

The Office for Environmental Protection Strategy and Enforcement Policy Consultation

Background

Thames Crossing Action Group represents thousands of people who are strongly opposed to the proposed Lower Thames Crossing (LTC). The £8.2bn National Highways (NH) road project would be hugely destructive and harmful; it would not meet the project objectives, and [is not fit for purpose](#).

The project has so far been greatly delayed, and the first attempt of submitting the LTC Development Consent Order (DCO), the equivalent of planning permission for projects that are considered to be nationally significant, was withdrawn by National Highways in Nov 2020, else the Planning Inspectorate (PINS) were due to refuse it.

The current plans are another round of consultation, which begins on 12th May and runs until 20th June 2022. National Highways say their aim is to resubmit the DCO application later this year, which has a current estimated opening year of 2030 at the earliest.

The LTC is estimated to emit over 5 million tonnes of carbon¹ if it goes ahead, 2 million tonnes during construction, and 3.2 million tonnes during the first 60 years of operation. We only know this as it was requested via a Freedom of Information request, it has not formed part of the consultation materials.

It is impossible for us to provide figures for destruction and impacts of things such as [trees](#) (including ancient woodland), hedgerows, waterways, [greenbelt](#), [agricultural land](#) (including grade one listed land), wildlife and habitat, etc as National Highways have refused to share such info with us.

However, looking at the proposed development boundary combined with local knowledge makes it apparent that the loss and destruction to the natural environment, people and communities would be huge.

¹ <https://www.thamescrossingactiongroup.com/ltc-carbon-emissions/>

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Introduction

Our representation in this Office for Environmental Protection consultation is based on our experience as a community group and our experience of campaigning against the largest road project in the UK. As well as the knowledge and insight we have gained over the years of inadequacies, misleading information, and greenwashing from National Highways and Lower Thames Crossing.

As a group that represents those who are opposed to the proposed LTC the focus of our response to your consultation is based purely on insights in regard to the proposed Lower Thames Crossing, as that is obviously the remit of our group.

We thank you for this opportunity to contribute to this consultation, and hope that our representation will be helpful as we share our experience of facing the environmental (and other) concerns in regard to the proposed LTC, and dealing with Government, National Highways, and other bodies and authorities.

Should you wish to discuss any of the information in this response please do not hesitate to contact us – admin@thamescrossingactiongroup.com. Thanks.

Response to OEP consultation questions

Delivering your strategic objectives

Question 1. Do you have any comments on Section 2.2 of our strategy (Sustained environmental improvement)?

You begin by referencing the Government policy paper 'A Green Future: Our 25 Year Plan to Improve the Environment' (25YEP) which was published in 2018.² This was the same year as the Statutory Consultation for the proposed Lower Thames Crossing. The following are some of observations and comparisons of 25YEP and LTC in regard to what is being proposed for both.

Clean air

25YEP states, "We will achieve clean air by:

- Meeting legally binding targets to reduce emissions of five damaging air pollutants. This should halve the effects of air pollution on health by 2030.
- Ending the sale of new conventional petrol and diesel cars and vans by 2040.
- Maintaining the continuous improvement in industrial emissions by building on existing good practice and the successful regulatory framework."

The LTC Statutory Consultation ran from October to December 2018. By 2019 it was apparent that the proposed LTC route would fail against World Health Organization (WHO) standards for Particulate Matter 2.5 (PM2.5).³

The proposed LTC route falls within areas that already suffer with illegally high levels of air pollution. Yet NH's response to these serious concerns when we voiced them was that WHO standards are not enshrined in UK law, and therefore it is not relevant. NH have since buried their head in the sand in regard to air pollution, despite knowing that new air pollution levels will be enshrined into UK law by the end of October 2022. We get the impression that they hope to push the LTC DCO in, prior to the new laws being introduced, in the hope it will not be detrimental to pushing their project through.

Frustratingly the Government kept delaying this bill. Environment Minister Rebecca Pow pledged in January 2021 that "...we will achieve Royal Assent before COP26." Yet obviously that time frame has been and gone, and still we are waiting on new legal levels for air pollution to be enshrined into UK law.

