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Northumberland County Council

Your ref:

Our ref:

Enquiries to: Rebecca Little

Email: Rebecca.Little@northumberland.gov.uk

Tel direct: 01670 622611

Date: Tuesday, 6 December 2022

Dear Sir or Madam,

Your attendance is requested at a meeting of the **NORTH NORTHUMBERLAND LOCAL AREA COUNCIL (RIGHTS OF WAY) SUBCOMMITTEE** to be held in **COUNCIL CHAMBER - COUNTY HALL** on **WEDNESDAY, 14 DECEMBER 2022** at **10.00 AM**.

Yours faithfully

Rick O'Farell
Interim Chief Executive

To North Northumberland Local Area Council (Rights of Way) Subcommittee members as follows:-

G Castle (Chair), C Hardy, M Mather, G Renner-Thompson, C Seymour (Vice-Chair) and M Swinbank



Daljit Lally, Chief Executive
County Hall, Morpeth, Northumberland, NE61 2EF
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AGENDA

PART I

It is expected that the matters included in this part of the agenda will be dealt with in public.

1. APOLOGIES FOR ABSENCE

2. MINUTES

(Pages 1
- 4)

The minutes of the North Northumberland Local Area Council (Rights of Way) Subcommittee held on Thursday, 29 June 2022, as circulated, to be confirmed as a correct record and signed by the Chair.

3. DISCLOSURE OF MEMBERS' INTERESTS

Unless already entered in the Council's Register of Members' interests, members are required where a matter arises at a meeting;

- a. Which **directly relates to** Disclosable Pecuniary Interest ('DPI') as set out in Appendix B, Table 1 of the Code of Conduct, to disclose the interest, not participate in any discussion or vote and not to remain in room. Where members have a DPI or if the matter concerns an executive function and is being considered by a Cabinet Member with a DPI they must notify the Monitoring Officer and arrange for somebody else to deal with the matter.
- b. Which **directly relates to** the financial interest or well being of a Other Registrable Interest as set out in Appendix B, Table 2 of the Code of Conduct to disclose the interest and only speak on the matter if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain the room.
- c. Which **directly relates to** their financial interest or well-being (and is not DPI) or the financial well being of a relative or close associate, to declare the interest and members may only speak on the matter if members of the public are also allowed to speak. Otherwise, the member must not take part in discussion or vote on the matter and must leave the room.
- d. Which **affects** the financial well-being of the member, a relative or close associate or a body included under the Other Registrable Interests column in Table 2, to disclose the interest and apply the test set out at paragraph 9 of Appendix B before deciding whether they may remain in the meeting.
- e. Where Members have or a Cabinet Member has an Other

Registerable Interest or Non Registerable Interest in a matter being considered in exercise of their executive function, they must notify the Monitoring Officer and arrange for somebody else to deal with it.

NB Any member needing clarification must contact monitoringofficer@northumberland.gov.uk. Members are referred to the Code of Conduct which contains the matters above in full. Please refer to the guidance on disclosures at the rear of this agenda letter.

4. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BRIDLEWAY NO 4 PARISH OF TOSSON (Pages 5 - 70)

The North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over part of existing Public Footpath No 40, from the U4061 road at Great Tosson, in a general south-westerly direction, to its junction with existing Public Bridleway No 39, east of Burgh Hill.

5. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BYWAYS OPEN TO ALL TRAFFIC NOS 21 & 14 PARISHES OF NETHERTON & SNITTER (Pages 71 - 116)

The North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4026 road, from the C176 road, east of Snitter Windysyde, in a general westerly direction to the C179 road, south-west of Low Trehitt.

6. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BYWAYS OPEN TO ALL TRAFFIC NOS 15 PARISH OF SNITTER (Pages 117 - 158)

The North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4027 road, from the U4016 road, west of Snitter Windysyde, in a general southerly direction to the C179 road, east of Warton.

7. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BYWAYS OPEN TO ALL TRAFFIC NOS 23 PARISH OF NETHERTON (Pages 159 - 206)

The North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4073 road, from the U4026 road, south of Low Trehitt, in a general

northerly then westerly direction to Low Trehitt.

8. DATE OF NEXT MEETING

The next meeting of the North Northumberland Local Area Council – Rights of Way Sub-Committee is scheduled for Wednesday, 15 February 2023.

9. URGENT BUSINESS

To consider such other business as, in the opinion of the Chair, should, by reason of special circumstances, be considered as a matter of urgency.

IF YOU HAVE AN INTEREST AT THIS MEETING, PLEASE:

- Declare it and give details of its nature before the matter is discussed or as soon as it becomes apparent to you.
- Complete this sheet and pass it to the Democratic Services Officer.

Name:		Date of meeting:	
Meeting:			
Item to which your interest relates:			
Nature of Interest i.e. either disclosable pecuniary interest (as defined by Table 1 of Appendix B to the Code of Conduct, Other Registerable Interest or Non-Registerable Interest (as defined by Appendix B to Code of Conduct) (please give details):			
Are you intending to withdraw from the meeting?		Yes - <input type="checkbox"/>	No - <input type="checkbox"/>

Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
- a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2** you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well- being:
- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor’s knowledge)—

	<p>(a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<p>Securities</p>	<p>Any beneficial interest in securities* of a body where— (a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and (b) either— i. the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

* ‘director’ includes a member of the committee of management of an industrial and provident society.

* ‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - i. exercising functions of a public nature
 - ii. any body directed to charitable purposes or
 - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

**NORTHUMBERLAND COUNTY COUNCIL
NORTH NORTHUMBERLAND LOCAL AREA COUNCIL (RIGHTS OF WAY) SUB
COMMITTEE**

A meeting of the **North Northumberland Local Area Council (Rights of Way) Subcommittee** held on Wednesday, 29 June 2022 at 10:00 a.m. in the Council Chamber, County Hall, Morpeth, NE612EF

PRESENT

Councillor C Seymour
(Vice Chair in the Chair)

MEMBERS

C. Hardy

M. Swinbank

OFFICERS IN ATTENDANCE

A. Bell

H. Lamb

J. Blenkinsopp

H. Bowers

Definitive Map and Search Officer

Principal Rights of Way & Records Officer

Solicitor

Democratic Services Officer

22. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Castle, Councillor Mather and Councillor Renner-Thompson.

23. MINUTES

RESOLVED that the minutes of the meeting of North Northumberland Local Area Council (Rights of Way) Subcommittee held on 25 October 2021, as circulated, be confirmed as a true record and be signed by the Chair.

Ch.'s Initials.....

**24. REVIEW OF DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY.
ALLEGED PUBLIC FOOTPATH No 28 PARISH OF LESBURY**

A. Bell – Definitive Map and Search Officer, introduced the above report in which members were asked to consider all the relevant evidence gathered in support and rebuttal of the existence of public footpath rights over a route between the old Alnwick Road and the Lealands Estate in Lesbury.

Following questions from members to the Definitive Map and Search Officer, the following information was provided:

- There wasn't obligation to carry out a pre-order consultation with landowners but consultation had been carried out in this case (two households being identified slightly after the rest)
- He was not sure if the List of Streets map had been updated, but it was the responsibility of the Council
- The County Council was not directing people to use any route. The Council was following due process to determine whether public footpath rights had been established. It was a decision by members of public whether to use the unlit footpath.

Councillor Hardy proposed to accept the officer's recommendation, which was seconded by Councillor Swinbank.

A vote was taken on the proposal to accept the officer's recommendation which was unanimously agreed. It was;

RESOLVED that:

- (i) There is sufficient evidence to indicate that public footpath rights have been reasonably alleged to exist over the route E-F;
- (ii) The route be included in a future Definitive Map Modification Order as a public footpath.

**25. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED PUBLIC BRIDLEWAY NO 31
PARISH OF ANCROFT**

A Bell – Definitive Map and Search Officer, introduced the report with which members were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over a route from the B6354 road south-west of West Ancroft, in a general easterly direction, to the C8 road, west of Ancroft Moor.

Ch.'s Initials.....

North Northumberland LAC Rights of Way Sub Committee, 29 June 2022

Following questions from members to the Definitive Map and Search Officer, the following information was provided:

- It would be the landowners responsibility to move any obstructions on the highway.

Councillor Hardy proposed to accept the officer's recommendation, which was seconded by Councillor Swinbank. Upon being put to the vote, it was unanimously agreed, and it was;

RESOLVED that:

- (i) There is sufficient evidence to indicate that public vehicular rights had have been reasonably alleged to exist over route N-O;
- (ii) There is sufficient evidence to show, on a balance of probabilities that public vehicular rights exist over the route O-P;
- (iii) The Natural Environment and Rural Communities Act 2006 would appear to have extinguished the public's motorized vehicular rights over the N-O-P route;
- (iv) The N-O-P route to be included in a future Definitive Map Modification Order as a restricted byway.

**26. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED BYWAY OPEN TO ALL TRAFFIC NO 24
PARISH OF DODDINGTON**

A. Bell – Definitive Map and Search Officer introduced the application and members were asked to revisit a case originally considered by the Rights of Way Committee at its meeting in September 2016, in relation to the existence of public motor vehicular rights over a short length of the U1052 road, just west of Hetton North Farm.

Councillor Swinbank proposed to accept the officer's recommendation, which was seconded by Councillor Hardy and unanimously agreed. It was;

RESOLVED that:

- (i) On a balance of probability (and in light of the July 2017 High Court decision in relation to section 67 of the Natural Environment and Rural Communities Act 2006) there is sufficient evidence to show that public motor vehicular rights exist over the existing Restricted Byway No 24 (D-E route).

Ch.'s Initials.....

North Northumberland LAC Rights of Way Sub Committee, 29 June 2022

- (ii) The D-E route be included in a future Definitive Map Modification Order to upgrade the restricted byway to byway open to all traffic status.

27. DATE OF NEXT MEETING

It was noted that the next meeting was scheduled for Wednesday, 24 August 2022 however, as there were no reports to consider, it was advised that this meeting could be cancelled due to lack of business.

CHAIR.....

DATE.....

Ch.'s Initials.....

North Northumberland LAC Rights of Way Sub Committee, 29 June 2022



Northumberland County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL
RIGHTS OF WAY SUB-COMMITTEE
14 December 2022

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

ALLEGED BRIDLEWAY No 43 PARISH OF TOSSON

Report of the Executive Director of Local Services
Cabinet Member: Councillor Jeff Watson, Healthy Lives

Purpose of report

In this report, the North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over part of existing Public Footpath No 40, from the U4061 road at Great Tosson, in a general south-westerly direction, to its junction with existing Public Bridleway No 39, east of Burgh Hill.

Recommendation

It is recommended that the sub-committee agrees that, on a balance of probabilities, there is not sufficient evidence to indicate that public bridleway rights have been shown to exist over the route P-Q.

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 upgrading an existing 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. This requires the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

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

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

2.0 PUBLIC EVIDENCE

- 2.1 In December 2020, Alan Kind of Newcastle made a formal application seeking to modify the Definitive Map of Public Rights of Way by upgrading, to public bridleway status, part of the existing public footpath (Tosson FP 40), from the public road in Great Tosson, to its junction with Public Bridleway No 39.

- 2.2 Mr Kind supplied the following evidence in support of his application:

1. Location map.
2. Extract from the 1899 First Revision Ordnance Survey map.
3. Extract from Fryer's Map of Northumberland 1820.
4. Extract from John Carry's Improved Map, Plate 62, 1827.
5. Aerial Photograph (current).
6. Photograph of the application route.
7. A statement of grounds in support of this application.

- 2.3 In his accompanying "Submission Regarding the Evidence" Mr Kind states (N.B. This part of Footpath No 136/005 was actually renumbered as 136/040 by Definitive Map Modification Order (No 15) 2014 and the new bridleway is 136/039, rather than 136/009):

"8. This is an application to modify the definitive map and statement to record Footpath 136/005 Tosson to bridleway status.

"9. Footpath 136/005 runs from a sharp corner on Bridleway 136/009 and runs largely northeastwards to the sealed public road in Great Tosson.

"10. Bridleway 136/009 was added to the definitive map and statement following an order and inquiry process, finishing in 2017. The corner where 136/005 makes a junction with 136/009 was called 'Point A1' by the Inspector on the modified order plan.

"11. The bridleway was added on the basis of it being set out in the Tosson Common and Hepple Common Inclosure award (not dated in the interim decision letter, but the enabling act of parliament is given as 1805). There is no dispute about the correctness of this bridleway recording.

"12. The whole of the bridleway route must be older than 1807. The inclosure award names the route as 'Cambo Bridle Road', and Cambo is about 7 miles from the southern boundary of the inclosure area.

"13. At Point A1, the ground drops away quite steeply towards Great Tosson, and there is a distinct well-worn, and partly overgrown,

hollow-way near enough (visually) on the line of the footpath. The hollow-way traverses the slope, thereby lessening the effective gradient, and thus making it an easier proposition for horse traffic travelling uphill. The topography of the land, and how the hollow way fits into it, is itself evidential.

"14. Fryer's Map of Northumberland 1820 shows an "other road" that connects Cambo northwards to Great Tosson, taking in part of the inclosure award line of Cambo Bridle Road, up to Point A1, and then continuing on the route in this application. The inclosure award route eastwards from Point A1 is not shown.

"15. John Cary's Improved map of England and Wales with a considerable Part of Scotland at a Scale of Two Miles to One Inch. 1820-32, Plate 62, 1827, also shows this route as a "parochial road". The inclosure award route eastwards from Point A1 is not shown.

"16. The 1899 (publication) First Revision Ordnance Survey map (at 6" and 25" scale) shows the route much as Fryer has it, labelled 'B.R.', which is indicative that the OS surveyor saw the route as being a way fit for horses.

"17. 2 other points come out of the OS map. Firstly, the way (now Bridleway 136/009) runs in a clear corridor through the wooded area. This suggests that the route was still, and remained, in use when the map was surveyed [query: what does the First Edition show?]. secondly, the bridleway eastwards from Point A1 is not shown as any sort of 'track' on the OS map. This indicates that it was not visible to the surveyors, and that is some indication that it was not used, or at least not heavily used, in the last quarter of the 19th Century.

"18. Taken as a whole, the evidence indicates that, on the balance of probabilities, the application route was a northern branch alternative of the awarded Cambo Bridle Road."

2.4 Mr Kind raised this issue during proceedings in relation to the determination of DMMO (No 15) 2014. In Paragraph 31 of his 25 May 2016 Interim Decision Letter, Inspector Martin Elliott stated:

"Notwithstanding the issues raised by Mr Kind as to the alignment of the Order route he suggests that in any event the northern termination point of the Order route is not at Point A but that the route continues along the route of public footpath 5 into Great Tosson. I note the arguments raised but in my view the award plan is clear that the northern termination point is at Point A.

The Inspector appears to have been satisfied that the long distance bridleway route set out in the 1806 Inclosure Award was the one now recorded as Public Bridleway No 39, not the route which is now the subject of this application. That is not to say there are no higher rights over the current application route, but the Inspector was satisfied that in determining DMMO (No 15) 2014, he did not need to consider any additional linking routes. Given that Mr Kind had argued for the recognition of public bridleway rights over the existing P-Q public footpath route, during the determination of DMMO (No 15) 2014, this application should be seen as his logical next step in the pursuit of that goal.

3. LANDOWNER EVIDENCE

- 3.1 By letter, dated 2 March 2021, Mr MT Snaith of Great Tosson Farm responded to the consultation, stating:

"I wish to lodge an objection against the change of footpath to bridleway Parish of Tosson Alleged Public Bridleway No 40 (points P-Q).

"The terrain and gradient of this footpath is totally unsuited to horses and have not been used by horses in the past. The path shows as a foot track on the ordinance survey map 1841 – 1952. When Northumberland National Park was established in 1956 it was designated a footpath and has not been challenged since.

"The footpath leads to Simonside forestry and joins the forest tracks. I believe the forest tracks may roughly align with an old drove road, and historically this could have been the foot route to join the drove road.

"My concern is that the terrain is so unsuitable that people using it, other than on foot, would try to find a safer route down the hill. This would potentially lead to disturbance of ground nesting birds and livestock.

"I hope you will see fit to reject this application."

4. CONSULTATION

- 4.1 In January 2021, 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". Two replies were received and are included below.

- 4.2 By email, in March 2021, the British Horse Society responded to the consultation, stating:

"Parish of Tosson

Alleged public bridleway no 40

"The line of BW 136/039 recorded on the definitive map represents the one confirmed at a public inquiry held a few years ago based on evidence from an inclosure award.

"If the purpose of this proposal is to improve access from the village to the confirmed route, it is suggested that it could be achieved more effectively by a diversion order onto the forest track linking to the minor road to the east rather than going through the farmyard and over the difficult ground followed by FP 136/005."

- 4.3 By email, on 27 April 2021, Whitton & Tosson Parish Council responded to the consultation, stating:

"The Whitton & Tosson Parish Council wish to object to the proposal to upgrade this footpath to a bridleway. The terrain and gradient are not suitable for horses, and this path has never been used as anything other than a footpath. It shows on historic ordinance survey maps as a footpath and was designated as a footpath on the formation on Northumberland National Park in 1956.

"This footpath does join an ancient drove road but would have been the foot access to the path around the hill as it is too steep for carts. On the ground there is no evidence that vehicles have ever used this footpath."

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 track resembling the route of alleged Bridleway No 43 (or existing Bridleway No 39).

1806 Tosson Common Inclosure Award

There is clear evidence of a track over the route of existing Public Bridleway No 39. There is no evidence of a path or track over the route of alleged Bridleway No 43.

1820 Fryer's County Map

There is clear evidence of an "Other Road" resembling the route of alleged Bridleway No 43.

1827 Cary's Map

There is clear evidence of a "Parochial Road" resembling the route of alleged Bridleway No 43.

1828 Greenwood's County Map

There is clear evidence of a "Cross Road" resembling the route of existing Public Bridleway No 39, but not the route of alleged Public Bridleway No 43.

1840 Ryehill & Great Tosson Tithe Award

There is clear evidence of a road or track over the route of existing Public Bridleway No 39, but not the route of alleged Public Bridleway No 43.

c.1866 Ordnance Survey Map: Scale 1:2500

There is clear evidence of a mainly unenclosed path / track over the route of alleged Bridleway No 43. It doesn't appear to have its own

reference number, but passes through two plots of land, labelled as plots "85" and "107". In the accompanying Book of Reference, Plot numbers 85 and 107 in the Township of Great Tosson and Ryehill are identified as "Pasture & c." and "Rough Pasture", respectively. There is no evidence of a track over the recently added east-west section of Public Bridleway No 39, just inside the northern boundary of the forestry.

c.1866 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a mainly unenclosed path / track over the route of alleged Bridleway No 43. There is no evidence of a track over the recently added east-west section of Public Bridleway No 39, just inside the northern boundary of the forestry.

1897 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an unenclosed path / track, labelled "BR" over the southern part of the route of alleged Bridleway No 43, and of an enclosed east-west track over its northern end. There isn't a path depicted over the middle section – though there is a connection identified passing adjacent to the farm buildings.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an unenclosed path / track, labelled "BR" over the southern part of the route of alleged Bridleway No 43, and of an enclosed east-west track over its northern end. There isn't a path depicted over the middle section – though there is a connection identified passing adjacent to the farm buildings.

Finance Act 1910 plan

There is clear evidence of a mostly unenclosed path or track over the route of alleged Bridleway No 43 on the OS base map. Unsurprisingly, given that it is largely unenclosed, the route of the alleged bridleway is not shown as being separated from the surrounding land by coloured boundaries (if it had been, this would have been good evidence of public highway rights), nor is it annotated as being a public bridleway (or footpath).

1923 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an unenclosed path / track (labelled "BR" slightly further to the south) over the southern part of the route of alleged Bridleway No 43, and of an enclosed east-west track over its northern end. There isn't a path depicted over the middle section – though there is a connection identified passing adjacent to the farm buildings.

1926 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an unenclosed path / track (labelled "BR" slightly further to the south) over the southern part of the route of alleged Bridleway No 43, and of an enclosed east-west track over its northern end. There is no path depicted over the middle section –

though there is a connection identified passing adjacent to the farm buildings.

c.1952 Definitive Map – original Survey Map

Most of the route of existing Footpath No 40 / alleged Bridleway No 43 exists on the base map and is coloured purple, to indicate public footpath status.

Draft Map

The route of existing Footpath No 40 / alleged Bridleway No 43 exists on the base map. Being coloured purple, it is identified for inclusion on the Definitive Map as a public footpath.

Provisional Map

As with the Draft Map, the route of existing Footpath No 40 / alleged Bridleway No 43 exists on the base map. Being coloured purple, it is identified for inclusion on the Definitive Map as a public footpath.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an unenclosed path / track (labelled "FP" slightly further to the south) over the southern part of the route of alleged Bridleway No 43, and of an enclosed east-west track over its northern end. There isn't a path depicted over the middle section – though there is a connection identified passing adjacent to the farm buildings.

1962 Original Definitive Map

Most of the route of existing Footpath No 40 / alleged Bridleway No 43 exists on the base map, and all of it is coloured purple and identified as part of Public Footpath No 5.

First Review Definitive Map

Most of the route of existing Footpath No 40 / alleged Bridleway No 43 exists on the base map, and all of it is coloured purple and identified as part of Public Footpath No 5.

Definitive Map Modification Order (No 15) 2014 (confirmed 18/9/17)

This DMMO added Public Bridleway No 39 (Parish of Tosson) to the Definitive Map. Parts of Bridleway No 39 were upgrades of parts of existing Public Footpath No 5, and parts of it were new routes (running roughly parallel to sections of existing Footpath No 5). Parts of existing Footpath No 5 (including the northern end, at Great Tosson) were renumbered as Footpath No 40.

6. SITE INVESTIGATION

- 6.1 From Point P, on the U4061 road at Great Tosson, a 2.7 to 3 metre wide stone surfaced track, within a 6 metre (Page 14) reducing to 5 metre wide (3.6 metre

wide in one place) enclosed lane, proceeds in a westerly direction for a distance of 120 metres to Great Tosson Cottages. Thereafter, a 1 metre wide earth / grass path, in a 3 metre wide 'corridor' proceeds in a general south-westerly direction for a distance of 80 metres to a kissing wicket gate. Then continuing in a south-westerly direction for a further 210 metres, as a 1 metre wide trodden earth path through an area of gorse, then as a 1 to 2 metre wide trodden earth / grass path in an up to 4 metre wide 'corridor' to join existing Bridleway No 39 at Point Q, 405 metres south-west of Tosson Tower.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2022, a draft copy of the report was circulated to the applicant and those landowners / occupiers who responded to the initial consultation for their comments.
- 7.2 By letter, dated 25 November 2022, Mr Kind (the applicant) made the following comments in relation to the Draft report:

"Thank you for your letter of 24 November and the draft of your report, inviting me to comment. I do so comment below, and ask please that I see any revised report sufficiently ahead of the committee meeting.

"If I can provide any further information please ask."

1. You will remember that I asked your Chief Executive if Northumberland County Council complies with the law in all highway matters. The reply was an unequivocal 'yes'. I will take parts of your draft report in turn, referencing your paragraphs thus: [XXX].
2. [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."
3. You speak of 'proportionality' as a test to be applied to the evidence in your (that is the surveying authority) determining the application. With respect, there is no proportionality filter for you to apply here. You cite no case law. There is no case law that I can find to indicate that there is such a filter. If I may respectfully point you to a paper in The Student: Journal of Law, which explains this better than I can in my own words. If you disagree with what is written here will you please tell me where and why?
<https://sites.google.com/site/349924e64e68f035/issue-3/proportionality>
4. You speak of "competing rights and interests". Competing with what, please? This application and the order sought are founded on evidence admissible under s.32 of the Highways Act 1980, and the process set out in s.53 of the Wildlife and Countryside Act 1981, particularly (3)(c) "the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows -"

5. This indicates an assessment of 'competing evidence' rather than 'competing rights and interests', and to factor-in the latter would be a misdirection as to the law.

6. You say "The recommendations are in accordance with the law ..."
That may be so, but if it is so you have not set this law out in the report, and that vitiates your objective presentation of the evidence. You also make observations on the various pieces of evidence which require challenge. I set these matters out below, each referenced to your draft.

7. [2.4] You misrepresent the points I made in submissions regarding the order to add the bridleway 'Cambo Bridle Road' (CBR). If you remember, the definitive map modification order application by the BHS misrepresented the historical alignment of CBR and 'claimed' the curving open track through the woods as being the historical line. Your reports and ultimate order continued this misrepresentation, and it was my submissions that persuaded the Inspector to modify the order to show CBR on the true alignment. My own initial thoughts were that the historical line was the one in this application, but on a proper consideration of all the evidence I quickly revised my view as to the order line, but maintained my view as to this application line being an alternative, outwith-award, line.

8. [5.1] Tosson Common Inclosure Award 1806. "There is clear evidence of a track over the route of existing Public Bridleway No39. There is no evidence of a path or track over the route of alleged Bridleway No 43." That is factually correct, but given the boundaries of the inclosed land, and what is generally shown outwith those boundaries, why would the inclosure plan show this? Unless you present a balanced view of the inclosure plan, what you say is misleading through omission.

9. Fryer's County Map 1820. "There is clear evidence of a track resembling the route of alleged Bridleway No 43." No. Fryer shows this application route as part of an "Other Road", and that 'Other Road' runs from Great Tosson southwards to the Gallows Hill tee-junction, and south from there as a turnpike road to Cambo. Fryer's road does not completely match currently recorded bridleways around Green Leighton, but this is more probably because those bridleways were not founded on their being CBR. Whatever, Fryer's road from Great Tosson to Cambo is a largely straight alignment, 10 miles long. 10. Neither have you noted how well Fryer's depiction of the 'Other Roads' at and around Great Tosson closely match the public road network today.

11. Cary's Map 1827. "There is clear evidence of a track resembling the route of alleged Bridleway No 43." No, Cary does not show a 'track', rather he shows a "Parochial Road". This map is in the series "Improved map of England and Wales with a Considerable Part of Scotland at a Scale of Two Miles to One Inch. 1820-32." You are well aware of this because this case law has been put in to various public inquiries in Northumberland over the years.

12. Cary's half-inch maps series is accompanied by a 'key' that shows his conventional signs for **Page 13** the road depiction is for 'parochial

roads', and in the High Court case of *Commission for New Towns v. J J Gallagher* [2002] EWHC 2668 (Ch); [2003] 2 P&CR 3., two leading cartographic experts, Dr Yolande Hodson and Professor Roger Kain, disputed the evidential meaning and weight of 'parochial road', with the Judge ultimately preferring Dr Hodson's view that such a road is more likely to be a public vehicular road than, as Professor Kain suggested, a public bridle road. Such a depiction on Cary's map is only one piece of evidence, not of itself of particularly great weight, and open to being overwhelmed by contradictory evidence from other sources, but it is a solid starting point. Unless you have reason to disagree with the Judge, you should take the position that Cary provides evidence in favour of bridleway or carriageway status. The question then is whether other evidence overwhelms this view.

13. Ryehill & Great Tosson Tithe Award 1840. You do not say whether this is a first class or second class tithe award plan, nor whether it was newly surveyed, or based on an existing plan. In any case, given the nature of the ground and the nature of the track(s) on the ground here, would a tithe plan, concerned with the produce of the ground, show any 'track'?

14. Ordnance Survey Map 1866 1:2500 Scale. "There is clear evidence of a mainly unenclosed path / track over the route of alleged Bridleway No 43. It doesn't appear to have its own reference number, but passes through two plots of land, labelled as plots "85" and "107". In the accompanying Book of Reference, Plot numbers 85 and 107 in the Township of Great Tosson and Ryehill are identified as "Pasture &c." and "Rough Pasture", respectively. There is no evidence of a track over the recently added east-west section of Public Bridleway No 39, just inside the northern boundary of the forestry."

15. That summary of what this map shows is correct insofar as it goes, but there is more. Richard Oliver in his book *Ordnance Survey Maps: A Concise Guide For Historians* (again, you are aware of this) states that this map was first surveyed in the period 1855-1864. We can reasonably take it that what the surveyors saw on the ground is what is shown in this map. So: 15.1. There is a track across open ground that corresponds as closely as map scales permit to the 'Other Road' on Fryer, and the "Parochial Road" on Cary. 15.2. This is a road or track directly connecting Great Tosson southwards to Cambo. The area affected by the 1806 inclosure award aside, this is probably Cambo Bridle Road. 15.3. This OS map shows the inclosure that is now forested as open land marked with OS standard "Rough Grassland" symbols. 15.4. The route inside the northern wall boundary for CBR on the 1806 inclosure plan is not shown. The OS surveyor could not see a track fit to mark here, where he could see the north-south CBR and the application line down to Great Tosson.

16. The 6"-scale OS maps were made from the same survey information as the principal 25"-scale maps. Differences in depiction were driven by constraints on space.

17. Ordnance Survey Map Second Edition 1897 1:2500 Scale. "There is clear evidence of an unenclosed path /track, labelled "BR" over the southern part of the route of alleged Bridleway No 43, and of an enclosed east-west track at the northern end. There isn't a path

depicted over the middle section - though there is a connection identified passing adjacent to the farm buildings." Yes. The depicted track is now seen by the OS as being physically usable by horse traffic, and although the current footpath route has gone in part as a track, its inclosing features are still shown. That indicates some diligence in surveying and mapping.

18. By the time of survey two large areas of woodland have appeared, with a clear and wide corridor shown for the 'B.R.' to run through. This suggests that this run of 'track' was viewed as a highway to be respected: part of the CBR.

19. This is the right place in which to consider [5.1] Greenwood's County Map 1828. It is correct that Greenwood shows the 1806 award route locally, and also the longer route southwards to Cambo. You now know how generally accurate and informed Greenwood was from the submissions put in for the Fowberry order. It is a key question then as to why Greenwood shows the award route in 1828, when Fryer 1820, Cary 1827, and the Ordnance Survey in 1866 and 1897 show no trace of the east-west awarded route, but do show this application route, and the north-south part of the awarded route, and the continuation (some of it also awarded) southwards towards Cambo. The probable explanation is that Greenwood did not see his route hereabouts on the ground, but rather that, in his diligent gathering of information, he was aware of the 1806 award and mapped the awarded route accordingly. It is hard rationally to accept that the east-west awarded route physically appeared after Fryer, in time for Greenwood, and then promptly disappeared again in time for the OS surveyors. There is no doubt that the east-west awarded route existed as a highway after 1806. This explanation also addresses the draft report in [8.7].

20. Finance Act 1910 Plan. "There is clear evidence of a mostly unenclosed path or track over the route of alleged Bridleway No 43 on the OS base map. Unsurprisingly, given that it is largely unenclosed, the route of the alleged bridleway is not shown as being separated from the surrounding land by coloured boundaries if it had been, this would have been good evidence of public highway rights), nor is it annotated as being a public bridleway (or footpath)." That OS base map is the 1897 map (above). The Finance Act valuers did not generally, if at all, 'annotate' bridleways and footpaths (life might be a lot simpler if they had). The comment about the route not being 'coloured out' is misleading. Colour lines denote plot boundaries. There are no plot boundaries alongside the application route (but there are just to the south) and so there is no expectation that the route would be coloured out.

21. Finance Act Field Books 1910. These are not mentioned in the draft report. Do they exist at Woodhorn Colliery CRO?

22. [6.1] Site Investigation. The term 'corridor' is misleading. As the photograph in the application shows, there is a 'braid' of worn tracks and substantial holloways. This is consistent with long-period horse traffic on a steep hill. The gradient is no steeper than on other established and recorded horse routes. A pattern of multiple

holloways is commonplace, for example The Broadway in Northumberland, and Hexham Lane in County Durham.

23. So, on a more-detailed consideration, there is no great "inconsistency" in how the application route, and the longer historical CBR, are shown from Fryer in 1820, right up to the introduction of the definitive map and statement. And to bolster this point, even today the east-west awarded route is not represented by the Ordnance Survey as existing on the ground.

Summary

24. Cambo Bridle Road must have existed as a through entity before, and at the time of, the inclosure award in 1820. If it did not, the inclosure commissioners had no power to make a highway outwith the scope of the award and so they could not have brought a route to Cambo into being.

25. The inclosure commissioners had no power to stop-up, either expressly, or by general wording of the Act of Parliament, the application route if it was then a public highway.

26. The commercial and OS mapping from 1820 to the present day presents a long and physically existing 'road' (or track) from Great Tosson to Cambo (and beyond). Consider the view of the Court of Appeal in *Fortune v. Wiltshire Council* [2012] EWCA Civ 334.

27. Lord Justice Lewison at paragraph [98], "We deal first with the argument that the judge should have ignored what he called the "small scale maps" entirely; and should have concentrated only on the large scale maps (i.e. principally the 1784 map). We reject that submission. First, it conflicts with the statutory instruction in section 32 of the 1980 Act which says that the court "shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified". Second, the consistency of treatment of Rowden Lane and Gipsy Lane in commercially produced maps for well over a century showed, if nothing else, the reputation enjoyed by Rowden Lane. Section 12 of the Planning Inspectorate Consistency Guidelines (2nd revision June 2008) (which Prof Williamson produced) concludes by quoting a paper by Christine Willmore dealing with old maps:

28. "What is looked for is a general picture of whether the route seemed important enough to get into these documents fairly regularly. A one-off appearance could be an error ... consistent depiction over a number of years is a positive indication.

29. [99] "That is the approach that the judge adopted, testing each provisional conclusion against what had come before and what came after. In our view the judge's approach to "consistent depiction" was fully justified."

30. The whole through route, Great Tosson to Cambo, has been consistently depicted for 200 years, and the great majority of that route is accepted as public road or public bridleway. It is improbable that it changed status to a private footpath at the north end (and

remember that it changed further south before the recent confirmed order modifying the status).

31. There is no doubt that the inclosure commissioners set out the east-west part of CBR as a public highway. But that of itself does not mean that the direct line down into Great Tossion (as evidenced by what appears to be long-term traffic wear and tear) was not also a public bridle road. Fryer's and Cary's maps suggest that it was. Cary raises a degree of rebuttable starting position, and that has not been rebutted. The topography and consistent depiction bolster the rational conclusion that the application route was an earlier, and/or concurrent, northern end of Cambo Bridle Road.

32. The evidence, properly weighed as a whole, satisfies the balance of probabilities test, and the order should be made on this basis."

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 / 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 Bridleway No 43 is currently identified on the County Council's Definitive Map of Public Rights of Way as part of Public Footpath No 40. The same route was identified as part of Public Footpath No 5 on the original Definitive Map published in the early 1960s, and (as part of Footpath No 2) on the Draft and Provisional Maps which preceded this.

8.5 Until Definitive Map Modification Order (No 15) 2014 was confirmed by an Inspector appointed by the Secretary of State, in September 2017, the public right of way south of Point Q was recorded on the Definitive Map as part of Public Footpath No 5. DMMO (No 15) 2014 was made, following an application by David Roberts, who argued that higher rights existed over a route known, historically, as Cambo Bridle Road. The Inspector established that public bridleway rights did exist, though he also determined that the alignment of the route needed to be modified.

8.6 The current route of Bridleway No 43 is the one which was set out in the

Tosson Common Inclosure Award of 1806 as a public bridle road (six feet wide). Much of that route coincided with the route that was recorded as Public Footpath No 5, but some of it didn't, suggesting that the 'used' route had altered, slightly, over time. In common with many upland routes, this bridleway's importance, as a public highway, appears to have diminished, over time. By the 1860s, the section of Cambo Bridle Road, proceeding eastwards from Point Q, wasn't depicted as a physical feature on Ordnance Survey maps. Although the section south of Point Q was still identified as "BR" (i.e. bridleway) on the 1890s and 1920s OS maps, by the 1950s it was being identified simply as "FP" (i.e. footpath). If, by the 1950s, the route had become altogether less well used, and less well used by equestrian traffic in particular, it's not hard to see how its true bridleway status might have been overlooked when the first Definitive Maps of public rights of way were being prepared, during the 1950s. Although the bridleway may have stopped being used by horse riders, by the 1950s, lack of use doesn't mean the higher rights are lost. In the absence of evidence that the bridleway rights were lawfully extinguished, they must be presumed still to exist – hence the decision made by the Inspector appointed by the Secretary of State, in 2017.

