The Planning Inspectorate

Report to the Secretary of State for Transport

by Kenneth Stone BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State for Transport

Date: 22 November 2018

THE BOURNEMOUTH-SWANAGE MOTOR ROAD AND FERRY

ACTS 1923 & 1986

AND THE

TRANSPORT CHARGES &c. (MISCELLANEOUS PROVISIONS) ACT 1954

PROPOSED REVISION OF TOLLS

Inquiry Held on 25 & 26 September 2018

File Ref: DPI/G1250/18/10

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CASE DETAILS

- The application is made by the Bournemouth-Swanage Motor Road and Ferry Company, under Section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954.
- The Bournemouth and Swanage Motor Road and Ferry Company has applied to the Secretary of State for Transport for a Toll Revision Order by application dated 30 January 2018.
- The effect of the proposal, if approved, would be to revise the tolls chargeable for use of the ferry operating between Sandbanks and Shell Bay at the entrance to Poole Harbour.

Summary of Recommendation: I recommend that the application be refused.

PREAMBLE

The Inquiry

1. On 25 and 26 September 2018, I held a public local inquiry in Studland Village Hall, Dorset, for the purpose of considering the application by the Bournemouth-Swanage Motor Road and Ferry Company ('the Company'), submitted to the Secretary of State under cover of its letter dated 30 January 2018[1], for an increase in toll charges for use of the Bournemouth-Swanage Ferry.

2. Proposed increases would apply across all categories within the toll schedule[2]. Included within the application documentation are details of when the toll increases would be phased in and discounts that would be applied in respect of the bulk purchase of tickets, albeit these do not form part of the toll schedule.

Responses

3. Notices of the Company's application to the Secretary of State were published in various local papers[3] and the consultation period ran until 3 August 2018. Some 75 letters of objection were received and none have been withdrawn. Objections received included those from Purbeck District Council, Swanage Town Council, Corfe Castle Parish Council, Studland Parish Council, Wareham St Martin Parish Council and Worth Matravers Parish Council. These Councils appeared at the Inquiry as a single group, and identified themselves as the 'Respondents'. One further written objection was received prior to the opening of the Inquiry[4] outside the objection period. In addition to the Respondents, 16 individual objectors appeared at the Inquiry.

4. The Company confirmed at the inquiry that it had complied with all the statutory requirements with respect to the application.

5. The main grounds of objection can be summarised as follows:

   - The proposed increases are excessive and above inflation and will discourage future use.
   - The proposed increase for cyclists is excessive, unwarranted and iniquitous and would result in a family (or group) of four paying £16.00 for a return trip on bicycles but paying only £12.00 to take a car.

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[1] Document A in the Inspector's file
[2] See Toll Schedules Current and Proposed eg Document B in the Inspector's File
[3] Document B in the Inspector's file provides copies of the notices
[4] Document T in the Inspector's file

- National Cycle Network Route Two makes use of the ferry for one of the most well patronised parts of its route the increases will discourage users and conflict with general government policy to encourage more sustainable modes of travel.
- Paying more for non-polluting vehicles which take up limited space cannot be right.
- The proposed increases would damage the local economy in terms of tourism, local jobs and the delivery of goods in an area where low wages from service industry and tourism related employment are prevalent.
- The proposed increases will lead to people switching to the alternative road route which will increase pollution and congestion, on the A351, in particular, which is already subject to significant congestion and delays.
- The funding required for the new ferry should come from efficiency improvements and the owners.
- The valuation of the Company's assets, and therefore its net asset value on which its dividend is based, is based on an excessive valuation of the road.
- The Company's return on profit should not be based on the net asset value of the Company.
- The Company's dividends are excessive and paid at the expense of the Ferry Replacement Reserve and should be re-invested in the operation.
- The Ferry Replacement Reserve should be ring fenced.
- Alternative methods of purchasing the new ferry should be explored.
- Greater discounts should be provided especially for local residents and consideration given to reduced off-peak fares.
- The Company should improve its use of technology for ticketing.

This report

6. This report contains a brief description of the ferry and its surroundings, a broad summary of the cases presented and my conclusions and recommendations. Lists of inquiry appearances, documents and the proposed toll increases are attached as appendices to this report.

DESCRIPTION OF THE FERRY AND ITS SURROUNDINGS

7. The ferry is a chain-link drawn vessel, which crosses approximately 350 metres of water at the mouth of Poole Harbour. Poole and Bournemouth lie to the north and east of Poole Harbour respectively. The village of Studland lies about 5 km to the south of the ferry, with Swanage lying some 5 km beyond Studland.

8. The journey from Swanage to Poole or Bournemouth using the ferry involves a distance of about 14 km or 21 km respectively.

9. It is possible to avoid using the ferry by driving round the western side of Poole Harbour via Wareham. This involves journeys of about 31 km to Poole or 38 km to Bournemouth.

THE CASE FOR THE COMPANY

10. The materials points are: (taken from the Company's application unless otherwise stated, (Document F in the Inspectors papers)).

Statutory and historical background

11. The Company was set up under the provisions of The Bournemouth-Swanage Motor Road and Ferry Act 1923. Subsequent Acts in 1928, 1956 and 1986 changed and modified provisions governing the Company's powers, its ability to raise finance, regulate its business in general and to collect tolls for the maintenance and improvement of the undertaking.

12. Toll charges are currently regulated by the Transport Charges &c (Miscellaneous Provisions) Act 1954, as amended by The Bournemouth-Swanage Motor Road and Ferry Act 1986 to provide for the day-to-day running costs of the Company, items of capital replacement, and a reasonable return on the investment.

13. The Company began operating the present service in July 1926. A larger, diesel-electric powered vessel replaced the original steam-driven ferry in 1958. This vessel was itself replaced by an even larger, diesel-hydraulic powered craft, the "Bramble Bush Bay" in January 1994.

14. Originally the Company's shares were quoted on the London Stock Exchange; this ceased when a property company acquired a majority shareholding in the early 1960s and the Company became an asset of the parent company. In 1983 the Company was purchased by Silvermist Properties (Residential Developments) Limited (formerly called Silvermist properties Chelmsford Limited), (SMP). In 1995 the Group was restructured to give a much clearer division of its activities with the Ferry Company and SMP becoming direct subsidiaries of a new holding company, Fairacres Group Limited.

15. When taken over by SMP the whole of the ferry undertaking was in a badly run down condition, having been grossly neglected for many years by its previous owners. This is demonstrated by the fact that a Closure Notice had been served on the Company by the Health & Safety Executive. This shows the very low level of care and maintenance that had been applied to the ferry by its previous owners. The same neglect had also affected all the Company's premises and other facilities.

16. Since 1983 there has been a huge investment in the undertaking. This has included replacing timber huts with new conventionally built offices, providing a supply of both mains electricity and water, and proper sanitation and heating. The slipways at North and South Haven have been widened and new tollbooths constructed. The number of crossings within the operating hours has increased as have the operating hours, thereby giving a better service. This programme of almost continuous investment and improvement culminated in the order for the new ferry "Bramble Bush Bay" in 1992 and a complete rebuild of both slipways in 2008.

17. Since 1983, and aside from the original purchase price, the present owners have ploughed back over £7.5million into the Company. This investment secured the future of the Company, it has reversed the gross neglect and mismanagement of earlier years, it will ensure a first class service for present and future users and, not least, it has secured the employment locally of 27 permanent staff and an additional 6 seasonal employees.

