

# 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

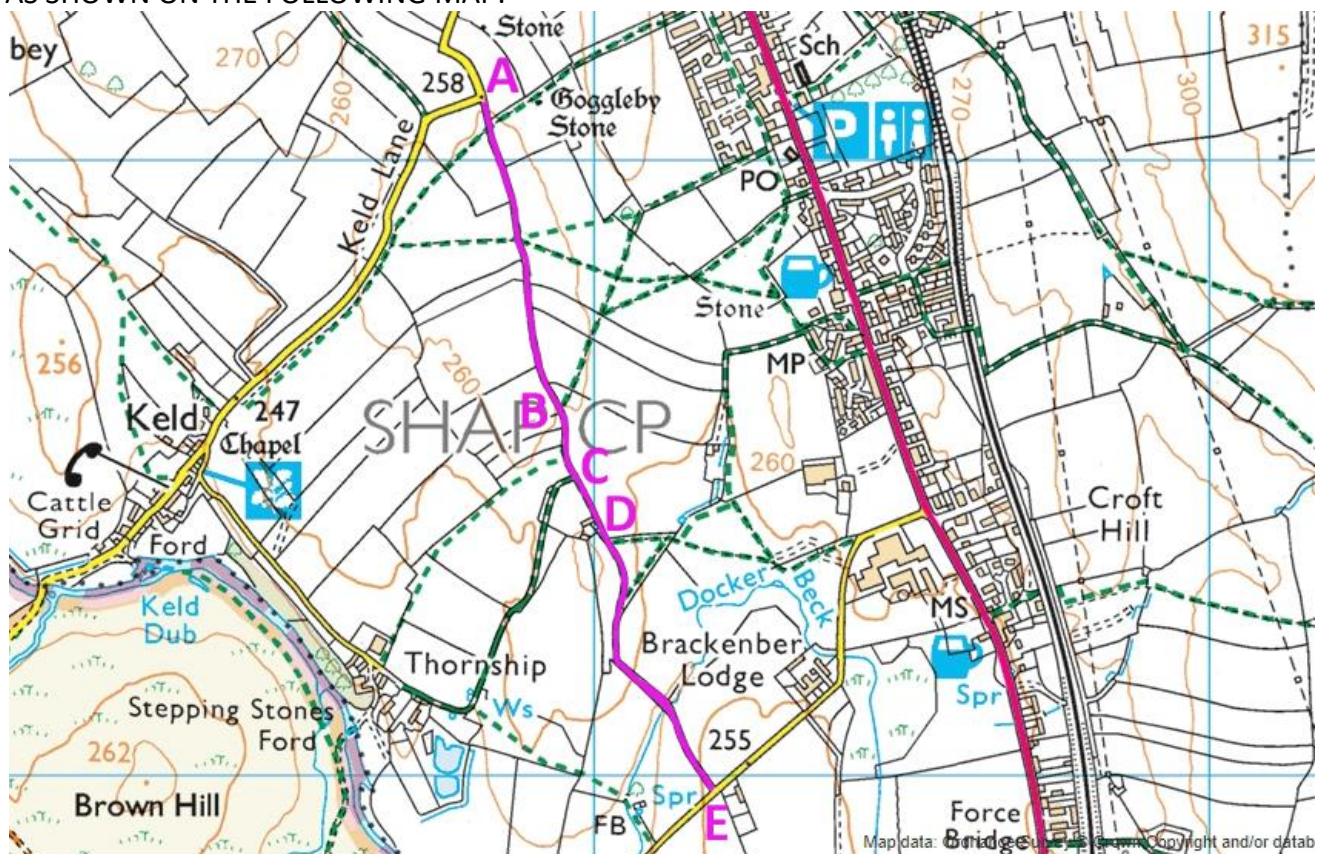
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

#### 3. Upgrading to BRIDLEWAY the footpath 360007 – COPY HILL LANE, Parish: Shap, District: Eden

**FROM:** Unclassified Road U3224 Keld Lane, Parish: Shap, Grid Ref: NY 5582 1509 (A)

**TO:** Unclassified road U3232 Mill Green Lane, Parish Shap, Grid Ref: NY 5619 1397 (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 1:12,500 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map.

## **Description of Application Route:**

The Application Route is approximately 1.22km long.

