

# **A38 Derby Junctions Development Consent Order**

**Scheme Number TR010022**

## **8.36 Applicant's Comments on any Additional Information or Submissions Received by Deadline 1**

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The Infrastructure Planning (Examination Procedure) Rules 2010

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A38 Derby Junctions  
Development Consent Order 202[ ]

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Version 1	19 November 2019	Final for submission at Deadline 2

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## **1.1 Applicant's Comments on any Additional Information or Submissions Received by Deadline 1**

- 1.1.1 This document provides the comments of Highways England (the Applicant) on some of the responses made by Interested Parties to the Planning Inspectorate on Deadline 1, 5 November 2019 in respect of the A38 Derby Junctions scheme (the Scheme) Development Consent Order (DCO) application.
- 1.1.2 The Applicant has sought to provide comments where it appeared to be helpful to the Examination to do so, for instance where a response includes a request for further information or clarification from the Applicant or where the Applicant consider that it would be appropriate for the Examining Authority (ExA) to have the Applicant's comments on a matter raised by an Interested Party in its response.
- 1.1.3 Where an issue raised within a response has been dealt with previously by the Applicant, for instance in the Applicant's own response to a question posed by the ExA in its first round of written questions or within one of the documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.4 The Applicant has not provided comments on every response made by an Interested Party to the questions raised. In some cases, no comments have been provided, for instance, because the response provided a short factual response, it reiterated previously expressed objections in principle to the Scheme or expressions of opinion without supporting evidence, or it simply contradicted the Applicant's previous response to a question without providing additional reasoning.
- 1.1.5 For the avoidance of doubt, where the Applicant has chosen not to comment on matters raised by Interested Parties this is not an indication that the Applicant agrees with the point or comment raised or opinion expressed in that response.

**Table Error! No text of specified style in document.-1 Applicant's comments**

Ref	Source	Comments	Applicant's Response
<b>1 Derby City Council</b>			
1.1	Local Impact Report [REP1-035]	Section 7; page 15; 4 <sup>th</sup> paragraph: “.... <i>However, there are a large number of network coding errors in the model on the Mansfield Road corridor in terms of the priority at junctions. This could be causing unrealistic delays along the journey time route used to measure changes on Mansfield Road.</i> ”	<p>This DCiC comment also relates to a question in the ExA First Written Questions (FWQ) No.4.36.</p> <p>Please refer to Highways England's Volume 8.5 Responses to ExA FWQ [000796] at item 4.36.</p> <p>It is accepted that the traffic model coding of Mansfield Road and its priority junctions could be improved. However, whilst there may be limitations to this specific area of the highway model, Highways England reiterates the opinion that these noted deficiencies are not detrimental to the assessment and appraisal of the Scheme (for the reasons set out in the repose to FWQ 4.36).</p> <p>As an additional comment, it was noted [REP1-005 at item No 4.36] that the 2039 forecast year convergence issue related to the coding of the priority junctions and only occurs in the AM2 time period and <u>only</u> in the 'Do-Something' case. On further inspection, the convergence issue does not occur in the 'Do-Minimum' assignments because vehicles will be stored within queues at the A38 Little Eaton junction (i.e. the existing layout) and this will reduce the localised traffic demands upon these Mansfield Road priority junctions. In the 'Do-Something' case, the elimination of the queuing by grade separation would allow a higher intensity of traffic flow to load onto the A61 Sir Frank Whittle Road and the Mansfield Road priority junction adjacent to Sims Metal Management property.</p>

Ref	Source	Comments	Applicant's Response
			<p>Whilst the cause is a real effect that might be anticipated, the AM2 journey times reported by the 2039 traffic forecasting model on Journey Time Route No 4 southbound cannot be relied upon because of a random instability in this 2093 traffic forecasting AM2 time-period assignment. This statement reiterates the conclusion stated in Highways England's Deadline1 response [REP1-005 Item 4.36].</p>
1.2	Local Impact Report [REP1-035]	<p>Section 9; page 23; 5<sup>th</sup> paragraph: "<i>The increase in speed limit from 40mph to 50 mph between Kingsway and Markeaton means that the A38(T) access from Brackensdale Avenue and Raleigh Street will also close.</i>"</p>	<p>The accesses from Brackensdale Avenue and from Raleigh Street would be closed because of their proximity to the proposed Kingsway north-facing slip roads and their merging and diverging regions. Their closure would be required with the Scheme irrespective of the speed limit that is applied to the A38 between the Kingsway and the Markeaton junctions.</p> <p>Refer also to Highways England's response REP1-005 at item 4.37 (d).</p>
1.3	Local Impact Report [REP1-035]	<p>The DCiC Local Impact Report <b>[REP1-035]</b> includes commentary regarding the potential Scheme effects upon air quality, noise and climate as directly related to traffic volumes and changes in traffic patterns as a result of the Scheme operation. The themes included in the Local Impact Report as related to these issues are discussed in the sections below, together with Highways England commentary.</p>	
1.4	Local Impact Report [REP1-035]	<p>DCiC's Local Impact Report includes a section on air quality impacts as associated with Scheme operation as detailed in ES Chapter 5: Air Quality <b>[APP-0043]</b>. Highways England has reviewed the DCiC text and provides commentary on the air quality topics as raised.</p>	<p>Highways England agree that the DCiC traffic management measures to improve air quality on Stafford Street (called the Roadside NO<sub>2</sub> scheme in the Local Impact Report) is a material consideration. Thus the assessment of Scheme effects on air quality as reported in ES Chapter 5: Air Quality <b>[APP-0043]</b> has taken the Roadside NO<sub>2</sub> scheme into account, both during Scheme construction and operation. Highways England is in</p>

Ref	Source	Comments	Applicant's Response
			<p>agreement with DCiC's comment that (based on the information presented in ES Chapter 5: Air Quality [APP-0043]) operation of the Scheme would reduce annual mean nitrogen dioxide (NO<sub>2</sub>) concentrations by more than 1ug/m<sup>3</sup> in Stafford Street so would have a beneficial impact on the only non-compliant road link in Derby. DCiC also state that the Highway England modelling shows that the Scheme would not result in any new exceedances.</p> <p>Highways England agrees with the DCiC comment that the method DCiC has used to assess NO<sub>2</sub> compliance does not fully align with the method used to assess air quality in ES Chapter 5: Air Quality [APP-0043] and the latest results produced by DCiC for the compliance assessment. Thus DCiC requested that further investigation be undertaken in order to provide confidence that the Scheme will not create any new non-compliance areas elsewhere due to the difference in assessment methodologies. DCiC is particularly concerned about a house at the end of Kedleston Old Road which is very close to the A38.</p> <p>In relation to the above, DCiC provided Highways England with modelled NO<sub>2</sub> concentrations in 2016 and 2020 at receptors located at 4m from roads across the city in-line with the Defra JAQU compliance method. The compliance method requires concentrations to be assessed at this distance rather than at the facades of properties. This modelling is the most recent information available and can be seen at <a href="http://maps.derby.gov.uk/">http://maps.derby.gov.uk/</a>. Annual mean NO<sub>2</sub> concentrations within, but close to the EU limit value in the range 30 - 40 µg/m<sup>3</sup> in 2020, were predicted at several locations, including at compliance receptors near the A38</p>

Ref	Source	Comments	Applicant's Response
			<p>and A601 Inner Ring Road. As the main Scheme construction works would commence in 2021, receptor concentrations in 2021 were estimated from those in 2020 by linear extrapolation. The largest increase out of all the scenarios was predicted to be <math>5.0\mu\text{g}/\text{m}^3</math> at R176 during traffic management Scenario 4. DCiC receptors with <math>\text{NO}_2</math> concentrations equal to or greater than <math>35\mu\text{g}/\text{m}^3</math> in 2021 were identified as being at risk of exceeding the limit value if <math>\text{NO}_2</math> concentrations due to the Scheme were to increase by the maximum amount at these locations. DCiC receptors with <math>\text{NO}_2</math> concentrations less than <math>35\mu\text{g}/\text{m}^3</math> are not at risk of exceeding the limit value due to increases due to the Scheme. Scheme receptors close to the compliance receptors at risk of exceeding the limit value were identified together with the change expected due to the Scheme with each of the modelled scenarios. The change due to the Scheme was then added onto the Defra/JAQU prediction to assess whether the compliance receptor would exceed the limit value. Using this method, it was indicated that all of the predicted <math>\text{NO}_2</math> concentrations would be within the limit value and so would be compliant during both Scheme construction and operation. This includes the house at the end of Kedleston Old Road next to the A38. These results confirm the findings of the ES that the Scheme would not result in any new exceedances.</p> <p>DCiC is concerned if construction of the Scheme starts before the traffic management measures to improve air quality in Stafford Street have been fully delivered and before compliance levels have been achieved. DCiC state that there is thus the possibility, though remote, that this could lead to a period of higher traffic volume on Stafford Street and therefore puts the street at greater risk of non-</p>

Ref	Source	Comments	Applicant's Response
			<p>compliance in 2020 and possibly 2021. DCiC has raised the point to highlight whether there is a way to incorporate contingency arrangements within the A38 Scheme construction traffic management plans, subject to practicality and feasibility. It is noted that whilst preliminary works are scheduled to start in November 2020, construction phase traffic management would not be installed until the start of the main works scheduled for March 2021. Thus, there is no risk that Scheme construction would impact upon compliance in 2020 given that main construction activities would not commence until 2021. Highways England has agreed that the Scheme construction contractor will need to maintain close communications with DCiC throughout the Scheme construction phase and plan their construction phase traffic management proposal in a manner that minimises traffic flow impacts on Stafford Street. Requirement 11 of the draft Development Consent Order (dDCO) <b>[REP1-019]</b> states that no part of the authorised development is to commence until a Traffic Management Plan (TMP) for the construction has been submitted to and approved by the Secretary of State following consultation with the local highway authority. As such, DCiC will be consulted during the preparation of TMP. The DCiC traffic management measures are the most suitable mechanism to reduce traffic flows in Stafford Street and are required by ministerial direction to be in place by 2020 at the latest.</p>
1.5	Local Impact Report [REP1-035]	With regard to greenhouse gas emissions, DCiC state that all GHG emissions contribute to global climate change and can, therefore, be considered to have	The assessment indicated that approximately 130,858t CO2e is estimated to be emitted over the Scheme construction period, the majority of which (90.72%) is from embodied carbon within construction materials. In the

Ref	Source	Comments	Applicant's Response
		<p>some level of significance. The potential effects of Scheme construction and operation on climate are detailed in ES Chapter 14: Climate <b>[APP-052]</b></p> <p>Highways England has reviewed the DCiC text and provides commentary on the climate topics as raised.</p>	<p>context of the relevant UK carbon budgets, these emissions are not deemed to be significant. The assessment also indicated that Scheme operational emissions within the 'do-something' scenario are estimated as being approximately 856 tCO<sub>2</sub>e higher than those within the 'do-minimum' scenario for the Scheme opening year (2024) and approximately 2,723 tCO<sub>2</sub>e higher than those within the 'do-minimum' scenario in the design year (2039). This equates to an overall increase in emissions of 148,455 tCO<sub>2</sub>e over the Scheme's 60-year operational lifetime compared to the baseline. These emissions are not deemed to be significant in the context of the relevant carbon budgets.</p> <p>DCiC note that emission estimates (as detailed in the ES Chapter 14 <b>[APP-052]</b>) do not take account of lower carbon fuels, electric vehicles (EVs) and improved vehicle technology. The reason for this exclusion is that it is difficult to quantitatively account for future EV uptake and decarbonisation of the grid as this is dependent on government policy – thus it is not possible to accurately estimate actual rates of uptake. Hence, operational Scheme emissions are presented as a worst case, with qualitative text provided describing the anticipated future changes.</p> <p>DCiC state that it is difficult to comment on the GHG impacts of the Scheme, although they compare Scheme emissions against annual average UK persons CO<sub>2</sub> emissions (cited as being 11 tonnes per annum). Using this comparison DCiC consider that Scheme GHG emissions in the opening year (2024) would increase emissions to an equivalent of 78 people, whilst in 2039,</p>

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			<p>emissions would be equivalent to 247 people. Whilst this comparison provides figures of interest, comparison of operational Scheme emissions to 'per person' CO<sub>2</sub> emissions is problematic given that 'per person' emissions include emissions associated with energy use, food consumption, water use and aviation emissions, among others, whereas the Scheme operational emissions only account for road transport emissions. Also, depending on rates of EV uptake, decarbonisation of the grid and behavioural change, either operational emissions associated with the Scheme or 'per person' CO<sub>2</sub> emissions will decrease over time at a faster rate than the other, which would lead to a disproportionate/ inaccurate comparison for 2039 emissions. Due to these inconsistencies/ uncertainties, comparison of Scheme emission to the future UK carbon budgets is considered to be most appropriate.</p>
1.6	Local Impact Report [REP1-035]	<p>DCiC's Local Impact Report <b>[REP1-035]</b> includes a section on noise impacts as associated with Scheme operation as detailed in ES Chapter 9: Noise and Vibration <b>[APP-047]</b>. Highways England has reviewed the DCiC text and provides commentary on the noise topics as raised.</p>	<p>Highways England is in agreement with the summary of operational traffic noise effects and mitigation as reported in the DCiC Local Impact Report <b>[REP1-035]</b>.</p> <p>DCiC state that "<i>Professional judgement regarding the significance of impacts can vary. Whilst the impact descriptors used in the ES (Chapter 9) are deemed appropriate, it is hard to state that full agreement with the significance of impacts has been reached with the applicant, due to the subjective nature of noise and nuisance. This is particularly true in relation to construction noise where there are still many unknowns</i>". Highways England agrees that individual responses to a new noise source (such as construction) or a change in an existing</p>

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			<p>noise source (such as road traffic noise) are subjective and unique. However, for the purposes of an Environmental Impact Assessment (EIA) a consistent methodology, in accordance with current best practice and guidance, must be adopted in the identification of potentially significant effects.</p> <p>As outlined in ES Section 9.3 (Assessment Methodology) [APP-047], an initial significance level is assigned based on consideration of the predicted noise level (Scheme construction) or change in noise level (Scheme operation). Professional judgement is then used to consider a number of other factors which may affect the initial significance decision. Through the discussions with DCiC, in particular with regard to the SoCG, no areas of disagreement in the application of professional judgement and the identification of noise significant effects have been raised by DCiC. It is noted that the draft SoCG with DCiC indicates that DCiC is in agreement regarding the construction and operational noise impact assessment methodology as used in ES Chapter 9: Noise and Vibration [APP-047].</p> <p>DCiC summarises the noise barrier features included within the Scheme design at Kingsway junction and Markeaton junction. DCiC state that "<i>The mitigation proposals, in association with the operational (completed) scheme, primarily in the form of noise barriers, are agreed in principle based on the current assessment work set out in the ES</i>". Such agreement is welcomed by Highways England. Such agreement is also included in the draft SoCG with DCiC.</p>

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			<p>Highways England acknowledges DCiC's concerns regarding the inherent uncertainties at this stage, before the exact details of the construction works are finalised. To minimise the risk of additional significant effects occurring beyond those reported in the ES [APP-0047], the assessment was based on the best available information on the construction works and robust assumptions with regard to construction details such as activity durations and plant requirements.</p> <p>Highways England welcomes the agreement from DCiC that uncertainties with regard to the construction works can be dealt with successfully during the Scheme construction phase through the Construction Environmental Management Plan (CEMP) – the contractor would base the CEMP on the Outline Environmental Management Plan (OEMP) [APP-249] (as required by the dDCO, see requirement 3) which includes a range of methods to control noise during Scheme construction. The CEMP will enable construction noise and vibration effects to be managed and minimised throughout the works. For example, specific details of the Best Practicable Means (BPM) to be adopted during the works will be included in the CEMP (refer to clauses PW-NOI1 and MW-NOI1 of the OEMP [APP-249]). Requirement 3 of the draft Development Consent Order (dDCO) [REP1-019] states that the CEMP must be substantially in accordance with the OEMP [APP-249] and that no part of the authorised development is to commence until a CEMP has been prepared in consultation with the relevant planning</p>

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			<p>authorities and submitted to and approved in writing by the Secretary of State. Similarly Requirement 11 states that no part of the authorised development is to commence until a Traffic Management Plan (TMP) for the construction of the Scheme has been submitted to and approved by the Secretary of State following consultation with the local highway authority. As such, DCiC will be consulted during the preparation of both the CEMP and the TMP. Acknowledgment of such consultation requirements is included in the draft SoCG with DCiC.</p>
1.7	<p>Responses to ExA's First Written Questions            Question: 5</p>	<p><b>Guillotines:</b> We have nervousness about such short deadlines and given the complexity, with consultation and possible political briefings and debate. Suggest a more reasonable and realistic time period of up to 42 days would be more palatable. The nature of the question will depend on the time taken to give a response. DCiC expects Highways England to carry out legal work and advertising to an agreed standard, and for Highways England to carry out appropriate consultation.</p>	<p>Highways England is slightly confused by this response as Derby City Council indicated at the DCO ISH that it was comfortable with the timeframe suggested.</p> <p>These timings are included to ensure that there is no unnecessary delay in the approvals needed under the various articles. As a Nationally Significant Infrastructure Project, it is important that in the event the DCO is granted, Highways England is able to progress with the works without unnecessary delay. As set out in its response to this question, the provisions to which the 'guillotine' would apply are the following:</p> <ul style="list-style-type: none"> <li>Article 15 (temporary stopping up and restriction of use of streets and highways)</li> <li>Article 19 (traffic regulation)</li> <li>Article 20 (discharge of water)</li> <li>Article 22 (authority to survey and investigate land)</li> </ul> <p>Given the nature of the articles, Highways England considers it is unlikely that political briefings or debate will be required, as the principle for the provisions will be established through the DCO and therefore it will only be</p>

Ref	Source	Comments	Applicant's Response
			the detail that DCiC will need to approve. Highways England therefore considers a 28 period (which has been approved on other DCOs) is both reasonable and appropriate.
1.8	Responses to ExA's First Written Questions Question: 13	<b>Disapplication of legislative provisions:</b> Article 3. Disapplication of legislation provisions. We have significant concern that the Disapplication of the Land Drainage Act removes the Lead Local Flood Authority (LLFA)'s ability to influence the culvert alterations and implementation of the flood risk storage areas. It is the LLFA's duty under the Floods and Water Management Act to manage flood risk from ordinary watercourses. We would ask that if the proposal is to be implemented that Lead Local Flood Authority is consulted on all alteration to works associated with ordinary watercourse including culvert alterations.	The disapplication of the Land Drainage Act has been included to ensure that there is no delay to the implementation of the DCO, if consent is granted.  The wording of requirement 14 (flood compensation and storage) has been revised to include provision for consultation with Derby City Council as the lead local flood authority in relation to the flood storage proposals at Kingsway which should address this concern.
1.9	Responses to ExA's First Written Questions Question: 19	<b>Enter all of the Streets within the Order Limits:</b> DCiC does not agree. DCiC will require the Traffic Management Act Noticing procedures to be observed, including full compliance with Derby City Council Permit Scheme. This is essential for coordination and management of the adjacent road network.	Highways England cannot say definitively at this stage which of the streets within the Order limits will be entered; this will be determined at the detailed design stage

			<p>However, it is worth noting that these are standard provisions that are available to any holder of a Street Works licence or statutory undertaker and therefore are considered appropriate. However, these provisions should be read in conjunction with Article 12 (Application of the 1991 Act), which confirms at paragraphs (4) and (5) that various provisions of the 1991 Act apply to any street works carried out by Highways England under the DCO. These include:</p> <ul style="list-style-type: none"> <li>o Section 54 (advance notice of certain works)</li> <li>o Section 55 (notice of starting date of works)</li> <li>o Section 57 (notice of emergency works)</li> <li>o Section 59 (general duty of street authority to co-ordinate works)</li> <li>o Section 60 (general duty of undertakers to co-operate)</li> <li>o Section 68 (facilities to be afforded to street authority)</li> <li>o Section 69 (works likely to affect other apparatus in the street)</li> <li>o Section 75 (inspection fees)</li> <li>o Section 76 (liability for cost of temporary traffic regulation)</li> <li>o Section 77 (liability for cost of alternative route)</li> </ul> <p>These provisions have been specifically imported into the dDCO to ensure that the works to streets authorised by the Order are carried out in such a manner that they are coordinated and managed with the adjacent route network. Therefore, no further procedures will need to be adhered to in carrying out works to streets within the Order limits.</p>
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Ref	Source	Comments	Applicant's Response
1.10	Responses to ExA's First Written Questions Question: 21	<b>Section 4 of the Highways Act would be affected:</b> Covered in 19 above, in the SoCG, LIR or written submissions	Noted. See above response.
1.11	Responses to ExA's First Written Questions Question: 29	<b>Traffic Regulation matters not agreed:</b> Where Highways England are not the Highway Authority. DCiC request further consultation to agree appropriate TRO processes.	<p>This will be discussed with DCiC as part of the SoCG process.</p> <p>Highways England is unclear why DCiC is seeking further consultation in relation to TRO processes.</p> <p>Article 19(2) states that the powers in relation to traffic regulation orders are "subject to the consent of the traffic authority in whose area the road concerned is situated", and that consultation must be carried out with the traffic authority and the chief officer of police before exercising such powers (see article 19(5)).</p> <p>It is important for the timely delivery of the Scheme that the powers to make traffic regulation orders is included within the DCO so that there is no question at a later stage about Highways England's ability to do so. It is considered that sufficient controls and approvals from the traffic authority are included within this article to ensure that appropriate consultation is undertaken in advance of any orders being made.</p>
1.12	Responses to ExA's First Written Questions Question: 30	<b>Discharges to non-main River Watercourses:</b> Article 20. Discharge of water. This clause appears to offer the DCiC some protection over the discharge of water to the watercourse and drains in its ownership. It also provides a	Article 20 applies to water discharge that is undertaken in relation to the development authorised by the dDCO. If existing outfalls are being changed as a result of the authorised development, then this article would apply – if there are no changes to the existing position then Article 20 does not apply.

Ref	Source	Comments	Applicant's Response
		requirement for reasonably practicable water treatment. It is not clear if this if this paragraph includes existing outfalls.	
1.13	Responses to ExA's First Written Questions Question: 53	<b>Derby City Council will consider and respond on 53(c):</b> Yes – the thrust of this point is referred to in answer to questions raised elsewhere	Noted
1.14	Responses to ExA's First Written Questions Question: 56	<b>Timescales in Requirement 4:</b> Yes – standard consultation is 28 days and thereafter compilation, consideration and reporting would take responses to some 42 days	Highways England will ensure it factors in appropriate time for consultation with DCIC and other consultees in relation to the various schemes to be approved by the Secretary of State. It does not, however, consider that it is either necessary or helpful to include specific timings within requirement 4.
1.15	Responses to ExA's First Written Questions Question: 58	<b>Requirement 9, the OEMP and the Heritage Impact Assessment to ensure consistency of terms and requirements:</b> Need to use of the ICOMOS guidance on HIA. It is being covered in the SoCG response but until DVMWHS partnership has fed into the process there is concern about the use of the guidance and inconsistency	Requirement 9 of the dDCO concerns archaeological investigations to be undertaken as associated with the Scheme construction phase (as described in ES Chapter 6: Cultural Heritage [APP-044]). As such the ICOMOS guidance on HIA is not relevant. The HIA [APP-173] submitted with the DCO application followed ICOMOS guidance.

Ref	Source	Comments	Applicant's Response
1.16	Responses to ExA's First Written Questions Question: 65	<p><b>Omission of the identified model provisions:</b> DCiC is aware that these model provisions have been repealed and are not in force – as such, aspects relating to these three issues are dealt with elsewhere in the dDCO and the associated Requirements (e.g. Requirement 5 (Landscaping), Requirement 10 (Protected species), Requirement 3 (Construction Environmental Management Plan)). In detail for instance dust emissions associated with construction are controlled under the CEMP, which is a requirement under the dDCO in any case. Specific provisions for dust control would appear to be duplication. In addition, specific provisions may actually be less flexible depending upon how cleverly the wording has been done. DCiC would prefer to deal with dust under the CEMP, as long as we have some degree of control/approval over what goes in it.</p>	Noted – as set out in requirement 3 of the dDCO, DCiC are a consultee in relation to the CEMP and therefore can ensure that procedures are suggested to ensure that dust control is appropriately managed. The Secretary of State will take this detail into account before a decision is made by him when approving the CEMP.
1.17	Responses to ExA's First Written Questions Question: 67	<p><b>Concerns regarding Schedule 3:</b> Although we have not received a formal response on the points initially raised, it is expected that these questions will need to be addressed as part of the detailed design. We would welcome further detail and the opportunity to be engaged in the</p>	See 1.7 (response to q.29) above

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		Traffic Regulation Order (TRO) making process, this will allow us to keep our Councillors up to date and ensure that we hold current and accurate data, ensuring sufficient enforcement	

<p>1.18</p>	<p>Responses to ExA's First Written Questions          Question: 1.5</p>	<p><b>Requirements 1-21 Provisions for consultation and agreement:</b> Reqt 3 (CEMP) – current dDCO wording fine.</p> <p>Req 8 (Land and Groundwater Contn) – This section only requires “a contamination risk assessment in respect of <b>controlled waters</b>”. The DCO should also include a requirement for risk assessment in respect of risks to <b>human health</b>, especially arising from ground gases.</p> <p>Req 11 (Traffic Management) – would recommend a specific requirement for further consultation and prior agreement in relation to any unforeseen changes to the agreed construction traffic management plan, which may be required as necessary during the construction phases of the development. This should have reference to consideration of the changes in terms of potential impacts upon local air quality and noise.</p> <p>Need to consult with DVMWHS Partnership.</p> <p>Need to consult with DCiC Structures on how our asset management plans, policies, and procedures will be directly affected due to the physical works, or as a result of the constraints and effects of the</p>	<p>Noted.</p> <p>With regard to Requirement 8, we note DCiC comments on the need to consider risks other than those to controlled water at potentially contaminated sites. Thus the dDCO wording has been amended to state “<i>No part of the authorised development is to commence until a contamination risk assessment in respect of controlled waters has been produced...</i>” Such a risk assessment could then consider risks to controlled waters, as well as risks to human health from ground gases as required. Such details will be included in the next version of the OEMP [APP-249].</p> <p>Refer to REP1-005, item 4.23</p> <p>Refer to REP1-005, item 4.25 and 4.26 Highways England has consulted the Derwent Valley Mills World Heritage Site Partnership who have indicated that they consider the Scheme to have less than substantial harm on the Outstanding Universal Value (OUV) of the World Heritage Site (WHS). They have requested further consideration of the proposed design of the Little Eaton junction to limit this harm. Further consultation with the Partnership is proposed.</p> <p>As part of the consultation process for the discharge of requirement 13, Highways England has to consult with the local planning authority. As such, DCiC will be consulted</p>
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		<p>scheme on the local network, or both. The following points below could possibly also cover a number of other questions such as 4.4, 4.5, 4.17, 4.21, 4.25b, 4.27a, 4.29, 4.38, 4.44 etc. rather than just this section. From an inspection /maintenance /awareness perspective we would need to understand the impact of the works on the following:</p> <p>Existing HE/Non DCC Structures within the site extents and within the area(s) expected to be directly affected by the works:</p> <ul style="list-style-type: none"> <li>I. Existing - Unaffected</li> <li>II. Existing - Demolished</li> <li>III. Existing - Demolished – Replaced</li> <li>IV. Existing – Modified</li> </ul> <p>Existing DCC Structures within the site extents and in the area(s) expected to be directly affected by the works:</p> <ul style="list-style-type: none"> <li>I. Existing - Unaffected</li> <li>II. Existing - Demolished</li> <li>III. Existing - Demolished – Replaced</li> <li>IV. Existing – Modified</li> </ul> <p>We would also need to know details of the following:</p> <p>New HE/DCC Structures within the site extents:</p> <ul style="list-style-type: none"> <li>I. Bridges</li> <li>II. Footbridges</li> <li>III. Culverts and drainage structures</li> <li>IV. Retaining Walls</li> <li>V. Sign/signal gantries</li> <li>VI. Others: including temporary structures</li> </ul>	<p>as part of this process and Highways England expects that the local planning authority will consult internally with the LLFA as part of this process. On this basis, Highways England does not consider it is necessary to include reference to the LLFA in the DCO.</p>
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		<p>We would need add/delete/modify all the affected entries on our asset management system (BridgeStation) for all the above. We would need to understand which, if any need AIP's (I'd suggest any structures carrying/spanning DCC adopted highway will need one).</p> <ul style="list-style-type: none"> <li>From a traffic modelling/network resiliency perspective we would need to understand the following:</li> </ul> <p><b>General Traffic</b>    How will general traffic be affected in the temporary case(s) (assuming multiple phases with different effects) and in the modelled permanent case, and what changes will these scenarios create to the existing traffic profiles over/under structures (especially DCC structures) on signed diversion routes and on local roads we anticipate being more heavily used? Could this create additional maintenance issues/costs (deterioration of surfacing, joints, etc.)?</p> <p><b>Abnormal Loads</b>    How will abnormal load movements on the A38 be managed in the temporary case? Which of our structures are most likely to be affected, which may need protection (through TRO's, TTRO's etc.)? Which structures may need monitoring or more frequent monitoring during the works?</p> <p><b>Requirement 12 Detailed Design</b>    We would request the consultation should include the Lead Local Flood Authority for</p>	
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		<p>requirements 12(1) and (2). (see notes requirement 13 and 14 below).</p> <p><b>Requirement 13</b>          As discharge rates from the surface drainage infrastructure can affect the flood risk in any receiving ordinary watercourse, we would ask that the requirement 13(1) and (2) include consultation with the Lead Local Flood Authority (LLFA).          Greater clarity could be given by stating the discharge rates for each outfall.          We would also request that all outfalls include a minimum level of water treatment (a petrol interceptor) to protect the wider water environment and not to place a burden on downstream land owners.          (NOTE - In considering the placement of Petrol Interceptors, consideration should be given to the future maintenance of these elements.)</p> <p><b>Requirement 14</b>          It has been agreed that for the flood model for the Kingsway Island a climate change allowance of 40% is adopted. This is because the model hydrology is based on rainfall runoff not normal fluvial catchment descriptors. This is believed to be the more conservative approach at this location due to the high degree of surface runoff produced by the catchment.</p>	<p>Requirement 14 has been amended to detail the different climate change allowance for flood compensation areas compared to flood storage areas (see the dDCO submitted at D1).</p>
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		<p>DCiC would therefore suggest that Requirement 14 be amended to reflect the differing climate change allowances for peak river flow and peak rainfall intensity.</p> <p>Requirement 12 Detailed Design        We would request the consultation should include the Lead Local Flood Authority for requirements 12(1) and (2). (see notes requirement 13 and 14 below).</p> <p>Requirement 13        As discharge rates from the surface drainage infrastructure can affect the flood risk in any receiving ordinary watercourse, we would ask that the requirement 13(1) and (2) include consultation with the Lead Local Flood Authority (LLFA).        Greater clarity could be given by stating the discharge rates for each outfall.        We would also request that all outfalls include a minimum level of water treatment (a petrol interceptor) to protect the wider water environment and not to place a burden on downstream land owners.        (NOTE - In considering the placement of Petrol Interceptors, consideration should be given to the future maintenance of these elements.)</p> <p>Requirement 14        It has been agreed that for the flood model for the Kingsway Island a climate change allowance of 40% is adopted. This is because the model hydrology is based on rainfall runoff not normal fluvial catchment</p>	
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Ref	Source	Comments	Applicant's Response
		<p>descriptors. This is believed to be the more conservative approach at this location due to the high degree of surface runoff produced by the catchment. DCiC would therefore suggest that Requirement 14 be amended to reflect the differing climate change allowances for peak river flow and peak rainfall intensity. The Lead Local Flood Authority has the responsibility for managing flood risk from surface runoff and watercourse. We would therefore ask the Requirement 14(1) be amended to included consultation with the Lead Local Flood Authority.</p>	
1.19	<p>Responses to ExA's First Written Questions            Question: 1.6</p>	<p><b>Classification of roads, etc..</b>  <b>dDCO [APP-016] Schedule 3 Parts 1-7</b>  <b>dDCO [APP-016] Part 3 Article 14:</b>            Although we have not received a formal response on the points initially raised, it is expected that these questions will need to be addressed as part of the detailed design. We would welcome further detail and the opportunity to be engaged in the Traffic Regulation Order (TRO) making process, this will allow us to keep our councillors up to date and ensure that we hold current and accurate data, ensuring sufficient enforcement.            Our Rights of Way Officer has confirmed that he doesn't have any issues.</p>	<p>This will be discussed with DCiC as part of the SoCG process.</p> <p>See response to 1.7 (in respect of q.29) above</p>

Ref	Source	Comments	Applicant's Response
1.20	Responses to ExA's First Written Questions Question: 1.7	<b>Highways to be stopped up dDCO [APP-016] Schedule 4 Parts 1-2</b> <b>dDCO [APP-016] Part 3 Article 16:</b> From drawing HE514503 ACM DCO A38 SWPRZZ DRDCC0021 Rev C01 we note that a private access is to be constructed at 56 Brackensdale Avenue. It may be preferable for this access to be constructed directly adjoining the existing curtilage to number 56, rather than being separated by a proposed footway. Highway Authority recommends that a Turning Head is provided at the end of Raleigh Street, adjacent number 25	Noted. The Scheme is currently at the preliminary design stage and the final design of the PMA will be concluded at the detail design stage.
1.21	Responses to ExA's First Written Questions Question: 1.8	<b>Private means of access to be stopped up dDCO [APP-016] Schedule 4 Parts 3-4</b> <b>dDCO [APP-016] Part 3 Article 16:</b> In relation to the 2nd bullet point details of any new accesses to the public highway will need to be approved by the Highway Authority and that those details should be provided during in the detailed design.	Noted. The details of new accesses are set out in Schedule 4 Part 2 of the dDCO. In so far as these details differ from those shown on the works plans and engineering section drawings, they will need to be approved by the Secretary of State under requirement 12. Highways England must consult with DCiC in advance of seeking the Secretary of State's approval to any revised details.
1.22	Responses to ExA's First Written Questions Question: 1.12	<b>Consents, licenses and agreements Consents and Agreements Position Statement [APP-019] Appendix A:</b> DCiC will require consents/agreement for anything that involves a modification/alteration/demolition of a DCC	The powers to undertake the works including modifications/alterations/demolitions are set out within the dDCO and the works themselves are provided in Schedule 1 of the dDCO (to be read alongside the works plans).As such, there is no need to secure the formal consent of DCiC or DCC beyond this as the responsible local highway

Ref	Source	Comments	Applicant's Response
		<p>highway asset, and AIP's for any structures that will span or support DCC adopted highway.            Any potential exposure for the Council to compensation for works carried out on our road network will need confirmed indemnity from HE</p> <p>Appendix: (A) There are currently fishing rights in existence on Markeaton Lake, Mill Pond &amp; Mill Dam granted to the Earl of Harrington Fishing Club.</p> <p>Furthermore, we are aware that there are in existence covenants attaching to the site of Markeaton Park which were imposed by the Mundy Family when the land was handed over to the City of Derby. This is currently administered by Annie Clarke Maxwell on behalf of the Mundy family. Is HE able to confirm if the above two interested parties have been consulted in relation to the proposed works?</p>	<p>authority. Both authorities will be consulted on a number of the schemes to be approved by the Secretary of State through the discharge of the requirements in the DCO.</p> <p>Highways England is aware of the fishing rights that exist on Markeaton Lake, Mill Pond and Mill Dam.</p> <p>In relation to the covenants imposed by the Mundy Family, Highways England have not consulted directly with either party in relation to the Scheme and as it was anticipated that this would be communicated through DCiC as the landowner. Highways England will discuss this further with DCiC.</p>

<p>1.23</p>	<p>Responses to ExA's First Written Questions          Question: 1.13</p>	<p><b>Pollution control permits and licenses</b>  <b>ES Chapter 5 – Air Quality [APP-043]</b>  <b>ES Chapter 9 – Noise and Vibration [APP-047]</b>  <b>ES Chapter 11 – Material Assets and Waste [APP-049]</b>  <b>ES Chapter 13 – Drainage and Water [APP-051]</b>  <b>NPSNN paragraphs 4.48 and 4.55-6:</b>          a) The main pollution controls during construction will be the CEMP and any statutory controls in place. The Env Pollution Team at DCiC is satisfied that the existing and proposed framework is sufficient.           b) If interpreted correctly, this seems to be a very fundamental and all-encompassing question around the interpretation of environmental impacts as assessed under the ES. Would refer to the SoCG between HE and DCiC for details on what has been agreed regarding environmental impacts.           c) Not that DCiC is aware of. In the drainage strategy, not all outfalls are proposed to have any treatment. The method used in the ES to assess the requirement for treatment is the HAWRAT a Highway England assessment tool. However this does not accord well with the requirement of the NPSNN and NPPF which is to use SuDS where possible. This</p>	<p>The NPPF (2019) paragraph 170 states that: “e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans”.</p> <p>The NPSNN (2014) paragraph 5.222 states: “For those projects that are improvements to the existing infrastructure, such as road widening, opportunities should be taken, where feasible, to improve upon the quality of existing discharges where these are identified and shown to contribute towards Water Framework Directive commitments”. In addition, the NPSNN (2024) paragraph 5.230 states: “The project should adhere to any National Standards for sustainable drainage systems (SuDs). The National SuDs Standards will introduce a hierarchical approach to drainage design that promotes the most sustainable approach but recognises feasibility and use of conventional drainage systems as part of a sustainable solution for any given site given its constraints”.</p> <p>As described in the Drainage Strategy [APP-234], attenuation features which would allow settlement of silt and sediment bound pollutants, have been incorporated into the design of the new highway drainage at Kingsway and at Markeaton junctions where feasible and practicable to do so, taking account of local constraints including</p>
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		<p>implied that all outfalls should have some treatment.</p> <p>DCiC are particularly concerned that the cumulative effects of silt and other pollutants for the existing and proposed outfalls into Mill Pond will cause significant issues. The Mill ponds are impounded water features with very low flow during dry periods and as such are very sensitive water features. The fishing club that fish the ponds have previously complained about a build-up of silt and lack of oxygen for the fish in the water body.</p>	<p>space availability, area designations of public open space, safety considerations etc.</p> <p>The method of assessment used in the Highways Agency Water Risk Assessment Tool (HAWRAT) tool has been approved by the Environment Agency who have agreed that outputs from the tool can be used in the Environmental Impact Assessment of routine highway run-off on surface water quality (Highways England, 2009: DMRB, Vol 11, Section 3, Part 10, HD45/09, paragraph 5.6). The output from the HAWRAT calculations show that, with the mitigation included within the Scheme design, all of the outfalls at Kingsway and Markeaton junctions would 'pass' the assessment for impacts on surface water quality. However, at Markeaton junction, the HAWRAT output for outfalls 7 and 10 flagged the potential for accumulation of sediment due to a 'downstream structure' (i.e. Mill Pond) - further details of the assessment and the mitigation measures subsequently included in the Scheme design are provided below.</p> <p>At Markeaton junction, Mill Pond would receive water discharged via two outfalls, outfalls 7 and 10. The receiving water environment, Mill Pond, is one of low flow. A Q95 of 0.001m<sup>3</sup>/s was therefore used to undertake the HAWRAT calculation, which reflects the low flow within Mill Pond and is considered to be a reasonable worst case. The HAWRAT calculations for Markeaton junction are presented within Appendix 13.1 of the ES <b>[APP-228]</b>. The results of the HAWRAT Method A assessment without mitigation for Markeaton junction (refer to Table 4 in Appendix 13.1 <b>[APP-228]</b>) indicate that further mitigation would be required to reduce the levels of soluble pollutants</p>
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Ref	Source	Comments	Applicant's Response
			<p>such as copper being discharged into the receiving waterbody and that the low flow through Mill Pond would also encourage highway sediment and sediment-bound pollutants to be deposited and to accumulate over time. The Scheme drainage design at Markeaton junction was therefore developed to include a surface attenuation pond (designed to remain wet) and include a second underground storage tank prior to water being discharged via a vegetated ditch into Mill Pond (refer to Environmental Masterplans as illustrated in Figures 2.12c <b>[APP-068]</b>).</p> <p>Treatment within the wet pond would reduce the levels of suspended solids entering Mill Pond as well as reducing the levels of potential soluble pollutants. The expected treatment performance of different SuDS options are based on advice reported in the DMRB Volume 4, Section 2, Part 3 HD 33/16. As discussed within Appendix 13.1 <b>[APP-228]</b>, the measures incorporated into the surface water drainage design at Markeaton junction are considered likely to achieve 30% removal for suspended solids. The HAWRAT calculations for the Scheme design with mitigation in place indicate that whilst the potential for sediment to accumulate remains (due to the low flow environment within Mill Pond), the risk of chronic impacts due to sediment-bound pollutants has been removed. The provision of attenuation should result in a betterment over the existing situation given that silt laden drainage from the A38 currently enters watercourses unattenuated and untreated.</p>
1.24	Responses to ExA's First Written Questions	<b>Environmental Statement (ES) Chapter 1 [APP-039]:</b> a) To the best of DCiC knowledge, yes.	<p>a) Noted.</p> <p>b) Noted.</p>

Ref	Source	Comments	Applicant's Response
	Question: 2.2	<p>b) Currently developing an Air Quality Action Plan (AQAP) and also a Noise Action Plan. Neither of these documents has gone through public consultation yet, so they are not yet available to be published unfortunately. [To note these documents have been discussed informally with the applicant however and shouldn't have any significant/material impacts upon the current development proposals.]</p> <p>c) None that DCiC is aware of that are of significant relevance.</p>	c) Noted.
1.25	Responses to ExA's First Written Questions Question: 2.4	<p><b>Devt/regen opportunities:</b> There are a number of planning applications capped at specific housing numbers until this scheme is implemented. The capped housing growth DCiC is aware of is: (9/2017/0349 Newhouse Farm) 1450 houses capped at 317 with other schemes that would release 250 and 330. All in South Derbyshire.</p> <p>In Amber Valley there are 600 houses off Radbourne Lane that is currently in assessment but having similar impacts and also likely to be capped.</p>	Highways England acknowledge the planning applications referred to within the neighbouring authorities of South Derbyshire District Council and Amber Valley Borough Council. This demonstrates the wider regional growth benefits that the Scheme will help to deliver and its importance in facilitating growth.
1.26	Responses to ExA's First Written Questions Question: 3.4	<p><b>Cumulative impact assessment ES Chapter 15 – Assessment of Cumulative Effects paragraphs 15.5.2-5:</b></p>	<p>a) Such developments have been taken into account as part of the cumulative impact assessment as reported in ES Chapter 15 [APP-053].</p> <p>b) Noted.</p>

Ref	Source	Comments	Applicant's Response
		a) see 2.4 above b) None.	
1.27	Responses to ExA's First Written Questions Question: 3.8	<b>Would the Local Authorities find it useful for the Maintenance and Repair Strategy Statement:</b> DCiC would find it very helpful for a Maintenance and Repair Strategy to be submitted. The LFFA is particularly concerned about the degree of proposed maintenance on the drainage infrastructure of the scheme. Adequate inspection and maintenance is seen as key to ensuring that flood risk and pollution do not increase as a result of inadequate maintenance. Of particular concern are all SuDS features, vortex flow controls, petrol interceptors, culverts, any trash screens affecting protecting culverts.	The MRSS (Maintenance and Repair Strategy Statement) will be made available and is a live document. The current MRSS has been developed for the preliminary design stage. The MRSS will be updated during detail design and construction stages.
1.28	Responses to ExA's First Written Questions Question: 3.10	<b>Impact assessment and mitigation strategy NPSNN paragraphs 4.3-4, 4.6, 4.9-10, 4.15, 4.18-20, 5.2:</b> At international level DCiC do not think the ICOMOS guidance has been used accurately to demonstrate the significance of effect. This is highlighted as part of the SoCG. Is there further mitigation that could be achieved in terms of the design of the flyover structure or positives achieved as part of the DVMWHS? It is disappointing that mitigation has been	ICOMOS guidance was used in the production of the Heritage Impact Assessment as included in the Environmental Statement [APP-173]. In accordance with the ICOMOS guidance, the impact of the Scheme was assessed on both the individual attributes of the DVMWHS and on the overall authenticity and integrity of the DVMWHS. The Scheme represents the end of a staged design process, with mitigation design advice being provided by landscape, ecological and cultural heritage specialists. The mitigation features included in the Scheme design (as illustrated in the Environmental Masterplans [APP-068]) aim to minimise the Scheme effects on the DVMWHS.