The proposed tolls

18. The proposed Tolls are set out at paragraph 2.2 of the Company's application. This table was produced before the fare increases in April 2018 and the current position is set out in appendix C to this report. The increases would see rises across all classes of traffic with the maximum toll chargeable following the implementation of the rises seeing the pedestrian charge (Sandbanks to Shell Bay) of £1.00 rising to £2.00 with a similar rise for pedal and motor cycles each way. Passenger vehicles (car) rising from £4.50 to £6.00 each way. Passenger Vehicles (coach) rising from £9.00 to £12.00 with goods vehicles (cars) rising from £4.50 to £6.00 and goods vehicles (trucks) rising from £9.00 to £12.00[5].

19. These increases would be phased in across three years for cash customers, such that the maximum allowable toll will not come into effect until 1 April 2021. In the case of bulk tickets for cars and goods vehicles, these will have rates of discount that will remain (by up to 27.66%) until 2021 to mitigate the effect of increases in base price, thus keeping the annual increase roughly in line with the averaged RPI rate, 3.6%.

Reasons for the application

Replacing the Ferry

20. In order to maintain the high standards of service achieved under the present ownership, the Directors are advised that it will be necessary to be in a position to replace the ferry in approximately 9 years. In evidence it was stated that estimates of the useful working life of such a ferry range from 30 years (jan 2024) to 38 years (2 years more than the previous vessel but potentially possible following the mid-life refit in 2014 – to jan 2032). It was further

[5] There is a discrepancy between the schedule produced at the table at 2.2 and appendix 8 and the schedule published and on which consultation was undertaken. The latter two identify that goods vehicles with an operating weight not exceeding 3,500 kilograms have a current toll of £4.50 rising to £6.00 whereas the table at 2.2 indicates the toll is £9.00 rising to £12.00. I have taken the table at paragraph 2.2 to be incorrect and considered my report on the basis of the schedule attached to the public notice and which identifies the toll for Goods vehicles under 3,500 kilograms (cars) as rising from £4.50 to £6.00.

contended in evidence that the Company must be in a satisfactory financial position 2 years in advance of replacement with design, procurement, manufacture, fabrication and delivery taking time for such a bespoke item. Hence the financial projections run to March 2026, although it was stated that the decision to replace the ferry would be based on whether it was uneconomic to continue to run it at that time.

21. The Directors have obtained an independent professional estimate of the replacement cost of the ferry. It was confirmed this was obtained in 2008 in evidence. Allowing for actual inflationary increases to date and assumed inflation rates for the future (3.6%) the forecast cost will be £10.669 m in 2026.

22. The ferry replacement reserve at 31 March 2017 was £1.931m. Therefore, in order to be in a position to bring the ferry replacement reserve to the projected amount of £10.669m to replace the ferry in 2026, total transfers per annum will need to average £970,841. This will not be possible in some of the years if a reasonable level of dividend is also to be paid. Based on the projections and the proposed increase in tolls, the 31 March 2026 target will not be met and there will be a projected shortfall of £961K. The shortfall would have to be found by seeking additional funding at the time the ferry is replaced.

Shortfall in cash vs the value of the Ferry Replacement Reserve

23. An examination of the projected balance sheets of the Company at each financial year end show that appropriate investments (represented by the cash funds on hand) do not match the value of the ferry replacement reserve. As at 31 March 2017, cash on hand in the balance sheet was £1.553m compared to the replacement reserve value of £1.931m, a shortfall of £378k.

24. A shortfall will arise as the Company's cash on hand will fluctuate dependent upon the daily working capital requirements of the business. In addition, the transfer to the ferry replacement reserve is an appropriation of profit and not a cash transfer (the cash available being the profit for the year adjusted for non-revenue amounts such as corporation tax paid; dividends paid; fixed assets bought and sold; and changes to debtors, creditors and stocks).

25. If this application is successful, the forecast cash on hand will rise to £9.613m at 31 March 2026. This is a cash deficit of £94k compared to the projected value of the ferry replacement reserve at that time of £9,708k but significantly below the expected cost of replacing the ferry of £10.669m in 2026.

Ongoing ability to provide a reasonable return on investment

26. The Ferry Company's 1986 Act recognises that the operation of the ferry service should provide a "reasonable return" to the Company's owners. As there are no set guidelines, what constitutes "reasonable" will always be subjective. Registered investment advisor Ibbotson and Associates analyse long-term performance of stocks, bonds, treasury bills and inflation. Arithmetic average annual return on 100% bonds investments, which would be deemed low-risk, is calculated at 6.1%. It is the Company’s belief that, bearing in mind their assets are not as readily convertible into cash, along with the business risks attached to running such an operation, a higher return on investment (profits after tax as a percentage of total net assets) should be expected than that achievable through investing in bonds.

27. Tables appended to the application show forecast returns on investment for the next nine years. If no toll increase is granted then the average return on investment (Profits after tax as a percentage of Total Net Assets[6]) for the forecast period covering the financial years ending 31 March 2018 to 2026 would be 5.85%. However, if tolls are increased, the average return on investment would rise to 8.85%.

28. Dividends proposed for the nine year period are set to increase by no more than 2.99% per annum which is less than the forecast rate of inflation. If the increase applied for is approved, the dividend increase has been factored in to maintain actual dividends as a percentage of total net assets at below 5.2%.

29. From the owners' perspective, dividends received represent their true return on investment, and the above rates of return without a toll increase are less than that achievable through investment markets. It is quite clear from these statistics that, in order for the operation to provide a reasonable return to its owners in future, an increase in toll charges is necessary.

30. A further way to assess whether the Company's return on investment is reasonable is by way of comparison with other companies in similar industries. Comparing the Company’s actual and forecast returns with other companies in similar industries classified as ‘Passenger Sea and Coastal Water Transport’ the return achieved by the Company has not met the median point. Even with a toll increase, the return is only forecast to reach the current median point in one of the next nine years and this is only during non-refit years. Comparing the Company against companies classified as 'Inland Water Transport', the Company’s return is below the median point. Again even with a toll increase, the return is forecast to only reach the median point in one of the next nine years.

31. The Company's profit before tax as a percentage of sales is much more favourable than other companies in similar industries. However, the Company's sales as a percentage of total assets is much lower than these other companies. This would suggest that the Company is more effective at controlling its costs and generating profits from the resources it purchases. At the same time, it requires a much larger investment to generate revenue than other companies in similar industries.

Conclusion

32. Should the application be successful the directors will phase the increases such that the maximum allowable toll will not come into effect until 1 April 2021[7].

[6] The revaluation of the Company is taken from a report dated 2015. This was submitted to the Inquiry and is identified as Inquiry document 5.

[7] In closing Mr Kean sought to provide an updated appendix to show amended phasing for implementation of the toll increases and updated forecast accounts to demonstrate the impact of this on the Company’s financial statement (Inquiry documents 9 and 10). However, these had not been made available to the Inquiry in advance and have not been the subject of publicity. In the interest of openness and fairness I have considered the application on the basis of the original application.

33. The Directors cannot predict future traffic volumes but have assumed them to be static in the forecasts based on the last six years' traffic volume data which shows the historic trend to be fairly constant.

34. The Company has two main objectives:

- From a public service point of view, to be able to provide and maintain a safe, reliable and cost effective ferry service.
- To provide a reasonable return on the investment.

35. To realise the first objective, it is necessary to replace the ferry when needed and for the new ferry to be of a more modern and efficient design than the present with a lower environmental impact. This is achieved through the owners' on-going reinvestment in the ferry company and the value of the ferry service itself.

