



**WARRINGTON**  
Borough Council

Transport and Works Act 1992 (TWA) Application for the Proposed Rixton and Warburton Bridge Order

Statement of Case on behalf of Warrington Borough Council - May 2022

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## **1.0 Introduction**

- 1.1 On 18<sup>th</sup> January 2022 Warrington Borough Council ('the Council') wrote its Letter of Objection to the Transport Infrastructure Planning Unit at the Department for Transport acknowledging receipt of its letter dated 5<sup>th</sup> January 2022 (Ref: TWA/21/APP/05/OBJ/31). The Council explained that at an extraordinary meeting of the Full Council held on 17 January 2002, a majority of the whole number of the authority's Members expressed their wish to make a formal objection to the application for the Rixton and Warburton Bridge Order. That letter was the Council's Grounds of Objection.
- 1.2 On 11<sup>th</sup> February 2022, the Council wrote to the Transport Infrastructure Planning Unit at the Department for Transport and the Council confirmed their stance that they wished to speak or be represented at any future public inquiry.
- 1.3 Due to time constraints and following further reading and understanding of the guidance, Warrington Borough Council now wish for its submitted Letter of Objection dated 18<sup>th</sup> January and accompanying Addendum to be considered as part of the Statement of Case.
- 1.4 The Council reserves the right to expand its evidence beyond the scope of this Statement of Case in direct response to any matters raised by the Applicant and any matters raised by any interested parties.

## **2.0 Background**

- 2.1 The Rixton and Warburton Bridge ('the Bridge') over the Manchester Ship Canal is situated on the north-east side of Warrington as it borders Trafford MBC and straddles the boundary of each borough.
- 2.2 Following the Manchester Ship Canal Company's ('MSCC') publication of its "*Sustainable Investment Plan - Rixton and Warburton Toll Bridge*" ('the Sustainable Investment Plan') in July 2021, MSCC has now applied to the Secretary of State for Transport under Section 6 of the Transport and Works Act 1992 for an Order ('the Order') to increase the tolls, introduce an automated tolling system and improve and upgrade the management of the Bridge including its approach roads (pursuant to s.6 of 1992 Act).

2.3 Whilst the Council supports the investment in the Bridge and welcomes the proposed upgrade, it is opposed to a number of the proposals; in particular it strongly opposes the proposed significant increase in the tolls.

### **3.0 The Case on Behalf of Warrington Borough Council**

3.1 The Council includes here at Appendix 1, its letter of 18 January 2022 and the Addendum enclosed therewith so as to form part as part of this Statement of Case.

### **4. Tolls**

4.1 With specific regard to the issue of Tolls and with reference to the Draft Order provided by MSCC as part of its application, the Council comments as follows:

4.2 Article 8. (7) of the proposed Draft Order states that the tolls or charges charged may be applied in connection with safe efficient and economic management, operation and maintenance of the Bridge. Article 8. (7)(a - e) allow for suitable provision for the collected charges to cover costs, expenses and obligations for the maintenance and operation of the Bridge. Article 8. (7)(f), however, also allows for “*providing a return on investment in the Undertaking*”. The Council considers the wording of Article 8. (7)(f) allows for an unspecified level of profit to be taken from the toll beyond maintenance and operation of the Bridge. It is therefore requested that Article 8. (7) provides that all of any tolls or charges charged (if any are permitted) shall be applied in connection with the safe, efficient and economic management, operation and maintenance of the Bridge. The Council considers that Article 8. (7)(f) should be deleted.

4.3 Further, the current undertaking of MSCC relates to the bridge and the canal. The proposed Draft Order and byelaws are intended to make provision with respect to the safeguarding of the operation, navigation and use of the canal arising from the operation of the Bridge. However, the Draft Order does not contain any proposal that the business of the canal be utilised to contribute to the use and operation of the Bridge. The Council submits that profit from MSCC’s undertaking as well as charges on users of the canal should be used to fund the repair and maintenance of the Bridge (see further at Section 6 below).

