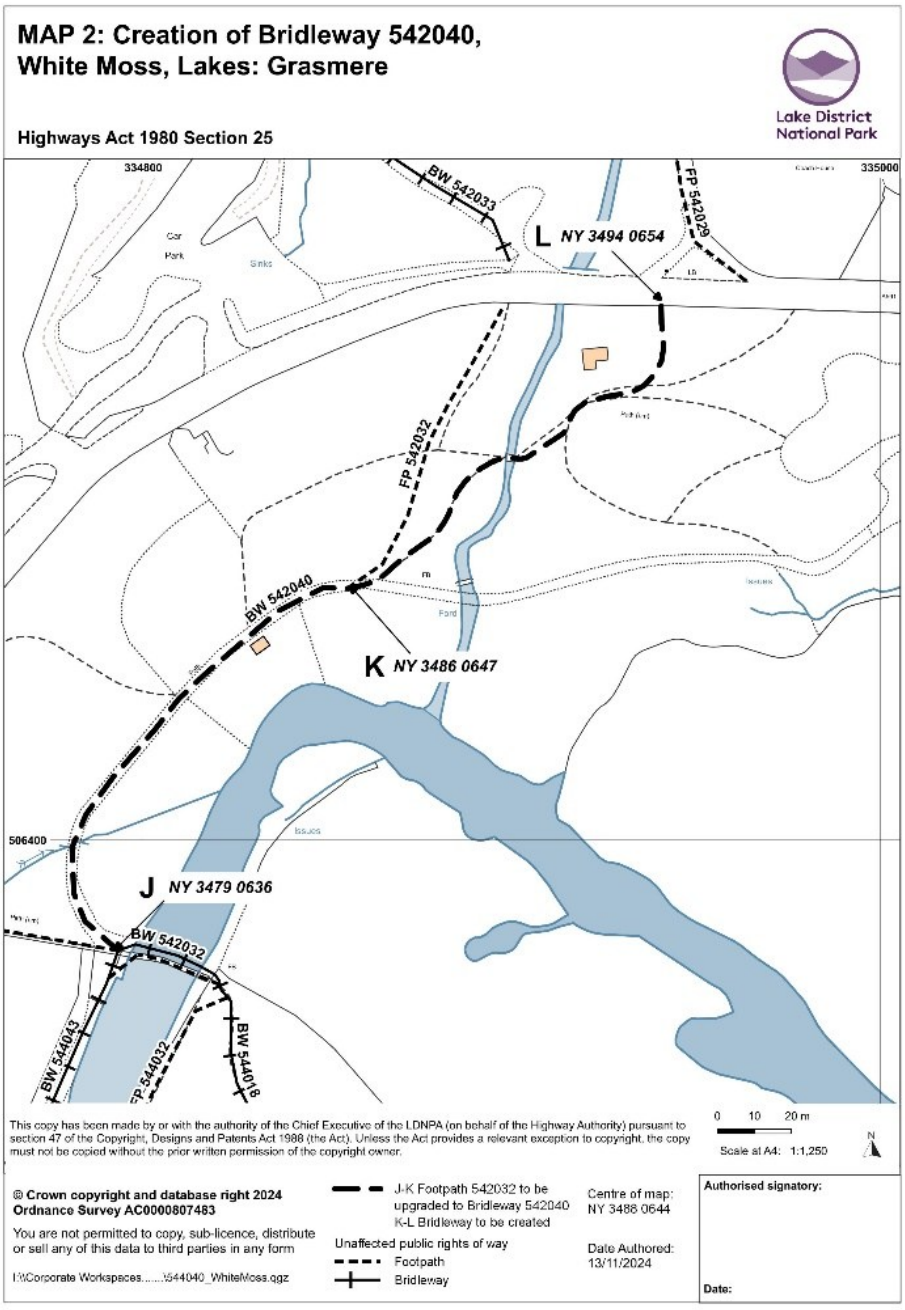
Creation of public bridleway – White Moss, Lakes Parish

1 Summary

1.1 In October 2014, this committee resolved to enter into a series of creation agreements for bridleways in the Grasmere area. The vast majority of the proposed routes were created / upgraded soon after, with two links remaining outstanding. One of these links has recently been completed (April 2025). There is now one final link – and a decision is required as to whether to continue to pursue a bridleway creation, or to abandon this part of the initial proposal.

