

# **PUBLIC LOCAL INQUIRY INTO DRAFT SCHEMES AND ORDERS FOR THE ABERDEEN WESTERN PERIPHERAL ROUTE**

## **NOTE OF MATTERS AGREED AT OR ARISING FROM PRE-INQUIRY MEETING ON 13 MAY 2008**

### **Introduction**

1. The inquiry is being held in connection with various draft Schemes and Orders, against which objections have been lodged and not withdrawn, for the proposed Aberdeen Western Peripheral Route (the 'AWPR').
2. The project is being promoted by Transport Scotland. About 10,000 objections were received. Approximately 180 of these are 'statutory objections', by owners, lessees and occupiers of land, to the draft Compulsory Purchase Order (the 'CPO').
3. The Scottish Ministers have appointed 2 reporters from the Scottish Government Directorate for Planning and Environmental Appeals (the 'DPEA'), David N Gordon BSc(Hons) MSc MRTPI and Scott Ferrie MSc MRTPI, to conduct the inquiry, and to report to them. A third reporter is likely to be appointed to assist, in particular, with statutory objections proceeding by written submissions.

### **Parties who intend taking part in the inquiry**

4. Transport Scotland and a substantial number of objectors stated – at the pre-inquiry meeting or in correspondence – that they would, or might, present oral evidence at the inquiry. Their names and, where appropriate, contact details are listed in the appendix attached to this note. Some of these parties have indicated that they might rest on written submissions, rather than speak at the inquiry; and some have indicated that they might withdraw their objections. **Parties are asked to check the contents of the appendix and advise DPEA of any changes they consider should be made.** A revised version of the appendix will be issued if it is felt this would be useful.
5. Road Sense and Sluie Estate Trust have indicated that they intend playing major roles at the inquiry. They have been designated as 'relevant persons'.
6. Bell Ingram represent 26 statutory objectors. Paull & Williamsons represent 16 statutory objectors. F G Burnett represent 9 statutory objectors and 2 other objectors. Each agent anticipated that most of their clients' objections would either be withdrawn or would proceed by way of written submissions.
7. About 15 other statutory objectors and about 30 other objectors, or groups of objectors, indicated that they wished to speak at the inquiry.

8. In preparing their report to the Scottish Ministers, the reporters will take full account of not only what they hear at the inquiry, but also those written submissions received from objectors which fall within the remit of the inquiry.

### **Scope of evidence**

9. The scope of the evidence will be determined, to a large extent, by the subject matter of the objections that have been lodged.

10. However, the Scottish Ministers have accepted the need in principle for the road, and they do not wish to be advised on the justification for the principle of the scheme in economic, policy or strategic terms. They consider that strategies and policies referring to the scheme are only relevant to the inquiry insofar as these set out the context for the AWPR. They have directed that they only wish to be advised on the technical aspects of the route choice, including the environmental statement and any opinions expressed on it. They wish to be advised on the technical and environmental issues associated with the scheme, together with its 3 individual components – the Northern Leg (North Kingswells to Blackdog), Southern Leg (Charleston to North Kingswells) and Fastlink (Stonehaven to Cleanhill).

11. Accordingly, the reporters do not intend to permit the presentation of evidence or questioning on the need for the scheme. Any background material which Transport Scotland wishes to submit relating to this should be included in a written statement, lodged as an inquiry document, and not in witnesses' precognitions. Transport Scotland confirmed that much of the content of paragraph 5.2 of its outline statement of case, regarding 'issues pertaining to the scheme as a whole', could be provided in a written statement.

12. Similarly, other relevant, factual, background material should, in general, be included within inquiry documents, rather than in witnesses' precognitions.

13. Transport Scotland published a further draft CPO – 'CPO No. 2' – on 1 May 2008, relating to land for environmental mitigation. The period for objection to CPO No 2 ends on 23 May 2008. A decision on how to deal with any objections to CPO No 2 has not yet been made.

