

Representations on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Messrs Heron

18th December 2022

1. Introduction

1.1 We are instructed to submit these representations on behalf of the Heron family comprising the families below, 'Messrs Heron':

Mr J Heron, Meadow Bank, [REDACTED]

Mrs D and Mr I Heron, [REDACTED]

Mr J and Mrs M Heron, [REDACTED]

Mr S and Mrs C Heron, [REDACTED]

Mr D and Mrs M Heron, [REDACTED]

1.2 Messrs Heron own a number of farms and associated properties in around the village of Warcop in Cumbria.

1.3 They run extensive dairy and sheep farming enterprises from Eastfield Farm along with a Concrete batching plant and haulage business at the same location.

1.4 The Applicant proposes to acquire permanent rights over the following areas:

06-04-24, 06-04-26, 06-04-3, 06-03-54, 06-04-13, 06-04-17, 06-04-24, 06-04-26, and 06-04-34

Plus temporary rights over the following:

06-04-01, and 06-04-16

1.5 In addition, the Applicant proposes to relocate the Bough Hill Fair to land immediately adjacent to Eastfield Farm.

2. Representations

2.1 Adequacy of Consultations and Information provided by the Applicant

2.1.1 The Applicant has failed to provide sufficient information in respect of their proposals despite repeated requests. This failure has prejudiced Messrs Heron and undermines not only consultations carried out to date, but also the application itself.

2.1.2 We note that the failure to consult in a timely and accurate fashion, or provide sufficient information has also been raised by many other Parties including Eden District Council¹.

2.1.3 The Applicant has repeatedly failed to deliver position statements agreed between the parties as necessary in respect of their proposed acquisition of Land and Rights.

2.1.4 In particular, we have requested, and the Applicant has failed to provide sufficient information in respect of:

- i) The extent and location of land and rights required including proposed public rights of way
- ii) Accommodation Works
- iii) Drainage
- iv) The impact on retained land

2.1.5 In circumstances where the Applicant proposes to use compulsory purchase powers in a manner that will have a permanent and substantial impact on not only Messrs Heron's business but also

¹ TR010062-000598-Eden District Council AoC Response

their family homes, it is the duty of the Applicant to engage and provide adequate detail and rationale not only to Messrs Heron but also the Inspectorate. We submit that they have failed in this duty and for this reason alone, the application should not be allowed to proceed.

2.1.6 We set out below further representations in respect of the proposed scheme as far as we are able to with the limited information provided to date; but must reserve the right to add to or amend these representations if or when further detail is provided by the Applicant.

2.2 The Extent of Negotiations to Date

2.2.1 Whilst the inadequacy of information provided as referred to above does make any assessment of Messrs Heron's heads of claim extremely difficult, the Applicant is duty bound to engage with Messrs Heron and negotiate in respect of their proposed acquisition.

2.2.2 To date, no meaningful negotiation has been carried out in failure of this duty. As with the failure to provide adequate information, this unfairly prejudices Messrs Heron and we would therefore suggest that this application should be dismissed.

2.3 The Availability of More Suitable Routes

2.3.1 It is submitted that the previously identified route to the north of Warcop represents a much more suitable option, and one which will minimise the adverse impact not only on Messrs Heron, but also the village of Warcop as a whole.

2.3.2 We note that the minutes prepared by the Highways Agency for the Community Consultation held at Warcop Parish Hall on the 5th November 2021² record that “*the consensus of the local community is for the A66 to be north of the current A66*”.