36. Using the ferry has an environmental impact and saves money for motorists. On the assumption that the average motor vehicle journey is from Bournemouth to Swanage, a saving of 12 miles is achieved by using the ferry. Based on HMRC approved mile rates of 45p/mile the average cost saved using the ferry is £5.40. In an average non-refit year, there are 788,000 motor vehicle crossings saving around 9.456m miles equivalent to saving £4.255m motoring costs. The corresponding CO_2 impact on the environment has not been calculated.

37. The application clearly demonstrates that, in the medium to long term, the Company cannot provide for the future replacement of the ferry and generate a reasonable return if tolls are not increased.

38. A common perception may be that this operation is a low risk business. From an investor's perspective, this may well be the case when it is compared to certain other businesses and industries. But this does not mean it is risk-free. Moreover the current owners manage the risk through responsible ownership and on-going re-investment. In closing it was noted that this is demonstrated by the recent breakdown of the ferry which resulted in the Company incurring costs of £111k.

39. The Company pays the running costs, is committed to the replacement reserve for major items including the replacement of the ferry and has and will continue to pay a rate of dividend which is safely below the reasonable rate based on net asset value of the business. These are the three statutory controls which the Secretary of State has to consider when deliberating the increase in tolls.

40. The proposed increase in tolls according to the Directors is therefore fair and reasonable.

THE CASE FOR THE OBJECTORS

Respondents

41. The material points are: (taken from closing unless otherwise stated)

42. The statutory framework and purpose for which the ferry was established were set out in the Bournemouth-Swanage Motor Road and Ferry Act 1923.

Powers of Minister

43. S83 of the 1923 Act indicates that if [after 10 years] the Company make a representation to the Minister of Transport that in the circumstances then existing all or any of the tolls which may be demanded and taken by the Company should be revised the Minister of Transport may (if he thinks fit) direct an inquiry to be held. Further, if it is proved to the satisfaction of the Minister that all or any of the said tolls should be revised the Minister may by order in writing alter, modify, reduce or increase all or any of such tolls [together with such sum as they think reasonable to cover their administrative expenses].

44. The power of the Minister therefore extends to altering, modifying, reducing or increasing the sums put forward by the Company as reasonable to cover their expenses (if any).

45. The formula alter, modify, reduce or increase has not been amended, but administrative expenses were included by the 1986 Act. But s.14(3) of the 1954 Act causes so much of s.83 as prescribes a procedure for the revision of any charges to cease to have effect, being replaced by s.6 of the same Act.

46. Section 6(2) of the 1954 Act speaks of 'revising' tolls and that the Minister may 'make an order revising in such manner as he may think fit'.

47. Thus continuing the application of s.83 — in purpose at least, but in practice — reinforced by s.6(2)(ii) of 1954 Act by which the Minister may not entertain the making of applications 'for a further increase or, as the case may be, a further decrease' by undertakers for 12 months after the last order or decision. (The Minister could not make an order granting application for a decrease if his power to revise did not include the power to decrease as well as increase).

Transport Charges etc (Miscellaneous Provisions) Act 1956

48. A hierarchy of expenses are established in s 6(3). What this establishes is that 'the working, management and maintenance' define the genus being described. Those include charges and expenses which expressly 'include' reasonable contributions to reserve funds. Only after that, and where appropriate, should one consider a reasonable return.

49. The tolls should therefore be adequate to meet the expense of working, managing and maintaining the ferry and only then, and only when appropriate, to make a reasonable return. Whether or not the other words are of equal weight, the reasonable return is qualified and is subordinate to the others. The statute envisages that it may not be appropriate and this element is by way of proviso rather than essential.

50. The ferry reserve fund should be set aside as an expense of working, management and maintenance of the ferry, as per statute. Thus the ferry fund monies would not come out of profit. Profit will be diminished, perhaps, but the ferry fund would not have to compete with the dividends for a share of the profit.

51. The terms a 'reasonable return' and 'investment' are undefined. Originally reference was to the paid up share capital of the undertaking – this is very precisely defined. Now the term investment has been introduced, this is a very loose term and is not defined. The Company chooses to use Net Asset Value (NAV) as a basis to calculate the return. It is a very definable term and can always be seen through the balance sheet. But, the Act does not specify NAV or

any basis for calculating return. The Secretary of State does not need to adopt that basis for the calculation. It is the Minister's opinion of what is a reasonable return on investment that counts.

52. The Road's book value should be taken out of the calculation in any event, because it is not an investment within the broad meaning of the Act. A reserve valuation is not an 'investment'. The Company's own capital has not been deployed to create the £9.5m value of road. The Company has not exposed itself to the tune of £9.5m (eg in creating the road) and thereafter looks to see a return on it. Rather, the Company's investment has been £7.5m on capital expenditure [Application] (remembering that the slipway rebuild and major life-extension refit were taken from profit intended for capital investment in a new ferry) plus purchase cost of undertaking. Investment in the road has been £5K pa on maintenance.

Rate of return

53. The question of what is an appropriate rate of return is only relevant if one accepts the Company's basis of the calculation. In any case 8.5% is too high in times of 2% inflation. It is noted that the Company seeks to use industry standards as comparators in support of its application. However at every other turn it argues that it cannot be compared with other companies because of its nature. It can't have it both ways.

54. The Company denigrates comparisons with the bond market or stock market, on the basis of risk. With Bonds having limited return on a lower risk and the FTSE having much higher risk. Mr Thomas is clear that risk exists in the Company's operations from potential machine failure, the weather etc. It is contended that even short stoppages have high financial consequences. The risk is overstated in view of the monopoly position that the Company holds.

Application flawed

55. The Company has undertaken no modelling to determine the effect of price rises as confirmed by Mr Purchase. Such modelling cannot be based on historic data because the Company hasn't kept records other than vehicle/passenger movements and financial information "we count traffic and that's what we use" was Mr Purchase's response. The Company undertakes no liaison or market surveying with passengers or local authorities. There is no evidence to demonstrate the Company has explored alternative funding strategies with surrounding Councils or other agencies. Since 2014 and the last application what has the Company done? Nothing. The Company should not be entitled to get a further toll increase until alternatives have been explored and tested.

Destination of dividends/dividend policy

56. Dividends are not taken directly by Directors they go to Fairacres Group. Fairacres also receives management charges. Those are billed to the Company. Therefore they include a profit element. This profit element is in addition to dividends. There is no material to determine the profit element.

57. Mr Thomas in chief stated that "without a toll increase the Company cannot deliver the same level of return as if they were investing in the stock market". The toll increase is therefore to deliver an investment return as well as a new ferry (if in fact it will deliver a new ferry).

58. Mr Kean denied any order in which dividends were prioritised over other objectives of paying expenses and paying into the reserve. But see bottom lines in annual accounts for 2017 and for 2018. A set level of dividends is taken from profit; the remainder goes to reserves. That transfer is a paper transfer to the ferry replacement reserve. The projections are based on dividends determined in advance providing a predetermined income. The amount that goes to the reserve is what is left of profit after the dividends. The residual for the reserve is therefore dependent on the dividends; that is the reverse of the 1923 Act.

Monopoly

59. S62(1) of the 1923 Act establishes a monopoly for the ferry operation. It states no competition on water. The alternative road route is not a realistic alternative for pedestrians and cyclists.

Roads: traffic, pollution & A351

60. The figures demonstrate that there has been a fall in traffic (see the Application, objections from Dr Ayres, Swanage Town Council and Studland Parish Council). The figures show a fall in HGV use, and even if this is because of re-classification of HGVs as suggested by the Company, the figures suggests a real decrease especially as cars have also decreased.

