

RIGHTS OF WAY COMMITTEE

9 January 2018

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

ALLEGED PUBLIC FOOTPATHS Nos 8 & 8 PARISHES OF EWART & KIRKNEWTON

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 footpath rights over a route between the existing northern end of Public Footpath No 8 in the Parish of Kirknewton and the U1018 road, between Lanton House and Lanton Mill.

Recommendation

It is recommended that the Committee agree that there is sufficient evidence to indicate that public footpath rights have been reasonably alleged to exist over the route Q-R and that the route be included in a future Definitive Map Modification Order.

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 to adding a public right of way to the Definitive Map and Statement, based on historical documentary evidence, is Section 53(3)(c)(i) 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 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;”

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

2.0 PUBLIC EVIDENCE

- 2.1 On the current Definitive Map of Public Rights of Way (Relevant Date: 1 December 2005) there is a 70 metre gap between the northern end of Public Footpath No 8 (Parish of Kirknewton) and the U1018 road. The same situation existed on the original Definitive Map (Relevant Date: 21 June 1954) before that. The Definitive Statement for Footpath No 8 says it proceeds north-westerly to the River Glen.
- 2.2 The draft and Provisional Maps (these were formal Map stages prepared and published as part of the original Definitive Map process) also show the public footpath terminating at the embankment along the south bank of the River Glen.
- 2.3 It is unclear why Footpath No 8 stopped at the river. It might have been expected that the footpath would continue northwards, slightly further, to the Ewart-Kirknewton parish boundary.

3. LANDOWNER EVIDENCE

- 3.1 By letter, dated 17th September 2014, George F White (Land Agents) responded to the consultation, enclosing a marked up plan and stating:

“I am writing in response to your previous letter, dated 28th July, with regards to proposals to modify the Definitive Map and Statement. Please find enclosed a copy of the two plans which show the portion of alleged public rights of way which lie within my client's ownership (Lanton Estate).

“For clarification the points of the alleged public rights of way that lie within the Lanton Estate are:

...

Map 30 - Points O, N, R, M & L and numbers 5-6.

“I would like to make a further note that we do not believe that point N crosses the river to point X, as there is no access down to the river, from either side, therefore no crossing point is available. I will be able

to provide evidence to back this claim for future reference if you so require.

"If you have any further queries or I can be of any further assistance please do not hesitate to contact me."

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". Five replies were received and are included below.

4.2 By email, on 23rd September 2014, Kirknewton Parish Council responded to the consultation regarding 3 other routes in Kirknewton Parish, but not this particular one.

4.3 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 Ewart Footpath 8 No information, but we would strongly support this addition as it is currently a disconnect and would provide a walkable route from Lanton to Kirknewton. It would seem highly probable that such a path existed in the past to provide access to school, Church and station.

"Parish of Kirknewton Footpath 8 See comments for Ewart FP 8.

4.4 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 data as possible.

"Routes traced in red have been cycled without problem. [The route of alleged Footpaths Nos 8 & 8 are 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."

- 4.5 By letter, on 3rd November 2014, Ms S Rogers responded to the consultation, on behalf of the British Horse Society, stating:

"KIRKNEWTON PARISH

"Proposed addition to Footpath 8

If this short section of footpath could be upgraded to bridleway and modifications made to the bridge as described below (alleged BOAT 55), it would create a circular route of value to local people."

- 4.6 By email, on 4th November 2014, Ms S Rogers responded to the consultation, on behalf of the British Horse Society, stating:

"EWART PARISH

"Alleged footpath 8

This short link between alleged BOAT 6 and an existing public footpath in Kirknewton parish which leads to alleged BOAT 55 Kirknewton makes use of a footbridge across the river. This provides a useful link between the two parishes and so the BHS supports its addition to the definitive map. It would be even more useful if it could be upgraded to bridleway as then it would provide a link for cyclists and horse riders as well which could be combined with alleged BOAT 9 to make a circular route. This would make up for the fact that alleged BOAT 7 has no public value."

5. DOCUMENTARY EVIDENCE

- 5.1 A search has been made of archives relating to the area. Evidence of Quarter Sessions Records, Council Highways records, 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 alleged Footpaths Nos 8.

1820 Fryer's County Map

There is no evidence of a path or track approximating to the route of alleged Footpaths Nos 8.

1820-32 Cary's Map

There is no evidence of a path or track approximating to the route of alleged Footpaths Nos 8.

1828 Greenwood's County Map

There is no evidence of a path or track approximating to the route of alleged Footpaths Nos 8.

1866 Ordnance Survey Map: Scale 1:10,560

There is no evidence of a path or track over the route of alleged Footpaths Nos 8.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of alleged Footpaths Nos 8. There is clear evidence of a bridge (marked "FB") across the River Glen at (or very close to) the point where the footbridge across the river is now.

1924 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of alleged Footpaths Nos 8. There is clear evidence of a bridge (marked "FB") across the River Glen at (or very close to) the point where the footbridge across the river is now.

1932 Glendale RDC Handover Map

The route of the road at the southern end of existing Public Footpath No 8 and the road between Lanton and Lanton Mill are both identified as publicly maintainable highways. On the base map, there is clear evidence of a bridge across the River Glen at (or very close to) the point where the footbridge across the river is now.

Definitive Map – original Survey Schedules & Map

The route of existing Public Footpath No 8 (Parish of Kirknewton) exists on the base map, and is identified as a public footpath (numbered 1). The route of alleged Footpaths Nos 8 (Parishes of Kirknewton and Ewart) does not appear to be shown on the base map (though the join in the map and the thick parish boundary line might, potentially, be obscuring information).

Draft Map

The route of existing Public Footpath No 8 (Parish of Kirknewton) exists on the base map, and is identified as a public footpath (numbered 1). The route of alleged Footpaths Nos 8 (Parishes of Kirknewton and Ewart) does not appear to be shown on the base map (though the join

in the map and the thick parish boundary line might, potentially, be obscuring information.

Provisional Map

The route of existing Public Footpath No 8 (Parish of Kirknewton) exists on the base map, and is identified as a public footpath (numbered 1). The route of alleged Footpaths Nos 8 (Parishes of Kirknewton and Ewart) does not appear to be shown on the base map (though the join in the map and the thick parish boundary line might, potentially, be obscuring information).

1962 Original Definitive Map

The route of existing Public Footpath No 8 (Parish of Kirknewton) exists on the base map, and is identified as a public footpath. The route of alleged Footpaths Nos 8 (Parishes of Kirknewton and Ewart) does not appear to be shown on the base map.

