



# Northumberland County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL  
RIGHTS OF WAY SUB-COMMITTEE  
19 December 2018

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## REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

### ALLEGED BYWAY OPEN TO ALL TRAFFIC No 14 BERWICK TOWN

Report of the Executive Director of Local Services  
Cabinet Member: Councillor Glen Sanderson, Environment and Local Services

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#### **Purpose of report**

In this report, the Council is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over a short length of the U100 road, which is also recorded as being part of Public Footpath No 14, at Low Cocklaw, west of Berwick.

#### **Recommendation**

**It is recommended that the Council agrees that:**

- (i) there is sufficient evidence to indicate, on a balance of probabilities, that public vehicular rights exist over the route Y-Z;**
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the route;**
- (iii) the route is unlikely to satisfy the balance of user test necessary for the route to be included on the Definitive Map as a byway open to all traffic;**
- (iv) when the law is amended to allow it, an Order be made to delete the Y-Z section of Public Footpath No 14 from the Definitive Map.**

#### **1.0 BACKGROUND**

- 1.1 By virtue of section 53 of the Wildlife and Countryside Act, 1981 the County Council is required to keep the Definitive Map and Statement under continuous

review and make modification orders upon the discovery of evidence, which shows that the map and statement need to be modified.

- 1.2 The relevant statutory provision which applies to adding a byway open to all traffic to the Definitive Map and Statement based on historical documentary evidence is Section 53(3)(c)(i) of the Wildlife and Countryside Act, 1981, which require the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

“that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;”

- 1.3 Alternatively, in a case where the route is already shown on the Definitive Map as a highway of a lesser status than Section 53(3)(c)(ii) covers situations where:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

“that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;”

- 1.4 However, where what is actually being proposed is the removal of a public right of way from the Map altogether, then Section 53(3)(c)(iii) would seem to be the only available option. This covers situations where:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

“that there is no public right of way over the land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.”

- 1.5 Unfortunately, it would seem that the Court of Appeal’s decision in relation to *Masters versus the Secretary of State* (2000) established a limited set of circumstances in which the “or any other particulars contained in the map and statement require modification” could be made to apply. Unless the law is changed, there appears to be no mechanism currently available which would permit the deletion of footpaths and bridleways from the definitive map on the basis that these routes have subsequently become a part of the ‘normal’ road network.

- 1.6 Nevertheless, it is considered worthwhile examining the evidence in cases such as these for two reasons. Firstly, it is sensible to establish in cases such as these that the Natural Environment and Rural Communities Act 2006 has not extinguished the public’s motor vehicular rights. The more time that elapses before these cases get considered, the harder it may become to

establish what the effect of the 2006 Act really was, particularly in more marginal circumstances. Secondly, there is a hope that at some point in the future, the law will be amended to address this recognized shortcoming.

- 1.7 All the relevant statutory provisions and competing rights and interests have been considered in making this report. The recommendation is in accordance with the law and proportionate, having regard to individuals' rights and the public interest.

## **2.0 PUBLIC EVIDENCE**

- 2.1 The east-west route of what is now the U100 road, passing through Low Cocklaw, has appeared as a road or track on historical maps from the 1820s onwards. It is not known when the U100 was added to the Council's 'List of Streets' (the addition seems to have been made some time after 1974), but it was shown on the version of that List that existed as at 2 May 2006.
- 2.2 The predominantly north-south Public Footpath No 14, also passing through Low Cocklaw, has been recorded on the Definitive Map of Public Rights of Way since the original map was prepared, with a relevant date of 22 September 1952.
- 2.3 The potential for confusion exists because, at Low Cocklaw, the same 70 metre long stretch of road is simultaneously identified on the Council's 'List of Streets' as being part of the U100 road and on the Definitive Map of Public Rights of Way as being part of Public Footpath No 14.
- 2.4 The Definitive Map and Statement of Public Rights of Way are legal documents which identify the existence of public highway rights (footpaths, bridleways, restricted byway and byways open to all traffic), but the Definitive Map and Statement do not usually identify who has the maintenance responsibility for those rights of way. The List of Streets is a document which identifies which routes the County Council acknowledges it has a maintenance responsibility for, but a route's inclusion on that list does not establish its status (i.e. it need not necessarily be a vehicular rights of way).
- 2.5 Whilst there is no obstacle to a publicly maintainable public footpath being identified on the Council's List of Streets, it is not believed that this 70 metre long section of public highway was recorded on that basis, or indeed that the rest of the U100 is in fact no more than a public footpath. This report will consider the available evidence to determine what the correct status of the Y-Z section of existing Public Footpath No 14 is, and explore whether or not it is appropriate for this section of footpath to be upgraded so as to accurately reflect any higher rights which might exist.

## **3. LANDOWNER EVIDENCE**

- 3.1 In July 2014, the County Council consulted local residents regarding a proposal to delete the short section of Public Footpath No 14 (from point Y to point Z) from the Definitive Map on the basis that public motor vehicular rights exist over this short section of the footpath.

- 3.2 By letter, dated 6 August 2014, Mr DJ Mumford of Cuddy Barn, Low Cocklaw, responded to the consultation stating:

“Thank you for your letter of 25/7/14. I have recently bought the property which used to be called The Steading, Low Cocklaw and the name has now been changed to Cuddy Barn, Low Cocklaw (with the agreement of Northumberland County Council).

“I have marked the plan as requested showing where the alleged public right of way borders my land. I have no objections to the changes proposed which seem very sensible.”

...

- 3.3 By note, with plan attached, received in early August 2014, Mr & Mrs Barnard of Low Cocklaw Farm responded to the consultation identifying that a number of residents had shared maintenance responsibility for the track over which Footpath No 14 runs, south of Point Y.
- 3.4 By note, with plan attached, received in early August 2014, Mr C Smith of The Broch, Low Cocklaw responded to the consultation stating.

“No objection to the proposal.”

#### **4. CONSULTATION**

- 4.1 In July 2014, the Council carried out a consultation with the Parish Council, known owners and occupiers of the land, the local County Councillor and the local representatives of the “prescribed and local organisations” listed in the Council’s “Code of Practice on Consultation for Public Path Orders”. Three replies were received and are included below.
- 4.2 By letter, dated 17<sup>th</sup> October 2014, Ms E Bamford responded to the consultation, on behalf of the Ramblers’ Association, stating:

“My comments are attached. Where we have no facts or evidence and no objections I have written No Comment. We would support these additions.

“Berwick Town Footpath 14 No comment

- 4.3 By email, on 14<sup>th</sup> October 2014, Ms S Rogers responded to the consultation, on behalf of the British Horse Society, stating:

“PARISH OF BERWICK TOWN

Public Footpath 14 deletion

This path shown on map 42 is shown running along a public road over which walkers already have rights so there is no need for it to be recorded on the definitive map as well. The BHS supports this deletion.”

- 4.4 By letter, dated 28<sup>th</sup> October 2014, Mr D Roberts responded to the consultation, on behalf of the Cyclists' Touring Club, stating:

"I attach comments and evidence which I judge to be relevant on behalf of Cyclists Touring Club.

"To clarify locations I attach annotated copies of your plans. These are confined to routes of which I have knowledge. Where I have no knowledge of a route or where I know it is surfaced with tarmac and therefore suitable for ALL TRAFFIC I have omitted any comment.

"Where an obstruction has been encountered I have endeavoured to provide as accurate date as possible.

"Routes traced in red have been cycled without problem. [The route of alleged Byway Open to All Traffic No 14 / existing Footpath No 14 was not one of the ones highlighted by Mr Roberts].

"I have commented on issues where I consider an omission has been made in your consultation.

"No distinction has been made between Restricted and All Traffic Byways."

## 5. DOCUMENTARY EVIDENCE

- 5.1 A search has been made of archives relating to the area. Evidence of Quarter Sessions Records, Council Highways records, County Maps and O.S. Maps was inspected, and the following copies are enclosed for consideration.

1769 Armstrong's County Map

There is no evidence of a road or track approximating to the U100 road or alleged Byway open to All Traffic No 14.

1820 Fryer's County Map

There is clear evidence of a road or track approximating to the U100 road (including the section identified as alleged Byway open to All Traffic No 14).

1820-32 Cary's Map

There is clear evidence of a road or track approximating to the U100 road (including the section identified as alleged Byway open to All Traffic No 14).

1828 Greenwood's County Map

There is clear evidence of a road or track approximating to the U100 road (including the section identified as alleged Byway open to All Traffic No 14).

c.1866 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of the U100 road. The route of Footpath No 14 is shown as an apparently subordinate path / track both to the north and south of the U100.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of the U100 road. The route of Footpath No 14 is shown as an apparently subordinate path / track both to the north and south of the U100.

1925-6 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of the U100 road. The route of Footpath No 14 is shown as an apparently subordinate path / track both to the north and south of the U100.

1951 Highways Map

The route of the U100 road is not coloured in purple, so as to identify it as a publicly maintainable road. However, prior to local government reorganisation in 1974, Berwick-upon-Tweed Borough Council (not Northumberland County Council) would have been responsible for the maintenance of most minor roads in the Berwick Town area, so this omission is to be expected.

c.1951 Definitive Map – original Survey Schedules & Map

The route of the U100 road exists on the base map. Apart from Y-Z section of Public Footpath No 14, it is not identified as a public right of way. The U100 road is not coloured brown. Known public roads were generally coloured brown to indicate what the extent of the road network was considered to be.

Draft Map

The route of the U100 road exists on the base map but, apart from the Y-Z section of Public Footpath No 14, it is not identified as being either a public footpath, public bridleway or Road Used as a Public Path (RUPP). A pencilled note on the Map indicates that the north-south road along the England-Scotland border, west of Low Cocklaw is "in regular use by vehicles".

Provisional Map

The route of the U100 road exists on the base map but, apart from the Y-Z section of Public Footpath No 14, it is not identified as being either a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of the U100 road. The route of Footpath No 14 is shown as an apparently subordinate path / track both to the north and south of the U100.

Original Definitive Map

The route of the U100 road exists on the base map but, apart from the Y-Z section of Public Footpath No 14, it is not identified as being either a public footpath, public bridleway or Road Used as a Public Path (RUPP).

First Review Definitive Map (Relevant date 1 Nov 1963)

The route of the U100 road exists on the base map but, apart from the Y-Z section of Public Footpath No 14, it is not identified as being either a public footpath, public bridleway or Road Used as a Public Path (RUPP).

Further to the east, Public Bridleway No 19 and Public Footpath No 43 both begin on this road.

1964 Highways Map

The route of the U100 road is not coloured in purple, so as to identify it as a publicly maintainable road. However, as indicated above, prior to local government reorganisation in 1974, Berwick-upon-Tweed Borough Council (not Northumberland County Council) would have been responsible for the maintenance of most minor roads in the Berwick Town area, so this omission is to be expected.

1978-9 Ordnance Survey Map: Scale 1:10,000

There is clear evidence of an enclosed road / track over the route of the U100 road. The route of Footpath No 14 is shown as an apparently subordinate path / track to the south and a short distance northwards of the U100.

2006 The Council's 'List of Streets' (2 May 2006)

The route of the U100 road / alleged byway is clearly identified as publicly maintainable highway.

- 5.2 Officers are not aware of any surviving Schedules or Maps of unclassified roads identified under the provisions contained within the Restriction of Ribbon Development Act 1935 for any of the former urban district areas (such as Berwick-upon-Tweed Borough).
- 5.3 There is no entry for the U100 road in the 1958 County Road Schedule. Almost all Unclassified and 'C' class roads within the urban district areas would, at this time, have been the responsibility of the relevant urban district council, not Northumberland County Council.

