

2016-2017 Delegated ROW Decisions
(updated 27 1 2021)

Year	Ref No	Decision Date	Decision Type	Decision Made By	Parish	Location	Details
2016-17	DD16.1	26/04/2016	Diversion	Head of Park Management	Hugill	Whasdike	FP534004/534003. Diversion applied for by the landowner at Whasdike Farm.
2016-17	DD16.2	20/07/2016	Dedication	Head of Park Management	Buttermere & Brackenthwaite	Hassness Grounds	FP 220060. Dedication of path on LDNPA owned land prior to sale of the land.
2016-17	DD16.3	23/08/2016	s147 authorisation	Head of Park Management	Kentmere	HP Plantation NY 4573 0159	BW 561026. Authorisation of Field Gate – newly planted woodland. 15 year authorisation.
2016-17	DD16.4	01/09/2016	Creation & Diversion	Head of Park Management	Ulpha	Long Garth	427041. Diversion applied for by the landowner. Buildings over definitive line.
2016-17	DD16.5	01/09/2016	s33 consent	Head of Park Management	various	Grizedale Forest & Broughton Moor	Grizedale Stages Rally, Furness District Motor Club
2016-17	DD16.6	05/10/2016	s33 consent	Head of Park Management	various	Broughton & Dunnerdale Fells	Lakes 2 Day Trial, Barrow & District Motor Club
2016-17	DD16.7	05/10/2016	s33 consent	Head of Park Management	various	Whinlatter and Wythop	Lakeland Trial, Vintage Sports Car Club
2016-17	DD16.8	24/10/2016	Temp Closure	Head of Park Management	Lakes: Langdale	Megs Gill	FP 543024. Notice – 5 days from 25 October 2016 for repair to bridge abutments.

2016-2017 Delegated ROW Decisions
(updated 27 1 2021)

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2016-17	DD16.9	tbc (report dated 6/11/2016)	Temp Closure	Head of Park Management	Various	Grizedale Forest, Broughton Moor, Wythop Woods	Various paths - Order – 6 months from 26 Nov 2016 (to cover Malcolm Wilson Rally in Mar 2016), Danger to the public because of the holding of Motor sports events (papers in GSR file 1480.006) – Grizedale Stages (26 Nov 2016) & Malcolm Wilson (11 Mar 2016)
2016-17	DD16.10	14/11/2016	Temp Closure	Head of Park Management	St John's Castlerigg & Wythburn	Raven Crag	FP 249054. Notice – 5 days, 21-25 November 2016. Felling and extraction.
2016-17	DD16.11	14/11/2016	Temp Closure	Head of Park Management	Windermere	South of Glebe Road	BW 581031. Order – 6 months from January 2017. New sewer installation (will only be closed for around two weeks).
2016-17	DD16.12	17/11/2016	s147 authorisation	Head of Park Management	Torver	Napping Tree Coppice, SD 2980 9463 and SD 2990 9462	FP 576001 & 002. Authorisation of Kissing Gates to enable stock to be excluded from woodland and ground flora to recover (Re-authorisation after previous authorisation withdrawn)
2016-17	DD16.13	07/12/2016	Diversion	Head of Park Management	Mungrisdale	Blakebeck Farm	FP 348019. Diversion of route at Blakebeck Farm.
2016-17	DD16.14	05/01/2017	Creation Agreement/ Dedication	Head of Park Management	St John's Castlerigg & Wythburn	Whitehead Coppice	FP 249077. Creation agreement following offer from landowner to dedicate existing permitted path.
2016-17	DD16.15	09/01/2017	Creation Agreement/ Dedication	Head of Park Management	Buttermere	Muddocks Path	FP 220050. Creation agreement with landowner to extend footpath 220050 eastwards along Buttermere Lakeshore
2016-17	DD16.16	25/01/2017	Temp Closure	Head of Park Management	Gosforth	Blengdale Forest	BW 409031. Order – 6 months from 27 February 2017. Timber felling/extraction.

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Year	Ref No	Decision Date	Decision Type	Decision Made By	Parish	Location	Details
2016-17	DD16.17	31/01/2017	s33 consent	Head of Park Management	various	Wythop Woods and Whinlatter	Northern Classic Trial, Fell Side Auto Club
2016-17	DD16.18	06/02/2017	s33 consent	Head of Park Management	various	Grizedale, Whinlatter & Wythop Forests	Malcolm Wilson Rally, Kirkby Lonsdale Motor Club, Morecambe Car Club & West Cumbria Motor Sports Club
2016-17	DD16.19	14/02/2017	s147 authorisation	Head of Park Management	Blindcrake	Herdwick Croft, NY 1991 3219 and NY 1994 3217	FP 210005. Authorisation of two 4' gates with hunting type gravity lift catches
2016-17	DD16.20	tbc (report dated 23/3/2017)	Other	Head of Park Management	n/a	n/a	Increase in charges for Public Path Orders
2016-17	DD16.21	19/04/2016	Creation & Diversion	Head of Park Management	Dacre, Matterdale	Maiden Castle & Waterfoot	Creation & Diversion in association with the Ullswater Way
2016-17	DD16.22	07/12/2016	Other	Head of Park Management	n/a	n/a	Change in charges for processing Highways Act section 31(6) deposits

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	DIVERSION OF FOOTPATHS 543003 AND 534004, WHASDIKE FARM, HUGILL PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	The owner of Whasdike Farm has applied to divert the footpath through the farmyard to a route more suitable for farming operation and the public. The report recommends that the proposed diversion will assist the development of the farm, enable buildings to be constructed, will resolve a path alignment issue, and have some minor benefits to the public using the path.	
Details of Decision	To make a make a diversion order for following sections of footpath at Whasdike Farm, Hugill Parish (as shown on the map attached to the report: <ul style="list-style-type: none"> • 534003 – section F-E-D-C-H to be replaced with K-J-G-H) • 534004 - section C-B-A to be replaced with G-A. 	
Details of alternative options considered and rejected.	Not to make the order	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1412.534.05	
Date of Report	25 April 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	26/4/2016	

DIVERSION OF FOOTPATHS 543003 AND 534004, WHASDIKE FARM, HUGILL PARISH

1 Summary

- 1.1 The owner of Whasdiike Farm has applied to divert the footpath through the farmyard to a route more suitable for farming operation and the public.

Recommendation that:

a we make a diversion order for following sections of footpath at Whasdiike Farm, Hugill Parish:

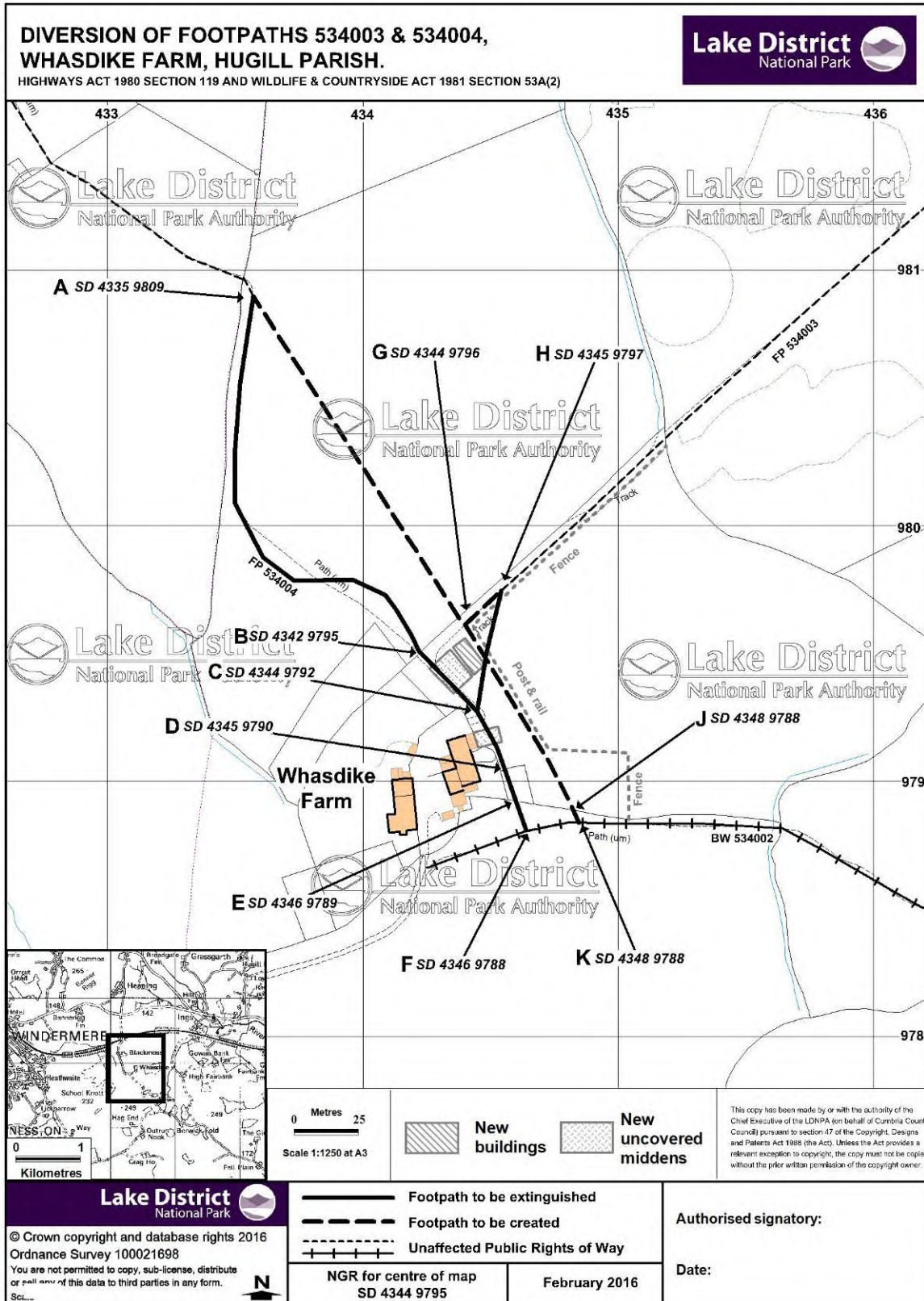
- **534003 – section F-E-D-C-H to be replaced with K-J-G-H (see map on page 2);**
- **534004 - section C-B-A to be replaced with G-A;**

b we confirm the order if no objections are received or if any objections received are withdrawn.

2 Background

- 2.1 The footpath at Whasdiike Farm has been on an alignment different from that shown on the definitive map for many decades. Indeed, I am uncertain that the line shown on the definitive map ever really existed, as there is no indication whatsoever of any historic stile or gate at its southern end (point F on map on page 2). A stile does exist, but is slightly further east (at point K).
- 2.2 It is possible that originally, the footpath was intended to be shown through the farmyard, but it was mapped just to the east. Since then, the farm has gradually changed and a few new buildings and work areas have been created.
- 2.3 There is currently an open midden behind the old barn (between C & D on the map), which is across the definitive line, although there is an easy way past for walkers. Between points B&C there is a new barn with open feeding area which is also just on the definitive line (again, there is a wide easy route past it). The owner wishes to cover over both these open areas, and has submitted a planning application in relation to this.
- 2.4 A new post and rail fence has also been put up, as shown on the map.
- 2.5 We have looked at various options for the footpaths with the landowner. One option would be to divert the paths slightly on a wiggly line to avoid the new buildings – but we agreed that a better option would be to move the footpath further to the east so that it is well away from the operations of the working farmyard.
- 2.6 This proposed route is shown on the map between points K & G. It basically goes from the existing stile in a straight line following the western side of the wooden post and rail fence. At the moment, this stretch is slightly muddy, and has silage bales partly over it. Before an order is confirmed, the landowner will improve the route here to make a harder surface, and will also be re-arranging the silage bales, and in future years they will be further away.
- 2.7 We will install a kissing gate in the wall at point G.
- 2.8 It then seems logical to extend the diversion northwards to create a straighter line between the new kissing gate and the gate in the boundary at point A. Not only will this be straighter – but it actually follows a drier route as well. A small wet patch just to the north of G will be drained soon anyway – regardless of the footpath.

2.9 Because the footpath heading north-east is a fenced off track, it also makes sense to move the junction of the paths to point G. This will avoid having two gates and a footpath cutting across the corner of the field. A new easy-to-use catch will be put on the metal field gate at G, and we will also put a three way fingerpost here to show the junction.



Diversion Order Proposal Map



Looking south to point F - The definitive line passes through the corner of the wall. There is no real sign of any old stile or gate here.



Looking north-west from point D
The definitive line passes through the midden – but there is an easy way round the side (to the right)



Looking north-west from around point J.

The definitive line (red dashes) is the other side of the concrete wall, past the horse, through the midden, then through the pen in front of the new shed.

The proposed line (light dashes) passes alongside the fence. The bales will be moved, and some light surfacing put down on the line of the path before confirmation



Looking north-west towards point G

Looking the other way (South-east) from point G
- This is where the kissing gate will be installed.

26/4/2016

3 Policy Context

- 3.1 The Vision for the Lake District National Park sets out our aspirations for what we hope to achieve by 2030. To summarise, these are to have a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. A landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.
- 3.2 The Partnership's Plan contain the policies and actions for achieving the aims of the Vision. The main delivery aim in the Partnership's Plan for access and rights of way is to make the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating.
- 3.3 Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. It seeks an outcome that provides high-quality and unique experiences for visitors within a stunning and globally significant landscape: experiences that compete with the best in the international market to strengthen the tourism sectors across the National Park.
- 3.4 The Park Management Service Plan contains the Business Plan priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy.
- 3.5 In our Service Plan this includes:
- carrying out Rights of Way order casework that addresses conflict, supports network improvements and supports landowners and/or meets safety needs through temporary closures.
- 3.6 This proposal helps fulfil the aims of supporting landowners, meeting safety needs, and addressing potential conflict.
- 3.7 Our charging policy was agreed at Authority in August 2006, and the actual charges updated regularly since then.
- 3.8 Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 1.

4 Best value implications

- 4.1 **Work Programme and relevance to this case:** this case is a high priority as it is a funded application, and will enable the applicant to continue development works in the farmyard without undue delay.
- 4.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed diversion will do this.
 - b) Processing public path orders is not a **competitive** procedure. Cumbria County Council can also process orders, but we are more closely connected with the day-to-day management of the network and so can act more effectively.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.

- d) We have **compared** our casework completion rates with other authorities, and this case will help us reach our target for this year. The diversion will align the definitive map and situation on the ground and will improve our 'ease-of-use' performance indicator if the path is selected for survey in the future.

5 Options

- 5.1 a: make the recommended order
b: do not make order and re-open the definitive line.

6 Proposals

- 6.1 I recommend option 5.1a. The diversion will assist the development of the farm, enable buildings to be constructed, will resolve a path alignment issue, and have some minor benefits to the public using the path.

7 Grounds and tests for diversion

- 7.1 The grounds and tests for a diversion are slightly different at the making and confirmation stage. However, as we have discretion as to whether to make an order in the first place, it would be unwise to ignore something that could prevent a made order from being confirmed. Therefore, the issue should be considered in the whole, and the factors to take into account are set out and discussed below. These factors incorporate our own policies on changes to the rights of way network which are set out in annex 1.
- 7.2 There are only two grounds for a diversion of a right of way (section 119, Highways Act 1980), namely where it appears to the Authority that it is expedient to do so:
- a) in the interests of the owner, lessee or occupier of the land crossed by the path,
OR b) in the interests of the public.
- 7.3 I consider that it is expedient in the interests of the landowner. It will enable continued development of the farmyard and will remove walkers from the working area of the farm. There is also some public benefit in achieving a more convenient route, whilst also resolving a mapping alignment issue.

8 Tests to be considered

- 8.1 These are:
- Will the new path be substantially less convenient to the public?
 - The effect which the diversion would have on public enjoyment of the path or way as a whole;
 - The effect the order would have as respects other land served by the existing right of way;
 - The effect of the new right of way on land over which the new path is created;
 - That termination of the alternative footpath is on the same or a connected highway, and is substantially as convenient to the public.
- 8.2 *Will the new path be substantially less convenient to the public?*- The new routes will be straighter, more direct, and easier to follow than the current definitive line.

8.3 *What is the effect of the diversion on public enjoyment of the path or way as a whole?*

8.3.1 The current path passes through a working farmyard, but does not actually enable any appreciation of aspects such as the farmhouse or historic buildings (it is behind the barns rather than through the 'traditional' yard itself). Walkers have to negotiate various building and be aware of machinery. The new route is effectively a straight line on a surfaced path following a fence – with views across fields.

8.3.2 I consider that the new route will actually be more enjoyable than the current route.

8.4 *Would the order affect other land served by the existing right of way?* - No.

8.5 *Is there any effect of the new right of way on land over which it is created?* - No, the land affected is all in the ownership of the applicant.

8.6 *Is the termination of the alternative footpath on the same or a connected highway, and is it as substantially as convenient to the public?* - The terminations of the footpaths are currently points F & C. These will be moving to points K & G – a short distance away (10 metres at most) and on the same highways (and point K has been used as the de facto termination point for decades anyway). I therefore consider that they are as substantially as convenient to the public.

9 Other considerations required by legislation

9.1 *Rights of Way Improvement Plan*

9.1.1 Before confirming a public path creation or diversion order we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP).

9.1.2 This proposal is not a ROWIP proposal put forward by the public. Nor does it fit neatly into any of the general or specific actions in the ROWIP – being an application from the landowner rather than something we have stimulated ourselves.

9.1.3 The full ROWIP can be seen at www.cumbria.gov.uk/roads-transport/public-transport-road-safety/countryside-access/ROWIP/Final_Rowip.asp

9.2 Limited Mobility - We have a duty to audit the proposals with regard to limited mobility. There will be no change to the current accessibility of the route. The surfacing of the path will be (once done) much the same as at present, and there will be two gates and one stone stile. Again, this is what is present on the currently used route (to use the definitive line, walkers would have to climb a wall, go through two gates, and over a fence).

9.3 Impact on the needs of agriculture and forestry - assessment required under schedule 6, of the Countryside & Rights of Way Act 2000. One of the main purposes of the diversion is to aid the agricultural management of the farm.

9.4 We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any effects on these aspects.

10 Finance Considerations

10.1 The proposal is mainly for the benefit of the landowner, with some public benefit – as explained throughout the report. We have therefore agreed with the landowner that we will meet around 20% of the total costs of around £2,532 as set out below. The cost to us being the cost and time involved in installing a new kissing gate and signpost.

			Cost	VAT at 20%	Total
Legal and Administration work	This includes all the Authority's legal and administrative costs in negotiating, making and confirming an order.		£1,360	£272	£1,632
ADVERTISING	Two adverts must be placed in the local press: <ul style="list-style-type: none"> • When the order is made and; • When it is confirmed. Costs vary depending on the length of advert necessary and the newspaper's scale of charges. <i>(Agreed charge in advance – based on average cost and relevant newspaper)</i>	Two adverts at £ 150 each	Totalling £300	£60	£360
Works on the ground**	Work needed: <ul style="list-style-type: none"> • New Kissing Gate in wall • New Fingerpost • New Gate Catch 		£450	£90	£540
TOTAL COSTS			£2,110	£422	£2,532
This diversion application falls into category 3 of our policy		3 - Where an order is predominantly in the interests of the landowner, but would result in some small public benefit, then up to 25% of the total cost may be waived.			
The percentage to be met by the LDNPA will be		21% (works – gate and signs)			
Totalling		£450	£90	£540	
The percentage to be met by the applicant will be		79% (standard costs)			
Totalling		£1,600	£332	£1,932	

** - This does not include the cost of improving the surface of the proposed path. This will be carried out by the landowner using his own material and time.

11 Risk

11.1 There is a risk that the order may be objected to. This risk has been mitigated as far as possible through consultation. If objections are received then we can reconsider the matter.

12 Legal Considerations

12.1 The order will be made under section 119 of the Highways Act 1980 and we are able to make orders under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.

12.2 The order will include a clause to the effect that it will not come into effect until the works required to improve the route (surfacing and gate) have been completed to our satisfaction.

13 Human Resources

13.1 The work involved in this proposal is approximately 25 hours from members of the Park Management teams, and 1 hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and over half of it has already been undertaken.

14 Diversity Implications

14.1 I have not identified any significant diversity implications.

15 Sustainability

15.1 I have not identified any significant environmental, economic or social effects.

16 Consultation responses

16.1 Comments from those responding to our consultation are summarised below:

LDNPA Planner	Supports the proposal, and believes that the route chosen in the most pragmatic solution.
Local Access Forum	Looks to be welcomed on paper.

17 Summary

17.1 I consider that the proposed changes should result in a more convenient path network for walkers, and will benefit the landowner by removing it from the working farmyard area. The landowner will be meeting the majority of the costs involved in the changes.

17.2 I recommend that we make the diversion order as applied for by the landowner.

Background Papers:	Case file reference 1412.534.05
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	25 April 2016
Version	Final

Authorised by: Mark Eccles , Head of Park Management Date.....

Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	DEDICATION OF FOOTPATH 220060 THROUGH HASSNESS GROUNDS, BUTTERMERE & BRACKENTHWAITE PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	We are selling our property at Hassness to the Ramblers – who will continue running it as a holiday location. A well used, surfaced path currently exists along the eastern and southern edges of the grounds, and we would like to dedicate this as a public footpath before the sale.	
Details of Decision	To dedicate footpath 220060 between A and B through the eastern and southern edges of Hassness Grounds (as shown on the map attached to the report)	
Details of alternative options considered and rejected.	Not to dedicate the path	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1422.2016.06	
Date of Report	19 July 2016	
Signature of authorising officers	Signed Mark Eccles, Head of Park Management	
Date	20/7/2016	

DEDICATION OF FOOTPATH 220060 THROUGH HASSNESS GROUNDS, BUTTERMERE & BRACKENTHWAITE PARISH

1 Summary

- 1.1 We wish to dedicate a public footpath through the grounds of Hassness, Buttermere, before selling the property..

Recommendation that: We dedicate footpath 220060 between A and B through the eastern and southern edges of Hassness Grounds.

2 Background

- 2.1 We are selling our property at Hassness to the Ramblers – who will continue running it as a holiday location. A well used, surfaced path currently exists along the eastern and southern edges of the grounds, and we would like to dedicate this as a public footpath before the sale. The Ramblers are aware that this will happen, and have not raised any concerns.
- 2.2 Photographs of the route are below. Top left is the gate at point A, the bridge is just to the south of A, the surfaced paths are running through the woods towards B.



3 Policy Context

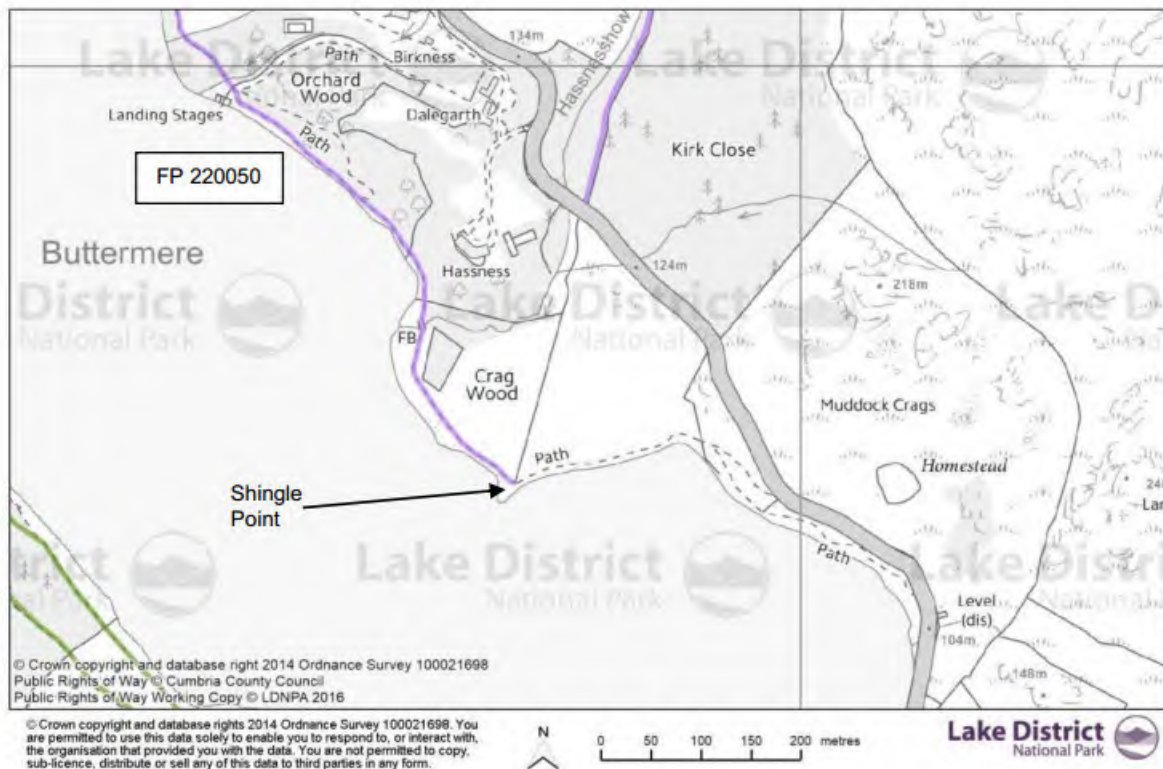
- 3.1 A key outcome of the Vision for the Lake District National Park 2006 – 2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved.
- 3.2 The Partnership's Plan is the Management Plan for the Lake District National Park which contains the policies for achieving the aims and desired outcomes for the Vision. The main delivery aim for access and rights of way is: 'Making the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating'.
- 3.3 Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 1.

4 Options

- 4.1 **a:** dedicate the footpath on our land;
b: do not dedicate the path on our land.

5 Proposals

- 5.1 I recommend option 4.1a.
- 5.2 There are no specific grounds to meet when considering dedications or creation agreements, but it is probably appropriate to consider the tests that apply under Section 26 of the Highways Act, and after taking these into account, we need to decide whether we are satisfied that it is expedient to create a new right of way.
- Is there a need for the new path?
 - Is it a good idea to create the new path taking account of;
 - how it will be more convenient or enjoyable for most of the people living locally or other members of the public; and
 - how it will affect the rights of those with an interest in the land?
- 5.3 *Is there a need for the new path?*
- 5.3.1 Footpath 220050 was added to the definitive map in 2007 through a definitive map modification order. It runs from Buttermere, all the way along the lakeshore to the edge of our land at 'Shingle Point' (see map overleaf). At a public inquiry, the inspector concluded that a continuation eastwards to the public road was only used with permission of the landowner, and this was not added to the map. This effectively leaves footpath 220050 as a dead end in legal terms.
- 5.3.2 We still have a long term ambition of completing the lakeshore path as a public right of way – but there has been little progress on this matter. Public access has not been prevented, but there is a need to create some sort of link to the public road.
- 5.3.3 A well used path through our grounds already exists. It is surfaced, has a gate and small bridges. It would provide an excellent link between footpath 220050 on the lakeshore, and the public road – with a direct continuation northwards on footpath 220097, up onto the fells and Kirk Close. This will still leave a short dead-end spur of 220050, but this is well used just to get to Shingle Point, a popular viewpoint and photography site.



5.4 *Will it be more convenient or enjoyable for most of the people living locally or other members of the public?*

5.4.1 The path will certainly be convenient, as it would create a link between existing footpaths. It passes through pleasant grounds, and ends up (at the south-western end) with a great view over Buttermere.

5.5 *How will it affect the rights of those with an interest in the land?*

5.5.1 We currently own the land. We are selling the property to the Ramblers, who have no objection to the proposal. It does not appear to have affected the selling price. The path is already well used, and has probably become a public right of way anyway – through long unchallenged usage. Therefore, there should not be any noticeable impact on those with an interest in the land.

5.6 *Rights of Way Improvement Plan*

5.6.1 Before confirming a public path creation or diversion order we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP). This proposal is not a specific ROWIP proposal put forward by the public. But it fits within a number of actions and within the general ethos of the ROWIP, such as creating new links for walkers and improving the safety of the network.

5.7 There is no identifiable impact on the needs of agriculture and forestry – the grounds are basically amenity land.

5.8 We consider landscape ^{20/7/2016} impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any effects on these aspects.

6 Best value implications

- 6.1 **Work Programme and relevance to this case:** This case is of very high priority as we need to complete any dedications on our land before it is sold, hopefully before the end of July 2016.
- 6.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed creations will aid our effective management and promotion of the rights of way network and is a speedy and pragmatic method of achieving new legal routes.
 - b) Processing public path orders is not a **competitive** procedure. Cumbria County Council can also process orders, but we can dedicate paths directly without their involvement – thereby making it speedier.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.
 - d) We have **compared** our casework completion rates with other authorities. The creation will help us reach a satisfactory target of processing cases this year.

7 Finance Considerations

- 7.1 The costs involved are minimal, and mainly revolve around staff time. I estimate that the staff cost will be less than £1,000. The advertisement required will cost around £150+VAT. The only other cost will be a new fingerpost at the roadside (point A), costing £100+VAT.
- 7.2 In the long-term we will be responsible for maintaining the surface, and eventually replacing the two small bridges (estimated to be due for replacement in around 2020). I do not consider that this will be financially burdensome – probably less than £1,000 altogether. Indeed, it is likely that at least one of the watercourses would be culverted at the appropriate time, thereby reducing further costs.

8 Risk

- 8.1 I have not identified any significant risks.

9 Legal Considerations

- 9.1 The dedications will be made under section 25 of the Highways Act 1980 and we are able to make orders under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.

10 Human Resources

- 10.1 The work involved in this proposal is approximately 25 hours from members of the Park Management teams, and 1 hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and over half of it has already been undertaken.

11 Diversity Implications

11.1 There are no identified diversity issues. The path is currently suitable for some with limited mobility, as is footpath 220050. However, because of surfacing issues on the latter, it is not advertised as a formal Miles Without Stiles route.

12 Sustainability

12.1 I have not identified any significant environmental, economic or social effects.

13 Consultation responses

13.1 Comments from those responding to our consultation are summarised below:

Cumbria County Councillor	No objections.
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Background Papers:	Case file reference 1412.220.04
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	19 July 2016
Version	Final

Authorised by:

.....
Mark Eccles , Head of Park Management

Date.....

