

**Application by Highways England for an Order Granting Development Consent for the A38 Derby Junctions Scheme**  
**The Examining Authority's issues and questions for Issue Specific Hearing 2**  
**Issued on 3 December 2019**

The issues and questions set out below will be referred to in Issue Specific Hearing 2, to be held on 11 December 2019.

During the hearing the Examining Authority (ExA) will, as it considers necessary, raise these issues and questions, will invite responses from the Applicant and Interested Parties that have raised the issues and will ask further questions. Contributions will, at the ExA's discretion, be welcomed from other Interested Parties attending the hearing.

During the hearing the ExA is likely to ask for some issues and questions to be addressed in writing in post-hearing submissions, which are to be received by Deadline 3 of the Examination, on **Thursday 19 December 2019**.

**Abbreviations used**

<b>DCC</b>	Derbyshire County Council	<b>NPPF</b>	National Planning Policy Framework
<b>DCiC</b>	Derby City Council	<b>NPSNN</b>	National Policy Statement for National Networks
<b>dDCO</b>	Draft Development Consent Order [REP2-007]	<b>OEMP</b>	Outline Environmental Management Plan [APP-249]
<b>EA</b>	Environment Agency	<b>OUV</b>	Outstanding Universal Value
<b>EBC</b>	Erewash Borough Council	<b>RR</b>	Relevant Representation
<b>ES</b>	Environmental Statement	<b>SOAEL</b>	Significant Observed Adverse Effect Level
<b>EU AQD</b>	European Union Air Quality Directive	<b>SoCG</b>	Statement of Common Ground
<b>ExA</b>	Examining Authority	<b>SuDS</b>	Sustainable Drainage Systems
<b>FWQ</b>	First Written Questions [PD-005]	<b>TMP</b>	Traffic Management Plan
<b>LHA</b>	Local Highways Authority	<b>TPO</b>	Tree Preservation Order
<b>LIR</b>	Local Impact Report	<b>WHS</b>	World Heritage Site
<b>NO<sub>2</sub></b>	Nitrogen Dioxide	<b>WR</b>	Written Representation

The Examination Library can be found at: <http://infrastructure.planninginspectorate.gov.uk/document/TR010022-000671>

No	Reference	Issue or question
<b>Transport networks and traffic</b>		
1.	<p>Modelling of changes in travel patterns during construction</p> <p>ExA First Written Questions (FWQ) [PD-005] Q4.17</p> <p>Applicant response [REP1-005]</p> <p>Derbyshire County Council (DCC) response [REP1-033]</p> <p>Derby City Council (DCiC) Response [REP1-034]</p> <p>Applicant comments [REP2-020]</p>	<p>a) What further modelling of changes in travel patterns on local roads during construction, if any, do the Local Highways Authorities (LHAs) consider are required for the purpose of identifying likely significant impacts?</p> <p>b) Is there an acceptable process for LHA engagement in the modelling to be carried out during detailed design?</p>
2.	<p>Impacts on local roads during construction</p> <p>Relevant Representation (RR) by DCiC [RR-003]</p> <p>Applicant response [REP1-003]</p> <p>ExA FWQ [PD-005] Q4.23, Q4.27, Q4.28</p> <p>Applicant response [REP1-005]</p> <p>DCiC response [REP1-034]</p> <p>DCiC Local Impact Report (LIR) [REP1-035]</p> <p>Breadsall Parish Council Written Representation (WR) [REP1-027]</p> <p>Intu WR [REP1-044]</p> <p>Applicant comments [REP2-020]</p>	<p>a) Further to the Applicant's responses and comments, are there any outstanding concerns about impacts on local roads during construction?</p> <p>b) Are these all capable of being addressed by the Traffic Management Plan (TMP)?</p> <p>c) Are any other any measures likely to be required to ensure that impacts would be in line with those identified in the Environmental Statement (ES)?</p>
3.	<p>The Traffic Management Plan (TMP)</p>	<p>a) DCiC consider it important that the TMP is "<i>agreed</i>" with them. Do draft Development Consent Order (dDCO) Requirements 4 and 11</p>

No	Reference	Issue or question
	RR by DCiC [ RR-003] Applicant response [REP1-003] ExA FWQ [PD-005] Q4.12, Q4.23, Q4.25, Q4.26 Applicant response [REP1-005] DCC response [REP1-033] DCiC response [REP1-034] DCiC LIR [REP1-035] Breadsall Parish Council WR [REP1-027] Intu WR [REP1-044] Applicant comments [REP2-020]	secure an acceptable process for consultation on the development of the TMP to be used during construction? How would any matters not agreed with consultees be handled? b) Should the TMP be subject to approval by the LHA rather than, or as well as, by the Secretary of State? c) Are the measures set out in the TMP for engagement with key stakeholders and communication during design development and construction clear and adequate? d) How would any unforeseen matters be dealt with during construction, how would those be consulted on? What flexibility should be provided in the TMP, and how? e) Are the LHA satisfied that the provisions in the TMP are clear and adequate with respect to dealing with access to Derby Royal Hospital; access to Markeaton Park during events; and potential impacts on retail trading? f) Do the LHA have any other comments on the TMP [APP-254] provided by the Applicant with their application? g) Is further detail required in the TMP at this stage to provide assurance that the version to be used during construction would mitigate impacts in line with those identified in the ES? h) Will the Applicant provide an updated TMP to the Examination?
4.	Significant impacts during construction RR by DCiC [ RR-003] Applicant response [REP1-003] ExA FWQ [PD-005] Q4.27 Applicant response [REP1-005] DCiC response [REP1-034] Applicant comments [REP2-020]	With the mitigation measures in place, would there be likely to be any residual significant impacts on users of the A38 or local roads during construction?