- 5.4 There is no entry for the U100 road in the 1964 County Road Schedule. Almost all Unclassified and 'C' class roads within the urban district areas would, at this time, have been the responsibility of the relevant urban district council, not Northumberland County Council.
- 5.5 There is no entry for the U100 road in the 1974 County Road Schedule (dated 1st April 1974). Most provisions of the Local Government Act 1972 came into force on that date. Maintenance responsibility for the minor publicly maintainable highways in the former urban district areas seemingly transferred to the County Council on that date.
- 5.6 The original Definitive Statements for the public rights of way that connected with the U100 road state:

**Public Footpath No 14 (Berwick upon Tweed)**

"From the Berwick - Kelso road at the Corporation Arms Inn in a north-westerly direction along the north bank of the Whiteadder Water via Newmills Cottages, Newmills and turning along the Berwick - Edrington Castle Road at Low Cocklaw then north and west via High Cocklaw to the Borough boundary about 400 yards west of High Cocklaw."

**Public Bridleway No 19 (Berwick upon Tweed)**

"From the Letham Loaning at White Damhead in a southerly direction along the west bank of the White Damhead Burn via Grangeburn Mill to the Berwick - Kelso Road at Whiteadder School House."

**Public Footpath No 43 (Berwick upon Tweed)**

"From the Berwick - Edrington Road approximately 400 yards east of High Letham in a northerly, easterly and northerly direction by Yellow Gowan Tree to join the Duns - Berwick Road south-east of Brow of the Hill."

## **6. SITE INVESTIGATION**

- 6.1 From a point marked Y, 5 metres north of Wayside Cottage, a 3.3 to 4 metre wide tarmac road in a 6.4 to 7.6 metre wide corridor proceeds in an easterly direction for a distance of 70 metres to a point marked Z, 30 metres north of The Broch. At both point Y and point Z there is a wooden fingerpost identifying the continuation of the footpath south and north of the road.

## **7. COMMENTS RECEIVED ON THE DRAFT REPORT**

- 7.1 In September 2018, a copy of the report was circulated to those landowners / occupiers who responded to the initial consultation for their comments.
- 7.2 On 17 September 2018, Mrs Smith of The Broch, Low Cocklaw telephoned to advise that she is the owner of the grass verge on the south side of the metalled carriageway, adjacent to The Broch. She has lived at The Broch, since 1998. In her view the Y-Z section of road is mainly used by local traffic (residents, deliveries and farm traffic). Occasionally, if the Duns road is blocked, traffic gets directed along this road. The U100 is part of a National



Cycle Route and is being increasingly used by cyclists (notably cyclists from other European countries) which is a good thing. In her view, the balance of motor vehicular user to non-motor vehicular is currently about 60-40, but this 'gap' is gradually closing. During the period 2001 to 2006, the balance in favour of motor vehicular use was greater. There was more equestrian use of the road during that period than there is now.

## 8. DISCUSSION

- 8.1 Section 53 (3)(c) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:

that a right of way, which is not shown in the Map and Statement, subsists or is reasonably alleged to subsist over land in the area to which the Map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or; subject to section 54A, a byway open to all traffic; or  
that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or  
that there is no public right of way over the land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

- 8.2 When considering an application / proposal for a modification order Section 32 of the Highways Act, 1980 provides for "any map, plan or history of the locality or other relevant document" to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.
- 8.3 The representation of a path or track on an Ordnance Survey Map is not evidence that it is a public right of way. It is only indicative of its physical existence at the time of the survey.
- 8.4 Because the U100 road is a minor road, lying within the former Berwick urban district area, the County Council is unlikely to have been responsible for its maintenance until the local government reorganization in 1974. This would explain the the route's absence from any 1932 Handover Map (these maps dealt with the transfer of maintenance responsibility for minor roads from the rural district councils only), its absence from any schedules or maps prepared under the Restriction of Ribbon Development Act 1935 (these appear to have been prepared based on the former rural district areas) and, clearly, its omission from the County Council's Highways maps and schedules produced in 1951, 1958 and 1964. The route is likely to have been added to the List of Streets in 1974 (or shortly afterwards), probably on the basis of information supplied by Berwick Borough Council, though possibly as a result of some independent assessment by Northumberland County Council. Either way, this recognition by the County Council came more than 10 years after the original Definitive map process had been completed.

- 8.5 It is not apparent why Public Footpath No 14 was so clearly identified on the Definitive Map as proceeding along the 70 metre long stretch of road (between points Y and Z). This wasn't some casual drafting error - this section of the footpath was identified on the survey map, Draft Map, Provisional Map, the Original Definitive Map and then the First Review Map. The Definitive Statement even describes the route as "and turning along the Berwick - Edrington Castle Road at Low Cocklaw then north .....". The most obvious alternative way of dealing with this would have been for this route to be recorded as two entirely separate paths (one proceeding from point Y, southwards, and the other from point Z, northwards).
- 8.6 The way this route was recorded almost suggests that the people responsible for identifying the public rights of way in the Berwick urban district did not consider the Berwick - Edrington Castle road to be a public highway of any description. If it was a public road - then why misrepresent 70 metres of it as a public footpath? Yet, if it was thought to be something less than a public vehicular highway, then presumably it would have been identified for inclusion as a public bridleway or public footpath in its own right? 1300 metres east of Low Cocklaw, at White Damhead Farm, another public right of way (Public Bridleway No 19) was identified as beginning on the "Letham Loaning at White Damhead" (i.e. the U100 road). This bridleway would have been an unusual and somewhat pointless cul-de-sac if the U100 wasn't at least a public bridleway. Then, some 250 metres further east along the U100 road, during the First Review of the Definitive Map, another public right of way (Public Footpath No 43) was identified as beginning "From the Berwick - Edrington Road ..." (i.e. the U100 road). Again, this footpath would have been an unusual and pointless cul-de-sac if the U100 was not a public highway of at least footpath status.
- 8.7 The route of the U100 has been consistently identified as an enclosed road / track on Ordnance Survey maps since 1866. Although it is not shown on Armstrong's County Map of 1769, it is clearly shown on Fryer's and Greenwood's County Maps of 1820 and 1828 and on Cary's Map of 1820-32.
- 8.8 The County Council accepts that, given the way the regulations were written with regard to the way highway authorities could include publicly maintainable highways in the List of Streets, there was no impediment to public bridleways and public footpaths also being included. That is not to say that any bridleways or footpaths were so shown – just that they could be. It must, therefore, be entirely proper to consider each UCR on a case by case basis, but that does not mean that we should begin with the assumption that each UCR is no more than a public footpath unless higher rights can be proven by other means. In Northumberland there is no evidence to suggest that public footpaths and public bridleways were deliberately shown on the 1958, 1964 or 1974 County Road Schedules (forerunners of the modern day List of Streets). The fact that a route is shown on these schedules must, therefore, be evidence of some weight that public vehicular rights exist.
- 8.9 Letters from DEFRA, dated 2003 and November 2006, and Rights of Way Circular 1/09 set out the approach Inspectors and order making authorities should take in determining the status of routes included on the List of Streets.

In summary, the guidance states that the inclusion of a route on the List of Streets is not a record of what legal rights exist over that highway but may provide evidence of vehicular rights. However, this must be considered with all other relevant evidence in order to determine the nature and extent of those rights. Highway Authorities are recommended to examine the history of such routes and the rights that may exist over them on a case by case basis in order to determine their status.

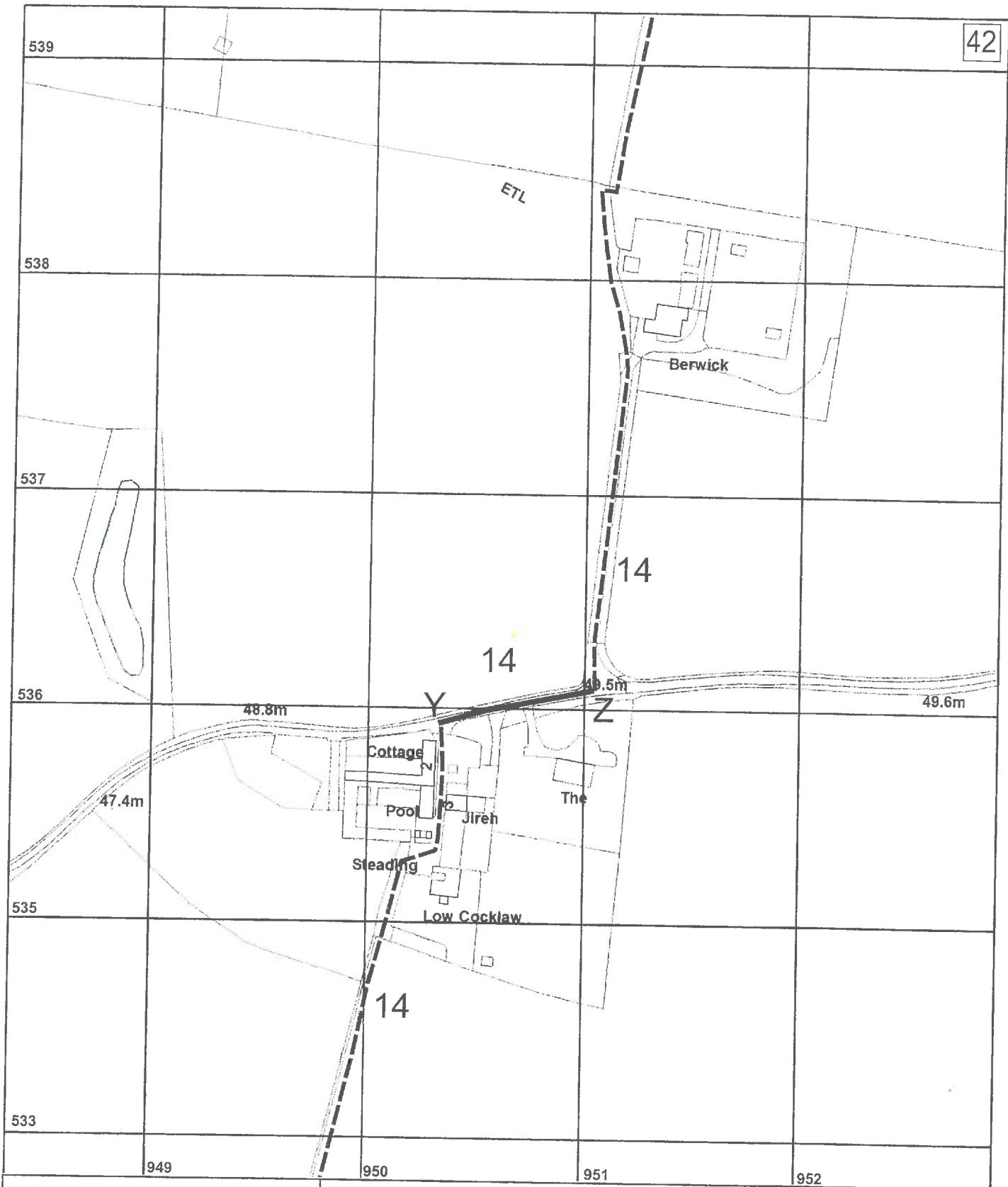
- 8.10 The Natural Environment and Rural Communities Act 2006 (NERC Act 2006) had a major impact upon the recording of byways open to all traffic based upon historical documentary evidence. Under section 67 of the Act, any existing, but unrecorded, public rights of way for mechanically propelled vehicles were extinguished unless one of the 'saving' provisions applied. In brief, these saving provisions were: (a) if the main lawful public use between 2001 and 2006 was with motor vehicles; (b) if the route was on the List of Streets (on 2 May 2006) and not also on the Definitive Map as something less than a byway open to all traffic; (c) the route was legally created expressly for motor vehicular use; (d) the route was a road deliberately constructed for public motor vehicular use; or (e) the vehicular highway came about as a result of unchallenged motor vehicular use before December 1930.
- 8.11 Of the saving provisions above, (b) will clearly not apply to the Y-Z section of the U100 road. Where a route is shown on the Definitive Map as a footpath or bridleway, then the fact that it is shown on the List of Streets will not be sufficient to prevent the public's motor vehicular rights from being extinguished. It is necessary to see whether or not one of the other saving provisions might apply.
- 8.12 Under section 67(2)(c) of NERCA 2006, the public's motor vehicular rights would not be extinguished if those rights had been created on terms that expressly provided for a right of way for mechanically propelled vehicles. Officers are not aware of any documents dedicating the U100 as a public road. Even if there was an express dedication, past experience indicates that the wording of any documentation would, almost certainly, be insufficiently precise to satisfy this requirement.
- 8.13 Under section 67(2)(a) of NERCA 2006, the public's motor vehicular rights would not be extinguished if they are over a way whose main lawful use by the public during the period of 5 years between 2<sup>nd</sup> May 2001 and 2<sup>nd</sup> May 2006 was with mechanically propelled vehicles. The difficulty here is that the Council has no evidence regarding the balance of public user during this 5 year period. That said, the U100 is a well made up tarmac road which is clearly used on an everyday basis by the public with 'normal' motor vehicles. The main type of use is likely to be local traffic, but the route does proceed across the border into Scotland and thereafter links with the A6105 road east of Foulden. In other words, although it is not a busy road, nor is it a cul-de-sac which is barely if ever ever used by the public with motor vehicles. The U100 road, in general, seems more likely to be used with motor vehicles than by

walkers, horse riders and cyclists (although presumably walkers, horse riders and cyclists do all use the road). Public Footpath No 14 is not considered to be an especially heavily walked public footpath, so the extra pedestrian use which the Y-Z section of the U100 road gets as a result of this is unlikely to tip the balance away from motor vehicular use. On a balance of probabilities, therefore, it is believed that this balance of user saving provision will apply to the Y-Z section of U100 road.

