

A38 Derby Junctions TR010022

8.96(a) Applicant's Responses to Information or Submissions Received by Deadline 10

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

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(Examination Procedure) Rules 2010**A38 Derby Junctions**
Development Consent Order 202[]

**Applicant's Responses to Information or Submissions
Received by Deadline 10**

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Applicant's Responses to Information or Submissions Received by Deadline 10

Introduction

This document provides the comments of Highways England (the Applicant) on the responses made by Interested Parties to the Planning Inspectorate on Deadline 10, 02 April 2020 in respect of the A38 Derby Junctions scheme (the Scheme) Development Consent Order (DCO) application. It also includes responses to some additional submissions made after deadline 10 and accepted at the discretion of the Examining Authority.

The Applicant has sought to provide comments where it appeared to be helpful to the Examination to do so, for instance where a response includes a request for further information or clarification from the Applicant or where the Applicant considers that it would be appropriate for the Examining Authority (ExA) to have the Applicant's comments on a matter raised by an Interested Party in its response.

Where an issue raised within a response has been dealt with previously by the Applicant, for instance in the Applicant's own response to a question posed by the ExA or within one of the documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.

The Applicant has not provided comments on every response made by an Interested Party to the submissions or questions raised. In some cases, no comments have been provided, for instance, because the response provided a short factual response, it reiterated previously expressed objections in principle to the Scheme or expressions of opinion without supporting evidence, or it simply contradicted the Applicant's previous response to a question without providing additional reasoning.

For the avoidance of doubt, where the Applicant has chosen not to comment on matters raised by Interested Parties this is not an indication that the Applicant agrees with the point or comment raised or opinion expressed in that response.

Ref	Comment	Applicant's Response
1 McDonald's Restaurants Ltd		
	McDonald's provided their position with respect to issues under discussion – the numbering of items refers to the Statement of Common Ground [REP10-012].	
1a	McDonald's does not agree to the proposed closure of the A38 access	McDonald's in principle viewpoint is understood and the Applicant's reasoning for needing to close this access has been made clear in previous deadline submissions [REP4-021]. This is recorded in the SoCG as 'not agreed'.
1b	The outcome of the A52 junction modelling is agreed, however, concerns remain over the proposed junction layout and its ability to operate safely. Should you wish to split this point into two elements, then we will agree the junction modelling	Junction modelling/capacity issues noted and agreed. Geometric standards and safety are covered in 3b below.
1c	Modelling assumptions and growth calculated by HE for modelling - Agreed	Noted and agreed
2a	Under discussion – McDonald's structural engineers are reviewing the outcome of the tests of the car park structure	Noted – action with McDonald's to respond.
2b	Agreed – Servicing via Enfield Road will cease	Noted and agreed
2c	Agreed – Refuse collection will be via the A52 and McDonald's will accept the management burden of co-ordinating deliveries and refuse to avoid each other arriving at the same time.	Noted and agreed

Ref	Comment	Applicant's Response
2d	Not agreed, McDonald's do not have rights for the updated manoeuvres on Euro Garages controlled land	The Applicant considers that, with the scheme in operation, McDonald's delivery vehicles would need to drive onto Euro Garages site before reversing into the delivery bay as they currently do, any agreement (formal or informal) that currently exists for this manoeuvre would not be affected by the scheme The Applicant has requested McDonald's provides evidence if this is not the case, such evidence has not been forthcoming.
3a	Remains under discussion – if a detailed signal design layout is provided, this can be reviewed further and potentially agreed.	The detailed signal design layout will be completed in the detailed design stage. As noted in the SoCG, Highways England does not believe that the proposed layout encroaches onto land owned by McDonald's. However, it may be necessary to install some items (such as signal detector loops) within land owned by McDonald's so an agreement relating to future maintenance of such items will need to be reached.
3b	Remains under discussion, McDonald's remain concerned about the geometric standards applied to the access/egress to the A52, in particular what would happen behind the stopline, as one moves into the McDonald's and Euro Garages site and the ability for this to operate safely and without congestion.	As noted in the Applicant's responses to the Deadline 6 submissions [REP7-007], the layout proposed by the Scheme is very similar to the current arrangement for the entry from the A52 which is considered to operate satisfactorily, i.e. the width of the proposed entry from the A52 is the same as the existing and the near-side kerb radius of the proposed entry is greater than the existing (3.5m compared with 2.8m). Swept path analyses have been carried out which demonstrate that HGVs (both rigid and articulated) are able to safely negotiate the entry.

