A38 Derby Junctions
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8.119 Applicant's Responses to Information or Submissions Received by Deadline 14

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A38 Derby Junctions
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Introduction

This document provides the comments of Highways England (the Applicant) on the responses made by Interested Parties to the Planning Inspectorate at Deadline 14 (18 June 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.

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1 Network Rail		
Ford Lane Bridge over the River Derwent		
	2.1 Network Rail must be able to gain access to the Midland Mainline with vehicles weighing 40 Tonnes for maintenance purposes via the A6 (Ford Lane). As the Applicant's scheme provides for the closure of the access to Ford Lane from the A38, it is essential that the junction between Ford Lane and Duffield Road and the junction between Ford Lane and Lambourn Drive are upgraded to enable access by 40 Tonnes vehicles. Similarly, the Ford Lane Bridge over the River Derwent must be suitable for 40 Tonnes vehicles. 2.2 In its Deadline 9 submission [**REP9-036**], Network Rail: • asked that Requirement 12 in the draft DCO be amended to provide that Derbyshire County Council must approve the detailed design of the Ford Lane/A6 Duffield Road junction and Ford Lane/Lambourn Drive junction works and the Ford Lane Bridge works in consultation with Network Rail; and • noted that it had not seen the design of the proposed junction or the verification study confirming the load bearing capacity of the bridge. 2.3 Network Rail repeated these points in its Deadline 12 submission [**REP12-016**].	Network Rail's points are noted as they have been raised at previous deadlines. Highways England has responded to these matters and reiterates that it does not consider that a new requirement is necessary or reasonable to be included in the dDCO. As previously noted, Highways England considers that there is adequate protection and control in the dDCO to ensure that the junction and bridge will be able to cope with 40T vehicles (through both the detailed design process and the provisions of the OEMP/CEMP [**REP14-008**]). Highways England's view is that as the local highway authorities, DCC and DCiC are best placed to review the approach in respect of the bridge and the junction as these assets form part of their highway network. The ExA will note from DCC's comments submitted at D14 the progress which is being made between Highways England and DCC is formulating an engineering strategy which will ensure that the bridge is able to accommodate a 40t vehicle. Significant progress on this point has been made and these discussions are at an advanced stage. Highways England is committed to ensuring that an acceptable position is reached as soon as possible. Network Rail's comments in respect of it needing to protect its undertaking are noted. However, it should be noted that

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	2.4 In its Deadline 8 response [**REP8-007**] the Applicant stated that "details of [the junction design and bridge verification survey] have not yet been shared with Network Rail as they are still subject to confirmation and agreement with the relevant local highway authorities". 2.5 However, by the time of its Deadline 13 submission [REP13-006], the Applicant's position on the junction design and verification survey had changed. It stated that "the bridge assessment and verification survey reports are for the benefit of Derbyshire County Council". It goes on to state that "the DCO does not need to have a requirement requiring consultation with NR and the appropriate body to be consulted is the local highway authority". 2.6 Network Rail notes the stance the Applicant has taken. But it is Network Rail's obligation to safeguard its statutory undertaking. Network Rail is content to rely on the approval of the junction works and the bridge load bearing capacity by the local highway authority <u>provided a Requirement is included in the DCO that the junction to Ford Lane from the A38 may not be closed until the Ford Lane/ A6 Duffield Road junction works and the Ford Lane/Lambourn Drive junction works have been constructed and completed to the satisfaction of the relevant highway authority and the highway authority has confirmed that the Ford Lane Bridge is suitable for 40 tonnes vehicles</u>. We ask that a new Requirement 18 is included in the DCO: ***Access to Ford Lane***	the bridge in question does not span the railway line nor does Network Rail have any interest in it. Network Rail in this respect is a user of the public highway in the same way as any other user and does not require any additional protection beyond the assurance that DCC and HE will secure this measure through the process set out in through the consultation on the detailed design process and the OEMP/CEMP [**REP14-008**]. It is worth noting that if this matter was being secured by DCC through the Highways Act 1980 or the Road Traffic Regulation Act 1984, Network Rail would not be a direct consultee in respect of these works because their assets are not being affected. As such, Highways England does not consider that a requirement is necessary in this case, particularly where such a requirement is proposing to delay the development of works nos 29, 33 and 34 before DCC and DCiC confirm that they are content with the scheme relating to the bridge and junction. DCC and DCiC have not suggested this process is required and have said that they are happy with Highways England's approach to this point.

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	18. No part of the authorised development to stop up the access to Ford Lane via the A38 (Works No. 28) shall commence until Works No.s 29, 33 and 34 have been completed to the satisfaction of the local highway authority and the local authority has provided confirmation in writing that the Ford Lane Bridge over the River Derwent has suitable load-bearing capacity for vehicles weighing 40 Tonnes. 2.7 Network Rail's position is very simple and remains unchanged; it must have a guarantee that it will be able to gain access to the Midland Mainline for maintenance purposes via A6 (Ford Lane) at all times. All it asks is that a suitable mechanism is included in the DCO to ensure that simple objective.	
Schedule 9 – Protective Provisions		
	3.1 Network Rail's Preferred Protective Provisions are the same as submitted at Deadline 10 [REP10-013] and are attached at Appendix 1 to this Position Statement. 3.2 Network Rail's Preferred Protective Provisions are now agreed with the Applicant.	Noted. To clarify, after negotiations, Highways England agreed to the protective provisions submitted to the ExA by NR at D14. These should have been incorporated into the dDCO submitted to the ExA at D14. This inconsistency has now been resolved and Highways England has submitted a revised dDCO to the ExA at D15 to reflect this position.
Conclusions		
	4.1 Network Rail will continue to work co-operatively with the Applicant to agree a Framework Agreement, a Deed of Easement and Bridge Agreement which relate to the road bridge over the railway; this is unconnected to the Ford	Noted and agreed.

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	Lane Bridge over the River Derwent. Conclusion of those agreements will not affect the need for the DCO to safeguard Network Rail's access to the Midland Mainline for maintenance purposes as set out above. 4.2 Network Rail maintains its objection to the closure of the access to Ford Lane from the A38 for the reasons stated at paragraph 2 above. Network Rail ask that a Requirement is included in the DCO to reflect its concerns.	
2 Euro Garages Limited		
	Following on from the Hearing last week here on 9th June 2020 there was a meeting on 16th June between the representatives of EGL and McDonalds with Aecom/Derby City Council as highway authority and the matters discussed were: 1. Car park strengthening 2. A52 junction 3. Rights of way 4. Advance warning signage	Noted
	Item 1 is for McDonalds to comment upon, but EGL will need to be consulted on the details to understand that timing of the works to minimise temporary disturbance.	Noted
	Item 2 A52 junction It is accepted that the capacity of the junction is acceptable. The safety aspects of the substandard U turn into the EGL site is still under discussion. The written	Derby City Council has stated [**REP14-032**]: *DCiC's interest in the access arrangement is concerned with the capacity and operation of the proposed traffic signals that also provide access to Markeaton Park, and*

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	confirmation of the views of Derby City Council as highway authority is still awaited. Upon receipt of the written view it will be necessary to liaise with EGL for instructions. It is noted that Aecom propose further discussion at the detailed design stage and this is welcomed however any design changes are highly unlikely to alter the EGL concern in respect of the safety of the A52 access and the potential consequential adverse effect upon the ability to trade from this site.	*that vehicles can safely exit off the local highway into the Esso and McDonald's site.* *Derby City Council has previously stated that it is satisfied with the principle of the signal junction. It has made comments to the applicant that some changes are needed to improve safety and the operation of the proposed signals, including the main Markeaton Junction. As such, the applicant has responded that there is a workable solution and that this can be dealt with at the detailed design stage, which DCiC accept.* *In terms of the specific access on Ashbourne Road the signals will control the movement of vehicles into and out of the Esso Garage/Mc Donald's site. From the preliminary designs provided by the applicant, DCiC is satisfied that an articulated HGV can physically turn at 10 kph into the site off the highway. The access layout is not ideal in terms of geometry and the provision for pedestrians crossing it, however, the general layout is no worse than the existing situation.* *It is for the third party landowners to assess, and agree with the applicant, how any changes to the junction access safely integrates into their site and whether any changes are required to their layout. However, such detail has not been finalised at this stage.*

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		The junction scheme is subject to further detailed design and a Road Safety Audit.
	Item 3 Rights of way It is accepted that the A52 access as designed does not directly physically interfere upon the right of way between McDonalds and EGL. In respect of the stopping up of the ingress from the A38 there may be some adjustment of rights needed between the parties but the rights of EGL in this matter is fully reserved.	Noted
	Item 4 Advance Warning signage It is noted that it is the preliminary view of Highways England that technically the site does not strictly conform to the requirements for advance warning signs, although many signed service area sites are not fully compliant. It is also noted that Aecom support the provision of advance warning signs and will continue to seek clearance from HE on this matter. The timescale for a decision is likely to go beyond the DCO process. EGL have been asked to provide some additional details concerning the site at Braintree, Essex where signage was permitted in a similar situation. This data is still to be provided.	Noted Please note that it is the Applicant that supports the provision of advance signs and will continue to seek clearance from relevant HE departments on this matter. The Applicant's consultant (AECOM) is supporting the Applicant on this issue. The Applicant is looking forward to receiving the requested additional details concerning the site at Braintree, Essex where signage was permitted in a similar situation.
	The revised draft for the EGL Statement of Common Ground has yet to be received and therefore the necessary discussions with EGL have not been able to take place.	The 'final' (but not yet signed by EG) version of the SoCG was submitted to the Examination at Deadline 14 [**REP14-015**].