Our Policies on Changes to the Public Path Network

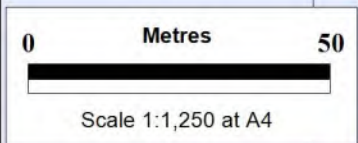
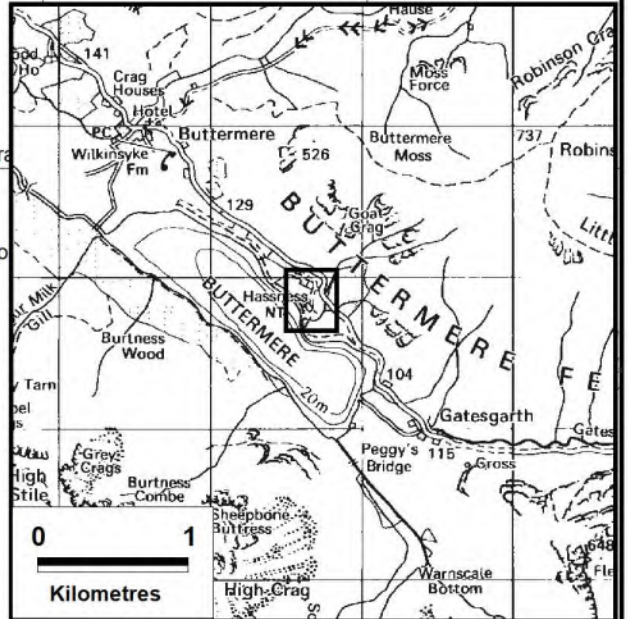
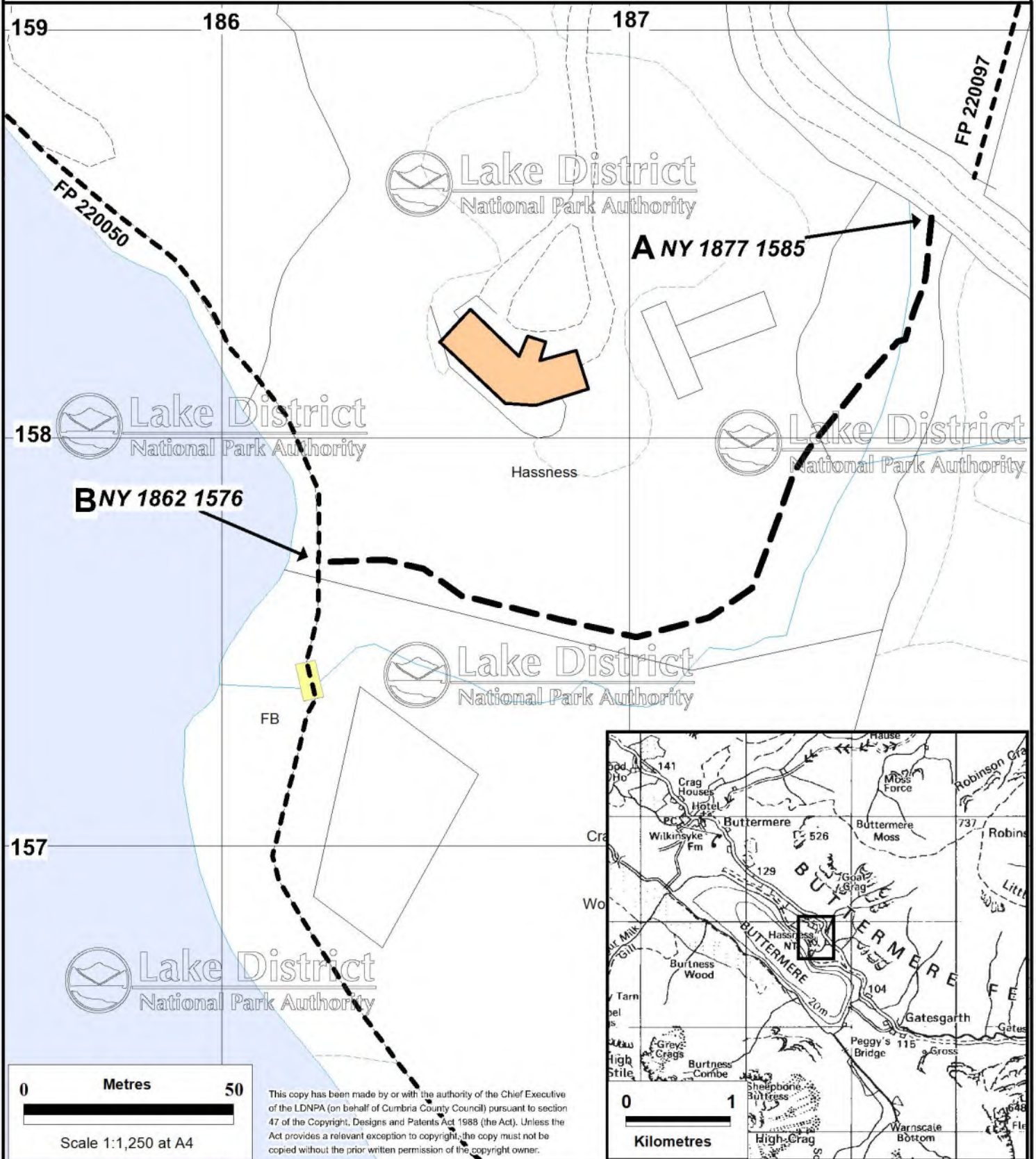
Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

DEDICATION OF FOOTPATH 220060, HASSNESS GROUNDS, BUTTERMERE PARISH



HIGHWAYS ACT 1980 SECTION 25



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<p>© Crown copyright and database rights 2016 Ordnance Survey 100021698 You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.</p>	<p>--- Footpath to be created</p> <p>- - - Unaffected Public Rights of Way</p>	<p>Authorised signatory:</p>
	<p>NGR for centre of map NY 1867 1576</p>	<p>July 2016</p>

DEDICATION OF FOOTPATH 220060 THROUGH HASSNESS GROUNDS, BUTTERMERE & BRACKENTHWAITE PARISH

1. Summary

1.1 This report confirms the legal event which will create a footpath on land in the ownership of the Lake District National Park Authority.

Recommendation	a	<i>The following footpath on land owned by the LDNPA are dedicated by the signing of this document:</i> <ul style="list-style-type: none">• <i>220060, A-B through the eastern and southern edges of Hassness Grounds, Buttermere.</i>
-----------------------	----------	--

2. Background

2.1 The Head of Park Management has authorised the creation of this footpath under the provisions of section 25 of the Highways Act 1980 (report attached).

2.2 The scheme of delegation allows for the Head of Park Management to accept dedications of public rights of way under the Highways Act. However, where the creation is through a dedication on our own land, the actual formal dedication has to be made by the Head of Resources.

Background Papers: Report to Head of Park Management
Author: Nick Thorne, Countryside Access Adviser
Date Written: 20 July 2016

The Lake District National Park Authority hereby dedicates the following as a public footpath:

- Public footpath 220060: a strip of land 1.8 metres wide and around 215 metres long from the public road B5289 at NY 1877 1585 on the left bank of Hassnesshow Beck (point A) through wicket gate into the grounds of Hassness, southwards, crossing the beck by way of footbridges, then westwards to footpath 522050 on the shore of Buttermere at NY 1862 1576 (point B), in Buttermere Parish, Cumbria as shown by a line of bold black dashes between A and B on the plan attached.

.....
Mark Hoggar, Head of Resources, LDNPA

Date.....

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	AUTHORISATION OF NEW FIELD GATE ON BW 561026, HP PLANTATION, KENTMERE PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	We have received a request to authorise a new field gate on BW 561026 in Kentmere Parish. This is to enable stock to be excluded from newly planted woodland	
Details of Decision	To grant authorisation for a new field gate, lasting for 15 years	
Details of alternative options considered and rejected.	<ul style="list-style-type: none"> • Not to grant authorisation. • To grant authorisation for a different time period 	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Background Papers	Case file 1410.002 includes application form and authorisation letter.	
Date of authorisation letter	23 August 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	23/08/2016	

Lake District National Park Authority
Murley Moss, Oxenholme Road
Kendal, LA9 7RL

Telephone: 01539 724555
Fax: 01539 740822
Minicom: 01539 792690
Email: hq@lake-district.gov.uk
Website: www.lake-district.gov.uk

Direct email: mark.eccles@lakedistrict.gov.uk

Direct dial: 01539 792688
Our ref: PM/ME/1410.002
Your ref:

Date: 23 August 2016

Dear 

**Public bridleway 561026 at HP Plantation, Kentmere Parish
Erection of 12' field gate with hunting type gravity lift catch
at grid reference NY 4573 0159**

Thank you for your application. On behalf of the Lake District National Park Authority, I authorise you to erect a 12' field gate with hunting type gravity lift catch at the above location, as shown on the attached map.

The field gate will enable efficient forestry use of the land by controlling animal movements. My authorisation is granted under Section 147 of the Highways Act 1980. We must consider the needs of many users and the authorisation is therefore subject to the conditions below.

- The 12' field gate with hunting type gravity lift catch shall meet the LDNPA structures standard 2011 (already installed and approved by Graham Standing, Area Ranger).
- You will maintain the field gate in a safe condition and to a standard that does not unduly inconvenience the public (s146, Highways Act 1980). If you fail to do so, the Authority's staff can improve it and recover the costs from you.
- Liability for this safe maintenance lies with the landowner / occupier.
- The authorisation is to help establish the newly planted woodland. This should be established within around 15 years, and so the authorisation will expire on 31 December 2031. At which point you should remove the gate to restore uninterrupted passage.
- The kissing gate alongside the field gate forms no part of this authorisation, and is not part of the public bridleway.

Richard Leafe, Chief Executive



INVESTOR IN PEOPLE

A member of the
Association of National Park Authorities

A member of the Federation of Nature and
National Parks of Europe

Please sign and return the second copy of this letter, which will act as acceptance of the above conditions. Until we receive this, the gate will remain an unauthorised obstruction.

If you have any queries please contact the Area Ranger, Graham Standing, on 01539 792698 ext 2734; or Nick Thorne, Countryside Access Adviser, on (01539) 792621.

Yours sincerely

Mark Eccles
Head of Park Management

Copied to: Graham Standing, Nick Thorne

.....

Landowner Confirmation

- I am the owner/lessee/occupier* of the land shown on the plan attached to this letter.
- I agree to the above conditions

Print name

Signature Date

*Delete as appropriate

.....

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	DIVERSION AND CREATION AT LONG GARTH AND FRITH HALL, ULPHA PARISH	
Relevant section of Scheme of Delegation	<p>PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.</p>	
Background	Development has taken place over the definitive line of a footpath at Long Garth, Ulpha, and further development is planned. The owner has therefore applied for a diversion of the footpath. They have also offered to convert a previous permitted path into a definitive right of way	
Details of Decision	To make a diversion order to replace section A-B-C-D (as shown on the attached to the report) of footpath 427041 at Long Garth with A-E-F-G-H-D; to make a creation order for a new footpath 427057 between Low Craghall and Frith Hall (as shown on the map attached to the report).	
Details of alternative options considered and rejected.	Not to make the orders	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1412.427.04	
Date of Report	31 August 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	1/9/2016	

DIVERSION AND CREATION AT LONG GARTH AND FRITH HALL, ULPHA PARISH

1 Summary

- 1.1 Development has taken place over the definitive line of a footpath at Long Garth, Ulpha, and further development is planned. The owner has therefore applied for a diversion of the footpath. They have also offered to convert a previous permitted path into a definitive right of way.

Recommendation that:

- a** *We make a diversion order to replace section A-B-C-D (as shown on map 1 on page 3) of footpath 427041 at Long Garth with A-E-F-G-H-D;*
- b** *We make a creation order for a new footpath 427057 between Low Craghall and Frith Hall (as shown on map 2 on page 4);*
- c** *we confirm the orders if no objections are received or if those objections received are withdrawn.*

2 Background

- 2.1 Following the construction of a barn at Long Garth, and a planning application for a second barn, we have discussed the impact of these on the footpath (427041) with the landowner. The first barn possibly just about avoids the legal line of the footpath (it is difficult to tell precisely) – but the associated excavation work and fencing is on the line. The planning application did not reflect the actual location of the barn, nor did it show the excavation and fencing. The second barn will be across the footpath – and the preparatory excavation works are already there (these did not receive planning permission – and will be dealt with by the planners as an enforcement issue, or as part of a new planning application).
- 2.2 The obvious solution to this is to divert the footpath – but we have struggled a little given the terrain and the generally wet nature of the surrounding land. However, working with the landowner, and following consultations, we consider that we have come up with an alternative route that will be reasonable after some improvement works are carried out by the landowner.
- 2.3 On the same landholding there was also a Defra ‘Countryside Walks & Rides’ permitted path between Low Craghall and the old road at Frith Hall. This was a 10-year agreement between the landowner and Defra – and it expired a few years ago. The landowner has kindly offered this path as a public footpath, which will mean that it will be usable in perpetuity, and shown on maps.

3 Policy Context

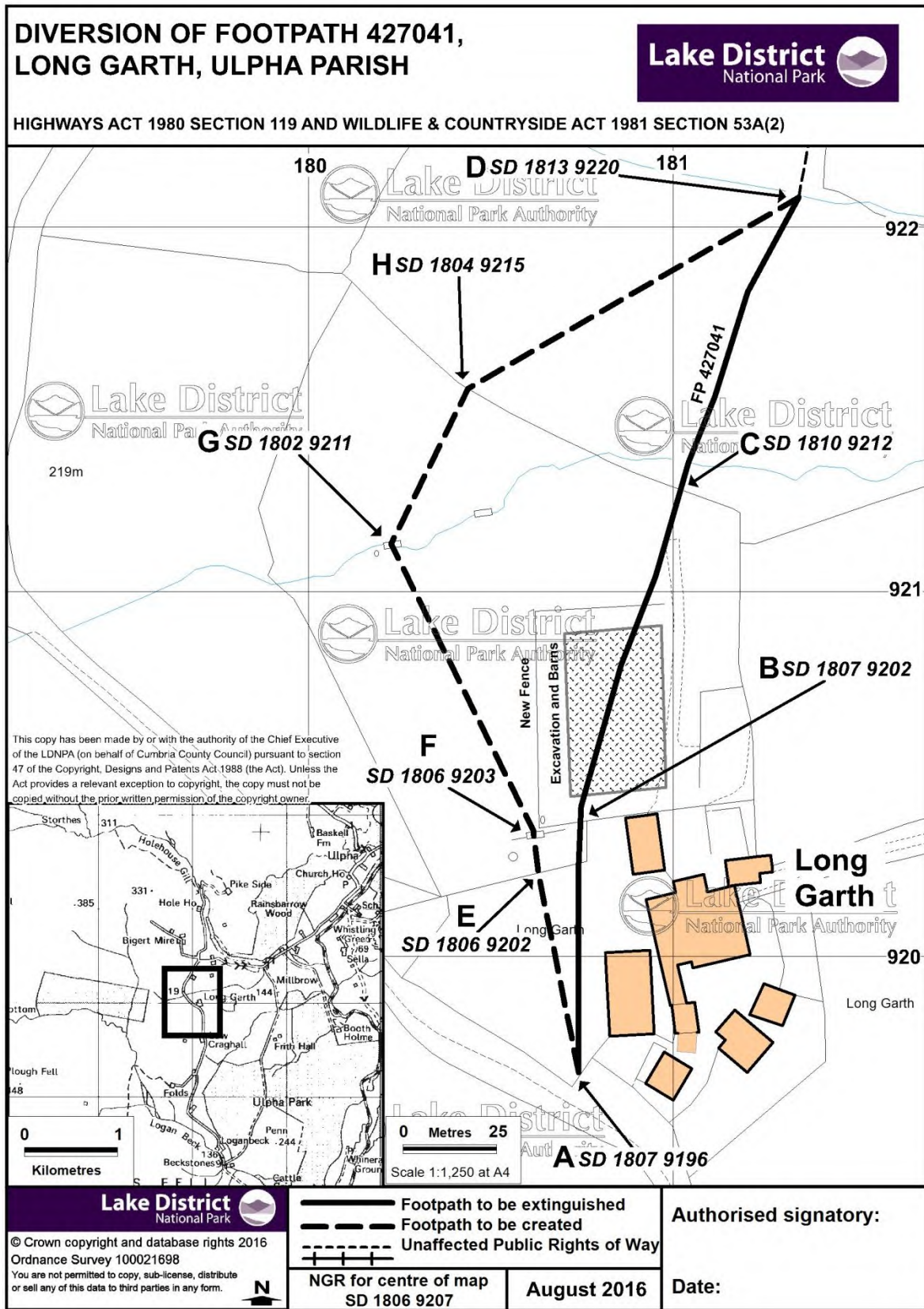
- 3.1 The Vision for the Lake District National Park sets out our aspirations for what we hope to achieve by 2030. To summarise, these are to have a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. A landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.
- 3.2 The Partnership’s Plan contain the policies and actions for achieving the aims of the Vision. The main delivery aim in the Partnership’s Plan for access and rights of way is to make the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating.

- 3.3 Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. It seeks an outcome that provides high-quality and unique experiences for visitors within a stunning and globally significant landscape: experiences that compete with the best in the international market to strengthen the tourism sectors across the National Park.
- 3.4 The Park Management Service Plan contains the Business Plan priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy.
- 3.5 This Service Plan also includes:
- carrying out Rights of Way order casework that addresses conflict, supports network improvements and supports landowners and/or meets safety needs through temporary closures.
- 3.6 This proposal helps support the landowner in developing his farming business, and also brings about benefit to the public through the creation of a new route.
- 3.7 Our charging policy was agreed at Authority in August 2006, and the actual charges updated regularly since then.
- 3.8 Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 (“Changing the Rights of Way Network: Statement of Policy”), and are listed at Annex 1.

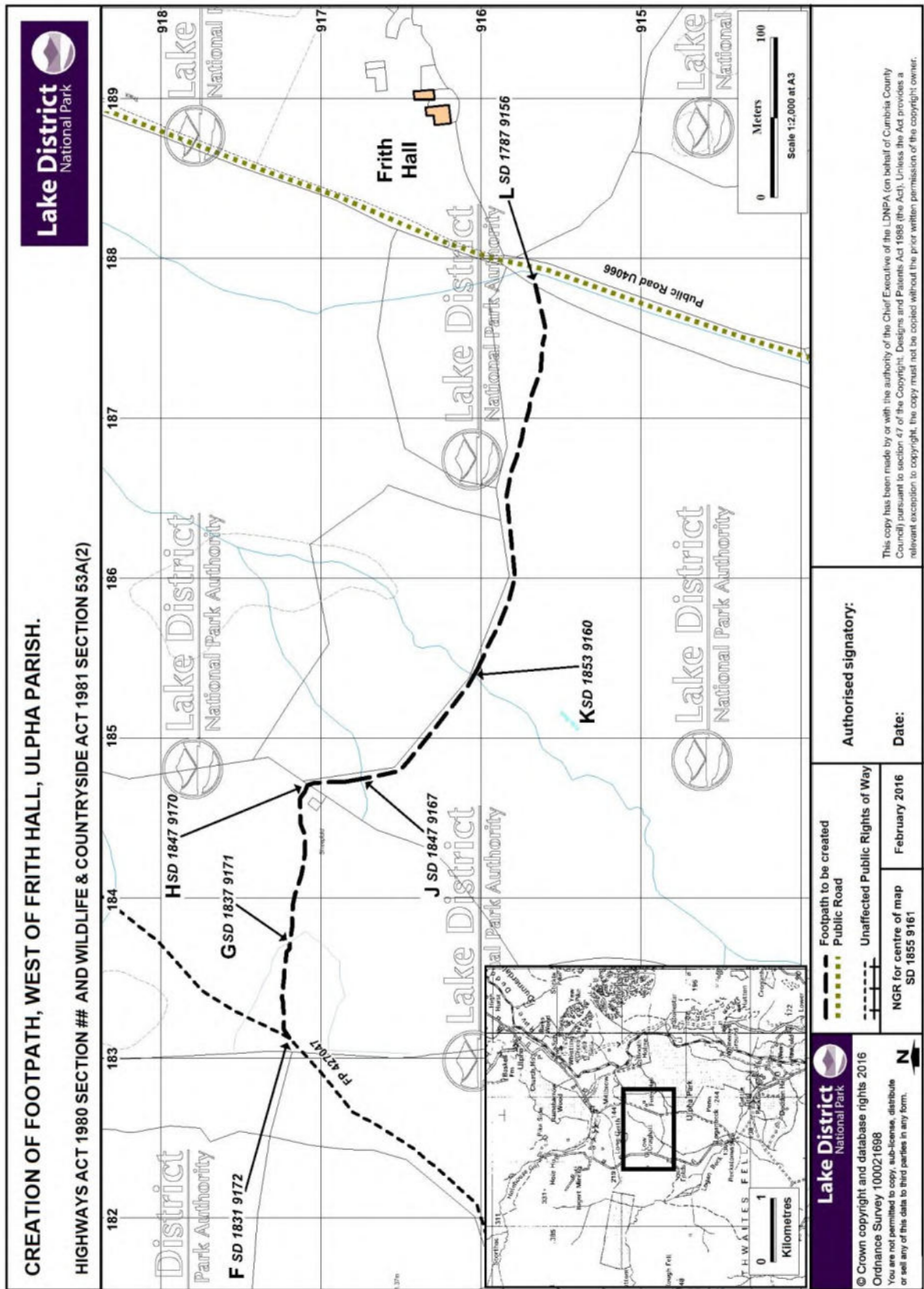
4 Best value implications

- 4.1 **Work Programme and relevance to this case:** this case is of high priority being an application from the landowner.
- 4.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed diversion will aid our effective management and promotion of the rights of way network and is a speedy and pragmatic method of resolving the issues in that area.
 - b) Processing public path orders is not a **competitive** procedure. Cumbria County Council can also process orders, but we are more closely connected with the day-to-day management of the network and so can act more effectively.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.
 - d) We have **compared** our casework completion rates with other authorities, and it is similar. The diversion will align the definitive map and situation on the ground and will improve our ‘ease-of-use’ performance indicator if the path is selected for survey in the future.

MAP 1 – DIVERSION PROPOSAL



MAP 2 – CREATION PROPOSAL



CREATION OF FOOTPATH, WEST OF FRITH HALL, ULPHA PARISH.

HIGHWAYS ACT 1980 SECTION # AND WILDLIFE & COUNTRYSIDE ACT 1981 SECTION 53A(2)



<p>Footpath to be created</p> <p>Public Road</p> <p>Unaffected Public Rights of Way</p> <p>NGR for centre of map</p> <p>SD 1855 9161</p>	<p>February 2016</p>
--	----------------------

Authorised signatory:

Date:

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5 Options

- 5.1 a: make the recommended orders
- b: make the diversion order, but not the creation order
- c: make the creation order, but not the diversion order
- d: do not make either order – and re-open the definitive line

6 Proposals

- 6.1 I recommend option 5.1a.
- 6.2 If we make no order (5.1d) then we will need to take enforcement action to re-instate the definitive line. The minimum work required in this will be for the landowner to alter the fencelines surrounding the new shed – and to create a benched ramp down the large excavations for the current and new shed. It would also prevent the landowner from erecting a new shed in his preferred location.
- 6.3 We could make the diversion, but not the creation (5.1b), but this would be a waste of the offer of the new path.
- 6.4 We could make just the creation and not the diversion (5.1c). However, I consider that such an action would be unfair upon the landowner. We would have to take the action outlined in paragraph 6.2, and impose a new path over his land as well. The landowner would be likely to object to a creation order processed without the diversion.

7 Grounds for diversion

- 7.1 The grounds and tests for a diversion are slightly different at the making and confirmation stage. However, as we have discretion as to whether to make an order in the first place, it would be unwise to ignore something that could prevent a made order from being confirmed. Therefore, the issue should be considered in the whole, and the factors to take into account are set out and discussed below. These factors incorporate our own policies on changes to the rights of way network which are set out in annex 1.
- 7.2 There are only two grounds for a diversion of a right of way (section 119, Highways Act 1980), namely where it appears to the Authority that it is expedient to do so:
 - a) in the interests of the owner, lessee or occupier of the land crossed by the path,
 - OR b) in the interests of the public.
- 7.3 I consider that the proposed diversion is expedient in the interests of the landowner. The current definitive line is blocked by a new fence, excavation, and possibly the first shed. The new shed will be directly across the definitive line.

8 Tests to be considered

8.1 These are:

- Will the new path be substantially less convenient to the public?
- The effect which the diversion would have on public enjoyment of the path or way as a whole;
- The effect the order would have as respects other land served by the existing right of way;
- The effect of the new right of way on land over which the new path is created;
- That termination of the alternative footpath is on the same or a connected highway, and is substantially as convenient to the public.

8.2 *Will the new path be substantially less convenient to the public?*

8.2.1 Planning Inspectorate Advice Note 9, commenting on the case of *Young* identifies that the new route should not be substantially less convenient to the public in terms of, for example, features which readily fall within the natural and ordinary meaning of the word 'convenient' such as the length of the diverted path, the difficulty of walking it, and its purpose.

8.2.2 Taking these considerations into account, I consider that there is a reduction in convenience to the public using the footpath – but that the reduction will not make the path 'substantially' less convenient.

8.2.3 The definitive line is a fairly direct route – and prior to the excavations, would have run on a relatively gentle gradient (downhill from B-C). The proposed route is around 50 metres longer (250 metres versus 300 metres), and also involves a gentle gradient uphill to point H, then down again to point D. However, given the context of where the footpath is, I do not consider that anyone using this path will find that the extra distance or slight height gains will particularly inconvenience them. The path appears to be very little used, and does not serve a particularly important role within the network.

8.2.4 Of more concern is the condition of the surface and the field through which the proposed route will pass (E-F-G-H). It is difficult to know what the previous condition of the definitive line was like – as it has all been completely excavated and changed. Although the photos from 2014 (see page 10) do give the impression that the path at that time ran through a relatively dry field. However, it is also clear from aerial photographs that the field has got progressively wetter over the years (it was dry enough around 10 years ago for a silage crop to be taken) – so wherever the path ran it was likely to have been fairly wet just before the shed excavations.

8.2.5 Defra Guidance says that we should ignore temporary obstructions and changes, but it is difficult to do this when the works have been quite so extensive. Alongside the works, there has been a change of use (light pasture to horses) and any underground drains (if there were any) appear to have collapsed. This all means that as it is virtually impossible to compare the 'old' route with the 'new' route - all we can really do is to look at whether the proposed route is suitable for use.

8.2.6 At our earliest site visits, the whole field was extremely wet (almost marshy), and difficult to negotiate. This was immediately after the excavation works (which may have altered the natural drainage, or broken any artificial drains) and was being poached by horses. We chose what we thought was possibly the best route (called the 'consultation route from hereon), but since then the field as a whole has dried out a little, and is less poached.

- 8.2.7 We consulted on the proposal, and the comments of the Ramblers representative to the effect that the path will *'still have to cross the very badly drained field.....it would need some more significant raising / drainage across the whole field in order to become usable'* just about sum up the situation.
- 8.2.8 Following this we have revisited the site this summer with the landowner and agreed some amendments to the proposed line of the route and to the works required. We have agreed that if a new ditch crossing point is created (at point G, around 24 metres west of the current concrete pipe on the consultation route), then walkers will have a greater ability to follow harder drier paths through the reedy areas than on the consultation route. Basically, the suggested Order Route follows harder grassy ground, whereas the consultation route is definitely 'soft' – and will therefore be worse in the wetter months.
- 8.2.9 The landowner has agreed to create this culverted crossing at point G, at his expense.
- 8.2.10 The other main area of concern is around point F. From the new gate at E there is a 5-10 metre stretch of very wet ground, which seems to have been caused by the new excavations. There are various ways through this wet patch, none of which are particularly easy. We consider that one new drainage ditch, with a piped culvert should dry the area out considerably (this will be done by the landowner). However, if it does not dry out sufficiently, the landowner has plenty of stone that could be put down for a short length to create a more solid sustainable surface (see schedule of works – Map 3, page 9).
- 8.2.11 We consider that the work and new choice of route will have the desired impact, especially when taking into account the relatively light usage of this path. However, we also accept that it may well be that some further work is required when the path is in use, and the landowner acknowledges that situation and is happy to carry out future works if required.
- 8.2.12 Because of the risk of objections to the proposal as a whole, we have advised the landowner that it is probably not worth carrying out this work before we are certain that the order route as a whole is going to be accepted by the public. It would not really be appropriate to demand this amount of work, only to have a diversion order fail on other grounds such as convenience, length and so on.
- 8.2.13 We have therefore advised him that the best way to deal with this is to wait until the order has been made, and the objection and representation period passed. At that point, we will know whether any other issues have been raised. If there are no objections, then the landowner will carry out the required works (see map 3 on page 9 for these works). We have made it quite clear that we will not confirm the order until we are fully satisfied that the new route is fit for use and sustainable. This will be written into the order.
- 8.2.14 If, at any point, we reach the decision that this will not be achievable – then we will re-enter negotiations to try and find a route that will be acceptable.
- 8.2.15 Other works are also proposed to improve the new line of the path, namely:
- Replace roadside stone stile with wicket gate (point A);
 - New wicket gate in wall (point E – the definitive line goes through a stone stile);
 - Wooden Field Gate in broken wall (point H).
- All this work will be carried out by the landowner before any diversion comes into effect.

8.3 *What is the effect of the diversion on public enjoyment of the path or way as a whole?*

- I do not consider that there will be any noticeable impact on the enjoyment of the path as a whole, as the whole area is generally wet – but not too wet for fully booted occasional walkers. Indeed, removing the path from the immediate vicinity of the farmyard may actually provide greater enjoyment and slightly enhanced views.

8.4 *Would the order affect other land served by the existing right of way?*

- No.

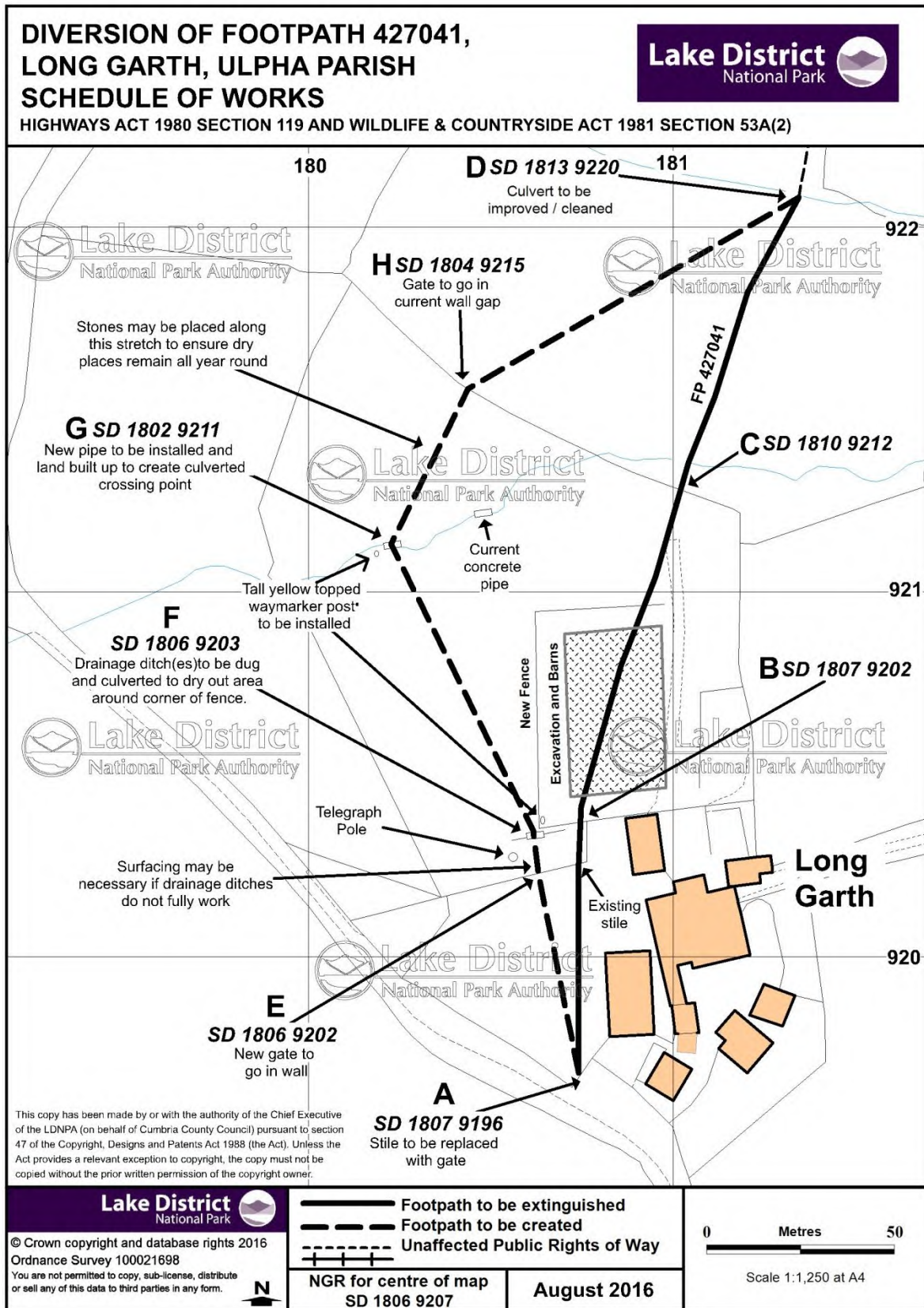
8.5 *Is there any effect of the new right of way on land over which it is created?*

- No – the land over which the old and new routes run are in the same ownership.

8.6 *Is the termination of the alternative footpath on the same or a connected highway, and is it as substantially as convenient to the public?*

- The termination point at A will move about 1 metre (the new gate will be to the side of the existing stile), and will be slightly nearer the road and more visible. It will therefore be more convenient. Point D is mid-path, and so the northern termination is unaffected.

MAP 3 – SCHEDULE OF AGREED WORKS





The stile at A will be replaced with a gate .



