NO TOLLS

National Alliance Against Tolls

Dunham Bridge Toll Increase - Outline of what happened at the Inquiry

Background

1. The **Dunham Bridge Company gave notice in March 2006 of a 20% increase to the existing toll for motor cars** (and vans under 10cwt, and minibuses up to 16 passengers) from 25 pence to 30 pence, and a 14% increase of the toll for cars with trailers from 35 pence to 40 pence. Mr **Gerry Watt of Lincoln made the only official objection to the increase**.

2. As a result of the objection, an **Inquiry by a Planning Inspector was held at the Community Hall at Dunham, Nottinghamshire on the 17th October 2006**. There were various directors and advisors of the Company present - their case was presented by a consultant from Steer, Davies, Gleave. There was no one apart from the Company who spoke in favour of the increase. Speaking against the increase were Gerry Watt, the NAAT, and one other person. A few other people were there at the start of the Inquiry, but were not present when it was the objectors turn to speak.

3. What follows is the Inquiry as the NAAT saw it:-

Case made by the Company

4. Main people speaking on behalf of the Company were their chairman, their auditor, their consulting engineers and the SDG consultant. **In brief, what the Company said was that the toll increase was needed to make sure that the Company made adequate profits and to build up reserves in particular for the eventual replacement of the bridge**.

Case made by Objectors and points that arose in the Inquiry

Lack of Objections

5. There was only one objector, but the absence of objectors is usual, as when there is a toll increase almost no one knows about it or how to oppose it. When there was a proposed toll increase on the Forth Road bridge, by the time of the Inquiry at the end of 2004, there was only one objector, an individual like Gerry Watt. Yet the current position is that almost all local people, businesses and politicians are calling for the tolls on that bridge to be removed, and the Scottish Executive has just commissioned a study into this. (By coincidence the consultants doing that study are the same firm that are acting for the Dunham Bridge Company - NAAT hope that isn't a bad omen!) The best test of public opinion was last year's Toll Poll in Edinburgh, when the **people voted three to one against tolls**.

Difficulty of objectors getting at the facts

6. There were difficulties in getting information. The NAAT on the 7th September asked the Department for Transport for a copy of the Company's application for the toll increase. The

only documents received were a copy of the application dated March 2006, and a covering letter dated 21 March 2006. They were received on 13th October

7. Gerry Watt had been told by the Department for Transport that an application was available, and was then sent a document headed "Application". The notice of the Public Inquiry also referred to "*the application*" and mentioned no other documents. **Gerry assumed that what he had been given was all of it, but it was in fact only a small part of the documents that the Company were submitting**. (Gerry also went to the Post Office at Newton on Trent, and someone else went to the Library at Retford, both places were supposed to have copies of the documents, but requests to see them were fruitless. The day before the Inquiry, Gerry went to Lincoln library and revisited the Post Office, they both now had the "application" and it was more documents than he had previously seen, but by then it was too late to study them.)

8. As the objectors had not seen the vast bulk of the documents before the day of the Inquiry, the Inspector said that they could look at them during the breaks. Though **given the vast amount of documents, all objectors could do was to skim though a few of them**.

9. The NAAT were not able to see the Dunham Bridge Act of 1830, this was partly repealed by the Dunham Bridge (Amendment) Act 1994, but without seeing it, there was no way of knowing what effect, it may still have on tolls.
   The fact that the Acts are not available on the web, reference libraries or the Stationery Office makes it **difficult for anyone opposing the tolls, and demonstrates the anachronism of these remaining antiquated tolls**. A copy of the Act was in the Inquiry "library" available on the day, but there was little chance to study it. One thing that NAAT did notice though, was that under the 1830 Act, the toll was only payable once a day, no matter how many times you crossed back and forth over the bridge.
   (The tolls were also limited by another act NAAT could not see - the Locomotive Act of 1861 - but it turned out that the toll limits under that Act were removed in the 1994 Act.)

Some of the points made by Gerry Watt

- He was "*glad there are democratic means*" by which people can challenge toll increases.

- The Company has "***a monopoly at this strategic crossing point on the river Trent and what is charged can have much wider implications for the economy of the whole region as well as the lives of the villagers of Dunham on Trent and Newton on Trent***."

- Since he started using the bridge in 1992 tolls were 15 pence, they were increased to 20 pence, then 25 pence and will now be 30 pence - a 100% increase. No doubt there will be another increase in 3 years time, and by 2078 (when the Company says that the bridge will be replaced) the tolls could be £8.20 each way. "*Raising the tolls to cover some event that may happen in 2078 is risible*."

