



Northumberland County Council

TYNEDALE LOCAL AREA COUNCIL
11 December 2018

REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC BRIDLEWAY NO 2 PARISH OF NEWBROUGH

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

Purpose of report

In this report, the Council is asked to give consideration to all the relevant evidence gathered in support and rebuttal of a proposal to upgrade to public bridleway status existing Parish of Newbrough Public Footpath No 2 from the B6318 (Military) road south-east of South Teppermoor in a general southerly direction for a distance of 2000 metres to join Byway Open to All Traffic No 17 north-east of Greyside Farm.

Recommendation

It is recommended that the Council agree that:

- i) there is insufficient evidence to indicate that public vehicular rights have on the balance of probability been proven to exist over the route**
- ii) there is sufficient evidence to indicate that on the balance of probability public bridleway rights have been shown to exist over the route.**
- iii) the route should be included in a future Definitive Map Modification Order as a public bridleway**

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 provisions which apply to adding and upgrading a public right of way on the Definitive Map and Statement based on historical documentary evidence is Section 53(3)(c)(ii) of the Wildlife and Countryside Act, 1981, which 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 In April 2017, Mr Ted Liddle of Whitley Chapel, Hexham submitted an application to amend the Definitive Map and Statement by upgrading to public bridleway existing Parish of Newbrough Public Footpath No 2 from a point marked A on the B6318 (Military) road 215 metres south-east of South Teppermoor in a general southerly direction for a distance of 2000 metres to a point marked B on Byway Open to All Traffic No 17, 735 metres north-east of Greyside Farm.

2.2 The application is supported by historical evidence including a 1746 survey of Hadrian's Wall, Fryer's County Map of 1820, the 1844 Tithe Award for Warden, the 1st Edition O.S. 25" plan of 1866 with the accompanying Book of Reference, the 2nd Edition O.S. 6" plan of 1898, Bartholomew's half inch map of 1902 and the 1910 Finance Act.

2.3 The application was also accompanied by the following submission:

Greyside Fell

“1. The alleged route lies in the parish of Newbrough and can be seen on OS OL43 Hadrian's Wall.

“2. It starts at the north end of byway 533/017, at GR NY 867693. There is a gate at this point (A) where the byway is no longer in an enclosed lane as the wall on the west side is no longer standing but its remains are still visible. It

travels northwards across several rough pastures to cross the Vallum close to the Military Road, B6318, which it joins west of Carrawbrough, at GR NY 863712 (B). On the other side of this road, there is a continuation as public bridleway 542/008, through High Teppermoor to the village of Simonburn and beyond.

“3. For its full length the alleged route follows the line of public footpath 533/002.

“4. There is no obvious justification for a change of status at point (A), such as a parish boundary. It would appear that the change from BOAT to footpath has occurred simply because the BOAT section used to be in a walled lane up to this point and the rest of this route is unfenced.

“5. The line of the route is largely undefined and without waymark posts. It passes through a couple of gates.

“6. A pair of the original stone gate posts still exist at GR NY 864 706. The gap between them is 2.25m.

“7 The width of the gap where the alleged route crosses the Vallum is around 2.5 metres, wide enough to allow a horse & cart to pass through the enclosing banks. The width of the incline up to the Military Road, which is clearly defined by blocks of stone, is also of this width.

See photographs

Documentary evidence

1746 A survey of Hadrian's Wall

SANT/PLA/7/2/1/1A

“The title of this plan is ‘*Survey of the country between Newcastle and Carlisle representing the several present roads and the tract which is prepared for the new intended road of communication between these towns*’.

The historic route can be seen going north from Newbrugh (sic) to the Military Road, crossing the vallum, west of Carrawbrugh (sic). The presence of the alleged route on this survey indicates that this route is of considerable antiquity.

See extract

1820 Fryer's County map

The alleged route is shown for its full length on this map in the same manner as roads which make up the minor road network in the area. The key indicates that it is shown as a ‘cross road’, a road joining two roads of greater importance.

See extract

1844 Tithe Award for Warden Parish

DT 476 L

“The route is shaded in brown on the plan, in the same manner as the grass surfaced U8138, across Walwick Fell to the east. All the surrounding public tarmac roads are also shaded in brown. The application route is shown as an unfenced route but the southern section, which is already recorded, is shown as a walled lane, as it is today.

Its full length is shown. It meets the Military Road west of Carrawbrough and so provides a through route from Newbrough to this important East-West road.

No photography allowed

1866 OS 1st ed. scale 1:2,500, the 25”

Sheets LXXXIV/3, 7 & 11

“The route is shown as following the same line as it does today through the parish of Warden, township of Newbrough. It is shaded brown, as are all those routes which are public today. It also has spot heights and bench marks which are normally only found along public roads.

Across the open ground, going from south to north, it is shown to cross three plots - numbers 63, 38 & 23. The walled lane (byway) is shown as plot 110.

In the Book of reference for this parish and township these plots are described:

Plot 63	Pasture etc
Plot 38	Pasture etc
Plot 23	Pasture etc

This is the normal format found in a large number of Northumberland parishes when an unfenced road crosses a large area of pasture.

The plot number 110 for the recorded enclosed byway is described as ‘**public road**’.

The actual width of the route as measured on this edition of the OS where it crosses the vallum is 1mm. According to the scale, this means it was, at the time of being surveyed 2.5 metres wide. This coincides with the width of the gap in the vallum and between the stone gate posts as measured today.

[See Inspector Sue Arnott’s comments in her decision letter of 7 September 2016, ref FPS/P2935/7/48 paragraphs 45 & 46 for the justification for this statement.]

See extracts

1898 OS 2nd ed, 1:10,560, the 6”

Sheet LXXXIV NE & SE

On this edition the route is shown as joining the same two points. It is labelled ‘BR’, which suggests that the surveyor observed it being used by the public on horseback. The recorded bridleway, 533/003, in same parish also linking a byway to the Military Road also has this label.

See extract

1902 Bartholomew's Half Inch

NLS map collection online

“This popular map which was produced for cyclists also shows the alleged route in the same manner as the two nearest recorded routes from the Newbrough area to the Military Road eg bridleway 533/003 and the U8138 across Walwick Fell. Local public footpaths are not shown so this suggests that at that time, the alleged route was recognised to have rights higher than footpath.

1910 Finance Act

NRO 436/LXXXIV/7 & 11

“On the plans the application route is shown passing through two hereditaments, numbers 112 and 130. At the south end the walled lane (recorded byway) is shown as a ‘white road’ so therefore not liable for development tax, which indicates that it was likely to have been a public road.

The field book for the parish of Warden has ref **NRO 2000/86**. On pages 11 and 12, the following can be seen:

Plot 112 is shown to be Carrawbrough, belonging to Isabel Clayton of The Chesters, where a **deduction of £8** for ‘right of way or user’ has been awarded.

Plot 130 is shown to be Greyside, owned by the Duke of Northumberland, where a **deduction of £10** has been awarded.

This shows that the owners of the land were aware of a public route between newbrough and the Military Road across their land and applied for the deduction in tax for which they were eligible.

See extract

Conclusion

The evidence above suggests that this route has been known as a public road between Newbrough and the Military Road, from the middle of the eighteenth century. Please can you investigate if it should be recorded on the definitive map as a restricted byway or bridleway rather than a public footpath.”

3. LANDOWNER EVIDENCE

3.1 By letter dated 27th April 2017, James Copeland, Environment & Land Use Adviser for the NFU responded on behalf of their client G H Walton & Sons with the following comments.

- i) “I am writing in the capacity of local representative of the National Farmers’ Union in support of our member’s objection to the above proposed order made by Mr Liddle on the 6 April 2017.
- ii) “G H Walton & Sons informs me that a request was made in 1998, to upgrade the path to a bridleway. The path was deemed unsuitable by the Countryside Commission, and with no improvements and regular

issues raised about the condition of the path over winter, we cannot see why this request can be granted.

- iii) “The route is also subject to inappropriate use by motorised vehicles, and our member is concerned that the upgrade may limit the ability for interventions to be installed to prevent such illegal activities.
- iv) “Whilst we acknowledge the ‘Definitive Map and Statement Modification Orders: Information for Landowners and Occupiers’ Q8 states *‘objections based on the grounds of amenity, public safety or environmental impact are unlikely to succeed’*, we wish to make the authority aware of our concerns with regards to public safety. The proposed upgrade onto the busy Military Road may not be an issue for the applicant, as a cyclist, our concern relates to equestrian users who may use the route after modification, and be unaware of the risks ”

3.2 By letter dated 3rd May 2017, Mr G Walton for and on behalf of G H Walton & Sons responded to the consultation, with the following comments.

- i) “We would like to strongly object to the Modification Order proposed by Mr Liddle on 6/4/2017. The same request was made in 1998 to upgrade the footpath to a bridleway. The outcome was that the proposal was considered unsuitable by the Countryside Commission. Our position has not changed and do not see why it is necessary to change the use of the current footpath as we feel is adequate for our local area and other walkers. We feel that if opened up to a bridleway it will cause disastrous consequences for the landowners, local residents and road users.
- ii) “The implications of the current footpath are difficult enough to manage. We regularly find gates left open, rubbish left which has been hazardous to livestock, walkers veering significantly off the footpath due to the size of the fell, motor vehicles trying to obtain access as the footpath leads off a narrow and secluded country lane.
- iii) “We quote from the Countryside Commission report of 1998 ‘Greyside fell is an unusually large area of rough grassland in one enclosure. It is used for cattle and sheep grazing. As lambing takes place on this fell, far from the farmhouse, the vulnerability of this section of the route is recognised’. The condition of the rough grassland on Greyside Fell has deteriorated significantly since 1998 to present time due to the increased rainfall over recent years. We feel that anything more than foot traffic on the path would further deteriorate the condition of the land which is in the Higher Level Countryside Stewardship Scheme.
- iv) “On entry/exit of the footpath the road is marked on the Modification order as B6118. It is actually the B6318, the Military Road. This road is heavily utilised by Roman Wall traffic and commuters between Newcastle and Carlisle. At the best of times this is a very dangerous road. If this footpath were upgraded, horses and cyclists would have to join this road and travel east or west bound a good distance to enable them to join the nearest bridleway. Surely this would cause significant

danger to all road users and bridleway users. Users would be unaware of such significant risks were they not local to the area. When the A69 is closed due to frequent accidents all traffic including HGV's is diverted into the Military Road”

3.3 By letter dated 27th June 2018, Mr G Walton for and on behalf of G H Walton & Sons responded further to the consultation, with the following additional comments.

- i) “We would like to put the following point to the committee in objection to the proposal to change the footpath to a bridleway.
- ii) “We believe the route over Greyside Fell is unsuitable for any more than just a footpath due to a number of points.
- iii) “This is a main bird breeding area for Curlew, Lapwings, Skylark etc. We have joined various stewardship schemes on neighbouring fields to help them return so we don't think any disturbance would assist them in increasing.
- iv) “Who is going to be responsible for any maintenance and repair any damage to the land and gates etc?! Who is going to make sure that it is only used as a footpath or bridleway. We already have issues with the public using it as more than just a footpath.
- v) “The ground itself is unsuitable for anymore traffic, being walkers horseriders or cyclists.
- vi) “There is no need for a new bridleway in this area as there is a perfectly good one with access on to some roads only a few hundred metres to the east.
- vii) “Who is going to stop the scramblers and 4x4 vehicles which already use the (BOAT) No 17, from going on to use the new bridleway and cycle route. This is an issue we already have. We have already had numerous attempts to access this in the past.
- viii) “We have marked our ownership on the attached plan with an arrow between two points marked *. This is a large expanse of land which is not flat, it is very uneven, and lots of footpath walker stray off path even though it is clearly signposted. This land is also very wet and boggy in the winter months or a wet summer.
- ix) “We have the support of the Parish Council who also believe there is no reason for having a new bridleway made when there is a one in close proximity.
- x) “The parcel of land was deemed not suitable for a bridleway when it was planned to be part of the Pennine Bridleway.

- xi) "As far as we are aware:
- We are landowners for Greyside Farm
 - Carrowbrough Farm is tenanted by M Ridley & Sons of Shitlington Hall Farm, Wark. We are unsure of the owner.
 - Northumberland Estates, Alnwick Castle do not own any land on this parcel."

- 3.1 By email dated 21st August 2018, Francis Templar, Managing Agent for the Chesters Estate / George Benson responded with the following comments.

"Michael Gibson alerted me to this during a discussion on another matter last week but I wasn't able to comment. I heard nothing of this and George Benson was in Spain. However, I saw George earlier today and, having reflected, he would really much rather that this footpath was not upgraded to a bridleway as it crosses the whole of Carrawbrough Farm from south to north. He appreciates that he did possibly speak with someone on the phone (see email below) - but can't remember the occasion! He also appreciates that he may now be committed and it may be too late, anyway. However, he's happy to put his objection on record."

