



## Environmental Outcomes Reports: a new approach to environmental assessment

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

We welcome the opportunity to submit a response to this consultation on Environmental Outcomes Reports.

### Summary Comments

Cultural heritage – defined in the Levelling Up and Regeneration Bill (LURB) as “any building, structure, other feature of the natural or built environment, which is of historic, architectural, archaeological or artistic interest” – is a key component of the wider environment.<sup>1</sup> As such, this recognition of the historic environment in the proposed Environmental Outcomes Reports (EOR) regime is much welcomed.

Historic England recognises the aim of reforming environmental assessment to ensure that it is as efficient, focused and effective as possible. We support the government's review of the current SEA/EIA regime, and its commitment “to improving what already exists”.<sup>2</sup> As noted at paragraph 3.4, Environmental Impact Assessment (EIA) has had major benefits in protecting the marine historic environment because of its *integrated* approach, and the same is true of the public benefits that EIA and Strategic Environmental Assessment (SEA) have achieved in many cases for the historic environment on land.

Historic England has considerable experience of both SEA and EIA. We would therefore welcome a further opportunity to share our understanding of the effectiveness of the existing environmental assessment regimes to further the successful development of EORs. However, for now we would highlight some benefits of the existing regime(s) that could positively contribute to the development of EORs:

- SEA and EIA both recognise Cultural Heritage as an environmental component and consider it holistically, both at a topic and effects level. This multi-disciplinary approach fosters collaboration (including with consultees at scoping) allowing the early identification and negotiation of issues early, ensuring that the plan/proposal delivers the

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<sup>1</sup> Many domestic statutes and policies recognise that the environment is a combination of both the natural and historic. For example, the Strategic Environmental Regulations state that “The likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscapes and the interrelationship between the above factors.” Similarly, the National Planning Policy Framework highlights that sustainable development, as well as strategic and non-strategic policies should be designed “to protect and enhance our natural, built and historic environment; section 52 of the Fisheries Act 2020 defines environment as “natural beauty and amenity and archaeological and historic features” and the UK Marine Planning Policy recognises the diversity of environment: “its seascapes and its natural and cultural heritage.”

<sup>2</sup> Environmental Outcomes Report: a new approach to environmental assessment, paragraph 1.2.



most sustainable option for all considerations. In contrast, the approach for individually commissioned assessments is often less holistic and risks delivering less sustainable design solutions.

- Both SEA and EIA consider designated and non-designated heritage assets. This is important because many nationally important heritage assets are not – or cannot – be designated. Furthermore, the significance<sup>3</sup> of historic places/areas can be derived from a combination of designated and non-designated heritage assets, necessitating an understanding of both.
- SEA/EIA are beneficial in creating a level playing field<sup>4</sup> to understand the adverse, beneficial and cumulative effects of multiple socio-environment topics to determine the planning balance. Moreover, for the historic environment, they are the only form of assessment that explicitly requires cumulative effects to be assessed.
- SEA is the only means for understanding change to the historic environment in a strategic context. There are also some EIA regimes that, in the context of certain activities, are the only mechanisms for the protection of the historic environment that require an assessment of effects. These regimes include:
  - The Environmental Impact Assessment (Agriculture) (England) (No. 2) (Amendment) Regulations 2017.
  - The Environmental Impact Assessment<sup>3</sup> (Forestry) (England and Wales) (Amendment) Regulations 2017.
  - The Marine Works (Environmental Impact Assessment) Regulations 2007.

Beyond SEA and EIA, there is no environmental legislation that requires the upfront assessment of effects to heritage assets. Most environmental legislation relates to the authorisation of works (i.e. consents) and as such, does not duplicate the requirements of SEA/EIA. Similarly, the National Planning Policy Framework (NPPF) and UK Marine Policy Statement both set out protections for the historic environment, but only the NPPF requires an assessment of effects; albeit, with the onus of understanding being on the decision-maker and not the applicant. However, the NPPF tests and remits are different to SEA/EIA.

Typically, Heritage Impact Assessments (HIAs) undertaken to fulfil the requirements of the NPPF are transposed to fit the requirements of historic environment legislation, including EIA. Again, there is no duplication – this technical assessment is used, in an efficient manner, to inform all statute and policy requirements.

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<sup>3</sup> Heritage significance is defined in Annex 2 of the NPPF as “The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence but also its setting.”

<sup>4</sup> By using a common scale of the assessment of effects (e.g. minor, moderate, major).



## Q.1. Do you support the principles that will guide the development of outcomes?

### The outcome approach: general comments

For millennia, people have shaped the world around them and, as result, the natural and historic environment are inexorably linked. Only by thinking holistically about *all* environmental outcomes can the refocused assessment regime embed and deliver better outcomes on the ground.

If there are elements of the environment that do not have appropriate outcomes developed there is a risk of unintended consequences. Namely, that plans/projects will be designed in a biased way delivering against some, but not all, environmental protections. The historic environment will be at risk of this, if listed buildings, or any other type of heritage asset, are excluded. So too will climate change (mitigation or adaptation), in the absence of its own specific outcome(s).

