



The Nighthawking Survey



Nighthawking - what is the problem?

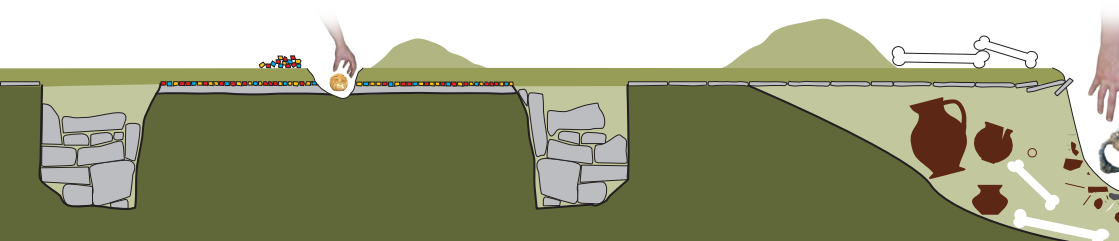


Nighthawking is the theft by a few of the heritage of the many

Nighthawking is the illegal search for and removal of antiquities from the ground using metal detectors, without the permission of the landowners, or on prohibited land such as Scheduled Monuments. Nighthawking is therefore theft.

Nighthawks are not to be confused with responsible metal detectorists. It is clear that many metal detectorists follow good practice guidelines, record and/or report their finds, abide by the Treasure Act (1996) and are valued contributors to archaeological understanding.

This report uses the general term 'Nighthawks' to refer to those who illegally metal detect. Its use is intended to emphasise the distinction between illegal metal detectorists and law-abiding metal detectorists. It is not meant to imply either that the activities of Nighthawks are restricted to hours of darkness, or that law-abiding metal detecting can only take place during the day.



Nighthawking has been around at least since the 1970s, but only one limited survey has been carried out before now, in 1995, by the Council for British Archaeology. In the absence of real evidence, feelings have often run high and the reputations of responsible metal detectorists have suffered.

In November 2006 Oxford Archaeology was commissioned by English Heritage to carry out a survey looking into the extent of illegal searching and removal of antiquities from archaeological sites.

The Nighthawking Survey involved consultation with over 400 heritage-related agencies and interested individuals throughout the UK and Northern Ireland, and the Crown Dependencies of the Isle of Man, Jersey, and Guernsey.

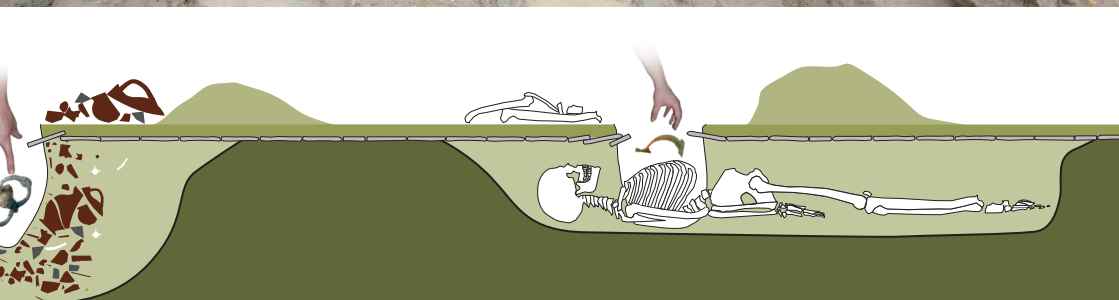
The Survey set out to get beyond the rumour and myth that surrounds the crime, and find out where it happens, how often it happens and how great a threat it actually is to our heritage. By painting a clearer picture of Nighthawking, we are better placed to propose ways to combat it.

Nighthawking is the theft by a few of the heritage of the many. Regardless of the numbers of sites affected by Nighthawking, the heritage is a finite resource. The real value of heritage is not financial but lies in the information it can provide about our common history and origins. This knowledge belongs to everyone and the most significant consequence of Nighthawking is this loss of knowledge.

A copy of the full Nighthawking report can be found at:

www.helm.org.uk/nighthawking

'The loss of the objects probably of little (monetary) value as metal does not survive well on the site - is not the most disappointing aspect of this crime, it is the damage that has been done to the archaeological record that is most significant. These objects when recorded in their proper contexts are likely to have provided much valuable evidence about the dating and function of the site - this information is now lost forever. As the finds themselves had been pre-donated to the Lincolnshire archaeological collection and would have been publicly available the theft was actually committed against us all. Even worse the loss of the educational value of the objects is a crime not only against the present generation but against future generations. This is the crime of a particularly immoral and selfish person.' Lindum dig website



Facts and Figures

The project clarified the pattern of Nighthawking across the UK - most prevalent in the central and eastern counties, but almost unheard of in Northern Ireland and the Crown Dependencies. However, for various reasons, it is probable that the reported incidents are only a proportion of those actually taking place.