Recommendation that: a we no longer pursue a creation for the section JKL shown on the map below.



2 Background

2.1 The Rights of Way Committee decided in October 2014 to enter into a series of bridleway creation agreements or to dedicate bridleways on our own property – along with some ancillary diversions of existing bridleways. The purpose of these bridleways was to enable the establishment of the Go Lakes Travel Project which created off-road, family-friendly through cycle routes - as explained in detail in the 2014 committee report (the report is attached at Annex 2, and all the 2014 appendices can be accessed online at https://tinyurl.com/grasmerecreations).

2.2 In 2014, all the landowners involved were in agreement with the principle of creating the bridleways. We progressed with our own dedications on Authority property and carried out the diversions. We also successfully entered into creation agreements for much of the route.

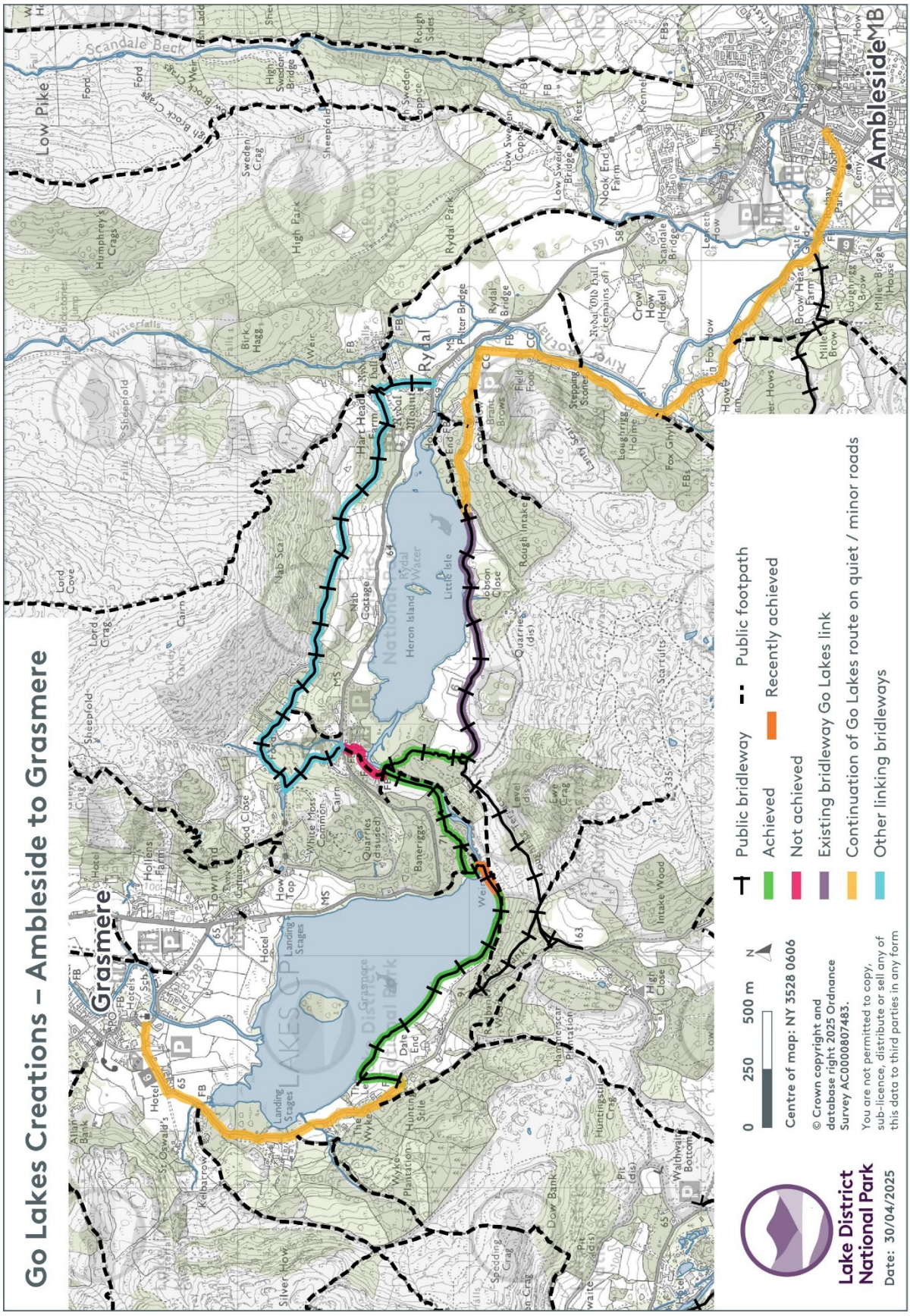
2.3 The main landowner at White Moss and Grasmere Beach became less willing to enter into agreements, and the matter stalled – with two ‘gaps’ being left in the initially proposed network. This is encapsulated on the maps overleaf.