There is also the risk that excluded environmental elements could be unintentionally deprioritised. As a result, they may not be considered within an interdisciplinary context, nor at the earliest stage of the plan/proposal, as per the mitigation hierarchy. This would run counter to a key aim of the new EOR regime and raises the question of whether proposals will be designed to be the most sustainable that they can.

Whilst we recognise that having measurable and monitored positive outcomes could be a positive step, there is a question as to the extent to which the proposed EOR regime will identify and deal with negative and cumulative effects and the resulting potential consequences. Clarity on this would be greatly welcomed given the risk that measuring just positive outcomes may obscure the very real and detrimental impacts that can arise from development, particularly in respect of impacts on cultural heritage.

At paragraph 4.5, the government acknowledge the benefit of retaining a common approach across the new EOR regimes. Historic England supports this, recognising that this is an opportunity to create an improved and simplified framework of environmental assessment. It might therefore be beneficial to consider having not just one core set of outcomes, but one set of regulations, within which there are separate topics that cover the different needs and responsibilities of the current different regimes. Cross-regime consistency and effectiveness would provide much greater clarity for all those engaging with EORs.

More commonality between the EOR regimes and the wider planning system in terms of terminology and definitions would also be beneficial, helping to simplify the planning system(s) and supporting guidance. For example, current domestic planning policy,<sup>5</sup> refers to the “Historic Environment”<sup>6</sup> rather than “Cultural Heritage”, which is a term more commonly used in a wider international context. It might therefore be helpful to reframe cultural heritage as the historic environment within the EOR regimes. At the very least, divergence from “Cultural Heritage” such as at paragraph 4.10 of the consultation, which refers to “cultural heritage and archaeology”, should be avoided as it implies that the two things are separate, when the latter is already included within the definition of the former.

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<sup>5</sup> Both the National Planning Policy Framework (NPPF) and UK Marine Policy Statement.

<sup>6</sup> The NPPF 2019, Annex 2 defines the Historic Environment as: “All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.” The UK Marine Policy Statement contains a similar description.



## The Principles

The suggested principles appear likely to work well with the existing biodiversity regulatory framework. However, effectively integrating them within broader environmental regulatory frameworks, such as the historic environment or protected landscapes, which include a mosaic of natural and heritage features, will be more challenging. Below are some suggestions that could help improve integration of the principles within the historic environment framework, which Historic England would be happy to discuss further.

### Principles relating solely to outcomes

#### **Drive the achievement of statutory environmental targets and the Environment Improvement Plan (EIP).**

- Neither the Environment Act (2021) nor any other statute provides targets for the historic environment. As such, the development of cultural heritage outcomes will rely heavily on an EIP in which cultural heritage is recognised as part of the environment, but not yet thoroughly considered. We would support the development of targets for the historic environment, as well as the more thorough integration of cultural heritage within the EIP, and we offer our assistance in the delivery of this.

#### **Be designed using the knowledge and experience of sector groups and environmental experts.**

- Sector knowledge and environmental expertise will be critical to the successful development of outcomes and indicators, and we would welcome the opportunity to participate in the development of outcomes and indicators, as well as their supporting guidance.

#### **Have an organisation responsible for monitoring overall progress of specific outcomes i.e., a responsible ‘owner’**

- Given the integrated nature of the natural and historic environment, Historic England would be glad to support the necessary collaboration between Defra and DCMS to develop and monitor outcomes.

#### **Be reviewed on a regular basis to ensure they remain relevant**

- Historic England supports this approach. However, if reviews result in changes to the assessment process that could create inconsistency or confusion it will be necessary to be mindful of the frequency of reviews.

### Principles relating to both outcome and indicators

The text below is for consideration in response to both questions 1 and 2, as the principles are to be applied to both outcomes and indicators.

#### **Do not duplicate matters more effectively addressed through policy**

Historic England recognises and supports the need to avoid duplication between existing environmental assessment regimes. Nonetheless, we are concerned at the suggestion (at



paragraph 4.12) that the EOR regime will only consider certain cultural heritage issues perceived to lie outside the requirements of other planning legislation or policy.<sup>7</sup>

### **Legislation**

The planning framework for the historic environment is different to that of the natural environment. Under the requirements of legislation such as the Conservation of Habitats and Species Regulations 2017, or the Marine and Coastal Access Act 2009, nature designations such as Special Areas of Conservation, Special Protection Areas, or Marine Conservation Zones receive a level of scrutiny from complementary processes outside of the existing SEA or EIA processes. The same is simply not true of the historic environment. There is no equivalent of an upfront Habitats Regulations Assessment, which requires an applicant to undertake a systematic assessment and design mitigation measures.

There are several statutes that provide protections to the historic environment.<sup>8</sup> Most of these, including the Planning (Listed Buildings and Conservation Areas) Act 1990, relate to consents for works to certain categories of designated assets; such as, listed buildings, scheduled monuments,<sup>9</sup> protected wrecks<sup>10</sup> and military aircraft sites.<sup>11</sup>

The requirements of these consents are focused on individual heritage assets, and, other than for listed buildings, they relate solely to physical works and not setting change. In other words, these consents are only required when certain changes are happening to certain heritage assets.

