
STATUTORY INSTRUMENTS

2024 No. 360

**The A66 Northern Trans-Pennine
Development Consent Order 2024**

PART 3

POWERS OF ACQUISITION AND POSSESSION OF LAND

Supplementary

Relocation of Brough Hill Fair

36.—(1) Subject to paragraph (8), the undertaker must not take exclusive possession of any part of the existing Brough Hill Fair site for the purposes of constructing the authorised development until the Secretary of State has—

- (a) approved a scheme prepared by the undertaker for the provision of the replacement Brough Hill Fair site; and
- (b) certified that—
 - (i) the approved scheme has been satisfactorily implemented by or on behalf of the undertaker; and
 - (ii) the replacement Brough Hill Fair site is suitable and available for use by the persons who enjoy the Brough Hill Fair rights.

(2) The scheme for the provision of the replacement Brough Hill Fair site mentioned in paragraph (1) must—

- (a) provide for the replacement Brough Hill Fair site to be laid out such that it is a suitable replacement for the existing Brough Hill Fair site, in terms of—
 - (i) including facilities that are at least as equivalent to those of the existing Brough Hill Fair site at the time this Order came into force;
 - (ii) making appropriate provision for safe access to and from the replacement Brough Hill Fair site for vehicles, horses and persons;
 - (iii) making appropriate provision for the treatment of the boundaries of the replacement Brough Hill Fair site, to secure the safe use and enjoyment of the site and having regard to the use and amenity of adjacent land; and
 - (iv) setting out the arrangements for maintenance and management of the facilities, access and boundaries mentioned in paragraphs (i) to (iii) above, having regard in particular to safety and security considerations; and
- (b) be prepared by the undertaker following consultation with—
 - (i) such persons as the undertaker reasonably considers represents the interests of the persons who enjoy the Brough Hill Fair rights;
 - (ii) the owners and occupiers of land adjacent to the replacement Brough Hill Fair site;
 - (iii) the relevant planning authority; and

(iv) the local highway authority.

(3) The Secretary of State requires a consultation report to be submitted together with the prepared scheme prior to its approval pursuant to paragraph (1)(a) and a consultation report and arrangements detailing the implementation of the approved scheme prior to its certification pursuant to paragraph (1)(b).

(4) The Secretary of State may undertake his own consultation if he regards it to be appropriate with the parties referred to in paragraph (2)(b) and such other parties as he considers appropriate.

(5) The Secretary of State requires the undertaker to provide independent verification that the arrangements for the implementation for the approved scheme have been effectively undertaken in accordance with paragraph (1)(b) before the scheme is certified by the Secretary of State; and the cost of the independent verification is to be borne by the undertaker.

(6) Immediately on taking exclusive possession of the existing Brough Hill Fair site for the purposes of constructing the authorised development—

- (a) the Brough Hill Fair rights vest in the replacement Brough Hill Fair site; and
- (b) the existing Brough Hill Fair site is released from the Brough Hill Fair rights.

(7) As soon as is reasonably practicable after taking exclusive possession of the existing Brough Hill Fair site for the purposes of constructing the authorised development, the undertaker must—

- (a) publish in a locally circulating newspaper a notice confirming the date on which the Brough Hill Fair rights vested in the replacement Brough Hill Fair site and the existing Brough Hill Fair site was released from the Brough Hill Fair rights; and
- (b) notify such persons as the undertaker reasonably considers represent the interests of the persons who enjoy the Brough Hill Fair rights.

(8) Nothing in paragraph (1) prohibits the undertaker from taking exclusive possession of any part of the existing Brough Hill Fair site for the purposes of implementing a scheme approved under that paragraph.

(9) The scheme approved by the Secretary of State under paragraph (1)(a) may be modified by the undertaker before it has been implemented in full, and if it is then paragraphs (1) to (2) apply to the preparation, approval and implementation of the modified scheme.

(10) The transfer of the Brough Hill Fair rights to the replacement Brough Hill Fair site by virtue of paragraph (6) is not to be regarded, in any claim or legal proceedings relating to the nature and extent of the Brough Hill Fair rights, as resulting in any interruption to the enjoyment of those rights.

(11) In this article—

“the Brough Hill Fair rights” means any and all customary rights, prescriptive rights, rights derived from royal charter and public rights, that relate to the event known as the Brough Hill Fair that do or may subsist immediately before the Brough Hill Fair rights are transferred to the replacement Brough Hill Fair site in accordance with the provisions of this article;

“the consultation report” means the report containing the responses of the parties referred to in paragraph (2)(b) and setting out the position as agreed between the undertaker and those parties, and in the event of disagreement the provisions of article 51 (arbitration) are to apply.

“the existing Brough Hill Fair site” means the land described in the book of reference for scheme 06 and shown on the land plans for scheme 06 that is numbered 06-04-43 and 06-05-06; and

“the replacement Brough Hill Fair site” means the land in the book of reference for scheme 06 and shown on the land plans for scheme 06 that is—

- (a) numbered 06-04-32 and 06-04-33; and

- (b) numbered 06-04-43 but only so much of it (approximately 4,000 square metres) as is included in the scheme certified under paragraph (1)(b).