

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

STATEMENT OF CASE

BY

MR KEVIN LAWSON AND MRS DIANA LAWSON

(the "Objectors")

1. The Objectors are heritable proprietors of the subjects known as West Stoneyhill Farm, Netherley, Stonehaven, AB39 3SD, (hereinafter referred to as the "Subjects"). They have owned and occupied the Subjects since 1999. The Subjects extend to in or about 40.5 acres. The Objectors reside at a detached two storey dwelling house which forms part of the Subjects. The remainder of the Subjects are farmed on a commercial basis by the Objectors. The Objectors also have a seasonal let of neighbouring farm land.
2. The Objectors present means of access and egress to Subjects is via a built up access road which runs generally from west to east from West Stoneyhill Farmhouse, past neighbouring properties "Meadowbank" and "West Town of Newhall", to a junction with another public road, which runs generally from north to south and connects at its southern end to the Muchalls – Burnhead Road (C25K). The access road running between West Stoneyhill Farmhouse and the above mentioned junction shall hereinafter be referred to as the "West to East Access Road".
3. There is also a rough track which runs generally from north to south within the subjects which is used by farm vehicles operated by the Objectors. It is also used for recreational purposes. This track shall hereinafter be referred to as the "Internal Track".
4. With particular reference to Plan SR26 attached to the draft Side Roads Order, it is proposed:-
 - (a) The West to East Access Road is to be stopped up at two points between West Stoneyhill Farmhouse and "Meadowbank", as shown by solid black bars numbered 284 and 285 on said Plan. A corresponding new means of access is to be provided by means of a 15 metre section of track on the line of the existing road, as shown by "single line hatching" and numbered 406 on said

Plan. This new means of access shall hereinafter be referred to as the "Corresponding Access".

- (b) The Internal Track is to be removed. This will involve the track being stopped up at each end, as shown by solid black bars numbered 286 and 287 on said Plan. A new section of public road is to be constructed roughly parallel and to the west to the line of the existing Internal Track, as shown by "stipple" numbered 413 on said Plan. This new section of road shall hereinafter be referred to as the "Internal Road".
5. The Corresponding Access is of no assistance to the Objectors. The Objectors will lose their means of access along the West to East Access Road. Accordingly, the Objectors would have to rely upon the proposed Internal Road for access and egress to and from their property.
6. The proposed Internal Road is not a satisfactory means of access and egress to and from the Subjects. The proposed Internal Road is on a steep north facing incline. It will be unsafe and impassable during severe weather conditions that are often experienced in the location during winter. It will far more readily block with snow and will be harder to keep clear than the existing West to East Access Road. The Objectors reasonably apprehend the Internal Road will not be a high profile adoptable road for council road clearing, resulting in long periods when the Objectors may be unable to access and egress the Subjects.
7. The Internal Track is a private access. The Internal Road is to be a public road. Consequently, the Objectors agricultural vehicles will have to be licensed, insured and made road worthy at substantial expense. Some vehicles/equipment will have to be replaced. This is regarded as an intolerable burden.
8. With particular reference to Plan Number: RYC/G109/13/245, attached to the draft compulsory purchase order, it is proposed relative to the Subjects:-
 - (a) Plots numbered 3103 (593sqm) and 3107 (26,087sqm) be purchased to construct the new section of the A90 (Aberdeen Western Peripheral Route) Special Road, hereinafter referred to as the "Special Road Section".
 - (b) Plots numbered 3104 (2,002sqm), 3105 (208sqm), 3106 (2,785sqm) and 3108 (234sqm), be purchased to construct a new side road, hereinafter referred to as the "Side Road Section".

