

**Procedural Deadline Submission**

**Response to National Highways' Response to Local Impact Reports**

This document relates to an application for a Development Consent Order ('DCO') made on 21 June 2022 by National Highways (the 'Applicant') to the Secretary of State for Transport via the Planning Inspectorate ('PINS') under section 37 of the Planning Act 2008 (the 'PA 2008'). If made, the DCO would grant consent for the Northern Trans-Pennine Project between M6 Junction 40 at Penrith and the A1 junction at Scotch Corner (the 'Project').

The purpose of this document is to set out the joint response of North Yorkshire County Council and Richmondshire District Council (the 'Councils') to the Applicant's response to the Councils' Written Representations [REP1-040].

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response	LA Lead	NYCC/ RDC Response at Deadline 3
REP1-040	North Yorkshire County Council and Richmondshire District Council	DCO – Policy and Guidance	<p>Article 53 of the dDCO [APP-285] effectively replaces the usual Requirements contained in the Schedule to a DCO and the Councils reserve their position to make further representations on the effectiveness of the EMP until a further draft DCO is submitted by NH at Deadline 2 and the Councils have had the opportunity to review the proposed amendments.</p> <p>However, the Councils fundamentally have concerns regarding the self-approval process contained in Article 53 (4) and (5) whereby once the Secretary of State has approved the second iteration EMP, NH can make amendments to the EMP if they are "substantially in accordance with the relevant second iteration of the EMP that has been approved by the Secretary of State...and would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement".</p> <p>The Councils have concerns that there is no regulatory control/ checking mechanism to determine whether or not a proposed change from NH was such that it could legitimately be self-approved by NH or it had to be submitted to the Secretary of State for approval. In Issue Specific Hearing 2, there was discussion on this issue and the Councils seek</p>	<p>A summary of National Highways' position on this point is set out in the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [REP1-009] – see from page 15. In particular, please note the 'post hearing note' section from page 16, with particular reference to the following text:</p> <p>"However, taking on board both these difficulties and comments made at the Hearing, the Applicant proposes to instead include a mechanism in either the draft DCO or first iteration EMP (the appropriate 'home' for this is still to be confirmed, pending further consideration) whereby the Secretary of State is notified when the Applicant wishes to determine a change to the second iteration EMP itself. There would then be a prescribed period within which the Secretary of State could 'call-in' that decision, should they consider that the change is more properly determined by them, having regard to the parameters summarised above. This mechanism will be included in the next draft of the relevant document submitted into the examination"</p> <p>National Highways has included these provisions in the revised version of the draft DCO submitted at this Deadline 2 – see article 53.</p>		<p>The Councils welcome the Applicant's proposal to include a mechanism for notification to the Secretary of State (SoS), when it is proposes to determine a change to the 2nd iteration EMP, giving the SoS the opportunity to 'call-in' the decision. To enable the Councils' views to be taken into account by the SoS in deciding whether to exercise call-in powers, it is requested that the Councils and other interested parties be informed at the same time as the notification to the SoS takes place, to afford them an opportunity to make representations to the SoS about the matter.</p> <p>The Councils have concerns that there are no provisions in relation to the approval of the third iteration EMP to deal with any material changes to that version.</p> <p>The requirement for the third iteration to 'reflect' the second iteration is too vague and the Councils request that it should be changed to 'substantially in accordance with' the second iteration EMP. There does not seem to be a process for independent decision-making where the third iteration is not in substantial accordance with or does not reflect the second iteration (whichever wording applies) This needs to be rectified and provision made within Article 53.</p>

