

RIGHTS OF WAY COMMITTEE

11 July 2017

PUBLIC RIGHTS OF WAY

MODIFICATION ORDER (No 30) 2016

ALLEGED BYWAYS OPEN TO ALL TRAFFIC Nos 20 & 17 (PARISHES OF BAMBURGH & NORTH SUNDERLAND)

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

Purpose of report

In this report, the Committee is asked for its views on the action now thought appropriate in determining the above mentioned Order.

Recommendations

It is recommended that the Committee agree that, unless all the objections are subsequently withdrawn, the Order, together with the objections, be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination, accompanied by a recommendation that the Order be confirmed, as made.

1.0 Background

1.1 The proposals in the Order seek to add, to the Definitive Map and Statement:

Byway Open to All Traffic No 20 (Parish of Bamburgh)

As a 6.5 to 7.8 metre wide byway open to all traffic, from the B1340 road, 250 metres north-east of Greenhill, in a south-westerly direction for a distance of 215 metres. Then as a 7.4 metre, narrowing to 6.3 metre, wide byway continuing in a south-westerly direction for a further 55 metres to Greenhill. Then as a 7.2 to 7.3 metre wide byway continuing in a south-westerly direction for a further 90 metres. Thereafter as a 5 metre wide byway in a south-westerly direction for a distance of 185 metre to a junction with Public Footpath No 9, then in a general southerly direction for a distance of 200 metres, crossing the Ingram Burn by means of a bridge / culvert, then in a south-westerly direction for a distance of 60 metres, then southerly direction for 170

metres, then westerly direction for 145 metres. Thereafter as a 5.7 metre wide byway, in a westerly direction, for a distance of 25 metres to the entrance to Fowberry. Thereafter as a 6 metre wide byway in a southerly direction for a distance of 215 metres. Thereafter as a 6.5 to 7 metre wide byway in an easterly direction for a distance of 125 metres to join Byway Open to All Traffic No 17, in the Parish of North Sunderland, 135 metres west of Saddlershall.

Byway Open to All Traffic No 17 (Parish of North Sunderland)

As a 7 metre wide byway open to all traffic, from Byway Open to All Traffic No 20, in the Parish of Bamburgh, 135 metres west of Saddlershall, in a southerly direction for a distance of 50 metres, then easterly direction for 100 metres. Thereafter as a 5 to 6.3 metre wide byway in an easterly direction for 360 metres. Then as a 5.5 to 7.5 metre wide byway in a south-easterly direction for a distance of 310 metres, to a junction with Public Footpath No 9, immediately north of Clashope. Thereafter as a 5 to 6.75 metre wide byway (narrowed, briefly, to 4 metres at the garden gate at Clashope), continuing in a south-easterly direction for a further 430 metres. Then as a 5 to 6.5 metre wide byway, continuing in a south-easterly direction for a distance of 140 metres to join the Shoreston Hall – Springhill section of U2018 road, 50 metres south-west of Shoreston Hall.

- 1.2 The proposals resulted from the discovery of historical documentary evidence by the County Council.
- 1.3 In September 2016, the Rights of Way Committee considered all the available evidence both in support and rebuttal of the public right of way and resolved that public vehicular rights had been reasonably alleged to exist over the U2021 and U2018 roads, between the B1340 road north-east of Greenhill and a three-way junction of the U2018 road, south-west of Shoreston Hall.

2.0 The Order

- 2.1 The proposal was the subject of a Definitive Map Modification Order, made on 1st December 2016, and advertised on 15th December 2016. Public advertisements were displayed in the local press and on site, and all known owners and occupiers of the land affected were notified, with 56 days given for formal objections / representations.

3.0 Objections

- 3.1 Four letters of objection / representation to Modification Order (No 30) 2016 were received.
- 3.2 By letter, dated 11 January 2017, Mr A Kind of Newcastle upon Tyne objected to this and several other Orders, stating:

“Re Definitive Map Modification Order (No 30) 2016 BOAT 20 & 17, Parishes of Bamburgh and North Sunderland 1 December 2016.

Reference your orders listed above, on behalf of the Trail Riders Fellowship Limited, I object to all on the ground that the routes do not meet the statutory test for byway status. I also make a representation to all the orders that I have some evidence of public carriageway status, which I wish to have considered as part of the determination of the orders.

“As always I am happy to discuss the available evidence and legal issues in all of these cases.”

- 3.3 By letter, dated 22nd January 2017, Mr A Johnson of Fowberry Farm, objected to the Order, stating:

“I am writing to you with regard to the proposed BOAT as in the definitive map modification order (no 30) 2016. My family and I farm at the above address and the proposed BOAT that concerns us greatly would run from our farm entrance across the fields along an old grass track to Greenhill Farm. I have been at Fowberry farm for over thirty years and this footpath has never been used by public vehicles, in fact my Family who previously farmed Greenhill Farm had never recorded this type of use. The track is regularly used by walkers as it is part of the Coastal Path and Saint Cuthbert’s way, Horse riders from the local riding school also regularly use this Track as do families staying at out Touring Caravan Site who use the track to walk to the beach.

“We must record our strongest objection to this proposed BOAT as we know that it is not only totally unsuitable for Motor Vehicles but would be extremely hazardous to both Pedestrian, animal and horse traffic as well to the many movements of Caravans and farm machinery through our Farm Gateway. In the narrow lane that leads to the proposed Boat passing vehicles it is already a hazardous operation and an increase in traffic would only make matters worse.

“In effect the proposed BOAT would provide a two way through route from Shorestone to the busy Bamburgh to Seahouses Coast Road creating a potentially lethal junction at the Greenhill Farm road end where it meets the Coast Road on a blind corner. It would only be a short matter of time before this new ‘rat run’ was utilized as a challenging leisure activity for the burgeoning ‘off road’ clubs as a ‘green lane’ which would no doubt feature on all Satellite Navigation equipment and could result in HGV traffic becoming trapped as there is no room for turning around. A further consideration is that as all of the track is unfenced and grazing animals would be free to roam this byway creating a further hazard to any vehicular traffic.