In accordance with the mitigation hierarchy, plans/proposals should, where possible, seek to avoid effects to heritage assets, especially designated ones. This means that the need for heritage consents should be minimal and can often only be determined towards the later stages of the planning process.

Crucially, no heritage consents explicitly require an upfront assessment of effects. Instead, the assessment requirements of the NPPF (discussed below) tend to be repurposed to support the consent.

The requirements of historic environment legislation are therefore no more a duplication of the SEA/EIA requirements than the need to apply for consent to work in a Site of Special Scientific Interest (SSSI). Just as the need for SSSI consent could not replace and fulfil the function of SEA/EIA, neither can any form of heritage consent.

### **Planning policy**

In addition to legislation, protections are afforded to the historic environment through planning policy, primarily the NPPF and UK Marine Policy Statement. Both policies recognise that heritage assets are finite and irreplaceable and seek to conserve them in accordance with their significance/importance because of their public value.

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<sup>7</sup> The examples given comprise the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework and the National Policy Statements.

<sup>8</sup> E.g. Planning (Listed Buildings and Conservation Areas) Act 1990, Ancient Monuments and Archaeological Areas Act of 1979, The Protection of Wrecks Act 1973, etc.

<sup>9</sup> Consent is acquired via the Ancient Monuments and Archaeological Areas Act of 1979.

<sup>10</sup> Consent is required under The Protection of Wrecks Act 1973.

<sup>11</sup> Consent is required under the Protection of Military Remains Act 1986.



However, there is no requirement within the UK Marine Policy Statement for an assessment of effects to coastal and offshore heritage assets at either strategic or proposal level. This is achieved solely through SEA/EIA.

In contrast, the NPPF requires that in the determination of applications, applicants *describe* the heritage significance<sup>12</sup> of any assets affected in a manner proportionate to the impact(s) on their significance. Further to which, desk-based assessments are required for a site that includes, or potentially includes, archaeological remains.<sup>13</sup> However, Local Planning Authorities (LPAs) are the ones who are required to *identify and assess* the significance of any heritage asset that may be affected by a proposal. This is undertaken by reviewing the information submitted in support of the application and raising queries if there are gaps/misunderstandings.

So again, SEA/EIA is similar to, but not a substitute for, the requirements of the NPPF – they have different tests<sup>14</sup> and different remits. On land, planning policy considers most project-level development effects that are not considered through SEA/EIA (i.e. non-significant effects). However, there is no explicit policy requirement to consider cumulative effects. Also, the NPPF does not cover all the types of on-land activity that SEA/EIA does; for example, agriculture or forestry. Nor does it have any requirement for strategic level assessment of the historic environment. This is delivered through SEA alone (or Sustainability Appraisal, incorporating SEA).

As a minimum, the EOR regime needs to ensure that the same levels of protection continue to be afforded to the historic environment. However, this is an invaluable opportunity to strengthen and clarify the current planning framework and we would be happy to support government to understand the ways in which this might be done.

### **Be measurable using indicators at the correct scale**

- SEA and EIA serve distinct functions. Given the parallels between the current SEA and Sustainability Appraisal regime it is replacing, a more standardised outcomes and indicators-based approach may work at strategic level. However, at project level it is challenging to see how EORs can be a substitute for, or adequately translate the nuances of, a detailed heritage impact assessment (as currently required). Consequently, we are concerned that certain outcomes and indicators that work at a strategic level for a site allocation may not work for measuring the outcomes of the ensuing developments.
- We welcome the government's recognition that not all metrics can be quantitative as impact(s) on the historic environment (i.e. on heritage significance) are typically assessed qualitatively. However, we acknowledge the preference for quantitative indicators, and are working with DCMS to better understand culture and heritage capital, which may be a complementary means of assessment and support this objective.
- There is a contradiction in the wording of the indicator principles that is confusing. At paragraph 4.18, it says that the principles listed for indicators "must" be met, but in the following paragraph then says that qualitative indicators may be used if necessary. It

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<sup>12</sup> Heritage significance is the sum of its heritage value: evidential, historical, aesthetic, and/or archaeological. It should not be confused with the EIA significance of effects, which refers simply to the scale of effects assessed.

<sup>13</sup> NPPF, para. 194.

<sup>14</sup> Substantial harm in the NPPF (which case law indicates is a very high test) versus the determination of significant effects (i.e. moderate or major effects) in SEA/EIA.



would be beneficial if more consistent language could be used (e.g. that both “must” be met).

## **Q.2. Do you support the principles that indicators will have to meet?**

Please see our response to question 1 for our comments on principles for indicators that are the same as those for outcomes.

### **Principles relating solely to indicators**

#### **Clearly and directly relevant to one or more priority outcomes**

- Further clarity is required on this principle to ensure that there is no double counting of positive outcomes.

#### **Proportionate**

- Historic England supports this principle.

#### **Drawn from existing data sets, wherever possible**

- We suggest an expansion of this principle to allow for a more nuanced approach to the historic environment, which – by focusing on heritage significance – is not as directly suited to a quantitative approach. We propose the following revised wording: “Drawn from existing data sets, wherever possible. For the historic environment and landscape, a more qualitative approach is likely to be needed”.