			assurance from NH that there will be a regulatory check requiring NH to notify the Secretary of State that a proposed change to the EMP was contemplated and to receive a determination from the Secretary of State as to whether this was agreed and if not, direction given to NH to submit the proposed amendments to the Secretary of State for approval.			
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP	As previously stated, the Councils are uncertain as to what mitigation measures are proposed and will be implemented prior to construction of the Project. The Councils therefore welcomes NH's confirmation in Paragraph B3.3.5 of Annex B3 to the EMP [Document Reference 2.7, APP-023] that no works shall take place until the Local Authority is in agreement to the SSWSI for each site or group of sites. However, the draft DCO makes no reference to these SSWSIs being included as a requirement or in the EMP and the Councils therefore do not understand the process by which they are secured.	The DCO Article 53 sets out (and secures) the process for how the commitments in the first iteration EMP, including those relating to SSWSIs, will be secured. A second iteration EMP, including the commitments in the first iteration EMP, must be consulted on and approved by the Secretary of State prior to the start of works. Specifically, commitment number D-CH-01 within the first iteration EMP (Document Reference 2.7, APP-019) requires that a Site-Specific Written Scheme of Investigation is produced for each scheme and included as part of a Detailed Heritage Mitigation Strategy, which, in turn, must be consulted upon and approved by Secretary of State as part of a second iteration of the EMP.		The Councils need authority to sign off on the approval of all areas of archaeological investigation
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP	Article 54(1) of the dDCO [Document Reference 5.1, APP-285] requires that "Subject to Article 7 (limits of deviation) that the authorised development must be designed and carried out so that it is compatible with (a) the design principles, (b) the works plans and (c) the engineering section drawings; plan and profiles and the engineering section drawings; cross sections".  Whilst the Councils are content with the level of detail for the works, the Council are not satisfied with the level of detail in the environmental surveys, assessment assumptions and therefore mitigation that NH has put forward as part of the application.	National Highways has responded to the comment on the level of detail in the Environmental Statement (surveys, assessment assumptions and mitigation) in its response to the Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9, section 5.21).		The point that has been raised by the Councils is that the mitigation is insufficiently presented.  Design principles identified are broad and high level and do not include any scheme specific principles for scheme 9.

REP1-040	North Yorkshire County Council and Richmondshire District Council	Engagement and consultation process	The information should have been available to public and stakeholders. Clarity needs to be given to the mechanism by which adequate and appropriate engagement and consultation takes place in lieu of the normal statutory consultation process.	The consultation activities undertaken to date has included the provision of all information available at the time the consultation was conducted.		
REP1-040	North Yorkshire County Council and Richmondshire District Council	Walking, Cycling, Horse Riding Design, Engineering and Construction	<p>Road schemes must respect existing public rights of way and avoid significant changes to the historic network.</p> <p>Advice on the existing alignment of public rights of way should be sought from NYCC's Countryside Access Service (CAS) prior to the commencement of detailed design work.</p> <p>It is recommended that CAS be consulted on proposed public rights of way diversions, extinguishments or creations before public consultation on a side roads order is undertaken in order to resolve any clerical or drafting errors.</p> <p>It is the presumption that any new or diverted public rights of way should be barrier free. Consent must be given by CAS prior to any structure being installed on existing or proposed public rights of way and will only be given either for the purpose of the control of livestock or in limited circumstances for public safety. New structures on public rights of way must comply with BS 5709-2018.</p> <p>Use of verges alongside busy roads to link public rights of way and minor roads should be avoided.</p> <p>Where practicable all public rights of way should be accessible to wheelchair users with a firm, stable non-slip surface and maximum gradient of 20%.</p> <p>The minimum width for new public footpaths is 2.0 metres and public bridleways 4.0 metres. Where public</p>	<p>National Highways considers that these matters are addressed in the following document: Walking, Cycling and Horse-riding Proposals (Document Reference 2.4, APP-010), with section 2.4 providing detail on ongoing WCH engagement.) In relation to the reasons why no Side Roads Order is proposed, please see National Highways Response to Durham County Council's relevant representations (page 8 of [PDL-013]) which explains how the draft DCO makes equivalent provision to a Side Roads Orders made under the Highways Act 1980.</p> <p>Please also refer to the Draft Development Consent Order (Document Reference 5.1, APP-285) and Rights of Way and Access Plans Scheme 09 Stephen Bank to Carkin Moor (Document Reference 5.19, APP-348) and Rights of Way and Access Plans Scheme 11 A1(M) Junction 53 Scotch Corner (Document Reference 5.19, APP-349) for details on the Public Right of Way (PROW) proposals within North Yorkshire County and Richmondshire District Council.</p> <p>In addition, we have provided a response to the outstanding matters here:</p> <p>North Yorkshire County Council and Richmondshire District Council as well as focus group organisations such as the British Horse Society have been consulted on the locations of new PROW provision. Ongoing engagement on WCH will continue as referenced in section 2.4 of the Walking, Cycling and Horse-riding Proposals (Document Reference 2.4, APP-010)</p> <p>It is proposed that some diverted or proposed rights of way have rights over a private means of access. Where this occurs, consideration will be given at detailed design stage regarding the provision of gates, barriers, and stiles in</p>		The Councils welcome the continued engagement with respect to public rights of way. The current plans incorporate some minor changes to the network but also provide useful enhancements. Engagement in the detailed design of crossings, type of provision and protection from traffic is required to ensure that the scheme provides the best future network for walking, cycling and horse-riding.

