

# High Court challenge to largest ever roads programme, including the A303 Stonehenge dual carriageway and tunnel scheme

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Less than a week after a legal challenge to the Stonehenge road scheme, the High Court will hear Transport Action Network's (TAN) challenge to the £27.4 billion second Road Investment Strategy (RIS2), which includes the A303 Stonehenge project, on 29 and 30 June [1]. Campaigners are claiming that Grant Shapps, Secretary of State for Transport, broke the law when approving RIS2 by failing to consider its effects on the environment.

Published in March 2020, RIS2 sets out plans for England's Strategic Road Network (SRN), including 50 major road schemes, of which the Stonehenge scheme is the most controversial. Although the Network, made up of motorways and major A roads, is responsible for over 10% of the UK's domestic CO2 emissions, ministers quietly abandoned setting a target to reduce this [2]. Government lawyers are now seeking to persuade the Court that climate commitments were not "obviously material" to road-building. This is despite Grant Shapps acknowledging two weeks after rubber stamping RIS2 that "climate change is the most pressing environmental challenge of our time" and that this meant we need to "use our cars less in future" [3].

## **Chris Todd, Director of Transport Action Network said:**

*"Trying to argue climate change isn't 'obviously material' to approving the largest ever roads programme is like saying public health is not relevant to reform of smoking rules. In an audacious attempt to protect his addiction to asphalt, Shapps is now seeking a legal precedent that decision-makers can ignore climate targets.*

*This puts ministers on a collision course with the Climate Change Committee, which last week called on the Government to adopt a 'Net Zero Test' for all policy decisions. The DfT's dodgy defence now risks undermining UK leadership of the COP26 climate summit and our international standing."*

The Government's backup defence is that in any event ministers did consider climate commitments. Besides heavily redacted legal advice that baldly asserted RIS2 was "consistent" with net zero, the Department for Transport (DfT) is relying on an assessment made after the decision. This concluded as RIS2's impact was so small as to be "de minimis" that ministers had been justified in ignoring the policy gap to meet new climate targets. TAN obtained the help of two of the UK's leading transport experts to review the figures [4]. Shockingly, they concluded RIS2 climate impacts were likely one hundred times greater, as DfT:

- Only considered the impact of five newly announced schemes, not the whole roads programme of over fifty major road schemes;
- Calculated carbon for a period when not all those five schemes were fully open, and
- Ignored non-tailpipe emissions such as from land clearance and road construction.

**Rebecca Lush, roads campaigner at TAN, added:**

*“How can ministers expect to be taken seriously if they ignore the carbon emissions from all but 100 out of the 4,000 miles of road the Chancellor announced at Budget 2020. It’s as if they are trying to pass off an old banger as a brand new electric vehicle. Such extreme fiddling of the figures would put even the dodgiest second-hand car dealer to shame. It’s time to shift this outdated roads plan off the forecourt and onto the scrapheap.”*

Days before the hearing this week, the Welsh Government announced a freeze on road-building. Separately, the Climate Change Committee (CCC) recommended that “investment in roads should be contingent on analysis justifying how they contribute to the UK’s pathway to Net Zero”, directly challenging the DfT’s existing policy. To secure the 63% cut in emissions needed between 2019 and 2035, the CCC is calling on the Government to “prioritise funding away from car use” and to provide “measures to make it less attractive to drive” [5].

**Todd concluded:**

*“If we are serious about tackling the climate emergency, improving quality of life after the pandemic and delivering a less congested future, we need to reduce traffic. This case, the biggest legal challenge to transport policy in British history, seeks to do just that. A ruling to quash the largest ever roads programme would be historic, not just for the UK, but for communities worldwide seeking to build back better in the run up to COP26.”*

**Kate Fielden, Hon Secretary to the Stonehenge Alliance says:**

Quite apart from the disastrous impact of the Stonehenge road scheme on the World Heritage Site, carbon emissions forecast for road transport in connection with the scheme are very high. Furthermore, there would be massive carbon emissions in the production of concrete for the twin-bore tunnels and deep cutting walls. To carry on regardless of the implications of these facts in the face of an acknowledged climate emergency is not only reprehensible but also highly irresponsible when considering the long-term survival of the planet and the quality of life of future generations.

Anyone who wishes to support to TAN’s legal challenge may wish to consider donating towards the legal costs via TAN’s CrowdJustice page - <https://www.crowdjustice.com/case/stop-largest-ever-roads-programme/>.

## Notes for editors

[1] *R (Transport Action Network Ltd) v Secretary of State for Transport and Another* [CO/2003/2020] will be heard at the Royal Courts of Justice. TAN is represented by Rowan Smith at Leigh Day solicitors, David Wolfe QC (Matrix Chambers) and Pete Lockley (11 KBW). Due to current restrictions, the hearing cannot be attended in person but online access can be arranged by contacting [listoffice@administrativecourtoffice.justice.gov.uk](mailto:listoffice@administrativecourtoffice.justice.gov.uk) on Monday. The following are also available online: [Road Investment Strategy 2 \(RIS2\): 2020 to 2025](#) and [TAN’s case pleadings and evidence](#).

[2] The UK’s 2019 net domestic CO<sub>2</sub> emissions were 351.5 MtCO<sub>2</sub>, while the SRN figure was 35.6 MtCO<sub>2</sub> for 2015 but emissions did not decrease before the pandemic. RIS1, published in 2014, required Highways England to develop a metric of carbon emissions “arising from use of the Network”. This was due to be in place by 2020 but quietly dropped when RIS2 was published.

[3] Ministerial Foreword to [Decarbonising Transport: Setting the Challenge](#)

[4] The expert evidence of Professor Phil Goodwin, Emeritus Professor at University College London and University of the West of England, and Professor Jillian Anable, Professor at the Institute of Transport Studies at the University of Leeds, is [available online](#).

[5] [Plenary 22/06/2021 - Welsh Parliament](#) and [CCC 2021 Progress Report to Parliament](#).  
NB The widely cited 78% target relates to cutting emissions between 1990 (rather than 2019) and 2035. See pp16, 164, 209 and 210 of CCC Report.

TAN helps local communities fighting damaging road schemes and savage bus cuts. Although only established in 2019, it brings together people with over 50 years' experience of environmental campaigning. More information at [transportactionnetwork.org.uk](http://transportactionnetwork.org.uk).