



# Northumberland County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL  
RIGHTS OF WAY SUB-COMMITTEE  
26 February 2020

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

### ALLEGED BYWAY OPEN TO ALL TRAFFIC No 34 PARISH OF EDLINGHAM

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 North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U3111 road, from the C89 road at the west end of Edlingham village, westwards to Demesne Farm.

#### **Recommendation**

**It is recommended that the sub-committee agrees that there is not sufficient evidence to indicate that, on a balance of probability, public vehicular rights have been shown to exist over the route S-T.**

#### **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 where an existing public footpath, on the Definitive Map and Statement, is being upgraded to byway open to all traffic / restricted byway status, on the basis of historical documentary evidence, is Section 53(3)(c)(ii) of the Wildlife and Countryside Act, 1981. This requires 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 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”

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

## **2.0 PUBLIC EVIDENCE**

- 2.1 In the late 1980s the County Council carried out consultations regarding proposals to add a number of unsealed tracks in the north of the County to the Definitive Map as byways open to all traffic on the basis that the routes were included in the County Council's "List of Streets" as unclassified County roads (UCR). The rationale for doing so was that it would not be obvious to members of the public (particularly horse riders, walkers and cyclists) that they were legally entitled to use routes such as these (which were considered to have vehicular status), because their physical appearance might suggest otherwise.
- 2.2 The view, held by those officers of the Council responsible for maintaining the 'List of Streets' for the County of Northumberland was (and still is) that only public roads (not public bridleways or public footpaths) were shown on this List. The only exceptions to this are the surfaced paths and alleyways providing pedestrian links between roads, in urban streets. Thus, tracks in rural settings, which have their own unique reference numbers (e.g. the 'U3111' road), were considered to be all-purpose public highways maintainable at public expense.
- 2.3 Shortly afterwards, the processing of applications from third parties seeking to record public footpath or public bridleway rights was afforded a higher priority. Later on, the process of recording UCRs as byways open to all traffic was effectively suspended because the Ordnance Survey indicated that they would be showing such routes on their published maps as being an "Other route with public access". Although, on that basis, members of the public would still be unclear as to precisely what rights they had over routes identified in this fashion.
- 2.4 The most recent advice from DEFRA (paragraph 4.42, Rights of Way Circular 1/09) is that inclusion on the List of Streets may provide evidence of vehicular rights but that this should be examined on a case by case basis. In view of this advice, it is considered prudent to evaluate the status of the U3111 unclassified County road based upon more than simply its inclusion in the List of Streets.
- 2.5 The entire length of the U3111 road has been recorded on the Definitive Map of Public Rights of Way as (the northern end of) Public Bridleway No 16 since 1962. If higher public rights than footpath do exist, it is important these rights

are recognised and, ideally, the Definitive Map modified to reflect this. If they do not, then it is important that this position is clarified.

### **3. LANDOWNER EVIDENCE**

3.1 By note, received 19 February 2018, Mr K Robson of "Holystone", Edlingham identified himself as a person affected by the alleged byway open to all traffic.

3.2 By email, on 7 March 2018, Mr R Gee of "Amberley", Edlingham responded to the consultation stating:

"I refer to our telephone conversation re consultation on the above and in particular the consultation exercise being undertaken.

"As I explained to you my concern was that as a resident of Edlingham since 1984 I appear to be consulted informally whereas the properties on either side of me are being consulted formally. You informed me that there was no difference in the status of the consultation,

"The property was built in 1984 and is shown on your map extract which was enclosed. "Amberley" is the third property west of the letter "S" on the map following Holystone, and Heathcot and further west are Demesne Cottages adjacent to the 147m notation.

"Whilst I have no comment to make on what is the status quo I would like the County Council to recognise Amberley and its occupants do exist. As I explained to you this is not the first time we have been missed off lists but so far nothing of vital importance."

3.3 By second email, on 7 March 2018, Mr R Gee of "Amberley", Edlingham responded further to the consultation stating:

"The majority of use of the road is by pedestrians who normally park down at the church and head off on a circular walk.

"Apart from the Hunt there are only village horses and riders.

"Those cyclists who do brave the hill usually head off north towards Bolton. I cannot recollect the last time I saw a cyclist in the lane.

"The few cars that come up are usually lost and trying to find the pub in Eglingham!"

### **4. CONSULTATION**

4.1 In February 2018, 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". Two replies were received and are included below.

- 4.2 By email, on 26<sup>th</sup> February 2018, Ms H Evans responded to the consultation, on behalf of Cycling UK, stating:

“Ted has now looked at these and come back to me with the attached and also the comment that "Most are standard changes to confirm existing BOATs but a few are really good gains to the access network. No comment means we support and no comments are necessary".

Cycling UK did not make any comments in relation to this particular proposal.

- 4.3 By email, on 4<sup>th</sup> May 2018, Ms S Rogers responded to the consultation on behalf of the British Horse Society, in relation to a number of routes in Edlingham parish, but making no comments in relation to this particular route.

## 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 some evidence of a road or track approximating to the route of alleged Byway No 34, though as this route passes through “Newton”, it is perhaps more likely to be depicting the U3054, slightly further to the north.

### 1820 Fryer's County Map

There is clear evidence of a road or track approximating to the route of alleged Byway No 34, and the rest of existing Public Bridleway No 16, southwards to the B6341 road.

### 1827 Cary's Map

There is clear evidence of a road or track approximating to the route of alleged Byway No 34, and the rest of existing Public Bridleway No 16, southwards to the B6341 road.

### 1828 Greenwood's County Map

There is clear evidence of a road or track approximating to the route of alleged Byway No 34, and the rest of existing Public Bridleway No 16, southwards to the B6341 road.

### c.1860 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track over the route of the U3111 road, and extending south-westwards then southwards beyond Demesne Farm. The track is identified as parcel number “118” in Callaly and Yetlington township. In the accompanying Book of Reference, this parcel is identified as “Public road”.

1866 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34, and extending westwards slightly beyond the farm. About 170 metres west of the farmhouse, the track ceases to be enclosed. Its southerly continuation is annotated as "BR" and a south-westerly continuation is annotated as "FP".

Finance Act 1910 plan

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34. The route is not, however, identified as being separate from the adjacent land by coloured boundaries. If it had been, this would have been a good indication that the road was considered to be public at that time. There are no other notations against the route which might indicate that it was considered to be a public road.

1926 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34.

1932 Alnwick RDC Handover Map

The route of alleged Byway Open to All Traffic No 34 is not coloured so as to identify it as a publicly maintainable road.

c.1938 Restriction of Ribbon Development Act 1935 Map

The route of alleged Byway Open to All Traffic No 34 is identified on the base map, but it is not coloured so as to identify it as a publicly maintainable road to be protected from ribbon development.

1951 Highways Map

The route of alleged Byway Open to All Traffic No 34 is shown on the base map, and is coloured purple so as to identify it as a publicly maintainable road. The road number (3111) is written in purple too, which suggests this road was probably a later addition.

c.1952 Definitive Map – original Survey Schedules & Map

The route of alleged Byway Open to All Traffic No 34 exists on the base map and is identified for inclusion on the Definitive Map as part of a public bridleway (numbered "7").

### Draft Map

The route of alleged Byway Open to All Traffic No 34 exists on the base map and is identified for inclusion on the Definitive Map as part of a public bridleway (numbered "7").

### Provisional Map

As with the Draft Map, the route of alleged Byway Open to All Traffic No 34 exists on the base map and is identified for inclusion on the Definitive Map as part of a public bridleway (numbered "7").

#### 1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34.

#### 1962 Original Definitive Map

The route of alleged Byway No 34 exists as a road / track on the base map, and is identified as a public bridleway (the northern end of Public Bridleway No 16). The northern end has been crossed out in pencil with a notation of U3111 written alongside.

#### 1964 Highways Map

The route of alleged Byway Open to All Traffic No 34 is coloured so as to identify it as a publicly maintainable road. It is labelled as the "U3111".

#### First Review Definitive Map (Relevant Date 1 Nov 1963)

The route of alleged Byway No 34 exists as a road / track on the base map, and is identified as a public bridleway (the northern end of Public Bridleway No 16).

#### 1978 Ordnance Survey Map: Scale 1:10,000

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34.

#### 2005 Ordnance Survey Explorer 332 Map: Scale 1:25,000

There is clear evidence of an enclosed road / track over the route of alleged Byway No 34. The route is marked with a single green dot, signifying that it is an "Other route with public access" (i.e. an ORPA).

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

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

5.2 There is no entry for the U3111 road, in the 1958 County Road Schedule.

5.3 The entry for the U3111 road, in the 1964 County Road Schedule, states:

“U3111 Road to Demesne Farm, Edlingham  
From C89 at Edlingham, south-westwards to Demesne Farm, (127  
yds).”

The length of the U3111 road is identified as 0.07 miles.

5.4 The entry for the U3111 road, in the 1974 County Road Schedule states:

“U3111 Road to Demesne Farm, Edlingham  
From C89 at Edlingham (NU 110089) south-westwards to Demesne  
Farm, (127 yds).”

The length of the U3111 road is identified as 0.07 miles.

5.5 In the Schedule of reputed Public Rights of Way prepared by Alnwick Rural District Council, under the Rights of Way Act 1932 the following route appears to be identified starting on (rather than proceeding along) the of the route of alleged Byway No 35:

“Parish of Edlingham

.....

7. BR. Edlingham Demesne to Wellhope, from the public road at the Demesne, running in a W direction over cart road, then through field Nos 60, 107, crossing Edlingham Burn and main road E of Midrigg Bridge, then over Moor passing Wellhope, and on to the Rothbury Rural District Boundary.”

5.6 The original Definitive Statement for the public right of way ‘intersecting’ with the alleged byway open to all traffic states:

Public Bridleway No 16

“From the public road at Edlingham in a south-westerly, southerly and south-easterly direction by Edlingham Demesne across the Edlingham Burn and by Wellhope to the Rothbury Rural District boundary east of the Millstone Burn.”

## **6. SITE INVESTIGATION**

6.1 From Point S on the C89 road, 20 metres south-east of a property called “Holystone”, a 2.7 to 3 metre wide tarmac road within a 6 to 8.5 metre wide corridor proceeds in a south-westerly direction for a distance of 115 metres to a Point marked T, 30 metres north of “The Demesne”, Edlingham.

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

7.1 In January 2020, a draft copy of the report was circulated to those landowners / occupiers who responded to the initial consultation for their comments.

7.2 By email, on 7 February 2020, Mr K Robson of "Holystone" in Edlingham responded with the following comments in relation to the draft report:

"Following on from our telecon this morning . My only concern about any change to the current situation, is losing the council's commitment to repairing the potholes on this stretch of road. Potholes are an ongoing problem! Despite a moderate use by vehicles, the road is easily damaged not least because of the large, heavy vehicles that use it for access to the farm. In the past requests for repairs have been met speedily by the council and this has been appreciated. The loss of this service would be a major problem. Some of the potholes are certainly deep enough to cause damage to our vehicles and this is the only access route to the six houses on the road. If you require further perspective please let me know."

7.3 By email, on 9 February 2020, Mr R Gee of "Amberley" in Edlingham responded with the following comments in relation to the draft report:

"I refer to your letter and enclosures of 16th January 2020 regarding the U3111 road at Edlingham and apologise for not replying earlier.

"I have read through your report a number of times and would comment as follows:-

- There would appear to be no comments from the Parish Council nor the Ward Councillor
- Mr G Herdman the farmer of Demesne Farm has no recollection of any consultation
- It would appear that the County Council are sifting through the County to find little used roads to downgrade them to avoid the maintenance and upkeep costs.
- I have been a resident since 1984 and since then the road has been maintained (albeit poorly) by the County Council
- When applying for planning permission for my property the County Highways Dept was formally consulted and I was advised I needed a turning area within my site and I needed a Type 7 access. These conditions indicated to me the County Highways department had jurisdiction over the road.
- Your report makes reference in para 2-2 to the road U3111 "considered to be all-purpose public highway maintainable at public expense"
- Para 5-1 identifies the "public road" shown on the 1860 Ordnance Survey map. It goes on to reference the 1951 Highways Map \*\* (is coloured purple so as to identify it as a publicly maintained road) The 1964 Highways Map again refers to the road "as a publicly maintainable road. It is labelled as the U3111" In 2006 The Council's list of Streets (2 May 2006) "The route of the alleged byway is clearly identified as publicly maintainable highway"
- In section 8 of your report "Discussions" there are various considerations made but Para 8-11 does state "The County Council would appear to have recognised this route as a publicly maintainable vehicular highway since the early 1960s and to have been maintaining it as such since then. Whilst it may be difficult now for the County Council to deny that it had accepted



maintenance responsibility for this route this is a separate matter from establishing the routes status"

- I would suggest that this admission by the County Council is sufficient for it to continue maintaining the U3111 in its present form.
- Surely the County Council cannot now simply stop a service they have been carrying for the past 60 years.
- I would strongly object to the County Council withdrawing financial support and try to opt out of the future maintenance of this stretch of highway.

"I would be quite happy to attend the Rights of Way Sub-Committee to expand on the points I have raised for your consideration."

7.4 By email, on 9 February 2020, County Councillor Wendy Pattison responded with the following comments in relation to the draft report:

"Mr Richard Gee has contacted me with his concerns 're the downgrading of the U3111 byway.

"I have found a previous email I sent to Edlingham PC asking if they had any comments about seven Edlingham byways on 24th February 2018 which is exactly 2 years ago. Not sure whether Mr Gee as a resident would have also been contacted at that time?

"I am happy for my concern and support for Mr Gee's objection re the above which can be mentioned to the Committee at the forthcoming Public Rights of Way meeting.

"If there are reassurances etc that you can advise to Mr Gee on this byway I would be happy to be copied in."

## **8. DISCUSSION**

8.1 Section 53 (3)(c)(ii) 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 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 [53(3)(c)(ii)].

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 The route of alleged Byway Open to All Traffic No 34 is identified on the County Council's current List of Streets as being the U3111 road. The route was not identified on the Council's 1951 Highways Map or on the 1958 County Road Schedule. It was, however, shown on the later 1964 Highways Map and included in the 1964 and 1974 County Road Schedules. The route was not identified on the 1932 Handover Maps or on the Maps / Schedules produced under the Restriction of Ribbon Development Act 1935.
- 8.5 The route has been consistently identified as an enclosed road / track on Ordnance Survey maps since c.1860. Although the route does not seem to be shown on Armstrong's County Map of 1769, it is depicted on Fryer's and Greenwood's County Maps of 1820 and 1828, and on Cary's Map of 1827. In addition, although it is identified as an enclosed road on the plan produced in relation to the Finance Act 1910, it is not separated from the surrounding land by coloured boundaries in the way that we might have expected an acknowledged public road to be shown.
- 8.6 In the Schedule of Reputed Public Rights of Way, prepared by Alnwick Rural District Council (under the Rights of Way Act 1932), the public bridleway proceeding towards Wellhope is identified as starting at Edlingham Demesne; which would be consistent with the alleged byway route being considered to be a public road. When the Definitive Map and Statement of Public Rights of Way came to be prepared under the National Parks and Access to the Countryside Act 1949, however, at each formal stage (i.e. Draft, Provisional and Definitive Maps) and also at the preliminary Survey stage, the public footpath was identified as beginning at the right-angle bend on the 'main' C89 road.
- 8.7 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.
- 8.8 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.