No	Reference	Issue or question
5.	Impacts on local roads during operation RR by DCiC [ RR-003] Applicant response [REP1-003] ExA FWQ [PD-005] Q4.14, Q4.42, Q5.3 Applicant response [REP1-005] DCiC response [REP1-034] DCiC LIR [REP1-035] Applicant comments [REP2-020]	a) Further to the Applicant's responses and comments, do the LHA have any outstanding concerns about adverse impacts on local roads during operation, e.g. those identified in DCiC's LIR? b) Has the Applicant assumed that the LHA will make improvements to local roads (e.g. at Kedleston Road and Five Lamps)? If so, is it reasonable to assume that they will be delivered? c) Is any more information required for an assessment to be made of adverse impacts on local roads during operation? d) How should any adverse impacts be mitigated?
6.	Junction layouts ExA FWQ [PD-005] Q4.34, Q4.39 Applicant response [REP1-005] DCC response [REP1-033] DCiC response [REP1-034] DCiC LIR [REP1-035]	a) Do the LHA have any outstanding concerns about junction layouts? b) Should the Ford Lane junction with the A6 be signalised, or not? c) Is there an acceptable process for engagement of the LHA and other relevant stakeholders with the development of the detailed design of junction layouts?
7.	A38 speed limit at Little Eaton Junction ExA FWQ [PD-005] Q4.37 Applicant response [REP1-005] DCC response [REP1-033] Breadsall Parish Council WR [REP1-027] Applicant comments [REP2-020]	Further to the Applicant's responses and comments, are there any outstanding concerns about a 70mph speed limit to the A38 at Little Eaton junction?
8.	Permanent Stopping Up of Highways and Traffic Regulation Orders RR by DCiC [ RR-003]	Further to the Applicant's responses and comments, does DCiC have any outstanding concerns about the 'stopping up' process where existing roads are severed, including in relation to residual

No	Reference	Issue or question
	<p>Applicant response [REP1-003]  ExA FWQ [PD-005] Q4.38  Applicant response [REP1-005]  DCiC response [REP1-034]  DCiC LIR [REP1-035]  Applicant comments [REP2-020]</p>	<p>landownership and responsibility, and proposed Traffic Regulation Order alterations?</p>
9.	<p>Ford Lane closure and bridge weight restrictions  RR by DCC [RR-004]  Applicant response [REP1-003]  ExA FWQ [PD-005] Q4.40  Applicant response [REP1-005]  DCC response [REP1-033]  DCiC response [REP1-034]  Applicant comments [REP2-020]</p>	<p>a) Further to the Applicant's responses and comments, do the LHA have any outstanding concerns about the proposed closure of Ford Lane or the bridge weight restrictions?  b) How can it be assured that a 40T vehicle weight restriction on the Ford Lane bridge would be suitable for the purposes of those requiring access, including Talbot Turf, Severn Trent Water and Network Rail?</p>
10.	<p>Car parking at Cherry Lodge children's residential care home  RR by Carter Jonas LLP on behalf of Haven Care Group Ltd [RR-015]  Applicant response [REP1-003]  ExA FWQ [PD-005] Q4.43, Q13.36, Q13.37  Applicant response [REP1-005]</p>	<p>Temporary and permanent impacts on car parking at Cherry Lodge children's residential care home and their mitigation.</p>
11.	<p>Public transport  ExA FWQ [PD-005] Q4.45, Q4.46</p>	<p>a) Further to the Applicant's responses and comments, do the LHA have any outstanding concerns about the mitigation measures proposed</p>

No	Reference	Issue or question
	Applicant response [REP1-005] DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	for any adverse impacts to bus services, particularly during construction? b) How would effective stakeholder engagement be ensured with the development of the TMP; with the development of detailed design; and during construction? c) Has enough consideration been given to the support of public transport and encouraging change in mode of transport, in accordance with sustainable transport policy?
<b>Land use, social and economic impact</b>		
12.	The effect of the proposal on the viability and convenient and safe operation of the McDonald's and Euro Garages facilities at Markeaton junction ExA issue / question [PD-003] Q10.20, Q10.21, Q10.22 Applicant response [REP1-005] Euro Garages WR [REP1-040] Euro Garages draft Statement of Common Ground (SoCG) [REP1-041] McDonald's WR [REP1-045] McDonald's draft SoCG [REP1-046] Applicant comments [REP2-020]	a) Update the SoCGs between the Applicant and McDonald's and between the Applicant and Euro Garages. b) Would the traffic signals and routing at the exit from the facilities onto the A52 result in queuing within the site? c) Would the traffic signals and routing at the exit from the facilities onto the A52 result in queuing on the A52? d) Would the proposed layout allow all vehicles, including refuse collection, to manoeuvre safely and conveniently into, out of and within the site? e) Update on the need to reinforce the car park to allow for the proposed servicing arrangements. f) How would the rights of access of McDonald's and Euro Garages be affected by the proposals? g) How would entry to the site from the proposed A38 slip road impact on highway safety. How would the absence of such an access impact on the viability of the businesses? h) Update on the provision of 'roadside facilities' signage.
13.	The effect of the proposal on the trading patterns of retail businesses in the area during the construction phase	a) Update on the TMP with particular regard to balancing the flow of traffic on the A38 with access to the city centre.

No	Reference	Issue or question
	<p>Intu Derby WR [REP1-044]  Applicant comments [REP2-020]</p>	<p>b) How would the construction programme be co-ordinated with other road schemes in the region and the local area in order to minimise disruption?  c) Is there any evidence to suggest that travel disruption during the construction of highways schemes would have a lasting effect on retail trading patterns?  d) Would the anticipated improvement to travel patterns arising from the completed scheme benefit retailers in the area in the long term?</p>
14.	<p>Whether the proposals for footpath diversions at the Little Eaton junction are safe and convenient  ExA issue / question [PD-003] Q10.13, Q10.18  Applicant response [REP1-005]  Breadsall Parish Council WR [REP1-027]  Simon Morris WR [REP1-049]  DCC response [REP1-030]  DCC LIR [REP1-031]  Erewash Borough Council (EBC) response [REP1-051]  EBC LIR [REP1-050]  Applicant comment [REP2-020]</p>	<p>a) Update on discussions regarding the proposed public right of way diversions at Little Eaton.  b) Does the route of the proposed diversion of Breadsall FP3 appropriately balance considerations of safety and convenience? Does the existing route from Breadsall to Little Eaton via Breadsall FP8 provide a convenient alternative? Would the alternative route proposed by Breadsall Parish Council be safe and viable?  c) Does the proposal make satisfactory provision for the Derwent Valley Cycleway?  d) Update on discussions regarding the provision of a Toucan crossing on the A61 at the Croft Lane footpath and the reduction of the speed limit at this location. Are these measures necessary to ensure that the proposed scheme would provide safe and convenient access for pedestrians?</p>
15.	<p>Whether the proposal makes adequate provision for non-motorised users during the construction and operational phases  Derby Cycling Group WRs [REP1-036 and REP1-037]  DCC LIR [REP1-031]</p>	<p>a) Update on discussions regarding provision for non-motorised users during the construction phase.  b) Does the submitted Travel Plan provide sufficient assurance that safe and convenient routes for non-motorised users would be maintained throughout the construction phase?</p>

