



Historic England

**WRITTEN REPRESENTATIONS**

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

**Application by**

**National Highways for an Order granting Development Consent for the  
A66 Northern Trans Pennine Project**

**PINS Reference No: TR010062**

**Historic England References: PL00586663 / PL00756505**

**PINS Unique References: A66D-EIA007 & A66D-0004**

**Deadline 1 Submission**

**18 December 2022**

## CONTENTS

1. Introduction .....	1
2. Role of the Historic Buildings and Monuments Commission for England.....	1
3. Scope of Written Representations.....	2
4. Environmental Statement (ES): Chapter 8 Cultural Heritage [APP-051].....	3
5. A Summary of the Proposals and Historic England's Involvement with The Project Prior To Submission .....	6
6. Overview of Designated Heritage Assets Affected by Each Scheme and Our Assessment of The Impact of The Scheme .....	7
7. Development Consent Order (DCO) .....	19
8. Environmental Management Plan (EMP).....	20
9. Project Design Principles (PDP) [APP-302] .....	29
10. Statement of Common Ground .....	31
11. Conclusions.....	31
12. Appendices.....	33

## **1. Introduction**

- 1.1. The Historic Buildings and Monuments Commission for England (Historic England) has prepared the following statement for the Examination of National Highways' application for a Development Consent Order (DCO) for the nationally significant infrastructure project to construct the A66 Northern Trans Pennine Project (the 'Project').
- 1.2. Historic England has been involved through early engagement with National Highways ('the Applicant') in the development of the Project since c.2017.
- 1.3. In accordance with the National Policy Statement for National Networks (NPSNN) 2014 which is relevant in the determination of this development, the Project should avoid or minimise the conflict between the conservation of any heritage assets affected and any aspect of the proposal. Historic England's engagement and advice in relation to this Project has focused on ensuring that the historic environment, in particular scheduled monuments, has been considered due to the potential for adverse impacts on the significance of the historic environment arising from the detail of the Project.
- 1.4. Discussions with the Applicant in relation to the content of a Statement of Common Ground (SoCG) are on-going.
- 1.5. This Written Representation sets out Historic England's position in relation to the significance of the designated heritage assets affected by the Project and the impact of the Project on the significance of those assets, including any contribution made by their settings to their significance.

## **2. Role of the Historic Buildings and Monuments Commission for England**

- 2.1 The Historic Buildings and Monuments Commission for England, is better known as "Historic England" (HE) and is the Government's adviser on all aspects of the historic environment in England - including historic buildings and areas, archaeology, and historic landscape. We have a duty to promote conservation, public understanding and enjoyment of the historic environment.

HE is an executive non-Departmental public body established by S32 National Heritage Act 1983. We answer to Parliament through the Secretary of State for Digital, Culture, Media and Sport.

- 2.2 Our primary remit in relation to this application is to advise on the impact of the Project on grade I and II\* listed structures, registered parks and gardens, and on scheduled monuments.
- 2.3 We would not wish to comment on grade II listed buildings (unless their demolition is proposed) or individual undesignated heritage assets as these are outside the remit of Historic England.
- 2.4 We are content to defer to the Local Planning Authorities and their archaeological advisors on matters of local and regional heritage assets, including any Gr. II structures, and we refer the Examining Authority to their submissions as relevant

### **3. Scope of Written Representations**

- 3.1 In this section we set out the scope of these Written Representations and address in further detail the matters raised in our Section 56 Relevant Representations [RR-171]. These two documents should be read together.
- 3.2 As stated in our Section 56 Relevant Representations [RR-171] HE's interest in the Project is focused upon ensuring that the historic environment generally, especially highly designated heritage assets, are fully considered in the decision-making process and that the Examining Authority (ExA) have the necessary information to inform its decision in determining this application.
- 3.3 The scope of HE's written representation will include:
  - comments on the Environmental Statement: Chapter 8 Cultural Heritage
  - a summary of the proposals and Historic England's involvement with the Project prior to submission;
  - a brief description of the designated heritage assets affected by scheme and our assessment of the impact of the scheme;
  - HE's comments and observations on the draft DCO;

- HE's comments and observations on the draft EMP;
- an update on the current production of the SoCG; and
- Appendices.

#### **4. Environmental Statement (ES): Chapter 8 Cultural Heritage [APP-051]**

4.1 We note that the Applicant has provided a full ES which includes a chapter on the historic environment (Chapter 8). We have reviewed this, together with other key heritage documents provided:

- Archaeological & Historical background (DBA) [APP -178]
- Historic Landscape Character [APP-179]
- LiDAR & AP Interpretation report [APP-181]
- Geo-archaeological report [APP-180]
- Geo-physical survey report [APP-182]
- Evaluation trenching reports [APP-183]
- Geo-chemical survey report [APP-184]
- Appendix 8.9: Research Framework [APP-186]
- Detailed Heritage Mitigation Strategy [APP-023]
- Appendix 8.10 Impact Assessment Table [APP-187]
- Historic Environment Mitigation locations (map) [APP-095]

4.2 The ES chapter has been updated and informed by the various surveys carried out as listed above. We have provided comments in relation to the archaeological reports at Appendix 1. We also note that there were areas in several schemes where evaluation surveys could not be carried out and that assessment of impacts had to rely on professional judgement. Consequently, there could be a risk of delays in the delivery schedule and potential increased costs from unevaluated areas where the heritage resource could be more significant than anticipated.

4.3 We note that these areas are assessed as a "medium" risk by the Applicant. We note that this risk exists and, although not ideal, we believe that there is

sufficient information for the ExA. to come to a view that this is a reasonable estimate of the level of risk to inform the decision-making process.

### **The Lake District World Heritage Site**

- 4.4 The World Heritage Site (WHS) of the Lake District has not been included in the assessment tables – neither showing it scoped in, nor out.
- 4.5 We note that the Lake District National Park Authority raised an issue in their relevant representations [APP-055] regarding the need for a heritage impact assessment (HIA) in line with ICOMOS guidance to understand any impact to the Lake District WHS.
- 4.6 If a WHS site has been screened out of a detailed EIA under an Environmental Statement, there would need to be clear and convincing justification, with appropriate evidence, to demonstrate the lack of impact that has been assessed. At present, the ES doesn't make this clear, and this should be addressed.
- 4.7 In principle, if there is potential for a proposed development subject to Environmental Impact Assessment (EIA) to impact the outstanding universal value (OUV) of a WHS then it would need to be assessed under the EIA process. In terms of the methodology for this assessment we would advise that this is conducted in line with UNESCO's newly published Toolkit (produced by UNESCO jointly with ICOMOS, IUCN and ICCROM) as well as our own relevant guidance

### **Appendix 8.9: Research Framework [APP-186]**

- 4.8 We sought early on to engage with the Applicant to ensure that the development had an overarching cultural heritage research framework. The purpose of this framework is to maximise the heritage benefits of the Project, especially where avoidance of impact is not possible
- 4.9 The framework has been used to direct the mitigation strategy. Doing so will ensure that the knowledge gained, due to the impacts the Project may have on the historic environment, will advance understanding of our past before it is lost

(wholly or in part). This is in line with paragraph 5.140 of the *National Policy Statement for National Networks* (NPSNN 2014).

- 4.10 The framework should also help to inform and prioritise public engagement across the Project.
- 4.11 We note that the submitted Community Engagement Plan [APP-031] currently makes no specific mention nor reference to the Historic Environment Research Framework. We believe this to be a missed opportunity to engage with the wider public about the heritage and significance of the A66.
- 4.12 We would like to see links made between the Historic Environment Research Framework [APP-186] and the Community Engagement Plan [APP-031]. We would be happy to discuss and work with the Applicant to ensure that the public benefits this could bring are fully realised.
- 4.13 We also note that “Annexe B3: Detailed Heritage Mitigation Strategy” [APP-023] requires the archaeological contractors to carry out public engagement (B3.3.83 -B3.3.86). Unfortunately, it too doesn’t cross reference back to the Community Engagement Plan [APP-031] nor to the research framework. We suggest that this should be rectified so that harms caused to the historic environment can be best mitigated by ensuring a joined-up approach to public engagement beyond basic activities such as press releases.
- 4.14 For example, the A63 National Highways Road Scheme (see <https://nationalhighways.co.uk/our-roads/a63-castle-street-archaeology/>) has a very successful engagement strategy which we understand the Applicant wishes to make as a role model for all road schemes nationally. It was successful as it was well considered, planned in advance, and had commitment from all parties. It was delivered through imaginative, inclusive and wide-ranging work, particularly:
- schools work;
  - podcasts;
  - a dedicated National Highways website with engaging 'find of the week' and interviews with project people on site

- opportunities for the public to be involved talking about their own research; and,
- continuing engagement into the post excavation phases.

