

A38 Derby Junctions

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8.66 Applicant's Responses to Information or Submissions Received by Deadline 4

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A38 Derby Junctions
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**Applicant's Responses to Information or Submissions
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1.1 Applicant's Responses to Information or Submissions Received by Deadline 4

- 1.1.1 This document provides the comments of Highways England (the Applicant) on some of the responses made by Interested Parties to the Planning Inspectorate on Deadline 4, 03 February 2020 in respect of the A38 Derby Junctions scheme (the Scheme) Development Consent Order (DCO) application.
- 1.1.2 The Applicant has sought to provide comments where it appeared to be helpful to the Examination to do so, for instance where a response includes a request for further information or clarification from the Applicant or where the Applicant consider that it would be appropriate for the Examining Authority (ExA) to have the Applicant's comments on a matter raised by an Interested Party in its response.
- 1.1.3 Where an issue raised within a response has been dealt with previously by the Applicant, for instance in the Applicant's own response to a question posed by the ExA or within one of the documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.4 The Applicant has not provided comments on every response made by an Interested Party to the questions raised. In some cases, no comments have been provided, for instance, because the response provided a short factual response, it reiterated previously expressed objections in principle to the Scheme or expressions of opinion without supporting evidence, or it simply contradicted the Applicant's previous response to a question without providing additional reasoning.
- 1.1.5 For the avoidance of doubt, where the Applicant has chosen not to comment on matters raised by Interested Parties this is not an indication that the Applicant agrees with the point or comment raised or opinion expressed in that response.

Table 1-1 Applicant's comments

Ref	Source	Comments	Applicant's Response
1 Breadsall Parish Council			
1.1	<p>SWQ 7.1</p> <p>Landscape and visual effects on Breadsall</p> <p>BPC response to ISH2 [REP3-028]</p> <p>Applicant's response to ISH2 [REP3-026]</p> <p>WHS Photomontages [REP3-018]</p>	<p>The Parish Council has always agreed that Highways England (HE) has made some attempts to mitigate the effects of the proposed new A38/A61 junction on Breadsall Village. However, HE's statements in REP 3-026 do not appear to add any new mitigation measures. In particular HE makes no reference to the Parish Council's request for the widening of the tree belt which currently narrows very abruptly at the southern end of the slip road and offers quite inadequate screening facing Breadsall village. Without the extra screening it seems impossible to achieve the level of mitigation predicted by HE. It is quite unacceptable that this matter is left to HE's discretion and the Parish Council requests the Examining Authority to insist on a wider tree belt at this location. At the same time only two of the new photomontages in REP 3-018 relate to Breadsall and one of these (11) is bizarrely taken from a position in the middle of the village where the junction cannot be seen. The other relevant</p>	<p>As discussed at the ISH2 [REP3-015], Highways England consider that the tree screening proposals at Little Eaton junction are appropriate for screening purposes. However, Highways England stated that the landscape design is indicative at the moment and that it will be reviewed with DCC during the detailed design stage – as part of this review Highways England will review the screen planting proposals as related to Breadsall village. As such, the amended OEMP [REP3-003] (D-L3 in Table 3.2c) now states: <i>“At present the landscape design specifies that the tree belt on the east side of Little Eaton junction will comprise 10% evergreen species. Highways England will view the proportion of evergreen mix in this woodland planting during the detailed design stage to determine if additional evergreens can be added, as well as investigate whether the tree belt near the highway runoff attenuation ponds/ ecology ponds</i></p>

Ref	Source	Comments	Applicant's Response
		<p>photomontage (24) substantially repeats the earlier versions supplied by HE. It is assumed that the earlier photomontages still apply.</p> <p>As far as the Parish Council is concerned, therefore, nothing has changed. HE has essentially incorporated some mitigation measures but, as it admits, there will be some adverse effects on Breadsall Village and the green belt more generally, especially during the early years of the scheme. The key issue which appears to have dropped off the agenda is that</p> <p>a) there are alternative routes to the north west of the present junction which would use mainly brownfield and avoid almost all adverse effects on Breadsall and the quality and openness of the Green Belt.</p> <p>b) the process by which the Highways Agency and later Highways England rejected these alternatives was deeply flawed.</p> <p>The Parish Council addressed this issue in detail in its first written representation and remains of the view that the only equitable solution is to re-run the selection process for the design of the Little Eaton Junction. It is trusted that the Examining Authority will take full account</p>	<p><i>adjacent to Dam Brook at Little Eaton junction can be increased in width to provide further screening". As such, Highways England does not consider the ExA needs to impose any further requirement in this respect.</i></p> <p>It is noted that the photomontage taken in the middle of the village [Viewpoint 11 in REP3-018] was requested by Derby City Council to determine potential Scheme impacts on the views from All Saints' Church towards the Derwent Valley Mills World Heritage Site. The photomontages submitted during the Examination supersede those as submitted prior to DCO submission.</p> <p>Regarding the option selection for Little Eaton junction, Breadsall Parish Council has made the same points as were raised in their Relevant Representation (and repeated in their deadline 3 submission) and these were addressed in the Applicant's Deadline 1 submission [REP1-003] and have been discussed and explored subsequent to this at the hearings. As such, Highways England considers that this issue has been fully</p>

Ref	Source	Comments	Applicant's Response
		of the Parish Council's submission on this subject in determining the DCO application.	considered and the Scheme proposed is what the ExA and SoS have to consider, not an alternative which is not proposed as part of this application.
1.2	<p>SWQ 8.1 Footpath diversions at Little Eaton BPC response to ISH2 [REP3-028] Applicant's response to ISH2 [REP3-026] Applicant's Little Eaton Junction Existing & Proposed Rights of Way Plan [REP3-016] DCC response to ISH2 [REP3-029]</p>	<p>The issue of footpath diversions has become confused and this response will attempt to address each issue, point by point.</p> <p>a) As far as the Parish Council is aware the plan submitted by HE in Rep 3-016 correctly shows the current alignment of FP3. Although HE appears to believe that some sort of diversion of this route has already taken place the Parish Council is unaware of any such diversion being formally approved. The County Council representatives were similarly unaware of any diversion at the hearing on 11 December. Furthermore, the current alignment of FP3 is still signposted at the edge of the A38 slip road (see photograph below) The present alignment of FP3 takes the pedestrian directly from Breadsall to the edge of the existing A38 southern slip road and then heads southwards immediately alongside the slip road as far as the southern side of</p>	<p>a) The Applicant is pleased that Breadsall Parish Council (BPC) agrees that the current alignment of FP3 and the verge footway is as shown on the Applicant's D3 submission [REP3-016] which also agrees with the route as described in DCC's S42 response. Further research has confirmed that FP3 was 'stopped up' in 1974 to allow for the A38 construction; it now terminates where it meets the A38 verge. From this point, the route is as a footway in the highway verge following the A38 left turn lane towards the A61. The footpath signs in BPC's photograph confirms this route alignment.</p> <p>b) Highways England cannot agree to providing an option for pedestrians wishing to reach the northern side of the existing roundabout to cross the segregated left turn lane then the 2 slip roads of the A38; this route would be</p>

Ref	Source	Comments	Applicant's Response
		<p>the existing roundabout, where a dangerous crossing point is located.</p> <p>b) For the pedestrian wishing to reach the northern side of the existing roundabout there is a more direct route available by leaving FP3 where it first reaches the existing slip road and then simply crossing the slip road and the A38 main carriageway just to the north of the roundabout. The Parish Council has never suggested that FP3 actually crosses the A38, but this is a route which is available to pedestrians. The Parish Council is requesting that HE replicates this useful, direct route by providing a footpath route across the slip roads and beneath the A38 bridge immediately to the north of the new junction.</p> <p>c) HE appears in its proposals to be suggesting that pedestrians could cross the A61 on the alignment of FP1 some way to the south of the roundabout and proposes to divert FP3 to join with FP1 to facilitate this. This is quite unacceptable as the A61 at this point is a high-speed dual carriageway and far more dangerous than the direct crossing point referred to in the third paragraph above. HE also suggest that pedestrians wishing to walk</p>	<p>too dangerous to contemplate as drivers on a segregated left turn lane would not expect pedestrians to be crossing – for this reason such a crossing is not permitted by standards.</p> <p>c) The proposal to divert FP3 to connect with FP1 has been discussed with DCC who agree it is a pragmatic solution. Highways England would not advocate that users of FP3 cross the A61 at this point (although there is an existing crossing for FP1 at this point) as it is a high speed dual carriageway with a very narrow central reserve – users wishing to cross the A61 should leave Breadsall on Croft Lane and use the proposed new signalised crossing of the A61 (not a part of this Scheme).</p> <p>d) Regarding the pedestrian surveys, all surveys were conducted over a 12-hour period (7am to 7pm) and in each case the weather was fine and dry. The FP3 surveys were carried out at the location the footpath meets the A38, whilst the FP1 surveys were carried out at the location the footpath emerges to cross the A61. In terms of the condition of the footpaths, this is not for Highways England to comment</p>

Ref	Source	Comments	Applicant's Response
		<p>from Breadsall to the northern side of the existing roundabout could walk southward along Croft Lane and Old Croft Lane to the proposed new Toucan crossing over the A61 and then northward along the western side of the A61. This is true but results in a major detour in the order of 660 metres and represents a most unattractive route entirely on or alongside roads. Both HE and the County Council suggest that the proposed diversion of FP3 would create a circular recreational route together with FP1 to the east of the A38. This may be true, but the general objective of footpath users is to reach a destination, not to go round in circles! This, while not unwelcome, is likely to be of interest only to dogwalkers and is certainly no compensation for the loss of the direct route from Breadsall to the northern side of the A38/A61 roundabout. The Parish Council therefore opposes the loss of FP3 as a direct route to the B6179 but is quite happy to see a new link between FP3 and FP1 as shown in blue on the plan submitted by HE with REP 3-016. The County Council suggests a more direct alignment of the new link than the one shown by HE. The Parish Council</p>	<p>as it does not have responsibility for maintaining these routes, this is a matter for BPC to take up with DCC.</p> <p>e) Highways England is in ongoing discussions with DCC about the design of the proposed toucan crossing (separate to the Scheme that is being examined). It is hoped that a definitive design will be agreed, and subsequently construction planned, by the time of the next Issue Specific Hearing.</p>

Ref	Source	Comments	Applicant's Response
		<p>has no objection to this, but it is possible that the HE proposal follows the boundary of the new ponds and makes more sense on the ground.</p> <p>d) HE state that FP 1 and FP 3 are little used and quote some observations made in 2014 and 2018. The Parish Council would like details of these observations such as the location and duration of the pedestrian counts. If the use of these footpaths is low this is almost certainly because of their very poor state and termination at dangerous crossing points which clearly deters usage. Some photographs of these footpaths are attached.</p> <p>e) Finally, the Parish Council requests a definite commitment to provide a Toucan crossing over the A61 at or near Old Croft Lane. It is understood that funding has been secured from HE but the County Council is still considering design issues. The Toucan crossing is vital to provide a safe pedestrian and cycling route between Breadsall and the western side of the A61 and it is understood that funding is to be provided as part of the A38 scheme. The Parish Council therefore requests a commitment to the</p>	

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		Toucan crossing within the DCO or some other simultaneous agreement.	
2 Cadent Gas Limited			
2.1	<p>SWQ 10.14 Detriment to Cadent's undertaking</p>	<p>The proposed development includes (through powers included in the draft DCO) the acquisition of land and temporary and permanent rights in a significant number of plots in which Cadent has apparatus and rights. Furthermore, the proposed development also proposes the decommissioning and diversion of Cadent's apparatus located in a number of these plots.</p> <p>Schedule 9, Part 1 of the dDCO does not contain the terms required by Cadent to sufficiently protect its apparatus. They do not fully regulate the interaction between the Project and Cadent's apparatus. Cadent's standard protective provisions fully regulate this interaction (for example including in relation to securing Cadent's standards, and fully regulating approvals processes within an appropriate framework). In addition, the protective provisions included at Schedule 9, Part 1 do not adequately address the principle that Cadent should not be exposed to any liability as a result of a third party scheme</p>	<p>Highways England acknowledges the points raised by Cadent. Highways England considers that the points raised by Cadent are all satisfactorily covered by, and sufficient protection to Cadent's assets and undertaking are secured in, the draft protective provisions that Highways England has included in the dDCO. Nevertheless, Highways England acknowledges the points raised by Cadent and it is on this basis that Highways England and Cadent continue to proactively discuss the draft protective provisions with a view to reaching an agreed position as soon as possible and within the examination timeframe.</p>

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		<p>which it derives no benefit from (a principle recognised by the Secretary of State in the Eggborough decision in respect of protective provisions). As such, Cadent is seeking the inclusion of its standard protective provisions. In the event that suitably worded protective provisions cannot be agreed then the exercise of unfettered compulsory purchase powers in respect of its apparatus the following consequences may arise:</p> <p>(a) failure to comply with industry safety standards, legal requirements and Health and Safety Executive standards create a health and safety risk. Cadent requires specific protective provisions in place for an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of Cadent's apparatus.</p> <p>Sufficient wording is not included within Schedule 9, Part 1 of the draft DCO. Cadent requires compliance with various industry standards to ensure that the integrity of the pipelines and as such distribution of gas is protected, the safety of the surrounding gas pipelines is</p>	

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		<p>protected, and the safety of personnel involved in working with gas pipelines is protected;</p> <p>(b) any damage to apparatus potentially has serious hazardous consequences for individuals and property located in the vicinity of the pipeline / apparatus if it were to fail; and</p> <p>(c) potentially significant consequences arising from continuity of supply, including to Cadent's undertaking and compliance with licence obligations if unrecoverable losses are sustained by Cadent as due to this scheme. In the event that suitably worded protective provisions are agreed then Cadent considers this sufficient to remove any serious detriment to its undertaking.</p> <p><u>Protective Provisions Update</u></p> <p>On 3 October 2019 Cadent submitted its standard form protective provisions to Highways England in the form agreed in respect of its Windy Harbour scheme and included within the final dDCO for that scheme.</p> <p>On the 13 January 2020 Cadent received a heavily marked up version of its standard form protective provisions from</p>	

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		<p>Highways England. Cadent is in the process of establishing whether these amendments can be accepted.</p> <p>Negotiations between the parties are expected to continue. Assuming that agreement as to the form of the protective provisions can be reached, Cadent requires these to be included on the face of the Order. Cadent reserves its right to further update the ExA in due course as to the progress of negotiations of the protective provisions.</p> <p><u>Draft DCO Update</u></p> <p>Cadent also takes the opportunity of this submission to note that the proposed development proposes the diversion of Cadent's apparatus. Cadent is currently establishing the adequacy of the approach proposed to these diversionary works, including the scope of the replacement rights to be afforded to Cadent in respect of any diversion. Cadent notes an updated draft DCO is to be submitted on 3 February, with comments required by 10 February.</p>	

Ref	Source	Comments	Applicant's Response
3 Derby City Council			
3.1	<p>SWQ 1.1 "Guillotine" provisions Articles 15(6), 19(11), 20(7), 22(6) Issue Specific Hearing 2 Issues and Questions (ISH2 I&Q) [PD-010] Q41 Applicant response [REP3-014] [REP3-026] DCiC response [REP3-027] EA response [REP3-034]</p>	<p>To date DCiC has not had any further discussions on this. On most articles the notice period negates the concern over the guillotine period. However, in response to the ExA Second Written Questions for Hearing 2 (Q41), DCiC identified it was not comfortable with Article 20 Discharge of Water, and questioned whether a notice period of 12 weeks (similar to Article 19) could be applied?</p>	<p>Highways England sought further detail on the guillotine provisions and deemed consent from DCiC on 28 January 2020 and was given advance notice of this response by DCiC. Highways England acknowledges the DCiC's point concerning Article 20 (Discharge of water) and its request to be given a notice period of 12 weeks, similar to that included in Article 19 (Traffic regulation). From Highways England's perspective, it is not clear why DCiC requires notice to be given in this respect as the article gives Highways England the power to use any watercourse or any public sewer or drain for the drainage of water (and in connection with this the power to laying down, taking up, altering pipes and may make openings into and connection with any watercourse or public sewer or drain). The article requires the consent of the owner of the watercourse or the sewer or drain (which can be given subject to reasonable terms and conditions) and any owner will have 28 days to provide</p>

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			<p>a decision following a request for consent.</p> <p>As such, the intention of the article is to protect owners of watercourses, sewers and drains (be they private individuals or statutory undertakers). Highways England considers that 28 days is a sufficient period to consider any request for consent and 12 weeks is a significant period which could postpone delivery of the Scheme. The 12-week period outlined in Article 19 is necessary because there are a number of other practical processes which need to take place within the Local Highway Authority/Traffic Authority's area (and within the local Police force's areas) in terms of noting and registering the changes to the highways network and for all integrated traffic systems which rely on this information to be updated in time. As such, this extensive updating process required for traffic regulation measures is not analogous to obtaining consent from an owner of a watercourse, sewer or drain.</p> <p>In addition, and for comfort, if DCiC has any concern about the</p>