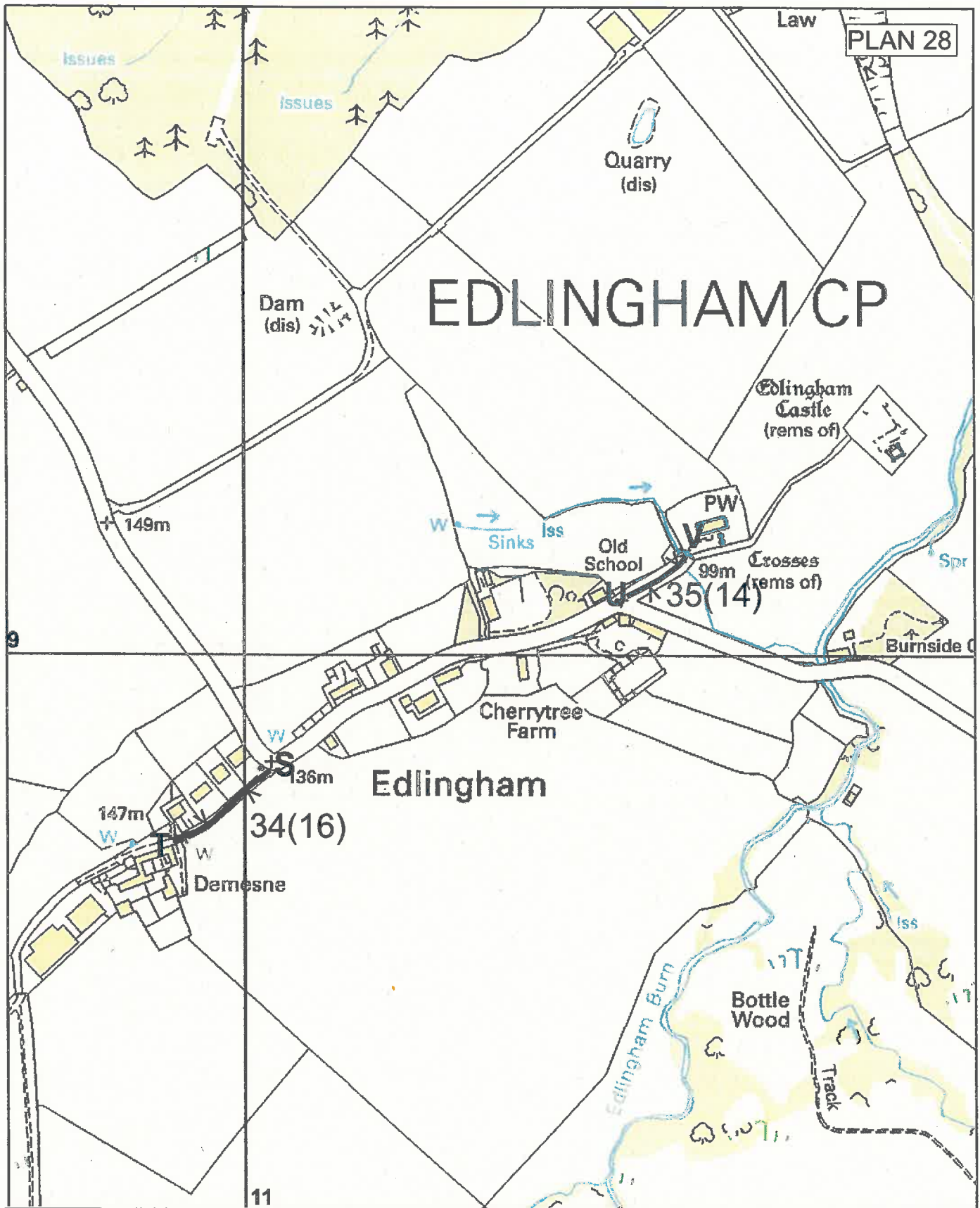
- 8.9 In this instance, it seems fairly clear that the U3111 was not identified as a publicly maintainable road by Alnwick Rural District Council when responsibility for maintenance was transferred to Northumberland County Council in 1930 (1932 handover). It was not recognised by Northumberland County Council as a public road to be protected from ribbon development (under the Restriction of Ribbon Development Act 1935) in the late 1930s. Alnwick Rural District Council does appear to have viewed the route as a public motor vehicular highway when it prepared its Schedule of Reputed Public Rights of Way under the 1932 Rights of Way Act, because the public bridleway which heads towards Wellhope was identified as starting at Edlingham Demesne. This view was not apparently communicated to the County Council, however, because the route was not identified as a publicly maintainable road on the County Council's 1951 Highways map or 1958 County Road Schedule. And when the Definitive Map of Public Rights of Way was being prepared during the 1950s (Relevant Date: 20 Sept 1954), no public vehicular rights were acknowledged to exist, and the route was ultimately recorded as the northern end of Public Bridleway No 16.
- 8.10 The route appears to have been added to the List of Streets some time between 1958 and October 1964; probably before September 1962, given that this road has a slightly lower number - U3111, rather than 3115 - than this other 'new' road in Edlingham (see the next report on the agenda). It is not known what the impetus for this addition was. No County Council Highways Committee entry corresponding to this route has been discovered.
- 8.11 The County Council would appear to have recognized this route as a publicly maintainable vehicular highway since the early 1960s and to have been maintaining it as such since then. Whilst it might be difficult, now, for the County Council to deny that it had accepted maintenance responsibility for this route, this is a separate matter from establishing the route's status. Thus, if the route was a non-publicly maintainable public vehicular right of way before, then the County Council's maintenance activity is likely to mean it has become a publicly maintainable public vehicular right of way. But, if it was only a public bridleway, the County Council's maintenance activity would not automatically upgrade the route into a vehicular right of way. The route would only become a vehicular right of way if the landowner explicitly dedicated higher rights, or if it was demonstrated that the landowner could be presumed to have dedicated higher rights under common law or under section 31 of the Highways Act 1980, on the basis of long-standing unchallenged use by the public and the corresponding actions (or lack of them) by the landowners in relation to this use.
- 8.12 Messrs Robson and Gee's concerns (echoed by Cllr Pattison) regarding a potential reduction in the Council's maintenance responsibility for this route are entirely understandable. As members will be well aware, this process is entirely about clarifying the public status of various (predominantly unsurfaced) unclassified roads throughout the County. This route is under consideration because it is recorded on the List of Streets as the U3111 road and also on the Definitive Map of Public Rights of Way as part of Public Bridleway No 16. It is not driven by any maintenance considerations whatsoever. Any changes to maintenance liability will only arise through a clarification / change in the status of a route. This is an entirely evidence driven process. Status does not (and can not) change simply due to a wish to avoid or reduce maintenance costs.

- 8.13 The route of the U3111 road has been recorded as part of Public Bridleway No 16 since 1954 (i.e. before it was identified as the U3111 road). Whilst a certain amount of evidence in favour of it being a public vehicular right of way does exist, this is not considered sufficient to satisfy the balance of probabilities test necessary to overturn the route's existing recorded public bridleway status. Being a 'U' road on the List of Streets is evidence in favour of public vehicular rights, but not proof that those rights exist. Publicly maintainable footpaths and bridleways could also be recorded on the List of Streets. If the Council made an error in the early 1960s regarding the route's status, and periodically maintained it thereafter, this action, on its own, is not considered sufficient to 'create' a public vehicular right of way. The route has, in effect, been an extremely well maintained public bridleway.
- 8.14 Residents may, understandably, feel that the Council should continue to maintain the bridleway in this superior manner, but this expectation does not alter the status of the route. The Council's responsibility for any publicly maintainable highway is to maintain it for the ordinary traffic of the neighbourhood. There is no obligation to tarmac every vehicular public right of way, and the Council cannot therefore be compelled to maintain the tarmac surface on a public bridleway (though it might choose to do so). If the County Council feels that it is desirable for this route to be recognised as a publicly maintainable, motor vehicular, right of way, then it would be open to it to enter into a formal agreement with the landowner, with the landowner formally and unambiguously dedicating a public motor vehicular right of way over the route and the County Council accepting the dedication and also the future maintenance liability for it. But this is a matter beyond the scope of this report which, as stated earlier, is simply concerned with ascertaining the current status of the route, based upon all the evidence which is available.
- 8.15 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.
- 8.16 Of the saving provisions above, the main one (b), will clearly not apply to the U3111 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.
- 8.17 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 associated with dedicating the U3111 as a public road.

- 8.18 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. Although the U3111 is a reasonably well made up tarmac road, it is a vehicular cul-de-sac. It is clearly used on an everyday basis by residents and farm traffic but it seems doubtful that this use constitutes "use by the public". Public use of the route is considered likely to be predominantly pedestrian, perhaps augmented by a smaller amount of equestrian and bicycle use.
- 8.19 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.
- 8.20 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, if this route is indeed a public road, it would appear that this route was such before any tarmac surface was applied. On that basis this saving provision is considered unlikely to apply.
- 8.21 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.
- 8.22 Although this route has a drivable surface, it is not in a particularly good condition and, having no place of public resort, might easily be confused as a private road or farm track. Use of the route, by the general public, is considered much more likely to be pedestrian than anything else. Mr Gee's consultation response would appear to bare this out.
- 8.23 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. Where no width can be determined by documentary means (such as an Inclosure Award, Highway Order or dedication document), there is usually a boundary to boundary presumption for public highways. On that basis, if this route were to be included in a future Definitive Map Modification Order as either a byway open to all traffic or restricted byway, it is proposed to record it with a width varying from 6 to 8.5 metres, as identified in paragraph 6.1, above.





## Northumberland

Northumberland County Council

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## Wildlife and Countryside Act 1981 Public Rights of Way

 Alleged Byway Open to All Traffic

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Former District(s)  
Alnwick

