

## RIGHTS OF WAY COMMITTEE

12 September 2017

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### PUBLIC RIGHTS OF WAY

#### DEFINITIVE MAP MODIFICATION ORDER (No 12) 2015

#### BYWAY OPEN TO ALL TRAFFIC No 37 (PARISH OF INGRAM)

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

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#### **Purpose of report**

To inform the Committee of the decision, of the Inspector appointed by the Secretary of State for the Department of the Environment, Food and Rural Affairs, to determine, following a public hearing, the above Order that attracted two objections.

#### **Recommendations**

**It is recommended that the Committee notes the Inspector's decision to confirm the Order, subject to the removal of the most westerly 320 metres of the byway, in line with his interim decision.**

#### **1.0 BACKGROUND**

- 1.1 In September 2015 the County Council made, and in October 2015 advertised, Definitive Map Modification Order (No 12) 2015. This Order sought to record a byway open to all traffic on the basis of historical documentary evidence. Modification Order (No 12) 2015 attracted 2 objections, from one of the affected landowners and from a resident of Newcastle upon Tyne. The landowner objection was made on the basis that no public motor vehicular right of way existed over the route. The other objector supported the existence of a public motor vehicular right of way, but argued that the Council had not done enough to justify recognizing the route as a byway open to all traffic.
- 1.2 At its meeting in March 2016, the Planning & Rights of Way Committee agreed with the officer recommendation that, on a balance of probabilities, public motor vehicular rights had been shown to exist, that the Order be referred to the Secretary of State for determination, and that the Council support confirmation of the Order, as made.

- 1.3 In June 2016, the Order was submitted to the Secretary of State for determination. One of the objectors expressed a desire to be heard in person, so the Planning Inspectorate decided that the matter was one that should be determined by means of a Public Hearing.
- 1.4 A Public Hearing to consider evidence and legal arguments took place at Ingram Village Hall on 19 January 2017.
- 1.5 On 16<sup>th</sup> February 2017, the Inspector appointed by the Secretary of State issued his interim decision letter. It was an interim decision, because he proposed to confirm the Order subject to the removal of the most westerly 320 metres of the Order route. The Inspector was satisfied that, on a balance of probability, based on the documentary evidence available, public motor vehicular rights do exist over the whole Order route. Although he found that the majority of the route satisfied the test for being recorded on the Definitive Map as a byway open to all traffic, his view was that the most westerly 320 metres of the Order route did not.
- 1.6 The Inspector's interim decision was advertised on 30<sup>th</sup> March and a period of 28 days allowed for objections. The Secretary of State did not receive any objections to the interim decision.
- 1.7 On 24<sup>th</sup> July 2017 the Inspector appointed by the Secretary of State confirmed Definitive Map Modification Order (No 12) 2015, with the modifications identified in his interim decision.

## **BACKGROUND PAPERS**

Local Services Group File: Modification Order (No 12) 2015 & B/24/37z

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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 12) 2015**

##### **Byway Open to All Traffic No 37 (Parish of Ingram)**

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 2015.
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 12) 2015.

# Definitive Map Modification Order (No 12) 2015

## Index

Parish	Path No.	Modification	OS Map Nos.	Def Map Nos.
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### Former Berwick-upon-Tweed Borough

Ingram	FP 11	Amend Statement	NU 01 NW	55
Ingram	FP 12	Amend Statement	NU 01 NW	55
Ingram	BOAT 37	Addition	NU 01 NW	55

# Definitive Map Modification Order (No 12) 2015

## Description of Modification to Definitive Map and Statement

### Former Berwick-upon-Tweed Borough

Ingram

Byway Open to All Traffic No 37

(NU 01 NW)

Part I. Map:

*at the junction with the spur of the U1099 leading to Ingram Mill*

Adding thereto a byway open to all traffic, from a point marked A, ~~10 metres south-west of Ingram Village Hall~~; in a general south-easterly direction, along the U1099 road for a distance of ~~1870~~<sup>1550</sup> metres, to a point marked D, on alleged Byway Open to All Traffic No 40 (the U1094 road) at Fawdon.