- He raised his concerns with his local councillor in Lincoln who "*shared my concerns*". But later the councillor said that Lincoln council's legal department said that the councillor was "*forbidden*" from getting involved because the Council were shareholders (the second largest). "*I find it intolerable that he can be gagged in this manner by an*

unelected official ... yet at the same time a former chief Executive of the council is free to express his views as a full member of the Company's Board of Directors".

- He wanted books of discounted prepaid tickets (including vans and wagons as well as cars) introduced, this *"would reduce tail backs and hold ups at busy times*".

- When there is flooding on the Lincolnshire side of the bridge, drivers have *to "make detours of 20 miles or more*". This problem should be urgently tackled by whoever is responsible - the Company or the County Council.

- He was concerned about the effect on Dunham villagers of the 4 million vehicles that pass through each year and urged that a by-pass should be built .

- "*Tolls act as a disincentive, not only to people using the bridge but also to businesses that might wish to invest in the region. This is a particular problem because of the planned increase in new homes and the need for new jobs.*"

- "***Bridges can join communities together, but tolls .. mean that the benefits to the surrounding communities are lost****. The classic example is the Humber bridge or the "Bridge to Nowhere". It could have been a catalyst for the regeneration of South Humberside, but thanks to the punitive tolls any tangible benefits are few and Scunthorpe and Grimsby are struggling to entice jobs*."

Difficulty in obtaining accounts

10. The last accounts publicly available for the Company were those for the year ended 31 July 2002, which were filed in November 2002. The Company is apparently exempt from the usual rules and does not have to file any accounts. The documents that were made available after the Inquiry was announced apparently included more recent accounts (2005) - but objectors had not seen these for the reasons given above. In any case when the Company applied for the increase in March, the only accounts available were those for 2002. **How is anyone supposed to know if an increase has any justification, if the accounts are 4 years old?** The Company was asked at the Inquiry whether the accounts for the year to July 2006 were available - the answer was no.

Summary of finances

11. The accounts to July **2005 show that the Company collected nearly £1.1 million in tolls**. Adding on investment income gave total income of £1.2 million.

12. The last (2002) published accounts gave little breakdown of the revenue costs of the Company. But the 2005 accounts available at the Inquiry had a memorandum statement which showed that the Company spent £0.4 million on toll collection and administration, and another £0.1 million on "exceptional costs on repairs to the bridge". The £0.7 million profit was split:- nearly £0.2 million paid in tax, £0.3 million paid in dividends and over £0.2 million added to the main reserves (replacement, repairs, and profit and loss account).

13. The Company's application showed (Appendix A) a summary of the Company's financial position from 2003 to 2012. The figures for 2003 to 2005 were actuals and 2006 to 2012 were estimates. The Appendix showed that based on the Company's estimates and without a toll increase there will in 2012 be a "*Reduction to profit and loss account*" of £34,340. The Company say (paragraph 4.4. of the application) that "*There will be reductions to the Profit and Loss Account each year to 2012 and in all £600,000 over a nine year period*".

14. This implies that the Company is doing badly but it is misleading. The whole table ignores the write down of the Revaluation reserve. This would offset most of the figure for depreciation which is £119,000 a year. So that **based on the Company's own estimates there would in fact not be a reduction but an increase in the balance on the profit and loss account**. For example, for the year 2005, Appendix A shows a reduction in the undistributed balance on the profit and loss account of £42,000, whereas the accounts for 2005 show that the balance actually increased by £56,000.

15. A more meaningful figure for 2012, based on the Company's own figures would be to take their "Surplus before Taxation" of £737,000, and exclude the depreciation figure (as it is largely offset by a reduction in revaluation reserve). This gives **a profit of £0.8 million in 2012, even without a toll increase**. (This is then split £0.2 million paid in tax, £0.3 million paid in dividends and over £0.3 million added to main reserves (replacement, repairs, and profit and loss account).

