Application for a Modification Order

Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way for the County of Cumbria

To: Cumbria County Council
Of: Countryside Access, Cumbria County Council, The Parkhouse Building, Carlisle, CA6 4SJ

I: D Brooksbank, for and on behalf of The British Horse Society
Of: C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

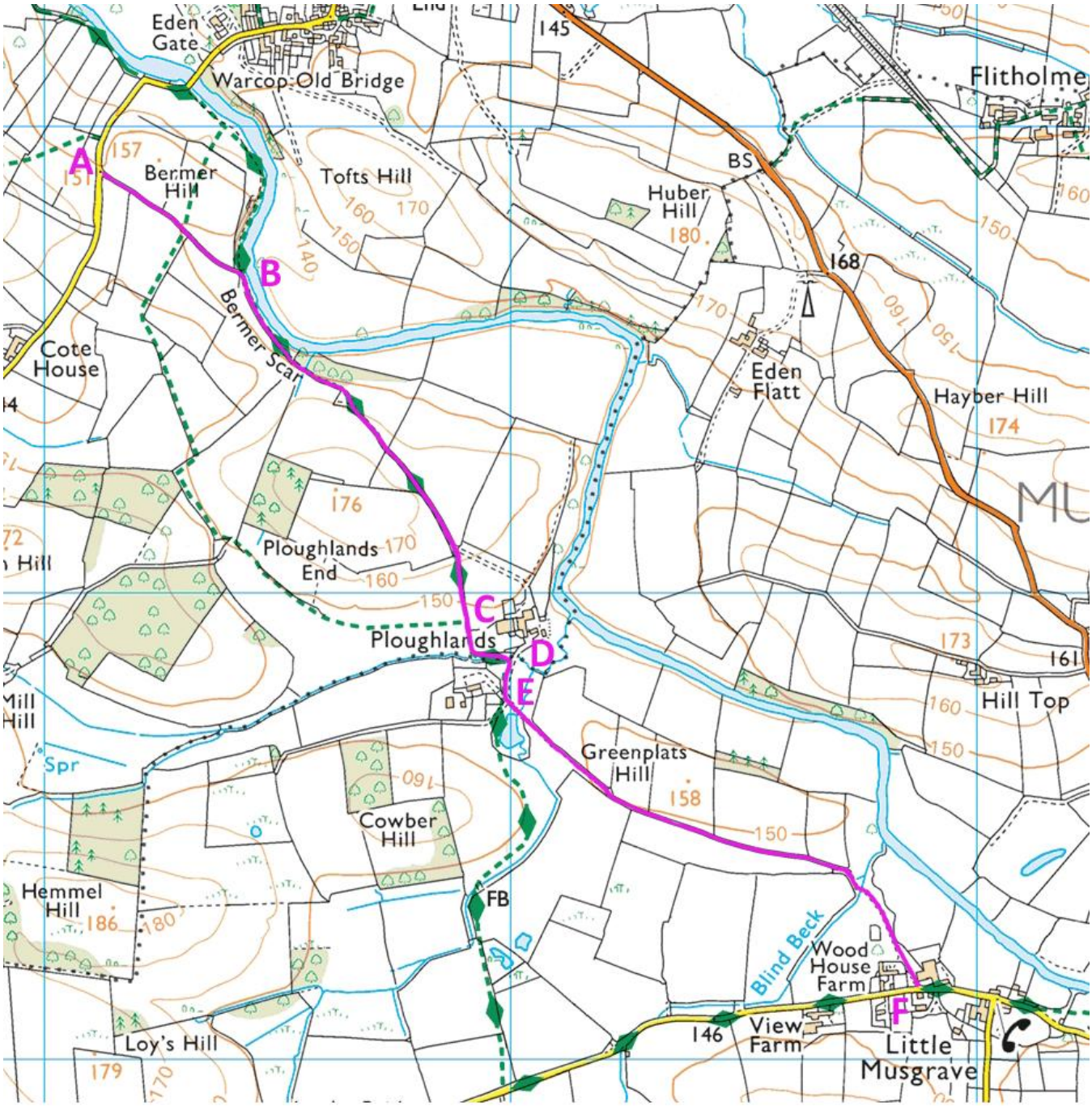
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Adding the BRIDLEWAY – BERMER SCAR, Parish: Warcop, District: Eden
FROM: Classified Road C3070 Ravelands Brow, Parish: Warcop, Grid Ref: NY 7412 1490 (A)
TO: Junction with Footpath 372006, Grid Ref: NY 7441 1468 (B)

