

# **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

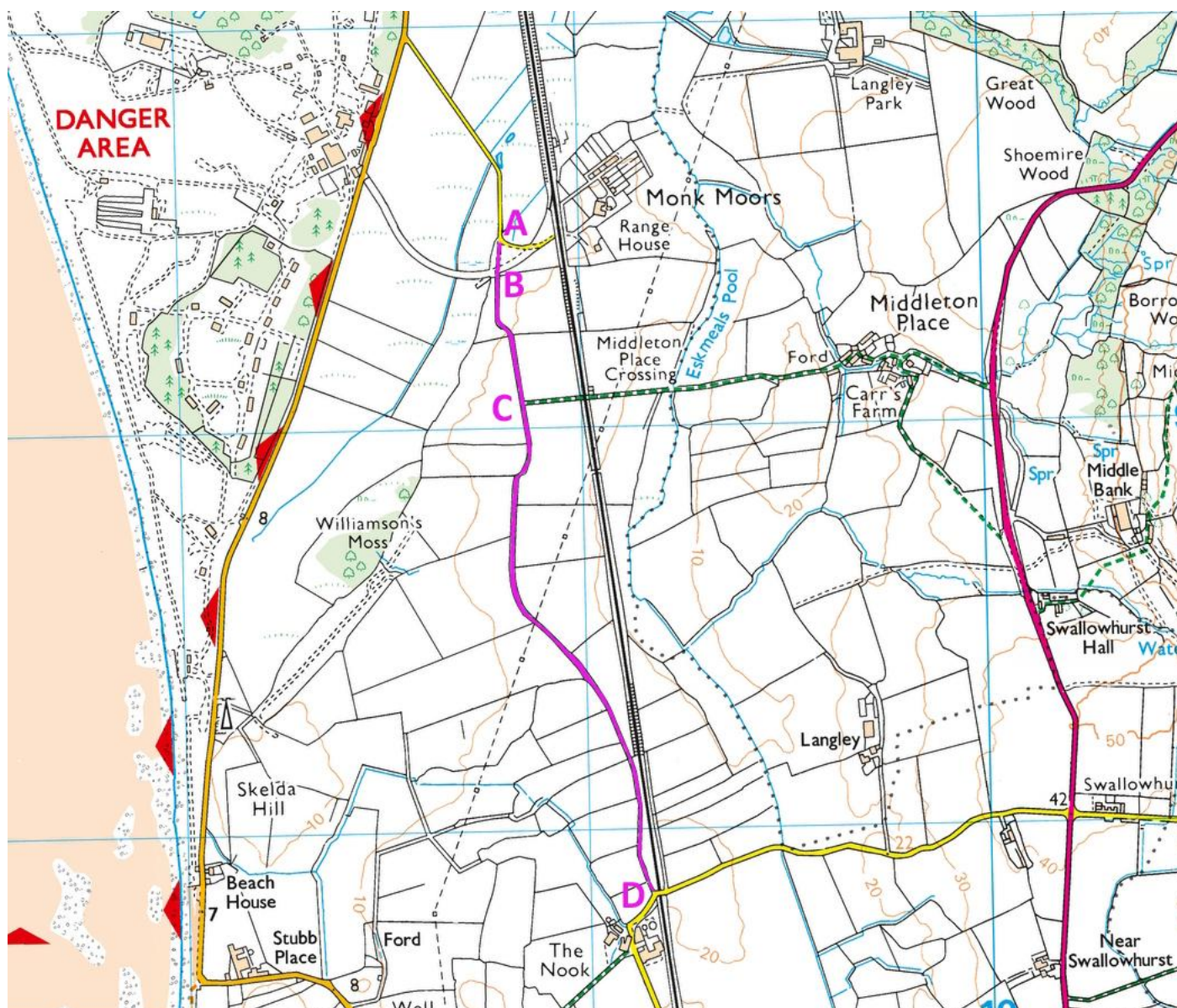
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

