

RIGHTS OF WAY COMMITTEE

13 March 2018

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

ALLEGED PUBLIC BRIDLEWAY No 29 PARISH OF BEWICK

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 a route between the western end of existing Public Bridleway No 31 in the Parish of Eglington, north of Harehope Hall, and existing Public Bridleway No 12, north of Kennel Wood.

Recommendation

It is recommended that the Committee agree that there is sufficient evidence to indicate that public bridleway rights have been reasonably alleged to exist over the route J-H 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 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 where Public Bridleway No 31 in the Parish of Eglington meets the Bewick parish boundary, north of Harehope Hall. There is no recorded continuation of this public right of way within Bewick parish.

- 2.2 A public footpath route (Footpath No 10) that was almost a continuation within Bewick parish, was identified at the Survey Map stage. ‘Footpath No 10’ mainly utilised the route of alleged Bridleway No 29, but was identified hitting the parish boundary on a parallel track, 20 to 30 metres further uphill. This Bewick footpath route was removed / realigned when the Draft Map was subsequently published. The reason for this amendment is not known.

3. LANDOWNER EVIDENCE

- 3.1 To date, no landowner evidence has been received.

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”. Three 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, regarding this route and many others, 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 Bewick Bridleway No 29 We support the addition, removing the cul-de-sac ending of Eglington BW 31, which again I highlighted at the Local Access Forum. We have walked through to Harehope

Kennels on several occasions over the last 15 years. There is a clear path, though different to that shown. It goes past the houses to the road. I have not walked the proposed route but am happy with it provided it is useable.”

- 4.3 By letter, dated 28th October 2014, Mr D Roberts responded to the consultation, on behalf of the Cyclists’ Touring Club, regarding this route and many others, 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 29 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 4th November 2014, Ms S Rogers responded to the consultation, on behalf of the British Horse Society, stating:

“PARISH OF BEWICK

“Proposed addition of Bridleway 29

Although the line of this route shown on plan 10 appears to provide the logical continuation of BW 31, the BHS does not support its addition to the definitive map.

“BW 31 is already totally obstructed where it passes through the wood. The line of the route is undefined. It is impossible to fight your way through even on foot. The proposed extension to form BW 29 is even worse as it is covered in dense rhododendron and even the entrance into Kennel Wood not far from H was impossible to find on the ground. So for practical reasons, the BHS suggests that the landowner is asked to dedicate a bridleway following an existing track round the east and north side of Harehope Hill joining Harehope Farm Cottages to H, which horse riders have often been allowed to use, in exchange for having BW 31 deleted and BW 29 not added to the definitive map.

"Mrs Wrangham senior has expressed her desire for BW 31 to be deleted to me in the past as she says that wood has conservation value, possibly red squirrels."

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 alleged Bridleway No 29.

1820 Fryer's County Map

There is the suggestion of a path or track approximating to the route of alleged Bridleway No 29.

1820-32 Cary's Map

There is evidence of a path or track approximating to the route of alleged Bridleway No 29.

1828 Greenwood's County Map

There is no evidence of a path or track approximating to the route of alleged Bridleway No 29.

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

There is clear evidence of a path or track over the route of alleged Bridleway No 29.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of alleged Bridleway No 29. The route is annotated with the letters "FP". Existing Public Bridleway No 31 (Parish of Eglingham) is annotated, twice, with the letters "BR" and once with "FP".

1925-6 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of alleged Bridleway No 29. The route is annotated with the letters "FP". Existing Public Bridleway No 31 (Parish of Eglingham) is annotated, twice, with the letters "BR".

Definitive Map – original Survey Schedules & Map (Glendale RD)

On the Survey map, most of the alleged Bridleway No 29 route is identified as being part of Footpath No 10. The routes differ at the southern (parish boundary) end; the Bewick footpath route was on a different track that does not quite connect with what is now Eglingham Public Bridleway No 31.

1951 Definitive Map – original Survey Schedule & Map (Alnwick RD)

The route of existing Public Bridleway No 31 is identified as a public bridleway (numbered “4”). On the schedule, no basis for including the route is identified, but it is noted that the route is “very much overgrown with bracken”.

Draft Map (Glendale RD)

The alleged Bridleway No 29 route is no longer identified for inclusion as a public right of way (a faint, scratched out purple line is still just visible).

Draft Map (Alnwick RD)

Existing Public Bridleway No 31 (Parish of Eglingham) is shown as Bridleway No 4.

Provisional Map (Glendale RD)

The alleged Bridleway No 29 route is not identified for inclusion as a public right of way.

Provisional Map (Alnwick RD)

Existing Public Bridleway No 31 (Parish of Eglingham) is shown as Bridleway No 4.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a path or track over the route of alleged Bridleway No 29. The eastern end of the route is annotated with the letters “FP”.

1962 Original Definitive Map (Glendale RD)

The alleged Bridleway No 29 route is not identified as a public right of way.

1962 Original Definitive Map (Alnwick RD)

Existing Public Bridleway No 31 (Parish of Eglingham) is shown as a public bridleway.

1980 Ordnance Survey Map: Scale 1:10,000

There is no evidence of a path or track over the alleged Bridleway No 29 route, nor the section of existing Public Bridleway No 31 on the south side of Harehope Hill.

- 5.2 In the Schedule of Reputed Public Rights of Way published by Alnwick Rural District Council, under provisions contained within the Rights of Way Act 1932, the entry covering existing Public Bridleway No 30 in the Parish of Eglington (at that time, identified as BR 1 in the Parish of Harehope) states:

“1 BR From public road at Harehope running in a N. direction to Blawearie as far as the Glendale Rural District Boundary.”

- 5.3 The original Definitive Statement for Public Bridleway No 31 (Parish of Eglington) described the route as follows:

“From BR 30 north of Harehope in a westerly direction along the south side of Harehope Hill to the Glendale Rural District boundary near Harehope Kennels.”

6. SITE INVESTIGATION

- 6.1 From a point marked H, on existing Bridleway No 12 (Parish of Bewick), 360 metres north-east of Harehope Hill End, a 3 metre wide grass track proceeds in a general easterly direction for a distance of 80 metres to a field gate. Through the gate, a 2.5 to 3 metre wide grass track proceeds in a south-westerly direction for a distance of 65 metres. Where that track turns southwards, a 2 metre wide less well defined grass track continues in a south-westerly direction for a distance of 45 metres to an area of woodland. There is no obvious track as the alleged bridleway proceeds through the woodland in a south-westerly direction for a distance of 120 metres. There was no obvious way through the fence line that now lies across the path, and the woodland beyond was impenetrable. The alleged bridleway continues in a south-westerly direction through the woodland for a distance of 240 metres, then in a south-easterly direction for a distance of 60 metres to join the western end of existing Public Bridleway No 31 (Parish of Eglington) at point J.

