

### PUBLIC RIGHTS OF WAY

#### DEFINITIVE MAP MODIFICATION ORDER (No 3) 2014

#### ALLEGED PUBLIC FOOTPATH No 5 (PARISH OF SANDHOE)

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

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#### **Purpose of report**

To inform the Committee of the decision, by the Secretary of State for the Department of the Environment, Food and Rural Affairs, when determining the above Order that originally attracted 3 objections (though these objections were later withdrawn).

#### **Recommendations**

**It is recommended that the Committee notes the Secretary of State's decision NOT to confirm the Order.**

#### **1.0 BACKGROUND**

- 1.1 In April 2014 the County Council made and advertised Definitive Map Modification Order (No 3) 2014. This Order sought to record a short length of public footpath to plug a gap between the eastern end of the U8184 road and the western end of existing Public Footpath No 5, at Anick. Modification Order (No 3) 2014 attracted 3 objections, made on the basis that the alleged footpath (and its existing recorded north-easterly continuation) was actually a public bridleway.
- 1.2 In July 2015, Sandhoe Parish Council made a formal application (supported by user and historical documentary evidence) to have the alleged footpath route and parts of existing Public Footpaths Nos 4 and 5 and Bridleway No 12 recorded as a restricted byway. At its meeting in November 2016, the Rights of Way Committee agreed that the application route be included in a definitive map modification order as a public bridleway. At the same meeting, the Committee also agreed with the officer recommendation that Definitive Map Modification Order (No 3) 2014 be referred to the Secretary of State for

determination accompanied by a recommendation that the Order NOT be confirmed.

- 1.3 In November 2016 the County Council made Definitive Map Modification Order (No 34) 2016, seeking to record the Definitive Map Modification Order (No 3) 2014 footpath route (and parts of existing Public Footpaths Nos 4 and 5) as a public bridleway. No objections to the Order were received, and Definitive Map Modification Order (No 34) 2016 was confirmed by the County Council, as unopposed, on 20 February 2017.
- 1.4 In March 2017, the Definitive Map Modification Order (No 3) 2014 was submitted to the Secretary of State for determination. Given that the route was now recorded on the Definitive Map as a public bridleway, the 3 objectors to the Order withdrew their objections just before the Order was submitted. The Planning Inspectorate decided that the matter was one that could be determined by means of the documents on file.
- 1.5 On 24th May 2017, the Inspector appointed by the Secretary of State issued her decision letter. The Inspector determined that, although there were no objections to the Order, and the public footpath rights did exist, it was not necessary (or even possible) to confirm the Order because the footpath rights were now already recognized by virtue of the route being recorded as public bridleway.

## **BACKGROUND PAPERS**

Local Services Group File: Modification Order (No 3) 2014 & E/40/5z

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# **Wildlife and Countryside Act 1981**

## **Definitive Map and Statement of Public Rights of Way for the County of Northumberland**

### **The Northumberland County Council**

#### **Definitive Map Modification Order (No 3) 2014**

##### **Public Footpath No 5 (Parish of Sandhoe)**

This Order is made by Northumberland County Council under Section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement of Public Rights of Way for the County of Northumberland require modification in consequence of the occurrence of events specified in Section 53(3)(c)(i) and (iii), namely, 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; and that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

The authority has consulted every local authority whose area includes the land to which the order relates. The Northumberland County Council hereby order that:

1. For the purposes of this Order the relevant date is 1 January 2014.
2. The Definitive Map and Statement of Public Rights of Way for the County of Northumberland shall be modified as described in the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Northumberland County Council Definitive Map Modification Order (No 3) 2014.

# Definitive Map Modification Order (No 3) 2014

## Index

Parish	Path No.	Modification	OS Map Nos.	Def Map Nos.
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### Former Tynedale District

