

A66 Northern Trans-Pennine Project

4.5 Statement of Common Ground Historic England (Rev 4)

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A66 Northern Trans-Pennine Project
Development Consent Order 202X

**4.5 STATEMENT OF COMMON GROUND WITH
HISTORIC ENGLAND**

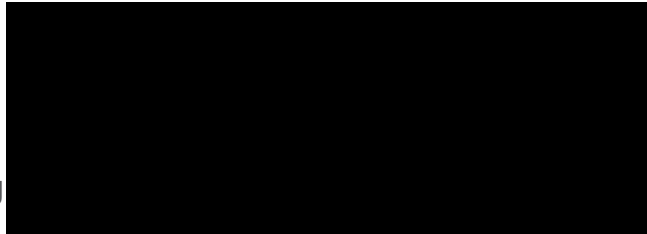
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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) National Highways Limited and (2) Historic England

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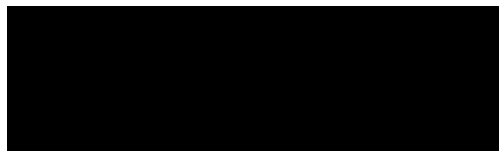


Monica Corso-Griffiths
Head of Design & DCO

On behalf of National Highways

Date: 16 May 2023

Signed:



Lee McFarlane
Inspector of Ancient Monuments (NE&Y)

On behalf of Historic England

Date: 16 May 2023

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground ("SoCG") has been prepared in respect of the proposed A66 Northern Trans-Pennine project ("the Application") made by National Highways Limited ("National Highways") to the Secretary of State for Transport ("Secretary of State") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("PA 2008").
- 1.1.2 This SoCG seeks to summarise and explain the respective parties' positions on issues but does not seek to replicate in full information which is available elsewhere within the Application documents. All Application documents are available on the Planning Inspectorate website.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it and where agreement has not been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by National Highways as the Applicant. It has been shared with Historic England for comment prior to the submission of the DCO, at DCO submission and in advance of Deadlines 3, 5 and 8. It has been agreed with Historic England for submission at Deadline 8.
- 1.2.2 The Applicant has set out the detail of the issues raised by Historic England to date and each of the SoCG parties' respective positions. This is intended to assist the Examining Authority in understanding where discussions have reached.
- 1.2.3 National Highways (formerly Highways England) became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State.
- 1.2.4 The Historic Buildings and Monuments Commission for England is generally known as "Historic England". Historic England was established under the National Heritage Act 1983 and is the lead body for the heritage sector and the Government's principal adviser on the historic environment. It is a statutory consultee on all Nationally Significant Infrastructure Projects. Historic England administers the consent system for Scheduled Monument Consent on behalf of its sponsoring department the Department for Digital, Culture, Media and Sport (DCMS), and also advises DCMS who acts on behalf of Government as

State Party on meeting and complying with the requirements of the 1972 Convention Concerning the Protection of the World Cultural and National Heritage.

1.3 Terminology

1.3.1 In the tables in the Issues section of this SoCG:

- “Agreed” indicates area(s) of agreement between the Applicant and Historic England
- “Not agreed” indicates a final position for area(s) of disagreement between the Applicant and Historic England, where the resolution of differing positions has not been possible, and parties agree on this point

1.3.2 It can be assumed that any matters not specifically referred to in the Issues section of this SoCG are not of material interest or relevance to Historic England, and therefore have not been the subject of any discussions between the parties.

2 Record of Engagement

2.1.1 A summary of the key meetings and correspondence that has taken place between National Highways (NH) and Historic England (HE) in relation to the Application is outlined in table 2.1.

Table 2.1 – Record of Engagement

Date	Form of correspondence	Key topics discussed and key outcomes
09.02.2021	Microsoft Teams	Discussions with HE as part of the Heritage Technical Working Group (TWG) (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on the Evidence Plan, project overview, update on report for geophysics, design development and archaeological trenching.
25.02.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on the Evidence Plan, environment surveys, approach to mitigation and environmental designated funds.
12.03.2021	Microsoft Teams	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on the research agenda, designated funds opportunities, discussion of developing design at Brougham and archaeological trenching.
25.03.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on the Evidence Plan, project updates, Warcop AONB, Trout Beck and approach to statutory consultation and PEI Report.
14.04.2021	Microsoft Teams	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussion on Evidence and survey strategy documents, Environmental Scoping Report, further options assessment and research framework and geo modelling.
22.04.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on programme updates, design updates, the Evidence Plan and sifting matrix.
05.05.2021	Microsoft Teams	Discussion with HE about the National Highways Geoarchaeological model.
11.05.2021	Microsoft Teams	Discussion with HE about the use of trenching.
13.05.2021	Microsoft Teams	Discussion with HE regarding the research agenda.
27.05.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on the Evidence Plan and a scheme-by-scheme design walkthrough.

Date	Form of correspondence	Key topics discussed and key outcomes
08.06.2021	Microsoft Teams	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting discussions include research framework, option appraisal, evidence and survey strategy and geoaerchaeological modelling.
17.06.2021	Microsoft Teams	Discussion with HE regarding Roman Roads along the A66.
18.06.2021	Microsoft Teams	Discussion with HE and the Milestone Society.
24.06.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on design updates, the approach to mitigation, the environmental designated funds process, the Scoping Report and the Evidence Plans.
25.06.2021	Microsoft Teams	Interim discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on built environment, overall approach, desk based assessment, geophysical surveys, field walking, remote sensing, geoaerchaeological modelling, setting assessment, trenching and research framework.
06.07.2021	Microsoft Teams	Discussion with Kirkby Thore concerning heritage discussion.
08.07.2021	Microsoft Teams	Discussion with HE concerning Carkin Moor.
22.07.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussion on environmental designated funds.
18.08.2021	Microsoft Teams	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on key PEI Report findings and a scheme-by-scheme review.
24.08.2021	Microsoft Teams	Discussion with HE concerning Rokeby.
26.08.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on EIA Scoping, PEI Report status and assessment process, statutory consultation, design updates, Appleby to Brough and Rokeby.
02.11.2021	Microsoft Teams	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on feedback to statutory consultation, updates on research framework, geoaerchaeological modelling and surveys.
11.11.2021	Microsoft Teams	Discussion with HE concerning Carkin Moor design.
25.11.2021	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on programme updates, design change updates and statutory consultation updates.

Date	Form of correspondence	Key topics discussed and key outcomes
02.12.2021	Microsoft Teams	Meeting to discuss issues around Warcop with HE. Meeting included discussions on flood modelling and updates.
13.01.2022	Microsoft Teams	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on design change and targeted consultation, approach to environmental mitigation and response to statutory consultation design change.
18.01.2022	Microsoft Teams	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussion on geoarchaeological modelling exercise, survey updates and design updates.
10.02.2022	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on project/programme updates and environmental mitigation approach.
10.03.2022	Online Meeting	Discussions with HE as part of the Heritage TWG (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on delivery partners, research framework, delivery plan and survey updates.
24.03.2022	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with HE in attendance. Meeting included discussions on Trout Beck, Warcop and Moor Beck.
10.06.2022	Online Meeting	Meeting between HE and National Highways Introductory meeting to discuss the content of the SOCG. Agreed to diarise update session after submission of the DCO.
05.08.2022	Online Meeting	Meeting between HE and National Highways meeting to discuss future engagement on the SOCG. Meeting included discussions on PINS requests, the format of future engagement and key issues for HE.
13.09.2022	Online Meeting	Meeting between National Highways and the statutory environmental bodies to discuss the Environmental Management Plan (EMP) process.
26.09.2022	Online Meeting	Meeting between HE and National Highways meeting to discuss future engagement on the SOCG. Meeting included discussions on points of agreement and what remains under discussion.
10.10.2022	Online Meeting	Meeting between HE and National Highways meeting to discuss the SOCG. Meeting included discussions on points of agreement and what remains under discussion.
21.11.2022	Online Meeting	Meeting between HE and National Highways meeting to discuss the SOCG. Meeting included discussions on points of agreement and what remains under discussion.
05.12.2022	Online Meeting	Meeting between HE and National Highways meeting to discuss the SOCG. Meeting included discussions on points of agreement and what remains under discussion.

Date	Form of correspondence	Key topics discussed and key outcomes
13.01.2023	Email	Email from Historic England containing draft of SoCG with Historic England's comments on their position on issues considered within the SoCG.
16.01.2023	Online Meeting	Meeting between HE and National Highways meeting to discuss the SOCG. Meeting included discussions on points of agreement and what remains under discussion.
09.02.2023	Online Meeting	Meeting between National Highways and the SEBs to discuss ExA's Written Questions.
27.02.2023	Online Meeting	Meeting between HE and National Highways meeting to discuss the SoCG.
06.03.2023	Email	Email from Historic England containing draft of the updated SoCG with Historic England's comments on their position on issues considered within the SoCG.
09.03.2023	Email	Email from Historic England containing further clarification on the draft of the updated SoCG with Historic England's comments on their position on issues considered within the SoCG.
13.03.2023	Online Meeting	Meeting between HE and National Highways meeting to discuss the SoCG.
27.03.2023	Online Meeting	Meeting between HE and National Highways meeting to discuss the SoCG.
03.04.2023	Email	Email from Historic England providing detailed comments on the Environmental Management Plan, Annex B£ Outline Heritage Mitigation Statement and Annex C3 Scheduled Monuments Method Statement.
17.04.2023	Email	Email from Historic England providing comments on the Project Design Principles Document.
21.04.2023	Email	Email from Historic England providing comments on National Highways responses on Historic England requested changes to the EMP. Annex B3, Annex C3 and the PDP, and providing further comments on the REAC table within EMP and on the "under discussion" items in the SoCG relating to the DCO.
24.04.2023	Online Meeting	Meeting between HE and National Highways meeting to discuss the SoCG.
10.05.2023	Email	Email from Historic England containing draft of the updated SoCG with Historic England's comments on their position on issues considered within the SoCG.
15.05.2023	Email	Email from Historic England containing confirmation of their position on issues considered within the SoCG.

2.1.2 It is agreed that this is an accurate record of the key meetings and other forms of consultation and engagement undertaken between (1) National Highways and (2) HE in relation to the issues addressed in this SoCG.

3 Issues

- 3.1.1 Tables 3-1 and 3-2 provide details of the issues raised between the parties and the status.
- 3.1.2 It should be noted that the numbering of issues has been retained from the Statement of Common Ground with Historic England (Rev 2) submitted at deadline 3 (Document Reference 4.5, REP3-032).
- 3.1.3 The following issues are considered to be superseded or no longer relevant to the examination since the Statement of Common Ground with Historic England (Rev 3) (Document Reference 4.5, REP5-008) submitted at Deadline 5:
- 3-2.9 Stephen Bank to Carkin Moor
 - 3-2.10 Outline of Environmental Management Plan (EMP)
 - 3-2.11 Outline of Environmental Management Plan (EMP)
 - 3-2.12 Outline of Environmental Management Plan (EMP)
 - 3-2.13 Outline of Environmental Management Plan (EMP)
 - 3-2.15 Outline of Environmental Management Plan (EMP)
 - 3-2.17 Legal
 - 3-2.18 General
 - 3-2.45 DCO, Policy and Guidance Environment and EMP
- 3.1.4 Further detail on both Historic England's and the Applicant's historic position on the issues detailed in paragraph 3.1.3 above is included in Table 3-2 of the Statement of Common Ground with Historic England (Rev 3) (Document Reference 4.5, REP5-008) submitted at Deadline 5.
- 3.1.5 Detail in relation to issues considered superseded or no longer relevant at or prior to Deadline 5 are contained in Appendix A of the Statement of Common Ground with Historic England (Rev 3) (Document Reference 4.5, REP5-008) submitted at Deadline 5.