Ref	Source	Comments	Applicant's Response
		<p>presented as a finished proposal rather than something that could be worked on /improved through collaboration.            On EHO grounds - Please see SoCG between HE and DCiC. This sets out broad agreement on the impact assessment and mitigation strategy described under the ES and OEMP, with the only outstanding point of note being uncertainty around the management and control of construction-related impacts under the CEMP, which are not yet clearly defined. The proposed process for development of the CEMP is however generally agreed at this stage.</p> <p>In detail            a) Markeaton Park is a major visitor attraction for Derby with over 1.6m visitors to the park per year. There are also around 100 events that take place in the park every year attracting visitors from the city and across the region. The scheme is likely to have a major impact on the numbers of visitors to the park over the duration of the works and this will consequently have an adverse impact on income for Derby City Council. This has not been given sufficient consideration in the assessment of economic impact of the scheme at local level.            The Applicant refers to potential enhancements over and above</p>	<p>It is agreed that the draft SoCG being developed with DCiC indicates EHO broad agreement regarding the impact assessment and the mitigation strategy as described in the ES and the OEMP. DCiC notes the uncertainties associated with the management and control of construction-related impacts under the CEMP. As such, the draft SoCG notes that DCiC accepts that the outline mitigation proposals as detailed in the OEMP <b>[APP-249]</b> will be translated into the selected construction contractor's Construction Environmental Management Plan (CEMP) and that DCiC will need to be consulted by the construction contractor during CEMP preparation.</p> <p>a) With regard to local events within Markeaton Park, the selected construction contractor will work with DCiC and event organisers regarding traffic management. As detailed in the OEMP, the main works contractor shall consult with the organisers of major or significant local events when developing their detailed Traffic Management Plan (TMP). In addition, the TMP <b>[APP-254]</b> includes details of local events in the vicinity of the Scheme and which will be taken into account during construction phase traffic management planning. Consultation and liaison would aim to minimise the effects of construction phase traffic management on traffic travelling to and from such events.</p> <p>e) As detailed in the OEMP, the local authorities will be consulted during preparation of the CEMP and the HEMP – refer to <b>[REP1-006]</b> Appendix A – 3.11 which confirms that DCiC will be consulted during the preparation of these</p>

Ref	Source	Comments	Applicant's Response
		<p>environmental mitigation to be delivered as part of the scheme, including improvements to Markeaton Park Lake and Mill Pond delivered through a HE designated fund application but this is outside of the DCO process and there has been limited consideration as to what these additional enhancements could be, how they could be delivered and by whom.</p> <p>e) The Parks team would like to be consulted on the CEMP and HEMP particularly with regard to the Applicant's long term commitment to after care, monitoring and maintenance of the environmental mitigation measures and replacement public open space.</p> <p>f) The CEMP and HEMP.</p> <p>g) The Applicant has undergone a thorough engagement process and approach to the assessment and mitigation of environmental and ecological impacts of the scheme. Meetings with DCiC and other statutory consultees have taken place since 2015. This approach has focused primarily on mitigation for the impacts of the scheme on biodiversity. There are fewer opportunities identified for the delivery of additional benefit through the enhancement of existing assets, particularly the improvement of existing park infrastructure to mitigate the impact of the scheme on park users.</p>	<p>management plans. The HEMP will detail proposals for the after care, monitoring and maintenance of the environmental mitigation measures and replacement public open space.</p> <p>f) As detailed in the OEMP, the local authorities will be consulted during preparation of the CEMP and the HEMP – refer to <b>[REP1-006]</b> Appendix A – 3.11 which confirms that DCiC will be consulted during the preparation of these management plans. In addition, dDCO Requirement 3 states that the CEMP would be prepared in consultation with the local highway authorities and then submitted to the Secretary of State for approval.</p> <p>g) The NPPF aspires for a net gain in biodiversity. However, it is acknowledged that the NPPF does not contain specific policies for Nationally Significant Infrastructure Projects (NSIPs) such as the Scheme. The NPPF considers <i>similar</i> biodiversity provision to the National Policy Statement for National Networks (NPSNN); however, the NPPF refers to provision of 'enhancement' and 'measurable net gains for biodiversity'. With regard to the Scheme design, opportunities for enhancements and biodiversity gain have been taken where there have been opportunities. As per paragraph 8.11.3 of the ES Chapter 8: Biodiversity <b>[APP-046]</b>, features that have the potential to generate biodiversity gains include the use of the Deaf School noise barrier at Markeaton junction, bat roost features within the Flood Arch bridge at Little Eaton junction, provision of badger fencing and the creation of additional sections of open channel and ecological habitats associated with the Dam Brook realignment works. As per Table 8.15 of the ES Chapter 8, the numbers of tree to be</p>

Ref	Source	Comments	Applicant's Response
		<p>The National Planning Policy Framework is clear that pursuing sustainable development includes moving from no net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution. It is unclear how those net gains would be evidenced. In its simplest form this could be to a replacement like for like 2 for 1 policy for trees that will be lost. Additional planting to that which is already proposed as part of the mitigation for the loss of trees could be undertaken within both Markeaton and Mackworth Parks with DCiC agreement.</p>	<p>planted will be confirmed during the detailed design taking account of the landscape proposals illustrated in ES Figure 7.8A-C <b>[APP-094]</b>, noting that DCiC will be consulted during the further development of the landscaping proposals.</p>
1.29	<p>Responses to ExA's First Written Questions            Question: 3.12</p>	<p><b>Management and mitigation plans, strategies and written schemes:</b> There is a need to sign off scrutiny of any recommendations/conditions. This is covered in the SoCG. This should be informed by the Conservation Officer where heritage is involved e.g. agreeing method statements, schedule of work, Plans of elevation and section, material samples, etc. e.g. for Markeaton Park wall and wall to Royal School for the deaf. There may be a need for a mitigation plan for the flyover to Little Eaton regarding the DVMWHS.</p>	<p>As detailed in the draft SoCG with DCiC, the wall stones from affected parts of the Markeaton Park boundary wall and the wall at the Royal School for the Deaf will be reused as part of the boundary wall relocation works. Such mitigation measures are detailed in the OEMP <b>[APP-249]</b>, whilst Requirement 3 of the draft DCO states that the contractor's CEMP must be based upon the OEMP. A Method Statement regarding the Markeaton Park and Deaf School boundary walls will be prepared (forming part of the contractor's CEMP), which will be discussed and agreed with the DCiC conservation officer.</p> <p>It is considered that the mitigation features as already included in the Scheme design (refer to the Environmental Masterplans <b>[APP-068]</b> and the OEMP <b>[APP-249]</b>) are</p>

Ref	Source	Comments	Applicant's Response
		<p>All archaeology should be covered (as we have a SLA with) by the Archaeology Team at Derbyshire County Council. On EHO grounds - a) DCiC can't see any need to secure anything over and above normal planning requirements i.e. appropriate qualification and experience of person providing information and scrutiny provided by relevant personnel within the LA, on behalf of the SoS or other relevant agency.</p> <p>b) As has been mentioned before, there is an outstanding concern regarding construction-related impacts arising from the development, due to the level of detail known at this stage. This is especially relating to dust, noise and also traffic impacts (and subsequently local air quality arising from traffic impacts). The construction programme will inevitably have to be an iterative process which responds to issues as and when they occur throughout the programme of works. As a result, it may be beneficial to outline the trigger points at which some sort of response is required relating to noise, dust, traffic etc. This will also rely on continuous monitoring. I would however expect that this is all laid out within the CEMP.</p> <p>c) and d) None suggested</p> <p>e) and f) It is essential that DCiC are</p>	<p>appropriate for mitigating Scheme effects on the DVMWHS.</p> <p>With regard to archaeological requirements, these have been discussed with Derbyshire County Council (DCC) – as detailed in the draft SoCG with DDC, DCC is content with the proposed archaeological mitigation strategy as detailed in ES Chapter 6: Cultural Heritage <b>[APP-044]</b> and the OEMP <b>[APP-249]</b>.</p> <p>a) The EHO comments are noted and agreed.</p> <p>b) DCiC concerns are acknowledged and thus there is a clear requirement for DCiC to be consulted during the preparation of the contractor's CEMP and TMP – such consultation is confirmed in the OEMP <b>[APP-249]</b> and the dDCO (Requirement 3 and 11). As suggested, the contractor's CEMP will specify the need for ongoing consultation with DCiC during the Scheme construction phase, together with monitoring requirements and action plans.</p> <p>c) Noted</p> <p>d) Noted</p> <p>e) and f) As detailed above, DCiC will be consulted during the preparation of the contractor's CEMP and on an ongoing basis during the Scheme construction phase, especially if there are circumstances which potentially affect the successful delivery of the CEMP. As detailed in <b>[REP1-006]</b> Appendix A – 3.11, DCiC will be consulted during any the updates to the CEMP (noting that the CEMP must remain based upon the OEMP).</p>

Ref	Source	Comments	Applicant's Response
		<p>consulted on, and our agreement is sought on, the CEMP. DCiC should also be consulted in relation to any circumstances which affect the successful delivery of the CEMP throughout the period of construction as and when any changes occur.</p>	
1.30	<p>Responses to ExA's First Written Questions            Question: 4.1</p>	<p><b>DCiC traffic measures for Stafford Street</b>  <b>ES Chapter 9 – Noise and Vibration [APP-047] paragraphs 9.3.9 and 9.5.1:</b>            See SoCG and</p> <p>a) DCiC's traffic management measures to improve air quality are predicted to be supported by the completed A38 Scheme – thus, following A38 Scheme opening, such traffic management measures are not anticipated to be required, however this is subject to ongoing monitoring and evaluation.</p> <p>b) DCiC has reviewed the air quality impact assessment as reported in the ES Chapter 5: Air Quality [APP-043 / Volume 6.1] and is content that the assessment indicates that Scheme construction is not anticipated to have an adverse effect on air quality on Stafford Street during the construction phase. However, DCiC note that air quality effects on Stafford Street will need to be monitored during the Scheme construction phase and that the</p>	<p>a) Noted and agreed.</p> <p>b) DCiC already carries out a fairly extensive network of NO<sub>2</sub> diffusion tube monitoring across the city and has a monitoring site in Stafford Street. It is accepted that the Scheme construction contractor will need to maintain close communications with DCiC regarding environmental issues throughout the Scheme construction phase, including potential air quality impacts. This will be stressed in the next version of the OEMP [APP-249].</p>

Ref	Source	Comments	Applicant's Response
		A38 construction contractor will need to liaise with DCiC to ensure that adverse effects are avoided.	
1.31	Responses to ExA's First Written Questions Question: 4.2	<p><b>Changes to local traffic management RR by DCiC [RR-003]:</b> This is a question mainly for the applicant.</p> <p>a) To be clear DCiC are not proposing any traffic management changes on Kedleston Road or Five Lamps.</p> <p>b) From the Strategic transport model DCiC has identified that there are significant changes in traffic patterns as a result of the development. However, the impact of these has not been assessed in any detail to understand whether the changes in traffic are material, require changes to the signals timings or physical changes to the highway to manage them.</p>	<p>The Scheme's objectives are to improve three junctions on the strategic road network, two of which are within Derby City Council's administrative boundary. The Scheme will provide overall benefits to private vehicle movements and to bus services within the Derby City Council's administrative area.</p> <p>Highways England accepts that the Scheme would lead to changes in traffic patterns and route choices. These changes would likely provide further opportunities to make the local road network operate even more efficiently. In some cases, demand responsive traffic signals will automatically adapt themselves to the altered traffic patterns. In other cases, these operational efficiency gains might be achieved through further physical interventions.</p> <p>The business case for the Scheme did not take account of additional benefits that might be realised through further interventions. These further interventions would each have their own business case.</p> <p>Note: DCiC's response to ExA' FWQ No. 42 is similar. Item 1.47 below refers here.</p>
1.32	Responses to ExA's First Written Questions Question: 4.4	<p><b>Study areas and road sections ES Chapter 12 – People and Communities [APP-050] paragraph 12.6.3 and Table 12.14 ES Figures 12.1A-D [APP-142, 143, 144 and 145]:</b> Yes</p>	Noted

Ref	Source	Comments	Applicant's Response
1.33	Responses to ExA's First Written Questions Question: 4.5	<b>Baseline conditions and surveys:</b> No.	Noted
1.34	Responses to ExA's First Written Questions Question: 4.8	<b>Driver stress assessment and the use of professional judgement</b> <b>ES Chapter 12 – People and Communities [APP-050] paragraphs 12.3.16, 12.10.21, 12.10.32 and 12.10.34:</b> No.	Noted
1.35	Responses to ExA's First Written Questions Question: 4.15	<b>Local plans, other transport modes and other networks</b> <b>NPSNN paragraphs 5.203, 5.205-6, 5.211-2, 5.215-7:</b> a) The principle set out in LTP3 is to only support new infrastructure that is targeted, which make best use of the available road capacity. The A38(T) Derby Junctions will improve the efficiency of the highway network by reducing congestion, from both the trunk road and local network, and the social, economic and environmental impacts that this has. b) Highways England has built a bespoke transport model to test their scheme. They chose this approach over up-dating the Derby Area Transport Model (DATM). However, they did incorporate the DATM SATURN highway network into the A38(T)	a) Agreed. b) Agreed. c) The Objectives of the Scheme are to separate local traffic movements from movements on the Strategic Road Network. The business case for the Scheme did not take account of additional benefits that might be realised through further interventions. These further interventions would each have their own business case. d) Response at item 1.27 above.

Ref	Source	Comments	Applicant's Response
		<p>model.</p> <p>c) DCiC welcome the cycle improvements proposed as part of the scheme and the HE has consulted DCiC on these. However, there is a question over whether there are reasonable opportunities to provide any public transport improvements.</p> <p>Regarding the scheme supporting modal shift, this is very much a judgement call. Overall, the scheme is designed to improve traffic flows and increase vehicle capacity along the A38 trunk road through Derby. Broadly speaking therefore, the scheme could encourage more people to drive. There are however benefits to the local transport network of moving trips onto the A38 and away from local roads and the application includes a number of proposed cycle infrastructure proposals which support modal shift, which wouldn't otherwise be delivered without the scheme.</p> <p>It is of course always worthy of consideration to evaluate whether further supporting measures/schemes that can encourage modal shift, over and above those already proposed, may be feasible within the development constraints. Examples could include consideration of park &amp; ride (cycle) facilities or improved public transport services into and out of</p>	

Ref	Source	Comments	Applicant's Response
		the City. d) See answer to 4.2 b)	
1.36	Responses to ExA's First Written Questions Question: 4.16	<p><b>Overall assessment methodology:</b>            Please refer to comments made in DCiC's Local Impact Report</p> <p>b) Regarding concerns around noise, all overnight closures to allow construction work at night should be avoided where possible. Currently, there is insufficient detail about the construction programme to be able to determine all of the night closures that may be required and subsequently, the impacts that would arise. DCiC accepts that the process will be subject to change and therefore at this stage, the process for ensuring each phase of construction is properly managed under the CEMP is of primary importance. DCiC are satisfied that their involvement and approval with the development of the CEMP is an appropriate level of control at this outline stage. It is also agreed that the OEMP is a good basis for the CEMP design.</p>	<p>A separate Highways England response has been prepared with regard to the DCiC Local Impact Report <b>[REP1-035]</b>.</p> <p>b) As detailed in the OEMP <b>[APP-249]</b> construction activities would be restricted to defined core working hours. However, some works would need to be undertaken outside of these core working hours in order to minimise disruption and delays to the travelling public, plus for safety considerations. Some such works would involve night-time road closures. It is agreed that DCiC would be consulted by the selected construction contractor during the preparation of their CEMP and TMP which will provide further details regarding potential night-time closures.</p>
1.37	Responses to ExA's First Written Questions Question: 4.17	<p><b>Travel patterns</b>  <b>Transport Assessment Report [APP-253] Section 9</b>  <b>Consultation Report [APP-023] paragraph 4.2.7:</b> c) DCiC has not directly provided comments on the outputs of the construction traffic modelling. The</p>	Noted.

Ref	Source	Comments	Applicant's Response
		modelling of the impacts of construction is welcomed. However, as with any strategic traffic, which is a generalised view of the real world, the outputs need to be considered against any limitations of the model. As such, it is a tool that assists in the prediction of impacts. Further, the applicant has stated that the Traffic Management Plan (TMP) is subject to change as and when BAM Nuttall has been appointed.	
1.38	Responses to ExA's First Written Questions Question: 4.18	<b>Driver stress assessment ES Chapter 12 – People and Communities [APP-050] paragraphs 12.3.15-18 and 12.10.18-21; Tables 12.5 and 12.16:</b> f) DCiC doesn't have any comments on the Driver Stress Assessment.	Noted
1.39	Responses to ExA's First Written Questions Question: 4.21	<b>ES Chapter 12 – People and Communities [APP-050] Paragraph 12.9.2:</b> e) DCiC do not have an issue with HGV movements outside of the 07:00-19:00 hours. However, we want adherence to Derby City Council's Environmental Weight Limit and not route HGVs through the City Centre.	Drivers of construction vehicles using the public highway will be legally obliged to comply with extant traffic regulation orders. This includes the Derby City Councils Environmental Weight Limit (except for access) around Derby.
1.40	Responses to ExA's First Written Questions	<b>Overnight closures Transport Assessment Report [APP-253] Table 9.1:</b> b) There is provision for	Noted.

Ref	Source	Comments	Applicant's Response
	Question: 4.22	the applicant to do this under the Highways Act. We would only permit the use of strategic diversion routes and not local routes. For example, A50, M1, A52/A61 and A38. Strategic local diversion routes have previously been agreed with HE for non-planned events. The priority will be to ensure use of these routes when overnight closures of the A38 are in place.	
1.41	Responses to ExA's First Written Questions Question: 4.25	<p><b>Detailed TMP</b>  <b>Outline TMP [APP-254] paragraphs 1.1.7 and 1.3.2</b>  <b>OEMP [APP-249] Table 2.1, Ref MW-TRA2: See SoCG.</b></p> <p>a) Please see response to 4.17. Yes, it is important that the TMP is agreed with DCiC and secured in the Development Consent Order (DCO).</p> <p>b) DCiC has not directly provided written comments on the TMP. Comments have only been made in response to the Inspectors in August 2019 under the Regulation 9 and 16 Consultation. The letter raised the following questions about the plan:          Haulage construction traffic in works areas and how this will be managed and interface with adjacent running lanes.</p> <ul style="list-style-type: none"> <li>• A clear picture of how phasing sequences at all three junctions will interlink.</li> </ul>	<p>a. As detailed [REP1-006] Appendix A – 3.11, DCiC will be consulted during the preparation of the contractor's TMP. In addition, dDCO Requirement 11 states that the TMP will be approved by the Secretary of State following consultation with the local highway authority.</p> <p>b. Noted.          The optimal and appropriate approach would be for the contractor to be engaged in these discussions with stakeholders. This process may commence once the construction contractor has been appointed by Highways England. As mentioned in response to a), DCiC will have an opportunity to comment on the traffic management plan to be submitted to the Secretary of State by Highways England as part of the discharge of requirement 11.</p>

Ref	Source	Comments	Applicant's Response
		<ul style="list-style-type: none"> <li>• Detailed traffic management plans showing site layouts.</li> <li>• Clarification on speed limits as the document says it will be 'at least' 30mph during construction phases.</li> <li>• More detail is required on the coordination of other works in the City as the document makes reference to this. Traffic and Transportation require a clear understanding of Highways England's expectations. Derby City Council does not operate a Road Space Booking system as referenced in the Construction Traffic Management document.</li> <li>• Incident management strategy.</li> <li>• More detail on pedestrian management for example controlled crossing points. DCiC has raised questions about the construction Traffic Management Plan (TMP) at broad meetings with representatives from Highways England. However, the applicant has stated that the TMP is subject to change as and when a contractor (BAM Nuttall) has been appointed. As such, DCiC are unsure how far the TMP will differ. For example, from the 8 phases that has been proposed. This will be a difficult scheme to build and will cause delays on both the Trunk Road and local network. DCiC feel that the applicant needs to have more detailed discussions with DCiC with</li> </ul>	

Ref	Source	Comments	Applicant's Response
		<p>our Network Management Co-ordinator. As mentioned above, the EHO is satisfied that, provided we are involved in the design and approval of the development of the CEMP/TMP, this should be an appropriate level of control at this outline stage and the OEMP is a good basis for the CEMP design.</p> <p>See also response to 4.27 below.</p>	
1.42	<p>Responses to ExA's First Written Questions            Question: 4.27</p>	<p><b>Significance of effects</b>  <b>ES Chapter 16 – Summary of Residual Effects</b>  <b>RR by DCiC [RR-003]:</b> a) It is accepted that management of impacts during construction will be an iterative and constantly evolving process. The most important aspects to managing construction-related impacts will be:</p> <ul style="list-style-type: none"> <li>· Regular consultation with, and a requirement for approval from, DCiC with respect to the development of the CEMP;</li> <li>· Setting agreed monitoring requirements and triggers for action within the CEMP e.g. for dust and noise;</li> <li>· A clear hierarchy of all potential responses to complaints/incidents*;</li> <li>· A robust local awareness, communications and warning system in advance of all phases of potentially problematic works*;</li> <li>· Putting in place a co-ordinated</li> </ul>	<p>The OEMP [APP-249] provides details of the actions that the construction contractor will undertake during the Scheme construction phase, including the details to be included in their CEMP and TMP. It is confirmed in [REP1-006] Appendix A – 3.11 that DCiC will be consulted during the preparation of the contractor's CEMP and TMP, and during any subsequent updates (approval for these will be given by the SoS). The OEMP also provides details of the responsibilities of the contractor's Community Relations Manager. Reference should also be made to Highway England's response to ExA question 10.36 in [REP1-006] which provides details of how the Community Relations Manager and the Highways England Customer Contact Centre would operate and be accessible to all members of affected communities.</p>

Ref	Source	Comments	Applicant's Response
		<p>complaints/response system*; and</p> <ul style="list-style-type: none"> <li>· Timely response to issues as and when they occur throughout the construction programme*.</li> </ul> <p>[*this can be assisted by dedicated resource deployed by HE within the City Council]</p> <p>This should all be laid out in detail within the CEMP and Construction TMP.</p> <p>Key stakeholders were invited to a meeting at DCiC with representatives from the HE. They verbally raised a number of concerns about the impacts of construction on the operation of bus services. Further, businesses such as INTU also raised concerns at the meeting about the construction impact of the A38(T) on accessibility to the City Centre. As such, communication and flexibility will be key in managing the movement of traffic through and around Derby. To this end it is critical that Highways England continue to liaise with key stakeholders and Traffic and Transportation over the Traffic Management Plan. However, the Council will struggle to meet this demand and we would like to explore with Highways England any resources they could provide to facilitate this function through the construction programme. For example, DCiC has identified that a Communications Officer will have to work</p>	

Ref	Source	Comments	Applicant's Response
		<p>in Derby ahead of the scheme, primarily working with the Local Travel Behaviour Change group, which includes key stakeholder from the city centre, Marketing Derby, public transport operators and the Hospital. The Council will provide access to the business contact and engagement plan that we have developed over several years and are prepared to work closely with an HE Communications Officer. The Council will welcome the Communications Officer spending some of their time based in the Council House, and being available to work with city centre stakeholders. Further, DCiC has also identified that some accommodation works may be necessary on the local road network, to accommodate changes in traffic patterns, and to support public transport during the construction period. For example, changes to traffic signal sequences and potentially changes to the current allocation of road space.</p>	
1.43	<p>Responses to ExA's First Written Questions            Question: 4.29</p>	<p><b>Construction traffic and temporary closures and diversions assessment, impacts and mitigation</b>  <b>NPSNN paragraphs 5.215-7:</b> See SoCG. As mentioned above, EHO is satisfied that, provided we are involved in the design and approval of the development of the CEMP/TMP, this should be an</p>	<p>As detailed [REP1-006] Appendix A – 3.11, DCiC will be consulted during the preparation of the contractor's CEMP and TMP. In addition, dDCO Requirement 3 states that the CEMP would be prepared in consultation with the local highway authorities and then submitted to the Secretary of State for approval. In addition, Requirement 11 in the dDCO states that the TMP will be approved by the</p>

Ref	Source	Comments	Applicant's Response
		<p>appropriate level of control at this outline stage and the OEMP is a good basis for the CEMP design.            See also response to 4.27.</p>	<p>Secretary of State following consultation with the local highway authority.</p>
1.44	<p>Responses to ExA's First Written Questions            Question: 4.30</p>	<p><b>Driver stress assessment ES Chapter 12 – People and Communities [APP-050] paragraphs 12.3.15-18 and 12.10.22-32; Tables 12.5 and 12.16:</b> In response to f), there appears to be an issue with the model in this area. Some of the 2015 observed flows don't reflect the level of base flows in the model. Further, the turning movements around the Kingsway retail park do not seem logical and suggest that there is an issue with the demand data or matrices. This issue is only seen within the 2015 base year model and the Do minimum models. DCiC have noticed this issue within the PM2 time period but not the AM2. A comparison of the Do something turning movement and a recent survey conducted at the Kingsway Retail Park roundabout shows that the turning proportions within the DS model are logical. The issue creates the vast difference in flow on this link.</p>	<p>In the 2015 Base Year traffic model assignments and in the 'Do-Minimum' traffic model assignments the westbound flow on the A5111 Kingsway, particularly in the PM2 (17:00-18:00) hour, must give-way to the high and fast-moving southbound vehicles circulating the Kingsway roundabout. The question is, to what extent those drivers that want to use the A5111 westbound would change their routes to avoid having to make this difficult manoeuvre.</p> <p>The manoeuvre is not as difficult in the AM peaks and the inter-peak periods because the flow circulating the Kingsway roundabout is not as high as in the PM2 peak.</p> <p>The manoeuvre is not at all difficult in the 'Do-Something' case in all time periods because the circulating southbound flow would be grade separated and no longer conflict with local traffic,</p> <p>The "issue" relates to how drivers perceive that the A5111 Kingsway westbound entry onto the Kingsway roundabout to be operating and whether drivers perceive there to be an easier route choice available.</p> <p>In the 2015 Base Year traffic model the observed PM2 (17:00-18:00) westbound flow was 570 vehicles per hour and the modelled flow was 380 vehicles per hour, an under assignment of 190 vehicles per hour. Circulating the Kingsway roundabout at this entry, the observed flow was 800 vehicles per hour and the modelled flow was 780 vehicles per hour, which was an acceptable validation. All</p>

Ref	Source	Comments	Applicant's Response
			<p>other entry movements and circulating flows in the 2015 traffic model demonstrated acceptable agreement between observed and assigned flows in all five time periods modelled.</p> <p>It is noted that the driver stress method in DMRB is based upon link flows. The method does not account for the contribution of drivers in queues and the drivers' perception of difficult geometry upon drivers' stress. In this respect, the DMRB drivers' stress method underestimates the benefits of grade separating a junction.</p>
1.45	Responses to ExA's First Written Questions Question: 4.34	<p><b>Junction layouts Consultation Report [APP-023] paragraph 4.2.11-12:</b> Although DCiC has not had a formal response from Highways England on the points raised in paragraphs 4.2.11 and 4.2.12, it is expected that these questions will need to be addressed as part of the detailed design. DCiC would welcome further details on those issues raised in paragraphs 4.2.11 and 4.2.12.</p>	Noted - these issues will be reviewed in detail design stage.
1.46	Responses to ExA's First Written Questions Question: 4.36	<p><b>Increased journey times on the Mansfield Road route Transport Assessment Report [APP-253] Tables 4.5 and 4.6:</b> a) DCiC colleagues noted to the applicant that the Junction of Bishops Drive and the A608 was incorrectly coded as a priority T Junction instead of a priority roundabout. The roundabout junction appears to have been coded into the junction of Nearwood</p>	This comment is also covered in DCiC's Local Highway Impact Report [REP1-035]. See response at item 1.1 above.

Ref	Source	Comments	Applicant's Response
		<p>Drive and the A608. The large journey time delay is only seen in the AM2 time period, in which a large flow increase is seen on Mansfield Road SWB. It is unclear as to whether it is the miscoded junction or the increase in flow during this time period that has caused the large increase in delay.</p>	
1.47	<p>Responses to ExA's First Written Questions            Question: 4.37</p>	<p><b>A38 speed limits</b>  <b>ES Chapter 2 – The Scheme [APP-040]</b>  <b>ES Chapter 12 – People and Communities [APP-050] paragraph 12.9.6</b>  <b>RR by Breadsall Parish Council [RR-001]:</b> c) The main safety benefit of the scheme will be the removal of conflict between strategic traffic on the A38(T) and local traffic crossing the A38(T). As such, the difference in speed between the current 40mph and proposed 50mph is unlikely to be material.            d) DCiC is aware that this has been modelled by AECOM on behalf of HE. The reduction in noise arising from a reduction in speed limit from 50mph to 40mph through the Markeaton Junction would be around 0.5dB at the road. This translates to a negligible reduction and not something that would be noticeable in practice when considered at the nearest receptors. There seems no notable benefit</p>	<p>c) Noted and agreed.            d) Noted and agreed, a reduction in the speed limit in this area from 50mph to 40mph would be likely to reduce traffic noise levels at source by up to 0.5dB.</p>

Ref	Source	Comments	Applicant's Response
		in reducing the speed limit in this location on noise amenity grounds.	
1.48	Responses to ExA's First Written Questions Question: 4.38	<b>Traffic Regulation Measures and Stopping Up RR by DCiC [RR-003]</b> <b>dDCO [APP-016] Schedule 3:</b> a) DCiC will go through schedule 3 as directed by Question 1.6. b) DCiC is referring to Part 3 Streets, Article 13.	a) Noted. b) This will be discussed as part of the SoCG process.
1.49	Responses to ExA's First Written Questions Question: 4.40	<b>Closure of the existing Ford Lane access to the A38</b> <b>ES Chapter 2 – The Scheme [APP- 040] paragraphs 12.8.3 and 12.9.6</b> <b>ES Chapter 12 – People and Communities [APP-050]:</b> d) DCiC understand the desire to close Ford Lane from a safety perspective. Ford Lane is used by drivers avoiding the delays and queuing northbound from the Abbey Hill Junction. Residents will have to use the A6 route in future. As such, it is probably 'neutral' in the change of traffic as it re- routes.	d) Noted and agreed.
1.50	Responses to ExA's First Written Questions Question: 4.41	<b>Changes to local traffic management RR by DCiC [RR-003]:</b> a) To be clear DCiC are not proposing any traffic management changes on Kedleston Road or Five Lamps.	a) Noted.

Ref	Source	Comments	Applicant's Response
1.51	Responses to ExA's First Written Questions Question: 4.42	<b>Traffic flow changes RR by DCiC [RR-003]:</b> a) The applicant has not specifically assessed the wider impacts of the development of the local road network. b) From the Strategic transport model DCiC has identified that there are significant changes in traffic patterns as a result of the development. However, the impact of these has not been assessed in any detail to understand whether the changes in traffic are material, require changes to the signals timings or physical changes to the highway to manage them. At present DCiC has some concerns about traffic flow changes along the Duffield Road and Kedleston Road corridors following the completion of the scheme, but this has not been tested.	The subject of this response is related to item 1.27 above (ExA's FWQ No. 4.2).
1.52	Responses to ExA's First Written Questions Question: 4.44	<b>Operational traffic and permanent road closures assessment impacts and mitigation:</b> The concern is that DCiC don't know what mechanism the roads are to be stopped up or what issues have been raised by local residents and businesses.	Stopping up is included as part of the dDCO (see Schedule 4 of the dDCO, together with the streets rights of way and access plans and articles 15 and 25 of the dDCO). There have been no issues specifically raised by local residents or businesses.
1.53	Responses to ExA's First Written Questions	<b>ES Chapter 12 [APP-050]:</b> The information about bus services appears to be comprehensive. Further information is	Noted. Discussions will be continued once the Contractor has been appointed and meaningful discussions may be informed by the detailed construction programme.

Ref	Source	Comments	Applicant's Response
	Question: 4.45	required regarding journey time delays for services. The bus companies have requested further information on how the journey time delays have been calculated as they expect a greater impact. They are willing to meet with the applicant to discuss the delays that are currently experienced.	
1.54	Responses to ExA's First Written Questions Question: 4.46	<b>Impacts during operation Transport Assessment Report [APP-253] Section 7.2:</b> In principal this appears to work, however, further detail is required in order to discuss this with the bus company providing this service for the university. It is expected that this will be detailed in the traffic management plan and detailed design phase.	Noted and agreed.
1.55	Responses to ExA's First Written Questions Question: 4.47	<b>Public transport assessment, impacts and mitigation ES Chapter 12 – People and Communities [APP-050] paragraphs 12.7.17-22:</b> In addition to the notes above, the bus companies have investigated potential bus priorities [that] could be implemented to help mitigate the delays during the works. Further information regarding the protection of journey times for buses during and after the works is required.	Priorities for public transport will be considered during the detailed design stage. Mitigation of bus service delays during construction will be considered at the next stage of planning once the Contractor is appointed.

Ref	Source	Comments	Applicant's Response
1.56	Responses to ExA's First Written Questions Question: 5.2	<p><b>DCiC traffic measures for Stafford Street</b>  <b>ES Chapter 5 – Air Quality [APP-043] paragraphs 5.2.20, 5.5.9, 5.10.44:</b> The Stafford Street Traffic Management (TM) Scheme comprises of a series of measures. It is unlikely that the whole set of measures will simply be 'removed' at some point in the future. In practice, some elements will be retained, some may be removed, and some may be amended. Unfortunately, it is not possible to confirm the future situation at this stage as the process will be iterative.</p> <p>In terms of the relationship with the A38 Derby Junctions Scheme however, the modelling suggests that the completed A38 Scheme has the potential to reduce traffic volumes on Stafford Street, but this does not necessarily mean that it single-handedly resolves the issue on Stafford Street to the extent that the Stafford Street TM Scheme is no longer needed. This will be decided based on continuous monitoring and evaluation.</p> <p>That said, given that a net reduction in traffic is predicted to result from the completed A38 Scheme, this should only impact upon the Stafford Street TM Scheme in a positive way and therefore DCiC has no concerns in this regard.</p> <p>The only area of outstanding concern is</p>	<p>Highways England notes DCiC's outstanding concerns in relation to the construction phase air quality impacts on Stafford Street. It is accepted that the selected construction contractor upon appointment will review the construction programming and associated traffic management proposals. However, given the construction requirements and the physical constraints at each junction, it is considered that there is very limited ability to change the construction traffic management proposal as reported in the TMP and assumed by the ES. It is also noted that during the Scheme detailed design stage, Highways England will review the contractor's traffic management proposals and undertake an assessment of the potential air quality effects to determine whether they comply with the requirements of the ES and the associated Outline Environmental Management Plan (OEMP) [APP-249].</p> <p>Given the above, it is anticipated that this indicates that the effects are similar to those are reported in the ES. In the unlikely event that the assessment indicates that the traffic management proposals give rise to materially new or materially worse adverse environmental effects, this would indicate the need for the contractor to amend the traffic management proposals or propose additional mitigation. This process will be included in the next version of the OEMP.</p> <p>As detailed in the OEMP, the local authorities will be consulted during preparation of the CEMP and TMP – refer to [REP1-006] Appendix A – 3.11. It is accepted that the Scheme construction contractor will need to maintain close communications with DCiC regarding traffic</p>

Ref	Source	Comments	Applicant's Response
		<p>the potential impact upon the Stafford Street TM Scheme during the A38 Scheme construction. The current modelling suggests a negligible impact but given the lack of certainty around the construction scenarios proposed in the ES, there is concern that impacts could still arise if not properly managed. See DCiC answer to question 5.26 below for further details on this.</p> <p>As mentioned previously, DCiC will need to be involved in the design of the CEMP and associated TMP. Furthermore, DCiC must receive reports of the continuous monitoring of the implementation of the CEMP and TMP throughout the construction phases of the development. Ideally, agreement should be sought from DCiC before each phase of construction and also in connection with any remedial actions taken to address problems that arise throughout the programme of works. As DCiC will be a first point of contact for complaints in the majority of cases, a robust 'receive, respond and act' *system will need to be in place, co-ordinated by HE, but with significant DCiC input. [*this can be assisted by dedicated resource deployed by HE within the City Council]</p>	<p>management and associated environmental issues throughout the Scheme construction phase, including potential air quality impacts. This will be detailed in the next version of the OEMP <b>[APP-249]</b>.</p>

Ref	Source	Comments	Applicant's Response
1.57	Responses to ExA's First Written Questions Question: 5.3	<b>Changes to local traffic management RR by DCiC [RR-003]:</b> See earlier Highways response regarding this.	It is noted that DCiC are not proposing any traffic management changes on Kedleston Road or Five Lamps. Highways England's response to Question 5.3 <b>[REP1-005]</b> remains valid.
1.58	Responses to ExA's First Written Questions Question: 5.4	<b>Study area, receptors and baseline data ES Chapter 5 – Air Quality [APP-043] sections 5.6 and 5.7 ES Appendix 5.2 – Air Quality Methodologies [APP-171] table 2:</b> See SoCG.	Noted – these issues are considered in the draft SoCG with DCiC, indicating that agreement has been reached on applicable sensitive receptors within the air quality study area.
1.59	Responses to ExA's First Written Questions Question: 5.5	<b>Carbon monoxide, 1,3-butadiene, benzene, lead and sulphur dioxide ES Chapter 5 – Air Quality [APP-043] paragraph 5.3.4:</b> a) Based on available evidence, yes. b) Not that DCiC is aware of.	a) Noted and agreed. b) Noted and agreed.
1.60	Responses to ExA's First Written Questions Question: 5.6	<b>PM2.5 assessment ES Chapter 5 – Air Quality [APP-043] paragraph 5.35 and Table 5.5:</b> See SoCG. b) The only other measures that could assist with PM2.5 mitigation would relate to measures incorporated into the CEMP e.g. in relation to the choice of NRMM (Non-Road Mobile Machinery) or the use of diesel generators. Such matters should be discussed as part of the CEMP development in any case and	b) Additional mitigation measures for PM <sub>2.5</sub> are not proposed as predicted concentrations are within the national objective and EU limit value. Measures to control particulate matter during Scheme construction are detailed in the OEMP <b>[APP-249]</b> and will be detailed in the contractor's CEMP. The contractor will discuss such mitigation measures with DCiC during preparation of their CEMP.

Ref	Source	Comments	Applicant's Response
		DCiC are satisfied with this approach for management.	
1.61	Responses to ExA's First Written Questions Question: 5.10	<b>Biodiversity impact assessment ES Chapter 5 – Air Quality [APP-043] paragraph 5.8.14 and table 5.10</b> <b>NPSNN paragraphs 5.11:</b> The issue of potential air quality impacts on nature conservation sites is outside of DCiC area of expertise and in such cases, we are guided by the views of Natural England	Noted – air quality effects upon conservation sites is considered in ES Chapter 8: Biodiversity [APP-046].
1.62	Responses to ExA's First Written Questions Question: 5.13	<b>Baseline conditions and overall assessment methodology:</b> See SoCG.	Noted – these issues are considered in the draft SoCG with DCiC.
1.63	Responses to ExA's First Written Questions Question: 5.21	<b>Construction dust and emissions assessment and mitigation:</b> See SoCG. a) and b) Some degree of construction dust impacts arising from a scheme of this scale and nature are inevitable. They are however hard to predict accurately as there are many unknown variables involved e.g. arising from different meteorological conditions. In practice, construction dust impacts will be controlled through robust management/mitigation measures, which must be implemented rigorously throughout the duration of all high risk works. This has to be laid out in detail in the CEMP, along with measures	a) to d) It is noted that DCiC agrees in principle with the construction dust and emissions assessment and mitigation proposals. Details regarding dust mitigation measure are detailed in the OEMP [APP-249], and will be detailed in the contractor's CEMP. The contractor will discuss such mitigation measures with DCiC during preparation of their CEMP.

Ref	Source	Comments	Applicant's Response
		<p>for monitoring and associated urgent action/responses where the monitoring reveals an issue.</p> <p>c) The OEMP is a useful guide for development of the CEMP; however this question cannot be answered until such time as the CEMP has been fully detailed as the detailed measures are not yet confirmed.</p> <p>d) The approach used to identify where the most significant impacts might occur is agreed by DCiC, however that should not be taken to mean that the predictions provide certainty. They are merely modelling/assessment outputs.</p>	
1.64	Responses to ExA's First Written Questions Question: 5.24	<b>Operational vehicle emissions assessment, impacts and mitigation:</b> See SoCG.	Noted – these issues are considered in the draft SoCG with DCiC.
1.65	Responses to ExA's First Written Questions Question: 5.25	<b>Exceedances of EU limit values for NO<sub>2</sub>, reporting of non-compliance and timescales to achieve compliance ES Chapter 5 – Air Quality [APP-043] paragraphs 5.7.3-8</b> <b>NPSNN paragraph 5.13:</b> See SoCG. a) and b) Currently, this is not fully agreed. In terms of the methodology used in the ES for compliance-checking against the EU AQ Directive for annual average NO <sub>2</sub> , there is an underlying disparity between it and the methodology used to predict	Besides Stafford Street, there are roads in Derby City that are close to the NO <sub>2</sub> limit value which could exceed the limit value if NO <sub>2</sub> concentrations increase due to the Scheme. In order to assess the risks associated with such potential exceedances, DCiC has provided Highways England with modelled NO <sub>2</sub> concentrations in 2016 and 2020 at receptors located at 4m from roads across the city. This modelling was carried out by DCiC for JAQU for compliance purposes and is the most recent information available. The information can be seen at <a href="http://maps.derby.gov.uk/">http://maps.derby.gov.uk/</a> . This information was used together with the modelled Scheme impacts to assess

Ref	Source	Comments	Applicant's Response
		<p>potential exceedances of the EU Limit Value for annual average NO<sub>2</sub>, as prescribed by DEFRA. This relates to the location of modelled receptors, which is standardised in the DEFRA methodology to a point exactly 4 metres from the kerb, whereas the approach utilised within the ES uses a point at the façade of the closest receptor to the kerb.</p> <p>In the majority of cases, the A38 Scheme ES approach will be more conservative and therefore is of little concern regarding a potential EU Directive exceedance, however further sense-checking is needed in relation to some of the modelled receptor points against the DEFRA methodology, utilising a modelled point at 4m from the kerb. This would need to include any receptors which:</p> <ul style="list-style-type: none"> <li>· Are located adjacent to a road link which is predicted to experience a notable increase in traffic volume AADTs post-scheme completion; AND</li> <li>· Which are located between 4m and 10m from the kerb; AND</li> <li>· Which already experience annual average NO<sub>2</sub> concentrations close to, or higher than, 40µgm<sup>-3</sup>.</li> </ul> <p>c) There is a single location on Stafford Street which has been reported to DEFRA as being in potential non-compliance with the EU Directive in 2020/21.</p>	<p>whether the limit value is likely to be exceeded. This approach is in-line with Highways England guidance in Interim Advice Note 175/13 on compliance risk assessments. Annual mean NO<sub>2</sub> concentrations in the range 30 - 40 µg/m<sup>3</sup> in 2020 were predicted at a number of locations, including at DCiC receptors near the A38 and A601 Inner Ring Road. Highways England has undertaken additional analysis which indicates that the A38 Scheme is not expected to affect compliance in areas that are currently compliant during both Scheme construction and operation. This includes the house at the end of Kedleston Old Road next to the A38 which DCiC refers to in its Local Impact Report <b>[REP1-035]</b>.</p>

Ref	Source	Comments	Applicant's Response
		d) Compliance is expected to be achieved as a result of the Derby Roadside NO2 Plan Traffic Management Scheme, due to be implemented by the end of 2020.	
1.66	Responses to ExA's First Written Questions Question: 5.26	<p><b>Increases in NO2 concentrations in non-compliant areas</b>  <b>ES Chapter 5 – Air Quality [APP-043] section 5.10</b>  <b>NPSNN paragraph 5.13:</b> a) and b) There is only one location in Derby City currently predicted to be non-compliant with the EU Directive and that is at Stafford Street. In terms of the completed scheme (described in the ES as 'operational impacts'), the scheme is predicted to reduce the volume of traffic on Stafford Street and therefore is expected to have a positive impact i.e. causing a reduction in annual average NO2 concentrations. When considering the completed scheme, DCiC welcomes the scheme in this regard.</p> <p>When considering impacts upon Stafford Street during construction, the picture is less clear. Whilst the modelling currently suggests negligible impacts upon Stafford Street during construction, it is our understanding that the current construction traffic management scenarios 'could' be subject to change following appointment of the construction contractor or indeed, in response to changing</p>	<p>Agreed in relation to air quality impacts during the Scheme operational phase.</p> <p>With regard to a potential delay to the implementation of the DCiC traffic management scheme, the construction phase air quality modelling assumes that such measures are in place (noting that traffic management proposals associated with the Scheme are anticipated to be first installed in March 2021). The Secretary of State approved the DCiC traffic management measures to improve air quality in Stafford Street on the 13th May 2019 and a ministerial direction was issued for DCiC to comply with the legal limit value for nitrogen dioxide within the shortest possible time and by 2020 at the latest. These measures are the most suitable mechanism to reduce flows in Stafford Street and are required by ministerial direction to be in place. With the traffic management measures in place during the construction phase, Stafford Street is expected to be compliant.</p> <p>Other roads in Derby city are also expected to be compliant during the Scheme construction phase as set out in Highway England's comments to Question 5.25.</p>

Ref	Source	Comments	Applicant's Response
		<p>circumstances throughout the construction programme.</p> <p>Nonetheless, once the DCiC Local Roadside NO2 Traffic Management Scheme (DCiC TM Scheme) has been implemented, any potential impacts on Stafford Street arising from the A38 Scheme's construction should in theory be controlled by the DCiC TM Scheme. This is because the fundamental aim of the scheme is to control the flow of traffic along Stafford Street.</p> <p>However, it is worth highlighting that, although the DCiC TM Scheme is due to be implemented by the end of 2020, there is still some uncertainty as to the precise completion date. Consequently, there is a risk that the A38 scheme construction could begin prior to full delivery of the DCiC Scheme and as such, increases in emissions along Stafford Street caused by diverted traffic due to the A38 Scheme construction, could occur. How long this occurs for before implementation of the DCiC TM Scheme is crucial to the significance of any impacts upon potential compliance with the EU Directive in 2020 or 2021, which is of course measured/modelled on an annual average basis.</p> <p>With respect to construction-related impacts potentially causing any new</p>	

Ref	Source	Comments	Applicant's Response
		<p>exceedances of the EU Directive beyond Stafford Street, again, this is less clear due to the uncertainties around the A38 construction programme. At this stage, DCiC accepts that this can only be managed through continuous discussion and design throughout the process, which both HE and DCiC are already committed to. See also DCiC response to question 5.2.</p>	
1.67	<p>Responses to ExA's First Written Questions            Question: 5.27</p>	<p><b>Compliant areas becoming non-compliant</b>  <b>ES Chapter 5 – Air Quality [APP-043] section 5.10</b>  <b>NPSNN paragraph 5.13:</b> Derby City is already reported as being in non-compliance, therefore there is no risk of this occurring in relation to Derby. In terms of any new locations within Derby City becoming non-compliant, that are currently compliant, then DCiC would add the following comments:  <b>Scheme Construction Phase</b> – Yes, there is some risk to this. The current modelling suggests this should not be the case, however DCiC understands that the construction traffic management scenarios are not fully confirmed in detail at this stage. Furthermore, making accurate predictions through traffic and AQ modelling for the various construction</p>	<p>The selected construction contractor upon appointment will review the construction programming and associated traffic management proposals. However, given the construction requirements and the physical constraints at each junction, it is considered that there is very limited ability to change the construction traffic management proposal as reported in the TMP and assumed by the ES. It is also noted that during the Scheme detailed design stage, Highways England will review the contractor's traffic management proposals and undertake an assessment of the potential air quality effects to determine whether they comply with the requirements of the ES and the associated Outline Environmental Management Plan (OEMP) [APP-249]. Given the above, it is anticipated that this indicates that the effects are similar to those are reported in the ES. In the unlikely event that the assessment indicates that the traffic management proposals give rise to materially new or materially worse adverse environmental effects, this would indicate the need for the contractor to amend the traffic management proposals or propose additional</p>

Ref	Source	Comments	Applicant's Response
		<p>scenarios will never be completely accurate.</p> <p><b>Completed Scheme (Operational Impacts)</b> – As highlighted in DCiC's answer to question 5.25, there is still some uncertainty around whether the scheme could cause a new non-compliance beyond Stafford Street, especially in relation to the A38 itself and any other roads that are predicted to see an increase in traffic volumes post-completion.</p> <p>DCiC understands that HE is looking into this in more detail.</p>	<p>mitigation. This process will be included in the next version of the OEMP.</p> <p>During Scheme operation and construction, compliant areas are not expected to become non-compliant as discussed in Highways England's comment to Question 5.25.</p>
1.68	<p>Responses to ExA's First Written Questions            Question: 5.28</p>	<p><b>NO2 compliance at Stafford Street RR by DCiC [RR-003]: b) Completed Scheme (Operational Impacts)</b> – DCiC does not see any merit in any specific requirements or measures being identified and secured through the DCO in relation to NO2 compliance at Stafford Street, since the completed scheme is predicted to have a net benefit on emissions on Stafford Street.</p> <p><b>Scheme Construction Scheme</b> – See answers to questions 3.12, 4.25, 4.27, 4.29, 5.2 and 5.26 and 5.27. DCiC would recommend that regular consultation on the CEMP is required, with a further requirement for approval of the CEMP from DCiC.</p>	<p>b) It is agreed that the air quality assessment <b>[APP-043]</b> indicates that the Scheme has the potential to reduce NO<sub>2</sub> concentrations on Stafford Street. It is also agreed that the Scheme construction contractor maintain close communications with DCiC throughout the Scheme construction phase. This will be stressed in the next version of the OEMP <b>[APP-249]</b>. DCiC's proposed traffic management measures to improve air quality in Stafford Street provide a suitable mechanism of reducing traffic flows in Stafford Street. It would therefore not be reasonable for the Highways England to change its construction arrangements for a Scheme that is expected to have a minimal effect on traffic flows in Stafford Street. In addition, DCiC has the option to use the traffic management measures implemented to improve air quality by further restricting traffic flows along Stafford Street and further improve air quality.</p>

Ref	Source	Comments	Applicant's Response
		It would also be helpful if DCiC (or the SoS) had the power to require action from HE to make changes to the construction arrangements where monitoring suggests that the existing situation could be putting compliance with the EU AQ Directive at risk.	
1.69	Responses to ExA's First Written Questions Question: 5.29	<b>NO2 analysis method and increases at Stafford Street</b> <b>ES Chapter 5 – Air Quality [APP-043] paragraphs 5.10.9, 25, 30 and 44</b> <b>NPSNN paragraph 5.13:</b> a) See SoCG and answer to question 5.25. b) See SoCG and answer to question 5.26 regarding potential uncertainties in predicting NO2 during construction. Whether alternative construction measures are feasible can only be considered following detailed joint discussions between transport and AQ personnel at both HE and DCiC once the construction contractor has been appointed.	Highways England's response to question 5.29 as detailed in [REP1-005] remains valid – namely that on the basis that either imperceptible changes or improvements in air quality are predicted along Stafford Street during the Scheme construction phase, alternative construction traffic management methods are not considered to be required.
1.70	Responses to ExA's First Written Questions Question: 5.30	<b>Mitigation measures</b> <b>ES Chapter 5 – Air Quality [APP-043] section 5.9</b> <b>NPSNN paragraph 5.15:</b> b) With respect to the completed scheme, overall, the impacts resulting from the scheme are beneficial to local emissions. The only exceptions to this are any receptors	Noted that DCiC accepts that significant impacts on local air quality from the completed Scheme are not predicted and that further mitigation measures are not necessary.

