

**A38 Derby Junctions
TR010022**

**8.100 Applicant's Responses to Information
or Submissions Received by Deadline 11**

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Rule 8 (1)(k)
The Infrastructure Planning (Examination Procedure) Rules 2010

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A38 Derby Junctions
Development Consent Order 202[]

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Table of Contents

Introduction

- 1 Breadsall Parish Council
- 2 Derby City Council
- 3 Derby & South Derbyshire Friends of the Earth
- 4 Euro Garages Limited
- 5 intu Derby
- 6 David Gartside

Applicant's Responses to Information or Submissions Received by Deadline 11

Introduction

This document provides the comments of Highways England (the Applicant) on the responses made by Interested Parties to the Planning Inspectorate on Deadline 11, 22 April 2020 in respect of the A38 Derby Junctions scheme (the Scheme) Development Consent Order (DCO) application.

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 considers 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.

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.

The Applicant has not provided comments on every response made by an Interested Party to the submissions or 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.

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.

Ref	Comment	Applicant's Response
1 Breadsall Parish Council		
	<p>It is unlikely that the Parish Council will need to participate in any further proceedings however there are still several unresolved issues recorded on our Statement of Common Ground so we may wish to make either verbal or written representations if there is any genuine fresh debate about these unresolved topics.</p>	<p>Noted</p>
2 Derby City Council		
<p>The items below are Derby City Council's responses to the ExA's further written questions (issued under Rule 17 letter of 19th March) that have not been provided to the examination previously. The references relate to the ExA question numbers.</p>		
<p>9.1 9.2 9.4</p>	<p>The environmental statement on climate is very detailed in trying to quantify the schemes impacts. It concludes that the impact across all three climate aspects is largely acceptable for the 'do-something' scenario.</p> <p>Taking into account the immense challenge faced by society in hitting the 2050 zero carbon target any increase in Green House Gas emissions is taking us in the wrong direction. This additional GHG burden needs to be mitigated through an extensive tree planting scheme and making better provision for cycling and cycles routes along with procuring goods and services in the construction phase that are less carbon intensive.</p> <p>Opportunities for decentralised, renewable energy could also be investigated within the vicinity of the scheme in the form of large scale wind, hydro and solar.</p>	<p>These comments are largely a repeat of DCiC comments made in response the ExA First Written Question [REP1-034]. As detailed in [REP2-020] HE's response is repeated below:</p> <p><i>"a) ES Chapter 14: Climate [APP-052] identified no likely significant effects on climate change at either construction or operational stage as a result of the Scheme, noting that mitigation measures would be implemented by the construction contractor to reduce the Scheme carbon footprint. As such, Highways England do not consider the carbon footprint of the Scheme to be "unnecessarily high". Please refer to the response provided to ExA question 12.5d [REP1-005] for specific mitigation measures to be taken to reduce the Scheme carbon footprint.</i></p> <p><i>b) As outlined in Section 14.11 of ES Chapter 14: Climate [APP-052], no monitoring is considered necessary as no</i></p>

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	<p>It is estimated that the increase in traffic emissions due to the A38 will be considerably less than 1% per year of the total road transport emissions for the City. The construction activity emissions of 130,858 tCO₂e are more significant. It would be useful (and relatively straight forward) to set a maximum acceptable footprint for the detailed design and construction phase which needs to be challenging to ensure that best practice is followed to drive down the GHG burden.</p> <p>The operation of the scheme is far more difficult to effectively monitor/manage and rests with the behaviour of the public along with advances in vehicle technology with electric vehicles and cleaner fuels (including hydrogen) driving down tail gate emissions.</p> <p>It is the Council's intention for the City to decrease GHG emissions and to preserve and nurture the natural environment. However there are other benefits to consider, such as the improvement in journey times, economic activity, and, after the completion of construction, the improvement in air quality.</p>	<p><i>significant effects have been identified for the climate assessment. As no likely significant effects on climate change are expected as a result of the Scheme, it is also not considered necessary for carbon footprint targets to be set. Nevertheless, energy consumption and materials use will be recorded and reported by the construction contractor to Highways England on an ongoing basis during the Scheme construction phase using the Highways England Carbon Reporting Tool. With regard to Scheme operation, Highways England consider that it is not practical to measure GHG emissions from road users, although energy use will be monitored and accounted for in Highway England's annual carbon reporting".</i></p> <p>DCiC recognise the air quality, journey time and wider economic benefits of the Scheme (refer to the Statement of Common Ground with DCiC [REP7-020]). In addition, there will also be casualty savings across Derby's highway network from a reduction in road traffic collisions, improvements to bus service reliability on Derby's radial routes, improved network resilience and an overall reduction in pavement wear that will reduce DCiC's road maintenance liabilities.</p>
10.5	<p>As an independent Safety Review, some weight and consideration needs to be given to the document and its recommendations.</p> <p>The general principles involved in building major public infrastructure projects such as road schemes, is that you seek to provide remedial measures to mitigate the impact</p>	Noted and agreed.

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	of the scheme such that residents are no worse off with the scheme than without it. In terms of the specific case of the access to 255 Ashbourne Road and Sutton Close, this has to be safe.	
10.11	The successor in title has been identified as Annie Clarke-Maxwell. Her contact details have subsequently been provided to the Applicant in order that they may directly liaise with Annie to determine if any suitable alternative arrangements can be made. It is considered that the Applicant needs to establish the position directly with the successor in title since DCiC has no authority to act without the express consent of the beneficiary.	Annie Clarke-Maxwell has written to confirm that they have not been able to access the legal documents which are stored hard copy, as a result of the Covid-19 restrictions. In her email, dated 1 May 2020 she states that: <i>"We are a very old family in [sic] derby and have a large trunk which contains our information and because of Coronavirus the solicitors is shut up [redacted] [redacted]"</i> <i>I honestly have no intention of causing any issue or trying to stop the work going ahead on the a38. As far as I am aware the council will require me to sign a waiver but their legal department is terribly slow at the best of times, so I hope my assurance helps you".</i>
10.14	DCiC can confirm that we do not now have any outstanding concerns in relation to this matter.	Noted
3 Derby & South Derbyshire Friends of the Earth		
REP11-007	This is the final summation from Derby and Derbyshire Friends of the Earth, we thank the Secretary of State and the Examining Authority, for the opportunity to present evidence and our corrected 6A documentation, we also thank Case Officers for their patience. There will be no further participation from us, as we now believe there is	HE has responded to such comments on a number of occasions - refer to HE responses provided in [REP7-007], [REP8-007], [REP9-028], [REP10-009] and [REP11-003]). HE has nothing to add to previous responses other than to stress that HE strongly disagrees with the FoE summation that HE is not taking the climate emergency, air pollution

