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To:

The Rt. Hon. Owen Paterson MP, Secretary of State for DEFRA,
The Rt. Hon. Eric Pickles MP, Secretary of State for Communities and Local Government,
The Rt. Hon. Edward Davey MP, Secretary of State for Energy & Climate Change -

**REQUEST FOR A REVIEW OF THE NATIONAL POLICY STATEMENT FOR WASTE WATER
CONCERNING THE THAMES TIDEWAY TUNNEL UNDER S.6 OF THE PLANNING ACT 2008**

We believe that this Government is in grave danger of drifting into a solution (the TTT) to a problem (the UWWTD) which has been misunderstood. Alternatives have not been properly investigated. The TTT will cause far greater cost and disruption to the public than is necessary, even if all goes according to plan and budget - which rarely happens with major infrastructure projects. If it does not, the consumer and taxpayer risk ending up with an open-ended commitment.

22 October 2013

REQUEST FOR A REVIEW OF THE NATIONAL POLICY FOR WASTE WATER

KEY POINTS

1. This letter should be understood as a formal request to the Secretaries of State to commence a review of the National Policy Statement for Waste Water (dated March 2012, hereafter NPS) concerning the Thames Tideway Tunnel (TTT) in accordance with Section 6 of the Planning Act 2008. There has been a significant change in the circumstances since the original report written on which the basis of the Thames Tideway Tunnel Policy was decided.
2. The Secretaries of State should reconsider the proposal at the earliest opportunity to enable a more effective solution both economically and environmentally for London. The key points for the review as well as the benefits of the alternatives are outlined below and in more detail in the body of the letter.

An Economic, Social & Environmental Alternative Solution for London

3. Professor Richard Ashley considers that TW's terms of reference for his study were too narrow and blanket assumptions made for scaling up.
4. Thamesbank respectfully points out that the Government's replies to Lord Berkeley's recent questionsⁱ about evidence of alternatives, and SuDS being "disproportionally expensive" to the TTT (18th October), appear also to be based on TW's "too narrow" study.
5. Professor Chris Binnie (Chair of the Thames Tideway Strategic Study Group) in a recent reportⁱⁱ questioned some of TW's basic assumptions, and concluded: "Combined Interim Measures along with Sustainable Drainage Systems (SuDS) and Blue Green Infrastructureⁱⁱⁱ (BGI), should be studied fully".
6. Sir Ian Byatt's (former Director General of Ofwat) report in July 2013 – "Thames Tunnel: A Critique of a Flawed Project"^{iv} – concludes "the tunnel-only" project could be more expensive for both customers and taxpayers than the adoption of a combination of smaller and more flexible solutions.
7. The European Commission have said^v, "under the requirements of the EU Directive 2011/92/EU, the UK needs to look at the potential environmental impact of the solution proposed and viable alternatives". Thamesbank proposes that Integrated Water Resource Management (IWRM) as pioneered globally by Philadelphia, mandatory across the USA and recommended in Europe, to be a viable alternative.

Escalating Cost vs Net Gain for London

8. Costs for the TTT continue to rise as illustrated by TW's recent (October 2013) request to Ofwat for an 8% rise in customer bills. Thamesbank is aware that BATNEEC principles are not being adhered to and that the TTT will result in a stranded asset of £4.2Bn with a benefit of around £0.3Bn^{vi}. This compares with the Philadelphia IWRM cost of \$2.4Bn, which would produce an estimated benefit of \$2.8Bn^{vii}.
9. The scale of discharges into the Thames are being exaggerated in the NPS particularly when allowing for the construction of the Lee tunnel, enhancements to STW's already being paid for by customers and for better maintenance of existing sewers.
10. Implementing IWRM across London would create a NET economic gain as well as addressing climate change issues around flooding, urban heat island effects, improved air quality, public health outcomes and long-term employment opportunities, outcomes that the TTT cannot deliver.
11. The Government now has an opportunity to revisit and apply the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters to transform London positively for future generations.