### **3. Upgrading to RESTRICTED BYWAY part of the footpath 402029 and the footpath 402009 – LONG LANE, Parish: Bootle, District: Copeland**

**FROM:** Point where Unclassified Road U4061 terminates, Parish: Bootle, Grid Ref: SD 0880 9246 (A)  
**TO:** Junction with Unclassified Road U4062, Parish: Bootle, Grid Ref: SD 0915 9083 (D)

[Note: the grid reference for Point A may not be exact. The intention of this application is that the Application Route will join the public highway at its terminus]

AS SHOWN ON THE FOLLOWING MAP:



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

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This map should print at 1:16,000 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 1750 metres long with a good stone surface and largely enclosed by hedges throughout its length.

At Point A the route continues on from Unclassified Road U4061, where the access lane to Monk Moors also joins. It crosses an old railway branch line at Point B and continues south to reach a track junction at Point C. Here Middleton Place Lane (recorded as FP 402029 continuation) turns left, east, to cross the railway, and the application route continues ahead, south to reach the junction with Unclassified Road U4062 just west of the railway bridge (Point D).

### Current Recorded Status:

The route is recorded on the Definitive Map as part of footpath 402029 from Point A to Point C and as footpath 402009 from Point C to Point D.

The route is not recorded on the List of Streets.

### Notes:

Point A is intended to be the point at which Unclassified Road U4061 terminates. Based on available mapping I have assumed it to be the point where a surfaced lane heads east to the railway underpass towards Monk Moors. However, the Highways Dept Investigation into Ratione Tenurae Roads in 1954 identified the end of the RT Road at the Railway level crossing near Monk Moors, which is approximately 80m further south at the point marked B.

The current location of the place called “Monk Moors” is east of the railway. On older maps it was a building located at Point A.

Middleton Place Lane joins the application route at Point C. An application has been submitted to upgrade Middleton Place Lane to a Restricted Byway as well.

### Summary and Statement of Reasons:

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

Evidence spanning almost 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 old small scale Cumberland and Lake District Maps also show the application route. These include Greenwood 1834, Garnett-Bartholomew 1870, Stanford 1886 and Murray-Stanford 1889. This is further evidence that the route was considered a public road at that time.
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.
5. The OS 25in 1<sup>st</sup> edition maps show the northern part of application route in the same plot at the unclassified road U4061 today. The Eskmeals Inclosure Award map of 1869 was drawn on the OS 1<sup>st</sup> Edition maps and it clearly shows the application route coloured sienna.

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. The application route is shown as a road, which is a good indication this route was considered a public highway.
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. The route is shown as a road on the Bootle Parish Tithe Plan of 1848. Plot number 1088 is written along the route on the southern part and this is listed in the Apportionment as a Parish Road "Long Lane". The northern part is labelled plot 1092 and this is also listed in the apportionment as a Parish Road "Road from Eskmeals towards Middleton Place".
9. The Eskmeals Inclosure Award map of 1869 was based on the OS 1<sup>st</sup> Edition maps. The area subject to the Inclosure was north and west of the application route, so does not impact this application.
10. 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". This is good evidence that the application route is under-recorded.
11. On the Finance Act 1910 Maps, the entire route is shown as a "white road" - that is, excluded from adjoining hereditaments, which is good evidence the route was considered a public highway.
12. Cumberland County Council Highways Committee identified the northern part of the route from Point A to Point C as a Ratione Tenurae Road in 1954 – that is: for public use but privately maintained.
13. 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.
14. 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, Garnett-Bartholomew 1870, Stanford 1886, Murray-Stanford 1889

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

1<sup>st</sup> Edition 1863, 2<sup>nd</sup> 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)**

1865, 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)**

**B: PRIMARY EVIDENCE**

**B1: Tithe Records – Bootle Parish 1848**

**B2: Inclosure Award – Eskmeals, Bootle and Waberthwaite Parishes 1869**

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

**B4: Finance Act Map 1910**

LXXXV.3 and LXXXV.7

**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: 14/01/2022

SIGNED

