

# **SCOPING OPINION:**

## **Proposed A38 Derby Junctions**

**Case Reference: TR010022**

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Adopted by the Planning Inspectorate (on behalf of the Secretary of State for Housing, Communities and Local Government) pursuant to Regulation 10 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

**April 2018**

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### APPENDIX 1: CONSULTATION BODIES FORMALLY CONSULTED

### APPENDIX 2: RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES

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# 1. INTRODUCTION

## 1.1 Background

- 1.1.1 On 15 March 2018, the Planning Inspectorate (the Inspectorate) on behalf of the Secretary of State (SoS) received a scoping request from Highways England (the Applicant) under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) for the proposed A38 Derby Junctions (the Proposed Development).
- 1.1.2 In accordance with Regulation 10 of the EIA Regulations, an Applicant may ask the SoS to state in writing its opinion *'as to the scope, and level of detail, of the information to be provided in the environmental statement'*.
- 1.1.3 This document is the Scoping Opinion (the Opinion) provided by the Inspectorate on behalf of the SoS in respect of the Proposed Development. It is made on the basis of the information provided in the Applicant's report entitled A38 Derby Junctions Environmental Impact Assessment Scoping Report, March 2018 (the Scoping Report). This Opinion can only reflect the proposals as currently described by the Applicant. The Scoping Opinion should be read in conjunction with the Applicant's Scoping Report.
- 1.1.4 The Applicant has notified the SoS under Regulation 8(1)(b) of the EIA Regulations that they propose to provide an Environmental Statement (ES) in respect of the Proposed Development. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development is EIA development.
- 1.1.5 Regulation 10(9) of the EIA Regulations requires that before adopting a scoping opinion the Inspectorate must take into account:
- (a) *any information provided about the proposed development;*
  - (b) *the specific characteristics of the development;*
  - (c) *the likely significant effects of the development on the environment; and*
  - (d) *in the case of a subsequent application, the environmental statement submitted with the original application.*
- 1.1.6 This Opinion has taken into account the requirements of the EIA Regulations as well as current best practice towards preparation of an ES.
- 1.1.7 The Inspectorate has consulted on the Applicant's Scoping Report and the responses received from the consultation bodies have been taken into account in adopting this Opinion (see Appendix 2).
- 1.1.8 The points addressed by the Applicant in the Scoping Report have been carefully considered and use has been made of professional judgement

and experience in order to adopt this Opinion. It should be noted that when it comes to consider the ES, the Inspectorate will take account of relevant legislation and guidelines. The Inspectorate will not be precluded from requiring additional information if it is considered necessary in connection with the ES submitted with the application for a Development Consent Order (DCO).

- 1.1.9 This Opinion should not be construed as implying that the Inspectorate agrees with the information or comments provided by the Applicant in their request for an opinion from the Inspectorate. In particular, comments from the Inspectorate in this Opinion are without prejudice to any later decisions taken (eg on submission of the application) that any development identified by the Applicant is necessarily to be treated as part of a Nationally Significant Infrastructure Project (NSIP) or Associated Development or development that does not require development consent.
- 1.1.10 Regulation 10(3) of the EIA Regulations states that a request for a scoping opinion must include:
- (a) *a plan sufficient to identify the land;*
  - (b) *a description of the proposed development, including its location and technical capacity;*
  - (c) *an explanation of the likely significant effects of the development on the environment; and*
  - (d) *such other information or representations as the person making the request may wish to provide or make.*
- 1.1.11 The Inspectorate considers that this has been provided in the Applicant's Scoping Report. The Inspectorate is satisfied that the Scoping Report encompasses the relevant aspects identified in the EIA Regulations.
- 1.1.12 In accordance with Regulation 14(3)(a), where a scoping opinion has been issued in accordance with Regulation 10 an ES accompanying an application for an order granting development consent should be based on '*the most recent scoping opinion adopted (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion)*'.

## **1.2 The Planning Inspectorate's Consultation**

- 1.2.1 In accordance with Regulation 10(6) of the EIA Regulations the Inspectorate has consulted the consultation bodies before adopting a scoping opinion. A list of the consultation bodies formally consulted by the Inspectorate is provided at Appendix 1. The consultation bodies have been notified under Regulation 11(1)(a) of the duty imposed on them by Regulation 11(3) of the EIA Regulations to make information available to the Applicant relevant to the preparation of the ES. The Applicant should note that whilst the list can inform their consultation, it should not be relied upon for that purpose.

- 1.2.2 The list of respondents who replied within the statutory timeframe and whose comments have been taken into account in the preparation of this Opinion is provided, along with copies of their comments, at Appendix 2, to which the Applicant should refer in preparing their ES. Acknowledgements of receipt of the scoping consultation were also received from Erewash Borough Council, North West Leicestershire District Council, Nottinghamshire County Council, Oldham Council, Rushcliffe Borough Council and SGN. No formal consultation responses were received from these organisations.
- 1.2.3 The ES submitted by the Applicant should demonstrate consideration of the points raised by the consultation bodies. It is recommended that a table is provided in the ES summarising the scoping responses from the consultation bodies and how they are, or are not, addressed in the ES.
- 1.2.4 Any consultation responses received after the statutory deadline for receipt of comments will not be taken into account within this Opinion. Late responses will be forwarded to the Applicant and will be made available on the Inspectorate's website. The Applicant should also give due consideration to those comments in preparing their ES.

### **1.3 Article 50 of the Treaty on European Union**

- 1.3.1 On 23 June 2016, the United Kingdom (UK) held a referendum and voted to leave the European Union (EU). On 29 March 2017 the Prime Minister triggered Article 50 of the Treaty on European Union, which commenced a two year period of negotiations regarding the UK's exit from the EU. There is no immediate change to legislation or policy affecting national infrastructure. Relevant EU Directives have been transposed into UK law and those are unchanged until amended by Parliament.

## **2. THE PROPOSED DEVELOPMENT**

### **2.1 Introduction**

2.1.1 The following is a summary of the information on the Proposed Development and its site and surroundings prepared by the Applicant and included in their Scoping Report. The information has not been verified and it has been assumed that the information provided reflects the existing knowledge of the Proposed Development and the potential receptors/ resources.

### **2.2 Description of the Proposed Development**

2.2.1 The Applicant's description of the Proposed Development, its location and technical capacity (where relevant) is provided in section 1.1 of Chapter 1 and Chapter 2 of the Scoping Report.

2.2.2 The Proposed Development site is located at three junctions on the existing A38 road in Derby at Kingsway, Markeaton and Long Eaton (Figure 1.1). The Proposed Development is situated in the administrative areas of Derby City Council (DCiC), Derbyshire County Council (DCC) and Erewash Borough Council (EBC).

2.2.3 The Proposed Development comprises grade separation of the three junctions. The existing junction layouts are shown in Figures 2.1, 2.2 and 2.3 of the Scoping Report. The proposed layout plans for the Proposed Development are shown in Figures 2.4, 2.5 and 2.6 of the Scoping Report.

2.2.4 The Kingsway junction section of the Proposed Development and associated works for this is described in paragraphs 2.5.2 to 2.5.8 and shown in Figure 2.4 of the Scoping Report. Along with the grade separation of the existing A38/A5111 at Kingsway junction, the proposed works comprise new slip roads to a dumbbell roundabout and bridge arrangement on the A5111, which would pass over the A38. The number of lanes on the A38 between Kingsway junction and the A38/A52 Markeaton junction would be increased from two to three in each direction. The Proposed Development would widen two existing bridges over Brackensdale Avenue to allow for an additional lane on each carriageway. The existing access roads from the A38 onto Brackensdale Avenue and Raleigh Street would be closed. Provision would be made for drainage attenuation and extension of existing culverts.

2.2.5 The Markeaton junction section of the Proposed Development is described in paragraphs 2.5.9 to 2.5.19 and shown in Figure 2.5 of the Scoping Report. This section would include an enlarged two-bridge roundabout at ground level with the A38 passing underneath it through an underpass to the south-east of the existing roundabout, with a maximum depth approximately 7.6m below the existing ground levels, and with slip roads connecting the A38 to the new roundabout.



- 2.2.6 Existing accesses from the A38 onto Enfield Road and Sutton Close from Ashbourne Road would be closed. The existing access into Markeaton Park from Markeaton junction is also proposed to be closed, except for access for emergency vehicles. The existing park exit onto the A52 would be reconfigured to create a new park access/exit road. Access to McDonald's restaurant and the Esso petrol station from the A38 northbound carriageway to the south of the junction would also need to be closed. Alternative access provisions are being considered by the Applicant.
- 2.2.7 Demolition of 15 detached residential properties on Queensway and two semi-detached properties on the A52 Ashbourne Road would be required for this part of the Proposed Development.
- 2.2.8 Non-motorised users (NMU) would be provided with facilities to cross the A38 at the proposed Markeaton junction. The existing footbridge to the north of the Markeaton junction would be demolished and replaced in the same location, but extended to allow for the proposed additional A38 carriageways.
- 2.2.9 The proposed DCO application boundary (Figure 1.2a of the Scoping Report) highlights the location of proposed highway improvement works to the north of Markeaton and Kedleston junctions, which would comprise signage works and potential works to the highway barriers.
- 2.2.10 The proposed Little Eaton junction is described in paragraphs 2.5.20 to 2.5.27 and shown in Figure 2.6 and of the Scoping Report. The works include a new roundabout at ground level with the A38 passing over this on two roundabout overbridges located to the east and south of the existing roundabout. The existing northbound carriageway would form the new northbound slip roads. The proposed new A38 would curve around to the south of the existing A38 immediately after crossing the existing River Derwent Bridge, and pass over an extended flood relief arch/accommodation bridge. The existing railway bridge would be extended to the south to carry the widened A38. The A38 would then pass over the two new roundabout bridges on an embankment which would be up to approximately 10.8m higher than existing ground level and approximately 9.2m above the level of the existing carriageway before continuing to the west of the existing A38 alignment to re-join the A38 immediately south of the existing Severn Trent Water Treatment Works accommodation bridge.
- 2.2.11 The junction with Ford Lane, from the existing A38 between the flood relief arch/accommodation bridge and the railway bridge, would be closed for safety reasons. A short section of Dam Brook located adjacent to the east of the existing A38 would need to be diverted. The Ford Lane junction with the A6 (Duffield Road) located approximately 1km to the north of the A6 junction with the A38 would be reconfigured.
- 2.2.12 NMU facilities would be provided at the proposed Little Eaton junction.

- 2.2.13 The land that the Applicant proposes would be required for the construction, operation and maintenance of the Proposed Development either temporarily and/or permanently, is shown in the provisional DCO application boundary in Figures 1.2a and 1.2b of the Scoping Report. The Applicant states that this boundary may be subject to change but indicates what they consider would be potentially the “worst case” for the amount of land that would be required for the Proposed Development. This includes areas of land provisionally identified as ecological enhancement areas as described in paragraphs 2.5.31 to 2.5.40 of the Scoping Report.
- 2.2.14 The Scoping Report indicates that the permanent land take at the Kingsway and Markeaton junctions includes areas of public open space comprising approximately 360 sq m and 1,500 sq m respectively (Figure 1.2a). The Applicant is in discussion with DCiC regarding replacement land provision. The Applicant suggests that the areas of public open space that would be lost due to the Proposed Development may be changed, and that this will be confirmed in the ES. The Scoping Report proposes that replacement public open space would be provided in part through the area vacated by the buildings to be demolished on Queensway (paragraphs 2.5.12 & 2.5.18 of the Scoping Report), or another option may be the provision of public open space to the east of Allestree off Ford Lane on the western bank of the River Derwent, should adequate public open space exchange land at Markeaton junction not be provided (paragraph 2.5.25 of the Scoping Report).
- 2.2.15 The Scoping Report sets out the approach to earthworks design, drainage and flood risk design, lighting and signage, provision for pedestrians, cyclists and equestrians as NMUs.
- 2.2.16 The Scoping Report indicates that utilities will need to be diverted in locations outside of the provisional DCO application boundary in order to facilitate construction of the Proposed Development and this diversion work would be undertaken by the applicable utilities companies (paragraph 2.5.41, Scoping Report).
- 2.2.17 Revised operational speed limits for the Proposed Development are described in paragraphs 2.4.3, 2.5.15 and 2.5.24 of the Scoping Report.

## **2.3 The Planning Inspectorate’s Comments**

### **Description of the Proposed Development**

- 2.3.1 The ES should include the following:
- a description of the Proposed Development comprising at least the information on the site, design, size and other relevant features of the development; and
  - a description of the location of the development and description of the physical characteristics of the whole development, including any

requisite demolition works and the land-use requirements during construction and operation phases.

- 2.3.2 The Inspectorate is content that the level of design detail provided in this Scoping Report is appropriate to support understanding of the Proposed Development, the potential impacts it will have on the environment and the suitability of the proposed methodological approach to the assessment. The Inspectorate notes that detailed information regarding biodiversity mitigation/compensation sites and flood mitigation sites is not currently available. This information should be provided within the ES.

### **Alternatives**

- 2.3.3 The EIA Regulations require that the Applicant provide 'a description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects'.
- 2.3.4 The Inspectorate acknowledges the Applicant's intention to consider alternatives within the ES. The Inspectorate would expect to see a discrete section in the ES that provides details of the reasonable alternatives studied and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

### **Flexibility**

- 2.3.5 The Inspectorate notes the Applicant's desire to incorporate flexibility into their draft DCO (dDCO) and its intention to apply a Rochdale Envelope approach for this purpose. Where the details of the Proposed Development cannot be defined precisely, the Applicant will apply a worst case scenario. The Inspectorate welcomes the reference to Planning Inspectorate Advice Note nine 'Using the 'Rochdale Envelope' in this regard.
- 2.3.6 The Applicant should make every attempt to narrow the range of options and explain clearly in the ES which elements of the Proposed Development have yet to be finalised and provide the reasons. At the time of application, any Proposed Development parameters should not be so wide-ranging as to represent effectively different developments. The development parameters will need to be clearly defined in the dDCO and in the accompanying ES. It is a matter for the Applicant, in preparing an ES, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. The description of the Proposed Development in the ES must not be so wide that it is insufficiently certain to comply with the requirements of Regulation 14 of the EIA Regulations.

- 2.3.7 It should be noted that if the Proposed Development materially changes prior to submission of the DCO application, the Applicant may wish to consider requesting a new scoping opinion.

## **3. ES APPROACH**

### **3.1 Introduction**

- 3.1.1 This section contains the Inspectorate's specific comments on the scope and level of detail of information to be provided in the Applicant's ES. General advice on the presentation of an ES is provided in the Inspectorate's Advice Note Seven 'Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements'<sup>1</sup> and associated appendices.
- 3.1.2 Aspects/ matters (as defined in Advice Note Seven) are not scoped out unless specifically addressed and justified by the Applicant, and confirmed as being scoped out by the Inspectorate. The ES should be based on the Scoping Opinion in so far as the Proposed Development remains materially the same as the Proposed Development described in the Applicant's Scoping Report.
- 3.1.3 The Inspectorate has set out in this Opinion where it has/ has not agreed to scope out certain aspects/ matters on the basis of the information available at this time. The Inspectorate is content that the receipt of a Scoping Opinion should not prevent the Applicant from subsequently agreeing with the relevant consultees to scope such aspects/ matters out of the ES, where further evidence has been provided to justify this approach. However, in order to demonstrate that the aspects/ matters have been appropriately addressed, the ES should explain the reasoning for scoping them out and justify the approach taken.
- 3.1.4 Where relevant, the ES should provide reference to how the delivery of measures proposed to prevent/ minimise adverse effects is secured through DCO requirements (or other suitably robust methods) and whether relevant consultees agree on the adequacy of the measures proposed.

### **3.2 Relevant National Policy Statements (NPSs)**

- 3.2.1 Sector-specific NPSs are produced by the relevant Government Departments and set out national policy for NSIPs. They provide the framework within which the Examining Authority (ExA) will make their recommendation to the SoS and include the Government's objectives for the development of NSIPs. The NPSs may include environmental requirements for NSIPs, which Applicants should address within their ES.

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<sup>1</sup> Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements and annex. Available from: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

3.2.2 The designated NPS relevant to the Proposed Development is the NPS for National Networks (NPSNN).

### **3.3 Scope of Assessment**

#### **General**

3.3.1 The Inspectorate recommends that in order to assist the decision-making process, the Applicant uses tables:

- to demonstrate how the assessment has taken account of this Opinion;
- to identify and collate the residual effects after mitigation for each of the aspect chapters, including the relevant interrelationships and cumulative effects;
- to set out the proposed mitigation and/ or monitoring measures including cross-reference to the means of securing such measures (eg a dDCO requirement);
- to describe any remedial measures that are identified as being necessary following monitoring; and
- to identify where details are contained in the Habitats Regulations Assessment (HRA report) (where relevant), such as descriptions of European sites and their locations, together with any mitigation or compensation measures, are to be found in the ES.

3.3.2 The Inspectorate considers that where a DCO application includes works described as 'Associated Development', that could themselves be defined as an improvement of a highway, the Applicant should ensure that the ES accompanying that application distinguishes between; effects that primarily derive from the integral works which form the proposed (or part of the proposed) NSIP and those that primarily derive from the works described as Associated Development. This could be presented in a suitably compiled summary table. This will have the benefit of giving greater confidence to the Inspectorate that what is proposed is not in fact an additional NSIP defined in accordance with s22 of the PA2008.