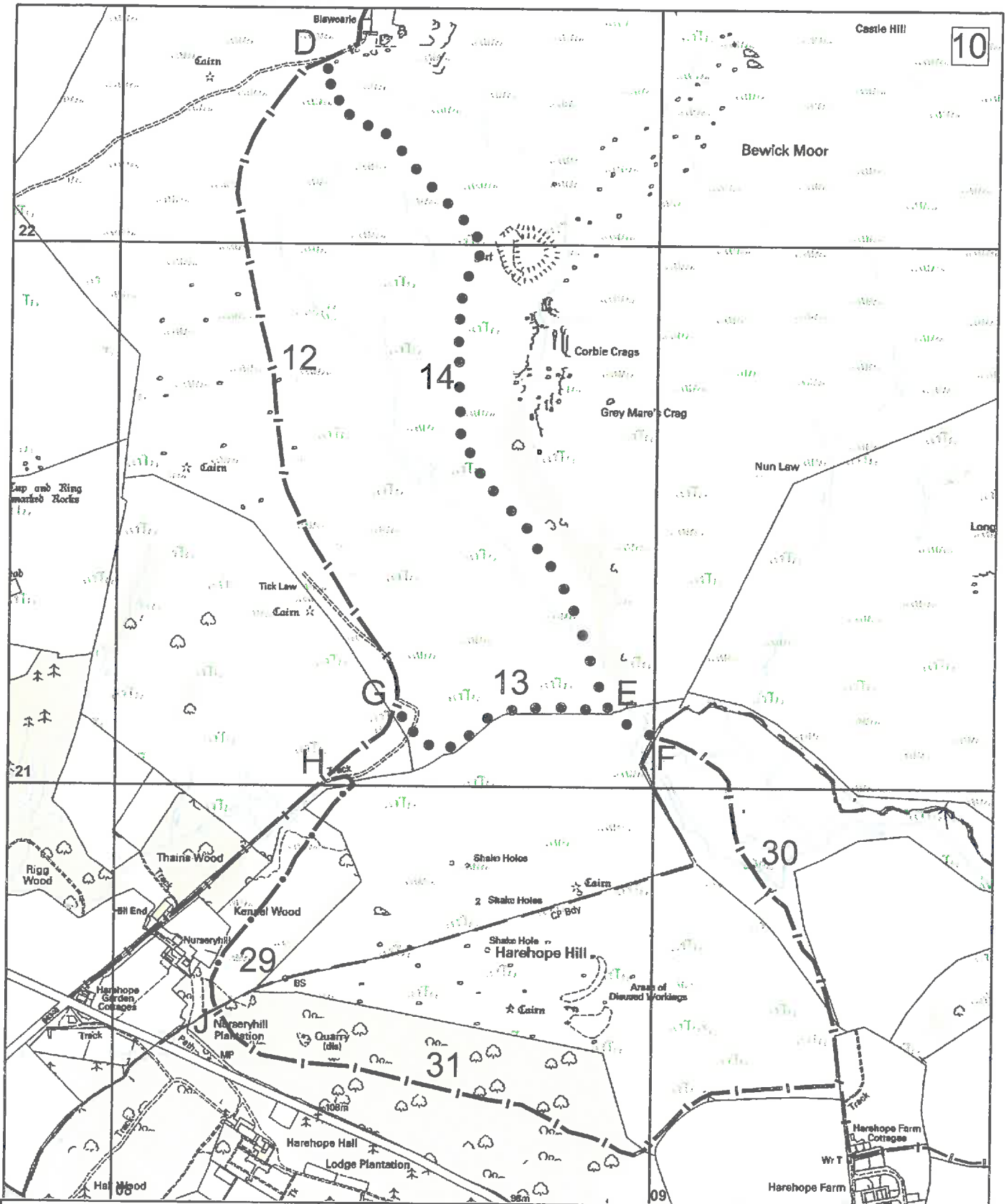
7. DISCUSSION

- 7.1 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.

- 7.2 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.
- 7.3 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.
- 7.4 A westerly continuation of the existing Public Bridleway No 31 route is shown on Cary’s Map of 1820-32 and appears to be shown on Fryer’s Map of 1820. It does not appear to be shown on either Armstrong’s Map of 1769 or Greenwood’s Map of 1828.
- 7.5 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 alleged Bridleway No 29 route is shown as a physical feature on every Ordnance Survey map from the first edition, published in 1864/5 to the map published in 1957. It is not shown (but nor is most of existing Public Bridleway No 31) on the 1980 OS map.
- 7.6 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.
- 7.7 The first Definitive Map was prepared in sections, based upon the old rural and urban district boundaries. The northernmost (Bewick) section of the route was not identified as a public right of way. The southern (Eglingham) section was



NORTHUMBERLAND

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Local Services

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Wildlife and Countryside Act 1981 Public Rights of Way



Selected Existing Public Bridleways



Existing Public Footpath which may be
Public Bridleway



Alleged Public Bridleway

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Former District(s)

Bewick

Parish(es)

Bewick

Scale

1:10,000

Def. Map No.