- 8.14 Under section 67(2)(e) of NERCA 2006, the public's motor vehicular rights would not be extinguished if they are over a way that had been in long use by mechanically propelled vehicles before 1930, when it first became an offence to drive 'off-road'. There is no evidence of long-standing public motor vehicular use before 1930 in this instance.
- 8.15 Finally, under section 67(2)(d) of NERCA 2006, the public's motor vehicular rights would not be extinguished if they are over a way that had been created by construction of a road intended to be used by MPVs. The modern day tarmac road was clearly constructed with motor vehicular use in mind but, based upon the historical documentary evidence available, it was almost certainly a public road long before a tarmac surface was applied. On that basis this saving provision will not apply.
- 8.16 For a route to be a byway open to all traffic, it has to be (i) a public motor vehicular right of way and (ii) a route which is nevertheless used (or is likely to be used) by the public mainly for the reasons which footpaths and bridleways are used.
- 8.17 The U100 road has a decent tarmac surface and is in everyday use by the public with motor vehicles. Based on the historical documentary evidence available, and the pattern of public user it seems clear that the route is a public vehicular right of way. As discussed in 8.13 above, it also seems to be the case that public motor vehicular use of this route will exceed the combined total of pedestrian, equestrian and bicycle use, and that this will still be true even if we focus specifically on the Y-Z section of the route. For that reason, it would not be appropriate to record either the U100 road, in general, or that part of it (i.e. Y-Z) which is currently recorded as being part of Public Footpath No 14 as a byway open to all traffic.
- 8.18 Advice from the Planning Inspectorate in their 'consistency guidelines' states that it is important to have the correct width, where known, recorded in the definitive statement. Usually there is a boundary to boundary presumption for public highways. On this basis, if an Order were to be made to record the Y-Z section as a byway open to all traffic, it would be with a width of 6.4 to 7.6 metres.
- 8.19 Since the Y-Z section of highway does not appear to fit the balance of user criteria for being recorded as a byway open to all traffic, but is clearly more than just a public footpath, the most appropriate course of action would seem









# NORTHUMBERLAND

Northumberland County Council

Sustainable Transport  
Local Services

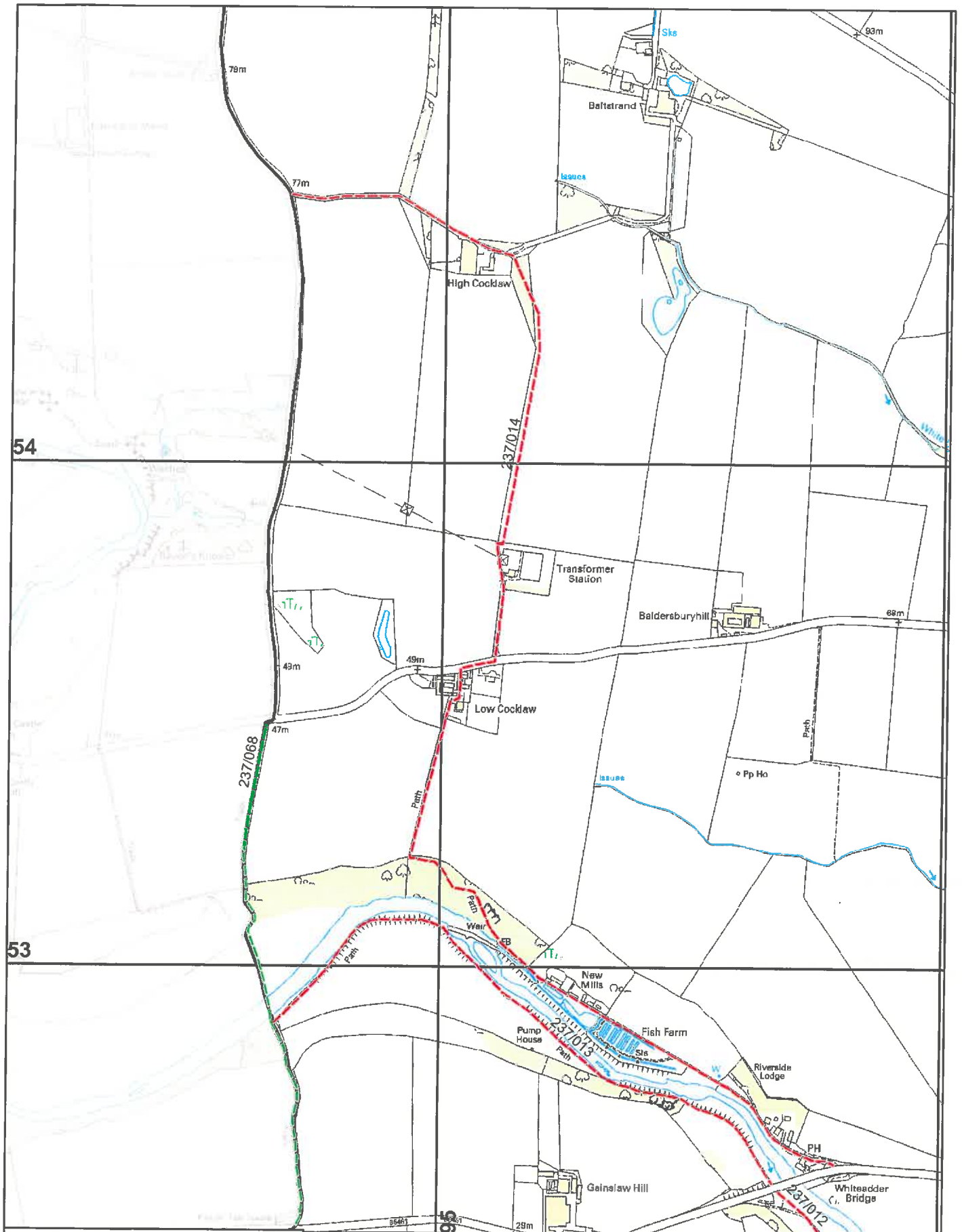
County Hall Morpeth Northumberland  
NE61 2EF  
Telephone 0845 600 6400

## Wildlife and Countryside Act 1981 Public Rights of Way

-  Existing Public Footpath
-  Public Footpath to be deleted

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Former District(s) Berwick	Parish(es) Berwick Town	Scale 1:2500
Def. Map No. 4	O.S. Map NT 95 SE	Date March 2014



# NORTHUMBERLAND

Northumberland County Council  
Infrastructure

Contact: Alex Bell  
Telephone: 01670 624133  
Email: Alex.Bell@northumberland.gov.uk

## Legend

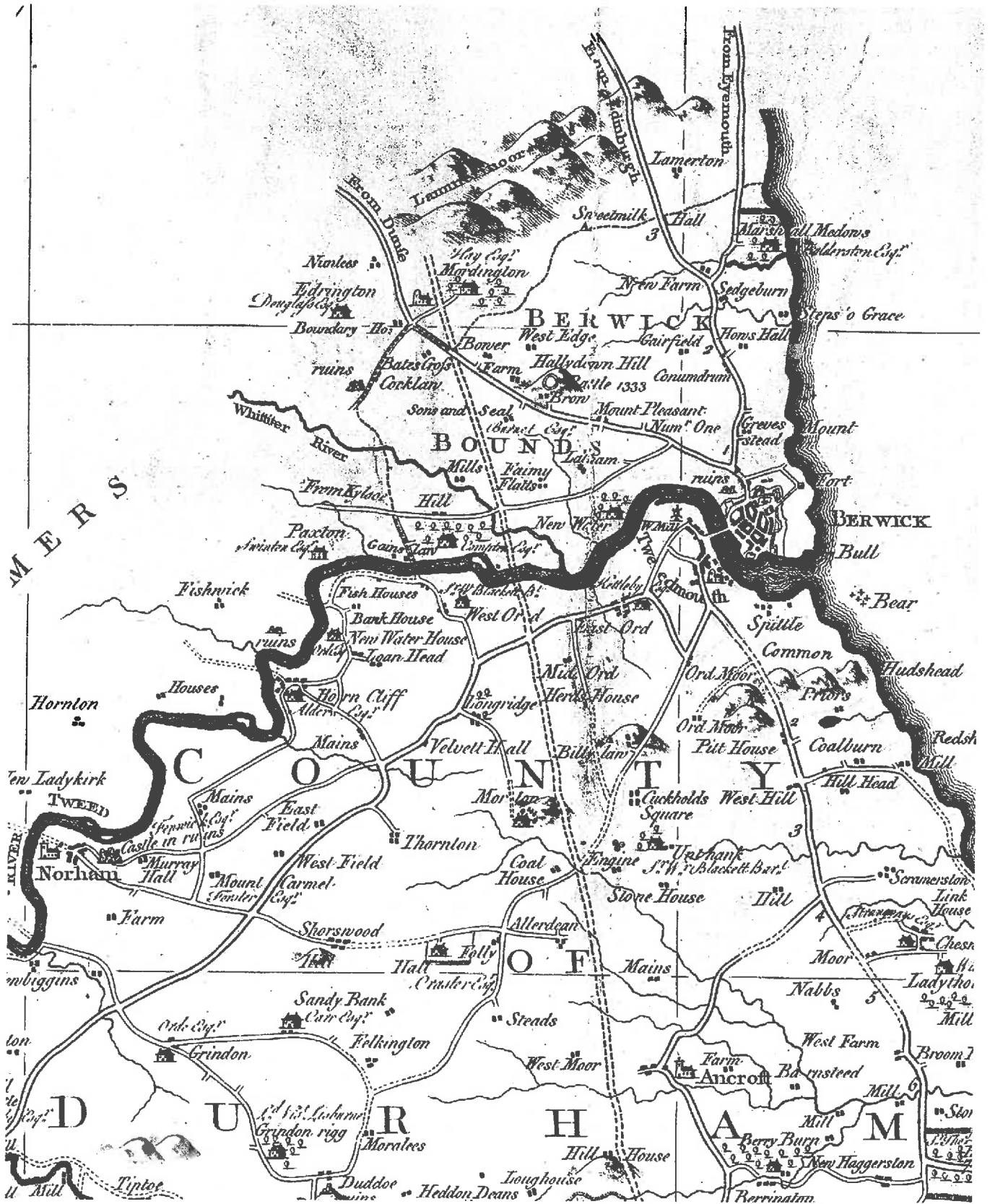
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- Bridleway
- Restricted Byway
- Byway Open to All Traffic