² <https://www.gov.uk/government/publications/25-year-environment-plan>

³ <https://www.thamescrossingactiongroup.com/lower-thames-crossing-pm2-5/>

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The general excuse that NH seem to give regarding their thoughts that Electric Vehicles (EVs) will be the solution to air pollution moving forward is weak to say the least. PM2.5 is still a serious issue with EVs and there is plenty of evidence that they are not the panacea that many like to portray. The tiny particulates are so small and deadly they can get into our blood stream, so clearly not conducive to aims of clean air.

We feel this most definitely demonstrates the need for more monitoring and scrutinising of these kinds of issues.

Clean and plentiful water

In 25YEP it is stated, *"we will achieve clean and plentiful water by improving at least three quarters of our waters to be close to their natural state as soon as is practicable."*

We note that PM2.5 and other pollutants will infiltrate our waterways, if the proposed LTC goes ahead. There are of course also risks of contamination to waterways during construction, especially since much of the proposed route sits in areas of flood plains and tunnels under the River Thames.

The proposed LTC can hardly be considered a move in the right direction towards improving the cleanliness of our waterways.

Thriving plants and wildlife

Since the River Thames is an Estuary we feel that the aspects on this topic covered by 25YEP include both 'at sea' as well as 'on land and in freshwaters' this is all relevant to the proposed LTC.

Construction of the twin-bored tunnels and approach ramps is expected to take up to six years, if LTC goes ahead. Once tunnel boring begins it has to be run 24/7 and uses huge amounts of water, which once used would then be pumped to the surface, treated and then pumped into the River Thames. There is also the aspect of the noise, light, air and vibration pollution that would impact estuary wildlife, such as visiting whales, porpoises, seals, birds and more.

In the freshwaters that the proposed LTC would destroy and impact there are water voles, otters, great crested newts and more.

On land and in the air there are many varieties of birds, bats, badgers, foxes, hedgehogs and other creatures too numerous to list that would be negatively impacted.

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As mentioned previously we don't have figures on the loss and impacts to trees, hedgerow, and plants, as NH refuse to release them, but we know it would see a great loss including ancient woodland, veteran, and other notable trees. Along with the associated fungi, which doesn't fall into the category of plant or animal, but is of course extremely important to biodiversity.

We also seriously question how on earth it can be considered environmental mitigation and improving biodiversity to be translocating so much flora and fauna. Often with projects like LTC they will be translocating them into areas where there is already a thriving ecosystem.

How would we like it if more and more people came to live in our homes? How would we feel if more and more customers were coming to the supermarket and the supermarket weren't getting in any more stock?

We have to identify that there has to be balance and we cannot continue to lessen the natural environment for flora and fauna, and try to squeeze them all into smaller and smaller areas of habitat. Especially not for hugely destructive, not fit for purpose projects like the proposed LTC.

Reducing the risks of harm from environmental hazards

As also highlighted previously much of the proposed LTC route falls within flood plains. Of course we know that rising sea levels and greater rainfall due to climate change will see an increase in flooding. This makes flood plains even more important than ever. To be reducing their capacity by placing a large road project through them, with the associated embankments and land forms that will change the water levels and flows seems ludicrous.

From the research we have done ourselves it is apparent that the proposed LTC sits in areas that flood risk maps show to be 'at risk' areas.⁴ NH plan to have the tunnel portals in areas that are expected to flood.

At a time of climate emergency such a hugely destructive and harmful road can only be considered an environmental hazard in its own right.

Those harms are not just to the natural environment, they inflict serious health issues on to us and our lives too.

Using resources from nature more sustainably and efficiently

The proposed LTC would result in the loss of a current working solar farm. Ironically NH shows this on their maps of the proposed LTC as an area for environmental

⁴ <https://www.thamescrossingactiongroup.com/flooding-and-the-ltc/>

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mitigation, as they plan to use a small section of the solar farm area for road and the rest as environmental mitigation. Only NH would consider destroying a solar farm as environmental mitigation!

Much of the proposed LTC route is across agricultural land, including some grade 1 listed land. Now more than ever food security and self-sufficiency are paramount. Yet again it is proposed to destroy and impact many acres of agricultural land for the sake of the LTC, a road that is not fit for purpose.