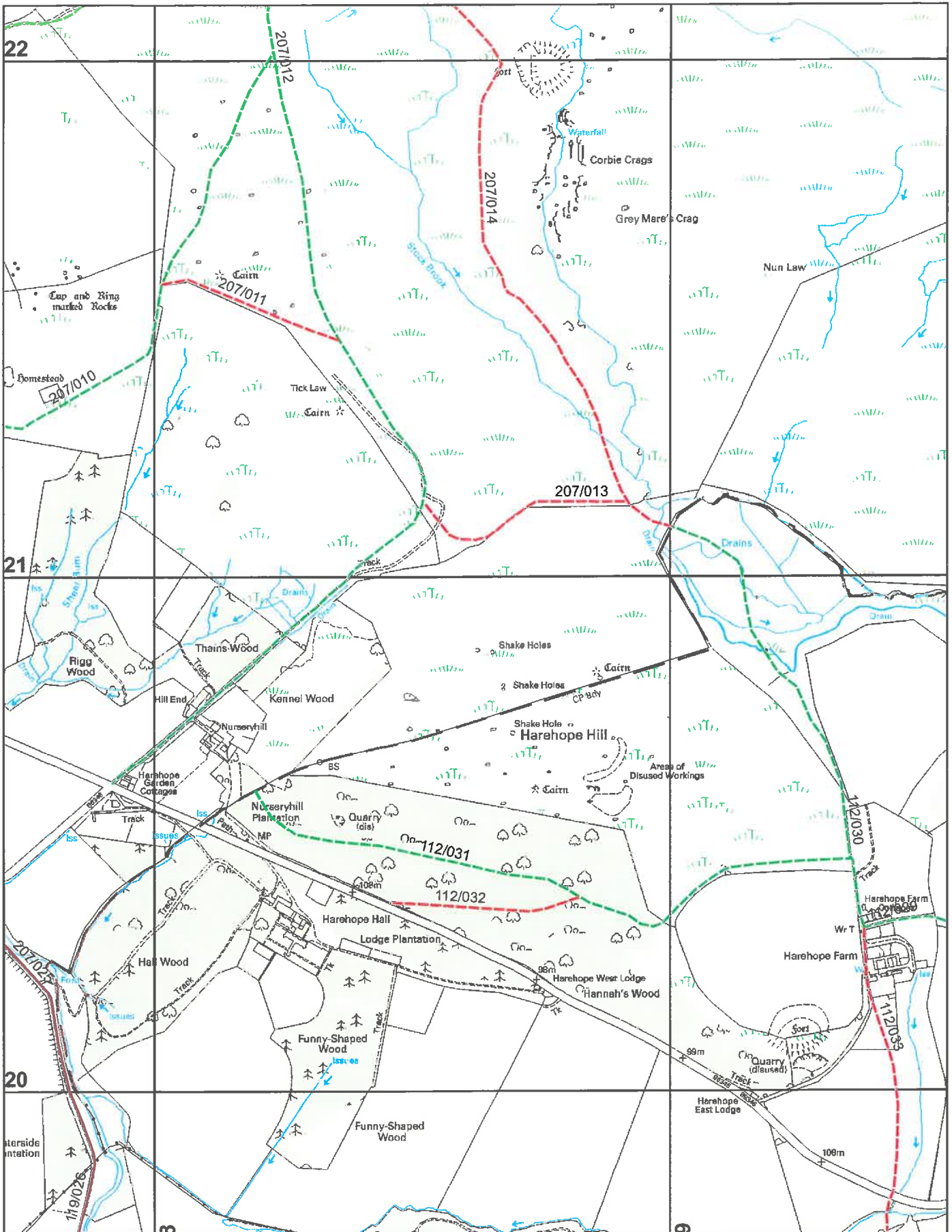
47

O.S. Map

NU 02 SE

Date

December 2013



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 Northumberland County Council
 Infrastructure

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

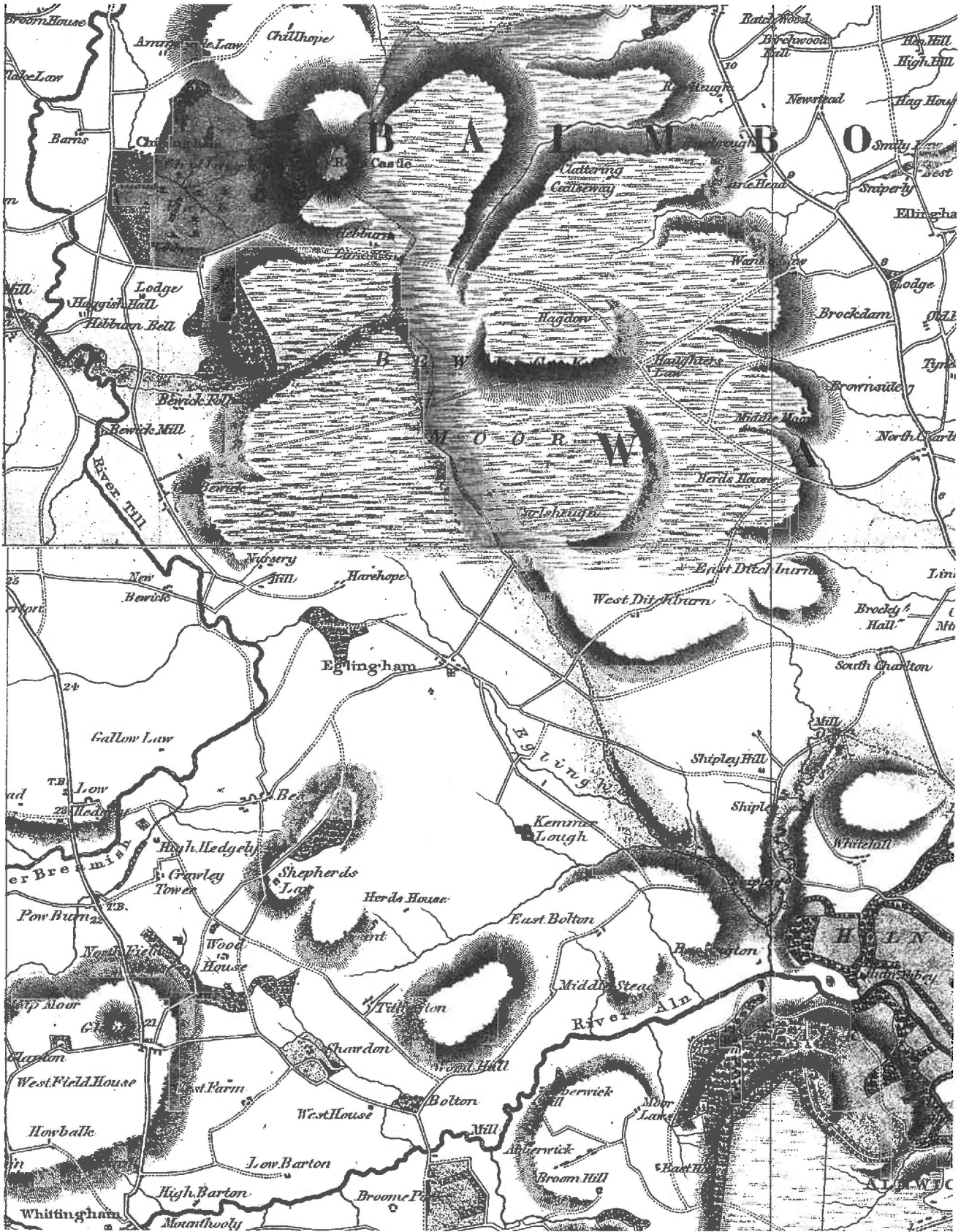
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way

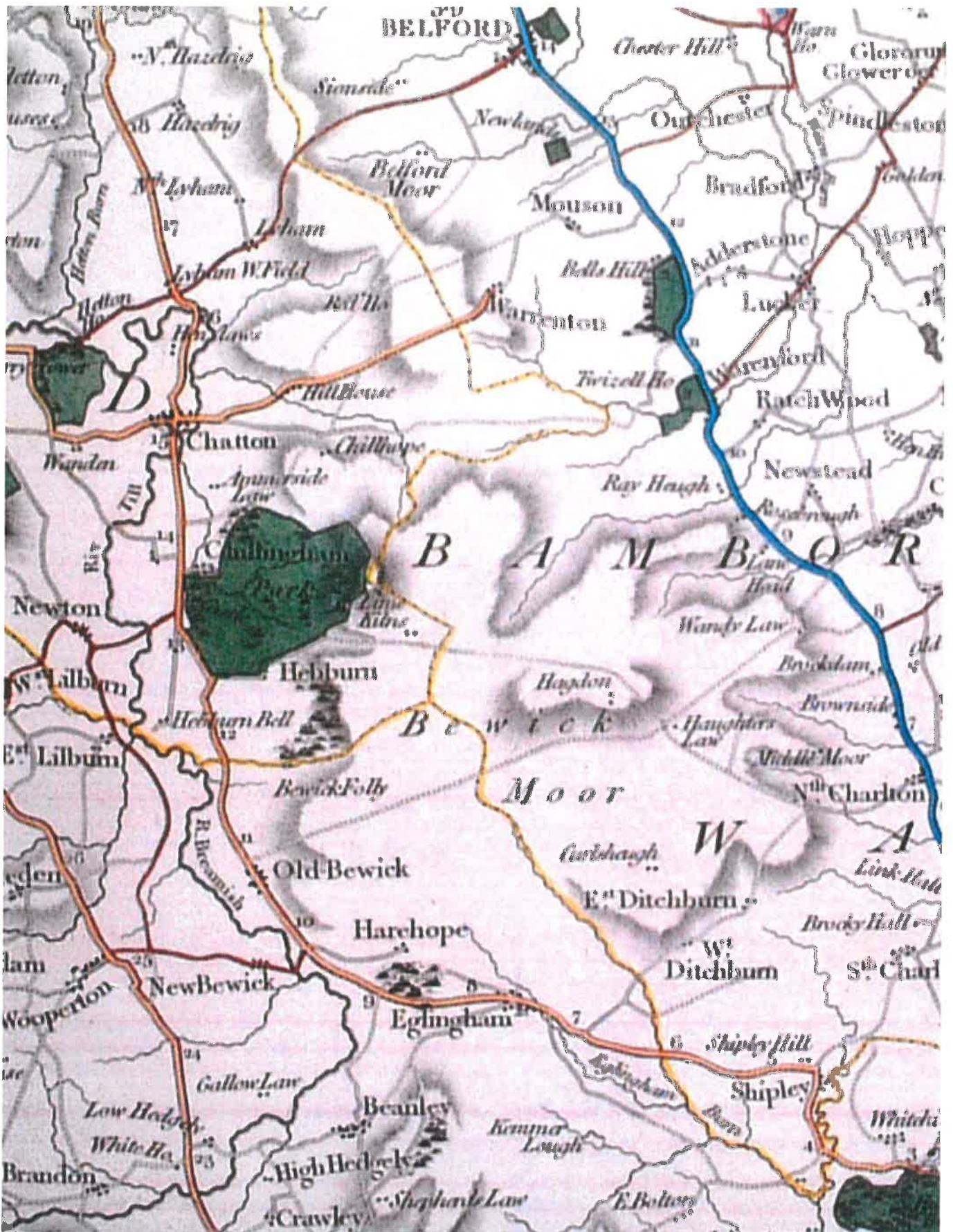
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Contact: Alex Bell
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Fryer's County Map
1820