Table 3-1: Record of Issues – Agreed Issues (Summary of Agreed Positions)

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-1.1 Penrith to Temple Sowerby	Historic England Response to Statutory Consultation (Appendix 1, page 9) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>The PEI Report identifies a range of heritage assets, both designated and un-designated, which will be impacted by the construction of the new road. The Consultation Brochure erroneously describes the ring ditches at Brougham and the site of the Hartshorn Tree as scheduled monuments (p31), but in fact neither site is scheduled. This needs to be rectified.</p> <p>Additional commentary: Historic England agree that this has been made clear in the DCO documents.</p>	<p>We thank HE for bringing this to our attention.</p> <p>It is National Highways understanding that this issue is resolved and may be treated as agreed between the parties.</p>	Agreed
3-1.2 Temple Sowerby to Appleby – Kirkby Thore	Historic England Response to Statutory Consultation (Appendix 1, Page 10) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>All three route options have the potential to impact upon previously unknown archaeological sites to the west and north of the village. All three would have a beneficial impact in diverting HGV traffic from the gypsum works away from the centre of the historic village.</p> <p>We support the adoption of the Blue route at Kirkby Thore as overall it will have less impact on cultural heritage resources in comparison to the other two options.</p> <p>Additional commentary: Historic England have no further comments on this.</p>	<p>We thank HE for their comments and wish to confirm that the Blue Route has been selected to be put forward to DCO.</p> <p>It is National Highways understanding that this issue is resolved and may be treated as agreed between the parties.</p>	Agreed
3-1.3 Temple Sowerby to Appleby – Crackenthorpe	Historic England Response to Statutory Consultation (Appendix 1, page	At its eastern end, the Orange Route would follow the existing line of the A66, unlike the Blue and Red Routes. The Orange Route has a direct impact on NHLE1007189 (Roman camp 350m east of Redlands Bank). The Blue	The preferred Blue Route has been realigned to avoid direct impacts upon NHLE1007189 (Roman camp 350m east of Redlands Bank).	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	11) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	Route may impinge on features associated with NHLE 1007189 (Roman Camp at Redlands Bank). We anticipate that this can be mitigated by careful alignment of the Blue Route at this point. Additional commentary: Historic England have no further comments on this.	It is National Highways understanding that this issue is resolved and may be treated as agreed between the parties.	
3-1.4 Bowes Bypass	Historic England Response to Statutory Consultation (Appendix 1, page 13) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	Neither the PEI Report (although it is record in Table 8-10) nor the Figures record that there is a Conservation Area at Bowes. This needs to be rectified and assessed appropriately in the ES. Additional commentary: Historic England note that NH have rectified the ES.	We thank HE for bringing to our attention the omission of reference of the Conservation Area at Bowes in the PEI Report, this has been rectified in the ES. It has been concluded that whilst the Order Limit extends into the northern extent of the conservation area the temporary lane take will be to facilitate site access and the connection of services only. There will be but no long-term impacts from the construction of the activities undertaken within the conservation area and those changes to its setting will not cause any greater impact than the existing road arrangement.	Agreed
3-1.5 General comments Clear assessment of impact on Cultural heritage resource	Historic England Response to Statutory Consultation (Appendix 1, page 8) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	Potential ecological mitigation areas are shown on the General Arrangement map sheets for all schemes. However, it is not clear that the potential impacts on the cultural heritage resources have been assessed to help inform their locations nor potential mitigation proposed in the PEI Report. We recommend that this is fully addressed in the final ES. Additional commentary:	The impact of the scheme on Cultural Heritage Resources are detailed within Appendix 8.10 (Impact Assessment Table) within Volume 3 of the ES (Application Document Reference 3.4, APP-187). Cultural Heritage mitigation is detailed within the Environmental Management Plan (EMP) (Application Document Reference 2.7, APP-019), including the first iteration submitted at Deadline 3 of the Examination (REP3-004) The objectives these mitigation measures	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		Historic England agree they have had sight of the documents mentioned and have raised no further comments.	seek to fulfil are outlined in Table 3-1 of the Statement of Common Ground with Historic England (Rev 3) (Document Reference 4.5, REP5-008).	
3-1.6 Monitoring	Historic England Response to Statutory Consultation (Appendix 2, page 21) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>It is unclear what this section specifically refers to. HE anticipates that there will be a need for monitoring on some or all schemes. More clarification is required to understand why it says: “monitoring is not proposed in connection with cultural heritage resources anywhere along the route.”</p> <p>Additional commentary: Historic England now understand that the monitoring referred to related to post-construction monitoring. Therefore, we have no more concerns about this matter, as there should be no post-construction impacts to be monitored.</p>	<p>The purpose of the mitigation to be proposed within the Historic Environment Strategy is to ensure the impacts from the scheme are minimised during construction for the following cultural heritage resources:</p> <ul style="list-style-type: none"> • The Countess Pillar and associated Alms Table. • Grade II listed Milestone East of Whinfall Park, and • Carkin Moor Roman fort. <p>Monitoring will not be required post-construction of the A66 as the mitigation to minimise impacts on the Historic Environment will be in place.</p>	Agreed
3-1.7 Ecological Mitigation	Historic England Response to Statutory Consultation (Appendix 2, page 21) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>We would like to raise this issue to ensure that the potential heritage impacts are appropriately assessed before final mitigation locations are agreed. It did not appear to be specifically addressed in the PEI Report. This should be done for both on- and off-route ecological mitigation.</p> <p>Additional commentary: Historic England understand that ecological mitigation sites have been included in the heritage impact assessments submitted with the DCO.</p>	The location of ecological mitigation has been undertaken with the cooperation from all environmental disciplines to ensure its proposed location does not cause further impacts to heritage features.	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>Unless there are any future changes to the mitigation locations we are content that they have been assessed.</p>		
<p>3-2.7 Cross Lanes to Rokeby</p>	<p>Historic England Response to Statutory Consultation (Appendix 1, page 17) and additional commentary in Historic England comments on SoCG received by email 13.01.2023</p>	<p>Section 10.4 of the submitted Traffic Report indicates that there could be a preference for car traffic to use the Moorhouse Lane route to access Barnard Castle. However, whilst Figure 13-30 does indicate a preference for cars to use Moorhouse Lane, the traffic is not predicated to increase over Barnard Castle Bridge or past the Castle into the town. Indeed, it appears suggests a small decrease.</p> <p>On this basis, we do not believe that changes to traffic patterns will lead to a harmful impact on the highly designated assets within Barnard Castle. Therefore, we do not believe that this represents a significant historic environment factor which could influence the choice of junction options at Rokeby.</p> <p>We do, however, recommend that the impacts are understood and assessed appropriately in the cultural heritage section of the ES to ensure that all effects are fully understood to ensure that this is valid.</p> <p>Additional commentary:</p> <p>Historic England note NH’s response. We also note the additional information provided by NH in relation to traffic at Deadline 1.</p> <p>The finer grained traffic assessment submitted in response to ExA query from ISH1 [REP3-044] does not change our opinion. The minor changes in traffic will not cause harm from an historic environment point of view</p>	<p>As reported within the Transport Assessment (Application Document Reference 3.7, APP-236) the traffic flow in Barnard Castle is expected to reduce due to the lower flows on the A67, of around 400 vehicles AADT, including on Barnard Castle Bridge. This reduction on the A67 occurs due to the improved A66 attracting more longer distance east west traffic from the A67.</p> <p>Chapter 8 (Cultural Heritage) of Volume 1 of the ES (Application Document Reference 3.2, APP-051) has concluded that no significant effects will occur during the operation phase of the Project.</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.14 Outline of Environmental Management Plan (EMP)	Historic England Response to Statutory Consultation (Appendix 2, page 22) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>Table (in paragraph 4.1.19) only deals with archaeological assets, and not heritage assets more generally. There needs to be recognition that transport schemes do not only result in impacting on archaeology, but also listed buildings, conservation areas, WHS etc., and not only through direct impact, but indirect impact of development in the setting of heritage assets.</p> <p>Additional commentary: Historic England agrees that NH have assessed a wider definition of cultural heritage assets than the table referred to in the PEIR document. Can NH confirm that if Table (in paragraph 4.1.19) was used in the EMP that it has been updated?</p>	<p>Chapter 8 (Culture Heritage) of Volume one of the ES (Application Document Reference 3.2, APP-051) has assessed the impact upon cultural heritage assets across the scheme including designated and non-designated, Conservation Areas and Historic Landscapes character areas.</p> <p>Cultural Heritage mitigation is detailed within the Environmental Management Plan (EMP) (Application Document Reference 2.7, REP3-004)). The objectives these mitigation measures seek to fulfil are outlined in Table 3-1 of the Statement of Common Ground with Historic England (Rev 3) (Document Reference 4.5, REP5-008).</p> <p>National Highways can confirm in relation to Historic England additional query that the table (in paragraph 4.1.19) of PEI Report Appendix 4.1 Outline of Environmental Management Plan has not been used in the Environmental Management Plan (EMP) (REP3-004)) as it was intended to provide a non-exhaustive list of examples of what might be included in the EMP.</p>	Agreed
3-2.16 Outline of Environmental Management Plan (EMP)	Historic England Response to Statutory Consultation (Appendix 2, page 23) and additional commentary in Historic England comments on SoCG	<p>The list of possible consents, licenses and permissions for the project should also include Scheduled Monument Consent (SMC) as this is subsumed within a DCO permission.</p> <p>Additional commentary: Historic England notes that section 3.1.3 of submitted document “5.4 Consents and Agreements Position Statement” [APP-287] lists Scheduled Monument Consent as a</p>	<p>Scheduled Monument Consents will be sought where necessary, as part of the DCO application.</p> <p>Consents within the draft DCO are set out within the Consents and Position Statement (Application Document Reference 5.4, APP-287).</p> <p>National Highways notes the need for Section 42 Licences to be obtained for metal</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	received by email 13.01.2023	required consent included in the draft DCO therefore separate SMC applications are not required unless any works are necessary to a scheduled monument which are not already included in the DCO. It should be noted that Section 42 Licences for metal detecting on scheduled monuments as part of any agreed works in the Heritage Mitigation Strategy are required.	detecting on scheduled monuments as part of any agreed works in the Heritage Mitigation Strategy.	
3-2.21 Consultation and Engagement Process	Historic England Written Representation (paragraph 4.11, page 5, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023	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. Additional commentary: HE welcome the change made to Annexe B11 section B11.4.6 incorporating an action to maximise opportunities for engagement of local communities, schools and local groups in heritage activities set out in Annex B3 Draft Heritage Mitigation Strategy	National Highways acknowledges the opportunity flagged. A paragraph has been inserted into the Annex B11 Community Engagement Plan (Document Reference 2.7, APP-031) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the Outline Heritage Mitigation Strategy (including the research framework). This amendment has been included in the updated EMP (Document Reference 2.7, REP3-004) submitted at Deadline 3.	Agreed
3-2.22 Consultation and Engagement Process	Historic England Written Representation (paragraph 4.12, page 5, REP1-026) and additional commentary in Historic England comments on SoCG	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. Additional commentary: HE welcome the change made to Annexe B11 section B11.4.6 incorporating an action to	National Highways acknowledges the opportunity flagged. A paragraph has been inserted into the Annex B11 Community Engagement Plan (Document Reference 2.7, REP3-015) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the Outline Heritage Mitigation Strategy (including the research framework). This amendment has been included in the	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	received by email 06.03.2023	maximise opportunities for engagement of local communities, schools and local groups in heritage activities set out in Annex B3 Draft Heritage Mitigation Strategy	updated EMP (Document Reference 2.7, REP3-004) submitted at Deadline 3.	
3-2.23 Consultation and Engagement Process	Historic England Written Representation (paragraph 4.13, page 5, REP1-026) and additional commentary in Historic England comments on SoCG received by email 09.03.2023.	<p>We also note that “Annexe B3: Detailed Heritage Mitigation Strategy” [APP023] 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.</p> <p>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.</p> <p>Additional commentary:</p> <p>Historic England agree that the Outline Heritage Mitigation Strategy cross refers to the Community Engagement Plan.</p> <p>HE and NH will continue to discuss the engagement strategy, but this is not a point in dispute.</p>	<p>An updated EMP has been submitted to the examination at Deadline 3, including an updated version of Annex B3 which amends the title to Outline Heritage Mitigation Strategy. The updated document has been amended to cross-refer to the Annex B11 Community Engagement Plan (Document Reference 2.7, APP-031). The Research Framework is cross-referenced at B3.2.5 of Annexe B3: Heritage Mitigation Strategy” (Document Reference 2.7, APP-023) where its main themes are summarised.</p> <p>National Highways welcomes continued engagement with Historic England to put a Historic Environment engagement strategy in place.</p>	Agreed
3-2.24 M6 Junction 40 to Kemplay Bank	Historic England Written Representation (REP1-026) and additional	<p>Historic England provided commentary on the assessment of impact on assets for all Schemes.</p> <p>Historic England’s position is outlined in Table 3-1 of the Statement of Common Ground with</p>	National Highways note Historic England’s comments and agree with this understanding of the assessments of impact on assets and as is reported in Chapter 8 Cultural Heritage	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
<p>3-2.26 Penrith to Temple Sowerby</p> <p>3-2.30 Temple Sowerby to Appleby</p> <p>3-2.32 Appleby to Brough</p> <p>3-2.33 Bowes Bypass</p> <p>3-2.34 Cross Lanes to Rokeby</p> <p>3-2.38 Stephen Bank to Carkin Moor</p> <p>3-2.41 A1(M) J53 Scotch Corner</p>	<p>commentary in Historic England comments on SoCG received by email 09.03.2023</p>	<p>Historic England (Rev 3) (Document Reference 4.5, REP5-008).</p>	<p>of the Environmental Statement (Document Ref APP-051).</p>	
<p>3-2.27 Penrith to Temple Sowerby</p>	<p>Historic England Written Representation (paragraph 6.25, page 12, REP1-026)</p>	<p>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.</p>	<p>National Highways note Historic England's comment and agree with this understanding of the proposals at Penrith to Temple Sowerby and as is reported on the Environmental Mitigation Maps (Document Ref APP-041).</p>	<p>Agreed</p>
<p>3-2.29 Penrith to Temple Sowerby</p>	<p>Historic England Written Representation (paragraph 6.29,</p>	<p>Finally, we note that sheet 1 of the environmental mitigation maps [APP-041] indicates that it is proposed to carry out <i>“Strategic vegetation clearance at the Countess Pillar to enhance and open up views</i></p>	<p>National Highways note Historic England's comment and agree with this understanding of the proposals at the Countess Pillar and as</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
Environment and EMP	pages 12 and 13, REP1-026)	<i>of this historic landmark from the road</i> ". 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].	is reported on the Environmental Mitigation Maps (Document Ref APP-041).	
3-2.31 Temple Sowerby to Appleby Walking, Cycling and Horse Riding	Historic England Written Representation (paragraph 6.37, page 14, REP1-026)	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.	Historic England's agreement that the provisions for preservation by record contained in the Heritage Mitigation Strategy (2.7 Environmental Management Plan Annex B3 Detailed Heritage Mitigation Strategy (APP-023) are acceptable is noted.	Agreed
3-2.35 Cross Lanes to Rokeby Development of the project and alternatives	Historic England Written Representation (paragraphs 6.49 to 6.52, page 16, REP1-026)	<p>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.</p> <p>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.</p> <p>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</p>	National Highways note Historic England's comment and agree with this understanding of the assessment of impact on assets at Cross Lanes to Rokeby and as is reported in Chapter 8 Cultural Heritage of the Environmental Statement (Document Ref APP-051).	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>with the National Policy Statement on National Networks (2014).</p> <p>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.</p>		
3-2.36 Cross Lanes to Rokeby Design, Engineering and Construction	Historic England Written Representation (paragraph 6.53, page 17, REP1-026) and additional commentary in Historic England comments on SoCG received by email 09.03.2023.	<p>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.</p> <p>Additional commentary:</p> <p>Historic England note that the concept of a roundabout is agreed, and the final design will continue to be discussed.</p>	<p>National Highways note Historic England's comment.</p> <p>National Highway will continue to engage with HE during detailed design on the design of the roundabout.</p>	Agreed
3-2.37 Cross Lanes to Rokeby	Historic England Written Representation	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	National Highways note Historic England's comment and agree that the proposed ecological mitigation to the landscape around the RPG in this area is secured effectively by	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
Environment and EMP	(paragraph 6.56, page 17, REP1-026)	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.	the principles and commitments noted in the Project Design Principles and the REAC table.	
3-2.40 Stephen Bank to Carkin Moor Design, Engineering and Construction	Historic England Written Representation (paragraphs 6.64 and 6.65, page 18, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023	<p>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.</p> <p>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.</p> <p>Additional commentary: HE note the updated PDP document submitted at D3 [REP3-041] reference 09.05 includes works on Warrener’s Lane</p>	National Highways have updated Table 4-14 reference 09.05 in the Project Design Principles (Document Reference 3.2, APP-302) submitted at Deadline 3 to include an appropriate commitment to address HE’s concerns.	Agreed
3-2.42 DCO, Policy and Guidance Design, Engineering and Construction	Historic England Written Representation (paragraph 7.3, page 19, REP1-026) and additional commentary in Historic England	<p>Development Consent Order (DCO) Article 7 – Limits of deviation</p> <p>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</p>	National Highways note Historic England’s comment. There is an error in the table in Article 7(3) of the Draft Development Consent Order (Document Reference 5.1, APP-285). The item related to works no 09-2B is incorrect and this should read 09-1E. This errata confirms a 0m northward movement of the	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	<p>comments on SoCG received by email 06.03.2023</p>	<p>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.</p> <p>Additional commentary: HE note the correction and the commitment to a 0m northward deviation on the Warrener’s Lane alignment south of the scheduled monument at Carkin Moor</p>	<p>Warrener Lane alignment in the vicinity of the scheduled monument – applicable to Works no 09-3E on the Works Plans (Document Reference 5.16, APP-324). This correction has been made in the draft DCO submitted at Deadline 2.</p>	
<p>3-2.43 Article 54 – Detailed Design</p>	<p>Historic England Written Representation (paragraph 7.5, page 20, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023</p>	<p>Article 54 – Detailed Design</p> <p>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.</p> <p>Additional commentary: HE note the comment made by NH and are content that no changes are necessary.</p>	<p>It should be noted that under the provisions of the first iteration EMP (Document Reference 2.7, APP-019) (specifically ref. MW-CH-03) a Scheduled Monument Method Statement must be developed (in substantial accordance with Annex C3 [Document Reference 2.7, APP-038] prior to the start of work that could impact a Scheduled Monument. This Method Statement must be approved by the Secretary of State as part of a second iteration EMP (see article 53 of the draft DCO and paragraph 1.4.11 of the first iteration EMP) and complied with. All of these provisions are legal obligations and secured through the DCO. As such, compliance with an approved Method Statement is already secured via the first iteration EMP and article 53 and does not need to be repeated in article 54. Indeed, it is likely that detailed design would be undertaken prior to a Method Statement being developed and approved (in that the detailed design would inform the content of such a Method Statement). As such, National Highways does not propose to amend article 54 and</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			considers the current drafting adequately secures the necessary protection measures.	
3-2.63 Three trenching reports	Historic England Written Representation (Appendix 1, part b, page 34, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023	<p><u>Three trenching reports</u></p> <p>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.</p> <p>Additional commentary:</p> <p>Historic England note the NH comment made in the draft SoCG issued in advance of DL5. We have no further comment to make.</p>	National Highways notes Historic England's comment but does not propose to change how the information is presented.	Agreed - no need for further discussion
3-2.64 Geophysics	Historic England Written Representation (Appendix 1, part c, page 34, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023	<p><u>Geophysics</u></p> <p>As we noted early in the pre-app when the 1st report was issued to us, there should be an updated geophysical report which compares the prior knowledge with what we know from the trenching.</p> <p>Additional commentary:</p> <p>Historic England note the response to our comment. We have no further comments to make</p>	The geophysical survey report (3.4 Environmental Statement Appendix 8.5 Geophysical Survey Report – Document Reference 3.4, APP-182) updates the initial report. The report was prepared in parallel with the trenching reports and benefited from a cross-discipline survey seminar held during the report preparation phase which allowed contractors to share emerging results.	Agreed - no need for further discussion
3-2.65 - 69 Annexe B3 Detailed Heritage Mitigation Strategy 3-2.70 Annexe B3 Detailed Heritage	Historic England Written Representation (Appendix 2, part a, pages 34 and 35, REP1-026) and additional commentary in Historic England	Historic England have requested various clarifications or updates to Annex B3 Detailed Heritage Strategy (Document Reference 2.7, APP-181) as detailed in Table 3-1 and Table 3-2 of the Statement of Common Ground with Historic England (Rev 3) (Document Reference 4.5, REP5-008).	National Highways have provided clarifications and where appropriate have updated Annex B3 (Document Reference 2.7, REP3-004) to address Historic England's concerns, including renaming the document 'Outline Heritage Mitigation Strategy'. Further detail on the Applicant's position is included in Table 3-1 and 3-2 of the Statement of Common Ground with Historic	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
Mitigation Strategy	comments on SoCG received by email 06.03.2023		England (Rev 3) (Document Reference 4.5, REP5-008).	
3-2.80 EMP	Historic England's Submission at Deadline 4 (REP4-031)	<p>MW-CH-02 relates to the protection of milestones. We would welcome further clarification of the phrase 'under archaeological supervision' so that there is clarity as to the nature and quality of such supervision.</p> <p>HE note the clarification by NH and are content to agree this matter</p>	Annex B3 Outline Heritage Mitigation Strategy (Document Reference 2.7, REP3-009) includes detail regarding the process for the relocation of milestones (section B3.3.25 to B3.3.29). As such, it is not proposed to update MW-CH-02.	Agreed
3-2.4 Penrith to Temple Sowerby	Historic England Response to Statutory Consultation (Appendix 1, page 9) and additional commentary in Historic England comments on SoCG received by email 13.01.2023 and 09.03.2023	<p>The adoption of an overbridge to facilitate the movement of farm traffic between the two sides of the road has the potential, through careful design, to limit impact upon scheduled archaeology. For this reason, HE supports this proposal, although it would have a greater impact on the setting of the Scheduled Monument than an underpass.</p> <p>Additional commentary 13.01.2023: Historic England note the documents referred to.</p> <p>Historic England has also made comments on MW-CH-03 which we invite NH to consider.</p> <p>Additional commentary 09.03.2023: The adoption of an overbridge is agreed.</p>	<p>We welcome the comments from HE regarding the adoption of the overbridge into the scheme.</p> <p>Mitigation measures have been proposed to limit the impact to Scheduled Monuments and are detailed with the submitted Environmental Management Plan (Application Document Reference 2.7, APP-019). MW-CH-03 ensures that no part of the Project can start until a Method Statement for working in and near scheduled monuments. The Method Statement shall include:</p> <ul style="list-style-type: none"> • Details of the scheduled monument(s) present and key sensitivities associated with it. • Construction methodology for all works proposed in or adjacent to scheduled monuments. <p>Control measures to be implemented to ensure protection of scheduled monuments. National Highways is committed to continuing to engage with Historic England regarding</p>	Agreed (adoption of an overbridge)

