

Application for a Modification Order

Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way for the County of Cumbria

To: Cumbria County Council
Of: Countryside Access, Cumbria County Council, The Parkhouse Building, Kingmoor Business Park, Carlisle, CA6 4SJ

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

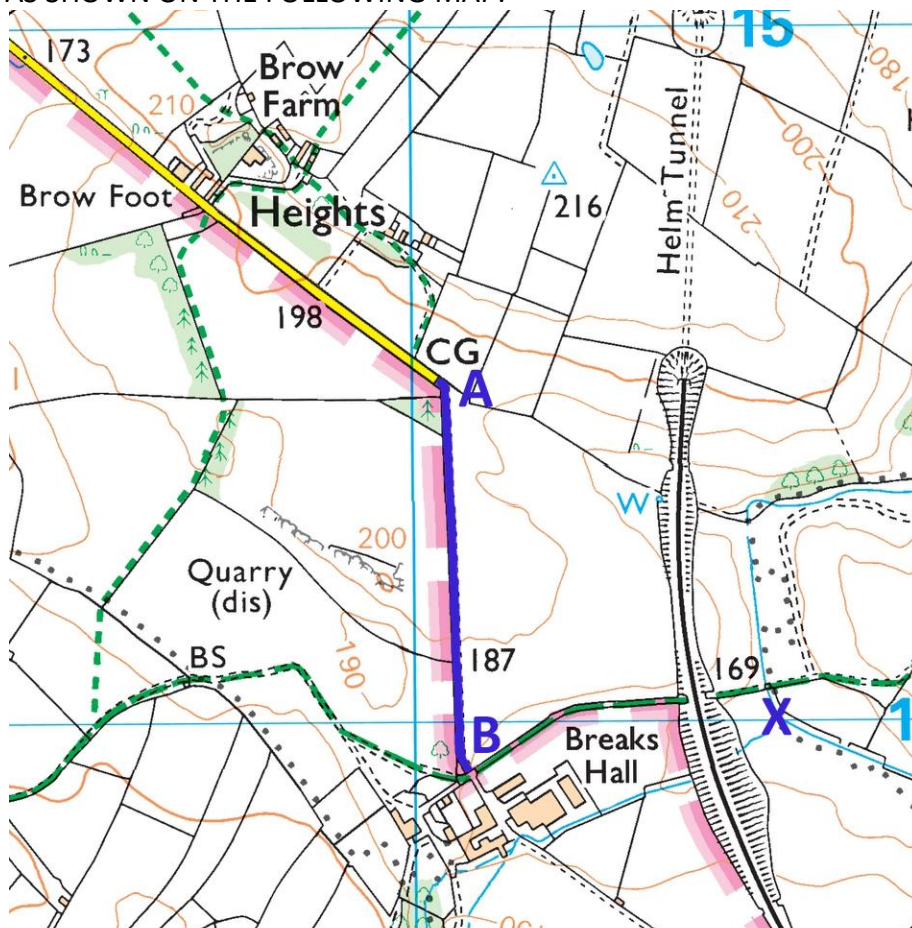
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Adding the BRIDLEWAY – HEIGHTS TO BREAKS HALL, Parish: Ormside, District: Eden

FROM: End of Unclassified Road U3256, Parish: Ormside, Grid Ref: NY 7003 1449 (A)

TO: Point on Bridleway 354001, Parish: Ormside, Grid Ref: NY 7007 1392 (B)

AS SHOWN ON THE FOLLOWING MAP:



Application Route: █ Identified by: A, B

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This map should print at 1:11,500 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 the evidence.

Description of Application Route:

The Application Route is approximately 580 metres long. As the route is not currently a public right of way it has not been possible to inspect the route.

At Point A the route leaves the unclassified road U3256 over a cattle grid with gate to the side, in the Parish of Ormside. It immediately turns right then heads south with the wall on its right, through pasture along a surfaced lane to Point B where it meets Bridleway 354001 just north of Breaks Hall Farm.

Current Recorded Status:

The route is not recorded on the Definitive Map.

The route is not recorded on the List of Streets.

Notes:

Breaks Hall is spelt Briggs Hall on Jefferys' map of 1770, Cary 1789 and 1809 and several other small scale maps; it is spelt Breeks Hall in the Ormside Inclosure Award of 1773 and also on Hodgson's Map of 1828 and Philip's Map of 1857.

Point X is where Bridleway 354001 leaves Ormside Parish to enter Warcop Parish.

Summary and Statement of Reasons:

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

Taken as a whole, the attached pieces of evidence demonstrate public highway reputation dating back over 250 years, and point to the Application Route being a public right of way of status at least equal to Bridleway.

The importance of the route seems to have diminished over time, but there is no evidence that the right of way has been extinguished, even though it is not recorded on the Definitive Map and Statement.

