

A38 DERBY JUNCTIONS SCHEME (TR010022)

PLANNING ACT 2008: Section 89 and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 8 Etc.

Application by Highways England for an Order Granting Development Consent for the A38 Derby Junction Project

Written Representations

Representation on Behalf of Derbyshire County Council as an Interested Party

This representation is made on behalf of Derbyshire County Council in its statutory role as Highway Authority, Lead Local Flood Authority and Minerals and Waste Planning Authority for the administrative area of Derbyshire.

The written representation below, primarily focusses on the implications for Derbyshire County Council of the Little Eaton Grade Separated Junction Improvement Scheme, which is located in Erewash Borough within the administrative area of Derbyshire and forms part of the wider A38 Junctions Improvement Scheme that also includes the grade separation of the Markeaton and Kingsway junctions. In this context, the representation also considers the likely impacts of the Scheme as a whole where appropriate, such as the likely economic and social benefits that would be likely to be generated for the wider Derby Housing Market Area (HMA) as a whole; and impacts of the whole scheme on the footpaths and cycle network within and around the vicinity of the scheme and on waste infrastructure and capacity.

The representation below assesses the Little Eaton Junction Improvement Scheme in the context of relevant national policy set out in the National Policy Statement for National Networks (NPSNN) (December 2014) and the National Planning Policy Framework (Revised February 2019). An assessment is also provided of the scheme in the context of the Derbyshire Local Transport Plan (LTP); the Adopted Erewash Borough Core Strategy (EBCS); and Adopted and Emerging Derby and Derbyshire Minerals and Waste Local Plans. The written representation focusses on the implications of the scheme for key strategic responsibilities and service areas of the County Council and includes Green Belt, highways and network management, the

Public Rights of Way network, flood risk, landscape and landscape character, heritage (including archaeology and the Derwent Valley Mills World Heritage Site), ecology and minerals and waste.

Derbyshire County Council will also be submitting a Local Impact Report; Answers to the Panel of Inspectors Initial Questions to Interested Parties; and Written Summary of Oral Communications at the Issue Specific Hearing into the Draft DCO for the first examination deadline of 5th November. These Written Representations should be read in conjunction with these other documents.

1 National Policy Statement for National Networks

1.1 The NPSNN sets out the need for, and the Government's policies to deliver, nationally significant infrastructure projects (NSIPs) on the national road and rail networks in England.

1.2 The Need for Development of the National Networks and Government Policy for the National Road Network.

1.2.1 Section 2 of the NPSNN sets out the Government's vision and strategic objectives for national networks and emphasises that:

The Government will deliver national networks that meet the country's long-term needs, supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. This means:

- Networks with capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs;
- Networks which support and improve journey quality, reliability and safety;
- Networks which support the delivery of environmental goals and the move to a low carbon economy; and
- Networks which join up our communities and link effectively to each other.

1.2.2 Paragraph 2.2 emphasises that there is a critical need to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that it is capable of stimulating and supporting economic growth. Improvements may also be required to address the impact of national networks on quality of life and environmental factors.

1.2.3 Paragraph 2.6 emphasises that there is also a need for development on the national networks to support national and local economic growth and regeneration, particularly in the most disadvantaged areas. Improved and new transport links can facilitate economic growth by bringing businesses closer to their workers, their markets and each other. This can rebalance the economy.

1.2.4 Importantly, therefore, it is noted at paragraph 2.10 that the Government has concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system.

1.2.5 Paragraph 2.13 emphasises that the Strategic Road Network provides critical links between cities, joins up communities, connects our major ports, airports and rail terminals. It provides a vital role in people's journeys and drives prosperity by supporting new and existing development, encouraging trade and attracting investment. A well-functioning Strategic Road Network is critical in enabling safe and reliable journeys and the movement of goods in support of the national and regional economies.

- 1.2.6 Paragraphs 2.21 to 2.27 set out the Government's policy for addressing need. Paragraph 2.22 emphasises that without improving the road network, it will be difficult to support further economic development, employment and housing and this will impede economic growth and reduce people's quality of life. The Government has therefore concluded that at a strategic level there is a compelling need for development of the national road network.
- 1.2.7 Paragraph 2.23 indicates that the Government's wider policy is to bring forward improvements and enhancements to the existing Strategic Road Network to address the needs set out above. Enhancements of the existing national road network will include:
- Junction improvements, new slip roads and upgraded technology to address congestion and improve performance and resilience at junctions, which are a major source of congestion; and
 - Improvements to trunk roads, in particular dualling of single carriageway strategic trunk roads and additional lanes on existing dual carriageways to increase capacity and to improve performance and resilience.

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- 1.2.8 In the context of the above, Derbyshire County Council considers that the A38 Grade Separated Junctions Scheme as a whole meets many of the Government's policy objectives for national networks.
- 1.2.9 In terms of the Government's priorities for the national network to facilitate economic prosperity and growth, Derby and its wider surrounding area located within the Derby HMA (which falls within the administrative areas of Amber Valley Borough, Derby City and South Derbyshire District) is an area of significant planned housing and employment growth. The three local planning authorities of Amber Valley Borough Council, Derby City Council and South Derbyshire District together with Derbyshire County Council have been working together since around 2010 to identify the housing and employment land provision requirements for the whole HMA and to identify key housing and employment sites and allocations to meet that need.
- 1.2.10 The four authorities through this joint working have established that there is a total housing requirement for the HMA of 33,388 dwellings over the period 2011 – 2028 with 11,000 houses required in Derby City, 9,770 within Amber Valley and 12,618 within South Derbyshire. Derby City's objectively assessed housing need (OAN) is 16,000 houses over the Plan period but due to restricted capacity the City is only able to meet 11,000 houses of its need and, therefore, the four authorities have agreed that 5,000 dwellings of the City's unmet housing need will be met within the adjoining areas of Amber Valley and South Derbyshire, primarily as sustainable urban extensions to the City. This proposed scale and distribution of housing is set out in the Adopted Derby City Local Plan Part 1 (2017), Adopted South Derbyshire Local Plan Part 1 (2016) and Amber Valley Borough Submission Local Plan (Withdrawn June 2019).

1.2.11 A key consideration in identifying land and sites to meet the City's unmet housing need has been capacity issues on the A38 through Derby. It is considered, therefore, that the implementation of the A38 Grade Separated Junctions Scheme as a whole is very important to help deliver this planned housing and employment growth throughout the Derby HMA over the period up to 2028. The Scheme would support this planned growth by reducing journey times through the HMA, increase capacity on the A38 to accommodate additional traffic growth generated by new development and reduce congestion on the network. The Scheme would also facilitate improved connectivity between homes and jobs throughout the HMA.

1.2.12 The scheme is being delivered due to an acknowledged problem with traffic congestion on the A38 as a result of conflict between strategic traffic movements passing through the area and local trips. As a grade separated junction improvement scheme for the three main junctions on the A38 through Derby at Little Eaton, Markeaton and Kingsway, the scheme would be likely to deliver congestion relief and increase resilience of the junctions through adding additional capacity. It would provide more certainty for existing and prospective new businesses to invest and expand in the area, to the benefit of the local economy as a whole.

1.3 Environmental and Social Effects and Assessment Principles

1.3.1 Section 3 of the NPSNN sets out the Government's wider policies for the national networks, recognising that in addressing need, consideration should be afforded to related policies on economic performance, environment, safety, technology, sustainable transport and accessibility. Under the heading of Environmental and Social Impacts, paragraph 3.2 acknowledges that the development of the road networks should be designed to minimise social and environmental impacts and improve quality of life. Paragraph 3.3 outlines that the Government expects applicants to avoid and mitigate environmental and social impacts in accordance with the principles of the NPPF.

1.3.2 Section 4 of the NPSNN sets out the general principles that will apply in the determination of nationally significant infrastructure projects. In particular, it is noted in paragraph 4.2 that, subject to the detailed policies and protections in the National Policy Statement, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in the National Policy Statement. In addition, paragraph 4.3 indicates that in considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take into account:

- its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement and any long-term or wider benefits; and
- its potential adverse impacts, including any longer-term and cumulative impacts as well as any measures to avoid, reduce or compensate for any adverse impact.

- 1.3.3 Paragraphs 4.15 to 4.21 of the Statement set out the requirements for Environmental Impact Assessments (EIA) to be submitted with certain forms of NSIPs. Importantly from Derbyshire County Council's perspective, paragraph 4.18 of the NPSNN recognises that in some instances, it may not be possible at the time of the application for development consent for all aspects of the proposal to have been settled in precise detail and that where this is the case, the applicant should explain in its application which elements of the proposal have yet to be finalised and the reasons why this is the case. As set out in more detail below, there are a number of unresolved and outstanding matters relating to the Little Eaton Junction Scheme that require further discussion and clarification between the County Council and the applicant.
- 1.3.4 Sections 4.28 to 4.35 of the NPSNN sets out criteria for 'good design' for national infrastructure. Importantly from the County Council's perspective in relation to its design concerns set out below, paragraph 4.28 and 4.29 of the Statement emphasise that applicants should include design as an integral consideration from the outset of a proposal; and that visual appearance should be a key factor in considering the design of new infrastructure, as well as functionality, fit for purpose, sustainability and cost. Applying good design to national network projects should therefore produce sustainable infrastructure sensitive to place, efficient in use of natural resources and energy used in their construction, matched by an appearance that demonstrates good aesthetics as far as possible.
- 1.3.5 Paragraphs 4.32 highlight that design will be a material consideration in decision making and that the Secretary of State needs to be satisfied that national networks infrastructure projects are sustainable and as aesthetically sensitive, durable, adaptable and resilient as they can reasonably be. Paragraph 4.33 goes on to add that the applicant should therefore take into account, as far as possible, both functionality and aesthetics (including the scheme's contribution to the quality of the area in which it would be located. Paragraph 4.34 adds that whilst the applicant may only have limited choice in the physical appearance of some national networks infrastructure, there may be opportunities to demonstrate good design in terms of siting and design measures relative to '*existing landscape and historical character and function, landscape permeability, landform and vegetation*'.
- 1.3.6 Paragraphs 4.36 to 4.37 set out the approach to climate change adaption and mitigation. In particular, paragraph 4.38 highlights that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through the provision of green infrastructure.

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- 1.3.7 In the context of the above, Derbyshire County Council's approach to the assessment of the development proposals has started from the premise that there is a presumption in favour of granting development consent for national

networks NSIPs and that there is a compelling justification for the need for the A38 junctions scheme, as argued by the applicant. Derbyshire County Council has also considered the potential benefits of the scheme and weighed those against the potential adverse impacts of the Scheme, particularly environmental impacts. Derbyshire County Council considers that the Scheme would be likely to deliver significant economic benefits for the area in terms of providing additional capacity on the network to help facilitate the significant housing and employment development that is proposed in the Derby HMA; reduce congestion and journey times on the network, providing more certainty for existing and prospective new businesses to invest and expand in the area; and provide improved connectivity between homes and jobs throughout the HMA, to the benefit of the local economy as a whole.

