

RIGHTS OF WAY COMMITTEE

11 July 2017

REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED RESTRICTED BYWAYS NOS 46, 47 & 34 PARISHES OF FEATHERSTONE & PLENMELLER WITH WHITFIELD

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

Purpose of report

In this report, the Committee is asked to give consideration to all the relevant evidence gathered in support and rebuttal of a proposal to upgrade to restricted byway Parish of Featherstone Public Footpath No 1 from the U7009 road 210 metres west of Low Mill in a north-easterly direction for a distance of 630 metres, crossing the Featherstone / Plenmeller with Whitfield parish boundary, then continuing in a general northerly direction along the route of Public Footpath No 13 and part of Public Footpath No 12 for a distance of 560 metres, then re-crossing the Plenmeller with Whitfield / Featherstone parish boundary to continue in a northerly and north-westerly direction along the route of Public Footpath No 22 and part of Public Bridleway No 26 for a distance of 1860 metres to join the C324 road at the entrance to Broomhouse Farm.

Recommendation

It is recommended that the Committee agree that:

- i) there is sufficient evidence to indicate that, on the balance of probabilities, public vehicular rights have been shown to exist over the route**
- ii) the route should be included in a future Definitive Map Modification Order as a restricted byway**

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 apply to adding and upgrading a public right of way on the Definitive Map and Statement based on historical documentary evidence is Section 53(3)(c)(i) and (ii) of the Wildlife and Countryside Act, 1981, which 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 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;”

- 1.3 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 In October 2015, Janet Lennard of Hexham submitted an application to amend the Definitive Map and Statement by upgrading to restricted byway Parish of Featherstone Public Footpath No 1 from a point marked E on the U7009 road 210 metres west of Low Mill in a north-easterly direction for a distance of 630 metres to a point marked F on the Featherstone / Plenmeller with Whitfield parish boundary, crossing that boundary then continuing in a general northerly direction along the route of Public Footpath No 13 and part of Public Footpath No 12 for a distance of 560 metres to a point marked G then re-crossing the Plenmeller with Whitfield / Featherstone parish boundary to continue in a northerly and north-westerly direction along the route of Public Footpath No 22 and part of Public Bridleway No 26 for a distance of 1860 metres to a point marked H on the C324 road at the entrance to Broomhouse Farm.
- 2.2 The application is supported by historical evidence including Armstrong’s County Map of 1769, Fryer’s County Map of 1820, Greenwood’s County Map of 1828, the Plenmeller Common Inclosure Award of 1865, old Ordnance Survey plans back to the 1st Edition Ordnance of 1860 and the map prepared under the Finance Act of 1910.

2.2 The application was accompanied by the following submission:

The application route

1. Working from its southern end, the route follows the line of public footpaths 516/001, 537/013, 516/022 and public bridleway 516/026. These fall in the parishes of Featherstone and Plenmeller with Whitfield.
2. It leaves the U7009 at GR NY 698600 and travels northwards to GR NY 697626 where it joins the C324 close to Broomhouse Farm.
3. It is shown on OS OL 43.
4. At its southern end it is a grass covered lane. But after it crosses the Park Burn it is largely undefined across Ramshaw Fell and then Broomhouse Common.
5. Its width from wall to wall within the lane is approximately 45 ft. On the common its width is unclear, [30 feet according to the inclosure Award - see below].

See photographs

Documentary evidence

1. 1769 Armstrong

“On sheet 7 the line of the route is shown to follow approximately the same line as today. It is shown as being unfenced (double pecked line) going north from a ‘Mill’ to ‘Brooms’ which lies south west of Bellister Castle as Broomhouse farm does today.

See map extract

2. 1820 Fryer

“On sheet 5 the southern fenced section is shown but no route is shown across the common.

See map extract.

3. 1828 Greenwood

“On sheet 5 the line of the route follows the line of the application route more closely. It is shown as fenced to a point just beyond the Park Burn and then as unfenced across Plainmeller (sic) Fell.

See map extract

4. 1865 Inclosure Award - Plenmeller Common

The authorising act was in 1862. The section of the application route covered by this award is labelled 'public carriage road' on the Inclosure plan and goes from point A to point B (referred to in the award). This section goes from where it crosses the river at 'Lead Mills ford' to 'Gateway' where it leaves this common to continue on Bellister Common. This gateway is on the parish boundary today. The section to the south of Lead Mills ford, which is the fenced section today, is labelled 'Featherstone Township Road'.

See copy of inclosure plan

In this award two public carriageways are set out, one being part of the application route and another one to the east, labelled C at its north end and D at its south end.

The description of the part of the route under investigation shown on this plan runs as follows:

'One public carriageway and highway of the width of 30 feet number 24 on the map annexed to the report of the valuer and intended to be annexed to this award commencing at the termination of Featherstone Township Road near Lead Mills ford at a point marked A and extending thence in a Northerly direction to and terminating at a Gate leading into Bellister Township near Linshield Wash Pool at a point marked B on the said map.'

The other public carriageway, which may be part of a later separate application, is described as follows:

'And one other public carriageway and highway of the width of 30 feet numbered 25 on the said map commencing at a point on the Haltwhistle and Whitfield Road marked C and extending thence in a southwesterly direction to and terminating at a point marked D near Pitman's Cottage on Limestone Farm.'

It also describes the reason for the way these roads are laid out which explains why there is no fenced stone road across the common.

'And whereas it appears to the Inclosure Commissioners for England and Wales that it is not necessary for public convenience for the said public carriage roads and highways should be fenced or made of hard materials and certified by two justices I certify that the said roads are sufficiently formed having reference to the nature and situation thereof.'

5. 1865 OS 1st edition, scale 1:2,500 (25")

The unfenced section of the route shown on sheet 92/13 is shown as a double pecked line shaded in brown and braced with the surrounding common land. It shows the point where the alleged route crosses the park burn at a ford, where there is now a footbridge.

The route passes through the township boundary at exactly the same point as is shown on the Inclosure award, east of Linn Shield Wash Pool.

Part of the southern section of the route, around the point where it changes from a fenced to an unfenced route, is also shown on sheet 92/13. The map is damaged on its western edge which means that the fenced section shows no plot number. But the road section to the south is shown on sheet 91/16. It has plot number 450, which in the Book of Reference [page 45] for the parish of Haltwhistle and the township of Featherstone is shown to be a 'public road'.

See extract from the Book of Reference and from the OS sheet

6. 1898 OS 2nd edition, scale 1:10,500

On sheet XCII SW the alleged route is shown with a short section missing at either end. It crosses the Park Burn at a labelled ford and crosses the parish boundary at the same place as was shown in the Inclosure award.

It is shown as a double pecked line with benchmarks and spot heights which are usually found on public roads. It is not labelled either BR or FP which suggests that it was of higher status.

A number of other routes across these commons are labelled either FP or BR..

See map extract

7. 1910 Finance Act Plans NRO 436/91/16 & 92/16 Book of Reference 2000/34

The fenced section of the application route south of Park Burn is shown on map sheets 92/13 and 91/16. In both cases it is shown as a white road indicating that it is not in private ownership of adjacent landowners and so not subject to taxation. This suggests that it is a public road.

The unfenced section of the route which crosses Ramshaw Fell in Plenmeller parish is in plot 1755. The unfenced section which crosses Broomhouse Common north of the parish boundary in Featherstone parish is in plot 1064..

It has not been possible to find these plots in the Book of Reference.

See extract from plan.

Conclusion

The evidence described above suggests that this route has been recognised as a public carriage road for several hundred years, although the section of the route which was never fenced has suffered from declining use and is now largely undefined on the ground.

Please could you investigate if this route should be recorded on the definitive map as a restricted byway?

3. LANDOWNER EVIDENCE

- 3.1 By letters dated 20th October 2015 & 29th January 2016 Ben Hoskyns-Abrahall of Savills (UK) Limited, Chartered Surveyors, agent to W R Webster - Unthank Estate responded with the following comments.
- i) "The sections of the path noted above run through an important SSSI and I have the strongest objection to any upgrading of the path.
 - ii) "This is an important environmental site where a number of threatened ground-nesting birds breed.
 - iii) "I return herewith your map and have marked Mr Webster's ownership.
 - iv) "I would suggest that the boundary walls have been in place for more than 100 years and that whatever ancient maps show this has not been anything other than a footpath for that time."
- 3.2 By letter dated 13th February 2016 John Losh tenant of the National Trust responded with the following comments:
- i) "I write in response to your letter about the restricted byway. We are tenants of the National Trust on the land which includes the section marked on the enclosed map - G to H in Featherstone Parish.
 - ii) "I am totally opposed to this plan because in my opinion the land on Broomhouse Common is unsuitable for access other than by pedestrians. It is an SSSI and a Special Area of Conservation. The land in question is at present in a Natural England Higher level Stewardship Scheme to increase the heather and dwarf shrubs.
 - iii) "Allowing horse and other traffic across this sensitive area would create ruts and muddy areas which would take a long time to recover on this type of ground. In spring it would also disturb ground nesting birds."
- 3.3 By letter dated 23rd February 2016 Robin Earle, Surveyor for the National Trust responded with the following comments:
- i) "The National Trusts interest in this matter is as freehold owner of Broomhouse Farm, which forms part of the National Trust Bellister Estate. This farm is currently let on an Agricultural Holdings Act tenancy to a John Losh, who resides at Broomhouse Farm with his wife. I believe you have already been in contact with them to seek their views.
 - ii) "We have the following concerns about this application;
 - iii) "The route includes the conversion from footpath to restricted byway of a current footpath reference 516/022 which crosses Broomhouse Common. The route of this footpath crosses SSSI ref 1015858 (Whitfield Moor, Plenmeller and Ashholme Commons). The land at

Broomhouse farm is currently managed under an HLS Agreement with Natural England that seeks to minimise the impact on this fragile environment caused by stocking etc. It is feared that should horses etc be permitted on this route, the current 'unfavourable recovering status' will be compromised. This SSSI also has a High threat rating. We recommend that Natural England be consulted by you as soon as possible.

- iv) "From a practical point of view the proposed route is rough and undulating. This route is suitable for a footpath where walkers have suitable footwear. However we fear that access by horses etc, theoretically carriages and other vehicles without motors, will be difficult and cause significant damage to this fragile environment.
- v) "The proposed upgrade of the route will also theoretically permit carriages to use the route through Broomhouse farm. The farm tenant has concerns that this would lead to conflict with the farming operations and therefore not be sustainable.
- vi) "The proposed route passes close by the remains of a Romano-British settlement on Broomhouse Common. We are concerned that there could be potential impact on archeological remains from heavier traffic close to that location.
- vii) "In summary the National Trust has a number of concerns about the proposed application. We would appreciate further details from you regarding the significance of the historical references referred to in your letter and how they would be considered when weighed against the practical farming and conservation concerns that we have. Therefore we oppose the application in its current form."

4. CONSULTATION

- 4.1 In January 2016, the Council carried out a consultation with the Parish Council, known owners and occupiers of the land and the local representatives of the "prescribed and local organisations" listed in the Council's "Code of Practice on Consultation for Public Path Orders".
- 4.2 By letter dated 14th March 2016 the Clerk to Featherstone Parish Council responded to the consultation with the following comment:

"Following your letter dated 28th January which was discussed at the Parish Council meeting. I have been asked to write to you to object to upgrade the above to a restricted byway as unsuitable for any other use other than a footpath. The land is very boggy and subject to a heather regeneration scheme; the area is also specific for the protection of birds."

- 4.3 By email dated 28th January 2016, Ted Liddle on behalf of the Cyclists' Touring Club responded to the consultation with the following comment:

“Featherstone ARB 34: Totally credible - I have walked this a long time ago.”

- 4.4 By letter dated 15th February 2016 the County Access & Bridleways Officer for the British Horse Society responded to the consultation with the following comments:

“The evidence for a major part of this route comes from an Inclosure Award which shows that the public rights along this route were agreed well over 100 years ago. Although parts of it are now undefined and recorded as a public footpath, the rights will still exist and in the view of the BHS should be recorded to provide an accurate record for the future.”

- 4.5 By email dated 22nd March 2016 Mavis Harris, Footpath Secretary to the Ramblers' Association (Northern Area) responded to the consultation with the following comments:

“I have no objections to these proposals and no evidence to add.”

5. DOCUMENTARY EVIDENCE

- 5.1 A search has been made, relating to historical evidence and the following copies of O.S. Maps are enclosed for consideration.

1769 Armstrong's County Map

There is evidence of a track over the claimed route to the west of Low Ramshaws north to Brooms (Broomhouse).

1820 Fryer's County Map

There is no evidence of a track over the majority of the claimed route although the southern section south of the Park Burn is shown as an enclosed track.

1828 Greenwood's County Map

There is evidence of a track over the whole of the claimed route.

1820-32 Cary's Map

There is no evidence of a track over the claimed route.

1840 Featherstone Tithe Award (No Plan)

The section of the route within the parish of Featherstone is identified on the award plan and annotated as 'Road to Haltwhistle'.

1840 Bellister Tithe Award (No Plan)

The section of the route within the parish of Bellister to the east of Broomhouse is identified on the award plan and annotated as 'to the Common' while a track further to the west is annotated 'to Allendale'.