4. CONSULTATIONS

- 4.1 In March 2018, the County Council carried out a consultation with the Parish Council, known owners and occupiers of the land and the local representatives of the "prescribed and local organisations" listed in the Council's "Code of Practice on Consultation for Public Path Orders".

- 4.2 By letter in March 2018 the County Access & Bridleways Officer for the British Horse Society responded to the consultation with the following comments:

"This route, whose southern fenced section is already recorded as a BOAT, becomes a footpath once the route becomes unfenced. This is a common error to be found on the definitive map for Northumberland. The documentary evidence shows that in the past it was a through route, presumably for horse & carts and travellers on horseback, right through to the Military Road and beyond, where it is currently recorded as a public bridleway."

5. DOCUMENTARY EVIDENCE

- 5.1 A search has been made, relating to historical evidence and the following copies are enclosed for consideration.

1769 Armstrong's County Map

There is no evidence of a track approximating the claimed route.

- 1820 Fryer's County Map
- There is evidence of a track approximating the route of the claimed path.
- 1828 Greenwood's County Map
- There is no evidence of a track over the claimed route.
- 1820-32 Cary's Map
- There is evidence of a track approximating the route of the claimed path.
- 1844 Warden Tithe Award (No plan attached)
- There is evidence of a coloured track over the full length of the claimed route.
- 1860 1st Edition O.S. Map: Scale 1:2,500 & Book of Reference (Applicant's Plan)
- There is evidence of a track over the entire length of the claimed route coloured ochre.
- The path has no specific number but crosses the field parcels numbered 63, 38 & 23 which are annotated in the Book of Reference as 'Pasture etc'.
- 1865 1st Edition O.S. Map: Scale 1:10,560
- There is evidence of a track over the entire length of the claimed route with Bench Marks and Spot Heights.
- 1898 2nd Edition O.S. Map: Scale 1:10,560
- There is evidence of a track over the entire length of the claimed route identified as a Bridle Road (BR) and annotated with Spot Heights.
- 1925 3rd Edition O.S. Map: Scale 1:10,560
- There is evidence of a track over the entire length of the claimed route identified as a Bridle Road (BR) and annotated with Spot Heights'.
- 1952 Provisional Edition O.S. Map: Scale 1:10,560
- There is evidence of a track over the entire length of the claimed route identified as a Bridle Road (BR) and annotated with Spot Heights.

6. SITE INVESTIGATION

- 6.1 From the B6318 (Military) road the path crosses a stone stile in the boundary wall by the side of a field gate. The path then heads in a southerly direction following a natural raised lonnen bounded on the east by a post and wire fence to a field gate with stone posts. The path then continues southerly with a post and wire fence to the west crossing the Meggie's Dene Burn bridged with stone to another field gate. The path then continues southerly less defined over open pasture and moorland to a field gate on Byway Open to All Traffic No 17 north-east of Greyside Farm.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2018, a draft copy of the report was circulated to the applicant and known owners / occupiers of the land who responded to the consultation.
- 7.2 By letter dated 22nd November 2018, Mr G J K Benson of Chesters Farming Practice, responded with the following comments.
- i) "Further to your letter 13th November re. the above to my agent , Mr Francis Templar, I am writing as freehold owner of Carrawbrough Farm, in response to the proposed order made by Mr. Ted Liddle, 6th April 2017.
 - ii) "I understand a similar formal request was made tom the Countryside Commission some twenty years ago - the result of which was that the proposed up-grade from a public footpath to a bridleway was deemed 'unsuitable. I don't see what's changed since then other than use of the footpath has risen considerably resulting in a proportionate rise in all the problems associated with having public access over private land; litter, not only unsightly but often picked up and digested by livestock, deviation from the permitted path, enormous diminution in security (my tenant in Carrawbrough Farmhouse recently had the oil removed from his storage tank and missing livestock is well reported); gates opened but not closed inevitably causing more work in retrieving stock, to say nothing of the potential danger if gaining access to the public highway; perhaps worst of all, the increase in the number of dogs off the lead and allowed to run wild.
 - iii) "It will be appreciated how many horse-riders have their dogs with them and dogs, permitted or not, off the lead. Dogs are even more difficult to control from a horse than on foot - from experience, very often leading to severe deviation from the permitted route. Whilst public access intrinsically is not a problem, as always, it's the minority who spoil it for the majority. the problem lies with those currently legitimately using the public right of way who fail to appreciate that what's a 'playground' to them is the sole source of income to the farmer.

- iv) “In-lamb ewes are vulnerable; lambs, once born, are initially very weak, physically and emotionally; cattle are easily ‘spooked’ running riot causing potential damage to themselves, fences or other objects in their path. Cattle are naturally inquisitive - and all-the-more so if horses are present. Moreover, the public often aren't aware of the possible dangers of cows with calves and fail to understand the monetary value of livestock and that it's farmers livelihoods that are under threat if they're injured.
- v) “It should also be noted that there is a Countryside Stewardship Agreement in place over the extent of the farm. Should an uplift in the permitted use of the path lead to access by powered-bike ‘scramblers’ or four-wheel drive leisure vehicles, this and thereby the important income derived from it could be seriously jeopardised.
- vi) “I understand Newbrough Parish Council is also opposing this upgrade on the basis that the area is already well-served with public access, there already being a well-used bridleway a very short distance to the east across both this farm and Greyside Farm, its neighbour to the south.
- vii) “I accept objections based on ‘amenity, public safety and environmental impact’ may not be relevant grounds for objection but I believe the safety of horse-riders crossing this busy and very fast section of the B6318 should be given serious consideration; also, the safety and well-being of livestock and the preservation of the occupiers’ business interests. As already, I don't have a problem with public access if only all those using the land used it with due consideration. However, even if only one percent cause upset, that can result in a lot of work and loss of income. Thus, my objection to allowing access for horses and thereby the inevitable increase in usage of the path”

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;

- 8.2 When considering an application or 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 conclusive 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 Fryer's County Map and Cary's Map appear to depict a track over the full length of the alleged route. If the purpose of the maps was to depict commercial travel routes throughout the County then it is reasonable to assume that the route carried higher rights than public footpath.
- 8.5 All of the Ordnance Survey plans from the 1st Edition map c.1860 to the plan in 1952 depict a track over the full length of the claimed route. It is also noted that the path is annotated as a Bridle Road suggesting that the surveyors of the route considered the physical appearance of the route was likened to a bridleway rather than just a footpath.
- 8.6 While the information relating to the 1910 Finance Act is valuable there is no direct correlation linking the financial deduction for public rights of way in the Valuation Books to the tracks identified within the plots on the Valuation Plans. Also the deduction gives no indication as to the status of any presumed right of way.
- 8.7 The Warden Tithe Award shows a coloured track over the entire length of the claimed route suggesting that the route was public but gives no clear indication as to its status. However, the route is shown in the same manner as the other public vehicular highways in the area.
- 8.8 It is accepted that not all of the historical evidence may show the whole of the alleged route. However, the cumulative evidence would suggest that historically a track existed over the route of Public Footpath No 2 that could accommodate public traffic which was more than just pedestrian and that the use of the route would have included people on horseback or leading a horse. Members must be satisfied that on the balance of probabilities the public use of the route would have been more than just a footpath.
- 8.9 In the light of the evidence submitted it appears that the historical evidence is sufficient to demonstrate that on the balance of probabilities public bridleway rights have been proven to exist over the route but that public vehicular rights have not been proven to exist.
- 8.10 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. It is considered appropriate therefore, that if the route were to be included in any future modification order as a public bridleway, a minimum width of 2.5 metres should be recorded reflecting the measurements recorded by the applicant.

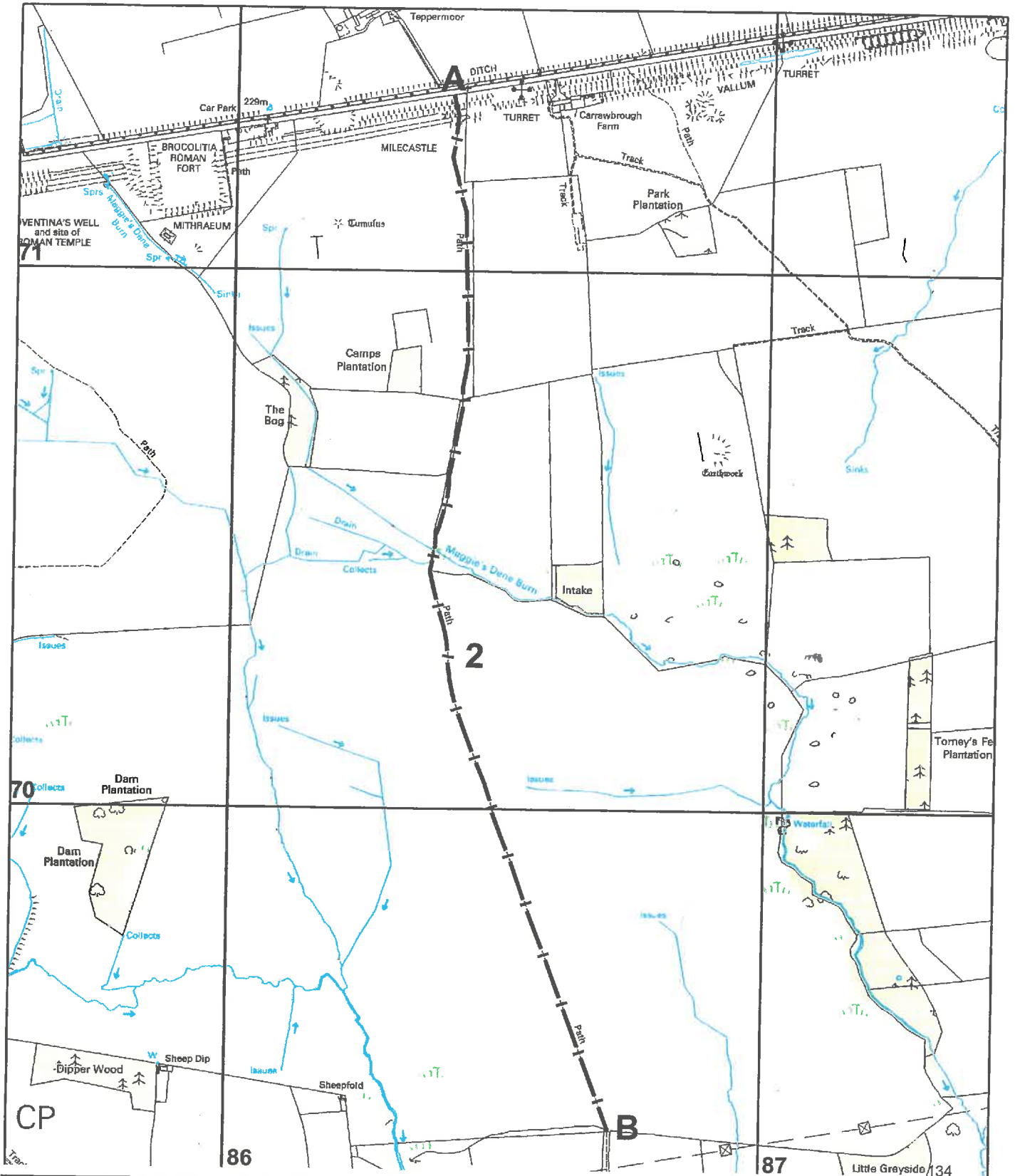
9. CONCLUSION

- 9.1 In the light of the evidence submitted it appears that public vehicular rights have not on the balance of probability been proven to exist over the route.
- 9.2 In the light of the evidence submitted it appears that public bridleway rights have on the balance of probability been proven to exist over the route.
- 9.3 The route be included in a future Definitive Map Modification order as a public bridleway.