3.3.3 The Scoping Report makes multiple references to Highways England Project Control Framework (PCF) process. Whilst it is helpful to understand the context of Highways England's options selection and development process, the description of the PCF process sometimes hinders understanding of the proposed ES scope. For example, paragraph 12.9.38 of the Scoping Report refers to the Noise Insulation Regulations (NIR) and states that "A complete assessment under the NIR is beyond the scope of the assessment at PCF Stage 3, however, the results presented will provide a useful initial indication of the number of potentially qualifying buildings." It is therefore unclear precisely what information the Applicant proposes to submit as part of the ES. The Applicant should take care to ensure that the information provided in ES is sufficient to identify the likely significant environmental effects.

### **Baseline Scenario**

- 3.3.4 The ES should include a description of the baseline scenario with and without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

### **Forecasting Methods or Evidence**

- 3.3.5 The ES should contain the timescales upon which the surveys which underpin the technical assessments have been based. For clarity, this information should be provided either in the introductory chapters of the ES (with confirmation that these timescales apply to all chapters), or in each aspect chapter.
- 3.3.6 The Inspectorate expects the ES to include a chapter setting out the overarching methodology for the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects. Any departure from that methodology should be described in individual aspect assessment chapters.
- 3.3.7 The ES should include details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

### **Residues and Emissions**

- 3.3.8 The EIA Regulations require an estimate, by type and quantity, of expected residues and emissions. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases, where relevant. This information should be provided in a clear and consistent fashion and may be integrated into the relevant aspect assessments.

### **Mitigation**

- 3.3.9 Any mitigation relied upon for the purposes of the assessment should be explained in detail within the ES. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The ES should also address how any mitigation proposed is secured, with reference to specific DCO requirements or other legally binding agreements.

### **Risks of Major Accidents and/or Disasters**

- 3.3.10 The ES should include a description and assessment (where relevant) of the likely significant effects resulting from accidents and disasters applicable to the Proposed Development. The Applicant should make use of appropriate guidance (e.g. that referenced in the Health and Safety Executives (HSE) Annex to Advice Note 11) to better understand the

likelihood of an occurrence and the Proposed Development's susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Development to a potential accident or disaster and also the Proposed Development's potential to cause an accident or disaster. The assessment should specifically assess significant effects resulting from the risks to human health, cultural heritage or the environment. Any measures that will be employed to prevent and control significant effects should be presented in the ES.

- 3.3.11 Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.
- 3.3.12 The Inspectorate notes that the Scoping Report proposes to consider major accidents and disasters within relevant aspect chapters.

### **Climate and Climate Change**

- 3.3.13 The ES should include a description and assessment (where relevant) of the likely significant effects the Proposed Development has on climate (for example having regard to the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change. Where relevant, the ES should describe and assess the adaptive capacity that has been incorporated into the design of the Proposed Development. This may include, for example, alternative measures such as changes in the use of materials or construction and design techniques that will be more resilient to risks from climate change.
- 3.3.14 The Inspectorate notes that the Scoping Report proposes to submit a Climate chapter as part of its ES. Further comments in relation to climate are provided in section 3.3 of this Scoping Opinion.

### **Transboundary Effects**

- 3.3.15 The Scoping Report concludes that the Proposed Development is not likely to have significant effects on another European Economic Area (EEA) State and proposes that transboundary effects do not need to be considered within the ES. The Inspectorate notes the Applicant's conclusion in the Scoping Report; however recommends that, for the avoidance of doubt, the ES details and justifies this conclusion.

### **A Reference List**

- 3.3.16 A reference list detailing the sources used for the descriptions and assessments must be included in the ES.



### **3.4 Confidential Information**

- 3.4.1 In some circumstances it will be appropriate for information to be kept confidential. In particular, this may relate to information about the presence and locations of rare or sensitive species such as badgers, rare birds and plants where disturbance, damage, persecution or commercial exploitation may result from publication of the information. Where documents are intended to remain confidential the Applicant should provide these as separate paper and electronic documents with their confidential nature clearly indicated in the title, and watermarked as such on each page. The information should not be incorporated within other documents that are intended for publication or which the Inspectorate would be required to disclose under the Environmental Information Regulations 2014.

## 4. ASPECT BASED SCOPING TABLES

### 4.1 Air Quality

(Scoping Report - Section 6)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	6.4.9	Effects arising from CO, 1-3 butadiene, benzene, lead and SO <sub>2</sub> concentrations.	The Scoping Report references national assessments that demonstrate that there is no risk of effects arising from these pollutants but does not substantiate this assumption with source references. The Inspectorate considers that effects arising from CO, 1-3 butadiene, benzene, lead and SO <sub>2</sub> may be scoped out if significant effects are unlikely to occur. However, the ES must contain full justification for the approach taken, and include specific references to the information that supports this approach.
	6.4.9	Effects arising from PM <sub>10</sub> emissions	The Scoping Report proposes to scope out effects from PM <sub>10</sub> emissions based on the fact that the local authority data does not identify a risk of exceedences. In the absence of detailed emissions data and given that the Proposed Development will change existing road layouts and traffic movements and bring some receptors closer to the kerbside, the Inspectorate does not consider that this matter may be scoped out at this time.
	6.4.9	Effects due to exceedence of the hourly mean NO <sub>2</sub> objective.	The Scoping Report proposes to scope out consideration of exceedences of the hourly mean NO <sub>2</sub> objective based on the fact that local authority data does not currently identify a risk of exceedences. The Scoping Report does not provide detailed emissions data to support this conclusion and it is notable that the scheme will change the existing road layouts and traffic movements, bringing some receptors closer to the kerbside. In absence of clear information to support the proposed approach

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
			the Inspectorate does not consider that this matter may be scoped out of the assessment.
	6.8.3	Effects on health and safety of workers during construction, operation and demolition.	The Inspectorate considers that air quality effects on workers during construction may be scoped out based on the nature of the proposed works and the requirement for the contractor to adopt safe working practices under relevant health and safety legislation, meaning that significant effects are unlikely to arise.

ID	Para	Other points	Inspectorate's comments
	6.2.3	Reference to the Habitats Regulations 2010	The 2010 regulations have been replaced by the Conservation of Habitats and Species Regulations 2017. The ES should consider any potential changes to the assessment arising from the revised regulations.
	6.3.8	200m study area	The construction air quality study area is defined with respect to the 'construction boundary'. It is unclear whether this equates directly to the proposed DCO redline boundary. The ES should provide a consistent description of the study area for assessment of construction dust and fixed plant emissions.
	6.9.10	Construction air quality assessment	Since construction works are predicted to last for more than six months, consistent with DMRB the construction air quality assessment should include modelling of relevant traffic management scenarios due to vehicular diversions. The study area should be based on relevant DMRB screening parameters. The assessment scenario(s) should be agreed with DCiC and DCC, where possible.
	6.9.32 6.10.2	Clean Air Zone	The Inspectorate is aware that the Proposed Development is located in a Clean Air Zone (CAZ) and that relevant authorities are

ID	Para	Other points	Inspectorate's comments
			<p>working to design a package of air quality improvement measures. The Applicant should make effort to ensure that the assessment of the Proposed Development incorporates consideration of this work where it is possible to do so.</p> <p>For example where possible, the Applicant should agree the modelled baseline year with DCiC to allow consistent consideration of air quality effects with local authority modelling and consideration of the inter-relationship between air quality effects from the scheme and the CAZ.</p> <p>The traffic model used to underpin the air quality assessment should incorporate local traffic and air quality data.</p>
	n/a	EU Ambient Air Quality Directive	<p>The Inspectorate considers that the ES should include an assessment of impacts associated with all relevant pollutants under the EU ambient air quality directive including increases in PM<sub>2.5</sub> resulting from the Proposed Development where relevant.</p> <p>In determining significance, the assessment should take into account performance against relevant target/limit values.</p>

## 4.2 Cultural Heritage

(Scoping Report - Section 7)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	n/a	n/a	No matters have been proposed to be scoped out of the assessment.

ID	Para	Other points	Inspectorate's comments
	7.1.2	Heritage impact assessment for World Heritage Site	<p>Paragraph 2-2-5 of the International Council on Monuments and Sites (ICOMOS) guidance suggests that the scope of Heritage Impact Assessment (HIA) will be agreed with the consultation bodies identified at paragraph 7.8.7 of the Scoping Report (including the World Heritage site team at DCC), the public and community representatives. The ES should demonstrate the effort made to agree the scope of the HIA.</p> <p>The ES should set out details of consultation with UNESCO and the Department for Culture Media and Sport (DCMS), where relevant, with regards to any effects on the World Heritage Site.</p>

## 4.3 Landscape and Visual

(Scoping Report - Section 8)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	n/a	n/a	No matters have been proposed to be scoped out of the assessment.

ID	Para	Other points	Inspectorate's comments
	8.3	Study Area	<p>The Applicant should seek to establish a robust study area based on the extent of the likely impacts of the Proposed Development, and agreement should be sought with the relevant consultees in this regard, with respect to the receptors which should be included in the assessment.</p> <p>The Scoping Report provides no justification for the 1km study area 'corridor' and those areas within the Zone of Theoretical Visibility (ZTV) outside of the 1km study area "<i>with capacity to experience significant effects as a result of a proposed scheme</i>".</p> <p>The ES should include further justification to support the use of a 1km study area and describe how the ZTV has been defined and refined to take account of topography, existing built form, and the maximum parameters of the Proposed Development.</p> <p>The ES should clearly set out how receptors located outside of the 1km study area have been incorporated or excluded from the assessment.</p>
	8.4	Baseline Visual Context	The Scoping Report indicates that as the proposed scheme design develops, the viewpoint locations will be reviewed and updated to

ID	Para	Other points	Inspectorate's comments
			<p>account for proposed scheme design changes. The Inspectorate recommends that any changes to viewpoint locations are discussed and agreed with the relevant consultees.</p> <p>Any photomontages prepared should include representative vehicle traffic, including HGVs, to ensure that the worst case visual impact is assessed. The need for visually verified images should be agreed with the relevant local authority, where possible.</p>
	8.7	Potential Impacts and Effects	<p>The Scoping Report provides limited detail regarding lighting proposals for the Proposed Development. The Inspectorate considers that the operational effects of lighting should be assessed. The potential for lighting effects due to night time working during construction should also be assessed.</p> <p>In light of the extensive vegetation clearance required as part of the scheme, the ES should outline how retention of existing mature trees has been considered within the development of the engineering and landscape design proposals.</p>
	8.9	Assessment methodology	<p>The ES should expand upon the information provided in paragraphs 8.9.2 and 8.9.15 of the Scoping Report to clearly explain how the significance of effects will be determined in relation to Landscape Value, Susceptibility and Sensitivity, and Significance of Visual Effects. It should be clear where professional judgement has been applied.</p>
	n/a	Mitigation	<p>The Applicant should seek agreement with relevant consultees on all mitigation measures that are proposed.</p> <p>It should be clear in the ES how the proposed landscaping would mitigate the impacts on landscape and visual receptors, and how</p>

ID	Para	Other points	Inspectorate's comments
			<p>these impacts would change as the proposed planting matures.</p> <p>The ES should assess the interactions of the proposed mitigation measures with other aspect areas, for example Biodiversity and Cultural Heritage.</p> <p>A proposed landscaping strategy for the Proposed Development should be described in the ES, to a level of detail which forms the basis of the assessment.</p> <p>An appropriate period of aftercare or maintenance for proposed landscaping should be agreed.</p>



## 4.4 Biodiversity

(Scoping Report - Section 9)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	9.4.4	Effects on European designated sites.	The Inspectorate agrees there is no obvious impact pathway from the Proposed Development to European sites and on that basis impacts on European designated sites may be scoped out from further assessment.
	Table 9.1	<p>Osierbed and Gravelpit Woods LWS and Friar Gate Station LWS, Beech Wood LWS, Bunkers Wood LWS, Mickleover Egginton Greenway LWS, Inglewood Avenue Meadow LWS and Redbourn Lane Hedge LWS; Camp Wood LWS, Breadsall Disused Railway Cutting LWS, Breadsall Railway Cutting LWS, Darley Park LWS, Porter's Lane Pond LWS, High View South Community School Nature Reserve LWS, Porter's Lane Hedge LWS, Moor Road Fields LWS, Burley Hill Farm Scrub and Grassland LWS, Breadsall Priory Golf Course LWS and Ferriby Brook and Dam Brook Ferry Brook.</p> <p>Hatherings Wood LWS, Botany</p>	<p>The Applicant has scoped out these local wildlife sites (LWSs) because their distance from the Proposed Development, with housing developments or roads in between, and there is an absence of hydrological or habitat links to the Proposed Development.</p> <p>The Inspectorate considers that these sites cannot be scoped out from the assessment. The Scoping Report has not determined the location of diversionary routes during construction which could impact these sites. The biodiversity assessment should also consider interrelationships between aspects particularly air quality and noise assessments.</p>

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
		Stream Margin Complex LWS, Burley Wood LWS, Drum Hill Fields Breadsall Moor LWS, Eaton Parkwood LWS, Whitaker Lane Woodland LWS, Moor Plantation and Drumhill LWS, Great Farley's Wood LWS, Horsley Carr LWS and Woodlands School Hedge LWS.	
	Table 9.1	Kedleston Road Hedge LWS, Kedleston Road Marsh LWS and Markeaton Lane Meadow LWS.	At present these LWSs have been scoped into the ES because although located greater than 1km from the Proposed Development the LWSs appear to have habitat links which may be affected by the proposals, but this is to be reviewed. The Inspectorate recommends that the LWSs are scoped into the ES where linkages are demonstrated.
	Table 9.1	Burley Hill Farm Scrub and Grassland LWS and Peckwash Mills LWS.	At present these LWSs have been scoped into the ES because although located greater than 250m from the Proposed Development the LWSs appear to have habitat and/or hydrological links which may be affected by the proposals, but this is to be reviewed. The Inspectorate recommends that these LWSs be scoped into the ES where linkages are demonstrated.
	Table 9.1	Plantation site of interest, Boosemoor Brook, A38 Scrub, Ford Lane potential Local Wildlife Site (PLWS), Old Derby Canal, Marsh Area.	The Scoping Report indicates that these sites are located within 2km of Little Eaton junction with potential hydrological and/ or habitat links to the site. The Inspectorate considers that an assessment of effects on these sites should be included where a link can be demonstrated. The Inspectorate notes that Ford Lane PLWS has been downgraded, therefore an assessment of effects on species and habitats rather on a potential designation should

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
			be included where relevant.
	Table 9.2	Great crested newts	Based on the absence of great crested newts in surveys in 2015 and 2017, the Inspectorate considers that further assessment of effects on this species may be scoped out. The ES should incorporate the baseline survey data that supports exclusion of this species from consideration.

ID	Para	Other points	Inspectorate's comments
	9.8 - 9.9	Assessment	The Inspectorate notes the proposed Assessment scope and methodology and advises that this approach should be discussed and agreed in consultation with the relevant consultation bodies including the relevant local planning authority, Natural England (NE) and the Environment Agency (EA).
	9.3 - 9.5	Study area	The Inspectorate recommends that survey requirements for the ES are updated as set out in sections 9.4 and 9.5 of the Scoping Report. The Inspectorate agrees that the scope of further surveys should be discussed and agreed in consultation with the relevant consultation bodies including the relevant local planning authority, NE and the EA.
	5.4.16 - 5.4.18 9.7.5 - 9.7.7 9.9.3	Mitigation, compensation, and enhancement measures	<p>The Inspectorate recommends that any proposed mitigation and monitoring measures are agreed as far as possible with relevant consultees including NE, EA and the local planning authorities. The ES should detail all proposed mitigation measures and demonstrate how they will be secured.</p> <p>The identification of the compensation areas for replacement habitat suitable for little ringed plover nesting, and other replacement sites for those habitats lost to construction have not been provided in the Scoping Report. The ES should demonstrate</p>

ID	Para	Other points	Inspectorate's comments
			<p>the suitability of the selected compensation areas.</p> <p>The Inspectorate notes that the Scoping Report makes commitments with regard to ecological enhancement. The ES should commit to achievable ecological enhancement measures, and provide the details for their design which have informed the assessment. The Inspectorate advises the Applicant to seek advice on the design of these measures from the relevant consultation bodies.</p>
	<p>9.6.5 9.10</p>	<p>Protected species licensing</p>	<p>The Inspectorate notes the potential impact on protected species, which may have implications for the design of the Proposed Development. These implications should be taken into account in the assessments in the ES.</p> <p>The ES should confirm whether any EPS licenses and/or mitigation licenses for other protected species would be required. If so, assurance should be provided to the ExA that the necessary license(s) are likely to be obtained. The Applicant should seek to obtain letters of no impediment (LoNI) from NE. These should be appended to the ES. The Applicant is referred to the Inspectorate's Advice Note 11, Annex C.</p>

## 4.5 Geology and soils

(Scoping Report - Section 10)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	10.4.3	Local Geological Sites	<p>No Local Geological Sites (formerly Regionally Important Geological Sites (RIGS)) have been identified as being within the defined study area. Therefore, these features are proposed to be scoped out of the assessment.</p> <p>The Inspectorate considers that effects on Local Geological Sites may be scoped out at Kingsway Junction, however in the absence of further justification regarding the location of Local Geological Sites (eg University of Derby, Kedleston Road and River Derwent and its banks sites) relative to the scheme and due to ongoing design relating to flood mitigation proposals in the vicinity of Little Eaton junction, the Inspectorate does not consider that the Scoping Report demonstrates that there is no potential for likely significant effects on Local Geological Sites and therefore this matter cannot be scoped out based on the information currently provided.</p>
	10.6.3	Impacts of potentially contaminated soils on construction, maintenance workers and construction materials.	The Inspectorate considers that effects of contaminated soils on construction workers may be scoped out, since contractors will be required to adopt safe working practices under relevant health and safety legislation, meaning that significant effects are unlikely to arise.
	10.6.4	Impacts upon agricultural soils at Kingsway and Markeaton Junctions	The Inspectorate considers that soils at these two junction locations are non-agricultural based on the current land use and therefore significant effects are not likely and these matters do not require assessment. The Inspectorate considers that ALC surveys should be undertaken where agricultural land take is

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
			required ie at Little Eaton junction.

