

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

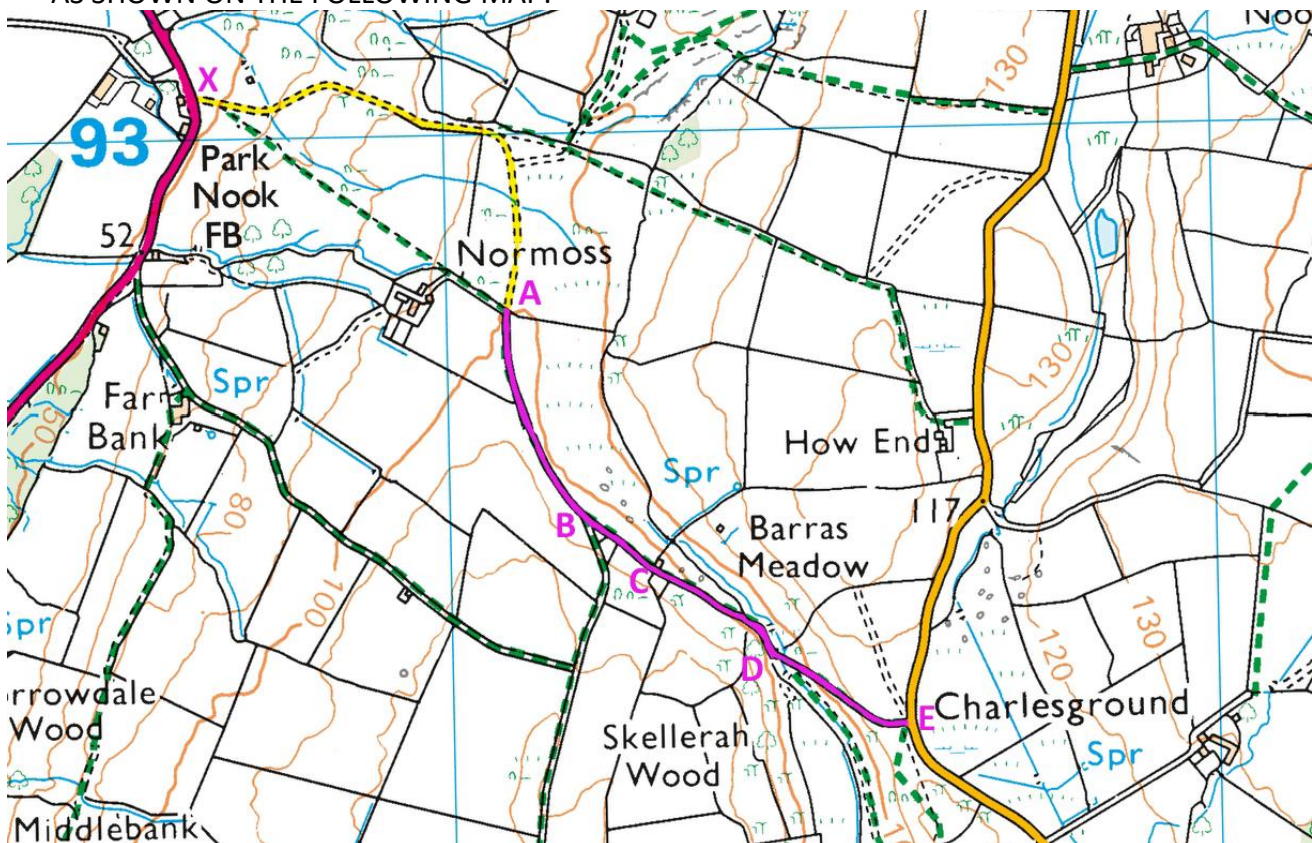
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Upgrading to RESTRICTED BYWAY part of the footpath 428003 and the footpath 428023 – Ravenglass Lane, Corney, Parish: Waberthwaite, District: Copeland

FROM: End of Unclassified Road U4280, Parish: Waberthwaite, Grid Ref: SD 1107 9277 (A)

TO: Junction with Unclassified Road U4064, known as Corney Fell Road, Parish: Waberthwaite, Grid Ref: SD 1159 9222 (E)

AS SHOWN ON THE FOLLOWING MAP:



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

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This map should print at 1:10,000 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map. Note: Point X does not form part of the application route but is referenced in evidence.

Description of Application Route:

The Application Route is approximately 810 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 U4280, where the access lane to Normoss Farm (recorded as FP 428003) also joins. It contours the hillside to reach the track junction at Point B. Here Corney Moor Lane (recorded at FP 428003) forks right, south, rising up over the hill, and the application route forks left, passing Barras Meadow (Point C) before descending to cross the stream at Point D.

At Point D footpath 428006 leaves the lane and heads south along the east bank of the stream. The application route continues along the lane, rising steeply to reach the junction with Corney Fell Road at Point E. There is an old guide stone at the junction.

Current Recorded Status:

The route is recorded on the Definitive Map as part of footpath 428003 from Point A to Point B and as footpath 428023 from Point B to Point E.

The route is not recorded on the List of Streets.

Notes:

Corney was a separate parish until 1950s, when it became part of Waberthwaite Civil Parish.

Corney Moor Lane joins the application route at Point B. An application has been submitted to upgrade Corney Moor 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**.

All evidence, spanning over 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. Corney Moor Inclosure Award of 1818 describes Corney Moor Road joining the “Public Road leading from Ravenglass to Broughton”, which is clear evidence the application route was considered a public road at that time.
2. Greenwood’s large scale map of 1823 clearly shows the application route and it is depicted as a cross road.
3. Cary’s Road Atlas of 1832 also shows the application route clearly. It is depicted as a Parochial Road.

4. Several old small scale Cumberland Maps also show the application route. These include Greenwood 1834, Black 1841, Garnett 1860, Bacon (Dispatch) 1863 and Philip's Cycling Map 1920. 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 historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1863 up to the 6 inch map of 1956.
6. OS 2nd Edition and subsequent maps show a footpath terminating on the route at Point D. 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 route is shown as a road on the Corney Parish Tithe Plan of 1843. Plot number 595 is written along the route towards the western end and this is listed in the Apportionment as a Parish Road.
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 from Point B to Point E is clearly depicted as a "District Road". The section from Point A to Point B is not included, but nor is the road from Park Nook to Point A, which is a public road today. 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 western part of the route from Point A to Point B 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. At the eastern end of the route (Point E) a Guide Stone sits at the junction with Corney Fell Road. The east face, seen from Corney Fell Road, reads "TO BROUGHTON/ TO WHITEHAVEN/ BY MUNCASTER". The south face, seen from the application route, reads "TO BROUGHTON/ TO WHITEHAVEN/ BY RAVENGLASS". It is Grade II listed and Historic England estimate it probably dates to early/mid 19th Century. This is further evidence that the application route was the historic route to Ravenglass.
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, Black 1841, Garnett 1860, Bacon (Dispatch) 1863, Philip's Cycling Map 1920

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 – Corney Moor 1818

B2: Tithe Records – Corney Parish 1843

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

B4: Finance Act Map 1910

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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: Guidestone showing Road to Ravenglass

C3: Timeline of road development via Muncaster

C4: 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: 07/01/2022

SIGNED