

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: The Lake District National Park Authority
Of: Murley Moss, Oxenholme Road, Kendal LA9 7RL

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

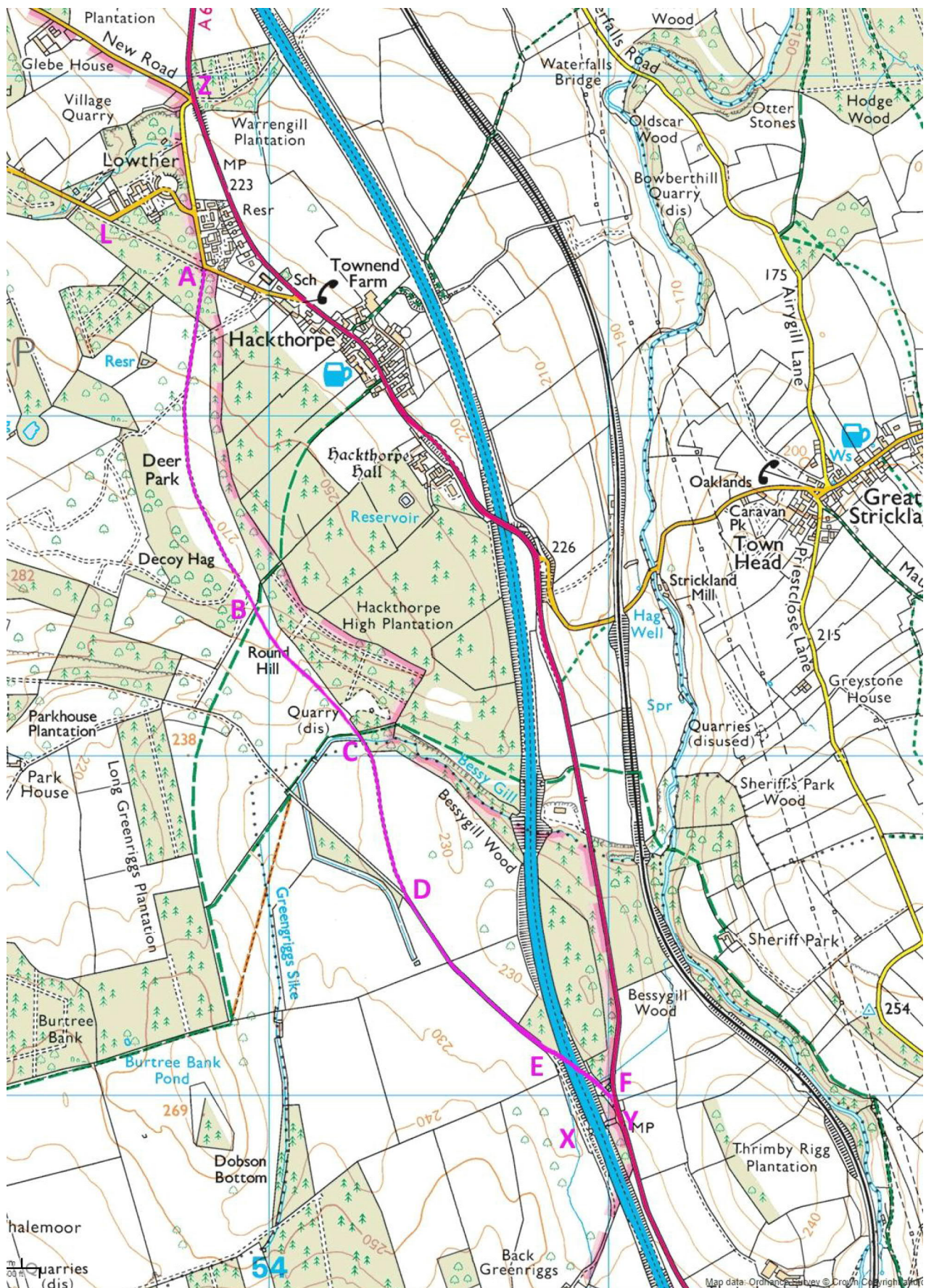
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Adding the RESTRICTED BYWAY – Hackthorpe Old Turnpike, Parishes: Lowther + Thrimby, District: Eden

FROM: Unclassified Road U3179, Parish: Lowther, Grid Ref: NY 5381 2343 (A)

TO: Classified road A6, Parish Thrimby, Grid Ref: NY 5501 2098 (F)

AS SHOWN ON THE FOLLOWING MAP:



This map should print at 1:17,000 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map. Note: Points L, X, Y and Z do not form part of the application route, but are referenced in the route description and evidence.