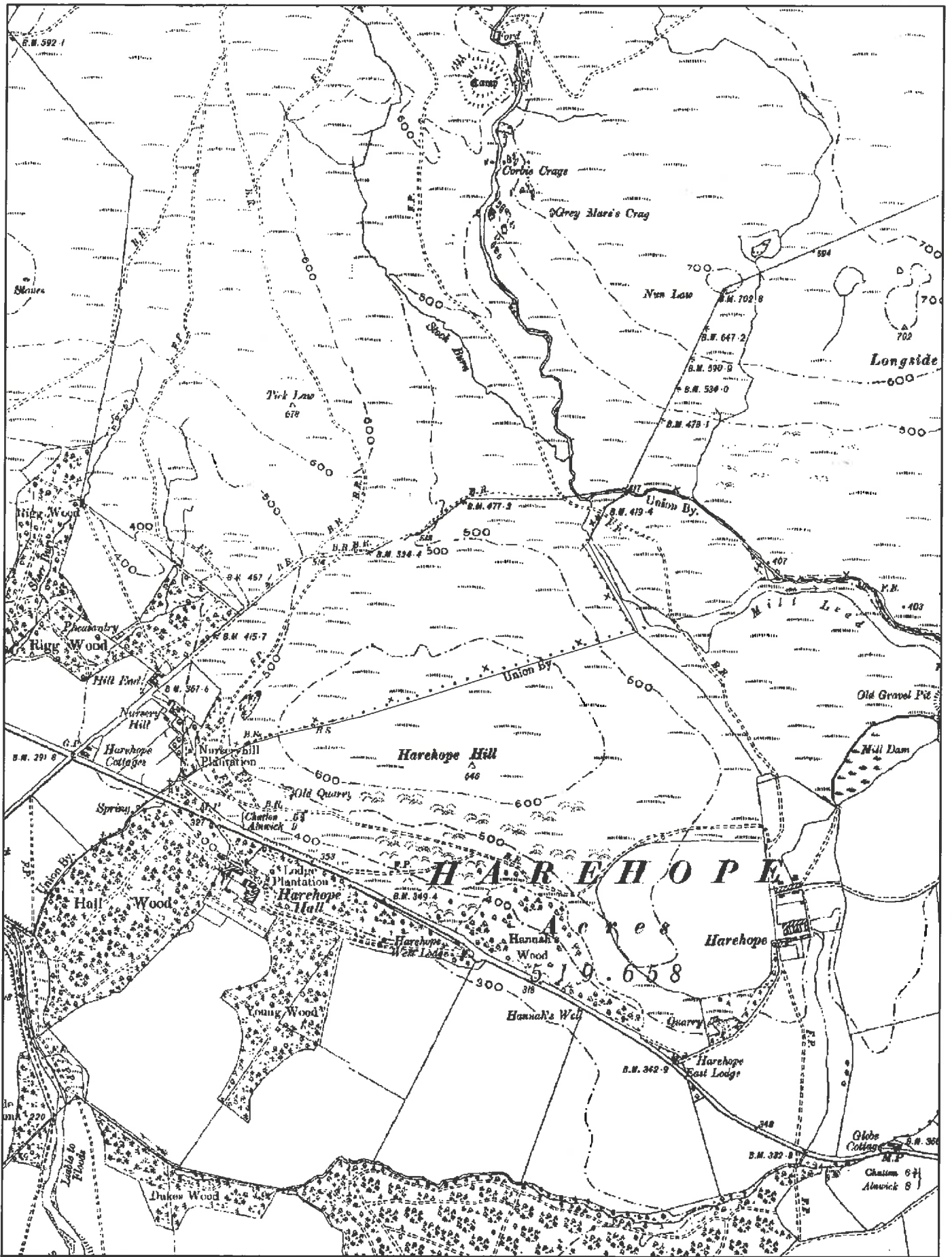


Greenwood's County Map
1828





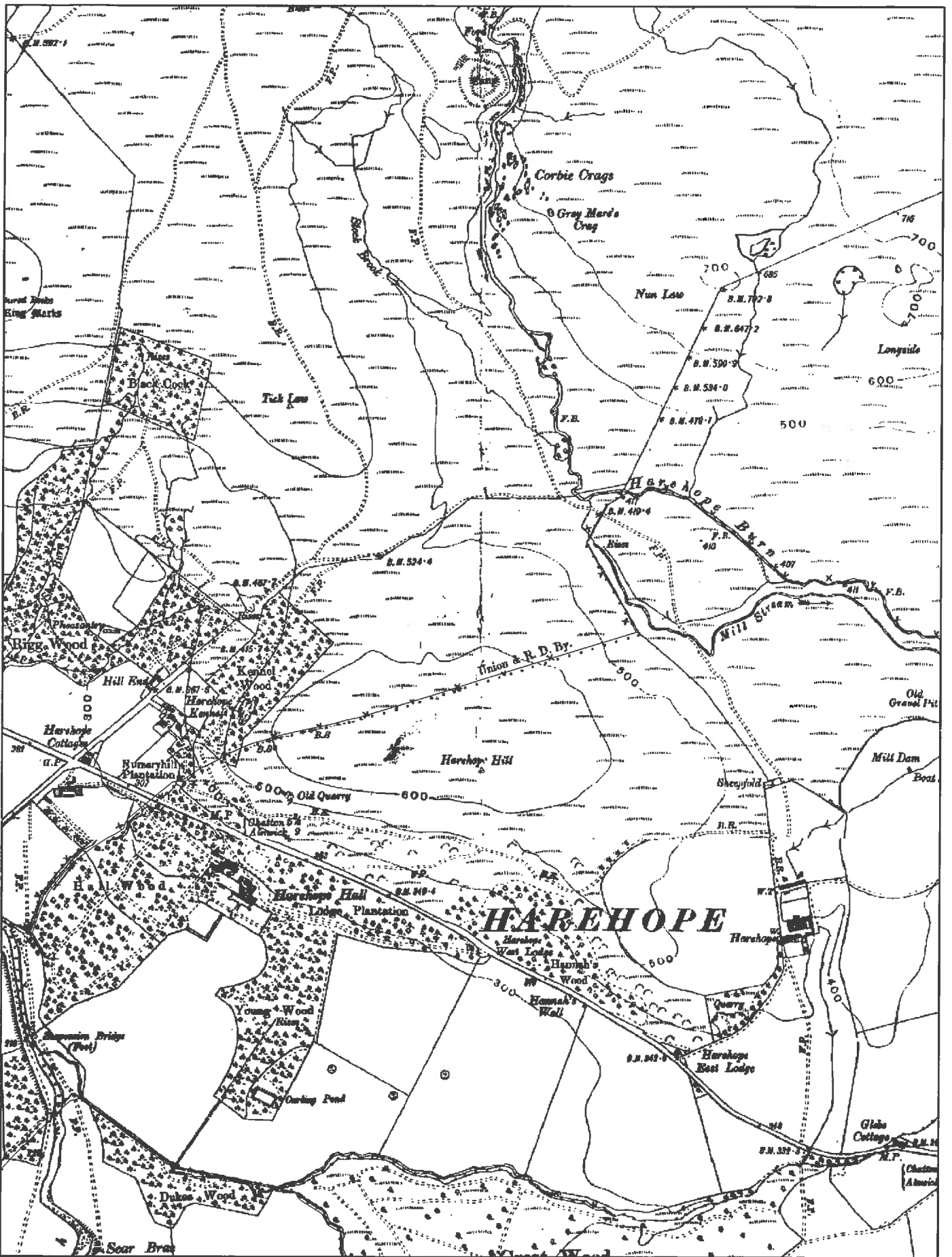
Not to scale



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SCALE 1:10,560

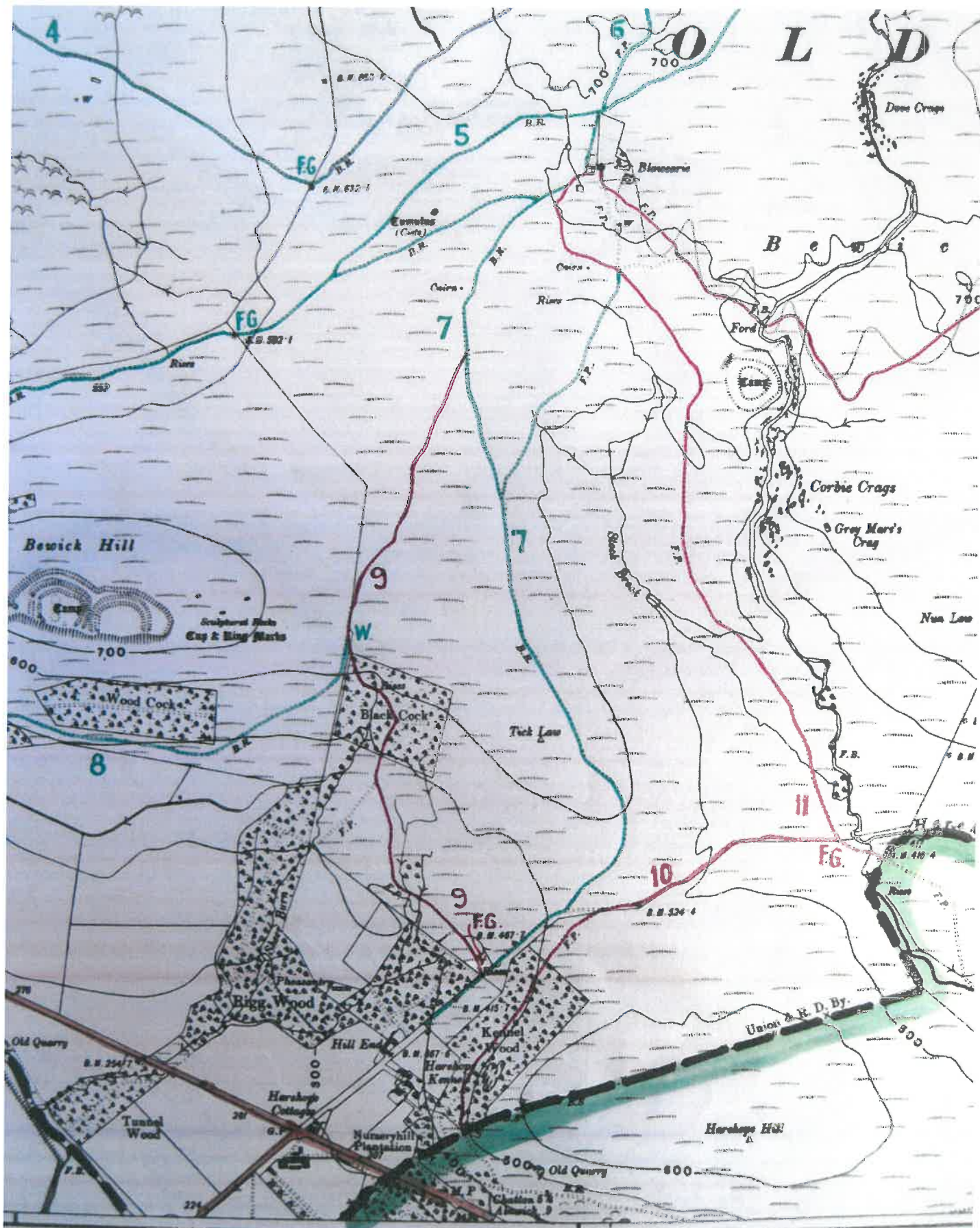
Ordnance Survey 2nd Edition 6" map (1899)



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SCALE 1:10,560
 Ordnance Survey 3rd Edition 6" map (1925-26)

Survey Map (Glendale RD area) (Annotated c. 1954)



NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.
SCHEDULE ACCOMPANYING SURVEY MAPS.

Parish of HAREHOPE in the Rural District of
ALNWICK

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

1. Number of highway on Map 4
2. Kind of Path (i.e., F.P., B.R.) B.R.
3. Starts at HAREHOPE G.R. NO. 1 to GLENDALE R.D. BOUNDARY
4. Name of Path (if any) _____
5. Is the Path well defined? No.
6. Is the Path metalled? If so, define length No.
7. If its width can be stated, insert here _____
8. What is the present condition of the path, stiles, etc.? VERY MUCH
OVERGROWN WITH BRACKEN. TWO GATES.
9. Is it subject to being ploughed out? No.
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 NONE
14. Names of owners of freehold and previous owners, if known, for past 30 years
EDWARD WRIGHTHAM.
15. What maps have been consulted, and where are they deposited?