BACKGROUND PAPERS

Local Services Group File E/33/2z

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NORTHUMBERLAND

Northumberland County Council

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

Wildlife and Countryside Act 1981 Public Rights of Way



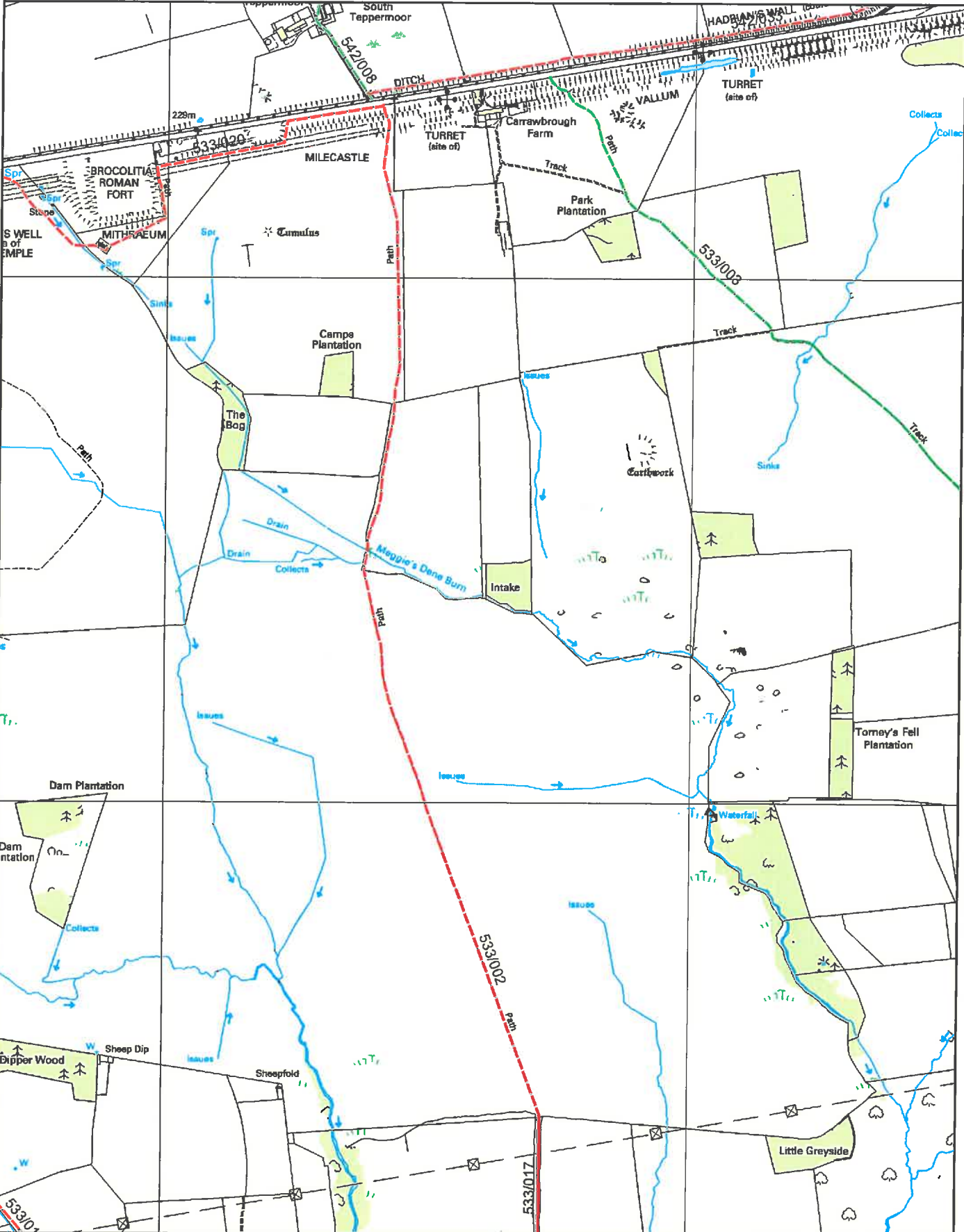
Alleged Public Bridleway

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Former District(s)
Tynedale
Def. Map No.
195/180

Parish(es)
Newbrough
O.S. Map
NY 86 NE/ 87 SE

Scale
1:10,000
Date
March 2018




Northumberland
 County Council

Contact: John McEriane
 Tel: 01670 624136
 Email: John.McEriane@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: 1:10,000

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PUBLIC RIGHTS OF WAY

WILDLIFE AND COUNTRYSIDE ACT 1981, PART III
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF NORTHUMBERLAND

APPLICATION FOR MODIFICATION ORDER

Former Borough/District TYNEDALE

Parish NEWBROUGH Rights of Way No. 533/002

(on Definitive Map)

To: Asset & Infrastructure Manager
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

I/We TED LITTLE (Name)

of CHAPEL HOUSE, WHITLEY CHAPEL (Address)

STEEL, HEXHAM, NE47 0HD

hereby apply for an order, under Section 53 (2) of the Wildlife and Countryside Act 1981, modifying the Definitive Map and Statement for the County of Northumberland, by:-

1. Adding the (footpath) (bridleway) (restricted byway) (byway open to all traffic) (Delete whichever is inapplicable)

from

to

2. (Upgrading) (~~downgrading~~) to a (footpath) (bridleway) (~~restricted byway~~) (~~byway open to all traffic~~) the (footpath) (~~bridleway~~) (~~restricted byway~~) (~~byway open to all traffic~~) (Delete whichever is inapplicable)

from CR NY 867693 North end of highway 533/017

to CR NY 863712 B.6118 The Military Road

3. Deleting the (footpath) (bridleway) (restricted byway) (byway open to all traffic) (Delete whichever is inapplicable)

from

to

4. (Varying) (adding to) the particulars relating to the (footpath) (bridleway)) (restricted byway) (byway open to all traffic) (Delete whichever is inapplicable)

from

to

by providing that
as shown on the plan attached.

I/We attach copies of the following documentary evidence (including statements of witness) set out overleaf in support of this application.

Dated T. Little Signed 05.04.17

NOTE: This application **must** be accompanied by a map showing the right(s) of way applied for. Legally such a map must be at a scale of not less than 2½" to 1 mile, but 6" to 1 mile (being the scale at which the Definitive Map is to be prepared and maintained) will normally be preferable.

PUBLIC RIGHTS OF WAY

WILDLIFE AND COUNTRYSIDE ACT 1981, PART III
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF NORTHUMBERLAND

CERTIFICATE OF SERVICE OF NOTICE OF
APPLICATION FOR MODIFICATION ORDER

Former Borough/District TYNEDALE

Parish NEWBOUGH

To: Asset & Infrastructure Manager
Local Services Group
Northumberland County Council
County Hall
Morpeth
NE61 2EF

I/we TED LIDDLE (Name)

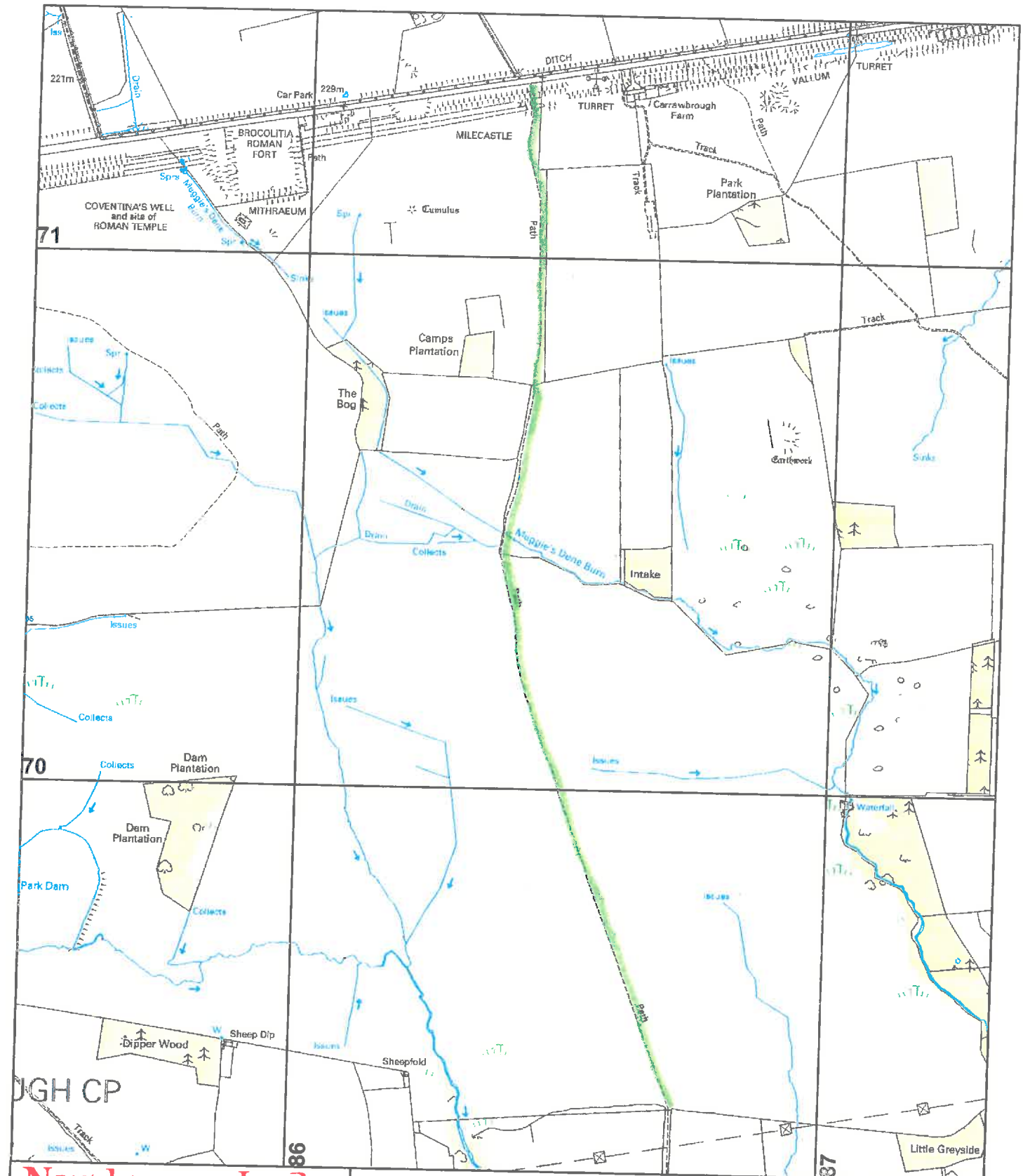
of CHAPEL HOUSE, WHITLEY CHAPEL, (Address)

STEEL, HEXHAM, NE47 0HD

hereby certify that the requirements of Paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with, and each of the following landowners and occupiers affected by the claim have been notified.

Name	Address
<u>G H Walters & Sons</u>	<u>Greyside Farm, Newbough, Hexham NE47 5AY</u>
<u>Northumberland Estates</u>	<u>Estate Office, Alnwick Castle, Alnwick, NE66 1NB</u>

Dated 05.04.17 Signed T Liddle



Northumberland
Northumberland County Council

Infrastructure Local Services
County Hall Morpeth Northumberland
NE61 2EF Telephone 0345 600 6400

Wildlife & Countryside Act, 1981

 Claimed Public Right of Way

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Former District	Tynedale	Parish	Newbrough	Scale	1:10,000
Def. Map. No.	195 / 180	O.S. Map	NY86NE / 87SE	Date	March 2017

Greyside Fell

The route

1. The alleged route lies in the parish of Newbrough and can be seen on OS OL43 Hadrian's Wall.
2. It starts at the north end of byway 533/017, at GR NY 867693. There is a gate at this point (A) where the byway is no longer in an enclosed lane as the wall on the west side is no longer standing but its remains are still visible. It travels northwards across several rough pastures to cross the Vallum close to the Military Road, B6318, which it joins west of Carrawbrough, at GR NY 863712 (B). On the other side of this road, there is a continuation as public bridleway 542/008, through High Teppermoor to the village of Simonburn and beyond.
3. For its full length the alleged route follows the line of public footpath 533/002.
4. There is no obvious justification for a change of status at point (A), such as a parish boundary. It would appear that the change from BOAT to footpath has occurred simply because the BOAT section used to be in a walled lane up to this point and the rest of the route is unfenced.
5. The line of the route is largely undefined and without waymark posts. It passes through a couple of gates.
6. A pair of the original stone gate posts still exist at GR NY 864 706. The gap between them is 2.25m.
7. The width of the gap where the alleged route crosses the Vallum is around 2.5 metres, wide enough to allow a horse & cart to pass through the enclosing banks. The width of the incline up to the Military Road, which is clearly defined by blocks of stone, is also of this width.

See photographs

Documentary evidence

1. 1746 A survey of Hadrian's Wall

SANT/PLA/7/2/1/1A

The title of this plan is '*Survey of the country between Newcastle and Carlisle representing the several present roads and the tract which is prepared for the new intended road of communication between these towns.*'

The historic route can be seen going north from Newbrough (sic) to the Military Road, crossing the vallum, west of Carrawbrough (sic). The presence of the alleged route on this survey indicates that this route is of considerable antiquity.

See extract

2. 1820 Fryer's county map

The alleged route is shown for its full length on this map in the same manner as roads which make up the minor road network in the area. The key indicates that it is shown as a 'cross road', a road joining two roads of greater importance.