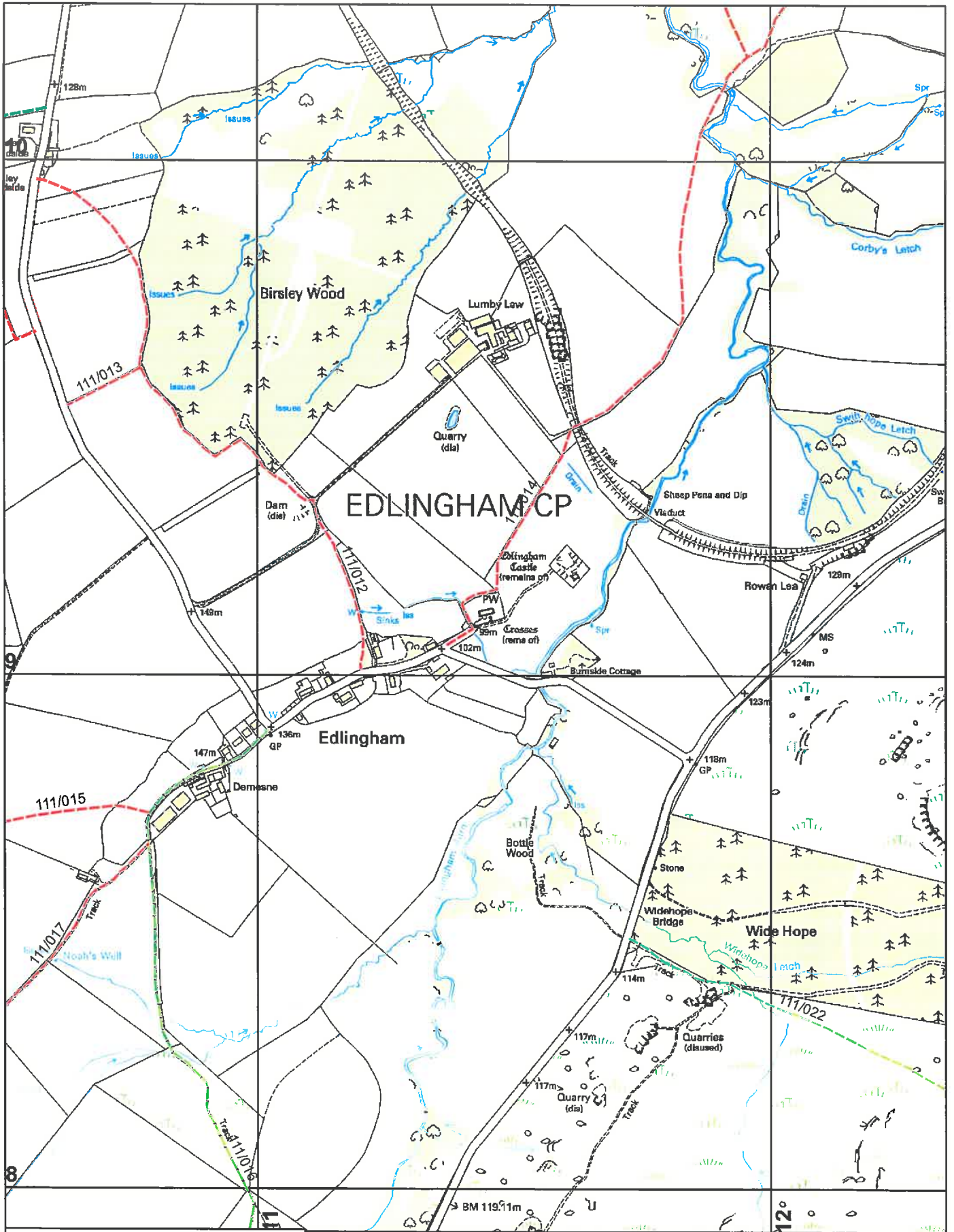
Parish(es)  
Edlingham

Scale  
1:5000

Def. Map No.  
81

O.S. Map  
NU 10 NW

Date  
October 2016



  
**Northumberland**  
 County Council

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

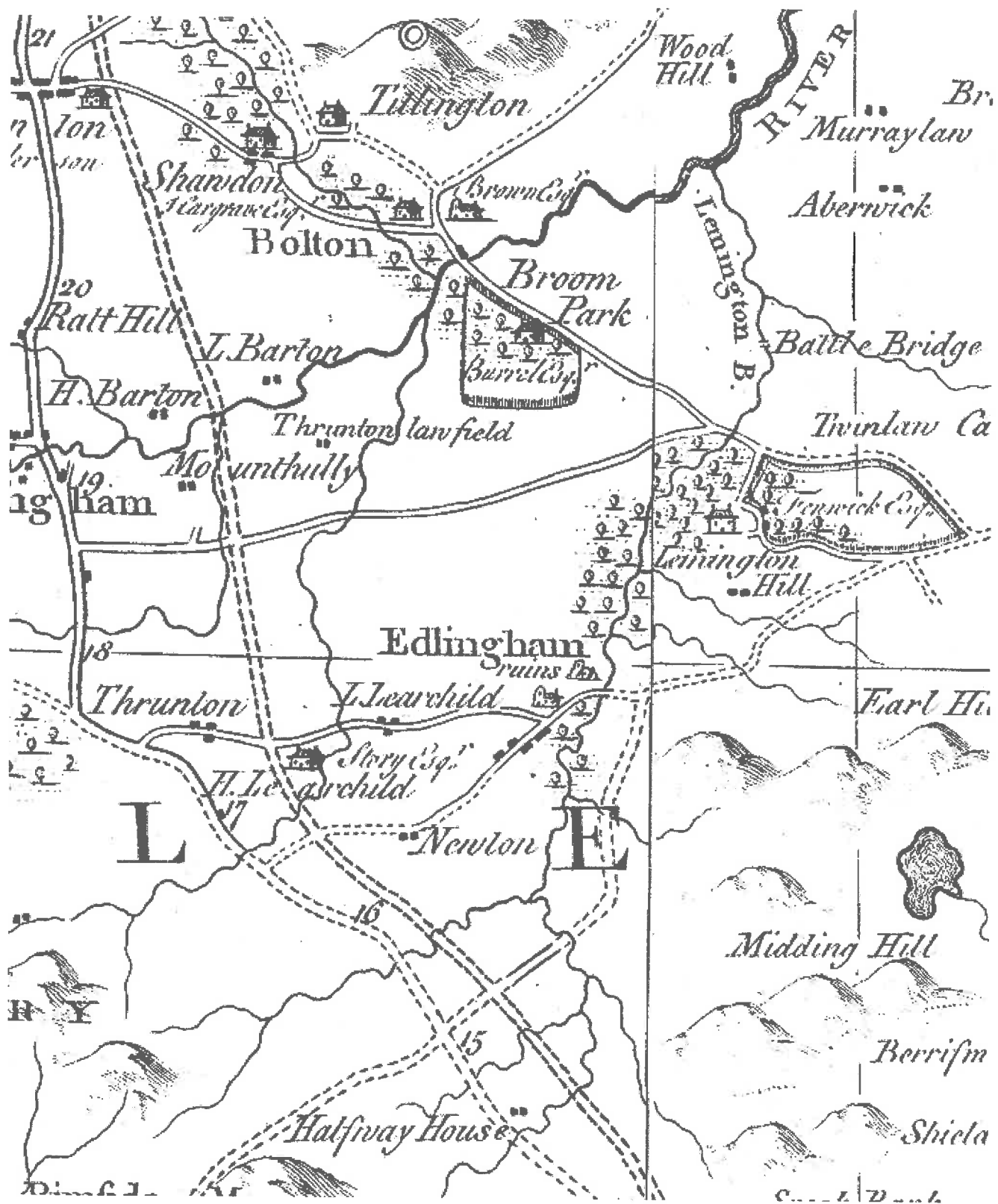
- Legend**
- Footpath
  - Bridleway
  - Restricted Byway
  - Byway Open to All Traffic

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

Scale: 1:10,000

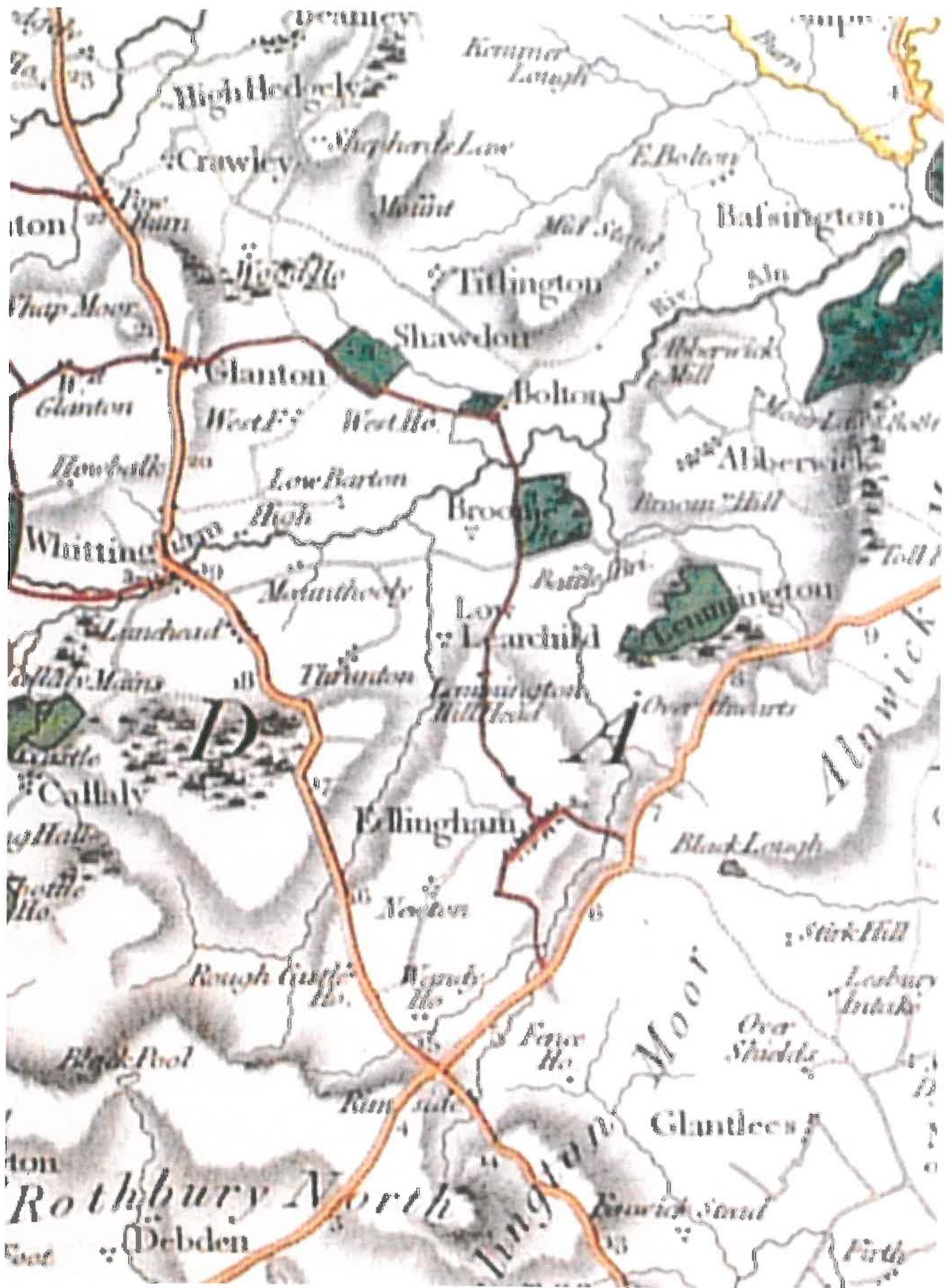
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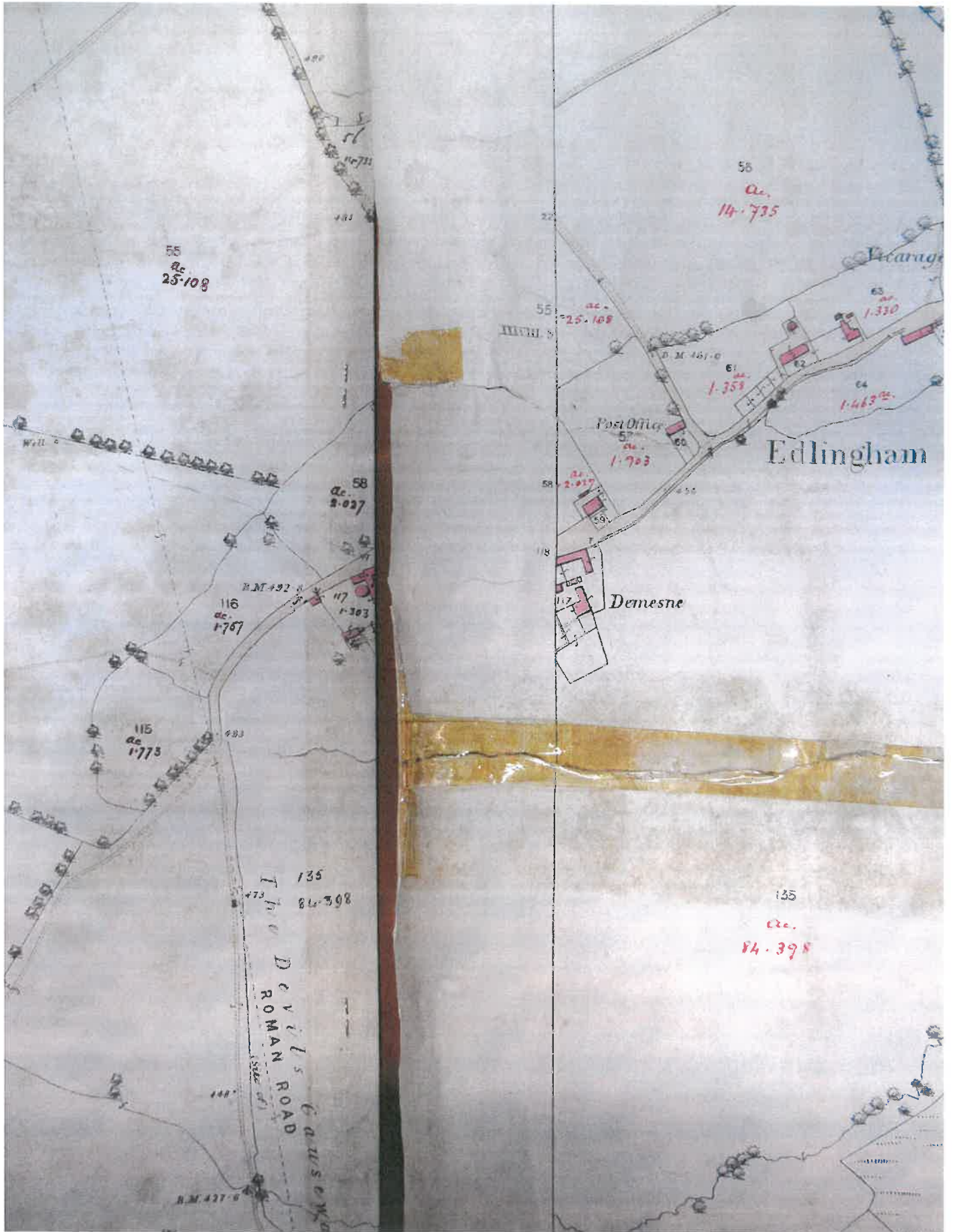
Fryer's County Map  
1820





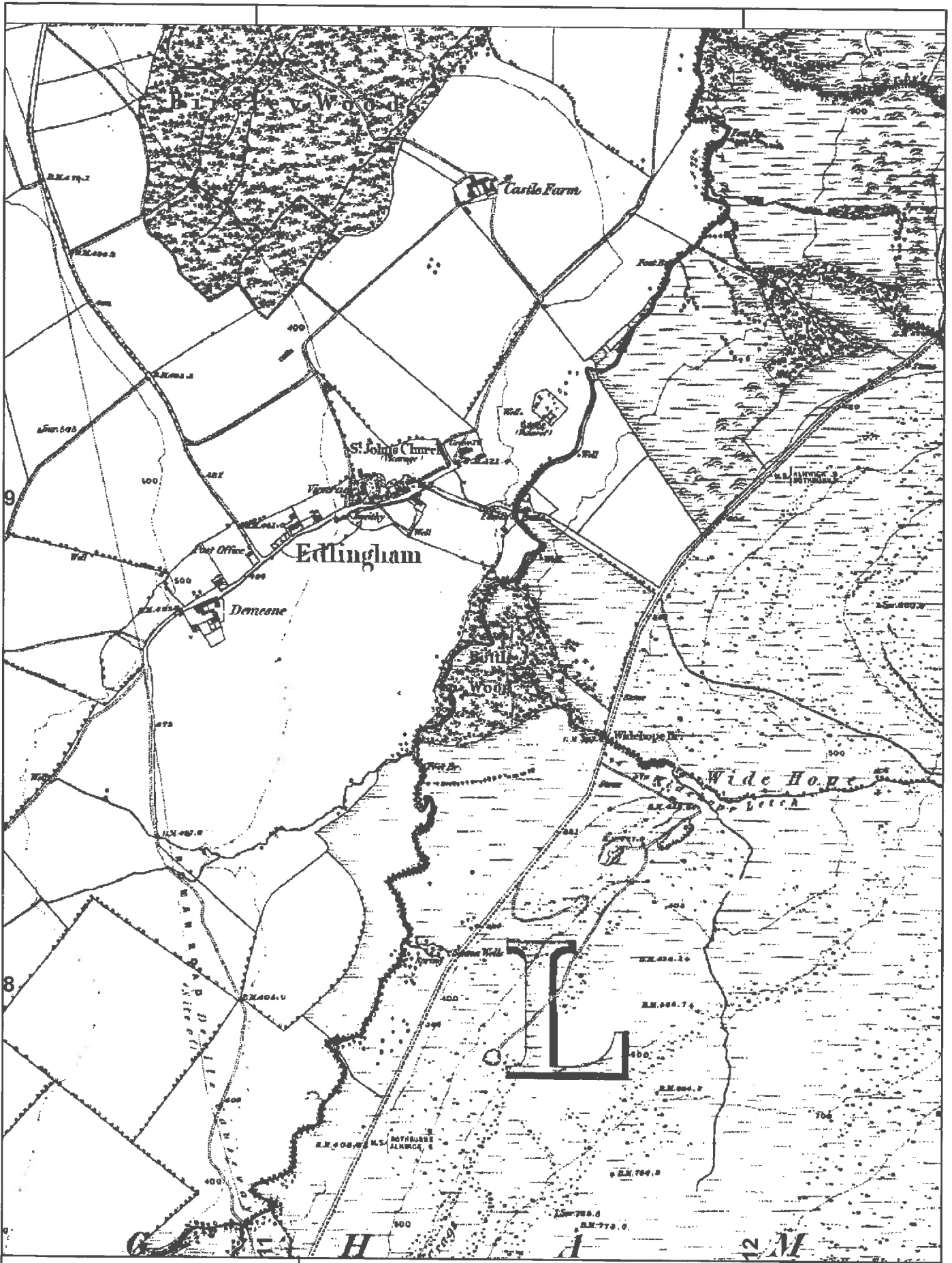
# Greenwood's County Map 1828





PARISH OF EDLINGHAM.

