

**From:** [McFarlane, Lee](#)  
**To:** [A1 Birtley to Coal House](#)  
**Cc:** [Parrish, Aisling](#); [Harries, Beth](#)  
**Subject:** Historic England Submission for DEADLINE 9: A1 Birtley to Coalhouse Scheme TR010031  
**Date:** 08 July 2020 20:48:27  
**Attachments:** [Historic England Comments on Matters for Deadline 9 8th July 2020 TR010031 A1 Birtley to Coal House scheme.pdf](#)

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Dear Sir/ Madam,

Application by Highways England for an Order Granting Development Consent for the A1 Birtley to Coal House Scheme

**References: TR010031**  
**Deadline 9 Submission**

Please find attached the following submissions on behalf of Historic England (HBMCE) in relation to the above application:

- Historic England's Comments on Matters for Deadline 9 TR010031 for 8<sup>th</sup> July 2020

As referred to in our Representations, the Historic Buildings and Monuments Commission for England is generally known as Historic England.

Should you have any queries regarding our submissions, please do not hesitate to contact me. I would appreciate confirmation of receipt of email.

Regards  
Lee

**Lee McFarlane**

Inspector of Ancient Monuments (NE) | Historic England | Newcastle | North East & Yorkshire Region

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<https://historicengland.org.uk/coronavirus/>



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Historic England

**COMMENTS ON MATTERS REQUIRED  
FOR DEADLINE 9  
(8<sup>th</sup> July 2020)**

**ON BEHALF OF THE  
HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR  
ENGLAND  
(HISTORIC ENGLAND)**

**Application by**

**Highways England**

**For an Order granting Development Consent for the**

**A1 Birtley to Coal House Improvement Scheme, Tyne & Wear**

**PINS Reference No: TR010031**

**Historic England Reference No: PL00552195**

**Deadline 9 Submission**

**8th July 2020**

## **1. INTRODUCTION**

- 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.
- 1.2. The following statement has been prepared by Historic England for submission at Deadline 9 (8<sup>th</sup> July 2020) of the Examination of the application by Highways England for the A1 Birtley to Coalhouse Improvement Scheme DCO. The statement is in response to Action Point 16 from “Issue Specific Hearing 5 on the draft DCO” held on 25<sup>th</sup> June 2020 [EV – 022].
- 1.3. In this submission we provide the Examining Authority with our position on Schedule 10 of the dDCO as requested; and are also providing an update on our position in view of the issues that we have raised in relation to the DCO. This takes into account the discussions we have had with Highways England and revisions to various documents during the course of the Examination. The submission is structured to focus on our position and make clear the outstanding matters not yet resolved.
- 1.4. Historic England has made numerous submissions regarding the DCO over the course of the Examination. Throughout this process Historic England’s engagement and advice in relation to this Scheme has focused on ensuring that the historic environment, and in particular the scheduled monument of “The Bowes Railway”, has been taken into account due to the potential for adverse impacts on the significance of the historic environment arising from the detail of the Scheme.

## **2. HISTORIC ENGLAND POSITION**

- 2.1 In our Relevant Representations [RR-006], we highlighted that this DCO proposal would directly impact on the Bowes Railway scheduled monument, and that there were some issues that were not fully addressed within the DCO

documents that had been submitted. We then set out these issues in more detail in our Written Representations [REP1-012]. These issues related to some of the contents of the following documents:

- Draft Development Consent Order
- Outline Construction Environmental Management Plan
- Outline Written Scheme of Investigation

2.2 Following our Written Representations, we have made subsequent submissions, including our responses [REP2 – 068] and [REP4 – 066] to the Examining Authority’s Questions (PD – 008 and PD – 013]. We welcomed the opportunity to engage with Highways England on the issues that we had raised and this has provided scope for clarification and revisions to various documents to address those matters. We therefore set out our current position on these issues below.

### **3. DRAFT DEVELOPMENT CONSENT ORDER**

**3.1 Historic England considers that, other than the issue highlighted below, i.e. with the phrase “substantially in accordance with” in Requirement 9(1), Highways England has broadly addressed the issues we have raised in relation to this document.**

3.2 Throughout the Examination we have engaged positively and proactively with the Applicant regarding the dDCO and raised amendments we considered were necessary. These discussions related to Requirement 9 and Schedule 10 in particular. In response to a question raised by the Examining Authority [see 2.0.13 in PD – 013] we also commented on Requirement 4. We set out in more detail below the issues raised.