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	<p>enough evidence to show that HE is a climate emergency denier and is not taking the climate emergency, air pollution issues, environmental and cumulative scheme effects – especially on the poorer, disabled, women, and non-car driving sectors of society - seriously. The current coronavirus emergency is also a massive factor in these schemes. 49% of the current UK workforce is working from home, showing that this could be a workable solution towards the climate emergency, yet HE appears unable to grasp this. HE cannot act in isolation now. As stated in FOE 6A, home working is a success, companies will see this and realise that it pays them to maintain the work-from-home schemes, which will also lead them to save energy, as people working from home utilise their own premises, with related energy, food, lighting cost savings. This is having a massive impact on traffic and air pollution reduction.</p>	<p>issues, environmental and cumulative scheme effects seriously. The effects of the Scheme construction and operation are fully assessed in the Environmental Statement (refer to [APP-039] to [APP-241]).</p> <p>Refer to [REP11-003] for comments regarding COVID-19, greenhouse gas emissions and traffic.</p>
	<p>The Paris Agreement is clear on human rights issues and this is National Policy. The A38 Junction schemes are a massive imbalance, in that public land is effectively being taken from the poorest sectors, namely the sick, disabled, women and those without access to cars, and given to those more affluent sectors, who can afford car travel. The new park entrance layout, on Ashbourne Rd, shows that car travel to the park is to be actively encouraged. The Secretary of State has an opportunity to correct that imbalance.</p>	<p>HE responded to FoE's comment that the Scheme presents "a massive imbalance" in relation to public space in [REP11-003] which states that:</p> <p><i>"With regard to the loss of public open space (public land), replacement land will be provided as part of the Scheme proposals which will be formally provided as Public Open Space land. The replacement land provided will ensure there is no net loss of open space land as a result of the Scheme and as such is also considered to be of equal standing in qualitative terms to the land being lost. Further</i></p>

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	<p>Extract from Paris Agreement</p> <p>'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'</p>	<p><i>information is provided in Chapter 5 of the Planning Statement [APP-252]. The replacement public open space provisions have been agreed with DCiC (refer to the signed SoCG [REP7-020]). Also refer to the Technical Note on Public Open Space and Replacement Land [REP6-023]. It is also considered that the Scheme will deliver benefits for all people – as illustrated in ES Chapter 12: People and Communities [REP9-011] during Scheme operation there will be a range of long term benefits with regard to human health determinants, namely improved access to local healthcare services, improved connectivity to areas of public open space, improved local air quality, increased opportunities for active travel, improved access to work and training, and improved social cohesion and lifetime neighbourhoods”.</i></p> <p>HE disagrees with the FoE comment that “<i>The new park entrance layout, on Ashbourne Rd, shows that car travel to the park is to be actively encouraged</i>”. The new arrangement will effectively provide similar access to the Park’s car park as currently exists – namely closing the existing direct access from the Markeaton roundabout (which is the strategic road network), and combining the replacement access with the existing egress off A52 Ashbourne Road. The Scheme will not discourage access to the park by active modes, indeed the grade separation of A38 traffic and the replacement pedestrian bridge (which will improve mobility access and will accommodate cyclists)</p>

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		<p>will make access to the park by active modes more attractive. Also refer to HE's response at [REP11-003]:</p> <p><i>"The Scheme will not curtail public access to the park – such issues are considered in ES Chapter 12: People and Communities [REP9-011]. This assessment shows that during Scheme operation there will be benefits for users of public transport due to reduced congestion on the A38, offering the potential for improvements to the reliability of journey times. The assessment also shows that the Scheme will provide a range of appropriate facilities for pedestrians and cyclists (including signalised pedestrian crossings) which will provide safer access options into Markeaton Park, whilst some routes will experience improvement in amenity and an increased perception of safety which will encourage increased route use – refer to ES Chapter 12: People and Communities [REP9-011] for details.</i></p> <p>With regard to the FoE comment on climate change, ES Chapter 14: Climate [APP-052] concluded that carbon emissions are not deemed to be significant in the context of the current UK carbon budgets. The assessment demonstrates that the Scheme's greenhouse gas (GHG) impact as a proportion of total UK carbon emissions is negligible, such that it can be considered to be immaterial. In such circumstances, Highways England has considered GHG emissions from the Scheme in the context of the UK's new net zero target set in 2019 and does not consider that</p>

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		<p>this gives cause to alter the assessment findings – refer to HE response to the ExA first written questions (question 2.1 in [REP1-005]).</p>
	<p>HE does not appear to agree that the poorest and most deprived sectors of non-car driving society – mainly the above - require assistance, especially as the coronavirus crisis continues apace with the climate emergency. Regarding inequality effects, the UK Government states the following in the March 2020 'Decarbonising Transport: Setting the Challenge' consultation https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876251/decarb-onising-transport-setting-the-challenge.pdf</p> <p>“The Fifth Assessment Report of the Intergovernmental Panel on Climate Change defines co-benefits as being “the positive effects that a policy or measure aimed at one objective might have on other objectives”. Co-benefits of positive action on reducing transport emissions include: • Public health benefits through increased active travel and improved air quality; • Improvements to the economy and employment rates through industry and innovation;</p> <p>• Reduction in inequality where those who generate less noise and air pollution are disproportionately impacted by pollution”</p> <p>We ask the Secretary of State to take up the challenge, on behalf of communities who are least able.</p>	<p>HE responded to this comment in [REP11-003] which states that:</p> <ul style="list-style-type: none"> • “<i>The potential health effects of the Scheme have been considered and assessed in ES Chapter 12: People and Communities [APP-050]. The assessment confirms that during Scheme operation there will be a range of long term benefits with regard to human health determinants, namely improved access to local healthcare services, improved connectivity to areas of public open space, improved local air quality, increased opportunities for active travel, improved access to work and training, and improved social cohesion and lifetime neighbourhoods.</i> • <i>As illustrated in ES Chapter 5: Air Quality [APP-043], operation of the Scheme is predicted to improve air quality slightly with a greater number of properties predicted to have an improvement rather than a deterioration. Emissions overall would increase slightly with increased emissions from increased traffic on the A38 but properties tend to be located further from the A38 than from roads within the city. Emissions in future years will be lower than currently as cleaner vehicles penetrate the vehicle fleet so the slight increase in emissions due to the Scheme is offset against a long term trend of decreasing emissions.</i>

