

Deadline 6 Submissions on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Messrs Heron

4th April 2023

1. Introduction

1.1 We are instructed to provide a further submission on behalf of the Heron family comprising the families below, 'The Heron Family':

Mr J Heron, [REDACTED]

Mrs D and Mr I Heron, [REDACTED]

Mr J and Mrs M Heron, [REDACTED]

Mr S and Mrs C Heron, [REDACTED]

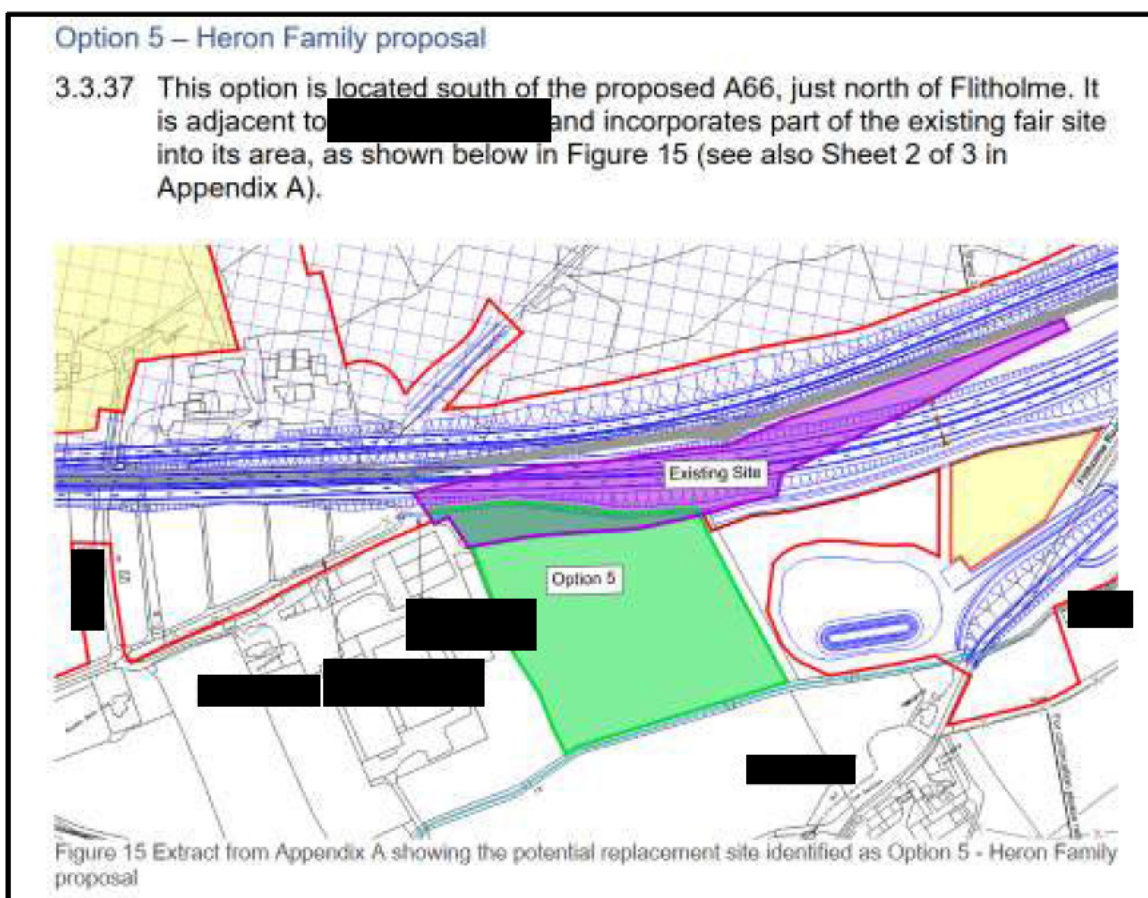
Mr D and Mrs M Heron, [REDACTED]

1.2 The Heron Family have interconnecting farming and commercial enterprises in and around [REDACTED], and these representations are submitted on their behalf collectively.

1.3 We have previously submitted on behalf of the Heron Family written submissions for deadlines 1,2, 3, and 5. We do not propose to repeat those representations, but would stress that the issues raised remain unresolved.