- 8.7 The Inclosure Award plan of 1806, Greenwood's County Map of 1828 and the Tithe Award plan of 1840 all show a route proceeding eastwards from Point Q (now recorded as part of Public Bridleway No 39). None of them show a track proceeding along the route of alleged Bridleway No 43. In the case of the Inclosure Award plan, this could be because the point Q sits on the boundary of the land being enclosed and any continuation north of point Q would be outwith the area of land subject to inclosure. That said, the beginnings of other tracks also lying just outside the award boundary are identified and labelled "To Morpeth" and "To Rothbury". Greenwood's County Map was primarily concerned with showing known vehicular highways, and though a small number of known public bridleways are also shown, most are not, and public footpaths (there would be too many of them to show in any meaningful way) do not appear to be shown at all. Given that the route of Cambo Bridle Road was shown on Greenwood, if public bridleway rights had been considered to exist over the alleged Bridleway No 43 route too, we might have anticipated that this route would also have been depicted, but we shouldn't necessarily be surprised if it was not.
- 8.8 Alternatively, Fryer's Map of 1820 and Cary's Map of 1827 both do appear to show a route entering Great Tosson from the west side, and don't show any route proceeding easterly from Point Q (the newly recorded north-eastern end of Bridleway No 39). On the face of it, this could simply be attributable to the scale of Fryer's and Cary's maps, and what they were intending to depict was the same highway set out in the inclosure award (and on Greenwood's Map and the tithe award), but the much more detailed 1:25 inch OS map, published c.1860, supports the Fryer's Map alignment. It, and all subsequent OS maps fail to identify any route proceeding directly eastwards from Point Q, which suggests that this route had, perhaps, fallen into disuse by this time.
- 8.9 A further inconsistency arises with this mapping, where existing Footpath No 40 (alleged Bridleway No 43) enters Great Tosson. On the 1st edition OS, the route north of Point Q divides, as it descends the slope and reaches the settlement, with one limb continuing (broadly) northwards, to join the enclosed track immediately west of Great Tosson, on a route similar to the existing footpath / alleged bridleway, and the other limb branching eastwards, then northwards, to join the enclosed track, slightly further to the east, within Great Tosson itself. On the 2nd and 3rd OS maps (1890s and 1920s) and on

the 1957 OS map, the first limb isn't shown – only the second (easterly then northerly) route is depicted. Despite this, when the route of what became Footpath No 40 was surveyed for inclusion on the Definitive Map in the early 1950s, it was the non-depicted westerly route which was identified, and it was this route which continued through at the Draft Map, then Provisional Map stages and which was ultimately recorded on the original Definitive Map. The question remains, was this westerly route identified, in the 1950s, simply because it was the route that was favoured by walkers in the few decades leading up to this (the longer route's bridleway origins having been entirely forgotten), or was this always, historically, the correct route – notwithstanding that it was not identified as part of the bridleway route on the 1890s and 1920s OS maps.

- 8.10 Mr Snaith, of Great Tosson Farm, does not support this route being upgraded to public bridleway status and nor does Witton and Tosson Parish Council. Both of them have indicated that they believe this route to be unsuitable for horses. It's not entirely clear whether they are arguing the route should not be recorded as a bridleway because it is unsuitable for horses now (which isn't, strictly, relevant when determining what public rights exist) or that the route's characteristics indicate that it would not have been suitable for or used by horses in the past, or a combination of the two. The applicant is only suggesting that this route carries public bridleway rights – he does not appear to be arguing that the route is a vehicular one, previously used by carts.
- 8.11 Both Mr Snaith and the parish council have suggested that, historically, this route was just a local short cut for foot traffic, wishing to join the longer bridleway / droving route. They have both indicated that the route is identified only as a footpath on old ordinance survey maps. This latter point isn't quite correct; the route isn't labelled as anything on the 1860s OS maps, but is clearly labelled as "BR" on the 1890s and 1920s maps.
- 8.12 Although the route was recorded as a public footpath when the Definitive Map was being prepared, in the 1950s (this was by Northumberland County Council, not the Northumberland National Park Authority), this was always without prejudice to any higher rights that might exist. Routes were typically identified for inclusion at the local / parish level. If higher rights were no longer being exercised, it wasn't uncommon for some vehicular routes to be misidentified as bridleways, some bridleways to be misidentified as footpaths and for some footpaths to be overlooked altogether.
- 8.13 The British Horse Society consultation response is entirely neutral on the matter of whether or not public bridleway rights actually do exist. From a horse rider utility point of view, the BHS suggests that more could be achieved by expediting proposals to divert the newly recorded (though obstructed by forestry) section of bridleway east of Point Q onto the nearby (more readily available) forest track.
- 8.14 In paragraph 3 of his comments, in relation to the draft version of this report, Mr Kind indicates that I have stated that "proportionality" is a test to be applied to the evidence when determining the application. I don't believe this report does suggest this. This is not and never has been my view. Proportionality is applied to the recommendation – not to the evidence itself. The same response is applicable in relation to his criticism in relation to "competing rights and interests".
- 8.15 In paragraph 7 of his comments, **Page 19** suggests I have misrepresented the

- points he made in submissions regarding the DMMO to add Bridleway No 39. I don't think I did and that certainly wasn't my intention. I was merely trying to make the point that he gave early warning, then, during that earlier DMMO process, that he believed that bridleway rights existed over the P-Q route, and that this current application was him following up on those earlier assertions. I have altered the wording of 2.4 to make this clearer. I did not write the earlier reports re the British Horse Society's Cambo Bridle Road application, nor did I draft the resulting definitive map modification order.
- 8.16 In paragraph 8 of his comments, Mr Kind concedes that my initial observations regarding what the inclosure award plan shows may be factually correct, but that this doesn't present a balanced view. I believe my unmodified Paragraph 8.7 provides that balance.
- 8.17 Mr Kind's comments at paragraphs 9 and 11 are factually correct. I don't think this makes any difference to the value we have placed upon this evidence, but I have amended the report to more accurately reflect how the routes are actually identified in the Fryer's, Cary's and Greenwood's Maps' keys.
- 8.18 Mr Kind suggests, in his paragraph 20, that the draft report was misleading in the way it addressed the Finance Act 1910 plan. I don't believe it is / was. I entirely agree with him, that it is the plots of land that are coloured with boundaries - I don't think I have suggested otherwise. The internal (to any particular farm) plot boundaries are almost always drawn where there is a physical boundary. Where an enclosed road or lane is separated from all the surrounding land by the coloured boundaries (which are enclosing all the surrounding land) this is generally considered to be good evidence in support of a vehicular right of way. The most easterly one third of the alleged bridleway route was an enclosed lane, which could have been separated from the surrounding land by coloured boundaries, but wasn't - it was simply included within the same parcel as the land surrounding it. From time to time, we do discover 'internal' routes that are nevertheless labelled as public highway (examples of these exist at Branton and at Edlingham). I would certainly agree that it is unfortunate that more examples of this don't exist.
- 8.19 The applicant's position is that Cambo Bridle Road (a long distance public bridleway) clearly existed and pre-dated the inclosure award process concluded in 1806. Whilst the Inclosure Commissioners (and the Inspector determining DMMO (No 15) 2014) acknowledged the existence of public bridleway rights from Point Q eastwards to the public road south-east of Tosson Tower, this did not preclude the existence of additional public bridleway rights on a more direct route P-Q. This route was outside the area of land being subject to inclosure (so the Inclosure Commissioners could ignore it in 1806) and it was not necessary for the Inspector determining DMMO (No 15) 2014 to reach any conclusions as to its correct status because the route eastwards from Point Q was a closer fit to replace the incorrect one that had originally been identified in the DMMO. There would be nothing to take issue with here, and I haven't felt any need to change my paragraphs 8.20 to 8.22, below, to take account Mr Kind's comments.
- 8.20 As indicated in paragraph 8.1 above, it is the higher level "balance of probabilities" test which needs to be applied when determining this application. Because the route is already recorded as a public footpath, the "reasonably alleged to exist" test doesn't apply.

8.21 The main points in favour of public bridleway rights over the application route (P-Q) would appear to be:

- i. Clearly a public bridleway (Cambo Bridle Road) did exist in this immediate area.
- ii. The application route is shown on Fryer's and Cary's Maps of 1820 and 1827.
- iii. There is some physical evidence of a route (the hollow way).
- iv. The inclosure awarded route, east of Point Q, is not shown on any maps from the 1860s onwards. The implication is that this section fell into disuse and was replaced by the application route.
- v. The application route is partly identified as bridleway on the 1890s and 1920s OS maps.

8.22 The main points against public bridleway rights existing over the application route (P-Q) would appear to be:

- i. Just because Cambo Bridle Road existed, this doesn't mean linking paths necessarily had the same status.
- ii. The application route isn't shown on the Inclosure Award plan, on Greenwood's Map of 1828 or on the tithe award plan.
- iii. The route would be physically challenging for horses – it is difficult to see why they would favour this route over the original (inclosure awarded) route.
- iv. The hollow way isn't necessarily an indicator of heavy traffic. Water runoff, down the hill, may have made a significant contribution towards this.
- v. The disappearance of the inclosure awarded route, east of Point Q, might reflect a more general decline in equestrian use of this route. If only pedestrians were using it – they might favour the more direct (though steeper) existing footpath route.
- vi. Although identified as a bridleway on the 1890s and 1920s OS maps, this reflects the impression that was given to the surveyor – not some detailed study of the actual public rights which existed. The section south of Point Q may, then, have retained the appearance of a more substantial bridleway track, even if the section east of Point Q had seemingly disappeared. The bridleway rights would still exist over it (they hadn't been extinguished) but public use might conceivably be only pedestrian now. Whether they would have identified the section south of Point Q as bridleway, and the section north of it as footpath is unknown – it's possible they might have aggregated the whole route as "BR".
- vii. Finally, the bridleway routes identified on the 1890s and 1920s OS maps don't follow the route of existing Footpath No 40, in the immediate vicinity of Great Tosson Farm. As highlighted previously, they show a route entering Great Tosson from the south, rather than from the west (as the existing Footpath No 40 does).

8.17 This is far from a clear cut decision but, ultimately, officers do not believe that the balance of probabilities threshold has been met. Fundamentally, it is impossible to determine, given the scale of Fryer's and Cary's maps, precisely where the routes they are depicting enter Great Tosson. As I have already set out, even if it is accepted that they were definitely intending to show a route entering Great Tosson from the west (and this wasn't just a slightly schematic interpretation of the inclosure award route) how can we be satisfied, on a balance of probabilities, that the existing footpath route is the correct one for the public bridleway and not alternative route which enters Great Tosson at its

south-west corner? Both routes are shown on the 1860s OS maps, but only the one entering from the south-west (which isn't the application route) is shown on the 1890s and 1920s OS maps.

- 8.18 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. Where no width can be determined by documentary means (such as an Inclosure Award, Highway Order or dedication document), there is usually a boundary to boundary presumption for public highways. The officer recommendation is that bridleway rights have not, on a balance of probabilities, been shown to exist over the application route, but if the sub-committee disagrees with this, and determines that they have been, it would seem reasonable to identify the 120 metre long section west of Point P with a width of 3.6 to 6 metres and the remainder with the Council's standard default width of 3 metres (i.e. wide enough for two horses, travelling in opposite directions, to pass each other).

9. CONCLUSION

- 9.1 In light of the documentary evidence available, it appears that on a balance of probabilities, public bridleway rights have not been shown to exist over the route of alleged Bridleway No 43.

BACKGROUND PAPERS

Local Services Group File: A/36/43z

Report Author Alex Bell – Definitive Map Officer
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Northumberland
County Council

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

Wildlife & Countryside Act, 1981

—|—|—|—|— Alleged Public Bridgeway

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Former District	Alnwick	Parish	Tosson	Scale	NAS
Def. Map. No.	93	O.S. Map	NU00SW	Date	January 2021

Wildlife & Countryside Act 1981, Part III
Definitive Map and Statement for the County of Northumberland
Application for Modification Order

To: Northumberland County Council of: County Hall, Morpeth NE61 2EF

I, Alan Kind, of 1 Foxley Close, Newcastle upon Tyne, NE12 6FX hereby apply for an order under section 53(2) of the Wildlife & Countryside Act 1981 modifying the definitive map and statement for the area by

Modifying (upgrading) Footpath 136/007 Parish of Tosson to bridleway.

from 02550-00453 at the junction with Bridleway 136/009 Tosson, northeastwards for about 400 yards to 02806-00589, where it meets the public road in Great Tosson.

and shown on the map accompanying this application.

I attach copies of the following documentary evidence in support of this application.

List of documents

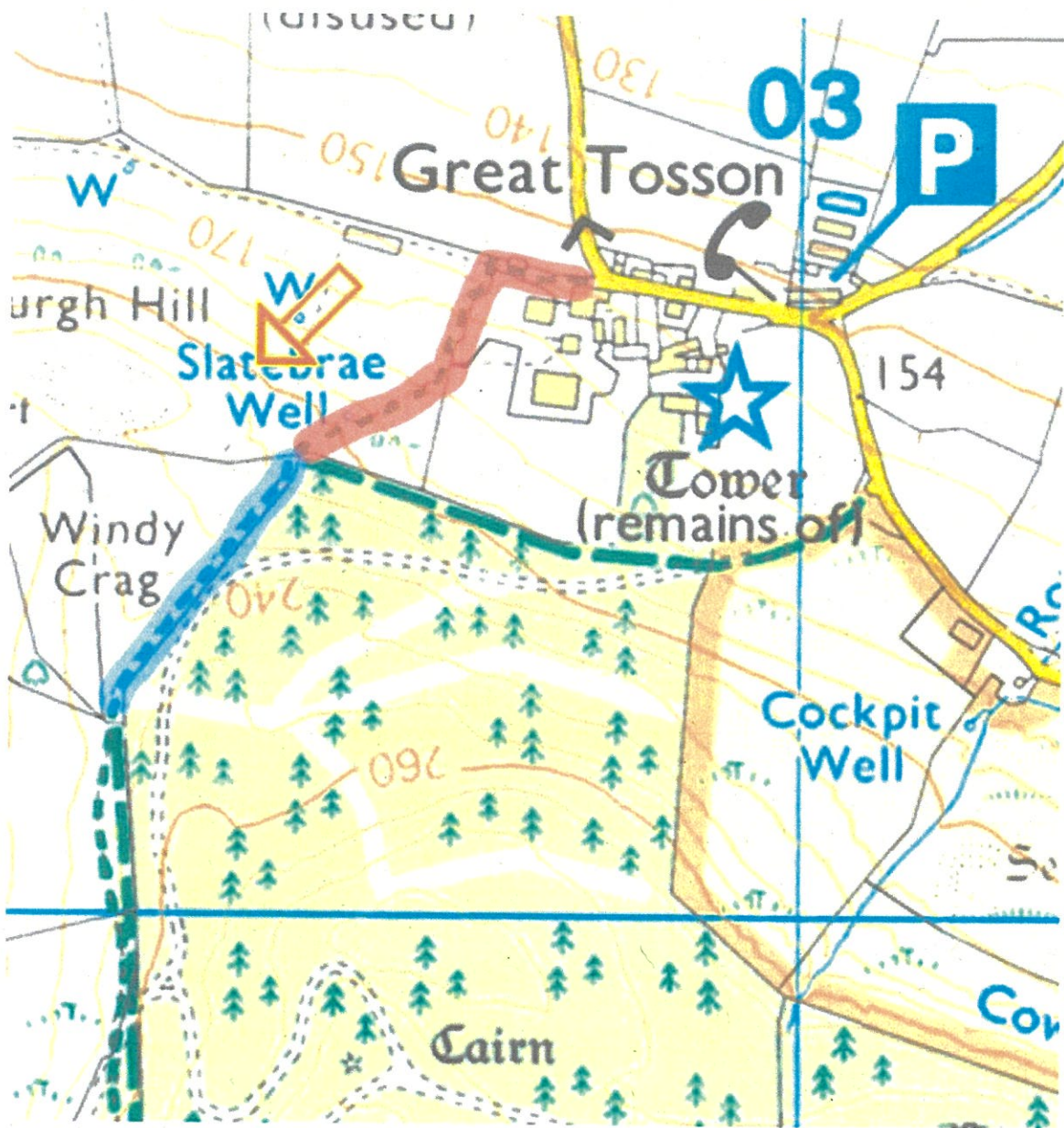
1. Location map
2. Extract from the 1899, First Revision Ordnance Survey map.
3. Extract from Fryer's Map of Northumberland 1820.
4. Extract from John Cary's Improved Map, Plate 62, 1827.
5. Aerial Photograph (current).
6. Photograph of the application route.
7. A statement of grounds in support of this application

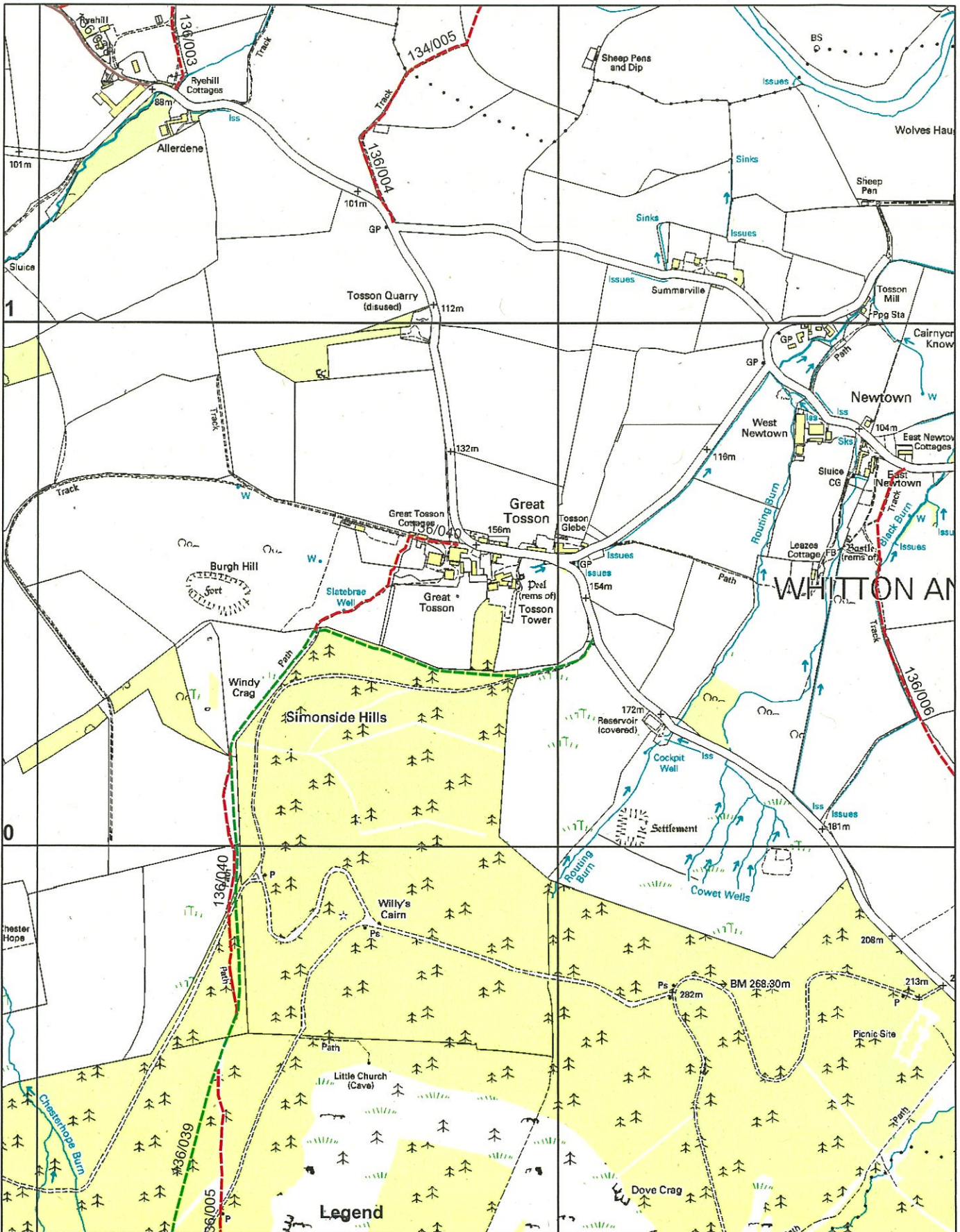
Dated: 17 December 2020

Signed



Location Plan





- - - Footpath
- - - Bridleway
- · - · - Restricted Byway
- Byway Open to All Traffic
- 1km Gridlines

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

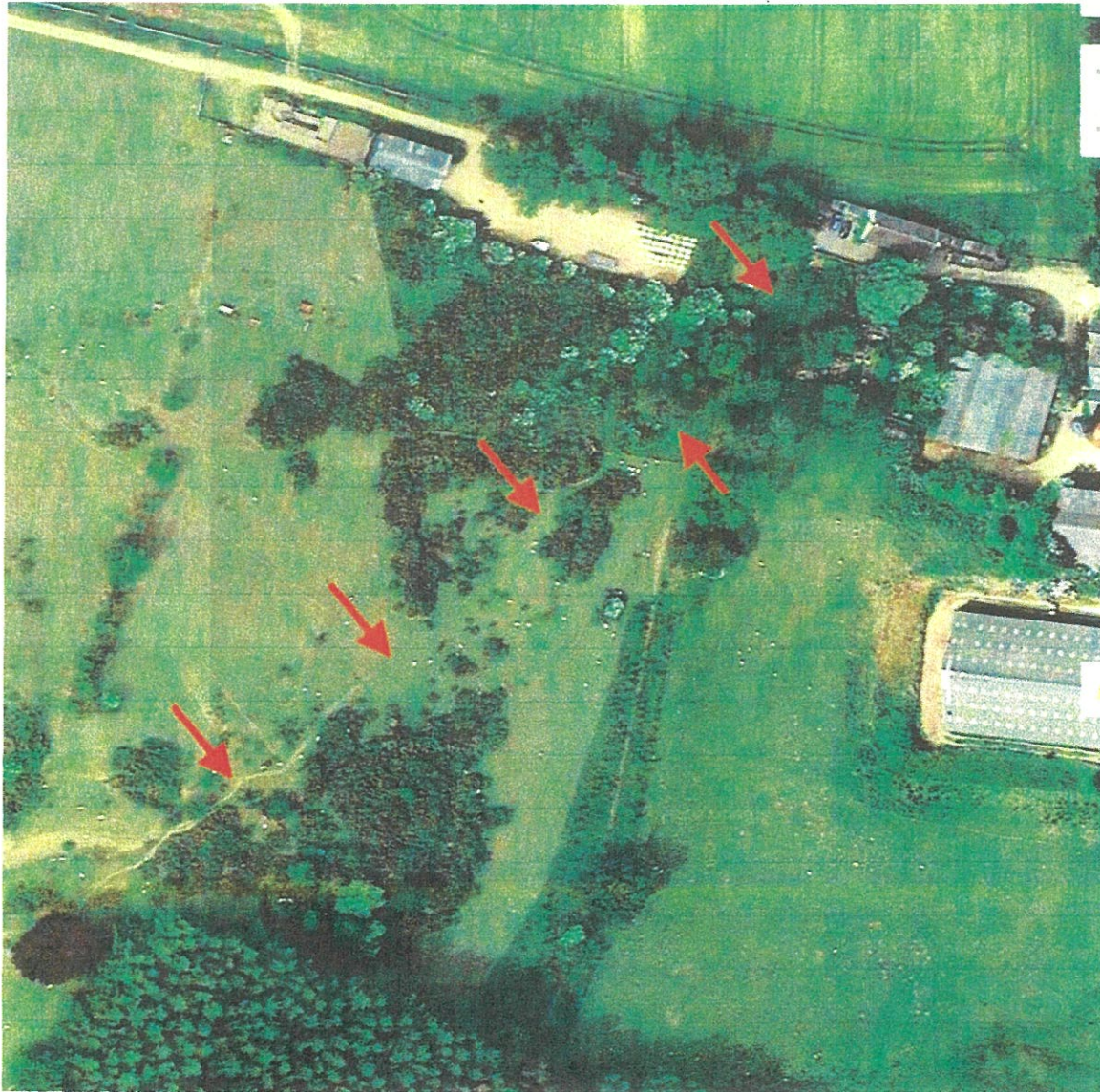
Scale: 1:10,000


Northumberland
 County Council
 Sustainable Transport
 Local Services
 County Hall Morpeth Northumberland
 NE61 2EF Tel: 01670 533000

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Supplied by Mr Kind in support of his application

