

Statement of Consultation

Article 4 Direction for Seething Wells Filter Beds

February 2021



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1. Introduction

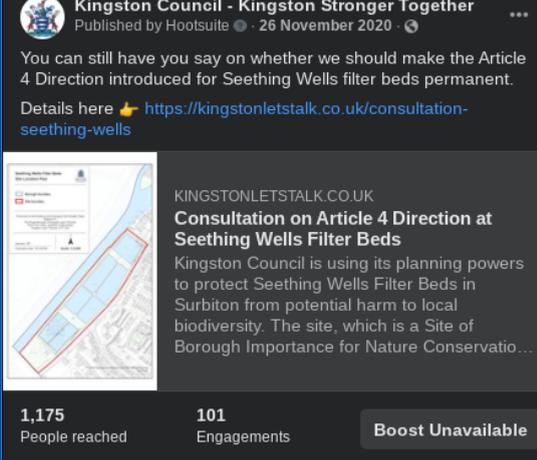
This Statement of Consultation sets out the approach and summarises the results of the public consultation undertaken by the Royal Borough of Kingston upon Thames on the Article 4 Direction for Seething Wells Filter Beds which took place between the 5 November 2020 and 18 December 2020.

The Article 4 Direction for Seething Wells was introduced as an immediate Article 4 Direction to protect Seething Wells Filter Beds in Surbiton from potential harm to local biodiversity. The Article 4 Direction temporarily removes the ability to erect fencing, gates and other means of enclosure on the site without planning permission. This report summarises the feedback received during the consultation process.

2. Consultation Process

The engagement process for the Article 4 Direction consisted of a formal consultation held in late 2020. During this time the Council undertook a wide range of methods of communication in order to ensure that notification of the consultation reached as many people in the borough as possible. A full list of all engagement activities are set out below.

Engagement activity	Date
575 emails sent to statutory consultees and the strategic planning contacts database informing them about the consultation and how to respond.	5 November 2020
A notice was published in the Surrey Comet	5 November 2020
A site notice was put up at the site.	5 November 2020
A press release was produced in collaboration with the Communications team.	5 November 2020
Information about the consultation was included within RBK matters and the borough newsletter.	November 2020
Online engagement	Date
A copy of the Sealed Article 4 Direction was available to download via the Council's website as well as the Council's online survey portal at: https://kingstonletstalk.co.uk/consultation-seething-wells	November - December 2020
Social media (Facebook, Twitter)	November - December 2020

		
		
<p>A specific webpage about the Article 4 Direction and the consultation at: https://www.kingston.gov.uk/policy/article-4-direction-seething-wells-filter-beds/1</p>		November 2020
<p>Online consultation portal page set up with online survey at: https://kingstonletstalk.co.uk/consultation-seething-wells</p>		November - December 2020

Consultee Notification

All those on the Strategic Planning databases, were informed of the consultation by email, advising on details of the consultation.

Online survey

All stakeholders were encouraged to respond to the Article 4 Direction consultation via an online survey on the council’s engagement portal. The full list of survey questions are set out in Appendix 2 of this report.

3. Summary of responses and main issues

In total, the Council received **120** consultation responses. This includes:

- **103** online respondents to the online survey, 76% of which were from local residents;

- 17 emailed responses received from local residents, resident associations and specific consultation bodies.

Overall 90.3% of the online respondents agreed or strongly agreed that the Article 4 Direction for Seething Wells Filter Beds should be made permanent.

The following table summarises the main issues raised and the Council's response.

