

**From:** [REDACTED]  
**To:** [A38 Derby Junctions](#)  
**Subject:** A38 Derby Junctions Development Consent Order Statement of Matters  
**Date:** 26 October 2021 16:41:42  
**Attachments:** [A38 Derby Junctions DCO - Statement of Matters DCC Response.pdf](#)

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## For the attention of the A38 Derby Junctions Case Team

Dear Sir/Madam

### **PLANNING ACT 2008 (AS AMENDED) AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

### **RE-DETERMINATION OF THE APPLICATION BY HIGHWAYS ENGLAND (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A38 DERBY JUNCTIONS**

### **UPDATE ON RESPONSES TO THE STATEMENT OF MATTERS**

Thank you for consulting Derbyshire County Council on the re-determination of the application by Highways England for an Order Granting Development Consent for the A38 Derby Junctions. Attached are Derbyshire County Council's comments on the Secretary of State's Statement of Matters (SoM) and Highways England's response to those SoM.

Kind Regards

Steve

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Head of Transport Infrastructure  
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Our ref: PM/Strategic Consultations/Derby  
Your ref: TR010022  
Date: 26 October 2021

Dear Ms Kopala,

**PLANNING ACT 2008 (AS AMENDED) AND THE INFRASTRUCTURE PLANNING  
(EXAMINATION PROCEDURE) RULES 2010**

**RE-DETERMINATION OF THE APPLICATION BY HIGHWAYS ENGLAND (“THE  
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THE A38 DERBY JUNCTIONS**

**UPDATE ON RESPONSES TO THE STATEMENT OF MATTERS**

**Unique Reference: 20022826**

Thank you for consulting Derbyshire County Council on the re-determination of the application by Highways England for an Order Granting Development Consent for the A38 Derby Junctions. Set out below are Derbyshire County Council’s comments on the Secretary of State’s Statement of Matters (SoM) and Highways England’s response to those SoM.

**Secretary of State request for further representations (point 2, 1st bullet)**

*The carbon impact of the development; the implications, if any, of the development in relation to the Paris Agreement and the UK’s nationally-determined contribution under the Paris Agreement, the 2050 net zero target in the Climate Change Act 2008, and carbon budgets set under the 2008 Act (including the sixth carbon budget as set out in the Carbon Budget Order 2021); and, whether the increase in carbon emissions resulting from the development is so significant that it would have a material impact on the ability of the Government to meet its carbon reduction targets;*

**Applicant’s Response**

Key points from the applicant’s response are noted that:

2.2.2 *As requested by the Secretary of State an assessment of scheme greenhouse gas (GHG) emissions against the UK Government carbon budgets has been*

*undertaken covering the GHG emissions that are projected to occur across the relevant carbon budget periods up to and including the sixth carbon budget.*

*2.2.3 Chapter 14, Climate, in the Environmental Statement presents emissions from the Scheme in the context of the 3rd, 4th and 5th carbon budgets. In June 2021, subsequent to the submission of the DCO application, the 6th carbon budget has been legislated. An assessment against the 6th carbon budget has been undertaken and the results are presented in Table 2-2.*

*2.2.6 The Scheme has been assessed as contributing just 0.0023% (22,343 tCO<sub>2</sub>e / 965,000,000 tCO<sub>2</sub>e) to the 6th carbon budget reporting period (2033-2037).*

*2.2.16 (Conclusion): The contribution of GHG emissions resulting from the Scheme is assessed as a maximum of 0.0043% across all relevant carbon budget periods. Consequently, Highways England does not consider CO<sub>2</sub>e emissions resulting from the Scheme to have a material effect on the Government's ability to comply with the carbon budgets.*

## **Derbyshire County Council Comments**

On 10<sup>h</sup> June 2020, Derbyshire County Council's Officer appeared at an Issue Specific Hearing on Air Quality and Climate Change for the DCO examination. A written summary of oral contributions on behalf of Derbyshire County Council was subsequently submitted to the Examining Authority which stated that:

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 Co<sub>2</sub> emissions.

Derbyshire County Council indicated that it had raised no fundamental issues or concerns with regard to the likely impacts of the scheme on Co<sub>2</sub> 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 Co<sub>2</sub> emissions and the carbon budgets that had been set for Erewash Borough and the County as a whole.

