

Issue Specific Hearing 1 and 2

Derby City Council responses.

Land use, social and economic impact

Q13 d) **benefits to the city centre** - In terms of potential retail impact the DCiC retail study does not talk about the impact of the A38 works. The only references to the A38 relate to Kingsway Retail Park and the fact that its proximity to a key route makes it an attractive destination.

Landscape and Visual Impact

Q28. No further comments to make on this question. The DCiC's position has moved on and welcome the efforts undertaken that evidence an adequate assessment.

The North Avenue appeal Inspector's decision notice is attached.

Biodiversity and Ecological Conservation

Q37. a) b) and c). The NPPF is a vital tool to ensuring the right development in the right place at the right time. It is a material consideration for the determination of this proposal. The decision should protect and enhance the natural environment providing net gains for biodiversity in accordance with the national requirement. This will need further input from Derbyshire Wildlife Trust who are our independent consultees.

d) There is no prospect of DCiC acquiring funding in the near future for the de-silting of Markeaton Lake but we would like further discussion during the detailed design process regarding the exact location and the extent of the translocated soil from Kingsway LNR and the proposed species rich grassland.

Article 6 of the DCO

Question 46

This is linked to question 55 – Article 33 of the DCO regarding the temporary possession of land during the construction process. DCiC requires further detail regarding maintenance of areas of public open space that will be temporarily possessed during the works. Will the contractor fence off these areas and maintain the grass within the fence? What if any other maintenance operations will be carried out within these areas for the duration of the temporary possession?

Maintenance interface plans are to be supplied by HE to DCiC as mentioned during the hearing.

Article 33 of the DCO

Question 55

DCiC is of the opinion that it would better serve the justification and ongoing minimisation of temporary possession if the specific purposes for which the land is required is described in more detail in Schedule 7 and the term “or any other mitigation works in connection with the authorised development” is avoided. This relates in particular to the proposed environmental mitigation works.

In addition to the description of activities and works for which temporary possession of land is required, DCiC requires more detail at detail design stage of the length of time areas will be occupied and any effect this may have on access to the public open space for normal recreational use or events.

This information should include how the areas will be secured and screened. A condition schedule should be included prior to any temporary possession, with a specification provided for the reinstatement of areas prior to handover of land back to DCiC.

Adequate notice should be provided to DCiC of when the temporary possession of land will commence.

Article 56 of the DCO

Notice should be provided to DCiC Arboriculture team in advance of commencement of any removal of existing trees and shrubs in the event of any public queries and questions. It is expected that a strong public communications strategy and liaison with DCiC would be in operation for such key activities. In addition there may be operational issues related to existing maintenance and planned activities that may need taking account of. This can be co-ordinated through the Parks team.

Other consents, permits, licences and agreements

Question 70

- c) DCiC is happy to arrange to attend any meeting with the trustee of Markeaton Park regarding the existing covenant on the Park but would request that this consultation is led by HE.

Above is a copy of the Conveyance dated 14 November 1930 which conveyed the land at Markeaton Park to Derby City Council.

The land comes with a restriction which states that it cannot be used for *'any other purpose than as a Park or open space or place of recreation for the benefit of the public and for their recreation and no buildings shall be erected or used in the Park other than buildings for or in connection with the purposes of education recreation or horticulture.'*

Please see the Second Schedule, which refers to the Town Planning Road. This we believe is the current A38. It would not therefore cover the current plans to widen it.

We have not looked at the Land Registry title but we are certain that the restriction on use will be on the City Council's title. Certainly it is custom and practice to seek consent from the current 'holder of the Covenant' (Annie Clarke-Maxwell, a descendant of the person who conveyed the land to DCC) for any construction whatsoever, be it demolition, construction, a proposed new cemetery or indeed anything.

In conclusion, we consider that this is a title matter and therefore for Highways England to obtain consent from the current 'holder of the Covenant' Annie Clarke-Maxwell. The City Council are of course happy to facilitate a meeting with Annie if so required by Highways England.

The Examiner also asked during the hearing whether any of the land to be offered as replacement land was already used as recreational or common land. We do not believe this to be the case.

There was a question during the hearing also about whether there is an oversupply of public open space. There is an oversupply of 5.31 ha per 1000 people but this includes the city parks at Markeaton and Allestree.

Any analysis is based on two factors – quantity and accessibility. Both are based on standards in the Derby City Local Plan. Policy CP17 provides a quantity standard of 3.8 hectares per 1000 people while Appendix D provides various accessibility standards for each type of open space.

To help with determining local deficiencies in open space we split the City up into five distinct analysis areas (Central, North West, North East, South West and South East). Markeaton Park lies within the North West area.

Based on the quantity standard from the Local Plan, the North West analysis area currently has a surplus of **5.31 hectares per 1000 people**. However, it should be noted that this analysis area contains two City Parks (Allestree Park and Markeaton Park) which contributes to the current over-provision.

Another important consideration is the various barriers to movement. Barriers such as major roads, rivers and railway lines may prohibit easy access to spaces.

DCiC can confirm that after further detailed consideration it is agreeable to accept the Public Open Space plots put forward by Highways England in exchange for those to be acquired from the City Council in furtherance of the Scheme.

There might be particular areas that DCiC would prefer not to be laden with ownership which do not fulfil the function of public open space and are merely onerous from a maintenance perspective without adding anything to the amenity of the area. This would require detailed assessment of each part proposed but the overall general principle is accepted.

Issue Specific Hearing 2
Derby City Council response.

The Water Environment			
No	Reference	Issues	DCiC Response

<p>38</p>	<p>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]</p>	<p>a) Do the proposals provide adequate measures to prevent siltation and other pollutants at Markeaton Lake and Mill Pond? 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?</p>	<p>a) DCiC view is that the proposals do not offer adequate measures to prevent siltation and other pollutants from entering the Makeaton Lake and the Mill ponds. It is possible to incorporate petrol interceptors on all outfalls. This would allow silt, oils and spillages generated by the highway to be managed. Reducing the impact on the watercourses.</p> <p>b) DCiC are concerned there is a lack of information regarding all the outfalls into the Mill ponds. There are two known outfalls from the A38 to the Mill Ponds however there is also an outfall for the Public Sewer network. It is not clear if this outfall is shared by the Highway drainage or is separate. This sewer is to be diverted but there is little evidence of how this will be done.</p>
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<p>38 cont</p>		<p>c) Has adequate information on existing and proposed discharge rates been provided to allow a proper assessment of flood risk?</p> <p>d) Do the proposals provide for adequate treatment of highway runoff before it discharges to outfalls?</p>	<p>c) The HE response states that the existing discharge rates have been estimated using Rational Method. This estimates the peak runoff from a catchment; however it takes no account of the restrictions imposed by the existing network and takes no account of attenuation provided by the existing network. This method can therefore over state discharge rates. The HE has stated that the existing network will be surveyed and that MicroDrainage will be used to establish the existing discharge rates during the detailed design stage. This method of calculation existing discharge rates is acceptable.</p> <p>Discharge rates are not the only issue. As catchment areas will be increased there will also be an increase in the volume of water discharging to the watercourses which can impact on flood risk downstream. The best way to manage this is to reduce discharge rates which generate a larger requirement of storage within the new drainage networks. This helps offset the higher volumetric discharge of water by holding more water back for longer.</p> <p>DCiC would therefore like to see Requirement 13 amended to state that under the detailed design that the total water peak water discharge from the</p>
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			<p>proposed drainage system will be a minimum of 30% less than the total discharge rate from the existing network. This will then meet the aspiration of the NPSNN to reduce flood risk to others from the drainage infrastructure.</p> <p>d) DCiC do not believe that the proposals provide adequate water treatment as many outfalls do not have any water treatment at all. It is understood that SuDS may not be possible on all outfall but we believe as an absolute minimum a petrol interceptor can be provided for all outfalls.</p>
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<p>39</p>	<p>Whether the proposal makes adequate use of Sustainable Drainage Systems (SuDS)</p> <p>ExA issue / question [PD-003] Q7.17</p> <p>Applicant response [REP1-005]</p> <p>DCC LIR [REP1-031]</p> <p>DCC response [REP1-033]</p> <p>DCiC response [REP1-034]</p> <p>Applicant comments [REP2-020]</p>	<p>a) Having regard to NPSNN and NPPF advice and the limitations of the scheme, are the proposed attenuation storage facilities appropriate at:</p> <ul style="list-style-type: none"> • Kingsway - use of SuDS and Natural Flood Management; • Markeaton - use of SuDS in Queensway open space; • Little Eaton - use of SuDS in preference to by-pass separators. <p>b) Does the dDCO provide adequate provisions to secure the maintenance of the proposed attention storage facilities?</p>	<p>a)</p> <p>Kingsway: DCiC believe that the tank structure north of the Kingsway junction can be replaced by a pond. This would provide more water treatment, better habitat provision and public amenity. There are also opportunities in the POS north of Kingsway junction for natural flood risk management techniques such as large scale tree planting and wetland creation to help mitigate both flood risk and habitat loss in the centre of the junction.</p> <p>Markeaton: Our view is that there is the potential for a better layout for the SuDS here. HE has agreed that this can be looked at in the detailed design stage but may require the size and location of the balancing area to be amended.</p> <p>b) Our view is that HE should own and maintain the flood attenuation areas at the Kingsway Island to ensure that they are maintained in full working order.</p>
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A38 Derby Junctions Issue Specific Hearing 2 (ISH2) - Wed 11th Dec

DCiC Environmental Protection Team Responses to Issues and Questions

Question No.	Issue/Question	DCiC Response
Air Quality		
17.	<p>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?</p> <p>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?</p>	<p>a) Yes. As discussed during ISH2, further modelling/calculation work has been completed by AECOM (for HE) to address the outstanding concerns in relation to the EU Limit Value compliance assessment work.</p> <p>It was further noted that this work is not fully compliant with the latest DMRB Guidance (LA105), but acknowledged that this guidance has only very recently been released and therefore not applicable to the current examination.</p> <p>Notwithstanding this, the work completed by AECOM provides greater clarity and assurance that the A38 Scheme should not create a non-compliance with the EU Limit Value for annual average NO₂ either during construction or following completion of the Scheme and the assessment methodology is considered robust.</p> <p>In relation to construction impacts, there is still general acknowledgement that the detailed arrangements for construction works (under the CEMP) and any associated traffic management planning (under the TMP) are not</p>

		<p>comprehensive at this stage and may be subject to change at a later date. HE confirm that it is not possible to provide a higher level of detail at this early stage.</p> <p>The conclusions drawn are therefore potentially subject to change and are based on the inherent limitations of the modelling, but the methodology is agreed by DCiC as being fit for purpose.</p> <p>b) Approach already agreed by DCiC under SoCG.</p>
18.	<p>a) What certainty is there that dust deposition at the closest receptors to construction (preliminary works and main works) would not be significant?</p> <p>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?</p> <p>c) How would complaints or any significant dust deposition identified during the preliminary works be communicated, consulted on and dealt with?</p> <p>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?</p>	<p>a) The predictions are based on assumptions and modelling for situations in the future. The predictions are deemed appropriate and based on relevant guidance/methodology, but predicting the future can never provide certainty.</p> <p>b) No. Dust monitoring should be determined based on particular work activities, not whole phases of work. The OEMP and CEMP should provide adequate protection on this.</p> <p>c) To be detailed within final CEMP. DCiC happy with this approach.</p> <p>d) DCiC believe that the OEMP (and subsequent CEMP) should apply equally to preliminary works as to the main works. DCiC have already agreed the OEMP in principle, however it is acknowledged that the final details are still subject to change under the final CEMP.</p>
19.	Do DCiC have any comments on the Applicant's responses regarding:	a) and b) See answer to Q17.