A total of 240 sites were reported affected by Nighthawking between 1995 and 2008 of which 88 were Scheduled Monuments. The number of reported attacks on Scheduled Monuments has decreased from 1.3% of the resource to 0.41% since the last survey in 1995. A total of 152 non-scheduled sites have also been raided (this category was not examined in 1995). Results suggest that from 3-6% of archaeological excavations are also raided, although the number of archaeological units that reported instances of Nighthawking was down from 37 out of 50 in 1995 to 15 out of 54 in 2007 (19 units responded, reporting 35 affected sites).

A targeted mail-shot to a number of farmers in the East Midlands suggests up to 17% of farmers are, or have been, afflicted by Nighthawks. Counties where

the highest incidences of Nighthawking have been reported on all types of sites are Lincolnshire, Norfolk, Suffolk, Essex, Kent and Oxfordshire and the Yorkshire region.

It is clear that there have not been many arrests or prosecutions for Nighthawking, encouraging a belief that it is a low-risk crime. Even when a Nighthawk is apprehended the punishment imposed is less now than it was ten years ago.

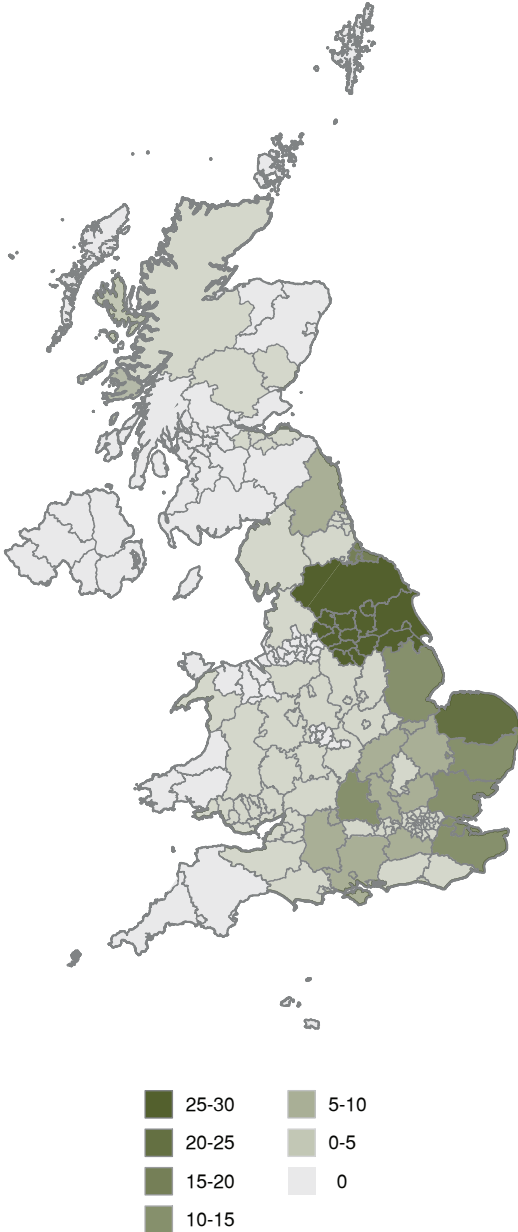
In their monitoring of eBay for potential Treasure finds, the Portable Antiquities Scheme (PAS) have noted many metal-detected finds offered for sale with little or no provenance attached. It is impossible to know whether these finds are being sold legally, and with the permission of the landowner, or are the proceeds of Nighthawking.

Yet, although levels of Nighthawking remain high in some areas, ongoing education and outreach initiatives, such as the PAS, are increasing public awareness of cultural heritage and the damaging effects of heritage crime. The introduction of the Treasure Act (1996), the Code of Practice for Responsible

Metal Detecting in England and Wales (2006), and the efforts of organisations such as the National Council for Metal Detecting have also been cited as beneficial, if only in dissuading the less hardcore Nighthawks.



From the evidence of the investigation, the Nighthawking Survey has made a number of recommendations:



- Provide clear guidance to the police, Crown Prosecution Service and Magistrates on the impact of Nighthawking, how to combat it, levels of evidence and possible penalties.
- Provide more information for landowners on identifying Nighthawking and what to do when they encounter it.
- Develop better ways to find out what is going on and establish and promote a central database of reported incidents of Nighthawking.
- Publicise the positive effects of responsible metal detecting and the negative effects of Nighthawking.
- Ensure the PAS is fully funded, so links between archaeologists and metal detectorists are further strengthened.
- Integrate metal detecting into the archaeological process, including development control briefs.
- Implement changes recently introduced in Europe which increase the obligation on sellers of antiquities to provide provenances and establish legal title, and urge eBay to introduce more stringent monitoring of antiquities with a UK origin offered for sale on their website.