“Therefore my Family and I wish to record our strongest opposition to this proposal and desperately hope that the County Council will realise the valid reasons why this ancient track should not be defined as a BOAT.”

- 3.4 By email, on 9th February 2017, Ms C Johnson of Bamburgh Touring Caravans, Fowberry Farm, objected to the Order, stating:

"I write in regards to the order made on the 1st December 2016.

"I am the owner of Bamburgh Touring Caravans located at Fowberry Farm and it has been in existence for over 30 years. I wish to object to the order on the following grounds:

"1. There has been no claim or evidence that any traffic other than walkers and horse riders utilise the private access track and bridleway between Fowberry and the farm at Greenhills. Having run the business from there for the past 3 decades, My patrons walk dogs on a daily basis up and down the route and there is no evidence of any vehicles who have utilised this route bar the farm traffic for private access. Given there is no specific names or witness statements produced to prove to the contrary, I believe that there is no grounds to create a BOAT along this stretch of land and there is no grounds that can be relied upon as clear evidence of usage.

"2. The British Horse Society claim that they have members that utilise this route. They do not specify that they have come across any vehicles between the two farms and have merely confirmed that this is a bridleway and do not provide any supporting evidence to the proposal of a BOAT. Therefore I believe that this should not be able to be used as supporting evidence to the claim by the council of a BOAT.

"3. The cycling organisation that has produced their comment again cannot produce any evidence of named individuals that claim to have exercised a right up and down this route. Again, in my 30 years, nobody has utilised this route other than those people with authorised permission.

"4. During my occupation, the only people that have used the access road to Fowberry are the patrons of the caravan park and delivery drivers to Fowberry farm. Should this change and there be the use of through traffic it will significantly hinder my business and have a detrimental effect on its tranquil setting. There will increased noise and disturbance for the patrons who come for the quiet agricultural experience and its proximity to the coast line.

"5. The bridleway has narrow wicket gates and not passable by vehicle.

"6. I cannot see any evidence that the track indicated on the maps dating back to the middle of the 1700's that it is anything more than a footpath then bridleway.

"For the above reasons, I wish to make an objection."

3.5 By letter, dated 9th February 2017, George F White LLP objected to the Order on behalf of the Four and Twenty Committee of St Aiden's Church, stating:

"Definitive Map Modification Order number 30 2016 - Byway Open to All Traffic number 17 & 20

"I write further to the above order made on 1st December 2016.

"George F White LLP are the managing agents for the Four and Twenty Committee of St Aiden's Church and we wish to submit an objection to the order.

"The grounds on which this is made are as follows:

"1. There is no evidence on the estate records to demonstrate that this has been a byway open to all traffic.

"2. The estate has been owned by the Church for many hundreds of years which pre-date any map and evidence submitted by Northumberland County Council.

"3. No one can say with any degree of certainty that the use has been for any other person except for estate, farm traffic and walkers and horses. No permission has been granted and to the best of our knowledge during our management years, the proposed route between Fowberry and Greenhill Farms has purely been used by farm and estate staff for the purpose of the business.

"4. We have read the responses by the British Horse Society and they are clearly just a response in regards to use by equestrian riders and not specific to all traffic. They also give evidence of the type of route it is and clearly state that they ride along field edges and navigate through narrow wickets not along areas that would be suitable or are used by all traffic. Again, to the best of our knowledge, this access has not been used by anybody who does not have consent.

"5. I notice that the supporting evidence submitted by the cycling organisation, who have not provided specific details of anybody who has had the free use of this on a regular basis, and did not highlight the route as one of their cycle routes and again, to the best of our knowledge nobody has had the use of this track except for authorised and farm people.

"6. The Rambler's Association have also provided a generic response and not provided any detail to the proposed route. They have not supported their 'evidence' at all and do not refer to any traffic travelling freely between the two farms.

"7. The maps that are provided as evidence in the Rights of Way Committee meeting 13/09/2016 do not show any routes along along the suggested BOAT in the first instance in 1769, similarly the Belford RDC

Handover Map 1932 shows the adopted highway up to Fowberry and Greenhill farms respectively and no adopted highway between the two farms. It does show a footpath.

"8. For clarity we do not dispute that the route is a designated bridleway along both routes 17 & 20 however we do object to it being designated a BOAT.

"9. The existing tarmacked road from Shoreston Hall to Fowberry is an adopted highway that was installed to support the traffic accessing the caravan park at Fowberry farm. It was established for this purpose only and is supported by the fact that it is not suitable for through traffic due to the narrow single track road with 3 passing places along the whole stretch.

"10. The existing highways that link North Sunderland and Bamburgh have been in existence for many years and have always been a public road which people have used. This track between Greenhills and Fowberry has only been used as a Bridleway and not as a BOAT.

"11. These fields have been part of a grassland rotation for many years. The fields have gates on and have been shut when stock have been in. There is no evidence to demonstrate that there has been a byway open to all traffic.

"12. I have highlighted the length of the road that borders the estate land.

"13. We have no estate records to demonstrate that the portion of track between the two farms has been maintained at the public expense and when requested from the council there was similarly none forthcoming.

"14. At the ends of each road at Fowberry Farm and Greenhills, there are signs indicating that it is a dead end road and not available to vehicles.

"For the above reasons, we wish to object to the order made."

3.6 By letter, dated 21st April 2017, George F White LLP submitted the following supplementary information:

"Further to our meeting on the 14th April 2017 with the Johnson family at Fowberry Farm, I write to provide further representation on behalf of my clients, the Four and Twenty Committee of St. Aidan's Church, my clients and the Johnsons made their initial representations back in February 2017 and following our recent meeting with Alex and further discussions with my clients; we feel it prudent to make further representations to put forward our case on the matter.

"It is the Northumberland County Council's Rights of Way team that believe rights exist along the proposed route of the alleged Byway Open to all Traffic (no. 20 and 17) in the Parishes of Bamburgh and

North Sunderland. It is our view, and has been from the outset, that these proposed rights do not exist and never have over the sections of the route that has been identified previously between Fowberry Farm and Green Hill Farm.