- 1.3.8 Derbyshire County Council's Officers have assessed the likely environmental impacts of the Little Eaton junction improvements based on information set out in the applicant's Environment Statement. Derbyshire County Council's assessment of key issues includes impact on Green Belt, highway and network management impacts, impacts on the Public Rights of Way network flood risk impacts, landscape and visual impacts, ecological impacts, heritage impacts and minerals and waste implications. These comments are set out in detail below. In summary, however, Derbyshire County Council's key concern relates to the design of the Little Eaton Junction scheme and its potential adverse visual impacts on the landscape and landscape character of the area and consequential adverse impacts on the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site.
- 1.3.9 Essentially, therefore, this is considered to be the key balance from Derbyshire County Council's point of view i.e. between the significant positive economic benefits that are likely to be delivered by the A38 Junctions Scheme in terms of delivering housing and jobs growth in the Derby HMA and providing the conditions for new and existing businesses to invest in the area against the potential adverse impacts of the Little Eaton junction scheme on the landscape and landscape character of the area and consequential adverse impact on the Outstanding Universal Value of the DVMWHS. The Panel of Inspectors and the Secretary of State will no doubt deliberate on this matter and decide the appropriate balance of the weight to be given to these two competing issues.
- 1.3.10 In the context of paragraphs 4.15 to 4.21 of the NPSNN, it should be noted from the more detailed comments set out below that from Derbyshire County Council's perspective, there are a number of outstanding matters, requirements for clarification and need for further discussion and consultation to take place on a number of detailed areas of the Little Eaton junctions scheme. These relate to the following:
- Clarification of a number of flood risk related issues, particularly whether the proposed works to Dam Brook would give rise to increased flood risk further upstream to properties in Breadsall; clarification from the applicant as to which organisation would be responsible for maintaining the flood alleviation

channels, swales etc.; the need for wider use of SuDs; and requirement for the applicant to provide Derbyshire County Council with details of all the hydraulic calculations for the proposed highway drainage system. (note that the Dam Brook flooding issue has been addressed in the applicant's Statement of Common Ground which confirms that the Dam Brook Extension would not give rise to flooding issues upstream in Breadsall Village but no details have been provided);

- Resolution of the issue of the weight restriction which should be applied to the bridge on Ford Lane, as a consequence of the stopping up of the Ford Lane slip roads onto and off the A38 and potential need for improvements to the bridge;
- The need for further consultation by the applicant with Derbyshire County Council's Public Rights of Way Team regarding proposed improvements to the footpath network in and around the Little Eaton Junction Improvement Scheme.
- Clarification of the types of pedestrian crossings that will be provided for in the little Eaton junction scheme (i.e. Toucan or otherwise) (note this has been clarified in the applicant's Statement of Common Ground that the crossings would be Toucan crossings)
- The need for a new pedestrian crossing on the A61 south of the Little Eaton junction for safety and accessibility purposes. (Note that this issue has now been addressed in the applicant's Statement of Common Ground to the effect that the crossing does not fall within the remit of this scheme but that Highways England has secured funding for the crossing separately);
- The proposals previously did not make reference to whether the realignment of the Dam Brook would be of a sufficient width that it could accommodate both pedestrians and cyclists. Nor does it make reference as to what standard of construction it will be. Clarification on these points from Highways England would be welcomed.
- The need for consultation to take place between the applicant and the Derwent Valley Mills World Heritage Site Partnership.

1.3.11 In the context of paragraphs 4.28 to 4.35 of the NPSNN and the requirements for 'good design' to be an integral element of NSIPs, Derbyshire County Council's primary concern is with the design and visual appearance of the Little Eaton Junction Improvements and their potential adverse visual impacts on the landscape and landscape character of the area and consequential impacts on the Outstanding Universal Value of the DVMWHS. Paragraphs 4.29 and 4.34 of the NPSNN are particularly relevant to this issue which state that:

'Applying good design to national network projects should therefore produce sustainable infrastructure sensitive to place, efficient in use of natural resources and energy used in their construction, matched by an appearance that demonstrates good aesthetics as far as possible'. and

'...there may be opportunities to demonstrate good design in terms of siting and design measures relative to existing landscape and historical character and function, landscape permeability, landform and vegetation.

- 1.3.12 In this respect, Derbyshire County Council has expressed concerns with the robustness of the applicant's Landscape and Visual Impact Assessment (LVIA), particularly that the landscape character and sensitivity of the landscape surrounding the Little Eaton Junction Improvements has not been fully reflected in the LVIA and as a result the overall effects on landscape have been under-assessed. With regard to the design of the scheme, Derbyshire County Council considers that provision of a proposed large embankment carrying the A38 across the River Derwent floodplain compounded by the proposed planting along these embankments would be an incongruous landscape feature that would block off the natural connections and functionality of a linear landscape. Other mitigation proposals such as noise barriers and flood attenuation measures would also be perceived as alien features in the landscape that would further contribute to adverse landscape effects. The low lying nature of the floodplain is important as a landscape characteristic and as an attribute of the DVMWHS. The proposed embankments of the scheme could be seen to be harmful to this attribute because they would detract from the legibility and intactness of the Derwent floodplain in this location.
- 1.3.13 In the context of the above, although it is noted that the applicant's Environment Statement has considered alternative junction arrangements, none of these has considered the use of a simple, elegant viaduct that would cross the floodplain without the need for embankments allowing the landscape and associated habitats to run below it. In Derbyshire County Council's opinion, such an alternative design solution would significantly reduce and help mitigate the visual impacts of the proposed scheme on the surrounding landscape and OUV of the DVMWHS.
- 1.3.14 In respect to climate change adaption and mitigation and particularly paragraph 4.38 of the NPSNN, Derbyshire County Council's primary concerns relate to flood risk and the proposed drainage and flood risk attenuation measures proposed in the Little Eaton Junction Improvements. As noted from the detailed comments below, there are a number of flood risk matters that Derbyshire County Council would request further clarification and information on from the applicant before it is in a position to be fully satisfied that the proposed scheme would not result in any significant flood risk problems in the area. Derbyshire County Council would also wish to see wider use of SuDS within the scheme, wherever possible.

1.4 Generic Impacts

- 1.4.1 Section 5 of the NPSNN sets out the approach to assessing the generic impacts of NSIPs with paragraph 5.1 noting that these impacts will be relevant to all NSIPs. An assessment is provided below of Derbyshire County Council's consideration and analysis of the key impacts of the Little Eaton Junction Scheme relating to Green Belt, highways and network management, Public Rights of Way, flood risk, landscape and visual impacts, ecology, heritage and minerals and waste.

Green Belt

- 1.4.2 The national planning policy context for assessing NSIPs within the Green Belt is set out in paragraphs 5.162 to 5.185 of the NPSNN.
- 1.4.3 Paragraph 5.164 recognises that Green Belts defined in a development plan are situated around certain cities and large built up areas and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and that the essential characteristics of Green Belts are their openness and their permanence. Reference is then made to further information on the purposes and protection of Green Belt being set out in the NPPF.
- 1.4.4 Paragraph 5.170 of NPSNN goes on to state that the general policies controlling development in the countryside should apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Such development should not be approved except in very special circumstances. The policy statement then requires applicants to determine whether their proposal or any part of it, is within the Green Belt and, if so, whether their proposal may be considered inappropriate development, within the meaning of Green Belt policy.
- 1.4.5 Importantly, however, the statement then recognises at paragraph 5.171 that linear infrastructure linking an area near a Green Belt with other locations will often have to pass through Green Belt land and that the identification of a policy need for linear infrastructure will take account of the fact that there will be an impact on the Green Belt and as far as possible, of the need to contribute to the achievement of the objectives of the use of land in Green Belts.
- 1.4.6 Paragraph 5.178 provides the policy approach that should be taken by decision takers for NSIPs that are located within the Green Belt and indicates that they 'may' comprise inappropriate development which, by definition is harmful to the Green Belt and for which there is a presumption against it except in very special circumstances. It notes that the Secretary of State will need to assess whether there are very special circumstances to justify inappropriate development and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 1.4.7 The policy approach in the revised NPPF very much mirrors the advice set out in the NPSNN. However, the key difference is that the NPPF at paragraph 146 identifies a range of uses that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of land within it. In this context, engineering operations and local transport infrastructure which can demonstrate a requirement for a Green Belt location are listed as uses that are not inappropriate within the Green Belt.
- 1.4.8 In terms of Green Belt purposes, paragraph 134 identifies five main Green Belt purposes as follows:
- a) to check the unrestricted sprawl of large built-up areas;

- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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- 1.4.9 In the context of the above, particularly paragraph 146 of the NPPF, it is clear that the proposed Little Eaton junction part of the scheme comprises the improvement to existing infrastructure i.e. the A38 that is long established in a Green Belt location and that consequently, improvements to this infrastructure require a Green Belt location and can only be reasonably carried out within that Green Belt location. As such, there would be no obvious sequential alternatives to the proposed scheme in a non-Green Belt location that would facilitate the necessary improvements to the A38 and Little Eaton junction.
- 1.4.10 Derbyshire County Council considers that a clear need has also been demonstrated for the scheme by the Government, which is to address significant road congestion and delays on the A38 and to support economic growth in the Derby area and immediate surrounding area that is planned in both Amber Valley and South Derbyshire District Council areas. The A38 is part of the national network and strategically important to the East Midlands region. The scheme has been included in the Government's Road Investment Strategy and Government funding is in place. On the basis of the above, the Little Eaton junction improvements are considered to represent 'appropriate' development within the Green Belt and for which there is a clear need.
- 1.4.11 In terms of the scheme's potential harm to the five Green Belt purposes it is considered that:
- 1.4.12 The Little Eaton part of the Scheme would not enable or encourage the sprawl of large built up areas. The improvements planned to the Little Eaton junction do not include any associated major new built development such as housing, employment or industrial land uses that might otherwise compromise this Green Belt purposes. The Scheme is for new linear infrastructure to increase traffic capacity on the A38 and improve journey times and reduce delays. In the wider area of the Derby HMA, significant housing and employment development is planned over the period up to 2028 in the adopted Derby City Local Plan Part 1, adopted South Derbyshire Local Plan Part 1, and previously withdrawn Amber Valley Local Plan, which would help to be facilitated by the A38 junction improvements, particularly as a result of this increased traffic capacity on the network to accommodate additional growth.
- 1.4.13 For the same reasons as above, it is considered that the Little Eaton junction improvements element of the scheme would not undermine the Green Belt purposes of preventing neighbouring towns from merging with one another, particularly the merging of Derby with the settlements to the north of the City

such as Little Eaton, Breadsall, Coxbench, Horseley and Hollbrook. As noted above, the scheme does not include the provision of any other major development such as housing or employment development.

1.4.14 In terms of the Green Belt purpose of assisting in safeguarding the countryside from encroachment, the visual impacts of the scheme have been assessed in the Environment Statement submitted with the scheme and particularly the LVIA. DCC's Landscape Architect has assessed the LVIA and has raised concerns with its robustness regarding the likely impact on landscape character concluding that he does not accept that a large embankment crossing the floodplain compounded by proposed planting along these embankments would only have a *slight adverse* effect as concluded in the LVIA, when this is clearly an incongruous landscape feature that blocks off the natural connections and functionality of a linear landscape. Other environmental mitigation proposals such as noise barriers and flood attenuation measures would also be perceived as alien features in the landscape that would further contribute to adverse landscape effects.