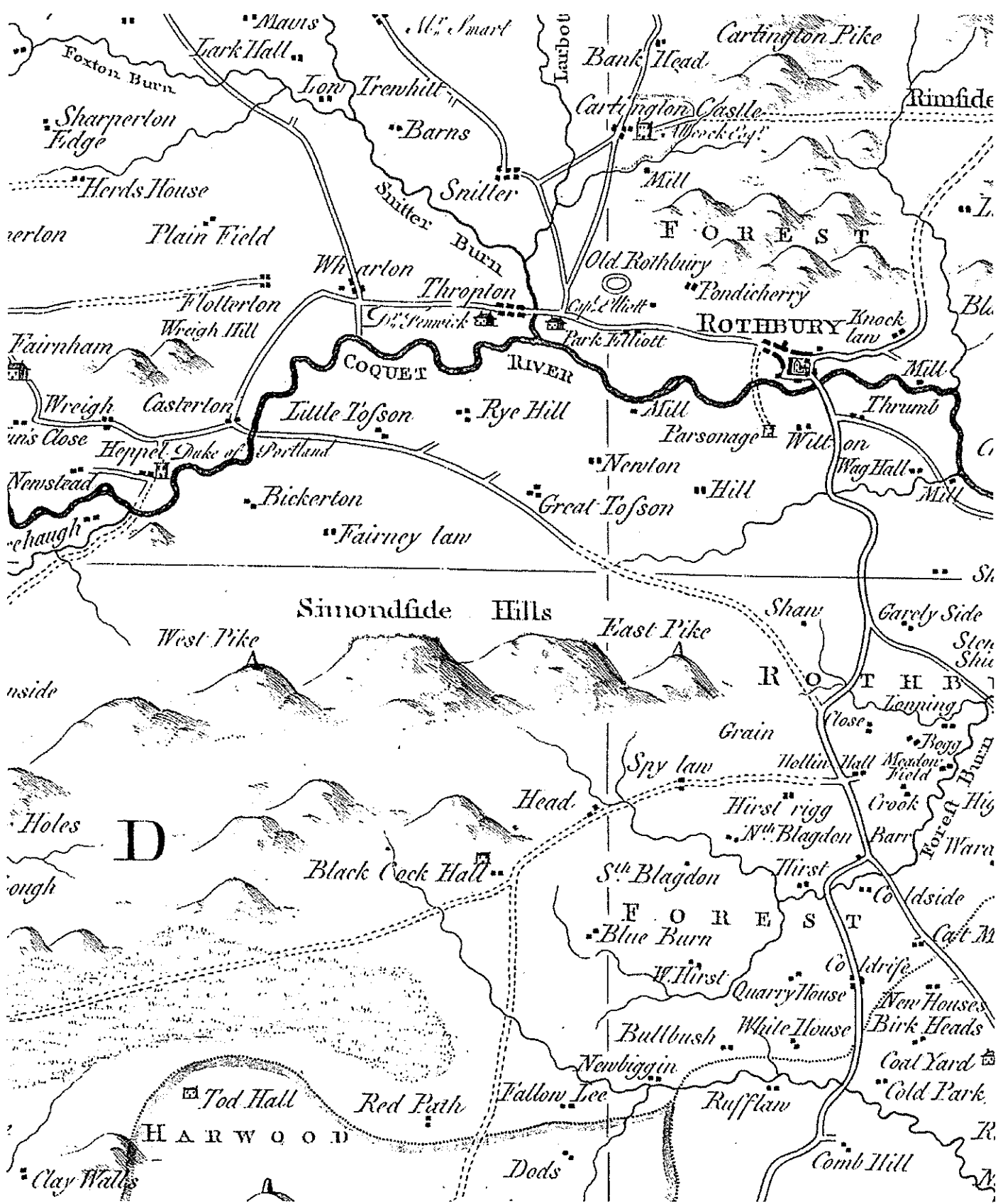
Satellite Photograph



Photograph of the Topography



Armstrong's County Map
1769

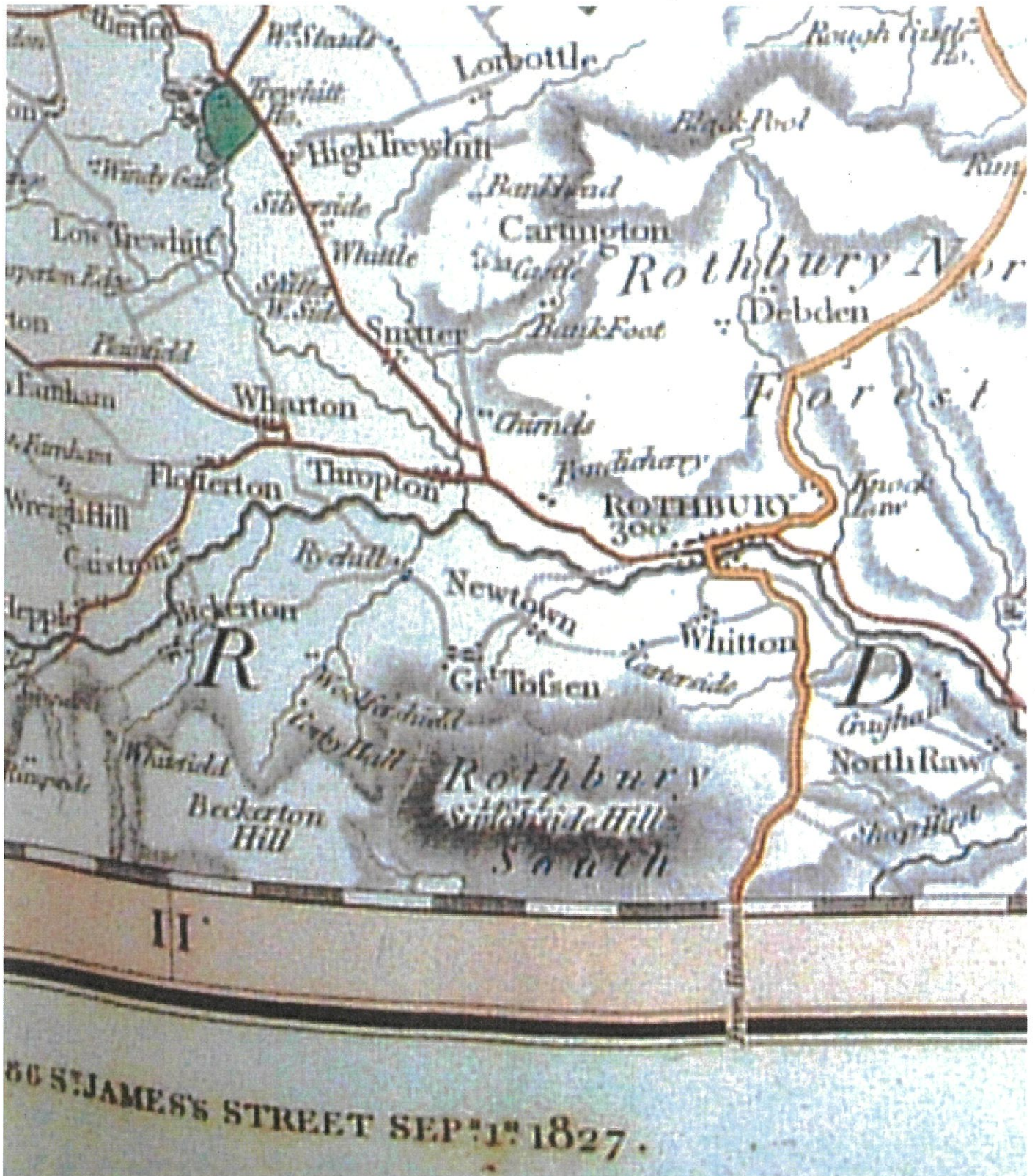


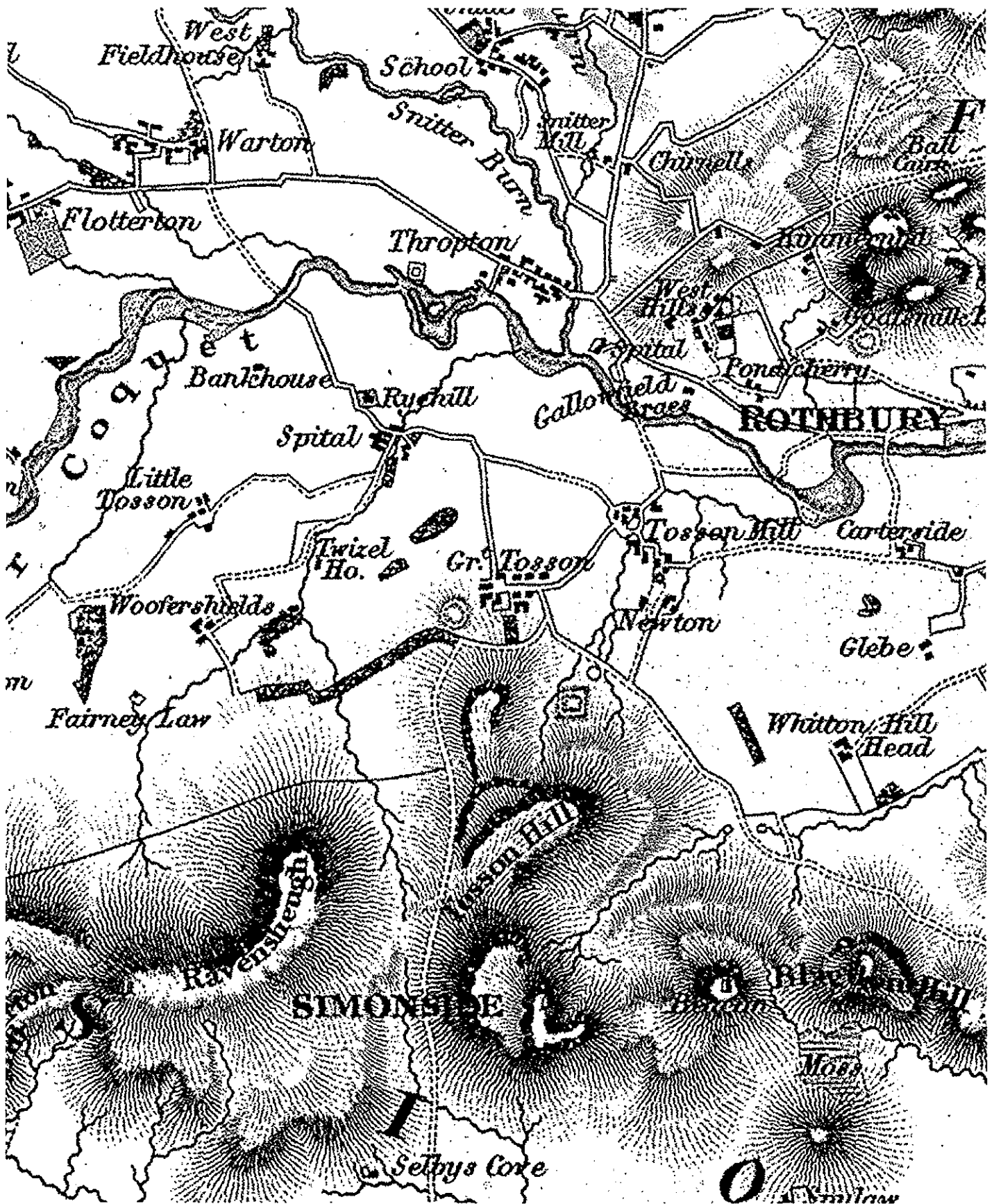
Tosson Common Inclosure Award
1806



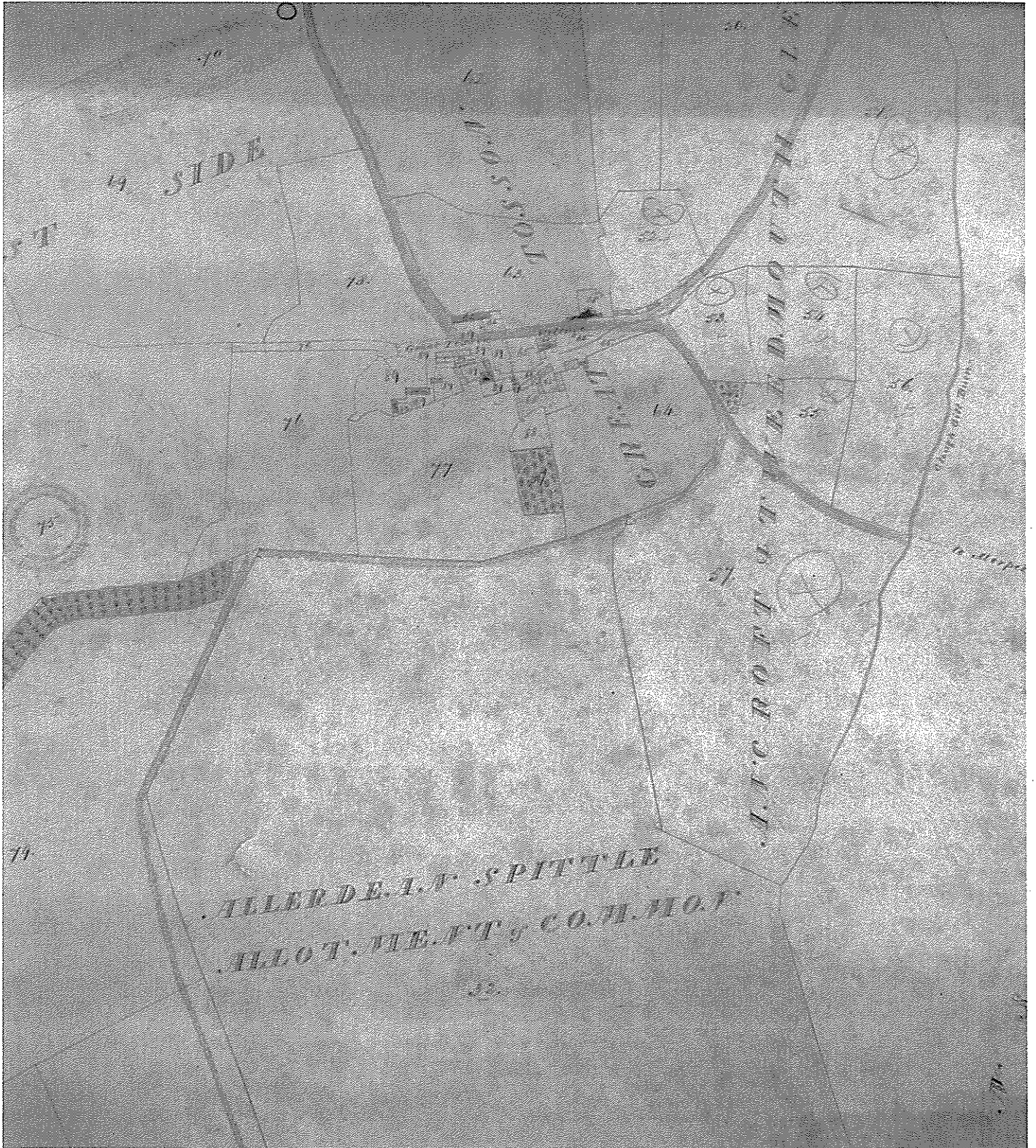
Fryer's County Map
1820





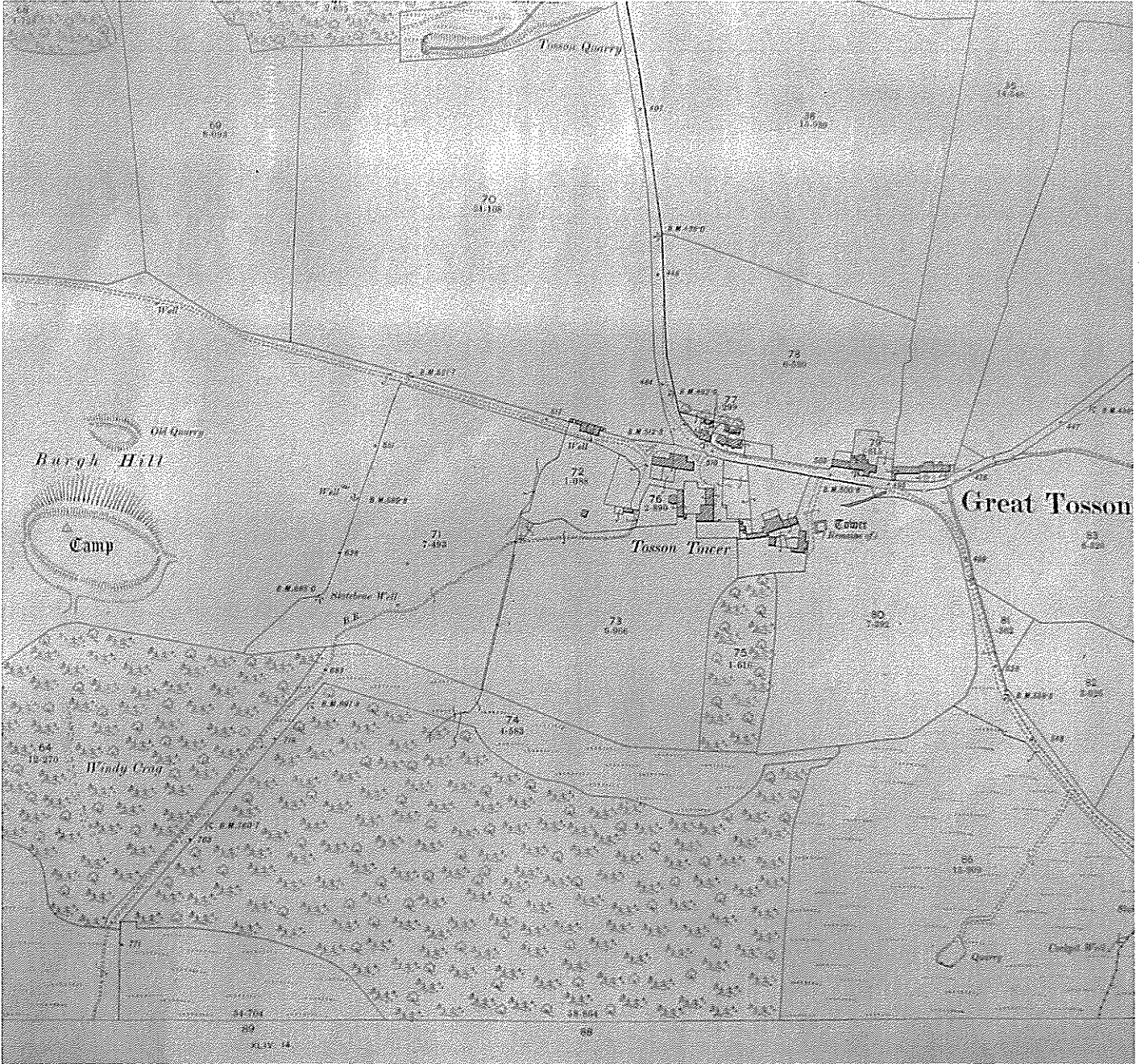


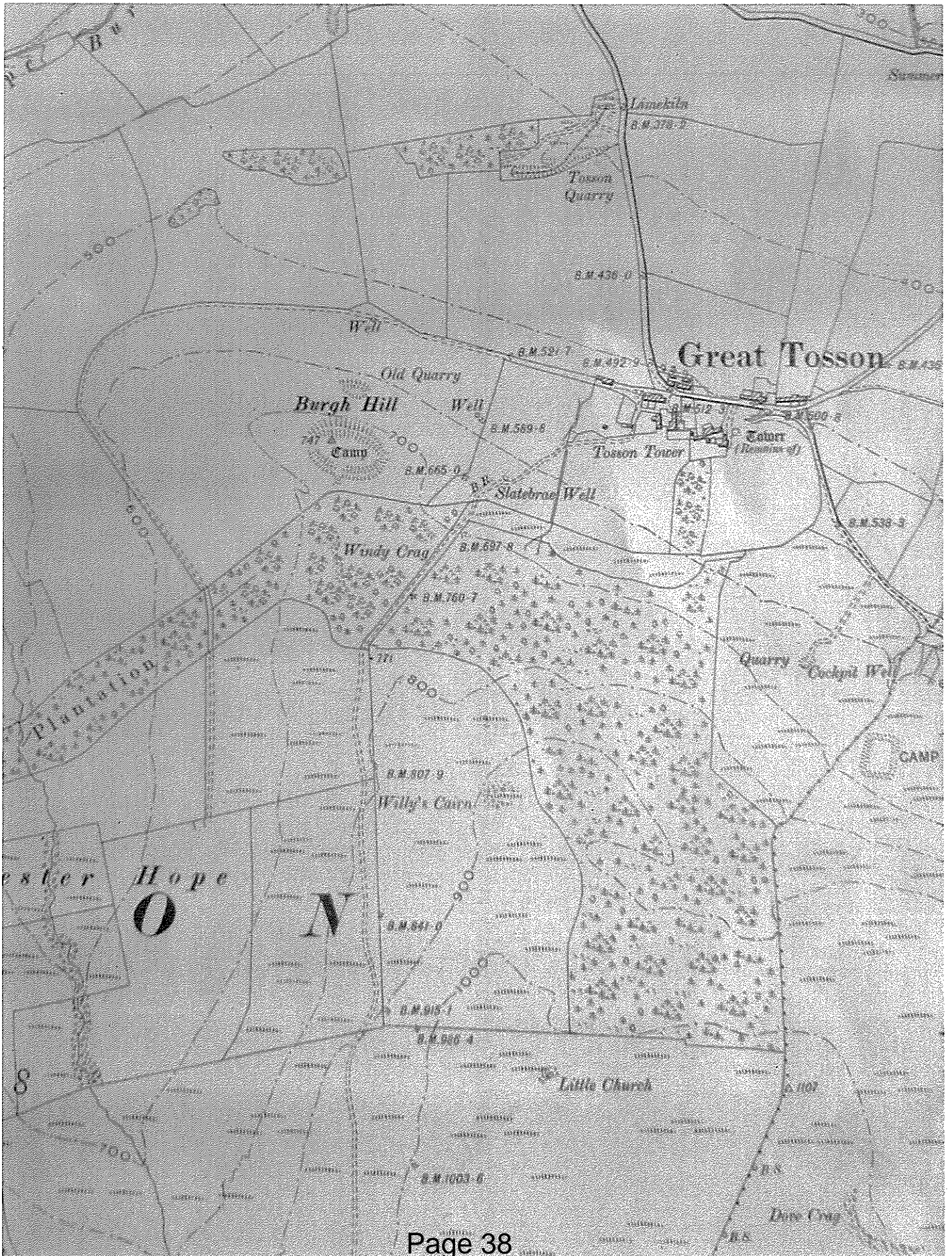
Ryehill & Great Tosson Tithe Award
1840



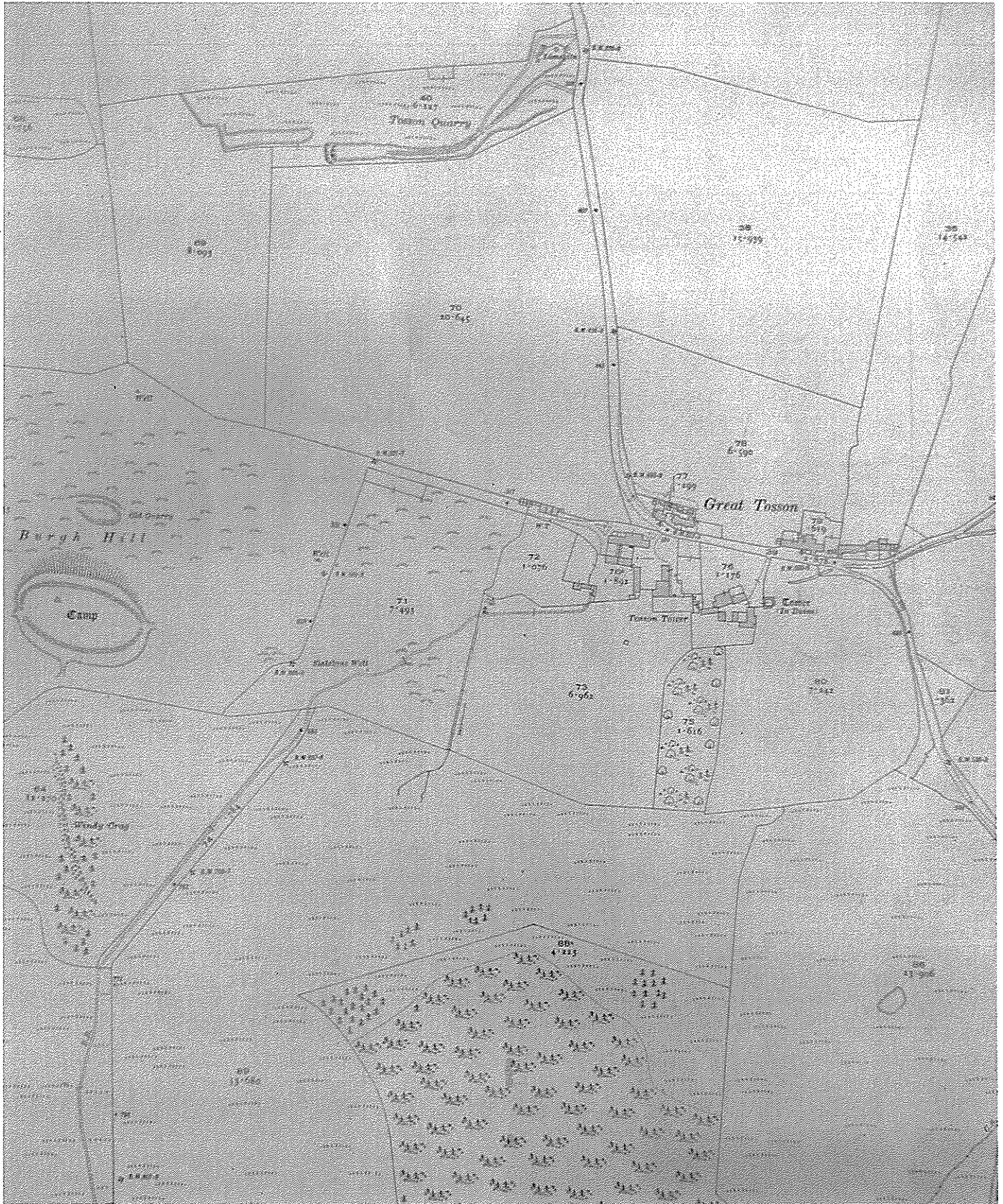


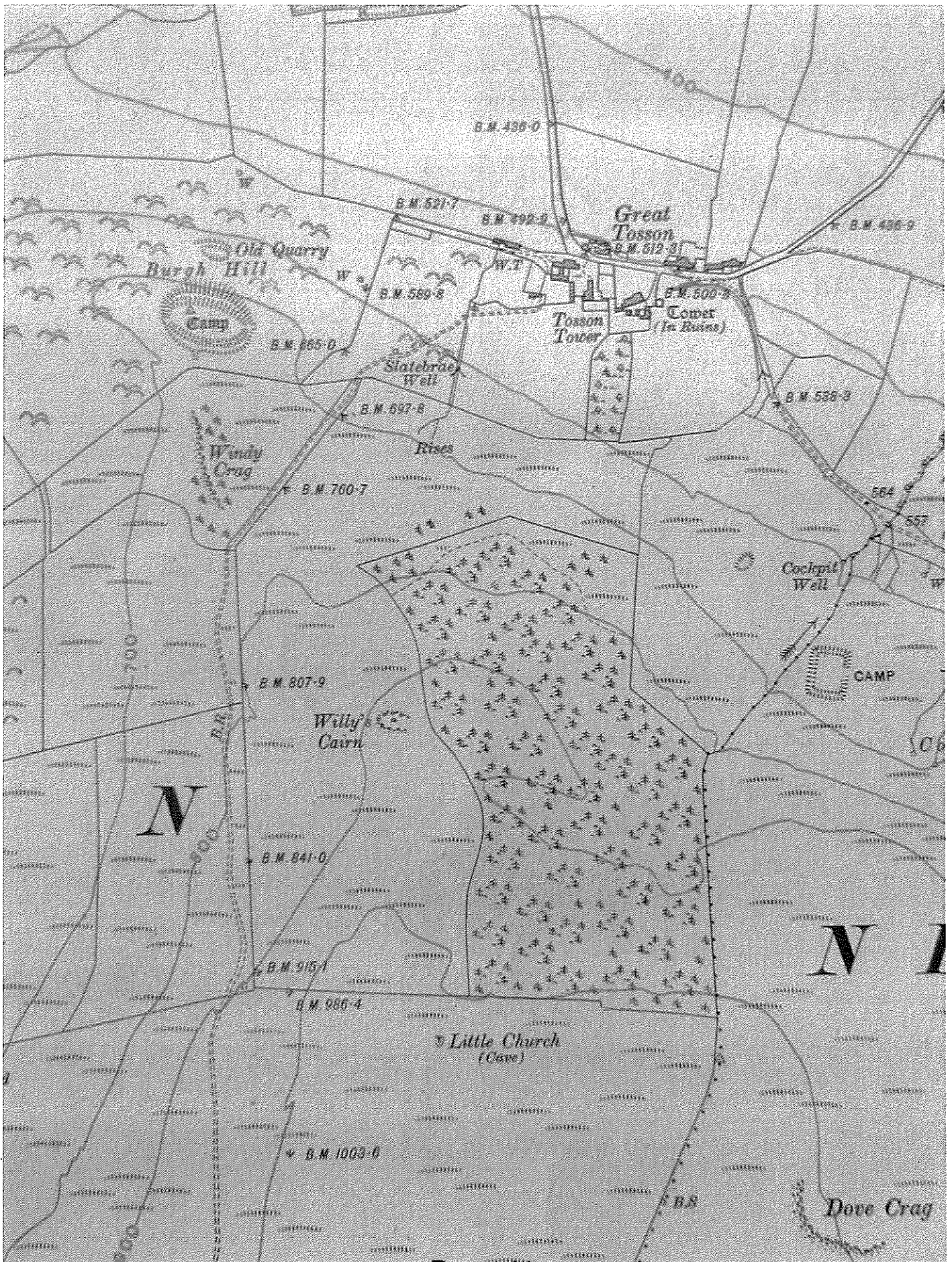


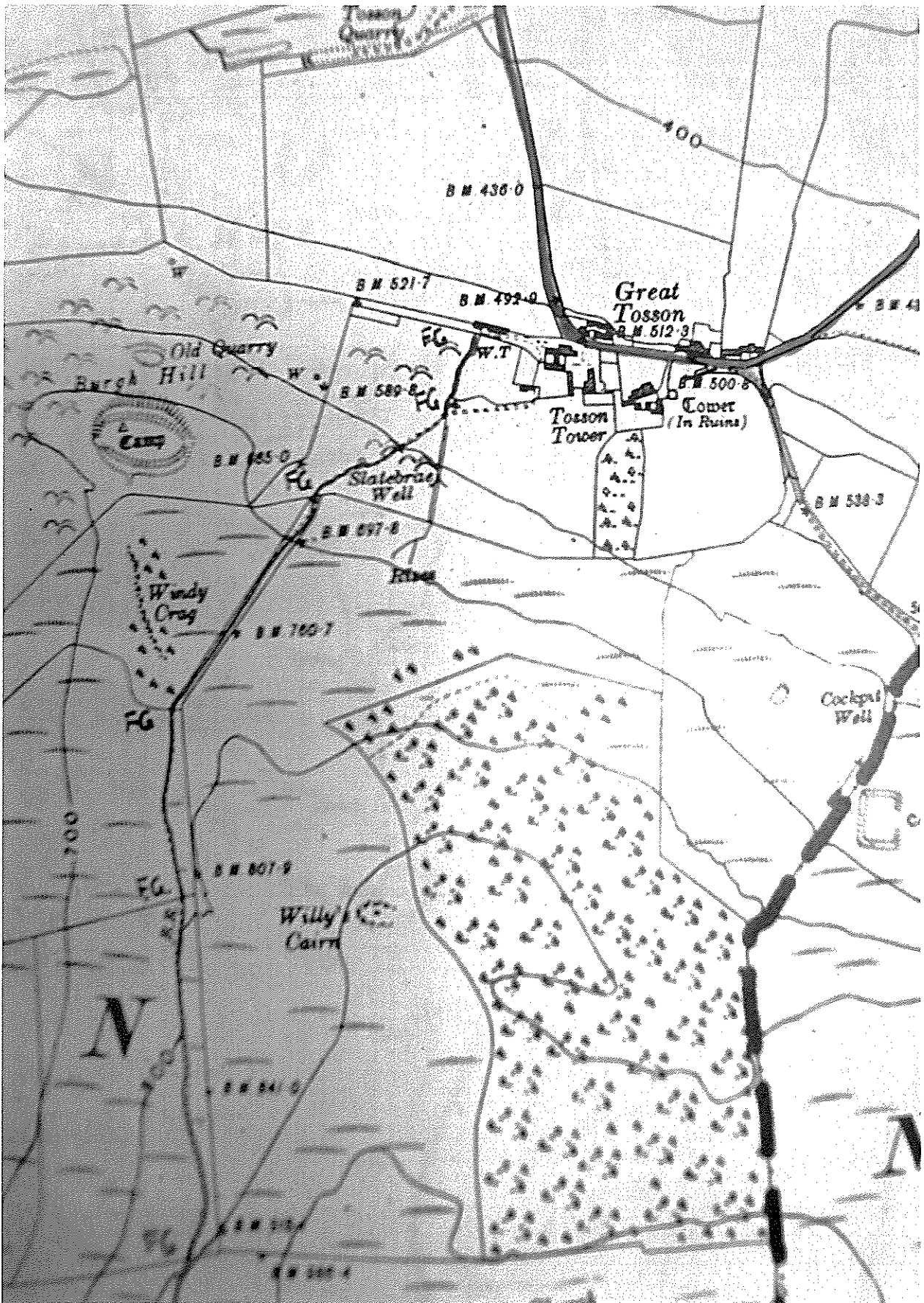


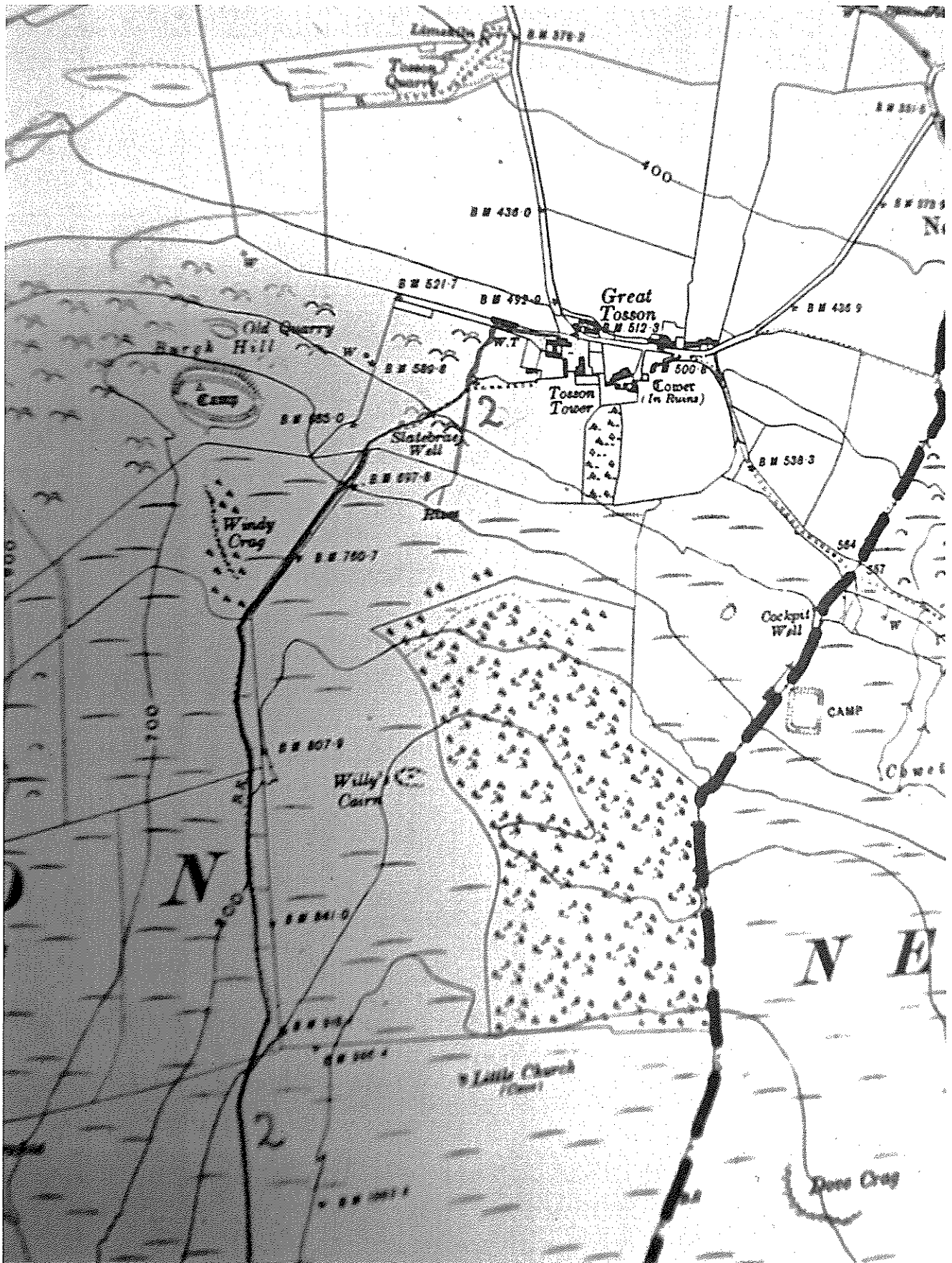


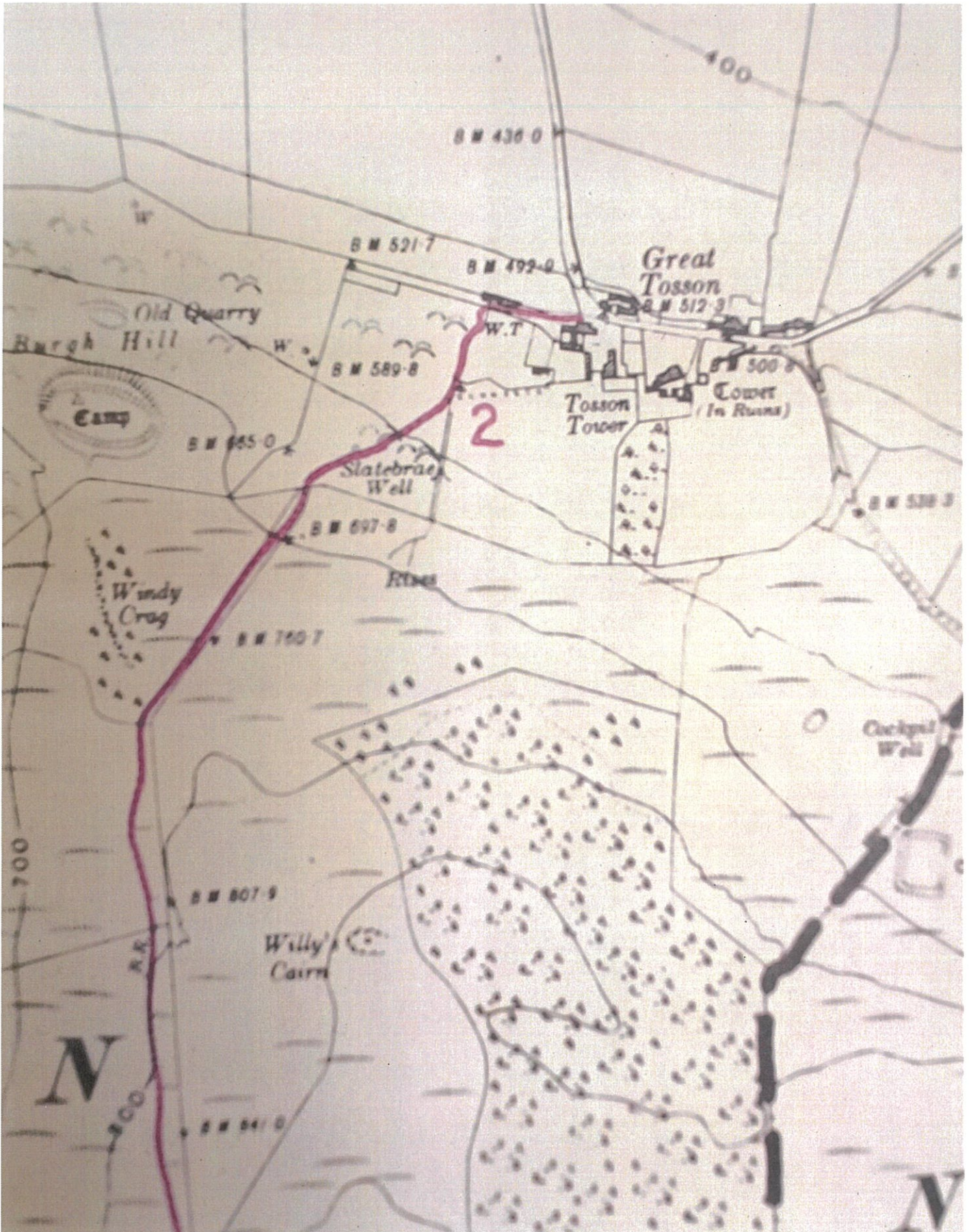


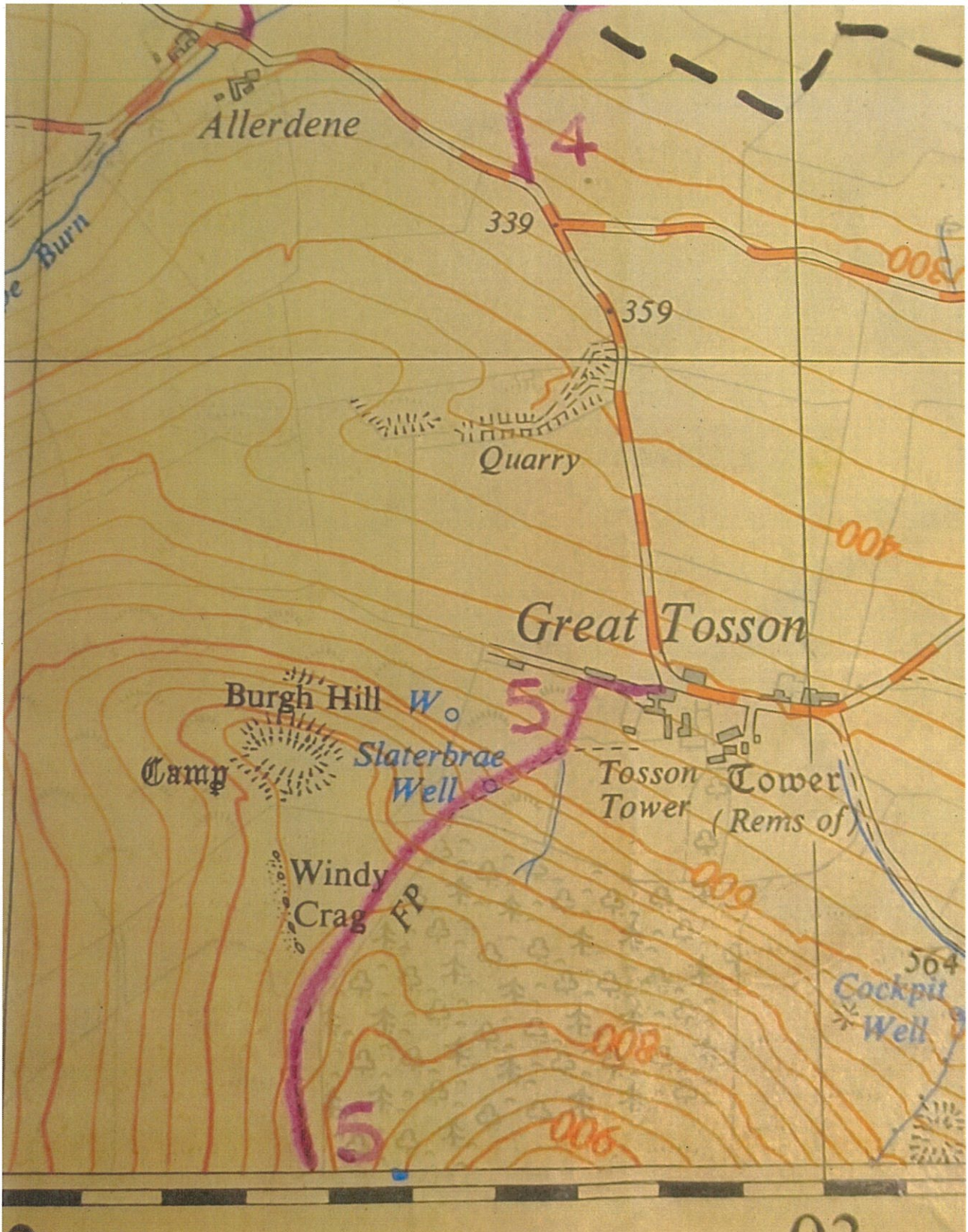




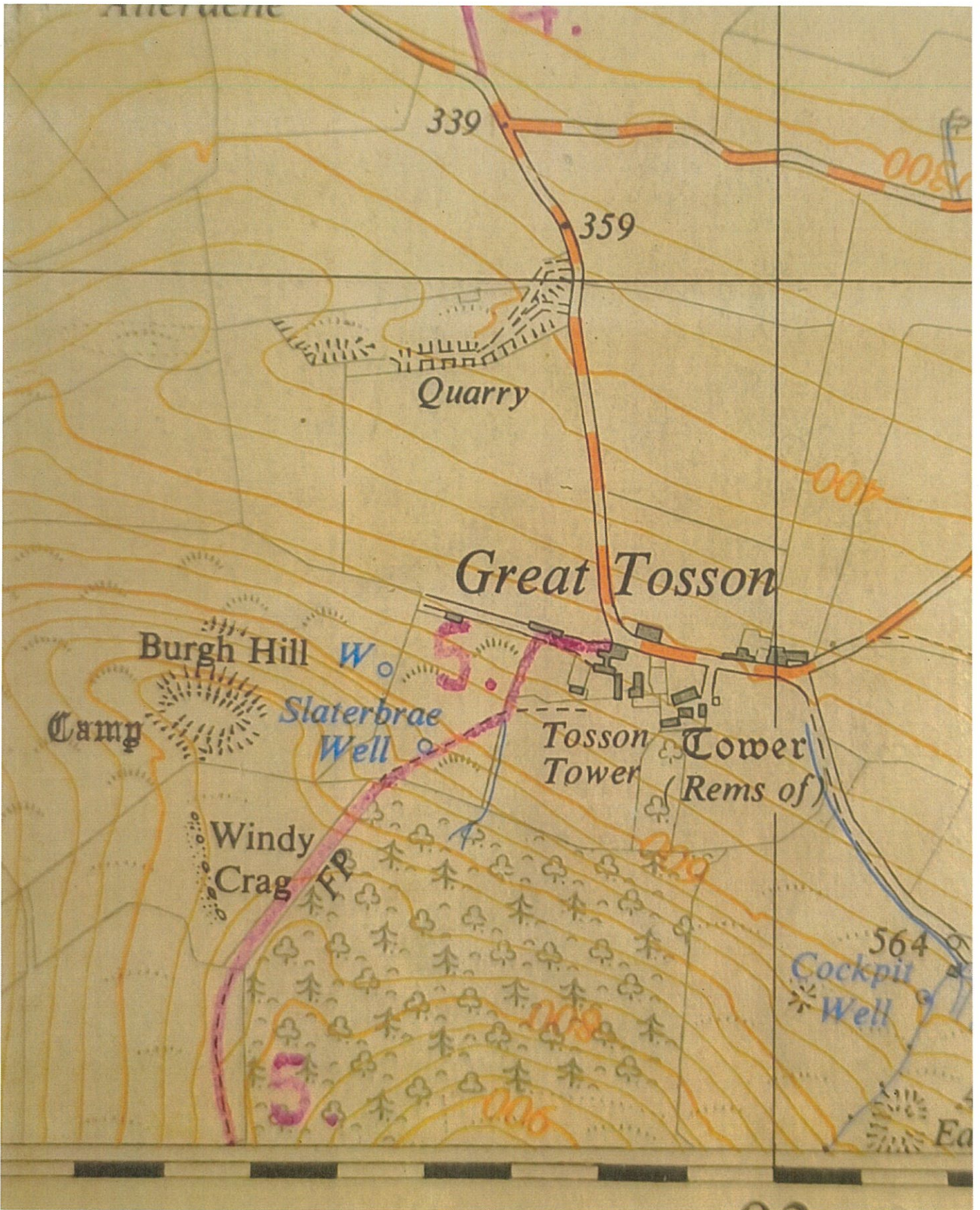












Wildlife and Countryside Act 1981

**Definitive Map and Statement of Public Rights of Way
for the County of Northumberland**

The Northumberland County Council

Definitive Map Modification Order (No 15) 2014

Public Bridleways Nos 37 & 39 (Parishes of Hollinghill & Tosson)

This Order is made by Northumberland County Council under Section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement of Public Rights of Way for the County of Northumberland require modification in consequence of the occurrence of events specified in Section 53(3)(c) (i), (ii) and (iii), namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic; and 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; and that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

The authority has consulted every local authority whose area includes the land to which the order relates. The Northumberland County Council hereby order that:

1. For the purposes of this Order the relevant date is 1 July 2014.
2. The Definitive Map and Statement of Public Rights of Way for the County of Northumberland shall be modified as described in the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Northumberland County Council Definitive Map Modification Order (No 15) 2014.