#### **Evidence based**

- Historic England supports this principle. However, it should be noted that understanding a heritage asset’s significance/sensitivity is an iterative process that is continuously reappraised as a proposal evolves or as more evidence emerges from research and investigations.

#### **Replicable**

- Historic England supports this principle in relation to quantitative analysis, however, given the nuances of professional judgement, replicability appears less appropriate in a qualitative context. It may be beneficial to explicitly acknowledge this, so we suggest the principle is amended to “replicable for quantitative analysis.”

#### **Supported by a clear methodology and guidance – including how they will be updated as new data emerges**

- We support this principle and would seek to assist in the development of the methodology, guidance and any supporting training.

## **Q.3. Are there any other criteria we should consider?**

Please see our responses to question 1 and 2.



## **Q.4. Would you welcome proportionate reporting against all outcomes as the default position?**

In principle, a default position whereby all topics including cultural heritage are always proportionately reported on could be a positive step. In our experience, the need for the assessment of cultural heritage is not always recognised and, theoretically, this could help to address that issue.

However, Historic England is concerned that adopting default proportionate reporting in lieu of scoping (and the formal consultation process that accompanies it) could result in some environmental assessments being inadequate. Remedying such reports could be time consuming and costly, increasing bureaucratic process. As such, we would not support proportionate reporting against all outcomes and would prefer that scoping was retained and improved.

Whilst currently voluntary, scoping provides an invaluable opportunity for developers/plan makers and authorities to engage and review baseline data to understand the likely effects of a proposed development/plan on the significance of the historic environment. Collectively, those effects can then be managed to the benefit of the proposal/plan, the historic environment, and other considerations.

For cultural heritage, the steer provided at scoping by Historic England and local authority archaeological and conservation officers is not just as to whether an assessment is needed, but the focus of that assessment. The heritage significance of every asset is unique, meaning that so too is its sensitivity to a proposed plan/proposal. In turn, the focus of every assessment – and what is proportionate – is always different.

In the context of EORs, there is an additional dimension to scoping, in that the proposals for streamlining allow for project assessments to partially assess the effects of the project, where a local plan has sufficiently addressed an impact through policy. We recognise that the assessment focus should ideally narrow in the later stages of the planning process but devising meaningful safeguards can be challenging. Moreover, since the level of detail available at the plan stage is limited in comparison to that known at the project stage, there is the risk that this could be regressive and reduce the level of protection for the historic environment.

## **Q.5. Would proportionate reporting be effective in reducing bureaucratic process, or could this simply result in more documentation?**

Please see our response to question 4.

## **Q.6. Given the issues set out above, and our desire to consider issues where they are most effectively addressed, how can government ensure that EORs**



## support our efforts to adapt to the effects of climate change across all regimes?

As the consultation acknowledges, climate change is not a single issue but a complex network of interconnecting considerations. Historic England strongly supports urgent climate action<sup>15</sup> and, crucially, believes that heritage is part of the solution.

Heritage assets of all kinds can support diverse wildlife and form valuable parts of nature recovery networks and support protected sites such as SSSIs. The land use and traditional management methods associated with many heritage assets also support carbon capture and can assist with flood mitigation as part of nature-based solutions. Additionally, in urban environments, historic green spaces and tree cover (including in conservation areas) are key to mitigating the impacts of urban heat island effects, and surface water runoff.

To ensure that climate change is effectively addressed an outcome dedicated to adaptation and resilience is required. Plans/proposals will also need to have a requirement to demonstrate how they have considered and are resilient to the future risks from climate change. This requirement could contribute to the management of risks covered by the third [National Adaptation Plan](#), particularly the risks set out for biodiversity and the historic environment. Indeed, there is opportunity to encourage proposals that can deliver triple wins for biodiversity, climate adaptation and cultural heritage. This is particularly true at a landscape scale where heritage and natural features, which provide services that support climate change adaptation, are intrinsically linked.

### Q.7. Do you consider there is value in clarifying requirements regarding the consideration of reasonable alternatives?

Yes, Historic England considers that there is value in clarifying the consideration of reasonable alternatives. An iterative design process – as enabled through heritage impact assessment – allows for changes to proposals based on the results of assessments and helps to ensure the transparency and justification of decision making, resulting in more robust assessments.

Historic England also supports the principle of giving the mitigation hierarchy a statutory basis. As this would provide some continuity with the SEA/EIA regulations requirement that measures to “avoid, prevent or reduce and, if possible, offset” significant adverse effects on the environment are described.

It is understood from the proposed government amendments to the Levelling Up and Regeneration Bill (LURB), that the wording of the mitigation hierarchy may be adjusted so that ‘remedy’ is removed. This is to be done so that the remaining hierarchy – avoid, mitigate and compensate – will better reflect that applied as part of an environmental assessment.

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<sup>15</sup> Historic England’s [climate change strategy](#) is available online.



However, the environmental assessment that it aligns with is that of the natural environment and biodiversity,<sup>16</sup> not that of the historic environment.