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		<ul style="list-style-type: none"> • Reference should be made to the response provided in [REP1-005] (questions 2.4b and 10.26) which details the benefits that the Scheme will bring to the local economy. • With regard to noise, ES Chapter 9: Noise and Vibration [APP-047] confirms that the overall trend in the study area is for a slight increase in operational traffic flows, and therefore traffic noise. As such, in order to minimise noise effects, a number of noise mitigation barriers are included in the Scheme design (refer to the Environmental Masterplan figures – ES Figure 2.12A to 2.12H [APP-068]), plus the Scheme will be constructed with a low noise surface to further reduce noise impacts. • Refer to the bullet point above for commentary on air quality as associated with the Scheme”.
	<p>Regarding the compulsory purchase of the land, the community, especially the above sectors, lose out on public open space, especially those people coming to the park from the Derby wards lacking in public open space, for this park is their 'countryside' as they cannot escape out of the city, to feel the benefits of cleaner air quality. They would not go to Mackworth Park or the other areas claimed, by HE, to make up for the loss of open space, as Markeaton Park is THEIR city park and the largest city park.</p>	<p>HE responded to this FoE comment in [REP11-003] which states that:</p> <p><i>“Highways England does not agree with this comment. The powers of compulsory acquisition will only be granted if they are in the public interest and compensation will be provided to those who suffer loss from the exercise of those powers. With regard to the loss of public open space (public land), replacement land will be provided as part of the Scheme proposals which will be formally provided as Public Open Space land. The replacement land provided will ensure there is no net loss of open space land as a result of the Scheme and as such is also considered to be of equal standing in qualitative terms to the land being lost. Further information is provided in Chapter 5 of the Planning</i></p>

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		<p><i>Statement [APP-252]. The replacement public open space provisions have been agreed with DCiC (refer to the signed SoCG [REP7-020]). Also refer to the Technical Note on Public Open Space and Replacement Land [REP6-023]. It is also considered that the Scheme will deliver benefits for all people – as illustrated in ES Chapter 12: People and Communities [REP9-011] during Scheme operation there will be a range of long term benefits with regard to human health determinants, namely improved access to local healthcare services, improved connectivity to areas of public open space, improved local air quality, increased opportunities for active travel, improved access to work and training, and improved social cohesion and lifetime neighbourhoods”.</i></p>
	<p>NSPNN People and Communities Para 5.174 'The Secretary of State should not grant consent for development on existing open space, sports and recreational buildings unless there is surplus or excess land or the benefits of the project outweigh the loss of those facilities.'</p> <p>We have outlined effects on the most deprived sections of society, in the poorest and most polluted wards, with diminished public open space standards. There is no benefit in further destruction of public open space.</p>	<p>HE has responded to this FoE comment in [REP11-003] which states that:</p> <p><i>“With regard to the loss of public open space at Markeaton Park, replacement land will be provided as part of the Scheme proposals which will be formally provided as Public Open Space land. The replacement land provided will ensure there is no net loss of open space land as a result of the Scheme and as such is also considered to be of equal standing in qualitative terms to the land being lost. Further information is provided in Chapter 5 of the Planning Statement [APP-252]. The replacement public open space provisions have been agreed with DCiC (refer to the signed SoCG [REP7-020]). Also refer to the Technical Note on Public Open Space and Replacement Land [REP6-023].</i></p>

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		<p><i>Given these measures, Highways England considers that the proposals are compliant with the NPSNN'.</i></p>
	<p>AIR POLLUTION/PEDESTRIANS/COVID19 Air pollution will be worsened by the schemes, and HE acknowledges this.(REP 6-035 Vol 8.84) that “Emissions overall would increase...” , “increased emissions from increased traffic on the A38...” 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 <input type="checkbox"/> On the studies done, clearly this scheme would worsen air pollution in some areas, even if improving it in others <input type="checkbox"/> 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. <input type="checkbox"/> 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</p>	<p>HE response to each point in turn: In relation to capturing effects from displaced traffic, this issue was addressed in [REP9-028] (Q40) which states that: <i>“..... The air quality assessment reported in the ES Chapter 5: Air Quality [APP-043] considered air quality effects across a wide geographical area taking account of changes in traffic flow patterns as a result of the Scheme. This assessment included properties close to the A38. Traffic flows were modelled over a large area that included all of Derby, the M1 to the east, the A50 to the south and M1 junction 28 to the north (refer to Figure 3.1 in Transport Assessment Report [APP-254]) so that increases and decreases in flows across the traffic model study area could be assessed (noting that traffic flows take account of proposed future developments). Thus the air quality assessment considers potential air quality across the whole network where traffic flow changes would occur as a result of the Scheme.”</i> <input type="checkbox"/> The air quality effects of the Scheme have been investigated and reported in ES Chapter 5: Air Quality [APP-043]. Overall, operation of the Scheme is expected to improve air quality slightly with a greater number of properties expected to have an improvement in air quality rather than a deterioration. Air quality will achieve all of the</p>

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	<p>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)</p> <p>http://www.documents.clientearth.org/library/download-info/high-court-rulingon-clientearth-no-2-vs-ssefra-uk-air-pollution-plans/ and</p> <p>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/EW/HC/Admin/2018/315.html&query=(clientearth)</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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</p>	<p>EU limit values and objectives at properties during construction and operation of the Scheme with Derby City Council's traffic management measures in place to improve air quality in Stafford Street.</p> <p><input type="checkbox"/> In relation to exceeding the limit value at some sections of footpath adjacent to the A38 both with and without construction scenario 0, alternative routes for the affected footpaths will be defined as mitigation where construction of the Scheme makes air quality worse at the existing footpaths. The result of this will be that air quality is not made worse at operational footpaths due to the Scheme. Neither will construction of the Scheme delay compliance with the EU limit value (refer to [REP7-009]). The Scheme will therefore not worsen air quality in a non-compliant area. There are therefore no grounds on which to refuse the Scheme based on the NPS NN guidance or the rulings for Clean Air for London.</p> <p><input type="checkbox"/> The accuracy of the model was discussed in [REP10-009] (ref. 7.19) which relates to whether NO₂ concentrations are at risk of exceeding the limit value: <i>"The accuracy of the air quality model used for the Scheme assessment was considered via the calculation of the Root Mean Square Error (RMSE). The RMSE was found to be 4.9µg/m³ (refer to ES Appendix 5.2: Air Quality Methodologies [APP-171]). The model uncertainty is therefore 12% of the annual mean objective and limit value.</i></p>