Part II Statement:

*from the junction with the spur of the U1099 leading to Ingram Mill in a south-easterly direction for 350 metres,*

To be prepared as follows:  
As a 5 metre wide byway open to all traffic, ~~from the U1099 road, 10 metres south-west of Ingram Village Hall~~, in an easterly direction for a distance of 285 metres, then in a south-easterly ~~direction for a distance of 400 metres~~, then in a southerly direction for a distance of 160 metres, then in a north-easterly direction for a distance of 315 metres, then in a southerly direction for a distance of 145 metres, then in an easterly direction for a distance of 200 metres, then in a south-easterly direction for a distance of 365 metres, to join Byway Open to All Traffic No 40 (the U1094 road) at Fawdon.

Ingram

Footpath No 11

(NU 01 NW)

Part I Map:

The Map is not affected.

Part II Statement:

To be amended as follows:  
From Footpath No 10 near East Hill in a south-westerly direction crossing Byway Open to All Traffic No 37 (the U1099 road) at Fawdon and by Old Fawdon Hill to the former Rothbury Rural District boundary south of Bowl Holes joining Footpath No 11 in the Parish of Alnham.

Ingram

Footpath No 12

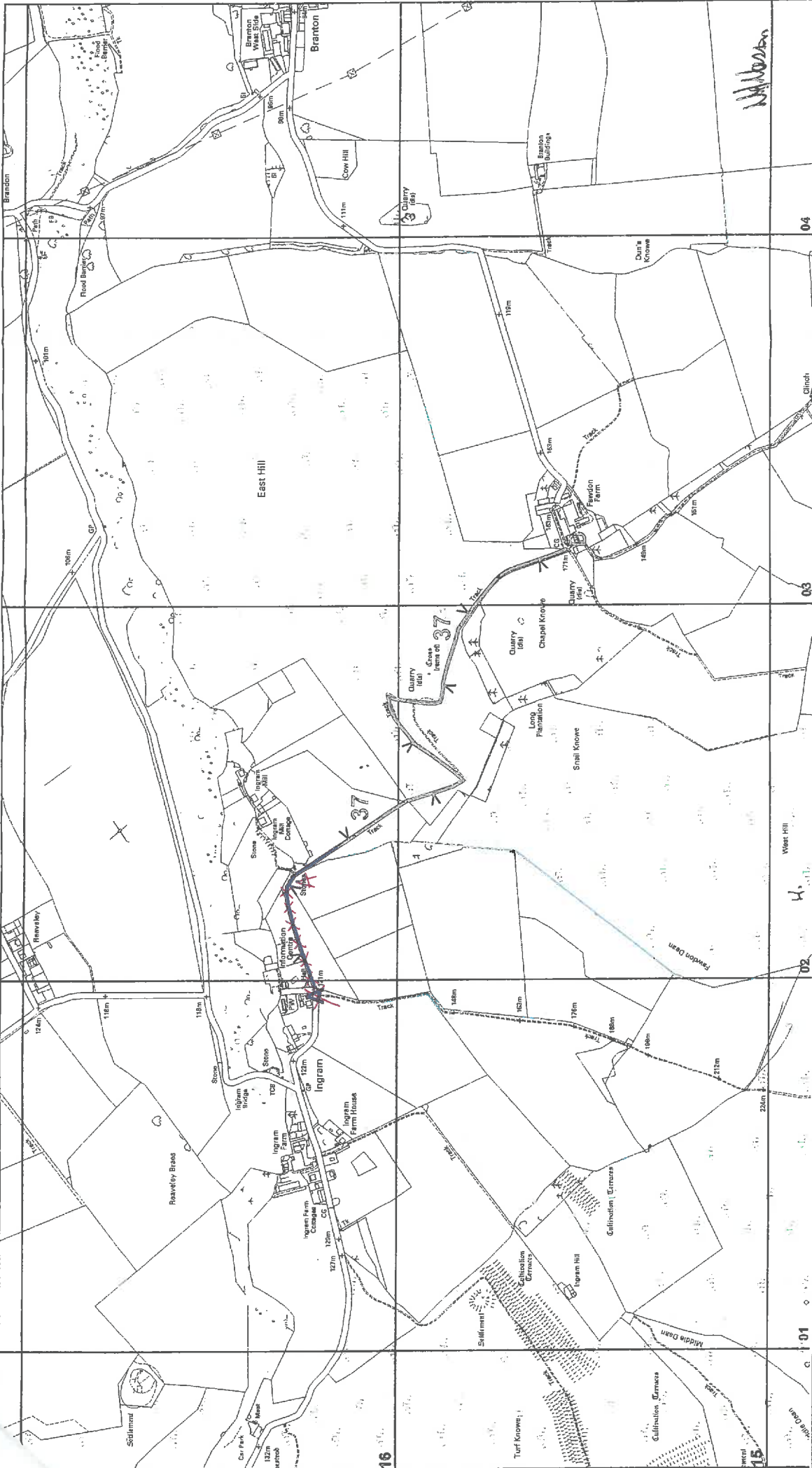
(NU 01 NW)

Part I Map:

The Map is not affected.

