

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

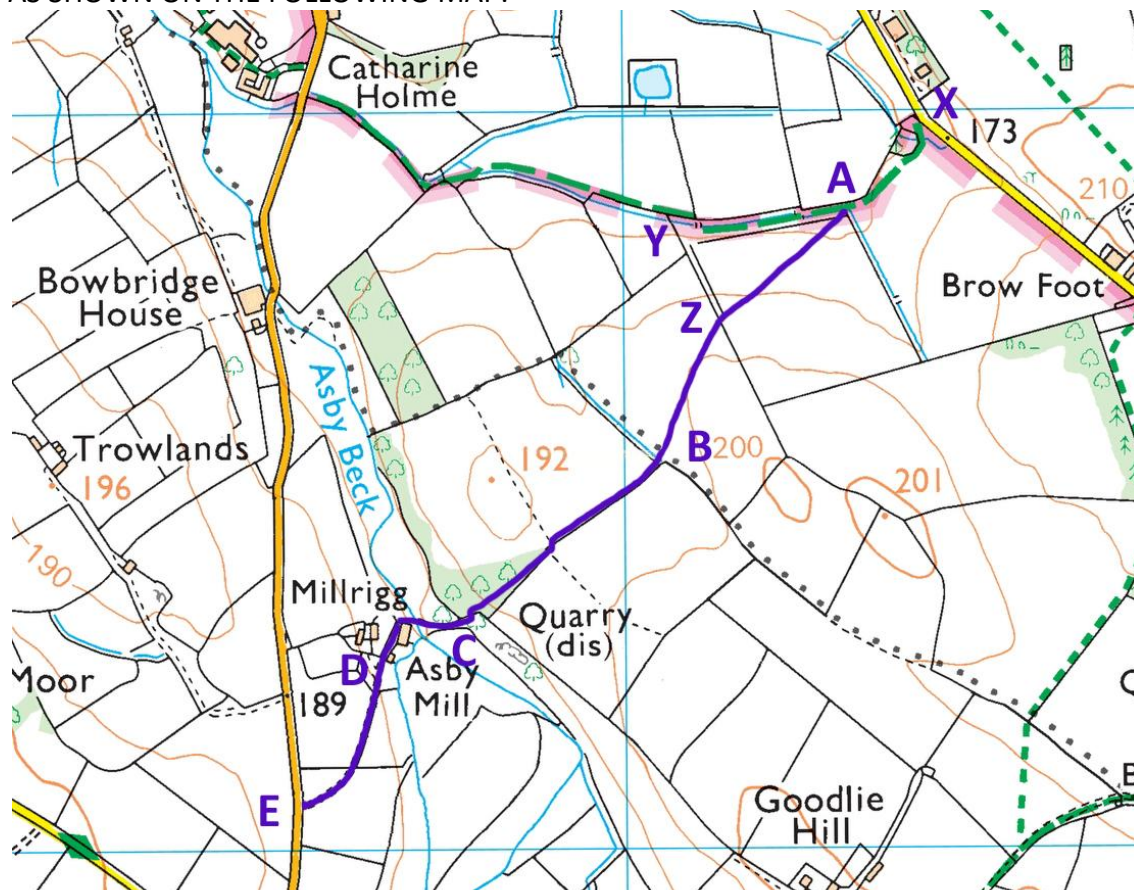
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

2. Adding the BRIDLEWAY – HEARTLEY WHINNS BRIDLE ROAD, Parishes: Ormside and Asby, District: Eden

FROM: Bridleway 354004, Parish: Ormside, Grid Ref: NY 6930 1486 (A)

TO: Point on Classified Road C3068, Parish: Asby, Grid Ref: NY 6855 1406 (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 1:10,500 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map.

Note: Points X, Y and Z do not form part of the application route but are referenced in the evidence.

Description of Application Route:

The Application Route is approximately 1,170 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 bridleway 354004 where the current bridleway enters a green lane. It heads diagonally across two fields to reach the Ormside Parish Boundary at Point B. From here it heads southwest, following along the north side of a field boundary, then crosses to the south side before entering a small area of woodland. It leaves the woodland to join a rough track at Point C.

The route now heads west to ford Asby Beck and pass Asby Mill Farm, turning south between Asby Mill Farm and Mill Rigg (Point D) and continues along the farm track to reach classified road C3068 at Point E.