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		<p><i>The fractional bias of the model was also calculated which shows whether a model has a systematic tendency to over or under predict. The fractional bias for the Scheme model was 0.0 which shows that the model does not have a tendency to either under or over predict concentrations. Applying the measure of uncertainty (RMSE) to the results means that predicted NO₂ concentrations below 35.1µg/m³ are very unlikely to exceed and those above 44.9µg/m³ are very likely to exceed. Those with concentrations within the range 35.1 to 40 µg/m³ are on the balance of probabilities not expected to exceed and those with concentrations 40 to 44.9 µg/m³ are on the balance of probabilities, expected to exceed.</i></p> <p><i>Based on the predicted concentrations at properties (ES Chapter 5: Air Quality [APP-043]) in the Scheme opening year (2024), one receptor is predicted to be at risk of exceeding, R197 in Stafford Street, but NO₂ concentrations would decrease by 1.0µg/m³ at this location due to operation of the Scheme (based on Defra NO₂ projections) so the Scheme effect would be beneficial. During the Scheme construction phase, three receptors (R170, R197 and R231) are predicted to have concentrations above 35.1µg/m³ with increases in NO₂ concentrations predicted to be up to 0.1µg/m³ which is imperceptible. These imperceptible changes are not of concern.</i></p> <p><i>The compliance risk assessment has identified footpaths next to the A38 where NO₂ concentrations are predicted to exceed 40µg/m³ during the construction phase both with and without the Scheme. During the detailed design stage,</i></p>

Ref	Comment	Applicant's Response
		<p><i>the traffic management proposals will be re-assessed and if air quality is predicted to be made worse by construction of the Scheme at footpaths adjacent to the Scheme, alternative routes for the footpaths will be identified where appropriate as mitigation [REP9-020] – also refer to the OEMP [REP9-019] MW-AIR4. During operation of the Scheme in 2024, there are no qualifying features where NO₂ concentrations would exceed 35.1µg/m³ that would be made worse by the Scheme.</i></p> <p><input type="checkbox"/> In relation to the WHO guideline, the press release quoted by FoE is from 2013. No revisions have been made to the WHO guideline at 40ug/m³ for annual mean NO₂ since the press release. Annual mean NO₂ concentrations predicted in the ES (refer to ES Chapter 5: Air Quality [APP-043]) have been compared with the EU limit value which is the same as the current WHO guideline.</p>
	<p>Derby is a UK Government designated 'Clean Air Zone'. Many people trying to escape from the polluted, deprived wards of Derby, - wards omitted from this inquiry and not even acknowledged by HE as affected – do not have cars and often walk from the city. Their walking journey will be made longer and more polluted as they will be forced to cross polluted Kingsway, to the polluted MacDonalds/petrol station site, then across polluted Ashbourne Rd, placing themselves in a heavily polluted area, for longer than the current walking journey/crossings. DMRB LA105 is supposed to take</p>	<p>Annual mean NO₂ concentrations at some sections of footpath next to the A38 south of Markeaton junction are expected to currently exceed the annual mean NO₂ limit value. These footpaths will be realigned as part of the Scheme away from the main A38 carriageway and air quality at the footpaths will improve as a result of the Scheme with concentrations within the limit value both with and without operation of the Scheme in 2024 (refer to [REP6-020]). NO₂ exceedances of the limit value are predicted during Scheme construction on some sections of footpath both with and without Scheme construction,</p>

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	<p>them into account. We do not know how many people will be affected, as there have been no pedestrian counts (Eurogarages evidence). We were unable to carry out a count at Easter, due to the coronavirus emergency.</p> <p>There is also the matter of the thousands of daily pedestrian journeys made to and from the Royal Hospital, across the polluted Kingsway island pedestrian crossings, (FOE ENC 1) to and from Aldi supermarket, restaurant/housing. A pedestrian count 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. HE cannot claim that there are no impacts on pedestrians. HE has acknowledged 13000 vehicular movements on the A38 (Oral hearings 18 Feb 2020)</p>	<p>however, if construction makes the exceedance worse, then alternative routes for these footpaths will be identified as mitigation (refer to [REP7-009]).</p> <p>We assume that FOE's comments relating to walking relate to pedestrian access to Markeaton Park. It is stressed that Scheme will grade separate the Kingsway and Markeaton junctions, with A38 traffic flowing in underpasses. Walking, cycling and bus-based journeys will be simpler with the Scheme. As detailed in HE's response at [REP11-003]:</p> <p><i>"The Scheme will not curtail public access to the park – such issues are considered in ES Chapter 12: People and Communities [REP9-011]. This assessment shows that during Scheme operation there will be benefits for users of public transport due to reduced congestion on the A38, offering the potential for improvements to the reliability of journey times. The assessment also shows that the Scheme will provide a range of appropriate facilities for pedestrians and cyclists (including signalised pedestrian crossings) which will provide safer access options into Markeaton Park, whilst some routes will experience improvement in amenity and an increased perception of safety which will encourage increased route use – refer to ES Chapter 12: People and Communities [REP9-011] for details. As such, HE strongly disagree with the comment "The A38 junctions schemes will do nothing for pedestrians and in fact curtail their access to the park"."</i></p>