The stile at point B on the definitive line



The same stile (B) is visible here, after the barn was built (2015). The definitive line carries on – probably through the end of the barn.



Once over the stile at B, the path crossed a dry grassy field to a gate at point C.



Showing the line of the path in 2014.



Looking south from Point C in 2015, along roughly the same line, after the barn and excavation work – this does not really show accurately the true depth of the excavation.



Looking south from the existing culvert (east of point G) in 2015. The dashed line represents the consultation route.



Looking along the proposed route from point G to F, showing the new choice of drier ground. Red line is the definitive, green is the proposed route.



The location for the new culverted ditch crossing at point G.



The wall gap at point H – this will have a gate installed before confirmation of any order.



The wet area at F – this will be drained and piped.

8.1 Grounds and Tests for a Creation Order

There are two questions to consider under Section 26 of the Highways Act, and after taking these into account, we need to decide whether we are satisfied that it is expedient to create a new right of way.

- Is there a need for the new path?
- Is it a good idea to create the new path taking account of;
 - how it will be more convenient or enjoyable for most of the people living locally or other members of the public; and
 - how it will affect the rights of those with an interest in the land?

8.2 *Is there a need for the new path?*

8.2.1 A path between footpath 427047 at Low Craghall and Frith Hall was identified as a useful link by Defra when they were developing permitted paths under the Countryside Stewardship scheme back in 2002. The permission expired in 2012, along with a large number of others in the Lake District (there is no permitted access element in new farm payment schemes now). In the run up to this, National Park staff assessed all the expiring agreements to see if we should make attempts to retain any. Only a handful were judged to be worth pursuing, and this was one of them. There was no set methodology to these assessments, it was down to staff's subjective views as to potential usefulness and attractiveness.

8.2.2 The main reason the path was developed in the first place was to give an extra, and different, approach to the historic Frith Hall ruins.

8.3 *Will it be more convenient or enjoyable for most of the people living locally or other members of the public?*

8.3.3 The new path will add an additional link between the old Frith Hall / Bleabeck Road and footpath 427047. It will enable shorter and alternative circular routes to be walked from places such as Beckstones (parking, and also holiday cottages) and Millbrow (dwellings, holiday cottages).

8.4 *How will it affect the rights of those with an interest in the land?*

8.4.1 The landowners have offered the path to the public. Again, a few bits of work are needed on the path to bring it up to a better condition, and we would do this with the landowner, volunteers and small pieces of material left over from other jobs (no new costs):

- Ditch to be piped and soiled over;
- Kissing pen to be improved to standard size;
- Short Boardwalk to be replaced;
- Fingerpost to be installed adjacent to field gate.

Comments on the proposed creation from staff:

Mike Tattersall, Ranger - The new route to Frith Hall affords spectacular views over the landscape of the lower fells and Dunnerdale. The new line follows, with minor deviation the old permitted route and would have improvement works carried out by the landowner as part of the agreement. The line would link with the existing path network and create a circular route via Millbrow and Old Hall farm back to Longarth Farm.

The path would be a welcome addition to the existing network affording more choice for walkers visiting the area. The landowner is sympathetic to the needs of walkers and leisure users and is amenable to making the route as attractive and accessible as possible.

Rec Cathey, Area Ranger - Dedication of the new route to Frith Hall would formalise and enhance an old countryside stewardship access agreement path; both currently in use by the public and visible, in places, on the ground but presently marshy underfoot and not easy to use or follow. Affording spectacular views of both the Ulpha and Dunnerdale fells, formalising and improving this route would not only make the line easier, drier under foot and safer to use, when travelling in an easterly direction from Low Craghall, path users are presented with clear views of the romantic ruin of Frith Hall; the remains of a historic, fortified house which, over the centuries, has been both a hunting lodge and hostelry. Dedication of this route would also present an attractive circular walk from Long Garth farm, which takes in various features of the Historic Environment Record (HER); clearance cairns and wall footings, Castle How historic remains and a medieval forge.



View of Frith Hall from Low Craghall (around point F) www.geograph.org.uk/photo/783655

Seen from Low Craghall with Great Stickle beyond. Frith Hall is visible as a romantic ruin on the skyline as you drive up the valley. Four hundred years ago it was a hunting lodge overlooking the deer park of Ulpha (Frith means 'in the wood'). So at some times of year it would be as quiet and peaceful as it now is but at other times full of bustle and activity as the gentlemen of the Hudleston family came out from Millom Castle to hunt the deer. Three hundred years ago Frith Hall was no longer a host to the gentry but a hostelry open to all, a stopping place for pack-horse teams and their drivers on one of the old roads in and out of the valley. Like all routes to and from the coast, it was used by smugglers as well as honest carriers. The Isle of Man was then a notorious centre for smugglers and the Board of H.M. Customs had its work cut out defending the rugged Cumbrian coastline from the persistent and ingenious approaches of the denizens of that 'warehouse of frauds'. The Board's Whitehaven representative reported that the town and country were 'mostly supplied with brandy, rum, tea, tobacco, soap and other high duty goods illegally imported'. So strong drinks were cheaply available at Frith Hall, which made the place lively and at times violent. At least one of its clientele died there. Not much peace and quiet in those days. Two hundred years ago Frith Hall became a farm, and still stands on farmland. Now the Herdwick crop the grass in silence where once the lords rode out to the chase and midnight brawls disturbed the peace.



The short boardwalk between points F & H that will be replaced.



The creation route will follow the fence.



The gate at Point H, which will be replaced with a wicket gate.
Frith Hall can be seen on the skyline as the destination of the new footpath.

9 Other considerations required by legislation

- 9.1 *Rights of Way Improvement Plan* - Before confirming a public path creation or diversion order we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP). Neither the diversion nor the creation were specific ROWIP proposals put forward by the public. But the creation fits within a number of actions and within the general ethos of the ROWIP:
- Action 27 – Footpath links: identify and create new links in the footpath network.
- 9.2 *Limited Mobility* - We have a duty to audit the proposals with regard to limited mobility. Because of the terrain and underfoot conditions neither the current route, the diversion route, nor the creation route are hugely accessible to those with limited mobility. The diversion will result in two stiles being replaced with gates, and all the new boundary crossings will be gates. The only other improvements that could be considered are things like further surface improvements – but the costs of doing this would probably outweigh the benefits to the relatively small numbers of users on these routes.
- 9.3 *Impact on the needs of agriculture and forestry* – an assessment is required under schedule 6, of the Countryside & Rights of Way Act 2000. The diversion is all about benefitting the farming operations. The landowner is happy that there will be no impact on his agricultural operations from the creation of the new footpath.
- 9.4 We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any effects on these aspects. Some drainage in the field between A-B is going to happen anyway – regardless of the line of the footpath. The short replacement boardwalk in the wettest areas on the creation route will prevent damage to the wetland habitat.

10 Consultation responses

- 10.1 Comments from those responding to our consultation are summarised below:

Ian Brodie	<p>Proposed creation is a great idea. Used the permissive path, and it allowed us a choice of routes, especially circular ones, which we previously did not have. I welcome the suggestion.</p> <p>Hope that the proposed changes at Long Garth are on sustainable terrain.</p>
Ramblers	<p>I managed to get over to Long Garth yesterday. I must admit that the idea of walking the paths west of Ulpha always fills me with trepidation. I was therefore not disappointed with the path running past / through Long Garth (FP427041)</p> <p>It was fairly obvious to me that the path has been little used. The stone stiles were in very poor condition and there was virtually no sign of a "trod" even in the first field. As you remarked, I found the whole field immediately west of the new barn exceptionally wet and difficult to walk through. Even the original path had been obliterated and the gate at point C on your map was tied up, preventing access to the field beyond.</p>

	<p>Regarding the potential diversion plan. Despite new wicket gates and "raised path in places ", the path will still have to cross the very badly drained field. Given that the path seems to have little usage, I would have thought that it would need some more significant raising / drainage across the whole field in order to become usable.</p> <p>I was going to look for any other alternatives east of the farm, but an increase in the intensity of the hail drove me back to the car !! My conclusion on this was that your proposed diversion route is probably the best available. However, from a personal viewpoint, if I was to walk in that area again, I would almost certainly use the adjacent minor road, than plough along the footpath. Is this path worth retaining?</p> <p>Regarding the path from the area of Low Craghall to Frith Hall. I see this as a more widely used path linking with the popular right of way past Frith Hall and through Ulpha Park. Retention of this currently permissive path in the network also provides the option of a shorter circular walk from Millbrow, taking in Frith Hall.</p> <p>I would therefore support your proposal to create this path as a public footpath.</p>
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11 Finance Considerations

11.1 The diversion proposal is entirely in the landowner's benefit. And it is therefore appropriate that they meet the costs of this. However, the offer of the new footpath will bring about some public benefit, and our planners did not pick up on the incorrect locations plan for the barn within the planning application. I therefore consider that it is appropriate that we waive some of the costs of the package. The practical works on the diversion will be carried out entirely at the landowner's cost.

11.2 I propose that the costs of the diversion order are apportioned as follows:

			Cost	VAT at 20%	Total
Legal and Administration work	This includes all the Authority's legal and administrative costs in negotiating, making and confirming an order.		£1,360	£272	£1,632
ADVERTISING	Two adverts must be placed in the local press: <ul style="list-style-type: none"> When the order is made and; When it is confirmed. Costs vary depending on the length of advert necessary and the newspaper's scale of charges.	Two adverts at £ 140 each	Totalling £280	£56	£336
TOTAL COSTS			£1,640	£328	£1,968
This diversion application falls into category		3 - Where an order is predominantly in the interests of the landowner, but would result in some small public benefit, then up to 25% of the total cost may be waived.			
The percentage to be met by the LDNPA will be		40%			
Totalling		£640	£128	£768	
The percentage to be met by the applicant will be		60%			
Totalling		£1,000	£200	£1,200	

** As the landowner is carrying out the practical works on the diversion, they have not been included in the above table. However, it does actually mean that their contribution is greater than 60%. The contribution by LDNPA is staff time.

11.3 The marginal costs of the legal work required for the creation order are minimal, as the work will be subsumed into the diversion process. We will help with the practical works on the creation route – but this will mainly be in the form of a volunteer work party, and the use of some materials left over from another job.

12 Risk

12.1 There is a risk that the orders may be objected to. This risk has been mitigated as far as possible through consultation. If objections are received then we can reconsider the matter.

12.2 The landowner has agreed not to claim compensation for the creation.

12.3 As this proposal is within the Western Lakes, there could well be an objection from a persistent objector. However, it is difficult to not do orders in this area just because of this – and we will have to deal with this, at our cost, if the situation arises.

13 Legal Considerations

13.1 The order will be made under sections 26 and 119 of the Highways Act 1980 and we are able to make orders under these sections by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.

14 Human Resources

14.1 The work involved in this proposal is approximately 40 hours from members of the Park Management teams, and 1 hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and much of it has already been undertaken.

15 Diversity and Sustainability Implications

15.1 I have not identified any significant diversity, environmental, economic or social effects.

17 Summary

17.1 The proposals will benefit the landowner and the public. All of those who responded to the consultation are in agreement with the proposals.

17.2 I recommend that we make the necessary diversion and creation orders to bring this into effect.

Background Papers:	Case file reference 1412.472.04
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	31 August 2016
Version	Final

Authorised by: Mark Eccles , Head of Park Management Date.....

Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).
 - iv)

Lead Director	Steve Ratcliffe, Director of Sustainable Development
Subject of Decision	SECTION 33 ROAD TRAFFIC ACT CONSENT – GRIZEDALE STAGES RALLY NOVEMBER 2016
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.
Background	The Grizedale Stages Rally is an annual event run by the Furness & District Motor Club which has been running for nearly 30 years. A number of public paths are crossed or used by the event, and section 33 consent is required for this to happen.
Details of Decision	Consent is granted subject to the usual conditions.
Details of alternative options considered and rejected.	Not granting consent. This would be unreasonable – the event is well run, and no incidents have arisen during past events. The landowner (Forestry Commission) is happy to host the event, and the public paths will be marshalled.
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None
Author and contact details of report	Nick Thorne, Countryside Access Adviser
Background Papers	File Reference 1480.002
Date of Report (letter)	1 September 2016
Signature of authorising officer	Signed Mark Eccles, Head of Park Management
Date	1/9/2016

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Website: www.lakedistrict.gov.uk
Direct email: nick.thorne@lakedistrict.gov.uk
Direct dial: 01539 792621
Our ref: PM/NJT/1480.006
Your ref:
Date: 1 September 2016

Dear 

**Section 33 consent for Grizedale Stages Rally
Saturday 26 November 2016**

Thank you for supplying details of the proposed route of this year's rally. The following sections of public footpaths and bridleways will be used by vehicles:

Crossed by rally route		Section forms part of rally route	
Grizedale Forest		Grizedale Forest	
FP 512002 (joins)	FP 566038 (joins)	BW 512006	BW 566004
FP 512003 (joins)		BW 512066	BW 566007
FP 512005 (joins)		FP 529007	FP 566027
FP 512047		FP 529019	BW 566030
FP 512061 (joins)		BW 529039	BW 566031
BW 529005		FP 529041	BW 566033
FP 529006 (joins)		FP 566003	
FP 566005 (joins)		Broughton Moor	
BW 566006 (joins)		FP 520001	
FP 566026		BW 520044	
BW 566032		FP 520058	

We grant consent under Section 33 of the Road Traffic Act 1988 for these footpaths and bridleways to be used by vehicles taking part in the Grizedale Stages rally on 26 November 2016 subject to the conditions listed below.

You (the Rally organisers) shall:

1. Repair any damage to or reinstate the surface of the footpaths and bridleways or any walls, fences, stiles, bridges, gates or other wayside fixtures caused by the event. If this is not done immediately after notice has been given, we (the National Park Authority) shall have the right to carry out the work and charge the cost to you.
2. Indemnify us fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any death, injury or loss of or damage to property which is caused directly or indirectly by your act or omission in respect of the event.

3. Take all reasonable safety precautions to protect members of the public using or intending to use any affected footpath or bridleway irrespective of the formal closure of these routes to the public.
4. Remove litter deposited on any affected footpath or bridleway during the event.
5. Arrange for marshals, over 18 years of age, to be posted at each end of every right of way affected by the event and at the points at which it will be necessary for traffic to diverge from the right of way to warn people of the presence of motor vehicles. Marshals must be aware of radio locations for communication.
6. Ensure that all gates are closed at the end of the event.
7. Arrange for notice of any Traffic Regulation Order to be displayed in a prominent position at each end of the length of road to which the order relates and at the points at which it will be necessary for traffic to diverge from the right of way, stating the effect of the order and, where applicable, the alternative route or routes available for traffic. Each notice shall be displayed throughout the period during which the order is in force and you shall take all reasonable steps to ensure that the notices remain in a legible condition and continue to be so displayed for so long as the order remains in force or are promptly replaced as often as occasion requires during that period.

If you have any queries about this matter, please contact Nick Thorne, Countryside Access Adviser (nick.thorne@lakedistrict.gov.uk 01539 792621).

Yours sincerely

Mark Eccles
Head of Park Management

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	SECTION 33 ROAD TRAFFIC ACT 1988 CONSENT – LAKES TWO DAY TRIALS, OCTOBER 2016	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	The Lakes Two Day Trial is an off-road motorbike trial held in the Duddon and Bootle areas over a weekend every October. It has been running for many years. A number of public paths are crossed or used, and section 33 consent is required for this to happen.	
Details of Decision	Consent is granted subject to the usual conditions.	
Details of alternative options considered and rejected.	Not granting consent. This would be unreasonable – the event is generally well run, and popular. The landowners are happy to host the event, and the public paths will be marshalled.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	File Reference 1480.001	
Date of Report (letter)	5 October 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	5/10/2016	

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Direct email: nick.thorne@lakedistrict.gov.uk

Direct dial: 01539 792621
Our ref: PS/CS/ME/1480.001
Your ref:

Date: 5 October 2016

Dear 

Lakes Two Day Trial - 15-16 October 2016

Thank you for the details of this year's Lakes Two Day Trial, and your request for section 33 consent to run this motorcycle event on or across rights of way.

For the event planned for 15 & 16 October 2016, we grant consent under Section 33 of the Road Traffic Act 1988 for the sections of rights of way listed to be crossed or used by riders on motorcycles at slow speeds taking part in the trial subject to conditions set out overleaf. The main condition is, as ever, the need to get permissions from all the affected landowners – which I understand you have already done. As in previous years, all the relevant agreed points need to be marshalled.

Saturday 15 October 2016

FP 520010	Haveriggholme	Crossed by event	Marshall needed
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Sunday 16 October 2016

BW 430016	Little Fell	Crossed by event	Marshall indicated on map
BW430016	Butcher's Breast	Crossed by event	Marshall indicated on map
BOAT 402016	Copycow	Crossed by event	Marshall indicated on map
BW 402031	Low Kinmont	Event runs along for 350 metres	Additional marshall needed

Good luck with the event – and I hope it goes well.

Yours sincerely

Mark Eccles
Head of Park Management

Richard Leafe, Chief Executive



A member of the
Association of National Park Authorities
A member of the Federation of Nature and
National Parks of Europe

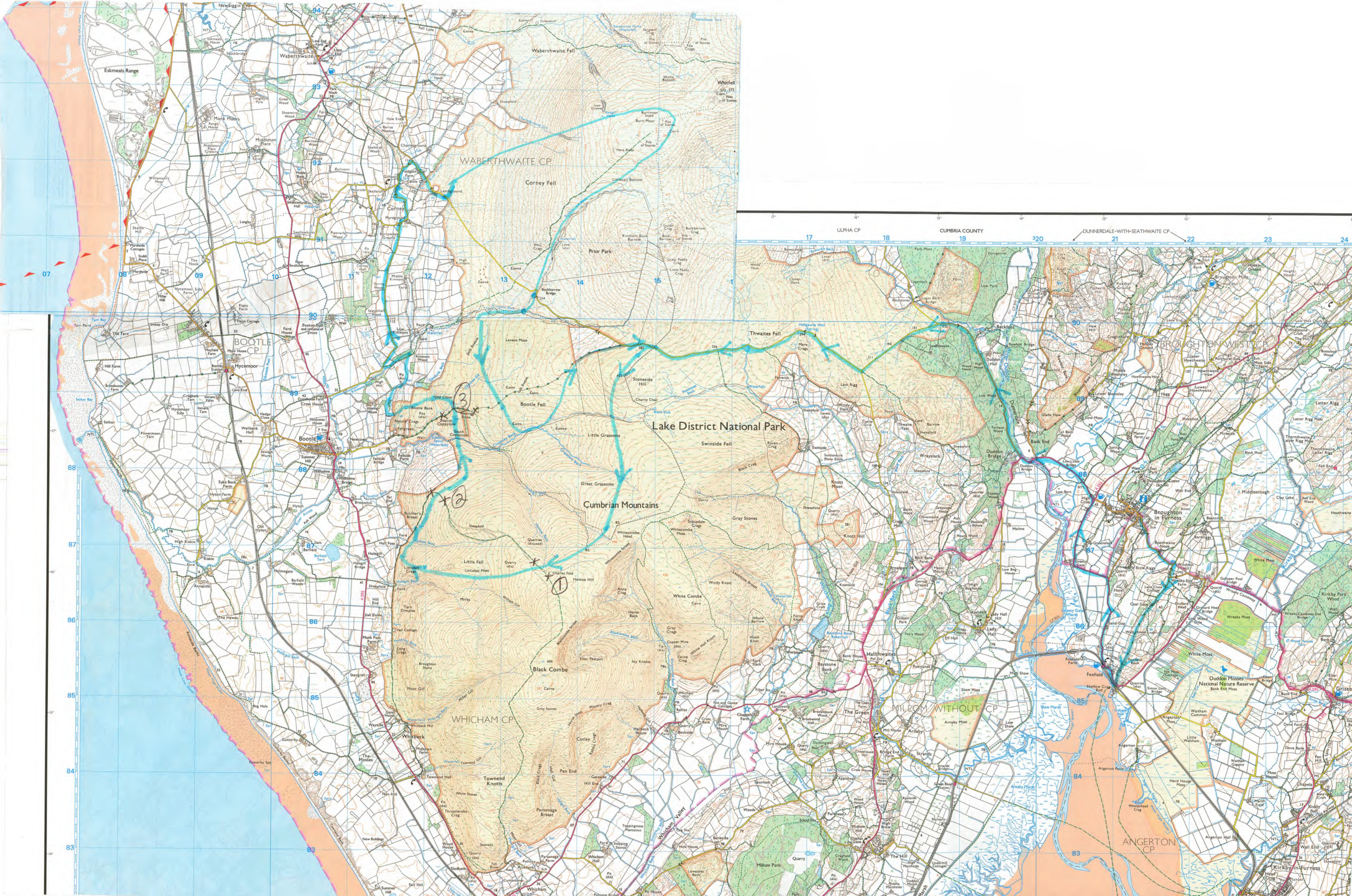
You (the event organisers) shall:

1. Repair any damage to the surface of the footpaths and bridleways or to any walls, fences, stiles, bridges, gates or other wayside fixtures caused by the event. If this is not done within a reasonable time after notice has been given, we (the National Park Authority) shall have the right to carry out the work and charge the cost to you.
2. Indemnify us against any legal liability in respect of any claim arising out of this authorisation and any expense to which we may be put in defending any claims.
3. Ensure that chicanes are in place to slow riders down on all footpaths and bridleways crossed or used by the trial. Riders are to stop if any users of rights of way are approaching crossing points.
4. Arrange for marshals to be posted on every footpath or bridleway affected by the event (at locations specified in table above) to warn people of the presence of motor cycles and to ensure that point 3 is complied with.
5. Arrange for warning signs to be posted at all points where rights of way are affected (these should say something like: 'Motorcycle Event Ahead' – and be dated; they must not say 'warning, exercise caution' or other such wording likely to deter users), and ensure that all such signs are removed from the site at the close of the event.
6. Not exceed 180 competitors.
7. Ensure that all motorcycles are silenced according to the British Standards for road use.
8. Liaise with Andrew Wilkinson, Field Ranger (07747 656057), to enable him to check the site before and after the event to ensure that the above conditions have been complied with.
9. Remove litter deposited on any affected footpath or bridleway during the event.
10. Ensure that all gates are closed at the end of the event.
11. Take photographs before and after the event and pass to the LDNPA so that any damage to the ground can be monitored.

Richard Leafe, Chief Executive



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Association of National Park Authorities
A member of the Federation of Nature and
National Parks of Europe



WABERTHWAITE CP

Lake District National Park

Cumbrian Mountains

WHICHAM CP

MILLOM WITHOUT CP

ANGERTON CP

ALPHA CP CUMBRIA COUNTY

DUNNERDALE-WITH-SEATHWAITE CP

Corney Fell

Prior Park

BOOTLE CP

BOOTLE

BROUGHTON WEST CP

Broughton in Furness

Black Combe

Haltwhites

Whitebeck

Strands

Townend Knots

The Hill

The Mosses

Little Wigham

Parsonage Brest

Dudman

New Bulger

Angerton Hall

Whicham

Quarry

Salt Hill

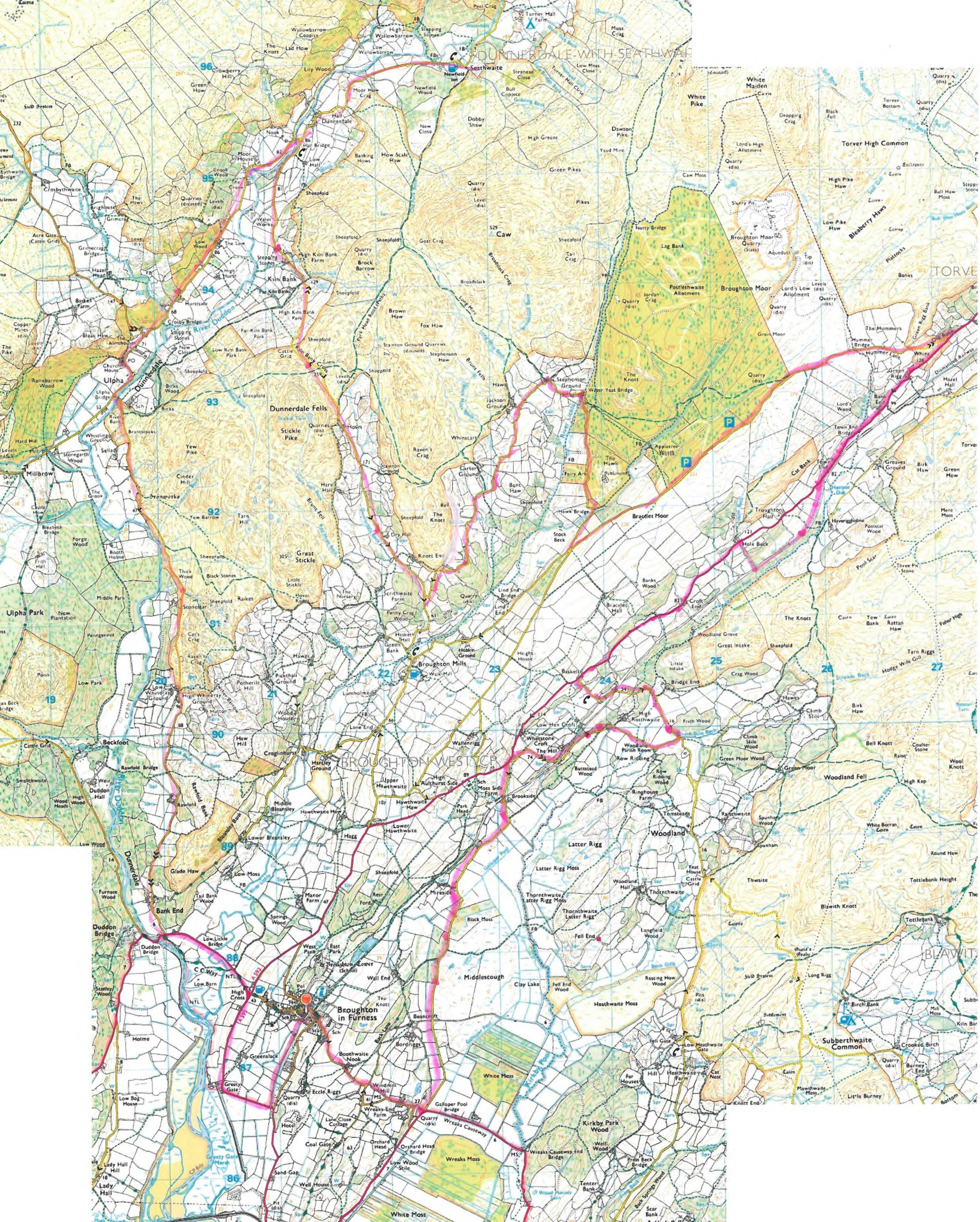
Kirkby-in-Furness

Parsonage Farm

Lowgate Barn

Summer Hill

Grizeby



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 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	SECTION 33 ROAD TRAFFIC ACT CONSENT – VINTAGE SPORTS CLUB LAKELAND TRIAL, 2016	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	The Lakeland Trial run by the Vintage Sports Car Club takes place every year in the Wythop and Whinlatter areas. It is a challenge event involving older cars and hill trials. It has been running for many years. A number of public paths are crossed or used, and section 33 consent is required for this to happen.	
Details of Decision	Consent is granted subject to the usual conditions.	
Details of alternative options considered and rejected.	Not granting consent. This would be unreasonable – the event is well run, successful, popular, and no incidents have arisen during past events. The landowners are happy to host the event, and the public paths will be marshalled. Most of the public paths are merely being used for access, and extra conditions have been applied to the sections actually being used for the hill climbs.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	File Reference 1480.013	
Date of Report (letter)	5 October 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	5/10/2016	

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Direct dial: 01539 792621
Our ref: PS/NJT/1480.002
Your ref:

Date: 5 October 2016

Dear 

**Vintage Sports Car Club – Lakeland Trial, 5 November 2016
Section 33 Highways Act 1980 Consent.**

Thank you for contacting us about this year's event. I note that the following public paths are affected:

- FP 242017, Darling How, Lorton, Whinlatter (used for access only);
- FP 264002, Peel Wyke (used for access only);
- FP 264009/201004, Kings Wood (used/crossed for access only);
- BW 264003, Wythop Woods – (used/crossed for access only);
- BW 220003, Honister (Drumhouse) – used as part of the event (section 1).

For the event planned for 5 November 2016, the National Park Authority grants consent under Section 33 of the Road Traffic Act 1988 for these sections of footpath and bridleway to be used by vehicles taking part in the Vintage Sports Car Club Trial subject to the conditions overleaf.

In addition to the general conditions overleaf – the consent is granted based on the following specific information provided in respect of the Drumhouse and Wythop sections.

- The speed of the cars on the hill climbs is likely to be no more than 20mph;
- Cars will be dispersed throughout the day (9am – 4pm);
- There will be around 22 marshalls on the 600 metres of the Drumhouse event route, and 10 marshalls on the 300 metre long Wythop section. These marshalls will spot and inform any walkers approaching the route from the open access land, and any walkers, cyclists or horse-riders on the bridleways itself.
- Marshalls will only allow a car to begin the hill climb if the bridleway is clear.
- Public using the bridleways will be informed of the event by the marshalls. If the public wish to continue along the bridleways, cars will not be allowed to start the climb. Alternatively, it is acceptable for the public to be asked (not demanded) to wait for the car to complete the climb before continuing. The Wythop route in particular is used by cyclists.

Yours sincerely

Mark Eccles
Head of Park Management

Richard Leafe, Chief Executive

Conditions of Authorisation

You (the Rally organisers) shall:

1. Repair any damage to the surface of the footpaths and bridleways or to any walls, fences, stiles, bridges, gates or other wayside fixtures caused by the event. If this is not done within a reasonable time after notice has been given, we (the National Park Authority) shall have the right to carry out the work and charge the cost to you.
2. Indemnify us against any legal liability in respect of any claim arising out of this authorisation and any expense to which we may be put in defending any claims.
3. Arrange for marshals to be posted on the rights of way, and on any points where access routes cross rights of way, to warn people of the presence of motor vehicles and stop the competitive sections if necessary.
4. Arrange for warning signs to be posted at all points where rights of way enter the woodland site (eg: 'Danger – Motor Vehicle Event Ahead' - dated), and ensure that all such signs are removed from the site at the close of the event.
5. Limit the number of entrants to 100 vehicles
6. Remove litter deposited on any affected footpath or bridleway during the event.

Richard Leafe, Chief Executive



A member of the
Association of National Park Authorities
A member of the Federation of Nature and
National Parks of Europe

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	TEMPORARY TRAFFIC REGULATION NOTICE FOR FOOTPATH 543024, MEGS GILL, CHAPEL STILE, LAKES: LANGDALE PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and Planning Acts.	
Background	The bridge across Megs Gill on footpath 543024, Chapel Stile was recently repaired after suffering flood damage in Storm Desmond. However, cattle have recently escaped onto the path and have overloaded the bridge causing part of one of the abutments to begin to fail.	
Details of Decision	That we issue a Temporary Traffic Regulation Notice for Footpath 543024, as shown on the plan attached to the report period for a period of up to 5 days	
Details of alternative options considered and rejected.	<ul style="list-style-type: none"> • Make the notice • Do not make the notice 	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest		None
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1410.003 (172)	
Date of Report	24 October 2016	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	24/10/2016	

TEMPORARY TRAFFIC REGULATION NOTICE FOR FOOTPATH 543024, MEGS GILL, CHAPEL STILE, LAKES: LANGDALE PARISH

1 Summary

- 1.1 This report recommends the temporary prohibition of traffic over a section of footpath because of the danger to the public resulting from bridge damage.

Recommendation that: we issue a Temporary Traffic Regulation Notice for footpath 543024, as shown on the attached plan.