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			<p>their concerns in relation to the Environmental Management Plan (EMP) (Application Document Reference 2.7, APP-019).</p> <p>Having considered the Historic England's comment on MW-CH-03 provided in their Written Representations (Appendix 5, pages 4 and 5, REP1-026), National Highways has made changes to the draft first iteration EMP (Document Reference 2.7, REP3-004) submitted to the examination at Deadline 3.</p>	
<p>3-2.5 Penrith to Temple Sowerby</p>	<p>Historic England Response to Statutory Consultation (Appendix 1, page 9) and additional commentary in Historic England comments on SoCG received by email 13.01.2023 and 09.03.2023</p>	<p>There will be significant adverse impacts on NHLE 1007186 (Brougham Roman fort and civil settlement and Brougham Castle and NHLE 1007203 (Settlement 1/3 mile – 540m - ENE of Brougham Castle). The PEI Report suggests a range of mitigation measures, mainly involving preservation by record. Assuming that impacts cannot first be mitigated by design (for example by raising the level of the carriageway), we will expect the footprint of the new road to be fully recorded in advance of construction.</p>	<p>The Scheduled Monument of Brougham Roman fort (Brocauvm) and civil settlement and Brougham Castle lies partially within the Order Limits. Although temporary construction activities would occur within the setting of the Scheduled Monument, including moving plant, lighting and noise, these are mainly screened from the upstanding sections of Brougham Castle and it is considered that these would not have a significant effect on the significance of the monument.</p> <p>However, the northern part of the easternmost Scheduled area is located within the Order Limits. The scheme at this location will include the creation of a hardstanding cycle path with associated verges and earthworks along the route, and areas of environmental mitigation consisting of species rich grassland and marsh and wet grassland. Any below ground works will result in the loss of associated physical evidence in the area within the Order Limits and a</p>	<p>Agreed (mitigation measures)</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>Additional commentary 13.01.2023: Historic England will continue to have discussions with the applicant about the documents referred to in NH's response. It is our understanding that Principle 03.08 in Section 4.2 of the Project Design Principles [APP-302] should ensure that the final design seeks to limit harms whilst Environmental Mitigation Plan (EMP) REAC action MW-CH-03 should ensure that a method statement is agreed for works near to Scheduled Monuments. Representations. HE has also made comments on MW-CH-03 which we invite NH to consider.</p> <p>Additional commentary 09.03.2023: Historic England welcome the changes made to MW-CH-03 in [REP3-004]. The proposed mitigation measures are agreed.</p>	<p>moderate adverse impact to the overall Scheduled Monument resulting in a large adverse effect, resulting in a moderate adverse effect following essential mitigation. Operational impacts are anticipated to be comparable to the baseline and would not result in a significant effect.</p> <p>Mitigation measures have been proposed to limit the impact to Scheduled Monuments and are detailed with the submitted Environmental Management Plan (Application Document Reference 2.7, APP-019).</p> <p>Having considered the Historic England's comment on MW-CH-03 provided in their Written Representations (Appendix 5, pages 4 and 5, REP1-026), National Highways has made changes to the draft first iteration EMP (Document Reference 2.7, REP3-004) submitted to the examination at Deadline 3.</p>	
3-2.6 Appleby to Brough	Historic England Response to Statutory Consultation (Appendix 1, page 12) and additional commentary in Historic England comments on SoCG received by email 13.01.2023 and 09.03.2023	<p>The plan of the 'Warcop eastbound' junction on sheet 2 of the General Arrangement Drawings shows a construction compound immediately to the east of NHLE 1019208 (Warcop Roman camp and length of Roman road, 285m southwest of Moor House). The potential of this compound to impact on archaeological features associated with the Roman camp needs to be investigated before its location can be confirmed.</p> <p>The PEI Report identifies significant adverse impacts on NHLE 1019208 (Warcop Roman camp and length of Roman road, 285m south west of Moor House). We would be looking for</p>	<p>The construction compound identified by HE (to the east of NHLE 1019208) does not sit on a scheduled area and consequently, it is not believed that there will be significant impacts associated with the location of this compound.</p> <p>Cultural Heritage mitigation is detailed within the Environmental Management Plan (EMP) (Application Document Reference 2.7, REP3-005). This includes the provision that no part of the Project can start until the Detailed Heritage Mitigation Strategy (HMS) is further developed, and subject to stakeholder</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>mitigation of these impacts, as far as possible, by design; failing this, through preservation by record.</p> <p>Additional commentary 13.01.2023: Historic England agree that the compound does not sit on the Scheduled Monument and is of sufficient distance not to cause any physical harm.</p> <p>We are content with the mitigation measures proposed in in Annexe C3: Scheduled Monuments Method Statement [APP-038] although we note that a further iteration of this document will be submitted. In addition, measures to avoid and minimise harm are also included in 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. It should also be noted that HE has made comments in relation to MW-CH-03 and the Heritage Mitigation Strategy in its WR which we invite NH to consider.</p> <p>Additional commentary 09.03.2023: Historic England welcome the changes made to MW-CH-03 in [REP3-004].</p> <p>This issue is agreed.</p>	<p>consultation. As outlined in D-CH-01, this will include:</p> <ul style="list-style-type: none"> • The strategy for the archaeological works, summarising the work undertaken to date, the research agenda and the approach to mitigation proposed. • The Overarching Written Scheme of Investigation (OWSI) which will set out the framework for the archaeological works and will be used as a reference for the Site-Specific Written Schemes of Investigation (SSWSI) which will be produced in advance of the commencement of the work. • Requirements for SSWSI to be prepared, detailing type and location of mitigation required. • Standards and guidance. • Details of the proposed mitigation across each of the schemes, showing the specific mitigation proposed and the justification for the work. <p>Requirements for post excavation assessment reports to be produced once site (archaeology) works are completed.</p> <p>Having considered the Historic England's comment on MW-CH-03 provided in their Written Representations (Appendix 5, pages 4 and 5, REP1-026), National Highways has made changes to the EMP. These changes have been included in an updated draft Environmental Management Plan (Document</p>	