16. What records have been consulted, and where are they deposited?

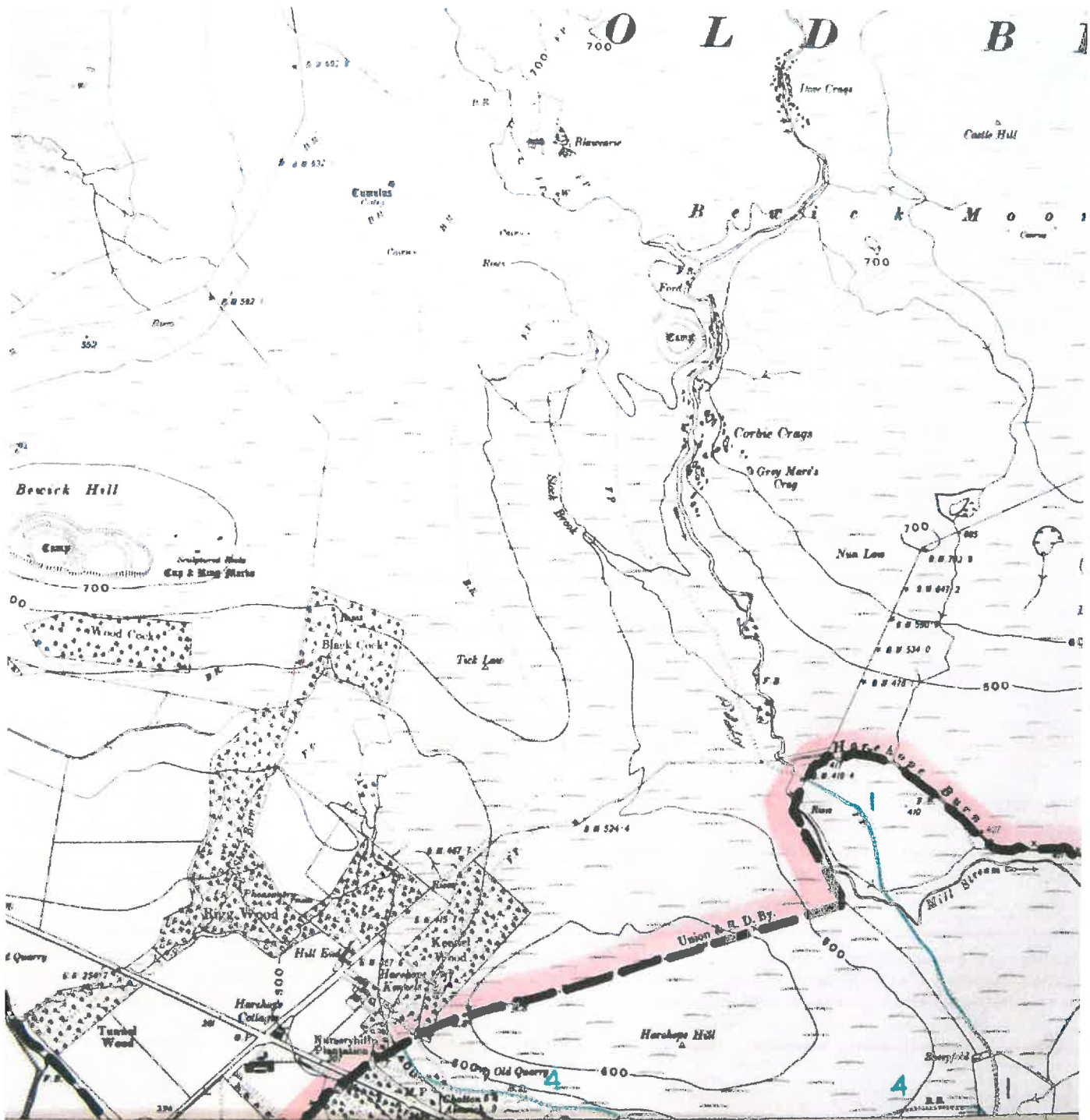
17. Any other relevant information

Surveyed by	Address	Dates of Survey
<u>K. Stafford.</u>	<u>Harehope, Easingham.</u>	<u>7/6/51.</u>

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

19.5 / 135. / 22 SW/1
19/5. / 35. / 28. NW. 12.

Draft Map (Alnwick RD area)