2 Details of Request

- 2.1 The bridge across Megs Gill on footpath 543024, Chapel Stile was recently repaired after suffering flood damage in Storm Desmond. However, cattle have recently escaped onto the path and have overloaded the bridge causing part of one of the abutments to begin to fail (see photo below).
- 2.2 Although generally safe for immediate use, our Field Rangers have concluded that the only way of repairing the abutments is to remove the stone slab surface to gain access in a safe fashion. And that this needs doing as soon as possible. The bridge crossing is very narrow, and so whilst these works are being carried out there is no safe passage for walkers.
- 2.3 We therefore consider that the footpath should be closed to enable the work to be carried out in as safe a fashion as possible, as quickly as possible. It is likely that the work will be carried out between Tuesday 25 October 2016, and Thursday 27 October 2016 (three days).



Photo of abutment showing slipped stone(s)

3 Policy Context

- 3.1 A key outcome of the Vision for the Lake District National Park 2006 – 2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. Our Partnership's Plan is the Management Plan for the Lake District National Park which contains our policies for achieving the aims and desired outcomes for the Vision.
- 3.2 There is no specific action or policy relating to temporary closures, but they are a fundamental part of managing the rights of way network and ensuring efficient serviced delivery by the Cumbria Countryside Access Partnership.

4 Options

- 4.1 The options are to:
- a) Make the notice
 - b) Not make the notice

5 Proposal

- 5.1 I recommend option 4.1a for the reasons outlined in sections 2 and 8.

6 Best Value Implications

- 6.1 The Best Value implications are:
- a) The **challenge** is for us to effectively manage the network and inform the public of relevant issues.
 - b) Processing temporary traffic regulation orders is not a **competitive** procedure. Cumbria County Council can also process temporary closure orders, but we are the best placed organisation to make this order.
 - c) We have carried out the required **consultations**.
 - d) We have **compared** our processing of temporary closures to other similar organisations. We have no specific targets relating to them, but aim to process all requests in a timely fashion, without significant financial or staff implications.

7 Finance Considerations

- 7.1 The costs of a temporary closure notice are approximately £135 + VAT which cover staff-time, stationery and postage.

8 Risk

- 8.1 The major risk associated with this is if we do not make this notice. The closure notice will safeguard the potential users of the footpath.

9 Legal considerations

- 9.1 There relevant ground for restricting or prohibiting traffic on this path is within section 14(1) or 2) of the Road Traffic Regulation Act 1984; namely because of the likelihood of danger to the public and for the carrying out of works. Such a notice can last for 5 days.

9.2 The Head of Park Management has delegated powers to authorise the issue of Notices and making of Orders for the temporary closure of paths under the provisions of Section 14 of the Road Traffic Regulation Act 1984, and under our Agency Agreement with Cumbria County Council.

10 Human resources

10.1 The work involved in this proposal is approximately one hour from a member of the Park Management team, 30 minutes from the GIS technician, and 15 minutes from our Legal team. We hope to erect the necessary signs when passing to another site – and will not need to cross the affected field to do so. The work involved is part of our day-to-day duties, and most of it has already been undertaken.

11 Sustainability

11.1 I have not identified any significant environmental, economic or social effects that will affect sustainability.

Authorised by: Mark Eccles, Head of Park Management Date.....
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Background Papers	Case file 1410.003(172)
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	24 October 2016
Version	FINAL

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	PROPOSED TEMPORARY TRAFFIC REGULATION ORDER FOR FOOTPATHS AND BRIDLEWAYS IN GRIZEDALE AND WHINLATTER FORESTS, BROUGHTON MOOR AND WYTHOP WOODS AND FOR MOTOR SPORT EVENTS	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	The Grizedale Stages Rally and Malcolm Wilson Rally are major motor rallies which run annually the Lake District. The organisers of the rallies, have requested that we close rights of way in the vicinity to protect the public from danger during the events.	
Details of Decision	That we make a Temporary Traffic Regulation Order for the areas affected by the Grizedale Stages and Malcolm Wilson Rallies in the areas of Grizedale Forest, Broughton Moor, Wythop Woods, and Whinlatter Forest, to be in force for six months, but only to be operative on the two rally dates as specified in the report at 2.1.	
Details of alternative options considered and rejected.	To allow the events to take place without a closure order in place.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest		None
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file: 1410.003 (171)	
Date of Report	6 October 2016	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date		

PROPOSED TEMPORARY TRAFFIC REGULATION ORDER FOR FOOTPATHS AND BRIDLEWAYS IN GRIZEDALE AND WHINLATTER FORESTS, BROUGHTON MOOR AND WYTHOP WOODS - MOTOR SPORT EVENTS

1 Summary

- 1.1 This report recommends the temporary prohibition of traffic over footpaths and bridleways to protect the public from danger whilst motor sport events take place.

Recommendation that: we make a Temporary Traffic Regulation Order for the areas affected by the Grizedale Stages and Malcolm Wilson Rallies in the areas of Grizedale Forest, Broughton Moor, Wythop Woods and Whinlatter Forest – to be in force for six months, but only to be operative on the two rally dates as specified in the report at 2.1.

2 Details of request

- 2.1 Two major motor rallies run in the Lake District; the Grizedale Stages Rally and the Malcolm Wilson Rally annually:
- Grizedale Stages runs through Grizedale Forest and Broughton Moor, and will take place this year on **Saturday 26 November 2016**;
 - Malcolm Wilson Rally also runs through Grizedale Forest, as well as Wythop Woods and Whinlatter Forest. The next rally is on **Saturday 11 March 2017**.
- 2.2 The Forestry Commission and motor rally organisers request that all the public rights of way in Grizedale and Whinlatter Forests, Broughton Moor and Wythop Woods (as shown on the attached maps) are closed to protect the public from danger whilst the events are underway. We have worked with the organisers and landowners for many years and have closed the footpaths and bridleways throughout the forests, as requested.
- 2.3 To mitigate against any potential negative impact in Grizedale Forest one side of the forest will remain open for use. The closure will be clearly signed and the Forestry Commission will put information on their website to emphasise that the rally is being held at the weekend.
- 2.4 The Forestry Commission have consulted the local parish councils about the use of the Forest on a weekend and they have no objections.
- 2.5 To ensure that we carry out the necessary closure work within the legal requirements and as efficiently as possible, we have agreed to make one order covering both rallies. This will save time and costs for both us and the organisers.
- 2.6 The order will be written so that it is clear the paths are only closed during events and when the site notices are in place. The paths will be open and unaffected at all other times. A list of paths affected is at Annex 1 of this report.

- 2.7 There are no possible alternative routes for the public to use when the rallies are taking place. However, we will publicise the order through letters to local bodies, such as parish councils, Ramblers, horse societies, tourist information centres, youth hostel association, outdoor education centres, and so on, as well as press releases in the local newspapers. The order will also be displayed on our website.

3 Policy Context

- 3.1 The Vision for the Lake District National Park sets out our aspirations for what we hope to achieve by 2030. To summarise, these are to have a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. A landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.
- 3.2 The Partnership's Plan contains the policies and actions for achieving the aims of the Vision. The main delivery aim in the Partnership's Plan for access and rights of way is to make the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating.
- 3.3 Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. It seeks an outcome that provides high-quality and unique experiences for visitors within a stunning and globally significant landscape: experiences that compete with the best in the international market to strengthen the tourism sectors across the National Park.
- 3.4 The Park Management Service Plan contains the Business Plan priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy.
- 3.5 There is no specific action or policy relating to temporary closures, but they are a fundamental part of managing the rights of way network and ensuring efficient serviced delivery by the Cumbria Countryside Access Partnership.

4 Options

- 4.1 The options are:
- a) to make an order to close the affected public rights of way.
 - b) to allow events to take place without a closure order in place.

5 Proposal

- 5.1 I recommend option 4.1a for the reasons outlined in sections 2 and 8, which in summary are:
- to protect the public against danger from fast moving vehicles; and
 - to safeguard the event organisers against an injury claim.

6 Best Value Implications

- 6.1 The best value implications are as follows:
- a) The **challenge** is for us to effectively manage the network and inform the public of relevant issues.
 - b) Processing temporary traffic regulation orders is not a **competitive** procedure. Cumbria County Council can also process temporary closure orders, but we are the best placed organisation to make this order.
 - c) We have carried out the required **consultations**.
 - d) We have **compared** our processing of temporary closures to other similar organisations. We have no specific targets relating to them, but aim to process all requests in a timely fashion, without significant financial or staff implications.

7 Finance Considerations

- 7.1 The costs of this temporary closure order are £1,924 with VAT which includes:
- Staff-time (administration), stationery, postage and so on;
 - Advertising costs: three advertisements – in two newspapers to cover all areas (notice of intention; order; reminder for March closure);
 - Staff time – Ranger time and travel to check site closure notices on the morning of the rally (1½ days total).
- 7.2 The two event organisers will meet the costs of these orders between them, which will amount to about £962 each.

8 Risk

- 8.1 The major risk associated with this is if a closure order was not made. The order will safeguard the event organisers and landowners against claims from users if they were hurt using these paths during the events. It will also safeguard the public against potential incidents with fast-moving vehicles.
- 8.2 If any such claims were submitted we may be held to be partly responsible for being aware of the danger to users and not taking the necessary action to protect them. Having responsibility for the rights of way network in the National Park, we could not justifiably allow these events to run without a closure order in place, given the vehicle speeds.

9 Legal considerations

- 9.1 We have delegated powers to temporarily restrict or prohibit the use of footpaths and bridleways under section 14 of The Road Traffic Regulation Act 1984 in our Agency Agreement with Cumbria County Council. We also have the ability to make closure orders in our own right under section 72 of the Natural Environment and Rural Communities Act 2006.
- 9.2 Traffic can be restricted or prohibited for a number of reasons, including danger to the public (section 14(1)(b) Road Traffic Regulation Act 1984).
- 9.3 The Head of Park Management has delegated powers to authorise the issue of Notices and the making of Orders for the temporary closure of paths under the provisions of Section 14 of the Road Traffic Regulation Act 1984.

10 Human resources

10.1 The work involved in this proposal is approximately 39 hours from members of the Park Management Teams, and less than one hour from the Solicitor. The work involved is part of our day-to-day duties.

11 Sustainability

11.1 I have not identified any significant economic or social effects that will affect sustainability. There is an issue regarding environmental sustainability. Although not directly related to the order making process, any damage to the rights of way caused by the events is to be made good by the organisers and the Forestry Commission.

12 Consultation responses

12.1 Matt Hodges on behalf of CTC responded to the effect that motor events of this nature should not be held in the National Park, which is an environmentally sensitive area. Our response is that the damage to the paths is minimal, the event short-lived and well-established – and they provide a significant boost to the local economy

Authorised by: Mark Eccles, Head of Park Management Date.....
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Author: Nick Thorne, Countryside Access Adviser
Date Written: 6 October 2016
Version: Final

Route Descriptions

All the public footpaths and bridleways in the affected areas will be included in the order.

They are shown on the relevant maps and are listed below.

Grizedale Stages & Malcolm Wilson Rallies

Parish	Right of Way		From (SD)	To (SD)
Colton	BW	511084	309 925	315 928
Colton	BW	511055	306 924	310 937
Colton	BW	511085	314 923	312 925
Coniston	FP	512002	318 970	324 971
Coniston	BW	512003	317 953	320 947
Coniston	FP	512004	312 949	317 951
Coniston	BW	512005	323 951	318 950
Coniston	BW	512006	318 944	323 951
Coniston	FP	512047	324 956	329 971
Coniston	FP	512061	329 976	327 984
Coniston	BW	512066	318 970	325 955
Hawkshead	BW	529005	338 963	342 964
Hawkshead	FP	529006	342 975	339 966
Hawkshead	FP	529007	336 965	337 968
Hawkshead	FP	529019	339 973	339 986
Hawkshead	BW	529039	341 965	344 978
Hawkshead	FP	529041	329 971	330 976
Satterthwaite	FP	566001	307 946	312 949
Satterthwaite	BW	566002	310 937	318 944
Satterthwaite	FP	566003	319 933	318 943
Satterthwaite	BW	566004	323 951	337 963
Satterthwaite	FP	566005	335 963	336 965
Satterthwaite	BW	566006	337 924	330 927
Satterthwaite	BW	566007	328 923	333 942
Satterthwaite	FP	566026	322 909	334 920
Satterthwaite	FP	566027	326 906	328 923
Satterthwaite	BW	566030	325 955	330 942
Satterthwaite	BW	566031	335 943	315 928
Satterthwaite	BW	566032	314 923	336 919
Satterthwaite	BW	566033	323 923	317 930
Satterthwaite	FP	566038	334 963	336 955

Grizedale Stages Rally only

Parish	Right of Way		From (SD)	To (SD)
Broughton West	FP	520001	239 928	244 925
Broughton West	BW	520044	239 928	257 931
Broughton West	FP	520058	248 929	244 925

Malcolm Wilson Rally only

Parish	Right of Way		From (NY)	To (NY)
Above Derwent	FP	201004	211 280	217 276
Above Derwent	BW	201006	212 047	217 250
Above Derwent	BW	201065	213 284	215 282
Lorton	FP	242017	181 256	189 262
Lorton	FP	242024	181 254	181 256
Wythop	FP	264002	204 305	204 305
Wythop	BW	264003	207 290	213 284
Wythop	FP	264005	199 306	202 305
Wythop	FP	264009	207 281	212 280
Wythop	FP	264012	204 305	202 306

Correspondence with CTC

From: Nick Thorne
Sent: Tuesday, September 13, 2016 10:13 AM
To: 'Matt Hodges'
Subject: RE: Proposed Path Closures - Grizedale Stages and Malcolm Wilson Rallies

Hi Matt

Thanks as ever for your comments.

Personally, I am not a great fan of motor sports such as the rallies – but we do accept that these events give an additional level of enjoyment for the wider public who are supporters of them. They bring in quite a lot of people, who might otherwise not get to the Lake District, and many of the competitors and spectators stay either before or after the event – thereby assisting the local economy.

I appreciate that the usage of vehicles can damage the environment in regards to air quality and noise – but the usage of the forest roads has not, over the many years these events have been taking place, resulted in any long-term physical damage. With regards to noise, the fairly small geographical area used by the events does limit this to some degree – as does the dense tree cover. You'll be interested to know that over the years we have been asked to consider an expansion of the event area (and time), but have resisted.

It's probably also worth pointing out that we don't actually get many complaints from the public about these events, or about the impact on the rights of way network. Indeed, the most common complaint I receive here tends to be about the impact of mountain bikes – both physically on the path, and on walkers' enjoyment of the countryside! It is all a balancing act, and in general, two days of motor sports events fit into this balance.

All the best.

Nick Thorne
Countryside Access Adviser
Lake District National Park Authority
01539 792621
www.lakedistrict.gov.uk
(My normal days are Monday-Thursday)

From: Matt Hodges [<mailto:>]
Sent: Thursday, September 8, 2016 9:54 PM
To: Nick Thorne
Subject: Re: Proposed Path Closures - Grizedale Stages and Malcolm Wilson Rallies

Hi Nick

As I have said before I consider it highly inappropriate to entertain such environmentally destructive events in a national park.

It is high time Motor Sport was confined to the history books along with Bull baiting and Cock fighting. While it is still a legal anachronism it certainly should not be encouraged in an environmentally sensitive area like a National Park.

Regards

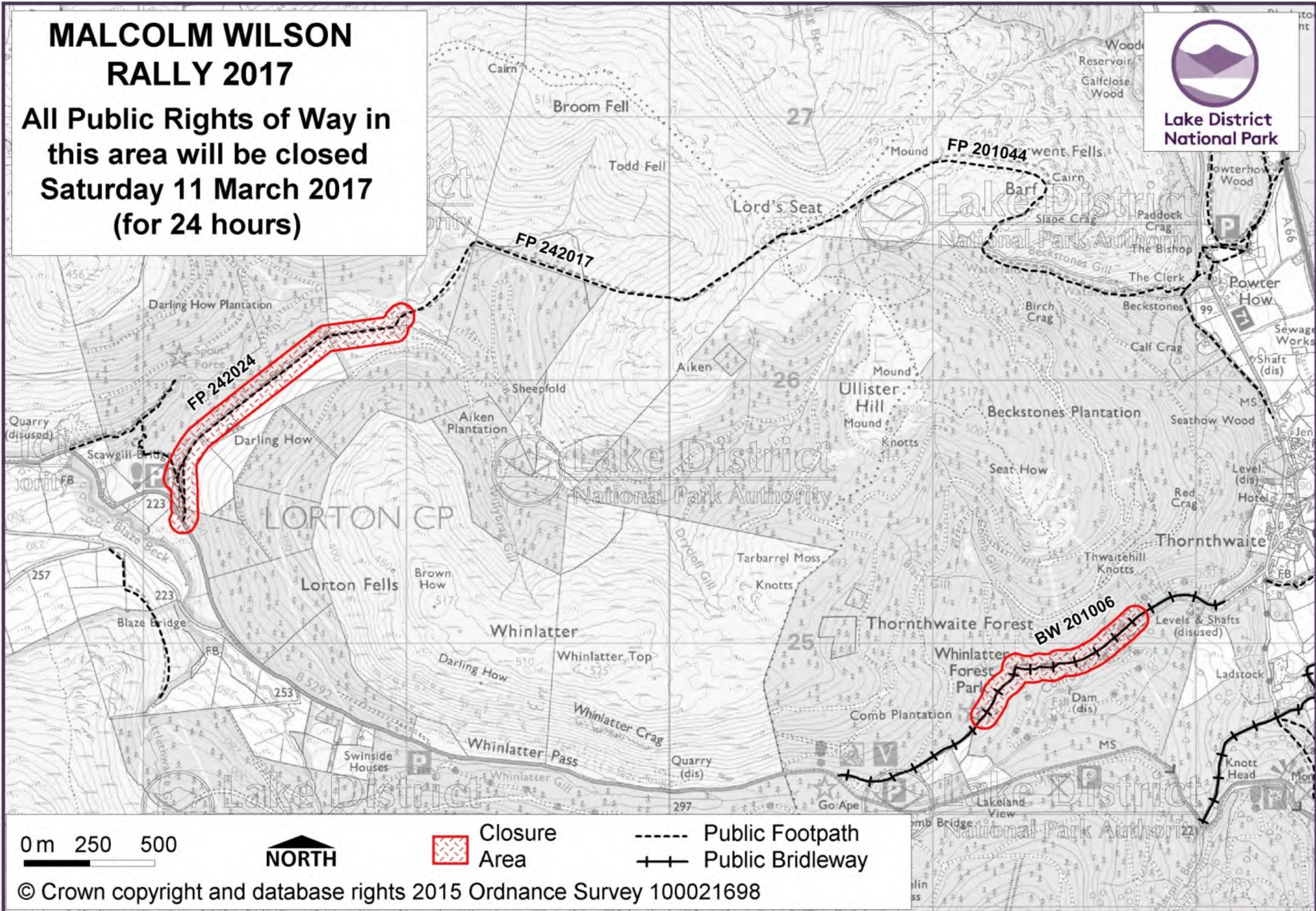
[Redacted signature]

MALCOLM WILSON RALLY 2017

All Public Rights of Way in this area will be closed Saturday 11 March 2017 (for 24 hours)



Lake District National Park Authority



The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	TEMPORARY TRAFFIC REGULATION NOTICE FOR FOOTPATH 249054, RAVEN CRAG, ST JOHN'S CASTLERIGG & WYTHBURN PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and Planning Acts.	
Background	United Utilities (UU) are currently carrying out large scale harvesting work around Thirlmere – mainly to remove mature larch following the identification of Phytophthora ramorum. Much of the work has been carried out without impacting on public access. However, one area is only reachable through skylining, and the structures will be across public footpath 249054. UU has therefore requested a temporary closure of the footpath to protect the public's safety during works. The work will take a maximum of five days, and UU intend to carry this out during the week Monday 21 November 2016 to Friday 25 November 2016.	
Details of Decision	That we issue a Temporary Traffic Regulation Notice for the whole of footpath 249054, as shown on the plan attached to the report.	
Details of alternative options considered and rejected.	<ul style="list-style-type: none"> • Make the Notice • Do not make the Notice 	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest		None
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1410.003 (174)	
Date of Report	14 November 2016	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	14/11/2016	

TEMPORARY TRAFFIC REGULATION NOTICE FOR FOOTPATH 249054, RAVEN CRAG, ST JOHN'S CASTLERIGG & WYTHBURN PARISH

1 Summary

- 1.1 This report recommends the temporary prohibition of traffic over a section of footpath because of the danger to the public resulting from tree felling and associated timber extraction operations.

<p>Recommendation that: <i>we issue a Temporary Traffic Regulation Notice for the whole of footpath 249054, as shown on the attached plan.</i></p>

2 Details of Request

- 2.1 United Utilities (UU) are currently carrying out large scale harvesting work around Thirlmere – mainly to remove mature larch following the identification of *Phytophthora ramorum*. Much of the work has been carried out without impacting on public access. However, one area is only reachable through skylining, and the structures will be across public footpath 249054 as shown on attached map.
- 2.2 UU has therefore requested a temporary closure of the footpath to protect the public's safety. They are confident that the work in the footpath area will take a maximum of five days, and intend to carry this out during the week Monday 21 November 2016 to Friday 25 November 2016.
- 2.3 I therefore consider that the footpath should be closed to enable the work to be carried out in as safe a fashion as possible, as quickly as possible.

3 Policy Context

- 3.1 A key outcome of the Vision for the Lake District National Park 2006 – 2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. Our Partnership's Plan is the Management Plan for the Lake District National Park which contains our policies for achieving the aims and desired outcomes for the Vision.
- 3.2 There is no specific action or policy relating to temporary closures, but they are a fundamental part of managing the rights of way network and ensuring efficient serviced delivery by the Cumbria Countryside Access Partnership.

4 Options

- 4.1 The options are to:
- a) Make the notice
 - b) Not make the notice

5 Proposal

- 5.1 I recommend option 4.1a for the reasons outlined in sections 2 and 8.

6 Best Value Implications

- 6.1 The Best Value implications are:
- a) The **challenge** is for us to effectively manage the network and inform the public of relevant issues.
 - b) Processing temporary traffic regulation notices is not a **competitive** procedure. Cumbria County Council can also process temporary closure orders, but we are the best placed organisation to make this notice.
 - c) We have not carried out any **consultations**, none are required for a notice, which is a short term restriction applied at short notice – rendering consultation ineffective and near enough impossible.
 - d) We have **compared** our processing of temporary closures to other similar organisations. We have no specific targets relating to them, but aim to process all requests in a timely fashion, without significant financial or staff implications.

7 Finance Considerations

- 7.1 The cost of a temporary closure notice are approximately £135 + VAT which cover staff-time, stationery and postage. This will be met by UU.

8 Risk

- 8.1 The major risk associated with this is if we do not make this notice. The closure notice will safeguard the potential users of the footpath.

9 Legal considerations

- 9.1 The relevant ground for restricting or prohibiting traffic on this path is within section 14(1)(a) of the Road Traffic Regulation Act 1984; namely because of the likelihood of danger to the public because of the carrying out of works on or near the path. Notices are issued under section 14(2) of the same Act. Such a notice can last for 5 days.
- 9.2 The Head of Park Management has delegated powers to authorise the issue of Notices and making of Orders for the temporary closure of paths under the provisions of Section 14 of the Road Traffic Regulation Act 1984, and under our Agency Agreement with Cumbria County Council.

10 Human resources

- 10.1 The work involved in this proposal is approximately three hours from a member of the Park Management team, 30 minutes from the GIS technician, and 15 minutes from our Legal team. UU will themselves erect the necessary signs. The work involved is part of our day-to-day duties, and most of it has already been undertaken.

11 Sustainability

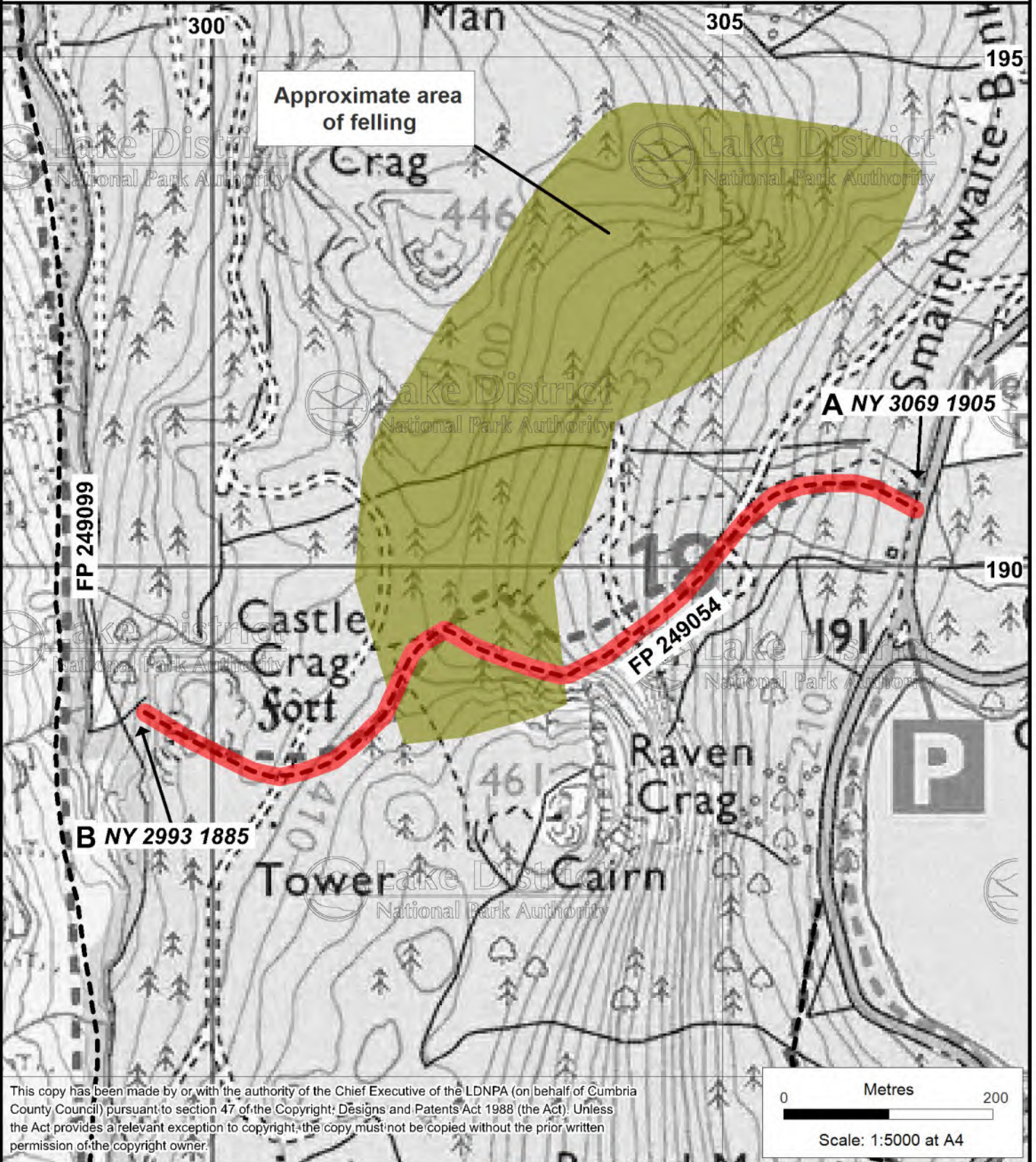
- 11.1 I have not identified any significant environmental, economic or social effects that will affect sustainability.

Authorised by: Mark Eccles, Head of Park Management Date.....
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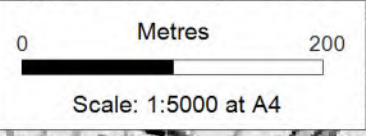
Background Papers	Case file 1410.003(174)
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	14 November 2016
Version	FINAL

TEMPORARY TRAFFIC REGULATION NOTICE TEMPORARY CLOSURE OF FOOTPATH 249054, RAVEN CRAG, ST JOHNS CASTLERIGG & WYTHBURN PARISH

ROAD TRAFFIC REGULATIONS ACT 1984 SECTION 14 (2)



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Path closed
Other Public Rights of Way

NGR for centre of map
NY 3033 1881

Authorised signatory:

Date:

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	TEMPORARY TRAFFIC REGULATION ORDER FOR BRIDLEWAY 581031, SOUTH OF GLEBE ROAD, WINDERMERE PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and Planning Acts.	
Background	United Utilities (UU) are carrying out large scale sewer pipeline construction works in and around Windermere. One section of the pipeline will go from Glebe Road, across the Rectory Farm fields, and then across the bridleway that runs between Glebe Road and Ferry Nab. UU have applied to close the path between Glebe Road and the junction of paths just above Ferry Nab car park for around two weeks in January 2017. They will be taking out a section of the fencing alongside the path, and removing the surface. Once the pipeline is buried, they will be replacing both so that the current condition is restored.	
Details of Decision	That we make a Temporary Traffic Regulation Order for a period of six months for the section of bridleway 581031, shown as CD on the plan attached to the report.	
Details of alternative options considered and rejected.	Not to make the order	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1410.003 (173)	
Date of Report	14 November 2016	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	14/11/2016	

TEMPORARY TRAFFIC REGULATION ORDER FOR BRIDLEWAY 581031, SOUTH OF GLEBE ROAD, WINDERMERE PARISH

1 Summary

- 1.1 This report recommends the temporary prohibition of traffic over most of bridleway 581031 because of the likelihood of danger to the public from sewer pipeline construction works across and close to the path.

<p><i>Recommendation that: a we make a Temporary Traffic Regulation Order for the section of bridleway 581031, shown as C-D on the attached plan.</i></p>
--

2 Details of request

- 2.1 United Utilities are carrying out large scale sewer pipeline construction works in and around Windermere. One section of the pipeline will go from Glebe Road, across the Rectory Farm fields, and then across the bridleway that runs between Glebe Road and Ferry Nab.
- 2.2 Unfortunately because of the method of construction, United Utilities are unable to carry out these works without disrupting use of the bridleway. They have applied to close the path between Glebe Road and the junction of paths just above Ferry Nab car park for around two weeks in January 2017. They are not sure of the precise dates of the required closure, as it very much depends upon the weather and how operations proceed.
- 2.3 They will be taking out a section of the fencing alongside the path, and removing the surface. Once the pipeline is buried, they will be replacing both so that the current condition is restored.
- 2.4 The National Trust has kindly offered to allow cycles for a temporary period along the lakeshore footpath – as shown on the attached map. This will mean that cyclists heading south will need to follow Glebe Road from the promenade, whereas north bound cyclists will need to go back along Glebe Road to get to Rectory Road. All this is shown on the attached map. Pedestrians can use the short stretch of Glebe Road shown with yellow dashes.
- 2.5 Unfortunately, there is no suitable alternative for horses.
- 2.6 The proposed order would be in force for six months – but as mentioned above, the actual physical closure is only planned for a couple of weeks. Appropriate signage will be erected on site to advise the public at the time.

3 Policy Context

- 3.1 A key focus of the Vision for the Lake District National Park 2006–2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. It is a landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.

3.2 There is no specific action or policy relating to temporary closures, but they are a fundamental part of managing the rights of way network and ensuring efficient serviced delivery by the Cumbria Countryside Access Partnership.

4 Options

4.1 The options are to:
a) Make the order
b) Not make the order

5 Proposal

5.1 I recommend option 4.1a for the reasons outlined in sections 2 and 8.

6 Best Value Implications

6.1 The Best Value implications are:

- The **challenge** is for us to effectively manage the network and inform the public of relevant issues.
- Processing temporary traffic regulation orders is not a **competitive** procedure. Cumbria County Council can also process temporary closure orders, but we are the best placed organisation to make this order.
- We have carried out the required **consultations**.
- We have **compared** our processing of temporary closures to other similar organisations. We have no specific targets relating to them, but aim to process all requests in a timely fashion, without significant financial or staff implications.

7 Finance Considerations

7.1 The costs of a temporary closure order are approximately £825+VAT including:

- Staff-time, stationery and postage: approximately £265.
- Advertising costs: two advertisements costing approximately £280 each.

7.2 There are no financial implications for us as United Utilities will meet all the costs. they will also erect the signs on site – as they will need to be done whilst our staff are on the Christmas / New Year break.

8 Risk

8.1 The major risk here is if we do not make this order. The closure will safeguard the landowners against claims from users if they were hurt using this path during the works. If any such claims were submitted we may be held partly responsible for being aware of the danger to users and not taking the necessary action to protect them.