14. Transport Scotland intends publishing updated information on traffic and on the cost of the scheme before the start of the inquiry. It also proposes to publish its Scottish Transport Appraisal Guidance (STAG 2) report on the scheme.

15. Some objectors intend presenting evidence on alternative routes and alternative designs – concerning, for example, the location of junctions. They should provide sufficient information about their preferred alternative to allow it to be properly considered. However, the inquiry is into the scheme proposed by Transport Scotland, and it cannot turn itself into an inquiry into a series of assumed alternative proposals.

16. Transport Scotland has submitted an 'appropriate assessment' appraisal report, regarding possible impacts on the River Dee Special Area of Conservation,

to Scottish Natural Heritage. Scottish Natural Heritage does not intend to appear at the inquiry.

### **Inquiry start date, duration and venue**

17. The reporters initially hoped that the inquiry would start in August, but to minimise difficulties for both Transport Scotland and some objectors, proposed that the start date be put back to 9 September. At the pre-inquiry meeting Road Sense and some other objectors argued that this would still not allow sufficient time to prepare for the inquiry, particularly as the STAG 2 report was not expected to be available until July. The reporters agreed to delay making a final decision on the start date until they had received and considered submissions on this matter from Road Sense and Transport Scotland.

18. It was submitted for Road Sense that there has been a STAG 1 appraisal for 6 options for the AWPR, but that the promoted route was not one of those assessed at that stage. One of the parts of Road Sense's case is that there exist more suitable alternative routes, but the failure of Transport Scotland to follow the STAG process in relation to the promoted route has hampered Road Sense's preparation to date. The STAG 2 appraisal would provide the up to date information which would allow assessments to be made of the promoted route against the other assessed routes. Delaying the start of the inquiry might shorten the length of the inquiry.

19. In response, it was submitted for Transport Scotland that STAG 1 appraisals have been carried out for 7 options, including the promoted route. The STAG 1 appraisal for the preferred corridor has been publicly available on the AWPR website since 18 October 2007. Accordingly the comparative information is currently available to Road Sense. The STAG 2 appraisal will relate only to the promoted route, and will not involve updating information from the STAG 1 appraisals for any of the alternatives. If Road Sense contends that alternative routes have environmental benefits over the promoted route, it will have to provide that information. The commissioning of such work does not depend upon the production of STAG 2. The inquiry should start on 9 September as discussed at the pre-inquiry meeting.

20. Transport Scotland subsequently stated that work on the STAG 2 report would not be completed until it sought Government funding, but that it expected to be in a position to supply a substantially complete report by mid-June.

21. The reporters' decision STAG 1 appraisals have been carried out for the promoted route and for other routes. It now appears that a 'substantially complete' STAG 2 report will be published in mid-June, and that it will provide additional information about the promoted route, but no further information about alternative routes. On that basis, the reporters do not believe that there is a need to delay the start date of the inquiry beyond 9 September. However, they have decided to set back the dates for lodging statements of case and documents by one week from

those discussed at the pre-inquiry meeting, to provide parties with some additional preparation time.

22. The inquiry will start at 10.00 am on **Tuesday, 9 September 2008**. It will normally sit 4 days per week (Tuesday to Friday), and is expected to last 8-10 weeks. On the second and subsequent days, it will start at 9.30 am. It will normally sit until about 16.45 pm, with a break of one hour for lunch.

23. It will be held in the **Cedar Suite, Hilton Aberdeen Treetops Hotel, 161 Springfield Road, Aberdeen**. The venue has disabled access. A sound system will be provided, and there is an induction loop for the hard of hearing. A room will be provided to store documents over weekends.

### **The Inquiries Procedure Rules**

24. The statutory procedures which apply to the pre-inquiry period and to the inquiry itself are set down in The Compulsory Purchase by Public Authorities (Inquiries Procedure) (Scotland) Rules 1998. Relevant Scottish Government guidance is contained in SODD Circular 17/1998. The circular is available on DPEA's web pages ([www.scotland.gov.uk/Topics/Planning/Appeals](http://www.scotland.gov.uk/Topics/Planning/Appeals)).