4.15 We would welcome continued engagement with the Applicant to put an innovative Historic Environment engagement strategy in place, built on examples such as the A63, for the wider public benefits it can provide.

## **5. A Summary of the Proposals and Historic England's Involvement with The Project Prior To Submission**

5.1 The Project proposes to dual the remaining portions of single carriageway of the central part of the A66 between Scotch Corner (A1M) and Penrith (M6) along a 49-mile corridor. It aims to support economic growth, re-connect disconnected communities, reduce congestion and improve safety.

5.2 There are 8 widening schemes within the DCO application including re-configurations of the junctions with the M6 and A1(M) and are referred throughout the Project documentation as:

- Scheme 0102 M6 Junction 40 to Kemplay Bank
- Scheme 03 Penrith to Temple Sowerby
- Scheme 0405 Temple Sowerby to Appleby
- Scheme 06 Appleby to Brough
- Scheme 07 Bowes Bypass
- Scheme 08 Cross Lanes to Rokeby
- Scheme 09 Stephen Bank to Carkin Moor
- Scheme 11 A1(M) J53 Scotch Corner

5.3 The route of the A66 runs past, and through, a variety of designated and non-designated heritage assets. Along this key route across the North Pennines the designated assets along it relate primarily to Roman and Medieval activity. However, there are also non-designated assets present of these periods, as well as those of Prehistoric and Post-Medieval date. These, together with the



historic landscape character and the longevity of the use of this route, make it special in terms of its relationship with the historic environment.

### **Historic England Consultation and Advice prior to submission**

- 5.4 HE has provided extensive pre-application advice and feedback to the Applicant prior to the DCO application being submitted. HE was initially approached by the Applicant in June 2018 with initial options assessment proposals.
- 5.5 Prior to this in c. 2017 we, along with other stakeholders, had some higher-level engagement with the Applicant during the process to consider which of the A66 or A69 would be taken forward for upgrading to improve east-west road connectivity in northern England.
- 5.6 Detailed discussion with the applicant commenced in late 2020 and has continued up to DCO submission. We envisage continuing to engage in discussions with the applicant throughout the examination process to address areas of concern and matters of detail. A record of engagement is set out in Section 2 of the draft SOCG [APP-279] submitted by the Applicant.

## **6. Overview of Designated Heritage Assets Affected by Each Scheme and Our Assessment of The Impact of The Scheme**

- 6.1 In these Written Representations HE will be focusing on the highly designated heritage assets affected which fall within the order limits and will be directly impacted by the Project, i.e. the scheduled monuments, Gr I and II\* structures, and Registered Parks and Gardens. When discussing assets we will refer to the Project's unique identifier for that site, e.g. Gr.II\* Carleton Hall (02-0010).
- 6.2 Overall, some 1,301 designated and non-designated heritage assets were identified within the Project's study area as detailed in the Impact Assessment Tables in Appendix 8.8 of the Environmental Statement (ES) [APP-185]. 868 are ruled out as not being impacted by the proposal. Historic England accepts that the ES has identified all designated assets within the study area and has ruled out those assets which it is appropriate to rule out.

6.3 Across the Project there are some 545 designated assets identified within the study area:

- 47 Scheduled Monuments (SM)
- 18 Gr. I listed buildings
- 46 Gr. II\* listed buildings
- 420 Gr. II listed buildings
- 2 Gr. II\* Registered Parks and Gardens, and
- 12 Conservation areas

6.4 Through close engagement with ourselves and the Local Planning Authority heritage advisors, the Applicant has sought to avoid impact to heritage assets where possible, especially to the designated ones. In doing so, the designs seek to minimise the number which will be impacted.

6.5 Historic England accepts that the ES has correctly identified those designated heritage assets which will be directly affected by the Project. The ES broadly categorises the effects which will be experienced by heritage assets as 'significant' and 'non-significant'. The Applicant identifies that of the highly designated assets within the Order Limits only 10 will receive a significant effect from the proposals:

- 7 scheduled monuments
- 1 Gr I listed building
- 2 Gr. II\* listed building

In reaching our conclusions we have formed our own view on the level of harm that is caused to the highly designated heritage assets in each scheme, and this is set out in detail below.

6.6 Across the Project there are ten heritage assets common to multiple schemes. These primarily relate to the routes of the Roman Road 'The Street' and the early 19<sup>th</sup> century mapped Turnpike Road. Both are recorded and known to survive in places beneath the current A66. Also included in these common assets are historic landscape character areas.

- 6.7 There will be varying levels of impacts to scheduled monuments across the route. These impacts do not involve the large-scale removal of any of the monuments; nor similar impacts of a scale which would represent ‘substantial’ harm in NPSNN terms.
- 6.8 Reduction and minimising of impact to the historic environment has primarily been through design, and by avoidance. Where either is not possible, then an agreed programme of archaeological fieldwork as set out in the Outline Heritage Mitigation Strategy [APP-023] will be required to mitigate impact.
- 6.9 We consider that it would be appropriate for the local authorities through whose areas the project runs to lead on discussions regarding impacts to Conservation Areas, Gr. II listed buildings, and any non-designated heritage assets of historic and/or archaeological interest.

#### **Historic England’s overall position**

- 5.7 We have sought, throughout our engagement with the Applicant, to provide advice on relative and absolute heritage impacts of the proposed development.
- 5.8 We have set out the harm to the historic environment and it is now for the ExA to balance this harm against the public benefits in coming to its decision.
- 5.9 The proposed mitigation works discussed are those supported by us provided that the ExA concludes that the benefits of the scheme outweigh the harms, and that the Project is justified according to the policies of the NPSNN (2014).

#### **Impacts to Route Wide Heritage Assets and Milestones**

- 6.10 The Impact Assessment Tables [APP-187] identify the heritage assets within the study area and ZVI which could be impacted during construction and operation of the road.
- 6.11 None of the route-wide heritage resources located within the study area and ZVI would receive temporary construction impacts. Only one route-wide heritage resource, namely the Roman road known as ‘The Street’ which underlies many parts of the existing A66, would receive a permanent

construction effect, which is identified as not significant. We are content with the assessment of harm as the interventions are limited in scale and do not affect all the asset.

6.12 Appropriate archaeological fieldwork can sufficiently mitigate the impact where necessary as set out in the outline Heritage Mitigation Statement [APP-023].

6.13 Technically removal of Gr. II listed milestones counts as 'demolition' and falls within HE's remit. However, we note that impacts to milestones are largely temporary as they will be recorded in situ, removed and stored safely during construction. They will then be replaced in as close to their original location as possible. We are content that with the process as set out in the Heritage Mitigation Strategy [APP-023] is appropriate

#### **Scheme 0102 M6 Junction 40 to Kemplay Bank**

6.14 There are two highly designated assets in this scheme identified as receiving either a temporary, permanent or operational effect in the impact assessment: Gr.II\* Carleton Hall (02-0010) and Brougham Roman Fort and Civil Settlement and Brougham Castle (02-0002).

6.15 NB: we believe that Brougham Fort (02-0002) more rightly belongs in Scheme 03 and we discuss it in that section below.