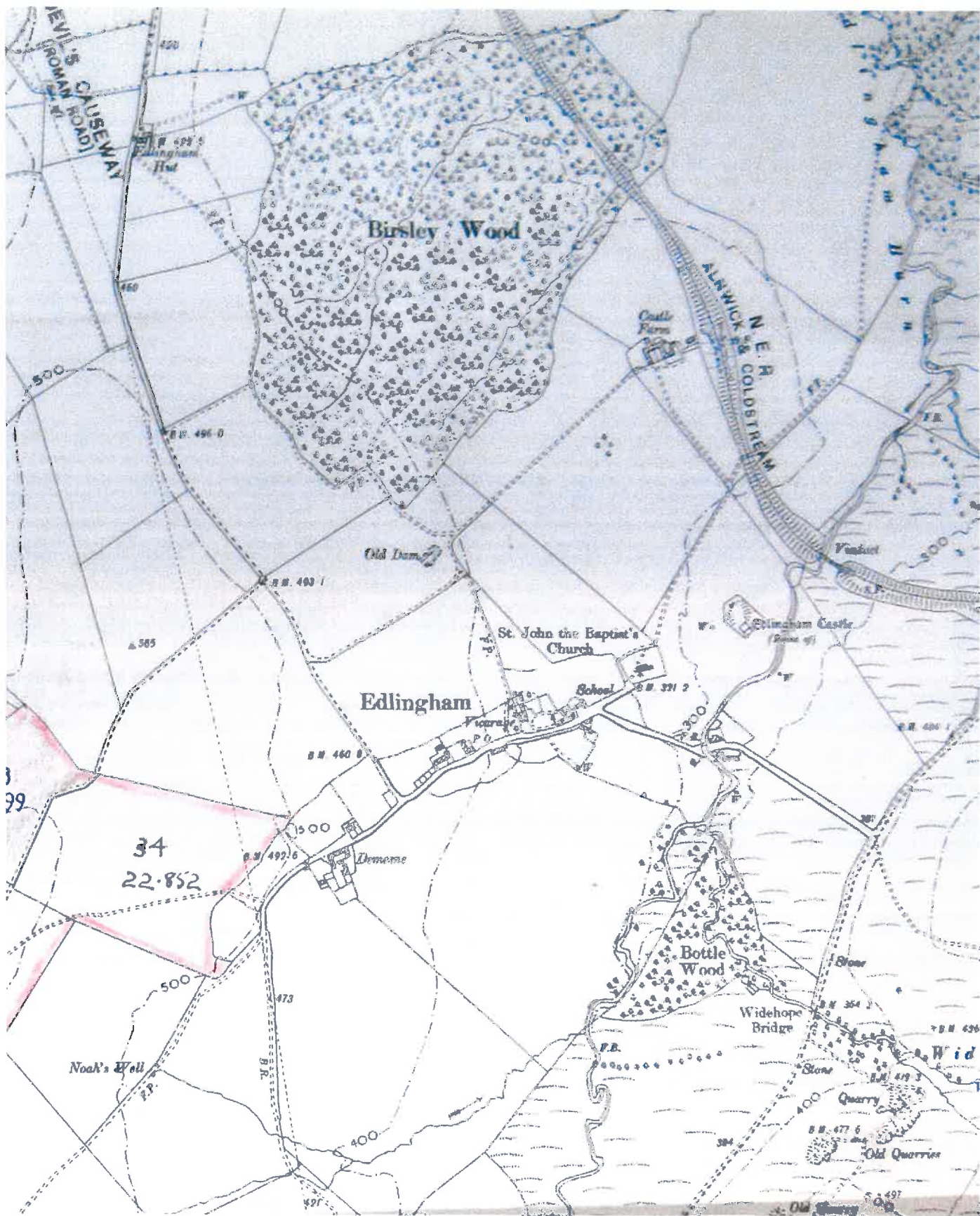
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
	2595·488	<i>Brought forward.</i>		5136·339	<i>Brought forward.</i>
98	15·331	Wood, &c.	143	27·939	Pasture.
99	·502	Wood.	144	18·450	Pasture.
100	5·107	Pasture, &c.	145	1·518	Wood.
101	·187	Wood.	146	3·918	Public road.
102	16·606	Pasture, &c.	147	12·462	Arable.
103	·051	Yard and shed.	148	19·329	Arable.
104	·480	Wood.	149	25·148	Arable, &c.
105	·397	Wood.	150	8·553	Pasture, &c.
106	·038	Yard and shed.	151	34·932	Pasture, &c.
107	·440	Wood.	152	32·242	Pasture, &c.
108	·174	Wood.	153	14·549	Pasture.
109	·863	Wood.	154	·571	Wood, &c.
110	7·442	Arable.	155	·139	Garden, &c.
111	20·988	Pasture.	156	·067	Garden.
112	16·814	Arable.	157	·101	House and
113	79·729	Pasture, &c.			garden. } Rough
114	11·650	Arable.	158	·132	Houses, gar- } Castles.
115	1·773	Pasture, &c.			dens, &c.
116	1·757	Pasture, &c.	159	·295	Gardens.
117	1·303	Houses, yards, gar- dens, &c. (Demesne).	160	·251	Pasture, &c.
118	2·989	Public road.	161	1·165	Wood, &c.
119	·591	Rough pasture.	162	·100	Garden.
120	·632	Rough pasture.	163	1·018	Wood.
121	1·435	Arable.	164	4·071	Arable.
122	13·986	Wood, &c. (Bottle Wood).	165	·406	Wood.
123	·370	Rough pasture, &c.	166	4·380	Pasture, shed, &c.
124	14·559	Rough pasture.	167	18·272	Rough pasture, &c.
125	1·384	Rough pasture.	168	30·749	Pasture, &c.
126	·229	Garden, &c.	169	27·535	Pasture, &c.
127	·624	Wood.	170	46·477	Arable.
128	·592	Houses, yards, gar- den, &c.	171	14·562	Pasture, &c.
129	·328	Pasture.	172	14·141	Pasture.
130	·545	Pasture.	173	5·849	Pasture and bushes.
131	·086	House and garden.	174	28·062	Arable, &c.
132	·689	Wood.	175	32·024	Arable.
133	·188	Pasture.	176	34·071	Arable, &c.
134	17·363	Pasture.	177	2·602	Wood, &c.
135	84·398	Pasture, &c.	178	·075	Garden.
136	9·319	Black Lough.	179	2·036	Wood.
137	18·762	Wood, &c.	180	1·349	Houses, yards, garden, &c. (Wandy House).
138	2069·198	Rough pasture, &c.	181	·984	Wood.
139	7·170	Public road.	182	·221	Houses, garden, &c.
140	18·278	Rough pasture, &c.	183	·768	Pasture, &c.
141	83·392	Wood, &c. (Roughley Wood).	184	4·055	Pasture, &c.
142	12·112	Wood, &c.	185	·956	Rough pasture, &c.
			186	26·687	Pasture, &c.
			187	2·441	Wood.
			188	9·131	Wood, &c.
	5136·339	<i>Carried forward.</i>		5651·122	<i>Carried forward.</i>



Northumberland  
County Council

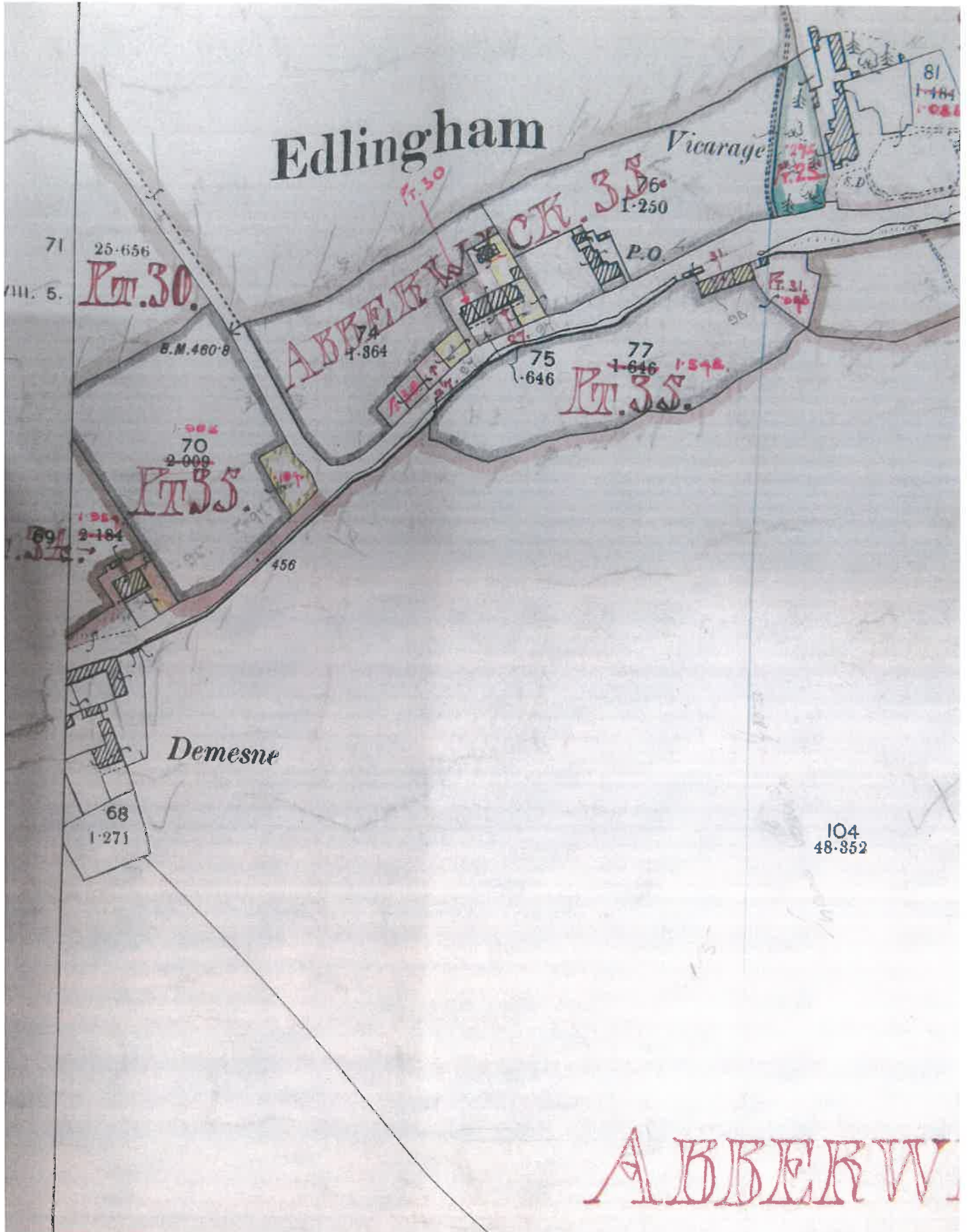
SCALE 1:10,560

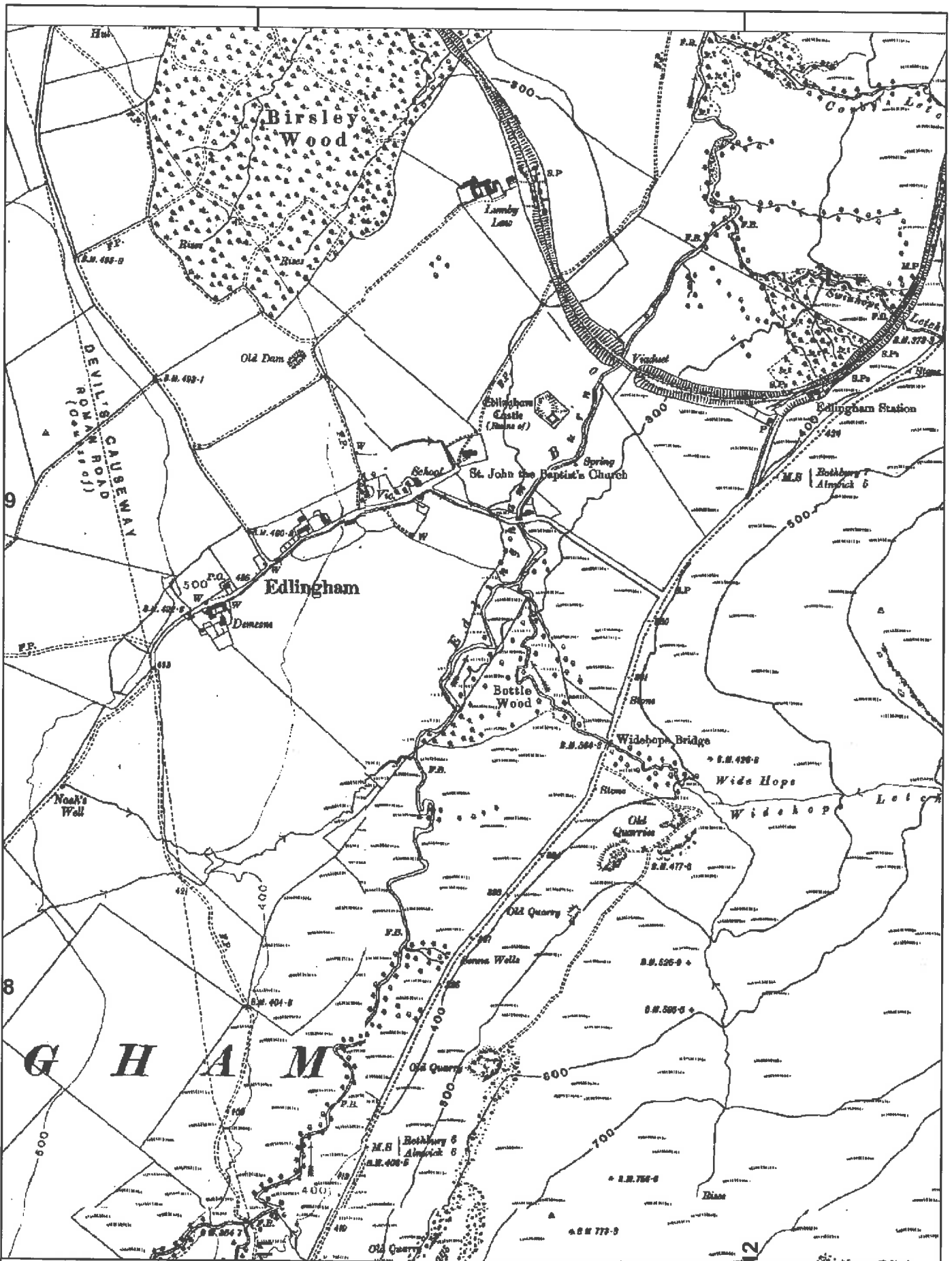
Ordnance Survey 1st Edition 6" map (1866)





Finance Act 1910 Plan



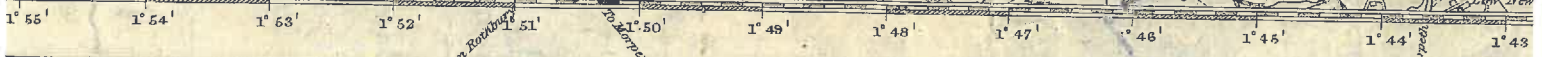


Northumberland  
County Council

SCALE 1:10,560

Ordnance Survey 3rd Edition 6" map (1926)

# Alnwick RDC Handover Map 1932

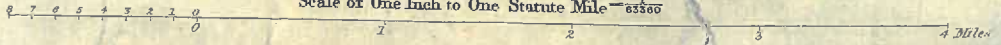


N<sup>o</sup> of the adjoining Sheets of the One Inch Map.