- 4.4 Further we repeat the submissions made in our Letter of Objection concerning Value Added Tax.
- 4.5 We also reiterate the submissions made in our Letter of Objection about any proposed increases in tariff being linked to the Consumer Price Index.
- 4.6 MSCC's Sustainable Investment Plan stated that a local customer discount set at around 50% (fifty percent) for the residents of postcodes **WA3 6--** and **WA13 9--** could be considered (page 13). The Draft Order, however, fails to include reference to these postcodes or the areas of Warrington which the council wishes to be included for the discounted rate as highlighted in the section 'Schedule 1 Level of Tolls' in the Letter of Objection (Annex 1) nor does it set out any other geographic concessions. We repeat the submissions made in the Council's Letter of Objection concerning local discounts and local discount areas.
- 4.7 Additionally, there is at present a daily cap on the amount charged for use of the Bridge (currently 25p (twenty-five pence)). Users of the Bridge making multiple journeys in the course of a single day are charged only this maximum daily amount, no matter how many journeys they make. The Council submits that in the making of any order, this daily cap should be retained for the benefit of frequent users of the Bridge and that the figure should be no more than twice the cost of one journey (as it currently is).

## **5.0 Financial Business Case – Level of Toll**

- 5.1 As part of this Statement of Case, the principal ground for the Council's objection (along with the vast majority (84%) of respondents to the MSCC consultation), is the proposed level of increase in toll charges.
- 5.2 In the Council's Letter of Objection, it was submitted that the proposed maximum toll of £1 (one pound sterling) is a significant increase and that caps and exemptions which had earlier been referred to were not included or clarified. Those objections are reiterated here.
- 5.3 It is the Council's position that the business case as set out by the applicant does not justify this level of toll. Moreover, the proposal goes beyond covering the reasonable costs, expenses and obligations for the maintenance and operation of the Bridge. The Council therefore does not support the proposed increased toll charge. Any increase to the toll

should be both reasonable and proportionate to the existing charge. Exemptions for pedestrians and cyclists should be clearly provided for as well as any maximum daily charge (which should also be both reasonable and proportionate to the existing daily charge).

5.4 Based on what MSCC have published in their Sustainable Investment Plan, they intend to increase the toll to **up to a maximum level of £1 (incl. VAT)** and tolls will be set each year *“to meet the agreed objectives”* – Neither the Sustainable Investment Plan or the Business Case clearly state what these objectives are and therefore the council maintains its objection to the proposed increase in toll levels.

5.5 MSCC has stated in its Sustainable Investment Plan that the estimated cost of refurbishing the Bridge and setting up a back-office, free-flow tolling system will be £6.5M (six and half million pounds) and they have stated *“In order to fund and finance this investment, pay it off every 20 years so that we are ready to fund the next refurbishment package, and create a reserve fund for a new bridge, there is a need to set the potential toll level to an appropriate level”*.

5.6 Apart from the reserve fund (which will be no more than 30% of the total bridge replacement cost, which is £15M), MSCC has also said within its Business Case that the operating cost of the new Bridge and toll will be circa £450k (four hundred and fifty thousand pounds) per year and the cost of borrowing the capital investment will be 10% with a 20-year payback period. Based on this information, the Council estimates that the total amount of committed costs will be circa:

Item	Cost	Annual Cost
Bridge upgrade	£6.5M	£330K
Cost of borrowing at 10% with 20-year payback	£650K	£33K
Reserve fund for new Bridge (30% of £15M)	£5M	£250K
Expected Operating Cost		£450K
<b>Total</b>		<b>£1.063M</b>

5.7 MSCC’s quoted daily flow figures of 9,000 vehicles/day equates to an income of circa £9K/day at a £1 toll (or £7.2K/day excl. VAT). The annual figure amounting to £2.5M/yr. (excl. VAT and based on 350 days /year). It is MSCC’s expectation that 30% (thirty percent)

of all crossings will receive a local discount. Allowing for this then the figures above equate to £6K/day or £2.1M/yr. (excl. VAT).