See extract

3. 1844 Tithe Award for Warden Parish

DT 476 L

The route is shaded in brown on the plan, in the same manner as the grass surfaced U 8138, across Walwick Fell to the east. All the surrounding public tarmac roads are also shown shaded in brown. The application route is shown as an unfenced route but the southern section, which is already recorded, is shown as a walled lane, as it is today.

Its full length is shown. It meets the Military Road west of Carrawbrough and so provides a through route from Newbrough to this important East-West road.

No photography allowed

4. 1866 OS 1st ed. scale 1:2,500, the 25"

sheets LXXXIV/3,7 & 11

The route is shown as following the same line as it does today through the parish of Warden, township of Newbrough. It is shaded brown, as are all those routes which are public roads today. It also has spot heights and bench marks which are normally only found along public roads.

Across the open ground, going from south to north, it is shown to cross three plots - numbers 63, 38 & 23. The walled lane (byway) is shown as plot 110.

In the Book of Reference for this parish and township these plots are described:

Plot 63	Pasture etc
Plot 38	Pasture etc
Plot 23	Pasture etc

This is the normal format found in a large number of Northumberland parishes when an unfenced road crosses a large area of pasture.

The plot number 110 for the recorded enclosed byway is described as '**public road**'.

The actual width of the route as measured on this edition of the OS where it crosses the vallum is 1mm. According to the scale, this means it was, at the time of being surveyed, 2.5 metres wide. This coincides with the width of the gap in the vallum and between the stone gate posts as measured today.

[See Inspector Sue Arnott's comments in her decision letter of 7 September 2016, ref FPS/P2935/7/48 paragraphs 45 & 46 for the justification for this statement.]

See extracts

5. 1898 OS 2nd ed 1:10,560, the 6"

sheet LXXXIV NE & SE

On this edition the route is shown as joining the same two points. It is labelled 'BR', which suggests that the surveyor observed it being used by the public on horseback. The recorded bridleway, 533/003, in same parish also linking a byway to the Military Road also has this label.

See extract

6. 1902 Bartholomew's Half Inch

NLS map collection online

This popular map which was produced for cyclists also shows the alleged route in the same manner as the two nearest recorded routes from the Newbrough area to the Military Road eg bridleway 533/003 and the U8138 across Walwick Fell. Local public footpaths are not shown so this suggests that at that time, the alleged route was recognised to have rights higher than footpath.

7. 1910 Finance Act

NRO 436/LXXXIV/7 & 11

On the plans the application route is shown passing through two hereditaments, numbers 112 and 130. At the south end the walled lane (recorded byway) is shown as a 'white road' so therefore not liable for development tax, which indicates that it was likely to have been a public road.

The field book for the parish of Warden has ref **NRO 2000/86**. On pages 11 and 12, the following can be seen:

Plot 112 is shown to be Carrawbrough, belonging to Isabel Clayton of The Chesters, where a **deduction of £8** for 'right of way or user' has been awarded.

Plot 130 is shown to be Greyside, owned by the Duke of Northumberland, where a **deduction of £10** has been awarded.

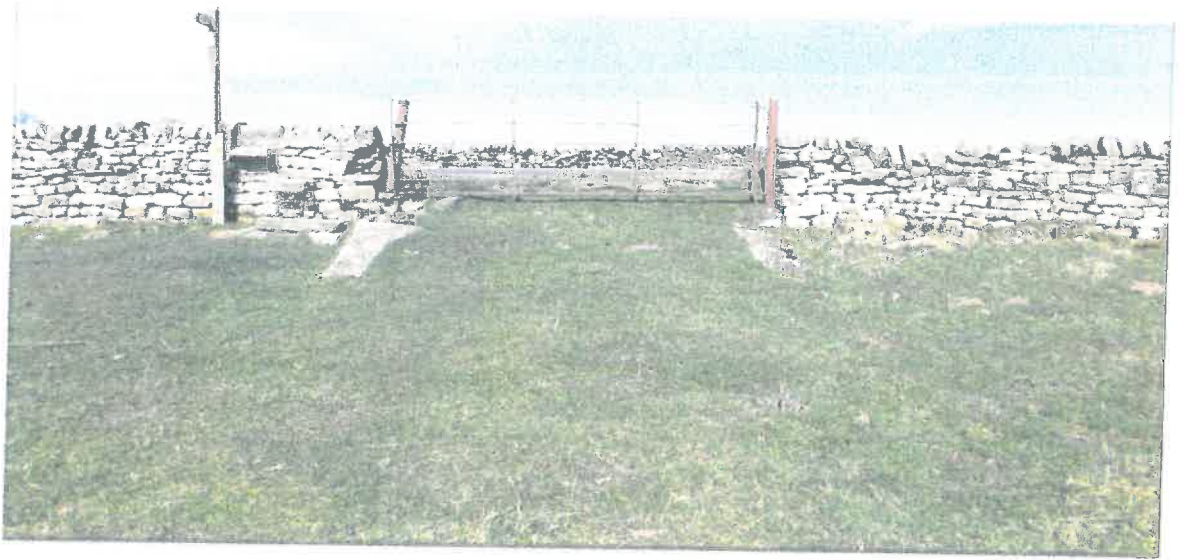
This shows that the owners of the land were aware of a public route between Newbrough and the Military Road across their land and applied for the deduction in tax for which they were eligible.

See extracts

Conclusion

The evidence above suggests that this route has been known as a public road between Newbrough and the Military Road, from the middle of the eighteenth century. Please can you investigate if it should be recorded on the definitive map as a restricted byway or bridleway rather than as a public footpath.

Sent to NCC April 2017



Access onto the Military Road (point B)



Route through the vallum



The stone gate posts

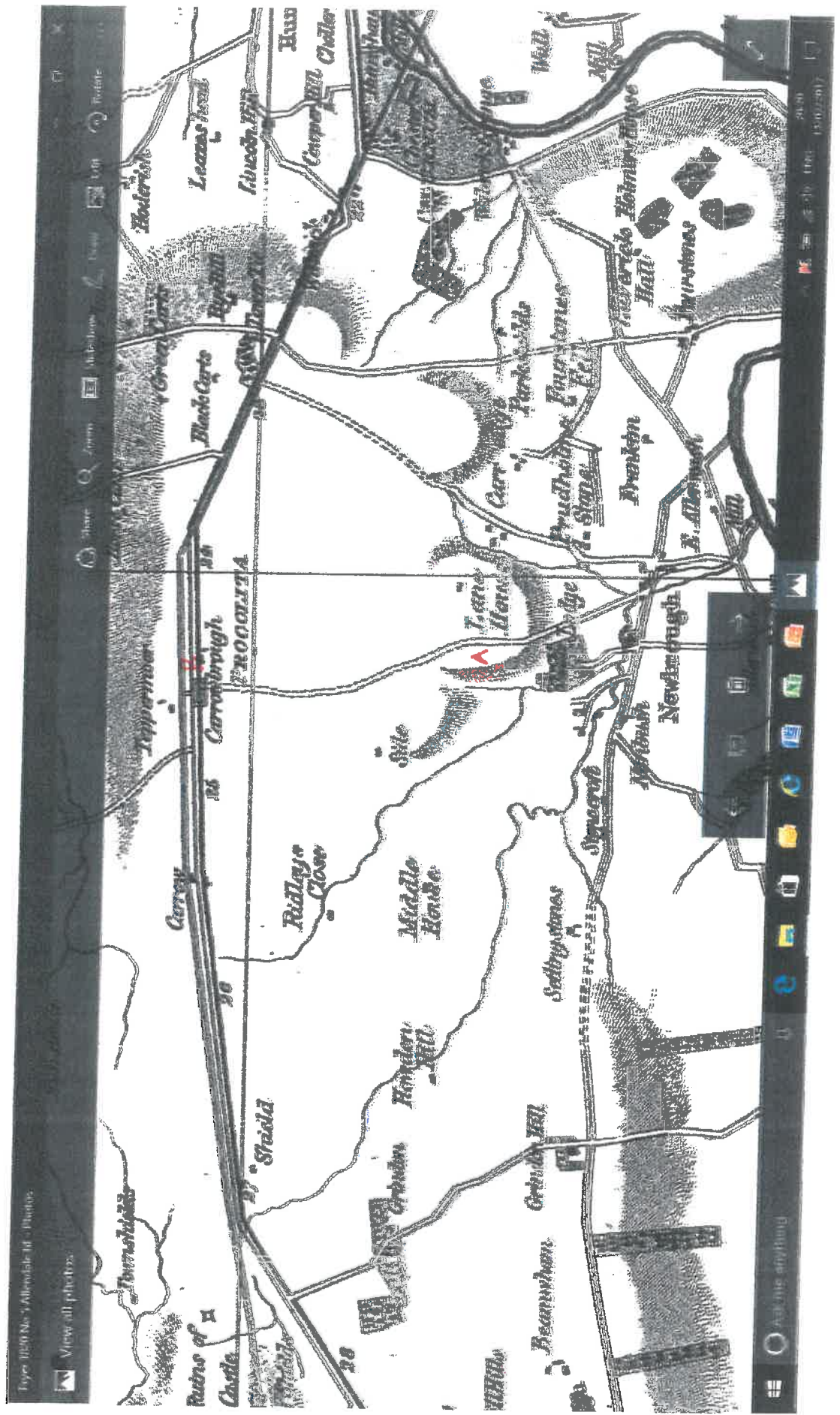


The north end of the byway (point A)

1746 Survey of Hadrian's Wall



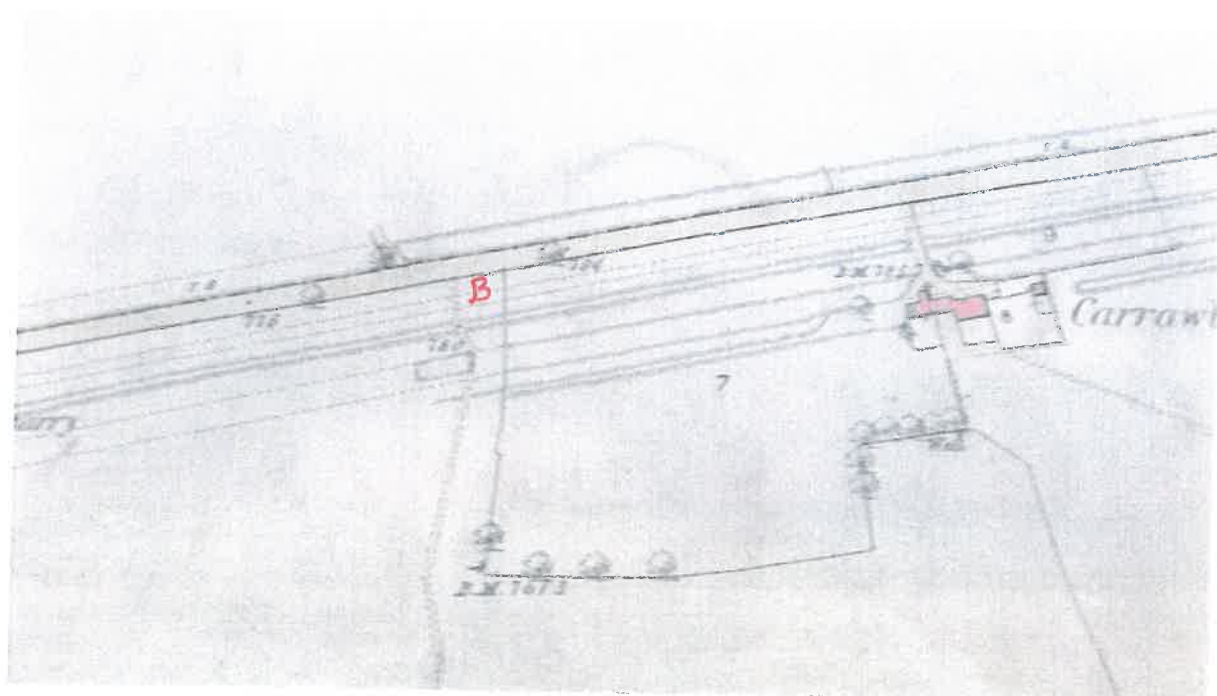
1820 Fryer's County Map



1866 OS 1st ed 25"



Showing south end of the alleged route



Showing north end of the alleged route

PARISH OF WARDEN,

IN THE

COUNTY OF NORTHUMBERLAND.

TOWNSHIP OF NEWBROUGH.