Ref	Comment	Applicant's Response
		<p>FoE refer to the “Kingsway island”. Because of the references to ‘Aldi’ and to the ‘Royal Derby Hospital’ access, we assume this is a reference to the A516/ B5020 Uttoxeter Road roundabout junction. This roundabout is not a part of the strategic road network and its improvement is not an objective of the Scheme. It is noted, however, that once the Scheme is completed some traffic flows will be ‘displaced’ away from the A516 slip roads (refer to the Transport Assessment Report [REP3-005] Figure 4.8: - 1,490 vehicles/day north-bound and -2,510 vehicles/day southbound, which are 2039 Annual Average Daily Traffic (AADT) flow forecasts) and onto the A38 strategic road network. In this respect, the Scheme will reduce the overall magnitude of traffic circulating on the “Kingsway island” i.e. the roundabout immediately outside of the Royal Derby Hospital.</p>
	<p>At time of writing there are estimated to be 1000 Covid19 patients at the Royal Hospital, the most polluted site in the East Midlands (FOE ENC 1) It is well documented that air pollution worsens coronavirus symptoms and makes it harder to recover. Regarding trees, HE states that pollution removal by local trees 'is small' . (8.91) Yet the UK Government acknowledges the massive beneficial effects of air pollution removal by trees, see https://www.ons.gov.uk/economy/environmentalaccounts/articles/ukairpollutionremovalhowmuchpollutiondoesvegetationremoveinyourarea/2018-07-30 The calculated approximate beneficial cost to the NHS, of health savings, in the East Midlands, is a saving of £20</p>	<p>With regard to the linkages between air quality and COVID-19 susceptibility, initial research is indicative that long term exposure to poor air quality and especially elevated PM_{2.5} concentrations, is associated with worse health outcomes from COVID-19. Further research is required to investigate risk factors for COVID-19 for a range of risk factors e.g. age, obesity, gender, smoking, ethnicity, underlying health conditions and air quality. However, based on available information, baseline air quality and ES assessment findings (refer to ES Chapter 5: Air Quality [APP-043]), the Scheme is not expected to increase mortality from COVID-19 in either the construction or operational phases and</p>

Ref	Comment	Applicant's Response
	<p>per person. Across the East Midlands; including the main conurbations of Derby, Leicester, Nottingham, Northampton, Chesterfield, Lincoln, Mansfield, Loughborough and Kettering, this amounts to over £500 million and outweighs the £270 million cost of the schemes. In any case, the daily 15000 vehicles on the A38 and of course the Kingsway Royal Hospital site, the most polluted site in the East Midlands (FOE ENC 1) acknowledged by HE, would worsen health effects.</p>	<p>should reduce human exposure to air pollution in the long term due to operation of the Scheme. The changes expected in particulate matter PM_{2.5} concentrations during Scheme construction would affect a small area over a short time period with concentrations well within (less than 60% of) the EU limit value.</p> <p>Regarding the FoE comment on trees, HE responded to this in [REP11-003] which states that:</p> <p><i>“As stated in 8.91 [REP9-028]: “At a national level across the UK, trees are important in removing air pollutants but at a local level, the removal of pollution by deposition and subsequent decrease in concentrations is small. As detailed above, with regard to replacement tree planting in Markeaton Park, HE will deliver a landscape design that results in a net increase in trees and that such planting will maintain the tree buffer between the new A38 and the park and any benefits that it provides. No significant changes in air quality are, therefore, expected as a result of this.”</i></p> <p><i>Information provided on the ONS website (referenced by FoE in this question) provides an estimate of the pollution removed by vegetation in the 1km square located at Markeaton Park (DE22 3BG) as 5,043kg which is very similar to the UK average of 5,114kg. Thus the removal of some existing vegetation and replacement tree planting will not have a significant effect on air quality at a local or national level.</i></p>

Ref	Comment	Applicant's Response
		<p><i>Refer to the response in 8.94 [REP10-009] regarding air quality in the vicinity of Kingsway hospital (refer to response 7.3 to FoE Q53) which indicates that concentrations of nitrogen dioxide (NO₂) at the Royal Derby Hospital and Kingsway Hospital are predicted to be within the annual mean objective and limit value (set to protect human health) during both Scheme construction and operation”.</i></p>
	<p>The effects on construction workers from air/landfill pollution, is not recognised. In fact HE scoped out effects on workers, which we consider to be unacceptable, especially as trial pits were halted at the Kingsway site, and HE admits that more investigations are needed. HE continually states, throughout their evidence, that many issues would be dealt with at the detailed planning stages. This is unacceptable. HE also dismisses air pollution effects on construction workers, during the works, despite stating that air pollution will be worsened at construction sites. (See 3 Derby FOE re heavy metals/landfill pollutants and bullet point 2 above)</p>	<p>HE responded to the FoE comment regarding issues being left to the detailed planning stage in [REP11-003] which states that:</p> <p><i>“Highways England has a management and control process for developing and delivering their major projects. This process is called the Project Control Framework (PCF) (refer to [REP4-026]). This process ensures that the appropriate deliverables are prepared and activities are carried out at the optimal time. The process ensures that an appropriate level of design is undertaken for each stage of the consenting and delivery stages.</i></p> <p><i>As such, it is wholly appropriate for some aspects to be left for the detailed design stage. The DCO Requirements and the commitments as detailed in the Outline Environmental Management Plan (OEMP) [REP10-002] ensure that environmental impacts as associated with the Scheme will accord with those reported in the ES.</i></p> <p><i>As explained in the ES Chapter 2: The Scheme [APP-040], the approach to Scheme construction is based on the advice from Highways England’s buildability advisors. Construction details will be finalised during the detailed</i></p>

Ref	Comment	Applicant's Response
		<p><i>design stage, at which time air quality impacts will be reappraised and mitigation measures finalised, as based upon the measures as detailed in the OEMP. This ensures the most up to date assessment and mitigation measures are applied</i>'.</p> <p>With regard to the comments about effects on construction workers (from air/ landfill pollution) being scoped out of the assessment, refer to the HE response in [REP10-009] which states:</p> <p><i>"As detailed in the HE response to Q31 [REP8-007], Scheme effects upon construction workers was scoped out of the impact assessment (as reported in the Environmental Statement) given that the Scheme construction works must be undertaken in a manner that protects the health and safety of construction workers. There is thus a legal requirement to protect workers under separate health and safety legislation, and thus it follows that the Scheme works must be undertaken in a manner that does not have significant effects on workers. The scope of the environmental assessment was formalised via the EIA Scoping Report (2018) and the Planning Inspectorate's scoping opinion (April 2018) which states that "The Inspectorate considers that effects of contaminated soils on construction workers may be scoped out, since contractors will be required to adopt safe working practices under relevant health and safety legislation, meaning that significant effects are unlikely to arise"</i>.</p>