1845 Deposited Plan: Newcastle - Carlisle Railway

There is evidence of a track over the extreme northern section of the claimed route in the vicinity of the railway line which is identified as an 'Occupation Road'.

1865 Plenmeller Common Inclosure Award

The Award sets out a 'Public Carriage Road' described as thus:

"One public Carriage Road and highway of the width of thirty feet number 24 on the map annexed to the Report of the valuer and intended to be annexed to this Award commencing at the termination of Featherstone Township Road near Lead Mills Ford at a point marked A and extending thence in a Northerly direction to and terminating at a Gate leading into Bellister township near Linshield Wash Pool at a point marked B on the said map".

"And whereas it appears to the Inclosure Commissioners for England and Wales that it is not necessary for public convenience for the said public Carriage Roads and Highways should be fenced or made of hard materials and certified by two justices

"Now We the said Inclosure Commissioners Do by this order under our Hands and Seal by virtue of the powers vested in us by The Acts for the Inclosure Exchange and Improvement of Land certify that the said roads are sufficiently formed having reference to the nature and situation thereof."

1866 1st Edition O.S. Map: Scale 1:10,560

There is evidence of a track over the claimed route. The extreme northern section crossing the Alston Branch railway line is shown as an enclosed track as is the southern section, south from the ford over the Park Burn. The whole of the route has spot heights and benchmarks.

c1860 1st Edition O.S. Map: Scale 1:2,500 & Book of Reference

There is evidence of an enclosed track over the extreme northern section of the claimed route in the vicinity of the railway

line and to the east of Broomhouse identified as an 'Occupation Road'.

There is evidence of an enclosed track over the southern section of the claimed route to the south of the Park Burn identified as a 'Road'.

1898 2nd Edition O.S. Map: Scale 1:10,560

There is evidence of a track over the claimed route. The extreme northern section crossing the Alston Branch railway line is shown as an enclosed track as is the southern section, south from the ford over the Park Burn. The majority of the route has spot heights and benchmarks.

1925/6 3rd Edition O.S. Map: Scale 1:10,560

There is evidence of a track over the claimed route. The extreme northern section crossing the Alston Branch railway line is shown as an enclosed track as is the southern section, south from the ford over the Park Burn. The whole of the route has spot heights and benchmarks. The middle section over Broomhouse Common is annotated as FP.

1946/52 O.S. Map: Scale 1:10,560

There is evidence of a track over the claimed route. The extreme northern section crossing the Alston Branch railway line is shown as an enclosed track as is the southern section, south from the ford over the Park Burn. The whole of the route has spot heights and benchmarks. The majority of the route is annotated as FP.

6. SITE INVESTIGATION

- 6.1 The route follows existing Public Bridleway No 26 from the C324 road over the access road to Broomhouse Farm through the steading then as a grass surfaced path crossing over the South Tyne Trail disused railway line via an overbridge then continuing through two field gates. The path then continues over Public Footpath No 22 to begin the ascent onto Broomhouse Common, well defined, with evidence of stone beneath the surface. It continues over the moor with some evidence of ATV use especially where it crosses drainage routes or water courses. The path becomes less defined as it heads south on the top of the common but is well waymarked with posts. The path continues to the parish boundary at a gated stone wall with a ladder stile to the side. The route now continues over Public Footpath Nos 12 and 13 dropping down to cross the parish boundary again before crossing a footbridge over the Park Burn and continuing over Public Footpath No 1. The path then continues through a field gate to continue southerly over a 13 metre wide lonnen with a 3 metre wide track along the centre to join the U7009 road west of Low Mill.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In May 2017, a draft copy of the report was circulated to the applicant and known owners / occupiers of the land.

8. DISCUSSION

- 8.1 Section 53(3)(c)(i) and (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 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.

- 8.2 When considering an application or 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 conclusive 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 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. None of the above saving provisions apply to the claimed route therefore, if the track were to be recorded as a restricted byway, it would be an offence for any member of the public to use the route with a mechanically propelled vehicle without the landowner's permission.

- 8.5 The County Maps of Armstrong, Fryer and Greenwood appear to depict a track over all or part of the claimed route. If the purpose of the maps was to depict commercial travel routes throughout the County then it is reasonable to assume that the route carried higher rights than public footpath.
- 8.6 All of the Ordnance Survey plans from the 1st Edition map c1860 to the plan in 1952 depict a track over the entire length of the claimed route. It is noted that on the more modern O.S. maps the route is annotated as a FP, however, the extreme north and south ends of the route are depicted as enclosed tracks.
- 8.7 The Plenmeller Common Inclosure Award sets out the southern section of the claimed route, in the parish of Plenmeller with Whitfield, as a 'Public Carriageway' 30 feet in breadth. Although the remaining section of the route between points G – H, in the parish of Featherstone, was outwith the land to be enclosed it is reasonable to assume that a route continued over Broomhouse Common and that the status of the route would reflect the same status as the Inclosure awarded carriage road. It is noted that the Commissioners did not intend to do any works to the surface of the awarded carriage road presumably thinking that its condition was consistent with the surrounding habitat.
- 8.8 The Featherstone and Bellister Tithe Awards depict a track over the southern and northern parts of the alleged route but not over Broomhouse Common. The annotation on the Featherstone Tithe Award suggests that the route is part of the 'road' to Haltwhistle and it is likely that the meaning of the word 'road' would have directed to all manner of traffic including carts and carriages.
- 8.9 Although both the 1st edition Ordnance Survey 'Book of Reference' and the Railway deposited plan depict the route in the vicinity of Broomhouse Farm as an 'Occupation Road' the County maps of Armstrong and Greenwood would suggest that this is the most likely route of the road to Haltwhistle, as indicated on the Tithe Award.
- 8.10 In the light of the evidence submitted it appears that the historical evidence is sufficient to support an assertion that, on the balance of probability, public vehicular rights have been shown to exist over the route.
- 8.11 The comments regarding environmental concerns, the suitability of the route for horses and carriages and the conflict with the current farming operations, although of concern, are not considered relevant in determining whether or not a restricted byway exists over the route. If the route were to be recorded as a restricted byway Natural England has powers to request the County Council to make a diversion order to protect the SSSI (The Highways (SSSI Diversion Orders) (England) Regulations 2007).
- 8.12 Advice from the Planning Inspectorate states that it is important to have the correct width, where known, recorded in the definitive statement. It is considered appropriate therefore, that if the route were to be included in any future modification order as a restricted byway, a minimum width of 5 metres should be recorded over the section of the route between points G - H, while the section of route between points E - G should be recorded as 9.14 metres

wide to reflect the width of 30 feet as set out by the Inclosure Award between points F - G and the physical features of the path between points E - F.

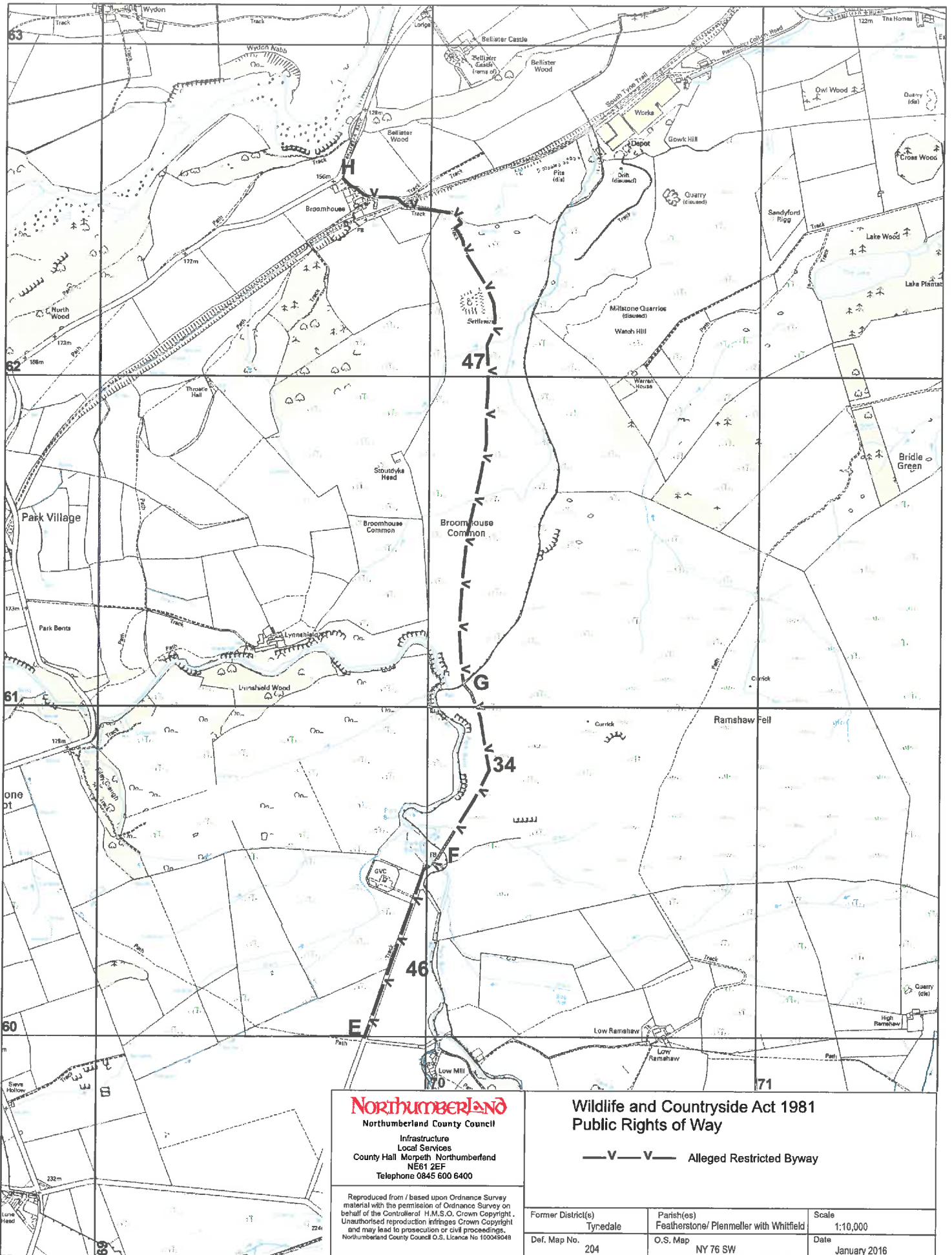
9. CONCLUSION

- 9.1 In the light of the evidence submitted it appears that, on the balance of probability, restricted byway rights have been shown to exist over the route.

BACKGROUND PAPERS

Local Services Group File E/37/46z & 47z & E/16/34z

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 Local Services
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**Wildlife and Countryside Act 1981
 Public Rights of Way**

— V — V — Alleged Restricted Byway

Former District(s) Tyredale	Parish(es) Featherstone/ Plenmeller with Whitfield	Scale 1:10,000
Def. Map No. 204	O.S. Map NY 76 SW	Date January 2016

PUBLIC RIGHTS OF WAY

WILDLIFE AND COUNTRYSIDE ACT 1981, PART III
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF NORTHUMBERLAND

APPLICATION FOR MODIFICATION ORDER

Former Borough/District TYNE DALE

Parish Featherstone, Plummer with Whitfield Rights of Way No. 516/001
(on Definitive Map) 537/013

To: Asset & Infrastructure Manager
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF
537/012
516/022
516/026

I/We JANET LEONARD (Name)

of 2 ST NICHOLAS ROAD HEXHAM (Address)

NORTHUMBERLAND NE46 2EZ

hereby apply for an order, under Section 53 (2) of the Wildlife and Countryside Act 1981, modifying the Definitive Map and Statement for the County of Northumberland, by:-

1. Adding the (footpath) (bridleway) (restricted byway) (byway open to all traffic) (*Delete whichever is inapplicable*)
from
to

2. (Upgrading) (~~downgrading~~) to a (footpath) (~~bridleway~~) (restricted byway) (~~byway open to all traffic~~) the (footpath) (bridleway) (~~restricted byway~~) (~~byway open to all traffic~~) (*Delete whichever is inapplicable*)
from G.R. NY 698600
to G.R. NY 697626

3. Deleting the (footpath) (bridleway) (restricted byway) (byway open to all traffic) (*Delete whichever is inapplicable*)
from
to

4. (Varying) (adding to) the particulars relating to the (footpath) (bridleway) (restricted byway) (byway open to all traffic) (*Delete whichever is inapplicable*)
from
to

by providing that
as shown on the plan attached.

I/We attach copies of the following documentary evidence (including statements of witness) set out overleaf in support of this application.

Dated 5.10.15 Signed 

NOTE: This application must be accompanied by a map showing the right(s) of way applied for. Legally such a map must be at a scale of not less than 2 1/2" to 1 mile, but 6" to 1 mile (being the scale at which the Definitive Map is to be prepared and maintained) will normally be preferable.

PUBLIC RIGHTS OF WAY

WILDLIFE AND COUNTRYSIDE ACT 1981, PART III
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF NORTHUMBERLAND

CERTIFICATE OF SERVICE OF NOTICE OF
APPLICATION FOR MODIFICATION ORDER

Former Borough/District TYNEDALE

Parish Featherstone, Plawmoller with Whitfield

To: Asset & Infrastructure Manager
Local Services Group
Northumberland County Council
County Hall
Morpeth
NE61 2EF

I/We JANET LENNARD (Name)

of 2, ST. NICHOLAS ROAD HEXHAM (Address)

N. NORTHUMBERLAND NE46 2EZ

hereby certify that the requirements of Paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with, and each of the following landowners and occupiers affected by the claim have been notified.