#### **Historic England's Assessment of Impact on the assets**

6.16 Historic England consider that that the level of harm to the highly designated assets from this scheme is low.

6.17 HE is satisfied that the impacts of the proposed scheme are temporary and will not cause lasting harm to the Gr.II\* Carleton Hall. Impacts to the setting of the asset will be intrusive for the duration of the construction programme, especially in views south from the hall across the park, but short-term (moving plant, lighting and noise). Once the route is constructed then the impacts will be removed, and the parkland should be restored back to its original parkland character.

6.18 We cannot find any commitments in the Environmental Management Plan's Register of Environmental Actions and Commitments (REAC) table [APP-019] nor in the relevant section (4.1) of the Project Design Principles document [APP-302] regarding the restoration of the Parkland. We suggest that there should be a commitment to restore the Parkland in the DCO documents.

### **Scheme 03 Penrith to Temple Sowerby**

6.19 There are four highly designated assets which will be impacted within this scheme:

- the Countess Pillar (03- 0006)
- the Alms Table (03- 0007) directly associated with the Pillar
- the Settlement 1/3 mile (540m) ENE of Brougham Castle OR Brougham Vicus, Brougham (03-0004) and
- the Brougham Roman fort (Brocaum) and civil settlement and Brougham Castle" (02-0002) (NB - in our view the impact assessment tables place Brougham Fort erroneously in scheme 0102).

### **Historic England's Assessment of Impact on the assets**

6.20 Historic England consider that that the level of harm to the highly designated assets from this scheme is moderate.

6.21 Pre-application discussions took place with the Applicant regarding how to provide an accommodation access here across the A66 for farm traffic. It was agreed that an overbridge, as compared to an underpass, would minimise harm by reducing the physical impact to the two scheduled onuments either side of the A66.

6.22 The limited impacts to the scheduled monuments (02-0002) and (03-0004) by this scheme are secured through Principle 03.08 in Section 4.2 of the Project Design Principles [APP-302]. This specifies design principles which must be applied to the final bridge in order to reduce construction impact to the monument.

- 6.23 In addition, REAC commitment MW-CH-03 requires scheduled monuments to be protected in accordance with Annexe C3: Scheduled Monument Method Statement [APP-038].
- 6.24 The redline boundary of the Order Limit is constrained to the minimum necessary required for the access bridge and road on the north side of the existing carriageway. This will limit the impact of the final design on the monument (03-0004). In addition, we are pleased to note that Article 7(5a) of the Draft DCO limits the vertical deviation to 1m.
- 6.25 We acknowledge that the construction of the overbridge will lead to permanent impact to the scheduled monument and potentially to undesignated but related archaeological resources. However, this is limited as noted above. The impacts will be mitigated through an appropriate scheme of archaeological recording.
- 6.26 Control over impacts to monument 02-0002 in the area east of the B6262 has been secured through avoidance by design using embankments to the south of the existing A66. Any impacts here will be mitigated through minimal excavation during construction of the embankments.
- 6.27 Both the scheduled Countess Pillar (03-0006) and the associated Gr. II\* Alms Table (03-0007) will not be harmed during construction – indeed they will be suitably protected by fencing as secured by Annexe C3: Scheduled Monuments Method Statement [APP-038]. Moreover, we are pleased to see that public access direct from the A66 will be provided by means of a car park and new access path to the east of the site.
- 6.28 At Issue Specific Hearing 1 (ISH1) we noted the ExA question regarding the lack of pedestrian / cycle access from Brougham. We support re-instatement of a walking and cycling route from Brougham to enable easy visitor access from Brougham Fort. Indeed, doing so would then ensure that the design would be in accordance with Principle 03.07 in section 4.2 of Project Design Principles [APP-302].
- 6.29 Finally, we note that sheet 1 of the environmental mitigation maps [APP-041] indicates that it is proposed to carry out “*Strategic vegetation clearance at the*

*Countess Pillar to enhance and open up views of this historic landmark from the road*". We fully support this enhancement to make the monument more visible. This will be secured through Principle 03.02 in section 4.2 of the Project Design Principles [APP-302] and commitment D-LV-02 in the REAC table of the EMP [APP-019].

6.30 The impact of the accommodation bridge near the eastern end of Scheme 03 will have a low level of harm to views of the monument known as "St Ninian's preconquest monastic site, site of nucleated medieval settlement, St Ninian's Church and churchyard" (03-0005). The car park used to access the monument will be enhanced as part of the work on this scheme allowing safer access from the A66 for visitors. In addition, a cycle route from Brougham along the north side of the A66 will connect through to the car park. Both of these features will be beneficial in improving public accessibility the site for the wider public.

6.31 We are content that mitigation of impacts to the historic environment in this scheme will be secured through Annexe C3: Scheduled Monuments Method Statement [APP-038] and the Heritage Mitigation Strategy [APP-023] as well as commitment MW-CH-03 in the REAC table.

### **Scheme 0405 Temple Sowerby to Appleby**

6.32 The proposal for this scheme has been developed to avoid harm to highly designated assets. Only one scheduled monument – Kirkby Thore Roman Fort and Vicus (0405-0003) – will receive a significant impact from this scheme

### **Historic England's Assessment of Impact on the assets**

6.33 Historic England consider that that the level of harm to the highly designated assets from this scheme is moderate.

6.34 The chosen by-pass route takes the road off the Roman road alignment at Kirkby Thore and instead by-passes around the village to the north. In doing so it avoids significant harm to two scheduled monuments in this scheme:

- Roman Camp, 350m east of Redlands Bank (0405-0004)

- Roman Fortlet 200m SSE of Castrigg (0405-0005)

6.35 East of Kirkby Thore the route then comes back onto the Roman route west of Crackenthorpe enabling a continuity of use of the historic route in this area.

6.36 There will be limited temporary and permanent impact to the setting of Kirkby Thore Roman Fort during construction of the new off-line route from noise, light and construction activity. However, the distance between the monument and the new road is such that we are content that there is no significant harm to its setting. Once the temporary nature of the noise, light and construction activity ends there will be no lasting impacts.

6.37 The development of the WCHR path along the north side of the de-trunked A66 on the western approach into the village has potential to cause some harm to remains of the fort and vicus which may survive beneath the existing road. This is a limited impact and can be acceptably mitigated through preservation by record.

6.38 Impact to Redlands Bank Camp (0405-0004) has been largely avoided as the route was moved slightly further north, away from the edge of the monument. In doing so, this will protect features recorded during the pre-determination surveys outside the scheduling but associated with it. In addition, the Order Limit is drawn tightly here and the limit of deviation on the south side of the road is restricted at this point so works cannot extend into the monument area. This is secured via Article 7(3) of the Draft DCO [APP-285] and shown on Sheet 2 of Works Plan [APP-320]).

6.39 We are content that mitigation of impacts to the historic environment in this scheme will be secured through Annexe C3: Scheduled Monuments Method Statement [APP-038], the Heritage Mitigation Strategy [APP-023], Article 7 of the Draft DCO, as well as commitment MW-CH-03 in the REAC table.



## **Scheme 06 Appleby to Brough**

6.40 This scheme is assessed to cause significant impact to one scheduled monument known as “Warcop Roman Camp and Length Of Roman Road, 285m South West Of Moor House” (06-0003).

### **Historic England’s Assessment of Impact on the assets**

6.41 Historic England consider that that the level of harm to the highly designated assets from this scheme is low.

6.42 The Order Limit on the north side of the route traverses the SW corner of Warcop Roman camp and part of the associated road. Whilst the road is proposed to be on an embankment (see Works Plans Scheme 06 Appleby to Brough Sheet 3 [APP-321]) a ditch and a cycle way are proposed alongside the route which will have an impact on the scheduled monument.

6.43 Again, as elsewhere when near to scheduled monuments, the Order limits are drawn very tightly on the north side to limit any potential expansion of the final design northwards (see Sheet 2 General Arrangements Plan [APP-014]).

6.44 We are content that mitigation of impacts to the historic environment in this scheme will be secured through Annexe C3: Scheduled Monuments Method Statement [APP-038]; principle Ref 06.12 of section 4.4 in the Project Design Principles [APP-302]; the Heritage Mitigation Strategy [APP-023], as well as commitment MW-CH-03 in the REAC table.