Ref	Comment	Applicant's Response
		For the area within McDonald's ownership, the Applicant has stated on many occasions that it is willing to work with McDonald's during the detailed design (subject to McDonald's agreement) to optimise the existing layout as part of the scheme.
	Therefore, for the avoidance of doubt, the Statement of Common Ground remains not agreed and we will not be providing a signed copy at this time.	Noted
2 Euro Garages Ltd		
	1. Derby City Council will become the adopting authority for the A52 junction in due course. The Applicant has stated that Derby City Council has not considered the detail of the A52 junction. There are on going discussions however it is unclear when a result from the discussions can be expected. Indeed, within the email to Andy Wilson an offer was made to consult directly with Derby City Council.	Derby City Council has been asked to provide more detailed comments on the arrangement and they also have been asked whether they would be happy for EGL to consult directly with them.
	2. EGL has serious concerns about the A52 junction and the issues raised within the RSA review have not been fully answered.	The issues raised by Euro Garage's commissioned safety audit were commented on in the Applicant's responses to the Deadline 6 submissions [REP7-007].
	3. EGL require from the Applicant a written statement that they consider the A52 with EGL/McD to be fully fit for purpose in terms of safety and capacity to be able to accommodate the traffic movements associated with both	As noted in previous responses, the final design will be subject to an independent Road Safety Audit in which all of the concerns raised by Euro Garages will be considered along with any new issues raised by the independent auditors. All issues raised will need to be properly

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	the EGL and McDonalds developments. The Applicant has been invited to do so but to date has failed to do so.	addressed before the scheme is allowed to enter the next PCF Stage (which will be the construction stage).
	4. EGL also note that the issue concerning Advance Warning Signs has still not been finalised.	Highways England is discussing the provision of signage internally and expects to have a solution on the potential way forward by Deadline 12.
	5. There are also issues associated with the rights of way associated with the A38 that need to be dealt with.	It is assumed this is the same issue that was responded to in item 2.2 of the Applicant's responses to the Deadline 9 submissions [REP10-009].
3 Derby & South Derbyshire Friends of the Earth		
	In responses to EXA questions, re air quality (3 Schedule 10) HE clearly states "The compliance risk assessment [REP6-020] and [REP7-009] concluded that all areas would be compliant in the Scheme opening year (2024) both with and without operation of the Scheme..." yet in responses to Derby FoE, HE states (REP 6-035 Vol 8.84) that "Emissions overall would increase..." , "increased emissions from increased traffic on the A38..." The A38 Junctions schemes would not assist the council in achieving compliance, especially as DciC outline the additional and numerous city streets that would be impacted, by increased, or 're-assigned' traffic from the A38 schemes. (REP6-037) There is no indication of how much air pollution would be increased on these streets and the materially worse environmental effects. The meaning of	As stated in 8.84 [REP7-007] - response to FoE question Q5: <i>"With regard to air quality, the air quality effects of the Scheme have been investigated and reported in ES Chapter 5: Air Quality [APP-043]. Overall, operation of the Scheme is expected to improve air quality slightly with a greater number of properties expected to have an improvement rather than a deterioration. Emissions overall would increase slightly with increased emissions from increased traffic on the A38 but properties tend to be located further from the A38 than from roads within the city. Emissions in future years will be lower than currently as cleaner vehicles penetrate the vehicle fleet so the slight increase in emissions due to the Scheme is offset against a long term trend of decreasing emissions".</i>