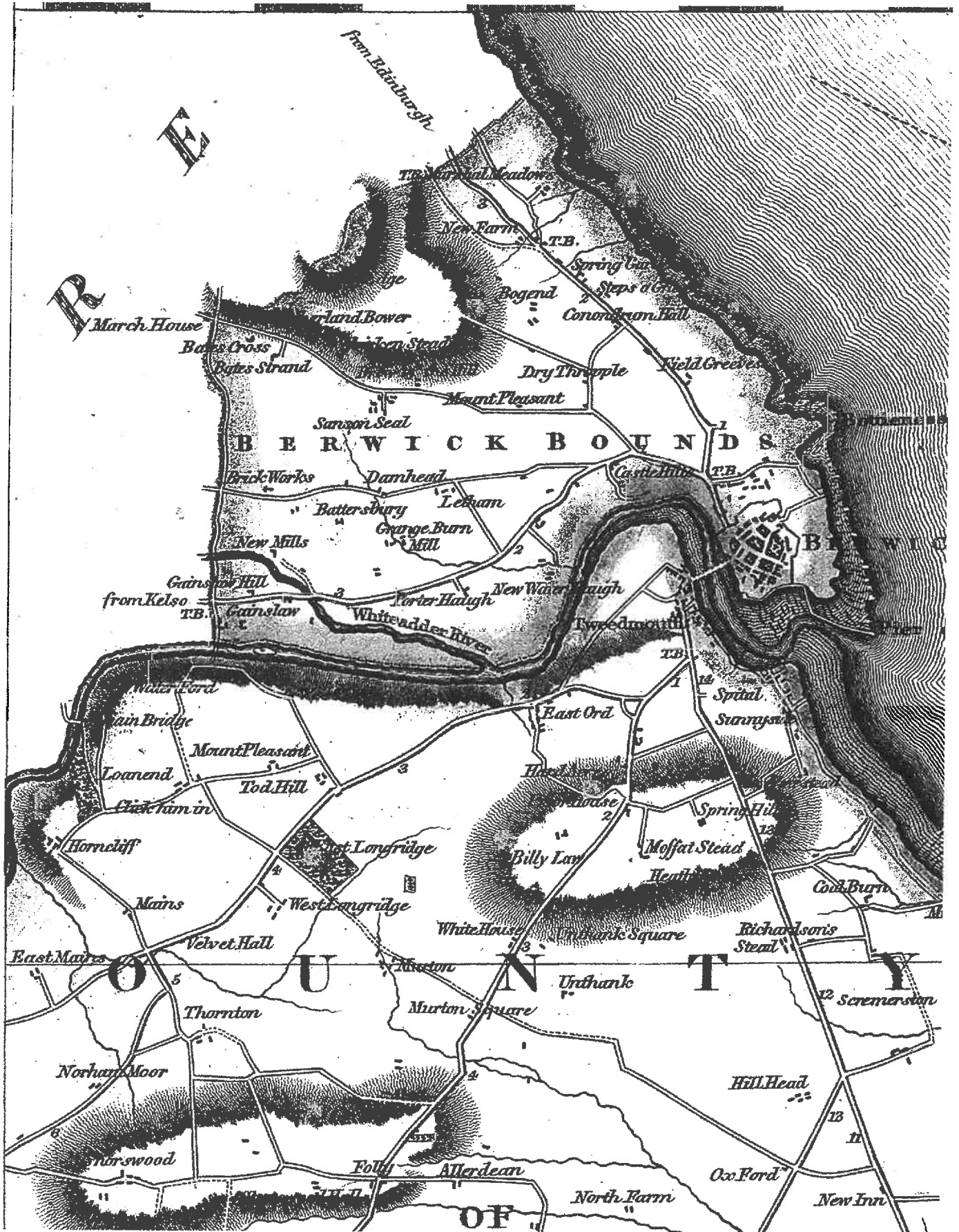
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way

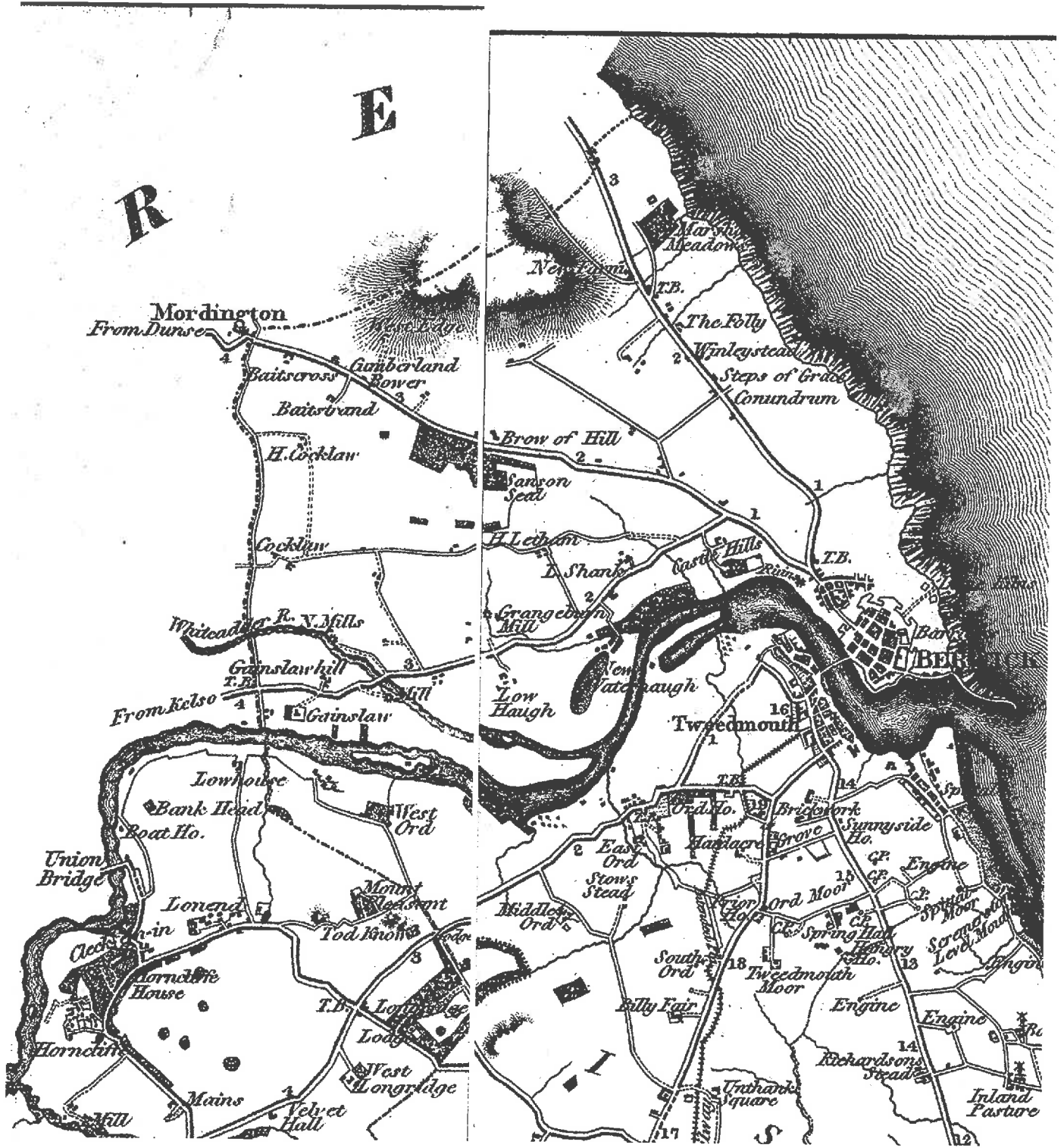
Scale: 1:10,000

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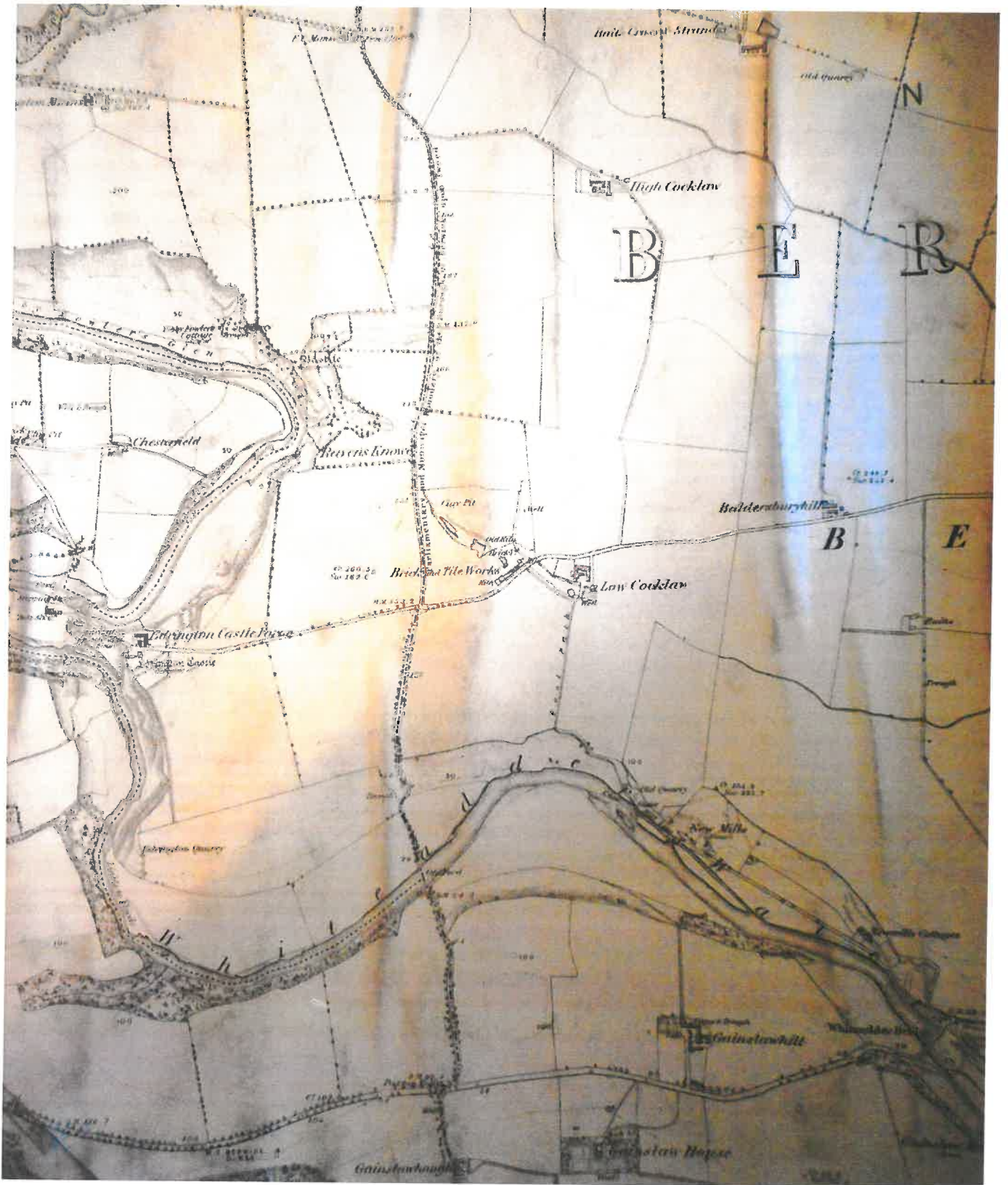