Issue raised	Council's response
<p>Impact on biodiversity and the natural environment - The majority of comments which were left by respondents related to the biodiversity found on the site. Numerous comments cited the need to protect biodiversity and the wider natural environment on the site. Nearly all of the respondents who raised this issue agreed that the Article 4 Direction should be made permanent.</p>	<p>The potential impact on biodiversity is the main reason why the Article 4 Direction was introduced. This is supported by the assessment of the site in the recently published a Review of Sites of Importance for Nature Conservation (SINCs) in the Borough which provides the following recommendation for the site:</p> <p><i>“Due to the current management practices, which include the treatment and removal of vegetation, being implemented, the site is at risk of dedesignation unless urgent action is taken to implement remedial measures to restore the site.</i></p> <p><i>The site has significantly changed since the previous survey due to the current management approach, which has reduced the extent and value of the habitats present. The site now primarily comprises standing water and bare ground with tall ruderal vegetation and ephemeral/short perennial plant species. The remains of some value to breeding birds and winter waterfowl species using the River Thames, however this could be further improved through appropriate management of the site.</i></p> <p><i>Given the nature of the site, which continues to support wetland habitats, as well as its relationship with the River Thames and its geological character, the site is considered to continue to be of notable value. Due to these factors and given that the site has been subject to”.</i></p>
<p>Previous damage on the site - Many comments raised the issue of previous damage to features on the site. Respondents who raised this issue agreed that the Article 4 Direction should be made permanent.</p>	<p>This Article 4 Direction only removes permitted development rights to erect, improve or alter new gates, fences, walls or other means of enclosure. The Council will monitor the situation on the site to ensure that damage and harm to natural habitat is avoided.</p>

<p>Industrial Heritage - Some comments highlighted the industrial heritage of the site as an example of Victorian engineering and the Local Listing of parts of the site as reason to further protect the site. Respondents who raised this issue agreed that the Article 4 Direction should be made permanent.</p>	<p>This Article 4 Direction only removes permitted development rights to erect, improve or alter new gates, fences, walls or other means of enclosure. The Council will monitor the situation on the site to ensure that damage and harm to heritage assets is avoided.</p>
<p>Opportunities for development - A sizable minority of comments believed that some form of development should occur on the site. There was a split between those who provided development suggestions over the type which they'd like to see occur on the site. Some people suggested the site should be developed for a leisure use (nature reserve, park, visitor centre) whereas others stated that the site would be suitable for housing and community facilities. The majority of respondents who disagreed with the Article 4 Direction being made permanent cited this issue.</p>	<p>Comment noted, however this consultation only relates to permitted development rights to erect, improve or alter gates, fences, walls or other means of enclosure. Comments on the future of the site can be made as part of the next public consultation on the new Local Plan.</p>
<p>The use of the Council's urgency powers to make the Direction was unreasonable and not justified - A point was raised claiming that the urgency powers were invoked simply due to the Council's desire to refuse an application for a certificate of lawfulness for a reason which was incorrect as a matter of law.</p>	<p>The application for a Lawful Development Certificate for erecting new fencing on the site, when taken into consideration with the recent clearance of vegetation on the site, made clear that there is a high probability that fencing would be erected imminently. This is considered sufficient to justify the use of Urgency Powers in a specific and targeted way. The decision to make an Article 4 Direction was taken following advice from the Council's Biodiversity officer regarding this important site of nature interest. This is supported by Review of SINCs that was recently published. The decision to use Urgency Powers was made in consultation with the Chairs of the Council's Culture, Housing, Environment and Planning (CHEP) Committee. The Direction is valid for a maximum period of six months, during which time a decision on whether to confirm the Direction with or without modifications will be made by the CHEP Committee.</p>
<p>There is no evidential basis for concluding that the exercise of the Restricted PD Rights would be prejudicial to the proper planning of their area or constitute a threat to the</p>	<p>The justification for the making of the Article 4 Direction is on biodiversity grounds. The decision to make an Article 4 Direction was taken following advice from the Council's Biodiversity officer regarding</p>