Modification Order (No 15) 2014

Index

Former Alnwick District

Parish	Path No.	Modification	OS Map Nos.	Definitive Map Nos.
Tosson	Bridleway No 39	Addition & Upgrade of part of FP 5	NU 00 SW NZ 09 NW	93 108
Tosson	Footpath No 5	Amend Statement Delete (part)	NZ 09 NW	108
Tosson	Footpath No 40	Renumbering of Part of FP 5	NU 00 SW NZ 09 NW	93 108
Hollinghill	Bridleway No 37	Addition	NZ 09 NW	108

Modification Order (No 15) 2014

Description of Modification to Definitive Map and Statement

Former Alnwick District

Parish of Tosson

Bridleway No 39

(NU00SW / NZ09NW)

Part I Map:

Adding thereto, a public bridleway, from a point marked A on the U4035 road 180 metres south-east of the remains of Tosson Peel Tower in a westerly and southerly direction for a distance of ~~4220~~ ⁴²¹⁰ metres to a point marked B on Parish of Hollinghill alleged Public Bridleway No 37, 850 metres north-east of Blackcock Hall.

Part II Statement:

To be prepared as follows:

alongside the field boundary for a distance of 390 metres to its junction with Public Footpath No 5 then on the north-west and west side of the field boundary in a south-westerly and southerly direction for 800 metres to re-join

A 2 metre wide public bridleway from the U4035 road 180 metres south-east of the remains of Tosson Peel Tower in a westerly direction as a headland path for a distance of 170 metres to a field gate then continuing in a westerly direction as a ~~woodland track~~ for a distance of ~~460~~ metres then southerly for a distance of ~~450~~ metres to join Public Footpath No 5 then continuing in a southerly direction passing to the west of Bob Pyle's Studdie and to the east of Cove Glen and Selby's Cove for a distance of ~~3230~~ ²⁸⁵⁰ metres to join Public Bridleway No 37 in the Parish of Hollinghill, 850 metres north-east of Blackcock Hall.

Parish of Hollinghill

Bridleway No 37

(NZ09NW)

Part I Map:

Adding thereto, a public bridleway, from a point marked B on Parish of Tosson alleged Public Bridleway No 39, 850 metres north-east of Blackcock Hall in a southerly direction for a distance of ~~480~~ ⁵⁰⁰ metres to a point marked C on Parish of Hollinghill Public Bridleway No 17, 470 metres north-east of Blackcock Hall.

Part II Statement:

To be prepared as follows:

A 2 metre wide bridleway from Public Bridleway No 39 in the Parish of Hollinghill, 850 metres north-east of Blackcock Hall in a southerly direction for a distance of ~~480~~ ⁵⁰⁰ metres to join Public Bridleway No 17, 470 metres north-east of Blackcock Hall.

Parish of Tosson

Footpath No 5

(NU00SW / NZ09NW)

Part I Map:

parts A1 to A2 and parts D1 to D2
Deleting thereto, the footpath from a point marked ~~D~~ on alleged Public Bridleway No 39, 210 metres west of Willy's Cairn to a point marked ~~E~~ on Public Footpath No 40, 670 metres north of Selby's Cove, as a consequence of this ^{use} section being upgraded to public bridleway (Bridleway No 39) status.

Renumbering thereto, the footpath from a point marked F, on the U4061 road at Great Tosson, to a point marked ~~D~~ on alleged

A1, 150 metres east of Burgh Hill Fort and from a point marked A2, 250 metres south of Burgh Hill Fort to a point marked D1, 260 metres south-west of Willy's Cairn

Part II

Statement:

To be amended as follows: *380 metres south west of Willy's Cairn.*
From Public Bridleway No 39, ~~670 metres north of Selby's Cove~~ in a southerly direction for a distance of ~~1800 metres~~ ³³⁰⁰ by Selby's Cove to join Public Footpath No 18 in the Parish of Hollinghill north of Blackcock Hall.

Parish of Tosson

Footpath No 40

(NU00SW / NZ09NW)

Part I Map:

Administrative amendment
Renumbering of northern parts of FP 5.

Part II Statement:

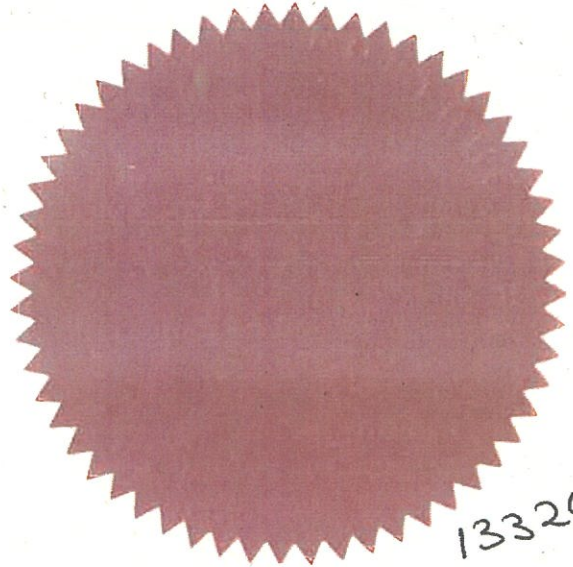
To be prepared as follows:
From the Great Tosson - Allerdene Road at Great Tosson in a westerly, south-westerly and southerly direction by Slaterbrae Well and Windy Craggs for a distance of ~~970 metres~~ to join Public Bridleway No 39, ~~210 metres west of Willy's Cairn.~~

for a distance of 380 metres to join Public Bridleway No 39 north-east of Windy Craggs then leaving the Public Bridleway No 39 to the south of Windy Craggs in a southerly direction for a distance of 510 metres

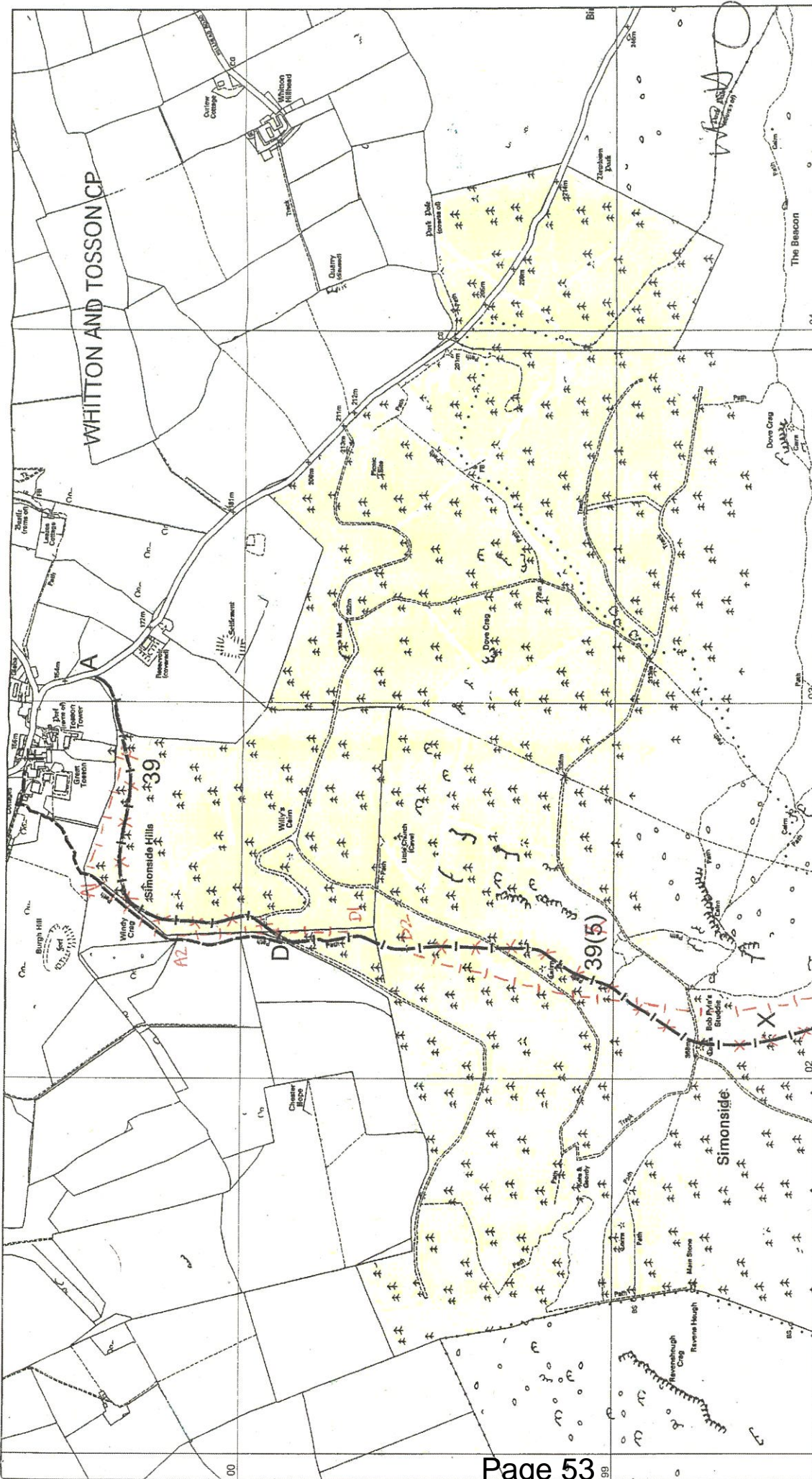
IN WITNESS whereof the Common Seal of the County Council of Northumberland was hereunto affixed on the 18th day of August 2014

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

W.B.W.
Duly Authorised Officer



The foregoing order is hereby confirmed subject to the red ink modifications thereon
Martin Elliott 18 SEP 2017
An Inspector appointed by The Secretary of State for Environment, Food and Rural Affairs



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 Northumberland County Council
 Sustainable Transport
 Local Services
 County Hall Morpeth Northumberland
 Telephone 0845 600 6400 NE61 2EF

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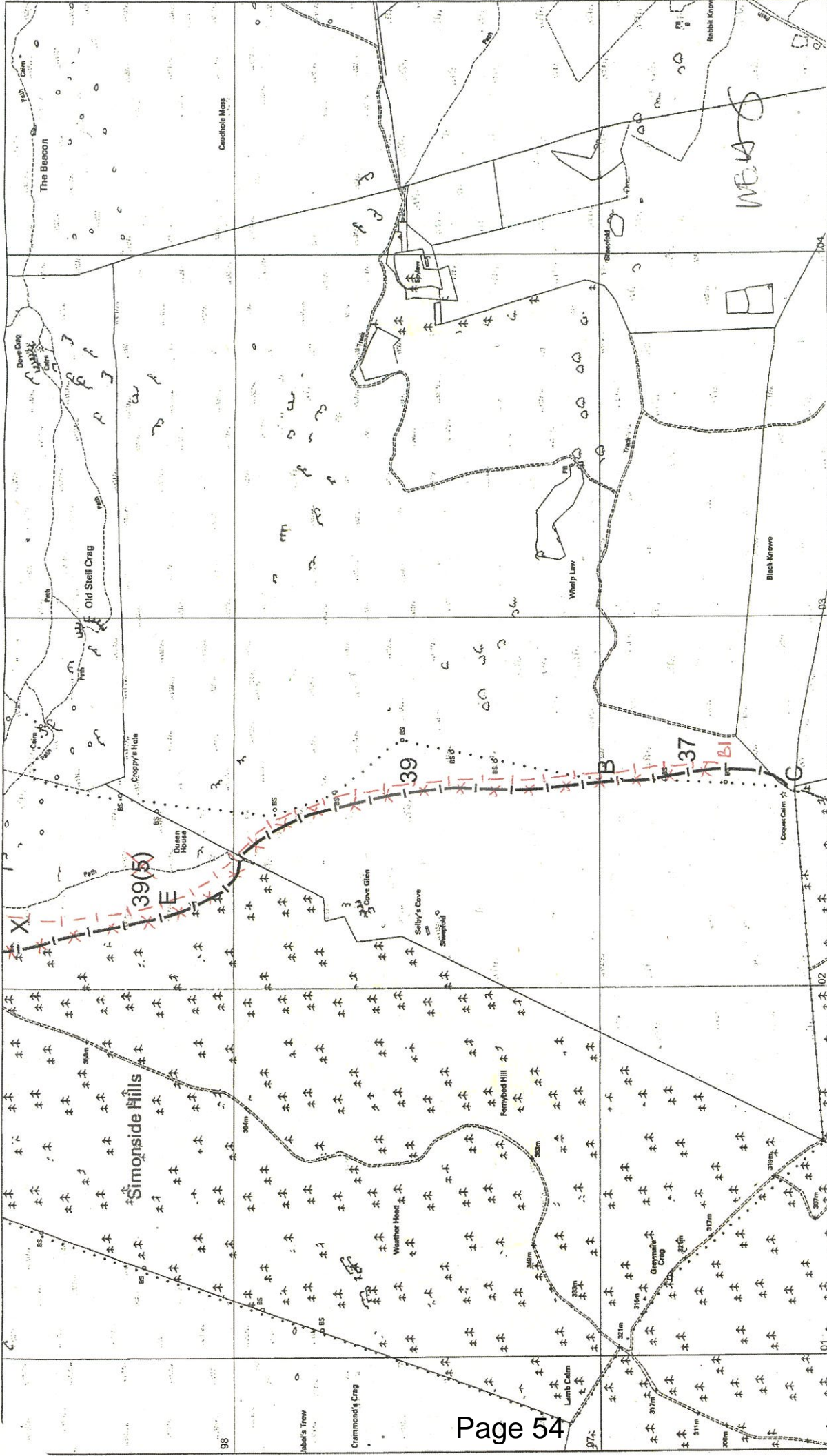
Wildlife and Countryside Act, 1981

**Definitive Map of
 Public Rights of Way
 for the
 County of Northumberland**

**The Northumberland
 County Council**

**Modification Order
 (No. 15) 2014**

Public Footpath to be deleted	Public Footpath	Public Bridleway	Restricted Byway	Byway Open to All Traffic
O.S. Map NU 00 SW NZ 09 NW	Former District(s) Alnwick	Definitive Map No 93/108/	Scale: 1/10,000	Date: June 2014
		Parish(es) Tosson		



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Wildlife and Countryside Act, 1981

Definitive Map of Public Rights of Way for the County of Northumberland

The Northumberland County Council

Modification Order (No. 15) 2014

Public Footpath to be deleted	Public Footpath	Public Bridleway	Restricted Byway	Byway Open to All Traffic
O.S. Map NZ 09 NW	Definitive Map No 108	Scale: 1/10,000	Parish(es) Hollinghill/Tosson	Date: June 2014
Former District(s) Alnwick				

Order Decision

Site visit made on 27 April 2016

by **Martin Elliott BSc FIPROW**

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

Decision date: **25 MAY 2016**

Order Ref: **FPS/P2935/7/46**

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The Northumberland County Council Definitive Map Modification Order (No 15) 2014.
- The Order is dated 18 August 2014 and proposes to modify the Definitive Map and Statement for the area by upgrading part of public footpath 5 Tosson to a bridleway and adding a public bridleway as shown in the Order plan and described in the Order Schedule.
- There was one objection outstanding when Northumberland County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is proposed for confirmation subject to modifications set out below in the Formal Decision.

Procedural Matters

1. I carried out an unaccompanied site visit on 27 April 2016. Between points E and C on the Order map there is no discernible route on the ground. Given this and the terrain it was difficult to follow the precise line of the Order route. Nevertheless I am satisfied that I can make my decision on the basis of my site visit and the evidence before me.
2. The objector (Northumberland Estates) notes that the Order route is different to the route applied for in an application under section 53(5) of the 1981 Act. The decision of the Council in respect of the making of an order and the route shown in the original application are not matters for my consideration. I have been appointed to determine the Order before me.
3. I note that in Part 1 of the Schedule to the Order, in respect of Bridleway 39, the total length does not accord with the sum totals of the route given in Part II of the Schedule. There is nothing to indicate that anyone will have been misled or prejudiced by this discrepancy. The Order, if confirmed, will be modified accordingly.

The Main Issues

4. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 in consequence of an event specified in section 53(3)(c)(i), (ii) and (iii) of the 1981 Act.

5. The main issue is whether the discovery by the authority of evidence, when considered with all other relevant evidence, is sufficient to show on the balance of probability that:
 - (i) a right of way which is not shown in the map and statement subsists over the land in the area to which the map relates; and
 - (ii) 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; and
 - (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
6. In effect the Order proposes to add a public bridleway along a route which is unrecorded and to upgrade part of a public footpath to a public bridleway forming part of a longer route. The Order provides for consequential amendments to the definitive map and statement.
7. A new interested party (Mr Kind) made representations following the Notice of Order. As well as making observations on the evidence he raises issues as to the alignment of the Order route. I consider this latter issue further at paragraphs 29 to 33 below.

Reasons

Armstrong's County map 1769

8. The map does not show any route over land crossed by the Order route.

Tosson Common and Hepple Common Inclosure Award

9. The award sets out and appoints a 'Public Bridle Road 6 feet in breadth' (1.83 metres) leading from the south end of Great Tosson Lane to Browns Cross where the bridleway enters the ancient lands of Spylaw. The route is called Cambo Bridle Road and the award states that the route is staked and set out. The award map identifies the route with a double pecked line marked 'Cambo Bridle Road'.
10. The local Act¹, under which the award was made, imports the provisions of the General Inclosure Act of 1801 as such the setting out of the route was within the scope and powers of the inclosure commissioners.
11. In my view the inclosure award provides conclusive evidence as to the existence of a bridleway along the route described and shown on the award plan.
12. The objector makes the point that the award does not identify the route beyond Browns Cross, with no clarity as to whether or not the route was via Coquet Cairn. Whilst the award refers to Browns Cross the route is described as entering into the adjacent lands of Spylaw. This suggests to me that the route continued past Browns Cross; this is as shown on the inclosure plan although it is accepted that the route is not shown linking to Coquet Cairn.

¹ An Act for inclosing Lands in the Parishes of Rothbury and Elsdon, in the County of Northumberland (12 March 1805) a copy of which was provided by Mr Kind.

18. Ordnance Survey maps were produced to record topographical features and were not intended to record public rights. The maps show the existence of a route which corresponds with the route of public footpath 5 which in parts is concurrent with the Order route. The 1898/9 and 1925/6 maps show that the route of public footpath 5 was a route which could be traversed by horses. However, by 1957 the route was identified as a route which could not be mistaken for a route traversable by horses or wheeled traffic.

Thomas Bell survey 1850

19. Whilst the map does not show the Order route or the application route it must be noted that the survey is of Northumberland Estates. The map appears to have been produced to identify land holdings of the estate. There is nothing to indicate that the survey was required to record public rights of way. The absence of the Order route from the map does not preclude the existence of public rights but nevertheless the map does not provide any information in support of public rights.

Survey, draft, provisional and definitive maps

20. The objector has submitted extracts from the various maps which it is suggested do not show the Order route but show a route which corresponds with the application route.

21. It is accepted that the maps do not show the Order route however, the maps are Ordnance Survey plans with additional markings placed thereon showing routes regarded to be public. I revert to my previous comments on Ordnance Survey maps which are equally applicable. Whilst the route was not recorded under the survey carried out under the National Parks and Access to the Countryside Act 1949 this would not preclude the existence of public rights. Nevertheless it would appear that the route was not considered to be public at the time of the survey otherwise it would have been marked on the maps as was public footpath 5.

Deposit under section 31(6) of the Highways Act 1980

22. The objector refers to a deposit made by the Estate which the Council identify was made in October 1997. Whilst this deposit may demonstrate a lack of intention to dedicate a public right of way along the Order route the deposit has no effect on pre-existing rights.

Other evidence

23. The objector refers to the indications of a Mr Harrison, a tenant of the Estate. It is stated that the land between E and C is exceptionally wet and boggy and exceptionally difficult to traverse over. Whilst, as I noted on my site visit, the land is wet and boggy this does not mean that a public right of way cannot subsist; the route of public footpath 5 over this land also passes through some wet and boggy terrain. It is also noted that Mr Harrison has not seen people using the Order route between points E and C save for gamekeepers/farmers and tenants. Again this does not preclude the existence of public rights and bearing in mind that the route is not recorded as a public right of way the absence of use is not unexpected.

24. Mr Kind provides a copy of a chapter 'Roads, Tracks and Railways' from a commercial book the title and author of which is unknown. The chapter

However, it should be noted that from Browns Cross the route crosses land not subject to the award and therefore the absence of the route is not unsurprising. It is also of note that the route is called 'Cambo Bridle Road'. Given that Cambo is a settlement some 10 km to the south it is clear that the route continued southwards although the route is not identified. I consider this issue further at paragraph * below.

Commercial maps 1820 to 1832

13. Fryer's county map of 1820² shows a road leading from the western side of Great Tosson village over the land crossed by the Order route. Whilst the mapping is not particularly detailed the route to the south of Simonside Hill is to the east of Selbys Cove, Black Cock Hall and corresponds with the Order route.
14. Greenwood's map of 1828 shows a crossroad leading from the road leading south eastward from Great Tosson proceeding southwards to the east of Selbys Cove and Black Cock Hall and again corresponds with the Order route.
15. Cary's map of 1827 shows a route to the east of Selbys Cove and Black Cock Hall and identifies the route as a parochial road. As with Fryer and Greenwood the route corresponds with the Order route. From the extracts provided it is not possible to ascertain the route at its northern end at Great Tosson. The 1832 edition shows the route in an identical fashion. No extract is provided of the 1832 map covering Great Tosson. In *Commission for New Towns v J J Gallagher Ltd [2003] 2 P&CR* it is indicated that in the case of Beoley Lane, a route under consideration in that case, the identification of the route as a parochial road suggested that the route was a public carriageway. Nevertheless Neuberger J. adds that it is by no means clear what the expression means. Whilst the term parochial road may be suggestive of a public carriageway this evidence needs to be considered in the context of all other evidence.

Ryehill and Great Tosson Tithe Award 1840

16. The tithe map shows a route leading from point A on the Order map to and beyond Browns Cross and is marked Bridle Road to Cambo. The depiction on the map is highly suggestive that the route was public and is consistent with the inclosure award evidence. The map does show the route continuing beyond Browns Cross although the extent of the route is not clear, the extract provided does not extend as far as Coquet Cairn although I note the assertion of the objector that this location is shown on the map.

Ordnance Survey mapping

17. The 1866 edition shows a route leading from Great Tosson which corresponds with the route of what is now recorded as public footpath 5 and therefore part of the Order route. The map does not show the Order route between points A and D or to the south of point E near to Ousen House. The 1898/9 and 1925/6 maps are similar to the 1866 map although public footpath 5 is annotated 'B.R.' The 1957 map shows a route as on the earlier maps although the route of footpath 5 is now annotated 'F.P.' The 1978 map shows parts of the Order route although there is no indication of a route to the south of Ousen House.

² I note that the Fryer's and Greenwood's map have been incorrectly identified in the original application

30. The Council suggest that between points A and D the route follows a forest track which physically appears to have some antiquity and has the appearance of an old 'Lonnen'. Although I note this contention there is nothing to support the antiquity of this section of route marked on the Order map. The route shown on the award map is consistent with the route shown on Greenwood's map. None of the Ordnance Survey maps submitted provide any evidence as to the existence of a track through the forested area which corresponds with the Order route until the 1978 edition. The Ordnance Survey mapping indicates that the track along which the Order route is marked between A and D is a more recent feature.
31. Notwithstanding the issues raised by Mr Kind as to the alignment of the Order route he suggests that in any event the northern termination point of the Order route is not at point A but that the route continues along the route of public footpath 5 into Great Tossion. I note the arguments raised but in my view the award plan is clear in that the northern termination point is at point A.
32. Mr Kind also raises an issue as to the true route of the bridleway. It is suggested that the route shown on the Ordnance Survey mapping, annotated 'B.R.' is near enough to the current public footpath and as close as scale permits to the line shown on Fryer and Cary. Although I note this point, from my examination of the maps, I do not consider that the route shown on Fryer and Cary represents the route shown on the Ordnance Survey maps. The route shown on Fryer and Carey is some distance to the east of Selbys Cove whereas the Ordnance Survey maps depict a route which runs immediately adjacent to Selbys Cove. Whilst the Ordnance Survey maps show the existence of another route from Great Tossion the inclosure award and commercial maps depict a route to the east which is the route set out in the inclosure award as the Cambo Bridle Road and, subject to my comments at paragraph 29 above, the Order route.
33. In view of my conclusions as to the evidence I conclude that the Order should be confirmed subject to modifications in respect of the route.

Conclusions

34. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed subject to modifications.

Formal Decision

35. The Order is proposed for confirmation subject to the following modifications:
- At Part I of the Schedule to the Order, in respect of Bridleway 39 at line 3 delete '4220' and insert '4350' and at Part II from line 4 delete '*as a woodland track for a distance of 460 metres then southerly for a distance of 450 metres*' and insert '*alongside the field boundary for a distance of 380 metres to its junction with Public Footpath No 5 then on the north west and west side of the field boundary in a south westerly and southerly direction for 570 metres*'.
 - At Part I of the Schedule to the Order, in respect of Footpath 5, at line 1 of the first paragraph after '*the footpath from*' insert '*points D1 and D2 and*' and at line 2 of the second paragraph after '*to a point marked*' insert '*D1 and between D2 and*'.

includes a photograph of a 'Grooved track for packhorses in the Simonside Hills'. Mr Kind also provides a photograph of the same and I noted the feature on my site visit on part of the Order route currently recorded as public footpath 5. It is suggested that the bedrock has been tooled, probably to improve the grip for horses. This is quite possible but, in the absence of details as to its origins, it is difficult to give this any weight.

25. Mr Kind suggests that the topography of the land should be considered. Whilst I note the contention that the mapped old road is a pass this does not necessarily mean that the route is public, the status needs to be determined on the evidence before me.

Conclusions on the evidence

26. Having regard to the above, the inclosure award provides conclusive evidence as to the existence of a public bridleway. The route is shown to varying degrees on the commercial mapping although the route is not shown on the Ordnance Survey mapping, with the exception of the part of public footpath 5 to be upgraded and a section recorded on the 1978 map. The tithe map is highly supportive of the existence of a public bridleway. Looking at the evidence as a whole it is sufficient to show that, on the balance of probabilities, a public bridleway subsists.
27. I am aware that the inclosure award does not show a route extending to Coquet Cairn (point C). However, the inclosure award and tithe map evidence indicates that the route shown is part of a longer route. Further, Fryer, Carey and Greenwood all show a route continuing to the south beyond the limits of the route shown on the inclosure and tithe maps. Given the existence of a continuation of the route it is, on the balance of probabilities, more likely than not that the route continued to Coquet Cairn.
28. Mr Kind raises the issue that the width identified in the Order is not sufficient for two unladen horses to meet and pass let alone laden pack horses. It is contended that a bridleroad in use by packhorses would need to be 10 feet wide (3.05 metres). Whilst I note this point, the inclosure award sets out a bridleway 6 feet wide (1.83 metres). There is nothing to indicate a greater width has been dedicated, for me to reach such a conclusion I would need evidence of the same.

Alignment issues

29. Mr Kind contends that the route shown on the Order plan does not match the awarded route.
- i) At point B it is suggested that there is a distinct kink in the Cambo Bridle Road. From my examination of the map I do not agree.
 - ii) To the north of point D it is contended that the award plan shows the route to the west of the boundary of Donkin & Pott's Allotment just inside the Rev'd Andrew Boulton's Allotment whereas the Order route is on a curvaceous route on what appears to be a modern forestry road. I concur with this view and the Order should be amended to follow the awarded route.
 - iii) From near to Windy Crag to the northern terminus of the Order route the inclosure awarded route is inside the northern boundary of Donkin & Pott's Allotment. Again I concur with this view.

- At Part II of the Schedule to the Order, in respect of Footpath '40, delete from line 3 *'and Windy Craggs for a distance of 970 metres'* and insert *'for a distance of 400 metres to join public bridleway No 39, leaving the public bridleway to the south of Windy Craggs and continuing in a southerly direction for a distance of 290 metres'*.
 - On the Order map insert points D1 and D2 and between these points insert cross hatchings along the route shown as a public footpath so as to identify a public bridleway. Further, from a point 170 metres southwest of point A, where the Schedule describes a field gate, to point D1 and between points D2 and D insert a route to identify a public bridleway. Between the point 170 metres southwest of point A to point D delete the public bridleway.
36. Since the confirmed Order would affect land not affected by the Order and not show a way in the Order as submitted I am required by virtue of Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Martin Elliott

Inspector

Order Decision

Site visit made on 27 April 2016

by **Martin Elliott BSc FIPROW**

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

Decision date: 06 June 2017

Order Ref: FPS/P2935/7/46M

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The Northumberland County Council Definitive Map Modification Order (No 15) 2014.
- The Order is dated 18 August 2014 and proposes to modify the Definitive Map and Statement for the area by upgrading part of public footpath 5 Tosson to a bridleway and adding a public bridleway as shown in the Order plan and described in the Order Schedule.
- In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act notice of the proposal to confirm the Order subject to modifications has been given.

Summary of Decision: The Order is proposed for confirmation subject to modifications set out below in the Formal Decision.

Procedural Matters

1. In my interim decision dated 25 May 2016 I proposed to confirm the Order subject to modifications in respect of the location of the Order route and to address a discrepancy in the total length of public bridleway 39 as specified in Part I of the Schedule to the Order. One objection was received to the proposal to modify the Order.
2. Following the 'Notice of Order' correspondence was received from a new party. The correspondence raises concerns as to the need to carry out works to bring the modified order route into a useable condition. The correspondence also notes the availability, and existing use by walkers and cyclists, of the unmodified Order route along the forest track. The correspondent does not dispute the existence of the Order route along its proposed modified alignment or its unmodified alignment. Subsequent correspondence states that the modified route A to A1 (as marked on additional maps submitted by the Council) is impassable for anyone on a horse and a struggle on foot. The point is again made that, although requiring clearance works, there is an obvious route marked A to D on a forest track. Whilst I note these matters I am unable to take them into consideration in determining the Order. The purpose of the Order is to record existing public rights of way on the definitive map and statement. The issue is whether public rights subsist along the Order route.
3. I was due to hold a hearing on 15 March 2017 in connection with the objection to the proposed modifications and the determination of the Order. However, following discussions between the Council and the objector, the objector

withdrew his request to be heard and for an accompanied site visit. Following the withdrawal the parties to the Order were asked if they were agreeable to the hearing being cancelled. None of the parties asked to be heard and the hearing was cancelled. The objection to the Order and the proposed modifications has therefore been considered by way of written representations.

4. I carried out an unaccompanied site visit on 27 April 2016. I did not carry out a further site visit in consideration of the objection to the proposed modifications. The objection makes the point that I did not follow the route shown on the inclosure award¹ plan. Whilst, in the main, I did not follow the route of the bridle road shown on the inclosure award plan I carried out, as far as possible, an inspection of the Order route and the surrounding area; this was subject to constraints of environmental factors such as existing and felled plantations and boggy terrain. My original site visit also involved walking the route of footpath 40 between points D² and F from which I was able to observe part of the route of the inclosure awarded bridleway. On the basis of my initial site visit I did not consider it necessary to revisit the site. I am satisfied that I can make my decision based on my initial site visit and the evidence before me.
5. Correspondence between the objector and the Council indicates that the Council does not disagree with the objector in respect of points ii and iii (paragraph 6 below). The letter 30 January 2017 states that the Council would be prepared to draft an amendment to the statement to satisfy any modification to the Order route in respect of point ii and assist in preparing a modified Order plan in respect of point iii. In the light of this I asked the Council to provide an amended Order, with suggested wording, and Order plan. This was circulated to the parties and I have had regard to the additional comments in reaching my decision. If I propose to confirm the Order with further modifications I will use the location points identified by the Council in the amended statement and plan.

The Main Issues

6. The objection is made on three heads:
 - i) That 'point A' on the award plan is 80 metres away from point A on the Order plan. In essence the commencement of the Cambo Bridle Road is some 80 metres to the southwest of Point A and the first 80 metres should be recorded as a restricted byway.
 - ii) The Order still seeks to modify the status of the existing footpath south of point D2 whereas this should be a bridleway addition.
 - iii) Much of the Order route (not proposed to be modified) is considerably off the route shown in the award plan.
7. The main issue is whether the proposed modifications should be pursued or whether the Order should be modified further. The test to be applied to the evidence is 'on the balance of probabilities'.

¹ Tossion and Hepple Commons Inclosure Award 1806

² Letters A to F including D1 and D2 refer to points on the Order map as proposed to be modified in my interim decision.

