



Mr Michael P R Kean
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Your Ref:

Our Ref:

Date: 12 December 2018

Dear Mr Kean

BOURNEMOUTH – SWANAGE MOTOR ROAD FERRY – TOLL REVIEW APPLICATION

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

1. In accordance with Section 6 of The Transport Charges &c. (Miscellaneous Provisions) Act 1954 and the Bournemouth – Swanage Motor Road and Ferry Acts 1923 and 1986, the Secretary of State for Transport (the Secretary of State) has decided that the application made by the Bournemouth – Swanage Motor Road and Ferry Company (the Company) for a Toll Revision Order (the Order), should not be approved.

CONSIDERATIONS FOR DECISION

2. The application was referred to the Secretary of State for a decision. As 76 objections remained outstanding at the end of the consultation period, it was decided that a local Public Inquiry should be held. The Inquiry was held on 25 and 26 September 2018 at Studland Village Hall, Heathgreen Road, Studland, Dorset, BH19 3BX before Inspector Kenneth Stone, BSc Hons DipTP MRTPI, an independent Inspector appointed by the Secretary of State.
3. The Inspector considered all representations and objections about the Order during the Inquiry and has since submitted a report to the Secretary of State, a copy of which is enclosed with this letter.
4. The Secretary of State has considered the Inspector's Report and his obligations under Section 6(3) of the 1954 Act (as amended) that he must;

“...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 the ferry, as defined in Section 2 of the Bournemouth-Swanage Motor Road and Ferry Act 1986".

5. The Secretary of State has also considered the various representations and objections against the application, the material points of which are set out in the Inspector's report at paragraphs 41 to 132. The Secretary of State accepts the opinion of the Inspector in his conclusions found in the report at paragraphs 133 to 164.

CONCLUSION

6. Overall, the Secretary of State agrees with the Inspector's conclusions that a replacement ferry will be necessary at some stage, however there is no assurance as to when that might be. There is also no confirmation that the toll rise would result in this being achieved. The Secretary of State also agrees that there is no assurance that the ferry replacement reserve would be safeguarded and rise to the levels required to enable a replacement vessel to be obtained by the Company. He is also not satisfied 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.
7. The Secretary of State agrees and accepts the Inspector's findings that in general there is no robust or substantive challenges raised in respect of expenditure on the working, management and maintenance of the undertaking and is satisfied that the Company's identified projected expenditure is reasonable. However, the fact that the ferry replacement fund is not ring fenced and does not provide for an assured separate fund that builds to provide the required level is a significant area of concern. Also, whilst the Company maintain they should provide a reasonable return in accordance with statute, this is caveated by 'where appropriate'. The Secretary of State agrees with the Inspector that it would not be appropriate and would be an unreasonable return on investment that resulted in an arrangement which did not reflect the true performance of the Company.
8. The Secretary of State has noted the Inspector's conclusions and agrees with the recommendation that this Order should not be made.
9. In making this decision, the Secretary of State has relied on the information that the parties have provided, as contained in the application and related statements and correspondence, as being factually correct.
10. A copy of this letter and a copy of the Inspector's report has been sent to the objectors and copies will also be made available, on request, to any other persons directly concerned. Any person entitled to a copy of the Inspector's report may apply to the Secretary of State to view any document appended to the report. This must be done by writing to the above address within 6 weeks of receipt of this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Candlish".

DAVE CANDLISH

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