

RIGHTS OF WAY COMMITTEE

12 September 2017

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

ALLEGED PUBLIC BRIDLEWAY No 21 PARISH OF CHATTON

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 to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over existing Public Footpath No 43, between the northern end of existing Public Bridleway No 21 west of Henlaw, and the B6349 road at Fowberry Bridge.

Recommendation

It is recommended that the Committee agree that there is insufficient evidence to indicate that, on a balance of probabilities, public bridleway rights have been shown to exist over the route H-G.

1.0 BACKGROUND

- 1.1 By virtue of section 53 of the Wildlife and Countryside Act, 1981 the County Council is required to keep the Definitive Map and Statement under continuous review and make modification orders upon the discovery of evidence, which shows that the map and statement need to be modified.
- 1.2 The relevant statutory provision which applies where an existing public footpath, on the Definitive Map and Statement, is being upgraded to public bridleway status, on the basis of historical documentary evidence, is Section 53(3)(c)(ii) of the Wildlife and Countryside Act, 1981. This requires the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a highway shown in the map and statement as a highway of a particular

description ought to be there shown as a highway of a different description”

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

2.0 PUBLIC EVIDENCE

- 2.1 Ever since the Definitive Map of Public Rights of Way was first published, in 1962, an anomaly has existed in relation to this public right of way between Chatton and Fowberry Bridge. Existing Public Bridleway No 21 and Public Footpath No 43 form one continuous route, without any interconnections with any other recognized public rights of way. The 580 metre long bridleway section is of very limited benefit to horse riders and cyclists because it ends at the unremarkable point marked H, 310 metres west of Henlaw farm. It’s general north-westerly, 1535 metre long, continuation is just a public footpath (passage along which is limited by 2 steps stiles and a short flight of narrow stone steps).
- 2.2 The change in right of way status does not occur at a land ownership boundary or at a parish or other administrative boundary - the most common reasons for public bridleways terminating, abruptly, on public footpaths.
- 2.3 The route was originally recorded on the Definitive Map as Public Bridleway / Footpath No 21 (i.e. a single right of way that was part bridleway and part footpath. For administrative convenience, in 2005, the Council split the path into two, renumbering the footpath section as Public Footpath No 43.

3. LANDOWNER EVIDENCE

- 3.1 In October 1997, The Northumberland Estates deposited Maps and a Statement under provisions contained within section 31(6) of the Highways Act 1980. They followed this up with Statutory declarations received in January 1998, May 2003 and May 2013. Under section 31(6), a landowner may deposit, with the County Council, documents setting out the extent of their land ownership, identifying the public rights of way which they acknowledge exist over that land and denying the existence of any other public rights of way. If the deposits are made correctly, they prevent the public from acquiring additional rights of way based upon any unchallenged use that takes place after the Declarations were received by the Council. The Northumberland Estates’ deposits indicated that the Estate only acknowledged the existence of public footpath rights over the route of existing Public Footpath No 43 (Parish of Chatton).

3.2 By email, on 26th August 2014, Mr P Hall responded to the consultation (on behalf of Fowberry Farms), stating:

“Reference Plan 20, Parish of Chatton, Bridleway No 21 (upgrade of footpath 43).

“I walked the route of this footpath this morning and would like to submit an objection to it being upgraded to a bridle path, if I can?

“I think Mr O'Toole at Fowberry Tower would also have objections to horses passing over his land on this footpath.

“My reasons being.

1. The footpath enters Fowberry Tower land at the ancient bridge, down some narrow stone steps. Not suitable for horses. (see photo).
2. The footpath crosses a small, piped, culvert at Fowberry Tower. The structural integrity of this is not known.
3. The footpath crosses across one of Fowberry Farms Cereal crops. Horse riders have scant regard for the ground below them and this field would certainly be churned up or compacted depending on the season of the year.
4. The footpath follows a line parallel with the river, south east of Fowberry Tower, along the flood bank. The banking is already badly eroded due to flash flooding. I believe the use of this footpath as a bridle path would add to that erosion.

“Can you let me have your thoughts and are these valid reason for objecting?”

3.3 DJ Spours and Sons of Twizell Farm returned a plan (received 11 September 2014) identifying that they farmed the majority of the land crossed by the alleged bridleway.

3.4 By letter, dated 16th September 2014, Northumberland Estates responded to the consultation (regarding this and many other routes), enclosing a marked up plan and stating:

“Whilst I appreciate what is trying to be achieved here, the Estate has already made their statement and had it lodged with regard to any public rights of access across the Estate land. The estate is of the opinion that no rights of access additional to those that we have already granted do exist. Furthermore, we would be extremely disappointed if any additional rights of way were created and quite clearly routes have not been utilised.

“As requested I return the plans illustrating the extent of the Estate's ownership. All of the rights of way which have been identified are utilised by the Estate, their tenants and gamekeepers for dealing with the man management and land management of the land. They are not by-ways open to all traffic and they are not utilised as such. White House Folly and White House are within the core area of the Estate and

are managed appropriately. Similarly, there is no access from the public beyond The Whinney, which is utilised by the landowner. There is not a through road to any other point and is not to be used as such. These are private Estate roads maintained by the Estate for use by the Estate, their tenants and people who have permission to use the routes by the Estate or their tenants.

“I would think it highly inappropriate that any additional rights of access were created and in light of the statement we have made we would wish to have the full right of objection and have the opportunity to discuss all issues with every user that the Estate have given consent to in order to prevent any additional access being created.

“At this stage we would have not visited all our tenants, but I am in the process of arranging meetings to visit them in order to obtain further information to submit. I doubt we will be able to achieve this by 31st October due to the large area within the Estate’s ownership.”

3.5 In a further letter, dated 24th October 2014, Northumberland Estates responded to the consultation, enclosing a marked up plan and stating:

“Further to your correspondence from July relating to the various rights of way across Estate land, for which we have previously come back to confirm occupation of, I now write to confirm having discussed the issue with our tenants, the position on the ground. I do believe you have already received objections to some proposals but can provide the following information on the attached.

“The view as previously stipulated of the Estate is that private routes should not be byways open to all traffic, they are not maintained by any other party and use in the vast majority of locations is restricted to that of the Estate, its tenants, gamekeepers, etc. for dealing with its maintenance and management of the Estate land. Some of the areas are completely inaccessible and would not be able to be passable, it would be inappropriate to enable a route to be re-opened or created causing detriment to the environment and sensitive wildlife in some of the locations suggested.

“If this matter was to progress any further obviously the Estate would take legal advice with regard to this.”

“Parish of Chatton Bridleway No 21 (upgrade of FP 43)

The Estate object strongly as will our tenant with regard to the proposal to upgrade a footpath to a bridleway. The route is impassable on foot never mind being totally unsuitable for horses. Our tenant has stipulated that the route is never used by horses and generally never used by pedestrians. The section of track leading directly from Chatton further south east is not used by horses due to the condition of the track.

“It is believed that the extent of the bridleway is as far as the acre strips used to exist where villages were rented small areas of land and the

access was simply as far as those parcels of land existed. Farming practices have changed and the land is now farmed by larger farmers and therefore there is no requirement for bridleway access to exist never mind being extended.”

- 3.6 By letter, dated 24th December 2014, Burnetts (Solicitors) responded to the consultation on behalf of the owner of Fowberry Tower, stating:

“We write further to your letter to Mr O’Toole dated 20 November 2014, a copy of which we attach. We are responding on behalf of the property owner of Fowberry Tower.

“We enclose a copy of the plan marked with the extent of our client’s ownership as requested.

“Please could you advise as to the proposed width of the proposed bridleway, and provide a copy of the historic map referred from 1860 and any other further evidence which you have to support the proposed modification.

“Given the season, and that your letter has just come to our attention, we will not be able to reply substantively to your letter until early January, and in any event not until we have sight of the supporting evidence. Without prejudice to our client’s position, we would ask you to note that it is likely our client will raise objections to the proposed modifications.”

- 3.7 By letter, dated 9th April 2015, Burnetts (Solicitors) responded to the consultation on behalf of the owner of Fowberry Tower, stating:

“We write further to our letter dated 23 December 2015 and our subsequent telephone conversation.

“I have now had an opportunity to walk the bridleway (no 21) and footpath (no 43), review some historic maps and speak further to the occupiers of Fowberry Tower. The owners of Fowberry Tower would like me to make a more formal objection on their behalf.

In this regard I would ask you to note the following:

“i. It is clear on the ground where the bridleway changes to footpath. It seems to me the bridleway may have been used to access the neighbouring farm (Henlaw), as there is a farm track which leads from the end of the bridleway to, it would appear, some farm buildings. So I would not necessarily agree with the statement in the schedule which accompanied your July 2014 consultation letter that the bridleway ends at an “Unremarkable point” and that the most credible route for its continuation is that of existing footpath no 43.

“ii. My client has confirmed that they are not aware of anyone using the existing footpath for passage by horse or bike during their ownership. In fact there are currently several styles and pedestrian gates together

with low hanging vegetation, on the route which would make this unfeasible, certainly in the recent past.

“iii. As pointed out in the schedule accompanying your July 2014 consultation letter, the footpath is clearly marked as such on the second and third edition OS maps (extracts attached). We have yet to receive from you a copy of the 1st edition OS as requested, but are seeking to obtain a copy. In any event any contrary markings on the 1st edition OS map alone are not sufficient to warrant the upgrading of the footpath to a bridleway, particularly in light of the other evidence.

“iv. No new evidence is available which was not available at the time the definitive map was prepared to justify the change in the nature of the way.

“v. The footpath ends at the bridge which I have marked “x” on the attached plans where access to the main road is obtained by several narrow steps, a photo of which I attach. This would practically prevent access by bike or by horse, and is clearly for the purposes of access by foot only.

“In the absence of further evidence we do not agree there is sufficient proof to support the proposed upgrade.”

- 3.8 By letter, dated 27th April 2015, Burnetts (Solicitors) responded to the consultation on behalf of the owner of Fowberry Tower, stating:

“Further to my letter dated 9 April 2015 I have now received a copy of the first edition OS map and enclose an extract for your convenience. I note that the parcel in question appears to be marked with a double pecked line. I note that as per the attached description from the ordinance survey maps manual this indicates that the path is fenced but does conclude that it is a bridal way, and I do not therefore feel supports any proposed upgrade, particularly in light of subsequent editions of the OS map.”

4. CONSULTATION

- 4.1 In July 2014, the Council carried out a consultation with the Parish Council, known owners and occupiers of the land, the local County Councillor and the local representatives of the “prescribed and local organisations” listed in the Council’s “Code of Practice on Consultation for Public Path Orders”. Four replies were received and are included below.
- 4.2 By letter, dated 17th October 2014, Ms E Bamford responded to the consultation, on behalf of the Ramblers’ Association, stating:

“My comments are attached. Where we have no facts or evidence and no objections I have written No Comment. We would support these additions.

“Parish of Chatton Bridleway 21 I think there may be an historic reason for the change of status from BW to FP at this point. North of Chatton there are a series of small fields which I suspect were village fields. The change of status is at the entry to the last field. Up to this point it has been a track between hedges, there it changes to an edge of field and then cross field paths. FP 43 would be very difficult in parts for higher rights users. The cross field path just before the Till is very boggy and often has a significant area of lying water. It then runs along the top of the narrow protective dyke by the side of the Till for about 200m.”

- 4.3 By letter, dated 28th October 2014, Mr D Roberts responded to the consultation, on behalf of the Cyclists’ Touring Club, stating:

“I attach comments and evidence which I judge to be relevant on behalf of Cyclists Touring Club.

“To clarify locations I attach annotated copies of your plans. These are confined to routes of which I have knowledge. Where I have no knowledge of a route or where I know it is surfaced with tarmac and therefore suitable for ALL TRAFFIC I have omitted any comment.

“Where an obstruction has been encountered I have endeavoured to provide as accurate date as possible.

“Routes traced in red have been cycled without problem. [The route of alleged Public Bridleway No 21 (i.e. existing Public Footpath No 43) is NOT highlighted on Mr Roberts’ plans].

“I have commented on issues where I consider an omission has been made in your consultation.

“No distinction has been made between Restricted and All Traffic Byways.”

- 4.4 By email, on 6th November 2014, Ms S Rogers responded to the consultation, on behalf of the British Horse Society, stating:

“Chatton Parish

“This route shown on plan 20 has been checked on the ground and found to only need two stiles to be changed to bridle gates in order to make it suitable for use by horse riders though it would benefit from a couple of small diversions. At its exit at G, it currently passes up stone steps to reach the road but a few yards along there is a field gate which could be used. At another point where it crosses a field diagonally to reach the river’s edge the ground crossed by the path is boggy and rough but it is easy to go round on better ground. In addition, at present two fields crossed by this path are ploughed out but this should be corrected whether it is upgraded or not.

“The BHS supports the upgrading of this footpath in order to get rid of yet another anomaly of a bridleway changing into a footpath for no good reason. There is nothing at this point to explain why it should change status. This suggests that it was a drafting error in the 1950s. It would also provide a pleasant circular route, along with some quiet country roads, for local riders.”

- 4.5 By email, on 14th November 2014, Tillside Parish Council responded to the consultation, stating:

“Tillside Parish Council have decided not to make a response to the Rights of Way pre Order consultation.”

5. DOCUMENTARY EVIDENCE

- 5.1 A search has been made of archives relating to the area. Evidence of County Maps and O.S. Maps was inspected, and the following copies are enclosed for consideration.

1769 Armstrong's County Map

There is no evidence of a path or track approximating to the route of either existing or alleged Bridleway No 21.

1820 Fryer's County Map

There is no evidence of a path or track approximating to the route of either existing or alleged Bridleway No 21.

1820-32 Cary's Map

There is no evidence of a path or track approximating to the route of either existing or alleged Bridleway No 21.

1828 Greenwood's County Map

There is no evidence of a path or track approximating to the route of either existing or alleged Bridleway No 21.