Ref	Source	Comments	Applicant's Response
		<p>located close to the A38 carriageway (of which there are very few) and some other locations expected to see an increase in traffic volumes post-completion.</p> <p>DCiC accepts that the modelling does not predict any significant impacts on local AQ arising from the completed scheme and therefore does not consider that further mitigation measures are necessary based on the information in the ES.</p>	
1.71	<p>Responses to ExA's First Written Questions            Question: 5.31</p>	<p><b>Dust monitoring during preliminary works and main construction works ES Chapter 5 – Air Quality [APP-043] paragraphs 5.9.4-6</b></p> <p><b>OEMP [APP-249] tables 3.2a and 3.2b:</b></p> <p>c) DCiC acknowledges that there are fairly significant costs associated with dust monitoring and are satisfied that dust monitoring need only be carried out in relation to certain works which have a greater potential of creating dust and at certain times of year. As an extreme example, there is little benefit in monitoring dust during very wet weather in winter for line painting activities.</p> <p>The necessity for dust monitoring in relation to certain activities in certain locations at particular times, should be outlined in the CEMP and as mentioned above, this should be agreed with DCiC. For example, dust monitoring will be</p>	<p>Noted - the type and level of any dust monitoring will be agreed between the Scheme construction contractor and the local authorities and then included within the contractor's CEMP, in accordance with the OEMP [APP-249].</p>

Ref	Source	Comments	Applicant's Response
		<p>essential in respect of works in close proximity to residential dwellings, or other relevant receptors, especially during drier periods in the summer.</p> <p>It is considered that there are certain higher risk activities that will 'require' dust monitoring, some medium risk activities where monitoring should be 'considered' and other low risk activities where it may 'not be necessary'. DCiC would further recommend that monitoring is required in response to any complaints about dust.</p> <p>*this is where an HE resource dedicated and based with DCiC would assist greatly</p>	
1.72	<p>Responses to ExA's First Written Questions            Question: 5.32</p>	<p><b>NO2 monitoring</b>  <b>OEMP [APP-249] tables 3.2a and 3.2b:</b>            c) DCiC already carries out a fairly extensive network of NO2 diffusion tube monitoring within the area of most concern. Whilst NO2 monitoring is useful, it is important to note that, although monitoring provides a good guide to the overall concentrations of NO2, it does not provide any useful information to ascertain the sources of NO2.</p> <p>Furthermore, for NO2 monitoring to be useful, it should be considered as part of a long-term survey, ideally involving years of data, to be able to determine trends. Consequently, whilst further NO2 monitoring during the scheme may be</p>	<p>Noted - it is agreed that DCiC already carries out a fairly extensive network of NO<sub>2</sub> diffusion tube monitoring. The monitoring network is shown on ES Figure 5.4 [APP-074]. Monitoring data from this network should be able to show whether there are changes across the city due to operation of the Scheme.</p>

Ref	Source	Comments	Applicant's Response
		interesting, DCiC does not see additional NO2 monitoring as an essential requirement in relation to the scheme. Post-scheme completion monitoring may, however, be more useful, in order to assist in evaluating the impacts of the completed scheme. This would need to be in conjunction with historical monitoring locations in order to be able to ascertain long-term trends.	
1.73	Responses to ExA's First Written Questions Question: 5.35	<b>Statutory compliance, monitoring, pollution control and other matters:</b> DCiC have no further comments, other than those already outlined.	Noted.
1.74	Responses to ExA's First Written Questions Question: 6.1	<b>Changes to local traffic management RR by DCiC [RR-003]:</b> a) and b) See highways comments provided elsewhere regarding modelling at this junction	Regard ExA's FWQ 6.1 (a): Refer to item 1.46 above. Refer to HE response to 6.1 (b) [REP1-005]
1.75	Responses to ExA's First Written Questions Question: 6.2	<b>DCiC traffic measures for Stafford Street ES Chapter 9 – Noise and Vibration [APP-047] paragraphs 9.3.9 and 9.5.1:</b> See answer to question 5.2 above and also SoCG. DCiC do not consider there to be any significant implications arising from this in relation to noise and vibration, based on the information available.	Highways England welcomes DCiC's agreement that there are unlikely to be any significant implications, in terms of traffic noise and vibration, with regards to the timing of the removal (or partial removal) of the traffic management measures associated with Stafford Street, as detailed in DCiC's response to question 5.2.

Ref	Source	Comments	Applicant's Response
1.76	Responses to ExA's First Written Questions Question: 6.3	<b>Study area, receptors and baseline data ES Chapter 9 – Noise and Vibration [APP-047] sections 9.6 and 9.7; paragraphs 9.7.17-27 ES Figures 9.1A [APP-128] and 9.1B [APP-129]: See SoCG.</b>	Noted – agreement on these matters is included within the draft SoCG with DCiC.
1.77	Responses to ExA's First Written Questions Question: 6.4	<b>Lowest Observed Adverse Effect Level (LOAEL) Significant Observed Adverse Effect Level (SOAEL) and ES Chapter 9 – Noise and Vibration [APP-047] tables 9.2-7; paragraphs 9.3.17 and 9.3.49-50:</b> a), b) and c) DCiC do have concerns over the LOAEL and SOAEL levels proposed for operational traffic noise, as these are higher than those normally accepted for applications through the planning system and therefore, in theory, have the potential to cause detriment to local amenity from noise. This is bearing in mind particularly, the evidence around observed effects from road noise reported by the World Health Organisation (WHO). DCiC do however acknowledge that the proposed LOAEL and SOAEL levels are consistent with comparable highway schemes elsewhere and they also align with the Noise Insulation Regulations criteria. Furthermore, DCiC accepts that the	Discussions with DCiC have not identified any concerns with the LOAEL and SOAEL adopted for construction noise and vibration, the use of 58 dB L <sub>A10,18h</sub> with regard to operational traffic vibration, or the magnitude of impact criteria for operational traffic noise. All of these are based on current guidance, in particular BS 5228:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites' and the Design Manual for Roads and Bridges (DMRB). The current (2011) version of DMRB does not explicitly identify LOAEL/SOAEL for operational traffic noise. As detailed in ES Chapter 9: Noise and Vibration [APP-047] these have been set taking into account a range of guidance, including WHO Guidelines and are common across Highways England road schemes. Discussion with DCiC on the choice of LOAEL/SOAEL for operational traffic noise occurred at the EIA Scoping Stage, as reported in the ES.  Highways England welcome DCiC's agreement of the approach to identifying significant noise and vibration effects as detailed in the ES - this is confirmed in the draft SoCG with DCiC.

Ref	Source	Comments	Applicant's Response
		<p>existing levels of noise around the A38, as reported in the ES baseline analysis, already exceed WHO criteria in many cases and therefore it might be unreasonable to expect the scheme to significantly reduce A38 road noise to a level below the WHO criteria.</p> <p>Fundamentally, given that local residents are already accustomed to high levels of noise from the A38, significant impacts arising from the scheme are only likely to occur in practice where the scheme causes a significant increase in noise levels over and above those that already exist.</p> <p>Consequently, DCiC accepts the approach for determination of noise impacts outlined in the ES and the associated process for mitigation appraisal.</p> <p>See also SoCG.</p>	
1.78	Responses to ExA's First Written Questions Question: 6.10	<b>Baseline conditions and surveys:</b> See SoCG.	Noted – agreement on these matters as included within the draft SoCG with DCiC.
1.79	Responses to ExA's First Written Questions Question: 6.13	<p><b>The use of professional judgement ES Chapter 9 – Noise and Vibration [APP-047] paragraphs 9.3.23 and 9.3.52:</b></p> <p>Whether any particular noise causes annoyance to an individual is highly subjective and dependant on a range of factors. A noise assessment can never be</p>	Highways England agree that individual responses to a new noise source (such as construction) or a change in an existing noise source (such as road traffic noise) are unique. However, for the purposes of an Environmental Impact Assessment (EIA) a consistent methodology, in accordance with current best practice and guidance, must be adopted in the identification of potentially significant

Ref	Source	Comments	Applicant's Response
		<p>taken to be confirmation as to whether significant impacts will or won't occur, but they are a useful guide to use as a basis for professional judgement. The ES comments on judgement appear reasonable; however there will inevitably be a degree of disagreement with respect to professional judgment.</p> <p>DCiC acknowledges that potential nuisance arising from construction activities will have to be managed continually throughout the process, via implementation of the agreed CEMP. It would be inappropriate to make any decisions at this stage as to when significant impacts will and won't occur and the predictions in the ES and CEMP are at best used as a guide, which is considered to be an acceptable approach. When considering post-completion traffic impacts, as has already been outlined in the answer to question 6.4, DCiC accepts the approach for determination of noise impacts outlined in the ES and the associated process for mitigation appraisal.</p>	<p>effects. As outlined in the methodology section of ES Chapter 9: Noise and Vibration [APP-047] an initial significance is assigned based on consideration of the predicted noise level (construction) or change in noise level (operation). Professional judgement is then used to consider a number of other factors which may affect the initial significance decision. Highways England welcome DCiC's statement that the approach as outlined in the ES seems reasonable. Through discussions with DCiC, in particular with regard to the SoCG, no areas of disagreement in the application of professional judgement have been raised by DCiC.</p> <p>With regard to construction noise, Highways England agree that whilst at this stage, before exact details of the construction works are finalised, it is not possible to be definitive in the identification of significant noise effects, the approach adopted to identify likely locations of significant effect (which is based on the best available information on the works and robust assumptions with regard to e.g. durations) is acceptable. Highways England agree that the implementation of the contractor's CEMP will enable construction effects to be managed and minimised throughout the works.</p> <p>With regard to operational traffic noise effects, Highways England welcome DCiC's acceptance of the methodology used to identify significant noise effects and the process of applying mitigation measures.</p>

Ref	Source	Comments	Applicant's Response
1.80	Responses to ExA's First Written Questions Question: 6.14	<b>Definition of significant effect ES Chapter 9 – Noise and Vibration [APP-047] paragraphs 9.3.23 and 9.10.5; table 9.2: d)</b> See SoCG and answer to question 6.4 above.	Noted – these issues are considered in the draft SoCG with DCiC.
1.81	Responses to ExA's First Written Questions Question: 6.19	<b>Night-time and weekend working ES Chapter 9 – Noise and Vibration [APP-047] paragraph 9.8.5 OEMP [APP-249] tables 3.2a and 3.2b:</b> a) DCiC acknowledges that construction works carried on outside of core construction working hours are unavoidable in some cases. Question a) is a useful question and is one that DCiC are keen to see the response to. b), c) and d) DCiC considers that <b>all</b> work to be carried out outside core construction working hours should be subject to prior approval from DCiC as part of the CEMP design and ongoing implementation thereof. Any approvals will need to be subject to detailed information to allow proper consideration of: i, the necessity for the works; ii, the date, duration and nature of the works; iii, full and proper public notification of the works; iv, detailed measures to mitigate noise as far as possible; and v, contingency	a) The response provided in [REP1-006] stated that as detailed in the Outline Environmental Management Plan (OEMP) [APP-249] and in ES Chapter 2: The Scheme [APP-040] (para. 2.6.63), a number of works may need to be undertaken outside of core working hours. The potential for such activities has been taken into account by the noise and vibration impact assessment during the consideration of potential evening/weekend and night-time construction noise effects. Activities specified as occurring outside of core working hours are detailed below, together with reasons as to why such activities cannot be carried out during core working hours: <ul style="list-style-type: none"> <li>o Night-time closures for Markeaton footbridge demolition and installation of the new footbridge: footbridge removal and installation need to take place outside of core hours when there is minimal traffic on the A38 in order to minimise disruption and delays to the travelling public, plus for safety considerations.</li> <li>o Junction and slip road tie-in works to existing carriageways: tie-in works need to take place outside of core hours when there is minimal traffic on the affected roads in order to minimise disruption and delays to the travelling public, plus for safety considerations.</li> <li>o Installation of bridge decks: bridge decks installation works need to take place outside of core hours when</li> </ul>

Ref	Source	Comments	Applicant's Response
		<p>arrangements in the event of issues with noise.</p>	<p>there is minimal traffic on the A38 in order to minimise disruption and delays to the travelling public, plus for safety considerations.</p> <ul style="list-style-type: none"> <li>○ Installation of sign gantries: gantries need to be installed outside of core hours when there is minimal traffic on the A38 in order to minimise disruption and delays to the travelling public, plus for safety considerations.</li> <li>○ Installation of temporary and permanent line markings: temporary and permanent line markings need to be installed outside of core hours when there is minimal traffic on the A38 in order to minimise disruption and delays to the travelling public.</li> <li>○ Overnight traffic management measures; as agreed with the local highway authority: such measures would by definition need to take place outside of core hours when there is minimal traffic on the A38 in order to minimise disruption and delays to the travelling public.</li> <li>○ Works associated with traffic management and signal changes: such changes to traffic management and signals need to take place outside of core hours when there is minimal traffic on the A38 in order to minimise disruption and delays to the travelling public, plus for safety considerations.</li> <li>○ Any emergency works: this covers works required outside of core working hours to enable the contractor to implement essential remedial actions for any unplanned circumstances.</li> </ul> <p>b), c) and d) Requirements for night-time closures will be defined by the construction contractor, with details being provided in the contractor's CEMP and TMP. As detailed <b>[REP1-006]</b> Appendix A – 3.11, DCiC will be consulted</p>

Ref	Source	Comments	Applicant's Response
			<p>during the preparation of the contractor's CEMP and TMP. The dDCO Requirement 3 states that the CEMP would be prepared in consultation with the local highway authorities and then submitted to the Secretary of State for approval. Requirement 11 in the dDCO states that the TMP will be approved by the Secretary of State following consultation with the local highway authority.</p>
1.82	<p>Responses to ExA's First Written Questions            Question: 6.20</p>	<p><b>Best Practicable Means and a management plan rather than specific limits and s612 consent</b>  <b>ES Chapter 9 – Noise and Vibration [APP-047] paragraph 9.4.2:</b></p> <p>a) DCiC considers that the main issue with setting noise and vibration limits fails to take account of all of the other variables which contribute to perceived annoyance/nuisance from noise e.g. duration, frequency, intermittency, time of day, tonal characteristics and so on. Noise levels are useful as an initial guide, but DCiC would prefer to avoid outright limits in order to allow for greater flexibility to deal with issues as and when they arise.</p> <p>b) See SoCG. DCiC believes that the primary function of the CEMP will be to outline BPM and therefore, if this has been agreed, then inherently BPM will have been agreed between DCiC and the applicant.</p> <p>c) See answer to a).</p> <p>d) DCiC does not see a need for using the</p>	<p>a) and c) Highways England are in agreement with DCiC in that noise limits are not always the most appropriate approach to controlling construction noise and vibration and welcome their agreement to a more flexible approach.</p> <p>b) Highways England confirms that specific details of the Best Practicable Means (BPM) to be adopted during the works will be included in the CEMP (as detailed in the OEMP [APP-249]) clauses PW-NOI1 and MW-NOI1). As detailed [REP1-006] Appendix A – 3.11, DCiC will be consulted during the preparation of the contractor's CEMP. In addition, dDCO Requirement 3 states that the CEMP would be prepared in consultation with the local highway authorities and then submitted to the Secretary of State for approval.</p> <p>d) Highways England note DCiC's preference to not adopt the Section 61 prior consent process. The OEMP [APP-249] (clauses PW-NOI2 and MW-NOI2) allows for the Section 61 process to be used by the contractor but does not require the contractor to adopt it.</p>

Ref	Source	Comments	Applicant's Response
		<p>Section 61 process to agree BPM. DCiC believes that a CEMP is an appropriate method of securing suitable noise control for the proposed construction works, provided that DCiC's agreement is sought on the CEMP.</p>	
1.83	<p>Responses to ExA's First Written Questions            Question: 6.21</p>	<p><b>Temporary noise barriers</b>  <b>ES Chapter 9 – Noise and Vibration [APP-047] paragraphs 9.9.3, 9.9.6 and 9.12.1:</b> a) DCiC doesn't see a need for this as this can be agreed through the CEMP. In any case, there are already other legislative provisions to prevent noise and nuisance that can be used.            b) This sounds sensible if practical and feasible.</p>	<p>a) Highways England welcomes DCiCs agreement that specific details of temporary site hoardings do not need to be secured in the dDCO, as such measures can be agreed during the preparation of the contractor's CEMP.</p> <p>b) Highways England welcomes DCiCs agreement that specific details of temporary site hoardings do not need to be secured in the dDCO, as such measures can be agreed during the preparation of the contractor's CEMP.</p> <p>c) As detailed in Highways England's response to this question, the 4m high noise barrier along the boundary with the Royal School for the Deaf Derby would be installed as early as possible during the Scheme construction phase such that it is able to mitigate construction noise and act as a security fence. In the ES Chapter 9: Noise and Vibration [APP-047] it was assumed that the barrier would be installed prior to any temporary traffic management measures. However, further consultation with the proposed construction contractor since the completion of the ES indicates that it should be feasible to install the barrier prior to the demolition of the Queensway buildings (e.g. at the start of the Scheme construction phase). Whilst it is an aspiration to install the noise barrier earlier than</p>

Ref	Source	Comments	Applicant's Response
			assumed in the ES, this cannot currently be confirmed as it depends upon site conditions following site possession.
1.84	Responses to ExA's First Written Questions Question: 6.22	<b>Community liaison</b> <b>ES Chapter 9 – Noise and Vibration</b> <b>[APP-047] paragraphs 9.9.5:</b> It is very likely that local residents will contact their local councillor or DCiC in the first instance. It would be extremely helpful to all concerned to have robust communications and flexibility to manage movement of traffic in and through Derby. Working with DCiC ahead of the scheme a communications resource funded by HE and primarily working with the 'Local Travel Behaviour Change' group will maximise engagement particularly if some time is spent based within the city council. See SoCG regarding OEMP and CEMP. DCiC sees these as elements to be agreed under the CEMP at a later date.	The OEMP <b>[APP-249]</b> includes community liaison requirements, including the provision of a Community Relations Manager by the construction contractor. Requirement 3 in the draft DCO <b>[APP-016]</b> requires that the contractor's CEMP must be substantially in accordance with the OEMP which includes community liaison provisions. As such, community liaison will be a key component of the contractor's CEMP.
1.85	Responses to ExA's First Written Questions Question: 6.24	<b>Cumulative impact assessment</b> <b>ES Chapter 9 – Noise and Vibration</b> <b>[APP-047] paragraph 9.7.30:</b> b) See Highways comments on whether construction traffic has been appropriately considered or not.	Construction traffic has been considered by the impact assessment – refer to Highway England's response to this question in <b>[REP1-005]</b> .
1.86	Responses to ExA's First Written Questions	<b>Construction noise and working hours assessment, impacts and mitigation:</b>	Noted and agreed.

Ref	Source	Comments	Applicant's Response
	Question: 6.25	This has already been covered above and in SoCG. All to be dealt with in CEMP.	
1.87	Responses to ExA's First Written Questions Question: 6.30	<b>Operational noise and vibration assessment, impacts and mitigation:</b> See SoCG. This has all been agreed with DCiC.	Noted – agreement on these matters is included within the draft SoCG with DCiC.
1.88	Responses to ExA's First Written Questions Question: 6.31	<b>Derby Local Transport Plan, LTP3 2011-2026:</b> DEFRA have published a National Noise Plan in accordance with their commitments under the EU Noise Directive. As the development relates to a road which is under the control of HE, noise controls are covered under HE's Noise Action Plan, not DCiC's. Whilst DCiC are currently developing a Noise Action Plan, this only relates to road links highlighted under the National Plan, otherwise known as Noise Important Areas (NIAs). DCiC does not believe that this scheme will have any material impact upon any of DCiC's NIAs and therefore there are no perceived conflicts with DCiC's developing local Noise Action Plan.	Noted and agreed.
1.89	Responses to ExA's First Written Questions Question: 6.32	<b>Noise Important Areas ES Chapter 9 – Noise and Vibration [APP-047] paragraph 9.4.4 NPSNN paragraph 5.200:</b> a) Unfortunately, it is not currently possible to confirm the timescales for publication of	Noted and agreed.

Ref	Source	Comments	Applicant's Response
		DCiC's Local Noise Action Plan, however as mentioned in answer 6.31 above, DCiC does not believe that the A38 scheme will have any material impact upon any of DCiC's NIAs and therefore there are no perceived conflicts with DCiC's developing Local Noise Action Plan.	
1.90	Responses to ExA's First Written Questions Question: 6.34	<b>ES Chapter 9 – Noise and Vibration [APP-047] paragraphs 9.11.1-2 OEMP [APP-249] tables 3a and 3b:</b> To be agreed and secured through CEMP. See also answer to question 6.20.	Noted.
1.91	Responses to ExA's First Written Questions Question: 6.35	<b>Mitigation measures ES Chapter 9 – Noise and Vibration [APP-047] section 9.9 NPSNN paragraphs 5.194 and 5.198:</b> c) See SoCG.	Noted – agreement on these matters is included within the draft SoCG with DCiC.
1.92	Responses to ExA's First Written Questions Question: 6.36	<b>Mitigation measures NPSNN paragraph 5.196:</b> See SoCG. The evidence produced in the ES to demonstrate the appropriateness of the proposed mitigation measures is not questioned by DCiC.	Noted – agreement on these matters is included within the draft SoCG with DCiC.
1.93	Responses to ExA's First Written Questions Question: 6.41	<b>Statutory compliance, monitoring, pollution control and other matters NPSNN paragraphs 5.193 and 5.195:</b> See SoCG. No issues identified by DCiC, subject to the process of CEMP agreement and implementation.	Noted – agreement on these matters is included within the draft SoCG with DCiC.

Ref	Source	Comments	Applicant's Response
1.94	Responses to ExA's First Written Questions Question: 7.3	<b>ES Chapter 13 [APP-051]</b> <b>ES Appendix 13.2A [APP229]:</b> DCiC as FFLA are satisfied that the model used for the FRA for Kingsway Island can adequately assess the revised climate change projection from the EA and we understand that the new climate change predictions have been assessed.	Noted and agreed.
1.95	Responses to ExA's First Written Questions Question: 7.17	<b>Sustainable Drainage Systems (SuDS)</b> <b>ES Chapter 13 [APP-051]:</b> In order to mitigate the loss of public open space at the Markeaton and Kingsway junctions, the Applicant proposes replacement open space at Queensway and Brackensdale Avenue. The open space at Queensway will accommodate two Highway drainage attenuation tanks of 935m <sup>3</sup> and 2300m <sup>3</sup> for catchment 10 in addition to a forebay/wet sedimentation pond which forms part of the Applicant's environmental mitigation. The pond has a volume of 273m <sup>3</sup> . The use of these drainage attenuation tanks, the larger of which occupies the full width of the proposed replacement open space, restricts the type of vegetation to amenity grassland and shrubs. It also excludes the provision of larger open water features and tree planting which could provide visual screening and improve conditions for wildlife and	The options regarding Public Open Space exchange land are extremely limited due the urban location and the legislation relating to providing replacement POS. The above considerations on both existing and proposed POS exchange land limit the options available to the Scheme regarding SuDS; therefore, a combination of buried storage and reduced open water features is proposed. The drainage design is at preliminary design only and the design will be reviewed during detailed design. If feasible, further enhancements regarding SuDS will be incorporated. The preliminary design maximises the use of SuDS in the Scheme given the constraints. Where practicable vegetative treatment systems have been specified ensuring compliance with water treatment requirements, however, the POS commitments and requirements dictate that a portion of the attenuation is contained underground. <b>Markeaton</b> Attenuation features have been designed for 100 year + 40% climate change. The size of the attenuation required meant a wholly open water solution was not feasible within the land constraints. A primary aim of the Scheme is to

Ref	Source	Comments	Applicant's Response
		<p>amenity. There is a potential opportunity to create a larger pond in this location which could enhance the benefits for biodiversity and environmental benefits for pedestrians and cyclists using the open space.</p> <p>There are also two main areas where the LLFA believe opportunities exist within public open space to lower flood risk and increase the use of SuDS.</p> <p>There is a further drainage attenuation tank proposed for the Kingsway junction for catchment 2 of 1210m<sup>3</sup> situated within Mackworth Park. The construction of this tank would necessitate clearance of existing trees and future access provision from the A38 for maintenance. For the Kingsway junction there are however significant opportunities in Mackworth Park to introduce Natural Flood Manage (MFM) techniques to reduce surface runoff and slow the flow in watercourses. There may be an opportunity to provide a pond in this location to replace the buried underground tank. A buried tank would restrict the finished treatment of the ground surface whereas a pond which would provide greater wildlife and public amenity within the open space and potentially limit tree loss and benefits that this would provide for screening from the road. The introduction of tree planting (to increase catchment roughness and increase</p>	<p>provide the required public open space exchange land and therefore, the attenuation storage has opted for a partly buried solution. However, this will be revisited at detailed design stage and DCiC's comments will be fully considered.</p> <p><b>Kingsway</b></p> <p>Attenuation features have been designed for 100 year + 40% climate change. SuDS features within Mackworth Park were investigated. However, due to the size of attenuation feature required and associated earthworks, issues with the topography within the area were identified. The land take required to accommodate the attenuation required impacted on the park land; consequently, with increased impact on the loss of public open space hence a buried storage solution was opted for.</p>

Ref	Source	Comments	Applicant's Response
		<p>evapotranspiration) introduction of leaky dams into the tributaries of the Bramble Brook (to slow the flow) and introduce NFM catchment storage. These techniques are seen as low-cost methods of reducing flood risk and can deliver significant biodiversity benefits.</p> <p>The original proposal for the Kingsway junction was to use SuDS features within Mackworth Park (ponds) to provide attenuation and water treatment. These appear to have been replaced by a tank, which offer no treatment, amenity or biodiversity gains. It is not clear why the strategy was amended.</p> <p>At Markeaton Junction there is a proposed new public open space. Sited within the POS are various drainage structures including two large tanks and a small pond. It is our view that the system could be improved by combining the two tank structures and providing a large pond structure. This would provide better water treatment and enhance both amenity and biodiversity. It is however not really useable public open space to mitigate the losses elsewhere.</p>	
1.96	Responses to ExA's First Written Questions Question: 8.1	<b>ES Chapter 8 [APP-046] paragraphs 8.3.29 and 8.7.2, tables 8.9 and 8.10</b> <b>ES Appendix 8.17: Designated and non-designated sites [APP-214]:</b> a) We agree	a) Noted b) Noted c) Noted and agreed

Ref	Source	Comments	Applicant's Response
		<p>that the selection of sites that has been scoped out of further assessment as detailed in Appendix 8.17 is appropriate.</p> <p>b) We are not aware of any further sites that should be taken into account.</p> <p>It is acceptable that the remote sites of minor highway improvements have been scoped out of further assessment but the approach to such works, including precautionary measures as detailed in paragraph 8.3.29, is considered to be appropriate and welcome</p>	
1.97	<p>Responses to ExA's First Written Questions Question: 8.2</p>	<p><b>ES Chapter 8 [APP-046], ES Appendices 8.3-8.15 [APP-180-212]:</b> The survey work has considered the relevant species groups and has been informed by an appropriate desk study. The survey work has been carried out in accordance with current published guidance and is both comprehensive and thorough in nature. Where necessary, the surveys appear to have been updated to respond to changes in the scheme.</p>	Noted and agreed.
1.98	<p>Responses to ExA's First Written Questions Question: 8.3</p>	<p><b>ES Chapter 8 [APP-046]:</b> a) The scheme runs through two Natural Character Areas – Needwood and South Derbyshire Claylands (68) and Derbyshire Peak Fringe and Lower Derwent (50). The key characteristics of these natural area profiles include key and priority habitats that need to be taken into account</p>	<p>a) Noted and agreed. Details of the Natural Character Area (NCA) profiles are detailed in paragraph 8.7.15 of the ES Chapter 8: Biodiversity [APP-046]. Reference to the NCA profile is made within the ES Table 8.14 Importance of Ecological Features and has been used together with professional judgement to assess the importance of ecological features (where applicable).</p>

Ref	Source	Comments	Applicant's Response
		<p>although they are generally replicated by the priority habitats identified in the UK and local BAP.</p> <p>b) There should be reference to the Highways England Biodiversity Plan. We are satisfied that Table 3 references the most up to date relevant information.</p>	<p>b) Noted and agreed. There is reference to Highways England (formally Highways Agency) Biodiversity Plan 2002 within Table 8.3 of ES Chapter 8: Biodiversity [APP-046]. The 2002 Biodiversity Action Plan version still carries some relevance as it refers to specific species and habitats of conservation value associated with the existing road network and soft estate.</p>
1.99	<p>Responses to ExA's First Written Questions            Question: 8.4</p>	<p><b>ES Chapter 8 [APP-046]:</b> We consider the approach to assessment of impacts in paragraph 8.3.28 to be generally acceptable as it appears to include standard mitigation measures in line with the mitigation hierarchy as well as considering the significance of any residual impacts. However, assessing impacts should relate not only to habitat type and the extent of loss but also to other considerations, including distinctiveness, rarity, condition, associated species populations, location, impact on site and local green infrastructure. To this end we would consider that the use of a Biometric Accounting metric would provide a transparent and consistent approach and note that this is touched upon in paragraph 8.3.24. We would welcome this approach but would add that the NPPF now aspires to a net gain for biodiversity rather than no net loss.            A robust replacement policy, particularly</p>	<p>The Ecological Impact Assessment (EclA) reported in ES Chapter 8: Biodiversity [APP-046] provides a qualitative assessment based on the significance of effects and has evaluated ecological importance of habitat types based on a geographical approach based on certain criteria. As per the Chartered Institute of Ecology and Environmental Management (CIEEM) Ecological Impact Assessment Paragraph 4.2 the "<i>importance may relate to the quality or extent of designated sites or habitats, to habitat/species rarity, to the extent to which they are threatened throughout their range, or to their rate of decline</i>". Various characteristics contribute to the importance of ecological features and these are detailed within Table 8.3 of ES Chapter 8: Biodiversity [APP-046].</p> <p>As referenced in paragraph 8.3.24 ES Chapter 8: Biodiversity, the NPPF aspires to net gain for biodiversity. However, it is acknowledged that the NPPF does not contain specific policies for NSIPs such as the Scheme. The NPPF considers <i>similar</i> biodiversity provision to the National Policy Statement for National Networks (NPSNN); however, the NPPF refers to provision of 'enhancement' and 'measurable net gains for biodiversity'. With regard to the Scheme design, opportunities for enhancements and biodiversity gain have been taken where there have been</p>

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		<p>as DCiC will be losing some prominent and mature trees along the edge of Markeaton Park. There is scope for additional tree planting to be included within the Park and at Mackworth and this could tie in with the Trees for Derby Group's aspirations for more tree planting and offset some of the air quality impacts of the scheme.</p>	<p>opportunities. As per paragraph 8.11.3 of the ES Chapter 8: Biodiversity [APP-046], features that have the potential to generate biodiversity gains include the use of the Deaf School noise barrier at Markeaton junction, bat roost features within the Flood Arch bridge at Little Eaton junction, provision of badger fencing and the creation of additional sections of open channel and ecological habitats associated with the Dam Brook realignment works. As per Table 8.15 of the ES Chapter 8, the numbers of tree to be planted will be confirmed during the detailed design taking account of the landscape proposals illustrated in ES Figure 7.8A-C [APP-094]. DCiC will be consulted during the further development of the landscaping proposals, especially with regard to tree planting proposals at Markeaton junction and Markeaton Park. In addition, opportunities for additional tree planting will be investigated by Highways England outside of the DCO process via the ongoing Designated Fund projects (refer to paragraph 8.5.10 in ES Chapter 8: Biodiversity [APP-046]). This could potentially include additional tree planting within Mackworth Park with the Trees for Derby Group.</p>
1.100	<p>Responses to ExA's First Written Questions            Question: 8.5</p>	<p><b>ES Chapter 8 [APP-046]:</b> c) In relation to the contents of Table 8.4 and paragraph 8.3.20, while it is appreciated that the term significance is used in relation to EIA regulations, the NPPF aspires to providing net gains for biodiversity. It is therefore implied that any biodiversity loss could fail the NPPF's sustainable development principle and constitute significant harm. We are of the view that 'significant harm'</p>	<p>It is accepted that the NPPF now aspires to net gain for biodiversity. However, it is also acknowledged that the NPPF does not contain specific policies for NSIPs such as the Scheme.</p> <p>It is agreed that 'priority' and 'non-priority' habitats would contribute to biodiversity value - this has been considered in terms of evaluating the importance of ecological features as per Table 8.3 Ecological Importance in ES Chapter 8: Biodiversity [APP-046]. For the purpose of this assessment, effects are assessed in detail only for those</p>

Ref	Source	Comments	Applicant's Response
		<p>should not solely refer to priority habitats or designated sites as impacts to 'non-priority' habitats which also contribute biodiversity value may also be considered significant enough to require compensation.</p>	<p>features that are of at least local importance or are subject to some form of legal protection (refer to paragraph 8.3.22 of ES Chapter 8: Biodiversity [APP-046]). Table 8.14 Significance of Ecological Effect [APP-046] is used as a guide, together with professional judgement, to determine the significance of ecological effects based on a geographical scale. As stated in paragraph 8.3.20 [APP-046], the importance of any feature is used to assist in determining the geographical scale at which the effect is significant.</p>
1.101	<p>Responses to ExA's First Written Questions            Question: 8.6</p>	<p><b>ES Chapter 8 [APP-046]:</b> b) Further clarification should be provided in respect of demonstrating that the scheme has achieved no net loss through the use of a recognised Biodiversity Metric Calculator. We would add that the NPPF 2019 now aspires to a net gain for biodiversity rather than simply no net loss.</p>	<p>The NPPF aspires to net gain for biodiversity. However, it is acknowledged that the NPPF does not contain specific policies for NSIPs such as the Scheme. Refer to Highways England response to this question in [REP1-005] regarding to how the No Net Loss (NNL) assessment in the Ecological Impact Assessment (EclA) of the Scheme as reported in ES Chapter 8: Biodiversity [APP-046] was undertaken. A Biodiversity Metric Assessment is being undertaken outside of the DCO process for habitats only to guide the Designated Funds projects referenced in ES Chapter 8: Biodiversity [APP-046].</p>
1.102	<p>Responses to ExA's First Written Questions            Question: 8.7</p>	<p><b>ES Chapter 8 [APP-046]:</b> a) The avoidance measures incorporated in to the design are welcomed and the mitigation measures outlined in section 8.9 are considered to be appropriate. Environmental mitigation measures for impact of the scheme on biodiversity have been largely agreed including translocation of soils from Kingsway LWS to Markeaton Park. However, Chapter 8 of</p>	<p>a) Opportunities for biodiversity have been considered as part of the highway drainage and flood risk design. This includes the provision of a wet pond at Markeaton junction, two attenuation ponds at Little Eaton junction, as well as changing the design of the flood storage areas at Kingsway junction such that they create wetland habitats. With regard to use of an attenuation pond rather than a tank in Mackworth Park, a tank solution was determined to be an appropriate solution taking into account site constraints such as local topography and the site's</p>

Ref	Source	Comments	Applicant's Response
		<p>the ES, section 8.9 also refers to the scheme design aiming to maximise opportunities for biodiversity associated with other mitigation measures such as the scheme highway design. There is further opportunity to enhance the agreed mitigation measures through consideration of the drainage design particularly the use of ponds to replace highway drainage attenuation tanks in areas of public open space.</p> <p>b) Consultation with statutory consultees including Natural England, within the scoping opinion, identifies that the proposed development is in an area that could benefit from enhanced Green Infrastructure. Consideration should be given to what existing features on and around the site can be retained or enhanced or what new proposals can be incorporated into the development proposal.</p> <p>DCiC comments on 16/10/18 suggested two new ponds to be created in Mackworth Park with associated wildlife and habitat benefits. It is disappointing to note that these have now been removed and replaced with an underground attenuation tank with limited opportunity to enhance the existing open space and improve the biodiversity of the park.</p> <p>There is additional scope for improvement</p>	<p>designation as public open space (noting that a pond area would likely be an engineered structure that would need to be segregated from public access).</p> <p>b) As detailed within paragraph 8.11.3 of ES Chapter 8: Biodiversity <b>[APP-046]</b>), considerations for green infrastructure have included: maximising use of green space within the Scheme corridor (e.g. landscaping of areas left vacant by the Scheme); incorporating 'green wedges' (open areas around and between settlements that maintain a distinction between the countryside and built up areas noted to have some ecological value) into the landscape design; provision of bat mitigation within the Deaf School noise barrier at Markeaton junction; bat roost features within the Flood Arch bridge at Little Eaton junction; and the creation of additional sections of open channel and ecological habitats associated with the Dam Brook realignment works. It is agreed that there is additional scope for enhancements to green infrastructure outside of the DCO process via the Designated Fund projects referenced in ES Chapter 8: Biodiversity <b>[APP-046]</b>.</p>

Ref	Source	Comments	Applicant's Response
		to existing Green Infrastructure through enhancements to the major open spaces of Markeaton Park, Mill Pond and Mackworth Park which are impacted upon by the scheme but these enhancements are not considered to be within the scope of the DCO submission.	
1.103	Responses to ExA's First Written Questions Question: 8.10	<b>ES Chapter 8 [APP-046]:</b> The implementation of standard pollution prevention control measures and best practice measures to control dust during construction activities are suitable to avoid disturbance effects on national and local statutory designated sites.	Noted and agreed.
1.104	Responses to ExA's First Written Questions Question: 8.12	<b>ES Chapter 8 [APP-046]:</b> The implementation of standard pollution control measures and best practice measures to control dust during construction activities are suitable to avoid disturbance effects to local non-statutory designated sites.	Noted and agreed.
1.105	Responses to ExA's First Written Questions Question: 8.14	<b>ES Chapter 8 [APP-046]:</b> The implementation of standard pollution control measures and best practice measures to control dust during construction activities are suitable to avoid disturbance effects to non- designated sites of interest.	Noted and agreed.

Ref	Source	Comments	Applicant's Response
1.106	Responses to ExA's First Written Questions Question: 8.15	<p><b>ES Chapter 8 [APP-046] RR by the EA [RR-005]:</b> On the basis of a site visit conducted on 29th October 2019 DCiC and DWT agree that Tree References DWT3 and DWT20 do not qualify as veteran trees.</p> <p>It is possible that the location of DWT3 Common Oak is a grid reference error for the same tree identified as M36 which is an obvious veteran. There is another Common Oak nearby at grid reference SK 33731 37143 which although very mature it would not be considered to be a "true" veteran.</p> <p>We confirm that DWT20 is not a veteran tree and there are no veteran Alders or veterans of any tree species at this location.</p>	Highways England acknowledge the comments from DCiC regarding veteran trees. We note the comment that it is possible that there has been a grid referencing error and that DWT3 may be referring to the tree identified as M36. It is noted that tree M36 is identified as a veteran tree in the ES Chapter 8: Biodiversity [APP-046] and identified as a tree that would be lost to the Scheme.
1.107	Responses to ExA's First Written Questions Question: 8.17	<p><b>ES Chapter 8 [APP-046]:</b> DCiC would wish to be consulted on these works where these works are on DCiC land.</p>	With regard to habitat creation and biodiversity opportunities associated with the realignment and culverting of Bramble Brook at Kingsway junction, measures to mitigate potential Water Framework Directive (WFD) impacts have been included in the design, as well as ecological mitigation measures (e.g. creation of associated riparian habitat) – refer to ES Chapter 8: Biodiversity [APP-046] and ES Appendices 13.3A and 13.3B [APP-232 and APP-233]. Highways England would be happy to consult with DCiC regarding the design of such features associated with Bramble Brook during the detailed design stage.

Ref	Source	Comments	Applicant's Response
1.108	Responses to ExA's First Written Questions Question: 8.21	<b>ES Chapter 8 [APP-046]:</b> We advise that sufficient information has been provided in respect of lighting impacts on roosting, foraging and commuting bats as detailed in sections 8.8.10 and 8.9.12 of the ES.	Noted and agreed.
1.109	Responses to ExA's First Written Questions Question: 8.22	<b>ES Chapter 8 [APP-046] paragraph 8.9.9 OEMP [APP-249] Appendix 2.1 Outline Biosecurity and Management Plan:</b> We agree that the measures detailed in Appendix B Outline Biosecurity Management Plan are robust and their implementation has potential to generate a positive effect.	Noted and agreed.
1.110	Responses to ExA's First Written Questions Question: 8.24	<b>ES Chapter 8 [APP-046]:</b> We are broadly supportive of the approach taken in respect of biodiversity enhancement but it should include measures to secure the protection and enhancement of the fields to the south of Alfreton Road Rough Grassland LWS which have developed significant ornithological interest. This site was put forward during meetings and discussions with AECOM as part of discussions to identify suitable biodiversity enhancement opportunities. This scheme presents a good opportunity to secure the protection and enhancement of this wider site, particularly when part of the LWS is to be lost to the proposal.	The Scheme design has aimed to minimise the extent of permanent habitat loss within Alfreton Road Rough Grassland LWS. The Scheme avoids the loss of habitat in association with the inundation and drawdown zone, which is of most value botanically and for birds using the field. Refer to ES Chapter 8: Biodiversity <b>[APP-046]</b> Section 8.9 Design, Mitigation and Enhancement Measures for further details. The fields to the south of Alfreton Road Grassland LWS will not be impacted by the Scheme works and are not within the Scheme boundary. It is not considered appropriate that the Scheme secures the protection and enhancement of this wider site. However, the enhancement of this wider area could be explored outside of the DCO process, for example, through the ongoing Highways England Designated Funds projects as referenced in SE Chapter 8: Biodiversity <b>[APP-046]</b> in partnership with stakeholders.