Ref	Comment	Applicant's Response
		<p><i>As detailed above, further ground investigations will be undertaken to define detailed working practices".</i></p> <p>Thus such issues have not been dismissed. It is the case that there is legal requirement to ensure protection of construction worker health and safety which means that with the adoption of safe working practices under relevant health and safety legislation, significant effects are unlikely to arise.</p>
	<p>CLIMATE CHANGE/FLOOD RISK/ENVIRONMENT Despite asking for the information several times HE refuses to give the total carbon dioxide emissions for over 100 road-widening/building schemes proposed for England, a developed country. This in the year that COP26 was to be held in the United Kingdom. The UK Government has pledged to increase tree cover in the UK and signed the Global Biodiversity Directive. State of nature 2016 shows that the UK is one of the most nature-depleted countries in the world. https://www.rspb.org.uk/globalassets/downloads/document/conservation-projects/state-of-nature/state-of-nature-uk-report-2016.pdf</p>	<p>HE responded to this FoE comment in [REP11-003] which states that:</p> <p><i>"ES Chapter 14: Climate [APP-052] provides details of the Scheme greenhouse gas (GHG) emissions. It is beyond the scope of the assessment to assess the collective GHG emissions from all road schemes across the UK. Nevertheless, as per our previous response [REP9-028], DfT has confirmed that the programme of schemes described in the Roads Investment Strategy (RIS) 1 have been assessed and included in the UK Government's carbon budgets. On this basis the combined CO_{2e} impact of the RIS1 schemes will not compromise the UK's ability to meet its carbon reduction targets".</i></p>
	<p>HE has used outdated flood risk assessments (SFRA1_Plan_435329 Alvaston and FRA1_Plan_429337 Allestree) and refuses to acknowledge the current climate emergency. At time of writing 20/4/20 - 27/4/20 severe storms have killed 7 people in the southern United States,(US), heatwaves in southern California, wildfires in Siberia, heatwaves in southwest US, strong winds and</p>	<p>The Flood Risk Assessments (FRAs) ([REP9-017], [REP9-018] and [APP-231]) prepared for all three junctions have been produced for the specific purpose of this Scheme DCO application. They all comply with policy requirements, utilise the latest flood models available, and take account of the latest climate change allowances.</p>

Ref	Comment	Applicant's Response
	<p>dust storms in Arabian peninsula, thunderstorms in Eastern India and Bangladesh, heavy rains and flooding in Kenya, Congo, killing over 30 people, floods in Yemen and Burundi, pre-monsoon torrential downpours in Odisha state, India. Greenland ice-sheet melt has added 1mm a month to rising sea levels, just in the last 2 months. This will rise to almost 1cm by September and the end of the A38 Junctions inquiry. Accelerating ice loss in Greenland will lead to a sea level rise of seven metres, affecting 400 million people.</p>	<p>HE also responded to FoE comments regarding the FRAs being outdated in [REP10-009] which states: <i>"HE has not relied upon outdated flood risk maps. The FRA for Markeaton junction [REP9-018] takes into account the latest flood risk guidance and climate change allowances. It is stressed that the Scheme will not amend the watercourses and associated structures (i.e. the existing culverts) under the A38, nor will the Scheme have any impacts on flood extents in surrounding areas. As such, the Scheme will not have effects upon surface water flooding risks in the areas adjoining the road or further downstream. The Markeaton junction FRA has been reviewed by DCiC (who are responsible for surface water flood management and control at Markeaton junction) and they have accepted the findings as per the signed SoCG [REP7-020], noting that DCiC will be consulted during the detailed design stage on issues associated with flooding and the highway drainage design (and as secured via the OEMP [REP9-019])"</i>.</p>
	<p>Over 130 million people are currently at risk of famine across the world, due to combined coronavirus and climate emergency effects. 14.10.22 pg27 Vol 6 Chapter 14 Climate, states" The ICCI assessment has not identified the potential for significant combined impacts of future climate change and the Scheme on identified receptors in the surrounding environment." Yet HE response to our</p>	<p>As detailed in ES Chapter 14: Climate [APP-052] the ICCI assessment has not identified the potential for significant combined impacts of future climate change and the Scheme on identified receptors in the surrounding environment. Potential non-significant effects are reported in ES Appendix 14.2 [APP-236].</p>

Ref	Comment	Applicant's Response
	Q37, was that 'most climate change has been taken into account'	
	<p>REP4;10 pg 4 2.4.3 Both Markeaton Brook and Mackworth Brook (see SFRA Allestree flood risk map)</p> <p>2.5.4 ...'forming an important source of base flow to rivers"</p> <p>3.1.2 pg 6 ..."that the Secretary of State be satisfied that flood risk will not be increased elsewhere..."</p> <p>3.1.3 "Consider risk of all forms of flooding"... "Take impacts of climate change into account..."</p> <p>Pg 9 3.8.4 Environment Agency (EA) emphasised that "surface water run-off should be controlled to existing rates or less" The 'existing rate' has gone up considerably since November 2019. February rainfall levels were 141% of the average rainfall for February.</p>	<p>As detailed in the Markeaton junction FRA [REP9-018], Markeaton Brook (and Mackworth Brook) will not be affected by the Scheme, whilst the Scheme will not result in any additional flooding in Markeaton Park. As detailed in the HE response provided in [REP10-009]:</p> <p><i>"HE has not relied upon outdated flood risk maps. The FRA for Markeaton junction [REP9-018] takes into account the latest flood risk guidance and climate change allowances. It is stressed that the Scheme will not amend the watercourses and associated structures (i.e. the existing culverts) under the A38, nor will the Scheme have any impacts on flood extents in surrounding areas. As such, the Scheme will not have effects upon surface water flooding risks in the areas adjoining the road or further downstream. The Markeaton junction FRA has been reviewed by DCiC (who are responsible for surface water flood management and control at Markeaton junction) and they have accepted the findings as per the signed SoCG [REP7-020], noting that DCiC will be consulted during the detailed design stage on issues associated with flooding and the highway drainage design (and as secured via the OEMP [REP9-019])".</i></p> <p>With regard to the comment regarding surface water run-off rates, with the implementation of the road drainage system as detailed in Section 5 of the FRA, runoff discharge rates to local watercourses will either be the same or reduced as</p>

