THAMES CROSSING
ACTION GROUP

TR010032: Proposed Lower Thames Crossing Scheme (LTC)

Thames Crossing Action Group (TCAG)
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Introduction

1. **Thames Crossing Action Group (TCAG) is a community action group that represents many local people who are opposed to the proposed Lower Thames Crossing (LTC).**

2. **We have and continue to present evidence that shows that the proposed LTC would be hugely destructive and harmful, fails to meet scheme objectives, is not fit for purpose, and would be a waste of taxpayers' money.**

3. **We acknowledge the Secretary of State's further post examination consultation letters.**

4. **We remain strongly and completely opposed to the proposed £10bn+ Lower Thames Crossing.**

5. **TCAG is responding to the sixth consultation initiated by the Secretary of State's letter of 26th July 2024.**

Response to the Secretary of State's letter of 26th July 2024 inviting all interested parties to comment on the responses to the fifth consultation provided by the Applicant, Natural England and the Kent Downs National Landscape (formerly AONB) Unit, and on the proposed provision in the Development Consent Order for funding to deliver enhancement measures to the Kent Downs.

1. Non-compliance with the duty to seek to further the purpose of the Kent Downs

We have considered all of the most recent submissions and remain of the opinion that the Applicant has failed to 'seek to further the purpose' of conserving and enhancing the natural beauty of the Kent Downs National Landscape (KDNL), as required by the amendment of section 85 of the Countryside and Rights of Way Act (CRoW), in relation to Areas of Outstanding Natural Beauty (AONB) by the Levelling Up and Regeneration Act 2023 (LURA). Natural England and the KDNL Unit also remain of the same view that the Applicant has not complied with the duty.

Despite this, both Natural England and the KDNL Unit now recommend enhancement measures that both claim would demonstrate compliance with the new duty. Natural England is recommending that the Applicant should demonstrate its compliance with the new duty by providing details of projects which go beyond what is needed to mitigate the impacts of the LTC and deliver tangible outcomes in the Kent Downs. It is proposing three measures all of which are compensatory and intended to offset the harm that would be imposed. The KDNL Unit is also proposing three enhancement measures, which are similar to those proposed by Natural England but with more detail attached to them. We do not take issue with the enhancement measures in themselves but we do not agree that they enable compliance with the duty, based on Natural England's statutory advice and Campaign for National Parks' legal opinion.

Natural England's statutory advice [REP9A-122, para 2.13] is clear. *'The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose.'*

This advice aligns with the legal opinion given by Alex Shattock at Landmark Chambers to Campaign for National Parks in January 2024 and attached to its recent submission [letter 23 July]. The amending clauses are considered to impose a more onerous duty on public bodies than existed previously. The duty is now pro-active, not an afterthought. The decision maker must seek to further the statutory purposes of designated landscapes through an **outcome based** approach. Parliament should not be assumed to legislate in vain. The change in duty is clearly a material change.

The scheme was developed, before the amendment became law, under the less onerous duty 'to have regard to' the statutory purpose of the National Landscape. Hence, the Applicant's attempts to meet the more onerous new duty are retrospective and not proactive. The Applicant cannot rely on NNNPS (with which in any case the LTC is not compliant) to show compliance as 'an authority must factor in the relevant duty before the adoption of a proposed policy and not merely as a rearguard action, following a concluded decision' [CNP letter 23 July].

The new duty is not concerned with mitigation. It is concerned with seeking to further the purpose of the National Landscape, which requires an act or process that shows the Applicant has sought in the way intended. It requires an assessment of a quality and rigour capable of satisfying the law that there is no reasonable doubt that the Applicant engaged fully with the duty during development of the scheme. This the Applicant has failed to do since furthering the purpose of the Kent Downs was not embedded at the start of the project. Instead, the Applicant only considered the impacts on the Kent Downs once the preferred route was published. Enhancement measures are now an add-on.