ID	Para	Other points	Inspectorate's comments
	Table 10.1	NPPF 2012	Changes to the proposed methodological approach arising from the 2018 NPPF consultation, should also be set out where appropriate.
	10.3	Study Area	<p>The Scoping Report does not provide clear justification for the study area extending up to 250m from the proposed scheme boundary for the identification of geological designated sites, controlled waters, historical land uses and potential sources of contamination.</p> <p>The Applicant should provide sufficient justification for the study area applied within the ES, ensuring that it encompasses the extent of the likely impacts of the Proposed Development.</p>
	Table 10.3	Controlled waters – surface water sensitivity/ importance	Table 10.3 suggests a medium to high valuation of sensitivity/ importance for surface water features. It is unclear whether the valuation is intended to cover more than one water body (ie sensitivity is medium for one water body and high for another) or whether an intermediate value is proposed for a single water body. The ES should clearly set out the attributes that have been considered in assigning sensitivity/ importance to each relevant feature.
	10.7.2 10.7.3	Land contamination and remediation.	The Scoping Opinion identifies that areas of contamination may be remediated based on the recommendations of a geotechnical design report. The ES should set out how the views of consultation bodies have been considered in the assessment process (eg. through sharing of ground investigation data),

ID	Para	Other points	Inspectorate's comments
			development of the proposed remedial approach and the strategy for validation of remediation work where relevant.
	10.9.4	Taking account of technical guidance	The Scoping Opinion proposes to take account of UK technical guidance making specific reference to Contaminated Land: Applications in Real Environments (CL:AIRE) and British Standards but does not provide details of other guidance or standards that would be adopted. The high level nature of the proposed methodological approach limits the ability of the Inspectorate to comment on the appropriateness of the proposed approach. The ES should clearly state which guidance and standards have been applied to the assessment of geology and soils effects and include these in the ES reference list.

## 4.6 Materials

(Scoping Report section 11 – Materials)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	11.9.4	Operational phase materials resource use and waste generation	The Scoping Opinion provides limited justification to support the approach that no significant effects to materials will occur during operation. However, having regard to the nature of the Proposed Development and its characteristics the Inspectorate agrees that this matter can be scoped out.

ID	Para	Other points	Inspectorate's comments
	11.3.1	Study area	The study area is described as the 'wider region within which waste management facilities are located and from where construction materials may be sourced'. This definition lacks clarity – a formal study area should be described and justified in the ES. For example, linked to the relevant local authority waste management area.
	11.2.4	Local Aggregate Assessment (LAA) 2014	This document is superseded, the ES should reference the LAA 2017 assessment.
	11.2.4	Emerging Derbyshire and Derby Joint Minerals Local Plan	The ES should reference the March 2018 consultation version of this plan or any subsequently adopted plan, where relevant.



## 4.7 Noise and vibration

(Scoping Report section 12 – Noise and Vibration)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	12.6.2	Assessment excludes properties to be demolished.	The Inspectorate considers that properties to be demolished do not need to be considered as part of the noise and vibration assessment, however, should the scope of demolition works change, the need for assessment would need to be reviewed and any likely significant effects assessed.
	12.9.42 12.9.43	Operational ground borne vibration	The assessment assumes that operational ground borne vibration effects will not arise due to the proposed new highways surface, which would be smooth and free of defects and based on a subjective assessment in 2015. The Inspectorate considers that operational ground borne vibration effects may be scoped out on this basis. Details of the subjective assessment undertaken in 2015 should be provided in the ES.

ID	Para	Other points	Inspectorate's comments
	12.6.11	Noise barriers	Noise mitigation proposals presented in the ES (such as noise barriers), should take account of existing local noise policy or plans, where available and relevant.
	12.9	Significant observed adverse effect level (SOAEL) and Lowest observed adverse effect level (LOAEL)	Limits of SOAEL and LOAEL should be agreed with the relevant local planning authority, where possible.
	12.9.25 12.9.30	Hybrid method	Paragraph 12.9.25 of the Scoping Report references calculation of night time noise levels using a hybrid of DMRB Method 1 and

			Method 2 as data is not available for the Method 1 approach. Paragraph 12.9.30 of the Scoping Report states that Method 1 approach will be used to undertake the noise assessment. The ES should set out a consistent description of the methodological approach to be adopted.
12.9.26	Manual adjustments to speed band assignment		The Scoping Report suggests that manual adjustment of speed bands may be undertaken, where modelled speeds are close to a speed band boundary. The ES should highlight and justify any adjustments made.
12.9.44 12.9.45	Vibration-annoyance relationship		Reference sources should be provided in the ES that confirm the suggested 10% reduction in annoyance due to vibration relative to noise in the $L_{A10,18hr}$ index quoted in these paragraphs and to ensure that the threshold for significant vibration effects has been set correctly.
12.10.1	Bullet point 3, paper drawings		The bullet point states that paper drawings have been provided but then states 'therefore, the location of these existing barriers will be estimated in the noise model'. The ES should be based on the engineering design information and it is assumed that the text should read 'have not been provided'

## 4.8 People and communities

(Scoping Report section 13 – People and Communities)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	13.3.8 Table 17.2 13.3.18	Effects on equestrians	<p>Table 17.2 of the Scoping Report states that no public bridleways would be affected by the Proposed Development but provides no other context for scoping out effects on equestrians and links to a description of public rights of way at Markeaton Park.</p> <p>Paragraph 13.3.3 of the Scoping Report states that there is a designated bridleway north of the Little Eaton junction that passes under the A38 adjacent to the scheme boundary.</p> <p>Paragraph 13.3.18 of the Scoping Report indicates that there are no equestrian facilities within the boundary of the Proposed Development and the bridleway identified within 500m of the proposed works would not be impacted.</p> <p>In the absence of further detailed justification and based on the proximity of the bridleway to the Little Eaton junction, the Inspectorate does not consider that this matter can be scoped out.</p>

ID	Para	Other points	Inspectorate's comments
	13.3 13.4	Study Area	<p>The Applicant must ensure that the study area assessed is clearly defined and justified in the ES. The Applicant should seek to achieve agreement on the study area and receptors included within the assessment with consultees. DCC have provided advice and information relevant to determination of the study area in their responses. The ES should demonstrate how the transport</p>

ID	Para	Other points	Inspectorate's comments
			<p>modelling studies as described in DCC's response have informed the choice and assessment of the study area.</p> <p>The ES should explain how the routes affected by the Proposed Development have been identified for the purposes of the assessment of community severance, accessibility and connectivity.</p>
	<p>13.3.3- 13.3.13</p> <p>13.4.4- 13.4.10</p>	<p>Baseline Conditions</p>	<p>The ES should clearly reference the information on changes to traffic flows on the road network used to inform the assessment of effects of the Proposed Development on people and communities.</p> <p>It would be helpful to understand the effects of the Proposed Development, and to aid consultation, to include appropriate figures illustrating the baseline conditions within the ES.</p> <p>Receptors included within the assessment should be set within the context of the proposed DCO boundary and study area and labelled clearly.</p>
	<p>13.3.15</p> <p>Table 13.2</p> <p>13.4.13</p> <p>Table 13.5</p>	<p>Value of the Environmental and Resource Receptors</p>	<p>The Inspectorate notes that professional judgement has been used to define criteria to determine the value to the routes used by NMU and vehicle travellers (resources) and the travellers who use these routes (receptors).</p> <p>The Scoping Report sets out where assessment criteria have been taken from the DMRB and where they have been based on professional judgement. Where standard guidance is not used and professional judgement is applied this should be fully explained and justified in the ES.</p>
	<p>13.3.16- 13.3.27</p> <p>13.4.14-</p>	<p>Potential Impacts and Effects</p>	<p>Adverse impacts from construction of the Proposed Development are identified as temporary. The Inspectorate notes that the Scoping Report (Section 5) has indicated that the construction phase is likely to last for at least 3 years. The ES should explain</p>

ID	Para	Other points	Inspectorate's comments
	3.4.15		<p>the duration of temporary impacts, ensuring consistency with the other aspect assessments.</p> <p>The Inspectorate advises that the likely impacts on public transport users should be considered and DCC have provided advice and information relevant to this.</p>
	13.4.17- 13.4.26	Proposed Assessment Methodology - general	<p>The Scoping Report sets out where assessment criteria have been taken from the DMRB and where they have been based on professional judgement. Where standard guidance is not used and professional judgement is applied this should be fully explained and justified in the ES.</p>

## 4.9 Road drainage and water environment

(Scoping Report section 14 -Road Drainage and Water Environment)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	14.9.5	Method C assessment	A method C assessment is ruled out, since drainage discharges are intended to be to surface watercourses rather than groundwater. Should the drainage design change to include soakaways, the requirement for method C assessments should be reviewed and any likely significant effects should be assessed.

ID	Para	Other points	Inspectorate's comments
	14.3.1	Study area	The Scoping Report states that the assessment will include features that are located outside the 1km study area 'where it appears that there is hydraulic conductivity to features within the study area'. The ES should clearly describe the study area and the criteria used to establish it including the approach that will inform this determination.
	14.4	Desk study data	Section 14.4 of the Scoping Report references a number of baseline data sources. Any data relied on for the purposes of the assessment of significant effects should be made available as part of the ES.
	14.4.19 14.7.3	Surface water safeguard zone at Little Eaton	The CEMP should include measures to ensure protection of the surface water safeguard zone. Measures should be agreed with the EA and Severn Trent Water, where possible. The ES should provide a description of any progress made in relation to obtaining permits and licences for works affected watercourses.

ID	Para	Other points	Inspectorate's comments
	14.6.1 14.9.6	Sensitivity assessment	Receptor sensitivity is proposed to be based on criteria within DMRB HD45/09 Table A4.3. The ES should clearly state which criteria have been applied in the assignment of sensitivity to particular features.
	14.11	National Planning Policy Framework (NPPF) 2012	The flood risk assessment methodology should reference amendments to the NPPF arising from the 2018 consultation, where relevant.

## 4.10 Climate

(Scoping Report section 15 - Climate)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	15.4.1 Table 17.2	End of life assessment of demolition phase.	The Inspectorate considers that end of life assessment of the demolition phase may be scoped out based on the nature of the Proposed Development and its proposed operational lifespan.
	Table 15.1 15.4.1	Pre-construction emissions	Table 15.1 of the Scoping Report details the 'key anticipated greenhouse gas (GHG) emission sources', which include pre-construction, product stage, construction, operation, maintenance and use of the Proposed Development. The introductory text states that the scope is 'GHG emissions arising from the construction, operation, maintenance and use of the proposed scheme'. It is therefore unclear whether pre-construction and product stage are intended to be scoped out. The likely significant effects relating to GHG emissions from the proposed development (including preconstruction and product stage) should be assessed, where relevant.

ID	Para	Other points	Inspectorate's comments
	15.3.7	UKCP09	As set out in the NPSNN the Applicant should ensure that the ES takes into account the potential impacts of climate change using the latest UK Climate Projections, this should include the anticipated UKCP18 projections where appropriate.



## 4.11 Cumulative effects

(Scoping Report section 16 – Cumulative Effects)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	n/a	n/a	No matters have been proposed to be scoped out of the assessment.

ID	Para	Other points	Inspectorate's comments
	16.3.1	Study area	Study areas are not defined but are proposed to be based on a zone of influence defined by the environmental topic specialists. The ES should include justification for the zone of influence adopted, which should be consistent with the study area for each aspect in isolation.
	16.4	Human health	<p>No study area is set out for the assessment of human health effects and human health effects are stated to be integrated into aspect based assessments. Paragraph 16.4.2 of the Scoping Report implies that the study area will be based on aspect based study areas. The study area for cumulative health effects should be defined and justified in the ES and agreed with relevant consultation bodies where appropriate.</p> <p>It is unclear whether the significance criteria from DMRB Vol 11, Section 2, Part 5 (HA205/08) are also intended to apply to the assessment of health effects, which follow the cumulative effects assessment methodology text. The ES should set out adopted significance criteria.</p>

## 4.12 Other aspects

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
	Table 17.2	Proposed scheme decommissioning	Based on the nature of the scheme and its likely longevity the Inspectorate considers that proposed scheme decommissioning effects may be scoped out from further consideration.
	Table 17.2	Dismantling of proposed scheme components during maintenance/operation	In the absence of a definition of 'maintain' in the Scoping Report the Inspectorate does not consider it appropriate to scope out an assessment of dismantling during maintenance at this point in time. If the powers for maintenance sought in the draft DCO include works that may result in likely significant effects, these should be assessed in the ES.
	Table 17.2	Minor highway works at the Ford Lane Junction with the A6 (Duffield Road)	Based on the nature of the works described the Inspectorate considers that minor highway works at the Ford Lane Junction with the A6 (Duffield Road) are unlikely to result in significant effects and may be scoped out from further consideration.
	5.6.4 Table 17.2	Heat and radiation	Based on the nature of the scheme the Inspectorate considers that heat and radiation from the Proposed Development are unlikely to result in significant effects and may be scoped out from further consideration.
	5.6.5 Table 17.2	Transboundary effects	Based on the information presented and the nature of the scheme, the Inspectorate considers that significant transboundary effects are unlikely to occur and may be scoped out from further consideration.

## 5. INFORMATION SOURCES

5.0.1 The Inspectorate's National Infrastructure Planning website includes links to a range of advice regarding the making of applications and environmental procedures, these include:

- Pre-application prospectus<sup>2</sup>
- Planning Inspectorate advice notes<sup>3</sup>:
  - Advice Note Three: EIA Notification and Consultation;
  - Advice Note Four: Section 52: Obtaining information about interests in land (Planning Act 2008);
  - Advice Note Five: Section 53: Rights of Entry (Planning Act 2008);
  - Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements;
  - Advice Note Nine: Using the 'Rochdale Envelope';
  - Advice Note Ten: Habitat Regulations Assessment relevant to nationally significant infrastructure projects (includes discussion of Evidence Plan process);
  - Advice Note Twelve: Transboundary Impacts;
  - Advice Note Seventeen: Cumulative Effects Assessment; and
  - Advice Note Eighteen: The Water Framework Directive.

5.0.2 Applicants are also advised to review the list of information required to be submitted within an application for Development as set out in The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (as amended).