It is not only the direct loss of land that is a concern, but also the resulting increase in carbon footprint when food can no longer be grown locally. This cannot be considered sustainable or efficient.

Enhancing beauty, heritage and engagement with the natural environment

If the proposed LTC goes ahead we would suffer at least 6-7 years of construction, some of which would be 24/7. Negatively impacting local areas, along with air, noise, light, vibration pollution both during construction and once operational.

We would see a huge loss of greenbelt land, ancient woodland, agricultural land, open space, countryside. Along with negative impacts and severance of communities.

NH fail to recognise local knowledge and research of [The Wilderness](#) which is considered locally as an ancient woodland, but as yet has not been granted ancient woodland status, as Natural England research and consider its status.

There would be loss and negative impacts to historic buildings. The LTC route cuts between Coalhouse Fort and Tilbury Fort where [Queen Elizabeth 1 gave her great speech](#). Scheduled ancient monuments would be impacted too, some dating back as far as the Neolithic period (c.3000-2400 BC).

There would be huge disruption to our Public Rights of Way, meaning impacts to those who commute and use them for leisure to enjoy the natural environment in our area.

NH are proposing dumping the tunnel spoil in areas surrounding the tunnel portals. They are referring to them as 'new parks' but also admit it is a convenient way to reduce carbon emissions. But at what expense? We recognise the need to reduce carbon emissions, but this will change the lay of the land in flood plains, and see 'new parks' complete with pollution from the LTC. The LTC tunnels would not have air filtered thus all the pollution will leave the tunnels into the 'new parks'.

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The level of greenwash with NH and LTC has been unbelievable. They have even been attempting to promote [Hole Farm Community Woodland](#) as part of the LTC project despite the fact it is actually a separate NH project as part of their work to improve biodiversity along their major routes, in this case the M25. Hole Farm does not fall within the LTC development boundary. It would also see another large loss of agricultural land, and cannot be accessed by public transport, so unless you live on the doorstep, car would be your only means of visiting.

Mitigating and adapting to climate change

How can we even begin to believe that the Government and NH wish to mitigate and adapt to climate change, let alone try to tackle it, whilst progressing a road project that would emit over 5 million tonnes of carbon?

The impacts and loss of flood plains, trees, hedges, waterways, wildlife and habitat, and the natural environment as a whole are simply not acceptable, especially in a climate emergency.

Conclusion

We hope that just some of the concerns in regard to the proposed LTC help explain why we strongly believe and agree that Government needs to be held to account, for delivery of environmental goals and targets, and its plans for environmental improvement. We hope that the OEPs work will help us and many others to hold them to account, and stop the many hugely destructive and harmful projects like the proposed LTC.

Question 2. Do you have any comments on Section 2.3 of our strategy (Better environmental law, better implemented)?

National Highways do not take into account the fact that UK law on air pollution levels needs and is being updated. Evidence shows that the whole proposed LTC route fails against WHO standards for PM2.5 prior to the latest update by WHO. NH aim to just try to push LTC through to DCO as quickly as possible to avoid having to take the new legal levels that will be enshrined by the end of Oct into account, in regards LTC. Something needs to be done to ensure that a provision is put in place to make sure the likes of NH have a level of duty of care regardless, and taking into account near future changes that will happen and would be relevant to their plans if they had to take them into account.

Similarly, the policies such as NPS NN. It has been known to be outdated and non-compliant with UK law for years now. Yet NH still push ahead with projects like LTC

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attempting to push it through before the new updated policy is published. The only reason the policy is being reviewed is due to legal challenge threat by TAN. When it is known that the policy is in desperate need of an update, as is currently the case, the policy should be suspended until it is updated.

We understand that this delays projects and can have impacts on the construction industry etc, but government need to identify the true value of our environment and monitor and review policies more frequently so they do not become so outdated. Any time there are changes to UK law, such as Carbon Net Zero (amongst others) the relevant policies must be updated to reflect such changes, with immediate effect.

We cannot simply allow the likes of NH to keep pushing hugely destructive and harmful projects like the proposed LTC through knowing that it would not comply with the updated policy.