61. Specific details of the topography and route details from the oral evidence reveal the scale of the problems that currently exist on the roads. In Corfe a sharp and narrow bend exacerbates traffic flow problems, there are tailbacks on working days of up to 2 miles and at weekends and in season these extend to up to 4 miles. There has been a progressive deterioration in traffic flow over the years and this is in part attributable to a fall in ferry use with people deterred by price rises. These problems will become worse. However as the problems are already apparent and severe, any further increase in road traffic will be proportionately more problematic.

62. The charging scale is at odds with government transport planning. Questions to Mr Purchase established that it will be cheaper for some families/groups to travel to Isle of Purbeck by car than bicycle. A group of 4 cyclists would pay £16 for a return trip whereas if travelling by car it would cost £12.

63. Pedestrian & cycle tolls are set not in relation to the burden borne by the ferry for carrying them but by reference to the benchmark car toll and then by reference to the dividend payment so that all tolls combine to achieve the dividend.

Case study Amanda [Monkhouse]

64. The evidence of Ms Monkhouse demonstrates that the application should be considered in the real world of people paying a high proportion of their net income to travel by ferry. The application should not be considered as a rarefied accounting exercise revolving exclusively around arguments of NAV, accuracy of projections and measurement/market methodology. All those arguments are important but the effect of the tolls must be considered. Real hardship will be caused to regular travellers dependent on the ferry. There is no evidence that wage inflation has kept pace with eg RPI or CPI, and these do not mitigate the effects of the phased increases in toll.

New ferry capacity

65. The evidence is that it is highly unlikely for practical reasons (length of vessel in water, width of slipways) that the new vessel will have increased capacity. It was also suggested that any in principle benefits of extra capacity may be outweighed by a corresponding increase in loading time. (No evidence of journey time but it is already short.)

66. Therefore Purbeck will continue to receive the same service 364.5 days per year, 7am-11pm. There will be no other noticeable improvement to service after the arrival of the new vessel for residents notwithstanding a significant increase in the toll charges. The toll increase is only to meet purchase price of the new ferry and not for improvements in service.

67. There may be a marginal improvement in service if the rate of stoppage decreases but the evidence is of only one significant stoppage in the recent past. This is therefore not significant.

Ferry replacement reserve

68. The idea of a ferry replacement reserve is imaginary. It is not a ring-fenced cash reserve: see Application 3.3.2 Appendix 1 para 3.3.1 and Mr Thomas' answers.

69. It is not for a new ferry. It is simply a reserve fund. It has been used to finance other major expenditure (2009, 2011, 2013, 2015) [8]. It has never increased in line with forecasts and projections presented to Inspectors. [9]

70. Mr Thomas was clear that he can't assure the inquiry at all that the ferry will be replaced this time even if the increase is granted. This confirms the Application details paragraph 3.1.4 that even with the rise in tolls the dividend policy means that the target will not be met. The Application at 3.1.3 makes it appear that an average of £970,841 will be put aside each year. Application Appendix 2.2 shows increasing contributions to the ferry replacement reserve. However the Inspector cannot have confidence in these figures given the past history and inability of the Company to assure the Inquiry that the ferry replacement reserve will be protected.

71. Neither Mr Thomas nor the Company have put in place measures to make it more certain that the ferry will be replaced in 2026. Such measures can be taken — increasing sums regularly put aside to deal with entirely predictable costs such as major & minor refits, a contingency fund, etc, before profit. The Company asserts it is prudent. Leaving so much to chance and nevertheless taking a fixed dividend at over 60% of profit is not prudent.

72. The ferry replacement reserve should be a sinking fund, not an accounting exercise as it is. The Company should have in place a long term plan to replace the main asset.

Responding to Company's position

73. The Company will seek to argue that objectors' arguments are irrational: they assert that the ferry is a vital part of the local infrastructure yet they seek to prevent the Company from making investment necessary to keep it running. It

[8] See the Respondents bundle of Documents submitted as Inquiry Document 2
[9] See table at end of Respondents' closing, Inquiry Document 6

is a false premise that objectors wish to prevent the Company making necessary investment. In fact, objectors, including the Respondents, wish the Company to make necessary investment their priority, rather than dividends.

74. It is to be noted that Mr Thomas' evidence is that the level of dividends is set in advance on a projected increasing basis. All other figures are calculated to obtain that outcome while reaching close to the purchase price of the vessel in future. The Company ought to have made annual contributions to the ferry replacement reserve as the benchmark. If the result was that dividends were lower or not paid, so be it.

75. Mr Kean said that the position would be 'awful' if money was not available to purchase a new ferry. Money could be available (or more nearly available) if no increase in tolls was forthcoming but the amounts for the dividends and transfer to reserves were reversed: £750K to ferry replacement reserve each year and then see what's available to pay out a dividend. This is in line with the statutory framework and putting ferry replacement reserve into maintenance expenses rather than a reserve after profit.

Special circumstances

76. Section 6(3) of 1954 Act, proviso:

> *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.*

77. A less than adequate annual revenue for the purpose of meeting a reasonable return upon investment can be within the remit of the Minister in special circumstances. In this case those special circumstances would be that:

- the Company has been profitable for all but one of the last 12 years,
- dividends have been paid out of profit, on a set scale unrelated to amount of profit,
- contributions to a prudent ferry replacement reserve have been insufficient as a result,
- successive applications to raise tolls have been made in that same period, persuading Inspectors to grant increases on the same basis — that adequate provision would be made both for ferry replacement reserve and dividends,
- the Company has not ensured that the ferry replacement reserve is maintained according to the representations made in the applications — it has failed to fulfil the purpose of the applications.

78. It is now appropriate to protect the ferry undertaking at the expense of the Company's return on investment.

Other matters

79. In terms of the applicants calculation of cost saving. If a car user undertook the trip in 2025/26 with the increase in tolls the alternative road trip would be 30p or 40p cheaper than by using the ferry. There would therefore no longer be a cost saving to the motorist.

80. In terms of recruitment there is a real issue in the context of the tourist industry and those at the bottom of the pay scale in the service sector. There are areas of deprivation in the area with low and fixed incomes. The increases will increase costs of travel to employment and may result in a greater expenditure as a percentage of income or mean people will not travel at all.

81. We have heard nothing of Corporate or Social responsibility from the Company.

Other Objectors appearing at the Inquiry

Cllr Philip Eades

The material points are:

82. The ferry is a vital piece of transport infrastructure for the Isle of Purbeck. The rises are excessive 100% for pedestrian and cyclists and 33% for cars. The value of £10.7m for the new ferry is from an old valuation updated for 19 years, a new valuation should be obtained. The Company does not even promise we will get a new ferry. Why does the Company want to pay for the new ferry in cash why are they not able to borrow the money? Other transport operations can be financed in other ways e.g. leasing so why does the cash need to be accumulated in advance. The £9m value for the road that has been referred to, that as a replacement cost is excessive. It is a risk free asset and only costs £5K per year to maintain.

Debbie Monkhouse

The material points are:

83. What is a reasonable rate of return? There is an implied responsibility to the users in the area. There is significant congestion on A351. A significant proportion of income for low paid workers is spent on ferry tickets for necessary journeys to work in Poole. The proposed increases would result in a significant increase in the cost of ferry and substantial effect on the proportion of income spent on ferry tickets. This will create real hardship as real wages are lower now than 10 years ago.