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3 Derby Climate Coalition		
	ISH6 Hearing submission **Land use, social and economic Impact** I would like to express concern over some of the statements that HE has made regarding Option Generation of this scheme. They stated in REP7-007 that "Given that the TAG assessment was used to prioritise between feasible road projects then the implied bias is not the issue. If the A38 Derby Junctions had not been selected in RIS1, then another road improvement scheme would have been selected in its place." This indicates categorically that no non-road options were considered. It was just a cost to benefit ratio-based decision process to pick which road schemes should benefit from the DfT's RIS1 road spending budget. Then in REP10-009 HE says "At stage 1, development of options was focused on resolving the problem of long delay to journeys on the road network. The solutions are necessarily road-based options." May I ask Stage 1 of what and by whom? Where is the documentation for this? They go on to say, "Over the years, transport interventions using other transport modes have been examined by the local authority." Here they cite many things that the local authority has looked at which are obviously not part of an Option Generation appraisal related to congestion problems on the A38: -	Highways England is supporting the creation of cycle routes along the Derwent Valley; but these specific transport interventions are separate schemes and are not part of this DCO for the A38 Derby Junctions Scheme. Highways England has explained how central government identifies transport interventions and that different transport investments are delivered by the appropriate organisation. DCC and DCiC have supported this explanation. References: [**REP7-007**; Party 3 (S Wheeler); HE response 2] [**REP7-007**; Party 22 (Derby Climate Co); HE response 1] [**REP9-029**; Ref No. 9.4; HE response "b)"] [**REP9-047**; DCC response 9.4b] [**REP10-009**; Party 4 (Mair Bain); HE response 11; *Ref: 4.11*] [**REP12-007**; HE response to Q3.6] [**REP12-008**; DCC response to Q3.6] [**REP12-019**; DCiC response to Q3.6] [**REP13-006**; Party 9 (DCC); HE response 3.6; *Ref: 3.6 b*] [**REP13-006**; Party 11 (DCiC); HE response 3.6; *Ref: 3.6*] [**REP14-029**; Party 1 (FoMP); HE response 1] Highways England has also explained that additional flows on the A38 with the Scheme open-for-traffic could result

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	• **Park and Ride schemes –** the 2 that have been implemented are nowhere near the A38 • **bus infrastructure improvements –** this was a new bus station - necessary due to the state of the old one. • **cycling improvement schemes (e.g. Cycle Derby initiatives) –** this is a minimal investment scheme, involving no new infrastructure, that pays lip service to any serious attempt to attract people to ride bicycles in Derby They go on to cite other things that have been considered over the years which similarly have nothing much to do with this scheme: - • **Derbyshire County Council are supporting the enhancement of cycle routes (e.g. along the Derwent Valley) –** That is not relevant to A38 scheme as that relates to the A6 junction which is not part of this scheme. • **Network Rail/Midlands Mainline recently upgraded Derby station and reconfigured the tracks to the south of the station to improve journey times.** Not particularly relevant – this may have resulted in seconds being taken off rail journeys but won't have been enough to change behaviour – more frequent services, less over-crowding and cheaper fares would have more effect – have they been considered? • **The recent Budget 2020 announced support for a new cycle route to East Midlands Airport -** Yet another example that has no bearing on traffic on the A38 – East Midlands Airport is south/south east of Derby.	from two effects: firstly, from new induced trips and secondly from rerouting (reassignment) effects. Highways England is very aware of the argument that faster journeys might **induce** new car-based trips and has addressed this point by applying the DfT's approved variable demand modelling (VDM) process to the traffic forecasts, prior to undertaking the appraisal of the Scheme's operational impacts as reported in the Environmental Statement. Therefore, the impacts of Scheme-induced trips are included within the traffic-related environmental impacts of the Scheme that were reported in the ES. Reference: [**REP3-005**] the Transport Assessment (TA) chapter 4 describes the traffic forecasting method. Refer to TA paragraph 4.3.10 and its footnote (on page 21) and TA paragraph 4.5.2 (on page 29). The Scheme will lead to some car trips **rerouting**. This rerouting effect is a benefit of the Scheme because traffic flows will be reduced on local roads that are aligned parallel to the A38. These reduced traffic flows will improve road safety on those local roads. Over the DfT's standard 60-year evaluation period for major road projects, the Scheme is considered to result in the

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	• The only scheme that they cite that could be relevant is the £161M to develop a new electric Rapid Transit Route, but I suspect that is also going to be the other side of Derby. It seems to me that HE have picked any transport related project that has happened or is proposed to happen in the area and are using them as evidence to show that there has been some joined up Option Generation appraisal of the need for this scheme. This is obviously not the case. In REP12-007, when asked by the EA to explain how non-road-based options were considered when the A38 Derby Junctions was appraised using the TAG guidance, they firstly claim that "Other transport options, which might be an alternative to a road-based intervention and deliver the same level of objectives, were considered at stage 2 in the appraisal process but were identified as not being affordable." Stage 2 of what and by whom? Evidence of this please. (Remember that in REP7-007 they stated that "Given that the TAG assessment was used to prioritise between feasible road projects".) But then they repeat their previous assertion that 'the Scheme is being delivered on the basis of a road based study, that focussed on the options available to Highways England as the Strategic Highway Authority responsible for maintaining and improving the strategic road network.' In trying to show that there has been some joined-up appraisal of Option Generation they again cite a collection of schemes that have been looked at over recent years: -	saving of 143 serious injury casualties, including 8 fatalities. This result would be compatible with the Derby Climate Coalition's aim to extend human life. Reference: Transport Assessment Report [**REP3-005]**, paragraph 5.5.5 and Table 5.6. Reduced traffic flows on local roads will also provide opportunities for the local highway authority to improve the facilities for the 'active travel' modes. Highways England's scheme will replace and improve upon the existing provisions for non-motorised users' (NMU) movements both along and crossing the A38. References: [**REP3-005**] Transport Assessment Report, section 6. [**REP1-031**] DCC's Local Impact report, paragraphs 6.80 to 6.85. [**REP1-035**] DCiC's Local Impact report, chapter 10. Grade separation of the three A38 junctions will improve the journey times on radial routes into and out of Derby. This improved reliability will be a benefit to bus services. References: [**REP3-005**] Transport Assessment Report, section 7.

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	• **A rail-based option that would compete for intermediate-length journeys along the line of the A38 would be prohibitively expensive. Such an option might take the form of a rail improvement between Sheffield and Burton-on-Trent and might require improvements to the existing railway, which passes through Derby station. –** HE has already stated that the improvements have been made to Derby station. Surely simple increases in services or fare adjustments should have been considered. The proper integration of public transport services in the city would also encourage modal changes. • **An alternative alignment for HS2 was also considered between Birmingham and Leeds that passed through Derby station, but this option was dropped in favour of the preferred alignment via Toton station near Long Eaton.** I am convinced that this decision will not have been part of any appraisal of the A38 problems. • **Other modes, such as bus-based park and ride interventions, might serve commuting and leisure trips on Derby's radial corridors but these would not replace trips on the A38 which is an orbital route of the city and is serving inter-urban journeys of intermediate and long-distance lengths made by private transport.** – the wording 'might serve' indicates that this is current thinking - not something that was considered at the time of this road proposal. I would also like to suggest that if these options had been considered in	[**REP1-033**] DCC's response to 1st WQ 4.45, item a). [**REP1-035**] DCiC's Local Impact report, chapter 10 sub-heading 'Public Transport' (page 27). Highways England has explained that grade separating the three A38 junctions is a relatively modest and cost-effective method of improving the longer-distance journeys to the west side of Derby. Reference: [**REP14-029**], Highways England's point 1 in response to FoMP D13. Highways England notes that the Director General for Roads, Places and Environment at the Department of Transport sent a letter dated 12 May 2020 to all combined, local transport and local highway authorities announcing central government's new £250 million emergency 'active travel' fund to support the implementation of pop-up bike lanes, the widening of pavements and the provision of cycle and bus-only corridors. The purpose of this emergency funding was to mitigate the negative impact of COVID-19 and social distancing rules have upon the capacity of public transport and to increase the spacing between pedestrians. On 5 June 2020, DCiC submitted road alteration proposals to accommodate 'active travel' initiatives under their 'Moving Derby Forward' programme that had an estimate

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	depth at the time the possible decrease in traffic crossing the A38 into and out of Derby may have solved the congestion problems by significantly reducing the total volume of traffic on the 3 roundabouts. • **Improvements to existing rail services might be considered for their effectiveness in attracting intermediate-length journeys away from the A38; but it is noted that in 2017 the Secretary of State for Transport postponed a proposal to electrify the Midland Mainline railway on the grounds that it was unaffordable. –** again, the wording 'might be considered' suggests that this is recent thinking – not a considered appraisal at the time. I would also like to point out that decision was probably made purely on financial considerations without regard to the benefit to the climate and environment and to the costs of not going ahead – an indication of the priorities of the government. If the government understood the seriousness of the climate crisis, like with the Covid crisis, money would be no object. Can we afford to ignore it? Finally, HE say **"The Scheme, as a road-based option was considered to be the most viable transport solution in this case, noting that it seeks to improve an existing infrastructure corridor." I would like to know who made this considered decision and to see the evidence of the analysis behind this statement.** **In summary**	costs of £204,000. Highways England notes that none of these proposed road alterations are on or near to the A38. References: [**REP14-020]**, ISH6 agenda item 3, item i). [**REP14-022]**, ISH8 agenda 'Net Zero Carbon' agenda item c). With regard to the comment that the Scheme will "*increase air pollution and carbon emissions and have a huge impact on local biodiversity*" for clarify, ES Chapter 5: Air Quality [**APP-043**] indicates that 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. ES Chapter 14: Climate [**APP-052**] indicates that total carbon emissions from the Scheme are not deemed to be significant in the context of the current UK carbon budgets. A full assessment of the Scheme effects on ecology and biodiversity is provided in ES Chapter 8: Biodiversity [**REP9-009**] –with the mitigation measures proposed, the Scheme has the potential to have a moderate beneficial significant effect (at the County or Unitary Authority scale) on biodiversity in the medium to long term; particularly on standing water (ponds), running water, foraging and commuting bats, otter, terrestrial invertebrates, aquatic invertebrates and fish.

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	The initial assessment for this road scheme was back in 2002 and I am still not convinced that any proper appraisal was done then or any time since to consider other modes, infrastructure, regulation, pricing and other ways of influencing behaviour as alternative solutions. There is certainly no evidence that in the light of more recent responsibilities towards climate and ecology that there has been any appraisal review. Regardless of the above arguments, I would strongly suggest that we find ourselves in a totally different world compared to when this scheme was first muted. We now find ourselves in a world where Covid 19 has forced us to change our behaviours. On 9th May 2020 Transport Secretary Grant Shapps promised a £250 million emergency active travel fund - the first stage of a £5 billion in new funding announced for cycling and buses in February. Councils are actively encouraged to use this money for Pop-up bike lanes with protected space for cycling, wider pavements, safer junctions, and cycle and bus-only corridors. Mr Shapps said, "We know cars will continue to remain vital for many, but as we look to the future, we must build a better country with greener travel habits, cleaner air and healthier communities." This is more like the DfT policies that we need if we are going to solve the climate and ecological crisis. But how does this sit alongside this proposal for a scheme which will encourage more cars onto the road, increase air	

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	pollution and carbon emissions and have a huge impact on local biodiversity. This is not the time to be making a rash decision on a road scheme that will have such obvious negative impacts on the environment when it is now not even clear that it will be needed – it is quite possible that large numbers of road users will either start working from home long-term, start to use active transport methods or use the better public transport services promised by the government in February. Government policies are changing rapidly and if our recovery from this current crisis is also used as a recovery for the larger climate and ecological crisis, then this proposed scheme is obsolete. At the very least it should be delayed until the ramifications of the Covid crisis are known.	
	ISH 8 **Air pollution** **Low Air pollution has been shown to be even more important now we are caught up in the Covid crisis. The All-Party Parliamentary Group on Air Pollution has released a strategy document regarding air pollution in the UK.** **https://appgaq.files.wordpress.com/2020/05/clean-air-exit-strategy.pdf** In it they say that air pollution must be kept at low levels to help avoid a second peak of coronavirus infections.	As detailed in [**REP14-001**] 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**]), Highways England does not consider that the Scheme will increase mortality from

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	There is growing evidence from around the world linking exposure to dirty air and increased infections and deaths from Covid-19. Lockdowns cut air pollution levels in many places, but the MPs said measures were needed to ensure it remains low. https://www.theguardian.com/world/2020/may/04/is-air-pollution-making-the-coronavirus-pandemic-even-more-deadly One report concluded that a small increase in long-term exposure to PM2.5 leads to a large increase in the COVID-19 death rate. https://www.hsph.harvard.edu/biostatistics/2020/04/linking-air-pollution-to-higher-coronavirus-death-rates/ With Derby being identified in 2015 as **one of five local authority areas** with problem levels of nitrogen dioxide (N02) and told to take action to resolve the situation in the shortest possible time, air pollution is already a prime concern but this new evidence of the effects of air pollution on infection and death rates from Covid 19 makes it a critical issue. It is obvious that we should now be concerned about any level of pollution – not just those levels that might exceed some arbitrary maximum. DCiC have stated that air pollution in Derby will increase for the 4 years of construction if this scheme goes ahead. https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentalprotection/ED11928_Derby%202019%20AQAP_Draft_Issue%208%20Final.pdf	COVID-19 in either the construction or operational phases and there should be a reduction in 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 for all scenarios, including construction, well within (less than 60% of) the EU limit value set to protect human health.