1968 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a "path" over the route of existing Public Footpath No 8 (Parish of Kirknewton) and over the route of alleged Footpaths Nos 8 and 8 (Parishes of Kirknewton and Ewart). Part of the Kirknewton section would be along the top of the flood defences (not specifically identified as a path). A footbridge across the River Glen is clearly shown at the point where the alleged public footpath crosses the river.

1987 Ordnance Survey Map: Scale 1:10,000

There is clear evidence of a "path" over the route of existing Public Footpath No 8 (Parish of Kirknewton) and over the route of alleged Footpaths Nos 8 and 8 (Parishes of Kirknewton and Ewart). Part of the Kirknewton section would be along the top of the flood defences (not specifically identified as a path). A footbridge across the River Glen is clearly shown at the point where the alleged public footpath crosses the river.

5.2 The Definitive Statement for Public Footpath No 8 (Parish of Kirknewton) states:

"From the public road north-east of Kirknewton in a north-westerly direction to the River Glen.

5.3 The Council's Highways Committee minutes from 16 October 1972 state:

"(11) Footbridge at Lanton - Glendale Rural District
A request has been received from the Glendale Rural District Council for a footbridge over the River Glen between Lanton and Lanton Mill, near Kirknewton, to connect the unclassified road U1018 with footpath No 8. Apparently there used to be a suspension type footbridge

provided by the two adjoining landowners which was used by the public, although not a right of way, until it was taken down some time ago.

“An unclassified road U1022 crosses the River Glen some 70 yards east of the site of the old footbridge and it would normally be appropriate to recommend the provision of a footbridge on this route if any improved crossing is required. However, the River Glen is comparatively wide where crossed by the U1022 and it would not be economic to build a footbridge at this site. Under these circumstances I recommend that approaches be made to the landowners to dedicate the lengths of footpath leading to the site of the old bridge as public rights of way, and, if agreement is obtained that the County Council should erect a new footbridge at this site in the next financial year. The estimated cost of this proposal is £6,000.

The minutes show that this recommendation was “approved” by the Committee.

- 5.4 The footbridge over the River Glen is identified in Council records as being County Footbridge 1039. The bridge card for this bridge indicates it was constructed in 1973. The Bridge Card, itself, indicates that the footbridge was inspected in 1983, 1984, 1985, 1987, 1988 and 1989. Presumably, it was inspected prior to this, but these inspections pre-date the bridge card. Information regarding later inspections (in 1989, 1991, 1993, 1997, 1998, 2001, 2002, 2005, 2007 2009 and 2011) is stored electronically.

6. SITE INVESTIGATION

- 6.1 From the U1018 road, 835 metres west of Lanton House (Point R), a 1 to 1.5 metre wide earth / grass surfaced path proceeds in a southerly direction for a distance of 35 metres. A 1 metre wide concrete surfaced footbridge continues in a southerly direction, over the River Glen (crossing the Ewart - Kirknewton parish boundary in the process) for a further 25 metres. Then continuing for a further 10 metres, down a short flight of concrete steps on the side of the flood defences, and through a kissing wicket gate (at Point B) into a field. A 2 metre wide grass surfaced track following the base of the flood defences proceeds in a south-westerly direction for a distance of 100 metres, to a indistinct junction with existing Public Footpath No 8 (Point D).
- 6.2 From the south side of the footbridge (Point B) there is an alternative trodden path which ascends the flood defence and proceeds in a general south-westerly direction along the top of that for a distance of 100 metres to a junction with existing Public Footpath No 8 (Point C).
- 6.3 The route of existing Public Footpath No 8 (E-Q) is not clearly defined on the ground, and could easily be missed by persons walking the routes described in paragraphs 6.1 and 6.2 above. Although existing Public Footpath No 8 is recorded as proceeding northwards to the south bank of the River Glen (Point Q), no provision has been made for it where it crosses the wire fence which follows the base of the flood defences. Persons using the route variation described in 6.2 above, along the top of the flood defences, are probably

continuing in a south-westerly direction further along the flood defences, rather than accessing existing Footpath No 8. Those people wishing to access the U1022 road are probably taking a direct route across the field, between the wicket gate at the southern end of the footbridge and the stile at the southern end of existing Footpath No 8 (i.e. the route B-E), rather than following any part of existing Public Footpath No 8.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2017, a copy of the report was circulated to those landowners / occupiers who responded to the initial consultation for their comments. No additional comments have been received.