#### **Requirement 9 – Archaeological Remains**

3.3 Discussions and negotiations over the wording of this Requirement evolved over the course of the Examination. In our Written Representations [REP1 –

012] we requested changes to this Requirement as we considered it was unclear as to the works affecting the scheduled monument. We proposed new wording and requested Historic England be included in 9(1) as a “consultation body”. In addition, we noted that 9(3) required amendment to ensure that the reporting and analysis referred to in this section were carried out as per a Final WSI (not merely a WSI) and this would be in agreement with the Local Authority **in consultation** with Historic England. Finally, we requested that 9(4) be amended to ensure not only the reporting of new / unexpected remains, but also the provision to stop works, if required, pending any mitigation which might be necessary during the course of the operational works.

- 3.4 Discussions took place and the Applicant made changes to the dDCO (Rev 3a) which was submitted for Deadline 4 [REP4 – 013]. Requirement 9(3) was amended to reflect our request in previous submissions [REP1 – 012] and [REP3 – 007] that Historic England was included as a “consultation body”. In addition, the reporting and analysis referred to in this section was amended to make clear it would be carried out as per the Final WSI.
- 3.5 To provide overall clarity about the wording for Requirement 9, which we understood to be agreed, we appended the text to our Deadline 5 submission [REP5 – 015]. This was reflected in the dDCO (Rev4a) submitted at Deadline 5 [REP5 – 003]. We therefore confirmed in Deadline 6 submission [REP6 – 018] that the wording for Requirement 9 matched the agreed wording and that Historic England were in agreement with Applicant as to the wording of Requirement 9.
- 3.6 However, the Applicant made an unexpected change and revised the dDCO (Rev 5a) at Deadline 6 [REP6 – 003] by inserting “**substantially**” into Requirement 9(1) so that the provision now read: “...*The FWSI shall be **substantially** in accordance with the mitigation measures included in the REAC and the outline written scheme of investigation and shall include a programme of archaeological reporting, post excavation and publication including a timescale for such reporting and publication...*”

3.7 The works which are the subject to the phrase "substantially in accordance" relate to archaeological remains, and more particularly for Historic England, the Bowes Railway Scheduled Monument. As heritage assets are an irreplaceable resource, we consider that all archaeological works should therefore be conducted in an appropriate manner. The Outline Written Scheme of Investigation (WSI) sets out the general overview of the standards and guidance under which the archaeological investigation and mitigation, including post-excavation analysis and publication would be undertaken. The Final Written Scheme of Investigation (FWSI) will follow on from this and can be drafted "in accordance with" these provisions. We consider that the inclusion of the phrase "*substantially* in accordance with" introduces uncertainty and a lack of clarity in expectation of what the FWSI will provide. It is important that the FWSI is in accordance with the Outline WSI to ensure that there is consistency as to how archaeological works are conducted; particularly in relation to the scheduled monument as the dDCO, in lieu of Scheduled Monument Consent, ensures that works to this designated heritage asset will be carried out as agreed.

3.8 Whilst we understand that this phrase has been included in other Highways England DCOs, each case must be considered on its merits. It is also unclear the extent to which there would be any need for change necessitating inclusion of this phrase with regards this particular scheme, in this particular provision relating to archaeological remains. The positive engagement and discussions has led to the Outline WSI being drafted in a way which gives certainty as to the expectations, but is not so rigid as to prevent opportunities to accommodate potential implications of design change should this be appropriate. In our view, there should not therefore be a need for any further flexibility as has been proposed by the Applicant through the introduction of "substantially".

**3.9 Therefore in relation to Requirement 9, other than the change to 9(1) with the insertion of "substantially", we welcome and are content with the other changes that have been made to the wording of Requirement 9.**

**3.10 Whilst we note the Applicant's position, and have exchanged e-mails regarding the point we remain of the view that "substantially" should be**

**deleted from Requirement 9(1). This particular issue is therefore unresolved. We would therefore respectfully recommend its deletion with the Examining Authority taking a view on its inclusion/deletion.**