Where the money is spent

16. The accounts (note 10) show the historical cost of the Company's land and buildings as £1.1 million. Paragraph 2.4 of their application says that in 1994 the "*Company spent nearly £500,000 on a new toll plaza ... added considerably to collection costs*". Paragraph 2.5 mentions further expenditure on toll collection facilities in 2000. It seems that a large part of the Company's capital expenditure has not been on the bridge but on land and buildings for toll collection

17. The accounts (note 3) show that there are 29 "staff", **19 toll collectors**, 2 in management and 8 directors and retired directors. There are **no staff employed in maintaining the bridge**. These collection and administration costs would stop if the bridge was taken over by the authorities using the powers in section 271 of the Highways Act 1980

Profits

18. Whatever tolls the Company could have levied under the 1830 Act, the law was changed by the Transport Charges etc (Miscellaneous Provisions) Act, 1954. It said at section 6 (3) that a tolls increase order shall have regard to *"a reasonable return upon the paid up share capital of the undertaking*". The paid up share capital seems to have been £14,250, **so if you assume that 5% would have been "*reasonable*", then the Company would have been allowed to make a profit of about £1,500 a year.**

19. The law was changed by the Dunham Bridge (Amendment) Act 1994. This Act repealed much of the 1830 Act, allowed the Company to build a new tolls plaza on common land,

amended the limit on tolls and made other changes including writing off of part of the share capital as the owners could not be traced (descendants of 34 shareholders who apparently owned nearly a quarter of the Company). As far as one can see this Act went through the Commons without a single MP saying anything at all on the floor of the House.

20. Section 47 of the 1994 Act varied section 6 (3) of the 1954 Act in its application to the Dunham bridge, so that "*paid up share capital of the undertaking*" was substituted by "*any amounts invested in the undertaking by the Dunham Bridge Company and any successor Company*". What this means is not defined. The NAAT pointed out to the Inspector that no additional sums appear to have been put into the Company and there are no borrowings on which the Company might have the cost of paying interest. All that the Company owns appears to arise from either the paid up share capital or the income from tolls. NAAT therefore suggested that the appropriate amount for calculating any return on is the remaining share capital of £10,900. **Any other interpretation might mean that the Company was making a double return on the toll income**.

Reserves

21. As well as the paid up share capital the Company had at July 2005 nearly £5.8 million of other reserves which appear on the Balance Sheet (page 8 of Accounts) as "Shareholder's Funds". The biggest balances at July 2005 were the "Revaluation Reserve" (nearly £3 million), "Replacement Reserve" (just over £1.8 million), "Contingency Reserve" (£750,000), "Repairs Reserve" (£110,000), and "Profit and loss account" (£99,000). There were 3 other small balances. The Company were claiming that they should get a return on all these balances.

22. The "Revaluation Reserve" which is over half of the total is only there because the Company had the bridge, land and buildings revalued in 1996. The NAAT said that this was a meaningless figure, the company need not have had a revaluation or they could have a more up to date one. It did **not represent cash invested**, it was merely a 10 years old inflation adjustment. There was nothing in the Acts to say that this should be treated as an "*amount invested in the undertaking by the Company*".

23. The next biggest reserve at July 2005 is the "Replacement Reserve" of over £1.8 million. The NAAT said that there was **nothing in the law to require such a reserve**, and certainly nothing to indicate that such a reserve should be treated as an "*amount invested in the undertaking by the Company*". NAAT said that not only was this not justified, but that to the best of NAAT knowledge it was **unprecedented**. If allowed it would cause operators of other tolled bridges, whether modern or ancient, to put in similar applications. In reply the Company said that they were aware of one other toll operator that was already doing this on the Whitchurch Bridge (across the Thames near Reading).

24. The NAAT said that the **Company wanted to in effect have its cake and eat it**. The amount of money that was being put into reserves was excluded from the return that they said they were making, yet at the same time they were including it in the amount that they said they had invested in the company. So the more that they put in reserve, the less return they appeared to make, and the bigger the amount that they were claiming they should get a percentage return on.

25. There is an anomaly in that there is an implication that the Replacement and Repairs reserves are somehow in trust for the future. But in fact as the law does not specify that these reserves should exist, there is nothing to control their use and in particular nothing to say that the income from investing these funds must be used to build up the funds. For instance - in their application (at para 10.2) the Company say that in 2002 and 2003 "*reduced*" dividends were paid so that the Company could build up the Replacement reserve, but in 2002 the "Repairs and Replacement" reserve did not increase by even one pound.