Background & Reasoning

12. On 12 September 2013 an Examining Authority (“ExA”) of five inspectors appointed under the Planning Act 2008 regime commenced its consideration of an application by Thames Water (“TW”) to construct a 25 kilometre sewer under the River Thames, the Thames Tideway Tunnel (“TTT”). By its letter of 26 September 2013, the ExA has confirmed that it will not consider the need for alternatives to the TTT as part of the Examination – the reason given being that the National Policy Statement on Waste Water (“NPS”) published in March 2012 concludes that the TTT is the “only option to address the problem of discharging unacceptable levels of untreated sewage into the River Thames within a reasonable time at a reasonable cost.” However, as we show below, the evidence on which these decisions appear to have been based relies on reports dated 2005, and no account appears to have been taken on the progress and efficacy of alternatives, whose effectiveness have only recently been demonstrated.
13. The cost of the TTT is escalating, now at least £4.2bn capital cost. The timescale for implementation of the project is lengthy; no benefits at all will be experienced until 2023 at the earliest. Thamesbank and the Environmental Law Foundation (ELF) (hereafter called “Thamesbank”) with the co-signatories to this letter strongly believe that alternative solutions would be cheaper, more effective at quickly cleaning the Thames and come with numerous wider benefits. However; the ExA does not propose to consider the need for the project or any alternative solutions. We consider that the NPS is both wrong and unlawful in circumstances where alternatives have *never* been adequately investigated and that the public has, in consequence, never been given the chance to consider any alternative solutions.
14. Projects of the scale of the TTT require full and open debate and scrutiny. However because of the statutory limitations on challenging the development consent order process (DCO) under the Planning Act 2008, there is a real danger that a flawed and expensive Examination will be allowed to continue with strictly limited scrutiny of the most important issues, including the costs, benefits and comparative willingness of the public to pay for the solution finally adopted
15. This letter is a formal request that the Secretary of State commences an immediate review of the NPS in accordance with section 6 of the Planning Act 2008. In the alternative, Thamesbank supports the representation of Pinsent Masons LLP on behalf of Southwark Council^{viii} that the NPS should not have the decisive role it is proposed to have as part of the development consent process and that there should be re-consultation on alternatives as part of the Examination process.
16. The TTT was conceived by the Thames Tideway Strategic Study Group (“TTSS”) between 2000 and 2005 (Chair, Professor Chris Binnie); it is on the basis of information assessed at that time, by that group that the Government in 2007 announced that it had decided to promote the project as a specific solution. The NPS was based on the TW 2010 Needs Report, which in turn was largely based on that out-dated appraisal by the TTSS. Public consultation on the NPS took place from 16 November 2010 to 22 February 2011. The only study of alternatives relied upon was the *SuDS Evaluation for Example Areas* (Appendix E of TW’s NEEDS report, 28 April 2010 lead author, Emeritus Professor Richard Ashley) now included (but not open to question) in the TTT planning application. However, Richard Ashley has himself recently stated that the terms of reference were too narrow and the time and resources dedicated to it were inadequate.

17. The case for review is compelling given the inadequacy of the terms of reference given to Professor Ashley which were to only consider reduction of spill volumes and frequencies, to ignore local infiltration measures, to ignore rainwater harvesting (other than rainwater barrels), and not to investigate existing development plans for the area. In addition all the modelling was done by others, and it had been presumed they did it right; however, it now transpires that their modelling exaggerated the impermeable area draining to West Putney CSO by up to 40% within the catchment. Furthermore, SuDS had to be considered as an 'all-or-nothing' option and not a partial option. This information has come to light since publication of the NPS.
18. The legal basis for review is clear and set out in the note below.^{ix} Moreover, review of the NPS is essential now, before the Government and the public are locked into the construction and financing of an essentially Victorian, environmentally sub-optimal project such as the TTT, when better, less costly options are available. The relevant circumstances are :
- Mounting concerns about the cost and financing of the TTT; see *Thames Tunnel; a Critique of a Flawed Project* . Sir Ian Byatt (29/8/13);
 - Changed policy landscape supporting cheaper and more effective alternative approaches;
 - New practical evidence of the success of cheaper and more effective alternative approaches;
 - Clear case that the terms of reference and scope specified for the assessment of alternatives in 2010 was inadequate.
 - Clear case that the assumption on which the benefit of the project was assessed was flawed.
19. We believe there is a need to look beyond a monolithic and single problem focused solution such as the TTT. This view is supported by, among others, Professor Ashley (lead author of the SUDS study) and Sir Ian Byatt (former head of Ofwat). Taken together, the above points present a compelling case against the assumption of “need” for the TTT in the NPS. The Secretaries of State are accordingly requested to instigate an independent review of the NPS at the earliest possible opportunity. Thamesbank also invites the Secretaries of State to ensure that there is full and open debate on the NPS in Parliament well ahead of the grant of any development consent for the TTT.