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	So, this is the worst time to be starting such a construction project – it will cost lives. This scheme must be stopped immediately for the sake of Derby residents, especially those who are already high risk.	
	ISH 8 Submission – Net Zero by 2050 We are very concerned and shocked by some of the claims made by HE in their response to questions regarding Net Zero by 2050. (REP12-007 Part 3.3) • HE say "**RIS 2 published in March 2020 supports Government's plans for decarbonising road transport." We would like an explanation from HE as to how they think a £27 billion road infrastructure programme, which is inherently going to hugely increase emissions not only in construction but also in operation, can possibly support the government's plans for decarbonising road transport. This is simply illogical.** **• HE then say "The roads programme has been subject to impact assessments and complies with the Paris agreement obligations."** Contrary to legal requirements, and contrary to HE's claims, there has been no Strategic Environmental Assessment of the RIS2 programme and therefore no cumulative impact assessment of the RIS2 schemes. **• HE then talks about the scheme being completed within the timescale of the 3rd and 4th carbon budgets as if this is some sort of justification. Firstly the 3rd**	Highways England has responded to similar issues as associated with the carbon effect of the Scheme as raised by Derby Climate Coalition previously – refer to responses provided in [**REP7-007**], [**REP10-009**] and [**REP14-025**]. The comments made by the Derby Climate Coalition can be summarized into three main points as detailed below. **RIS 2/ Paris Agreement Compliance** Highways England is a Government company charged with maintaining and improving the Strategic Roads Network (SRN). Highways England is a delivery company for the Department for Transport (DfT). Highways England does not determine which projects are to be delivered within the Roads Investment Strategy (RIS) nor have responsibility for setting transport policy. As detailed in [**REP14-025**], Highways England has confirmed that its response is in the context of evidence from the M4 Junction 3-12 smart motorway inquiry where RIS1 was considered and where the Examining Authority sought clarification on this issue from DfT directly. DfT confirmed that the programme of schemes described in RIS1, in which this Scheme is included have been

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	,4th and 5th carbon budgets are not aligned with net zero and will be need to be tightened. **Secondly the Committee on Climate Change have advised that we are so far behind in our progress to meeting existing (pre-zero) Carbon budgets that we need to do much more to reduce emissions ASAP! Otherwise we won't make the 5th budget!** The Committee on Climate Change in 2018 has already identified a significant policy gap of 19 MtCO2e between projected transport emissions (which already take account of the Road to Zero and the Clean Growth Strategy) and the fifth carbon budget in 2032. In the absence of official figures, we have done some rough calculations - If you assume there is a rough correlation between the emissions from a road scheme and the cost of that road scheme, the 160,000tonnes of CO2 from the A38 scheme suggests emissions in the order of 17Mt CO2 for the whole of the RIS2 road programme – this is, in effect, practically doubling the policy gap that the CCC have already highlighted. **That is extremely significant!** **Thirdly this fails to take account of the Paris Climate Agreement which sets temperature goals which requires the UK to reduce cumulative emissions over the next ten years (within the 3rd and 4th budgets), not just achieve a target reduction in 2050.** Note that the fifth carbon budget predates the net zero target and the Paris Climate Agreement. Therefore, both the RIS2 programme and the A38 Environmental	cumulatively assessed and included in the current UK carbon budgets. The response provided with regard to a Strategic Environmental Assessment of RIS2 (Question 3.2(a) [**REP12-007**]) derives from statements made by the Minister for Transport who confirmed on 12 March 2020 that the roads programme (in RIS2) was subject to rigorous environmental assessment and complies with the UK's obligations in the Paris Agreement – see the link to Hansard provided below. https://hansard.parliament.uk/Commons/2020-03-12/debates/6995523A-F812-4EA1-B642-C25C15DB8831/AirportExpansionParisClimateChangeAgreement?highlight=paris%20agreement#contribution-54B1066E-5909-47CC-AC47-C0557EF43B34 **Road User Emissions/ Decarbonising Transport Plan** As presented in the DfT document Decarbonising Transport: Setting the challenge, published in March 2020, DfT intends to publish a Decarbonising Transport Plan (DTP) later in 2020 to set out government strategy to achieving carbon budgets and net zero emissions across every single mode of transport by 2050. The DTP will consider GHG emissions from the use of transport and provide a route map to reducing these in line with the sectors contribution to carbon budgets and net zero. Construction emissions are not in the scope of the DTP.

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	Statement have failed to take into account either the net zero target or the Paris Climate Agreement. In Friends of the Earth Ltd v Secretary of State for Transport [2020] EWCA Civ 214, the Court of Appeal ruled that, in setting planning policy of national significance the impacts of the proposed development on the Paris Agreement were so obviously material that they had to be taken into account by the government. This ruling has obvious relevance to this inquiry, and therefore it is clear that the government should also take the Paris Agreement into account on all major infrastructure decisions. It has not done this in the case of RIS2 or the A38 and this is the reason for a 2nd legal challenge to the government which is now underway. https://transportactionnetwork.org.uk/2020/06/05/departments-addiction-to-road-building-challenged-in-historic-legal-case/ **• HE then say "By 2050 the majority of carbon emissions from the Scheme will be from road users. It is anticipated, however, that in line with Government policy these emissions will decrease significantly as the use of electric, hybrid and other low carbon vehicles increase and the national grid, supplying electricity to power these vehicles, decarbonises." But the penetration of electric cars over the next 10 years and the impact on carbon emissions will be minimal and this is the period that is most critical – I refer back to our previous submission about electric vehicles not being enough –government's own analysis (Road Traffic Forecasts) shows that even under a high EV**	As detailed in [**REP7-007**], the GHG assessment presented in ES Chapter 14: Climate [**APP-052**] does not take account of government policy encouraging the use of electric, hybrid or other low carbon vehicles and thus presents a worst-case assessment. **Carbon Budgets** Highways England acknowledge that ES Chapter 14: Climate [**APP- 052**] was written prior to the publication of the new Government carbon reduction target set within the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (i.e. the net zero target). Carbon budgets provide a five-year, legally binding cap on total GHG emissions, which should not be exceeded, if the UK is to meet its emission reduction commitments. Highways England also acknowledge that ES Chapter 14: Climate [**APP- 052**] was written prior to the identification of local carbon budgets in September 2019 and has therefore not considered these in the climate assessment. Derbyshire County Council (DCC) confirmed at Deadline 12 [**REP12-008**] the recommended carbon budget for Derbyshire and stated that they have been working closely with the eight local authority partners in Derbyshire to reduce carbon emissions to net zero by 2050. The Derbyshire Environment and Climate Change Framework published in 2019, including transportation, sets out how these climate objectives will be met.

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	scenario road emissions will exceed existing (pre net zero) carbon budgets. CCC have already pointed towards Schemes to support walking, cycling, public transport as a priority and have said that the longer term aim is a 98% reduction in transport emissions by 2050 – how can that be achieved with bigger roads? **• Then HE talk about the DfT report Decarbonising Transport: Setting the Challenge which is to be published in the autumn of this year. Transport is the only sector where emissions have increased since 1990 levels. So as the transport sector, as a whole, is failing to meet pre-net zero carbon budgets and the existing policy gap will become even wider when those budgets are tightened in line with net zero (see CCC report below) we fully expect that report to backtrack somewhat on the DfT's road building policies - Building new roads, like the A38 which will increase carbon, is the equivalent of throwing petrol on a burning house, while suggesting that we wait until the fire brigade arrives in a few months' time. The Sec of State has already said we need to use our cars less. What happens if the TDP (Transport Decarbonisation Plan) shows that no new roads can be built – this is a very good reason for delaying any decision on A38 until the TDP is published. If we then look at part (c) of HE's response, they say, "In line with the requirements of the NPS NN, the assessment of greenhouse gas (GHG) emissions presented in Chapter 14: Climate [APP-052] has considered the**	Until revised carbon budgets setting out the pathway for the UK to achieve net zero emissions are published by the Committee on Climate Change, and adopted into law through the Climate Change Act, it is not possible to quantitatively assess how the impact of the Scheme on the UK meeting its carbon reduction target should be taken into account. In line with the requirements of National Policy Statement for National Networks (NPSNN) paragraph 5.17, ES Chapter 14: Climate [**APP- 052**] presents an assessment of the carbon impact of the Scheme against the UK Government's current carbon budgets set to achieve an 80% reduction in carbon emissions by 2050 relative to 1990. The assessment has identified that the emissions arising as a result of the Scheme represent less than 0.005% of the total emissions in any five-year UK carbon budget during which they would arise. Consequently, the climate assessment has concluded that the GHG emissions impact of the Scheme will not have a material impact on the UK Government meeting its carbon reduction targets (refer to ES Chapter 14: Climate [**APP- 052**] for details – note that in the chapter at para. 14.10.16 this figure was rounded up to two decimal places i.e. 0.01%). Highways England considers that even if the budgets become more stringent to achieve net zero, it will not change the magnitude of impact (not significant as set out in Section 14.12 of ES Chapter 14: Climate [**APP- 052**]) nor

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	impact of GHG emissions from the Scheme against the legally binding UK carbon budgets and the UK carbon reduction target." This is not true – the Environmental Statement for the A38 has assessed emissions against pre-net zero budgets and has not taken account of the Paris Agreement. HE then go on to say, "There is no requirement to consider the Scheme against locally allocated carbon budgets. It is understood that the locally allocated carbon budgets are derived from the UK Carbon Budgets set through the Climate Change Act 2008 (amended 2019)." As this suggests, The Environmental Statement does not take account of locally allocated carbon budgets which were not developed until summer 2019, after the publication of the Environmental Statement. Clearly local carbon budgets play an important part in meeting national targets, as the CCC's 2012 publication 'How local authorities can reduce emissions and manage climate risk' makes clear - "There is a crucial role for local authorities in reducing emissions to meet national carbon budgets" https://www.theccc.org.uk/wp-content/uploads/2012/05/LA-Report_final.pdf The Tyndall carbon budgets which are being used by Derby City Council to develop its own climate strategy were commissioned by BEIS (Dept for Business, Energy and Industrial Strategy) and are clearly seen by government as an integral part of the national effort to meet climate targets. They are derived from the	result in any risk of the Scheme having a material impact on the ability of the Government to meet its carbon reduction targets. Therefore, the conclusion of the assessment does not change in the context of the revised targets. Based on the evidence provided it will be for the Secretary of State for Transport to determine if this Scheme will have a material impact on the UK meeting its carbon reduction commitments. Highways England has no comment to make regarding the legal challenge or potential legal challenge to RIS2. Notwithstanding a challenge, RIS2 is current Government policy.

