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

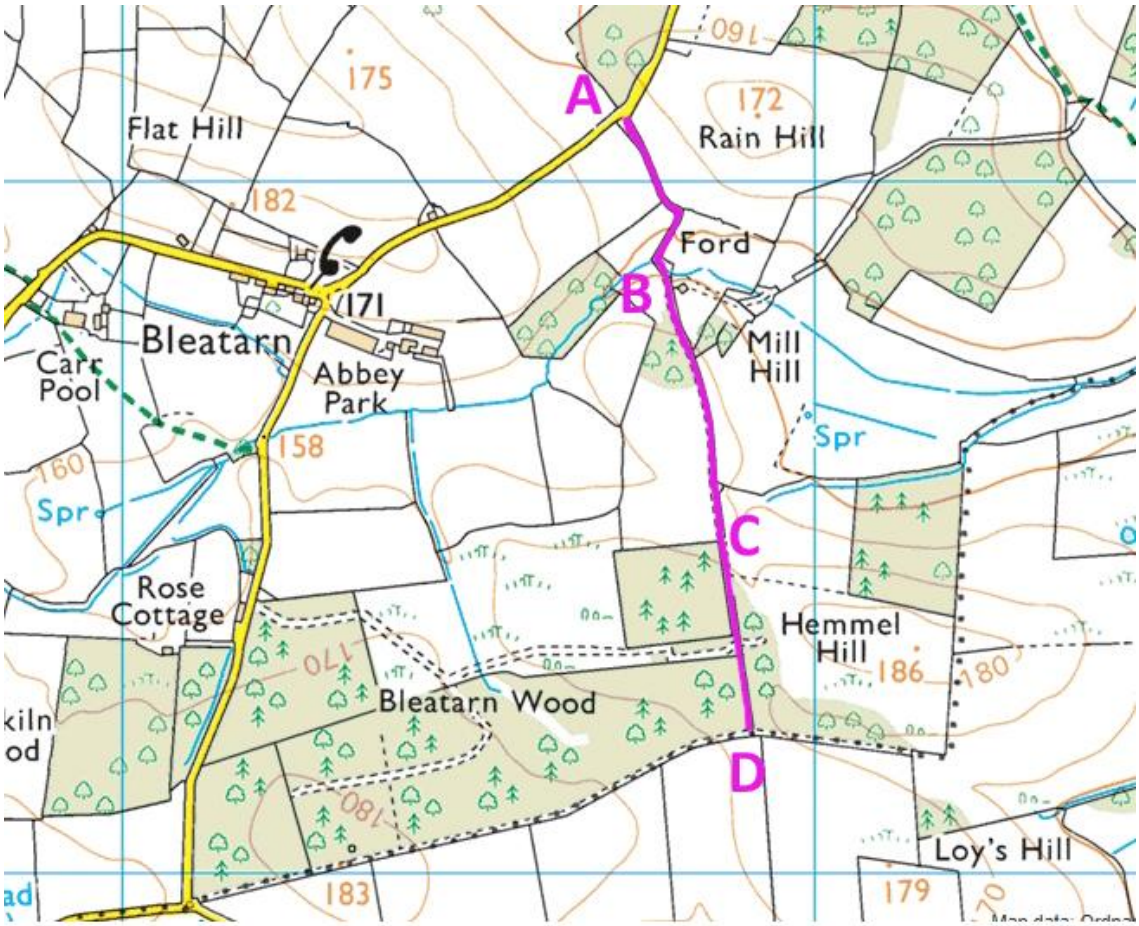
I: D Brooksbank, for and on behalf of The British Horse Society
Of: C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

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 – MILL HILL LANE, Parish: Warcop, District: Eden

FROM: Junction with Classified Road C3070 Ravelands Brow, Parish: Warcop, Grid Ref: NY 7372 1409 (A)
TO: Point on Hemmel Hill Bridleway, Parish: Warcop, Grid Ref: NY 7390 1320 (D)

AS SHOWN ON THE FOLLOWING MAP:



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

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This map should print at 1:11,000 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 950 metres 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 in the Parish of Warcop. It follows a lane enclosed by hedges to reach the stream at Point B. From there it heads generally south following field boundaries on the eastern side to Point C, then it switches to following boundaries on its western side past plantations and through older woodlands.

The application route joins Hemmel Hill Bridleway at Point D, just north of the parish boundary with Musgrave.

Current Recorded Status:

The route is not recorded on the Definitive Map.

The route is not recorded on the List of Streets.

Notes:

The application route meets Hemmel Hill Bridleway at Point D. An application has been submitted to add Hemmel Hill Bridleway, Bleatarn and Little Musgrave, 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 dating back over 250 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. Jefferys' map of 1770 shows a through road, but on a different alignment to the Application Route in the southern section. Jefferys was well respected as the "Mapmaker to the King", so it is very probable that the route he depicted was the accepted route at that time, before the Bleatarn Common Inclosure Award was enacted in 1791. Some other early maps also showed the same alignment as Jefferys – Cary 1879 and Smith 1804.

2. The application route is clearly shown on Greenwood's map of Westmorland dated 1824 and Hodgson's Westmorland Map of 1828 as a through route. 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.

3. The application route is clearly and consistently shown as a through route on almost all historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1861 up to the 1:10,560 map of 1956, the only exceptions being some of the later 1in maps.

4. The Ordnance Survey 25in First Edition Maps of 1861 show the entire route from Point A to Point D in its own plot and coloured sienna on the northern sheet XVI.13. Plot number 395 in Bleatarn township is listed as "Occupation Road" in the Warcop Book of Reference. However, the 1st, 2nd and 3rd edition maps all show a footpath terminating on the route at Point B where there is a ford and a footbridge marked. A public footpath would always have a destination and there is no discernible Point of Interest at this location. 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.

5. The Bleatarn Inclosure Award of 1791 awarded the application route from south of Point B to Point D as a private Road 20ft wide. The award specified that "Robert Scott his heirs and assigns shall be entitled to the Herbage of so much of the last named road as adjoins to part of his Allotment hereinafter set out to him." However, there was no stipulation on who may or may not use the road, while other Private Roads (12-13 and 16-17) specified: "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 free to use the application route.

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 and plot 377 is marked twice along the route. Plot 377 is listed at the end of the apportionment as "Roads and Wastes". This is further evidence of the route's reputation as a public highway.

7. On the Finance Act 1910 Maps, the entire route is excluded from adjoining hereditaments, which is good evidence the route was considered a public highway.

8. 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 and other early maps
Jefferys 1770, Cary 1789, Smith 1804
A2: Greenwood Map 1824
A3: Hodgson Map 1828
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)
1863, 1899, 1920, 1956

A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)
1864, 1898, 1947, 1955
A7: Ordnance Survey, 1:25,000 maps of Great Britain
1947, 1953

Appendix B: PRIMARY EVIDENCE

B1: Inclosure Award - Bleatarn Common 1791
B2: Tithe Records – Bleatarn township, Warcop Parish 1846
B3: Finance Act Maps 1910
Westmorland sheets XVI.13 and XXIII.1

Appendix C: OTHER EVIDENCE

C1: 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: Photograph of the route at Point A
D3: Aerial Photographs of the route

SIGNED [redacted]

DATED: 9/08/2021