No	Reference	Issue or question
	DCiC LIR [REP1-035] Applicant comments [REP2-020]	c) Does the proposal take the opportunities available to encourage non car travel with regard to the scheme itself and linkages to other initiatives in the surrounding area?
16.	Whether the proposed route at the Little Eaton junction adequately balances environmental and socio-economic impacts ExA issue / question [PD-003] Q2.6 Applicant response [REP1-005] Breadsall Parish Council WR [REP1-027] Simon Morris WR [REP1-049] Applicant comments [REP2-020]	a) Would the proposed route have unacceptable impacts on the living conditions of the residents of Breadsall by reason of outlook, noise disturbance or air quality? b) Would the proposed route have unacceptable impacts on the environment at Breadsall with regard to visual intrusion or biodiversity?
<b>Air quality</b>		
17.	Receptor sensitivity, magnitude of change, significant effect assessment criteria, background concentrations, carbon dioxide assessment methodology, cumulative impact assessment ExA FWQ [PD-005] Q5.7, Q5.8, Q5.9, Q5.11, Q5.12, Q5.13, Q5.18, Q5.20 Applicant response [REP1-005] DCiC response [REP1-034] EBC response [REP1-051] EBC SoCG [REP1-008] Applicant comments [REP2-020]	a) Further to the Applicant's responses and comments, are DCiC and EBC (still) satisfied with the Applicant's consideration of baseline conditions and with the Applicant's assessment methodology? b) The Applicant considers that changes in pollution concentration should only be considered significant when they exceed health-based quality objectives and limit values. Is this approach agreed by the local authorities? Should large magnitude changes in pollution concentration be considered significant? Is the consideration of the impact of large magnitude changes in emissions on health in the Design Manual for Roads and Bridges standard LA105 relevant and helpful?



No	Reference	Issue or question
18.	Dust deposition and monitoring during the preliminary works and main works ExA FWQ [PD-005] Q5.16, Q5.21, Q5.31 Applicant response [REP1-005] DCiC response [REP1-034] EBC response [REP1-051] DCiC LIR [REP1-035] EBC SoCG [REP1-008] Applicant comments [REP2-020]	a) What certainty is there that dust deposition at the closest receptors to construction (preliminary works and main works) would not be significant? b) EBC considers that dust monitoring during the preliminary works should be a firm requirement. Should the provisions for dust monitoring in the OEMP during the preliminary works be like those identified for construction in MW-AIR3? c) How would complaints or any significant dust deposition identified during the preliminary works be communicated, consulted on and dealt with? d) Should any of the other provisions for air quality during the main works in OEMP MW-AIR1, MW-AIR2 or MW-AIR3 be required during the preliminary works?
19.	Nitrogen Dioxide (NO <sub>2</sub> ) analysis and assessment methodology and EU compliance ExA FWQ [PD-005] Q5.17, 5.25, 5.29 Applicant response [REP1-005] DCiC response [REP1-034] DCiC LIR [REP1-035] Applicant comments [REP2-020]	Do DCiC have any comments on the Applicant's responses regarding: a) The use of both the " <i>Highways Agency gap analysis method</i> " and the " <i>DEFRA method</i> " for predictions of NO <sub>2</sub> concentrations in Stafford Street during construction? b) Consideration of the methods prescribed for European Union Air Quality Directive (EU AQD) compliance monitoring and that there would not be any new exceedances of NO <sub>2</sub> concentrations during construction or operation?
20.	NO <sub>2</sub> compliance during construction, mitigation and monitoring ExA FWQ [PD-005] Q5.26, Q5.27, Q5.28, Q5.32 Applicant response [REP1-005] DCiC response [REP1-034] EBC response [REP1-051]	Further to the Applicant's responses and comments, do the local authorities have any outstanding concerns about: a) The risks of non-compliance with the EU AQD in Stafford Street, or elsewhere during construction (preliminary works and main works); the need for more investigation; and the need for traffic management during the preliminary works? b) Risks and implications of delays to the implementation of DCiC's traffic measures for Stafford Street and related mitigation?

No	Reference	Issue or question
	DCiC LIR [REP1-035] Applicant comments [REP2-020]	<ul style="list-style-type: none"> <li>c) Should NO<sub>2</sub> monitoring be required of the Applicant during construction and, if so, where?</li> <li>d) Whether the OEMP provisions for communication and liaison with DCiC in respect to NO<sub>2</sub> in Stafford Street are clear and adequate?</li> <li>e) Whether DCiC or the Secretary of State should have the power to require action for changes to be made to the construction arrangements where monitoring suggests that the existing situation could be putting compliance with the EU AQD at risk; and whether DCiC would have other suitable options available to it?</li> <li>f) Whether mitigation measures are clear, adequate and secured appropriately by Requirement 3 and the OEMP?</li> </ul>
21.	NO <sub>2</sub> compliance during operation, monitoring and mitigation ExA FWQ [PD-005] Q5.2 Applicant response [REP1-005] DCiC response [REP1-034] DCiC LIR [REP1-035] Applicant comments [REP2-020]	<ul style="list-style-type: none"> <li>a) The sense checking suggested by DCiC, and the associated risks of non-compliance during operation, including to receptors located close to the A38 or other roads experiencing notable increases in traffic volume, or where there are already high NO<sub>2</sub> concentrations.</li> <li>b) Whether partial removal or a delay in the complete removal of DCiC's Stafford Street Traffic Management Scheme could result in any significant air quality impacts in Stafford Street, or elsewhere? The need for modelling of this scenario?</li> <li>c) Should NO<sub>2</sub> monitoring be required of the Applicant during operation and, if so, where.</li> <li>d) The mitigation, if any, required to ensure no exceedances due to the proposed development and compliance with the EU AQD during operation.</li> </ul>
<b>Noise and vibration</b>		
22.	Significance of effect for construction noise ExA FWQ [PD-005] Q6.13, Q6.14 Applicant response [REP1-005]	<ul style="list-style-type: none"> <li>a) Whether ES Chapter 9 [APP-047] should be updated to clarify the Applicant's advice that all exceedances of Significant Observed Adverse Effect Level (SOAEL) during construction have been identified as being significant, whatever the duration?</li> </ul>