Derbyshire County Council has reviewed the applicant's response on this matter as summarised above, particularly updated evidence provided by the applicant on the GHG emissions that are likely to be generated by the proposed highway scheme. Based on this response and updated evidence, it is considered that Derbyshire County Council's views remain unchanged from those set out above on the potential GHG emissions that are likely to be emitted through the construction and operation of the Little Eaton Junction part of the scheme and that this part of the scheme would be likely to have a relatively limited impact on the carbon budgets that have been set for Erewash Borough and the County as a whole, and consequently, the scheme is considered unlikely to have a material impact on the ability of the UK Government to meet its carbon reduction targets. In this regard, Derbyshire County Council has no evidence to offer of its own that would be likely to contradict or counter the applicant's evidence and conclusions on this matter, which is considered to be fair in terms of aligning with the standard approach used for these types of assessments.

Notwithstanding the above, Derbyshire County Council would offer the following more specific comments on the applicant's response to this matter.

It is considered that there may be too much reliance within the report on electric vehicle uptake reducing vehicle emissions going forward, with little detail or a potential quantification of these impacts provided. There also appears to be an over reliance on the success of the recently published Department for Transport's Transport Decarbonisation Plan in reducing emissions from vehicles but again the report does not make any reference to the possible magnitude of these impacts, or how the scheme would encourage people to switch to walking, cycling and public transport where possible.

The report also mentions Highways England's Net Zero Plan and the commitment for their corporate emissions to become net zero by 2030, its maintenance and construction activities to be net zero by 2040 and road user emissions on the strategic road network to be net zero by 2050. However, again the report does not make any robust statements for how these commitments would be delivered and the specific interventions and scale of impact expected for the proposed A38 Junctions scheme. It also talks about Highways England's commitment to develop a blueprint for EV charging and energy storage by 2023. However, it is not clear how this will have any significant impact on reducing the emissions associated with the proposed scheme.

### **Secretary of State request for further representations (point 2, 2nd bullet)**

*the direct, indirect and cumulative likely significant effects of the development on climate, including greenhouse gas emissions and climate change adaptation, in light of the requirements set out in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations') and in light of paragraphs 5.17 and 5.18 of the National Policy Statement for National Networks ('NNNPS');*

### **Applicant's Response**

Key points from the applicant's response are noted that:

*3.2.22 Cumulative effects have been considered through the Climate Change Resilience (CCR) and In-combination Climate Change Impact (ICCI) assessments. Both assessments have concluded that there would be no significant cumulative climate vulnerability effects associated with the Scheme. Cumulative effects have also been considered in the additional assessment of the combined effects on transport infrastructure presented in this report. This assessment demonstrates that the Scheme will improve the resilience of the SRN to the effects of climate change.*

*3.2.27 In relation to paragraphs 5.17 and 5.18 of the NNNPS, this response, together with the information provided in Chapter 14 of the Environmental Statement, demonstrates that the Scheme will not materially affect the ability of the Government to meet its carbon budgets. Accordingly, the increase in carbon emissions that may arise in consequence of the Scheme is not a reason to refuse development consent pursuant to paragraph 5.18 of the NNNPS.*

### **Derbyshire County Council Comments**

An assessment has been made by the applicant in the report to consider whether other strategic transport infrastructure beyond the boundary of the scheme, which may be subject to climate impacts, may have consequences that exacerbate the likely significant effects. It concludes that (in the event of a severe weather event) the broad number of journey options available, coupled with the level of mitigation embedded in the design of this scheme and the rail network would provide a sufficient level of systemic resilience to avoid a significant effect. However, the assessment does not consider cascade effects where impacts on one network can have a knock-on effect on another network, or the deep interdependencies that exist between infrastructure networks where they rely on each other to operate effectively in many ways.