9 Legal Considerations

9.1 As a National Park Authority, we have the power to temporarily restrict or prohibit the use of highways under section 72 of the Natural Environment and Rural Communities Act 2006. This gives National Park Authorities the power to make orders under section 14(1) of the Road Traffic Regulation Act 1984, following the National Park Authorities' Traffic Orders (Procedure)(England) Regulations 2007.

- 9.2 We also have delegated power to temporarily restrict or prohibit the use of highways under section 14 of The Road Traffic Regulation Act 1984 in our agency agreement with Cumbria County Council.
- 9.3 Traffic can be restricted or prohibited for a number of reasons, one of which is because works are being or are proposed to be executed on or near the road (section 14(1)(a)).
- 9.4 The Head of Park Management has delegated powers to authorise the issue of Notices and making of Orders for the temporary closure of paths under the provisions of Section 14 of the Road Traffic Regulation Act 1984.

10 Human Resources

- 10.1 The work involved in this proposal is approximately 19 hours from members of the Park Management teams, half an hour from the GIS technician and half an hour from a member of Legal Services. The work involved is part of our day-to-day duties, and over half of it has already been undertaken.

11 Sustainability

- 11.1 I have not identified any significant environmental, economic or social aspects that will affect sustainability.

12 Consultation Responses

- 12.1 Comments from those responding to our consultation are summarised below:

Windermere Town Council	No objection – request that the diversion is clearly signed (<i>it will be</i>).
IMBA (International Mountain Biking Association)	No objection.

- 12.2 No responses were received from our other consultees.
- 12.3 We have also informed Electric Mountain, as the main bike hiring company in the area.

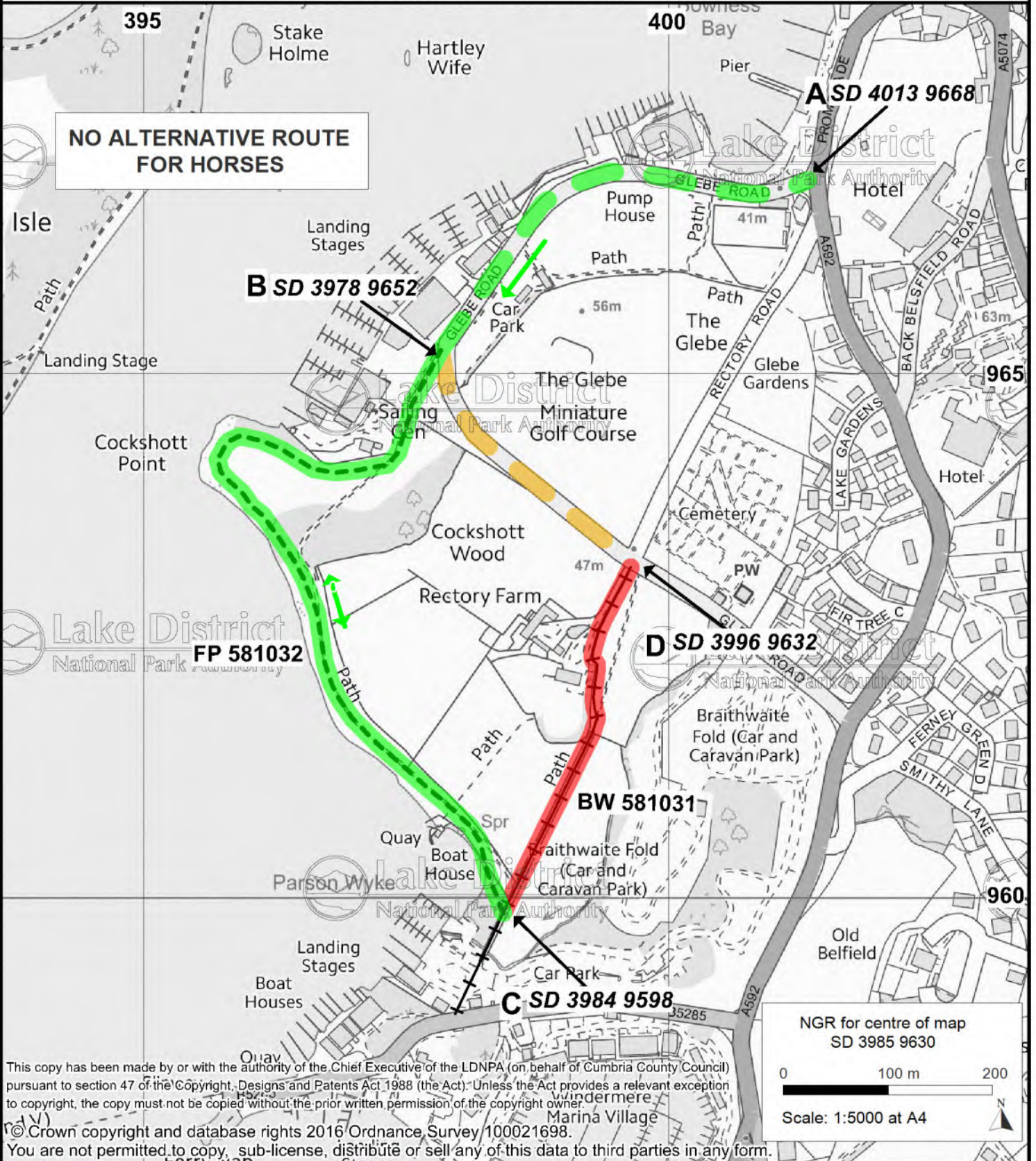
Authorised by: Mark Eccles, Head of Park Management Date.....
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Background Papers: Case file 1410.003(173)
Author: Nick Thorne, Countryside Access Adviser
Date Written: 21 November 2016
Version: FINAL

TEMPORARY TRAFFIC REGULATION ORDER TEMPORARY CLOSURE OF PART OF PUBLIC BRIDLEWAY, SOUTH OF GLEBE ROAD, WINDERMERE PARISH



ROAD TRAFFIC REGULATIONS ACT 1984 SECTION 14 (2)



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- C-D Closed Bridleway
- A-B-C Alternative cycle route (southwards)
- C-B-D-A Alternative cycle route (northwards) and alternative route for walkers
- B-C Alternative route for cyclists and walkers
- Other Public Rights of Way

OCT 2016

Authorised signatory:

Date:

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	AUTHORISATION OF TWO NEW KISSING GATES ON FP 576001 & 576002, NAPPING TREE COPPICE, TORVER PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	We have received a request to authorise two new kissing gates on FP 576001 & 002 in Torver Parish. This is to enable stock to be excluded from woodland and ground flora to recover. This is a re-authorisation after previous authorisation was withdrawn.	
Details of Decision	To grant authorisation for two kissing gates.	
Details of alternative options considered and rejected.	Not to grant authorisation.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Background Papers	Case file 1410.002 includes application form an authorisation letter.	
Date of Authorisation Letter	17 November 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	17/11/2016	

Lake District National Park Authority
Murley Moss, Oxenholme Road
Kendal, LA9 7RL

Telephone: 01539 724555
Fax: 01539 740822
Minicom: 01539 792690
Email: hq@lake-district.gov.uk
Website: www.lake-district.gov.uk

Direct email: mark.eccles@lakedistrict.gov.uk

Direct dial: 01539 792688
Our ref: PM/ME/1410.002
Your ref:

Date: 17 November 2016

Dear 

Section 147 Authorisation
Public footpaths 576001 and 576002 at Napping Tree, Torver Parish

Thank you for your application of 27 April 2015, and thank you for your recent photographs of the gate pens and measurements. On behalf of the Lake District National Park Authority, I authorise you to install the following:

- Standard kissing gate on FP 576002 at SD 2980 9463. I note that you have converted the wicket gate that we had granted permission for into a kissing gate. I have considered the various issues surrounding stock exclusion, and, on this specific occasion, agree that a kissing gate will suffice.



Richard Leafe, Chief Executive

- Field Gate with box enclosure for pedestrians, including those with prams and wheelchairs.
 - I have many more reservations about a kissing style gate at this location, as this route is far more heavily used – and is also used by people with limited mobility, including those in wheelchairs.
 - I consider that installing a kissing gate at this location will be quite a hindrance to walkers and other users.
 - I also note that the gate pen is actually off the definitive line of the path.
 - However I have again considered the various issues surrounding stock exclusion, and have carefully considered the information received from the Forestry Commission.
 - I am therefore willing to authorise the gate – but on the condition that if we receive any complaints from walkers or other users, that the authorisation will be revisited and you may have to change the design or remove it altogether.



The gates will enable efficient forestry / woodland use of the land by controlling animal movement, namely by excluding sheep from the woodland to improve the ground flora and variety of species as set out in correspondence with the Forestry Commission. My authorisation is granted under Section 147 of the Highways Act 1980. We must consider the needs of many users and the authorisation is therefore subject to the conditions below.

- The gates and catches **shall** meet our standards (as already provided to you). If future changes result in sub-standard gates / pens then we will improve them and recover the costs from you for doing so.
- You will maintain the gates in a safe condition and to a standard that does not unduly inconvenience the public (s146, Highways Act 1980). If you fail to do so, the Authority's staff can improve the gates and recover the costs from you.
- Liability for this safe maintenance lies with the yourself as the landowner / occupier.

- The authorisation will end if the use of the land changes and the gate is no longer necessary to control animal movement or the land is no longer agricultural or forestry. If the authorisation ends, you must remove the gates to restore uninterrupted passage.

The above authorisation is solely related to gates across the public footpath, and public usage of such. Any private rights of access that may be affected must be addressed by yourself with those having the rights. We cannot get involved in any private disputes and will refer any issues to you.

Please sign and return the second copy of this letter, which will act as acceptance of the above conditions. Until we receive this, any structure will remain an unauthorised obstruction.

If you have any queries please contact the Ranger, Andrew Wilkinson; or Nick Thorne, Countryside Access Adviser, on (01539) 792621.

Yours sincerely

Mark Eccles
Head of Park Management

Copied to: Andrew Wilkinson, Nick Thorne

.....

Landowner Confirmation

- I am the owner/lessee/occupier* of the land shown on the plan attached to this letter.
- I agree to the above conditions

Print name

Signature Date

*Delete as appropriate

.....

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	DIVERSION OF FOOTPATH 348019, BLAKEBECK FARM, MUNGRISDALE PARISH	
Relevant section of Scheme of Delegation	<p>PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.</p>	
Background	The new owners of Blakebeck Farm have notified our planners of an intention to build a new barn under permitted development rights. The barn will obstruct a public footpath, and the owners have applied to divert it. The report recommends that the proposed alteration to the rights of way network will assist the landowners by enabling development to take place, but will not greatly impact on the walking public using the footpath.	
Details of Decision	To make a diversion order for footpath 348019 to replace section A-E-D with section A-B-C-D as shown on the plan attached to the report.	
Details of alternative options considered and rejected.	Not to make the order	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1412.348.10	
Date of Report	7 December 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date		

DIVERSION OF FOOTPATH 348019, BLAKEBECK FARM, MUNGRISDALE PARISH

1 Summary

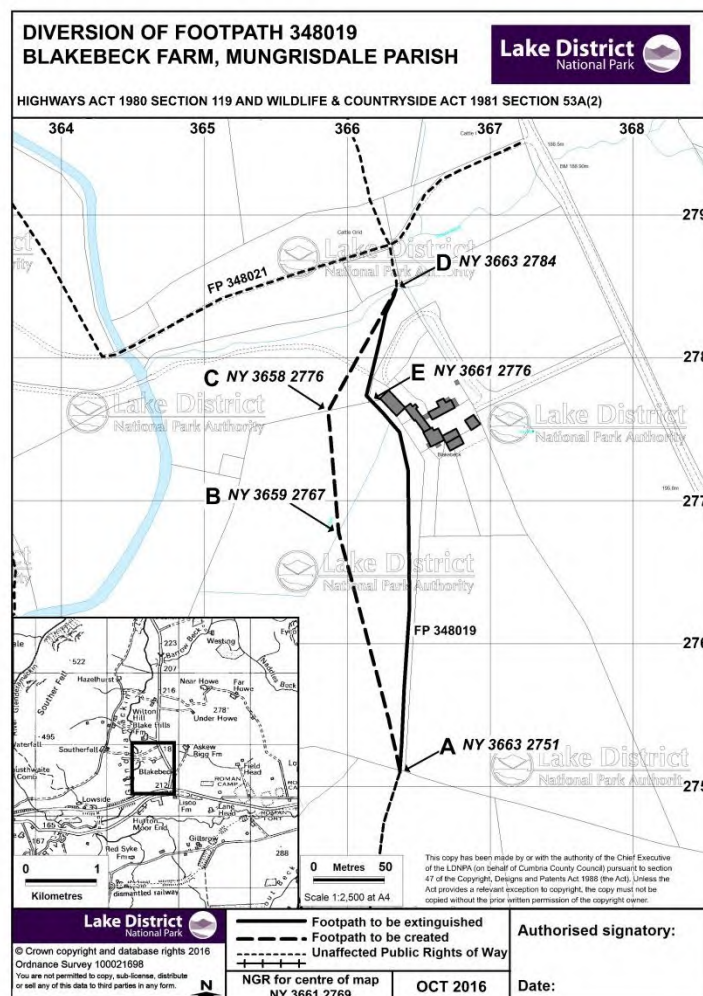
- 1.1 The new owners of Blakebeck Farm have notified our planners of an intention to build a new barn under permitted development rights. The barn will obstruct a public footpath, and the owners have applied to divert it.

Recommendation that:

- a** we make a diversion order for footpath 348019 to replace section A-E-D with section A-B-C-D as shown on the plan below;
- b** we confirm the orders if no objections are received or if those objections received are withdrawn.

2 Background

- 2.1 The public footpath at Blakebeck Farm currently runs immediately to the west of the farm, through a metal field gate. The landowners wish to build a new barn, and have chosen a location which will limit the impact on the landscape, and avoid increasing the footprint of the buildings too much.
- 2.2 However, the site chosen will mean that the new barn will obstruct the line of footpath 348019. The landowners have therefore applied to divert this footpath slightly to the west. We visited the site with the owners, and agreed the proposed diversion line as shown on the map below.



3 Policy Context

- 3.1 The Vision for the Lake District National Park sets out our aspirations for what we hope to achieve by 2030. To summarise, these are to have a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved; a landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.
- 3.2 The Partnership's Plan contains the policies and actions for achieving the aims of the Vision. The main delivery aim in the Partnership's Plan for access and rights of way is to make the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors, from relaxing and tranquil, to adventurous and exhilarating.
- 3.3 Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. It seeks an outcome that provides high-quality and unique experiences for visitors within a stunning and globally significant landscape: experiences that compete with the best in the international market to strengthen the tourism sectors across the National Park.
- 3.4 The Park Management Service Plan contains the Business Plan priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy.
- 3.5 This Service Plan also includes:
- carrying out Rights of Way order casework that addresses conflict, supports network improvements and supports landowners.
- 3.6 This proposal helps fulfil this aim in that it supports the new landowners in developing their agricultural business through enabling the construction of a new barn.
- 3.7 Our charging policy was agreed at Authority in August 2006, and the actual charges updated regularly since then.
- 3.8 Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 1.

4 Best Value Implications

- 4.1 **Work Programme and relevance to this case:** This case is of high priority under our scoring scheme mainly because it is an application, funded by the landowner, and relatively urgent in that they wish the proposed development to begin as soon as possible.
- 4.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed diversion will help the landowners at no overall cost to the Authority.
 - b) Processing public path orders is not a **competitive** procedure. Cumbria County Council can also process orders, but we are more closely connected with the day-to-day management of the network and so can act more effectively.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.
 - d) We have **compared** our casework completion rates with other authorities, and are generally similar in outputs.

5 Options

- 5.1 a: make the recommended order
b: do not make the order.

6 Proposals

- 6.1 I recommend option 5.1a. The proposed alteration to the rights of way network will assist the landowners by enabling development to take place, but will not greatly impact on the walking public using the footpath. Our consultees have not objected to the proposal.

7 Grounds and Tests for Diversion

- 7.1 The grounds and tests for a diversion are slightly different at the making and confirmation stage. However, as we have discretion as to whether to make an order in the first place, it would be unwise to ignore something that could prevent an order from being confirmed. Therefore, the issue should be considered in the whole, and the factors to take into account are set out and discussed below. These factors incorporate our own policies on changes to the rights of way network which are set out in annex 1.
- 7.2 There are only two grounds for a diversion of a right of way (section 119, Highways Act 1980), namely where it appears to the Authority that it is expedient to do so:
- a) in the interests of the owner, lessee or occupier of the land crossed by the path,
OR b) in the interests of the public.
- 7.3 I consider that it is expedient in the interests of the landowner for the reasons already outlined.

8 Tests to be Considered

8.1 These are:

- Will the new path be substantially less convenient to the public?
- The effect which the diversion would have on public enjoyment of the path or way as a whole;
- The effect the order would have as respects other land served by the existing right of way;
- The effect of the new right of way on land over which the new path is created;
- That termination of the alternative footpath is on the same or a connected highway, and is substantially as convenient to the public.

8.2 *Will the new path be substantially less convenient to the public?*

8.2.1 I consider that there is no loss in convenience to the public. The current definitive line (from the south) follows a fenceline and passes through a fairly damp field to the gate at E. The proposed route is potentially slightly more convenient, being a straight line from A-C (both of which are visible from each other). Photographs of the proposal are below.

8.2.2 There no difference in the length, both the current and proposed routes measuring around 350 metres.

8.3 *What is the effect of the diversion on public enjoyment of the path or way as a whole?*

8.3.1 I do not consider that there will be any noticeable difference. Indeed, the proposed route appeared, at the site visit, to be slightly drier and easier to navigate than the current route - which could potentially make it more enjoyable.

8.4 *Would the order affect other land served by the existing right of way?*

8.4.1 No.

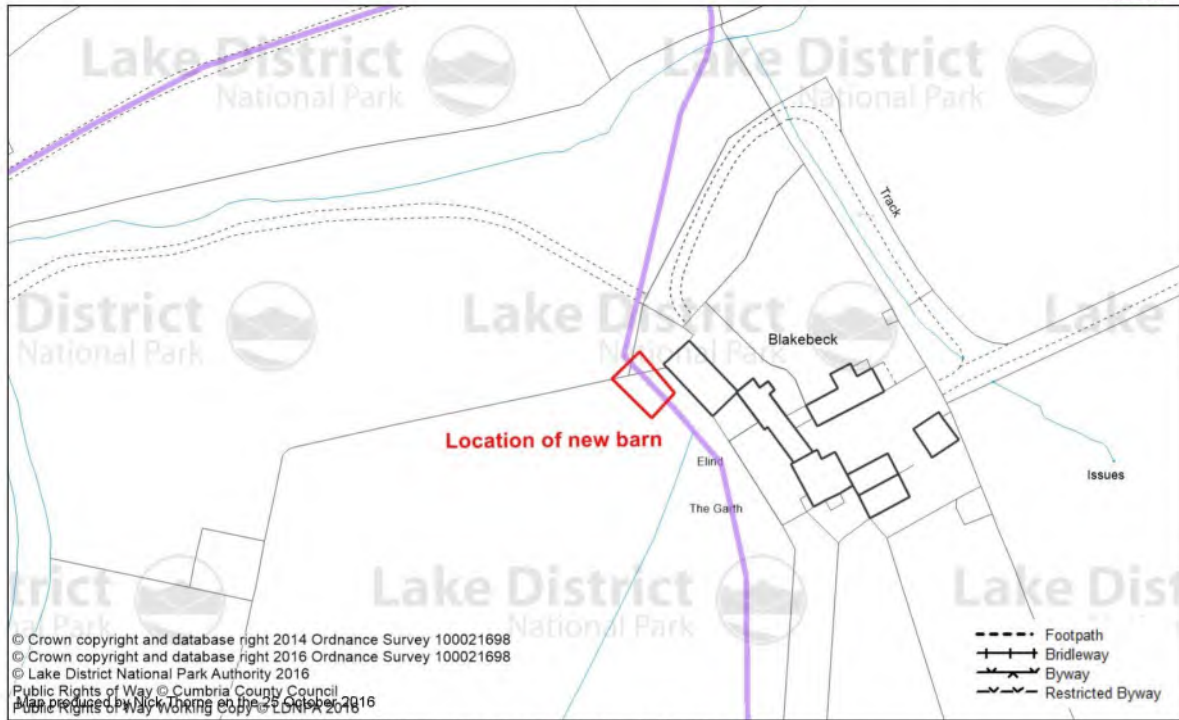
8.5 *Is there any effect of the new right of way on land over which it is created?*

8.5.1 No. However, the current footpath crosses a fairly wide open ditch (about 4' wide), and we actually have a job sheet to install a culvert at this point. At the site visit, we suggested that the path would be more convenient if it were actually a fairly straight line between point A and the gate at C. This would mean crossing the ditch at point B, which conveniently is at precisely the point where the ditch narrows. This would enable us to install the culvert here, requiring less work, material and maintenance. The effect on the land is that the culverting of this ditch would create a better crossing point for the owners quad bike, thereby reducing damage and silting within the ditch.

8.6 *Is the termination of the alternative footpath on the same or a connected highway, and is it as substantially as convenient to the public?*

8.6.1 The end points of the diversion are mid path, so the terminations are unaffected.

Extract from the Definitive Map for Cumbria (relevant date: 1 January 1976)



Location of new barn in relation to right of way (purple line).



Proposed route (red dashes), current route (yellow dashes)



Proposed new location of gate – looking to point C from part way between A and B. Current path goes through existing gate to the right of the silage bales.



Proposed location of new crossing point (point B).

9 Other Considerations Required by Legislation

9.1 *Rights of Way Improvement Plan*

9.1.1 Before confirming a public path creation or diversion order we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP).

9.1.2 This proposal is not a specific ROWIP proposal put forward by the public. And nor does it fit with any specific action within the ROWIP.

9.1.3 The full ROWIP can be seen at www.cumbria.gov.uk/roads-transport/public-transport-road-safety/countryside-access/ROWIP/Final_Rowip.asp

9.2 *Limited Mobility* - We have a duty to audit the proposals with regard to limited mobility. There is no change in the usability of this route for anyone.

9.3 *Impact on the needs of agriculture and forestry* – the reason for the proposal is to assist the agricultural usage of the land.

9.4 We consider *landscape impact, biodiversity and archaeological interests* and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any effects on these aspects.

10 Consultation Responses

10.1 Comments from those responding to our consultation are summarised below:

LDNPA Planner	No issues.
Mungrisdale Parish Council	No objections.
The Ramblers	Agree that the diversion is reasonable. The crossing of the ditch will be easier, and the route from A to the new bridge location is drier. A section between B & C was rather wet, and it is difficult to get round the wet area and it would be good if this could be improved.

10.2 At our site visit we did not really identify and specifically wet parts on the section B-C, the nature of the ground in the field is that it will always be a bit wet (as is A-B), and B-C is drier than the current definitive line. Therefore it is not necessary to require further improvement.

11 Finance Considerations

11.1 The proposal is entirely for the landowners benefit. Therefore, I consider that it is appropriate that they meet the entire costs, which are approximately £1,480 plus VAT (mainly staff costs):

			Cost	VAT at 20%	Total
Legal and Administration work	This includes all the Authority's legal and administrative costs in negotiating, making and confirming an order.		£1,360	£272	£1,632
ADVERTISING	Two adverts must be placed in the local press: <ul style="list-style-type: none"> • When the order is made and; • When it is confirmed. Costs vary depending on the length of advert necessary and the newspaper's scale of charges. <i>(Agreed charge in advance – based on average cost and relevant newspaper)</i>	Two adverts at £ 60 each	Totalling £120	£24	£144
Works on the ground	Work needed: Field Gate – moved. Landowner to do themselves.				
TOTAL COSTS			£1,480	£296	£1,776
This diversion application falls into category 4 of our policy		4 - Where an order is wholly in the interests of the landowner - none of the total cost will be waived.			
The percentage to be met by the LDNPA will be		0% (works – gate and signs)			
The percentage to be met by the applicant will be		100% (standard costs)			

12 Risk

12.2 There is a risk that the order may be objected to, although I consider that the straightforward nature of the proposal means that this is unlikely. This risk has further been mitigated as far as possible through consultation. If objections are received then we can reconsider the matter.

13 Legal Considerations

13.1 The order will be made under section 119 of the Highways Act 1980 and we are able to make orders under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.

13.2 Orders needed to enable development can also be made under the provisions of the Town & Country Planning Act (TCPA). However, this only applies when a planning application has been made – and this is merely a notification. In addition to this, there is some legal debate about the extent of land to which a TCPA order can relate; one view is that it can only affect the specific area of development. As we are also straightening the path between A & B, a TCPA order may not be appropriate, and is probably best avoided.

14 Human Resources

14.1 The work involved in this proposal is approximately 25 hours from members of the Park Management teams, and one hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and over half of it has already been undertaken.

15 Sustainability & Diversity Implications

15.1 I have not identified any significant environmental, economic or social effects; nor any diversity implications.

16 Summary

16.1 The proposal will benefit the landowner with no noticeable disbenefit to the public. The costs of the proposal will be met by the landowner. We have received no objections.

16.2 Consequently, I recommend that we make the diversion as applied for to bring this into effect.

Background Papers:	Case file reference 1412.348.10
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	7 December 2016
Version	Final

<p>Authorised by:</p> <p>.....</p> <p>Mark Eccles , Head of Park Management</p> <p>Date.....</p>
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Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	CREATION OF PUBLIC FOOTPATH AND ENTERING INTO PERMITTED CYCLE PATH AGREEMENT, WHITEHEAD COPPICE, ST JOHN'S & CASTLERIGG PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	The landowner wishes to dedicate a public footpath linking the Keswick Railway Path to the public road U2960, and she also wishes to allow permitted cycle usage of the path.	
Details of Decision	To enter into a creation agreement with the landowner for the following section of public footpath: <ul style="list-style-type: none"> • 249077, A-B (as shown on map attached to the report) from the public road U2960 at Bridge Cottage to the Keswick Railway Path; • We enter into a permitted cycle path agreement with the landowner for the same route. 	
Details of alternative options considered and rejected.	<ul style="list-style-type: none"> • enter into a creation agreement but not a permitted cycle path agreement; • enter into a permitted agreement for both foot and cycle path; • do not enter into any agreement. 	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest		None
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1412.249.07	
Date of Report	5 January 2017	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	5/1/2017	

CREATION OF PUBLIC FOOTPATH AND ENTERING INTO PERMITTED CYCLE PATH AGREEMENT, WHITEHEAD COPPICE, ST JOHN'S & CASTLERIGG PARISH

1 Summary

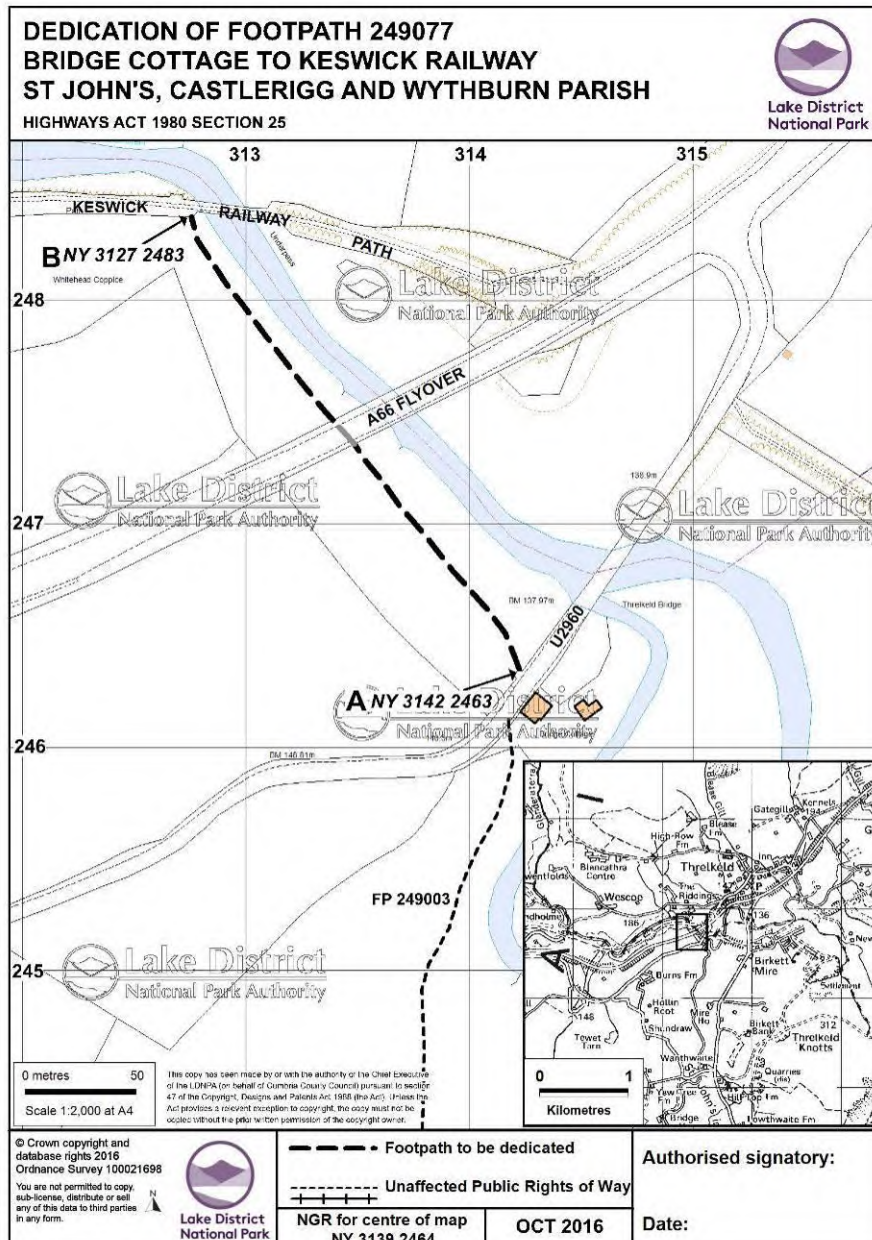
1.1 The landowner wishes to dedicate a public footpath linking the Keswick Railway Path to the public road U2960, and she also wishes to allow permitted cycle usage of the path.

Recommendation that:

a We enter into a creation agreement with the landowner for the following section of public footpath:

- 249077, A-B (as shown on map below) from the public road U2960 at Bridge Cottage to the Keswick Railway Path;

b We enter into a permitted cycle path agreement with the landowner for the same route.



2 Background

- 2.1 The landowner of Whitehead Coppice has allowed usage of a path through the woodland between the disused Keswick Railway and the old road (U2960) for many years, and we have created a surfaced route and maintained it as if it were a public path. The landowner wishes to dedicate this path to the public so that it is protected for public access in perpetuity. She had kindly offered it as a public footpath.
- 2.2 The landowner has also agreed to entering into a long-term permitted agreement for cycle use. The route is not currently really wide enough for use by horses, with one fenced section of particular concern, and as it only leads to the Keswick Railway Path – which has an uncertain future due to Storm Desmond damage in 2015, we are not currently considering the route as a bridleway.
- 2.3 Obviously the Keswick Railway Path westwards from this point is not actually open for use at present, so the continuation is not complete. However, the path eastwards to Threlkeld is available for use – so even if the worst happens and the main railway path does not fully re-open, there will still be a benefit to recognising the proposed route as a public path.

3 Policy Context

- 3.1 A key outcome of the Vision for the Lake District National Park 2006 – 2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved.
- 3.2 The Partnership's Plan is the Management Plan for the Lake District National Park which contains the policies for achieving the aims and desired outcomes for the Vision. The main delivery aim for access and rights of way is: 'Making the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating'.
- 3.3 Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 1.
- 3.4 Our Permitted Path Policy and ways of working were agreed by Park Strategy and Vision Committee on 28 October 2009, and are also at Annex 1. These policies have been followed in negotiating this agreement.

4 Options

- a. enter into a creation agreement with the landowner;
- b. enter into a permitted cycle path agreement;
- c. enter into a creation agreement but not a permitted cycle path agreement;
- d. enter into a permitted agreement for both foot and cycle path;
- e. do not enter into any agreement.