Part II Statement:

To be amended as follows:  
From Byway Open to All Traffic No 37 (the U1099 Fawdon - Ingram road) north-west of Fawdon, in a westerly direction crossing and recrossing this byway / road to finally rejoin it east of the Fawdon Burn.



**Northumberland**  
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 Local Services  
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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**

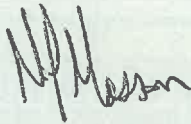
**Modification Order (No.12) 2015**

Public Footpath to be deleted	Public Footpath	Public Bridleway	Restricted Byway	Byway Open to All Traffic
<p>O.S. Map: NU 01 NW          Former District(s): Berwick</p>				
<p>Definitive Map No: 55          Parish(es): Ingram</p>				
<p>Scale: 1/10,000          Date: September 2015</p>				

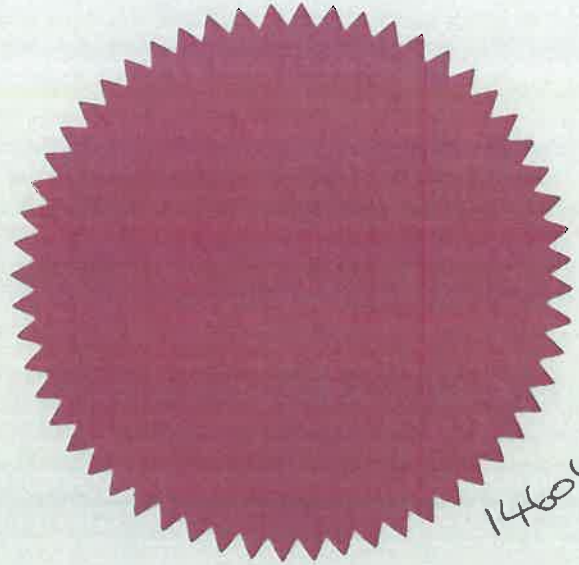


IN WITNESS whereof the Common Seal of the County Council of Northumberland was hereunto affixed on the 28<sup>th</sup> day of September 2015

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



Duly Authorised Officer



14604

The foregoing order is hereby confirmed subject to the red ink modifications thereon

*Martin Elliott* 24 JUL 2017

An Inspector appointed by The Secretary of State for Environment, Food and Rural Affairs



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## Order Decision

Hearing Held on 19 January 2017

Site visit made on 17 January 2017

by **Martin Elliott BSc FIPROW**

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

Decision date: 24 July 2017

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### Order Ref: **FPS/P2935/7/54M**

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The Northumberland County Council Definitive Map Modification Order (No 11) 2015.
- The Order is dated 28 September 2015 and proposes to modify the Definitive Map and Statement for the area by adding a byway open to all traffic as shown in the Order plan and described in the Order Schedule with consequential amendments to the definitive statement.
- In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act notice of the proposal to confirm the Order subject to modifications has been given.

**Summary of Decision: The Order is confirmed subject to modifications previously proposed and set out below in the Formal Decision.**

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### Procedural Matters

1. In my interim decision dated 16 February 2017 I proposed to confirm the Order subject to modifications to exclude the initial 320 metres of the Order route. No objections were raised in response to the notice of the proposed modifications.

### Conclusion

2. Bearing in mind the above I conclude that the Order should be confirmed subject to modifications previously proposed.

### Formal Decision

3. The Order is confirmed subject to the following modifications:
  - At Part 1 of the Schedule to the Order relating to Byway Open to All Traffic No 37 at line 2 delete '10 metres south-west of Ingram Village Hall' and insert 'at the junction with the spur of the U1099 leading to Ingram Mill'. At line three delete '1870' and insert '1550'.
  - At Part II of the Schedule to the Order relating to Byway Open to All Traffic 37 delete 'from the U1099 road, 10 metres south-west of Ingram Village Hall, in an easterly direction for a distance of 285 metres, then in a south-easterly direction for a distance of 400 metres' and insert 'from the junction with the spur of the U1099 leading to Ingram Mill in a south-easterly direction for 350 metres'.