### **Inquiry structure, programme and procedures**

25. The reporters' intention is that the inquiry should be structured and programmed in the most efficient and effective manner, whilst minimising, as far as practicable, inconvenience to parties. Evidence will be presented generally in four stages: the scheme as a whole, and then, in whatever order is most convenient, each of the 3 sections of the scheme (Northern Leg, Southern Leg and Fastlink). Within each of these stages, Transport Scotland will generally present its evidence first, and then the objectors will present their evidence. In general those objectors with broad-based cases will present their cases before those with more narrowly defined cases.

26. The reporters will announce the indicative inquiry programme at the start of the inquiry, and this will be posted on the inquiry website ([www.awpr-pli.org](http://www.awpr-pli.org)). This will enable parties to anticipate roughly when particular issues are likely to be addressed. However the programme will probably need to be adjusted as the inquiry proceeds, and parties should keep themselves informed of any such adjustments. Where practicable, any major changes to the programme will be posted on the inquiry website.

27. Where a precognition, including any rebuttal precognition, exceeds 2000 words, only the summary precognition will be read out at the inquiry. Any examination-in-chief beyond that should be limited to picking up points that have arisen since the receipt of other parties' precognitions, or where appropriate, since the lodging of the rebuttal precognition. Parties should provide some spare copies of precognitions (or summary precognitions where relevant) to enable other objectors and interested third parties to follow proceedings.

28. All evidence is open to cross-examination by other parties giving evidence, where they oppose what is being said. 'Friendly' cross-examination by those 'on the same side' will not be allowed. However questions by way of clarification will generally be permissible.

29. Irrelevant or repetitious evidence and cross-examination will not be permitted.

30. At the end of the inquiry, parties who have presented evidence will be entitled to make closing submissions. Transport Scotland's advocate will have the last word. Parties are requested to submit typescript versions; and to provide copies for the other parties making closing submissions, and for the reporters.

31. The reporters will make inspections of the areas affected by the proposed route and by the alternatives suggested by objectors. Where inspections are to be accompanied, the reporters will announce the arrangements at the inquiry.

### **Pre-inquiry procedures**

32. It is important that the inquiry concentrates on the issues in dispute. Parties should therefore communicate with each other over the coming weeks, to identify matters on which they agree, and to produce agreed statements on these matters. Transport Scotland stated that it was willing in principle to co-operate with others on this matter.

33. Transport Scotland confirmed that it intends to continue negotiating with statutory objectors. It further confirmed that it will let DPEA know immediately if it becomes aware of any such objections having been withdrawn.

34. Parties sharing a common point of view are strongly encouraged to take the opportunity to group together, to share expertise and to avoid repetition. Road Sense indicated that it would be willing to discuss others joining its group.

35. Statements of case are required from **Transport Scotland, all statutory objectors presenting oral evidence at the inquiry** and the **'relevant persons'**. (Other parties do not have to produce a statement of case.) Statements of case must contain the full particulars of the case to be presented at the inquiry by that party. There must be no 'surprise evidence' presented at the inquiry. Statements of case should specify the stages of the inquiry in which the party wishes to participate (for example, those dealing with the scheme as a whole, and the Northern Leg). They should also include a list of the documents to which that party intends to refer, and a list of witnesses and legal representation. If the party intends participating in more than one stage of the inquiry, the statement of case should indicate which witnesses will be involved in each stage. Transport Scotland's statement of case must be lodged no later than **17 June 2008**, and other parties' statements of case must be lodged no later than **24 June 2008**. If Transport Scotland wishes to produce a supplementary or revised statement of case, responding to any additional points in statutory objectors' or relevant persons' statements, this must be lodged no later than **1 July 2008**.

36. Transport Scotland will send copies of its statement of case (and any supplementary or revised statement of case) to all statutory objectors whose objections have not been withdrawn, including those resting on written submissions.

37. Details of alternative routes or junctions must be lodged by **objectors suggesting such alternatives** no later than **24 June 2008**.