5 Proposals

5.1 I recommend options 4a and 4b – and the reasoning is set out below.

5.2 There are no specific grounds to meet when considering dedications or creation agreements, but it is probably appropriate to consider the tests that apply under Section 26 of the Highways Act, and after taking these into account, we need to decide whether we are satisfied that it is expedient to create a new right of way.

- Is there a need for the new path?
- Is it a good idea to create the new path taking account of;
 - how it will be more convenient or enjoyable for most of the people living locally or other members of the public; and
 - how it will affect the rights of those with an interest in the land?

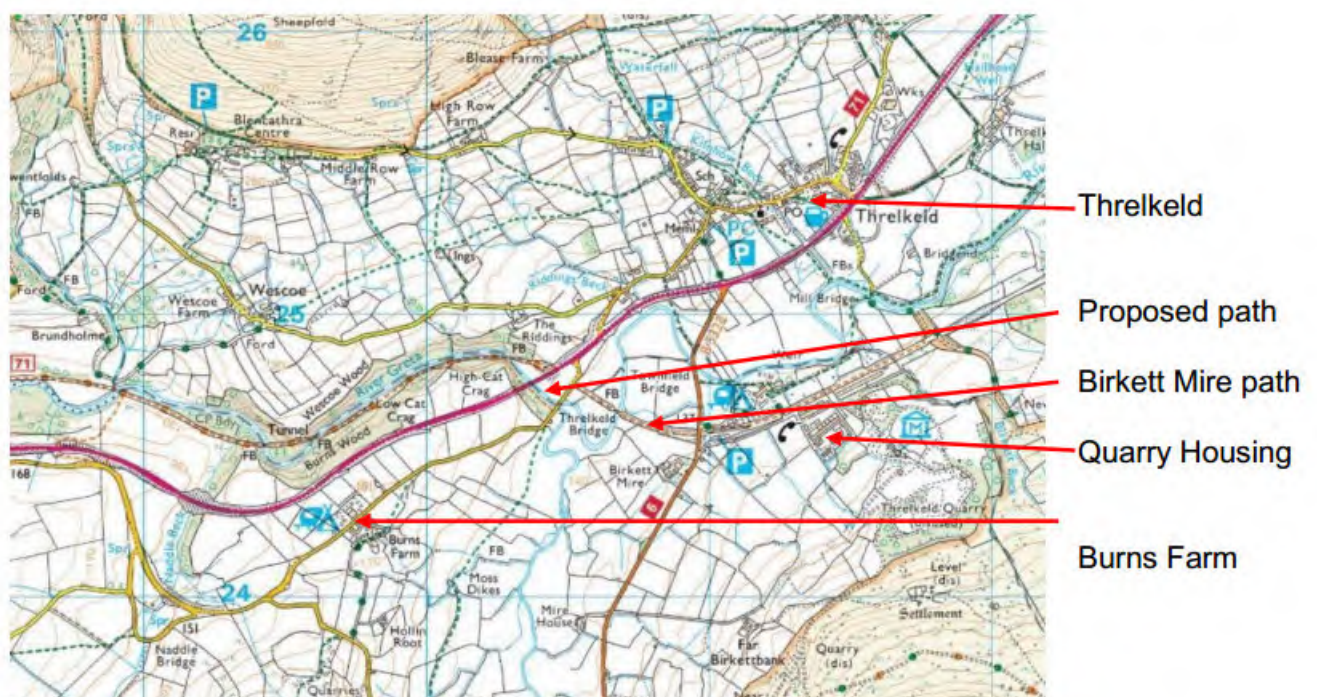
5.3 *Is there a need for the new path?*

5.3.1 There is no specific highway need for this path as it already physically exists and is well used. It links a public road with the Keswick Railway Path which has no legal status, and on that basis alone it could be said that there is no 'legal' need for the path.

5.3.2 However, we are in a position where the landowner wishes to give a footpath to the public to protect it in perpetuity, and wishes to achieve this before the land passes to a new owner (it is willed to the Woodland Trust). It is also currently used by locals and visitors to avoid roads and vehicles – whilst not actually proving a 'need' in itself, this does indicate the likelihood of future usage.

5.4 *Will it be more convenient or enjoyable for most of the people living locally or other members of the public?*

5.4.1 Yes – it links the old main road to the popular railway path, and provides a safe crossing of the A66 (it goes underneath a flyover). It is well used by residents of the old quarry site as a safe route to get to Threlkeld Village (via the unofficial Birkett Mire permitted path). It is also used as part of a circular walk along the old road and the railway path from the caravan site at Burns Farm.



Map extract showing the route in its context.

5.5 *How will it affect the rights of those with an interest in the land?*

5.5.1 The landowner has suggested the dedication, and will not be claiming compensation.

5.6 *Other factors to take into account*

5.6.1 Before confirming a public path creation we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP). This proposal is not a specific ROWIP proposal put forward by the public. However, it fits in with the long-term aims of the Authority with regard to links to the Keswick Railway Path, and fits within a number of actions and within the general ethos of the ROWIP, such as creating new links for walkers and enhancing the network for those with limited mobility.

5.6.2 There are no identifiable impacts on the needs of agriculture or forestry – the path is already surfaced, and well used. The proposal will just protect the long-term public use.

5.6.3 We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any significant effects on these aspects.



Clockwise from top left:

- Path under the A66 flyover
- The narrowest fenced section
- General condition of most of the route
- Junction with Keswick Railway Path at point B (point B is at the top of the slope on the right, which is the landownership boundary).

5.7 *Permitted Cycle Path*

- 5.7.1 The landowner also wishes the route to be usable by cyclists (as presently) to access the Keswick Railway Path.
- 5.7.2 The only long-term legal ways of securing the route for cyclists would be through a bridleway creation, or a cycle-track order (Cycle Tracks Act 1984). There are difficulties with both these methods:
- Neither the landowner or us feel it is appropriate at present to make this route a public or permitted bridleway because of concerns over width and surfacing, and the lack of onward routes for horses (we do not know whether any new railway bridges will meet the specifications for horses).
 - A cycle-track order would mean that the path would be available to walkers and cyclist, but not horses. However, such an order can only be made by Cumbria County Council (CCC) once the path is a public footpath (that is – post dedication). It is very unlikely that CCC would do this because of the lack of an onward legal right for cyclists on the Railway Path.
- 5.7.3 Our permitted path policy basically says that we should seek creations before resorting to permitted routes. Staff have done this with regard to this route, but given all the circumstances I consider that permitted cycle rights are probably the best way to achieve the desired result at present.

6 **Best Value Implications**

- 6.1 **Work Programme and Relevance to this Case:** This case is high priority as the landowner wishes to complete the legal works as soon as possible.
- 6.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed creations will aid our effective management and promotion of the rights of way network and is a speedy and pragmatic method of achieving a new legal route.
 - b) Processing public path creations is not a **competitive** procedure. Cumbria County Council can also process creations, but we can dedicate paths directly without their involvement – thereby making it speedier.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.
 - d) We have **compared** our casework completion rates with other authorities. The creation will help us reach a satisfactory target of processing cases this year.

7 **Finance Considerations**

- 7.1 The staff costs involved in the legal work are minimal, and I estimate that the staff cost for purely the legal works will be less than £500. The advertisement required will cost around £150+VAT. Two fingerposts are required – costing around £150 in materials.

8 **Risk**

- 8.1 The main risk is that any permissions granted by the current owner terminate automatically when the land is transferred. This plot of land is willed to the Woodland Trust, and the landowner is including in her will a statement to the effect that they should continue with such an agreement. This is not legally enforceable, but we would hope, and expect, the Woodland Trust to honour this.

9 Legal Considerations

- 9.1 The dedication will be made under section 25 of the Highways Act 1980 and we are able to do this under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The later modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.
- 9.2 Section 5 of the National Parks and Access to the Countryside Act 1949 (as amended) imposes a duty on us (amongst other things) to promote the understanding and enjoyment by the public of the Lake District National Park.
- 9.3 Section 65(5) of the Environment Act 1995 allows the LDNPA to take any action which may accomplish the purposes specified in section 5 above.

10 Human Resources

- 10.1 The legal work involved in this proposal is approximately 25 hours from members of the Park Management teams, and 1 hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and over half of it has already been undertaken.
- 10.2 Much discussion and negotiation has already been carried out by the North and East Park Management Team.

11 Diversity Implications

- 11.1 There are no identified diversity issues. The path will be suitable for many with limited mobility, hopefully including powered wheelchairs.

12 Sustainability

- 12.1 I have not identified any significant environmental, economic or social effects.

13 Consultation responses

- 13.1 Comments from those responding to our consultation are summarised below:

St John's & Castlerigg Parish Council	Fully support this proposed creation and permitted cycle path.
Natural England	A generous offer indeed. Asked whether we anticipate any complaints from horse riders or cyclists about the narrow bit (I responded to the effect that we were basically continuing the status quo but on a more permanent basis).
Local Access Forum	Expressed enthusiasm and gratitude for the plan.
Cycling UK	Generous and public spirited offer, support its acceptance.
Mountain Biking Association	Popular route, and very useful as it provides a safe way of riding taking in Castlerigg stone circle and the railway cycle path also allows wider loops taking in the routes around Latrigg, Glenderaterra, Lonscales, etc. Very appreciative of your team's work and of course the landowner.
Cumbria Bridleways Society	Any dedication should be welcomed. I won't give any thought to 'narrow bridleways' but I would question it's suitability for bikes also looking at the width and blind bends.

14 Recommendation

14.1 The proposal will protect the path for the walking public in perpetuity, and will allow cyclist to use it on a permitted basis. The proposal has received the support of our consultees, and I therefore recommend that we create this public footpath and enter into a permitted cycle path agreement.

Background Papers:	Case file reference 1412.249.07
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	5 January 2017
Version	Final

Authorised by: Mark Eccles , Head of Park Management Date.....

Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

PERMITTED PATHS: POLICIES 2009

Primary Policies

- 1.1 Permitted paths will be a secondary tool when seeking to extend and improve the access network in the National Park. Other options will be considered first, including a Creation Agreement or Creation Order.
- 1.2 Our long term aim will be for all existing permitted paths to be converted to definitive paths (or removed unless landowner takes on full liability). The strategic value of the path will be considered before a decision is made to create a permanent route.
- 1.3 The Head of Countryside Services will have delegated powers to enter permitted path agreements.
- 1.4 We will not carry out any works on an existing or proposed permitted path until:
 - We have assessed the need for the path (criteria to be used will relate to the factors mentioned throughout this paper);
 - We have a valid licence agreement;
- 1.5 Where we are directly involved, all permitted paths will have a licence agreement. Agreements should last for at least 10 years with regular reviews and an understanding that part of the review will be looking at converting it to a definitive path.
- 1.6 The cost of creating and maintaining permitted paths will be met from the rights of way budget. We will not make annual payments for permitted access, unless under an existing agreement. Licence fees will take the form of one peppercorn to the licensee (a “pepper corn rent”). We may make one-off payments where we believe the access to be of sufficient public benefit.
- 1.7 How much cost / liability the Authority takes on for a permitted path must be balanced against the gains from having the path. This should be assessed using wide-ranging criteria, including the following:-
 - Benefit to public e.g. – through routes, particularly valley paths, new links to facilitate circular walks or rides, forms a link to other routes, provides access to a view point or feature, off road bridleways, or there is likely to be a lot of use;
 - Cost of installing the furniture, upgrading surface and paying solicitors fees (The payment of these should be conditional on the completion of the agreement);
 - Cost of maintenance;
 - Cost of personal injury liability and occupiers liability (very difficult to assess);
 - The comparison of all these costs against the same costs if we were to create a definitive path.

- 1.8 Our maintenance and liability responsibilities on permitted paths will always be lower than for definitive paths unless there are compelling reasons to extend responsibility. We should only accept public liability for the surface and possibly the furniture. We will not maintain the following on, or adjacent to, a permitted path unless they are within an existing agreement:
- Boundary structures, including roadside walls, fences & hedges
 - Trees
- 1.9 A condition of any agreement must be that information on the path is provided to the Ordnance Survey for depiction on future editions of their commercial maps.

Secondary Policies

- 2.1 We will not enter into permitted path agreements for the following path types:
- Unofficial diversions
 - Landowner 'alternatives' to the definitive line
 - Routes covered by grants, for example, Woodland Grant Scheme, Heritage Management Plans and agri-environment schemes. We may consider entering into agreements when the grant period has expired.
 - New roadside paths which are to address road safety issues, unless they form a strategic link in the rights of way network.
- 2.2 No permitted footpath agreements should exist over CROW open access land or other land with public access rights.
- 2.3 No permitted bridleway agreements should exist over Urban Commons or land with other presumed equestrian rights. Permission may be negotiated for use of routes by pedal cyclists.
- 2.4 On LDNPA land, the presumption should be that all linear access is via dedicated rights of way. Permitted paths should be dedicated as definitive rights of way unless there is a compelling reason not to.
- 2.5 All licensed permitted paths will be surveyed at least once every three years, as part of the rights of way cyclical surveys.
- 2.6 We will work with our partners to clarify responsibility and liability for permitted paths and promote good management practice throughout the National Park.

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	CREATION OF PUBLIC FOOTPATH, BUTTERMERE LAKESHORE, BUTTERMERE & BRACKENTHWAITE PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	We have agreed with the landowner that they will dedicate an extension to the public footpath (known as the 'Muddocks Path') along Buttermere Lakeshore.	
Details of Decision	To enter into a creation agreement with the landowner to create a section of section of public footpath 220050 from A-G as shown on the plan attached to the report.	
Details of alternative options considered and rejected.	Not to make the order	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1412.220.05	
Date of Report	9 January 2017	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date		

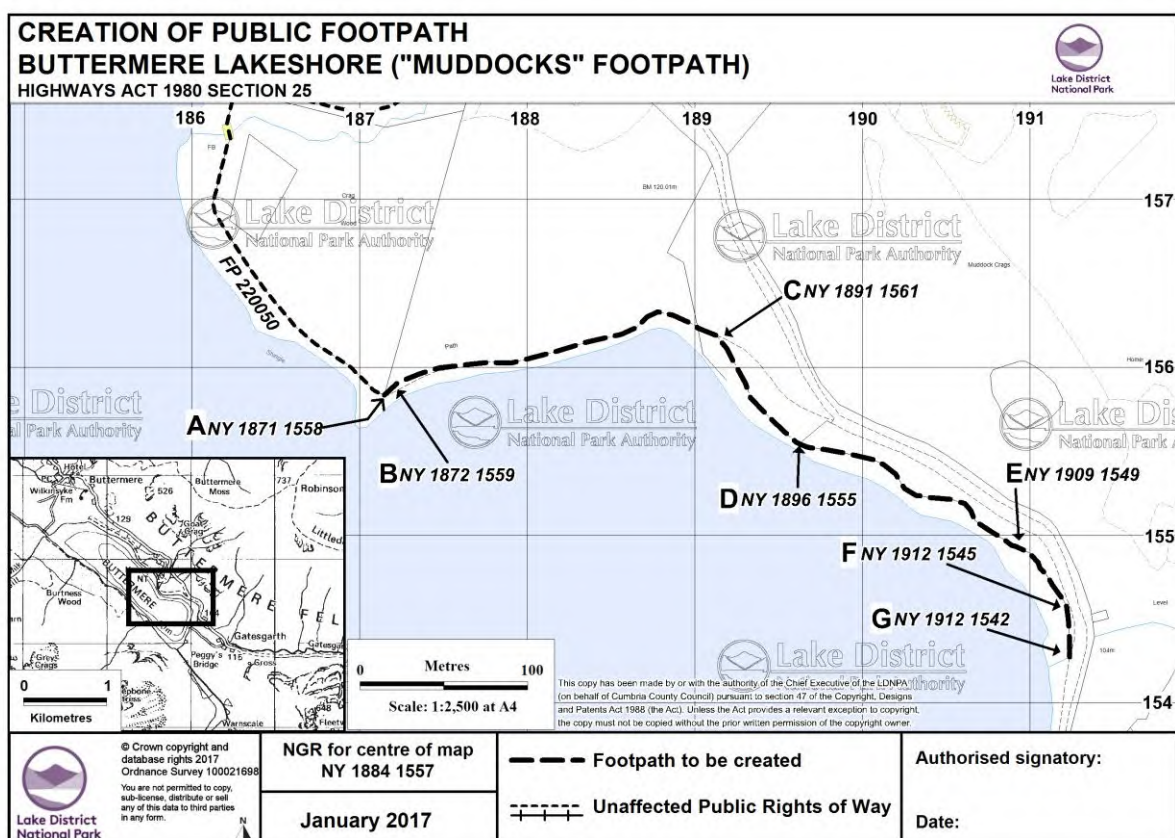
CREATION OF PUBLIC FOOTPATH, BUTTERMERE LAKESHORE, BUTTERMERE & BRACKENTHWAITE PARISH

1 Summary

1.1 We have agreed a dedication of an extension to the public footpath (known as the 'Muddocks Path') along Buttermere Lakeshore with the landowner.

Recommendation that: a **We enter into a creation agreement with the landowner for the following section of public footpath:**

- **220050, A-G (as shown on map below) from the end of the current public footpath generally eastwards along the lakeshore;**



2 Background

2.1 Around 10 years ago a modification order added a footpath along the majority of the north-eastern shore of Buttermere over land owned by the National Trust and the National Park Authority. This path ended at Shingle Point, shown as point A on the attached map.

2.2 The eastwards continuation of this path from to the roadside gate (just north-east of point D) was the subject of a public inquiry at Loweswater in 2007. The Inspector decided that it was not a public path – as it had always been used with the explicit permission of the landowner.

2.3 As a separate matter, back in the 1980s we physically created a path along the lakeshore between points C and G, which mainly involved blasting out some rock

and making a relatively narrow path. This again was with the permission of the landowner. The path has never been of excellent quality, and because of its informal permissive nature, we have not maintained it for around 15 years.

- 2.4 We have sold a plot of land at Hassness (the field to the north-east of point A on the map) to the owner of the land through which the permitted paths run. As part of the discussions and negotiations the landowner agreed to dedicate the path between A and G, but not the link up to the roadside gate just north of D.

3 Policy Context

- 3.1 A key outcome of the Vision for the Lake District National Park 2006 – 2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved.
- 3.2 The Partnership's Plan is the Management Plan for the Lake District National Park which contains the policies for achieving the aims and desired outcomes for the Vision. The main delivery aim for access and rights of way is: 'Making the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating'.
- 3.3 Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 1.

4 Options

- a. enter into a creation agreement with the landowner;
- b. do not enter into an agreement.

5 Proposals

- 5.1 I recommend option 4.1a – and the reasoning is set out below.
- 5.2 There are no specific grounds to meet when considering dedications or creation agreements, but it is probably appropriate to consider the tests that apply under Section 26 of the Highways Act, and after taking these into account, we need to decide whether we are satisfied that it is expedient to create a new right of way.
- Is there a need for the new path?
 - Is it a good idea to create the new path taking account of;
 - how it will be more convenient or enjoyable for most of the people living locally or other members of the public; and
 - how it will affect the rights of those with an interest in the land?
- 5.3 *Is there a need for the new path?*
- 5.3.1 I believe that there is a need for this path to be recorded as a public footpath. It was physically created as a permitted path in the 1980s, but because of its lack of status, we have been unable to maintain it to the standard that is required in this location. In addition to this there is the possibility that the path could be closed at any time by the landowner – thereby forcing the public to leave the lakeshore at Hassness and walk along the public road to Gatescarth for a far greater distance.
- 5.4 *Will it be more convenient or enjoyable for most of the people living locally or other members of the public?*

- 5.4.1 Yes – walkers undertaking the ‘Buttermere Round’ will have the choice of walking for 520 metres on the public road (via Hassness) or the lakeside path. The lakeside path will be more convenient in safety terms, and will also be more enjoyable by virtue of walkers being by the lakeside rather than on the road.
- 5.4.2 At present, the path between C-G is not very convenient in that it is not in the condition walkers generally expect for a low level lakeside public path in such a popular location. Basically, it is not very easy-to-use. However, we do have some immediate plans for surface and furniture improvements, along with some longer term plans to make it more sustainable.
- These works include: numerous drainage pipes, bridge replacement, simple resurfacing, machine rock chipping out craggy outcrops (using the rock to infill lower areas), evening up the levels along the route, and building a revetment wall at one or two sections)
- 5.4.3 We are also visiting the site with a limited mobility user, who will advise us on the practicalities or possibilities of making this into a ‘route for all’ in the long-term (if funding permits).
- 5.5 *How will it affect the rights of those with an interest in the land?*
- 5.5.1 The landowner has agreed to the dedication, and will not be claiming compensation. He has received a reduction in the cost of purchasing the neighbouring field as part of the negotiations over the long-term future of this path.
- 5.6 *Other factors to take into account*
- 5.6.1 Before confirming a public path creation we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP). This proposal is not a specific ROWIP proposal put forward by the public. But, it has been a long-term aim of the Authority, and fits within a number of actions and within the general ethos of the ROWIP, such as creating new links for walkers and enhancing the network for those with limited mobility.
- 5.6.2 There are no identifiable impacts on the needs of agriculture or forestry – the path is already surfaced or partly surfaced, and well used. The proposal will just improve the surfacing and protect the long-term use.
- 5.6.3 We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any significant effects on these aspects. The improvement works to the section D-G could, in the longer term, help reduce erosion and vegetation damage caused by walkers trying to find their way around the worst sections. The work proposed will be agreed by the Environment Agency and Natural England in order to protect the watercourses.



Looking back from around point C to point A at Shingle Point (the tree)



Some of the sections between D & F that are currently difficult to use.

6 Best Value Implications

- 6.1 **Work Programme and Relevance to this Case:** This case is high priority as it is important to complete the legal works involved as soon as possible whilst the sale of the land is ongoing.
- 6.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed creations will aid our effective management and promotion of the rights of way network and is a speedy and pragmatic method of achieving a new legal route.
 - b) Processing public path creations is not a **competitive** procedure. Cumbria County Council can also process creations, but we can dedicate paths directly without their involvement – thereby making it speedier.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.
 - d) We have **compared** our casework completion rates with other authorities. The creation will help us reach a satisfactory target of processing cases this year.

7 Finance Considerations

- 7.1 The staff costs involved in the legal work for the dedication are minimal, and I estimate that the staff cost for purely the legal works will be less than £1,000. The advertisement required will cost around £150+VAT.
- 7.2 The practical works to improve the route once dedicated will cost around £20,000. The sale of the neighbouring field to the same landowner is for £10,000 and our Chief Executive has agreed that these funds can be put towards these improvement works. The Ramblers have also offered some money from their Sharpe Legacy. We are also looking to put a specific page relating to this project on our donations website. The remaining funding will either be sought locally, or (as a last resort) the work spread out over time so that is absorbed within ongoing budgets.

8 Risk

- 8.1 I have not identified any significant risks.

9 Legal Considerations

- 9.1 The dedication will be made under section 25 of the Highways Act 1980 and we are able to do this under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The later modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to make such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.

10 Human Resources

- 10.1 The legal work involved in this proposal is approximately 25 hours from members of the Park Management teams, and one hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and over half of it has already been undertaken.
- 10.2 Much discussion and negotiation has already been carried out by the North and East Park Management Team, and the Resources Team.

11 Diversity Implications

- 11.1 There are no identified diversity issues. The proposed improvement works between D & F will make the path more suitable for those with some limited mobility (probably to the level of a path for 'some' or 'many'), and if possible after receiving further advice, and depending on the level of funding achieved, the path may be suitable for 'all', or at least those with powered wheelchairs.

12 Sustainability

- 12.1 I have not identified any significant environmental, economic or social effects.

13 Consultation Responses

- 13.1 Comments from those responding to our consultation are summarised below:

Local Access Forum	Excellent initiative.
Buttermere Parish Council	Supportive of the Muddocks footpath proposal.
Ramblers	Welcome this potential creation (<i>although the Ramblers do not mention it now, they have been long-term supporters of this proposal, and were the applicants for the modification order back in 2007</i>).

14 Recommendation

- 14.1 The proposal will protect the path for the public in perpetuity, and will enable us to improve it to the standard expected of such a path in this location. The proposal has received the support of our consultees, and I therefore recommend that we create this path.

Background Papers:	Case file reference 1412.220.05
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	9 January 2017
Version	Final

Authorised by:

.....
Mark Eccles , Head of Park Management

Date.....

Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	TEMPORARY TRAFFIC REGULATION ORDER; BRIDLEWAY 409031, BLENGDALE FOREST, GOSFORTH PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and Planning Acts.	
Background	The Forestry Commission have requested a temporary closure of bridleway 409031 to enable clear felling of an area in Blengdale Forest.	
Details of Decision	That we make a Temporary Traffic Regulation Order for the section of bridleway 409031 as shown A-B on the plan at page 4 of the report.	
Details of alternative options considered and rejected.	Not to make the order	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1410.003 (175)	
Date of Report	25 January 2017	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	25/1/2017	

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

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 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	TEMPORARY TRAFFIC REGULATION ORDER; BRIDLEWAY 409031, BLENGDALE FOREST, GOSFORTH PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and Planning Acts.	
Background	The Forestry Commission have requested a temporary closure of bridleway 409031 to enable clear felling of an area in Blengdale Forest.	
Details of Decision	That we make a Temporary Traffic Regulation Order for the section of bridleway 409031 as shown A-B on the plan at page 4 of the report.	
Details of alternative options considered and rejected.	Not to make the order	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1410.003 (175)	
Date of Report	25 January 2017	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	25/1/2017	

TEMPORARY TRAFFIC REGULATION ORDER; BRIDLEWAY 409031, BLENGDALE FOREST, GOSFORTH PARISH

1 Summary

- 1.1 This report recommends the temporary prohibition of all traffic over part of a bridleway in Blengdale Forest to enable thinning and felling to take place.

<p><i>Recommendation that: we make a Temporary Traffic Regulation Order for the section of bridleway 409031 as shown A-B on the plan at page 4 of this report.</i></p>

2 Details of request

- 2.1 The Forestry Commission are felling and extracting around 1,500 tonnes of timber to clear an area damaged by storms in Blengdale Forest as shown on the attached map. Public bridleway 409031 runs through / along the edge of the area and because of the scale of the works, the Commission have requested that the path is closed to allow the work to be carried out safely. The track over which the bridleway runs will also be used for stacking and as part of the extraction route.
- 2.2 I have discussed with the Commission whether the forest track running westwards from just north of point A could be used as an alternative – but this will also be within the felling area and used in a similar fashion to the bridleway. Unfortunately, this means that there are no ready alternatives for the public to use during the felling period (other than the wider network). I have therefore concluded that the only real solution is to close the bridleway completely for the duration of the works. The requested closure period is for six months from 27 February 2017. However, it is hoped that works will only take around two months at most and that the bridleway will be quickly re-opened. The Commission would also ensure that advance warning signs are erected at appropriate points elsewhere on the rights of way network (see map at page 5 of this report) so that members of the public find out about the closure before reaching the site, enabling them to alter their plans without too much inconvenience.
- 2.3 The closures will not affect any known private rights.

3 Policy Context

- 3.1 A key focus of the Vision for the Lake District National Park 2006–2030 is a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. It is a landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.
- 3.2 There is no specific action or policy relating to temporary closures, but they are a fundamental part of managing the rights of way network and ensuring efficient service delivery by the Cumbria Countryside Access Partnership.

4 Options

- 4.1 The options are to:
- a) Make the order
 - b) Not make the order

5 Proposal

5.1 I recommend option 4.1a for the reasons outlined in sections 2 and 8.

6 Best Value Implications

6.1 The Best Value implications are:

- a) The **challenge** is for us to effectively manage the network and inform the public of relevant issues.
- b) Processing temporary traffic regulation orders is not a **competitive** procedure. Cumbria County Council can also process temporary closure orders, but we are the best placed organisation to make this order.
- c) We have carried out the required **consultations**.
- d) We have **compared** our processing of temporary closures to other similar organisations. We have no specific targets relating to them, but aim to process all requests in a timely fashion, without significant financial or staff implications.

7 Finance Considerations

7.1 The costs of a temporary closure order are approximately £710+VAT plus advertising costs of around £200+VAT per advert.

7.2 The Forestry Commission have agreed to meet all the costs involved.

8 Risk

8.1 The major risk here is if we do not make this order. The closure will safeguard the landowner against claims from users if they were hurt using the bridleway during the works. If any such claims were submitted we may be held partly responsible for being aware of the danger to users and not taking the necessary action to protect them.

9 Legal considerations

9.1 As a National Park Authority, we have the power to temporarily restrict or prohibit the use of highways under section 72 of the Natural Environment and Rural Communities Act 2006. This gives National Park Authorities the power to make orders under section 14(1) of the Road Traffic Regulation Act 1984, following the National Park Authorities' Traffic Orders (Procedure)(England) Regulations 2007.

9.2 We also have delegated power to temporarily restrict or prohibit the use of highways under section 14 of The Road Traffic Regulation Act 1984 in our agency agreement with Cumbria County Council. Traffic can be restricted or prohibited for a number of reasons, one of which is because of the likelihood of danger to public, which is not attributable to works on the road (section 14(1)(b)).

9.3 The Head of Park Management has delegated powers to authorise the issue of Notices and making of Orders for the temporary closure of paths under the provisions of Section 14 of the Road Traffic Regulation Act 1984.

10 Human Resources

10.1 The work involved in this proposal is approximately 15 hours from members of the Park Management teams, half an hour from the GIS technician and half an hour from a member of Legal Services. The work involved is part of our day-to-day duties, and much of it has already been undertaken.