1.4.15 DCC's Landscape Architect has also concluded that, visually the current junction benefits from being well screened by existing vegetation between the site and visual receptors around the site that are exposed to views of the junction. Although much of this vegetation would be retained and protected during the works, without visualisations it is difficult to appreciate to what extent this vegetation would provide similar mitigation to the proposed grade separated junction on a high embankment. At the same time the ability to appreciate the flat, low-lying nature of the floodplain, important as both a landscape characteristic and as an attribute of the WHS, is not acknowledged in the assessment and as a result has led to an under-assessment of visual effects. Trees proposed adjacent to the road and on the embankments would further compound the visual blocking of views through the Riverside Meadows landscape rather than contribute to mitigation and other proposed environmental mitigation could add to the visual clutter of the scheme. Although the Environment Statement has considered alternative junction arrangements, none of these has considered the use of a simple, elegant viaduct that would carry the A38 and cross the floodplain without the need for embankments allowing the landscape and associated habitats to run below it.

1.4.16 Overall, therefore, it is considered that the scheme as currently designed could be likely to have an increased impact on the open character and landscape and landscape character of countryside and Green Belt in the area around the Little Eaton junction improvements. Suggested design improvements as set out above, particularly the provision of an elegant viaduct to cross the floodplain could help to significantly reduce the visual impacts of the scheme and reduce the impact on the openness of the Green Belt in this location.

1.4.17 In terms of the Green Belt purpose to preserve the setting and special character of historic towns, there are no historic towns in the vicinity of the Little Eaton

junction scheme and so the Scheme would raise no direct or indirect impacts on this Green Belt purpose.

1.4.18 Overall, therefore, it is considered that the Little Eaton junction improvements broadly accord with national policies in the NPSNN and NPPF for the development of new nationally significant infrastructure within the Green Belt and would not fundamentally undermine the openness of the Green Belt and main Green Belt purposes. However, it is considered that the visual impact on this openness could be significantly reduced by revisions to the design of the scheme, particularly the inclusion of an elegant viaduct to cross the floodplain rather than the extensive incorporation of embankment to carry the scheme over the floodplain as currently proposed.

Highway Impacts and Network Management Issues

1.4.19 The approach to the assessment of impacts on transport networks is set out in paragraphs 5.201 to 5.218 of the NPSNN and deals with impacts of a scheme on wider transport networks and of construction sites on the networks whilst a scheme is being developed. Key requirements are that:

- Applicant should have regard to policies set out in local plans and should consult the relevant highway authority and local planning authority as appropriate on the assessment of transport impacts (paragraphs 5.203);
- Applicants should consider reasonable opportunities to support other transport modes in developing infrastructure (paragraph 5.204);
- Schemes should be developed and options considered in the light of relevant policies and plans, taking account local models where appropriate (paragraph 5.212);
- Mitigation measures for schemes should be proportionate and reasonable, focussed on promoting sustainable development. Where development would worsen accessibility such impacts should be mitigated as far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated (Paragraphs 5.215 and 5.216)

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Highways Impacts

1.4.20 The A38 is managed by Highways England and forms part of the Strategic Road Network (SRN) providing a link for movements between conurbations in the West Midlands (Birmingham) and Junction 28 of the M1. Consequently, it forms part of a strategic route of national importance. As the A38 passes through Derby, it also fulfils several other functions. The A38 crosses the River Derwent flood plain and provides one of a limited number of opportunities for road vehicles to cross the River Derwent. Consequently, the length of the A38 between the Kingsway and Little Eaton junctions not only provides for strategic movements but also carries trips between local origins and destinations. Where the A38 passes through Derby, delays and associated queuing occur at all

three roundabout junctions. The proposals would see grade separation of the A38 at its junctions with 5111, Kingsway, A52 Markeaton in Derby and A61 (Little Eaton). Only the latter though is in Derbyshire. Historic efforts to improve the performance of the junctions, whilst retaining their at-grade character, have now been exhausted. No at-grade improvements exist that would provide sufficient capacity to accommodate the future year traffic forecasts.

- 1.4.21 The Little Eaton roundabout is the junction between the A38 and the A61. This roundabout provides the main route into Derby city centre from the north. Little Eaton is a five-arm roundabout junction. Three of the four entries are signalised, with the remainder (Ford Lane and B6179 Alfreton Road) operating under priority control. A bypass lane has been proposed so that traffic routing from the A38 North to the A61 Alfreton Road southbound is not subject to delays at the traffic signals.
- 1.4.22 The proposals would see two new bridges to carry the A38 traffic over the roundabout. The existing roundabout would be extended to the south and new slip roads would be built to allow road users to join and leave the A38 and other local roads. The dedicated A38 to A61 southbound segregated lane would be retained. The existing bridge over the railway would be widened to carry the new southbound A38 carriageway and southbound merge slip road. The existing flood arch would also be widened. All existing footways and cycle ways would be maintained. Signal controlled crossings would be provided to assist pedestrians and cyclists in crossing the A38 slip roads on the west side of the new roundabout. Vehicle access to and from the A38 northbound carriageway at Ford Lane would be closed permanently with access to a local business Talbot Turf provided via Ford Lane from the A6 Duffield Road (see comments below).
- 1.4.23 The existing national speed limit on the A38 will be retained, although an advisory 50 mph limit will be displayed in advance of the curved horizontal alignment through the junction.
- 1.4.24 The Traffic Appraisal Report (TAR) which forms part of Highways England's application for the DCO is underpinned by a traffic model developed to test the potential impacts and benefits of the proposed improvements and assess likely changes in traffic flow and highway network performance attributable to the Scheme. The traffic model covers a broad enough area such that it can identify the traffic impacts of the Scheme on both the local and strategic road networks with geographic coverage of the Scheme's traffic model not just confined to the immediate geographical area around the A38.
- 1.4.25 The modelling work suggests that existing delays on the A38 may be dissuading some drivers from using the A38 who then use competing routes instead. These competing routes could be as far afield as the A42, M42 and M1 or could be local roads such as Markeaton Lane. The grade separation of the three junctions would remove this existing deterrence and, with the Scheme, these trips would then re-route back onto the A38 corridor. The TAR includes a number of diagrams, figures 4.6 – 4.12 which provide an indication of future

impacts of the proposals. In terms of the impacts upon Derbyshire's roads following completion of the scheme(s), although not necessarily during the construction works, future changes in traffic flow on the county's main roads into and out of Derby will be relatively modest although it is likely that some re-routing would occur on the county's minor roads due to reassignment of more local movements. The TAR includes forecast traffic model assignments, both with and without the scheme's junction improvements.

- 1.4.26 Derbyshire County Council, as Highway Authority, is satisfied that the proposed scheme would operate satisfactorily and journey times would improve as a result of the Scheme.

Network Management Issues

- 1.4.27 Derbyshire County Council has recently completed the scheme to provide a shared cycle/pedestrian footway on the A61 Alfreton Road, Little Eaton (*Between Pektron Roundabout and Little Eaton Roundabout*). It is the widening of the western side footway to 2.5m and connects into the existing cycling provision on the A38 Abbey Hill via the signal controlled crossing points. It provides a link to the north onto the B6179 into Little Eaton and a link to the west on the A38 and into Ford Lane.
- 1.4.28 One of the issues which has been raised in the past is the current right of way which comes out of Breadsall village (Little Eaton Junction Consultation Brochure Drawing) shown as the Dam Brook trail which runs from the village towards the A38 and then follows the current alignment of the A61 around and comes out at the side of the A61. There is physical evidence through a worn section of grass in the middle of the A61 where pedestrians have been standing in the past to cross over the A61. It would appear that the route is used by people wishing to access the northbound bus service at the nearby stop provision on the A61.
- 1.4.29 One of the possible ideas was to divert the right of way (Dam Brook) from the back of the village at a perpendicular angle straight to the A61 edge (shortest route), however the scheme drawing showed it being diverted around the back of the surface water management ponds and coming out at a similar location at the A61 to where the current informal crossing type arrangement exists (see above). Irrespective of which route the path takes from Breadsall village, it is expected that this will be constructed to a suitable standard i.e. top trek type material with defined edging. It is likely that should the right of way be of a good standard it will encourage an increase in footfall to and from Breadsall village as it will be an improvement on the current provision.
- 1.4.30 An issue in respect of the current proposed arrangement is that the path would come out in close proximity to the roundabout and as the road is of a higher speed limit, vehicles exiting the roundabout/A38 would enter the A61 and be in potential immediate conflict with pedestrians and other vulnerable road user groups crossing at this point, in addition to which at peak times if a

controlled crossing was on red for vehicles we could have potential for queuing back on to the roundabout.

- 1.4.31 The proposals previously did not make reference to whether the realignment of the Dam Brook would be of a sufficient width that it could accommodate both pedestrians and cyclists. Nor does it make reference as to what standard of construction it will be. Clarification on these points from Highways England would be welcomed. At this point on the A61 it is evident that the ability to then cross the A61 Alfreton Road to access the western side of the road for recreational purposes (walking, cycling) travel purposes (north bound bus stop and its services) or to pursue a route into Little Eaton village to the South, is restricted.
- 1.4.32 DCC as the Highway Authority recognise the difficulty in people being able to safely cross the A61 and DCC has received many communications from residents and the Parish Council of Breadsall village with regard to this matter. DCC's officers have met with Highways England in respect of the scheme for the A38 and in particular the area around the Little Eaton roundabout. DCC has made representation through the consultation process for this scheme that the County Council would wish to see the implementation of a pedestrian crossing near to the Croft Lane access onto the A61.
- 1.4.33 This would be of a sufficient distance from the roundabout and that approaching vehicles would have sufficient time and distance to react when the crossing point is activated, and reduce the potential for vehicles to be queuing back onto the A61/A38 junction.
- 1.4.34 To facilitate a scheme of this nature would require the need for the construction / continuation of the Dam Brook Trail down the Eastern Side of the A61 from the proposed current end of the facility near the ARMCO barrier as a footpath construction to connect to the existing Bus Stop provision and into the Croft Lane existing cycle/pedestrian footpath would be required. This would then allow for a safe and suitable crossing point that connects both the north and south bound bus stop provision on the A61 and the new shared pedestrian/cycle path on the western side of the A61 that has recently been constructed.
- 1.4.35 The installation of a pedestrian crossing would address the number of enquiries that the County Council has received for consideration to be given for the introduction of a formal crossing arrangement for the A61 Alfreton Road as the perception is that people don't have a safe and suitable facility to cross the busy, high speed dual carriageway of the A61. This improvement to the Dam Brook Trail and the highway improvement scheme to the western footway, the shared footpath scheme for the A61 Alfreton Road is likely to encourage/promote an increase in demand for people wanting to cross the A61.
- 1.4.36 In reference to (Little Eaton Junction Consultation Brochure Drawing) the signalised crossings specified in and around the approaches to Little Eaton roundabout the drawing does not specify whether these are toucan crossings

that will provide the necessary network links/connectivity to the cycle route provisions within the surrounding area. Clarification would be welcomed from Highways England on this point. IT should be noted that clarification has now been provided on this issue in the applicant's Statement of Common Ground and that confirmation that Toucan crossings would be provided in the Scheme.