<p>amenities of the Council's area - A point was raised claiming that the Council's assertion that the exercise of the Restricted PD Rights would cause such prejudice is based upon an assertion of potential harm to biodiversity which also has no evidential basis.</p>	<p>this important site of nature interest. This is supported by Review of SINCs that was recently published.</p>
<p>The Council has failed to consider all reasonable alternatives to the making of the Direction.</p>	<p>In relation to identifying alternative courses of action, the making of an Article 4 Direction that did not have immediate effect was not considered a reasonable alternative as postponing its effective date could have defeated its purpose in that fencing can be erected relatively quickly. The Council review all responses received during the public consultation and will consider amending the Direction, if necessary, to the effect that certain development in Class A of Part 2 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), including the ability to replace, maintain or improve any means of enclosure, will continue to be allowed under permitted development rights.</p>
<p>The Council failed to properly consider the potential financial implications of the making of the Direction - A point was raised stating that there is potential for public liability issues to arise in the event any urgent maintenance or repair works are necessary to ensure the safety of highway users and/or the occupants and users of the residential houseboats and pontoons, but which the Landowner was unable to carry out immediately due to the Direction.</p>	<p>The intention of the Article 4 Direction is not to prevent the ability to secure the site but rather to ensure that any additional new means of enclosure or fencing are designed to allow wildlife to pass freely underneath so as to allow them to roam throughout the site. The Council is proposing to amend the Direction in order to allow the maintenance repair and 'like for like' replacement of any gates, fences, walls or other means of enclosure without needing to apply for and obtaining planning permission.</p>
<p>The Direction removes the ability of the Landowner to repair any means of enclosure and/or erect any new means of enclosure to secure the Site after damage and trespass has occurred.</p>	<p>The Council is proposing to amend the Direction in order to allow the maintenance repair and 'like for like' replacement of any fences, walls, gates and means of enclosure without needing to apply for and obtaining planning permission.</p>

A number of these issues did not directly relate to permanence of the Article 4 Direction. The Council will welcome comments on the future of the site as part of the next public consultation on the new Local Plan and will consider any new application in line with national and local planning policy.

4. Conclusion

Overall responses were broadly supportive of the Article 4 Direction being made permanent. However, in light of the issues raised, it is recommended that an amendment to the Direction should be made to allow for the maintenance, repair and 'like for like' replacement of fences, walls or other means of enclosure on the site.

Appendix 1 - Online Survey and Quantitative Analysis of Survey Results

Kingston Council website Get Involved We asked, you said, we did Search Tom Bright

Home » Consultation on Article 4 Direction at Seething Wells Filter Beds

Consultation on Article 4 Direction at Seething Wells Filter Beds

Kingston Council is using its planning powers to protect Seething Wells Filter Beds in Surbiton from potential harm to local biodiversity. The site, which is a Site of Borough Importance for Nature Conservation (SINCI), represents a unique habitat within the borough. The site is of particular importance to wintering wildfowl and bat populations.

A mechanism called an Article 4 Direction has been introduced which temporarily removes the ability to erect fencing, gates and other means of enclosure on the site without planning permission. This is a specific and targeted Article 4 Direction which has been introduced in response to an application to confirm if the erection of fencing at Seething Wells Filter Beds is permitted development.

The Council must decide within six months whether to make the Article 4 Direction permanent.

Let us know your views

A public consultation is taking place for a period of six weeks from Thursday 5th November 2020 and ending at 5pm on Friday 18th December 2020. The consultation documents are available to download from the Documents section of this webpage.

Representations to the consultation can be made by:

- Completing the consultation response form at the bottom of this webpage
- Email to: localplan@kingston.gov.uk
- Post: Strategic Planning, Royal Borough of Kingston upon Thames, Guildhall 2, High Street, Kingston upon Thames, KT1 1EU

Next steps

After the consultation has ended we will review all the representations received. We will then prepare a report with our recommendation on whether the Article 4 Direction should be made permanent to the Council's



Documents

- Sealed Article 4 Direction (1.16 MB) (pdf)
- Decision Notice - Urgent Action (Procedure Rule 30) - Article 4 Direction for Seething Wells Filter Beds.pdf (77.3 KB) (pdf)
- List of questions in the response form for the Article 4 Direction consultation.docx (6.99 KB) (docx)
- Description of the area covered by the Article 4 Direction (7.77 KB) (docx)

Who's Listening

Tom Bright
Principal Planning Policy Officer
Strategic Planning & Infrastructure
Phone 020 8547 5000
Email localplan@kingston.gov.uk