1844 Chatton Tithe Award

There is clear evidence of an enclosed track over the southern end of the existing public bridleway. This track is identified by the reference number “374”. In the accompanying Book of Reference this relates to “Public Roads, Cross Roads, Cottage Lands, Occupation Roads and Waste ground in and near to the Village in that part of the Township lying west of the River Till.” The section of alleged Bridleway No 21 (i.e. existing Public Footpath No 43) approaching the River Till is labelled “Foot Road”.

1862 Ordnance Survey Map: Scale 1:2500 (partial map coverage only)

There is clear evidence of a path or track over the route of existing Bridleway No 21 and part of alleged Bridleway No 21. The enclosed Bridleway section is identified by the reference number "104". In the accompanying Book of Reference this relates to "Private Road".

1864/5 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of existing Bridleway No 21 and alleged Bridleway No 21. Only the southern end of existing Public Bridleway No 21 appears to be enclosed.

c.1897 Ordnance Survey Map: Scale 1:2500

There is clear evidence of a path or track over the route of existing Bridleway No 21 and alleged Bridleway No 21. Only the southern end of existing Public Bridleway No 21 appears to be enclosed. A short distance north of the existing bridleway-footpath transition, and again closer to the Fowberry Tower end, the path is annotated with "FP".

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of existing Bridleway No 21 and alleged Bridleway No 21. Only the southern end of existing Public Bridleway No 21 appears to be enclosed. A short distance north of the existing bridleway-footpath transition, and again closer to the Fowberry Tower end, the path is annotated with "FP".

Finance Act 1910 plan

These plans use the Ordnance Survey 1:2500 2nd Edition (c.1897) as their base. The path / track is not identified as being separate from the surrounding farm land (if it had been this would have been an indication of public vehicular rights).

c.1924 Ordnance Survey Map: Scale 1:2500

There is clear evidence of a path or track over the route of existing Bridleway No 21 and alleged Bridleway No 21. The full extent of existing Public Bridleway No 21 now appears to be enclosed. At a point roughly halfway along the alleged Bridleway No 21 section, the path is annotated with "FP".

Definitive Map – original Survey Schedule & Map

On the Survey map, existing Public Bridleway No 21 is identified as public bridleway, whilst alleged Bridleway No 21 is shown as public footpath.

On the Survey Schedule the status of the route is identified as being "BR - FP".

Draft Map

Existing Public Bridleway No 21 is identified as public bridleway, whilst alleged Bridleway No 21 is shown as public footpath.

Provisional Map

Existing Public Bridleway No 21 is identified as public bridleway, whilst alleged Bridleway No 21 is shown as public footpath.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of existing Bridleway No 21 and alleged Bridleway No 21. The full extent of existing Public Bridleway No 21 appears to be enclosed. At three locations along along alleged Bridleway No 21, the route is annotated with "FP".

1962 Original Definitive Map

Existing Public Bridleway No 21 is identified as public bridleway, whilst alleged Bridleway No 21 is shown as public footpath.

1980/81 Ordnance Survey Map: Scale 1:10,000

There is clear evidence of a path or track over the route of existing Public Bridleway No 21, but only evidence of a path or track over the Fowberry Tower end of alleged Bridleway No 21. The route of existing Bridleway No 21 is shown as an enclosed "Track".

1997 Section 31(6) Declaration (The Northumberland Estates)

In the Statement and subsequent Statutory Declarations the Estate recognized the existence of public footpath rights, only, over the route of existing Public Footpath No 43 (i.e. alleged Public Bridleway No 21). They did recognize the existence of public bridleway rights over the route of existing Public Bridleway No 21.

5.2 The original Definitive Statement for Public Bridleway / Footpath No 21 describes the route of the bridleway as follows:

"From the Holborn - Chatton Road at Chatton in a north-westerly direction to the Belford - West Weetwood Road at Fowberry Bridge."

Although the Statement recognizes that the path is part "FP" and part "BR", it does not seek to explain the change in status or identify where this change takes place.

6. SITE INVESTIGATION

- 6.1 From a, now, entirely unremarkable point marked H, 310 metres west of Henlaw, a 5 metre wide grass headland track proceeds in a north-westerly direction for a distance of 80 metres to a field gate. Thereafter a 1.5 to 2 metre wide grass headland track continues in a north-westerly direction for a further 70 metres. Thereafter an unmarked path proceeds in a westerly direction, across two fields, for a distance of 570 metres. It then proceeds along a 3-4 metre wide corridor in a north-westerly direction for a distance of 80 metres. Thereafter, and restricted by two wooden step stiles, a 2 metre wide earth / grass surfaced track continues in a north-westerly and northerly direction along the top of a flood defence bund for a distance of 210 metres. The route continues as an unmarked crossfield path in a westerly direction for a distance of 290 metres to a wicket gate. A 1 to 1.5 metre wide stone / earth surfaced path then proceeds in a general northerly direction along the west bank of the River Till for a distance of 235 metres, and passing under the B6349 road / Fowberry Bridge, to join the B6349 road at the west end of Fowberry Bridge. To get up to the road, the path proceeds up 4 old 0.5 metre wide stone steps. The path proceeds through a 3 metre wide tunnel under Fowberry Bridge. The 65 metre long continuation of this tunnel track joins the B6349 road at a field gate about 30 metres north-west of the steps. A sign on the field gate says "Private Land No Public Right of Way".

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In July 2016, a copy of the report was circulated to those landowners / occupiers who responded to the initial consultation for their comments.
- 7.2 By letter, dated 16 August 2017, the Estate Manager of Fowberry Farms Ltd made the following comments:

"Alleged Public Bridleway No 21, Parish of Chatton.

"My name is Kevin Cumming and I am the Estate Manager at Fowberry Estate near Wooler. I am writing regarding the above matter and in response to your letter dated 21 July 2017.

"I see from the recommendation in your report that you have found that there is insufficient evidence to suggest that a bridleway has historically existed where there is currently a public footpath. As Estate Manager of the land where a significant part of this footpath is found and writing on behalf of the Estate owners Dr Mark Milburn and Mrs Erika Bruder, I wish to lend my support to these findings.

"Although I cannot speak with certainty over the historical use of the footpath, in recent history this path has not been used as a bridleway and there is no evidence to suggest that it has been.

“There are sections of the path where it would be extremely difficult for a horse to pass and I feel that this also suggests that it is unlikely that a bridleway ever existed here.

“I would also refer back to the email you received from my predecessor Mr P Hall on 26 August 2014 which is included in your review and outlines the reasons we feel no bridleway should be permitted.”

8. DISCUSSION

- 8.1 Section 53 (3)(c)(ii) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:

that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.

Because this route is already recorded on the Definitive Map and Statement (as a public footpath) it is necessary to apply the higher “balance of probabilities” test to this proposal, as opposed to the lower level “reasonably alleged” test.

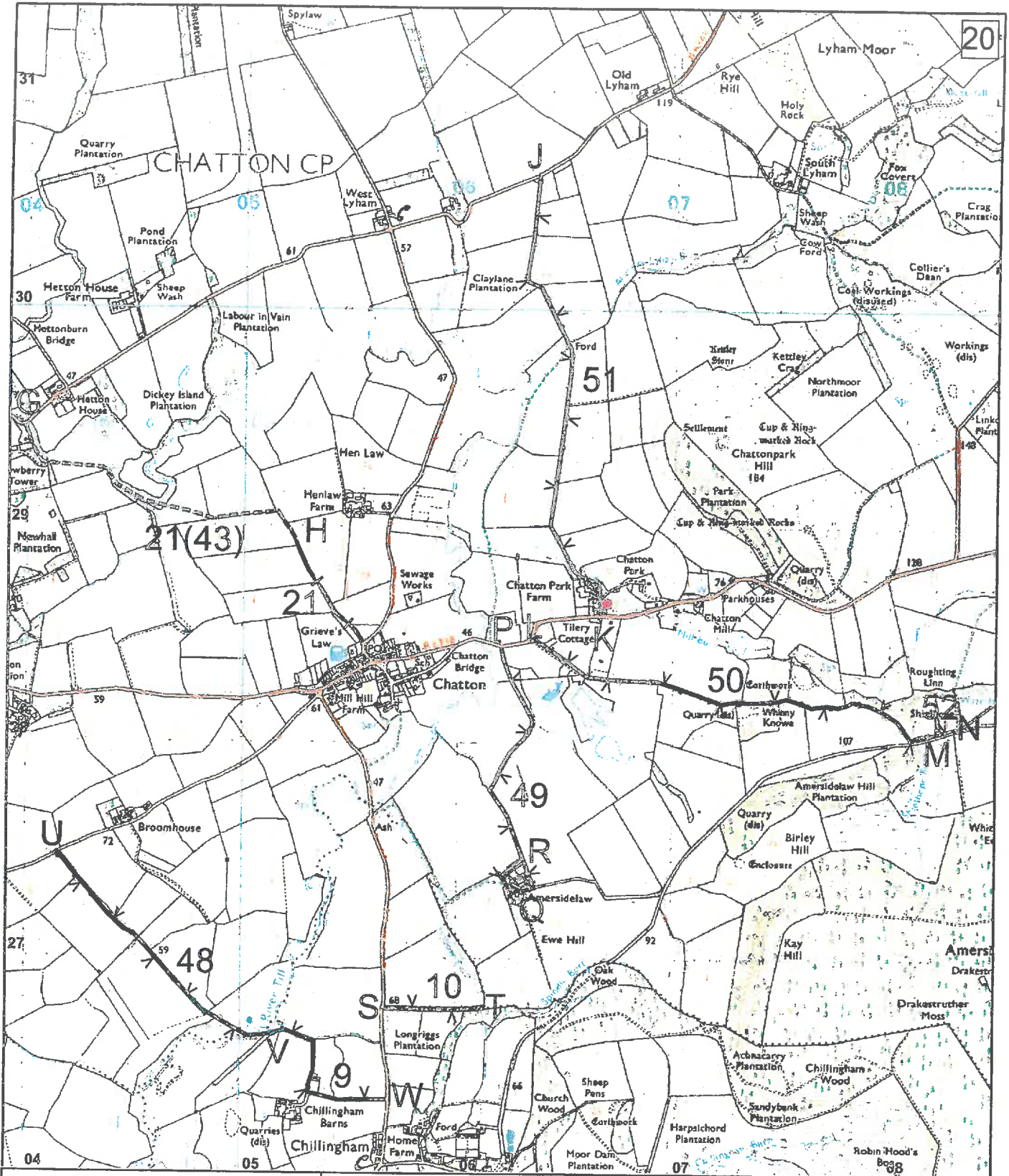
- 8.2 When considering an application / proposal for a modification order Section 32 of the Highways Act, 1980 provides for “any map, plan or history of the locality or other relevant document” to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.
- 8.3 The representation of a path or track on an Ordnance Survey Map is not evidence that it is a public right of way. It is only indicative of its physical existence at the time of the survey.
- 8.4 The route is not shown on Armstrong’s, Fryer’s or Greenwood’s County Maps of 1769, 1820 or 1828 nor is it shown on Cary’s Map of 1820-32. If it had been, this would have lent weight to argument that the route was more than just a public footpath. The annotation on the Chatton Tithe Award (1844) indicates that the Commissioners considered the route of Footpath No 43 to be a “Foot Road”. This isn’t by any means conclusive (the Commissioners were charged with apportioning tithes, not determining the status of routes) but this opinion is nevertheless consistent with other documentary evidence.
- 8.5 Ordnance Survey maps showed land features in much more detail than the County Maps. Any track which physically existed was mapped, irrespective of whether it carried public vehicular rights, public bridleway rights, public footpath rights or no public rights whatsoever. The existing / alleged Public Bridleway No 21 route is shown as a physical feature on every Ordnance Survey map since the first edition was published in 1861, up to and including

the 1957 map. Only the southern end of the existing bridleway route is shown on the 1980 / 81 OS map. Sometimes tracks on Ordnance Survey maps are annotated with either "BR" (bridleway) or "FP" (footpath) to reflect what the surveyor thought its primary function might be. Such annotations are only ever indicative. They cannot be taken as strong evidence in favour or against any particular public status. For this route, the 1866 6" map is un-annotated. The 1897 / 99 maps are annotated with a "FP"s on the alleged bridleway section and the 1924 map is annotated with an "FP". On the First Edition 25" OS map, the track (i.e. existing bridleway) heading north from Chatton is annotated with the reference "104". In the accompanying book of reference, this is identified as "Private road".

- 8.6 The original Definitive Map was the product of a multi-stage process. First of all, locally produced survey maps identified the routes which were being proposed for inclusion. Survey schedules were produced for most of these routes. A certain degree of vetting presumably took place then, based on these initial surveys, Draft Maps were published. These Draft Maps were the first official stage in the process. Anyone had an opportunity to object or make representations regarding what was shown on these maps. Typically, land owners might dispute the inclusion of certain routes, individual users or path user groups might challenge the omission of certain routes and all parties might take issue with the proposed status or alignment of these routes. The County Council employed independent barristers to hear the evidence presented both for and against alterations to the Map. Some alterations were approved, others were rejected. The approved alterations were identified on Modified Draft Maps and the whole process moved forward to the next official stage, with publication of Provisional Maps. At this stage land owners (only) had a second opportunity to make objections or representations regarding what was shown on the Maps. Again, objections or representations were considered by independent barristers (looking at all the evidence available). The Provisional Maps, as amended by the last round of successful challenges, were published as Definitive Maps.
- 8.7 In the case of Chatton Bridleway / Footpath No 21 (now Bridleway No 21 / Footpath No 43), the Survey, Draft and Provisional Maps consistently identified the route for inclusion as part public bridleway, part public footpath. The first Definitive Map was prepared in sections, based upon the old rural and urban district boundaries. Chatton Bridleway / Footpath No 21 was all contained within one parish and, therefore, one rural district (Glendale). The mixed bridleway / footpath nature of this route must have been obvious at all stages of the process.
- 8.8 The Tithe Award and Finance Act plans perhaps provide the strongest indication of why this public right of way might be part public footpath and part public bridleway. The unusual, small, strip fields north of Chatton village can clearly be seen on all of the Ordnance Survey maps (although the field boundaries have all been removed now). These strips are individually coloured on the Tithe Award and Finance Act plans, suggesting that they were probably being intensively farmed by a large number of individuals. Existing Public Bridleway No 21 extends northwards just far enough to provide access to the most northerly strips of land. Whilst the general public only required pedestrian access between Chatton and Fowberry, it may be that to facilitate

farming operations on these strips, higher rights were considered to be necessary over the southern (Chatton) end of the route. Mrs Bamford, of the Ramblers' Association, possibly without having seen the Tithe Award or Finance Act evidence, offered a similar explanation.

