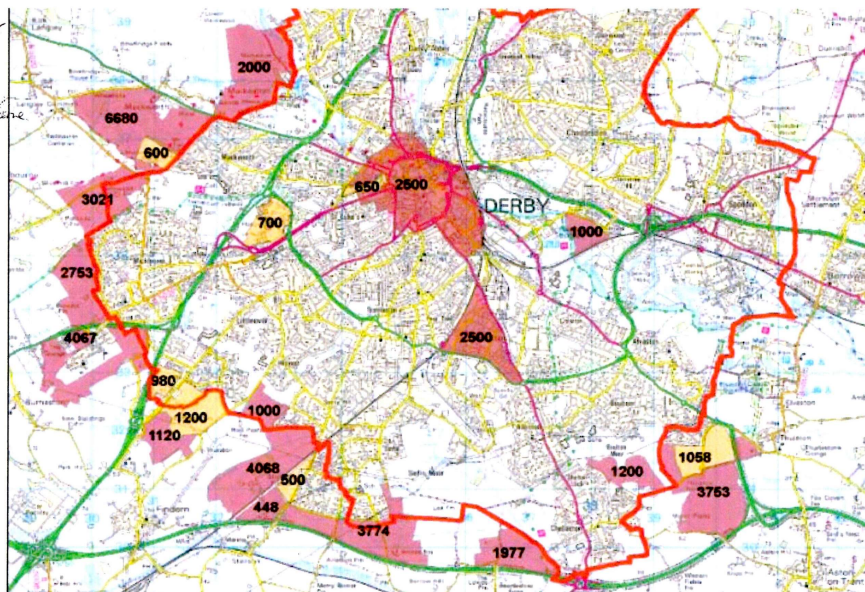


Development Consent Order to Highways England project TR0 10022 Anne Morgan [REDACTED]  
 To the Examiner Stuart Cowperthwaite  
 Friends of Markeaton Park Responses to the Responses to 5th May 2020 Questions.

TR0 10022 had its first consultation in 2003. Around that time Regional studies were being conducted, including the Strategic Housing Land Availability Assessments, which were based on increases of population of 6% annum. It is not possible for TR0 10022 to achieve its objectives **“To help facilitate regional development and growth in Derby City and its surrounding areas and increase capacity of the strategic road network to absorb growth”** because all the possible actions have already been covered by the adopted City of Derby Local Plan. The area of land and the capacity of the roads do not grow at 6% per annum. Everywhere adjacent to this scheme is already developed. Any **“reduction of delays”** will solely benefit the through traffic, not the people of Derby and Derbyshire. When the access to the A38 from Brackensdale Avenue and Greenwich Drive is closed how are the drivers who live in Mackworth to get to other parts of Derby? **Disruption of A52 Eastbound traffic will not be minimised** by closing the current entrances direct off the A38 and placing traffic lights at a new entrance to Markeaton Park, in a spot where accidents and pollution incidents have occurred previously. The businesses involved in the Behaviour Change Group fear permanent loss of footfall, not economic success and the City Council expects a severe fall in its income.

77q Lower

S0048 Mowse  
 49  
 78  
 79 Redbridge  
 80



Boulton Moor 105g  
 S0072 Snelmer 700  
 Highfields Farm  
 Stenson Fields 500  
 S0076 3000

Derbyshire County Council SHLAA Final Appendix B Derby PUA  
 tcm9-127765.pdf. Strategic Sites Study

Some of these housing allocations have been built, others are going through the system. Now the overwhelming need is for public transport.

The Government Policy is the Transport Decarbonisation Plan, 2020, that aims to make public transport or walking / cycling / scooters the first choice for people. Derby Cycling group is disappointed in the low number of their suggestions that Highways England has incorporated into the design.

In response to the Examiner's question about trees Highways England directed us to ES Chapter 7: Landscape and Visual [APP045]. Studying those maps it was a shock to discover that there are NO plans to replace trees in mitigation for the loss of the present tree belt along Queensway. That is to be replaced by amenity grassland. Environmental Plans 6.2 Figures 7.8 A-C has twelve lists of plants. The numbers of trees to be planted (in linear strips at the edge of the slip roads or in triangles between the slip roads) is listed as a different percentage of each tree in each different list. The actual number will be determined at the Detail Design Stage. Presumably that is when the width of the Utility Diversion will be decided, and the numbers of trees that will be lost to pumps, drains and sewers etc. will become known. No ratio of numbers lost to numbers replaced is suggested, either for mitigation or for the Climate Change Law Obligations. The rules as to replacement if a plant dies within five years are clear. IT MUST be replaced. Will "vegetation to be retained" that dies within five years of having diggers going to and fro over its roots during construction, and subsequent utility repair work, also be protected by "MUST be replaced" rules? If so how many saplings for each 40 year old tree? What if the new path built with Heritage Funds is damaged every time a Utility has to be repaired? Tree DWT 26 is an irreplaceable Oak old enough to shed a branch naturally.

