

From: [REDACTED]
To: [Lower Thames Crossing](#)
Subject: Lower Thames Crossing
Date: 23 April 2024 16:16:51

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DearSirs,

Thank you for sending me this documentation , which I have read carefully.

I acknowledge that National Highways have gone to some lengths to consider the environmental impact of this huge project, and in places promise to mitigate its impact.

Nevertheless, I do not regard this information as sufficient proof of what will be done, or even that it will be done fully. The waste of natural habitat as a consequence of HS2, which proved to be far more than was needed, is a case in point. Replacement young woodland, as we now all know, does not replace ancient woodland: it merely replaces trees. It does not mitigate the impact of destroying ancient ecosystems, which offer an integrated environment for all kinds of wildlife, not just trees. That is just one example.

I am very surprised by the interpretation given by the Applicant to Paragraphs 5.150 and 5.151 of the NPSNN, which I copy here, italicising in bold the most important statements.

Paragraphs 5.150 and 5.151 of the NPSNN state that: ‘Great weight should be given to conserving landscape and scenic beauty in nationally designated areas. National Parks, the Broads and Areas of Outstanding Natural Beauty, have the highest status of protection in relation to landscape and scenic beauty. Each of these designated areas has specific statutory purposes which help ensure their continued protection and which the Secretary of State has a statutory duty to have regard to in decisions.’ (paragraph 5.150) ‘The Secretary of State should refuse development consent in these areas except in exceptional circumstances and where it can be demonstrated that it is in the public interest.

Consideration of such applications should include an assessment of: a. the need for the development, including in terms of any national considerations, and the impact of consenting it, upon the local economy i. the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and Planning Inspectorate Scheme Ref: TR010032 Application Document Ref: TR010032/APP/7.2 DATE: December 2023 DEADLINE: 9 8 Uncontrolled when printed – Copyright © - 2023 National Highways Limited – all rights reserved Volume 7 Lower Thames Crossing – 7.2 Planning Statement Appendix F Kent Downs Area of Outstanding Natural Beauty (Clean version) ii. F.4.8 any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.’ (paragraph 5.151).

Paragraph 5.152 explains the strong presumption against building new roads in the AONB, ‘unless it can be shown that there are compelling reasons for the new or enhanced capacity and with any benefits outweighing the costs very significantly’. F.4.9 F.4.10 F.4.11 F.4.12 F.4.13 F.4.14 Paragraph 5.153 states that ‘where consent is given in these areas, the Secretary of State should be satisfied that the applicant has ensured that the project will be carried out to high environmental standards and where possible includes measures to enhance other aspects of the environment. Where necessary, the Secretary of State should consider the imposition of appropriate requirements to ensure these standards are delivered’. Paragraphs 5.154 – 5.155 then set the decision making policies relating to development outside nationally designated areas which might affect them. Paragraph 5.154 states that ‘The duty to have regard to the purposes of nationally

designated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. The aim should be to avoid compromising the purposes of designation and such projects should be designed sensitively given the various siting, operational, and other relevant constraints.'

In Annex A, A.2.8, the applicant gives its response. I have highlighted the most pertinent statement in bold. This statement appears to me to be casuistical in the extreme, since the spirit of the duty laid upon the Secretary of State by the provisions of the NSPNN is clearly that he shall prevent the destruction and degradation of AONBs and areas close to them that might be affected by development, unless there are very compelling overriding circumstances. To suggest that the form of the language might merely place a burden on him of *having tried* to achieve his duty would, in other workplaces and arenas of public life, be laughed out of court. The Secretary of State has the powers to prevent such destruction; he is not a protester by a roadside.

Interpretation of the amended duty The amendment to section 85 is not a duty to further the purpose but to “seek to further” the purpose and the decision maker is required to exercise their duty to try to achieve these purposes when determining an application for a DCO that would affect land (directly or indirectly) within a National Park or AONB (now National Landscapes). Accordingly, a Minister is not required to exercise his functions so as to achieve those purposes in every case, but he is required to exercise them so as to try to achieve them. When determining an application for a DCO that would affect land (directly or indirectly) within a National Park or AONB. Accordingly, a Minister is not required to exercise his functions so as to achieve those purposes in every case, but he is required to exercise them so as to try to achieve them. The amendments to section 85 envisage that regulations will be made to assist in the application of the duty. No regulations have yet been produced. **In the meantime, from the language of the amendments to section 85 it can be discerned that, where it is concluded that a scheme will not conserve or enhance the natural beauty, wildlife and cultural heritage of a National Park or AONB (now National Landscapes), the Secretary of State in determining the Application will need to consider whether there is anything further that reasonably could be done to avoid or mitigate any harm identified. If there is not, then he will have fulfilled his duty to seek to further those purposes.**

I therefore wish it to be recorded that I object strenuously to this interpretation, and ask those responsible to examine this legal interpretation very closely indeed.

Thank you for your consideration,

Yours faithfully

Hilary Davies