

RoadSense Press Release

11th August 2011

RoadSense Campaign expresses disappointment with Court decision to uphold Ministers' decision to approve the AWPR – but says it is keeping open the option of a further challenge.

RoadSense today stated that it was disappointed at Lord Tyre's judgment to refuse its appeal against the decision of Scottish Ministers to construct the Aberdeen Western Peripheral Route.

William Walton of RoadSense said:

"We are disappointed at this judgment. We had argued in the Court that the restricted remit of the public inquiry into the scheme was fundamentally unfair to objectors. This judgment signals that Ministers can both promote schemes and determine the basis upon which they are determined. This hardly seems just. We still have an opportunity to seek an appeal to the Inner Court of Session and if we receive advice from our legal team that the judgment is unsound then we will have to look closely at that option and then consult with our supporters. Our opposition to the scheme remains unchanged"

Tony Hawkins of RoadSense said:

"This judgment will surprise many people. It was accepted by the public inquiry reporters that the bypass would damage the European protected environment of the Dee Valley. Species along the route that are protected under European law will be badly affected. This is a sad day for the environment."

Sheona Warnock of RoadSense said:

"Many of our supporters feel they were not properly consulted on this bypass route and they will feel very frustrated and, even, angry at this judgment. We had always considered that the process of route selection was fundamentally unjust and unfair. Nevertheless, we will have to listen closely to the advice that we receive from our legal team and consider our options".

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Notes for Editors:

1. The Aberdeen Western Peripheral Route (AWPR) is a proposed 46km long bypass linking Stonehaven in the south to Blackdog north of the city. Tavish Scott chose his own route in December 2005 after a public consultation exercise in which five options were put forward for consideration. The AWPR was subject to a Public Inquiry in September 2008 – January 2009. Ministers denied any consideration of alternative routes at that inquiry. The Minister approved the scheme in December 2009. The Scottish Government has repeatedly stated that the route will cost £295-395m. However, more than £150m has already been spent on ground investigations, property acquisition and property relocation and the true costs are likely to be around one billion pounds.
2. Road Sense was formed in January 2006 and is a group that includes residents from across the Aberdeen and Aberdeenshire area that are objecting to the Aberdeen Western Peripheral Route as it is currently planned. It presented arguments against the route at the Public Inquiry but argued that the remit was unduly limited with the result that much of its evidence was deemed inadmissible. RoadSense has around 600 supporters who funded its appearance at the inquiry. More information on Road Sense can be found at: www.road-sense.org

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

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

3. Scottish Ministers specifically precluded discussion of the actual need for the AWPR from the scope of the Public Local Inquiry. The hearing was restricted to technical and environmental issues relating to the proposed route only. Evidence about alternatives to the scheme was discouraged, and no opportunity was allowed to discuss the 'no road' option. The Fast Link element of the proposed new road was not considered 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. The ultimate cost of the proposed new road is unknown and 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 to justify the low stated costs was presented at the Public Local Inquiry although it is evident that those costs have been greatly underestimated by Transport Scotland.

5. The new road as proposed would have serious adverse effects on the integrity of the River Dee Special Area of Conservation (SAC). RoadSense supporters claim that alternative routes or alternatives with less severe impacts on the SAC should have been considered. RoadSense also maintains that Scottish Ministers failed to examine adequately the adverse effects on the River Dee, which were highlighted by the Public Local Inquiry Reporters in their report.

The report commissioned by Transport Scotland into possible damage to the River Dee and its conservation interests (the appropriate assessment) did not demonstrate beyond 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, which is contrary to the requirements of the European Habitats Directive and domestic regulations.

6. The Habitats Directive requires Member States to take measures to protect European Protected Species, including otters and bats. This protection was not provided in the case of the AWPR, in direct contravention of the regulations.
7. The proposed road would also have involved major damage to the habitats of other protected animals, including red squirrels and water voles.
8. The action by RoadSense was conjoined with a challenge brought by Mr and Mrs John Fraser who own an organic farm at Netherley. They had challenged the Minister's decision on the grounds that they had not had sufficient opportunity to present and challenge evidence at the public inquiry due to lack of financial resources with which to hire expert assistance.