	<p>a) The use of both the “Highways Agency gap analysis method” and the “DEFRA method” for predictions of NO₂ concentrations in Stafford Street during construction?</p> <p>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 NO₂ concentrations during construction or operation?</p>	
20.	<p>Further to the Applicant’s responses and comments, do the local authorities have any outstanding concerns about:</p> <p>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?</p> <p>b) Risks and implications of delays to the implementation of DCiC’s traffic measures for Stafford Street and related mitigation?</p>	<p>a) See answer to Q17.</p> <p>b) It is expected that the DCiC Roadside NO₂ Scheme Traffic Management Measures will be delivered by the end of 2020. The main construction works for the A38 scheme are due to begin in around March 2021, therefore there should not be any overlap.</p> <p>Even if the two schemes were not to overlap, EU Limit Value compliance is based on an annual average of NO₂ and therefore a relatively short period is unlikely to affect the annual average concentrations.</p>
21.	<p>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 NO₂ concentrations.</p> <p>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</p>	<p>a) Assessment methodology approved by DCiC in SoCG.</p> <p>b) As discussed during ISH2 and already explained under our response to the first examiner questions, the DCiC Roadside NO₂ Scheme is not simply an ‘on/off’ scheme. It consists of a dynamic set of traffic management measures, controlled by a centralised <i>Urban Traffic Control (UTC)</i> system covering the whole Derby road network. The control system will be regularly adjusted in response to changing</p>

	<p>of this scenario?</p> <p>c) Should NO₂ monitoring be required of the Applicant during operation and, if so, where.</p> <p>d) The mitigation, if any, required to ensure no exceedances due to the proposed development and compliance with the EU AQD during operation.</p>	<p>circumstances. Consequently, it is inconceivable that it would simply be 'turned off' at some point in the future. In practice, the UTC system will be used in some form or another to control traffic flows through Stafford Street (and the wider network) well beyond 2024.</p> <p>c) Not considered necessary by DCiC as we already complete our own network of monitoring within the City.</p> <p>In any case, whilst monitoring is useful to provide an indication of overall concentrations of air pollutants at a particular location, they do not provide any information on the sources of pollution that may be contributing to the concentrations. Consequently, any changes in concentrations during the scheme programme could not be attributed confidently to the scheme or any other source for that matter and would therefore be of little use if intended as a basis for mitigation response.</p> <p>d) None required according to the modelling, however it is acknowledged that predictive modelling carries many uncertainties.</p> <p>There are already considered to be sufficient controls applied through the OEMP (and subsequent CEMP and TMP) and this is considered by DCiC to be the best available approach in order to secure appropriate mitigation.</p>
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**Noise and
Vibration**

22.

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?

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 "other factors" 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?

a) Not considered necessary by DCiC. It is inevitable that some degree of harm from noise will be caused during construction. The OEMP sets out an appropriate way of managing noise during construction, as far as is reasonably possible, by applying the concept of Best Practical Means (BPM) in order to design noise mitigation under the CEMP and associated Construction Noise Management Plan.

b) The approach is outlined in the OEMP which has been agreed by DCiC.

c) This point was discussed at length during the ISH2 and there appeared to be a degree of confusion at that time. For clarity, The Environmental Protection Team at DCiC's position is as follows:

The methodology and conclusions of the ES have already been agreed by DCiC and this is still the case.

This should not, however, be taken to mean that the ES provides a guarantee of any sort that significant impacts during construction in particular, won't occur. To the contrary, some degree of noise impact is inevitable and exceedance of SOAELs is very possible at times throughout the period of construction.

The point around whether it may be appropriate or not to apply a concept that determines noise impact based on how

	<p>d) The duration of significant effects currently anticipated during construction.</p> <p>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?</p>	<p>many days the relevant SOAEL might be exceeded in any 15 day period, should not be used as a basis for construction noise management design as it is looking at it the wrong way round. In practice, the construction noise management plan produced as part of the CEMP should be focussed on <i>minimising</i> noise impacts as far as possible, not outlining mitigation which ensures that the ES significance thresholds are not exceeded.</p> <p>As it happens, the OEMP already does this by applying the principle of BPM and this approach has already been agreed by DCiC and is still the case.</p> <p>d) Whilst the ES and OEMP make some assumptions about this, it is accepted that this is not yet known.</p> <p>e) DCiC is satisfied that, based on the currently available information, best estimates of where the most significant construction noise impacts might occur have already been made.</p>
23.	<p>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.</p> <p>b) How uncertainties in relation to construction methods and the locations and durations of noise and vibration</p>	<p>a) DCiC is unsure as to how this could work in practice, especially given that significant impacts from construction noise are inevitable. The OEMP and DCO commits the construction contractor to apply the best practical means to avoid noise nuisance and, provided that this process is properly managed and regulated, this approach is agreed as the most appropriate way to manage construction noise.</p> <p>b) Mitigation will be outlined in the Construction Noise Management Plan within the CEMP.</p>

	<p>generating activities during construction would be dealt with. For example, how would contractors establish whether mitigation such as the use of hoarding, would be “practical and effective”?</p> <p>c) Local authority requirements for work to be carried out outside core construction working hours to be subject to their prior “agreement” or “approval”. Whether those requirements are achieved by the “consultation” provisions in the dDCO and Outline Environmental Management Plan (OEMP).</p> <p>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.</p>	<p>c) It is acknowledged by DCiC that some night-working will be unavoidable. It would be preferred if DCiC were able to ‘agree’ construction works outside of core hours, as would normally be the case for developments within our area, however DCiC acknowledges that the rules tend to be different for a nationally significant infrastructure project operated under a DCO. Furthermore, DCiC agrees that the construction of the scheme shouldn’t be delayed unnecessarily.</p> <p>d) As clarified previously, DCiC doesn’t see a need for Section 61 approval. In fact, such an approval appears to be duplication of the DCO process.</p>
24.	<p>a) Whether the OEMP is sufficiently clear and adequate in requiring noise and/or vibration monitoring during the preliminary works “as is necessary”.</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>	<p>a), b) and c) The OEMP has already been agreed by DCiC.</p>
25.	<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>a) and b) This has previously been outlined by DCiC in our response to the first examiner questions.</p>

	<p>c) Has the use of professional judgement and consideration of “other factors” resulted in operational noise at any receptors experiencing noise above SOAEL being assessed as not significant?</p>	<p>c) DCiC agrees with the conclusions of the ES in terms of significance of impacts, as outline din the SoCG.</p>
26.	<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> <p>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.</p>	<p>a) For HE to respond.</p> <p>b) For HE to respond.</p>
27.	<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?</p> <p>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>	<p>a) DCiC have already agreed the conclusions of the ES regarding noise in the SoCG.</p> <p>b) If practical/feasible, then yes, erecting the 4m barrier at the earliest opportunity would provide the greatest degree of protection to the Royal School for the Deaf Derby, both in terms of increased road noise following the demolition of the houses on Queensway, but also in terms of construction/demolition noise.</p>

**The Examining Authority's issues and questions for Issue Specific Hearing 2
Issued on 3 December 2019**

Derby City Council – Answers to Transport networks and traffic Questions

No	Reference	Issue or question	Response
1.	<p>Modelling of changes in travel patterns during construction ExA First Written Questions (FWQ) [PD-005] Q4.17 Applicant response [REP1-005] Derbyshire County Council (DCC) response [REP1-033] Derby City Council (DCiC) Response [REP1-034] 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>To be clear on the points that are made below on this question, the comments refer to modelling of the construction traffic management on predicting the impacts on the operation of the network and the physical queues and delays to traffic during the peak weekday traffic periods. This is different to considering how the outputs from the network model are used to model noise and air quality. The reason is that in terms of the physical traffic management it is trying to understand the maximum peak queues that will occur within the peak traffic period and the operational knock-on impacts that this has.</p> <p>For air quality and noise it is the total change in traffic conditions, or daily cumulative traffic impacts, that are</p>