Key Dates

Consultation Closes
18 December 2020

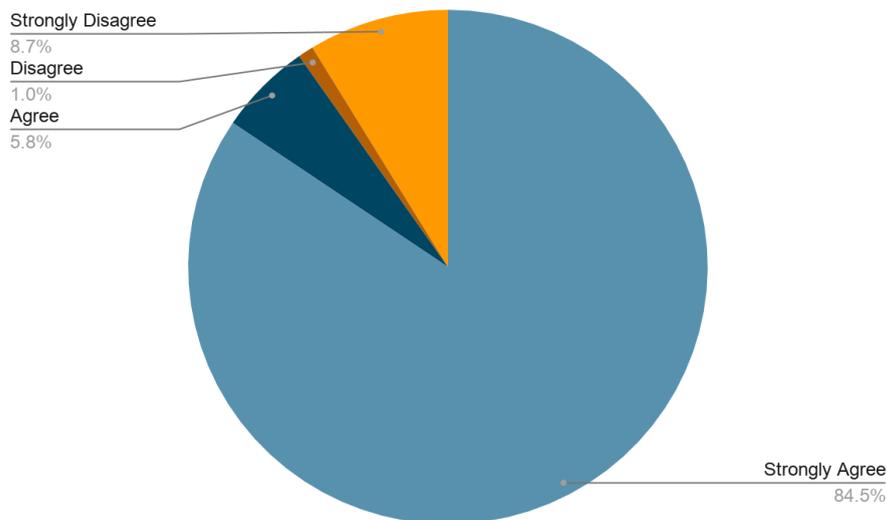
Main findings from online survey

The results below sets out the online survey responses only. This accounts for 103 responses of all 120 responses received.

Q1 asked for what best described the responder's interest in the consultation

Q2 asked the responder's postcode

Q3: To what extent do you agree or disagree that the Article 4 Direction for Seething Wells Filter Beds be made permanent?



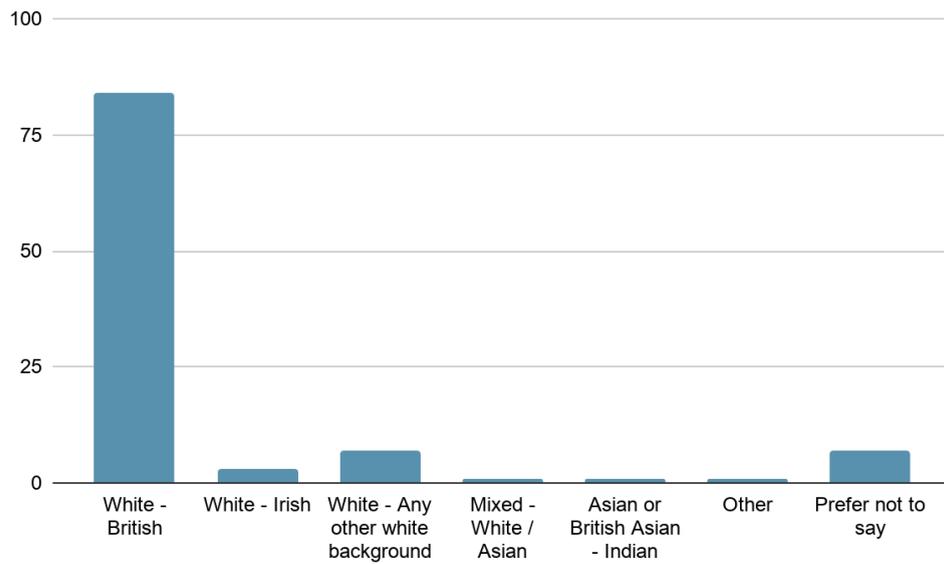
Q4: If you have any further comments please add them to the text box below.

- A table of comments is contained within Appendix 3.

