is for crossings between 0700-1900 hours together with 50% of recorded crossings between 1900-2000 as an estimate for the half-hour between 1900-1930.
- 6.23 He calculated that the average daily number of chargeable vehicle movements across the bridge within these times was 994; roughly 363,000 a year, and 82% of the daily average totals for all vehicles crossing the bridge.
- 6.24 There is nothing in the 2005 Toll Order (CD4.2) to prevent tolls being charged at other times and this Application does not propose any time limits. The period for charging tolls is at the discretion of the Applicant.
- 6.25 The policing of payments between 0700-1930 has been by ticket collectors working at the bridge. Drivers stop outside the Toll House to handover a prepaid ticket or purchase a ticket to cross.
- 6.26 Since taking ownership Mr Bell has introduced a number of new management practices. A web site for the bridge has been set up where tickets can be purchased online, with the option to buy a book of 50 pre-paid tickets. Close circuit television monitoring has been introduced and a feasibility study is in hand for contactless payment.

- 6.27 There are no proposals to introduce traffic lights. The bridge is narrow and there is a need to clear the bridge to prevent traffic build up and control flow. Although these factors might complicate automation Mr Bell is 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 direct.
- 6.28 Mr Bell has over 20 years' experience in developing and owning car parks and is familiar with and has used such systems. ANPR would not fully replace the need for toll collector staff, but would negate the need for tickets.
- 6.29 The raw traffic data collected by the ATC (CD13.5.2 Appendix 1) confirms that peak travel flows generally occur between 0800-1000 and 1600-1900 on weekdays. There is little evidence of a level of traffic overnight that would suggest queuing is a significant issue during these times. The Transport Consultant's evidence was that the impact of automations upon the number of bridge crossings is likely to be negligible (CD13.5 paragraph 2.12.2).
- 6.30 It is plausible that within the 10-year period of the projected accounts some form of automated payment system will be introduced such that it would no longer be necessary to restrict charging times to when toll collectors are at the bridge. 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.
- 6.31 It is a shortcoming that the traffic forecasting relies only on the ATC traffic flow data for the current daily charging period only.

Factors affecting traffic flow in November 2021

- 6.32 The Applicant's evidence to the 2005 inquiry was that there were 2,000-2,200 weekday movements and 1,700-1,800 at weekends. From this the Applicant in 2005 assumed that in the order of 700,000 vehicles used the bridge each year. (CD4.1 paragraph 4.14-4.17).
- 6.33 The Transport Consultant acknowledged that traffic levels have generally increased since 2005 and he put forward a number of factors that could have impacted traffic flows over the bridge during the time of the ATC survey:

The effects of COVID-19

- 6.34 There were no national lock downs in place, but advice from the Scientific Advisory Group for Emergencies around the time of the ATC survey was that working from home was one of the most effective measures available at reducing transmission.
- 6.35 In December 2021 the Government announced 'Plan B' restrictions and guidance in light of the emergence of a new Omicron variant. The Government's advice then included to work from home where possible.
- 6.36 Objectors drew attention to an analysis by the Office for National Statistics (ONS) of homeworking and spending during the COVID-19 pandemic. The ONS found that between 19 and 30 January 2022 36% of working adults

reported having worked from home during the last seven days.²⁶ The Transport Consultant agreed that the baseline traffic data would have been influenced to some degree by the effects of the COVID-19 pandemic.

- 6.37 A Department for Transport COVID-19 transport use statistics table indicates that by November 2021 traffic levels for all motor vehicles were returning to close to levels in February 2020 before lockdown, and traffic flows in November 2021 and March 2022 were generally comparable.²⁷
- 6.38 Some of the data indicates that November 2021 traffic flows were 94%-98% of the traffic levels seen on weekdays in the first week of February 2020. Weekend traffic levels in both November 2021 and March 2022 were slightly higher, 100%-113% than in the first week of February 2020.
- 6.39 Column B shows that nationally car usage rates in November 2021 ranged between 89% and 102% with many days still around 90% of the February 2020 levels. That would be a 10% change from traffic levels that were otherwise normal. There is no traffic data available to the Inquiry about the number for vehicles crossing Aldwark Bridge in February 2020.
- 6.40 It is not unreasonable to assume that car traffic levels using Aldwark Bridge during the ATC survey could have been depressed by up to 10% from normal traffic levels due to the COVID-19 pandemic. However, the Transport Consultant acknowledged that there is industry wide uncertainty over the impact of COVID-19 in the short, medium, and long term and there were other factors influencing traffic flow over the bridge at the time of the ATC survey.

RAF Linton On Ouse and Aldwark Manor Hotel

- 6.41 The bridge is close to Linton on Ouse which had an active RAF station. The bridge owner offered concessions to tolls for some use/users associated with the base. The base closed in 2020. In early 2021 the Ministry of Defence confirmed that there were no future military plans for RAF Linton on Ouse and that it would be sold. There is scant evidence to say in what capacity it was operational in late 2021 - early 2022.
- 6.42 The Government announced plans to house up to 1,500 asylum seekers at the base and AAPC drew attention to a press article that there would be about 300 jobs created on the site with other new business opportunities.²⁸ No final decision had been made by the time the Inquiry sat and I have attached very little weight to this.
- 6.43 The Transport Consultant accepted that any reoccupation/redevelopment of the base, and up to 160 houses that had been previously occupied by military personnel, would likely increase traffic on the bridge compared to the

²⁶<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/home-workingandspendingduringthecoronaviruscovid19pandemicgreatbritain/april2020tojanuary2022>

²⁷ <https://www.gov.uk/government/statistics/transport-use-during-the-coronavirus-covid-19-pandemic> and open

²⁸ [Domestic transport use by mode: Great Britain, since 1 March 2020](#)

²⁸ <https://www.kevinhollinrake.org.uk/news/statement-regarding-linton-on-ouse-asylum-reception-centre>

- November 2021 recordings but it was difficult to predict the impact of such changes (CD13.5.1 paragraphs 2.8.5-2.8.6).
- 6.44 On my unaccompanied site visit I went to Linton-on-Ouse. It was evident that the former RAF base was of some scale with quite large hanger type buildings and a relatively large stock of housing that was empty or being refurbished.
- 6.45 There is little technical evidence about how much traffic the base generated over the bridge when it was in use, or about how many operational military vehicle crossings would have had concessions.
- 6.46 There is insufficient evidence to draw any sound conclusion about what the effect of the situation at RAF Linton on Ouse would have been at the time of the ATC readings and throughout the period November 2021-March 2022.
- 6.47 The Applicant's opinion was that the major impact of the RAF base closure on paying bridge traffic had been associated with the families and personnel stationed at the base and journeys unrelated to military operations. But there is also very little technical evidence about how much traffic would likely be generated by reoccupation of the housing.
- 6.48 Similarly, there is very little evidence about what traffic levels could be from re-use of the base, and nothing to say that there would be any concessions for traffic generated by new uses.
- 6.49 The Aldwark Manor Hotel was undergoing a substantial investment programme at the time of the ATC survey. The evidence of the local community was that it had been run down for some years before refurbishment (CD9.6). A £30m re-development had commenced in 2019 and was due to be completed in 2023.
- 6.50 AAPC told the inquiry that the development will include a new spa and leisure complex, an 18-hole golf course, conference facilities for 240 delegates and car parking for 200 vehicles (CD11.4 paragraph 4.6.3). The Applicant advised that there have been many planning applications between July 2019 to April 2022, including an application for 3 pools, a gym, spa/treatment rooms, conference facilities, 27-bedroom suites and other elements (Ref: 20/01035/FUL) and the number of bedrooms would increase from 55 to 82 (+27).
- 6.51 There is no technical highway evidence about the likely number of vehicular movements that there would have been over the bridge associated with Aldwark Manor Hotel in the years before the major refurbishment programme.
- 6.52 It is quite plausible that at the time of the ATC survey refurbishment and building work at the hotel would have caused there to be very little use of the hotel and facilities by customers. Some construction traffic might have used alternative routes due to the TRO weight limit.
- 6.53 The Transport Consultant opined that because the Council had not required a traffic impact assessment for any or all of the recent proposals the increase in traffic could not be significant, and that additional traffic generation might be no more than that generated by a 35-bedroom extension. Even if that were so, the question "more than what?" remains.

- 6.54 There is insufficient evidence to quantify the extent of effects upon the level of traffic using the bridge from RAF Linton on Ouse and Aldwark Manor Hotel in comparison to the situation that previously existed, at the time of the 2021 ATC survey, or of likely effects for future traffic over the bridge.