11 Sustainability

11.1 I have not identified any significant environmental, economic or social aspects that will affect sustainability.

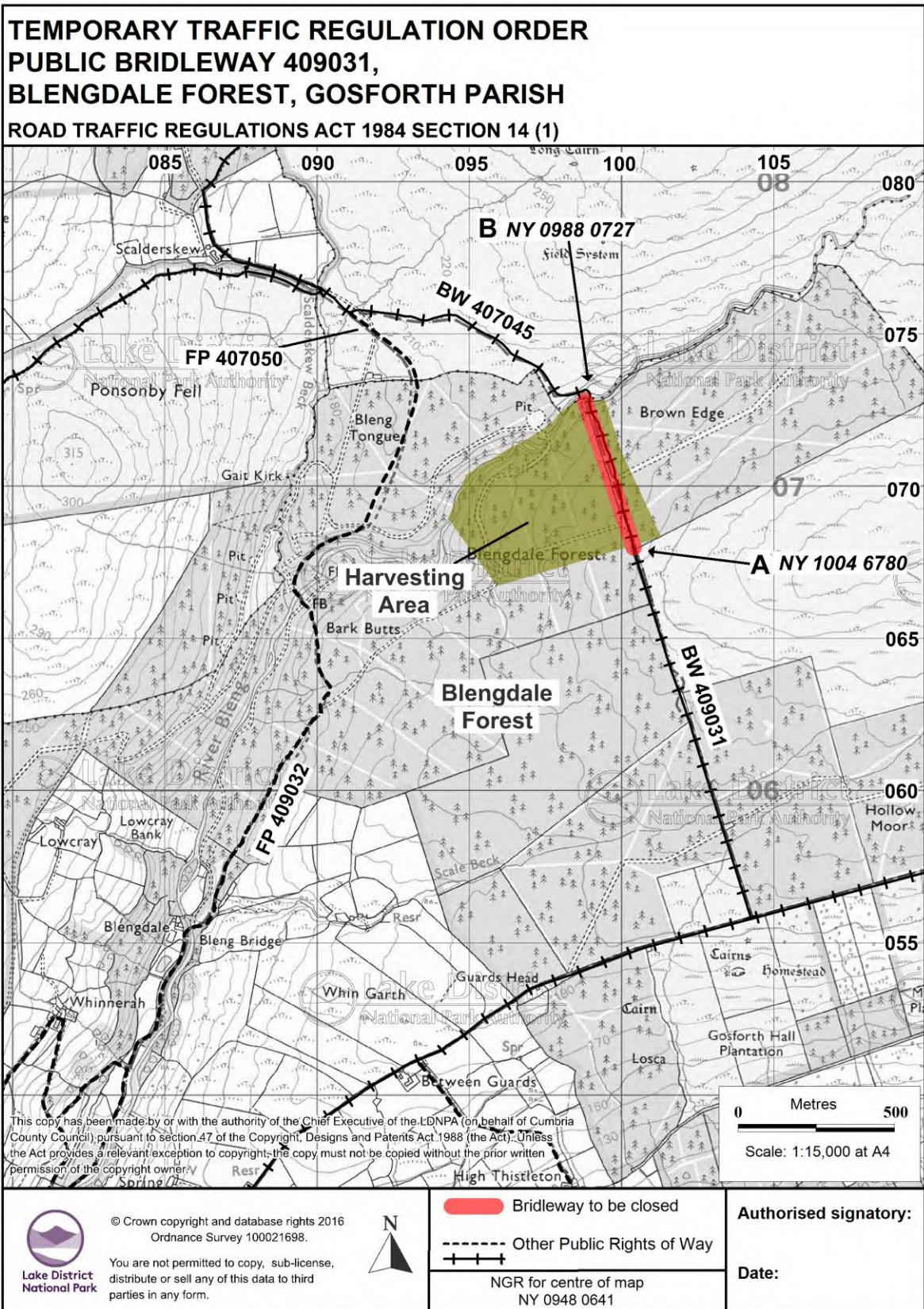
12 Consultation Responses

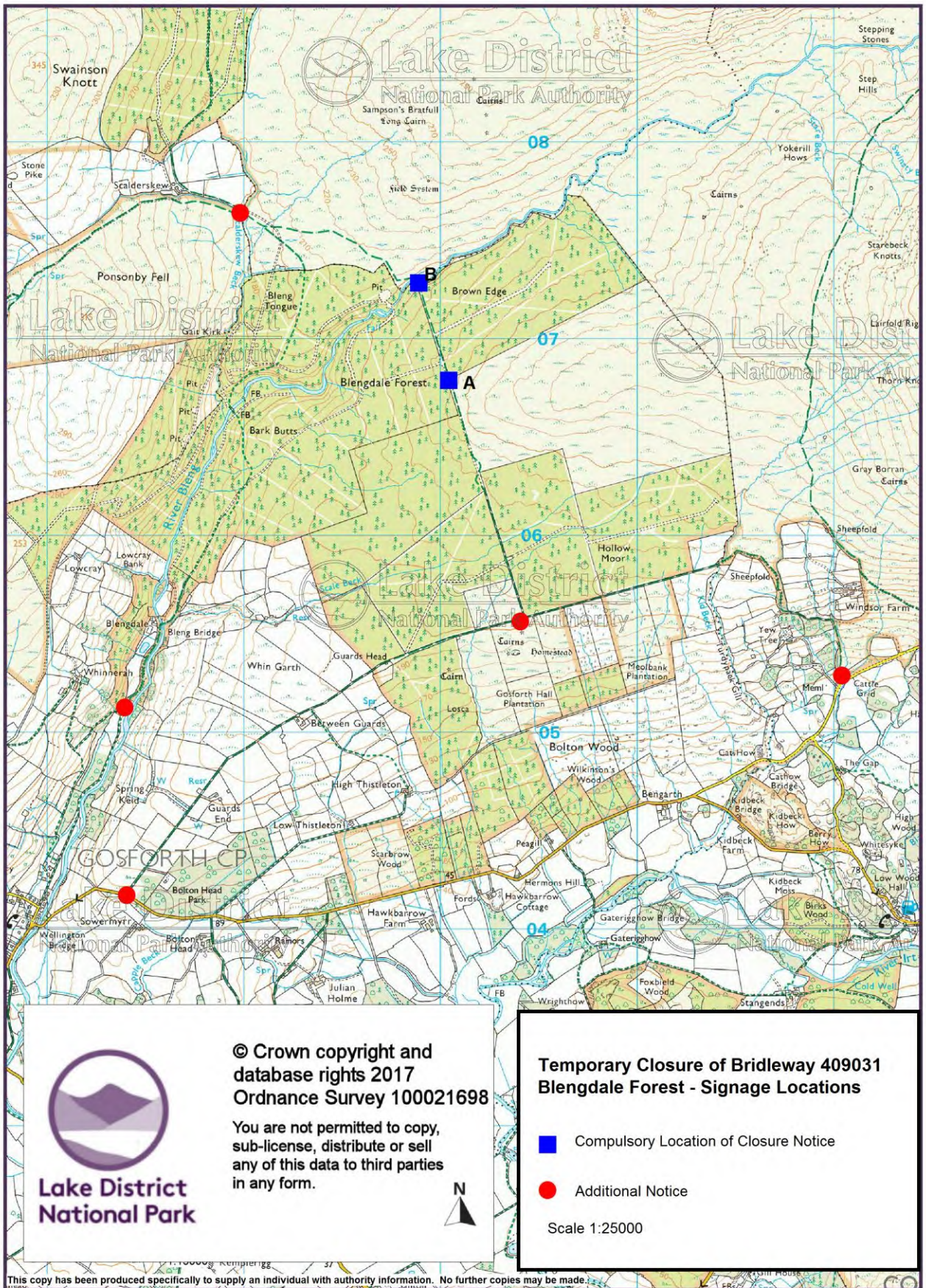
12.1 Comments from those responding to our consultation are summarised below:

CTC	No comments.
Gosforth Parish Council	No objection. The council raised some queries about restoration, extraction routes and speed through the village which we forwarded to the Forestry Commission.

Authorised by:
.....
Mark Eccles, Head of Park Management
Date.....

Background Papers: Case file 1410.003(175)
Author: Nick Thorne, Countryside Access Adviser
Date Written: 25 January 2017
Version: FINAL





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Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	SECTION 33 HIGHWAYS ACT CONSENT – NORTHERN CLASSIC TRIAL, FEBRUARY 2017	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	The Northern Classic Trial has run in Wythop Woods, Hobcarton and Setmurthy for many years – consisting mainly of trial areas for 'very old cars and motorbikes'. A number of public paths are crossed or used, and section 33 consent is required for this to happen.	
Details of Decision	Consent is granted subject to the usual conditions.	
Details of alternative options considered and rejected.	Not granting consent. This would be unreasonable – the event is generally well run, and popular. The landowners are happy to host the event, and the public paths will be marshalled.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	File Reference 1480.009	
Date of Report	31 January 2017	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	31/1/2017	

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Website: www.lake-district.gov.uk

Direct email: nick.thorne@lakedistrict.gov.uk

Direct dial: 01539 792621
Our ref: 1480.009
Your ref:

Date: 31 January 2017

Dear 

Fell Side Auto Club, Northern Classic Trial, Saturday 18 February 2017

Thank you for your letter supplying details of the proposed route of your next trial. The following sections of public footpaths and bridleways will be affected:

BW 252001	Hill's Wood, Setmurthy
FP 264005	Wythop Woods (north)
FP 264002	Wythop Woods (north)
FP 264003	Wythop Woods (centre)

These are shown on the maps provided by you with your application. I note that these will be used for access to the trial/event sites.

As in previous years, you have said that the affected paths will be well marshalled, and warning signs will be erected. You also mention that speeds will be under 15mph. Therefore, we grant consent under Section 33 of the Road Traffic Act 1988 for these footpaths and bridleway to be used by vehicles taking part in the Northern Classic Trial on 18 February 2017 subject to the conditions listed on the reverse of this letter.

Good luck with this year's event, and if you have any questions please don't hesitate to contact Nick Thorne, Countryside Access Adviser on 01539 792621 or nick.thorne@lakedistrict.gov.uk

Yours sincerely

Mark Eccles
Head of Park Management

Richard Leafe, Chief Executive



A member of the
Association of National Park Authorities
A member of the Federation of Nature and
National Parks of Europe

You (the event organisers) shall:

1. Repair any damage to the surface of the footpaths and bridleways or to any walls, fences, stiles, bridges, gates or other wayside fixtures caused by the event. If this is not done within a reasonable time after notice has been given, we (the National Park Authority) shall have the right to carry out the work and charge the cost to you.
2. Indemnify us against any legal liability in respect of any claim arising out of this authorisation and any expense to which we may be put in defending any claims.
3. Take all reasonable safety precautions to protect members of the public using or intending to use any affected footpath or bridleway irrespective of the formal closure of these routes to the public.
4. Remove litter deposited on any affected footpath or bridleway during the event.
5. Arrange for marshals, over 18 years of age, to be posted at each end of every right of way affected by the event (at locations agreed with the Authority in advance) to warn people of the presence of motor vehicles. Marshals to be supplied with radios for communication.
6. Ensure that all gates are closed at the end of the event.
7. Arrange for suitable notices to be erected to warn people that the event is taking place.

Richard Leafe, Chief Executive



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A member of the Federation of Nature and
National Parks of Europe

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Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	SECTION 33 ROAD TRAFFIC ACT CONSENT – MALCOLM WILSON RALLY 2017	
Relevant section of Scheme of Delegation	<p>PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters</p> <p>All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.</p>	
Background	The Malcolm Wilson Rally is an annual motor sports event which usually uses routes over Forestry Commission land in Grizedale Forest, Whinlatter Forest and Wythop Woods. Due to ongoing FC operations at Wythop, for this year only the Rally will be using FC land at Broughton Moor rather than Wythop. A number of public paths are crossed or used by the event, and therefore section 33 consent is required for this to happen.	
Details of Decision	Consent is granted subject to the usual conditions.	
Details of alternative options considered and rejected.	Not granting consent. This would be unreasonable – the event is generally well run, the Forestry Commission is happy to host the event on its land, and the public paths will be marshalled.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author and contact details of report	Nick Thorne, Countryside Access Adviser	
Background Papers	File Reference 1480.007	
Date of Report (letter)	6 February 2017	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	6/2/2017	

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Direct dial: 01539 792621
Our ref: PM/JEK/1480.007

Your ref:

Date: 6 February 2017

Dear 

Malcolm Wilson Rally, 11 March 2017

Thank you for your recent request for authorisation to use a number of rights of way during the annual Malcom Wilson Rally. The following sections of public footpaths and bridleways will be affected:

Parish	Rights of Way	Parish	Rights of Way	Parish	Rights of Way
Satterthwaite	BW 566032	Satterthwaite	BW 566031	Colton	BW 511084
Satterthwaite	FP 566026	Satterthwaite	FP 566003	Colton	BW 511085
Satterthwaite	FP 566027	Hawkshead	BW 529005	Colton	BW 511055
Satterthwaite	BW 566033	Hawkshead	FP 529007	Wythop	FP 264005
Coniston	BW 512006	Satterthwaite	BW 566002	Wythop	FP 264002
Coniston	BW 512005	Satterthwaite	FP 566001	Wythop	FP 264009
Coniston	BW 512003	Coniston	FP 512004	Wythop	FP 264012
Coniston	BW 512066	Coniston	FP 512061	Above Derwent	FP 201004
Satterthwaite	BW 566030	Satterthwaite	BW 566004	Wythop	BW 264003
Coniston	FP 512002	Satterthwaite	FP 566038	Above Derwent	BW 201065
Hawkshead	FP 529019	Satterthwaite	FP 566005	Above Derwent	BW 201006
Satterthwaite	BW 566006	Hawkshead	FP 529006	Lorton	FP 242017
Satterthwaite	BW 566007	Hawkshead	BW 529039	Lorton	FP 242024

We grant consent under Section 33 of the Road Traffic Act 1988 for these footpaths and bridleways to be used by up to 150 vehicles taking part in the Malcolm Wilson Rally on 11 March 2017 subject to the conditions overleaf. However, this consent is also conditional on there being a limit of 150 competing vehicles.

We have made the combined temporary closure order for the Grizedale Stages and Malcolm Wilson Rallies. You have already received the closure notice and maps, ready for putting up before the rally.

Good luck with the event, and if you have any queries about this matter, please contact Nick Thorne at Murley Moss (contact details in header).

Yours sincerely

Mark Eccles
Head of Park Management

Richard Leafe, Chief Executive

You (the Rally organisers) shall:

1. Repair any damage to or reinstate the surface of the footpaths and bridleways or any walls, fences, stiles, bridges, gates or other wayside fixtures caused by the event. If this is not done within a reasonable time after notice has been given, we (the National Park Authority) shall have the right to carry out the work and charge the cost to you.
2. Indemnify us fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any death, injury or loss of or damage to property which is caused directly or indirectly by your act or omission in respect of the event.
3. Take all reasonable safety precautions to protect members of the public using or intending to use any affected footpath or bridleway irrespective of the formal closure of these routes to the public.
4. Remove litter deposited on any affected footpath or bridleway during the event.
5. Arrange for marshals, over 18 years of age, to be posted at each end of every right of way affected by the event and at the points at which it will be necessary for traffic to diverge from the right of way to warn people of the presence of motor vehicles. Marshals must be aware of radio locations for communication.
6. Ensure that all gates are closed at the end of the event.
7. Arrange for notice of any Traffic Regulation Order to be displayed in a prominent position at each end of the length of road to which the order relates and at the points at which it will be necessary for traffic to diverge from the right of way, stating the effect of the order and, where applicable, the alternative route or routes available for traffic. Each notice shall be displayed throughout the period during which the order is in force and you shall take all reasonable steps to ensure that the notices remain in a legible condition and continue to be so displayed for so long as the order remains in force or are promptly replaced as often as occasion requires during that period. .

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 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	AUTHORISATION OF TWO NEW 4 FT GATES ON FP 210005, HERDWICK CROFT, BLINDCRAKE PARISH	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	We have received a request to authorise two new 4 ft gates on FP 210005 in Blindcrake Parish at Herdwick Croft in order to control animal movement on agricultural land.	
Details of Decision	To grant authorisation for two 4 ft gates with gravity lifting catches.	
Details of alternative options considered and rejected.	Not to grant authorisation.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Background Papers	Case file 1410.002 includes application form an authorisation letter.	
Date of Authorisation Letter	14 February 2017	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	14/2/2017	

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Direct email: mark.eccles@lakedistrict.gov.uk

Direct dial: 01539 792688
Our ref: PM/ME/1410.002
Your ref:

Date: 14 February 2017

Dear 

Section 147 Authorisation letter
Public footpath 210005 at Herdwick Croft, Blindcrake Parish
Erection of two 4' gates with hunting type gravity lift catches at grid reference:
1. 1) NY 1991 3219 2)NY 1994 3217

Thank you for your application of 12 January 2017. On behalf of the Lake District National Park Authority, I authorise you to erect two 4' gates with hunting type gravity lift catches at the above locations, as shown on the attached map.

The two 4' gates with hunting type gravity lift catches will enable efficient agricultural use of the land by controlling animal movement. My authorisation is granted under Section 147 of the Highways Act 1980. We must consider the needs of many users and the authorisation is therefore subject to the conditions below.

- The two 4' gates with hunting type gravity lift catches shall meet the LDNPA structures standard 2011 (copy attached). It will have a minimum clear width of 1 metre.
- You will maintain the two 4' gates with hunting type gravity lift catches in a safe condition and to a standard that does not unduly inconvenience the public (s146, Highways Act 1980). If you fail to do so, the Authority's staff can improve the two 4' gates with hunting type gravity lift catches and recover the costs from you.
- Liability for this safe maintenance lies with the landowner / occupier.
- The authorisation will end if the use of the land changes and the two 4' gates with hunting type gravity lift catches are no longer necessary to control animal movement or the land is no longer agricultural or forestry. If the authorisation ends, you must remove the two 4' gates with hunting type gravity lift catches to restore uninterrupted passage.

Please sign and return the second copy of this letter, which will act as acceptance of the above conditions. Until we receive this, any structure will remain an unauthorised obstruction.

Richard Leafe, Chief Executive



A member of the
Association of National Park Authorities
A member of the Federation of Nature and
National Parks of Europe

If you have any queries please contact the Ranger, Larry Cowper, on 07787 137435 or Nick Thorne, Countryside Access Adviser, on (01539) 792621.

Yours sincerely

Mark Eccles
Head of Park Management

Copied to: Larry Cowper, Nick Thorne

.....

Landowner Confirmation

- I am the owner/lessee/occupier* of the land shown on the plan attached to this letter.
- I agree to the above conditions

Print name

Signature Date

*Delete as appropriate

.....

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	CREATION AND DIVERSION OF FOOTPATHS, MAIDEN CASTLE, WATERFOOT AND ROADSIDES – MATTERDALE & DACRE PARISHES	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.	
Background	As part of the Ullswater Way we have negotiated some new footpaths in the Waterfoot – Wreay area, and are considering a small diversion to benefit the landowner and the public.	
Details of Decision	<i>a) we make an diversion order for the section of footpath 321022 between points V-V2 in Waterfoot caravan park as shown on Map 1 contained in the report</i> <i>b) we make a creation order for footpaths as follows:</i> <ul style="list-style-type: none"> • <i>Footpath 321033 A1-Y, Waterfoot to Floshgate alongside the A592 (as shown on Map 2);</i> • <i>Footpath 321034 B1-D1 and spur C1-E1, Waterfoot to below Dunmallard alongside the A592 (as shown on Map 2)</i> • <i>Footpath 345057/321032 A-H, Waterfoot to Wreay via Maiden Castle (as shown on Map 3).</i> 	
Details of alternative options considered and rejected.	Not to make the diversion and/or creation orders.	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest	None	
Author of report	Nick Thorne, Countryside Access Adviser	
Background Papers	Case file 1412.321.03	
Date of Report	5 April 2016	
Signature of authorising officer	Signed Mark Eccles, Head of Park Management	
Date	19/4/2016	

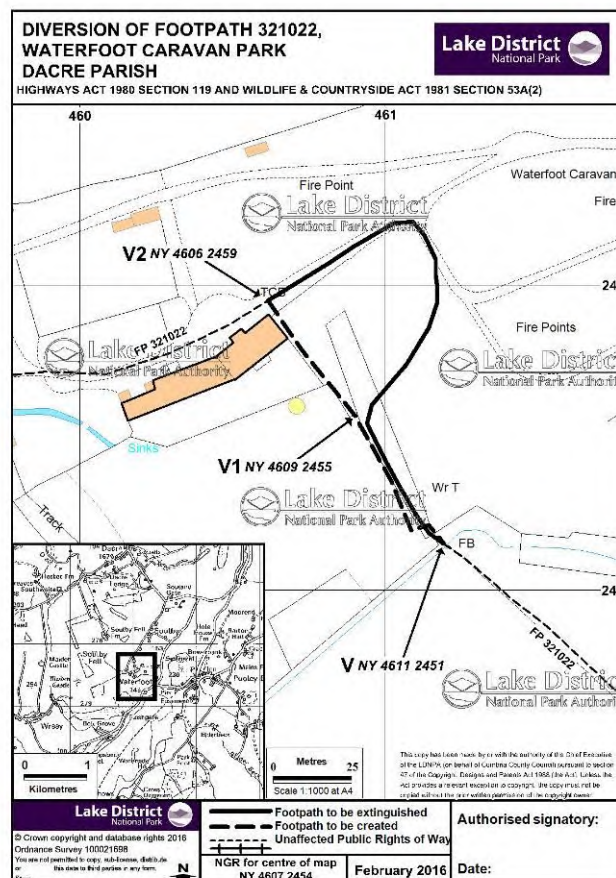
CREATION AND DIVERSION OF FOOTPATHS, MAIDEN CASTLE, WATERFOOT AND ROADSIDES – MATTERDALE & DACRE PARISHES



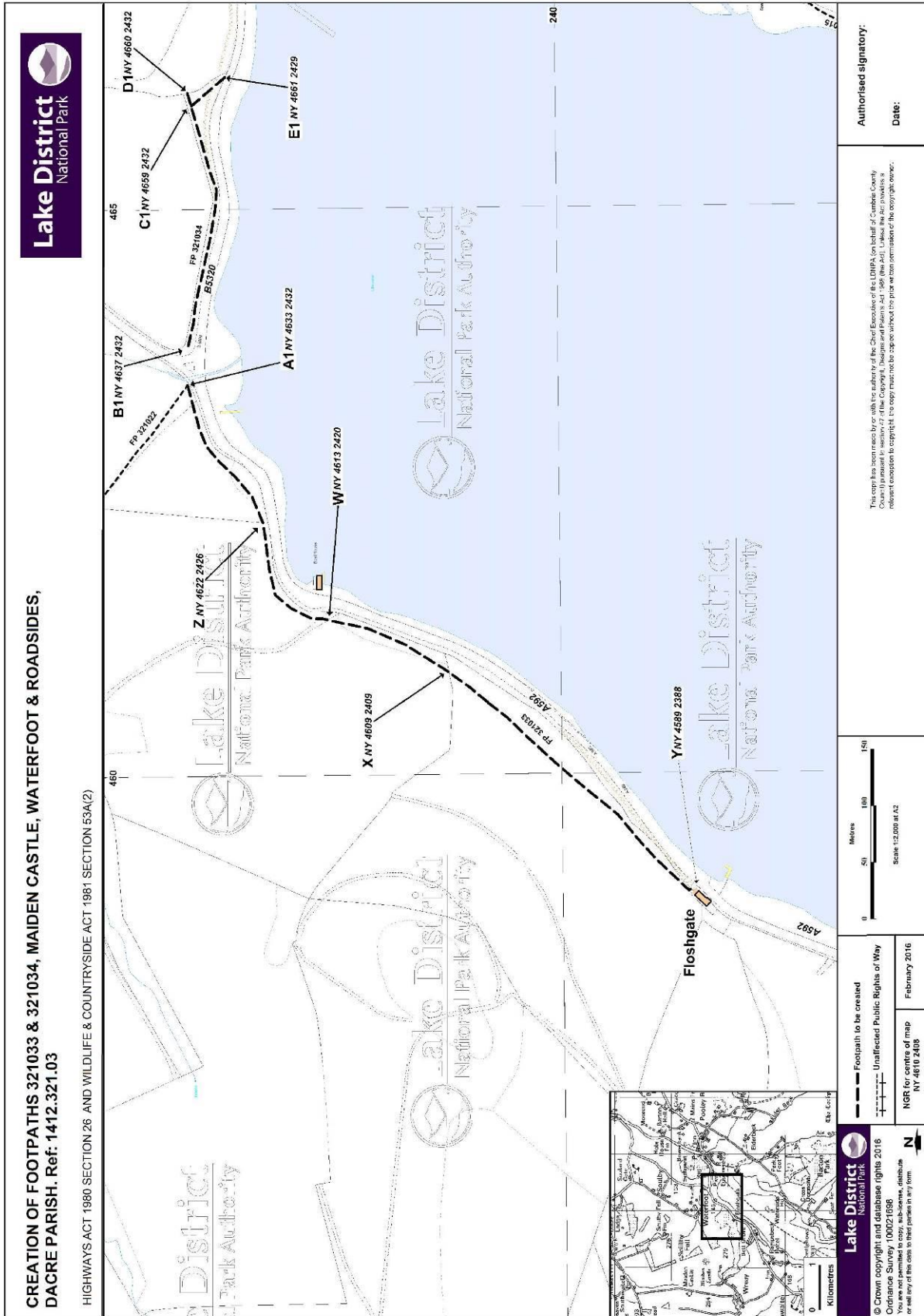
1 Summary

1.1 As part of the Ullswater Way we have negotiated some new footpaths in the Waterfoot – Wreay area, and are considering a small diversion to benefit the landowner and the public.

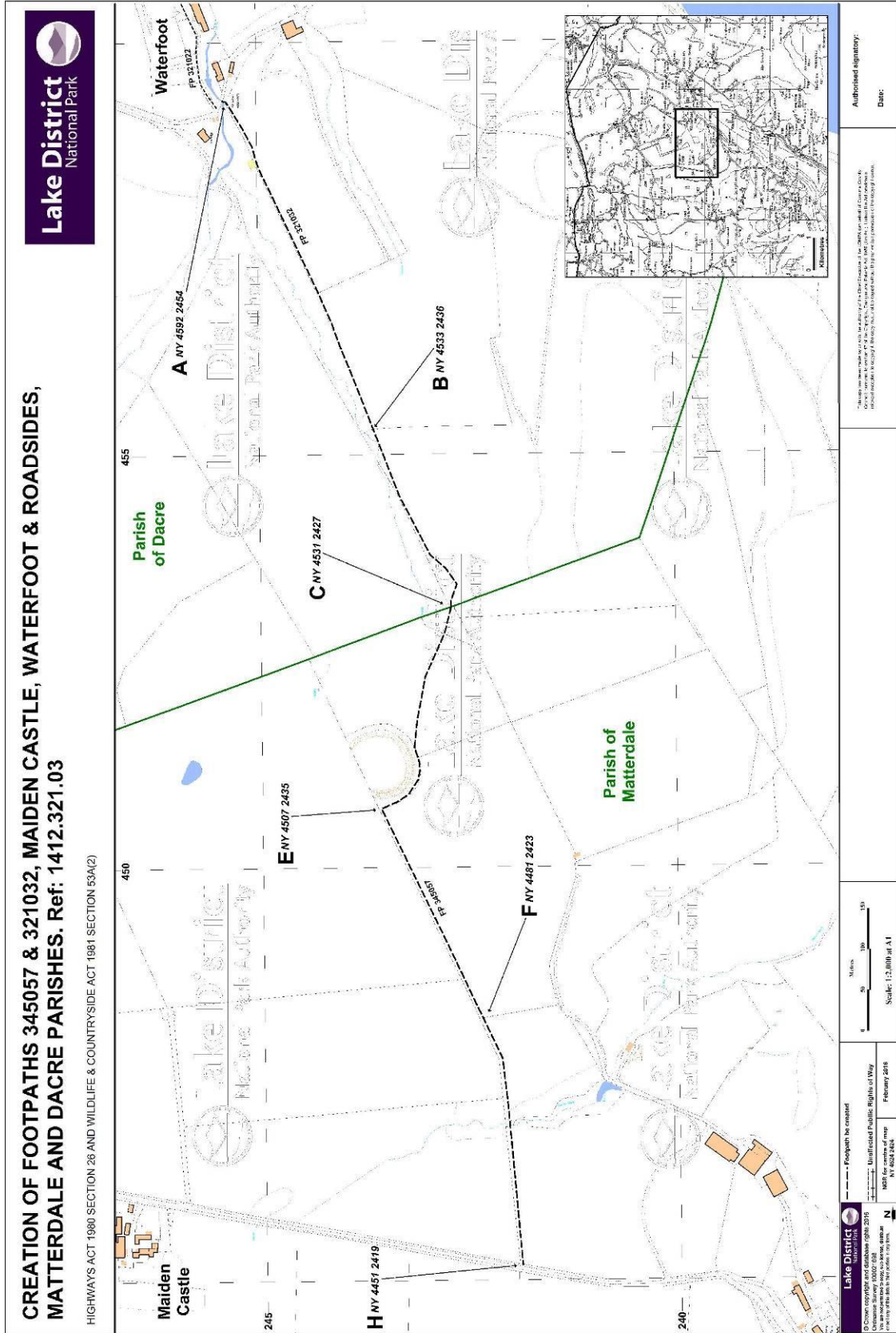
Recommendation a	we make an diversion order for the section of footpath 321022 between points V-V2 in Waterfoot caravan park (MAP 1 below)
b	we make a creation order for footpaths as follows: <ul style="list-style-type: none"> • Footpath 321033 A1-Y, Waterfoot to Flogsgate alongside the A592 (MAP 2); • Footpath 321034 B1-D1 and spur C1-E1, Waterfoot to below Dunmallard alongside the A592 (MAP 2); • Footpath 345057/321032 A-H, Waterfoot to Wreay via Maiden Castle (MAP 3).
c	we confirm the orders if no objections are received or if those objections received are withdrawn.



MAP 1 – DIVERSION OF FOOTPATH 321022, WATERFOOT CARAVAN PARK

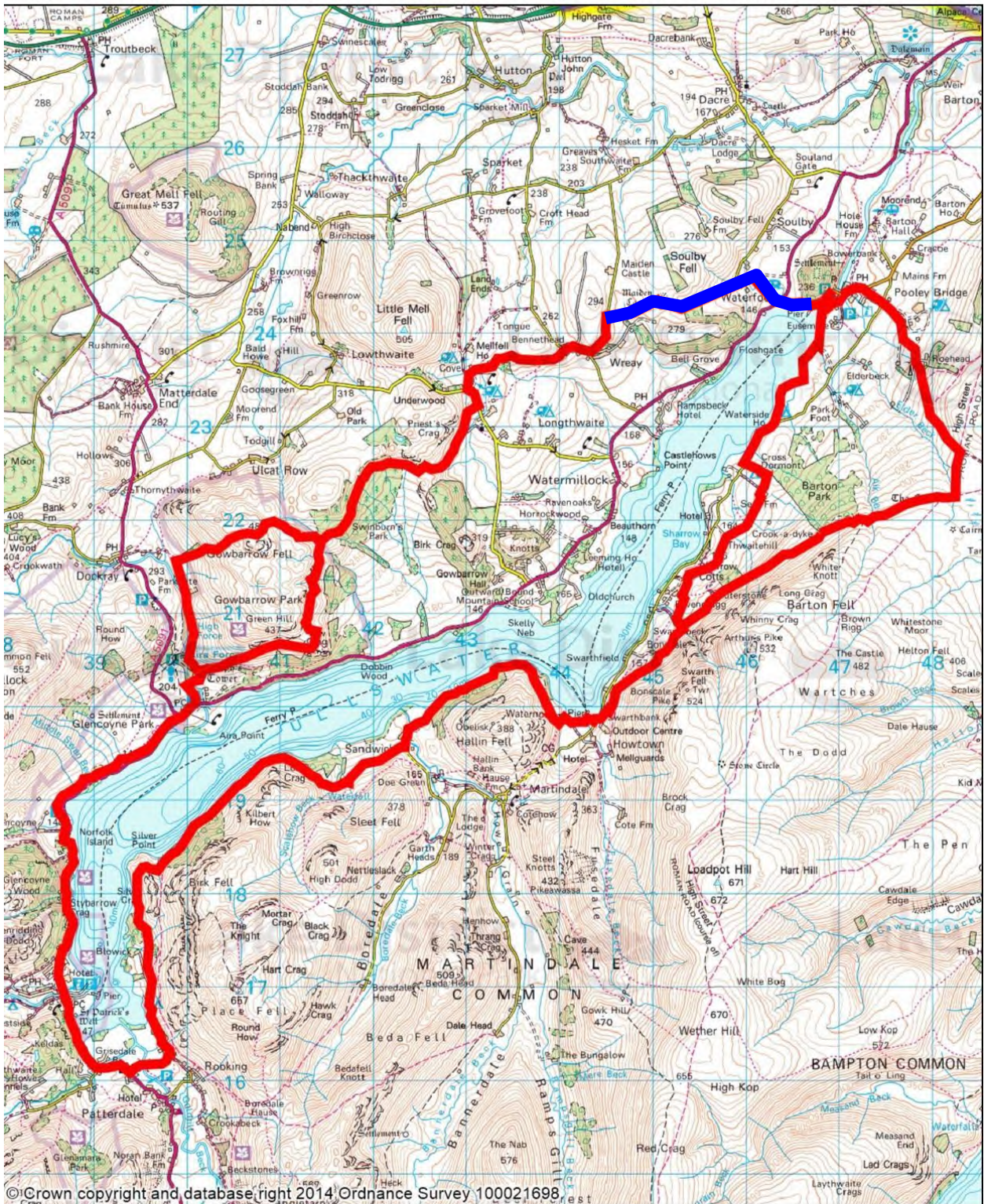


MAP 2 – FOOTPATHS 321033 & 321034 – FLOSSGATE TO DUNMALLARD HILL



MAP 3 – FOOTPATH 345057/321032, WATERFOOT TO WREY VIA MAIDEN CASTLE

Map produced by Dylan Jackman on the 18 December 2015 for the clarification of contracted work only.



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0 500 1000 1500 2000 metres



Lake District
National Park



MAP 4 - THE ULLSWATER WAY – THE SECTION DISCUSSED IN THIS PROPOSAL IS INDICATED IN BLUE

Ullswater Way Map and Guide

Aira Force to Glenridding

Distance: 3 miles / 4.6km
Terrain: Easy well-surfaced path between Aira and Glencoyne. Narrow and uneven paths by lakeshore from Glencoyne to Glenridding. Please take care: there is a 200m section along the side of the A592.