Cllr Mohan Iyengar

The material points are:

84. The rate of return the Company receives provides for its dividends first and then what is left goes to the ferry replacement reserve. A company does not have to pay a dividend; that is part and parcel of its performance. Taking the dividend first de-risks the business performance for the owners.

85. There have been no approaches to Poole Borough Council to assist with borrowing or funding mechanisms, there has been no engagement. The Council deals with a lot of funding streams and has not been approached.

86. The proposed increase is punitive. The Company operates a monopoly. The alternative road trip would be 25 miles that is not an alternative for pedestrians and cyclists. People will not go and that will have a resultant effect on the economies of the area.

Tom Espley

The material points are:

87. The alternative road route is dangerous for cyclists and not a route that Sustrans would encourage. National Cycle Way Route 2 running from Dover to Exeter; this is an exceptionally busy section of that route, one of the busiest stretches. We have seen an increase in the number of families, disadvantaged groups, and ethnic minority groups have also increased usage. Global warming and obesity are two of the biggest issues of our time, we need to get people out of their cars and using more environmentally friendly modes of transport. It is ridiculous that 4 people travelling in a car would pay less for a return trip than as cyclists. The fare structure should seek to encourage people to cycle, these increases would discourage people from doing so. Greater use of technology should be introduced to aid efficiency.

Adrian Whaley

The material points are:

88. The ferry is critical for the local economy, tourism, living day to day and anything that restricts that affects the livelihoods of people in the area. Many people work in the service sector and typically pay is around the minimum wage.

89. We have had four rounds of applications for increases in tolls in the last 16 years, 3 of which have been approved. This time around there is a significant increase in the interest and attendance at this event and the work undertaken by the Councils.

90. The main issue revolves around what investment the Company has made and the Company's interpretation of its assets. It was claimed the road as an asset amounted to £9m in value, now it is being suggested that is £3.8m or even £3m. With such uncertainty it is wrong to justify return on investment on this basis.

91. In 1992 there was £2.3m in the ferry reserve fund. Today there is only £1.9m and by end of life the ferry will have no value. What will happen in 7 or 8 years' time? Will there be money to replace the ferry? We cannot be sure.

92. The Company proposes to continue to take a fixed level of dividend out no matter what the prevailing situation. That is fundamentally the wrong way of doing things. The ferry replacement reserve should take precedence over dividends and should be ring fenced. If that does not happen we will be having these same arguments again. You need to consider history, you can't just take this as one snap shot, all the reviews should be considered so that we don't end up in the same situation; an increase in tolls and after the end of the period no increase in the ferry replacement reserve and a further application for an increase in tolls.

93. The ferry company has done nothing to build good will. They could provide bigger discounts for bulk purchase, but they are proposing to reduce the discounts they presently offer.

Debbie Anderson

The material points are:

94. The proposal would be a massive increase with a commuter paying an additional £800 per year in 2022. We have no assurances this will not be repeated.

95. The Company has not sought and does not know what the price point ceiling is and when people would be discouraged from use because of the price. I would argue that has happened now.

96. There is a lack of meaningful discounts and these are to be reduced over the period. King Harry Ferry charges £6:00 for single and £8:00 for a return. Dartmouth Ferry charges £6.70 single and £11.50 return and has single concessions available for £1.45 or £2.20. They also provide a fleet card for businesses. Using the cost saving figures by the Company a 50 mile round trip to Bournemouth would be £22.50 on the Ferry and trip to Bournemouth it would be £19.80. However in 2021, when the ferry toll is raised to £6.60, the trip would be 30p more expensive using the ferry.

97. The investment of the Company is questioned as the ferry operates at much lower speeds than previously and there are lower staffing levels. The Company should invest in card payments, they could introduce a toll barrier for local residents only and they should improve discounts for local residents.

Caroline Finch

The material points are:

98. Chamber of Trade oppose the increase as the toll is too expensive. There are not enough local people to fill need. People have to travel from Poole and Bournemouth. Recruitment is a big issue particularly for hotels and restaurants.

99. There are significant problems on A351, heavy congestion which affects businesses. Companies have stopped delivering to businesses because of uncertainty and delays on the A351. Increased traffic on A351 has its own problems as the area is an Area of Outstanding Natural Beauty and there are protected species.

100. The increase will disproportionately affect people here as many are on low incomes.

Roger Tipple

The material points are:

101. The proposed toll increases are well in excess of inflationary indices.

102. The front loading of saving the money in advance of the purchase is an odd process. The Company have stated the cost of the ferry would be around £11m in 2026. I would be surprised if it wasn't closer to £7m there is no clear visibility on this process. The Tor Point Ferry Cost £4.9m in mid-2000's the King Harry Ferry Cost £2.8m in 2006. The Company should provide greater clarity

on the quotation and should have had it updated rather than just uplifting cost by inflation. What happens if the ferry is only £7m in 2026, will we get money back? The ferry should be financed in a different way.

103. The Company say they are deferring full implementation of the maximum toll until 2021 but then in 2022 discounts on books are reduced. This is in effect a further rise.

104. The accounting for the accumulation of the reserve does not provide for any accruing interest.

105. The Company does not involve or engage with the local community, people are avoiding using the ferry because of cost.

106. There is a tremendous depth of feeling that prices are excessive, at the 2009 meeting the attendance and atmosphere was totally different to now. In 2014 the application was identical to this application. Given the significantly greater rises in tolls substantially above inflation and the further passage of time with no new ferry much more work should have been done to justify the increase. Alternative options should have been explored more rigorously and made available.

Michael Owen

The material points are:

107. The applicant suggests that fraud becomes a concern as discounts are increased. In that case this gives greater incentive for the Company to move to electronic ways of working.

108. The recent breakdown has been suggested to cost £111K. But this is an exceptional cost and any individual or business that faces equipment failure has to replace or repair that equipment.

109. The Company has been extremely vague in terms of the life expectancy of the vessel. The application suggests 7/8 years but this has moved in each of the last applications. This is the biggest risk, it is a key asset and the Company should have a detailed understanding of that asset. They state they don’t know whether for tax purposes it is a bridge or a ship. There is some ambiguity but this is easily resolvable and the Company should have done this. The Company re-classified the vessel such that it didn’t require to be piloted by a Master Mariner in order to cost saving.

110. 40 years is not an uncommon life span for a vessel and this could still have a second life. We need certainty as to the replacement ferry.

Chris Bradey

The material points are:

111. There is no consideration of the effect of the increases on the local economy. There is no social or moral dimension to the applicant’s case.

112. The ferry is the only option for time constrained people. The increases will affect the low paid, where wage inflation has not increased and real term wages are lower than 10 years ago. It will damage the local economy, which is heavily biased to a low wage economy based on tourism. If visitors turn to the road

congestion will be increased as will pollution. The effect of the proposal would be to reduce the quality of life for the whole community.

113. The Company should reflect the wider picture and include a social dimension, they should provide off peak fares, no increases for pedestrians, cyclists or buses, they should provide better discounts and they should improve their use of technology to increase efficiency.

Paola Hobson

The material points are:

114. I buy books of 50 tickets at a time and am concerned at the affordability of a book. It seems prices everywhere go down due to competition. This is a monopoly. According to ONS the CPI is 2.3% the RPI is 3.5% and wage inflation year on year was running at 2.6%. Why are these increases so high? The percentage discounts on the books of tickets is reduced in 2022 adding a further rise. The increases are too much.