Name	Address
<u>Mr W. R. Webster</u>	<u>East Plawmoller Farm, Haltwhistle</u> <u>NE49 0HU</u>
<u>National Trust</u>	<u>North East Office, Holy Jesus Hospital,</u> <u>City Road, Newcastle upon Tyne</u> <u>NE1 2AS</u>
<u>Mr J. Losh</u>	<u>Broomhouse Farm, Haltwhistle</u> <u>NE49 0JA</u>

Dated 5-10-15 Signed 

Broomhouse Common

The application route

1. Working from its southern end, the route follows the line of public footpaths 516/001, 537/013, 537/012, 516/022 and public bridleway 516/026. These fall in the parishes of Featherstone and Plenmeller with Whitfield.
2. It leaves the U 7009 at GR NY 698600 and travels northwards to GR NY 697626 where it joins the C 324 close to Broomhouse Farm.
3. It is shown on OS OL 43.
4. At its southern end it is a grass covered lane. But after it crosses the Park Burn it is largely undefined across Ramshaw Fell and then Broomhouse Common.
5. Its width from wall to wall within the lane is approx 45 ft. On the common its width is unclear, [30 feet according to the Inclosure Award – see below].

See photographs

Documentary evidence

1. 1769 Armstrong

On sheet 7 the line of the route is shown to follow approximately the same line as today. It is shown as being unfenced (double pecked line) going north from a 'Mill' to 'Brooms' which lies south west of Bellister Castle as Broomhouse Farm does today.

See map extract

2. 1820 Fryer

On sheet 5 the southern fenced section is shown but no route is shown across the common.

See map extract

3. 1828 Greenwood

On sheet 5 the line of the route follows the line of the application route more closely. It is shown as fenced to a point just beyond the Park Burn and then as unfenced across Plainmeller (sic) Fell.

See map extract

Broomhouse Common

4. 1865 Inclosure Award - Plenmeller Common

Ref: QRA 43

The authorising act was in 1862. The section of the application route covered by this award is labelled 'public carriage road' on the inclosure plan and goes from point A to point B (referred to in the award). This section goes from where it crosses the river at 'Lead Mills ford' to 'Gateway' where it leaves this common to continue on Bellister Common. This gateway is on the parish boundary today. The section to the south of Lead Mills ford, which is the fenced section today, is labelled 'Featherstone Township Road'.

See copy of inclosure plan

In this award two public carriageways are set out, one being part of the application route and another one to the east, labelled C at its north end and D at its south end.

The description of the part of the route under investigation shown on this plan runs as follows:

'One public carriageway and highway of the width of 30 feet number 24 on the map annexed to the report of the valuer and intended to be annexed to this award commencing at the termination of Featherstone Township Road near Lead Mills ford at a point marked A and extending thence in a Northerly direction to and terminating at a Gate leading into Bellister Township near Linshield Wash Pool at a point marked B on the said map.'

The other public carriageway, which may be part of a later separate application, is described as follows:

'and one other public carriageway and highway of the width of 30 feet numbered 25 on the said map commencing at a point on the Haltwhistle and Whitfield Road marked C and extending thence in a southwesterly direction to and terminating at a point marked D near Pitman's Cottage on Limestone Farm.'

It also describes the reason for the way these roads are laid out which explains why there is no fenced stone road across the common.

'and whereas it appears to the Inclosure Commissioners for England and Wales that it is not necessary for public convenience for the said public carriage roads and highways should be fenced or made of hard materials and certified by two justices I certify that the said roads are sufficiently formed having reference to the nature and situation thereof.'

Broomhouse Common

5. 1865 OS 1st edition, scale 1:2,500 (25")

The unfenced section of the route shown on sheet 92/13 is shown as a double pecked line shaded in brown and braced with the surrounding common land. It shows the point where the alleged route crosses the Park Burn at a ford, where there is now a footbridge.

The route passes through the township boundary at exactly the same point as is shown on the inclosure award, east of Linn Shield Wash Pool.

Part of the southern section of the route, around the point where it changes from a fenced to an unfenced route, is also shown on sheet 92/13. The map is damaged on its western edge which means that the fenced section shows no plot number. But the road section to the south is shown on sheet 91/16. It has plot number 450, which in the Book of Reference [page 45] for the parish of Haltwhistle and the township of Featherstone is shown to be a 'public road'.

See extract from the Book of Reference and from the OS sheet

6. 1898 OS 2nd edition, scale 1:10,560

On sheet XCII SW the alleged route is shown with a short section missing at either end. It crosses the Park Burn at a labelled ford and crosses the parish boundary at the same place as was shown in the inclosure award.

It is shown as a double pecked line with bench marks and spot heights which are usually found on public roads. It is not labelled either BR or FP which suggests that it was of higher status.

A number of other routes across these commons are labelled either FP or BR.

See map extract

7. 1910 Finance Act Plans: NRO 436/91/16 & 92/16 Book of Reference: 2000/34

The fenced section of the application route south of Park Burn is shown on map sheets 92/13 and 91/16. In both cases it is shown as a white road indicating that it is not in private ownership of adjacent landowners and so not subject to taxation. This suggests that it is a public road.

The unfenced section of the route which crosses Ramshaw Fell in Plenmeller parish is in plot 1755. The unfenced section which crosses Broomhouse Common north of the parish boundary in Featherstone parish is in plot 1064.

Broomhouse Common

It has not been possible to find these plots in the Book of Reference.

See extract from plan

Conclusion

The evidence described above suggests that this route has been recognised as a public carriage road for several hundred years, although the section of the route which was never fenced has suffered from declining use and is now largely undefined on the ground.

Please could you investigate if this route should be recorded on the definitive map as a restricted byway?

The parish boundary gate into Broomhouse Common



'Featherstone Township Road'

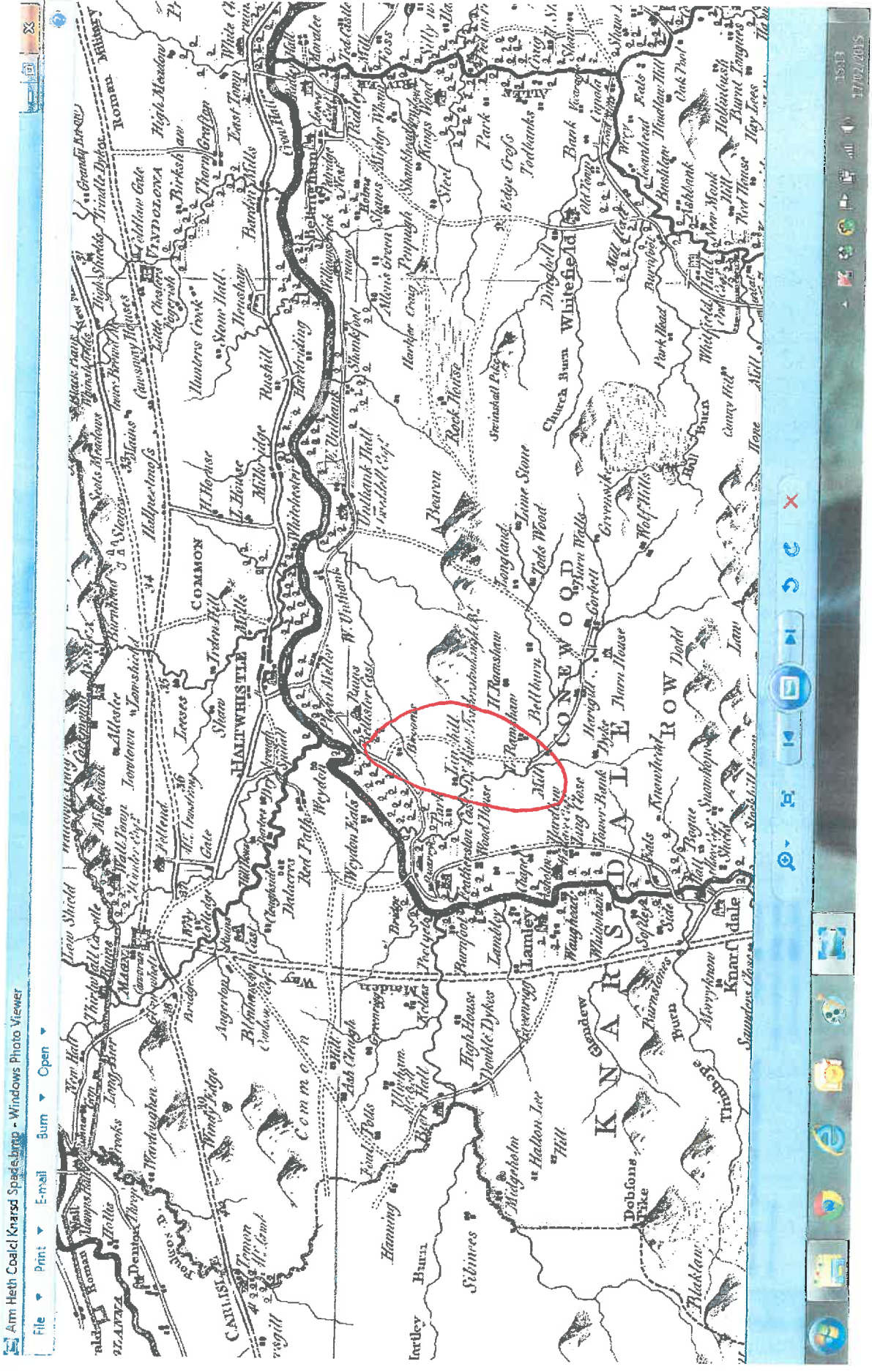


Footbridge over the Park Basin



Brownhouse Common

Armsstrong 1769

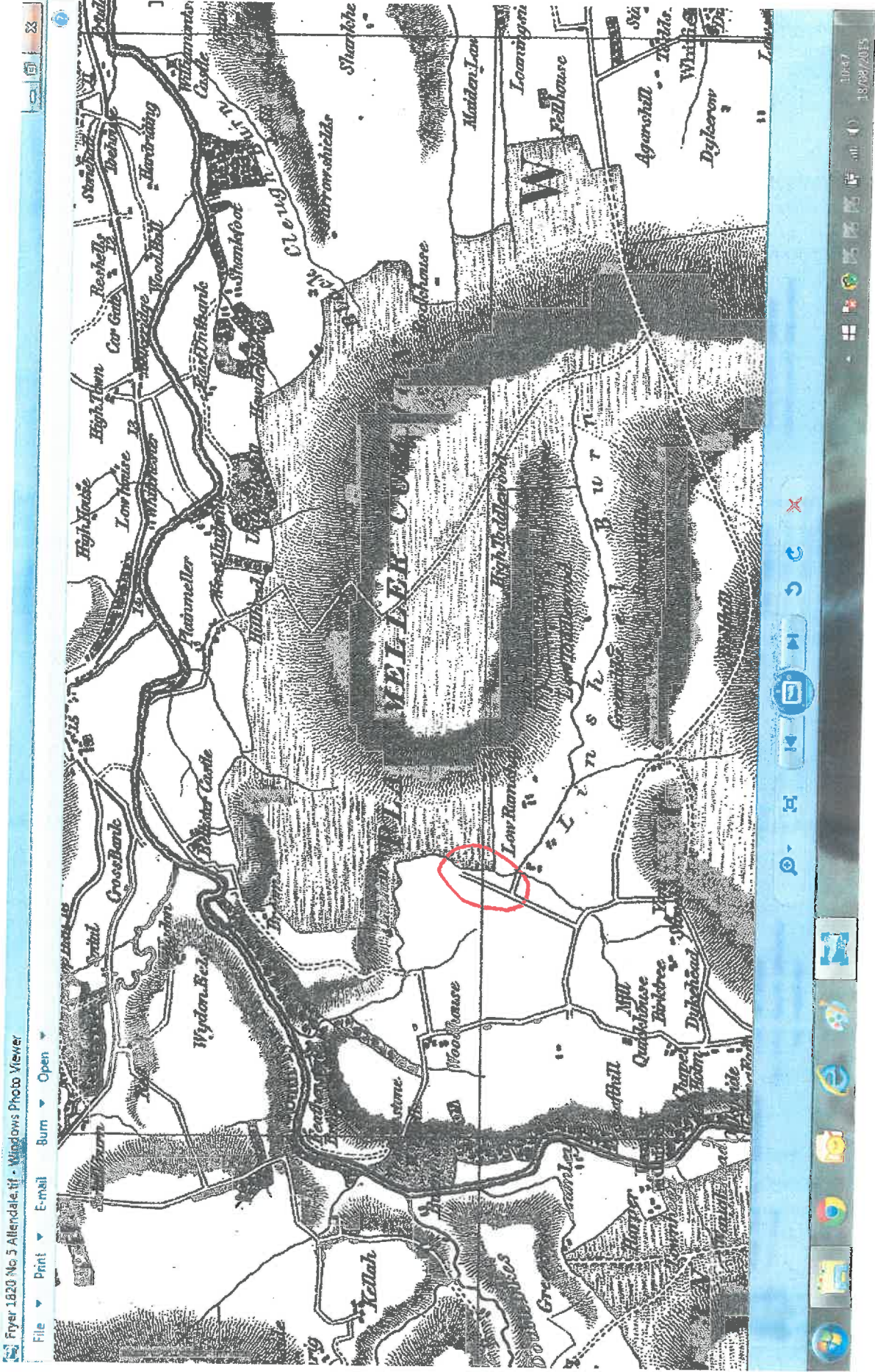


Arm Heth Coal Knarsdale Spade, 1769 - Windows Photo Viewer
File Print E-mail Burn Open

