

**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	<b>CREATION OF FOOTPATH 511098, YMCA TO STOTT PARK HEIGHTS (THE BROWS), COLTON PARISH</b>	
Relevant section of Scheme of Delegation	<b>PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS</b> <b>ANNEX 4 - Functions delegated to Head of Strategy &amp; Ranger Service</b> <b>Rights of Way and Access Matters</b> 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 Westmorland and Furness 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 explaining adequately the nature of the concerns and meet the legal considerations defined by the Highways and Planning Acts.	
Background	The current owners of the woodland between YMCA and Stott Park Heights (The Brows) have kindly offered to convert an old permitted path into a public footpath to give it long-term protection and security.	
Details of Decision	<b><i>To enter into a creation agreement to formally create a public footpath (511098) between the road at the YMCA and Stott Park Heights.</i></b>	
Details of alternative options considered and rejected.	Not to enter into an 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, Senior Rights of Way Officer	
Background Papers	None	
Date of Report	5 August 2025	
Authorising Officer	Steve Tatlock, Ranger Team Leader (South)	
Date	Team Leaders' Meeting – 11.08. 2025	

# CREATION OF FOOTPATH 511098, YMCA TO STOTT PARK HEIGHTS (THE BROWS), COLTON PARISH

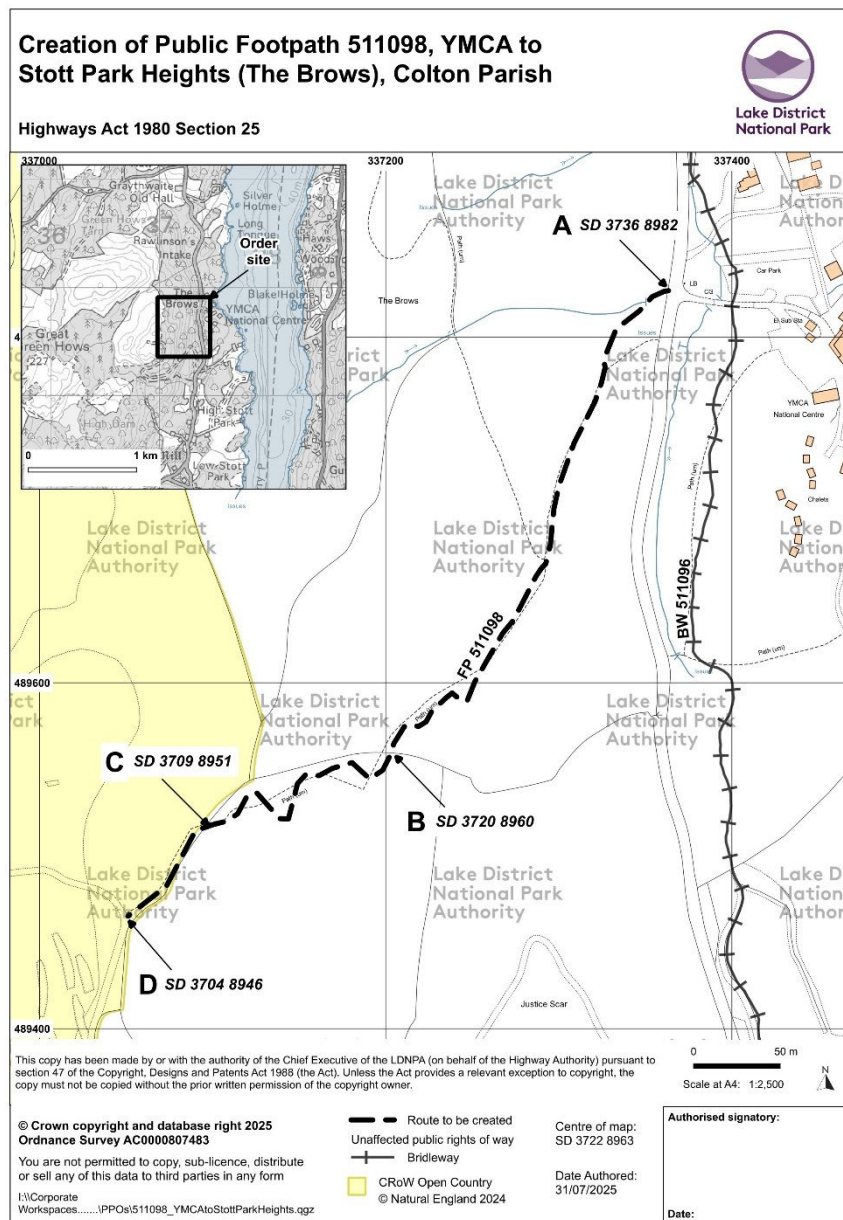
## 1 Summary

1.1 The current owners of the woodland between YMCA and Stott Park Heights (The Brows) have kindly offered to convert an old permitted path into a public footpath to give it long-term protection and security. This report discusses whether to enter into an agreement with the owners and accept their offer on behalf of the public.