2.4 In the last few years, the issue has had a raised importance with the further development of Active Travel Strategies and the Borderlands joint nation scheme to improve north-south sustainable travel connectivity – which includes investments in the Keswick Railway Path and the Dunmail Raise link. We have also completed a lot more work on the West Windermere Way – part of the long-term plan for a safe cycle route from Newby Bridge to Keswick. The Grasmere Go Lakes routes form an integral part of both of these wider strategic projects.

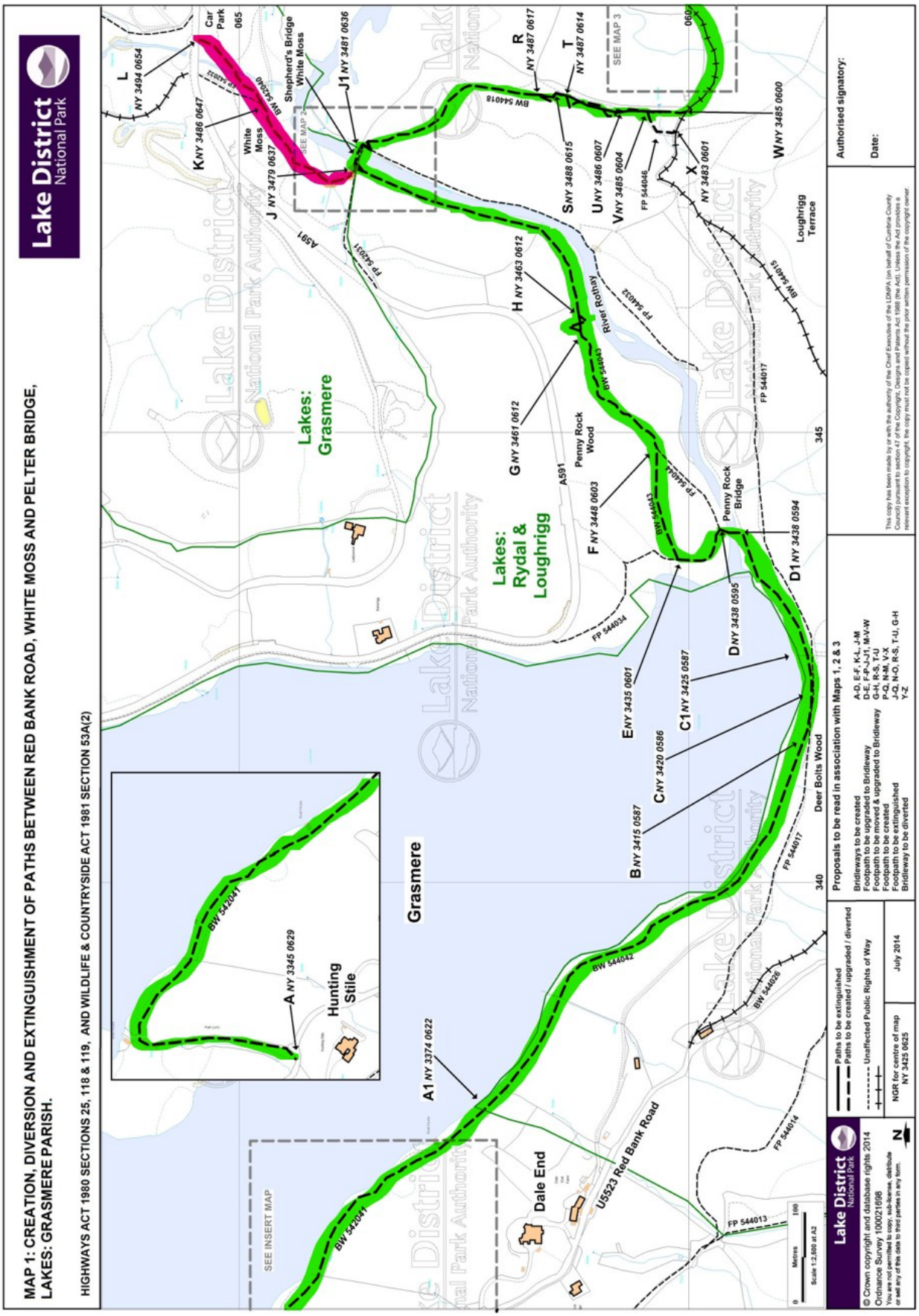
2.5 We therefore re-opened proactive negotiations with the landowners, and this resulted in an agreement being signed in April 2025 for the Grasmere Beach section (along with a different owner for the link across a bridge over the River Rothay). The Grasmere Beach section is now formally a public bridleway.