“The committee believe that these rights have existed for a number of years, however they are unable to provide any concrete evidence to prove this except the map which Alex Bell referred to in our meeting, the extract from the County Council’s 1951 Highways Map. This map shows what has previously been shown on all maps as a dotted line and it appears that at this stage the unclassified road of U2021 was drawn on to the map with no evidence or notification to any of the members of the Four and Twenty (the owners of the land) or residents. Prior to this extract, in fact I can show clearly the chronological evidence that no rights existed over the land and they are as follows:

- Extract from Northumberland County Council 1 inch maps showing the restrictions under Sections 1 and 2 of the Restrictions of the Ribbon Development Act 1935, where it clearly shows that the road in blue and numbered number 27 stops at Fowberry Farm and does not continue on to Green Hill.
- Belford RDC handover map 1932, again this map clearly shows that there are two separate roads that go up until Fowberry Farm and then stops, and then a separate road then runs from Green Hill through his steading until the end of the drive. The solid line depicts the Ingram Burn on the map at this stage and there is a further dotted line which, it is presumed, that a footpath ran along this line east of Fowberry Farm and nothing more.
- The Northumberland Country Council Ordinance Survey Third Edition 6 inch map (1925-26) clearly shows that there are a number of dotted lines across the map, which denotes farm tracks as they run a number of directions, keeping close to field boundaries. For example, a track which runs from Shoresdon Cottage, north east and stops at the ‘W’ letter which is denoting a well. Equally up at Fowberry, there are a number of dotted lines which depict farm tracks but also they depict private access to the Fowberry Quarry which can clearly be seen and was utilised as a private means to and from the quarry in the removal of the stone. At no point does this map show or infer any rights to the public over the proposed route.

“During the meeting, I questioned Alex on this and put forward our evidence and all that could be implied was a repetition of the County Council’s claim and an inability to provide any evidence to the contrary apart from the 1951 map. I can understand and made comment to Alex at the time that an honest and genuine mistake may have been made by the Northumberland County Council team, that in the early 50s, as the quality of mapping was not as it is now, and a farm track that runs close to a field boundary may look like a road however should that individual have given their full attention to it, they would have seen that

this is not the case and that they were simply farm tracks and field boundaries. Post 1951, there is a map labelled 1:10,560 O.S Map 1970 which again shows that there are some dotted lines and no roads between Fowberry and Green Hill. Similarly, the further Ordinance Survey Map and statutory declarations made on the 27th May 2015 do not show any public rights over the area.

“The question ‘why would a road be built to Fowberry Farm if there was not a through route?’ was also asked by Alex Bell during the meeting. It was pointed out this road was installed to service a number of properties along the route, including Saddler’s Hall, New Shoreston, Clashop and a multitude of properties at Shoreston Hall including North Cottage. The approximate number of buildings that this road serves is between six and ten and thus would warrant a more substantial road than a farm track. The Farm has been in situ and under the ownership of the Church since at least 1330s, this predates any of the councils maps and a means of access would be required to the farm.

“Similarly to disprove the Council’s view that this section of the road has rights all the way from Fowberry to Green Hill, I point you in the direction of the junction at Shoreston Hall that leads towards Fowberry where a sign has been erected by the Council’s Highways team, which is a blue sign with a red and white ‘T’ denoting a dead end. I feel this is concrete evidence and significant proof that even the Council did not assume any rights existed to make this a Byway Open to all Traffic, or even an unclassified through road until it suited them to do so. I assume a similar sign is displayed at the junction to Green Hill, thus reinforcing our position.

“Similarly at the Green Hill end of the proposed Byway Open to all Traffic, the owner of the farmhouse, The Right Honourable Francis Watson Armstrong who has farmed at this location for a number of years, has been in the habit (since his arrival) of locking his gates to prevent any access past the steading itself. Thus adding weight to the already established evidence that no rights exist over the proposed route.

“I therefore request that my client’s initial objections stand and remain, and that this further letter is to be provided to the committee when it sits in July this year. I request that this evidence is included within the report that Mr Bell puts towards the committee.

“The Council’s evidence to try and prove that there have been rights upon the land has only been provided by the Council and there are no historical agreements, letters of confirmation from any of the landowners or the residents of the houses along the route.

“May I also add that the St Oswald’s Way has clouded the matter and lead myself, the Four and Twenty and the Johnson Family to believe that the inclusion of this on OS maps and others that this gave the public a right, however Alex confirmed with me that this was not the case and that St Oswald’s Way did not constitute a public right of way.

This is a matter that I feel needs clarifying to the legality of it and the rights, if any that it gives to people to follow the route over private land.

"I would be grateful if you could confirm receipt of this letter as an addition to the bank of evidence that will be submitted to the July report.

"Should you have any questions or queries please give me a call. I will look forward to hearing back from you in the very near future."