No	Reference	Issue or question
	DCiC response (also to Q5.26) [REP1-034] EBC response [REP1-051] Applicant comments [REP2-020]	b) Whether the Applicant intends to adopt a different approach to identifying significant noise effects to that considered in the ES once the details of construction works are known? If so, how that is justified? c) Examples of the use of professional judgement and any “ <i>other factors</i> ” that would be considered to identify significant noise effects during construction in addition to those identified in paragraph 9.3.23 of ES Chapter 9, once the details of the construction works are known. Could this include exceedance of SOAEL for up to 10 days in 15 not being considered significant? d) The duration of significant effects currently anticipated during construction. e) Whether DCiC has any outstanding concerns about the Applicant’s use of professional judgement to identify likely locations of significant effect during construction, either now or once the details of construction work are known?
23.	Construction uncertainties ExA FWQ [PD-005] Q6.17, Q6.19, Q6.20, Q6.25, Q6.37 Applicant response [REP1-005] DCiC response [REP1-034] EBC response [REP1-051] DCiC LIR [REP1-035] Applicant comments [REP2-020]	a) Whether measures are required to ensure that the noise and vibration created by construction plant and equipment (including vibrating rollers and piling methods) would be no greater than considered in the Applicant’s assessment. b) How uncertainties in relation to construction methods and the locations and durations of noise and vibration generating activities during construction would be dealt with. For example, how would contractors establish whether mitigation such as the use of hoarding, would be “ <i>practical and effective</i> ”? c) Local authority requirements for work to be carried out outside core construction working hours to be subject to their prior “ <i>agreement</i> ” or “ <i>approval</i> ”. Whether those requirements are achieved by the “ <i>consultation</i> ” provisions in the dDCO and Outline Environmental Management Plan (OEMP). d) Whether Control of Pollution Act 1974 Section 61 consent for work to be carried out outside core construction working hours should be a firm requirement in the OEMP.

No	Reference	Issue or question
		e) DCiC consider that agreement with them in the development of the Construction Environmental Management Plan is vital. Do dDCO Requirements 3 and 4 secure an acceptable process for consultation on the development of the Construction Environmental Management Plan to be used during construction and how would any matters not agreed with consultees be handled?
24.	<p>Noise and vibration monitoring during construction</p> <p>ExA FWQ [PD-005] Q6.34</p> <p>Applicant response [REP1-005]</p> <p>DCiC response [REP1-034]</p> <p>EBC response [REP1-051]</p> <p>Applicant comments [REP2-020]</p>	<p>a) Whether the OEMP is sufficiently clear and adequate in requiring noise and/or vibration monitoring during the preliminary works “<i>as is necessary</i>”.</p> <p>b) Should there be a firm requirement for monitoring at locations of potential significant impact where noise and vibration limits might be exceeded, as EBC suggest?</p> <p>c) Are OEMP provisions for dealing with noise or vibration complaints and for dealing with significant noise and/or vibration identified during construction clear and adequate?</p>
25.	<p>Significance of effect for operational noise</p> <p>ExA FWQ [PD-005] Q6.4, Q6.13</p> <p>DCiC response [REP1-034]</p> <p>EBC response [REP1-051]</p> <p>Applicant comments [REP2-020]</p>	<p>a) Comparison of SOAEL for operational traffic noise with those normally accepted for other types of development.</p> <p>b) Justification of SOAEL for operational traffic noise being higher than for other types of development.</p> <p>c) Has the use of professional judgement and consideration of “<i>other factors</i>” resulted in operational noise at any receptors experiencing noise above SOAEL being assessed as not significant?</p>
26.	<p>Road surfacing and noise barrier mitigation</p> <p>ExA FWQ [PD-005] Q6.26, Q6.29</p> <p>Applicant response [REP1-005]</p> <p>Breadsall Parish Council response [REP1-027]</p> <p>Applicant comments [REP2-020]</p>	<p>a) The Applicant has stated that very low surfacing would be effective at speeds greater than 75km/h. It is noted that A38 speed limits would be greater than 75km/h. What would be the difference in noise levels from the use of very low surfacing on the main carriageway of the A38 at receptors in the vicinity of the three junctions, other sections of the A38 included in the Proposed Development, or other parts of the A38 where the speed limit would be increased?</p>

No	Reference	Issue or question
		b) The difference in sound levels on the opposite side of the road to reflective barriers and whether the difference compared with absorptive noise barriers could approach 3dB, i.e. a doubling of noise levels. The decrease in noise levels in Markeaton Park that would result from the use of absorptive noise barriers.
27.	<p>Royal School for the Deaf Derby RR by Hinson Parry &amp; Company on behalf of Royal School for the Deaf Derby [RR-019] Applicant response [REP1-003] ExA FWQ [PD-005] Q6.18, Q6.21, Q6.26, Q6.35, Q6.39 Applicant response [REP1-005] DCiC response [REP1-034] Applicant comments [REP2-020]</p>	<p>a) Further to the Applicant's responses and comments, do the Royal School for the Deaf Derby or DCiC have any further comments on the Applicant's assessment or proposed mitigation measures with respect to noise and vibration impacts on the Royal School for the Deaf Derby during the construction and operation of the proposed development? b) Should the installation of the 4m high noise barrier, or a temporary equivalent, adjacent to the Royal School for the Deaf Derby before the demolition of the houses on Queensway should be a requirement? Should best endeavours to do so be a requirement?</p>
<b>Landscape and visual impact</b>		
28.	<p>Whether the methodology used in the landscape and visual assessment properly reflects the impacts of the proposals ExA issue / question [PD-003] Q9.1, Q9.7 Applicant response [REP1-005] DCC response [REP1-030] DCiC response [REP1-034] ES Figure 7.5a [REP2-011] Additional Photomontages [REP2-021]</p>	<p>a) Update on the additional photomontages based on the North Avenue Inquiry. Issues, outcome and relevance of that Inquiry. b) Do the revised representative viewpoints and new photomontages allow the landscape and visual impacts of the proposal to adequately assessed?</p>