Andrew Parsons

The material points are:

115. The ferry Company is governed by Acts of Parliament, it is a monopoly.

116. The Company took on the liability for the road so that it could use it as an asset. The value put on the road is excessive and is not 'investment'. The Company does not own the road.

117. Previous orders have been approved in 2004, 2006, 2009 and 2014 for increases in the tolls. In 2009 the cost was £3:00.   An increase was granted on the basis of the need to provide a new ferry when there was £2.495m in the ferry replacement reserve. The ferry replacement reserve is now down to £1.3m. The Company should have been saving over the life of the ferry. This is not a normal company and market forces don't come into play. The ferry Company seems unable to run without constant increases in tolls.

118. There has been no engagement with the local community. For instance a late service on a Saturday evening to allow for returning from social events would be a positive service improvement.

Peter Bowyer

The material points are:

119. The Company should adopt Corporate Social Responsibility and undertake actions that resonate with the local community. It should introduce a significant reduction in tolls for discounts.

120. The distribution of increases will have the greatest impact on the low paid.

121. The valuation of the road is a problem because the value is measured by price. However there are other values. The concept of value is an attempt to put a price on the asset because you haven't completed the transaction.

122. The reasonable rate of return has to be based on an accurate assessment of the asset. A more accurate assessment of value is needed. Accounting standards have not been duly applied to the valuation of the road.

123. I understand that there is going to be de-regulation of the ferry fares. It is therefore likely that in the future the ferry will be de-regulated.

Cllr Nigel Dragon

The material points are:

124. There are several inconsistencies in the applicant's case. The ferry company says it is not a monopoly as there is an alternative route however this is not a viable option for pedestrians and cyclists. I am pleased to have Sustrans here, it doesn't seem logical that it could be cheaper for a car than cyclists. We have heard representations from Poole Borough Council saying the Company has not been in contact and I am unaware of any approaches. There is a lack of engagement from the Company.

Frank Roberts

The material points are:

125. The Company makes no reference to corporate responsibility or the effect of its decisions on the wider community. Purbeck district was the 5th worst for mental health in England. 23% of houses on the Island are Holiday 2nd homes or vacant. Well-being is poor and there are many social issues. Public Health England suicide rates shows that Purbeck is higher than the national average. Dorset County Council have had to make significant cuts including withdrawing subsidies for bus routes across this predominantly rural county.

126. Most of us support the service; the people who work on the vessel provide a good service. The 50 Bus route uses it and provides a good service. Go Ahead run that service and they have invested in it and have engaged with the local community unlike this Company.

127. The Closure of the A&E at Poole to move to Bournemouth means people will more likely be required to use the ferry. Blue light services use the ferry.

128. There will be a modal shift away from the ferry if the fares go up.

129. Have the Company considered the effect of Brexit? Will it affect the replacement cost of the ferry? is any of the machinery from the EU ? will there be additional tariffs?

130. The ferry will have to be replaced. The Company should prepare for this, so why are users are being asked to foot the bill? The Company should withdraw the application and engage.

Andrew Burnet

The material points are:

131. The firms accountants are a reputable firm and I am sure carried out due diligence. However it is possible to prepare accounts that are above board but that do not investigate the substance of the business behind the accounts. A fully qualified accountant should carry out a forensic investigation into the accounts to help the residents understand and respond to their questions.

Written objections

132. No other matters are covered in the remaining written objections that are not covered in the objections set out above.

Inspector's Conclusions

133. Taking into account the submissions and representations above, I have reached the following conclusions, reference being given in square brackets to earlier paragraphs of this report where appropriate.

Statutory Criteria

134. The statutory criteria against which the application must be judged are set out in Section 6(3) of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 as amended by section 23 of the Bournemouth-Swanage Motor Road and Ferry Act 1986.

> "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 investment of the Company in the motor road and ferry as defined in section 2 of the Bournemouth-Swanage Motor Road and Ferry Act 1986*[10]."

135. There are thus three distinct areas which the Minister must consider. In summary these are firstly, expenditure on working, management and maintenance; secondly, other costs and expenses chargeable to revenue including any contingency; and thirdly, where appropriate, a reasonable return on investment. In considering these matters regard is to be had to the financial position and future prospects of the Company and the tolls should not result in revenue substantially less or substantially more than is adequate to meet these requirements.

Background

136. The last increase in tolls was authorised in 2015. The maximum tolls chargeable were phased over a three year period with the final increase to the maximum allowable tolls being implemented in April 2018. The proposed toll increases would be phased in again over a three year period, until 2021. The Company contend that the proposed increase in tolls is required to ensure that the Company is in a position to replace the ferry by 2026 and to maintain paying a reasonable rate of return on its investment. [18, 19, 20, 32, 37].

Expenditure on the working, management and maintenance of the undertaking

137. The Company sets out its financial data providing forecasts to 2026. The expenditure on working, management and maintenance has not been robustly challenged in terms of its accuracy or relevance. The direct costs include refit

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[10] The words in italics are an amendment to the 1954 Act, made by the Bournemouth-Swanage Motor Road and Ferry Act 1986 Section 23(2)(b).

costs and these were queried in the context of the ferry reserve fund which I return to below. The forecast profit and loss over the period is based on a 3.6% annual increase which is the RPI rate that the Company uses across all its data for forecast purposes. Concerns were expressed regarding the use of RPI as opposed to CPI and whether the inflation index was appropriate. However a consistent figure has been used across all data and therefore provides a consistent relative increase against which to judge the proportionate increases. [19, 20, 21, 53, 101, 106, 114]

138. There were concerns expressed that Fairacres, the parent company, charged the Company a management charge and that this was an additional profit for the Fairacres directors. In evidence it was indicated that the management charge was an at cost recharge. There was no evidence before me to contradict this or to suggest that the charge was excessive. [56]

139. In general there was no robust or substantive challenges raised in respect of these matters and I am satisfied that the Company's identified projected expenditure on these matters is reasonable.

Other costs, charges and expenses chargeable to revenue (including reasonable contributions to any reserve, contingency or other fund)

140. One of the areas of greatest concern to objectors relates to the contingency fund referred to as the ferry replacement reserve. This goes to the heart of the reason for the request for the increase in the tolls. [68-72, 84, 91, 117]

141. The current ferry, the 'Bramble Bush Bay', was brought into service in 1994. In this application the Company indicate it has been advised it should be in a position to replace the ferry by 2026. The Company obtained an independent estimate for the cost of a replacement ferry, in 2008, and project its cost in 2026 to be £10.669m. The ferry replacement reserve at 31 March 2017 was £1.931m. Total transfers to the fund until 2026 would therefore require to be £970,841 per annum. [13, 20, 21, 22]

142. The fact the ferry will require replacing at some point in the future is not in dispute. The working life of the ferry was suggested to be in the range from 30 to 38 years, following the mid-life refit that was undertaken in 2014. That would suggest an end date of between 2024 and 2032. Taking account of design procurement and manufacture the Company contend 2026 is an appropriate point by which to replace the ferry. [20]

143. On the face of it this would appear to be a reasonable approach. However, there have been a number of toll increases that have been authorised, including in 2014, 2009, 2006 and 2004. Each increase followed an application from the Company and a Public Inquiry and in which it was contended that the increases were required to replace the ferry. Various dates were given for the expectation when the ferry would be required to be replaced: in 2014 it was suggested this would be required by 2021, while in 2009 it was suggested that it would be required in 2017 and 2006 the date proposed was 2024[11]. [69]

[11] See Planning Inspectorate Inspector's Reports: DPI/G1250/14/10; DPI/G1250/09/27; Roads 26/4/2 and DPI/04/2/4.