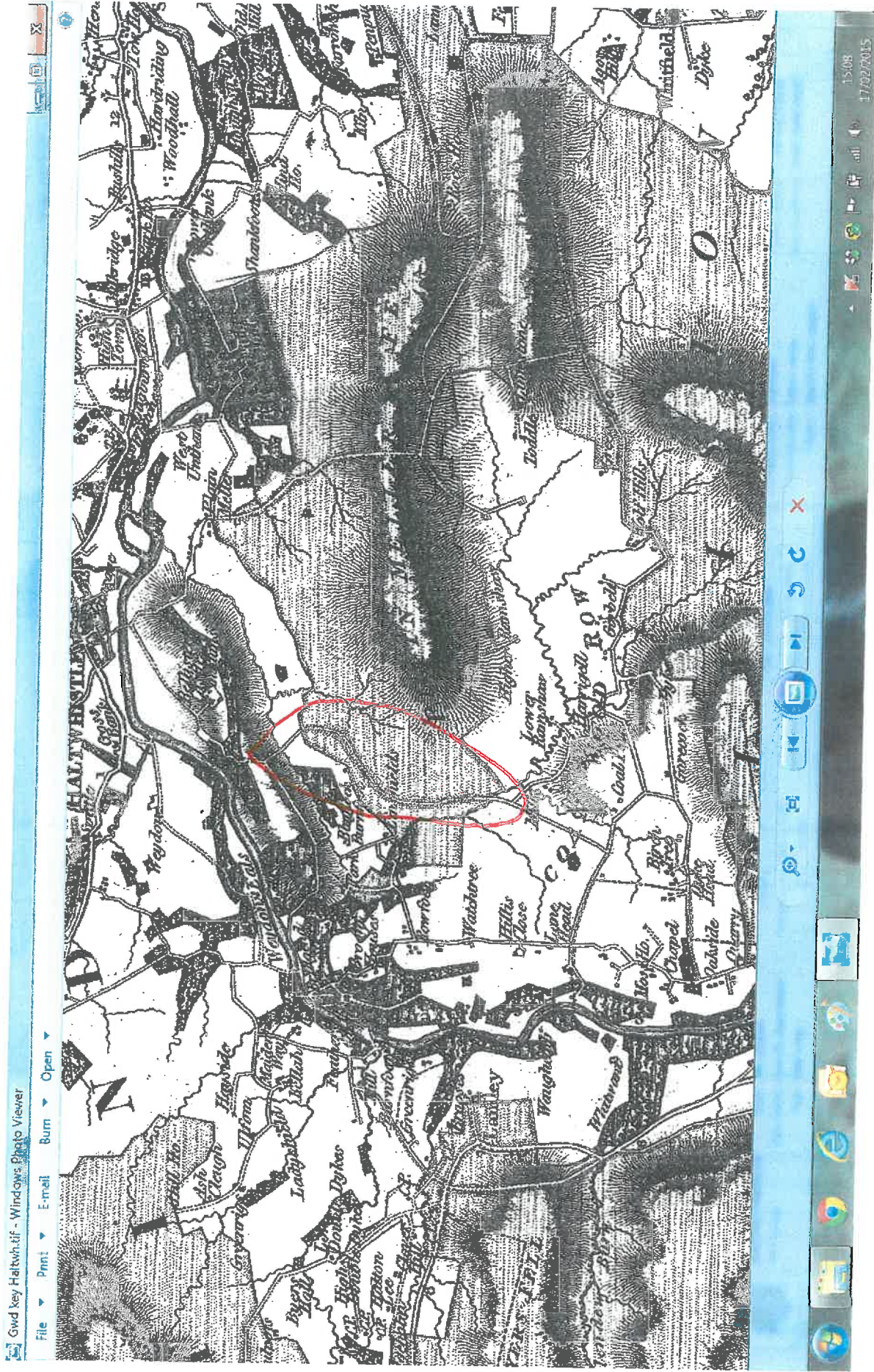
Navigation icons: Home, Back, Forward, Stop, Refresh, Close

Windows taskbar icons: Start button, Internet Explorer, Firefox, Chrome, File Explorer, Task Manager, System tray (clock, volume, network, power)

