

**From:** Paul Clarke <Paul.Clarke@derby.gov.uk>

**Sent:** 04 February 2020 15:31

**To:** A38 Derby Junctions <A38DerbyJunctions@planninginspectorate.gov.uk>

**Subject:** FW: A38 public inquiry INSPECTORS QUESTIONS

Although after the deadline I have received the attached consultation response from Derbyshire Wildlife Trust who are our advisors on biodiversity. Rather than hold on to it until the 19<sup>th</sup> I think it only prudent and fair to all parties that we share it now and at least give the Inspectors the thrust of their points.

Regards  
Paul

**Paul Clarke** MRTPI | Chief Planning Officer | Communities and Place | Derby City Council, The Council House, Corporation Street, Derby, DE1 2FS | Telephone 01332 641642 | Minicom 01332 340666 | [www.derby.gov.uk](http://www.derby.gov.uk)

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**From:** Kieron Huston [REDACTED]

**Sent:** 04 February 2020 15:15

**To:** Paul Clarke

**Subject:** RE: A38 public inquiry INSPECTORS QUESTIONS

Dear Paul,

Please see our comments to the Inspectors questions.

Kind regards

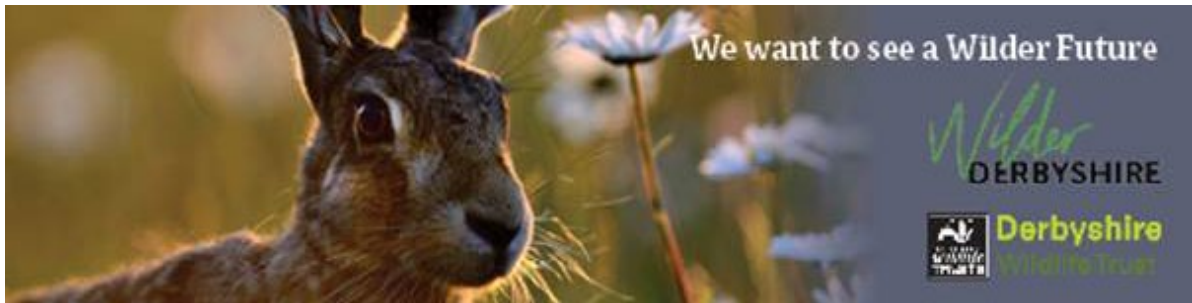
**Kieron Huston**

**Biodiversity Planning and Policy Manager**

Derbyshire Wildlife Trust, Sandy Hill, Main Street, Middleton, Matlock, DE4 4LR

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[www.derbyshirewildlifetrust.org.uk](http://www.derbyshirewildlifetrust.org.uk)



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 Derbyshire Wildlife Trust

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Registered charity number 222212  
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Paul Clarke MRTPI  
Chief Planning Officer  
Communities and Place  
Derby City Council,  
The Council House,  
Corporation Street,  
Derby,  
DE1 2FS

4<sup>th</sup> February 2020

Dear Paul,

**Re: A38 public inquiry Inspectors Questions**

With respect to the questions asked by the Inspector we have the following comments.

**a) Please confirm whether you consider that the Applicant's approach to bio-diversity enhancement is acceptable**

While it is acknowledged that the current NPPF, Feb 2019, was not in place at the time when the scheme was introduced and the initial environmental assessment work was undertaken we are of the view that great weight should be placed upon the NPPF policies to enhance the natural environment and provide net gains for biodiversity. We consider that the principles of the NPPF in relation to sustainable development and biodiversity are relevant to a project that clearly has a significant impact on habitats and species. We therefore disagree with Highways England in their determination that limited weight should be afforded to the NPPF in respect of the aspiration for net gain as summarised within para 170d and 175d. In our view Highways England's position is at odds with the current emphasis being placed on avoiding losses of biodiversity and providing net gains.

Whilst we note the proposed mitigation and enhancement measures, we consider that in the absence of biodiversity metric calculations it is difficult to identify what comprises actual enhancements once any residual impacts from the scheme have been mitigated and compensated for. Indeed some elements such as the extent of proposed replacement tree planting remain unclear.

**b) Please comment of the Applicant's justification for not using Biodiversity Metric Assessment in its assessment of the DCO application [REP3-026 item 37].**

Although the use of Biodiversity Accounting metrics was not common place at the time the scheme was first introduced, the range of impacts that large schemes such as this have on biodiversity makes use of a Biodiversity Metric Assessment the most effective way to accurately demonstrate that no net loss or net gain of biodiversity will be achieved in line with paras 170d and 175d of the NPPF.



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DWT were always under the impression that biodiversity metrics would be used and when the specific question was raised at one of the two stakeholder meetings in 2018 it was confirmed that Highways England had developed their own biodiversity accounting metric and no indication was given that it would not be used as part of the DCO.

The Highways England Biodiversity Report 2018-19, produced as part of the Highways England's Biodiversity Plan 2015, states that,

***“In 2019-20 we will incorporate the biodiversity metric and this forecast into the performance criteria for our major projects suppliers through the Collaborative Performance Framework, to embed biodiversity performance in our projects. This will ensure biodiversity mitigation and enhancement is incorporated and measured at all stages of our major project schemes, helping to deliver better biodiversity outcomes.”***

The decision not to use a Biodiversity metric for the whole assessment would appear to be contrary to Highways England's own biodiversity objectives. This position also seems rather weak given that Highways England are '***undertaking a Biodiversity Metric Assessment outside of the DCO examination process (for habitats only) to guide the Designated Fund projects referenced in the ES Chapter 8: Biodiversity [APP-046]***'. They go on to say that '***Designated Fund projects do not form part of this DCO application as appropriate biodiversity mitigation is included within the Scheme design***'. Again we would highlight that Biodiversity Metric Assessment would have provided greater accountability and confidence with regard to the appropriateness of the mitigation in the DCO application.

The work already completed by the Highways England should provide them with sufficient data both in terms of the potential loss of habitats and the value of proposed mitigation and compensation (as set out in their response REP3-026 item 37) to allow them to apply the Biodiversity metric assessment to the whole of the DCO application with relative ease.

Please contact me if you wish to discuss further.

Kind regards

Kieron Huston  
Biodiversity Planning and Policy Manager