Reported sites of Nighthawking

Provide clear guidance to relevant authorities on the impact of **Nighthawking**

RECOMMENDATION 1

Nighthawking is seen by many police forces as a low priority crime, and even when they do get involved they are unclear how to proceed. Also they are often frustrated by the difficulty of convincing the Crown Prosecution Service (CPS) to pursue a prosecution, or the courts to impose a sufficient sentence to be a deterrent.

A total of 26 cases were identified by this survey which resulted in one or more types of legal action. A small fine is usually the punishment and only rarely are the metal detectors confiscated.

This survey has shown that the police often have little or no idea about which laws can be used to prosecute these thieves, how to identify that Nighthawking has taken place and how to collect the level of evidence necessary for a prosecution. There is also a lack of awareness among both the CPS and police of the value of archaeological finds, in that they are judged by their monetary value, not their heritage value.

There is a vicious circle of an apparent lack of response from the police leading to the lack of confidence of the victims in the legal process and consequent under-reporting which in turn creates a false picture of the seriousness of the situation. Kent Police are an exception :-

CASE STUDY

Effective Practice in Kent

- Partnership training involving: Police Officers, Police Community Support Officers, Kent County Council Wardens, Crown Prosecution Service in heritage-related crime. Supported by English Heritage
- Nominated Single Point of Contact within Kent Police
- Nominated Point of Contact within English Heritage
- Regular engagement between Police and PAS officer
- Heritage expert working with Kent Police as a Police Support Volunteer
- Dedicated Crown Prosecutor trained in Heritage and Treasure Act legislation
- Engagement with archaeological groups and societies
- Engagement with metal detector clubs
- Identification of 'high-risk' heritage and archaeological sites allowing crime prevention strategy to be developed
- Network of accredited volunteers linked with Neighbourhood Watch and other crime prevention packages

CASE STUDY

Icklingham, Suffolk

This scheduled site - a Roman settlement - has been raided by Nighthawks frequently in the last 30 years, as often as every couple of weeks at certain times of the year. Various approaches, including night patrols, thermal imaging, distracters, seismic detectors and image intensifiers have all been employed in attempts to stop the activity. The police are regularly involved in incidents and crime numbers are obtained for every incident reported.

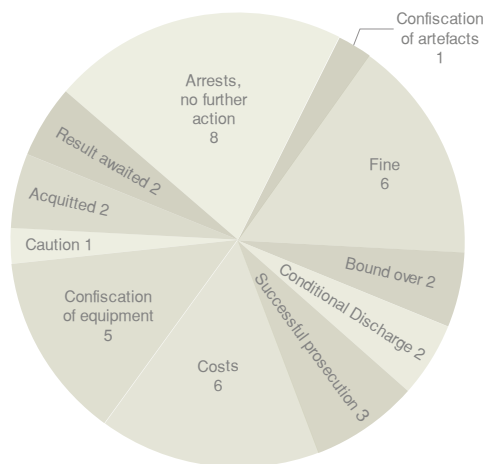
During one raid in 2007 over 200 holes were dug. This happened immediately after planting, causing substantial damage to the crop in the field. Some 45-50 individuals have been prosecuted over the years, the punishments varying from £38 costs to fines of £500. Following harvest in 2008 a number of raids occurred, during one of which four offenders were caught and given fines of £80 for theft. There was no confiscation of metal detectors. The fines are obviously not acting as a deterrent as shown by the ongoing nature of the problem here.

The most effective law to use is the Theft Act, which if applied appropriately, consistently and regularly, and backed by strong CPS and court support, would go a long way to solve the problem.

If a few highly publicised cases were brought initially, with appropriate penalties - involving imprisonment in very serious cases, or increased fines, confiscation of equipment used and the proceeds of the crime - this could have a powerful deterrent effect. Other deterrents could include ASBOs and Community Service.

A first step would be the production of an information pack for police, the CPS, and magistrates, explaining what laws apply, how best to respond to Nighthawking and the consequences of heritage crime, stressing the intellectual losses rather than the monetary issues.

Raising the profile of heritage crime must be a priority for future action. Currently heritage crime does not exist as a distinct category of offence in police statistics, and there is therefore no requirement to record any heritage element involved. This needs to be addressed to ensure that Nighthawking is a recorded offence, so its scale can be monitored.