Fryer 1820

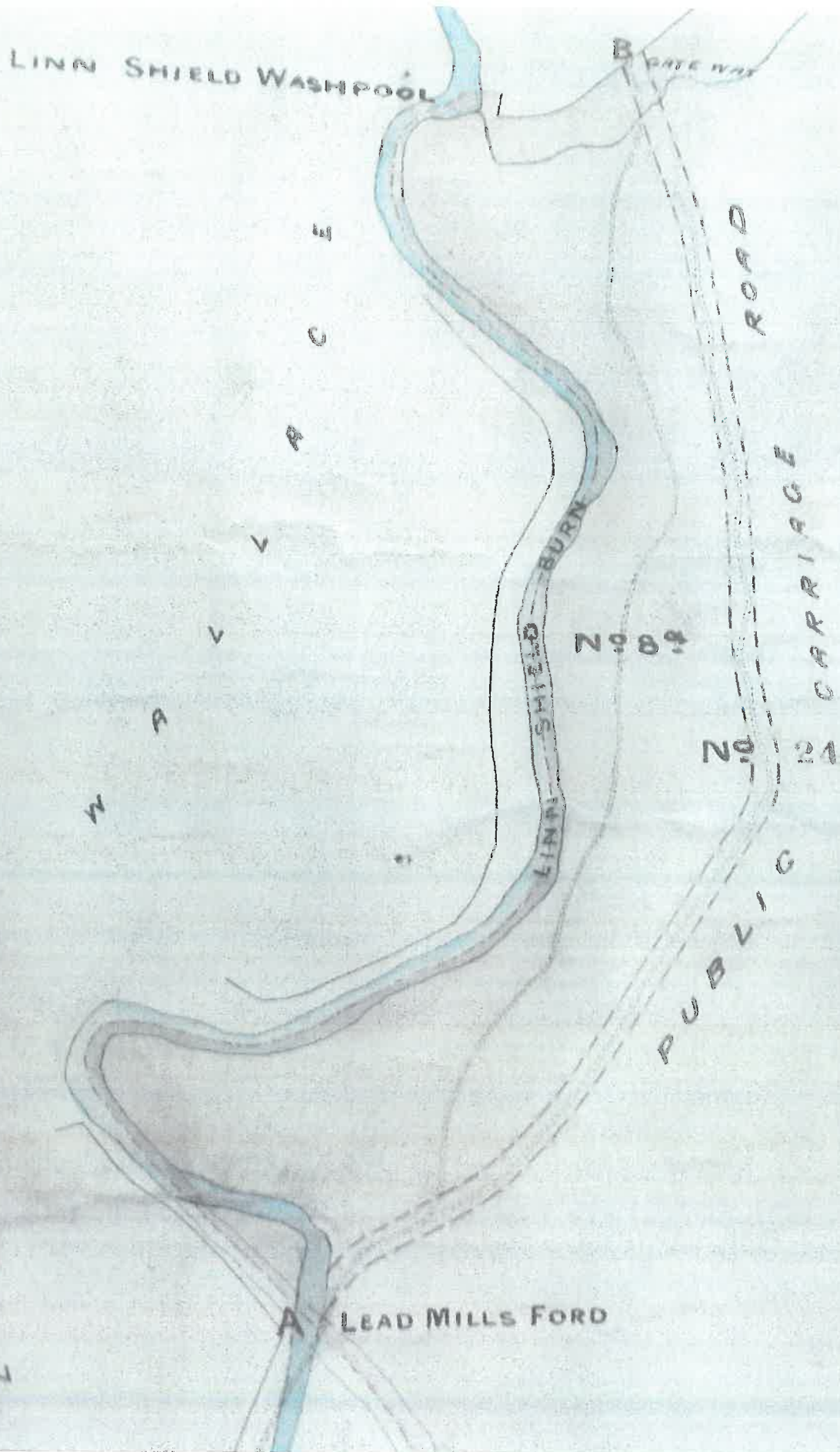


Greenwood 1823



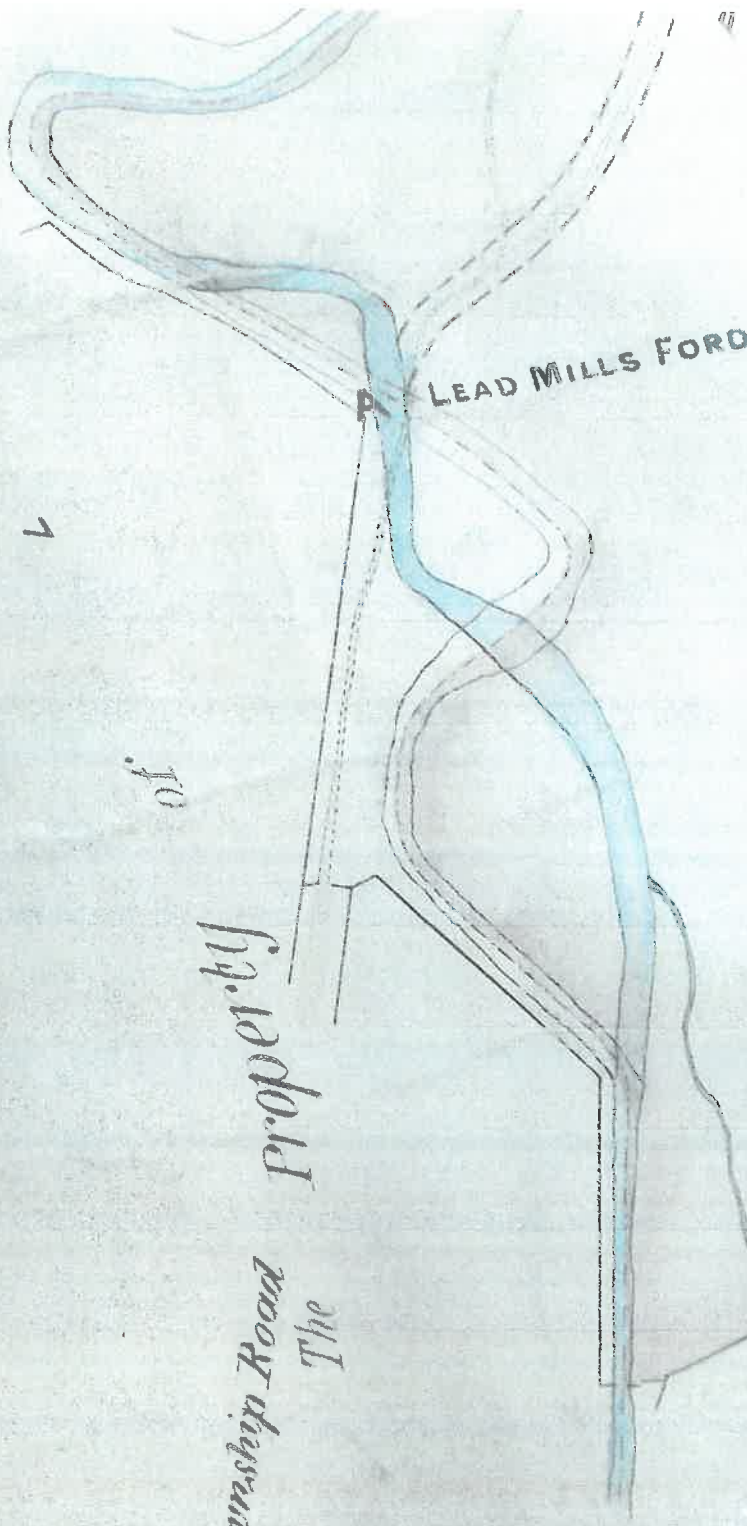
Inclosure Award
1865

GRA 43



*The
Featherston Township Road
Property
of*

D
R
O



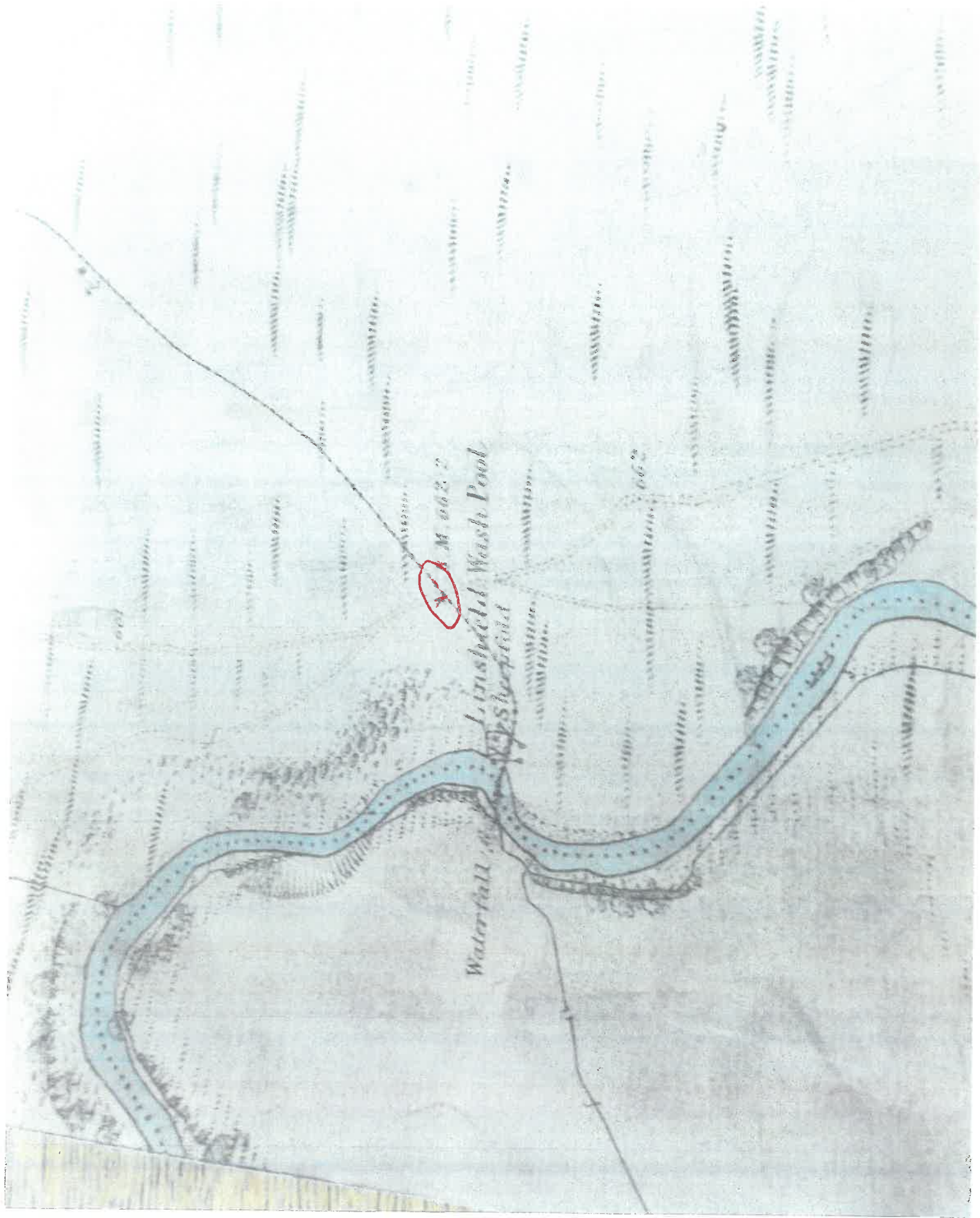
LEAD MILLS FORD

L

OS lat ed.
25"

1865





M 1002.2

Waterfall at Sheepfold

Book of Reference
 Halthwhistle parish
 Featherstone township

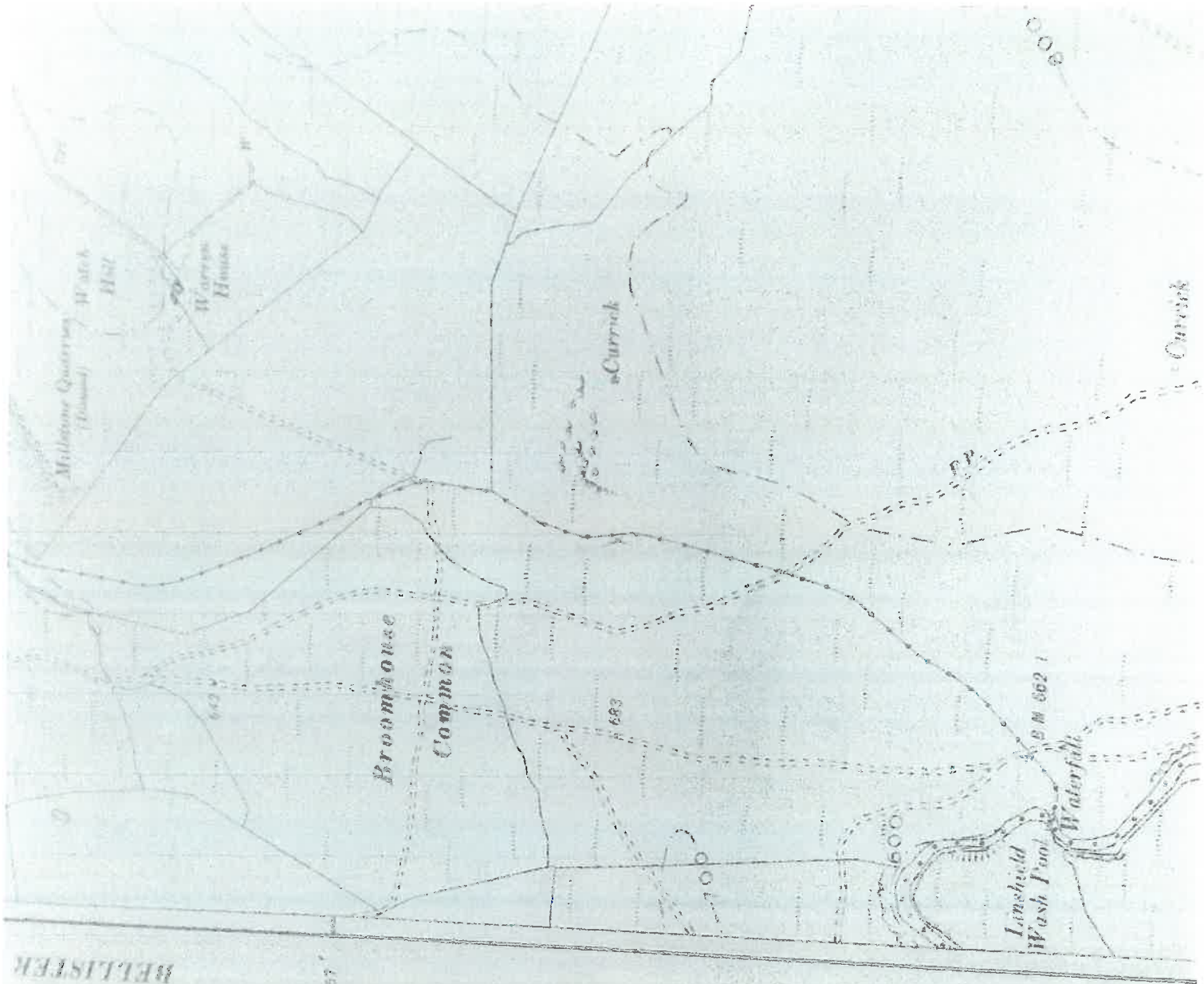
PARISH OF HALTHWHISTLE.

No. in Plan.	Acres in Acres.	Description.	No. in Plan.	Acres in Acres.	Description.
281	1257.418	Brought forward.	125	2766.009	Brought forward.
282	2.718	Pasture.	126	3.664	Pasture.
283	2.074	Wood, &c.		4.07	Houses, gardens, &c. (H. House Close).
284	108.11	Pasture, &c.	127	5.161	Arable.
285	3.57	Embankment, &c.	129	6.504	Pasture.
286	1.001	Wood, &c.	130	1.610	Arable.
287	5.506	Arable.	131	0.660	House, yds, garden, &c. (Steve Hollow)
288	16.805	Arable, &c.		7.85	Pasture
289	2.172	Wood, &c.	132	1.12	Houses and yards (Steve Hill).
290	2.998	Wood.	133	4.23	Pasture.
291	5.500	Wood, &c. (Hag Wood).	135	1.716	Pasture.
292	2.926	Wood, &c. (Madam's Island).	136	0.58	House & yard (National School, boys & girls).
293	1.10	Rough pasture.	137	5.322	Pasture, &c.
294	1.72	Houses, yards, &c.	138	3.837	Arable, &c.
295	9.611	Arable, &c.	139	0.48	Garden, &c.
296	4.620	Arable.	140	1.34	Public road.
297	13.106	Pasture	141	3.516	Pasture.
298	9.58	Wood.	142	9.926	Pasture, &c.
299	7.02	Wood.	143	9.462	Pasture, &c.
300	1.257	Pasture, &c.	144	10.180	Pasture, &c.
301	7.651	Pasture, &c.	145	26.327	Pasture.
302	2.151	Arable.	146	21.526	Pasture.
303	1.311	Pasture, &c.	147	3.300	Public road.
304	5.811	Pasture, &c.	148	39.731	Rough pasture, &c.
305	2.071	Pasture.	149	24.270	Pasture, &c.
306	5.002	Pasture, &c.	150	5.589	Public road.
307	2.961	Pasture.	151	14.785	Pasture.
308	3.419	Pasture.	152	7.429	Pasture, &c.
309	5.862	Pasture, &c.	153	1.81	Pasture, &c.
310	5.906	Arable.	153a	0.71	Pasture, &c.
311	14.831	Pasture, &c.	154	0.50	Pasture.
312	18.212	Pasture.	155	1.05	Pasture.
313	5.36	Public road.	156	5.649	Arable, &c.
314	1.583	Arable.			
315	10.102	Wood.			
316	2.5	Public road, &c.			



FEATHERSTONE PA.

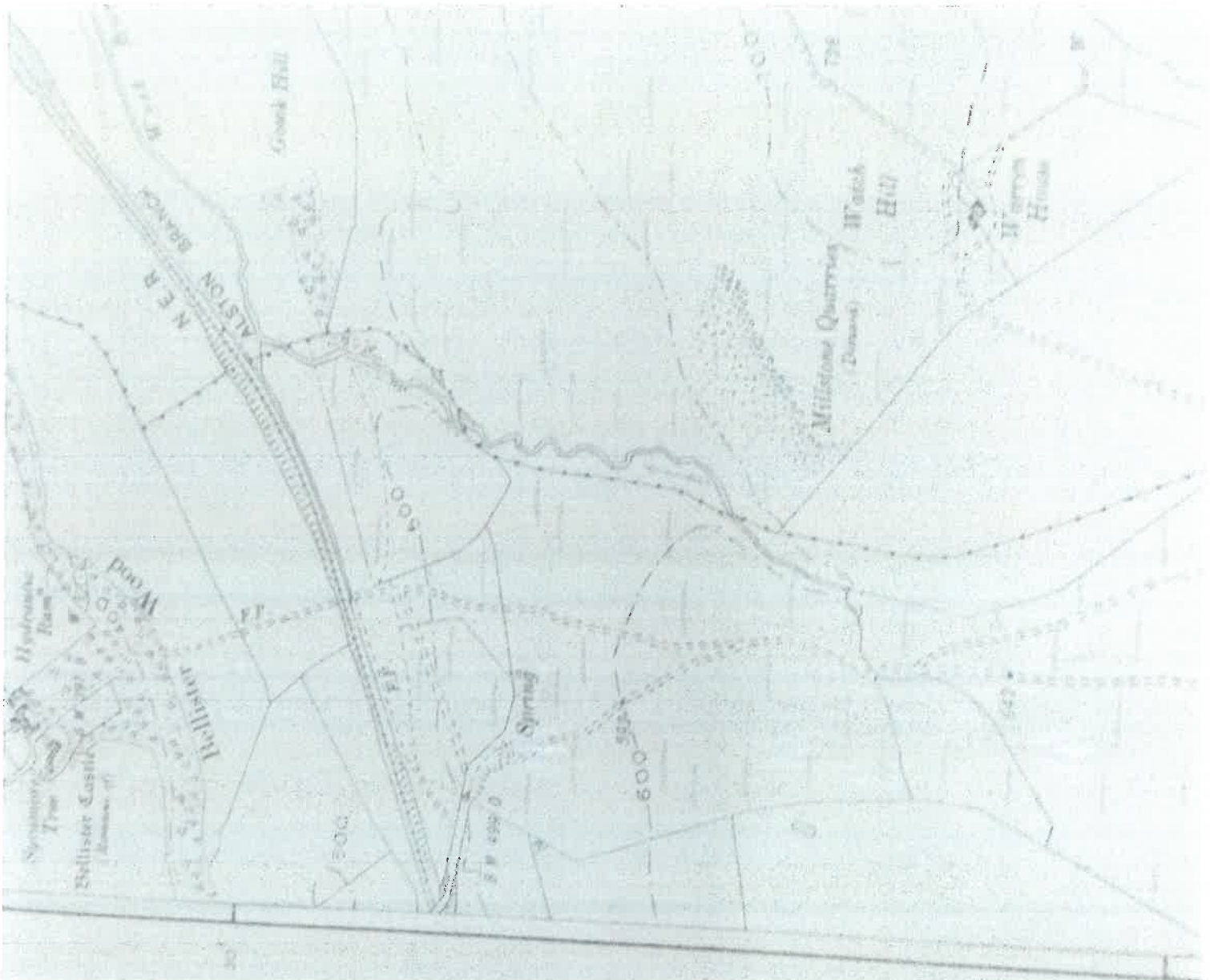
30'