- 8.9 No user evidence has been presented in support of public bridleway rights over the route of existing Footpath No 43. This isn't, perhaps, surprising given the existence of two step stiles on / adjacent to the River Till earth bund / flood defences and the presence of narrow stone steps to gain access to the B6349 road at the Fowberry Bridge end. The earth bund does not appear to be a particularly recent structure but, before it was constructed, it is quite possible there were no stiles at this location. At the Fowberry Bridge end, there is a level track and field gate alternative to the stone steps that may, possibly, at one time, have been available to members of the public. It is not available now, and signs make clear that the landowner does not consider it to be a public right of way. Burnetts has indicated that the owner of Fowberry Tower is not aware of any horse / bicycle use of the footpath during the period their ownership (though it isn't indicated how long that period is). If there had been recent equestrian / bicycle use of the route, The Northumberland Estates Section 31(6) deposits since 1997 might defeat arguments that bridleway rights had been subsequently acquired, on the basis of presumed dedication.
- 8.10 Burnetts has suggested that no new evidence is available which was not available at the time the Definitive Map was being prepared and that, as a consequence, no amendment to the status of this route could be justified. Additional evidence has come to light since the 2014 consultation. Although nearly all of the evidence under consideration would have been available, to someone prepared to look for it, at the time the definitive Map was first being drawn up, it is not known how much (if, indeed, any) of it was actually considered. Whilst reconsideration of the same evidence (with a view, simply, to obtaining a different outcome) is prohibited, since we have no record of precisely what evidence was considered in the 1950s, it is perfectly reasonable to consider all of the evidence available now. The extract supplied from the Ordnance Survey manual is helpful in establishing how different physical tracks are represented on the 1:10,000 and 1:10,560 scale OS maps, but does not assist in determining whether or not those routes are public bridleways.
- 8.11 Whilst, as the British Horse Society suggest, this route might have the potential to be a useful and attractive bridleway, on a balance of probability, the available evidence does not appear to support the existence of public bridleway rights over the current route of Public Footpath No 43. The current land owners / tenants have indicated that they are opposed to the upgrading of the route to public bridleway status, so a voluntary dedication of higher rights seems unlikely. There is a boggy / waterlogged section of path roughly halfway along the footpath section. At present, pedestrians presumably deviate to the north of the boggy ground. Possibly the landowner might be willing to consider to formalise this arrangement by the legal diversion of the footpath onto firmer ground.
- 8.12 Advice from the Planning Inspectorate in their 'consistency guidelines' states that it is important to have the correct width, where known, recorded in the



Northumberland

Northumberland County Council

Sustainable Transport
Local Services

County Hall Morpeth Northumberland
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Wildlife and Countryside Act 1981 Public Rights of Way



Selected existing Public Bridleways



Existing Public Footpath which may be bridleway



Alleged Byway Open to All Traffic



Alleged Restricted Byway

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Former District(s)
Berwick

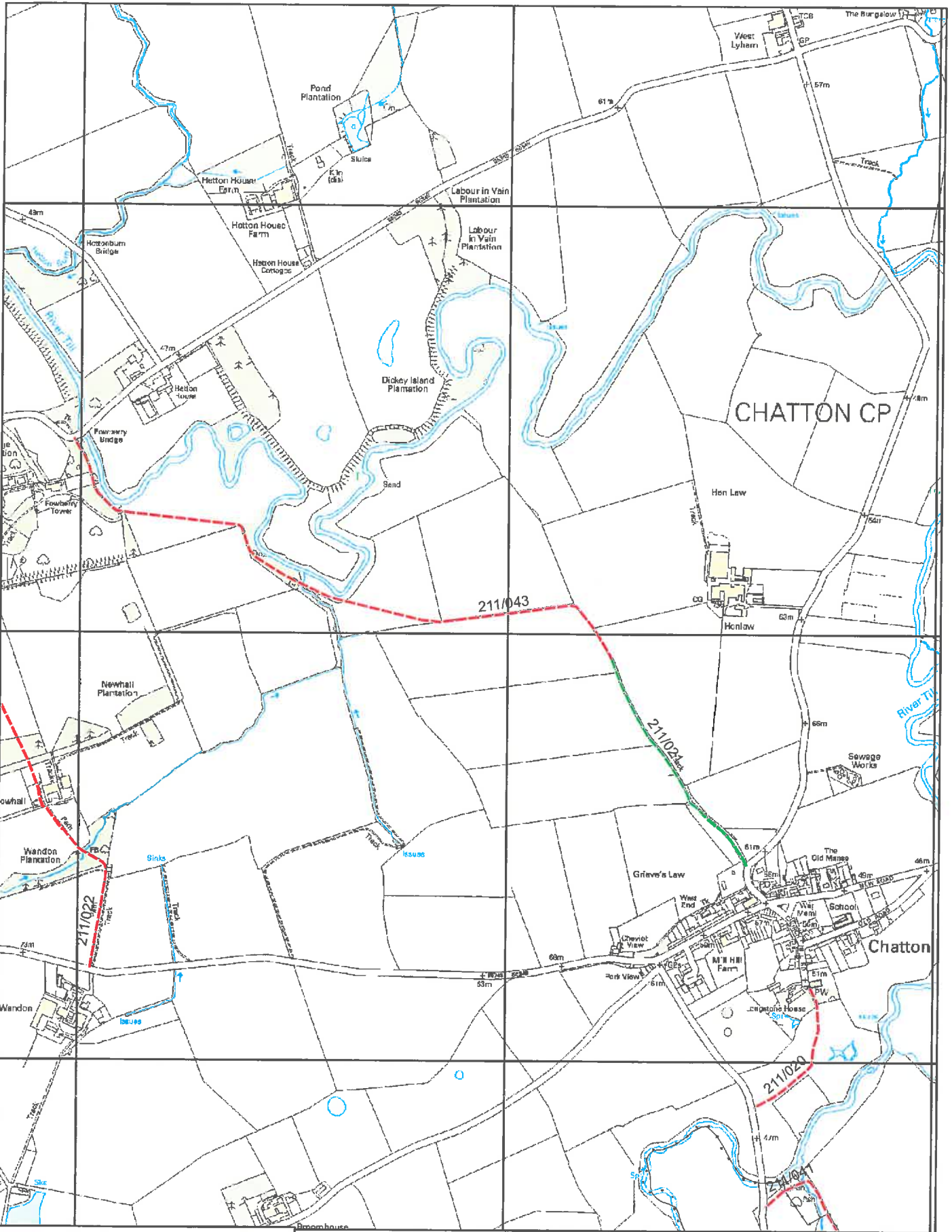
Parish(es)
Chatton/Chillingham

Scale
1:25,000

Def. Map No.
30/38/39

O.S. Map
NU 03 SE/02 NW/NE

Date
January 2014



NORTHUMBERLAND
 Northumberland County Council
 Infrastructure

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

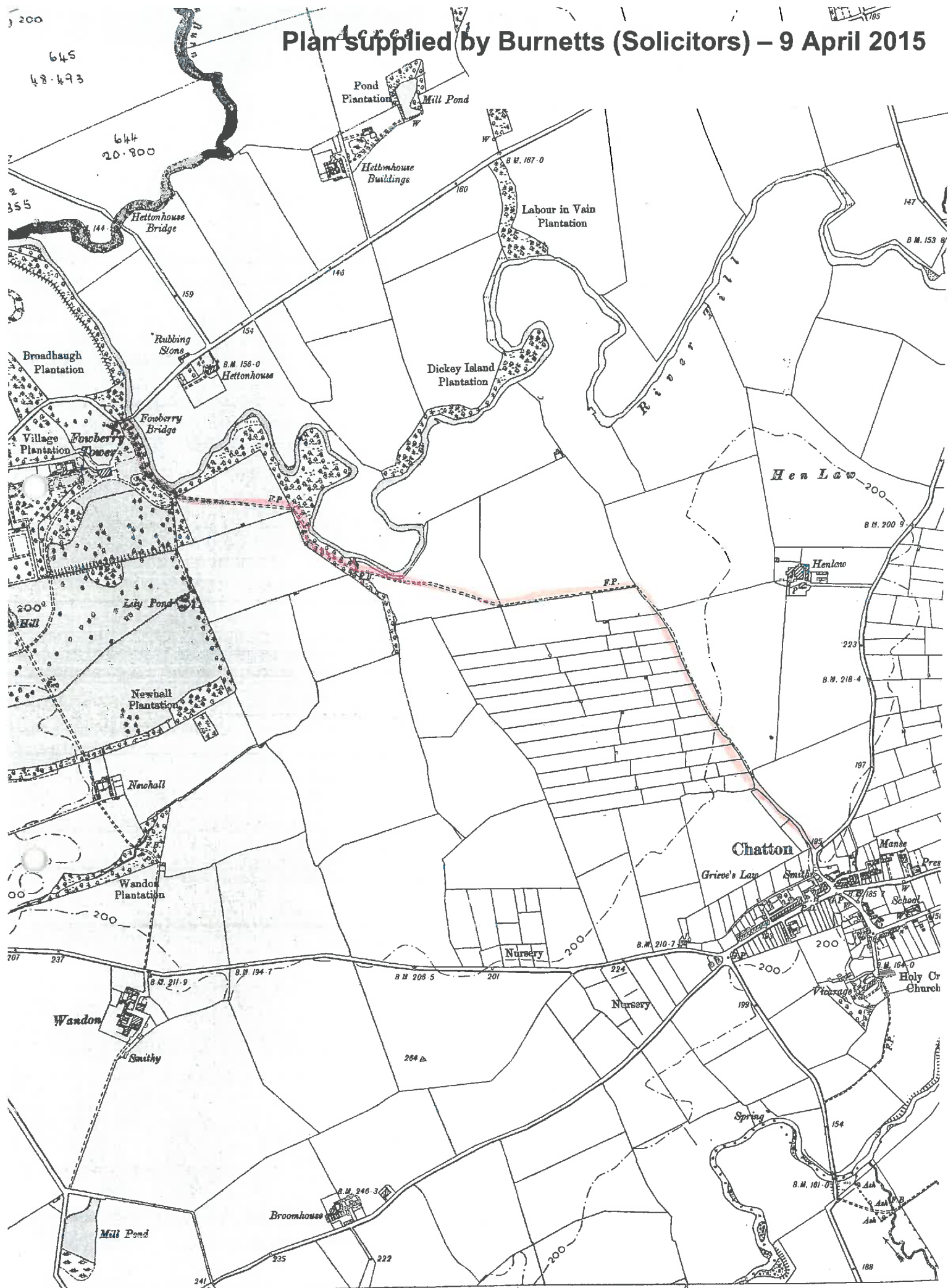
- Legend**
- Footpath
 - Bridleway
 - Restricted Byway
 - Byway Open to All Traffic

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

Scale: 1:12,000

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Plan supplied by Burnetts (Solicitors) – 9 April 2015



645
48.493

644
20.800

LON. 1° 56' W.

1° 55'

CHILLINGHAM PH.

2nd Edition OS

aged in 1860 Revised in 1897
int. 50/1002

EDITION OF 1925.

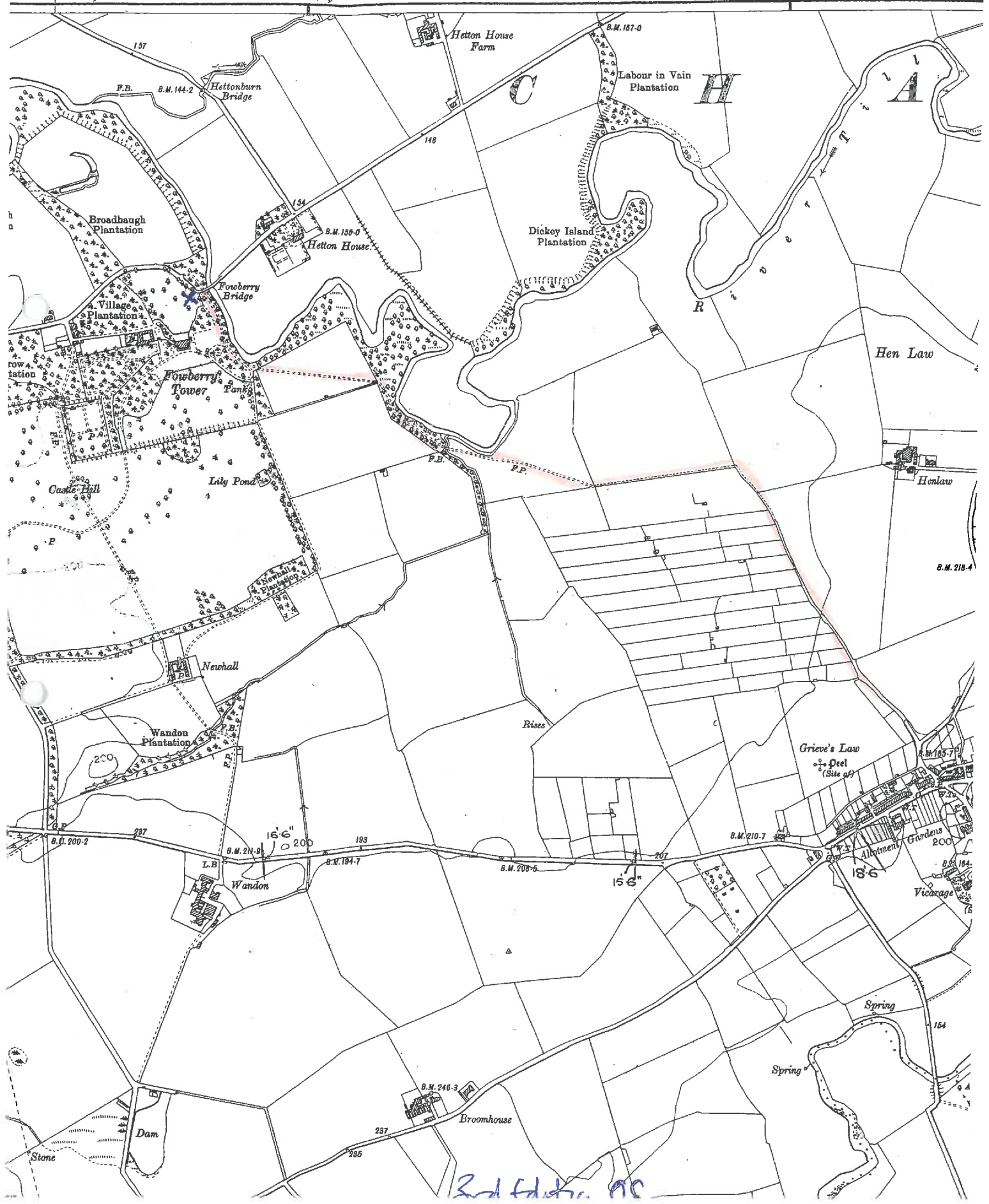
NORTHUMBERLAND. [NEW

GLENDALE UNION & R. D.