Different penalties resulting from legal action

Provide more information for landowners on what to do about Nighthawking

RECOMMENDATION 2

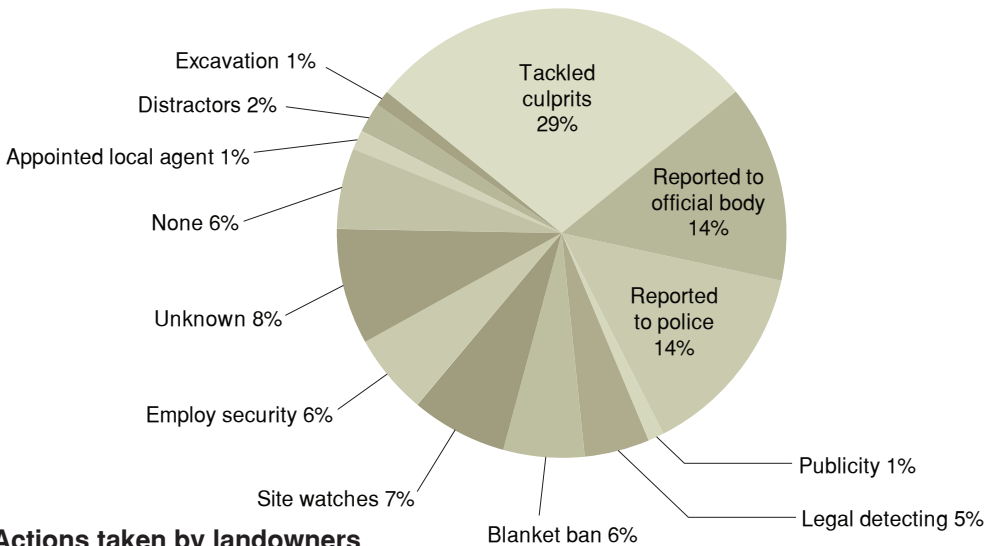
Landowners are frustrated by being unable to prevent Nighthawking

Despite attempts at widespread publicity the response to the Survey from landowners was quite low (8% of all responses), but when a group of 95 landowners already involved in a project to evaluate damage caused to archaeology by agricultural practices in the East Midlands was canvassed, out of the 40 who responded, 7 said they had been targeted by Nighthawks (17.5% of those contacted).

Landowners / tenants are key to the prevention of Nighthawking, in providing clarity on where and when metal detecting is permitted, providing opportunities for legal detecting and

in monitoring and reporting illegal activity. Not all are interested in the historic environment, but damage to crops and property is a concern. Unfortunately, they are often reluctant to report incidents, because they think it is a waste of their time due to lack of effective police action, and sometimes because of threats by the Nighthawks themselves.

The pie chart shows what actions landowners take when confronted by Nighthawking and it can be seen that one reaction is to impose a total ban on metal detecting.



Actions taken by landowners

One way proven to be effective in preventing Nighthawking is to allow responsible metal detectorists to detect a site. Encouragement should be given to the development of such partnerships between landowners and responsible metal detectorists, emphasising the mutual benefits to both parties.

At the moment many landowners are reluctant to involve the police. It is very important to increase their faith in the legal system, which can only really be achieved through successful prosecutions with appropriate penalties. They also need to know that the police will respond to reported incidents. If Nighthawking is a persistent problem on their land then they need to feel that they can work with heritage bodies and the police to provide support and practical help in prevention and detection. Any increase in reporting will also aid in future monitoring of the patterns of Nighthawking. Guidance needs to be provided to landowners on these issues.



CASE STUDY

Catterick, North Yorkshire

Near Catterick, North Yorkshire, there are two Scheduled Roman sites: a roadside settlement at Bainesse and the Roman town, Cataractonium itself. In common with other Roman sites these have both been targeted by Nighthawks on numerous occasions.

In 1996, with the landowner's support, local metal detectorists approached North Yorkshire County Heritage Unit and English Heritage, the latter agreeing to fund a programme of archaeological investigations. Three seasons of work were carried out combining systematic metal detecting surveys by the local detectorists with finds location by Northern Archaeological Associates. This work reinforced the significance of the site, supplementing evaluation excavations undertaken in 1993 in advance of the proposed A1 (M) motorway and providing additional support for the case for protecting the site through scheduling. The co-operative exercise with legitimate detectorists did much to reduce further Nighthawk activity.



Metal detecting survey at Catterick

Establish and promote a central database of reported incidents of **Nighthawking**

RECOMMENDATION 3

Having a central place where instances of Nighthawking can be recorded is key in being able to monitor the problem in the future, not just for the effective management of individual sites, but also to detect patterns and forecast trends.