			<p>rights of way are enclosed by hedges, fences or walls this will need to be extended to 3.0 metres and 5.0 metres respective to maintain the minimum usable width without users being exposed to boundary features or overgrowth from adjacent hedges or other vegetation.</p> <p>Public bridleway construction should comply with British Horse Society guidelines.</p>	<p>accordance with BS 5709-2018 to address landowner security concerns.</p> <p>Surfacing options will be considered at detailed design and will be appropriate for the various PROW users entitled to use the relevant public rights of way.</p> <p>Widths of PROWs have been designed in accordance with the Design Manual for Roads and Bridges CD 143 – Designing for walking, cycling and horse-riding.</p> <p>Public bridleway construction will be in accordance with the DMRB and will take cognisance of British Horse Society guidelines.</p>		
REP1-040	North Yorkshire County Council and Richmondshire District Council	Draft DCO	<p>Draft DCO errors (public rights of way)</p> <p>Scheme 09 sheet 3 Footpath 20.23/8/1 change northwards to southwards Scheme 09 sheet 4 Reference M change 46 to 82 metres</p> <p>Scheme 09 sheet 4 Reference M – junction is BW 20.33/17/1 and Warrener Lane (not A66)</p> <p>Scheme 09 sheet 4 Bridleway 20.30/8/1 Carking Moor Farm replace with Warrener House and change south-east to south</p> <p>Scheme 09 sheet 4 Reference N – junction is BW 20.33/17/1 and Warrener Lane (not A66)</p> <p>Scheme 09 sheet 4 Reference N change 180 metres to 222 metres, replace easterly with westerly</p>	<p>National Highways acknowledge the comments made on the drafting errors and can confirm the following amendments will appear in a future iteration of the Draft Development Consent Order (Document Reference 5.1, APP- 285, page 111 and 113)</p> <p>Footpath 20.23/8/1 - northwards to change to southwards Reference M – distance to be changed from 46 to 82 metres</p> <p>Reference M – description text to be updated to reference “20.33/17/1 and Warrener Lane” (not A66)</p> <p>Scheme 09 sheet 4 Bridleway 20.30/8/1 Carking Moor Farm replace with Warrener House and change south-east to south</p> <p>Reference N – description text to be updated to reference “20.33/17/1 and Warrener Lane” (not A66)</p> <p>Reference N distance to be changed from 180 metres to 222 metres.</p>		Noted
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP Cultural Heritage	<p>I support the proposal to appoint a PC Archaeological Clerk of Works. It is not clear from the document if this will be a single post, a post for each section of the scheme or perhaps a single Clerk of Works with a support team. The proposed timetable for the schemes shows that the main North Yorkshire Section from Stephen Bank to Carkin Moor will take place</p>	<p>The EMP (Document Reference 2.7, APP-019) provides for flexibility in resourcing of key roles due to the nature of the project to be delivered. There may be an archaeological clerk of works per scheme or one covering multiple schemes, depending on the timing of the works to be carried out. The details of who is appointed to the role for each scheme (and therefore the level of resourcing for each scheme) will be included in a second iteration of the EMP, which will be</p>		The Authorities look forward to the revised draft EMP