4. Discussion

- 4.1 The procedures under the 1981 Act empower this Authority to confirm proposals only where these are unopposed and no modification is needed. Where there is an unresolved objection, or where a modification, however minor is needed, the proposal must be submitted for determination by the Secretary of State for the Environment, Food and Rural Affairs.
- 4.2 The route has consistently been shown on Ordnance Survey maps since 1864/5 and is also identified on Greenwood's County Map of 1828 (but not on Armstrong's, Fryer's or Cary's Maps of 1769, 1820 or 1820-32. Most of the route was identified as a publicly maintainable road on the 1932 Belford Rural District handover map and also on the 1939 schedule and map prepared under the Restriction of Ribbon Development Act 1935. It was identified as a publicly maintainable highway on the Council Highway maps and schedules prepared in 1951, 1958, 1964 and 1974. Both the northern end of the route and the southern end of the route were shown as roads / tracks separate from the adjacent farm land on the Finance Act 1910 plan (further evidence pointing towards it being considered a vehicular public right of way). In the Statement and Statutory Declaration lodged with the Council under section 3196) of the Highways Act 1980, by the Lord Crewe's Charity, the landowner acknowledged the existence of a public vehicular right of way over the Shorston to Saddlershall (southern part of the route).
- 4.3 The route was identified as a maintainable public highway on the Council's List of Streets as at 2 May 2006 (and it was not shown on the Definitive Map and Statement as a public footpath, public bridleway or a restricted byway). On that basis officers consider that the Natural Environment and Rural Communities Act 2006 did not extinguish the public's motor vehicular rights over the route.
- 4.4 Mr Kind has objected on the basis that although this route is a motor vehicular right of way, it doesn't meet the statutory test for being recorded as a byway open to all traffic. A byway open to all traffic is a route over which the public has a motor vehicular right of way, but which is nevertheless used by the public more on foot, horseback and bicycle. The route is considered to be minimally used by with motor vehicles, by the general public. The road is not a through route for 'normal' motor vehicles. Between Fowberry and Greenhill there is not a metaled track. The landowner and his tenants, drive motor vehicles over the northern end, between the B1340 road and Greenhill Farm / Cottages. The southern end of the route provides direct access to 3 dwellings at Shorston and to Clashope Cottage slightly further to the north. It also

provides one means of access to a private road leading to New Shorston Farm. It provides access to Fowberry Farm (where there is also a small caravan site). Objector statements and user group consultation responses suggest that this route is used by significant numbers of walkers and by horseriders and cyclists too. The tarmac section of road south of Fowberry and most of the unsurfaced track north of Fowberry forms part of the Northumberland Coast Path and also St Oswald's Way (a long distance walking route between Holy Island and Heavenfield, near Hexham, launched in 2006).

- 4.5 The limited user evidence available was not a significant factor in reaching a decision to make an Order. Vehicular rights were considered to be reasonably alleged to exist on the basis of the historical documentary evidence. The user evidence did help to reinforce the view of officers that this route was one that was likely to be used by the public more on foot, horseback and bicycle, than with motor vehicles. User evidence is not a necessary requirement for this route being recorded as a byway open to all traffic. Motor vehicular use is not a requirement for a route to be recognized as a byway open to all traffic. The section of road between Greenhill and Fowberry might, conceivably, never have been used by the public with motor vehicles.
- 4.6 Mr A Johnson and Ms C Johnson have both argued that the route is unsuitable as a motor vehicular public right of way. Suitability is not, however, a test which can be applied when seeking to determine what public rights actually exist. Mr Johnson is also concerned about congestion arising from the route finding its way onto satellite navigation systems. Routes appear to find their way onto the satellite navigation systems used by motorists as a result of being on the List of Streets (the whole of this route has been on the List of Streets since at least 1958), not because they are byways open to all traffic on the Definitive Map.
- 4.7 Mr A Johnson states that the footpath across the fields has never been used by public vehicles. Ms C Johnson argues that the route is nothing more than a footpath / bridleway. George F White LLP state that their clients do not dispute that the route is a designated bridleway but do object to it being a byway open to all traffic. To be clear, no part of the alleged byway route is currently recorded or otherwise designated as a public bridleway or footpath. At present it has no recorded status. The route was not considered for inclusion on the original Definitive Map as a Footpath, Bridleway or Road Used as a Public Path, when this was being prepared in the 1950s, despite the fact that three public footpaths and one public bridleway terminated on the route. This indicates that the alleged byway route was considered to be a vehicular highway at that time.
- 4.8 The route is recorded on the List of Streets as a publicly maintainable highway, without its status being clear. Though a route may be publicly maintainable, this does not necessarily mean that the Council routinely (or even sporadically) carries out maintenance work on it. The route may be suitable for the 'ordinary traffic of the neighbourhood' without work being required. Neither a lack of maintenance by the Council nor lack of use by the public will remove any public rights (if they exist). The "No through road" signs are not at all uncommon on routes like this one, where the central section may be

unsuitable for normal traffic. The Council would argue that it is better to 'deter' a Bamburgh bound lorry driver at Shoreston, rather than letting them get all the way to Fowberry. The erection of "No through road" signs does not extinguish any public vehicular rights over the route.

- 4.9 George F White LLP has argued that, in the early 1950s, Council staff mistakenly identified the track between the existing public roads at Greenhill and at Fowberry as also being part of the road network. Although neither the Belford Rural District handover map of 1932, nor the Restriction of Ribbon Development Act schedule and map of 1939, identify a publicly maintainable road between Greenhill and Fowberry, all the Council's highway maps and schedules for the last 66 years (i.e. from 1951 onwards) do. Under the "presumption of regularity" it must be presumed that the extent of the public highways was (and subsequently has been) identified correctly, unless clear evidence of an error can be produced. There is no "presumption of a mistake".

5. Council's Position Regarding Submitting the Order to the Secretary of State

- 5.1 In view of the historical documentary evidence available, the County Council believes that, on the balance of probabilities, public vehicular rights do exist over the route identified in the Order, that the character of the route means that it is one which it would be appropriate to record on the definitive Map as a byway open to all traffic, and that the Order ought, therefore, to be confirmed, as made.

6. Background Papers

Local Services Group File: B/4/20z & B/32/17z

Definitive Map Modification Order (No 30) 2016.

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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 30) 2016

Byways Open to All Traffic Nos 20 & 17 (Parishes of Bamburgh & North Sunderland)

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 September 2016.
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 30) 2016.

Definitive Map Modification Order (No 30) 2016

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Definitive Map Modification Order (No 30) 2016

Description of Modification to Definitive Map and Statement

Former Berwick-upon-Tweed Borough

Bamburgh **Footpath No 9** **(NU 13 SE)**

Part I Map: The map is not affected.

Part II Statement: To be amended as follows:
From the Seahouses - Bamburgh road west of Sandhills in a south-easterly direction by Redbarns to join Byway Open to All Traffic No 20 (the Greenhill - Saddlershall road), south-west of Greenhill.

Bamburgh **Bridleway No 10** **(NU 13 SE)**

Part I Map: The map is not affected.