The Nighthawking Survey recovered data from a wide variety of sources, including an online questionnaire supported by an extensive publicity campaign, and appeals to many individuals and organisations.

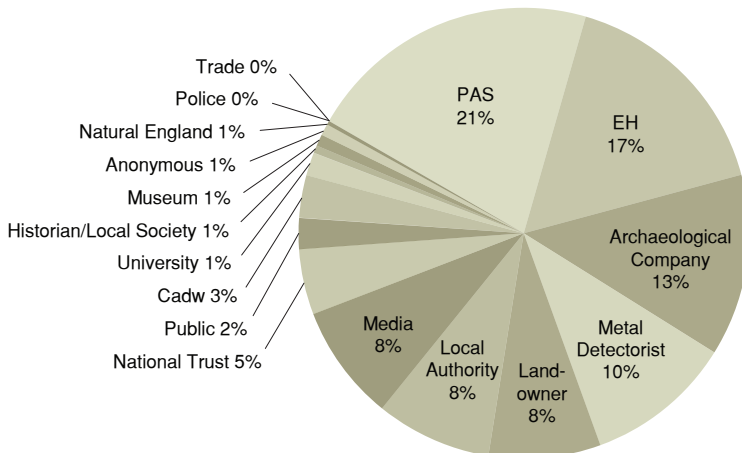
Information on criminal activity is never easy to collate, and it was clear to the Survey that there is a shortage of reliable, logged data on the problem.

The lack of a clear, simple, and universal mechanism to quickly record a Nighthawking incident undoubtedly

encourages an apathetic attitude to understanding both the seriousness of the problem and the need to do something about it.



With no consistent central record, the problem of Nighthawking will never be understood or tackled effectively



Sources of information on Nighthawking

Just as one can report a pothole in the road to the local council with a quick phone call or visit to a website, so one should be able to report a nighthawking incident. It is suggested that a central database be set up. The database would require a system of monitoring and verification of information received, using existing trained heritage personnel.

In England reported Nighthawking incidents on all types of archaeological site could be reported county-by-county to a single collator, the Historic Environment Record Officer, who would then pass the information to English Heritage.

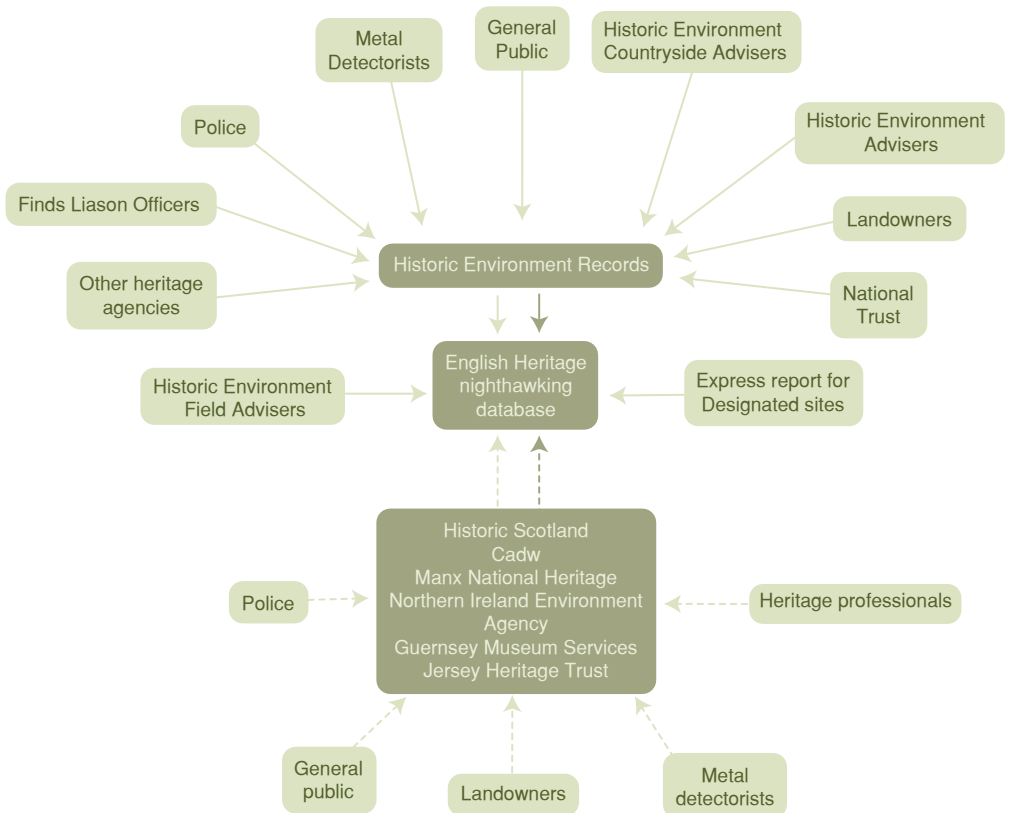
In Wales, Scotland and Northern Ireland, and the Crown Dependencies

reported Nighthawking incidents could be collected by the respective heritage agencies. This information could be accessible to English Heritage on request. Information on Scheduled Monuments could come directly from Historic Environment Field Advisors.

