

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

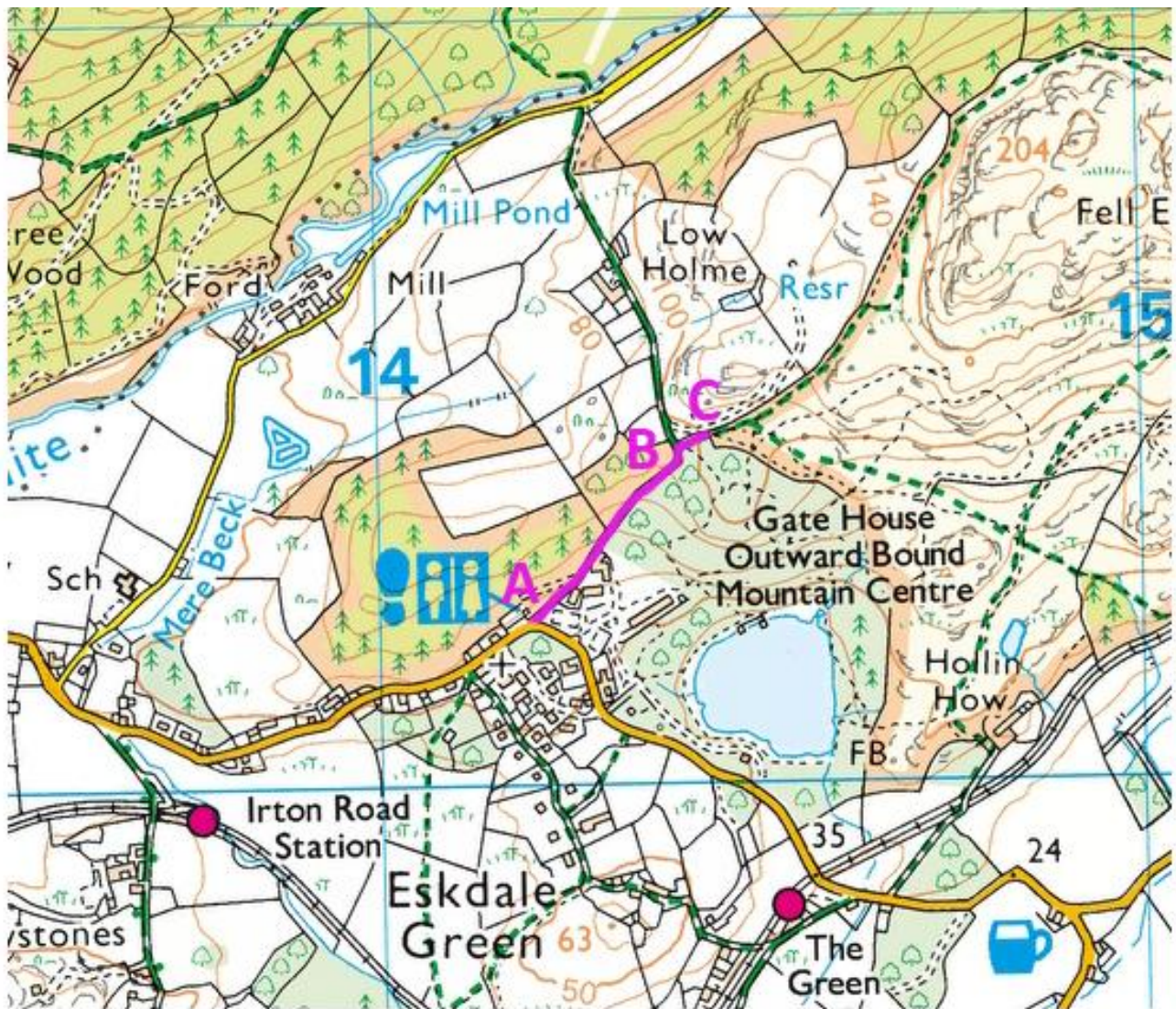
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Upgrading to BRIDLEWAY part of the footpath 408018 – Smithybrow Lane, Parish: Eskdale, District: Copeland

FROM: Junction with Classified Road C4026, Parish: Eskdale, Grid Ref: NY 1419 0021 (A)

TO: Gate Leading to Eskdale Fell, Parish: Eskdale, Grid Ref: NY 1443 0045 (C)

AS SHOWN ON THE FOLLOWING MAP:



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

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This map should print at 1:9,000 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 360 metres long with a good stone surface and largely enclosed by dry stone walls throughout its length. To the north of the route is Giggie Alley, woodland owned by the Forestry Commission, with several access paths; to the south of the route is largely the property of The Outward Bound Trust centre. There are also 2 houses with access onto Smithybrow Lane.