3	4
5	6
8	9
	10

9  
(ROTHBURY)

Scale of One Inch to One Statute Mile — 63360



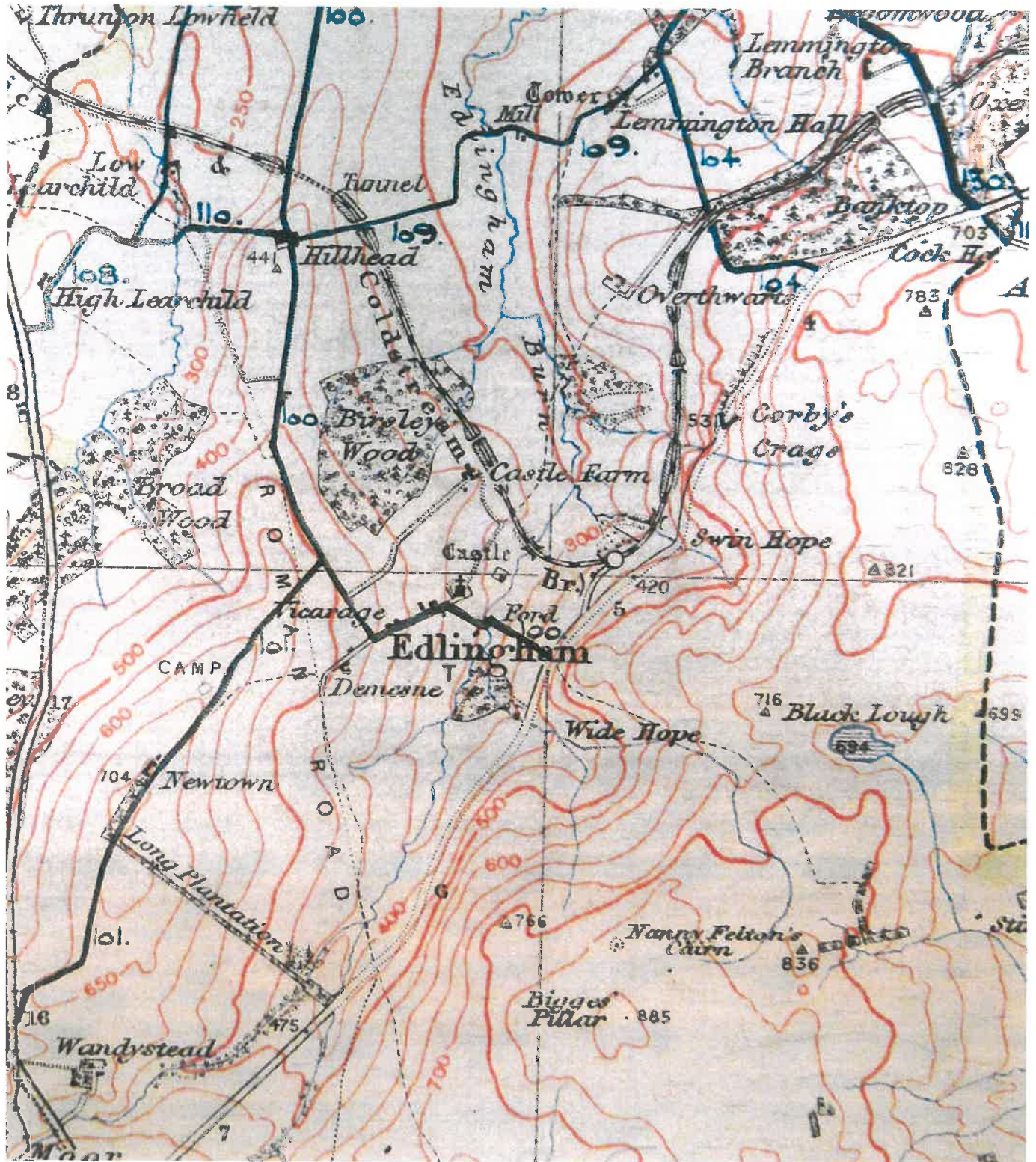
The Altitudes are given in Feet above the assumed Mean Level of the Sea at Liverpool, which is 0.650 of a Foot below the general Mean Level of the Sea, and are in the  
The Contours in feet of Sea are given in Feet below the assumed Mean Level of the Sea at Liverpool, and are taken from Sounding at Alnwick.

- At Villages
- Post Office
- Post & Telegraph Office

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Extract from Northumberland County Council One Inch Maps showing restrictions under Sections 1 and 2 of the Restriction of Ribbon Development Act 1935



*Alsup*

**ALNWICK RURAL DISTRICT  
COUNCIL**

**SCHEDULE  
OF  
REPUTED  
PUBLIC RIGHTS  
OF WAY**

B.R., Bridle Road; C.R., Cart Road; F., Footpath.

Right of No. Way.	Description.
2. B.R.	Commencing at the road from North Charlton to Doxford and continuing N. through field No. 16 to Belford Rural District Boundary, again to finish at Tyneley to Doxford Road, after running through field No. 6.
3. C.R.	From Tyneley to Doxford road at Doxford to Belford Rural District Boundary.

### 23. PARISH OF DUNSTAN.

1. F. Proctor Steads to Spital Ford, commencing at main road N. of Proctor Steads and continuing in a N. direction through field Nos. 91, 51, 31, 21, 14, 15, to Embleton Parish Boundary continued by footpath No. 15 in that Parish.
2. F. From the main road S. of Spital Ford across field No. 34, to join field No. 1.
3. F. Dunstan Hill to main road. From Dunstan Hill road through the Old Quarry and field Nos. 107, 45, 46, to the main Embleton road.
4. F. Dunstan Hill to Hoddleton Plantation. From Dunstan Hill in a S. direction through field Nos. 111, 112, 114, to join bridle road No. 5 in this Parish.
5. B.R. From Parish Boundary to Hoddleton Plantation to main Embleton-Dunstan road via field Nos. 1, 117, in an E. direction.
6. F. From Parish Boundary extending footpath No. 6 in the Parish of Craster to the main road over Dunstan Common.
7. F. From the Craster Parish Boundary over field No. 139, in a N. direction to join the main road over Dunstan Common beside the Old Public House.
8. F. Dunstan to Dunstan Square commencing at the foot of the Smithy Bank through field Nos. 76a, 86, 80, to Dunstan Square.
9. F. Dunstan Square to the beach. Commencing at the road at Dunstan Square through field Nos. 83, 55, 79a, through the Little Shaird to join bridle road No. 10 in field No. 66.
10. B.R. Links bridle road. Continuing from Craster and running N., skirting the W. side of Dunstanborough Castle, over the Embleton Golf Course to the ford at Embleton Parish Boundary, to be continued by bridle road No. 13 in that Parish.
11. F. From bridle road No. 10 to Embleton Parish Boundary continuing footpath No. 14 in that Parish.

### 24. PARISH OF EDLINGHAM.

1. B.R. Edlingham Hut to Learchild from the public road N. of Edlingham Hut running in a W. direction through field No. 18 to the Learchild Parish Boundary, joining bridle road No. 2 in that Parish.
2. F. Edlingham road to Learchild, from the public road running in a W. direction through field No. 31, then N. and W. through field No. 24, then crossing Broadwood to the Learchild Parish Boundary joining footpath No. 1 in that Parish at the Coe Burn.
3. F. Edlingham Hut to Edlingham from the public road S. of Edlingham Hut running in a S.E. direction through field Nos. 13, 26, 27, 29, 72, 73, 76, to the public road near Edlingham Vicarage.
4. F. From footpath No. 3 running in a S.W. direction through field No. 29 to the public road.
5. F. Edlingham Church to Overthwarts running in a N.E. direction through Church Yard, then through field Nos. 90, 87, passing under L.N.E.R., then through field Nos. 10, 6, to the Lemmington Parish Boundary, joining footpath No. 3 in that Parish at the Edlingham Burn.
6. F. Rough Castles to Newtown, from the old turnpike at Rough Castles running in a N.E. direction through field Nos. 138, crossing the main road, then through field Nos. 134, 133, 132, to the public road at the top of Long Plantation.

B.R., Bridle Road; C.R., Cart Road; F., Footpath.

Right of No. Way.	Description.
7. B.R.	Edlingham Demesne to Wellhope, from the public road at the Demesne running in a W. direction over cart road, then S. through field Nos. 60, 107, crossing Edlingham Burn and main road E. of Midrigg Bridge, then over Moor passing Wellhope, and on to the Rothbury Rural District Boundary.
8. F.	Demesne to Newtown from bridle road No. 7 running in a W. direction through field Nos. 35, 34, 39, joining public road N. of Newtown.
9. F.	Demesne to New Moor House, from bridle road No. 7 running in a S.W. direction through field Nos. 66, 63, 62, passing through Long Plantation, then on S. past Wandystead crossing the Wandy Burn, joining the main road N.W. New Moor House.
10. B.R.	From bridle road No. 7 running in a S.W. direction past Flamborough to the main road.
11. B.R.	Edlingham to Freemans Hill, from main road, running in a S.E. direction over Moor to the Denwick Parish Boundary S. of Black Lough.

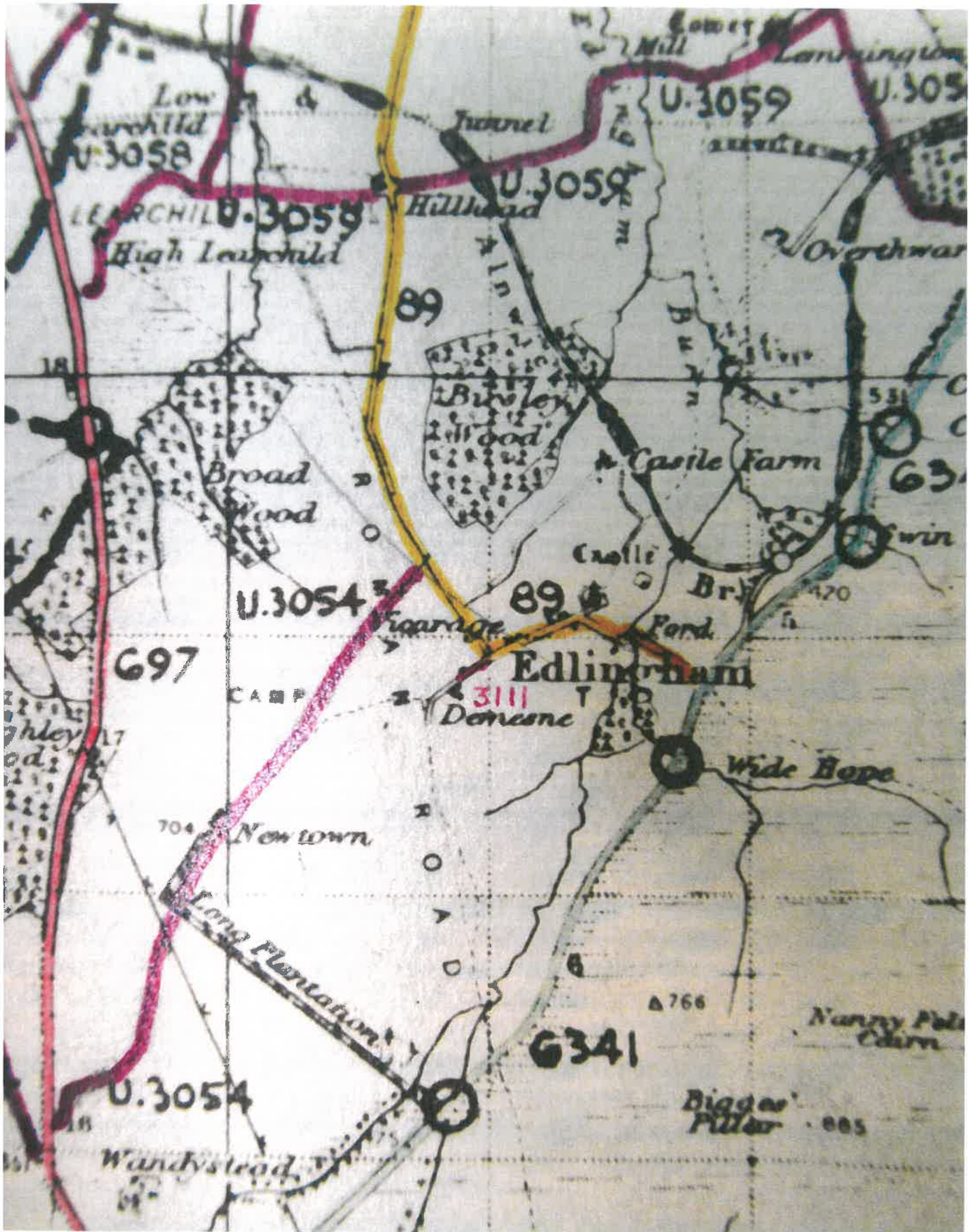
#### 25. PARISH OF EGLINGHAM.

1. F. Beanley Road to Eglingham Cottage, from Beanley Parish Boundary, running in a N. direction through field No. 79, then through Cockhall Plantation and field Nos. 109, 105, to the public road at Eglingham Cottage.
2. F. From footpath No. 1 at Harehope running in a N. direction through field No. 109, to the Harehope Parish Boundary, joining footpath No. 3 in that Parish.
3. B.R. From Beanley Road to Cockhall, running in a N. direction through field Nos. 84, 105.
4. B.R. From Cockhall running in a N. direction through field No. 114, then N.E. through field No. 138 (Ticket Hill) joining bridle road No. 5.
5. B.R. From Eglingham Hill running in a W. direction through field Nos. 173, 155, then over cart road and through field No. 130 to the Glendale Rural District Boundary.
6. F. From public road at Tarry to Curleheugh running in a N. direction to the Glendale Rural District Boundary.
7. F. From Tarry to Eglingham Hill, running in an E. direction through field Nos. 141, 154, then S.E. through field Nos. 173, 155, joining bridle road No. 5.
8. B.R. From Eglingham to Eglingham Hill running in a N.E. direction through field Nos. 54, 50, 49, 158, joining public road at Eglingham Hill.
9. B.R. From Eglingham Hill to South Charlton, running in an E. direction from public road at Eglingham Hill past Coalburn Cottage to the Ditchburn Parish Boundary, joining bridle road No. 1 in that Parish.
10. F. From Eglingham to Titlington, from public road opposite Post Office, running in a S. direction through field Nos. 59, 60, 62, to the Beanley Parish Boundary, joining footpath No. 4 in that Parish.
11. F. Joining footpath No. 10 and bridle road No. 12 in field No. 59.
12. B.R. From Eglingham to East Bolton, from bridge on public road at Eglingham, running in a S.E. direction through field Nos. 59, 60, 18, 17, 16, 3, passing E. of Kimmor Lough to the Titlington Parish Boundary, joining bridle road No. 4 in that Parish.
13. B.R. From bridle road No. 12 running in a S.E. direction through field No. 3 to the Shipley Parish Boundary, joining bridle road No. 7 in that Parish.