2.6 This leaves just the section JKL at White Moss. J-K is currently a public footpath, whereas K-L is a well-used path to and along the edge of White Moss car park. The route is currently used by cyclists, but not to a huge degree. There is no known equestrian usage. The question for us now is whether we wish to proceed with the creation of this link as a bridleway without landowner consent - that is, through a creation order process, or to accept that the link remains as it is – an informal path.

2.7 The matter requires a committee decision as the recommendation is not to completely fulfil a previous committee determination.



Overview Map



Project Achievement Map

Green = upgrades and creations achieved / finalised – through route

Red = outstanding

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 creating a Lake District for Everyone; which aims to deliver the 'Out There' Strategy to deliver infrastructure and services which focus on serving under-represented groups (as identified by the Lake District for Everyone Key Outcome Group). 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 contains our goal for access and recreation, which is that by 2040 we have: "A better connected access network fit for purpose in the 21st Century with high quality infrastructure, facilities and services meeting the needs of all users, in particular families and young people." The strategy has four main priority themes, including the following – from which I have selected the most relevant sentences / themes:

- **Improve: Rights of Way and Countryside Access**
  - There will be better access provision which will benefit all users and attract new audiences. For example, we will extend the coverage of our Miles without Stiles routes and develop easy to use and, wherever possible, off road, multiuser trails to connect settlements and key attractions. We will further develop promoted routes and associated facilities such as round Thirlmere and Derwentwater Cycleways. We will explore innovative approaches to better connect the bridleway network for both mountain bikers and horse-riders.

  - Key Strategic Action: Develop recreation hubs (or 'active villages') and key cycling and walking routes between settlements and attractions.

- The implementation of the Go Lakes Travel and See More Programmes, which delivered improvements in sustainable transport infrastructure and services across the Lake District National Park, has encouraged visitors to leave their car behind.
- **Manage: Rights of Way, Countryside Access, and recreational activities**
- **Promote and educate: connect more people with the countryside**
- **Integrate: with health and wellbeing, sustainable transport, and the economy**

3.6 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:** the overall project began in around 2012, and the upgrade/creation decisions were made by this Committee in 2014. Some ten years elapsed without us being able to progress these creation agreements with one landowner. We have recently succeeded with one section of the outstanding paths and now need to finalise the whole matter one way or the other.

4.2 The best value implications are:

a) The **challenge** is for us to achieve our policies without significant financial or staff implications. A creation order will (if successful) enable us to complete the project as initially agreed, but with financial and staff implications.
b) Processing public path orders is not a **competitive** procedure. Westmorland & Furness 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 initially **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process, their responses are within the 2014 report. It is worth noting that many of the concerns raised within those consultation responses (conflict between users) have not materialised – despite the new routes being well used.
d) We have **compared** our casework completion rates with other authorities, and it is comparable with other organisations of a similar size and with similar staffing levels.

5 Options

5.1 a: Abandon the proposal
b: Make a Creation Order

6 Proposals

6.1 I recommend option 5.1a for section JKL (White Moss Car Park). This will not fully fulfil the aims of the initially agreed project as it will not provide a link to the main through route back up to the A591 and coffin route, but the main connectivity and the main through route, as desired within our aims under Go Lakes and within our 'Out There' strategy has now been achieved – this link was a 'subsidiary' benefit to the main purpose. The risk of pursuing the option of creation order to achieve a formal bridleway without landowner consent is probably greater than the remaining reward.

7 Grounds and Tests for Creation Orders

7.1 Section 26 of the Highways Act 1980 sets out two questions which we must consider before deciding whether we are satisfied that it is expedient to create a new right of way. Although the meaning of expediency is not defined in the legislation, it has been considered in the courts (in a diversion order case) to mean 'suitable or appropriate'.