No	Reference	Issue or question
29.	<p>The effect of the Little Eaton junction on the character and appearance of the landscape</p> <p>ExA issue / question [PD-003] Q9.1, Q9.7</p> <p>Applicant response [REP1-005]</p> <p>DCC response [REP1-030]</p> <p>DCC LIR [REP1-031]</p>	<p>a) What is the essential character of the landscape at and around the Little Eaton junction; is its sensitivity to change set out in the ES appropriate and agreed?</p> <p>b) What is the contribution of the existing junction to that character and sensitivity?</p> <p>c) What would be the effect of the proposal on that character?</p> <p>d) Would the replacement of the proposed embankments and planting with a viaduct significantly reduce the impact of the proposal on landscape character?</p>
30.	<p>The effect of the Little Eaton junction on the openness of the Green Belt</p> <p>ExA issue / question [PD-003] Q10.5, Q10.6</p> <p>Applicant response [REP1-005]</p> <p>DCC response [REP1-030]</p> <p>DCC LIR [REP1-031]</p> <p>EBC Response [REP1-051]</p> <p>EBC LIR [REP1-050]</p>	<p>a) The Applicant, DCC and EBC agree that the proposal would have 'an impact' on openness, although the Applicant considers that it would not result in 'material harm'. Having regard to the spatial and visual aspects of Green Belt openness, and to the purpose of the proposed development, would its impact amount to harm such that it would not preserve the openness of the Green Belt?</p>
<b>The historic environment</b>		
31.	<p>The effect of the Little Eaton junction proposals, including the flood compensation works, on the Outstanding Universal Value (OUV) of the Derwent Valley Mills World Heritage Site (WHS)</p> <p>ExA issue / question [PD-003] Q11.2, Q11.5, Q11.6</p> <p>Applicant response [REP1-005]</p>	<p>a) How, and to what extent, does the character of the landscape at the Little Eaton junction, existing built features and the heritage assets within it, contribute to the OUV (having regard to its attributes, authenticity and integrity) of the WHS?</p> <p>b) How, and to what extent, would the junction proposal and the flood compensation works impact on the OUV of the WHS?</p> <p>c) How, and to what extent, would the proposals impact on other heritage assets which contribute to the significance of the WHS?</p> <p>d) What would be the effect of the proposed mitigation measures?</p>

No	Reference	Issue or question
	Heritage Impact Assessment [APP-0173] DCC response [REP1-030] DCC LIR [REP1-031] DCiC response [REP-034] EBC response [REP1-051] EBC LIR [REP1-050]	e) Are there other measures, or amendments to the scheme, which could reduce its impact? f) What would be the residual impact of the junction proposal and the flood compensation works on the OUV of the WHS? g) Has the Department for Culture, Media and Sport been consulted regarding the effect of the proposal on the WHS?
32.	Whether the impact on heritage assets has been adequately quantified and whether the public benefits of the scheme outweigh that harm ExA issue / question [PD-003] Q11.2 Applicant response [REP1-005] Heritage Impact Assessment [APP-0173] Statement of Reasons [APP-020] DCC response [REP1-030] DCC LIR [REP1-031] DCiC Response [REP-034] EBC Response [REP1-051] EBC LIR [REP1-050]	a) Is there anything to suggest that the harm to heritage assets would not be less than substantial? b) Would the public benefits of the proposal outweigh that harm?
<b>Other policy and factual issues</b>		
33.	Significance of increases in greenhouse gas emissions ES Chapter 14 [APP-052] paragraphs 14.3.1 – 14.3.17. ExA FWQ [PD-005] Q12.1	The Applicant’s assessment compares estimated greenhouse gas emissions arising from the proposed development with the relevant UK carbon budgets, and the associated reduction targets. a) What is the logic for magnitude of increase being considered for CO <sub>2</sub> when exceedance of limit values is considered for other emissions?

No	Reference	Issue or question
	Applicant response [REP1-005] DCiC LIR [REP1-035] EBC LIR [REP1-050] Applicant comments [REP2-020]	b) Has any assessment been made of the proportion of the UK carbon budget that can be allocated to the proposed development? c) What level or increase in greenhouse gas emissions due to the proposed development would be considered significant?
34.	Carbon footprint and embodied carbon National Policy Statement for National Networks (NPSNN) paragraphs 5.18 and 5.19 ExA FWQ [PD-005] Q12.5, Q12.6 Applicant response [REP1-005] DCiC response [REP1-034] Environment Agency (EA) Response [REP1-022] Applicant comments [REP2-020]	a) NPSNN suggests that consent could be refused if carbon emissions resulting from the proposed development would be so significant that they would have a material impact on the ability of Government to meet its carbon reduction targets. Does the Applicant's assessment of this consider cumulative increases in carbon emissions of the proposed development with that of other highways developments and with other changes to carbon emissions in the UK? b) Are there clear and adequate mitigation measures to ensure that, in relation to design and construction, the carbon footprint of the proposed development would not be unnecessarily high? How would the effectiveness of the mitigation measures be demonstrated? c) Should the effectiveness of the mitigation measures be demonstrated through the quantification of the carbon footprint of the proposed development, benchmarking and the setting of carbon footprint targets and/or limits?
35.	Use of recycled materials and waste materials RR by the EA [RR-005] Applicant response [REP1-003] ExA FWQ [PD-005] Q12.9 Applicant response [REP1-005]	a) Given the scale of the project and that it is nationally significant, should the target for recycled aggregate be the East Midlands target of 14%, the national target of 25%, or another figure? b) Should the OEMP require the Site Waste Management Plan to consider: <ul style="list-style-type: none"> <li>• waste minimisation; and</li> <li>• who waste would be passed to and whether they have appropriate authorisation?</li> </ul>
36.	Cyclist and pedestrian safety from construction vehicles	Measures to be taken to mitigate safety risks to pedestrians and cyclists from construction vehicles and how they are secured.