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<sup>2</sup> The Planning Inspectorate's pre-application services for applicants. Available from: <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>

<sup>3</sup> The Planning Inspectorate's series of advice notes in relation to the Planning Act 2008 process. Available from: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>



## APPENDIX 1: CONSULTATION BODIES FORMALLY CONSULTED

**TABLE A1: PRESCRIBED CONSULTATION BODIES<sup>4</sup>**

<b>SCHEDULE 1 DESCRIPTION</b>	<b>ORGANISATION</b>
The Health and Safety Executive	Health and Safety Executive
The National Health Service Commissioning Board	NHS England
The relevant Clinical Commissioning Group	NHS Southern Derbyshire Clinical Commissioning Group
Natural England	Natural England
The Historic Buildings and Monuments Commission for England	Historic England - East Midlands
The relevant fire and rescue authority	Derbyshire Fire & Rescue Service
The relevant police and crime commissioner	Derbyshire Police and Crime Commissioner
The relevant parish council(s) or, where the application relates to land [in] Wales or Scotland, the relevant community council	Breadsall Parish Council
The relevant parish council(s) or, where the application relates to land [in] Wales or Scotland, the relevant community council	Little Eaton Parish Council
The Environment Agency	The Environment Agency - East Midlands
The Civil Aviation Authority	Civil Aviation Authority
The Relevant Highways Authority	Derby City Council
	Derbyshire County Council

<sup>4</sup> Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the 'APFP Regulations')

<b>SCHEDULE 1 DESCRIPTION</b>	<b>ORGANISATION</b>
The relevant strategic highways company	Highways England - Midlands
Public Health England, an executive agency of the Department of Health	Public Health England
The Crown Estate Commissioners	The Crown Estate
The Forestry Commission	Forestry Commission - East & East Midlands
The Secretary of State for Defence	Ministry of Defence

**TABLE A2: RELEVANT STATUTORY UNDERTAKERS<sup>5</sup>**

<b>STATUTORY UNDERTAKER</b>	<b>ORGANISATION</b>
The relevant Clinical Commissioning Group	NHS Southern Derbyshire Clinical Commissioning Group
The relevant NHS Trust	East Midlands Ambulance Service NHS Trust
Railways	Network Rail Infrastructure Ltd
	Highways England Historical Railways Estate
Civil Aviation Authority	Civil Aviation Authority
Licence Holder (Chapter 1 Of Part 1 Of Transport Act 2000)	NATS En-Route Safeguarding
Universal Service Provider	Royal Mail Group
Homes and Communities Agency	Homes England
The relevant Environment Agency	The Environment Agency - East Midlands

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<sup>5</sup> 'Statutory Undertaker' is defined in the APFP Regulations as having the same meaning as in Section 127 of the Planning Act 2008 (as amended)

<b>STATUTORY UNDERTAKER</b>	<b>ORGANISATION</b>
The relevant water and sewage undertaker	Severn Trent
The relevant public gas transporter	Cadent Gas Limited
	Energetics Gas Limited
	Energy Assets Pipelines Limited
	ES Pipelines Ltd
	ESP Connections Ltd
	ESP Networks Ltd
	ESP Pipelines Ltd
	Fulcrum Pipelines Limited
	GTC Pipelines Limited
	Independent Pipelines Limited
	Indigo Pipelines Limited
	Quadrant Pipelines Limited
	National Grid Gas Plc
	Scotland Gas Networks Plc
The relevant electricity distributor with CPO Powers	Energetics Electricity Limited
	Energy Assets Network Limited
	Energy Assets Power Networks
	ESP Electricity Limited
	Fulcrum Electricity Assets Limited
	G2 Energy IDNO Limited
	Harlaxton Energy Networks Limited
	Independent Power Networks Limited
	Leep Electricity Networks Limited

<b>STATUTORY UNDERTAKER</b>	<b>ORGANISATION</b>
	Murphy Power Distribution Limited
	The Electricity Network Company Limited
	UK Power Distribution Limited
	Utility Assets Limited
	Vattenfall Networks Limited
	Utility Distribution Networks Limited
	Western Power Distribution (East Midlands) plc
The relevant electricity transmitter with CPO Powers	National Grid Electricity Transmission Plc

**TABLE A3: SECTION 43 CONSULTEES (FOR THE PURPOSES OF SECTION 42(1)(B))<sup>6</sup>**

<b>LOCAL AUTHORITY<sup>7</sup></b>
Erewash Borough Council
Derby City Council
Derbyshire County Council
Amber Valley Borough Council
Broxtowe Borough Council
Rushcliffe Borough Council
North West Leicestershire District Council

<sup>6</sup> Sections 43 and 42(B) of the PA2008

<sup>7</sup> As defined in Section 43(3) of the PA2008



<b>LOCAL AUTHORITY<sup>7</sup></b>
South Derbyshire District Council
Nottinghamshire County Council
Leicestershire County Council
Staffordshire County Council
Cheshire East Council
Stockport Council
Tameside Metropolitan Borough Council
Oldham Council
Kirklees Council
Barnsley Council
Sheffield City Council
Rotherham Metropolitan Borough Council
Peak District National Park

**TABLE A4: NON-PRESCRIBED CONSULTATION BODIES**

<b>ORGANISATION</b>
Sheffield City Region Combined Authority



## **APPENDIX 2: RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES**

Consultation bodies who replied by the statutory deadline:

Breadsall Parish Council
Broxstowe Borough Council
Cheshire East Borough Council
Derby City Council
Derbyshire County Council
ESP Gas Group Ltd
Forestry Commission
Fulcrum Pipelines
Health and Safety Executive
Highways England
Historic England
Kirklees Council
National Grid
NATS Safeguarding
Public Health England
The Environment Agency
Utility Assets Ltd

**BREADSALL PARISH COUNCIL**  
**Clerk Mrs N A O'Leary**  
**c/o 20 Cleveland Ave**  
**Draycott**  
**Derbyshire**  
**DE72 3NR**

**Tel 01332 874619**

**e-mail [clerk@breadsallparishcouncil.org.uk](mailto:clerk@breadsallparishcouncil.org.uk)**

**Your Ref:**

**Our Ref:**

**Date:** 12<sup>th</sup> April 2018

Highways England  
A38DerbyJunctions@pins.gsi.gov.uk  
Attn of Richard Hunt

Dear Sir/Madam

**Planning Act 2008 (as amended) & The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) – Regulations 10 & 11.**

**Application by Highways England for an Order granting Development Consent for the A38 Derby Junctions.**

**Scoping consultation and notification of the Applicant's contact details and duty to make available information to the Applicant if requested**

In response to your letter of 15 March 2018, Breadsall Parish Council and the Breadsall A38 Action Group wish to register their concern (in connection with the Little Eaton Junction), that this scoping opinion does not recognise the potential environmental benefits of the other Options, which have been discarded and now relates only to the "Preferred Route Option". We will continue to object to this Preferred Route Option throughout the planning application process.

This objection is based principally on serious flaws in the original 2003 consultation exercise, which essentially led to the current choice of route.

In addition to this, having read the scoping report, we would like the report to specifically consider the following matters in detail: -

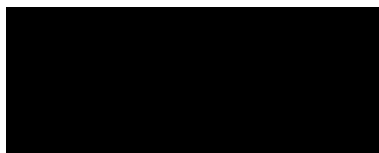
1. The Local Environment
2. Noise
3. Light pollution
4. Flood risk
5. Aesthetic appearance

For the avoidance of doubt, we would like a detailed appraisal of alternative construction techniques and mitigation measures to be published to allow an informed response.

Because of excessive land take, we also request that this analysis includes the option of a tighter radius to the bend, with a statutory 50mph speed limit, given that the HE proposals already incorporate an advisory 50mph speed limit.

We request that both Breadsall Parish Council and the Breadsall A38 Action Group are registered as interested parties during the planning process

Yours faithfully



Mrs N O'Leary  
Clerk/RFO  
Breadsall Parish Council.

Ask for: **Mr D Ottewell**

Ext: **3046**

Email: [pabc@broxtowe.gov.uk](mailto:pabc@broxtowe.gov.uk)

Our Ref: **18/00204/NAUTH**

Your Ref: **V/2018/0150**

Date: **11 April 2018**



**Broxtowe  
Borough  
COUNCIL**

**By email only;**  
[A38DerbyJunctions@pins.gov.uk](mailto:A38DerbyJunctions@pins.gov.uk)

**FAO Mr R Hunt**

**Dear Mr Hunt**

**EIA SCOPING OPINION NOTIFICATION FOR WORKS TO A38 JUNCTIONS  
A38 DERBY JUNCTIONS DERBYSHIRE**

Thank you for your consultation regarding the above proposals.

The notification requests the Council to inform the Inspectorate of any information considered necessary to be provided within an Environmental statement relating to the proposed development, or to confirm they have no comments. Given the distance of the proposed works from the boundary of the Borough (approximately 13 miles), I can advise you that the Council does not wish to make any comments.

Yours sincerely

**Mr D Ottewell**  
**Senior Planning Officer**

**Head of Legal and Planning Services - P Horsfield**  
Head of Administrative Services - S Rodden  
Head of Neighbourhoods & Prosperity - S Saunders  
Chief Solicitor/Deputy Monitoring Officer - N Dumville / B Langton

**Legal & Planning Services**

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**From:** [Cheshire East Planning](#)  
**To:** [A38 Derby Junctions](#)  
**Subject:** [OFFICIAL] FW: A38 Derby Junctions - EIA scoping notification and consultation  
**Date:** 19 March 2018 12:27:02  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.png](#)  
[image005.jpg](#)  
[image006.jpg](#)  
[image007.png](#)  
[image008.jpg](#)

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Please see response below from Principal Planning Officer reference your enquiry.

Pearlene Tryand

Planning & Building Control Customer Co-Ordinator  
Civance Ltd.  
Municipal Buildings  
Crewe, CW1 2BJ

cid:image011.jpg@01D3A0D0.7157AF50



Civance Limited is a multi award winning wholly owned company of Cheshire East Borough Council.



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**From:** TAYLERSON, Gareth  
**Sent:** 19-Mar-2018 11:02  
**To:** Cheshire East Planning  
**Subject:** RE: [OFFICIAL] FW: A38 Derby Junctions - EIA scoping notification and consultation

Hi Pearlene,

Looks like this is nothing to do with Cheshire East as it relates to Derby.

Please can you let them know its not us.

Thanks

Gareth Taylerson  
Principal Planning Officer



Development Management  
Municipal Buildings Crewe  
Cheshire East  
Email: [gareth.taylorson@cheshireeast.gov.uk](mailto:gareth.taylorson@cheshireeast.gov.uk)  
Direct Dial: 01625 383706

I should re-iterate that the information provided above represents my own professional opinion and must emphasise that it is given entirely without prejudice to the Council's determination of the planning application and/or Lawful Development Certificate. My comments also only relate to matters covered under the Town and Country Planning Act 1990. It is your responsibility to obtain other consent/permission/approvals which may be required in addition to the necessary planning permission.



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**From:** A38 Derby Junctions [<mailto:A38DerbyJunctions@pins.gsi.gov.uk>]  
**Sent:** 16-Mar-2018 12:22  
**To:** A38 Derby Junctions  
**Subject:** A38 Derby Junctions - EIA scoping notification and consultation

FAO Head of Planning

Please see attached correspondence on the proposed A38 Derby Junctions scheme.

Please note the deadline for consultation responses is 13 April 2018, and is a statutory requirement that cannot be extended.

Kind regards,

Ian Wallis  
EIA and Land Rights Advisor  
Major Applications and Plans  
The Planning Inspectorate, 3D Temple Quay House, Temple Quay, Bristol  
BS1 6PN

Helpline: 0303 444 5000

Email: [environmentalservices@pins.gsi.gov.uk](mailto:environmentalservices@pins.gsi.gov.uk)

Web: [www.gov.uk/government/organisations/planning-inspectorate](http://www.gov.uk/government/organisations/planning-inspectorate) (The Planning Inspectorate)

Web: [www.infrastructure.planninginspectorate.gov.uk](http://www.infrastructure.planninginspectorate.gov.uk) (National Infrastructure Planning)

Twitter: [@PINSgov](https://twitter.com/PINSgov)

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## **A38 Scoping response**

The three junctions falling within the proposals are:

- A5111/A38 Kingsway Junction (Derby City Council)
- A38/A52 Markeaton Junction (Derby City Council)
- A61/A38 Little Eaton Junction (Erewash/Derbyshire County Council)

### **Policy**

Certain policies in our local plan are incorrectly referenced both in the City of Derby Local Plan Review and the Derby City Local Plan part 1

Paragraph 7.2.2

The local plan policies are incorrect. Policy E29 has been deleted and it doesn't reference any of the DCLP1 policies for heritage (CP20 & AC9)

Section 8 8.6.8

This deals with landscape and visual impact. Although I have regularly argued that this isn't a landscape policy (arguments which have been accepted at appeal), the report states that CP18: Green Wedges is relevant. Whilst I have no issues with its inclusion in this section, the document doesn't appear to discuss the impact the scheme will have on the two wedges the road runs through.

Table 13.1

This lists the policies from the CDLPR, all of these have been replaced by the Part 1 Policies or deleted.

### **Townscape**

The scoping exercise will cover the Landscape Assessment elements but is weak on townscape impact and urban design, including other modes of transport which need consideration such as cycling. Strategic commuting cycle routes are planned running north-south along the river, with the A38 near Ford Lane currently acting as to sever the momentum of this route; will this report scope out the likely impacts of the proposals to this?

The Kingsway junction allows the A38 to go through in an underpass and so is less intrusive in terms of impact on townscape as no elements will be higher than existing. However, the proposals will extend the road area plus associated signage etc, and hence urbanise further this area. Of particular concern here is additional roundabout with access to Mackworth estate, and measures should be scoped to

test for (and mitigate against, if necessary) the impact of a Highways England-standard approach to lighting/signage/other road-related furniture, as the trunk road enters this residential area.

The Markeaton junction also allows the A38 to go through in an underpass, but appears to extend the area of roundabout such as the entrance to Markeaton Park will need careful attention and screening. The townscape impact of the loss of 15 detached properties on Queensway will need to be assessed.

The Little Eaton junction shows A38 going over the roundabout in a fly-over – this will clearly have some impact in terms of views and landscape character, but I would assume that this will be covered by the EA. The alternative suggested to closing Ford Lane is preferred: this would connect Ford Lane to the new Little Eaton junction (one way traffic flow from Ford Lane to the A38). The link road would run to the north and parallel to the A38, crossing the railway and the River Derwent flood plain at grade and on embankment.

## **Heritage**

There are a number of heritage assets, both designated and non-designated, that need to be highlighted and a Heritage Impact Assessment undertaken to fully understand the impact of these proposals on these heritage assets.

- Within the scoping report I note that the listed buildings at Markeaton and the Markeaton Conservation Area are mentioned and their settings are an important part of the listing. I would strongly suggest referring to the Historic England Guidance on setting (which is mentioned within the document).
- There is also a need to mention the historic Markeaton Park with its stone walls, reinstated gateway to the A52 and open spaces. There are also a number of heritage assets (like the AR Centre) which are located very near to the A38 and their function and setting will have to be assessed. These are non-designated heritage assets but still, as outlined in the NPPF important.
- There are number of Locally Listed buildings nearby within the New Zealand area of Derby along off and along Ashbourne Road, off and along Kedleston Road that need, in my view, to be included.
- Conservation Areas nearby which need to be looked at are listed but the following ones are missing from the list- Friar Gate Conservation Area (as this extends up Ashbourne Road), and perhaps even Leylands Estate CA, and Darley Abbey CA
- The Derwent Valley Mills WHS, buffer zone and its setting.

In order to be able to assess a planning application for these works and the fully understand the impact on these assets, in accordance to the Saved Local Plan Review Policies and the NPPF, there is a need for a thorough Heritage Impact Assessment and views analysis, from near and further away (not just in relation to the WHS is needed), to establish with **verified views** the impact of these proposals.

### **Air Quality** generally

With regards to the Clean Air Zone (CAZ) work, there are a few observations. I note that para 6.7.3 identifies that the construction period is relevant and further air quality work 'may' be needed depending on eventual traffic re-routing estimates. I suggest it 'will' be needed based on the sensitivities regarding our 2020 deadline for addressing the identified NO<sub>2</sub> exceedances in Derby and the need to maintain the required improvements throughout and following construction. As our initial sensitivity test for this project indicates a relationship between the scheme and our exceedance areas we have a strong argument for this.

Looking at section 6.3, the DMRB methodology that will be applied may not fully capture our key areas of concern in terms of NO<sub>2</sub> as set out below:

The traffic change criteria set out in DMRB Air Quality guidance (HA207/07) (Highways England, 2013) will be used to define the 'affected road network' (ARN) for the local air quality assessment. The DMRB local air quality traffic change criteria are as follows:

- Road alignment will change by 5m or more, or;
- Daily traffic flows will change by 1,000 Annual Average Daily Traffic (AADT) or more, or;
- Heavy Duty Vehicle (HDV) flows will change by 200 AADT or more, or;
- Daily average speed will change by 10km/hr or more, or;
- Peak hour speed will change by 20km/hr or more.

The study area for the assessment of regional pollutant emissions will be defined using the regional air quality study area in DMRB HA207/07 (paragraph 3.20), as follows:

- Daily traffic flows will change by 10% AADT or more;
- HDV flows will change by 10% AADT or more; and
- Daily average speed will change by 20km/hr or more.

Due to Derby's specific circumstances, the sensitivities around the national NO<sub>2</sub> requirements and the network wide implications of the scheme it would be beneficial to ensure that the full extent of the AQMAs and areas of exceedance associated with the National Air Quality Action Plan form part of the air quality assessments before, after and during construction. In some instances, a relatively small change might make a difference to our ability to achieve compliance and this will be relevant in the assessment of the scheme.

There are no precedents that I am aware of with major projects and CAZ areas but I believe it would be in HE's interests to demonstrate any benefits across the network particularly with support from DEFRA. We all need to assess the influence of the scheme on the CAZ project and vice versa.

The primary purpose of the scheme is to reduce congestion and increase reliability of journeys on an existing road network. Post-completion, this is likely to produce more consistent traffic flows and reduce the current high levels of queuing at the 3 junctions.

Some of these benefits will, however, be slightly off-set by higher than average levels of predicted future local traffic growth, in addition to an increase in traffic volumes along the A38 due to vehicles diverting to what would be considered a more 'attractive' route.

There is also likely to be a long lead-in time involving large-scale demolition/construction and vehicle re-routing over a period of several years, which has the potential to produce significant environmental impacts in the short to medium term.

### **Air Quality (Section 6)**

There are a number of locations within Derby City that suffer high existing levels of air pollution, primarily due to road traffic volumes. The Council has declared two Air Quality Management Areas (AQMAs) for NO<sub>2</sub> and Derby is also highlighted under the current National AQ Plans as being at risk of exceeding European Limits for NO<sub>2</sub>, especially around the inner ring road.

Any significant changes to the road network in and around Derby have the potential to impact upon local air quality and it is therefore essential that the changes to the traffic volumes and routing along the local road network, both during construction and post-development, are considered in detail within the proposed EIA.

### **AQMAs**

The A38 itself is not currently designated as an AQMA, nor is it predicted to exceed the EU limits. It is important to note however that this has more to do with the

current distance between the road and the nearest receptors (i.e. residential dwellings), than necessarily the air pollutant concentrations arising from the highway.

In fact, monitoring at the kerbside along the A38 at Kingsway has revealed the highest NO<sub>2</sub> concentrations at any monitored location in Derby in recent years (See Derby City Council's 2017 Annual Status Report (ASR)).

Consequently, one of the main points of concern for the proposed scheme from an air quality perspective relates to the potential for the scheme to bring sensitive receptors closer to the kerb as a result of the proposed expansion of the highway footprint.

