

# **Application for a Modification Order**

## **Wildlife and Countryside Act 1981**

**The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983 (Schedule 7)**

**Definitive Map and Statement for the Parish of: CASTLE CARROCK**

**District of: CARLISLE**

**Public Right of Way No: 116001**

To: Cumberland Council

Of: Countryside Access, 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

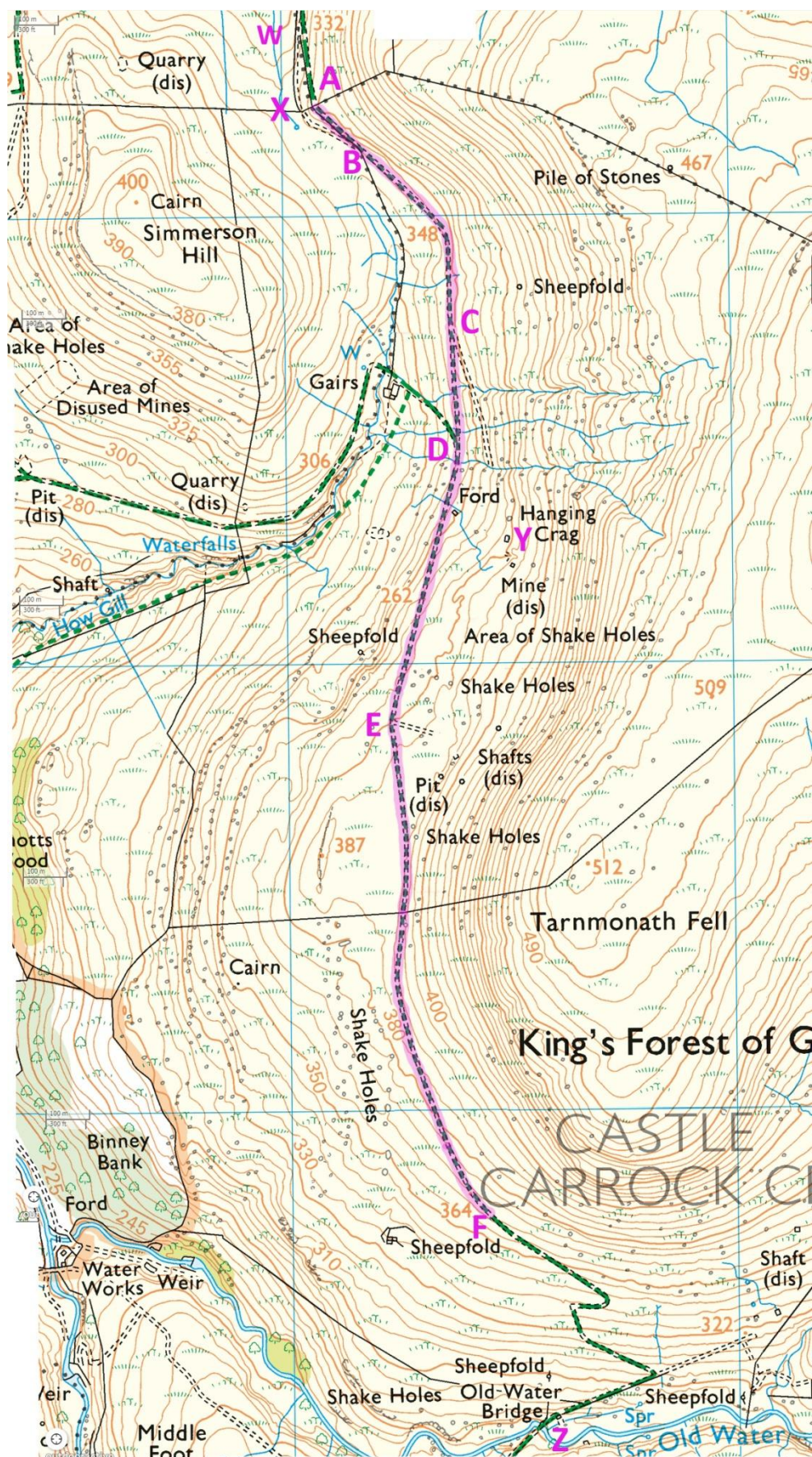
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

### **3. Upgrading to BRIDLEWAY the footpath 116001 Parish: Castle Carrock, District: Carlisle**

**FROM:** Terminus of BW124017 at Midgeholme parish boundary Parish: Castle Carrock, Grid Ref: NY 5807 5625 (A)

**TO:** Point where FP116001 becomes BW116001 on the open fell, Parish: Castle Carrock, Grid Ref: NY 5845 5375 (F)

AS SHOWN ON THE FOLLOWING MAP:



This map should print at approximately 1:14,000 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map. Points W, X, Y and Z do not form part of the application route, but are mentioned in the application.