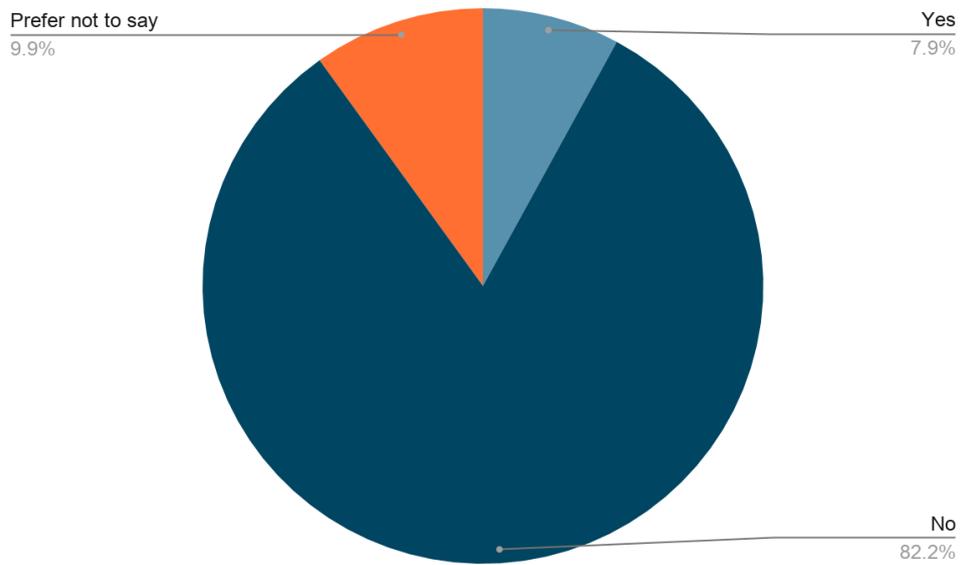
Profile of respondents

The survey asked a number of standard demographic questions. This is for equalities monitoring and to check how representative the respondent profile is when compared with that of the borough as a whole.

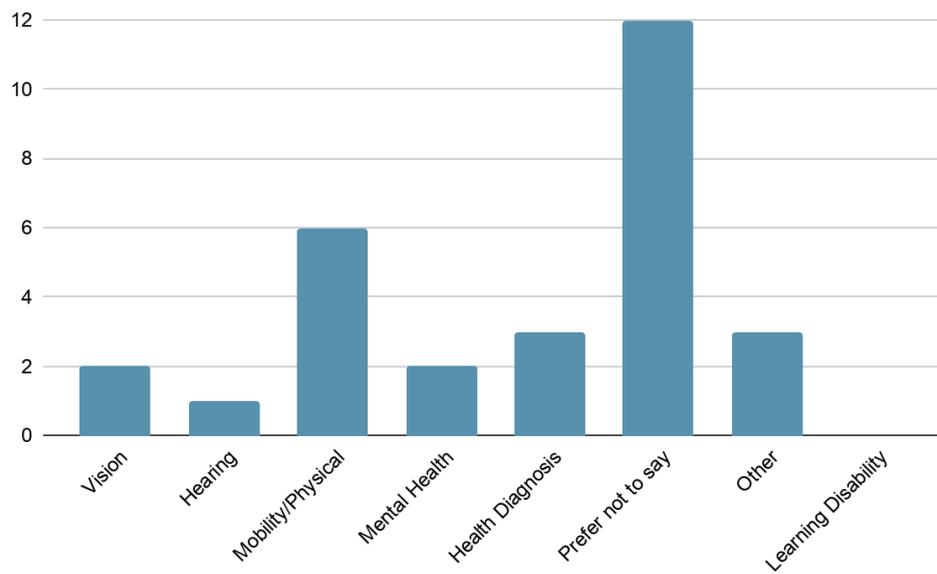
Q5: What is your ethnic group?