No. of Piece.	Area in Acres.	Description.	No. of Piece.	Area in Acres.	Description.
1	.479	Stream (Crock Burn).	86	1221.116	Brought forward.
2	.009	Island (rough pasture).	86a	184.102	Rough pasture, &c.
3	.011	Island (rough pasture).	86	.289	Sheepfold, &c.
4	.400	Island (rough pasture).	87	.139	Garden.
5	.064	Rough pasture, &c.	88	11.136	Pasture, &c.
6	.066	Public road.	87	17.737	Pasture, &c.
7	.008	Pasture, &c.	89	86.218	Pasture, &c.
8	.376	Houses, yards, garden, &c. (Carrawthrough).	40	9.737	Arable.
9	.916	Pasture.	41	7.696	Pasture.
10	.332	Pond.	42	.449	Pasture.
11	1.367	Pasture.	43	.088	Garden.
12	888.424	Rough pasture, &c. (Foy Moss).	44	25.906	Arable, &c.
13	27.116	Pasture.	45	39.226	Arable, &c.
14	.126	Ruin, &c.	46	92.661	Arable.
15	14.846	Public road.	47	20.929	Pasture, &c.
16	.488	Wood.	48	9.240	Arable, &c.
17	.483	Houses, yards, &c.	49	12.080	Pasture.
18	.178	Houses, yard, garden, &c. (Carraw).	50	.016	Houses (Tomey's Fell).
19	9.688	Pasture, &c.	51	7.741	Arable.
20	.920	Wood.	52	.109	House, yard, garden, &c. (Moggy's House).
21	89.943	Pasture, &c.	53	.881	Houses, yard, &c. (Lane House).
22	227.638	Pasture, &c.	54	96.989	Pasture, &c.
23	104.686	Pasture, &c.	55	4.689	Pasture.
24	288.911	Pasture, &c.	56	5.207	Arable, &c.
25	.189	Pasture, &c.	57	1.866	Wood, &c.
26	11.641	Pasture, &c.	58	986.244	Pasture, rough pasture, &c. (Brown Moss).
27	.840	Houses, garden, &c. (Shieldon the Wall).	59	220.016	Pasture, &c.
28	7.097	Reservoir.	60	27.492	Pasture, &c.
29	6.816	Rough pasture, &c.	61	180.686	Pasture, streams, &c.
30	1.447	Wood.	62	82.036	Pasture, &c.
31	220.869	Pasture, &c.	63	444.622	Pasture, &c.
32	.044	House, yard, &c. (Bid-ley's Close).	64	14.078	Pasture, &c.
33	.199	Stackyard.	65	1.198	Pasture.
34	.268	Houses, yards, garden, &c. (Middle House).	66	6.004	Arable.
			67	5.971	Arable.
			68	6.784	Public road.
			69	4.187	Arable, &c.
	1451.116	Carried forward.		8145.208	Carried forward.

TABLE

FOR CONVERTING DECIMAL PARTS OF AN ACRE INTO ROADS AND PERCHES.

Perches	0 Road.	1 Road.	2 Roads.	3 Roads.	4 Roads.	Perches.	5 Roads.	6 Road.	7 Roads.	8 Roads.	9 Roads.
0	.000	.250	.500	.750	.100	21	.250	.500	.750	.100	21
1	.006	.260	.508	.756	.107	22	.260	.510	.760	.107	22
2	.012	.269	.516	.763	.114	23	.269	.520	.767	.114	23
3	.018	.279	.524	.771	.121	24	.279	.530	.775	.121	24
4	.024	.288	.532	.778	.128	25	.288	.540	.782	.128	25
5	.030	.297	.540	.786	.135	26	.297	.550	.790	.135	26
6	.036	.306	.548	.794	.142	27	.306	.560	.798	.142	27
7	.042	.315	.556	.802	.149	28	.315	.570	.806	.149	28
8	.048	.324	.564	.810	.156	29	.324	.580	.814	.156	29
9	.054	.333	.572	.818	.163	30	.333	.590	.822	.163	30
10	.060	.342	.580	.826	.170	31	.342	.600	.830	.170	31
11	.066	.351	.588	.834	.177	32	.351	.610	.838	.177	32
12	.072	.360	.596	.842	.184	33	.360	.620	.846	.184	33
13	.078	.369	.604	.850	.191	34	.369	.630	.854	.191	34
14	.084	.378	.612	.858	.198	35	.378	.640	.862	.198	35
15	.090	.387	.620	.866	.205	36	.387	.650	.870	.205	36
16	.096	.396	.628	.874	.212	37	.396	.660	.878	.212	37
17	.102	.405	.636	.882	.219	38	.405	.670	.886	.219	38
18	.108	.414	.644	.890	.226	39	.414	.680	.894	.226	39
19	.114	.423	.652	.898	.233	40	.423	.690	.902	.233	40
20	.120	.432	.660	.906	.240		.432	.700	.910	.240	

N.B.—To convert Decimal Fractions of an Acre into Roads and Perches, multiply the decimal first by 4 and then by 40, preserving the same number of decimals in the product.

Example—

A. R. P.	688	1	17
Acres.			
688	857	4	

1	428	40	

A. R. P.	627	0	2
Acres.			
627	019	4	

0	662	40	

A. R. P.	627	0	2

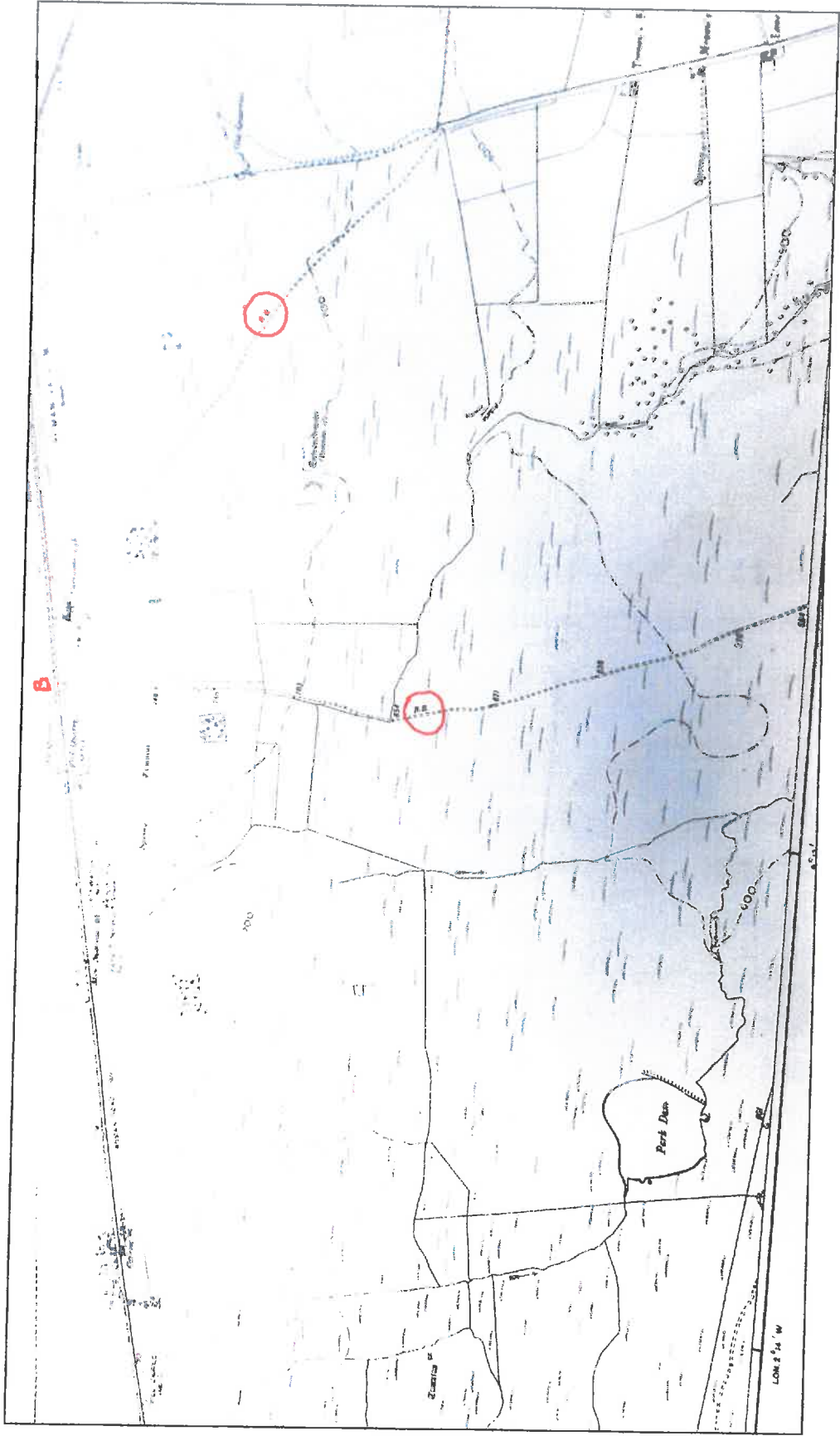
PARISH OF WARDEN.

No. or Plot.	Area in Acres.	Description.	No. or Plot.	Area in Acres.	Description.
70	8145-908	Brought forward.			
71	5-198	Arable, &c.	1142	8445-916	Brought forward.
72	10-990	Pasture, &c.	115	1-888	Wood, &c.
	24-497	Pasture, rough pasture, &c.	116	2-098	Wood.
73	5-185	Pasture, &c.	117	81-614	Arable, &c.
74	1-781	Ground liable to floods.	118	41-150	Pasture, bushes, &c.
75	8-976	Reservoir (part eff).	119	10-076	Arable, &c.
76	1-078	Pasture.	120	1-148	Private road.
77	0-698	Pasture, &c.	121	8-188	Wood, &c.
78	4-10	Reservoir (part eff).	122	28-038	Pasture, &c.
79	0-90	Pasture, &c.	123	1-091	Arable, &c.
80	0-888	Pond (part eff).	124	7-05	Wood.
81	8-988	Pasture, &c.			Houses, yards, &c. over den (Cart Edge)
82	1-810	Houses, rally, waste, &c.	125	11-689	Arable, &c.
83	7-773	Houses, yards, gardens, &c. (Washing Place)	126	1-674	Rough pasture, &c.
84	5-440	Wood.	127	8-529	Arable.
85	26-882	Pasture, &c.	128	9-816	Arable.
86	81-580	Pasture, &c.	129	9-207	Arable, &c.
87	0-88	Houses, gardens, &c.	130	0-94	Wood, &c.
88	0-61	Engine House.	131	9-140	Pasture.
89	0-23	House & garden.	132	0-81	Wood.
90	0-16	Smithy.	133	0-67	Pasture.
91	5-525	Waste, &c.	134	19-010	Arable.
92	1-01	Pasture.	135	1-601	Wood, &c.
93	25-178	Houses, &c.	136	1-984	Private road.
94	0-889	Houses, &c. (Greyalde Mine-Lead).	137	4-949	Pasture.
95	0-66	Public road.	138	2-212	Wood.
96	12-448	Arable.	139	4-470	Arable, &c.
97	31-883	Arable.	140	1-829	Pasture.
98	20-990	Arable.	141	1-441	Wood, &c.
99	0-661	Houses, yards, &c.	142	0-317	Wood.
		Houses, yards, &c.	143	9-459	Pasture, &c.
100	0-110	Houses & garden.	144	4-088	Wood, &c.
101	4-187	Wood, &c.	145	6-821	Pasture.
102	4-424	Wood, &c.	146	4-67	Wood, &c.
103	1-736	Wood, &c.	147	12-080	Pasture, &c.
104	18-218	Arable.	148	2-097	Houses, yards, &c.
105	8-878	Arable & cattle shed.	149	1-804	Gardens, &c.
106	0-867	Arable.	150	2-616	Ornamental ground, &c.
107	0-85	Arable.	151	8-86	Orchard, wood, &c.
108	0-040	Wood.	152	0-88	Wood.
109	0-088	Wood.	153	0-198	Wood.
110	8-789	Public road.	154	1-78	Wood.
111	23-112	Arable.	155	8-468	Pasture.
112	15-012	Arable.	156	0-88	Wood.
113	8-922	Wood, &c.	157	0-89	Wood.
114	20-484	Pasture, trees, &c.	158	17-811	Arable.
		Carried forward.	159	5-878	Pasture.
	8455-218	Carried forward.			
			8724-214	Carried forward.	

PARISH OF WARDEN.