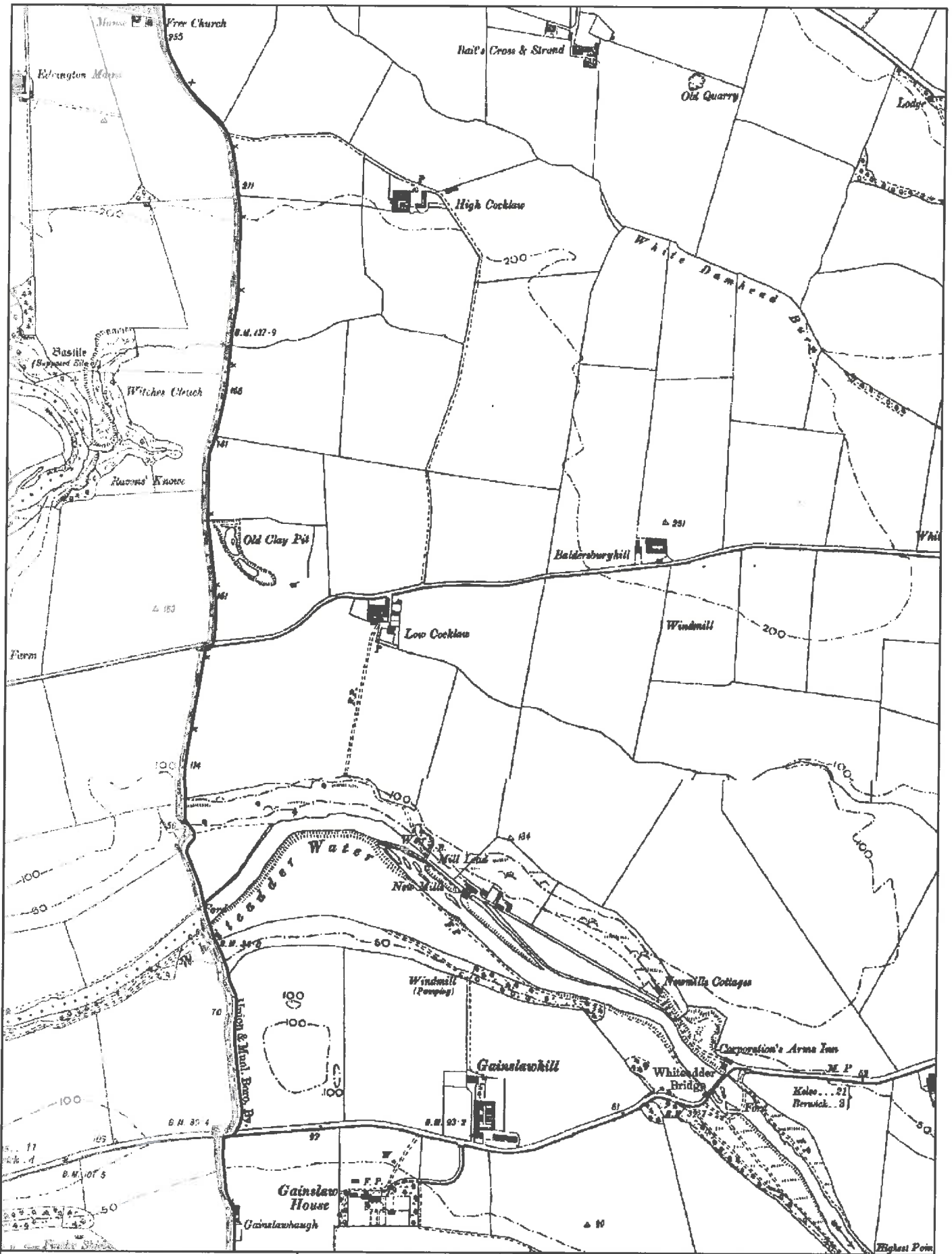








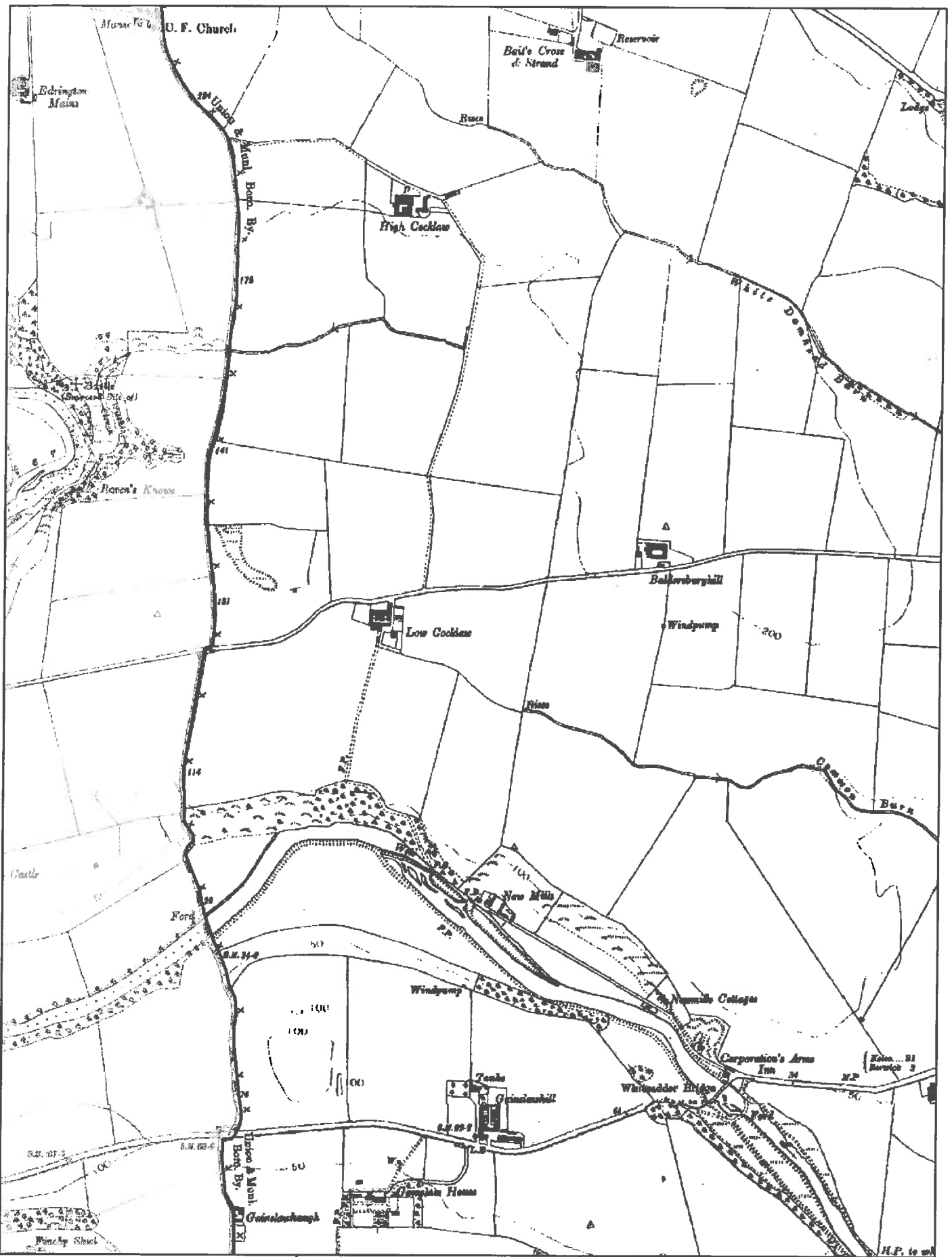




Northumberland  
County Council

SCALE 1:10,560

Ordnance Survey 2nd Edition 6" map (1899)

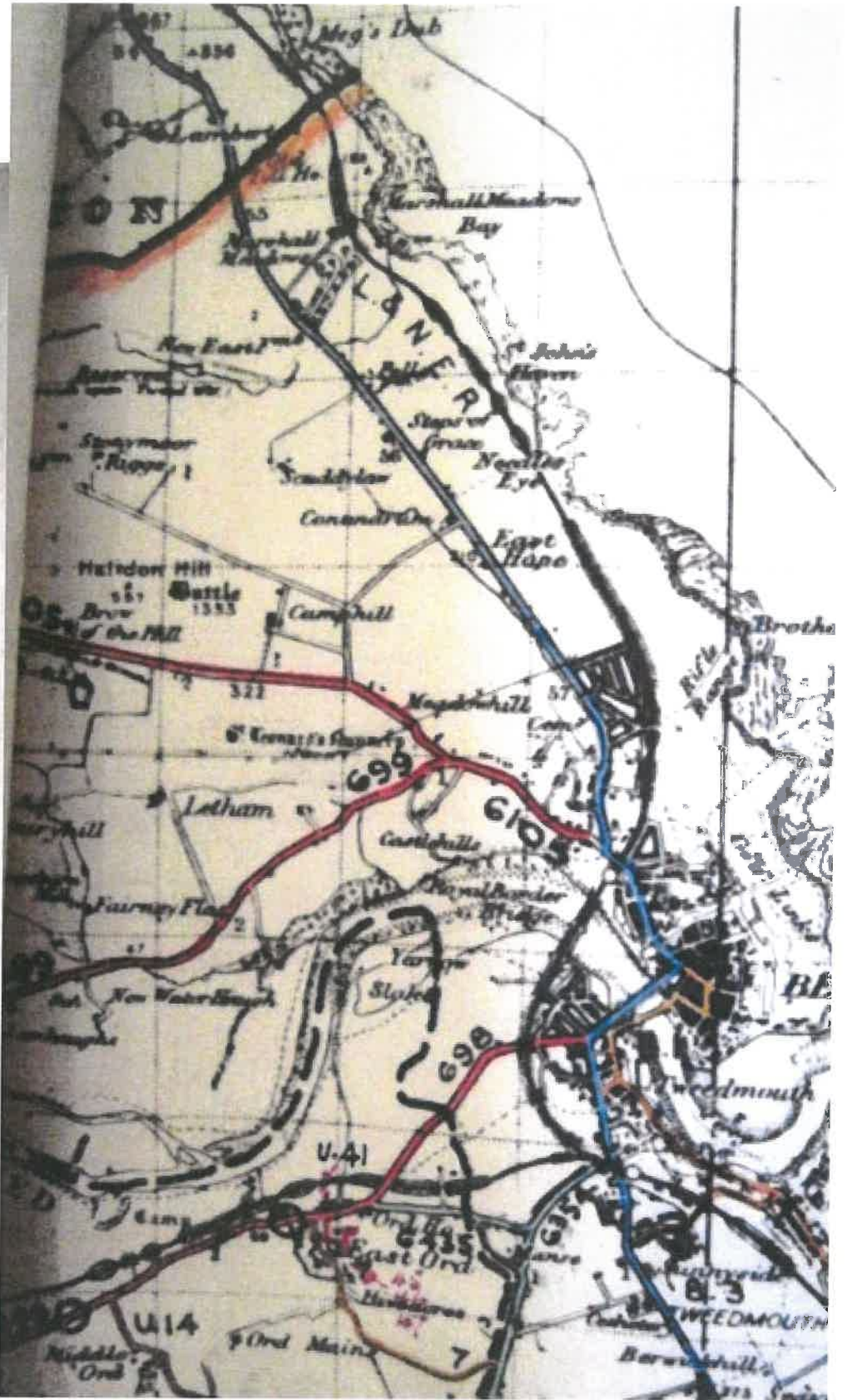


Northumberland  
County Council

SCALE 1:10,560

Ordnance Survey 3rd Edition 6" map (1925-26)

# Extract from the Council's 1951 Highways Map





# Survey Map (Annotated c. 1951)



NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.  
SCHEDULE ACCOMPANYING SURVEY MAPS.