I note as part of the scheme, that demolition of some residential dwellings is proposed to facilitate the highway infrastructure (around Queensway and Ashbourne Road for example). This has the theoretical benefit of removing some of those receptors close to the highway and inherently reducing the risk of exposure.

Whilst the full details of road realignment and dwelling demolition do not appear in the report, **the potential for the A38 Derby Junctions Scheme to create new exposures to the known high concentrations of air pollutants along the A38 corridor and the associated significance to public health ought to form part of the EIA process. I would strongly recommend that the EIA Scoping Report is updated to reflect this.**

### **Local AQ Measures (e.g. Clean Air Zones)**

There is currently a significant amount of scoping and feasibility work being undertaken in the City in order to design a package of air quality improvement measures, primarily based around road traffic management, required by DEFRA under the 2017 National AQ plans (due to be updated again in October 2018).

Although the final suite of measures has not yet been finalised, whatever the final package includes, it is expected to have a significant impact upon the fleet of the local road network. **Assessing the inter-relationship between the A38 scheme (both during construction and post-completion) and local air quality improvement measures needs to be an essential part of the Environmental Assessment of the A38 scheme. The EIA scoping methodology fails to identify this important issue (although there is brief acknowledgement of the CAZ in section 6.10). The EIA methodology needs to be updated to ensure that the A38 scheme fully considers local modelling to ensure that the scheme complements, rather than compromises, local air quality measures.**



For example, the current proposals for scoping of the potentially affected road network using DMRB criteria, has the potential to miss CAZ-affected roads. Early assessment has identified potential EU Limit exceedances for NO<sub>2</sub> along road links within the inner ring road network e.g. Traffic Street and Stafford Street. **The ES AQ Assessment will need to consider the impact of the scheme on these roads, however minor that may be, even if the DMRB screening criteria does not highlight those links as requiring further assessment.**

I also note that the EIA scoping assessment suggests that assessment of construction air quality impacts will only be considered based upon a study area of 200m around the construction boundary. Whilst this appears to be an appropriate scope for appraisal of localised emissions of dust etc regarding nuisance from the construction works themselves, **a far wider area of assessment will be needed to consider the effects of fleet and traffic volume changes resulting from temporary diversionary routes (NB. In relation to all vehicles, not merely from construction traffic) and how these may impact upon local compliance with EU/National Limits. Again, I would strongly recommend that the scoping assessment is amended accordingly to reflect this.**

Whilst the report notes DEFRA's national PCM Modelling, the proposed baseline modelling scope does not include any of the baseline data which has been produced as part of the local CAZ scoping and feasibility AQ modelling or the Council's Low Emission Strategy. **I would advise that all local traffic and AQ modelling data will need to be included within the baseline AQ modelling for the A38 scheme. I would strongly recommend that the scoping assessment is amended accordingly to ensure that it includes a requirement for this.**

The EIA Scoping report suggests the use of an existing baseline of 2015. **I would strongly recommend the use of a 2016 baseline in line with local CAZ feasibility modelling data, which incorporates a 2016 baseline.**

### **PM<sub>2.5</sub>**

The EIA Scoping Report makes no mention of modelling the impacts of fine particulate matter (PM<sub>2.5</sub>). Whilst I would acknowledge that breaches of the EU Limits for PM<sub>2.5</sub> as a result of the completed scheme are unlikely (based on National modelling), current evidence regarding exposure to PM<sub>2.5</sub> suggests that significant health effects can occur when people are exposed to concentrations well below the Objectives/Limit Values.

In fact, current evidence suggests that the mortality burden for PM<sub>2.5</sub> in the UK is more significant than for any other air pollutant.

Since 2017 under DEFRA's Local Air Quality Management (LAQM) regime, all Local Authorities must identify action they are taking to reduce exposure to PM<sub>2.5</sub>. Furthermore, reducing health impacts arising from exposure to PM<sub>2.5</sub> is identified within the National Public Health Outcomes Framework.

Potential impacts upon local PM<sub>2.5</sub> exposure arising from the A38 Derby Junctions Scheme should be considered in full and mitigation proposed where possible. **I would strongly recommend the addition of PM<sub>2.5</sub> modelling followed by an exposure mitigation programme where necessary (for both construction and post-completion) for PM<sub>2.5</sub> to be included within the scope of the proposed EIA.**

### **Geology and Soils (Section 10)**

There are a number of considerations discussed in this section relating to soils and geology which are not covered by the Environmental Protection Team. For clarification, the following comments only relate to the relationship between the A38 Derby junction Scheme and land contamination that could impact upon human health.

The majority of the development will consist of hard-surfacing infrastructure (roads, paths, bridges etc) which inherently provide a barrier between any contamination that might be in the ground and human exposure above-ground.

Nonetheless, investigations of potential contamination within the ground are proposed as part of the EIA.

The Kingsway junction is located near to a large former landfill which is known to experience a relatively high level of gassing and so consideration of the potential for the scheme to affect gas migration pathways in this location should be of primary concern.

**The report identifies an intrusive ground investigation which has already been undertaken along the alignment of the proposed scheme. Whilst I have no reason to doubt the conclusions provided, I would appreciate a copy of the report to be sent for review by the Environmental Protection Team at Derby City Council.**

The report goes on to suggest that a Construction Environmental Management Plan (CEMP) would be prepared and then implemented throughout the construction works in order to mitigate potential impacts associated with land contamination.

It further suggests that a geology and soils assessment will be undertaken in accordance with the advice in DMRB Volume 11, Section 3, Part 11 Geology and Soils (Highways England (1993a)).

The approach for the assessment of land contamination impacts appears appropriate. I have no further suggestions to make regarding section 10.

## **Noise and Vibration (Section 12)**

The scheme has the potential to affect a number of receptors (e.g. residential dwellings, care homes, offices or schools), via construction noise and also due to the proposed amendments to the road layout and associated traffic speed and volume changes.

### **Construction Noise**

Given the scale of the development and the length of time expected for its construction, construction-related noise impacts are of particular concern.

The report includes a scoping proposal to consider construction phase noise impacts focussed on a "*selection of the closest identified potentially sensitive receptors*". **I would advise that the area and receptors under consideration in relation to construction noise impacts are specified in more detail within the scope.**

The report suggests that, based on the current programme, night-time and weekend working is not anticipated. **I would strongly advise that the scheme aims to avoid night-works unless absolutely essential, given the potential for greater impacts from noise at night.**

The report confirms that a CEMP would be prepared and implemented by the selected construction contractor which would include a range of best practice measures associated with mitigating potential noise and vibration impacts. This is a sensible approach.

### **Operational Noise**

The completed development itself also has the potential to significantly affect the local noise environment, primarily as a result of the following:

- Higher traffic speeds due to the predicted reduced congestion around junctions;
- Higher traffic volumes as a result of making the route more attractive; and
- Closer proximity of the highway to sensitive receptors due to the enlarged layout arising from additional lanes.

The methodology and study area for the assessment of operational phase noise impacts appears to be appropriate.

I do not however agree with the thresholds for significant observed adverse effects (SOALs) described in section 12.9.35. **Evidence suggests significant effects well below the proposed threshold of 63dB<sub>L(A)eq,16h</sub> (based on a daytime outdoor free field level) and therefore, when designing mitigation, a lower threshold should be used in line with World Health organisation criteria, namely 55dB<sub>L(A)eq,16h</sub>.**

Tables 12.9 and 12.10 identify the proposed EIA classifications for magnitude of noise impacts for both the short-term and the long-term. The classifications appear to suggest that greater increases in noise over the long-term are more acceptable than those in the shorter-term. In my experience, the opposite is true i.e. people tend to tolerate higher levels of noise that are temporary whereas greater potential for nuisance exists where increases in noise are more permanent. Again, **I would recommend lower thresholds for magnitude where noise mitigation is being considered for the long-term classifications, in line with those for the short-term magnitude classifications.**

### **Noise Mitigation**

I note that the length of A38 highway affected by the proposed scheme contains 'important areas containing first priority locations' and 'other important areas' designated under the Environmental Noise (England) Regulations 2006 (as amended).

The report confirms that Highways England has made an initial assessment of the feasibility of mitigation for these Important Areas which considers resurfacing with low noise surfacing and noise barriers.

**Derby City Council is currently developing a Local Noise Plan in accordance with the Environmental Noise Directive and therefore the A38 scheme will need to ensure that it is consistent with any actions on that Plan once it has been finalised.**

The report later confirms (in section 12.7.4) that noise mitigation has been incorporated into the proposed scheme design in the form of low noise surfacing across the extent of proposed scheme. This proposal is welcomed.

According to the report, further noise mitigation, possibly in the form of new barriers, will be developed and reported in the Environmental Statement. The report does not however propose to include a full assessment in accordance with the Noise Insulation Regulations 1975. **I would strongly advise that the EIA considers the requirements under the Noise Insulation Regulations in detail.**

A summary of a *PCF Stage 2 Assessment* is provided in the report, however to the best of my knowledge this Department has not received a copy of this report to

date. **I would appreciate a copy of the report to be sent for review by the Environmental Protection Team at Derby City Council.**



Improving life for local people

Richard Hunt

Senior EIA and Land Rights Advisor

The Planning Inspectorate

3D Eagle Wing

Temple Quay House

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Bristol

BS1 6PN

**Mike Ashworth**  
Strategic Director

Economy, Transport and Environment  
County Hall  
Matlock Derbyshire  
DE4 3RY

Telephone: 01629 539808

Ask for: Steve Buffery

Our ref: PM/SB/Strategic Applications/

A38 Grade Separated Junctions Scheme

Your ref: TRO10022

Date: 13 April 2018

Dear Mr Hunt

## **Planning Act 2008 (as amended) and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**

### **Application by Highways England for an Order Granting Development Consent for the A38 Derby Junctions**

#### **Scoping Opinion Consultation**

#### **Response on Behalf of Derbyshire County Council**

Thank you for consulting Derbyshire County Council (DCC) on the Scoping Opinion for the A38 Derby Grade Separated Junctions Scheme proposed by Highways England. The comments below are DCC's officer technical comments on the Scoping Opinion, which are based on an assessment of the applicant's Environmental Impact Assessment Scoping Report.

It is noted from Section 1 of the Scoping Report that the A38 Derby Junctions Scheme comprises the proposed grade separation of Kingsway junction, Markeaton junction and Little Eaton junction, which are the three remaining at-grade junctions on the A38 between the M6 Toll and the M1. Figures 1.2a and 1.2b of the Scoping Report identify land within the red line boundary of the Scheme proposed to be subject to the forthcoming Development Consent Order application. No land within the Kingsway and Markeaton parts of the Scheme are located within the administrative area of Derbyshire. However, that part of the red line boundary east of the River Derwent within the Little Eaton junction part of the scheme is located within the administrative area of Derbyshire. The comments set out below, therefore, primarily relate to that area of the Scheme for the Little Eaton junction grade separation improvements.

DCC has been working collaboratively with Derby City Council (DCiC), Amber Valley Borough Council and South Derbyshire District Council forming the Derby Housing Market Area (HMA) since around 2010 to assemble the evidence base to inform the preparation of their Local Plan Reviews, particularly to determine the housing and employment land requirements of the Derby HMA as a whole and for

DISABLED

[www.derbyshire.gov.uk](http://www.derbyshire.gov.uk)

the individual local authority areas. This evidence base has also included the commissioning of extensive transport modelling works to assess the likely impacts on the highway network of the housing and employment growth proposed in the HMA and within the local authority emerging local plans. In this context, DCC fully understands the key objective of the scheme set out at paragraphs 1.1.2 and 2.2.1 of the Scoping Report which indicates that Derby and its immediate surrounding area are expected to accommodate significant housing and employment growth and that as a result, traffic demands on the A38 through Derby are forecast to grow quicker than the national average. Consequently, existing delays at all three at-grade roundabout junctions on the A38 are anticipated to worsen due to increased levels of traffic; and that the proposed scheme would increase capacity of the strategic road network and help to facilitate housing and employment growth within Derby City and the surrounding area.

### **Highways Impact Issues**

A key component of the Environment Statement which will support the DCO application, will be an analysis of the likely impacts of the proposed scheme on the highways networks relating to changes in traffic flows on the network both within Derby City and within the wider area of Derbyshire. It is disappointing, therefore, that the Scoping Report provides little reference to or detail of the transport modelling works which are currently being undertaken by AECOM on behalf of Highways England to assess the changes in traffic flows on the road network likely as a consequence of the construction and operational phases of the scheme. However, DCC's officers have been engaged in on-going discussions with officers from Highways England, AECOM and DCiC about the scope and content of the transport modelling works. As a result of those discussions, DCC is aware that initial transport modelling works were completed by AECOM in 2016 and have recently been updated to take into account growth proposals contained in the emerging Amber Valley Borough Local Plan and new traffic forecast data. A number of traffic management scenarios have also been modelled for the construction phase of the scheme. It is understood that transport modelling works will be completed in time to inform the preparation of the Preliminary Environmental Information report (PEIR). As noted above, therefore, it would have assisted the understanding of the Scoping Report if further detail had been provided on these ongoing transport modelling works.

From information set out in Section 5 of the Scoping Report, it is noted that the construction phase of the scheme as whole is likely to last for at least 3 years. During that time, the construction works are likely to have a significant impact on the surrounding (non-A38) road network within Derbyshire as a consequence of motorists seeking to take alternative routes to avoid the likely delays on the A38 through the scheme to reach their intended destinations. In this context, it is noted that the Scoping Report does not contain any details about the proposed phasing of the construction works i.e. whether all three junction improvements will be constructed simultaneously or whether one of the schemes will be commenced in advance of the others. This will be an important consideration for the transport modelling works to take into account in understanding the potential impact on traffic flows and route reassignment during the construction phase of the scheme. It is

considered, therefore, that a phasing programme of construction should be included within the Environment Statement.

Similarly, the Scoping Report (paragraph 2.5.28) indicates that a number of sites may be required and used during the construction phase for construction compounds and soil storage, particularly two sites within the vicinity of the Little Eaton scheme – a former landfill site north of the existing roundabout bounded by the North Midland railway line and B6179 Alfreton Road as a possible main construction compound; and land east of the junction as a possible soil storage area. It is important that the transport modelling works take these sites into account during the construction phase to understand the potential impact on the highways network of heavy goods vehicles accessing these sites.

DCC considers it very important, therefore, that extensive transport modelling works are carried out to assess the likely impacts on the highway network during the construction phase of the scheme as well as for the operational phase of the scheme.

To provide for meaningful consultation with stakeholders on the PEIR, it is considered to be important that the PEIR contains details of the outputs and outcomes of the completed transport modelling works. Clearly, there will inevitably be wider impacts of the Scheme that extend well beyond the red line boundary identified in Figures 1.2a and b of the Scoping Report relating to traffic flows and how they impact on air quality, noise and vibration and people and communities etc., which will be key environment topics covered in the PEIR and full Environment Statement. These sections of the PEIR and final Environment Statement will need to be drafted to take into account the outcomes of the transport modelling works.

It is possible that there may need to be changes to existing Traffic Regulation Orders affecting roads in the vicinity of the scheme. Any proposed or likely changes to these Orders should be set out in the Environment Statement.

## **Air Quality**

In respect of the comments above, it is noted and welcomed that paragraph 6.7.3 of the Scoping Report indicates that the air quality assessment at PCF stage 2 identified that due to the proposed scheme requiring significant works to the A38, traffic management would be put in place to minimise traffic re-routing throughout the construction phase; and that it is not currently known, however, to what extent of traffic re-routing may take place during this period. As such, further air quality work may be required during the environmental assessment depending upon traffic re-routing estimates based on advice from traffic modellers. Reference is also appropriately made in paragraph 6.9.12 to the fact that the operational impacts on air quality will be assessed using an updated traffic model and where relevant further developed proposed scheme design details; and that in respect of the scenarios to be considered for local air quality, road sources included in the traffic model will be explicitly modelled using ADMS-Roads noting that the model requires input of traffic flow, composition and speed data.



## **Cultural Heritage**

The identification of potential heritage impacts at chapter 7 of the Scoping Report is considered to be comprehensive and has accurately identified the potential areas of impact. The proposals for additional survey and the suggested scope of mitigation work appear appropriate. DCC's Archaeologist has been consulted by AECOM on the first stage of archaeological geophysics and evaluation / boreholes, and is currently in the process of providing comments on a Written Scheme of Investigation (WSI) for a second stage of evaluation.

The importance of the Outstanding Universal Value (OUV) of the Derwent Valley Mills World Heritage Site (DVMWHS) is appropriately highlighted and referenced throughout Chapter 7, which is welcomed and supported. It is noted (paragraph 7.1.2) that a separate Heritage Impact Assessment (HIA) Scoping Report will be produced to specifically address the scope of works for the Heritage Impact Assessment on the OUV of the WHS, particularly to evaluate the impact of the Scheme on the OUV, integrity and authenticity of the WHS and to inform the proposed Scheme design and mitigation, which is fully supported and welcomed. It is recommended, however, that this scoping document should be subject to consultation with the relevant heritage consultees, to include as a minimum the World Heritage Site Team at Derbyshire County Council, and Historic England, which has been indicated at Section 7.8.7 of the Scoping Report.

## **Landscape and Visual Impacts**

It is welcomed that Section 8.1.3 of the Scoping Report indicates that a Landscape and Visual Impact Assessment (LVIA) will be prepared as part of the Environment Statement in accordance with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) and the Design Manual for Roads and Bridges (DMRB). In this regard the process will consider the potential impact of the Scheme on landscape character, landscape fabric and the visual amenity of people living in close proximity to the development or passing through the landscape. As an iterative exercise the process should dictate the appropriate design response and mitigation required to address the identified adverse effects.