Complying with the Urban Waste Water Treatment Directive

20. At the outset it is necessary to address the argument that the TTT is necessary in order to comply with Member State obligations under Council Directive 91/271/EEC on urban wastewater treatment (“the UWWTD”). Infringement proceedings^x were upheld against the UK on 18 October 2012 in relation to this Directive, in essence that the UK had in London and other areas failed to ensure appropriate collection of urban wastewater. The key issue is the frequency of discharges from combined sewer overflows after periods of unusual rainfall as determined by the Environment Agency.
21. Thamesbank’s position is that the TTT is not the only way of complying with this. Alternatives such as shallow reconstruction of secondary and unclassified roads using porous asphalt, green roofs, with attenuated discharge to sewers by design or real-time controls, rainwater

harvesting and localised foul water treatment using anoxic/anaerobic units can and must be considered. In fact, a view supported by experts including Professor Binnie and Professor Ashley is that the 10 years the TTT may take to achieve the aims of the Directive could be reduced by a combination of these solutions. The EU Court did not declare that the TTT was the only solution. Thamesbank's case is that integrated water resource management ("IWRM") combining a number of smaller, cheaper and more environmentally attractive options would be more timely, effective and provide greater overall benefit to society.

22. The TTT addresses the symptom of the issue (sewer capacity being temporarily overwhelmed due to excess volumes of rainwater) rather than its cause (rainwater entering a combined sewer system already too full from used water and groundwater leakage). More than twice as much water arrives in London in the form of rainwater than the city needs. It cannot make sense to tip all of this into the sewerage system, not only squandering a valuable resource, which has to be replaced, but also creating the unnecessary problem of getting it out again. IWRM can address both these lost opportunities whereas the TTT does not address either. Nor does the TTT address the problem of excessive dry weather flow which as Professor Binnie has pointed out could well be reduced by reducing water consumption (notably by increasing metering) and reducing mains leakage.

Concerns about costs and financing

23. Sir Ian Byatt (former Director General of Ofwat) has recently written in his *Thames Tunnel, a Critique of a Flawed Project*: "This is a European Union (EU) driven project that has snowballed into a Coalition Growth project, gathering costs as it rolls. The proposed solution, chosen by Ministers, is estimated to raise customers' bills by £70 to £80 a year. Yet the engineering costs seem excessive and, as proposed, it could be both difficult and expensive to finance. The UK is in breach of the EU Urban Waste Water Directive. Ministers have opted for a "tunnel only" solution, having brushed aside cheaper and more flexible solutions."
24. He continues: "Thames Water has paid excessive dividends, yet argues that a government guarantee is necessary to cover potentially catastrophic risks. It is therefore proposed that a separate company would be formed to undertake this project that would then supply sewerage services to Thames Water." TW appear reluctant to call this a guarantee, preferring the description "contingent financial support to cover exceptional and remote project risk that cannot be commercially insured on terms offering value for money to our customers, or insured at all". Sir Ian has described it more succinctly as "privatising the profits while socialising the risk".
25. T. Martin Blaiklock Ma,MBA, a consultant finance specialist who has contributed to many Parliamentary and National Audit Office enquiries, has also warned: " Given the alternatives to the Tunnel Option, which are gaining reality daily, e.g. SuDS variants, a prudent Government should forget the Tunnel and choose the course of lowest financial risk and cost to Thames' customers and the taxpayer.

Changed policy landscape

26. There has been a significant development in policy at national, EU and international level since the TTT was conceived and since the NPS was published. In November 2012 the European Commission published a white paper (*A Blueprint to Safeguard Europe's Water Resources*^{xv}) supporting integrated water management and the use of green infrastructure. A communication^{xvi} of 6 May 2013 states that there "are now hundreds of examples of GI [green infrastructure] projects in Europe ..." and promotes the "mainstreaming" of greener

infrastructure into planning. This was reinforced on 14th October 2013 by a discussion paper prepared by the Lithuanian Presidency, highlighting support for the Commission's initiative, and recalling the conclusions of the Informal Environmental Council of July 16th on the importance of ensuring sufficient financing for Green Infrastructure, both at EU level and in operational programmes and on the need for new partnerships to secure further investments in natural capital. Internationally, the OECD has a programme on Water Policies for Future Cities that promotes the use of green water infrastructure.