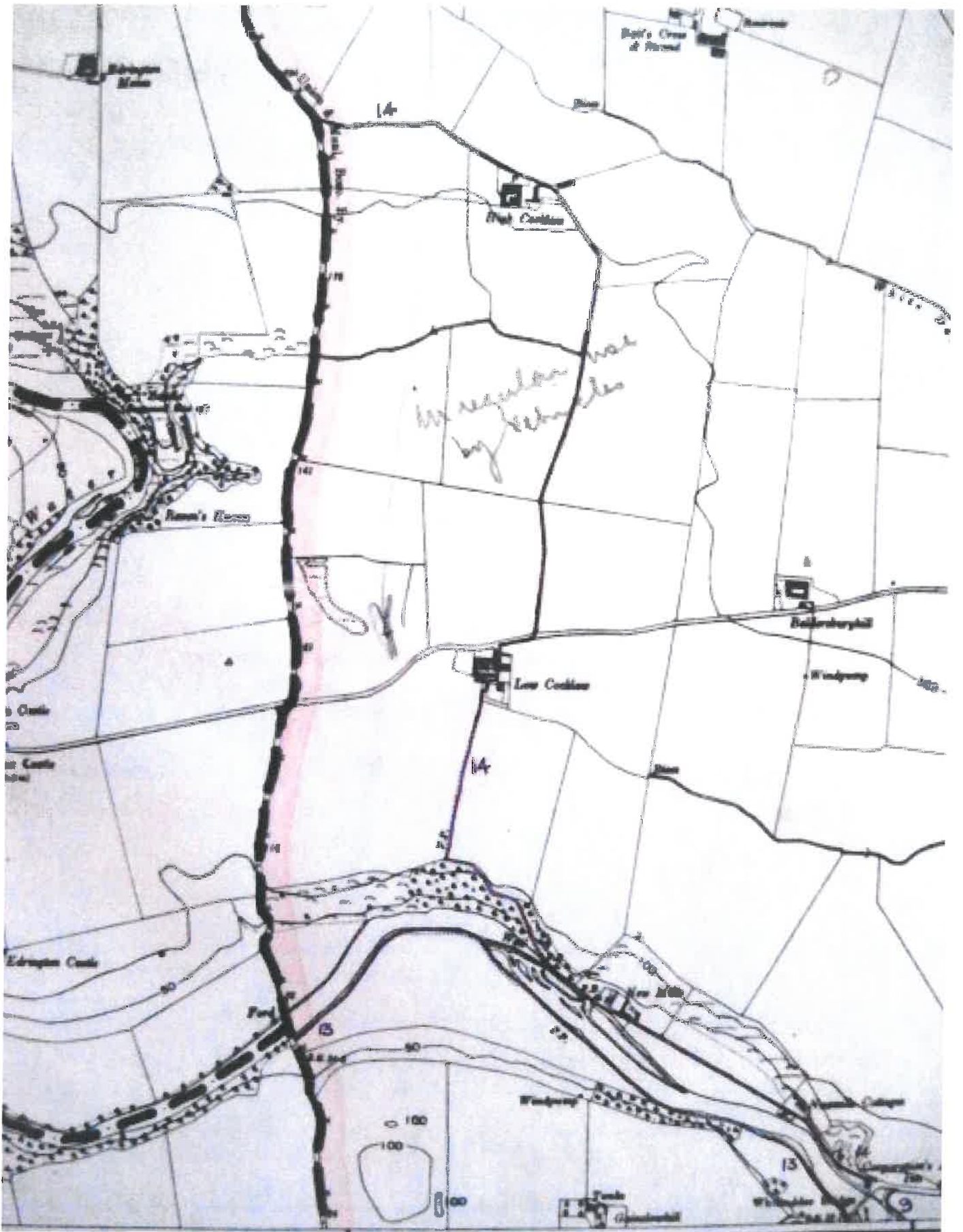
Parish of \_\_\_\_\_ in the Rural District of \_\_\_\_\_

Borough } of Berwick-upon-Tweed.  
~~Urban District~~ }  
(Delete whichever is inapplicable).

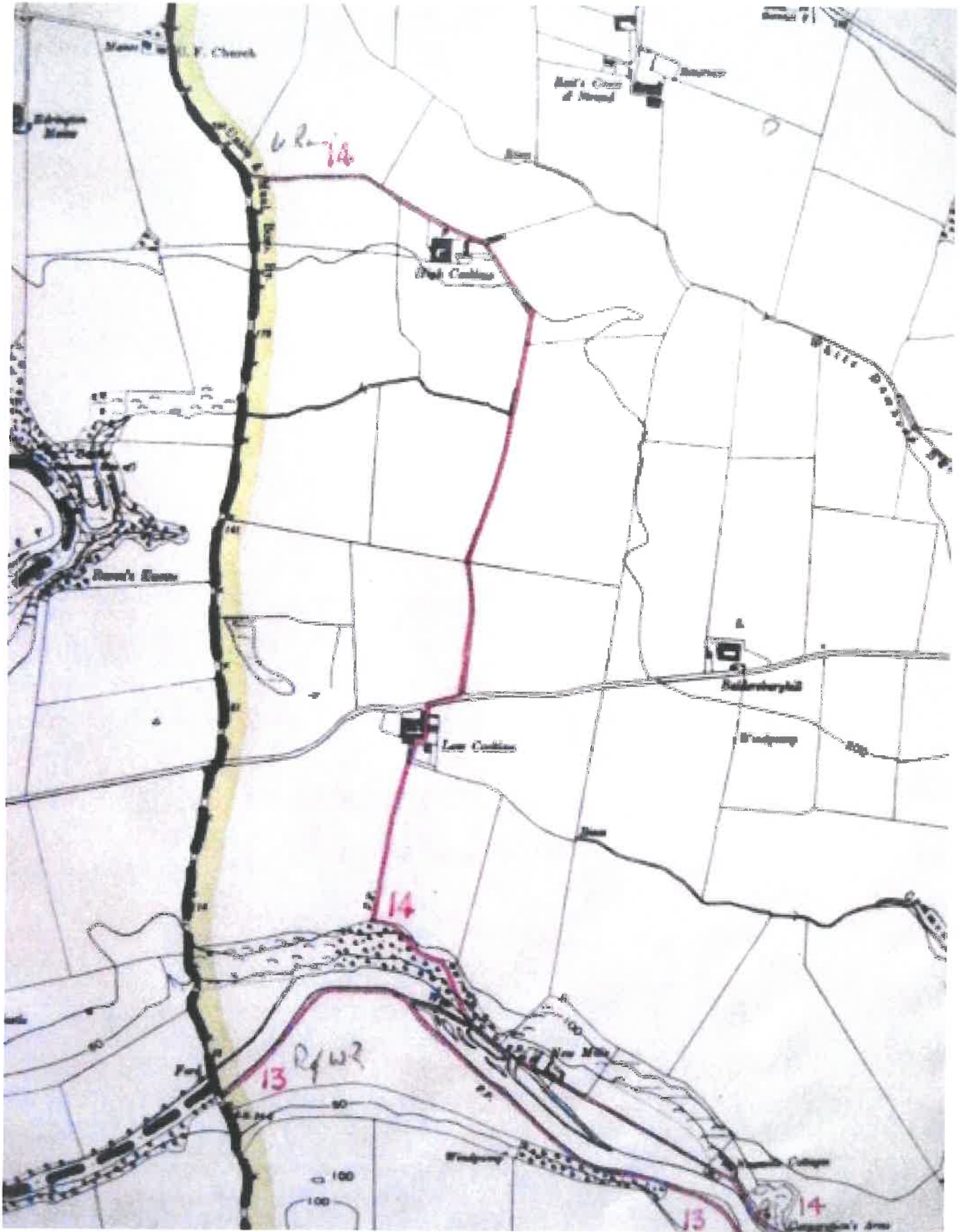
1. Number of highway on Map 14.      2. Kind of Path (i.e., F.P., B.R.) F.P.
3. Starts at Companian Arms Lane to Boundary Farming
4. Name of Path (if any) \_\_\_\_\_
5. Is the Path well defined? yes.
6. Is the Path metalled? If so, define length yes. 650 yards from Companian Arms.
7. If its width can be stated, insert here 3' metalled part. 18" remainder
8. What is the present condition of the path, stiles, etc.? good.
9. Is it subject to being ploughed out? In part.
10. Details of any notice boards, direction signs or warning signs against trespassers, stating their location, wording on them, their condition and date of erection, if known  
\_\_\_\_\_  
\_\_\_\_\_
11. Grounds for believing the path to be public (if known), e.g. "Awarded," "Repaired at Public Expense" (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant  
\_\_\_\_\_  
\_\_\_\_\_
12. Have persons been prevented using the highway? No.
13. Give particulars of any obstructions hand board at weir.
14. Names of owners of freehold and previous owners, if known, for past 30 years  
In Berwick Breweries Ltd.  
R. D. Knox, Berwick, Berwickshire  
Miss Jean Helen Walker, New Wattle, Berwickshire
15. What maps have been consulted, and where are they deposited?  
\_\_\_\_\_  
\_\_\_\_\_
16. What records have been consulted, and where are they deposited?  
\_\_\_\_\_  
\_\_\_\_\_
17. Any other relevant information  
\_\_\_\_\_  
\_\_\_\_\_

Surveyed by	Address	Dates of Survey
<u>H. Weatherburns.</u>	<u>10 Crispin Road. Berwick-upon-Tweed</u>	<u>6th June 1951.</u>

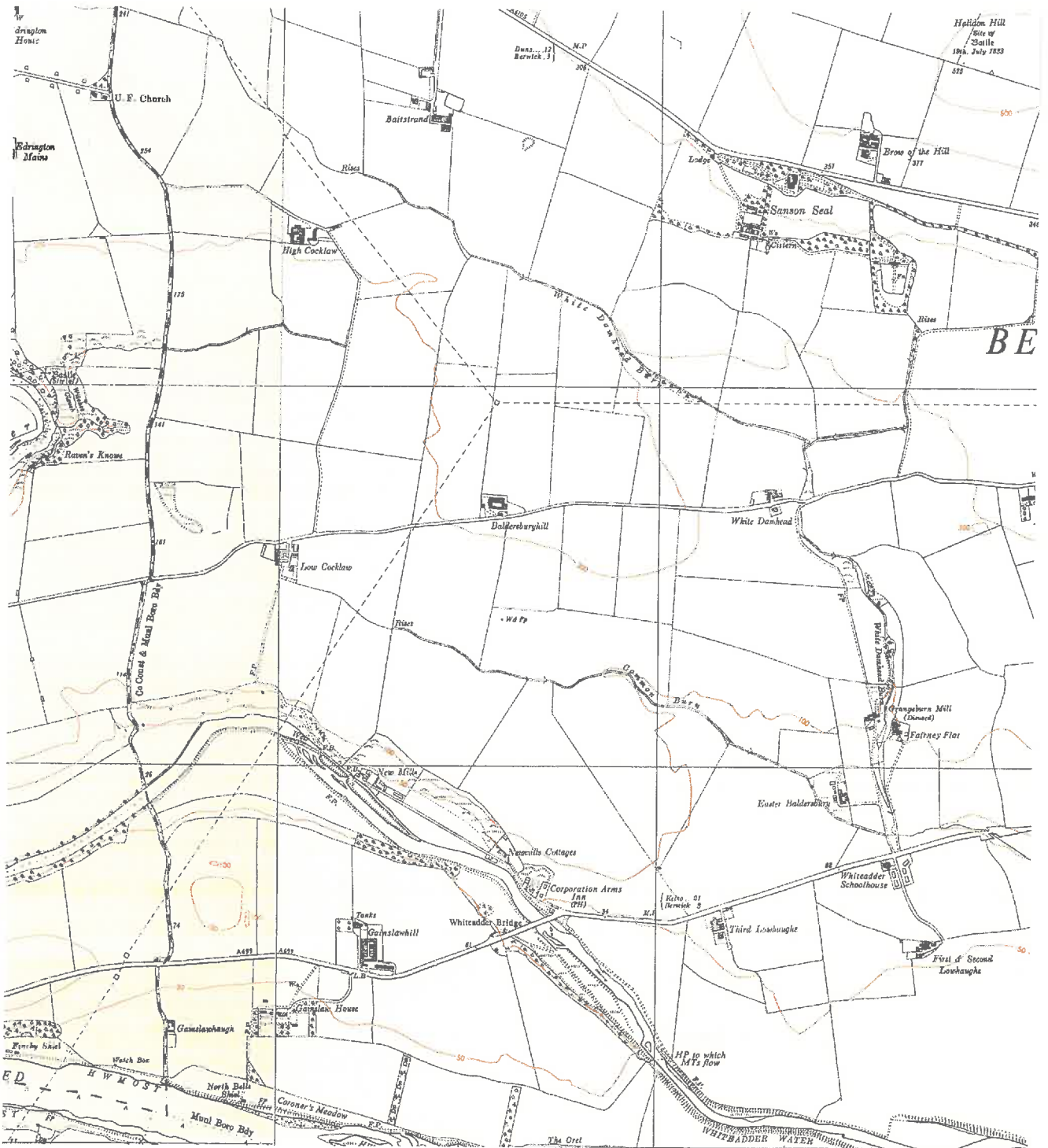
Important:—Sheet No. of Map on which Highway is shown  
35 | 1SE | 20