2. Applicant's Response to Examining Authority's Request under Agenda Item 10 – Replacement Sites Considered for Brough Hill Fair Conclusion

2.1 We have reviewed the above document submitted by the Applicant at Deadline 5¹, and make the following comments in relation to the Applicant's consideration of the site proposed by the Heron Family which is referred to as Option 5 and shown in the plan extract below:



2.2 The stated area for Option 5 (6.2 acres)² is incorrect because part of the existing Brough Hill location could be incorporated. We assess the total area of the fields to be in the region of 9.4 acres and it can therefore accommodate

¹ TR010062-001546 National Highways Post-hearing submissions

² 3.3.39

the target area of 5.4 acres useable space. The relevant area is shown tinted red on the plan below:



2.3 We do not agree with the Applicant's assessment that there would be a useable acreage of 4.0 acres for Option 5, not only because part of the existing site can be incorporated (as it is for Option 1), but also because we submit a greater part of the site would be useable.

2.4 It is not clear that the Applicant's estimate of useable area for Option 1 (5.4 acres) takes into account the bunds and fences etc that would be required. We estimate that the useable area for Option 1 would in fact be less than the required area to replace the existing site.

2.5 Although it is accepted that some engineering works would be required in respect of Option 5, it must be taken into account that works to clear Option 1 would also be required which could extend to the decontamination and

disposal of any buried munitions. It is not clear that the Applicant has properly considered these points in assessing the relocation sites.

2.6 It is submitted that the Applicant is wrong in suggesting that there are services to the Option 1 site but not Option 5. It is our understanding that that there is no water supply at present to the 'Bivvy Site'; but there is however a stand pipe for water on the existing Brough Hill site which would be retained as part of either Option 1 or Option 5. We do not understand the existing Brough Hill site to benefit from an electricity connection or drainage.

2.7 We also respectfully submit that the Applicant has erred in suggesting that a new access would be required for Option 5. The current plans submitted by the Applicant already show a private means of access for the Heron family from the east which could be used for entry and egress from the site avoiding the use of Station Road and therefore reducing the extent of health and safety concerns.

2.8 Figure 10 of the Applicant's submission³ does not show the proximity of the access to [REDACTED]. Whilst we appreciate that the ExA have visited the site, we feel it useful to include below an image similarly obtained from Google Streetview showing a slightly wider view for reference:

³ 3.3.5



2.9 The Applicant states in respect of Option 5 that:

“Given the extent of the earthworks required to make this site viable and the other factors outlined above in 3.3.41 and 3.3.43, it was not presented to the Gypsy community for their consideration, nor included in the DCO application documentation⁴”

We submit that this approach was unreasonable, when the earthworks could easily be resolved and would be no more intrusive than that required on Option 1 site, especially when the impact of Option 1 on the existing Land Owners is far greater than that of Option 5.

2.10 The Applicant refers in respect of Option 1 to a ‘pinch point’ 7m wide⁵ between the retained part of the existing site and the Bivvy ground. This clearly presents a health and safety risk by funnelling vehicles and horses into a narrow passageway with a stone wall to the south and the A66 to the North.

⁴ 3.3.43

⁵ 3.3.4

It will also be extremely problematic in wet weather; concentrating traffic into such a narrow area will inevitably lead to it becoming impassable if the ground is wet.

- 2.11 The Applicant describes the access to the Bivvy site along Station Road which is described as a local road which, “*currently provides access to a small number of properties*”. We would emphasise that the properties referred to include not only [REDACTED] but also the Heron Family’s haulage yard and concrete plant and the current intensity of use (particularly by heavy vehicles) is considerably greater than one would expect if for example there were only a small number of residential properties on the road.
- 2.12 Taking into account the points above and considering the summary table at 3.4.1 we submit that Option 5 is viable and should have been properly considered and consulted on.