As acknowledged in national policy,<sup>17</sup> heritage assets are an irreplaceable resource. Depending on its definition,<sup>18</sup> compensation for the loss of, or harm to, the heritage significance of an asset can be a difficult concept. Our advice note on [planning and archaeology](#) exemplifies the approach we support, which (in terms of site allocations) approaches proposed development as follows (para. 80): “Of primary importance is that the assessment is clear in establishing if the location is suitable for allocation and, if so, suggest ways in which development could take place by:

- first avoiding harm to the significance of heritage assets/ remains; and then
- minimising and mitigating harm; while also
- maximising opportunities for public benefit.”

A consistent definition of the mitigation hierarchy that is nuanced for both the natural environment and historic environment is needed, and we would welcome the opportunity to help develop this.

## **Q.8. How can the government ensure that the consideration of alternatives is built into the early design stages of the development and design process?**

An understanding of what alternatives would (or would not) work will likely require a ‘frontloading’ approach, whereby sufficient baseline data is gathered early on to provide a robust evidence-based understanding of design constraints and opportunities. However, the evolution of a plan/development is not necessarily linear and is driven by the negotiation of a myriad of environmental and other considerations.

For the historic environment simply understanding what assets there are within and around a site is not enough. This is because every heritage asset’s significance (including any contribution made by setting) is unique and, in turn, so too is its sensitivity to a plan or proposal.

Therefore, if the mitigation hierarchy and reasonable alternatives are to be properly considered to inform a plan/proposal, an understanding of the significance and sensitivity of the asset is required from the outset. This necessitates that suitable heritage expertise is engaged to inform the work and highlights the added value that scoping – as an opportunity to bring together different cultural heritage experts (i.e. Historic England, Local Authority Officers, and Consultants) – has in a historic environment context. When this happens, the environmental assessment should be correctly focused and sufficiently detailed to support

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<sup>16</sup> E.g. NPPF para. 180(a).

<sup>17</sup> E.g. NPPF paragraph 189.

<sup>18</sup> The term “offsetting” is sometimes used in the historic environment sector, but it does not have a clear definition and is used to mean different things.



effective decision-making, reducing the risk of issues at a later stage, when they may be harder and more costly to fix.

## **Q 9: Do you support the principle of strengthening the screening process to minimise ambiguity?**

In principle, providing clarity to the screening process would be beneficial. Additionally, given that the size of a development is not always commensurate to the effects that it will have, considering other options for screening criteria is sensible. However, in practice the options suggested – proximity or impact pathways to sensitive areas – are challenging in relation to the historic environment (as discussed in relation to question 10).

## **Q. 10: Do you consider that proximity or impact pathway to a sensitive area or a protected species could be a better starting point for determining whether a plan or project might require an environmental assessment under Category 2 than simple size thresholds?**

The challenge with proximity and impact pathways is twofold. Firstly, a heritage asset's sensitivity to setting change is not dependent on its distance to or from a proposal, or the scale of that development. What is important is the way in which a proposal interacts with the elements of an asset's setting that contribute to its significance and, to understand this, proportionate baseline information and professional judgement are required.<sup>19</sup> Secondly, not all heritage assets are known ahead of a proposal, many are identified through the assessment process.

Consequently, adopting a proximity-based approach risks the need for an EOR assessment not always being recognised, because heritage assets with settings that are sensitive to the development may lie beyond the distance considered, or because heritage assets within the site have not yet been identified and recorded. Equally, there is the risk of assessments being done when there is no need, because an asset is located near to a plan/proposal area but not in fact sensitive to the proposed change(s).

Impact pathways based on sensitive areas can also be challenging depending on how these are classified. For example, certain EIA regulations only recognise scheduled monuments

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<sup>19</sup> As setting is most often expressed visually, it is best practice for sensitivity to be understood via reference to a proposal's theoretical zone of visibility, which is generated over a distance proportionate to the proposal's maximum height/mass.



and World Heritage Sites as sensitive areas.<sup>20</sup> This is unhelpful, as they are just two of a wider group of designated and non-designated heritage assets<sup>21</sup> that could constitute sensitive areas. It would be clearer and more consistent if all designated heritage assets were recognised as sensitive.

However, even relying on known designated heritage assets as sensitive areas is challenging. Many assets have yet to be identified and, for a variety of reasons,<sup>22</sup> there are many recorded non-designated heritage assets that are of national importance despite not being designated as such. This is especially true for non-designated assets in rural and marine contexts.

Whilst most EIA regulations do not consider all designated assets to be sensitive areas, they do also consider whether the location of a development could lead to significant effects on *any* landscapes and sites of historical, cultural or archaeological significance (i.e. heritage assets). Similarly, the SEA regulations simply require that significant effects to cultural heritage are considered in relation to screening. The advantage of this approach is that it allows for significant effects to be registered in relation to both designated and non-designated heritage assets, depending on the interaction between their significance (and its importance) and the magnitude of change they will experience.