LON. 1° 55' W.

D SERIES XX. N.W. SHEET LINE XX. N.E. N XVI. N.E.

1° 56' Heston Burn



2nd Edition 1925

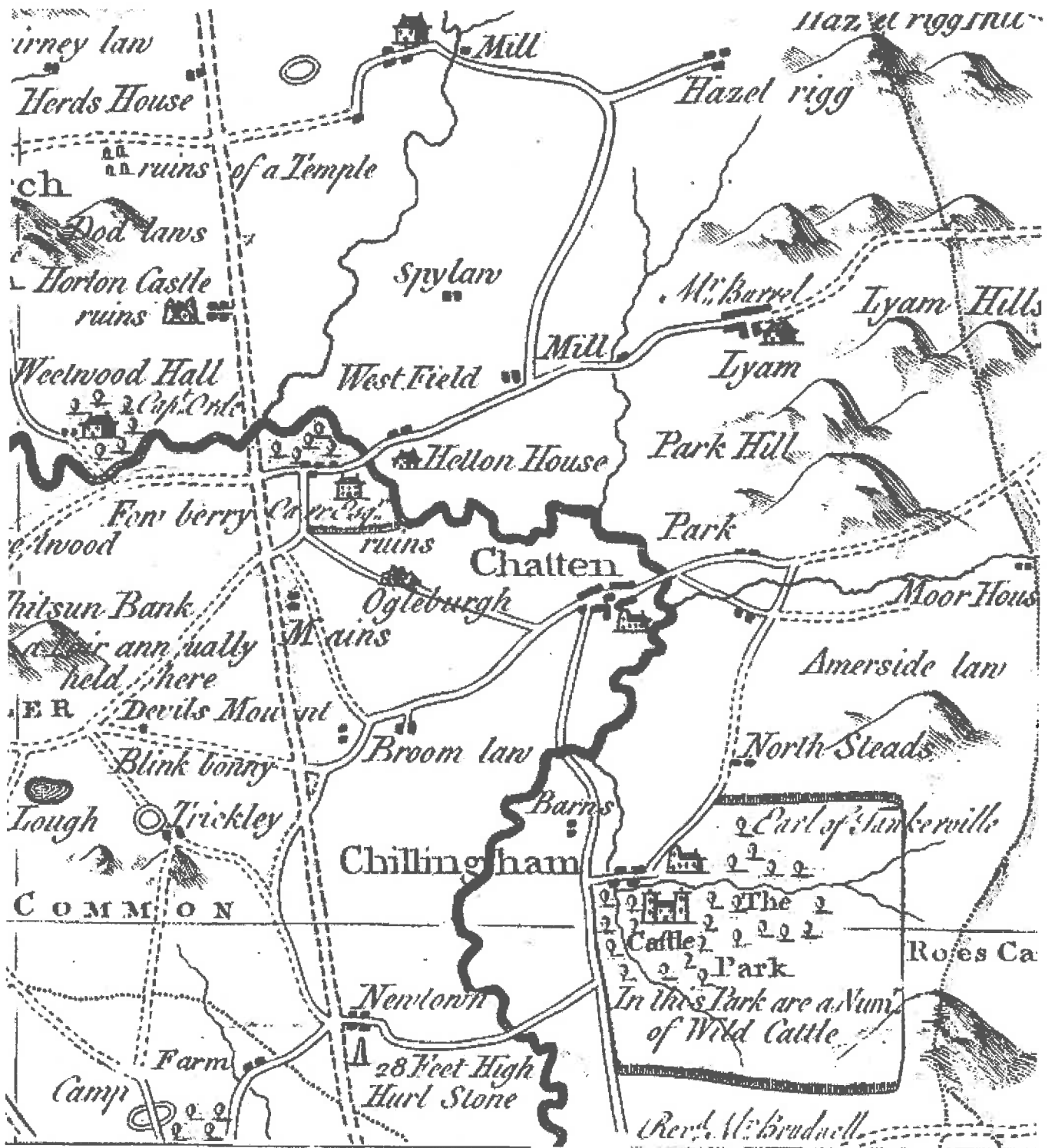
Photograph supplied by Burnetts (Solicitors) – 9 April 2015



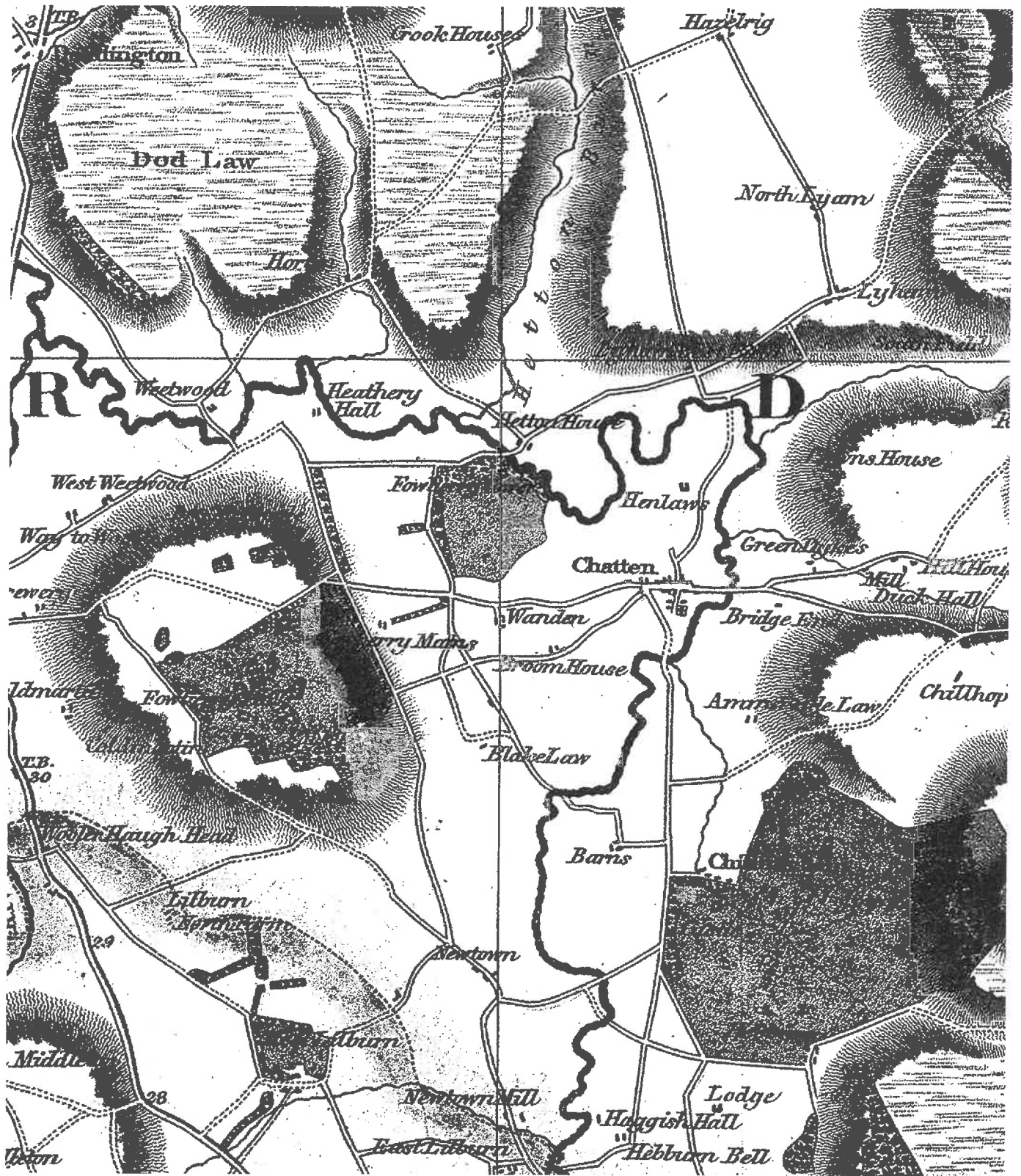
for minor ways and may be omitted in built-up areas.

Paths and tracks are shown on the 1:10 560 and 1:10 000 series by single line pecks unless fenced, in which case double pecked lines are drawn to scale subject to the minimum clearance between parallel lines. Within parks and public gardens only the principal paths are shown. Special treatment was formerly given to certain important paths or tracks such as the Pennine Way, but currently the standard description 'Path' is employed.¹