Seasonal variations

- 6.55 Summer traffic levels were likely to be notably higher than winter due to tourism, and November traffic data may represent a below average month. (CD13.5.1 paragraph 2.6.7). There was insufficient evidence about how school traffic patterns would impact upon this general trend.
- 6.56 The Transport Consultant acknowledged that he had no traffic survey data to understand how traffic flows vary from month to month throughout the year and that it was difficult to make a firm judgement on whether the November 2021 data amassed is representative of a typical month (CD13.5.1 paragraph 2.6.6). Revenue figures provided by the Applicant for 2021 as a proxy would have been significantly affected by the COVID-19. Takings for May-October 2021 were all somewhat higher than for November.

Baseline period

- 6.57 The Transport Consultant agreed that traffic flows on UK roads have generally increased notably over the 20-year period since 2005 and he could not fully explain the differences between the evidence from 2005 and November 2021.
- 6.58 The Applicant submits that current traffic and income is the only evidence to assess current vehicular traffic flows, and that transport assessments for development can often to be based on traffic surveys as short as one week. There is little evidence to judge the relevance of other situations where data for one week would suffice or where data for a full month would be considered more than typical.
- 6.59 However, the evidence of the previous Applicant's submissions to the Inquiry for toll revisions at Aldwark Bridge in 2005 indicates that the Applicant at that time relied on 'extensive' ATC data. In reporting the Applicant's case the Inspector made reference to the electronic counter being installed in September 2001, events in August 2003, to traffic increases between 2002-2003, and 2003-200, and a measured total in 200 (CD4.1 paragraphs 4.14-4.15).
- 6.60 An objector (CD15.3.1. Appendix 6/7) drew attention to an Inquiry regarding tolls for the Swanage Ferry where evidence for the Applicant was that the years ended 2020 and 2021 were affected by COVID-19. The consultant had for these, and other reasons, used the five 'normal years' prior to 31 March 2018 for turnover projections.
- 6.61 I conclude that the baseline traffic flow evidence available to this toll revision Inquiry is not sufficiently reliable to provide a robust basis to forecast future trends.

Forecast traffic growth

- 6.62 Traffic growth forecasts from the Department for Transport were analysed by the Applicant's Transport Consultant using TEMPro software. Aldwark Bridge

is in the Middle Layer Super Output Area (MSOA) Hambleton 011. MSOA Harrogate 016 is the closest neighbouring area. Both are predominantly rural and neither captures any settlement of significant size. To predict future traffic levels over the bridge the transport Consultant used a combined local MSOA rate for these two areas; i.e. 2.8% by 2027, 4.6% by 2032, 6.4% by 2037, and 9% by 2042.

- 6.63 With these growth rates predicted volumes of traffic over the bridge per annum were 1,022/day 2027, 1,040/day 2032, 1,058/day 2037, and 1,083 by 2042. The Applicant's evidence to the 2005 Inquiry had been that the TEMPro program indicated that there would be significantly more: 796,523 vehicles per annum vehicles by 2012.
- 6.64 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. He concurred with the 2005 Inspector's Report that traffic using the bridge has a range of different origins and destinations.
- 6.65 It is quite plausible that future new development would be concentrated in the larger settlements rather than in rural areas. Development in nearby settlements would likely impact the level of traffic using Aldwark Bridge. The settlements of Easingwold and Boroughbridge and larger towns are all outside of MSOA Hambleton 011 and MSOA Harrogate 016.
- 6.66 TEMPro growth forecasts for traffic for the larger North Yorkshire region which would include nearby towns and other larger settlements are 3.8% by 2027, and 6.6% by 2032. Higher than the combined local MSOA rate. The sinking fund is planned to build up over 20-years. The traffic growth factor for the North Yorkshire region would be 9.4% by 2037 compared with 6.4% for the combined two local MSOA areas (CD13.5.1 Table 3).
- 6.67 It is concluded that the use of a combine local MSOA rate which excludes any of the main settlements areas where traffic may be going to and from is not sufficiently robust to predict future traffic levels across the bridge.

Evidence of ticket sales income and traffic movement reconciliation

- 6.68 The Applicant's case had been amended and updated and a number of variations of financial documents were submitted (see for example CD1.4a and b, CD6.7 and CD6.8). At the Inquiry the Applicant's accountancy witness relied upon his evidence at CD13.3.2 and therefore so do I.
- 6.69 A comparison was made of the results from the ATC with the number of tickets issued by the Toll Bridge (CD 13.3.1). The adjusted figure "re traffic movement recorder" (or ATC) for November 2021 was 27,713 and the tickets issued was 28,503. The Accountant concluded that, as the number of tickets issued was greater than the number of crossings recorded, using the higher figure for tickets issued and redeemed is the correct measure of income to be used (CD13.3.1 paragraphs 6.4-6.5).

- 6.70 In a 'final reconciliation' of tickets issued and redeemed for November and December 2021 and January 2022 pre-paid tickets redeemed were deducted from total tickets issued to identify total net tickets issued. Income from pre-paid tickets purchased was added to income from net tickets issued.
- 6.71 There are no expiry dates on pre-paid tickets and no evidence to explain the pattern of when pre-paid tickets are purchased and used. Therefore, £34,357 "total income" for the three months is an account of income from ticket sales and not a reflection of the actual number of journeys made over Aldwark Bridge.
- 6.72 The accountancy evidence represented only crossings where a payment had been made and was compared with the Transport Consultant's evidence for traffic crossing the bridge within the current charging period only. It does not represent the total number of journeys made over the bridge. These are shortcomings.

Allowances/adjustments to baseline ticket sales

- 6.73 From his final reconciliation the Accountant used the £34,357 income for the three months to arrive at a seasonalised annual turnover rounded up to a ballpark figure of £150,000.
- 6.74 As I have already found that the +10% for a post COVID-19 recovery effect would need to be applied to normal traffic levels, then the effects of other factors associated with Aldwark Manor Hotel and RAF Linton on Ouse would need to be resolved before applying the +10%.
- 6.75 The Accountant told the inquiry that the +5% allowed for additional traffic generated by Aldwark Manor Hotel, army houses and other local development was an allowance made following discussions with the Transport Consultant, but there is no technical highway evidence to support how it has been derived.
- 6.76 From the average of 994 crossings per day from the ATC data 5% would equate to roughly 50 trips. Even if the hotel had only been partially closed, the RAF base had been operating in some capacity, and some of the associated housing still unoccupied during the period November 2021-March 2022, on a balance of probability I think it most unlikely that the effect of bringing all of these developments back into use would result in only an additional 50 crossings over the bridge each day.

Projected increases in turnover over time

- 6.77 The Accountant doubled existing income to achieve the effect of the toll increases. This would reflect the effect on the majority of traffic over the bridge, which is by car, but makes no allowance for the proposed changes to charges for trailers. Forecast income is also based only on data relating to the current charging period. These are omissions.
- 6.78 In the projected profit and loss accounts the Accountant used the combined local MSOA traffic growth rate factors of 2.8% by 2027 and 4.6% by 2032 applied to £173,250 to arrive at projected income over the 10-year period allowing for traffic growth. I have already found that these growth rates are not robust.

6.79 For the reasons given, I am not persuaded that the income reconciliation exercises, and projected turnover figures used, can be relied upon to give an adequate indication of future likely income from traffic flow over the bridge for the purposes of the application.

Expenditure required on the working, management, maintenance (etc) of the bridge

6.80 The Applicant submitted 10-year forecast profit and loss accounts, balance sheets and cash flows to illustrate profitability and cash generation. Two scenarios are presented: (1) based on current toll charges, and (2) based on the revised tolls proposed in the application.

6.81 CD13.3.2 Appendix 3a and 3b set out projected profit and loss accounts for a 10-year period. Appendix 3a is without a toll increase and appendix 3b is with the proposed increase.

6.82 Key assumptions applied in the forecasts include:

- Personal funds of almost £600,000 by way of a loan from Mr Bell will be used to fund a major refurbishment of the bridge in the short-term
- Other expenses for the working, management and maintenance of the bridge are based on historic figures and current experience as illustrated in the accounts for the first year of trading to 31 July 2021, together with such other costs properly chargeable to revenue
- A reserve for dilapidations is included
- A return on capital of 6% is assumed
- Amortisation of current major refurbishment costs over 20 years
- Amortisation of the acquisition cost of the bridge over 50 years.

6.83 The increases applied for are indefinite, not for any particular period, and no incremental or staged increases are proposed.