Description of Application Route:

The Application Route is approximately 2.9km long and largely unenclosed throughout its length. As the route is not currently recorded as a right of way, it has not been possible to inspect the route. The description is therefore largely derived from aerial and other publicly available photographs.

At Point A the route leaves the unclassified road U3179 in the Parish of Lowther through a wide opening in a wall. This section is unenclosed through woodland with tarmac base and ditches to both sides. At some distance there is a gate across the road preventing vehicular access. It is unknown if this gate is locked.

Between Point A and Point B the route is joined by 3 stone- or tarmac-surfaced tracks. At Point B there is a fence and following the fence on its southern side is Bridleway 342002, which the application route crosses.

Between Point B and Point C the route follows the boundary of Hackthorpe High Plantation, on its western side, passing a disused quarry on its right. It is grass surfaced, but aerial photographs clearly show the rutted line from centuries of use.

At Point C the route crosses Bridleway 342003, then Bessy Gill before entering the Parish of Thrimby. From Point C to Point D the route continues with a grass surface and is clearly visible on aerial photos. At Point D it joins the tarmac drive known as Emperor's Drive which it follows to Point E.

At this point the historic route can't be followed as the M6 motorway was built across the route. The drive was diverted south for 250m to utilise the underpass built under the motorway between Point X and Y. At Point X there is a cattlegrid across the drive with a gate to the south.

Current Recorded Status:

The route is not recorded on the Definitive Map.

The route is not recorded on the List of Streets.

Notes:

The route identified in this Application is the historic route of Hackthorpe Old Turnpike. However, the development of the M6 motorway blocked the historic route between Points E and F, so it would seem judicious to find an acceptable diversion for the restricted byway to avoid this obstacle. An underbridge was provided (marked X-Y on the above map) to allow access from A6 to properties and land west of the motorway, with a cattle grid and gate installed at Point X and surfaced road north to Point E.

The village of Thrimby stood immediately west of the location of Thrimby Farm today. Most of the site of the village is now beneath the M6, although Greenriggs Farm still exists and is accessed through the underbridge marked X-Y on the map above. Thrimby is spelt Thrumby on some old maps.

Point Z is the northern extent of the Turnpike re-routing in 1819, described as "the old Line of Road near Lowther new Village", "Warren Barn" and also as "Warren House Lane" on documents and in articles. Warren House no longer exists, but was shown and labelled on Jeffreys' map of 1770 and Warren House Well is marked on several old OS maps, which helps to identify its location at Point Z.

Point L is where the current road through Lowther new village returns to the line of the original road, which used to be a direct route from Point A to Point L then onward to Lowther church. There was never a church in Hackthorpe village so the residents would have used this route to reach Lowther church. It was labelled “Church Walk” on several old OS maps.

Summary and Statement of Reasons:

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

All evidence, spanning over 300 years, points to this being a public highway of status at least equal to Restricted Byway, even though it is not recorded on the Definitive Map.

In 1819 the turnpike was re-routed and the old road sold to Lord Lonsdale. However, all the evidence presented here indicates that it continued to be a public highway after that date. Although its importance has reduced over time, no evidence has been found to suggest its public highway status has been extinguished.

