# 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

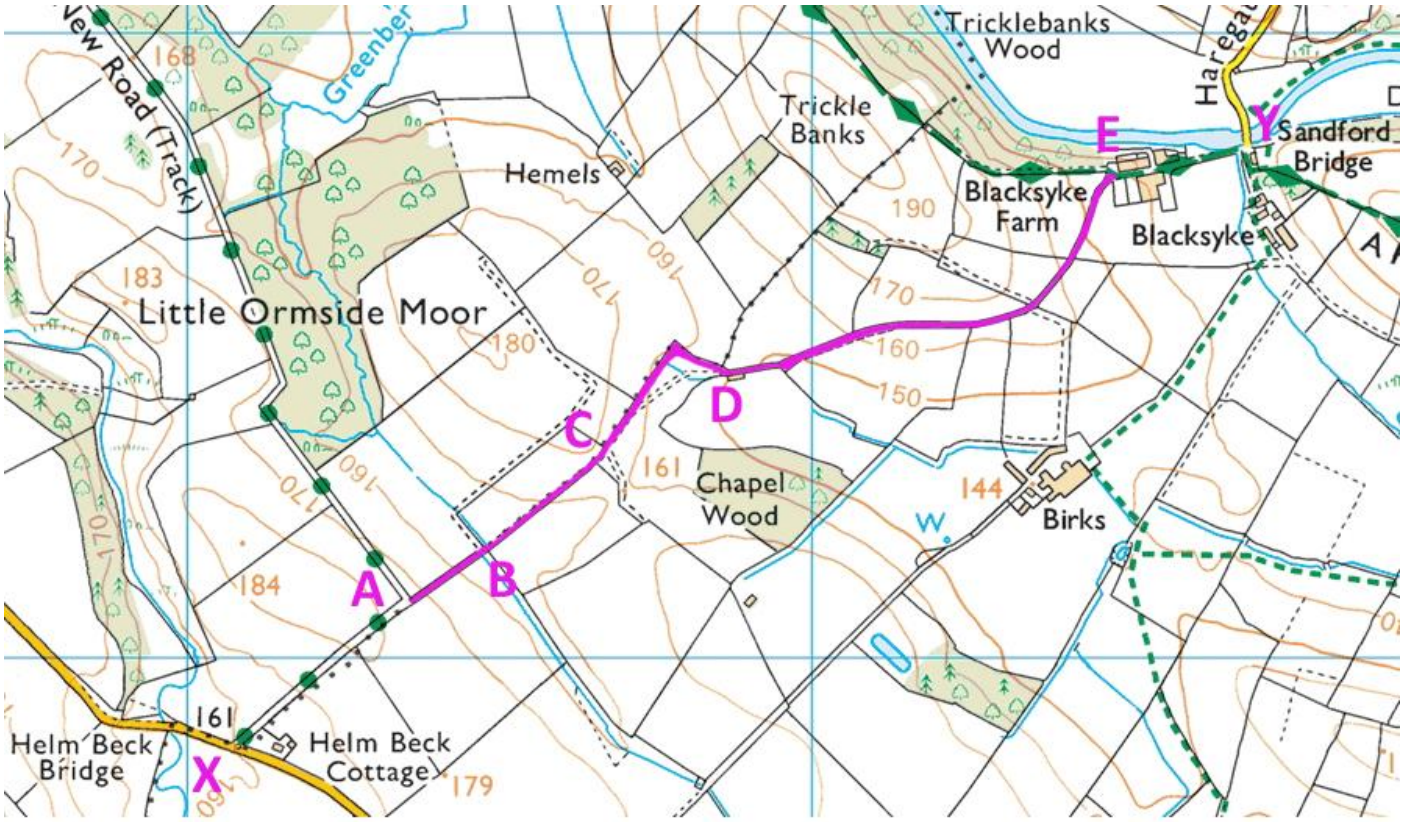
I: D Brooksbank, for and on behalf of The British Horse Society
Of: C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

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 – ROTMOOR LANE, Parish: Warcop, District: Eden

**FROM**: Junction with Unsurfaced Road U3258 New Road, Parish: Ormside, Grid Ref: NY 7135 1509 (A)
**TO**: Junction with Bridleway 372009, Parish: Warcop, Grid Ref: NY 7248 1577 (E)

AS SHOWN ON THE FOLLOWING MAP:




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

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This map should print at 1:12,000 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map.

