

# **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

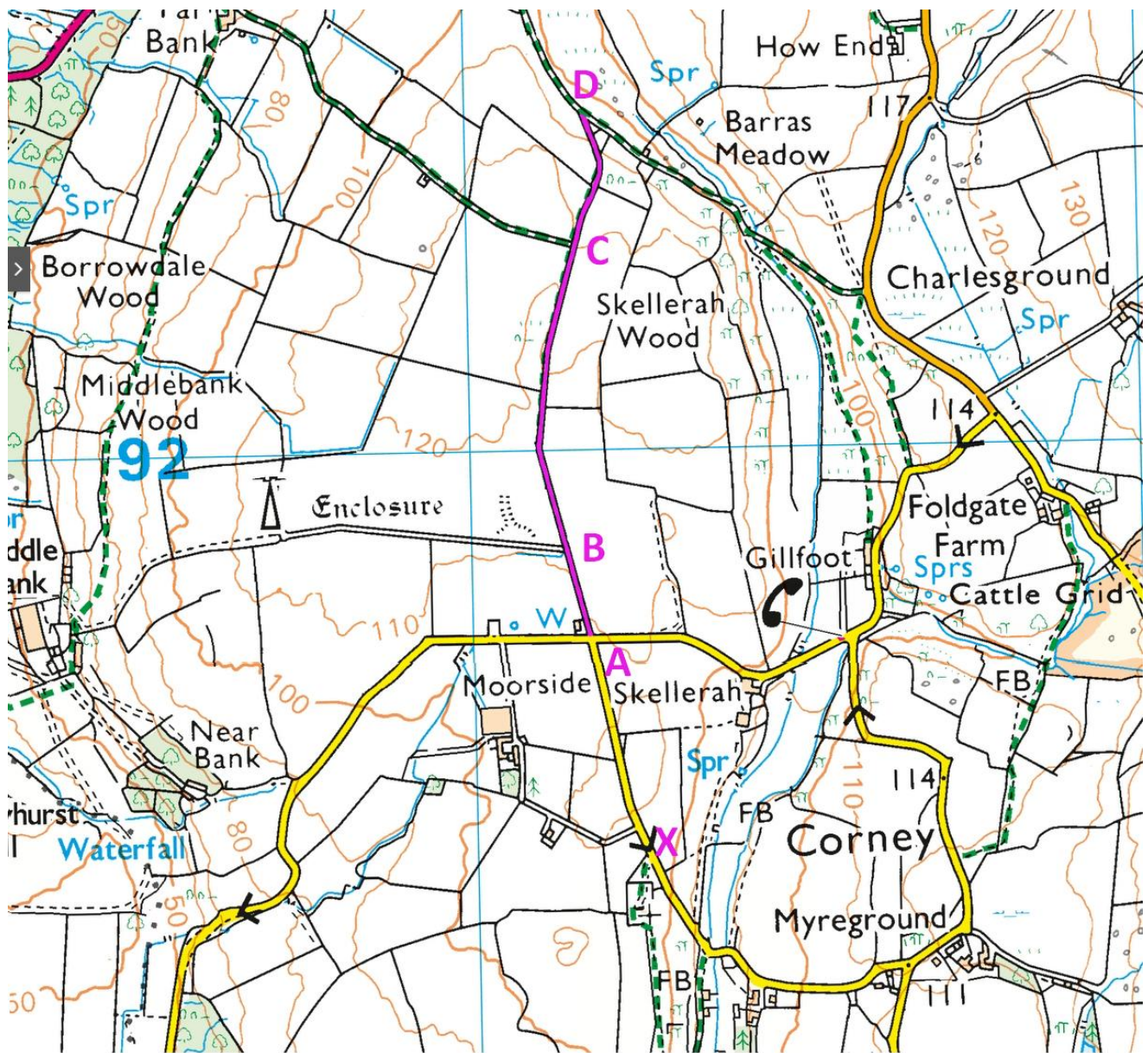
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

### **2. Upgrading to RESTRICTED BYWAY part of the footpath 428003 – CORNEY MOOR LANE, Parish: Waberthwaite, District: Copeland**

**FROM:** Junction with Unclassified Road U4062 Crossroad, by Corney Village Hall, Parish: Waberthwaite, Grid Ref: SD 1117 9172 (A)

**TO:** Junction with Footpath 428023, Ravenglass Lane, Corney, Parish: Waberthwaite, Grid Ref: SD 1117 9249 (D)

AS SHOWN ON THE FOLLOWING MAP:



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

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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 800 metres long with a good stone surface and largely enclosed by hedges throughout its length. The route gives access to fields and property along its length and is clearly used by vehicles.

At Point A the route heads north along the 4<sup>th</sup> arm of the crossroads with Unclassified Road U4062 – the south arm heads to the Church. The Corney Village Hall is in the north-west quadrant of the crossroads. The route heads gently uphill, passing a lane to the left at Point B and a second lane to the left at Point C before descending steeply to the junction with Ravenglass Lane (FP 428023) at Point D.

### Current Recorded Status:

The route is recorded on the Definitive Map as part of footpath 428003.

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 Church of St John the Baptist was established in 1200s, sited on the top of a low hill. In the past it would have been the main focus for the parish, with lanes and paths leading to it from all directions.

The application route joins Ravenglass Lane, Corney at Point D. An application has been submitted to upgrade Ravenglass Lane, Corney 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 awards ***“one Public Carriage Road of the clear Breadth of twenty two feet as the same is staked out leading from the letter A at the Church Road and extending across the said Common to the Public Road leading from Ravenglass to Broughton”***.
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, Walker 1837, Black 1841, Garnett 1860, Bartholomew-Garnett 1870 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. This is good evidence the route was considered a public highway at that time.
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 Corney Parish Tithe Plan of 1843. Plot number 595 is written adjacent to the route and this is listed in the Apportionment as a Parish Road.
9. 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.
10. 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.
11. In 1954 Cumberland County Council Highways Committee identified the application route as a Ratione Tenurae Road – that is: for public use but privately maintained.
12. 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.
13. 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, Walker 1837, Black 1841, Garnett 1860, Bartholomew-Garnett 1870, Philip's Cycling Map 1920

##### **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)**

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: 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: 07/01/2022

SIGNED