Reasons

The commencement point of the Cambo Bridle Road (point i)

8. The objector cites section 7 of the local Act of 1805 which indicates that any tribunal determining what the inclosure award provides must look to the plan for clarification if the words in the award do not of themselves provide a sufficiently clear answer. Further, it should be presumed that what is on the plan is 'truly delineated' and that delineation must be 'distinct'. What the plan plainly and distinctly shows is the information that can properly be used to assist in the interpretation of the words in the award. The objector makes the point that the award sets out Cambo Bridle Road as starting at the 'southend of Great Tosson Lane' and that this lane is not identified on the plan. It is suggested that it is hard to see that the road at point A identified as 'to Morpeth' would, as a whole, be Great Tosson Lane.
9. The objector considers that the interpretation which makes the plan sit comfortably with the award is a road feature shown on the plan which heads largely south and then southwest from Great Tosson ending at the 'Glebe' allotment; this is considered to be Great Tosson Lane. It is thought likely that this lane is as ancient as the road 'to Morpeth' but the shape suggests that it had a character distinct from this road.
10. As regards the south end of Great Tosson Lane it is contended that this is at the northernmost corner of the 'Glebe' land on the plan. This, it is argued, sits comfortably with the distinct delineation of the Cambo Bridle Road on the plan.
11. In consequence the objector submits that the Cambo Bridle Road is as shown on the award plan and that between that point and point A the 'lane' is most probably a vehicular road because it connected with the Morpeth Road. It is suggested that as the lane is caught by section 67(2) of the Natural Environment and Rural Communities Act 2006 the lane should be recorded as a restricted byway. In the alternative, although not the option preferred by the objector, the lane is part of the Morpeth Road, is not caught by section 67(2) and the termination point of the Order route needs to be moved accordingly.
12. Great Tosson Lane is not specifically identified on the award map but the award sets out the Cambo Bridle Road as starting at the south end of this lane. The Order identifies the bridle road as commencing at point A which is the tarmac surfaced road leading from Great Tosson. The award plan shows the initial section of the Order route as 'open' to the road network at the junction with the route identified 'to Morpeth'. It is possible that the initial section of the Order route could form part of Great Tosson Lane and I note that this section is distinctly different from the route 'to Morpeth'. However, the Cambo Bridle Road is described as leading from the southern end of Great Tosson Lane which in my view could equally describe the location of point A where the route continues as the road 'to Morpeth'.
13. As regards the depiction of the Cambo Bridle Road on the inclosure award map the route clearly runs to the 'angle' in the boundary line as marked on the copy of the plan at paragraph 2.3.3.9 of the objector's final comments. This is to the east of the point which the objector contends is the end of Great Tosson Lane. Although the enlarged copy of the award plan submitted by the Council appears to show 'dashes' continuing beyond that point it is not clear that this

amounts to a depiction of the Cambo Bridle Road; the 'dashes' are clearly less distinct than the dashes depicting the remainder of the route. It should be noted that the interpretation of the award plan should properly be considered at the scale at which it has been produced and not as an enlarged image. In any event these 'dashes' do not continue to point A.

14. Although the inclosure plan may assist in the interpretation of the award I am not persuaded that the evidence as a whole is sufficient, on the balance of probabilities, to show that the end of Great Tosson Lane, and the beginning of the Cambo Bridle Road, is as asserted by the objector. Nevertheless, the evidence supports the existence of a route from point A which on the balance of probabilities is a public bridleway. As such I do not propose to modify the Order in respect of the 80 metre section of the Order route from point A

Route to the south of point D2 (point ii)

15. In my interim decision I proposed to modify the Order to show the bridleway to be added between D2 and D as running to the east of the existing footpath. Having re-examined the inclosure award plan I take the view that the Order should be further modified to the south of point D to show Cambo Bridle Road continuing to the east of the existing footpath to the point identified by the objector as D3 (D1 on the Council's amended Order plan). This is how the route is depicted on the award plan.

Alignment of the Order route (not proposed to be modified) (point iii)

16. The objector suggests that much of the Order route (not proposed to be modified) is considerably off the alignment shown in the award plan. The Council do not disagree on this point and have provided an amended Order plan. No adverse comments have been made in respect of the amended plan.
17. I have not been provided with the methodology used to plot the amended route but there is nothing to indicate that the route shown does not correspond with that shown on the award plan. From my visual inspection of the award plan the route does appear to correspond with the modified Order plan.
18. I sought comments on the route between points B and C. It is noted that the section of Order route south of Browns Cross is outwith the inclosed land. However, as noted by the objector, whilst the commissioners had no remit or powers to alter the existing route in Spylaw Grounds, it is reasonable to conclude that the Cambo Bridle Road matched up with any continuation. Other map evidence suggests that the route continued southwards to Coquet Cairn and beyond. On balance, it is more likely than not, that the route from point B continued in the curve mapped on the award plan to point C.

Other Matters

19. The objector suggests that the holloway leading to Great Tosson from the proposed point D may well on the evidence be a public bridle road but acknowledges that this is a matter for a separate Order. This is not a matter for my consideration but it should be noted that the route between D and D1 on the interim modified Order map is identified as a bridleway to be added.

Conclusion

20. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed subject to modifications previously proposed and further modifications.

Formal Decision

21. The Order is proposed for confirmation subject to modifications previously proposed and further modifications:

- In the Index to the Order under the column 'Modification', in respect of Bridleway 39 and Footpath 40, insert the letter 's' after the word '*part*' so as to read '*parts*'
- At Part I of the Schedule to the Order, in respect of Bridleway 39 at line 3 delete '*4220*' and insert '*4210*' and at Part II from line 4 delete '*as a woodland track for a distance of 460 metres then southerly for a distance of 450 metres to join*' and insert '*alongside the field boundary for a distance of 390 metres to its junction with Public Footpath No 5 then on the north-west and west side of the field boundary in a south-westerly and southerly direction for 800 metres to re-join*'. At line 8 delete '*3230*' and insert '*2850*'.
- At Parts I and II of the Schedule to the Order in respect of Bridleway 37 at line 4 delete '*480*' and insert '*500*'.
- At Part I of the Schedule to the Order, in respect of Footpath 5, at line 1 of the first paragraph after '*the footpath from*' delete '*a point marked D on alleged Public Bridleway No 39, 210 metres west of Willy's Cairn to a point marked E on Public Footpath No 40, 670 metres north of Selby's Cove*' and insert '*points A1 to A2 and points D1 to D2*' and at line 4 delete '*this section*' and insert '*these sections*'. At paragraph 2 from line 2 delete '*D on alleged Public Bridleway No 39, 210 metres west of Willy's Cairn*' and insert '*A1, 150 metres east of Burgh Hill Fort and from a point marked A2, 250 metres south of Burgh Hill Fort to a point marked D1, 260 metres south-west of Willy's Cairn*'.
- At Part II of the Schedule to the Order, in respect of Footpath 5, at line 1 delete '*670 metres north of Selby's Cove*' and insert '*380 metres south-west of Willy's Cairn*'. At line 2 delete '*1800*' and insert '*3300*'.
- At Part I of the Schedule to the Order, in respect of Footpath 40, delete '*part*' and insert '*parts*'.
- At Part II of the Schedule to the Order, in respect of Footpath 40, delete from line 3 '*and Windy Crag for a distance of 970 metres*' and insert '*for a distance of 380 metres to join Public Bridleway No 39 north-east of Windy Crag then leaving the Public Bridleway No 39 to the south of Windy Crag in a southerly direction for a distance of 510 metres*'. At line 4 delete '*210 metres west*' and insert '*270 metres south-west*'.
- On the Order map insert points A1, A2, D1, D2 and B1 and between the point 170 metres southwest of point A, where the schedule for bridleway 39 identifies a field gate, and point D delete the bridleway to be added. Further, between the point 170 metres southwest of point A, through A1 and A2, to

point D1 insert a line to denote a public bridleway. Between D and D1 delete the cross hatchings so as to denote a public footpath.

- On the Order map from point D2 to point B1 delete the section of Order route identified as a bridleway and insert a new line to show the route of the bridleway and delete '(5)'.
22. Since the confirmed Order would affect land not affected by the Order and not show a way in the Order as submitted I am required by virtue of Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Martin Elliott

Inspector

Order Decision

Site visit made on 27 April 2016

by **Martin Elliott BSc FIPROW**

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

Decision date: 18 September 2017

Order Ref: **FPS/P2935/7/46M2**

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The Northumberland County Council Definitive Map Modification Order (No 15) 2014.
- The Order is dated 18 August 2014 and proposes to modify the Definitive Map and Statement for the area by upgrading part of public footpath 5 Tosson to a bridleway and adding a public bridleway as shown in the Order plan and described in the Order Schedule.
- In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act notice of the proposal to confirm the Order subject to modifications has been given.

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

Procedural Matters

1. In my second interim decision dated 2 June 2017 I proposed to confirm the Order subject to modifications in respect of the location of the Order route. No objections were received in response to the proposal to modify the Order.

Conclusion

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

Formal Decision

3. The Order is confirmed subject to the following modifications:
 - In the Index to the Order under the column 'Modification', in respect of Bridleway 39 and Footpath 40, insert the letter 's' after the word 'part' so as to read 'parts'.
 - At Part I of the Schedule to the Order, in respect of Bridleway 39 at line 3 delete '4220' and insert '4210' and at Part II from line 4 delete 'as a woodland track for a distance of 460 metres then southerly for a distance of 450 metres to join' and insert 'alongside the field boundary for a distance of 390 metres to its junction with Public Footpath No 5 then on the north-west and west side of the field boundary in a south-westerly and southerly direction for 800 metres to re-join'. At line 8 delete '3230' and insert '2850'.

- At Parts I and II of the Schedule to the Order in respect of Bridleway 37 at line 4 delete '480' and insert '500'.
- At Part I of the Schedule to the Order, in respect of Footpath 5, at line 1 of the first paragraph after '*the footpath from*' delete '*a point marked D on alleged Public Bridleway No 39, 210 metres west of Willy's Cairn to a point marked E on Public Footpath No 40, 670 metres north of Selby's Cove*' and insert '*points A1 to A2 and points D1 to D2*' and at line 4 delete '*this section*' and insert '*these sections*'. At paragraph 2 from line 2 delete '*D on alleged Public Bridleway No 39, 210 metres west of Willy's Cairn*' and insert '*A1, 150 metres east of Burgh Hill Fort and from a point marked A2, 250 metres south of Burgh Hill Fort to a point marked D1, 260 metres south-west of Willy's Cairn*'.
- At Part II of the Schedule to the Order, in respect of Footpath 5, at line 1 delete '*670 metres north of Selby's Cove*' and insert '*380 metres south-west of Willy's Cairn*'. At line 2 delete '1800' and insert '3300'.
- At Part I of the Schedule to the Order, in respect of Footpath 40, delete '*part*' and insert '*parts*'.
- At Part II of the Schedule to the Order, in respect of Footpath 40, delete from line 3 '*and Windy Craggs for a distance of 970 metres*' and insert '*for a distance of 380 metres to join Public Bridleway No 39 north-east of Windy Craggs then leaving the Public Bridleway No 39 to the south of Windy Craggs in a southerly direction for a distance of 510 metres*'. At line 4 delete '*210 metres west*' and insert '*270 metres south-west*'.
- On the Order map insert points A1, A2, D1, D2 and B1 and between the point 170 metres southwest of point A, where the schedule for bridleway 39 identifies a field gate, and point D delete the bridleway to be added. Further, between the point 170 metres southwest of point A, through A1 and A2, to point D1 insert a line to denote a public bridleway. Between D and D1 delete the cross hatchings so as to denote a public footpath.
- On the Order map from point D2 to point B1 delete the section of Order route identified as a bridleway and insert a new line to show the route of the bridleway and delete '(5)'.

Martin Elliott

Inspector



Northumberland County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL
RIGHTS OF WAY SUB-COMMITTEE
14 December 2022

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

ALLEGED BYWAYS OPEN TO ALL TRAFFIC Nos 21 & 14 PARISHES OF NETHERTON & SNITTER

Report of the Executive Director of Local Services
Cabinet Member: Councillor Jeff Watson, Healthy Lives

Purpose of report

In this report, the North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4026 road, from the C176 road, east of Snitter Windysyde, in a general westerly direction to the C179 road, south-west of Low Trehwitt.

Recommendation

It is recommended that the sub-committee agrees that:

- (i) there is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route U-T-S-R;**
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the U-T-S-R route;**
- (iii) the U-T-S section of the alleged byway may not satisfy the balance of user / character test for being recorded as a byway open to all traffic;**
- (iv) the S-R section of the alleged byway does satisfy the balance of user / character test for being recorded as a byway open to all traffic;**
- (v) the S-R route be included in a future Definitive Map Modification Order as a byway open to all traffic.**

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 In the late 1980s the County Council carried out consultations regarding proposals to add a number of unsealed tracks in the north of the County to the Definitive Map as byways open to all traffic on the basis that the routes were included in the County Council's "List of Streets" as unclassified County roads (UCR). The rationale for doing so was that it would not be obvious to members of the public (particularly horse riders, walkers and cyclists) that they were legally entitled to use routes such as these (which were considered to have vehicular status), because their physical appearance might suggest otherwise.
- 2.2 The view, held by those officers of the Council responsible for maintaining the 'List of Streets' for the County of Northumberland was (and still is) that only public roads (not public bridleways or public footpaths) were shown on this List. The only exceptions to this are the surfaced paths and alleyways providing pedestrian links between roads, in urban areas. Thus, tracks in rural settings, which have their own unique reference numbers (e.g. the 'U4026' road), were considered to be all-purpose public highways maintainable at public expense.
- 2.3 Shortly afterwards, the processing of applications from third parties seeking to record public footpath or public bridleway rights was afforded a higher priority. Later on, the process of recording UCRs as byways open to all traffic was effectively suspended because the Ordnance Survey indicated that they would be showing such routes on their published maps as being an "Other route with public access". Although, on that basis, members of the public would still be unclear as to precisely what rights they had over routes identified in this fashion.
- 2.4 The most recent advice from DEFRA (paragraph 4.42, Rights of Way Circular 1/09) is that inclusion on the List of Streets may provide evidence of vehicular

rights but that this should be examined on a case by case basis. In view of this advice, it is considered prudent to evaluate the status of the U4026 unclassified County road based upon more than simply its inclusion in the List of Streets.

3. LANDOWNER EVIDENCE

- 3.1 By letter, received 23 February 2018, R Torrance and J Lazams of Foxton Cottage, Low Trehitt, responded to the consultation, stating:

"We do not own any land traversed by any of these routes.

"All the routes are marked as Byways open to all traffic. However, two are unsuitable for public traffic, only fit for tractors. These are no. 21 between R and the turn off to Kennels Cottage just west of S.

"Also number 15 which goes through a stream south of point T and into fields. These two routes have had almost no motor vehicles except farm vehicles in the past 20 years. They are used by walkers, horse riders etc. I would say that the same holds for the period May 2001 to May 2006.

"The other two routes are used by vehicles accessing the farm and cottages, and farm traffic, as well as walkers. These are number 14 U to T and number 21 T to S and 23 S to W to V."

4. CONSULTATION

- 4.1 In February 2018, 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 email, on 26th February 2018, Ms H Evans responded to the consultation on behalf of Cycling UK, stating:

"Ted has now looked at these and come back to me with the attached and also the comment that "Most are standard changes to confirm existing BOATs but a few are really good gains to the access network. No comment means we support and no comments are necessary".

Cycling UK did not make any comments in relation to this particular proposal.

- 4.3 By email, on 8th May 2018, the British Horse Society responded to the consultation, stating:

"Parish of Snitter

"Alleged byway open to all traffic 14 (Snitter Windyside)

This is a narrow farmac road which leads to this farm and other houses in the next parish. Although this section will mainly be used by vehicles, it will also be used by local horse riders, who use it to link to four off-road routes that leave it at various points. It is also part of the Sandstone Way so will be used by a considerable number of cyclists as

well. This shows it is part of the recreational network and so should be added to the definitive map.

“Netherton parish

“Alleged byway open to all traffic 21 (leading from Snitter Windyside)

This route has a short tarmac section between the parish boundary and the point where it turns south-west where it becomes a wide fenced stone track which continues to R where it meets another minor tarmac road. It is well used by local horse riders as part of the local network.”

4.4 By email, on 10th May 2018, Netherton & Biddlestone Parish Council responded to the consultation, stating:

“Further to correspondence dated 14/2/18, Netherton & Biddlestone Parish Council are only aware of walkers and horse riders using the routes, as opposed to open to all traffic.”

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

Although Low Trehwitt and Barns are both identified on the map, other than at the very western and eastern ends, there is no evidence of a road or track resembling the route of alleged Byways Nos 21 and 14.

1820 Fryer's County Map

There is clear evidence of an “Other Road” resembling the route of alleged Byways Nos 21 and 14.

1827 Cary's Map

There is clear evidence of a “Parochial Road” resembling the route of alleged Byways Nos 21 and 14.

1828 Greenwood's County Map

There is clear evidence of a “Cross Road” resembling the route of alleged Byways Nos 21 and 14.

c.1860 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an unenclosed road / track over the route of alleged Byway No 21 and an enclosed road / track over the route of alleged Byway No 14. The eastern end of the route is identified with the parcel number “22” in Snitter Township. In the accompanying Book of Reference, this parcel number is described as “Township Road”. The western part of the route doesn't appear to be identified with any unique number. It passes through the parcel numbers 96, 97, 98 and 99 in High & Low Trehwitt Township. In the accompanying Book of

Reference, these parcel numbers are described as "Pasture etc" and "Arable etc" - no road is mentioned.

1867 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a predominantly unenclosed road / track over the route of alleged Byway No 21 and an enclosed road / track over the route of alleged Byway No 14.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a predominantly unenclosed road / track over the route of alleged Byways Nos 21 and 14. Only a short section in the vicinity of Snitter Windyside (then Snitter Barns) appears to be enclosed.

Finance Act 1910 plan

There is clear evidence of a mainly enclosed road or track over the route of alleged Byways Nos 21 and 14. The majority of the route is shown as being separated from the surrounding land by coloured boundaries. This is generally considered to be good evidence in support of vehicular highway rights.

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

There is evidence of a mostly enclosed road / track over the route of alleged Byways Nos 21 and 14. By this time, only the section west of Point S appears to be unenclosed.

1932 Rothbury RDC Handover Map

No handover map appears to have survived for the former Rothbury RDC area.

c.1938 Restriction of Ribbon Development Act 1935 Map & Schedule

No map or schedule for the Rothbury RDC area appears to have survived.

1951 Highways Map

The route of alleged Byways Open to All Traffic Nos 21 and 14 is coloured purple so as to identify it as a publicly maintainable road. It is labelled as the "U4026".

c.1952 Definitive Map – original Survey Schedules & Map

The route of alleged Byways Open to All Traffic Nos 21 and 14 exists on the base map, and almost all of it is coloured brown. Known public roads were generally coloured brown to indicate what the extent of the road network was considered to be. In the Schedule for existing Netherton Footpath No 14 (at that time identified for inclusion as High & Low Trehwitt FP 8) the right of way is identified as starting at Low Trehwitt Cottages and ending at Trehwitt Kennels, without the road / alleged byway it crosses being mentioned.

Draft Map

The route of alleged Byways Open to All Traffic Nos 21 and 14 exists on the base map. It is not identified for inclusion on the Definitive Map as either a public footpath, public bridleway or Road Used as a Public Path (RUPP), although one public bridleway and one public footpath (numbered "1" and "8", respectively) are identified connecting with the alleged byway.

Provisional Map

As with the Draft Map, the route of alleged Byways Open to All Traffic Nos 21 and 14 exists on the base map. It is not identified for inclusion on the Definitive Map as either a public footpath, public bridleway or Road Used as a Public Path (RUPP), although one public bridleway and one public footpath (numbered "1" and "8", respectively) are identified connecting with the alleged byway.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a partly unenclosed (the western half) and partly enclosed (the eastern half) road / track over the route of alleged Byways Nos 21 and 14.

1958 County Road Schedule

In this Schedule, the entry for the U4026 road states:

"U4026 Snitter Barnes Road
From C179 south of its crossing with the Foxton Burns, via
Snitter Burns to C176 south of the entrance to Silverside."

The length of the U4026 road is identified as 1.76 miles.

1962 Original Definitive Map

The route of alleged Byways Nos 21 and 14 exists on the base map, but it is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1962 Original Definitive Statements

The original Definitive Statements for the public right of way intersecting with the alleged byways open to all traffic state:

Public Bridleway No 12 (Netherton)
"From the Burradon – Warton Road south of Low Trehwitt Lake in a south-easterly, northerly, north-easterly and easterly direction by the Old Quarry to join the County Road U 4073 at Low Trehwitt."

Public Footpath No 14 (Netherton)
"From BR 12 in a south-easterly direction crossing the Snitter Windyside Road to the Snitter Parish Boundary joining FP2 in that parish."

1964 Highways Map

The route of alleged Byways Open to All Traffic Nos 21 and 14 is coloured purple so as to identify it as a publicly maintainable road. It is labelled as the "U4026".

1964 County Road Schedule

In this Schedule, the entry for the U4026 road states:

"U4026 Snitter Windyside Road
From C179 north of Plainfield eastwards via Snitter Windyside to join C176 south of Silverside."

The length of the U4026 road is identified as 1.76 miles.

First Review Definitive Map

The route of alleged Byways Nos 21 and 14 exists on the base map, but it is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1974 County Road Schedule

In this Schedule, the entry for the U4026 road states:

"U4026, Snitter Windyside Road
From C179 north of Plainfield (NT 990040) eastwards via Snitter Windyside to join C176 south of Silverside (NU 015045)."

The length of the U4026 road is identified as 1.76 miles.

2005 Ordnance Survey Explorer OL16 Map: Scale 1:25,000

There is clear evidence of a road / track over the route of alleged Byways Nos 21 and 14. The U-T-S section is identified as a yellow road (in the map key this refers to a Road generally less than 4 metres wide). The S-R section is marked green dots which identify it as an "Other route with public access" (i.e. an ORPA).

2006 The Council's 'List of Streets' (2 May 2006)

The route of the alleged byways (the U4026) is clearly identified as publicly maintainable highway.

2016 Sandstone Way

The route of the alleged byways is part of the main Berwick – Hexham Sandstone Way mountain bike trail.

6. SITE INVESTIGATION

- 6.1 From a point marked U, on the C176 road, 480 metres east of Snitter Windyside, a 2.7 metre wide tarmac road in a 6.7 to 7.3 metre wide corridor proceeds in a westerly direction for a distance of 470 metres. This road continues in a general westerly direction for a further 115 metres through Snitter Windyside, typically 7 metres wide between the buildings, then continues as a 2.7 metre wide tarmac road in a 6.4 to 7 metre wide corridor, in a general westerly direction for 175 metres, then in a north-westerly direction for 310 metres to a junction with the U4027 road at a Point marked T (which is also the Netherton / Snitter parish boundary).
- 6.2 From Point T, a 2.7 metre wide tarmac road, in a 5.4 to 6.7 metre wide corridor proceeds in a westerly direction for a distance of 240 metres, then in a general northerly direction for a further 170 metres to Point S, being a junction with the U4073 road / existing Public Bridleway No 8. Just south of Point S, the road crosses the Wreigh Burn by means of an 8 metre long, 3.2 metre wide vehicle bridge. Thereafter, a 3 metre wide, mostly non-enclosed stone surfaced track proceeds in a westerly direction for a distance of 75 metres, crossing the Foxton Burn by means of a 9 metre long, 3 metre wide 'Irish Bridge' with footbridge immediately alongside, then continues in a south-westerly direction for 430 metres to a junction with existing Footpath No 14 (which is also a track leading to The Kennels). From this point, a 2 to 2.7 metre wide, unenclosed stone / earth / grass surfaced track, set back generally 5 to 5.5 metres south of the fence line to its north, with parts of it slightly sunken in relation to the surrounding land, proceeds in a westerly direction for a distance of 575 metres. Finally, a 2.7 to 3 metre wide stone / earth / grass surfaced track, within an 8 to 8.5 metre wide corridor, continues in a westerly direction for a further 520 metres to Point R, on the C179 road, 700 metres north of Plainfield.

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 The route of alleged Byways Open to All Traffic Nos 21 & 14 is identified on the County Council's current List of Streets as being the U4026 road. The route was identified on the Council's 1951 and 1964 Highways Maps and on the 1958, 1964 and 1974 County Road Schedules. No 1932 Handover Maps or Maps and Schedules produced under the Restriction of Ribbon Development Act 1935 appear to have survived for the Rothbury Rural District area.
- 7.5 The route has been consistently identified as a road / track on Ordnance Survey maps since the 1860s. The western portion was not initially enclosed, then later it was, though part of it is now unenclosed once more. The route would not appear to be shown on Armstrong's County Map of 1769, but is shown on Fryer's and Greenwood's County Maps of 1820 and 1828, and on Cary's Map of 1827. The enclosed part of the route was shown as being separated from the surrounding land by coloured boundaries, on the plans produced in association with the Finance Act 1910. This is considered to be good evidence in support of public vehicular rights.
- 7.6 The County Council accepts that, given the way the regulations were written with regard to the way highway authorities could include publicly maintainable highways in the List of Streets, there was no impediment to public bridleways and public footpaths also being included. That is not to say that any bridleways or footpaths were so shown – just that they could be. It must, therefore, be entirely proper to consider each UCR on a case by case basis, but that does not mean that we should begin with the assumption that each UCR is no more than a public footpath unless higher rights can be proven by other means. In Northumberland there is no evidence to suggest that public footpaths and public bridleways were deliberately shown on the 1958, 1964 or 1974 County Road Schedules (forerunners of the modern day List of Streets). The fact that a route is shown on these schedules must, therefore, be evidence of some weight that public vehicular rights exist.
- 7.7 Letters from DEFRA, dated 2003 and November 2006, and Rights of Way Circular 1/09 set out the approach Inspectors and order making authorities should take in determining the status of routes included on the List of Streets. In summary, the guidance states that the inclusion of a route on the List of Streets is not a record of what legal rights exist over that highway but may provide evidence of vehicular rights. However, this must be considered with all other relevant evidence in order to determine the nature and extent of those rights. Highway Authorities are recommended to examine the history of such routes and the rights that may exist over them on a case by case basis in order to determine their status.
- 7.8 The Natural Environment and Rural Communities Act 2006 (NERC Act 2006) had a major impact upon the recording of byways open to all traffic based upon historical documentary evidence. Under section 67 of the Act, any existing, but unrecorded, public rights of way for mechanically propelled vehicles were extinguished unless one of the 'saving' provisions applied. In brief, these saving provisions were: (a) if the main lawful public use between 2001 and 2006 was with motor vehicles; (b) if the route was on the List of Streets (on 2 May 2006) and not also on the Definitive Map as something less than a byway open to all traffic; (c) the route was legally created expressly for

motor vehicular use; (d) the route was a road deliberately constructed for public motor vehicular use; or (e) the vehicular highway came about as a result of unchallenged motor vehicular use before December 1930.

- 7.9 Of the saving provisions above, the main one (b), will apply to the U4026 road. Where a route is not shown on the Definitive Map as a footpath, bridleway or restricted byway, then the fact that it is shown on the List of Streets will be sufficient to prevent the public's motor vehicular rights from being extinguished.
- 7.10 For a route to be a byway open to all traffic, it has to be (i) a public motor vehicular right of way and (ii) a route which is nevertheless used (or is likely to be used) by the public mainly for the reasons which footpaths and bridleways are used. The eastern half of this route, as far as Point S, has a drivable tarmac surface, and is clearly in regular use by the owners of the immediately surrounding farms, the residents at Low Trehwitt and The Kennels and their visitors. Apart from a relatively short section of road, just west of Point S, the remainder of the route is grass / earth / stone surfaced, and we would not anticipate this section to be driven by 'normal' motor vehicles. From the consultation responses of R Torrance & J Lazams, Netherton Parish Council and the British Horse Society, and from my own site visit, it seems clear that public use of the route is primarily on foot, horseback and bicycle, with motor vehicular use being only occasional. This route is also part of the Sandstone Way mountain bike trail (between Berwick and Hexham) which is understood to be used by several thousand cyclists each year. Whilst the actual relative proportions of these types of public use isn't known, use by the general public is considered likely to be predominantly non-motor vehicular over the S-R section. Whilst the balance of public use may favour non-motorised traffic over some or all of the metalled U-T-S section too, this is less clear, so it is not proposed to make an order for this part.
- 7.11 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. Where no width can be determined by documentary means (such as an Inclosure Award, Highway Order or dedication document), there is usually a boundary to boundary presumption for public highways. It is proposed to record the westernmost 1095 metres of the route with a width varying from 7 to 8.5 metres, as identified in paragraph 6.1, above. The most westerly 520 metres is currently enclosed, and the rest was enclosed in the past, and the current track has at least a 5 metre 'verge' between it and the boundary to the north. The section east of this, between Footpath No 14 and Point S, does not (and seems never to have had) boundaries on both sides. It is proposed that this length of unenclosed road be recorded with the Council's standard default width of 5 metres (i.e. wide enough for two vehicles, travelling in opposite directions, to pass each other). Although the officer recommendation is that the U-T-S section is not recorded as a byway open to all traffic, if this recommendation is *not* accepted, it is suggested that this part be included with the 5.4 to 7.3 metre widths identified in paragraph 6.1.

8. CONCLUSION

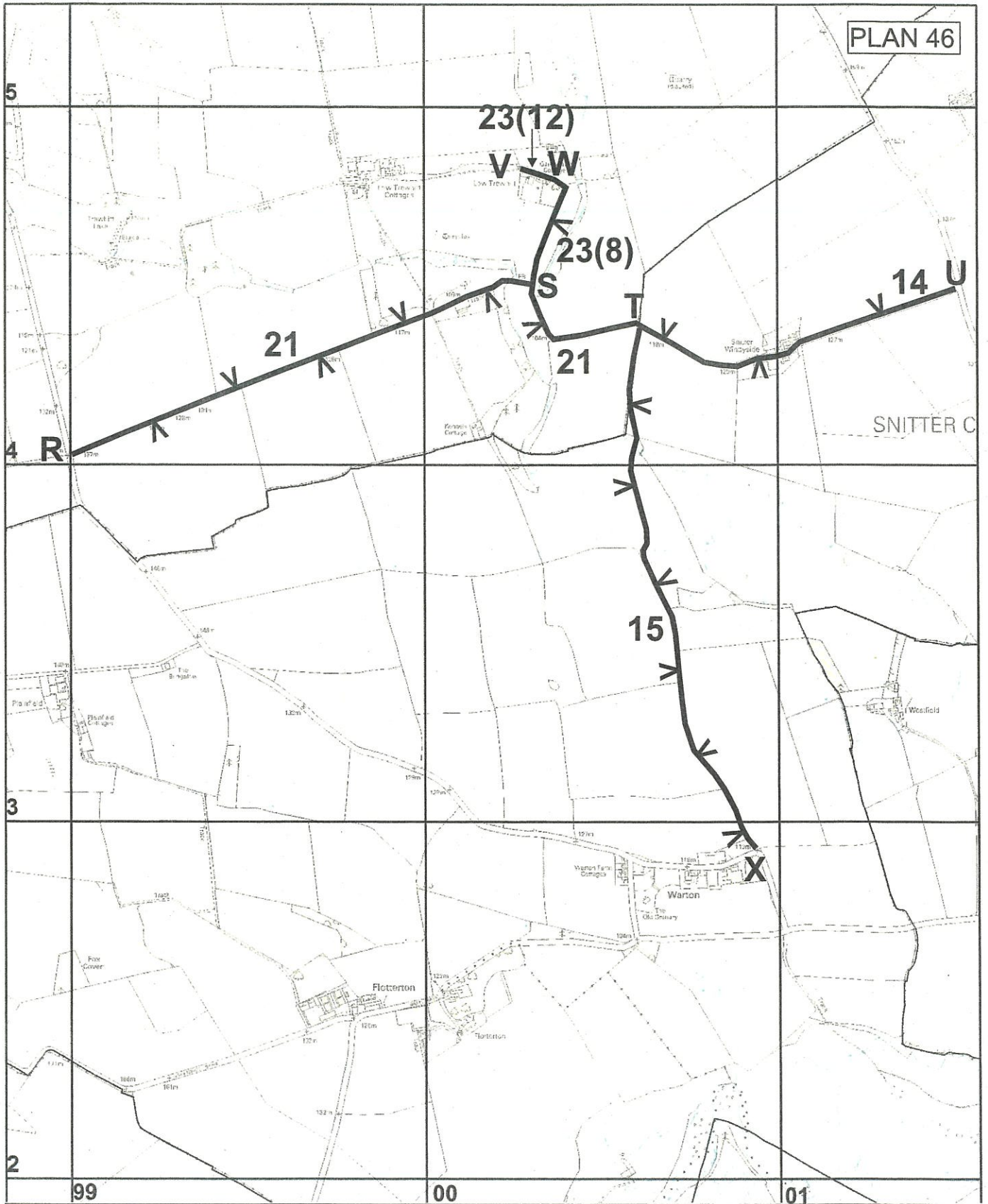
- 8.1 In light of the documentary evidence available, it appears that public vehicular rights have been reasonably alleged to exist over the route of alleged Byways Open to All Traffic Nos 21 & 14

- 8.2 The Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motor vehicular rights over the route.
- 8.3 The S-R part of the route would appear to satisfy the balance of user / character test for being recorded on the Definitive Map as a byway open to all traffic and it would, therefore, be appropriate to recognize the public's rights over the route by recording it on the Definitive Map as byways open to all traffic.

BACKGROUND PAPERS

Local Services Group File: A/25/21z & A/33/14z

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

**Wildlife and Countryside Act 1981
 Public Rights of Way**

 Alleged Byway Open to All Traffic

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Former District(s)

Alnwick

Parish(es)

Netherton/Snitter

Scale

1:15,000

Def. Map No.