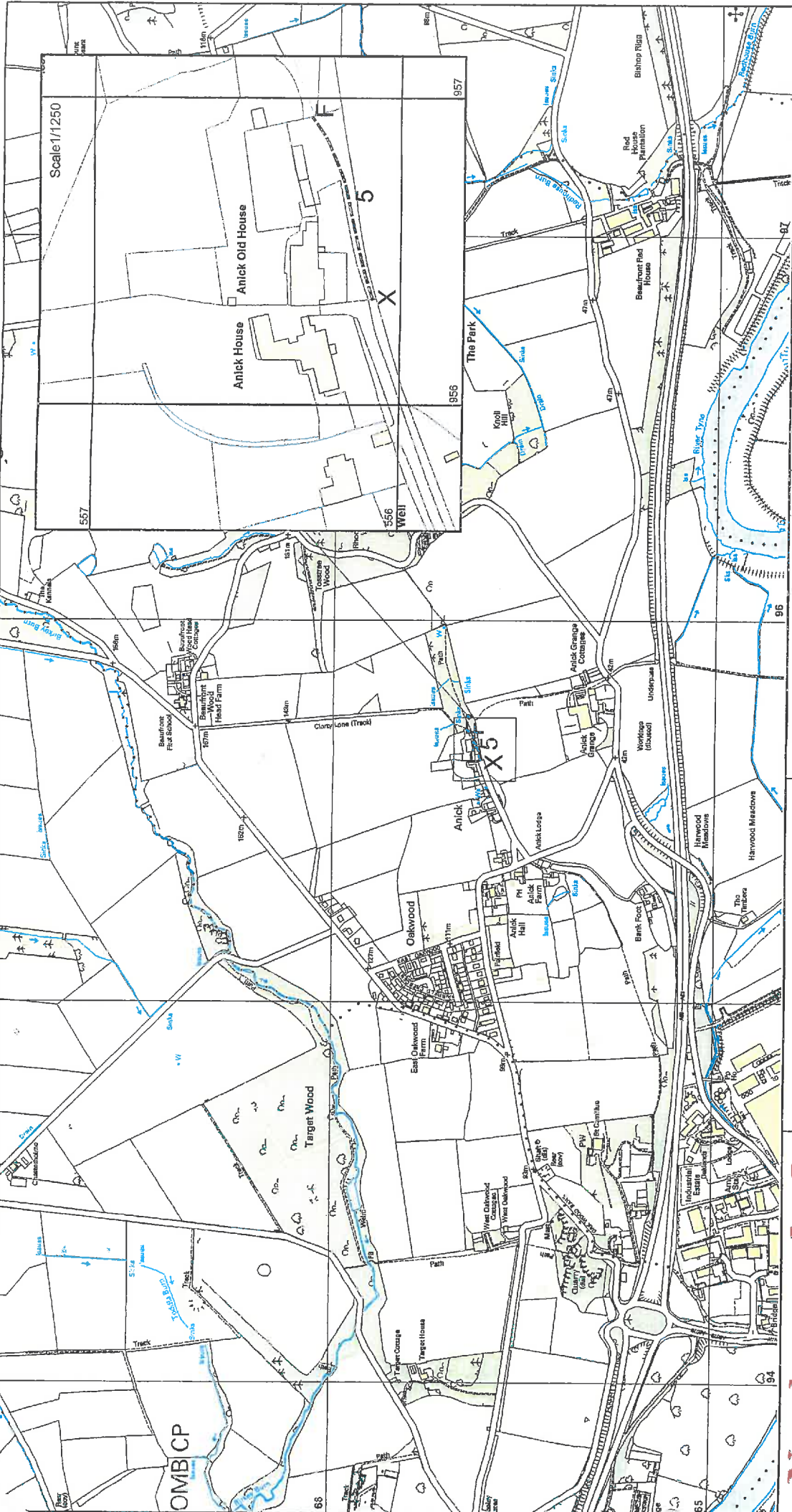
Sandhoe	FP 5	Addition (part)	NY 96 NE	197
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# Definitive Map Modification Order (No 3) 2014

## Description of Modification to Definitive Map and Statement

### Former Tynedale District

Sandhoe	Footpath No 5	(NY 96 NE)
Part I	Map:	Adding thereto a public footpath from a point marked X, at the eastern end of the U8184 road, at the eastern boundary of Anick House, in a general easterly direction for a distance of 65 metres, to a point marked F, at the existing western end of Public Footpath No 5, 35 metres east of Anick Old House.
Part II	Statement:	To be amended as follows: As a 1 – 1.1 metre wide path, from the eastern end of the U8184 road, at the eastern boundary of Anick House, in an easterly direction for a distance of 5 metres, thereafter progressively widening to 1.3 metres wide over the next 5 metres and to 1.8 metres wide over the next 5 metres, thereafter continuing as a 2 to 3 metre wide path in a general easterly direction for a further 50 metres and through a 1.4 metre wide gap in the boundary wall / fence, thereafter as path in a north-easterly direction, crossing Footpath No 4, to the Sandhoe - Anick Grange road south-west of Beaufront Castle.