## **Scheme 07 Bowes Bypass**

6.45 We agree with the results of the submitted impact assessment which indicates that there are no highly designated heritage assets which will receive a significant effect.

## **Scheme 08 Cross Lanes to Rokeby**

6.46 Historic England consider that that the level of harm to the highly designated assets in the submitted (black) route proposal will have a moderate impact on

the significance of the highly designated assets of the Gr. II\* Registered Park and Garden (RPG) and Gr. II\* Church of St Mary's.

6.47 We consider that the discounted Blue option has a moderate impact on the RPG, but a greater harm than the impact of the submitted scheme, through the severing of Church Plantation.

### **Historic England's Position on Blue and Black Route Options**

6.48 For the ExA's clarity the following confirms our position with regards to the discounted Blue and the submitted Black routes.

6.49 Prior to submission, the Applicant looked at several options for the route for this scheme and we provided advice on the impact of these routes to the historic environment. We advised that the submitted (Black) route was the one which caused the least amount of harm to the highly designated assets in this area.

6.50 On the other hand, the Blue option proposed would cause permanent harm to the Gr. II\* Registered Park and Garden (RPG) at Rokeby because it severs the designed link through Church Plantation from the house and main park to the Church.

6.51 We therefore gave advice on the relative levels of harm of the options, but consider that it is for the Applicant to decide which option should be taken forward, taking this, and all other relevant factors, into account. This is in line with the National Policy Statement on National Networks (2014).

6.52 Moving the road off-line south of the church and creating a new access junction for HGV and local traffic to Barnard Castle as an underpass west of Gr.II\* St Mary's Church (08-0012) ensures that the visual impact on the setting of the church is limited. It also maintains views from the Church down the purposely designed finger of woodland of the Rokeby Gr. II\* Registered Park and Garden (RPG) (08-0011) is maintained (see Sheet 3 Works Plans Scheme 08 Cross Lanes to Rokeby Sheet 3 [APP-323]. Placing the proposed junction west of St Mary's avoids severing Church Plantation.

- 6.53 A new roundabout is proposed where the de-trunked A66 will meet the C-road to Barnard Castle (see Sheet 3 Works Plans Scheme 08 Cross Lanes to Rokeby Sheet 3 [APP-323] [APP-016]). We will continue to engage with the Applicant on the design of this roundabout, but the inclusion of this element does not change our advice in relation to the relative levels of harm the route options have.
- 6.54 These discussions include requesting that section 4.6 of the Project Design Principles document [APP-302] is updated to include additional principles regarding the need to reduce the impact of any signage and lighting required at the roundabout by installing the minimum required to meet safety standards
- 6.55 The Order Limits at Rokeby are drawn tightly on the north side of the de-trunked A66 to ensure that detailed designs respect and limit impacts on the Registered Park and Garden.
- 6.56 Proposed ecological mitigation to the landscape around the RPG in this area will benefit the setting of the highly designated heritage assets in this area. This will be secured via Principles: 08.06; 08.08; 08.09; 08.11; 08.13; and 08.14 in section 4.6 of the Project Design Principles [APP-302] as well as by the following commitments of the REAC table: D-LV-01; D-LV-02 and D-LV-04.

### **Scheme 09 Stephen Bank to Carkin Moor**

- 6.57 There will be one permanent significant effect to the scheduled monument known as “Roman Fort and Prehistoric Enclosed Settlement 400m west of Carkin Moor” (09-0001) in this scheme.

### **Historic England’s Assessment of Impact on the assets**

- 6.58 Historic England consider that that the level of harm to the highly designated assets in this scheme to be moderate.
- 6.59 This scheme stays on-line at its eastern end meaning that it passes through the centre of the scheduled fort and settlement at Carkin Moor (09-0001). HE support this alignment as it enables continuity of use of the historic Roman route. We have worked with the Applicant’s designers from the very beginning

to seek engineered solutions to reduce land take and therefore impact on the monument to the minimum necessary.

- 6.60 It is proposed to raise the level of the road in order to take advantage of the wider cutting at height rather than the narrower width at current road levels which would require a greater expansion of the width of the cutting.
- 6.61 The retaining wall on the south side of the route will necessitate the loss of a small portion of the scheduled monument. However, most works will be within ground of the existing cutting which has been previously disturbed and / or removed by the current road or lies below the level at which archaeological remains will be located.
- 6.62 On the north side of the route, the scheduled area will be clipped at both the SW and SE corners by the construction of an embankment. The design of the road here will largely enable preservation in situ under the embankment.
- 6.63 The construction of the new alignment of Warrener's Lane and the multiple ponds to the south and south-east of the fort will change its setting. However, through early discussions we have been able to reduce or re-site some of the ponds on this side to the benefit of the historic environment. The cutting for Warrener's Lane has also been partially reduced to limit impact on potential archaeological remains on the south side of the fort.
- 6.64 As with other scheduled sites the Order Limit has been drawn very tightly to the north side of the road as it passes through the monument (see Works Plan Scheme 09 (Sheet 4) [APP-324]). In addition, principles 09.03 – 05 in section 4.7 of the Project Design Principles document [APP-038] sets out the parameters under which the road should be designed where it passes through the monument to limit impacts on the scheduled monument during final design post-consent.
- 6.65 However, we do suggest that a new principle is added to section 4.7 of the PDP to require that the design of the cutting for Warrener's Lane south of the monument is limited to reduce impact on the setting of the monument.

6.66 We are content that mitigation of impacts to the historic environment in this scheme will be secured through Annexe C3: Scheduled Monuments Method Statement [APP-038]; section 4.7 in the Project Design Principles [APP-302]; the Heritage Mitigation Strategy [APP-023], as well as commitment MW-CH-03 in the REAC table.

### **Scheme 11 A1(M) J53 Scotch Corner**

6.67 We agree with the results of the submitted impact assessment which indicates that there are no highly designated heritage assets which will receive a significant effect.

## **7. Development Consent Order (DCO)**

7.1 The purpose of HE's comments on the DCO is to ensure that where appropriate protection and mitigation measures are required to address any issues, that these are set out clearly in the DCO. This will ensure that these are undertaken and maintained appropriately, to ensure that the protection and conservation of the historic environment agreed, and mitigation where impacts cannot be avoided, are delivered. The points raised below are issues that we consider need to be dealt with to ensure that the significance of designated heritage assets is addressed.

### *Article 7 – Limits of deviation*

7.2 This article permits the undertaker to construct the authorised development within the order limits subject to certain lateral or vertical deviations.

7.3 We suggest that works plan no. 09-1E should be included in the table associated with Article 7(3) to restrict the line of deviation for the construction of the cutting and associated ditch on the north side of Warrener's Lane. This is to ensure that the cutting required is the minimum necessary in order to minimise impacts on the scheduled monument at Carkin Moor (09-0001). We are happy to discuss this further with the Applicant.

### *Article 53 – Environmental Management Plans*

- 7.4 Our comments in relation to Article 53 are included in the section below which addresses the Environmental Management Plan.

*Article 54 – Detailed Design*

- 7.5 Article 53(1) lists the documents against which the development must be designed and be compatible with. We suggest that Annexe C3: Scheduled Monuments Method Statement [APP-038] should also be included here as it sets out design requirements adjacent to scheduled monuments.
- 7.6 We also note that should the Secretary of State wish to approve a detailed design which departs from the Project Design Principles, consultation must be undertaken with the relevant planning authority (Article 54(2)), however, as the Project Design Principles contain details of how the final design should be developed to reduce harm to heritage assets, Historic England would also wish to be consulted should any departure from the principles affecting designated heritage assets be proposed.