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	'increased traffic' = induced traffic AND re-assigned traffic, as well as traffic already using the network	Thus air quality in 2024 both with and without the Scheme will be better than that in the base year of 2015 as shown by the predicted pollutant concentrations in 2024 compared with 2015 (refer to ES Appendix 5.3: Air Quality Results [APP-172]). These pollutant predictions take account of changes in traffic flows as predicted by the traffic model which takes account of induced and reassigned traffic. Changes in air quality are caused by changes in traffic flows, changes in the amount of congestion, changes in vehicle emissions over time due to increasingly stringent vehicle emission legislation and changes in road realignment.
	<p>Regarding trees, HE states that pollution removal by local trees 'is small' . (8.91) Yet the UK Government acknowledges the massive beneficial effects of air pollution removal by trees, see https://www.ons.gov.uk/economy/environmentalaccounts/articles/ukairpollutionremovalhowmuchpollutiondoesvegetationremoveinyourarea/2018-07-30</p> <p>The calculated approximate beneficial cost to the NHS, of health savings, in the East Midlands, is a saving of £20 per person. On a population of Derby city size, (270,000) this amounts to over £500 million, meaning that Derby parks – Markeaton Park is the main city park - provide more of a benefit than any perceived 'improved access' to health services, which would exist in a more polluted area (FOE ENC 1) and outweigh the £270 million cost of the schemes. In any case, the daily 15000 vehicles on the</p>	<p>As stated in 8.91 [REP9-028]: <i>“At a national level across the UK, trees are important in removing air pollutants but at a local level, the removal of pollution by deposition and subsequent decrease in concentrations is small. As detailed above, with regard to replacement tree planting in Markeaton Park, HE will deliver a landscape design that results in a net increase in trees and that such planting will maintain the tree buffer between the new A38 and the park and any benefits that it provides. No significant changes in air quality are, therefore, expected as a result of this.”</i></p> <p>Information provided on the ONS website (referenced by FoE in this question) provides an estimate of the pollution removed by vegetation in the 1km square located at Markeaton Park (DE22 3BG) as 5,043kg which is very similar to the UK average of 5,114kg. Thus the removal of</p>

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	<p>A38 and of course the Kingsway Royal Hospital site, the most polluted site in the East Midlands (FOE ENC 1) acknowledged by HE, would worsen health effects.</p>	<p>some existing vegetation and replacement tree planting will not have a significant effect on air quality at a local or national level.</p> <p>Refer to the response in 8.94 [REP10-009] regarding air quality in the vicinity of Kingsway hospital (refer to response 7.3 to FoE Q53) which indicates that concentrations of nitrogen dioxide (NO₂) at the Royal Derby Hospital and Kingsway Hospital are predicted to be within the annual mean objective and limit value (set to protect human health) during both Scheme construction and operation.</p>
	<p>HE states that trees would not be planted in 'saturated ground' yet increased rainfall is now the norm and Markeaton Park flooded in February 2020. Groundwater levels throughout the park rose, and, if the scheme were built, this would ensure that further run-off/increased groundwater levels, would drown any planted saplings. Foe HE to simply state that more would be planted if the trees died, is not a helpful response.</p>	<p>Refer to the response in 8.94 [REP10-009] (8.16) which states that the Markeaton junction Flood Risk Assessment (FRA) [REP9-018] confirms that the Scheme will not have effects upon surface water flooding risks in the areas adjoining the road (including within Markeaton Park), noting that the flood risk assessment has taken climate change into account. In addition, the response in 8.94 [REP10-009] (8.12) confirms that the Scheme will not increase the risk of groundwater flooding in the park.</p> <p>Tree planting in Markeaton Park will be undertaken in locations that are suitable for planting, following consultation with Derby City Council – such planting proposals will take account of existing flooding patterns. As detailed in the Markeaton junction Flood Risk Assessment (FRA) [REP9-018] at para. 4.5.4, groundwater has typically been encountered at depths of around 2.5m to 3.5m in the vicinity of Markeaton junction, whilst to the north-east of the junction in the area of Markeaton Lake, groundwater depths</p>