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	commitments enshrined in the Paris Agreement , informed by the latest science on climate change and defined in terms of science based carbon setting . They therefore should not be ignored by HE – if the country is going to meet its budgets it is very much relying on Local Authorities to meet their budgets. As stated in our first submission on this subject, our calculations show that the A38 scheme would use up 6% of Derby's total transport emissions budget to 2100 – this is significant! **In summary** **• HE has not taken into account the Paris Agreement** **• HE is ignoring Local carbon budgets which are critical if we are to meet the county's carbon budgets** **• In failing to consider cumulative emissions for RIS2 HE is ignoring an estimated 17Mtonnes of CO2 which would almost double the significant policy gap of 19 MtCO2e already identified by the CCC.** **• HE is ignoring the Paris Climate Agreement temperature goals which requires the UK to reduce cumulative emissions over the next ten years (within the 3rd and 4th budgets), not just achieve a target reduction in 2050.** **• HE is falsely relying on EVs as the sole solution to emissions on roads** **• There is a legal challenge taking place over the RIS2 programme.**	
	Additional Submission for ISH 8	

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	In response to comments made in Climate Change – Updated National Policy c) In their answer to part (c) of the Climate Change section, HE seemed to claim that the A38 scheme would reduce volumes of traffic on the local road network and thereby make space for things like extra cycle lanes. I don't understand or believe that this is the case – reducing congestion on the A38 is not likely to affect local traffic volumes – surely the same number of people will be traveling in and out of Derby on a daily basis? In fact, if anything there will be induced traffic. The related comment by Paul Clark of DCiC also worries me – he said that a decision on a housing development at Kingsway is being delayed until they know if the A38 scheme will go ahead – If the decision on this housing development hinges on the availability of an improved A38 then it is obvious that DCiC are not planning for Active Travel in the city but on the greater use of cars – this goes against the principles needed to create a sustainable city for the future! Planning policy should be focusing on developments based around active transport and good public transport so that people can live without being dependent on cars. This also goes against DCiC own local planning policy CP23 which states that: "the council will actively manage the pattern of development to ensure that new development:	These are comments that relate to DCiC and their development policies which is hearing matter for Highways England or the A38 Scheme. See the responses given to Interested Party No. 3 (Derby Climate Coalition) above regarding: • "induced trips", • "rerouting" (reassignment) effects See also the response given to Interested Party No. 5 (FoMP) below regarding: • "new housing attracts extra traffic" and the provided description of the traffic forecasting method used for the Scheme's appraisal. The forecasts of daily traffic flow changes on the roads as a result of opening the Scheme were presented in the Transport Assessment (TA) [**REP3-005**] in section 4.5. Specifically, refer to the TA Figures referenced in paragraph 4.5.3 (on page 29 onwards), where negative values in the bottom boxes marked "Diff (DS-DM)" indicate a reduction in the daily (AADT) flows on the road indicated. The largest reductions are on local roads that run parallel to the A38.

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	• is located in accessible locations that are well served by frequent high quality bus services and which help to facilitate walking and cycling • contributes to improving public transport, cycle and pedestrian infrastructure and public transport service provision " In effect DCiC are claiming that they need the A38 to go ahead to reduce congestion on Kingsway, in order to approve an development that will presumably increase congestion on Kingsway. Instead the Council should be following its own policy to improve sustainable travel access, and prevent any further congestion on Kingsway, irrespective of any decision on the A38. A report done for FoE on planning for fewer cars suggests that the most sustainable developments are compact, high density developments on brownfield sites in urban centres. And these should be based in areas where there is high quality public transport and active travel infrastructure. https://www.transportforqualityoflife.com/u/files/3%20Planning%20for%20less%20car%20use%20briefing.pdf It looks as if DCiC have not fully embraced what a Climate and Ecological Emergency means. I conclude that DCiC are in favour of the A38 scheme so that local roads are freed up from traffic so they can immediately fill the local roads up again by building housing developments in places that will force people to use cars rather than the more sustainable alternatives.	

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	This does not sound like any strategy that is aimed at encouraging a sustainable city.	
4	**Derbyshire County Council**	
	Issue Specific Hearing 6 **Transport Networks and Traffic** Ford Lane Bridge j) Please could the applicant provide an update on the verification surveys and subsequent assessment? k) Please could the applicant clarify the mitigation measures now proposed for Ford lane Bridge? Have those measures been agreed with Derbyshire County Council. Under questions j) and k), Highways England's consultants (Aecom) confirmed that the verification surveys for Ford Lane Bridge had been completed and the results forwarded to Derbyshire County Council on 5th June 2020 for assessment and comment. HE's consultant indicated that the verification surveys had confirmed that Ford Lane Bridge was capable of carrying a 40T vehicle. Derbyshire County Council confirmed that the results of the verification surveys had been forwarded to the County Council as indicated and that comments would be provided to HE's consultants in due course. The County Council had a good working relationship with Aecom and	DCC's comments are consistent with the Applicant's Written Summary of Oral Submissions to ISH6 [**REP-020**] including the additional note that DCC's officers have identified a number of matters on which they have requested further clarification and comment from AECOM. The Applicant (and designer AECOM) is developing a strategy for obtaining the clarification sought by DCC with a potential additional targeted survey being carried out using more sensitive equipment. This is being discussed with DCC, does not affect the acceptance by DCC that this proposal is acceptable subject to this detailed refinement and is totally consistent with the methodology described in the OEMP [**REP14-008**] (and agreed with DCC) for ensuring the bridge will be able to carry a 40t vehicle after the Scheme is implemented.

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	was confident that a satisfactory outcome for both parties would be achieved. Since the hearing session on 9th June 2020, it should be noted that Derbyshire County Council has assessed the verification survey report and on 12th June 2020 provided comments back to Aecom. DCC's Officers have considered its findings in the context of the 2005 assessment, which has been used as the basis for the more detailed assessment carried out by AECOM. DCC's Officers have identified a number of issues with the detail of the survey report that requires further clarification and comment from Aecom. At the time of writing a response is awaited.	
	i) Do Derbyshire County Council consider that the Outline Environment Management Plan (REP12 – 002) page 97, should require the bridge to be made capable of carrying a 40T vehicle? If not, what are the potential impacts on Network Rail and how should those impacts be mitigated? Derbyshire County Council indicated that yes it did consider that the OEMP should require the bridge to be made capable of carrying a 40T vehicle.	This issue has been resolved given that the OEMP [**REP14-008**] at MW-TRA12 states "*Undertake verification survey of the Ford Lane Bridge confirm assumptions made in the structural assessment in order to confirm load carrying capacity. Following receipt of the verification survey results, Highways England will consult with DCC in order to confirm the bridge is capable of carrying a 40T vehicle and agree methods for restricting traffic on the bridge to a single lane. Should the bridge not be capable of carrying a 40T vehicle, Highways England will need to propose an alternative solution (such as a strengthening scheme) to be progressed at the detailed design stage. If necessary, discussions will take place regarding the need for commuted sum payments to DCC or other means of ensuring the future management of the structure (as*

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		needed) to ensure the long-term serviceability and maintenance of the bridge in the interests of highway safety."
	m) Consideration by the Applicant and Derbyshire County Council of Network Rail's suggestion that a clearer requirement is included in the Order that requires the suitability of the Ford Lane Bridge for carrying of 40T vehicles to have been approved by DCC before the relevant part of the authorised development is allowed to be used? The applicant indicated that they did not consider it necessary that such a requirement should be included in the Order. Derbyshire County Council offered no further comment as such a requirement could be appropriately set out in the OEMP.	Noted
	Issue Specific Hearing 8 Climate Change Questions a, b, c and d There were no specific questions on the agenda directed to Derbyshire County Council. However, at the end of questions a) to d) the Examining Authority invited the County Council to make any general comments on the issue of the impacts of the Little Eaton Junctions Scheme on Climate Change and Co2 emissions.	Comments are noted.

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	Derbyshire County Council indicated that it had raised no fundamental issues or concerns with regard to the likely impacts of the scheme on Co2 emissions and climate change based on its review of the applicant's evidence in the Environment Statement and Outline Environment Management Plan. Derbyshire County Council was working closely with all of its district and borough council partners in the County to address and mitigate the impacts of climate change. The Derbyshire Environment and Climate Change Framework had been adopted by the County Council and all the district and borough councils in October 2019 and committed all of the authorities to work together to meet the overall requirement for new zero carbon by 2050 and to meet the individual carbon budgets that had been set and agreed between the councils between 2018 and 2050 to deliver net zero. The Little Eaton Junction scheme was relatively limited in extent falling within Erewash Borough and it was considered that the scheme would have relatively limited impact on Co2 emissions and the carbon budgets that had been set for Erewash Borough and the County as a whole.	
	Issue Specific Hearing 9 Draft Development Consent Order Part 2 Principal Powers b) Are Derbyshire County Council content with item D-M1 to the OEMP (REP12-002) which provides that: 'During the	Noted and agreed.