BELLISTER

LAT. 54° 57'

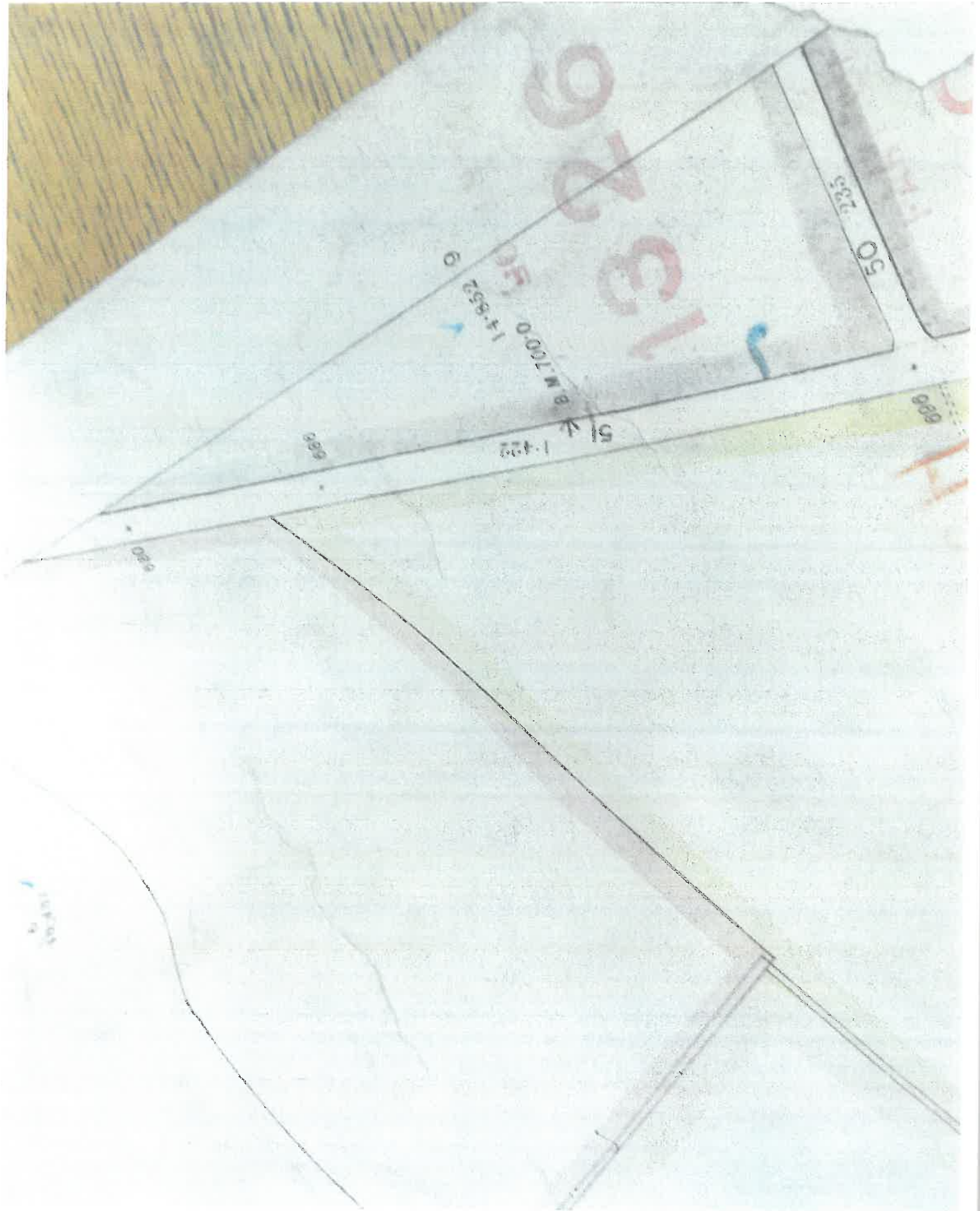
LONG. 101° 51' E



BELLISTER PARK

LAT 51° 57'

1. unalut. 2. pua. 3. m.



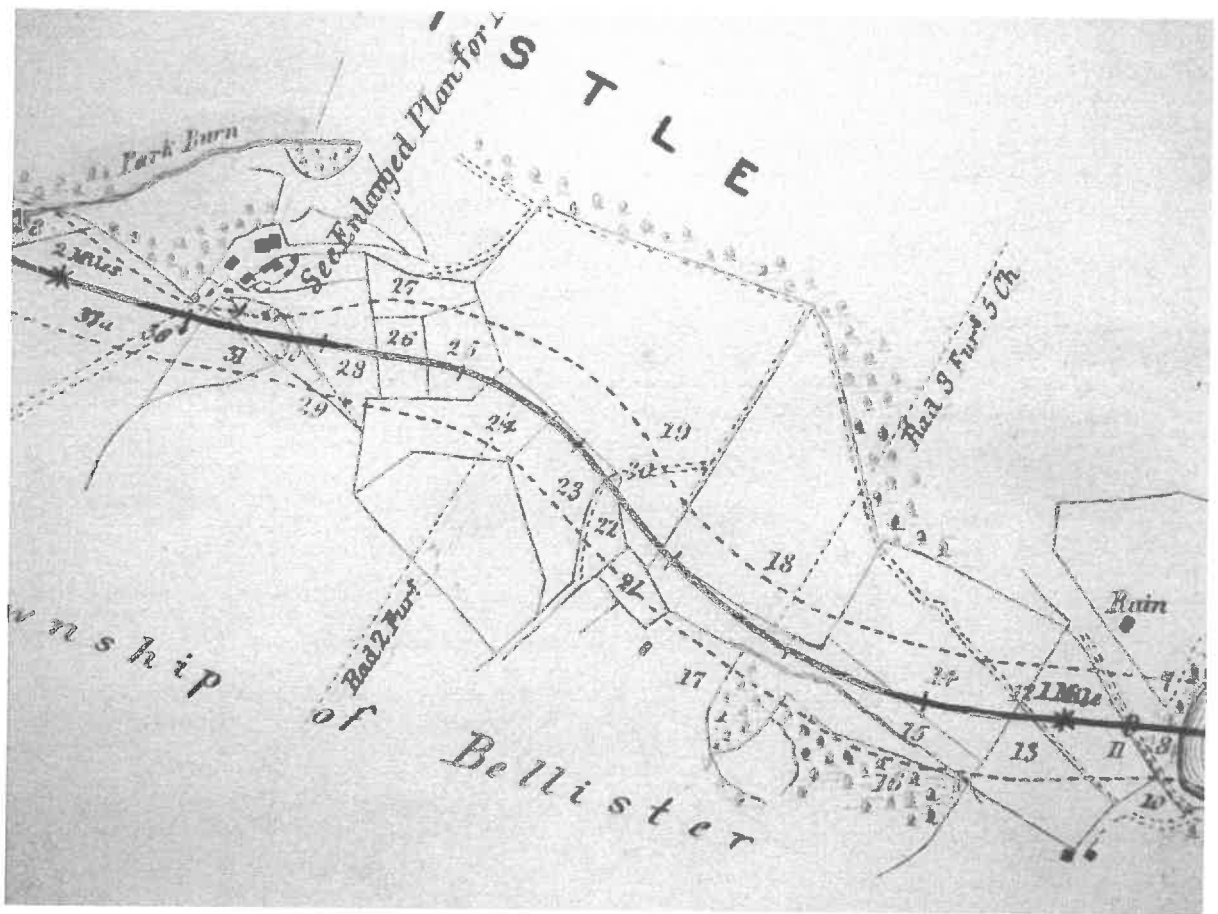
to 1000



CARY'S COUNTY MAP
1820-32



DEPOSITED PLANS: NEWCASTLE & CARLISLE RAILWAY
EXTENSIONS & BRANCHES (PLAN)
1845

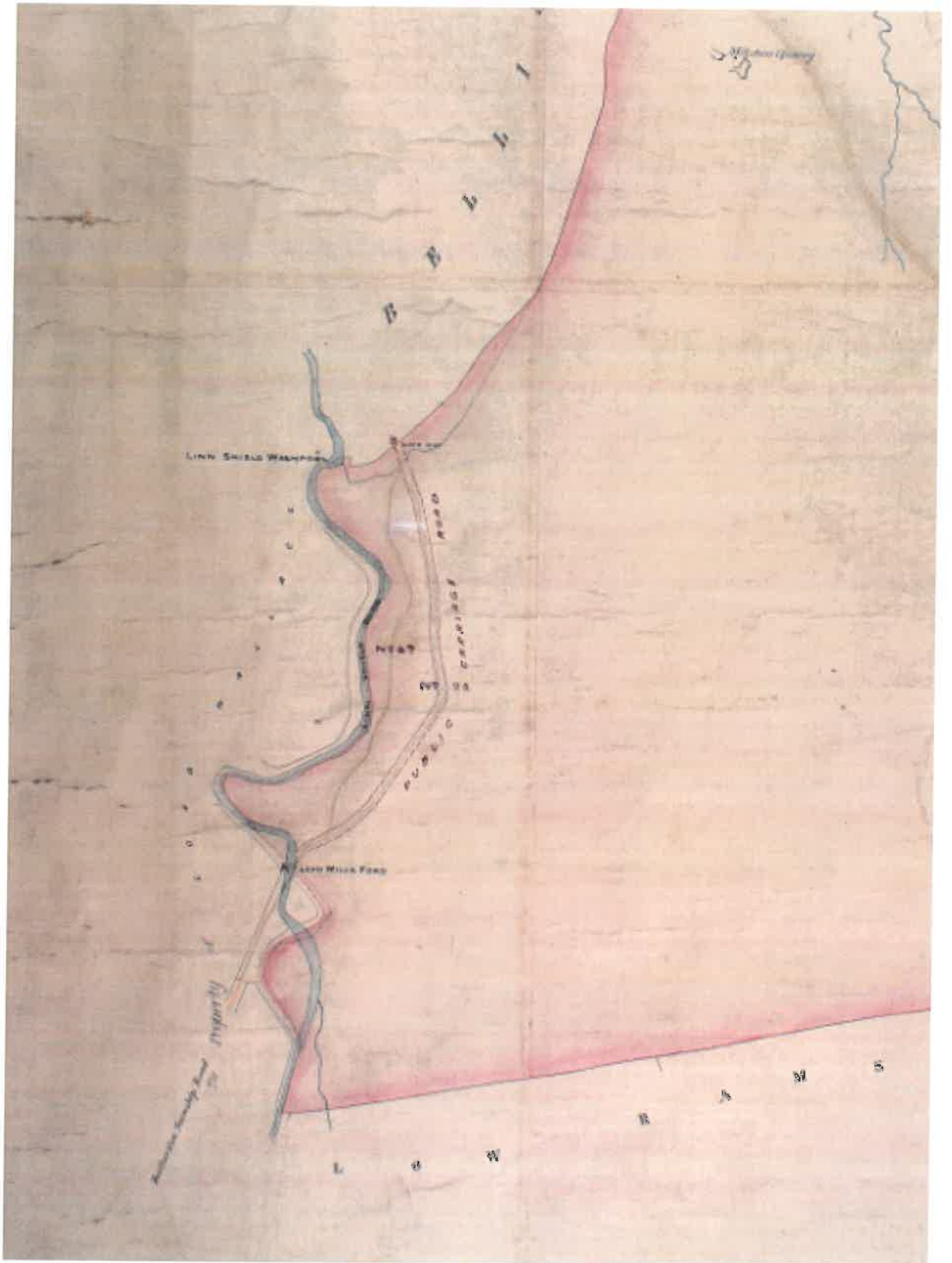


**DEPOSITED PLANS: NEWCASTLE & CARLISLE RAILWAY
EXTENSIONS & BRANCHES (TEXT)
1845**

Continued

<i>Description of property</i>	<i>Owners or reputed Owners</i>	<i>Lessee or reputed Lessee</i>
<i>Field</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field with Wood</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field Wood</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field and Occupation Road</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Occupation Road</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field and Occupation Road</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field</i>	<i>Cuthbert Ellison</i>	<i>Sarah</i>
<i>Field</i>	<i>Jacob Snowden</i>	
<i>Field</i>	<i>Jacob Snowden</i>	
<i>Field</i>	<i>Jacob Snowden</i>	
<i>Field</i>	<i>Jacob Snowden</i>	
<i>Field and Occupation Road</i>	<i>Jacob Snowden</i>	
<i>Field</i>	<i>William Madgen</i>	
<i>Field</i>	<i>Jacob Snowden</i>	
<i>Field</i>	<i>William Madgen</i>	