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		<p>of 1.0m to 3.0m have been encountered. This indicates that there is a sufficient depth of soil above the prevailing groundwater to sustain planted tree growth.</p> <p>Given the above, HE disagree that planted saplings will “drown”. Our previous response highlighted that Requirement 6 of the dDCO [REP8-006] ensures that any planted trees and shrubs that are removed, die or be seriously damaged or become diseased (for whatever reason) within a period of 5 years after planting must be replaced. This is a standard requirement for new planting schemes to ensure the planting is effective.</p>
	<p>Q38 8.1 HE does not answer the question regarding cumulative carbon dioxide emissions from the planned 100 road schemes across the UK.</p>	<p>ES Chapter 14: Climate [APP-052] provides details of the Scheme greenhouse gas (GHG) emissions. It is beyond the scope of the assessment to assess the collective GHG emissions from all road schemes across the UK.</p> <p>Nevertheless, as per our previous response [REP9-028], DfT has confirmed that the programme of schemes described in the Roads Investment Strategy (RIS) 1 have been assessed and included in the UK Government's carbon budgets. On this basis the combined CO₂e impact of the RIS1 schemes will not compromise the UK's ability to meet its carbon reduction targets.</p>
	<p>HE also states that 'it is not considered that any additional CO₂ emissions will arise as a result of the Scheme construction works' yet HE admits that 'further investigations' are needed into CO₂ and pollutants, at the Kingsway landfill .</p>	<p>HE has nothing further to add to the response provided in [REP10-009] – refer to response 7.7 to FoE Q56.</p>

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	We ask the Secretary of State to consider the cumulative CO2 figure for the planned 100 road schemes in the UK	This is a question for the Secretary of State.
	<p>REP8 -009 The health effects and benefits to the people who are most impacted by the schemes, in relation to loss of public open space, are those communities who lack public open space and for whom this park is their 'countryside'- the wards of polluted, deprived Sinfen, Osmaston, Normanton, Rosehill and Peartree. Car ownership in many of these wards is low and the junction schemes will have no benefit for them, except to lengthen pedestrian/bus journeys, to increase pollution at the pedestrian crossings, (DMRB LA105) make their journeys to the park longer, having to navigate the increased number of traffic lights, longer pedestrian waiting times at the polluted Markeaton junction, having to stand in a polluted area, to use the footpaths, added to deterioration in access to the park, from the city. Instead of the one crossing for pedestrians, there would be two, again adding to the time spent in a highly polluted area. Children, at the Royal School for the Deaf, families with young children, who do not drive, children walking to the park, and the elderly who do not drive, will be the most affected</p>	<p>Refer to the response in [REP9-028] which states: <i>"With regard to the loss of public open space at Markeaton Park, replacement land will be provided as part of the Scheme proposals which will be formally provided as Public Open Space land. The replacement land provided will ensure there is no net loss of open space land as a result of the Scheme and as such is also considered to be of equal standing in qualitative terms to the land being lost. Further information is provided in Chapter 5 of the Planning Statement [APP-252]. The potential health effects of the Scheme have been considered and assessed – refer to ES Chapter 12: People and Communities [APP-050]. The health assessment considers access to open and natural spaces as a determinant of human health. The assessment indicates that during Scheme operation there will be a range of long term benefits with regard to human health determinants, namely improved access to local healthcare services, improved connectivity to areas of public open space, improved local air quality, increased opportunities for active travel, improved access to work and training, and improved social cohesion and lifetime neighbourhoods. The signed SoCG) with DCiC [REP7-020], DCC [REP6-010] and EBC [REP1-008] all indicate that the applicable local authorities are content that the Scheme will adopt adequate measures (as detailed in the OEMP [REP6-007]) to avoid, reduce and mitigate potential health effects".</i></p>