### **Schedule 10 – Scheduled Monuments**

- 3.11 This Schedule should set out the described works to be undertaken to the Scheduled Monument as per Article 39; however the initial Schedule 10 in the dDCO [APP – 013] did not fully describe all the works which were proposed to impact on the Scheduled Monument. We therefore requested clarity in our Relevant Representation [RR – 006] so that there was no chance of misunderstanding what could and could not be done to the Scheduled Monument.
- 3.12 Our understanding at that time was that there would be demolition of the stone retaining walls and that this should be done in reference to and to reflect the Applicant's own drawing showing the demolition up to a maximum of 17m in length [REP1 – 012]. This was accepted by the Applicant at Deadline 3 [REP3 – 006] in their responses to consultee responses. However, following further discussion/review of Schedule 10, we noted it would need to be further amended to fully reflect the extent of works that were being proposed. Therefore we set out in our Deadline 3 submission [REP3 – 007] at paragraph 6.9 the list of the works as we understood them. These were included in the Applicant's revised dDCO (rev 3a) at Deadline 4 [REP4- 013]. Some further points of clarification were sought and in our Deadline 6 submission [REP6 – 018] we confirmed that in so far as the wording of Schedule 10 as set out in the dDCO [REP5 – 003] was concerned it accurately reflected the works to the scheduled monument. .
- 3.13 We consider that Schedule 10 is now a comprehensive list of works to the Scheduled Monument and are content with the wording which has been carried forward into the dDCO [REP8-003].**

## **Requirement 4 – Construction and handover environmental management plans**

- 3.14 In Examining Authority Written Questions 2 [PD – 13] (ref 2.0.13), the Examining Authority asked about “...*paragraph 1.2.5 of the Outline CEMP [REP2-051] which states that the CEMP will be a living document that will be maintained and updated to take account of several factors... is it also intended that any subsequent changes would also be submitted for approval and what would be the mechanism for including any relevant consultation requirements?*”
- 3.15 In response to this question, we requested in our Deadline 4 submission [REP4 – 066] that consideration be given to Historic England being consulted should changes to the outline CEMP have a bearing on the historic environment, so that we would be consulted on matters that related to our functions. The dDCO submitted at Deadline 5 [REP5 – 003/004] had an amended Requirement 4(1) to include consultation with Historic England in relation to the finalised CEMP and also made an amendment to Requirement 4(3) to include consultation with Historic England where there is a proposed amendment to the CEMP in matters related to our remit.
- 3.16 We welcome these amendments to Requirement 4 that have been made to include consultation with Historic England and are content with the wording which has been carried forward into the dDCO [REP8-003].**

## **4. OUTLINE CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

- 4.1 **Historic England considers that, other than the issue highlighted below, i.e. with REAC table Action Point CH2, Highways England has broadly addressed the issues we have raised in relation to this document.**
- 4.2 Our Relevant Representations [RR – 006] noted that some amendments were required to ensure that Action Points in the REAC table within the Outline Construction Environmental Management Plan (CEMP) reflected the dDCO.
- 4.3 In our Written Representations [REP1 – 012] we noted that some refinement of wording was required in the REAC table for **CH2, CH3, CH5, CH6** and **N8** to



provide clarity, be enforceable, and, provide assurance that works to the Scheduled Monument would have the appropriate oversight of Historic England. As discussions progressed during the Examination it became clear that there was a need for additional Action Points in the REAC Table in relation to the temporary works compound, the installation of drainage from the adjacent field, and re-instatement of access for the PROW and Bridleway onto the monument.

- 4.4 **CH3, CH5, CH6 and N8:** The Applicant accepted our proposed amendments to these Action Point in their Deadline 2 submission [REP2 – 061] (paragraph 27). In our Deadline 3 submission [REP3 – 007] (paragraph 5.2) we noted and accepted that changes made to CH3, CH5, CH6 and N8 within the Outline CEMP [REP2 – 050] which broadly addressed our concerns to safeguard and mitigate impacts to the historic environment. However we also noted that reference to methodology and timing of these works had not been fully incorporated into the Outline WSI. We subsequently understood from the Applicant in their Deadline 4 comments [REP4 – 057] (see paragraph 5.2) that these would be included in the approval of the Final WSI and that the Outline WSI would be amended accordingly.
- 4.5 In our submission [REP5 – 015] we accepted the changes made for **CH6** and **N8** whereby the Outline WSI was updated to reflect the request for the timing and methodologies for works to repair an equal length of monument walling and piling works to be included.
- 4.6 **Historic England confirms that we are now content with the wording of CH3, CH5, CH6 and N8 which was initially set out in the Outline CEMP [REP2 – 050] and has been carried forward into the Outline CEMP [REP8-007].**
- 4.7 Two new Action Points **CH7** and **CH9** were added to the Outline CEMP submitted at Deadline 4 [REP4 – 022/23].
- 4.8 **CH7:** During discussion with the Applicant after Deadline 3 we became aware of a temporary works compound (Compound 4) which would impact on the scheduled monument. We requested the possibility of a new Action Point to be

inserted to ensure Historic England had oversight of its design and construction to ensure no unmitigated harm could occur to the monument. The Applicant agreed and inserted **CH7** into the Outline CEMP submitted at Deadline 4 [REP4 -023]. We noted and accepted this in [REP5 -015].