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	detailed design stage Highways England will prepare a Maintenance and Repair Strategy Statement (MRSS) in consultation with the applicable local authorities regarding maintenance and repair responsibilities as associated with the scheme? c) Have Derbyshire County Council's concerns (REP12-008, item 1.2) now been addressed? Derbyshire County Council indicated that clarity regarding maintenance and repair liabilities and responsibilities, particularly relating to flood alleviation and highways infrastructure, had been raised as an important issue at several previous hearing sessions by the County Council and at various meetings with Highways England and their consultants. In the context of the above, Derbyshire County Council indicated that it was pleased and content with the suggested approach that a MRSS would be prepared by the applicant during the detailed design stage to clearly set out maintenance and repair liabilities in consultation with the County Council. Derbyshire County Council confirmed that (based on the above) its concerns had now been fully addressed.	
5 Friends of Markeaton Park		
	CAH4 Item 4c FOMP raised Temporary Possession round Markeaton Lake REP9 042.	This relates to a concern expressed by FOMP that planned works to undertake signal crayfish trapping in Markeaton Lake could be affected by temporary possession of parts of the park during the Scheme construction phase. As detailed

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	Highways England asked to see a copy of the emails about the Signal Crayfish trapping partnership. They have been scanned and are inserted below in reverse order. The latest one giving permission for the name to be shown, is the first you read. (named in it) is the area ecological Organiser for the National Trust. Kedleston Hall is another business that fears a crippling loss of visitors once potential customers know about the A38 roadworks. NERC protected Native crayfish live in Kedleston Hall Lake. Copy of e-mail from Karim Vahed FOMP raised Temporary Possession round Markeaton Lake REP9 042.	in [**REP14-029**], Highways England requires temporary possession of the land around Markeaton Lake as detailed in the Land Plans [**REP9-003**] – temporary access is needed during the Scheme construction phase in order to create a new species rich grassland within the park, as well as the creation of bat roost features in 10 selected trees within the park. Such works will not restrict access to the lake for any planned works relating to the control of American signal crayfish within the lake. Highways England will contact the University of Derby directly to clarify the position with regard to access to the lake during the Scheme construction phase.
	ISH8 Carbon footprint Wildlife site DE010 Kingsway roundabout covers 3.84 ha; it is to be translocated to Markeaton Park Wildlife site DE003. There are less common plants in Markeaton Lake and the Mill Dam pond wildlife site. What depth of soil? How many lorry-loads each day, for how many days? Will the receiving area be cleared and re-profiled before the translocation begins? Will there be any attempt to put the wet soils adjacent to water? If so the banks of the lake will have to be altered. Will the dry soil be put in a dry area?	As detailed in ES Chapter 8; Biodiversity [**REP9-009**] and the OEMP [**REP14-008**], as mitigation for the loss of the A38 Roundabout Local Wildlife Site (LWS), top soil collected from within the A38 Roundabout LWS (from an area of approximately 0.28 hectares) will be translocated to create a new species-rich grassland area within Markeaton Park (refer to Environmental Masterplan ES Figure 2.12D [**APP-068**]). If during the detailed design stage translocation is not deemed suitable (for example, following detailed analysis of soil testing of the receptor site), then planting of a bespoke native seed mix will be undertaken instead to achieve the same ecological outcome. An outline agreement for such works has been obtained from DCiC - refer to the Statement of Common Ground with DCiC [**REP7-020**], noting that the location and final layout of the

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	Will vegetation be replanted in the same orientation and distance from one another?	species-rich grassland will be subject to further consultation with DCiC. Given the details as above, Highways England's responses to the specified FOMP questions are as follows (on the assumption that soil translocation is deemed appropriate): • **What depth of soil?** Detailed soil testing is to be undertaken during the detailed design stage which will confirm whether translocation of topsoil from the LWS to Markeaton Park is feasible, as well as details such as the depth of topsoil to be removed and translocated. However, top soils are typically approximately 30cm deep. • **How many lorry-loads each day, for how many days?** It is estimated that approximately 840m^3 of soils will be translocated from the LWS to Markeaton Park. Such a volume of material would require approximately 84 haulage trips. It is anticipated that material haulage could be completed in less than two weeks. • **Will the receiving area be cleared and re-profiled before the translocation begins?** An equivalent volume of topsoil will be removed from the Markeaton Park receptor site prior to the translocation works (comprising an area of amenity grassland with no trees). Following completion of the works, the site profile will be similar to existing levels. • **Will there be any attempt to put the wet soils adjacent to water? If so the banks of the lake will have to be**

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		altered. There is no intention to place wet soils adjacent to Markeaton Lake nor alter the lake banks. • **Will the dry soil be put in a dry area?** The receptor site will be suitably dry prior to placement of translocated topsoil. • **Will vegetation be replanted in the same orientation and distance from one another?** The topsoil to be translocated will contain a seed bank that will grow naturally following placement within Markeaton Park, creating a new species rich grassland. The receptor area will also receive a combination of plug planting and seeding with an appropriate native species rich grassland seed mix. If during the detailed design stage translocation is not deemed suitable, then planting of a bespoke native seed mix will be undertaken instead to achieve the same ecological outcome.
	In addition 10 mature Oaks which have potential for Bat roosts will be strapped to existing trees there in the same orientation that they have now.	To clarify, as detailed in ES Chapter 8; Biodiversity [**REP9-009**] sections of one tree (tree M2) will be strapped and attached to a nearby tree (G361*), at the same height and orientation. Environmental Masterplan ES Figure 2.12D [**APP-068**] illustrates the location of the receptor site (on Derby University land near Mill Pond). Within Markeaton Park bat mitigation works include: • Install 10 bat boxes. • Create suitable roost features in approximately 10 trees within the Scheme boundary at Markeaton Park (proactive management to improve their habitat value by creating features including natural fracture pruning).

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		• Create three totem poles using trees with existing roost features that will be felled due to the Scheme. Given the above, the works do not entail strapping ten mature trees to existing trees.
	From the moment the tree is felled it changes from taking Carbon Dioxide out of the atmosphere, into a fossil fuel, decaying and emitting that gas.	Noted. Refer to response to point 9.4c below.
	Translocating Kingsway roundabout must involve tonnes of material, emitting stored carbon from the soil and from the HGV vehicles transferring it, a really high carbon footprint.	ES Chapter 14: Climate [**APP-052**] provides details of carbon emissions associated with the Scheme construction phase, including material haulage and land use changes. It is also noted that the material excavated from Kingsway junction will need to be removed regardless of whether some topsoil is translocated into Markeaton Park. Reuse of topsoil within the Scheme footprint reduces the need for material haulage off-site. As detailed in the ES Chapter 11: Material Assets and Waste [**APP-049**], all suitable topsoil and subsoil will be re-used on the Scheme site where possible, thus reducing the need for off-site material haulage and the associated carbon emissions.
	In addition the junction at Little Eaton is under water more often than the Wildlife Site at Kingsway roundabout. Freshwater Marsh lost there is even more valuable Carbon storage than trees.	Land use changes associated with the Scheme have been taken into account by the climate assessment as reported in ES Chapter 14: Climate [**APP-052**]. Loss of carbon sequestration from existing carbon stock due to land use change is minimal accounting for 3.1% of the total construction carbon footprint. The assessment of land use change was undertaken using guidance provided by the EU

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		(Annex V to Directive 2009/28/EC) for the calculation of above and below land carbon stocks.
	9.4 c) Has enough consideration been given to the climate change with respect to the loss of mature trees and the planting of new trees? NO It is impossible to answer the Inspector's questions about climate change because Highways England will not publish the full loss of vegetation until the Detail Design stage is completed, and withholds the numbers for mitigation until then. Here are some figures that could be used. Natural England Access to Evidence Information Note EIN012 Summary of evidence: Soils 8.9 Loss of organic matter from soils is recognised as a key threat both for its impact on global warming and on soil structure (Europea Commission 2006). It has been estimated that the annual cost, in terms of treatment, prevention, administration and monitoring, of the carbon lost due to soil cultivation in the UK amounts to £82 million (Environment Agency 2007). Carbon calculator https://www.treeplantation.com/tree-carbon-calculator.html A 30 year old oak tree stores approximately 1.25 kg per annum, of course varying according to the weather and ground conditions. http://publications.naturalengland.org.uk/publication/1412347#:~:text=Natural%20England%20Research%20Reports	As detailed in [**REP9-029**] during the development of the Scheme design, Highways England 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**]). Land use changes associated with the Scheme have been taken into account by the climate assessment as reported in ES Chapter 14: Climate [**APP-052**]. Loss of carbon sequestration from existing carbon stock due to land use change is minimal accounting for 3.1% of the total construction carbon footprint. The assessment of land use change was undertaken using guidance provided by the EU (Annex V to Directive 2009/28/EC) for the calculation of above and below land carbon stocks.

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	%20Terrestrial,the%20biodiversity%20value%20of%20ecosystems. Woodlands and carbon 2.39 In a recent review of the role of forests under a changing climate Read and others (2009) estimated that UK forest (including soils) currently store 790 Mt C (or 2897 Mt CO2-e). Woodlands remove a further c.15 Mt CO2 yr-1 (2007 data, Read and others (2009)). Carbon sequestration rates in trees, woody vegetation and soils vary with species, site condition and management but are broadly similar per unit area to many other habitats. However, the storage of carbon in the vegetation is higher and builds up over decades to centuries because of the formation of wood. Insert table of Carbon stock average estimates by broad habitat NERR043 Carbon storage page 29 above lists carbon in soil and in vegetation.	
	9 9.1 b) Please could DCiC, DCC and EBC comment on the cumulative impacts of the proposed development with other local emissions and in respect to relevant local policy and targets? 9.2 a) Does the Applicant's approach to carbon emissions adequately consider the Government's updated target for net zero carbon by 2050 (Climate Change Act 2008 (2050 Target Amendment) Order 2019)? NO because all the design to date has been done in the context of the old carbon emission target and not the net	Refer to the Highways England responses provided in [**REP9-029**] and [**REP14-025**] – these indicate that ES Chapter 14: Climate [**APP- 052**] concluded that the GHG emissions impact of the Scheme will not have a material impact on the UK Government meeting its carbon reduction targets, noting that the carbon assessment takes into consideration land use changes associated with the Scheme. Loss of carbon sequestration from existing carbon stock due to land use change is minimal accounting for 3.1% of the total construction carbon footprint. ES Chapter

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	zero target. The zero carbon target can't be met if all the plants that reduce the Carbon load are removed.	14: Climate [**APP- 052**] was written prior to the publication of the new Government carbon reduction target set within the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (i.e. the net zero target). Highways England considers that even if the budgets become more stringent with net zero, it will not change the magnitude of impact (not significant as set out in Section 14.12 of ES Chapter 14: Climate [**APP- 052**]) nor result in any risk of the Scheme having a material impact on the ability of the Government to meet its carbon reduction targets. Therefore, conclusion of the assessment does not change in the context of the revised targets.
	During the 1970s the Highways Agency won the right to put the A38 trunk road onto a section of Derby's ring road A5111. The penetrating persistent probing of the Examiner Panel has revealed a problem with this 3 junctions proposal. Despite their own traffic surveys revealing that from 42% to "not as high as 70%" of the flow is local traffic avoiding the city centre, Highways England want to "keep local traffic off this road" [ISH8]. The trouble is that everywhere else for the local traffic is already at full capacity. For December 10th Open Hearing Godfrey Meynell OFH1 described journeys he made several times a day from a farm West of Derby into the city. Always after crossing the A38 it is a stop start traffic light controlled progress to his destination. The original reason the ring road was built was that criss-crossing traffic brought the centre to a standstill.	Highways England has explained the history of the A38 Scheme. Refer to Highways England's response to FoMP [**REP14-029**]; at item 1. The Scheme is an improvement to the existing strategic road network (SRN). However, Highways England does not actively discourage the use of the SRN by 'local traffic' movements. Some of the longer-distance 'strategic' movements using the A38 have trip-ends in Derby city and therefore were not counted within our statement: "*42% of the traffic flow on the A38 to the north of the A61 Little Eaton junction travels the full length of the A38 to a point south of the A5111 Kingsway junction*". [**REP10-009**; Party No. 8 (FoMP); item 8.1].