2.3.3 While it is accepted that moving the route further north does encroach further on to the AONB and that this should not be taken lightly, the benefits of doing so are substantial and include but are not limited to:

- i) Preservation of Bronze Age burial barrows west of Sandford Lane that would be destroyed
- ii) Avoiding the loss of the Warcop Army playing field which is used by the local community for the annual rushbearing sports etc. which is the largest level space within the parish and could not therefore be replaced
- iii) Minimising the impact on the privately owned residential properties in Warcop which stand to be adversely affected by the new dual carriageway (as opposed to the

² Warcop Parish Council 05_11_21_V4

military training where there are no dwellings private or otherwise)

- iv) Substantial reduction in the purchase of prime agricultural land reducing the impact on local farming businesses.
- v) Preservation of ancient pastures and traditional buildings which are not present on the military training area by virtue of its existing use
- vi) Allowing the use of the existing road as a service road to the existing lanes for the villages of Sandford, Warcop, Flitholme and Langrigg minimising the number of under/overpasses required

2.3.4 In considering the impact on the AONB, it must be considered that the land to the north within the MOD training area is limited in environmental, landscape and social benefit as a consequence of its existing use.

2.3.5 The existing boundary of the AONB is itself an arbitrary line reflecting the existing location of the A66, and the land to the south is of no less value to the landscape. We would also highlight that there are numerous examples of infrastructure development within AONBs both past and present. One current example is the HS2 rail line which will pass through the Chilterns AONB.

2.3.6 Taking into account the scale of the impact on the local area and community, and also that the cost of the scheme could be

drastically minimised by moving the route north, the current proposals by the Applicant must be refused consent.

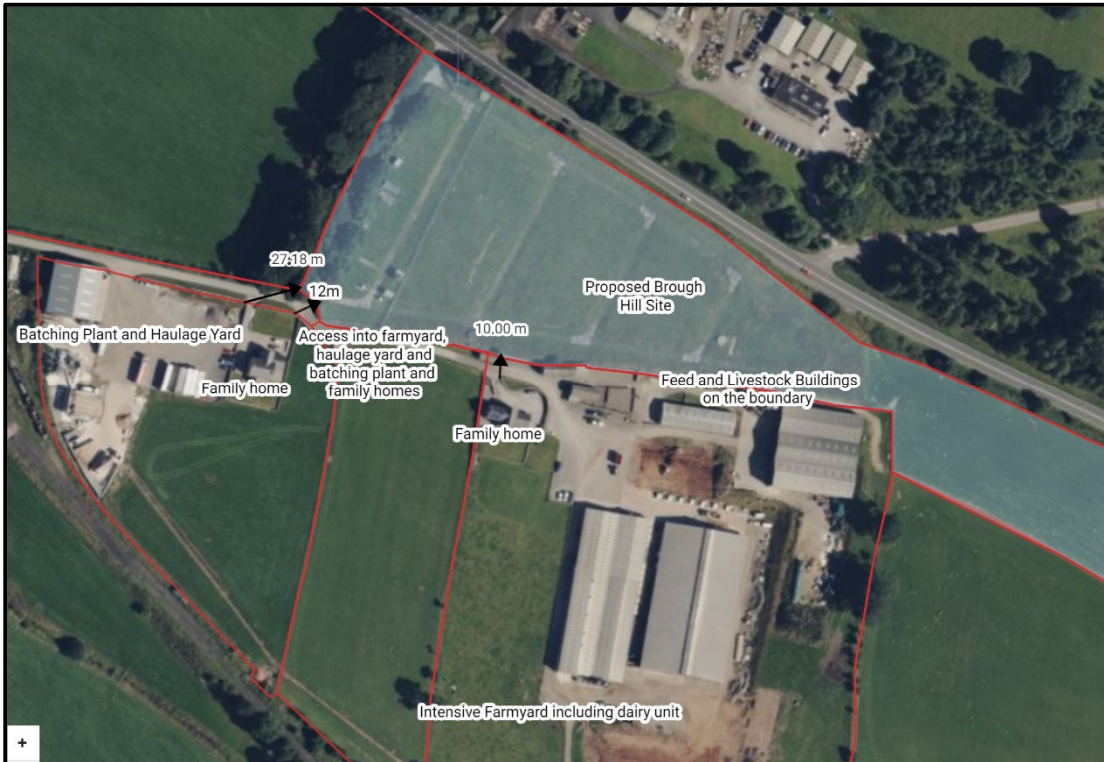
2.4 The suitability of the proposed location and arrangements for the Brough Hill Fair replacement site

2.4.1 As identified above, it is Messrs Heron’s opinion that a route further to the north would be more appropriate for the proposed scheme, and that this would negate the need to relocate the site of the Brough Hill Fair. In the event that the Applicant proceeds to build the road along the proposed route then the intend to provide a replacement site for the Brough Hill Fair on land immediately adjacent to Eastfield Farm.