1. The Ogilby “strip map” London to Carlisle 1675 shows the road north of Thrimby heading NNW on an alignment which matches the application route. It notes only open ground between Thrimby and Clifton in the commentary - Lowther village at that time was situated near the church 1 mile to the northwest, the current village was built in 1765 (source: Historic England). Ogilby was the first person to create maps for the travelling public and his surveyors accurately measured distance and direction. This is very good evidence that the route was a public highway from at least this date, long before the Turnpike was created in 1753.
2. Westmorland County Maps up to 1819 and also Patterson’s Road Map 1785 show the application route as the major highway north. These maps were developed for sale to horse riders and coach drivers by some of the most respected mapmakers – Jefferys 1770, Paterson 1785, Cary 1789 and 1809, Smith 1804 and Teesdale (Rowe) 1816 – and so could be expected to accurately show publicly-usable routes.
3. The Heron Syke to Eamont Bridge Turnpike Act of 1800 allowed for the sale of old sections of road when rerouting the turnpike road. This Act was for a period of 21 years, but a further Act was passed in Parliament in 1815 for the “more effectually repairing the road”, which again allowed for the sale of sections of road no longer required. Neither of these acts allowed for the automatic stopping up of these roads and no application was made to that effect for the application route. In 1819 the section of the Turnpike from Point Z to Point F was re-aligned and the old section from Thrimby Lane to Warren House Lane (Point Z) was sold to Lord Lonsdale for £64 6s 8d. The section north of Point A to the junction at Point Z continues to be a public road today.
4. The Westmorland County Maps which post-date 1819 show the new line of the Turnpike with the application route now shown as a minor road. These include Greenwood 1824 and 1834, Hodgson 1828 and Walker 1837. This is good evidence it continued to be considered a public highway, albeit no longer a major one.
5. The application route is clearly shown as a road on all historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1861 up to the 1:10,000 map of 1970.
6. The OS 25in 1st edition map of 1861 shows a footpath terminating on the application route, which is good evidence the application route was also a public right of way at that time.

7. It is shown as a public road on Bartholomew's Maps. As a commercial Map maker, Bartholomew's would aim to show only highways that their customers (largely motorists and cyclists) could use, so would not knowingly include private roads.
8. It is shown as a road, coloured sienna on the Lowther Tithe Plan of 1838 and labelled "to Thrimby", which is good evidence it was considered a through route between townships. The southern section is shown as a road, coloured sienna on the Thrimby Tithe Plan of 1839. Public roads are not given plot numbers on the Lowther or Thrimby Tithe Plans, nor listed in the Apportionments.
9. Lowther Estate Records held at Carlisle Archives include Maps which pre- and post-date the re-routing of the turnpike (1819) and some which date to the building of the railway (1844-6), plus an OS 1st Edition map which has been annotated by the estate up to 1885. They continue to show the application route as a road and on some it is labelled "Old Road". This is good evidence that the route was still being used long after the land was sold to Lord Lonsdale.
10. Ordnance survey maps from 1898 show many changes to the estate, including the building of the Emperor's Drive, which incorporated the southern end of the application route from Point D to Point F and a gated entrance with the Emperor's Lodges built in 1895 at Point F, to create a grand entrance in readiness for Kaiser Wilhelm's visit in that same year. This effectively blocked access to the general public after centuries of free use, but there was no formal stopping up.
11. There are no stopping up orders found relating to any part of the application route.

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

A: EVIDENCE FROM MAPS

A1: Ogilby Road Map London to Carlisle 1675

A2: Jefferys Map 1770

A3: Patterson's Road Map 1785

A4: Other Early Westmorland Maps

Cary 1789 and 1809, Smith 1804 and Teesdale (Rowe) 1816

A5: Greenwood Map 1824

A6: Hodgson Map 1828

A7: Westmorland County Maps

Greenwood 1834, Walker 1837, Crutchley 1856, Philip 1857, Bacon (Dispatch) 1863, Bartholomew 1875, Letts 1884

A8: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

1st Edition 1861, 2nd Edition 1898, 3rd Edition 1915

A9: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1863, 1899, 1920, 1956, 1970

A10: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1898, 1918, 1947, 1961, 1964

A11: Ordnance Survey, 1:25,000 maps of Great Britain

1950

A12: Bartholomew's Half Inch to the Mile Maps England and Wales (Drawn Scale 1:126,720)

1905, 1920 and 1941

B: PRIMARY EVIDENCE

B1: Tithe Records – Lowther Parish 1837

B2: Tithe Records – Thrimby Township, Parish of Morland 1839

C: OTHER EVIDENCE

C1: Timeline of road development and road mapping

C2: Lowther Estate Records – Maps of Hackthorpe Township

- Plan of Plots along old turnpike undated (estimated date 1816)
- Plan of Hackthorpe undated, showing the planned route for the new section of turnpike (estimated date 1819)
- Plan of Hackthorpe undated, new route of turnpike shown and plan for new railway shown across existing land plots (estimated date 1844-6)
- OS 25in 1st edition annotated by estate showing new plantings, new boundaries and tracks, old boundaries and tracks removed (estimated date post-1885)

C3: The Gazette - Stopping Up search

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

D3: Aerial photographs of the route

Images 1 - 3

DATED: 2/12/2021

SIGNED