6.84 It was common ground that whilst some maintenance works have been undertaken, particularly over the last couple of years including replacing a number of decking planks and resurfacing the approach roads, there had been little other investment prior to the Applicant purchasing the bridge and that works are needed to Aldwark Bridge.

Structural Engineering evidence for the works needed

6.85 During the Inquiry Mason Clark Associates (MCA) clarified the dates of various reports and date errors on inspection forms (CD13.4.3).

6.86 A principal Inspection of Aldwark Bridge was undertaken 9 January 2020 by engineers from MCA. The report of the inspection highlighted that the bridge is in fair condition but there are some primary defects requiring attention (CD13.4.1 paragraph 3.7) as follows:

- i. There are several hollow sounding areas of masonry.

- ii. There are several places where the masonry arch spandrel walls appear to be bulging outwards.
 - iii. Large cracks in arch barrels.
 - iv. The concrete parapets are defective in many areas and require repairs.
 - v. Brick loss in some areas of the masonry spans.
 - vi. Most of the drainage outlets from the deck appear to be blocked.
 - vii. Rotten timber decking and loss of fittings along the river spans.
 - viii. Substandard timber rails and concrete posts acting as parapets on the masonry arches
 - ix. Vegetation and tree growth along the face of the spandrel walls.
 - x. Corrosion and paint loss to the river spans.
- 6.87 The report concluded that high priority construction works would cost in the region of £75,000 excluding VAT and other fees and charges.²⁹
- 6.88 In September 2020 the Applicant claimed that given a lack of investment over the past 20 years and to arrest long term structural damage immediate works were required and that "circa £100,000" needed to be invested (CD1.1). In October 2020 MCA wrote that repainting of the steelwork on the river spans, replacing the timber deck with steel, repairs and masonry stitching to approach spans would cost in the region of £150,000 excluding VAT (CD1.4).
- 6.89 The Report of a Second Principal Inspection undertaken by MCA in January 2022 also found that the bridge was in a fair condition but deteriorating and some elements showed a marked deterioration. In respect of the masonry arches defects in the superstructure were similar to those recorded in 2020 but defects in significant loss of protective coating and corrosion of the iron framed spans was worse than had been identified at the first inspection. The top flange of the transverse beams had experienced more corrosion due to being in direct contact with the saturated timber decking. Timber planks had lost bolts and fittings, planks were severely wet and with numerous occurrences of rotten timber (CD13.4.1 paragraph 3.27-3.34).
- 6.90 The reports ranked remedial works by priority. High priority works were identified as those requiring attention within 6 months. Medium priority works are those requiring attention within 18 months. In the 2022 report High priority works include replacing timber decking planks and replacing lost and loose fittings to timber deck planks, as well as clearing blocked drainage to the arch spans.
- 6.91 In 2020 almost 66% of defects to the iron framed spans were ranked as moderate to extensive in extent and moderate, severe, or failed in severity. (CD13.4.1 paragraph 3.14 and 3.16). By 2022 this percentage had risen to almost 78% (CD13.4.1 paragraph 5.15).
- 6.92 An underwater river span piers and scour survey, February 2022, concluded that the structure was in good condition, except for the deterioration of timber fenders and growth of vegetation (CD13.4.1 paragraph 3.43).

²⁹ CD6.1, Executive Summary page 3, Conclusions page 28 and table of works and priorities in Recommendations at page 29

- 6.93 For the masonry arch spans the 2022 report highlighted severe damp, salt staining and mortar loss, spalling of brickwork, radial and vertical cracking, buttress/pier separation, corrosion of steel ties, vegetation growth, blocked drainage, and non-compliant parapet. There are substandard timber rails and concrete posts acting as parapets on the masonry arches.
- 6.94 A load assessment undertaken in March 2020 to CS 454 "Assessment of Highway Bridges and Structures" showed that the river spans pass for a 7.5 tonne assessment load but only with a higher grade of timber to that which is currently forming the deck.

Heritage Evidence

- 6.95 The Conservation Surveyor submitted a note to the Inquiry to clarify the timeline of his involvement in the project (CD13.6.4).
- 6.96 Historic England advise that a building is listed when it is of special architectural or historic interest considered to be of national importance and therefore worth protecting. The listing provides an enhanced and formal protection framework for managing change to these buildings through the process of Listed Building Consent in the planning system, which can authorise works which have special regard to a desirability to preserve the building, its setting, and its intrinsic heritage values (Planning Act 1990, Section 16, subsection 2) (CD13.6.1 paragraph 4.2).
- 6.97 Historic England describe the significance of Aldwark Bridge as "*a particularly interesting example of a privately owned toll bridge still in operation. While elements of the bridge date to the mid-later 18th century, the iron-framed central section with timber deck forms a later 19th century addition. The resultant bridge structure makes for a very characterful arrangement which is both instantly recognisable and well regarded. The traditional construction methods used, materials palette and appearance all make an important contribution to the significance of this bridge.*" (CD13.6.1 paragraph 5.4)
- 6.98 The Conservation Surveyor identified its special value as including its historical and evidential value, distinct appearance, and uniqueness of structure, contextual association with Aldwark and as an inseparable and recognisable feature of the river landscape and local setting (CD13.6).
- 6.99 The Conservation Surveyor's evidence to this Inquiry was that the bridge has been suffering from years of neglect and lack of maintenance (CD13.6.1 paragraph 5.5). A substantial amount of work is now required to safeguard the structure so that the bridge can be enjoyed safely by its users in the years to come without compromising the appearance and heritage significance of the asset. In particular he identified a need for:
- Replacement of all grade C27 Opepe timberwork on the deck which dates from the 2000 refurbishment and is now in very poor condition with new hardwood grade. The timber proposed would be of greater strength, better suit the structural requirements of the bridge and enhance its appearance.
 - Cleaning and recoating of all metal frame surfaces with a new protective paint system.

- Ongoing maintenance of the historic brick arches. The MCA inspection report 2020, followed by the 2022 report highlight areas of the arched brick masonry approaches which require repairs. Decayed bricks require replacement or repair, depending on the degree and extent of their erosion. Weathered open jointing requires repointing in a lime mortar. Further defects identified in the masonry include cracks which require stitching, vegetation growth in need of removal and hollow areas which require consolidation. Ongoing repairs are to be expected to this type and age of structure. A certain amount of the income from the tolls would be allocated yearly towards the maintenance of these arches and will address the repairs according to priority of urgency.

6.100 The Conservation Surveyor concluded that the proposed works would have a positive impact on the significance of Aldwark Bridge and a positive impact upon its setting and views of the bridge. Harrogate and Hambleton Council had recently approved listed building consent for plans for works to the iron frame spans and timber decking (21/01722/LBC).

Short term costs for the major refurbishment of the iron framed spans

6.101 The programme of works for refurbishment of the bridge in the short term is for works to the iron framed spans only.

6.102 In 2021 MCA scoped, designed, and specified competitively tendered works for replacing all timber planks and kerbs, replacing loose or lost fixings, rivets, and bolts, removing all loose and defective paint and reapply protective paint coating to the lattice girders, all areas of steel transverse cross beams, support columns and cross bracing.

6.103 Starting date and construction periods were left open. The timetable could not be determined until all consents were in place, including an application for temporary closure under the road traffic regulations, environmental permitting from the Environment Agency and a permit from the Canal and River Trust.

6.104 By the time the Inquiry sat the Applicant's sum for a major refurbishment of the bridge in the short term had risen to £582,308. Tender prices ranged from £396,840 to £599,690. (CD13.2 paragraph 2.5)

6.105 The Quantity Surveyor provided an updated cost summary for the Inquiry based on the lowest quote, this increased the cost to £457,330. It included a small contingency of £20,000 and £13,490 for inflation. A sum of £3,000 was included for additional works required to replace rivets and £24,000 for the additional cost of double stainless steel bolted connections. (CD13.2 paragraph 2.11). The Applicant's Accountant added £27,927 for professional fees and £97,051 for VAT (CD13.3.2). This adds up to £582,308.

6.106 Overall, the iron frame span of the bridge is in need of major repair and maintenance if it is to remain working and fit for purpose and to protect against future potential further deterioration. To do this properly and effectively the evidence of the Applicant's consultants was that the whole of the timber deck needs to be re-laid. It was also necessary to upgrade the deck to a higher specification to meet the requirements for a 7.5 tonne load.