27. In the USA a new report (Case studies analysing the economic benefits of low impact development and green infrastructure programs, 2013) demonstrates by way of example, how such schemes can both save money and deliver a multiplicity of benefits to society, which can be monetised.
28. In the UK, the Natural Capital Committee's first annual report (April 2013) sets out an holistic approach in tune with this modern policy by taking opportunities (such as integrated water management) to enhance natural capital. Multiple integrated and local solutions to storm water management not only enhance natural capital, but create opportunities for communities and are in tune with the localism agenda. Even TW in para 3 of the Executive Summary to Appendix E of their Needs Report (2010) appear to have accepted that "There is growing evidence globally that alternatives to piped or sewerage systems, usually hybrid responses to stormwater problems, using combinations of 'natural' drainage systems and piped or sewerage where necessary, are more flexible, adaptable and ultimately more resilient to on-going major changes such as due to climate. These systems also have the added benefits of being able to improve the quality of the stormwater running off surfaces and can also be used to enhance the liveability of urban areas by the introduction of water features and more green space; also providing opportunities for cooling and carbon sinks, important responses to climate change." Unfortunately as will be seen below the terms of reference laid down for the actual study did not pay more than lip-service to these statements.
29. The NPS was not drawn up in this policy context; there is now a mismatch in policy terms, necessitating a rethink of the UK approach to waste water management and planning.

Evidence of effectiveness of alternatives

30. Across the world, the management of stormwater now takes a multi-functional approach, using green, blue and natural infrastructure. The whole water cycle needs to be integrated with IWRM (Integrated Water Resource Management) when considering improving London's environment in order to tackle growing concerns with water availability, climate change, CSO overflows, biodiversity and air quality. The practicability of integrated approaches is being demonstrated elsewhere in the world and the TTT appears increasingly out of date. Evidence from the USA of the savings produced by incentivising conversion of impermeable surfaces is well documented. It is now mandatory in the city of Copenhagen where they intend to be a carbon neutral city by 2025 that all new flat roofs at or under a 30 degree-pitch must be vegetated^{xvi}.
31. Guidance has been issued in the USA by the Environmental Protection Agency over the last five years and is now mandated by the White House, to promote integrated water management solutions over grey infrastructure after the successful implementation of integrated water resources management in Philadelphia, which is solving worse combined sewage overflow problems than London without resorting to a tunnel. Building densities in Philadelphia are similar or greater than in London and has double London's rainfall.
32. Other American cities, such as New York where \$1.6 billion was allocated toward the development of GI and Washington DC are following Philadelphia's example with the green

solutions in NY alone estimated to add \$1.5bn a year to the city's economy^{xvii}. Experience and evidence now available from Philadelphia show that alternatives to a tunnel project can yield considerable **economic benefits in terms of ecosystem services and natural capital as well as social benefits such as the local employment of unskilled or semi-skilled labour** and corresponding crime reduction on a scale and longevity way beyond what the TTT is claimed to provide.

33. For London, consideration of sustainable drainage systems ("SuDS") in 2010 was constrained by the terms of reference set by TW (see below). There has never been an assessment of the scope and effectiveness of integrated water resources management in London, despite the fact that it is the preferred policy choice in much of Europe, the United States and Australia. **In the London Plan: "discharge rainwater to the combined sewer" is 7th out of 7 preferred options^{xiii}**. The principle to support the TTT (Policy 5.14) must be revisited in the light of new evidence.