## **8. Environmental Management Plan (EMP)**

- 8.1 This section addresses the draft EMP [APP-019] and the associated provisions in the draft DCO [APP-285].
- 8.2 Historic England took part in discussions with the Applicant in relation to its proposals for the EMP before the application was submitted, particularly on post-consent determinations. We were pleased to see that the documents submitted as part of the application included greater external oversight of the production and operation of the EMP. Nevertheless, we retain a number of concerns with the proposals as drafted. We also understand that the Environment Agency and Natural England have general concerns in relation to the EMP, and they will be setting these out in their own written representations.
- 8.3 The arrangements proposed by the Applicant to locate all environmental mitigation in the EMP and its supporting documents, thereby removing all requirements from the DCO, and to allow self-approval for amendments to the EMP, are a departure from the standard approach to securing environmental mitigation where a DCO is granted. In our Relevant Representation we

anticipated that the ExA would wish to carefully scrutinise the Applicant's proposals given this novelty [RR-171].

- 8.4 Historic England was keen to hear the Applicant explain its proposals in more detail at the Issue Specific Hearing on 1 December, and while we note that the Applicant is reviewing a number of aspects of the DCO drafting relating to the EMP as a result of the hearing, we have set out in this section an explanation of our concerns, this being the first formal opportunity for us to do so in detail. Historic England will, in addition, continue its discussions with the Applicant to try to resolve our points of disagreement.
- 8.5 The purpose of the EMP is to set out the management actions that need to be implemented to mitigate the environmental effects of the proposals as identified in the ES. It also sets out the measures, commitments and actions needed to manage and mitigate environmental effects identified in the ES. It will become a certified document pursuant to the DCO (EMP paragraphs 1.15-1.16). There are clear obligations in the DCO for the Applicant to implement and operate the development in accordance with the EMP (Article 53(6) and (8)).
- 8.6 Therefore, the location of mitigation measures in the EMP will only be appropriate if the EMP is clear, robust and enforceable. While we note that the Applicant is reviewing a number of matters in relation to the EMP and associated provisions in the DCO, we are concerned that the EMP (and associated DCO provisions) as drafted are not robust. As such, Historic England cannot support the relocation of mitigation measures into the DCO without further amendments to the draft EMP (and associated DCO provisions).
- 8.7 We also note that the approach to the EMP proposed by the Applicant creates a number of practical difficulties, particularly in relation to keeping track of which version and iteration of the EMP is current and the need to navigate through a large number of appendices. While these difficulties could be resolved, they do demonstrate the complex nature of the Applicant's

proposals, which could be avoided by the use of requirements on the face of the DCO in the standard way.

*Production of the second iteration EMP*

- 8.8 Should a DCO be granted, the second iteration of the EMP will be produced and it is anticipated that there will be a second iteration EMP for each scheme within the DCO. The second iteration EMP will be based on the detailed design of the Project and will include a number of plans and strategies as appendices.
- 8.9 The DCO as drafted provides that the second iteration EMP must be *'substantially based on the first iteration EMP...unless the Secretary of State is satisfied that any part of the second iteration EMP that is not substantially based on the first iteration EMP would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement'* (Article 53(2)).
- 8.10 The production of the second iteration EMP will be subject to consultation (Article 53(2)), and we have commented on the consultation provisions separately in the section below.
- 8.11 We accept that the Applicant will need a degree of flexibility in order to produce a second iteration of the EMP as it will be based on detailed designs which have not yet been produced.
- 8.12 We note that the Applicant is, at the invitation of the ExA, reviewing the requirement for the second iteration EMP to be 'substantially based' on the first iteration, and for any change in environmental effects to be considered 'in comparison with' the environmental statement. Historic England supports more robust wording being used in the DCO in this context.
- 8.13 As the Secretary of State will review and approve the second iteration EMP, we accept that the arrangements for producing and approving second iterations of the EMP are appropriate, subject to our comments in relation to the wording of the DCO in paragraph 8.9 above, and also subject to our comments about the consultation process set out from paragraph 8.22 below.



*Amendments to the second iteration EMP*

- 8.14 The DCO and EMP provide a mechanism for the second iteration(s) of the EMP to be amended. Article 53(3) of the DCO provides that the Applicant 'may' ask the Secretary of State to approve amendments to the second iteration of the EMP and that Article 53(2) would apply to the Secretary of State in considering such an amendment, which provides that the second iteration EMP must be 'substantially based on the first iteration EMP...unless the Secretary of State is satisfied that any part of the second iteration EMP that is not substantially based on the first iteration EMP would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement'.
- 8.15 Article 53(5) of the DCO allows the Applicant to approve amendments to the second iteration itself; it may only approve amendments where they are '*substantially in accordance with the relevant second iteration EMP approved by the Secretary of State*' and where they '*would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement*'.
- 8.16 It is not clear from the documents submitted with the application when amendments will need to be approved by the Secretary of State rather than being approved by the Applicant. The Applicant has said that it will only approve minor amendments to the second iteration [EV-025, at 5:26], however, it is not clear from the draft DCO (a) that this is in fact the case (b) how 'minor' is defined and (c) who would determine whether an amendment is or, is not, 'minor'.
- 8.17 The Applicant is reviewing the wording of the DCO in relation to amending the second iteration of the EMP, and we would support a change to the DCO wording to (a) appropriately define a minor amendment, (b) limit the Applicant's ability to amend the EMP to amendments meeting such a definition, subject to consultation, and (c) include a requirement on the part of the Applicant to consult with the Secretary of State prior to making a minor amendment.

- 8.18 While we note that Article 53(5) of the draft DCO uses the environmental effects identified in the ES as the ‘ceiling’ for the amendments which could be made to the second iteration EMP, we would welcome an explanation from the Applicant as to how this will be monitored over the Project as a whole to ensure in particular that a number of amendments do not have a cumulative impact which is materially new, or materially adverse, in comparison with the effects assessed in the ES.
- 8.19 We acknowledge that amendments to the second iteration EMP, whether made by the Secretary of State or by the Applicant would be subject to consultation. We have expressed our views in relation to the proposed consultation process from paragraph 8.22 below.
- 8.20 It would be helpful if the Applicant could confirm how it intends to control and make available amended versions of the EMP, including whether each amended version of the second iteration EMP be numbered, for example, ‘iteration 2.1’. It would also be helpful to understand how the Applicant will make earlier versions of the EMP publicly available – we note that paragraph 1.4.51 requires the approved EMP to be published on a website, but it is not clear whether this website will also provide copies of superseded iterations or versions of the EMP.
- 8.21 Subject to an acceptable definition of ‘minor’ amendments being included in the DCO, and subject to the safeguards discussed in paragraphs 8.14 - 8.15 and our concerns in relation to the consultation procedure and separation of function arrangements set out from paragraphs 8.22 and 8.30 being addressed, Historic England could, in principle, accept minor amendments to the second iteration of the EMP being determined by the Applicant.

*Third iteration of the EMP and amendments*

- 8.22 Article 53(7) of the DCO provides that a third iteration of the EMP should be produced on completion of each part of the development. The third iteration is intended to deal with the mitigation involved with operating the road post-construction. The DCO further provides that the third iteration must ‘reflect the measures relevant to the operation and maintenance of the authorised

development contained in the relevant second iteration EMP', be produced in accordance with the consultation and determination provisions of the EMP.

The Applicant will be able to approve and amend the third iteration of the EMP.

8.23 The DCO as drafted does not allow for the third iteration (or amendments to the third iteration) to be approved by the Secretary of State. It is not clear why the Applicant considers that the third iteration should be approved or amended without recourse to the Secretary of State. The DCO as drafted does not expressly require the consultation and determination provisions to be followed in relation to amendments to the third iteration of the EMP, and it is also not clear why this is the case.

8.24 In our view, a case has not been made for the production of a third iteration EMP to be subject to less scrutiny than the second iteration. The third iteration of the EMP should therefore be approved by the Secretary of State following consultation, and that amendments to the third iteration should be handled in the same way as amendments to the second iteration as discussed above. We have addressed the proposed arrangements for consultation below.

#### *Consultation arrangements*

8.25 The DCO (at Article 53(2), (5) and (7)) requires consultation to be undertaken for the production of each iteration of or amendment to the EMP. Consultation must be undertaken in accordance with the 'consultation and determination provisions' of the EMP, defined at Article 53(10) of the DCO as the procedure set out in paragraphs 1.49-1.4.51 of the first iteration EMP.