38. Documents include, not just written documents, but also such things as maps and photographs. Where **any party giving evidence** wants to refer to these in the course of their evidence, they must lodge them in advance – unless another party has undertaken to lodge them. They should be clearly numbered, and properly ordered, preferably in loose-leaf folders. ‘Core documents’, such as the environmental statement or background policy statements, should generally be identified and produced by Transport Scotland. The production of core documents ensures that other parties can refer to them without each having to produce them themselves. In general, documents must be lodged no later than **22 July 2008**.

39. Background statements by **Transport Scotland or others** and agreed statements should be treated as documents, and lodged no later than **22 July 2008**.

40. Any further written submissions by **statutory objectors (or other objectors)** who decide not to present oral evidence to the inquiry must be lodged no later than **12 August 2008**.

41. Precognitions are written statements of a witness’s evidence. Precognitions are required from **all witnesses who propose to give evidence**. They should indicate the stage of the inquiry at which the witness wishes to present the evidence. They must be lodged no later than **12 August 2008**.

42. Witnesses for the main parties are invited to consider submitting rebuttal precognitions where someone on the opposing side has included material in their precognition which the witness wishes to rebut. Rebuttal precognitions must be lodged no later than **19 August 2008**.

43. **Where the main precognition (including any rebuttal precognition) exceeds 2000 words, it must be accompanied by a summary.** Summary precognitions must be lodged no later than **19 August 2008**.

44. **All parties** lodging any of the above items must send:

- 5 sets to Transport Scotland (including 4 for placing on deposit)
- 2 sets to Road Sense
- 1 set to Sluie Estate Trust (and an additional copy of all items that are not available in electronic form)
- 1 set to ‘Clients of Paull & Williamsons’
- 1 set to ‘Clients of Bell Ingram’
- 1 set to ‘Clients of F G Burnett’

- 3 sets to the reporters

45. Parties may wish to reach agreement with one another to send some material electronically. The reporters request 3 'hard copy' sets of all material, plus electronic versions (as Microsoft Word documents) of statements of case, precognitions and closing submissions.

46. Transport Scotland will place one full set of all material (including statements of case, documents and precognitions) on deposit, for the public to view, in the following public libraries:

- Central Library, Rosemount Viaduct, Aberdeen
- Dyce Library, Riverview Drive, Dyce
- Culter Library, North Deeside Road, Peterculter
- Stonehaven Library, Evan Street, Stonehaven

47. Transport Scotland will also post statements of case (including lists of documents), documents which are available in electronic form, and precognitions on the inquiry website ([www.awpr-pli.org](http://www.awpr-pli.org)).

48. Each item will be deposited in the libraries and posted on the website as soon as is practicable, on or shortly after the specified dates for lodging.

49. Transport Scotland will bring 3 full sets of all material (including statements of case, documents and precognitions) to the inquiry for the start of the opening day, and maintain these in a tidy state for the duration of the inquiry. One set will be made available for witnesses, and 2 sets will be made available for the public to view at the inquiry venue. The fourth set will be retained in the Central Library for the duration of the inquiry.

50. If any party wishes to make legal submissions that might have a bearing on the inquiry programme, they should put these in writing and forward them to the reporters as early as possible. Such submissions should not be left until the opening day of the inquiry.

### **Further matters**

51. A copy of this note will be sent to all those who have indicated they wish to participate in the inquiry and all statutory objectors. The note will also be posted on the inquiry website ([www.awpr-pli.org](http://www.awpr-pli.org)).

52. Questions to DPEA should be directed in the first instance to the case officer, Colin Bell. His contact details are:

- address – 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk FK1 1XR
- telephone – 01324 696 463
- fax – 01324 696 482
- email – [Colin.Bell@scotland.gsi.gov.uk](mailto:Colin.Bell@scotland.gsi.gov.uk)

- web – [www.scotland.gov.uk/Topics/Planning/Appeals](http://www.scotland.gov.uk/Topics/Planning/Appeals)

DNG/SF – 22/05/08