At Point A the route leaves the unclassified road U3224 in the Parish of Shap on a bend in the road, with obvious use by farm vehicles for a short distance along the route. The lane continues, enclosed on both sides by dry stone walls for virtually its whole length. Between Point A and Point C there are several field gates and gated stiles giving access to fields and footpaths. It is narrow in places, mainly due to trees growing within the lane and some sections of wall are in poor repair.

At Point C Thornship Lane heads off to the south-west. Between Point C and Point D there is a gate across the lane in the vicinity of Copy Hill Farm. From Point D the route follows a wide stone track, crossing Docker Beck by a wooden vehicle bridge, to reach the junction with Unclassified road U3232 at Point E.

## **Current Recorded Status:**

The route is recorded on the Definitive Map as the footpath 360007.

The route is not recorded on the List of Streets.

## **Notes:**

Copy Hill is spelt "Coppo Hill" on several maps and documents.

Thornship township is referred to as "Thorn Shap" on both the Inclosure award 1767 and Tithe Award 1842.

The Shap Common Inclosure Plan is not dated, but Cumbria County Council Archives states a date of 1767 on its records.

Thornship Lane meets the Application Route at Point C. An application has been submitted to add Thornship Lane, Shap, to the Definitive Map and Statement as a Bridleway as well.

## **Summary and Statement of Reasons:**

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

The evidence presented, dating back almost 200 years, points to this route being considered a public highway of status at least equal to Bridleway, even though it is only recorded on the Definitive Map and Statement as a footpath.

1. The application route is clearly shown on Greenwood's Map of Westmorland dated 1824 and Hodgson's Westmorland Map of 1828. These maps were developed for sale to horse riders and coach drivers by some of the most respected mapmakers and so could be expected to accurately show publicly-usable routes.

2. The application route is clearly shown as a through road on all historic Ordnance Survey Maps inspected, from the earliest 25 inch map of 1861 up to the 1:25,000 map of 1960. Only the 1in map of 1961 shows it differently.
3. The Ordnance Survey 25in First Edition Map of 1861 shows the route in its own plot, coloured sienna. Plot numbers 908 in Shap Parish is listed as "Public Road" in the Book of Reference. Plot 908 continues north along Keld Lane which is a public road today.
4. The Ordnance Survey 25in Third Edition map of 1915 shows a footpath terminating on the 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.
5. 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 road which is a good indication this route was considered a public highway.
6. The Inclosure Award for Shap Common of 1767 included the southern section of the application route from Point D to Point E. It is awarded as a Public Carriage Road and named "Coppo Hill Road". The Inclosure Award states "beginning at Mill Green Road and extending Northwest over the said Common to a Lane End near Coppo Hill", so it is reasonable to infer that the route from Point A to Point D already existed at that time.
7. 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. The Hardendale, Mardale, Swindale, Tailbert and Rayside, Thornshap and Keld, Toathmain and Wet Sleddale Tithe Plan of 1842 shows the route from Point A to beyond Point D as a road, coloured sienna. The southern section is not shown on the Tithe Plan, but nor is the Kendal to Penrith Turnpike road which was a major public road at that date. The Tithe Award states that the Shap Inclosure Act extinguished tithes for the area that was enclosed, so the tithe commissioners did not concern themselves with that area.
8. 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.
9. Land Registry hold no record of ownership of the application route, which is further evidence that it is a public highway.
10. 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 Greenwood Map 1824**

**A2: Hodgson Map 1828**

**A3: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)**

1<sup>st</sup> Edition 1861, 2<sup>nd</sup> Edition 1898, 3<sup>rd</sup> Edition 1915

**A4: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)**

1863, 1899, 1920, 1956

**A5: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)**

1898, 1918, 1947, 1961, 1964

**A6: Ordnance Survey, 1:25,000 maps of Great Britain**

1947, 1960

**A7: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)**

**Appendix B: PRIMARY EVIDENCE**

**B1: Inclosure Award – Shap Common 1767**

**B2: Tithe Records – Hardendale, Mardale, Swindale, Tailbert and Rayside, Thornshap and Keld, Toathmain and Wet Sleddale; Shap Parish 1842**

**B3: Finance Act Maps 1910**

XIV.14

**Appendix C: OTHER EVIDENCE**

**C1: Land Registry Records**

**C2: 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**

Photos 1 – 9

DATED: 25<sup>th</sup> October 2021

SIGNED: 