No	Reference	Issue or question
	ExA FWQ [PD-005] Q12.12 Derby Cycling Group [REP1-036]	
<b>Biodiversity and ecological conservation</b>		
37.	Whether the proposal accords with national policy with regard to the enhancement of biodiversity ExA issue / question [PD-003] Q8.6 Applicant response [REP1-005] DCiC response [REP1-034] EBC response [REP1-051] Applicant comments [REP2-020]	<ul style="list-style-type: none"> <li>a) What weight should be placed on National Planning Policy Framework (NPPF) policies to enhance the natural environment and provide net gains for bio-diversity?</li> <li>b) Do the Applicant's submissions provide sufficient information to properly assess whether the proposal would lead to a net gain in biodiversity? Should the Biodiversity Metric Assessment undertaken by the Applicant be incorporated into the Examination process? Has the methodology for the Biodiversity Metric Assessment been agreed?</li> <li>c) Are additional mitigation, compensation or enhancement measures necessary to ensure that the proposal accords with NPSNN on biodiversity – in particular paragraphs 5.20, 5.23 and 5.30 and NPPF paragraph 170 to the extent that it is relevant?</li> <li>d) Update on discussions regarding the potential conflict between depositing silt from Markeaton Park at Kingsway and the proposed translocation of soil from the Kingsway Local Wildlife Site.</li> </ul>
<b>The water environment</b>		
38.	The effect of the proposals on flood risk at the Markeaton and Little Eaton junctions ExA issue / question [PD-003] Q1.5, 7.1, 7.5, 7.10, 7.14, Applicant response [REP1-005] DCC LIR [REP1-031]	<ul style="list-style-type: none"> <li>a) Do the proposals provide adequate measures to prevent siltation and other pollutants at Markeaton Lake and Mill Pond?</li> <li>b) Have any steps been taken to ensure that the proposed discharges would not impact on the integrity of the dam feature at Mill Pond. Who is responsible for the structural security and maintenance of the dam feature?</li> </ul>

No	Reference	Issue or question
	DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	c) Has adequate information on existing and proposed discharge rates been provided to allow a proper assessment of flood risk? d) Do the proposals provide for adequate treatment of highway runoff before it discharges to outfalls? e) Do the proposals provide adequate safeguards to prevent flooding upstream of the realignment of Dam Brook? Any comments on the hydraulic calculations appended to the Applicant's comments on D1 submissions? f) Is it necessary to provide further details at this stage to ensure that the realignment of Dam Brook would be appropriately 'naturalised'? g) How would the monitoring and maintenance of the alleviation works associated with the Dam Brook realignment be secured through the dDCO?
39.	Whether the proposal makes adequate use of Sustainable Drainage Systems (SuDS) ExA issue / question [PD-003] Q7.17 Applicant response [REP1-005] DCC LIR [REP1-031] DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	a) Having regard to NPSNN and NPPF advice and the limitations of the scheme, are the proposed attenuation storage facilities appropriate at: <ul style="list-style-type: none"> <li>• Kingsway – use of SuDS and Natural Flood Management;</li> <li>• Markeaton – use of SuDS in Queensway open space;</li> <li>• Little Eaton – use of SuDS in preference to by-pass separators.</li> </ul> b) Does the dDCO provide adequate provisions to secure the maintenance of the proposed attention storage facilities?
<b>The draft Development Consent Order; other consents, permits and licenses; other general matters</b>		
<b>The draft Development Consent Order - Parts 1 to 7</b>		
40.	The determination of compensation when not relating to Compulsory Acquisition	The need for a provision if the Tribunal does not accept jurisdiction.

No	Reference	Issue or question
	ExA issue / question [PD-003] Q4 Applicant response [REP1-004]	
41.	<p>"Guillotine" provisions ExA issue / question [PD-003] Q5 Applicant response [REP1-004] EA response [REP1-021] DCiC response [REP1-034] Applicant comments [REP2-020]</p>	<p>a) Update on discussions between the Applicant and relevant consultees regarding the agreement of provisions that confer deemed consent if a consultee does not respond within a specified period. b) Whether the "guillotine" should fall after 28 days, 42 days or any other period? c) Whether provisions should contain an express requirement that any application for consent should contain a statement drawing the consultee's attention to the guillotine?</p>
42.	<p>Article 2(1) "commence" ExA issue / question [PD-003] Q9 ExA FWQ [PD-005] Q3.1 Applicant response [REP1-004]</p>	<p>a) Is it secured that activities to be carried out before commencement would not fall outside the scope of the ES and that any mitigation measures relied on in the ES for the assessment of significant effects would be applied? b) Should it be secured that the OEMP applies to any activities to be carried out before commencement? c) Should it be secured that activities to be carried out before commencement should be those identified as Preliminary Works listed in the OEMP? d) Noting the definition of "commence" in the dDCO, can it be clarified in the dDCO and/or OEMP whether the "preliminary works" referenced in the OEMP come under the use of the term "construction" in the dDCO, or whether the use of the term "main works" in the OEMP equates to the use of the term "construction" in the dDCO? e) Following from the previous point, does the use of the term "construction" in the ES include both "preliminary works" and "main works" and thereby differ from the use of "construction" used in the dDCO? If there is a difference, should this be clarified given the references to the ES in the dDCO?</p>