This system is in the process of being developed and implemented. In the meantime as an interim measure, all incidents of Nighthawking should be reported to:

nighthawking@thehumanjourney.net - in addition to the obligation to report such incidences to the police.

A central database is recommended, held by English Heritage - a suggested model is shown below.



Publicise the positive effects of responsible metal detecting and the negative effects of **Nighthawking**

RECOMMENDATION 4

The Survey was set up to examine the perceived problem of Nighthawking. Part of the problem is that the subject is clouded by ignorance and prejudice on both sides of the debate, with self-appointed champions of both extremes broadcasting antagonistic propaganda via the various available media, serving only to perpetuate a pointless conflict.

Many individuals and organisations like the Portable Antiquities Scheme (PAS) and the National Council for Metal Detecting (NCMD) are building bridges from both sides, both by supporting responsible metal detectorists who follow the Code of Practice of Responsible Metal Detecting in England and Wales, supporting properly organised metal detecting rallies, where the avoidance of archaeological damage is the priority, and making constructive contributions to the debates on the various web forums.

The survey found a growing awareness among all parties of the value of responsible metal detecting to the identification of new sites and the understanding of heritage. This survey has also identified responsible metal detecting being used as an effective way of deterring Nighthawks from archaeological sites.

There is evidence that ongoing education and outreach programmes, such as those being carried out by the PAS, are slowly having an impact by

increasing public awareness of cultural heritage and the damaging effects of heritage crime. The introduction of the Treasure Act (1996) and Code of Practice of Responsible Metal Detecting in England and Wales (2006), and the role of organisations such as the NCMD have also been cited as helping stop this criminal damage. However, there remains a degree of suspicion and prejudice on both sides which needs to be addressed by further initiatives, co-operation and communication.

The unsuspected Viking cemetery at Cumwhitton was first identified by the find of a 10th century brooch by a metal detectorist





Above: Archaeological excavations at Viking cemetery, Cumwhitton, Cumbria

Examples of the importance of the constructive use of metal detectors should be publicised more widely and more openly, with articles on web forums and in both the metal detecting and the archaeological press, stressing the value of the coordinated efforts of the archaeologist and the detectorist.

National organisations, such as English Heritage and PAS, will continue to take a more active part in this process, conspicuously and constructively supporting responsible metal detecting, and loudly denigrating Nighthawking whenever possible.

It will be beneficial to make the general public more aware of the consequences to the heritage record of the removal of objects from the ground without recording, and that such activity without

permission is illegal. This increased level of awareness will help foster a climate of opinion against Nighthawking and may persuade more people to report incidents either to heritage bodies or to the police. The media can play a major part in this - for example the Guardian covered the problem of metal detecting on battlefields (7/07/2008). More opportunities for outreach activities need to be sought by both heritage and metal detecting groups.



Ensure that the PAS initiatives are fully supported

RECOMMENDATION 5

The Portable Antiquities Scheme (PAS) was established in 1997 to record archaeological objects found by the public, including metal detectorists. For the first time it established a mechanism to systematically record these finds for public benefit. PAS also complements the mandatory recording of Treasure finds under the Treasure Act 1996.

Initially the PAS operated as pilot schemes, but in 2003 Finds Liaison Officers were established across England and Wales, so now any finder of an archaeological object can have it recorded with an archaeologist and help advance knowledge and learning; this