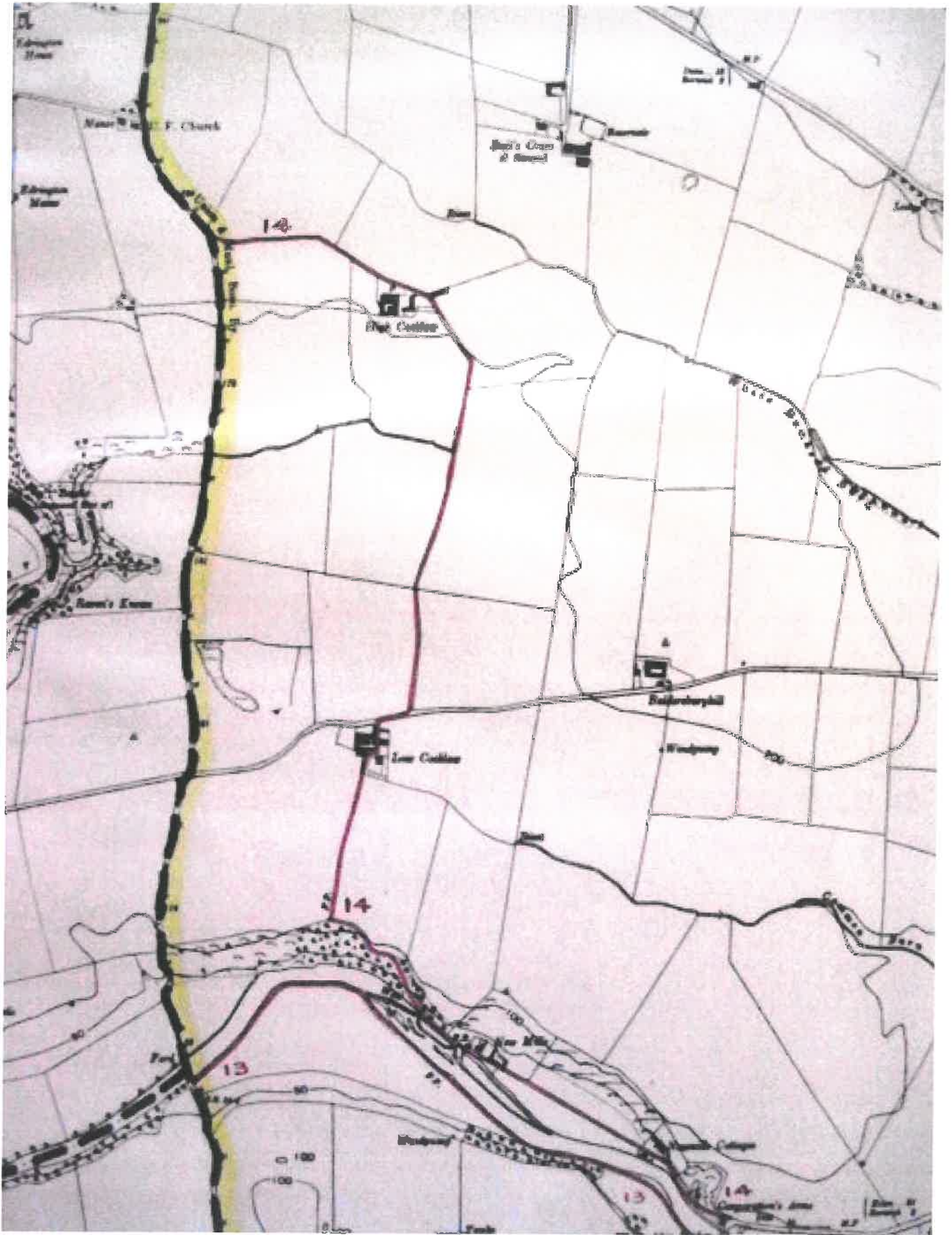
# Provisional Map



1:10,560 O.S. Map  
1957



# Original Definitive Map



NORTHUMBERLAND COUNTY COUNCIL.

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.

PART IV.

PUBLIC RIGHTS OF WAY - STATEMENT.

1. Borough ..... **BERWICK UPON TWED.**.....  
~~Urban District~~ .....  
~~Rural District~~ .....
2. Parish .....
3. Number of Footpath on Map ..... **14.** ✓ .....
4. Name of Path .....
5. Kind of Path (i.e. FP/BR) ..... **F.P., width 8' and metalled for first  
650 yards from Corporation Arms.  
Remainder width 1'6".**.....
6. General Description of Path ..... **From the Berwick-Kaise road at the  
Corporation Arms Inn in a north-westerly direction along the north bank of  
the Whitadder Water via Newmills Cottages, Newmills and turning along the  
Berwick-Hirington Castle Road at Low Cocklaw then north and west via High  
Cocklaw to the Borough boundary about 400 yards west of High Cocklaw.**  
.....
7. Other relevant information ..... **Evidence of Public User in the possession of  
Berwick upon Tweed Borough Council.**  
.....  
.....  
.....  
.....  
..... **LENGTH: 3000 yds** .....

NORTHUMBERLAND COUNTY COUNCIL.

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.  
PART IV.

PUBLIC RIGHTS OF WAY - STATEMENT.

1. Borough **BERWICK UPON Tweed.**  
Urban District .....  
~~Rural District~~ .....
2. Parish .....
3. Number of Footpath on Map ..... **19** ✓
4. Name of Path ..... **Grange Burn Mill.**
5. Kind of Path (i.e. FP/BR) ..... **B.R., width 2 to 3 feet.**
6. General Description of Path **From the Letham Leasing at White Damhead**  
**in a southerly direction along the west bank of the White Damhead Burn via**  
**Grangeburn Mill to the Berwick-Kalso Road at Whiteadder School House.**  
.....  
.....  
.....
7. Other relevant information **Evidence of Public User in the possession of**  
**Berwick upon Tweed Borough Council.**  
.....  
.....  
.....  
.....  
..... **LENGTH 1103 yds.** .....



NORTHUMBERLAND COUNTY COUNCIL

FIRST REVIEW OF DEFINITIVE MAP  
 RELEVANT DATE : 1 NOVEMBER 1963

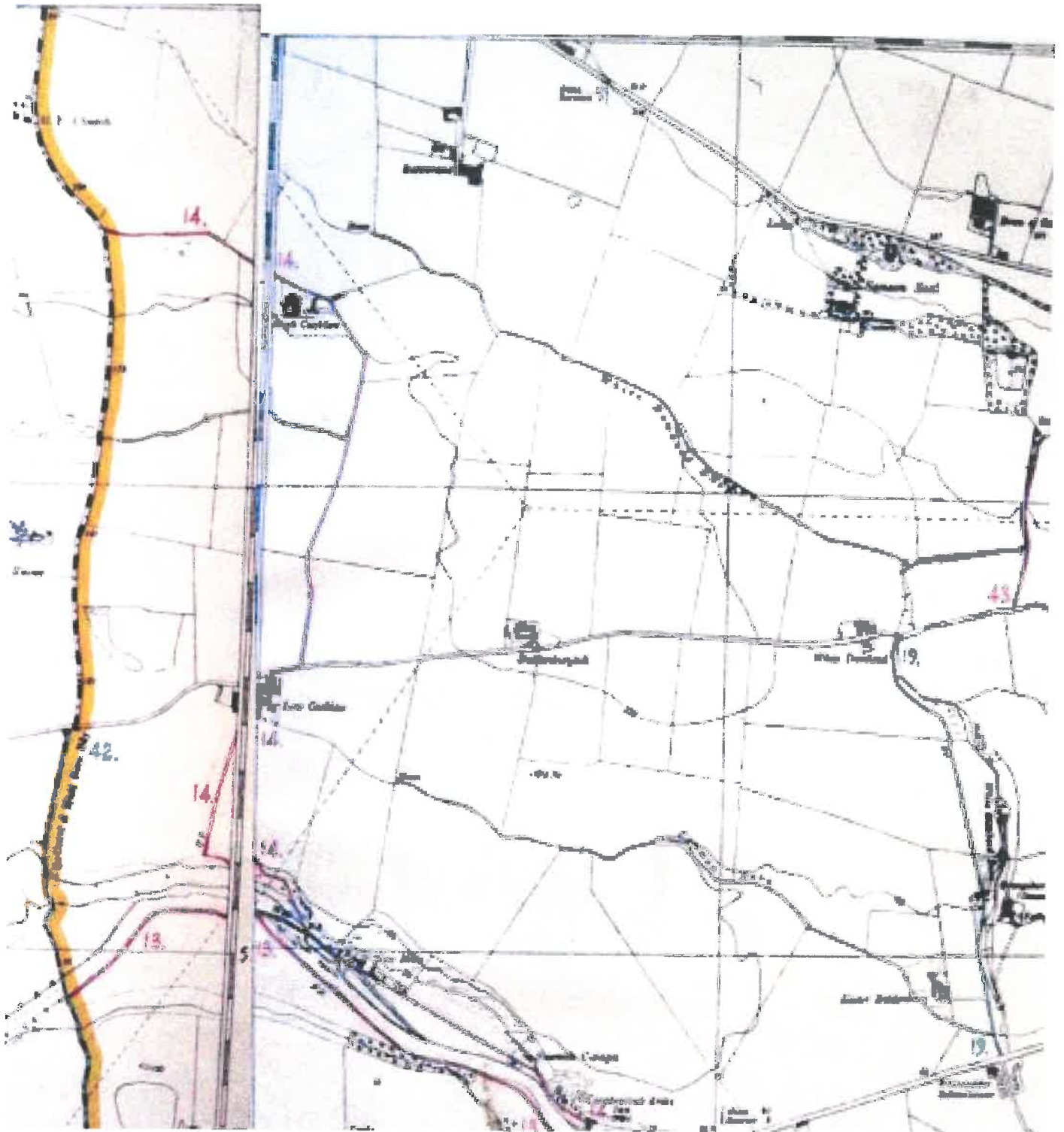
NORTHUMBERLAND COUNTY COUNCIL.

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.  
PART IV.

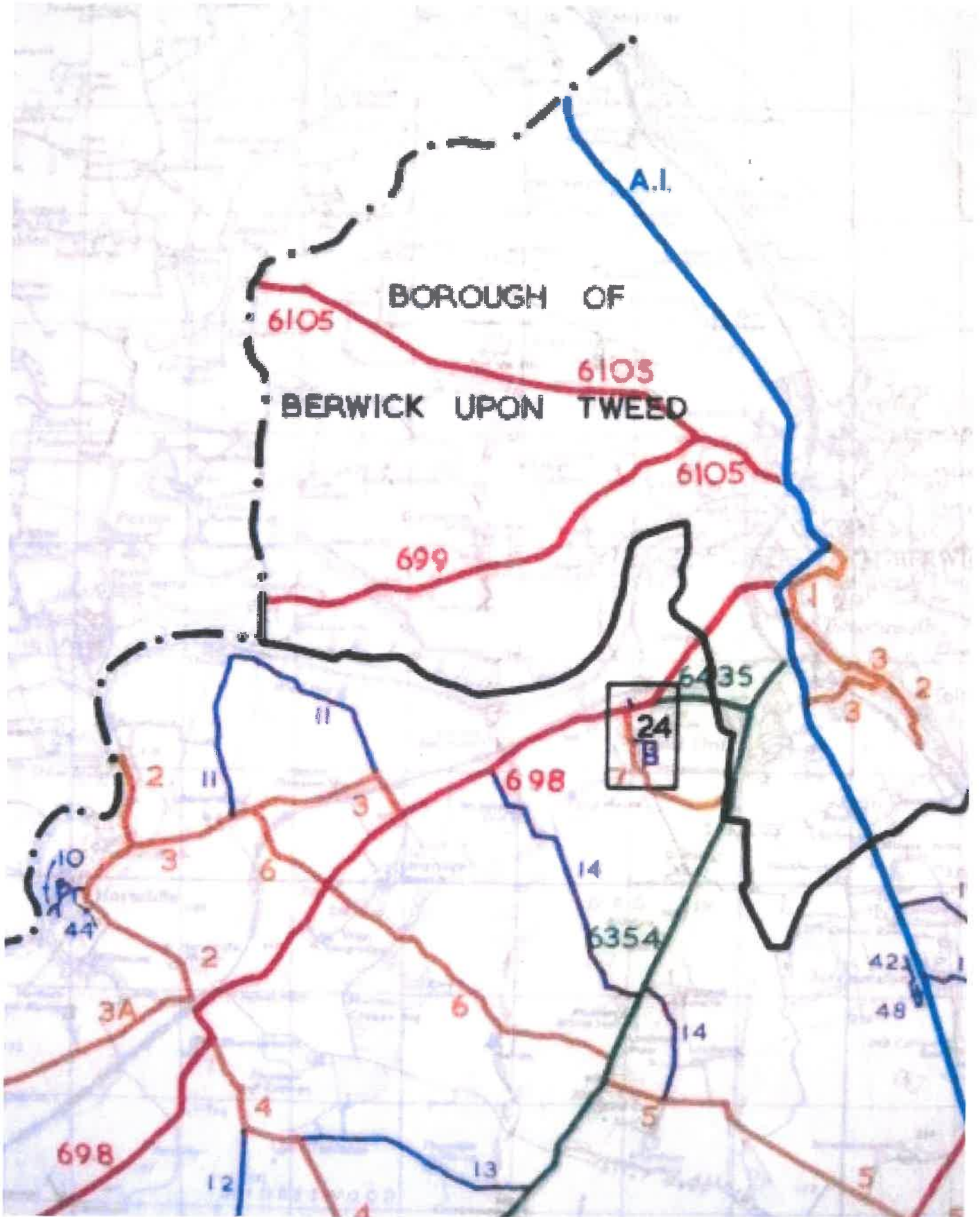
PUBLIC RIGHTS OF WAY - STATEMENT.