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			<p>environmental effects of any discharges, any discharges will be covered by the Environmental Permitting regime and will require a separate permit (which is outside the scope of the DCO). The EA has asked for the inclusion of new sub-paragraph (8) in Article 20 confirming this, which Highways England has included in the D4 version of the dDCO.</p>
3.2	<p>SWQ 1.4 Article 3 - Disapplication of legislative provisions ISH2 I&Q [PD-010] Q44 Applicant response [REP3-026] EA response [REP3-034]</p>	<p>a) There has been general progress on discussions between DCiC and the applicant on issues that were raised by the LLFA. This has resulted in an amendment to the Flood Risk Assessment. The FRA now includes more reference to further consultation with DCiC</p> <p>c) The Lead Local Flood Authority has a duty under the Flood and Water Management Act to develop, maintain, apply and monitor a strategy to manage flood risk from surface runoff, groundwater and ordinary watercourse. The DCiC Strategy includes policies relating to inspection and maintenance of watercourses. The issue that DCiC has with the disapplication section 23 of the</p>	<p>a) Noted and agreed.</p> <p>c) DCiC's main concern with this disapplication is understood to relate to (i) the design of the culverts and (ii) the ability to access and inspect the culverts. DCiC will be involved in the detailed design process, secured through requirements 12 (Detailed design) and 4 (Details of consultation). As such, it will have input on the design of any culverts, the detail of which is not available at this stage of the development process. In terms of ongoing access, there is nothing in the dDCO which prevents the LLFA from carrying out inspection and maintenance as none of these provisions is disappplied by the dDCO</p>

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		<p>Land Drainage Act is that this section ensures that the LFFA can ensure that culverts are properly designed and access to watercourses is provided to allow the watercourses to be inspected and maintained. Disapplication of this section compromises DCiC ability to manage flood risk from watercourses.</p> <p>The EA has been given some protection in section 5 of the DCO. DCiC's view is that a similar protection should be in place to ensure that the LLFA can influence the detailed design of watercourse alteration to ensure flood risk is not increased.</p>	<p>and Article 4 (Maintenance of drainage works) confirms that nothing in the DCO affects any responsibility for the maintenance of any works connected with the drainage of land. However, from a practical perspective access will have to be restricted during the construction of the Scheme on safety grounds and these measures can be discussed with the Council. Highways England would be content to include detail on engagement and consultation in this respect through the OEMP and CEMP.</p> <p>Highways England is not quite clear on what protection DCiC is referring to when it refers to section 5 of the DCO. However, it is assumed that this is a reference to the protective provisions. For the reasons outlined above in terms of DCiC having input into the design of the final detail and nothing impeding DCiC's ability to access the watercourse, Highways England considers no further revisions are necessary to the DCO in this regard.</p>
3.3	SWQ 1.6	b) DCiC & DCC met Highways England and LINKCONNEX on Friday 24th	b) The meeting held on 24 January 2020 was one in a series of

Ref	Source	Comments	Applicant's Response
	<p>Article 6 – Maintenance of authorised development ISH2 I&Q [PD-010] Q46 Applicant response [REP3-014] [REP3-026] DCiC response [REP3-027]</p>	<p>January to discuss maintenance. LINKCONNEX will set up a series of meeting with different asset managers with the LHAs to discuss responsibilities with a view to setting this out and agreeing it. However, these discussions will go beyond the DCO Hearing programme. One of the issues from the meeting is what legal format the maintenance responsibilities will be formalised. Highways England is going to provide an answer based on other DCOs.</p> <p>DCiC (LLFA) agrees that there should be a requirement for the applicant to maintain the development. This is particularly important to ensure the Flood Storage Areas are maintained in their designed condition as these structures ensure the development does not increase flood risk elsewhere. Similarly the drainage system and the associated attenuation need to be maintained in the design condition to ensure flood risk is not increased to the development or elsewhere.</p>	<p>Maintenance and Repair Strategy Statement (MRSS) and maintenance interface meetings held to date and will continue on through the next design stages of the Scheme. Refer to [APP4-024] for the division of maintenance responsibilities for the completed infrastructure. It is recognised that Highways England are responsible for the trunk road network and associated features, however, where defined some of the maintenance responsibilities will fall to the LHAs and LLFAs where appropriate. Highways England has produced a note [REP4-026] detailing the process it will go through (outside of the DCO process) to secure maintenance responsibility in this respect.</p> <p>In respect of there being an obligation on Highways England to maintain the development, please see Highways England's response to this question in the SWQ (SWQ 1.6).</p>
3.4	SWQ 1.8 Streets	a) Subject to further advice being received.	Noted.

Ref	Source	Comments	Applicant's Response
	ISH2 I&Q [PD-010] Q49, Q50, Q52, Q53. Applicant response [REP3-026] DCiC response [REP3-027]	b) Subject to further advice being received. c) Subject to further advice being received.	
3.5	SWQ 1.9 Article 11 – Street works ISH2 I&Q [PD-010] Q48 Applicant response [REP3-014] [REP3-026] DCiC response [REP3-027]	a) DCiC and the Applicant still need to discuss this issue and a meeting with LinkCONNEX is scheduled for Thursday 13th February. It is understood that the Applicant is seeking legal advice on the application of the Permit Scheme. b) This could be resolved in the TMP, by the inclusion of a process that satisfies the statutory duties of DCiC. At present this would mean statutory undertakers complying with the Derby City Council Permit Scheme, or serving notices as required by the NRSWA/TMA c) DCiC will wait for the Applicant's written response to this question.	a) DCiC and Highways England had a very useful discussion on this issue on 4 February 2020. DCiC is considering the implications on any disapplication and has confirmed that it will provide a view on it once it has had a chance to consider the practical implications of the disapplication. Highways England has offered to amend the TMP if necessary to provide DCiC with comfort in terms of the manner in which notifications and consultation are conducted. Highways England has also pointed DCiC in the direction of article 11 and 12 of the dDCO which amend the NRSWA process insofar as it applies to the Scheme. b) and c) Noted and please see the response to a) above.
3.6	SWQ 1.10 Article 14 – Classification of roads, etc. ISH1 [PD-003] Q24	No, the issue for the LHA is what assets are included in the Inventory of any de-trunked roads. The detailed 'what' is not defined under the DCO and there is a	Part 2 of Schedule 3 of the dDCO details the areas of road to be de-trunked and Part 3 of the same Schedule provides that these are

Ref	Source	Comments	Applicant's Response
	Applicant response [REP1-004]	question over whether some form of legal agreement that sits outside of the DCO.	become classified roads. As such, the detail of these is provided in the dDCO. Any agreement outside of this will be dealt with between HE and DCiC and detail of this (for example provisions relating to maintenance) will be secured in the manner described in the Handover for Operation Process Note, provided by HE at D4.
3.7	SWQ 1.11	<p>a) The first and second points relate to main river and specific areas of the Environmental Permitting regulations which are administered by the EA and they are best placed to comment on these matters.</p> <p>With regards to point 3:- This particular requirement would have little effect in terms of protection the Lead Flood Local Authorities interest but inclusion may help clarify legal protection for Severn Trent Water.</p> <p>b) Article 20 does not make any provision for limiting the amount of water discharge to a sewer drain or watercourse. Under the NPPF the LLFA can agree acceptable discharge rates</p>	<p>a) Noted.</p> <p>(b) Noted, as the Scheme is an NSIP governed by the regime under the 2008 Planning Act, there is no set obligation to agree discharge rates in accordance with the NPPF.</p> <p>However, the OEMP will be amended to say <i>"The applicable local authorities will be consulted with regard to highway runoff discharge rates, noting that Highways England will demonstrate that reasonable steps have been taken such that the total discharge rate from the Scheme surface water drainage system does not exceed the discharge rate of the existing surface water drainage system and that betterment will be provided where practical"</i></p>

Ref	Source	Comments	Applicant's Response
3.8	<p>SWQ 1.13 Article 33 - Temporary use of land for carrying out the authorised development ISH2 I&Q [PD-010] Q55 Applicant response [REP3-026] DCiC response [REP3-027]</p>	<p>DCiC is satisfied that suitable provisions are included in the OEMP for the temporary use of land for carrying out the authorised development.</p>	<p>Noted</p>
3.9	<p>SWQ 1.14 Article 39 - Felling or lopping of trees and removal of hedgerows ISH1 [PD-003] Q41, Q42 Applicant response [REP1-004] ISH2 I&Q [PD-010] Q55 Applicant response [REP3-026] DCiC response [REP3-027]</p>	<p>a) The existing vegetation and trees along the boundaries of Mackworth and Markeaton Park provide valuable screening and separation between the open spaces and the highway as well as being visually significant and important ecologically. Removal of significant trees and the possible retention of felled timber within DCiC land should be in consultation with DCiC Arboriculture and Parks officers.</p> <p>b) Advance notice of the removal of existing trees and vegetation should be provided to the local authority at least 14 days before any works commence and for any queries from the public to be managed through direct contact with the HE consultation and liaison officer appointed for the project who would be best placed within the City Council building.</p>	<p>a) During the development of the Scheme design, Highways England has aimed to minimise the loss of existing trees (including at Mackworth Park and Markeaton Park), and where such losses are unavoidable, mitigation planting is proposed as indicated in the Environmental Masterplan figures (ES Figure 2.12C and 2.12D [APP-068]).</p> <p>As detailed in the OEMP [REP3-003] (MW-LAN2), Highways England will prepare an Arboricultural Mitigation Strategy in consultation with the relevant local authorities to protect those trees retained within and immediately adjacent to the order limits. A wide range of ecology mitigation features will be provided – this includes retaining sections of felled trees at Markeaton Park to create new ecological habitats. The requirement to</p>

Ref	Source	Comments	Applicant's Response
			<p>consult with the DCiC Arboriculture and Parks officers regarding the removal of significant trees and retention of felled timber within DCiC land will be detailed in the next version of the OEMP.</p> <p>b) During the detailed design stage vegetation clearance plans will be finalised. Such plans will be made available to the local authorities. The need to consult with the DCiC in advance of commencement of any removal of existing trees, hedgerows and shrubs will be detailed in the next version of the OEMP, noting DCiC's requirement for 14 days advance notice. With regard the queries from the public, these should be directed to HE's appointed Community Relations Manager.</p>
3.10	<p>SWQ 1.16 Article 50 - Appeals relating to the Control of Pollution Act 1974. Please provide an update on discussions. a) Have these provisions been agreed?</p>	<p>a) No further discussions have taken place between DCiC and HE regarding this matter. b) Please note previous DCiC response on this. c) Please note previous DCiC response on this.</p>	<p>Highways England contacted DCiC on 28 January 2020 and offered to discuss this matter. DCiC provided advance notice of this response to Highways England on 29 January 2020. The latest version of the draft DCO submitted at deadline 4 seeks to address this issue. As detailed in</p>

Ref	Source	Comments	Applicant's Response
	<p>b) Do the Local Authorities consider that the process and timescales are fair and reasonable?</p> <p>c) Are any amendments required to Article 50 or to the OEMP?</p> <p>d) Please summarise the outstanding matters for agreement, the next steps to be taken and whether agreement is anticipated during the Examination.</p>	<p>d) DCiC response to first examiners questions remains unchanged on this matter.</p>	<p>article 50 (2) (a) the time the undertaker has to appeal has been reduced from 42 to 21 days.</p> <p>We trust that both DCiC and the ExA are satisfied that this issue has now been addressed.</p>
3.11	<p>SWQ 1.18 Requirements 1-21 Provisions for consultation and agreement ISH1 [PD-003] Q58 Applicant response [REP1-004] [REP2-020] DCC response [REP1-032] First Written Questions (FWQ) [PD-005] Q1.5 DCiC response [REP1-034]</p>	<p>b) The LLFA accept that consultation with the LPA is acceptable as the LPA will consult the LLFA</p> <p>c) No outstanding concerns with respect to provisions for consultation and agreement with respect to impact on LA assets.</p> <p>d) DCiC doesn't think any Rights of Way within Derby are impacted by the scheme.</p>	Noted and understood.
3.12	<p>SWQ 1.20 CEMP and Handover Environmental Management Plan (HEMP) Requirement 3</p>		

Ref	Source	Comments	Applicant's Response
	ISH1 [PD-003] Q52 Applicant response [REP1-004]		
3.13	<p>SWQ 1.21</p> <p>a) Do the Local Authorities or the EA have any comments on the provisions for a Handover Environmental Management Plan in the dDCO or OEMP?</p> <p>b) Should provisions be added to Requirement 3(4) that the HEMP must:</p> <ul style="list-style-type: none"> • be substantially in accordance with the HEMP provisions included in the OEMP and CEMP; • contain a record of all the sensitive environmental features that have the potential to be affected by the operation and maintenance of the proposed development; and • incorporate the measures referred to in the ES as being incorporated in the HEMP? 	<p>a) The OEMP (3.1.3) states that the extant version of the CEMP will become the HEMP at the end of the build and will become the responsibility of the Highways England asset maintenance teams. Schedule 2 Part 1 of the DCO implies that drainage elements, including those in DCiC land, and that the environmental enhancements provided by the drainage system will be maintained under the Order, presumably at HE cost. On this basis, if this is confirmed then we accept the provisions.</p> <p>b) Yes it would be useful for these provisions to be included. (With respect specifically to noise and air quality, these provisions do not seem necessary in the view of the EP Team at DCiC).</p>	<p>a) The OEMP [REP3-003] details drainage and flood risk management features included in the Scheme design. It is correct that the CEMP will be converted into the HEMP towards the end of the Scheme construction phase and will highlight maintenance activities to be undertaken by HE. Reference should be made to HE's responses provided to SWQs 5.2 and 5.3h [REP4-024] which provide details regarding proposed ownership and maintenance responsibilities for defined highway drainage system and flood storage features at each junction.</p> <p>b) For the reasoning given by HE in response to SWQ1.20, it does not consider that this additional detail need to be secured in the DCO i.e. because the OEMP is being assessed through the Examination process and is based on the ES; the CEMP must be substantially in accordance with the OEMP (R3(2)(a)) and the CEMP must be converted into the HEMP (R3(4) and (5)). The local authorities are</p>

Ref	Source	Comments	Applicant's Response
			involved in every step of these processes (R3(1) and R3(4)) in which case the detail relating to the HEMP contained in the OEMP and CEMP will flow through to the HEMP and will incorporate the ES detail necessary to ensure its effective operation.
3.14	<p>SWQ 1.22 The principle of consultation rather than agreement and details of consultation</p> <p>a) Further to the Applicant's responses, are the Local Authorities and the EA content with the principles in the dDCO and OEMP for them to be consulted on relevant discharging measures and that any agreement or approval would be given by the Secretary of State?</p> <p>b) Should a 28 day consultation period be added to Requirement 4?</p>	<p>a) Yes, this is acceptable to the Lead Local Flood Authority. It would also be helpful if the CEMP for preliminary works could contain a written landscaping scheme with method statements for all works to be undertaken, including tree and vegetation removal.</p> <p>b) This depends on the definition – a 28-day response time is sensible, but 28 days to get the whole document agreed would be unrealistic. The DCO should not restrict unreasonably the available time to scrutinise and amend the HEMP to meet the Council's requirements. The HEMP is an important document in sustaining any environmental protections/enhancements of the scheme. Although we do understand the need to keep the process</p>	<p>a) Noted As detailed in the OEMP [REP3-003], a preliminary works CEMP will be prepared in consultation with relevant stakeholders and approved by the Secretary of State. As some landscaping will be undertaken during this phase, the OEMP states that such works would be undertaken in accordance with an approved landscaping scheme (see PW-LAN2). The next version of the OEMP will clarify that the landscape scheme will be specific to the preliminary works, whilst vegetation retention and protection plans will also be prepared – such plans will be subject to consultation with the applicable local authorities.</p> <p>b) HE has provided a response to this point previously and, for the sake of</p>

Ref	Source	Comments	Applicant's Response
		moving and avoid many months of to-and-fro on completion of the scheme.	flexibility (as illustrated by DCiC's response to this question), there is not a need to make Requirement 4 more restrictive given the need to already consult with the local authorities (as set out in the individual requirements) and to produce a report summarising the details of such consultation as part of the requirement discharge process.
3.15	<p>SWQ 1.24 Preliminary works Requirements 5(1), 11(1), 13(1) ISH2 I&Q [PD-010] Q41 Applicant response [REP3-014] [REP3-026] DCiC response [REP3-027] EA response [REP3-034]</p>	<p>If preliminary works include any new and replacement planting then the CEMP for these preliminary works should contain a written landscaping scheme. Written details of the surface water and foul water is considered 'main works' and so the details of this need not be included in the CEMP for preliminary works.</p>	<p>As detailed in the OEMP [REP3-003], a preliminary works CEMP will be prepared in consultation with relevant stakeholders and approved by the Secretary of State. As some landscaping will be undertaken during this phase, the OEMP states that such works would be undertaken in accordance with an approved landscaping scheme (see PW-LAN2). The next version of the OEMP will clarify that the landscape scheme will be specific to the preliminary works, whilst vegetation retention and protection plans will also be prepared – such plans will be subject to consultation with the applicable local authorities.</p>

Ref	Source	Comments	Applicant's Response
			It is also noted as detailed in OEMP PW-WAT1, the preliminary works CEMP will include details regarding pollution risk prevention measures, with such measures being defined in consultation with the applicable local authorities and the Environment Agency.
3.16	<p>SWQ 1.26 Requirement 14 – Flood compensatory storage ISH1 [PD-003] Q59 Applicant response [REP1-004] DCiC response [REP1-034]</p>	<p>a) Requirement 14 refers to flood compensation from rivers, so it is right that just the climate change allowance for peak river flow is cited. Although there's no reason we can see why sub-paragraph 3 and sub-paragraph 4 reference different climate change allowances. These should both be 50%. However, we would recommend that the climate change allowance for peak rainfall intensity is included in Requirement 13, which relates to surface and foul water drainage. For this, the surface water should be designed with a 40% climate change allowance as per the latest EA guidance.</p> <p>DCiC would also suggest Markeaton junction is included in this requirement as some of carriageway works may interact with the floodplain of the Markeaton</p>	<p>a) Requirement 14 concerns floodplain compensation and flood (storage) mitigation. Although 'floodplain compensation' and 'flood (storage) mitigation' have the same underlying objectives (i.e. to ensure there is no increase in flood risk as a result of the Scheme) they achieve these objectives by serving different purposes. Floodplain compensation is required where there is a loss of 'main river' floodplain, irrespective of whether there is a tangible increase in flood risk determined from hydraulic modelling. It seeks to address cumulative losses in floodplain, which may ultimately increase risk elsewhere. At Little Eaton junction, the proposed works remove existing floodplain of the River Derwent which is classed as 'main river'. As such, floodplain compensation is</p>