6.107 At the time of the Inquiry the tender still had not been let. However, works to the bridge require various consents from the Environment Agency, the Canal

and Rivers Trust as well as North Yorkshire County Council with regard to a road closure that were not in place. Listed building consent had only recently been granted and other matters were still outstanding.

- 6.108 The Applicant could choose to do a lesser or different scheme. Nonetheless, there is strong advice from consultant surveyors that this work is needed and no substantial evidence before the Inquiry to dispute the costs.
- 6.109 The evidence reasonably supports the need for a short-term programme of major refurbishment works on the iron framed span sections of the bridge and the sum of £582,308 to meet such expenditure.

On-going costs for repairs

- 6.110 The MCA reports highlight primary defects with hollow sounding areas of masonry, bulging masonry arch spandrel walls, cracks, brick loss, blocked drains, damp, and saturated arch barrels (CD13.4.1 paragraph 3.7). Just under 40% of the defects to the masonry arch spans were ranked as moderate to extensive in extent and moderate to failed in severity (CD13.4.1. paragraph 3.14-3.15).
- 6.111 High priority works needed to the brick arch spans include clearing blocked drainage and removing trees and vegetation. Medium term priorities include rebuilding the buttress and foundation separated from an arch span and improving drainage to the carriageway over arch spans.
- 6.112 No works to the brick arches are included in the programme of short-term major refurbishment works put out to tender. Some of the cracks in the arches were of concern to objectors. However the oral evidence of both the Structural and Conservation Surveyors was that arches tend to be relatively stable. Neither witness suggested that the defects meant that the bridge was at risk.
- 6.113 The consensus was that these could be managed as a programme of on-going maintenance works. For this the Quantity Surveyor had estimated works for 3 persons for 1 week per annum at a cost of £7,500 per visit (CD13.2 paragraph 3.5). In addition there would be an annual inspection fee of £1,000, £16,000 for a principal inspection report every 8 years, and £1,000 per month for low level maintenance works including the removal of debris and minor repairs. (CD13.2. section 3).
- 6.114 The Quantity Surveyor considered an annual sum for £23,500 as 'property maintenance' included in the projected profit and loss accounts for these works was appropriate. (CD13.3.2 Appendix 3). This evidence was largely unchallenged.
- 6.115 The evidence reasonably supports a programme of on-going maintenance works, and an annual provision of £23,500 is made to cover the costs for repairs and inspection costs to ensure that the bridge is maintained in a satisfactory condition.

The refurbishment of Toll Cottage

- 6.116 The Toll Cottage is used as the office for the toll keepers. It was renovated in 2021 at a cost of £62,061. On my site visit I observed that the building

affords reasonable working accommodation. As various consents were still outstanding for repairs to the bridge, it is not unreasonable that the works to the Toll Cottage proceeded in the interim, and there is no substantive evidence to say the costs were unreasonable.

Management and salary costs

6.117 Mr Bell pays his staff £10/hr (CD8.2). The actual figures in the first column of the projected profit and loss accounts for 18 months to January 2022 were taken from PAYE forms. The figure for wages in January 2023 at £74,616 is not significantly higher than those recorded for the year ended 31 July 2021 of £68,007 and comparable with the record for the first 6 months ended 31 January 2022 of £38,047 (CD13.3.1. section 5). The derivation of the wage cost is set out at Appendix 4 of the Accountant's evidence (CD13.3.2).

6.118 Administrative expenses include a management charge ranging from £12,000 in the year to January 2023 to £15,657 in the year to January 2032 to cover an amount paid to 'head office' at Westwick Property Group for the operating of the business including purchase of tickets in advance and other functions.

Interest payments

6.119 Interest on a loan of £582,308 made personally by Mr Bell would be paid at a rate of 6% per annum. Mr Bell's other investments are returning an average of 5%. The Accountant opined that it was a risky business and banks would not lend on it. Mr Bell's bank of 10 years had refused him an account for the business, but he had not approached banks for credit or loan facilities. The only account he needed was a current account for operational purposes.

6.120 In any event Mr Bell did not need any loan or capital from the bank and he intended to finance the business from his own funds.³⁰ Nonetheless I have no reason to disagree that 6% would be a reasonable rate.

Depreciation

6.121 The projected profit and loss accounts include sums for building and refurbishment depreciations. The 'refurbishments' are the major works to the bridge proposed and the works undertaken to the Toll Cottage. The main concerns raised by objectors are with the proposed building depreciation.

6.122 The bridge was purchased for £1,049,996. The Accountant opined that Mr Bell is an entrepreneur and relied upon his instinct when he felt something was right for him, rather than doing due diligence. No allowance was made in the price for the condition of the bridge. No sinking or other funds came with it.

6.123 The Accountant's opinion was that the requirement for over £500,000 of refurbishment expenditure indicates that the bridge is currently over-valued and its cost should be impaired (CD13.3.1 paragraph 7.1. xiv). The bridge had not been independently valued either pre or post purchase, and there is no independent valuation evidence before this Inquiry.

³⁰ Mr Bell oral responses to my questions at the Inquiry

- 6.124 The Accountant did not offer an opinion as to how much the bridge should be impaired and the projected accounts do not include impairment. Instead they show the purchase price paid depreciated at a rate of £21,000 per annum, assuming that the "latest forecasts" will extend the useful life of the bridge to 50 years.
- 6.125 There isn't a requirement for revaluation of fixed assets and the Accountant argued that depreciation in line with accounting standards was appropriate because the bridge was used in the production or supply of goods or services, i.e. the provision of the service of a 'toll crossing'.
- 6.126 There is little professional evidence to support the view of objectors that the bridge and its associated parts meet the definition of an investment property in the Financial Reporting Standard 102. However, the Accountant acknowledged that there was an element of professional judgement in the appropriateness of 50 years and agreed that someone else could arrive at a different conclusion.
- 6.127 Objectors drew attention to previous prices paid for the bridge including 31 July 1995: £121,550 and 28 January 2014: £340,000. Mr Bell was aware that the bridge was in need of repairs to the value of "circa £100,000" (CD1.1) when he paid £1,049,996 in 2020. The Applicant's Accounts manager had considered it likely that the asset would appreciate in value (CD7.13)
- 6.128 Mr Bell is proud to have become the custodian of the bridge and intends to properly repair and maintain it. The projected accounts make provision for a substantial short-term programme of works to bring the bridge into an improved condition, for ongoing annual property maintenance including funds for regular inspection reports, and for the building up of a large sinking fund to cover another large refurbishment programme of the iron frame section in 20 years' time. All of this indicates that the bridge would be kept in a good state of repair.
- 6.129 There is no evidence of any limitations on toll rights, nor evidence that the bridge will come to the end of its useful life after 50 years. As a statutorily listed building the presumption is that the bridge should be preserved for the benefit of future generations.
- 6.130 There is little evidence to demonstrate that the bridge will depreciate in value. On the contrary the evidence indicates that even without being in a state of good repair the bridge is likely to appreciate in value. Overall, I am not persuaded that amortising the full purchase price paid over a period of 50 years at a cost of £21,000 per annum has been reasonably justified.

Contributions to any reserve, contingency, or other funds

- 6.131 S.6(3) of the 1954 Act requires the Secretary of State to have regard to the need to build up a reserve or contingency. The nature of the bridge and timber deck mean that it will require periodic refurbishment.
- 6.132 The projected accounts include a reserve of £45,000 per annum for another major refurbishment in 20 years' time. The Accountant had set both the sum and the timeframe. The sum was derived from the costs of the current refurbishment plus inflation.

- 6.133 The Accountant discussed the next major refurbishment with MCA who had advised 20-30 years. Nonetheless, the Quantity Surveyor informed the Inquiry that he had not been instructed to advise on a likely budget for such a future repair fund, and that he could have.³¹
- 6.134 Prior to 2000 the previous refurbishment was understood to be in 1964, some 36 years earlier. At the 2005 inquiry Gibson Design Consultancy advised that a repeat of the major refurbishment would be needed in approximately 25 years (from the works being undertaken). It was difficult to arrive at a repeat date for refurbishment of the timber deck with no data available for the performance of timber bridges. The expert witness considered that future performance would be entirely reliant on traffic volumes and environmental conditions (CD13.6.2). The evidence was that traffic flows were likely to be roughly 700,000 trips per annum.
- 6.135 Before it was considered necessary to lift the whole of the deck MCA had concluded in 2020 that high priority constructions work would cost in the region of £75,000 excluding VAT and other fees and charges.³² The costs significantly rose when it was determined that the whole of the deck needed to be lifted to enable more works and to upgrade the timber to meet the requirements of the 7.5 tonne load assessment.
- 6.136 Problems arising from the works undertaken in 2000 were drawn to my attention. Steel beams had not been fully painted. And on the accompanied site visit it was pointed out that the upper deck timber planks did not span the full width and there was inadequate drainage. These were some of the factors contributing to the need for such a major overhaul now.
- 6.137 The current proposal is to replace the deck with a more durable hardwood of higher classification and longevity, and the Applicant's evidence is that traffic flows will be significantly less than predicted in 2005. In which case it is reasonable to assume that wear and tear should be less.
- 6.138 Whilst the evidence indicates that periodic refurbishments are required, on a balance of probability, the next major overhaul might not need to be so extensive, expensive nor required so soon.
- 6.139 I am not persuaded that contributions of £45,000 per annum to provide for another major refurbishment in 20 years' time have been reasonably justified.