144. The Company were unable to give any degree of certainty that the ferry would be replaced in 2026 and indicated that it would be a decision based on whether it was uneconomic to continue to operate the ferry. Given the previous applications I have no confidence that this would not move again. [20, 69, 70]

145. The question of the ferry replacement reserve as a fund was also queried. The amount shown in the financial data is an accounting practice and does not manifest in an actual cash sum in a separate fund. The increasing total is built from the residual profit after the dividends are taken out from the profit after tax. The money is not transferred to a separate account and is not safeguarded. The profit and loss accounts demonstrate that the ferry reserve fund fluctuates year on year and in some years results in transfers back to the profits to enable the payment of dividends. The ferry reserve is an open contingency fund that is used to displace significant costs that are incurred such as in refit years. The corollary of this is the longer the ferry is kept in service the more the costs will increase to maintain it and therefore the greater the likelihood that there would be a reduced contribution to the reserve fund accruing. The reserve fund is used to cover any contingency across the Company and not just as a replacement fund for the ferry. [22, 23, 24, 69]

146. On this basis there is no certainty that the fund would grow such that by 2026, if the ferry was to be required to be replaced, there would be the money available to pay for the replacement. This is further underlined by the level of the ferry reserve fund over the years of the previous applications for increases in tolls. In 2006 the fund value was £2,072,348, in 2009 it was at £860,342, in 2014 it was £1,542,971 and in 2017 it was £1,931,434. The fund has never increased in line with the Company's projections for any of the recent applications for toll increases and this does not give confidence that it would this time around. The Company were unable to provide any assurances or identify any proposals or measures that would be put in place that would make the build-up of the fund more certain. [69, 70, 71]

147. The fact the ferry replacement fund is not ring fenced and does not provide for an assured separate fund that builds to provide the required level at the end of the period is a significant area of concern.

Return upon the investment of the Company

148. The Company rightly point out that a reasonable rate of return is not defined in statute and they put forward two ways in which such an assessment can be undertaken. Firstly by looking at the rate of return on investment by reference to the bond and stock markets and secondly by comparison with similar industry sectors. The basis of the calculation is taken as profits after tax as a percentage of total net assets of the Company. [26 – 30]

149. The Company base its valuation on a report undertaken by Gerald Eve in 2015. Whilst there was much concern at the Inquiry that the valuation of the road was included in the valuation of the Company and figures of in the region of £9m were referred to, the valuation report includes a figure of £3.8m for land including rights to operate the ferry and which it was suggested included the road of which some £3m would be attributable to the road. The road is an integral part of the business and it is not unreasonable to include its value as part of the overall net asset value of the Company.[27, 52, 82, 90, 102]

150. The proposed rate of return on this basis if tolls were increased would average at 8.85%. This is compared to a Bond investment average of 6.1%. The Company however further qualify this to dividends as a percentage of investment as representing the true return on investment and which would be below 5.2%. The Company identify that there are risks involved in the operation including breakdowns, repairs, weather etc which can affect revenue. It is not unreasonable that the increased risk requires a higher return. [26, 27]

151. The Company also contend that, taking account of other operators in similar sectors, the rate of return would be at or below the median point for those other operators in the next 9 years. The use of comparative data without understanding all the inputs, characteristics and nature of the other companies could be misleading and does not provide a robust assessment on the basis of the information I have before me. [30]

152. Whilst the Objectors are right that the net asset value is not directly investment, it is the result of the investment of the Company and not an unreasonable measure to use. Overall the Company state that the dividends would rise by no more than 2.99% per annum over the 9 years which is lower than their forecast rate of inflation at 3.6%. [19, 28]

153. The statute indicates that part of the consideration for future rises should include a reasonable return on investment, where appropriate. Given the figures identified the rate of return is set at a maintained level over the period. It is in effect a given that is taken from the profits after tax and anything that is left over is provided into the ferry replacement reserve. If sufficient profit is not generated to provide a positive balance after the payment of the dividend it is not the dividend that is cut but a deduction is made from the contingency ferry replacement reserve to absorb the deficit. In effect the reserve is supporting the dividend payment. [24, 26, 28]

154. Whilst the Company maintain that the Company should provide a reasonable return in accordance with statute, this is caveated by the words 'where appropriate'. It is not unreasonable to expect a Company's dividend pay outs to properly reflect its profitability and performance. By providing a set pay out over the period it is not the dividend that would fluctuate but the ferry replacement reserve, as has been seen in the past. I therefore conclude that it would not be appropriate and indeed be an unreasonable return on investment that resulted in such an arrangement which did not reflect the true performance of the Company. [23, 24, 69]

Other matters

155. The fact the Company has failed to identify a price ceiling point which could result in reductions in usage was an area of concern that was raised. In evidence it was accepted that the Company have not sought to do so and have based their forecasts on a steady level of patronage. This is a reasonable area of concern as the basis of the application to provide for an appropriate ferry replacement reserve would require that the revenue to be maintained over the period. It draws questions as to the reliability of the Company's forecasts. [55, 95]

156. I have not taken the proposed alterations to the toll phasing proposed late in the day into account in the context of setting the tolls, however, its submission

demonstrates that the Company could adjust its forecasts and still achieve outcomes that would be acceptable to the Company, albeit with the ferry replacement reserve being lower at the end of the period. [32]

157. Concern was expressed as to what would happen once the ferry was replaced and would the tolls remain at the increased level. There is no suggestion that the tolls would be decreased, that the phasing was to achieve the purchase cost of the new ferry and would then reduce. There is a potential that following replacement with a new ferry not required for a further 30 years and the new ferry not requiring significant refit costs the tolls could result in revenues substantially more than adequate to meet the statutory requirements. [102, 109]

158. This application if accepted would result in a further rate rise following a succession of rises since 2004. The rises now would represent a significant percentage increase for all classes of vehicles and substantially above inflation. The Company does seek to mitigate the effect of the rises by phasing the rises in until 2021 and also provides for discounts for the bulk purchase of tickets. The phasing and discounts are not the subject of this proposed rise but the Company has always provided and met such undertakings. I see no reason to suggest that they would not continue to do so. [18, 19, 64, 101, 103, 114]

159. One of the areas of greatest comment from representations relates to the doubling of the toll for cyclists. This results in the anomaly that four people travelling together would pay less for a round trip by car (£12) than for cycling (£16). This is further compounded by the fact the ferry is on the National Cycle Network Two where cycling is positively encouraged. Given the basis of much government policy revolves around reducing the need to travel by car, to reduce emissions, and the issues around health benefits associated with increased activity, this seems to conflict with the wider aspirations of the transport, sustainability and health agendas. [18, 62, 82, 87, 124]

160. The proposed discounting whilst rising over the period up to 2021 would fall back to between 10% and 15% depending on the number of tickets in 2022. This would in effect be an additional increase in tolls for regular users of the ferry. Whilst it was suggested that the Company should do more to increase discounts and potentially providing additional incentives for local people, the Company are concerned that substantial discounts encourage increased levels of fraud. The provision of discounts for bulk purchase would be of most benefit to those who use the ferry on a regular basis and who are most likely to be local people. The Company is in effect incentivising local use of the ferry. [19, 97, 103, 114, 119]

161. A number of representations raised concern regarding the potential effect on the local economy, on tourism and on access to services and facilities for local residents, who would be discouraged from using the ferry by the rise in tolls. I was however not provided with any substantive evidence to quantify the impact but rather provided with anecdote and assertion. This does not provide a sound basis on which to draw conclusions. [80, 83, 86, 88, 98, 125]

162. The use of improved technology by the Company was raised in the context of improving efficiency. However whilst the Company indicated that it had recently introduced limited card payment facilities there were not significant efficiencies

to be made. This is not a matter that is directly related to the proposed increase in tolls. [87, 97, 113]

Conclusions

163. I accept that the replacement of the ferry is a reasonable if not necessary aspiration and indeed will be a necessity at some stage. I am however concerned that there is no visibility or assurance as to when that might be. Given the previous toll rises, which were predicated on the same basis, I have no confidence that this toll rise would indeed result in that aspiration being achieved. There is no assurance or confidence that the ferry replacement reserve would be safeguarded and rise to the levels required such that the Company would be in a position to procure a replacement vessel. Further I am not convinced that the proposed return on investment is reasonable or appropriate given that it is secured above the ferry replacement reserve and is maintained at an artificial level not directly linked to the performance of the Company's profits.