			<p>used to calculate impacts on the network. From this perspective the profile of traffic within the peak, is less important to understanding environmental impacts.</p> <p>a) SATURN is an industry standard simulation model that is used to model the impact of traffic infrastructure changes to the transport network over time. Its outputs underpin the journey time benefits that provide the economic justification to the business case, and provides the inputs used in environmental models. However, such models are strategic and a generalised view of the real world, limited by the data and parameters that are used to model highway networks.</p> <p>Specifically when considering the potential operational impacts of construction traffic management, SATURN provides a useful tool in determining the potential reassignment routes that traffic will take. However the software isn't designed to model queues, which are more dynamic than</p>
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			<p>journey times and saturation flows. This is a limitation of strategic transport models rather than the methodology used in the assessment of the A38 Derby Junctions scheme.</p> <p>The A38 SATURN highway model provides a picture of the average delays and re-routing of traffic within a single hour period. What SATURN can't do is model the maximum peak profile. Particularly the build-up from one hour period to the next, which might cause queues on the network to cumulatively build up.</p> <p>To try and put this into context, there might be an average journey time increase between 08:00 and 09:00, on a 1 mile radial route on the approach to one of the A38 junctions, of 5 minutes as a result of the construction scheme. However, in reality this could equate to a delay to each vehicle of 1 minute traveling at 8:00 but a delay of 9 minutes at 8:30. As a consequence the queue lengths will be very different between the</p>
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		<p>b) Is there an acceptable process for LHA engagement in the modelling to be carried out during detailed design?</p>	<p>hourly average and maximum queue. Further, traffic demand on the network isn't constrained to rigid hourly intervals and the peak traffic period could begin at 7:30 and cause problems that have a cumulative impact on the next hourly period.</p> <p>b) AECOM suggest that perhaps the use of the signal junction software LINSIG could be used to better model the curved profile of traffic demand rather than the hourly average.</p> <p>DCiC would strongly recommend this approach in designing the temporary traffic management schemes to the Derby Junctions. Potentially also key junctions on the local road network that are on the defined diversion routes need to be included to develop a wider traffic management strategy with DCiC.</p> <p>This needs to be identified in the TMP as a specific requirement.</p>
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			<p>Further, The TMP identifies the intention to award the construction to BAM Nuttall. It would not be unreasonable to set out in the TMP a process for detailed construction dialogue to begin in early 2020.</p>
2.	<p>Impacts on local roads during construction Relevant Representation (RR) by DCiC [RR-003] Applicant response [REP1-003] ExA FWQ [PD-005] Q4.23, Q4.27, Q4.28 Applicant response [REP1-005] DCiC response [REP1-034] DCiC Local Impact Report (LIR) [REP1-035] Breadsall Parish Council Written Representation (WR) [REP1-027] Intu WR [REP1-044] 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>a) For Derby all traffic management scenarios are likely to provide disruption to the local road network and issues of severance, in particular for local communities such as Mackworth.</p> <p>Strategic modelling can be used as a tool to predict and develop a traffic management strategy. However, it can't be used to provide the definitive solution. As such, the key will be developing a TMP that is able to react dynamically to problems and unplanned events. This will require dedicated resources and direct accountability from the applicant.</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>	<p>b) We can only reiterate that the process needs to include the local highway authorities and their intelligence of impact, tolerance levels of the local network, and the identification of opportunities.</p> <p>A process to secure early identification and communication will be essential – this should be part of the development of the TMP, the construction preparation, and on-going through the construction period. The TMP should be specific that HE will collaborate through the Local HAUC (Highways and Utility Committee) coordination meeting. This has been established for approximately 20 years and is a joint group with DCC and DCiC and the local statutory Undertakers.</p> <p>c) The assessment of the environmental impacts of construction on local roads uses the outputs from the traffic modelling in a different way as discussed in the answer to Q1.</p>
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<p>3.</p>	<p>The Traffic Management Plan (TMP) 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]</p>	<p>a) DCiC consider it important that the TMP is “agreed” with them. Do draft Development Consent Order (dDCO) Requirements 4 and 11 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?</p>	<p>a) The TMP needs to be substantially updated and expanded to reflect the specific issues raised by the local authorities. The development of construction preparation needs to be further informed by these issues. It is also expected that the future development of construction details will then lead to additional development of the TMP.</p>
		<p>b) Should the TMP be subject to approval by the LHA rather than, or as well as, by the Secretary of State?</p>	<p>b) The need for agreement is critical. Under Requirements 4 and 11 of Schedule 2, Part 1 the DCO identifies that the TMP will have to be signed off by the SOS and that the development must be constructed in accordance with the approved TMP. This appears to be contradictory – a ‘live document’ which is then finalised? Also 1.3.1 suggests agreement of the local authorities, whilst this states consultation. The process needs to be clear, is this a live document, if so what is the process, triggers, review periods and the Local Authority agreement that should be a requirement.</p>

		<p>c) Are the measures set out in the TMP for engagement with key stakeholders and communication during design development and construction clear and adequate?</p>	<p>c) The local bus operators are a key partner and have been clear that they welcome direct engagement with HE via the Derby City Behaviour Change Group. Further, the TMP must include specific measures to reflect the operation to the hospital. It must show the result of direct dialogue with hospital managers and emergency services transport. There needs to be a wider consultation commitment in the DCO to specific interests, such Derby and Burton NHS Trust, University, Public Transport Operators, and key businesses.</p> <p>All of these need an opportunity to influence the TMP with their core requirements – most of the critical interests are represented within the Derby City Behaviour Change Group.</p> <p>Suggest that the TMP identifies a check list of organisations that have been involved in the development</p>
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		<p>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?</p> <p>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</p>	<p>of the document and their level of involvement. For example, a consultee (how they have been consulted), key partner such as the LHA and that they have agreed to the TMP. Perhaps this is also the answer to a) above.</p> <p>d) AECOM/HE to answer. However, the TMP does not identify a process to deal with events, such as a joint plan for emergencies or unplanned network failure (recent examples such as flooding events or Alfreton Road bridge closure).</p> <p>Any of the above could be on HE or Local Roads and there doesn't appear to be any process to communicate or joint plan for adapting the priorities to switch control of junctions to respond</p> <p>e) See answer to c.</p>
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		<p>impacts on retail trading?</p> <p>f) Do the LHA have any other comments on the TMP [APP-254] provided by the Applicant with their application?</p> <p>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?</p> <p>h) Will the Applicant provide an updated TMP to the Examination?</p>	<p>f) No, however, the TMP isn't finalised because the final design and construction phasing needs to be agreed with the contractor. The LHA need to be involved in this design stage because of its links to the TMP.</p> <p>g) See above.</p> <p>h) At the Hearing the AECOM/HE agreed to review the TMP and the Inspector suggested that the LHA also provide comments to the draft document.</p>
4.	<p>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]</p>	<p>a) 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?</p>	<p>a) There will be impacts on the operation of the local road network during construction. The design and phasing of construction will be an important process to maintain capacity through the system. However, predicting the location and scale of queuing and</p>

			<p>delays on the local road network will be difficult. As such, the robustness of the TMP is important and the ability of the applicant to manage issues will be critical. However, it will also be DCiC's ability to respond to requests from the HE/contractor that will be critical. For example, reacting to non-planned events and managing signal timings to react to changes in traffic patterns.</p>
5.	<p>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]</p>	<p>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?</p> <p>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?</p> <p>c) Is any more information required for an assessment to be made of adverse impacts on local roads during operation?</p>	<p>The transport assessment that accompanied the DCO application has not considered the wider impact of the scheme on the local road network. DCiC accept the applicant's response in Rep2-020 Ref 1.31, that the Derby Junctions Scheme will provide benefits on the local road network. However, we don't accept the argument that the traffic signals will automatically adapt, assuming the wider impacts are at signal controlled junctions. Further, that wider impacts can't be considered</p>

		<p>d) How should any adverse impacts be mitigated?</p>	<p>because changes to the local network were not included in the business case.</p> <p>As a 'planning consideration', the applicant should consider the wider impacts of their development. The National Planning Policy Framework makes clear provision to do so where there are significant impacts and that these should be mitigated to an acceptable degree particularly where there are safety and capacity issues.</p> <p>DCiC believe that there are a number of junction locations that are relatively close to the development, where there are significant impacts.</p> <p>A couple of the junctions have the potential to directly impact on the operation of the A38. In particular, the Kedleston Road Junction and Palm Court/Abbey Hill Junction. The Prince Charles Avenue/A52 Junction has been removed from the list provided in the LIR because this was considered by AECOM in a technical</p>
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			<p>note in September 2018, although this has not been submitted with the application.</p> <p>The following provides a list of junctions including the change in traffic from the 2024 forecast model.</p> <ul style="list-style-type: none">• Manor Road/Uttoxeter Road. Manor Road shows an increase of around 300 pcus in AM1.• Kingsway Junction/Cherry Tree Close/ Kingsway Retail Park. +265 increase towards Retail Park from A38 in AM2 Peak.• Uttoxeter New Road/Brick Street/ Ashbourne Road. A61 Sir Frank Whittle Way/ Alfreton Road. +224 increase from junction towards A38 in AM2 Peak, +163 increase towards A38, mixture of increase/decrease on other arms.• A608/A61/ Hampshire Road. No significant change, this could be to do with the routing
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			<p>through the Meteor from Mansfield Road – increase through meteor is 253 in AM2 peak. Decrease on north and south bound towards Pentagon.</p> <ul style="list-style-type: none"> • Kedleston Road Slips. AM2 +150 right turn and 242 left increase to southbound on-slip A38. • A38(T)/ A6 Duffield Road – Palm Court Island. +397 increase in northbound off slip in AM2 peak – increase of 332 on A6 Duffield Road approach from the north.
6.	<p>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]</p>	<p>a) Do the LHA have any outstanding concerns about junction layouts?</p>	<p>a) It is noted that the applicant has identified in REP2-020 Ref 1.45 that the issues identified by DCiC will be reviewed in the detailed design. This should include the McDonald’s Access. The Applicant in Rep2-20 Ref 6.9 has identified that technical information has been provided to McDonalds and Euro Garages, including swept path analysis. DCiC has not seen</p>

		<p>b) Should the Ford Lane junction with the A6 be signalised, or not?</p>	<p>this information and has concerns about the width of the access for pedestrians and swept path for HGVs from the A38.</p> <p>b) A joint decision between DCiC and Highway's England is needed on the Signalisation of Ford Lane. Signalising the junction could cause problems along the A6. Already queuing occurs in the PM Peak back onto the Palm Court/Abbey Hill Junction from Allestree, which in turn creates a queue on the northbound off-slip of the A38. Further during the off-peak, placing a signal Junction on the A6 is going to cause unnecessary delays.</p> <p>Perhaps an alternative scheme, such as a signalised crossing on A6, could provide some breaks to allow traffic to turn right whilst improving safety for pedestrians.</p> <p>Manual and Automated traffic counts were utilised in order to validate the flows in and out of the Ford Lane area.</p>
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			<p>Differences between the observed and modelled flows on Ford Lane and Derwent Avenue have been noted within the analysis.</p> <p>For example, During the PM peak 42% of the 169 vehicles observed on Ford Lane travelled through to the A38/ Ford Lane junction. The 2015 baseline model shows that 16% of the 235 eastbound vehicles on Ford Lane travel through to the A38/ Ford Lane junction. During the PM2 peak in the 2024 DM model, the percentage of vehicles traveling through to the A38 falls 0.05%. As such, the A38 forecast demand model is generating traffic flows from within the Ford Lane area and growing this traffic into the future. In reality, there will be less traffic because there is more through traffic between the A6 and A38 than in the A38 model.</p> <p>There is therefore currently insufficient detail of the scheme as stated in the HE documentation and it is not clear to DCiC what the justification for this proposal is. Neither the council nor HE can</p>
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		<p>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?</p>	<p>therefore fully understand the impacts on the local or national highway network to give a definitive position until further analysis is completed.</p> <p>Whilst DCiC do not reject this part of the scheme outright, we reserve the right to do so at a later date and / or develop an alternative scheme with HE, if this part of the network requires one. If a scheme does go ahead we require HE to fully fund the works, from design to completion, and to make arrangements with DCiC to cover the costs of continued maintenance after the asset has transferred to the Highway Authority.</p> <p>c) For AECOM to answer.</p>
	<p>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]</p>	<p>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?</p>	<p>N/A</p>