A reasonable return

- 6.140 In the projected accounts the owners would take £63,000 each year as dividends. Having paid roughly £1,050,000 for the asset the Applicant argues that this would amount to a 'return on capital' of 6%.
- 6.141 The expense of providing and maintaining the bridge falls to the undertaking. There are considerable risks and difficulties, including bridge costs and changes in user demand outside of the Applicant's control. The bridge is not

³¹ Orally in answer to my questions

³² CD6.1, Executive Summary page 3, Conclusions pp28, table of works and priorities in Recommendations at pp29

entirely free from competition in that there is some choice whether to use the toll bridge or another route.

- 6.142 The financial health of the undertaking, including an ability to meet unexpected costs, is to the benefit of users of the bridge and to the public at large as the bridge is a historic statutorily listed building.
- 6.143 The 1954 Act provides for, where appropriate, a reasonable return upon the paid-up share capital of the undertaking. Objectors argued that should only be money put into the business on a permanent basis, and not a return on the money the Applicant paid to previous owners of the undertaking, because that money did not go into the undertaking (for example CD8.8 paragraphs 37-46).
- 6.144 The Applicant is a limited liability partnership (LLP) and not a limited company. As such there is no share capital. LLPs did not exist when the 1954 Act was enacted. LLPs post-date the 1954 Act. Whilst the asset value is not directly investment, it is the result of the investment of the Applicant and in this way is not an unreasonable measure to use.
- 6.145 In any event s.6(3) of the 1954 Act allows for consideration of such other costs, charges and expenses of the undertaking as are properly chargeable to revenue. The requirement is that they must be properly chargeable to revenue. The list is non-exhaustive. Therefore, the Applicant argues, if the £1,050,000 introduced by Mr. Bell is not treated as capital it could be classed as a loan on which interest would be due at the same risk weighted rate of 6%. In this way I accept that dividends of £63,000 would not be an unreasonable or inappropriate return.

Annual revenue neither substantially less nor substantially more than adequate

- 6.146 The Accountant's summaries of the evidence in the 10-year forecasts are set out at paragraph 4.77 of this report.
- 6.147 In closing the Applicant submits that *"Given the upscale factors [to income from traffic over the bridge] which amount to +20% in the next ten years, the Applicant's assumptions would have to be so wildly wrong that the 20% allowance would not be sufficient and those mistakes would have to result in revenue which was in excess of a level which was "substantially more" than was required to meet the agreed cost of the works. Analysed properly, the objections do not even come close to being enough to justify this application."*
- 6.148 The "20%+ allowance" refers to the allowances made by the Applicant comprising +10% for an increase in traffic levels post COVID-19; 5+% for an increase in traffic levels due to reopening of Aldwark Manor Hotel, reuse of RAF Linton on Ouse and housing, and other local development, and +4.6% for future traffic growth based on a local combined MSOA rate.
- 6.149 However, I have found that the projected accounts fail to consider any potential changes to income from automation and changes to present toll charging hours. Changes in this regard during the 10-year period, could potentially increase the number of chargeable vehicles over the bridge by up to +18%. This could potentially significantly change income irrespective of other factors.

6.150 I found that the +10% COVID recovery factor for increased car traffic over the bridge should be applied to normal traffic levels after other factors had been corrected, and I was not persuaded that the evidence for an increase of +5% for the effects of reopening of Aldwark Manor Hotel and reuse of RAF Linton on Ouse and housing was sufficiently robust.

6.151 I also found that the evidence did not reasonably justify:

- +4.6% for an increase in traffic derived from a combined local MSOA rate,
- amortising the full purchase price paid over a period of 50 years at a cost of £21,000 per annum,
- contributions of £45,000 per annum to provide for another major refurbishment in 20 years' time.

6.152 Taking all of these matters into consideration, and on a balance of probabilities, I find that the proposed revision of the toll charges would be likely to result in the undertaking receiving an annual revenue substantially more than adequate to meet the needs set out in s.6(3) of the 1954 Act.

6.153 In order to conclude otherwise the Secretary of State would need to be persuaded that the application advanced is properly judged between the three statutory elements of the working costs of the undertaking, the refurbishment reserve, and the reasonableness of the indicated return on investment.

6.154 The Applicant argues that without the toll increase the undertaking will find itself in an unsustainable position. That over the period to 31 January 2032 the bridge would accumulate losses of £1,325,000 and have an overdraft of £233,000, which would have to be funded by the owners, in addition to the loan of £582,000, and that no sinking funding would be building up for future refurbishments.

6.155 Therefore, they argue the annual revenue would be substantially less than adequate. However, due to the shortcomings I have found I am not persuaded that the evidence is sufficiently robust to so conclude.

Other matters

6.156 The Applicant agrees that the powers to make an Order are discretionary and that the Secretary of State, having due regard to the financial position and future prospects of the company, may take into account other matters such as the public interest where appropriate.

Previous repairs of the bridge and safeguarding of funds

6.157 Evidence by the bridge operating company at the Inquiry in 2005 included that sinking funds needed to be built up for another major refurbishment by 2025, and less major works would be required before then. The most expensive being replacement of the bridge approach barriers in 2006, repainting ironwork by 2011 and replacing timber groynes by 2012. A detailed programme of works had been costed up to 2012. (CD4.1 section 4 4.26-4.28). In the main, the programme of maintenance had not been undertaken.

- 6.158 Objectors argued that had the work been undertaken, using the funds generated from the last toll increase, the bridge would not be in the poor condition it is in today and the price paid for the bridge should have taken into account future prospects and the apparent need for repairs.
- 6.159 Objectors believed that it would be unfair for bridge users to pay again for the failures of the previous owners of the bridge to undertake maintenance as set out in the 2005 Inquiry, and the failure of the Secretary of State to ensure the revenues generated were used for the purposes previously agreed.
- 6.160 Objectors also had concerns about the security of the refurbishment reserve now proposed, particularly that there is nothing to prevent money being taken out of the business and nothing to ensure money is spent on the repair and maintenance of the bridge.
- 6.161 The bridge has been sold. Mr Bell has a personal track record of running businesses spanning a professional career of 30 years. Aldwark Toll Bridge LLP was formed in July 2020. Neither the Applicant nor Mr Bell can be judged on decisions and actions of previous bridge operating companies.
- 6.162 At the Inquiry Mr Bell sought to reassure objectors that the toll increases would ensure both a reasonable return on capital and a build-up of the sinking fund, and that the sinking fund money would be 'put-away' and reviewed on an annual basis. In this way he publicly committed to his intentions and s172 of the Companies Act 2006 imposes on directors the duty to promote the success and viability of the company.
- 6.163 The Applicant argues that whether objectors think that Mr Bell undertook sufficient due diligence or should not just have bought the asset is irrelevant to the statutory question. The issues before this Inquiry are limited to those raised in the 1954 Act.
- 6.164 Nonetheless, the decision in 2020 to purchase the asset only, to prevent exposure to other liabilities, thus separating the bridge from a sinking fund for repairs and maintenance held by the previous operating company, demonstrates that there could be potential for the interests of promotion of the success and viability of the company and the upkeep and repair of the bridge to pull in different directions.
- 6.165 At the end of the day it is not possible to ring fence funds for property maintenance or reserves for refurbishment under the 1954 Act. This limits the weight that I attach to Mr Bell's reassurances.

The effects of raising tolls or closing the bridge on the community

- 6.166 The Applicant argued that the implications of closing the bridge on the local community should be considered as a closure might be triggered if the maintenance costs cannot be raised through increased tolls.
- 6.167 Assuming 450,000 traffic movements per annum and evidence from the 2005 inquiry that diversion routes would add 7-11 kilometres to a journey, the Transport Consultant, estimated that additional travel distance associated with the closure of the bridge would be 3.2-5 million kilometres per year. This would be contrary to government policy aimed at reducing the total distance travelled by vehicles.