Flaws in case against alternatives

34. Professor Ashley, the lead author of the 2010 SUDS study, has written a rebuttal of TW's use of his report to dismiss alternative, integrated and sustainable solutions. In particular he comments on the limited basis of the study – it looked only at "a very limited range of the most obvious candidates", he considers that "a more refined analysis, with more recent models for the performance and costs needs to be done". "There are considerable additional potential benefits" to alternatives and the tunnel "cannot provide the range of multiple benefits that GI [green infrastructure] can". He has more recently (9/10/13) stated that: "TOR [terms of reference] [were] too narrow – only to reduce spill volumes and frequencies – no other benefits [were considered] eg flooding [and] aesthetics and the only RWH [Rain Water Holding] using barrels'. The study [was] too high level – we could not investigate eg local infiltration measures – we were told these would not be viable – for the areas we were given to look at as supposedly being the most 'ideal' for SuDS. Time and resources did not allow individual SuDS to be defined and gross assumptions for 'blanket' applications had to be made and scaled up. [There was also] no contact with councils, [the] public or others allowed to test viability or look for synergies and mainstreaming (linking SuDS to other developments) [such as road resurfacing which would have been carried out anyway].
35. TW TTT engineers carried out all the modelling so we had to presume it was done correctly. SuDS had to be considered as an 'all-or-nothing' option not a partial option as everyone else has done, **even then significant partial benefits were shown in the modelling, with some overflows eliminated completely.**" [our emphasis].
36. In his recent report *Measures to protect the river environment from the adverse effects of waste water discharges* (October 2013), Professor Binnie also considers that a *combination* of alternatives measures needs considering.
37. He demonstrates that, in its modelling of the sewers and the combined sewer overflows, Thames Water assumed that sewer flows would increase, because of population increase, by about 13% by 2021, the then main design date. However sewer flows are made up predominantly of discharges of water from customers' properties, highways and by leakage infiltrating into the sewers. Studying the TW Water Resources Management Plans shows that the water delivered and leakage (hence infiltration into the sewer system) are projected to go down by about 10%. Correction of this would reduce spill frequency and spill volumes.
38. He proposes a range of alternatives to reduce flows into the sewers, including diverting sewer flows to other catchments and the use of SuDS and BGI. He then proposes in sewer methods

to reduce spills including the removal of sewer restrictions, real time control of the sewer network, and, in places, detention storage. All these measures would further reduce the spill frequency.

39. To improve the environmental quality of the river to meet the TTSS objectives he proposes booms round most of the CSOs to collect sewage litter, the existing litter collectors in the river, and oil skimmers, to reduce the aesthetic impact.
40. Regarding the ecological impact, his analysis using the Tideway Fish Risk Model, shows that, once the STW upgrades and the Lee tunnel are completed, the Tideway would meet the sustainability criteria for fish, even including the most sensitive fish species “salmon” that are not considered sustainable in the river for other reasons. However, as a precaution he proposes, compressed air diffuser systems (such as used on the river Seine downstream of Paris), to be used when conditions need it, as well as keeping the existing bubbler boats.
41. For recreation and health improvement he points out that those affected are mostly rowers who are ten times healthier than the general population. He proposes a traffic light system for when spills occur, oil spill collectors and also the treatment of water provided to the London Docks where sailing and water skiing occur.
42. Binnie concludes, **“it would appear that the Combined Interim Measures may well be able to meet the TTSS objective set to meet the UWWTD [EU Directive]. These works should be implementable within about two to three years”**. However they would need proper independent study and costing.
43. As Professor Ashley states in his critique, the alternatives to the TTT “will provide benefits from Day one”. While there has been no proper assessment of such alternatives (so they certainly cannot be dismissed), Professor Binnie also concludes that “compared to these budget costs of about £30 million, the tunnel at £4,200 million would be excessive cost under the UWWTD BATNEEC clause”.
44. So far, TTT studies have simply not considered triple bottom line cost/benefit analysis but rely on an inadequate interpretation of a “Green Book” provision. A comprehensive, comparative cost/benefit analysis using modern analysis must be done as part of an independent review of the NPS.
45. In addition, as Professor Ashley maintains, the data on which the evaluation of alternative solutions were evaluated were obtained from computer modelling, not actual observations, and may therefore contain significant errors in the estimation of pollutant loads discharging from CSOs. These models are immature and typically no better than “a random number generator”. The Environment Agency has consistently failed to provide evidence linking the sensitivity of the model results to the benefits and costs of the scheme. In the Selborne Inquiry, the Environment Agency, when requested, provided a self-validated review of the modelling which lacked independent accreditation or peer review.

Flaws in case for benefits of TTT

46. A Defra cost/benefit report of 2011, which considers only the TTT solution, gives what must be considered a highly dubious cost/benefit analysis because the value of benefits appears to have risen from earlier reports in parallel with the rising capital cost. The cost/benefit analysis to date is also flawed because it relies on the figure of 39m cubic metres of raw sewage discharged annually into the Thames (this is still often quoted in press releases).

47. However, on-going improvements to sewage treatment plants, notably Mogden, and the completion of the Lee Tunnel in 2014 will (regardless of the TTT) reduce this to at most 18m cubic metres, - less than half of the NPS figure. The cost of these improvements will have been approximately £1.2bn. £4.3bn to remove the remainder should therefore be considered relatively poor value. In any event, even this figure is misleading: the effluent is not raw sewage alone, it is (by the very nature of a CSO) sewage carried by a large volume of stormwater (typically 1/8th foul and 7/8th rainwater), much of which, if IWRM were employed, would not need to enter the system or be allowed to enter the system in a controlled manner; by design.