Key to the assessment and acceptability of the A38 Derby Junctions scheme is advice in the *paragraphs 5.17 and 5.18 of the National Policy Statement for National Networks ('NNNPS')*;

The NNPS, at 5.17 states that:

*Environmental Statement will need to describe an assessment of any likely significant climate factors in accordance with the requirements in the EIA It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. However, for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets*

The NNPS at 5.18 states that:

*...any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets.*

As noted above, Derbyshire County Council has no evidence of its own to dispute or contest the applicant's response to matter 2.2 and the updated evidence it has submitted that the contribution of GHG emissions resulting from the Scheme is assessed as a maximum of 0.0043% across all relevant carbon budget periods and as such this will not materially affect the ability of the Government to meet its carbon budgets. The County Council considers this to be a fair assessment in terms of aligning with the standard approach used for these types of assessments.

Accordingly, in the context of paragraphs 5.17 and 5.18, if the evidence and applicant's conclusions are accepted, the likely increase in emissions from the scheme would not appear to be a reason to refuse development consent for the scheme.

### **Secretary of State request for further representations (point 2, 4th bullet)**

*2 bullet point 4: any change in whether the Development would be consistent with the requirements and provisions of relevant local or national policies, given the length of time since the examination closed. This will include those policies included in the Applicant's Planning Statement and National Policy Statement Accordance table and any updated versions thereof (including the updated Derwent Valley Mills World Heritage Site Management Plan 2020-25), as well as any wholly new policy that may be applicable;*

### **Applicant's Response**

Key points from the applicant's response are noted that:

*5.2.5 The key Local Planning policy documents that form the development plans for the Local Authority areas in which the Scheme is located remain unchanged, as detailed in the Planning Statement and National Policy Statement Accordance Table (Planning Inspectorate Scheme Reference TR10022), these are as follows:*

*City of Derby Local Plan Saved Policies (2006)  
Derby City Local Plan Part 1: Core Strategy (2017)  
Derbyshire Local Transport Plan (2011 – 2016)  
Erewash Borough Core Strategy (2014)*

### **Derbyshire County Council Comments**

#### **Local Plan Context**

Derbyshire County Council would concur with the applicant's response to this matter that the key local development plan documents of relevance to the assessment of the scheme remain unchanged.

The Derby City Local Plan Part 1 was adopted by the City Council in 2017. Derbyshire County Council is currently working jointly with Derby City Council, Amber Valley Borough Council and South Derbyshire District Council that comprise the Derby Housing Market Area (HMA), to take forward reviews of their respective local plans. However, these reviews, including the Review of the Derby City Local Plan, are still in

very early stages of preparation and so the Plans are not at a stage that would have any material impact on the assessment of the A38 Derby Junctions scheme.

Erewash Borough Council commenced a review of its Core Strategy in 2019. Since then, the Borough Council has published an Erewash Core Strategy Review - Draft Options for Growth (January 2020) and Erewash Core Strategy Review – Revised Options for Growth (March 2021). Essentially, both of these consultations set out a range of potential housing and employment sites that the Borough Council considers might be suitable as allocations in the Core Strategy Review. None of the sites that have been identified in the consultation documents are likely to have any material impact on the assessment of the A38 Derby Junctions Scheme. Furthermore, neither document sets out any policies that may be relevant to the assessment of the scheme.

### **The Derwent Valley Mills World Heritage Site Management Plan (WHSMP)**

Derbyshire County Council is one of the constituent local authorities that are covered by the Derwent Valley Mills World Heritage Site (DVMWHS) and its buffer zone. The DVMWHS Partnership has responsibility for producing and reviewing the DVMWHS Management Plan. A review of the Management Plan has recently been undertaken and the DVMWHS Management Plan 2020 – 2025 was published in 2021. The updated document now includes the requirement for Heritage Impact Assessments to be undertaken in relation to new developments, something that was absent from the 2014-2019 Management Plan. The Management Plan has 7 key aims, of which the following are of particular relevance to the A38 Derby Junctions Scheme:

#### **Aim 1**

Protect and conserve the Outstanding Universal Value of the DVMWHS to ensure its transmission to future generations. Aim 1 is paramount and all other aims must not conflict with it.

#### **Aim 3**

Promote the sustainable development (Environmental, Economic and Social) of the DVMWHS to provide a world-class destination where people are proud to live, work, visit and invest.

#### **Aim 6**

Promote a cohesive and coherent understanding of the DVMWHS by identifying its differing spatial needs and priorities.