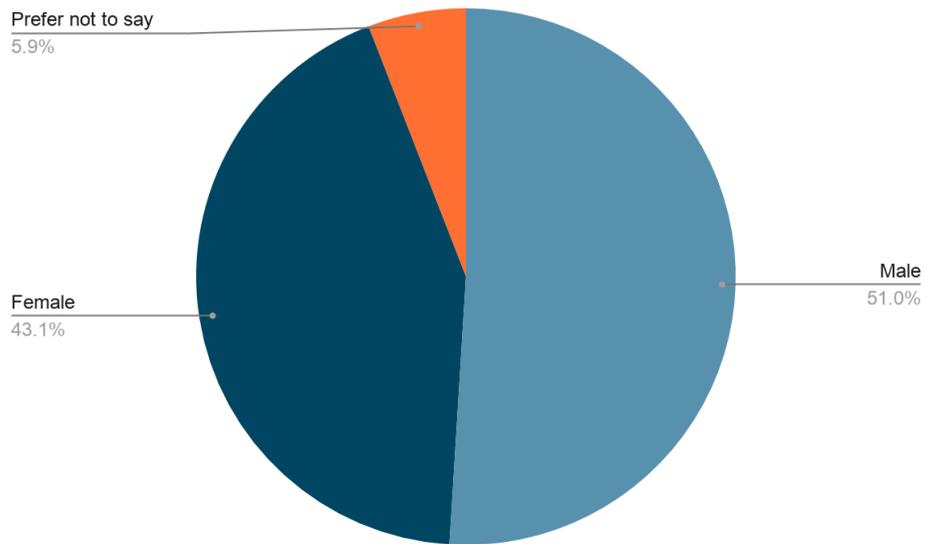
Q6: Do you have any physical or mental health conditions lasting or expected to last 12 months or more?



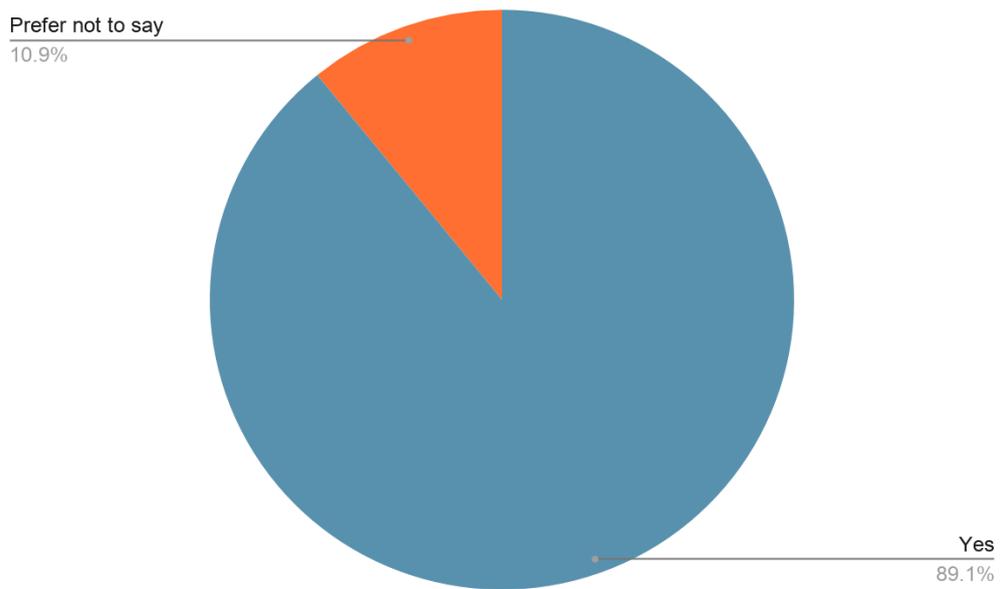
Q7: Do you have any health conditions or impairments which affect you in the following areas?