Part II Statement: To be amended as follows:
From Byway Open to All Traffic No 20 (the Greenhill - Saddlershall road) west of Saddlershall in a southerly and south-westerly direction along the North Sunderland Parish boundary to join the North Sunderland - Bamburgh road.

Bamburgh **Byway Open to All Traffic No 20** **(NU 13 SE)**

Part I Map: Adding thereto a byway open to all traffic, from a point marked R, on the B1340 road, 250 metres north-east of Greenhill, in a general south-westerly, southerly then easterly direction along the U2021 road, then part of the U2018 road for a distance of 1370 metres, to a point marked S, on alleged Byway Open to All Traffic No 17, in the Parish of North Sunderland, 135 metres west of Saddlershall.

Part II Statement: To be prepared as follows:
As a 6.5 to 7.8 metre wide byway open to all traffic, from the B1340 road, 250 metres north-east of Greenhill, in a south-westerly direction for a distance of 215 metres. Then as a 7.4 metre, narrowing to 6.3 metre, wide byway continuing in a south-

westerly direction for a further 55 metres to Greenhill. Then as a 7.2 to 7.3 metre wide byway continuing in a south-westerly direction for a further 90 metres. Thereafter as a 5 metre wide byway in a south-westerly direction for a distance of 185 metre to a junction with Public Footpath No 9, then in a general southerly direction for a distance of 200 metres, crossing the Ingram Burn by means of a bridge / culvert, then in a south-westerly direction for a distance of 60 metres, then southerly direction for 170 metres, then westerly direction for 145 metres. Thereafter as a 5.7 metre wide byway, in a westerly direction, for a distance of 25 metres to the entrance to Fowberry. Thereafter as a 6 metre wide byway in a southerly direction for a distance of 215 metres. Thereafter as a 6.5 to 7 metre wide byway in an easterly direction for a distance of 125 metres to join Byway Open to All Traffic No 17, in the Parish of North Sunderland, 135 metres west of Saddlershall.

North Sunderland Footpath No 9 (NU 23 SW)

Part I Map: The map is not affected.

Part II Statement: To be amended as follows:
 From Byway Open to All Traffic No 17 (the Fowberry - Shoreston Hall road) in a north-easterly direction along the west side of the Clashope Burn to join the Seahouses - Bamburgh road south of Monk's House.

North Sunderland Footpath No 10 (NU 13 SE)

Part I Map: The map is not affected.

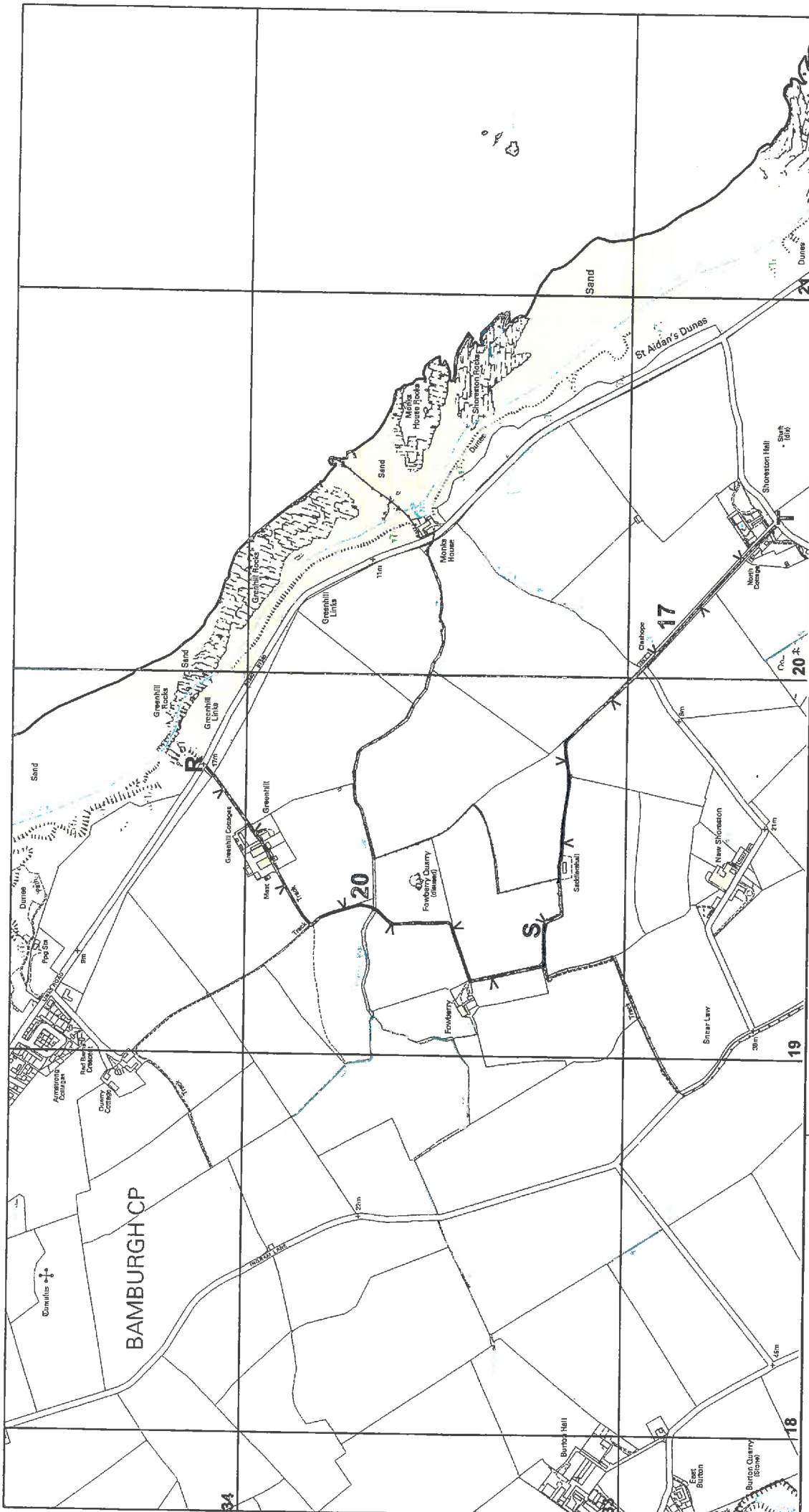
Part II Statement: To be amended as follows:
 From Byway Open to All Traffic No 17 (the Fowberry - Shoreston Hall) road east of Saddlershall in a southerly and westerly direction by New Shoreston to the North Sunderland - Bamburgh road south of Snear Law.