8.26 In our view, referring in the DCO to paragraph numbers in a document which is going to be superseded and possibly amended to secure the procedure for consultation risks creating uncertainty for all parties. We would prefer that the consultation provisions to be set out in the DCO itself (either in the body of the document or in a schedule). This would have a further benefit of providing certainty that the process in place to amend the EMP cannot be used to vary the consultation procedure.

8.27 The EMP proposes that a 'single consultation procedure' is used in the following circumstances (EMP paragraphs 1.4.14-15):

- a. The production of the second iteration EMP;
- b. Determinations under the EMP; and
- c. And as otherwise specified in the DCO.

8.28 In our view, the scope of the single consultation procedure should include explicit reference to the production of amendments to the second iteration of the EMP and to the production of the third iteration of the EMP, both of which are subject to the consultation and determination provisions by Article 53(2),(5) and (7). If our recommendation that amendments to the third iteration of the EMP are expressly subject to consultation is accepted, this should also be referred to when setting out the scope of the consultation provisions.

8.29 The EMP provides that consultees will be consulted in accordance with a specified 'commitment'. The 'commitment is defined at paragraph 1.4.16 as that listed in table 1-2 for 'specified commitments' and 'which is set out in table 3-2'.

8.30 In our view, this provision is not sufficiently clear and we recommend that the wording which establishes the single consultation procedure is amended so that it lists more clearly which bodies will need to be consulted on each possible iteration or amendment proposed. For example, it is clear from table 1-2 of the EMP that HE should be consulted in relation to a number of plans and strategies, such as the Heritage Mitigation Strategy. However, it is not clear that HE and/or the relevant Local Authority would be consulted on amendments to the elements of the REAC table dealing with cultural heritage which are not linked to a document included in table 1-2 (such as MW-CH-04, which requires measures to be implemented to protect ridge and furrow field systems during construction). Also, any changes to the wider EMP framework, such as to the handling arrangements, should be subject to consultation with all statutory consultees.

8.31 The EMP provides that consultees will have 20 working days to respond to a consultation (paragraph 1.4.20) and will have 10 working days to respond to any revised consultation document produced in response to the original consultation (paragraph 1.4.26). We are concerned that this could be difficult to meet in circumstances where, for example, more than one second iteration EMP for different schemes is consulted on at the same time. We would therefore recommend including a mechanism for the parties to agree to extend the response times.

8.32 The EMP provides (at paragraphs 1.4.10-11) that before development commences, a number of plans and strategies must be approved as part of a second iteration EMP, following consultation with the bodies set out in table 1-2, however, table 1.2 is mis-labelled 'table 1-1', and references at 1.4.12 and 1.4.16 to 'table 2-1' should be to 'table 1-2'.

*Arrangements for the separation of functions*

8.33 The EMP provides that determinations made under the EMP by the Applicant will be made by persons who are 'functionally separate' from the project team. The framework for these arrangements is set out at paragraphs 1.4.42-1.4.49, however, the practical steps the Applicant proposes to take to achieve separation of functions are not set out. In addition, the EMP provides that these arrangements may be changed from time to time provided that the changes are published (paragraph 1.4.46).

8.34 We recommend that the draft EMP is updated as part of the examination to set out full details of the arrangements the Applicant proposes to put in place in order to achieve a separation of functions, so the arrangements can be considered by the ExA and approved by the Secretary of State.

8.35 We also consider that the arrangements for the separation of functions should be excluded from the amendments the Applicant is able to make to the EMP without the Secretary of State's approval, and that any amendments to the arrangements are subject to consultation.

*Heritage Mitigation Strategy (HMS)*

- 8.36 The EMP provides 'before the start of any part of the authorised development', the HMS (and other documents) must be approved as part of a second iteration EMP (paragraph 1.4.11). However, archaeological investigations carried out in accordance with the HMS are excluded from the definition of 'start' in paragraph 1.4.9.
- 8.37 We note that the Applicant is reviewing this as part of its post-hearing note, but we suggest that there needs to be a mechanism to ensure that the HMS is approved before any archaeological investigations it governs commence. This note will also need to address the same issue in relation to the definition of 'commence' in Article 53(10) of the DCO.
- 8.38 Detailed comments on the HMS as drafted are provided at Appendix 2.
- 8.39 Appendix 5 comments and suggested amendments / additions to the REAC table actions for action by the Applicant. We suggest that some new actions may be required to ensure the necessary provisions are in the EMP for the protection of the wider historic environment.

### **Annexe B3: Detailed Heritage Mitigation Strategy [APP-181]**

- 8.40 Heritage mitigation across all schemes is set out in this Annexe to the EMP. We acknowledge that there are likely to be a range of heritage resources which will likely be removed as a consequence of the development. We have accepted that the Applicant has sought to avoid impacts where possible, reduce impact through design and, where neither was possible nor sufficient, to mitigate impact through agreed archaeological excavation and recording.
- 8.41 As the schemes are not yet fully designed it is assumed at this stage that all heritage resources within the redline boundaries could be removed.
- 8.42 There are some minor issues in this document with an interchangeable use of terminology used to describe this document.
- 8.43 We note the Applicant gives this document several different names which shows a lack of internal consistency (e.g. see para. B3.1.2 (OHEMS is used) and Figure 2 on pg B3-5 (where DAMS is used)). This carries over to the REAC

tables in D-CH-01 where it is referred to as the “Detailed Heritage Mitigation Strategy” but then abbreviated to “HMS”.

8.44 We suggest that the applicant decides on one name for the document at this stage and ensure that all references to it are changed through all the DCO documents to avoid confusion. In our opinion, it should be called an “outline” not “detailed” document.

8.45 Finally, there is a need to make some minor amendments. These include corrections and additions required. Please see Appendix 2 for full details

### **Annexe C3: Scheduled Monuments Methods Statement [APP-038]**

8.46 Protection for the scheduled monuments across the route is set out in Annexe C3: Scheduled Monuments Method Statement [APP-038].

8.47 This document is currently in outline form and will need to be further developed during detailed design and construction planning stages. A final method statement is to be finalised by each Principal Contractor and submitted for approval prior to commencement of construction for each stage. This will be secured in actions MW-CH-02 and MW-CH-03 within the REAC table in the EMP [APP-019].

8.48 We request clarification on how many versions of Annexe C3 could be produced for approval post-consent? It is unclear if there will be one overarching document or one per Principal Contractor.

8.49 Please see Appendix 3 for detailed comments on or updates required to the [APP-038].

## **9. Project Design Principles (PDP) [APP-302]**

9.1. The PDP [APP-302] sets out the design principles for the A66 schemes with which the detailed designs must accord. It is our understanding that the PDP will be a certified document if consent is granted (Schedule 10 of the DCO[APP-285]).

- 9.2. Schemes which impact on highly designated heritage assets have design principles directly related to the asset in question to ensure that the final designs are produced to minimise harm to the assets. The PDP document will become a certified document should the DCO be granted thus securing these design principles. This is secured via Article 54(1) of the draft DCO.
- 9.3. Following recent discussion with the Applicant about the roundabout at Rokeby, we have suggested that the PDP is updated with reference to lighting and signage design, and locations, at this highly sensitive location. See Appendix 4 for details.

## **10. Statement of Common Ground (SoCG)**

- 10.1. Initial discussions with the Applicant regarding a draft Statement of Common Ground (SoCG) were carried out during pre-app stages up to submission of the DCO application.
- 10.2. The Applicant has submitted a draft SoCG [APP-279] which sets out the position at the time of DCO submission. There are still matters on which we need to reach agreement on.
- 10.3. We anticipate having further discussion with the Applicant during the examination in order to progress the content of the draft statement to meet deadlines set out in the DCO timetable.

## **11. Conclusion**

- 11.1. Historic England considers that the historic environment has generally been addressed appropriately in this application.
- 11.2. Although discussions have allowed some issues to be avoided and others to be minimised, harm to the historic environment within our remit will still be caused by the Project.