At this stage, DCC's officers are concerned about the Scheme's development in advance of the Environment Statement being prepared. The general layout of the Little Eaton junction already looks quite detailed from an engineering perspective so it is difficult to appreciate how the relevant environmental impacts have been considered and addressed through the Scheme's development. The landscape around the Little Eaton junction is particularly sensitive. In landscape character terms the junction is located entirely within the floodplain of the River Derwent - being a landscape typically associated with a lack of built development. Furthermore, the Riverside Meadows Landscape Character Type as defined in the Derbyshire landscape character assessment ([www.derbyshire.gov.uk/landscape](http://www.derbyshire.gov.uk/landscape)) is a linear landscape centred on the river with numerous connected habitats. The landscape to the east of the A38 is typically pastoral associated with the floodplain and provides an attractive rural setting to the village of Breadsall and in particular the Breadsall Conservation Area. The loss of this agricultural land at such close

proximity to the village will inevitably lead to an increased adverse effect on the landscape and the setting to the CA.

Land immediately west of the junction is located within the DVMWHS and it is not clear at present from the Scoping Report to what extent the new junction would directly impact on this environmental designation. The existing bridge over the River Derwent is a reasonably elegant structure thought to date from the 1960s but it is not clear to what extent this might be affected by the proposal. It is a concern that the proposal is to construct the new slip roads on embankment crossing the floodplain when a more sympathetic design response might be to construct these approaches on structures that cross the floodplain with the least amount of impact on the landscape, visual connectivity, ecological connectivity and floodplain functionality. It is noted from Section 2 of the Scoping Report and Figures 1.2b that ecological and flood compensation measures will be required and this will need to be carefully designed if this compensation in itself does not introduce further incongruous features from a landscape and visual perspective. It is of concern that the proposed 'surface water attenuation pond' shown on the general layout plan for the Little Eaton junction, appears highly engineered in what is a natural pastoral landscape. It would be hoped at this stage that it is simply indicative of a need rather than being a detailed proposal.

It is without doubt that any grade separated junction at this location will have adverse impacts on the environment by significantly urbanising the countryside setting at the northern margins of the city of Derby and causing visual harm to one of the gateways into the World Heritage Site and the rural setting to Breadsall and its Conservation Area. Accordingly, it is important that there should be a truly iterative response to the identified environmental impacts and that mitigation proposals are joined up so that a visually acceptable landscape is created on completion of the scheme that responds to the character of its landscape setting.

### **Green Belt Issues**

It is of concern that the Scoping Report includes very little reference to the assessment of the proposed Little Eaton junction scheme on the Green Belt. All of the land east of the River Derwent within Erewash Borough and Derbyshire is defined as Green Belt in the Adopted Erewash Borough Core Strategy 2013. Policy 3: Green Belt of the Local Plan states that:

#### *Policy 3: Green Belt*

*The principle of the Nottingham-Derby Green Belt will be retained. Within Erewash, when considering proposals for development within the Green Belt, regard will be given to:*

- a) the statutory purposes of the Green Belt;*
- b) maintaining the strategic openness of the Green Belt between the towns of Ilkeston and Long Eaton and the Derby urban area;*
- c) ensuring the continued separation of neighbouring towns and rural settlements within Erewash Borough;*

- d) *safeguarding valued countryside; and*
- e) *preserving the setting and special character of Erewash towns and rural settlements.*

Paragraph 90 of the National Planning Policy Framework (NPPF) indicates that certain forms of development are not inappropriate within the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. Local transport infrastructure which can demonstrate a requirement for a Green Belt location is identified as one of the uses that are not inappropriate in the Green Belt.

In the context of the above, it is of concern that the Scoping Report does not provide any indication that an assessment will be provided in the Environment Statement of the likely impacts of the Little Eaton junction part of the scheme on the openness of the Green Belt and the main purposes for including land within the Green Belt in this location, which forms an important part of the Nottingham – Derby Green Belt. Only passing reference is made to the fact the scheme is located within the Green Belt at Sections 8.6.9 and 13.4.9 of the Scoping Opinion in the context of the wider consideration of impacts on landscape and visual impact issues and people and communities.

### **Flood Risk**

As Lead Local Flood Authority (LLFA) covering that part of the scheme at the Little Eaton junction falling within Derbyshire, consultation has been undertaken with Officers in the County Council's Flood Team. At this current phase of the planning process the LLFA have no comment to make on the scoping report but will be looking forward to being given the opportunity to comment further on the flood risk impacts of the Scheme upon the production of the detailed design phase that will be supporting the forthcoming Development Consent Order application.

### **Public Transport Issues**

Section 13: People and Communities of the Scoping Report considers the potential impacts of the scheme on motorised vehicle users and non-motorised users. However, the Scoping Report does not include any assessment of the likely impacts on public transport usage in the area as a result of the construction or completion phases of the scheme. DCC's officers consider that the following impacts are likely to result as a consequence of the completion and construction of the scheme.

#### *Little Eaton Scheme*

Bus services going south into Derby from Little Eaton currently struggle to get out of Alfreton Road onto the existing A38 roundabout due to the volume of traffic. This grade separated proposal will make it easier for these services to get onto the new island and then to head south into the City. Similar buses going northbound either to Little Eaton or onto the A38 towards Kilburn should also benefit from improved traffic flow over the current roundabout arrangement.

### *Markeaton Island Proposal*

Bus services on the A52 heading towards Derby city centre from Ashbourne and outbound from the city towards Mackworth can currently be stuck in considerable traffic queues as vehicles go round the current roundabout and through the associated traffic signals. Separating the North /South through traffic from the more local journeys heading into and out of Derby from this direction should be likely to reduce delays and improve the reliability of bus services on this corridor.

### *Kingsway Island*

No bus services from Derbyshire currently travel through this junction so there is no real benefit from the County Council's perspective.

### General Comments – Construction Phase

As with any project of this scale on a major road it is important that the construction process is managed sensitively to limit the delays to traffic due to this work. The experience of the work that HE undertook on Little Eaton island a few years ago when it implemented the current layout was not good with considerable delays being experienced by bus services (and other traffic) which were using this route.

### **Materials**

The Materials section of the Scoping Report includes details of the proposed approach to minerals and waste considerations in the Environment Statement. Derbyshire County Council and Derby City Council are the Joint Minerals and Waste Planning Authorities for the area covered by all three of the grade separation junctions.

In the context of the above, Section 11.2.2 makes appropriate reference to the Adopted Derby and Derbyshire Waste Local Plan (2005) and that the two authorities are currently preparing a new Waste Local Plan for the area which will ultimately replace the adopted Plan of 2005.

Reference is made to the Derby and Derbyshire Local Aggregate Assessment (LAA) for 2014. It should be noted that this has been superseded by the LAA 2017. Appropriate reference is made to the emerging Derbyshire and Derby Joint Minerals Local Plan at section 11.2.4 of the Scoping Report. It should be noted, however, that a Draft of the Derbyshire and Derby Joint Minerals Local Plan was published for consultation in March 2018 and should be referenced in the Environment Statement.

### **People and Communities: Economic Development and Regeneration Issues**

It is disappointing that the People and Communities Section contains little or no reference to the assessment of the likely economic benefits of the Scheme. For

example, an assessment could be provided on whether the construction phase of the scheme, in particular, could generate a positive impact for the area in terms of the creation of construction employment and associated expenditure in the local economy; and during the operational phase of the Scheme, whether it is anticipated that there would be local economic benefits as a result of the improvement in accessibility between jobs and the labour market. It is considered that the forthcoming Environment Statement should therefore include a more extensive and robust assessment of the likely economic and regeneration benefits of the scheme, particularly in terms of quantifying these benefits in the context of likely jobs created and expenditure multipliers generated for the local economy in both the construction and operational phases of the Scheme.

The Adopted City of Derby Local Plan Part 1 Core Strategy, Adopted South Derbyshire Local Plan Part 1 and emerging Amber Valley Local Plan have identified a range of proposed housing and employment allocations in the Derby HMA, particularly large strategic housing and employment allocations. The provision of the new highways scheme is considered likely to impact positively on the Derby HMA area as a result of improved connectivity across the HMA between planned new homes and jobs, potentially making new housing schemes and employment sites more attractive to both prospective residents and businesses as a place to live and invest. It is considered important, therefore, that the potential economic development and regeneration impacts of the Scheme as highlighted above should be assessed in the Environment Statement to support the DCO application.

### **Climate Change**

It is considered that the study's scope on the impact of the Scheme on Climate Change is limited and the parameters of what is considered very narrow. Given what we know about greenhouse gas emissions and the likely future climate of Derbyshire, it is disappointing that extensive dedicated cycle routes have not been included in the design. Whilst it is accepted that such a scheme is necessary given the predicted population growth of the city, it is disappointing that the presented scheme is likely to encourage people to drive vehicles more and does little to alleviate the problem of greenhouse gases or active health. If realistic walking and cycling alternatives were created as part of the Scheme this would help mitigate and adapt to climate change.

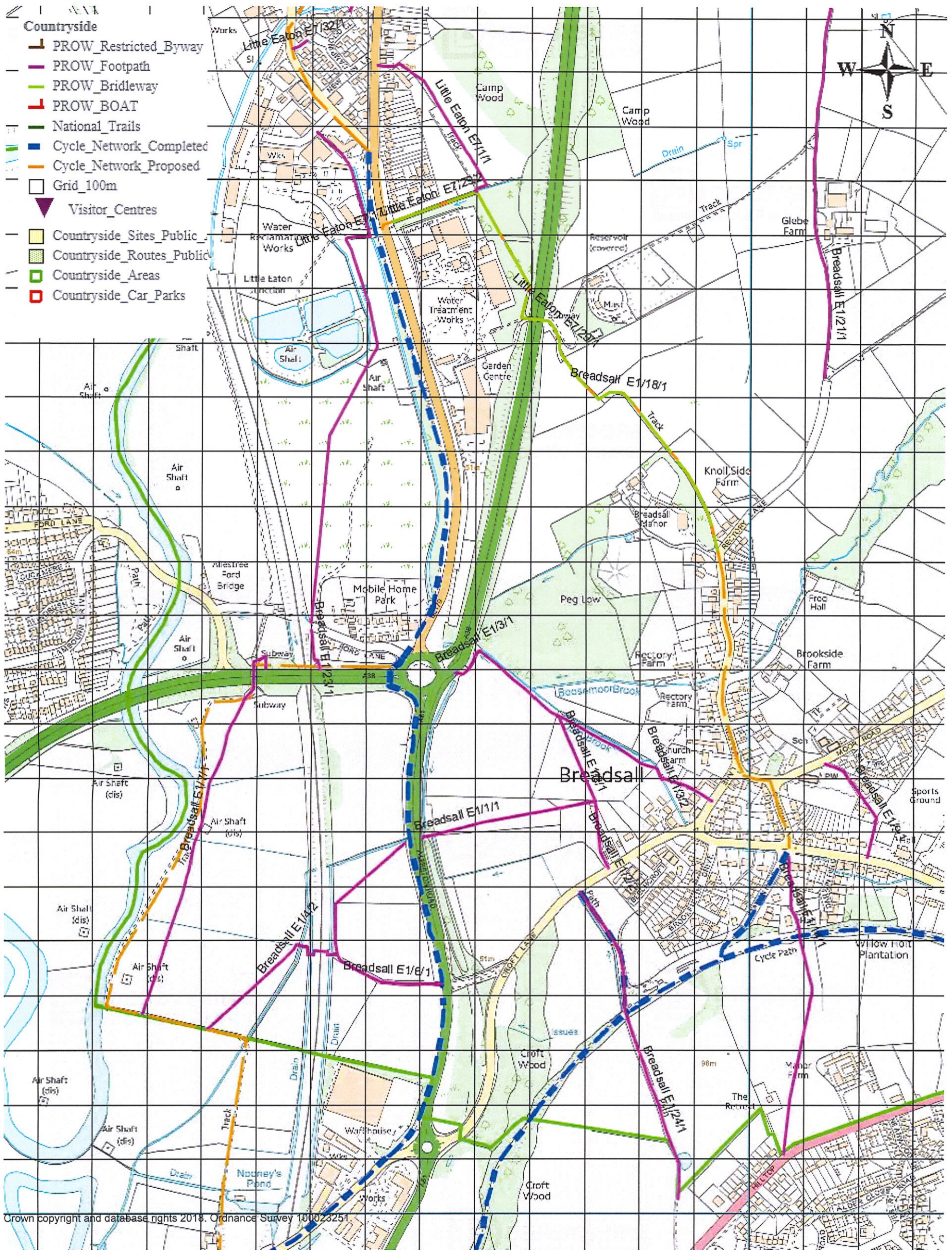
A copy of the Derbyshire Public Rights of Way (PROW) Improvement Plan is attached, which shows the existing and proposed PROW and cycle network in the vicinity of the Little Eaton Scheme, which may assist consideration of how the proposed scheme could be integrated more effectively with the existing and proposed network of footpaths and cycleways.

I hope the comments above are of assistance to the Planning Inspectorate in issuing its Scoping Opinion.

Yours sincerely



PP Mike Ashworth  
Strategic Director of Economy, Transport and Environment



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200 m  
Scale = 1 : 6924.960

12-Apr-2018



**From:** [ESP Utilities Group Ltd](#)  
**To:** [A38 Derby Junctions](#)  
**Subject:** Your Reference: TR010022. Our Reference: PE135070. Plant Not Affected Notice from ES Pipelines  
**Date:** 19 March 2018 14:42:47

---

A38 Derby Junctions  
The Planning Inspectorate

19 March 2018

Reference: TR010022

Dear Sir/Madam,

Thank you for your recent plant enquiry at (TR010022).

I can confirm that ESP Gas Group Ltd has no gas or electricity apparatus in the vicinity of this site address and will not be affected by your proposed works.

ESP are continually laying new gas and electricity networks and this notification is valid for 90 days from the date of this letter. If your proposed works start after this period of time, please re-submit your enquiry.

**Important Notice**

Please be advised that any enquiries for ESP Connections Ltd, formerly known as British Gas Connections Ltd, should be sent directly to us at the address shown above or alternatively you can email us at: [PlantResponses@espipelines.com](mailto:PlantResponses@espipelines.com)

Yours faithfully,

Alan Slee  
**Operations Manager**





Bluebird House  
Mole Business Park  
Leatherhead  
KT22 7BA

☎ 01372 587500 📠 01372 377996

<http://www.espug.com>

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**From:** [Meakins, Corinne](#)  
**To:** [A38 Derby Junctions](#)  
**Subject:** Forestry Commission response A38 Derby Junctions scoping consultation  
**Date:** 11 April 2018 09:23:49  
**Attachments:** [image001.jpg](#)

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For the Attention of Mr Richard Hunt.

Thank you for consulting the Forestry Commission on this application. We do not believe that this will impact on any Ancient Woodland in the area and therefore we have no comments to make, this does not imply support or objection to the applications as a government department we can do neither.

For any development which are within 500 metres of an Ancient Woodland we would refer the developer in the first instance to the Standing Advice prepared by the Forestry Commission and Natural England <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

Yours sincerely



**Corinne Meakins**

Local Partnership Advisor  
Forestry Commission East and East Midlands  
Tel: 0300 067 4583  
Mobile; 07900 227 123  
[Corinne.meakins@forestry.gsi.gov.uk](mailto:Corinne.meakins@forestry.gsi.gov.uk)

Have you signed up for the Tree Health Newsletter yet? Link here: [Tree Health Newsletter](#) also check out Twitter **@treehealthnews**

Please report signs of tree pests and diseases using our online Tree Alert form:  
<http://www.forestry.gov.uk/trealert>

For up-to-date information follow Steve Scott on Twitter: [@SteveScottFC](#), check out [www.facebook.com/MakingWoodlandsWork](http://www.facebook.com/MakingWoodlandsWork) and [Subscribe](#) to our e-alert to stay up to date on forestry Grants & Regulations



**From:** [THOMAS Matt](#)  
**To:** [A38 Derby Junctions](#)  
**Subject:** TR010022  
**Date:** 26 March 2018 09:47:22  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)

---

Good morning,

Regarding your letter Ref: TR010022 I can confirm that we have no comment.



MATT THOMAS | Head of Asset Management

Mobile: 07522233368 | Direct: 0114 280 4128

Email: [matt.thomas@fulcrum.co.uk](mailto:matt.thomas@fulcrum.co.uk) | Web: [www.fulcrum.co.uk](http://www.fulcrum.co.uk)

Address: Fulcrum Pipelines, 2 Europa View, Sheffield Business Park, Sheffield, S9 1XH. Tel: 03330 146 455



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### **Fulcrum News:**

*Fulcrum creates one of the UK's leading gas and electrical infrastructure services groups with £22m acquisition of Dunamis Group [Read more](#)*

*Fulcrum brings gas to Chivas Brothers' distillery ahead of schedule. [Read more](#)*

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CEMHD Policy - Land Use Planning  
NSIP Consultations  
Building 2.2, Redgrave Court  
Merton Road, Bootle  
Merseyside, L20 7HS

Your ref: TR010022  
Our ref: 4.2.1.6333  
HSE email: [NSIP.applications@hse.gov.uk](mailto:NSIP.applications@hse.gov.uk)

FAO Richard Hunt  
A38 Derby Junctions Project Team  
The Planning Inspectorate  
Bristol  
BS1 6PN  
By e-mail

10/04/2018

Dear Mr Hunt

**PROPOSED A38 Derby Junctions - EIA scoping consultation (the project)  
PROPOSAL BY Highways England (the applicant)  
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017 (as amended)  
– Regulations 10 and 11**

Thank you for your letter of 16<sup>th</sup> March 2018 regarding the information to be provided in an environmental statement relating to the above project. HSE does not comment on EIA Scoping Reports but the following information is likely to be useful to the applicant.