EDITION OF 1926

BERWICK UPON TWEED DIVISION

OLD SERIES SHEET LINE

225 82 471 15 W

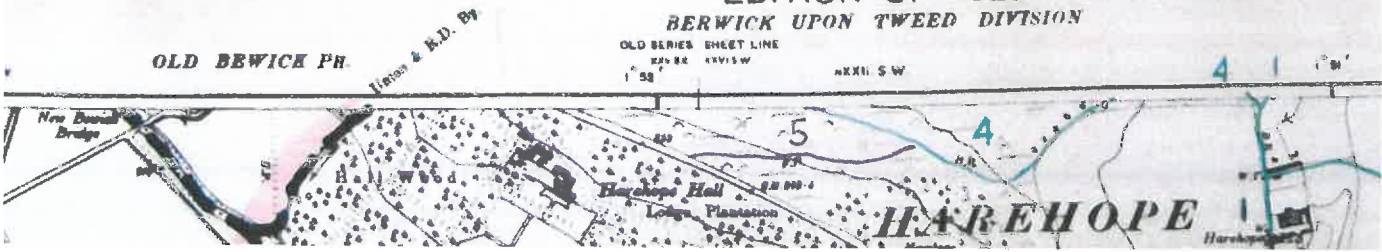
1 58

AKXII SW

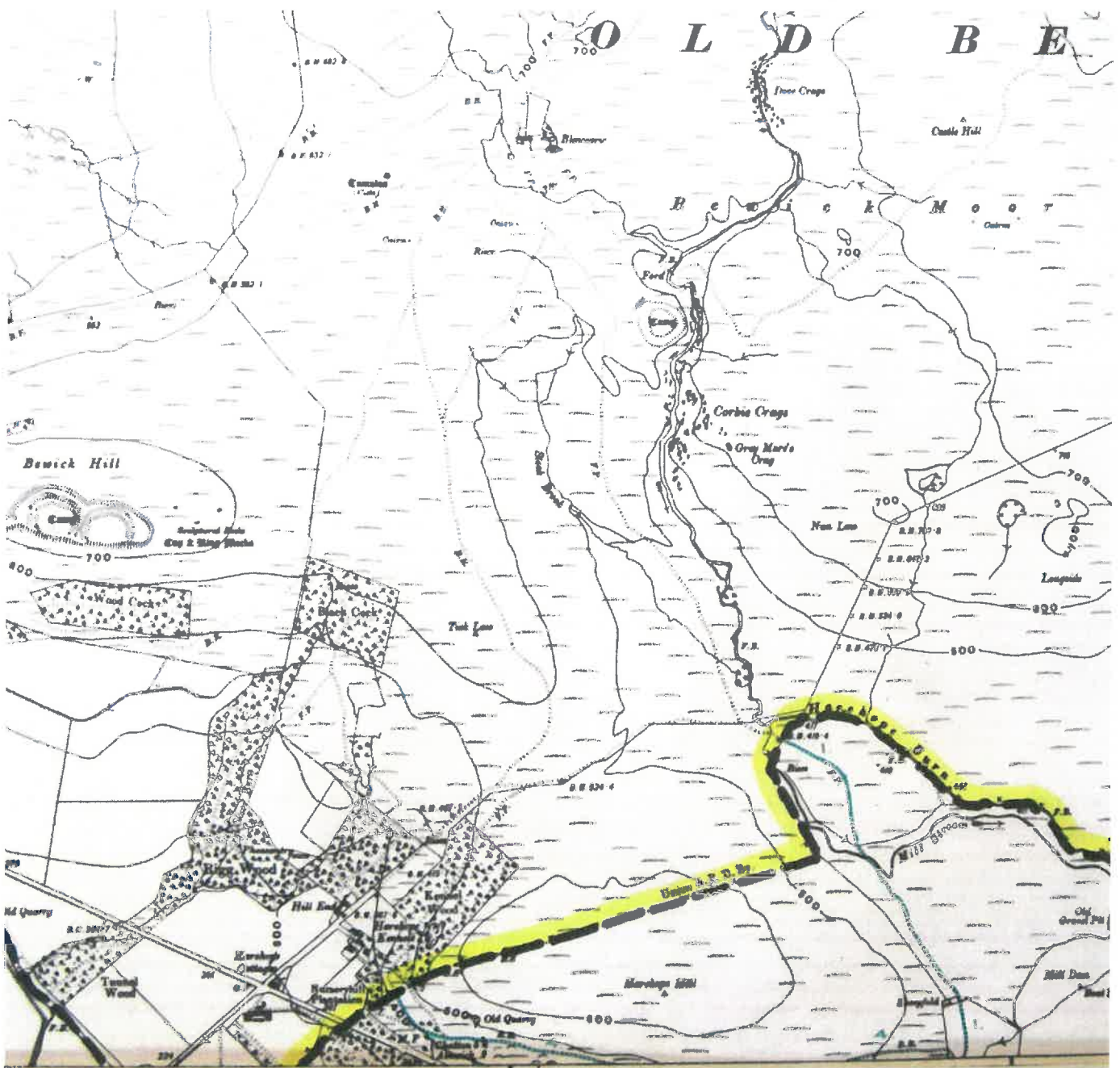
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Provisional Map (Alnwick RD area)



EDITION OF 1926

BEWICK UPON TWEED DIVISION

OLD BEWICK SURVEY LINE

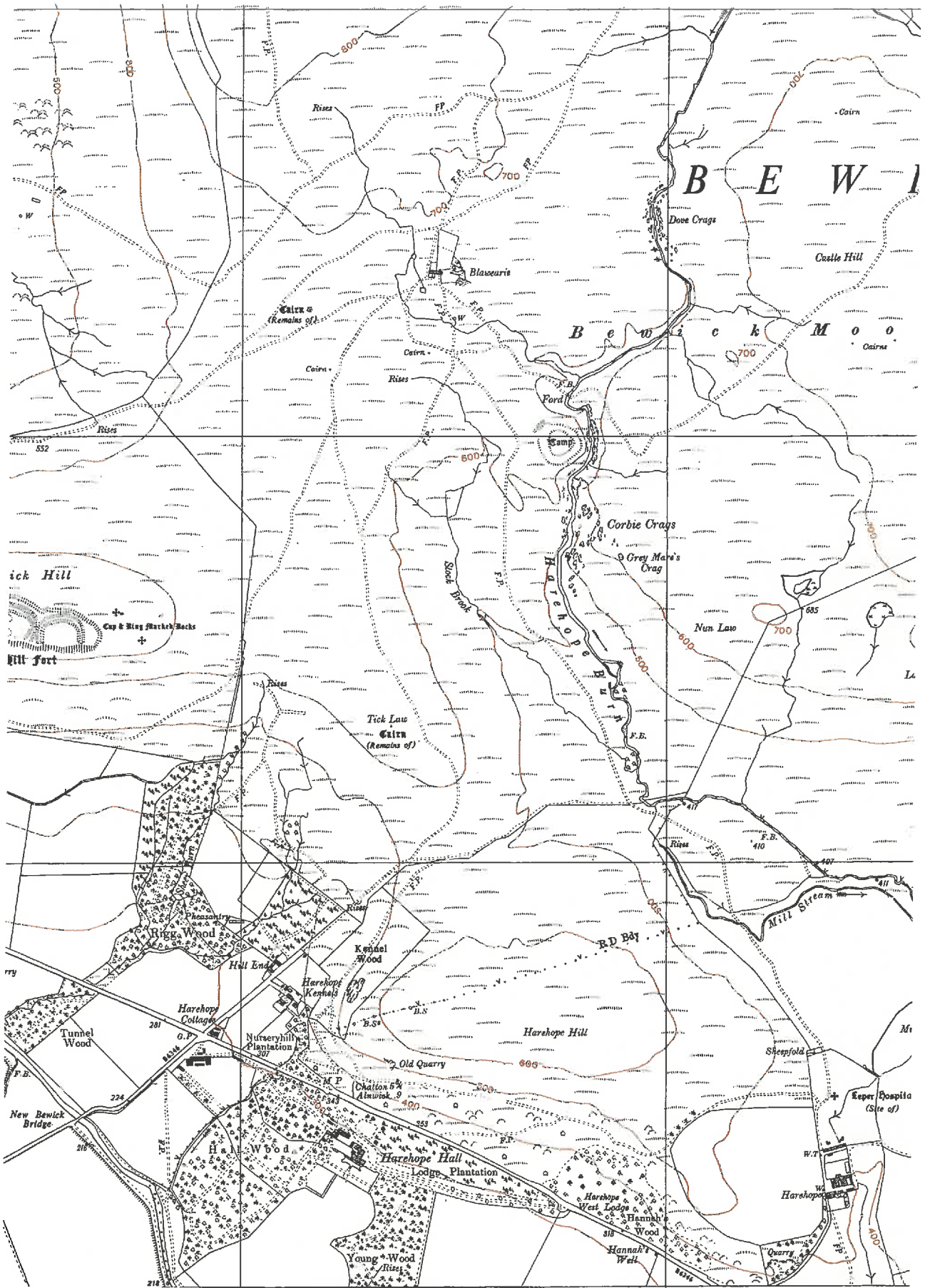
1" = 100'

1" = 100'