3. Risk Assessment

- 3.1 Within our previous representations we have raised before the ExA concerns that the Applicant had not carried out a risk assessment in respect of Option 1 which they are promoting.
- 3.2 The Applicant has subsequently appointed a surveyor from AMEY to provide one and who met with the Heron Family, representatives from the Travelling Community, and Rachel Smith & Bernice Sanders from National Highways on the 23rd March. Whilst we have not yet had sight of the report prepared for the Applicant, we feel it necessary to raise a number of concerns at this juncture:

- i) The surveyor from AMEY was unnecessarily rude and abrasive furthering exacerbating the stress and anxiety that this matter is causing to our Clients.
- ii) What was presented prior to the meeting as a fact finding exercise to allow the surveyor an understanding of what was happening on [REDACTED] actually appeared to be an exercise in dismissing concerns, and did not include any substantive review of the operations at [REDACTED]
- iii) The meeting was cut-short because of the conduct of the surveyor even after the representatives from National Highways requested that he limit his input to objective fact-finding; with Rachel Smith and Bernice Sanders feeling it necessary to return after he had left in order to finish discussing the health and safety concerns being raised by the Heron Family and Travelling Community.
- iii) The Surveyor appointed by the Applicant did not appear to have an adequate level of knowledge to assess the risks presented at the subject location. He was uninformed on very basic agricultural terminology, machinery and operations including for example a lack of understanding as to what silage, mixer wagons or silos are.
- iv) Bizarrely, concerns raised by the Heron Family in respect of sheep dip tanks and the toxic vapour dispersed from over 1000 head of sheep as they stand and shake after being dipped at the boundary with the Option 1 Site were dismissed arbitrarily

because the tanks and sheep '*are outside*'. It is certain that vapour and dip will reach the Option 1 Site as set out in the Risk Assessment attached as Appendix D6-1.

3.3 Taking into account the above, my Clients have felt it necessary to obtain their own risk assessment prepared by Rhiannon Wilson. We enclose a copy of this as **Appendix D6-1**.

3.4 We understand that the Representatives from the Travelling Community held similar concerns following the meeting on the 23rd March, and that they will confirm the same directly to the ExA.

3.5 At the meeting, the Representative from the Travelling Community highlighted how their enjoyment of the Fair and their culture is based around being outdoors and as such Children may be more likely to roam or explore the site rather than staying inside. The reality of this must be considered in the context of the Heron Family's operations, and liabilities now and in the future.

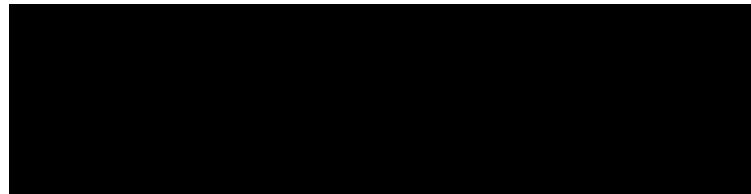
3.6 It is imperative that the scheme does not create unnecessary risks to health and safety, particularly where the future liability may rest with the Heron Family or Travelling Community.

3.7 Given the severity of the dangers raised, we would ask that the Applicant makes clear for the purposes of the examination where liabilities would lie post completion of the scheme.

4. Conclusion

4.1 In conclusion, in response to the Applicant's further submissions in respect of the proposed relocation of Brough Hill Fair submitted at Deadline 5, we identify a number of key concerns including errors in relation to the area of alternative sites and potential additional costs at their preferred location.

4.2 We also remain concerned that the Applicant has not adequately evaluated or factored in the health and safety risks arising from their proposed relocation of the Hill Fair Site to 'Option 1' i.e. the Bivvy site. We have set out difficulties experienced with the Health & Safety Consultant belatedly appointed by the Applicant, and attach as **Appendix D6-1** a risk assessment carried out by an independent Consultant instructed by the Heron Family.



4th April 2023

Appendix D6-1

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT



Situation Assessed:			RA No:	Date: 04/04/2023	Review Date: Wednesday, 27 March 2024	
Risk assessed by: R. Wilson			Risk assessment assisted by:			
Number of persons undertaking the tasks > –unknown			Number of other persons possibly affected –unknown			
Risk/Hazard Rating:	HIGH	Extremely high unacceptable risk. Major injury, critical loss of process or damage to property.	MEDIUM	Moderate risk. Non reportable injury, minor loss of process or slight damage to property.	LOW	Insignificant damage to property or equipment or minor injury
RISK RATING						
Hazards Identified: A hazard is something with the potential to cause harm.					INITIAL	RESIDUAL
1.Fire					HIGH	HIGH
2.Traffic Management					HIGH	HIGH
3.Noise					MEDIUM	MEDIUM
4.Animals					HIGH	HIGH
5. Employees and visitors coming on site					MEDIUM	MEDIUM
6. Bio security					HIGH	HIGH
7. Site Security					HIGH	HIGH
8. Children					HIGH	HIGH
9. Sheep Dipping					HIGH	HIGH

