

Brough Hill Fair Community Association

Chairman: Billy Welch. Secretary: Bill Lloyd [REDACTED]
[REDACTED]

Planning Inspectorate Reference: TR010062 (for Deadline 4)

Interested Party 20031989 - Supplementary written submission: Prescriptive Rights
in response to the Deadline 1 submission made by National Highways

Ref: TR010062-001085 - National Highways - 7.3 ISH2 Post Hearing Submissions

Published 21/12/2022 Pages 53 – 57 and Appendix 8

Dear Sirs,

We are aware that this submission has missed Deadline 3, but we ask that you should nevertheless please give it due consideration. Although we met with National Highways representatives on several occasions over the last two years, we were not made aware until the preliminary hearings and the statements made in their Deadline 1 Post Hearing Submissions that National Highways required evidence of the nature of the rights to Brough Hill Fair. In particular, applicant has stated on page 54/55:

“the different potential ways in which the Brough Hill Fair rights might have arisen are not in the character of private rights or easements over land. In relation to possible prescriptive rights the Applicant’s diligent inquiries have not identified evidence of the existence of such rights, or details of the land in relation to which the benefit of such rights would attach. “

Had we been made aware that these rights would be in doubt, we would have prepared evidence in advance and made our case at the Hearings and before the deadlines.

The representatives of the Brough Hill Fair Community maintain that the rights to Brough Hill Fair are attached to the land by virtue of the Conveyance of 1947 and are in fact Prescriptive Easements. This submission (5 documents including this one) provides the evidence that the rights meet the necessary criteria for Prescriptive Rights set out by the Doctrine of Lost Modern Grant. We request that the mechanism for transferring the rights should be robust, so that the Prescriptive Rights cannot be extinguished in the future, on the grounds that they no longer meet the criteria because the location has changed, or a failure to show long continuous use of the replacement site, or that the consent of the landowner is required for the use of any replacement site.

Bill Lloyd Billy Welch 6th February 2023

Submitted Documents:

1. This document
2. Summary of case
3. Statement from Andrew Connell
4. Witness statements
5. Images