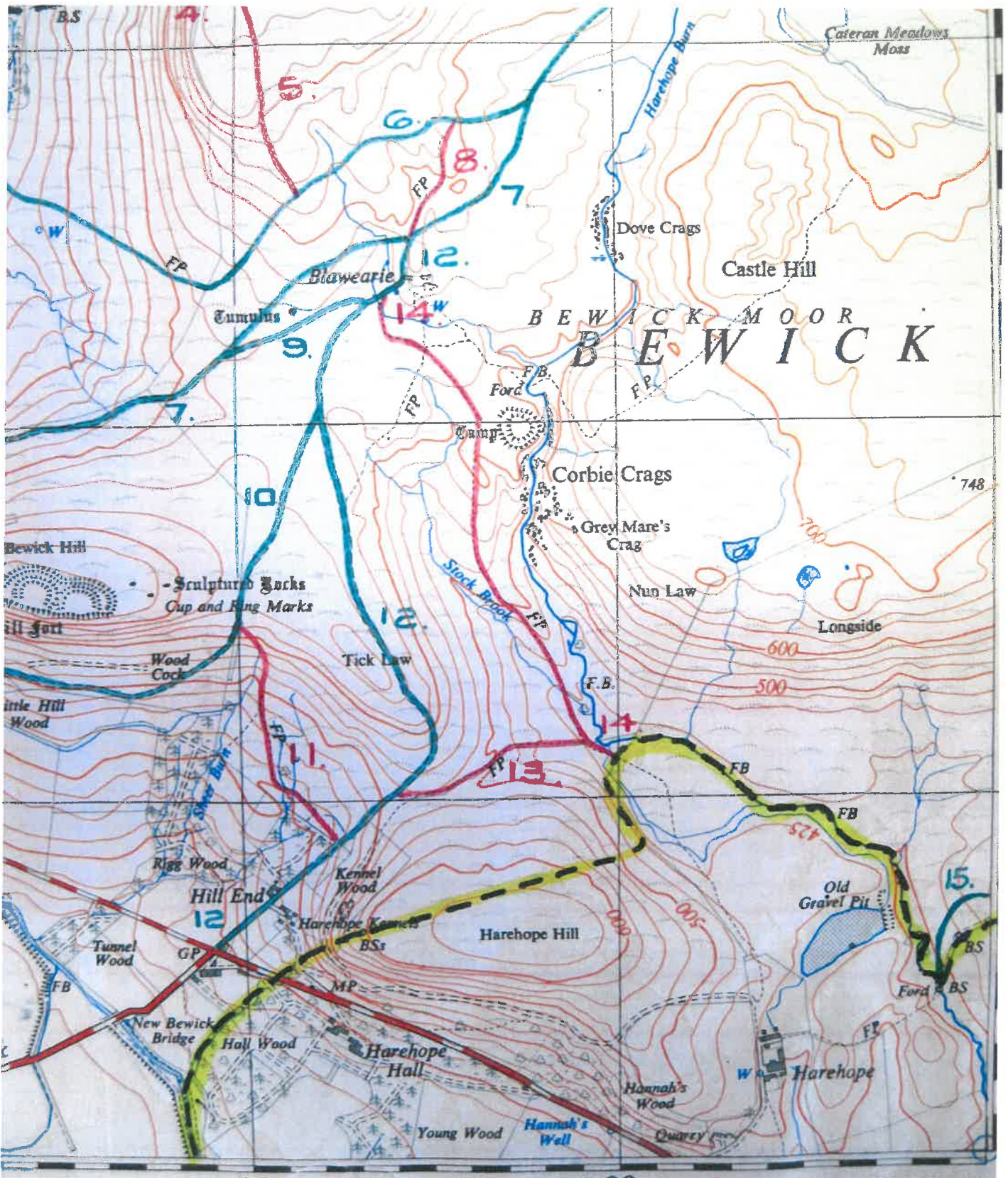
OLD BEWICK PD

Roads & R.D. 24

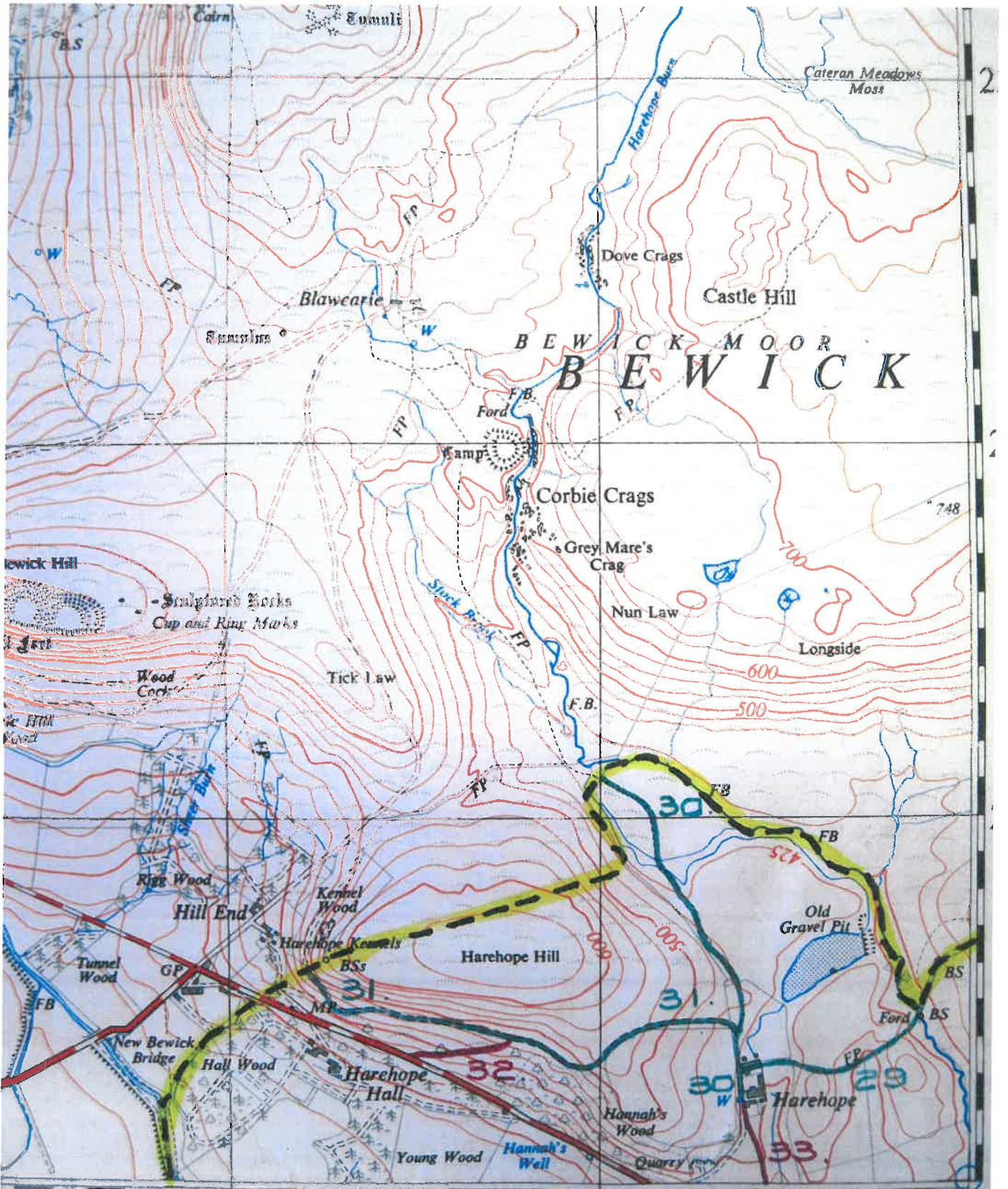




Original Definitive Map (Glendale RD area)



Original Definitive Map (Alnwick RD area)



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 ALNWICK

2. Parish EGLINGHAM

3. Number of Footpath on Map 31

4. Name of Path

5. Kind of Path (i.e. FP/BR) B.R.

6. General Description of Path From B.R. 30 north of Harehope in a
westerly direction along the south side of Harehope Hill to the Glendale
Rural District boundary near Harehope Kennels. ~~to the south of the~~
~~Parish of Bewick.~~

7. Other relevant information

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.....
.....

1:10,000 O.S. Map
1980