Ref	Source	Comments	Applicant's Response
1.111	Responses to ExA's First Written Questions Question: 9.7	<p><b>ES Chapter 7 [APP-045]:</b> Need to look at some additional viewpoints, as referred to in the SoCG and in relation to the DVMWHS (some of those used for the North Ave Public Inquiry) - views to the earthwork to form the flood compensation area and to demonstrate the impact of flyover on the OUV of the DVMWHS at Little Eaton.</p>	Photomontages for locations requested by the ExA have been prepared (refer to response to ExA question 9.8 <b>[REP1-005]</b> ), whilst a number of views prepared for the North Avenue Public Inquiry are being examined and new views are being prepared to show the Scheme in relation to the DVMWHS which will be presented and discussed with the local authorities.
1.112	Responses to ExA's First Written Questions Question: 10.1	<p><b>ES Chapter 12 [APP-050]</b> <b>ES Figure 2.9 [APP-065]:</b> Since the Preferred Route Announcement the scheme design has been developed in a way to minimise the loss of public open space. Due to the loss of 7,788m<sup>2</sup> overall as a result of the Kingsway and Markeaton junction works, there is a requirement to provide replacement open space that is equal or greater than the area lost to the scheme.</p> <p>At Kingsway junction, the area to be lost currently forms part of Mackworth Park and Greenwich Drive South open space and is required for the proposed Kingsway junction western roundabout embankment. This will be replaced by the area of former carriageway left vacant as part of the removal of the Brackensdale Avenue access onto the A38.</p> <p>This section of carriageway separates the area of grassland adjacent to the A38 from</p>	<p>Highways England note the comments of DCiC in relation to the suitability of the replacement land at Queensway but would draw attention to the response provided by DCiC to question 13.61, which confirms the position that agreement in principle has been reached on the suitability of this land.</p> <p>This position is also reaffirmed in the draft SoCG with DCiC submitted to the ExA as part of the deadline two submission.</p> <p>Highways England met with officers at DCiC on the 12/11/19 and discussions will continue, in order to address the detailed points raised on the treatment and management of the land as replacement Public Open Space, including land ownership. Highways England will provide further updates on these discussions as the examination progresses.</p>

Ref	Source	Comments	Applicant's Response
		<p>the residential area of Brackensdale Avenue. Removal of this section of road will allow the new area of replacement open space to be amalgamated with this currently inaccessible area of amenity grassland. In terms of usage this will create a larger and more viable area of open space, easily accessible to the residents in the immediate residential area.</p> <p>It is noted that this area will incorporate new semi-mature tree planting, species rich grassland and woodland planting for visual screening and separation of the space from the A38 as part of the environmental masterplan proposals.</p> <p>At Markeaton junction the scheme design will mean the loss of existing public open space and mature trees along the boundary of Markeaton Park which are an integral part of the park. These mature trees currently provide a buffer and visual screening to park users from the road. Proposed new tree planting to replace some of those trees to be lost will take time to reach maturity. Narrow strips will also be lost adjacent to the carriageway either side of the A38 and for the changes to the access arrangement to Markeaton Park from the A52.</p> <p>Replacement open space is being offered on the Eastern side of the A38 at</p>	

Ref	Source	Comments	Applicant's Response
		<p>Queensway where existing properties are to be purchased and a linear area between the A52 Ashbourne Road and the new footbridge crossing will be laid out as open space. This new area is not contiguous with Markeaton Park and will only be connected to the park via the new footbridge.</p> <p>It is noted that this footbridge will be closed for a period of 18 months which if the open space is laid out at the start of the programme will mean that connection between the replacement area of open space and Markeaton Park will be compromised in the short term.</p> <p>The replacement open space forms a relatively narrow, linear space and will accommodate proposed attenuation tanks for the highway drainage and a footpath/cycle link to Ashbourne Road connecting with the new Markeaton footbridge. The larger of the two attenuation tanks, accommodating 2300m<sup>3</sup> of storage will extend to the full width of the new open space and effectively sterilises this area of the open space in terms of vegetation, restricting it to amenity grassland and shrub planting. Due to the linear nature of the space and its proximity to the carriageway, DCiC believe that it functions more as a green corridor for pedestrians and cyclists to</p>	

Ref	Source	Comments	Applicant's Response
		<p>pass through rather than an area of space that people will visit for informal recreation. It cannot therefore be reasonably described as 'replacement open space' that mitigates the loss of parkland open space. Rather than land left over from the highway works proper replacement and mitigation should be promoted by HE. In the latest draft iteration of the SoCG (30 October) it states that the area of replacement open space at Queensway to mitigate for the loss of POS at Markeaton Park will retain in HE ownership, whereas the replacement POS on the park side will transfer to DCiC. What guarantee is there that this POS still in HE ownership will be retained as POS in the future?</p> <p>There needs to be further discussion as to whether some mitigation features and drainage attenuation are compatible with a POS designation. If it is found that this is not the case, then there is further scope for enhancements to be undertaken within Markeaton Park and Mill Pond to compensate for this.</p>	
1.113	Responses to ExA's First Written Questions Question: 10.2	<p><b>ES Chapter 12 [APP-050]</b>  <b>ES Figure 2.9 [APP-065]:</b> a) The land was acquired by the DoE from DCiC in 1985.            b) It does not amount to open space at the current time.</p>	<p>a) Noted.            b) Highways England maintains that it can be considered as suitable replacement land for the reasons as set out in the submitted response to this question for deadline one.            C) Highways England propose to discuss this matter further with DCiC.</p>

Ref	Source	Comments	Applicant's Response
		c) It could be transferred to DCiC as replacement land for loss of open space, but isn't really practical as useable open space - see response to question 13.61 – Special Category land.	
1.114	Responses to ExA's First Written Questions Question: 10.4	<b>ES Chapter 12 [APP-050] Planning Statement [APP-252]:</b> a) Yes these are the policies relevant to Derby city	Noted.
1.115	Responses to ExA's First Written Questions Question: 10.7	<b>ES Chapter 12 [APP-050] Planning Statement [APP-252]: Housing growth</b> There are a number of planning applications capped at specific numbers until this scheme is implemented. The capped housing growth DCiC is aware of is: (9/2017/0349 Newhouse Farm) 1450 houses capped at 317 with other schemes that would release a further 250 and 330. All in South Derbyshire yet immediately to the west of Mickleover. In Amber Valley there are 600 off Radbourne Lane that is currently in assessment but having similar traffic impacts should also be capped. This site lies to the north west of Markeaton junction and would access the A52.	Highways England acknowledge the planning applications referred to within the neighbouring authorities of South Derbyshire District Council and Amber Valley Borough Council. This demonstrates the wider regional benefits that the Scheme will help to deliver and its importance in facilitating growth.
1.116	Responses to ExA's First Written Questions	<b>dDCO [APP-016] provisions for public rights of way; Part 3 Article 14;</b>	Noted

Ref	Source	Comments	Applicant's Response
	Question: 10.18	<b>Schedule 3 Part 7:</b> There are no public rights of way in DCiC	
1.117	Responses to ExA's First Written Questions Question: 10.25	<p><b>ES Chapter 12 [APP-050]:</b> The strategic routes from the north and west of Derby (A52, A6 and A38) converge on the 3 junction's scheme where any work at these junctions will have a severance effect during construction for users. Alternative routes will emerge and careful coordinated diversion routes both locally and further afield will need to be in place and responsive to demand. It will need an iterative approach with continuous monitoring to ensure accessibility into the city centre.</p> <p>Alternative vehicular routes will be explored and potentially suffer as a consequence of the severance experienced during construction. HE resource support is requested to help coordinate and mitigate these impacts. The resource must be responsive and ideally based in Derby. Mitigation measures will need to be responsive to local demand and usage with diversion routes reactive and agreeing with DCiC to ensure local knowledge is employed. Public transport routes will need careful attention/monitoring and given preference as movements/habits unfold.</p> <p>The loss of the Markeaton footbridge for</p>	Noted – all of these concerns have been raised in the draft Statement of Common Ground and are the subject of ongoing discussion and agreement.

Ref	Source	Comments	Applicant's Response
		<p>one and a half years during construction is of significant concern given that this is one of the major links for pedestrians and cyclists between the Markeaton Park/university campus and the city centre which also hosts extended university facilities.</p> <p>DCiC is unsure why a new signalised junction is proposed at the junction of Ford Lane and Duffield Road where other more suitable alternatives might be more appropriate given that the A6 is a strategic corridor.</p> <p>Appropriate design of construction phase traffic management systems is absolutely key to ensuring vehicular movements along and crossing the A38. Of concern is the statement that 'journey times on some radial routes could be longer'. Delays on those radial routes will impact on the movements across the City centre. Priority ought to be given to public transport along such radial routes to help reduce private car numbers and encourage use of alternative forms of travel.</p>	
1.118	Responses to ExA's First Written Questions Question: 11.6	<p><b>ES Chapter 6 [APP-044]</b>  <b>Additional Submission by DCiC [APP-017]</b>  <b>ES Figure 2.10 [APP-66]:</b> Concern about the possible inconsistency of approach in relation to the North Avenue Public Inquiry</p>	<p>The Heritage Impact Assessment [APP-173] was prepared in accordance with ICOMOS guidance. As such, the impact on individual attributes was considered, as well as those on the authenticity and integrity of the DVMWHS, as identified in the Management Plan. This is consistent</p>

Ref	Source	Comments	Applicant's Response
		<p>and the areas of development within the DVMWHS which affect it's OUV in particular the impact on the 'relict' agricultural rural landscape and the use of the ICOMOS guidance on HIA. Suggested that views identified for the North Avenue Planning inquiry are looked at to confirm whether there is a visual impact on these and others from the DVMWHS to the flyover.</p>	<p>with the approach taken for the North Avenue Public Inquiry.</p> <p>The views prepared for the North Avenue Public Inquiry have been examined and new viewpoints are being prepared to show the Scheme in relation to the WHS – these will be shared with DCiC.</p>
1.119	<p>Responses to ExA's First Written Questions            Question: 12.6</p>	<p><b>Climate change adaptation and carbon emissions</b>  <b>Carbon footprint</b>  <b>ES Chapter 14 – Climate Change</b>  <b>Section 14.10</b>  <b>NPSNN paragraph 5.19:</b> a) The environmental statement on climate is very detailed in trying to quantify the schemes impacts. It concludes that the impact across all three climate aspects is largely acceptable for the 'do-something' scenario. Taking into account the immense challenge faced by society in hitting the 2050 zero carbon target any increase in GHG emissions is taking us in the wrong direction. This additional GHG burden needs to be mitigated through an extensive tree planting scheme and making better provision for cycling and</p>	<p>a) ES Chapter 14: Climate [APP-052] identified no likely significant effects on climate change at either construction or operational stage as a result of the Scheme, noting that mitigation measures would be implemented by the construction contractor to reduce the Scheme carbon footprint. As such, Highways England do not consider the carbon footprint of the Scheme to be "unnecessarily high". Please refer to the response provided to ExA question 12.5d [REP1-005] for specific mitigation measures to be taken to reduce the Scheme carbon footprint.</p> <p>b) As outlined in Section 14.11 of ES Chapter 14: Climate [APP-052], no monitoring is considered necessary as no significant effects have been identified for the climate assessment. As no likely significant effects on climate change are expected as a result of the Scheme, it is also not considered necessary for carbon footprint targets to be set. Nevertheless, energy consumption and materials use will be recorded and reported by the construction contractor to Highways England on an ongoing basis</p>

Ref	Source	Comments	Applicant's Response
		<p>cycles routes along with procuring goods and services in the construction phase that are less carbon intensive. Opportunities for decentralised, renewable energy could also be investigated within the vicinity of the scheme in the form of large scale wind, hydro and solar.</p> <p>b) It would be useful (and relatively straight forward) to set a maximum acceptable footprint for the detailed design and construction phase which needs to be challenging to ensure that best practice is followed to drive down the GHG burden. The operation of the scheme is far more difficult to effectively monitor/manage and rests with the behaviour of the public along with advances in vehicle technology with electric vehicles and cleaner fuels (including hydrogen) driving down tail gate emissions.</p>	<p>during the Scheme construction phase using the Highways England Carbon Reporting Tool. With regard to Scheme operation, Highways England consider that it is not practical to measure GHG emissions from road users, although energy use will be monitored and accounted for in Highway England's annual carbon reporting.</p>
1.120	<p>Responses to ExA's First Written Questions            Question: 12.7</p>	<p><b>Nuisance Statement [APP- 248]</b>  <b>ES Chapter 9 – Noise and Vibration [APP-047]</b>  <b>dDCO [APP-016] Article 43: 6.20 and 6.25 above</b></p> <p>a) DCiC agrees that there is still underlying concern that nuisance may occur as a result of construction works. In fact, some degree of disturbance is inevitable due to construction works from a scheme of this scale and nature.</p>	<p>a) Highways England agree that some disturbance during Scheme construction is inevitable, and at this stage, before exact details of the construction works are finalised, it is not possible to be definitive in the identification of significant noise effects. The assessment reported in the ES Chapter 9: Noise and Vibration [APP-047] is based on the best available information on the works and robust assumptions e.g. with regard to the duration of impacts. DCiC has confirmed this is acceptable, as detailed in their response to question 6.13.</p>

Ref	Source	Comments	Applicant's Response
		<p>See answers 4.25, 4.26, 4.27, 4.29, 5.2, 5.21, 6.13, 6.19, 6.20 and 6.25 above regarding the OEMP and CEMP, the main purpose of which will be to avoid/mitigate noise and dust nuisance and provide a process for dealing with and acting on complaints of nuisance.</p> <p>See also SoCG.</p> <p>b) Notwithstanding agreement to the CEMP, should nuisance occur, there is nothing in the dDCO which would prevent DCiC being able to take enforcement action in respect of nuisance.</p> <p>The defence highlighted under the dDCO relates only to nuisance action taken by private individuals, not the Local Authority (LA). In this regard, it is unclear why the provisions are necessary, since the LA can act on behalf of a resident where a statutory nuisance exists in any case.</p> <p>Furthermore, the applicant and any construction contractors working on their behalf would already benefit from a BPM defence under the Act itself, again questioning the purpose of the amendment to the provisions under the Act.</p> <p>With respect to the provisions created under the dDCO for appeals under the Control of Pollution Act, DCiC notes that an extended period is provided to the undertaker in order to be able to lodge an</p>	<p>Significant noise effects do not necessarily translate directly into a statutory nuisance. For example, the noise insulation and temporary re-housing policy secured by the OEMP [APP-249] (MW-NOI4) would enable receptors to be relocated away from the worst effects, removing the potential for a statutory nuisance.</p> <p>As identified by DCiC, Best Practicable Means (BPM) is a defence under the Environmental Protection Act 1990 and the OEMP requires the contractor to adopt BPM (PW-NOI1 and MW-NOI1). The contractor's CEMP will enable construction effects to be effectively managed and minimised throughout the works, and therefore Highways England do not envisage the construction works resulting in a statutory nuisance.</p> <p>b) The dDCO (article 43) does not prevent DCiC from pursuing enforcement action under the Environmental Protection Act 1990. However, article 43 does provide Highways England with a statutory defence to any proceedings brought under s.79 (g) or (ga) where the issue relates to noise (N.B. Highways England has deleted reference to the defences under (d) and (fb) of s.79 in the dDCO (see dDCO submitted for D1) given that Highways England's assessment [APP-047] concludes that nuisance issues are unlikely.)</p> <p>In respect of the timings proposed in the article, this provision is a standard provision in all Highways England DCOs and the intention is for there to be limited scope for delay in the progress of the Scheme. As such, Highways England considers that these timescales are appropriate given that the development is a Nationally Significant Infrastructure Project and the Secretary of State has found</p>

Ref	Source	Comments	Applicant's Response
		<p>appeal as compared to the Act itself (42 days versus 21 days), however no such extension is provided to the LA in relation to its submission of a response to the appeal (which is limited to 10 days). DCiC would request that an extension is provided for within the DCO to allow for equivalent allowances to deal with an appeal by the LA, as it has been for the applicant.</p>	<p>the provisions to be appropriate for other highways schemes.</p>
1.121	<p>Responses to ExA's First Written Questions            Question: 12.8</p>	<p><b>Utility infrastructure</b>  <b>ES Chapter 2 – The Scheme [APP-040] paragraph 2.6.86-92:</b> In the Markeaton Junction there are a number of public sewers running through the scheme. It is not clear how these will be managed or their effects on the work programme.</p>	<p>Where required, the sewers in question will be diverted or protected; the final design details will be carried out by Severn Trent Water as part of the NRSWA C4 process at detailed design stage.</p>
1.122	<p>Responses to ExA's First Written Questions            Question: 12.10</p>	<p><b>Waste management</b>  <b>ES Chapter 11 – Material Assets and Waste [APP-049]</b>  <b>NPSNN paragraph 5.43:</b> For our road schemes we use: Earth Solutions            Chequers Rd DE21 6EP            Head Office address: 10 Goldsmith Way            Eliot Business Park Nuneaton            CV10 7RJ            Occasionally we have spoil collected that goes to JC Balls at Ambergate</p>	<p>Noted.</p>

Ref	Source	Comments	Applicant's Response
1.123	Responses to ExA's First Written Questions Question: 12.11	<b>Civil and military aviation and defence NPSNN paragraphs 5.55-7:</b> Not that we are aware of.	Noted.
1.124	Responses to ExA's First Written Questions Question: 12.12	<p><b>Safety, security and major accidents and disasters</b>  <b>Safety</b>  <b>NPSNN paragraphs 3.10, 4.60:</b> The HE within their Transport Assessment have conducted surveys and noted the number of Personal Injury Collisions (PIC) and have used DfT approved methods to monetise the saving/ reductions in PIC's. It is logical that the reduction of conflicting traffic at the junctions and reduction of traffic on routes adjacent to the A38 will provide safety benefits. Both of these are a direct result of the scheme.</p> <p>The scheme is also set to provide safer routes for pedestrians and cyclists through the provision of new crossing points at the junctions and the identification of opportunities such as lighting that can be provided for sections of footpaths and cycleways.</p> <p>It is unclear as to what opportunities other than the direct benefits of the scheme have been identified.</p>	<p>Noted and agreed.</p> <p>Highways England's strategic business plan includes an objective to deliver a safe and serviceable network, where no one should be harmed when travelling or working on the network. The Scheme will be part of the network.</p>

Ref	Source	Comments	Applicant's Response
1.125	Responses to ExA's First Written Questions Question: 12.15	<p><b>Other policy and factual issues:</b> The proposals cross legislative LPA boundaries so the DVMWHS partnership are best placed to advise the impact on the DVMWHS OUV on the DVMWHS overall.</p> <p>DCiC is aware that there is a potential project considered for the de-stilting of Markeaton Lake. A preliminary report has been completed and this states that the silt taken out of the lake is not contaminated and could be deposited on site.</p> <p>The area which has been suggested for the deposition is the same area that has been proposed for the translocation of soil from the Kingsway LWS as mitigation for the loss of this site as part of the junction works.</p> <p>If the mitigation goes ahead this could compromise our ability in the future to de-silt the lake and HE may have to propose a new location for the translocated soil.</p>	<p>The DVMWHS Partnership is being consulted.</p> <p>The location of the proposed species rich grassland within Markeaton Park (to mitigate for the loss of the Kingsway LWS) (refer to Environmental Masterplan ES Figure 2.12D <b>[APP-068]</b>) was discussed and agreed with DCiC. If this location is no longer considered appropriate, Highways England would be happy to work with DCiC during the detailed design stage to agree an alternative location within Markeaton Park, on the basis that the selected location would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the Environmental Statement. This requirement will be detailed in the OMEP <b>[APP-249]</b>.</p>
1.126	Responses to ExA's First Written Questions Question: 13.5	<p><b>Accuracy of the BoR, SoR &amp; Land Plans:</b> Agreed that the contents generally appear accurate although it was generally accepted that DCiC do not have sufficient time or the necessary resources to check the content in any detail.</p>	Noted.

Ref	Source	Comments	Applicant's Response
1.127	Responses to ExA's First Written Questions Question: 13.21	<p><b>The need for the CA and the minimisation of need:</b> DCiC require clarification on whether the 'Land Used Temporarily and Rights to be Acquired Permanently' is proportional and can HE indicate exactly how much land will be used temporarily and what rights will be acquired. In particular, what are HE's temporary land use proposals for the two large parcels of land at Markeaton Park and Mackworth?</p> <p>Work 16. - With particular reference to the above, further clarification is needed in relation to the permanent emergency vehicle egress needed from Markeaton Park.</p> <p>In terms of access to maintain environmental features within DCiC land, what are HE's proposals in terms of how such intrusion is to be minimised and reinstated following completion of works, and during the subsequent 5 year maintenance period? In addition, clarification is required in relation to the 4m high noise attenuation barrier situated between DCiC land and the Royal School for the Deaf. In particular, where will ownership of said land reside and any access required over DCiC land for future maintenance?</p>	<p>All land shown on the Land Plans [APP-006] which is marked for temporary access is required to undertake relevant works associated with the scheme. Details of the land to be temporarily occupied is detailed in Schedule 7 of the dDCO. In addition, the Book of Reference and the Statement of Reasons detail the land which is proposed to be temporarily possessed and the reasons for such possession. Given the urban nature of the Scheme, the order limits have been tightly drawn and the appropriate amount of land necessary to develop the Scheme has been included.</p> <p>Where permanent rights are required please refer to the Book of Reference and refer to Annex in the Statement of Reasons [APP-020]. In addition, these documents refer to rights to access and to maintain any highway assets specifically listed or where Statutory Undertakers apparatus which are diverted by the scheme require access to maintain. Final positions are to be determined during Detailed Design and the C4 process. The areas of Mackworth and Markeaton Parks are required to gain access and undertake ecological mitigation work within those areas, these include placing of bat and bird boxes and planting. The specific location will be agreed with DCiC during Detailed Design.</p> <p>The details of the emergency access/ egress from Markeaton Park will be developed further at Detail Design in consultation with DCiC. The emergency vehicle access was requested by DCiC at early consultation meetings in order to improve facilities at Markeaton Park during large public events.</p>

Ref	Source	Comments	Applicant's Response
			The land adjacent to RSDD will be owned by HE. The maintenance of the noise barrier will be HE's responsibility. Agreement with DCiC will be sought with regard to the maintenance of the POS on this land.
1.128	Responses to ExA's First Written Questions Question: 13.28	<b>Open space surplus to requirements NPSNN paragraphs 5.166, 5.167 and 5.174:</b> 1.4 Special Category – Open Space Land to be Used Temporarily – DCiC is seeking clarification as to what the land is to be used for and indeed, the extent of the land to be used. In relation to 'Permanent Rights' what is HE's definition?	The large areas of Mackworth and Markeaton Parks are required for environmental mitigation works, the areas are required to gain access and undertake ecological mitigation work within those areas, these include placing of bat and bird boxes and planting. The specific location will be agreed with DCiC during Detailed Design.  With regard to "Permanent Rights", refer to Annex A in the Statement of Reasons [APP-020], these refer to access to maintain any highway assets specifically listed or where Statutory Undertakers apparatus which are diverted by the scheme require access to maintain. Final positions are to be determined during Detailed Design and the C4 process.
1.129	Responses to ExA's First Written Questions Question: 13.29	<b>Alternatives to CA and TP:</b> No aspects under consideration from DCiC Estates perspective	Noted
1.130	Responses to ExA's First Written Questions Question: 13.58	<b>Identification of Special Category land SoR [APP-020] table 7.1:</b> None to the best of our knowledge	Noted.

Ref	Source	Comments	Applicant's Response
1.131	Responses to ExA's First Written Questions Question: 13.61	<p><b>Open space and replacement land:</b> Agreement has been reached in principle on the suitability of replacement land for the proposed loss of open space but further discussions are required in relation to such aspects as drainage attenuation systems to be placed within the proposed new areas of POS. It should be noted that land shown on Figure 2.9 shows the area of the Markeaton footbridge as a loss of public open space. This is included within land that was transferred to DoE in 1985 as part of the Allestree link road stages 1 and 2. As such it is not held as public open space and cannot be considered a loss. The whole area beneath the footbridge which was transferred to the DoE and is now held by the DoT could be offered up as open space in addition to the small area of replacement land shown on the footprint of the existing footbridge on figure 2.9 but for reasons outlined elsewhere isn't really useable mitigation open space. This requires further clarification from the Applicant.</p>	Highways England considers the land could be offered as suitable replacement land for the reasons as set out in the submitted response to question 10.2 at deadline one. Notwithstanding this, the comments are noted, and Highways England will discuss these issues further with DCiC.
1.132	Responses to ExA's First Written Questions Question: 13.68	<p><b>Identification and addressing of potential impediments before CA:</b> a) DCiC are content that all impediments have been identified. b) DCiC have some question connected</p>	Highways England is seeking to secure all rights that it needs over land through private treaty rather than using statutory powers. In using private treaty/agreements the continuing dialogue will ensure that the Interested Parties are aware as to when Highways England is seeking vacant

Ref	Source	Comments	Applicant's Response
		<p>with acquisitions with land and property that will need prior clarification.            Where the proposed acquisitions or consents might involve third parties, trigger mechanisms should be introduced to ensure suitable notice is allowed to prepare for VP.</p>	<p>possession. If Highways England are required to rely on statutory powers, the required notice will be provided and where possible we will engage with landowners to advise them of when VP will be required. In some cases, those with an interest in land have stated reasons for early clarity or acquisition at a particular time, and Highways England is working with them to achieve this in line with the project programme.</p>
<b>2 Derbyshire County Council</b>			
2.1	<p>Comments on the Local Impact Report and Written Representations (paragraph 6.7 of the Local Impact Report [REP1-031] and paragraph 1.2.11 of the Written Representations [REP1-030])</p>	<p><i>'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.'</i></p>	<p>Highways England welcomes the statement from DCC which sets out the importance of the A38 in meeting housing and employment growth within the Derby HMA.</p>
2.2	<p>Comments on the Written Representations [REP1-030] paragraph 1.3.7.</p>	<p><i>'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 7 networks NSIPs and that there is a compelling justification for the need for the</i></p>	<p>Highways England note and welcome the overall conclusions of DCC in their assessment of the Scheme, which acknowledges the significant economic benefits of the Scheme and its role in facilitating growth and reducing congestion and journey times.</p>

Ref	Source	Comments	Applicant's Response
		<p><i>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.'</i></p>	
2.3	<p>Comments on the Local Impact Report [REP1-031] paragraphs 6.17 and 6.18.</p>	<p><i>'In the context of the NPSNN and particularly 146 of the NPPF, it is clear that the proposed Little Eaton junction section of the A38 Grade Separated Junctions scheme comprises the improvement to existing infrastructure i.e. the A38 is long established in a Green Belt location and that consequently, improvements to this</i></p>	<p>Highways England welcome the conclusions of DCC at paragraph 6.20 and 6.21 of the Local Impact Report that the Scheme represents 'appropriate' development within the Green Belt and that as the A38 is a long-established linear corridor, there is no sequential alternative to delivering the Scheme in a location outside of the Green Belt. This accords with the position of Highways England</p>

Ref	Source	Comments	Applicant's Response
		<p><i>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.</i></p> <p><i>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 Councils. 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.</i></p>	<p>as set out in the Planning Statement <b>[APP-252]</b> submitted with the DCO application and as detailed in response to the ExA's written Questions for deadline one <b>[REP1-005]</b>. Highways England note that this also reflects the position as adopted by EBC in the agreed SOCG <b>[REP1-008]</b> as submitted for deadline one.</p>
2.4	Comments on the Local Impact Report <b>[REP1-031]</b>	The DCC Local Impact Report <b>[REP1-031]</b> and Written Representation <b>[REP1-030]</b> contains a number of reoccurring themes regarding the potential environmental effects of the Scheme as reported in the Environmental Statement. Details are provided below, together with associated Highways England comments.	

Ref	Source	Comments	Applicant's Response
2.5		<p>Within the DCC Local Impact Report <b>[REP1-031]</b> and the Written Representation <b>[REP1-030]</b>, DCC identify a number of local heritage impacts associated with the Little Eaton junction works. These include impacts on the below-ground archaeology and impacts upon the Derwent Valley Mills World Heritage Site (DVMWHS).</p> <p>The DCC Archaeologist accepts that the known and potential archaeology within the Scheme site is undesignated and of local to low-regional importance. As such, DCC agreed that the Scheme will not result in a significant effect on archaeological resources, as stated in ES Chapter 6: Cultural Heritage <b>[APP-044]</b> Section 6.15. DCC also agree that the proposed approach to archaeological mitigation and the outline mitigations measures are appropriate. Such measures are confirmed as agreed in the draft SoCG with DCC <b>[REP1-007]</b>.</p>	<p>With regard to the potential Scheme effects on the DVMWHS, DCC refer to the need for consultation with the DVMWHS Partnership (the 'Partnership'). The Partnership was invited to comment on the draft Heritage Impact Assessment Scoping Report (via DCC) on 3<sup>rd</sup> October 2018, however, no response was received. Recent communications with the Partnership indicate that they have concerns regarding the design of the Little Eaton junction, and consider that the Scheme will have less than substantial harm on the Outstanding Universal Value (OUV) of the DVMWHS. They have requested further consideration of the proposed design of the Little Eaton junction to limit this harm. Concerns were also raised regarding the potential Scheme impact on the River Derwent floodplain. The floodplain is identified as an Attribute of the WHS that manifests Value 1 in the Statement of Outstanding Universal Value. It was stated by the Partnership that <i>"the proposed embankments may be seen as harmful to this Attribute because they will detract from the legibility and intact-ness of the Derwent flood plain landscape in this location"</i>. This has been identified as an impact in the Heritage Impact Assessment <b>[APP-173]</b> Section 7.2 and concluded to be a slight adverse effect. Further consultation with the Partnership is proposed to discuss Scheme effects upon the WHS.</p> <p>DCC state that the Scheme at Little Eaton junction falls partly within the DVMWHS, the remainder being within the WHS Buffer Zone. However, for clarification the boundary of the WHS (and Buffer Zone) within the vicinity of Little Eaton junction follows the Midland Mainline Railway (see ES Figure 6.5 <b>[APP-080]</b>). Thus, the vast majority of the</p>

Ref	Source	Comments	Applicant's Response
			<p>Scheme is located to the east of the railway line and thus outside the WHS and the associated buffer.</p> <p>DCC accepts that a specific Heritage Impact Assessment [APP-173] has been prepared and that it contains useful information in the assessment of the WHS. However, DCC suggest that the document omits discussion of the importance of the River Derwent floodplain as an attribute of the WHS.</p> <p>Highways England's Heritage Impact Assessment [APP-173] identifies the River Derwent floodplain throughout the document – it is specifically noted as being an important element of the historic landscape, Section 4.9.10 stating that the floodplain “constitutes one of the key elements of the cultural landscape”. While it is acknowledged that the floodplain forms an important attribute of the WHS, it should be noted that the floodplain does extend beyond the WHS boundary, extending to the east of the Midland Mainline Railway line to the south of the existing Little Eaton junction (see ES Figure 6.5 [APP-080]).</p> <p>Notwithstanding this, it is agreed that the Scheme design will impact on the WHS through the introduction of a new feature into the landscape through alterations to the existing road network. The DCC Archaeologist identifies a potential effect upon the legibility and intactness of the River Derwent floodplain landscape. Thus DCC have questioned the assessment presented in the ES Chapter 6: Cultural Heritage [APP-044] that the Scheme effects on the WHS would be negligible/slight adverse/not EIA significant and suggest that a more balance conclusion might be that the proposals result in a minor adverse</p>

Ref	Source	Comments	Applicant's Response
			<p>impact upon an asset of very high value, resulting in a moderate adverse effect which is EIA significant.</p> <p>Highways England acknowledge that the Scheme will involve the creation of a new embankment over the existing junction. It is considered that the legibility and intactness of the landscape has already been affected by highway infrastructure and the Midland Mainline Railway. Thus, Highways England do not agree that Scheme would have minor adverse impact and thus a moderate adverse effect upon the WHS. The Heritage Impact Assessment <b>[APP-173]</b> recognises that the Scheme would create a more visible and prominent road within the setting of the WHS. However, it is considered that this would be appropriately mitigated through the provision of appropriate landscape planting that has been prepared taking advice from landscape, ecology and cultural heritage specialists. With such planting, it is assessed that there would be very minor changes to key historic landscape elements resulting in very small change to historic landscape character. In accordance with ICOMOS guidance, this would be a negligible impact on an asset of very high heritage value, resulting in a minor adverse effect (refer to Chapter 6: Cultural Heritage <b>[APP-044]</b>).</p> <p>DCC also point out that UNESCO's Operational guidelines for the implementation of the World Heritage Convention state at 15h that State Parties have the responsibility to "<i>not take any deliberate measures that directly or indirectly damage their heritage...</i>" This is accepted, but Highways England do not consider that the Scheme will damage the OUV of the WHS.</p>

Ref	Source	Comments	Applicant's Response
			<p>In relation to the DCC comments regarding the landscape and visual impacts, DCC state that rather than an embankment, the mainline A38 should be placed on a simple, elegant viaduct that would cross the floodplain without the need for embankments. In DCC's opinion, such an alternative design would significantly reduce and help mitigate the Scheme visual effects and impacts upon the OUV of the DVMWHS. Highways England note that the section of the Scheme located within the WHS would not increase the height of the existing A38 corridor, although the embankment would be widened to the south together with widening of the flood arch to the east of the River Derwent bridge and widening of the rail bridge. Thereafter, the mainline A38 would rise on embankment over the junction, eventually joining the existing A38 dual carriageway north of the junction. It is not considered that the design would block existing connections through the linear landscape within the WHS, whilst where the Scheme falls outside the WHS, this linear landscape is already interrupted by the Midland Mainline Railway which forms the boundary of the inscribed area. If the A38 mainline at Little Eaton junction was placed on a viaduct, it is considered that the design would inevitably become more urban in nature and reduce opportunities for landscape planting (e.g. no embankments available for planting), and thus reduce the potential to integrate the Scheme into the surrounding landscape. An elevated viaduct carrying the A38 mainline over Little Eaton junction would be visible from the open floodplain, parts of which are contained within the DVMWHS, whilst such a structure could have adverse landscape/ visual effects given that viaducts are difficult to screen due to their height and form. Highways</p>

Ref	Source	Comments	Applicant's Response
			<p>England consider that the Scheme design as proposed provides a suitable highway structure, and one that can be appropriately landscaped such that long-term effects on the surrounding landscape and the WHS are minimised.</p>
2.6	<p>Comments on the Local Impact Report <b>[REP1-031]</b></p>	<p>The DCC Written Representation <b>[REP1-030]</b> and Local Impact Report <b>[REP1-031]</b> both consider the landscape and visual effects of the Scheme as reported in the ES Chapter 7: Landscape and Visual <b>[APP-045]</b>. Highways England make the following responses to the DCC comments in relation to the landscape and visual impact of the Scheme</p>	<ul style="list-style-type: none"> <li>○ DCC disagrees that LCA8 susceptibility is medium/ low and consider that it should at least be medium:          The existing A38 and Little Eaton junction forms part of the existing baseline within this LCA, with the Scheme being focused along the route of the existing highways infrastructure. Guidelines for Landscape and Visual Impact Assessment, Third Edition' (GLVIA 3) states (Para 5.41) that the general type of development that is proposed can be taken into account when assessing susceptibility. The Scheme will be similar in nature to the existing baseline, will not introduce any elements that are significantly different in character or make a significant increase to the scale to what is currently already located within this LCA. The potential to be affected by change in this LCA is medium/low given the existing baseline containing the A38. Therefore, it is considered that susceptibility to the Scheme will not be any higher than medium/low.</li> <li>○ DCC disagrees with LCA9 sensitivity and that it should be at least moderate to high:          It is agreed that the sensitivity of this LCA should be moderate (in the ES it is described as having a low sensitivity). This LCA has a medium value which has been influenced by a number of designated sites and its quality. The LCA susceptibility to the Scheme is low due the proximity of the adjacent urban fringe area of Allestree that</li> </ul>

Ref	Source	Comments	Applicant's Response
			<p>includes the A38. However, the implications of the change to the LCA's sensitivity has been revisited and it does not have any bearing on the overall effect scores at Scheme construction, Year 1 Scheme operation and Year 15 Scheme operation as the magnitude of change during these phases will all be No Change and the effects for all three phases will remain neutral.</p> <ul style="list-style-type: none"> <li>○ DCC considers that Highways England has under-assessed the landscape effects of the Scheme given that incongruous and alien landscape features that would be introduced – therefore, DCC does not accept that Scheme embankment would have slight adverse effect:</li> </ul> <p>Improvements to the A38 at Little Eaton junction will see the already elevated A38 increased in height by approximately 9m above the existing junction roundabout. As the A38 is currently elevated above the floodplain on embankment within the WHS to the west of the Midland Mainline Railway line, it is not considered that the Scheme improvements will be completely incongruous within the landscape. The highway infrastructure will be higher in the landscape; however, fewer vehicles traveling on the A38 will be seen due to planting on the Scheme embankments together with noise/ screening barriers. In addition, the Scheme design does not include lighting columns along the mainline A38. It is acknowledged that some highways elements such as noise barriers and flood attenuation measures may be “perceived as alien features in the landscape”, but they are not considered to be out of context with the highways infrastructure and will be</p>

Ref	Source	Comments	Applicant's Response
			<p>integrated and screened from the wider landscape by planting (refer to the landscape design drawings ES Figures 7.8A-C [APP-094]). Highways England do not accept that the Scheme effects upon the prevailing landscape have been under assessed – as reported in ES Chapter 7: Landscape and Visual [APP-045], at Little Eaton junction the Scheme would have large adverse effects upon LCA10 (Little Eaton and Breadsall Greenbelt LCA) during the Scheme construction phase, a moderate adverse effect at Scheme opening, reducing to slight adverse 15 years after Scheme opening due to maturation of the associated landscape planting.</p> <ul style="list-style-type: none"> <li>○ DCC consider that trees provided by the proposed landscaping would compound visual blocking impacts rather than mitigate them:</li> </ul> <p>It is acknowledged that planting on the Scheme embankments will reduce the inter-visibility of the floodplain and adjacent landscape, however it will provide opportunities for screening views of tall vehicles and highways infrastructure and help integrate the Scheme into its surrounds. The County Council's input to the landscaping scheme secured under requirement 5 of the dDCO will ensure that the final scheme to be implemented will help to reduce the overall impact of the A38 within the landscape as a whole.</p> <ul style="list-style-type: none"> <li>○ DCC state that rather than an embankment, the Scheme at Little Junction should be placed on simple,</li> </ul>

Ref	Source	Comments	Applicant's Response
			<p>elegant viaduct and that such a solution would reduce the impacts upon the landscape:</p> <p>If the A38 mainline at Little Eaton junction was placed on a viaduct, it is considered that the design would inevitably become more urban in nature and reduce opportunities for landscape planting (e.g. no embankments available for planting), and thus reduce the potential to integrate the Scheme into the surrounding landscape. An elevated viaduct carrying the A38 mainline over Little Eaton junction would make a very bold statement within the landscape and it is assumed the intention would be that the structure would be clearly visible from surrounding areas. In terms of visual amenity, a viaduct solution would be most visible from the open floodplain, parts of which are contained within the DVMWHS. Therefore, the design of such a structure would need to be very carefully considered in order not to have adverse landscape/ visual effects. Viaducts are difficult to screen due to their height and form, and therefore it is unlikely that there would opportunities to provide adjacent screen planting. Highways England consider that the Scheme design as proposed provides a suitable highway structure, and one that can be appropriately landscaped such that long-term effects on the surrounding landscape are minimised.</p> <ul style="list-style-type: none"> <li>○ Viewpoints – DCC state that selection of the viewpoints appears arbitrary and does not seem to reflect the worst case:</li> </ul> <p>The selected viewpoints as detailed in ES Chapter 7: Landscape and Visual [APP-045] for Little Eaton junction are representative to give proportionality to the</p>

Ref	Source	Comments	Applicant's Response
			<p>assessment. Viewpoints do not need to be positioned to present a worst scenario but provide a wider context of the impact of the Scheme. It is noted that DCC was invited to comment on the proposed representative viewpoints to be assessed within the landscape character and visual amenity assessment in September 2018. Comments were received from DCC and consultation was carried out with their Landscape Architect regarding representative viewpoints around Little Eaton junction, resulting in additional viewpoints being added to the assessment.”</p> <ul style="list-style-type: none"> <li>○ DCC note the lack of photomontages: Photomontages for selected locations are in the process of being prepared in response to ExA question 9.8 which will be shared with DCC. It is hoped that these will assist DCC further in their consideration of the landscape and visual effects of the Scheme at Little Eaton junction.</li> </ul>
2.7	Comments on Written Representation and the Local Impact Report [REP1-031]	The DCC Written Representation [REP1-030] and Local Impact Report [REP1-031] both make a number of comments regarding flood risks associated with the Scheme as reported in the ES Chapter 13: Road Drainage and the Water Environment [APP-051].	DCC note that Highways England has confirmed that the Dam Brook diversion will not result in increased flood risk to properties in Breadsall upstream of the Scheme. DCC, however, also note that no details to support this conclusion have been provided. As such, supporting information is provided in the Appendix to this document which provides further details regarding the modelling undertaken and associated results, which illustrate the expected impacts of the Scheme on Dam Brook and Boosemoor Brook at Breadsall village, upstream of the Scheme. The results provide the evidence required to confirm there is no increase in flood risk upstream as a result of the Scheme.

Ref	Source	Comments	Applicant's Response
			<p>In order to mitigate surface water flood risks associated with an unnamed stream emanating from Breadsall Manor (north of Little Eaton junction), a multi-stage flood alleviation channel would be created which would connect the stream with the realigned Dam Brook. DCC has asked for clarification as to which organisation will be responsible for maintaining this flood alleviation channel. Highways England confirm that during Scheme operation there will be a need to undertake monitoring to ensure that the flood alleviation channel is performing as designed, especially in the first few years of operation, whilst ongoing maintenance is likely to include making sure that the channel does not become over-vegetated which is impeding water flows. Maintenance requirements will be confirmed during the detailed design stage and confirmed within the Handover Environmental Management Plan (HEMP) as detailed in the OEMP <b>[APP-249]</b>. However, it is currently envisaged that such maintenance activities would be undertaken by Highways England.</p> <p>As per the DCC Written Response <b>[REP1-030]</b> regarding flood risk, DCC would like to explore further opportunities to make the Dam Brook Diversion more naturalised. The proposed design of the Dam Brook diversion does aim to form a naturalised channel with in-channel features and a more sinuous channel form set within a vegetated corridor. The realigned brook will provide a range of habitats that will be of benefit to local ecology (refer to ES Chapter 8: Biodiversity <b>[APP-046]</b>). As such, the realigned brook will not be a highly engineered structure. Highways England would be happy to liaise with DCC during the detailed</p>

Ref	Source	Comments	Applicant's Response
			design of brook realignment and associated biodiversity features associated with Dam Brook realignment.
2.8	Comments on the Local Impact Report [REP1-031]	The DCC Written Representation [REP1-030] and Local Impact Report [REP1-031] both cover an assessment of ecological impacts as per ES Chapter 8: Biodiversity [APP-046].	<p>DCC state that DCC's ecologist has had extensive engagement with the Scheme over the last few years, which has also included Derbyshire Wildlife Trust, the Environment Agency and Natural England in the Scheme evolution. This has included identifying what ecological surveys would be required, assessing the scope of impacts and considering the potential requirements for ecological compensation and mitigation. Details of consultation are provided in ES Section 8.4 [APP-046]. A summary of stakeholder engagement meetings held to date, key comments raised and how these have been addressed in the ES provided in Table 8.6 and Table 8.7 [APP-046], with full meeting minute records provided in ES Appendix 8.16 [APP-213]. Given the extent of engagement, DCC state that the potential impacts on ecology have been judged to be relatively low risk. The draft SoCG with DCC [REP1-007] indicates that there is general agreement with DCC across all key aspects of the ecological impact assessment as reported in ES Chapter 8: Biodiversity [APP-046] (although refer to the section below on badger).</p> <p>DCC has reviewed the Outline Environmental Management Plan (OEMP) [APP-249] and consider that it is comprehensive. The OEMP lists the issues to be addressed in more detail by the construction contractor's Construction Environmental Management Plan (CEMP) and identifies the environmental issues and roles and responsibilities for ecology. Highways England would like to highlight that Requirement 3 of the draft Development</p>

Ref	Source	Comments	Applicant's Response
			<p>Consent Order (dDCO) <b>[REP1-019]</b> states that the CEMP must be substantially in accordance with the OEMP and that no part of the authorised development is to commence until a CEMP has been prepared in consultation with the relevant planning authorities and submitted to and approved in writing by the Secretary of State. As such, DCC will be consulted during the preparation of the CEMP. Acknowledgment of such consultation requirements is included in the draft SoCG with DCC <b>[REP1-007]</b>.</p> <p>DCC do raise a concern over the potential severance of badgers at Little Eaton junction. DCC highlight that there are references to fencing preventing badgers to crossing the new road and coming into conflict with traffic; however, DCC state that there is no reference to the provision of underpasses or the accommodation of badger (and other mammals) in existing or modified culverts. Highways England confirm that at Little Eaton Junction, two badger road kill records have been provided by Derbyshire Mammal Group to the far north of the Scheme (beyond the Scheme boundary), whilst one record is located within the Scheme boundary (refer to ES Figure 8.24 CONFIDENTIAL). Notable badger commuting routes were identified during the badger territory analysis in 2017 (refer to ES Appendix 8.10(b) CONFIDENTIAL) within the Scheme boundary (as shown on ES Figure 8.24 CONFIDENTIAL). These commuting routes are to be retained and will not be severed by the Scheme. As there is no severance of badger commuting routes at Little Eaton junction, there is no essential mitigation required (or provision to enhance) to existing or modified culverts (or</p>

Ref	Source	Comments	Applicant's Response
			<p>the installation of underpasses) in respect to badgers (or mammals).</p> <p>Badger surveys (including territory analysis) were conducted between 2015 and 2018 (ES Appendix 8.10a and 8.10b CONFIDENTIAL) across the Scheme footprint and identified several badger social groups within 500m of the Scheme. During Scheme operation, without mitigation, the Scheme has the potential to have an adverse effect on badgers due to the risks of mortality through collision with motor vehicles. Badger fencing is therefore proposed to be installed at Little Eaton junction - proposed badger fencing proposals are shown on Environmental Masterplan ES Figures 2.12F and G <b>[APP-068]</b>. Effective fencing would ensure there is minimal risk to the local badger population conservation status, as well as users of the road by avoiding collisions with badgers trying to cross the road.</p>
2.9	Comments on the Local Impact Report <b>[REP1-031]</b>	The DCC Written Representation <b>[REP1-030]</b> and the Local Impact Report <b>[REP1-031]</b> both cover issues associated with minerals and waste which were considered in ES Chapter 11: Material Assets and Waste <b>[APP-049]</b> .	DCC state that they are satisfied that ES Chapter 11 <b>[APP-049]</b> takes on board DCC comments that were made regarding the minerals and waste assessment as included in the Preliminary Environmental Information Report (PEIR) and that relevant policies have been appropriately referenced in the ES assessment. DCC are also satisfied that the assessment provides a robust assessment of potential material asset impacts. DCC note that material resources cannot be confirmed at this time as this can only be determined by the Scheme contractor, although there is a wealth of mineral resources within Derbyshire. DCC welcomes that materials are anticipated to be sourced locally in order to minimise material transportation distances, as detailed in ES Chapter 11 <b>[APP-049]</b> .