- 1.4.37 To facilitate the provision of a pedestrian crossing on the A61 the existing National Speed Limit would need to be reduced to 50mph to accommodate a Toucan (pedestrian crossing). Highways England have already stated in correspondence they are prepared to fund such provision, and therefore DCC would wish to see a formal design from HE that is acceptable to the Highway Authority.
- 1.4.38 In addition there is a Key Cycle Network, which includes a proposal for Little Eaton Branch Line which would utilise the existing network off the B6179 along Ford Lane, with an intention to create a crossing over the rail line and into an off-road cycle track heading north towards Duffield.
- 1.4.39 In addition DCC undertook improvements to the Public Transport provision on the western side of the A61 at Breadsall during the construction of the shared pedestrian/cycle route. However, the existing bus stop provision on the eastern side of the A61 is in need of a scheme of improvement. The existing bus shelter at the stop is life expired and in need of replacement, in addition to the lay-by not being of a construction/layout that meets current Bus Quality Partnership standards and would need to be amended to meet the current service demands for the residents of Breadsall village which would be encouraged to use when the right of way issues are resolved and a safe and suitable crossing provision of the A61 is implemented. Therefore DCC would look to seek improvements to this location as part of the scheme Little Eaton Junctions Scheme.

Stopping up of Ford Lane

- 1.4.40 The proposed stopping up of Ford Lane at the A38 would result in only a single point of access to one house, a turf business and farmland to the south of the A38 (Talbot Turf), a major Severn Trent Water pumping station on the Derwent to the north and a Network Rail access and maintenance point onto the Midland Mainline. Ford Lane Bridge over the Derwent currently has a structural weight limit of 7.5T ALL and it is known that Talbot Turf regularly access their site with 40T HGV's using the slip roads from the A38. The size of the Severn Trent Water pumping station would also indicate that access for large vehicles and cranes will be periodically needed. The Network Rail access may also be used for heavy plant and equipment and seems to serve a section of track up to a bridge across the River Derwent to the north.
- 1.4.41 If Ford Lane were to be stopped up with no changes to the current situation the above sites would not be safely or legally accessible by the owners / responsible agencies. Ideally access would be maintained onto the A38 or if that is not possible then the bridge will need strengthening or replacing by Highways England to safely permit access for all vehicles to the above sites.

This is an issue that is subject to ongoing discussions between DCC and Highways England.

- 1.4.42 Concerns have been raised by the County Council over the Surface Water Attenuation Ponds to the south-east of the roundabout (towards Breadsall Village) and clarification from the applicant as to who would be responsible for their future maintenance and management. This is an issue which requires clarification from Highways England.

Public Transport

- 1.4.43 When Derbyshire County Council commented on the applicant's Preliminary Environmental Information Report (17/10/2018) it raised concerns that the PEIR did not include any significant assessment of the likely impacts on public transport usage relating to the Markeaton and Little Eaton Junction Improvements. Derbyshire County Council is satisfied that the Environment Statement now provides a robust assessment of the likely impacts on public transport in respect of the junction improvements at Markeaton and Little Eaton Junctions.

- 1.4.44 For the Little Eaton junction, Derbyshire County Council would comment that bus services going south into Derby from Little Eaton currently struggle to get out of Alfreton Road onto the existing A38 due to the volumes of traffic. The proposed grade separated junction would make it easier for these services to get onto the proposed new island and then head south into the City. Similarly, buses going north bound either to Little Eaton or on the A38 towards Kilburn should also benefit from improved traffic flow over the current roundabout arrangement.

- 1.4.45 For Markeaton junction, Derbyshire County Council would comment that bus services on the A52 heading towards Derby city centre from Ashbourne and outbound from the City towards Mackworth currently get 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.

- 1.4.46 In both cases, therefore, DCC would concur with the applicant's conclusions that the Markeaton and Little Eaton junction improvements would be likely to have a significant beneficial impact on users of local buses due to improved journey times and journey reliability. It also concurs with the applicant that during the construction phase temporary changes to journey length and reliability for users of public transport would occur.

Public Rights of Way

- 1.4.47 Highways England has engaged in discussions with the County Council's Public Rights of Way Team regarding this issue. DCC understands that the current National Cycle Network Route 54 which follows a shared footway/cycleway adjacent to the A61 carriageway will, more or less, remain on

its existing alignment. It is assumed it is still proposed that this will cross beneath the elevated A38 at the reconfigured junction and that the at-grade crossings of the south facing slip roads will be signal controlled. This will ensure the necessary connectivity between the north of Derby City and Little Eaton.

1.4.48 In addition, there should also be provision for the proposed Derwent Valley Cycleway (from Haslam's Lane in Derby) using the existing A38 accommodation underpass (also a public footpath) with a connection onto the shared footway/cycleway on the north side of the A38. This will not be as direct as the one which the County Council suggested might be accommodated in the earth works that form the embankment for the flyover and alongside the slip road exit to the B6179, due to the difference in levels.

Flood Risk

1.4.49 The approach to assessing and mitigating flood risk is set out in paragraphs 5.90 to 5.115 of NPSNN. For decision making this includes the following requirements:

- When determining an application the Secretary of State should be satisfied that flood risk will not be increased elsewhere and only consider development appropriate in areas at risk of flooding where it can be demonstrated that:
 - Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
 - Development is appropriately flood resilient and resistant, including safe access and escape routes where required and that any residual risk can be safely managed including by emergency planning; and priority is given to the use of sustainable drainage systems.
- The development consent order, or any associated planning obligations will need to make provision for the adoption and maintenance of any SuDS. The Secretary of State should be satisfied that the most appropriate body is given the responsibility for maintaining any SuDS. The responsible body could include, for example, the applicant, landowner, the relevant local authority or any other body such as the Internal Drainage Board.
- The Secretary of State should expect that reasonable steps have been taken to avoid, limit and reduce the risk of flooding to the proposed infrastructure and others;
- Where linear infrastructure has been proposed in a flood risk area, the Secretary of State should expect reasonable mitigation measures to have been made to ensure that the infrastructure remains functional in the event of predictable flooding.

DCC Assessment

- 1.4.50 In the context of the policy approach above, Derbyshire County Council, as Lead Local Flood Authority, provides the following comments on the Little Eaton Junction part of the scheme falling within Derbyshire.
- 1.4.51 Derbyshire County Council would be grateful if the applicant could provide clarification that none of the proposed works to the Dam Brook (watercourse diversion etc) will increase the flood risk further upstream. There have been previous occurrences of internal flooding to properties in Breadsall, in particular around where the Dam Brook is culverted under Brookside Road and where Boosemoor Brook is culverted under Rectory Lane. It should be noted that the applicant has sought to address this issue in its Statement of Common Ground to the effect that they consider that the Dam Brook Diversion would not give rise to flooding further upstream in Breadsall. However, no details have been provided by the applicant to justify this conclusion.
- 1.4.52 Clarification is required from the applicant as to whom will be responsible for maintaining flood alleviation channels, swale's etc. A drawing would be beneficial highlighting who will be responsible for what.
- 1.4.53 The use of By-pass separators is mentioned in the document 7.1 Flood Risk Assessment. Wherever possible, Derbyshire County Council would prefer to try and avoid the use of these, as they are a greater maintenance burden in terms of resources and cost. It is considered that the water quality element from the highway surface water run-off would be more appropriately achieved through more natural processes (SuDS).
- 1.4.54 Derbyshire County Council would like to see and comment on all of the hydraulic calculations for the proposed highway drainage system, including the attenuation ponds.
- 1.4.55 As mentioned in the FRA, Derbyshire County Council would be the consenting authority for the diversion of the Dam Brook, culvert extension and replacement of culvert under the A38.
- 1.4.56 If any further opportunities can be sought to make the Dam Brook Diversion more naturalised this would be welcomed by the County Council.

Landscape and Visual impacts

- 1.4.57 The approach to the assessment and mitigation of landscape and visual impacts is set out in paragraphs 5.143 to 5.161 of the NPSNN and includes the following:
- Landscape effects depend on the nature of the existing landscape likely to be affected and nature of the effect likely to occur. Both of these factors need to be considered in judging the impact of a project on landscape. Projects need to be designed carefully, taking account of the potential impact on landscape, having regard to siting, operational and other

relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible.

- Outside nationally designated areas (National Parks, the Broads and Areas of Outstanding Natural Beauty), there are local landscapes that may be highly valued locally and protected by designation. Where a local development document in England has policies based on landscape character assessment, these should be given particular consideration. However, local landscape designations should not be used in themselves as reasons to refuse consent, as this may unduly restrict acceptable development.
- In taking decisions, the Secretary of State should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints to avoid adverse effects on landscape or to minimise harm to the landscape, including reasonable mitigation.
- In terms of mitigation, reducing the scale of a project or making changes to its operation can help to avoid or mitigate the visual and landscape effects of a proposal. However, reducing the scale or otherwise amending the design or changing the operation of a proposed development may result in a significant operational constraint and reduction in function. There may be exceptional circumstances, where mitigation could have a very significant benefit and warrant a small reduction in scale or function.
- Adverse landscape and visual effects may be minimised through appropriate siting of infrastructure, design and landscaping schemes, depending on the size and type of project. Materials and designs from infrastructure should always be given careful consideration.

DCC Assessment

1.4.58 Consistent with all previous consultation responses to the proposed development of grade separated junctions along the A38 through Derby, Derbyshire County Council continues to have reservations and concerns about the quality and judgements of the LVIA supporting the DCO submitted to the Secretary of State for Transport for determination. As stated previously in the County Council's response to the PEIR, Derbyshire County Council's comments are confined to the Little Eaton junction as the other two junctions (Markeaton and Kingsway) fall within Derby City Council's administrative area.

Landscape Assessment

1.4.59 The LVIA identifies that the Little Eaton junction lies within the Peak Fringe & Lower Derwent National Character Area (NCA) as defined nationally and the Riverside Meadows Landscape Character Type (LCT) as defined in the Derbyshire Landscape Character Assessment (LCA). The steeper valley sides to the east and west of the floodplain are part of the wider Wooded Slopes and Valleys LCT forming the larger part of the NCA. The LVIA also acknowledges the more local landscape constraints including the DVMWHS immediately west of the Little Eaton junction, areas of local landscape sensitivity as defined in the

County's study to identify Areas of Multiple Environmental Sensitivity (AMES), the presence of Green Belt, a local green wedge designation and Conservation Areas in the locality. The LVIA has then identified 10 local landscape character areas to introduce a finer grain of detail to the assessment of landscape effects. The most pertinent LCAs in relation to the Little Eaton junction are LCA8, LCA9 and LCA10.

- 1.4.60 The assessment judges the sensitivity of LCA8 to be moderate, which is a reflection of its landscape value and its susceptibility to change. Although it is assessed as a high value area, Derbyshire County Council disagrees with the judgement that the susceptibility of the receptor to change is only assessed as *medium/low* by virtue of the current A38 already affecting the character. This is not accepted to be a mitigating factor in itself when the proposed grade separated junction would be high level and introduce incongruous landscape features in the shape of embankments and extensive woodland planting along these embankments. Derbyshire County Council would assess the susceptibility to the proposed change to be at least *medium* giving rise overall to the judgement that the landscape sensitivity would be *moderate to high*. LCA9 is judged to have *low sensitivity* whilst LCA 10 judged to have *moderate sensitivity* – although it is difficult to appreciate that judgement when the LCA is assessed as *high sensitivity* with a *medium* susceptibility to change. Derbyshire County Council would judge this to be at least *moderate to high* sensitivity, which would also be significant when combined with the scale of change proposed.