Railway symbols on the National Grid Provisional Edition, which were



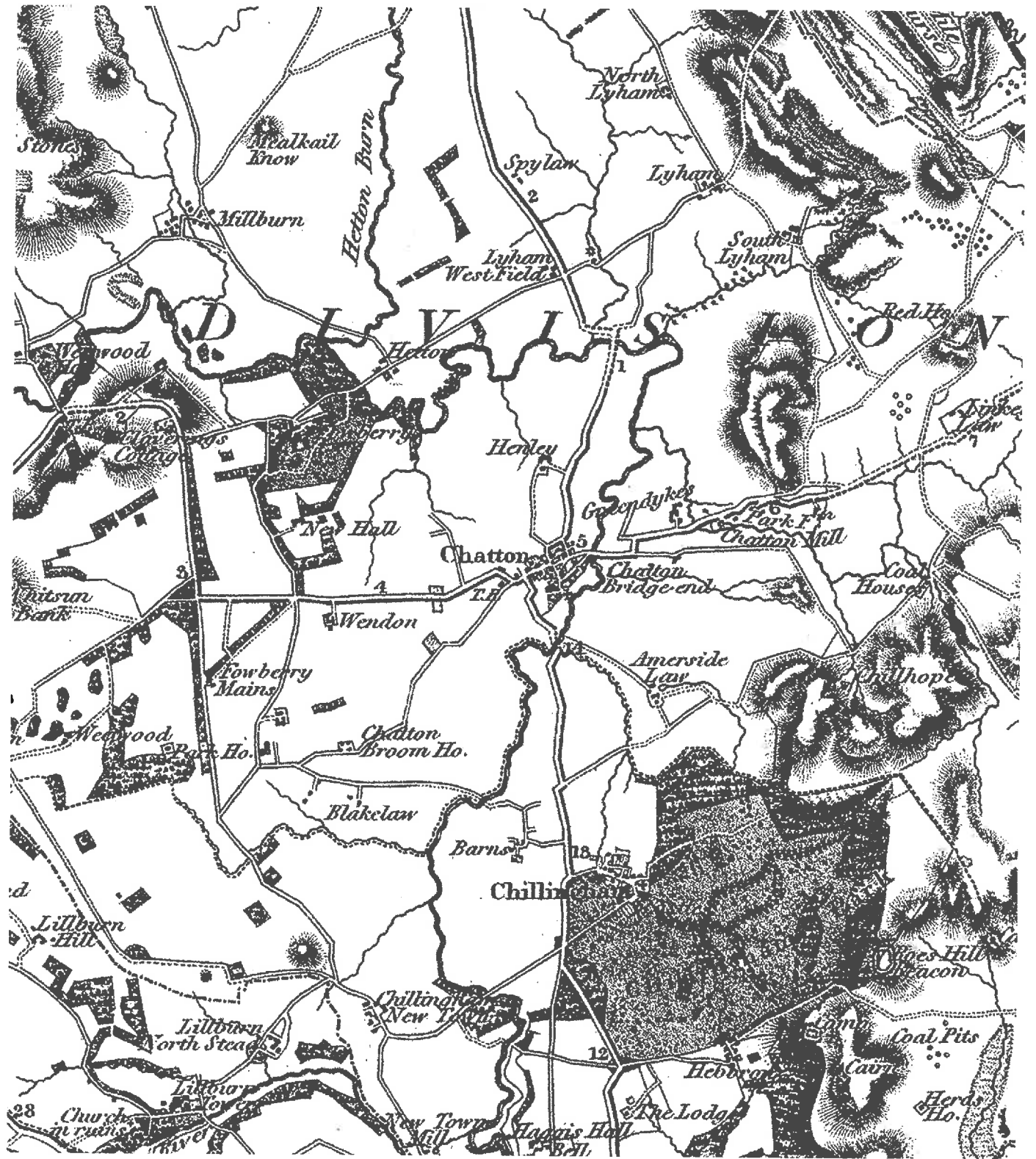
Fryer's County Map
1820



Cary's Map
1820-1832



Greenwood's County Map
1828

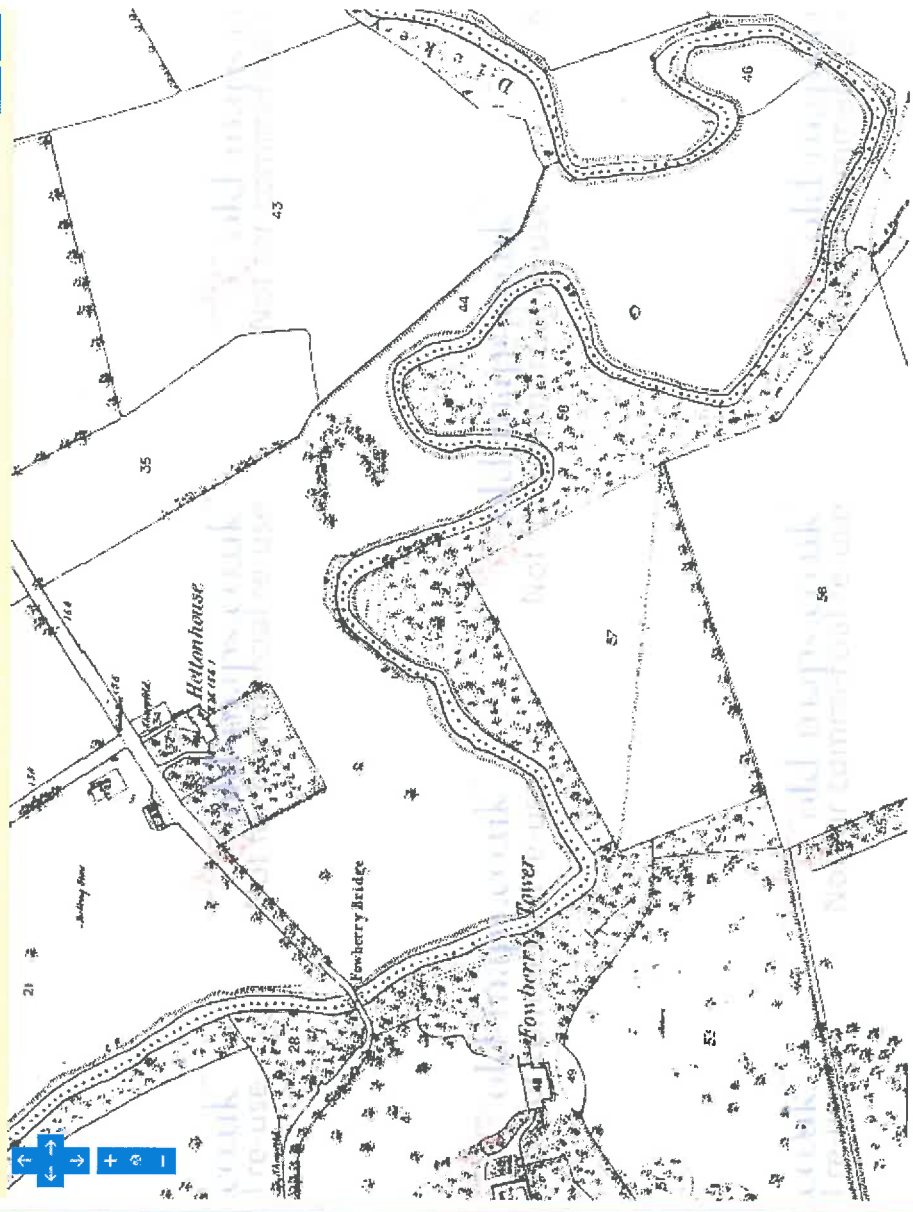


Chatton Tithe Award 1844



PLACES	No. P ^{ar} No. P ^{ar}	LANDS AND PREMISES	CULTIVATION	ACRES MEASURED	TITHABLE ACRES	PROPORTION
Overhall	16	College garden and Cross grass		8 2 1	8 11	6 4
Whin	21	College and Cross grass		8 2 0	8 5	6 1
Whin	14	Cross grass		4 2 16		
	217	College and garden in college		4 2 36 1	4 6	6 1
		<u>Roads Waste ground &c</u>				
	273	Julie Roads Cross Roads College Lands Corporation Roads and waste ground in and near to the Village		5 2 12		
	274	2 ^d 2 ^d in that part of the Township lying west of the River Till		19 1 31		
	275	2 ^d lying east of the River Till 2 ^d		17 2 10		
	276	That part of the River Till which lies within this Township and a Mealy meaf where the same adjoins the Township		12 2 1		
				38 1 14 1		

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OS County Series: NORTHUMBERLAND 1866 1:10,560		
OS County Series: NORTHUMBERLAND 1897 1:2,500		
OS County Series: NORTHUMBERLAND 1899 1:10,560		
OS County Series: NORTHUMBERLAND 1924 1:2,500		

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1st Edition 25" O.S. Map 1861

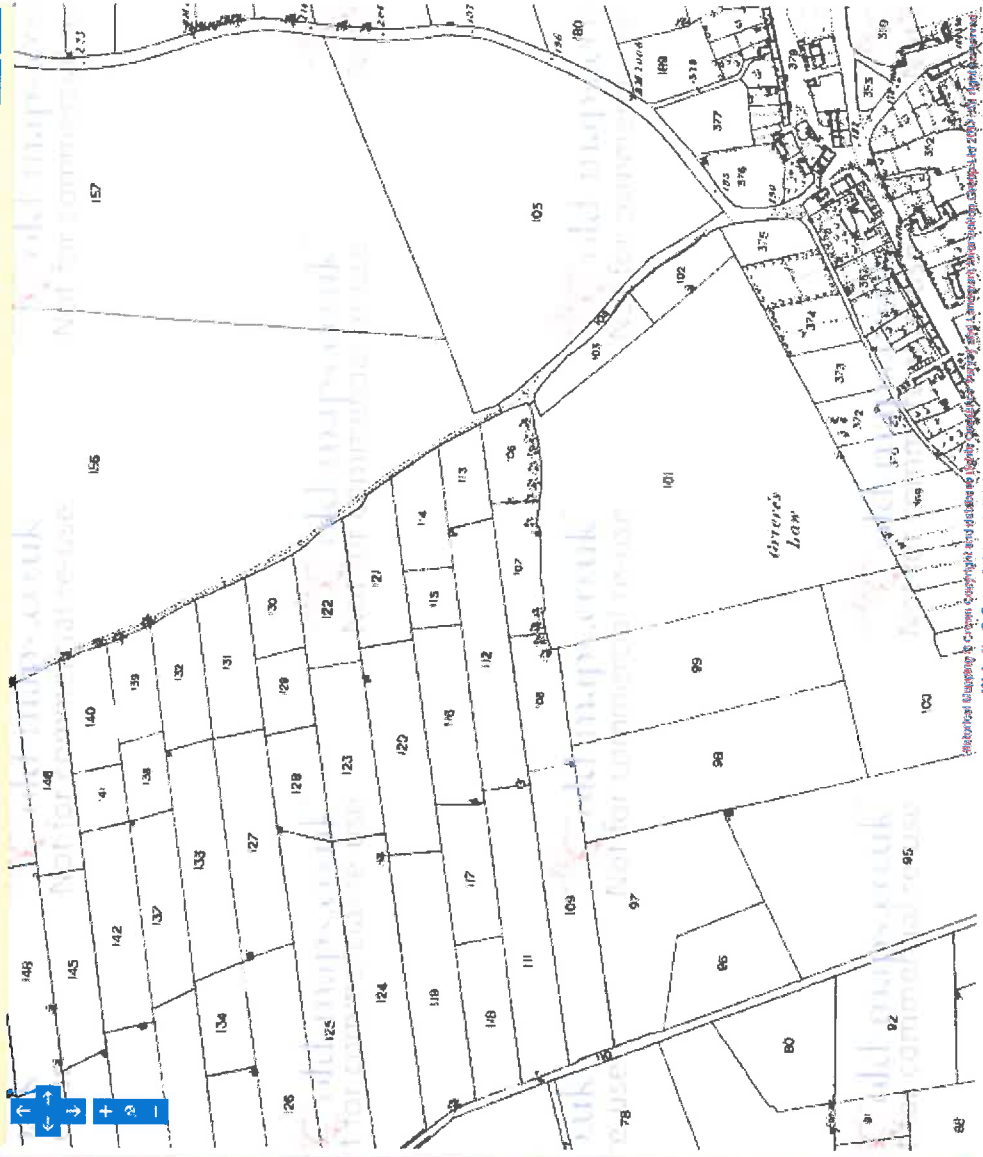


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OS County Series: NORTHUMBERLAND 1862-1896 1:2,500	Enlarge View	Add to Cart
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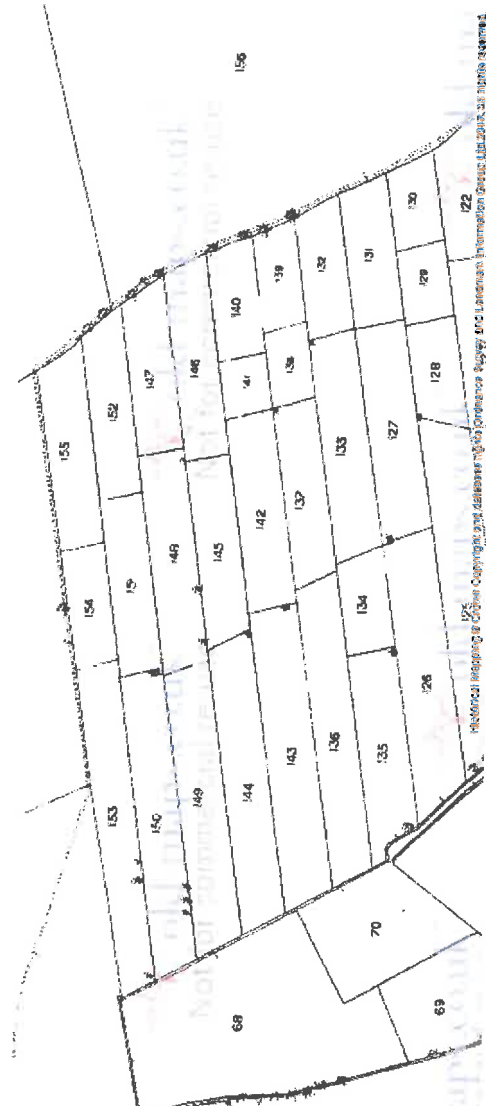
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All Map Types	OS County Series: NORTHUMBERLAND (partial) 1861 1:2,500	Enlarge View	Add to Cart
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OS County Series: NORTHUMBERLAND 1899 1:10,560	Enlarge View	Add to Cart	

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TOWNSHIP OF CHATTON.

No. on Plan.	Area in Acres.	Description.	No. on Plan.	Area in Acres.	Description.
1	2.434	Pasture.		502.947	<i>Brought forward.</i>
2	13.069	Arable.	38	1.337	Arable.
3	.091	House & yard.	39	1.401	Arable.
4	21.758	Arable.	40	.091	Arable.
5	10.171	Arable.	41	1.384	Arable.
6	23.298	Arable.	42	1.581	Arable.
7	21.066	Arable.	43	1.207	Arable.
8	12.106	Arable.	44	.761	Arable.
9	12.222	Arable.	45	.614	Arable.
10	26.972	Arable & rough pasture	46	1.529	Arable.
11	.585	Rough pasture & stream.	47	36.475	Arable & stream.
12	24.079	Arable.	48	25.700	Arable.
13	17.366	Arable.	49	2.848	Public road.
14	12.706	Arable, rough pasture, & road.	50	15.189	Arable.
15	40.253	Arable, wood, & road.	51	26.887	Arable & rough pasture
16	.283	Wood.	52	27.171	Arable & road.
17	29.028	Arable & stream.	53	4.208	Wood, road, & quarry.
18	21.266	Arable, old quarry, & rough pasture.	54	167.142	Rough pasture, roads, streams, &c.
19	1.755	Wood.	55	26.088	Arable.
20	32.207	Arable & rough pasture	56	27.289	Arable & road.
21	2.214	Wood.	57	3.246	Public road.
22	21.585	Rough pasture & roads	58	4.088	Wood.
23	1.349	Houses & gardens.	59	659.211	Rough pasture, roads, streams, quarries, &c.
24	22.013	Rough pasture & moss.	60	.530	House, garden, & yard.
25	35.670	Rough pasture & moss.	61	21.899	Arable.
26	.578	Rough pasture.	62	.687	Public road.
27	.139	House & garden.	63	21.070	Arable & road.
28	11.255	Arable.	64	14.796	Arable & stream.
29	20.353	Arable.	65	26.401	Arable.
30	28.532	Arable.	66	15.781	Arable & stream.
31	21.819	Arable.	67	19.874	Arable & stream.
32	.470	Arable.	68	4.900	Arable & stream.
33	1.376	Houses, farmsteading, & gardens.	69	1.301	Arable & stream.
34	3.446	Arable.	70	1.874	Arable & stream.
35	.267	Private road.	71	2.274	Arable & stream.
36	3.341	Public road.	72	1.129	Arable & stream.
37	.929	Arable.	73	.441	Arable.
	502.947	<i>Carried forward.</i>	74	.965	Arable & stream.
				1674.409	<i>Carried forward.</i>

TOWNSHIP OF CHATTON.