There is also a need for an Emergency UK Food Security Strategy, which would also benefit from having environmental standards. Firstly to protect our agricultural land, but also to ensure that agriculture supports sustainable environmentally friendly farming, for the benefit of the farmers, people, biodiversity, and a sustainable future. Reducing carbon footprint of our food, and ensuring healthy food for a sustainable self-sufficient future for our country is essential.

Question 3. Do you have any comments on section 2.4 of our strategy (Improved compliance with environmental law)?

To ensure compliance with environment law, we need to see a change in how the government and its companies/bodies operate. As mentioned previously we cannot simply set environment laws and targets and then push ahead with hugely destructive and harmful projects like the proposed LTC. More weight and importance needs to be given to the environment as opposed to the focus always being on financial economic growth and benefit. Without a healthy planet that can support our existence money is worthless.

Air pollution is a serious problem in the UK, many areas are suffering with illegally high levels of pollution. Client Earth has taken the government to court on many occasions and won. We have sadly witnessed cases like that of Ella Adoo-Kissi-Debrah where air pollution has been recorded as a factor in her death.

Yet still projects like LTC are being pushed ahead knowing they will increase air pollution. The current design proposes that there will be no air filtration within the tunnel section of the proposed LTC. The reason why is something we'd most

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definitely like to know. When there are protections and mitigation that could be put in place it is essential that they be carried out, and not ignored simply because they can be.

Congestion and pollution at the Dartford Crossing are part of the reasons behind the case of a new crossing. Yet NH own data shows that the Dartford Crossing would still be over capacity even if the proposed LTC goes ahead. Thus the congestion and pollution would remain.

Since industry standards and guidelines do not cover the aspect of how traffic would migrate when there are incidents on roads, again NH ignore such issues. This is particularly relevant to the proposed LTC due to the nature of it being a river crossing, with only one other nearby alternative (the Dartford Crossing). As they do not have industry standards and guidelines they instead push ahead ignoring the problems that would ensue. There would not be adequate connections for traffic, especially when there are incidents, and the result would be more chaos, congestion and pollution.

We need something in place to ensure that these issues cannot simply be ignored and that a level of duty of care is bestowed upon developers such as NH.

On the general topic of legal compliance and environment law, it needs to be acknowledged that there are increasing numbers of legal challenges, especially in regards to road projects on climate grounds. Many challenges are brought forward by NGOs and members of the public/community groups. Government needs to recognise that there is a major growing issue and address this as a matter of urgency.

We would hope to see that the procedure for your acceptance and assessments of complaints would be open to members of the public/community groups in a way that makes it easy to log complaints, and ongoing updates provided. It is important that such complaints can be logged, investigated, and acted upon in a timely manner, as all too often in our experience government and the likes of NH attempt to delay legal challenges and threats and make it as difficult as possible. It can also be intimidating for the public/community groups to consider legal challenges, due to the expense and work involved, especially knowing you are going up against government and large companies with the money and staff to fight legal challenges. With environmental issues we do not have the luxury of long legal challenges, time is ticking and we have only got one chance to reverse the climate emergency.

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Question 4. Do you have any comments on section 2.5 of our strategy (Organisational excellence and influence)?

We hope that this approach will include good communications and engagement with the public on environmental issues. We would certainly welcome the opportunity to work with you moving forward and hope that you will be able to assist us in our fight against the proposed LTC.

Question 5. Do you have any comments on whether our four strategic objectives will lead us to pursue our principal objective and achieve our mission?

We understand that there will likely be times when you need to prioritise. We also of course understand the need to ensure value for the spending of public monies.

In keeping with that ethos we would ask that serious consideration is given to how much value can come from focusing on certain issues/projects/concerns that may influence other issues/projects/concerns that you cannot focus on individually.

For example whilst you may not be able to focus on all the individual projects in a Road Investment Strategy period, such as RIS2 or RIS3, focusing on the largest project(s) would likely have a snowball effect on the majority, if not all the other projects.

There are definite patterns and similarities in the issues and concerns that many of the groups fighting these projects have. By taking one or two of the larger projects in the RIS period into account it could set precedent that results in more projects benefiting, and save and protect more of the natural environment.