- 6.168 A supporter of the application lives in Alne, 6 miles from the bridge, and works in Harrogate. They state that the route via the bridge is 19 miles (almost 31 kilometres) and takes roughly ½ hour. Without the bridge the route would be 27 miles (43 kilometres) via Boroughbridge and take 48 minutes. They estimate it would add 4-hours' drive time a week, create more pollution and wear and tear. With toll increases they estimate they would save £11/week using the bridge (CD2.98).
- 6.169 The Transport Consultant's evidence (CD13.5.2 Appendix 4) indicates that in Hambleton MSOA 011 by far the largest number of trips to a place of work in a car are made to York. MSOA 011 is relatively long and thin, York is adjacent to the south-eastern boundary and the bridge is on the western edge. There is little to say how many of the 607 persons driving in a car or van to York would need to cross the bridge. A noticeable number of people living in MSOA 011 drive to Leeds but again it is not possible to know from the evidence presented how many might live in Aldwark, Alne, Tollerton or Linton on Ouse. The Applicant's evidence indicates that the effect upon someone living in Linton on Ouse and travelling to Leeds would be a difference of an extra 0.1mile or 2 pence in fuel cost, whereas if they lived in Tollerton the difference would be +11 miles or +£1.87. (CD13.5.1 Table 6)
- 6.170 For residents of MSOA Harrogate 016 most trips to a place of work are by car to Leeds. Aldwark Bridge is at the north-eastern corner of this MSOA. I doubt many would go via Aldwark Bridge. A large number of people drive to York but there is little to say where these people live.
- 6.171 AAPC argued that for people living in the Aldwark, Linton-on-Ouse and the Newton-on-Ouse parish areas (on the eastern bank of the river), the toll bridge is the most direct route to the west. Alternative routes are available but can add additional time and distance to a journey.
- 6.172 Little Ouseburn, Kirby Hall, and Thorpe Underwood Parish Council state that to reach Great Ouseburn via Boroughbridge would generally take roughly half an hour and twice as long as the route via Aldwark Bridge (CD2.54).
- 6.173 Great Ouseburn Parish Council advise that parishioners would have to undertake a 40-mile round trip to reach the other side of the River Ure, which would be highly impractical, and detrimental to the Primary School which has many families using Aldwark Bridge to bring their children to school.
- 6.174 The Parish Council for Newton on Ouse advise that residents use the bridge on a regular basis for journeys to Boroughbridge, Harrogate and Ripon as well as school and work trips. One self-employed person is reported to cross the bridge several times a day (CD2.18). The increase in costs would most impact young families and rural commuters, many of whom are low wage earners (CD2.25).
- 6.175 Evidence from objectors indicates that a user crossing the bridge each day to and from fulltime employment will incur a cost of £376 per annum. The catchment area of Ouseburn Primary School crosses the river. Those needing to cross the bridge for school runs are likely to incur a cost in the region of £600 per annum (CD11.2 and CD2.22). Some objectors estimated that the greatest burden would fall for families who presently travel 1.2 miles across the bridge to reach the primary school. For them the alternative route would add 16 miles. A Service Children's Champion for North Yorkshire County

Council estimated that the alternative route avoiding the bridge could involve a 40-mile round trip (CD2.22).

- 6.176 The Applicant accepts that the increased tolls will fall heavily on some members of the community and I agree. For those making shorter trips across the bridge I doubt that many would be dissuaded by the price increase. Rather as some of the letters of representation indicate, they rely on crossing the bridge for daily access to employment (see for example CD12.4 and 12.6) schools, doctors' surgeries, and other services (for example CD12.2). Their objections are more to the impact of the increased cost.
- 6.177 The harm to the community from the toll increase would not be so substantial to justify refusing the application for a toll increase.
- 6.178 If the bridge were to close due to insolvency adverse effects on the local community would be more significant than the effects of toll increases.

Other Matters

- 6.179 Some objectors argued that the issue was not about an increase but whether there should be any tolls at all (ABUG CD11.2). Some opined that powers to acquire tolled roads and crossings exist under s.271 of the Highways Act 1980 (CD11.2), and that the bridge should be brought into public ownership, operated and maintained by North Yorkshire County Council. These matters are not within the remit of this Inquiry.
- 5.164 References were made to tolls charged on other toll bridges. I know little of the circumstances around any of those tolls and have confined my considerations to the application that is before the Secretary of State.
- 6.180 Some questioned if the increases were permissible under the Aldwark Bridge Act 1772 (CD2.1) but there was little evidence to substantiate any such claim.
- 6.181 The Applicant argued that the procedure under the 1954 Act is cumbersome and expensive for operators such as the Applicant when decisions should really be made at the local level. It was also argued that there was no evidence of a toll application being refused. These matters are not material to the determinative considerations.
- 6.182 Aldwark Bridge Café is unrelated to the Applicant or application.

7 CONCLUSIONS AND RECOMMENDATION

- 7.1 Having regard to the evidence of the financial position and future prospects of the undertaking, weighing all matters in the balance, and on a balance of probabilities, it is concluded that the proposed revision of the toll charges would be likely to result in the undertaking receiving an annual revenue 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.

- 7.2 The importance of the toll bridge as a historic building of national significance that should be maintained and kept in a good state of repair is not disputed, nor that it should remain open as an important functional part of the local highway network for the benefit of businesses and communities alike, and in such a manner that it should be able to operate safely and ensure public safety.
- 7.3 If the bridge were to close due to insolvency adverse effects on the community would be more significant than the effects of toll increases. The effects would fall most heavily on the local communities close to the bridge who rely heavily upon it to go about their daily lives. However, I was not persuaded that a conclusion could be drawn from the evidence submitted that the bridge would be forced to close if the application is not approved.
- 7.4 Therefore, and having taken all other matters into consideration, I conclude that the Applicant has failed to satisfy the statutory conditions in s.6(3) of the 1954 Act and I recommend that the Secretary of State refuses to make a Toll Revision Order.

Helen Heward
INSPECTOR

ANNEX A APPEARANCES AT THE INQUIRY

APPLICANT:

Mr David Hardy, of Counsel

He called

Mr John Warner (the Accountant)	Partner at BHP Chartered Accountants
Mr Alex Bell	Director Aldwark Toll Bridge LLP
Mr James Taylor (accompanied site visit only)	Mason Clark Associates/Dossor MCA
Mr Andy Thompson (read Mr James Taylor's evidence at the Inquiry)	Mason Clark Associates
Mr John Mitchell (the Quantity Surveyor)	Mason Clark Associates
Mr Steven Windass (the Transport Consultant)	Local Transport Projects
Mr Graham Saxton (the Conservation Surveyor)	PPIY Architects

OBJECTORS:

For Aldwark Area Parish Council

Councillor Mr John Topliss	Chairperson of the Parish Council
Mr Richard Bray *	Working party member and local resident
	Working party member and local resident
	Working party member and local resident
	Working party member and local resident

* Mr Topliss was unable to attend all of the Inquiry in person. The views of AAPC were reported to the Inquiry on his behalf, by Richard Bray.

For the National Alliance Against Tolls (NAAT):

Mr John McGoldrick	National Coordinator
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For Aldwark Bridge Users Group (ABUG)

Mr Gary Roberts	Organiser
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Mr Roberts was unable to attend all of the Inquiry in person. When absent the views of ABUG were reported to the Inquiry on his behalf, by Mr McGoldrick.