**Recommendation that:**

**a We enter into a formal agreement to create a public footpath between the road at the YMCA and Stott Park Heights, as shown on the map below.**

**b We publicly thank the landowners for their kind offer (press release and newspaper advert).**



Map of proposed public footpath

## 2 Background

- 2.1 The current owners of the woodland between YMCA and Stott Park Heights (The Brows) have kindly offered to convert an old permitted path into a public footpath to give it long-term protection and security. As staff, we are very pleased, as the establishment of this permitted path is something we were involved in around 20 years ago when it was then owned by the YMCA. The path will link nicely to our new West Windermere Way, and provide additional circular routes incorporating the new roadside link. It will also give an additional more adventurous formal link from High Dam northwards and to the lakeshore.
- 2.2 The route is shown on the map above – it runs between the gate on the roadside (A) and the open access land, where it joins the main track (D) from which there are various routes up to Stott Park Heights, High Dam, and so on.
- 2.3 Following the first version of this report, the Team Leader visited the site to look at the proposed works and costsings, to determine whether it was Value for Money to proceed. It was – and so works were carried out in May 2025. This involved mainly signage and replacing / repairing many of the old wooden steps which have decayed over the years and are now not hugely usable, along with repairing / replacing a few drains.
- 2.4 The proposal has come about through successful partnership working and the Farming in Protected Landscapes Project.



A portion of the path running through attractive woodland.



An example of some of the old steps that have now been replaced  
(the top step is higher than it looks)



New steps and graded path replacing the above

### **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 Strategy & Rangers 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 'Out There' our Access and Recreation Strategy 2023-2028 has four main priority themes, including:
- Improve – to make the access network fit for purpose and meeting the needs of modern day users. Continue to develop, where external funding is available, a network of bridleways and footpaths to encourage more people to ride, wheel or walk between settlements and key attractions and to link settlements outside the National Park boundary to the Lake District.
  - Manage and Maintain – to continue with the statutory functions of reviewing and updating the definitive map by processing diversion and modification orders and legal casework.
- 3.6 This proposal helps fulfil many of these aims – in particular, improving the access network and connecting key attractions.
- 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 Demonstrating Best Value

- 4.1 **Work Programme and Relevance to This Case:** this project has come from the landowner as part of a wider project, and as a consequence it is a high priority case as we need to respond in a timely fashion to avail ourselves of the opportunity.
- 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 agreement will benefit the public but will incur expense to ourselves / the public.
  - b) Processing public path agreements is not a **competitive** procedure. Westmorland & Furness Council can also process orders / agreements, 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, their responses and our comments are later in the report. The whole project has come about through effective partnership working and good relations with the landowners over a number of years.
  - d) There is little to **compare** to in respect of this type of proposal.
- 4.3 I consider that the proposal is good value for money. It is a path we developed some 20/25+ years ago, and will create good links.

## 5 Options

- 5.1 a: enter into a creation agreement  
b: do not enter into a creation agreement

## 6 Proposals

- 6.1 I recommend option 5.1a. It will make this path publicly maintainable, will protect it in perpetuity, create good links and will mean that it is shown on Ordnance Survey maps.

## 7 Grounds and Tests for a Creation

- 7.1 There are no specific legal tests relating to entering into creation agreements – but it is logical to consider the creation order tests to examine whether it is expedient for us to carry out this process.
- 7.2 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?

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

7.3.1 There is not a specific demand for this path, although it is used by the public (and we observed this on our site visit), which would imply a latent (if small) demand.

7.3.2 The map below shows how the new route (red) fits in with the existing network, the open access land (ochre) and the new West Windermere Way (blue).

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

**Proposed Path (red)**



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

7.4.1 The actual levels of future usage and demand may well depend partly upon what happens to the YMCA land/property which has been sold. If this is developed with visitors in mind, then this path will be an extremely convenient way to quickly get into the low fells. Even if it is not, it will still receive use as part of a through route involving the lakeshore path to the north of the YMCA.

7.4.2 In addition, the new route will offer a greater number of options for circular walks from the newly developed West Windermere Way (southern portion) – and in particular, will give walkers an additional way to get back to High Dam and the car parking areas there.

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

7.5.1 The landowners fully support the creation of these routes, and are keen for people to enjoy their woodland.

## **8 Other Considerations Required by Legislation**

8.1 *Rights of Way Improvement Plan*

8.1.1 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), or in our case currently, our 'Out There' strategy and our 'Active Travel' suggestions.