Replacement Reserve

26. The NAAT did not accept that any replacement reserve should be taken into account when calculating the Company's reserves, but the NAAT also queried the amount. The piers of the bridge are the original ones from the 1830s, but the bridge on top of the piers was replaced in 1978. The Company's consulting engineer said that a reasonable assumed life for the bridge was 100 years and said that the reserve should be on the basis that the bridge would be replaced in 2078. The NAAT pointed out that this was arbitrary, and there were many bridges over 100 years old. Four years ago when the Company applied for the last increase they estimated the bridge as having 90 years remaining - **so in 4 years the bridge had "lost" 18 years of life!**

27. The Company in their application (Appendix C) had a table showing their calculation of the provision required for a replacement reserve on various assumptions. The Company estimate was that the if the bridge were to be replaced in 2078, the then replacement cost would be £60 million. The Company had, according to the table, at 1 August 2004 a replacement reserve of £1,732,000 which they estimated by 2078 would have grown to nearly £51.9 million. They also had contributions in the financial years to July 2005 and July 2006, which will have grown in value to £4.6 million by 2078. So the Company on their own figures had already made contributions to the Replacement reserve which with interest would have grown to £56.5 million by 2078. **That means that the Company had already built up from tolls income, a reserve that will reach 94% of their estimated replacement cost**.

28. If this was a normal company, then building up such reserves for an event forecast to happen in over 70 years is almost unheard of, or if they did and found themselves in this situation then they would take a "holiday" i.e. they would not make any further contributions for many years. Even if they carried on contributing, because of what has already been set aside the annual contribution required over the next 71 years is **just £6,640**. The Company however had contributions of £65,000 for each of the years 2007 to 2011 and then stopping. When asked why, the reason given is that the bridge might need replacing by 2011!

29. In the event that the bridge did need to be replaced at some time (next year, 2078 or come the next millennium) then there is no need to build up a reserve. The Company had in their 1994 Act, both the power to borrow (section 6) and to raise new capital (section 14). **Why should existing bridge users have to pay in advance for a bridge that may never be built, and if it is ever built will be used by distant future generations?**

Shareholders returns

30. The Company said that their dividend of £132 **per share** was too low, and that shareholders have "*subsidised the running of the bridge*". They said that they should be making a 10% "*rate of return on capital*", though they say even with a toll increase their "*rate of return on capital*" will be 6%

31. The only money that the shareholders (including the missing ones) have ever put into the Company was £14,250. They may have had some bad years, but over the 170 years, the bridge is more likely to have been a gold mine, except that tolls are a bit easier to get than gold. If that £14,250 had been invested in 1830 in some form of local authority or government bond with a variable rate of interest, then the investment would still only be worth £14,250 and the income before tax would only be about £700 a year. If that investment had somehow been proofed against 170 years of inflation, then the original capital sum would now be the equivalent of about £1 million.

32. The Company were asked how much the shares were worth and said that the last time there had been a "tender" of shares was in November 2003, and the top price was £2,500. They at first said there were 10,900 shares, which gave a value for the company of about £25 million. The NAAT had estimated that based on the present tolls income and expenses the value of the company would be about £5 million. The Company later corrected their earlier statement and said that there were only 2,180 shares (each with a nominal value of £5), thus valuing the Company at about £5 million.

33. The NAAT said that the total returns to the Company on the original £14,250 investment were considerable. That investment was apparently now worth £5 million or more. On top of that, the total dividends over 170 years would run into many millions of pounds on a cash basis, and adjusted for inflation would probably be tens of millions of pounds. The Company said that when considering the returns that they got now, it should be borne in mind, that for a very long period after the bridge was built in the 1830s, there were no profits and no dividends.

34. The return on Capital that the Company are aiming for is high for an operation with an almost guaranteed income and low risks. But in any case the NAAT would reject the Company's calculations, they appear to be including all the Reserves in the "capital" base, even though most of this is just a revaluation adjustment. They are then excluding from the return the amounts transferred to reserves and even tax. For 2005 the return was about £500,000 (total of the Dividends, Tax and change in balance on the profit and loss account). Even if you accepted the Company's "capital" figure of £5 million, this is a return of 10%. If you add back the amounts transferred to Replacement and Repairs reserves, then the return would increase to 14%. If you then used the figure for what shareholders cash went into the Company (£14,250) then the annual return rockets to 5,000%.

Support from the Councils

35. It was implied that the toll increase had the backing of the county councils (Lincolnshire and Nottinghamshire) on either side of the bridge. The Company also submitted letters from the two councils. The letter from Lincolnshire did not mention the toll increase, but said that it

"*would have serious consequences*" if the Company failed financially. The letter from **Nottinghamshire** went further it said - "***The County Council sees the modest increase in the toll charge ... as being both reasonable and essential***".

