

Deadline 7 Submissions on the A66 Northern Trans-Pennine Project

Submitted on Behalf of Messrs Heron

9th May 2023

1. Introduction

- 1.1 We are instructed to submissions on behalf of the Heron family comprising the families below, 'The Heron Family':

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 We have previously submitted on behalf of the Heron Family written submissions for deadlines 1,2, 3, 5 and 6. We do not propose to repeat those representations, but would stress that the issues raised remain unresolved.

2. Deadline 7 Submission

- 2.1 Further to the concerns previously raised by the Heron Family, the Applicant has produced an updated '*Operational Risk Assessment*' (ORA) in respect of their proposed relocation of the Brough Hill Fair to their preferred 'Bivvy Site' adjacent to Eastfield Farm in Warcop.
- 2.2 The Heron Family submitted their own risk assessment dated 4th April 2023 within their Deadline 6 submission, and now offer their comments in relation to the equivalent document prepared by the Applicant.

2.3 Transport/Vehicle Movements

2.3.1 The mitigation measures proposed by the Applicant are:

- Warning signs
- Passing areas
- Brough Hill Fair participants to avoid movements during peak periods
- Introducing a stop line with the intention that Hill Fair traffic stops and gives way to vehicles on station road

2.3.2 We submit that these measures are not appropriate. The Hill Fair Participants will need access at all times and access along station road will be constant meaning that the idea of '*avoiding movements during peak periods*' is unrealistic.

2.3.3 The representatives for the Travelling Community have also stated that they will use Station Road as a 'flashing track' to show the horses that they wish to sell, therefore they will not want to 'give way' or 'stop' or 'pass' when they wish to show their horses.

2.3.4 The dual use of the access route will give rise to a high chance that accidents will occur. We therefore fundamentally disagree with the Applicant's scoring on likelihood and impact in this respect.

2.4 Vehicle/pedestrian/horse movements

- 2.4.1 The Applicant states that there are no records of children or horses straying. This contradicts the position communicated a number of times to the Applicant by both the Heron Family (who have owned land adjacent to the existing site for over 60 years) and also Mr Billy Welch in his role as representative for the Travelling Community.
- 2.4.2 The Applicant's risk assessment does not refer to the fact that the access to the Bivvy Site is directly next to the Farm entrance for Eastfield Farm. It will not be feasible to shut the gates for either the Hill Fair Site (during the period of the Fair) or Eastfield Farm meaning that the proposed mitigation of a fence will not be effective. We therefore do not agree with the Applicant's scoring in respect of likelihood and severity.
- 2.4.3 The Applicant's Risk Assessment does not make clear whether they have referred to the HSE Guidance 'Preventing Accidents to Children on Farms'¹, or 'Handling and Housing Cattle'² which highlights the dangers associated with cattle.

2.5 Horse/Dog/Children Movements

- 2.5.1 As identified above, the gates to the Fair will need to remain open at all times for traffic entering and leaving the site. Horses, dogs and children will disperse via the farm access lane/yard or through the onto Station Road conflicting with the Heron Family's heavy

¹ ISBN: 978 0 7176 6602 7

² Series Code: AIS35(rev1)

agricultural and commercial traffic. We therefore disagree with the Applicant's scoring on likelihood and severity.

2.5.2 The Applicant also refers to the use of a 'Pegasus Gate' but we are unclear as to what this is or would entail, and would welcome clarity on this point.

2.6 Horse Flashing

2.6.1 As referred to above, the representatives for the Travelling Community such as Mr Welch have previously advised the Applicant that the 'Bivvy Site' is not long enough to accommodate a flashing lane, and therefore Fair Participants will use Station Road. The Applicant's proposed mitigation measures will therefore not be feasible and we do not agree with their scoring in terms of risk and severity.

2.7 Noise (Fair Activities)

2.7.1 The Bivvy site is only 12m away from Meadow Bank house, only 12m from Eastfield House and 3m from livestock buildings. The proposed bunding and hedge would be inadequate in reducing the noise at such close proximity leading to an unacceptable burden on both farmhouses and livestock housing.