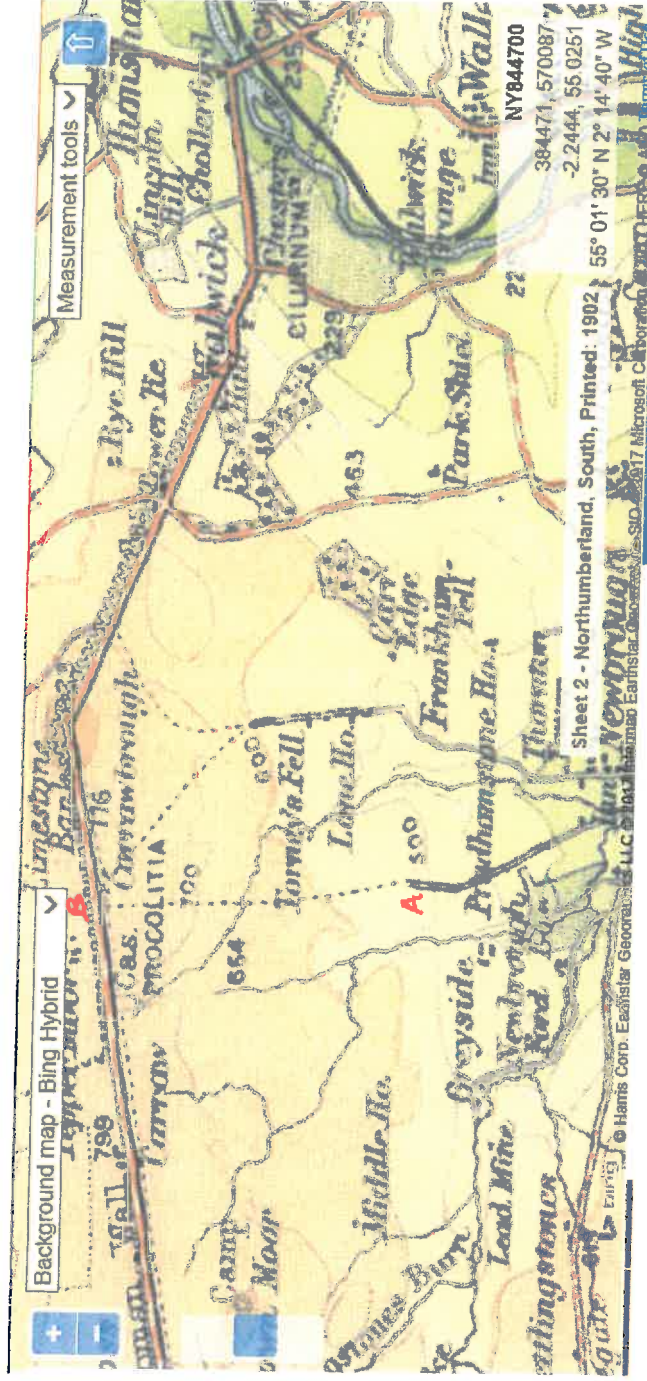
No. or Plot.	Area in Acres.	Description.	No. or Plot.	Area in Acres.	Description.
	8724-214	Brought forward.			
	10-658	Pasture, &c.	202	8-905	Pasture, well, &c.
	0-40	Wood.	203	0-900	Pasture, &c.
	81-74	Wood, &c.	204	1-47	Houses & garden (New-brough Cottage).
	9-210	Pasture, &c.	205	1-881	Pasture, &c.
	1-788	Pasture.			
	0-593	Garden.	206	8-206	Pasture, well, &c.
	1-80	Wood.	207	8-200	Pasture, &c.
	14-794	Pasture, &c.	208	7-988	Pasture, &c.
	9-845	Arable, &c.	209	0-881	Wood.
	24-812	Arable, &c.	210	0-876	Houses, yards, &c.
	24-880	Arable.	211	2-11	Private road.
	5-148	Arable.	212	0-441	Garden, wood, &c.
	6-886.	Arable.	213	0-887	Houses, yards, &c. (Thornton Tower--remains of).
	202	Houses, yards, &c. (Fruddhamstone House).	214	7-815	Houses, gardens, &c. (Newbrough House)
		Garden.	215	0-847	Private road.
	1-08	Pasture, &c.	216	7-445	Pasture, &c.
	1-808	Arable, &c.	217	0-645	Arable.
	0-046	Arable, &c.	218	10-490	Arable, &c.
	364	Fruddhamstone Quarry (part eff).	219	1-887	Stream (part of).
		Arable, quarry, &c.	220	0-018	Public road.
	11-948	Houses, yards, & garden.	221	0-885	Pasture, &c.
	0-808	House, wood, &c.	222	0-800	Wood, &c.
	4-838	Pasture, pond, &c.	223	2-191	Stream (Newbrough Barn).
	0-86	Houses, gardens, &c.	224	0-948	Wood.
	288	House, wood, &c.	225	8-878	Pasture, &c. St. Peter's Church & graveyard.
	4-89	Houses, yard, &c.	226	1-886	Wood.
	0-09	Pasture.	227	1-59	Wood.
	0-20	Rough pasture, &c.	228	0-251	Pond.
	0-81	Pasture.	229	9-889	Pasture, &c.
	7-02	Public road.	230	4-07	Wood, &c.
	0-810	House, gardens, &c.	231	0-088	Garden.
	0-48	Wood.	232	5-504	Pasture.
	8-91	Public road.	233	2-648	Pasture, &c.
	8-918	Pasture.	234	0-11	House, &c.
	0-87	Wood, &c.	235	7-489	Pasture, &c.
	0-80	Wood, &c.	236	8-088	Arable.
	0-08	Wood, &c.	237	14-163	Pasture, &c.
	88-490	Ornamental ground.	238	10-717	Arable, &c.
	0-848	Wood, &c.	239	8-827	Public road.
	1-18	Wood.	240	6-084	Pasture.
	1-98	Wood.	241	0-084	Rough pasture.
	1-59	Wood.	242	1-80	Wood, &c.
			243	0-059	Wood.
			244	8-082	Pasture, &c.
			245	1-281	Pasture, &c.
	8911-987	Carried forward.			
			4080-661	Carried forward.	

1898 OS 2nd ed 6"

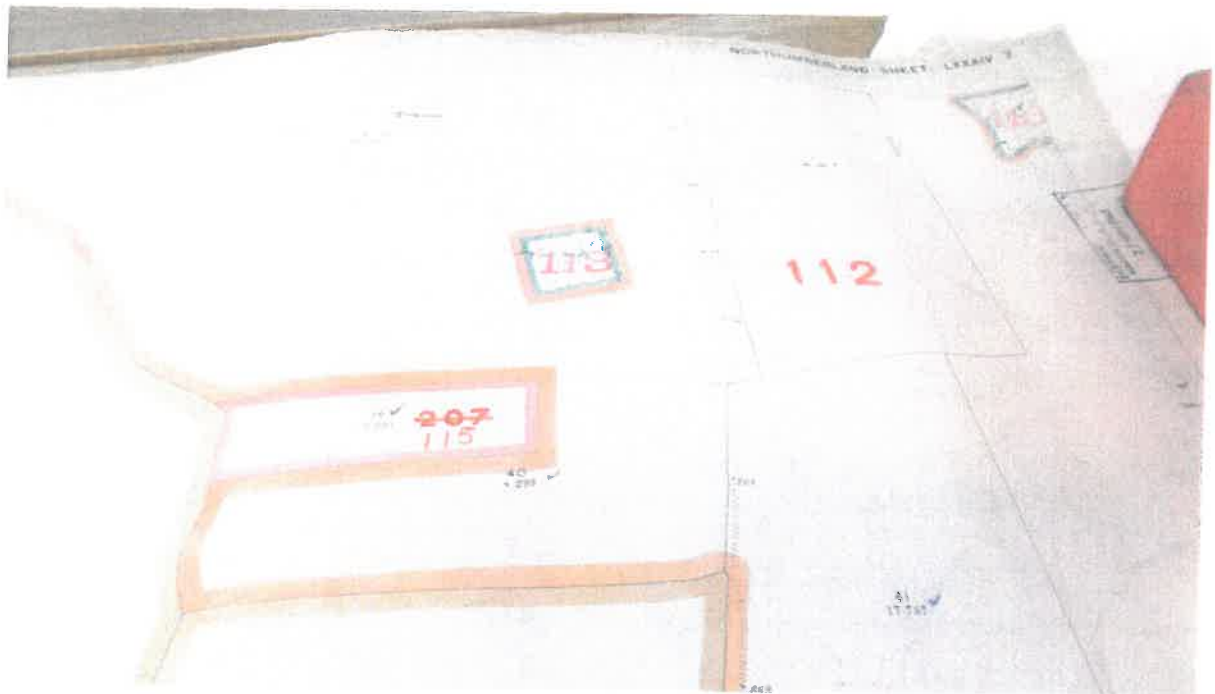


1902 Bartholomew's Half Inch map

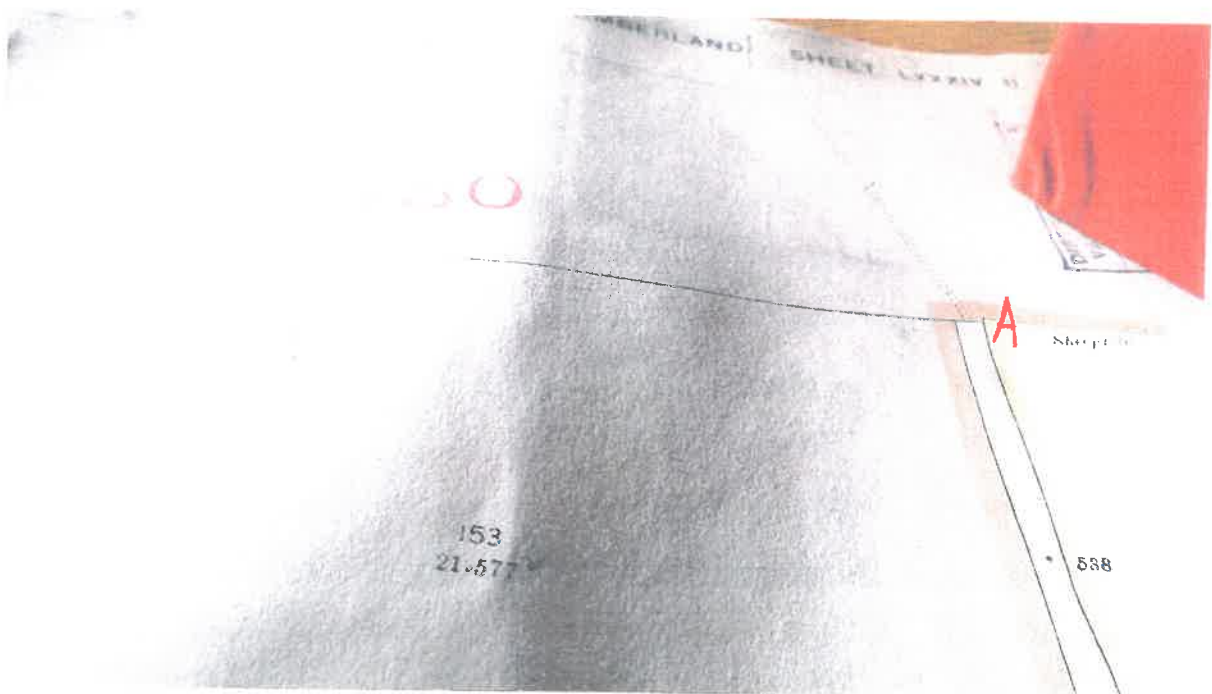
[Source: the National Library of Scotland collection]