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	<p>Q43 Re tree biodiversity effects, an oak tree can support over 200 insect species, with related bird species who feed on those. NB State of Nature 2016 - UK is one of the most nature-depleted countries in the world. The UK Government has signed the Global Convention on Biodiversity. In the year of COP26, - now cancelled, though envisaged to be online or some sort of internet presence will be maintained – HE continues to pursue outdated, environmentally destructive and polluting plans.</p>	<p>HE has nothing further to add to the previous response to Q43 provided in [REP9-028].</p>
	<p>Homeworking is becoming incredibly efficient, through the terrible means of the coronavirus. Many of the companies now encouraging workers to worker from home, will continue this practice after the coronavirus emergency, as they realise that their overheads reduce and that worker activity at home, increases. In the current coronavirus emergency, people working from home will actually increase their workload, because they are scared to lose their jobs, during/after the coronavirus emergency. They are thus working harder, from home. Companies will see this and realise that it pays them to maintain the work-from-home schemes, which will also lead them to save energy, as the people working from home utilise their own premises, with related energy, food, lighting cost savings. This will have a massive impact on traffic. This eliminates any perceived 'need' for the A38 Junction schemes. Traffic has already been reduced and will remain reduced.</p>	<p>The full effects of the current homeworking arrangements due to COVID-19 on greenhouse gas emissions has not been evaluated, and in particular what the effects of the decreased travel and increases in individual home energy usage (including home heating) has been.</p> <p>The ability to travel means that people can share resources in a central location. The Department for Transport's plan is to decarbonise transport.</p> <p>The Scheme may be accommodated within this emerging Plan. The Scheme predominantly attracts traffic flows into the A38 corridor by reassignment (changes of route choice). Only a small proportion of the extra traffic flow on the A38 is a result of induced trips. The reassigned traffic flows are a positive benefit of the Scheme because they will reduce the number of road casualties on the highway network. Please refer to the Transport Assessment [REP3-005] paragraphs 5.5.4 and 5.5.5. These casualty savings will start to accrue from the day the Scheme is open for traffic.</p>

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	<p>HE cannot continue to evade the effects of the real-life situation on the ground – the coronavirus emergency and the simultaneous climate emergency. At time of writing (2/4/20) the Antarctic is undergoing an unprecedented heatwave. Heavy rain is threatening flooding in Southern China and heavy rainfall is causing flooding in New South Wales, Australia. This, alongside the unprecedented storms and 141% rainfall events visited on the UK in the last few months. There is a reason it is called an emergency. As HE appears unable to understand this, we ask the Secretary of State to apply reasoning.</p>	<p>The Applicant has assessed the impacts of the Scheme including those on climate change (refer to ES Chapter 14: Climate [APP-052]).</p>
	<p>Throughout the HE responses to EXA, the detailed design stages keep being mentioned, as though it could all be sorted at a later stage. I.e 2.6 Traffic management plan to be left to detailed design stage, 3.2 DCic - air quality being left to detailed design stage'. Dcic also recommend formal commentary from DEFRA regarding EXA questions on air quality concerns and 3.3 'Neither HE nor Dcic are responsible for either reporting on, or determining compliance against the EU Directive' HE has been separately commissioned by DFT to undertake air quality compliance work, in relation to the Air Quality National Plan. (3.0 EXA responses Sched 10) This is not yet complete. Effects on the 1000s of pedestrian movements on the Kingsway and Markeaton junctions, are not complete. (DRMB LA105) The 'further investigations' into the contaminated landfill site at Kingsway, are not complete. Excessive carbon dioxide may have been the reason that 4 of the trial pits were</p>	<p>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.</p> <p>As such, it is wholly appropriate for some aspects to be left for the detailed design stage. The DCO Requirements and the commitments as detailed in the Outline Environmental Management Plan (OEMP) [REP10-002] ensure that environmental impacts as associated with the Scheme will accord with those reported in the ES.</p> <p>As explained in the ES Chapter 2: The Scheme [APP-040], the approach to Scheme construction is based on the advice from Highways England's buildability advisors.</p>