**4.9 Historic England confirms that we are content with the wording of CH7 which has been carried forward into the most recent Outline CEMP [REP8 – 007]).**

4.10 **CH9:** Action Point CH9 relates to drainage works on the land adjacent to the monument. We had understood that Gateshead Council had raised the issue of drainage and that there might be a need for scour protection for the monument as a consequence of water coming from the field to the North West of it. It was unclear what the potential impact would be to the monument should the drainage be inserted. Therefore we requested clarification in [REP5 – 015] about this and requested any works to achieve CH9 which would impact on the scheduled monument should be agreed in consultation with Historic England.

4.11 An updated Outline CEMP submitted at Deadline 6 [REP6 – 19] provided further revisions to action point CH9 and also included a new point CH10 (see below).

4.12 **CH10** – In discussions with the Applicant about the potential impact that the reinstated PROW and Bridleway access might have on the monument, clarity was requested. The provision of CH10 in the REAC table together with the addition of Figure 3 to the Outline WSI (showing the boundary of the Scheduled Monument) provided clarification that the reinstated access for the PROW and Bridleway back onto the Monument would be carried out in consultation with Historic England.

**Current Position on CH9 and CH10:**

4.13 In our Deadline 7 submissions [REP7 – 005] we stated there was a need for the wording for both CH9 and CH10 to be amended to include consultation with Historic England in relation to the **design of** the drainage and the reinstated accesses, 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 consultation with us will assist in informing this outcome. We requested that this change be made to both Action Points. These actions were amended in the draft Outline CEMP submitted at Deadline 8 [REP8 – 007] to say: “...The **detailed design of** the...drainage associated with the wall/any such works... will be produced in consultation with Historic England...”

**4.14 Further to these revisions, we are now content with the wording of CH9 and CH10 as set out in the most recently submitted Outline CEMP [REP8 – 007].**

4.15 **CH2** – With regards this specific provision, there are two issues that we would raise. The first is that the provisions of **CH7**, **CH9** and **CH10** need to be included within this Action Point to reflect the agreement that has been reached between us and applicant regarding these provisions. Also for the sake of consistency **CH8** should also be included here.

4.16 The second issue is that the Applicant submitted a revised Outline CEMP at Deadline 4 [REP4 – 023] with unexpected amendments to CH2. The Action Point was amended to say that the Final WSI would be produced “**substantially in accordance with**” the Outline WSI.

4.17 This issue relates to our similar concerns with the wording of Requirement 9 (see section 3 above). We consider it is important that the FINAL WSI is “**in accordance with**” the Outline WSI to ensure that there is consistency as to how archaeological works are conducted, particularly in relation to the scheduled monument, as the dDCO, in lieu of scheduled monument consent, ensures that works to this designated heritage asset will be carried out as agreed.

4.18 **Historic England remains of the view that “substantially” in CH2 should be deleted, and this particular issue in relation to CH2 is unresolved. We would therefore respectfully recommend the deletion of the word “substantially” from CH2, with the Examining Authority taking a view on its inclusion/deletion.**

## **5. OUTLINE WRITTEN SCHEME OF INVESTIGATION (Outline WSI)**

- 5.1 Historic England considers that further discussion is required with regards to the need for clarification of some of the details in the Outline WSI. Further discussions are on-going with the Applicant but we hope to be able to update the Examining Authority at the next Deadline.
- 5.2 In our initial Written Representations [REP1 – 012] we advised that the Applicant provided a more detailed Outline WSI in support of the Development Consent Order to ensure clarity about how the archaeological works would be undertaken. We provided an example of the structure of the Outline WSI we expected to see.
- 5.3 The Applicant provided a draft for discussion and pursuant to which an updated Outline WSI was submitted at Deadline 4 [REP4 – 022] which formed the basis for discussions around the relationship with the Outline CEMP, as well as drawings showing the location of the access route from Compound 4 onto the Monument, and a drawing showing the boundary of the Scheduled Monument.
- 5.4 In [REP6 – 018] we confirmed that Figure 1 of the Outline WSI submitted at Deadline 4 [REP4 – 022] showed the location of the access from the site compound down onto the Monument. In addition, we agreed that the method statement for the construction of it would form part of the FINAL WSI. This reference to the method statement forming part of the FINAL WSI has not yet been addressed satisfactorily in the Outline WSI (see below).
- 5.5 We have raised this, together with some further points noted below with the Applicant. We understand that the Applicant will be addressing some of these issues in the next version of the Outline WSI.
- 5.6 Throughout the Outline WSI document superseded versions of documents of the dDCO and the Outline CEMP are referred to (e.g. para 1.1 of the Outline WSI refers to the REP5 version of the dDCO, in addition there are references to the REP4 version of the Outline CEMP). This results in confusion not only when reading the document but if not correct, would give rise to confusion as to the

correct documents to be referred to should the DCO be approved. We suggest for clarity that all references to specific versions of the dDCO and Outline CEMP, and any other documents, should be deleted from the Outline WSI.