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

IDENTIFY FACTORS THAT CAN INFLUENCE THE SITUATION

1. Agriculture has the worst rate of fatal injury (per 100,000) of all the main industry sectors, with the annual average fatality rate over the last five years around 21 times as high as the all-industry rate.
2. Every year children are killed on farms.

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION RISK ASSESSEMENT

HAZARD 1.						Potential Mitigation		
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.			
(H) Fire			<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. Combustible materials (including 150t of straw and/ or approx. 100 tonne of ammonium nitrate) are stored within 2 metres of the proposed Brough Hill Fair site. 2. Camp fires have always been part of the Brough Hill Fair since it began and Mr Welch stated at the inspection that their culture is to have camp fires on Brough Hill Fair as they cook on the camp fire and not in the caravans. 			<ol style="list-style-type: none"> 1. Given the size and construction of the cladding of the building's mitigation would be difficult to put in place especially as we are aware of the culture to have camp fires in such close proximity to these buildings. 2. Zero camp fire policy which is controlled by a independent party but we appreciate this won't be acceptable to the Gypys as it is part of their culture. 		

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 2.						Potential Mitigation
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.	
(H) Traffic Management			<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. SAFE stop will be adhered to on the farm but when using certain equipment these may be left running on the site. 2. Eastfield Farm, including the haulage yard and ready-mix concrete plant, share the same busy access road highlighted in blue on the attached map. This road is single access and it is only wide enough for one vehicle. Adding the additional traffic, pedestrians, horses, and dogs to this road poses a risk in relation to traffic management. 3. Farm traffic is 24/7 silaging, contractors, feed deliveries, the access road (highlighted blue) is a very busy route 4. Gypsies movement in and out of the Bivvy site with vehicles/towing caravans/ horse and carts/ exercising horses/children and dogs on the same road and entrance as above. We are aware that the Gypys will be constantly moving on and off site every day for the duration of the Fair. Mr Welch confirmed at the inspection that the gate must be left open at all times to allow the community to easily and safely access and egress from the site and using double gates will not be suitable. 5. Eastfield Access is directly adjoining the proposed access to the Bivvy site therefore exacerbating the risk. 			<p>None due to the likelihood and security of the risk.</p> <ul style="list-style-type: none"> • We cannot control the Gypsys access to the site. • We cannot stop operations of the farm / concrete plant / haulage yard

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 3.						Potential Mitigation		
HAZARD / RISK	INITIAL RISK RATING	MEDIUM	RESIDUAL RATING	MEDIUM	Controls in place from previous risk assessments or procedures.			
(H) Noise			<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. The farm is in operation from between 4am and 10pm, where plant and equipment is in use during these hour, farm machinery constantly working which will have reversing beepers, feeder wagon travelling from the storage shed (10m from proposed Bivvy site) to the dairy cow housing and back numerous times, parlour operations including vacuum pumps, pressure washer and air compressor etc, contractors coming on site. 2. Mr Heron starts feeding his stock at 4am every day and the feedstuff are stored within 10m of the Bivvy site so the noise will be most at the boundary of the Bivvy site. <p>At the time of the fair machinery will be operating in the dark exasperating the risk if there is unauthorised access on the farm.</p>			None because operations cannot cease during these hours and days of the Fair.		