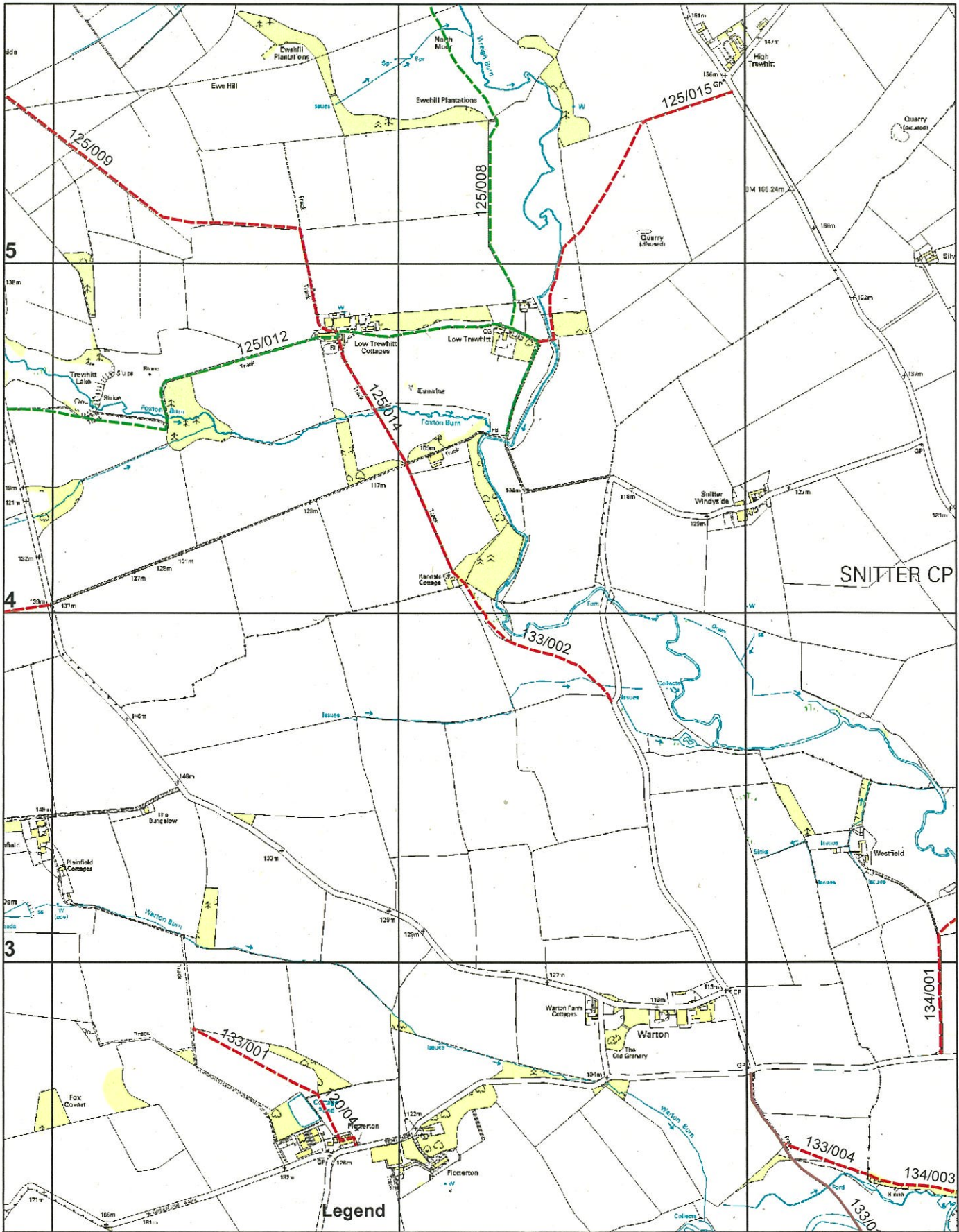
Page 82

O.S. Map

NT 90 SE/NU 00 SW

Date

October 2016



Legend

- - - Footpath
- - - Bridleway
- - - Restricted Byway
- Byway Open to All Traffic
- 1km Gridlines

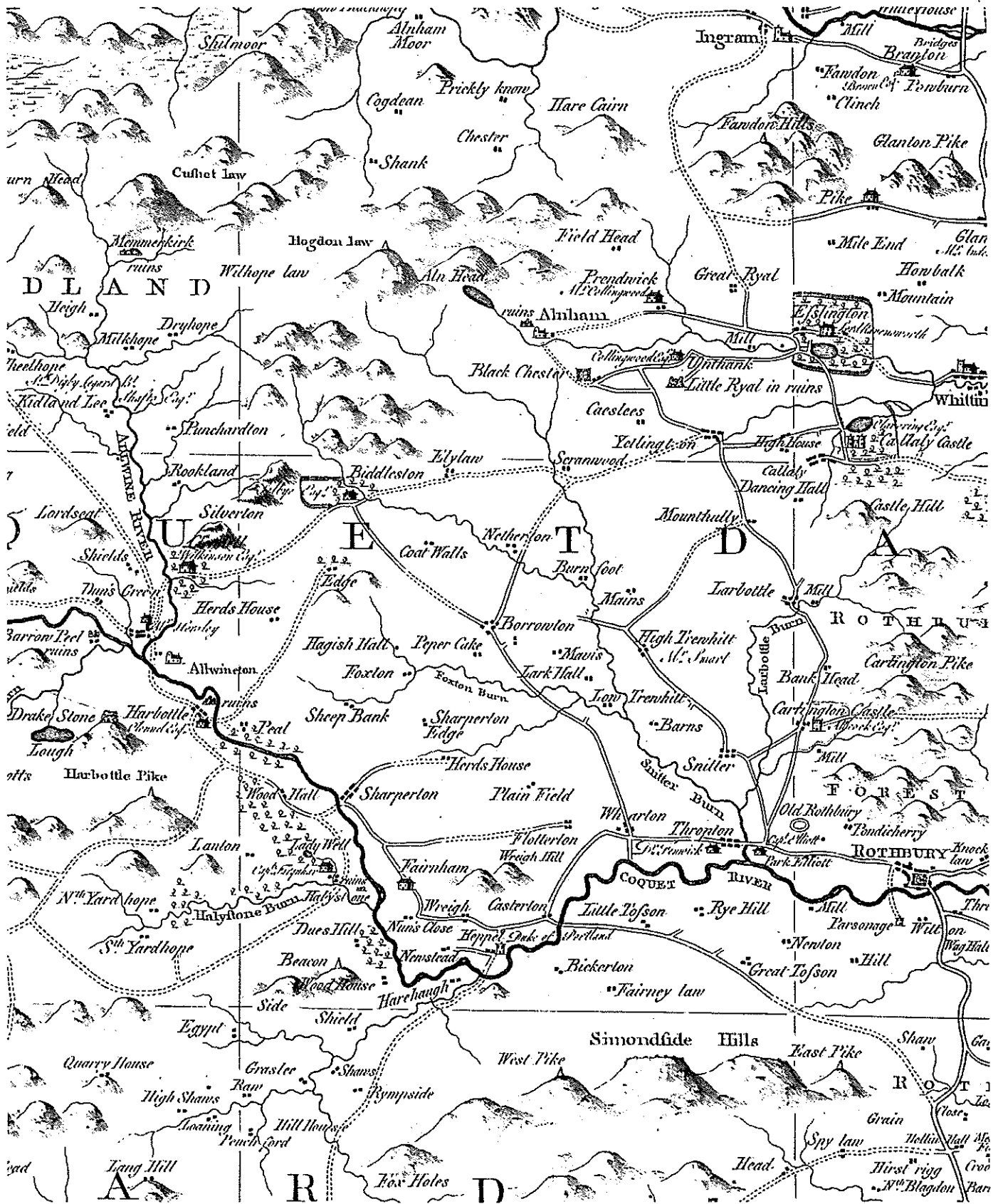
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way

Scale: 1:10,000


Northumberland
 County Council
 Sustainable Transport
 Local Services
 County Hall Morpeth Northumberland
 NE61 2EF Tel: 01670 533000

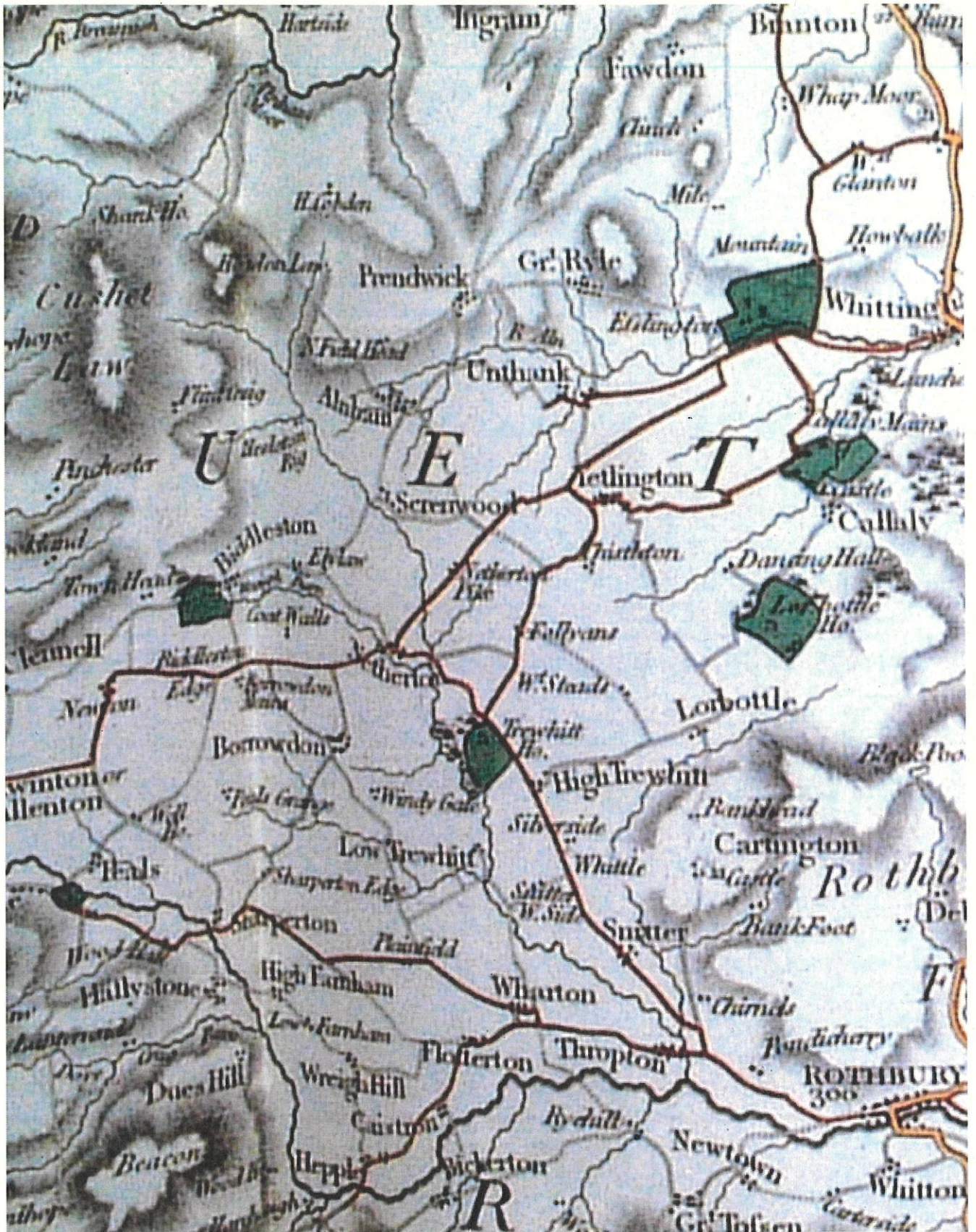
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Armstrong's County Map
1769



Fryer's County Map
1820

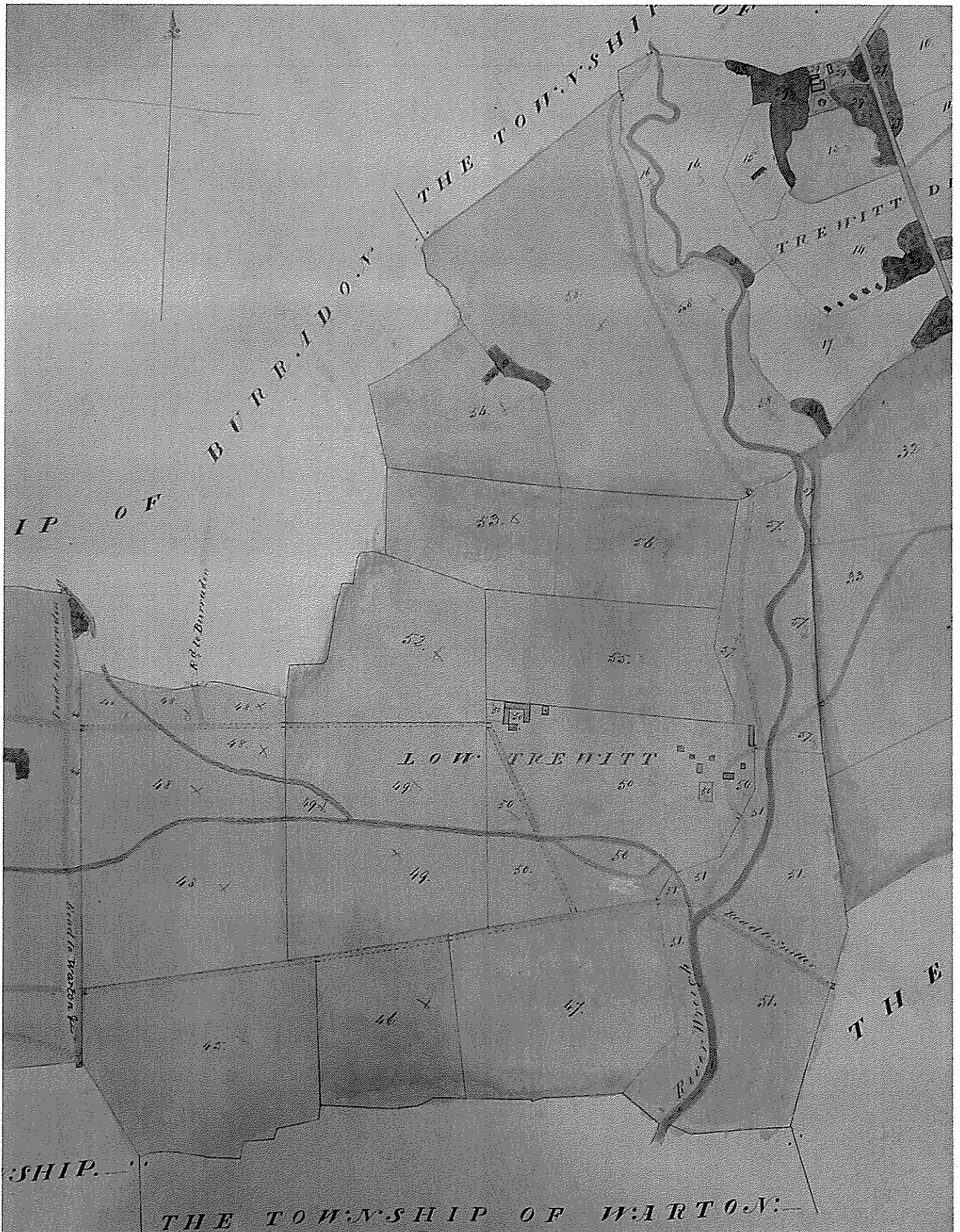




Greenwood's County Map
1828



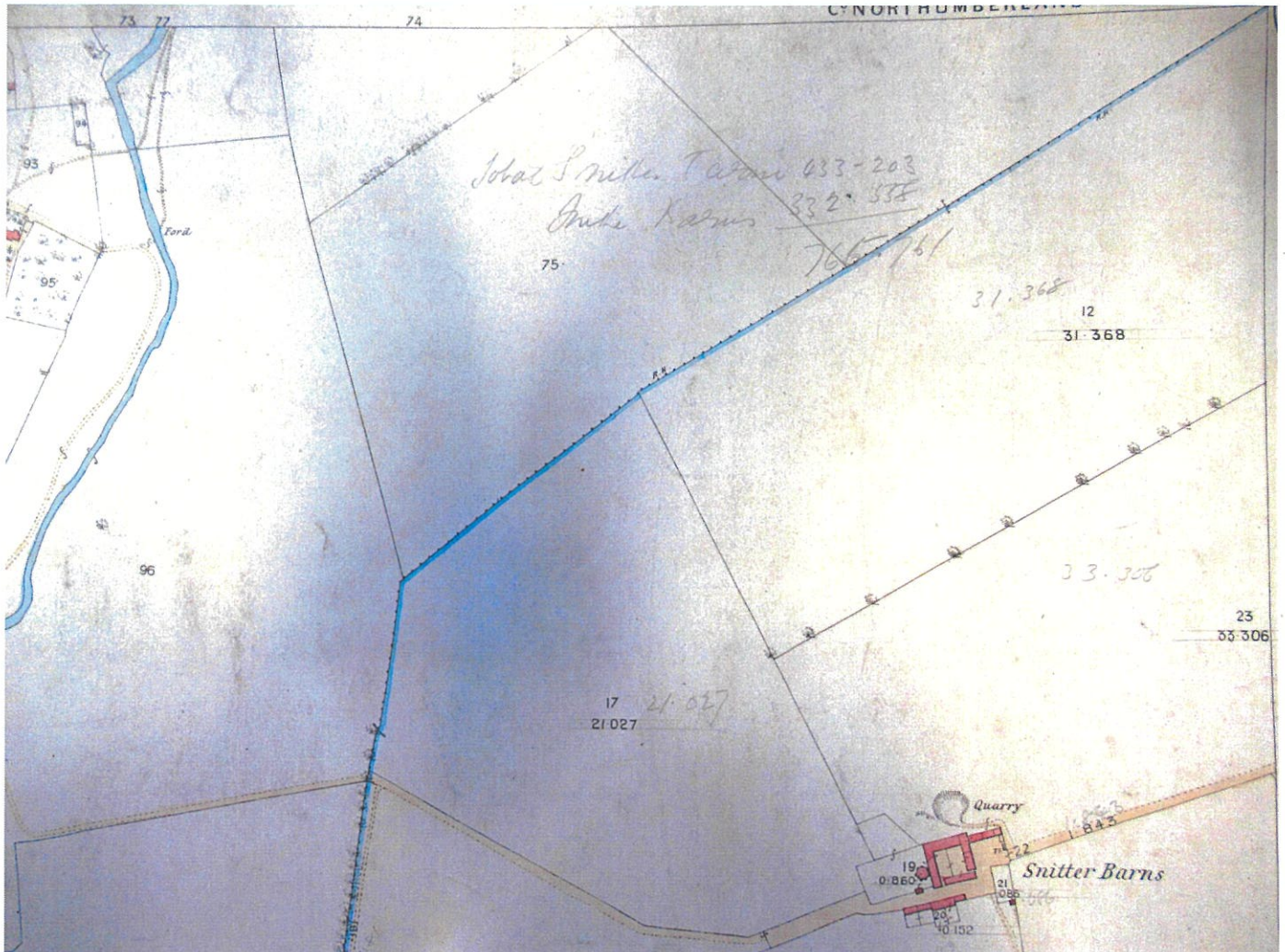
High and Low Trehitt Tithe Award
1841



1st Edition 25" O.S. Map
c.1860



(Western end)



(Eastern end)

PARISH OF ROTHBURY.

No. of Plan.	Area in Acres.	Remarks.	No. of Plan.	Area in Acres.	Remarks.								
111	1768-018	Brought forward.	RECAPITULATION FOR THE TOWNSHIP. <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>2784-768</td> <td>Land.</td> </tr> <tr> <td>8-188</td> <td>Public roads.</td> </tr> <tr> <td>218</td> <td>Water.</td> </tr> <tr> <td>2793-172</td> <td>Total area of the Township of Cartington.</td> </tr> </table>			2784-768	Land.	8-188	Public roads.	218	Water.	2793-172	Total area of the Township of Cartington.
2784-768	Land.												
8-188	Public roads.												
218	Water.												
2793-172	Total area of the Township of Cartington.												
112	2-228	Wood, &c.											
113	-080	Garden.											
114	22-221	Arable, &c.											
115	9-482	Pasture, &c.											
116	88-628	Rough pasture, rocks, &c.											
117	1-676	Public road.											
118	1-298	Wood, &c.											
119	-029	House and garden (Blue Chirnels).											
120	-451	Pasture.											
121	3-696	Arable.											
122	-100	Pasture.											
	-548	Wood.											
	1898-448												

RECAPITULATION.

1890-557	Land.
7-668	Public roads.
218	Water.
1898-448	Area of the Township of Cartington (exclusive of the detached part).

TOWNSHIP OF CARTINGTON

1	620	Public roads.
2	894-069	Rough pasture, rocks, &c.
	894-720	
	218	Water.
	1898-448	Area of the Township of Cartington (exclusive of the detached part).

TOWNSHIP OF HIGH AND LOW TREWHITT.

1	-269	Wood.
2	3-428	Wood.
3	19-846	Arable.
4	30-630	Arable.
5	20-018	Pasture.
6	3-080	Wood (Crabby Plantation).
7	20-835	Arable.
8	14-501	Pasture.
9	-522	Wood.
10	4-180	Wood, &c.
11	2-069	Houses, yards, gardens, &c. (Trewitt House).
12	6-582	Wood, &c.
13	7-674	Public road.
14	2-469	Wood.
15	20-056	Pasture.
16	-489	Stackyard.
17	-944	Occupation road.
18	2-589	Houses, yards, gardens, &c. (Trewitt Stead).
19	2-262	Pasture.
20	1-810	Wood, &c.
21	21-711	Arable.
22	25-534	Pasture, &c.
23	1-891	Wood.
24	21-982	Pasture.
25	27-194	Pasture, &c.
26	36-810	Arable, &c.
27	7-432	Arable.
28	-118	Wood.
29	1-075	Wood.
30	1-937	Pasture.
31	8-208	Pasture, &c.
32	21-735	Arable, &c.
	338-162	Carried forward.

111	1768-018	Brought forward.
112	2-228	Wood, &c.
113	-080	Garden.
114	22-221	Arable, &c.
115	9-482	Pasture, &c.
116	88-628	Rough pasture, rocks, &c.
117	1-676	Public road.
118	1-298	Wood, &c.
119	-029	House and garden (Blue Chirnels).
120	-451	Pasture.
121	3-696	Arable.
122	-100	Pasture.
	-548	Wood.
	1898-448	

OS Book of Reference
(extract)

BY

PARISH OF ROTHBURY.

87

TOWNSHIP OF HIGH AND LOW TREWITT.			TOWNSHIP OF SNITTEE.		
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
	338.182	<i>Brought forward.</i>		1829.792	<i>Brought forward.</i>
33	2.869	Wood, &c.	80	.021	House.
34	.890	Wood.	81	.060	Pasture.
35	.103	Pasture.	81a	.661	Wood.
36	2.079	Pasture, &c.	82	2.219	Public road.
37	20.905	Pasture.	88	71.061	Pasture, &c.
38	1.762	Pasture.	84	52.865	Arable, &c.
39	.531	Arable.	85	.542	Stackyard, &c.
40	1.108	Wood.	86	.611	Houses, yards, &c.
41	.700	Wood.	87	.156	Houses and garden.
42	42.835	Pasture, &c.	88	.846	Pond.
43	41.756	Pasture, &c.	89	48.998	Pasture, &c.
44	2.987	Township road.	90	.049	Wood.
45	1.946	Wood.	91	.496	Wood.
46	.861	Wood.	92	1.318	Houses, yards, gardens, &c. (Low Trewitt).
47	26.677	Pasture, &c.	93	2.458	Pasture, &c.
48	30.369	Arable, &c.	94	.088	Garden.
49	1.193	Wood.	95	.928	Orchard.
50	122.906	Rough pasture, &c.	96	86.389	Arable, &c.
51	.897	Wood.	97	42.616	Pasture, &c.
52	30.322	Arable, &c.	98	24.365	Pasture, &c.
53	1.450	Pasture, &c.	99	39.845	Arable, &c.
54	.909	Wood.	100	.492	Wood.
55	3.320	Wood.	101	28.878	Arable, &c.
56	38.643	Arable.	102	2.216	Arable.
57	2.988	Houses, yards, gardens, &c. (High Trewitt).		1681.955	
58	.097	Houses, &c.			
59	2.164	Pasture.			
60	.079	Garden.			
61	24.886	Arable.			
62	38.236	Arable.			
63	24.677	Arable.			
64	4.146	Wood, &c.			
65	24.889	Arable.			
66	25.727	Pasture.			
67	.151	Wood.			
68	17.649	Arable, &c.			
69	28.169	Arable, &c.			
70	30.197	Pasture, &c.			
71	34.989	Arable, &c.			
72	36.099	Pasture, &c.			
73	31.991	Pasture, &c.			
74	17.988	Arable.			
75	20.882	Arable.			
76	27.441	Pasture, &c.			
77	5.088	Stream (Wreigh Burn).			
78	218.979	Rough pasture, &c.			
79	1.205	Wood.			
	1829.792	<i>Carried forward.</i>			

RECAPITULATION.

1668.646	Land.
12.880	Public roads.
5.429	Water.
1681.955	Total area of the Township of High and Low Trewitt.

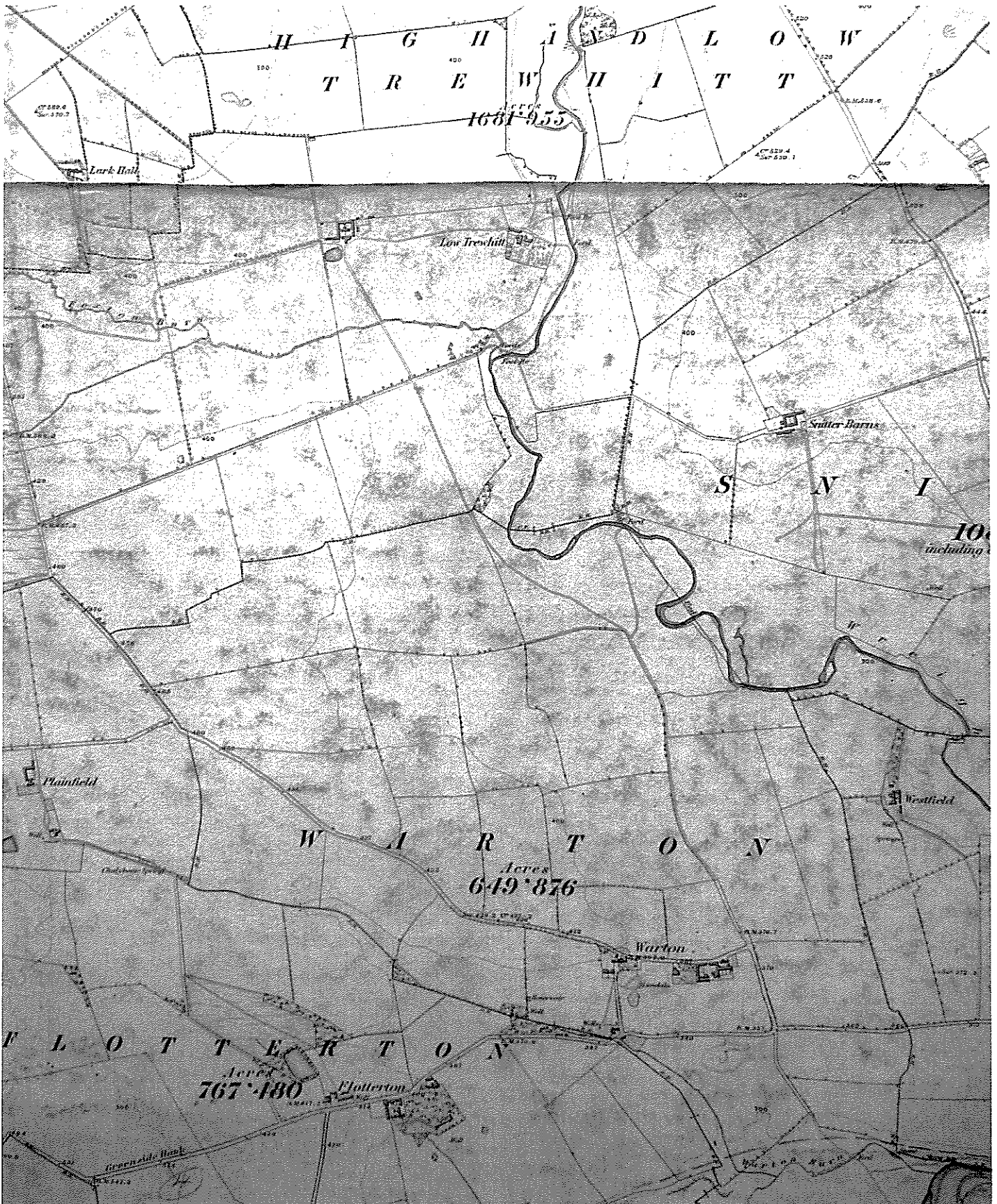
TOWNSHIPS OF ROTHBURY AND SNITTEE (intermixed).

23.451	Pasture, &c.
23.451	Area of Rothbury and Snittee Townships (intermixed).

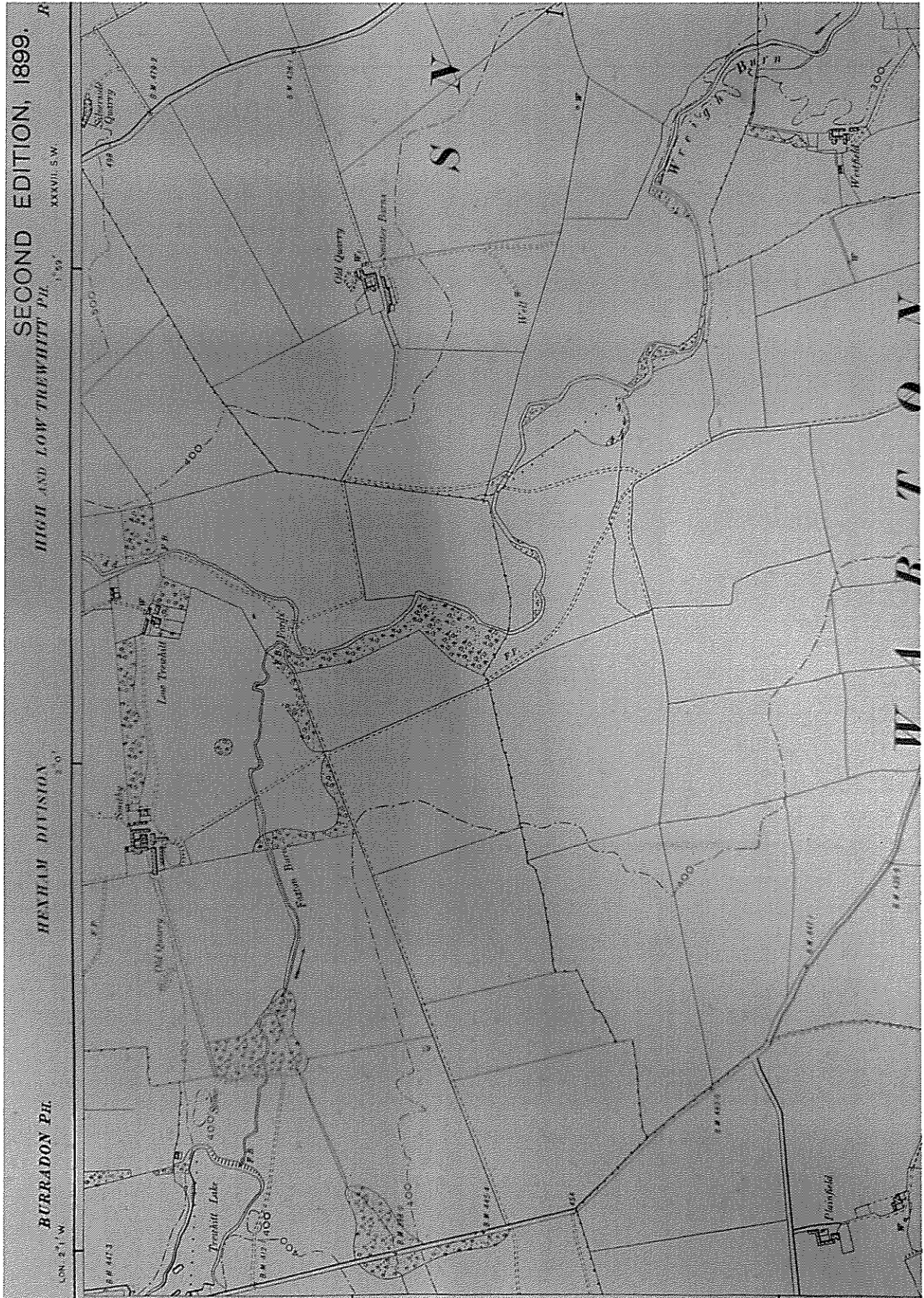
* Two-thirds of this parcel belong to the Township of Rothbury, the remaining third to the Township of Snittee.

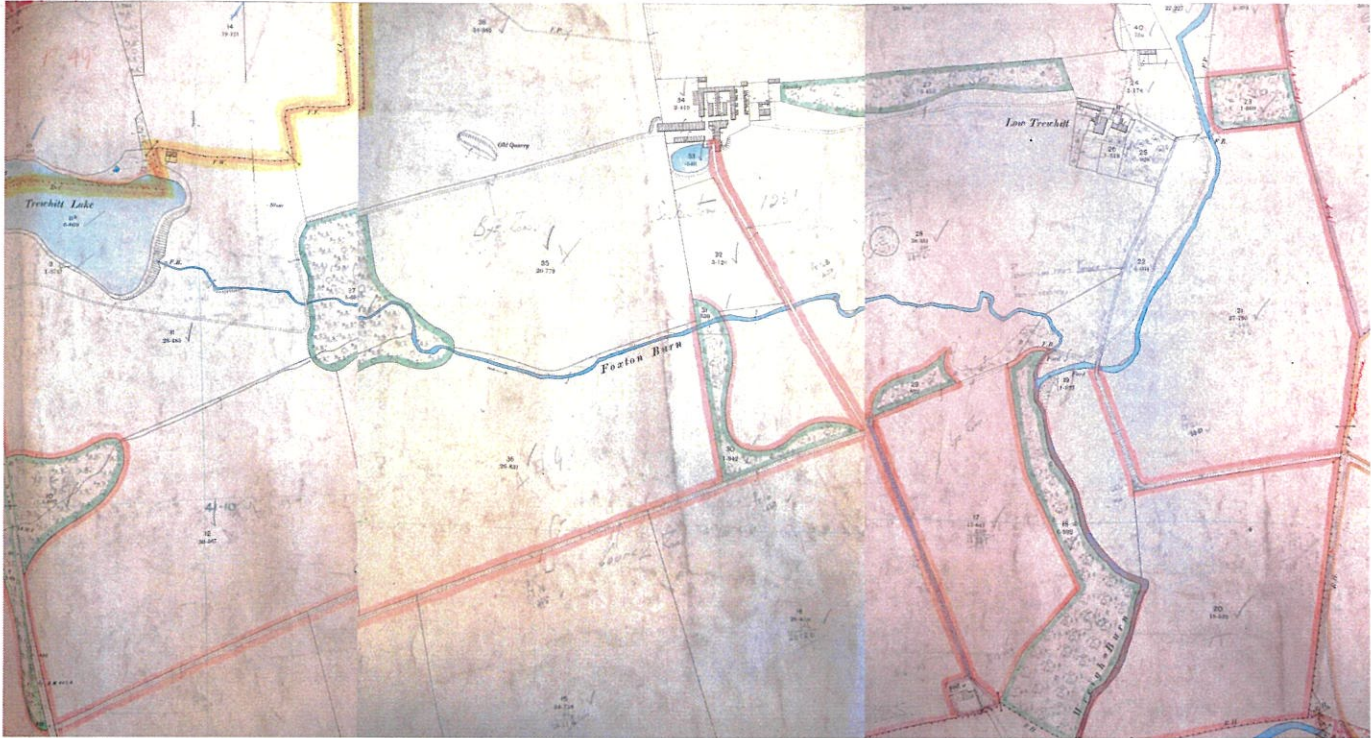
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
TOWNSHIP OF DEBDON (Detached).			RECAPITULATION.		
1	.216	House, garden, &c. (Whitefield House).	411-036	Land.	
2	5.540	Pasture, &c.	.740	Public road.	
3	38.097	Rough pasture.	411.796	Total area of the Township Wreighill.	
	88.853	Area of the Township of Dobdon (Detached).			
RECAPITULATION FOR THE TOWNSHIP.			TOWNSHIP OF SNITTER.		
	287.084	Land.	1	20.085	Rough pasture, &c.
	.882	Public road.	2	14.600	Pasture.
	287.966	Total area of the Township of Dobdon.	3	27.382	Pasture, &c.
			4	24.786	Pasture, &c.
			5	11.609	Pasture.
			6	.883	Houses, yards, garden, &c. (Silverside).
			7	5.597	Pasture.
			8	9.940	Pasture, &c.
			9	10.298	Pasture, &c.
			10	.544	Wood, &c.
			11	14.991	Pasture, &c.
			12	31.368	Pasture.
			13	7.008	Public road.
			14	12.234	Arable.
			15	13.947	Arable.
			16	10.848	Pasture.
			17	21.027	Pasture.
			18	20.710	Pasture, &c.
			18a	.181	Township road.
			19	.860	Houses, yards, garden, &c. (Snitter Barn).
			20	.152	Houses and yards.
			21	.066	Garden, &c.
			22	1.843	Township road.
			23	83.308	Arable.
			24	16.717	Arable.
			25	10.089	Pasture.
			26	14.278	Arable.
			27	16.400	Arable.
			28	15.919	Arable, &c.
			29	31.975	Pasture, &c.
			30	19.110	Arable.
			31	20.579	Arable.
			32	.566	Pasture.
			33	47.469	Pasture, &c.
			487.280	Carried forward.	
TOWNSHIP OF WREIGHILL.					
1	17.289	Pasture.			
2	.740	Public road.			
3	35.969	Pasture.			
4	22.482	Pasture.			
5	21.192	Pasture.			
6	.299	Gardens.			
7	.022	House, &c.			
8	.201	Houses, yards, &c.			
9	.072	Houses and garden.			
10	90.668	Pasture, &c.			
11	12.670	Pasture, &c.			
12	22.214	Pasture, &c.			
13	18.718	Pasture, &c.			
14	17.007	Pasture, &c.			
15	40.886	Pasture, &c.			
16	1.104	Pasture.			
17	47.185	Pasture, &c.			
18	85.155	Arable.			
19	28.028	Pasture, &c.			
	411.796				