8.	<p>Permanent Stopping Up of Highways and Traffic Regulation Orders RR by DCiC [RR-003]</p>	<p>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 landownership and responsibility, and proposed Traffic Regulation Order alterations?</p>	<p>DCiC does not have an issue with the principle of Stopping Up and Traffic Regulation Order Articles in the DCO.</p> <p>However, we still have concerns over the process and making sure that it fits with format that DCiC uses. For example, the draft TRO's need to be imported into our map based schedule, so that they can be checked. The HE in their response REP02-20 REF1.19, has identified that they will consult with DCiC as part of the SoCG process. We welcome this, however, if the HE want the schedules in the DCO agreeing as part of the Hearing process, this needs to happen early in the 2020.</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?</p> <p>b) How can it be assured that a 40T vehicle weight restriction on the Ford Lane bridge would be suitable</p>	<p>N/A Derbyshire to answer.</p>

		for the purposes of those requiring access, including Talbot Turf, Severn Trent Water and Network Rail?	
10.	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]	Temporary and permanent impacts on car parking at Cherry Lodge children's residential care home and their mitigation.	N/A
11.	Public transport ExA FWQ [PD-005] Q4.45, Q4.46 Applicant response [REP1-005] DCC response [REP1-033] DCiC response [REP1-034] Applicant comments [REP2-020]	a) Further to the Applicant's responses and comments, do the LHA have any outstanding concerns about the mitigation measures proposed 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?	a) We don't know specifically what mitigation is going to be implemented, such as bus priority through the works. The TMP talks about personalised travel planning, and travel plan campaign. However, there is no detail to comment on. b) We support this approach, as the duration and level of disruption will create an opportunity for travel behaviour change. This line of thought was the stimulus for the creation of the Derby City Behaviour Change Group to

		<p>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?</p>	<p>provide a forum for the key interests in the city to begin and develop a direct relationship with HE and plan ahead of the start of works to make alternative provision.</p> <p>c) For AECOM to answer.</p>
<p>15.</p>	<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.</p> <p>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> <p>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?</p>	<p>a) For AECOM to answer.</p> <p>b)/c) DCiC are not aware of a specific Travel Plan. The TMP identifies that it will make provision through the works for NMUs. Highways England are also talking to the Derby Cycle Group. Again the Behaviour Change Group provides an opportunity for Highways England to engage and use this group to design the TMP. However, it requires someone from the Highways England delivery team who can take direct decisions and</p>

			<p>tap into funding and support.</p> <p>Need to be aware that the University run P&R out of Markeaton Park. The works are likely to have a major impact on this service.</p>
16.	<p>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]</p>	<p>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?</p> <p>b) Would the proposed route have unacceptable impacts on the environment at Breadsall with regard to visual intrusion or biodiversity?</p>	Derbyshire County Council to answer
36.	<p>Cyclist and pedestrian safety from construction vehicles ExA FWQ [PD-005] Q12.12 Derby Cycling Group [REP1-036]</p>	Measures to be taken to mitigate safety risks to pedestrians and cyclists from construction vehicles and how they are secured.	Derbyshire Cycling Group
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>	a) Update on discussions between the Applicant and relevant consultees regarding the agreement of provisions that confer deemed consent if a consultee does not	a) DCiC did not indicate at the initial hearing that it was comfortable with Guillotine provisions. We stated that we did not know the answer and would have to go back and ask.

		<p>respond within a specified period.</p> <p>b) Whether the "<i>guillotine</i>" should fall after 28 days, 42 days or any other period?</p> <p>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>	<p>b) Confused by Article 15 Temporary Stopping up. If this is a temporary street closure as part of works this will require Permit or Street Works Notice?</p> <p>Probably okay for Article 19 (Traffic Regulation). However, there is a question in terms of when the 12 weeks notice for permanent and 4 weeks temporarily start.</p> <p>Also when do the orders become operational, on the 29th day?</p> <p>However, not comfortable with Article 20 Discharge of Water. 28 days notice is not enough and we would want to see some clause similar to Article 19.</p> <p>Article 22 authority to survey and investigate land. Not for Highways, other than if TM is needed and then would become a TM issue.</p>
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			<p>Yes specification of what is included in the application would be useful.</p> <p>At the Hearing the applicant confirmed that they would discuss further with Derby City Council. This is probably the best way of understanding each</p>
46.	<p>Article 6 – Maintenance of authorised development ExA issue / question [PD-003] Q15 Applicant response [REP1-004]</p>	<p>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?</p> <p>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?</p>	<p>a) Highways England response identifies that they will secure Detailed Local Operating Agreement to detail the extent of each other’s responsibilities during construction of the scheme. In principle this is reasonable but again early engagement to inform <u>design</u> rather than <u>during construction is critical</u>. Suggest an infrastructure workshop with asset managers. DLOA needs to include any agreement on commuted sums.</p> <p>b) AECOM to respond.</p>

48.	<p>Article 11 – Street works ExA issue / question [PD-003] Q19 Applicant response [REP1-004] DCiC response [REP1-034] 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>	<p>In specific response to REP2-20 REF 1.9: Registerable activities on the city local road network will require Notices to be submitted or Permits to be obtained. The Local Highway authority has a statutory duty to keep a register of works and to coordinate works (under NRSWA, as amended by the TMA 2004, and under the Traffic Management (Derby City Council) Permit Scheme Order 2013 SI2013 No 1781 – amended to comply with The Traffic Management Permit Scheme (England)(Amendment) Regulations 2015 (SI 958/2015).</p> <p>The statutory obligations do not allow local highway authorities to choose not to exercise the general duties associated with Notices and Permit processes.</p> <p>We also have obligations in respect to statutory undertakers’ apparatus in the local public highway. This is an additional reason and requirement for the need for records of activities on the network.</p>

			<p>The insistence on Notices being served and the Local authority does have discretion in exercising the obligations under NRSWA / TMA, particularly in relation to shortening timescales when practical. This is intended to allow us to facilitate works activities in the best way possible.</p> <p>Suggest a meeting in Early 2020 to resolve this legally.</p>
53.	<p>Article 19 – Traffic regulations ExA issue / question [PD-003] Q29 Applicant response [REP1-004] Applicant comments [REP2-020]</p>	<p>Update on discussions between the Applicant and LHA regarding agreement of the provisions.</p>	<p>Not had a specific conversation about this with Highways England.</p>
74.	<p>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]</p>	<p>Further to the Applicant’s responses and comments, do the local authorities or the EA have any outstanding concerns, including with respect to:</p> <ul style="list-style-type: none"> a) the traffic model; b) Public Rights of Way; c) flood risk; d) the closure of Ford Lane; e) groundwater; 	<p>No further comments</p>

		<p>f) contaminated land;</p> <p>g) the Derwent Valley Mills WHS;</p> <p>h) the management and control of construction-related impacts under the Construction Environmental Management Plan;</p> <p>i) events in Markeaton Park;</p> <p>j) after care, monitoring and maintenance of the environmental mitigation measures and replacement public open space; and</p> <p>k) evidencing net gains, including enhancing the natural environment and reducing pollution?</p>	
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Appeal Decisions

Inquiry began sitting on 7 June 2016

Accompanied site visit made on 7 June 2016

by Alan Novitzky BArch(Hons) MA(RCA) PhD RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 July 2016

Appeal A Ref: APP/C1055/W/15/3137935

Land off North Avenue, Darley Abbey, Derby DE22 1EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Tom Shally against the decision of Derby City Council.
 - The application Ref: DER/06/15/00720/PRI, dated 29 May 2015, was refused by notice dated 10 September 2015.
 - The development proposed is a residential development of up to 49 dwellings and areas of open space.
-

Appeal B Ref: APP/C1055/W/15/3141117

Land off North Avenue, Darley Abbey, Derby DE22 1EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Tom Shally against Derby City Council.
 - The application Ref: DER/09/15/01172/PRI, is dated 17 September 2015.
 - The development proposed is a residential development of up to 49 dwellings and areas of open space.
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Decisions

Appeal A:

1. The appeal is dismissed.

Appeal B:

2. The appeal is dismissed and planning permission for a residential development of up to 49 dwellings and areas of open space is refused.

Preliminary matters

3. The inquiry sat from 7 to 10 June and on 15 June 2016.
4. The applications were made in outline with all matters except means of access reserved for later decision. Illustrative layouts showing one way of carrying out the proposals for each scheme were submitted. The schemes differ principally in the means of access. In the case of Appeal A, the vehicle access is taken from the western end of North Avenue, with a secondary footpath link from the east. The reverse applies to Appeal B.

5. For Appeal A, the Council has withdrawn its first reason for refusal, the relationship of the proposed development to the prevailing built form of Darley Abbey. With regard to the second reason for refusal, the proposal's effect on the Upper Derwent Valley Green Wedge (GW), the Council no longer contends that it would lead to further coalescence of the Allestree and Darley Abbey neighbourhoods but maintains the remainder of its green wedge objection. The other reasons for refusal relate to the effect on the Derwent Valley Mills World Heritage Site (WHS), and highway safety with respect to the access from North Avenue.
6. The Council's putative reasons for refusal for Appeal B relate to the effect on the GW and the WHS. The Council has no objection on highways grounds, but the Darley Abbey Society objects on highway and other grounds.
7. The development plan comprises the City of Derby Local Plan Review (CDLPR), adopted in January 2006, covering the period to 2011, the majority of whose policies have been saved. The emerging Derby City Local Plan – Part 1: Core Strategy (CS) is undergoing examination in public. Adoption is not expected until significantly later in the year.
8. The Council acknowledges that it cannot at present demonstrate a 5 year supply of deliverable housing sites. Paragraph 49 of the National Planning Policy Framework (NPPF) is therefore engaged and relevant policies for the supply of housing in the development plan should not be considered up-to-date. However, the Council maintains that, once the CS is adopted, a 5 year housing land supply (HLS), including a 20% buffer, will be available whether calculated through the 'Liverpool' or 'Sedgefield' methods and whether taken from a base date of 1 April 2016 or 1 April 2017.¹ I see no reason to disagree.
9. A signed Statement of Common Ground (SoCG),² a signed Highways Statement of Common Ground (HSoCG),³ and completed s106 agreements for each appeal proposal⁴ have been submitted to the inquiry.

