

APPLICATION FOR A MODIFICATION ORDER

The Cumbria County Council Definitive Map and/or Statement within the Lake District National Park - Wildlife and Countryside Act 1981

To: The Lake District National Park Authority
Of: Murley Moss, Oxenholme Road, Kendal, Cumbria 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

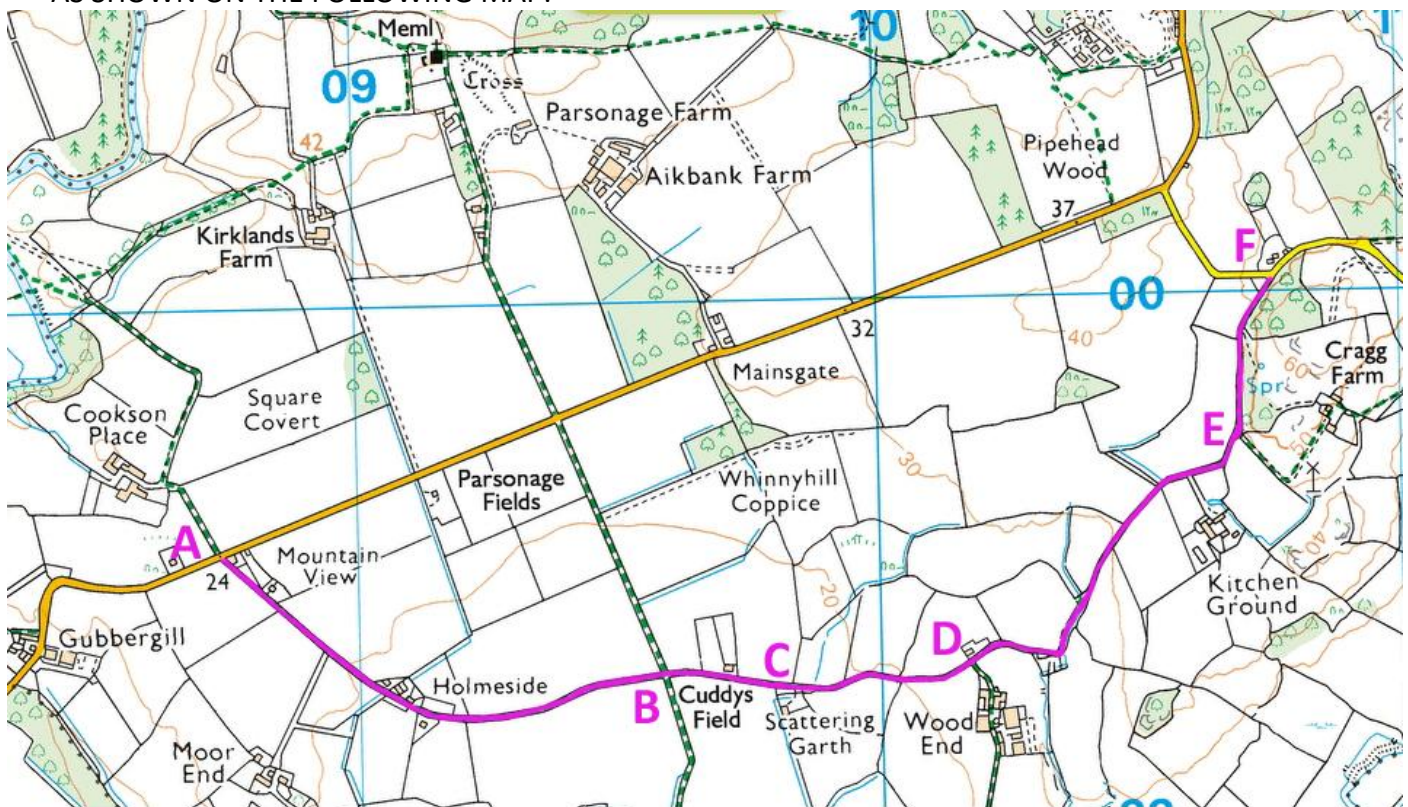
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Upgrading to RESTRICTED BYWAY the footpath 411034, part of the footpath 411033 and the footpath 411029 – IRTON MOORSIDE LANE, Parish: Irton with Santon, District: Copeland

FROM: Junction with Classified Road C4025 Irton Moor Road, by Mountain View, Parish: Irton with Santon, Grid Ref: SD 0873 9952 (A)

TO: Junction with Classified Road C4030 by Mount Pleasant, Parish: Irton with Santon, Grid Ref: NY 1075 0002 (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 1:14,000 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 2,630 metres long with a good stone surface and largely enclosed by hedges and fences throughout its length. The route gives access to fields and property along its length and is clearly used by vehicles. Some parts of the route are better maintained than others, mainly those sections most convenient for access to farms and houses.