PLENMELLER COMMON INCLOSURE AWARD
1865



PLENMELLER COMMON INCLOSURE AWARD (TEXT)
1865

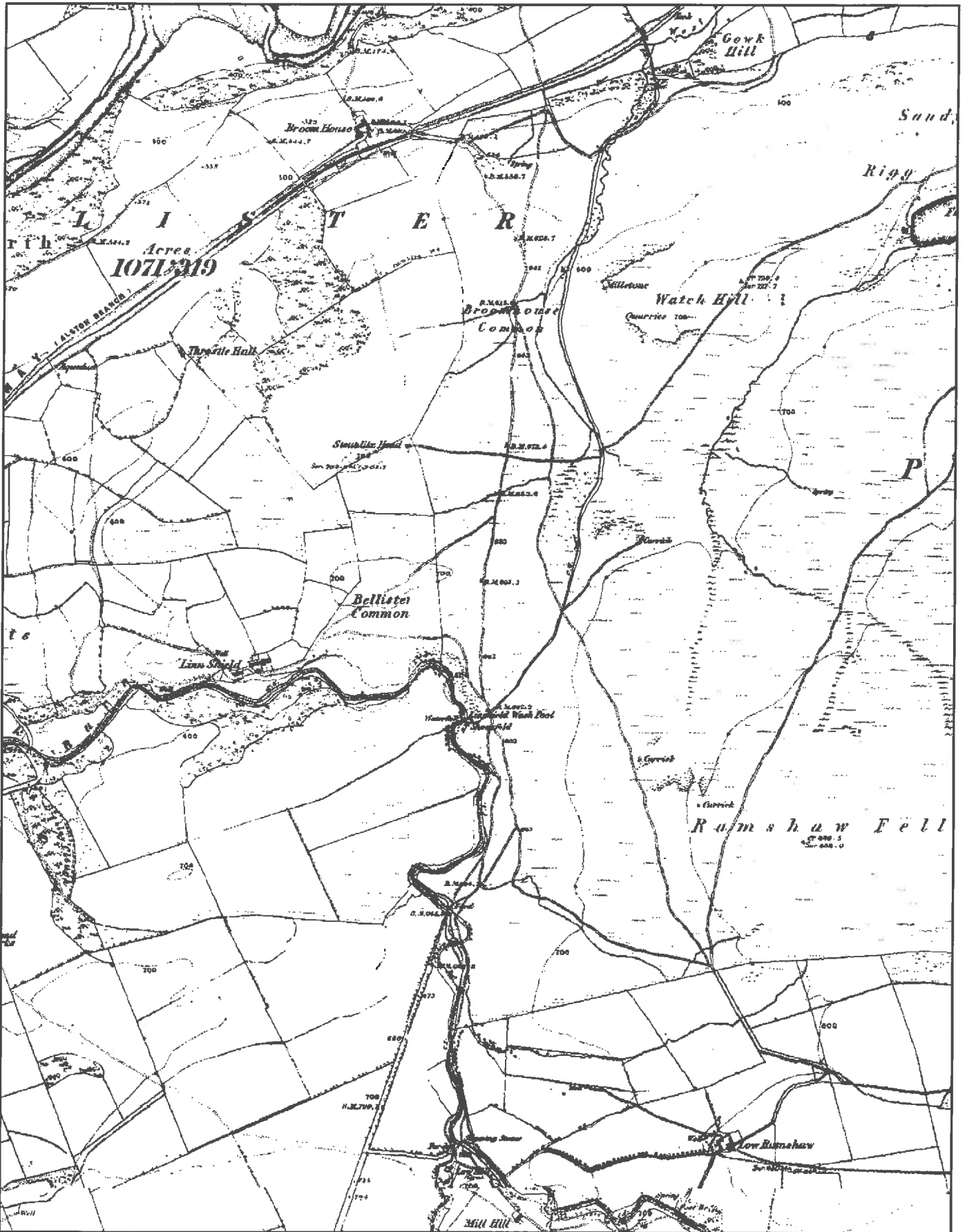
1. A public carriage road and highway of the width of thirty feet numbered 24 on the map annexed to the report of the commissioners and intended to be commenced to be commenced commencing at the junction of the Bathurst township road near said point marked A and extending thence in a westerly direction to and terminating at a point leading into Bathurst township near point marked B on the said map.

2. Will one other public carriage road and highway of the width of thirty feet numbered 25 on the said map commencing at a point on the Bathurst and Whitfield road marked C and extending thence in a south westerly direction to and terminating at a point marked D near Schenck's Cottage on Schenck's farm.

3. And whereas it appears to the said Commissioners for England and Wales that it is not necessary for public convenience that the said public carriage roads and highways should be paved or made of hard materials and subject to tolls hereon.

Now That the said Inclosure Commissioners do by this order under our hand and seal by virtue of the power vested in us by the Acts for the Inclosure Exchange and Improvement of Land certify that the said roads are sufficiently formed having regard to the nature and situation thereof.

In Witness Whereof

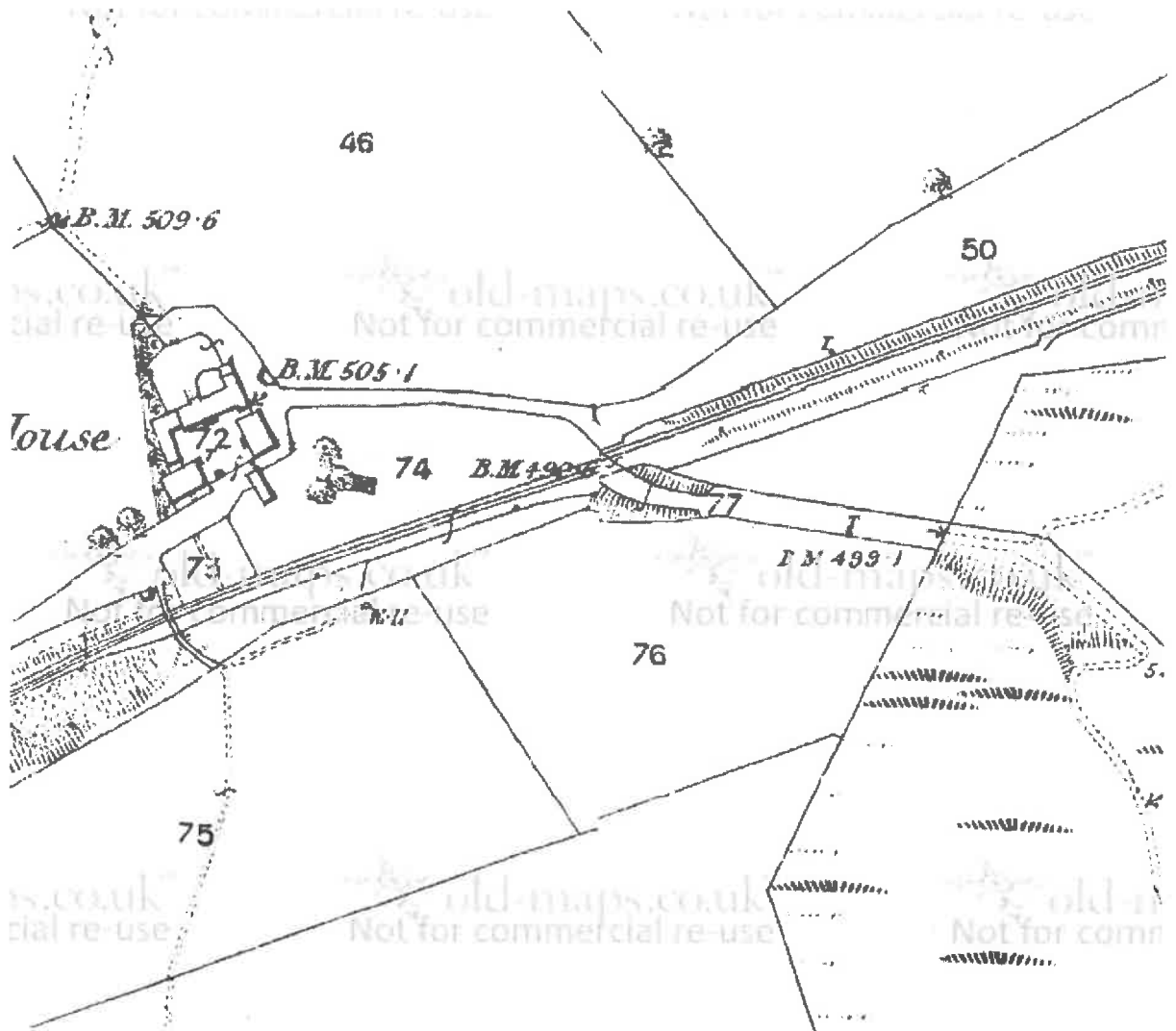


NORTHUMBERLAND
 Northumberland County Council

Ordnance Survey Map 1865

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Scale 1:13,000



BOOK OF REFERENCE

46

PARISH OF HALTWHISTLE.

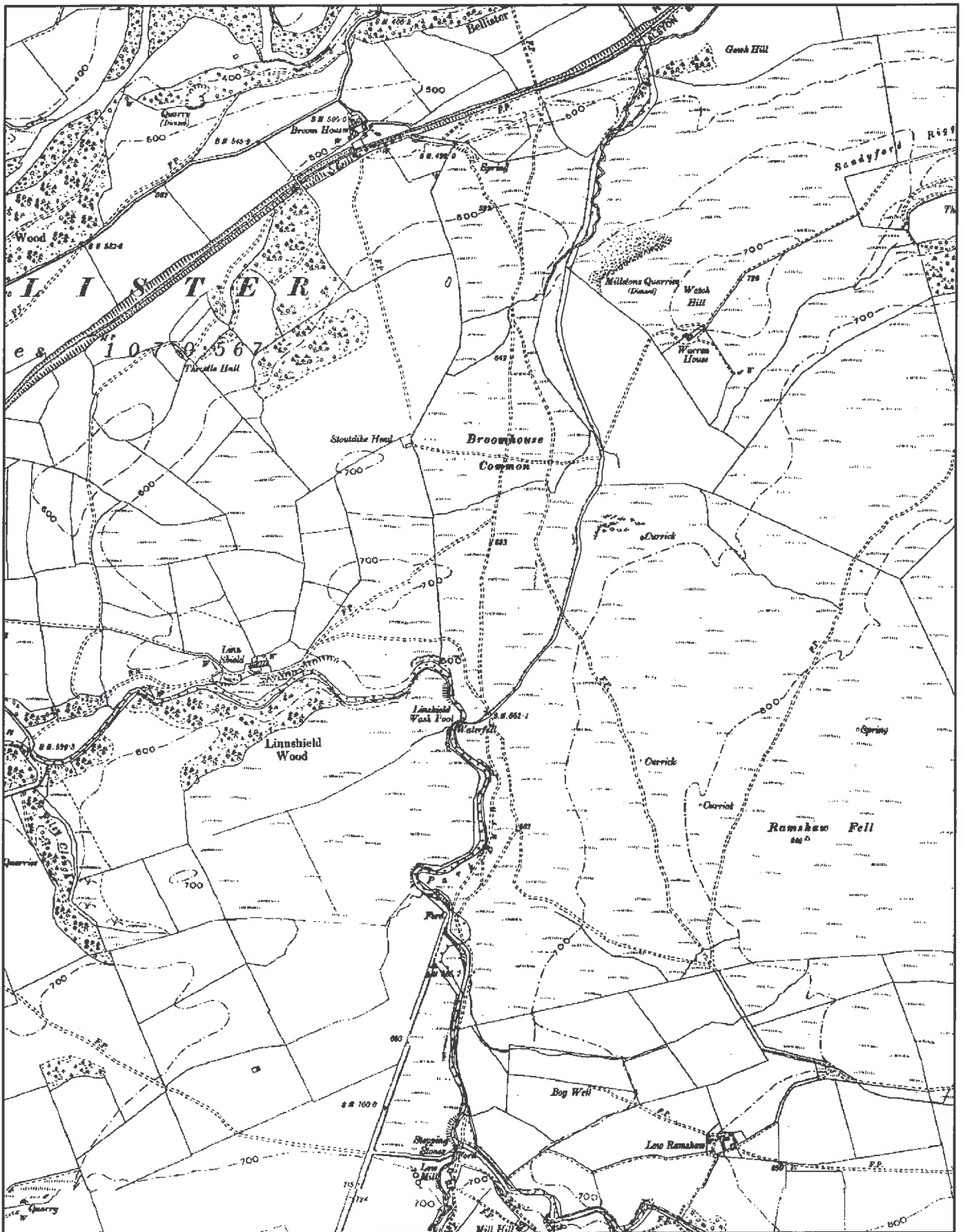
No. on Plan.	Area in Acres.	Description.	No. on Plan.	Area in Acres.	Description.
TOWNSHIP OF BELLISTER.				804·515	<i>Brought forward.</i>
			43	6·363	Pasture & ruin.
			44	7·873	Wood, &c.
			45	5·803	Arable.
1	·752	Stream (Tipalt Burn).	46	8·762	Pasture.
2	5·484	Arable, &c.	47	8·130	Arable.
3	·246	Private road.	48	5·561	Wood.
4	8·900	Pasture, &c.	49	1·054	Wood.
5	19·732	Pasture, &c.	50	2·579	Pasture, &c.
6	4·685	Pasture.	51	5·113	Pasture, &c.
7	2·816	Pasture.	52	2·983	Pasture, &c.
8	·324	Houses, gardens, &c.	53	15·113	Pasture, &c.
9	12·848	Arable.	54	9·198	Arable, &c.
10	·696	Houses, yards, garden, &c. (Wydon).	55	5·759	Rough pasture, &c.
11	15·889	Arable.	56	7·656	Pasture, stream, &c.
12	14·535	Arable.	57	·575	Wood.
13	23·685	Pasture, &c. (Wydon Nab).	58	3·983	Pasture.
14	36·588	River South Tyna.	59	·118	Pasture.
15	·618	Pasture.	60	11·232	Arable, &c.
16	2·175	Pasture, &c.	61	9·337	Arable.
17	3·174	Public road.	62	1·364	Pasture.
18	10·032	Arable.	63	13·586	Pasture, &c.
19	·014	House.	64	4·302	Arable, &c.
20	3·808	Arable.	65	3·673	Pasture, &c.
21	8·300	Pasture.	65a	3·592	Rough pasture, &c.
22	1·361	Houses, yards, garden, &c. (Bellister Castle, remains of).	66	33·115	Wood, &c. (North Wood).
23	9·250	Arable.	66a	·745	Wood, &c.
24	11·595	Arable.	67	5·080	Pasture, &c.
25	1·251	Arable.	68	13·232	Pasture, &c.
26	11·772	Arable.	69	11·633	Arable.
27	12·075	Arable.	70	12·967	Arable.
28	11·588	Pasture.	71	5·272	Pasture.
29	11·307	Pasture.	72	1·195	Houses, yards, &c. (Broom House).
30	·189	Public road.	73	·122	Garden.
31	2·438	Pasture.	74	·940	Pasture, &c.
31a	·584	Embankment, &c.	74a	·007	House.
32	3·407	Bellister Wood.	75	4·651	Pasture, &c.
33	·251	Pasture.	76	3·057	Pasture.
34	4·658	Wood, &c.	77	·370	Occupation road.
35	11·725	Arable, &c.	78	15·318	Pasture, &c.
36	8·489	Arable, &c.	79	16·950	Newcastle & Carlisle Railway (Alston Branch).
37	·515	Wood.	80	·711	Pasture, &c.
38	13·859	Pasture, &c.	81	3·274	Pasture.
39	·199	Wood.	82	·478	Wood, &c.
40	10·557	Arable, &c.	83	·691	Rough pasture.
41	1·168	Wood.	84	·406	Wood.
42	1·066	Rough pasture (island).	85	·225	Wood.
	304·515	<i>Carried forward.</i>		589·718	<i>Carried forward.</i>