Main Issues

10. The main issues are the effect of the proposals on:
 - Heritage Assets, especially the Derwent Valley Mills World Heritage Site
 - The Upper Derwent Valley Green Wedge
 - Highway Safety

Reasons

First Issue: World Heritage Site

11. The WHS, inscribed in 2001, follows the River Derwent valley over a distance of 24km from Matlock Bath in the north to Derby in the south. It saw the birth of the factory system in the 18th century when new types of building to house technology for spinning, based on water power, together with planned industrial settlements were erected in the open countryside. As the Statement

¹ Doc C8

² Doc G2

³ Doc G3

⁴ Docs A17 and A18

- of Outstanding Universal Value⁵ tells us, the change from water to steam power in the 19th century moved the focus of the industry elsewhere and thus the main attributes of this remarkable cultural landscape were arrested in time.
12. Regarding the integrity of the WHS, the Statement notes that the relationship of the industrial buildings and their dependent urban settlements to the river and its tributaries and to the topography of the surrounding rural landscape has been preserved, especially in the upper reaches of the valley, virtually intact. In relation to authenticity, it notes that the overall landscape reflects well its technological, social and economic development and the way the modern factory system developed within this rural area on the basis of water power.
 13. Its attributes include what is described as a 'relict' industrial landscape, where late 18th century and early 19th century industrial development may still be seen in an 18th/19th century agricultural landscape containing evidence of other early industrial activity such as hosiery, iron founding, nail making, quarrying, lead mining and smelting.
 14. The inscription document⁶ sets out the principles by which the boundary of the WHS was determined, including definition of the extant topography (buildings, features, landscapes) derived from and exemplifying the historical theme. At the inquiry this was characterised in the south, where the site lies, as embracing the river floodplain, taken to the nearest field boundary. In addition, the inscription document tells us that a buffer zone, to protect the setting of the nominated site from any development which would damage it, has been defined.
 15. The appeal site lies mainly within the WHS buffer zone, directly north of a mainly inter-war housing development (North and South Avenue), a continuation of the settlement of Darley Abbey. Bordering the appeal site to the north-west is the embankment to the A6/A38 gyratory road system, and a little way to the south-east, occupying part of a loop in the river, is the Darley and Nutwood Nature Reserve. The appeal site, originally part of a side valley, slopes eastwards towards the river, is set to pasture, and is separated from the WHS by a gappy hedge.
 16. In Appeal A proposal, a secondary footpath link would lie just within the WHS. In Appeal B proposal, the vehicle access road would ramp down, just within the WHS, towards the appeal site.
 17. The Darley Abbey Mills complex, which the Council describes as the most complete group of mill and associated buildings within the WHS, lies to the east of Darley Abbey and the south of Darley and Nutwood Nature Reserve, on the other side of the river. It has a series of Grade I, II* and II listed buildings but no visibility exists between the buildings and the appeal site in either direction. Similarly, none exists between the appeal site and any other part of the Darley Abbey Conservation Area, including the Grade II and Grade II* listed workers housing, the Grade II St Matthew's Church, or in relation to any of the locally listed buildings.
 18. The spire of the Grade I listed All Saints Church, Breadsall, on the far side of the valley is seen as a landmark from the site and from many other points

⁵ CD – I1 and Doc MS3

⁶ CD - G5 and Doc MS4

- within the WHS and beyond. However, seen from the Church at ground level, the appeal site is obscured by intervening buildings and mature foliage.
19. The Council assesses the effects of the proposals as neutral with respect to all of these heritage assets and I see no reason to disagree. Therefore, with regard to the statutory duties under s66 and s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the listed buildings and their settings would be preserved, as would the character and appearance of the Darley Abbey Conservation Area. The effect of the proposals on heritage assets is confined to that arising in relation to the WHS.
 20. It is important to appreciate the WHS as a whole, rather than simply the various mill clusters and their associated buildings. This means the complete 24km stretch of the Derwent Valley including the river, other watercourses, the landscape, and the built environment such as farmsteads supplying the factory workers, and religious buildings, whether listed or not.
 21. The WHS can be experienced in various ways, from beauty spots, settlements, by travelling the A6 which follows the river valley, and through recreational activities including canoeing, horse riding, fishing, rock climbing and by walking footpaths such as the Derwent Valley Heritage Way. A good place to begin the Heritage Way walk is at Derby's Silk Mill, the progenitor of the factory system, predating Arkwright's Cromford Mills (at the head of the WHS) by some 50 years, continuing through Darley Park, once the gardens of the Evans family, proprietors of Darley Mills, noting the tower of St Matthew's Church built by Evans, onwards through the Mills complex and northwards alongside the river. In this way, a cumulative mind picture of the cultural landscape can be built up, which goes well beyond fixed viewpoints.
 22. Another public footpath from which to appreciate the WHS is the Great Northern Greenway, which runs on the valley side to the east of the WHS buffer zone. Of particular note is the stretch from Breadsall Hilltop northwards, following the route of a disused railway line. Some views of the WHS from it are restricted, and the commercial development of Alfreton Road lies in the middle ground but, as with the Heritage Way, a cumulative mind picture emerges. The Breadsall Hilltop development of up to 230 dwellings, recently granted permission,⁷ would be located to the east of the Greenway, on the flatter ground above the valley sides, be restricted in height and landscaped, somewhat mitigating its effect on both the Greenway and the setting of the WHS.
 23. Much of the openness of the landscape, its field divisions, and its agricultural use (albeit achieved through changed methods) remain. This is tempered by more recent recreational development within the WHS along Haslams Lane, to the east of Darley Mills, and Alfreton Road's commercial development located further east within the buffer zone and beyond. Although there have been later additions, including floodlighting to the sports pitches, this development was generally initiated before the WHS inscription.
 24. A development of six additional light industrial units and a trade counter, within the buffer zone's commercial development on Alfreton Road, was granted planning permission in 2015. Although there would be some views from this

⁷ Doc C5

- development towards the WHS, seen from the WHS the new buildings would be largely shielded by existing commercial development.
25. Visually, the 20th century residential development of Darley Abbey to the west is largely absorbed into landscape foliage, a notable exception being the light coloured flank of Number 15 North Avenue, whilst that of Allestree is shielded by the wooded embankment to the A38, itself inconspicuous during the day. Overall, a high degree of local integrity and authenticity prevails.
26. The appeal site, as part of the WHS setting, contributes to the open, agricultural nature of the WHS within which early industrial activity took place. Although some remodelling of the land may have taken place, this appears to be relatively superficial (unlike that of Darley and Nutwood Nature Reserve, part of which is a former landfill site) since the basic profile of the side valley is clear, and medieval ridge and furrow field patterns are evident to the south. Although other parts of the buffer zone are heavily urbanised, it is important to protect the remaining open landscape and the designation provides protection against further damage.
27. The appeal site, developed as proposed, would occupy a small fragment of the landscape associated with the WHS. Moreover, it would be shielded by the existing hedge line, heavily reinforced with indigenous species. The Appellant maintains that the proposals would round off the pattern of development between North Avenue and the trunk road embankment, albeit with some hardly discernible foreshortening of the existing outlook towards the road embankment.
28. The Appellant draws attention to the dismissal at appeal of the proposal for 75 dwellings on land at Hill Top Farm, Mill Lane, Belper,⁸ distinguishing it from the present appeal site because of the number of well-used footpaths from which views across it towards the WHS would be interrupted. By contrast, the present appeal site has little in the way of foreground views across it towards the WHS, and could be screened with little blocking of existing views.
29. However, the appeal site projects some way eastwards, beyond the boundary of the North and South Avenue housing development. Moreover, unlike this existing housing, which is set on a gently sloping platform, the terrain of the appeal site slopes quite steeply both from the north and south towards the axis of a side valley, and eastwards towards the River Derwent. Morphologically, it flows into and forms part of the landscape of the main river valley, the western edge of which at present naturally follows the perimeter of the Darley and Nutwood Nature Reserve, the existing housing and the A38/A6 embankment.
30. Moreover, the development would be inclined towards viewers situated in the WHS, the visual effect increased by the slow maturing of the proposed foliage screen, taking almost a generation to become fully effective, the visual permeability of the deciduous species in winter, and the visibility of street lighting using columns perhaps 5m high. Further, the vehicle access within the WHS under Appeal B would give rise to ramping of up to two metres above natural ground level, significantly altering the existing land form of the river valley.

⁸ CD – H5 and Doc CO15, APP/M1005/A/10/2142571

31. I find that the proposals would not represent a rounding off of the present pattern of development, but would comprise an adverse intrusion into the setting of the WHS, possibly encouraging harmful progressive erosion of its remaining openness.
32. CDLPR Policy E29 (Protection of World Heritage Site and its surroundings) states that proposals which have an adverse effect on the specific character of the area will not be allowed. The criteria to be met include preserving and enhancing the special character of the area. It advises that proposals within the buffer zone will only be approved if they do not have an adverse effect on the WHS or its setting.
33. The proposals therefore conflict with the development plan with regard to protection of the WHS. Policy E29 is not entirely consistent with the NPPF, since the NPPF does not insist on enhancement of the special character of the area and weighs public benefit against less than substantial harm. To that extent it is out-of-date, just as relevant development plan policies for the supply of housing are out-of-date.
34. Although the emerging Local Plan cannot be given full weight, the proposals conflict with CS Policy CP20 (Historic Environment) which seeks to resist development proposals harming the character, significance or setting of a heritage asset. They also conflict with CS Policy AC9 (Derwent Valley Mills World Heritage Site) for similar reasons.
35. Paragraph 14 of the NPPF tells us that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless specific policies in the NPPF indicate development should be restricted. Section 12 of the NPPF contains policies relating to designated heritage assets which indicate development should be restricted.
36. Paragraph 138 of the NPPF notes that not all elements of a World Heritage Site will necessarily contribute to its significance. Nevertheless, overall, the WHS represents an asset of very high value. Although the appeal site represents a small fragment of the 24km long WHS, the proposals' local harm should not be under-rated when considering the effect on the WHS as a whole. It should not lie below that of a similar effect on a much smaller world heritage site, otherwise such reasoning could lead to the proliferation of similar harm throughout the WHS. Planning Practice Guidance (PPG)⁹ endorses the principle of protecting a World Heritage Site from the effect of changes which are relatively minor but which, on a cumulative basis, could have a significant effect.
37. In my view, the harm identified is less than substantial which, NPPF paragraph 134 notes, should be weighed against the public benefits of the proposals. The public benefits in this case comprise the supply of a reasonably modest but useful quantum of much needed housing, including a good proportion of affordable housing, and public footpath links to the riverside and to the Darley and Nutwood Nature Reserve. The remaining s106 matters can be discounted since they simply mitigate other harm brought about by the proposed development.

⁹ ID 2a-032-20140306 third bullet

38. The housing proposed would be fairly sustainable in relation to local facilities, help meet specific local demand and, since the greatest spatial distribution of housing provision tends to be towards the south of the city, would contribute to a better supply balance. However, the CS is expected to bring with it a 5 year supply of housing land, assessed by whatever calculation, including a 20% buffer, by the end of the year or thereabouts, without the need to develop the appeal site.
39. In these circumstances, despite objections remaining to housing allocations in the emerging CS, and the possibility of delay to Amber Valley's agreed housing contribution because of the withdrawal of its emerging local plan, I find that the public benefits of the proposals do not outweigh the identified harm to the WHS. The effect of the proposals on the WHS is not acceptable.
40. This being so, NPPF paragraph 14 indicates that the proposals should be refused. However, for the sake of completeness, the remaining main issues will be examined.

