

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 428027 – MIDDLETON PLACE LANE,
Parishes: Corney, District: Copeland**

FROM: Junction with Classified Road A595, Parish: Corney, Grid Ref: SD 1001 9208 (A)

TO: Point where FP 428027 leaves route, Parish: Corney, Grid Ref: SD 0973 9215 (B)

AND

2. Adding the RESTRICTED BYWAY – MIDDLETON PLACE LANE, Parish: Corney, District: Copeland

FROM: Point where FP 428027 leaves route, Parish: Corney, Grid Ref: SD 0973 9215 (B)

TO: Point where FP 428027 rejoins route, Parish: Corney, Grid Ref: SD 0964 9213 (C)

AND

**3. Upgrading to RESTRICTED BYWAY part of the footpath 428027 and part of the footpath 402029 –
MIDDLETON PLACE LANE, Parishes: Corney and Bootle, District: Copeland**

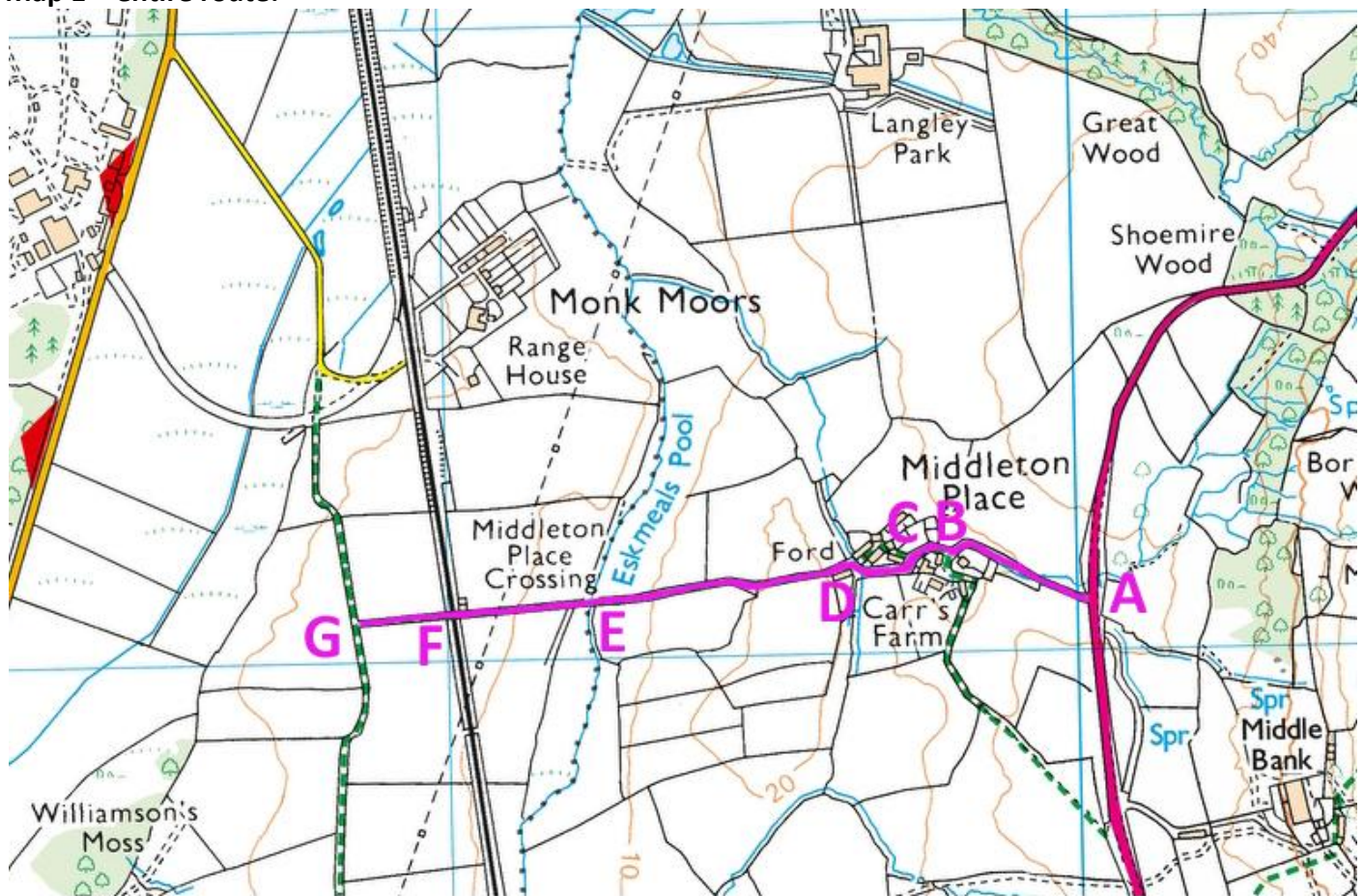
FROM: Point where FP 428027 rejoins route, Parish: Corney, Grid Ref: SD 0964 9213 (C)

TO: Junction with Long Lane FP 402009, Parish: Bootle, Grid Ref: SD 0885 9206 (F)

AS SHOWN ON THE FOLLOWING TWO MAPS:

Note: All **MAUVE MARKS AND LETTERING** on Map and other Evidence have been added by applicant to help locate Application Route. They in no way represent the route itself.