The Applicant wants temporary possession of all the land around Markeaton Lake. How is the partnership working to eliminate the Signal crayfish from the lake to continue that project? I hope Highways England make sure they can reach all parts of the lake day or night to continue their work, and that Highways England can find some funding for them from their budget because both the National Trust and the Derbyshire Wildlife Trust have had their income badly damaged by the lock-down.

Question 9.1 Special Category Land The Markeaton Park 'Mundy covenant

9.1 b) Please clarify the consideration given to the rights of wider beneficiaries due to their use of the land as protected by the covenant, e.g. in relation to public amenity, for this specific matter.

DCiC response quoted in Highland England 8.100 Volume 8

"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."

Applicant's response Highland England 8.100 Volume 8

"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: "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 xxxxx xxxxx xxxxx xxxxxxxxxxxxxxxxxxx xxxxx xxxxx xxxxx xxx.

[redacted] 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". Applicant's response in 8.101 Volume 8

"b) The parties to the 'Mundy covenant' are the Mundy family and the Council. The public who use the land for its amenity value have no formal Interest in the right. Formally, the beneficiary of this right is the Mundy Family, rather than the public who enjoy the amenity value of the park. The

removal of the right (in circumstances where CA powers were not used) would be one that could be agreed between the Council and the Family, without any involvement of the parties who enjoy the park. c) The Book of References and Statement of Reasons will be updated, as required, once evidence of succession of the beneficiary is obtained."

#### Friends of Markeaton Park response

Friends of Markeaton Park are very aware that they have no formal rights under the Mundy covenant. Friends of Markeaton Park are grateful to the Inspector for scrutinising this aspect of the A38 3-junctions scheme. We are grateful to Annie Clarke-Maxwell, and to her father Charles Clarke-Maxwell who attended our steering group meetings, for their diligent supervision of what Planning matters are considered for the park. Several times we were told that CCM had made sure that a planning application would not go ahead, especially when it involved telephone masts; once it was a for a wind-turbine. I cannot offer any written evidence to support that statement.

I apologise for forgetting to include the words "for the use of" or "wider" to qualify "beneficiaries" in our answers for deadline 12.

I believed the assurances that had been given at the consultations, that mitigation would more than compensate for the loss of a few low value trees, so I did not take any notice of the start of this Inquiry; I thought it would improve traffic flow. At the beginning of February this year Friends of Markeaton Park Trustees asked me to write a report about it. As I read the proposals I became more and more horrified. I am a pensioner with no day job, and who is banned from leaving the house because of the Corona virus lock-down. I find it is extremely difficult to get information from the thousands of pages of the applicants' documents although I have all day every day to read them. Often I know I have read something relevant to the Inspector's questions but I am not able to find it again.

The City Council officers have been subject to severe austerity cuts and they have to cover the workload of people who have been compelled to retire early as well as participating in the Inquiry. Both they and the Covenant Guardian have too much to do in the time available to them, yet somehow they do manage to do it well.

Friends of Markeaton Park do not know the arrangements between the Covenant Guardian and the Council Liaison officer for exchanging details about this scheme as they are gradually revealed by the Examiner's questions for this Inquiry. The depth and width of the Utility diversion corridor and a number of other contradictory matters have been deferred to the Detail Design stage. Is it correct procedure to seek signatures before the details are confirmed?

Shouldn't the Acquisition of permanent Rights of Access to that strip of the Covenanted land also be deferred until those details and the mitigation that would be forthcoming have been decided? Then the parties to the Covenant would know the impact upon the amenity of the park and on the Carbon-Dioxide reduction targets. They would be in a position to discuss compensation funding if the HLF wide path is damaged by a Utility company, and finance for the delivery of additional benefit through the enhancement of existing assets, particularly the improvement of existing park infrastructure to mitigate the impact of the scheme on park users and increase the numbers of trees and ponds.