2.4.2 We include within the appendices³ a plan showing the position of the proposed site in relation to Messrs Heron’s land holdings and include below three extracts for ease of reference:



³ Appendix 1 – Plan showing Eastfield Farm and proposed replacement site for the Brough Hill Fair



2.4.3 We note that the Travelling Community have made clear through their representative Mr Welch their opinion that the proposed site for relocation of the Hill Fair is entirely unsuitable⁴. In particular they identify the following concerns:

- i) The cultural and historic impact of the route passing through the site of the existing fair which has been a Chartered Fair since the 13th Century
- ii) The proposed site for relocation is too small
- iii) Horses, children and caravans would be too close to the fast-moving traffic on the new dual carriageway raising concerns over fumes and noise, but also more importantly safety
- iv) The proposed site is too close to the farmhouse at Eastfield Farm
- v) A more suitable route (preserving the existing site) exists in the form of the 'northern' option

2.4.4 As outlined above, Messrs Heron carry out intensive dairy farming and operate a concrete batching plant/ haulage business at Eastfield Farm. Livestock, agricultural machinery, heavy plant and HGV's all move or operate daily at the farm, and as with the proximity to the A66, this gives rise to substantial health and safety concerns when considering relocating the Hill Fair to the land immediately adjacent.

⁴ TR010062-000661-PADSS - Mr Billy Welch Gypsy and Travellers Representative

2.4.5 Attached as appendices are letters from the NFU⁵ and ARLA⁶ setting out their concerns in respect of the impact on Messrs Heron and in particular their dairy farming operations in the event that the Brough Hill Fair is relocated to the area of land immediately adjacent to Eastfield Farm which runs along the full length of the northern boundary of the farm yard/lane. These concerns may be summarised as follows:

- i) Animal welfare and security concerns on the basis of anticipated noise and disruption caused by the proposal
- ii) The risk to milk safety and security due to potential contamination of the site and surrounding environment
- iii) Animal feed bio-security
- iv) Safety of farm employees at Eastfield Farm
- v) Potential accessibility issues for milk collections

2.4.6 The Applicant has not provided any details as to how the proposed new site would be owned, maintained, regulated, or what uses it would be put to outwith the Fair. All of these points have a significant bearing on the extent of the adverse impacts that Messrs Heron would suffer.

⁵ **Appendix 2** Letter dated 18th October 2021

⁶ **Appendix 3** Letter dated 25th October 2021

- 2.4.7 We have suggested a number of more suitable alternative sites to the Applicant, but have not had any substantive reply to explain why they are not being considered further.
- 2.4.8 We are not satisfied that the Applicant has fully considered the impact on Messrs Heron of the proposed relocation of the Hill Fair, or adequately accounted for the compensation that would be due in the event that they proceed on this basis to the detriment of Messrs Heron's business and landholdings and strongly object on this basis.
- 2.4.9 In the event that the proposed route is approved, Messrs Heron would look to offer an alternative area of land within their wider landholdings that would be more appropriate for the relocation of the Fair and in doing so mitigate the losses suffered.
- 2.5 Justification for the permanent acquisition of land or rights over land, and temporary land occupation; and the extent of those needs
- 2.5.1 We remain unclear that the Applicant does in fact require all of the permanent and temporary rights that they seek. The lack of detail or explanation from the Applicant has made it impossible to properly assess the extent of their need for the areas in question.
- 2.5.2 The currently proposed route places a disproportionate burden on Messrs Heron when compared with neighbouring Land Owners and will bring into question the viability of their existing agricultural enterprises.
- 2.5.3 The compulsory acquisition of land and rights must not be taken lightly, and the burden falls on the Applicant to prove that it is

entirely necessary to acquire the rights that they seek. If they fail to do so, as we suggest that they have here, there is no equitable way that the Application can proceed.