AND
3. Upgrading to BRIDLEWAY part of the footpath 372006 and part of the footpath 350004 – BERMER SCAR AND PLOUGHLANDS LANE, Parishes: Warcop and Musgrave, District: Eden
FROM: Junction with Footpath 372006, Parish: Warcop, Grid Ref: NY 7441 1468 (B)
TO: Junction between Ploughlands Lane and Footpath 350004, Parish: Musgrave, Grid Ref: NY 7498 1378 (E)

AND
2. Adding the BRIDLEWAY – PLOUGHLANDS LANE, Parish: Musgrave, District: Eden
FROM: Junction between Ploughlands Lane and Footpath 350004, Parish: Musgrave, Grid Ref: NY 7498 1378 (E)
TO: Junction between Ploughlands Lane and Classified Road C3076 Town Gate, Parish: Musgrave, Grid Ref: NY 7587 1316 (F)

AS SHOWN ON THE FOLLOWING MAP:



Application Route: Identified by: A, B, C, D, E, F

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This map should print at 1:13,500 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map.

Description of Application Route:

The Application Route is approximately 2.65km long.

At Point A the route leaves the classified road C3070 Ravelands Brow in the Parish of Warcop, and heads south-east along a lane enclosed on both sides by hedges to Point B. The first 200m, to the point where footpath 372007 crosses the lane is clearly used by farm vehicles, although the lane was quite overgrown

at the time of inspection. The next 160m is evidently not used by vehicles, but a slightly worn path was discernible through the overgrown tangle. A field gate was resting against the shrubs, but not fixed, presumably as a livestock management measure.

At Point B, the route passes through a field gate and heads south along Bermer Scar, the route of footpath 372006. At this point the route does not seem to be used by vehicles, but the avenue of trees indicates the line of former hedges on both sides. As the route continues there is evidence of use by vehicles, with a fence on the east side and the ancient line of the route is clear as it has been levelled across the sloping ground. The route then passes through a gate and continues uphill before descending towards Ploughlands. Where the farm track branches off the application route, the route is crossed by a fence with a stile, although there is a gate to the west of it. The line of the route as it descends to Point C is enclosed to the east by an ancient hedgerow and a few trees to the west.

Point C is where footpath 372007 terminates on the route. After a further 50m the route passes through a gate (approx 1.5m wide) turns immediately east then passes through another gate (same type) before crossing the stream at Point D.

The stream at Point D forms the boundary between Warcop and Musgrave parishes. Currently there is a footbridge and stile to reach Ploughlands Lane, although the original ford was slightly west of where the bridge is placed, but access along the ancient route is blocked by the fence on Ploughlands Lane.

At Point E, the access lane for Low Ploughlands and footpath 350004 leave Ploughlands Lane. The application route continues along the lane to reach Little Musgrave Town Gate at Point F. This section seems to have a concrete surface throughout its length. Access onto classified road C3076 is by cattle grid with field gate to the side.

Current Recorded Status:

The section of the route between Point B and Point E is recorded on the Definitive Map as part of the footpath 372006 and part of the footpath 350004. The rest of the route is not recorded.

The route is not recorded on the List of Streets.

Notes:

The northern section of the route from Point A to Point D is in Warcop parish and the southern section from Point D to Point F is in Musgrave parish. Early documents differentiate between the townships of Bleatarn and Warcop within the Parish of Warcop. They also show Little Musgrave township as part of Crosby Garrett parish.

The Ploughlands area currently consists of two main properties. Ploughlands Farm is immediately north of Point D in Warcop parish and Low Ploughlands is west of Point E in Musgrave Parish. Old maps also show a third property near Point C, but this no longer exists.

Currently footpath 350004 joins Ploughlands Lane at Point E, but older maps show it joining the access lane to Low Ploughlands further west.

Although there were Inclosure Awards enacted for Bleatarn Common (1791) and Little Musgrave Common (1853), the land the application route passes through was not the subject of either.

Hemmel Hill BW in Bleatarn and Little Musgrave, joins the application route south of Point E on Ploughlands Lane, immediately north of where it crosses Keldhead Sike. An application has been submitted to add Hemmel Hill BW to the Definitive Map and Statement as a Bridleway as well.

Summary and Statement of Reasons:

This route is supported by a sufficient body of evidence to be recorded as a **BRIDLEWAY**.

Taken as a whole, the attached pieces of evidence demonstrate highway reputation spanning almost 200 years, and point to the Application Route being a public highway of status at least equal to Bridleway, even though it is only partially recorded on the Definitive Map and Statement as a footpath.