Visual Assessment

- 1.4.61 The LVIA confirms that there will be views of the Little Eaton junction from residential properties within the locality, public rights of way including the Derwent Valley Heritage Way, and the road network although this tends to be those roads that run into the existing junction. Nine representative viewpoints (numbers 16 to 24) have been selected to reflect the general visibility of the scheme at this location to these surrounding visual receptors. Whilst the range of representative visual receptors is acceptable the location of some viewpoints feels very arbitrary and does not seem to reflect the worst case scenario. For example, VP18 is taken from the A61 approaching the Little Eaton junction from the south but would have represented the worst case scenario if the viewpoint selected was closer to the junction where the raised embankment would potentially have a more significant effect on the current view. This is compounded by the fact that winter and summer viewpoints have been taken from slightly different locations such as those selected for VP17. There do not appear to be any photomontages within the submissions showing what the road would look like at these selected viewpoints on completion of the works particularly in relation to the most sensitive visual receptors such as those using the Derwent Valley Heritage Way within the World Heritage Site.

Overall

- 1.4.62 As outlined above, Derbyshire County Council does not accept all of the findings in the LVIA. It is considered that the landscape character and sensitivity of the landscape surrounding the Little Eaton Junction has not been fully reflected in the LVIA and as a result the overall effects on landscape have been under-assessed. Whilst it is accepted that the current Little Eaton junction impacts on the character of the existing landscape, the fact that the junction is at grade allows for the river valley and floodplain to be understood and appreciated regardless of the highway infrastructure. This is an attribute of the World Heritage Site designation reflected in Value 3 of the Statement of Outstanding Universal Value which states “A *‘relict’ industrial landscape, where late 18th and early 19th century industrial development may be seen in an 18th/19th century agricultural landscape ...* The LVIA at section 7.7.15 states that “*the WHS designation is primarily cultural heritage based, relating to the industrial revolution, rather than being landscape focused*” which is clearly an incorrect statement with respect to the Statement of OUV and as a consequence has led to an under assessment of sensitivity and consequently the judgement of landscape effects particularly in relation to LCA8.
- 1.4.63 With regard to landscape character, it is difficult to accept that a large embankment crossing the floodplain compounded by proposed planting along these embankments would only have a *slight adverse* effect when this is clearly an incongruous landscape feature that blocks off the natural connections and functionality of a linear landscape. Other environmental mitigation proposals such as noise barriers and flood attenuation measures would also be perceived as alien features in the landscape that would further contribute to adverse landscape effects.
- 1.4.64 Visually the current junction benefits from being well screened by existing vegetation between the site and visual receptors around the site that are exposed to views of the junction. Although much of this vegetation would be retained and protected during the works, without visualisations it is difficult to appreciate to what extent this vegetation would provide similar mitigation to the proposed grade separated junction on a high embankment. At the same time the ability to appreciate the flat, low-lying nature of the floodplain, important as both a landscape characteristic and as an attribute of the DVMWHS, is not acknowledged in the assessment and as a result has led to an under-assessment of visual effects. Trees proposed adjacent to the road and on the embankments would further compound the visual blocking of views through the Riverside Meadows landscape rather than contribute to mitigation and other proposed environmental mitigation could add to the visual clutter of the scheme. Although the Environment Statement has considered alternative junction arrangements, none of these has considered the use of a simple, elegant viaduct that would cross the floodplain without the need for embankments allowing the landscape and associated habitats to run below it.

Heritage Impacts

1.4.65 The approach to the assessment and mitigation of heritage impacts is set out in paragraphs 5.120 to 5.142 in the NPSNN and includes the following:

- Recognition that some heritage assets have a level of significance that justifies official designation, which includes World Heritage Sites.
- Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to Scheduled Ancient Monuments should be considered subject to the policies for designated heritage assets. The absence of designation for such heritage assets does not indicate lower significance;
- In determining applications, the Secretary of State should seek to identify and assess the particular significance of any heritage asset that may be affected by the proposed development (including by development affecting the setting of a heritage asset), taking account of available evidence and any necessary expertise from:
 - Relevant information provided by the applicant and where applicable, relevant information submitted during the examination;
 - Any designation records;
 - The relevant Historic Environment Record;
 - Representations made by interested parties during the examination;
 - Expert advice, where appropriate, and when the need to understand the significance of the heritage asset demands it.
- In considering the impact of a proposed development on any heritage assets, the Secretary of State should take into account the particular nature of the significance of the heritage asset and the value they hold for this and future generations. The understanding should be used to avoid or minimise conflict between their conservation and any aspect of the proposal.
- The Secretary of State should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, massing, height, alignment, materials, use and landscaping.
- When considering the impact of a proposed development on the significance of a designated heritage asset, the Secretary of State should give great weight to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given that heritage assets are irreplaceable, harm or loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of designated assets of the highest significance, including World Heritage Sites, should be wholly exceptional.
- Not all elements of a World Heritage Site or Conservation area will necessarily contribute to its significance. The Secretary of State should treat the loss of the site's significance either as substantial harm or less than substantial harm, as appropriate, taking into account the relative significance of the elements affected and their contribution to the significance of the Conservation Area or World Heritage Site as whole.

DCC Assessment

- 1.4.66 The comments below relate to the works associated with the Little Eaton junction improvements that fall within the administrative area of Derbyshire in Erewash Borough.
- 1.4.67 With regard to the Little Eaton junction, a variety of archaeological works have taken place at the pre-DCO stage, comprising archaeological desk-based assessment, geophysical survey, boreholes, and archaeological trial trench evaluation. This process has identified a number of undesignated heritage assets (*sensu* NPPF chapter 16) within the footprint of the proposed works, including possible palaeo-channels, a small section of the Derby Canal Little Eaton branch, ridge-and-furrow and hollow-way earthworks, a possible Roman road alignment (though with no excavated evidence). In terms of geo-archaeology and palaeo-environmental potential it should be noted that the floodplain environment of the site has potential for archaeological and palaeo-environmental material to be captured within alluvium or in stream and river palaeo-channels. This is highlighted at ES 6.7.8: “*At Little Eaton junction although there was no visible peat deposits, substantial organic material was noted (wood/tree fragments) incorporated within the alluvium and fine plant remains which probably represent the remnants of reed growth across the wetter areas of the floodplain ... The presence of undulating sand and gravel deposits under the alluvium suggests there may be abandoned river channels which have the potential to act as important ‘sumps’ for organic material.*”
- 1.4.68 The known and potential archaeology within the site is undesignated, of local to low-regional importance at best and the conclusions of the ES are accepted that it does not constitute a ‘significant’ impact. Rather, it should be recorded as appropriate in line with the policy at NPPF para 199. To this end a ‘Scope of outline archaeological mitigation’ is provided at ES 6.14.5 and it is agreed that this provides a suitable methodology for further quantifying the archaeological potential of the site and applying appropriate mitigation, and further that the proposed ‘requirements’ in the draft DCO with regard to archaeology are appropriate and necessary.
- 1.4.69 The scheme at Little Eaton junction falls partly within the Derwent Valley Mills World Heritage Site, the remainder being within the Buffer Zone. A stand-alone heritage impact assessment in relation to the World Heritage Site is provided at ES Appendix 6.1. While much of this study is useful it is considered that it omits discussion of the importance of the Derwent floodplain as an attribute of the World Heritage Site. For a more detailed expert view it is suggested that consultation should be undertaken with the Derwent Valley Mills World Heritage Site Partnership directly on these proposals.
- 1.4.70 However, to summarise Derbyshire County Council’s Archaeologist’s concerns, the floodplain is an attribute that manifests *Value 1* in the *Statement of Outstanding Universal Value* (‘The successful harnessing of natural energy to deliver the power to drive newly derived machines housed in mills ..) because of its role as source, sink and landscape context of the mills’ water

management. Further, the Derwent floodplain manifests *Value 3* ('A 'relict' industrial landscape, where late 18th and early 19th century industrial development may be seen in an 18th/19th century agricultural landscape ...). The role of the floodplain landscape as an attribute is borne out by the observation that the World Heritage Site boundaries in this location are drawn to the edges of the Derwent floodplain. The proposed embankments of the scheme may be seen as harmful to this attribute because they will detract from the legibility and intact-ness of the Derwent floodplain landscape in this location. Derbyshire County Council's Archaeologist would, therefore, take issue with the conclusion of the submitted study that the impacts to the World Heritage Site are '*negligible/slight adverse/not EIA significant*. A more balanced conclusion might be that the proposals result in a '*minor adverse*' impact upon an asset of 'very high' value, thus producing a '*moderate adverse*' effect which would be viewed as EIA significant. It is also noted that UNESCO's *Operational guidelines for the implementation of the World Heritage Convention* state at 15h) that State Parties have the responsibility to 'not take any deliberate measures that directly or indirectly damage their heritage ..'.

Ecological Impacts

1.4.71 The approach to the assessment and mitigation of ecological impacts is set out in paragraphs 5.20 to 5.38 in the NPSNN and includes the following:

- As a general principle, and subject to other policies in the Statement, development should avoid significant harm to biodiversity and geological conservation interests including through mitigation and consideration of reasonable alternatives.
- In taking decisions, the Secretary of State should ensure that appropriate weight is attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for conservation of biodiversity.
- Applicants should include appropriate mitigation measures as an integral part of their proposed development, including identifying where and how these will be secured; In particular, the applicant should demonstrate that:
 - During construction, they will seek to ensure that activities will be confined to the minimum areas required for the works;
 - During construction and operation, best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised;
 - Habitats will, where practicable, be restored after construction;
 - Developments will be designed and landscaped to provide green corridors and minimise habitat fragmentation where reasonable;
 - Opportunities will be taken to enhance existing habitats and, where, practicable, to create new habitats of value within the site landscaping proposals, for example, through techniques such as the greening of existing network crossing points, the use of green bridges and the habitat improvement of the network verge.

DCC Assessment

- 1.4.72 Derbyshire County Council's ecologist has had extensive engagement with this scheme over the last few years, via AECOM, who have worked hard to include the County Council, Derbyshire Wildlife Trust, the Environment Agency and Natural England in the scheme evolution, and particularly in identifying what ecological surveys would be required, assessing the scope for impacts and considering the potential requirements for compensation and mitigation etc. They have been comprehensive in their engagement and positive throughout the process, and Derbyshire County Council's ecologist is quite happy with how this has developed. Given the extent of engagement to date and the limited scope for impacts, the potential impacts on ecology have been judged to be relatively low risk.
- 1.4.73 Derbyshire County Council's officers have also reviewed the applicants Outline Construction Management Plan (CMP) and consider that it looks to be comprehensive and is as diverse as one might expect from a scheme of this type and geographical range. The document lists the issues to be addressed in more detail by the Construction EMP. It identifies the environmental issues, and roles and responsibilities, including partner and regulatory bodies (DEFRA, the EA, DWT DVMWHS Partnership, Natural England etc) and includes: cultural heritage, landscape, ecology (including specific species/topic sections), biosecurity, noise, dust vibration, ground contamination, soils, materials, waste, unexploded ordnance, footpaths, restoration, pollution control, climate change, ISO 14001 and construction traffic management to name but a few of the issues.
- 1.4.74 The one thing that officers consider is missing from the ecology/species section of the Outline CMP is the issue of severance. There are a number of references to fencing that prevent badgers crossing the new road and coming into conflict with traffic, but no reference to the provision of underpasses or the accommodation of them (and other mammals) in existing or modified culverts. Measures are proposed to assist bats and owls crossing the road. Without such measures the impact of the scheme on badgers particularly might be more significant than simple disturbance of setts during construction.

