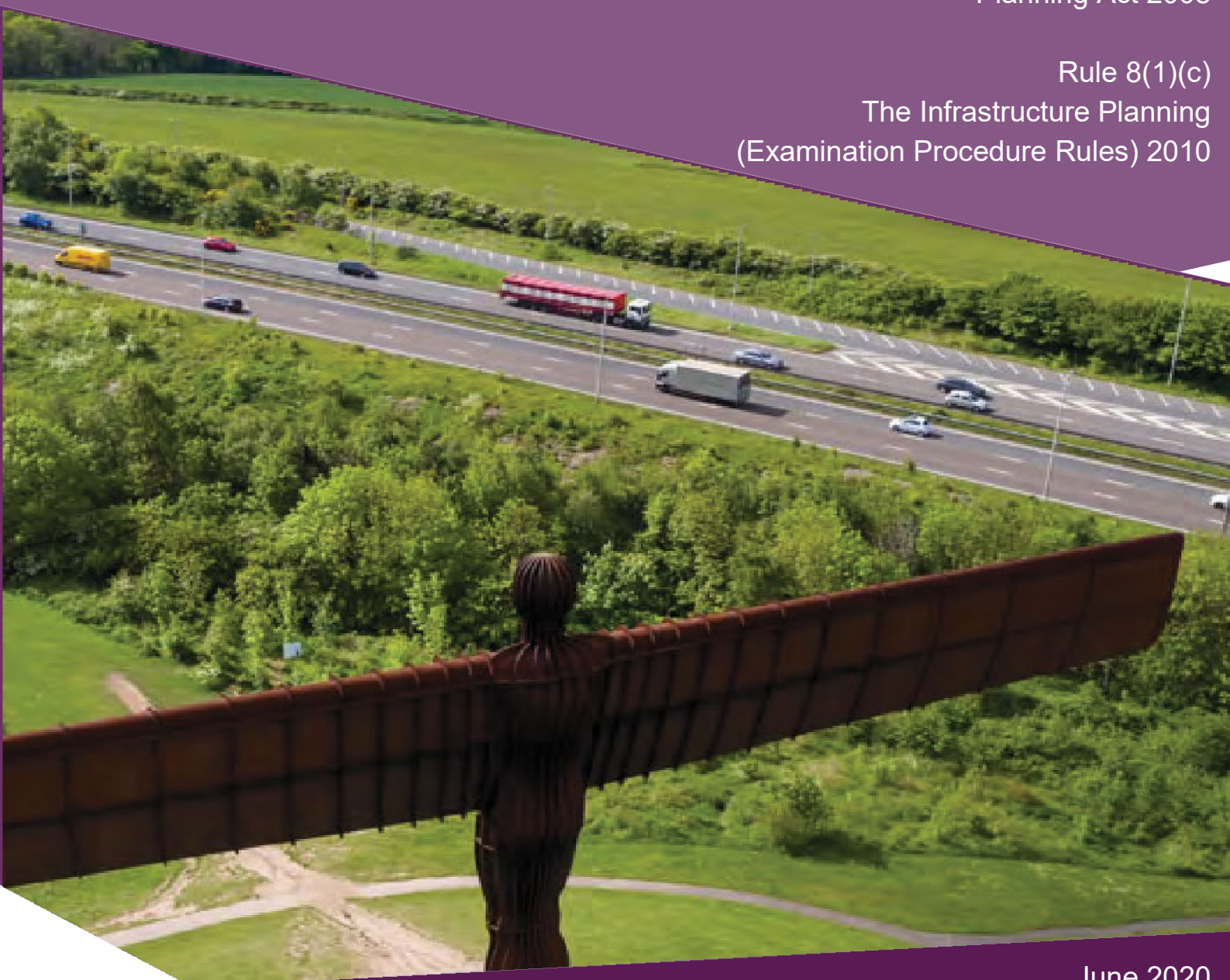


A1 Birtley to Coal House
Scheme Number: TR010031
Applicant's Response to Deadline 7

Planning Act 2008

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



Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure Rules) 2010**

**The A1 Birtley to Coal House
Development Consent Order 20[xx]**

Applicant's Response to Deadline 7 Submissions

Rule Number:	Rule 8(1)(c)
Planning Inspectorate Scheme Reference	TR010031
Application Document Reference	Applicant's Response to Deadline 6 Submissions
Author:	A1 Birtley to Coal House Project Team, Highways England