Current Recorded Status:

The route is not recorded on the Definitive Map.

The route is not recorded on the List of Streets.

Notes:

This application is based on historical evidence, therefore the route applied for is the historic one, supported by this evidence. However, in the intervening years it would seem that new hedges and fences have been erected which block the historic route, so it would seem judicious to find an acceptable diversion for the bridleway to avoid these new structures.

Point X is where Bridleway 354004 leaves Unclassified Road U3256 in Ormside Parish. It is also the point where the route set out in the Ormside Inclosure Award 1773 commences. As this section from Point X to Point A is currently recorded as a bridleway on the Definitive Map and Statement, it is not included in the application.

The section of the route in Ormside parish from Point A to Point B is shown on later documents and maps following various different lines, some via Point Y and others via Points Y and Z. These may well have developed to reduce the impact on the fields crossed, and certainly the OS 1st Ed 25in map Book of Reference records the field crossed between Point A and Point Z as "Arable &c" at that time.

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 bridle road reputation dating back 250 years, and point to the Application Route being a public right of way of status equal to Bridleway.

The importance of the route clearly diminished at a time when few people were riding horses, 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 Ormside Inclosure Award of 1773 shows the application route from Point X to Point A and on to Point B where it leaves the area of Inclosure, which is also the Parish Boundary. The award describes the route ***“And that there be a Bridle Road from The Heights to Great Asby through the Allotments of Thomas Paterson and William Teasdale over that part of the said Common called Heartley Whinns five yards and a half wide between the ditches as the same is described in the said Plan from Number 13 [Point X] to Number 15 [Point B]”***. From the wording of the Inclosure Award, it can be reasonably inferred that the application route was a through route that could be used by the public.
2. 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 Asby Parish Tithe Plan of 1840 predates the Asby Winderwath Inclosure. The application route is not shown across the unenclosed Long Moor common, which was not subject to tithes, although a spur is indicated at Point E, nor is it shown through enclosed fields. Only major routes are shown on the common by pecked lines, so no inference can be drawn from the fact that the application route is not shown.
3. The Great Ormside Tithe Plan of 1845 clearly shows the application route across open pasture, although it seems to indicate the route taken was via Point Y and Point Z, rather than direct. The route is depicted continuing into Asby Parish at Point B. This is good evidence that the application route was an important through route at that time.
4. The Ordnance Survey 25in First Edition Map of 1861, Westmorland Sheet XV.15 Ormside parish, clearly shows the application route on the same line as on the Inclosure Award, coloured sienna and continuing into the neighbouring parish of Asby. The mapping for Asby Parish shows the route continuing to join a cart road at Point C, then crossing Asby Beck via a ford and stepping stones (both labelled), heading south to then cross the unenclosed Long Moor common to join the main road to Great Asby at Point E. This map pre-dates the Asby Winderwath Inclosure Award, which is good evidence it was an ancient way and considered a public through route at that time.
5. The Asby Winderwath Inclosure Award of 1879 was the fourth Inclosure within Asby Parish. This effectively enclosed the remaining areas of open common in the north of the parish including Long Moor. The section of the application route from Point D to Point E was included in the area being enclosed. It was awarded as a “Private Carriage and Occupation Road” but additionally “Public Bridle Road” was written along that section of the route on the Plan and it was shown continuing beyond the area being enclosed to the parish boundary at Point B. This is strong evidence that the Application Route was considered a through public route of bridleway status at that time.
6. The application route is clearly shown as a through route on early large-scale Ordnance Survey Maps, with the route labelled “BR” on 2nd Edition 25in and 6in Maps. Later maps do not show the section between Point A and Point C, which probably reflects it having fallen out of use, but there is no evidence it had been extinguished as a public right of way.
7. 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: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

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

A2: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1863, 1899, 1920

A3: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1868, 1897, 1918

Appendix B: PRIMARY EVIDENCE

B1: Inclosure Award – Ormside 1773

B2: Tithe Records – Asby Winderwath Township, Asby Parish 1840

B3: Tithe Records – Great Ormside Township, Ormside Parish 1845

B4: Inclosure Award – Asby Winderwath 1879

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:

A handwritten signature in black ink, appearing to read 'Brodalabak', written over the 'SIGNED:' label.