Minerals and Waste Impacts

- 1.4.75 The policy approach to the assessment and mitigation of the impacts of waste are set out in paragraphs 5.39 to 5.45 of the NPSNN, which includes the following:
- Sustainable waste management is implemented through the waste hierarchy:
 - Prevention;
 - Preparing for use;
 - Recycling;
 - Other recovery including energy recovery; and
 - Disposal

- The applicant should set out the arrangements that are proposed for managing any waste produced. The arrangement described should include information on the proposed waste recovery and disposal system for all waste generated by the development. The applicant should seek to minimise the volume of waste produced and the volume of waste sent for disposal unless it can be demonstrated that the alternative is the best overall environmental outcome.
- The Secretary of State should consider the extent to which the applicant has proposed an effective process that will be followed to ensure effective management of hazardous and non-hazardous waste arising from the construction and operation of the proposed development. The Secretary of State should be satisfied that the process sets out:
 - Any such waste will be properly managed both on site and off site;
 - The waste from the proposed facility can be dealt with appropriately by the waste infrastructure which is, or is likely to be, available. Such waste arisings should not have an adverse effect on the capacity of existing waste management facilities to deal with other waste arisings in the area; and
 - Adequate steps have been taken to minimise the volume of waste arisings and of the volume of waste arisings sent to disposal., except where an alternative is the most sustainable outcome overall.

DCC Assessment

1.4.76 Derbyshire County Council provided extensive comments on the applicant's Preliminary Environmental Information Report (PEIR) relating to mineral and waste issues. These comments highlighted the need for the applicant to provide an assessment in the final version of the Environment Statement of the impacts of the Little Eaton junctions element of the scheme against the policies of the adopted Derby and Derbyshire Minerals and Waste Local Plans and emerging Derby and Derbyshire Minerals and Waste Local Plans. DCC's comments also highlighted the need for the applicant to set out in the Environment Statement full details of the types and quantities of materials that would be sourced to provide the fill materials for the construction of the scheme and the origin of those materials, which should ideally be sourced locally within Derbyshire where at all possible in order to reduce travel distances.

1.4.77 In the context of the above, DCC is satisfied that the applicant has taken appropriate account of the County Council's comments above in the final version of the Environment Statement in Chapter 11: Material Assets and Waste. The adopted and emerging Derby and Derbyshire Minerals and Waste Local Plans are appropriately referenced in paragraph 11.2.2 of the Environment Statement. Appropriate reference is also made at paragraph 11.7.5 and Table 11.6 to the Derby and Derbyshire Minerals Local Plan, Towards a Minerals Local Plan Spring 2018 Consultation Background Paper on Sand and Gravel and Background Paper on Crushed Aggregate which list

the quarries in Derbyshire which could be the source of construction materials for the scheme as a whole.

Material Assets

1.4.78 Derbyshire County Council has reviewed the applicant's assessment of the impacts of the Little Eaton Junction element of the Scheme on material assets and is satisfied that it provides a robust assessment of the potential impacts. In particular, it is noted from paragraph 11.8.7 of the Environment Statement that the Little Eaton junction part of the scheme is estimated to be likely to produce approximately 43,673m³ of material that would be available for re-use for the rest of the scheme resulting in the need for no cut material to be landfilled. However, the wider scheme including the Markeaton and Kingsway Junction improvement would result in a likely generation of 45,130m³ of cut material that would need to be landfilled (see comments below).

1.4.79 It is also noted at Paragraph 11.8.11 of the Environment Statement that the origin of imported material resources cannot be confirmed at this time as this would be determined by the Scheme contractor during the construction works detailed design stage; and that there is a wealth of mineral resources within Derbyshire (Table 11.6) such that materials required for the scheme are anticipated to be sourced locally in order to minimise transportation distances. DCC is satisfied with the applicants approach set out above and welcomes the indication that as much of the material used in the construction phase of the scheme will be sourced locally.

Waste

1.4.80 Overall, Derbyshire County Council considers that Chapter 11 of the Environment Statement makes a fair assessment of both the legislative background and the policies at both national and local levels that are relevant to the Scheme and so no issues are raised in this respect.

1.4.81 It is noted that in terms of waste generation, paragraphs 11.10.3 and 11.10.4 indicate that construction of the scheme as whole is expected to generate approximately 17,061 tonnes (15,965m³) of non-hazardous waste and demolition waste which is expected to require management off site; and that based on a worse-case scenario assumption that all the non-hazardous requiring management off site would be disposed of to landfill then the approximate 15,965m³ of waste would utilise approximately 0.03% of the permitted regional landfill capacity. Furthermore, from paragraphs 11.10.5 it is noted that some of the cut material from the Kingsway and Markeaton junction improvements may not be re-usable and a total of approximately 45,130m³ of material would need to be landfilled. This would utilise approximately 0.08% of the permitted regional landfill capacity.

1.4.82 Based on the above, Derbyshire County Council considers that locally, the scheme should not raise any particular concerns with regards to availability of waste infrastructure and capacity. The data that the County Council holds (which will be subject to consultation shortly) shows that whilst there are pinch

points in terms of recycling and reprocessing capacity in particular, the Plan Area has sufficient landfill capacity under a range of different scenarios to cover the new plan period up to 2035.

1.4.83 Derbyshire County Council would also comment further that landfilling operations represent the least favourable waste management option as described in the waste hierarchy. Additionally final disposal is not consistent with the circular economy approach which seeks to remove as far as possible any need for final disposal through the better design of products and more emphasis on re-use, repair and recycling. The scheme therefore should only consider landfill as a last resort.

1.4.84 Landfill does continue to play a vital strategic role and will continue to do so in the future. Since the 1990s the number of active landfill sites in Britain has dropped to under 250 from 1,500. This has been driven by changes in environmental standards, making it harder for some sites to remain viable, landfill tax which has made final disposal increasingly more costly and more recycling/recovery operations coming on stream reducing volumes of material being sent to final disposal (as per the Waste hierarchy objective).

National & Local Planning Policy considerations:

National

1.4.85 The Policy framework nationally is set out quite clearly in the applicant's Environment Statement at Chapter 11 so the County Council has no further comments

Local

1.4.86 The existing Derby and Derbyshire Waste Local Plan (2005) is now somewhat out of date but does make some useful points in relation to landfill and planning applications:

1.4.87 Policy W11: Need for landfill sets out clearly that applications for additional landfill void are acceptable where there is a need relating to restoration and profiling and where there is a local requirement. Clearly in the pre-app outline the applicant expresses a need for additional void/time to ensure restoration and final pollution control measures can be put in place. Policy W12 Reclamation and restoration, similarly identifies such requirements. Full details of these policies are set out in Section 3 below.

1.4.88 As noted above, the existing adopted Waste Local Plan is in the process of being replaced with a new Waste Local Plan for Derby and Derbyshire (2015-2035). As part of the background work and policy analysis there is updated research on waste capacity, flows and infrastructure. It is anticipated that this work will be formally consulted on as soon as possible.

1.4.89 In terms of landfill specifically:

Derby and Derbyshire Waste Plan Area Landfill:

Landfill	2013		2014		2015	
	Capacity	Input	Capacity	Input	Capacity	Input
(Tonnes)	14,172,072	464,842	13,614,767	579,597	12,983,524	631,243

1.4.90 Landfill is unique in that available capacity is consumed as it is used, unlike other forms of waste infrastructure that has available capacity that can be relied upon with greater certainty into the future. The assumptions made within the data approach assume that all available landfill capacity will be available to be utilised but even with this assumed under certain scenarios landfill capacity becomes increasingly tight towards the latter part of the new plan period.

Conclusion

1.4.91 Overall, Derbyshire County Council is satisfied that the proposed A38 Junctions Scheme as a whole should not raise any particular concerns with regards to availability of waste infrastructure and capacity.

1.5 DCC Overall Assessment: Conformity with NPSNN

1.5.1 On the basis of the assessment above, it is considered that the A38 Junctions scheme, particularly relating to the Little Eaton junction element of the scheme, is broadly in accordance with the policy principles of NPSNN. The scheme would be likely to generate significant economic benefits for the area, in providing additional capacity on the network that would help to deliver and facilitate the significant planned housing and employment growth in the Derby City and wider Derby HMA that is set out in the three Local Plans for the Derby HMA. This capacity would particularly help facilitate the delivery of a number of large strategic housing and employment allocations in the vicinity of the A38 corridor that are set out in the three local plans within and on the edge of Derby City. The A38 improvements would address congestion and delay problems on the existing network and help provide better connectivity between people and jobs across the HMA and provide significant benefits to businesses in being able to transport their goods and services more quickly and efficiently on the network and across the Derby HMA and wider area of the East Midlands.

1.5.2 A detailed assessment has been carried out of the potential environmental impacts of the scheme, especially the Little Eaton junction improvements. This assessment has concluded that the scheme would not constitute inappropriate development in the Green Belt and there is a clear need for the scheme to be provided within a Green Belt location. Concerns have been expressed, however, about the current design of the scheme and the extensive embankment that carries the A38 across the floodplain of the River Derwent and its impact on the landscape and landscape character of the area and consequential impacts on the open character of the Green Belt and Outstanding Universal value of the DVMWHS. It has been suggested that the scheme could

be significantly improved if the scheme incorporated an elegant viaduct to carry the improved A38 across the floodplain. This would be likely to reduce the visual impact on the openness of the Green Belt, landscape and landscape character and OUV of the DVMWHS.

- 1.5.3 Some issues have been raised on flood risk requiring further clarification from the applicant. The likely highway impacts of the scheme have been assessed by Derbyshire County Council based on the applicant's traffic impact assessment and the Authority is satisfied that the proposed scheme would operate satisfactorily and journey times would improve as a result of the Scheme. Concerns have been raised about the closure of Ford Lane and its impact on local businesses relating to weight restrictions on the Ford Lane bridge, which require further dialogue with the applicant. The likely archaeological and ecology impacts are considered to be minimal and appropriate investigation and survey work has been carried out by the applicant to ensure that these impacts have been properly assessed and appropriate mitigation proposed. An issue has been raised about the CMP and the lack of provision for badger crossings in the Scheme. Finally, Derbyshire County Council is satisfied that the A38 Junction Scheme as a whole does not raise any significant concerns with regards to availability of waste infrastructure and capacity to deal with waste generated by the proposed development.

2 National Planning Policy Framework

- 2.1 Paragraph 5 of the NPPF indicates that the Framework does not contain specific policies for NSIPs and that these projects are determined in accordance with the decision making framework of the Planning Act (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the NPPF).
- 2.2 Paragraphs 1.17 and 1.18 of the NPSNN similarly indicates that the overall aims of the Statement and the NPPF are consistent; and that an important function of the NPPF is to embed the principles of sustainable development and is likely to be an important and relevant consideration in decisions on NSIPs but only to the extent relevant to that project. An assessment is provided below, therefore, of a number of policies in the NPPF that could be considered of relevance to the consideration of the Scheme.

Sustainable Development

- 2.3 Chapter 2 of the NPPF relates to achieving sustainable development and paragraph 7 indicates that the purpose of the Planning System is to contribute to the achievement of sustainable development. Paragraph 8 indicates that achieving sustainable development means that the planning system has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. Three objectives are identified:

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

DCC Assessment

- 2.4 It is considered that the Scheme as a whole would fulfil an important economic objective. As noted above, the Derby HMA is an area that has been identified in the three Local Plans for the area to accommodate significant housing and employment growth and that capacity issues on the A38 has been a key

constraint to the identification of sites in the HMA to meet the identified housing and employment growth needs of the HMA. The Scheme, when implemented, would help facilitate housing and employment growth within the Derby HMA, particularly in and around the edge of Derby in the vicinity of the A38, where a number of large housing and employment allocations have been made in the respective Local Plans. The Scheme would also improve connectivity across the HMA, particularly between people and job opportunities and would assist in the movement and transportation of goods and the workforce within the HMA.