**HSE's land use planning advice**

Will the proposed development fall within any of HSE's consultation distances?

According to HSE's records there are no major accident hazard installations or pipelines in the vicinity of the infrastructure project, including the 1 km study areas and, therefore, we would not wish to comment on its siting.

Hazardous Substance Consent

The presence of hazardous substances on, over or under land at or above set threshold quantities (Controlled Quantities) will probably require Hazardous Substances Consent (HSC) under the Planning (Hazardous Substances) Act 1990 as amended. The substances, alone or when aggregated with others for which HSC is required, and the associated Controlled Quantities, are set out in The Planning (Hazardous Substances) Regulations 2015.

Hazardous Substances Consent would be required to store or use any of the Named Hazardous Substances or Categories of Substances at or above the controlled quantities set out in schedule 1 of these Regulations.

Further information on HSC should be sought from the relevant Hazardous Substances Authority.

Explosives sites

HSE has no comment to make as there are no licensed explosives sites in the vicinity.

Waste

In respect of waste management the applicant should take account of and adhere to relevant health and safety requirements. Particular attention should be paid in respect of risks created from historical landfill sites. More details can be found on HSE's website at: <http://www.hse.gov.uk/waste/index.htm>

**Electrical Safety**

No comment from a planning perspective

Please send any further electronic communication on this project directly to the HSE's designated e-mail account for NSIP applications. Alternatively any hard copy correspondence should be sent to:

Mr Dave Adams (MHPD)  
NSIP Consultations  
2.2 Redgrave Court  
Merton Road, Bootle,  
Merseyside L20 7HS

Yours sincerely,



Marion Davies

PP  
Dave Adams  
(CEMHD4 Policy)

Our ref:  
Your ref: TR010022

Richard Hunt  
The Planning Inspectorate  
3D Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Steve Freek  
Highways England  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Direct Line: 0300 470 4457

12 April 2018

Dear Richard,

### **A38 Derby Junctions scheme – EIA Scoping Opinion**

In your letter dated 15 March 2018 you have invited Highways England to provide comments on the EIA Scoping Report for the proposed A38 Derby Junctions scheme, comprising the grade separation works of the A38/A5111 Kingsway, A38/A52 Markeaton and A38/A61 Little Eaton at-grade roundabouts.

The Highways England Spatial Planning & Economic Development Team (we) provide advice to prospective applicants setting out specific areas of concern, that we would wish to see considered as part of an Environmental Statement. The comments relate specifically to matters arising from Highways England's responsibilities to manage and maintain the Strategic Road Network (SRN) in England.

These areas of concern are the environmental impacts arising from any disruption during construction, traffic volume, composition or routing change and transport infrastructure modification, which should be fully assessed and reported.

Also, adverse change to noise and air quality should be particularly considered, in relation to compliance with the European air quality limit values and/or in local authority designated Air Quality Management Areas (AQMAs).

We have been involved with the progress of several planning applications in the vicinity of the A38 at Derby and are aware of the congestion issues at the existing junctions. We therefore understand the need for the scheme to support the delivery of the significant planned housing and employment growth in the area.

The EIA Scoping Report which has been prepared by Highways England's Major Projects Team appropriately identifies the traffic implications, which for the SRN will provide significant benefits to the operation of the A38 through Derby, as well as improving the operation of the local highway network in the vicinity of the 3 junctions which are to be improved.



We are content that the scheme would be provided with a suitable drainage system, and that flood risk is being investigated and mitigation options explored.

The report states that the scope of the air quality assessment has been discussed with Highways England air quality specialists and will include assessment of present day air quality (baseline conditions), future air quality without the scheme, and future air quality with the scheme. This will also consider air quality impacts of the scheme throughout the construction period. We are content with this, and the proposed air quality study area.

The scope of assessment and mitigation of noise and vibration from road traffic and construction is set out in the Scoping Report. We are content with the proposals that these will be carried out according to established prediction and assessment methodologies that are governed or guided by:

- DMRB Volume 11 Section 3 Part 7 (HD213/11) Revision 1, Noise and Vibration (Highways Agency, 2011);
- Calculation of Road Traffic Noise (CRTN) (Department of Transport, 1988); and
- BS 5228: 2009+A1:2014 Code of practice for noise and vibration control on construction and open sites 2014 – Part 1: Noise and Part 2: Vibration (BSI, 2014).

The proposals set out in the Scoping Report propose to ensure the content of the Environmental Statement will meet the requirements of the EIA Regulations. We therefore raise no concerns with the proposed scheme.

I trust this is helpful.

Yours sincerely,



Steve Freek  
Midlands Operations Directorate  
Email: [steve.freek@highwaysengland.co.uk](mailto:steve.freek@highwaysengland.co.uk)



Historic England

EAST MIDLANDS OFFICE

Mr Richard Hunt  
The Planning Inspectorate  
3D Eagle Wing  
Temple Quay House  
2 The square  
Bristol  
BS1 6PN

Direct Dial: 01604 735460

Our ref: PL00350203

13 April 2018


Dear Mr Hunt

**A38 Junctions EIA Scoping Report your ref TR10022**

Thank you for consulting us on the scoping report, we welcome the approach set out in relation to the historic environment in particular the focus upon impacts on the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site and the contribution made to its significance by heritage assets, views, historic landscape character etc. We draw you attention to the approach to the analysis of setting issues in the recently updated GPA3 Setting of Heritage Assets <https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/>

We draw you particular attention to ensuring that the scope of EIA assessment and the upmtate use of the document both in minimising and mittigating impacts includes works ancilliary but necessary to the main highway scheme (borrow pits, lay-down yards, works compounds, temporary plant installations, attenuation ponds etc) which can on occasion be overlooked either in assement or execution.

Yours sincerely,

  
Tim Allen  
Inspector of Ancient Monuments  
tim.allen@HistoricEngland.org.uk

cc: Steve Baker, County Archaeologist, DCC



2nd Floor, WINDSOR HOUSE, CLIFTONVILLE, NORTHAMPTON, NN1 5BE

Telephone 01604 735460  
HistoricEngland.org.uk



*Historic England is subject to the Freedom of Information Act, 2000 (FOIA) and Environmental Information Regulations 2004 (EIR). All information held by the organisation will be accessible in response to an information request, unless one of the exemptions in the FOIA or EIR applies.*



Enquiries to: Glenn Wakefield

R Hunt  
3D Eagle Wing  
Temple Quay  
House  
2 The Square  
Bristol, BS1 6PN

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03 APR 2018

Tel: **01484 221000**  
Fax: **01484 221613**  
Email: [glenn.wakefield@kirklees.gov.uk](mailto:glenn.wakefield@kirklees.gov.uk)  
Web: [www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning)

Paul Kemp  
Service Director  
Economy, Regeneration and Culture

Date: 27 March 2018

Our Ref: 2018/20134

Your Ref: TR010022

Dear Sirs

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(the EIA Regulations) – Regulations 10 and 11**

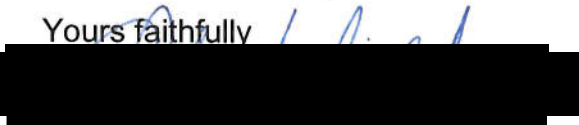
**Application by Highways England for an Order granting Development Consent for the A38 Derby Junctions**

**Scoping consultation and notification of the Applicant's contact details and duty to make available information to the Applicant if requested**

With reference to your letter dated 15 March 2018 in which you seek Kirklees Council's views on the scoping requirements associated with the Environmental Impact Assessment necessary support the above proposal.

I would confirm that the Council does not wish to comment further regarding this matter.

Yours faithfully



Glenn Wakefield  
Senior Planner

Enquiries to: Glenn Wakefield

Tel: 01484 221000  
Email: glenn.wakefield@kirklees.gov.uk

Mr Richard Hunt  
The Planning Inspectorate  
3D Eagle Wing  
Temple Quay  
House  
2 The Square  
Bristol, BS1 6PN

Paul Kemp  
Acting Assistant Director  
Investment & Regeneration

Date: 09-Apr-2018

Our Ref: 2018/20134

Your Ref: TR010022

Dear Sir

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(the EIA Regulations) – Regulations 10 and 11**

**Application by Highways England for an Order granting Development Consent for the A38 Derby Junctions**

**Scoping consultation and notification of the Applicant's contact details and duty to make available information to the Applicant if requested**

Further to your recent consultation request concerning the above matter. I would confirm that Kirklees Council does not wish to comment on the proposals.

If you would like to discuss this matter further or you require any additional information please do not hesitate to contact the above named Officer.

Yours faithfully



Simon Taylor  
Head of Development Management

**Land and Acquisitions**

Spencer Jefferies  
Development Liaison Officer  
Network management  
Spencer.Jefferies@nationalgrid.com  
Direct tel: +44 (0)7812 651481

SUBMITTED ELECTRONICALLY:  
[A38DerbyJunctions@pins.gsi.gov.uk](mailto:A38DerbyJunctions@pins.gsi.gov.uk)

[www.nationalgrid.com](http://www.nationalgrid.com)

05 April 2018

Dear Sir/Madam

**Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) – Regulations 10 and 11**

**Application by Highways England for an Order granting Development Consent for the A38 Derby Junctions (the Order)**

**Scoping consultation and notification of the Applicant's contact details and duty to make available information to the Applicant if requested**

This is a response on behalf of National Grid Electricity Transmission PLC (NGET) and National Grid Gas PLC (NGG)

I refer to your letter dated 15<sup>th</sup> March 2018 regarding the Order. NGET and NGG have no assets in the vicinity of the Order therefore, would not object to the Order when submitted.

I hope the above information is useful. If you require any further information please do not hesitate to contact me.

Yours sincerely



**Spencer Jefferies**  
**Development Liaison Officer, Land and Acquisitions.**



**From:** [NATS Safeguarding](#)  
**To:** [A38 Derby Junctions](#)  
**Subject:** RE: A38 Derby Junctions - EIA scoping notification and consultation (Our Ref: SG26003)  
**Date:** 16 March 2018 13:26:46  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.gif](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)

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The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours Faithfully



**NATS Safeguarding**

D: 01489 444687

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Fareham, Hants PO15 7FL  
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**From:** A38 Derby Junctions [mailto:A38DerbyJunctions@pins.gsi.gov.uk]  
**Sent:** 16 March 2018 12:22  
**To:** A38 Derby Junctions  
**Subject:** A38 Derby Junctions - EIA scoping notification and consultation

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Dear Sir/Madam

Please see attached correspondence on the proposed A38 Derby Junctions scheme.

Please note the deadline for consultation responses is 13 April 2018, and is a statutory requirement that cannot be extended.

Kind regards



Ian Wallis  
EIA and Land Rights Advisor  
Major Applications and Plans  
The Planning Inspectorate, 3D Temple Quay House, Temple Quay, Bristol BS1  
6PN

Helpline: 0303 444 5000

Email: [environmentalservices@pins.gsi.gov.uk](mailto:environmentalservices@pins.gsi.gov.uk)

Web: [www.gov.uk/government/organisations/planning-inspectorate](http://www.gov.uk/government/organisations/planning-inspectorate) (The  
Planning Inspectorate)

Web: [www.infrastructure.planninginspectorate.gov.uk](http://www.infrastructure.planninginspectorate.gov.uk) (National Infrastructure  
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Mr Richard Hunt  
Senior EIA and Land Rights Advisor  
The Planning Inspectorate  
3D Eagle Wing  
2 The Square  
Bristol BS1 6PN

Your Ref: TR010022

Our Ref: 43425

06 April 2018

Dear Mr Hunt

**Re: Scoping Consultation**

**Application for an Order Granting Development Consent for the proposed  
A38 Derby Junctions**

Thank you for including Public Health England (PHE) in the scoping consultation phase of the above application. Our response focuses on health protection issues relating to chemicals and radiation. Advice offered by PHE is impartial and independent.

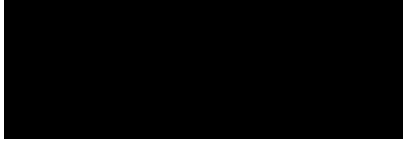
The comments below are provided on the basis that this stage is a precursor to a detailed assessment of the potential health impacts of the proposed development.

We understand that the promoter will wish to avoid unnecessary duplication and that many issues including air quality, emissions to water, waste, contaminated land etc. will be covered elsewhere in the Environmental Statement (ES). We believe however that the summation of relevant issues into a specific section of the report provides a focus which ensures that public health is given adequate consideration. The section should summarise key information, risk assessments, proposed mitigation measures, conclusions and residual impacts, relating to human health. Compliance with the requirements of National Policy Statements and relevant guidance and standards should also be highlighted.

In terms of the level of detail to be included in an ES, we recognise that the differing nature of projects is such that their impacts will vary. Any assessments undertaken to inform the ES should be proportionate to the potential impacts of the proposal, therefore we accept that, in some circumstances particular assessments may not be relevant to an application, or that an assessment may be adequately completed using a qualitative rather than quantitative methodology. In cases where this decision is made the promoters should fully explain and justify their rationale in the submitted documentation.

The attached appendix outlines generic areas that should be addressed by all promoters when preparing ES for inclusion with an NSIP submission. We are happy to assist and discuss proposals further in the light of this advice.

Yours sincerely,



Stuart Aldridge

Environmental Public Health Scientist

[nsipconsultations@phe.gov.uk](mailto:nsipconsultations@phe.gov.uk)

*Please mark any correspondence for the attention of National Infrastructure Planning Administration.*

## **Appendix: PHE recommendations regarding the scoping document**

### **General approach**

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA<sup>1</sup>. It is important that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational, and decommissioning phases.

It is not PHE's role to undertake these assessments on behalf of promoters as this would conflict with PHE's role as an impartial and independent body.

Consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered should be outlined in the ES<sup>2</sup>.

The following text covers a range of issues that PHE would expect to be addressed by the promoter. However this list is not exhaustive and the onus is on the promoter to ensure that the relevant public health issues are identified and addressed. PHE's advice and recommendations carry no statutory weight and constitute non-binding guidance.

### **Receptors**

The ES should clearly identify the development's location and the location and distance from the development of off-site human receptors that may be affected by emissions from, or activities at, the development. Off-site human receptors may include people living in residential premises; people working in commercial, and industrial premises and people using transport infrastructure (such as roads and railways), recreational areas, and publicly-accessible land. Consideration should also be given to environmental receptors such as the surrounding land, watercourses, surface and groundwater, and drinking water supplies such as wells, boreholes and water abstraction points.

### **Impacts arising from construction and decommissioning**

Any assessment of impacts arising from emissions due to construction and decommissioning should consider potential impacts on all receptors and describe monitoring and mitigation during these phases. Construction and decommissioning will be associated with vehicle movements and cumulative impacts should be accounted for.

We would expect the promoter to follow best practice guidance during all phases from construction to decommissioning to ensure appropriate measures are in place

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<sup>1</sup> Environmental Impact Assessment: A guide to good practice and procedures - A consultation paper; 2006; Department for Communities and Local Government. Available from: <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/planningandbuilding/planning/sustainability/environmental/environmentalimpactassessment/>

<sup>2</sup> DCLG guidance, 1999 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/155958.pdf>

to mitigate any potential impact on health from emissions (point source, fugitive and traffic-related). An effective Construction Environmental Management Plan (CEMP) (and Decommissioning Environmental Management Plan (DEMP)) will help provide reassurance that activities are well managed. The promoter should ensure that there are robust mechanisms in place to respond to any complaints of traffic-related pollution, during construction, operation, and decommissioning of the facility.

### **Emissions to air and water**

Significant impacts are unlikely to arise from installations which employ Best Available Techniques (BAT) and which meet regulatory requirements concerning emission limits and design parameters. However, PHE has a number of comments regarding emissions in order that the EIA provides a comprehensive assessment of potential impacts.

When considering a baseline (of existing environmental quality) and in the assessment and future monitoring of impacts these:

- should include appropriate screening assessments and detailed dispersion modelling where this is screened as necessary
- should encompass all pollutants which may be emitted by the installation in combination with all pollutants arising from associated development and transport, ideally these should be considered in a single holistic assessment
- should consider the construction, operational, and decommissioning phases
- should consider the typical operational emissions and emissions from start-up, shut-down, abnormal operation and accidents when assessing potential impacts and include an assessment of worst-case impacts
- should fully account for fugitive emissions
- should include appropriate estimates of background levels
- should identify cumulative and incremental impacts (i.e. assess cumulative impacts from multiple sources), including those arising from associated development, other existing and proposed development in the local area, and new vehicle movements associated with the proposed development; associated transport emissions should include consideration of non-road impacts (i.e. rail, sea, and air)
- should include consideration of local authority, Environment Agency, Defra national network, and any other local site-specific sources of monitoring data
- should compare predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as UK Air Quality Standards and Objectives and Environmental Assessment Levels)
  - If no standard or guideline value exists, the predicted exposure to humans should be estimated and compared to an appropriate health-based value (a Tolerable Daily Intake or equivalent). Further guidance is provided in Annex 1
  - This should consider all applicable routes of exposure e.g. include consideration of aspects such as the deposition of chemicals emitted to air and their uptake via ingestion
- should identify and consider impacts on residential areas and sensitive receptors (such as schools, nursing homes and healthcare facilities) in the area(s) which may be affected by emissions, this should include consideration of any new receptors arising from future development

Whilst screening of impacts using qualitative methodologies is common practice (e.g. for impacts arising from fugitive emissions such as dust), where it is possible to undertake a quantitative assessment of impacts then this should be undertaken. PHE's view is that the EIA should appraise and describe the measures that will be used to control both point source and fugitive emissions and demonstrate that standards, guideline values or health-based values will not be exceeded due to emissions from the installation, as described above. This should include consideration of any emitted pollutants for which there are no set emission limits. When assessing the potential impact of a proposed installation on environmental quality, predicted environmental concentrations should be compared to the permitted concentrations in the affected media; this should include both standards for short and long-term exposure.