## Description of Application Route:

The Application Route is approximately 2.69km long. It is unenclosed throughout its length.

At Point A, there is a relatively new fence to the north with no crossing point, even though this is where bridleway BW124017 leads into a current footpath FP116001. There is a broken wall to the west of the route between Point A and Point B which follows the parish boundary between Castle Carrock and Hayton. The route descends to Point B where it joins the currently used route from Point W to X to B, which was the trackbed of the railway built 1909-12 to service Gairs Colliery and which subsequently closed in 1936.

From Point B to Point C the application route follows the rail trackbed which was built on top of the ancient highway, with embankments towards Point C still in evidence. At Point C, where the trackbed heads uphill towards the mine entrance (Point Y), the application route descends the embankment to recover the historic route to Point D. Unlike the rail trackbed, the rest of the route now has a substantial stone base which continues to Point F and beyond.

At Point D, Bridleway 116003, which climbs from the bridge over How Gill and passes Gairs, meets the application route, which is currently designated a footpath, making this also a dead-end bridleway.

The application route continues south, climbing to where an old access track joins the route at point E, then stays level to where the current OS maps show a boundary across the route between Point E and Point F, however the only visible remains are a few old fence posts down- and uphill from the route. From here the track then descends to Point F – which has no distinguishing features to differentiate it from BW116001 which continues south from here.

Photographs of the application route are included in Appendix D.

## Current Recorded Status:

The route is recorded on the Definitive Map as Footpath 116001.

The route is not recorded on the List of Streets.

## Notes:

- This application is being submitted to modify what appears to be an anomaly. It is the central section of a much longer track where both to the north and to the south the route is classed as bridleway. This section in Castle Carrock parish has the same reference number as the bridleway which continues to the south, which implies that they are considered the same right of way, even though they have different status.
- The southern end of the application route (Point F) is a short distance south of spot height 364m. The OS 6in map sheet Cumberland XXV.NE published in 1900 and a second published in 1951 both show a spot height of 1193ft – which converts to 363.6m – near the bottom of the map sheet. **It would be reasonable to infer that the change of status of the application route from BW to FP happened at the boundary of the 2 map sheets XXV.NE and XXV.SE, as there is no physical feature, current or historic, which could explain this change in status at this place.**



- Historically, the route to which this application is addressed lay within the Extra-Parochial area of Geltsdale, later Geltsdale Parish, although it is now in the Civil Parish of Castle Carrock.
- The area through which the application route passes does not seem to have been the subject of an Inclosure Act.
- The area through which the application route passes was not subject to tithes and there does not appear to be a tithe map for any part of Geltsdale.
- Gairs mine mineral railway was opened in 1912 but the pit closed in 1936 and the rail line infrastructure was later removed [Source: [http://www.cumbria-railways.co.uk/brampton\\_railway\\_mines.html](http://www.cumbria-railways.co.uk/brampton_railway_mines.html) and [https://en.wikipedia.org/wiki/Brampton\\_Railway#cite\\_ref-charters\\_3-2](https://en.wikipedia.org/wiki/Brampton_Railway#cite_ref-charters_3-2) ]

### Summary and Statement of Reasons:

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

While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence presented in this application demonstrate highway reputation spanning 200 years, indicating that the route does indeed have highway status at least equal to Bridleway, even though it is recorded on the Definitive Map as footpath.

Although its importance has diminished over time, no evidence has been found to suggest its public highway status has been extinguished.

Evidence presented in this application:

1. **Greenwood's Map of Cumberland dated 1824** was 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. It is generally accepted [*Commission for New Towns and Worcestershire County Council v. JJ Gallagher Ltd* [2002] EWHC 2668 (Ch), [2003] 2 P & CR 3, [2003] 01 EG 67 (CS), *regarding evidence from Dr Hodson and Professor Kain, Neuberger*] that Greenwood followed the cartographic convention of not including roads across open land unless they were metalled. The application route is clearly shown as part of a much longer route across the open moors from Howgill in the north to Newbiggin in the south and it is depicted as a Cross Road, which is strong evidence that this was a substantial public highway at that time.
2. **A Plan for a new road from Brampton to Alston was drawn in 1824** showing how it would intersect with the existing road network. This plan shows the north end of the application route and indicates its continuation south beyond the border of the plan.
3. **A Sketch map of possible routes for a potential railway to link Lord Carlisle's mines to Carlisle 1824.** Many roads are omitted on this sketch, but the application route is clearly shown as part of a through route from Howgill to Newbiggin, which is good evidence the application route was considered a through public road at that time.
4. **Cary's Road Atlas dated 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 clearly showed what was considered to be the public road network just before the Highways Act of 1835. Cary clearly shows

the application route as part of a much longer route across the open moors from Howgill in the north to Newbiggin in the south and it is depicted as an unenclosed Parochial Road.