Map 1 – entire route:

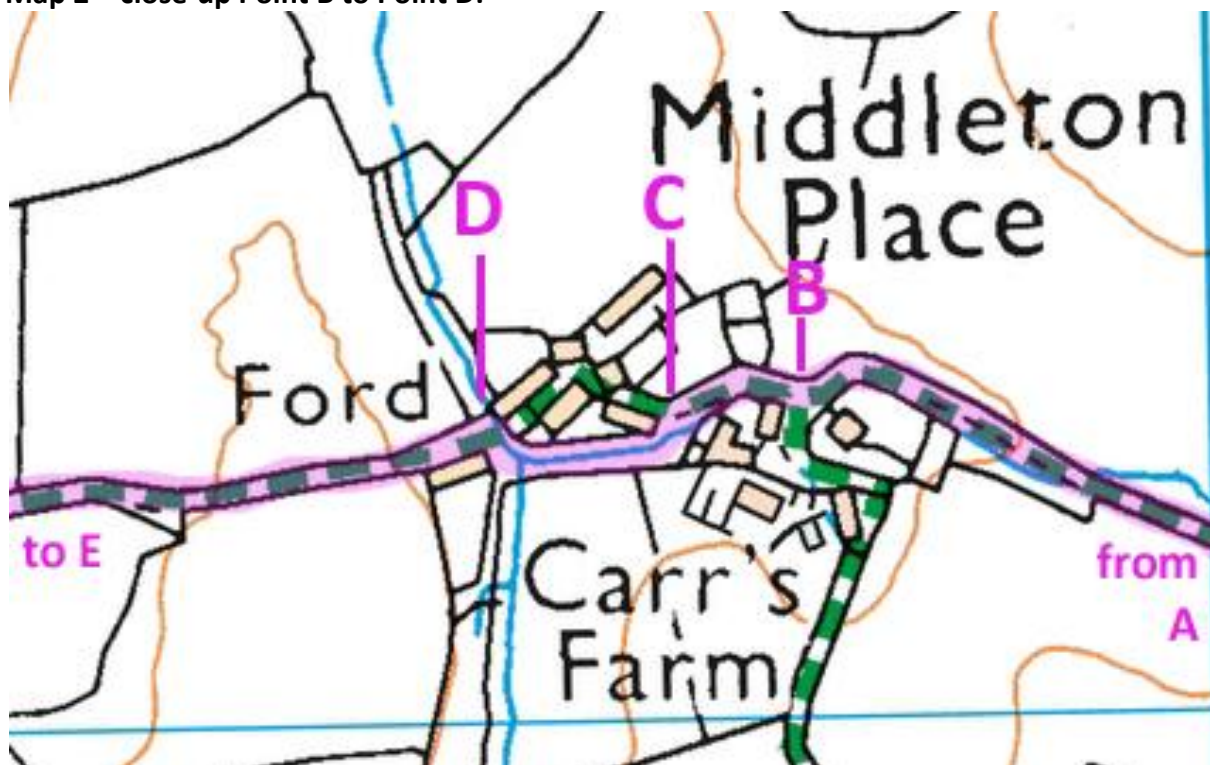


Application Route: **Identified by: A, B, C, D, E, F, G**

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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.

Map 2 – close-up Point B to Point D:



Description of Application Route:

The Application Route is approximately 1210 metres long with a good stone surface and largely enclosed by hedges throughout its length.

At Point A the route heads west leaving the A595 to reach the hamlet of Middleton Place. At Point B footpath 428001 joins the route from the south, then at Point C the route forks left, south, to take the lane along the stream then rejoins FP 428027 by the ford at Point D. From here the route heads west, crossing the parish boundary from Corney into Bootle at Point E, then takes the level crossing over the railway at Point F and finishes at the junction with Long Lane at Point G.

Current Recorded Status:

The route is recorded on the Definitive Map as part of footpath 428027 from Point A to Point C, unrecorded from Point C to Point D, part of footpath 428027 from Point D to Point E and part of footpath 402029 from Point E to Point G.

The route is not recorded on the List of Streets.

Notes:

The application route joins Long Lane, Bootle at Point G. An application has been submitted to upgrade Long Lane, Bootle 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 partially recorded on the Definitive Map, and that 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 Eskmeals Inclosure Award map of 1869 was drawn on the OS 1st Edition maps and it clearly shows the western part of the application route coloured sienna.
6. OS 2nd Edition and all subsequent maps show a labelled footpath terminating on the application route at Point B. 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 eastern part of the route is shown as a road on the Corney parish Tithe Plan 1843. Plot 595 is written twice along the route and it is listed at the end of the Tithe Apportionment as "Roads".
10. The western part of the route is shown as a road on the Bootle Parish Tithe Plan of 1848. Plot number 1140 is written along the route and this is listed in the Apportionment as a Parish Road "Road towards Middleton Place".
11. 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.
12. 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.
13. Cumberland County Council Highways Committee identified the route as a Ratione Tenurae Road in 1954 – 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, Garnett-Bartholomew 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)

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 – Corney Parish 1843

B2: Tithe Records – Bootle Parish 1848

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 - 3

DATED: 14/01/2022

SIGNED