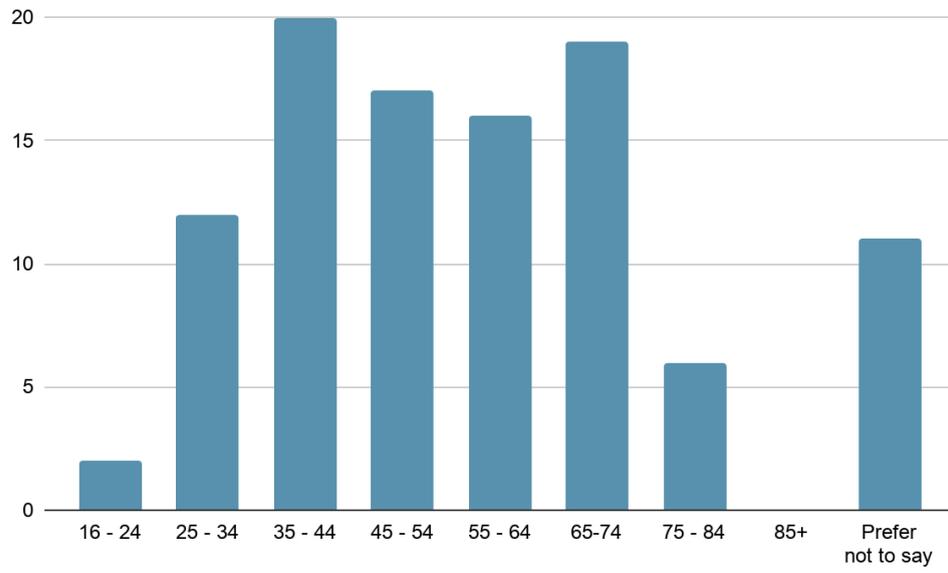
Q8 What gender are you?



Q9 Is your gender identity the same as the gender you were assigned at birth?



Q10: What is your age?



Appendix 2 - Online survey questions

Q1: Which of the following best describes your interest in the consultation? (Choose all that apply)

- As a resident of Kingston
- As an employee or self employee of a business or organisation based in Kingston
- As a member of a community group or organisation
- As an elected member
- Other (please specify)

Q2: Please tell us your postcode so we are able to map responses.

Q3: To what extent do you agree or disagree that the Article 4 Direction for Seething Wells Filter Beds be made permanent?

- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree
- Other (please specify)

Q4: If you have any further comments please feel free to add them to the text box below.

Equalities Monitoring Form

Q5: Ethnicity - What is your ethnic group? Choose one option that best describes your ethnic group or background.

- White - English / Welsh / Scottish / Northern Irish / British
- White - Irish
- White - Gypsy or Irish Traveller
- White - Any other White Background
- Mixed / Multiple ethnic groups - White & Black Caribbean
- Mixed / Multiple ethnic groups - White & Black African
- Mixed / Multiple ethnic groups - White & Asian
- Mixed / Multiple ethnic groups - Any other Mixed / Multiple ethnic background
- Asian or Asian British - Indian
- Asian or Asian British - Pakistani
- Asian or Asian British - Bangladeshi
- Asian or Asian British - Chinese
- Asian or Asian British - Tamil
- Asian or Asian British - Korean
- Asian or Asian British - Any other Asian background
- Black / African / Caribbean / Black British - Caribbean

- Black / African / Caribbean / Black British - African
- Black / African / Caribbean / Black British - Any other Black / African / Caribbean background
- Other ethnic group - Arab
- Any other ethnic group (please describe)
- Prefer not to say

Q6: Health Conditions/Impairments - Do you have any physical or mental health conditions lasting or expected to last 12 months or more?

- Yes
- No
- Prefer not to say

Q7: Health Conditions/Impairments - Do you have any health conditions or impairments which affect you in the following areas? Please tick all that apply.

- Vision
- Hearing
- Mobility/Physical
- Learning Disability
- Mental Health
- Health Diagnosis
- Prefer not to say
- Other (please tell us)

Q8: Gender - Are you:

- Male
- Female
- Prefer not to say

Q9: Gender - Is your gender identity the same as the gender you were assigned at birth?

- Yes
- No
- Prefer not to say
- Other (please tell us)

Q10: What is your age?

- Under 16
- 16-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65-74
- 75-84
- 85+
- Prefer not to say

Q11: Which of the following options best describes how you think of yourself?

- Heterosexual
- Gay
- Lesbian
- Bisexual
- Pansexual
- Prefer not to say
- Other (please tell us)

Q12: What is your religion?

- No religion
- Christian (including Church of England, Catholic, Protestant and all other Christian denominations)
- Buddhist
- Hindu
- Jewish
- Sikh
- Muslim
- Prefer not to say
- Other (please tell us)