5.8 MSCC has not clearly specified the level of anticipated profit to be taken from the toll beyond maintenance and operation but has instead stated that it is based on a “*reasonable return for investors*”.

5.9 However, based on the above figures, MSCC would return an annual surplus of over £1M (£2.1M - £1.063M) which compares very favourably to the £23K which is the figure quoted in their Business Case as the current annual surplus. The Council submits that any surplus that has been accumulated over the years should have been used to fund the repair and maintenance of the Bridge.

## **6. The Proposal to Transfer the Undertaking**

6.1 MSCC seeks provision to transfer all statutory and other powers and duties comprised in the Undertaking from MSCC to the Rixton and Warburton Bridge Company Limited and that from that date MSCC would cease to have any such duties or powers in respect of the Undertaking. MSCC is a significant company with a clear interest in managing the infrastructure of the Canal, a strong track record of success in doing so and with the ability to draw on substantial resources which is not the case with the Rixton and Warburton Bridge Company Limited.

6.2 Given the clear link between the operation, navigation and use of the Canal and the statutory framework tying the Bridge and Canal together, the Council is concerned that separating the responsibilities for and operation of the two will be detrimental to the good management and use of the Bridge in order to safeguard the navigation of the Manchester Ship Canal. The Council disagrees that there should be a separate entity governing the Bridge. The sole purpose of the Bridge is to allow traffic to flow over the canal which is managed by MSCC. The Bridge only exists because of the Canal. MSCC manages the Canal as a commercial venture and derives substantial profit from it. There is no logical reason why the Bridge should not be supported financially by MSCC or why the MSCC should not bear the costs of its repair and maintenance. The Council suggests that it is fair that the users of the Canal should contribute to the costs associated with the Bridge as it exists for

their benefit. Nevertheless, those costs should not fall entirely on the road users. Separating the Bridge undertaking into a different Undertaking may reduce the opportunity for MSCC to fund the Bridge and increase the likelihood of tolls being increased. Further, it risks the Undertaking being sold (or leased) purely for profit purposes.

## **7.0 Conclusion**

- 7.1 The Council wishes to have all the points contained within its Letter of Objection and accompanying Addendum to be considered as part of its Statement of Case.
- 7.2 Whilst the Council supports the upgrade of the Bridge and the introduction of an electronic free-flow toll collection system, it cannot support the proposed level of toll increase.
- 7.3 Should a toll increase take place, it should be both reasonable proportionate to the existing charge and its use should be exclusively for the operation and maintenance of the Bridge along with the building up of a 'Reserve Fund' for the installation of a new bridge in the future.
- 7.4 The Council opposes the concept of the Bridge being used as an undertaking to generate profit, but MSCC need to be clear on what they expect or consider to be a '*reasonable return for investors*' as this will, if permitted, influence an appropriate level of toll.

### **List of Documents**

1. Warrington Borough Council's Letter of Objection dated 18 January 2022
2. Addendum to Letter of Objection dated 18 January 2022
3. Sustainable Investment Plan - Rixton and Warburton Toll Bridge- July 2021
4. Rixton and Warburton Bridge Draft Transport and Works Order - November 2021
5. Map MSC21/019D
6. Rixton & Warburton Toll Bridge Order TWAO Application Vol. RWB/A5 Business Case
7. Rixton & Warburton Toll Bridge Consultation Feedback Report- November 2021



## Appendix 1

### Letter of Objection and Addendum

Secretary of State for Transport  
c/o Transport Infrastructure Planning Unit  
Department for Transport  
5th Floor, Great Minster House  
33 Horseferry Road  
London SW1P 4DR,  
Sent by email:  
[transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk)



**WARRINGTON**  
Borough Council

Professor Steven Broomhead

Chief Executive  
David Boyer

Director

Environment and Transport

East Annexe, Town Hall

Sankey Street  
Warrington  
WA1 1UH

Our Ref: TWAO Objection 180122  
Your Ref:

18 January 2022

#### **RIXTON AND WARBURTON BRIDGE – TRANSPORT AND WORKS ACT ORDER APPLICATION – SUBMISSION OF OBJECTION FROM WARRINGTON BOROUGH COUNCIL**

I am writing on behalf of Warrington Borough Council to submit an objection to the Rixton and Warburton Bridge Transport and Works Act Order. The Council resolved to approve the submission of an objection at an Extraordinary Meeting of Full Council held on Monday 17<sup>th</sup> January 2022 by a unanimous vote of more than 50% of the members of the Council.