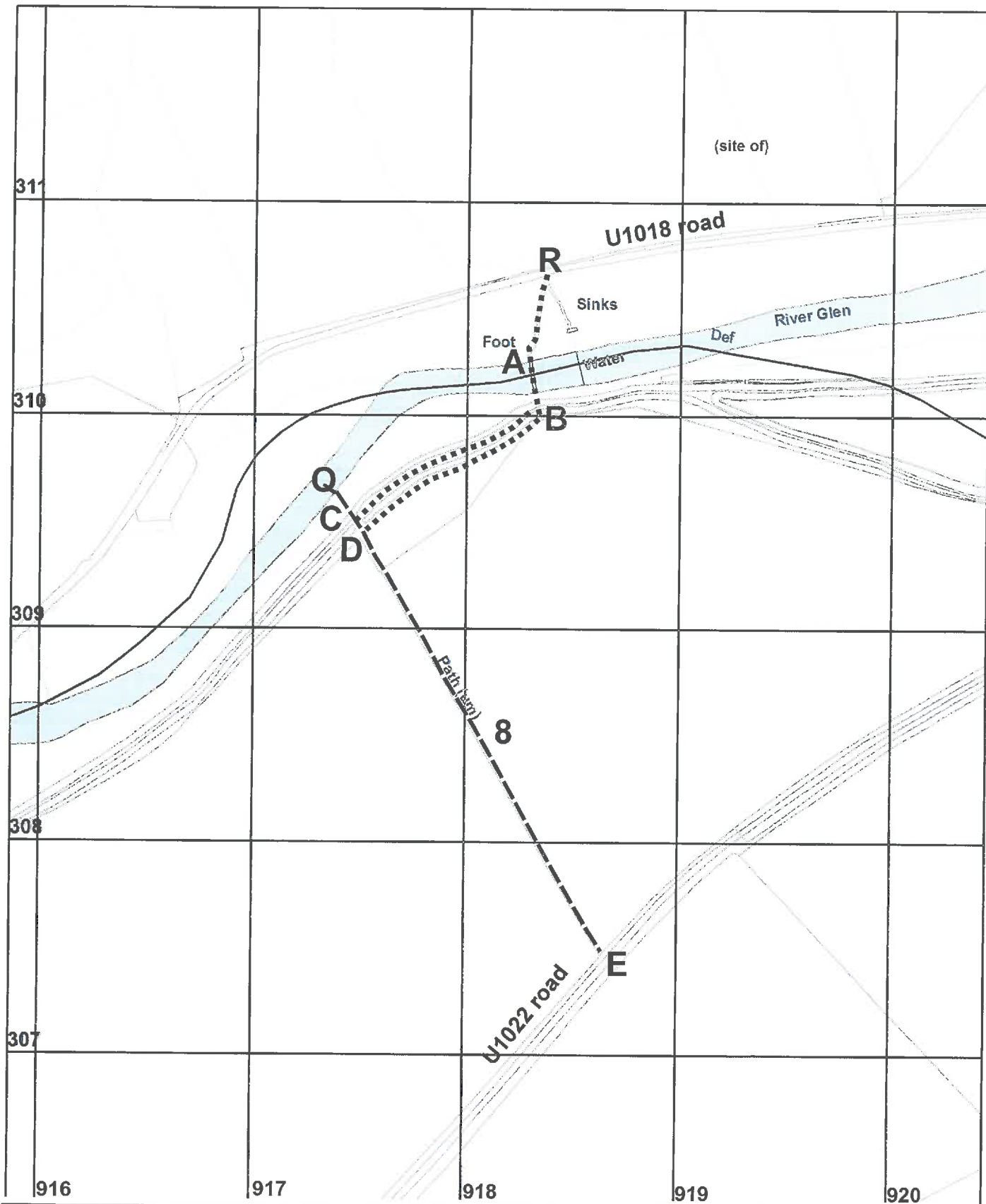
8. DISCUSSION

- 8.1 Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:
- that a right of way, which is not shown in the Map and Statement, subsists or is reasonably alleged to subsist over land in the area to which the Map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or; subject to section 54A, a byway open to all traffic.
- 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 of alleged Public Footpaths Nos 8 and 8 does not appear to have been considered for inclusion on the Definitive Map when that map was first drawn up in the 1950s and existing Footpath No 8 (Parish of Kirknewton) was shown terminating at the river.
- 8.5 The route has been consistently identified as a path on Ordnance Survey maps since 1899. The route is not shown on Armstrong's, Fryer's or Greenwood's County Maps of 1769, 1820 and 1828, or on Cary's Map of 1820-32, but this is not unexpected - public footpaths are very rarely identified on these maps.

- 8.6 The County Council's Highways Committee minutes from October 1972 indicate that, historically, there was a footbridge crossing of the River Glen at this location; though the route was not, seemingly, a recognized public right of way. Glendale Rural District Council was requesting a replacement footbridge. The County Council gave consideration to building one at the site of the U1022 road crossing point, slightly further to the east, but determined that the width, here, was too great. The County Council resolved to rebuild a footbridge at the old footbridge site, subject to the agreement of the landowners to dedicate footpath rights to it. The bridge was subsequently built, implying that formal or informal dedication of footpath rights, by the landowners, did indeed take place.
- 8.7 Advice from the Planning Inspectorate in their 'consistency guidelines' states that it is important to have the correct width, where known, recorded in the definitive statement. Usually there is a boundary to boundary presumption for public highways. Where, as in this case, the footpath is not constrained by boundaries (and the legal width isn't otherwise defined) the Council routinely identifies a width of 1.5 metres (wide enough for two people to pass each other).
- 8.8 As identified in paragraphs 6.1 to 6.3 above, the alignment of existing Footpath No 8 may not represent the most suitable route to / from the southern end of the footbridge. Both the landowner, on the south side of the river, and the public might benefit from the path being legally diverted from the route B-D-E to a more direct B-E route.

- 9.1 In light of the evidence available, it appears that, public footpath rights have been reasonably alleged to exist over the route of alleged Public Footpath No 8 (Parish of Ewart) and and alleged Public Footpath No 8 (Parish of Kirknewton), and it would be appropriate to recognize the public's rights over these routes by recording them on the Definitive Map as public footpaths.