Ref	Source	Comments	Applicant's Response
		<p>Brook. This may be less pronounced than the other junctions, but will need assessing nevertheless.</p> <p>b) Section 14.3.26 of Chapter 14 of the ES (Climate) (APP-052) references climate change allowances for the Kingsway and Little Eaton Junctions, however DCiC believe that the climate change allowances are a bit mixed up considering river flow allowances and rainfall intensity allowances. Both should be assessed for floodplain compensation under the river flow allowances (50%) and both should be considered using the rainfall intensity allowance (40%) when designing the drainage for the junctions. This should be amended in the ES as well as the dDCO as laid out above in our response to 1.26a.</p> <p>Also like above, we would suggest the same approach is also taken for the Markeaton junction where carriageway works related to the junction improvements may interact with the Markeaton Brook floodplain.</p>	<p>required. The assessment is made based on hydraulic modelling of the River Derwent for the 1 in 100-year design event with an allowance for climate change. The allowance is determined based on UKCP09 climate projection at the 'Upper end' scenario for the 2080s epoch. Since the hydraulic model is driven by flow inputs, the allowance percentage is accordingly 50%.</p> <p>At Kingsway junction, there is no 'main river' therefore floodplain compensation is not required. However, hydraulic modelling indicated that the Scheme results in increased flood risk from Bramble Brook, and therefore mitigation is required via flood storage areas. As with Little Eaton junction, the assessment is made based on hydraulic modelling of the Bramble Brook for the 1 in 100-year design event with an allowance for climate change. The allowance is determined based on UKCP09 climate projection at the 'Upper end' scenario for the 2080s epoch. However, since the hydraulic model is driven by rainfall</p>

Ref	Source	Comments	Applicant's Response
			<p>inputs, the allowance percentage is accordingly 40%.</p> <p>Therefore, the climate change allowances are not different between the two junctions – the only difference is that the hydraulic models are driven by different input boundary conditions, hence why Requirement 14 references different percentages (i.e. a 40% increase in rainfall is equivalent to a 50% increase in flow). For further details, please see: https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances which confirms that in small and urban catchments (i.e. Bramble Brook at Kingsway junction) the climate change percentages for rainfall should be applied when developing FRAs.</p> <p>The highway runoff drainage design makes a 40% climate change allowance as detailed in the ES Chapter 13: Road Drainage and the Water Environment [APP-051] and the Road Drainage Strategy [APP-234]. The OEMP [REP3-003] states that the highway runoff drainage system shall be in accordance with Road Drainage</p>

Ref	Source	Comments	Applicant's Response
			<p>Strategy. As such, it is not considered necessary to amend dDCO Requirement 13 to include reference to climate change allowances.</p> <p>Highways England has assessed both fluvial and surface water flood risk at Markeaton junction using the 1 in 1,000-yr information as a proxy for the climate change scenario, and do not consider that these flood extents interact with any proposed works that would impact flood levels. As neither floodplain compensation nor flood storage is required at Markeaton junction, Requirement 14 does not require alteration.</p> <p>b) This is not correct. The two junctions should be, and have been, assessed in terms of fluvial flood risk (including floodplain compensation where applicable i.e. Little Eaton junction – River Derwent) for the same climate change scenario, using the appropriate allowance applied to the type of model inflow boundary being used - see explanation above. Also note above comments regarding Markeaton junction.</p>

Ref	Source	Comments	Applicant's Response
3.17	<p>SWQ 1.27 Local Highways Authority review and update on discussions ISH1 [PD-003] Q67 Applicant response [REP1-004] [REP2-020] DCC response [REP1-032] DCiC response [REP1-034] ISH2 I&Q [PD-010] Q65, Q68 Applicant response [REP3-014] [REP3-026] DCC response [REP3-029]</p>	<p>b) DCiC's concerns about the detailed process still stand, as set out in answer to Q8 of the questions for Issue Specific Hearing 2. c) See answer to 1.6(b) above. Further, discussions by e-mail and telephone have been ongoing concerning TRO's. The Applicant is considering a process for dealing with some of the detail. d) For the Applicant to propose.</p>	<p>HE and DCiC are still actively discussing these points and HE hopes to have them resolved before the next Issue Specific Hearings.</p>
3.18	<p>SWQ1.28 Local Highways Authority review ISH1 [PD-003] Q69 Applicant response [REP1-004] [REP2-020] DCC response [REP1-033] DCiC response [REP1-034] ISH2 I&Q [PD-010] Q68 Applicant [REP3-026]</p>	<p>a) DCiC will provide a written detailed response for the Hearing on the 19th February. b) There are questions concerning the appropriate use of stopping-up order. For example, do you need to stop-up highway rights for a footway/cycle way across the new A38 alignment, because the section in question is still in Highway or Highway verge? This needs a discussion with the applicant to understand why this approach has been taken. c) For the Applicant to answer.</p>	<p>HE and DCiC are still actively discussing these points and HE hopes to have them resolved before the next set of Issue Specific Hearings. Stopping up is detailed in the DCO, particularly articles 15 (Temporary stopping up and restrictions of use of streets and highways) and 16 (Permanent stopping up and restriction of use of streets and private means of access) together with the relevant proposed temporary and permanent closures detailed in Schedule 4 of the dDCO.</p>

Ref	Source	Comments	Applicant's Response
			HE has offered to discuss and explain the interaction of these provisions with the standard stopping up procedure and to explain how the DCO authorises these closures.
3.19	<p>SWQ 1.33 Tree removal</p>	<p>From the schemes AIA document:</p> <ul style="list-style-type: none"> • Numerous trees proposed to be removed provide significant public amenity value. • Numerous trees within the development areas are subject to TPO and have been judged to have accrued sufficient amenity value to justify inclusion within a TPO. • Appendix F shows TPO locations however there is some inaccuracy. TPO 116 has included A1 of TPO 197 within its boundary. TPO No. 590 (within the grounds of Brook Medical Centre) have been omitted. • The trees within the development sheet plans that are subject to a TPO are as the table is as below: 	<p>During the development of the Scheme design, HE has aimed to minimise the loss of existing trees (including at Markeaton Park), and where such losses are unavoidable, mitigation planting is proposed as indicated in the Environmental Masterplan figures (ES Figure 2.12C and 2.12D [APP-068]). Some of the trees to be lost at Markeaton junction are subject to TPO – these are shown in the figure included in Appendix F of ES Appendix 7.2: Arboricultural Impact Assessment Report [APP-177]. However, it is agreed that the figure in Appendix F needs to be amended given that some of the area marked as TPO 116 is actually TPO 197. It is also agreed that TPO 590 is missing from the figure, although this TPO is unaffected by the Scheme. An updated TPO loss figure and accompanying table has been prepared and is being submitted to the</p>

Ref	Source	Comments				Applicant's Response
		Plan sheet No.	TPO No.	TPO type	Impact of proposal	<p>ExA at Deadline 5. It is noted that the area of TPO loss remains unchanged. With regard to other comments, HE make the following comments:</p> <ul style="list-style-type: none"> Comments regarding T358 are noted (presumed that the reference to T356 is also meant to be T358). T358 is located within the Scheme boundary to the east of the A38 close to Markeaton footbridge – this tree will be lost during works to demolish the existing footbridge and install the replacement footbridge. T358 is defined in ES Chapter 8: Biodiversity [APP-046] as a veteran tree. This is the only veteran tree that will be lost to the Scheme, noting that all other veteran trees within the Scheme boundary will be retained and suitably protected. ES Chapter 8 states that veteran trees are irreplaceable, and thus the loss of the tree cannot be mitigated. It is agreed that there are other veteran trees within Markeaton
15	197	Area: A1 and W1	Minor incursion into A1.			
15, small part of 14b and 18	116	Area	Minor incursion in to west part of Area			
15	590	Woodland: W1, Group: G1 and Tree: T1				
Sheet 17 And 18	160	Woodland: W1	West part of group proposed to be removed.			
Sheet 17	456	Area: A1	Incursion into the			

Ref	Source	Comments				Applicant's Response
		And 18			west part of the TPO	<p>Park, noting that these will not be affected by the Scheme.</p> <ul style="list-style-type: none"> The loss of trees at Markeaton Park has been assessed in ES Chapter 7: Landscape and Visual [APP-045] and ES Chapter 8: Biodiversity [APP-046] which consider amenity and wildlife issues respectively. With regard to tree planting, the landscape design illustrated in ES Figures 7.8A-C [APP-094] indicates that at Markeaton Park, landscaping proposals include woodland, tree and shrub planting, as well as the provision of species-rich and amenity grassland. In addition, a range of ecology mitigation features will be provided in the park - this includes retaining sections of felled trees at Markeaton Park to create new ecological habitats. The exact number of trees to be planted in the park will be subject to confirmation during the detailed design stage, as based upon the landscape plans. As detailed in the OEMP [REP3-003], (refer to Table
Sheet 20	293	Area: A1	None	<p>Numerous trees proposed to be removed have accrued sufficient amenity value to justify inclusion within a TPO. Of particular importance is T356 (Oak). This has a stem diameter recorded as 1575mm which equates to a girth of 495cm. According to Ancient and other veteran trees: further guidance and management Fig 1.3 Chart of girth in relation to age and developmental classification of trees the tree (T358) is categorized as veteran/notable.</p> <p>The NPPF recognises veteran trees as irreplaceable.</p> <p>Buffer Zones around a veteran tree should be at least 15 times the stem diameter. The buffer zone around T358 should be 23.6m. RPA's within the report indicates the correct buffer zone. The proposed route means that the RPA is compromised.</p>		

Ref	Source	Comments	Applicant's Response
		<p>T358 is not recorded on the Ancient Tree Inventory.</p> <p>T358 is proposed to be removed. This will lead to a long term negative impact on an irreplaceable habitat.</p> <p>Numerous trees within Markeaton Park are recorded in the Ancient Tree Inventory.</p> <p>The removal of trees will result in a loss of public amenity and wildlife habitat/foraging provision.</p> <p>It is noted that details of numbers of trees to be planted has not been provided.</p> <p>DCiC would expect an assessment of tree loss compared to proposed trees planting and would expect to see a net gain of tree infrastructure.</p> <p>Trees planted in mitigation will take many years to replicate the amenity/wildlife provision that the existing trees provide.</p> <p>It was not thought expedient to make trees owned and managed by Derby City Council subject to a TPO.</p> <ul style="list-style-type: none"> • RPA radius are not shown on the schedule. However referring to the plans I can confirm that veteran tree RPA's have been amended to follow guidance in 	<p>3.2c) new semi-mature trees will be planted to replace trees lost along the boundary of Markeaton Park, with some disease resistant Elms being planted to promote biodiversity in the area. The OEMP also states that DCiC will be consulted during the detailed design of the Scheme landscape proposals. The next version of the OEMP will state that with regard to replacement tree planting in Markeaton Park, Highways England will aim to deliver a landscape design that results in a net gain in trees.</p> <ul style="list-style-type: none"> • During the detailed design stage vegetation clearance plans will be finalised. Such plans can be made available to the local authorities. The need to consult with the DCiC in advance of commencement of any removal of existing trees, hedgerows and shrubs will be detailed in the next version of the OEMP [REP3-003]. As detailed in the OEMP (MW-LAN2), Highways England's will prepare an Arboricultural Mitigation Strategy

Ref	Source	Comments	Applicant's Response
		<p>Ancient and other veteran trees: further guidance and management of 15 x stem Ø as opposed to the BS5837 of 12 x stem Ø.</p> <ul style="list-style-type: none"> • T280 RPA should be 31.5m. • RPA's are shown as circles irrespective of existing constraints. • Annoyingly '7' is shown as a '□' on the plans. • If permitted tree removals must comply with the tree protection measures as per Appendix E. A final Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) would need to be approved and must show the actual alignment of the Construction Exclusion Zone. The AMS must be compliant with 6.2 of the AIA with the addition of arboricultural monitoring and reporting at key events. It is important that the language of tree protection is changed from 'should' to 'will be' and 'must' unless an amendment is agreed by the project arboriculturalist. 	<p>in consultation with the applicable local authorities to protect those trees retained within and immediately adjacent to the order limits. The requirement to consult with the DCiC Arboriculture and Parks officers regarding the removal of significant trees and retention of felled timber within DCiC land will be detailed in the next version of the OEMP.</p>
3.20	<p>SWQ 1.37 Other consents, permits, licenses and agreements</p>	<p>c) Assuming that the pollution control framework is merely a reference to existing pollution control legislation, then</p>	<p>HE notes this point and that DCiC do not foresee a conflict with paragraph 4.55 of the NPSNN.</p>

Ref	Source	Comments	Applicant's Response
	c) With reference to the NPSNN, are the EA and DCiC "satisfied that potential releases can be adequately regulated under the pollution control framework"?	yes, one would hope and assume that it is adequate. DCiC isn't currently involved in lobbying Government to amend any existing pollution legislation due to perceived inadequacy, so it would seem inappropriate to do so here.	
3.21	<p>SWQ 1.38 Management and mitigation plans, strategies and written schemes</p> <p>a) Are the Local Authorities and EA content with dDCO and OEMP provisions for consultation with respect to the management and mitigation plans, strategies and written schemes?</p> <p>b) Should there be a requirement for these documents to be kept up to date with any material changes during construction and for consultation to be required on each revision? If so, should that be secured in the dDCO or the OEMP?</p>	<p>a) Please see previous comment regarding consultation/agreement in respect of the CEMP. DCiC position remains unchanged on this.</p> <p>The Parks team at DCiC are content with the dDCO and OEMP provisions for consultation and have no further comments to make.</p> <p>b) Regarding the OEMP/CEMP, there should be sufficient flexibility within this to negate the need for being consulted on every material change, depending of course on what is meant specifically by 'material'. There would be concerns over resource implications for DCiC if this were to take place.</p> <p>It would be helpful for these documents to be kept up to date with material changes during construction and for consultation on the revisions. This could be secured in the OEMP.</p>	<p>a) As per the Applicant's response to the ExA second written question 1.19b [REP4-027], CEMPs are living documents and so it is anticipated that each CEMP will be revised as necessary during the construction phase by the contractor, in line with the principles of the OEMP. Each revised CEMP will be prepared in consultation with the relevant stakeholders as set out in the OEMP. This will be clarified in the next version of the OEMP.</p> <p>The comment regarding the Parks team contentment with the dDCO and OEMP provisions for consultation are noted.</p> <p>b) Refer to the response above.</p>

Ref	Source	Comments	Applicant's Response
3.22	<p>SWQ 1.39 Impact assessment and mitigation methodology Do the Local Authorities have any comments on the Applicant's responses, including any implications for the identification of significant impacts, or on the need for mitigation measures?</p>	<p>Please see DCiC previous responses to examiners questions and SoCG regarding agreement to impact assessment and mitigation methodology. Position remains unchanged.</p> <p>No further comments on the identification of environmental impacts and mitigation but there has been little consideration of the likely significant impact on events and activities held on Markeaton Park and the potential impact on DCiC income.</p> <p>We have no reasons to differ from the applicants assessment/response unless the inspectors think otherwise</p>	<p>Comments are noted – the Environmental Statement does not consider impacts upon DCiC income associated with events and activities within Markeaton Park given that this is not an environmental impact.</p> <p>The new park access will be constructed and commissioned in Markeaton construction Phase 1. From construction Phase 2 onwards, the access and egress to the park will be improved compared with the existing arrangements.</p> <p>It is accepted that the trip lengths of some visitors arriving by car would be increased by the temporary arrangements at the Markeaton junction. Prior to events, the traffic management arrangements will be reviewed to optimise access.</p> <p>The Contractor's Community Relations Manager will keep a diary of all local events through their liaison with local stakeholders and this will be used by the project team to avoid any potential clashes between scheduled out of hours works and increased flow of traffic/NMUs in the area.</p>

Ref	Source	Comments	Applicant's Response
3.23	<p>SWQ 2.1 Driver Stress Assessment ES Chapter 12 [APP-050] Transport Assessment Report [REP3-005] FWQ [PD-005] Q4.6, Q4.7, Q4.8, Q4.18, Q4.19, Q4.30, Q4.31 Applicant response [REP1-005] DCiC response [REP1-034] DCC response [REP1-033] Applicant response [REP2-020]</p>	<p>On Driver Stress, DCiC responded at the last Hearing that we have never seen the assessment methodology before and not sure of its value. The LHA's concern would be the impact of construction on the operation of the network, road safety and the provision that the construction phases provides for pedestrian and cycle movement through the Scheme.</p>	<p>Comments on the driver stress assessment are noted. HE is aware of the potential for detrimental impacts to road safety and cyclists during construction. At construction preparation stage, the temporary junction layouts will consider how pedestrians and cyclists can be safely accommodated through the works. This is normal practice on a HE project. The strategy, as described in the Traffic Management Plan, is to maintain journey times along the A38. Additional temporary road pavement will be provided to maximise the capacity of the temporary junction layouts (e.g. extra lanes at stop lines) and thereby retain traffic within the A38 corridor and thereby minimise the desire for drivers to seek alternative routes along the local road network.</p>
3.24	<p>SWQ 2.2 Transport modelling and queuing Adequacy of Consultation [AoC-003] DCC comments ISH2 I&Q [PD-010] Q1, Q2</p>	<p>a) Question for Derbyshire County Council b) Applicant to respond. c) Applicant to respond.</p>	<p>a) See 6.18 below. b) Applicant's response [REP4-024] provided at item 2.2 b). c) Applicant's response [REP4-024] provided at item 2.2 c)</p>