Second Issue: Green Wedge

41. Green wedges are a long standing feature of Derby plans, but they are not designated specifically for reasons of landscape quality. CDLPR Policy E2 (Green Wedges) tells us that they have the essential characteristics of penetrating the urban area from the countryside as open, undeveloped areas of land. It explains that they help define and enhance the urban structure of the city as a whole, contributing to the interest and attraction of the overall pattern of development, bringing the countryside closer to the city, maintaining the identity of separate parts of the city, perhaps acting as buffer zones between residential and industrial areas, and having important existing or potential recreational and ecological value.
42. Policy E2 identifies seven categories of development permitted in green wedges none of which includes new housing. The explanatory text tells us that 13 green wedges are defined in the Plan. It notes that green wedges do not have the permanence of the Green Belt boundary around the city and are likely to be subject to review from time to time through the Local Plan process in order to meet future development requirements. Although it cannot yet be given full weight, CS Policy CP18 carries forward these green wedge aims.
43. I do not find any inconsistency between these aims and the core principles of the NPPF, including recognising the intrinsic character and beauty of the countryside; contributing to conserving and enhancing the natural environment and reducing pollution; and recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage or food production). Further, having regard to the importance of its landscape as part of the WHS, the Upper Derwent Valley Green Wedge (GW) can be said to fall into the category of 'valued landscape' which NPPF paragraph 109 tells us should be protected and enhanced.
44. In the absence of a 5 year HLS, the NPPF advises that relevant policies for the supply of housing should not be considered up-to-date. The Court of Appeal has confirmed that these policies should be interpreted in the broad sense as any relevant policies affecting the supply of housing or restricting the supply of

- deliverable housing sites.¹⁰ Also, that these policies then carry the reduced weight determined by the decision maker. Green wedge policies fall into this category.
45. Regarding the presumption in favour of sustainable development, paragraph 14 of the NPPF notes, for decision-taking, this means where relevant policies of the development plan are out-of-date granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
46. The Green Wedge Review (GWR)¹¹ was carried out in October 2012, informing the background to the emerging CS. In it, each of the 13 green wedges were examined in terms of their functions, characteristics, changes which have taken place, land inclusion, need, development promoted outside the city boundary, and development sites promoted within the green wedge. Out of this review, sites within green wedge areas accommodating nearly 2,000 homes were put forward by the Council as allocations in the emerging CS, representing some 18% of the dwellings intended to be provided within the city during the Plan period. Although the appeal site was promoted,¹² as it had been at the City of Derby Local Plan Inquiry (Inspector's Report, 1998),¹³ it did not proceed as an allocation.
47. The GWR points to the main roles and functions of the GW in which the appeal site lies. Of these, the most relevant to the proposals are, firstly, that the GW helps to define the edges of Darley and Allestree, contributing to their character and identity and enhancing the urban structure of the city; and secondly, a theme already considered in the first main issue above, that the GW forms an integral part of the WHS, is a vitally important heritage asset in itself, and also forms part of the setting of the listed Darley Abbey Mills complex.
48. Having regard to the first of these roles, the GWR also tells us at paragraphs 6.2 and 6.3 that the boundaries of the GW are logical with strong definition to the east and west, and that they are clearly the most appropriate and logical way of defining it. It continues by noting that there are no obvious alternative boundaries that could provide a logical and defensible edge; there are also no areas of the GW that are clearly unrelated to the main body; all areas contribute to the functioning of the GW and there are no obvious areas that could justify deletion.
49. The Appellant points out that the GWR tells us, at paragraph 5.8, that the axis (the longitudinal line through the middle) is the most sensitive part of a green wedge, and that development in close proximity to the axis would have a greater impact on the function of providing visual separation between neighbourhoods and maintaining the urban structure (than development elsewhere in a green wedge). However, in my view, the maintenance of a strong, clear edge, bounding the urban fabric and separating it from the area of green penetration is hardly less important. As indicated above, the importance of this aspect for the GW is expressed clearly elsewhere in the GWR.

¹⁰ Suffolk Coastal District Council v Hopkins Homes Limited and SoS and Richborough Estates Partnership LLP v Cheshire East Borough Council and SoS

¹¹ CD - G1 and Doc NB4

¹² SHLAA Reference 13 - North Avenue, Darley Abbey

¹³ CD - I2 and Doc NB6

50. The logical defensible western edge to the GW is the boundary with the Nature Reserve, the housing at North and South Avenues, and the embankment to the A38/A6. This is partly because of the established barrier of foliage, but much more so because of the change in the nature of the land's topography, from a plateau to a side valley, integral to the morphology of the main valley. The proposals would represent a harmful intrusion into the valley morphology and a harmful extension into the countryside, locally destroying the established natural edge. This would represent a significant adverse impact on the functions, character and value of the GW.
51. This is so despite there being no public access onto the appeal site, few close distance views of it, and despite the site having neither public recreational value nor particular nature conservation interest. In reaching this conclusion, I have fully considered the Appellant's assessment and evaluation of the landscape and visual effects of the proposals.
52. In the GWR, the nature and function of Derby's green wedges were fully analysed and the results put forward for examination in the emerging CS. These included the release of land for almost 2,000 dwellings. The appeal site was considered but not put forward for supportable reasons. Although agreed co-operation with neighbouring authorities would be necessary to achieve a five year HLS, I see no case for pre-empting the results of the CS examination, or any reason to be fearful that delivery would be inappropriate to the city's needs or be critically delayed.
53. The proposals conflict with CDLPR Policy E2, the development plan as it deals with green wedges. They also conflict with emerging CS Policy CS18. In my view, the proposed development of the appeal site is neither necessary nor desirable to achieve housing delivery. The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The effect of the proposals on the GW is unacceptable.

Third Issue: Highway Safety

54. The focus of the Council's concerns with regard to highway safety is the operation of the bend which would lead from the vehicle access into the site at the western end of North Avenue and Church Lane in the case of Appeal A only. The concerns, which the Darley Abbey Society adopt and develop, relate to the ability of two large cars to pass safely on the bend because of its angle and limited width; the related safety of pedestrians with a footway of 1.5m width; the reduced visibility caused by the corner dwelling, 1 Church Lane; and the risk of collision involving vehicles coming out of 1 Church Lane's driveway, which is very close to the corner.
55. I have considered the evidence and think that if this issue carried the only objection to the proposal, it would not be strong enough to lead to dismissal. In the rare event of the situation arising, although tight, it would be possible for two large vehicles to pass each other on the corner. Moreover, current thought embraces the idea that motorists exercise greater caution and moderate their speeds in situations of limited visibility and other dangers. Further, if the Highway Authority were to insist on a technical solution, I am not persuaded that devices such as speed platforms or chicanes to reduce speeds to a crawl would be out of place or ineffective.

56. In these circumstances, it would be appropriate to rely on conditions attached to a permission requiring the production and implementation of a satisfactory highway scheme. A highway scheme could also embrace the concerns expressed by the Darley Abbey Society relating to indicative gradients for the vehicle access in Appeal B. CDLPR Policy T4 (Access, Parking and Servicing) would be satisfied, as would the relevant aims of the NPPF which notes, in the final bullet point of paragraph 32, that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
57. The issue of highway safety, therefore, does not add to the harm already identified in the previous issues.

Conclusions

58. I have considered the agreed conditions set out in the SoCG which were discussed, with potential modifications, at the inquiry. They would cover some of the concerns which lie beyond the issues assessed, such as surface water drainage, where a scheme for approval would be required which, in the extreme, might involve underground storage in addition to the holding pond illustrated. However, they are not sufficient to outweigh the harm identified.
59. Completed s106 planning obligations have been submitted for each of the appeal schemes.¹⁴ Since the issue of contributions is not contested and the appeals are to be dismissed, no findings are necessary on these obligations.
60. The proposals do not accord with the development plan as a whole. Moreover, given that relevant policies of the development plan are out-of-date, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The proposals are not sustainable and both appeals are dismissed.

Alan Novitzky

Inspector

¹⁴ Docs A17 and A18

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Mr Hugh Richards,	Of Counsel, instructed by the Head of Legal Services Derby City Council
He called:	
Nicky Bartley	Senior Planning Officer (green wedge principles)
Paul Chamberlain	Group Manager, Traffic and Transport
Mark Suggitt	Director, DVMWHS on behalf of the DVMWHS Partnership
Chloe Oswald	Conservation Team Leader
Sara Claxton	Development Control Team Leader

FOR THE APPELLANT

Miss Ruth Stockley	Of Counsel, instructed by Mr Richard Pigott
She called:	
Iain Reid	Iain Reid Landscape Planning Ltd
Andrew Braun	Bancroft Consulting, transport consultancy
Roy Lewis	Grover Lewis Associates, town planning and built heritage
Richard Pigott	Planning Design Practice Ltd

INTERESTED PERSONS

Cllr Martin Repton	Ward Councillor
Jeremy D Eagles DipTP DMS	Representing the Darley Abbey Society
Peter J Steer BSc CEng MIStructE	Representing the Darley Abbey Society
D Christopher Hall BSc CEng MIMechE FIRSE CMIOSH	Representing the Darley Abbey Society

GENERAL INQUIRY DOCUMENTS

G1	Core Documents List
G2	Statement of Common Ground
G3	Highways Statement of Common Ground

COUNCIL'S DOCUMENTS

- NB1 Nicky Bartley's Proof of Evidence
- NB2 Appendix 1: Extract from City of Derby LP Review Proposals Map
- NB3 Appendix 2: CDLPR Policy E2 (Green Wedges)
- NB4 Appendix 3: City of Derby CS: Pre-Submission August 2015 Policy CP18 (Green Wedges)
- NB5 Appendix 4: Extracts from the Green Wedge Review, 2012
- NB6 Appendix 5: Extract from the Inspector's Report into the City of Derby LP (1998)
- NB7 Appendix 6: Appeal Decisions APP/C1055/W/15/3132386 and APP/C1055/W/15/3003445
- NB8 Appendix 7: Inspectors' letter dated 10.12.14 to HMA LPAs re: OAHN
- NB9 Appendix 8: Statement on Continuing Joint Working between Amber Valley Borough Council, Derby City Council, Derbyshire County Council, and South Derbyshire District Council, February 2016

- PC1 Paul Chamberlain's Proof of Evidence
- PC2 Appendix A: Highway Extents
- PC2 Appendix B: Table DG1 from the 6Cs Design Guide
- PC3 Appendix C: Share of Retail Sales made Online

- MS1 Mark Suggitt's Proof of Evidence
- MS2 Appendix A: Visual Analysis of the Development Site (photos)
- MS3 Appendix B: Derwent Valley Mills World Heritage Site Management Plan 2014-2019
- MS4 Appendix C: Derwent Valley Mills World Heritage Site Inscription Document
- MS5 Appendix D: DVMWHS responses to proposals consultations
- MS6 Appendix E: Mark Suggitt's CV
- MS7 Appendix F: UNESCO World Heritage Convention 1972
- MS8 Appendix G: Operational Guidelines for the Implementation of the World Heritage Convention.