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

**Description of Application Route:**

The Application Route is approximately 1.45 km 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 Unsurfaced road U3258 New Road on the boundary between Ormside and Warcop parishes and heads north-east following the parish boundary until it reaches Point D, but is

to Point C it is bounded on its southern side, although the parish boundary is on its northern side. From Point C to Point D the route now has a boundary on its northern side, which coincides with the parish boundary. The current farm track takes a more direct line between these 2 points. From Point D to Point E the lane is mostly bounded on both sides, with hedges and fences

The application route joins Bridleway 372009 at Point E, just west of Black Syke Farm.

**Current Recorded Status:**

The route is not recorded on the Definitive Map.

The route is not recorded on the List of Streets.

**Notes:**

Points X and Y are referenced in the evidence, but do not form part of the application route. Point X is where Ormside New Road leaves the Appleby to Soulby Road, C3069, just east of where it crosses Helm

Unclassified Road U3260 Haregate in Sandford.

The route identified in this Application is the historic route of Rotmoor Lane. The current track used by farmers differs between Point C and Point D in that it now cuts across the corner of the field, whereas the original route followed the boundary.

The route is not used by the public.

**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 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 Bleatarn Inclosure Award of 1791 awarded the application route from Point A to Point D as a "private Occupation Road for the use of all persons who have allotments adjoining the same and

also a public Bridle Road for the use of all persons in such Direction as the same is set out on the said Common and described on the said plan from the aforesaid Number (1) to Number (18)." Beyond Point D the land is not part of the Inclosure Award, but it is improbable that an awarded public bridle road would not be a through route.

2. The application route is partly shown on Greenwood's map of Westmorland dated 1824 and entirely on Hodgson's Westmorland Map of 1828. Many other smaller scale maps also show the application route as a through route, including Walker 1837, Philip 1857, Bacon/Dispatch 1863, Bartholomew 1875 and Letts 1884. 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 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 north-eastern section of the route from Point D to Point E as a road and and is marked plot 377. 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.

4. The application route is clearly shown as a through route on some historic Ordnance Survey Maps, but others do not clearly show the south-western part, blurring it with the parish boundary and some omit that section entirely.

5. The Ordnance Survey 25in First Edition Maps of 1861 show the north-eastern section of the route from Point D to Point E in its own plot on sheets XV.12 and XVI.9. Plot number 14 in Bleatarn township is listed as "Occupation Road" in the Warcop Book of Reference. However, this plot continues east to Point Y and this section is a public bridleway today. Additionally, the 2nd and 3rd edition maps both show a footpath terminating on the route at Point E, and the application route is clearly of higher status. That footpath is now on the Definitive Map as a bridleway.

6. 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 entire application route is shown as a road, which is a good indication this route was considered a public highway.

7. On the Finance Act 1910 Maps, the route from Point D to Point E is excluded from adjoining hereditaments, which is good evidence this section of 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: Greenwood Map 1824**
**A2: Hodgson Map 1828**
**A3: Other Old County Maps**
Walker 1837, Philip 1857, Bacon/Dispatch 1863, Bartholomew 1875, Letts 1884
**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, 1961
**A7: Ordnance Survey, 1:25,000 maps of Great Britain**
1947, 1953
**A8: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)**

**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 XV.12 and XVI.9

**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: Photographs of the route**
**D3: Aerial Photographs of the route**

SIGNED [redacted]

DATED: 16/08/2021