2.6 Proposed Ecological Mitigation Measures

2.6.1 The areas identified by the Applicant for ecological mitigation along the entire scheme route appear to have been arbitrarily identified without any reference to the nature or quality of the land in question. We are concerned to note that large area of the best agricultural land in the local area have been earmarked for ecological mitigation.

2.6.2 We have offered a number of times to meet with the Applicant's ecologists in order to identify more suitable areas for this, but to date the Applicant has failed to do so.

2.6.3 It is respectfully submitted that it '*should*' be regarded as common sense to locate these areas on the most marginal or poorer areas of agricultural land. This ensures not only that the impact on agricultural production levels is minimised but also that the compensation due to landowners is reduced through acquiring lower value land, and minimising the adverse effects on farming enterprises.

2.6.4 The National Planning Policy Framework stipulates that planning and policy decisions should protect the best and most versatile agricultural land, and preserve soil quality⁷.

2.6.5 We therefore submit that the Application is substantially flawed in failing to properly consider or allocate

2.7 The Suitability of Proposed Locations for Drainage Ponds and Compounds

2.7.1 As with the Ecological Mitigation Areas, the Applicant does not appear to have taken into account the relative qualities of Agricultural Land, or the impact on continuing agricultural businesses when alighting upon the locations for drainage ponds and compounds.

2.7.2 We are concerned that a failure to communicate or agree who would be responsible for future maintenance between the Applicant and Local Authorities has led to more drainage ponds being included within the design than would otherwise be necessary. It is difficult to understand how this failure has occurred to the extent that additional land will need to be taken, and further avoidable costs incurred.

2.7.3 We would urge the Applicant to engage in reasonable consultation with the relevant Land Owners and reconsider these locations (along with the route itself) in order to minimise not only the impact on owners and occupiers, but also the cost of the scheme.

⁷ National Planning Policy Framework, Chapter 15 para.174 (a) – (b)

2.8 Liability for Infrastructure

2.8.1 The scheme should not impose any new liabilities on Messrs Heron in respect of new infrastructure/ embankments/ roads/ bridges/ ponds.

2.8.2 We would ask that the Applicant confirms that this will be the case.

2.9 Demonstration of the Availability of Necessary Funding

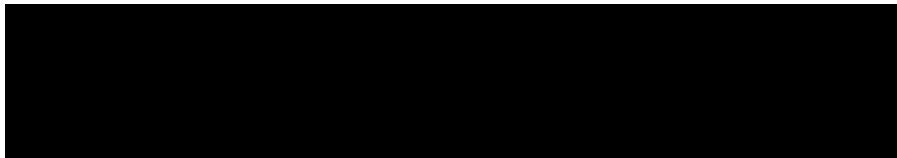
2.9.1 As we set out above, we do not consider that the Applicant is promoting the most appropriate route for the Scheme, and nor have they considered the substantial compensation that would be due as a consequence of this route choice (and which might be avoided by a different route). On this basis it must be considered that they cannot demonstrate that there is sufficient funding available to carry out the proposed scheme.

2.9.2 We submit that it would be inequitable to allow the application to proceed and by its existence continue to adversely affect the local community and Messrs Heron when it is not clear that the scheme will be viable.

2.9.3 Furthermore, we have identified a number of instances where it can be shown that the Applicant will unnecessarily incur additional costs and/or compensation burdens. The application must therefore be revised in order to avoid this and ensure that the Applicant does not fail in their fiduciary duty to ensure best value from public funds.