The grounds of the objection are set out as follows:

The Rixton and Warburton Bridge provides an important local highway and active travel access across the Manchester Ship Canal, connecting Warrington Borough with Trafford Borough / Greater Manchester. As drafted, the proposed wording of the draft Rixton and Warburton Bridge Order raises a number of concerns. Warrington Borough Council objects to the application as follows. Please note the numbering below refers

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to clause numbers in the proposed Order.

**Rixton and Warburton Bridge Plan:**

The red line boundary shown on Map MSC21/019D appears to overlap with the adopted highway. Warrington Borough Council objects on that basis but would welcome discussion on this to ensure the plan is drawn correctly.

### **3. Offences and power to make byelaws**

The use of Traffic Orders is the way the use of the road and bridge should be regulated. It is therefore questioned why power should be bestowed to the applicant for them to make byelaws for the regulation of the use of the road.

It is also the Council's view that it should be made clear in the Transport and Works Act Order that the Manchester Ship Canal Company (MSCC) should have a responsibility to maintain and operate the bridge satisfactorily and that such standards should be clearly stated in this order. This should include a Service Level Agreement (SLA) which might include, but not be limited, to the following:

- (i) A minimum capacity for traffic flow (e.g. vehicles per hour)
- (ii) Required speeds of repair for potholes and other predictable faults
- (iii) Details of classes of vehicles permitted to use the Toll Bridge. This might include axle and gross weights for vehicles.

Levels of Service should be measured by the Operator and published regularly. Penalties for breaches should be proportionate to the additional costs incurred by users.

### **4. Closing the Rixton and Warburton Bridge**

Clause 4 provides MSCC the ability to close all or any part of the Bridge whenever it considers it necessary to do so, subject to no less than 7 days' notice (except in an emergency). Warrington Borough Council consider the wording of Clause 4. (1) to be too loosely defined and the notice period in Clause 4. (2) too short. It is therefore requested that any closure of the Bridge should be related to an emergency or necessary maintenance works only, with a notice of closure being given no less than 21 days, for necessary non-emergency maintenance works.

### **5. Transfer of the Undertaking**

Clause 5 provides that on the transfer date all statutory and other powers and duties comprised in the Undertaking are transferred from MSCC to the Rixton and Warburton Bridge Company Limited and from that date MSCC ceases to have any such duties or powers in respect of the Undertaking. The MSCC is a significant company with a clear interest in managing the infrastructure of the Canal a strong track record of success in doing so and with the ability to draw on substantial resources which is not the case with the Rixton and Warburton Bridge Company Limited.

Given the clear link between the operation, navigation and use of the Canal and the statutory framework tying the Bridge and Canal together the Council is concerned that separating the responsibilities for and operation of the two will be detrimental to the good management and use of the Rixton and Warburton Bridge in order to safeguard the navigation of the Manchester Ship Canal.

## **8. Tolls**

Clause 8. (7) states that the tolls or charges charged may be applied in connection with safe efficient and economic management, operation and maintenance of the Bridge. Clauses 8. (7)(a to e) allow for suitable provision for the collected charges to cover costs, expenses and obligations for the maintenance and operation of the Bridge. Clause 8. (7)(f) however, also allows for 'providing a return on investment in the Undertaking'. Warrington Borough Council considers the wording of Clause 8. (7)(f) allows for an unspecified level of profit to be taken from the toll beyond maintenance and operation. It is therefore requested that Clause 8. (7) provides that the tolls or charges charged shall be applied in connection with safe efficient and economic management, operation and maintenance of the Bridge and that Clause 8. (7)(f) is deleted.