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	<p>stopped, at 1-2meter depth at Kingsway, yet 'further investigations' are to be made.</p>	<p>Construction details will be finalised during the detailed design stage, at which time air quality impacts will be reappraised and mitigation measures finalised, as based upon the measures as detailed in the OEMP. This ensures the most up to date assessment and mitigation measures are applied.</p> <p>Regarding the last point, as detailed in our response to FoE Q57 in [REP10-009] <i>“As detailed in ES Chapter 10: Geology and Soils [APP-048], para. 10.7.58 “Four trial pits located within the former landfill were terminated at depths between 1m and 2m bgl due to suspected asbestos”. This indicates that the trial pits were stopped when suspected asbestos containing materials were encountered (as is routine practice to avoid undue material disturbance and protect the investigation workforce), with such material being sampled and subject to appropriate testing”</i>. Thus the trial pits were not terminated due to excessive CO₂ levels.</p>
	<p>EXA cannot be assured of the 'mitigation' of flooding effects either, as reliance is being placed on an outdated flood risk assessment from 2013. EXA will have seen the effects on Markeaton Brook 'an important base flow' (REP4 10) to the River Derwent, during the site visit.</p>	<p>Refer to our response provided to FoE Q61 in [REP10-009] which states:</p> <p><i>“HE has not relied upon outdated flood risk maps. The FRA for Markeaton junction [REP9-018] takes into account the latest flood risk guidance and climate change allowances. It is stressed that the Scheme will not amend the watercourses and associated structures (i.e. the existing culverts) under the A38, nor will the Scheme have any impacts on flood extents in surrounding areas. As such, the Scheme will not have effects upon surface water flooding risks in the areas adjoining the road or further downstream.</i></p>

Ref	Comment	Applicant's Response
		<p><i>The Markeaton junction FRA has been reviewed by DCiC (who are responsible for surface water flood management and control at Markeaton junction) and they have accepted the findings as per the signed SoCG [REP7-020], noting that DCiC will be consulted during the detailed design stage on issues associated with flooding and the highway drainage design (and as secured via the OEMP [REP9-019])”.</i></p> <p>Thus to be clear, Markeaton Brook is not being affected by the Scheme. Note that the ‘mitigation’ measures referred to in the Markeaton junction FRA [REP9-018] relate to runoff from the A38 road surfaces only and not the fluvial flood risk nor the risks associated with upstream surface water flooding.</p>
	<p>Climatic impacts are now increasing in number and frequency, and HE acknowledges that the schemes will increase the risk of groundwater level rises/run-off. (REP4 10 pg 4) 4.5.6 “The risk of groundwater flooding is considered to be high.”</p> <p>4.10 The risk of increased surface water run-off, from the scheme, to surrounding areas, is considered to be high” Increased rainfall/groundwater will drown the saplings, planned to replace the destroyed trees/ hedgerows/ biodiversity. Markeaton Park flooded in February 2020 https://www.derbytelegraph.co.uk/news/local-news/live-updates-derbyshire-roads-flooded-3867352</p>	<p>As detailed in para. 4.5.5 in the Markeaton junction Flood Risk Assessment (FRA) [REP4-10] <i>“the risk of groundwater flooding is considered to be high”</i> – this refers to the current situation (i.e. without the Scheme). The FRA goes on to indicate that the Scheme has been designed such that this risk will remain the same and will not be increased by the Scheme.</p> <p>Para. 4.10.1 of the Markeaton junction FRA [REP4-10] states that <i>“the risk of increased surface water runoff from the Scheme arrangement to surrounding areas is considered to be high”</i>. This relates to the situation pre-mitigation and highlights the need to appropriately manage surface water runoff from the Scheme. With the implementation of the road drainage system as detailed in</p>