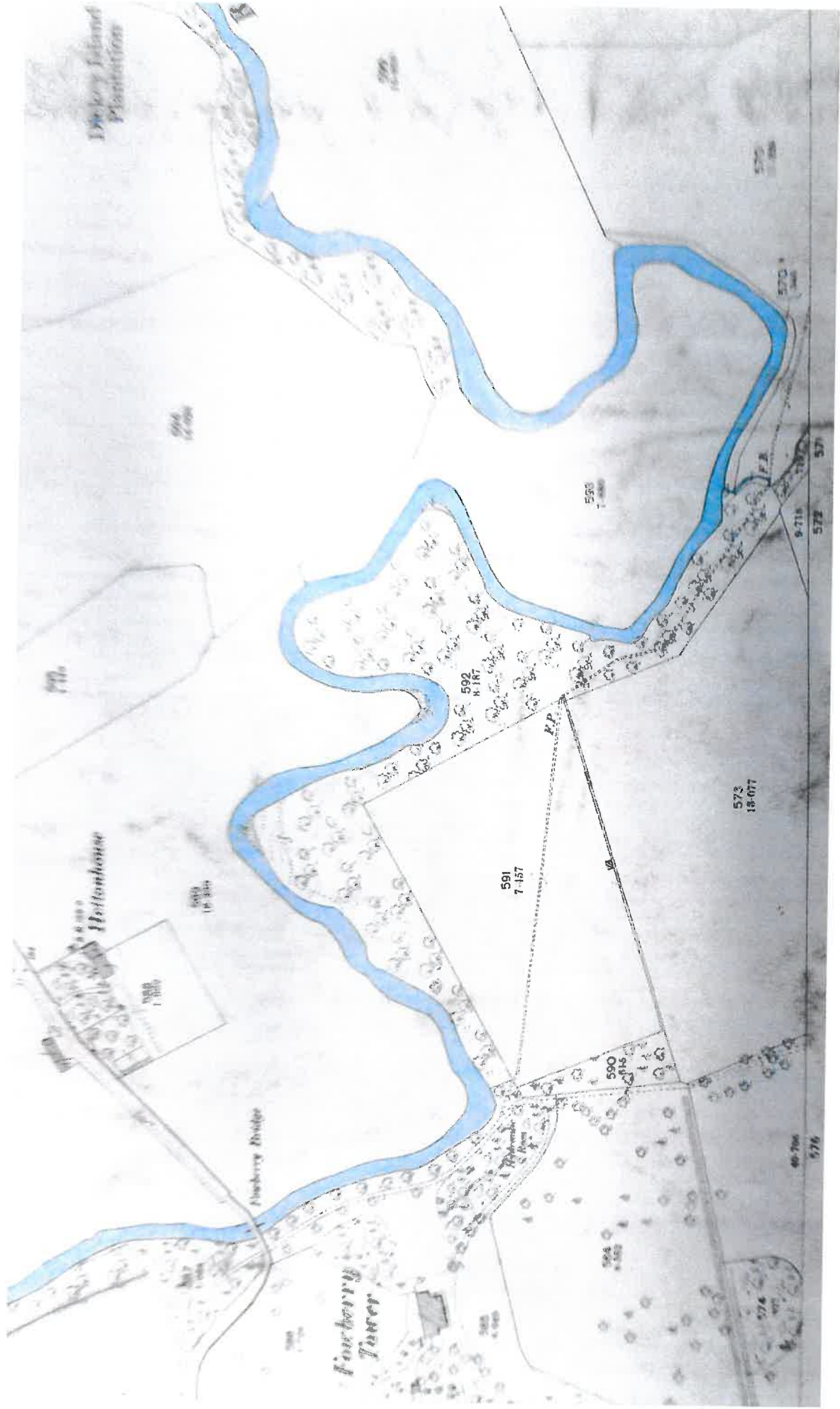
a.
rd.
a.
pasture
quarry,
roads,
roads,
& z.
yards

No. on Plan.	Area in Acres.	Description.	No. on Plan.	Area in Acres.	Description.
	1671-109	<i>Brought forward.</i>		1771-193	<i>Brought forward.</i>
75	.969	Arable.	125	2-377	Arable, &c.
76	5-726	Arable.	126	1-911	Arable & stream.
77	.128	Private road.	127	1-508	Arable & house.
78	1-821	Arable.	128	.701	Arable.
79	7-227	Arable.	129	.522	Arable.
80	1-388	Arable.	130	.563	Arable.
81	1-989	Arable.	131	.982	Arable.
82	1-646	Arable & house.	132	.840	Arable.
83	.553	Arable & road.	133	1-457	Arable & house.
84	.494	Arable.	134	.655	Arable.
85	.478	Garden.	135	1-348	Arable & stream.
86	.439	Garden.	136	1-757	Arable.
87	.476	Garden.	137	1-076	Arable & house.
88	.913	Arable.	138	.461	Arable.
89	.631	Arable.	139	.618	Arable.
90	1-305	Arable.	140	.740	Arable.
91	.403	Arable.	141	.376	Arable.
92	2-114	Arable.	142	1-276	Arable.
93	1-766	Arable & house.	143	1-990	Arable & house.
94	.915	Arable.	144	1-783	Arable & house.
95	6-453	Arable & house.	145	1-134	Arable.
96	1-333	Arable.	146	1-187	Arable.
97	2-939	Arable.	147	1-039	Arable.
98	3-580	Arable.	148	1-387	Arable.
99	3-503	Arable.	149	1-817	Arable.
100	3-441	Arable.	150	1-793	Arable & house.
101	10-946	Arable.	151	1-072	Arable.
102	.522	Arable.	152	1-051	Arable.
103	.529	Arable.	153	1-793	Arable.
104	.461	Private road.	154	.722	Arable.
105	10-388	Arable.	155	1-233	Arable.
106	.608	Arable.	156	19-373	Arable & road.
107	.715	Arable.	157	16-853	Arable.
108	.771	Arable & house.	158	.980	Arable.
109	1-723	Arable.	159	1-351	Arable.
110	1-072	Private road.	160	1-812	Arable.
111	1-806	Arable.	161	.689	Arable.
112	1-608	Arable & house.	162	1-045	Arable.
113	.505	Arable.	163	1-162	Arable.
114	.691	Arable.	164	1-283	Arable.
115	.377	Arable.	165	1-073	Arable.
116	1-152	Arable & house.	166	2-125	Arable.
117	.858	Arable.	167	.922	Arable.
118	.947	Arable.	168	.713	Arable.
119	1-816	Arable.	169	.874	Arable.
120	1-453	Arable & house.	170	.591	Arable.
121	.995	Arable.	171	1-498	Arable.
122	.870	Arable.	172	.553	Arable.
123	1-184	Arable.	173	1-398	Arable.
124	2-157	Arable & stream.	174	.751	Arable.
	1771-193	<i>Carried forward.</i>		1862-908	<i>Carried forward.</i>



Not to scale

2nd Edition 25" O.S. Map
c. 1897



(North end)



(South end)

