

TOLL REVISION APPLICATION
By
TAMAR BRIDGE AND TORPOINT FERRY
JOINT COMMITTEE

Transport Charges &c (Miscellaneous Provisions) Act 1954

Tamar Bridge Acts 1957 to 1998

CLOSING STATEMENT

In respect of the Tamar Bridge and Torpoint Ferry ("TBTFJC")

Planning Inspectorate Reference: DPI/N1160/24/12

During this Inquiry, the Applicant relied on the Proofs of Evidence, which were taken as read, together with oral evidence from each of its four professional witnesses:

- Mr David List (General Manager, Tamar Bridge and Torpoint Ferry)
- Ms Geraldine Baker (Strategic Finance Manager, The Cornwall Council)
- Mr Stephen Baron (Chartered Civil Engineer, Technical Director, AECOM Ltd.)
- Mr Simon Potter (Naval Architect, Houlder Ltd.)

Legislation

As identified by the Inspector in his Pre- Inquiry Note, the purpose of this Inquiry was to deal with the application for a revision of tolls and specifically the requirement of Section 6(3) of the Transport Charges (Miscellaneous Provisions) Act 1954, which requires the Secretary of State to make an order revising toll charges where he considers it reasonable to do so to enable any such undertaking to continue to discharge its statutory obligations:

the decision maker 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...

It follows therefore that the scope of the Inquiry and associated legal powers are, in principle, limited and in many ways this Inquiry should have been fairly straightforward; indeed, we contend that it still is, with the evidence offered, despite testing by objectors, demonstrating that the crossings are run effectively, efficiently and provide suitable public benefit.

Impact on wider public and potential alternatives

That does not detract from the fact, of course, that, in the event of a toll increase, the public will inevitably experience unwanted, increased expenditure. However, the position of the TBTFJC is that similar rises, due to increasing costs, are already being experienced Nationally by individuals and businesses accessing a whole host of other services and the Crossings are no different in terms of the pressures they find themselves under. This was a point put to Mr Steadman, representing the Road Haulage Association, who made reference to the "lean business models" within his sector, but had not provided evidence relating to the size of the companies he referred to or the numbers of vehicles within their fleets.

The need for Task Groups was referenced by Mr Steadman which, with the securing of Central Government funding, was made to sound like quite an easy solution to the funding shortfall, but it was put to him in Cross Examination that in the absence of any evidence relating to advanced discussions, such funding was, as yet, unsubstantiated and remained "pie in the sky."

Indeed, it was acknowledged, by Mr List, that efforts had been made by the former MP, Ms Sheryll Murray, to lobby Ministers. Equally, the Statement read

out on behalf of the current incumbent, Ms Anna Gelderd, expressed admirable sentiments in a similar vein, in terms of looking to change the legislation and seek Government support for funding the TBTFJC, but the applicant's position remains that little weight can be placed on such assurances, nor do they provide the urgent financial remedies that are required by the applicant to continue to provide the level of service that is expected.

It should further be noted that the accompanying Impact Report provided by Ms Gelderd outlines a degree of public discontent (as, indeed, does the summary of Facebook comments submitted by Mr Steve Miller), but, to put this level of consultation into context, participation was only equivalent to just over a fifth of Tamar Tag Action Group's membership and a fraction of the 25,000 paid journeys of the bridge and ferry each weekday. It cannot be treated as a true consultation or as technical evidence for this Inquiry. Mr List set out in his POE details of the comprehensive public consultation that took place in October 2023. Criticisms made by the Road Haulage Association regarding a lack of consultation by the TBTFJC were found to be unsubstantiated, on the basis that they had been a Consultee, as a key stakeholder and that a new Stakeholder Group, of which they will be a member, is in the process of being established.

Expanding on this question of funding, it was agreed in evidence that the TBTFJC could look to reduce the Toll should other funding come forward, but that waiting was not appropriate for the prudent public authorities responsible for the crossings.

Ultimately, there is an appreciation that the TBFJC could quite realistically end up in the same scenario in the future unless the funding framework changes, as costs are not going to stay the same.

All of our witnesses were accepting of the point that rising costs will be experienced in the wider community and would not attempt in any way to suggest that this is something to be simply disregarded, but the fact remains, based on the financial evidence, particularly, that a source of income is required if the service, as currently being provided, is to continue.