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		<p>Section 5 of the FRA, runoff discharge rates to local watercourses will either be the same or reduced as compared to the current situation. As such, there will be no increased surface water runoff to areas surrounding the Scheme, nor any associated flood risks (taking climate change into account).</p> <p>The Markeaton junction FRA has been reviewed by DCiC (who are responsible for surface water flood management and control at Markeaton junction) and they have agreed the findings as per the signed SoCG [REP7-020], noting that DCiC will be consulted during the detailed design stage on issues associated with flooding and the highway drainage design (and as secured via the OEMP [REP9-019]).</p> <p>Refer to the response above as related to groundwater impacts upon tree saplings to be planted by the Scheme in Markeaton Park.</p>
	<p>The compulsory purchase of the land is not in the public interests, especially those sectors of the public, who do not own cars, do not drive and have no access to cars. They rely on walking or public transport. The A38 junctions schemes will do nothing for pedestrians and in fact curtail their access to the park, through the added widening, increased number of crossings. People who continue to have their public open space standards diminished and their situation ignored, through schemes such as these. Responses from HE, set HE apart, from</p>	<p>It is presumed that this question relates to the compulsory purchase of land within Markeaton Park which comprises public open space. With regard to the loss of public open space at Markeaton Park, replacement land will be provided as part of the Scheme proposals which will be formally provided as Public Open Space land. The replacement land provided will ensure there is no net loss of open space land as a result of the Scheme and as such is also considered to be of equal standing in qualitative terms to the land being</p>

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	the effects of the schemes HE visits upon the people of Derby.	<p>lost. Further information is provided in Chapter 5 of the Planning Statement [APP-252].</p> <p>The Scheme will not curtail public access to the park – such issues are considered in ES Chapter 12: People and Communities [REP9-011]. This assessment shows that during Scheme operation there will be benefits for users of public transport due to reduced congestion on the A38, offering the potential for improvements to the reliability of journey times. The assessment also shows that the Scheme will provide a range of appropriate facilities for pedestrians and cyclists (including signalised pedestrian crossings) which will provide safer access options into Markeaton Park, whilst some routes will experience improvement in amenity and an increased perception of safety which will encourage increased route use – refer to ES Chapter 12: People and Communities [REP9-011] for details. As such, HE strongly disagree with the comment “The A38 junctions schemes will do nothing for pedestrians and in fact curtail their access to the park”.</p>
	The schemes are a massive imbalance, in that public land is effectively being taken from the poorest sectors, usually the sick, disabled, women and those without access to cars, and given to those more affluent. The Secretary of State has a chance to correct that imbalance.	<p>Highways England does not agree with this comment. The powers of compulsory acquisition will only be granted if they are in the public interest and compensation will be provided to those who suffer loss from the exercise of those powers.</p> <p>With regard to the loss of public open space (public land), replacement land will be provided as part of the Scheme proposals which will be formally provided as Public Open Space land. The replacement land provided will ensure there is no net loss of open space land as a result of the</p>