2.8 Noise (Farming Activities)

2.8.1 The Applicant does not take into consideration that the yard for the loading of cattle and feed/silage pits are located only 8m from the proposed fair site.

2.8.2 Tractors and telehandlers are operating at noise levels over 100+ decibels, and we submit that it would be unfeasible to create a noise barrier between the farmyard and the proposed site to an acceptable level.

2.9 Contamination (cattle feed)

2.9.1 As identified above, Fair Participants will come through over the southern boundary or use the open gate onto Station Road to access the farm meaning that there remains a risk of children or teenagers causing contamination by interfering with animal feedstuffs.

2.9.2 The Feed Stuffs also pose a hazard to any trespassers as identified in the HSE Guidance note 'Grain Dust'³.

2.9.3 The Applicant's proposed mitigation in respect of waste generated by the Hill Fair is that it will be controlled by Fair Participants and disposed of using facilities provided by the Applicant. We do however understand that the Applicant intends to sell the site after completion of the works and therefore query how future waste disposal measures will be funded and/or enforced.

³ Series Code: EH66 (Third edition)

2.9.4 On the basis of the above, we submit that the Applicant's mitigation measures are not practical in regard to reducing the risk of contamination and we do not agree with the Scoring Assessment.

2.10 Contamination (Milk)

2.10.1 As outlined above, the Applicant's proposed measures will not prevent Hill Fair Participants from entering farm buildings and posing a risk to the milk stored in bulk tanks pending collection by the dairy.

2.11 Air Pollution (Sheep Dipping)

2.11.1 The Applicant's Risk Assessment misconstrues the issue and we would respectfully suggest that this risk is not air pollution, it is harm to people from sheep dipping.

2.11.2 We disagree that the sheep dipping activities are carried out away from the proposed Hill Fair Site. The sheep exiting the dipping bath would only be 3m away from the proposed new site and attendees.

2.11.3 The Applicant also refers to the outdoor location minimising risk, but to be clear the risks come from vapour as well as gas/air pollution. It is not clear what evidence the Applicant relies on in their position or assertions.

2.11.4 The Applicant's proposed mitigation measures are not agreed as correct and therefore the Risk Assessment Scoring is also wayward.

2.12 Air Pollution (Traffic)

2.12.1 As outlined above, silage pits and feed stores are located around 8m from the Bivvy site. When dry feed or straw is being loaded and mixed in the feeder wagon, this creates a huge amount of fine dust into the surrounding atmosphere. The Heron Family employees wear dust masks for the prevention of respiratory issues when carrying out these operations. There would also be fumes from diesel engines operating on the farm.

2.12.2 The Applicant states that the current and future concentrations as predicted in the Environmental Statement are below levels set by the UK Air Quality Objectives. We are unclear how these predications have been made without an understanding of the machines in use and their movements, or the nature of feed-stuffs being handled.

2.12.3 The Applicant identifies the absence of mitigation measures at present in relation to the current location for the Hill Fair; however this oversimplification overlooks the differences in distances and relative positions of the site and active parts of the Farm steading.

2.13 Air Pollution (Smoke)

2.13.1 The Applicant states that there are currently no mitigation measures in relation to smoke coming from the existing Hill Fair Site; but as with 2.12.3 above, this oversimplification overlooks the differences in distances and relative positions of the site and active parts of the Farm steading.

2.13.2 The proposed mitigation of the current situation is that there would be '*ownership and management of fires by responsible adult*'. It is the experience of the Heron Family over the 60 years that they have farmed next to the current site that there has been many cases of inappropriate positioning of fires by children or teenagers.

2.13.3 The Applicant states that there is no record of fires, but does not provide a reference for this statement which contradicts the first-hand experiences of the Heron Family.

2.13.4 The straw, fertiliser and hay all located in buildings close to the boundary of the Bivvy Site all pose a fire risk, particularly given the Yorkshire Boarding sides intended to allow airflow through the buildings would also allow sparks in. The presence of livestock in neighbouring buildings only serves to highlight the risks.

2.13.5 Without prejudice to our position that the Applicant's proposed mitigation measures would not be effective, we would also stress that they do not set out how the management of fires would be policed or the consequences of ignoring any recommendations from them.