If EORs do not similarly consider both designated and non-designated heritage assets, then the overall level of protection provided to the historic environment, particularly non-designated heritage assets, will be not only decreased, but within certain contexts (i.e. forestry, agriculture and marine) completely lost. Therefore, we strongly advocate the holistic consideration of all types of heritage assets. This would have the benefit of ensuring that the measurement of historic environment outcomes is more representative and meaningful.

## Q. 12: How can we address issues of ineffective mitigation?

Both the NPPF and UK Marine Policy Statement require the recording and advancing our understanding of the significance of any heritage assets to be lost (wholly or in part). They also require that the information generated from this is made publicly accessible.<sup>23</sup> Effective use of planning policies should therefore deliver significant new knowledge about all periods of human history across the country, while allowing development to proceed.

Mitigation should always be a last resort and implemented only for effects that cannot be avoided or further minimised. Where mitigation is necessary, measures need to be specific

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<sup>20</sup> The Environmental Assessment of Plans and Programmes Regulations 2004 does not use sensitive areas as a means of screening, it simply requires consideration of whether there would be significant effects to cultural heritage and for consultation bodies to be engaged.

<sup>21</sup> Designated heritage assets comprise: World Heritage Sites, scheduled monuments, listed buildings, registered parks and gardens, historic battlefields, and conservation areas.

<sup>22</sup> For example, some monuments identified as being of national importance by Historic England are yet to be formally assessed, whilst others simply are not designated by the Secretary of State. There are also some nationally important sites which lack structures, or are located over 12 nautical miles from shore, meaning that they simply do not meet the criteria for scheduling.

<sup>23</sup> Note that as the public dissemination of knowledge is a prerequisite to policy compliance and the amelioration of harm/loss, it should not be considered a benefit of the proposal/plan.



to the plan or proposal, and at a level of detail/specificity appropriate to the planning stage (strategic plan, site specific proposal in plan, site specific application, etc.).

Consequently, access to and early engagement with and between Historic England, as a statutory consultee, and other sector specialists (e.g. local authority conservation and archaeological officers, as well as historic environment consultants) is critical. It helps prevent issues arising, and appropriately determines the scope and method of mitigation, as well as how it may most effectively be secured. As such, clarity regarding the scope for Section 106 obligations and conservation covenants would be welcome, as would further information on the potential interplay of EORs with Biodiversity Net Gain.

As most monitoring of mitigation falls under the remit of local authorities, increasing their heritage capacity and capabilities would help to ensure that historic environment planning requirements are appropriately implemented, delivering effective mitigation. Between 2006 and 2018, the number of local authority conservation and archaeological specialists has reduced by a third (by 283.4 full time equivalent (FTE) and 142.5 FTE, respectively). Since 2018, this data has been collected using a different methodology making direct comparative analysis difficult: however, analysis suggests that this gradual decline in heritage specialists is continuing. In addition to declining numbers, there are often shortfalls in experience. Resources are therefore needed not just to increase the number of heritage specialists but to ensure that they are retained and developed.

Effective tracking of monitoring is another challenge, as different projects' mitigation will require checking on at different times, sometimes quite some time after project completion. For example, mitigation for visual setting impacts, such as tree planting (screening), can take a long time to reach maturity, and only then is it possible to tell whether it has been effective in its purpose. This raises a question regarding the timescale for which the effectiveness of mitigation measures would be assessed and, furthermore, how that can be done effectively if/when monitoring staff move on.

## **Q. 14: Could it work in practice? What would be the challenges in implementation?**

To some extent, adaptive management is already practiced by the historic environment sector as archaeological investigations are phased, with the results of desk-based assessment informing evaluation and evaluation informing the need for, and form of, mitigation. This enables the significance/importance of and level of effect on archaeological assets to be properly understood before mitigation takes place, ensuring that the mitigation is effective.

At the same time, setting often makes an important contribution to the significance of heritage assets and can be sensitive to development proposals, including some mitigation measures. For example, there are instances where tree planting or bunding to alleviate visual impacts can be as harmful as the effects that they seek to ameliorate.

This means that some mitigation measures are best developed collaboratively with cross discipline perspectives; an approach that may not be possible if different issues are being assessed/acted upon by different bodies and/or if mitigation is adjusted post-implementation.

It also means that mitigation needs to be fixed to some extent (or at least considered in a maximum case scenario) to understand and assess potential effects arising from them. An adaptive approach that allows for post-consent changes to the agreed mitigation could potentially be harmful to the historic environment, inadvertently causing additional physical



or setting change. The need for adjustment may be better managed by having clarity over what is proposed and what can be achieved based on (proportionate) detail. More effective mitigation could be further facilitated by better understanding and wider sharing of what constitutes good/bad mitigation.

In addition to harm to the environment, post-consent changes also risk upsetting and alienating local communities, potentially resulting in long-term negative consequences. Unless parameters are established at EOR stage for the range/scope of adaptive mitigation or compensation measures that might be required if the original mitigation measures are not successful, then it may also raise the uncertainty and risk for the developer. However, this might be difficult to define without detailed design (when considering development subject to planning permission, for example).