36. The NAAT had not seen the letters from the two councils before the Inquiry, but sent a series of messages which were submitted to the Inquiry.
Lincolnshire at first told NAAT that the bridge was nothing to do with them as it was in Nottinghamshire. NAAT asked again and they said "*The County Council has neither supported nor objected to these proposals ... Lincolnshire's councillors have not considered the matter of the proposed toll increase at any meeting*".
Nottinghamshire said "*may I make it clear that the .. authority is **not** formally supporting the toll charge increase and there is **no** formal resolution by Council/Cabinet to this effect*." (The emphasis was theirs.)
Both councils in similar words said that they would wish to see the Company avoid financial difficulties.

37. NAAT suggested to the Inspector, that **any support for the tolls increase by the two councils was not on a democratic basis, as the councillors had not been consulted**.
NAAT also said that the Company was making very large profits, and there was no evidence of financial difficulties.

38. NAAT also suggested that the position of the authorities on the principle of the tolling was difficult to comprehend. The bridge is part of what was a trunk road up to August 2003, so it would have been the responsibility of the Government. Whether a trunk road or not, the NAAT believe that the bridge should be financed from the taxes collected from roads users. **The Government collects about one billion pounds a week from roads users and only spends about one seventh of it on roads.**

Other points mentioned at the Inquiry

39. Nearly all the wear and tear on roads and bridges is caused by heavy goods vehicles. The Company (para 7.2. of their application) seemed to think this, yet the Company intends to get all its increased income from drivers of cars and small vans. As the supposed purpose of the toll is to maintain the bridge, this makes no sense, unless it is assumed that lorry drivers would have objected more strongly!

40. There were complaints at the Inquiry about the toll increase that had already taken place this year, when drivers of some vans and minibuses had their toll doubled overnight from 25 pence to 50 pence. The Company said that this was because toll collectors had mistakenly been charging a lower rate. The confusion possibly arose, because at one time the toll was in effect based on the number of wheels so a 4 wheeled van or lorry paid the same as a car. The Government agreed in 2002 or earlier that the Company could charge more, but the Company apparently didn't realise till this year, that toll collectors were still charging on the old basis.

41. The Company said that they had to provide for a replacement bridge because of the Equitable Law case. The NAAT said that this was not relevant. Equitable Law was a mutual society where one group of members had taken the society to court as they disagreed with the way

that the society was distributing its profit funds between them and other members. The ultimate result was that the society got into financial difficulties, there were cases involving different groups. A case against the former directors was eventually dropped. There seemed to be no relevance to the Company providing in their accounts for replacing the bridge.

42. The Company repairs reserve seems large. Even without interest the Company is putting £100,00 into it. It is not clear what this will be spent on.

43. The Company said (2.1 in their application) that the bridge "*serves a major through route on the A57*". As such it is inappropriate that the route be tolled. Turnpikes were removed in the 1800s, apart from their unpopularity, they cause delays and impede the free flow of traffic.

44. The Company also said in their application (para 5.2) that the bridge is of "*strategic importance*" and implied that if the Company somehow failed there would be "*very serious*" consequences for the region. In the most unlikely event of the financial failure of the Company, the bridge could be taken over by the local authorities and the toll removed, thus benefiting the region and users of the bridge.

45. Though the bridge is privately owned, it would be worthless and useless if it was not for the public highways leading up to it on both sides of the river. Improvements made to that public highway over the last 170 years and paid for from public funds must have benefited the owners of the bridge.

46. To some extent the line of the highway deviates to meet the bridge. A better highway line from Lincoln would cross the river to the south of the existing bridge. This would not only be a straighter line, it would also eliminate most of the traffic going through Dunham village (the Company at para 7.2. of their application referred to the concerns of the villagers particular with regard to "*heavy vehicles*"). Such an improvement for road users and for the villagers of Dunham is most unlikely to take place while the existing bridge is privately owned and generating large profits.

Summing up by NAAT

47. In summary NAAT suggested that the toll bridge was primarily a cash generating machine. **Drivers would be better off if this archaic, inefficient and uneconomic system was abolished. In the meantime the Company is making and will continue to make very large profits at present toll levels. The NAAT asked that the Inspector recommend that the toll increase application be refused**.

End