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

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		Public Open Space and Replacement Land [REP6-023]. Given these measures, Highways England considers that the proposals are compliant with the NPSNN.
	<p>Exception Test 2B “The development must demonstrate that it provides wider sustainability benefits to the community, that outweigh flood risk”</p> <p>HE does not answer the Q51 of whether HE is a climate emergency denier or not, repeating that 'the environmental assessment as reported in the Environmental Statement (ES) for the Scheme appropriately assesses Scheme effects upon climate, as well as the effects of climate change on the Scheme.'</p> <p>Refusing to acknowledge the February 141% increased rainfall event as evidence of the climate emergency, would indicate otherwise.</p>	HE has nothing further to add to the previous response to Q51 as provided in [REP9-028].
	<p>Regarding sustainability benefits the UK Government states the following in the March 2020 'Decarbonising Transport: Setting the Challenge' consultation https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876251/decarb-onising-transport-setting-the-challenge.pdf</p> <p>“The Fifth Assessment Report of the Intergovernmental Panel on Climate Change defines co-benefits as being “the positive effects that a policy or measure aimed at one objective might have on other objectives”. Co-benefits of positive action on reducing transport emissions include:</p>	<p>Responding to the bullet points in turn:</p> <ul style="list-style-type: none"> • The potential health effects of the Scheme have been considered and assessed in ES Chapter 12: People and Communities [APP-050]. The assessment confirms that during Scheme operation there will be a range of long term benefits with regard to human health determinants, namely improved access to local healthcare services, improved connectivity to areas of public open space, improved local air quality, increased opportunities for active travel, improved access to work and training, and improved social cohesion and lifetime neighbourhoods. • As illustrated in ES Chapter 5: Air Quality [APP-043], operation of the Scheme is predicted to improve air

Ref	Comment	Applicant's Response
	<ul style="list-style-type: none"> • Public health benefits through increased active travel and improved air quality; • Improvements to the economy and employment rates through industry and innovation; • Reduction in inequality where those who generate less noise and air pollution are disproportionately impacted by pollution 	<p>quality slightly with a greater number of properties predicted to have an improvement rather than a deterioration. Emissions overall would increase slightly with increased emissions from increased traffic on the A38 but properties tend to be located further from the A38 than from roads within the city. Emissions in future years will be lower than currently as cleaner vehicles penetrate the vehicle fleet so the slight increase in emissions due to the Scheme is offset against a long term trend of decreasing emissions.</p> <ul style="list-style-type: none"> • Reference should be made to the response provided in [REP1-005] (questions 2.4b and 10.26) which details the benefits that the Scheme will bring to the local economy. • With regard to noise, ES Chapter 9: Noise and Vibration [APP-047] confirms that the overall trend in the study area is for a slight increase in operational traffic flows, and therefore traffic noise. As such, in order to minimise noise effects, a number of noise mitigation barriers are included in the Scheme design (refer to the Environmental Masterplan figures – ES Figure 2.12A to 2.12H [APP-068]), plus the Scheme will be constructed with a low noise surface to further reduce noise impacts. • Refer to the bullet point above for commentary on air quality as associated with the Scheme.
4 Network Rail		
Network Rail raised 2 further comments on the Protective Provisions at the following 2 paragraphs:		

Ref	Comment	Applicant's Response
	<p>38 (d) – Paragraph 38 provides that the undertaker shall reimburse Network Rail in respect of a number of items. Sub-paragraph (d) relates to special working arrangements that are required a result of speed restrictions that have to be imposed at on the railway due to specified or protective works. The Applicant seeks to qualify the discretion of Network Rail's engineer by the addition of the word "reasonable" after "which may in the". Network Rail does not agree to the inclusion of "reasonable". The engineer's discretion, in relation to matters of safety, must be absolute.</p>	<p>Network Rail's wording is accepted. The word 'reasonable' is deleted so that sub-paragraph 38(d) reads: '[...] any speed restrictions which may in the opinion of the engineer be required [...]']'.</p>
	<p>42. This paragraph provides for the undertaker to reimburse Network Rail in respect of any additional expenses it incurs in the course of carry out works to the railway where such expenses are the result of specified or protective works. The paragraph is a standard paragraph that is always included in protective provisions for Network Rail's benefit and we are unclear why the Applicant has not included it.</p>	<p>The Applicant and Network Rail continue to discuss the inclusion of this paragraph. HE remains confident that a satisfactory resolution can be found. This is the last remaining point to be agreed between the parties on the protective provisions.</p>