Version	Date	Status of Version
Rev 0	9 June 2020	For Issue

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1 Applicant's Response to Deadline 6 Submissions

Table 1 – Samantha Woods on behalf of Northumbrian Water Limited (NWL)

Ref:	Comment:	Applicant's Response:
1	By way of update for the Examining Authority, we provided NWL's comments on the draft Protective Provisions to the Applicant, along with proposals with a view to reaching agreement on NWL's concerns, on Friday 22 May. We are waiting for the Applicant's substantive response to these proposals and a draft Statement of Common Ground for our consideration.	A draft Statement of Common Ground with Northumbrian Water was submitted at Deadline 8 (TR010031/APP/7.5H (Rev 0)).
2	We hope to be able to provide the Examining Authority with greater detail on progress by the next Examination deadline.	

Table 2 – Historic England

Ref:	Comment:	Applicant's Response:
1.1	Historic England is more formally known as the "Historic Buildings and Monuments Commission for England". We are the government's statutory adviser on all matters relating to the historic environment, including world heritage. It is our duty under the provisions of the National Heritage Act 1983 (as amended) to secure the preservation and enhancement of the historic environment.	Noted
1.2	We set out below our comments on matters that have arisen from documents submitted for Deadline 6 to this DCO examination. We have sought to focus our attention on those documents which we consider it would be of assistance to the Examining Authority to have our commentary.	Noted
1.3	Historic England are providing comments on the following documents: <ul style="list-style-type: none"> • Revised Draft DCO (REP6 – 03) • Outline CEMP (REP6 – 19) 	Noted
2. REVISED DRAFT DCO (REP6 – 03)		
Schedule 2, Part 1, Requirement 9		
2.1	Historic England welcomes the discussions we have had with the Applicant regarding Requirement 9.	The Applicant also welcomes the ongoing dialogue with Historic England.
2.2 – 2.8	<p>However, we note that the Applicant has amended the wording of 9(1) and it is at odds with what we had understood was agreed wording.</p> <p>In the latest submission of the dDCO at Deadline 6 (REP6 – 03) Requirement 9(1) has been changed to say "...The FWSI shall be substantially in accordance with the mitigation measures included in the REAC and the outline written scheme of investigation...".</p> <p>The previous wording, and which we were in agreement with, stated: "...The FWSI shall be in accordance with the mitigation measures included in the REAC and the outline written scheme of investigation..."</p> <p>There is now a confusing lack of concordance between the Outline CEMP (REP6 – 08) and the dDCO (REP6 – 03), with the amendment in dDCO (REP6- 03) being contrary to the</p>	<p>The use of "substantially in accordance with", as used within the Outline Construction Environmental Management Plan (CEMP) [REP6-08 and 19], was discussed with Historic England in a meeting on 18 May 2020 (refer to Appendix F of the Statement of Common Ground with Historic England [REP4-027], a revised version of which was submitted at Deadline 8).</p> <p>The drafting device is necessary because the WSI is not yet in final form. If the form was fixed, the term "in accordance with" could be used. However, since the final design and final CEMP for the Scheme are yet to be prepared and submitted to the Secretary of State for approval under the CEMP and requirements (so far as appropriate), it is necessary for the Written Scheme of Investigation (WSI) to be substantially in accordance with that comprised in the form before the examination. The formulation is acceptable to the</p>

