

Links to various documents referenced in our evidence, should have been included. For ease of reference, they are here provided, with additional questions

Paris Agreement -

https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

Transport Statistics, Great Britain 2018 -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/787488/tsgb-2018-report-summaries.pdf

Transport Statistics, Great Britain 2019

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/870647/tsgb-2019.pdf

State of Nature 2016

<https://www.rspb.org.uk/globalassets/downloads/documents/conservation-projects/state-of-nature/state-of-nature-uk-report-2016.pdf>

Paris Agreement/Human rights/rights of the sick/disabled/rights of the child/air pollution

Q26 HE did not answer **Q2**, despite ExA stating that a written response was needed (Oral recordings 18 Feb 8.71 pg 17 of 58) The question was related to the HE statement, on that tape, that they were 'going to put more traffic onto the A38 and make it faster' **We then asked if HE were saying that they were going to put more traffic and increase its speeds, onto the most polluted site in the East Midlands, (FOE ENC 1) the A38 Kingsway Island NHS Hospital site?**

Human rights, under the Paris Agreement, have not been considered by HE.(8.80)

The Paris Agreement calls for a right-based approach, not the usual HE cost-benefit approach, which is fundamentally different.

The scheme is thus in direct conflict with Government standing, as a signatory to the Paris Agreement.

Extract from Paris Agreement (pg2 see above link)

'Climate change is a common concern of humankind, parties should consider respective obligations on **human rights, the right to health,...of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity**'

Nitrogen dioxide, as well as being harmful to people, is also a greenhouse gas. This has not been taken into account when calculating effects

The Paris Agreement itself states that **"States have human rights obligations that are relevant to climate change; Parties should respect, promote, and consider those obligations when taking actions to address it; the relevant rights include the right to health, the right to development, and gender equality, and also the rights of those who are most at risk from the effects of climate change; and additional considerations such as intergenerational equity are also relevant."**

The residents of Mackworth/Allestree/Mickleover will also be heavily impacted by air pollution, and children at numerous schools in Mackworth/Allestree/Mickleover, Royal School for the Deaf, and at Kedleston Rd University. The total numbers of people adversely affected by the increased traffic and air pollution outweigh the numbers using these roads. The newest HE air quality information regarding DMRB LA105 acknowledges that footpaths are affected by air pollution, yet there are no figures for pedestrian movements, at Markeaton park/Kingsway junctions. In order to approximate pedestrian movements, a pedestrian count was carried out on 9/3/20 at the crossings on Kingsway Island, at 4pm; over 250 movements were counted for an hour, the lunchtime figure would have been higher. NB patients, visitors, workers use the footpaths to get to the crossing, to access the supermarket/restaurant/housing. Over an 8 hour period that equates to 2080 people using the footpaths, to get to the crossings, though some of these are both-way movements.

Q27 HE claimed that (Written Summary of Oral Submissions 8.71 pg10) 'the impact on non-motor users, including pedestrians had been considered as part of the People and Communities chapter of the Environmental Statement' (ES) Have the impacts on non-motor users been fully considered, regarding the new DMRB LA105 regulations, relating to footpath use?

Regarding patients at the Royal Hospital at Kingsway Island; figures for death from respiratory diseases at Royal Derby Hospital have also been requested from the NHS, as well as the figures for benefits that city parks bring, to

people (2 A38 FOE London parks save NHS £370 million a year) As the 'most likely estimate' for the road-building is £229 million (HE Vol 4 4.2B 2.1.1) we are confident that the benefits Derby city parks, including Markeaton as the main city park, bring to the NHS, outweigh this figure. There are also the future claims for 'blight' to consider, under the Human Rights Act and the Paris Agreement (4.1.4)

Markeaton Park trees/scrubland/biodiversity to be destroyed, provides a valuable buffer zone protecting park users, residents, children, young people at the Royal School for the deaf, Derby University, from air pollution. This buffer zone also provides oxygen and air-cleaning properties for car/vehicle drivers on the A38.

Q28 Many of the above receptors do not drive cars. Yet the worst impacts of such schemes, will be felt by them, through no action of theirs. Does HE agree that, under the Paris Agreement, the rights to health, of **'indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations'** and women, are of equal importance to development rights?

We have also written to the Ministry of Defence Safeguarding Establishments division, regarding the flooding issues (Q20, Q21, 2 A38...) and will present any replies at a later date

Q29 Written summary of Oral Submissions Feb 19th 8.71 – Pg 45,b “whether the approach to carbon emissions adequately considers the Governments updated target for net zero carbon by 2050” and HE only able to apply “current carbon budgets from 2009-2015” In response to ExA HE confirmed that “assessments had not been based on netzero” Is this a breach of the Paris Agreement, to which the UK Government is a signatory and thus the Paris Agreement becomes national policy?

Q30 Regarding Q9 what is the total CO2 figure including the CO2 from uncapping the landfill at the A38 Kingsway island? (Preliminary Environmental Information Report PEIR Kingsway Junction Landfill Site 9.5.38)

Q31 The PEIR also states that there is a potential risk of explosion/asphyxiation from landfill gas and risk to construction workers of entering confined spaces, from carbon dioxide. The CO2 recordings were “sufficient to exceed the 8 hour longterm occupational exposure limit”. There are also risks from methane and hydrogen sulphide at Markeaton Junction (pg 108) Cadmium and selenium at Little Eaton (9.5.37).
4 of the trial pits at Kingsway Junction were terminated at depths of between 1 and 2 metres. (PEIR 9.5.32 pg 107)
As construction works will go far deeper, (see Q34) what is the increased risk to workers at the site/receptors using the nearby supermarket, restaurants, housing?