Local Services Group File: B/19/8z & B/26/8z



Northumberland

Northumberland County Council

Infrastructure Records

Local Services

County Hall Morpeth Northumberland

NE61 2EF

Telephone 0845 600 6400

Public Rights of Way

----- Existing Public Footpath

..... Alleged Public Footpath

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Former District(s)
Berwick

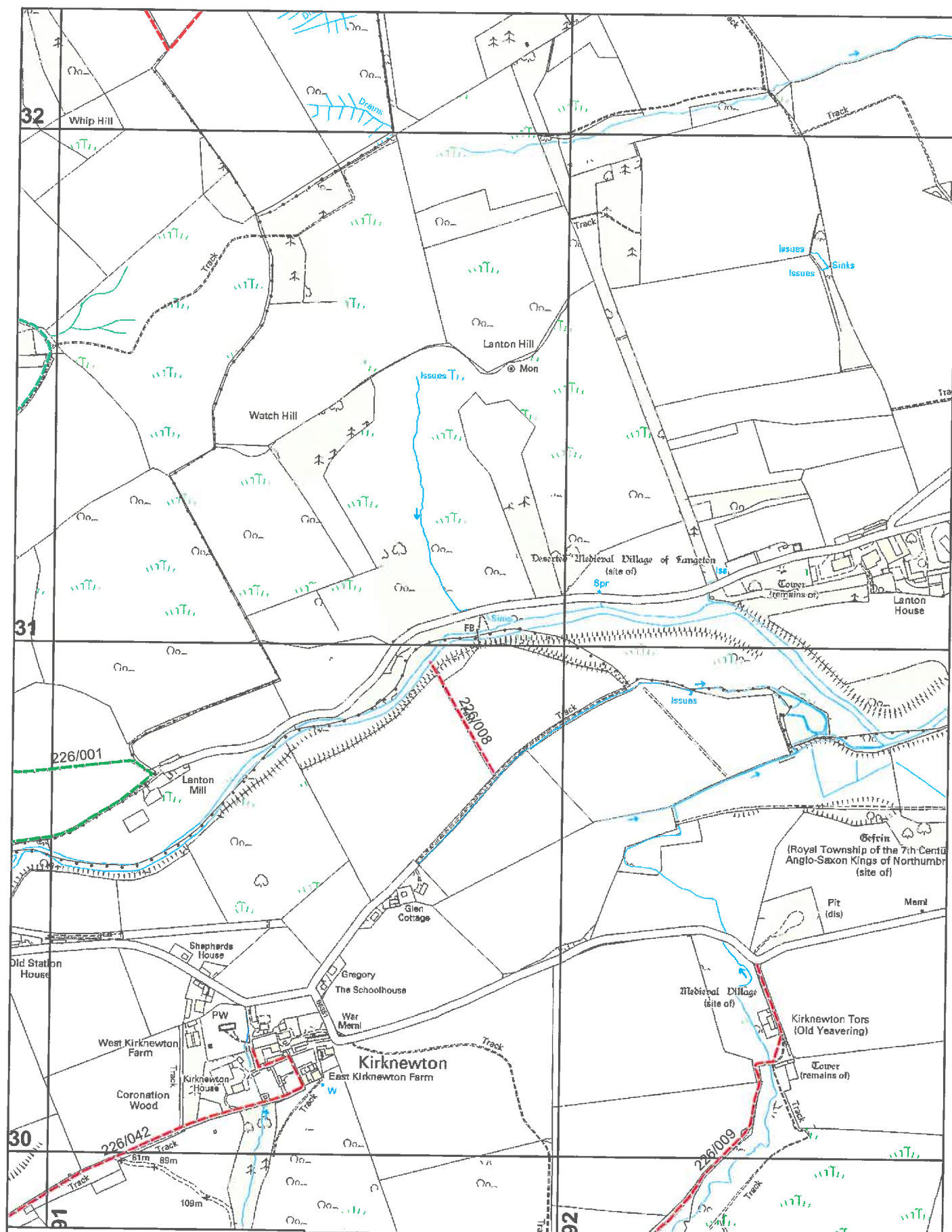
Parish(es)
Ewart/Kirknewton

Scale
1:2,500

Def. Map No.
27

O.S. Map
NT 93 SW

Date
December 2017



NORTHUMBERLAND

Northumberland County Council

Infrastructure

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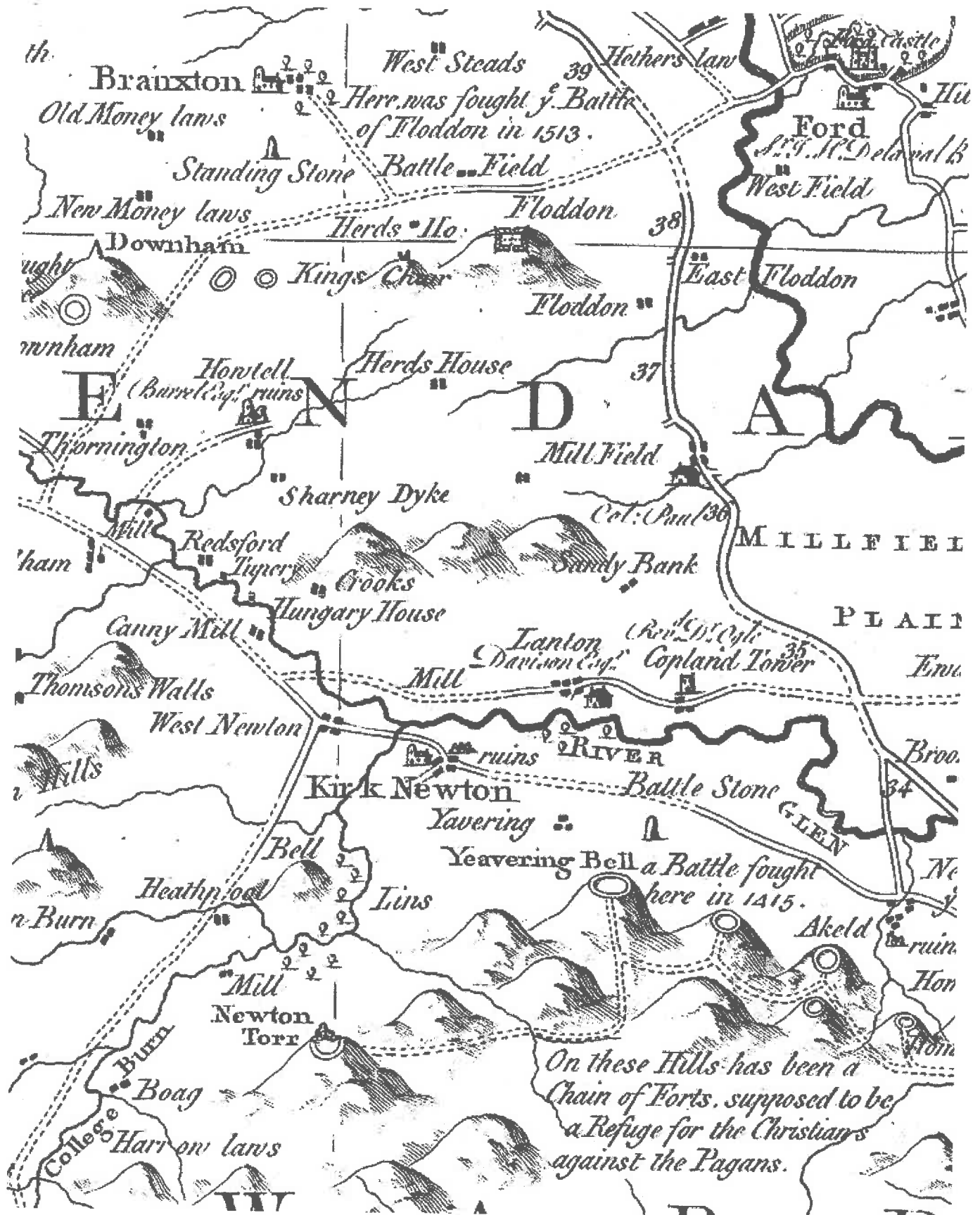
Legend