- CO1 Chloe Oswald's Proof of Evidence
- CO2 Appendix 1: Map showing extent of DVMWHS and its buffer zone
- CO3 Appendix 2: Map showing Darley Abbey area with DVMWHS boundary and the extent of its buffer zone
- CO4 Appendix 3: Maps of Darley Abbey Area showing the appeal site
- CO5 Appendix 4: Maps of Darley and Nutwood Nature Reserve, Public Footpaths and Heritage way
- CO6 Appendix 5: Illustrative masterplan layouts in relation to Appeal A and Appeal B
- CO7 Appendix 6: Heritage consultation responses re: Appeal A
- CO8 Appendix 7: Heritage consultation responses re: Appeal B
- CO9 Appendix 8: Copy of the Decision Notice re: Appeal A
- CO10 Appendix 9: Historical Narrative, Appendix 1 of the DVMWHS Management Plan
- CO11 Appendix 10: Statement of Outstanding Universal Value
- CO12 Appendix 11: Map and viewpoint photos submitted by the DVMWHS Partnership
- CO13 Appendix 12: City of Derby LP Review (saved) policies 2006

- CO14 Appendix 13: City of Derby's emerging Core Strategy Policies
- CO15 Appendix 14: Appeal Decision, APP/M1005/A/10/2142571
- CO16 Appendix 15: Appeal Decision, APP/M1005/W/15/3006136
- CO17 Appendix 16: Appeal Decision, APP?M1005/W/15/3119206
- SC1 Sara Claxton's Proof of Evidence
- SC2 Appendix A: Committee Report DER/09/15/01172/PRI, Appeal B

COUNCIL'S INQUIRY DOCUMENTS

- C1 Opening Statement by the Local Planning Authority
- C2 Appeal Decision APP/D0840/W/15/3006077, St George's Road, Hayle
- C3 Extract from Inspector's Report into the City of Derby Local Plan
- C4 Extract from PPG, Conserving and enhancing the historic environment
- C5 Committee Report, application no: DER/12/15/01520, Land to the north of Mansfield Road, Breadsall Hill Top
- C6 ICOMOS Guidance on Heritage Impact Assessments for Cultural World Heritage Properties
- C7 Derby City Council's letter dated 19 May 2016, to the CS Examining Inspector regarding the Housing Land Supply
- C8 Planning Obligations Justification CIL Compliance Statement
- C9 Details of listings, Darley Abbey Mills
- C10 SPD: Planning Obligations (December 2008)
- C11 Closing Submissions on behalf of the Local Planning Authority

APPELLANT'S DOCUMENTS

- IR1 Iain M Reid's Proof of Evidence
- IR2 Plans, Tables, Appendix and Figures
- AB1 Andrew Braun's Proof of Evidence, Tables, Figures, Drawings and Appendices
- AB2 Summary Proof of Evidence
- AB3 Rebuttal Proof
- RL1 Roy Lewis's Proof of Evidence
- RL2 Appendix A: DVMWHS Inscription Maps
- RL3 Appendix B: Darley Abbey Conservation Area pamphlet (showing boundary)
- RL4 Appendix C: Location of listed buildings
- RL5 Appendix D: DVMWHS Statement of Universal Value, 2010
- RL6 Appendix E: Planning Inspectorate letter dated 27 January 2016
- RL7 Appendix F: Consultation Response from Historic England
- RL8 Appendix G: Consultation responses, DVMWHS Partnership
- RL9 Appendix H: Historic Ordnance Survey Maps
- RL10 Appendix J: Appeal decision APP/M1005/A/10/2142571
- RP1 Richard Pigott's Proof of Evidence
- RP2 Summary Proof of Evidence
- RP3 Appendix A: Green Wedge sites with planning permission or proposed allocations

- RP4 Appendix B: Details of the 2015 approval of industrial units at Afreton Road, Derby
- RP5 Appendix C: Details of the 2001 and 2008 approval of floodlights at Derby Rugby Club
- RP6 Appendix D: Sustainability Appraisal Site Allocations Assessment
- RP7 Appendix E: Scoring exercise on potential development sites by Acres Land and Planning
- RP8 Appendix F: Local plan Inspector's letter dated 29.4.16
- RP9 Appendix G: Strategic Housing Sites identified in the emerging Core Strategy
- RP10 Appendix H: Local property professional's letter dated 30.4.15

APPELLANT'S INQUIRY DOCUMENTS

- A1 English Heritage Historic Environment Good Practice Advice in Planning Note 3
- A2 Draft s106 Agreement
- A3 Extracts from Part 3 of the 6Cs Design Guide (Updated April 2016)
- A4 Extracts from Manual for Streets (DfT March 2007)
- A5 Extracts from Manual for Streets 2: Wider Application of Principles (CIHT September 2010)
- A6 Extract from the DVMWHS Inscription
- A7 Comments from Mr Andrew Braun in response to Fig 1, Document D2
- A8 Additional Viewpoints for the Inspector to consider visiting
- A9 Andrew Braun's response to Document D
- A10 Landscape Conditions – suggested changes
- A11 Completed s106 Agreement (superseded)
- A12 Closing submissions on behalf of the Appellant
- A13 Eastern telecoms mast, legal agreement
- A14 Western telecoms mast, legal agreement
- A15 Drawing Ref: -757-006, Proposed footpath links, Appeal A
- A16 Drawing Ref: -757-007, Proposed footpath links, Appeal B
- A17 S106 Agreement, Appeal A
- A18 S106 Agreement, Appeal B

THE DARLEY ABBEY SOCIETY'S DOCUMENTS

- D1 Mr Eagles' Statement
- D2 Mr Steer's paper, Appeal A, Vehicle and Pedestrian Access
- D3 Mr Steer's paper, Appeal B, Vehicle and Pedestrian Access
- D4 Mr Steer's paper, Appeals A and B, Surface Water Run Off from the Site
- D5 Mr Hall's Statement
- D6 Mr Steer's paper, Appeal A, Further Observations on Vehicle Leaving 1 Church Lane
- D7 Mr Steer's Note on gradients, Appeal B access road
- D8 Closing submissions on behalf of the Darley Abbey Society

This Conveyance

is made the *fourteenth* day of *November* One thousand nine hundred and thirty BETWEEN THE REVEREND PREBENDARY WILLIAM GILCHRIST CLARK-MAXWELL of Markeaton Hall in the County of Derby (hereinafter called "the Vendor") of the one part and THE MAYOR ALDERMEN AND BURGESSES OF THE BOROUGH OF DERBY (hereinafter called "the Corporation") of the other part WHEREAS the Vendor is seised in fee simple in possession free from incumbrances of the property hereinafter described and has agreed to sell the same to the Corporation for a like estate subject as hereinafter mentioned for the sum of Nineteen Thousand Four Hundred and Sixty-Six Pounds NOW THIS DEED WITNESSETH as follows:—

1. IN pursuance of the said agreement and in consideration of the said sum of NINETEEN THOUSAND FOUR HUNDRED AND SIXTY-SIX POUNDS now paid by the Corporation to the Vendor (the receipt whereof the Vendor hereby acknowledges) the Vendor AS BENEFICIAL OWNER HEREBY CONVEYS unto the Corporation FIRST ALL THAT the property known as Markeaton Park near Derby aforesaid containing 170.250 acres or thereabouts which said property is more particularly described in the first part of the First Schedule hereto and is delineated and edged pink on the plan drawn hereon EXCEPTING AND RESERVING to the Vendor in fee simple (a) a right of drainage from Hill Farm Ashbourne Road as heretofore existing until an alternative system is provided by the Corporation at their own expense (b) a right of way from Markeaton Lane to Robinsons Cottage as heretofore existing (c) the manor or reputed manors or lordships of Markeaton and Mackworth in the said County of Derby and all rights (if any) appertaining thereto (d) the advowson donation and next and perpetual right of patronage and presentation of and to the Vicarage and Parish Church of Mackworth SECONDLY ALL THAT piece or parcel of land brook and watercourse containing 14.668 acres or thereabouts more particularly described in the second part of the First Schedule hereto and delineated and edged green on the said plan EXCEPTING AND RESERVING to the Vendor in fee simple (a) a right of access from the proposed new arterial road when constructed to other land of the Vendor at the two points on the eastwardly side of the proposed new road marked "A" and "B" on the said plan (b) the manor or reputed manors or lordships of Markeaton and Mackworth in the said County of Derby and all rights (if any) appertaining thereto (c) the advowson donation and next and perpetual right of patronage and presentation of and to the Vicarage and Parish Church of Mackworth TO HOLD the same unto the Corporation in fee simple absolutely SUBJECT to and with the benefit of the existing leases and tenancies and to:—(a) A Conveyance dated the Eighth day of November One thousand nine hundred and eleven and made between Emily Maria Georgiana Mundy of the first part the said Emily Maria Georgiana Mundy and Godfrey Mosley of the second part and Moore Eady and Muroote Goode Limited of the third part and (b) A Conveyance dated the Twenty-ninth day of May One thousand nine hundred and three and made between the said Emily Maria Georgiana Mundy of the first part the said Emily Maria Georgiana Mundy and the said Godfrey Mosley of the second part and King, Howman & Company Limited of the third part AND SUBJECT ALSO to the provisions of the Derby Town Planning Scheme so far as the same affects the property hereby conveyed

2. FOR the benefit of the remaining portions of the Markeaton Estate belonging to the Vendor or the part thereof for the time being remaining unsold and so as to bind the property hereby conveyed the Corporation HEREBY COVENANT with the Vendor that the Corporation and the persons deriving title under them will henceforth and at all times hereafter observe and perform all and singular the restrictions stipulations and conditions set out in the Second Schedule hereto

3. AND the Vendor HEREBY ACKNOWLEDGES the right of the Corporation to production of the documents retained by the Vendor set out in the Third Schedule hereto and to delivery of copies thereof and hereby undertakes for the safe custody thereof

IN WITNESS whereof the Vendor has hereunto set his hand and seal and the Corporation have caused their Common Seal to be hereunto affixed the day and year first before written

FIRST SCHEDULE.

FIRST PART.