North Sunderland

Byway Open to All Traffic No 17

(NU 13 SE / 23 SW)

- Part I** **Map:** Adding thereto a byway open to all traffic, from a point marked S, on alleged Byway Open to All Traffic No 20, in the Parish of Bamburgh, 135 metres west of Saddlershall., in a general easterly then south-easterly direction along part of the U2018 road, for a distance of 820 metres, to a point marked T, on the Shoreston Hall – Springhill section of the U2018 road, 50 metres south-west of Shoreston Hall.
- Part II** **Statement:** To be prepared as follows:
As a 7 metre wide byway open to all traffic, from Byway Open to All Traffic No 20, in the Parish of Bamburgh, 135 metres west of Saddlershall, in a southerly direction for a distance of 50 metres, then easterly direction for 100 metres. Thereafter as a 5 to 6.3 metre wide byway in an easterly direction for 360 metres. Then as a 5.5 to 7.5 metre wide byway in a south-easterly direction for a distance of 310 metres, to a junction with Public Footpath No 9, immediately north of Clashope. Thereafter as a 5 to 6.75 metre wide byway (narrowed, briefly, to 4 metres at the garden gate at Clashope), continuing in a south-easterly direction for a further 430 metres. Then as a 5 to 6.5 metre wide byway, continuing in a south-easterly direction for a distance of 140 metres to join the Shoreston Hall – Springhill section of U2018 road, 50 metres south-west of Shoreston Hall.



Northumberland
 Northumberland County Council
 Infrastructure
 Local Services
 County Hall Morpeth Northumberland
 Telephone 0845 600 6400 NE61 2EF

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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.30) 2016

Public Footpath to be deleted	Public Footpath	Public Bridleway	Restricted Byway	Byway Open to All Traffic
<p>O.S. Map NU J3 SE/23 SW</p> <p>Definitive Map No 32/33</p> <p>Parish(es) Bamburgh/ North Sunderland</p> <p>Former District(s) Berwick</p> <p>Scale: 1/10,000</p> <p>Date: September 2016</p>				

IN WITNESS whereof the Common Seal of the County Council of Northumberland was hereunto affixed on the 1st day of December 2016

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



Duly Authorised Officer



LEGAL SERVICES

16 JAN 2017

REC'D

from Alan Kind
45 The Fairway
Gosforth
Newcastle upon Tyne
NE3 5AQ

e-mail mondard@mac.com

Legal Services Manager
Northumberland County Council
County Hall
Morpeth
NE61 2EF

11 January 2017.

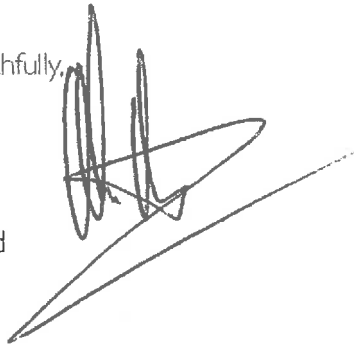
Dear Sir,

- Re: Definitive Map Modification Order (No 31) 2016. BOAT20, Parish of Doddington; BOAT 23 Parish of Doddington. 1 December 2016.
- Re: Definitive Map Modification Order (No 23) 2016. BOAT 161, Parish of Allendale. 1 December 2016.
- Re: Definitive Map Modification Order (No 30) 2016. BOAT20 & 17, Parishes of Bamburgh and North Sunderland. 1 December 2016.
- Re: Definitive Map Modification Order (No 29) 2016. BOAT38 & 32, Parishes of Beadnell & Newton-by-the-Sea. 1 November 2016.
- Re: Definitive Map Modification Order (No 32) 2016. BOAT21 & 57, Parishes of Doddington & Chatton. 1 December 2016.
- Re: Definitive Map Modification Order (No 26) 2016. BOAT31, 33 & 14, Parishes of Ilderton & Roddam. 21 November 2016.
- Re: Definitive Map Modification Order (No 27) 2016. BOAT32 & 15, Parishes of Ilderton & Roddam. 21 November 2016.
- Re: Definitive Map Modification Order (No 28) 2016. BOAT13, Parish of Roddam. 21 November 2016.
- Re: Definitive Map Modification Order (No 24) 2016. BOAT 155, Parish of Allendale. 28 November 2016.

Reference your orders listed above, on behalf of the Trail Riders Fellowship Limited, I **object to all** on the ground that the routes do not meet the statutory test for byway status. I also make a **representation to all** the orders, that I have some evidence of public carriageway status, which I wish to have considered as part of the determination of the orders.

As always I am happy to discuss the available evidence and legal issues in all of these cases.

Yours faithfully,

A handwritten signature in black ink, consisting of several vertical loops followed by a horizontal stroke and a long diagonal flourish extending to the right.

Alan Kind

Liam Henry
Legal Services Manager
Northumberland County Council
County Hall
Morpeh, NE612EF

Alistair Johnson
Fowberry Farm
Bamburgh
NE697AT

22nd January 2017

Dear Mr Henry,

I am writing to you with regard to the proposed BOAT as in the definitive map modification order (no 30) 2016. My family and I farm at the above address and the proposed BOAT that concerns us greatly would run from our Farm entrance across the fields along an old grass track to Greenhill Farm. I have been at Fowberry farm for over thirty years and this footpath has never been used by public vehicles, in fact my Family who previously farmed at Greenhill Farm had never recorded this type of use. The Track is regularly used by walkers as it is part of The Coastal path and Saint Cuthbert's way, Horse riders from the local riding school also regularly use this Track as do families staying at our Touring Caravan Site who use the Track to walk to the beach.