8.1.2 The bottom part of this route was a specific ROWIP suggestion ('footpath link') put forward by the public, which scored quite highly. In addition it fits within a number of actions and within the general ethos of the ROWIP and Out There, as mentioned earlier. A 'pin' was added to the Active Travel webpage for something close to this location, but unfortunately no details of the proposal were captured. However, it mentions cycling – so is unlikely to relate to this path.

8.2 Limited Mobility - We have a duty to audit the proposals with regard to limited mobility. This path is not particularly suitable for many with limited mobility..

8.3 The impact on the needs of agriculture and forestry is required to be assessed under schedule 6 of the Countryside & Rights of Way Act 2000. The landowners actively manage this woodland and do not consider that the path will impact upon this.

8.4 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.

## 9 Consultation Responses

9.1 We have consulted our usual consultees and a few have responded.

Westmorland & Furness Council	1 – Sounds good to me! 2 – No objection or comments on the proposals.
Wainwright Society	Fully supportive of the proposals for the reasons set out in your email [ <i>basically the background section of this report</i> ].
Open Spaces Society	<p>Many thanks for this interesting email and for consulting the OSS on this possible footpath creation. We have previously used this route and, albeit some time ago, orienteered in this area.</p> <p>The OSS very much welcome this proposal. As you note the potential link to High Dam is there both over the s1 CROW access land and on a few desire (possibly some deer) lines. In the longer term a more formal link path from High Dam to point D would be welcome in order to better inform users that such a route can be walked prior to their visit, especially for people who find walking over this access land as difficult.</p> <p>We note that the terrain is better suited to a footpath than a bridlepath.</p>
Colton Parish Council	Colton Parish Council is a favour in principle of developments of this kind as they are very much in tune with our Community Plan.

## 10 Finance Considerations

10.1 The proposal is entirely in the public benefit. Therefore, I consider that it is appropriate that the authority meet the entire legal costs, which are approximately £3,300 (mainly staff costs).

Task	Explanation	Cost
<b>Legal and Administration work</b>	This includes all the Authority's legal and administrative costs in negotiating, making and confirming an order.	£3,150
<b>ADVERTISING</b>	One advert placed in local newspaper	£150

10.2 The landowners have provided a new roadside gate – which we have installed for them. We also identified a number of places where the wooden steps installed 20-30 years ago needed replacing with wood or stone, and at least one drain had collapsed and small side ditches had become filled in.

10.3 Following a site visit by the Team Leader to approve the rough costings, all this work, including new signage at either end has now been carried out – the costings as below.

10.4 The Ranger has costed this work as below.

<b>Item</b>	<b>Number</b>	<b>Cost per unit</b>	<b>Cost</b>
Digger hire	1	£1,100	£1,100
Field Ranger on digger for improvements and steps	220 hours (30 days)	£175 per day	£5,250
Pipes / Stone and so on			£10
<i>Field Ranger – waymarking &amp; fingerposts</i>	<i>2 – 1 day</i>	<i>£175 per day</i>	<i>£350</i>
<i>Waymarks and Fingerposts</i>	3	£100	£300
<b>TOTAL</b>	<b>31 days Field Ranger Time &amp; Materials / Hire</b>		<b>£7,310</b>

10.5 Although this looks quite a high amount, no work had been done (that we are aware of) since its establishment around 20 years ago – and so it's likely that this work will have a similar lifespan – especially the replacement of some steps with a regarded zig-zag path (effectively making the investment around £375 a year). It has been done to a slightly higher standard than some paths, as part of its purpose is to link the West Windermere Way and High Dam, so attracting less experienced walkers.

## **11 Risk**

11.1 There is little risk – other than the future maintenance liability being unsustainable if budget cuts are suffered.

## **12 Legal Considerations**

12.1 The agreement will be made under section 25 of the Highways Act 1980 and we are able to enter agreements under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The action strikes a reasonable balance between private and public rights.

## **13 Human Resources**

13.1 The legal work involved in this proposal is approximately 50 hours from members of the Ranger 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. The practical work is as outlined above, and will be built into our work programmes over the next year.

## **14 Diversity & Sustainability Implications**

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

## 15 Summary

- 15.1 The proposal will benefit the public, and has come about through successful partnership working and landowner relationships over many years. All of those who responded to the consultation are in agreement with the proposals.
- 15.2 I recommend that we enter into the necessary creation agreement to bring this into effect. I also recommend that we publicly thank the landowners in the required newspaper advert, but also through a press/web release. Working with them has been a pleasure.

<b>Background Papers:</b>	Case file reference 1412.511.19
<b>Author:</b>	Nick Thorne, Senior Rights of Way Officer
<b>Date Written:</b>	5 August 2025
<b>Version</b>	Final

Authorised by:



Steve Tatlock, Ranger Team Leader

Date: Team Leaders' Meeting, 11.08.2025

## **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.