An important evidential element in the demonstration of the discharge of the duty must be the recording of steps taken by the Secretary of State as decision-maker in seeking to meet the statutory requirements and demonstration of how the decision complies with the duty. This requires a thorough outcomes-based appraisal of alternatives (which the Applicant has not undertaken) that would avoid the impacts of the proposal on the Kent Downs. NPSNN 5.152 makes explicit that planning the Strategic Road Network should avoid nationally designated landscapes, i.e. the protection of designated landscapes is more important than the Strategic Road Network.

There is therefore no doubt that the Applicant has not complied with the new duty. By proposing 'add-on' measures to demonstrate compliance Natural England is countering its own advice about the duty. We agree with Campaign for National Parks [letter 23 July to consultation 5] – it is not possible to buy compliance with the new duty. Doing so leaves the project imposing substantial unmitigable harm in one area which would lead to a permanent irretrievable loss of value and compromise the integrity of the Kent Downs. On this basis alone the Secretary of State should refuse consent. The importance of this harmful outcome is being overlooked in the disagreement over enhancement measures and their funding.

The proposed enhancement measures also set a dangerous precedent that a poorly mitigated and unmitigable scheme which would significantly harm a nationally protected landscape can proceed, providing improvements are made elsewhere. It is completely inappropriate to over-ride this important new duty by supporting projects which could benefit a completely different part of the protected landscape.

2. Proposed funding to deliver enhancements to the Kent Downs

In principle TCAG objects to the proposed enhancement measures but wishes to comment on the proposed funding without prejudice to what it has said above. The Applicant calculated the valuation of the landscape impacted by the Project to result in a disbenefit of £149.78M [APP-526, Tables 10.5 and 10.6]. This figure was then amended to take into account proposed landscape mitigation and additional ecosystem services benefits which reduced the landscape disbenefits to £93.35M. The valuation is applicable to the entire scheme and is based on the appraisal parameters in TAG data book v1.18 [APP-523]. The appropriate amount of funding to deliver enhancement measures to the Kent Downs National Landscape remains a point of disagreement between the Applicant, Natural England and the KDNL Unit. The Applicant is proposing a sum of £3m which appears arbitrary and the KDNL Unit is proposing a sum of £38m based on the Applicant's own calculations to fund its outlined and costed proposals. Natural England proposes that the funding package would be in addition, but separate, to the compensatory enhancement fund proposed by the Applicant in recognition of the significant residual impacts to the Kent Downs National Landscape resulting from the scheme. Our comments are as follows.

1. In order to address this unresolved issue the Secretary of State is proposing a form of words in the Development Consent Order which does not solve the disagreement but leaves it to a final independent arbiter. This is unacceptable. It is a vague statement,

leaving room for continuing disagreement. As set up the process will lead to a complete lack of transparency about the use of public money, which if agreed would change hands without any certainty of the outcomes for the protected landscape.

2. The Applicant's valuation used v1.18 of the Landscape Monetisation Workbook. Since the Applicant's assessment there have been four updates to the Workbook, including one to update carbon values. The most recent TAG data book v1.23, May 2024, should be used to assess the value of landscape impacts.

3. The Landscape Monetisation gives the impact of landscape changes (imposed by the scheme) on public value, in this case £93.35M. The latter is the value of the impact of the scheme on landscape that cannot be mitigated. There is no point in landscape monetisation unless the monetary value of the impact is invested in the landscapes that are harmed. If £38m is allocated to the Kent Downs, then £55.35m, the remaining deficit, should be spent to address the impacts on landscapes outside the protected area. This would accord with the European Landscape Convention, of which the UK is a signatory, which covers all landscapes, creates new landscapes and states that good landscape is everyone's right.

The impact of the scheme on the Kent Downs National Landscape alone is sufficient reason for the Secretary of State to refuse development consent although there are many other reasons as TCAG has made abundantly clear throughout the DCO process. Such a decision would also be reinforced by recent events – the £22bn black hole in the public finances revealed by the Chancellor in Parliament on 29 July and the announcement by the Transport Secretary on 30 July to undertake a review of all current and future capital transport projects.