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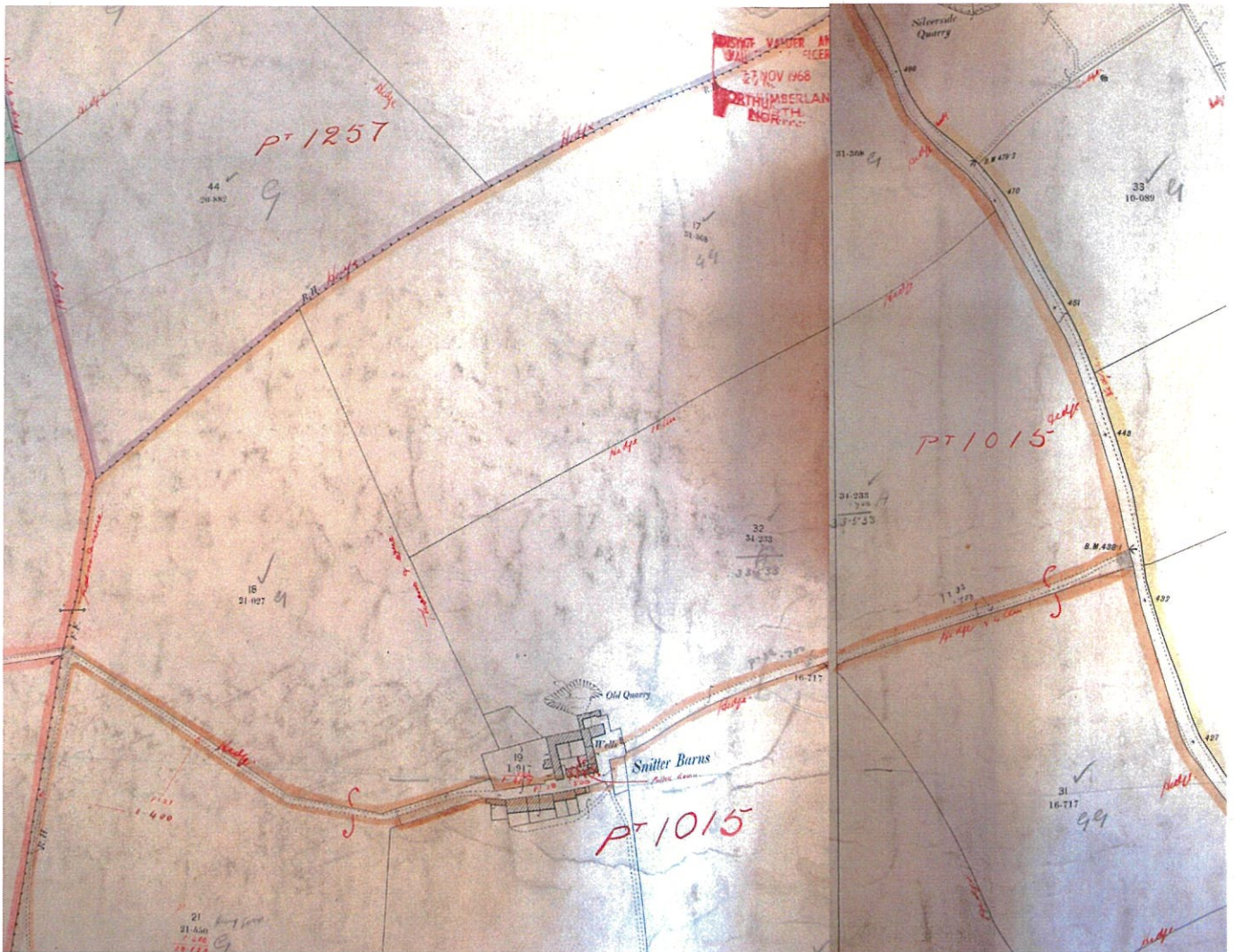
2nd Edition 6" O.S. Map
1899



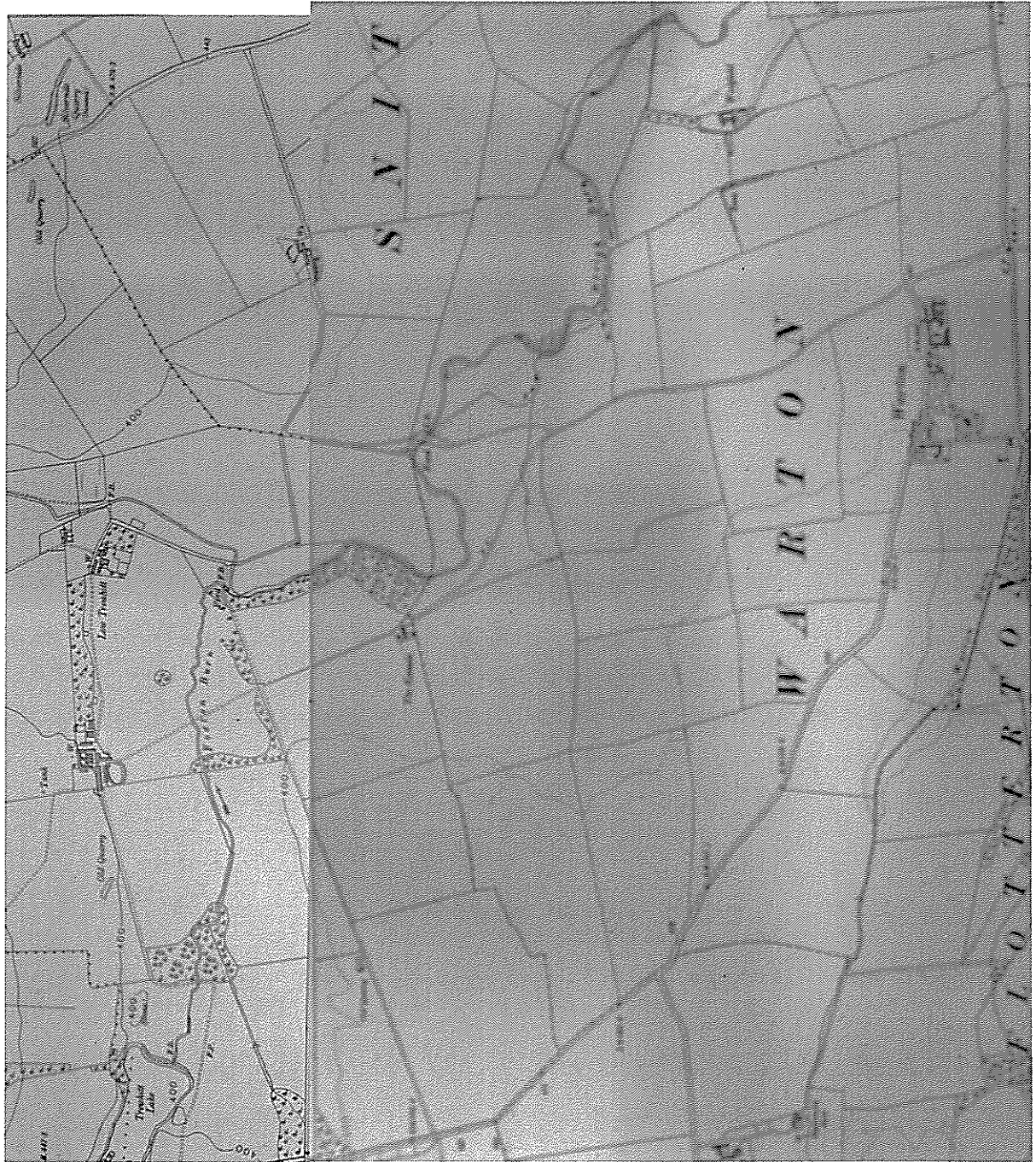


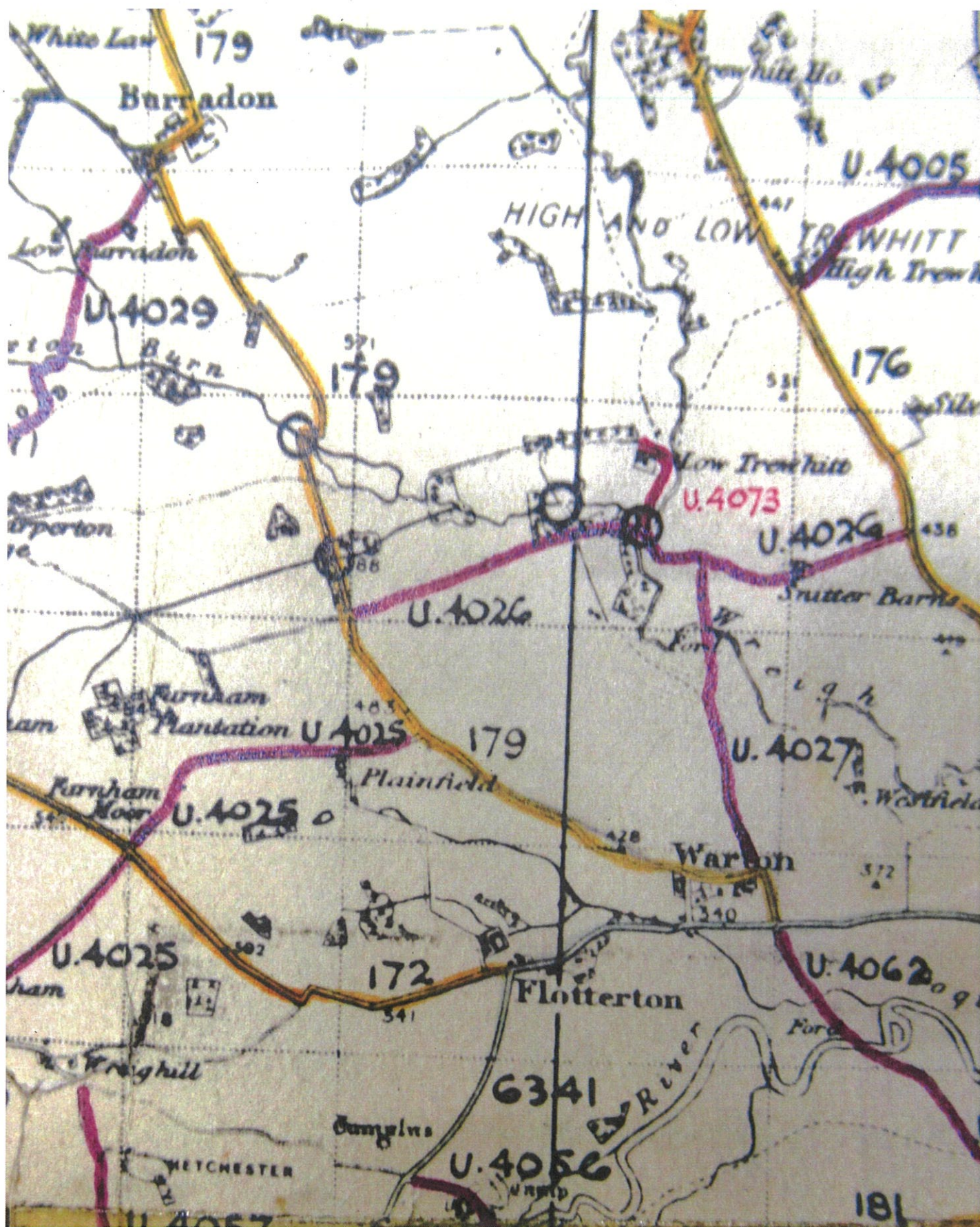
(Western end)

Finance Act 1910 Plan



(Eastern end)





Survey Map



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

Parish of High & Low Trewthitt in the Rural District of

Northby

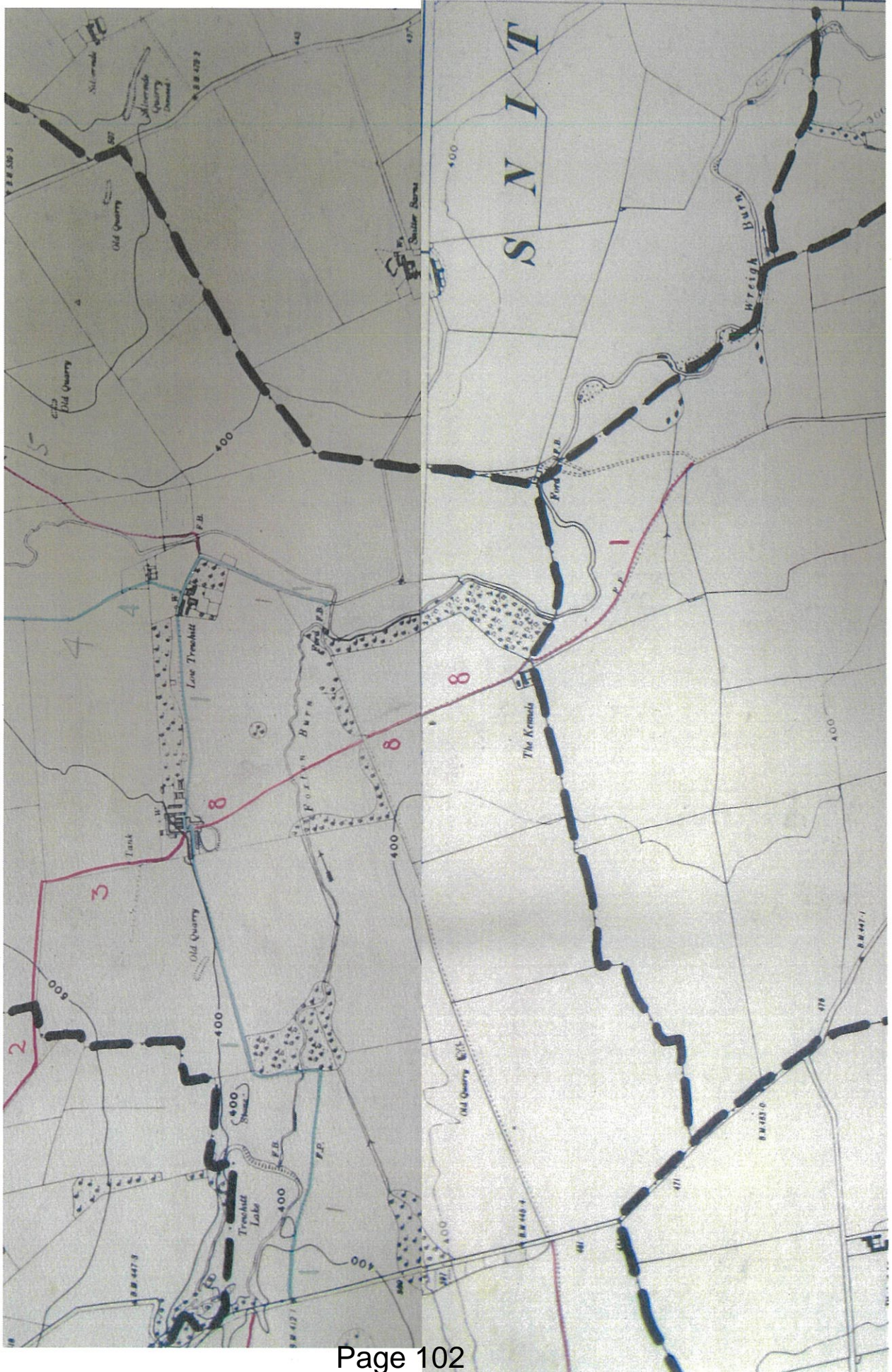
Borough }
Urban District } of _____
(Delete whichever is inapplicable).

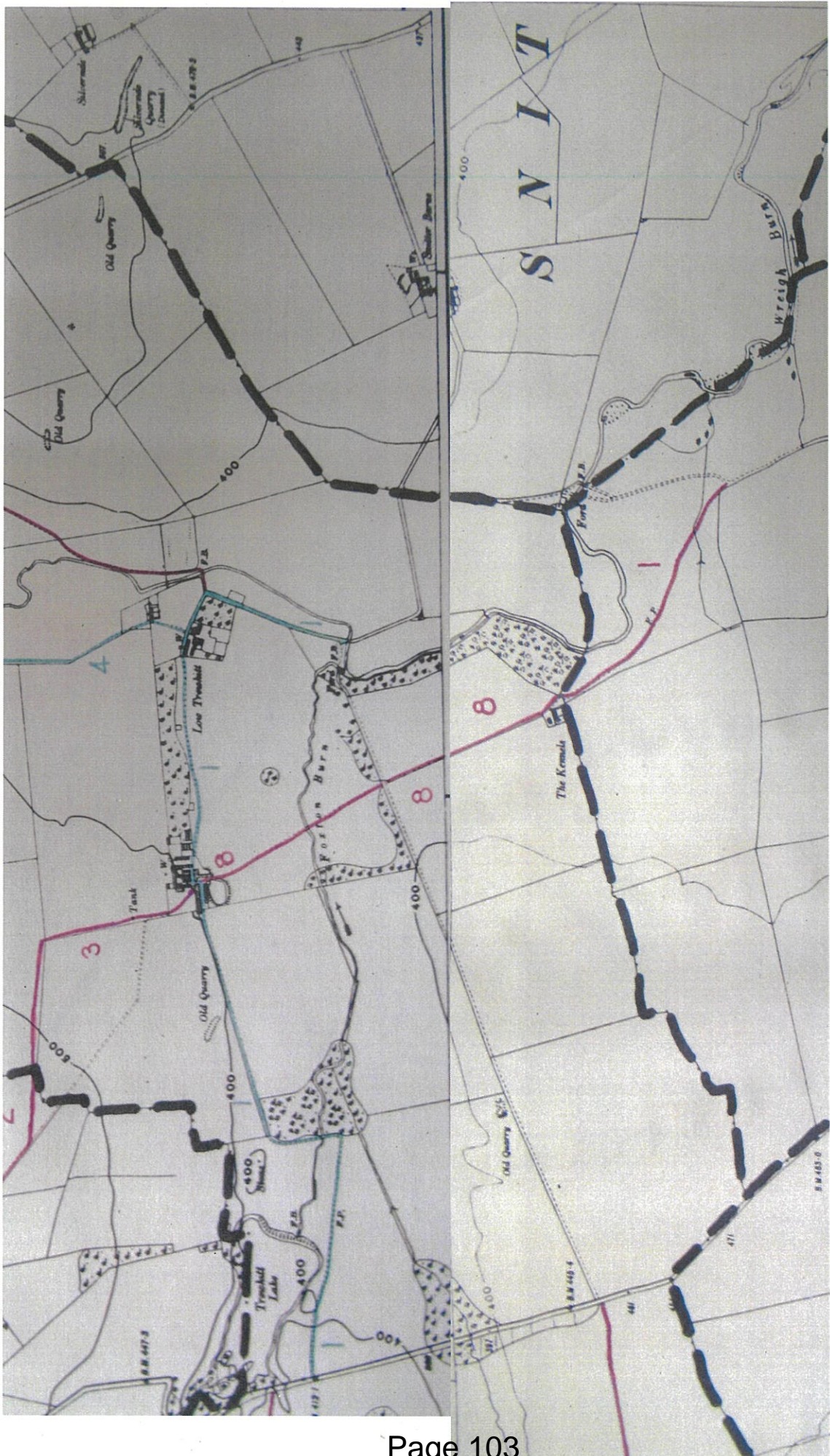
1. Number of highway on Map 8
2. Kind of Path (i.e., F.P., B.R.) F.P
3. Starts at Low Trewthitt Cottages to Trewthitt Kennels
4. Name of Path (if any) _____
5. Is the Path well defined? Yes
6. Is the Path metalled? If so, define length metalled for 500 yds to first gate
7. If its width can be stated, insert here _____
8. What is the present condition of the path, stiles, etc.? Good
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 _____
11. Grounds for believing the path to be public (if known), e.g. "Awarded," "Repaired at Public Expense" (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant _____
12. Have persons been prevented using the highway? No
13. Give particulars of any obstructions _____
14. Names of owners of freehold and previous owners, if known, for past 30 years Rod Armstrong
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 _____

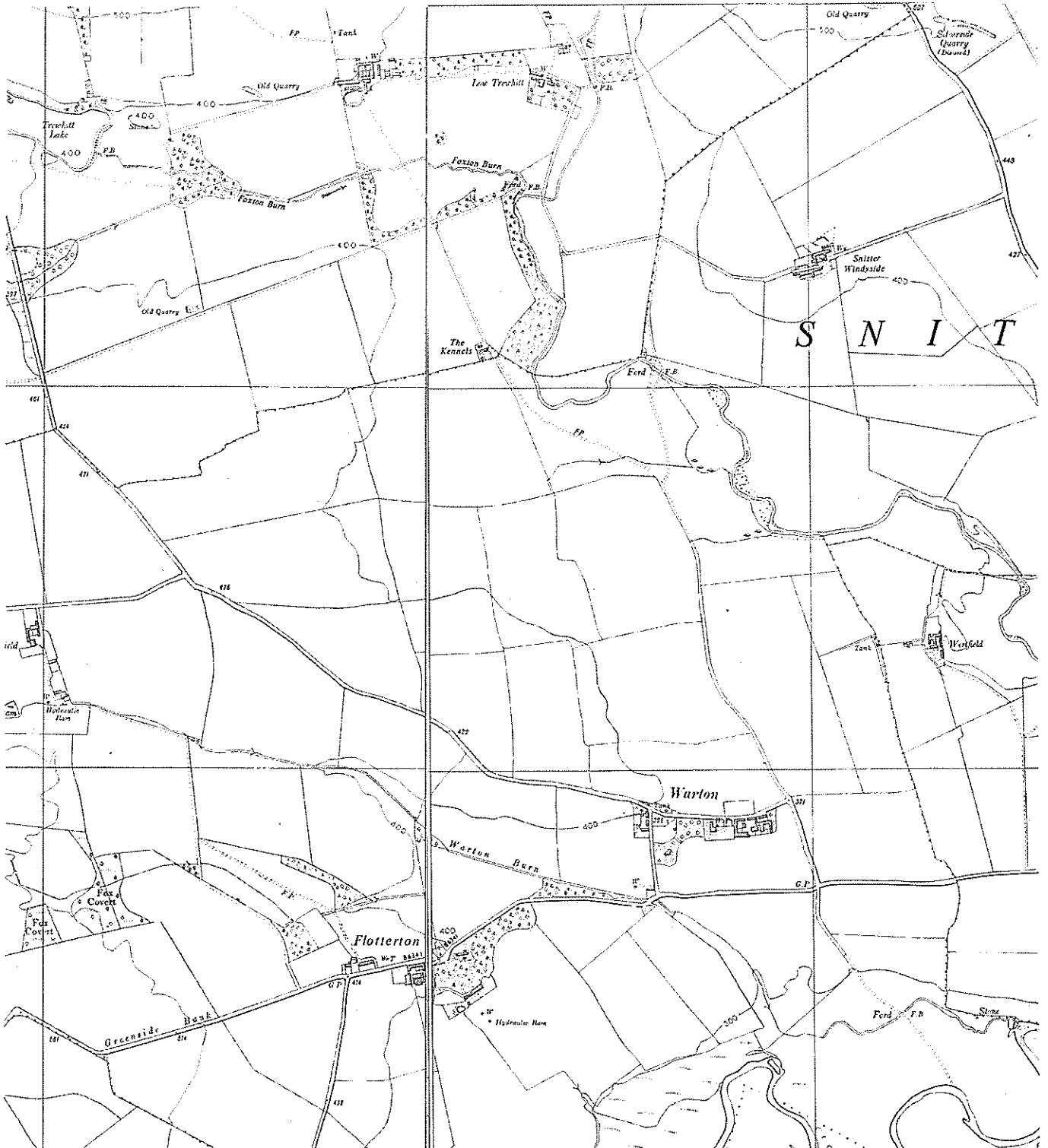
Surveyed by	Address	Dates of Survey
<u>John H. Christoph</u>	<u>Low Trewthitt Thorn maneth</u>	<u>21/2/52</u>

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

NXLI, NW, 05T 00912







1958 County Road Schedule

ALNWICK DIVISION

Unclassified Roads in the Rothbury Rural District

		Brought Forward	19,410 miles
U.4015	Scrainwood - Metherton Buildings Road	From C.169 at Scrainwood to C.172 east of Metherton Buildings.	1.04
U.4016	Scrainwood - Union Gate Road	From U.4015 south-east of Scrainwood to C.172 at Union Gate	0.97
U.4017	Ellaw - Biddlestone Road	From C.169 east of Ellaw via Biddlestone Park to C.172 west of Biddlestone Edge.	2.72
U.4018	Biddleston Edge - Harbottle Road	From C.172 east of Biddleston Edge via Well House to C.172 at Harbottle (Includes de-classified length of road)	2.46
U.4019	Well House - Sharperton Edge Road	From U.4018 at Well House to U.4029 at North west of Sharperton Edge.	1.60
U.4020	Sharperton - Ridges Plantation Road	From C.172 at Sharperton to U.4019 at Ridges Plantation.	0.61
U.4021	Sheepbanks Road	From U.4019 at Ridges Plantation to U.4018 north-east of Well House	0.67
U.4022	Burradon - Biddlestone Hall	From C.172 at Burradon Meins to U.4017 at Biddlestone Hall.	0.08
U.4023	Alwinton - Coquet Valley Road	From C.172 at Alwinton via Shillmoor, Barrouburn to Melkendon	11.70
U.4024	Alwinton - Clemnell Road	From C.172 east of Alwinton to Clemnell.	0.63
U.4025	Ternham Tile Works - Low Farnham - Plainfield	From C.172 at Farnham Tile Works via Low Farnham to C.179 east of Plainfield	2.73
U.4026	Snitter Burns Road	From C.179 south of its crossing with the Foxton Burns, via Snitter Burns to C.176 south of the entrance to Silverside.	1.76
		Forward	<u>46,430</u> miles



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 ROTHBURY
2. Parish NETHERTON
3. Number of Footpath on Map 12
4. Name of Path
5. Kind of Path (i.e. FP/BR) B.R.

6. General Description of Path From the Burradon-Warton Road south of Trehitt Lake in a south-easterly, northerly, north-easterly and easterly direction by the Old Quarry to join the County Road U. 4073 at Low Trehitt.

7. Other relevant information

NORTHUMBERLAND COUNTY COUNCIL.

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949:

PART IV.

PUBLIC RIGHTS OF WAY -- STATEMENT.

1. ~~Dorough~~
~~Urban district~~
Rural district ROTHBURY

2. Parish NETHERTON

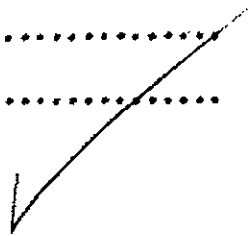
3. Number of Footpath on Map 14

4. Name of Path

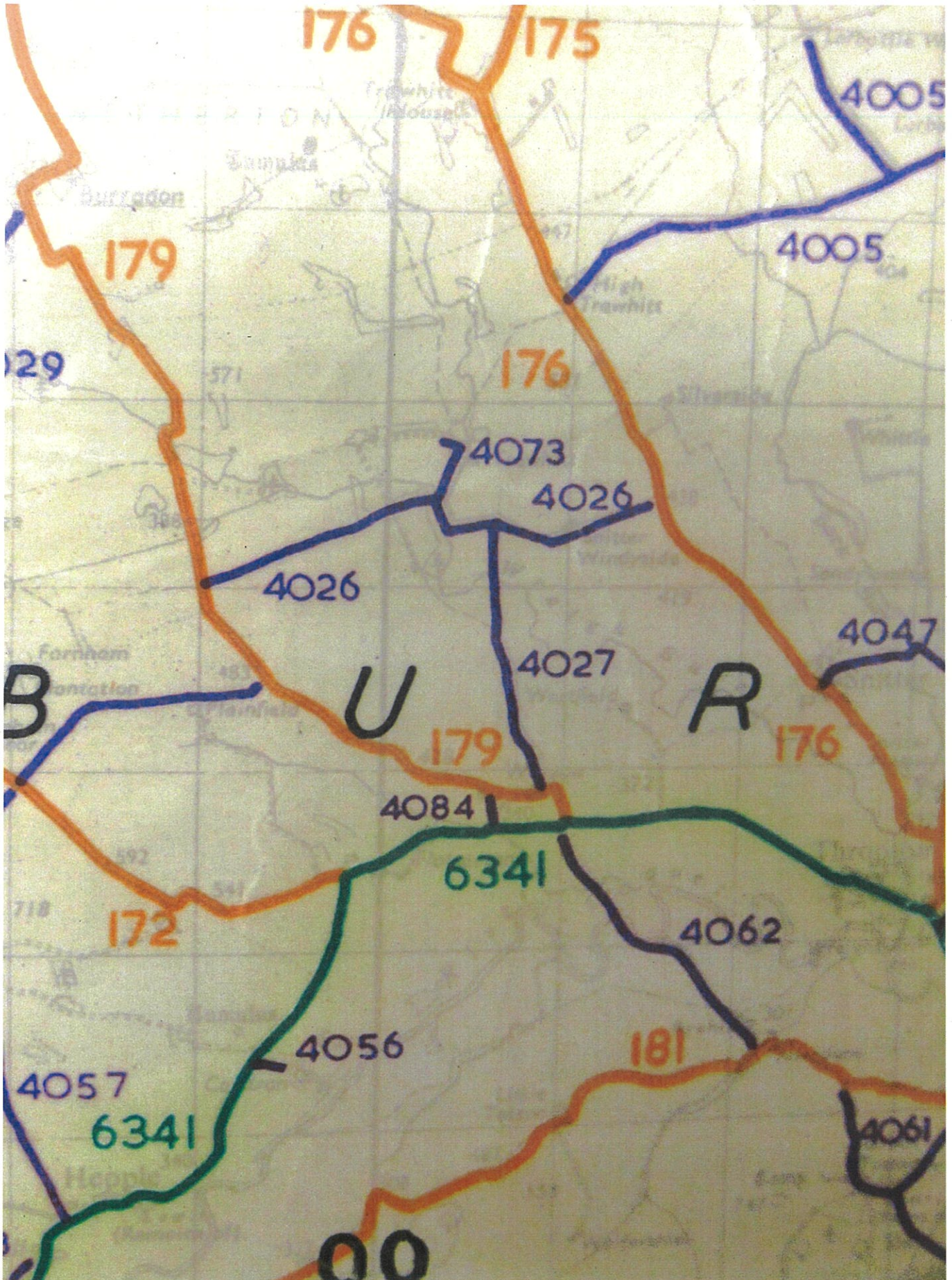
5. Kind of Path (i.e. (FP/BR) F.P.

6. General Description of Path From B.R. 12 in a south-easterly direction
..... crossing the Snitter Windyside Road to the Snitter Parish Boundary joining
..... F.P. 2 in that parish.
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7. Other relevant information

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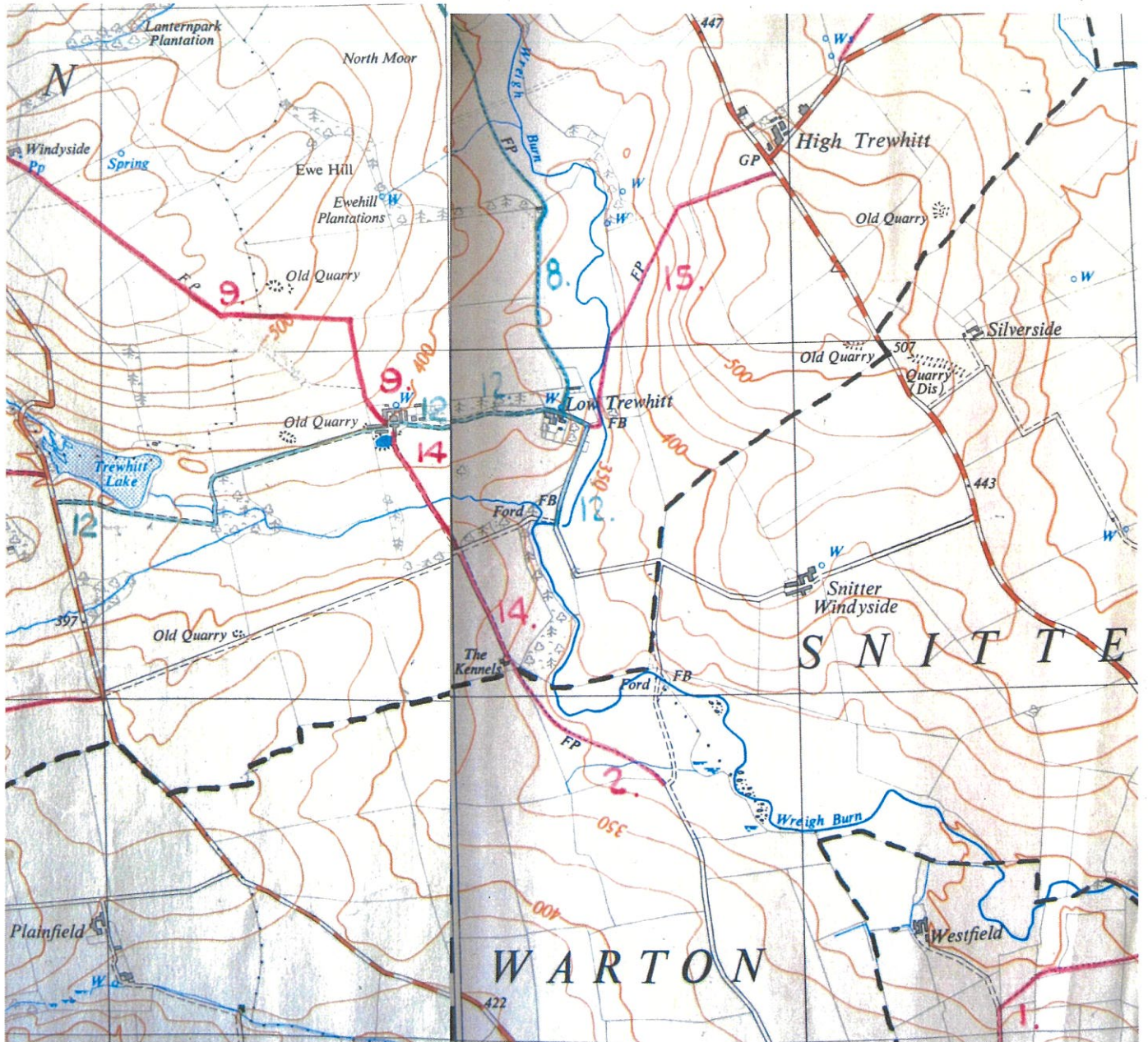
Extract from the Council's 1964 Highways Map



1964 County Road Schedule

- 90 -

Route No.	Name of Road.	Description.	Responsible Division or Authority.	Mileage.	Total Mileage.
U.4025	Farnham Tile Works-Low Farnham-Plainfield.	From C.172 at Farnham Tile Works via High Farnham and Low Farnham, recrossing C.172 at Farnham Moor to join C.179 east of Plainfield.	Alnwick.	2.78	
U.4026	Snitter Windyside Road.	From C.179 north of Plainfield eastwards via Snitter Windyside to join C.176 south of Silverside.	Alnwick.	1.76	
U.4027	Warton-Snitter Windyside Road.	From C.179 at Warton northwards to U.4026 west of Snitter Windyside.	Alnwick.	0.96	
U.4028	Netherton Burnfoot-Follions Road.	From C.176 at Netherton Burnfoot to C.175 south of Follions.	Alnwick.	0.76	
U.4029	Sharperton-Burradon Road.	From C.172 east of Sharperton north-eastwards via Sharperton Edge to C.179 at Burradon.	Alnwick.	2.08	
U.4030	Billsmoor Foot-Highshaw Road.	From B.6341 south of Billsmoor Foot via Penchford and Raw Farm to the entrance to Highshaw Farm.	Alnwick.	1.21	
U.4031	Bowershield-High Carrick Road.	From B.6341 north of Bowershield north-westwards to the entrance to High Carrick.	Morpeth.	1.11	
U.4032	Bowershield Road.	From B.6341 south of the entrance to North Riding via Bowershield to a point approximately 330 yards east of Bowershield.	Morpeth.	0.42	
U.4033	Elsdon-Eastnook Road.	From B.6341 at Elsdon via Landshot to Eastnook, including branch road to Hudspeth.	Morpeth.	3.33	
U.4034	Folly Road.	From B.6341 west of the Bird in the Bush (Public House), northwards for a distance of 550 yards towards the Folly.	Morpeth.	0.32	
U.4035	Lordenshaw-Great Tossen Road.	From B.6342 south of its crossing with the Lordenshaw Burn north-eastwards to U.4061 at Great Tossen.	Alnwick.	2.64	
U.4036	Rothley Village Road.	From C.161 north of Scots Gap to Rothley Village.	Morpeth.	0.20	