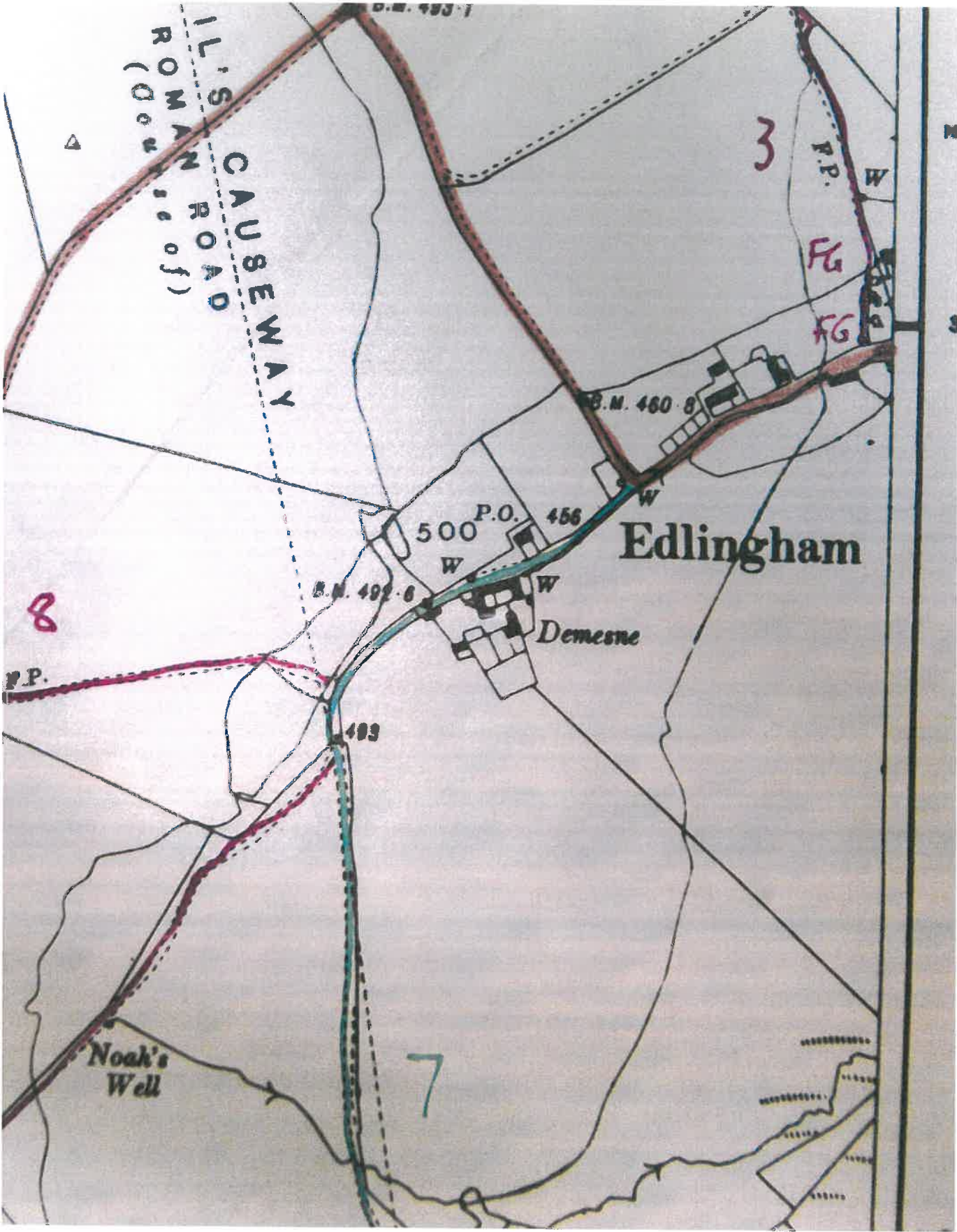
#### 26. PARISH OF ELYHAUGH.

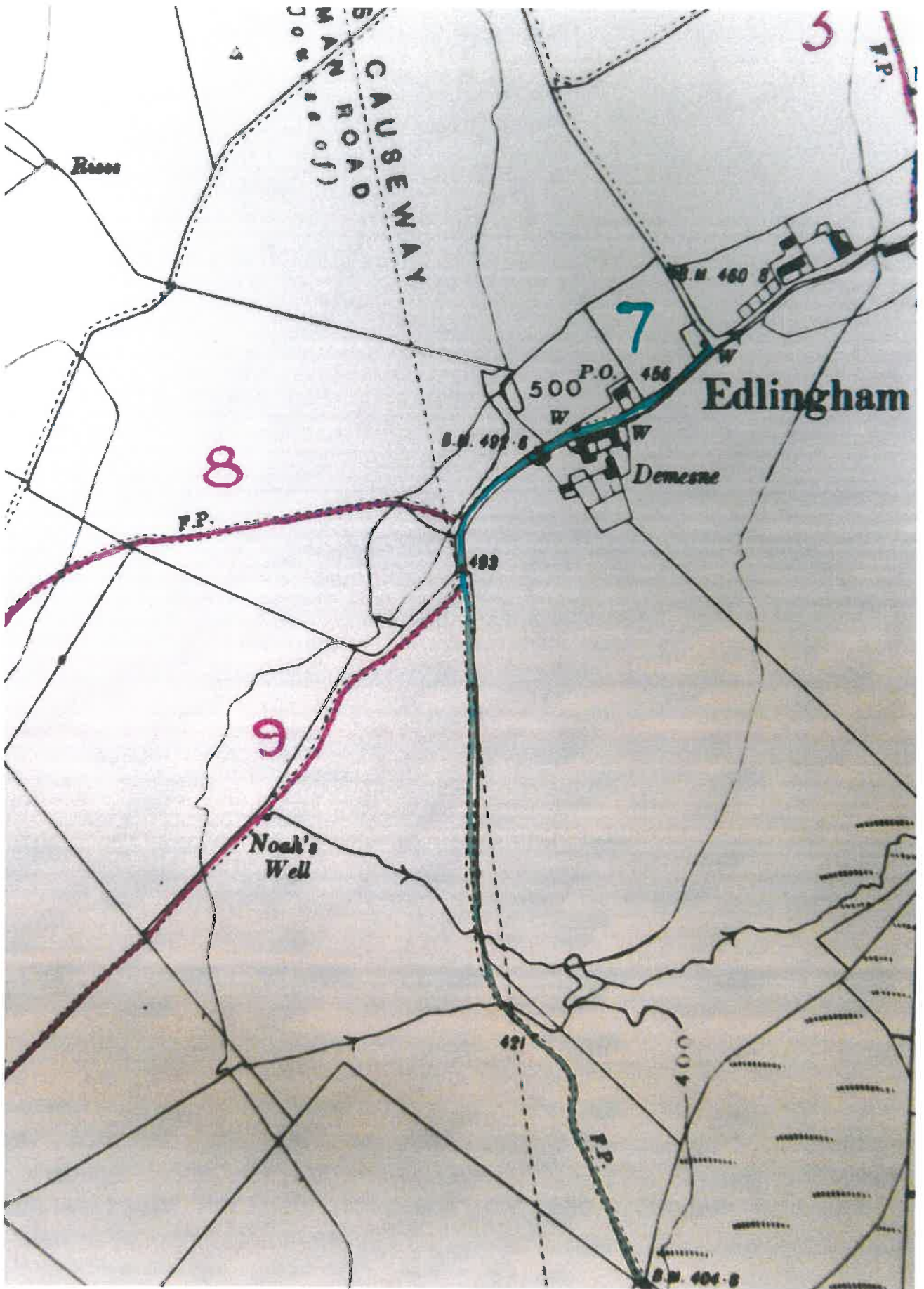
1. B.R. Elyhaugh to Weldon Bridge, from public road at Elyhaugh running in a W. direction through field Nos. 20, 11, then through plantation to the Brinkburn Low Ward Parish Boundary in the Rothbury Rural District.
2. F. From public road near River Coquet running in a W. direction past Elyhaugh House, then through field No. 19a, joining bridle road No. 1.

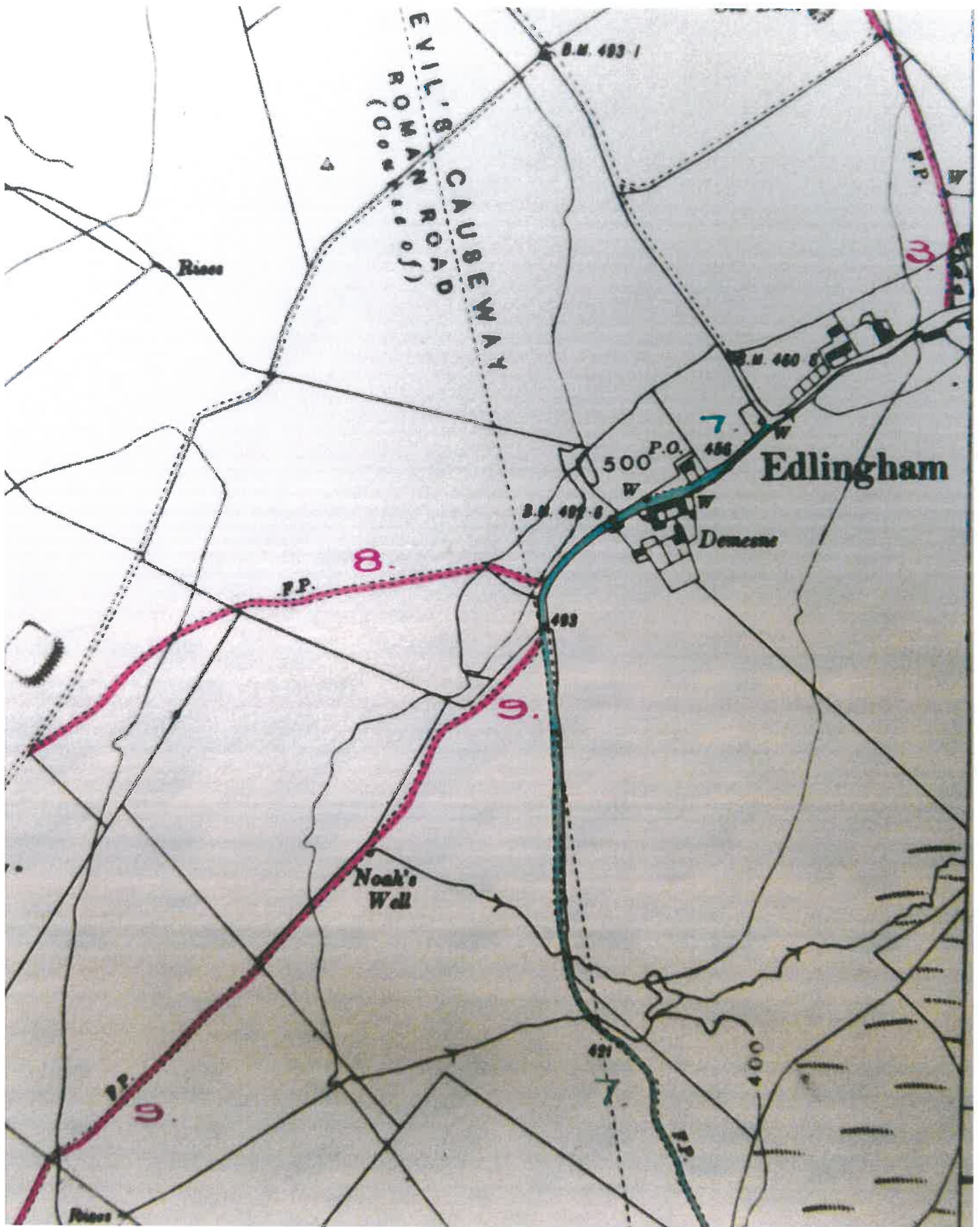
Extract from the Council's 1951 Highways Map