Ref	Source	Comments	Applicant's Response
			<p>DCC consider that ES Chapter 11 <b>[APP-049]</b> provides a fair assessment of waste and that the Scheme is not expected to raise any particular concerns with regard to the availability of waste infrastructure and capacity during the Scheme construction phase. DCC note that landfilling is the least favourable waste management option and thus the Scheme should only consider landfill as the last resort. This is in agreement with the approach as detailed in ES Chapter 11 <b>[APP-049]</b> and as detailed in the OEMP <b>[APP-249]</b> which states that a Site Waste Management Plan (SWMP) will be prepared by the construction contractor that will form part of their Construction Environmental Management Plan (CEMP). A specific aim of the SWMP will be to define measures to minimise waste arisings from Scheme construction and to recover waste materials in accordance with the principles of the waste hierarchy. DCC's Local Impact Report <b>[REP1-031]</b> states that it would be helpful to have a clear steer of the quantity of waste and when capacity would be required. An estimate of waste arisings is provided in ES Chapter 11<b>[APP-049]</b>, although it is expected that further details will become available following the appointment of the Scheme construction contractor and during the preparation of their CEMP, noting that DCC will be consulted during the CEMP preparation process. Waste capacity will be required from the start of the Scheme construction phase, noting that preliminary works are scheduled from November 2020, with the main Scheme construction activities scheduled to start in March 2021 through 2024.</p> <p>The DCC Local Impact Report <b>[REP1-031]</b> also provided commentary from DCC as local Mineral Planning Authority, noting that DCC consider that the scale and</p>

Ref	Source	Comments	Applicant's Response
			nature of the Scheme works would not likely sterilise any important mineral resource on or around the Scheme site.
2.10	Written Summaries of Oral Contributions at Issue Specific Hearing relating to the Draft Development Consent Order	Derbyshire County Council's officers raised concerns at the hearing regarding the lack of meaningful consultation and discussion by Highways England with Derbyshire County Council's Public Rights of Way Team to discuss the potential impacts of proposed improvements and amendments in the scheme to the Public Rights of Way network, including temporary closures and diversions, particularly relating to the Little Eaton junction improvements. Derbyshire County Council's Officers requested, therefore, that such discussion and engagement should now be instigated by Highways England. Since the hearing, however, Highways England's consultants have been in contact with the County Council's Public Rights of Way Team to discuss the details of the scheme, which is welcomed and appreciated. Further ongoing consultation and discussion would also be welcomed	Noted. Highways England and its consultants will continue to engage with DCC in relation to public rights of way matters.
2.11	Written Summaries of Oral Contributions at Issue Specific Hearing relating to the Draft	<b>Question 58: Requirements 9: Derwent Valley Mills World Heritage Site</b> Derbyshire County Council's officers expressed concern that the applicant has not engaged in any meaningful discussions with the Derwent Valley Mills	It is understood that Derbyshire County Council (DCC) have concerns regarding consultation with the Derwent Valley Mills World Heritage Site Partnership (the 'Partnership') with regard to the potential impacts on the Derwent Valley Mills World Heritage Site (DVMWHS) as a result of the Scheme, specifically the proposed works at

Ref	Source	Comments	Applicant's Response
	Development Consent Order	<p>World Heritage Site Partnership (DVMWHS) on the proposed Little Eaton junction improvements part of the scheme. Derbyshire County Council's officers are represented on the DVMWHS Partnership but the Partnership is a separate body from the County Council, which also includes representatives from Amber Valley Borough Council, Derby City Council and Derbyshire Dales District Council.</p> <p>The DVMWHS Partnership has responsibility for producing a DVMWHS Management Plan, which is periodically revised and could have implications for the assessment of the Little Eaton Junctions element of the scheme on the Outstanding Universal Value (OUV) of the WHS. The WHS Management Plan is currently being revised by the Partnership and is (at the time of writing) subject to current stakeholder consultation.</p> <p>Derbyshire County Council's representations on the DCO application (Pre-application, Preliminary Environmental Information Report, Section 56 Consultation and forthcoming Written Representations and Local Impact Report submissions) have been made on behalf of the County Council and may not</p>	<p>Little Eaton junction. It is acknowledged that the Partnership is a separate body to DCC, and whilst DCC is represented within the Partnership, DCC's views do not necessarily represent those of the Partnership. The Partnership was contacted on the 17<sup>th</sup> October 2019 and presented with details of the Scheme, after which they provided a written response to Highways England (dated 23.10.19). Within their response the Partnership identified less than substantial harm on the WHS. Concerns were raised regarding the potential impact of the Scheme on the River Derwent floodplain. The floodplain is identified as an Attribute of the WHS that manifests Value 1 in the Statement of Outstanding Universal Value (OUV). It was stated that <i>'the proposed embankments may be seen as harmful to this Attribute because they will detract from the legibility and intact-ness of the Derwent flood plain landscape in this location'</i>. This issue was raised as an impact in the Heritage Impact Assessment Section 7.2 <b>[APP-173]</b> and concluded to generate a slight adverse effect. With regard to the identification of satisfactory mitigation measures, the design of the Scheme has been undertaken with advice from landscape, ecology and cultural heritage specialists with the aim of minimising impacts on the OUV of the WHS. Further consultation is planned with the Partnership.</p>

Ref	Source	Comments	Applicant's Response
		<p>necessarily represent those of the Partnership as a whole. These representations have raised significant concerns with the proposed design of the Little Eaton junctions scheme and its potential adverse impacts on the OUV of the DVMWHS.</p> <p>Derbyshire County Council considers, therefore, that the applicant should now take the opportunity undertake discussion and consultation with the Partnership on the scheme as set out in the Draft DCO and accompanying Environment Statement and seek its expert advice on the potential impacts of the scheme on the OUV of the DVMWHS and how these could be satisfactorily mitigated.</p>	
2.12	Written Summaries of Oral Contributions at Issue Specific Hearing relating to the Draft Development Consent Order	Does the DCO provide the Minister of certain functions of the Local Highway Authority as respects highway affected by construction of the trunk road? In other words, would the DCO supersede the need for a Section 4 of the 1980 Highway Act between HE and local Highway Authority?	Section 4 of the Highways Act is not affected by the DCO in which case an agreement under this section could be relevant. However, discussions around the limits of maintenance and responsibility of the trunk road will need to be discussed in more detail between Highways England and DCC as it is not clear at this stage what detail DCC would expect to see in any such agreement.
2.13	Written Summaries of Oral Contributions at Issue Specific Hearing relating to	Does the Minister intend de-trunking part of the Strategic Road Network, if so what agreement would be needed, and how would this be sought from the Local Authorities?	Any de-trunking will need to be discussed with the local highway authorities affected. Meetings have been held with Derbyshire County Council to discuss the maintenance interface between the DCC and Highways England and it has been agreed (and minuted in meeting

Ref	Source	Comments	Applicant's Response
	the Draft Development Consent Order		notes) that DCC will assume the maintenance responsibility for the roundabout beneath the A38 grade separated junction. As the existing roundabout is designated as 'Trunk Road' it will be necessary to de-trunk this and this will be undertaken through the dDCO following further discussion on the point with DCC.
2.14	Responses to ExA's First Written Questions Question: 1.5	<p>a) and b)            There are a number of elements of the scheme where DCC would welcome further clarification and / or consultation from the applicant as follows:</p> <p>DCC is concerned over the surface water attenuation ponds located to the south-east of the Little Eaton roundabout and who would be responsible for their future maintenance. This is required to clarify where the County Council will be required to take on any maintenance responsibilities or liabilities for the surface water attenuation ponds.</p> <p>DCC would be grateful if the applicant could provide clarification that none of the proposed works to Dam Brook (water course diversion etc.) would be likely to</p>	<p>Requirement 13 of the dDCO has been amended to include the provision that the surface and foul water drainage scheme approved by the Secretary of State also has to be maintained once the scheme has been approved (and following consultation with the planning authority and local highway authority i.e. DCC will continue to be consulted on this scheme). As a consultee to the surface and foul water drainage scheme DCC will have the ability to comment on the proposed maintenance provisions at that stage. DCC have previously been consulted by Highways England with regard to the surface water attenuation arrangements and comments arising from those consultations have been considered within the submitted scheme..</p> <p>With regard to the Dam Brook diversion works, it is confirmed that the diversion works would not result in increased flood risk up stream. Further details regarding these findings are being submitted for DCC review – refer to the Highways England comments upon the DCC Local</p>

Ref	Source	Comments	Applicant's Response
		<p>increase 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. This has now been addressed in the applicant's Statement of Common Ground, which confirms that the Dam Brook diversion would not result in increased flood risk up stream but no details have been provided to the County Council.</p> <p>Clarification is required from the applicant regarding who would be responsible for maintaining all the flood alleviation channels relating to the Little Eaton junction scheme (swales etc.). A drawing would be beneficial highlighting who would be responsible for what. This is required to clarify where the County Council would be required to take on any maintenance responsibilities or liabilities for the flood alleviation channels.</p> <p>The use of bypass separators is mentioned in the Flood Risk Assessment. Wherever possible, DCC would prefer the</p>	<p>Impact Report/ Written Representation; please also refer to the Appendix at the end of this document.</p> <p>In order to mitigate surface water flood risks associated with an unnamed stream emanating from Breadsall Manor, a multi-stage flood alleviation channel would be created which would connect the stream with the realigned Dam Brook. During Scheme operation there will be a need to undertake monitoring to ensure that the flood alleviation channel is performing as designed, whilst ongoing maintenance is likely to include making sure that the channel does not become over-vegetated and impeding water flows. Maintenance requirements are envisaged to fall to Highways England, this will be confirmed during the detailed design stage and confirmed within the Handover Environmental Management Plan (HEMP) as detailed in the OEMP <b>[APP-249]</b>.</p> <p>HE notes DCC's preference with regard to the use of Bypass Separators. The drainage design is at preliminary design only and the design will be reviewed during detailed</p>

Ref	Source	Comments	Applicant's Response
		<p>applicant to try to avoid the use of these as they are a greater maintenance burden in terms of resources and cost. DCC considers that the water quality element from the highway surface water run-off would be more appropriately achieved through more natural processes (SuDS). Further discussion with the applicant would be welcomed.</p> <p>DCC, as Lead Local Flood Authority, would welcome the opportunity to see and comment on all the hydraulic calculations for the proposed highway drainage system, including attenuation ponds, relating to the Little Eaton junction improvements. This required to assess the robustness of the calculations and their implications for potential flood risk in the area.</p> <p>DCC is responsible for the Public Rights of Way network for that part of the scheme which falls within Derbyshire. DCC would request that the applicant engages in ongoing consultation and discussion with the County Council's Public Right of Way Team regarding any improvements, diversions, stopping up or future</p>	<p>design. If feasible, further enhancements regarding SuDS will be incorporated. The preliminary design considers the use of SuDS in the Scheme given the constraints. Where practicable vegetative treatment systems have been specified ensuring compliance with water treatment requirements.</p> <p>Highways England would be happy meet with DCC to talk through the hydraulic calculations for the proposed highway drainage system that have been prepared for the preliminary design; note that these will be updated during detailed design.</p> <p>Derbyshire County Council is a consultee for the surface and foul water drainage scheme secured by requirement 13 of the dDCO, and as such will be provided with the relevant information regarding the proposed scheme and its operation by Highways England in advance of the scheme being provided to the Secretary of State for approval.</p> <p>The dDCO provides for DCC to be engaged in the stopping up (both temporary and permanent) and diversion of public rights of way through Articles 15 and 16. In respect of temporary stopping up under Article 15, consent of the "street authority" (which includes DCC where it is responsible for the relevant public right of way) is required (see Article 15(4) and in respect of permanent stopping up or diversions which are listed in Schedule 4 of the dDCO,</p>

Ref	Source	Comments	Applicant's Response
		<p>maintenance liabilities for the Public Rights of Way network affected by the Little Eaton Junction scheme.</p> <p>DCC would request that the applicant engages in discussions with the Derwent Valley Mills World Heritage Site Partnership to discuss the potential impacts of the Little Eaton junction improvements on the Outstanding Universal Value of the World Heritage Site.</p>	<p>the works must be done, and any diversion or alternative route provided, to the reasonable satisfaction of the street authority (see Article 16 (2)).</p> <p>Highways England has provided a response to this point in its response to question 58 of the DCO ISH responses [incl. ref].</p>
2.15	<p>Responses to ExA's First Written Questions            Question: 1.6</p>	<p>DCC 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.</p> <p>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</p>	<p>The diverted right of way by Dam Brook (Breadsall FP03) is designated as a footpath only, no cycles are permitted to use this route and as such this has not been considered in the design of the footpath diversion. The route of this specific diversion has been discussed with DCC, where upon the rights of way team presented the diversion as shown within the DCO submission. FP03 had been previously diverted by the Pinch Point scheme at the junction, the proposed grade separation of the junction makes this existing route unviable. The diversion proposal</p>

Ref	Source	Comments	Applicant's Response
		<p>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.</p> <p>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).</p> <p>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.</p> <p>An issue in respect of the current proposed arrangement is that the path would come out in close proximity to the</p>	<p>suggested links FP03 to FP01 and the existing uncontrolled crossing location linking to FP04 toward the rail line.</p> <p>The existing footpaths in the area are unpaved with no formal material or edgings, the final construction of the proposed FP03 diversion will be in keeping with its surrounds and Highways England will be happy to discuss the issue further with the County Council to explore possible improvements to the provision within the proposed scheme land take the details of which will be determined at Detail Design stage.</p> <p>Through discussion with DCC and BPC, HE are seeking to secure funding for a signalised Toucan Crossing at the location of the existing uncontrolled crossing at Croft Lane adjacent to the bus stops. This will be separately secured from the scheme and will be delivered independently as this falls outside the Order Limits of the defined scheme. The proposed speed reduction on the A61 will need to be raised in consultation with the designers of the proposed signalised crossing and orders agreed separately.</p> <p>The bus stops on the A61 are outside the scope of the scheme and will remain unaffected by the final scheme layout. As such it is not HE's responsibility to provide any alterations to or replacement of the bus stops.</p> <p>The proposed signalised crossings across the southbound merge and northbound diverge slip roads of the Little Eaton junction will be Toucan crossings to replicate the existing crossings of the existing A38 route. This will maintain the continuity of the footway/ cycleway route alongside the A61 to the south and the B6179 to the north of the junction.</p>

Ref	Source	Comments	Applicant's Response
		<p>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 this could have potential for queuing back onto the roundabout.</p> <p>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. 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.</p>	

Ref	Source	Comments	Applicant's Response
		<p>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.</p> <p>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.</p> <p>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</p>	

Ref	Source	Comments	Applicant's Response
		<p>been constructed.</p> <p>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.</p> <p>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.</p> <p>To facilitate the provision of a pedestrian crossing on the A61 the existing National Speed Limit would need to be reduced to</p>	

Ref	Source	Comments	Applicant's Response
		<p>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.</p> <p>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.</p> <p>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</p>	

Ref	Source	Comments	Applicant's Response
		<p>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.</p>	
2.16	<p>Responses to ExA's First Written Questions            Question: 1.7</p>	<p><u>Stopping up of Ford Lane</u>            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 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.            If Ford Lane were to be stopped up with no changes to the current situation the above sites would not be safely or legally</p>	<p>Highways England has carried out further assessment work on the existing bridge and is confident that the structure will be able to carry a 40T vehicle if the bridge is restricted to one-way traffic flow.            The findings of the assessment were shared with Derbyshire County Council on 12<sup>th</sup> August 2019 and this was followed up with a report in early October.            Further discussions will take place with the County Council before this is finalised and negotiations will be progressed in this regard as part of the SoCG process.</p>

Ref	Source	Comments	Applicant's Response
		<p>accessible by the owners / responsible agencies. Ideally access would be maintained onto the A38 or if that is not possible then the Ford lane 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.</p>	
2.17	Responses to ExA's First Written Questions Question: 1.8	DCC's main concern is regard to the stopping up of Ford Lane and its implications for access by the private properties and businesses as detailed above in question 1.7.	As for response to Q1.7 above.
2.18	Responses to ExA's First Written Questions Question: 1.12	<p>a) Yes – Works to be undertaken on or near an ordinary watercourse/culvert would require Land Drainage Consent under Section 23 of the Land Drainage Act 1991 from both DCC and DCiC. b) Consent can be applied for at any time and lasts 3 years. c) No d) N/A e) Yes</p>	As detailed in the Consents and Agreements Position Statement <b>[APP-019]</b> disapplication of the Land and Drainage Act 1991 is provided for within the dDCO. Highways England proposes to discuss this further with DCC and DCiC to secure their agreement to this approach as the normal regulatory authorities for such applications.
2.19	Responses to ExA's First Written Questions Question: 1.13	<p>a) N/A b) Provided that the measures to control pollution from the development into the watercourses meet the required</p>	<p>a) Noted b) Noted - the pollution control measures as detailed in the ES are included in the Outline Environmental Management Plan (OEMP) <b>[APP-249]</b> and are appropriate for</p>

Ref	Source	Comments	Applicant's Response
		standards. c) N/A	controlling potential pollution during both Scheme construction and operation. Such measures would be included in the construction contractor's CEMP and would be subject to appropriate regulation by the applicable pollution control authorities. c) Noted
2.20	Responses to ExA's First Written Questions Question: 2.2	a) Yes DCC considers that the Adopted Derby and Derbyshire Waste Local Plan (2005) should also be included in the list of relevant Local Plans. The applicant's Environment Statement: Chapter 11: Material Assets and Waste, appropriately makes reference to the adopted Waste Local Plan as being relevant to the applicant's assessment of the impacts of the generation and disposal of waste materials from the scheme. b) It should be noted that a Review of the Derby and Derbyshire Waste Local Plan is currently being prepared jointly by DCC and DCiC but the plan is at a relatively early stage of preparation (Issues and Options) and a Draft Plan is not anticipated to be published for consultation until Spring 2020, which will include policies on waste.	Highways England note and acknowledge that the Adopted Derby and Derbyshire Waste Local Plan (2005) should be considered as a relevant plan. As noted by DCC, the plan has informed the assessment for Chapter 11 (Material Assets and Waste) within the ES <b>[APP-049]</b> . Highways England note and acknowledge that the Adopted Derby and Derbyshire Waste Local Plan (2005) should be considered as a relevant plan. As noted by DCC, the plan has informed the assessment for Chapter 11 (Material Assets and Waste) within the ES <b>[APP-049]</b> .
2.21	Responses to ExA's First Written Questions Question: 3.4	No, None. No, None.	a) Noted. b) Noted.

Ref	Source	Comments	Applicant's Response
2.22	Responses to ExA's First Written Questions Question: 3.8	b) Yes DCC would find it useful for the Maintenance and Repair Strategy Statement to be submitted to the Examination.	The MRSS (Maintenance and Repair Strategy Statement) will be made available – this is applicable to the preliminary design stage only. Please note that this document is updated at each stage during the design and construction and subject to changes, however it will provide a useful overview for the Councils and the ExA of where it is anticipated that responsibility for maintenance and repair of the various elements of the scheme will rest.
2.23	Responses to ExA's First Written Questions Question: 3.10	a) DCC is satisfied that the applicant has undertaken a thorough and comprehensive assessment of the likely safety, environmental, social and economic benefits and adverse impacts of the scheme at a national, regional and local level and has sought to address the negative impacts with appropriate mitigation strategies. DCC has not raised any significant issues with regard to the lack of any supporting evidence, studies or documentation to support the DCO application. DCC's comments relate primarily with the detail of the DCO and Environment Statement and the need for further clarification on a number of matters and issues and concerns that some of the environmental impacts have been under-estimated, particularly relating to impacts on the Outstanding Universal value of the Derwent Valley Mills World Heritage Site (see further comments below).	a) Highways England notes DCC's request for further clarification regarding a number of issues and concerns that some of the environmental impacts have been underestimated – further information is provided in responses to other questions below (and in our responses to the DCC Written Representation <b>[REP1-035]</b> ), whilst further discussions are being planned with DCC. b) Noted. c) Noted. d) Noted. e) Noted. f) Highways England notes the DCC request for further discussions as related to impacts on the Public Rights of Way network, flood risk and the need for clarification on a number of issues and impacts regarding the closure of Ford Lane. Further discussions are being planned with DCC. g) Noted – with regard to flood risks the main flood risk issues are associated with the River Derwent and thus detailed consultation activities have been undertaken with the Environment Agency. Highways England consulted with DCC who confirmed that the flood risk modelling

Ref	Source	Comments	Applicant's Response
		<ul style="list-style-type: none"> <li>· b) The traffic model has been developed to assess the traffic impacts of the proposed scheme(s) over a large section of the wider highway network, consequently the traffic model may not pick up nuances in travel behaviour on the less well trafficked part of Derbyshire's road network . Overall, however, the County Council are satisfied with the traffic modelling and its 'fitness for purpose'.</li> <li>· c) DCC raises no significant issues or concerns with the applicant's approach with regard to these matters.</li> <li>· d) DCC raises no significant issues or concerns with the applicant's approach with regard to these matters.</li> <li>· e) DCC raises no significant issues or concerns with the applicant's approach with regard to these matters.</li> <li>· f) DCC would welcome further discussion and engagement with the applicant on a number of matters particularly impacts on the Public Rights of Way network; flood risk and the need for clarification on a number of issues; and impacts of the closure of Ford Lane. (as set out in appropriate responses to questions in this document above and below).</li> <li>· g) the applicant has worked with DCC on an ongoing basis over the last two years or so to assess the relevant</li> </ul>	<p>approach associated with the Dam Brook realignment works was acceptable. Nevertheless, further consultation will be undertaken with DCC regarding flooding matters.</p> <p>Regarding Public Rights of Way, Highways England consulted with many walking and cycling interest groups in the preliminary design stage, this included Derby City Council, Derbyshire County Council, Derby Cycling Group, Sustrans (Derby Area), The Ramblers Association, Peak and North Footpaths Society and A-one+ with follow up reminders as appropriate. Derbyshire County Council failed to engage at that time. Comments have been received from the County Council following the Section 42 and Section 56 consultations. Highways England is happy to discuss any issues further with the County Council to explore possible improvements to the provision within the proposed Order limits.</p>

Ref	Source	Comments	Applicant's Response
		<p>environmental impacts of the scheme and address the need for evidence or survey work for preparation of the Environment Statement and need for mitigation. In a number of areas, however, engagement has been limited or lacking particularly relating to Public Rights of Way and flood risk matters. Further engagement would therefore be welcomed with the applicant.</p>	
2.24	<p>Responses to ExA's First Written Questions            Question: 3.12</p>	<p>a) No comments            b) No.            c) None            d) None            e) Construction Environmental Management Plan Traffic Management Plan            Landscape and Ecology Management Plan            Outline Biosecurity Management Plan            Heritage Management Plan            Archaeological Mitigation Strategy            Written Scheme of Investigation            Site Specific Written Scheme of Investigation            Site Waste Management Plan            Waste Management Plan            Flood Risk Management Plan            · F) None</p>	<p>a) Noted.            b) Noted.            c) Noted.            d) Noted.            e) As detailed in <b>[REP1-006]</b> Appendix A – 3.11, Highways England confirm that DCC will be consulted during the preparation of these various management plans (noting that the DCC response should refer to a Water Management Plan rather than a Waste Management Plan).            f) Noted</p> <p>N.B. any changes that may need to be made to or are suggested to be made to the dDCO.</p>
2.25	<p>Responses to ExA's First Written Questions</p>	<p>a) Yes            b) Yes</p>	<p>Noted</p>

Ref	Source	Comments	Applicant's Response
	Question: 4.4		
2.26	Responses to ExA's First Written Questions Question: 4.5	No	Noted
2.27	Responses to ExA's First Written Questions Question: 4.8	No	Noted
2.28	Responses to ExA's First Written Questions Question: 4.15	a) Yes b) Yes c) Yes d) Yes In so far as the County Council's transportation networks are concerned.	a) Noted. b) Noted. c) Noted. d) Noted.
2.29	Responses to ExA's First Written Questions Question: 4.16	No	Noted.
2.30	Responses to ExA's First Written Questions Question: 4.17	c) Construction of the grade separation work to all three Derby junctions would be carried out concurrently and could possibly, extend over a duration of several years and involve 'banned turns' over a period of several months. This will inevitably give rise to changes in travel patterns across a wide area of Derbyshire's road network. Further	c) Information will be developed at the detailed design stage and after the Contractor has been appointed. DCC will be engaged with this process through the consultation undertaken as part of the traffic management plan approved under requirement 11 of the dDCO

Ref	Source	Comments	Applicant's Response
		information to both establishes what these effects would be, together with a strategy for their management would therefore be appreciated.	
2.31	Responses to ExA's First Written Questions Question: 4.18	a) to f) No Specific Comments.	a) to f) Noted
2.32	Responses to ExA's First Written Questions Question: 4.21	<p>e) The implication is from a noise perspective to nearby villages, which in the case of Derbyshire will likely be Breadsall and Little Eaton. Working outside of these hours will be disruptive and likely raise significant objection at a localised level.</p> <p>"Exceptional circumstances" might include support vehicles associated with overnight works, abnormal loads that would be unable to access site during normal working hours etc. Each individual event must be assessed individually on its own merits. DCC would reserve the right to refuse permission for unjustifiable HGV usage on the DCC network.</p>	<p>ES Chapter 12: People and Communities <b>[APP-050]</b> para. 12.9.2 states the following: "<i>HGV deliveries of construction materials would be made in a 12 hour period between 7am and 7pm other than in exceptional circumstances</i>" which is at odds with the working hours referred to in ES Chapter 2 <b>[APP-040]</b> and in the OEMP <b>[APP-249]</b>. This is an error as para. 12.9.2 should refer to the working hours as detailed in ES Chapter 2 <b>[APP-040]</b> and in the OEMP <b>[APP-249]</b> (and as referenced in the dDCO <b>[APP-016]</b>). Requirement 3 in the dDCO indicates that a number of activities would be undertaken outside of the core working hours, whilst it also states that "<i>Any other work carried out outside the core hours or any extension to the core hours may be possible with the prior agreement of the relevant environmental health officer provided that the activity is not materially worse than the activities assessed in the environmental statement</i>". It is considered that the dDCO contains appropriate provisions for consultation and agreement with the local authorities regarding activities outside core working hours.</p>

Ref	Source	Comments	Applicant's Response
2.33	Responses to ExA's First Written Questions Question: 4.22	The need would arise from works that could significantly impact daytime A38 traffic flows; this could include delivery of long / wide / heavy non-divisible items. Common diversion routes on DCC network for A38 closures include B6179 (Little Eaton to Coxbench) and A61 (Little Eaton to city boundary). These routes are considered acceptable for overnight closures but not acceptable for non-emergency daytime closures. Agreement of diversion route usage is achieved through email exchange with DCC, prior to closure TTRO being sealed and advertised by HE.	b) Noted.
2.34	Responses to ExA's First Written Questions Question: 4.23	The TMP must be made available to DCC insofar as the scheme impacts upon DCC network. This includes haul routes, diversion routes, potential need for DCC-created TTROs, and likely general displacement of trunk road traffic. The TMP should be provided to DCC whilst still at the Draft stage.	Noted and agreed.
2.35	Responses to ExA's First Written Questions Question: 4.25	No information provided to DCC to enable comment (see comments under 4.23 above).	See above.

Ref	Source	Comments	Applicant's Response
2.36	Responses to ExA's First Written Questions Question: 4.29	DCC has no further comments to make on a) to h)	Noted
2.37	Responses to ExA's First Written Questions Question: 4.30	DCC has raised no specific issues or concerns with regard to the applicant's assessment of the likely impacts of the scheme on driver stress. No further comments are therefore made on this issue, except to express the view that once complete the likely improvement in journey times and reduced delays and congestion on the network would be likely to have a beneficial impact on driver stress. Increases in driver stress are more likely to be temporary during the construction phase of the scheme.	DCC comments are noted – the driver stress assessment as included in ES Chapter 12: People and Communities <b>[APP-050]</b> confirms temporary increases in driver stress during the Scheme construction phase and reductions in driver stress during Scheme operation.
2.38	Responses to ExA's First Written Questions Question: 4.34	The applicant has not engaged in any detailed discussions with DCC's officers on the proposed junction layouts. However, this is a Highways England promoted scheme and so DCC would not necessarily expect HE to discuss the detailed design and layout of the scheme with the County Council as a Local Highways Authority. DCC has not raised any issues or concerns with the applicant's approach to this matter through the previous consultation process and has not raised any fundamental concerns with the	Noted

Ref	Source	Comments	Applicant's Response
		<p>overall proposed layout of the Little Eaton junction improvements.</p> <p>A number of suggested more detailed improvements have been made by DCC as set out in 1.7 above to the Little Eaton Junction improvements relating to the provision of a new pedestrian crossing on the A61 Alfreton Road south of the existing junction and improvements to the bus shelter and layby on the eastern side of the A61 south of the junction to maximise the operational safety of the junction improvements and wider connectivity.</p>	
2.39	<p>Responses to ExA's First Written Questions            Question: 4.36</p>	<p>No comments – this is a matter for Derby City Council to consider as the Local Highway Authority for the Mansfield Road part of the network.</p>	Noted
2.40	<p>Responses to ExA's First Written Questions            Question: 4.37</p>	<p>e) There are a considerable number of variables which will have an impact on the speed limits the HE promotes for the A38 following the works.</p> <p>DCC would require clarification from HE on the following points:</p> <p>Has HE designed the new road alignment based on a particular speed limit in mind?</p> <p>Are HE undertaking a process of installing enforcement cameras to control speeds?</p> <p>Have HE determined whether a collision history along the route has identified clusters where speed is a contributory</p>	<p>The design of new rural all-purpose roads (such as the A38 through Little Eaton Junction) is on the assumption it will operate at National Speed Limit. The design speed is independent of this and is based on the alignment 'bendiness' and other constraints. The design speed dictates the geometric parameters to be used in the design and for Little Eaton junction this is 100A kph.</p> <p>There are no plans to include speed cameras in the design as it will operate at the national speed limit in Derbyshire.</p>

Ref	Source	Comments	Applicant's Response
		<p>factor in all or most of the collisions?            Have HE considered consulting with the Traffic Management Officer at Derbyshire Constabulary to obtain their views on any proposed speed limits?</p>	
2.41	<p>Responses to ExA's First Written Questions            Question: 4.40</p>	<p>d) 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 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.            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</p>	<p>Please refer to response to DCC's response to Q1.7 (item 2.3 above)</p>

Ref	Source	Comments	Applicant's Response
		maintained onto the A38 or if that is not possible then the bridge on Ford Lane will need strengthening or replacing by Highways England to safely permit access for all vehicles to the above sites.	
2.42	Responses to ExA's First Written Questions Question: 4.44	DCC has no further comments to make on this issue.	Noted
2.43	Responses to ExA's First Written Questions Question: 4.45	a) Yes. When DCC 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. DCC is satisfied that the ES now provides a robust assessment of the likely impacts on public transport in respect of the junction improvements at Markeaton and Little Eaton Junctions. For the Little Eaton junction, DCC 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	a) DCC's observations about the existing difficulties for bus services are noted.

Ref	Source	Comments	Applicant's Response
		<p>to Little Eaton or on the A38 towards Kilburn should also benefit from improved traffic flow over the current roundabout arrangement.</p> <p>For Markeaton junction, DCC 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. 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.</p>	
2.44	Responses to ExA's First Written Questions	Yes. DCC welcomes the indication in the ES at 12.10.74 and 12.10.76 that bus routes would be taken into consideration	Noted and agreed.

Ref	Source	Comments	Applicant's Response
	Question: 4.47	when agreeing diversions and temporary traffic management requirements with Derbyshire County Council prior to construction in order to limit impacts on these users.	
2.45	Responses to ExA's First Written Questions Question: 5.4	a) to c) As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	a) to c) Noted
2.46	Responses to ExA's First Written Questions Question: 5.5	A) and b) As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	a) and b) Noted
2.47	Responses to ExA's First Written Questions Question: 5.6	a) and b) As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	a) and b) Noted

Ref	Source	Comments	Applicant's Response
2.48	Responses to ExA's First Written Questions Question: 5.10	a) Yes b) Question for the Applicant	a) and b) Noted
2.49	Responses to ExA's First Written Questions Question: 5.13	No further comments.	Noted
2.50	Responses to ExA's First Written Questions Question: 5.21	a) To d) As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management and dust emissions. DCC has not raised any issues on this matter with the applicant.	a) to d) Noted
2.51	Responses to ExA's First Written Questions Question: 5.24	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	Noted
2.52	Responses to ExA's First Written Questions Question: 5.25	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not	Noted

Ref	Source	Comments	Applicant's Response
		raised any issues on this matter with the applicant.	
2.53	Responses to ExA's First Written Questions Question: 5.26	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	Noted
2.54	Responses to ExA's First Written Questions Question: 5.27	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	Noted
2.55	Responses to ExA's First Written Questions Question: 5.29	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not raised any issues on this matter with the applicant.	Noted
2.56	Responses to ExA's First Written Questions Question: 5.30	b) As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management. DCC has not	Noted

Ref	Source	Comments	Applicant's Response
		raised any issues on this matter with the applicant.	
2.57	Responses to ExA's First Written Questions Question: 5.31	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management and dust emissions. DCC has not raised any issues on this matter with the applicant.	Noted
2.58	Responses to ExA's First Written Questions Question: 5.32	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management and dust emissions. DCC has not raised any issues on this matter with the applicant.	Noted
2.59	Responses to ExA's First Written Questions Question: 5.35	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for air quality and air quality management and dust emissions. DCC has not raised any issues on this matter with the applicant.	Noted
2.60	Responses to ExA's First Written Questions Question: 6.10	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for noise and vibration matters. DCC has not raised any issues on this matter with the applicant.	Noted

Ref	Source	Comments	Applicant's Response
2.61	Responses to ExA's First Written Questions Question: 6.24	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for noise and vibration matters. DCC has not raised any issues on this matter with the applicant.	Noted
2.62	Responses to ExA's First Written Questions Question: 6.25	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for noise and vibration matters. DCC has not raised any issues on this matter with the applicant.	Noted
2.63	Responses to ExA's First Written Questions Question: 6.35	c) As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for noise and vibration matters. DCC has not raised any issues on this matter with the applicant.	Noted
2.64	Responses to ExA's First Written Questions Question: 6.41	As a Minerals and Waste Planning Authority, Highways Authority and Lead Local Flood Authority, DCC does not have any statutory responsibilities for noise and vibration matters. DCC has not raised any issues on this matter with the applicant.	Noted
2.65	Responses to ExA's First Written Questions Question: 7.10	No subsequent discussion has taken place by the applicant with DCC. These issues are being addressed in the Statement of Common Ground between the applicant	Noted – please refer to response to DCC's response to FWQ 1.5 above Following discussions regarding maintenance interface, it was agreed to split the highway drainage attenuation into

Ref	Source	Comments	Applicant's Response
		<p>and DCC.            DCC is concerned over the surface water attenuation ponds located to the south-east of the Little Eaton roundabout and who would be responsible for their future maintenance. This required to clarify where the County Council would be required to take on any maintenance responsibilities or liabilities for the surface water attenuation ponds.            DCC would be grateful if the applicant could provide clarification that none of the proposed works to Dam Brook (water course diversion etc.) would be likely to increase 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. This has now been addressed in the applicant's Statement of Common Ground, which confirms that the Dam Brook diversion would not result in increased flood risk up stream but no details have been provided.            Clarification is required from the applicant regarding who would be responsible for maintaining all the flood alleviation channels relating to the Little Eaton junction scheme (swales etc.). A drawing would be beneficial highlighting who would</p>	<p>ponds to be separately managed by DCC and HE. DCC will be responsible for the pond that collects water from the local highway and HE for that from the Trunk Road. The access to these ponds will be shared.</p> <p>As detailed in the draft DCC SoCG <b>[REP1-007]</b> Highways England has confirmed that the realignment of Dam Brook would not have any adverse upstream effects on flooding in Breadsall. Further details regarding these findings have been generated for DCC review.</p> <p>In order to mitigate surface water flood risks associated with an unnamed stream emanating from Breadsall Manor, a multi-stage flood alleviation channel would be created which would connect the stream with the realigned Dam Brook. During Scheme operation there will be a need to undertake monitoring to ensure that the flood alleviation channel is performing as designed, whilst ongoing maintenance is likely to include making sure that the channel does not become over-vegetated and impeding water flows. Maintenance requirements will be confirmed during the detailed design stage and confirmed within the Handover Environmental Management Plan (HEMP) as detailed in the OEMP <b>[APP-249]</b>.</p> <p>With regard to the Dam Brook diversion, the design aims to form a naturalised channel with in-channel features within a vegetated corridor. The realigned brook will provide a range of habitats that will be of benefit to local ecology (refer to ES Chapter 8: Biodiversity <b>[APP-046]</b>). The brook will not be a highly engineered structure. Highways England would be happy to consult with DCC</p>

Ref	Source	Comments	Applicant's Response
		<p>be responsible for what. Required to clarify where the County Council will be required to take on any maintenance responsibilities or liabilities for the flood alleviation channels.</p> <p>The use of bypass separators is mentioned in the Flood Risk Assessment. Wherever possible, DCC would prefer the applicant to try to avoid the use of these as they are a greater maintenance burden in terms of resources and cost. DCC considers that the water quality element from the highway surface water run-off would be more appropriately achieved through more natural processes (SuDS). Further discussion with the applicant would be welcomed.</p> <p>DCC, as Lead Local Flood Authority, would welcome the opportunity to see and comment on all the hydraulic calculations for the proposed highway drainage system, including attenuation pond, relating to the Little Eaton junction improvements. Required to assess the robustness of the calculations and their implications for potential flood risk in the area.</p> <p>If any further opportunities could be sought by the applicant to make the design of the Dam Brook diversion more naturalised this would be welcomed by DCC. The current design solution is a highly engineered</p>	<p>during the detailed design of biodiversity features associated with Dam Brook realignment.</p>

Ref	Source	Comments	Applicant's Response
		solution that does not blend in well with its current semi-rural location.	
2.66	Responses to ExA's First Written Questions Question: 7.17	DCC has commented on the Dam Brook Diversion as to whether it could be more naturalised, seeking opportunities to enhance the habitat through this watercourse diversion.	The Dam Brook diversion aims to create a naturalised channel with in-channel features within a vegetated corridor. The realigned brook will provide a range of habitats that will be of benefit to local ecology (refer to ES Chapter 8: Biodiversity [APP-046]). Highways England would be happy to consult with DCC regarding the design of the biodiversity features associated with the realigned Dam Brook during the detailed design stage.
2.67	Responses to ExA's First Written Questions Question: 8.1	a) Yes b) No c) Yes – subject to pre-construction checks by ECoW as per 8.3.29	a) Noted. b) Noted. c) Noted.
2.68	Responses to ExA's First Written Questions Question: 8.2	The applicant's consultants have involved stakeholders extensively and repeatedly over the approach to and scope for surveys, which is welcomed, and the approach can be supported.	Noted
2.69	Responses to ExA's First Written Questions Question: 8.3	These are matters for the applicant to address	Noted
2.70	Responses to ExA's First Written Questions Question: 8.4	Noted. The approach to the mitigation hierarchy (avoidance of impacts, mitigation of impacts that cannot be avoided, compensation for residual impacts) is well understood and articulated in this section. It can be helpful for an ES to spell out the	Noted and agreed.

Ref	Source	Comments	Applicant's Response
		<p>full scope of impacts that would arise without any of these measures being applied, then consider mitigation and compensation proposals for each impact before reassessing the impacts again, for clarity. However, in DCC's experience this can result in significant repetition, and is often seen as an unnecessary exercise because in reality, some mitigation measures are inevitably included in any development proposal.</p>	
2.71	<p>Responses to ExA's First Written Questions            Question: 8.5</p>	<p>a) And b) are matters for the applicant to address            c) The principle that the significance of an ecological impact is not solely dependent upon the importance of the feature is a well-established principle. Typically, impact assessment will take account of the scale and severity of impact, the duration and reversibility etc. of the impact, to establish the significance of the impact to be taken into account</p>	<p>a) Noted.            b) Noted.            c) Noted and agreed. As per paragraph 8.3.20 in ES Chapter 8: Biodiversity <b>[APP-046]</b> Table 8.4 Significance of Ecological Effect is used as a guide, together with professional judgement, to determine the significance of ecological effects. Significance of effect is qualified with reference to an appropriate geographical scale, however, the scale of the effect may not be the same as the importance of the feature in question (i.e. Table 8.3 Ecological Importance <b>[APP-046]</b>). The characterisation of ecological impacts and effects within the ES (as per paragraph 8.3.15 <b>[APP-046]</b>) includes the following (based upon IAN 130/10 (Highways Agency, 2010) and the CIEEM guidelines (CIEEM, 2018):</p> <ul style="list-style-type: none"> <li>o Positive or negative (SI)</li> <li>o Probability of occurring (PO)</li> <li>o Complexity (CO)</li> </ul>

Ref	Source	Comments	Applicant's Response
			<ul style="list-style-type: none"> <li>○ Extent (EC)</li> <li>○ Size (SZ)</li> <li>○ Reversibility (RE)</li> <li>○ Duration (DU)</li> <li>○ Timing and frequency (TF)</li> </ul>
2.72	Responses to ExA's First Written Questions Question: 8.6	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.	Noted and agreed. Also refer to Highway England's response to this question in <b>[REP1-005]</b> .
2.73	Responses to ExA's First Written Questions	Derbyshire County Council's ecologist has had extensive engagement with this scheme over the last few years, via	a) and b) Noted Mitigation measures for the Scheme, as set out in ES Chapter 8: Biodiversity <b>[APP-046]</b> Section 8.9, have been

Ref	Source	Comments	Applicant's Response
	Question: 8.7	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.	agreed within DCC as per the draft Statement of Common Ground <b>[REP1-007]</b> . Provisions for Green Infrastructure for biodiversity is referenced in ES Section 8.11.
2.74	Responses to ExA's First Written Questions Question: 8.10	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	Noted and agreed. As stated in ES Chapter 8: Biodiversity <b>[APP-046]</b> paragraph 8.10.10, pollution prevention control and best practice measures would ensure that the disturbance from construction effects, would result in a non-significant (neutral) effect on national and local statutory designated sites.

Ref	Source	Comments	Applicant's Response
		<p>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.</p>	
2.75	<p>Responses to ExA's First Written Questions            Question: 8.11</p>	<p>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.</p>	<p>Noted and agreed. Also refer to Highway's England written response to 8.11 in <b>[REP1-005]</b>.</p>

Ref	Source	Comments	Applicant's Response
2.76	Responses to ExA's First Written Questions Question: 8.12	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.	Noted and agreed. As stated in ES Chapter 8: Biodiversity <b>[APP-046]</b> paragraph 8.10.21, pollution prevention control and best practice measures would ensure that the disturbance from construction effects, would result in a non-significant (neutral) effect on local non-statutory designated sites.
2.77	Responses to ExA's First Written Questions Question: 8.14	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	Noted and agreed. As stated in ES Chapter 8: Biodiversity <b>[APP-046]</b> paragraph 8.10.21, pollution prevention control and best practice measures would ensure that the disturbance from construction effects, would result in a non-significant (neutral) effect on local non-statutory designated sites.

Ref	Source	Comments	Applicant's Response
		<p>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.</p>	
2.78	<p>Responses to ExA's First Written Questions            Question: 8.17</p>	<p>Yes. DCC would welcome consultation.</p>	<p>Noted and agreed.</p>
2.79	<p>Responses to ExA's First Written Questions            Question: 8.21</p>	<p>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</p>	<p>Noted and agreed. As per in ES Chapter 8: Biodiversity <b>[APP-046]</b> paragraph 8.9.10, "<i>measures would be implemented during the construction phase to minimise impacts on foraging and commuting bats – this includes keeping lighting to a minimum by limited night-time working and reducing lighting within habitats of value to bats. The main site compound to the north of Little Eaton junction would be occupied at all times for the security of the plant, equipment, and materials within it. As such the compound would be lit as required during hours of darkness. Lighting would be directional, and positioned sympathetically, to minimise light spill</i>".</p>

Ref	Source	Comments	Applicant's Response
		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.	
2.80	Responses to ExA's First Written Questions Question: 8.22	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.	Noted and agreed. As per ES Chapter 8: Biodiversity <b>[APP-046]</b> paragraph 8.9.9, ' <i>Invasive plant species would be managed according to the Outline Biosecurity and Management Plan contained within the OEMP (refer to Appendix 2.1 [TR010022/APP/6.3]. Treatment and control would be undertaken by an approved specialist contractor. This would be implemented through the CEMP, thus ensuring there would be no negative impacts associated with the spread of invasive plant species during Scheme construction. The Scheme has the potential to generate a positive effect where invasive plant species are locally eradicated, including within parts of the construction compound north of Little Eaton junction.</i> '
2.81	Responses to ExA's First Written Questions Question: 8.24	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	Noted and agreed. As per ES Chapter 8: Biodiversity <b>[APP-046]</b> paragraph 8.5.10, Highways England is investigating the feasibility of two Designated Fund Projects (which fall outside of the scope of this application) near the Scheme that relate to biodiversity. These

Ref	Source	Comments	Applicant's Response
		<p>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.</p>	<p>biodiversity opportunities are aspirational enhancement measures; and any potential biodiversity impacts and benefits associated with these studies have not been factored into determining residual biodiversity effects of the Scheme.</p>
2.82	<p>Responses to ExA's First Written Questions            Question: 9.7</p>	<p>DCC is satisfied that the selected representative viewpoints are sufficient to capture the full effects of the proposed development. However, it should be noted that the selected viewpoints are only representative and there will be several visual receptors potentially affected at each location, and several locations in close proximity to the chosen viewpoints where the adverse effects of the proposed development would be experienced. DCC has challenged the precise location of some viewpoints, which don't appear to depict the worst case scenario and the fact that slightly different locations for the same</p>	<p>The selected viewpoints are representative to give proportionality to the assessment. Viewpoints do not need to be positioned to present a worst scenario but provide a wider context of the impact of the Scheme. Where viewpoint location differ in summer and winter (viewpoints 8, 10 and 12) these have been re-taken and are being re-issued. Also, photomontages for selected locations have been prepared in response to ExA question 9.8 which will be shared with DCC.</p>

Ref	Source	Comments	Applicant's Response
		viewpoint have been selected to depict summer and winter scenes. There continue to be no photomontages that demonstrate what the effects would be on completion of the proposed development.	
2.83	Responses to ExA's First Written Questions Question: 9.10	With regard to the assessment of landscape effects DCC does not accept the presence of the current A38 junction to be an entirely mitigating factor in itself although it is accepted that there are significant adverse landscape and visual impacts associated with the existing junction. However, the current junction is at grade and as such allows for the appreciation of a valley landscape with a natural floodplain and a corridor that functions as a linear landscape with connected habitats. DCC does not 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. The construction of an elegant, architect designed structure would allow for the natural floodplain landscape to extend below it and to some extent would help to reduce some of the compensatory flood	If the A38 mainline at Little Eaton junction was placed on a viaduct, it is considered that the design would inevitably become more urban in nature and reduce opportunities for landscape planting, and thus reduce the potential to integrate the Scheme into the surrounding landscape. An elevated viaduct carrying the A38 mainline over Little Eaton junction would make a bold statement within the landscape and it is assumed the intention would be that the structure would be clearly visible from surrounding areas. In terms of visual amenity, a viaduct solution would be most visible from the open floodplain that constitutes part of the DVMWHS. Therefore, the design of such a structure would need to be very carefully considered in order not to have adverse landscape/visual effects. Viaducts are difficult to screen due to their height and form, and therefore it is unlikely that there would opportunities to provide adjacent screen planting. With regard to the significance of the landscape effects as reported in the ES Chapter 7: Landscape and Visual [APP-045], the assessment reports that the Scheme at Little Eaton junction would have large adverse effects upon LCA10 (Little Eaton and Breadsall Greenbelt LCA) during the construction phase, a moderate adverse effect at Scheme opening, reducing to slight adverse 15 years after Scheme opening due to maturation of the associated landscape planting.