Ref	Source	Comments	Applicant's Response
	<p>Applicant response [REP3-014] DCiC response [REP3-027] DCC response [REP3-029]</p>	<p>d) LINSIG is modelling software that has been specifically designed to simulate signal Junctions. One of its key outputs are queue lengths and a measure of the operational capacity of the junction. The suggestion of using LINSIG to design the traffic management for the three junctions is a sensible approach and will not take significant resources to do this. Further, signal junctions on the local network where there are significant changes in traffic flows as a result of rerouting would also help understand the impacts of the construction phasing.</p> <p>e) Applicant to respond.</p> <p>f) A full report of the construction modelling has not been submitted to the DCO Hearing. In discussions with Highways England around 2016, DCiC has seen outputs on the broad impacts of traffic changes as a result of the construction phases.</p> <p>As DCiC described in the written response to the Hearing Questions for Deadline 3, Q1, Strategic Transport Modelling is a useful tool in identifying the likely re- routing of traffic patterns as a result of the construction phasing.</p>	<p>d) The Applicant's response [REP4-024] to question 2.2. c) described the various traffic modelling software available, including the appropriate use of LINSIG software.</p> <p>An operational assessment of the temporary junction layouts will be undertaken with the appropriate combination of modelling software, including LINSIG software, to check traffic signal capacity.</p> <p>SATURN software will be used to identify which parts of the local highway network might see changes in traffic flows. This information can be made available to DCiC.</p> <p>Regarding other traffic signalled junctions on the local network, these could be impacted by various factors that could change the traffic demands upon these junctions, not just the impacts of the works attributed to the Scheme. As noted in the last response, the TM strategy is to maintain journey times along the A38 corridor and thereby minimise the desire for drivers to seek alternative routes along the local road network.</p>

Ref	Source	Comments	Applicant's Response
		However, it doesn't provide the complete answer. In terms of outputs for environmental impact, the modelling is better suited to providing inputs into these assessment processes.	e) Response provided [REP4-024] at item 2.2e). f) Agreed. A further iteration of the construction modelling process will follow the construction preparation activities in PCF Stage 5.
3.25	SWQ 2.5 Traffic Management Plan Update ISH2 I&Q [PD-010] Q3 Applicant [REP3-026] DCiC [REP1-034] [REP1-035] [REP3-027] DCC [REP3-029] Breadsall Parish Council [REP3-028] Intu [REP1-044] [REP3-037]	Not for DCiC to respond specifically. a) Applicant to Respond. b) Applicant to respond. c) Applicant to respond. d) Applicant to respond. e) Applicant to respond. f) Applicant to respond. g) Applicant to respond. h) Applicant to respond.	Applicant's responses provided [REP4-024] at item 2.5.
3.26	SWQ 2.6 Council resources Applicant [REP2-020] DCiC [REP1-034] [REP1-035] [REP3-027] OEMP [REP3-003]	a) DCiC will be the first port of call for daily complaints, possible solutions and updates from customers, residents and councillors regarding the A38 improvement work. It makes logistical sense to host the applicant's relevant point of contact with the Highway Authority to enable face to face discussions and prompt responses	The Community Relations Manager will be based in the Project Offices from the start of the works (SoW) so that they can provide effective communication between the site team and stakeholders (this will be a full-time role). The individual will be given the flexibility to manage their own time and is fully expected to be a regular

Ref	Source	Comments	Applicant's Response
		<p>rather than having to transmit the concerns.</p> <p>Administration, consideration and resolution/action needs to be quickly administered to the changing demands as the scheme progresses. The applicant's representative needs to 'feel' the concerns and take fully informed action rather than being remote from the immediacy of the concerns raised. This resource is required before construction starts to enable the concerns of communities in the immediate area of the A38 to be addressed as soon as possible, and to begin engagement on travel behaviour change.</p> <p>b) Applicant to respond.</p>	<p>visitor to the DCiC offices to promote effective communication. The dedicated Community Relations Manager has already been appointed and the knowledge they gain and the relationships they develop over the months before SoW will be vital to keep everyone informed and involved.</p>
3.27	<p>SWQ 2.8</p> <p>Impacts on local roads Applicant [REP2-020] ISH2 I&Q [PD-010] Q5 Applicant response [REP3-014] [REP3-026] DCiC response [REP3-027] DCC response [REP3-029]</p>	<p>b) It is unlikely that changes to the local road network and signal junction timings will be able to provide sufficient mitigation. The key issue is capacity on links particularly on the inner ring road and the major routes (A61, A6, A52) entering and leaving the city.</p> <p>This is an expected consequence of disruption to local traffic, and does not</p>	<p>b) Noted.</p> <p>See Applicant's response to 3.26.</p> <p>c) The Scheme currently has no plan to implement a legal agreement to monitor the local roads. HE is engaging with local stakeholders through the Behavioural Change Group and Technical Working Group in Derby, which will give a forum for concerned parties to discuss issues</p>

Ref	Source	Comments	Applicant's Response
		<p>include any traffic diverted from the A38 corridor.</p> <p>The local road network currently operates at capacity during peak periods and is vulnerable to severe congestion when events create minor capacity losses. There will be sustained periods of severe congestion as a result of construction and mitigation measures will probably rely on travel behaviour change rather than technical changes.</p> <p>c) For the Applicant to respond. However, it should be noted that the A14 Cambridge to Huntingdon DCO included a monitoring and mitigation agreement, set out in a separate legal document to deal with wider impacts of the scheme outside of the DCO.</p> <p>d) For applicant to respond.</p>	<p>and agree a plan to mitigate these issues.</p> <p>d) Applicant's response [REP4-024] item 2.8</p>
3.28	<p>SWQ 2.9</p> <p>Increased journey times on Mansfield Road</p> <p>FWQ 4.36 [PD-005]</p> <p>Applicant response [REP1-005] [REP2-020] [REP3-022]</p> <p>DCiC response [REP1-034]</p>	<p>a/b) The applicant has made minor change to Transport Assessment, which is the change in journey time reported in the assessment. The applicant has identified that the 11-minute journey time value was a typo error and should have been a couple of minutes. DCiC don't have any comment on this other than accept that it was a typo.</p>	Noted.

Ref	Source	Comments	Applicant's Response
3.29	<p>SWQ 2.10 Junction layouts ISH2 I&Q [PD-010] Q6 Applicant response [REP3-026] DCiC response [REP3-027]</p>	<p>a) DCiC has undertaken a survey of the turning movements at Ford Lane/A6 and manually calculated forecast changes in traffic patterns and growth. As such DCiC has identified that a scheme is required, however, we still have concerns about the need to fully signalise the junction. DCiC has discussed this with the Applicant and it has been agreed to look at alternative options.</p> <p>b) The applicant has approached DCiC as Highway Authority on the principle of the current proposed layout. DCiC doesn't have an issue with the principle of the access layout and is currently looking through the proposals to provide more detailed comments.</p>	<p>a) Refer to the Applicant's response to this question in [REP4-024] item 2.10a) - discussion are ongoing to look at alternative options.</p> <p>b) Noted. Discussions are ongoing to agree technical details.</p>
3.30	<p>SWQ 2.13 Impacts on public transport during construction NPSNN Paragraph 5.205 DCiC [REP1-034] ISH2 I&Q [PD-010] Q11 Applicant response [REP3-026] DCiC response [REP3-027]</p>	<p>d) DCiC setup a meeting that was held in January 2020. This was attended by bus operators, transport users groups, DCiC, Hospital, Intu, University and direct representatives from BAM and Highways England.</p>	<p>Agreed.</p> <p>The expectation is that the Behavioural Change working group will continue up to and during construction. Refer also to Applicant's response [REP4-024] item 2.13.</p>

Ref	Source	Comments	Applicant's Response
	Royal Derby Hospital [REP3-041] David Clasby [REP3-032]		
3.31	SWQ 2.14 Support to public transport NPSNN Paragraph 5.205 ISH2 I&Q [PD-010] Q11	a) For applicant to respond. b) For applicant to respond.	These questions were addressed to the LHAs by the ExA. See also DCC's response, reproduced at 6.22 below.
3.32	SWQ 3.1 Air Quality - Changes in pollution concentration and LA105	Although DCiC haven't been specifically asked to comment on this, we would wish to offer the following. Given the uncertainties that still surround the potential for exceedance of EU Limit Values (namely annual average NO2 concentrations) caused by increased emissions during construction phases in particular, DCiC is of the opinion that further assessment of this particular aspect under the updated DMRB LA105 Guidance would be beneficial. Until the release of LA105 in November 2019, there was no recognised method for reconciling infrastructure scheme contributions with national PCM compliance modelling outputs. Whilst the work that has been done within the ES is considered to be logical and reasonably robust, the LA105 Guidance does appear to provide additional clarity on a	HE notes that DCiC states that it " <i>is satisfied that the assessment work is agreed as a best guess in the circumstances.</i> " Refer to HE's response to Q3.1 [REP4-024] which states " <i>In summary, application of LA 105 methodology rather than DMRB 11.3.1 used for the Scheme air quality assessment reported in ES Chapter 5 [APP-043] is not anticipated to cause any additional significant effects or materially new or materially worse adverse environmental effects or compliance risks in comparison with those reported in the ES</i> ". Therefore, HE does not consider it necessary to redo the air quality impact assessment in accordance with LA 105 as it would result in no material change to the assessment as reported in ES

Ref	Source	Comments	Applicant's Response
		<p>consistent method for application in these circumstances. Furthermore, following the updated Guidance appears to provide less reason to dispute the conclusions.</p> <p>DCiC does however note that the examiners clarified that the updated Guidance was not relevant to the current examination and therefore could not now be applied. That being the case, then DCiC is satisfied that the assessment work is agreed as a best guess in the circumstances.</p>	<p>Chapter 5: Air Quality [APP-043]. HE would also reemphasise its position in respect of there being no duty to redo any assessment and that any reassessment would cause significant delay and cost to the Scheme, given that it is midway through the Examination process.</p>
3.33	<p>SWQ 3.2 Construction Dust and Emissions Is DCiC now satisfied with the Applicant's air quality assessment methodology for construction; and assessment of no significant air quality impacts during construction?</p>	<p>See previous DCiC response and SoCG. Position unchanged. Concerns refer to outstanding detail in CEMP, not disagreement with assessment methodology, however with reference to EU Limit Value assessment and use of LA105 Guidance, see comments above in answer to question 3.1.</p>	<p>Noted. Discussion regarding the use of the LA105 guidance is set out in HE's response to Q3.1.</p>
3.34	<p>SWQ 3.4 Operational vehicle emissions - Methodology and impacts Is DCiC now satisfied with the Applicant's:</p> <ul style="list-style-type: none"> • air quality assessment methodology for operation; and 	<p>With respect to the 'completed scheme' emissions and methodology, please see previous DCiC responses, SoCG and comments in 3.1 above regarding the application of LA105 Guidance.</p>	<p>Noted. The operational emissions and methodology are agreed. Discussion regarding the use of the LA105 guidance is set out in HE's response to Q3.1.</p>

Ref	Source	Comments	Applicant's Response
	<ul style="list-style-type: none"> assessment of no significant air quality impacts during operation? 		
3.35	<p>SWQ 3.5 Statutory compliance and other matters – EU compliance Is DCiC now satisfied with the Applicant's:</p> <ul style="list-style-type: none"> air quality modelling methodology for assessment with respect to the European Union Directive for all receptors; assessment that it does not expect that any area which is currently reported as being compliant with the Air Quality Directive will become non-compliant; and assessment that the Proposed Development will not affect the ability of any non-compliant area to achieve compliance within the most recent timescales reported to the European Commission? 	<p>See response to 3.1 above and also previous response to examiners questions following ISH2. Position unchanged.</p> <p>In summary, the assessment work done so far provides reasonable levels of confidence, but use of the updated LA105 Guidance is advised.</p> <p>In any case, modelling is only ever a 'best guess', so it is not possible to say that the Proposed Development will not affect the ability of any non-compliant area to achieve compliance.</p>	Noted. Discussion regarding the use of the LA105 guidance is set out in HE's response to Q3.1.
3.36	<p>SWQ 3.8 Mitigation and NO2 monitoring Please could DCiC provide a written response to the following matters</p>	<p>a) Already clarified in response to ISH2 questions.</p> <p>b) OEMP already agreed in SoCG.</p>	<p>Matters a), b) and d) are agreed.</p> <p>c) As discussed by DCiC in their response to this question and in the ISH2 [REP3-027, Q21 part c], if</p>

Ref	Source	Comments	Applicant's Response
	<p>included under item 20 of the ExA's issues and questions for Issue Specific Hearing 2 [PD-010]:</p> <p>a) Should NO₂ monitoring be required of the Applicant during construction and, if so, where?</p> <p>b) Whether the OEMP provisions for communication and liaison with DCiC in respect to NO₂ in Stafford Street are clear and adequate?</p> <p>c) Whether DCiC or the Secretary of State should have the power to require action for changes to be made to the construction arrangements where monitoring suggests that the existing situation could be putting compliance with the EU AQD at risk; and whether DCiC would have other suitable options available to it?</p> <p>d) Whether mitigation measures are clear, adequate and secured appropriately by Requirement 3 and the OEMP?</p>	<p>c) This is unlikely to be practical. Firstly, DEFRA are responsible for assessing compliance with the EU Directives, not the LA or HE. Subsequently, there are only two ways of assessing compliance; firstly through use of the national PCM model (undertaken by DEFRA) and secondly, using monitoring (applying the automatic monitoring reference method). In terms of modelling, this is really a question for the SoS for DEFRA to see if they feel there may be benefit in undertaking more detailed compliance modelling than the modelling that has already been provided by HE?</p> <p>In terms of monitoring, there are currently no reference method monitoring stations within relevant locations in Derby, albeit one is planned for Stafford Street in the near future. Even with monitoring data, one could only draw conclusions about annual average concentrations (which is what the most at risk EU Limit Values are based on) following compilation of several months- worth of monitoring data, by which time it may be too late to affect the annual average for that year in any</p>	<p>measured NO₂ concentrations during the Scheme construction phase were to indicate an exceedance, it is not possible to confidently identify the source of that increase.</p> <p>HE agrees with DCiC that as outlined in their response to this question that <i>"the most sensible approach would be to plan construction works in such a way as to minimise air quality impacts 'as far as practically possible' from the outset"</i>. This has been done by maintaining existing A38 journey times during the Scheme construction phase in order to encourage drivers not to make undesirable route choice changes onto local roads (refer to ES Chapter 2: The Scheme, para 2.6.80 [APP-040]).</p>

Ref	Source	Comments	Applicant's Response
		<p>case. Whilst it may be technically possible to keep a watching brief and adapt to early indications of change, there are so many confounding variables that affect monitoring data that drawing the assumption that construction traffic was causing the effects is rather fraught.</p> <p>In addition, the implications for making any amendments to scheme construction due to AQ concerns would need to be considered in light of many other conflicting and significant issues.</p> <p>In the view of DCiC the most sensible approach would be to plan construction works in such a way as to minimise air quality impacts 'as far as practically possible' from the outset, whilst accepting that in the unlikely event of a breach caused by the construction of the scheme, this would only be 'temporary' and working towards a goal of longer-term improved air quality conditions that the completed scheme is expected to provide.</p> <p>d) OEMP already agreed in SoCG.</p>	
3.37	SWQ 4.3	a) DCiC still believes that exceedance of the SOAEL should be avoided	a) Noted and agreed that the CEMP should be designed to minimise noise

Ref	Source	Comments	Applicant's Response
	<p>Construction noise, vibration and working hours - Significance and exceedance of SOAEL</p> <p>a) Do DCiC and EBC (still) consider any exceedance of SOAEL to be significant?</p> <p>b) The Applicant proposes that any assessment carried out later, when more detailed information would be available, would consider exceedance of SOAEL for up to 10 days (or 10 evenings, weekends or nights) in any 15 to be not significant. Is the Applicant's approach expected to lead to more impacts that DCiC and/or EBC would consider significant than are identified in the ES?</p>	<p>where possible. The CEMP should be designed with this aim in mind.</p> <p>b) Again, DCiC believes that exceedance of the SOAEL should be avoided where possible.</p> <p>The aim of the CEMP will be to employ the concept of 'Best Practical Means' in order to minimise noise as far as possible. This concept does not involve designing construction works and noise mitigation around 'maximum allowances', it looks at it the other way around i.e. how can noise be minimised.</p> <p>Potential exceedance of the SOAEL is merely a tool used within the ES to consider potential impacts of the scheme based on worst-case assumptions. In practice, the scheme will be designed to avoid all exceedances of the SOAEL where possible.</p> <p>On this basis, highlighting what is deemed significant or not at the final design stage should make no practical difference to the resultant noise impacts that may occur.</p>	<p>impacts. This is secured through the clauses in the OEMP [REP3-003] requiring the application of Best Practicable Means (BPM) (PW-NOI1 and MW-NOI1).</p> <p>b) as for a) Noted and agreed that the CEMP should be designed to minimise noise impacts through the application of BPM, as secured in clauses PW-NOI1 and MW-NOI1 of the OEMP [REP3-003]. As detailed in the Applicant's response to Second Round WQ 4.2b [REP4-024] it is also agreed that the construction noise SOAELs are not designed to be, or proposed to be, used as design criteria by the construction contractor. As detailed in the Applicant's response to Q22 at ISH2 [REP3-026] and the response to Second Round WQ 4.2b [REP4-024], it is agreed that locations identified as experiencing a potentially significant construction effect will not be treated differently in terms of the requirement to adopt BPM. The OEMP does not specify a different approach to minimising noise and vibration based on the duration of the works or if a significant effect is identified.</p>