			<p>alongside three other schemes and overlap with three more (Plate 1-1). The PC Archaeological Clerk of Works needs to be properly resourced to be able to respond to the requirements of the EMP. The document currently lacks detail in this respect.</p> <p>Table 2-1 details the key responsibilities for the PC Archaeological Clerk of Works. I am presuming that this post will be one of the principal points of liaison with 4.3 local authority curators and other heritage professionals. This should be picked up in the key responsibilities</p> <p>The Register of environmental actions and commitments are set out in Table 3-2. D-CH-01 sets out a list of actions required. Further bullet points are essential to set out the full procedure, particularly in relation to post excavation works. I would recommend an additional bullet point to address the requirements for post-excavation analysis and final publication. There should be an additional bullet point detailing the requirement for archive rationalisation and deposition. There should be a final bullet point addressing the provision of public benefit throughout the scheme.</p> <p>MW-CH-03 – This objective sets out the actions required to record and relocate milestones and other roadside markers. An aspirational action could be added to research any missing markers and to replace these with suitable facsimiles. Missing roadside markers may well ‘turn up’ during the works and a strategy for conserving and re-siting these should also be included.</p>	<p>consulted upon with local authorities prior to approval by the Secretary of State.</p> <p>NH agrees that the Archaeological Clerk of Works will be a key point of contact for the local authorities and this responsibility is set out at paragraph B3.1.6 of the Detailed Heritage Mitigation Strategy (DHMS), (Document Reference 2.7, APP-023).</p> <p>The points made in relation to D-CH-01 are included in the Outline Heritage Mitigation Strategy (OHMS), but an additional bullet to summarise these points will be added to the EMP. The updated EMP will be submitted at Deadline 3.</p> <p>MW-CH-03 relates to the Method Statement for working within Scheduled Ancient Monuments, we assume this reference should read MW-C-02.</p> <p>Engagement with the Milestone Society was undertaken during the collection of baseline material for the ES. The society provided data on both known and missing markers. Text will be added to MW-C-02 to address the potential for missing markers to be found during the works, requiring them to be treated the same as known markers. This amendment will be made to the draft Heritage Mitigation Strategy (to be renamed Outline Heritage Mitigation Strategy) and form part of the revised EMP which will be submitted at Deadline 3.</p>		
REP1-040	North Yorkshire County Council and	Environment and EMP Cultural Heritage	These sections relate to Environmental Management Information including cultural heritage data. This is a long running project and I would recommend that this data	Paras 5.2.3 to 5.2.5 of the EMP (Document Reference 2.7, APP-019) refer specifically to information uploaded by the Contractor(s) to National Highways for inclusion in their Environmental Inventory System. However		The Authorities look forward to the revised draft EMP

	Richmondshire District Council		<p>is updated at regular intervals. The PC may wish to engage with local authorities to provide a mechanism to ensure that their data is regularly refreshed via the relevant Historic Environment Record. This might include building additional capacity into local authorities to allow new information to be entered into the Historic Environment Record in a timely fashion.</p> <p>I am unclear as to who has responsibility for raising non-compliance reports. Would a visiting local authority representative have the authority to do this or could this be requested if there were concerns?</p> <p>Archaeological Toolbox talks should be added to the paragraph regarding site induction.</p>	<p>National Highways recognises the benefit of regularly providing updates to the Historic Environment Record. This will be added to the Outline Heritage Mitigation Strategy (OHMS) as a requirement for the archaeology contractors. The updated OHMS, forming part of the EMP (Document Reference 2.7, APP-019) will be submitted to the examination at Deadline 3.</p> <p>Section 6 of the EMP (Document Reference 2.7, APP-019) sets out the procedures for auditing compliance with the EMP. The Contractor(s) is responsible for self-auditing and submitting regular reports to National Highways. National Highways also have the right to audit the site at any point, or to follow up on compliance reports with targeted visits. National Highways can raise a non-conformance with the contractors at any point. The EMP has been amended following ISH2 to include the commitment for regular stakeholder engagement forums to be established. Should a visiting local authority have any concerns to raise, it is recommended they are raised via these forums or via open engagement channels with the project team. National Highways will then follow up and investigate the concern..</p> <p>Archaeological toolbox talks are a valuable process and explicit reference to them will be included in the updated EMP at Deadline 3.</p>		
REP1-040	North Yorkshire County Council and Richmondshire District Council	Cultural Heritage Environment and EMP	<p>D-CH-01 Detailed Heritage Mitigation Strategy</p> <p>The word 'Detailed' needs to be removed from the title of this document and all references to it. None of the other management plans, strategies or method statements presented include the word 'Detailed'. It is clear from subsequent wording within the document that this is a high-level strategy. It contains a fairly detailed 'Overarching Written Scheme of Investigation' (OWSI) but the intention is to supplement this with 'Site-Specific Written Schemes of Investigation' (SSWSI) which will include the highest level of detail. The Table of Contents, subsequent sub-</p>	<p>An updated EMP (Document Reference 2.7, APP-019) will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy.</p> <p>The statement at B3.1.10 leaves open the possibility that a wider list of specialists may be required. A definitive list of specialists relevant to individual interventions can most effectively be presented at a later stage in the Scheme Specific Written Schemes of Investigation.</p> <p>An updated EMP (Document Reference 2.7, APP-019) will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy In the updated document paragraph B3.3.55 will be amended to read " there will be monitoring of all excavations</p>		The Authorities look forward to the revised draft EMP