This section includes the magnificent waterfalls at Aira. Allow time to explore the paths through the old woodlands and landscaped gardens before reaching the spectacular stone arch bridge spanning the 65 foot waterfall.

The Way now passes through the ancient woodland of Glencoyne Deer Park. Most famously, Glencoyne Wood was the place where, in 1870, William and Dorothy Wordsworth saw daffodils by the lakeshore. The encounter is described in detail in a celebrated entry in Dorothy's Grasmere Journal and inspired William Wordsworth to write his most famous poem 'I wandered lonely as a cloud'. That floats on high o'er vales and hills. When all at once I saw a crowd, Almost of golden daffodils; Beside the lake, beneath the trees, Fluttering and dancing in the breeze.

At Glencoyne, cross the road to join a web of paths meandering beside Ullswater, where you can stop and admire the view down the lake before arriving in Glenridding.

Poolley Bridge to Aira Force

Distance: 6.5 miles / 10.7km
Terrain: Undulating walking through woodland and fields from Poolley Bridge the Ullswater Way takes you on paths through woodland and fields to Maiden Castle. Once a defended settlement, it is now hidden by grass, but from this raised vantage point you have spectacular views down the Ullswater Valley, and also to the Pennines to the east and Blencathra to the north.

The Way continues on to Bemmelhead and then on quiet roads to the beautifully situated Watermilllock Church, before leaving the road to join a track through the quiet woods of Swinburn Park (once one of five medieval deer parks surrounding Ullswater).

Howtown to Poolley Bridge

Distance: 5 miles / 8km
Terrain: Undulating walk through farmland and open fields. Please take care: there is a 500m section on the road from Cross Dorman to Waterside House. Just beyond Howtown, the Way takes you up onto the moorland edge with extensive views over Ullswater.

Option: At Swarthbeck, choose to continue on the open moorland to reach the cockpit – an impressive large stone circle, before descending on a wide track to join a road leading into Poolley Bridge.

Or, alternatively you can take a lower path which takes you through farm land and past farmhouses to reach the Howtown road at Cross Dorman.

The path then takes you through a working sheep farm and a copse following the water's edge round to Poolley Bridge.

Glenridding to Howtown

Distance: 6.5 miles / 10.5km
Terrain: Undulating path with up and down hill, stretches and some rocky sections. Please note this is a long, remote section.

The Ullswater Way now weaves its way with the road, but on good paths and clear crossings. The route passes King George V playing fields – named 'the prettiest field in England' by William Wordsworth, before crossing the open valley to Side Farm and heading back northwards along and above the shores of Ullswater.

This section of path, described by Wordsworth as 'the most beautiful and rewarding walk in Lakeland' undulates through woodland and open fields giving stunning views over Ullswater and its islands. The Way passes through the little hamlet of Sandwick to reach Howtown and the Steamer Pier.

Option: Leaving the woods there is a choice of paths: walk round and over the summit of Gowbarrow to enter the upper reaches of Aira Force, or continue along the path skirting Gowbarrow, where the views open to the whole of Ullswater and the rising mountains ahead. Take a rest on Memorial Seat and enjoy the panorama from this grand balcony. In the distance you will see Lytham Tower – a sixteenth century castle, listed tower before reaching the spectacular waterfalls of Aira Force.

Please Note: Map created from open source data. Use a more detailed map to follow the route. Contains Ordnance Survey data © Crown copyright and database rights 2016.

For more information visit: www.ullswater.com

2 Background

- 2.1 Having a promoted route around Ullswater has long been an ambition of the local community and is an action in the Ullswater Valley Plan. Such a route would be aimed at encouraging walkers to enjoy the valley, appreciate the spectacular scenery and support local businesses.
- 2.2 We have been working to develop the 'Ullswater Way', a new 20 mile long promoted walking route around the whole lake – with as much of it being off road as possible. It is being developed by a broad public and private sector partnership including the Lake District National Park Authority, See More Cumbria and the Lake District, The National Trust, Eden District Council, Ullswater Steamers and the Ullswater Association with additional funding from Cumbria Waste Management Environment Trust. We are improving existing paths, developing a waymark to identify the route on the ground, producing leaflet detailing the route, and we will be promoting it on www.ullswater.com
- 2.3 Most of the route will utilise existing public rights of way or permitted paths – but in a few places there are 'missing links' in the network.
- 2.4 One of these is at Waterfoot, near Pooley Bridge. And this is an important 'missing link' to fill because the road alternative here is the busy A592.
- 2.5 For many years we have had a permitted path agreement with the landowner alongside the B5320 below Dunmallard Hill. Part of this land has recently been bought by Lake District Estates who are keen to improve the accessibility between Waterfoot Caravan Park and Pooley Bridge and the lake steamer pier. To this end, they have kindly offered to allow the existing permitted path between points B1 and E1 (And spur to D1) above the road (see Map 2) to become a public footpath for around 270 metres (the section continuing eastwards in the woods will remain permissive only).
- 2.6 Lake District Estates have also offered a 660 metre long public footpath alongside the A592 to keep walkers heading south off the road until Flossgate. Again utilising an existing permitted path (the agreement has expired, but the path still exists).
- 2.7 North of this, there were a series of Defra 'Countryside Walks & Rides' permitted paths agreed between Defra and the landowners (Lake District Estates and the owners of Bennethead Farm). These agreements expired in around 2012/2013 – and the paths were little maintained even before then. The landowners have kindly offered a permanent public footpath that will link Waterfoot Caravan Park with Maiden Castle and the road just outside Wreay, around 1,500 metres long (Map 3). This should enable not only the establishment of the Ullswater Way, but also offer other circular walks from the Caravan Park along relatively quiet back roads. It will also mean that there will be a maintenance responsibility in perpetuity – which will enable future improvements if required.
- 2.8 As a separate matter, footpath 321022 has an odd loop in it through the caravan park (Map 1) as a result of a previous diversion in around 1995 to avoid buildings. These buildings have gone, and the layout has changed considerably – and the path is also possibly obstructed by at least one caravan. It would seem logical, and could benefit both the landowner and the walking public to 'straighten out' this loop.

3 Policy Context

- 3.1 The Vision for the Lake District National Park sets out our aspirations for what we hope to achieve by 2030. To summarise, these are to have a landscape which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved. A landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.
- 3.2 The Partnership's Plan contain the policies and actions for achieving the aims of the Vision. The main delivery aim in the Partnership's Plan for access and rights of way is to make the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors from relaxing and tranquil to adventurous and exhilarating.
- 3.3 Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. It seeks an outcome that provides high-quality and unique experiences for visitors within a stunning and globally significant landscape: experiences that compete with the best in the international market to strengthen the tourism sectors across the National Park.
- 3.4 The Park Management Service Plan contains the Business Plan priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy.
- 3.5 In our Service Plan this includes:
- carrying out Rights of Way order casework that addresses conflict, supports network improvements and supports landowners and/or meets safety needs through temporary closures.
- 3.6 This proposal helps fulfil all of these aims. The main new footpaths will provide a safe, off-road, signed link and a crucial part of the Ullswater Way.
- 3.7 Our charging policy was agreed at Authority in August 2006. Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 1.

4 Best value implications

- 4.1 **Work Programme and relevance to this case:** this is a Rights of Way Improvement Plan project, and the practical works have been completed. It is therefore a priority in terms of legal work to see it recorded formally.
- 4.2 The best value implications are:
- a) The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposal will help do this.
 - b) Processing public path orders is not a **competitive** procedure. Cumbria County Council can also process orders, but we would have to ask them to make a creation order, and probably pay their fees for doing so.
 - c) We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process.
 - d) We have **compared** our casework completion rates with other authorities, and this case will help us reach our target this year.

5 Options

- 5.1 a: make the recommended orders
b: do not make orders

6 Proposals

- 6.1 I recommend option 5.1a. The creation will bring about long-term benefit to the public, and the diversion will resolve a small issue and generally have minor benefits for the public and the landowner.

7 Grounds, Tests, and Reasoning for the Creation Orders

7.1 Grounds and Tests for a Creation Order

There are two questions to consider under Section 26 of the Highways Act, and after taking these into account, we need to decide whether we are satisfied that it is expedient to create a new right of way.

- Is there a need for the new path?
- Is it a good idea to create the new path taking account of;
 - how it will be more convenient or enjoyable for most of the people living locally or other members of the public; and
 - how it will affect the rights of those with an interest in the land?

7.2 *Is there a need for the new path?*

- 7.2.1 The idea behind the Ullswater Way is to create a continuous route around the lake, with as much as possible being off-road. There are gaps in the current network, and the most significant of these is between Pooley Bridge and Wreay.
- 7.2.2 The first section from Pooley Bridge to underneath Dunmallard Hill is a formal permitted path, and the landowner is unwilling to see this converted to a definitive footpath. It is likely that this will mean a renegotiation of the permitted path agreement – but there appears to be no intention on behalf of the landowner to reduce or stop public access along it.
- 7.2.3 The second section D1-B1 is a continuation of this path. It provides a crucial off-road link between Pooley Bridge and Waterfoot Caravan Park, and is, in my opinion, very much needed. The short spur to the road at E1 enables walkers from the caravan park to get to the Steamer Pier with as little road-walking as possible.
- 7.2.4 From the caravan park to Wreay (A-H), there is no formalised route. The old permitted path has expired, and although still used – much of the furniture is in poor condition. Not only does the new path connect Pooley Bridge to Wreay almost entirely off-road, it will also give access from both directions to Maiden Castle. This is identified on the Historic Environment Record, and the outline of the site is well preserved on the ground. Even if there was no Ullswater Way, the provision of access to an historic location such as this would, in my view, warrant a need.
- 7.2.5 There is less identified need for the roadside path to Flosgate between A1 & Y. However, it does exist on the ground, and is used – and therefore it could be said that the public themselves see a need for it. It does enable walkers to get to the lakeshore further south relatively easily – and offers future potential for further links alongside the road at a suitable date in the future.

7.3 *Will it be more convenient or enjoyable for most of the people living locally or other members of the public?*

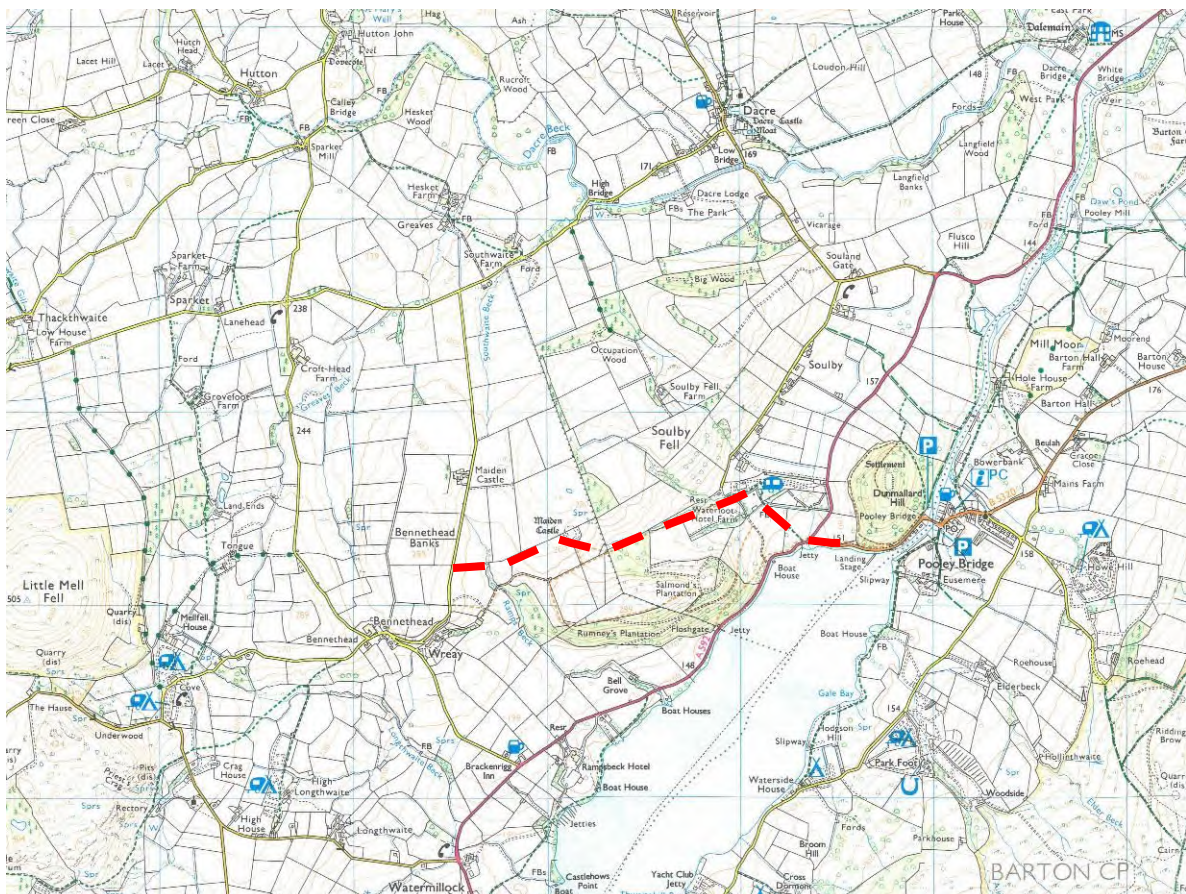
7.3.1 The creation of the main route has been an ambition of the local community – and it will be the most direct route from Pooley Bridge to Gowbarrow and Aira Force. Although the primary aim is to facilitate the development of the Ullswater Way, the new links are also likely to be used by locals. The back roads from Dacre are fairly quiet, and the establishment of the main link will enable walkers to complete circulars via Waterfoot and Wreay.

7.3.2 Ideally we would have liked the main route to become a public bridleway – however, the topography and ground conditions do not lend themselves to this without large scale engineering works.

7.3.3 In the longer term we would also like to develop some further routes through the woodlands to the south to provide a greater range of shorter circular walks from the caravan park and Pooley Bridge.

7.4 *How will it affect the rights of those with an interest in the land?*

7.4.1 All the landowners and tenants are in agreement with the proposals. The creation could possibly reduce any future sale price, but not by much given that public access has historically existed here, and people continue to walk the old routes. The owners of the land have agreed to the creation, and consider that it will not have a negative impact on their ownership. The Lake District Estates are keen to improve the network here – as it will enhance the attractiveness of their caravan park – and create better links for their steamer services.



Ordnance survey 1:25,000 map (not to scale) showing surrounding paths and roads – and the proposed routes (red dashes) in their context.

8 Grounds, Tests, and Reasoning for the Diversion Order

8.1 The grounds and tests for a diversion are slightly different at the making and confirmation stage. However, as we have discretion as to whether to make an order in the first place, it would be unwise to ignore something that could prevent a made order from being confirmed. Therefore, the issue should be considered in the whole, and the factors to take into account are set out and discussed below. These factors incorporate our own policies on changes to the rights of way network which are set out in annex 1.

8.2 There are only two grounds for a diversion of a right of way (section 119, Highways Act 1980), namely where it appears to the Authority that it is expedient to do so:

- a) in the interests of the owner, lessee or occupier of the land crossed by the path,
OR b) in the interests of the public.

8.3 I consider that it is expedient in the interests of the landowner as the current path passes through a caravan park, and indeed a caravan. A diversion will resolve this issue. It will also benefit the public by reducing an unnecessary dogleg from the path, making it shorter and more direct.

8.4 The tests are:

- Will the new path be substantially less convenient to the public?
- The effect which the diversion would have on public enjoyment of the path or way as a whole;
- The effect the order would have as respects other land served by the existing right of way;
- The effect of the new right of way on land over which the new path is created;
- That termination of the alternative footpath is on the same or a connected highway, and is substantially as convenient to the public.

8.5 *Will the new path be substantially less convenient to the public?*

The new route will be more convenient. The current route is a confusing 180 metre loop through a caravan park, whilst the proposed route is a 95 metre long simple straight line on an obvious path.

8.6 *What is the effect of the diversion on public enjoyment of the path or way as a whole?*

I do not consider that there will be any loss of enjoyment.

8.7 *Would the order affect other land served by the existing right of way?*

No.

8.8 *Is there any effect of the new right of way on land over which it is created?*

No – the owners of the land over which the current and new path run are the same, and are in agreement with the proposal.

8.9 *Is the termination of the alternative footpath on the same or a connected highway, and is it as substantially as convenient to the public?*

The diversion is mid-path, and the terminations are unaffected.

9 Other considerations required by legislation

9.1 Rights of Way Improvement Plan

9.1.1 Before confirming a public path creation or diversion order we are required to have regard to any material provision of a Rights of Way Improvement Plan (ROWIP).

9.1.2 An around Ullswater footpath was a specific proposal put forward by the public during the ROWIP process (although the precise route was not defined). It scored highly, and was within the top third priority projects. It clearly fits within a number of actions and within the general ethos of the ROWIP, such as:

- Action 27 – Promotion of public transport: Promote the use of public transport for travel to and within the countryside, and link with walking and cycling routes. *The Ullswater Way is designed so that it connects with local buses and the Ullswater Steamers (you can do sections of it, and catch the boat back).*
- Action 29 - Long-distance walking routes: Identify, develop and promote a set of long distance (over 1 day) walking routes. *Twenty miles can be walked in a day, but some walkers could well split the route over two days – stopping in local accommodation overnight.*
- Action 27 – Footpath links: identify and create new links in the footpath network. *This project achieves this.*
- Paragraph 18 – Improvements can include physical work on a route (surfacing, gates, and so on). *This project has helped us bring about improvements on these paths.*

9.2 *Limited Mobility* - We have a duty to audit the proposals with regard to limited mobility. The nature of the terrain means that it is unlikely that the new paths could be made suitable for many people with limited mobility. No stiles will be installed, only gates.

9.3 *Impact on the needs of agriculture and forestry* (assessment required under schedule 6, of the Countryside & Rights of Way Act 2000). There are no identifiable impacts, and the landowners and tenants have agreed to the routes becoming public footpaths.

9.4 *We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006.* And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any effects on these aspects.

10 Consultation responses

10.1 We have received a few responses to our consultation. Comments are summarised below:

Cumbria County Councillor	Sounds good – but will wait to see if there are any concerns from Matterdale / Watermillock [<i>presumably none were received, as we did not hear further</i>]
Local Access Forum	Seems an eminently sensible idea, and the landowners should be congratulated on their altruism – something of a refreshing change. One member from the locality has commented at length, and is 'very excited'. He also made some suggestions which have been forwarded to the project ranger.

Ramblers	The paths proposed for creation will benefit the public. The path past Maiden Castle will be a useful link in the network, and the other paths alongside the roads are also useful as the roads are not pleasant to walk on. The diversion seems sensible. The Ramblers asked some questions about furniture and other paths – which I have dealt with.
----------	---

11 Finance Considerations

- 11.1 The proposal is entirely in the public benefit. Therefore, I consider that it is appropriate that the authority meet the entire costs, which are approximately £2,000 plus VAT (mainly staff costs) as below:

		Cost	VAT at 20%	Total
Legal and Administration work	This includes all the Authority's legal and administrative costs in negotiating, making and confirming an order.	£1,360	£272	£1,632
Advertising	Two adverts must be placed in the local press: <ul style="list-style-type: none"> • When the order is made and; • When it is confirmed. Costs vary depending on the length of advert necessary and the newspaper's scale of charges.	Totalling £300	£60	£360
		£1,660	£372	£1,992

- 11.2 The costs involved to upgrade and replace access furniture is being met by the Ullswater Way project. This includes agreed funding from Lake District National Park Authority, See More Cumbria and the Lake District, The National Trust, Eden District Council, Ullswater Steamers, the Ullswater Association and Cumbria Waste Management Environment Trust. For this section, we estimate that the cost is around £3,000 of materials, plus 20 staff days.
- 11.3 The marginal cost of the diversion order is negligible, the advert will be slightly longer, and there will be three extra notices on site. This will be subsumed into the cost of the creation.

12 Risk

- 12.1 There is a risk that the orders may be objected to. For example the landowners may object to the creations. This risk has been mitigated as far as possible through initial agreements with the landowners and their tenants, and normal consultations.

13 Legal Considerations

- 13.1 The orders will be made under sections 26 & 119 of the Highways Act 1980 and we are able to make orders under these sections by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumbria County Council. The action strikes a reasonable balance between private and public rights.
- 13.2 An alternative method would be through creation orders under section 25 of the Highways Act. However, with the number of different owners involved this could be difficult to achieve in a timely fashion.

14 Human Resources

- 14.1 The work involved in the legal aspects of this project is approximately 40 hours from members of the Park Management teams, and 1 hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and just under half of it has already been undertaken.
- 14.2 The negotiations have taken many hours (days), but this is all part of our commitment to the Ullswater Way Project.

15 Diversity Implications

- 15.1 There are no particular diversity implications connected with this proposal – but see the limited mobility audit above.

16 Sustainability

- 16.1 I have not identified any significant environmental, economic or social effects.

17 Summary

- 17.1 The proposals will benefit the public, and have come about through successful partnership working. All of those who responded to the consultation are in agreement with the proposals.
- 8.2 I recommend that we make the necessary creation and diversion orders to bring this into effect.

Background Papers:	Case file reference 1412.321.03
Author:	Nick Thorne, Countryside Access Adviser
Date Written:	5 April 2016
Version	Final

Authorised by:
.....
Mark Eccles , Head of Park Management
Date.....

Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the later annexes.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

The Openness of Local Government Bodies Regulations 2014 require that officers keep a written record of decisions which are made, either:

- a) under a specific express authorisation or
- b) under general delegated authority, where the effect of the decision is to
 - i) grant permission or licence;
 - ii) affect the rights of an individual; or
 - iii) award a contract or incur expenditure which, in either case, materially affects the Authority's financial position (£50,000 or over).

Lead Director	Steve Ratcliffe, Director of Sustainable Development	
Subject of Decision	CHARGING FOR PROCESSING SECTION 31(6) HIGHWAYS ACT DEPOSITS	
Relevant section of Scheme of Delegation	PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS ANNEX 4 - Functions delegated to Head of Park Management Rights of Way and Access Matters All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumbria County Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and Planning Acts.	
Background	The Regulations setting out procedures for processing s31 (6) deposits changed on 1 December 2016. This report recommends reconsidering the charges to landowners in the light of new streamlined procedures.	
Details of Decision	<ol style="list-style-type: none"> a) that we revise the charges for administration of deposits made under section 31 (6) of the Highways Act 1980 from £324 (plus VAT) to £170 (plus VAT). b) that we undertake an annual review of this charge as part of budget setting to ensure charges match actual costs incurred. 	
Details of alternative options considered and rejected.	<ul style="list-style-type: none"> • Keep the existing fee in place • Revise the fee to another alternative amount 	
Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest		None
Author and contact details of report	Sarah Blakemore, Rights of Way & Access Assistant	
Background Papers	Statutory Instrument 2013 No 1774 Statutory Instrument 2016 No 8081	
Date of Report	5 December 2016	
Signature of authorising officer	Signed Mark Eccles Head of Park Management	
Date	7/12/2016	

CHARGING FOR PROCESSING SECTION 31(6) HIGHWAYS ACT 1980 DEPOSITS

1 Summary

- 1.1 This report recommends reducing the charge to landowners for processing Section 31(6) deposits (made under the Highways Act 1980). This is because the process will change and become more streamlined when new regulations come into force on 1 December 2016.

Recommendation that

- a) We revise the charge for administration of deposits made under section 31(6) of the Highways Act (1980) from £324 (plus VAT) to £170 (plus VAT).*
- b) We undertake annual review of this charge as part of budget setting to ensure charges match actual costs incurred.*

2 Background

- 2.1 Section 31(6) of the Highways Act 1980 enables landowners to make statutory statements/declarations which prevent members of the public from establishing new rights of way across their land through usage. They send us (as Cumbria County Council's Agents) a map and description of their property and rights of way crossing it, along with a declaration stating that no additional rights of way have been dedicated, other than those shown on the definitive map or since any previous declarations.
- 2.2 From 1 October 2013 new regulations came into force allowing local authorities to charge "a reasonable fee" for processing section 31(6) deposits.
- 2.3 Based on advice regarding costs charged for other work on the behalf of landholders, we calculate costs on our charge-out rates, which cover factors such as travel, stationery, heating, management time and so on – rather than merely officer time alone.
- 2.4 In 2013 we introduced a standard cost to the landowner of £324 plus VAT for processing the deposit. Our charging scheme also allows the additional option to negotiate an extra fee for deposits which add an extra time and financial burden.
- 2.5 A large amount of this cost was due to the requirement to post notices on-site as part of the process. Amendments to the Regulations will come into place from 1 December 2016 (Annex 2). The amendments remove this requirement thereby reducing staff time and resources involved in the production of notices and posting/removal of notices by Authority staff. Based on a revised cost analysis (see Annex 1) it is proposed that we reduce the charge to landowners from £324 to £170 (plus VAT).

3 Policy Context

- 3.1 We process section 31(6) deposits as part of our agency agreement with Cumbria County Council. This fits with the general ethos of working with landowners to reduce

conflict, although processing section 31(6) deposits is not currently written in the Business Plan or Partnership Plan.

- 3.2 Decisions on charging to recover costs rest with the Head of Park Management under our delegation scheme.

4 Options

- 4.1 You need to decide whether to:

- a. Reduce the standard fee for processing section 31(6) deposits from £324 to £170 in line with revised cost analysis in Annex 1;
- b. Keep the existing fee in place;
- c. Revise the fee to another alternative amount.

5 Proposal

- 5.1 I propose option 4.1 as we need to continue increasing our effective use of resources by recovering costs where possible and by keeping the charges up-to-date. The proposed charge reflects the actual cost that the amended regulations allow us to charge for.

6 Best Value Implications

- 6.1 **Challenge:** We process section 31(6) deposits as a standard part of managing the rights of way network. The applicants are the only beneficiaries, and it is therefore right that they meet the costs.
- Compare:** From a comparison with the charges made since 2013 by other authorities for processing deposits, it appears that our charges are in within the normal range. As the amendments are new, we have not yet got any comparative data on if/how other authorities intend to amend their charges in the light of new streamlined processes.
- Compete:** Cumbria County Council can also process deposits within the National Park. We are not competing for the business of processing deposits, but merely recovering our costs. We are also best placed to process these deposits within the National Park. However, applicants will be free to choose Cumbria County Council as their preferred processing authority on a costs basis if they wish.
- Consult:** It is not appropriate to consult on this issue.

7 Finance Considerations and Costs Calculations

- 7.1 We calculate the appropriate fee to charge landowners based on a costs analysis based on the average costs incurred at the various stages of the process, including staff time, travel expenses and stationery required. The work includes:
- Pre application administration – sending out guidance, sample forms, and discussions;
 - Acknowledgement of application and initial checking against the definitive map and clarifying any areas of uncertainty;
 - Preparation of plans, if necessary;
 - Consulting interested parties;
 - Acknowledging the declaration;
 - Updating the s31(6) register table and emailing to Cumbria County Council for them to update their website;

Revised detailed figures relating to each aspect are attached as Annex 1. This is revised from the previous fee as it excludes costs associated with production of site notices and posting/removal of notices by Rangers.

- 7.2 The average number of deposits processed over the last eight years amounts to three per year. If you agree to the change in costs then theoretically our annual income will reduce, by up to £465 per year on average. However, we are only allowed to recoup our costs for the process, and as the staff time required will be reduced by the need to place site notices, it is right that we should reduce our fees in line with the reduction in staff resources involved.
- 7.3 It is also worth noting that since the charges were introduced we have not actually received any applications, and therefore our actual income will not be reduced.

8 Risk

- 8.1 The main risk would come from a potential reduction in our income from fees paid by landowners. However, on the basis of previous level of applications, it is likely to be only a small possible reduction, and will be matched by a corresponding freeing up of staff time (Rangers) for other work. It is theoretically possible that a reduction in costs charged will encourage more landowners to make deposits therefore reducing the available time of Rights of Way, GIS/IT and Administrative staff for other work.

9 Legal Considerations

- 9.1 Section 31(6) of the Highways Act 1980 makes provision for landowners to prevent members of the public from creating new rights of way across their land and gives power to the Secretary of State to set out the process for the consideration of such applications. The process for processing applications is set out in:
- Statutory Instrument 2013 No. 1774 Commons, England; Highways, England – The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations)(England) Regulations 2013
 - Statutory Instrument 2016 No. 1081 Commons, England; Highways, England – The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations)(England) Regulations (England) (Amendment) Regulations 2016
- 9.2 Section 2(d) of the Regulations permits us to charge a 'reasonable fee' for the processing of any applications received under section 31(6).

10 Human Resources

- 10.1 We are already processing these deposits. This proposal is unlikely to affect workloads unless a reduction in fees charged has the effect of increasing the level of applications (see 8.1 above).

11 Sustainability

11.1 There are no significant external environmental, economic or social effects.

Background Papers

Statutory Instrument 2013 No. 1774 Regulations
Statutory Instrument 2016 No. 1081 (Amendment) Regulations
Author Sarah Blakemore, Rights of Way & Access Assistant
Date Written 5 December 2016
Version Final

Authorised

.....
Mark Eccles, Head of Park Management

Date..... 7 December 2016

Costs analysis

Task	Officer(s)	Salary costs at charge out rate	Units of Time (e.g.: hours [0.25=15 minutes]) or other (e.g.: sheets of paper, no. of trips, etc.)	Costs	Costs per stage of process
Preliminary stage / Initial Administration for deposit					£69.37
Pre application admin – sending sample forms, guidance, discussions, charging regime, etc.	ROW/Access Assistant	33.84	0.50	£16.92	
Acknowledgement & initial checking against DM & clarifying any areas of uncertainty	ROW/Access Assistant	33.84	0.50	£16.92	
Preparation of plans	GIS Techs	33.84	1.00	£33.84	
Stationery		0.13	13	£1.69	
Consultation					£59.96
Spreadsheet data	ROW/Access Assistant	33.84	0.75	£25.36	
Consultation letter and dealing with responses	ROW/Access Assistant	33.84	1.00	£33.64	
Stationery (mostly by email other than some landowners)		0.13	2.00	£0.26	
Postage		0.50	1.00	£0.50	
Administration of declaration					£39.36
Stationery		0.13	5	£0.65	
Acknowledging declaration	ROW/Access Assistant	33.84	0.25	£8.46	
Updating s31(6) register table & emailing to CCC	ROW/Access Assistant	33.84	0.50	£16.92	
Uploading info onto website	Admin	26.70	0.50	£13.35	
					166.73

5 sheets paper for guidance, 5 for application, 1 for map, 2 for agreement for notice removal

To landowner

Notes

Annex 2

STATUTORY INSTRUMENTS

2016 No. 1081

COMMONS, ENGLAND

HIGHWAYS, ENGLAND

**The Commons (Registration of Town or Village Greens) and
Dedicated Highways (Landowner Statements and Declarations)
(England) (Amendment) Regulations 2016**

Amendment of the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013

2. In regulation 4(2)(c) of the 2013 Regulations, at the beginning insert "in respect of an application to which regulation 2(1)(c) applies,".

Annex 3

Statutory Instrument 2013 No. 1774

Commons, England; Highways, England – The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations)(England) Regulations 2013

Making an application

2.—(1) This regulation applies to any application made on or after 1st October 2013—

- (a) to deposit a statement and map under section 31(6) of the 1980 Act;
- (b) to lodge a declaration under section 31(6) of the 1980 Act;
- (c) to deposit a statement under section 15A(1) of the 2006 Act.

Management and publishing of application

4.—(1) As soon as practicable after receiving an application made in accordance with regulation

2, the appropriate authority must—

- (a) send an acknowledgement of receipt to the applicant; and
- (b) publicise notice of receipt of the application in accordance with paragraphs (2) and (3).

(2) An appropriate authority must—

- (a) publish notice of the application on the authority's website;
- (b) serve notice of the application by email on any person who has previously asked to be informed of all applications and who has given the authority an email address for that purpose; and
- (c) so as to bring it to the attention of users of the land, post notice of the application for not less than 60 days at or near at least one obvious place of entry to (or, if there are no such places, at or near at least one conspicuous place on the boundary of) the land to which the application relates.