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		<p>compared to the current situation. As such, there will be no increased surface water runoff to areas surrounding the Scheme, nor any associated increase in flood risks due to the Scheme (taking climate change into account).</p>
	<p>4.3.3 The email sent to EA, from HE, was on 8/11/19 – the day that the River Derwent flooded the city centre and Rolls-Royce workers were evacuated from the nuclear site next to the River Derwent in Alvaston, Derby (see Alvaston flood map) Photos of Derby city centre flooding, are at https://derbyfoe.com/2019/11/08/derby-floods-8-11-2019/</p> <p>4.5.1 Groundwater is known to flood in areas underlain by major aquifers and 4.5.2, 4.5.3 the 'underlying geology is permeable' Markeaton Park groundwater flooding occurred 20/2/20 -(Derby Evening Telegraph link above)</p> <p>4.5.6 “The risk of groundwater flooding is considered to be high.” A 40% climate change event is mentioned, yet 141% rainfall event already occurred throughout February</p> <p>4.10 “The risk of increased surface water run-off, from the scheme, to surrounding areas, is considered to be high”</p>	<p>The Flood Risk Assessments (FRAs) ([REP9-017], [REP9-018] and [APP-231]) prepared for the Scheme illustrate that the Scheme will have no adverse effects upon downstream flooding in the River Derwent.</p> <p>With regard to the comments on groundwater flooding and surface water run-off risks, refer to the HE response given in [REP11-003] which states:</p> <p><i>“As detailed in para. 4.5.5 in the Markeaton junction Flood Risk Assessment (FRA) [REP4-10] “the risk of groundwater flooding is considered to be high” – this refers to the current situation (i.e. without the Scheme). The FRA goes on to indicate that the Scheme has been designed such that this risk will remain the same and will not be increased by the Scheme.</i></p> <p><i>Para. 4.10.1 of the Markeaton junction FRA [REP4-10] states that “the risk of increased surface water runoff from the Scheme arrangement to surrounding areas is considered to be high”. This relates to the situation pre-mitigation and highlights the need to appropriately manage surface water runoff from the Scheme. With the implementation of the road drainage system as detailed in Section 5 of the FRA, runoff discharge rates to local watercourses will either be the same or reduced as</i></p>

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		<p><i>compared to the current situation. As such, there will be no increased surface water runoff to areas surrounding the Scheme, nor any associated flood risks (taking climate change into account).</i></p> <p><i>The Markeaton junction FRA has been reviewed by DCiC (who are responsible for surface water flood management and control at Markeaton junction) and they have agreed the findings as per the signed SoCG [REP7-020], noting that DCiC will be consulted during the detailed design stage on issues associated with flooding and the highway drainage design (and as secured via the OEMP [REP9-019]).</i></p>
	<p>Exception Test 2B “The development must demonstrate that it provides wider sustainability benefits to the community, that outweigh flood risk” We believe that the exception test has not been passed. Nor do the plans meet NSPNN People and Communities Para 5.174. The loss of public open space, trees, biodiversity, and deleterious effects of increased air pollution, on Derby people, including those sectors of society least able, as well as communities alongside the schemes, outweigh any perceived benefits and we request that the Secretary of State refuses the A38 Junctions developments.</p>	<p>For the Exception Test to be passed, the Scheme must demonstrate that it provides wider sustainability benefits to the community that outweigh flood risk. The FRAs prepared for the Scheme ([REP9-017], [REP9-018] and [APP-231]) illustrate that the Scheme will not increase flood risks in areas adjacent to the Scheme due to the mitigation features included within the Scheme design (e.g. including appropriate control of surface water drainage, taking account of climate change). Reference should be made to the Planning Statement Planning Statement and National Policy Statement Accordance Table [APP-252] which provides details of the wider benefits that the Scheme will bring – the document concludes that: <i>“There is an identified need for the junction improvements to address congestion and journey time reliability along the route. The Scheme would provide additional capacity along</i></p>

Ref	Comment	Applicant's Response
		<p><i>the route and benefit local and strategic traffic by reducing journey times. The improvements to the A38 Derby junctions are a committed Scheme in the Roads Investment Strategy, which is supported by the NPSNN and complemented by Local Planning policy. It is considered that the Scheme accords with the relevant national and local transport, sustainability and economic planning policy objectives and should be granted development consent”.</i></p>
<p>REP11-008</p>	<p>This was a resubmission of the Derby and South Derbyshire Friends of the Earth's deadline 10 submission. One paragraph has been amended and this is responded to below – the responses to the remainder of the document are contained in the Applicant's Responses to Information or Submissions Received by Deadline 10 [REP11-003].</p>	
	<p>PARAGRAPH CORRECTION Regarding trees, HE states that pollution removal by local trees 'is small' . (8.91) Yet the UK Government acknowledges the massive beneficial effects of air pollution removal by trees, see https://www.ons.gov.uk/economy/environmentalaccounts/articles/ukairpollutionremovalhowmuchpollutiondoesvegetationremoveinyourarea/2018-07-30 The calculated approximate beneficial cost to the NHS, of health savings, in the East Midlands, is a saving of £20 per person. Across the East Midlands, and including the main cities of Derby, Leicester, Nottingham, this amounts to over £500 million and outweighs the £270 million cost of the schemes. In any case, the daily 15000 vehicles on the A38 and of course the Kingsway Royal Hospital site, the most polluted site in the East Midlands (FOE ENC 1) acknowledged by HE, would worsen health effects.</p>	<p>This point is repeated in the FoE comments above – as such, reference should be made to the applicable HE response above.</p>

Ref	Comment	Applicant's Response
4 Euro Garages Limited		
	<p>Euro Garages reiterated two of the points raised in their previous submission:</p> <p>The first item related to the express approval of Derby City Council of the access proposals from the A52 into the EGL/McDonalds site</p>	<p>Derby City Council has been asked to provide more detailed comments on the arrangement; the Council responded asking for details of the signal design and AutoCAD drawing to be provided to them again – Highways England has provided this information and awaiting DCiC's response. Also, they were asked whether they would be happy for EGL to consult directly with them and responded saying they would prefer to communicate via Highways England's consultant.</p>
	<p>The second related to the long standing question concerning the provision of advance warning signs on the A38.</p>	<p>Highways England is discussing the provision of signage internally and expects to have a solution on the potential way forward by Deadline 12.</p>
5 intu Derby		
	<p>ExA question to the Behavioural Change Working Group (BCWG) of which intu Derby is a member.</p> <p><i>“Are there any further comments or outstanding concerns regarding the Traffic Management Plan [REP7-003]? How should any outstanding concerns be addressed?”</i></p>	
	<p>Confirmation of funding for mitigation measures – Through our attendance at BCWG meetings, we have been disappointed to learn from HE representatives that, to date, there has been no allocation of HE funding for mitigation measures, specifically for those on the local network which could also deliver a lasting legacy beyond</p>	<p>This is a capital spend scheme and there is no funding available through the Scheme for supporting other mitigation projects outside of the Scheme red line boundary. Previously in the BCWG, Highways England introduced the Travel Demand Management Manager who confirmed we would look at potential funding allocations and this is</p>