Q32 The proximity of people at the hospital, residential, supermarket and restaurants means that many more 'sensitive receptors' to these risks, including construction workers, have not been added to HE calculated receptors. We ask why not, regarding the above?

Q33 Asbestos has also been found at Markeaton junction. An estimated 6,000m³ of asbestos fibres at Kingsway Junction (PEIR Human Health Risk Assessment 9.5.32 pg 106.107); has the Kingsway Royal Derby NHS Hospital been informed of this and the risks from carbon dioxide, methane, hydrogen sulphide etc?

Q34 (PEIR 9.5.35 Detailed Quantative Risk Assessment DQRA) Are there risks to controlled waters from chromium hexavalent, copper, cyanide, lead, nickel, zinc and ammoniacal nitrogen at Kingsway Junction?

Q35 At time of writing (10/3/20) there are flood warnings on the River Derwent again (<https://www.gaugemap.co.uk/#!/Detail/162/173/2019-03-01/2020-03-31>) It has just been reported on BBC2 weather news, 11.16pm, 10/3/20, that the East Midlands has received half a months rainfall in 24hours. HE stated that 'for the purposes of the traffic model used for the construction period, flooding would be considered a one-off incident' (Written Summary of Oral Submissions 8.71 pg9) In view of the climate emergency, 141% of normal rainfall affecting the east Midlands, including Derby, and extensive flooding across the UK, we request an explanation as to why HE is completely ignoring the situation on the ground, especially as adhering to 40% and a 'one-off incident' becomes ever more unacceptable and a continued reliance on weather conditions in the past?

Q36 Written Summary of Oral Submissions Feb 19th 8.71 Item 10A Water Environment pg 51 of 58 Environment Agency (EA) confirmed that flood data model was from 2013. There is more up to date data but EA would not be specifically involved in flood data at Markeaton Junction. EA agreed to consider these points in writing” We have been unable to find these written responses and ask who is involved in flood data, if it's not the EA?

Q37 Derby city council (DciC) confirmed that “HE had used 1% AED event plus 40% climate change allowance method, based on an increase in rainfall..that would take most climate change into account” (Written Summary of Oral Submissions Feb 19th 8.71 Item 10A Water Environment pg 51 of 58) and a. “a 40% climate change

allowance at Kingsway Junction deals with run-off as it affects flooding” This is a vast understatement, as Derby and the rest of the East Midlands received 141% rainfall EVENTS in February 2020. Has there been an estimate of the increased pollution of controlled waters because of the increased amount of rainfall affecting contamination and contaminated run-off from the Kingsway landfill site (Q31, 32,33,34) and we ask that HE provides the figure for contamination using the now normal 141% climate emergency increased rainfall?

National Friends of the Earth have also submitted observations on the A38 junction schemes and this is included below: -

It is not clear if the study area has captured all possible issues on air quality – traffic displaced from one area can go on to add worsen air pollution at places some distance from the scheme itself

- On the studies done, clearly this scheme would worsen air pollution in some areas, even if improving it in others
- The scheme would make air pollution already over legal limits even worse at one location in the construction scenario '0' – while HE claim this would not be an issue as it would not delay the East Midlands Air Quality Zone achieving compliance, this test (as per paragraph 5.13 of the National Networks NPS) is not an adequate test, and such worsening should not be allowed.
- NB There is much support for the view that this test is not adequate - eg an EU clarification letter to Clean Air in London http://cleanair.london/legal/clean-air-in-london-obtains-qc-opinion-on-air-quality-lawincluding-at-heathrow/attachment/cal-322-robert-mccracken-qc-opinion-for-cal_air-qualitydirective-and-planning_signed-061015/, the McCracken QC opinion http://cleanair.london/legal/clean-air-in-london-obtains-qc-opinion-on-air-quality-lawincluding-at-heathrow/attachment/cal-304-letter-of-clarification-from-the-commission190214_redacted-5/, and Client Earth judgements CE 2 and CE3 <http://www.documents.clientearth.org/library/download-info/high-court-rulingon-clientearth-no-2-vs-ssefra-uk-air-pollution-plans/> and <https://www.judiciary.gov.uk/judgments/the-queen-on-the-application-ofclientearth-no-3-claimant-v-secretary-of-state-for-environment-food-and-rural-affairs-andothrs/> or [http://www.bailii.org/cgibin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/315.html&query=\(clientearth\)](http://www.bailii.org/cgibin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/315.html&query=(clientearth))
- Other results are sometimes very close to the 40ug/m3 legal limit, and are thus at risk of breaching it – even in the opening year there is one level over 35ug/m3, and under the construction phase several close to 40ug/m3.
- This is particularly important as the 40ug/m3 level is not a 'safe' level – the World Health Organisation (WHO) have found health effects below 40ug/m3, and will be revising their standard: <http://www.euro.who.int/en/media-centre/sections/press-releases/2013/01/newly-found-health-effects-of-air-pollution-call-for-stronger-european-union-air-policies>