

RoadSense Press Release

For Immediate Use - August 31st 2011

RoadSense welcomes appeal lodged by William Walton against the judicial review judgement on the Aberdeen Western Peripheral Route.

Following the decision by Scottish Ministers to proceed with building the Aberdeen Western Peripheral Route, RoadSense, a group concerned with finding a sustainable solution to the transport problems of Aberdeen, decided to challenge the way the chosen route had been decided. RoadSense sought a judicial review by the Outer Court of Session, in the name of its chairman, William Walton. This judicial review was unsuccessful and today papers have been lodged at the Inner Court of Session, to appeal Lord Tyre's ruling.

Lord Tyre issued his judgement on the challenge in mid August. His judgement was long and complex, and many of the comments within it did not reflect the submissions presented at the hearing. He concluded that there had been sufficient consultation on the route, and that the restricted remit of the Public Inquiry had not been unreasonable. He also concluded that Scottish Ministers had done enough to meet the requirements of European legislation on habitats and species.

William Walton said "RoadSense's position continues to be that the procedure for selecting the AWPR route, including the addition of a new Fast Link to Stonehaven, was flawed and that the public were denied the opportunity for proper consultation. RoadSense continues to maintain that there has been a breach of European Directives with respect to protected habitats and species".

Road Sense and its supporters appreciate that the decision to appeal the judgement will not be popular with local or national politicians and some members of the public. The decision has not been taken lightly. We continue to believe that European, United Kingdom and Scottish Law has been broken, that there has been a travesty over consultation with the public, that Transport Scotland has run roughshod over Environmental Legislation at all levels and as a consequence we are seeking the opportunity to redress the balance at the Inner Court of Session.

The RoadSense campaign has never been founded on a wish to delay the road. We wish to defeat the current scheme. If we were convinced that this route was the best solution to the North East's traffic problems then we would not be continuing to fight. The route proposed for the AWPR is the longest, most expensive and most environmentally destructive of all the options for resolving Aberdeen's traffic problems. As proposed, the route will increase congestion on many of the radial routes into Aberdeen. It has also been transformed into a development corridor, which will open up the green tracts of land around the city for further housing and industrial developments.

Everyone is aware that the costs of the AWPR have been grossly underestimated. The £395 million estimate is based on costs in 2003, and does not acknowledge that more than £100 million of that has already been spent without an inch of tarmac being laid. It is conceivable that the final costs could approach £1 billion.

Road Sense speaks for the very large number of people who are opposed to the AWPR. More than 9,000 people objected to the Road Orders for the route and were denied the opportunity to question the justification for the route at the Public Inquiry. RoadSense has large numbers of supporters within the local community and many of these have contributed directly to our work. We are receiving additional support and advice from Friends of the Earth Scotland, Transform Scotland, the Woodland Trust and other environmental groups. In the circumstances, we have no option but to present the views of our supporters and seek justice for them.

It is evident that many people, including RoadSense and its supporters, are seeking closure on the issue of the AWPR. Like everyone else we wish to see a resolution of the arguments. The lengthy

legal procedures we have been forced to engage in simply reflect the current state of the Scottish legal system, and the inherent delays that it imposes.

Mr Walton said "Sooner or later the government will have to look again at other ways of resolving Aberdeen's congestion problems. The AWPR cannot go ahead in its current form. It is not affordable, and it will not result in significant levels of congestion relief."

ENDS

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 over 500 supporters. More information on Road Sense can be found at: www.road-sense.org
3. William Walton, of Westhill Aberdeenshire, is a university lecturer. He is a qualified barrister specialising in planning and environmental law, and has been Chairman of Road Sense since its inception in 2006.
4. 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
5. For more information on Judicial Review, see: http://en.wikipedia.org/wiki/Judicial_review
6. At the appeal at the Outer Court of Session RoadSense's position was that the procedure for selecting the route, including the addition of a new Fast Link to Stonehaven, was flawed. In addition, the Public Inquiry into the AWPR was limited to looking at technical aspects of the route. RoadSense was unable to question the need for the route, or the actual choice of route by the former Minister, Tavish Scott. Road Sense argued that the restricted remit of the Public Inquiry was unfair to objectors. The reporters were not able to weigh the adverse impact of the route against the alleged benefits. The costs of building the route had been greatly underestimated. RoadSense also argued that there had been a breach of European Directives with respect to protected habitats and species.
7. Road Sense was granted a protective costs order for the action, which limited the cost of the legal challenge. This was only the second such order to be granted in Scotland and brought Scotland into conformity with European law with respect to the rights of individuals and groups to challenge environmental decisions without incurring heavy expenses.

8. 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.
9. 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.
10. 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.
11. 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.
12. The proposed road would also have involved major damage to the habitats of other protected animals, including red squirrels and water voles.
13. The action by RoadSense at the Outer Court 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.