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

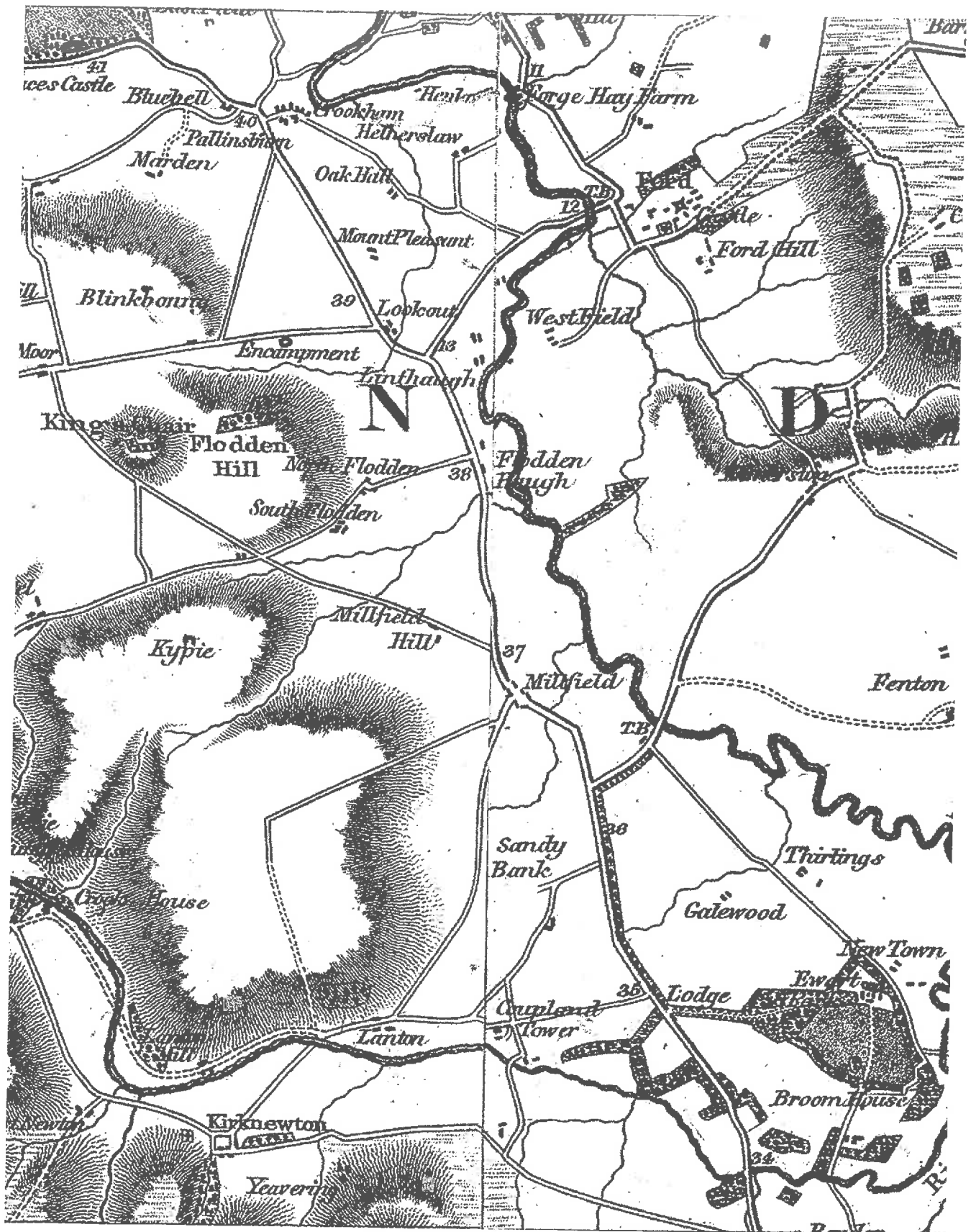
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way