		<p>heading (B3) and individual paragraphs (e.g. B3.1.15 and B3.1.16) all seem to brand the document as an 'Outline Historic Environment Mitigation Strategy'. This point aside I also wonder if the 'Overarching Written Scheme of Investigation' should be presented as a separate document as it is more of a specification than an overarching strategy and the two parts of the document appear to have distinct purposes.</p> <p>B3.1.9 – This list of specialists is not exhaustive. There will be a much wider range of finds specialists than those identified. There will also be requirements for access to other specialist services such as scientific dating and conservation. B3.1.10 goes on to state that further specialists might be required but I think that a much broader field of external specialists can be identified at this stage and this will help to manage expectations of the range of services that might be required.</p> <p>B3.1.12 – The paragraph states that the archaeological mitigation will be monitored by Local Authority Curatorial Archaeologists. I welcome inclusion in the document but I am concerned about the burden this places on Local Authorities. Later in the document paragraph B3.3.55 states that there will be weekly monitoring of all excavations by the Local Authority curator. This is quite a commitment for my authority and additional resources are likely to be needed to accommodate this. Further requirements of the Local Authorities will include review and approval of all DCO requirements and all documentation relating to the works (para. 3.3.92). There will also be a requirement for site induction and training which from experience can</p>	<p>carried out by the project manager, the Local Authority Archaeological Curators and, where appropriate, Historic England at a frequency to be agreed in advance by National Highways and relevant stakeholders.” This will allow for the appropriate level of monitoring to be determined considering the nature of the works being undertaken, and thereby assist with resource management.</p>		
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			last several days for a scheme of this magnitude.			
REP1-040	North Yorkshire County Council and Richmondshire District Council	Cultural Heritage	<p>B3.3.84 – The public outreach should attempt to engage with groups who would not normally be involved in archaeology. Whilst I have no objection to engagement with the specialist societies listed I would prefer to see a strategy that engages local communities directly impacted by the proposal.</p> <p>The preparation and deposition of archive should involve early engagement with the recipient museums at the earliest possible stage in the process. Novel approaches to use of the archaeological materials may also be acceptable such as compilation of education packs with actual archaeological material for local schools for example. Bulk materials that do not require permanent curation such as unstratified pottery sherds might be used to create public artworks or similar.</p>	<p>An updated EMP will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy. In the updated document paragraph B3.3.84 will be amended to include “local communities directly impacted by the proposal.”</p> <p>National Highways accepts the desirability of early engagement with recipient museums, Paragraph B3.3.90 details the requirement for SSWSIs to address the specific requirements of the depositing archive which will require early engagement with the receiving museum.</p> <p>Likewise, Paragraph B3.3.68 requires the SSWSIs to detail the approach to bulk and registered finds which will allow novel approaches to archaeological material as suggested. National Highways looks forward to continued engagement with North Yorkshire and other authorities to develop innovative approaches to engagement with local schools.</p>		The Authorities look forward to the revised draft EMP