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	<p>the A38 scheme itself. Our understanding is the current TMP only allows for a package of comms-based Travel Demand Management (TDM) measures, issues around which are discussed separately at the end of this list, unless other sources of funding can be identified locally or secured through bids for additional HE funds.</p> <p>We would therefore ask the A38 Derby Junctions scheme is not consented until the HE commits to sourcing and allocating appropriate funds to enable measures to support access/egress to/from Derby city centre during the construction period, for example Park and Ride sites, bus priority measures etc., as was previously identified by other BCWG members in earlier meetings with DCiC/AECOM.</p>	<p>ongoing and will be reviewed when the next BCWG takes place.</p> <p>This will potentially be through Designated Funds. This is funding to improve the surroundings of the Strategic Road Network in a way that supports and protects people and the things we value for quality of life. These funds enable Highways England to provide environmental, social and economic benefits to the people, communities and businesses who live and work alongside the strategic road network. Applications need to be made for such funding success of the applications cannot be guaranteed.</p>
	<p>Congestion hotspots during the construction period – The TMP states further junction modelling will be undertaken during construction preparation (Stage 5). This modelling needs to be undertaken at the earliest instance so that problem areas can be identified with sufficient time to subsequently develop and implement suitable mitigation measures in advance of the works commencing.</p>	<p>Noted</p>
	<p>Clarity of diversionary routes per phase – Consideration must be given to the scale of impact on the local network plus appropriate mitigation measures for links/junctions which are likely to be used by re-routed</p>	<p>As has been stated previously, the intention of each of the construction phases is that the A38 traffic will stay on the A38 so there will not be a need for any long-term</p>

Ref	Comment	Applicant's Response
	<p>traffic as well as those routes directly affected by the construction works. From the technical drawings presented at previous BCWG meetings and being able to compare these to graphical output provided to intu by other roadwork schemes, we strongly encourage the HE seek to produce a series of clear and concise diversionary diagrams to illustrate the traffic restrictions during each phase of the works.</p>	<p>diversionary routes. Highways England will discuss this further with the members of the BCWG.</p>
	<p>Timings – We, and other BCWG members, continued to be frustrated by the lack of progress made in either defining and agreeing proposed mitigation measures, or giving confirmation these will not actually be possible. We do acknowledge the disruptive impact COVID-19 has had on the DCO process and appreciate all efforts to continue planning and discussions; nevertheless, there is increasingly limited time remaining for HE to develop, confirm and implement an effective package of measures in advance of any works commencing on site.</p>	<p>The TM Plans were circulated to the BCWG members for comments and this process will continue through the construction preparation period.</p>
	<p>Contingency – It is still not clear from the TMP exactly what level of contingency, if any, has been considered for the programme. Clarity on this matter would be welcomed – as noted before, our experience from other major road schemes has shown this element tends to be under-estimated and just one significant, unexpected issue can easily consume all/any planned contingency, leading to programme overrun and negative media coverage.</p>	<p>Part of construction planning includes some “Time Risk Allowance” and the programme of work does allow for some degree of unplanned events being experienced during the construction period, this means that there is contingency built in. The challenge with construction is how much contingency to allow, but it is recognised that there is a level of uncertainty and an allowance is made to manage the risk throughout the process which Highways England considers is</p>

Ref	Comment	Applicant's Response
		appropriate and adequate at this stage. However Highways England will continue to discuss this with the BCWG in due course.
	<p>TDM proposals – at the March 2020 BCWG meeting, HE presented their TDM strategy, as proven by previous schemes, including the 4 R's (Retime, Remode, Reduce and Reroute). From a retail perspective, we can only promote options to Remode and Reroute journeys and would discourage any efforts which could Reduce shopping/leisure trips at a time when the wider retail sector cannot sustain a further decrease in footfall. The option to Retime is also unlikely to be acceptable given the need for retailers to be open for trade at specific times. To enable successful Remode and Reroute choices, there needs to be agreed alternatives which are attractive to users and fully operational prior to the works commencing.</p>	Noted – This will be discussed in the next BCWG meeting.
	<p>To reiterate our stance – if the A38 Derby Junctions scheme proceeds, intu's aim is to support delivery of the programme by working with all organisations across the city in developing a mutually beneficial working relationship with both HE and their contractors. Taking a collaborative approach will be key in ensuring HE can successfully undertake these works without them being overly disruptive to Derby and the wider region, and we trust our concerns set out in this written response will be addressed accordingly.</p>	Noted

Ref	Comment	Applicant's Response
6	David Gartside	
	<p>The challenge I continue to face is mainly one of limited or poor communication with Highways England and I am disappointed to have to again say that despite some interaction with Highways England immediately prior to the last round of public hearings I have had no further information from them and they have not responded to my requests for information.</p>	<p>There have been ongoing discussions with Mr and Mrs Gartside in the last few weeks and Mr and Mrs Gartside formally accepted the compensation package on 07 May 2020 and they have now formally withdrawn from the DCO Examination process.</p>
	<p>It has been my understanding that in order for an order to be made giving Highways England compulsory purchase powers that they must be able to demonstrate that they have made reasonable endeavours to acquire property by negotiation. I have had numerous difficulties progressing discussions with Highways England concerning the options to acquire my property and to assist me to relocate my business. Eventually in February, after waiting for more than 5 months for them to gain internal approval for a specific business case relating to my property, I received an offer of settlement from Highways England that took account not only of my residential status but also the impact on my business. I welcomed the offer and have attempted to learn more about the precise details of the offer but with limited success and in some part this is possibly due to their approach regarding professional fee's. I am afraid that it feels again as though Highways England are trying to rely</p>	

Ref	Comment	Applicant's Response
	upon compulsory purchase powers rather than showing a commitment to engaging with me.	
	I wrote to Highways England three weeks ago to ask for updated information on timescales associated with the scheme and to date, despite chasing, I haven't had any response. I need to know how the delay to the enquiry will impact on the project and how that will then translate into Highways England either requiring my property by negotiation or through compulsory powers. If I don't receive a response from Highways England to the questions I have raised with them then I would like the opportunity to make further representations to you and to take part in a future hearing, however that may be facilitated.	