At Point A the route leaves Classified Road C4025, Irton Moor Road, and heads southeast past several properties and farm access roads, then turns east to reach a cross-tracks at Point B. The route continues east, now taking a more meandering route past more farms and properties. After Point E the route heads north rising gently with woodland to the east to reach Classified Road C4030 at Mount Pleasant.

Current Recorded Status:

The route is recorded on the Definitive Map as the footpath 411034 from Point A to Point D, part of the footpath 411033 from Point D to Point E and the footpath 411029 from Point E to Point F.

The route is not recorded on the List of Streets.

Notes:

Scattering Garth is named "Catherine Garth" and "Scatern Garth" on some older maps.

Summary and Statement of Reasons:

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

Evidence spanning 200 years points to this being a public highway of status at least equal to Restricted Byway, even though it is only recorded on the Definitive Map as a footpath.

Although its importance has diminished over time, no evidence has been found to suggest its public highway status has been extinguished.

1. Greenwood's large scale map of 1823 clearly shows the application route and it is depicted as a cross road.
2. Cary's Road Atlas of 1832 also shows the application route clearly. It is depicted as a Parochial Road.
3. Several small scale old Cumberland and Lake District Maps also show the application route. These include Greenwood 1834, Banks-Garnett 1860, Bartholomew-Garnett 1870, Stanford 1886 and Murray-Stanford 1889. This is further evidence that the route was considered a public road.
4. The application route is clearly shown as a road on all historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1863 up to the 6 inch map of 1956. This is good evidence the route was considered a public highway at that time.

5. The Ordnance Survey 25in First Edition Map of 1863 shows the route in its own plots. Plot numbers 1126 and 1148 in Irton Parish are both listed as “Public Road” in the Book of Reference. Plot 1148 continues east along the route to Eskdale Green, which is Classified Road C4030 today.
6. The Ordnance Survey 25in 2nd Edition map of 1899 shows two labelled footpaths terminating on the route, one between Point D and Point E and the second between Point E and Point F. 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.
7. 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. The application route is shown as a road, which is a good indication this route was considered a public highway.
8. 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.
9. The western part of the route from Point A to Point C is shown on the Inclosure Award for Irton with Santon 1813. It is listed as a private Road with detailed instructions for maintenance, but unlike other awarded occupation roads, there is no stipulation given on who may use it.
10. The eastern part of the route from Point C to Point F is shown as a road on the Irton Parish Tithe Plan of 1840. Plot number 731 is written on the route and this is listed in the Apportionment as a “Public Roads”. The area of Irton Moor corresponding to the area of the earlier Inclosure is not included on the tithe plan.
11. George Joseph Bell was the County Surveyor and Bridge Master for Cumberland. His Road Map of 1892 is considered to be a highly accurate representation of the road network at that time. The application route is clearly depicted as a “District Road”. This is good evidence that the application route is under-recorded.
12. On the Finance Act 1910 Maps, the route is largely shown as a “white road”- that is, excluded from adjoining hereditaments, which is good evidence the route was considered a public highway.
13. In 1954 Cumberland County Council Highways Committee identified the application route as a Ratione Tenurae Road – that is: for public use but privately maintained.
14. The Land Registry holds no records for the entire route even though most surrounding land is registered. This evidence supports the application for the route to be recorded as a restricted byway.
15. 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: Greenwood Map 1823

A2: Cary Road Atlas 1832

A3: Small scale Old Cumberland and Lake District Maps

Greenwood 1834, Banks-Garnett 1860, Bartholomew-Garnett 1870, Stanford 1886,
Murray-Stanford 1889

A4: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

1st Edition 1863, 2nd Edition 1899

A5: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1867, 1900, 1956

A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1864, 1897, 1918, 1947, 1955, 1965

A7: Ordnance Survey, 1:25,000 maps of Great Britain

1946, 1952

A8: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)

A9: Bartholomew's Half Inch to the Mile Maps England and Wales (Drawn Scale 1:126,720)

1903, 1924 and 1941

B: PRIMARY EVIDENCE

B1: Inclosure Award – Irton Moor 1813

B2: Tithe Records – Irton with Santon Parish 1840

B3: Public Road Network Map of Cumberland by Bell, County Surveyor 1892

B4: Finance Act Map 1910

LXXVIII.16, LXXXII.3, LXXXII.4

B5: Cumberland County Council Highways Dept. Analysis of Ratione Tenurae Roads 1954

C: OTHER EVIDENCE

C1: Land Registry

Inspire Cadastral Parcels - viewed using QGIS open source software

C2: 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 - 2

DATED: 08/01/2022

SIGNED