11.3. We have set out the harm to the historic environment within our remit. It is now for the ExA to balance this harm against the public benefits (alongside all other relevant issues) in coming to its decision.

11.4. The proposed mitigation works are supported by Historic England provided that the ExA concludes that the benefits of the scheme outweigh the harms, and that the Project is justified according to the policies of the NPSNN (2014)

11.5. There remain a series of issues which need to be addressed:

- The Environmental Statement does not address the issue of potential impacts to the Lake District World Heritage Site. At present the ES does not seem to have examined such indirect impacts, and this needs to be addressed through an appropriate heritage impact assessment (HIA) in line with UNESCO guidance.
- We have set out our concerns about the novel use of the EMP in this DCO in Section 8 of our written representations. There are matters for the Applicant to address during the examination in order to satisfy us that the historic environment will be protected can be delivered.

11.6. The Project also has the potential to provide wider public benefit in the form of heritage benefits. These include:

- Seeking to maintain the historic line of the Roman route where possible.
- Taking the route off-line west of Rokeby Registered Park and Garden in order to maintain the integrity of the Park and move much of the current traffic further away from this precious landscape
- Setting out a research framework for the Project which will maximise the benefits of the scheme in increased understanding of the historic environment, assist in directing where resources may be required, and help to direct public engagement activities.

11.7. Historic England is keen to continue to work with the applicant to best ensure that the matters highlighted in our Written Representations are addressed. This

will then ensure that harmful impacts of the Project will be minimised and, where harms cannot be avoided, they are mitigated appropriately, and this secured as part of the DCO.

11.8. This section concludes the Written Representation of Historic England.

## **Appendices: Comments on A66 DCO Heritage Documents**

Appendix 1: Archaeological Reports

Appendix 2: Annexe B3: Detailed Heritage Mitigations Strategy

Appendix 3: Annexe C3: Scheduled Monuments Method Statement

Appendix 4: Project Design Principles

Appendix 5: EMP

Appendix 6: Community Engagement Plan

## APPENDICES: COMMENTS ON A66 DCO HERITAGE DOCUMENTS

### 1. Archaeological Reports

#### a. *Geo-Chemical Report*

The Geochemical testing report is interesting but does not seem to overlap with trenched areas nor does it seem to follow through in the OHEMS (no section about it). We advise that National Highways need to decide how to use the results of this work. As it is currently, this work stands somewhat isolated from the rest of the work as we cannot independently test it. It would be useful going forward if you could be clear how the data will or will not be used.

#### b. *Three trenching reports*

Ideally it would be helpful if an overall assessment was produced which does not treat these as three separate documents, but rather three strands of the same workload. That may now be too late to do, but a point worth noting.

#### c. *Geophysics*

As we noted early in the pre-app when the 1<sup>st</sup> report was issued to us, there should be an updated geophysical report which compares the prior knowledge with what we know from the trenching

#### d. *Research framework*

It would be helpful to have the research framework updated taking the evaluation results into account. It would be useful for framing the future mitigation. This could take the form of a period by period update which looks at the trench results holistically. It would also be good to highlight the features which cannot currently be dated.

### 2. Annexe B3 Detailed Heritage Mitigation Strategy [APP-181]

#### a. *Nomenclature*

There is an issue in this document over a consistency in nomenclature which can be confusing. This also means that there could be a lack of

clarity when this document is referred to in other parts of the DCO, i.e. the draft DCO itself, or in the EMP.

The title of the document is “Detailed Heritage Mitigation Strategy” (i.e. DHMS). However, in the document it is also interchangeably referred to as:

- **B3** Outline Historic Environment Mitigation Strategy (OHEMS) and then through the rest of the document as that);
- “DAMS” (with no explanation of abbreviation) in top 3 boxes of Figure 2 table to mean DHMS/ OHEMS (p.B3-5);

Linking through to the EMP REAC table in D-CH-01, the mitigation strategy is then again called the “Detailed Heritage Mitigation Strategy” but abbreviated to HMS.

We recommend that this confusion over what this document will be referred to throughout the Examination is clarified and corrected throughout the DCO documentation.

*b. Areas where HE need to be consulted*

We note that the OHEMS stipulates areas where approval will be required for items such as the Site Specific WSIs, etc. Historic England is omitted from the following approvals but should be included where they affect scheduled remains or Gr II\* / I structures:

- **B3.1.12** – Historic England will also sign-off the SSWSIs and reports where works will affect SMs. This should be same as set out in **B3.3.5**
- **B3.3.9** – add HE to approval where affects SMs
- **B3.3.13** – LPA Curator, and HE (within or adjacent to SMs) should also be informed if burials are found not just the Coroner
- **B3.3.58** – add HE to sign off where fall within our remit

*c. Amendments and comments*

We have found some minor issues in the OHEMS document which require corrections or amendments.

- **B3.2.4** – can't find “Building Recording of Rokeby Rectory” with application documents. Was it submitted? Please advise [APP-number] for future reference.

- **Table 2 Summary of potential** – (pg B3-16) Stephen Bank to Carkin Moor overview text notes the recently discovered unscheduled remains of vicus next to Roman Fort – NB these should be treated as if were scheduled (as per NPSNN para. 5.124) as this is not made clear. Please confirm. This could impact on proposed mitigation so this will need checking.
- **B3.3.41 Metal Detecting on SM** – this will require a Section 42 Licence. This is separate to the SMC which is subsumed within the DCO. This should be clearly flagged in the OWSI section that there must be liaison with HE when agreeing SSWSIs. Perhaps it may require inserting into the REAC table to ensure liaison with HE to get S42 agreed at same time?
- **Liaison with Regional Science Advisor** – somewhere between para. B3.3.48-.60 it would be good to say that geoarch/ sampling work will be discussed with the RSA in advance
- **B3.3.83** – spelling error 3<sup>rd</sup> word should be “of”.
- **B3.3.85** – suggest examples of good practice for Archaeological contractor to consider – e.g. A63, Must Farm, A1 Catterick, etc... This Project has potential for excellent public engagement and this must be pushed (to be in line with the research framework as well).

It is unclear how the protection of scheduled monuments or other areas of archaeological sensitivity will be undertaken. The OHMS suggests in **B3.3.21/22** SMs will be protected from inadvertent harm during works with a buffer zone and fencing set out in a Method Statement approved by HE.

We presume this refers to Annexe C3 para C3.5.3. It is unclear at which point the Final SM Method Statement will be submitted for approval and to whom (see para C3.1.1).

We observe that Table 5 (**B3.5 Outline Mitigation**) notes areas where no previous surveys were undertaken. We assume that the risk associated with this has been considered (Chp 8 Cultural Heritage: 8.5.6) when developing the mitigation in these areas.

### 3. Annexe C3 Scheduled Monuments Method Statement [APP-038]

#### a. Approval of detailed method statement

The same issue about inconsistency in terminology as noted above in 2(a) is found in this document. This needs to be rectified to avoid confusion developing in the future.

We understand that the four Principle Contractors (PC) will amend this document as detailed designs are agreed. For clarity, does that mean that we could end up with 4 different Annexe C3 Statements requiring approval rather than one overarching method statement used across all 4 areas?

*b. Cross reference to REAC*

There doesn't appear to be any cross-referencing of this document to the relevant REAC Table action (i.e. **MW-CH-03**). May not be required but might help to assist in reminding PCs of need to update Annexe C3.

*c. Error noted*

**C3.2.4** – missing SM (NHLE 1007124) Farmstead NNW of Redlands (0405-0001) in this paragraph.

**Schedule Monuments (p C3-4)** – There seems to be a confusion here. The scheduled monument known as Brougham Fort (02-0002), which is located south of the A66, is conflated with another scheduled monument, north of the A66, known as “Settlement 1/3 mile (540m) ENE of Brougham Castle” (03-0004). Both are referred in this document as “Brougham Roman fort (Brocaum) and civil settlement and Brougham Castle” and given record number 02-0002.

