



## *Norfolk roads legal case spells overhaul of emissions data capture and transparency*



The findings of an appeal case concerning the carbon emissions of three major Norfolk road schemes could see significant changes to carbon emissions calculations and data transparency for UK infrastructure.

Environmental campaigner Andrew Boswell and his supporters' latest challenge in the ongoing case was heard in the Court of Appeal on 16 January.

Boswell, a retired scientist, is challenging the granting of development consent for the rebuild of Thickthorn roundabout on the outskirts of Norwich and the dualling of stretches of the A47 from Blofield to North Burlingham and from Easton to North Tuddenham.



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Boswell claims former transport secretaries Grant Shapps and Anne-Marie Trevelyan's greenlighting of the schemes was unlawful on the grounds that the Department for Transport and National Highways failed to properly consider their cumulative emissions impact.

Boswell's first challenge to the granting of DCOs was heard in the High Court last May, then subsequently dismissed by Justice Thornton in July 2023. However, that challenge was later granted permission by the Court of Appeal on 18 October, with the Judge noting that Boswell's case "has a real prospect of success" and acknowledging that "assessment of combined carbon emissions has potentially wide implications".

Boswell told *NCE* a case has to be considered strong to be granted permission to proceed to a full appeal hearing. "The bar is set fairly high in these cases," he said. If the challenge is successful, the case could have implications for other major road schemes in the government's roads programme, including the £10bn Lower Thames Crossing, he said.

Boswell noted that The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require a cumulative assessment of the environmental impact of emissions.

He told *NCE* his own modelling showed that overall, cumulative greenhouse gas emissions from the three roads involved in the case were dangerously high. It showed the overall absolute greenhouse gas emissions in Norwich was estimated to be 0.4% to 0.5% of the whole sixth Carbon Budget - the volume of greenhouse gases the UK can emit during the period 2033-2037.

"If you think of that 0.5% as a percentage of the whole of the UK, those figures are very out of kilter with where we need to be," he said, adding that a key issue in his campaign and court case was that data used to model emissions from traffic models are not transparent.

"If you look at this in light of the Fujitsu Horizon software scandal, the public does not have any way to validate or scrutinise those figures. One of the things I want to achieve from this is greater transparency in terms of modelling methodologies, which again has particular importance in light of the Post Office scandal."

Between 1999 and 2015, 700 sub-postmasters were accused of theft, fraud and false accounting based on faulty Horizon data from Fujitsu procured by the Post Office. A key factor in the wrongful convictions was lack of transparency and proper scrutiny of data collection, Boswell said.

He added: "We make so many decisions based on the outputs given to us by data, but we have to be sure of that information."

Boswell told *NCE*: "I'm not someone who thinks we must stop all roads, but given that we are in a climate emergency, we're very off track."



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He cited a report from the Climate Change Committee on 30 January, which noted a “delivery gap” to the UK’s Nationally Determined Contribution (NDC) of reducing emissions by 68% by 2030. That report said agreements made at Cop28 required “a sharper domestic response” and that achieving the 2030 NDC would require the rate of emission reductions outside of the electricity sector to quadruple from that of recent years. It said, “addressing these gaps in a transparent way remains one of the most important ways for the UK to show climate leadership”.

Following the appeal hearing on 16 January, Boswell said in a statement: “Government climate policies are failing, and especially for transport which is the UK’s largest carbon emitting sector. Each time a minister approves a new road scheme whilst stubbornly refusing to consider the full climate impacts, the national challenge of meeting our climate targets is severely undermined.”

Broadcaster Chris Packham and Sir David King, the former government chief scientific advisor, are both supporting the legal challenge.

Packham commented: “Dr Boswell is courageously challenging this unsustainable approach in the Court of Appeal by questioning the routine underestimating of the emissions caused by increasing traffic. I salute him and all those challenging Government climate policies in the courts.”

The case is also supported by the former chief scientific adviser to the UK government, Sir David King, who went on to become global Climate Crisis Advisory Group (CCAG) founder and chair.

King said the case indicated that “all decision making on infrastructure projects must be re-examined to see that investments today are fit for purpose over the coming decades”.

Lewis Hadler, speaking on behalf of Richard Buxton Solicitors, the law firm instructing Boswell’s representation at the Court of Appeal, said: “This is an important climate case that will have wider implications for the way in which cumulative carbon emissions are considered. Our client and the many people who have supported his case are right to expect proper scrutiny of this important aspect of the assessment of infrastructure projects and for the Government to be held to account for its commitments to address climate change.”

A date for the outcome of the Appeal Court hearing has not yet been determined.

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