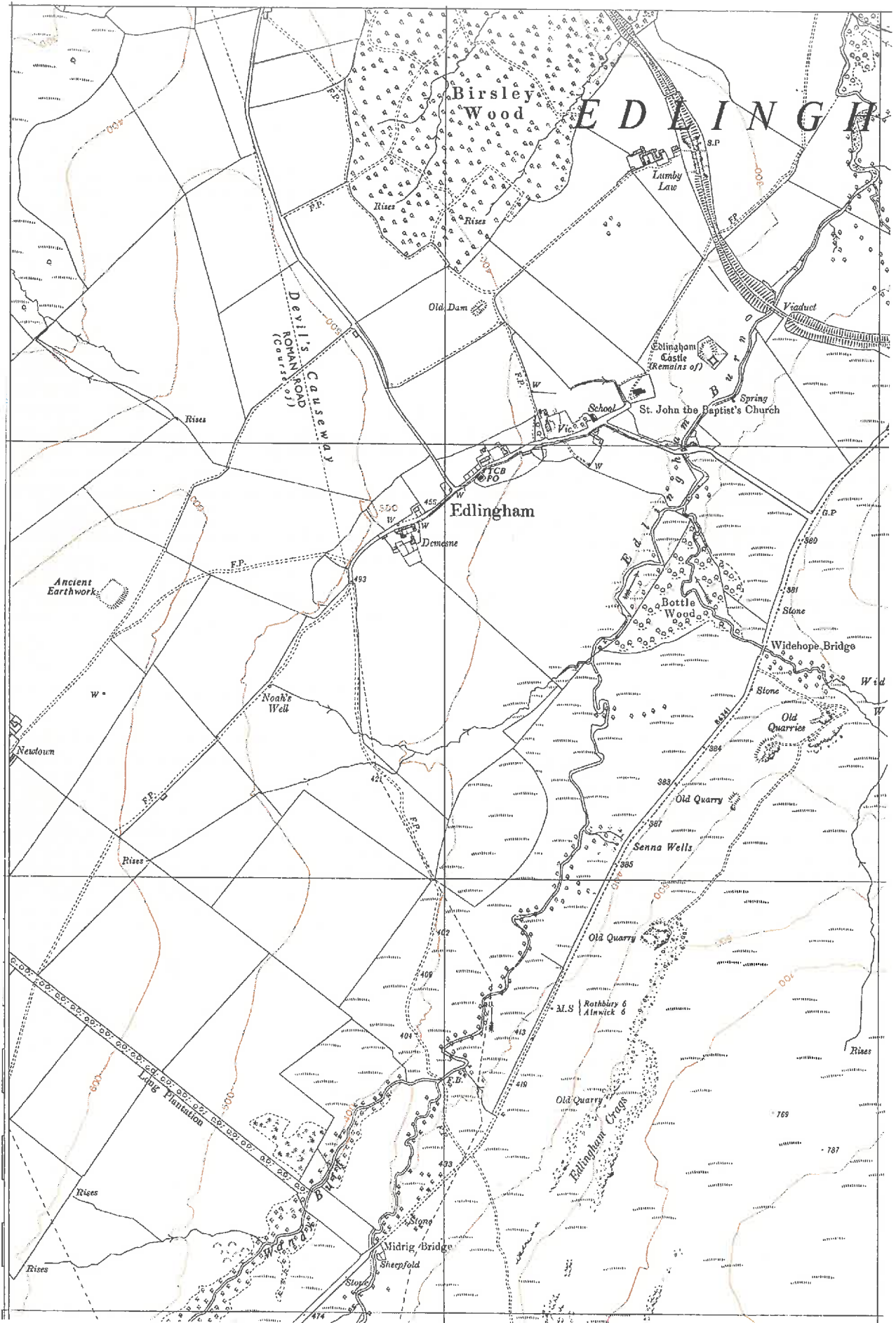


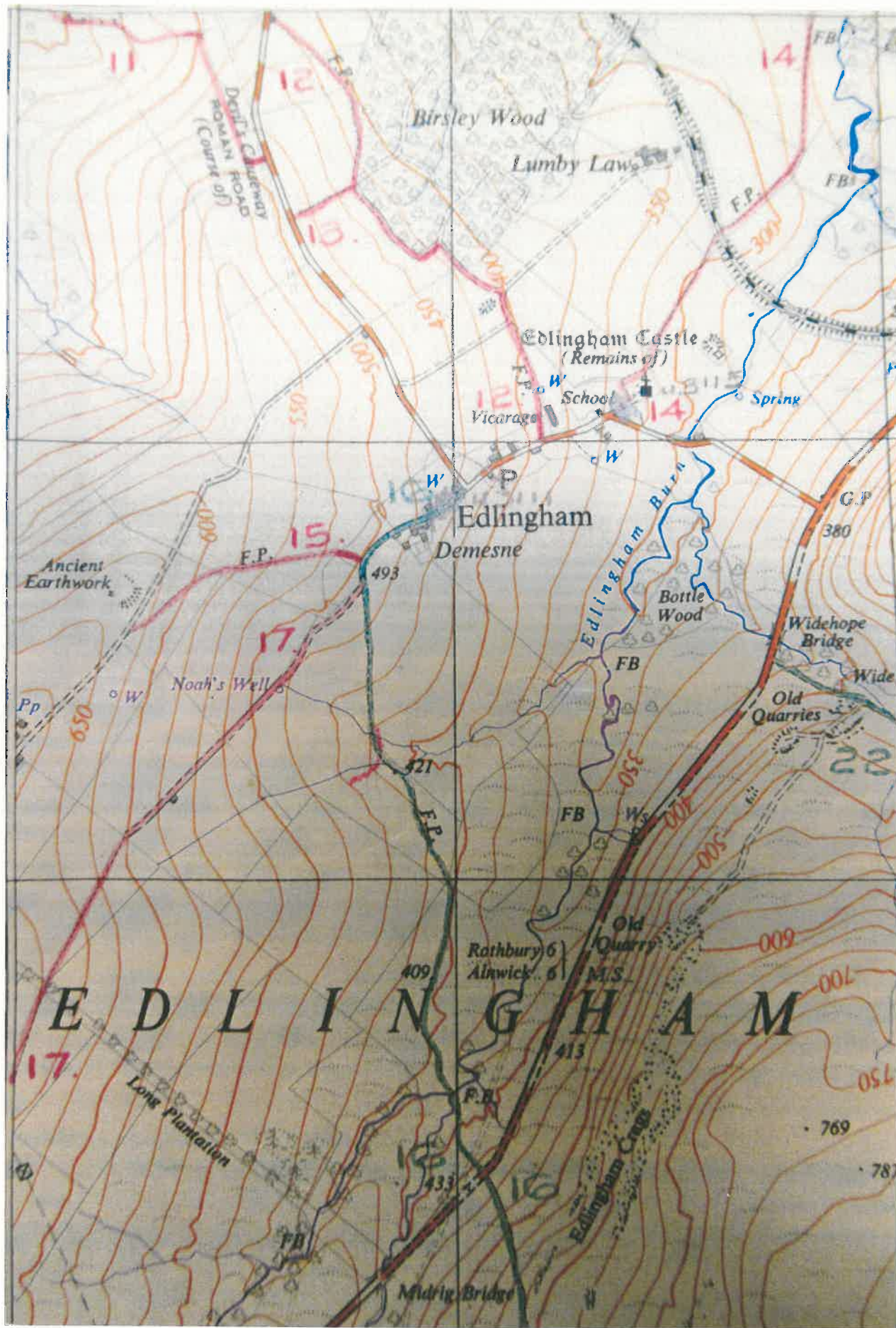












NORTHUMBERLAND COUNTY COUNCIL.

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

PUBLIC RIGHTS OF WAY - STATEMENT.

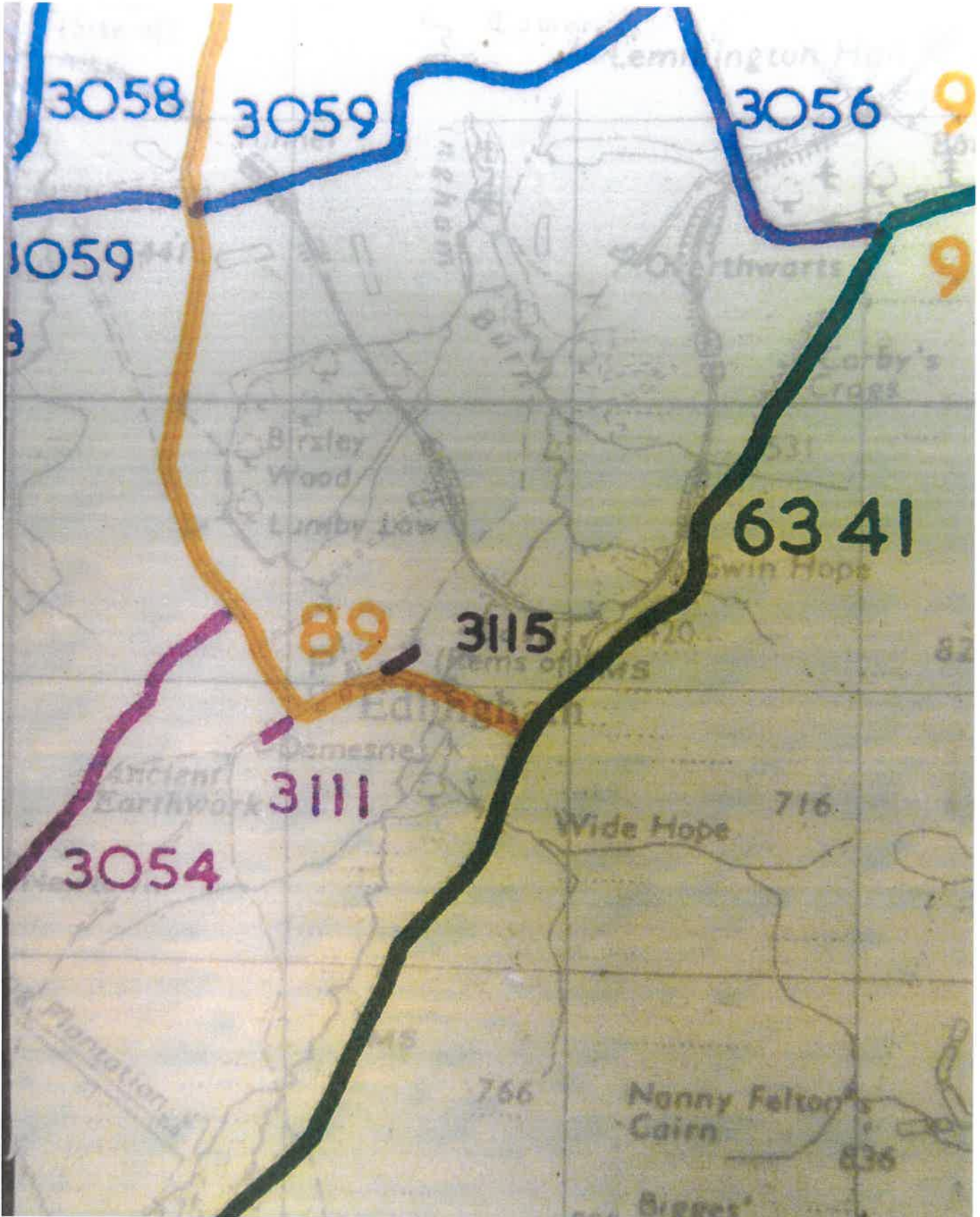
1. Borough .....  
Urban District .....  
Rural District ..... **ALNWICK** .....
2. Parish ..... **EDLINGHAM.** .....
3. Number of Footpath on Map ..... **16** .....
4. Name of Path .....
5. Kind of Path (i.e. FP/BR) ..... **B.R.** .....
6. General Description of Path ..... *Country Pond U.3111. Fenestue*  
From the ~~public road~~ at Edlingham in a south-  
westerly, southerly and south-easterly direction by ~~Edlingham Fenestue~~ <sup>crossing</sup> across  
the Edlingham Burn and by Wellhope to the Rothbury Rural District boundary east  
of the Millstone Burn. ....  
.....  
.....
7. Other relevant information ..... **Footbridge at Edlingham No.1 recorded on County**  
**Council Schedule as F.B.3063.** .....

# 1964 County Road Schedule

- 86 -

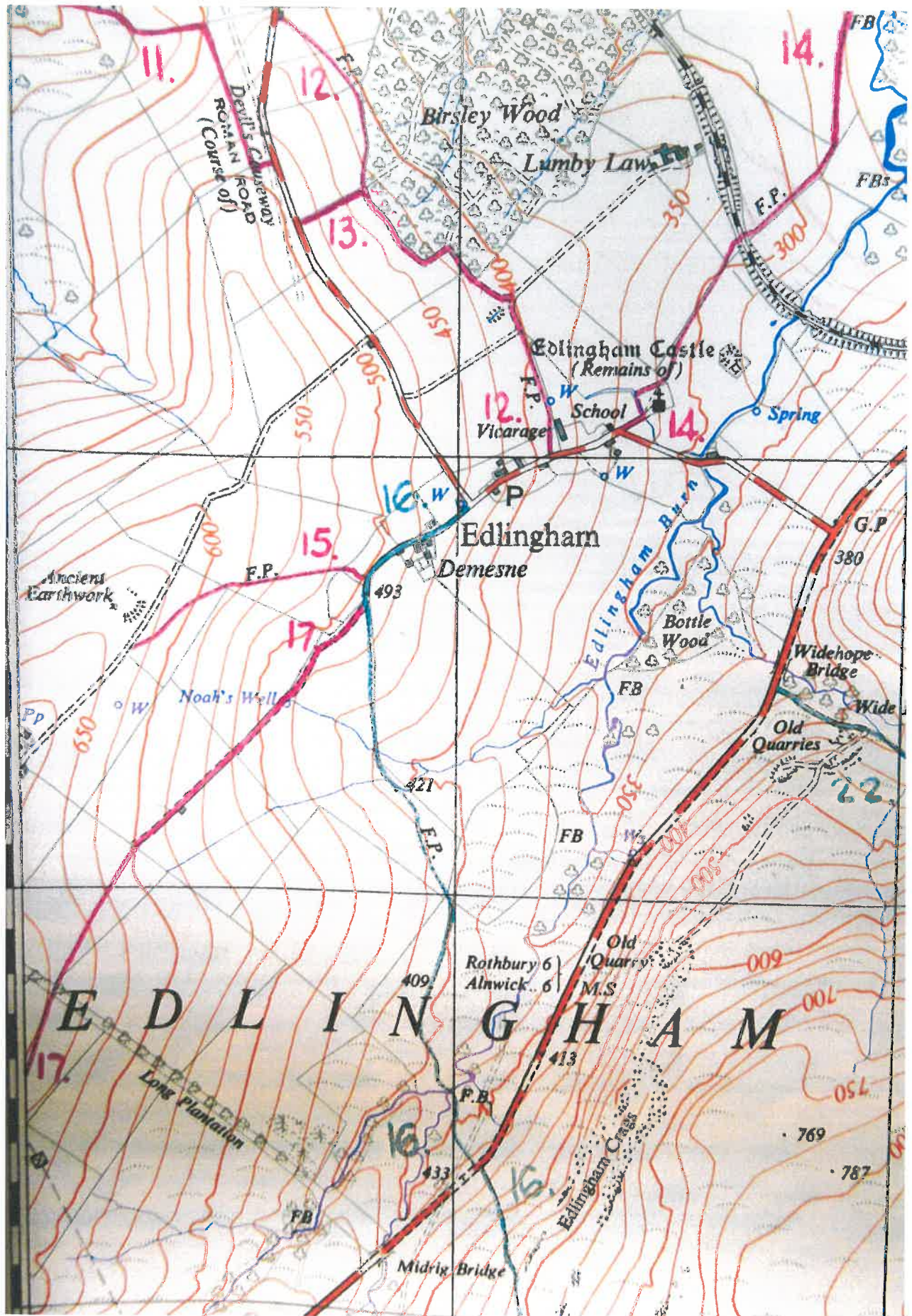
Route No.	Name of Road.	Description.	Responsible Division or Authority.	Mileage.	Total Mileage.
U.3108	Farne View, Shilbottle.	Council House streets off C.97 at Farrier's Arms Inn, Shilbottle, (520 yds).	Alnwick.	0.29	0.29
U.3109	Back Togston Crescent, North Broomhill.	Off A.1068 near junction with B.6345, including 3 No. entrances on north side of A.1068, (225 yds).	Alnwick.	0.13	0.13
U.3110	Queen Street and Gordon Terrace, (Back Street), North Broomhill.	Off A.1068 near junction with B.6345 on south side of A.1068, (168 yds).	Alnwick.	0.10	0.10
U.3111	Road to Demesne Farm, Edlingham.	From C.89 at Edlingham, south-westwards to Demesne Farm, (127 yds).	Alnwick.	0.07	0.07
U.3112	Rushycap-North Acton Road, Felton.	From U.3092 at Rushycap eastwards to A.1, thence via Acton Dean to U.3041 at North Acton.	Alnwick.	0.99	0.99
U.3113	Shepherd's Hill Back Road, Alnmouth	Off north side of B.1338 at Alnmouth, east of Duchess Bridge, including 2 No. entrance roads, (180 yds).	Alnwick.	0.10	0.10
U.3114	Ashfield Terrace and Beech Estate, Shilbottle.	From C.95 northwards along Ashfield Terrace for 65 yards and thence northwards and eastwards for 210 yards, including cul-de-sac of 147 yards.	Alnwick.	0.24	0.24
U.3115	Edlingham Church Road.	From C.89 at Edlingham north-eastwards for a distance of 80 yards to Edlingham Church.	Alnwick.	0.05	0.05
U.3116	R.A.F. Married Quarters, Acklington.	Off south side of B.6345 at east end of Acklington Village:- Quarry Avenue, (off B.6345) 175 yds. Acklington Drive, (off Quarry Avenue), 338 yds. (including one footpath 6 feet wide, 89 yds, and one footpath 3'6" wide, 24 yds).	Corpeeth.	0.29	0.29
U.3117	Hauxley-Amble Road.	From C.109 at Hauxley Links, Low Hauxley, northwards to Amble Urban District boundary, (1,367 yds).	Alnwick.	0.78	0.78