- 1. Borough ..... BERWICK-UPON-TWEED .....
- Urban District ..... ..
- Rural District ..... ..
  
- 2. Parish ..... ..
  
- 3. Number of Footpath on Map ..... 43 ✓ .....
  
- 4. Name of Path ..... ..
  
- 5. Kind of Path (i.e. FP/BR) ..... F.P. .....
  
- 6. General Description of Path ..... From the Berwick-Edrington Road approximately  
400 yards west of High Letham in a northerly, easterly and northerly direction.  
by Yellow Gowan Tree to join the Duns-Berwick Road south-east of Brow of the  
Hill. .....
  
- 7. Other relevant information ..... ..
  
- Length : 1040 yds.

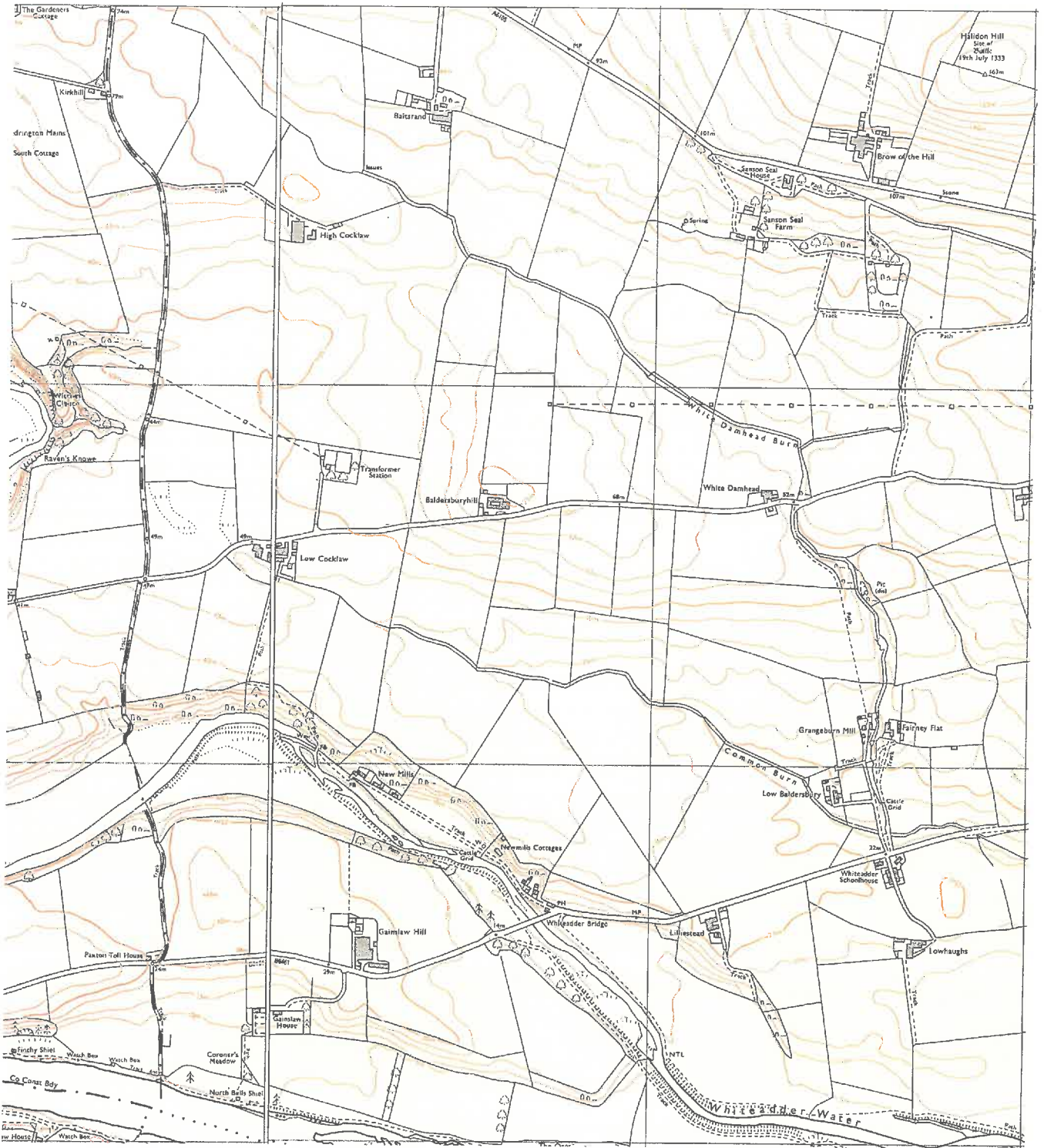
First Review Definitive Map  
(1963)

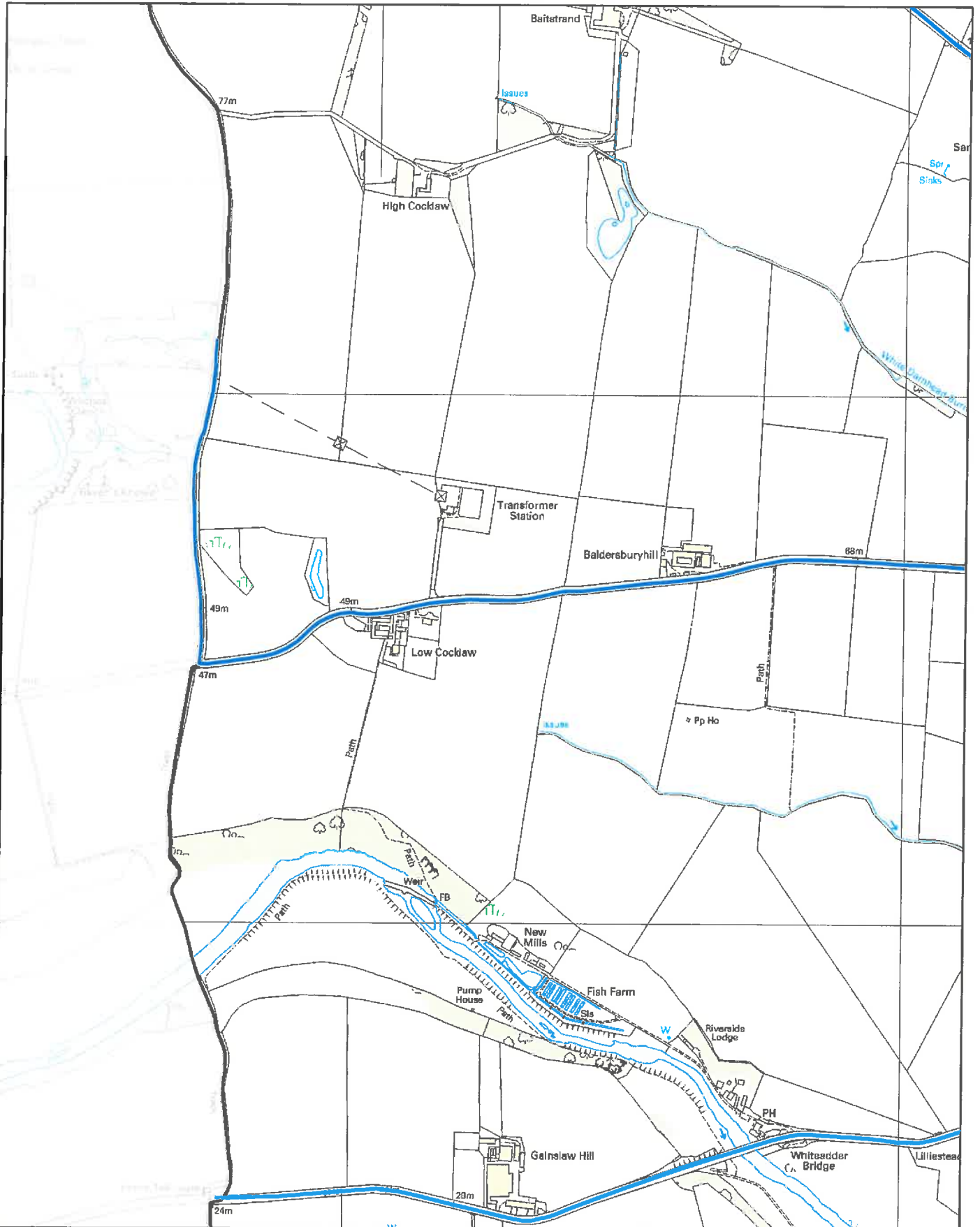


Extract from the Council's 1964 Highways Map



1:10,000 O.S. Map  
1978-79





**Northumberland**  
County Council

**Network Management  
Information System**

Highways Act 1980 Section 36(6)  
County of Northumberland  
List of Streets which are highways  
maintainable at the public expense  
as at 02-May-2006

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Drn:

Date:

Scale:

AB

Aug 2018

1:10,000

*Highways Act 1980 Section 36(6)*  
*County Of Northumberland*  
*List of Streets which are highways maintainable at the public expense*  
*As at 02-May-2006*

<i>Road Number</i>	<i>Description</i>	<i>Length - Metres</i>
<b>C97</b>		
	A1(T) JCT TO U3093 JCT	270
	U3028(EAST) JCT TO C100 JCT	1,347
	30MPH SHILBOTTLE TO U3037 JCT WIDO	229
	U3037 JCT WIDOWS ROW TO C95 JCT	393
	<i>Total length for C97</i>	<i>3,201</i>
<b>C98</b>		
	C100 JCT TO U3039 JCT	2,459
	U3039 JCT TO C95 JCT	689
	<i>Total length for C98</i>	<i>3,149</i>
<b>C99</b>		
	BRIDGE STREET TO NORTH STREET	111
	CHURCH STREET TO QUEEN STREET	76
	WELLWOOD STREET TO BRIDGE STREET	241
	WELLWOOD STREET TO A1068 HIGH STR	160
	NORTH STREET TO WELLWOOD STREET	128
	A1068 TO WELLWOOD STREET	193
	<i>Total length for C99</i>	<i>910</i>
<b>U1</b>		
	A698 JCT TO ST CUTHBERTS ROAD	485
	<i>Total length for U1</i>	<i>485</i>
<b>U10</b>		
	THE CRESCENT HORNCLIFFE	161
	C2 JCT TO THE SQUARE	356
	THE SQUARE HORNCLIFFE	56
	THE SQUARE TO BRETTVILLE COTTAGE	86
	THE SQUARE TO SCHOOL HOUSE ROAD	78
	THE CROFT HORNCLIFFE	55