No	Reference	Issue or question
43.	Article 2(1) " <i>maintain</i> " ExA issue / question [PD-003] Q10 Applicant response [REP1-004]	The ExA is minded that the dDCO should not inadvertently authorise major construction works during operation. There is concern about the potential for such works to fall outside the scope assessed in the ES. There is concern about the potential for future confusion about the application of relevant consenting processes for such works.  How can these concerns be addressed?
44.	Article 3 - Disapplication of legislative provisions ExA issue / question [PD-003] Q13, Q78 Applicant response [REP1-004] EA response [REP1-021] DCiC response [REP1-034] Applicant comments [REP2-020]	a) Updates on discussions between the Applicant, local authorities and the EA regarding the disapplication of the Water Resources Act 1991 and of the Land Drainage Act 1991. b) What is the inter-relationship between the disapplication of legislative provisions and the protective provisions for the EA? c) Are there still conflicts with the ability of a Lead Local Flood Authority to perform its duties and, if so, how can these be avoided?
45.	Article 4 – Maintenance of drainage works ExA issue / question [PD-003] Q14 Applicant response [REP1-004] DCC LIR, item 7.3 [REP1-031] Applicant comments [REP2-020]	a) The Applicant’s assurance that it would maintain drainage whilst in temporary possession appears to conflict with Article 4. Should Article 4 be amended? b) Update on discussions regarding who would be responsible for maintaining the flood alleviation channels, swales, etc. How would that be secured?
46.	Article 6 – Maintenance of authorised development ExA issue / question [PD-003] Q15 Applicant response [REP1-004]	a) Do the local authorities have any comments regarding responsibilities for maintenance during construction or operation, including where these may not be taken by Highways England? b) What is the potential for maintenance responsibilities not to be agreed, to fall into the gaps between different parties, or not to be capable of being discharged? How can this be mitigated?
47.	Article 8 – Limits of deviation ExA issue / question [PD-003] Q17	The " <i>highway work limits of deviation</i> " indicated on the Works Plans would appear to allow the main carriageway or the slip roads to deviate

No	Reference	Issue or question
	Applicant response [REP1-004]	<p>by several metres, and in some locations by tens of metres, from their drawn position.</p> <p>a) How has the assessment of potential significant effects in the ES considered the range of positions of the Works allowed for by the limits of deviation?</p> <p>b) As a specific example, what position(s) of the main carriageway have been considered for the assessment of noise effects for receptors adjacent to opposite sides of the highway work limits of deviation?</p>
48.	<p>Article 11 – Street works</p> <p>ExA issue / question [PD-003] Q19</p> <p>Applicant response [REP1-004]</p> <p>DCiC response [REP1-034]</p> <p>Applicant comments [REP2-020]</p>	<p>Would the ability to enter any streets within the Order Limits conflict with the ability of a LHA to perform its duties and, if so, how can these be avoided?</p>
49.	<p>Article 12 - Application of the 1991 Act</p> <p>ExA issue / question [PD-003] Q21</p> <p>Applicant response [REP1-004]</p> <p>DCiC response [REP1-034]</p> <p>Applicant comments [REP2-020]</p>	<p>Update on discussions between the Applicant and LHA regarding agreement of the provisions.</p>
50.	<p>Article 13 - Construction and maintenance of new, altered or diverted streets and other structures</p> <p>ExA issue / question [PD-003] Q22</p> <p>Applicant response [REP1-004]</p>	<p>Update on discussions between the Applicant and LHA regarding agreement of the provisions.</p>
51.	<p>Article 15 - Temporary stopping up and restriction of use of streets and highways</p> <p>ExA issue / question [PD-003] Q27</p>	<p>a) Recognising that it is not possible to be definitive at this stage, what is the likely potential, during construction, for vehicles to be parked further from properties than currently?</p>

No	Reference	Issue or question
	Applicant response [REP1-004]	b) What distances from temporary parking to the properties, and what durations for parking not being accessible, are anticipated? c) How are impacts mitigated, including for people with special requirements, emergency access, any requirements for temporary parking provision, parking permits and deliveries to businesses? d) How is the mitigation secured?
52.	Article 18 – Clearways ExA issue / question [PD-003] Q28 Applicant response [REP1-004]	Update on discussions between the Applicant and LHA regarding agreement of the provisions.
53.	Article 19 – Traffic regulations ExA issue / question [PD-003] Q29 Applicant response [REP1-004] Applicant comments [REP2-020]	Update on discussions between the Applicant and LHA regarding agreement of the provisions.
54.	Article 27 – Public rights of way ExA issue / question [PD-003] Q33 Applicant response [REP1-004] DCC response [REP1-032] Applicant comments [REP2-020]	a) Recognising that it is not possible to be definitive at this stage, what temporary closure of footpaths or cycle tracks is anticipated, particularly to those considered to be well-used? b) What durations are anticipated for any temporary closures? c) Would any temporary routes, diversions, signage or other mitigation be provided? d) How is the mitigation secured?
55.	Article 33 - Temporary use of land for carrying out the authorised development ExA issue / question [PD-003] Q35 Applicant's response [REP1-004]	Would it better serve the justification and ongoing minimisation of temporary possession if the specific purposes are all described in Schedule 7 and the term " <i>or any other mitigation works in connection with the authorised development</i> " is avoided?

No	Reference	Issue or question
56.	Article 39 – Felling or lopping of trees and removal of hedgerows ExA issue / question [PD-003] Q41, Q42 Applicant response [REP1-004]	a) Do the local authorities have any comments on the importance of the existing screening trees and shrubs along the A38 corridor and how their removal should be controlled? b) Please could the Applicant identify any hedgerows within the Order Limits that are subject to protection under the Hedgerows Regulations 1997?
57.	Article 45 – Crown Rights ExA issue / question [PD-003] Q45 Applicant response [REP1-004]	Update on discussions between the Applicant and Crown bodies and progress on achieving Crown consent under s.135 of the Planning Act 2008.
58.	Article 50 - Appeals relating to the Control of Pollution Act 1974 ExA issue / question [PD-003] Q46 Applicant response [REP1-004]	Update on discussions between the Applicant and local authorities regarding agreement of the provisions.
<b>The draft Development Consent Order: Schedule 2 - Requirements</b>		
59.	Requirements 1-21 Provisions for consultation and agreement ExA FWQ [PD-005] Q1.5 EA response [REP1-022] DCC response [REP1-033] DCiC Response [REP1-034]  ExA issue / question [PD-003] Q57, Q58, Q63 Applicant response [REP1-004] DCC response [REP1-032]	a) Provisions for consultation with the EA in Requirements 3, 8 and 14. b) Add provisions for consultation with Derwent Valley Mills World Heritage Site Partnership to Requirements 9 and 12? c) Add a provision for consultation with the Lead Local Flood Authority to Requirements 12(1), 12(2), 13(1), 13(2), and 14(1)? d) Add a provision for consultation with the sewerage undertaker to Requirement 13? e) Add provisions for consultation with local authorities with respect to potential impacts on local authority assets? f) Add provisions for consultation with local authorities regarding any improvements, diversions, stopping up or future maintenance liabilities for the Public Rights of Way network? g) Any further requests for consultation by local authorities or others?