### **Schedule 1 Level of Tolls**

Sc1, Part 1, paragraph 1 sets a maximum toll that Peel Ports may demand of £1.00. This is a significant increase on the current charge of 12 pence per single journey, and 25 pence for an all-day pass. The proposed £1.00 charge also does not specify whether it would include pedestrians and/or cyclists; nor does it specify whether the charge would be capped if a person crossed multiple times per day (as is currently in place). It is submitted that the business case does not justify this level of toll in that the proposal goes beyond covering the reasonable costs, expenses and obligations for the maintenance and operation of the Bridge.

Further, the current undertaking relates to the bridges and the canal. The proposed Order and byelaws are intended to make provision with respect to the safeguarding of the operation, navigation and use of the Canal arising from the operation of the Rixton and Warburton Bridge. However, there is no proposal that the economic benefit to the canal be utilised to contribute to the use and operation of the Bridge.

Warrington Borough Council therefore does not support the proposed increased toll charge. Any increase should be more reasonable and proportionate to the existing charge, set out exemptions for pedestrians and cyclists and set a maximum daily charge proportionate to the existing daily charge.

Further to this the maximum toll payable should be expressed excluding Value Added Tax – which in the order as it stands and with the current rate of VAT would equate to approximately 83 pence. This would avoid the situation that if VAT were ever to be removed from private toll crossings that this revenue would then automatically pass to the Manchester Ship Canal Company.

Sc1, Part 1, paragraphs 2 to 5 allows for Peel Ports to make an adjustment in April of any year limited to the increase in the consumer price index minus one per cent (excluding any amount changes to VAT). The Office for National Statistics latest data

indicates that the consumer price index rose by 2.9% in the 12 months to September 2021. Warrington Borough Council does not support toll rises in relation to price index rises, as the cumulative impact over a number of years could have a significant impact. If any price review mechanism is introduced, it should be periodic with a recommended time period of once every 25 years.

Peel Ports' Rixton & Warburton Toll Bridge Sustainable Investment Plan (July 2021) stated that a local customer discount set at around 50% for the residents of postcodes WA3 6 and WA13 9 could be considered. The draft Order fails to include reference to these postcodes or the areas of Warrington listed above, nor does it set out any other geographic concessions.

Warrington Borough Council objects on the basis that concessions should be made available to local residents within those parts of Warrington where residents need to make regular use of the bridge. At least the following areas of Warrington should be included in a discount area, namely, the parts of Lymm and Broomeedge not included in the postcodes shown above (WA13 0) plus Glazebrook, Culcheth, Glazebury and Croft (WA3 4, WA3 5 and WA3 7). Residents of these areas rely on and use the bridge on a frequent basis and should therefore benefit from a discounted toll.

### **Schedule 2 Register of Vehicles Exempt from Tolls**

Sc2, Part 1, paragraphs 1 and 2 states that a number of vehicles will be exempt from the toll (for example emergency services). The identified list however, does not include vehicles used for public transport. It is therefore requested that such vehicles are added as vehicles eligible to be entered upon the exemptions register. Whilst not classified as vehicles, the Order should also make clear that pedestrians and cyclists are exempt from any toll as well as other vehicles such as mobility scooters or e-bikes.

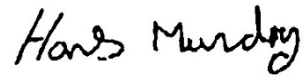
### **Schedule 2 Part 6 Tolls and Charges**

The order refers to a schedule of unpaid toll charges. It is the Council's view that any income derived from the issuing of penalty charge notices for not paying the toll for a journey minus the reasonable costs of toll collection (i.e. any financial surplus) should also be ring fenced towards the maintenance of the bridge and not taken as profit by the Manchester Ship Canal Company.