164. The proposed tolls would significantly increase the fares payable for the crossing and it has not been demonstrated that the rises would not increase to a level such that the undertaking would receive an annual revenue substantially more than adequate to meet the statutory requirements.

RECOMMENDATION

165. I recommend that the Secretary of State refuse to make a Tolls Revision Order in the terms applied for by the Company.

Kenneth Stone

Inspector

APPENDIX A – APPEARANCES

For the Company:

Mr Michael Kean	The applicant
He called	
Mr Nick Purchase	General Manager at the Company
Mr Kevin Thomas	Equity Partner of Rickard Luckin, the Company's Auditing firm.

For the Respondents (Purbeck District Council, Swanage Town Council, Corfe Castle Parish Council, Studland Parish Council, Wareham St Martin Parish Council and Worth Matravers Parish Council):

Mr Joshua Dubin	Barrister, instructed by Purbeck District Council
He called:	
Cllr Michael Whitwam	Swanage Town Council
Dr Martin Ayres	Town Clerk, Swanage Town Council
Stephen Dru Drury	Corfe Castle Parish Council
Cllr Julie Dyball	Vice Chair of Studland Parish Council
Roger Khanna	Clerk of Worth Matravers Parish Council and as Private resident

Individual Objectors:

Adrian Whaley	Local resident
Debbie Anderson	Local resident
Caroline Finch	Swanage Chamber of Trade
Roger Tipple	Local resident (retired accountant)
Michael Owen	Local resident
Cllr Philip Eades	Ward Councillor in Poole Borough and Licensee in local Public House
Debbie Monkhouse	Local resident and Secretary of Swanage Labour Party
Chris Bradey	Local resident Chairman of South Dorset Labour Party
Paola Hobson	Local resident
Cllr Mohan Iyengar	Canford Cliffs Ward Councillor in Poole Borough, which includes Sandbanks.
Andrew Parsons	Local resident
Peter Bowyer	Local resident
Cllr Nigel Dragon	Purbeck District Councillor – Castle Ward and Corfe Castle Parish Councillor
Frank Roberts	Local resident
Tom Espley	Sustrans and Dorset Cycle Network representative
Andrew Burnet	Local resident (chartered accountant).

APPENDIX B - DOCUMENTS

Folder containing Inspector's papers including:

A. Notification Letter from Ferry Company to Secretary of State for Transport applying for revision of toll charges dated 30 January 2018
B. Public Notices (Published on 15 February 2018) notifying public/users that the Company has applied to Secretary of State for Transport to review toll charges
C. Public Notice (Published on 26 July 2018) notifying public/users of the date/details of the Public Inquiry
D. Notification to Objectors and Applicant of Public Inquiry details
E. Copies of 75 objections
F. Toll Application Business Case
G. Annual Report and Financial Statements – Year ended 31 March 2018
   Annual Report and Financial Statements – Year ended 31 March 2017
H. Annual Report and Financial Statements – Year ended 31 March 2016
   Annual Report and Financial Statements – Year ended 31 March 2013
I. Bournemouth – Swanage Motor Road and Ferry Act 1923
J. Bournemouth – Swanage Motor Road and Ferry Act 1928
K. Bournemouth – Swanage Motor Road and Ferry Act 1956
L. Bournemouth – Swanage Motor Road and Ferry Act 1986
M. Transport Charges &c (Miscellaneous Provisions) Act 1954
N. 2014 Application - Related Documents –
   Notification Letter from Ferry Company to Secretary of State for Transport applying for revision of toll charges dated 30 January 2014
   Inspector's Report dated 21 January 2015
   Statutory Instrument made on 23 February 2015
   Decision Letter dated 23 February 2015
O. Submission from Nick Boulter – Chairman, Studland Parish Council dated 13 August 2018
P. Statement of Case for Purbeck District Council, Swanage Town Council, Corfe Castle Parish Council, Studland Parish Council, Wareham St Martin Parish Council and Worth Matravers Parish Council
Q. Notification to Objectors of Applicant's Statement of Case
   (emails and hard copy letters)
R. Witness Statement – Gary Maurice Suttle on behalf of Respondents listed at P
S. Witness Statement – John Bishop on behalf of Respondents listed at P
T. Letter of Objection from Rohini Finch received outside of the objection period.

Other documents submitted at Inquiry:

1 List of the Witnesses the Respondents propose to call

2 Lever Arch Folder containing various documents, including the application documents, the Respondent Councils' letters of objections and submissions, previous Inspector Reports on Toll revisions and company accounts for Fairacres Group Limited – all publicly accessible documents. Submitted by the Respondent Councils

3 Statement Read out By Dr Martin Ayres.

4 Copy of a letter From NHS The Royal Bournemouth and Christchurch Hospitals Foundation Trust dated 13 September 2018 submitted by the Respondents.

5 Copy of Gerald Eve LLP report dated 31 March 2015 entitled ‘The valuation of: Bournemouth Swanage Motor Road & Ferry, Shell Bay Studland’ submitted by the Company.

6 Draft speaking note of the Closing submissions of Mr Dubin on behalf of the Respondents read aloud at the Inquiry.

7 Closing submissions of Mr Keen on behalf of the Company.

8 A4 sheet of the cost of breakdown 12-19 September 2018 submitted by the Company

9 Update to the table in the Company’s application letter providing a schedule of proposed Toll Increases and identifying changes to the phased implementation of toll rises and discounting.

10 Updated and reworked appendix 2.1 to the Company’s application providing an updated forecast profit and loss account to take into account the suggested changes to the implementation phasing of the Toll rises and discounting. Submitted by the Company.

APPENDIX C – Schedule of current and proposed Tolls

Class of Traffic	Current Toll	Proposed Toll
1 (a) Pedestrian (one-way toll from Sandbanks) (b) Pedestrian (one-way toll from Shell Bay)	£1.00 0p	£2.00 0p
2 Pedal or Motor Cycle with no more than three wheels	£1.00	£2.00
3 (a) Passenger vehicle constructed or adapted to carry not more than 16 persons exclusive of driver with an operating weight not exceeding 3,500 kilograms. (b) Goods Vehicle with an operating weight not exceeding 3,500 kilograms	£4.50 £4.50	£6.00 £6.00
4 Passenger vehicle constructed or adapted to carry more than 16 persons exclusive of driver with an operating weight not exceeding 20,000 kilograms	£9.00	£12.00
5 Goods Vehicle, or any other vehicle not specified above, with and operating weight exceeding 3,500 kilograms but not exceeding 20,000 kilograms	£9.00	£12.00