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		This statistic was restated in ISH6 in relation to the "Justification of the need for a road-based solution" agenda item d). Refer to Applicant's written summary [**REP14-020**]. The "*70%*" statistic relates to the comment made by Friends of Markeaton Park that "*Surveys by Cycling Derby have revealed that at times of most congestion 70% of the traffic is local traffic*". As it is stated, this FoMP statistic does not provide the ExA with an understanding of the existing conditions. Highways England's response [**REP10-009**; at item 8.1] sought to clarify that this proportion will change according to how 'local traffic' is defined. The operational capacity of the A52 Ashbourne Road to the east (city-side) of the A38 corridor is a matter for the relevant local highway authority. The resolution of capacity limitations of Ashbourne Road (east) are linked with the air quality exceedances on Stafford Street and the method of mitigating these. This is a matter for Defra and DCiC to resolve; but Highways England will engage with these other organisations where it can be of assistance. Upon open-for-traffic of the Scheme, the A38 corridor will attract 'local traffic' flows away from Stafford Street. Refer to the Transport Assessment [**REP3-005**], Figure 4.8, which indicates two-way flow reductions on Stafford Street of about 1,540 vehicles per day (AADT). The A38 Derby Junctions Scheme will grade separate the A38 'strategic' traffic movements so that these longer-distance vehicle movements no longer interact with the

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		private vehicle drivers, bus passengers, cyclists and walkers that are moving between local trip-ends, and which use the city's radial routes and local streets. This improvement to the SRN through the A38 Derby Junctions Scheme will not solve all of Derby city's transport problems in one go; but it will help.
	FOMP Oral submission CAH 4c 9th June 2020 This Inquiry has been extended, the Secretary of State announced to parliament that he would not make a decision on a project of this magnitude until March 2021, so he is not pressing the Examiners for a report before December 2020. The solicitor's records of succession remain closed. If Highways England waited until the Detail Design stage was complete before asking for Annie Clark-Maxwell's signature it would not materially delay the project.	At the recent hearings the Examining Authority (ExA) indicated its desire to end the Examination in early July (July 8th 2020 target). Following closure of the Examination, the ExA must prepare a report on the application to the Secretary of State (SoS), including a recommendation, within three months of the close of the Examination. The SoS then has a further three months to make the decision on whether to grant or refuse development consent. It is thus possible that the ExA submits its report well before December 2020. Regardless, there is no need for the Examination to wait until the detailed design stage has been completed – as detailed in [**REP11-003**] "*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. 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*

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		*Outline Environmental Management Plan (OEMP) [**REP10-002**] ensure that environmental impacts as associated with the Scheme will accord with those reported in the ES".* Given the above, Highways England consider that there is more than sufficient information available for the SoS to make a decision on whether to grant or refuse development consent. Annie Clark-Maxwell is not a party that is named in the OEMP [**REP14-008**] nor the draft DCO [**REP14-002**] as requiring consultation during the Scheme detailed design stage. Although it is suggested that she has the benefit of the "Mundy Covenant", no evidence has yet been provided that Annie Clark-Maxwell has any legal interest or otherwise in any part of the site. The OEMP and draft DCO do however highlight that DCiC will be consulted on a wide range of matters during the detailed design stage, including matters relating to Markeaton Park (including tree loss and vegetation clearance and landscape planting proposals etc.). It is considered that Highways England commitments to consult with DCiC will appropriately look after the interests of Markeaton Park and its users.
	Highways England will quantify the numbers trees for mitigation after the Detailed Design stage is completed. Annie Clark-Maxwell was closely involved in the Design stages for the Heritage Lottery work, could she be included in the consultations for this project? A minimum and a maximum impact will emerge during those discussions that will affect the mitigation required. She deserves to be fully	As noted above and previously, Annie Clark-Maxwell has not demonstrated to date that she has any legal interest or otherwise in any part of the Scheme. However, Highways England continues to wait for this evidence to be produced. Nevertheless, she is not a party that is named in the OEMP [**REP14-008**] nor the draft DCO [**REP14-002**] as requiring consultation during the Scheme detailed design stage, or

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	informed about the true losses of amenity value, and how often the utilities are likely to need to fence off that corridor. Would the access over the curly footbridge also have to be stopped if the section needing work was near the bridge? If there really is no alternative to having the Utility corridor in Markeaton Park could it be bound by some form of rule that the communication companies were not ever allowed to erect masts of any description there? Could the Rights over the Air be withheld? Please will the Inspector allow Annie Clark-Maxwell to retain as much of her power as possible, as long as possible, and give her the opportunity to influence the final design and to get benefit for Markeaton Park as mitigation for the losses incurred from this scheme?	during Scheme operation. The OEMP and draft DCO do however highlight that DCiC will be consulted on a wide range of matters during the detailed design stage, including matters relating to Markeaton Park (including tree loss and vegetation clearance and landscape planting proposals etc.). DCiC will also be consulted during the Scheme operational phase on issues associated with works within the utilities corridor within the park. It is not anticipated that the Markeaton Park footbridge will need to be closed during any future works within the utilities corridor within the park. The DCO will not permit utilities companies to install masts within the utilities corridor within the park. Any proposals for new masts in the future will be subject to separate planning applications which would be submitted to, and determined by, DCiC. Air rights are not relevant here as such mast developments are fixed to the ground. It is noted that the existing mobile phone mast and associated cabinets located at the existing Markeaton Park exit, will be repositioned by the Scheme, with the mast being moved so that it is located outside of the new park boundary on the A52 Ashbourne Road. Refer to the comments above regarding consultation with Annie Clark-Maxwell – it is considered that Highways England commitments to consult with DCiC will appropriately look after the interests of Markeaton Park and its users.

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	Agenda ISH7 item 3 Landscape and Visual impact TPO358 Highways England are bound by [REP7-007 paragraph 7.1 "investigating options to move the carriageway within the defined limits of deviation, repositioning of the replacement footbridge, repositioning of proposed utilities diversions, as well as construction plant access restrictions. Such commitments are confirmed in the OEMP [REP10-002] – refer to PW-LAN4 in Table 3.2a. " At least half of the mitigation for the 1980's dualling is being removed. Could the footbridge be extended to the West, keeping the current East curl in place next to TPO 358? The red boundary line extends to the HLF path on that side and that part has no trees. The 1980s other restoration of the pedestrian / cycle link so that the people of Derby could get to the open space of Markeaton Park has been lost. Floods washed away an essential bridge. Ongoing maintenance agreements had been signed, in good faith I am sure, between Highways Agency and Derby City Council. However successive Chancellors did not consider themselves to be bound by those agreements, and the necessary money for path repairs and silt clearance did not materialise. End of FOMP oral submission	ES Figure 7.6A [**APP-092**] indicates that whilst some trees along the edge of Markeaton Park will be lost due to the Scheme, a belt of trees between the Scheme and Markeaton Park will be retained. The landscape design shown in ES Figure 7.8B [**APP-094**] is indicative and will be confirmed during the detailed design stage, noting that Highways England has confirmed that the landscape design will result in a net increase in the number of trees in Markeaton Park, with the tree planting proposals being finalised following consultation with the park owners, DCiC – this is confirmed in the OEMP [**REP14-008**]. For details regarding the positioning of the Markeaton footbridge, please refer to technical note on the Veteran Tree Loss T358 [**REP7-008**] and the Written Summary of Oral Submissions to ISH7 [**REP14-021**]. The eastern side of the bridge is impacted by the proposed A38 carriageway improvements and therefore the east curl must be moved further to the east to be clear of the road construction. The OEMP [**REP14-008**] commits Highways England to investigating a range of measures to reduce the Scheme impacts upon veteran tree T358 – namely at PW-LAN4: "*Highways England will investigate whether the veteran tree (reference T358 in ES Appendix 7.2: Arboricultural Impact Assessment Report [TR010022/APP/6.3] can be retained and the Scheme's impacts upon the tree's RPA reduced. Exploration work will be undertaken prior to any works to establish the trees underground/ root conditions. If the tree is retained, it will be stress tested post-works to ensure its*

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		stability and safety, noting that the tree canopy may need to be reduced. DCiC will be consulted during the detailed design stage regarding options to retain the veteran tree, minimise Scheme impacts upon the tree's *RPA and tree canopy reduction treatments*". The Scheme is committed to maintaining or improving the existing footway/cycleway routes associated with the works around Markeaton junction - refer to the General Arrangement Plan Sheet 2 [**REP2-006**]. These routes maybe temporarily disrupted during construction, therefore for the health and safety of the users, affected routes will be subject to diversions where required. Refer to the OEMP [**REP14-008**] and the TMP [**REP14-011**] where Highways England is committed to the provision of these health and safety measures and any temporary diversions required. This Applicant cannot comment on any previous maintenance arrangements that are outside of its control.
	Agenda Item 3 Air Quality ISH 8 Two Friends of Markeaton Park trustees live North of Markeaton Park. Both of us fear using the slip road from the grade separated Kedleston junction because the traffic already on the road is not visible until near the merge. We definitely will not be using it when, as well as meeting a lorry, we could meet a vehicle coming off to go left on Ashbourne Road into the city. Often I prefer to go all round the park then Eastbound along Ashbourne Road, in order to join the A38 at the traffic light controlled roundabout.	The Applicant would like to point out that on completion of the Scheme, the Kedleston Road junction merge slip road will be greatly improved with better visibility of the traffic on the A38 and the provision of a 'lane gain' arrangement will make joining the A38 a much easier and safer manoeuvre. It is not clear what FOMP is referring to in relation to the Markeaton junction. However, all current movements at the junction will be provided for with the Scheme and with the grade-separation and simplified roundabout, it will be simpler and safer to use than the existing junction.

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	However that option will not be there if the scheme is approved, because the scheme alters that join into second down slip road, where the oncoming traffic will be hidden in the underpass. I shall go through the city centre if this scheme is built.	
	There will be a huge increase in air pollution in the city when the A38 Derby upgrade forces local ring road traffic to go stop/start through the city centre.	The effect on air quality of the construction phase of the Scheme has been assessed with the results reported in ES Chapter 5: Air Quality [**APP-043**]. Air quality during the Scheme construction phase will be within the objectives and EU limit values set to protect human health. Effects on traffic in the city will be minimised by maintaining existing A38 journey times in order to encourage drivers not to make undesirable route choice changes onto local roads. ES Chapter 5: Air Quality [**APP-043**] also indicates that 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.
	During ISH7 Highways England stated they know there are financial constraints but complained they are held up by waiting for responses. Derby City Council has already borne austerity cuts and the latest budget consultation expects a further 42 Full Time Equivalent job losses. In a letter 1 August 2019 Derby City Council lists matters that will arise that will cost the council money that it hasn't got. "that a fund is made available … to fund changes during the first 12 to 18 months after practical completion of the three junctions" " significant traffic flow changes will need	It is not clear what FOMP are referring to regarding Highways England having to wait for responses. Derby City Council's finances are a matter for the Council and not for the Scheme to comment upon or address.