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION RISK ASSESSEMENT

HAZARD 4.								
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.	Potential Mitigation		
(H) Animals			<p>Contributing Factors:</p> <ol style="list-style-type: none"> 1. Travellers could bring dogs to site, which if loose could gain access to the farm worrying the sheep and cattle. 2. It is understood it is likely that Flashing of horses would be undertaken on Station Road further exasperating the risk with regards to access but also increased the risk of harm to both horse and farm animals. 3. Unauthorised persons who enter the cattle buildings and milking facility will be at risk of trampling/kicking/attacks/ serious injury/death from cows protecting their calves. 4. Possibility to let cattle/sheep out of their secure housing and end up on the road/lost/injured/severe risk to the biosecurity of the whole farm. Mr Heron is part of the Arla 360 contact which requires the highest standards of biosecurity and animal welfare. This risk puts the whole contract in jeopardy and risk of contaminating the food chain 5. Tampering with livestock increase risk of a stampede/suffocation 6. Disturbing livestock and spooking causing injury/abortion/death 7. Disease risk to humans, salmonella, E.coli 			<p>None because of the culture of the Gypsy community. Mr Welch stated that their culture was to not stay in caravans but to explore the surrounding area.</p> <p>Mr Welch also stated their children our ‘animal lovers’ and would be inquisitive to the animals on the farm.</p>		

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 5.						Potential Mitigation
HAZARD / RISK	INITIAL RISK RATING	MEDIUM	RESIDUAL RATING	MEDIUM	Controls in place from previous risk assessments or procedures.	
(H) Employees and visitors coming on site			<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. Employees have stated they would be anxious to come to work should the site be approved due to the risk highlighted in the report and likelihood of an accident happening because of the gathering of people. 2. Farm employees travelling to and from work dealing with obstruction /dangers causing delays to work and mental health issues. 3. Employees trying to do their work with interference from persons not permitted onsite putting the employee at an increased risk of harm/danger/liability. E.g If an unauthorised person if injured/killed the driver of the vehicle/machine could be liable. 			None as the inquisitive culture cannot be controlled nor can operations of the farm / haulage plant concrete plant cease for the duration of the fair.

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 6.							
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.	Potential Mitigation	
(H) Bio security			<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. As a food producing business, Eastfield Farm must abide by strict biosecurity measures especially since they are part of Arla 360 Starbucks contract 2. Visitors to the farm are to kept to a minimum to prevent diseases being brought to the farm. 3. We need to keep farm access routes, parking areas, yards, feeding and storage areas clean, tidy and free from obstructions at all times. . 4. 5. Possibility to let cattle/sheep out of their secure housing and end up on the road/lost/ injured 6. Tampering with livestock increase risk of a stampede/suffocation 7. Potential risk of contamination of milk stored onsite 20k litres which could result in contaminating the whole dairy processing plant and the food chain. 8. Risk of contamination of stored animal feedstuffs resulting in health and welfare issues/death 			<p>None because operations cannot cease for the duration of the fair.</p> <p>Fences will not prevent unauthorised access especially as the access to the farm is adjoining the proposed entrance to the Bivvy site.</p>	

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION
RISK ASSESSEMENT



	9. Risk of tampering with feeding equipment i.e. molasses tower resulting in injury/death.	
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PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 7.						
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.	Potential Mitigation
(H) Site Security			<p>Conflicting factors:</p> <ol style="list-style-type: none"> 1. Ready mix concrete plant/haulage yard dangers to unauthorised persons and potential risk of sabotage to plant/ equipment/ trucks and daily operations. 2. Tampering with milking equipment/machinery – this could lead to broke equipment which could lead to animal welfare issues and contamination of the food chain. 3. Slurry storage which could result in death from accidents/slurry gas- Generation of slurry gases is spasmodic and unpredictable. Reference https://www.hse.gov.uk/pubns/ais9.pdf 4. Risk of injury/death when moving cattle in farm yard, down farm lane or station road 5. Potentially unable to carry out milk collections with articulated tankers due to obstruction/danger on Station Road and the farm entrance. <p>Risk of draining/emptying milk tank</p>			<p>CCTV could be used however will not prevent the risks.</p> <p>None due to any gathering of people will create security issues and security fencing will not prevent unauthorised access as the access to Eastfield Farm is adjoining the proposed Bivvy site entrance. The gate to the Bivvy site could be locked which is not appropriate or acceptable for the Gypsy's.</p>