We would also respectfully point out that more and more members of the public are campaigning on environmental grounds, and that when spending public money it is vital that the public are included. It is also worth recognising the work that campaign groups can and are carrying out. It can often feel like government and government bodies are not interacting and communicating with the public, and often having a public body such as yours, being fully inclusive of members of the public and community groups could make a lot of difference.

Therefore please ensure that your strategy doesn't rule out working with campaign groups, especially as they are often looked at as local groups, because often our cause is the same, our issues and concerns are the same, and these days we have a strong network where we all work and support each other. By including/focusing on even one of our groups it can help even more. Alternatively allowing groups to

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make joint representations to you on similar topics to be considered as combined themed issues and united action taken accordingly.

How you will prioritise

Question 6. Do you have any comments on our approach to prioritisation?

We hope that the prioritisation will take into account the fact that sometimes the need to take larger risks may be worthwhile due to the severity of the impact to the natural environment. As there may sometimes be grey areas where new legal precedents need to be set, rather than just sticking to safe bet cases, as it is often the case that environmental challenges are ground breaking due to how the climate emergency and new evidence is coming to light and escalating..

Enforcement

Question 7. Do you have any comments on our approach to determining whether a failure is serious?

Just to say that any failure in regard to the natural environment should be considered serious in a time of climate emergency.

Question 8. Do you have any comments on our approach to determining whether damage is serious?

Any damage to the natural environment needs to be considered serious in a time of climate emergency.

Question 9. Do you have any other comments on our approach to enforcement?

There can be no room for government and other large development projects to cause loss or harm to the natural environment. Our natural environment needs to be saved and protected for all our sakes, and to ensure that our planet is able to sustain life for many many years to come.

Scrutinising Environmental Improvement Plans (EIPs) and targets

Question 10. Do you have any comments on our approach to balancing our activities between monitoring overall progress and monitoring selected areas in more detail?

It will be essential that the OEP ensure that the assessments that are reported by government are adequate and do not allow for misrepresentation. For example government report on the proposed LTC based on what NH have told them.

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However, we know that there has sometimes been misleading or misrepresentation in the info that has been shared with government, and NH have been unable or unwilling to share evidence to back up the information/claims.

So whilst government should have to report its progress on environmental matters, some level of questioning and possible investigation will be needed to ensure that what is being reported is accurate.

Question 11. Do you have any other comments on our approach to scrutinising EIPs and targets?

Generally ensuring that the EIPs and targets are set at the ambitious levels that are needed, and not allowed to be set at levels that will be easily reached just to tick a box, but not hold enough weight and action to make the difference we need to see.

The government's current standing on environmental issues seems to be a lot of talk and not enough action to back it up. It is essential that greenwashing and rhetoric is called out, and that scrutiny is approached in a way that reflects the importance and urgency of a climate emergency.

Scrutinising environmental law

Question 12. To what extent do you agree with our interpretation of how we will scrutinise the implementation of environmental law?

It is vital that it not just existing laws that are scrutinised, but also the need for change to existing laws, or the need to introduce new laws that are considered, investigated, and scrutinised.

For instance it is ludicrous that it is taking so long to get new legal levels for air pollution enshrined into UK law. Whilst these new levels are being decided upon and progressing through to the stage of enshrinement, extremely harmful projects are being progressed through the system without needing to take adequate air pollution levels into consideration. We would go so far as to say some are attempting to push projects through as quickly as possible to avoid scrutiny of their projects on air pollution at the new levels, because they know it will cause their projects problems.

Another example would be the fact that policies need to be reviewed to reflect changes to UK law. It took the threat of legal challenge from Transport Action Network to force the government's hand into reviewing the NPS NN. Yet the policy is extremely outdated and is not legally compliant on climate grounds. Again there are projects that would fail immediately if examined against a reviewed and

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updated policy that is compliant with the UK law on these climate grounds. However, instead they are being allowed to progress through because government refuse to suspend the policy whilst it is reviewed and updated.

Scrutiny needs to cover these kind of issues and concerns, as without them too many destructive and harmful projects will simply be progressed and pushed through.