1. The application route is clearly shown on Jefferys' map of 1770 in the same manner as, and connected to, routes heading east from Point B, which are public roads or rights of way today. It also shows a road directly south from Point B past Swarthburn, connecting to Little Asby and Crosby Garrett. Jefferys was well respected as the "Mapmaker to the King" and his map pre-dates the Ormside Inclosure Award of 1773, so this is good evidence that the route was an "ancient way" and through route at that time.
2. The Ormside Inclosure Award of 1773 shows the current unclassified road U3256 terminating at Point A where it leaves the area of Inclosure. The award describes the road "*over that part of the common near the Heights to a gate leading off the said common near the Heights to Breeks [Breaks] Hall and all other places*". From the wording of the Inclosure Award, it can be reasonably inferred that the application route was not a private lane to a single residence, but a through route

that could be used by the public. This is a good indication it was an ancient lane, predating the enclosure, and earlier map evidence supports this.

3. The application route is clearly shown on Greenwood's map of 1824, depicted as a "Cross Road", and also Hodgson's Westmorland Map of 1828, depicted as an "other public carriage road". Both maps show it connecting to and in the same manner as current Bridleway 354001 heading east (Point X) towards Bleatarn. These maps were developed for sale to horse riders and coach drivers and both Greenwood and Hodgson were well respected mapmakers, so they could be expected to accurately show publicly-usable routes.
4. Cary's Road Atlas of England and Wales 1832 is considered one of the best general maps available before the introduction of the Ordnance Survey. Drawn at a scale of 2 miles to 1in, it showed what was considered to be the public road network just before the Highways Act of 1835. The application route is clearly depicted as part of a through route, which the explanation states is a "Parrochial Road". This is the same depiction as Heights Road U3256 which heads northwest from Point A and Bridleway 354001 which heads east past Point X.
5. The route is also shown on several smaller-scale County maps including Cary 1789, Cary 1809, Greenwood 1834, Philip 1857 and Bartholomew 1875. Due to their scale, these maps included much less information, so, for the application route to be included, it must have had some importance as a through route.
6. The primary purpose of Tithe Plans was to record ownership of the land parcels in a parish, so that tithes could be levied. Roads are not always shown on tithe plans, but were usually identified where they were enclosed and separate to the titheable lands. Generally, only important routes are shown across open pasture etc, but rarely are they mentioned in the apportionment as the focus is on the greater area of land. The Great Ormside Tithe Plan of 1845 doesn't show the application route, but nor does it show current bridleway 354001 from Point B to Point X, so no inference can be drawn from the fact the route is not shown.
7. The Ordnance Survey 25in First Edition Maps of 1861 show the application route in the same manner as the unenclosed section of the route east from Point B towards the boundary of Bleatarn Township in Warcop Parish (Point X), which is a public bridleway today. The application route is coloured sienna and there are 4 spot heights along the route, with benchmarks at both ends. Significantly, the Index map of the Ormside Book of Reference to accompany the First Edition Map shows the application route as part of a through route, which is good evidence it was considered a public right of way at that time.
8. The application route is clearly and consistently shown as a through route on all historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1861 up to the 1 inch map of 1971. The vast majority of these maps depict the route as a road or cart road, with the 1in maps of 1964 and 1971 depicting it as a tarred metalled road, coloured yellow.
9. On the Finance Act 1910 Maps, the route is included in Land Parcel 105. Significantly the current Bridleway 354001 is also included in this land parcel.
10. It is shown as a road on all historic editions of 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.
11. 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 and the application route is shown as a through road which is a good indication this route was considered a public highway at that time.

12. There are no stopping up orders found.

I attach copies of the following documentary evidence in support of this application:

Appendix A: EVIDENCE FROM MAPS

A1: Jefferys Map 1770

A2: Greenwood Map 1824

A3: Hodgson Map 1828

A4: Cary Atlas 1832

A5: Other Old Westmorland Maps

Cary 1789, Cary 1809, Greenwood 1834, Philip 1857, Bartholomew 1875

A6: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

1st Edition 1861 with Ormside Book of Reference, 2nd Edition 1898, Instructions to Field Examiners 1905, 3rd Edition 1915

A7: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1863, 1899, 1920, 1956

A8: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1868, 1897, 1918, 1947, 1964, 1971

A9: Ordnance Survey, 1:25,000 maps of Great Britain

1947, 1953

A10: Bartholomew's Half Inch to the Mile Maps England and Wales (Drawn Scale 1:126,720)

1903, 1924, 1941

A11: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)

Appendix B: PRIMARY EVIDENCE

B1: Inclosure Award – Ormside 1773

B2: Tithe Records – Great Ormside Township, Ormside Parish 1845

B3: Finance Act Maps 1910

Westmorland sheet XV.16

Appendix C: OTHER EVIDENCE

C1: The Gazette - Stopping Up search

Appendix D: MAP AND PHOTOGRAPHS OF THE APPLICATION ROUTE

D1: Current OS 1:25,000 map of Applicant Route

D2: Photographs of the route

D3: Aerial Photographs of the route

DATED: 16/01/2023

SIGNED: 