Scale: 1:10,000

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Fryer's County Map
1820

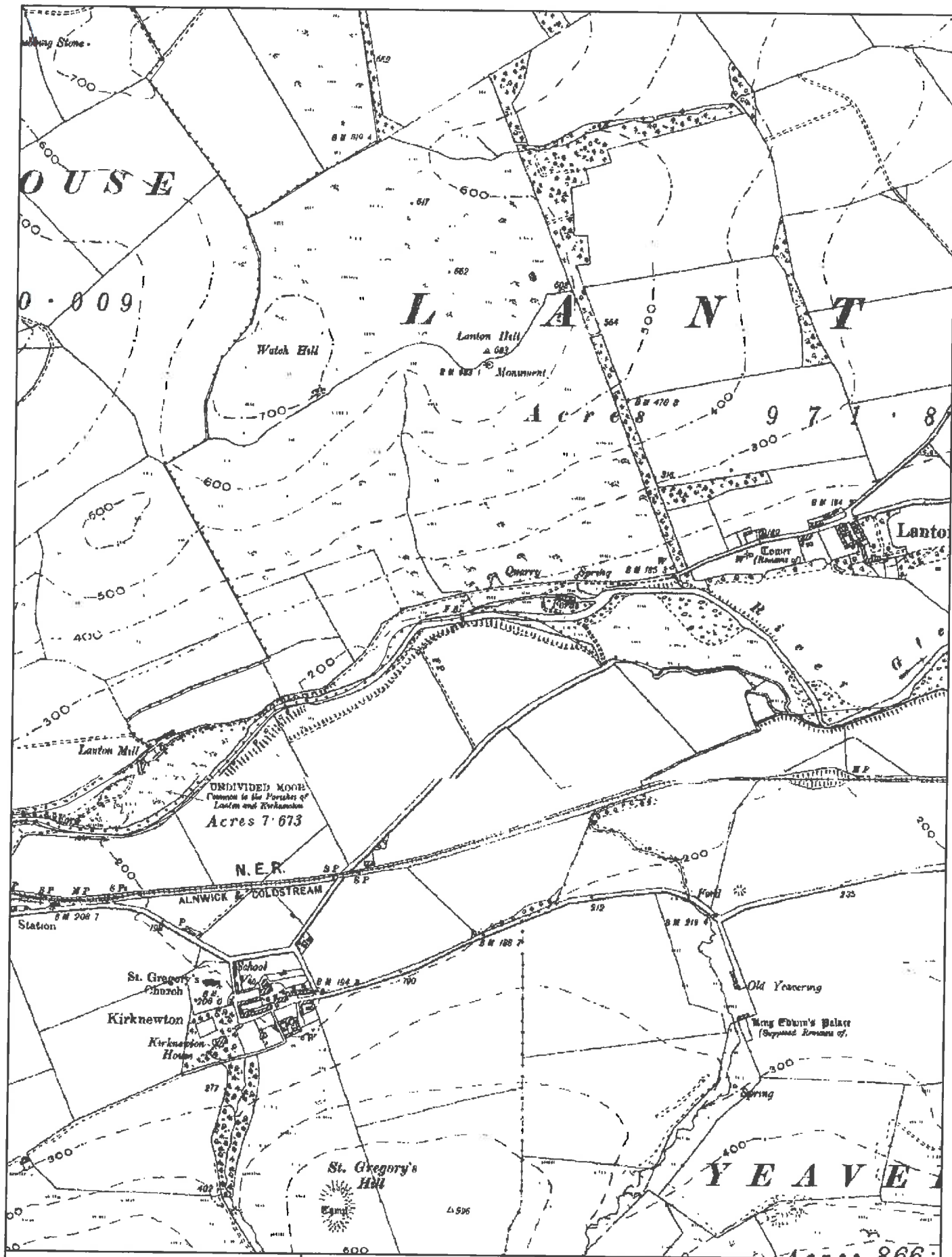


Greenwood's County Map
1828





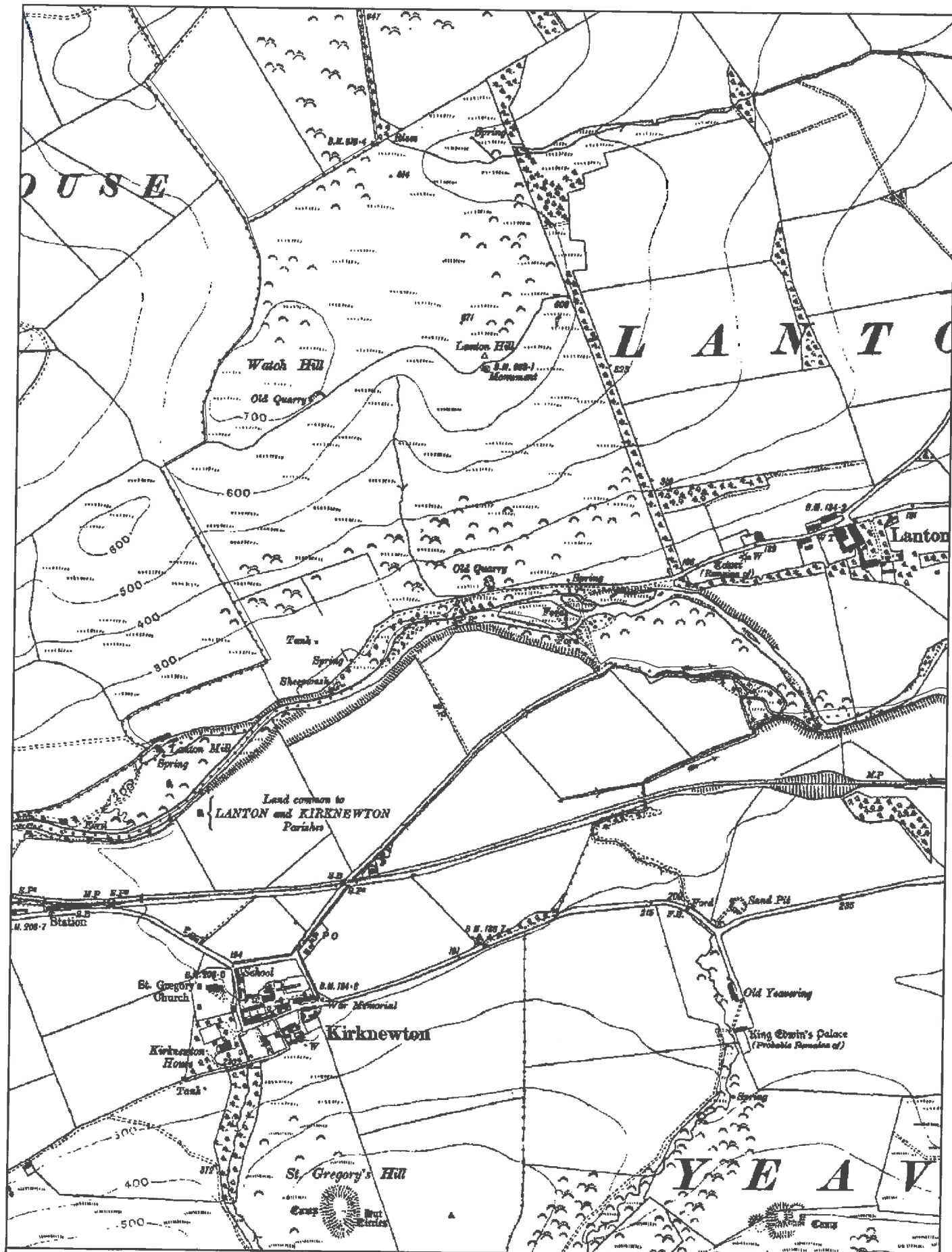
Ordnance Survey 1st Edition 6" map (1866)



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SCALE 1:10,560

Ordnance Survey 2nd Edition 6" map (1899)



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SCALE 1:10,560

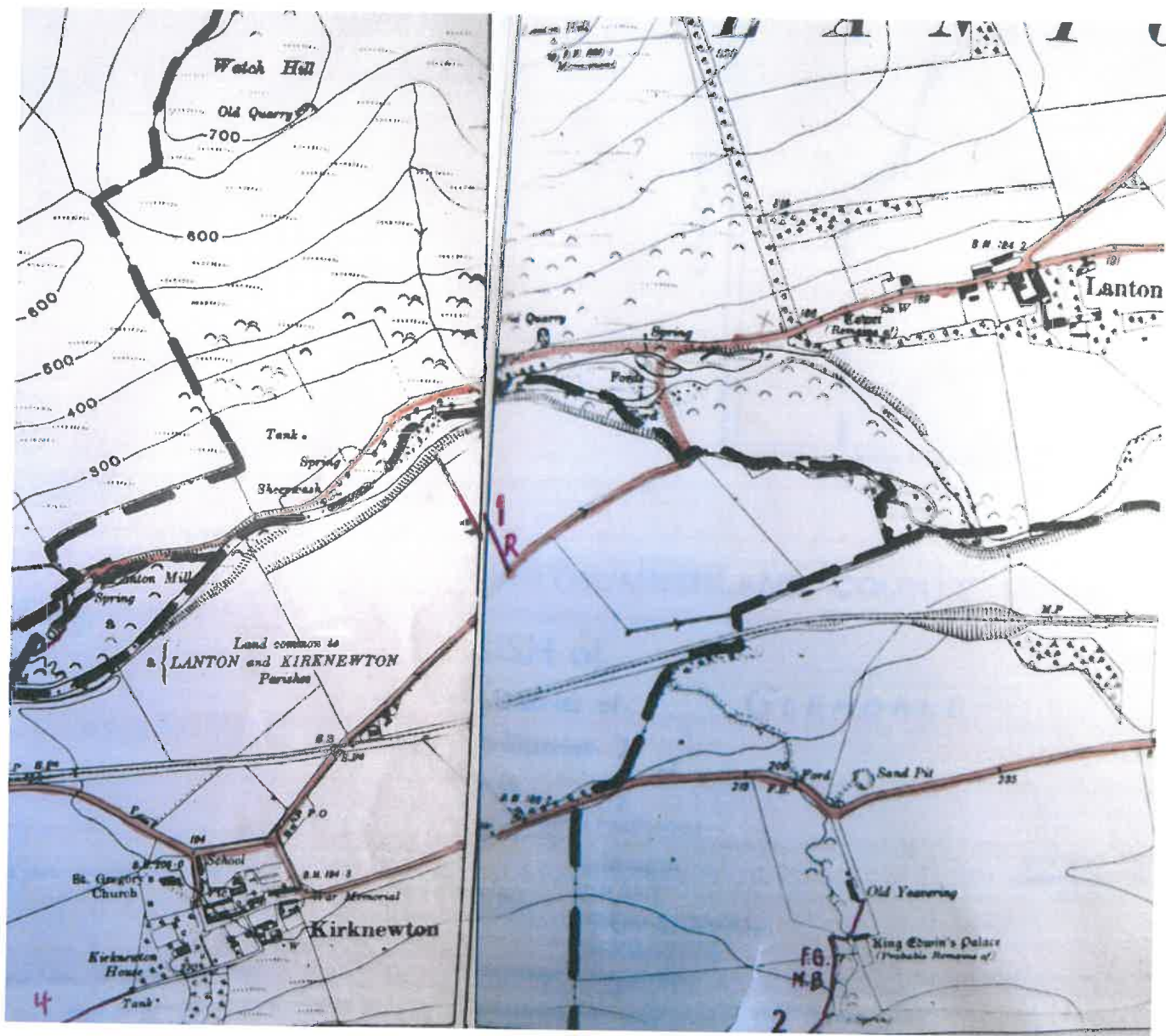
Ordnance Survey 3rd Edition 6" map (1924)