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 8.						
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.	Potential Mitigation
(H) Children		<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. Slurry spreading will be undertaken on site. The gates to the reception pit will be open and unattended during working hours as machinery will be going to and from the pit. 2. Children and any persons are not to access the site under any circumstances. We understand from Mr Welch that it is part of their culture that their children are inquisitive and will want to explore the farm. Slurry pits and other dangers could appear to be inviting to children and they won't understand or appreciate the dangers of it. 3. There are many items that can be climbed on a farm or appear to be a structure of that found on a playground, such as silage pits, feed towers bales, etc. These are within 10 metres of the proposed site.. 4. The farm has a robotic silage pusher which is operating itself unattended around the farm yard and in and out of the buildings, these are roughly ¾ tonne of machinery which could hurt/crush a child should they be in its way. The robot operates on various routes on the farm running for 23 hours per day every day. 				<p>None because operations cannot cease for the duration of the fair.</p> <p>Fences will not prevent unauthorised access especially as the access to the farm is adjoining the proposed entrance to the Bivvy site and we understand from Mr Welch that their children and inquisitive and will want to explore the surrounding area.</p>

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION

RISK ASSESSEMENT

HAZARD 9.						
HAZARD / RISK	INITIAL RISK RATING	HIGH	RESIDUAL RATING	HIGH	Controls in place from previous risk assessments or procedures.	Potential Mitigation
(H) Sheep Dipping			<p>Conflicting Factors:</p> <ol style="list-style-type: none"> 1. The dipping tub and holding area is within 2m of the boundary of the Bivvy site. 2. Users dipping the sheep will have full PPE on to avoid any harm to them including but not not limited to potential risk of cancer if dip touches skin. 3. Once sheep have been dipped, they are held in the holding pen to drainage excess dip. The sheep will shake meaning toxic vapour will disperse into the air including over the boundary into the Bivvy site. This is especially the case when there are approx. 1000 head of sheep in the holding pen. 4. See reference https://www.hse.gov.uk/pubns/ais41.pdf 			<p>Provide full PPE to the attendees to the Bivvy site as the farm cannot not carry out operations because the fair is operational as it is risking animal welfare.</p>

PROPOSED BROUGH HILL FAIR SITE – BIVVY OPTION RISK ASSESSEMENT



Risk assessment completed by : Rhiannon Wilson

Signature : R Wilson

Date : 04/04/2023

Rhiannon Wilson qualifications attached.

This is to certify that


Rhiannon Wilson

has achieved the following qualification

**AIM Qualifications Level 6 Certificate in Personal Injury
Liability**

with a

Pass



This certificate is accompanied by a transcript which shows the unit achievements



Kevern Kerswell
Chief Executive Officer
Aim Qualifications and Assessment Group

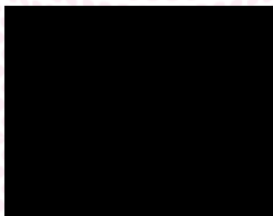
Qualification ID: 601/5750/1
Certificate ID: 40021028
Learner ID: 18309563
Certification Date: 13/09/2022



Rhiannon Wilson

Component achievement

Title	Code	Level
Personal Injury Liability	J/507/0716	Six



Kevern Kerswell
Chief Executive Officer
Aim Qualifications and Assessment Group

This is a list of components awarded as part of
Qualification ID: 601/5750/1
Certificate ID: 40021028
Learner ID: 18309563
Certification Date: 13/09/2022





Institution of Occupational Safety and Health

Incorporated by Royal Charter 2003

This is to certify that

Rhiannon Wilson

was admitted as a

Associate Member

on

11th September 2021

Signed on behalf of the Council



Chief Executive



President



Cert No. 222384

This certificate remains the property of the Institution of Occupational Safety and Health and should be returned if requested



Level 6 Certificate in Applied Health and Safety

This is to certify that

Rhiannon Wilson

has been awarded this qualification on

9 June 2021



Iain Evans
Chief Executive



Geoffrey Podger CB
Chairman



Ofqual ref: 601/5735/5
Candidate No: 186784
Certificate No: F48E3C6EV

National Compliance and Risk Qualifications
Registered in England & Wales No 09063141

Certificate of achievement

High Speed Training certifies that

Rhiannon Wilson

has completed

DSEAR

A high quality, interactive training course that helps learners to recognise the risks from dangerous substances and explosive atmospheres in the workplace and comply with the DSEAR Regulations.