Numerous references by Objectors to comparators, and particularly the Severn Crossings, were dismissed in evidence by Mr List and also addressed in his POE and the Rebuttal Statement. Severn River Crossings have, since 17 December 2018, removed tolls, but are now owned and operated by the UK Government, who have chosen to subsidise crossings. Therefore, this comparison is misleading. Plymouth City Council and Cornwall Council jointly own and operate the Tamar Bridge and Torpoint Ferry and are not aware of any proposals to change the ownership or funding arrangements currently in place.

Justification

Mr List assured the Inquiry that toll is the only source of income of note and so an increase is recognised as being the only viable way to fund ever increasing revenue and capital costs. In order for the TBFJC to continue to deliver the service and meet customer expectations, it is necessary to raise all tolls by some 15.4%, as a matter of urgency (not, as suggested by Cornwall Councillor for Lostwithiel, Colin Martin, awaiting the outcome of the new Budget). Due to such

budgetary pressures, Mr List confirmed in evidence that, despite criticisms to the contrary, it was not premature to bring this application forward, but was in fact now urgent.

In his evidence, Mr List was clear that as a result of inflation, increasing maintenance costs and the costs of funding a range of major improvement projects and the failure of traffic to recover to the levels experienced pre-pandemic, expenditure is now exceeding income from tolls. The service is therefore running at a loss and without additional income will not be sustainable.

This position was highlighted particularly with reference to 4.1 of his POE, where Mr List confirmed that the key assumptions made at the time of the last increase at the time seemed prudent, but had proven inaccurate for various geo- political, economic and business reasons which were beyond his control.

Mr List had summarised the immediate implications of this shift in his POE, at 4.7: *"The differential between the 2022 traffic forecast and current forecasts represents approximately £1.6 million per annum of previously anticipated income."*

Cost inflation

Mr List confirmed that the commencement of the war in Ukraine in 2022 had triggered very high costs inflation in energy prices and good and services in general.

Salary budgets

Mr List explained that Local Government pay awards had been higher than anticipated and added significantly to payroll costs.

Ms Baker was also asked about salary spending and confirmed that it was in accordance with Nationally negotiated pay awards for the Local Government sector and that it could not be considered an unnecessary and unreasonable expense.

Linked to this, also, Mr List was able to rebut the allegation that he oversaw a culture of "extravagant spending," as had been claimed by Dr Melanie Piston, in her written submissions. Mobile Phone Bills totalled less than 0.25% of his budget and were considered to be essential for enabling out of hours support for a 24/7 service to operate smoothly.

Traffic Levels

One of Mr List's key factors in pursuing this application is the fact that traffic levels have not returned to pre- Covid levels and have remained at the 90% mark for over 17 months, as demonstrated in his Appendix 6. There has been a shift in user travel behaviour, due to increased home working, more home deliveries and the general downturn in the National economy.

Mr List was questioned in depth on this issue by Objectors, who have vehemently challenged this data, but provided no substantial evidence to the contrary whatsoever. Indeed, Objectors presented contradictory arguments that that estimates were either too optimistic or too pessimistic. Despite the

suggestions from the Objectors, Mr List was clear that the reduction in traffic levels was not as a result of increases that had already been allowed. This was reinforced by Appendix 5, which provided a summary of tolled direction traffic from 1985 – 2023. Quite simply, there is no evidence that an increase in tolls will reduce traffic levels.

Other income streams

As was also confirmed by both Mr List and Ms Baker, money from the tolls remains the main source of income and so it follows that a reduction in that income is a significant factor in bringing forward this increase. Mr List explained why further income streams and commercial opportunities (including those relating to a piece of land used as a play area/ green space, in Normandy Road, owned by the TBFJC, as raised by Objectors but discounted by Mr List) despite being investigated, would not affect the pressing business need for a toll revision or provide timely solutions. He was clear that such assumptions could not be considered reasonable estimates when looking at sources of income and stated that the potential income from such sources would not have a noticeable effect on the overall financial position.

RPI

As per 4.8 of his POE, Mr List was questioned about the impacts of RPI, which he considered to be an additional overarching factor. He confirmed that between April 2022 and Autumn 2023 the RPI "... rose very significantly, with annual inflation peaking at 14%. Unsurprisingly therefore we have seen significant increases in virtually every element of the costs in operating and improving the crossings."