Ref	Source	Comments	Applicant's Response
3.38	<p>SWQ 4.4 BPM and consistency with the ES</p> <p>a) Does the Applicant consider that the construction contractor is likely to have enough flexibility to ensure that its' detailed design and construction proposals would not give rise to any materially new or materially worse adverse noise or vibration effects in comparison with those reported in the ES?</p> <p>b) In order to preserve the validity of the impact assessment and the basis of any decision regarding development consent, the ExA is considering a dDCO or OEMP requirement for the construction contractor to explicitly demonstrate that its' detailed design and construction proposals would not give rise to any materially new or materially worse adverse noise or vibration effects in comparison with those reported in the ES, and for this to be subject to review by the Local Authorities and the Applicant and approval by the Secretary of</p>	<p>Although DCiC is noted in the 'question to' section, these questions appear to be aimed at the applicant?</p>	<p>Noted and the Applicant has addressed these points in its response to the SWQs. [REP4-024] item 4.4a)</p>

Ref	Source	Comments	Applicant's Response
	State? Please could the Applicant comment?		
3.39	SWQ 4.8 Cumulative impact assessment Is DCiC content with the Applicant's consideration of construction and any other traffic from the other developments in its' noise and vibration assessment?	Noise and vibration assessment already agreed by DCiC in SoCG.	Noted and agreed.
3.40	SWQ 5.1 Flood risk modelling Relevant Representation (RR) by DCiC [RR-003] Applicant's Response to FWQ [REP1-005] Applicant's response to ISH2 [REP3-026]	a) The LLFA has recently received the new flood risk assessment that we understand will be submitted by deadline 4. It addresses many of the issues that were raised with the hydraulic modelling for this area. However the document is still under consideration. b) The LLFA has recently received the revised flood risk for this junction that we understand will be submitted by deadline 4. The FRA now includes an assessment of a saturated ground which better helps assess high ground water in this catchment. However, our view is that including tree planting in the Mackworth Park area could help dewater the catchment and provide	a) Updated Flood Risk Assessments (FRAs) for Kingsway junction and Markeaton junction were submitted to DCiC on the 17th January 2020 and submitted to the ExA at Deadline 4 [REP4-009 & REP4-010]. b) Noted. HE considers that the Scheme design at Kingsway junction already includes appropriate measures to mitigate flood risks associated with the Scheme.

Ref	Source	Comments	Applicant's Response
		benefit at little cost. Requirement 14 now includes the correct allowance for climate change for the rainfall runoff method used in the Kingsway hydraulic model and is acceptable	
3.41	<p>SWQ 5.2 Ownership of flood storage facilities Applicant's response to ISH2 [REP3-026] DCiC's response to ISH2 [REP3-027]</p>	DCiC view is that the ownership of the flood storage areas should reside with the applicant, as they protect the applicant's asset and also ensure flood risk is not increased to others.	HE agree that they should maintain the assets which protect the SRN, but not acquire the land unless already stated. For instance, in a meeting with Kier Homes on 29 January 2020 Kier said they will want to keep their land by Kingsway Hospital as Public Open Space and put a management company in place. HE would want rights to maintain the flood elements of the POS area.
3.42	<p>SWQ 5.3 Surface water discharges Applicant's response to ISH2 [REP3-026] DCiC's response to ISH2 [REP3-027] DCC's response to ISH2 [REP3-029]</p>	<p>a) The applicants drawing, Drainage General Arrangement 7, does not indicate a petrol interceptor at this location. However it is now accepted that the text of the drainage strategy does include this facility. DCiC's view is that where there are no vegetative treatment stages, generally an interceptor should be included at the majority of the outfalls.</p> <p>b) there may be confusion with the Mill Pond and Markeaton Lake. It is understood that the no outfalls discharge</p>	a) The preliminary drainage design underwent a Highways Agency Water Risk Assessment Tool (HAWRAT) assessment and the findings complied with water quality standards: the design was carried out to the requirements of DMRB HD49/16, HD45/09 (Now LA113) and advice within HA 103/06. Assessments to the new standards (LA113 and HEWRAT) will be carried out at detailed design stage and the requirements for

Ref	Source	Comments	Applicant's Response
		<p>directly to Markeaton Lake. However the Mill ponds form part of the Markeaton Lake reservoir complex and as such both siltation control and discharge control are very important here. See answers to 3a and 3c</p> <p>c) See answers to 5.3a, 5.3b and 5.4</p>	<p>interceptors will be reviewed at that stage.</p> <p>b) Agreed. HE understands there is an outfall below the weir and there are no outfalls directly into Markeaton Lake. [REP1-034].</p>
3.43	<p>SWQ 5.4 Water Quality Applicant's Response to FWQ [REP1-005] RR by the EA [RR-005]</p>	<p>d) The issue with not having more clarity on discharge rates is that it does not give clarity to the detailed design. The DCO requires that the development be brought forward in line with the outline Environmental Management Plan that indicates that many outfalls will discharge at existing discharge rates. It is not clear if DCiC asks for a discharge rate to be reduced under Requirement 12 whether this would conflict with the outline Environmental Management Plan. DCiC suggests that this be discussed further at the meeting on 19th February.</p>	<p>The response inserted here by DCiC is to SWQ 5.3d). DCiC has not answered Q5.4 in their deadline 4 submission. See responses below to points 4.13 (EA) and 6.25 (DCC) on water quality. Below is the response to the DCiC comment to Q5.3d):</p> <p>Prior to Deadline 4 it has been suggested to DCiC that the OEMP [REP3-003] be amended to state the following: <i>"The applicable local authorities will be consulted with regard to highway runoff discharge rates, noting that Highways England will demonstrate that reasonable steps have been taken such that the total discharge rate from the Scheme surface water drainage system does not exceed the discharge rate of the existing surface water drainage system and that betterment will be provided</i></p>

Ref	Source	Comments	Applicant's Response
			<i>where practical</i> ". Given the inclusion of this text in the OEMP means that Requirement 13 in the dDCO does not need to be amended.
3.44	<p>SWQ 5.5 Use of Sustainable Drainage Systems Applicant's response to ISH2 [REP3-026] DCiC's response to ISH2 [REP3-027]</p>	<p>Section 5.102 of the NPSNN states that "The Secretary of State should expect that reasonable steps have been taken that avoid, limit or reduce the flood risk to the proposed infrastructure and to others". Discharging water at existing discharge rate does not appear to comply with this requirement.</p> <p>The Non-Statutory Technical Standards for Sustainable Drainage state in section S3 "For developments that were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1in1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practical to the greenfield runoff rate from the development for the same rainfall event but should never exceed the existing discharge from the development prior to redevelopment."</p>	<p>HE consider that reasonable steps have been undertaken to avoid, limit or reduce flood risk associated with the Scheme.</p> <p>Reference to the Technical Standards for SuDS is noted, as is their non-statutory status and the fact that they are designed to support projects that are consented through the Town and Country Planning Act 1990, rather than the 2008 Planning Act. HE would refer back to its response to this question submitted at deadline 4 for the weight to be applied to policy guidance other than the NPSNN. However, in line with good practice, the use of SuDS will be further considered at detailed design stage and included where feasible.</p> <p>Refer to [REP4-025] for the discharge rates based on the Preliminary Design. During the detailed design stage these will be further refined and appropriate treatment and attenuation will be applied accordingly. During this</p>

Ref	Source	Comments	Applicant's Response
		The 30% reduction in discharge is DCiC's suggestion of a reasonable compromise.	process HE will endeavour to achieve 30% betterment where it is practicable to do so.
3.45	SWQ 6.3 Enhancement and the use of Biodiversity Metric Assessment DCiC response to FWQ [REP1-034] EBC response to FWQ [REP1-051] Applicant response to ISH2 [REP3-026]	Derbyshire Wildlife Trust are best placed to respond to this. DCiC has forwarded this question to them for their informed response.	Noted – a response to the comments from Derbyshire Wildlife Trust is provided separately in this document.
3.46	SWQ 10.5 Temporary Possession (TP) of land and maintenance of environmental features in Markeaton Park and Mackworth Park DCiC [REP1-034] Applicant [REP2-020] CAH1 Actions [EV-006] 5, 25 Applicant response [REP3-014] [REP3-025]	a) The DCiC Parks team are satisfied that the amount of land that would be subject to TP in Mackworth Park and Markeaton Park is justified and proportionate now that specific environmental mitigation measures for which the land is required have been identified. b) The Parks team is not satisfied that the potential effects on open space and events in the parks has been adequately assessed and mitigated. No consultation has taken place on this specific issue and there is no process in place for the assessment of income lost as a result of the scheme works.	a) Noted b) The works along the southern boundary to create a corridor for the services will be fenced off and the area adjacent to the existing A38 would have minimal impact on the park operation. The works to create a new access to the park will be taking place soon after start of works which is programmed in November and as such is planned to be undertaken in the Winter season when use of the park is lower as a consideration to minimise impact. Manager will regularly liaise with the Parks Team as HE recognises that they are a key stakeholder to the

Ref	Source	Comments	Applicant's Response
		<p>c)The Parks team is satisfied with the proposals for permanent emergency egress from Markeaton Park.</p> <p>Apart from the above, the Parks team is happy with the necessary mitigation secured subject to further discussions at detailed design stage.</p>	<p>project and need to be kept fully briefed on the phasing of the works. Further, the draft DCO provides in Article 33(5) that compensation is payable for 'any loss or damage' in consequence of the temporary occupation of any land. Therefore, if there is a consequential loss due to the works then the DCO, if made, provides for appropriate compensation to be paid in the scenarios suggested, if a valid claim is submitted.</p> <p>c) Noted.</p>
3.47	<p>SWQ 10.8 Ashbourne Road and Sutton Close gardens and access alternatives A38 alignment options and Queensway properties CAH1 Actions [EV-006] 8, 27 Applicant response [REP3-014] [REP3-023] [REP3-025]</p>	<p>From the large scale plans that have been provided, it is not clear whether the road shown directly feeds into the drives of 255 Ashbourne Road. The road is currently a private drive for access to a small number of houses and therefore DCiC will not be adopting it. We have highlighted this in comments on the scheme to Highways England.</p>	<p>The Scheme proposals (as shown on the General Arrangement Plans [APP-010], the Works Plans [REP2-005] and listed in Schedule 1 of the dDCO [REP4-004]) indicate that an access road, jointly serving the properties nos. 255 and 253 Ashbourne Road and Sutton Close, is proposed. Refer to the technical note on Ashbourne Road Accesses [REP3-023].</p> <p>The proposed access will be designed and constructed to adoptable standards as previously discussed with DCiC.</p>

Ref	Source	Comments	Applicant's Response
			<p>Discussions with regard to appropriate TROs for this are ongoing and will be added to the dDCO.</p> <p>DCiC are to confirm whether a turning head is to be included within the design outside No 255 Ashbourne Road as part of the proposed access road design to meet their highways requirements.</p>
3.48	<p>SWQ 10.10 Part 1 and Section 10 claims for injurious affection CAH1 Actions [EV-006] 8 Applicant response [REP3-014] [REP3-025]</p>	<p>DCiC considers it is inevitable that the volume of traffic will increase following completion of the Scheme. In view of this, it is assumed that in order to provide a baseline from which assessments can be made, and hence any potential mitigation works which may be incorporated, e.g. bunds, initial measurements in relation to noise, fumes, vibration etc., will be carried out prior to works commencing on site. This would also then assist with any potential compensation claims which may be received.</p>	<p>An assessment of potential physical factors was undertaken prior to the submission of the draft DCO and included in section 9.7 'Baseline conditions' of ES Chapter 9 'Noise and Vibration' [APP-047]. This assessment was used to inform any potential Part 1 claimants to be included as Category 3 parties in the Book of Reference.</p> <p>Section 10 claims can only be made during construction. It is the intention to maintain access to all properties during construction and all efforts will be made to ensure that circumstances do not arise that will give rise to any Section 10 claims to be made.</p> <p>Any party's inclusion or exclusion from the Book of Reference does not confirm whether any claim would be</p>

Ref	Source	Comments	Applicant's Response
			successful, and does not prejudice a party's ability to make a claim under Section 10 Compulsory Purchase Act 1965 or Part 1 of the Land Compensation Act 1973.
3.49	SWQ 10.17 Replacement land CAH1 Actions [EV-006] 15, 19, 31 Applicant response [REP3-014] [REP3-025] DCiC response [REP3-027]	DCiC has no further comments to make to the further responses provided by the Applicant.	HE note that DCiC agree that the replacement land to be provided is suitable and that CA of existing public open space is necessary for the Scheme. Furthermore, Highways England welcome the fact that there are no longer any outstanding concerns.
3.50	SWQ 10.18 Markeaton Park 'Mundy covenant' CAH1 Actions [EV-006] 23, 24 Applicant response [REP3-025] DCiC response [REP3-027]	Please find attached a copy of the said conveyance. Our assessment is such that we do not consider that the proposed works contravene the covenant, since there is no intention to construct buildings upon the land in question. We would however advise the applicant to seek their own legal representation in this regard.	Please see Highways England's response to this point in the SWQs.
3.51	SWQ 10.20 Trigger mechanisms CAH1 Actions [EV-006] 30 Applicant response [REP3-025]	As a baseline requirement, we would expect a trigger mechanism to be introduced which provides a minimum notice period of 28 days, and more preferably 44 days.	Where land is required permanently the General Vesting Declaration process will require a three month notice period. Where land is to be temporarily occupied the draft DCO requires that a 14-day notice period is

Ref	Source	Comments	Applicant's Response
			provided. However, the Applicant has been engaging with all Affected Parties with a view to reaching agreements, and where longer notice periods are required these will be agreed on an individual basis, as appropriate.
4 Environment Agency			
4.1		1.1 – The Environment Agency would welcome our suggested wording being added in. Please note this applies to Article 20 only.	This has now been included. See HE response to this question in the SWQs.
4.2		1.4 - The Environment Agency confirms that protective provisions ensures that the EA's regulatory role is maintained when the legal provisions are disapplied.	Noted.
4.3		1.11 – a) The Environment Agency would be satisfied with bullet points 1 and 2 of 1.11 a) being included as provisions within Article 20.	Bullet point 2 has been included in the dDCO. HE does not consider that bullet point 1 needs to be as the Scheme is not interfering with the neds of any main rivers. HE was under the impression that this point had been agreed by the EA. If further discussions are needed, HE will seek to agree this point prior to the next ISH.
4.4		1.21 – The Environment Agency would be happy with these provisions being included.	Please see comments above at 3.13.