3. Conclusion

- 3.1 In conclusion, the Applicant has failed to provide adequate information in respect of the proposed scheme, and their chosen route is unsuitable for a number of reasons, not least that a more suitable route to the north remains available. There has been a failure to properly consider the relocation of the Brough Hill Fair, which could be avoided if the route was moved further north, and ecological mitigation areas, drainage ponds, and compound areas have not been sited with adequate care.
- 3.2 The Applicant has also failed to show that they have adequate funds available to implement the scheme, and has not attempted to negotiate in respect of the proposed acquisition.



18th December 2022

Appendix 1
Eastfield Farm Plan



Family home

Access into farmyard,
haulage yard and
batching plant and
family homes

Batching Plant and Haulage Yard

Proposed Brough
Hill Site

Feed and Livestock Buildings

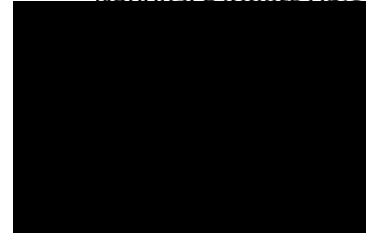
Family home

Intensive Farmyard including dairy unit

Appendix 2
Letter dated 18.10.21



Mrs A Wallbank
National Farmers Union



18th October 2021

Re: Proposed Site to Relocate Brough Hill Fair

To whom it may concern,

I have now had chance to look at the proposed planned new location for Brough Hill Fair field and am worried about its proximity to Eastfield Farm and other family properties. The event has the possibility to develop into the relatively large event that we have seen in the past, and if this happened it could greatly affect both the family houses and the business operations.

As a representative of the NFU of which Mr Heron is a member and as their Insurers I would like to voice my concerns

I understand that the new field would be in the region of 20 metres from one of the homes, which obviously will affect them with noise disturbance, the possibility of waste being very near a family home and possibly security issues. It would also be close to three other family homes.

From a business and animal welfare perspective, it would move the field to under 60 metres away from the farm buildings, which could result in a number of issues developing during the event:

- Animal welfare and security
- Milk safety and security
- Animal feed bio security
- Safety for farm employees
- Restrictions to access for employees
- Restrictions/ problems with deliveries & collections.

All of the above are vital to the operation of this longstanding business and we have concerns that animal safety, property safety and milk production/collection could all suffer.

I understand the Mr Heron will be making representation during this consultation period and I want to provide my support to his concerns as his NFU Group Secretary and Insurance Agent.



A J Wallbank
NFU Mutual Insurance

Appendix 3
Letter dated 25.10.21



25 October 2021

Dear Sirs,

We write on behalf of our member milk producer **W M Heron & Sons Limited of Eastfield Farm, Warcop, Appleby, Cumbria, CA16 6PS** in relation to the proposed Travellers field at [●] (the **Proposal** and the **Site**).

As you will appreciate from the enclosed aerial photograph, the Proposal directly adjoins Eastfield Farm in a number of places, coming within 60 metres of the bulk milk tank and milking parlour facilities.

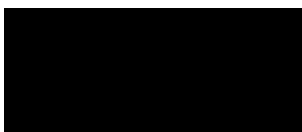
As you will also appreciate, as Europe's largest farmer-owned dairy co-operative, Arla Foods takes the safety and integrity of its supply chain and members very seriously indeed. Maintenance of the highest animal welfare and bio-security standards are critically important for both Arla's operations and the maintenance of the UK's food supply chain as a whole.

Arla believes that the Proposal poses a number of significant risks to the on-going operations of W M Heron & Sons Limited including:

- Animal welfare/security concerns on the basis of anticipated noise caused by the Proposal;
- Milk safety/security due to potential contamination of the Site and the surrounding environment;
- the maintenance of applicable Arla Standards;
- Animal feed bio-security;
- Safety of farm employees at Eastfield Farm; and
- Potential accessibility issues for milk collections.

Please therefore provide W M Heron & Sons Limited with full details of how you propose to mitigate the above risks in connection with the Proposal by return.

Yours faithfully



Kasi McReddie
Agriculture Manager
Arla Foods

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