Financial Model

Mr List talked in evidence about the contemporary financial model. His Appendices 9 and 10 illustrated the position, with a deficit by the end of 2025/26 should the toll revision not be accepted.

Mr List was personally criticised for allowing the TBTFJC to descend into a culture of debt during his long tenure, but as the financial lead, Ms Baker talked through her Appendix 1, which showed the level of income, expenditure and reserves. She concluded, along the lines of her POE, that the operations were being well managed, with “strong financial control and understanding” and that “the robust financial model ensures that there is an accurate assessment of future financial requirements.”

Ms Baker also highlighted that the only alternative to borrowing for past investment was to save the funding; a strategy that would have required higher levels of toll in those earlier years.

At his Appendix 7, Mr List attached the Local Partnerships Report, which had found that the Tamar Crossings organisation was fit for purpose and supported the need to re- baseline toll levels and pursue indexation of tolls. The Tamar 2050 Programme had been established as a result of this, maintaining a four-year Strategic Plan.

Criticism of spending and borrowing

Much was made by the Objectors of a perceived reckless culture of borrowing, but it was explained by Mr List that this had come about as the result of

considerable spending, which Ms Baker confirmed should actually be taken to be an investment in the assets. There had been significant capital investment, on both the bridge and ferry assets, including protective coating, bridge resurfacing, suspension remedial works and ferry befitting; all of which were explored in depth. The future capital programme included further investment, including ferry decarbonisation, bridge, structural fire protection upgrade, ferry replacement and bridge resurfacing.

In support of this, in their evidence, Technical Witnesses Mr Stephen Baron (Bridge) and Mr Simon Potter (Ferry) looked at items of expenditure in isolation and confirmed that all such works were necessary and that maintenance of assets was considered to be in accordance with guidance. It had been confirmed by Ms Baker that ferry repayments were built into the model presented.

Mr Potter stated to the Inquiry that the ferry fleet was maintained to the necessary standards to ensure the vessels remain materially sound and safe and Mr Baron found the budget provisions for the bridge to be reasonable and reflective of the scope of works he believed likely to be required.

This expenditure and budget forecasting in relation to both the bridge and the ferry was tested by objectors, but whilst it is acknowledged that Mr Slavin may indeed have considerable expertise in maritime matters, we must be clear that for the purpose of this Inquiry there was no other expert technical evidence provided other than that from Messrs Baron and Potter.

As per 5.13 of his Proof, Mr List was also able to confirm that in the next four years further required capital expenditure represented approximately £16 million of “essential future investment,” despite suggestions to the contrary from Objectors. To not undertake such works could compromise the level of service and also bring about safety concerns. The expenditure around Toll Booth replacement, The Learning Centre, The Ferry Decarbonisation Study and Bridge Fire Protection, in particular, were discussed at length, as was the ‘new’ office building (with Mr List confirming in evidence that the old building was not Equality Act compliant), but all had been raised by Objectors previously and addressed (and justified) in the Rebuttal Statement.

Ms Baker, in evidence, made some key points around how businesses such as the TBTFC would expect to operate with large debts and still entertain borrowing. This was particularly in light of the fact that reserves are forecast to be reduced to £0.506 million by the end of the current year, if the toll is not increased. Ms Baker was able to explain to the Inquiry the importance of maintaining reserves, when asked why it was so important that they were not decreased. Mr List had explained in evidence that the prudential minimum level of reserves should now be set at £3 million, noticeably above the forecast position at the end of the current financial year, due in the main to the experience of the Covid pandemic and the inflation of costs over the last decade, which required that the previous prudent minimum of £2 million was now inadequate.

This level of borrowing was heavily criticised, especially by Ms Murray, who could not accept that the Joint Committee, of which she had historically been a

member, could condone this. Ms Baker confirmed that the Joint Committee had agreed borrowing terms with Cornwall Council and that this was how the majority of the capital programme was financed; something not unusual at all in this day and age. For the purpose of this Inquiry, it should be noted that there was no other expert financial evidence put forward other than that from Ms Baker, an experienced and Chartered Accountant and credible witness, who explained to the Inquiry that internal auditors independently checked the accounts, leading her to conclude, as per her POE 4.1, that "The level of scrutiny through Joint Committee meetings and the annual audit provides assurance that the crossings operations are being well managed with strong financial control and understanding and the robust financial model ensures that there is an accurate assessment of future financial requirements."