However, for clarity these are two separate scheduled monuments. These must be clearly separated out and each given the high-level review of potential construction required. We appreciate that the monument names in this area are very similar so it is easy to conflate them. which we have only just noted. This will need to be checked and addressed or corrected in:

- the impact assessment tables [APP-187]
- Annexe C3: Scheduled Monuments Method Statement [APP-038], and
- Project Design Principles [APP-302]

#### **4. Project Design Principles (PDP [APP -302])**

##### **Rokeby Park Roundabout**

Following recent discussion with the Applicant about the design of the roundabout where the C-road joins the de-trunked A66, we suggest that the PDP is updated to include reference to lighting and signage details at Rokeby. We recommend that they are kept to the minimum required and located with reference to the heritage sensitivity of this location (namely the Gril gates and piers).



5. EMP [APP-019]

**REAC Tables – amendments**

We have noted some necessary amendments and suggested additions required in the REAC Table 3-1:

Ref	Objective	Action Req	Implementation	Achievement Criteria
D-CH--01	To manage and minimise impacts on the historic environment	Development of and consultation on the HMS  Carrying out the project in accordance with the HMS	Annex B3	Approval of the HMS following consultation. Technical and non-technical reports published.
<b>Historic England comment</b>				
This requirement should make clear that references to chapter 1 are to the EMP (i.e. to the consultation and determination provisions). Please also see our comments at paragraph [x] of our WR in relation to the commencement of development.				
D-CH-02	Maintain historic form fabric significance and qualifying features of listed buildings/structures			Submission of detailed design information to Historic England
<b>Historic England comment</b>				

	<p><i>Objective:</i> Applicant should provide a definition of ‘qualifying features’.</p> <p><i>Action required</i> – Consultation with both LPA Conservation Officers, and Historic England where necessary (e.g. Gr I and II*). The wording should also make clear that the Applicant should seek to avoid harm to the fabric of a listed building; the minimising removal of historic fabric should only be a consideration where it is not possible to avoid loss.</p> <p><i>Achievement Criteria</i> – <b>change to:</b> submission and approval of detailed design to LPA Conservation Officer, and HE if works involve Gr I or II* structures.</p> <p>The ‘action required’ and ‘achievement criteria’ should also set out when consultation or submission will take place; we would expect this to be before any works are undertaken to the listed building concerned.</p> <p>The Applicant should also be aware that this requirement does not negate the need to obtain listed building consent if this has not been granted by the DCO.</p>			
<b>D-CH-03</b>	To consult with the relevant authority on the detailed design of the Project to ensure it meets Cultural Heritage objectives	Historic England must be consulted with regard to the detailed design of Project elements which have been assessed in the ES as affecting designated heritage assets and their settings...etc	EMP	...The Authority determination of detailed design

<b>Historic England comment</b>				
<p><i>Action required</i> – doesn't refer to design being in accordance with Annexe C3 or Project Design Principles in relation to SMs, or to when consultation with HE should take place. .</p> <p><i>Implementation</i> – shouldn't this also refer to Project Design Principles and Annexe C3?</p> <p><i>Achievement Criteria</i> – the achievement criteria should specify when consultation will take place; it is also unclear what last sentence of this section is referring to.</p>				
<b>MW-CH-01</b>	To ensure a record is made of historic buildings or structures prior to demolition or relocation	Prior to demolition to carry out recording to comply with Chartered Institute for Archaeologists standard and the level of detail in HE's guide Understanding Historic Buildings	Annex B3	Records published
<b>Historic England comment</b>				
Achievement criteria need to specify the timeframe in which publication will occur, which should be before demolition takes place. We would also welcome a mechanism for an appropriate body to confirm that recording has been undertaken to the specified standard before demolition occurs.				

<b>MW-CH-02</b>	Relocation or protection of milestones and the Countess Pillar	...Protective fencing will be erected around the railings to provide an offset and protect the Scheduled Monument.	EMP Annex B3	Listed structures protected from harm; site inspection of protective measures.
	Historic England comment			
	<p><i>Action required:</i> Wording should make clear that the milestones and boundary stones will be protected or relocated prior to construction commencing; references to protective fencing should also make clear that it will be erected prior to works commencing, set out whether the fencing will be provided in accordance with a particular industry standard.</p> <p><i>Achievement criteria:</i> Wording should refer to scheduled structures as well as to listed structures.</p>			
<b>MW-CH-03</b>	To protect archaeology of Scheduled Monuments	... Method Statement for working in and near scheduled monuments is developed in detail in substantial accordance with the essay plan included		<p>Approval of the Method Statement, following stakeholder consultation (as set out in Chapter 1)</p> <p>Scheduled Monuments detailed are protected as far as reasonably practicable from harm during construction or reinstated.</p>

		at Annex C3 of this EMP, ...		
<b>Historic England comment</b>				
<p><i>Action required:</i> the reference to 'no part of the project assessed as potentially impacting on a Scheduled Monument' should make clear where this assessment is to be found. References to chapter 1 in this column and in the 'achievement criteria' column should make clear that the reference is to chapter 1 of the EMP.</p> <p><i>Method Statement</i> – include need for with a “buffer zone and fencing” as referred out in <b>B3.3.21/22/24 of OHEMS and C3.5.3 SM Method Statement</b></p> <p><b>Implementation</b> – currently only refers to EMP. Suggest it should also include reference to Annexe C3 in same way as <b>MW-CH-02</b> refers to Annexe B3</p> <p><i>Achievement Criteria</i> – it is insufficient for the criteria to be that monuments are protected 'as far as reasonably practicable', the criteria must specify that the project will be carried out in accordance with the approved method statement. In addition, it is generally not possible to “reinstate” a SM. Perhaps a different term would be better suited here for post construction work (removing fences etc) – unless the Applicant can define what is meant by reinstatement – further clarification would be welcome.</p>				
<b>PROPOSE NEW ACTION</b>	To protect identified non-designated archaeology	Method Statement for protection measures (fencing etc) around where agreed preservation in situ of non-designated assets		Approval of the Method Statement, following stakeholder consultation (as set out in Chapter 1)
<b>Historic England comment</b>				

	<p><b>OHEMS B3.3.22</b> says "...the details of the protective measures will be established in a Method Statement...approved by LPA Curators and HE..." See <b>B3.3.24</b> which also says measures to protect by preservation in situ will be detailed in EMP.</p> <p>Can the Applicant confirm if there are any areas of archaeological sensitivity (non-designated) which require protection? If so or anticipate that there could be, then it is suggested that a new action such as this will be necessary.</p>			
<b>PROPOSE NEW ACTION</b>	How unexpected archaeological discoveries are dealt with	Set out a protocol		For approval by LPA and HE (as necessary to remit)
	<b>Historic England comment</b>			
	HE notes that there does not appear to be an action for how to deal with unexpected discoveries. Given the lack of DCO Requirements, we can only suggest that there is a REAC action for this			
<b>PROPOSE NEW ACTION</b>	Method Statement for removal and reinstatement of milestones and boundary stones	To be set out in the SSWSI		Approval by LPA Curators and HE (as necessary to remit)
	<b>Historic England Comment</b>			
	We note that the OHEMS includes a section on "Relocation of milestones" Para B3.3.28 requires a method statement informed by a condition survey (yet to be completed). Suggest an action in the EMP REAC table to ensure that this takes place unless the Applicant can suggest an alternative?			

## **6. Annex B11 Community Engagement Plan**

We note that National Highways have a Community Engagement Plan which will be a certified document as an annexe of the EMP.

Whilst we recognise that this document is relatively high level without much detail at this stage, there is an opportunity here for linking it to engagement about the cultural heritage of the A66.

We suggest that there should be direct links between Annexe B11, Annexe B3 Detailed Heritage Mitigation Strategy, and Appendix 8.9 Historic Environment Research Framework to ensure that engagement around the historic environment is embedded into National Highways' agenda. An excellent example of heritage engagement on a National Highways scheme is the [A63](#).

We would be happy to engage further on this element as needed to ensure that the wider public benefits of the A66 are realised.