C H A T T O

Arees 17331 360



Dickoy Island Plantation

Labour in Vaits Plantation

Newhall Plantation

Chatton

Wind Plantation

Windsor Plantation

Dickoy

Pineberry

Lily Pond

Nixhall

Wandoo Plantation

Nursery

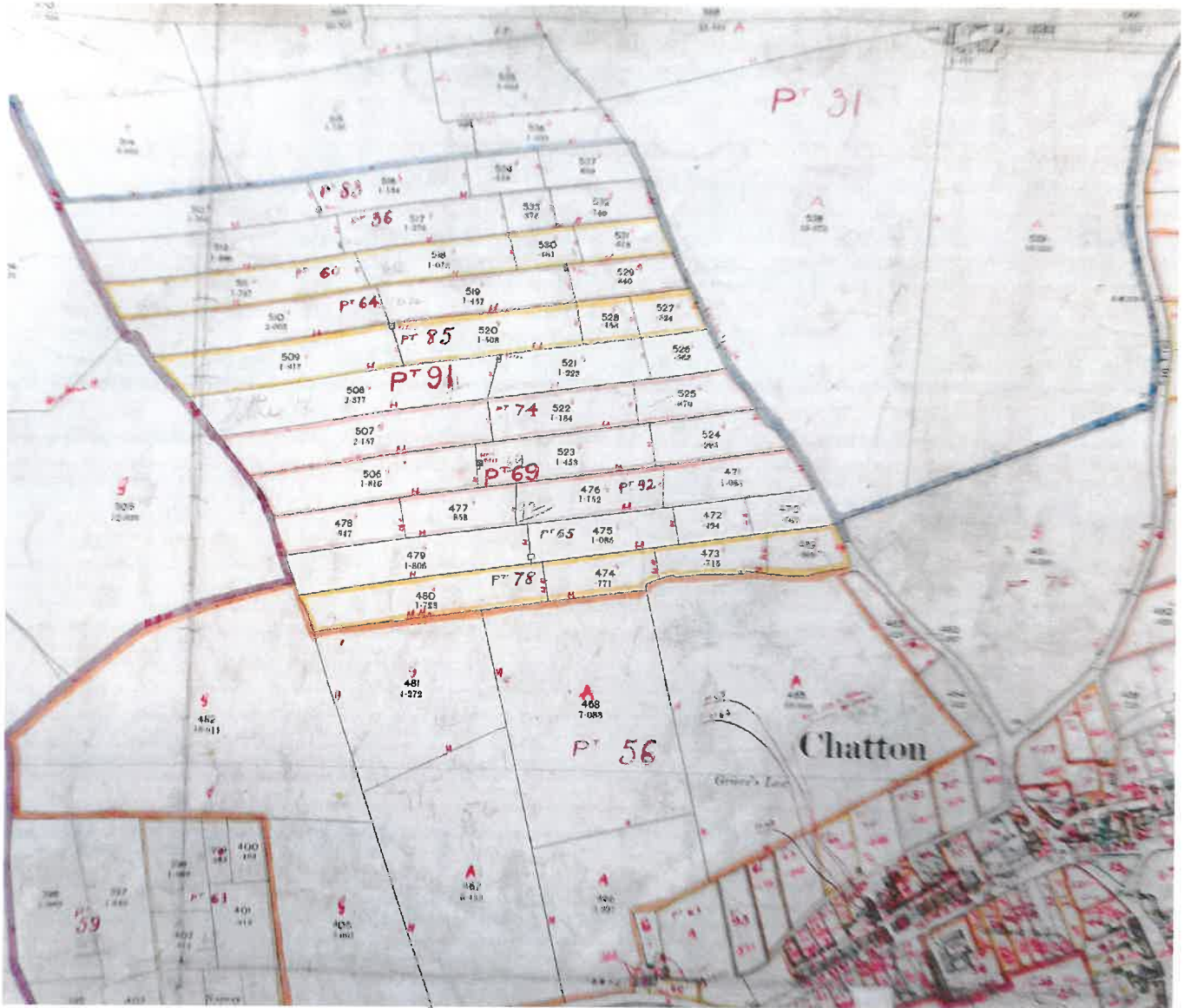
Nursery

Green's Gap

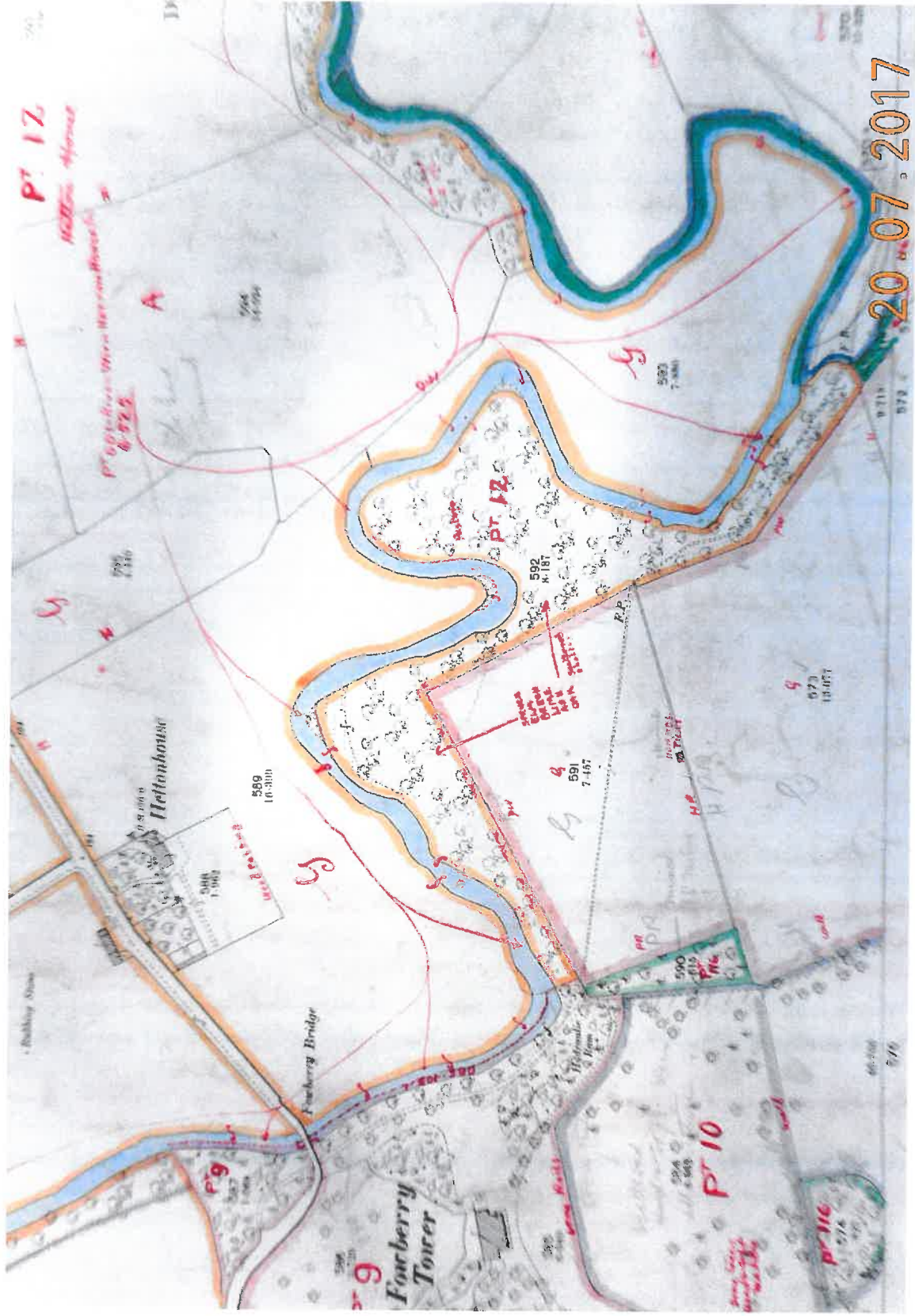
Hes Low

River

Finance Act 1910 Plan

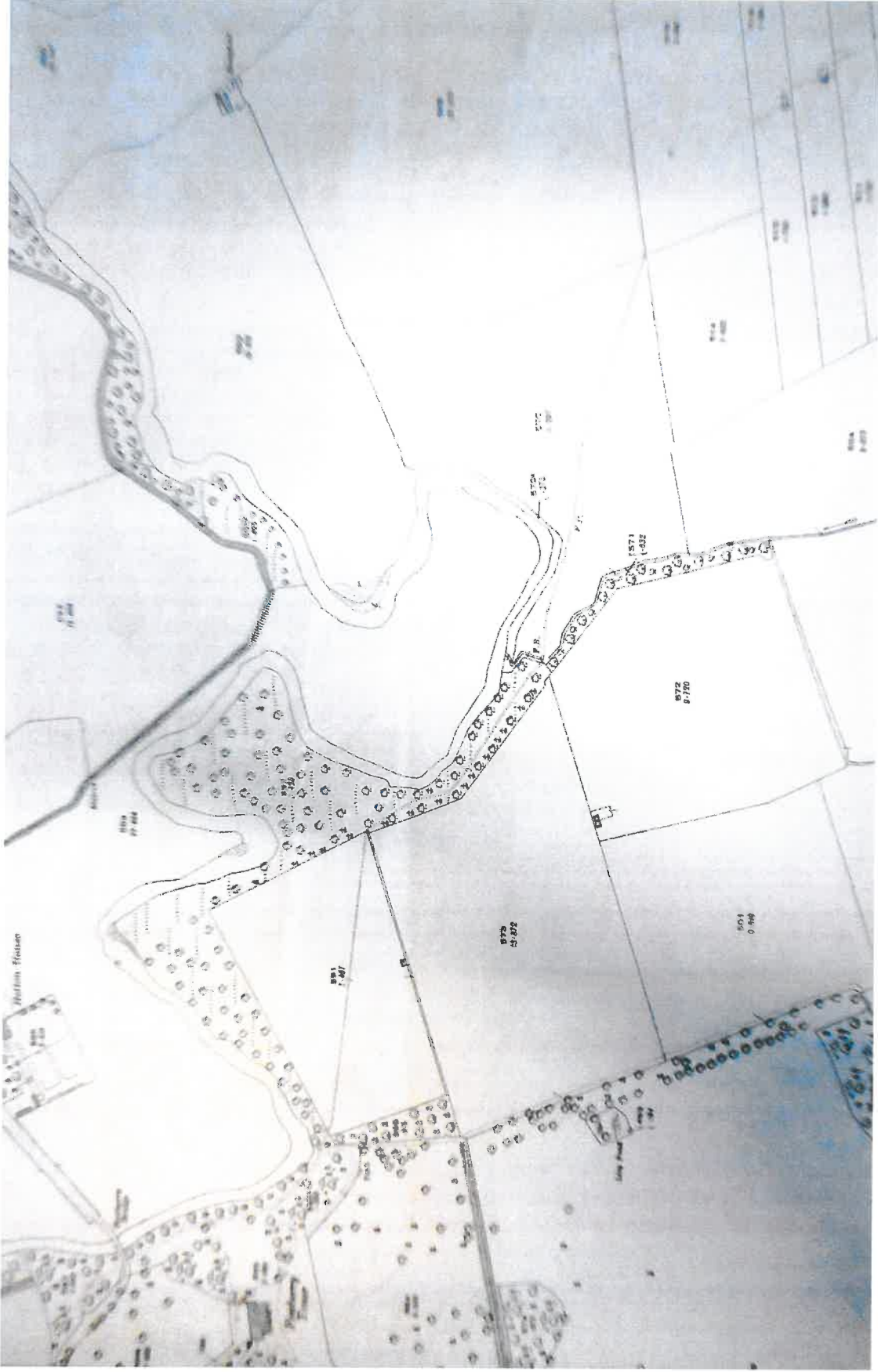


(South end)



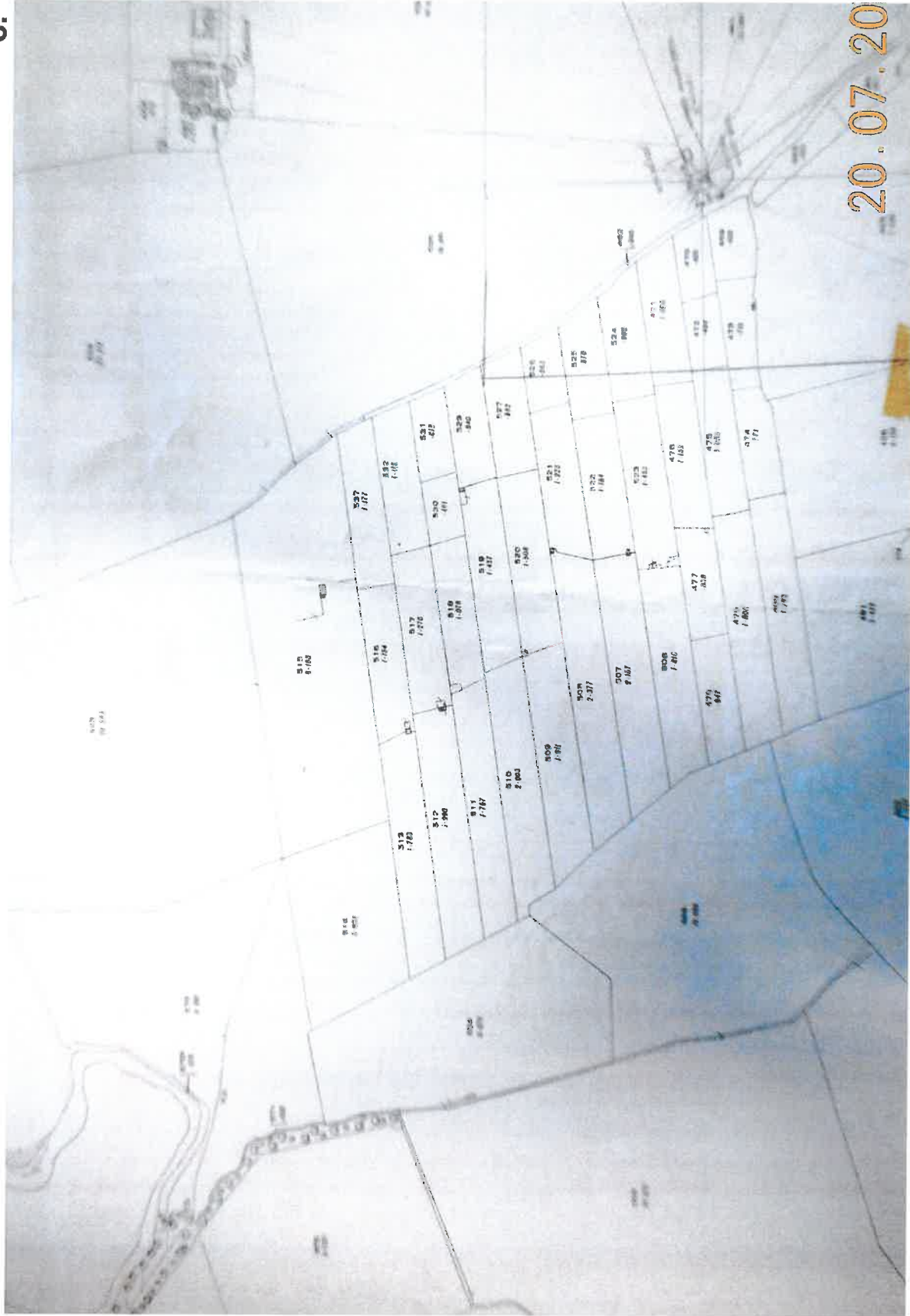
(North end)

3rd Edition 25" O.S. Map
c. 1924



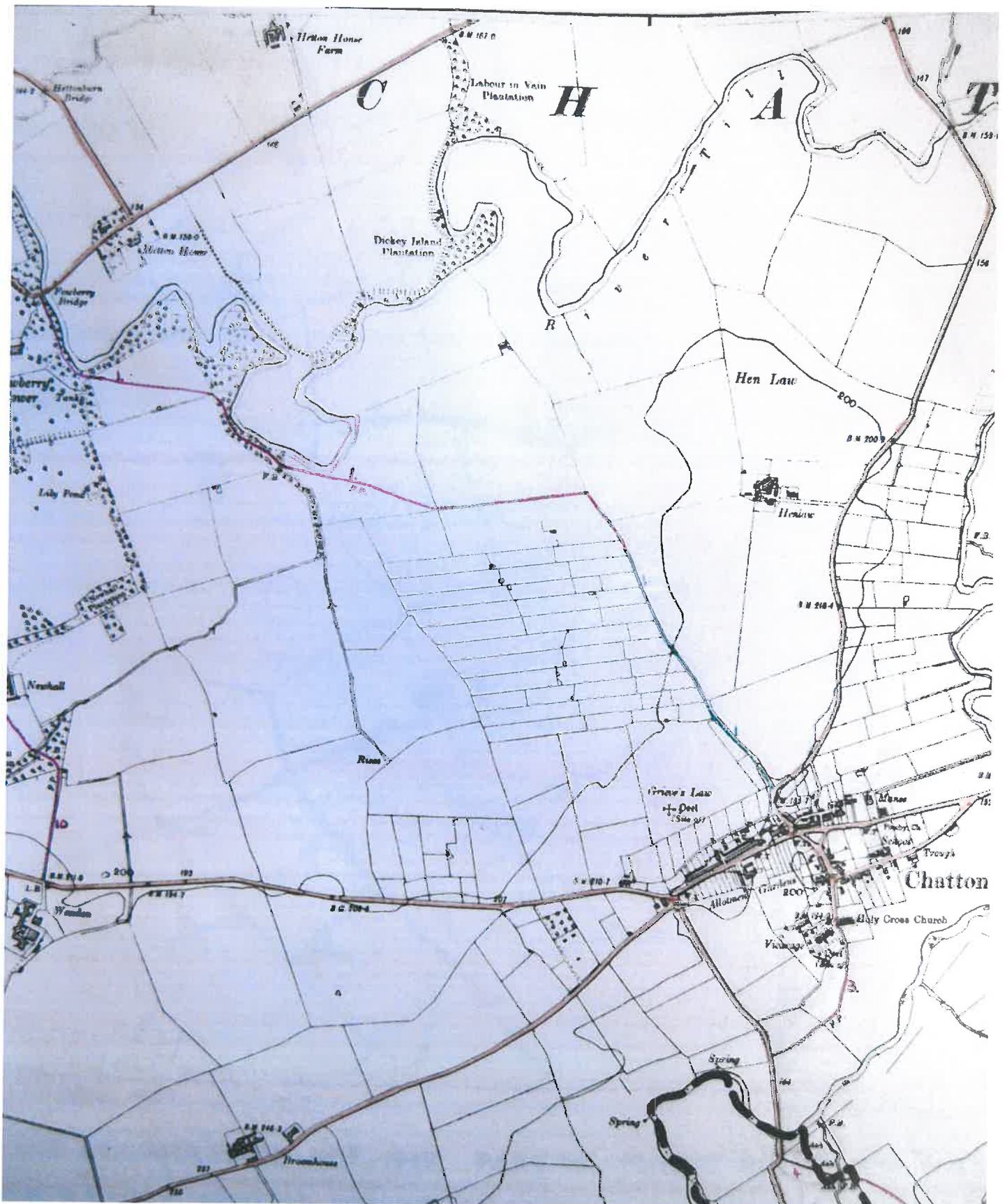
(North end)

3rd Edition 25" O.S. Map
c. 1924



(South end)

Survey Map



Parish of CHATTON in the Rural District of

Glendale
Borough }
Urban District } of _____
(Delete whichever is inapplicable).

1. Number of highway on Map _____
2. Kind of Path (i.e., F.P., B.R.) BP-FP
3. Starts at Chatton Village to Stony Bridge
4. Name of Path (if any) Sandy Lane
5. Is the Path well defined? Yes
6. Is the Path metalled? If so, define length metalled
7. If its width can be stated, insert here _____
8. What is the present condition of the path, stiles, etc.? Fair
9. Is it subject to being ploughed out? 1 field between FB + Stone bridge
10. Details of any notice boards, direction signs or warning signs against trespassers, stating their location, wording on them, their condition and date of erection, if known
None
11. Grounds for believing the path to be public (if known), e.g. "Awarded," "Repaired at Public Expense" (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant

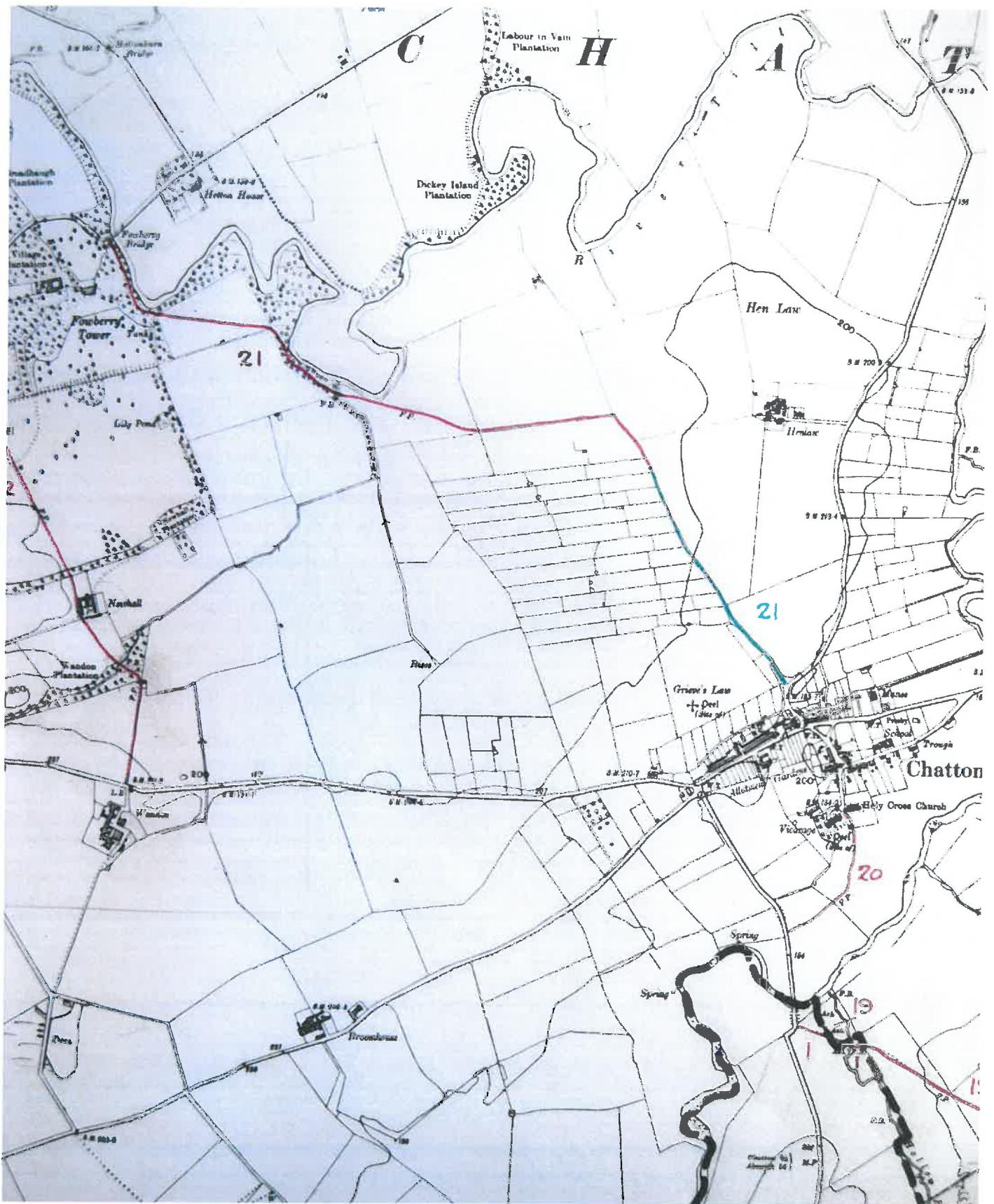
12. Have persons been prevented using the highway? No
13. Give particulars of any obstructions _____
14. Names of owners of freehold and previous owners, if known, for past 30 years _____