Ref	Source	Comments	Applicant's Response
		<p>alleviation measures that are required as a result of these large embankments. It is DCC's view that it would be better to have something beautiful to view that would sit sympathetically within the setting of the World Heritage Site rather than the introduction of an incongruous landscape feature that does not accord with the established character of a floodplain landscape.</p>	
2.84	<p>Responses to ExA's First Written Questions            Question: 9.11</p>	<p>DCC believes this particular question must relate to the following statement in its original consultation response: "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." As shown on the supporting drawings the proposed flood storage areas are depicted as highly engineered features that would look distinctly at odds with what is generally perceived as a natural floodplain landscape. Cumulatively these features, as depicted, alongside the proposed new embankment and the extensive screen planting have the potential to add to the overall adverse landscape and visual effects of the proposed development in that they would be at odds with the established character</p>	<p>Additional highways elements such as noise barriers and drainage attenuation measures may be "<i>perceived as alien features in the landscape</i>", but they are not considered to be out of context with the highway's infrastructure and will be integrated and screened from the wider landscape by associated planting.</p> <p>With regard to the question of the design of the floodplain compensation area, the landform design has been developed with input from landscape, ecological and cultural heritage specialists with the aim that it creates a naturalistic profile that blends in with the surrounding valley profile. Following completion of the works, the reprofiled land would be reinstated as grassland and returned to the landowner for continued agricultural use. Following re-establishment of agricultural grassland, it would not be apparent that any works had taken place on the site. The area would have no engineering structures and would not require any form of ongoing maintenance.</p>

Ref	Source	Comments	Applicant's Response
		of a floodplain landscape as it is currently perceived at this location.	
2.85	Responses to ExA's First Written Questions Question: 10.4	<p>DCC has made reference in its Written Representations to the impacts of the scheme on material assets and waste as set out in Chapter 11 of the applicant's Environment Statement. DCC has drawn attention to the policies of the Adopted Derby and Derbyshire Minerals Local Plan (Adopted 2002) and Adopted Derby and Derbyshire Waste Local Plan (adopted 2005).</p> <p>Policy MP 17 of the Minerals Local Plan is relevant as follows:  <b>MP17: Safeguarding Resources</b>          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:</p> <ol style="list-style-type: none"> <li>1) There is an over-riding need for the development and;</li> <li>2) Where prior extraction of the mineral cannot reasonably be undertaken or is unlikely to be practicable or environmentally acceptable.</li> </ol> <p>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</p>	Reference to the additional policies is noted, as is the fact that DCC raise no significant concerns with the compliance of the Scheme with these polices within their Local Impact Report <b>[REP1-031]</b> .

Ref	Source	Comments	Applicant's Response
		<p>granted provided this does not prejudice the timing and viability of the proposed development and does not lead to unacceptable environmental effects. Policy W11 of the Waste Local Plan is relevant 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:</p> <ul style="list-style-type: none"> <li>· The development is necessary to restore land for beneficial use in line with development plan policies;</li> <li>· The development is necessary to improve the land for agriculture;</li> <li>· The development is necessary to achieve farm diversification consistent with the site's location;</li> <li>· The development is necessary to improve the local ecology or landscape.</li> </ul>	
2.86	Responses to ExA's First Written Questions Question: 10.18	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	Noted. Highways England can confirm that NCN Route 54 will remain in existing alignment and that this will cross beneath the elevated A38 at the reconfigured junction and

Ref	Source	Comments	Applicant's Response
		<p>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.</p> <p>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.</p>	<p>at-grade crossings of south facing slip roads will be signal controlled</p> <p>Provision for the Derwent Valley Cycleway is not in the scope of the scheme, however, Highways England is working with the Derwent Valley Cycleway team to try to help fund this by a separate means.</p>
2.87	Responses to ExA's First Written Questions Question: 10.25	No further comments	Noted
2.88	Responses to ExA's First Written Questions	a) No. The study omits discussion of the importance of the Derwent floodplain as an attribute of the World Heritage Site. The Derwent floodplain is an attribute that	a) The Heritage Impact Assessment (HIA) <b>[APP-173]</b> identifies the River Derwent floodplain as an important element of the historic landscape at Section 4.9.10 stating

Ref	Source	Comments	Applicant's Response
	Question: 11.5	<p>manifests Values 1 and 3 in the Statement of OUV (1: 'The successful harnessing of natural energy ...' and 3: 'A 'relict' industrial landscape, where late 18th and early 19th century industrial development may be seen in an 18th/19th century agricultural landscape ...'). In this location the floodplain boundary is the World Heritage Site boundary. The proposed embankment as an intrusive engineered landform will detract from the authenticity of the Derwent floodplain landscape in this location. The study therefore understates impacts to the World Heritage Site ('negligible'/slight adverse/not EIA significant). It is DCC's view that the proposals will 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.</p> <p>b) Aside from the visual impacts to OUV of the World Heritage Site (see above), DCC considers that the range of viewpoints is adequate and the assessment in relation to other assets is robust.</p>	<p>the floodplain "<i>constitutes one of the key elements of the cultural landscape</i>".</p> <p>In addition, the effect of the Scheme on the individual Outstanding Universal Values (OUV) is assessed at Section 7.2 - this includes Value 1 at Section 7.2.2 and Value 3 at Sections 7.2.7 to 7.2.9. Both acknowledge changes to the existing road network, including the construction of the Little Eaton Junction. The impact of the proposed Scheme embankment is also considered at Section 7.2.13 in relation to its effect on the Integrity of the WHS. This recognises that the Scheme would create a more visible and prominent road within the setting of the WHS. However, this would be appropriately mitigated through the landscape design. This is supported by existing viewpoints.</p> <p>b) Noted</p>
2.89	Responses to ExA's First Written Questions Question: 11.8	DCC has raised no issues in respect of this matter.	Noted

Ref	Source	Comments	Applicant's Response
2.90	Responses to ExA's First Written Questions Question: 12.6	DCC has no further comments to make on this question.	Noted
2.91	Responses to ExA's First Written Questions Question: 12.7	DCC does not have any statutory responsibilities for air quality and air quality management, dust emissions or noise and vibration matters. DCC has not raised any issues on this matter with the applicant.	Noted
2.92	Responses to ExA's First Written Questions Question: 12.8	a) None b) None c) None	Noted
2.93	Responses to ExA's First Written Questions Question: 12.10	a) and b) DCC'S Officers have reviewed the applicant's Environment Statement and assessed the implications of the Little Eaton junction part of the scheme for waste generation and disposal. In this respect, DCC notes the conclusions of the ES in 11.10.3 that construction of the scheme is expected to generate approximately 17,961 tonnes of non-hazardous construction and demolition waste, which is expected to require management off site. Para 11.10 concludes that based on a worst case assumption that all of the non-hazardous construction and demolition	Noted and agreed.

Ref	Source	Comments	Applicant's Response
		<p>waste requiring management off site is disposed of to landfill, then the approximate 15,965 m3 of waste would utilise approximately 0.03% of the permitted regional landfill capacity.</p> <p>Para 11.10.5 concludes that it is anticipated that some cut material from the Kingsway and Markeaton junctions 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.</p> <p>DCC is satisfied that the applicant's assessment above is robust and on that basis DCC considers that the local waste infrastructure has more than adequate capacity to satisfactorily deal with waste from the proposed development; and that there are unlikely to be any adverse effects as a result of available capacity in existing waste management facilities to deal with waste arising from the proposed development.</p>	
2.94	Responses to ExA's First Written Questions Question: 12.11	A N/A B N/A C No.	Noted.

Ref	Source	Comments	Applicant's Response
2.95	Responses to ExA's First Written Questions Question: 12.12	A) None B) None	Noted.
2.96	Responses to ExA's First Written Questions Question: 12.15	None	Noted.
2.97	Responses to ExA's First Written Questions Question: 13.21	a) None b) None	Noted.
2.98	Responses to ExA's First Written Questions Question: 13.28	DCC does not have any statutory responsibilities for the provision or maintenance of public open space and no comments or concerns have been raised by the County Council.	Noted.
2.99	Responses to ExA's First Written Questions Question: 13.29	DCC does not have any statutory responsibilities for the provision or maintenance of public open space.	Noted.
2.100	Responses to ExA's First Written Questions Question: 13.58	DCC confirms that it has no land ownership affected by the Little Eaton junction scheme that comprises, a common, open space, field or garden.	Noted.

Ref	Source	Comments	Applicant's Response
2.101	Responses to ExA's First Written Questions Question: 13.68	DCC raises no concerns or issues in respect of questions a) to c).	Noted.
<b>3 Cadent Gas</b>			
3.1	Responses to ExA's First Written Questions Question: 13.50	<p>Cadent has set out its status as the licensed operator of a gas distribution network and has identified the importance of maintaining the integrity of its gas distribution network, in its relevant representations.</p> <p>Cadent's position, as set out in its relevant representations, is that it is not satisfied that the tests under section 127 of the PA 2008 can be met unless and until it has appropriate protective provisions in place which adequately protect its existing apparatus and which properly regulate any diversions that may be required. Cadent has a preferred form of protective provisions which it has issued to Highways England and which it is awaiting a response on.</p> <p>Until that time, Cadent is not satisfied that:</p> <ol style="list-style-type: none"> <li>1. Its land can be purchased and not replaced, or that any rights over its land can be acquired, without serious detriment to the carrying on of Cadent's undertaking;</li> </ol>	<p>Highways England confirms that it is in discussions with Cadent Gas regarding the protective provisions. It anticipates that a new Part will be added to Schedule 9 to the draft DCO that includes protective provisions in favour of Cadent.</p> <p>Highways England does not however accept that serious detriment would be caused to Cadent's undertaking unless protective provisions specific to Cadent are included in the DCO. Part 1 of Schedule 9 to the draft DCO contains protective provisions that apply for Cadent's benefit as a gas undertaker. In Highways England's view those provisions, which have been successfully included in numerous previously made (and implemented) orders, secure appropriate and adequate protection for Cadent's undertaking and would properly regulate any diversions that may be required.</p> <p>As noted in Highways England's Response to the Relevant Representations [REP1-003] and Response to the Examining Authority's First Written Questions [REP1-005], engagement with Cadent has been ongoing since 2015. As a result of this engagement a number of diversions of Cadent apparatus have been identified in collaboration with Cadent's designers and included as Works in the dDCO. Cadent has not provided Highways England or the Examining Authority with any specific examples of where it</p>

Ref	Source	Comments	Applicant's Response
		<p>2. (Where its land is to be purchased) it can be replaced by other land belonging to, or available for acquisition by, Highways England without serious detriment to the carrying on of Cadent's undertaking; or</p> <p>3. (Where rights over its land are to be acquired) any detriment to the carrying on of Cadent's undertaking, in consequence of the acquisition of the right, can be made good by Highways England by the use of other land belonging to or available for acquisition by them.</p> <p>For the purpose of section 127 of the PA 2008, land includes any interest in or right over land. Therefore, even where rights over land are acquired [<i>text missing</i>].</p> <p>Cadent will not be satisfied that the tests under section 127 and 138 will be met until such time as appropriate protective provisions are put in place.</p> <p><b><u>Protective Provisions Update</u></b></p> <p>By way of an update to the ExA, Cadent is in discussion with Highways England over the protective provisions which Cadent expects to be in the same form as those recently agreed with Highways England in respect of its Windy Harbour scheme and included within the final dDCO. Cadent is</p>	<p>considers there may be a deficiency in the extent of the land or rights sought under the DCO to secure these diversions. In light of this, and the protections afforded by the protective provisions in Part 1 of Schedule 9, Highways England does not consider that serious detriment would be caused to Cadent's undertaking for the purposes of s.127 PA 2008.</p> <p>Highways England is nonetheless working towards an agreed set of protective provisions with Cadent and will provide a further update to the Examining Authority at a later stage of the examination.</p>

Ref	Source	Comments	Applicant's Response
		awaiting confirmation from Highways England that this position is agreed.	
<b>4 Historic England</b>			
4.1	Responses to ExA's First Written Questions Question: 11.1	<p><b>ES Chapter 6 [APP-044]</b>            Table 6.2 sets out the criteria to determine the value of heritage assets. Do you have any comments regarding the values placed on the designated heritage assets in this table?            We have no comments</p>	Noted. Also refer to the SoCG with Historic England <b>[REP1-012]</b> .
4.2	Responses to ExA's First Written Questions Question: 11.3	<p><b>ES Chapter 6 [APP-044]</b>  <b>NPSNN</b></p> <p>a) Having regard to the advice at paragraphs 5.130 and 5.137 of the NPSNN and paragraph 200 of the NPPF, does the Proposed Development take any opportunities to enhance heritage assets or their settings?</p> <p>b) Is there anything else that could be reasonably achieved?</p> <p>a) Not that we have identified.            b) We have not identified additional works which might reasonably be achieved in association with the scheme beyond</p>	Noted.

Ref	Source	Comments	Applicant's Response
		direct minimisation and mitigation of impacts as already covered.	
4.3	Responses to ExA's First Written Questions Question: 11.5	<p><b>ES Chapter 6 [APP-044]</b>  <b>ES Appendix Heritage Impact Assessment for the WHS [APP-173]</b>            Table 7.3 of the Heritage Impact Assessment (page 65) and paragraphs 7.2.5 7.2.13 deal with the impact of the Proposed Development on the Historic Landscape. Amongst other things, they find that the Little Eaton junction is within the setting of the WHS. Reference is made to the visual impact of the embankment.</p> <p>a) Are you content that the Heritage Impact Assessment provides a robust assessment of the effect of the embankment on the character of the "<i>relic landscape</i>" which contributes to the Outstanding Universal Value of the WHS?</p> <p>b) Comment on whether the Heritage Impact Assessment provides a robust assessment of the effect of the Proposed Development from relevant viewpoints?</p> <p>a) Yes we are content they are sufficient.            b) Yes we are content they are sufficient.</p>	Noted. Also refer to the SoCG with Historic England [REP1-012].

Ref	Source	Comments	Applicant's Response
4.4	Responses to ExA's First Written Questions Question: 11.6	<p><b>ES Chapter 6 [APP-044]</b>  <b>Additional Submission by DCiC [APP-017]</b>  <b>ES Figure 2.10 [APP-66]</b></p> <p>Concern has been expressed regarding the effect of the flood compensation area on the Outstanding Universal Value of the WHS.</p> <p>a) DCiC – Please clarify what aspect of the flood compensation area gives rise to your concern. How could it be improved?</p> <p>b) Applicant – The sections in Figure 2.10 indicate that the proposed ground profile would be formed by straight or flat surfaces. Is there scope to make the shape of the profile more organic to reflect local topography?</p> <p>c) Historic England – Do you have any concern regarding this element of the Scheme?</p> <p>c) We do not have concerns with this aspect of the scheme.</p>	Noted. Also refer to the SoCG with Historic England [REP1-012] In relation to (b) in particular see the SoCG Table 3.2 (Highways England response to Issues ref: D.2 and WHS, pages 10-11).
4.5	Responses to ExA's First Written Questions Question: 11.8	<p><b>ES Chapter 6 [APP-044]</b>            ES paragraphs 6.15.33 and 6.15.34 summarise the effects of the proposal on</p>	Noted. Also refer to the SoCG with Historic England [REP1-012].

Ref	Source	Comments	Applicant's Response
		<p>the settings Breadsall Conservation and the Church of All Saints.</p> <p>Are you content that the effects of the embankment in terms of its height and siting, associated slip road and signage and the lighting at the junction Little Eaton junction have been adequately considered?</p> <p>Yes</p>	
<b>5 Network Rail</b>			
5.1	<p>Responses to ExA's First Written Questions            Question: 13.52a</p>	<p>The A38 currently crosses over the River Derwent and the Midland Main Line railway line. The proposal for the Little Eaton junction element of the Proposed Development seeks to realign and widen the existing railway bridge (extending it to the south to carry the widened A38). The existing northbound carriageway would be retained on the railway bridge and form the northbound diverge slip road.</p> <p>The works will comprise significant engineering works over the Midland Main Line railway line, a line that runs from London St Pancras to Sheffield. The railway line is used extensively by both passenger (commuter and inter city services) and freight transport.</p> <p>Network Rail considers that there is no compelling case in the public interest for</p>	<p>Highways England is firmly of the view that there is a compelling case in the public interest for all of the compulsory acquisition powers sought in the dDCO, including those over Network Rail's land.</p> <p>The compelling case in the public interest for the Scheme is explained in detail in the Statement of Reasons <b>[APP-020]</b> (see in particular section 5.4) and the Planning Statement <b>[APP-252]</b>.</p> <p>Highways England accepts that Network Rail has a legitimate concern to ensure the protection of its undertaking, but that does not mean that compulsory acquisition powers must be refused if serious detriment is to be avoided. The key question is whether adequate controls and protections are secured in the DCO and any other relevant documents to enable it to be concluded that serious detriment would not be caused to Network Rail's undertaking.</p>

Ref	Source	Comments	Applicant's Response
		<p>the use of compulsory acquisition powers over its land. It considers that such matters should be resolved by way of negotiation of private agreements given the serious impact (including risk of serious injury and/or death) that such extensive engineering works would have as the bridge is constructed over an extensively used railway line by passengers and freight.</p> <p>Please see further in the response below and in Network Rail's Written Representations in respect of the serious detriment which would be caused to Network Rail's undertaking if compulsory acquisition powers were used against Network Rail.</p>	<p>With regard to the potential exercise of compulsory acquisition powers over Network Rail's land, Highways England notes that the same control over the exercise of such powers is included in Part 4 of Schedule 9 to the dDCO as is included in Network Rail's preferred protective provisions submitted at Deadline 1 (see specifically paragraph 32). In light of that Highways England considers that the dDCO does provide adequate controls and protections for Network Rail.</p>
5.2	<p>Responses to ExA's First Written Questions            Question: 13.52b</p>	<p>Network Rail owns, operates and maintains the railway infrastructure of Great Britain. It does so pursuant to a network licence granted under section 8 of the Railways Act 1993.</p> <p>Network Rail considers that the exercise of compulsory purchase powers proposed by Highways England for this DCO scheme would, if consented without satisfactory protections for Network Rail, adversely affect and have a detrimental impact on the operation of the railway and will prevent Network Rail from operating the</p>	<p>See Highways England's Response to the Relevant Representations <b>[REP1-003]</b> for comments on these points.</p> <p>Notwithstanding that Highways England is willing in principle to consider and agree this suite of documents with Network Rail, Highways England's position is that the controls and protections afforded to Network Rail through the protective provisions currently included in Part 4 of Schedule 9 to the dDCO would ensure that serious detriment would not be caused to Network Rail's undertaking. The draft protective provisions in Part 4 are in most places very similar to, if not exactly the same as, the equivalent provisions submitted by Network Rail at Deadline 1. In particular Part 4 already includes a</p>

Ref	Source	Comments	Applicant's Response
		<p>railway safely and efficiently and in accordance with its network licence. Network Rail therefore requires:</p> <ul style="list-style-type: none"> <li>• A set of Protective Provisions that are acceptable to it to be included in the Order including (amongst other matters) a provision that no compulsory powers will be exercised in respect of Network Rail's property without Network Rail's consent (a set are attached to Network Rail's Written Representations);</li> <li>• A Framework Agreement is entered into between Highways England and Network Rail to govern, amongst other matters, Network Rail's ability to retain its existing rights in land and any unknown existing rights in operational railway land;</li> <li>• A bridge agreement is entered into and a deed of grant of easement;</li> <li>• A Basic Asset Protection Agreement and/or Asset Protection Agreement is/are entered into due to the direct interface and impact of the project on an extensively used operational railway. Such agreement would regulate the construction works.</li> </ul> <p>In the absence of such regulation it is considered that the project would have a serious detrimental effect on the safe, economic and efficient use of the railway.</p>	<p>provision that compulsory acquisition powers may only be exercised over Network Rail's land with Network Rail's consent (see paragraph 32) and that specific requirement of Network Rail is therefore satisfied.</p> <p>Highways England reiterates that, as noted in its Response to Network Rail's Relevant Representation <b>[REP1-003]</b>, it has been in discussions with Network Rail for a number of years regarding the proposals for the Scheme. Discussions were held relating to developing the replacement bridge AIP (Approval in Principle) and they reached a stage such that all comments raised by NR on the AIP had been addressed to NR's satisfaction. Highways England will continue to engage with Network Rail during the examination with a view to agreeing any changes to the current draft protective provisions, as well as the other documents Network Rail has requested insofar as they are required at this stage of the process.</p> <p>Highways England will provide a further update to the Examining Authority at a later stage of the examination.</p>

Ref	Source	Comments	Applicant's Response
<b>6 McDonald's</b>			
6.1	Written Representation	<p>3.1.6 Highways England have stated that it would require a Departure from Standard to allow the existing access to be maintained from the A38, however, have made no concessions or allowance for the existing site occupiers' ability to receive visitors from the A38 to continue. Details have not been provided to justify why a Departure from Standard has not been considered.</p>	<p>Exiting the site onto the A38 will continue to be an option after implementation of the Scheme.</p> <p>Highway schemes must be designed in accordance with current design standards. These standards are controlled by Highways England's Safety, Engineering and Standards (SES) team and if any of the standards can't be complied with then approval for a Departure from Standards must be sought and approved by SES.</p> <p>Departure from Standard (DfS) to allow entry and exit from the A38 slip road has been considered but was deemed unacceptable by SES on the grounds of safety. The acceptance of a DfS is at the discretion of SES. However, an alternative solution that permits egress only onto the A38 was examined and SES deemed this to offer a safer option that also facilitates the continued operation of McDonald's neighbour by allowing fuel tankers to exit onto the slip road. This would still require a DfS and SES has confirmed that this would be approvable.</p>
6.2	Written Representation	<p>3.1.7 Details have not been provided of the current design guidance which prohibits the provision of an access onto a slip road. DfT circular 02/2013 notes at paragraph 42 that:</p> <p><b><i>"...In line with the standards contained in the Design Manual for Roads and Bridges, for safety and operational reasons, direct connectivity to slip</i></b></p>	<p>At the time of submission, the scheme was designed to the then current standards. CD122 was introduced by HE after the scheme's application to the Planning Inspectorate was submitted.</p> <p>The new standard (CD 122) does not change the requirement that accesses are not allowed on a slip road (in the Terms and Definitions section on page 7, it states that a connector road includes (as a collective term) interchanges links, link roads, slip roads, and loops designed as part of a full grade separated junction).</p>

Ref	Source	Comments	Applicant's Response
		<p><b><i>roads and/or connector roads will not be permitted.</i></b></p> <p>3.1.8 A review of DMRB shows that sections 22/06 (Layout of Grade Separate Junctions), 39/94 (The Design of Major Interchanges) and 40/94 (Layout of compact grade separated junctions) to the design of grade separated junctions have been superseded by CD122 (August 2019) "Geometric Design of Grade Separated Junctions."</p> <p>3.1.9 A review of the criteria for slip roads within CD122 makes no restriction on accesses being taken from slip roads, such as that which is proposed by Highways England. For clarity, however, specific guidance is provided for a "Connector Road" at paragraph 5.2 of CD122:</p> <p><b><i>"5.2 Direct accesses and priority junctions should not be provided on connector roads."</i></b></p> <p>3.1.10 Therefore it is considered that Highways England's design criteria, which may have been applicable previously, should be re-examined following the</p>	<p>Also, McDonald's representation has misquoted Clause 5.2 of CD112; it actually states: "<b><i>Direct accesses and priority junctions shall not be provided on connector roads</i></b>". This makes an important difference to the meaning of the phrase. Highways England standard GG 101 defines the terminology used in all standards</p> <p><i>The verb 'shall' indicates a requirement of the Overseeing Organisation.</i></p> <p><i>The verb 'should' indicates advice expressed as a recommendation</i></p> <p>As such, the access or egress on the slip road is not allowed by the standards.</p> <p>Following extensive consultation with HE SES team, several options put forward to SES were reviewed (including a 2-way access/egress, entry only and exit only). SES accepted that the "Exit Only" option onto the A38 would be the most favourable from a safety perspective and a DfS could be accepted on that basis (this would permit the continued operation of McDonald's neighbours by allowing for the exit of a fuel tanker from the site).</p>

Ref	Source	Comments	Applicant's Response
		<p>release of new guidance CD122, or clarification should be provided of the current design standards, which are applicable in the decision many process to refuse access to the wider site, from the proposed slip road.</p> <p>3.1.11 It is the view of McDonald's and their consultants, that the most current guidance as set out in CD122 does not preclude or prohibit the provision of an access or egress from the slip road, i.e. an access from the A38. As a result, HE should revisit the scheme design in order to retain the existing access and egress from the A38 exit slip road.</p>	
6.3	Written Representation	<p>3.1.13 Circular 02/2013 does make an exception for access to  <b><i>"motorways and other routes of near motorway standard"</i></b>          for  <b><i>"..the provision of signed roadside facilities."</i></b></p>	<p>It is noted from the table in circular 02/2013, that the facilities at this site do not fulfil the requirements for parking and some of the facility requirements. As such, it is at the discretion of HE as to whether to grant an application by the facilities for a sign to be erected. It should be noted that signing for such facilities are financed by the operator of a service area and not provided by HE free of charge.</p> <p>Highways England is currently investigating how/whether the combined site (Euro Garages and McDonald's) can be designated as a Trunk Road Service Area which could then permit appropriate advance signage.</p> <p>Progress on this issue will be reported in updates to the SoCG.</p>

Ref	Source	Comments	Applicant's Response
6.4	Written Representation	3.2.4 The modelling undertaken by HE has been done using TRANSYT, which, while appropriate for a large-scale network model, does not provide sufficient detail for this junction, which is critical to the successful operation of the existing McDonald's.	TRANSYT modelling software may be used for large- and small-scale traffic-signal controlled junctions. The local junction operational model was based on the traffic flows extracted from the larger-scale SATURN traffic forecasting model. The local junction model can be tailored to any size of junction and demand flows may be modified to the criteria required.
6.5	Written Representation	3.2.7 A review of the HE TRANSYT model shows that 14 seconds of green time in a 90 second cycle, split as two stages of seven seconds each. Therefore, allowing for a start-up lag of two seconds when the light turns green, allowing for the first vehicle at the stop line to move off from standstill, this reduces the available green time to two blocks of five seconds to completely clear any queue from the site, which is considered to be unrealistic in terms of providing an acceptable performance.	<p>Noted. But at the end of each green-phase there is a bonus shut-down time of one second. Thus the 'effective green' is calculated as the green-phase time minus one second. This is the normal approach taken for traffic signal designs and this is allowed for in the design standards that dictate the minimum time for green phases should be seven seconds.</p> <p>The traffic signals can be monitored and manually altered (remotely) depending on the software used, to find the optimal phasing.</p> <p>The option to use the exit to the A38 northbound diverge slip road will mitigate queueing that might occur at the A52 egress.</p>
6.6	Written Representation	3.2.9 The provision of the new signals and associated stop lines have resulted in the position where cars wait to join the A52 moving back closer to the McDonald's by around 8.7m, or almost one and a half car lengths per lane. This combined with the very low green times proposed for the signals mean that the queue will be longer	<p>The proposed exit on the A52 should perform better than the existing exit due to the introduction of traffic signals. It is noted, however, that continued consultation with both McDonald's and Euro Garages is planned to finalise the details of the proposed access and exits from the site..</p> <p>Potential to use a KEEP CLEAR road marking to help alleviate exit blocking.</p>

Ref	Source	Comments	Applicant's Response
		and located closer to the McDonald's car park.	
6.7	Written Representation	<p>3.3.1 The site traffic survey undertaken in 2015/16, which formed the assessment of the Works, is outdated and guest numbers to the Property have subsequently risen. The assessment of the impact does not account for this increase; the Works and increased site traffic will exacerbate already existing congestion.</p> <p>3.3.2 HE's Technical Note states that 10% has been added to all flows, however, this does not cover increases over time, which have been, and continue to be, significant.</p>	<p>The traffic figures are based on traffic counts conducted at the site on two separate days. These figures have been added to the overall SATURN model with some growth applied to the site for predicted flows for the schemes design year. An additional 10% has been added into the TRANSYT model to ensure capacity at the junction could be accommodated should there be any unanticipated changes occur during the life of the scheme.</p> <p>As previously noted, the proposed access on the A52 should perform better than the existing access.</p>
6.8	Written Representation	<p>4.1.3 Delivery cages weigh hundreds of kilograms and McDonald's' car park is reinforced in the south part only. By closing the A38 entrance, delivery vehicles will no longer be able to service the Property; they are too heavy to safely cross the unreinforced north section of the Property.</p> <p>4.1.4 It is noted that HE have stated that they could make improvements to the existing McDonald's car park structure, however, no firm proposals or plans have been put forward to explain how this could be done without interrupting the operation of the restaurant.</p>	<p>The Applicant would appreciate it if McDonald's could provide the construction details of the various areas of the car park surfacing, this could be verified by core sampling. The design of any pavement alterations would be carried out during Detail Design and HE anticipates working with McDonald's to establish the need for reinforcement of other areas of the car park. This can be discussed as part of the SoCG.</p>

Ref	Source	Comments	Applicant's Response
6.9	Written Representation	4.1.5 The proposed junction geometry for the proposed A52 signals would require a very tight manoeuvre from the HGV to successfully turn into the site. Swept paths are provided at Appendix 6.0 and show the difficulty the driver would experience and also shows the elements of the existing McDonald's layout which would need to be overrun to accommodate the updated delivery route.	Swept path diagrams have been provided by HE to demonstrate that access for deliveries from the proposed new A52 access is feasible within the current car park layout. This will involve encroaching onto the Euro Garages land as is the case at present. Further development of the design in consultation with McDonald's at detailed design will ensure that these matters are discussed in detail at the appropriate time. It is anticipated that all HGVs would exit the site via the A38 exit route given the constraints within the site.
6.10	Written Representation	4.2.1 A new route for waste collection would be required which is likely to inconvenience local residents and therefore strain their neighbourly relationship with McDonald's. 4.2.3 In order to avoid this circuitous route, refuse vehicles would need to undertake the same manoeuvres as the HGV, detailed in the previous section, however this would introduce a management burden for the restaurant, requiring co-ordination between disparate third-party contractors, which could cause congestion or delay within the car park.	To avoid the extended route and potential impact to local residents, the alterations to the car park to allow heavier vehicles would permit access to the refuse vehicle. Alteration to the refuse area to the rear of the McDonald's building could be facilitated to enable the movement of the bins to the car park. Consultation with McDonald's during detailed design would be undertaken to refine the design and address this issue.
6.11	Written Representation	4.3.1 The Works rely on McDonald's taking deliveries by crossing over land which it neither owns nor has rights over; this is problematic and allows an adjoining landowner to control the viability of the restaurant. McDonald's does not have	It is understood that McDonald's currently takes deliveries by crossing over land which it neither owns nor has rights over (owned by Euro Garages), so the current situation means the 'adjoining landowner can control the viability of the restaurant' as only an informal arrangement is in place.

Ref	Source	Comments	Applicant's Response
		<p>generic rights to encroach on the Euro Garages site. Unless the new delivery route crosses the Euro Garages land in the same place and manner as the existing delivery route, in the absence of a formal arrangement with Euro Garages, McDonald's may not have the necessary rights and will be at risk of a third party preventing deliveries to (and refuse collection from) the restaurant, which would leave it unviable.</p> <p>4.3.2 Any change to McDonald's existing manoeuvres on Euro Garages' property could result in them taking action, whether this forms a ban on manoeuvres, or a request for reimbursement, this results in a worsening of the existing situation for McDonald's.</p>	<p>The scheme will not interfere with this informal arrangement as McDonald's will be able to take deliveries after the scheme is complete with a similar level of encroachment onto their neighbour's land as is currently undertaken.</p>
6.12	Written Representation	<p>5.2 No allowance or detail has been provided in relation to how the ongoing maintenance or upkeep of the scheme will be undertaken on equipment which appears to be on McDonald's owned land or who will be liable in the event of an injury or similar.</p>	<p>All equipment and maintenance will take place on HE owned land or use of land with which HE has rights. Should any maintainable equipment (following the detailed design) be required to be sited on land in McDonald's ownership then a suitable agreement will be drawn up between the relevant parties.</p>
6.13	Written Representation	<p>5.3 No consideration has been made in respect of McDonald's plant or underground equipment currently in place</p>	<p>As no encroachment onto McDonald's land is required, HE does not consider it necessary to consider this further.</p>

Ref	Source	Comments	Applicant's Response
<b>7 Breadsall Parish Council</b>			
7.1	Responses to ExA's First Written Questions Question 2.6	<p>The material supplied by Highways England with their Development Consent Order application contains nothing of which Breadsall Parish Council was not already aware in respect of the selection of the preferred option for the Little Eaton Junction.</p> <p>The Parish Council therefore remains of the view that the process was seriously flawed. A detailed statement of the Parish Council's ongoing objections is given in part one of its written representations. To avoid duplication these are not repeated here.</p>	Noted – refer to Highways England's response to the Breadsall Parish Council written representation (item 7.5 below).
7.2	Responses to ExA's First Written Questions Question 4.37	<p>The Parish Council supports a 50mph speed limit at the Little Eaton Junction for three reasons</p> <ul style="list-style-type: none"> <li>• This should reduce noise levels and air pollution</li> <li>• This gives more freedom in the design of the carriageway, in particular permitting a tighter radius. This in turn may be relevant to the Parish Council's objections to the choice of the preferred route. (See answer to 2.6 above).</li> </ul>	<p>Reducing the speed limit to a mandatory 50mph through Little Eaton junction would have little effect on noise levels and air pollution, this is explained in further detail as follows:</p> <p><b>Noise levels:</b> In accordance with the traffic noise prediction methodology set out in the Calculation of Road Traffic Noise (CRTN) and taking account of the proportion of Heavy-Duty Vehicles (HDVs), a decrease in traffic speed to 50mph (80km/hr) would result in a reduction in traffic noise at source of just over 1dB. To determine the impact of this reduction at specific receptors would require the traffic noise modelling to be repeated. However, it is unlikely that any receptors (such as the Ford Farm Mobile Home Park and in Breadsall) would experience the full</p>

Ref	Source	Comments	Applicant's Response
		<p>It is understood that even the current design involves an advisory 50mph limit.</p>	<p>benefit of this noise reduction as the overall traffic noise level at a receptor is dependent on the contribution from all roads in the vicinity including the slip roads at Little Eaton junction, other roads including the A61 and B6179, and the sections of the A38 mainline to the north and south outside of any 50mph speed limit. It is also noted that the Scheme design includes measures to mitigate noise, such that during Scheme operation Breadsall is assessed to experience a negligible increase in traffic noise levels at the worst affected facades. With the noise barriers in place, slight reductions in traffic noise are anticipated at the western facades of some properties facing the A38 (refer to Environmental Statement (ES) Chapter 9: Noise and Vibration [APP-047].</p> <p><b>Air quality:</b> Emissions of nitrogen oxides are generally considered to be at their lowest level at around 40 - 50 mph. Increases in speed above 50 mph would generally increase emissions, whilst decreases in speeds below 40mph would tend to increase emissions. For the air quality modelling for the Scheme, Highways England used emission factors from IAN 185/15 which provides emissions according to speed bands. The speed bands for non-motorway roads are heavy congestion (&lt; 12mph), light congestion (12 - 27 mph), free flow (27 - 50 mph) and high speed (&gt; 50mph). The air quality modelling undertaken for the Scheme at Little Eaton junction used the high-speed road speed band for the A38 through the junction which has higher emissions. If the speed limit was reduced to 50mph through Little Eaton junction resulting in speeds within the free flow speed band, there would be a reduction in emissions to air. The associated effects of this on surrounding areas would need to be</p>

Ref	Source	Comments	Applicant's Response
			<p>modelled as air quality effects at nearby receptors also dependent on the contribution from all roads in the vicinity, including the slip roads at Little Eaton junction, other roads including the A61 and B6179, and the sections of the A38 mainline to the north and south outside of any 50mph speed limit. In addition, ES Chapter 5: Air Quality [APP-043] indicates that during Scheme operation, air quality effects due to the Scheme within Breadsall village would be negligible due to its distance from the A38, whilst the Ford Lane Mobile Home Park (Receptors R12, R13 and R14) would have a small or medium magnitude improvement in nitrogen dioxide concentrations due to changes in road alignment with all levels being well within national and European air quality criteria set to protect human health (refer to ES Chapter 5: Air Quality [APP-043]).</p> <p>The reasoning for not applying a tighter radius and the inclusion of the advisory speed limit are explained in the Applicant's response to the ExA's question 4.37.</p>
7.3	Responses to ExA's First Written Questions Question 9.13	The Parish Council's position on the tree belt is explained in Part 2 of its written representations. Again, to avoid duplication this is not repeated here.	Noted – refer to Highways England's response to the Breadsall Parish Council written representation.
7.4	Responses to ExA's First Written Questions Question 10.13	This footpath is the only direct route from Breadsall to the north side of the Little Eaton Junction and has a length of a little under half mile. The proposed diversion appears to involve a total detour in the order of one mile which would triple the	The proposed diversion to the footpath leading from Rectory Lane toward the A38 has been discussed with Derbyshire County Council's Rights of Way team. Given the safety aspects associated with facilitating a crossing point for the footpath where it emerges from the fields to the south east corner of the junction, the Council's Rights

Ref	Source	Comments	Applicant's Response
		<p>existing distance. This is clearly unacceptable. More detailed comments are given in Part 2 of the Parish Council's written representations.</p>	<p>of Way team felt that making this a circular route to link with another footpath leading from Croft Lane would be preferable. This particular route has little observed use and safer facilities are being provided at the existing crossing of the A61 from Croft Lane. It is also noted that there is an alternative footpath (Breadsall FP 18) that can be used for those wishing to walk from Breadsall to Little Eaton village (via the underpass to the north of the Scheme).            Such details are also provided in Highways England's response to the Breadsall Parish Council written representation.</p>
7.5	Written Representation Part 1	<p><b>Part 1. Selection of the preferred route</b>            Breadsall Parish Council believes that the process by which Highways England (HE) and its predecessor the Highways Agency (HA) selected the preferred route for the Little Eaton junction was deeply flawed. As a result, the selection of the preferred route should be completely re-examined before the current Development Consent Order is processed.</p> <p>The selection process for the preferred route is described in Highways England's own document "A38 Derby Junctions Scheme Assessment Report (PCF Stage 2)" a copy of which is attached. See especially section 5. BPC's comments below quote paragraph numbers from this report. Much of the same material is contained in the "6.1 Environmental Statement Chapter 3 -Scheme history and</p>	<p>Breadsall Parish Council's concerns relating to the 2003 consultation and the selection of the preferred route following the 2015 consultation are addressed in the Applicant's response to their Relevant Representation (RR-001a <b>[APP-083]</b>).</p>

Ref	Source	Comments	Applicant's Response
		<p>assessment of alternatives" submitted by HE as part of the DCO application</p> <p>In highway terms the obvious way to re-design the Little Eaton junction is to route the A38 to the north of the present junction. This is the shortest and most direct route for the A38, and this was indeed the basis for options 1 and 2 originally proposed by the HA in 2002 (See para 5.4.1). In 2003 HA held a public consultation exercise based on revised high-speed versions of options 1 and 2 and a new third option routed to the south of the present junction (See para 5.4.6).</p> <p>In 2004 HA decided "on balance" to support the third option which is the basis of the current scheme. (See Para 5.4.13). HA gave two key reasons for adopting option 3 and abandoning the routes north of the present junction.</p> <ul style="list-style-type: none"> <li>• A high-speed route north of the present junction would have adverse effects on adjoining property especially the mobile home park. (See Para 5.4.11-5.4.13)</li> <li>• In the 2003 public consultation exercise option 3 was the most popular. (See Para 5.4.8).</li> </ul> <p>In reality HA's reasoning was deeply flawed</p>	

Ref	Source	Comments	Applicant's Response
7.6	Written Representation Part 1	<p>It was true that Options 1 and 2 would adversely affect adjoining property but there were potential ways of overcoming these issues and it appears that HA simply abandoned Options 1 and 2 without making any attempt whatsoever to address adverse effects on adjoining property. As late as 2016 HE admitted that they had no record of approaching a single one of the affected tenants or landowners. HE had thus wasted some 13 years during which they could have attempted to overcome issues related to property north of the existing junction. In practice there were several measures which HE could have taken including the following: -</p> <p>The possibility of relocating the mobile home park could have been explored and indeed the owner of the park stated at the Reference Group meeting on 18 May 2016 that he would co-operate with HE on such a move. (It should be noted that the mobile home park is hardly well placed even under option 3 as it is close to busy roads, a railway line and a former tip).</p> <ul style="list-style-type: none"> <li>• Individual mobile homes are regularly offered for sale and HE could have acquired some of them on the open market at relatively low cost.</li> </ul>	<p>BPC will be aware that during the period between the 2003 consultation and the 2015 consultation, the scheme was put on hold due to the economic climate at the time. As a result, work to promote the Scheme was halted and it would not have been appropriate for the Highways Agency (as was) to seek to acquire properties to facilitate a scheme that was not being promoted.</p> <p>When work recommenced on the scheme in 2014, liaison with local stakeholders recommenced. Whilst the owner of the site on which the mobile homes are located was willing to discuss the possibility of relocation, the owners of the homes were not.</p> <p>Eleven of the twenty full-time occupiers of the mobile homes were approached. One would have been happy to be relocated two were unable to comprehend questions; the remaining residents did not wish to be moved and would strongly object to options requiring them to relocate.</p>

Ref	Source	Comments	Applicant's Response
		<ul style="list-style-type: none"> <li>• The Little Chef outlet (now Starbucks) closed down during the period that the scheme was on hold and could have been acquired vacant on the open market by HE.</li> <li>• There was land in the vicinity which could have been made available to the garden centre to replace lost parking spaces</li> <li>• HE could have sought co-operation with the local authority in carrying out a comprehensive review and remodelling of the area north of the present junction.</li> <li>• HE claimed to have limited compulsory purchase powers but made no attempt to acquire property by agreement nor to work in co-operation with the local authority which had much wider compulsory purchase powers under section 226 of the Town and Country Planning Act 1990</li> </ul>	
7.7	<p>Written Representation</p> <p>Part 1</p>	<p>Turning to the 2003 public consultation exercise there were two huge flaws with HA's analysis.</p> <p>1 A petition against Option 3 submitted by Breadsall Parish Council was counted as a single vote despite being signed by around 330 people of whom 283 were identified as living in Breadsall (See Para 5.4.7). Many residents of Breadsall believed that they had expressed their views through the</p>	<p>As noted above, Breadsall Parish Council's concerns relating to the 2003 consultation and the selection of the preferred route following the 2015 consultation are addressed in the Applicant's response to their Relevant Representation (RR-001a <b>[APP-083]</b>).</p> <p>As stated in the Relevant Representation response, the 2009 Technical Appraisal Report stated "<i>There was very little to differentiate between Options 3 and 2, both having advantages and disadvantages. However, it was felt on balance that Option 3 was preferable to Option 2,</i></p>

Ref	Source	Comments	Applicant's Response
		<p>petition and thus the opinion of Breadsall residents was massively under-represented in HA's analysis of the public consultation. Quite apart from the statistical approach to the petition the HA's analysis was again seriously deficient in attributing no significance to the fact that Breadsall residents felt sufficiently strongly to arrange a petition (the only petition noted in the public responses to all three junctions). The receipt of the petition was merely noted and otherwise totally ignored in the decision-making process.</p> <p>2 At the same time HA's analysis did give full weight to all other votes, the majority of which were from residents who would experience no physical or visual effects from any version of the Little Eaton Junction and who thus had no direct stake in the outcome. This includes, for example residents of most parts of Allestree and Little Eaton which are (on HE's own analysis) too distant from the junction to experience any effects. On top of this it is understood that some totally anonymous votes were also counted. It is a sobering thought that, using HA's analysis, a vote by a resident of, say, Lands End or John o' Groats would carry equal weight with the combined signatories of the Breadsall petition. (It should be noted that the 2015 public consultation used a similar flawed</p>	<p><i>because, whilst the environmental impacts of Option 3 could be largely mitigated, the impacts of Option 2, particularly on the residents of the Mobile Home Park, could not.</i>"</p> <p>The impact on the residents of the Mobile Home Park was a major factor in determining the preferred option. The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. It would be difficult to make this argument and acquire residential properties when there was another option available that did not have such an impact on the compulsory acquisition of residential properties and interference with the human rights.</p>

Ref	Source	Comments	Applicant's Response
		<p>process under which all votes were counted equally irrespective of the degree to which voters were actually affected by the scheme)</p> <p>HA's analysis of the 2003 public consultation was thus based mainly on votes from residents who would be totally unaffected by the visual or physical effects of any version of the scheme while at the same time the numerous signatories of the petition from Breadsall were all but ignored although Breadsall clearly was affected directly by the scheme. As such HA's analysis could not provide a meaningful measure of public opinion.</p> <p>The flaws in HA's approach, as described above, were absolutely critical in the selection of the preferred scheme because, as admitted in the HE's Scheme Assessment Report, "there was very little to differentiate between options 8a and 9" (equivalent to options 1 and 3 at the public consultation). See Para 5.4.13. Thus, even a minor change in HA's analysis of the options could have led to a different outcome.</p>	
7.8	<p>Written Representation</p> <p>Part 1</p>	<p>The whole matter was made even worse by HA's decision not to announce the choice of Option 3 at the time (See Para 5.4.17). Breadsall Parish Council did not therefore become aware of this decision</p>	<p>As noted above, during the period between the 2003 consultation and the 2015 consultation, the scheme was put on hold. When work on the scheme recommenced, it began by consulting on the options that emerged as the preferred options from the previous consultation.</p>

Ref	Source	Comments	Applicant's Response
		<p>until 2015, that is twelve years after the initial public consultation. Because of this delay Breadsall residents were placed at a considerable disadvantage in being informed suddenly out of the blue that HE was promoting Option 3, leaving much less time to explore and promote alternatives. This caused considerable ill feeling in the village which was aired at a public meeting conducted by the constituency MP. The Parish Council duly formed an Action Group to represent village residents and liaise with HE.</p>	
7.9	Written Representation Part 1	<p>The Action Group and local borough council members concentrated first on proposing alternative alignments to the south of the existing junction in accordance with HE's wish to avoid property acquisitions to the north of the junction. These are described briefly in HE's scheme assessment report with an option analysis at the end. The most promising alternative was the "southern sweep" which slewed the alignment of the A38 further away from all nearby dwellings. It is understood that this was quite acceptable in highway terms but failed in HE's option appraisal because part of the alignment lay on top of the existing carriageway and would involve extra expense in installing temporary</p>	<p>In the options assessment (refer to Appendix 3.2 of the Environmental Statement – Options Assessment, Little Eaton <b>[APP-163]</b>), Section 8.4.5 of the report concluded as follows (with respect to the Southern Sweep comparison with the Presented Option:</p> <p><i>In terms of environmental impacts, the difference between the two options is small. Although the Presented Option requires permanent land-take to the south and east of the existing junction within an area of open, previously undeveloped land, the Southern Sweep will also impact some of this area, particularly as a result of the temporary diversion route.</i></p> <p><i>The Presented Option is preferred as it performs better in terms of engineering aspects; and traffic and economics, while offering a considerable cost saving</i> Highways England does not agree that the Southern Sweep represents a 'superior long-term alignment for the A38'.</p>

Ref	Source	Comments	Applicant's Response
		<p>carriageways to keep the road open during the construction period. The decision to reject the southern sweep therefore involved giving priority to short term cost savings over the adoption of a superior long-term alignment for the A38.</p>	
7.10	<p>Written Representation  Part 1</p>	<p>When the southern alternatives were rejected the Action Group turned to look again at potential alignments north of the existing junction and put forward two proposals, shown as 2A and 2B in the scheme assessment report, which routed the A38 slightly further north than the original option 2 to minimise the impact on the mobile home park. HE concluded that Options 2A and 2B had "a reasonable fit with the defined essential objectives" but declined to carry out detailed appraisals of these proposals because, according to the scheme assessment report, the garden centre would lose parking spaces and HE lacked compulsory powers to acquire land to provide replacement spaces.(See para 5.4.34). There was in practice a very obvious area of land for replacement parking to the south-west of the garden centre and this, at least in part, was existing highway land which would later become redundant under the scheme. It was quite inexcusable that HE rejected options 2A and 2B so readily with no</p>	<p>Highways England did not reject alternatives 'out of hand', the detailed consideration given to options 2A, 2B, X and X1 is reported in Appendix 3.2 of the Environmental Statement – Little Eaton, [APP-164]. The main reason these options were rejected was that they were assessed to be undeliverable or not feasible or they failed to achieve a threshold score against the scheme objectives., which are:</p> <ul style="list-style-type: none"> <li>Objective 1 'To reduce congestion and increase reliability of journey times on the strategic corridor'</li> <li>Objective 2 'To minimise traffic disruption due to construction works and incidents'</li> <li>Objective 3 'To achieve optimum whole life costs taking into account future maintenance and operation, and disruption to users'</li> <li>Objective 4 'To minimise impacts on both the natural and built environment, including designated landscape/biodiversity features'</li> <li>Objective 5 'To seek to mitigate impacts on air quality and noise'</li> <li>Objective 6 'To improve the safety for all road users'</li> </ul>

Ref	Source	Comments	Applicant's Response
		<p>detailed analysis and not even the slightest attempt to overcome land acquisition issues (e.g. by purchasing land by agreement).</p> <p>The Action Group finally put forward an Option X1 which involved keeping the A38 on its present alignment and replacing the roundabout with a flyover for the A61. This was again rejected out of hand by HE and never pursued in any detail.</p>	<p>Objective 7 'To seek to reduce severance by maintaining or providing appropriate facilities for crossing, and travelling along the route for non-motorised users'</p> <p>Objective 8 'To be affordable and represent High Value for Money according to DfT's appraisal criteria'</p>
7.11	<p>Written Representation</p> <p>Part 1</p>	<p>In summary Breadsall Parish Council's position is that the original process for selection of the preferred route was deeply flawed and should be considered invalid. This was exacerbated by the fact that HE did not announce the preferred route until twelve years after the original consultation in 2003, leaving little time for either the Parish Council or HE itself to examine alternatives. The Parish Council did endeavour to put forward alternatives in the short time available but believes that HE rejected them too readily, giving the impression that it was by then irrevocably committed to its preferred option.</p> <p>The Parish Council now requests the Examining Authority to require a complete review of the process for selecting the preferred route for the Little Eaton junction and, as a minimum, to insist on a fresh appraisal of the alternatives, in particular</p>	Noted.