Need for further consultation on alternatives

48. TW has only carried out a limited comparison of alternatives, looking serially at SuDS as a complete solution to the environmental problems rather than looking at a *combination* of actions, “such as SuDS plus storm tanks, partial retrospective separation of storm water and foul sewage, sweeping of the river, reducing excessive infiltration into existing sewers and measures such as shallow reconstruction of roads using porous asphalt” beyond the traditional interpretation of “SuDS”. We believe that such a combination would not only be more cost-effective but would deliver earlier benefits to customers and to the environment together with reduced potential for non-compliance fines from the EU.

49. There has simply never been adequate public consultation on alternatives. Thamesbank’s position is that this was unlawful. Instead of an early opportunity to participate in scoping studies and decision-making, the TTT has been presented to the public with serious restrictions at each stage – first the TTSS, then the NPS, then the DCO process. The broadened scope of alternatives described above has never been considered by the public. The consultation (such as it is) has been inadequate within the terms of the Aarhus Convention, article 6(2) of which requires public participation on major projects to be carried out in an “adequate, timely and effective manner” and Directive 2011/92/EU that requires consideration of viable alternatives. A proper review of the NPS that considers the alternatives and interim measures now available would not only be good policy but would potentially overcome unlawfulness and should include those customers not previously consulted who live outside of London and under current proposals would pay.

Climate change

50. The TTT is not the appropriate solution for a changing climate because it is a fixed structure of fixed capacity and not adaptable to increased storm runoff in the longer term due to a probable increase in intensive rainfall.

51. Its engineering and construction, as well as the processing of retained rainwater and sewage are energy and carbon intensive processes. Clear evidence demonstrates that SuDS options with the latest BGI are more flexible, adaptable and resilient than piped drainage systems and are therefore better for dealing with uncertainties such as climate change.

52. No comprehensive carbon footprint assessment including transport emissions was provided for the tunnel with respect to construction or in operation prior to the NPS. TW’s only recent report indicates that the embodied Green House Gas emissions (tCO₂e) for the construction and operation to the tunnel will be around 840,000 tonnes (98% in construction) – the equivalent in energy to run Imperial College, one of Europe’s largest Universities for 10 years^{xiv}. The lack of this carbon impact study being available as vital evidence prior to the NPS is remarkable and demonstrates a lack of transparency of the decision making. **A scientific comparison of green infrastructure vs the tunnel would show that green infrastructure would be a net sequester of carbon**, as has been illustrated in a number of studies. The potential for energy

saving from retro-fitting green roofs is substantial. The GLA sponsored “London Green Roof survey” identified 10 million m² of properties within 6km of Trafalgar Square alone suitable for retro-fitting.

53. The recent call from the CBI backed by the DECC for the government’s “Green Deal” to be extended to businesses could incentivise retro-fitting green roofs resulting in benefits for building owners, tenants and London’s environment; not least for heat island mitigation but for air quality and biodiversity improvements. The government could zero rate such measures for VAT purposes.
54. Water Framework Directive Guidance Document 24 (*River Basin Management in a changing climate*) states under Principle 7 that “if investments are being planned for infrastructure with long life spans it is prudent to favour measures that are resilient to a wide range of plausible climate conditions ... these measures should also work with natural processes and realise multiple benefits (e.g., for flood risk management, drought management, nature conservation, navigation and recreation).” The TTT is inflexible and does not meet these criteria for resilience to “plausible climate conditions”. Principle 8 says that “measures taken to improve water status through waste water treatment or reuse, artificial recharge of aquifers, inter-basin transfers and so forth, imply higher energy consumption and greenhouse gas emissions.”
55. The water status of the River Thames now is only “moderate”, but it will still be only “moderate” ten years later having spent £4bn, increasing and continually increasing our UK carbon emissions by a vast amount over the 100+ years of the claimed tunnel life.