Individual Objectors:

Ms Kaye Carl	Local resident
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ANNEX B DOCUMENTS

The Core Document library can be found at

<https://programmeofficers.co.uk/aldwarkbridge/CD3May.pdf>

Core Documents		Information
CD1.1	Application Letter	
CD1.2	Press Notice - 10 October 2020	
CD1.3	Public Notice	
CD1.4a	Financial Information - Aldwark Toll – Forecast Profit & Loss (10-year projection) with increase	
CD1.4b	Financial Information – Aldwark Toll – Forecast Assumptions (10-year projection) with no increase	
CD1.4c	Financial Information – Aldwark Toll LLP – Profit & Loss to 31 March 2020	
CD1.4d	Copy of email regarding maintenance work required	
Section Two - Representations		
CD2.1	Major D Horsman	
CD2.2	G Roberts	
CD2.2.1	Further rep submitted by G Roberts with response from Hattie Turner on behalf of Kevin Hoylake his MP	25/4/22
CD2.3	Z & B Rawlings	
CD2.4	L Swain	
CD2.5	J Southall-Taylor	
CD2.6	L Hackett	
CD2.7	R McKenzie	
CD2.8	J Greenhalgh	
CD2.9	M Croft	
CD2.10	C Carr	
CD2.11	N Shepherd	
CD2.12	P Forbes-Bell	
CD2.13	J Winn	
CD2.14	D Mitchell	
CD2.15	J Culshaw	
CD2.16	P Richardson	
CD2.17	S Henshaw	
CD2.18	T Key on behalf of Newton on Ouse Parish Council	Title updated 30/5/21
CD2.19	L Addinall	
CD2.20	L Harman	
CD2.21	A Hardman-Mountford	

Core Documents		Information
CD2.22	J Greenhalgh, Service Children's Champion, North Yorkshire Council	
CD2.23	G Fussell	
CD2.24	K Marsh	
CD2.25	D Meakin	
CD2.26	R Bray	
CD2.27	S McAnany	
CD2.28	P Tuke	
CD2.29	D Gore	
CD2.30	O Matthias	
CD2.31	J Cunliffe	
CD2.32	S Southall	
CD2.33	R Whittemore	
CD2.34	P Smyth	
CD2.35	P Barton	
CD2.36	I Willis	
CD2.37	R Padgett	
CD2.38	A Needham	
CD2.39	A Bradley	
CD2.40	D Barker	
CD2.41	S Newlove	
CD2.42	C Flatekval	
CD2.43	B Hall	
CD2.44	S Lilley	
CD2.45	S Cottrell	
CD2.46	L Jeffries	
CD2.47	P & I Carradice	
CD2.48	P Bird	
CD2.49	S Edwards	
CD2.50	L Rayner	
CD2.51	R Spark	
CD2.51.1	R Spark	16/2/22
CD2.52	S Roberts	
CD2.53	H Allan	
CD2.54	A Kennerley on behalf of Little Ouseburn, Kirby Hall, and Thorpe Underwood Parish Council	Title updated 30/5/21
CD2.55	Richard	
CD2.56	X Singh	
CD2.57	Kim	
CD2.58	Mr S Krebs	
CD2.59	S Krebs	
CD2.60	S Cliffe	
CD2.61	M Lillie	
CD2.62	M Sanderson	
CD2.63	G Cox	

Core Documents		Information
CD2.64	K Cox	
CD2.65	Aldwark Area Parish Council	
CD2.66	Z Cox	
CD2.67	P Hall	
CD2.68	P M Hildreth	
CD2.69	A Scott	
CD2.70	S Wray	
CD2.71	S Yarnold	
CD2.72	K Carl	
CD2.73	V Jones	
CD2.74	M Hands	
CD2.75	D Kulpa	
CD2.76	G McAnany	
CD2.77	Holly	
CD2.78	G Roberts on behalf of ABUG	Title updated 30/5/21
CD2.79	J Hick	
CD2.80	B Taylor	
CD2.81	R Shouksmith	
CD2.82	Linton on Ouse Parish Council	
CD2.83	D Yarnold	
CD2.84	V Sharpe	
CD2.85	S Battye	
CD2.86	P Enever	
CD2.87	R Battye	
CD2.88	G Learmonth	
CD2.89	National Alliance Against Tolls	
CD2.90	J Rayner	
CD2.91	F Graves	
CD2.92	Great Ouseburn Parish Council	
CD2.93	C Stroud	
CD2.93.1	C Stroud	16/2/22
CD2.94	B Sharp	
CD2.95	A Perschke	
CD2.96	P Carr	
CD2.97	C Bellegarth (C Watson)	
CD2.100	Z Lee	16/2/22
Supporters		
CD2.98	A Critchley-Howe	
CD2.99	D Holdsworth	
Section Three – Transport Acts etc		
CD3.1	Aldwark Bridge Act 1772 – Pt 1	
CD3.1.1	Aldwark Bridge Act 1772 – Pt 2	
CD3.2	Transport Charges &c (Miscellaneous Provisions) Act 1954	

Core Documents		Information
Section Four - Representations Toll Application Inspectors' Reports, previous Toll Orders etc.		
CD4.1	TS 26/2/2 Report to the Secretary of State for Transport on the Application for an order to revise toll charges for the use of Aldwark Bridge, 2 June 2005	
CD4.2	The Aldwark Bridge (Revision of Tolls and Traffic Classification) Order 2005	
Section Five - Pre-inquiry Meeting Documents & Notes to clarify procedure		
CD5.1	Pre-Inquiry Meeting Agenda 28 April 2021	
CD5.2	Pre-Inquiry Meeting Background Note 19 April 2021	
CD5.3	Pre-Inquiry meeting Summary and Directions 30 April 2021	
CD5.4	Initial Draft Timetable	
CD5.4.1	Email dated 23 April from Ms Carl to ST suggesting 4 th main issue	
CD5.4.2	Email from Mr Bell 26 April responding to Ms Carl's email of 23 April	
CD5.4.3	Ms Carl's suggested Inquiry timetable	
CD5.5	Note from Inspector Heward	8 October 2021
CD5.6	Letter from David Hardy to Inspector dated 15 October	18 October 2021
CD5.7	Notes of the Meetings held on 25 October 2021	2 November 2021
CD5.8	Note from the Inspector to clarify Department for Transport information	Was placed as a note on the website
CD5.9	Note of the PIM & draft timetable held on 23 February 2022	25 February 2022
CD5.10	Email from the Inspector via the PO to Mr Hardy dated 24 April 2022	25 February 2022
Section Six - Representations Applicant's Additional Information		
CD6.1	Mason Clark Associates Inspection Report – contained within CD1.4c	
CD6.2	Ownership of Aldwark Bridge	
CD6.3	Cert of Incorporation Aldwark Toll Bridge LLP	
CD6.4	Aldwark Toll LLP Financial Statements 31.3.18	
CD6.5	Aldwark Toll LLP Financial Statements 31.3.19	
CD6.6	Annual Report and unaudited accounts ending 31 July 2021	10/9/21
CD6.7	Ten year forecast with no price increase	10/9/21
CD6.8	Ten year forecast with proposed increase	10/9/21
CD6.9	Updated Statement of Case – 26/11/21	on website 6/1/22
CD6.10.1	Notices for the Inquiry – York Press - 27/11/21	on website 6/1/22

Core Documents		Information
CD6.10.2	Notices for the Inquiry – Easingwold Advertiser 27/11/21	on website 6/1/22
CD6.11	Email thread between the Applicant & Department for Transport confirming procedure had been followed	25/2/22
CD6.12	Email between Department for Transport & Mr McGoldrick 13 December – 15 February	13/4/22
CD6.13	Email from Department for Transport to Sarah Tudor (PINS) dated 31 January 2021 (was placed on website at the same time) confirming due process had taken place	13/4/22
Section Seven - Documents submitted by Kaye Carl		
CD7.1	Aldwark Bridge Limited 2014 financial statements	
CD7.2	Aldwark Bridge Limited 2015 financial statements	
CD7.3	Aldwark Bridge Limited 2018 financial statements	
CD7.4	Aldwark Bridge Limited 2019 financial statements	
CD7.5	Aldwark Bridge Limited Officers	External link
CD7.6	Aldwark Bridge Ltd person with significant control	External link
CD7.7	Baslow Holdings Developments Limited 2019 financial statements	
CD7.8	Baslow Holdings Developments Limited persons with significant control	External link
CD7.9	Baslow Parks Limited 2019 financial statements	
CD7.10	Dudley Valentine's Facebook post-dated 9 November 2020	
CD7.11	North Yorkshire County Council emails	
CD7.12	Yorkshire Live article.	
CD7.13	Email from Accounts Manager dated 22 October 2020	
CD7.14	Email from Foys, Solicitors, dated 4 November 2020.	
Section Eight - Statements of Case and Proofs submitted by the Parties		
CD8.1	Statement of Case by Mr Alex Bell	1 June 2021
CD8.2	Response to Objections by Mr Alex Bell	1 June 2021
CD8.3	Statement of Case by Kaye Carl	1 June 2021
CD8.4	Statement of Case one by Mr R Bray	1 June 2021
CD8.5	Statement of Case two by Mr R Bray	1 June 2021
CD8.6	Statement of Case by Mr Roberts	1 June 2021
CD8.7	Statement of Case by Aldwark Area Parish Council	1 June 2021