- 2.5 The scheme would also fulfil an important social objective by increasing capacity on the A38 and separating local and strategic traffic movements to improve the flow of traffic, reduce congestion and journey times for residents of the HMA, which would be likely to have benefits to their quality of life. The scheme would also be likely to deliver significant safety improvements which again would help contribute positively to health and well-being of residents of the HMA. It is noted that the scheme would provide the same amount of pedestrian and cycle routes within the scheme to the situation that currently exists in order to maintain connectivity between communities.
- 2.6 In terms of meeting environmental objectives, Derbyshire County Council's assessment above of the merits of the scheme in the context of the policies in the NPSNN, has highlighted a number of concerns regarding the Scheme's design and layout at the Little Eaton junction, particularly relating to its impacts on the Green Belt, landscape and landscape character of the area and heritage assets, particularly impacts on the Outstanding Universal value of the Derwent Valley Mills World Heritage Site. These are considered in more detail below.

A Strong Competitive Economy

- 2.7 Paragraph 6 of the NPPF sets out the Government's policy approach to building a strong and competitive economy. In particular, paragraph 80 states that:

Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation⁴⁰, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

DCC Assessment

- 2.8 As noted above, the Derby HMA is an area that has been identified as an area of significant housing and employment growth over the period up to 2028 in the adopted Derby City Local Plan Part 1, Adopted South Derbyshire Local Plan Part 1 and Amber Valley Local Plan Submission (withdrawn). Capacity issues on the A38 in and through Derby have previously been considered by the four local authorities to be a significant potential constraint to growth and economic

development in the area. The scheme would be likely to help facilitate the growth that is planned across the HMA, particularly in and around Derby City by increasing capacity on the network to facilitate the delivery of a number of large strategic housing and employment locations.

- 2.9 The scheme would help reduce congestion and journey times and therefore improve conditions on the A38 for both commuters and business users transporting goods and providing services to the area. The area supports a number of large global businesses and the scheme would be likely to create the conditions in which businesses would have more confidence to invest and expand.

Sustainable Transport

- 2.10 Paragraph 102 of the NPPF sets out the Government's approach to sustainable transport and requires that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

a) the potential impacts of development on transport networks can be addressed;

b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;

c) opportunities to promote walking, cycling and public transport use are identified and pursued;

d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and

e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

- 2.11 Paragraph 108 indicates that in assessing specific developments it should be ensured that:

a) Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up given the type of development and its location;

b) Safe and suitable access can be delivered for all users;

c) Any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highways safety, can be cost effectively mitigated to an acceptable degree.

- 2.12 Paragraph 109 indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or where the residual cumulative impacts on the road network would be severe.

DCC Assessment

- 2.13 In terms of the potential highways impacts of the proposed scheme on the wider highways network for which Derbyshire County Council is the Highway Authority, the County Council's Highways Officers have reviewed the Transport Assessment that has been provided within the applicant's Environment Statement, and have made the following conclusions set out below.
- 2.14 The modelling work within the Transport Assessment suggests that existing delays on A38 may be dissuading some drivers from using the A38 who then use competing routes instead. These competing routes could be as far afield as the A42, M42 and M1 or could be local roads such as Markeaton Lane. The grade separation of the three junctions would remove this existing deterrence and, with the Scheme, these trips would then re-route back onto the A38 corridor. The TAR includes a number of diagrams, figures 4.6 – 4.12 which provide an indication of future impacts of the proposals. In terms of the impacts upon Derbyshire's roads following completion of the scheme(s), although not necessarily during the construction works, future changes in traffic flow on the county's main roads into and out of Derby will be relatively modest although it is likely that some re-routings would occur on the county's minor roads due to reassignment of more local movements. The TAR includes forecast traffic model assignments, both with and without the scheme's junction improvements. Derbyshire County Council, as Highway Authority, is satisfied that the proposed scheme would operate satisfactorily and journey times would improve as a result of the Scheme.
- 2.15 In terms of the scheme's potential environmental impacts, it should be noted from the assessment above and in more detail below that Derbyshire County Council has raised a number of concerns about the likely impact of the Little Eaton junction scheme on the Green Belt, landscape and landscape character of the area and heritage assets, particularly the DVMWHS. In this context, Derbyshire County Council's Officers have suggested that the scheme's design could be significantly improved by the incorporation of an elegant viaduct to carry the A38 over the River Derwent Floodplain which would help to reduce and mitigate the potential impacts of the Scheme on the openness of the Green Belt, landscape and landscape character and Outstanding Universal Value of the DVMWHS.

Green Belt

- 2.16 The Government's policy approach to Green Belt is set out in Section 13 of the NPPF, with paragraph 133 setting out the Government's position that it attaches great importance to Green Belts; and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green belts are their openness and permanence. Paragraph 134 sets out the five main purposes of Green Belt. Paragraph 143 indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 indicates that when considering any planning

application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

DCC Assessment

- 2.17 As noted above, Derbyshire County Council's Officers have carried out an assessment of the likely impacts of the Little Eaton Junction improvement Scheme, which is located in the Nottingham – Derby Green Belt. The conclusions of that assessment are that, overall, the Little Eaton junction improvements broadly accord with national policies in the NPSNN and NPPF for the development of new nationally significant infrastructure within the Green Belt and would not fundamentally undermine the openness of the Green Belt and main Green Belt purposes. It is considered that the Scheme does not comprise inappropriate development in the Green Belt and that the scheme is for improvements to the existing A38 junction at Little Eaton, which is located within the Green Belt and, therefore, could not reasonably be implemented in a non-Green Belt location. It is also considered that there is a compelling need for the Scheme as a whole to address capacity and congestion issues on the network. However, it is considered that the visual impact on this openness could be significantly improved by revisions to the design of the scheme, particularly the inclusion of an elegant viaduct to cross the floodplain rather than the extensive incorporation of embankment to carry the scheme over the floodplain as currently proposed.

Conserving and Enhancing the Natural Environment

- 2.18 Section 15 of the NPPF sets out the Government's policies for conserving and enhancing the natural environment. Paragraph 170, in particular, requires planning decisions to contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

DCC Assessment

- 2.19 As noted above, Derbyshire County Council has assessed the LVIA that has been provided in the applicant's Environment Statement and expressed concerns about the robustness of the assessment, as it relates to the Little Eaton junction improvements, particularly that the impacts of the scheme may have been understated and that the impacts on the landscape and landscape

character and DVMWHS are more significant than assessed. Particular concerns have been expressed about the design of the scheme and the extent of embankment that carries the new A38 alignment across the River Derwent Floodplain and recommended that the visual impact of the scheme could be significantly reduced by the provision of an elegant viaduct to carry the A38 over the floodplain.

Flood Risk

- 2.20 Section 14 of the NPPF sets out the Government's policy approach to flooding with paragraph 148 requiring that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk change. Paragraph 155 indicates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

DCC Assessment

- 2.21 In this regard, Derbyshire County Council is the Lead Local Flood Authority for that part of the scheme at the Little Eaton junction that falls within the administrative area of Derbyshire. Derbyshire County Council's Flood Risk Officers have assessed the design and layout of the scheme and the Flood Risk Assessment within the applicant's Environment Statement to assess its likely flood risk implications. The conclusions of that assessment are as follows:
- 2.22 Derbyshire County Council would be grateful if the applicant could provide clarification that none of the proposed works to the Dam Brook (watercourse diversion etc) will increase the flood risk further upstream. There have been previous occurrences of internal flooding to properties in Breadsall, in particular around where the Dam Brook is culverted under Brookside Road and where Boosemoor Brook is culverted under Rectory Lane.
- 2.23 Clarification is required from the applicant as to whom will be responsible for maintaining flood alleviation channels, swale's etc. A drawing would be beneficial highlighting who will be responsible for what.
- 2.24 The use of By-pass separators is mentioned in the document 7.1 Flood Risk Assessment. Wherever possible, Derbyshire County Council would prefer to try and avoid the use of these, as they are a greater maintenance burden in terms of resources and cost. It is suggested that the water quality element from the Highway surface water run-off should be achieved through more natural processes (SuDS).
- 2.25 Derbyshire County Council would like to see and comment on all of the Hydraulic calculations for the proposed highway drainage system, including the attenuation ponds.

- 2.26 As mentioned in the FRA, Derbyshire County Council would be the consenting authority for the diversion of the Dam Brook, culvert extension and replacement of culvert under the A38.
- 2.27 If any further opportunities can be sought to make the Dam Brook Diversion more naturalised this would be welcomed by the County Council.

Conserving and enhancing the Historic Environment

- 2.28 The Government's policy approach to conserving and enhancing the natural environment is set out in Section 16 of the NPPF. Paragraph 164 indicates that heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 193 indicates that, any harm to or loss of, the significance of a designated heritage asset should require clear and convincing justification. Substantial harm to or loss of assets of highest significance, notably ...World Heritage Sites, should be wholly exceptional.

DCC Assessment

- 2.29 Derbyshire County Council's Heritage Officers have assessed the applicant's Environment Statement to consider the likely impacts of that part of the scheme within the Little Eaton junction improvements on any designated and non-designated heritage assets in the area. In summary their conclusions are as follows:
- 2.30 The known and potential archaeology within the site is undesignated, of local to low-regional importance at best and the conclusions of the ES are accepted that it does not constitute a 'significant' impact. Rather, it should be recorded as appropriate in line with the policy at NPPF para 199. To this end a 'Scope of outline archaeological mitigation' is provided at ES 6.14.5 and it is agreed that this provides a suitable methodology for further quantifying the archaeological potential of the site and applying appropriate mitigation, and further that the proposed 'requirements' in the draft DCO with regard to archaeology are appropriate and necessary.
- 2.31 The scheme at Little Eaton junction falls partly within the Derwent Valley Mills World Heritage Site, the remainder being within the Buffer Zone. A stand-alone heritage impact assessment in relation to the World Heritage Site is provided at ES Appendix 6.1. While much of this study is useful it is considered that it omits discussion of the importance of the Derwent floodplain as an attribute of the World Heritage Site. The role of the floodplain landscape as an attribute is borne out by the observation that the World Heritage Site boundaries in this location are drawn to the edges of the Derwent floodplain. The proposed embankments of the scheme may be seen as harmful to this attribute because

they will detract from the legibility and intact-ness of the Derwent floodplain landscape in this location. Derbyshire County Council's Archaeologist would, therefore, take issue with the conclusion of the submitted study that the impacts to the World Heritage Site are '*negligible/slight adverse/not EIA significant*'. A more balanced conclusion might be that the proposals result in a '*minor adverse*' impact upon an asset of 'very high' value, thus producing a '*moderate adverse*' effect which would be viewed as EIA significant. It is also noted that UNESCO's *Operational guidelines for the implementation of the World Heritage Convention* state at 15h) that State Parties have the responsibility to 'not take any deliberate measures that directly or indirectly damage their heritage ...'.

