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

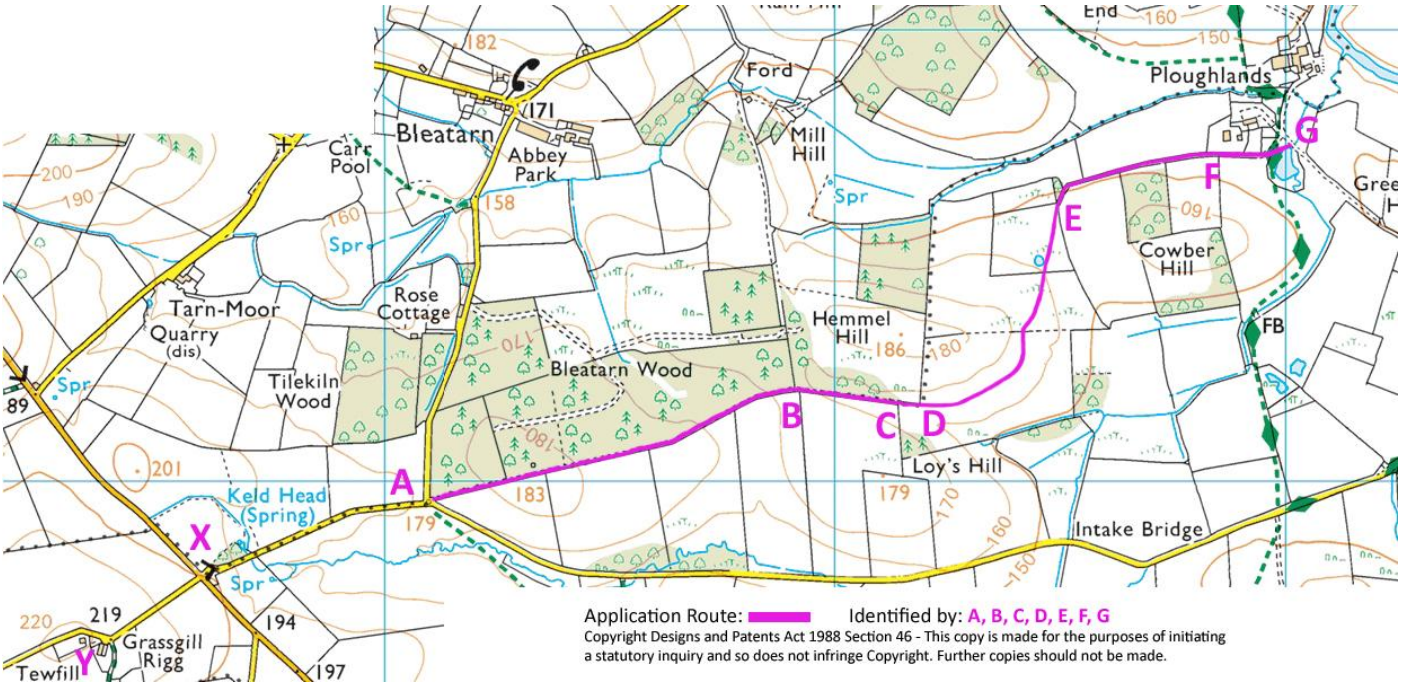
To: Cumbria County Council
Of: Countryside Access, Cumbria County Council, The Parkhouse Building, Kingmoor Business Park, Carlisle, CA6 4SJ

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 – HEMMEL HILL BW, Parishes: Warcop and Musgrave, District: Eden
FROM: Junction between Classified Roads C3070 Ravelands Brow and C3076 Little Musgrave Road, Parish: Warcop, Grid Ref: NY 7310 1296 (A)
TO: Point on Ploughlands Lane immediately north of where it crosses Keldhead Sike, Parish: Musgrave, Grid Ref: NY 7501 1374 (G)

AS SHOWN ON THE FOLLOWING MAP:



This map should print at 1:16,700 scale when printed on A4 paper.

Note: Points X and Y do not form part of the application route, but are referenced in the evidence.

See Appendix D for an unmarked copy of this map.

Description of Application Route:

The Application Route is approximately 2.21km long. As the route is not currently a public right of way it has not been possible to inspect the route.

At Point A the route leaves the classified road C3070 Ravelands Brow at its junction with classified road C3076 in the Parish of Warcop. It enters Bleatarn Woods and heads generally east following the southern boundary of the woods, which is also the parish boundary. At point B the more recent conifer plantation gives way to open broadleaf woodland.

On reaching Point C the route crosses into a field, following the northern boundary for around 50m to the corner. When the boundary heads north, the route contours round Hemmel Hill heading generally north-east to reach an enclosed lane at Point E. The route follows this lane east, along the northern slopes of Cowber Hill, to Point F just south of Low Ploughlands.

Between Point F and Point G a pond has been created to the south, which makes the historic route to Point G impassable. A new track has been created, taking a slightly more northerly line than the application route before passing through a gate to reach Ploughlands Lane.

The application route joins Ploughlands Lane at Point G, just north of where it crosses Keldhead Sike.

Current Recorded Status:

The route is not recorded on the Definitive Map.

The route is not recorded on the List of Streets.

Notes:

This application is based on historical evidence, therefore the route applied for is the historic one, supported by this evidence. There have been changes over the 200 years, especially between Points F and G. The OS 1st Editions from 1861 show smaller enclosures to the north of the route, and the route taking a more northerly line to join Ploughlands Lane; the 2nd Editions from 1898 show the current enclosures now built in this area, but the route is not shown; 3rd Editions from 1915 and all subsequent maps to 2015 – spanning 100 years - show the route following the line of this application.