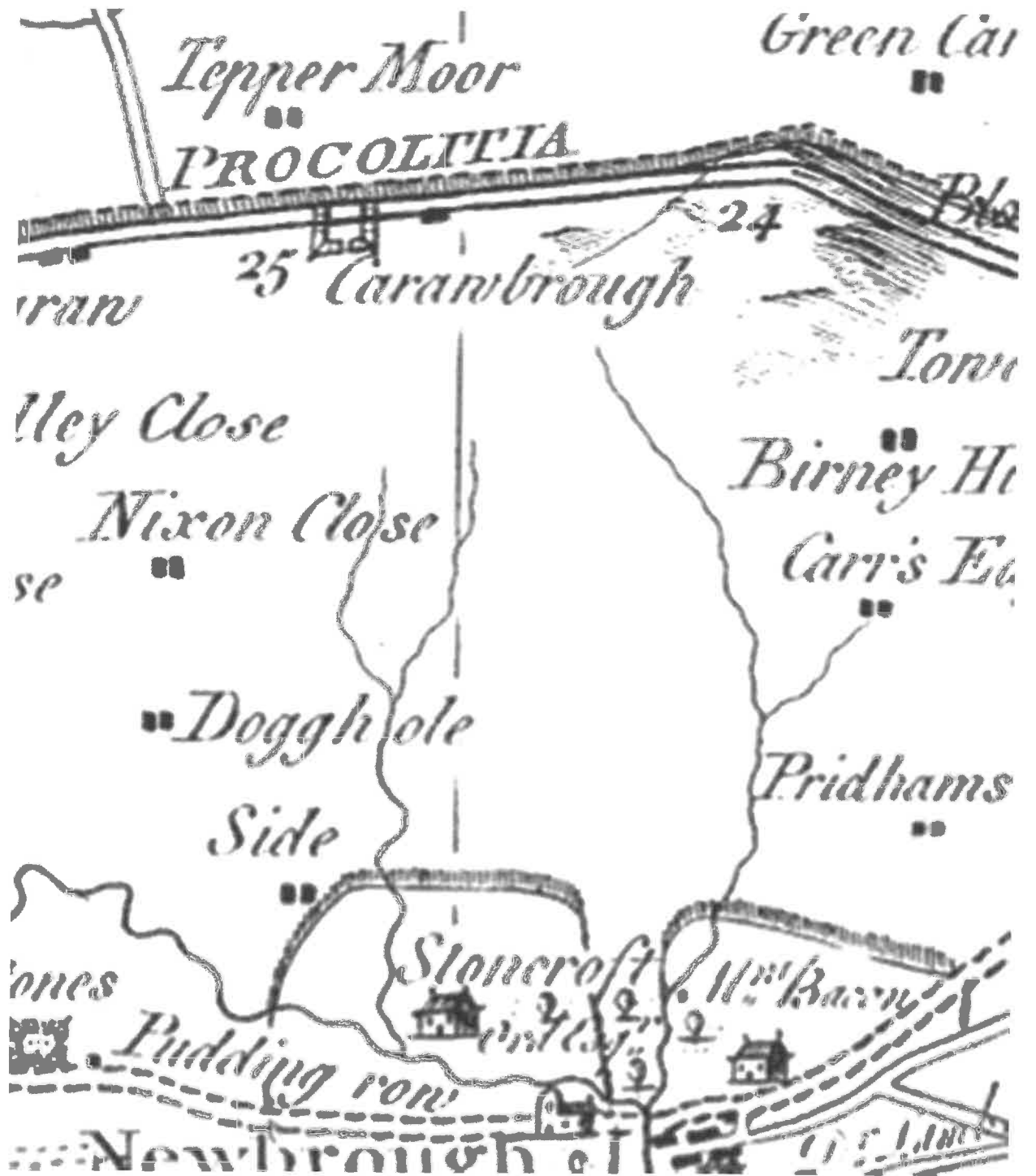
1910 Finance Act Plan

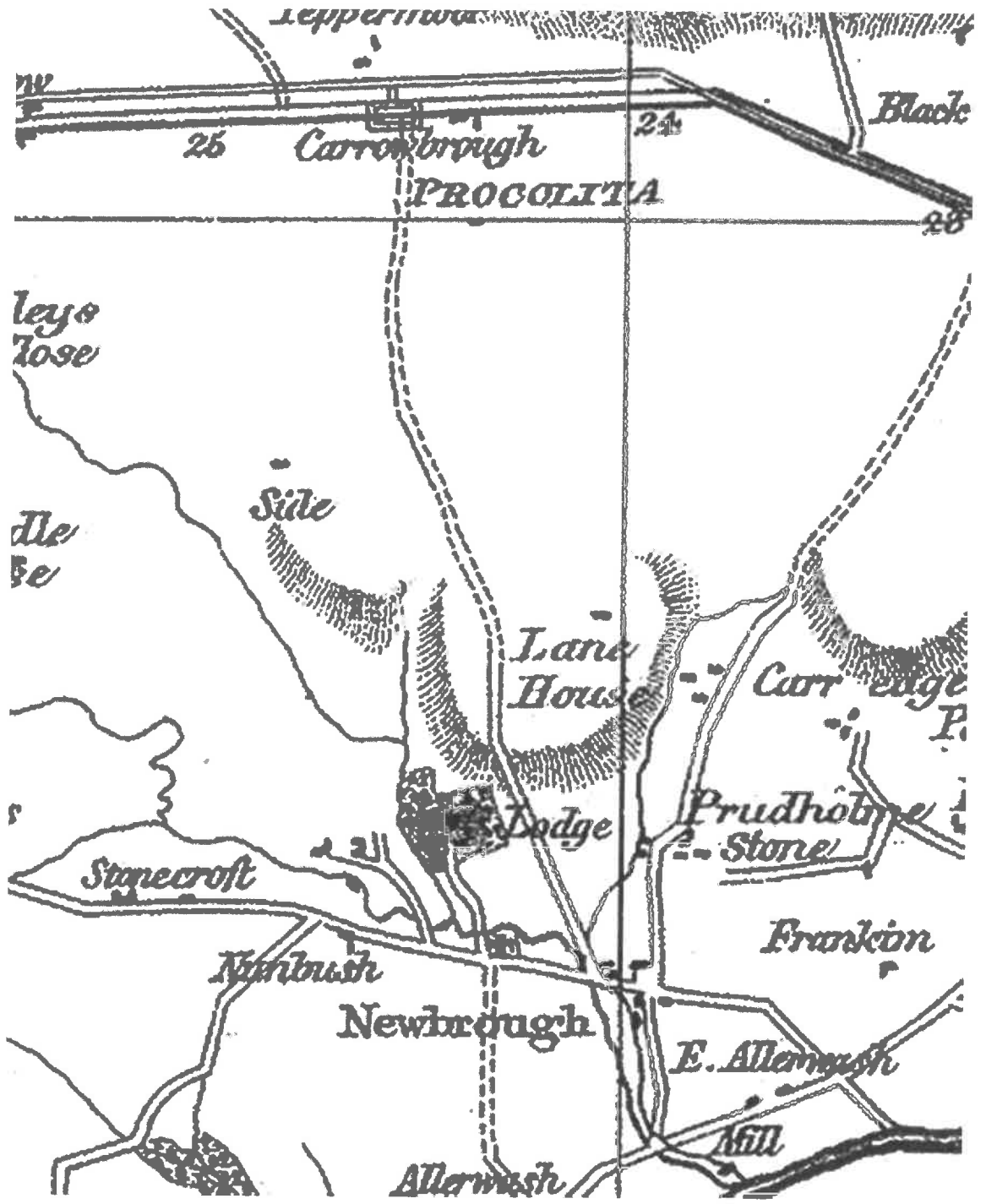


Showing the north end of the alleged route through plot 112

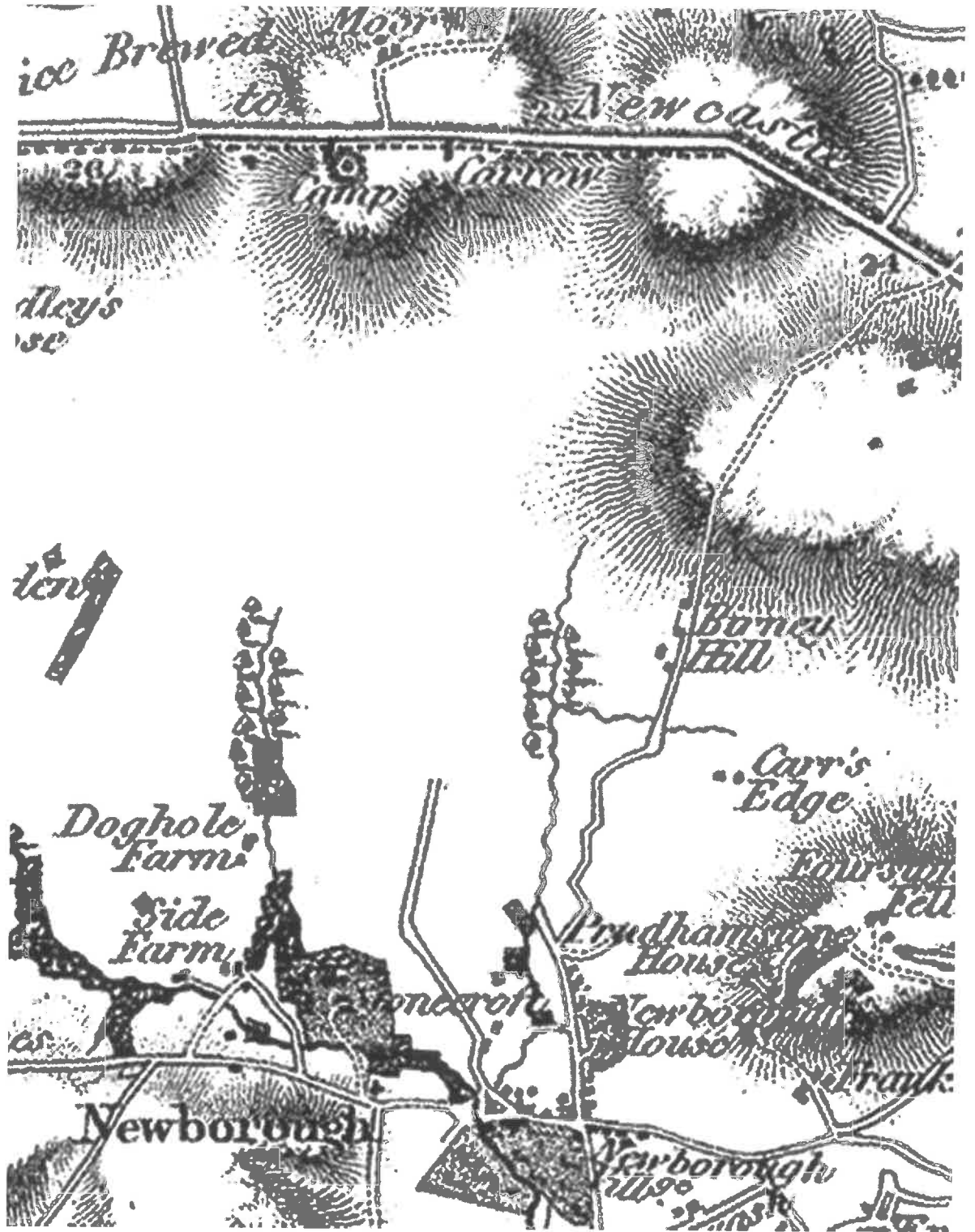


Showing the south end of the alleged route through plot 130 and the recorded byway as a 'white road'