Local Authority support

56. Many London local authorities stand ready to assist and to avoid the enormous disruption and cost of the TTT. After the end of the public consultation period on the NPS, five councils combined in October 2011 to set up and produce the report of the TTC (Thames Tunnel Commission) under the chairmanship of Lord Selborne, the main recommendation of which was that the decision to proceed with a tunnel solution should be revisited on the basis of evidence that effective solutions could be provided at less cost. This was misrepresented by Thames Water as an endorsement of the Jacobs Babbie “shorter tunnel scheme” which it demonstrably was not.
57. The Report concluded: “The Commission strongly recommends that the 2007 Ministerial request of Thames Water to pursue a full-length storage tunnel be reconsidered, so that the full range of ‘best technical knowledge’ options available to manage stormwater is evaluated with equal consideration as the tunnel in meeting compliance with the Urban Waste Water Treatment Directive. The Commission also encourages Defra to inform the EU proceedings for the need for an environmental and economic reassessment to ensure that not only stormwater overflow issues are addressed but also flooding and wider societal benefits, and that the options pursued do not entail excessive cost for the benefits accrued in today’s economic climate.”

Conclusion

58. As explained above, the decision to proceed with the TTT was based upon outdated and limited assumptions. There are now powerful new circumstances that merit re-consideration of the principle of the TTT as the preferred option, taking into account its cost, environmental and social impact on London over the coming century, before it is too late. The NPS must be reviewed now.

59. We appreciate that the issues raised in this letter are complex, but they are very important. It is hoped that the Secretaries of State, their Ministers and Parliament will give the matter the attention it deserves.

60. The Government now has an opportunity to reopen the consultation through the Aarhus Convention and transform London positively for generations to come. The Government must honour the precautionary principle which states that: "in order to protect the environment the precautionary approach shall be widely applied by States. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation".^{xv}

Yours sincerely,

Dido Berkeley

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SUPPORTED BY:

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Others to follow

For further information and clarification please see:

http://www.bluegreenuk.com/policy_politics_law/ppl05.html

Thamesbank email - < river@thamesbank.org.uk >

References

- i A1a. 18.10.13 HoL Q&A 1015 13/14 /
- A1b. 18.10.13 HoL Q&A 1016 13/14 – Annex 1a & 1b
- ii A2. Measures to protect the river environment from the adverse effects of waste water discharges, 21.10.13 – Annex 2
- iii www.bluegreenuk.com - Blue Green UK website
- iv A3. Byatt - Thames Tunnel: A Critique of a Flawed Project - Annex 3
- v A4. EC Southwark Legal letter 1.07.13 – Annex 4
- vi A6. Binnie - Cost Benefits Analysis, legal requirements, & in-river scheme. March 2012
- vii A5. CDM Smith – Key Questions on Green Infrastructure & Philadelphia – Q1 – Annex 5
- viii Dated 18 September 2013, Pinsent Masons LLP letter on behalf of Southwark Council to be added to above web-link later.

ix LEGAL REASON FOR NPS REVIEW:

Section 6(1) of the Planning Act 2008 provides that the relevant Secretary of State “must review each national policy statement whenever the Secretary of State thinks it appropriate to do so.” It is therefore clear that the Secretary of State has a limited discretion in that, when circumstances arise that make it appropriate to review an NPS, it must be reviewed. However, and of relevance in this case, a review may relate to part of an NPS (subsection (2)) so that review could be of the inclusion of the TTT in the NPS alone. Subsections (3) and (4) set out the considerations that the Secretary of State must have regard to in deciding when (not whether) to review an NPS, these are:

- “(a) since the time when the statement was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the statement was decided,**
- (b) the change was not anticipated at that time, and**
- (c) if the change had been anticipated at that time, any of the policy set out in the statement would have been materially different.**

Defra has already indicated in its Response to Parliamentary Scrutiny of the Draft National Policy Statement for Waste Water (February 2012) that it will review the NPS “in five years’ time, or before that time should there be a significant need to do so” (emphasis added).

- x Case C-301/10 -
- xi COM(2012) 673 final
- xii COM(2013) 249 final
- xiii London Plan 2011, Policy 5.13 Sustainable Drainage Hierarchy
- xiv <https://workspace.imperial.ac.uk/facilitiesmanagement/Public/Imperial%20College%20Carbon%20Management%20Plan%20Final.pdf>
- xv Rio – Earth Summit Sustainable Development Principle No.15.
- xvi Copenhagen policy <http://inhabitat.com/copenhagen-adopts-a-mandatory-green-roof-policy/>
- xvii <http://www.asla.org/ContentDetail.aspx?id=31301>

A7. Willingness to pay for Blue-green infrastructure (Philadelphia) Annex 7