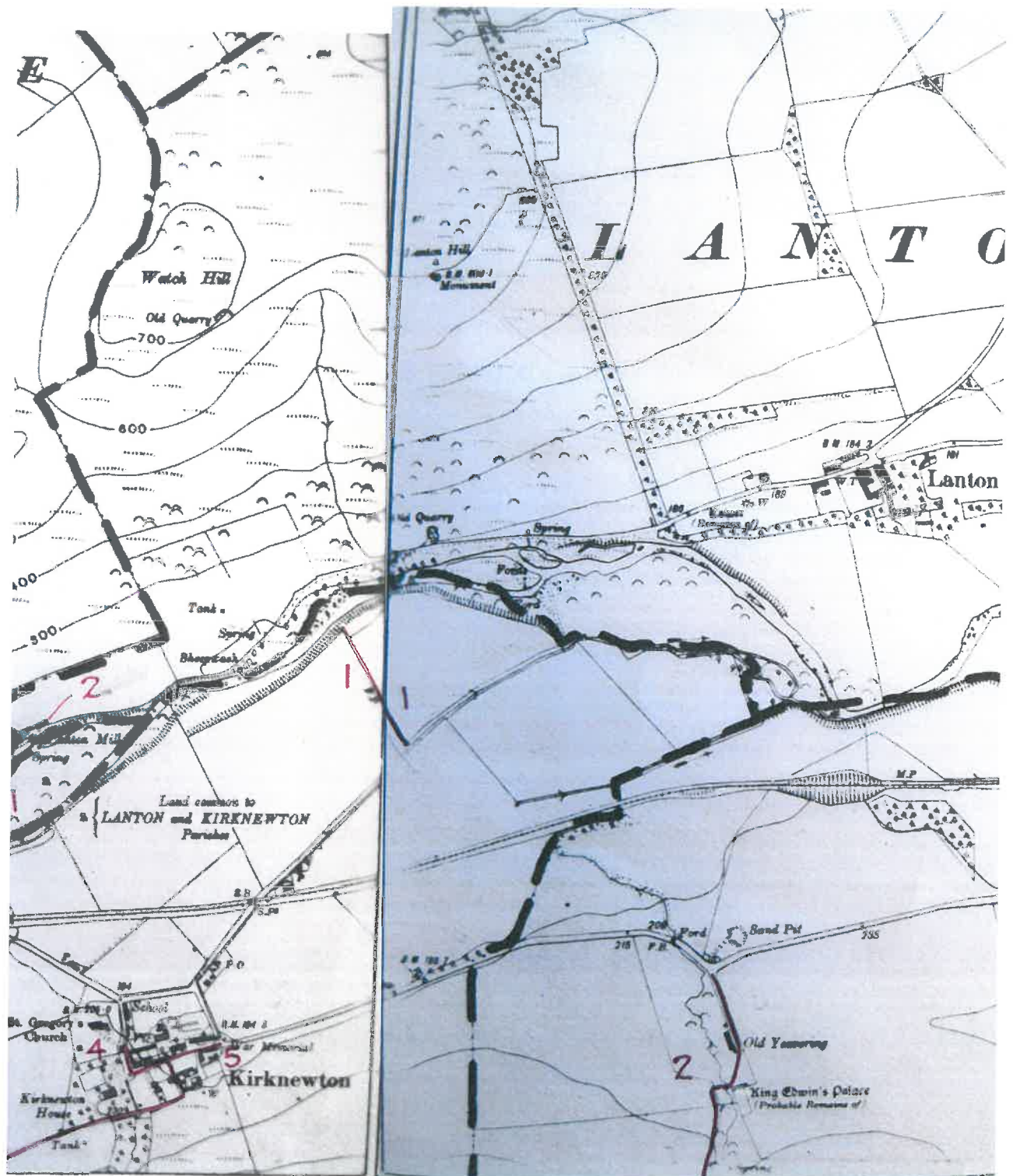
Glendale RDC Handover Map 1932



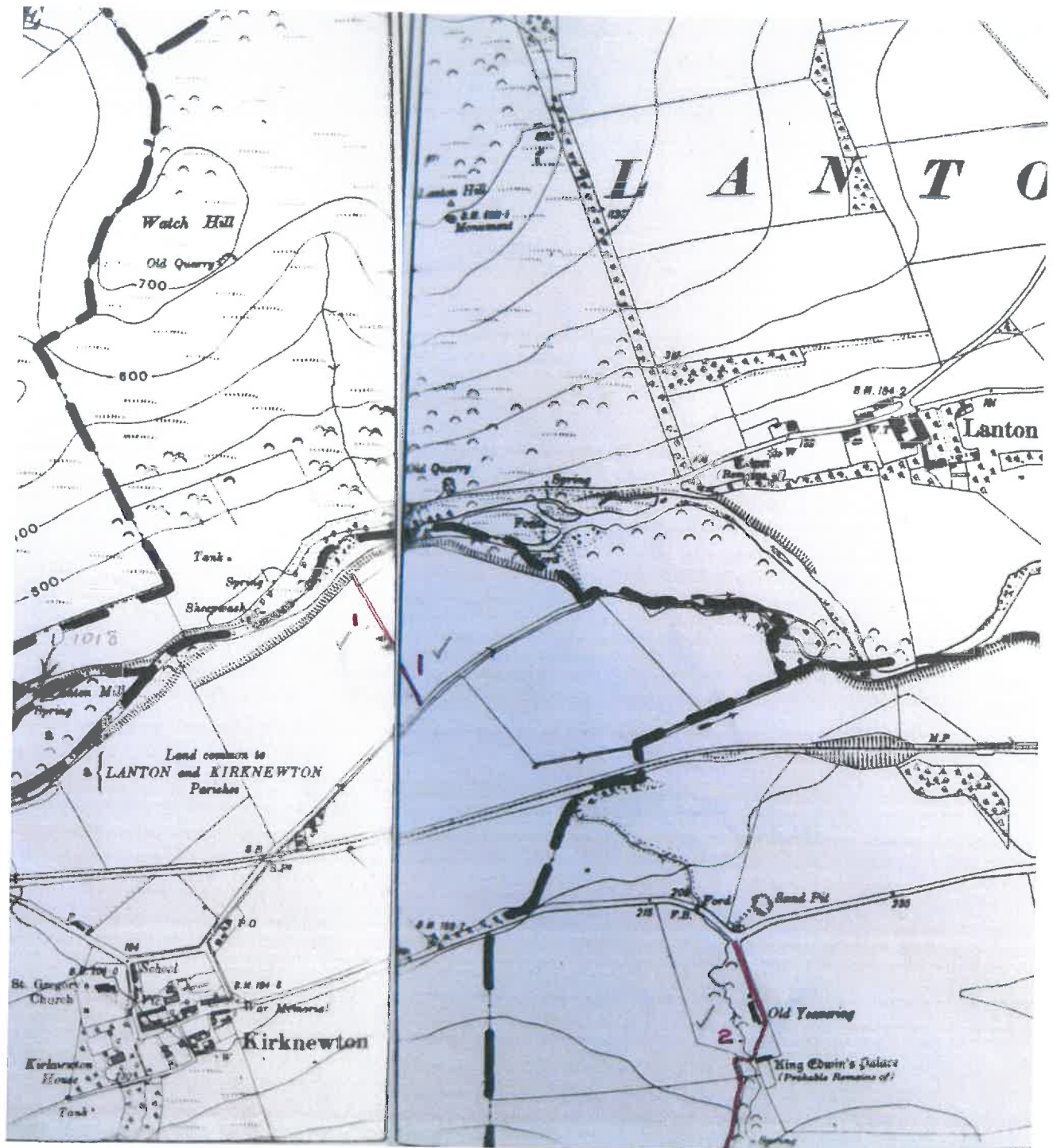
Reproduced plan is not to scale

Survey Map





Provisional Map



This is a detailed topographical map of the Lanton area in North Yorkshire. The map features contour lines indicating elevation, with major peaks like Watch Hill and Lanton Hill both marked at 671 feet. The River Ure flows through the region, with several tributaries and smaller streams shown. Key locations include the village of Lanton, the hamlet of Crookhouse, and the town of Kirknewton. The map also identifies various plantations such as Rape Hill, Common, and Quarry Field. Other notable features include the remains of a tower, a sand pit, and a battle stone. The map is oriented with North at the top and includes a grid system for location finding.

REPORTS OF COUNTY SURVEYOR—continued.

REPORTS OF COUNTY SURVEYOR—continued.	Decision of the Committee.
(11) Footbridge at Lanton - Glendale Rural District.	Approved.
<p>A request has been received from the Glendale Rural District Council for a footbridge over the River Glen between Lanton and Lanton Mill, near Kirknewton, to connect the unclassified road U.1018 with footpath No. 8. Apparently there used to be a suspension type footbridge provided by the two adjoining landowners which was used by the public, although not a right of way, until it was taken down some time ago.</p> <p>An unclassified road U.1022 crosses the River Glen some 70 yards east of the site of the old footbridge and it would normally be appropriate to recommend the provision of a bridge on this route if any improved crossing is required. However, the River Glen is comparatively wide where crossed by the U.1022 and it would not be economic to build a footbridge at this site. Under these circumstances I recommend that approaches be made to the landowners to dedicate the lengths of footpath leading to the site of the old bridge as public rights of way, and, if agreement is obtained, that the County Council should erect a new footbridge at this site in the next financial year. The estimated cost of this proposal is £6,000.</p>	
(12) Castle Ward Rural District—Brunton Lane C.391 - Proposed Visibility Improvement.	Approved.
<p>A section of hedge approximately 130 yards in length situated a quarter of a mile to the east of Middle Brunton East Farm which constitutes the highway boundary on the north side of the road abutting field number 88, is so near the carriageway as to obscure visibility and be a hazard to traffic unless the growth is frequently cut back.</p> <p>Mr. L. N. Barrass, the owner of the hedge, would be agreeable to it being removed and replaced by a timber post and four rail fence at the expense of the County Council, the future maintenance to be his responsibility.</p> <p>The estimated cost of the work amounts to £450 and in the interests of improving the visibility and removing the hazard, I request the Committee's approval to the proposed scheme.</p>	