Please could all written correspondence in relation to this objection be sent to the following Council officer at this address: Steve Hunter, Transport for Warrington Service Manager, Warrington Borough Council, Town Hall, Sankey Street, Warrington, WA1 1UH. Email [shunter@warrington.gov.uk](mailto:shunter@warrington.gov.uk)

Please do not hesitate to contact Mr. Hunter if there are any queries regarding this response or to advise of what happens next with the proposed Transport and Works Act Order.

Yours sincerely,

A handwritten signature in black ink that reads "Hans Mundry". The signature is written in a cursive, slightly slanted style.

Cllr Hans Mundry  
Cabinet Member for Highways, Transportation and Public Realm

**Please contact: Steve Hunter – Transport for Warrington Service  
Manager Direct dial: 07917721249**

**Email: [shunter@warrington.gov.uk](mailto:shunter@warrington.gov.uk)**

## **1. Purpose of this Addendum**

This Addendum has been prepared for the report entitled, **Rixton and Warburton Bridge – Transport and Works Act Order Application – Submission of Objection from Warrington Borough Council**, which is being considered at an Extraordinary Meeting of Warrington Borough Council scheduled for 6.30pm on Monday 17<sup>th</sup> January.

This addendum has reflected discussions which have taken place since the publication of the report on Friday 7<sup>th</sup> January – most notably a conference held attended by officers from both Warrington and Trafford Council officers with Ruth Stockley (Counsel who has been jointly appointed by both Councils) held on Thursday 13<sup>th</sup> January and other discussions had between officers of both Councils and briefings held with members.

## **2. Proposed Additions to Warrington Borough Council’s Objection to the Rixton and Warburton Bridge – Transport and Works Act Order Application**

It is proposed to add the following points to the objection of Warrington Borough Council:

- a. Red Line plan – the Council believes this has minor errors on this within the Transport and Works Act order and will be advising of this in its objection.
- b. It is recommended that Glazebrook is added into those areas where a 50% discount should be applied to tolls payable. In Table 5.1 of the report – text in the section titled - Level of Toll – Local Concessions should have the text in ***bold italics*** added: “Further to this the Council is also concerned that ***Glazebrook***, a substantial part of Lymm and Broomeedge area not included in the extent of the proposed discount are and we reserve the right to seek an increase to the size of this discount area.
- c. That in the Council’s objection an additional point is added in to state that it should be made clear in the Transport and Works Act Order that the Manchester Ship Canal Company should have a responsibility to maintain and operate the bridge satisfactorily and that such standards should be clearly stated in the Transport and Works Act Order. This should include a Service Level Agreement (SLA) which might include, but not be limited, to the following:
  - (i) A minimum capacity for traffic flow (e.g. vehicles per hour)
  - (ii) Required speeds of repair for potholes and other predictable faults
  - (iii) Details of classes of vehicles permitted to use the Toll Bridge. This might include axle and gross weights for vehicles.
  - (iv) Levels of Service should be measured by the Operator and published regularly. Penalties for breaches should be proportionate to the additional costs incurred by users.
- d. That the maximum toll payable should be expressed excluding Value Added Tax – which in the order as it stands and with the current rate of VAT would equate to approximately 83 pence. This would avoid the situation that if VAT were ever to be removed from private toll crossings (which Peel Ports are campaigning for and to note VAT is not applied to public crossings such as the Mersey Gateway) then this would prevent Peel Ports from receiving the full £1 in revenue.
- e. That any income derived from the issuing of penalty charge notices for not paying the toll for a journey minus the reasonable costs of toll collection (i.e. any financial surplus) should also be ring fenced towards the maintenance of the bridge and not taken as profit by the Manchester Ship Canal Company.
- f. That within Appendix B of the report the text in Sc2, Part 1, paragraphs 1 and 2 should have the additional wording inserted shown in bold italics – as follows - Whilst not classified as ***Warrington.gov.uk***

vehicles, the Order should also make clear that pedestrians and cyclists are exempt from any toll ***as well as other vehicles such as mobility scooters or e-bikes.***