5. **Smaller Scale County Maps dating from 1834 to 1890** also show the application route as a through route, mostly described as a "Cross Road". These include Greenwood 1834, Dugdale 1835, Walker 1837, Hughes Virtue 1868 and Bacon 1890.
6. **An Estate Plan of the Forest of Geltsdale 1841** shows the application route as a continuous route across the whole of Geltsdale and continuing south into Cumrew Parish. This is good evidence the route was considered a significant through route at that time.
7. The **Ordnance Survey 25in First Edition Maps of 1865** shows the entire route in its own plot, coloured sienna. Plot number 27 in Geltsdale Extra-Parochial is listed as "Occupation Road" in the Books of Reference. Plot 27 continues south along current Bridleway 116001, which is good evidence the application route had the reputation of being equal status with the current bridleway at that time.
8. The **Ordnance Survey One-inch Maps of England and Wales** were expressly developed for sale to the general public and focussed on showing routes and features which would be of interest to them. This series of maps shows the transition from ancient track to heavily industrialised landscape through to post-industrial landscape recovery. The sheets of **1861** and **1895** show the historic route in the same manner as, and as part of a much longer through route.
9. **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 is clearly depicted as a "District Road" as part of a much longer through route.
10. The **Ordnance Survey 6in 2nd Edition Map of 1901** shows a labelled footpath terminating on the route at Point B. The route is depicted as a cart road, wider and higher status than the Footpath. This is good evidence that the route was considered a public thoroughfare at that time, with higher status than footpath.
11. The earliest **Ordnance Survey Half-inch Map dated 1907** clearly shows the application route as part of a longer through route. With this smaller scale mapping much detail was omitted so, for the application route to be included, it gives support to the evidence that this was a significant through route at that time.
12. 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 an Other Road, in the same manner as other minor roads in the area, which is a good indication this route was considered a public highway.
13. The **Ordnance Survey One-inch Maps of 1925 and 1947** show the mineral railway which was built to service Gairs Colliery in 1912. The application route is no longer shown between Points A and D, but at Point D it is shown linked to current Bridleway 116003 then heading south along the historic route to Point F and beyond.
14. **Bartholomew's Half Inch to the Mile Maps England and Wales** As commercial Map makers, they would aim to show only highways that their customers (largely motorists and cyclists) could use, so would not knowingly include private roads. The Application Route is shown on the **1942** map as

part of a through route between Howgill and Newbiggin and the whole route is depicted as “Footpaths & Bridlepaths”, the application route is not differentiated from the rest of the route.

15. The **Ordnance Survey 6in Maps of 1951 and 1955** both show the route restored as a through route after the railway was dismantled.
16. No stopping up orders or Right of Way Amendments relating to the application route have been found. This supports the evidence that the designation of the application route as a footpath in an anomaly and it is part of a longer route which is a bridleway.

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

#### **Appendix A: EVIDENCE FROM MAPS**

**A1: Greenwood Map 1823**

**A2: Cary Road Atlas 1832**

**A3: Smaller scale County Maps**

Bell 1833, Greenwood 1834, Dugdale 1835, Walker 1837, Hughes Virtue 1868, Bacon 1890

**A4: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)**

1<sup>st</sup> Edition 1865

**A5: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)**

1868, 1900, 1951, 1957

**A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)**

1869, 1898, 1925, 1947, 1955, 1969

**A7: Ordnance Survey ½ inch Road Map 1907 (Drawn scale 1:126,720)**

**A8: Ministry of Transport ½ inch Road Map of Great Britain 1923 (Drawn scale 1:126,720)**

**A9: Bartholomew’s Revised Half-inch Map of Great Britain 1942**

**A10: Ordnance Survey Maps – 1:25,000 scale Great Britain**

1950, 1954

#### **Appendix B: PRIMARY EVIDENCE**

**B1: Public Road Network Map of Cumberland by Bell, County Surveyor 1892**

#### **Appendix C: OTHER EVIDENCE**

**C1: Plan for new Brampton to Alston Road 1824**

**C2: Sketch map of potential routes for the planned Newcastle to Carlisle Railway 1824**

**C3: Estate Map of Geltsdale 1841**

**C4: 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 – 12

**D3: Aerial Photographs of the route**

Photos 1 – 2

DATED: 7<sup>th</sup> August 2025

SIGNED