PARISH OF HALTWHISTLE.

45

No. on Plan.	Area in Acres.	Description.	No. on Plan.	Area in Acres.	Description.
	2877-408	<i>Brought forward.</i>		2766-009	<i>Brought forward.</i>
381	.778	Pasture.	425	3-564	Pasture.
382	2-274	Wood, &c.	426	.707	Houses, gardens, &c. (Hillhouse Close).
383	10-841	Pasture, &c.			Arable.
384	.937	Embankment, &c.	427	3-164	Pasture.
385	1-001	Wood, &c.	429	6-594	Arable.
386	5-506	Arable.	430	1-610	Arable.
387	16-845	Arable, &c.	431	.060	House, yards, garden, &c. (Sieve Hollow).
388	2-112	Wood, &c.			Pasture.
389	.293	Wood.	432	.785	Houses and yards (Sieve Hill).
390	5-660	Wood, &c. (Hag Wood).	433	.142	Pasture.
391	2-926	Wood, &c. (Madam's Island).	434	.423	Pasture.
392	.100	Rough pasture.	435	1-716	Pasture.
393	.179	Houses, yards, &c.	436	.038	House & yard (National School, boys & girls).
394	9-644	Arable, &c.	437	6-322	Pasture, &c.
395	4-620	Arable.	438	6-837	Arable, &c.
396	13-106	Pasture.	439	.048	Garden, &c.
397	.968	Wood.	440	.134	Public road.
398	.702	Wood.	441	3-516	Pasture.
399	4-367	Pasture, &c.	442	9-926	Pasture, &c.
400	7-651	Pasture, &c.	443	9-462	Pasture, &c.
401	2-051	Arable.	444	10-180	Pasture.
402	4-904	Pasture, &c.	445	25-327	Pasture.
403	5-811	Pasture, &c.	446	21-526	Pasture.
404	2-071	Pasture.	447	3-300	Public road.
405	6-607	Pasture.	448	39-731	Rough pasture, &c.
406	2-951	Pasture.	449	24-270	Pasture, &c.
407	3-419	Pasture.	450	3-580	Public road.
408	6-852	Pasture, &c.	451	14-766	Pasture.
409	5-906	Arable.	452	7-429	Pasture, &c.
410	14-831	Pasture, &c.	453	.181	Pasture, &c.
411	13-212	Pasture.	453a	.074	Pasture, &c.
412	.536	Public road.	454	.050	Pasture.
413	1-385	Arable.	455	.105	Pasture.
414	10-102	Wood.	456	5-649	Arable, &c.
414a	.255	Embankment, &c.	457	.276	Wood.
415	107-377	Ornamental ground.	458	12-976	Pasture, &c.
416	46-632	Cockshot Wood.	459	1-769	Wood.
417	.136	Wood.	460	1-100	Wood.
418	10-816	Pasture, &c.			
419	11-236	Newcastle & Carlisle Railway (Alston Branch).		2993-296	
419a	.627	Embankment, &c.			
420	7-609	Arable.			
421	18-344	Pasture.			
422	1-146	Wood.			
423	10-001	Pasture, &c.			
424	3-369	Pasture.			
	2766-009	<i>Carried forward.</i>			
			RECAPITULATION.		
			2889-488	Land.	
			45-713	Public roads.	
			14-473	Railways.	
			43-622	Water.	
			2993-296	Total area of the Town- ship of Featherstone.	



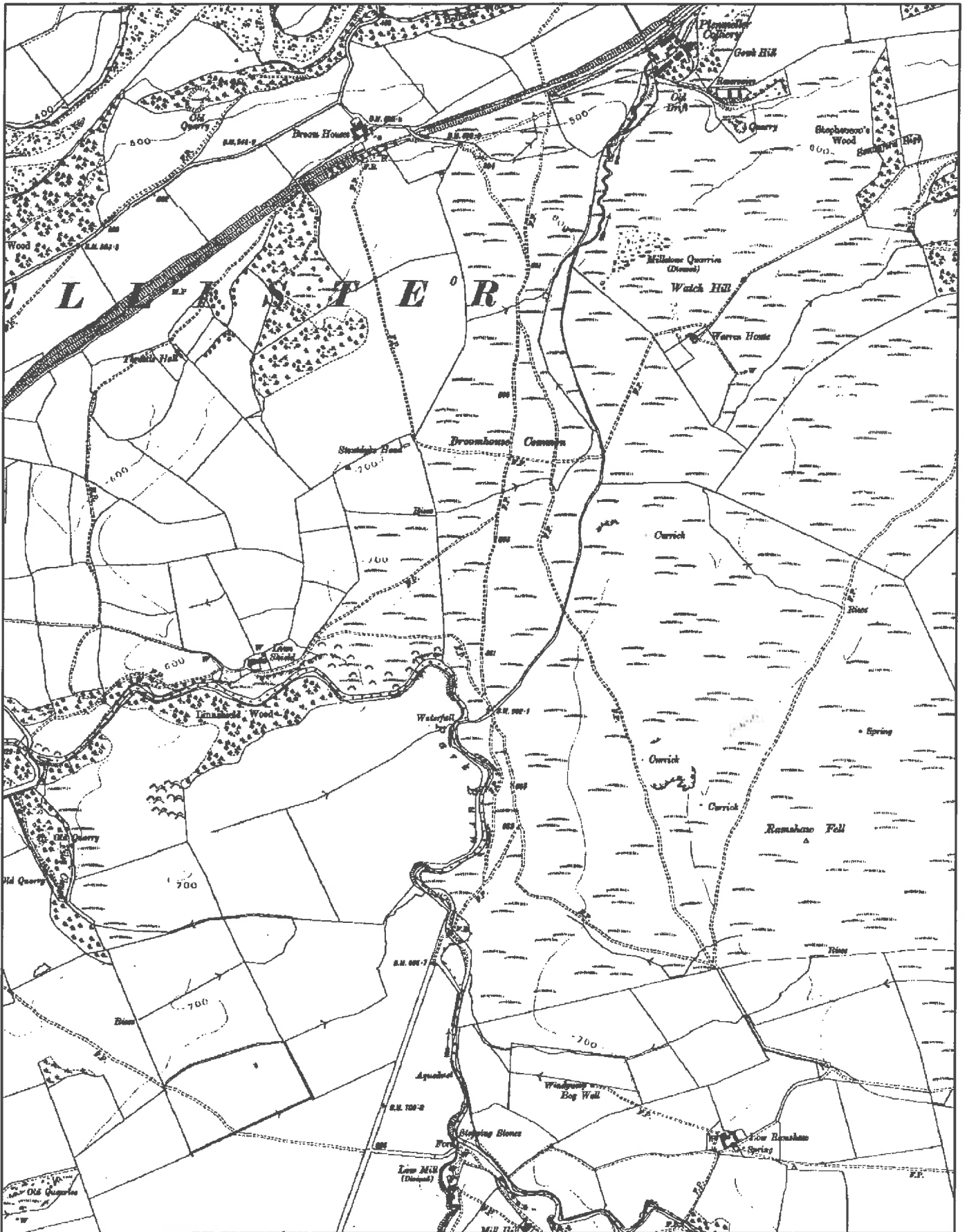
NORTHUMBERLAND

Northumberland County Council

Ordnance Survey Map 1898

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Scale 1:13,000



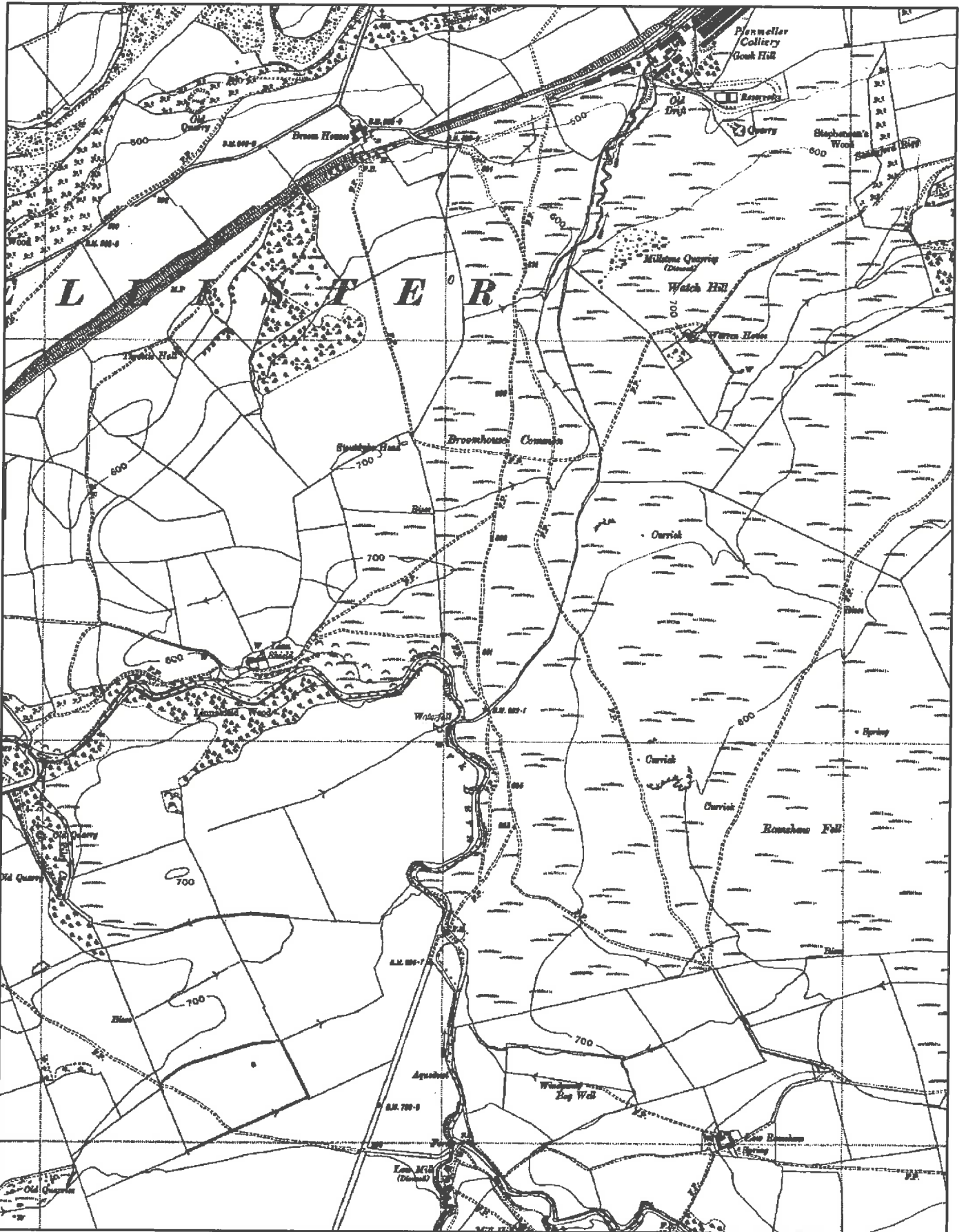
NORTHUMBERLAND

Northumberland County Council

Ordnance Survey Map 1925/6

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NORTHUMBERLAND

Northumberland County Council

Ordnance Survey Map 1946-52

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