At Point A the route leaves the classified road C4026, immediately east of the public carpark and conveniences in the village of Eskdale Green in Eskdale Parish. It continues in a north-easterly direction for approximately 300m, passing the entrance to some properties, before turning north for 20m to the junction with dead-end bridleway 408019 (Point B). Here the route turns right, heading more easterly for 40m to reach a gate onto the open fell at Point C.

Current Recorded Status:

The route is recorded on the Definitive Map as part of footpath 408018.

The route is not recorded on the List of Streets.

Notes:

The route is often ridden by cyclists as a continuation of Bridleway 408019 from Miterdale to Eskdale Green.

Eskdale Fell to the east of Point C (ie not part of the application) is classed as Section 193 Common Land - open access for riders for 'exercise and recreation'. It is owned by the National Trust.

Summary and Statement of Reasons:

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

Evidence spanning over 230 years points to this being a public highway of status at least equal to Bridleway, even though it is only recorded on the Definitive Map as a footpath.

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

1. Hoskinson and Donald's Map of 1783 clearly depicts the application route from Point A to Point B as a cross road. It is shown as the only access road into Miterdale.
2. Greenwood's large scale map of 1823 shows the entire application route and it is depicted as a cross road.
3. Cary's Road Atlas of 1832 also shows the application route from Point A to Point B as the only access road to Miterdale. It is depicted as a Parochial Road.
4. Several old small scale Cumberland Maps also show the application route (from Point A to Point B) as the access route to Miterdale. These include Cary 1789, Jollie 1794, Faden 1810 and Greenwood 1834. This is further evidence that the route was considered a public road at that time.
5. The application route is clearly shown as a road on all large scale (25in and 6in) historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1863 up to the 6 inch map of 1956. 1inch maps and 1:25,000 scale maps all consistently show the route from Point A to Point B but the continuation to the fell gate at Point C is not always shown.
6. The OS 25in 1st Edition map shows the application route in its own plot. The maps are accompanied by a Book of Reference, which lists the route's plot as "Smithybrow Lane (occupation)". This is in marked contrast to all the preceding evidence and perhaps reflects that the route was not being much used at that time.

7. The route from Point A to Point B is shown as a road, coloured sienna on the Eskdale and Miterdale Townships Tithe Plan of 1840. Public roads are not given plot numbers on this Tithe Plans, nor listed in the Apportionments. It is shown as a through route to Miterdale.
8. George Joseph Bell was the County Surveyor and Bridge Master for Cumberland county. 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". All the other district roads in the Eskdale Green area are currently Classified roads, Unclassified roads, Byways or Bridleways. The application route is the only one which is currently classified as footpath. This is strong evidence that the application route is under-recorded.
9. The Land Registry holds no records for the entire route even though all surrounding land is registered. This evidence supports the application for the route to be recorded as a bridleway.
10. The application route is described as part of an old packhorse route from Eskdale Green to Strands (Nether Wasdale) and on to Whitehaven. The article was presented to the Cumberland and Westmorland Antiquarian and Archaeological Society by Mary Fair in 1921 and published in "Transactions" in 1922. This article was referenced by Paul Hindle in his 1998 book "Roads and Tracks of the Lake District". This is good evidence that the application route has been considered a public thoroughfare for a very long time.
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: Hoskinson and Donald 1783

A2: Greenwood Map 1823

A3: Cary Road Atlas 1832

A4: Small scale Old Cumberland Maps

Cary 1789, Jollie 1794, Faden 1810, Greenwood 1834

A5: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

1st Edition 1863, 2nd Edition 1899

A6: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1867, 1900, 1956

A7: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1864, 1897, 1918, 1947, 1955

A8: Ordnance Survey, 1:25,000 maps of Great Britain

1950

B: PRIMARY EVIDENCE

B1: Tithe Records – Eskdale and Miterdale Townships, St Bees Parish 1840

B2: Public Road Network Map of Cumberland by Bell, County Surveyor 1892

C: OTHER EVIDENCE

C1: Land Registry

Inspire Cadastral Parcels - viewed using QGIS open source software

C2: Pack horse routes at Eskdale Green

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

DATED: 06/01/2022

SIGNED

