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ABERDEEN BYPASS CAMPAIGNERS SET OUT CASE AHEAD OF JUDICIAL REVIEW HEARING

Campaigners from Road Sense, (1) the community campaign against the Aberdeen Bypass (Aberdeen Western Peripheral Route – AWPR) (2) have today set out the case that they will present at next week's Judicial Review hearing (3) into the proposed new road.

The hearing begins on Tuesday 22 February 2011 and will be held at the Court of Session in Edinburgh. It is expected to last four-to-six days.

The Road Sense community campaigners are challenging the validity of the Scottish Ministers' decision to proceed with the Aberdeen Bypass, which was approved by the Scottish Parliament on 03 March 2010. The campaigners' case is built upon four key arguments:

1. the restricted remit of the Public Local Inquiry into the AWPR, and the failure to comply with rights of public participation (4)
2. the failure to comply with the Habitats Directive and Habitats Regulations in relation to the River Dee Special Area of Conservation (5)
3. the failure to comply with the Habitats Directive and Conservation Regulations in relation to otters and bats. (6)
4. the failure to comply with the provisions of the Wildlife and Countryside Act 1981 in relation to red squirrels and water voles (7)

The Road Sense community campaigners were recently granted a Protected Expenses Order by the Court of Session in Edinburgh. The campaigners will have to pay for their own legal expenses, including representation at the Judicial Review, but in the event that they should lose the case, the Protected Expenses Order will limit their exposure to Transport Scotland's legal costs to £40,000. (8)

The campaigners state that the cards have been stacked against objectors to the proposed new road from day one. Sheona Warnock from Road Sense said:

“The whole AWPR process has been a sham... objectors' rights of public participation in European and Community law have been wholly disregarded, the public inquiry into the proposed new road was nothing more than window-dressing because of its restricted remit, and successive Scottish Ministers have designed and delivered a process which would always have a positive outcome for them.”

We are confident that we have a strong case, and look forward to a ruling that will allow the bottomless pot of money that seems to have been set aside for this carbon-busting, unfit-for-purpose new road to be better spent on measures that will actually solve the traffic and transport problems of the north east, or which will protect public services.”

ENDS

Editors Notes:

1. Road Sense was formed in January 2006 and is a group that includes residents from across the Aberdeen and Aberdeenshire area who are objecting to the Aberdeen Western Peripheral Route as it is currently planned. More information on Road Sense can be found at: www.road-sense.org

2. More information on the AWPR can be found at: www.awpr.co.uk. More information on the AWPR Public Local inquiry can be found at www.awpr-pli.org

3. For more information on Judicial Review, see: http://en.wikipedia.org/wiki/Judicial_review

4. Any discussion on the actual need for the AWPR was specifically excluded from the scope of the Public Local Inquiry by Scottish Ministers, and the hearing was restricted to technical and environmental issues relating to the proposed route only. Evidence about alternatives to the scheme was discouraged, and there no opportunity was allowed to alternative 'no road' options. The Fast Link element of the proposed new road was not included as part of any public consultation process and the public were not given an effective opportunity to participate in the decision-making process.

Although the potential adverse effects of the road were examined at the Public Local Inquiry, no evidence was given regarding the supposed high level of economic justification and the stated high benefit to cost ratio. These things cannot be determined when the ultimate cost of the proposed new road is unknown and the cost estimates have been neither revised nor updated in recent years to take account of significant changes to the design and changing economic circumstances. No evidence about the costs was given at the Public Local Inquiry and therefore the decision to approve the road cannot be justified.

5. The new road as proposed would have serious adverse effects on the integrity of the River Dee Special Area of Conservation (SAC). Road Sense claim that alternative routes or alternatives to the scheme should have been identified which had less severe impacts on the SAC. Road Sense believes Scottish Ministers failed to examine the adverse effects on the River Dee, which were highlighted by the Public Local Inquiry Reporters in their report. There is no justification for the new road for "imperative reasons of overriding public interest."

Alternatives to the new road were not properly considered in terms of their damage to the River Dee. The scientific report into the damage of the River Dee (the appropriate assessment) did not prove beyond any reasonable scientific doubt that the new road would have no adverse effects. In addition, Scottish Ministers failed to consider the effect of the new road in combination with other plans and projects (for example, the Blairs Estate Development and Aberdeen Harbour Development), which is contrary to the requirements of the Habitats Directive and Regulations.

6. The Habitats Directive requires member states to take measures to protect a number of protected or endangered animal species (such as otters and bats) and this has not been done in the case of the proposed new road, in direct contravention of the Regulations.

7. The proposed new road will involve damage to the habitats of protected animal species, such as red squirrels and water voles. A licensing regime does not exist to allow the destruction of squirrel dreys.

8. The purpose of a Protected Expenses Order is to reduce the exposure to costs being awarded against litigants with limited financial resources who lose their cases. This allows these litigants to pursue cases that are in the public interest. The decision to grant a Protected Expenses Order to the Road Sense campaigners means that, should they lose their legal challenge against the AWPR, their costs will be capped at £40,000.