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			Reference 2.7, REP3-004) submitted to the examination at Deadline 3.	
3-2.8 Stephen Bank to Carkin Moor	Historic England Response to Statutory Consultation (Appendix 1, page 19) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>Proposed designs are yet to finalised, but we have been consulted on initial proposals. The connecting route to Warrener Lane and the associated attenuation ponds required in this area potentially may impact on unknown cultural heritage resources associated with the activity at the fort and settlement. We continue to engage with National Highways over the designs for this scheme.</p> <p>Additional commentary: Historic England note the documents referred to in NH's response which will control the development of the final design to limit the impact on the monument and ensure preservation by record in areas where impact is unavoidable. We note that the PDP document should also be referred to here as it places some control over the design at Carkin Moor.</p>	<p>Chapter 8 (Cultural Heritage of Volume 1 of the ES (Application Document Reference 3.2, APP-051) has concluded that the combination of physical impacts from the construction of the scheme and the changes to the asset's setting would, without mitigation, result in a moderate adverse impact, resulting in a moderate adverse significance of effect.</p> <p>As contained within the Environment Management Plan EMP) (Application Document Reference 2.7, APP-019) a programme of archaeological mitigation would be put in place to ensure preservation by record of any archaeological remains within the footprint of the works. This preservation by record of any archaeological features will reduce the physical impacts on the resource alone from a moderate adverse impact to a minor adverse impact. However, the combination of impacts including changes to the resource's setting, outlined above, will result in a moderate adverse impact on this high value resource, resulting in a moderate adverse significance of effect.</p> <p>The Project Design Principles (PDP) document (Document Reference 5.11, REP3-040) contains several scheme specific design principles within Table 414 for the Stephen Bank to Carkin Moor scheme that outline control measures for the detailed design of</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			the scheme around Carkin Moor Roman Fort Scheduled Monument.	
3-2.80 Annex B3 to the EMP	Historic England's Submission at Deadline 4 (REP4-031)	Figure 2 nomenclature needs amendment from 'DAMS' to 'DHMS' in the flow chart	Having considered the comment made National Highways considers it prudent to make the suggested change. This change has been included in an updated draft Annex B3 Outline Heritage Mitigation Strategy (Document Reference 2.7, REP6-007) that was submitted to the examination at deadline 6.	Agreed
3-2.81 Annex B3 to the EMP	Historic England's Submission at Deadline 4 (REP4-031)	Paragraph B3.3.5 deals with site specific written schemes of investigation ('SSWSI'). In our view, this paragraph should include reference to the necessity of works (including pre-commencement works) being carried out in accordance with the prepared SSWSI for each site.	Having considered the comment made National Highways agreed with the overarching principle and have updated the wording in paragraph B3.3.5 in Annex B3 Outline Heritage Mitigation Strategy (Application Document Reference 2.7, REP6-007) to address Historic England's concerns. This change has been included in an updated draft Annex B3 Outline Heritage Mitigation Strategy that was submitted to the examination at deadline 6.	Agreed
3-2.82 Annex B3 to the EMP	Historic England's Submission at Deadline 4 (REP4-031)	Paragraph B3.3.60 deals with geoarchaeology. We request that in addition to works following HE guidance on geoarchaeology, the Applicant liaises with the HE Regional Science Advisor to agree sampling strategies and other geoarchaeological work.	Having considered the comment made National Highways considers it prudent to make the suggested change. This change has been included in an updated draft Annex B3 Outline Heritage Mitigation Strategy (Document Reference 2.7, REP6-007) that was submitted to the examination at deadline 6.	Agreed
3-2.1 General comments	Historic England Response to Statutory Consultation	Compounds are shown on General Arrangement map sheets for all schemes. There appears to be no assessment of likely impacts in the PEI Report. Compounds may	The impact of the proposed temporary compounds is assessed in detail and reported in Appendix 8.10 (Impact Assessment Table) within Volume 3 of the	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
Construction compounds and assessment of potential impact	(Appendix 1, page 8) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>have a temporary setting impact while in use, but they could have a permanent physical impact during construction to cultural heritage resources. We recommend that assessment of potential other impacts is fully addressed in the final ES.</p> <p>Additional commentary: Historic England disagree that impacts of compounds would necessarily be reversible to below ground archaeology. Some compounds are noted in the mitigation mapping as high risk for excavation – i.e. preservation by record so this is clearly not reversible. Temporary is only relevant to its use during construction. It is accurate that the compounds are temporary, but some may have permanent effects as noted in the tables in section 8.10.4 of the Impact Assessment Tables. The statement “This has concluded that these works would be temporary, of limited duration and reversible” is not entirely correct.</p>	<p>ES (Application Document 3.4, APP-187). This has concluded that the impact of the temporary compounds on the setting of listed buildings, conservation areas and upstanding non-designated heritage resources would be temporary, of limited duration and reversible. In respect of archaeological resources, it is identified that there is the potential for the partial or total removal of heritage resources, including archaeological remains, within the Project footprint and the compaction of archaeological deposits by construction traffic and structures.</p>	
3-2.2 M6 junction 40 to Kemplay Bank	Historic England Response to Statutory Consultation (Appendix 2, page 8) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>The adoption of an underpass beneath the Kemplay Bank roundabout has the potential to impact upon any surviving archaeological remains in this area. While it is assumed that these will already have been significantly impacted by the construction of the existing roundabout, further work may be required to confirm that this is the case.</p> <p>Additional commentary: Historic England have seen the documents referred to. We note that the area of the Kemplay Bank roundabout was not subject to trial trenching and that [APP-095] Historic</p>	<p>A programme of archaeological trenching was undertaken by Wessex Archaeology wherein a total of 276 trenches were excavated between September AD2021 and December AD2021 across the schemes from M6 junction 40 to Kemplay Bank and Penrith to Temple Sowerby (Center Parcs). The most notable features identified by trenching within this section of the scheme were palaeochannels thought to be associated with the River Eamont. The information they contain was incorporated into the baseline and any newly identified heritage resources</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>Environment Mitigation Locations (Sheet 1) indicates the proposed mitigations is low risk excavation. The HMS once finally agreed should ensure archaeological mitigation is carried out as set out in OWSI and subsequent Scheme Specific SSWSI.</p>	<p>were added to ES Appendix 8.8 (Gazetteer) (Application Document Reference 3.4, APP-185) and assessed in Table 17 of Appendix 8.10 (Impact Assessment Table) within Volume 3 of the ES (Document Reference 3.4, APP-187).</p> <p>It has been concluded that the proposed groundworks will remove archaeological or geoarchaeological remains associated with these medium value features to formation levels, which will result in major adverse impacts and a large adverse effect, becoming a moderate adverse effect following essential mitigation.</p> <p>Cultural Heritage mitigation is detailed within the Environmental Management Plan (EMP) (Document Reference 2.7, APP-019). This includes the provision that no part of the Project can start until the Detailed Heritage Mitigation Strategy (HMS) is further developed, and subject to stakeholder consultation. As outlined in D-CH-01, this will include:</p> <ul style="list-style-type: none"> • The strategy for the archaeological works, summarising the work undertaken to date, the research agenda and the approach to mitigation proposed. • The Overarching Written Scheme of Investigation (OWSI) which will set out the framework for the archaeological works and will be used as a reference for the Site-Specific Written Schemes of Investigation (SSWSI) which will be 	