**Northumberland**  
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Wildlife and Countryside Act, 1981  
**Definitive Map of  
 Public Rights of Way  
 for the  
 County of Northumberland**

**The Northumberland  
 County Council  
 Modification Order  
 (No.3) 2014**

- Public Right of Way closed
- Public Footpath
- Public Bridleway
- Restricted Byway
- Byway Open to All Traffic

O.S. Map NY 96 NE  
 Former District(s) Tyndedale  
 Parish(es) Sandhoe

Scale: 1/10,000

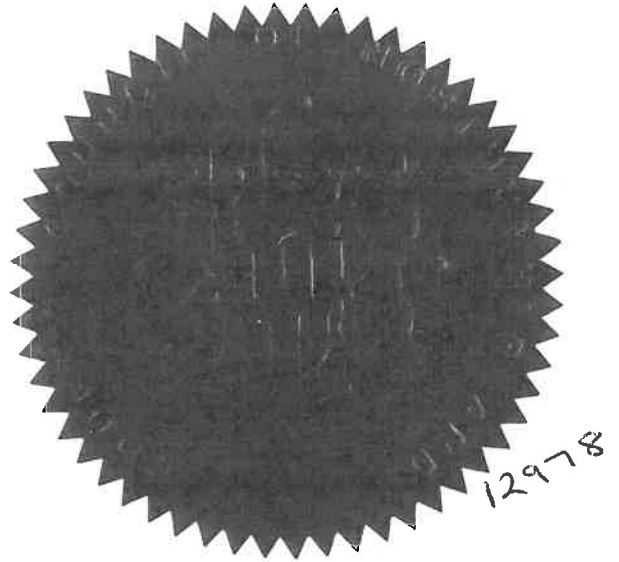
Date: January 2014

*WJG*

IN WITNESS whereof the Common Seal of the County Council of Northumberland was hereunto affixed on the 9<sup>th</sup> day of April 2014

**The Common Seal of the County Council of Northumberland** was hereunto affixed in the presence of:-

  
Duly Authorised Officer





## Order Decision

on papers on file

**by Heidi Cruickshank BSc (Hons), MSc, MIPROW**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 24 May 2017**

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### Order Ref: ROW/3172513

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Northumberland County Council Definitive Map Modification Order (No. 3) 2014.
- The Order is dated 9 April 2014 and proposes to record a public footpath to the south of Anick Old House in the Parish of Sandhoe. Full details of the route are given in the Order Map and Schedule.
- There were no objections outstanding when Northumberland County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs.

**Summary of Decision: The Order is not confirmed.**

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### Procedural Matters

1. When the Order was made and published three objections were received. The objections were made on the basis that the route should be recorded with the status of bridleway, in conjunction with the upgrading of a footpath to the east to join a bridleway running along Clarty Lane.
2. In July 2015 Sandhoe Parish Council - one of the three objectors - made a formal application to record a restricted byway over these routes. The Rights of Way Committee of Northumberland County Council resolved to make an Order to record bridleway rights over the application route, which included the route subject to this Order.
3. The Northumberland County Council Definitive Map Modification Order (No 34) 2016 ("the 2016 Order"), to record the bridleway, was made on 28 November 2016 and confirmed, as unopposed, on 20 February 2017. As a result, the objections to the 2014 Order were withdrawn and my determination is based on the evidence contained in the papers on file. I have not made a site visit.

### Main issues

4. The Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the 1981 Act") by reference to section 53(3)(c), which states that an Order should be made to modify the DMS for the area on the discovery of evidence which, when considered with all other relevant evidence available, shows:

*"(i) 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 to which this Part applies.*

...



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

### **Reasons**

5. As set out by section 53(3)(c)(i) of the 1981 Act an Order seeks to record "...a right of way which is not shown in the map and statement...". Due to the 2016 Order a public bridleway is now shown in the map and statement. A bridleway is a highway over which the public have a right of way on foot, on horseback or leading a horse, with or without the right to drive animals. The Countryside Act 1968 introduced a right for pedal cyclists to use bridleways.
6. I consider that as the right of way on foot is included within the bridleway, the rights to be recorded on the Definitive Map and Statement by this Order are already shown thereon. Section 53(3)(c)(iii) would allow modification of the particulars of the Definitive Statement. The Definitive Statement has been appropriately modified by the 2016 Order.
7. As a result, I do not consider that it is necessary for the Order before me to be confirmed. It is not capable of confirmation as the rights are already recorded.

### **Conclusions**

8. Having regard to these and all other matters raised in the written representations, I conclude that the Order should not be confirmed.

### **Formal Decision**

9. I have not confirmed the Order.

*Heidi Cruickshank*

**Inspector**