## **Q. 15: Would you support a more formal and robust approach to monitoring?**

Yes, Historic England would welcome a more formal and robust approach to monitoring, which is proportionate to the impact. This would help improve accountability and ensure that positive outcomes are delivered.

## **Q16: How can the government use monitoring to incentivise better assessment practice?**

How monitoring can incentivise better assessment will depend on our ability to learn from it and to disseminate that learning (i.e. through training, guidance or annual reports). [Research<sup>24</sup>](#) by Historic England and the Chartered Institute for Archaeologists on the implementation of archaeological mitigation recognised and recommended that wider discussion of the implementation of planning policy is needed to best understand what good practice looks like. We would welcome the opportunity to support the government in exploring ways in which this can be achieved within the historic environment sector.

## **Q. 17: How can the government best ensure the ongoing costs of monitoring are met?**

There may be opportunities for cost recovery for monitoring (site visits, etc.) or for charging through section 106 obligations. However, clarity is needed on whether the ongoing infrastructure levy reforms will still allow for this. Such charging might be an added incentive to ensure that adverse effects are avoided to reduce the burden on mitigation/monitoring. However, punitive charging risks unintended consequences, such as the underreporting of adverse effects and mitigation.

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<sup>24</sup> Archaeology and Planning Case Studies: Planning Policy and Professional Practice in England (2019).



## Q. 19: Do you support the principle of environmental data being made publicly available for future use?

Historic England fully supports the principle of environmental data being made publicly available for future use. However, it will be important to define 'environmental data' in relation to the purpose of EORs.

In response to the 2016 Culture White Paper, [Historic England and key partners developed a Heritage Information Access Simplified \(HIAS\) strategy](#). This strategy sets out eight principles (see below) that guide our data management.

- Principle 1: Local Authority [Historic Environment Records](#) (HERs) should be the first point of call for and primary trusted source of investigative research data and knowledge.
- Principle 2: Historic England should be the first point of call for and primary trusted source of national datasets, such as the National Heritage List for England and national marine heritage dataset.
- Principle 3: Historic England, together with its partners, should continue to champion the development, maintenance and implementation of standards for the creation, management, sharing, re-use and storage of digital historic environment data.
- Principle 4: Investigative research data or knowledge should be readily uploaded, validated and accessed online.
- Principle 5: A national overview should continue to be delivered online through the Heritage Gateway.
- Principle 6: Such data or knowledge should not be at risk of loss, fragmentation, inundation (in data), or system obsolescence
- Principle 7: Historic England should, on behalf of the nation, ensure that a security copy of all such data exists in accordance with Principles 3 and 6.
- Principle 8: Digital data should be supported by material archives in safe repositories accessible to the public.

Following these principles, we share our data via [Open Data Hub](#). This data includes spatial data for National Heritage List for England (NHLE), Conservation Areas, and Heritage at Risk (HAR). Historic England is committed to adhering to the Re-use of Public Sector Information Regulations (2015) and would support the extension of these to cover local authorities. Greater use of persistent identifiers (PIDs) would also help ensure data continues to be accessible, findable, and interoperable.

In line with principle 2, Historic England is also leading on creating a new [National Marine Heritage Record](#) providing data on heritage assets that lie between Mean High Water and the 200 nautical mile sea limit.

Historic England also operates [Heritage Gateway](#); a website that provides access to summary HER data for the whole of England. Because it only contains summary information and is not a live database to the same extent as the local HERs, Heritage Gateway cannot solely be relied on planning purposes. However, it is the only publicly accessible cross-



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regional HER database and provides a valuable resource for beginning to understand site sensitivities early, whilst more detailed project data (i.e. HER data) is collated.

Historic England also helps fund [OASIS](#), an online system for reporting to HERs all types and techniques of historic environment investigations relating to the terrestrial and marine environments in England. As well as being an information-gathering tool, the reports generated from these investigations can be logged with HERs for public release in the [Archaeology Data Service \(ADS\) Library](#) and in turn reports can signpost to [Regional Research Frameworks](#). In addition to making the reports available online for access to the wider public, ADS curates and archives digital files, ensuring their long-term preservation.

## **Q. 20: What are the current barriers to sharing data more easily?**

### **Accessibility**

A major barrier to sharing data is knowing what exists and how to access it. We would therefore advocate the application of FAIR/Q (this stands for Findable, Accessible, Interoperable, Reusable and of the right Quality that is fit for purpose) data principles and benchmarking. Many important datasets, particularly those that contain information about the visual and historic character of landscapes, will need to go through a FAIRification improvement process and Historic England would welcome the opportunity to help advise on this.

Historic England is currently in the process of cataloguing its own data, with a view to understanding what we hold and making as much of it as possible openly available. We also help HERs to carry out self-audits to understand the data that they hold and to identify forward actions that will develop and enhance the service.

### **Maintenance/Updating**

Most historic environment datasets are live and can quickly become out of date. For example, designation/de-designation of heritage assets is a live matter, as is the identification of heritage assets at risk, or the updating of HERs (as well as [OASIS](#)). This means that continual updating of data – a resource intensive task – is important if planning matters are to be robustly informed.