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			<p>produced in advance of the commencement of the work.</p> <ul style="list-style-type: none"> • Requirements for SSWSI to be prepared, detailing type and location of mitigation required. • Standards and guidance. • Details of the proposed mitigation across each of the schemes, showing the specific mitigation proposed and the justification for the work. • Requirements for post excavation assessment reports to be produced once site (archaeology) works are completed. <p>The Outline Heritage Mitigation Strategy (HMS) Strategy (Document Reference 2.7, REP3-009) provides an Overarching Written Scheme of Investigation (OWSI) (section B3.3 of the Outline HMS) which sets out the principles and parameters within which all archaeological mitigation will be carried out. The OWSI, along with the Detailed HMS and results from previous archaeological investigations will be used to inform the Site-Specific Written Schemes of Investigation (SSWSI) which will contain a specification for the mitigation works and include details of how the works relate to the research agenda, the purpose of the specific works and the methodology to be used, alongside details of the timing, programme and personnel proposed. The SSWSI will be produced in advance of the commencement of the works.</p>	

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3.2.3 M6 junction 40 to Kemplay Bank	Historic England Response to Statutory Consultation (Appendix 1, page 8) and additional commentary in Historic England comments on SoCG received by email 13.01.2023	<p>The PEI Report identifies little of cultural heritage interest within the scheme boundary. No likely significant effects on cultural heritage resources are anticipated during construction or operation of the scheme, although temporary impacts on the Grade II* listed Carleton Hall during the construction phase are predicted. We would want to explore whether it would be possible to mitigate these impacts.</p> <p>Additional commentary: Historic England have had sight of the documents referred to.</p> <p>We note that whilst provision is made for protection of Grade II* Carleton Hall during construction, there is no clear commitment to reinstate or restore the impact to parkland when the haul road and compound are removed. NB: see also our comments at 3.2.24/25. This point is very similar.</p>	<p>The impact of the scheme on Carleton Hall is detailed within Appendix 8.10 (Impact Assessment Table) within Volume 3 of the ES (Application Document Reference 3.4, APP-187).</p> <p>The Grade II* listed Carleton Hall is directly adjacent to the Order Limits. Activities associated with the proposed widening of the existing A66 to the north and northwest, the construction of a pond and associated access track to the east, a temporary haul route to the south of the resources, and the use of land to the east as a construction compound storage area will result in temporary moderate adverse impacts during the construction phase, including associated noise, lighting and traffic movement.</p> <p>Dust and noise abatement measures have been proposed and detailed with the submitted Environmental Management Plan (Application Document Reference 2.7, APP-019).</p> <p>This includes ensuring that an Air Quality and Dust Management Plan (AQDMP) and a Noise and Vibration Management Plan is developed in detail and subject to stakeholder consultation.</p> <p>The Project Design Principles document (Document Reference 5.11, REP6-015) submitted into examination at deadline 6 has been updated at 0102.05 to include the requirement that any reinstatement at this location must reflect the parkland character of Carleton Hall and Park.</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.20 World Heritage Site of the Lake District	Historic England Written Representation (paragraph 4.4, page 4, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031), and via email from Historic England 10.05.2023	<p>The World Heritage Site (WHS) of the Lake District has not been included in the assessment tables – neither showing it scoped in, nor out.</p> <p>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.</p> <p>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.</p> <p>Additional DL4 commentary:</p> <p>We noted that if a WHS has been screened out of a detailed EIA in an Environmental Statement, there would need to be a clear and convincing justification, with appropriate evidence, to demonstrate the lack of impact that has been assessed. This was not made clear in the ES and, in our view, this needs to be addressed through an appropriate HIA.</p> <p>We note the Applicant's response, however, in our view, the Applicant needs to go further</p>	<p>National Highways considers that these points are addressed in the response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011).</p> <p>The World Heritage Site lies outside of the agreed 1km study area within which impacts from the project can be expected. As a result, neither direct physical nor setting effects to heritage resources within the World Heritage Site are expected.</p> <p>Changes to traffic flows within the World Heritage Site resulting from the project have been modelled to show a nominal change over a 'do nothing' scenario. It is therefore not expected that heritage assets will experience indirect effects as a result of the project.</p> <p>It remains the view of National Highways that the Project will not have direct or indirect impacts either physical or in relation to setting on the Lake District WHS. Negligible increases to traffic flows will occur within the WHS. The NH response to Historic England's points in REP 1-026 previously noted (REP2-106 page 36) notes "<i>changes to traffic flows within the World Heritage Site have been modelled to a nominal change over a 'do nothing' scenario.</i>" The response to RR187 given in PDL-010 at page 104f lays out the extent of the change. Supporting technical information to clarify National Highways approach to understanding the interaction between the project and the Outstanding Universal Value of the World Heritage Site</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>than asserting a lack of impact on the Outstanding Universal Value of the WHS from any increase in traffic or parking within its boundaries as a result of the Project. In order to show that it has explicitly and demonstrably considered these potential impacts and reached an evidenced conclusion, the Applicant should conduct an appropriate HIA. There is extensive guidance in place on HIAs in these circumstances, and the HIA should be proportionate to the issue and scale of the potential harm.</p> <p>Additional commentary 10.05.2023: HE note that NH has recently provided a technical note which adequately explains why a HIA is not required in relation to potential impact of the project on the OUV of the Lake District WHS. This addresses our concerns</p>	<p>has been prepared and shared with Historic England on 02.05.2023.</p>	
<p>3-2.25 M6 Junction 40 to Kemplay Bank DCO, Policy and Guidance</p>	<p>Historic England Written Representation (paragraph 6.18, page 11, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023, and via email from Historic England 10.05.2023</p>	<p>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.</p> <p>Additional commentary 06.03.2023: HE suggest considering enhancing Scheme Specific Design Principle Ref 0102.05 to include a clear commitment to restoring the Parkland once the haul road, etc. is removed. See also comments at 3-2.3.</p>	<p>Project Design Principles (Document Reference 3.2, APP-302) scheme wide principles VL03, VR01 outlines protection of the setting of heritage assets and scheme specific principle 0102.05 and 0102.06 outline commitments to protect and restore the parkland and its setting.</p> <p>The Project Design Principles document (Document Reference 5.11, REP6-015) submitted into examination at deadline 6 has been updated at 0102.05 to include the requirement that any reinstatement at this location must reflect the parkland character of Carleton Hall and Park.</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>Additional commentary 10.05.2023: We note the update to the PDP and are content for this to be moved to agreed.</p>		
3-2.28 Penrith to Temple Sowerby Walking, Cycling and Horse Riding	Historic England Written Representation (paragraph 6.28, page 12, REP1-026) and additional commentary provided via email from Historic England 10.05.2023	<p>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].</p> <p>Additional commentary 10.05.2023: We note the change has been accepted to reinstate the walking and cycling access. Move to agreed.</p>	National Highways have recently held a consultation on proposed changes to the preliminary design of the Project, as presented in the DCO application. This included consultation on a change to our DCO submission to include for a walking and cycling access and link from the B6262 (near Brougham Fort) to the Countess Pillar. Following careful consideration of the responses to consultation, National Highways submitted a request to the Examining Authority to accept this and other changes. The Examining Authority have accepted this change (DC-05) into the examination.	Agreed
3-2.39 Stephen Bank to Carkin Moor Design, Engineering and Construction	Historic England Written Representation (paragraphs 6.60, 6.61 and 6.63, page 18, REP1-026) and via email from Historic England 10.05.2023	<p>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.</p> <p>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.</p> <p>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</p>	National Highways acknowledge Historic England's summary of the current DCO design in relation to level of the road, retaining walls and the drainage layout in this location. National Highways recently held a consultation on proposed changes to the preliminary design of the Project, as presented in the DCO application. This included consultation on a change to our DCO application to include for a bridleway overbridge at Carkin Moor, as an alternative to the proposed underpass arrangement, with a lowering of the mainline alignment back to existing road levels through the scheduled monument. Following careful consideration of the responses to consultation, National Highways decided not to advance the change	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>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.</p> <p>Additional commentary 10.05.2023: We note the proposed design change has not been accepted into the examination and that the design remains as originally submitted. Move to agreed</p>	<p>at Carkin Moor (DC-32). A change relating to Warrener Lane (DC-31 has been taken forward and has been accepted into examination by the Examining Authority; however, it would not result in changes to Warrener Lane around the scheduled monument at Carkin Moor.</p>	
3-2.44 Consultation and Engagement process	Historic England Written Representation (paragraph 7.6, page 20, REP1-026) and additional commentary via email from Historic England 10.05.2023	<p>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.</p> <p>Additional commentary 10.05.2023: HE notes the applicant’s position and will not pursue this further.</p>	<p>National Highways acknowledges the point made by Historic England. The drafting in article 54 is purposefully broad, to reflect the Secretary of State’s ultimate discretion in consulting who they wish in this context. Whilst not all matters would have a heritage angle in this context, National Highways submits that it would be very likely that the Secretary of State would consult its statutory heritage advisor, where necessary, to establish whether any materially new or materially worse adverse environmental effects would arise as a result of a departure. It should be noted that Historic England will be consulted on all heritage matters relating to the development of a second iteration EMP, prior to its submission to the Secretary of State.</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.47 DCO, Policy and Guidance EMP	Historic England Written Representation (paragraph 8.12, page 22, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031) and email from Historic England 15.05.2023.	<p><u>Production of the second iteration EMP</u></p> <p>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.</p> <p>Additional DL4 commentary:</p> <p>HE welcomes the amendment made to the DCO by the Applicant and supports the change of wording at Article 53(4)(a) to 'substantially in accordance with'.</p> <p>We note the comments made by the ExA in its questions [PD-011] and support the ExA's request for a further change of wording.</p> <p>Additional commentary 15.05.203:</p> <p>HE is content with the amended wording of the draft DCO at article 53(4)(a) and 53 (7)(a)(ii) submitted at D7 [REP7-092].</p>	<p>Page 11 of National Highway's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case (Document Reference 7.3, REP1-009)) sets out National Highways position. It states (in respect of the first point): <i>"The Applicant has reflected on the use of this wording and acknowledges it is a departure from recently made DCOs. As a result, it proposes to amend 'substantially based' to 'substantially in accordance with', to reflect those DCOs. This change will be made in the next draft of the DCO submitted into the examination at deadline 2"</i> National Highways can confirm that this change has been made to the draft DCO (Application Document 5.1, REP2-005) which was submitted at Deadline 2. And, in respect of the second (on page 13 of the same submission): <i>"The Applicant has again re-considered the use of this wording in light of the ExA's comments but does not propose to amend it in the draft DCO. Having considered recent precedents to ensure the draft DCO is not inconsistent, it is apparent that the Applicant's formulation has recently been approved by the Secretary of State in the A57 Link Roads Development Consent Order 2022, illustrating that this drafting is acceptable in policy, as well as legal, terms (it has also been included in other DCOs made over the past year, such as the M54 to M6 Link Road Development Consent Order 2022 and the M25 Junction 28 Development Consent Order 2022)."</i></p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			<p>National Highways does not propose to change the wording in the DCO on these points.</p> <p>National Highways can confirm that “materially worse” has been replaced with “materially different” in article 53(4)(a) and Article 53(7)(a)(ii) within the draft DCO (Application Document 5.1, REP7-092) which was submitted at Deadline 7.</p>	
<p>3-2.49 DCO, Policy and Guidance EMP</p>	<p>Historic England Written Representation (paragraph 8.18, page 24, REP1-026) and additional commentary in Historic England’s Submission at Deadline 4 (REP4-031)</p>	<p>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.</p> <p>Additional DL4 commentary:</p> <p>We note the Applicant’s response and consider that this is an issue on which the ExA will now need to take a view.</p>	<p>It is worth noting at the outset that the concept of something not giving rise to materially new or materially worse adverse environmental effects in a DCO context is not new and the Secretary of State has approved similar wording on numerous made DCOs to date. As such, the issues arising in the concept of the Project are not novel in this context. Ultimately, either the Secretary of State (in some circumstances) or National Highways (in others) would need to be content that a proposed amendment to an approved second iteration EMP would not give rise to any materially new or materially worse adverse environmental effects when compared to those in the Environmental Statement. Clearly, to determine this, such an amendment would need to be looked at in the context of the regime implemented overall by that second iteration EMP, including any previous amendments, to establish the effects of the amendment. As such, the cumulative effects of any previous amendments to a second iteration EMP would be considered. It would not be possible</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
			<p>to properly and rationally determine the environmental effects of an amendment in isolation. As set out above, National Highways has also introduced a 'call in' mechanism for the Secretary of State in respect of amendments to an approved second iteration EMP, where the Applicant proposes to determine such amendments itself. It is hoped this provides Historic England with a further level of comfort in this regard.</p>	
<p>3-2.50 DCO, Policy and Guidance EMP</p>	<p>Historic England Written Representation (paragraph 8.20, page 24, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031), and via email from Historic England 10.05.2023</p>	<p>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.</p> <p>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</p>	<p>As Historic England note, the first iteration EMP (Document Reference 2.7 (Rev 2), REP3-004) requires that an approved EMP be published on a website. National Highways considers that to have multiple versions on that website, could cause confusion. It should be noted that National Highways is under an obligation, under paragraphs 1.4.32 and 1.4.35 of the first iteration EMP, to supply to consultees (including Historic England) any second iteration EMP (including amended versions) approved. As such, all consultees will have been provided with any approved submission, including those superseded. However, National Highways is very happy to discuss this point further with Historic England as part of on-going engagement, to establish the easiest and clearest way of publishing documents. National Highways welcomes Historic England's comments about being able to, in principle, accept. See comments above, which National</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>iteration of the EMP being determined by the Applicant.</p> <p>Additional DL4 commentary: Historic England would support different versions of the second iteration EMP being numbered consecutively (for example ‘iteration 2.1, 2.2’ etc).</p> <p>Historic England would support older superseded versions of the second iteration EMP being made available on the Applicant’s website – it should be possible to label different versions clearly, or to put superseded versions in a different section of the website, so that they are available should anyone wish to consult them.</p> <p>Additional commentary 10.05.2023: HE have reviewed the applicant’s changes to the draft EMP and have no further comments.</p>	<p>Highways hopes addresses the caveats expressed by Historic England.</p> <p>National Highways will ensure that as part of the publication requirements set out in the first iteration EMP (e.g. para 1.4.54), it will be clear which versions of the EMP have been amended, the decisions taken and which is the ‘live’ second iteration EMP.</p>	