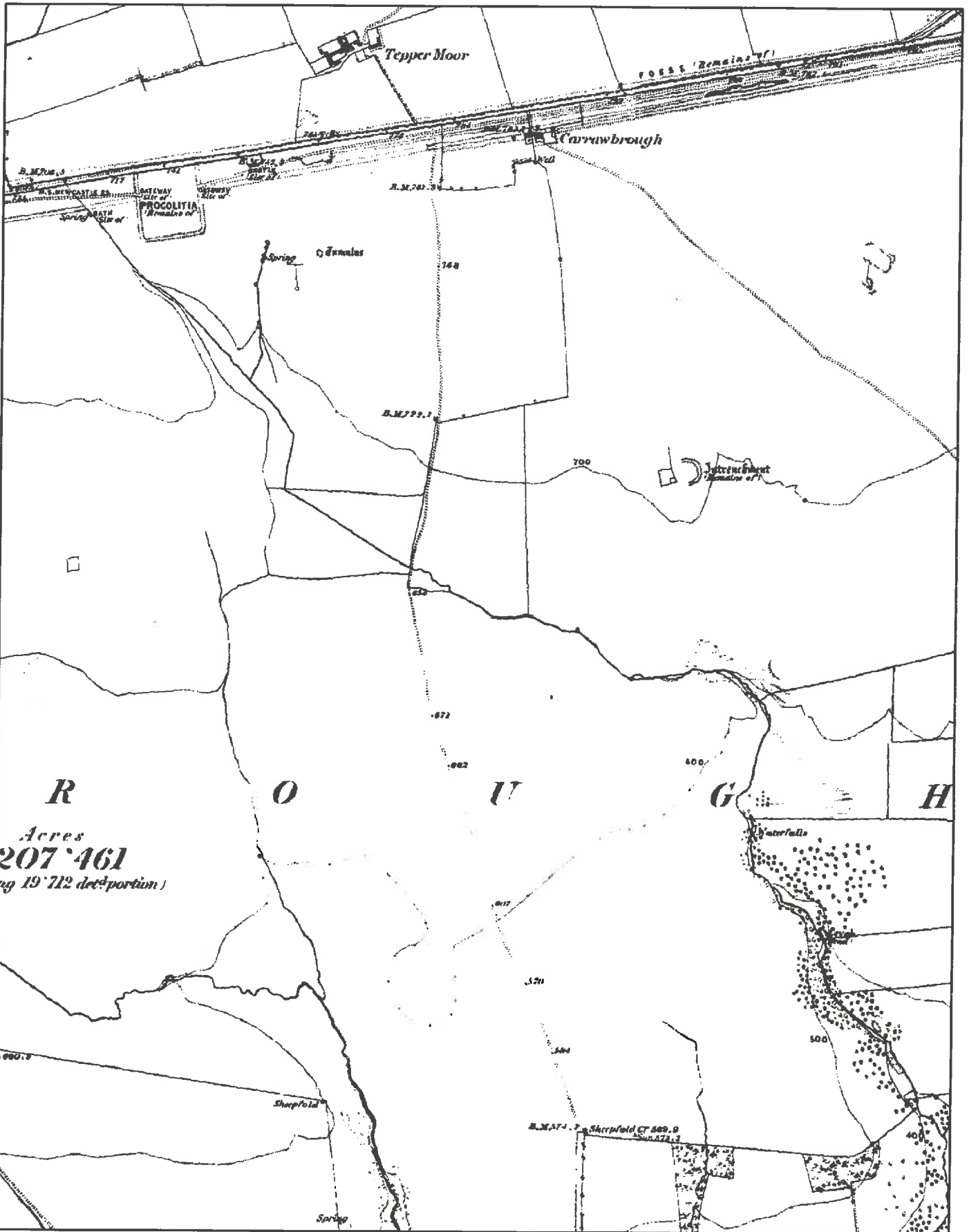


GREENWOOD'S COUNTY MAP
1828



CARY'S MAP
1820-32



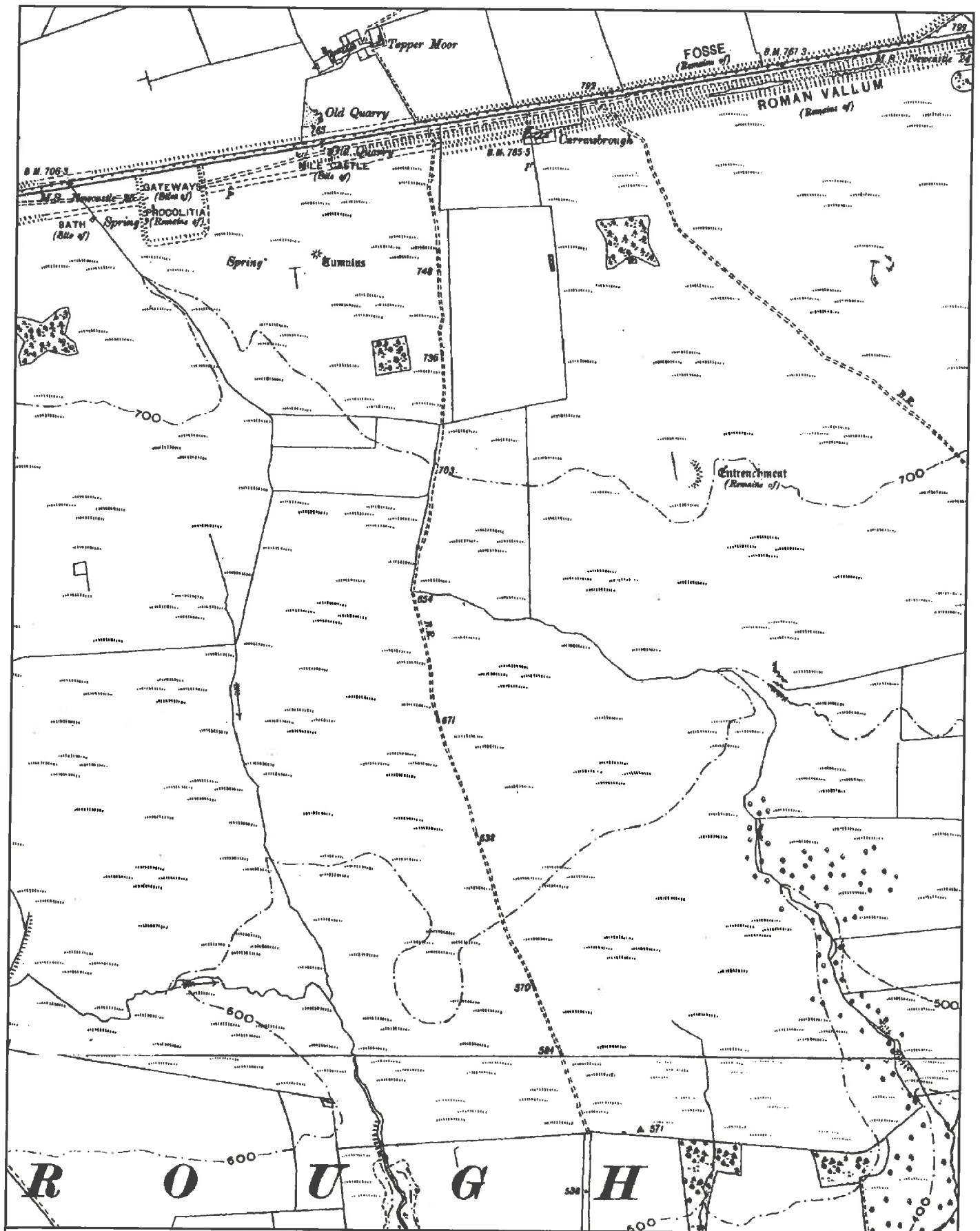


Northumberland
County Council

Ordnance Survey Plan 1865

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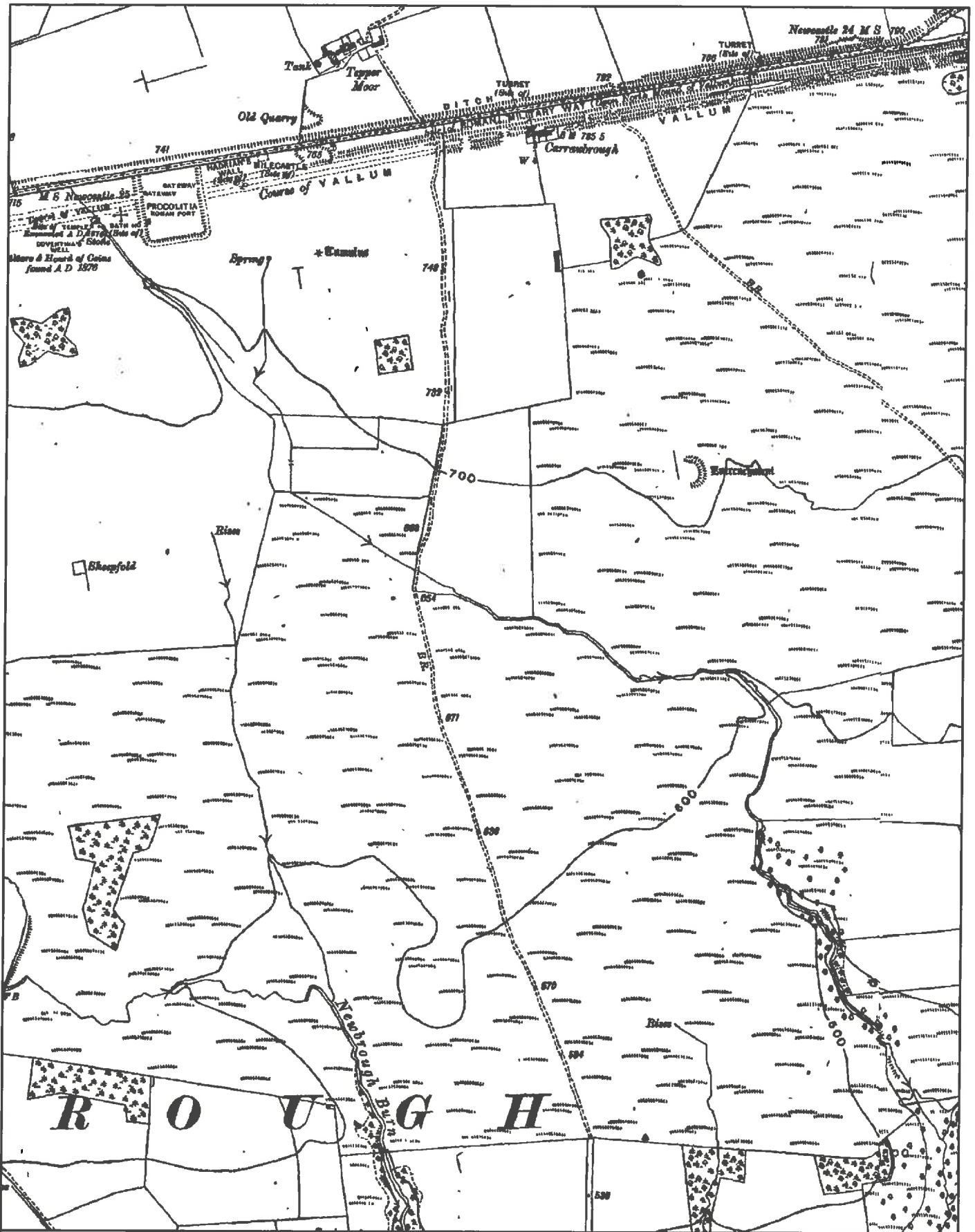


Northumberland
County Council

Ordnance Survey Plan 1898

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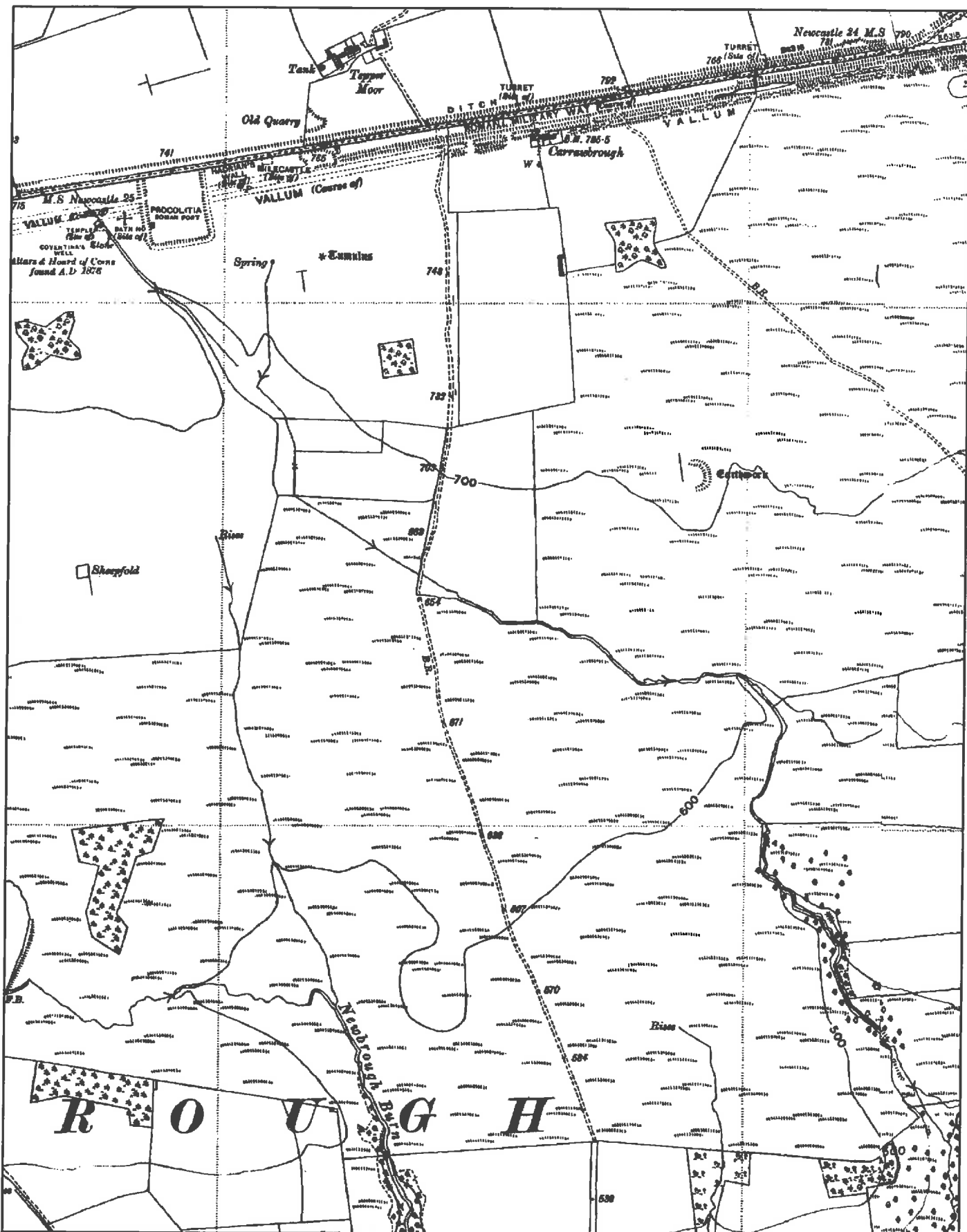



Northumberland
 County Council

Ordnance Survey Plan 1925

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Northumberland
County Council

Ordnance Survey Plan 1952

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