(Edged pink on plan.)

Ordinance Numbers.	Area in acres.	Tenant.	Description.
182 (pt)	.042	In hand	Brook
159	2.152	"	Woodland
167	.401	"	"
158	2.847	"	"
183	2.072	"	"
Carried forward		"	"

FIRST SCHEDULE (FIRST PART) continued.

Ordinance Numbers.	Area in acres.	Tenant.	Description.
Brought forward			
186	11.082	W. P. Cope	Pasture
196	1.344	In hand	Woodland
187	.328	"	"
185	.270	"	Brook
188 (pt)	8.800	Derby Corporation	Allotments
155	.761	In hand	Woodland
189	4.500	Derby Corporation	Allotments
111 (pt)	.390	In hand	Brookcourse
195	.308	"	"
194	.825	"	Woodland
193	.415	{ H. Wibberley C. N. Sutton Leases Markeaton Golf Club }	Cottages and Gardens.
220	.405	W. P. Cope	Pasture
186a	.350	In hand	Path
197	3.789	"	Brook
198	.895	"	Island
218 f	2.237	"	Pasture
221	.458	"	Pt. Park
218c	24.634	"	Pasture
222	.360	"	Woodland
218o	1.999	"	Pasture
218d	.528	"	Drive
* 223	.408	"	Lodge etc. *
< 224	3.104	W. P. Cope	Pt. Park
225a	.248	A. H. Mycock	Cottage
218a	26.879	W. P. Cope	Pasture
219	.373	"	Water
218b	10.470	"	Pasture
225	1.876	In hand	Woodland
200	.091	"	Brook
218	19.801	A. H. Mycock	Pasture
204a pt.	.180	In hand	Path
204	2.126	W. Jesson	Pasture
203	.564	In hand	Grounds
207 pt.	3.030	"	"
209	2.060	Ronald Bryer	Pasture
217	15.147	"	"
216 pt.	1.170	In hand	Woodland
68 pt.	.025	"	"
1 pt.	.130	"	"
4 pt.	.034	"	Brook
2 pt.	.370	"	Wood
3 pt.	1.510	W. P. Cope	Pasture
7 pt.	.720	"	"
7a pt.	.040	In hand	Path
12 pt.	.430	"	Brook
9	.010	"	Woodland
10 pt.	.470	"	Pt. Park
10a pt.	.760	"	"
106 pt.	1.864	"	"
105 pt.	1.590	"	Wood
115 pt.	.550	C. Smith	Pasture
107 pt.	2.075	W. Williamson	"
108 pt.	.260	In hand	Wood
109	.027	"	Drive
110	.017	"	Lodge
216 pt.	.024	R. Bryer	Occupation Road
156 pt.	.030	Belper R. D. C.	Footpath
Total	170.250		

SECOND PART.
(Edged green on plan).

68 pt.	.150	In hand	Woodland
1 pt.	.300	"	"
Carried forward			

FIRST SCHEDULE (SECOND PART) *continued.*

Ordinance Numbers.	Area in acres.	Tenant.	Description.
Brought forward			
4 pt.	.070	In hand	Brook
2 pt.	.610	"	Wood
3 pt.	2.720	W. P. Cope	Pasture
7 pt.	2.410	"	"
7a pt.	.086	In hand	Path
12 pt.	.685	"	Brook
8 pt.	.145	"	Island
11 pt.	.160	"	Woodland
10 pt.	.580	"	Pt. Park
10a pt.	1.090	"	"
108 pt.	.050	"	"
105 pt.	.720	"	Woodland
104 pt.	1.180	C. Smith	Pasture
115 pt.	2.970	"	"
107 pt.	.862	W. Williamson	"
114 pt.	.220	In hand	Woodland
108 pt.	.155	"	"
13 pt.	.120	Brookside Lawn Tennis Club (Lease)	Pasture

Total 14.668

SECOND SCHEDULE.

FIRST PART.

(Relating to the property first described.)

1 EXCEPT as herein otherwise provided the property firstly hereinbefore conveyed shall not be used for any purpose other than a Park or open space and places of recreation for the benefit of the Public and for their recreation and no buildings shall be erected or used in the Park other than buildings for or in connection with the purposes of education recreation or horticulture

2. NOTWITHSTANDING anything hereinbefore contained

(1) The Corporation may at their discretion sell or otherwise dispose of

(a) land to the depth of one hundred and fifty feet on the westerly side of the said proposed Town Planning Road

(b) any part of the land which fronts on to Kedleston Road to the depth of one hundred and fifty feet for residential purposes or they may themselves build houses thereon

(2) The restrictions mentioned in Paragraph 1 of this part of this Schedule shall not be applicable to the fields numbered 209, 208 and 217 on the plan drawn hereon so long as the Corporation or any public or local authority is the owner and occupier of the same and for the purposes of this clause it shall be deemed to be the owner and occupier thereof so long as no other person or corporation has acquired any interest greater than an annual tenancy in the said fields or any part thereof

SECOND PART.

(Relating to the Property secondly described).

THE Vendor and his successors in title shall not be liable in respect of any part of the cost of the making of the said proposed Town Planning Road so far as it is coextensive with the land hereby conveyed

THIRD PART.

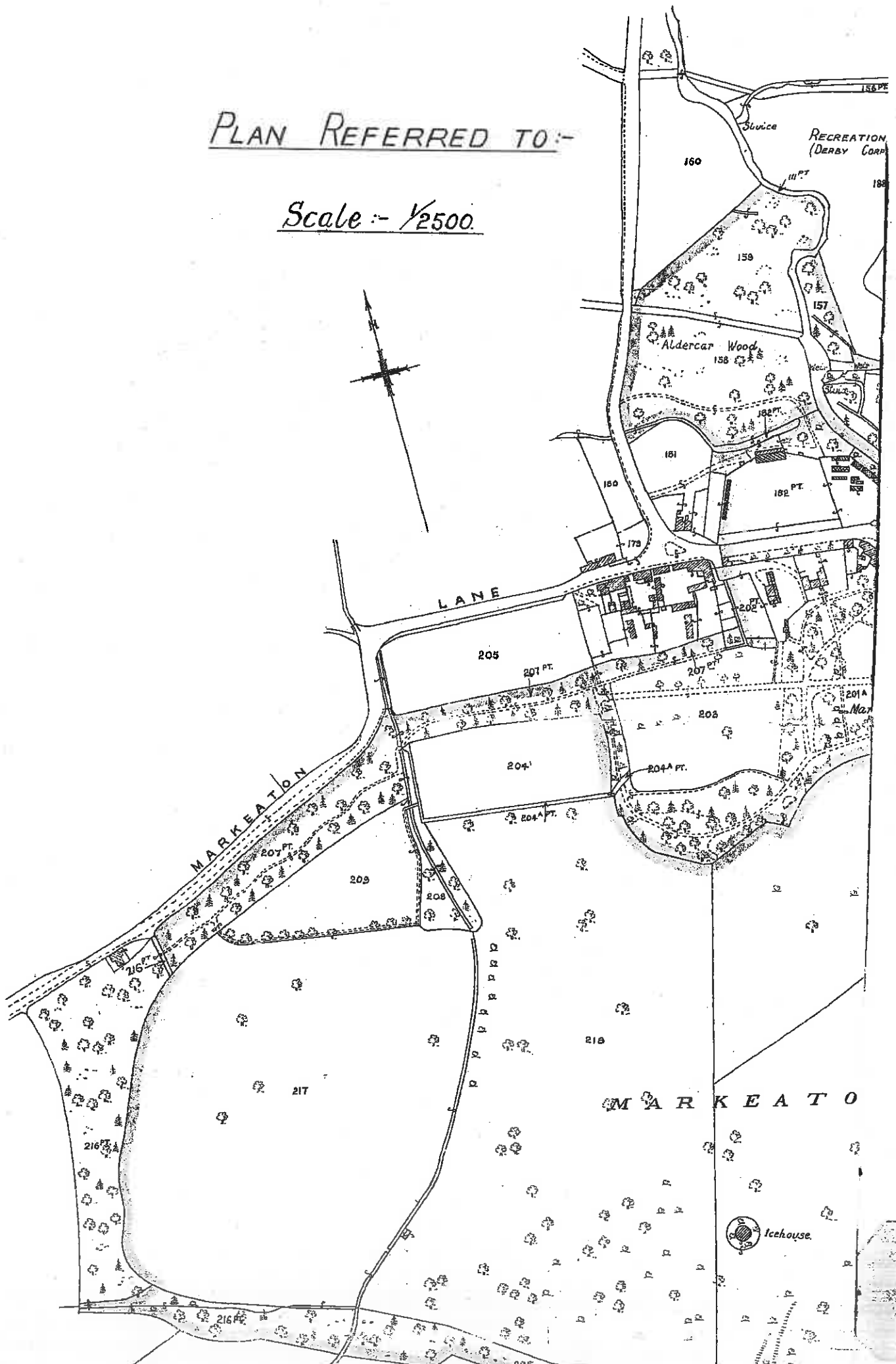
(Relating to all the property).

1. THE Corporation shall at their own expense erect on the eastwardly side of the Town Planning Road site (edged green on the plan) a sufficiently high fence to prevent trespassing on the adjoining property of the Vendor and they shall for ever hereafter keep it in good and substantial repair and also all other boundary walls hedges and fences surrounding all the property sold where it adjoins other property of the Vendor

2. THE Corporation will in no way alter or permit to be altered the existing level of the water in the Markeaton Brook and will not allow any weir or weirs to be damaged or unnecessarily interfered with

PLAN REFERRED TO:-

Scale :- 1/2500.



THIRD SCHEDULE.

1926 November 18th.—VESTING DEED of this date made between Emily Maria Georgina Mundy and Godfrey Mosley of the one part and the said Emily Maria Georgina Mundy of the other part

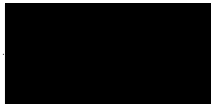
1930 March 19th.—PROBATE of the WILL of the said Emily Maria Georgina Mundy

1930 June 2nd.—ASSENT of this date made between the Vendor and Harriet Alice Gilchrist Clark-Maxwell of the one part and the Vendor of the other part

SIGNED SEALED AND DELIVERED
by the said William Gilchrist
Clark-Maxwell in the presence
of



SEALED with the Common Seal
of the within-named Mayor
Aldermen and Burgesses of
the Borough of Derby by
Order and direction of the
Council of the said Borough



Town Clerk.



Dated *14th November 1980*.

THE REVEREND PREBENDARY WILLIAM
GLOVERST CLARK-MAXWELL

TO

THE MAYOR ALDERMEN AND
BURGESSES OF THE BOROUGH
OF DERBY.

Combesance

of Markeaton Park etc. in the Borough of Derby.