Legislation needs to be monitored, scrutinised, and updated so that it is not biased in favour of the developer, as it is now. More balance is needed to ensure that the bar is set high enough to ensure the safeguarding and protection of the natural environment.

We also need to see the inclusion into polices/law of developers having to provide data on things such as carbon emissions, and air pollution, loss of and impacts to biodiversity during consultation stage of the process.

All too often we are experiencing instances whereby National Highways refuse to share info and data that is essential to be able to provide meaningful responses to consultation. We are instead told we will have to wait until the DCO is submitted.

How can we be expected to comment in consultation on things such as environmental impacts and mitigation when they refuse to share the relevant info needed, or the methodology and evidence to back up claims.

It's not just members of the public that suffer this arrogant behaviour either, local authorities and NGOs report the same.

We know that we have another round of LTC Local Refinement Consultation coming our way in May/June. We also know that it is highly unlikely that we will be provided basic info like data on air and noise pollution, yet we are expected to provide meaningful responses to consultation.

The factor of having to wait for DCO application documentation is more about putting pressure on parties during a relatively fast paced examination period. Especially when you're talking about huge projects like the proposed LTC that is anticipated to result in tens of thousands of pages of documentation, much of which will be info and details we have not been privy to previously. This means the pressure will be on us to read, understand and make representation under pressure and with very limited time.

We were also shocked that much of the DCO time table and practices are set by the developer. Again the balance needs to be addressed in these democratic processes. There should be legal requirements for the developer to have to disclose essential info and details prior to DCO. Also developers should not be able to

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withhold the DCO documentation until it has been accepted, it should have to be released publicly as soon as the application is submitted, to allow parties as much time to review, understand, question, and make representations as possible.

The DCO process is an important aspect of ensuring that decisions about NSIP are made democratically, legally, and in the best interest of the environment and people. This cannot happen when the developer has so much control of the process.

Advice

Question 15. Do you have any comments on our approach to advice?

We would hope that your making representations in some consultation would include consultations for projects where the environmental risk is high, such as RIS projects, NSIPs etc.

This would also be helpful in so much as the OEP would then also get a better insight into the inadequacies of many of these types of consultation, and can hopefully use your position to influence and offer advice to ensure a result of more adequate consultations, which should then result in better results on all levels.

How we will work with others

Question 16. Do you have any comments on how we will work with others?

We would appreciate seeing the wording in this changed to be more inclusive and clear that members of the public and community groups are considered to be amongst those you will work with please.

Now more than ever members of the public are stepping up to form community groups, alliances, and networks to work towards protecting and improving the natural environment.

It is for the benefit of everyone that we need to address climate change and ensure a healthy sustainable natural environment. It is therefore essential that everyone is made to feel a part of the work and process.

We also have on the ground experience of what threats there are to our local natural environment, and often in a prime position to be able to be aware and report issues and concerns. So whilst all the official bodies and organisations etc may have their own part to play, it is essential that the public are able to play a key role.

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We also hope that you and the Climate Change Committee can work together well to strengthen a united front to work towards ensuring government take note and actions are taken to back up all the talk, and stop the destruction of and harm to the natural environment at this critical time of climate emergency.

General comments

Question 21. Do you have any other comments on our draft strategy?

We would like to conclude our response by saying that by and large we support your draft strategy, and hope it will be progressed promptly and effectively, so that we can all start to benefit from your work as quickly as possible.

Question 22. Do you have any other comments on our draft enforcement policy?

We hope that you will be given the authority to enforce the policy as necessary so that we can begin to see some changes. All too often we are hearing lots of talk, but very rarely do we experience any action to back it up. We need a body like the OEP and hope you are given every opportunity to step up and enforce the policy that is so badly needed at this time.

Question 23. Overall how satisfied are you that the draft strategy and enforcement policy provide a sound basis for the OEP to fulfil its remit?

We are satisfied, thank you.

Consultee Feedback

Thank you for the opportunity to take part in this consultation. We would be happy to discuss any aspects with you further, and wish you well with your work, which we hope will see a change in better protection of the natural environment in the UK, and that your actions may influence others around the world too. Together we are stronger!

Should you wish to discuss any of the information in this response please do not hesitate to contact us – admin@thamescrossingactiongroup.com. Thanks.