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	to be managed" " road markings will have to be changed" "maintaining consultation with residents will be important".	
	Friends of Markeaton Park, Annie Clark-Maxwell and the City Council already receive queries about the A38 especially the threat to the trees, that takes officer time. Derby City Council has offered a desk in the Council House yet Highways England refuses to commit itself to help, it refuses to provide a liaison officer or show any flexibility. The Inspector had to ask again about arrangements to help bus companies keep to their timetables. A better way to improve Air Quality would be to reduce car use by providing subsidised coordinated public transport.	As detailed in the OEMP [**REP14-008**] Highways England will appoint a Customer and Stakeholder Manager who will be responsible for communications with the public, stakeholders and other interested parties. As detailed in [**REP12-007**], Highways England has confirmed that during the Scheme detailed design and construction phase the Customer and Stakeholder Manager will spend a minimum of 1 day per week in DCiC's offices from June 2020 onwards and as the Scheme progresses i.e. it advances closer to the start of the construction, this will increase as and when required. Highways England is committed to working with DCiC to communicate with stakeholders. This commitment is confirmed in the OEMP [**REP14-008**] (refer to Table 2.1). Reference should be made to the Traffic Management Plan (TMP) [**REP14-011**] regarding arrangements associated with bus companies and measures that will be taken to keep traffic moving on the A38 during the Scheme construction phase. ES Chapter 5: Air Quality [**APP-043**] indicates that 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. Other measures to improve air quality in Derby, including measures to increase the use of public transport, is a matter for DCiC.

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	ISH 8 Carbon footprint 2020 probably felt a long time in future during 1990s when the trees forming a screen along Queensway at present were planted. Thirty years may seem plenty time ahead for humans although we hope our children will still be alive, and our grandchildren could be parents. A mature tree cleans the air of particulates and uses and stores Carbon Dioxide. Today everywhere trees are suffering from their leaves being shrivelled by Ash dieback, Dutch Elm disease, Horse Chestnuts Leaf-miner and Bleeding Canker, Oaks get gall cankers on their seed cups and a fungal-like organism Phytophthora ramorum, and damaging insects are spreading from the South. Humans need to keep every healthy tree, every carbon-storing habitat. It will take thirty years for saplings planted now to perform the air cleaning services that the trees along the A38 perform now. That is till 2050 getting back to now, not thirty years of reducing carbon. There is no possibility of meeting the latest targets if this project is approved.	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."* Land use changes associated with the Scheme have been taken into account by the climate assessment as reported in ES Chapter 14: Climate [**APP-052**] – this includes carbon sequestration by vegetation. Loss of carbon sequestration from existing carbon stock due to land use change is minimal accounting for 3.1% of the total construction carbon footprint. The assessment of land use change was undertaken using guidance provided by the EU (Annex V to Directive 2009/28/EC) for the calculation of above and below land carbon stocks. Chapter 14: Climate [**APP- 052**] concludes that the GHG emissions impact of the Scheme will not have a material impact on the UK Government meeting its carbon reduction targets. It is noted that the landscape design incorporates disease resistant elms near Markeaton Park and Mackworth Park to promote biodiversity and future tree stock resilience (refer to ES Chapter 8: [**REP9-009**]).

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	Tree DWT 26 on Highways England map TR10022 000506…. 6.2 Environment Statement Figure 8.9 pdf. I have found Tree DWT 26 in my own copy of Derbyshire Wildlife Trust records; it is number 2343. Insert table This is an extract from Derbyshire Wildlife Trust records of veteran trees in Derby City; it is number 2343. In 2007 its girth was 6.38m its diameter was 2.02m, its root protection diameter 30.42m. It was measured again by four people in 2015 but now the DWT staff are furloughed so the current records are not available. I suspect that its root protection area extends well inside the Red Boundary Line, where heavy vehicles would be strapping felled trees to become Bat Totem Poles and planting disease-resistant Elms and digging a utility corridor.	Tree DWT 26 is shown on ES Figure 8.9 [**APP-103**] which indicates that this tree is located beyond the Scheme boundary and thus will not be directly affected by the Scheme. As illustrated in ES Appendix 7.2: Arboricultural Impact Assessment Report [**REP9-014**] (refer to Sheet 17 in Appendix D - Tree DWT 26 is labelled as T287), the tree's Root Protection Area (RPA) does extend within the Scheme boundary. However, the tree's RPA within the Scheme boundary will not be affected by construction works (e.g. works associated with the utilities corridor, nor the works to install the bat mitigation totem poles).
	The opportunity window to fell the Bat-potential mature Oak trees will be tightly restricted by bird nesting season, bat maternity-roost season and the bat hibernation season.	Refer to ES Chapter 8: Biodiversity [**REP9-009**] for measures regarding the protection of nesting birds and bats during vegetation clearance works. Some works associated with bat roosts require a protected species licences from Natural England. Where protected species licences are required, these would be obtained from Natural England. A draft protected species licence has been produced for bats. A Letter of No-Impediment has been received from Natural England (refer to ES Appendix 8.19 [**APP-216**] which provides an agreement in principal on the essential mitigation measures proposed that are applicable to bats.

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		Pre-construction surveys will also be carried out to confirm the presence or likely absence of roosting bats.
	Paragraph 5.32 of the National Policy Statement for National Networks states: " 5.32 Ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided."	As detailed in ES Chapter 8: Biodiversity [**REP7-008**] there are no ancient woodlands within the Scheme boundary; and thus no ancient woodland will be lost as a result of the Scheme. Refer to [**REP7-008**] which details that the Scheme may, as a result of the combined impacts on the veteran tree T358 and its associated root protection area (RPA), result in the unavoidable loss of this veteran tree due to the proposed works and construction traffic within the vicinity of the tree. As such, the Environmental Statement reports the loss of this veteran tree and explains and assesses this as a worst-case scenario. In terms of the policy tests within the NPSNN, although significant measures have been proposed to prevent it, the loss of the veteran tree should be weighed in the balance against the clear national and local need for the Scheme coupled with the significant benefits of that the Scheme will bring, including unlocking future investment in the City of Derby and the time savings a less congested A38 route will bring.
	Businesses and citizens around Derby do not expect that benefits will outweigh those costs. The HGV drivers passing Derby faster will not want to visit local shops or museums.	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: *"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 the route and benefit local and*

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		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".
	The Royal Derby Hospital has a catchment far beyond Derby City.	This fact is known to Highways England but it is not clear what point is being made here by FOMP. Patients, care workers and visitors from locations to the north and northwest of the city are reliant upon the A38 corridor, travelling either by private car or by taxi, to reach the Royal Derby Hospital. During Scheme construction, the traffic management strategy is to maintain the existing journey times along the A38 and thereby minimise the desires of drivers to re-route onto the local road network. Refer to the Traffic Management Plan (TMP) [**REP14-011**] paragraph 7.1.6. On completion of the A38 Derby Junctions Scheme, access to the Royal Derby Hospital will become significantly easier.
	ISH 8 Climate Change Three Wildlife Sites and over 50 mature trees worthy of TPO status, thousands of trees and hedges that screen the rest of the road, and two irreplaceable veteran Oak trees, would be killed by this scheme. All these plants are reducing the air pollution and the amount of Carbon Dioxide in the atmosphere.	A full assessment of the Scheme effects on ecology and biodiversity is provided in ES Chapter 8: Biodiversity [**REP9-009**]. This indicates that the Scheme will have a significant adverse effect on the A38 Kingsway Roundabout Local Wildlife Site (LWS). There are no other significant Scheme effects with regard to local wildlife sites.

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		During the development of the Scheme design Highways England has sought to minimise the loss of existing trees and hedges, and where such losses are unavoidable, mitigation planting is proposed (refer to the Environmental Masterplan figures (ES Figure 2.12A to 2.12H [**APP-068**])). The tree retention plans (ES Figure 7.6A [**APP-092**]) indicate that Highways England will retain a lot of trees within the Scheme boundary. ES Figure 7.6A [**APP-092**] indicates that whilst some trees along the edge of Markeaton Park will be lost due to the Scheme, a belt of trees between the Scheme and Markeaton Park will be retained. As detailed in [**REP6-018**], the Scheme will result in the loss of approximately 50 individual trees within Markeaton Park, noting that this figure does not include groups of trees. Highways England will deliver a landscape design that results in a net increase in the number of trees in Markeaton Park. Despite the significant measures that are proposed to protect it, the Scheme may result in the unavoidable loss of one veteran tree (refer to [**REP7-008**]) – no other veteran trees will be lost due to the Scheme. 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*

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		and any benefits that it provides. No significant changes in air quality are, therefore, expected as a result of this." Land use changes associated with the Scheme have been taken into account by the climate assessment as reported in ES Chapter 14: Climate [**APP-052**] – this includes carbon sequestration by vegetation. Loss of carbon sequestration from existing carbon stock due to land use change is minimal accounting for 3.1% of the total construction carbon footprint. The assessment of land use change was undertaken using guidance provided by the EU (Annex V to Directive 2009/28/EC) for the calculation of above and below land carbon stocks. Chapter 14: Climate [**APP- 052**] concluded that the GHG emissions impact of the Scheme will not have a material impact on the UK Government meeting its carbon reduction targets.
	Replacement Open Space land offered by Highways England does not replicate the attributes of the lost land.	Highways England disagrees with this statement. 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. As previously stated (most recently at Deadline 12), further information is provided in Chapter 5 of the Planning Statement [**APP-252**] and the Technical Note on Public Open Space and Replacement Land [**REP6-023**]. In addition, the replacement public open space proposals have been agreed with DCiC (refer to the signed SoCG with DCiC [**REP7-020**]).

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	Highways England are required to rethink their Transport modes, and Local Authorities their Planning rules, to reach new Carbon budgets set by the government. New estates must have bus /tram stops, bus lanes and pedestrian and cycle tracks. Derby City Council's report that Planning Permission to build an estate is Conditioned on the A38 grade separation at Kingsway proves that the reports are correct that a new road attracts extra traffic instead of easing jams. Failures of utility apparatus will have to be repaired as a life-threatening situation for patients on dialysis, or continuous safe drinking water for all, regardless of the presence of bat maternity roosts. Tax-payers, not share-holders, will shoulder those fines. Should HE refuse to take responsibility for water levels, adverse health impacts arising from traffic jams, failures of local businesses, or deaths of Veteran trees because "they are outside the Red Line Boundary?" Statements of Common Ground do not alter spatial realities. Computer models don't know drivers might have had sleepless nights from a teething toddler, or be desperate to reach to a toilet, so misjudge the turn into facilities. Isn't the whole purpose of carrying out a Public Inquiry to prevent expensive disasters after practical work has begun? Friends of Markeaton Park ask the Inspector to recommend refusal.	Chapter 14: Climate [**APP- 052**] concludes that the GHG emissions impact of the Scheme will not have a material impact on the UK Government meeting its carbon reduction targets. Proposals for bus/tram stops, bus lanes and pedestrian and cycle tracks as related to new housing estates are a matter for DCiC and not for the Scheme. The Local Impact Reports submitted by DCC [**REP1-031**] and DCiC [**REP1-035**] both refer to the A38 corridor as a constraint to meeting their housing provision targets. With respect to the point that new housing estates attract extra traffic, the Scheme's appraisal was based upon traffic forecasts that allowed for the expected population growth and the planned housing target provisions to accommodate this growth. Refer to the Transport Assessment (TA) [**REP3-005**]; the traffic forecasting method is described in TA Section 4 and the expected increases in the number of dwellings and the expected increase in employment area totals are summarised in TA Table 4.1 (on page 22). The traffic-related impacts reported in the Environmental Statement (ES), submitted with the DCO application in April 2019, includes these forecast traffic changes. The comment regarding utilities failures we presume relates to the utilities corridor in Markeaton Park. Utilities companies will be able access their assets without impacting on installed bat mitigation features such as the