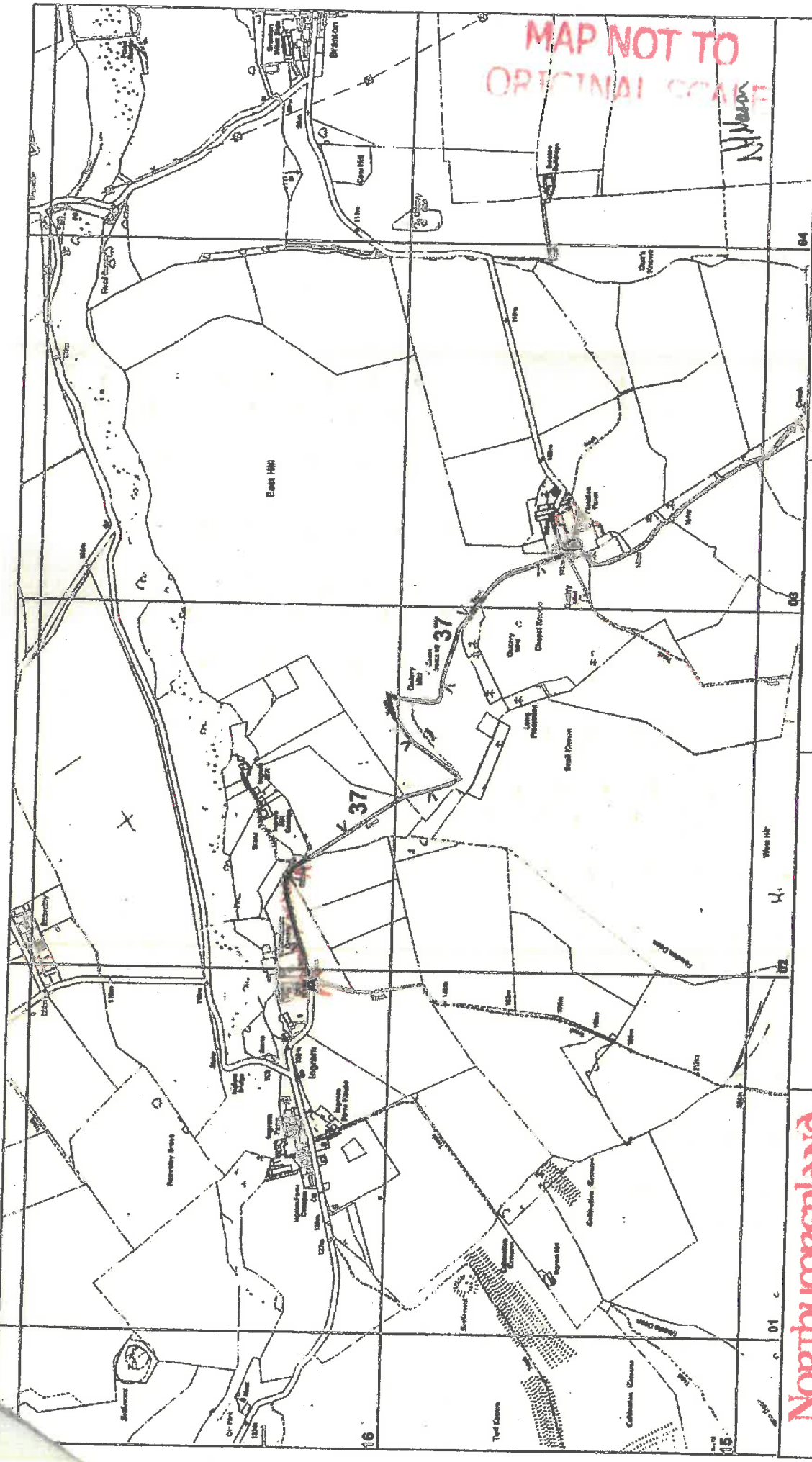
- From the map delete point A and insert a new point A at the junction of the spur of the U1099 leading to Ingram Mill. Delete the section of Byway Open to All Traffic to be added from the original point A to the new point A.

*Martin Elliott*

Inspector

MAP NOT TO ORIGINAL SCALE

N. Wilson



**Northumberland**

Northumberland County Council  
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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.12) 2015**

- Public Footpath to be deleted
- Public Footpath
- Public Bridleway
- Restricted Byway
- Byway Open to All Traffic

Scale: 1/10,000  
 Definitive Map No. 55  
 Former Districts: Berwick  
 Parish(es): Ingram

Date: September 2015