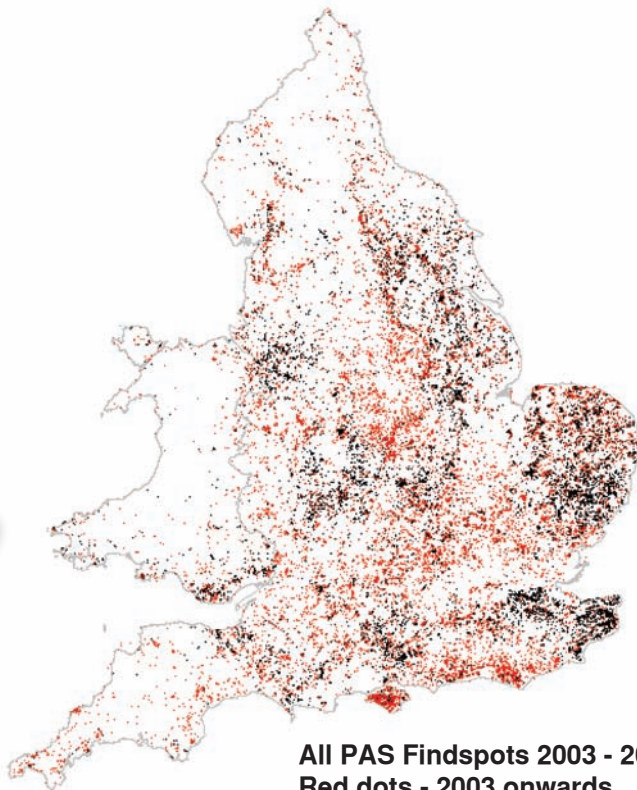
data is recorded on the Scheme's online database (www.finds.org.uk) and, while the detailed findspots are protected on the public version of the database, full details are made available to Historic Environment Records and academic researchers.

To date, the PAS has recorded more than 365,000 archaeological finds, of which 77,606 were recorded in 2007; almost 85% of these were found by metal detectorists. In the same period 748 finds (several cases include multiple objects) were reported as Treasure.

The PAS also has an important educational role, enabling finders (and others) to get involved in archaeology and learn about finds, and develop best practice. As a result of PAS, relations between archaeologists and finders (once extremely distrustful of one another) have improved considerably, and it is such partnerships that provide the best opportunity for tackling Nighthawking and other illicit activity.

By ensuring that the PAS is fully funded, links between archaeologists and metal detectorists can be further strengthened.





All PAS Findspots 2003 - 2008
Red dots - 2003 onwards
Black dots - pre 2003



Integrate metal detecting into the archaeological process, including development control briefs

RECOMMENDATION 6

The benefits of metal detectorists and archaeologists working together can be spectacular

The onus should be on the developer and the archaeological contractor to protect an archaeological excavation from being damaged and from theft by Nighthawks. Evidence from the Survey indicates that involving responsible metal detectorists as part of the archaeological strategy can protect an excavation from Nighthawking.

The treatment of topsoil during commercial excavations needs reviewing (at present it is typically machined away as overburden without any systematic examination for artefacts). By appearing to disregard this resource in their own working practices, archaeologists stand open to charges of hypocrisy when they try to prevent responsible metal detectorists exploiting the artefactual resource in the topsoil.

Local authority archaeological briefs should include a requirement to metal detect a site, both to ensure maximum retrieval of artefacts and to avoid sending conflicting messages to metal detectorists.

However, such a policy will require a system to verify the competence of the metal detectorists, and ensure they

conform with the same Health and Safety and insurance requirements as do the archaeological contractors, and can undertake the necessary work within the required timescale.

Other initiatives to combat the crime include that being developed by Kent Police, providing training for archaeological units in crime prevention and reduction measures.

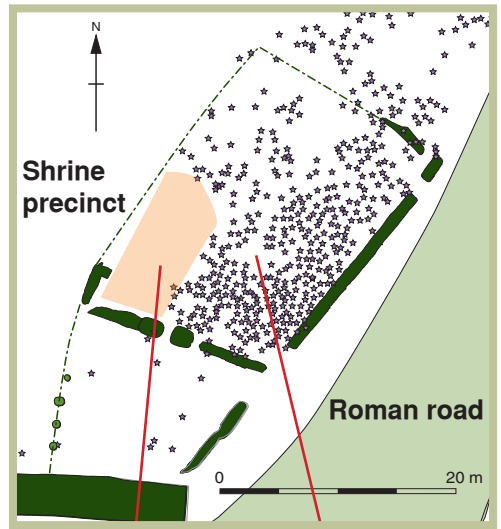


CASE STUDY

Higham Ferrers, Northants

Between 1993 and 2003 metal detectorists helped Oxford Archaeology on the site of a Roman settlement in Northamptonshire. Working in the depth of winter, and against the clock, careful plotting of more than 1500 metal finds of different categories helped define the area of the precinct of a 2nd century shrine complex, the sorts of finds that were left as offerings, and where in the complex they were left. Hundreds of nails were also found, and plotting their position revealed a clear, probably circular empty space on the plan. It is thought that this was the site of the shrine or altar (or even sacred tree), and the nails were used to pin offerings to the shrine. Two other empty spots were identified that may have held further shrines. Directly across the nearby Roman road, within the footprint of a building, a further concentration of coins and finds shows where the visitors to the shrine may have bought their offerings!