Ref	Source	Comments	Applicant's Response
		the "southern sweep" and options 2A and 2B.	
7.12	Written Representation  Part 2	Part 2 Detailed comments on the current application  As stated in Part 1 the Parish Council believes that the current scheme should not proceed. In the event that it does proceed the Parish Council wishes to make the following comments on the current DCO application.	Noted
7.13	Written Representation  Part 2	<p>1 The woodland/tree belt on the eastern side of the A38 and the slip road will be important in providing visual screening from the Breadsall direction. The Parish Council has three comments about this.</p> <ul style="list-style-type: none"> <li>The section of woodland alongside the ponds at the southern end of the southbound slip road and the adjoining section of the A61 is extremely narrow and is much narrower than the woodland further north. This is quite inadequate in this location where the woodland belt provides important screening from overhead lighting and traffic negotiating the roundabout. (Conversely the woodland on the western side of the A61 is much wider although it has no equivalent screening function). The ponds should be moved further east to create a woodland strip</li> </ul>	<ul style="list-style-type: none"> <li>Woodland planting to the eastern side of the A38 has been included for visual screening and ecological purposes (refer to Environmental Masterplan ES Figures 2.12F/ 2.12G [APP-068]). It is not possible to move the highway drainage ponds further to the east as these features need to be located where water can naturally drain to. It is considered that with the provision of the noise/ screening barriers along the mainline and the off-slip to the A61, together with woodland planting on the A38 mainline embankment (approximately 10m wide), that appropriate landscape screen mitigation planting has been included in the Scheme design. Provision of additional woodland planting elsewhere would increase permanent land take of adjacent land which Highways England does not consider to be necessary mitigation and therefore cannot be justified from a compulsory acquisition perspective.</li> <li>The landscape design specifies that the tree belt on the east side of Little Eaton junction would comprise 10% evergreen species. Given the ecological function of the</li> </ul>

Ref	Source	Comments	Applicant's Response
		<p>around 20m wide. HE claims that this may involve additional land acquisition and proposes to “investigate opportunities” to widen the woodland belt. This is quite inadequate, and HE should amend the scheme boundary if that is necessary to obtain the relevant land.</p> <ul style="list-style-type: none"> <li>The woodland should principally comprise robust evergreen species to ensure reliable year-round screening. This is a higher priority for this section of woodland than the use of native species and other ecological factors.</li> </ul> <p>There must be a guaranteed permanent regime for maintenance of the woodland and replacement of dead or dying species. HE has stated that the contractor and subsequently HE itself will be responsible for maintenance. This is fine in principle as long as the maintenance is always carried out promptly and is not, for example, subject to budget constraints.</p>	<p>woodland planting, it would not be appropriate for the whole woodland to comprise evergreen species. However, Highways England confirms that the evergreen mix in the woodland planting can be reviewed during the detailed design and will be discussed with the relevant planning authority under requirement 5 of the dDCO.</p> <p>As detailed in the Environmental Statement Chapter 7: Landscape and Visual (refer to para. 7.9.6) <b>[APP-045]</b> “<i>The appointed contractor would be responsible for undertaking landscape management within the contract period (for up to five years after Scheme opening), after which the longer-term maintenance and management of the soft estate responsibilities would transfer to Highways England as the East Midlands Asset Delivery team</i>”. This is a standard requirement for Highways England schemes and will ensure that landscaping would be established. This would be secured through the Construction Environmental Management Plan and Handover Environmental Management Plan (as part of requirement 3 in the dDCO), whilst requirement 7 of the dDCO requires a written landscaping scheme to be approved by the Secretary of State, in consultation with the relevant planning authority and local highway authority.</p>
7.14	Written Representation  Part 2	2 The 2.5m high noise barrier is critical in mitigating noise levels in the Breadsall direction. This must be retained and must be constructed of durable materials and coloured green to give the most harmonious visual impact. As with the woodland the noise barrier must be	Such barriers are illustrated on the Environmental Masterplan ES Figures 2.12F and G <b>[APP-068]</b> . Barriers would be made of durable material – the exact specification and colour of the barriers will be confirmed at the detailed details stage, noting the aspiration that they are coloured green. Highways England would be happy to present details of the proposed barrier specification to the

Ref	Source	Comments	Applicant's Response
		subject to a reliable permanent maintenance regime.	Breadsall Parish Council during the detailed design stage as part of its consultation with the relevant planning authority. Following their installation, the barriers would be subject to on-going maintenance by Highways England as the East Midlands Asset Delivery team. Noise mitigation measures are detailed in the Outline Environmental Management Plan (OEMP) which is secured by Requirement 3 in the dDCO.
7.15	Written Representation  Part 2	3 The absence of overhead lighting and signage on the A38 is important in protecting Breadsall from light pollution and must be retained in the final design. Lighting must be confined to the roundabout and the adjoining sections of the slip roads.	The A38 mainline at Little Eaton junction would not have overhead lighting in order to minimise visual intrusion upon local residents. 12m high light-emitting diode (LED) luminaires would be provided at the new at-grade Little Eaton roundabout and the approaching slip-roads for safety reasons. Such measures are detailed in the Outline Environmental Management Plan (OEMP) which is secured by Requirement 3 in the dDCO.
7.16	Written Representation  Part 2	4 The use of low noise surfacing is welcomed as a critical factor in reducing noise pollution in Breadsall. The introduction of a 50-mph speed limit at this junction (as at Kingsway and Markeaton) would be a further useful measure in reducing noise and air pollution.	The Scheme would be constructed throughout with a thin surfacing system (i.e. a low noise surface), which results in lower levels of noise generation than a standard hot rolled asphalt surface. This is confirmed in the Outline Environmental Management Plan (OEMP) which is secured by Requirement 3 in the dDCO.  Highways England has addressed the issue regarding the speed limit in the response to the ExA's first written questions (Q 4.37 refers).
7.17	Written Representation  Part 2	5 There is currently a footpath which leads from Rectory Lane Breadsall (alongside the telephone exchange) directly to the A38 and the B6179 just north of the A61 junction. It is understood that HE proposes	The proposed diversion to the footpath leading from Rectory Lane toward the A38 has been discussed with Derbyshire County Council's Rights of Way team. Given the safety aspects associated with facilitating a crossing point for the footpath where it emerges from the fields to

Ref	Source	Comments	Applicant's Response
		<p>a diversion of this footpath which involves pedestrians walking about 700 yards south to cross the A61 via new pedestrian crossing near the old Croft Lane and then northward again on the western side of the A61. This is an extremely long detour of almost a mile which is quite unacceptable and would effectively cause all pedestrians to stop using the footpath. It should be noted that the footpath gives the appearance of having already been diverted on the ground while the original route has been allowed to become very overgrown in an apparent attempt to deter use of the existing route. HE is requested to retain the existing footpath and provide a pedestrian route to the B6179 near Starbucks across the two slip roads and beneath the A38 main carriageway. This is safer than the existing route which involves crossing the main carriageway of the A38 in addition to a slip road.</p>	<p>the south east corner of the junction, the Council's Rights of Way team felt that making this a circular route to link with another footpath leading from Croft Lane would be preferable. This particular route has little observed use and safer facilities are being provided at the existing crossing of the A61 from Croft Lane. It is also noted that there is an alternative footpath that can be used for those wishing to walk from Breadsall to Little Eaton (via the underpass to the north of the Scheme).</p>
7.18	<p>Written Representation  Part 2</p>	<p>6 HE and the local authorities must produce a robust traffic management plan for the construction period to avoid the long delays and disruption which frequently accompany such roadworks. This should include the following elements</p> <ul style="list-style-type: none"> <li>Given that the new road construction is off-line the contractor must be required to keep both existing lanes of the A38</li> </ul>	<p>A robust Traffic management Plan will be produced once the scheme contractor is appointed and the points noted by Breadsall Parish Council will all be considered at the time.</p> <p>An outline Traffic Management Plan <b>[APP-254]</b> has been developed and this outlines the principles that will be followed by Highways England and the Contractor during the construction period and many of Breadsall Parish Council's points have already been included in the plan.</p>

Ref	Source	Comments	Applicant's Response
		<p>open at all times except to facilitate bridge construction.</p> <ul style="list-style-type: none"> <li>• HE and the local authorities will liaise to produce a plan to keep delay on adjoining roads to an absolute minimum with speed limits, closures and lane-restrictions used only when absolutely necessary.</li> <li>• Where delays are unavoidable electronic signage must be erected on all local roads to give real time information on the extent of delays.</li> <li>• Signage on roads and motorways leading to the A38 Derby junctions should advise diversion of through traffic via the M1/A42/M42 or other routes when there are delays on the A38 in Derby.</li> </ul> <p>Construction traffic will be instructed not to pass through Breadsall and at the same time general traffic will not be advised to divert through Breadsall.</p>	
<b>8 Intu Derby</b>			
8.1	Written Representation	<p>We acknowledge the importance of the A38 for local journeys and for strategic trips between Birmingham, Derby and the M1 at Junction 28, so very much welcome this significant investment into the East Midlands region.</p>	<p>Noted. Highways England welcome the comments of Intu Derby as an important business and employer within Derby.</p>

Ref	Source	Comments	Applicant's Response
8.2	Written Representation	<p>We are concerned there is no flexibility in the Traffic Management Plan.</p> <p>It is noted that the Traffic Management Plan will be refined at each subsequent stage of the Schemes development – Intu Derby would be sought to be engaged in the process.</p> <p>Wherever possible, elements of the Scheme with the most significant impacts on road users should be planned so they do not coincide with peak trading.</p>	<p>The concerns of Intu Derby are noted. The current version of the Traffic Management Plan has been prepared in outline form and can only be developed in more detail once a contractor has been formally appointed by Highways England, which is anticipated to happen by the end of the year.</p> <p>Highways England hope to be in a position to update the Traffic Management Plan during the examination phase, so that local businesses (and DCiC and DCC) can start to understand some of the more detailed arrangements for traffic management during the construction phase. Whilst Highways England does not have responsibility for schemes that are not on the strategic road network, it will seek to work closely with DCiC and DCC to (wherever possible) minimise interaction with other planned highway improvement works to avoid the potential cumulative effects, which may increase disruption to road users.</p>
8.3	Written Representation	<p>The construction of the A38 Derby Junctions Scheme will inevitably be a challenging period for Derby. As such, communication and flexibility will be key to managing the movement of traffic through and around the city. Together with other key stakeholders, Intu Derby are a member of the Local Travel Behaviour Change Group; it is requested that Highways England or the contractor appoints a communication officer, ideally</p>	<p>Highways England note that communication with local authorities, local businesses and other key stakeholders will be critical during the construction phase. As such, the contractor will appoint a stakeholder liaison to manage these communications on behalf of Highways England. The request for this person to be locally based is noted and Highways England will endeavour to ensure that the appointed stakeholder liaison spends time within Derby. One potential option to be explored is whether the appointed person could regularly spend time within the DCiC Council Offices. The practical implications of this will</p>

Ref	Source	Comments	Applicant's Response
		to be based in Derby itself, to work closely with this group to develop a comprehensive communications plan.	be discussed further with DCiC and the contractor, when appointed.
<b>9 Severn Trent</b>			
9.1	Responses to ExA's First Written Questions Question 13.54	My clients and Highways England are currently discussing proposed revisions to the protective provisions in Schedule 9 of the draft DCO. Those discussions have not yet concluded but will hopefully result in an agreement between the parties.	Highways England confirms that it is in discussions with Severn Trent Water regarding the protective provisions and is seeking to enter into a private agreement which should result in Severn Trent Water confirming that it has no objection to the granting of development consent.
<b>10 Environment Agency</b>			
10.1	Responses to ExA's First Written Questions Question 1.3	<p><b>Article 3 – Disapplication of legislative provisions</b></p> <p><b>Relevant Representation (RR) by the EA [RR-05]</b></p> <p>Please provide an update on the EA's position and on the progress in having its' concerns addressed by the Applicant.</p> <p>The Environment Agency has provided our protected provisions and are awaiting further discussion with the applicant. We are still waiting for confirmation on the specifics of what they propose to disapply.</p>	<p>Highways England confirm that they are in receipt of the EA protected provisions and are in the process of negotiating these with the EA.</p> <p>In terms of the disapplication of legislation, Highways England's Consents and Agreements Position Statement <b>[APP-019]</b> sets out the current programme for the disapplication of legislation and it is noted that the EA has not commented on this in its response. As detailed in Highways England's draft SoCG with the EA <b>[REP1-011]</b>, the EA agree with the consents and permits that will be required, and that such consents and permits can be applied for prior to Scheme construction (during the detailed design stage).</p>
10.2	Responses to ExA's First Written Questions Question 1.5	<p><b>Requirements 1-21</b></p> <p><b>Provisions for consultation and agreement</b></p>	<p>Comments are noted.</p> <p>Requirement 3 will be redrafted to include consultation with the EA.</p>

Ref	Source	Comments	Applicant's Response
		<p>a) Please identify where it would be helpful, for example to bring clarity or to help avoid any later misunderstandings, for specific provisions to be included in any Requirements for consultation or agreement to be required with relevant bodies.</p> <p>In each case, please clarify why the provisions should be included.</p> <p>We welcome being included within the wording for requirements 3 (CEMP), 8 (Remediation) and 14 (Flood Compensation Scheme). However, requirement 13 is for a surface water and foul drainage scheme to be agreed. The Environment Agency is no longer the relevant body to review surface water drainage, and since 2015, this responsibility has fallen to the Lead Local Flood Authority (LLFA). The foul drainage element of this requirement would also be looked at by the sewerage undertaker for this area, in this case Severn Trent Water. Therefore, we would not expect to be included within the discharge of this requirement. We would be happy to see the HEMP as well if this is included on any updated requirements. Within our SoCG with the applicant it has been agreed that</p>	<p>Requirement 8 will be redrafted to include consultation with the EA.</p> <p>Requirement 14 includes consultation with the EA during the definition of floodplain compensation measures are Little Eaton junction.</p> <p>The EA is not and will not be mentioned in Requirement 13.</p> <p>The EA would be consulted during preparation of the HEMP.</p> <p>With regard to the verification of remediation, we agree that a Verification Report will be necessary on completion of the works. Highways England consider that a verification process including the EA can be included as part of the CEMP rather than through an amendment of the dDCO. The need for a Verification Report will be added to the OEMP <b>[APP-249]</b>.</p>

Ref	Source	Comments	Applicant's Response
		a verification report requirement will be included which we would expect to see at the next update of the draft DCO.	
10.3	Responses to ExA's First Written Questions Question 1.11	<p><b>Part 3 – for the protection of the Environment Agency Relevant Representation (RR) by the EA [RR-05]</b></p> <p>Please respond to the EA's comment that the current version of their protective provisions has not been included.</p> <p>The Environment Agency has provided our protected provisions and are awaiting further discussion with the applicant.</p>	Highways England confirm that they are in receipt of the EA protected provisions and will discuss the applicable wording in the dDCO with the EA.
10.4	Responses to ExA's First Written Questions Question 1.12	<p><b>Consents, licenses and agreements Consents and Agreements Position Statement [APP-019] Appendix A</b></p> <p>a) Should any other consents, licenses or agreements be added to Appendix A?</p> <p>b) Please provide an up to date position in respect of obtaining the necessary consents, licenses and agreements.</p> <p>c) Is there any reason to believe that any relevant necessary consents, licenses and agreements will not subsequently be granted?</p>	The various consent and permits required from the EA are detailed in the Consents and Agreement Position Statement [APP-019]. Following discussions with the EA it is apparent that such permits will need to be applied for post-DCO consent during the Scheme detailed design stage when the required information will be available. As detailed in the draft SoCG with the EA [REP1-011], the EA agree with the consents and permits that will be required, and that such consents and permits can be applied for prior to Scheme construction (during the detailed design stage).

Ref	Source	Comments	Applicant's Response
		<p>d) Where appropriate, can letters of no impediment be provided by the EA and Natural England?</p> <p>e) Please could further updates be provided at each Examination deadline?</p> <p>The Environment Agency is satisfied that the applicant is aware of all permits and consents that would be required. We are not aware of any applications for said permits and consents as of 30th October 2019, and therefore have no further comments to make on the likelihood of these being granted.</p>	
10.5	Responses to ExA's First Written Questions Question 1.13	<p><b>Pollution control permits and licenses</b>  <b>ES Chapter 5 – Air Quality [APP-043]</b>  <b>ES Chapter 9 – Noise and Vibration [APP-047]</b>  <b>ES Chapter 11 – Material Assets and Waste [APP-049]</b>  <b>ES Chapter 13 – Drainage and Water [APP-051]</b>  <b>NPSNN paragraphs 4.48 and 4.55-6</b></p> <p>a) With reference to the NPSNN, are the relevant pollution control authorities satisfied that potential releases can be</p>	See response to ExA question 1.12 regarding the pollution control permits and licences. Highways England is content with the EA's response as the EA cannot prejudice a future decision taken on a separate application. However, given the nature of the works and the fact that these are routinely applied for and secured for the construction of highways projects, Highways England sees no reason in principle why these permits/licences would not be granted at the appropriate time.

Ref	Source	Comments	Applicant's Response
		<p>adequately regulated under the pollution control framework?</p> <p>b) Is it considered that the effects of existing sources of pollution in and around the project are not such that the cumulative effects of pollution when the Proposed Development is added would make that development unacceptable?</p> <p>c) Is there any good reason to believe that any relevant necessary operational pollution control permits, or licences or other consents will not subsequently be granted?</p> <p>c) Without information provided within an application for a permit/ licence it is not possible to determine whether such a permit/ licence would be granted.</p>	
10.6	Responses to ExA's First Written Questions Question 3.4	<p><b>Cumulative impact assessment</b>  <b>ES Chapter 15 – Assessment of Cumulative Effects paragraphs 15.5.2-5</b></p> <p>a) Are there any comments regarding the other planned developments selected for the cumulative impact assessment?</p>	Noted – this item is also covered in the draft SoCG with the EA [REP1-011].

Ref	Source	Comments	Applicant's Response
		b) Are there any comments on the allowances made for their timing, location and magnitude of impact?  No comments.	
10.7	Responses to ExA's First Written Questions Question 3.10	<p><b>Impact assessment and mitigation strategy</b>  <b>NPSNN paragraphs 4.3-4, 4.6, 4.9-10, 4.15, 4.18-20, 5.2</b></p> <p>Do you have any comments on the Applicant's overall approach to assessment and mitigation, including in respect to:</p> <p>a) Consideration given to the potential environmental, safety, social and economic benefits and adverse impacts at national, regional and local levels?</p> <p>b) The detail in the local transport model for the assessment of impacts, whether the modelling is proportionate to the scale and consideration of the impact of uncertainty on project impacts?</p> <p>c) Whether the mitigation measures and provisions in and secured by the dDCO are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise,</p>	<p>We note that the EA is generally satisfied with how matters related to their remit are proposed to be mitigated and agree that there are a number of outstanding areas for discussion regarding groundwater and contaminated land. Highways England is in the process of generating additional information for the EA. It is also agreed that land contamination matters are covered by Requirement 8 in the dDCO.</p>

Ref	Source	Comments	Applicant's Response
		<p>necessary to make the development acceptable in planning terms, directly related to the proposed development, fairly and reasonably related in scale and kind to the development and reasonable in all other respects?</p> <p>d) The consideration given to the specifics of the Proposed Development?</p> <p>e) The assessment of significant effects, including cumulative effects with other projects, at all stages of the project?</p> <p>f) How any details of the project that are yet to be finalised are addressed?</p> <p>g) The Applicant's engagement with you in developing the mitigation proposals?</p> <p>The Environment Agency are generally satisfied with how matters related to our remit are proposed to be mitigated. The only outstanding area for discussion relates to groundwater and contaminated land, and we have provided an updated response to new information that was provided on the 9th October 2019, within our written representation response. Whilst this is a matter of ongoing discussion, it is covered within requirement 8 of the dDCO.</p>	

Ref	Source	Comments	Applicant's Response
10.8	Responses to ExA's First Written Questions Question 3.12	<p><b>Management and mitigation plans, strategies and written schemes</b></p> <p>a) Do you have any comments as to the degree of independent professional scrutiny that would be applied to signing off the Undertaker's mitigation proposals post-DCO consent, should that be granted? If so, why and how could this be remedied?</p> <p>b) Are there any concerns as to whether the management and mitigation plans, strategies and written schemes referenced by the dDCO and OEMP would ensure that there are no materially new or materially worse adverse environmental effects in comparison with those reported in the ES?</p> <p>c) Should any other plans, strategies or written schemes be identified? If so, why?</p> <p>d) Should any further draft plans, strategies or written schemes be submitted to the Examination? If so, why?</p>	<p>Noted –the OEMP [APP-249] can be updated to state that the EA should be consulted during preparation of the Construction Environmental Management Plan (CEMP), the Pollution Incident Control Plan and the Water Management Plan.</p>

Ref	Source	Comments	Applicant's Response
		<p>e) Please identify the plans, strategies or written schemes on which you would like to be consulted.</p> <p>f) Please identify the plans, strategies or written schemes on which you feel that your agreement is required before it can be authorised.</p> <p>Regarding point e) of this question we would like to see the Construction Environmental Management Plan (CEMP), Pollution Incident Control Plan and Water Management Plan.</p>	
10.9	Responses to ExA's First Written Questions Question 5.13	<p><b>Baseline conditions and overall assessment methodology</b></p> <p>Do the Local Authorities or EA have any more comments regarding the Applicant's consideration of baseline conditions or its' overall assessment methodology?</p> <p>This is a matter for the Local Authority and we have no further comments to add.</p>	Agreed.
10.10	Responses to ExA's First Written Questions Question 5.21	<p>Do the Local Authorities or EA have any more comments regarding the Applicant's assessment of construction dust and emissions, including the identification of:</p> <p>a) The nature of likely effects on receptors?</p>	Agreed.

Ref	Source	Comments	Applicant's Response
		b) Relevant mitigation measures secured by the dDCO and OEMP? c) Whether the mitigation measures are enforceable, precise, reasonable, sufficiently secured and likely to result in the identified residual impacts? All significant impacts? This is a matter for the Local Authority and we have no further comments to add.	
10.11	Responses to ExA's First Written Questions Question 5.24	<b>Operational vehicle emissions assessment, impacts and mitigation</b> Do the Local Authorities or EA have any more comments regarding the Applicant's assessment of operational vehicle emissions, including the identification of: a) The nature of likely effects on receptors? b) Relevant mitigation measures secured by the dDCO? c) Whether the mitigation measures are enforceable, precise, reasonable, sufficiently secured and likely to result in the identified residual impacts? All significant impacts? This is a matter for the Local Authority and we have no further comments to add.	Agreed.

Ref	Source	Comments	Applicant's Response
10.12	Responses to ExA's First Written Questions Question 5.35	<p><b>Statutory compliance, monitoring, pollution control and other matters</b></p> <p>Do the Local Authorities or EA have any more comments regarding:</p> <ul style="list-style-type: none"> <li>consideration of and compliance with local policies and plans; or</li> </ul> <p>the Applicant's assessment and mitigation proposals with respect to statutory compliance, monitoring, pollution control or other matters?</p> <p>This is a matter for the Local Authority and we have no further comments to add.</p>	Agreed.
10.13	Responses to ExA's First Written Questions Question 7.11	<p><b>ES Chapter 13 [APP-051]</b>  <b>ES Chapter 6 [APP-044]</b></p> <p>The proposed flood compensation area for the Little Eaton junctions falls within the Derwent Valley Mills World Heritage Site. Are you content that this is the only suitable location? Please expand on other locations considered and why they were found to be unsuitable.</p> <p>The location of the flood compensation was determined by the applicant and the Environment Agency have undertaken a number of reviews of the model for this proposal and are satisfied that the development would not increase flood risk at this site or to others.</p>	Reference should be made to Highways England's response to this question in <b>[REP1-005]</b> regarding the positioning of the floodplain compensation area at Little Eaton junction. Highways England notes that the EA is satisfied that the Scheme would not increase flood risk at the site or to others.

Ref	Source	Comments	Applicant's Response
10.14	Responses to ExA's First Written Questions Question 7.15	<p><b>ES Chapter 13 [APP-051]</b>            Please provide an up to date position in respect of obtaining the necessary environmental permits from the EA.            As of the 30th October 2019, the Environment Agency is not aware of any permit of consent applications from the applicant. The applicant will be best placed to respond on their proposed plans for this matter.</p>	Reference should be made to Highways England's response to this question in <b>[REP1-005]</b> regarding the position in respect of obtaining the necessary environmental permits from the EA. As detailed in our draft SoCG with the EA <b>[REP1-011]</b> , the EA agree with the consents and permits that will be required, and that such consents and permits can be applied for prior to Scheme construction (during the detailed design stage). Thus, no EA permits have currently been applied for.
10.15	Responses to ExA's First Written Questions Question 7.16	<p><b>ES Chapter 13 [APP-051]</b>  <b>ES Appendices 13.3A [APP-232] and 13.3B [APP-233]</b></p> <p>a) Please confirm whether the Water Framework Directive compliance assessments address all relevant waterbodies for the Proposed Development.</p> <p>b) Are the assessments satisfactory to demonstrate compliance with the Water Framework Directive objectives for those waterbodies?</p> <p>The Environment Agency are satisfied that the water framework directive has been addressed through the WFD assessments for the respective waterbodies.</p>	Noted

Ref	Source	Comments	Applicant's Response
10.16	Responses to ExA's First Written Questions Question 7.17	<p><b>Sustainable Drainage Systems (SuDS)</b>  <b>ES Chapter 13 [APP-051]</b></p> <p>NPSNN paragraph 5.115 states that <i>“Applicants should seek opportunities to use open space for multiple purposes such as amenity, wildlife habitat and flood storage uses. Opportunities can be taken to lower flood risk by improving flow routes, flood storage capacity and using SuDS.”</i></p> <p>Does the Proposed Development take the opportunities identified in the NPSNN? Is there anything else that could be reasonably achieved?</p> <p>We are aware that there is a designated fund that has to the potential to provide/deliver enhancements at sites outside of the A38 scheme. We would welcome being included in these discussions as and when they progress.</p>	Designated Fund projects do not form part of this DCO application as appropriate mitigation is included within the Scheme design. If Highways England determines that Designated Funds projects are appropriate, they will be progressed separately from the Scheme. Highways England does not consider that discussion of Designated Fund projects is relevant to the examination.
10.17	Responses to ExA's First Written Questions Question 8.1	<p><b>ES Chapter 8 [APP-046] paragraphs 8.3.29 and 8.7.2, tables 8.9 and 8.10</b>  <b>ES Appendix 8.17: Designated and non-designated sites [APP-214]</b></p> <p>a) Do you agree with the selection of the sites which have been scoped out of further assessment in this report? If not, why not?</p>	Agreed – refer to the draft SoCG with the EA [REP1-011].

Ref	Source	Comments	Applicant's Response
		<p>b) Are there any sites not listed in the report which should be taken in account?</p> <p>Do you agree that the remote sites of minor highway improvement works should be scoped out of further assessment?</p> <p>We have no further comments to make on this section. A number of these matters have been agreed through the draft Statement of Common Ground.</p>	
10.18	Responses to ExA's First Written Questions Question 8.2	<p><b>ES Chapter 8 [APP-046], ES Appendices 8.3-8.15 [APP-180-212]</b></p> <p>Do the Councils/NE have any comments regarding the approach to the surveys undertaken for the ES?</p> <p>We have no further comments to make on this section. A number of these matters have been agreed through the draft Statement of Common Ground.</p>	Agreed – refer to the draft SoCG with the EA [REP1-011].
10.19	Responses to ExA's First Written Questions Question 8.3	<p><b>ES Chapter 8 [APP-046]</b></p> <p>ES Table 8.3 (Regional) refers to the “<i>appropriate Natural Area profile</i>”.</p> <p>However, there is no reference to this in ES Sections 8.2 (legislative and policy framework) or 8.3 (assessment methodology).</p> <p>a) Please provide details of the Natural Area profile.</p>	Agreed – refer to the draft SoCG with the EA [REP1-011].

Ref	Source	Comments	Applicant's Response
		<p>The table also refers to the Highways Biodiversity Action Plan. However, ES paragraph 8.2.2 (10<sup>th</sup> bullet) confirms that this document dates from 2002 and is out of date.</p> <p>b) Should the reference be to the Highways England biodiversity plan?</p> <p>Please confirm whether the table references to the most up to date relevant information.</p> <p>We have no further comments to make on this section. A number of these matters have been agreed through the draft Statement of Common Ground.</p>	
10.20	Responses to ExA's First Written Questions Question 8.4	<p><b>ES Chapter 8 [APP-046]</b></p> <p>ES paragraph 8.3.23 advises that the assessment considers impact avoidance measures, standard mitigation measures and additional specific mitigation measures and only provides an assessment of residential impacts.</p> <p>Paragraph 5.2 of the Chartered Institute of Ecology and Environmental Management guidelines advises that it is good practice to make clear the potential significant effects with and without mitigation, amongst other things, to demonstrate the importance of securing measures through the planning process.</p>	Agreed – refer to the draft SoCG with the EA [REP1-011].

Ref	Source	Comments	Applicant's Response
		<p>The Examination will need to consider whether the proposed mitigation measures can be secured, as well as their effectiveness.</p> <p>Please comment on the approach to assessment in ES paragraph 8.3.23 in the light of these considerations.</p> <p>We have no further comments to make on this section. A number of these matters have been agreed through the draft Statement of Common Ground.</p>	
10.21	Responses to ExA's First Written Questions Question 8.5	<p><b>ES Chapter 8 [APP-046]</b>            ES Table 8.4 Significance of ecological effects:            Applicant - ES paragraph 8.3.20 advises that "<i>the ecological significance of an effect is not dependent on the importance of the feature in question</i>". That is consistent with paragraph 5.27 of the Chartered Institute of Ecology and Environmental Management guidelines.</p> <p>a) How is this taken into account in the table?</p> <p>b) How does the table take into account the varying potential characterisations of ecological impacts (ES paragraph 8.3.15) which may occur at each level of significance/importance?</p>	Agreed – refer to the draft SoCG with the EA [REP1-011].

Ref	Source	Comments	Applicant's Response
		<p>DCiC, EBC, DCC, EA, NE - Please comment on the approach to determining the significance of ecological effects used in the ES.</p> <p>We have no further comments to make on this section. A number of these matters have been agreed through the draft Statement of Common Ground.</p>	
10.22	Responses to ExA's First Written Questions Question 8.6	<p><b>ES Chapter 8 [APP-046]</b></p> <p>Amongst other things, ES paragraph 8.3.24 advises that aspirational enhancement measures have not been included in the ES assessment, that the No Net Loss (NNL) biodiversity assessment is reported separately and that opportunities to achieve NNL within the Scheme boundary are being sought within the Applicants internal guidelines. However, ES paragraph 8.3.25 states that that chapter details whether the Scheme has met the objective of achieving NNL in biodiversity.</p> <p>a) Applicant - Please clarify the approach to NNL used in the submissions which are the subject of this Examination.</p> <p>DCiC, EBC, DCC, EA, NE – Please comment on the Applicant's approach to NNL in biodiversity.</p> <p>We were satisfied with the information provided within chapter 8 of the</p>	Reference should be made to Highways England's response to this question in [REP1-005] regarding the No Net Loss (NNL) biodiversity assessment.

Ref	Source	Comments	Applicant's Response
		<p>Environmental Statement. For matters within our remit the information indicates that there would be no net loss. We will leave the explanation of their approach to no net loss to be explained by the applicant.</p>	
10.23	<p>Responses to ExA's First Written Questions            Question 8.7</p>	<p><b>ES Chapter 8 [APP-046]</b>            ES Table 8.5            a) Have the mitigation measures set out in Section 8.9 been agreed?            Does the Scheme make adequate provision for Green Infrastructure?            We have no further comments to make on this section. A number of these matters have been agreed through the draft Statement of Common Ground.</p>	<p>Agreed – refer to the draft SoCG with the EA [REP1-011].</p>
10.24	<p>Responses to ExA's First Written Questions            Question 8.10</p>	<p><b>ES Chapter 8 [APP-046]</b>            ES paragraph 8.10.10 finds that standard pollution prevention control and best practice measures would ensure that the disturbance from construction activities would have a neutral effect.            Do you agree with this finding?            Standard pollution prevention control and best practice measures should be sufficient but the EA would expect a site meeting to be held shortly prior to works starting in order to agree the site specific</p>	<p>Noted – this would be covered in the CEMP, as based upon the OEMP [APP-249]. The need for a site meeting with the EA will be included in the OEMP.</p>

Ref	Source	Comments	Applicant's Response
		pollution prevention measures and monitoring required.	
10.25	Responses to ExA's First Written Questions Question 8.12	<p><b>ES Chapter 8 [APP-046]</b>            ES paragraph 8.10.21 finds that standard pollution prevention control and best practice measures would ensure that the disturbance from construction activities would have a neutral effect.</p> <p>Do you agree with this finding?            Standard pollution prevention control and best practice measures should be sufficient but the EA would expect a site meeting to be held shortly prior to works starting in order to agree the site specific pollution prevention measures and monitoring required.</p>	Noted – this would be covered in the CEMP, as based upon the OEMP [APP-249]. The need for a site meeting with the EA will be included in the OEMP.
10.26	Responses to ExA's First Written Questions Question 8.14	<p><b>ES Chapter 8, [APP-046]</b>            ES paragraph 8.10.28 finds that standard pollution prevention control and best practice measures would ensure that the disturbance from construction activities would have a neutral effect. Do you agree with this finding?            Standard pollution prevention control and best practice measures should be sufficient but the EA would expect a site meeting to be held prior to works starting in order to agree the site specific pollution</p>	Noted – this would be covered in the CEMP, as based upon the OEMP [APP-249]. The need for a site meeting with the EA will be included in the OEMP.

Ref	Source	Comments	Applicant's Response
		prevention measures and monitoring required.	
10.27	Responses to ExA's First Written Questions Question 8.21	<p><b>ES Chapter 8 [APP-046]</b>            ES paragraph 8.9.10 Bats – Are you content that enough information has been provided to properly assess the effect of the lighting proposals on bat roosting, foraging and commuting?            We have no comments to make on matters relating to bats.</p>	Noted.
10.28	Responses to ExA's First Written Questions Question 8.22	<p><b>ES Chapter 8 [APP-046] paragraph 8.9.9 OEMP [APP-249] Appendix 2.1 Outline Biosecurity and Management Plan</b>            Are you content that the measures set out in the Outline Biosecurity and Management Plan are robust and have the potential generate a positive effect?            We are satisfied with biosecurity and have agreed this through the draft SoCG.</p>	Agreed – refer to the draft SoCG with the EA [REP1-011].
10.29	Responses to ExA's First Written Questions Question 8.24	<p><b>ES Chapter 8 [APP-046]</b>            NPSNN paragraph 5.23 requires the Applicant to show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests. Are satisfied with the approach taken in the Proposed Development to the enhancement of biodiversity and geological conservation interests.</p>	Noted.

Ref	Source	Comments	Applicant's Response
		No further comments.	
10.30	Responses to ExA's First Written Questions Question 12.6	<p><b>Climate change adaptation and carbon emissions</b>  <b>Carbon footprint</b>  <b>ES Chapter 14 – Climate Change</b>  <b>Section 14.10</b>  <b>NPSNN paragraph 5.19</b></p> <p>a) With reference to NPSNN, would the carbon footprint of the Proposed Development be “<i>unnecessarily high</i>” and, if so, what further measures should be considered or taken to reduce it?</p> <p>b) Should carbon footprint targets be set or should monitoring, or reporting be considered during detailed design, construction or operation?</p> <p>The Environment Agency don't make any comment on whether the carbon footprint of the proposed development is “unnecessarily high”, however we would encourage any opportunities for carbon reduction or lower carbon impact materials to be used within the scheme. Concrete is a carbon intensive material, and has a large carbon footprint. It is likely to be used extensively within the scheme. There are opportunities to use lower</p>	<p>The EA comments are noted. The OEMP [APP-249] (refer to MW-CC1) states that the main works contractor shall implement measures to reduce emissions during the construction of the Scheme, for example through materials specification and the management and minimisation of energy use. The next version of the OEMP will state that such measures will be detailed in an Energy and Carbon Plan.</p>

Ref	Source	Comments	Applicant's Response
		<p>carbon impact (or even carbon beneficial) materials, including concrete in the scheme. Specifically in relation to carbon negative concrete; there are manufacturing processes which produce this from waste materials (eg Air Pollution Control Residues (APCr), cement kiln dusts or steel slags). These materials are reacted with carbon dioxide (extracted from the atmosphere, or anthropogenic carbon emission sources) to form solid carbonates which can be used to produce concrete. The process is carbon negative meaning that it removes CO2 from the atmosphere. The process is also beneficial in terms of using waste as a resource.</p>	
10.31	<p>Responses to ExA's First Written Questions            Question 12.10</p>	<p><b>Waste management</b>  <b>ES Chapter 11 – Material Assets and Waste [APP-049]</b>  <b>NPSNN paragraph 5.43</b>            Please comment on:</p> <ul style="list-style-type: none"> <li>a) The ability of the local waste infrastructure to satisfactorily deal with waste from the Proposed Development?</li> <li>b) Whether any adverse effect is anticipated on the capacity of existing</li> </ul>	Noted.

Ref	Source	Comments	Applicant's Response
		<p>waste management facilities to deal with other waste arisings in the area?</p> <p>In terms of the waste infrastructure in the area (item 12.10), and its capacity to deal with any waste arisings from this project, the best source of information would be the waste local plan produced jointly by Derbyshire County and Derby City Councils. This will have identified existing capacity and forecast capacity requirements / gaps based upon projected growth in arisings. That plan would have used data from ourselves, as well as other sources. Therefore Derbyshire County Council and Derby City Council will be best placed to answer this question.</p>	
10.32	Responses to ExA's First Written Questions Question 12.15	<p><b>Other policy and factual issues</b></p> <p>Are there any other comments with respect to:</p> <ul style="list-style-type: none"> <li>• climate change adaptation and carbon emissions</li> <li>• common law nuisance and statutory nuisance</li> <li>• utility infrastructure</li> <li>• waste management</li> </ul>	Noted.

Ref	Source	Comments	Applicant's Response
		<ul style="list-style-type: none"> <li>• civil and military aviation and defence</li> <li>• safety, security and major accidents and disasters</li> <li>• cumulative and combined effects; and</li> <li>• any other policy and factual issues?</li> </ul> <p>No further comments.</p>	
10.33	Responses to ExA's First Written Questions Question 13.68	<p><b>Identification and addressing of potential impediments before CA</b></p> <p>a) Have potential impediments to the development been properly identified and addressed?</p> <p>b) Are there concerns that any matters either within or outside the scope of the dDCO for the development to become operational may not be satisfactorily resolved, including acquisitions, consents, resources or other agreements?</p> <p>Should triggers be required to secure any acquisitions, consents or other matters before CA should be permitted under the dDCO?</p>	Noted.

Ref	Source	Comments	Applicant's Response
		<p>The matter of permits and consents has already been highlighted. Again we highlight that we are waiting on the applicant to start the application process for these permits and consents before we can provide any comments on these.</p>	
10.34	Written Representation	<p><b>1. Additional Groundwater and Contaminated Land Comments</b></p> <p>The Annexes to the Preliminary Sources Studies provide us with the reassurance that the scopes of the intrusive site investigations considered the potentially complete pollutant linkages outlined in the "Geotechnical Risk Register".</p> <p>The applicant provided figures showing groundwater exceedances in each area, but still believe the use of UCL95 for groundwater quality data is not appropriate. This is because the UCL95 value is used to represent a concentration of a contaminant in groundwater across the whole of each area of investigation, which is conceptually incorrect. For example, we would not expect various hydrocarbon substances to be naturally occurring, or widespread in all groundwater monitoring points, and therefore the production and use of the UCL95 value would not accurately reflect the risk posed to controlled waters from</p>	<p>Noted.</p> <p>We have discussed this issue with the EA and are in the process of generating additional information for EA review.</p> <p>This comment will be taken into account during the preparation of additional information for EA review.</p>

Ref	Source	Comments	Applicant's Response
		<p>the locations where contamination has been identified. After all, this is why the investigation has targeted sources of contamination.</p> <p>We suggest that the risk assessments are updated by comparing actual laboratory results with the chosen standard, and well as considering other lines of evidence, such as the spatial distribution of the contaminant in groundwater. This is in line with our Land contamination: risk management guidance document, which can be found via the link below:  <a href="https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks">https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks</a></p> <p>We note that the recently submitted screening tables provide direct comparison of groundwater quality data and a relevant standard, although there are no associated assessments of risk, dialogue, or recommendations.</p> <p>We reiterate our comments about the Detailed Quantitative Risk Assessment, which are underpinned by the earlier assessments of risk discussed above. We will wait for additional information to be provided before we review this document.</p>	<p>This comment will be taken into account during the preparation of additional information for EA review.</p> <p>Noted.</p> <p>We agree that contamination issues are covered in dDCO Requirement 8 and that additional information will be submitted to the EA for review.</p>

Ref	Source	Comments	Applicant's Response
		<p>Please note, however, that this matter is covered by a provision within the draft DCO, in this case requirement 8. We understand that the applicant is preparing further information to provide additional assurances on this regard during the examination process.</p>	
10.35	Written Representation	<p><b>2. Draft Development Consent Order</b> The Environment Agency are still waiting to see the revised draft DCO where we expected that the requirement for a verification will be incorporated in line with our process.</p>	<p>With regard to the verification of remediation, we agree that a Verification Report will be necessary on completion of the works. Highways England considers that a verification process including the EA can be included as part of the CEMP rather than through an amendment of the dDCO. The need for a Verification Report and consultation with the EA will be added to the OEMP <b>[APP-249]</b>. A revised version of the dDCO was submitted by Highways England to the ExA at Deadline 1.</p>
10.36	Written Representation	<p><b>3. Permits &amp; Consents</b> The Environment Agency has reiterated to the applicant through the SoCG process, as well as highlighting in our response to the written questions from the planning inspector, that we are satisfied that the applicant is aware of all permits and consents that would be required. However, we are not aware of any applications for said permits and consents as of 4th November 2019, and therefore cannot comment on the likelihood of these being granted.</p>	<p>These comments are noted. The various consent and permits required from the EA are detailed in the Consents and Agreement Position Statement <b>[APP-019]</b>. Following discussions with the EA it is apparent that such permits will need to be applied for post-DCO consent during the Scheme detailed design stage when the required information will be available. As detailed in the draft SoCG with the EA <b>[REP1-011]</b>, the EA agree with the consents and permits that will be required, and that such consents and permits can be applied for prior to Scheme construction (during the detailed design stage).</p>

Ref	Source	Comments	Applicant's Response
10.37	Written Representation	<p><b>4. Protective Provisions</b></p> <p>The Environment Agency has provided our protected provisions and are awaiting further discussion with the applicant. We are still waiting for confirmation on the specifics of what they propose to disapply if anything.</p>	Highways England confirms that it is in receipt of the EA protected provisions and will discuss the applicable wording in the draft DCO.
10.38	Written Representation	<p><b>5. Other matters raised in our relevant representations</b></p> <p>The other matters raised within our relevant representations have started to be addressed and agreed to through the SoCG process that is currently being progressed.</p>	Noted and agreed – please refer to the draft SoCG with the EA <b>[REP1-011]</b> .
10.39	Written Representation	<p><b>6. Examining Authority's First Written Questions</b></p> <p>As mentioned above we have responded to the questions raised by the Examining Authority. Our replies and the Applicants subsequent comments may give raise to further representations.</p>	Noted.
<b>11 Derby Cycling Group</b>			
11.1	Written Representation	<p>1. In October 2019, Derby Cycling Group submitted a statement regarding its analysis of the A38 Derby Junctions project ("the project"), including:</p> <ul style="list-style-type: none"> <li>• Our aspirations for the enhancement of active travel and of the non-motorised user</li> </ul>	Noted.