Ref	Source	Comments	Applicant's Response
4.5		<p>1.22 – a) Please see our response to 1.23 below for information on the verification report.</p> <p>c) The Environment Agency is satisfied that the wording we asked for is now included within requirement 4 (4).</p>	<p>a) Noted – see response below.</p> <p>b) Noted.</p>
4.6		<p>1.23 – a & b) Following further discussions with AECOM, we have no objections with the principle of including the requirement of a Verification Report within the OEMP rather than within Requirement 8.</p> <p>The key point from a groundwater and contaminated land point of view is that the wording of the verification statement must make reference to “demonstrating the effectiveness of the remedial measures”, as it is only successful remediation that reduces risks associated with contamination. This view was made clear in paragraph 7.3 of our Relevant Representations, and within the draft Statement of Common Ground. At the time of writing, this matter is still under discussion with the applicant's representatives though we understand that this wording will be incorporated.</p>	<p>a) & b) Noted and agreed – it has been agreed with the EA that the requirement for a Verification Report is secured through the OEMP.</p> <p>Subsequent to Deadline 4, HE has agreed with the EA that the wording regarding the Verification Report as included in the OEMP [REP3-003] (MW-GEO3) is to be amended to state the following (additional wording is underlined):</p> <p><i>“Where remediation works have been undertaken, Highways England will prepare a Verification Report to illustrate that the works have been undertaken in accordance with the Remediation Strategy. The Verification Report shall be submitted to and agreed with the Environment Agency, <u>noting that the Verification Report will report on the effectiveness of the implemented remedial measures.</u>”</i></p>

Ref	Source	Comments	Applicant's Response
			The EA is happy with this change, noting that this is now reflected in the final signed SoCG as submitted at Deadline 5.
4.7		<p>1.24 - a) We note that the proposed area of the main construction compound is situated on an historic landfill site, and within close proximity to a public water abstraction point. The compound would be located within Source Protection Zone (SPZ) 2, and very close to SPZ1 for this abstraction point. This is therefore a very sensitive location from a groundwater protection point of view.</p> <p>We therefore seek within the Preliminary Works CEMP details of the drainage solution for the construction compound from the applicant, and relevant pollution prevention measures to reduce the risks of pollution to controlled waters from activities in this location (e.g. lining large parking areas or moving fuel storage locations to outside of SPZ2 etc).</p>	Noted and agreed. As detailed in the OEMP [REP3-003] a preliminary works CEMP will be prepared in consultation with relevant stakeholders and approved by the Secretary of State. As detailed in PW-WAT1, the preliminary works CEMP will include details regarding pollution risk prevention measures, with such measures being defined in consultation with the applicable local authorities and the Environment Agency. The next version of the OEMP will also state that the preliminary works CEMP should include details of surface water drainage solutions at the main construction compound at Little Eaton junction.
4.8		1.24 - b) Provided that adequate information is submitted in relation to our response to questions 1.24a), we would have no preference on whether the	b) Noted – as per HE response to this question [REP4-024], the main construction compound set up needs to be undertaken during the preliminary

Ref	Source	Comments	Applicant's Response
		construction of the compound happens as preliminary works or not.	works stage in order to avoid construction programme delays.
4.9		<p>1.26 – b) & c) The Environment Agency are satisfied with the 50% allowances proposed for the Little Eaton junction. Climate change allowances requirements are detailed on gov.uk dependent on the vulnerability of the development and the flood zone the development is situated in. For essential infrastructure in FZ3 the upper end climate change allowance in the Humber catchment would need to be used which is a 50% allowance, which is being proposed for the Little Eaton junction.</p> <p>Matters relating to the Kingsway junction will be answered by the Lead Local Flood Authority (LLFA).</p>	b) & c) Noted and agreed.
4.10		1.34 - Highway England's legal representatives have started discussions around the inclusion of the Environment Agency's protected provisions. At the time of writing, discussions are still taking place.	Noted.
4.11		1.37 – a) The Environment Agency has been contacted by Highways England to understand the requirements for the permits and consents relevant to the	a) HE can confirm that these communications are ongoing and that best endeavours are being undertaken to progress these matters as far as

Ref	Source	Comments	Applicant's Response
		<p>Environment Agency. The Environment Agency has provided back links to the guidance on gov.uk for each relevant permit and consent that may need to be applied for.</p> <p>c) Standard pollution prevention control and best practice measures should be sufficient but the EA would expect a site meeting to be held shortly prior to works starting in order to agree the site specific pollution prevention measures and monitoring required.</p>	<p>they can reasonably be done so during the current DCO stage. An updated Consents and Agreements Position Statement is provided as part of the Deadline 5 submission.</p> <p>c) Noted and agreed – the OEMP [REP3-003] includes the need for a site visit with the EA prior to the start of construction works to discuss water pollution prevention and control measures (refer to MW-WAT8 in Table 3.2b). The OEMP details that the Water Management Plan will detail construction phase water monitoring requirements, noting that this plan will be prepared in consultation with relevant local authorities and the Environment Agency.</p>
4.12		<p>1.38 – a) The Environment Agency are satisfied with the provisions for consultation except for the matters related to the verification report highlighted in our response to question 1.23 which needs further clarification.</p> <p>b) The Environment Agency would be happy to see any updated documents as and when this is required and where it is</p>	<p>a) Refer to the response to Q1.23 above which indicates that HE and the EA have agreed wording regarding the Verification Report to be included in the next version of the OEMP.</p> <p>b) Noted. As per the Applicant's response to the ExA second written question 1.19b [REP4-027], CEMPs are living documents and so it is anticipated that each CEMP will be</p>

Ref	Source	Comments	Applicant's Response
		related to matters for the Environment Agency.	revised as necessary during the construction phase by the contractor, in line with the principles of the OEMP. Each revised CEMP will be prepared in consultation with the relevant stakeholders as set out in the OEMP. This will be clarified in the next version of the OEMP.
4.13		5.4 – a) EA would expect a site meeting to be held shortly prior to works starting in order to agree the site specific pollution prevention measures and monitoring required.	The OEMP [REP3-003] includes the need for a site visit with the EA prior to the start of construction works to discuss water pollution prevention and control measures (refer to MW-WAT8 in Table 3.2b). The OEMP details that the Water Management Plan will detail construction phase water monitoring requirements, noting that this plan will be prepared in consultation with relevant local authorities and the EA.
5 McDonald's Restaurants Ltd			
5.1	Assessment of junction capacities	ADL are working on a bespoke LINSIG model for our client and intend to have headline results ready for the next hearing, with a written technical submission to accompany.	Noted.

Ref	Source	Comments	Applicant's Response
5.2	Junction geometry	The left turn in from the A52 for HGV's remains a tight manoeuvre and we have sought confirmation of the layout from HE in order to confirm both the geometry needed for the LINSIG model (point (a), above) and our Client's delivery and servicing requirements.	HE has supplied McDonald's with an electronic version of the geometric layout for the access.
5.3	The need to strengthen the McDonalds car park	McDonalds have instructed their own contractor to undertake core tests of the existing car park and results of the site work are awaited.	Noted.
5.4	Justification for ingress to the McDonalds/EG facilities from the A38 slip road	HE/AECOM are preparing a Technical Note setting out the 'exit only' arrangements and we will comment further upon receipt	The Technical Note in question was submitted to the Examination at Deadline 4.
5.5	The provision of roadside signage	AECOM have requested further justification from McDonald's and Euro Garages and this is being considered, however, it remains the view of our Client, that HE should be putting forward a reasonable and practical signage proposal as part of the wider scheme mitigation.	The McDonald's site does not meet criteria as a designated trunk road service station. McDonald's are to provide more information to justify a safety case for signage to be implemented.
5.6	The effect of the proposal on access rights across the McDonalds and EG sites. Is a copy of the	We have enclosed a copy of the Land Registry filed plan for title number DY103730, which shows shaded in brown the land over which EG have rights. Only	Noted.

Ref	Source	Comments	Applicant's Response
	conveyance referred to in title number DY103730 available?	a copy of the conveyance plan (not the conveyance itself) appears to be available at the Land Registry, and this too is attached.	
5.7	Please summarise the outstanding matters for agreement, the next steps to be taken and whether agreement is anticipated during the Examination	<p>Following the above points, the Statement of Common Ground will be updated further.</p> <p>We are awaiting an updated land ownership plan with the Adopted Public Highway extents overlaid, in order that any changes in access rights can be fully considered by our Client's legal team.</p> <p>We are in receipt of extracts of HE's Road Safety Audits, however, these did not include the audit brief, terms of reference or details of the Audit Team.</p> <p>We are yet to receive a copy of the WCHAR report.</p>	<p>An updated SoCG is being prepared.</p> <p>The Applicant has supplied McDonald's with electronic version of the geometric layout – this includes the boundaries of McDonald's and Euro Garages interest with HE and Derby City Council land.</p> <p>The Applicant was not aware of this request for the WCHAR, however, it is available as it was submitted as part of the DCO Application in the Environmental Statement Appendix 12.1: A38 Walking, Cycling and Horse Riding Assessment [APP-226].</p>

Ref	Source	Comments	Applicant's Response
6 Derbyshire County Council			
6.1	SWQ 1.4 Article 3 – Disapplication of Legislative Provisions	<p>c) The DCO for the A38 Junctions is the first DCO to have been submitted in Derbyshire so officers have no direct previous experience of dealing with its provisions, particularly relating to the disapplication of legislative provisions. However, officers have researched other DCO cases elsewhere in the country and the disapplication of the Water Resources Act appears to have been applied for other NSIP schemes around the country. However, just for consistency, Derbyshire County Council's Officers have asked its Flood Risk colleagues at Derby City Council what their position would be, if this applies to the other 2 junctions (Kingsway and Markeaton) in their area. Subject to the comments of Derby City Council, on the basis that the disapplication of the Water Resources Act appears to be common practice elsewhere in other DCOs, then Derbyshire County Council would be happy to accept this position</p>	Noted and agreed.

Ref	Source	Comments	Applicant's Response
6.2	<p>SWQ 1.6 Article 6 – Maintenance of authorised development</p>	<p>b) From a highways perspective, the County Council is largely in agreement with Highways England, in that many of the issues around maintenance of both existing and future assets are a matter for the detailed design process. Discussion with Highways England about this has been positive and the Local Highways Authority is keen to ensure continued engagement with Highways England during the detailed design of the emerging scheme(s) and their construction.</p> <p>From a flood risk perspective, it is considered to be important to clarify maintenance responsibilities both during construction and operation. The maintenance responsibilities for the various assets associated with this development need to be clearly defined, and whom that shall be.</p>	<p>Noted and please see Highways England response to this in its SWQ response.</p> <p>Highways England will maintain assets which protect its own highway and expect Derbyshire County Council to do the same. Where impacts affect both bodies' assets, HE is happy to discuss with the County Council and coordinate the best action.</p>
6.3	<p>SWQ 1.8 Streets</p>	<p>Do the Local Highways Authorities have any outstanding concerns with respect to:</p> <ul style="list-style-type: none"> • How Section 4 of the Highways Act would be affected. <p>No. Derbyshire County Council has no further</p>	<p>Noted.</p>

Ref	Source	Comments	Applicant's Response
		comments or outstanding concerns.	
6.4	SWQ 1.10 Article 14 – Classification of Roads	Derbyshire County Council has no further comments to make on this issue although prior notification from Highways England about when the 'date to be determined by the undertaker' is likely to be would be beneficial to the County Council so that it has reasonable notice of when the changes to the classifications of the highway network are likely to take place.	Noted.
6.5	SWQ 1.11 Article 20 – Discharge of Water	<p><i>The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river?</i></p> <p>Derbyshire County Council: Any works on the main river would come under the Environment Agency's remit.</p> <p><i>This article does not authorise any groundwater activity or water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2010 or nothing in this article overrides the requirement for an environmental permit under Regulation 12(1)(b) (requirement for environmental</i></p>	Noted and agreed.

Ref	Source	Comments	Applicant's Response
		<p><i>permit) of the Environmental Permitting (England and Wales) Regulations 2016?</i></p> <p>Derbyshire County Council: Again, the County Council believes this would come under the Environment Agency's remit</p> <p><i>This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required to authorise the making of a connection to or, the use of a public sewer or drain by the undertaker pursuant to paragraph (1) or the discharge of any water into any watercourse, sewer or drain pursuant to paragraph (3)?</i></p> <p>Derbyshire County Council: The above provision provides greater clarity under Article 20 with regards the discharge of water and should be included.</p> <p>c) Do the EA or DCC have any outstanding concerns regarding Article 20?</p> <p>Derbyshire County Council: See comments above</p>	<p>Noted and agreed.</p> <p>This article concerns the connection into or use of a public sewer or drain and given that the article gives HE the right to do this, this provision would be contrary to what the article is stipulating. It is not clear how the inclusion of this would give clarity on discharge given that any discharge into a sewer or drain would be covered by the Water Industry Act and any discharge into a watercourse would need an Environmental Permit.</p>
6.6	<p>SWQ 1.12 Article 27 – Public Rights of Way</p>	<p>a) Footpath 1 which, as shown on the Right of Way Plans provided by the applicant, is an historical right of way</p>	<p>a) Noted</p>

Ref	Source	Comments	Applicant's Response
		<p>which probably dates back to well before when we had the traffic volumes we now experience along this section of the A61. Like many points along any public highway, it is ultimately down to the road user as to whether or not they formally choose to cross or whether they perhaps choose to cross at an alternative location where they consider it much safer bearing in mind the speed and volume of traffic along this route and due to it being a fairly wide dual carriageway.</p> <p>b) Looking at the plans and giving consideration to existing usage of the footpaths mentioned in the surveys conducted, and the fact there is an intention to provide a formal signal controlled crossing point where the old section of Croft Lane emerges onto the A61, it would seem sensible to encourage walkers from the diverted section of footpath 3 and footpath 1 to continue further south along the eastern side of the A61 to the proposed toucan crossing point. Indeed, footpath 1 continues to lead south in any case where it then eventually meets with footpaths 4 and 6.</p>	<p>b) The Applicant is pleased that DCC concurs with the proposed footpath diversions in this area.</p> <p>c) It is currently not proposed to harden the verge in this area (this would be outside the Scheme's DCO boundary) – the suggestion will be passed on to the promoters of the proposed new 'Toucan' crossing.</p>

Ref	Source	Comments	Applicant's Response
		<p>c) At present, it should be noted that there is no hardened surface on the eastern side of the A61 and it is simply a grassed surface so there might be merit, albeit potentially having limited use, in also giving thought to hardening this section should the formalised toucan crossing point prove to be a viable solution following the appropriate design process and approvals.</p>	
6.7	<p>SWQ 1.14 Article 39 – Felling or lopping of trees and removal of hedgerows</p>	<p>a) There is clearly some value in the existing vegetation planted as part of the A38 corridor in both screening views of the route and integrating the road into the wider landscape. The intrinsic value of these trees in themselves, would not be particularly high but they are of a level of maturity that would take some considerable time to replicate. So, in that context there is always value in retaining as much vegetation as possible and integrating this vegetation with landscape proposals as part of the current scheme under consideration. All vegetation to be retained would need to be protected in accordance with the guidelines set out in BS5837:2012 Trees in relation to design, demolition and construction.</p>	<p>a) During the development of the Scheme design, HE has sought to minimise the loss of existing trees, and where such losses are unavoidable, mitigation planting is proposed as indicated in the Environmental Masterplan figures (ES Figure 2.12A to 2.12H [APP-068]). As detailed in the OEMP [REP3-003] (MW-LAN2), Highways England will prepare an Arboricultural Mitigation Strategy (secured by the OEMP) in consultation with the applicable local authorities to protect those trees retained within and immediately adjacent to the order limits, noting that the strategy will take into account the guidance provided in BS 5837: Trees</p>

Ref	Source	Comments	Applicant's Response
		<p>c) There would be some merit in producing a schedule and plan prior to the removal of any hedgerows subject to protection under the Hedgerow Regulations 1997 and consulting on these with the Local Authorities. This would provide a comprehensive record of the important hedgerows affected by the scheme, the likely programme for their removal and provide Local Authorities with the requisite information should there be queries from the public. Furthermore it would provide the Local Authorities with a baseline and the opportunity to discuss mitigation proposals to limit the likely impacts.</p> <p>d) The answer to this question relates partly to the response to (c) above. The production of a schedule and plan with a timed programme would provide a broad basis for dealing with queries from the public as part of the ongoing works. Part of that plan could be the prior notification of when works are due to commence on site so that Local Authorities have a more accurate account of when the works will be undertaken.</p>	<p>in relation to design, demolition and construction.</p> <p>c) The loss of hedgerows within the Order Limits are shown in the plan submitted at Deadline 3 [REP3-021]. It is thus not considered necessary for the dDCO to require the production of a further plan and schedule at this stage. However, during the detailed design stage vegetation clearance plans (including removal of hedgerows) will be finalised. Such plans can be made available to the local authorities. The need to consult with the DCC in advance of commencement of any removal of existing trees, hedgerows and shrubs will be detailed in the next version of the OEMP.</p> <p>d) See response above.</p>

Ref	Source	Comments	Applicant's Response
6.8	<p>SWQ 1.18 Requirements 1 – 21 – Provisions for consultation and agreement</p>	<p>a) With regard to Requirements 9 and 12, there is no specific mention of the Derwent Valley Mills World Heritage Site Partnership as being a body with which consultation is required to be carried out. This should be set out in the Requirements for the avoidance of doubt.</p> <p>b) Requirements 12 and 13 make reference to the need for consultation with the 'relevant planning authority and local highway authority'. Derbyshire County Council is the Lead Local Flood Authority, which is a separate entity to the Council's Planning and Highways Authorities so for the avoidance of doubt, specific reference in Requirements 12 and 13 should be made to the need for consultation with the Lead Local Flood Authority.</p> <p>c) And d) no further comments</p>	<p>a) The need to consult with the Derwent Valley Mills World Heritage Site Partnership during the definition of the archaeological investigation works is already detailed in the updated OEMP [REP3-003] (refer to PW-CH1 to PW-CH5 in Table 3.2b) and thus does not need to be repeated within Requirement 9. In addition, it would not seem appropriate to require consultation with the Derwent Valley Mills World Heritage Site Partnership as part of Requirement 12 Detailed Design as only certain aspects of the design are of interest to the Partnership – the need to consult with the Partnership on such design aspects is already detailed in the OEMP [REP3-003] – refer to D-CH4 and D-CH5 (Table 3.2c).</p> <p>b) HE had understood that DCC would consult with the LLFA internally as part of any consultation process, as noted by DCC at the ISH hearings in December.</p> <p>c) Noted.</p>

Ref	Source	Comments	Applicant's Response
6.9	SWQ 1.21 HEMP – Requirement 3 (4)	<p>a) Derbyshire County Council has no significant concerns relating to the HEMP, particularly as Requirement 3(4) includes a requirement that the relevant planning authority and local highways authority should be consulted on the HEMP prior to its submission to the Secretary of State. As with Derbyshire County Council's comments on 1.18 above, for the avoidance of doubt, reference should also be made to the need for consultation with the relevant Lead Local Flood Authority.</p> <p>b) For the avoidance of doubt and certainty, it would appear to be a sensible approach for the three provisions in part b) to be added to the Requirement.</p>	<p>a) Noted although please see comments above (6.8) regarding consultation with the LLFA.</p> <p>b) Please see comments above at 3.13</p>
6.10	SWQ 1.22 The principle of consultation rather than agreement and details of consultation	<p>a) The County Council, as Lead Local Flood Authority, is happy with this principle from a Flood Risk perspective</p> <p>b) For clarity and certainty, it would appropriate if a 28-day consultation period was added to Requirement 4.</p>	<p>a) Noted</p> <p>b) Please see the response to 3.14 above for HE's response to this, together with its response at SWQ 1.22</p>
6.11	SWQ 1.24 Preliminary Works – Requirements 5 (1) 11 (1) and	<p>a) Unless there are identified advanced landscaping works identified as part of the scheme that might impact on the CEMP, then the County Council would</p>	<p>a) As detailed in the OEMP [REP3-003], a preliminary works CEMP will be prepared in consultation with relevant</p>

Ref	Source	Comments	Applicant's Response
	13 (1)	<p>see no need for a written landscape scheme forming part of that CEMP. The County Council would expect the CEMP to included matters relating to the protection of vegetation to be retained as part of the proposed development but this would probably cross-reference to other documents within the scheme without the need for a written landscape scheme.</p> <p>b) From a Flood Risk perspective, the County Council would consider it to be appropriate that, given the scale of the construction compound, for this to be classed as preliminary works and an appropriate CEMP would therefore be required.</p>	<p>stakeholders and approved by the Secretary of State. As some landscaping will be undertaken during this phase, the OEMP states that such works will be undertaken in accordance with an approved landscaping scheme (see PW-LAN2). The next version of the OEMP will clarify that the landscape scheme will be specific to the preliminary works, whilst vegetation retention and protection plans will also be prepared – such plans will be subject to consultation with the applicable local authorities.</p> <p>b) Establishment of the main construction compound at Little Eaton junction will be undertaken during the preliminary works stage in order to avoid delays to the main construction works programme. As detailed in the OEMP [REP3-003], a preliminary works CEMP will be prepared in consultation with relevant stakeholders and approved by the Secretary of State.</p>
6.12	SWQ 1.27	a) - d) The County Council is largely in agreement with Highways England in that	Agreed. Discussions are ongoing.