3. Cancelling the Lower Thames Crossing

TCAG believes that the LTC should be in scope for the review of DfT's capital commitments and cancelled. The spending gap for unfunded transport commitments for this year alone is £2.6bn. We have extracted from APP-526 Table D.1 Profile of capital expenditure (CAPEX) costs (£m, outturn, Most Likely), the total annual capital sums in £m predicted to be spent by the Applicant on the LTC. As can be seen the £333.8 allocated to 2024-2025 represents 13% of the £2.6bn gap in funding. In the following years the amounts rise significantly on a base that does not reflect inflation since 2021.

Year	**2024-2025**	**2025-2026**	**2026-2027**	**2027-2028**	**2028-2029**	**2029-2030**	**2030-2031**	**2031-2032**	**total**
Capital expenditure	333.8	1,146.7	1,384.7	1,590	1,450	906.1	222.3	3.2	8,083.4

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[redacted]

We do not know the criteria against which capital projects would be judged for postponement or cancellation. However, from Labour's manifesto, the Chancellor's speech on 29 July and the Transport Secretary's five transport priorities[1] we surmise that value for money, support for economic growth, and projects that would help to 'fix public transport' are likely to be key criteria. To this list we have added cutting transport climate emissions, which aligns with the Climate Change Committee's advice in its 2023 Progress report (R2023-148): '*Conduct a systematic review of current and future road-building projects to … ensure that decisions do not lock in unsustainable levels of traffic growth and develop conditions … that permit schemes to be taken forward only if they meaningfully support cost-effective delivery of Net Zero and climate adaptation*.'

(a) *Value for Money*

The LTC offers extremely poor value for money. At a cost of at least £9bn in 2021, which will have risen with inflation, it had a Benefit Cost Ratio of 0.48, meaning that for every £1 spent only 48p is returned to the economy. The adjusted BCR, inflated by including 'wider economic benefits', agglomeration etc (with little supporting evidence), is just 1.22[2]. This puts the LTC in the DfT's low value for money category[3]. It is a myth that the LTC is vital for the UK economy. The project would be a drain on the economy and would swallow up limited funds for transport, meaning better value and more sustainable projects cannot go ahead (see below). To make it properly connect into the surrounding road network, it will require further money to be spent on other roads, costs that have effectively been hidden from this project's evaluation.

(b) *Support for economic growth*

There is an abundance of literature around the agglomeration benefits to be obtained by making British cities (including those in the North of England) denser and reducing commuting times through road pricing and better public transport. This creates larger labour markets and improves matches between employers and workers in the services sector where the UK retains a comparative advantage internationally[4]. In contrast there is little evidence that road building increases economic growth[5]. Perhaps the most relevant and convincing evidence for major road schemes is National Highways' own evaluation reports for 80 of its strategic road schemes which showed how poorly road schemes support economic growth. Of these 80 schemes, 25 had been justified, prior to construction, on the basis of their expected economic benefits. However, on completion,

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[1] [redacted] In a video in a tweet on 18 July the Transport Secretary outlined her 5 transport priorities to 'fix public transport' including the third more explicit priority *'We'll finally give the North the rail infrastructure it deserves. Unlocking jobs, opportunities and growth'*.

[2] [redacted]

[3] [redacted] Box 5.1, Department for Transport, 2015

[4] Labour Economics, Social Market Foundation, 2024; Centre for Cities, Cities Outlook, 2024

[5] Frontier Economics Ltd (2017) Exploring the economic benefits of strategic roads. Report for DfT and Highways England; What Works Centre for Local Economic Growth (2015) Evidence Review 7: Transport; Accessibility impacts of new roads - [redacted] 2019; Welsh Assembly Government's assessment of the [redacted] Stage 3 Report; Transport for Quality of Life (2018) Radical Transport 2-Pager #3: The case for shifting road spending to sustainable travel.

the majority had either no, weak, or anecdotal evidence of economic impact[6]. Thus there is no sound basis on which to invest in the LTC for economic reasons.

