

Haggs Bank Stewardship Group

74 NE

Clog Hall, Nentsberry, via Alston, Cumbria. CA9 3LJ

from the Chairman:
Dick Phillips,
Whitehall House,
Nenthead,
Alston,
Cumbria,
CA9 3PS

Dept. of Highways & Engineering,
Cumbria County Council,
Citadel Chambers,
Carlisle,
CA3 8SG

7th October 1988

Dear Sirs,

Claim for B.O.A.T. Status: Footpath/Bridleway 302110

We wish to make a claim for B.O.A.T. status for the road on Haggs Bank, a variation of which is at present registered as a Footpath, No. 302110. This is the part of 302110 linking the A.639 and the U.3112: there is an extension to the north-east, registered as a bridleway and also numbered 302110 but at present registered as a bridleway, but this claim is not concerned with the part at present registered as bridleway.

We have been advised, on very good authority, that a highway authority cannot allow an obstruction on a road on which it knows that a claim is pending, unless it has good evidence that the claim is unsound. In the current case of the Nenthead-Priorsdale Road, we know that Cumbria has not taken this view. We have therefore not waited for an obstruction to appear on the Haggs Bank Road before submitting this claim. We see no urgency to have the claim tested, as it is at present unobstructed and used daily, but we would appreciate confirmation that the fact that the claim has been formally submitted will prevent anyone being permitted to pre-empt the result of its eventual testing by obstructing it.

We believe that Haggs Bank has always been unfenced and without any private owner: as well as the road, the land contains a public quarry and the remains of a public limekiln, both in use up to about 1930. The road is clearly shown on an estate map shortly preceding the Enclosure Act map of 1320, and on the Enclosure Act map itself it is named as "Nentsberry Hags Road".

In about 1919 the Travers Trophy motorcycle trial was instituted, for road vehicles over public roads, and the course included this road, following the line of the presently-registered "Footpath". It has since been used annually, except during the war years, and latterly by the Beamish Trophy Trial for vintage road motorcycles. This has always been done as of right: there can be no question of permission having been given, as there has not in this time been any owner or tenant competent to give permission. In 1946 a bridge on the road, by the Craig Nook boundary, failed, and the track linking the present junction for Craig Nook Farm with a previously-blind road descending from a point above the old bridge to the limekiln, was made by the trophy organisers, and this forms the course of the present road. This small diversion from the original route should have B.O.A.T. status by presumed dedication as it has since been used, without objection, by all traffic, including the Police. The

remainder of the road (technically including the short disused section) should have B.O.A.T. status (unless, indeed, it should have U.C.R. status), on account of its use by right dating back over 160 years and more.

When minor highways were registered under the 1949 Act, the form on which this way was claimed was ambiguous. You kindly sent me (under cover of your F5/302110/F.RS/BEP, dated 13th January 1988) a copy of the original claim, describing the way as beginning at the "Haggs Mine to Greenends Road", which could be taken to mean the top of the section at present considered. However the length quoted, 1 mile, indicated that the whole route, both the presently-registered footpath and the bridleway section, were included. The "Kind of Path" on the form has been altered twice, ("CR", "FP", and "BR" all appearing), and there is no apparent reason from the form why part was registered as footpath and part as bridleway: in your letter to me of 23rd February (F5/302110/F.RS/FG) you confirm that there is no satisfactory explanation of the form having been interpreted to confer different status on different parts of the route.

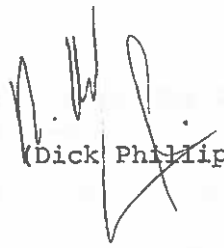
The fact that the way was not then registered as RUPP is not relevant, as no such roads were registered in this parish or in neighbouring parts of Cumberland, and this has been shown in other cases to have been wrong. On the form, the landowner is stated to be Greenwich Hospital, which was doubtless thought to be correct, as most land in the parish not owned by local individuals was so owned, but this also has since been shown to be a false assumption. In short, the original claim form is in a number of respects unreliable.

The land is now accepted, after very thorough enquiries by Eden District Council, to be of unknown ownership, and no permission was sought or obtained by the County Council to conduct soil and topographical surveys, and to drive a J.C.B. up and down the road, during the past summer.

Finally, I must make it clear that although we are making no claim for higher status for the part of 302112 at present registered as bridleway, this is because it is outside our area of interest, and we have no substantial evidence about it: its non-inclusion in the present claim does not imply that we believe that its presently-registered status is correct, while, equally, our mentioning this point does not imply that we believe it to be wrongly registered at present.

A number of claim forms are enclosed. If you need more to establish that a bona fide case for a claim exists, please let me know.

Yours faithfully,


(Dick Phillips)

2nd Edition 1899.