We must record our strongest objection to this proposed BOAT as we know that it is not only totally unsuitable for Motor Vehicles but would be extremely hazardous to both Pedestrian, animal and horse traffic as well to the many movements of Caravans and Farm machinery through our Farm Gateway. In the narrow lane that leads to the proposed Boat passing vehicles is already a hazardous operation and an increase in traffic would only make matters worse.

In effect the proposed BOAT would provide a two way through route from Shorestone to the busy Bamburgh to Seahouses Coast Road creating a potentially lethal junction at the Greenhill Farm road end where it meets the Coast Road on a blind corner. It would only be a short matter of time before this new 'rat run' was utilized as a challenging leisure activity for the burgeoning 'off road' clubs as a 'green lane' which would no doubt feature on all Satellite Navigation equipment and could result in HGV traffic becoming trapped as there is no room for turning around. A further consideration is that as all of the track is unfenced and grazing animals would be free to roam this byway creating a further hazard to any vehicular traffic.

Therefore my Family and I wish to record our strongest opposition to this proposal and desperately hope that the County Council will realise the valid reasons why this ancient track should not be defined as a BOAT.

Yours sincerely
Alistair Johnson



LEGAL SERVICES

25 JAN 2017

REC'D

Barbara McCabe

From: Fowberry Farm
Sent: 09 February 2017 16:43
To: barbara.mccabe@northumberland.gov.uk
Subject: DEFINITIVE MAP MODIFICATION ORDER NUMBER 30 2016 – BYWAY OPEN TO ALL TRAFFIC NUMBER 17 & 20

Dear Barbara,

I write in regards to the order made on the 1st December 2016.

I am the owner of Bamburgh Touring Caravans located at Fowberry Farm and it has been in existence for over 30 years. I wish to object to the order on the following grounds:

1. There has been no claim or evidence that any traffic other than walkers and horse riders utilise the private access track and bridleway between Fowberry and the farm at Greenhills. Having run the business from there for the past 3 decades, My patrons walk dogs on a daily basis up and down the route and there is no evidence of any vehicles who have utilised this route bar the farm traffic for private access. Given there is no specific names or witness statements produced to prove to the contrary, I believe that there is no grounds to create a BOAT along this stretch of land and there is no grounds that can be relied upon as clear evidence of usage.
2. The British Horse Society claim that they have members that utilise this route. They do not specify that they have come across any vehicles between the two farms and have merely confirmed that this is a bridleway and do not provide any supporting evidence to the proposal of a BOAT. Therefore I believe that this should not be able to be used as supporting evidence to the claim by the council of a BOAT.
3. The cycling organisation that has produced their comment again cannot produce any evidence of named individuals that claim to have exercised a right up and down this route. Again, in my 30 years, nobody has utilised this route other than those people with authorised permission.
4. During my occupation, the only people that have used the access road to Fowberry are the patrons of the caravan park and delivery drivers to Fowberry farm. Should this change and there be the use of through traffic it will significantly hinder my business and have a detrimental effect on its tranquil setting. There will increased noise and disturbance for the patrons who come for the quiet agricultural experience and its proximity to the coast line.
5. The bridleway has narrow wicket gates and not passable by vehicle.
6. I cannot see any evidence that the track indicated on the maps dating back to the middle of the 1700's that it is anything more than a footpath then bridleway.

For the above reasons, I wish to make an objection.

Yours sincerely,

Christina Johnson
Bamburgh Touring Caravans
www.bamburgh-touring-caravans.co.uk

GEORGE F. WHITE

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Duns	t 01361 883488

Barbara McCabe
Northumberland County Council Legal Service Unit
County Hall
Morpeth
Northumberland
NE61 2EF

Direct Dial: 01665 600160
Mobile: 07860 744249
Email: georgewhite@georgefwhite.co.uk
Our Ref: GFW/
Your Ref:
Date: 9 February 2017

Barbara.mccabe@northumberland.gov.uk

Dear Sir/Madam

DEFINITIVE MAP MODIFICATION ORDER NUMBER 30 2016 – BYWAY OPEN TO ALL TRAFFIC NUMBER 17 & 20

I write further to the above order made on the 1st December 2016.

George F White LLP are the managing agents for the Four and Twenty Committee of St Aiden's Church and we wish to submit an objection to the order.

The grounds on which this is made are as follows:

1. There is no evidence on the estate records to demonstrate that this has been a byway open to all traffic.
2. The estate has been owned by the Church for many hundreds of years which pre-date any map and evidence submitted by Northumberland County Council.
3. No one can say with any degree of certainty that the use has been for any other person except for estate, farm traffic and walkers and horses. No permission has been granted and to the best of our knowledge during our management years, the proposed route between Fowberry and Greenhill Farms has purely been used by farm and estate staff for the purpose of the business.
4. We have read the responses by the British Horse Society and they are clearly just a response in regards to the use by equestrian riders and not specific to all traffic. They also give evidence of the type of route it is and clearly state that they ride along field edges and navigate through narrow wickets not along areas that would be suitable or are used by all traffic. Again, to the best of our knowledge, this access has not been used by anybody who does not have consent.
5. I notice that the supporting evidence submitted by the cycling organisation, who have not provided any specific details of anybody who has had the free use of this on a regular basis, and did not highlight the route as one of their cycle routes and again to the best of our knowledge nobody has had use of this track except for authorised estate and farm people.
6. The Ramblers' Association have also provided a generic response and not provided any detail to the proposed route. They have not supported their 'evidence' at all and do not refer to any traffic travelling freely between the two farms.
7. The maps that are provided as evidence in the Rights of Way Committee meeting 13/09/2016 do not show any routes along the suggested BOAT in the first instance in 1769, similarly the Belford RDC Handover Map 1932 shows the adopted highways up to Fowberry and Greenhill farms respectively and no adopted highway between the two farms. It does show a footpath.
8. For clarity we do not dispute that the route is a designated bridleway along both routes 17 & 20 however we do object to it being designated a BOAT.