15. What maps have been consulted, and where are they deposited? None
16. What records have been consulted, and where are they deposited? None
17. Any other relevant information _____

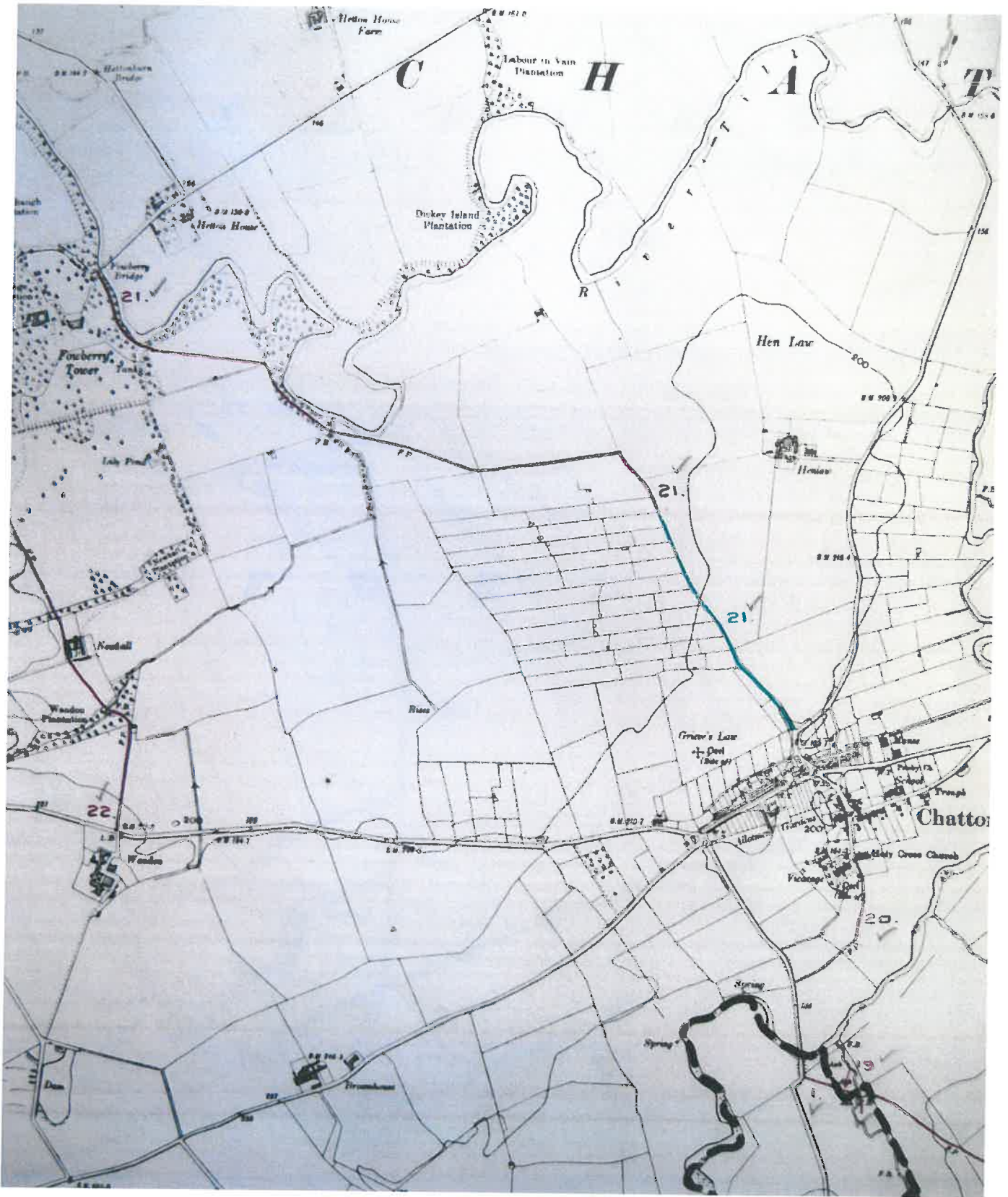
Surveyed by	Address	Dates of Survey
<u>Wyeirleam</u>	<u>Chatton</u>	<u>April 57</u>

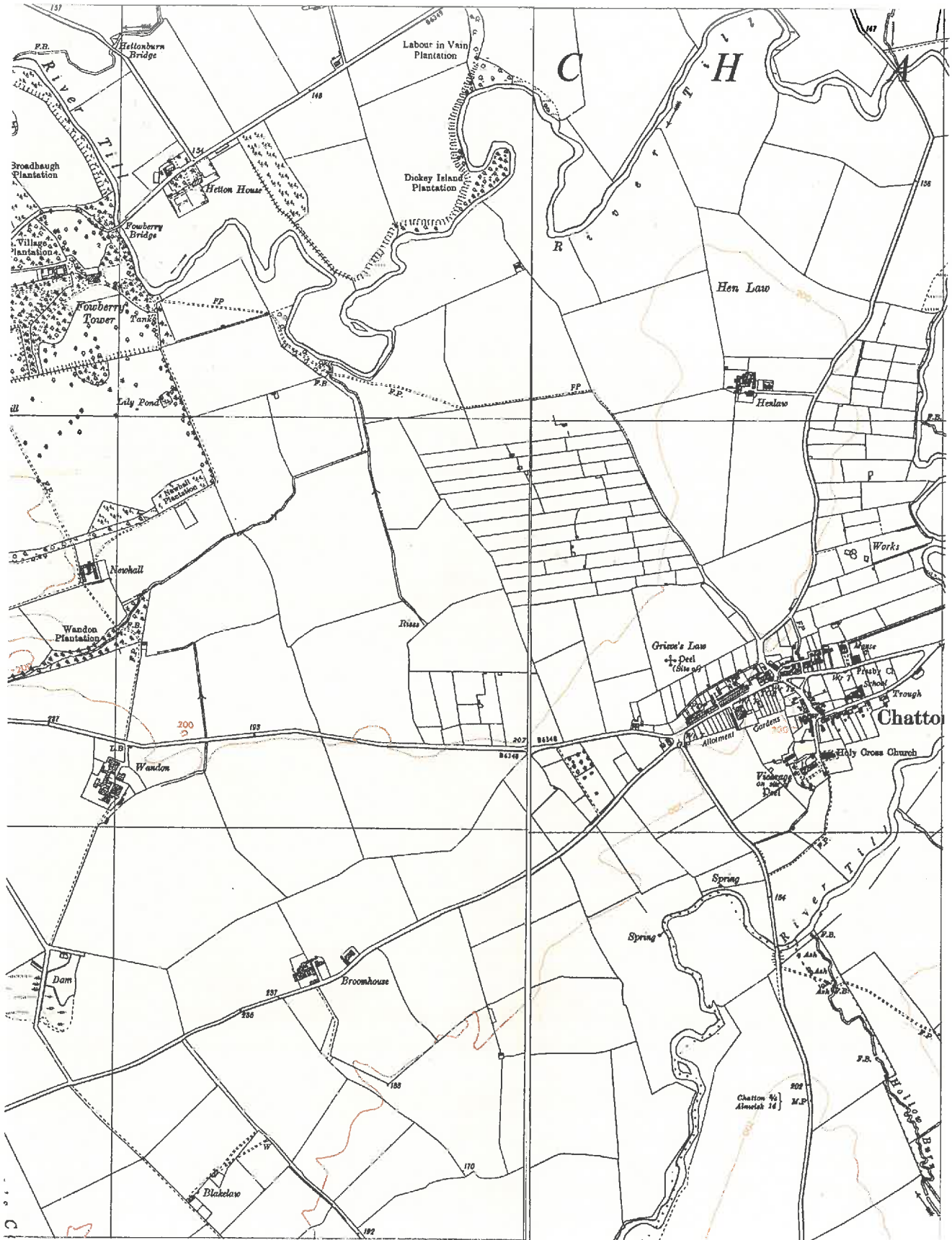
Important :—Sheet No. of Map on which Highway is shown

Draft Map

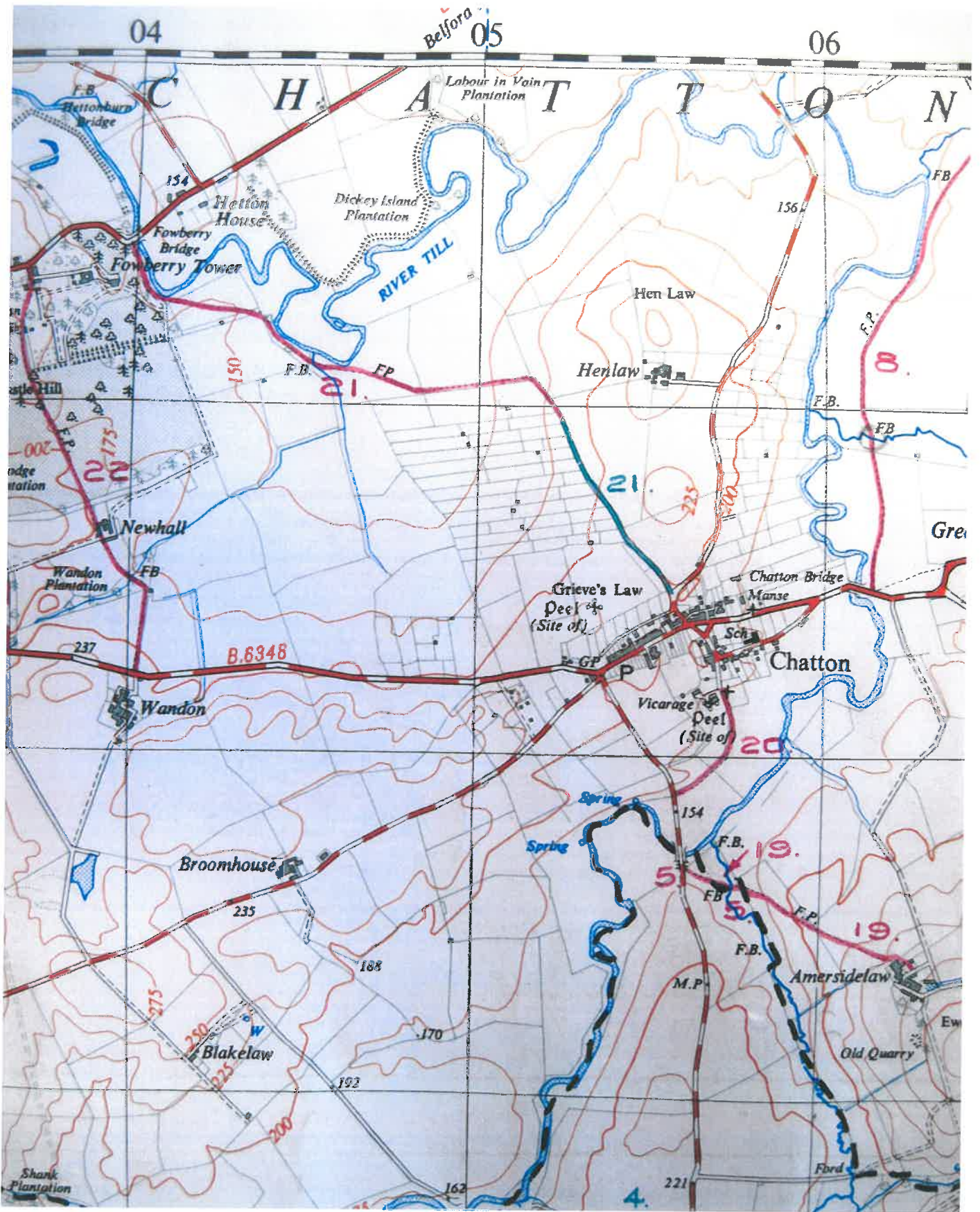


Provisional Map





Original Definitive Map



NORTHUMBERLAND COUNTY COUNCIL.

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

PUBLIC RIGHTS OF WAY - STATEMENT.

1. Borough
Urban-District
Rural District Glendale
2. Parish CHATTON
3. Number of Footpath on Map 21 ✓
4. Name of Path Sandy Lonnen
5. Kind of Path (i.e. FP/BR) F.P. and B.R.
6. General Description of Path From the Holborn - Chatton Road at Chatton.....
in a north-westerly direction to the Balford - West Westwood Road at Fowberry.
Bridge......
.....
.....
.....
7. Other relevant information Footbridge at Fowberry recorded on County
Council Schedule as F.B. 1033......
.....
.....
.....
.....