Ref:	Comment:	Applicant's Response:
	<p>Applicant's Response to Deadline 5 submission (REP6 – 11). Our understanding that the FWSI shall be “in accordance” is confirmed by Applicant's Response to Deadline 5 submission (REP6 – 11; Ref 2.6) in which the Applicant acknowledges that we are happy with the wording in REP4 – 013 which states in Req 9(1) that “...The FWSI shall be in accordance with...”</p> <p>This is also reflected in the Outline WSI contained in Appendix C of the Outline CEMP (REP6 – 08) which states that the Final WSI will be “in accordance with” (see para 1.1.1).</p> <p>Historic England considers that the documents (dDCO and Outline CEMP) should be consistent on this point and therefore reflect the position which we had understood to be agreed after Deadline 4 (see REP4 – 075 dDCO version with correct wording of 9(1)) – that of the Final WSI to be “in accordance with”, and for the word “substantially” to be deleted. In our view “in accordance with” should be the wording to ensure that the methodology as set out in the Outline WSI is taken forward into the Final WSI. We consider this is a clearer, more enforceable phrasing to use and recommend that wording of the Outline CEMP and the dDCO should be consistent. It is important that the FWSI is in accordance with the Outline WSI to ensure that all archaeological works are conducted as agreed, particularly in relation to the scheduled monument.</p>	<p>Secretary of State, having been used for this very reason on multiple schemes. It does not allow very much deviation from the submitted draft WSI, and as discussed below, Historic England will be able to contribute to the approval of the final CEMP and WSI.</p> <p>The Applicant discussed with Historic England that this wording ensures that key mitigation requirements outlined in the REAC need to be included in the CEMP but also allows for any necessary revisions to the CEMP and final WSI as the Scheme progresses. This could include, for example, developments at detailed design, changes to legislation or good practice, or changes in technology.</p> <p>The Applicant further explained that a process is in place to evaluate any changes to the Scheme to ensure that effects are not worsened as a result and to ensure that any changes result in a Scheme that is at least as good as the submitted Scheme.</p> <p>In addition to this process, Requirement 4(1) requires that the Secretary of State consult with Historic England prior to approval of the final WSI. This provides a mechanism for Historic England to ensure that the CEMP properly reflects the mitigation requirements set out in the REAC and for any concerns to be raised by Historic England to the Secretary of State.</p> <p>The wording in the Outline CEMP [REP6-08 and 19] submitted at Deadline 6 (19 May 2020) and wording in the draft Development Consent Order (dDCO) submitted at Deadline 6 (19 May 2020) both state ‘substantially in accordance with’.</p> <p>The Outline WSI (Appendix C of the Outline CEMP [REP6-08 and 19]) submitted at Deadline 8 (09 June 2020) now also accords with this wording and the Applicant can confirm that all documents are now consistent.</p>
3. OUTLINE CEMP (REP6 – 19) (tracked)		
3.1	Historic England welcomes the updated Outline CEMP submitted at Deadline 6 (REP6 – 19) which addresses, in part, the issues we raised in REP6 – 18 with regards an update to action point CH9 and a new action point CH10.	Noted
3.2	Historic England welcomes the addition of CH10 to the REAC table. Its inclusion with the addition of Figure 3 to the Outline WSI in Appendix C showing the boundary of the Scheduled Monument provides reassurance that the reinstated access for the PROW and Bridleway back onto the Monument will be carried out accordingly and in consultation with us.	Noted
3.3	However, in relation to the “Achievement criteria and reporting requirements” in both CH9 and CH10 we request that some words are added to ensure the protection of the Scheduled Monument insofar as it falls within our remit. Specifically, we suggest that the wording for both CH9 and CH10 are amended to include consultation with Historic England	[CH9] in Table 3-1: Record of Environmental Actions and Commitments (REAC) of the Outline CEMP [REP6-08 and 19] submitted at Deadline 8 (09 June 2020) has been amended to include: ‘The detailed design of the drainage associated with the wall will be produced and in consultation with Historic England to ensure that the design is

Ref:	Comment:	Applicant's Response:
	<p>in relation to the design of the drainage and the reinstated accesses, as well as the method statements, due to the impact that these proposed works would have on the Scheduled Monument. The potential for the impacts on the scheduled monument to be mitigated through design and our consultation and engagement in the proposed design will assist in informing this outcome.</p>	<p>sympathetic to the historic nature and significance of the asset.' The 'achievement criteria and reporting requirements' for [CH9] has also been amended to include 'Evidence of consultation with Historic England on the detailed design of the drainage associated with the wall.'</p> <p>[CH10] in Table 3-1: Record of Environmental Actions and Commitments (REAC) of the Outline CEMP has been amended to include: 'Should intrusive works be required within the boundary of the SM, the detailed design of any such works will be produced in consultation with Historic England.' The 'achievement criteria and reporting requirements' for [CH10] has also been amended to include 'Evidence of consultation with Historic England on the detailed design of the access track (should intrusive works be required to the SM).'</p>
3.4	<p>Discussions are on-going with the Applicant's Agents, but we believe the inclusion of the words "design of" as well as consulting with us about the Method Statements at the beginning of the achievement criteria may resolve the issue.</p>	<p>[CH9] and [CH10] in Table 3-1: REAC of the Outline CEMP [REP6-08 and 19] have been updated to include reference to the design of each action.</p>

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Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ
Highways England Company Limited registered in England and Wales number 09346363