3-2.54 DCO, Policy and Guidance EMP	Historic England Written Representation (paragraphs 8.29 and 8.30, page 26, REP1-026) and additional commentary in Historic England’s Submission at Deadline 4 (REP4-031), and via email from Historic England 10.05.2023	<p>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’.</p> <p>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,</p>	<p>National Highways has provided updated wording to address this issue in the updated version of the EMP (Document Reference 2.7, REP3-004) submitted at deadline 3.</p> <p>In addition, National Highways have updated the table numbering, as noted by Historic England in their DL4 comments, in the draft of the EMP (Document Reference 2.7, REP6-003) submitted into the examination at deadline 6.</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>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.</p> <p>Additional DL4 commentary: We welcome the re-drafted wording which is clearer, however, we note that some errors remain in relation to table numbering – paragraphs 1.4.14 and 1.4.17 refer to ‘table 2-1’ rather than ‘table 1-2’</p> <p>Additional commentary 10.05.2023: HE have seen the updated EMP and have no further comments</p>		
3-2.60 Project Design Principles	Historic England Written Representation (paragraph 9.3, page 30, REP1-026) and additional commentary in Historic England comments on SoCG received by email 09.03.2023 and via	<p><u>Project Design Principles (PDP) [APP-302]</u></p> <p>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.</p> <p>Additional commentary 09.03.2023: Historic England note that HP01 relates to habitats and C101 to carbon, neither refer to heritage impacts. In addition, there does not</p>	<p>Project Design Principles (Document Reference 5.11, APP-302) principle HP02 and CI01 commits lighting to be kept to a minimum and sensitively implemented, only where required.</p> <p>Project Design Principle (Document ref 5.11, REP6-003) principle 08.18 has been updated to provide more clarity on the scheme specific design principle for lighting of the roundabout at Rokeby and signage at the same location.</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	email from Historic England 10.05.2023.	<p>appear to be an agreement to undertake a signage review. Can NH please clarify in relation to our query above?</p> <p>Additional commentary 10.05.2023: HE have seen the update at D6 and are content.</p>		
3-2.61 Environmental Statement	Historic England Written Representation (paragraph 11.5, page 31, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031) and via email from Historic England 10.05.2023.	<p>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.</p> <p>Additional DL4 commentary: We noted that if a WHS has been screened out of a detailed EIA in an Environmental Statement, there would need to be a clear and convincing justification, with appropriate evidence, to demonstrate the lack of impact that has been assessed. This was not made clear in the ES and, in our view, this needs to be addressed through an appropriate HIA. We note the Applicant's response, however, in our view, the Applicant needs to go further than asserting a lack of impact on the Outstanding Universal Value of the WHS from any increase in traffic or parking within its boundaries as a result of the Project. In order to show that it has explicitly and demonstrably considered these potential impacts and reached an evidenced conclusion, the Applicant should conduct an appropriate HIA. There is extensive guidance in place on HIAs</p>	<p>National Highways considers that these points are addressed in the response to Relevant Representations (Document Reference 6.5, PDL-011), pages 103 to 105. The World Heritage Site lies outside of the agreed 1km study area within which impacts from the project can be expected. As a result, neither direct physical nor setting effects to heritage resources within the World Heritage Site are expected. Changes to traffic flows within the World Heritage Site resulting from the project have been modelled to show a nominal change over a 'do nothing' scenario. It is therefore not expected that heritage assets will experience indirect effects as a result of the project.</p> <p>It remains the view of National Highways that the Project will not have direct or indirect impacts either physical or in relation to setting on the Lake District WHS. Negligible increases to traffic flows will occur within the WHS. The NH response to Historic England's points in REP 1-026 previously noted (REP2-106 page 36) notes "<i>changes to traffic flows within the World Heritage Site have been modelled to a nominal change over a 'do nothing' scenario.</i>" The response to RR187 given in PDL-010 at page 104f lays out the</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>in these circumstances, and the HIA should be proportionate to the issue and scale of the potential harm.</p> <p>Additional commentary 10.05.2023:</p> <p>NH has provided a technical note which adequately explains why a HIA is not required in relation to potential impact of the project on the OUV of the Lake District WHS which addresses our concern.</p>	<p>extent of the change. Supporting technical information to clarify National Highways approach to understanding the interaction between the project and the Outstanding Universal Value of the World Heritage Site has been prepared and shared with Historic England on 02.05.2023.</p>	
3-2.62 Geo-Chemical Report	Historic England Written Representation (Appendix 1, part a page 34, REP1-026)	<p><u>Geo-Chemical Report</u></p> <p>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.</p>	<p>The geochemical survey was commissioned in the Temple Sowerby to Appleby scheme area in order to supplement geophysical survey. In this scheme area trenching was limited to areas common to all of the potential route options at the time the surveys were scoped and as a result non-intrusive techniques were depended upon to a greater extent than in other scheme areas. The benefit of geochemical survey lay in its ability to provide a degree of certainty that areas shown in the geophysical survey as devoid of archaeological features were genuinely so.</p>	Agreed
3-2.73 Project Design Principles - Rokeby Park Roundabout Design, Engineering and Construction	Historic England Written Representation (Appendix 4, page 37 and 38, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023 and via	<p><u>Project Design Principles (PDP [APP -302] Rokeby Park Roundabout</u></p> <p>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 Grill gates and piers).</p>	<p>Project Design Principles (Document Reference 3.2, APP-302) Project wide principle HP02 and CI01 commits lighting to be kept to a minimum and sensitively implemented, only where required. National Highways notes the proposed suggestions including a signage review and will continue to engage with Historic England regarding the design of the roundabout through the detailed design stage.</p> <p>Project Design Principle (Document ref 5.11, REP6-003) principle 08.18 has been updated</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	email from Historic England 10.05.2023.	<p>Additional commentary 06.03.2023: HE note that comment from NH about the PDP principles HP02 and C101. However, neither of these principles are related to Heritage - HP02 relates to habitats and C101 to carbon. We would like to see either heritage included in each of these or a separate but similar principle for Heritage. In addition, we can find nothing which seeks to agree a signage review.</p> <p>Additional commentary 10.05.2023: HE note the update to the PDP and have no further concerns</p>	to provide more clarity on the scheme specific design principle for lighting of the roundabout at Rokeby and signage at the same location.	
3-2.75 Annex B11 Community Engagement Plan Consultation and Engagement process	Historic England Written Representation (Appendix 6, page 1, REP1-026)	<p>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.</p>	National Highways acknowledges the opportunity flagged. A paragraph has been inserted into the Community Engagement Plan (Document Reference 2.7, APP-031) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the Outline Heritage Mitigation Strategy (including the research framework). This amendment has been included in the updated EMP (Document Reference 2.7, REP3-004) submitted to examination at Deadline 3. National Highways will continue to engage with Historic England regarding the nature and scope of community and public engagement around the historic environment.	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.77 EMP	Historic England's Submission at Deadline 4 (REP4-031) and additional commentary via email from Historic England 10.05.2023.	D-CH-02 relates to maintaining the historic form, fabric and significance of listed buildings and structures. We would like to see included a requirement on the part of the Applicant to have regard to the consultation responses it receives under this commitment. Additional commentary 10.05.2023: HE have seen the updated D8 version and have no further comments to make.	Having considered the comment made National Highways considers it prudent to make the suggested change. This change has been included in the updated draft Environmental Management Plan (Document Reference 2.7, REP6-003) that was submitted to the examination at deadline 6.	Agreed
3-2.78 EMP	Historic England's Submission at Deadline 4 (REP4-031) and additional commentary via email from Historic England 10.05.2023.	D-CH-03 relates to consultation requirements for the detailed design of the Project. We suggest that the 'achievement criteria' are updated to make clear that evidence of the design having been undertaken in accordance with the HMS and PDP must be provided to demonstrate compliance with the commitment. We would also like to see included a requirement on the part of the Applicant to have regard to the consultation responses it receives under this commitment. Additional commentary 10.05.2023: HE have seen the updated D8 version and have no further comments to make.	National Highways has made amendments to the updated EMP (Document Reference 2.7, REP3-004) submitted at deadline 3 and a further update to the EMP (Document Reference 2.7, REP6-003) that was submitted at deadline 6 to address Historic England's comment.	Agreed
3-2.79 EMP	Historic England's Submission at Deadline 4 (REP4-031) and additional commentary via email from Historic England 10.05.2023.	MW-CH-01 relates to the recording of historic buildings and structures. We would welcome a requirement that HE and local authorities are notified of the dissemination and publication of the recording. Additional commentary 10.05.2023: HE have seen the updated D8 version and have no further comments to make.	Having considered the comment made National Highways considers it prudent to make the suggested change. This change has been included in an updated draft Environmental Management Plan (Document Reference 2.7, REP6-003) that was submitted to the examination.	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.83 Annex B3 to the EMP	Historic England's Submission at Deadline 4 (REP4-031) and additional commentary via email from Historic England 10.05.2023	<p>Paragraph B3.3.21-22 refers to fencing and exclusion zones (to be agreed with Historic England) which will be put in place around scheduled monuments. We would welcome further information in relation to the process for agreeing the extent of the exclusion zones including, for example, an indication of the timeframe in which exclusion zones will be proposed and plans showing their extent which we can review and respond to.</p> <p>Additional commentary 10.05.2023: HE have seen the updated D8 version and have no further comments to make.</p>	Paragraph B3.3.21 in Annex B3 Outline Heritage Mitigation Strategy (Document Reference 2.7) which will be submitted into examination at deadline 8 has been updated to signpost Annex C3 Scheduled Monuments Method Statement (Document Reference 2.7) which has also been updated for deadline 8 to address this issue, see issue 3-2.28 Annex C3 to the EMP.	Agreed
3-2.85 PDP	Historic England's Submission at Deadline 4 (REP4-031)	It would be helpful if the Applicant could explain the removal of reference to lighting design at section 08-18; in particular, if the Applicant could confirm that no lighting is proposed for the Rokeby roundabout.	<p>National Highways can confirm that it is not the intention for the roundabout at Rokeby to be lit; however, a lighting assessment is required to confirm this. The Project Design Principles document (Document Reference 5.11, REP3-040) requires at HP02 that lighting is to be kept to a minimum and must only be implemented where road safety audits require the need for it.</p> <p>Reference 08.18 appears to have been erroneously removed from the Project Design Principles document submitted into the examination at deadline 3. This error has been rectified and further clarification regarding lighting and signage requirements for the roundabout at Rokeby added to 08.18 added to the Project Design Principles document (Document Ref 5.11, APP-015) submitted to the examination at deadline 6.</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.19 DCO, Policy and Guidance Funding and Delivery	Historic England Written Representation (paragraph 4.2, page 3, REP1-026) and additional commentary via email from Historic England 15.05.2023.	<p>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.</p> <p>Additional commentary 15.05.2023:</p> <p>HE is aware that the Applicant has conducted further surveys. We have not had sight of these and we have not been asked to review them as part of the examination. The assessment at paragraph 4.2 of our Written Representation found that there was sufficient information available for the ExA to determine whether the Applicant’s identification of a ‘medium’ risk in relation to areas where no survey work had been done remains. This is not a disagreement as such between the Applicant and HE, and on that basis, this item has been moved to ‘agreed’. We would expect to see the results of these new surveys informing the development of the DHMS and SSWSIs.</p>	National Highways note Historic England’s comment. A further set of surveys pre-construction have been carried out and details will be shared with Historic England when results are available.	Agreed
3-2.71 Annexe B3 Detailed Heritage	Historic England Written Representation	It is unclear how the protection of scheduled monuments or other areas of archaeological sensitivity will be undertaken. The OHMS	See response to issue 3-2.59. National Highways anticipate that there may be several versions of Annex C3, relating to	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
Mitigation Strategy	(Appendix 1, part c, page 36, REP1-026) and additional commentary in Historic England comments on SoCG received by email 06.03.2023 and 15.05.2023.	<p>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.</p> <p>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).</p> <p>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.</p> <p>Additional commentary 06.03.2023:</p> <p>Historic England notes the response in relation to the number of versions of the Annexe C3 document. However, this doesn't address our concerns regarding how and when the required fencing off and agreement of the buffer zones will occur?</p> <p>Additional commentary 15.05.2023:</p> <p>HE has seen a draft of Annex C3 to be submitted at deadline 8 and accept the provisions set out in that draft.</p>	<p>each scheme or each Scheduled Monument. The number of versions has purposefully not been specified in order to provide flexibility for the contractors to bring them forward as appropriate to the timing of their works. Also see above for amendments to Annex B3 to clarify engagement with HE during the approval process for SSWSIs requiring intervention on SMs.</p> <p>Paragraph C3.5.3 in Annex C3 Scheduled Monuments Method Statement (Document Reference 2.7) which has been submitted at deadline 8 has been updated to make clear that exclusion zones and fencing proposals should be submitted to Historic England for approval. In addition, a new paragraph, C3.5.5, has been added which requires that details of these protective measures are included within the Scheduled Monuments Method Statement.</p>	
3-2.72 Annexe C3 Scheduled Monuments Method Statement DCO, Policy and Guidance	Historic England Written Representation (Appendix 3, parts a, b and c, page 37, REP1-026) and additional commentary in email	<p><u>Annexe C3 Scheduled Monuments Method Statement [APP-038]</u></p> <p>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.</p> <p>We understand that the four Principle Contractors (PC) will amend this document as</p>	See response to issue 3-2.59 regarding the number of versions of the Annex B3 Outline Heritage Mitigation Strategy. References to the REAC have been avoided in this document in order to remove repetition and avoid circular references. The REAC sets the commitment to produce the statement and what it must contain, and that it must be in	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	<p>from Historic England 15.05.2023.</p>	<p>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?</p> <p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • the impact assessment tables [APP-187] • Annexe C3: Scheduled Monuments Method Statement [APP-038], and 	<p>accordance with what is in the document at Annex C3.</p> <p>The scheduled monuments naming in Annex C3 Scheduled Monuments Method Statement (Document Reference 2.7) which will be submitted into examination at Deadline 8 has been clarified as identified by Historic England.</p>	