During early stages of the public examination into the DCO for the A38 Junctions scheme, Derbyshire County Council expressed significant concerns about the proposed design of the Little Eaton junction part of the scheme and its potential impact on the Outstanding Universal Value (OUV) of the DVMWHS. During the examination process, however, and at the request of the Panel of Inspectors, Derbyshire County Council worked with the applicant's consultants to seek to address these concerns. Further work carried out by the consultants, particularly the production of extensive visualisations and photomontages of the scheme, as existing and as proposed with associated mitigation, satisfactorily addressed the County Council's concerns and it was able to confirm to the Panel of Inspectors at the Examination hearings that the



County Council considered that the scheme would be unlikely to have any significant harmful impact on the OUV of the WHS over and above the impacts of the existing scheme.

The Secretary of State may wish to be aware that on 4<sup>th</sup> February 2021, the DVMWHS Partnership was contacted by HM Government, informing them that UNESCO had requested a State of Conservation report on the DVMWHS. This was due to a concern highlighted by UNESCO that a number of planning applications were being granted permission in the DVMWHS, even though Historic England, the DVMWHS Partnership, ICOMOS International (as UNESCO's cultural heritage advisor) and planning authorities' own conservation officers were all identifying that the proposals would negatively impact on the OUV of the WHS.

To have a deeper understanding of the existing and planned strategies and policies related to the protection and management of the WHS, and to be able to assess the potential impact of all current major project plans, the World Heritage Centre asked the Government to submit a report on the State of Conservation of the DVMWHS by 1 December 2021, for review by the Secretariat and the Advisory Bodies.

The requirement for the DVMWHS Partnership to submit a State of Conservation Report by UNESCO, is highlighted by Derbyshire County Council to emphasise the crucial importance of the design of all new developments within and adjoining the DVMWHS and how they should seek to minimise impacts on the OUV of the WHS. This should also apply to the A38 Derby Junctions Scheme. Since the granting of the original DCO for the scheme by the Secretary of State on 8<sup>th</sup> January 2021, Derbyshire County Council has continued to be engaged by Highways England and their consultants with the submission of various 'Requirements' for the County Council's comments relating to detailed aspects of the scheme, including landscaping, ecology, flood risk and street lighting details. The need to minimise the potential impact of the detailed design of the scheme on the OUV of the DVMWHS has been an important principle in the County Council's consideration of the various 'Requirements' and the comments it has submitted to Highways England and their consultants.

### **Derbyshire Local Transport Plan**

In April 2011, DCC published its Local Transport Plan (LTP) (3). It sets out a transport vision, goals, challenges to be tackled and a strategy covering the period to 2026

With regards to the A38, Chapter 10.2 summarises examples of projects led by others which have an influence on Derbyshire, including the Highways Agency (now Highways England) for Trunk Road schemes, rail projects, regeneration, cross boundary projects and green infrastructure strategies. The A38 Derby Junctions is specifically listed as a project which would enhance the capacity of the Trunk Road network to accommodate strategic traffic and new development growth. It is indicated that '

*The A38 junctions include that at Little Eaton / Abbey Hill, which falls within Derbyshire; the aim of the Highways Agency is to start construction after 2015. These junctions represent a major constraint for the County and their improvement is important to the*

*County's wider economic prosperity, as well as linking with possible housing developments in the Derby Housing Market Area*

The A38 Junctions scheme is, therefore, recognised in the LTP as being important to the County's wider economic prosperity and would help to deliver new housing developments within the Derby HMA. The Scheme would also meet a number of elements of the LTP's Vision, particularly to achieve a transport system that is both fair and efficient, promotes safer communities and provides better access to jobs and services.

It should be noted that Derbyshire County Council has recently commenced work to review the LTP. However, this work is still in its relatively early stages and no public consultation has been carried out by the County Council thus far on the Review. Accordingly, the existing LTP (3) remains as the relevant Local Transport Plan for the Derbyshire part of the A38 Junctions Scheme.

I hope the above comments are of assistance in the assessment of the re-submitted DCO application.

Yours sincerely

*Steve Buffery*

Steve Buffery

Team Leader Planning Policy and Monitoring

Derbyshire County Council