#### *Additional points specific to emissions to air*

When considering a baseline (of existing air quality) and in the assessment and future monitoring of impacts these:

- should include consideration of impacts on existing areas of poor air quality e.g. existing or proposed local authority Air Quality Management Areas (AQMAs)
- should include modelling using appropriate meteorological data (i.e. come from the nearest suitable meteorological station and include a range of years and worst case conditions)
- should include modelling taking into account local topography

#### *Additional points specific to emissions to water*

When considering a baseline (of existing water quality) and in the assessment and future monitoring of impacts these:

- should include assessment of potential impacts on human health and not focus solely on ecological impacts
- should identify and consider all routes by which emissions may lead to population exposure (e.g. surface watercourses; recreational waters; sewers; geological routes etc.)
- should assess the potential off-site effects of emissions to groundwater (e.g. on aquifers used for drinking water) and surface water (used for drinking water abstraction) in terms of the potential for population exposure
- should include consideration of potential impacts on recreational users (e.g. from fishing, canoeing etc) alongside assessment of potential exposure via drinking water

### **Land quality**

We would expect the promoter to provide details of any hazardous contamination present on site (including ground gas) as part of the site condition report. Emissions to and from the ground should be considered in terms of the previous history of the site and the potential of the site, once operational, to give rise to issues. Public health impacts associated with ground contamination and/or the migration of material off-site should be assessed<sup>3</sup> and the potential impact on nearby receptors and control and mitigation measures should be outlined.

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<sup>3</sup> Following the approach outlined in the section above dealing with emissions to air and water i.e. comparing predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as Soil Guideline Values)

Relevant areas outlined in the Government's Good Practice Guide for EIA include:

- effects associated with ground contamination that may already exist
- effects associated with the potential for polluting substances that are used (during construction / operation) to cause new ground contamination issues on a site, for example introducing / changing the source of contamination
- impacts associated with re-use of soils and waste soils, for example, re-use of site-sourced materials on-site or offsite, disposal of site-sourced materials offsite, importation of materials to the site, etc.

### **Waste**

The EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).

For wastes arising from the installation the EIA should consider:

- the implications and wider environmental and public health impacts of different waste disposal options
- disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated

### **Other aspects**

Within the EIA PHE would expect to see information about how the promoter would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed; and identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.

The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards) and the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009: both in terms of their applicability to the installation itself, and the installation's potential to impact on, or be impacted by, any nearby installations themselves subject to the these Regulations.

There is evidence that, in some cases, perception of risk may have a greater impact on health than the hazard itself. A 2009 report<sup>4</sup>, jointly published by Liverpool John Moores University and the HPA, examined health risk perception and environmental problems using a number of case studies. As a point to consider, the report suggested: "Estimation of community anxiety and stress should be included as part of every risk or impact assessment of proposed plans that involve a potential environmental hazard. This is true even when the physical health risks may be negligible." PHE supports the inclusion of this information within EIAs as good practice.

### **Electromagnetic fields (EMF)**

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<sup>4</sup> Available from: <http://www.cph.org.uk/wp-content/uploads/2012/08/health-risk-perception-and-environmental-problems--summary-report.pdf>

This statement is intended to support planning proposals involving electrical installations such as substations and connecting underground cables or overhead lines. PHE advice on the health effects of power frequency electric and magnetic fields is available in the following link:

<https://www.gov.uk/government/collections/electromagnetic-fields#low-frequency-electric-and-magnetic-fields>

There is a potential health impact associated with the electric and magnetic fields around substations, and power lines and cables. The field strength tends to reduce with distance from such equipment.

The following information provides a framework for considering the health impact associated with the electric and magnetic fields produced by the proposed development, including the direct and indirect effects of the electric and magnetic fields as indicated above.

## **Policy Measures for the Electricity Industry**

The Department of Energy and Climate Change has published a voluntary code of practice which sets out key principles for complying with the ICNIRP guidelines:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/37447/1256-code-practice-emf-public-exp-guidelines.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/37447/1256-code-practice-emf-public-exp-guidelines.pdf)

Companion codes of practice dealing with optimum phasing of high voltage power lines and aspects of the guidelines that relate to indirect effects are also available:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/48309/1255-code-practice-optimum-phasing-power-lines.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48309/1255-code-practice-optimum-phasing-power-lines.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/224766/powerlines\\_vcop\\_microshocks.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224766/powerlines_vcop_microshocks.pdf)

## **Exposure Guidelines**

PHE recommends the adoption in the UK of the EMF exposure guidelines published by the International Commission on Non-ionizing Radiation Protection (ICNIRP). Formal advice to this effect was published by one of PHE's predecessor organisations (NRPB) in 2004 based on an accompanying comprehensive review of the scientific evidence:-

<http://webarchive.nationalarchives.gov.uk/20140629102627/http://www.hpa.org.uk/Publications/Radiation/NPRBArchive/DocumentsOfTheNRPB/Absd1502/>

Updates to the ICNIRP guidelines for static fields have been issued in 2009 and for low frequency fields in 2010. However, Government policy is that the ICNIRP guidelines are implemented in line with the terms of the 1999 EU Council Recommendation on limiting exposure of the general public (1999/519/EC):



## **Static magnetic fields**

For static magnetic fields, the ICNIRP guidelines published in 2009 recommend that acute exposure of the general public should not exceed 400 mT (millitesla), for any part of the body, although the previously recommended value of 40 mT is the value used in the Council Recommendation. However, because of potential indirect adverse effects, ICNIRP recognises that practical policies need to be implemented to prevent inadvertent harmful exposure of people with implanted electronic medical devices and implants containing ferromagnetic materials, and injuries due to flying ferromagnetic objects, and these considerations can lead to much lower restrictions, such as 0.5 mT.

## **Power frequency electric and magnetic fields**

At 50 Hz, the known direct effects include those of induced currents in the body on the central nervous system (CNS) and indirect effects include the risk of painful spark discharge on contact with metal objects exposed to the field. The ICNIRP guidelines published in 1998 give reference levels for public exposure to 50 Hz electric and magnetic fields, and these are respectively 5 kV m<sup>-1</sup> (kilovolts per metre) and 100 µT (microtesla). The reference level for magnetic fields changes to 200 µT in the revised (ICNIRP 2010) guidelines because of new basic restrictions based on induced electric fields inside the body, rather than induced current density. If people are not exposed to field strengths above these levels, direct effects on the CNS should be avoided and indirect effects such as the risk of painful spark discharge will be small. The reference levels are not in themselves limits but provide guidance for assessing compliance with the basic restrictions and reducing the risk of indirect effects.

## **Long term effects**

There is concern about the possible effects of long-term exposure to electromagnetic fields, including possible carcinogenic effects at levels much lower than those given in the ICNIRP guidelines. In the NRPB advice issued in 2004, it was concluded that the studies that suggest health effects, including those concerning childhood leukaemia, could not be used to derive quantitative guidance on restricting exposure. However, the results of these studies represented uncertainty in the underlying evidence base, and taken together with people's concerns, provided a basis for providing an additional recommendation for Government to consider the need for further precautionary measures, particularly with respect to the exposure of children to power frequency magnetic fields.

## **The Stakeholder Advisory Group on ELF EMFs (SAGE)**

SAGE was set up to explore the implications for a precautionary approach to extremely low frequency electric and magnetic fields (ELF EMFs), and to make practical recommendations to Government:

<http://www.emfs.info/policy/sage/>

SAGE issued its First Interim Assessment in 2007, making several recommendations concerning high voltage power lines. Government supported the implantation of low cost options such as optimal phasing to reduce exposure; however it did not support the option of creating corridors around power lines on health grounds, which was considered to be a disproportionate measure given the evidence base on the potential long term health risks arising from exposure. The Government response to SAGE's First Interim Assessment is available here:

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_107124](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107124)

The Government also supported calls for providing more information on power frequency electric and magnetic fields, which is available on the PHE web pages (see first link above).

## **Ionising radiation**

Particular considerations apply when an application involves the possibility of exposure to ionising radiation. In such cases it is important that the basic principles of radiation protection recommended by the International Commission on Radiological Protection<sup>5</sup> (ICRP) are followed. PHE provides advice on the application of these recommendations in the UK. The ICRP recommendations are implemented in the Euratom Basic Safety Standards<sup>6</sup> (BSS) and these form the basis for UK legislation, including the Ionising Radiation Regulations 1999, the Radioactive Substances Act 1993, and the Environmental Permitting Regulations 2016.

PHE expects promoters to carry out the necessary radiological impact assessments to demonstrate compliance with UK legislation and the principles of radiation protection. This should be set out clearly in a separate section or report and should not require any further analysis by PHE. In particular, the important principles of justification, optimisation and radiation dose limitation should be addressed. In addition compliance with the Euratom BSS and UK legislation should be clear.

When considering the radiological impact of routine discharges of radionuclides to the environment PHE would expect to see a full radiation dose assessment considering both individual and collective (population) doses for the public and, where necessary, workers. For individual doses, consideration should be given to those members of the public who are likely to receive the highest exposures (referred to as the representative person, which is equivalent to the previous term, critical group). Different age groups should be considered as appropriate and should normally include adults, 1 year old and 10 year old children. In particular situations

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<sup>5</sup> These recommendations are given in publications of the ICRP notably publications 90 and 103 see the website at <http://www.icrp.org/>

<sup>6</sup> Council Directive 96/29/EURATOM laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation.

doses to the fetus should also be calculated<sup>7</sup>. The estimated doses to the representative person should be compared to the appropriate radiation dose criteria (dose constraints and dose limits), taking account of other releases of radionuclides from nearby locations as appropriate. Collective doses should also be considered for the UK, European and world populations where appropriate. The methods for assessing individual and collective radiation doses should follow the guidance given in 'Principles for the Assessment of Prospective Public Doses arising from Authorised Discharges of Radioactive Waste to the Environment August 2012'<sup>8</sup>. It is important that the methods used in any radiological dose assessment are clear and that key parameter values and assumptions are given (for example, the location of the representative persons, habit data and models used in the assessment).

Any radiological impact assessment should also consider the possibility of short-term planned releases and the potential for accidental releases of radionuclides to the environment. This can be done by referring to compliance with the Ionising Radiation Regulations and other relevant legislation and guidance.

The radiological impact of any solid waste storage and disposal should also be addressed in the assessment to ensure that this complies with UK practice and legislation; information should be provided on the category of waste involved (e.g. very low level waste, VLLW). It is also important that the radiological impact associated with the decommissioning of the site is addressed. Of relevance here is PHE advice on radiological criteria and assessments for land-based solid waste disposal facilities<sup>9</sup>. PHE advises that assessments of radiological impact during the operational phase should be performed in the same way as for any site authorised to discharge radioactive waste. PHE also advises that assessments of radiological impact during the post operational phase of the facility should consider long timescales (possibly in excess of 10,000 years) that are appropriate to the long-lived nature of the radionuclides in the waste, some of which may have half-lives of millions of years. The radiological assessment should consider exposure of members of hypothetical representative groups for a number of scenarios including the expected migration of radionuclides from the facility, and inadvertent intrusion into the facility once institutional control has ceased. For scenarios where the probability of occurrence can be estimated, both doses and health risks should be presented, where the health risk is the product of the probability that the scenario occurs, the dose if the scenario occurs and the health risk corresponding to unit dose. For inadvertent intrusion, the dose if the intrusion occurs should be presented. It is recommended that the post-closure phase be considered as a series of timescales, with the approach changing from more quantitative to more qualitative as times further in the future are considered. The level of detail and sophistication in the modelling should also reflect the level of hazard presented by the waste. The

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<sup>7</sup> HPA (2008) Guidance on the application of dose coefficients for the embryo, fetus and breastfed infant in dose assessments for members of the public. Doc HPA, RCE-5, 1-78, available at <https://www.gov.uk/government/publications/embryo-fetus-and-breastfed-infant-application-of-dose-coefficients>

<sup>8</sup> The Environment Agency (EA), Scottish Environment Protection Agency (SEPA), Northern Ireland Environment Agency, Health Protection Agency and the Food Standards Agency (FSA). Principles for the Assessment of Prospective Public Doses arising from Authorised Discharges of Radioactive Waste to the Environment August 2012. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/296390/geho1202bklh-e-e.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296390/geho1202bklh-e-e.pdf)

<sup>9</sup> HPA RCE-8, Radiological Protection Objectives for the Land-based Disposal of Solid Radioactive Wastes, February 2009

uncertainty due to the long timescales means that the concept of collective dose has very limited use, although estimates of collective dose from the 'expected' migration scenario can be used to compare the relatively early impacts from some disposal options if required.

## Annex 1

### Human health risk assessment (chemical pollutants)

The points below are cross-cutting and should be considered when undertaking a human health risk assessment:

- The promoter should consider including Chemical Abstract Service (CAS) numbers alongside chemical names, where referenced in the ES
- Where available, the most recent United Kingdom standards for the appropriate media (e.g. air, water, and/or soil) and health-based guideline values should be used when quantifying the risk to human health from chemical pollutants. Where UK standards or guideline values are not available, those recommended by the European Union or World Health Organisation can be used
- When assessing the human health risk of a chemical emitted from a facility or operation, the background exposure to the chemical from other sources should be taken into account
- When quantitatively assessing the health risk of genotoxic and carcinogenic chemical pollutants PHE does not favour the use of mathematical models to extrapolate from high dose levels used in animal carcinogenicity studies to well below the observed region of a dose-response relationship. When only animal data are available, we recommend that the 'Margin of Exposure' (MOE) approach<sup>10</sup> is used

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<sup>10</sup> Benford D et al. 2010. Application of the margin of exposure approach to substances in food that are genotoxic and carcinogenic. Food Chem Toxicol 48 Suppl 1: S2-24

The Planning Inspectorate  
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**Our ref:** LT/2018/123108/01-L01  
**Your ref:** A38 Derby Junctions  
**Date:** 09 April 2018

Dear Sir/Madam

## **SCOPING CONSULTATION FOR APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A38 DERBY JUNCTIONS**

Thank you for consulting us the scoping opinion for the A38 improvements on the 16<sup>th</sup> March 2018. The Environment Agency has the following comments.

### **Flood Risk**

The scoping report covers what we would expect to see in the Flood Risk Assessment. Any loss in floodplain capacity will need to be considered and level for level compensation provided where possible. We would expect the relevant climate change allowances to be used and any recommendations from our modelling review to be completed.

This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of any watercourse which is designated a 'main river'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

### **Groundwater**

#### **Chapter 10 Geology and Soils**

Sections 10.3.1 and 10.4.13 of the report refer to desk based studies and site investigations undertaken to address contamination risks associated with the sites. The summarising paragraphs indicate that further work is required to address risks posed to controlled waters from existing sources of contamination, as well as the proposed works (i.e. reuse of material).

We expect the desk based study, site investigation and assessments to be submitted as part of the Environmental Statement. If we are in agreement with these assessments, we would ultimately expect the further work recommended within the reports to be undertaken (for example through a requirement on the Development Consent Order if

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not undertaken before this). This is in line with paragraph 120 of the National Planning Policy Framework, and section 10.9.3 of the report suggests that these submissions are intended to be included within the Environmental Statement.

This chapter indicates that location-specific risk assessments will be undertaken in proposed piling areas to ensure it will not cause pollution of controlled waters. We agree with this approach.

### **Waste on Site**

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
- The Environmental regulations page on GOV.UK

### **Biodiversity**

The Environment Agency are satisfied that the A38 Derby Junctions - Environmental Impact Assessment Scoping Report March 2018 considers everything we would expect. There is mention of species surveys that were carried out in 2017 specifically White Clawed crayfish, water vole and otter which we would expect to see as part of the NSIP application

### **Water Quality**

The information provided in Section 14 (Road Drainage and the Water Environment) adequately covers the risks to the water environment during the construction and operational phases of the new junctions. The proposed mitigation measures are appropriate.

Yours sincerely

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**Subject:** Re: A38 Derby Junctions - EIA scoping notification and consultation  
**Date:** 16 March 2018 12:29:16

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If we do not reply, we do not have any apparatus in the area of your works. However, PLEASE TAKE CARE when excavating around electricity cables in the event that not all cables present may be accurately shown. We recommend you use detecting equipment to map the site before excavating and fully comply with HSG47. DO NOT assume that a cable is dead if you don't have a record of its presence. The cable must be treated as live unless PROVEN DEAD by the cable owner. In case of emergency please contact your local electricity distribution company.

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