Habitats and Biodiversity

2.32 Paragraph 175 of the NPPF indicates that when determining planning applications, local planning authorities should apply the following principles;

- a) If significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
- d) Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measureable net gains for biodiversity.

DCC Assessment

2.33 As set out above, Derbyshire County Council has carried out an assessment of the potential impacts of the Little Eaton junction improvements scheme on biodiversity and habitats. The assessment has concluded that Derbyshire County Council's ecologist has had extensive engagement with this scheme over the last few years, via AECOM, who have worked hard to include the County Council, Derbyshire Wildlife Trust, the Environment Agency and Natural England in the scheme evolution, and particularly in identifying what ecological surveys would be required, assessing the scope for impacts and considering the potential requirements for compensation and mitigation etc. They have been comprehensive in their engagement and positive throughout the process. Given the extent of engagement to date and the limited scope for impacts, the potential impacts on ecology have been judged to be relatively low risk.

Overall Conclusions: Conformity with Policies of NPPF

2.34 It is considered that the A38 junction scheme, especially relating the Little Eaton Junctions improvements is broadly in accordance with the policies of the NPPF. In terms of sustainable development, the scheme would meet a number of important economic and social objectives of the Framework, particularly in helping to facilitate the delivery of significant housing and employment growth planned across the Derby HMA and reducing congestion and journey times and

delivering safety improvements for residents of the area to the benefit of their quality of life and health and well-being. In terms of economic prosperity, the scheme would improve connectivity between people and jobs in the HMA and would create the conditions on the highways network in which businesses would have more confidence to invest and expand.

- 2.35 In terms of sustainable transport, the highways impacts of the scheme have been assessed by Derbyshire County Council's Officers who consider that the scheme would operate satisfactorily and journey times would improve as a result of the scheme. In terms of Green Belt policy, it is considered that the Little Eaton junction improvements would not constitute inappropriate development in the Green Belt, particularly as a clear need has been established that the Scheme requires a Green belt location and could not be delivered in a non-Green Belt location. However, concerns have been expressed about the landscape and visual impacts of the scheme which are considered to have been under-estimated in the applicant's ES and that the scheme as currently designed could be improved by the inclusion of an elegant viaduct carrying the improved A38 over the River Derwent Flood plain, which would be likely to significantly reduce the visual impact of the scheme on the openness of the Green Belt landscape and landscape character and OUV of the DVMWHS. Some concerns have been raised about the potential flood risk impacts of the scheme which require further clarification from the applicant. Potential impacts on archaeological remains and ecology are considered to be limited. With the satisfactory consideration of the issues and concerns above, it is considered that the Scheme could be likely to be broadly compatible with the policies of the NPPF.

3 Local Planning Policy

3.1 Derbyshire Local Transport Plan (2011 – 2026) Derbyshire County Council 2011

3.1.1 In April 2011, Derbyshire County Council published its Local Transport Plan (LTP) (3). It sets out a transport vision, goals, challenges to be tackled and a strategy covering the period to 2026.

3.1.2 The vision aims to achieve a transport system that is both fair and efficient, promotes healthier lifestyles, safer communities, safeguards and enhances the natural environment and provides better access to jobs and services. Whilst also improving choice and accessibility of transport and integrating economic, social and environmental needs.

3.1.3 The 5 transport goals are:

1. Supporting a resilient local economy.
2. Tackling climate change.
3. Contributing to better safety, security and health.
4. Promoting equality of opportunity.
5. Improving quality of life and promoting a healthy natural environment.

3.1.4 The plan puts emphasis on supporting a resilient local economy, contributing to better safety, security and health, and improving quality of life and promoting a healthy natural environment. It aims to achieve longer term benefits for climate change and measures to help people under the equality of opportunity goal.

3.1.5 With regards to the A38, Chapter 10.2 summarises examples of projects led by other organisations which have an influence on Derbyshire, including the Highways Agency (now Highways England) for Trunk Road schemes, rail projects, regeneration, cross boundary projects and green infrastructure strategies. The A38 Derby Junctions is specifically listed as a project which would enhance the capacity of the Trunk Road network to accommodate strategic traffic. It is indicated that ‘

The A38 junctions include that at Little Eaton / Abbey Hill, which falls within Derbyshire; the aim of the Highways Agency is to start construction after 2015. These junctions represent a major constraint for the County and their improvement is important to the County’s wider economic prosperity, as well as linking with possible housing developments in the Derby Housing Market Area

3.1.6 The A38 Junctions scheme is, therefore, recognised in the LTP as being important to the County’s wider economic prosperity and would help to deliver new housing developments within the Derby HMA. The Scheme would also meet a number of elements of the LTP’s Vision, particularly to achieve a transport system that is both fair and efficient, promotes safer communities and provides better access to jobs and services.

3.2 Erewash Borough Adopted Core Strategy

3.2.1 The Erewash Borough Core Strategy was adopted in March 2014 and sets out the Borough Council's broad spatial strategy for where new homes, jobs and infrastructure will be located within the Borough. The broad strategy is to focus development towards existing urban areas and promote regeneration and support the drive for sustainable development.

3.2.2 Paragraph 2.2.3 highlights that Erewash is well linked to the strategic road and rail network. A combination of trunk and motorway routes pass through the Borough and the M1, A52, A38 and (just beyond the southern boundary) the A50 all provide connections to nearby towns and cities.

3.2.3 Paragraph 2.4.9 sets out the vision for transport and states that:

'Improved road links and integrated public transport infrastructure and networks will have created improved access to excellent public services. The Borough will be easily accessible by a choice of modes of travel with the creation of enhanced opportunities increasing usage of local cycling and walking facilities, helping to enhance recreation and leisure opportunities resulting in a healthier population'.

3.2.4 The spatial objectives to deliver this vision are set out in Section 2.5 of the ECS. These objectives include environmentally responsible development, high quality new homes, economic prosperity, vibrant town centres, regeneration, an excellent transport system and protecting natural assets.

3.2.5 Section 3 sets out policies which will deliver the vision and objectives. Policy A sets out that there will be a presumption in favour of sustainable development to secure development that improves economic, social and environmental conditions.

3.2.6 Of direct relevance to the Little Eaton junctions element of the scheme, Policy 3 in the ECS sets out the policy approach to development in the Green Belt which states that:

'Consideration will be given to the following objectives when considering proposals in the Green Belt:

- 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;*
- d) *Safeguarding valued countryside; and*

- e) *Preserving the setting and special character of Erewash towns and rural settlements.*

DCC Assessment

- 3.2.7 There is little specific reference to the proposed A38 Junction Scheme in the EBSC. The A38 passes through a relatively small area of the Borough to the north-west of the Borough and it could be argued, therefore, that the key benefits of the A38 Junctions Scheme set out in this statement above in being likely to facilitate future economic growth and increased business confidence and investment are more likely to accrue to Derby City and the wider Derby HMA than more directly on Erewash Borough. Nevertheless, it is considered that Scheme would meet some of the broad aims and policy objectives of the EBSC in facilitating economic growth and prosperity and creating an excellent transport system with improved road links and networks to provide improved access to services and facilities and job opportunities within the Borough and wider area.
- 3.2.8 The key policy area of particular relevance is Policy 3: Green Belt. The Little Eaton junction improvements are located within the Nottingham – Derby Green Belt which covers much of Erewash Borough. The Green Belt in this location performs an important purpose in preventing the urban sprawl of the urban area of Derby and preventing the coalescence of the City's urban area with the settlements to the north and east of Derby City, particularly Little Eaton and Breadsall within Erewash Borough.
- 3.2.9 An assessment has been carried out above of the potential impacts of the Little Eaton junction improvements on the Green Belt in the context of policies for Green Belt in the NPSNN and NPPF. This assessment has concluded that the scheme does not constitute inappropriate development in the Green Belt, particularly as there is a compelling case for the need for the improvements to facilitate capacity improvements on the A38 and address congestion and travel delay problems and that as the A38 was already an existing piece of highway infrastructure located within the Green Belt, the improvements to the junction could only be facilitated on land within the Green Belt and so a Green Belt location was required. The assessment concludes that overall, the scheme would not fundamentally compromise or undermine the main Green Belt purposes but concerns are expressed about the proposed design of the scheme, particularly the proposed extensive embankment to carry the scheme over the River Derwent floodplain. It is recommended that this should be replaced with an elegant viaduct to carry the A38 over the floodplain, which would have less visual impact on the landscape and landscape character of the area and consequently reduced impact on the openness of the Green Belt.

3.3 Derby and Derbyshire Minerals and Waste Local Plans

Derby and Derbyshire Minerals Local Plan

- 3.3.1 The Derby and Derbyshire Minerals Local Plan was adopted in April 2000 and was amended in November 2002. The vast majority of the policies in the Plan

were saved by Order of the Secretary of State in September 2007. The vast majority of the policies in the Plan relate to minerals development and extraction and as such have little relevance to the A38 junction scheme. The only policy which has some relevance is Policy MP17 which indicates that:

The Mineral Planning Authority will resist proposals for any development which would sterilise or prejudice the future working of important economically workable mineral deposits where:

- 1) *There is an over-riding need for the development and;*
- 2) *Where prior extraction of the mineral cannot reasonably be undertaken or is unlikely to be practicable or environmentally acceptable.*

Where the development of land for non-mineral purposes is considered essential and proven mineral deposits would be permanently sterilised, planning permission for prior extraction will be granted provided this does not prejudice the timing and viability of the proposed development and does not lead to unacceptable environmental effects.

- 3.3.2 In the context of the above, Derbyshire County Council considers that the Little Eaton Junctions scheme does not raise any significant issues or concerns relating to Policy MP17 as the scale and nature of the proposed works would not be likely to sterilise any important mineral resource on or around the site.

Emerging Derby and Derbyshire Minerals Local Plan.

- 3.3.3 Derbyshire County Council and Derby City Council are currently preparing a replacement Joint Minerals Local Plan for Derby and Derbyshire. However, the Plan is at a relatively early stage in preparation and so far only an initial Issues and Options consultation has been carried out (March 2018) together with a number of associated topic papers. A Draft of the Local Plan is not anticipated to be published until 2020. The emerging Local Plan raises no issues relevant to the consideration of the A38 Junctions scheme.

Adopted Derby and Derbyshire Waste Local Plan

- 3.3.4 The Derby and Derbyshire Waste Local Plan was adopted in March 2005 and sets out policies for 'waste development' and does not set out policies specifically for other types of development, such as the application proposals. Nevertheless, it is considered that the application proposals raise a number of issues that are waste 'related' development particularly the need for waste material derived from the scheme to be disposed of by means of landfill. The relevant policies are as follows:

W11: Need for Landfill

Waste disposal by means of landfill will not be permitted unless:

The development is essential to satisfy a need to dispose of locally-generated waste which will not otherwise be met, taking into account the methodology set

out in appendix B; and unless any material harm would be outweighed by one of the following:

- *The development is necessary to restore land for beneficial use in line with development plan policies;*
- *The development is necessary to improve the land for agriculture;*
- *The development is necessary to achieve farm diversification consistent with the site's location;*
- *The development is necessary to improve the local ecology or landscape.*

3.3.5 In this regard, the assessment provided above of the merits of the application in the context of the policies of the NPSNN relating to the minerals and waste implications of the development, concludes that the A38 junction improvements scheme as a whole does not raise any significant concerns with regards to availability of waste infrastructure and capacity to deal with waste generated by the proposed development.