Ref	Source	Comments	Applicant's Response
		<p>(NMU) experience following the delivery of the project.</p> <ul style="list-style-type: none"> <li>• A summary of the opportunities we could see were created for active travel by the project, which the project its self could, and in our view should, deliver.</li> <li>• Our previous representation to Highways England and their consultants (“the project team”) regarding the deliverables we would like to see from the project for active travel and non-motorised users</li> <li>• A high-level indication of the areas of concern we had regarding the project.</li> </ul> <p>2. We are now submitting our review of the project at this point in time, as a written representation for Deadline 1 of the infrastructure planning examination timetable. It includes Derby Cycling Group’s detailed itemisation of the issues we are raising in relation to the project and their current status following conversations previously held with the project team. It also includes issues with congestion mitigation which we have not previously raised but have lately become a significant and serious element to our concerns.</p> <p>3. Overall, we object to the project because of several aspects where we still</p>	

Ref	Source	Comments	Applicant's Response
		have significant concerns as defined below.	
11.2	Written Representation	<p><b>4. Project Deliverables:</b></p> <p>4.1. In Appendix 1 we have provided a check list of items where we have raised objections, comments or suggestions regarding the design of the NMU elements of the project. Most of these points have been raised previously with the project team although a few have been updated in the light of more recent changes to the scheme or to feedback from the project team. You will see that there has been previous discussion about these matters and some issues have been mitigated to a greater or lesser degree, however many areas remain to be resolved to our satisfaction.</p> <p>4.2. We would like to ensure that we can continue to discuss these matters with the project team.</p> <p>4.3. We are concerned that some items are just outside of the project area and therefore need the liaison of Derby City Council and Derbyshire County Council with ourselves and the project team to ensure that the benefits for NMUs and active travel are not hindered by poor infrastructure in the vicinity of the project area, and that opportunities raised by</p>	<p>Noted.</p> <p>Highways England will continue to liaise with the Derby Cycling Group throughout the examination period and the detailed design and construction stages</p> <p>Some of the issues that are outside the scope of the scheme have been pursued separately to the scheme with the local highway authorities (e.g. cycleway along Brackensdale Avenue on the north side of the A38, some sections of the Derwent Valley cycleway and a signal-controlled crossing on the A61 near to Croft Lane, Breadsall). Highways England would be happy to include Derby Cycling Group in further discussions with the local authorities on these issues.</p>

Ref	Source	Comments	Applicant's Response
		<p>routes delivered by the project are utilised by the local authorities.</p> <p>4.4. We are not aware of any significant liaison in this respect by the aforementioned parties, and certainly Derby Cycling Group has not been invited to contribute our ideas to any such group.</p>	
11.3	Written Representation	<p><b>5. Congestion Mitigation for NMUs During Construction Phase:</b></p> <p>5.1. There needs to be a plan to coordinate congestion mitigation measures prior to the commencement of the construction phase of the project, especially with regards to the provision of additional cycling and walking infrastructure, to enable more people to choose to use active travel in order to avoid driving on the congested local roads.</p> <p>5.2. The plan needs to consider how to mitigate actual levels of traffic in Derby City and surrounding County roads, but also, critically, how to create better cycling and walking routes so that local people can cycle or walk more, to avoid the congestion that does occur.</p> <p>5.3. Construction of the A38 Grade Separated junctions will inevitably cause congestion during construction. Many residents in Derby are concerned that</p>	<p>5.1 – 5.4 A Traffic management Plan will be produced once the scheme contractor is appointed and the points noted by Derby Cycling Group will all be considered at the time.</p> <p>An outline Traffic Management Plan <b>[APP-254]</b> has been developed and this outlines the principles that will be followed by Highways England and the Contractor during the construction period. Paragraph 1.1.5 of the Plan recognises the difficulties already experienced by walkers and cyclists at the existing Little Eaton and Markeaton junctions with a view to making specific provision for them. In addition, walkers and cyclists are included in Table 3.1 as a customer group for whom appropriate diversions will be required. Once the construction contractor is appointed, any diversion routes can be confirmed and included in the TMP.</p> <p>The Traffic management Plan will include provision for ensuring pedestrians and cyclists can pass safely through the works.</p> <p>5.5 and 5.6 Derby City Council has instigated an A38 Behaviour Change Group (with the objective of increasing the number of journeys by walking, cycling and bus use) and the project team are invited to their meetings. This will</p>

Ref	Source	Comments	Applicant's Response
		<p>traffic will deflect off the A38 and queue up on local streets.</p> <p>5.4. Issues this will cause include:</p> <ul style="list-style-type: none"> <li>• Degradation of air quality caused by motor vehicle pollution</li> <li>• Risks to health of residents living in congested streets</li> <li>• Delays and extended travel times on the road</li> <li>• Economic impact of delayed employee arrival for work, delivery of goods, customer satisfaction etc</li> </ul> <p>5.5. There is also, however, an enormous opportunity to enable travel behaviour change:</p> <ul style="list-style-type: none"> <li>• If people who do not want to wait in queues use alternative forms of transport for local journeys</li> <li>• Particularly with Active Travel (walking and cycling)</li> </ul> <p>5.6. Congestion its self will deter some walking and especially cycling. Investment is therefore needed in active travel infrastructure BEFORE construction starts. It is essential to:</p> <ul style="list-style-type: none"> <li>• Provide alternatives to driving</li> <li>• Promote those alternatives with publicity and public events</li> </ul>	<p>be extended to the scheme contractor once appointed and currently means of funding behaviour change initiatives are being explored by Highways England.</p> <p>5.7 Concerns relating to Increased congestion in the Kingsway/Uttoxeter New Road area while the project is under construction and the impact on the hospital are noted. This is one of the areas included in the outline TMP that the contractor needs to include in the TMP. The measures to be adopted will need to ensure there is flexibility so that amendments can readily be implemented if queuing exceeds the predicted levels.</p> <p>5.8 Before work can commence in relation to the scheme the DCO will need to be consented thus work can't commence on activities before this time.</p> <p>5.10 Please refer to responses to item 4.4 above in relation to ongoing meetings with all interested stakeholders in relation to cycling issues.</p>

Ref	Source	Comments	Applicant's Response
		<ul style="list-style-type: none"> <li>• Make people think about walking and cycling</li> </ul> <p>5.7. As an example of our concern; Royal Derby Hospital is located less than a mile from the A38 Junctions project site. It employs over 10,000 people with thousands more daily visitors attending appointments or visiting patients at the hospital, and many emergency and non-emergency ambulances accessing the site throughout the day. Increased congestion in the Kingsway/Uttoxeter New Road area is inevitable for several years while the project is under construction and will have a significant impact on the hospital. Derby Cycling Group already regards the routes around Royal Derby Hospital as needing significant investment in cycling infrastructure because there is already a suppressed demand there for cycling to work.</p> <p>5.8. Appendix 2 lists some potential interventions which would enable more cycle journeys in the vicinity of the A38 Junctions scheme, but which need to be implemented before the construction phase of the project begins.</p> <p>5.9. Derby Cycling Group is a member of the Derby City Council Active Travel Forum. At the last meeting on 15th October 2019 we became aware that other</p>	

Ref	Source	Comments	Applicant's Response
		<p>stakeholder members would like to take part in the conversation around congestion mitigation, but currently have no means to do so. We would like the Derby Active Travel Forum members to have the opportunity to contribute their concerns about congestion during the construction phase and other issues to the planning inspectors.</p> <p>5.10. We suggest meetings involving Highways England, their consultants, Derby City Council, Derbyshire County Council and active travel stakeholders including Derby Cycling Group, Sustrans and others from the Active Travel Forum, to be arranged to enable wide ranging input to a congestion mitigation plan.</p>	
11.4	Written Representation	<p><b>6. Cyclist and Pedestrian Safety from Construction Vehicles</b></p> <p>6.1. There needs to be a clear plan to define how cyclists and pedestrians will be protected from lorry danger caused by the large number of construction vehicles working on and delivering to the construction site. The plan could consider interventions such as:</p> <ul style="list-style-type: none"> <li>• Cyclist and pedestrian detection and protection devices and features fitted to vehicles</li> </ul>	These issues are to be passed to the scheme contractor once appointed for consideration.

Ref	Source	Comments	Applicant's Response
		<ul style="list-style-type: none"> <li>• Trixy mirrors at site entrances and where access roads cross pedestrian and cycle paths</li> <li>• Manning/signalisation of crossings where pedestrian and cycle paths cross access roads</li> </ul> <p>6.2. We are not aware of any such plan but believe this is essential to set the standards for NMU safety while construction is in progress.</p>	
11.5	Written Representation	<p><b>7. Continuity of NMU Routes During Construction Phase</b></p> <p>7.1. There needs to be a plan for keeping open all existing NMU routes which run through or near the project site. We are not aware of any such plan. The plan could include:</p> <ul style="list-style-type: none"> <li>• A requirement that all routes are fully accessible to all users at all times.</li> <li>• A plan of diversionary routes and the construction and accessibility standards to which they will be built and maintained, which will be used when the existing NMU routes have to be temporarily closed due to construction work.</li> </ul> <p>7.2. In previous Highways England projects in Derby we have had variable levels of continuity of routes. The Raynesway Park Junction scheme (2010) was a tremendously good experience with</p>	<p>7.1 - It will be a requirement that all current routes for walking and cycling are retained during construction – any necessary diversions will be kept as short as possible and will be agreed with the local highway authorities prior to implementation.</p> <p>7.2 – Noted.</p> <p>7.3 and 7.4 – As noted in 7.1 above, all current routes for walking and cycling would be subject to minor local diversions from time to time during construction. These routes will be determined during the detailed designing of the temporary traffic management provisions. The continuity of the routes will be maintained via the use of temporary signs.</p>

Ref	Source	Comments	Applicant's Response
		<p>positive intervention to even keep routes open during a flooding event; earlier works at Little Eaton roundabout (2014) were poor with the diversion utilising a steep set of steps which rendered the route impassable for people with mobility issues and for cyclists who did not have the strength to push their bike up the steep ramp provided, or restrain their bike on the steep decent (older riders, many women, children, and others).</p> <p>7.3. All existing routes must remain open at all times because many people depend on them to get to work or other destinations and appointments. For example, many people in Allestree walk or cycle on the Queensway and Kingsway routes to get to work at Royal Derby Hospital; many employees living in Little Eaton, Duffield and beyond, cycle along the A61 cycle path (NCN54), crossing the A38, to get to work at Rolls-Royce and other city locations. If these people cannot cycle, many will drive, adding to the already enhanced congestion due to the construction works themselves.</p> <p>7.4. All routes must be totally accessible to all who currently use them.</p>	
11.6	Written Representation	8. We hope that these objections and other comments can receive the kind attention of the planning inspection team.	Highways England remains open to continued discussions with all local interest groups as noted in responses above.

Ref	Source	Comments	Applicant's Response
		Derby Cycling Group is always willing to participate in a positive and constructive manner in further conversations or meetings on any of the matters we have raised above.	
11.7	Written Representation	9. Please note that the above points only constitute Derby Cycling Group's current comments regarding the scheme, and we reserve the right to expand, amend or add to these in due course or as more details become available.	Noted.
<b>12 Derbyshire Wildlife Trust</b>			
12.1	Responses to ExA's First Written Questions Question: 8.15	<p>Question 8.15 – Veteran Trees</p> <p>On the basis of a site visit conducted on 29th October 2019 we agree that Tree References DWT3 and DWT20 do not qualify as veteran trees.</p> <p>It is possible that the location of DWT3 Common Oak is a grid reference error for the same tree identified as M36 which is an obvious veteran. There is another Common Oak nearby at grid reference SK 33731 37143 which although very mature it would not be considered to be a "true" veteran.</p> <p>We confirm that DWT20 is not a veteran tree and there are no veteran Alders or veterans of any tree species at this location.</p>	Highways England acknowledge the comments from the Derbyshire Wildlife Trust regarding veteran trees. We note that it is possible there has been a grid referencing error and that DWT3 may be referring to the tree identified as M36. It is noted that tree M36 is identified as a veteran tree in the Environmental Statement (ES) Chapter 8: Biodiversity [APP-046] and identified as a tree that would be lost to the Scheme.

Ref	Source	Comments	Applicant's Response
<b>13 Euro Garages</b>			
13.1	Written Representation	Section 2 – Figures from a traffic survey were presented by Euro Garages to define the baseline for the existing situation at the petrol filling station.	<p>Highways England note EG's traffic counts, documented at their appendix SCP 5 [REP1-040], and summarised in paragraph 2.8 [REP1-040]. A total of 1,852 movements in 12-hours equates to 926 vehicles (average of 77 per hour) attending the EG site for fuel and to use the on-site facilities. The busiest hour was 12:00-13:00 with 106 visitors.</p> <p>Para 2.8 d) [REP1-040] should read: "on a daily basis around <u>6%</u> of the vehicles entered the site from McDonalds" (Note: this correction makes the total percentage of vehicles entered sum to 100%)</p> <p>For HGV, 25 entered the EG site over the 12-hour period (about 2 per hour) of which 36% (9No.) were from A38 South.</p>
13.2	Written Representation	3.2 It is clear that the visibility currently experienced by the overall site will be materially reduced simply by removal of the through traffic travelling along the A38 by passing the road under the A52. This component of trade will simply be lost unless provision is made to mitigate this by providing advance warning signs so that a proportion of A38 traffic that will freely flow through the junction can be alerted to the existence of the services.	<p>Highways England is currently investigating how/whether the combined site (Euro Garages and McDonald's) can be designated as a Trunk Road Service Area which would then permit appropriate advance signage.</p> <p>Progress on this issue will be reported in updates to the SoCG.</p>

Ref	Source	Comments	Applicant's Response
13.3	Written Representation	<p>4.4 In terms of the proposed removal of the ingress from the A38 it is considered that in geometric terms an ingress could still be provided to the site from the slip road and this provision would leave EG in no worse position that it is currently in with regards to physical access from the A38</p>	<p>Highways England design standard CD112 states: “<b>Direct accesses and priority junctions shall not be provided on connector roads</b>”.</p> <p>Connector roads are defined to include slip roads.</p> <p>Following consultation with HE SES team, several options were reviewed. SES accepted that the “Exit Only” option onto the A38 would be acceptable from a safety perspective and a DfS could be accepted on that basis (this would permit the continued operation of the petrol filling station by allowing for the exit of a fuel tanker from the site).</p>
13.4	Written Representation	<p>4.11 The junction geometry for the left turn into the site from the A52 is only 3.5m and normally from an A Road a 10m radius would be anticipated. The radius proposed is less than that normally required by Local highway Authorities for roads in residential areas where normally a 6m radius would be required.</p> <p>4.13 It is noted that assessment indicates that the HGV no longer requires to pass into lane 2 in order to manoeuvre into the site however this is at the cost of striking the kerb and having an extremely tight turning circle.</p> <p>4.14 The issue associated with the tight turning circle is one of wheel scrub and the impact upon the road surfacing. The maintaining authority for this section of the A52 will surely not want to be constantly</p>	<p>Highways England acknowledges the entry radius is tight, measures will be taken during detailed design to maximise this and to provide an appropriate ‘wear resistant’ road surfacing to minimise the number of future maintenance interventions.</p> <p>Highways England’s ‘swept path’ analysis suggests that an HGV can complete the entry manoeuvre without striking the kerb – these are included in Appendix SCP 7 of Euro garages written representation.</p>

Ref	Source	Comments	Applicant's Response
		resurfacing this area due to the impact of the 100 or so HGV's that visit the EG service station per day.	
13.5	Written Representation	4.16 The Stage 1 Road Safety Audit has been requested from HE and at the time of preparing this Statement the document had not been released. It is therefore necessary to reserve the right to add to comments made to date.	Highways England is happy to issue the relevant sections of the Stage 1 Road Safety Audit (that concern the access and egress to the Euro Garages and McDonald's businesses) to both Euro Garages and McDonald's. It is worth noting that the safety auditor's initial recommendation was for the complete closure of the access/egress arrangement with the A38 diverge slip road.
13.6	Written Representation	4.17 Additionally, the proposals from Highways England extend into the site and go beyond the highway boundary. The access scheme does not indicate the EG right of way that exists with McDonalds and there can be no assumption that McDonalds would be a willing party to amending the right of way. To assist we have prepared a plan of our understanding the rights of way on the proposed access plan and this is attached at Appendix SCP 8.	Currently it is necessary to cross land owned by McDonald's to gain access to the filling station from both the A38 and the A52. A check with the Land Registry confirms that there are appropriate rights, by way of a conveyance dated 1982, to allow those who need to access the filling station to cross the land owned by McDonalds which abuts the highway at any time, day or night. Highways England believes the proposed Scheme will not change these existing arrangements; however, following EG's comments further investigations will be carried out to confirm the position.
<b>14 Public Health England</b>			
14.1	Responses to ExA's First Written Questions Question: 10.31	<b>ES Chapter 12 [APP-050]</b>  ES table 12.15.	PHE's response to ExA question 10.31 is noted. The information presented in ES Chapter 12: People and Communities <b>[APP-050]</b> Table 12.15 is sourced from Public Health England's local area health profiles in 2018. The health profiles provide access to the latest available

Ref	Source	Comments	Applicant's Response
		<p>a) Applicant - What is the date and source of the information in this table?</p> <p>b) Public Health England - are you content that the table provides an up to date satisfactory profile of human health in the wards identified?</p> <p>In response to question 10.31 to Public Health England (PHE), ES Table 12.15 attributes data to PHE but does not provide references for the specific source or the date of each indicator.</p> <p>Ward-level health data from 2018 and earlier is available from PHE's Local Health website (<a href="http://www.localhealth.org.uk/">http://www.localhealth.org.uk/</a>). This includes a wider set of potentially-relevant indicators, including indicators related to deprivation, ethnicity and other health outcomes. Updates to the majority of the figures selected by the applicant in ES Table 12.15 are available but note that PHE's local health profiles no longer include the indicators related to bad or very bad general health or obese adults at ward level.</p> <p>In any update of Table 12.15, the applicant could indicate whether each indicator is significantly better or worse than the England average, which is included in the local health profile reports.</p>	<p>data, presenting a range of indicators in one place. The references section provides further details on the source and location of data: Public Health England, Local Health. Available online at: <a href="http://www.localhealth.org.uk">http://www.localhealth.org.uk</a>. The data reported in ES Table 12.15 thus illustrates the data that was available at the time that the assessment was prepared. Whilst updated data may now be available, it is not considered that such updates would alter the assessment findings as reported in ES Chapter 12 [APP-050].</p>

Ref	Source	Comments	Applicant's Response
		For more information regarding the current health status of the local population and local public health priorities, the applicant should consider liaising with the unitary authority Director of Public Health.	
<b>15 Friends of Little Eaton Canal</b>			
15.1	Written Representation	FLEC provided comment dated 4th November 2019 regarding Highways England's Written Representation to the Relevant Representation from FLEC [REP1-003] (refer to RR-014 therein). In their written representation the FLEC acknowledge that Environmental Statement and the Outline Environmental Management Plan [APP249] consider the Scheme effects upon the former Derby Canal.	FLEC's written representation details concerns regarding the proposed temporary bridge across the former Derby Canal into the proposed construction compound north of Little Eaton junction. Highway England's confirmation that "the foundations of such a bridge will be set back from the edge of the line of the former canal to avoid impacting on the existing vegetation and the canal profile and the affected footprint area being reinstated to their former conditions" addresses some of FLEC's concerns. However, Highways England understands that FLEC's outstanding concern relates to the fact that the canal is enclosed by shrubs and trees to its east and west side and to further minimise ecological impacts, FLEC would like reassurances that any shrub and tree removal to accommodate the temporary bridge access into the compound area, as opposed to just the foundations, are also included in the reinstatement of the area after the temporary bridge is removed. Highways England can confirm that following removal of the temporary bridge over former canal, all areas affected would be reinstated to their former conditions – this includes all areas subject to tree and shrub removal and thus not just the bridge foundations.
<b>16 The Beavis Family</b>			

Ref	Source	Comments	Applicant's Response
16.1	Written Representation	<p>The proposal by Highways England (H.E.) to close and divert Footpath No. 3 from Rectory Lane and Croft Lane to the Little Eaton A38/A61 Island flyover and onto Little Eaton fails to retain this long-established route. This is specifically signed on Croft Lane. Furthermore, the proposed diversion returns the pedestrian south (in the wrong and opposite direction), adjacent to A61, to join F.P. No. 1 on its route to Darley Abbey. Such a route would mean it necessary to cross the dual carriageway of the A61 at some point, which is fast moving, with no provision for the pedestrian to cross and then return some distance north, to encounter the complex new fly-over and road pattern at the Little Eaton A38 flyover, on their route to Little Eaton. A footpath should provide a direct route between two places.</p> <p>It seems illogical to expect walkers to travel south for about a quarter of a mile, along the proposed new route, adjacent to the A61, to then have to return a similar distance north. Obviously, the footpath currently at the A38 Island, should be routed north (on the Breadsall side), alongside the eastern side of the newly positioned A38, to meet up with Bridle Path No.18, adjacent to the Severn Trent</p>	<p>The proposed diversion to the footpath leading from Rectory Lane toward the A38 has been discussed with Derbyshire County Council's Rights of Way team. Given the safety issues associated with a crossing point for the footpath at the location it emerges from the fields to the south east corner of the junction, it is felt that making this a circular route to link with another footpath leading from Croft Lane would be preferable. This particular route has little observed use and safer more cost-effective facilities are being considered (separate to the Scheme) at the existing crossing of the A61 from Croft Lane.</p> <p>The suggested alternative to divert the footpath route to connect with the bridleway leading from Rectory Lane to the underpass to the rear of the Severn Trent Water treatment plant has reasonable merit. To include this within the Scheme Highways England would need to seek agreement with affected land owners to create this new route and with the local highway authority to understand how it might connect into its local PROW network. This could be considered in addition to the provision already included in the Scheme.</p>

Ref	Source	Comments	Applicant's Response
		Water Works, using the existing underpass, to safely arrive in Little Eaton. No major road would have to be crossed and the original purpose of the F.P. achieved.	
16.2	Written Representation	In addition, please can we ensure that the Alder trees etc. along our boundary with the A61, (adjoining F.P. No. 1), be retained to help reduce pollution for grazing animals and crops grown to feed animals.	Regard tree loss refer to <b>[APP-092]</b> 6.2 Environmental Statement Figure 7.6A-B: Retention of Existing Vegetation and Trees. There will some tree loss to facilitate access to the site and to complete the works, but this will be kept to a minimum, the extents are shown in the referenced document above.
<b>17 Simon Morris</b>			
17.1	Written Representation	<p>1) 5.4.7 In response to the consultation, a single-issue petition was also received from Breadsall Parish Council and the Local MP for Amber Valley/Mid Derbyshire wrote on behalf of 30 residents of Breadsall. The petition was signed by 343 people, of which 283 were identified as residing in Breadsall. This petition objected to Option 3, the closest to Breadsall, without stating any preference for any of the other options.</p> <p>5.4.8 Excluding the petition, 66% of the respondents were in favour of Option 8a (identified in the consultation materials as Option 3), 17% in favour of Option 7 (identified in the consultation materials as Option 2) and 2% in favour of Option 9 (identified in the consultation materials as</p>	Mr Morris's concerns relating to the 2003 consultation and the selection of the preferred route following the 2015 consultation are addressed in the Applicant's response to Breadsall Parish Council's Relevant Representation (RR-001a <b>[APP-083]</b> ).

Ref	Source	Comments	Applicant's Response
		<p>Option 1). 84% of the respondents resided in Allestree, Breadsall or Little Eaton, which were the residential areas closest to the proposed junction improvement.</p> <p>The above extracts from page 39 of the scheme assessment report form a fundamental basis of why I believe that the due process has not been followed by those responsible for choosing the "preferred option" for the Little Eaton Junction. As you can see if the results of the petition had been taken into account there was a clear overwhelming opposition to the Option 8a/3 version. However, as the scheme was delayed no announcement was made even though this had been decided upon behind closed doors see section 5.4.16/17 of the scheme assessment report:</p> <p>5.4.16 Option 8(b) was identified as the preferred option to be entered into the TPI programme when the scheme was put on hold in 2008</p> <p>5.4.17 No announcement was made on the preferred option emerging from the Supplementary Public Consultation at Little Eaton before the scheme was put on hold in 2007.</p> <p>Then in 2015 out of the blue this appears as the only option as the " presented option" as if this was all agreed upon and</p>	

Ref	Source	Comments	Applicant's Response
		<p>the results of the earlier public consultation agreed with. This is quite contrary to reality because the residents of Breadsall had since 2003 assumed that their petition had held sway and to discover that this had been counted as a single vote against the proposed option was very concerning and hence with the agreement of the Breadsall Parish Council an Action group was formed to try and alter this decision. Many meetings were held, and various options reviewed however no changes were made</p> <p>I therefore wish the inspectorate to examine the whole process from start to finish of how the current preferred option was arrived at because I consider the earlier decisions (which were not communicated to the Breadsall population) to have been non transparent and open to challenge.</p>	
17.2	Written Representation	2) I agree with the current extent of the noise barrier subject to review of the final "issued for construction" drawings and consultation on the actual specification and make up of said 2.5 m high barrier.	The noise barriers at Little Eaton junction are illustrated on the Environmental Masterplan ES Figures 2.12F and G <b>[APP-068]</b> . Barriers would be made of durable material – the exact specification and colour of the barriers will be confirmed at the detailed details stage, noting the aspiration that they are coloured green. Highways England would be happy to present details of the proposed barrier specification to the Breadsall Parish Council during the detailed design stage as part of its consultation with the relevant planning authority. Following their installation, the

Ref	Source	Comments	Applicant's Response
			barriers would be subject to on-going maintenance by Highways England as the East Midlands Asset Delivery team. Noise mitigation measures are detailed in the Outline Environmental Management Plan (OEMP) [APP-249] which is secured by Requirement 3 in the dDCO.
17.3	Written Representation	3) I believe the landscaping by the balancing ponds by the southbound off slip merge with the A61 needs to be widened	Woodland planting to the eastern side of the A38 has been included for visual screening and ecological purposes (refer to Environmental Masterplan ES Figures 2.12F/ 2.12G [APP-068]). It is considered that with the provision of the noise/ screening barriers along the mainline and the off-slip to the A61, together with woodland planting on the A38 mainline embankment (approximately 10m wide), that appropriate landscape screen mitigation planting has been included in the Scheme design. Provision of additional woodland planting elsewhere would increase permanent land take of adjacent land which Highways England does not consider necessary mitigation and therefore cannot be justified from the compulsory acquisition perspective.
17.4	Written Representation	4) I wish to see many more evergreen trees planted throughout the landscape areas between the road and Breadsall. Whilst I understand the native species reasons in this instance when there is a considerable bank of native species adjacent to the road as planted by my father this should compensate.	The landscape design specifies that the tree belt on the east side of Little Eaton junction would comprise 10% evergreen species. Given the ecological function of the woodland planting, it would not be appropriate for the whole woodland to comprise evergreen species. However, Highways England confirms that the evergreen mix in the woodland planting can be reviewed during the detailed design. The proposed mix of planting provided at Little Eaton contributes to mitigating the effects of the Scheme, thus the presence of adjacent woodland with native species does not contribute to mitigating Scheme effects.
<b>18 ESP Utilities</b>			

Ref	Source	Comments	Applicant's Response
18.1		<p>I can confirm that ESP Utilities Group Ltd has no gas or electricity apparatus in the vicinity of this site address and will not be affected by your proposed works.</p> <p>ESP Utilities Group Ltd are continually laying new gas and electricity networks and this notification is valid for 90 days from the date of this letter. If your proposed works start after this period of time, please re-submit your enquiry.</p>	No comments.

# Applicant's Comments on any Additional Information or Submissions Received by Deadline 1

## **APPENDIX**

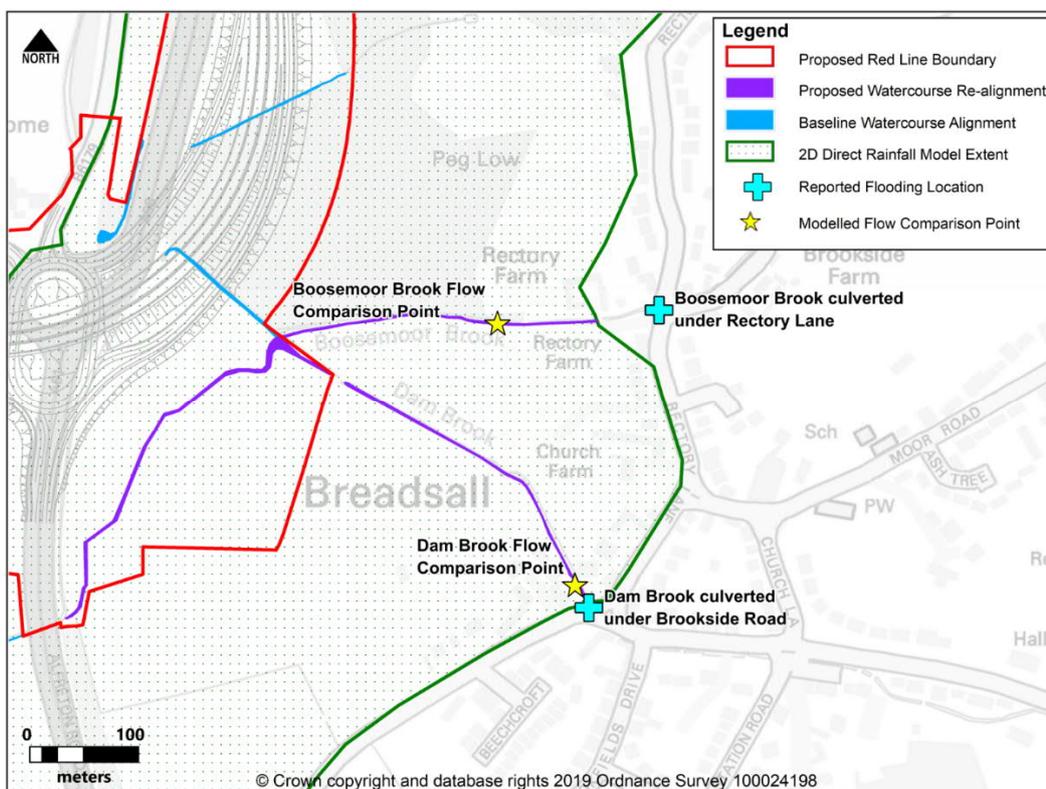
### **Hydraulic Modelling Technical Note Supporting Evidence**

## Hydraulic Modelling Technical Note Supporting Evidence

Highways England has confirmed that the Dam Brook diversion and realignment works would not result in increased flood risk to properties in Breadsall upstream of the Scheme. Derbyshire County Council (DCC), however, note that no details to support this conclusion have been provided. As such, this Technical Note has been produced to provide further details of model results, which illustrate the expected impacts of the Scheme on Dam Brook and Boosemoor Brook at Breadsall village, upstream of the Scheme.

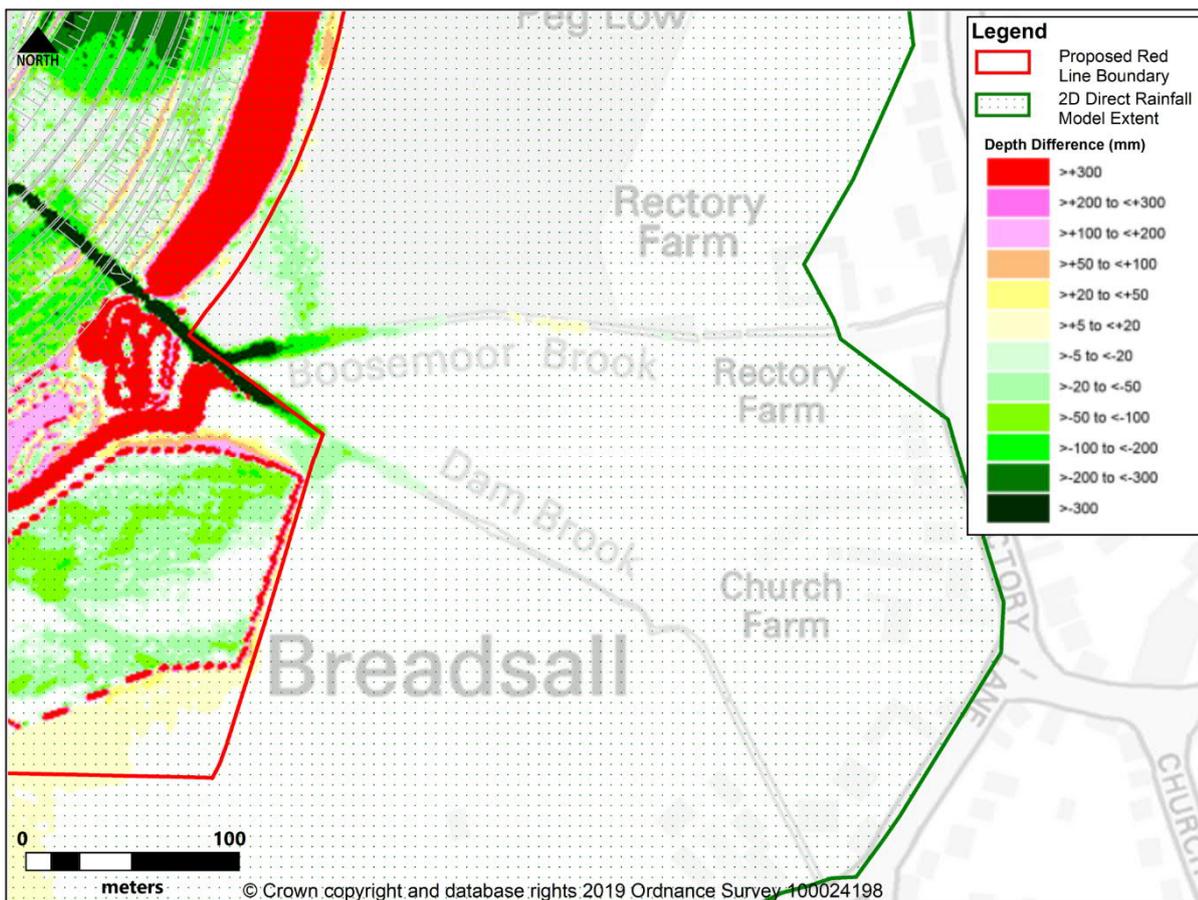
### 1. Model Results Comparison

Figure 1.1 highlights the extent of the Little Eaton/Breadsall surface water model that was constructed to inform the Little Eaton Flood Risk Assessment [APP-231]. The modelled representation of Dam Brook has an upstream extent at the western boundary of Brookside Road. It does not include the culvert which conveys flows under Brookside Road. The modelled representation of Boosemoor Brook has an upstream extent slightly west of Rectory Lane (close to Rectory Farm). The Rectory Lane culvert has not been represented in the Little Eaton model. Further information on this modelling can be found in the Little Eaton Surface Water Modelling Technical Note, which forms Appendix D of the Little Eaton Flood Risk Assessment [APP-231]. DCC's Written Representation [REP1-030] has noted that Dam Brook and Boosemoor Brook have flooded previously, where they are culverted under Brookside Road and Rectory Lane respectively (see Figure 1.1).



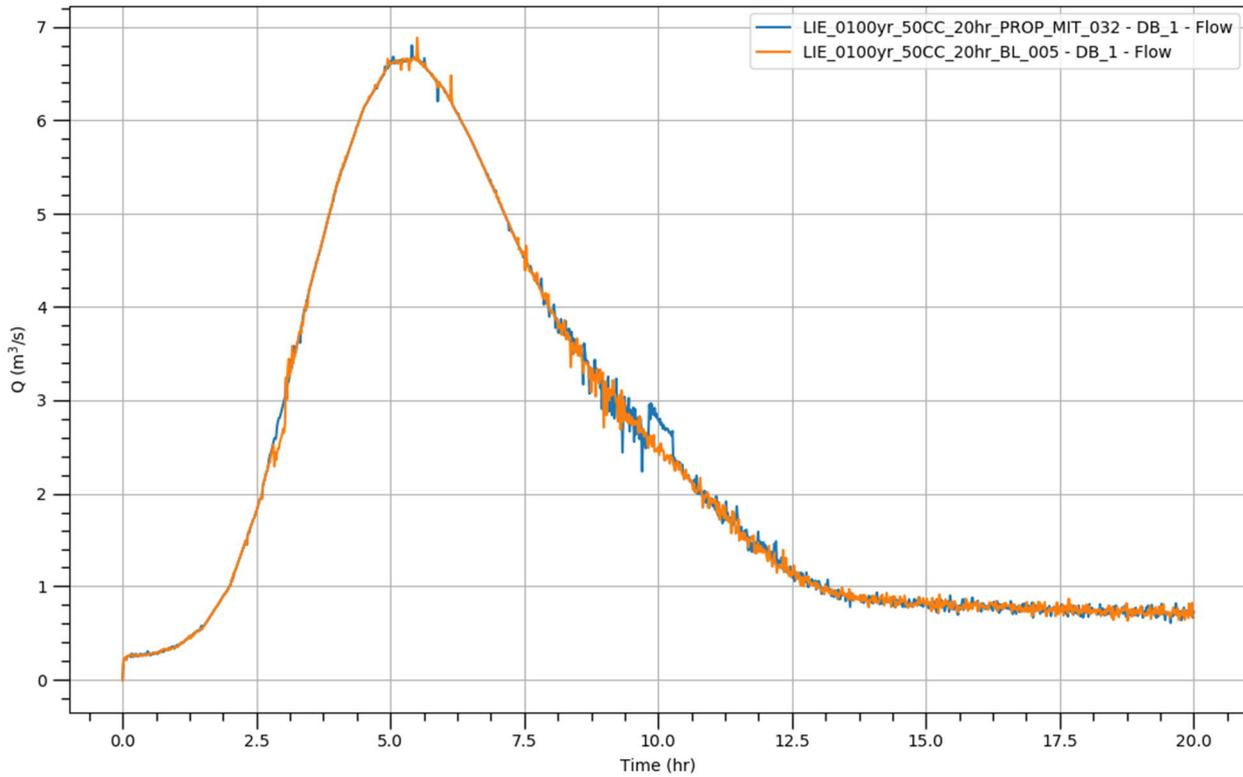
**Figure 1.1: Extent of the 2D direct rainfall model in the Breadsall area, showing modelled baseline and proposed watercourse alignments, flow estimation points and flooding location alluded to in DCC's response**

The impacts of the Scheme and proposed mitigation works to Dam Brook, as outlined in the Little Eaton Surface Water Modelling Technical Note, have been assessed within the model extents (see Figure 1.1). The assessment was conducted by comparing the difference in modelled maximum water depths in the 'baseline' and 'proposed mitigation' model. The results of this assessment are presented in Figure 2.2. Along the modelled length of Dam Brook, the results show that there is no increase in modelled water depth. Boosemoor Brook shows an in-channel increase in water depth between 5mm and 20mm near to the Scheme boundary, but no impact in the upper reaches of the model near Rectory Farm.

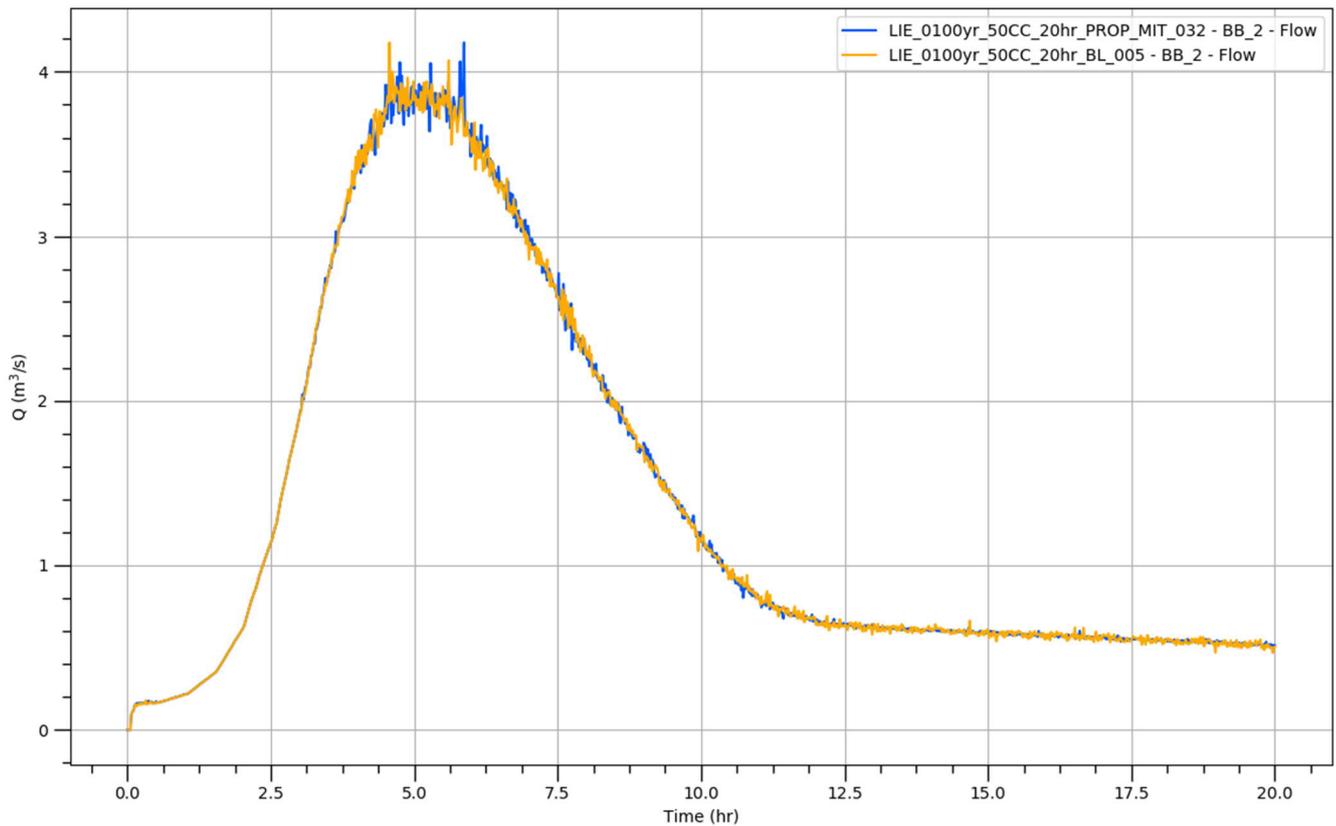


**Figure 1.2: Comparison of baseline model water level results to Scheme model with proposed mitigation (model results from a 1% AEP + 50% Climate Change event)**

Figure 1.3 and Figure 1.4 show the results of comparison of baseline model results for a 1% AEP + 50% climate change event against the same event in the proposed mitigation model, for Dam Brook and Boosemoor Brook respectively. These graphs show a time series of flow crossing the points in the model marked with yellow stars in Figure 1.1. It should be noted that the 'noise' or 'oscillation' in the model results around the peak of the event (and in the falling limb of the hydrograph) do not detract from confidence in overall flow values, as these oscillations are a common outcome of 2D direct rainfall modelling in which rainfall is applied to every active cell in the model (and not as a single point hydrograph). The general trend demonstrated by these results is that there is no significant difference in the peak flow between the baseline scenario and with the Scheme and mitigation in place at these two locations upstream of the proposed works.



**Figure 1.3: Comparison of Baseline (ORANGE) model flows versus Proposed Mitigation (BLUE) model flows on Dam Brook. (Please see Figure 1.1 for the flow comparison point location)**



**Figure 1.4: Comparison of Baseline (ORANGE) model flows versus Proposed Mitigation (BLUE) model flows on Boosemoor Brook. (Please see Error! Reference source not found. Figure 1.1 for the flow comparison point location)**

## 2. Conclusions

This Technical Note presents results in support of the assessment that the Scheme, including mitigation outlined in the Little Eaton Surface Water Modelling Technical Note, would not result in an increased flood risk to properties in Breadsall. It is noted that further flood risk modelling will be undertaken during the detailed design stage which will further ensure that flooding risks to Breadsall as a result of the Scheme are not increased.