Objections relating to process and Officers

A theme throughout this Inquiry was that the Objectors sought to lead it down what can only be described as a series of rabbit warrens, with enthusiastic attempts by the Objectors, led by Mr Slavin, as Vice Chair of the Tamar Toll Action Group and Ms Murray, to introduce matters outside of the scope. Our witnesses (Mr List, especially, as the figurehead and with an impressive 48 years as a Civil Engineer, fellowship of the Institute of Civil Engineers and 27 years in post) were accepting of the fact that they were always going to be held accountable at the Inquiry for a range of perceived failures, with criticisms being levelled at them.

Whilst the applicants were understanding enough to let the Objectors "have their day in court," responding to a range of assertions in a good natured fashion, the

proceedings were also peppered with ill- conceived claims of poor management, with unevidenced references (especially by Mr Slavin) to Members being "*bamboozled*" by Officers in terms of their decision making and allegations of heavy-handed advice having being set out in a note provided by Cornwall Council's Section 151 Officer (Lead Financial Officer), which is somehow thought to have impacted upon the validity of the application from Tamar Crossings and one assumes the Inquiry. This is strongly refuted.

Whilst it should not serve to impact on the outcome of this Inquiry in any way whatsoever, we are now able to confirm that an e mail was sent from the Section 151 Officer to Cornwall Council Members of the Tamar Bridge and Torpoint Ferry Joint Committee, but it was in draft form only and did not at any time constitute formal advice, such that it cannot be provided (notwithstanding that it would not be any different to the situation outlined above and/ or assist this Inquiry in any way whatsoever). Ms Baker, in seeking to dismiss this allegation of a pre- determined and oppressive Officer approach, was able to confirm in evidence that it is commonplace for Members to always be able to approach Professional Officers, such as herself, to discuss any specific queries and concerns they may have, in between formal Committee Meetings.

Regardless, it remains our position that the Inspector can take comfort from the fact that good governance was followed and that the Full Councils of both owning Authorities formally endorsed the Joint Committee's position and resolved that the application for the proposed toll revision should be made; the Cornwall Council at its meeting held on 20 February 2024 and Plymouth City Council at its meeting held on 8 March 2024.

To be explicitly clear (and as was raised on numerous occasions and also presented to Mr Slavin in Cross Examination), it is not unusual for Officers of the Council, in going about their duties, to provide robust verbal and/or written formal or informal advice to Members, setting out perceived risks and preferred options. In the context of performing their duties to a good standard, the S 151 Officer would routinely emphasise financial risks and make no apology for doing so. Similarly, the Monitoring Officer (effectively the Council's Lead Solicitor) would be quite candid about legal risks, including the potential threat of a costly Judicial Review, reputational challenges and claims to an Authority. In fact, such Officers would be duty-bound to do so. It is also not difficult to comprehend that seasoned Members will take on board such advice, but will ultimately form their own view, as informed decision makers. To demonstrate this in action, strong member views were certainly the order of the day at the Inquiry, as evidenced by the likes of Councillor Colin Martin, who was deeply critical of spending and financial forecasts by TBTFJC, but also by Councillor Martin Worth (Co- Chair of the Joint Committee) and Councillors John Tivnan and Armand Toms (Committee Members), who were quick to confirm that they had certainly not been unduly swayed/ pressurised by Officers and were more than capable of knowing their own minds.

Accordingly, we would respectfully ask the Inspector to disregard all of these attempted diversions; none of which should detract from the key focus of the Inquiry and the limited financial considerations for the Inspector, as clearly prescribed in statute and set out in the Pre- Inquiry Note.

It is on this basis that we are of the view that the written and oral evidence offered will serve to reassure the Inspector, when informing The Secretary of State, that the increase applied for is lawful, reasonable and necessary in order to allow the TBTFJC to continue to facilitate safe, reliable, convenient and cost-effective crossings to members of the public, 24 hours a day, 365 days a year, whilst at the same time planning for future demands.

BEN CURNOW

Principal Lawyer (Solicitor), Planning & Highways

The Cornwall Council

(on behalf of the Joint Authorities)

18 October 2024