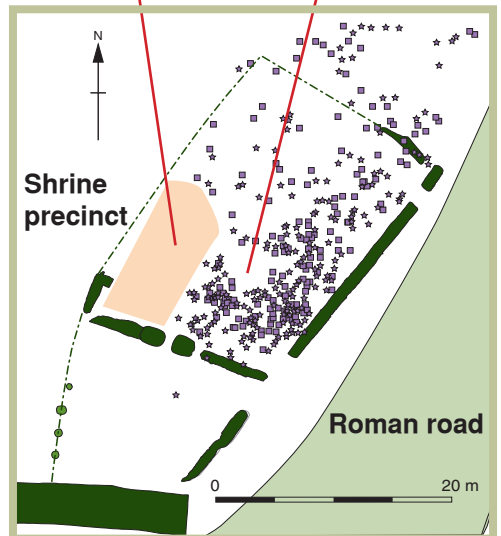
Such a detailed understanding of the site would have been impossible to achieve by either the archaeologists or the detectorists working alone.



All finds

Modern disturbance

Shrine site



Nails

Implement recent European initiatives on the selling of antiquities

RECOMMENDATION 7

Urge eBay to introduce more stringent monitoring of antiquities with a UK origin offered for sale on their website, as they have done in Germany, Switzerland and Austria

The problem of illegal sales of artefacts is wider than just Nighthawked finds, and has a major international dimension. Thefts from museums and private collections, looting and illegal excavations all contribute material to the illegal trade.

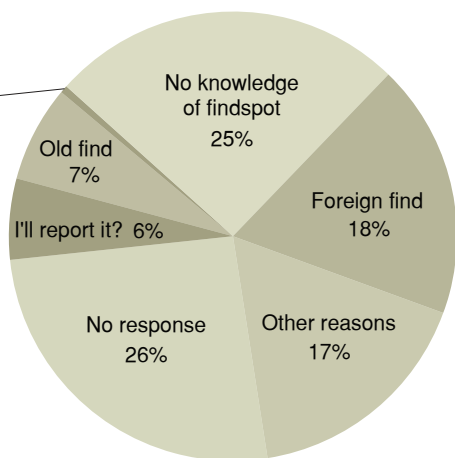
The Portable Antiquities Scheme (PAS) have monitored the traffic of antiquities on eBay, and noted many metal detected finds offered for sale with no provenance or only very vague provenances.

It is impossible to know whether these finds are being sold legally and with the permission of the landowner, or have been Nighthawked, but it is possible that a significant number have been illegally recovered.

Nearly half of all eBay sellers questioned by the PAS in 2007 in regard to the antiquities they were selling either did not respond or claimed no knowledge of the provenance of the items. Other responses are included below.



Finder's responsibility
1%



Response to eBay survey

The obligation to report Treasure needs to be extended to all who come in contact with it, not just the finder. Pressure needs to be applied to establish that finders/sellers have legal title to items before they pass them on, so the provenance of antiquities can be verified. Closing down the market in illegally acquired antiquities will reduce the perceived rewards from Nighthawking.

A modification of the Treasure Act would bring the UK into line with current, and more stringent European regulations and if eBay introduced more stringent monitoring of antiquities with a UK origin offered for sale on their website, as they have done with Germany, Switzerland and Austria, then this may also help stop artefacts being sold illegally.

CASE STUDY

Buckinghamshire Late Bronze Age Hoard (2005 T377)

In 2005 a late Bronze Age hoard - cited as being found in Buckinghamshire - was purchased in the Netherlands. This transaction was reported to the Buckinghamshire Finds Liaison Officer as the material was seen to be a significant find.

The coroner pronounced the items Treasure and initiated a police investigation. The sellers were acting on behalf of the finders, who could not be traced. The purchaser allowed the material to be donated to Buckinghamshire County Museum (PAS records), but the exact location of the find spot has not been identified. Was the hoard an isolated deposit? Was it associated with a settlement? All the details of the burial of the hoard are lost, and all that it can tell us about the people who buried it is lost. We are left with a collection of old bronze objects.



Images Courtesy of the British Museum



www.english-heritage.org.uk/



www.cadw.wales.gov.uk/



www.historic-scotland.gov.uk/



www.museumwales.ac.uk/



www.finds.org.uk/

The Nighthawking Survey was also produced with the assistance of **Guernsey Museums Service, Jersey Heritage Trust, Manx National Heritage, The National Museums Scotland and the NI Environment Agency**



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