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<ul style="list-style-type: none"> Project Design Principles [APP-302] <p>Additional commentary 15.05.2023: HE has seen a draft of Annex C3 to be submitted at deadline 8 and accept the provisions set out in that draft.</p>		
3-2.84 Annex C3 to the EMP	Historic England's Submission at Deadline 4 (REP4-031) and additional commentary in email from Historic England 15.05.2023.	<p>We consider that the control measures set out at paragraph 3.5 would benefit from further clarification as it is currently unclear how the contractor will agree the control measures and what is required to be submitted to HE for approval. We therefore request that the wording of this section is revised to make clear that exclusion zones and fencing proposals should be submitted to HE for approval, and the time frame for submission.</p> <p>Additional commentary 15.05.2023: HE has seen a draft of Annex C3 to be submitted at deadline 8 and accept the provisions set out in that draft.</p>	Paragraph C3.5.3 in Annex C3 Scheduled Monuments Method Statement (Document Reference 2.7) which will be submitted at deadline 8 has been updated to make clear that exclusion zones and fencing proposals should be submitted to Historic England for approval. A new paragraph, C3.5.5, has also been added which requires that details of these protective measures are included within the Scheduled Monuments Method Statement.	Agreed
3-2.46 DCO, Policy and Guidance EMP	Historic England Written Representation (paragraphs 8.6 and 8.7, pages 21 and 22, REP1-026) and additional commentary via email from Historic England 15.05.2023.	<p>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).</p> <p>We also note that the approach to the EMP proposed by the Applicant creates a number of</p>	National Highway's position on the principle of securing an EMP by way of an article in the DCO rather than a requirement in a Schedule to a DCO is set out and justified under agenda item 2.1 in the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case (Document Reference 7.3, REP1-009). It is National Highway's view that the proposed approach, would help to simplify matters, to ensure mitigation matters are contained under a single 'umbrella' document, as opposed to across a number of different requirements, which themselves	Agreed

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		<p>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.</p> <p>Additional commentary 15.05.2023: HE does not oppose the securing of environmental mitigation through the EMP rather than through requirements in the DCO, however, in our view, a number of issues remain to be addressed as summarised elsewhere in this SOCG.</p>	<p>would generate various approved documents. As explained as Issue Specific Hearing 2, the Applicant’s proposed approach is legally enforceable in a robust way, in the same as ‘standard’ requirements. Whilst National Highways considers the first iteration EMP (and general approach) would result in a robust set of mitigation and management measurements being implemented.</p>	
3-2.48 DCO, Policy and Guidance EMP	Historic England Written Representation (paragraphs 8.16 and 8.17, page 22, REP1-026) and additional commentary in Historic England’s Submission at Deadline 4 (REP4-031) and via email from Historic England 15.05.2023.	<p><u>Amendments to the second iteration EMP</u> 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’.</p> <p>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</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 (Document Reference 7.3, 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: “...the parameters set out in article 53 mean that the Applicant could only determine an amendment to a second iteration Environmental Management Plan in very limited circumstances (i.e. the change must be substantially based on the provisions of the already approved second iteration Environmental Management Plan, leaving limited scope for departure). That being said, given the very wide scope of matters that</p>	Agreed

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		<p>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.</p> <p>Additional DL4 commentary: The extent to which the Applicant has engaged with the Secretary of State in relation to this proposal is unclear. It would be helpful to know, in particular, whether the Secretary of State will be able to review and respond to any 'call-in' within the 14 day period, which is very short. In view of this, we do not support 'deemed approval' provisions being included in the draft DCO (Article 53(8)(b)(i)).</p> <p>In our view, the DCO should specify the basis on which the Secretary of State would allow the Applicant to amend the EMP itself (Article 53(8)(b)(ii)). It is not currently clear what the threshold would be for the Secretary of State allowing the Applicant to make a determination itself; for example, it may be intended for self-approval to be limited to non-material amendments. This threshold would need careful consideration.</p> <p>We also request that a requirement is included in the DCO for the Applicant to notify consultees when its submission is provided to the Secretary of State and provides the consultees with a copy of its submission.</p> <p>Additional commentary 15.05.2023: HE does not oppose article 53(8) of the DCO, however, the Secretary of State and ExA may wish to consider whether setting a threshold</p>	<p>could be subject to amendment in a second iteration Environmental Management Plan, the Applicant considers that it would be difficult to further define the circumstances as to when either it or the Secretary of State could determine a change. An indicative, non-exhaustive list of examples could be given, but would have limited use in this context. Ultimately it will be a matter of judgement and evidence, applied on a case-by-case basis. 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>Such an amendment has been made to the of the draft DCO (Application Document 5.1, REP2-005) in article 53(8) and (9), this was shown in the revision submitted to deadline 2 of the examination and remains in the latest revision submitted at deadline 5 of the Examination.</p>	