In recent years, new buildings and walls have been erected at Low Ploughlands, between Points F and G, following planning approval in December 2014. Significantly, a pond was also created as part of this planning approval, making the historic route impassable. It is however possible to follow the new track between the southern boundary of the property and the boundary of the pond to reach Point G.

Currently footpath 350004 joins Ploughlands Lane along the new track, but older maps show it joining the access lane to Low Ploughlands (original farm) further west, crossing over the application route.

The western section of the route is in Warcop parish, following the parish boundary from Point A to Point D, although some maps show it as entirely within Little Musgrave – including Greenwood and Hodgson.

Early documents refer to the township of Bleatarn within the Parish of Warcop and Little Musgrave township as part of Crosby Garrett parish.

Little Musgrave Common is also referred to as Little Musgrave Mask on some documents. Mask is a local word for Marsh and there are masks in several neighbouring townships including Asby Mask and Soulby Mask.

The application route meets Ploughlands Lane at Point G in Little Musgrave. An application has been submitted to add Bermer Scar and Ploughlands Lane, Bleatarn and Little Musgrave, to the Definitive Map and Statement as a Bridleway as well.

Mill Hill Lane in Bleatarn meets the application route at Point B. An application has also been submitted to add Mill Hill Lane to the Definitive Map and Statement as a Bridleway.

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 230 years, and point to the Application Route being a public highway of status at least equal to Bridleway.

The importance of the route seems to have diminished over time, but there is no evidence that the right of way has been extinguished, even though it is not recorded on the Definitive Map and Statement.

1. The application route is clearly shown on Greenwood's map of Westmorland dated 1824 and Hodgson's Westmorland Map of 1828. Other smaller scale maps which clearly show the route are Greenwood's map of 1834, Bartholomew's Westmorland map of 1875, published in Encyclopaedia Britannica and another version published by Blacks in 1892. 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 route on the majority of historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1861 up to the 1:10,560 map of 1956. However, the central section is labelled as FP rather than BR and the eastern part where it joins Ploughlands Lane is shown differently on the various editions.

3. The Ordnance Survey 25in First Edition Maps of 1861 show the western section of the route from Point A to Point C in its own plot, number 440 in Bleatarn township, which is listed as "Public Road" in the Warcop Book of Reference. This plot extends west beyond Point A along what is a classified road today.

4. The Bleatarn Inclosure Award of 1791 awarded the application route from Point A to Point D as a private Occupation Way 20ft wide "for the use of such persons as have allotments adjoining the same". The current road to the west of the application route, as far as the Appleby to Soulby Road, was included in this private Occupation Way. However, other Private Occupation Roads (12-13 and 16-17) had the stipulation: "for the use of such person or persons who have ground or allotments adjoining the same but for no other person or persons". It can therefore be reasonably inferred that other people (ie the public) were permitted to use the application route.

5. The Bleatarn Inclosure Award of 1791 also set out the agreed boundary between Bleatarn township and Little Musgrave township, for the section that was the subject of the Inclosure Award, as there had been objections from Little Musgrave. Most of the names used to identify the route are not on current maps, but it is possible to identify Griseburn Beck (now Waterhouses Beck) as the western end of the shared boundary, as Lower and High Griseburn and Griseburn viaduct are all named on current OS 1:25,000 scale maps. The description is therefore from east to west and states: "a Stake at Abba [Abbey?] Park Stone from thence as the same was staked out along the Green Road over Bolkenrays [??] and through Croskeld Stone Quarries to the High Road leading from Soulby to Appleby..." One can therefore deduce that at least part of the awarded private Occupation Road was set out along an existing Green Lane.

6. The Little Musgrave Common Inclosure Award of 1853 shows the application route from Point A to Point D as an enclosed lane within the township of Bleatarn and states that it was set out as a public road in the Bleatarn Inclosure Award of 1791. The description of where Little Musgrave New Road meets the application route at Point A reads: "terminating at a point marked *e* on the said last mentioned map there joining a certain public road set out under the Award of the Commissioners of the Bleatain [sic] Inclosure." This is further evidence that the "private Occupation Road" was open for public use.

7. The Little Musgrave Common Inclosure Award of 1853 also shows the application route from Point D to Point E with pecked lines with the label "ANCIENT PUBLIC BRIDLE ROAD". Beyond Point E the land is not part of the Inclosure Award, but it is improbable that an ancient public bridle road would not be a through route.

8. 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 does not show the route explicitly. The Little Musgrave Tithe Plan of 1839 shows the route as a road from Point A to Point B to the north of the township boundary. From Point E to Point F the route passes through Plot 18 which is named in the Apportionment as "Road to Mask". This is further evidence of the route's reputation as a road.

9. On the Finance Act 1910 Maps, the western section of the route between Point A and Point C is excluded from adjoining hereditaments, which is good evidence this section of the route was considered a public highway.

10. 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: Greenwood Map 1824
A2: Hodgson Map 1828
A3: Other Old Westmorland Maps
Greenwood 1834, Bartholomew 1875, Black 1892
A4: 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

A5: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)
1862-3, 1899, 1920, 1956
A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)
1861, 1897, 1918, 1947, 1955, 1964
A7: Ordnance Survey, 1:25,000 maps of Great Britain
1947, 1955

Appendix B: PRIMARY EVIDENCE

B1: Inclosure Award - Bleatarn Common 1791
B2: Inclosure Award – Little Musgrave Common 1853
B3: Tithe Records – Bleatarn township, Warcop Parish 1846
B4: Tithe Records – Little Musgrave township, Crosby Garrett Parish 1839
B5: Finance Act Maps 1910
Westmorland sheet XXIII.1

Appendix C: OTHER EVIDENCE

C1: OS maps showing recent changes Points F-G
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 – 4

SIGNE[redacted]

DATED: 16/08/2021