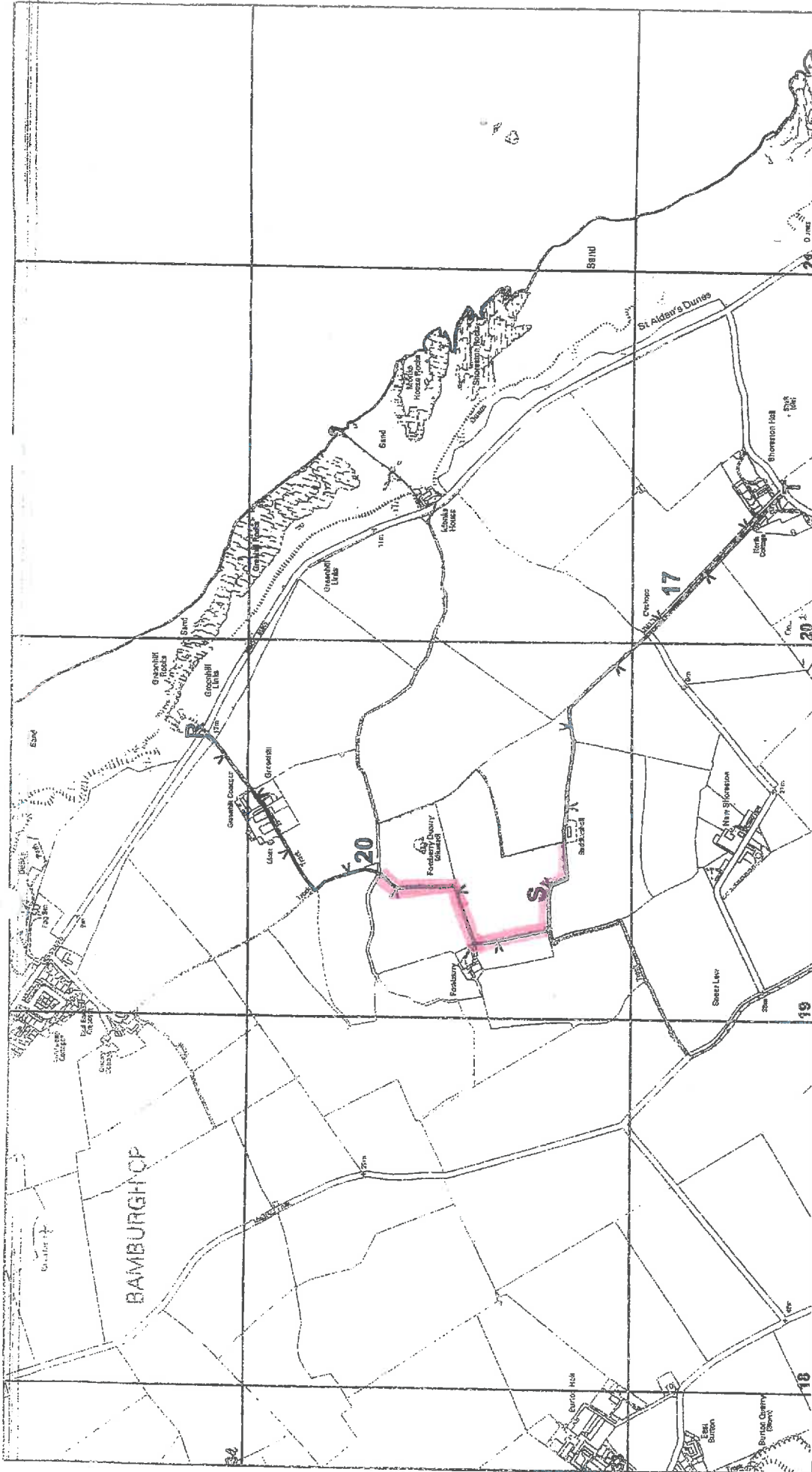
9. The existing tarmacked road from Shoreston Hall to Fowberry is an adopted highway that was installed to support the traffic accessing the caravan park at Fowberry farm. It was established for this purpose only and is supported by the fact that it is not suitable for through traffic due to the narrow single track road with 3 passing places along the whole stretch.
10. The existing highways that link North Sunderland and Bamburgh have been in existence for many years and have always been a public road which people have used. This track between Fowberry and Greenhills has only been used as a Bridleway and not a BOAT
11. These fields have been part of a grassland rotation for many years. The fields have gates on and have been shut when stock have been in. There is no evidence to demonstrate that there has been a byway open to all traffic.
12. I have highlighted the length of the road that borders the estate land.
13. We have no estate records to demonstrate that the portion of track between the two farms has been maintained at the public expense and when requested from the council there was similarly none forthcoming.
14. At the ends of each road at Fowberry Farm and Greenhills, there are signs indicating that it is a dead end road and not available to vehicles.

For the above reasons, we wish to object to the order made.

Yours sincerely



Hamish Smales
For and on behalf of George F White LLP



<p>NORTHUMBERLAND Northumberland County Council Infrastructure Local Services County Hall Morpeth Northumberland Telephones 0845 600 6400 NE51 2EF</p> <p><small>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Crown. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior written permission of the Ordnance Survey. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. NORTHUMBERLAND COUNTY COUNCIL - OS Licence No. 100049046</small></p>	<p>Wildlife and Countryside Act, 1981</p> <p>Definitive Map of Public Rights of Way for the County of Northumberland</p>	<p>The Northumberland County Council</p> <p>Modification Order (No.30) 2016</p>	<p>Public Footpath to be deleted Public Footpath Public Bridleway Restricted Byway Byway Open to All Traffic</p> <p>U.S. Map NU 13 SE1 23 SW Former district(s) Berwick</p> <p>Definitive Map No 32/33 Position Bamburgh/ North Sunderland</p> <p>Scale: 1/10,000 Date: September 2016</p>
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N. M. Mason