Historic England has recently reviewed the updating of data by HERs across England to start quantifying how much still needs to be recorded. The project made a series of recommendations to ensure HERs are kept up to date and how these can be taken forward is being explored by Historic England and partners, but we would welcome wider discussion.

### **Data standards**

Data output is as only as good as the input: data standards are therefore another key issue in respect of data sharing. Historic England has a lead role in developing and maintaining sector data standards and terminologies to support interoperability and data sharing and we share information on these on our [website](#).

In line with HIAS principle 3, Historic England is working in partnership with the [Getty Conservation Institute](#) to develop a new [Reference Data Management System](#) (RDM). The Enhanced RDM Project will deliver a standalone module based around the software platform



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developed by the [Arches Project team](#). This will facilitate the dissemination of heritage reference data, essential to effective information management and interoperability, across the historic environment.

The new RDM will be underpinned by international standards for heritage data and vocabulary creation and dissemination including:

- [The CIDOC CRM](#),
- [Midas Heritage](#)
- [ISO 25964](#)
- [SKOS](#)
- [Persistent URIs](#).

In the UK it will replace the functionality currently made available via the [Heritage Data](#) and [Heritage-Standards](#) websites and a variety of tools, including the Historic England Reference Data Manager.

## Duplication

Duplication within and between datasets is another issue for the historic environment. This issue is compounded by the fact that it can be hard to identify duplicates as heritage asset descriptions/locational information may vary. The proposals in the LURB for statutory HERs should help improve data standards. This, together with digital aspirations for the planning system, could provide the opportunity to remove duplication within data and Historic England would be happy to assist with this.

Indeed, as per principle 1 of the HIAS, Historic England has ceased to maintain its national historic environment database (PastScape) and is [transferring these records to HERs](#). This undertaking, which will be completed in 2026, will end the long-standing duplication of effort between national and local bodies and provide clarity for future researchers.

## Q. 21: What data would you prioritise for the creation of standards to support environmental assessment?

A key priority will be the development of standard terminology to be used in the environmental assessment process itself, including 'environmental data' and vocabulary used for climate change and climate hazards. The [US Environmental Protection Agency has some useful examples](#) on this theme, as does the [Environmental Information Exchange Network](#).

Further priorities will include the enhancement of HERs as the key source for historic environment data and the application of FAIR data principles to Natural England and Historic England datasets. This should follow a similar [Data Improvement Plan \(DIP\) trialled by the Geospatial Commission's six Partner Bodies](#). Adopting this strategic approach would increase the use of (often already established) cross-sector standards, such as spatial data standards, and ensure that resources are targeted on developing sector or domain-specific standard terminologies/vocabularies.



## **Q. 22: Would you support reporting on the performance of a plan or projects against the achievement of outcomes? [Yes/ No].**

Yes, we would support the reporting on the performance of a plan or proposal against the achievement of outcomes to:

- better address issues as they emerge;
- amend guidance in a timely fashion
- to inform future assessments.

(Please also see our response to question 23.)

## **Q. 23: What are the opportunities and challenges in reporting on the achievement of outcomes?**

Reporting on the achievement of outcomes would provide a genuine opportunity to ensure that the information gathered can be utilised to improve outcomes/indicators. However, for reporting to be productive it would need to have clear aims and objectives, as well as a mechanism in place for delivering those. To be meaningful, reporting would also likely need to consider how and where plans/proposals are detracting from objectives and seek to understand the reasons for that, and whether there are ways to address those issues.

Currently, the outcomes of Local Plan policy are annually reported via the Authorities' Monitoring Reports. It would be beneficial to review the strengths and weaknesses of this system to inform the development of reporting on EORs.

## **Q. 24: Once regulations are laid, what length of transition do you consider is appropriate for your regime?**

It is challenging to identify transition timescales at this point given that, beyond their outlining in the LURB, this consultation is the first source of detail on EORs. Given the proposed extent of change, Historic England considers a thorough test and learn phase, including pilot schemes, to be essential. This is something that we would be able to assist with.

Once information from the pilot schemes is available there will be a much clearer understanding of when the transition should begin. To avoid delays and costly mistakes, clear guidance will be required on the practicalities of transitioning and what will happen where consented schemes are subsequently materially altered, requiring additional environmental information (i.e. will EIA addendums be undertaken or an EOR). The proposals indicate that projects will be compared against the assessment of plans/programmes suggesting that the latter will need to switch to the new regime first. If not, then provisions will need to be made on how to work around that.



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The historic environment is relevant to the SEA and all EIA regimes.

## **Question 25: What new skills or additional support would be required to support the implementation of Environmental Outcomes Reports?**

The introduction of the new EOR regime will require significant upskilling and training of the historic environment sector but, based on current information, the precise requirements of this remain unclear. Once more detail is known, Historic England would be able to assist in a thorough review of EOR training and upskilling requirements and how they might best be delivered. For now, though, we would reiterate some of the points already raised in the response, namely that increased heritage specialist capacity and capabilities would be beneficial within local planning authorities. Further to this, resourcing for enhancing data in HERs and other historic environment data sets will also be necessary, alongside wider promotion and training of developments in digital planning.

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*9 June 2023*