9. The aggregate area comprising the Special Road Section and Side Road Section together with neighbouring farm land let by the Objectors which is also to be subject of compulsory acquisition represents approximately 40% of the agricultural land available to the Objectors in any one year. This will have a substantial and detrimental affect on the operation of the farm. For example, grazing at the east side of the farm supports the breeding of sheep during the winter months. The proposed land take will not leave enough grazing to support the sheep. As a consequence they will have to be relocated. However, there is very limited space available on the farm as winter breeding cattle graze on the west side of the farm. The remaining land and existing facilities would not allow the Objectors to accommodate winter breeding sheep and cattle on their farm. Livestock cannot be wintered away from the farm as lambing runs from January to May and calving from February to May with twenty four hour supervision required.
10. The Side Road Section will remove an area specifically constructed and used by the Objectors for hard standing storage for silage and straw leaving the Objectors without storage space for winter forage. It will remove an area that provides natural shelter for livestock. It will also remove mature trees and drystone walls which are home to wildlife and an area earmarked as a suitable site for a future retirement house for the Objectors.
11. The proposals would also result in the severance of a small area of land at the far south east corner of the Subjects to the east of the Special Road Section, hereinafter referred to as the "Severed Area". Although means of access to the Severed Area is to be provided, the Objectors would have to travel some distance on the local road network in order to access the Severed Area.
12. The impact of land take and severance will require substantial investment in machinery and an increase in manpower at peak times due to the extra time spent travelling on public roads. The extra cost of renting land (if available) within a reasonable distance should also be taken into account. This will be exacerbated by the total land take required by the Special Road and associated side roads in the greater Netherley area.
13. The biosecurity of the Objectors farm as a high health unit with a closed flock and closed herd will be compromised by the construction and use of the Special Road and the Internal Road. Dust and pollution from construction and use of the roads will contaminate pasture land close to the road line making it less palatable to livestock reducing the Objectors ability to continue with current stocking levels. The effects of the proposed land take will affect the financial viability of the farming operation.

14. The safety of livestock or the road user has not been fully considered. In particular the fence design is inadequate. The Objectors are concerned for health and safety of road users and animals in the event of breach. The Objectors are also concerned by the suggestion that they shall be responsible for the maintenance and security of the fence bounding the Special Road.
15. Furthermore, the Objectors concerns about:- (a) the inadequate hydrology assessment and probability of flooding; (b) disturbance to wildlife; (c) light pollution; (d) litter; (e) noise pollution; (f) air pollution; (g) visual impact; and (h) severance of communities; have not been satisfactory addressed in Transport Scotland's responses to the Objectors various letters of objection.

Alternative Means of Access to the Subjects

16. The Objectors propose that an overbridge be constructed over the Special Road whereby the West to East Access Road may remain open for use by the Objectors as their principal means of access and egress to the Subjects. This would also allow convenient access to Severed Area. If an overbridge were constructed there would be no requirement for the Internal Road and the Internal Track could remain. *Esto* the Objectors case for an overbridge is not accepted, the Objectors would wish to revise the alignment and status of the Internal Road in order to minimise disturbance to the operation of the farm and more generally to the Subjects.

Conclusions

- (a) The revised means of access to the Subjects proposed by the Scottish Ministers is not satisfactory and would have a material and detrimental effect upon the use and operation of the Subjects. The proposed Scheme and Orders fail to satisfy the obligation imposed upon the Scottish Ministers by section 71(3) of the Roads (Scotland) Act 1984, namely to provide another reasonably convenient means of access to the Subjects. The Scottish Ministers require to give fresh consideration to their proposals relative to access to the Subjects and in particular due consideration should be given to the alternative means of access proposed by the Objectors.

- (b) The acquisition of land proposed by the Scottish Ministers shall have a material and detrimental effect upon the use and operation and enjoyment of the Subjects which cannot be adequately remedied by the means of mitigation or accommodation works proposed and/or by way of compensation.

Provisional List of Documents

Annotated plans

Report from Messrs WA Fairhurst & Partners, Consulting Engineers

Provisional List of Witnesses

Mr Kevin Lawson

Mrs Diana Lawson

Mr Kenneth Clark, Messrs WA Fairhurst & Partners, Consulting Engineers

Aberdeen, 24th June 2008

J. David Chalmers,

J. David Chalmers, Solicitor,
Messrs Raeburn Christie Clark & Wallace,
12 – 16 Albyn Place,
Aberdeen,
On behalf of the Objectors.

C.c. Mr Keith Petrie, F.G Burnett,