Ref	Source	Comments	Applicant's Response
	Local Highways Authority review and update on discussions	many of the issues around maintenance of both existing and future assets are a matter for the detailed design process. Discussion with Highways England about this issue has been positive and the County Council is keen to ensure continued engagement with HE during the detailed design of the emerging scheme(s) and their construction.	
6.13	SWQ 1.28 Local Highways Authority review	<p>a) Yes, a review of Parts 1 – 4 of Schedule 4 has been carried out by Derbyshire County Council as Local Highway Authority.</p> <p>b) Reference is made in Part 1 of Schedule 4 to the stopping up of Ford Lane in association with the Little Eaton Scheme. Derbyshire County Council has an outstanding associated concern relating to the weight restriction on Ford Lane Bridge and its potential increased use by HGVs to access adjoining land and premises and future maintenance liabilities for the bridge, which is still the subject of ongoing discussions between the applicant and Derbyshire County Council. (see also answer to question 2.11 below)</p>	<p>a) Noted.</p> <p>b) See Applicant's response to SWQ 2.11.</p>

Ref	Source	Comments	Applicant's Response
6.14	<p>SWQ 1.38</p> <p>Maintenance and mitigation plans, strategies and written schemes</p>	<p>a) Yes subject to the comments set out in its answer to question 1.18 above regarding the need for specific consultation with the Derwent Valley Mills World Heritage Site Partnership and Lead Local Flood Authority to be clearly set out in the dDCO and OEM.</p> <p>b) Yes consultation should be undertaken on any material changes to the dDCO and OEM. DCC has no preference to where this requirement should be set out as long as the requirement is set out in either one or both of the documents.</p>	<p>a) Refer to response to question 1.18.</p> <p>b) As per the Applicant's response to the ExA second written question 1.19b [REP4-027], CEMPs are living documents and so it is anticipated that each CEMP will be revised as necessary during the construction phase by the contractor, in line with the principles of the OEMP. Each revised CEMP will be prepared in consultation with the relevant stakeholders as set out in the OEMP. This will be clarified in the next version of the OEMP.</p>
6.15	<p>SWQ 1.39</p> <p>Impact Assessment and Mitigation Methodology</p>	<p>No. Derbyshire County Council does not have any further comments on the applicant's impact assessment and mitigation methodology as set out in REP1 – 005, which appears to be thorough and comprehensive in its coverage.</p>	<p>Noted.</p>
6.16	<p>SWQ 1.40</p> <p>Statement of Common Ground</p>	<p>At the time of writing, Derbyshire County Council has received no further updates on the Draft Statement of Common Ground that was provided to the County Council by Highways England on 4th November 2019.</p>	<p>An updated Statement of Common Ground has since been prepared and agreed between DCC and Highways England. This revised SoCG is included within the Deadline 5 submission.</p>

Ref	Source	Comments	Applicant's Response
6.17	<p>SWQ 2.1 Driver Stress – ES Chapter 12 and Transport Assessment</p>	<p>h) The driver stress (Chapter 12 of the Environmental Statement) considers impacts upon drivers post opening for users of both Derbyshire's roads and the SRN following i.e. not during its construction, however, the County Council does not believe an assessment of impacts during construction would serve any useful purpose. The County Council considers that the needs of the travelling public would be better served by a 'live' Construction Management Plan (CMP) that enabled its 'owners' to react to issues as they arise.</p>	<p>h) Comments are noted. For clarify aspects related to driver stress during the Scheme construction phase are detailed in ES Chapter 12: People and Communities [APP-050] paragraphs 12.10.18 through 12.10.21.</p>
6.18	<p>SWQ 2.2 Transport Modelling and Queuing</p>	<p>a) No.</p> <p>b) The County Council accepts that the CMP is an evolving plan although as Highways England has not appointed a contractor to date and the Scheme is still in the preliminary design phase, consequently little discussion has taken place to date regarding the detailed traffic modelling of construction activity although the County Council would welcome further engagement in the future development of the evolving CMP. This could include where</p>	<p>a) Noted.</p> <p>b) See Applicant's Responses to DCiC at 3.24 above.</p> <p>A further iteration of the construction modelling process will follow the detailed design and construction preparation activities in PCF Stage 5 post-consent decision.</p> <p>c) & d) See Applicant's Responses to DCiC at 3.24 above.</p>

Ref	Source	Comments	Applicant's Response
		appropriate, SATURN modelling of the construction impacts of the wider (non-SRN) road network. c) & d). No. although see above.	
6.19	SWQ 2.3 Impacts on Local Roads	These questions appear to be directed to the applicant to address so DCC has no further comments.	Noted. Applicant's responses were provided [REP4-024] at item 2.3.
6.20	SWQ 2.5 Traffic Management Plan Update	a) to g) Derbyshire County Council is unable to comment further on this issue until the applicant has updated the details of the Traffic Management Plan in accordance with the ExA's requirements. h) For clarification, if a Park and Ride was set up, Kedleston Hall was suggested just an example by the County Council. The County Council would suggest that this should be repeated around the city in other locations on routes affected by the development of this scheme.	a) to g) a further draft of the TMP was submitted to the Examination at Deadline 5 and discussions between the Applicant, the Contractor and DCiC are scheduled for 13 th February. h) There are no powers or land within the DCO being to create Park and Ride facilities. Such facilities would need to be implemented by agreement and the Derby Behavioural Change Group would be the best forum to explore this suggestion.
6.21	SWQ 2.11 Ford Lane closure and bridge	a) Discussions have recently taken place with Highways England / Aecom regarding this issue and discussions are ongoing. At the time of writing, agreement has yet to be reached between the County Council	a) The Applicant carried out a new assessment of the existing bridge and, is confident that the structure will be able to carry a 40T vehicle if the bridge is restricted to one-way traffic flow. The assessment report was submitted to

Ref	Source	Comments	Applicant's Response
		<p>and Highways England regarding the weight restriction issue on Ford Lane Bridge and future maintenance liabilities. Highways England indicated at the meeting that the detailed assessment / study of the structural integrity of the bridge has yet to be commenced.</p> <p>b) Discussions explored a number of potential options for future maintenance liability of the bridge, including the possibility of HE paying a commuted sum to Derbyshire County Council, which will be subject to further consideration by HE. An update will be provided at the hearing sessions on 18th and 19th February 2020.</p>	<p>DCC on 3rd October 2019. DCC made some minor comments on the assessment on 27th November 2019 and it was briefly discussed at the hearing on 11th December 2019 when it was agreed that a meeting needs to be arranged to discuss. The meeting was held on 23rd January 2020. At the meeting it was agreed AECOM would address a minor comment on the assessment calculations and propose a method for carrying out an investigation to confirm an assumption relating to deck slab reinforcement. This has been completed and returned to DCC for comment.</p> <p>b) Agreed. Highways England is working with the County Council to come to an agreement about the future maintenance liability of the Ford Lane bridge.</p>
6.22	<p>SWQ 2.14 Support to public transport</p>	<p>a) and b) Derbyshire County Council believes, in so far as is reasonable and practical, that the Applicant has done so. The scheme(s) will reduce delays currently experienced by public transport services both into and out of Derby.</p>	<p>Agreed.</p>

Ref	Source	Comments	Applicant's Response
6.23	<p>SWQ 5.2 Ownership of flood storage facilities</p>	<p>Derbyshire County Council fully agrees that this should be confirmed including annotated drawings as to whom will be responsible for what</p>	<p>Noted. Refer to [REP4-024] for clarification on DCC responsibilities. In summary, all flood storage features excluding the following will be the responsibility of Highways England: Little Eaton junction – southern pond which collects the water from the A61 to be the responsibility of DCC.</p>
6.24	<p>SWQ 5.3 Surface Water Discharges</p>	<p>f) Derbyshire County Council's officers have raised this as a concern in previous responses to the ExA's written questions. Derbyshire County Council's Flood Team Officers have now assessed the Hydraulic Modelling Technical Note include as an Appendix to the applicant's D1 submission. Whilst this note is welcomed Officers remain concerned that the extent of the area that has been modelled does not extend far enough to the east to give Officers sufficient satisfaction and certainty that none of the proposed works to the Dam Brook (watercourse diversion etc.) will increase the flood risk further upstream. There have been previous occurrences of internal flooding to properties in Breadsall, in particular around where the Dam Brook is culverted under Brookside</p>	<p>f) DCC's concerns regarding property flooding around where both Dam Brook and Boosemoor Brook are culverted under the road are noted, and it is acknowledged that the model used has not extended beyond these locations. However, as per Figure 1.2 in the supplied Hydraulic Modelling Technical Note (refer to Appendix 1 of [REP2-020]), model results have demonstrated no increase in flood levels anywhere close to these two culverts. Highway England believes this provides sufficient evidence that flood risk to property does not increase as a result of the proposed watercourse diversions and associated works. We will continue to liaise with DCC as we move into detailed design and will consider extending the domain</p>

Ref	Source	Comments	Applicant's Response
		<p>Road and where Boosemoor Brook is culverted under Rectory Lane. In Section 1 of the Technical Note, however, it is noted that: 'The modelled representation of Dam Brook has an upstream extent at the western boundary of Brookside Road. It does not include the culvert which conveys flows under Brookside Road. The modelled representation of Boosemoor Brook has an upstream extent slightly west of Rectory Lane. The Rectory Lane culvert has not been represented in the Little Eaton model'.</p> <p>h) Derbyshire County Council fully agrees with the suggested requirement for the applicant to clarify the maintenance responsibilities for the drainage systems at each of the junctions and to provide an update on the Maintenance and Repair Strategy Statement.</p>	<p>of the model to include the two culverts and upstream area where properties are located to increase confidence.</p> <p>h) Noted. Refer to [REP4-024] for clarification of DCC maintenance responsibilities. Consultation with DCC continues on all maintenance matters where they are affected. Whilst the LHAs are not statutory consultees for the Maintenance and Repair Strategy Statement (MRSS) they have been brought into the process to provide clarity around the interface boundaries and to include DCC's input to the detailed design. Further detail of this is provided in the Process Note submitted by Highways England at D4 [REP4-026].</p>
6.25	<p>SWQ 5.4 Water Quality</p>	<p>Derbyshire County Council has no particular issue to raise on this matter and would question whether it is standard practice to have water quality modelling for a scheme of this size and nature?</p>	<p>It is presumed that the DCC comment should refer to water quality "monitoring" rather than water quality modelling as this was the basis of the question. It is noted that the OEMP [REP3-003] states that the Water</p>

Ref	Source	Comments	Applicant's Response
		Maybe the EA would comment further on this one.	Management Plan will detail construction phase water monitoring requirements, noting that this plan will be prepared in consultation with relevant local authorities and the Environment Agency.
6.26	SWQ 6.2 Badger fencing and crossings	Derbyshire County Council has reviewed the applicant's latest submission on badger fencing and crossings set out in REP2 – 020, which specifically addresses Derbyshire County Council's concerns expressed on the CEMP. Based on the evidence provided, particularly the badger territory analysis, it appears that existing badger commuting routes will be retained and will not be severed by the scheme and, therefore, Derbyshire County Council is satisfied that this issue has been satisfactorily addressed by the applicant and that badger crossings will not be required as part of the scheme.	Noted and agreed.
6.27	SWQ 8.1 Footpath diversions at Little Eaton	DCC has no further comments to make on this issue as its position is set out in its response to ISH2 (REP3- 029).	Noted.
7 Erewash Borough Council			

Ref	Source	Comments	Applicant's Response
7.1	SWQ 1.1 Guillotine provisions	a) EBC has now agreed the provisions. b) EBC is content with the 28 day period. c) EBC considers this would be useful. d) n/a e) EBC are content with the provisions	Noted.
7.2	SWQ 1.6 Article 6 – maintenance of authorised development	a) EBC considers that it should be a requirement unless the dDCO dictates otherwise. b) EBC can advise that no discussions have taken place between EBC and the Applicant on this point.	Please note Highways England's response to this at SWQ 1.6.
7.3	SWQ 1.14 Article 39 – felling or lopping of trees and removal of hedgerows	a) EBC has no concerns about the removal of vegetation subject to the delivery of the proposed mitigating landscape c) EBC considers that there should be a requirement to require the production of a Schedule and a plan for consultation with EBC for all hedgerows subject to the Regulations that are required to be removed to implement the scheme.	a) During the development of the Scheme design, HE has aimed to minimise the loss of existing trees, and where such losses are unavoidable, mitigation planting is proposed as indicated in the Environmental Masterplan figures (ES Figure 2.12A to 2.12H [APP-068]). The provision of landscape planting is secured via DCO Requirement 5, noting that the landscaping scheme will be approved by the Secretary of State following consultation with the local authorities. c) The loss of hedgerows within the Order Limits are shown in the plan submitted at Deadline 3 [REP3-021]. It

Ref	Source	Comments	Applicant's Response
			is thus not considered necessary for the dDCO to require the production of a further plan and schedule at this stage. However, during the detailed design stage vegetation clearance plans (including removal of hedgerows) will be finalised. Such plans can be made available to the local authorities. The need to consult with the EBC in advance of commencement of any removal of existing trees, hedgerows and shrubs will be detailed in the next version of the OEMP.
7.4	SWQ 1.16 Article 50 – Appeals relating to the Control of Pollution Act 1974	a) EBC has agreed these provisions. b) EBC considers the process and timescale fair and reasonable. c) EBC does not require amendments to Article 50 or OEMP in this regard. d) EBC has no outstanding matters in this regard.	a) Noted. b) Noted. c) Noted. d) Noted.
7.5	SWQ 1.18 Requirements 1-21 Provisions for consultation and agreement	a) EBC has not outstanding concerns in this regard. b) EBC has not outstanding concerns in this regard. c) EBC has not outstanding concerns in this regard.	a) Noted. b) Noted. c) Noted. d) Noted.

Ref	Source	Comments	Applicant's Response
		d) EBC has not outstanding concerns in this regard.	
7.6	SWQ 1.20 CEMP and Handover Management Plan Requirement 3	b) EBC is in agreement with the requirement which the ExA is considering.	Noted, please see HE's SWQ response to this point.
7.7	SWQ 1.21 HEMP Requirement 3(4)	a) EBC has no comments to make. b) EBC considers that this would be a useful provision	a) Noted. b) Please see HE's comments on this in the SWQ response, together with the response at 3.13 above.
7.8	SWQ 1.22 The principle of consultation rather than agreement and details of consultation	a) EBC are content to be consulted and for the Secretary of State to give agreement or approval. b) EBC considers it appropriate for this to be added.	a) Noted. b) Please see response to DCiC's response above at 3.14 to this point.
7.9	SWQ 1.24 Preliminary works	a) EBC is content for this not to be a requirement. b) EBC considers that the establishment of the main construction compound at Little Eaton should not be considered to be preliminary works.	a) Noted – however, as some landscaping will be undertaken during this phase, the OEMP [REP3-003] states that such works would be undertaken in accordance with an approved landscaping scheme (see PW-LAN2). The next version of the OEMP will clarify that the landscape scheme will be specific to the preliminary works, whilst vegetation retention and protection plans will also

Ref	Source	Comments	Applicant's Response
			<p>be prepared – such plans will be subject to consultation with the applicable local authorities. In addition, the next version of the OEMP will also clearly state that the preliminary works CEMP include details of surface water drainage solutions at the main construction compound at Little Eaton junction. These aspects will be included in the preliminary works CEMP which will be prepared in consultation with relevant stakeholders and approved by the Secretary of State.</p> <p>b) It is considered that the works to establish the main construction compound at Little Eaton junction need to be started during the preliminary works so that the main works can start on schedule. The mitigation measures that will be applied during such works to mitigate potential environmental effects are detailed in the OEMP [REP3-003] and secured through the DCO, noting that a preliminary works CEMP specific to this point will be prepared and subject to consultation with the local authorities and the Environment Agency (refer to PW-G1).</p>

Ref	Source	Comments	Applicant's Response
			As such, Highways England considers that the main construction compound is a preliminary work as defined and assessed in the Environmental Statement.
7.10	SWQ 1.38 Management and mitigation plans, strategies and written schemes	a) EBC are content with the provisions. b) EBC considers that there should be a requirement to keep them up to date but does not wish to be consulted on each revision.	a) Noted. b) As per HE's response to the ExA second written question 1.19b [REP4-027], CEMPs are living documents and so it is anticipated that each CEMP will be revised as necessary during the construction phase by the contractor, in line with the principles of the OEMP. Each revised CEMP will be prepared in consultation with the relevant stakeholders as set out in the OEMP. This will be clarified in the next version of the OEMP.
7.11	SWQ 1.39 Impact Assessment and Mitigation Methodology	EBC has no comments to make.	Noted.
7.12	SWQ 3.3 Dust monitoring	a) EBC is content with dust monitoring provisions.	Noted.
7.13	SWQ 3.9 NO ₂ monitoring	a) EBC is content with NO ₂ monitoring provisions.	Noted.