- 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 will it affect the rights of those with an interest in the land?

7.2 *Is there a need for the new path(s)?*

7.2.1 This is set out in full in the sections 3-4 in the 2014 committee report as follows:

- Section 3 – Rationale for the Go Lakes Project as a whole;
- Section 4 – Reasons for all the routes at Grasmere – White Moss.

7.2.2 To summarise – the purpose of mainly off-road traffic-free cycle routes is to help change the way visitors (and residents) move around the Lake District when they are here. And one of the key factors is the development of routes between key settlements, with Ambleside to Grasmere being identified as one corridor/arm of the strategic cycle network. The significance of this route has recently been highlighted within various projects as explained at 2.2.

7.2.3 The vast majority of this has now been delivered, and there is only one 'missing link' from the original proposals. So, the Authority needs to be confident that there truly is a need for this remaining section.

7.2.4 From the maps on pages 3 & 4 it can be seen that a through route from Ambleside to Grasmere has now been achieved without this section (cyclists travel along the bridleway to the south of Rydal Water, down to the bridge (point J) then south of Grasmere to Red Bank Road.

7.2.5 However, it can also be seen from these maps that the proposed creation gives access back up to the A591, the quiet road over the hill into Grasmere, and (via a short section of gravel/pavement) to the two bridleways to the north (the old coffin route). The latter are not 'family-friendly' routes like the others – and are more of a mountain-biking route – but the point is, there is currently no legal connection between the bridleway/cycling network to the south of the A591 and that to the north. This creation would achieve this (the reason for not using FP 542032 is because it is not physically suitable).

7.2.6 How will it/they affect the rights of those with an interest in the land?

7.2.6.1 The landowner initially agreed to the creation of this route but are no longer willing to formalise/sign the agreement.

7.2.6.2 The proposed bridleway runs over common land, which has statutory open access rights on foot. In addition to this it is an 'urban common' in that it was registered common land partly or wholly within a former urban district (Lakes Urban District Council area) – and so under s193 of the Law of Property Act 1925 had established rights for 'open air and exercise' long before the Countryside & Rights of Way Act 1980. A High Court case in 1999 ruled that this right did not just mean on foot – but would have extended to equestrian usage. The recent ruling in Dartmoor relating to camping being 'open air recreation' could mean that cycling also falls within this definition. But the courts have never specifically ruled on this.

7.2.6.3 Nonetheless, the point remains that there are already open access rights on foot and horseback over the whole area. So, the only real addition would be cycling rights along the defined route. As the route exists on the ground and is heavily used by walkers already (and some cyclists), turning it into a bridleway is, in our view, unlikely to have any great impact on the landowners or their interests in the land. However, it is the view of the landowner that there will be an impact – and so this needs to be considered and addressed if possible.

7.2.6.4 If there is a negative impact upon the landowner's interest in the land, then they may seek compensation under s28 Highways Act 1980. This is discussed later.

7.2.7 Impact on land - White Moss / Bridleway 542020

7.2.7.1 This path is already established on the ground. However, the landowner has expressed concerns that formalising this route as a public bridleway will create an inflexibility for their management of the site – both woodland and amenity (car park – although this path doesn't actually enter the car park). They also consider that by making this route into a bridleway there will be increased and additional pressures on the relatively small amenities (toilet block) associated with the car park because of extra numbers of visitors passing through the site. They would be willing to consider the bridleway here if there were extra visitor facilities provided. However that would require planning consent, and an application has already been unsuccessful.

7.2.7.2 Given the landowner's concerns, and the fact that this would just be a really useful link rather than part of the major through route, it may be that we should no longer proceed with this remaining part of the proposal.

7.2.7.3 Members of the committee visited the site and this route in 2024 to see the situation for themselves.

8 Other Considerations Required by Legislation

8.1 Rights of Way Improvement Plan

8.1.1 Creations of bridleways to fill missing links and extending the cycling / bridleway network fits within the generic aims of the Cumbria Access Strategy (as transferred to the unitary authorities).

9 Stakeholder Consultation

9.1 We have not carried out a separate consultation in relation to the creation order proposal. The consultation on the principle of creating the route (one way or another) was prior to the 2014 committee meeting and is described in the Annex 2 report. We have not re-consulted on the recommendation not to proceed with part of the original committee determination.