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		three totem poles to be created using trees with existing roost features that would be felled due to the Scheme. We are unclear as to what fines FoMP are referring to. The ES prepared for the Scheme reports on impacts upon the water environment (ES Chapter 13: Road Drainage and the Water Environment [**APP-051**]), health effects (ES Chapter 12: People and Communities [**REP9-011**]), trees and vegetation (ES Chapter 8: Biodiversity [**REP9-009**]), regardless of whether the applicable receptors are located within or outside the Scheme boundary. 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: *"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 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".*

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		As detailed in [**REP7-007**], over the DfT's standard 60-year evaluation period for major road projects, the Scheme will result in the saving of 143 killed and serious injury casualties, including 8 fatalities. It is thus considered that the Scheme will make a significant improvement to road safety for all users, including pedestrians and cyclists.
6 Derby City Council		
	Hearing 4 Item 3 Right Turn facilities, DCiC is naturally keen to ensure the free movement of traffic on our network and sees no reason to question the applicant's conclusions in terms of traffic generation and queue lengths. DCiC is happy to work with the applicant through their detailed design stage to refine the details.	Noted
	Hearing 6 Item 3 the Royal Derby Hospital The ExA asked a specific question about the routes for emergency vehicles, which the Royal Derby Hospital highlighted was a question for the East Midlands Ambulance Service. Again, DCiC was also asked their opinion. DCiC is not in a position to comment on the requirements of the Ambulance Service. However, the HE highlighted that they were consulted on the scheme and the TMP, and that their response has been included in the Consultation Report. The East Midlands Ambulance Service should be included as a specific consultee to the	Noted and agreed. A revised TMP was submitted at Deadline 14 [**REP14-011**] and names the local Ambulance, Police and Fire service organisations separately. Paragraph 7.1.5 of this TMP requires the temporary junction layouts (the details of which are being developed, and which development includes conversations with the Derby Behavioural Change Group) to be represented using strategic assignment modelling software. This process will allow the potential for traffic re-routing to be understood and

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	TMP, although the document identifies emergency services as a general group to be consulted. The ExA also asked DCiC about delays and congestion during the construction works and impacts on the local network around the Derby Royal Hospital. The applicant has developed a staged programme and TMP using strategic modelling to try to limit and mitigate the impacts of their construction of the A38 Derby Junctions Scheme. The philosophy of maintaining two lanes on the A38(T) during the construction to keep the traffic on the A38(T) is logical. Further, completing the Kingsway Scheme and opening it to traffic early on in the construction programme will give some certainty to the operation of the network around the Hospital. The applicant has also agreed to refine the TMP based on more detailed junction modelling of the temporary traffic management signals. At this stage, this is as much as can be expected of the applicant. However, it is difficult to predict with certainty driver behaviour and their route choice, particularly in a large urban area. As such, there are likely to be delays and problems that occur as a result of construction, which aren't predicted in the analysis prepared by the applicant. As such, DCiC has always placed emphasis on the importance of the TMP to be able to adapt to problems and the relationship that partners and stakeholders have with the contractor/HE. DCiC is satisfied that there are	the relevant local highway authorities will be given the opportunity to review the results and comment. TMP paragraph 7.1.6 reiterates that the TM strategy is to maintain the existing journey times along the A38 and thereby minimise the desires of drivers to re-route onto the local road network. This TM strategy will, inter-alia, minimise the number of road-users that choose to re-route onto the A516 and pass through the Royal Derby Hospital's access junction. Highways England agrees that the draft TMP includes mechanisms to ensure communication and flexibility to deal with problems that may be encountered during construction. In addition, Highways England also notes the legal duties placed upon Highways England and its contractor in its role as the strategic highway authority.

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	mechanisms included in the TMP that ensure there is communication and flexibility to deal with problems.	
	Effects on the McDonald's and Euro Garages sites The Inspector asked that the applicant, Euro Garages/McDonald's and DCiC to provide a written statement. DCiC's interest in the access arrangement is concerned with the capacity and operation of the proposed traffic signals that also provide access to Markeaton Park, and that vehicles can safely exit off the local highway into the Esso and McDonald's site. Derby City Council has previously stated that it is satisfied with the principle of the signal junction. It has made comments to the applicant that some changes are needed to improve safety and the operation of the proposed signals, including the main Markeaton Junction. As such, the applicant has responded that there is a workable solution and that this can be dealt with at the detailed design stage, which DCiC accept. In terms of the specific access on Ashbourne Road the signals will control the movement of vehicles into and out of the Esso Garage/Mc Donald's site. From the preliminary designs provided by the applicant, DCiC is satisfied that an articulated HGV can physically turn at 10 kph into the site off the highway. The access layout is not ideal in terms of geometry and the provision for pedestrians crossing it,	Noted and agreed.

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	however, the general layout is no worse than the existing situation. It is for the third party landowners to assess, and agree with the applicant, how any changes to the junction access safely integrates into their site and whether any changes are required to their layout. However, such detail has not been finalised at this stage. The junction scheme is subject to further detailed design and a Road Safety Audit.	
	Hearing 7 Item 3 Landscape and visual impact Following discussions with the applicant DCiC is now more reassured regarding the veteran tree. The easy option would be to seek its removal however changes to the OEMP indicate the applicant's willingness to try to retain the tree in a viable state. Equally DCiC has comfort that compliance with the OEMP is a DCO requirement. DCiC remains firm that all this focus and effort regarding the tree is preferable to further impacting on Markeaton Park and its associated tree and habitat loss.	Noted and agreed.
	Hearing 8 Item 3 Air Quality DCiC agrees that moving footpaths away from the A38 carriageway would have the effect of resolving any concerns in relation to potential exceedances of the EU Limit Value for nitrogen dioxide (NO2) along the A38	Noted and agreed – as detailed in the OEMP [**REP14-008**] at PW-COM3 and MW-COM5 states: "*Highways England will plan the Scheme construction works to minimise the need to close and divert footpaths and cycleway facilities, and minimise closures and diversion durations. Where the closure of public footpaths and cycle routes will be required, safe and appropriate alternative means of access shall be*

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	during construction. DCiC's position is that this should only be done where suitable alternatives are first secured, so that active travel choices can be maintained. This is because the closure/removal of a footpath would be counter-intuitive where AQ improvements are concerned, given a footpath's potential to reduce road vehicle trips. In addition, alternative footpath routes should be secured prior to the commencement of the main carriageway construction phase in 2021, wherever practical and feasible. DCiC notes that the OEMP changes reflect this and that discussions will be held during the detailed design stage with DCiC. In principle the diversion routes most recently suggested by the applicant could be acceptable but more detail and recognition of /provision of suitable facilities for, for instance, cyclists is needed alongside wider consultation. It is noteworthy that Derby Cycling Group are an active member of the Behavioural Change working group led by HE. DCiC notes the concerns raised by the speaker on behalf of Extinction Rebellion with respect to recent evidence which suggests a possible relationship between poor air quality and Covid-19 infection rates and/or severity. Research on this is obviously at an early stage, so it is hard to draw any confident conclusions. There is no current requirement that DCiC is aware of within the relevant planning policy to model or mitigate against this potential risk, however, it is reassuring to know that the proposal to move receptors (i.e. footpaths) further	*provided to ensure access will be maintained at all times in order to minimise temporary severance" and "Highways England will seek to agree temporary diversion routes in advance with DCiC, EBC and DCC as applicable. Appropriate signage for all closures and diversion of footpaths and cycleways shall be used to inform pedestrians and cyclists, with sufficient notice of such closures and diversions being provided*". Thus, should there be a need to divert some footpaths during the construction phase due to air quality, in accordance with MW-AIR4 in the OEMP [**REP14-008**], alternative footpath routes will be discussed with the relevant local authorities. Refer to Highways England's response in [**REP14-001**] and as detailed in our response above to Derby Climate Coalition ISH8.

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	away from the A38 would assist in addressing these concerns during the construction phases of the A38 scheme. It is also worth noting that the CEMP is still yet to be defined in detail and therefore this is a consideration that could be included within the detailed design as further evidence becomes available.	
7	Climate change Local cycling and walking would still take place with this scheme in place. It is a strategic national road solution offering a direct route for through traffic to avoid congestion in Derby. DCiC welcomes this. Active travel is a local initiative that is being pursued by DCiC at a local level within the City.	Noted and agreed.
	Carbon Footprints When asked by the ExA 'Should carbon footprint targets be set in the OEMP to ensure that best practice is followed?' DCiC felt that this would make good practice for such a large scheme as this. However, after further consideration DCiC has come to the conclusion that it would not be a reasonable approach to set specific Carbon targets. DCiC acknowledge that this topic is an emerging field where there might not be established principles in such schemes, but climate change needs to start somewhere and where better than this strategic national infrastructure scheme. DCiC has discussed this point with the applicant and notes that the applicant is proposing to add the	Noted and agreed. The additional text as follows was included in the OEMP [**REP14-008**] at MW-CC1 (new text underlined): "*Energy consumption and materials use will be recorded and reported on an ongoing basis during the construction phase of the Scheme using Highways England Carbon Reporting Tool. As part of this reporting process, the contractor will reduce their construction phase GHG emissions to be below the levels as reported in ES Chapter 14: Climate*". The additional OEMP text was communicated to DCiC prior to Deadline 14 submission, and DCiC confirmed that they consider that this is an appropriate way forward that will ensure that the Scheme's GHG footprint is appropriately

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	following text to the OEMP commitments – "*Energy consumption and materials use will be recorded and reported on an ongoing basis during the construction phase of the Scheme using Highways England Carbon Reporting Tool. As part of this reporting process, the contractor will reduce their construction phase GHG emissions to be below the levels as reported in ES Chapter 14: Climate*". The suggested OEMP change thus commits the contractor to GHG emissions being less than those as detailed in the Environmental Statement. DCiC confirms that this appears to be an appropriate way forward that will ensure that the Scheme's GHG footprint is appropriately managed and is not unnecessarily high as required by the NPSNN.	managed and is not unnecessarily high as required by the NPSNN.
	Hearing 9 **Item 3** a) DCiC is now content the that the OEMP indicates a clear responsibility on HE to ensure that the Kingsway junction flood storage areas are appropriately maintained. b) DCiC is now content that there is a clear responsibility for HE to agree with the relevant local authority how the works will be maintained and by whom. c) DCiC is now content that our concerns given in [REP9-030, item 1.4c] [REP12- 019, item 1.2] have now been adequately addressed. Article 40 – Trees subject to tree preservation orders	a) Noted and agreed. b) Noted and agreed. c) Noted and agreed.

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	DCiC response is produced above under Hearing 7 and confirms it is content.	