(c) Fix public transport

Spending on major road projects means that funding will not be available for investment in more equitable and sustainable travel measures. The Transport Secretary's tweeted video on transport priorities made a commitment to 'give the North the rail infrastructure it deserves[7]', estimated to cost £30.6bn[8]. Progressing the LTC at a cost of at least £9bn would severely curtail and delay not only this commitment to the North but other bus and rail projects. The yearly capital costs in the summary table above show the LTC would cost more than a billion pounds in each of the four years from 2025-26.

Providing more road capacity increases traffic and reinforces car dependency. By making best use of existing road space through demand management, the government would be able to reduce vehicle miles (as advised by the Climate Change Committee) and meet its goals for public transport[9]. The benefits of measures such as congestion charging, workplace parking levies and physical measures to utilise existing road space more efficiently, when coupled with investment in public transport, not only stimulate modal shift from car dependency but also create revenue for investment in the measures the government is promoting – better bus and rail services, including shifting freight from road to rail, greener and integrated transport. Based on this work the NIC[10] recommended prioritisation of improved public transport networks in four major regional cities (Birmingham, Bristol, Leeds and Manchester) in pursuit of increased productivity and agglomeration benefits, which strongly aligns with Labour priorities. It also stated that the '*Government's first priority for roads should be to maintain the existing network by investing adequately in maintenance and renewal, including to ensure proportionate resilience to climate change impacts.*' The £9bn earmarked for the LTC, if invested in NIC's proposals, could begin to make inroads in the capital investment needed in public transport, estimated to be £12.8bn per annum until 2035 by the TUC[11].

(d) Cutting Transport Climate Emissions

Cancelling the LTC would make a significant contribution to addressing the climate emergency by saving total carbon emissions of 6.6MtCO2e over the project's lifetime[12]. The

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[6] Sloman L, Hopkinson L & Taylor I (2017) The Impact of Road Projects in England. Report for CPRE.
[7] *op.cit.* [redacted]
[8] https://archive.ph/2024.07.31-153411/https://www.newcivilengineer.com/latest/review-of-dft-capital-spend-portfolio-could-see-more-transport-projects-cancelled-31-07-2024/
[9] Urban transport capacity and demand management: [redacted] Atkins on behalf of National infrastructure Commission
[10] [redacted], 2023, National Infrastructure Commission
[11] 'Public Transport Fit for the Climate Emergency – More services, more jobs, less emissions', 2023, Transport for Quality of Life for the TUC
[12] [redacted], 5.6.19, National Highways, October 2022

construction emissions amount to 1.763MtCO2e[13], and the operational emissions from the extra traffic total 4.834MtCO2e[14]. It is now critical to cut transport climate emissions fast[15]. In the first half of the Net Zero period between 1990-2050 there was no road transport decarbonisation whatsoever. Road transport emissions in 1990 were 110.8 MtCO2e and in 2019 111.4MtCO2e, and post-covid are bouncing back. Both the Climate Change Committee and the think tank Green Alliance have concluded that there are insufficient policies in place to deliver with certainty the quantity of emissions reductions required. There is a 'policy gap' of around 120MtCO2e over the fifth Carbon Budget period 2028-32, which experts agree this government needs to close through a reduction in traffic of around 20% by 2030, in parallel with a strong EV transition. Providing more road capacity would increase traffic and counter this effect. To address the climate emergency it is therefore crucial that instead of increasing road capacity, best use is now made of existing road space. Cancelling the LTC would be a powerful indicator of the government's commitment to its public transport goals as well as addressing the climate emergency.

Conclusion

The Secretary of State should refuse consent for the LTC and cancel the project.

13 [redacted]

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[redacted] *'Will Labour FAIL its transport decarbonisation test? & Why that matters for the UK climate crisis',* prepared and summarised in a shorter briefing paper by Anthony Rae for the northern Environmental Transport Organisations.