- 5.7 The “Relevant Guidance” section on page 6 of the Outline WSI requires updating to include recent updates to the CIFA documents. For example, there is reference to: “*d. Standard and guidance for an archaeological watching brief (CIfA 2014)*”. This standard and guidance was updated in June 2020. It is important that all the document references listed on page 6 (not just the CIFA ones) are accurate and up-to-date. We therefore request that the contents are reviewed and update accordingly.
- 5.8 There is an outstanding issue regarding the provision in the Outline WSI for the Cultural Heritage Action Points **CH3, CH5, CH6 and N8** from the REAC table in the Outline CEMP to ensure that they are then addressed in the FINAL WSI. We had requested at Deadline 3 [REP3 – 007] that “...*Actions CH3, CH5, CH6 and N8 (although not relevant to Historic England, CH4 should also be included) all include the following text: “...The methodology, including the timing and details, will be required as part of the FINAL WSI to be approved under CH2 of the Outline CEMP.”*
- 5.9 In our Deadline 5 submission [REP5 – 015] we noted that we had discussed the updated version of the Outline WSI (appended to the Outline CEMP [REP4 – 022]) with the Applicant’s agents via a teleconference on 28<sup>th</sup> April 2020. During this we raised the issue that the references to methodology and timing of the works as agreed for **CH3, CH5, CH6 and N8** had not been fully incorporated into the Outline WSI. This is required within the Outline WSI as this forms the basis for the production of the FINAL WSI, and it was our understanding from [REP4 – 057] (see paragraph 5.2) that the amendment would be done to the Outline WSI in order to ensure that the methodology and timing would be dealt with within the FINAL WSI.
- 5.10 We note that Section 1.3 of the Outline WSI lists the REAC table Cultural Heritage Action Points which the WSI will cover. However, the methodologies and timings required in these Action Points are not reflected in Section 2.2

*“Contents of The Final WSI”*. The only methodologies listed relate to archaeological recording and finds.

5.11 We consider that for clarity the methodologies to include timings required by the Cultural Heritage Action Points in the REAC tables should be listed specifically in Section 2.2 of the Outline WSI. This would then provide for consistency between the Outline CEMP and the Outline WSI.

5.12 In association with this, we note that on page 10 of the Outline WSI [REP8 – 007] there is a section titled: *“Repair and the Repointing and Conservation Methodology”* (i.e. a general methodology for CH6), but there is no equivalent methodologies for the other Cultural Heritage Action Points. There needs to be consistency for the methodology provisions required in the REAC tables and we are discussing with the Applicant how best this can be achieved.

5.13 Finally, we note in the Applicant’s response to our Deadline 5 submission [REP6 -011] (see paragraph 3.8) the Applicant referred to “awaiting a response” from Historic England regarding monitoring requirements in the Outline WSI for the reinstatement of access to the monument. As noted above, provisions for re-instatement of access to the monument have been dealt with in CH7. Section 2.2 of the Outline WSI does include *“p. monitoring”* and further discussion with the Applicant is required as to whether this is “oversight” monitoring by ourselves and the Local Authority Curator, or “archaeological” monitoring. For clarity, it might be helpful to list types of archaeological works (including archaeological monitoring amongst others) in the list of items to be included in the FINAL WSI – e.g. in point *“g. Archaeological recording methodologies”*.

**5.14 Further discussions between the Applicant and Historic England are required with regards to the Outline WSI document and are on-going. We hope to update the Examining Authority at the next Deadline regarding these.**

## **6. CONCLUSION**

- 6.1 As can be seen from the submissions that we have made during the course of this examination, there were a number of issues raised in relation to the historic environment. We have welcomed the opportunity to raise these matters and have been able to engage positively with Highways England. As a consequence, the revisions to the various documents have reflected and broadly addressed those issues; although issues remain unresolved regarding the Outline WSI, and the inclusion of “substantially” in requirement 9(1) of the dDCO and CH2 of the Outline CEMP.
- 6.2 We will continue in discussions with the Applicant and hope to provide a further update on the outcome of those discussions on the Outline WSI in due course.