Extract from the Council's 1964 Highways Map



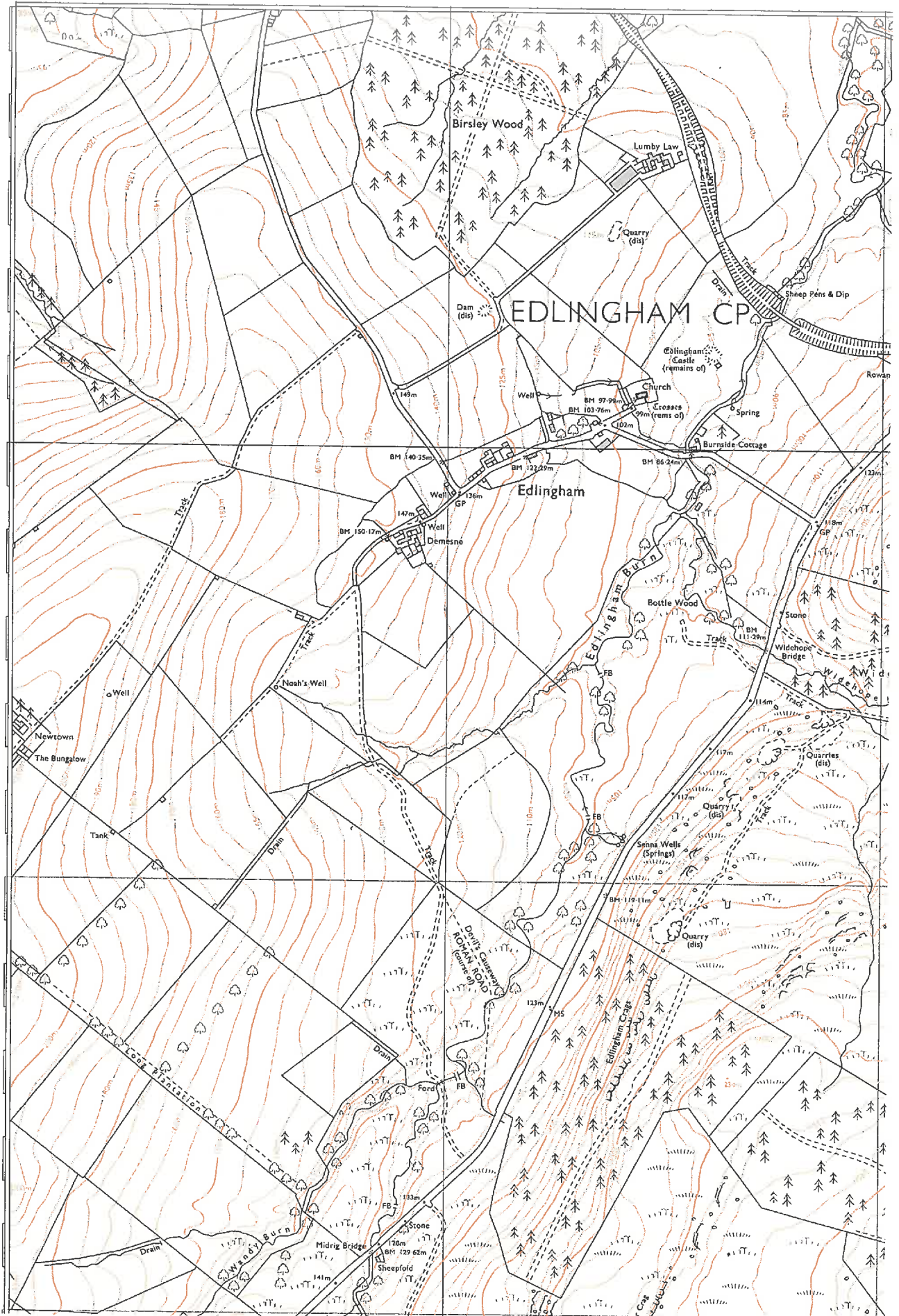


# First Review Definitive Map



# 1974 County Road Schedule

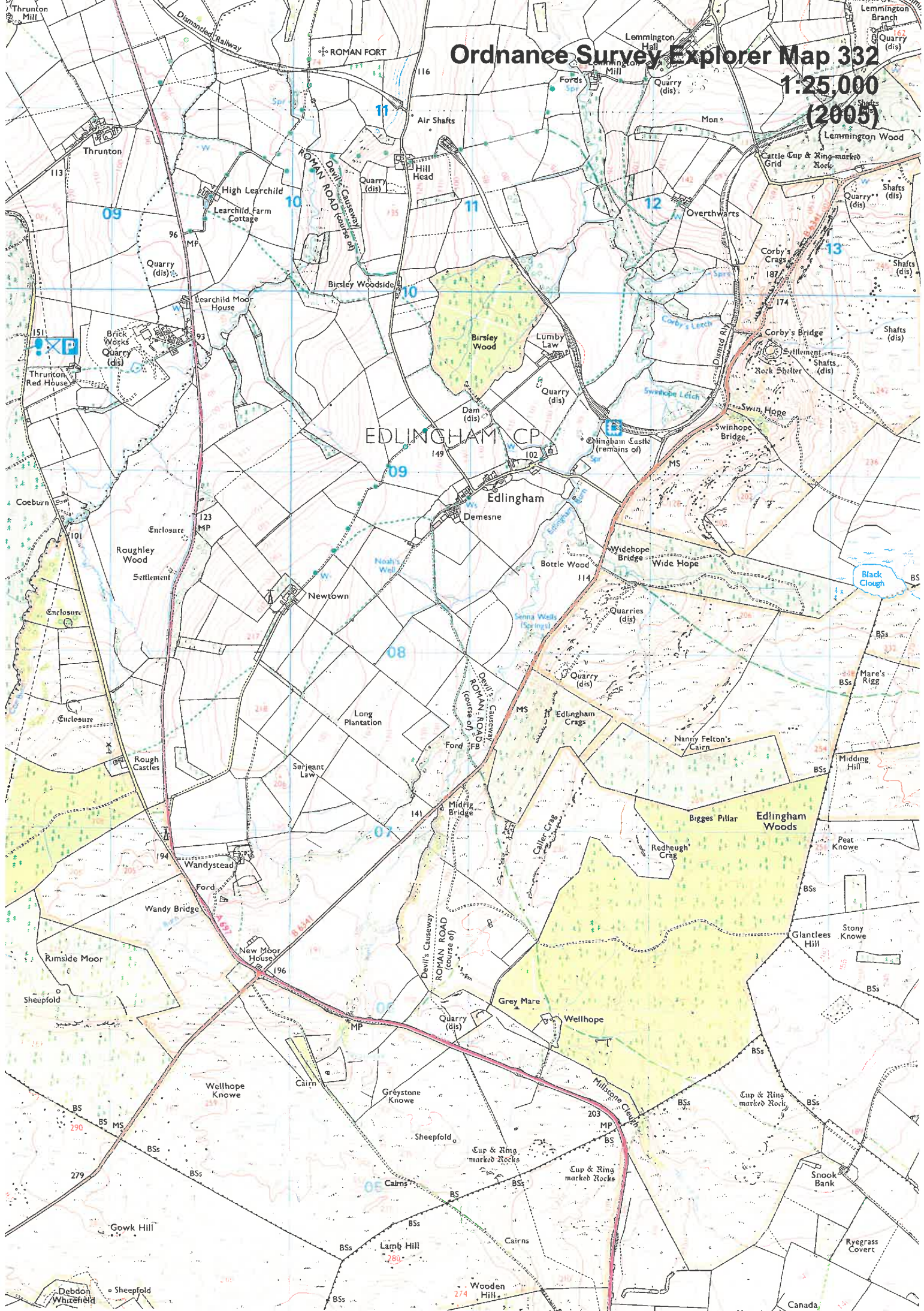
Route No.	Name of Road	Description	Responsible Division or Authority	Mileage	Total Mileage
U.3105	Rock Midstead Farm Road.	From B.6347 at a point 300 yards east of Drythropple (NU 185206) south-westwards to Rock Midstead Farm Cottages for 180 yards.	Alnwick Division		0.10
U.3106	Powburn-Breamish House.	From A.697 near Branton Manse (NU 063164) westwards to the Berwick District boundary at Breamish House (250 yards). (Continuing in Berwick District as U.1092).	Wooler Division		0.14
U.3107	Boatman's Place, Low Newton-by-the-Sea.	From C.72 at Low Newton-by-the-Sea (NU 240246) south-westwards for 86 yards	Alnwick Division		0.05
U.3108	Farne View, Shilbottle.	Council House streets off south side of C.97 at Farrier's Arms Inn, Shilbottle (520 yards) (NU 193085).	Alnwick Division		0.29
U.3109	Back Togston Crescent, North Broomhill.	Off north side of A.1068 near junction with B.6345, including 3 No. entrances on north side of A.1068, (225 yards) (NU 246016).	Alnwick Division		0.13
U.3110	Queen Street and Gordon Terrace (Back Street), North Broomhill.	Off south side of A.1068 near junction with B.6345 (168 yards). Also from A.1068 at west side of Social Club south to Back Togston Road including footway both sides (23 yards); Back Togston Road (49 yards); Back East View including east side footway (50 yards) and Front Chapel Row including south side footway (39 yards).	Alnwick Division		0.19
U.3111	Road to Demesne Farm, Edlingham	From C.89 at Edlingham (NU 110089) south-westwards to Demesne Farm, (127 yards).	Alnwick Division		0.07
U.3112	Rushycap-North Acton Road, Felton.	From U.3092 at Rushycap (NU 174034) eastwards crossing A.1, thence via Acton Dean to U.3041 at North Acton (NU 184025).	Alnwick Division		0.99
U.3113	Shepherd's Hill Back Road, Alnmouth	Off north side of B.1338 at Alnmouth, east of Duchess Bridge, including 2 No. entrance roads, (180 yards) (NU 245109).	Alnwick Division		0.10



# Ordnance Survey Explorer Map 332

1:25,000

(2005)



EDLINGHAM CP

Edlingham

Demesne

Long Plantation

Edlingham Woods

Rimside Moor

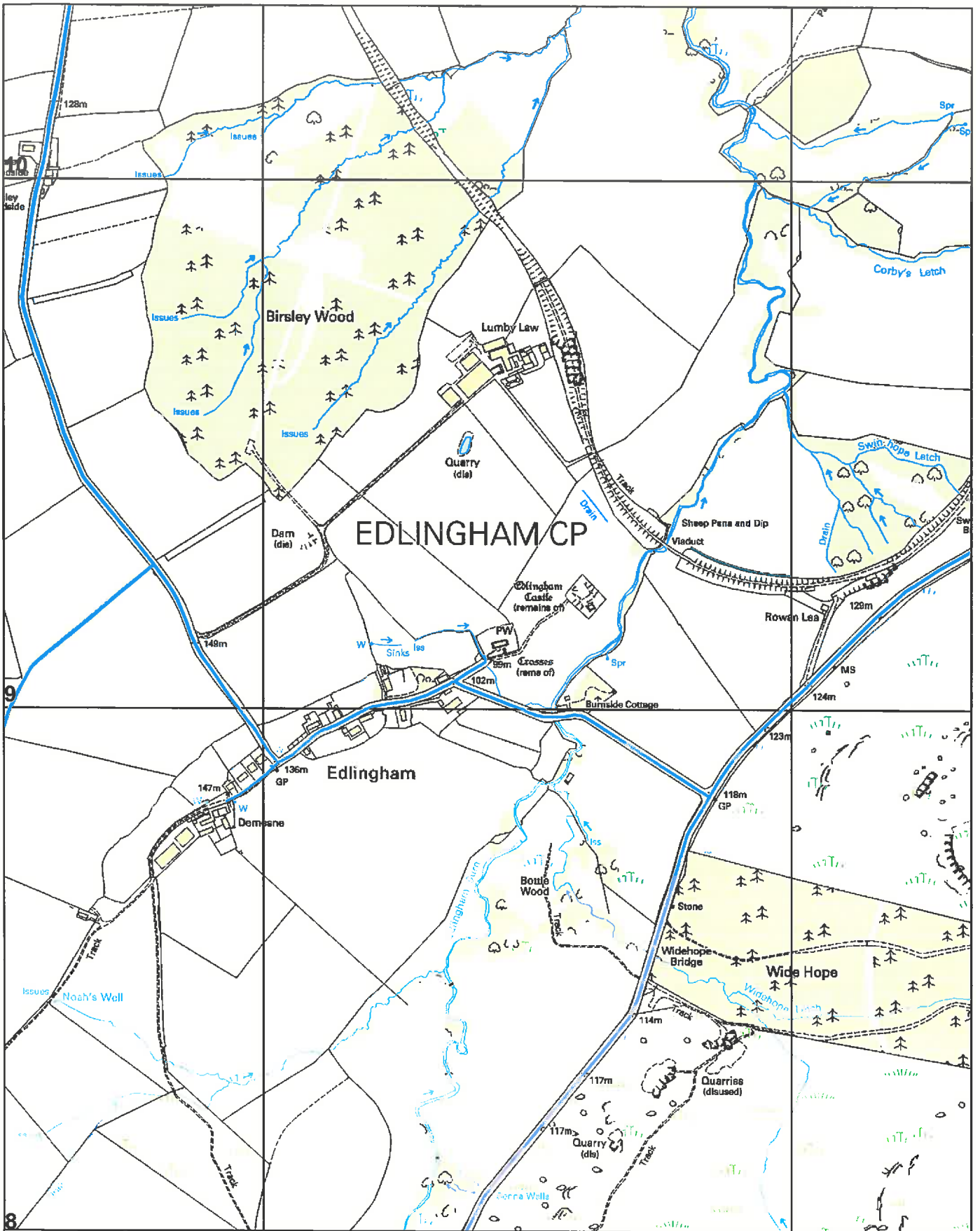
Gowk Hill

Wooden Hill

Canada

**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**

<b>Road Number</b>	<b>Description</b>	<b>Length - Metres</b>
<b>U3109</b>		
	<i>Total length for U3109</i>	323
<b>U3110</b>		
	CHAPEL ROWBROOMHILL	36
	EAST VIEW TO CHAPEL ROW (FOOTPATH)	51
	BACK OF EAST VIEWBROOMHILL	50
	EAST VIEWBROOMHILL	47
	B6345 JCT TO EAST VIEW JCT	26
	B6345 JCT TO GORDON TERRACE	99
	GORDON TERRACE BROOMHILL	60
	<i>Total length for U3110</i>	369
<b>U3111</b>		
	C89 JCT TO DEMESNE FARM	124
	<i>Total length for U3111</i>	124
<b>U3112</b>		
	A1 (SOUTHBOUND) TO U3041 JCT	1,502
	U3092 JCT TO A1 (NORTHBOUND)	135
	<i>Total length for U3112</i>	1,637
<b>U3113</b>		
	SHEPHERDS HILL ALNMOUTH	176
	<i>Total length for U3113</i>	176
<b>U3114</b>		
	BEECH ESTATE SHILBOTTLE	139
	BEECH ESTATE SHILBOTTLE	258
	FAIRFIELD VIEW	33
	FAIRFIELD VIEW	25
	<i>Total length for U3114</i>	456
<b>U3115</b>		



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	Dec 2019	1:10,000