2.14 Security (concrete plant)

2.14.1 As outlined above, Mr Welch has stated that the access gate for the fair must be open at all times meaning that horses, dogs and children will disperse via the boundary and down Station Road, potentially entering the concrete plant or haulage yard. The haulage yard and concrete plant are very busy with heavy plant and

machinery constantly moving. It is recognised as dangerous area, and it is submitted that a 'STOP' line would not constitute adequate mitigation.

2.15 Security (farm)

2.15.1 As with the Concrete Plant, controlling access between the Bivvy Site and Eastfield Farm would not be a realistic proposition leading to the potential for conflict between Fair Participants and Heavy Machinery. The Applicant's suggested mitigation measures of fencing and a double gate will not be effective.

2.16 Interruption to Farm Activities

2.16.1 The proposed mitigation works will not be effective. In regard to the measures suggested by the Applicant we comment as follows:

2.16.2 Signage – this will have no real effect, and the Travelling Community Representatives have confirmed this to the Applicant in meetings.

2.16.3 Traffic Plan – the would be impossible to do as farm traffic, HGV movements and concrete wagons do not adhere to a fixed timetable. Even if a plan was created, the Applicant does not detail who would control or police it (and at whose expense). It is submitted that this suggested measure would amount to nothing more than a paper-exercise with no real effect or benefit.

2.16.4 Moving Access to Bivvy Site to the northern end of the side - moving the access to the northern end of the site would then create

another serious risk by meaning that Fair Participants would meet with farm traffic on a blind corner. This does not remove any of the concerns we are raising and is not an appropriate measure.

2.16.5 Stop Lines – These will be disregarded, and of no real use.

2.17 Generally

2.17.1 The Applicant has requested details of the existing security

measures in place at Eastfield Farm, but this misses the point that the issues arising stem from the proposed relocation from the Hill Fair to the Bivvy Site.

2.17.2 The Heron Family have owned land adjacent to the existing site for

over sixty years, and have offered to make available alternative land for the re-location; they do not take issue with the Hill Fair, but the specific site proposed by the Applicant i.e. The Bivvy Site.

2.17.3 The issues and disputes arising where there is conflicting uses of

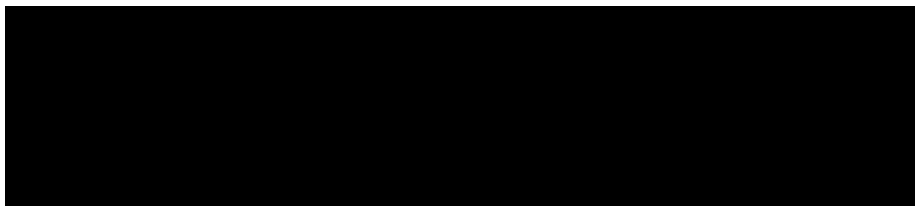
land and roads between Fair Participants (whether at Brough or Appleby) and other road users is well documented in the press and of serious concern to the Heron Family.

2.17.4 We remain unclear as to who carried out the Applicant's risk

assessment or if they have any experience or understanding of the agricultural experience. We have requested clarification on this point from the Applicant, but at the date of writing, none has been forthcoming.

3. Conclusion

- 3.1 In conclusion, the Heron Family have previously submitted their own risk assessment in relation to the proposed relocation of the Brough Hill Fair to the 'Bivvy Site' and within this document review the assessment prepared by the Applicant.
- 3.2 The proposed Bivvy Site will give rise to substantial risks which cannot be effectively mitigated. It should be kept in mind that once the scheme is completed, the reality of the situation is that the Heron Family will be left with an increased exposure to risks and the associated liability simply trying to carry on their existing businesses.
- 3.3 We do not agree with the Applicant's assessment of the risks posed, or proposed mitigation measures; and are not clear that the Applicant's Risk Assessment was prepared by a Consultant with adequate experience and understanding of agricultural operations. We would therefore urge the Examining Authority to rely on the Assessment provided by the Heron Family in their deliberations.



9th May 2023