



Northumberland County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL
22 November 2018

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

ALLEGED BYWAY OPEN TO ALL TRAFFIC / BRIDLEWAY No 33 PARISH OF KYLOE

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

Purpose of report

In this report, the Council is asked to revisit an earlier decision by the Rights of Way Committee in relation to a spur of the U34 road / existing Footpath No 22 to Blawearie, south-east of East Kyloe.

Recommendation

It is recommended that the Council agrees that:

- (i) there is sufficient evidence to indicate that public bridleway rights (rather than vehicular ones) have been reasonably alleged to exist over the D-C and B-A parts of the route;**
- (ii) there is sufficient evidence to indicate that, on a balance of probability, public bridleway rights (rather than vehicular ones) have been shown to exist over the C-B part of the route;**
- (iii) the route D-C-B-A be included in a future Definitive Map Modification Order as a public bridleway.**

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 provisions which applies to adding a public right of way to the Definitive Map and Statement, based on historical documentary

evidence, are Sections 53(3)(c)(i) and (ii) of the Wildlife and Countryside Act, 1981. These 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:

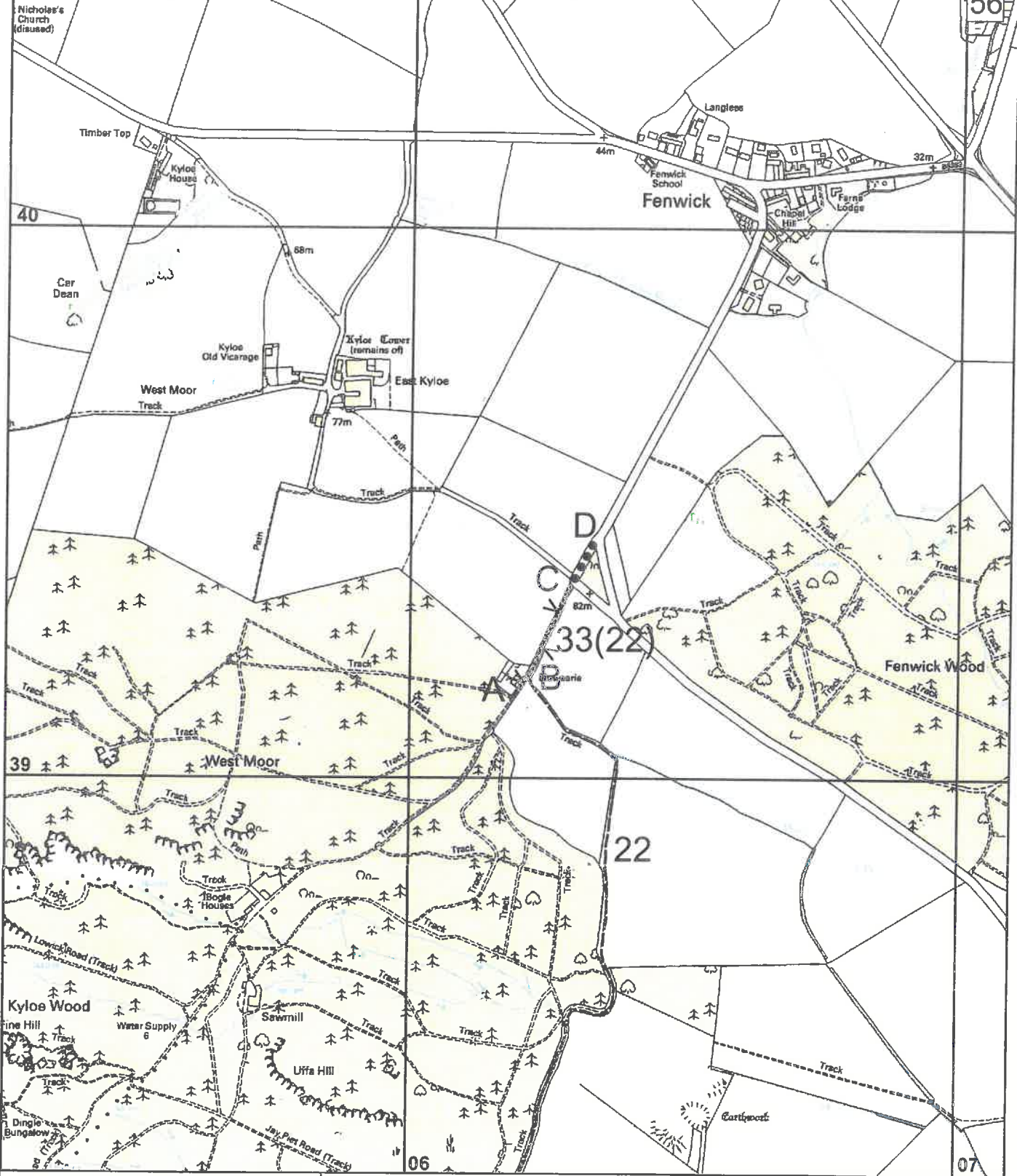
“that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;” (s.53(3)(c)(i))

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” (s.53(3)(c)(ii))

- 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.
- 1.4 A report in relation to the route D-C-B-A was considered by the Council's Planning & Rights of Way Committee at its meeting in October 2015. The Committee agreed with the officer recommendation that, based upon the documentary evidence available, and applying the appropriate reasonably alleged or balance of probability tests, this route should be included in a future definitive map modification order as part byway open to all traffic and part restricted byway. The rationale for this was that both this route and its south-westerly continuation (which was not covered by the report) were parts of an ancient public road.
- 1.5 In January 2017, a formal application was made by Mr T Liddle seeking to record the short B-A part of the above mentioned route and its south-westerly continuation (for a further 3610 metres) to the C18 road west of Catton Ridge as a restricted byway. At its meeting in March 2018, the Council's Rights of Way Committee agreed with the officer recommendation that there was insufficient evidence to show (again applying the appropriate reasonably alleged or balance of probability tests) that a public vehicular right of way existed, but that there was sufficient evidence to indicate that public bridleway rights existed over the route.
- 1.6 Both committees were considering broadly the same evidence. The officer recommendations (the first for a vehicular right of way, the second for a public bridleway) were marginal calls, but since the most recent decision, for the much longer section of highway found in favour of public bridleway rights, it is proposed that the earlier decision for the northern end be set aside, and that the 320 metre long X-C-B-A route be included (along with the 3610 metre south-westerly extension to the C18 road) as part of a continuous bridleway route in a single definitive map modification order.
- 1.7 The width information outlined in the 13 October 2015 Planning and Rights of Way Committee report is unchanged.

KYLOE CP



NORTHUMBERLAND

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Wildlife and Countryside Act 1981 Public Rights of Way



Alleged Byway Open to All Traffic



Selected existing Public Footpaths



Alleged Byway Open to All Traffic/Public footpath

Former District(s) Berwick	Parish(es) Kylee	Scale 1:10,000
Def. Map No. 22	O.S. Map NU 03 NE	Date August 2015