Ref	Source	Comments	Applicant's Response
7.14	SWQ 4.3 Significance and exceedance of SOAEL	a) No. The short duration events indicated by the applicant would not be significant events. b) No, based on current information EBC doesn't consider this will create any further significant effects.	a) & b) Noted and agreed.
7.15	SWQ 4.4 BPM and consistency with the ES	a) Although EBC is noted in the "Question to" section, the question is aimed at the applicant. b) Although EBC is noted in the "Question to" section, the question is aimed at the applicant.	a) & b) Noted.
7.16	SWQ 4.6 Construction uncertainties	a) EBC is in agreement. b) EBC is content.	a) & b) Noted.
7.17	SWQ 6.1 Alfreton Road Rough Grassland Local Wildlife Site	EBC is still in discussion with the Applicant and Derbyshire Wildlife Trust (DWT) in order to address EBC's outstanding concerns in respect to whether the enhancements outweigh the impact on the Local Wildlife Site.	Noted. Please refer to HE's response to this question [REP4-024] as well as the Highways England Technical Note submitted to the ExA at Deadline 4 [REP4-023]. The Technical Note corrects an error regarding the percentage loss due to the Scheme of the Alfreton Road Rough Grassland Local Wildlife Site (LWS) as reported in the ES Chapter 8: Biodiversity [APP-046]. The TN indicates that the

Ref	Source	Comments	Applicant's Response
			Scheme would result in the permanent loss of approximately 16% (0.64ha) of the LWS rather than 30% as reported in the ES. However, this does not change the significance of effect (non-significant (neutral) effects), nor the defined mitigation approach as detailed in the OEMP [REP3-003], or the conclusion that the Scheme would not have an adverse effect on the functional integrity of the LWS.
7.18	SWQ 6.3 Enhancement and the use of Biodiversity Metric Assessment	a) EBC considers that approach taken by the applicant to biodiversity enhancement is acceptable. b) EBC agrees with the applicant that there is no requirement for this Nationally Significant Infrastructure Project to use a Biodiversity Metric Assessment in its appraisal of the dDCO.	a) Noted and agreed. b) Noted and agreed.
8 Euro Garages Limited			
8.1	SWQ 8.2 Euro Garages and McDonalds sites Applicant's response to ISH2 [REP3-026] Euro Garages summary of ISH2 oral contributions [REP3-035]	a) The meeting on 15th January reviewed junction capacities and it was agreed that McDonalds wished to assess the junction capacity and require further information from Aecom – STATUS– ongoing. b) Junction geometry was also discussed at the meeting and concern still raised by	a) Noted b) The Applicant has supplied Euro Garages with electronic version of the geometric layout for the access. This includes the right turn swept path from the A52 into the site. Also, Derby City Council.

Ref	Source	Comments	Applicant's Response
	<p>Euro Garages post-hearing submission [REP3-036]</p> <p>McDonalds summary of ISH2 oral contributions [REP3-040]</p> <p>Provide an update on meeting/discussion between the applicant, McDonalds Restaurants and Euro Garages in respect of:</p> <ul style="list-style-type: none"> a) assessment of junction capacities; b) junction geometry; c) the need to strengthen the McDonalds car park; d) justification for ingress to the McDonalds/EG facilities from the A38 slip road; e) the provision of roadside signage; f) the effect of the proposal on access rights across the McDonalds and EG sites. Is a copy of the conveyance referred to in title number DY103730 available? g) Please summarise the outstanding matters for agreement, the next steps to be taken and whether agreement is anticipated during the Examination. 	<p>EGL re the reduced radius for HGV's and tankers left turn from the A52 into the site. Right turn swept path was requested but not received to date and also confirmation from Derby city council, as highway authority for this section of the A52, of acceptance of the proposals for maintenance was requested -STATUS – ongoing.</p> <p>c) Not an issue for EGL</p> <p>d) Discussed at the meeting on 15th January and further information awaited from Aecom re correspondence with HE – STATUS -ongoing</p> <p>e) The provision of roadside signage was discussed – STATUS - ongoing with Aecom/HE/EGL/McD</p> <p>f) A revised plan was produced at the meeting. Further information re the highway boundary around the site was requested to ensure there are no potential ransom strips – STATUS - ongoing with Aecom</p> <p>g) In light of the above answers it is not possible to summarise matters at this point in time. EGL will seek to resolve</p>	<p>c) Noted</p> <p>d) The Technical Note in question was submitted to the Examination at Deadline 4.</p> <p>e) The Euro Garages site does not meet criteria as a designated trunk road service station. Euro Garages are to provide more information to justify a safety case for signage to be implemented.</p> <p>f) As noted in b) above, the Applicant has supplied Euro Garages with electronic version of the geometric layout for the access. This includes the plot boundaries and the area of McDonald's land the Euro garages has rights of access over.</p> <p>g) An update to the SoCG is being prepared; this will list what is agreed and what is still outstanding.</p>

Ref	Source	Comments	Applicant's Response
		outstanding matters as soon as reasonably possible.	

Ref	Source	Comments	Applicant's Response
9 Sarah Ollier			
9.1	Additional submission in email dated 3 February 2020. [AS-030]	In a climate crisis, increasing capacity for vehicles seems counter-intuitive when this money could be spent on improving public transport and reintroducing the e-bike scheme.	<p>The Scheme is to improve the flow of vehicles through these three A38 junctions on the strategic road network. With existing conditions, stationary vehicles are wasting energy in queues giving rise to greater exhaust emissions.</p> <p>Chapter 14: Climate of the Environmental Statement (ES) [APP-052] assesses the Scheme effects on carbon emissions during both the construction phase and operational phase and concludes that carbon emissions are not deemed to be significant in the context of the relevant UK carbon budgets.</p> <p>In addition, the Scheme is being promoted pursuant to the NPS NN which is government policy and ratified by Parliament. It is not for Highways England to comment on this merits of this policy.</p>
9.2		Public health:- increased emissions from traffic will be detrimental to air pollution targets and to public health.	ES Chapter 5: Air Quality [APP-043] assessed the impacts of the Scheme on air quality, and ES Chapter 12: People and Communities [APP-050] includes an assessment of Scheme

Ref	Source	Comments	Applicant's Response
			<p>impacts upon human health. The air quality assessment indicates that all air quality objectives and limit values are predicted to be achieved in the Scheme opening year (2024) (with air quality improving thereafter). Overall, there would be a slight improvement in local air quality at properties within the air quality study area. Using this information, the health assessment indicates that overall the effect of Scheme operation on air quality, noise and neighbourhood amenity as a determinant of human health would be positive.</p>
9.3		<p>Noise:- increased capacity usually means more cars and this means more noise</p>	<p>The traffic forecasting model included a process to assess the extent to which the increase in road capacity would induce new trips. The resulting extra traffic flows were included within the noise assessment as included in Environmental Statement (ES) Chapter 9: Noise and Vibration [APP-047]. The noise assessment indicated the overall trend in the study area is for a slight increase in operational traffic flows, and therefore traffic noise. In order to minimise noise effects, a number of noise barriers are included in the</p>

Ref	Source	Comments	Applicant's Response
			Scheme design (refer to the Environmental Masterplan figures - ES Figure 2.12A to 2.12H [APP-068]), and the Scheme would be constructed with a low noise surface to further reduce noise impacts.
9.4		Felling older trees: some older trees will need to be felled alongside Markeaton Park for this. they act as a carbon store so this is detrimental to the climate, whilst wildlife relies on these trees for habitat. these trees also improve the appearance of the city, clean the air, are good for public physical and mental health etc.	During the development of the Scheme design, HE has aimed to minimise the loss of existing trees, and where such losses are unavoidable, mitigation planting is proposed. As indicated in the Environmental Masterplan figures (ES Figure 2.12C and 2.12D [APP-068]), the environmental design at Markeaton Park includes woodland, tree and shrub planting, as well as the provision of species-rich and amenity grassland. In addition, a range of ecology mitigation features will be provided in the park. With regard to replacement tree planting in Markeaton Park, HE will aim to deliver a landscape design that results in a net gain in trees.
10 Carol Leak			
10.1	Additional submission in email dated 29 January 2020. [AS-029]	I understand that the planning process is well underway and that interested parties	The Scheme has been well publicised with public consultations in February 2015 and September 2018. Some

Ref	Source	Comments	Applicant's Response
		<p>have already been asked for their opinions on the above. However, as a resident of Derby city, I feel that there has been very little publicity about the proposed scheme and in fact very few people are aware that it is once again being planned.</p>	<p>9,000 leaflets advertising the consultation were distributed to households and businesses falling within a 500m buffer area of the A38 between Kingsway and Little Eaton junctions. Exhibitions were held in 4 locations close to the scheme in January and February 2015 and in 7 locations in September 2018. A Report on the Public Consultation was included in the DCO Application [APP-023 to 038].</p> <p>Statutory notices to publicise the DCO application were issued: once in The Guardian and the London Gazette and twice in The Derby Telegraph.</p> <p>The consultation was advertised in the local newspaper - The Derby Telegraph at the launch of the consultation. Notices were posted in several locations throughout the site of the three junctions.</p> <p>Press releases, detailing the public consultation period were issued.</p> <p>Social media was used to broaden the reach of the consultation and encouraged feedback. News and</p>

Ref	Source	Comments	Applicant's Response
			updates about the Scheme were advertised on a twitter feed.
10.2		I live in <i>[redacted]</i> and am concerned about air and noise pollution during the 3 1/2 years of construction.	An assessment of the environmental effects of the Scheme is reported in the Environmental Statement (ES) [APP-039 to APP-254] as submitted with the Development Consent Order (DCO). ES Chapter 5: Air Quality [APP-043] and ES Chapter 9: Noise and Vibration [APP-047] assess impacts during Scheme construction and operation and propose applicable mitigation measures. These mitigation measures have been transposed into an Outline Environmental Management Plan (OEMP) [REP3-003]. The mitigation measures defined in the OEMP will be included in a Construction Environmental Management Plan (CEMP) which will be prepared and implemented by the construction contractor for the duration of the works in order to minimise air quality and noise effects.
10.3		I am also concerned about getting to and from <i>[redacted]</i> where I work. The parking/traffic issues there are already so severe that patients are frequently late for or miss appointments and staff are stuck	During construction, the traffic management strategy is to maintain journey times along the A38 route (via implementation of the Traffic

Ref	Source	Comments	Applicant's Response
		<p>trying to get out of the car park to get home. If this scheme should go ahead there should be some definite benefit to the people of Derby, not just to those travelling past.</p>	<p>Management Plan) and thereby provide no reason for drivers to seek alternative routes using the local highway network.</p> <p>After opening, the Scheme would attract vehicles into the A38 corridor and away from the local highway network; for example the Scheme would reduce traffic flows on the A516 Uttoxeter New Road.</p>
10.4		<p>I am aware that there is apparently no money for mitigating factors but I would like to ask that this be reconsidered as it would be wonderful opportunity to address the issue of the Climate Emergency which was declared by the Government and Derby city council last year. Given that road transport is the biggest contributor to emissions it would be sensible to consider the following: Eco friendly buses, not diesel, more frequent services. Ring road buses so people can access the hospital without going into the city centre. Freight could be travelling primarily by rail, not road.</p>	<p>HE is responsible for maintaining the Strategic Road Network (SRN) and is charged with implementing the government's Road Investment Strategy. Improved local bus services, park and ride services, car free zones in the city centre and schemes to improve local air quality are a matter for the City Council.</p> <p>The Scheme will improve facilities for Non-Motorised Users in the area and will be maintaining current pedestrian and cyclist routes during construction.</p> <p>Freight using rail instead of road is a matter for individual businesses to decide on.</p> <p>Highways England's task is to improve the SRN for all vehicles, including</p>

Ref	Source	Comments	Applicant's Response
		<p>A good Park and ride scheme, with shelter and refreshments, from outside the ring road.</p> <p>Better provision for cyclists and walkers into the city.</p> <p>A car-free zone in the city centre in order to reduce emissions and improve air quality.</p>	<p>freight, which will improve the reliability of journeys for all vehicles (including buses) and reduce the amount of stop start traffic, thus reducing fuel emissions.</p>
11 Derbyshire Wildlife Trust (for DCiC)			
11.1	a) Please confirm whether you consider that the Applicant's approach to bio-diversity enhancement is acceptable	<p>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</p>	<p>Reference should be made to HE's response to ExA question 37 ISH2 [REP3-026]. This indicates that the primary basis for decisions on NSIP projects is the National Policy Statement for National Networks (NPSNN), but that the NPS itself acknowledges (paragraph 1.18) that <i>'the NPPF is also likely to be an important and relevant consideration in decisions on nationally significant infrastructure projects, but only to the extent relevant to that project.'</i> The extent of the relevance in this case is reflected in the level of consideration that has been afforded to compliance with the NPPF within ES Chapter 8: Biodiversity [APP-046].</p>

Ref	Source	Comments	Applicant's Response
		<p>England's position is at odds with the current emphasis being placed on avoiding losses of biodiversity and providing net gains.</p> <p>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.</p>	<p>In the case of the A38 Derby Junctions Scheme, HE considers that limited weight should be afforded to the NPPF in respect of the aspiration for net gain as summarised within para 170d and 175d of the NPPF. In respect of the proposed legal requirement for biodiversity net gain to be included in the Environment Bill, NSIPs will be excluded from the requirement for development to deliver net gain. Therefore, HE considers that moderate weight should be attributed to enhancing the natural environment, to the extent that it can be reasonably achieved in delivering an NSIP project.</p> <p>The Scheme has sought to maximise opportunities for enhancement in biodiversity associated with defined mitigation measures. These measures are detailed, together with mitigation measures, within Section 8.9 of ES Chapter 8: Biodiversity [APP-046] and a summary of residual biodiversity effects (adverse and beneficial) is provided in ES Appendix 8.20a [APP-217].</p> <p>As per Table 8.15 of the ES Chapter 8 Biodiversity [APP-046], the number of</p>

Ref	Source	Comments	Applicant's Response
			trees to be planted by the Scheme will be confirmed during the detailed design taking account of the landscape proposals illustrated in ES Figure 7.8A-C [APP-094], noting that DCiC (and the other applicable local authorities) will be consulted during the further development of the landscaping and tree planting proposals. Local authority consultation during development of the landscape design is secured via the OEMP [REP3-003] – refer to Table 3.2c.
11.2	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. 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	Reference should be made to HE's response to ExA question 37 ISH2 [REP3-026]. This indicates that for NSIPs there is no explicit requirement to demonstrate net gain using a Biodiversity Metric Assessment. Use of the metric is optional. HE acknowledges the objectives of their Biodiversity Plan " <i>Our plan to protect and increase biodiversity</i> " (2015) and a Biodiversity Metric Assessment is being undertaken outside of the DCO examination process (for habitats only) to guide the Designated Fund projects referenced in the ES Chapter 8: Biodiversity [APP-046]. Designated

Ref	Source	Comments	Applicant's Response
		<p>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,</p> <p><i>"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."</i></p> <p>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</p>	<p>Fund projects do not form part of this DCO application, as appropriate biodiversity mitigation is included within the Scheme design. If HE determines that Designated Funds projects are appropriate, they will be progressed separately from the Scheme.</p>

Ref	Source	Comments	Applicant's Response
		<p>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.</p> <p>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.</p>	
12 Kate Phillips			
12.1	Additional submission in email dated 7 February 2020. [AS-031]	We need less road, not more. You know all the reasons, I'm just adding my voice. The money could be much better spent improving cycling infrastructure so that fewer people use the roads.	Please refer to Applicant's response at item 10.4 above.

Ref	Source	Comments	Applicant's Response
13 Ian Plackett			
13.1	Additional submission in email dated 8 February 2020. [AS-032]	I am concerned about the misery this will cause me getting to my job which is at the <i>[redacted]</i>	Regarding travel times during construction, please refer to the Applicant's Response (to REP3-038), provided in document REP4-025 at item 12.1.
13.2		The last time I complained, it was about the 5 lamps project. I was informed the main reason was for road safety. Yet more accidents have been reported since. And traffic hasn't been improved.	"Five Lamps" is a scheme that was propose by DCiC.
13.3		The Markeaton island was another expensive project which to many people has not improved anything.	The Markeaton island improvement was a 'Pinch Point' scheme that was constructed in 2014. It has been providing traffic benefits for six years.
13.4		How many millions have been wasted on road projects. Traffic congestion can be moved but if doesn't go away it's just further along. We need to stop wasting money.	Highways England developed a traffic model that examined how travel will respond to the increase in capacity that the Scheme will provide, including the effect of induced trips and the potential for the relocation of queues on the highway network. The Scheme will deliver transport economic efficiency benefits taking these points into account.

Ref	Source	Comments	Applicant's Response
		<p>I can drive to work on a Friday in half the time.</p> <p>Employers should encourage people to stagger working hours on the busier days.</p>	<p>Noted. The Scheme will grade separate three junctions to remove vehicles travelling along the A38 from the delays at the existing junctions. The Scheme will deliver travel time savings for the A38 movements at all times of the week, including during the off-peak periods during the day and overnight.</p>