1. The application route is clearly shown on Greenwood's map of Westmorland dated 1824 and Hodgson's Westmorland Map of 1828. Jefferys' map of 1770 shows the southern section of the route but north of Ploughlands it fords the River Eden to the east. Cary's map of 1789 shows the same route as Jefferys, but his Atlas of England 1832 shows the entire application route as a Carriage Road. Other smaller scale maps which clearly show the route are Greenwood's map of 1834, Philip's map of 1857 and Crutchley's Atlas of 1858. These maps were developed for sale to horse riders and coach drivers by some of the most respected mapmakers and so could be expected to accurately show publicly-usable routes.

2. The application route is clearly shown as a through cart road on all historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1861 up to the 1:10,560 map of 1956. Ploughlands Lane is named on all 25in and 6in editions of the maps.

3. The Ordnance Survey 25in First Edition Maps of 1861 show the entire route in its own plots. Coloured sienna on the north-western sheet, Plot numbers 435 in Warcop township and 208 and 215 in Bleatarn township are all listed as "Public Road" in the Warcop Book of Reference. Plot 215 continues on the north-eastern sheet, coloured sienna and is labelled "To Little Musgrave" on the parish boundary. The southern section of the route in Little Musgrave township (Crosby Garrett parish) is shown as plot number 107 and is listed in the book of reference "Public Road (Ploughlands Lane)".

4. The Ordnance Survey 25in Third Edition maps of 1915 show a footpath terminating on the route at Point B. It can be reasonably inferred, therefore, that the Application Route is a public highway too, as there is no continuation shown of the footpath to join any other public highway from this point. It can also be reasonably inferred that the application route is higher status as it is shown wider than the footpath.

5. The Ministry of Transport Half-inch Maps of 1922-3 were based on the Ordnance Survey maps and showed the new road classifications prominently. Developed specifically for sale to motorists, the maps aimed to show only public roads and the application route is shown as a road which is a good indication this route was considered a public highway.

6. The primary purpose of Tithe Plans was to record ownership of the land parcels in a parish, so that tithes could be levied. Roads are not always shown on tithe plans, but were usually identified

where they were enclosed and separate to the titheable lands. The Bleatarn Tithe Plan of 1846 shows the route as a road, continuing north to Warcop township, and plot 377 is listed at the end of the apportionment as "Roads and Wastes". The Little Musgrave Tithe Plan of 1839 shows the route coloured sienna. It is labelled "to Warcop" where it joins Bleatarn township, which is good evidence the route was a through route used by the public.

7. On the Finance Act 1910 Maps, the northern section over Bermer Hill between Points A and B is excluded from adjoining hereditaments, which is good evidence this section of the route was considered a public highway.

8. Land Registry currently holds no record of ownership for the northern section over Bermer Hill between Points A and B. The land to the north and south of this lane all belongs to Eden Gate Farm, but the lane itself does not, which is good evidence this section of the route was historically a public highway.

9. There are no stopping up orders found.

I attach copies of the following documentary evidence in support of this application:

Appendix A: EVIDENCE FROM MAPS

A1: Jefferys Map 1770
A2: Greenwood Map 1824
A3: Hodgson Map 1828
A4: Cary's Atlas of England 1832
A5: Other Old Westmorland Maps
Greenwood 1834, Philip 1857, Crutchley Atlas 1858
A6: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)
1st Edition 1861, 2nd Edition 1898, Instructions to Field Examiners 1905, 3rd Edition 1915
A7: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)
1862-3, 1899, 1920, 1956
A8: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)
1861, 1897, 1918, 1947, 1955, 1964
A9: Ordnance Survey, 1:25,000 maps of Great Britain
1947, 1955
A10: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)

Appendix B: PRIMARY EVIDENCE

B1: Tithe Records – Bleatarn township, Warcop Parish 1846
B2: Tithe Records – Little Musgrave township, Crosby Garrett Parish 1839
B3: Finance Act Maps 1910
Westmorland sheet XVI.13

Appendix C: OTHER EVIDENCE

C1: Land Registry records
C2: The Gazette - Stopping Up search

Appendix D: MAP AND PHOTOGRAPHS OF THE APPLICATION ROUTE

D1: Current OS 1:25,000 map of Applicant Route
D2: Photographs of the route
Photos 1 – 12
D3: Aerial photograph of the route at Point D

SIGNED [redacted]

DATED: 9/08/2021