10 Finance Considerations

10.1 Our charging policy says that where path orders are wholly in the public interest, then it is appropriate that we meet the full costs. For an unopposed order, this would be in the region of £4,000 in staff time and advertising. For opposed orders it very much depends upon the nature of the objection, and how it is resolved by the Secretary of State. There could also be compensatory payments (even if unopposed). Both these aspects are discussed in the risk section below.

11 Risk

11.1 There is a high risk that option 5.1b (creation order) could be objected to – by the landowner or any member of the public or user body.

11.2 In respect of the wider public, we had a number of negative responses to the initial consultation – but this was mainly in respect of the principle of different types of users sharing routes and creating new long-distance bridleways. What is now proposed is some minor links in the middle of routes that are, by-and-large, being used as a multi-user route already. That is – many of the fears and concerns raised in 2014 have not materialised over the wider routes, so a) they are extremely unlikely to arise now, and b) those who were initially opposed may well not object now, as the main change has happened.

11.3 If we made a Creation Order that received objection(s), then we cannot confirm the Orders ourselves.

- The matter would be referred to the Secretary of State.
- A hearing or inquiry could be held, or the written representations procedure used. I suspect that a hearing would be most likely in this situation (but it depends upon the actual nature of any objection).
- A public path order normally takes around 60-70 hours staff time. Preparing for and attending an inquiry would add 10+ days (days not hours) to this. A hearing or written representations is somewhere in between.
- If the order succeeds, then compensation for the impact on the landowners' interest in the land could be payable – and this would probably be determined by the Land Tribunals.
- Compensation levels are hard to calculate / estimate, as there is very little empirical knowledge on such compensation payments, and the Authority has never made any, other than paying for ancillary works such as fencing. The whole basis for compensation is within section 28 of the Highways Act 1980 – and if amounts are contested would eventually be determined by the Lands Tribunal. The grounds for compensation are: *Subject to the following provisions of this section, if, on a claim made in accordance with this section, it is shown that the value of an interest of a person in land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path creation order, the authority by whom the order was made shall pay to that person compensation equal to the amount of the depreciation or damage.* However, it is worth noting the previous comments - this route already exists on the ground, is well used by the public, and runs over common land that already has some public rights for air and exercise. It is difficult to envisage that there could be any significant financial impact on the landowners' interest in the land by the addition of cycling rights.
- If the matter is submitted to the Secretary of State and the Order is not confirmed by them, we will be liable for meeting the landowners' costs in opposing the Order – as it is akin to a compulsory purchase order. Again, we have little experience of this, never having met landowners' costs in such situations.
- If objections are made and sustained that relate to other matters, then the Secretary of State is likely to rule them irrelevant.

11.5 With regard to not pursuing a creation, those who supported the initial decision to do so would not have a formal mechanism to object to our decision not to proceed with an earlier committee resolution. They could seek Judicial Review – but I consider that to be low risk, as it would not be an unreasonable reversal of a previous committee determination.

12 Legal Considerations

12.1 Any Order would be made under section 26 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 action strikes a reasonable balance between private and public rights.

13 Human Resources

13.1 The staff-time involved in this proposal is outlined above in paragraph 11.4.

14 Diversity Implications

14.1 I have identified no significant diversity issues, other than that the creation order will protect what is there and give us the ability to improve the paths further for those with limited mobility.

15 Sustainability

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

16 Summary

16.1 The creation of this section would benefit the public and meet a number of strategies and policies – both ours and the Governments. Not pursuing the creation at White Moss would not benefit the public but would assuage the landowner's concerns.

16.2 On balance, I consider that, given the current levels of usage, and a lack of evidence that the landowner is likely to prevent this informal usage continuing, the 'need' for a new public highway is relatively low. Couple this with the likelihood of objections, and the potential time and expense dealing with them, and the potential greater expense if we were unsuccessful, I am not convinced that the public benefit is such that a creation order would be expedient.

Background Papers:	Case file reference 1412.542.06
Author/Post:	Nick Thorne, Senior Rights of Way Officer
Responsible Director:	Stephen Ratcliffe, Director of Sustainable Development
Date Written:	24 April 2025

ANNEX 1 - 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.

ANNEX 2 – 2014 COMMITTEE REPORT

Committee Report - October 2014 reduc

Link to papers Grasmere Go Lakes documents