Core Documents		Information
CD8.8	Statement of Case by Aldwark Bridge Users Group (BUG)	1 June 2021
CD8.9	Historical information by Aldwark Bridge Users Group (BUG)	1 June 2021
CD8.9.1	Updated Historical information by Aldwark Bridge Users Group (BUG)	14/4/22
Section Nine - Responses to CD6.6-6.8		
CD9.1	Email from Kaye Carl explaining documents CD9.1.1 - CD9.1.4	5 October 2021
CD9.1.1	Baslow Holdings Developments Limited Financial Statements for year ended 31 March 2020	5 October 2021
CD9.1.2	Baslow Parks Limited Financial Statements for year ended 31 March 2020	5 October 2021
CD9.1.3	Aldwark Bridge Limited Financial Statements for year ended 31 March 2020. This document was also submitted by Mr McGoldrick	5 October 2021
CD9.1.4	Statement from Mr Dobson ex Manager of the bridge	5 October 2021
CD9.2	Response to CD6.6-CD6.8 (Updated accounts from Mr Bell) – response from Kaye Carl	5 October 2021
CD9.3	Response to CD6.6-CD6.8 (Updated accounts from Mr Bell) – response from Mr R Bray	5 October 2021
CD9.4	Response to CD6.6-CD6.8 (Updated accounts from Mr Bell) – response from Mr McGoldrick	5 October 2021
CD9.5	Response to CD6.6-CD6.8 (Updated accounts from Mr Bell) – response from Gary Roberts	5 October 2021
CD9.6	Response to CD6.6-CD6.8 (Updated accounts from Mr Bell) – response from Zara Lewis	5 October 2021
CD9.7	Response to CD6.6-CD6.8 (Updated accounts from Mr Bell) – response from BUG	5 October 2021
Section Ten - Extra Information found – some of this information is a duplication but I am listing it here to show the timeline		
CD10.1	Email – 14 October between Department for Transport & Mr Foy – Mr Bell’s solicitor	18/10/21
CD10.2	Email from Michelle at Westwick on behalf of Mr Bell dated 22 October 2020 (attachments below) with additional information and showing	18/10/21
CD10.2.1	10 year P & L – no increase	18/10/21
CD10.2.2	10 year P & L – with increase	18/10/21
CD10.2.3	Email with details of repair to the bridge from Mason Clarke dated 19 October 2020	18/10/21
CD10.2.4	Notice in the York Times – 18 October	18/10/21
CD10.2.5	Official Notice of Inquiry dated 8 October 2020	18/10/21

Core Documents		Information
CD10.3	Email trail and documents between Department for Transport dated 6 & 29 October 2020	18/10/21
CD10.3.1	Email trail and documents between Department for Transport dated 6 & 29 October 2020	18/10/21
CD10.3.2	Email trail and documents between Department for Transport dated 6 & 29 October 2020	18/10/21
CD10.4	Email dated 19 November 2020 from Michelle at Westwick on behalf of Mr Bell to Department for Transport with updated financial records which can be found at CD1.4a and CD1.4b	18/10/21
Section Eleven - Updated Statements of Case received 11 February 2022		
CD11.1	Statement of Case from Kaye Carl	
CD11.1.1	Summary Statement of Case from Kaye Carl	
CD11.2	Statement of Case from Aldwark Bridge Users Group (BUG)	
CD11.3	Statement of Case from National Alliance against Tolls	
CD11.4	Statement of Case from Aldwark Area Parish Council	
Section Twelve - Reps received in in relation to the Updated SoC from the Applicant CD6.9		
CD12.1.1	Rep from Kaye Carl dated 30 November 2021	
CD12.1.2	Rep from Kaye Carl dated 6 December 2021	
CD12.1.3	Rep from Kaye Carl dated 13 December 2021	
CD12.1.4	Rep from Kaye Carl dated 15 December 2021	
CD12.1.5	Rep from Kaye Carl dated 22 December 2021	
CD12.2	Rep from Carole Downes	
CD12.3	Rep from Caroline Flatekval	
CD12.4	Rep from Paul Graham	
CD12.5	Rep from John Greenwood	
CD12.6	Rep from Lorrette Law	
CD12.7	Rep from Professor Olga Matthias	
CD12.8	Rep from National Alliance Against Tolls (NAAT)	
CD12.9	Rep from Cally Merson (OBJ)	
CD12.10	Rep from Deborah Moulson	
CD12.11	Rep from Matt O'Neill	
CD12.12	Rep from Zara Lewis	
CD12.13	Rep from Gary Roberts	
CD12.14	Rep from Richard Bray	
CD12.15	Rep from Sarah Somerville-Woodiwis	
Section Thirteen - Proofs of Evidence from Aldwark Toll Bridge LLP – 17 March 2022		
CD13.1	Proof of Evidence from Alex Bell - the business and track record	17/3/22

Core Documents		Information
CD13.2	Proof of Evidence from Mr John Mitchell – Engineering QS - the costs	17/3/22
CD13.2.1	Appendices to the Proof of Evidence from Mr John Mitchell – Engineering QS - the costs	17/3/22
CD13.3	Summary Proof of Evidence from Mr John Warner	17/3/22
CD13.3.1	Proof of Evidence from Mr John Warner	17/3/22
CD13.3.2	Appendices to the Proof of Evidence from Mr John Warner	17/3/22
CD13.4	Summary Proof of Evidence of Mr James Taylor - Engineering evidence on the physical condition, works required, and timescales	17/3/22
CD13.4.1	Proof of Evidence of Mr James Taylor – Engineering - evidence on the physical condition, works required, and timescales	17/3/22
CD13.4.2	Appendices to the Proof of Evidence of Mr James Taylor - Engineering evidence on the physical condition, works required, and timescales	17/3/22
CD13.4.3	Clarification from Andy Thompson of MCA regarding the dates on the reports.	28/4/22
CD13.5	Summary Proof of Evidence of Mr Steven Windass - including traffic generation, future projections, and traffic counter evidence	17/3/22
CD13.5.1	Proof of Evidence of Mr Steven Windass - including traffic generation, future projections, and traffic counter evidence	17/3/22
CD13.5.2	Appendices to Proof of Evidence of Mr Steven Windass - including traffic generation, future projections, and traffic counter evidence	17/3/22
CD13.5.3	Covid Transport Use Statistics	27/4/22
CD13.6	Summary Proof of Evidence of Mr Graham Saxton – Heritage - including significance and what consents are required.	17/3/22
CD13.6.1	Proof of Evidence of Mr Graham Saxton – Heritage - including significance and what consents are required.	17/3/22
CD13.6.2	Appendices to the Proof of Evidence of Mr Graham Saxton – Heritage - including significance and what consents are required.	17/3/22
CD13.6.3	Decision on listed Building Applications	28/4/22
CD13.6.4	Timeline outline for involvement with Aldwark Bridge	28/4/22
Section Fourteen – Further documents submitted by the Objectors		

Core Documents		Information
CD14.1	Extract of Land Registry entry for the bridge, including plan.	14/4/22
CD14.2	Comprehensive report - Aldwark Toll Bridge LLP - Annual report and unaudited financial statements - for period ended 31 July 2021 - As submitted to Companies House on 8 Nov 2021.	14/4/22
Section Fifteen – Proofs of Evidence from Objectors		
CD15.1	Proof of Evidence from Gary Roberts on behalf of Aldwark Bridge Users Group	14/4/22
CD15.2	Proof of Evidence from John Topliss on behalf of Aldwark Parish Council	14/4/22
CD15.3	Proof of Evidence & Appendices page from Kaye Carl	14/4/22
CD15.3.1	Appendices to the Proof of Evidence & Appendices page from Kaye Carl	14/4/22
CD15.4.1	Summary Proof of Evidence from John McGoldrick on behalf of National Alliance Against Tolls	14/4/22
CD15.4.2	Proof of Evidence & Appendix from John McGoldrick on behalf of National Alliance Against Tolls	14/4/22
Section 16 - Opening & Closing Submissions from all parties		
CD16.1	Opening Statement from Aldwark Toll Bridge LLP	25/4/22
CD16.1.1	Closing submissions by Aldwark Toll Bridge LLP	3/5/22
CD16.2	Opening Statement by National Alliance Against Tolls	25/4/22
CD16.2.1	Closing submissions by National Alliance Against Tolls	3/5/22
CD16.3	Opening Statement by Aldwark Bridge Users	25/4/22
CD16.4	Opening Statement by Aldwark Parish Council	25/4/22
CD16.4.1	Closing submissions by Aldwark Parish Council	3/5/22