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>for allowing the Applicant to determine its own applications would be appropriate.</p>	<p>National Highways notes the points made by Historic England as to the 14 day time period. Ultimately, the Secretary of State is the decision-maker on the DCO, so should they consider a 14 day period would be too short, they would be able to amend this should the Secretary of State decide to make the DCO. It is also worth noting that if the Secretary of State needed further time to consider a proposal to amend a second iteration EMP, they could 'call in' the determination, to allow themselves more time. Following the discussion of this issue at Issue Specific Hearing 3, the Applicant has amended the draft DCO (Revision 3) submitted at Deadline 5 to include a facility for the Secretary of State to extend the period for determining whether or not to exercise the 'call-in'.</p> <p>Finally, National Highways will review the wording in the first iteration EMP and make any necessary amendments to make it clear that any referral to the Secretary of State under article 53 must be notified to prescribed bodies. It should also be noted that consultation would have been undertaken with those bodies prior to any referral, in accordance with article 53.</p>	
<p>3-2.51 DCO, Policy and Guidance EMP</p>	<p>Historic England Written Representation (paragraph 8.23, page 25, REP1-026) and additional commentary in</p>	<p><u>Third iteration of the EMP and amendments</u> 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</p>	<p>National Highways position on the approval process for the third iteration EMP is stated in Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case (Document Reference 2.7, REP1-009) – see the 'post hearing note' from page 23. In particular, page 26 lists four</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	<p>Historic England's Submission at Deadline 4 (REP4-031) and via email from Historic England 15.05.2023.</p>	<p>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.</p> <p>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.</p> <p>Additional DL4 commentary:</p> <p>The DCO and EMP do not contain a clear requirement for consultation to take place on amendments to a third iteration of the EMP, which is anomalous. We are not persuaded that amending the third iteration EMP should be subject to less scrutiny than amending the second iteration. Allowing the Applicant to amend the EMP itself without recourse to an outside body leaves open the possibility that the provisions of the EMP could be downgraded for convenience.</p> <p>Although the production of the third iteration EMP is subject to consultation, we would maintain that a new iteration of the EMP ought to be subject to the Secretary of State's approval, or at least be subject to the call-in</p>	<p>reasons why it is appropriate for the third iteration EMP to be subject to approval by the Applicant rather than the Secretary of State, given the 'Project Speed' context. In addition, it should be noted that post-construction, the Project will become part of National Highways' wider network and it will be subject to the usual maintenance and management arrangements, which must be carried out in accordance with its statutory licence and statutory duties as the strategic highway company.</p>	

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>mechanism being proposed for amendments to the second iteration (subject to our outstanding concerns in relation to the call-in mechanism being addressed). In our view, having an independent approval of a third iteration would provide greater certainty that all necessary mitigation measures will be included.</p> <p>Additional commentary 15.05.2023: Following discussions between HE and the Applicant, we no longer seek additional measures in relation to the third iteration EMP in relation to the A66 DCO application.</p>		
3-2.53 DCO, Policy and Guidance	Historic England Written Representation (paragraph 8.28, page 26, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031)	<p>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.</p> <p>Additional DL4 commentary: See additional commentary provided in issue 3-2.52</p>	The final draft of the first iteration EMP (Document Reference 2.7) which will be submitted into the examination at deadline 8 has been further updated at paragraph 1.4.15 to provide further clarity regarding the consultation that National Highways is required to carry out on the second and third iteration EMP.	Agreed
3-2.55 DCO, Policy and Guidance	Historic England Written Representation (paragraph 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	The Applicant committed at Issue Specific Hearing 2 to considering whether any amendments to the relevant consultation provisions are required in response to this	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	<p>page 27, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031) and via email from Historic England 15.05.2023.</p>	<p>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.</p> <p>Additional DL4 commentary:</p> <p>The idea of a forum is potentially helpful, but little information is available in relation to how it would operate in practice, or whether the relevant commitment in the EMP REAC table could be enforced.</p> <p>In view of this uncertainty, we are concerned that the forum, in combination with the proposed wording permitting extensions of time, gives rise to a concern that the existence of a forum could be given a reason to deny a reasonable request for an extension of time, irrespective of the quality or detail of the materials provided in the forum.</p> <p>We note that the ExA has suggested extending the time period for consultees to respond to consultation, and we would welcome such an amendment.</p> <p>Additional commentary 15.05.2023:</p> <p>In view of the inclusion in the EMP of wording which permits an extension of time being agreed, HE no longer seeks to extend the 20 working day consultation period.</p>	<p>point raised by the Environment Agency. Please see the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 2.7, REP1-009] – page 6. This includes a summary of the Applicant's proposal to introduce certain aspects into the first iteration EMP in the next draft submitted to the Examination. In particular, this relates to: "1. formal commitment that the Applicant (and its principal contractors) will set up and run regular engagement meetings (or 'forums') with the prescribed consultees, with the aim of providing as much visibility on materials coming to those consultees for consultation as practicable; and 2. amendments to the consultation process, such that the Applicant would be able to agree a longer consultation period with a consultee where circumstances justify it. Such circumstances would need to be considered on a case-by-case basis."</p> <p>It should be noted that the engagement forum (and any proceedings of the same) will in no way impact or supersede the consultation requirements contained in the first iteration EMP – it should be seen very much as a supplementary mechanism to allow further engagement between the parties to be undertaken outside of the consultation process.</p>	

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.52 DCO, Policy and Guidance	Historic England Written Representation (paragraph 8.26, page 25, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031)	<p><u>Consultation arrangements</u></p> <p>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.</p> <p>Additional DL4 commentary:</p> <p>We support the ExA's request for the consultation procedure to be set out in the DCO [PD-011]. In the alternative, the Applicant's DCO amendment which refers to the consultation procedure as set out in the first iteration of the EMP could be a route to resolving this issue: if the definition of 'consultation and determination provisions' in the DCO referred to the 'first iteration EMP' specifically (rather than 'the EMP'). This would prevent the consultation provisions being amended in subsequent iterations of the EMP. It would also avoid confusion should paragraph numbers in the EMP change between iterations.</p> <p>The Applicant has said that it sees the EMP as a 'single source of truth' [REP1-009, pg6]; a place where all mitigation information can be found. If this is the case, the totality of the consultation requirements should be clear on its face. Therefore, while we note the</p>	<p>It should be noted that the first iteration EMP, should the DCO be made, will be 'certified' for the purposes of the DCO and would therefore be 'crystallised' at that point and cannot be amended. The intention for the first iteration EMP is that it will not be superseded, but instead act as the 'base' document from which the second and third iteration EMPs develop. This means the consultation provisions will not change. National Highways notes the proposed amendment to the DCO identified by Historic England in their Submission at Deadline 4 (REP4-031) with which it agrees – this is included in the revised draft DCO submitted to Deadline 5 of the examination. The final draft of the first iteration EMP (Document Reference 2.7) which will be submitted into the examination at deadline 8 has been further updated at paragraph 1.4.15 to provide further clarity regarding the consultation that National Highways is required to carry out on the second and third iteration EMP.</p>	Agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>amendment made to the draft EMP, reference should be made in the 'scope' section (currently at paragraph 1.4.15, REP3-005) to all documents which will be subject to the consultation provisions, as required by the DCO. This will aid clarity and avoid confusion.</p>		

Table 3-2: Record of Issues – Not Agreed Issues

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
3-2.56 DCO, Policy and Guidance EMP	<p>Historic England Written Representation (paragraphs 8.34 and 8.35, page 27, REP1-026) and additional commentary in Historic England's Submission at Deadline 4 (REP4-031) and via email from Historic England 15.05.2023.</p>	<p>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.</p> <p>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.</p> <p>Additional DL4 commentary:</p> <p>While we note the need for a degree of flexibility on the part of the Applicant, and recognise that it may not be possible to set out comprehensive details of its internal arrangements for handling self-approvals at this stage, the draft EMP contains only a check</p>	<p>The Applicant's position is that the current drafting in the first iteration EMP (in paragraph 1.4.38 onwards) is appropriate and is no different to the situation where a local planning authority or a local highway authority approves applications to itself. A degree of flexibility is required as, for example, organisational changes within the Applicant may mean arrangements made now are no longer workable. The Applicant intends to the arrangements to be fully transparent, as per the requirements in the first iteration EMP, albeit that the detail of the arrangements cannot be finalised at this point in time.</p> <p>National Highways notes Historic England's comment in the Deadline 4 submission and will continue to engage with Historic England on this point, amongst others.</p>	Not agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>list of details which will be provided in future (paragraph 1.4.48). We maintain that more information is needed so that all parties can be satisfied that the arrangements proposed by the Applicant are robust.</p> <p>If no further information is to be provided at this stage, it is especially important that the arrangements the Applicant does eventually put in place are consulted on and approved by the Secretary of State, rather than simply being published by the Applicant (paragraph 1.4.47 and paragraph 1.4.49). The obligation for a consultation on the proposed handling arrangement to take place should be included in the DCO and reflected in the 'single consultation procedure' section of the EMP. Similarly, proposed amendments to the handling arrangements should be subject to consultation.</p> <p>Additional commentary 15.05.2023: HE has not been able to reach an agreed position on this point with the Applicant and we will confirm our final view in a submission following the completion of this Statement of Common Ground.</p>		
3-2.57 DCO, Policy and Guidance EMP - Heritage Mitigation Strategy	Historic England Written Representation (paragraphs 8.36 and 8.37, page 28, REP1-026) and additional commentary in Historic England's	<p><u>Pre-commencement archaeological works</u></p> <p>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.</p>	<p>The Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case (Document Reference 2.7, REP1-009) sets out the Applicant's position on this point – see the 'post hearing note' on pages 14 and 15.</p> <p>The definition of 'commence' in article 53(12) follows a well-established formulation, as approved by the Secretary</p>	Not agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
	Submission at Deadline 4 (REP4-031) and via email from Historic England 15.05.2023.	<p>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.</p> <p>Additional DL4 commentary:</p> <p>It is not acceptable that sensitive pre-commencement archaeological investigations are not managed in accordance with an approved document. Without such a document in place, it is unclear how any issues which may arise during archaeological investigations (such as unexpected finds) would be dealt with, or how the relevant authorities can ensure that archaeological investigations take place to an appropriate standard.</p> <p>Additional commentary 15.05.2023:</p> <p>HE has not been able to reach an agreed position on this point with the Applicant and we will confirm our final view in a submission following the completion of this Statement of Common Ground.</p>	<p>of State on numerous other DCOs. It effectively allows certain preliminary/minor works to be undertaken prior to the discharge of certain obligation and commitments in the EMP. One such category of works that are carved out are 'archaeological investigations and mitigation works'. This is common on DCOs and there are numerous precedents for this, including where detailed archaeological mitigation strategies are required to be approved post-consent (as is proposed in this case).</p> <p>The important thing to note is that the ability for National Highways to carry out such activities does not circumvent the obligation to have a detailed heritage mitigation strategy approved as part of a second iteration EMP prior to the start of 'main' works and for these 'main' works to be carried out in accordance with that strategy. Ultimately, the purpose of the strategy is to ensure the impact of the 'main' works on the cultural heritage environment are adequately managed as it is those that are most likely to have an impact – such works cannot be carried out until such a strategy has been approved.</p>	
3-2.76 EMP	Historic England's Submission at Deadline 4 (REP4-031) and via email from Historic England 15.05.2023.	D-GEN-22 is a new commitment which requires the Applicant to set up a forum with consultees during the construction period. No specific details in relation to the format, frequency or content of the forum are provided in the wording of the commitment. The objective of the forum is stated to be 'to provide an opportunity for the Authority and the	D-GEN-22 sets out the process around continued engagement with Historic England among other consultees as outlined in Table 1-2 of the EMP. D-GEN - 22 requires that the format, frequency and content of the forums shall be discussed with the consultees prior to being finalised by the Authority (National Highways).	Not agreed

Issue	Document References (if relevant)	Historic England Position	National Highways Position	Status
		<p>PC to share information with the consultees on the construction of the Project, enable engagement and discussion in relation to the construction of the Project and to provide, as far as reasonably practicable, advance notice of information to be shared with the consultees under the procedures set out in Section 1 of this EMP'. In our view the wording of this commitment is insufficient to provide confidence that a forum will make a meaningful contribution to engagement between the Applicant and consultees and more information about the format, frequency, timing and content of the proposed forums needs to be provided. Additional commentary 15.05.2023: HE has not been able to reach an agreed position on this point with the Applicant and we will confirm our final view in a submission following the completion of this Statement of Common Ground.</p>		