(13) Bedlington Station to Red Row Diversion B.1330—Proposed Link between Back Lanes at North View and East View, Bedlington Station.	Approved.
<p>When this road diversion was carried out the exits from the back lanes at North View and East View to Road B.1330 were stopped up and a turning bay at East View and rerouting of the road from rear North View were constructed as shown on the plan displayed.</p>	

REPORTS OF COUNTY SURVEYOR—continued.

REPORTS OF COUNTY SURVEYOR—continued.	Decision of the Committee.
<p>Large vehicles are now finding it difficult to manoeuvre in either street, which are District Roads, and as a solution to the problem Bedlingtonshire Urban District Council are considering a proposal to construct a link between the two streets and to make East View a one-way street. The District Council have asked the County Council to pay the estimated cost of £500 for constructing this road link, as the problem has arisen as a result of the stopping up of the original exits to the main road. The grant for the road diversion has expired and the cost of these works are not, therefore, eligible for grant.</p> <p>I recommend that the Committee agree to the request and authorise this expenditure in the current financial year as it is anticipated that the cost could be accommodated within the approved estimates.</p>	
(14) Killingworth Level Crossing.	Received.
<p>The general plan of Killingworth Township has always envisaged the closure of the road over Killingworth Level Crossing to vehicles once the new highway pattern in the area was established, but although the new highways have now been constructed Longbenton Urban District Council, in the face of local opposition, find themselves unable to close the road. Alternative proposals for 'highway' alterations in the immediate vicinity, are, therefore, being considered and will be the subject of a later report.</p>	
(15) Tenders.	Approved, where appropriate in accordance with Standing Order No. 70.
<p>Since the last meeting of the Committee 39 tenders amounting to £87,822.18 have been accepted for the supply of goods and materials for use in maintenance and construction works and other services. With the exception of the following items, the tenders were the lowest in each case:—</p>	<p>S. Jennings Ltd.—Supplying Ford Transit Van to Killingworth Development Group, £981.00 (lowest tender £980.00—delivery period not acceptable).</p> <p>F. Gibson and Co. Ltd.—Supplying 6 Paving Breakers £520.33 (lowest tender £496.12) more efficiently silenced machines and standardisation of equipment.</p> <p>Square Grip (Northern) Ltd.—Supplying 56.24 tonnes mild steel reinforcing rounds £3,909.10 (lowest tender £3,735.35—delivery period not acceptable).</p>