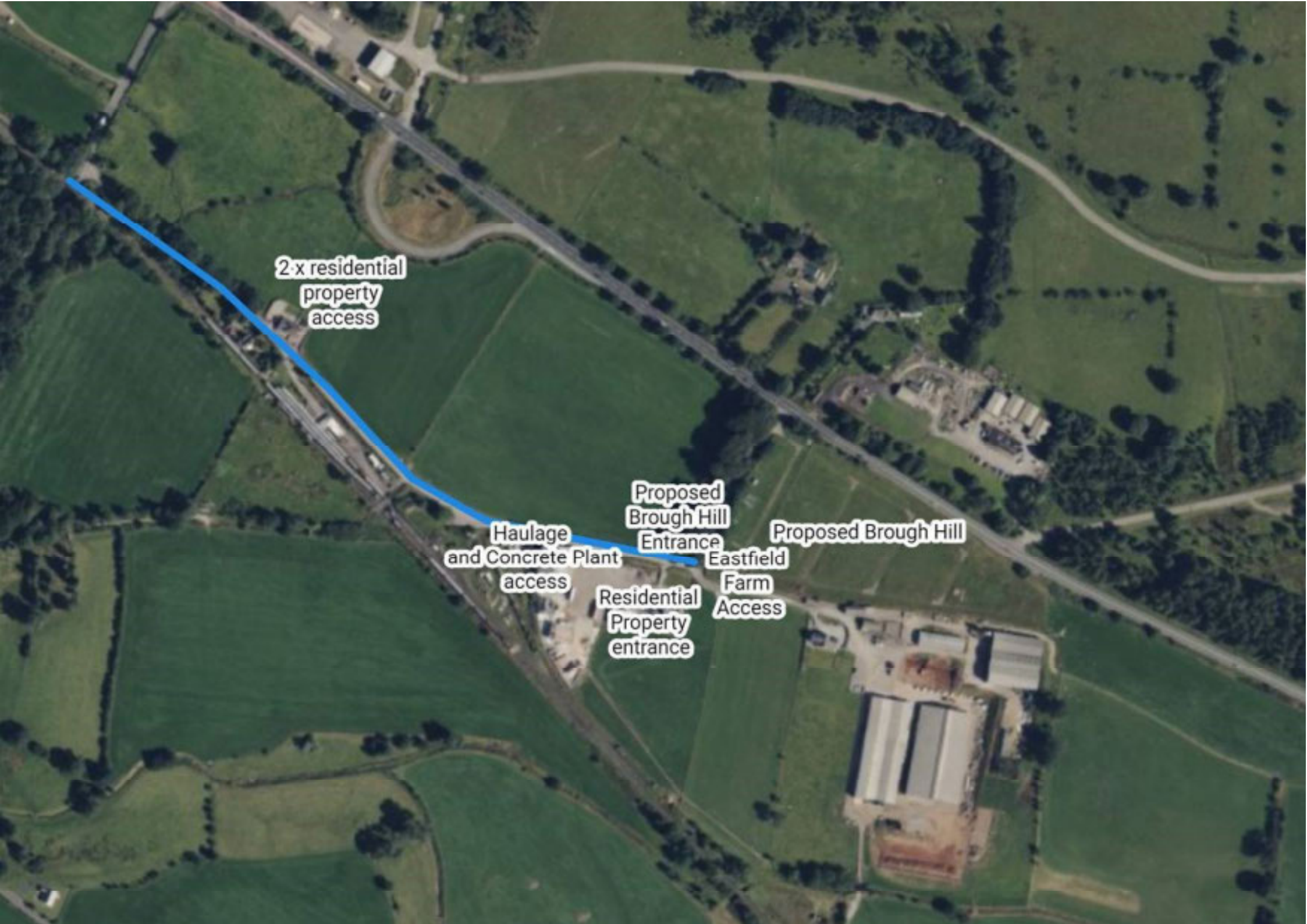
Issued On: 27/08/2021
Recommended Renewal Date: 27/08/2022

Certificate Number: T 2587541 2714664
To verify please visit: [REDACTED]



[REDACTED]

On behalf of High Speed Training



2 x residential
property
access

Haulage
and Concrete Plant
access

Proposed
Brough Hill
Entrance
Residential
Property
entrance

Eastfield
Farm
Access

Proposed Brough Hill