No	Reference	Issue or question
	DCiC response [REP1-034] Applicant comments [REP2-020]	
60.	Management and mitigation plans, strategies and written schemes ExA FWQ [PD-005] Q3.11, Q3.12 Applicant response [REP1-005] DCC response [REP1-033] EA response [REP1-022]	Have all relevant parties that should be consulted been identified?
61.	Requirement 3 – Construction Environmental Management Plan ExA issue / question [PD-003] Q52 Applicant response [REP1-004] EA response [REP1-022]	a) What the Handover Environmental Management Plan should be drafted in accordance with and how that is secured. b) The necessity for provisions regarding consultation and approval of the Handover Environmental Management Plan.
62.	Requirement 4 – Details of consultation ExA issue / question [PD-003] Q56 Applicant response [REP1-004] EA response [REP1-021] DCiC response [REP1-034] Applicant comments [REP2-020]	a) Should timescales be identified for consultation? b) Should provisions be included to cater for matters that are not agreed between consultees and the undertaker?
63.	Requirement 10 – Protected Species ExA issue / question [PD-003] Q59 Applicant response [REP1-004]	Should the provision for consultation with Natural England be extended to all protected species and not just to those not previously identified in the ES?
64.	Requirement 11 – Traffic management	Has enough detail been provided in the TMP?



No	Reference	Issue or question
<b>The draft Development Consent Order: Schedules 3 to 10</b>		
65.	Schedule 3 - Classification of roads, etc ExA issue / question [PD-003] Q67 Applicant response [REP1-004] DCiC response [REP1-034] DCC's response [REP1-032] Applicant comments [REP2-020]	Update on discussions between the Applicant and LHA regarding agreement of the provisions.
66.	Schedule 3 - Classification of roads, etc ExA FWQ [PD-005] Q1.6 Applicant response [REP1-005] DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	Update on discussions between the Applicant and LHA regarding de-trunking and Traffic Regulation Order engagement.
67.	Schedule 6 – Modification of compensation and compulsory purchase enactments, etc ExA issue / question [PD-003] Q72 Applicant response [REP1-004]	The specific reasons for amending each element of existing legislation that the Applicant considers need to be amended.
68.	Schedules 3, 4, 5 and 7 ExA issue / question [PD-003] Q71, Q73 Applicant response [REP1-004]  ExA FWQ [PD-005] Q1.9, Q1.10 Applicant response [REP1-005]	a) Responses to the ExA's Rule 17 Requests for Further Information: <ul style="list-style-type: none"> <li>• whether the Applicant considers that it should audit dDCO Schedules 5 and 7; and</li> <li>• whether the Applicant considers that it should audit dDCO Schedules 3 and 4?</li> </ul> b) LHA reviews of dDCO Schedules 3 and 4.

No	Reference	Issue or question
	ExA Rule 17 Request for Further Information [PD-008]	
69.	Schedule 9 – Protective provisions	Update on discussions between the Applicant and relevant statutory undertakers, Network Rail and the EA regarding agreement of the provisions.
<b>Other consents, permits, licenses and agreements</b>		
70.	Consents, permits, licenses and agreements ExA FWQ [PD-005] Q1.12 Applicant response [REP1-005] EA response [REP1-022] DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	c) Update on discussions between the Applicant and relevance authorities regarding the position on required consents, permits, licenses and agreements. d) Whether the approach being adopted by the Applicant for permits and consents are acceptable to the relevant granting authorities. e) Whether there is there any reason to believe that any relevant necessary consents, permits, licenses and agreements would not subsequently be granted.
71.	Regulation of pollution releases ExA FWQ [PD-005] Q1.13 Applicant response [REP1-005] EA response [REP1-022] DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	With reference to paragraphs 4.48 and 4.55-6 of the NPSNN, do the relevant pollution control authorities have any reason to believe that that potential releases from the Proposed Development would not be adequately regulated under the pollution control framework?

No	Reference	Issue or question
72.	Consenting impediments to the Proposed Development	What information, if any, do consenting authorities require from the Applicant to be able to assist the ExA in identifying any consenting impediments to the Proposed Development?
<b>Other general matters</b>		
73.	Use of the Rochdale Envelope, cumulative impact assessment, length of construction programme, assessment of maintenance activities, mitigation measures during operation, ExA FWQ [PD-005] Q3.3, Q3.5, Q3.7, Q3.8, Q3.9 Applicant response [REP1-005]	Do the local authorities have any comments on the Applicant's responses, including any implications for the identification of significant impacts, or on the need for mitigation measures?
74.	Impact and assessment methodology ExA FWQ [PD-005] Q3.10 Applicant response [REP1-005] DCC response [REP1-033] DCiC response [REP1-034] EBC response [REP1-051] EA response [REP1-022] Applicant comments [REP2-020]	Further to the Applicant's responses and comments, do the local authorities or the EA have any outstanding concerns, including with respect to: a) the traffic model; b) Public Rights of Way; c) flood risk; d) the closure of Ford Lane; e) groundwater; f) contaminated land; g) the Derwent Valley Mills WHS; h) the management and control of construction-related impacts under the Construction Environmental Management Plan; i) events in Markeaton Park; j) after care, monitoring and maintenance of the environmental mitigation measures and replacement public open space; and k) evidencing net gains, including enhancing the natural environment and reducing pollution?

No	Reference	Issue or question
75.	SoCG	a) Updates to the draft SoCG and identification of any matters not currently agreed between the Applicant and: <ul style="list-style-type: none"> <li>• DCC [REP1-007]</li> <li>• DCiC [REP2-013]</li> <li>• EA [REP1-011]</li> <li>• Euro Garages [RE1-041]</li> <li>• McDonald's [REP1-046]</li> <li>• Network Rail [REP2-014]</li> <li>• Virgin Media [REP2-015]</li> </ul> b) Other SoCG anticipated to be submitted during the Examination.