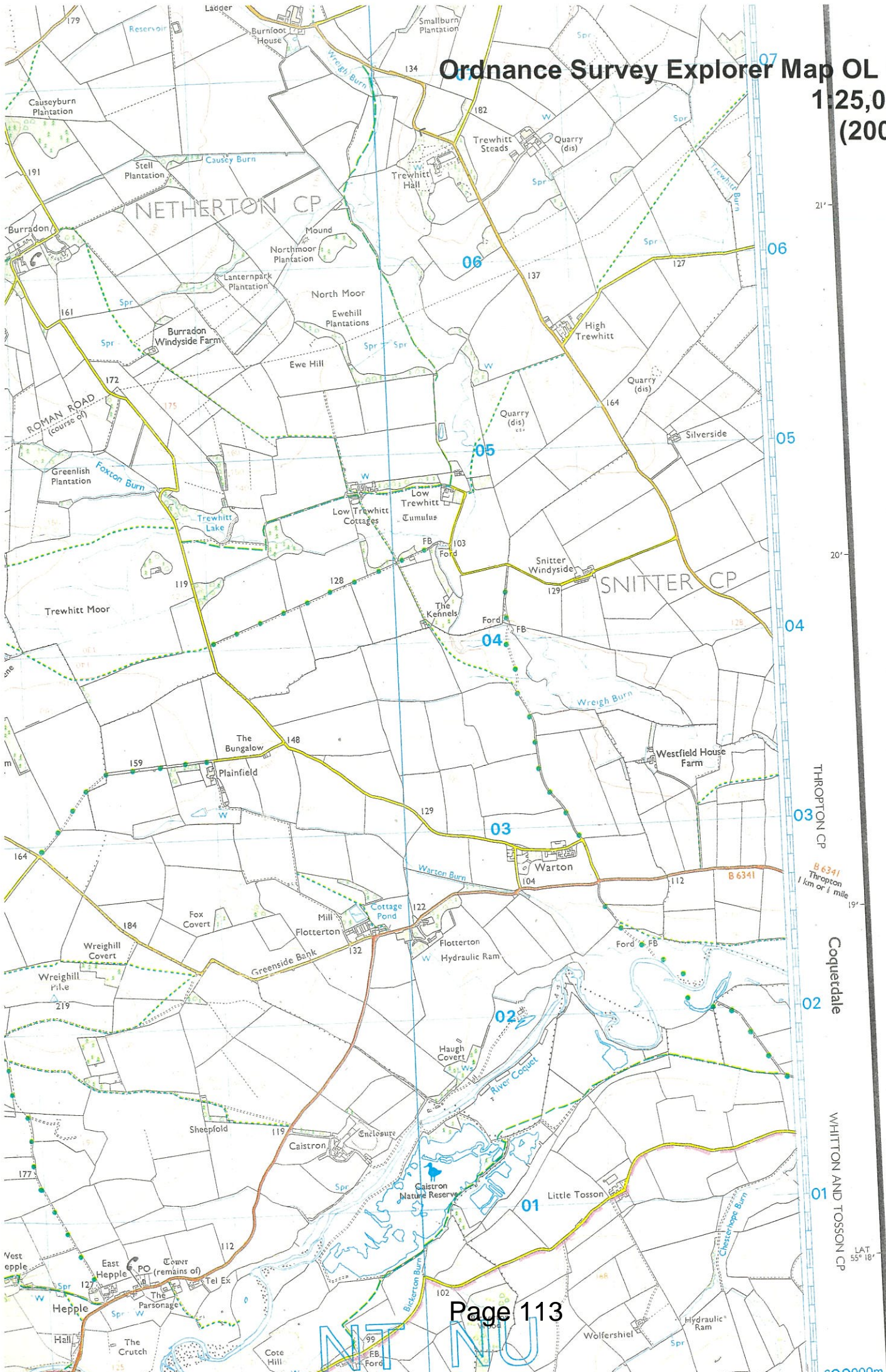


1974 County Road Schedule

Route No.	Name of Road	Description	Responsible Division or Authority	Mileage	Total Mileage
U. 4022	Burradon-Biddlestone Hall.	From C. 172 at Burradon Mains (NI. 963070) northwards to U. 4017 at Biddlestone Hall (NI. 960032).	Almwick Division.		0.80
U. 4023	Alwinton-Coquet Valley Road.	From C. 172 at Alwinton (NI. 923060) north-westwards and westwards via Shillmoor, Barrowburn to Wakerdon (NI. 804094) including 133 yd. long spur from just north of Barrowburn Bridge north-eastwards to Barrowburn Farm.	Almwick Division.		11.78
U. 4024	Alwinton-Clenrell Road.	From U. 4023 south-east of Alwinton (NI. 923060) north-eastwards to Clenrell (NI. 929070).	Almwick Division.		0.79
U. 4025	Farnham Tile Works-Low Farnham-Plainfield.	From C. 172 at Farnham Tile Works (NI. 967036) southwards, eastwards and north-eastwards via High Farnham and Low Farnham, recrossing C. 172 at Farnham Moor to join C. 179 east of Plainfield (NI. 803034).	Almwick Division.		2.78
U. 4026	Snitter Windyside Road.	From C. 179 north of Plainfield (NI. 990040) eastwards via Snitter Windyside to join C. 176 south of Silverside (NI. 015045).	Almwick Division.		1.76
U. 4027	Marton-Snitter Windyside Road.	From C. 179 at Marton (NI. 009029) northwards to U. 4026 west of Snitter Windyside (NI. 006044).	Almwick Division.		0.96
U. 4028	Netherton Burnfoot-Follions Road.	From C. 176 at Netherton Burnfoot (NI. 997073) north-eastwards to C. 175 south of Follions (NI. 007076).	Almwick Division.		0.76
U. 4029	Sharperton-Burradon Road.	From C. 172 east of Sharperton (NI. 963037) north-eastwards via Sharperton Edge to C. 179 at Burradon (NI. 960060).	Almwick Division.		2.08
U. 4030	Billsmoor Foot-Highshaw Road.	From B. 6341 south of Billsmoor Foot (NI. 943967) northwards via Ferchford and Raw Farm to the entrance to Highshaw Farm (NI. 941982).	Almwick Division.		1.21

Ordnance Survey Explorer Map OL 16

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(2005)

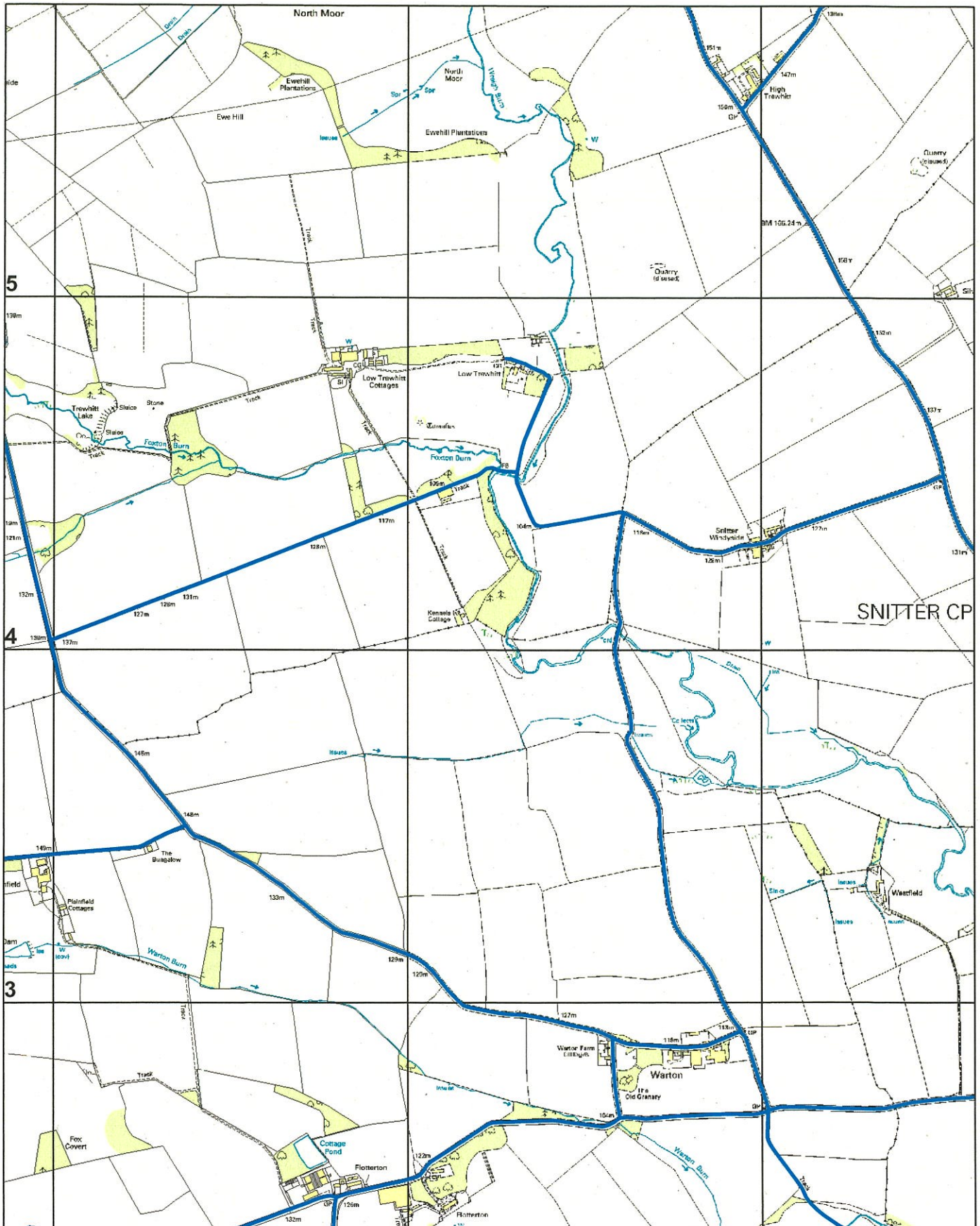


LAT 55° 18'

600000m

Highways Act 1980 Section 36(6)
County Of Northumberland
List of Streets which are highways maintainable at the public expense
As at 02-May-2006

Road Number	Description	Length - Metres
U4024		
	U4023 TO CLENNELL CATTLE GRID	1,275
	<i>Total length for U4024</i>	1,275
U4025		
	C172 (WEST) TO C172 (EAST)	2,921
	C172 CROSSROADS TO C179	1,539
	<i>Total length for U4025</i>	4,460
U4026		
	U4027 TO C176	969
	C179 TO U4073 LOW TREWITT	1,416
	U4073 TO U4027	419
	<i>Total length for U4026</i>	2,803
U4027		
	FORD TO U4026	317
	C179 TO FORD	1,249
	<i>Total length for U4027</i>	1,565
U4028		
	C176 JCT TO C175 JCT	1,209
	<i>Total length for U4028</i>	1,209
U4029		
	C172 TO U4019	1,409
	U4019 TO C179 VIA LOW BURRADON FAR	1,951
	<i>Total length for U4029</i>	3,360
U4030		
	B6341 JCT TO HIGH SHAW FARM	1,872
	<i>Total length for U4030</i>	1,872
U4031		



SNITTER CP



Network Management
Information System

Highways Act 1980 Section 36(6)
County of Northumberland
List of Streets which are highways
maintainable at the public expense
as at 02-May-2006

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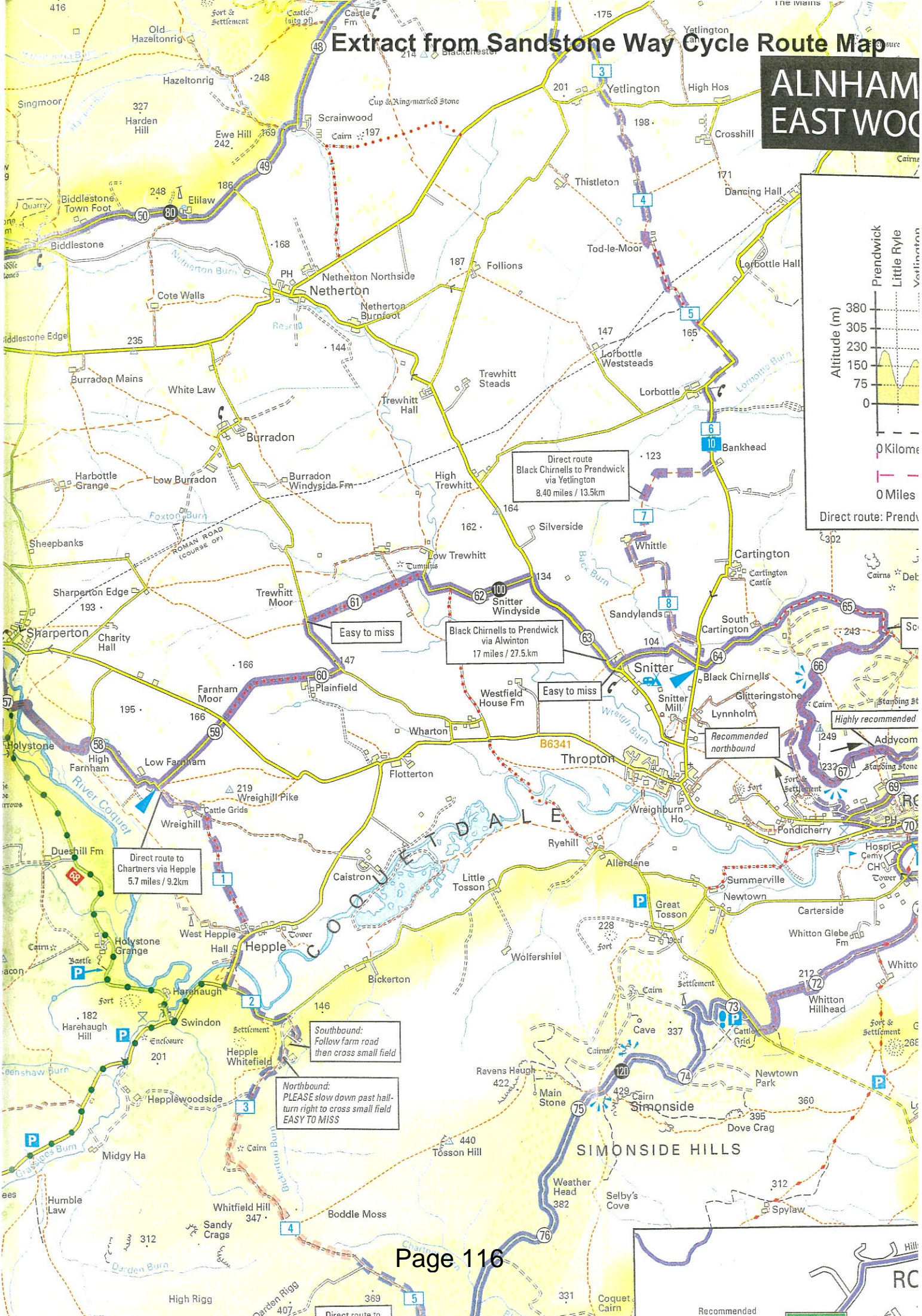
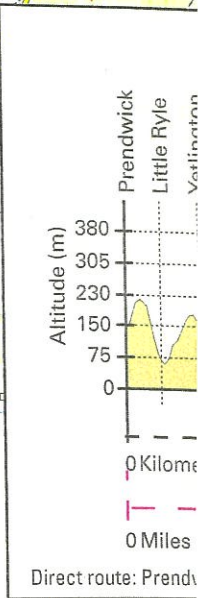
Drn:
AB

Date:
Sept 2022

Scale:
1:15,000

Extract from Sandstone Way Cycle Route Map

ALNHAM EAST WOOD



Direct route
Black Chirnells to Prendwick
via Yetlington
8.40 miles / 13.5km

Black Chirnells to Prendwick
via Alwinton
17 miles / 27.5km

Direct route to
Chartners via Hepple
5.7 miles / 9.2km

Southbound:
Follow farm road
then cross small field

Northbound:
PLEASE slow down past hall-
turn right to cross small field
EASY TO MISS

Easy to miss

Easy to miss

Recommended
northbound

Highly recommended



Northumberland

County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL
RIGHTS OF WAY SUB-COMMITTEE
14 December 2022

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

ALLEGED BYWAYS OPEN TO ALL TRAFFIC No 15 PARISH OF SNITTER

Report of the Executive Director of Local Services
Cabinet Member: Councillor Jeff Watson, Healthy Lives

Purpose of report

In this report, the North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4027 road, from the U4026 road, west of Snitter Windysyde, in a southerly direction to the C179 road, east of Warton.

Recommendation

It is recommended that the sub-committee agrees that:

- (i) there is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route T-X;**
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the T-X route;**
- (iii) the route be included in a future Definitive Map Modification Order as a byway open to all traffic.**

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 In the late 1980s the County Council carried out consultations regarding proposals to add a number of unsealed tracks in the north of the County to the Definitive Map as byways open to all traffic on the basis that the routes were included in the County Council's "List of Streets" as unclassified County roads (UCR). The rationale for doing so was that it would not be obvious to members of the public (particularly horse riders, walkers and cyclists) that they were legally entitled to use routes such as these (which were considered to have vehicular status), because their physical appearance might suggest otherwise.
- 2.2 The view, held by those officers of the Council responsible for maintaining the 'List of Streets' for the County of Northumberland was (and still is) that only public roads (not public bridleways or public footpaths) were shown on this List. The only exceptions to this are the surfaced paths and alleyways providing pedestrian links between roads, in urban areas. Thus, tracks in rural settings, which have their own unique reference numbers (e.g. the 'U4027' road), were considered to be all-purpose public highways maintainable at public expense.
- 2.3 Shortly afterwards, the processing of applications from third parties seeking to record public footpath or public bridleway rights was afforded a higher priority. Later on, the process of recording UCRs as byways open to all traffic was effectively suspended because the Ordnance Survey indicated that they would be showing such routes on their published maps as being an "Other route with public access". Although, on that basis, members of the public would still be unclear as to precisely what rights they had over routes identified in this fashion.
- 2.4 The most recent advice from DEFRA (paragraph 4.42, Rights of Way Circular 1/09) is that inclusion on the List of Streets may provide evidence of vehicular rights but that this should be examined on a case by case basis. In view of this advice, it is considered prudent to evaluate the status of the U4027 unclassified County road based upon more than simply its inclusion in the List of Streets.

3. LANDOWNER EVIDENCE

- 3.1 By letter, received 23 February 2018, R Torrance and J Lazams of Foxton Cottage, Low Trehwitt, responded to the consultation, stating:

"We do not own any land traversed by any of these routes.

"All the routes are marked as Byways open to all traffic. However, two are unsuitable for public traffic, only fit for tractors. These are no. 21 between R and the turn off to Kennels Cottage just west of S.

"Also number 15 which goes through a stream south of point T and into fields. These two routes have had almost no motor vehicles except farm vehicles in the past 20 years. They are used by walkers, horse riders etc. I would say that the same holds for the period May 2001 to May 2006.

"The other two routes are used by vehicles accessing the farm and cottages, and farm traffic, as well as walkers. These are number 14 U to T and number 21 T to S and 23 S to W to V."

4. CONSULTATION

- 4.1 In February 2018, 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". Two replies were received and are included below.

- 4.2 By email, on 26th February 2018, Ms H Evans responded to the consultation on behalf of Cycling UK, stating:

"Ted has now looked at these and come back to me with the attached and also the comment that "Most are standard changes to confirm existing BOATs but a few are really good gains to the access network. No comment means we support and no comments are necessary".

Cycling UK did not make any comments in relation to this particular proposal.

- 4.3 By email, on 8th May 2018, the British Horse Society responded to the consultation, stating:

"Alleged byway open to all traffic 15 (Warton) From T, this is a wide fenced lane with a stone and grass surface which crosses an easily accessible ford, with a footbridge for walkers, and then follows an unfenced track across a pasture before entering another fenced lane which leads to the hamlet of Warton. This route is regularly used by local horse riders and walkers and is probably used by cyclists as well. There was no evidence of use by vehicles but it would be passable for a 4WD vehicle. It provides a valuable link in the ridden network so the BHS supports its addition to the definitive map."

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

Although Low Trehitt and Warton are both identified on the map, there is no evidence of a road or track resembling the route of alleged Byway No 15.

1820 Fryer's County Map

There is clear evidence of an "Other Road" resembling the route of alleged Byway No 15.

1827 Cary's Map

There is clear evidence of a "Parochial Road" resembling the route of alleged Byway No 15.

1828 Greenwood's County Map

There is clear evidence of a "Cross Road" resembling the route of alleged Byway No 15.

1841 Warton Tithe Award

There is clear evidence of a mainly unenclosed track over the section south of the Wreigh Burn. A northerly continuation, beyond the Warton Township boundary, at the Wreigh Burn, is implied by the route being labelled "To Low Trehitt".

c.1860 Ordnance Survey Map: Scale 1:2500

Only the northernmost two thirds of the route is covered by the Maps available at the record office. There is clear evidence of an unenclosed road / track over the route of alleged Byway No 15. The northern end of the route is identified with the parcel number "18a" in Snitter Township and the southern part of the route is identified with the parcel number "7" in Warton Township. In the accompanying Book of Reference these parcel numbers are described as "Township Road" and "Public Road", respectively.

1866 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a predominantly unenclosed road / track over the route of alleged Byway No 15. Only the very southern (Warton) end of the route appears to be enclosed.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a mostly unenclosed road / track over the route of alleged Byway No 15. Only the southern (Warton) end of the route, and a short section slightly further to the north, appear to be enclosed.

Finance Act 1910 plan

There is clear evidence of a partly enclosed road or track over the route of alleged Byway No 15. Although only the southern half of the route is identified as being enclosed, the whole route is shown as being separated from the surrounding land by coloured boundaries. It is very unusual to see an apparently unenclosed cross-field route nevertheless separated from the surrounding land in this way. This is considered to be good evidence in support of vehicular highway rights.

1923 Ordnance Survey Map: Scale 1:2500

There is clear evidence of a partly enclosed (southern half and northern end) and partly unenclosed road / track over the route of alleged Byway No 15.

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

There is evidence of a partly enclosed (southern half and northern end) and partly unenclosed road / track over the route of alleged Byway No 15.

1932 Rothbury RDC Handover Map

No handover map appears to have survived for the former Rothbury RDC area.

c.1938 Restriction of Ribbon Development Act 1935 Map & Schedule

No map or schedule for the Rothbury RDC area appears to have survived.

1951 Highways Map

The route of alleged Byway Open to All Traffic No 15 is coloured purple so as to identify it as a publicly maintainable road. It is labelled as the "U4027".

c.1952 Definitive Map – original Survey Schedules & Map

The route of alleged Byway Open to All Traffic No 15 exists on the base map, and is coloured brown. Known public roads were generally coloured brown to indicate what the extent of the road network was considered to be. In the Schedule for existing Snitter Footpath No 2 (at that time identified for inclusion as Warton Footpath No 3) the right of way is identified as starting on "Branch off No 2" and ending at "Kennels (Low Trehwitt)" - the road itself is not mentioned.

Draft Map

The route of alleged Byway Open to All Traffic No 15 exists on the base map. It is not identified for inclusion on the Definitive Map as either a public footpath, public bridleway or Road Used as a Public Path (RUPP), although one public footpath (numbered "1") is identified connecting with the alleged byway.

Provisional Map

As with the Draft Map, the route of alleged Byway Open to All Traffic No 15 exists on the base map. It is not identified for inclusion on the Definitive Map as either a public footpath, public bridleway or Road Used as a Public Path (RUPP), although one public footpath (numbered "1") is identified connecting with the alleged byway.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a partly enclosed / partly unenclosed road or track over the route of alleged Byway No 15.

1958 County Road Schedule

In this Schedule, the entry for the U4027 road states:

"U4027 Warton – Snitter Barns Road
From C179 at Warton to U4026 west of Snitter Barns."

The length of the U4027 road is identified as 0.96 miles.

1962 Original Definitive Map

The route of alleged Byway No 15 exists on the base map, but it is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1962 Original Definitive Statements

The original Definitive Statement for the public right of way intersecting with the alleged byway open to all traffic states:

Public Footpath No 2 (Snitter)
"From the Warton – Snitter Windy Side Road in a north-westerly direction to the Netherton Parish Boundary joining FP 14 in that parish."

1964 Highways Map

The route of alleged Byway Open to All Traffic No 15 is coloured purple so as to identify it as a publicly maintainable road. It is labelled as the "U4027".

1964 County Road Schedule

In this Schedule, the entry for the U4027 road states:

“U4027 Warton – Snitter Windyside Road
From C179 at Warton northwards to U4026 west of Snitter
Windyside.”

The length of the U4027 road is identified as 0.96 miles.

First Review Definitive Map

The route of alleged Byway No 15 exists on the base map, but it is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1974 County Road Schedule

In this Schedule, the entry for the U4027 road states:

“U4027 Warton – Snitter Windyside Road
From C179 at Warton (NU 009029) northwards to U4026 west of
Snitter Windyside (NU 006044).”

The length of the U4027 road is identified as 0.96 miles.

2005 Ordnance Survey Explorer OL16 Map: Scale 1:25,000

There is clear evidence of a road / track over the route of alleged Byway No 15. It is marked with green dots which identifies it as an “Other route with public access” (i.e. an ORPA).

2006 The Council's 'List of Streets' (2 May 2006)

The route of the alleged byways (the U4027) is clearly identified as publicly maintainable highway.

6. SITE INVESTIGATION

- 6.1 From Point T on the U4026 road, 425 metres west of Snitter Windyside, a 2.5 metre wide stone / earth / grass surfaced track, in what is now a 6.4 metre wide corridor (but the current western boundary fence is set at least 1.6 metres inside the historical hedgeline), proceeds in a southerly direction for a distance of 190 metres. Here, although the track continues southerly for a further 120 metres, it is no longer constrained by a boundary on the western side. A 2.5 metre wide unenclosed stone / earth / grass surfaced track then continues in a general southerly direction for 510 metres, having crossed the Wreigh Burn by means of a ford with a 2.9 metre wide concrete base with an adjacent footbridge. Thereafter, a 2.5 metre wide stone / earth track, in a mainly 7 to 7.5 metre wide corridor (the route is slightly wider in its middle section) continues southerly for 555 metres to a pinch point 6.3 to 6.4 metres wide. A 2.7 to 3 metre wide stone / earth surfaced track in a 7 to 8 metre wide corridor continues southerly for a further 175 metres then, finally, a 4 metre

wide stone surfaced track within a 6.4 to 6.7 metre wide corridor bounded by stone walls, continues southerly for 40 metres to join the C179 road at Warton.

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 The route of alleged Byway Open to All Traffic No 15 is identified on the County Council's current List of Streets as being the U4027 road. The route was identified on the Council's 1951 and 1964 Highways Maps and on the 1958, 1964 and 1974 County Road Schedules. No 1932 Handover Maps or Maps and Schedules produced under the Restriction of Ribbon Development Act 1935 appear to have survived for the Rothbury Rural District area.

7.5 The route has been consistently identified on Ordnance Survey maps since The 1860s. Initially, the route was almost entirely unenclosed, though over time about half has become enclosed. The route would not appear to be shown on Armstrong's County Map of 1769, but is shown on Fryer's and Greenwood's County Maps of 1820 and 1828, and on Cary's Map of 1827. Both the enclosed part and the unenclosed part of the route was separated from the surrounding land by coloured boundaries, on the plans produced in association with the Finance Act 1910. This is considered very significant because, I have not seen an unenclosed road shown in this way before (occasionally they are labelled as a "public highway" or similar), so this must be considered strong evidence in favour of a public vehicular highway.

7.6 The County Council accepts that, given the way the regulations were written with regard to the way highway authorities could include publicly maintainable highways in the List of Streets, there was no impediment to public bridleways and public footpaths also being included. That is not to say that any bridleways or footpaths were so shown – just that they could be. It must, therefore, be entirely proper to consider each UCR on a case by case basis, but that does not mean that we should begin with the assumption that each UCR is no more than a public footpath unless higher rights can be proven by

other means. In Northumberland there is no evidence to suggest that public footpaths and public bridleways were deliberately shown on the 1958, 1964 or 1974 County Road Schedules (forerunners of the modern day List of Streets). The fact that a route is shown on these schedules must, therefore, be evidence of some weight that public vehicular rights exist.

- 7.7 Letters from DEFRA, dated 2003 and November 2006, and Rights of Way Circular 1/09 set out the approach Inspectors and order making authorities should take in determining the status of routes included on the List of Streets. In summary, the guidance states that the inclusion of a route on the List of Streets is not a record of what legal rights exist over that highway but may provide evidence of vehicular rights. However, this must be considered with all other relevant evidence in order to determine the nature and extent of those rights. Highway Authorities are recommended to examine the history of such routes and the rights that may exist over them on a case by case basis in order to determine their status.
- 7.8 The Natural Environment and Rural Communities Act 2006 (NERC Act 2006) had a major impact upon the recording of byways open to all traffic based upon historical documentary evidence. Under section 67 of the Act, any existing, but unrecorded, public rights of way for mechanically propelled vehicles were extinguished unless one of the 'saving' provisions applied. In brief, these saving provisions were: (a) if the main lawful public use between 2001 and 2006 was with motor vehicles; (b) if the route was on the List of Streets (on 2 May 2006) and not also on the Definitive Map as something less than a byway open to all traffic; (c) the route was legally created expressly for motor vehicular use; (d) the route was a road deliberately constructed for public motor vehicular use; or (e) the vehicular highway came about as a result of unchallenged motor vehicular use before December 1930.
- 7.9 Of the saving provisions above, the main one (b), will apply to the U4027 road. Where a route is not shown on the Definitive Map as a footpath, bridleway or restricted byway, then the fact that it is shown on the List of Streets will be sufficient to prevent the public's motor vehicular rights from being extinguished.
- 7.10 For a route to be a byway open to all traffic, it has to be (i) a public motor vehicular right of way and (ii) a route which is nevertheless used (or is likely to be used) by the public mainly for the reasons which footpaths and bridleways are used. This route has the appearance of being a farm track, and only the southern end of it could be driven by a 'normal' motor vehicle. From the consultation responses of R Torrance & J Lazams and the British Horse Society, and from my own site visit, it seems clear that public use of the route is primarily on foot, horseback and bicycle, with any motor vehicular use being very occasional. Whilst the actual relative proportion of these types of public use isn't known, use by the general public is considered likely to be predominantly non-motor vehicular.
- 7.11 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. Where no width can be determined by documentary means (such as an Inclosure Award, Highway Order or dedication document), there is usually a boundary to boundary presumption for public highways. It is proposed to record the northern most 190 metres with its 'historical' width of 8 metres, and the southern half of the route with widths varying between 6.3 and 8 metres, as identified in paragraph 6.1, above. It is proposed that the

remaining unenclosed sections of road be recorded with the Council's standard default width of 5 metres (i.e. wide enough for two vehicles, travelling in opposite directions, to pass each other).

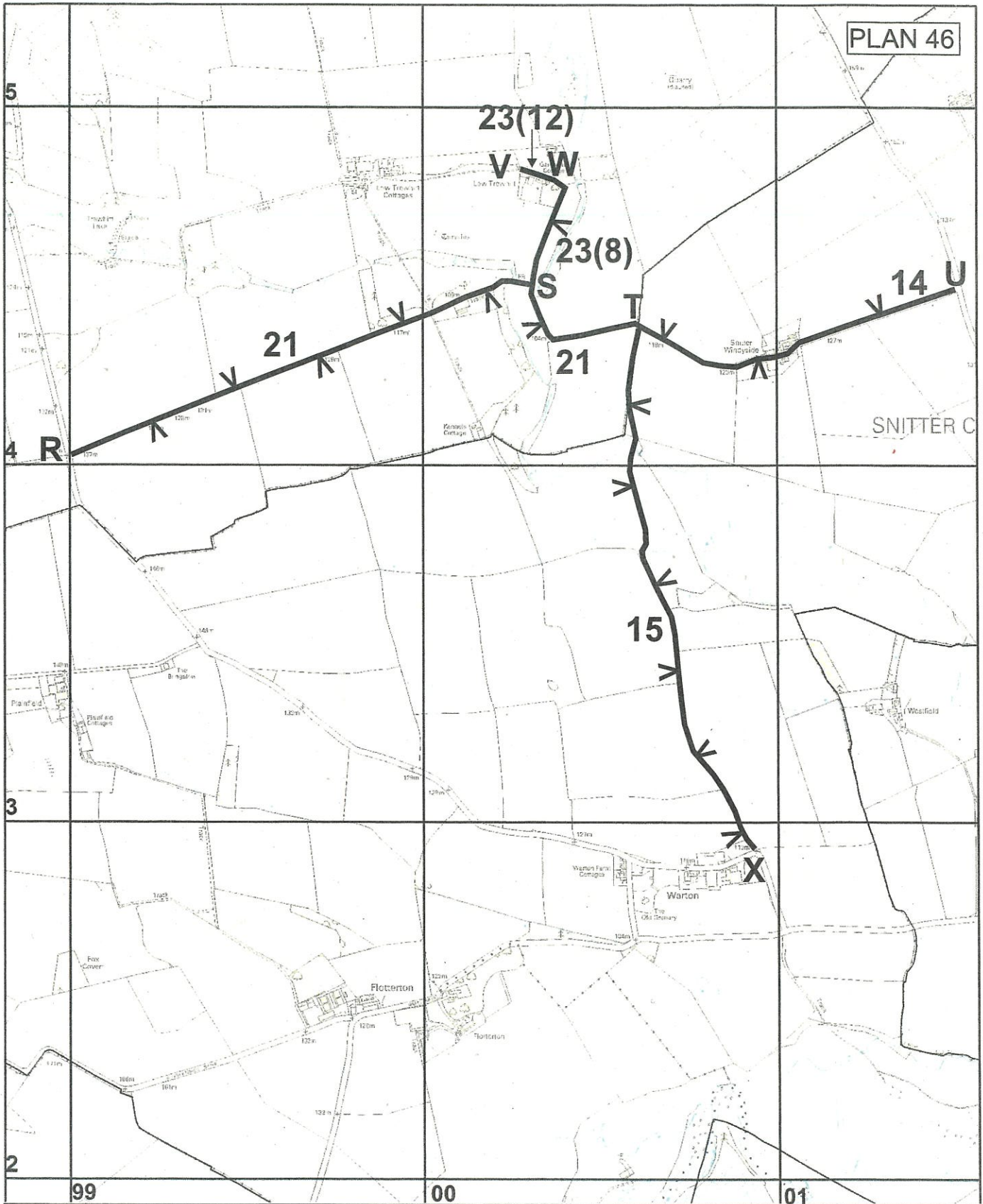
8. CONCLUSION

- 8.1 In light of the documentary evidence available, it appears that public vehicular rights have been reasonably alleged to exist over the route of alleged Byway Open to All Traffic No 15.
- 8.2 The Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motor vehicular rights over the route.
- 8.3 The route would appear to satisfy the balance of user / character test for being recorded on the Definitive Map as a byway open to all traffic and it would, therefore, be appropriate to recognize the public's rights over the route by recording it on the Definitive Map as a byway open to all traffic.

BACKGROUND PAPERS

Local Services Group File: A/33/15z

Report Author Alex Bell – Definitive Map Officer
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 Alex.Bell@Northumberland.gov.uk



Northumberland

Northumberland County Council

Infrastructure
Local Services

County Hall Morpeth Northumberland
NE61 2EF
Telephone 0845 600 6400

**Wildlife and Countryside Act 1981
Public Rights of Way**

 Alleged Byway Open to All Traffic

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Former District(s)

Alnwick

Parish(es)

Netherton/Snitter

Scale

1:15,000

Def. Map No.

92795

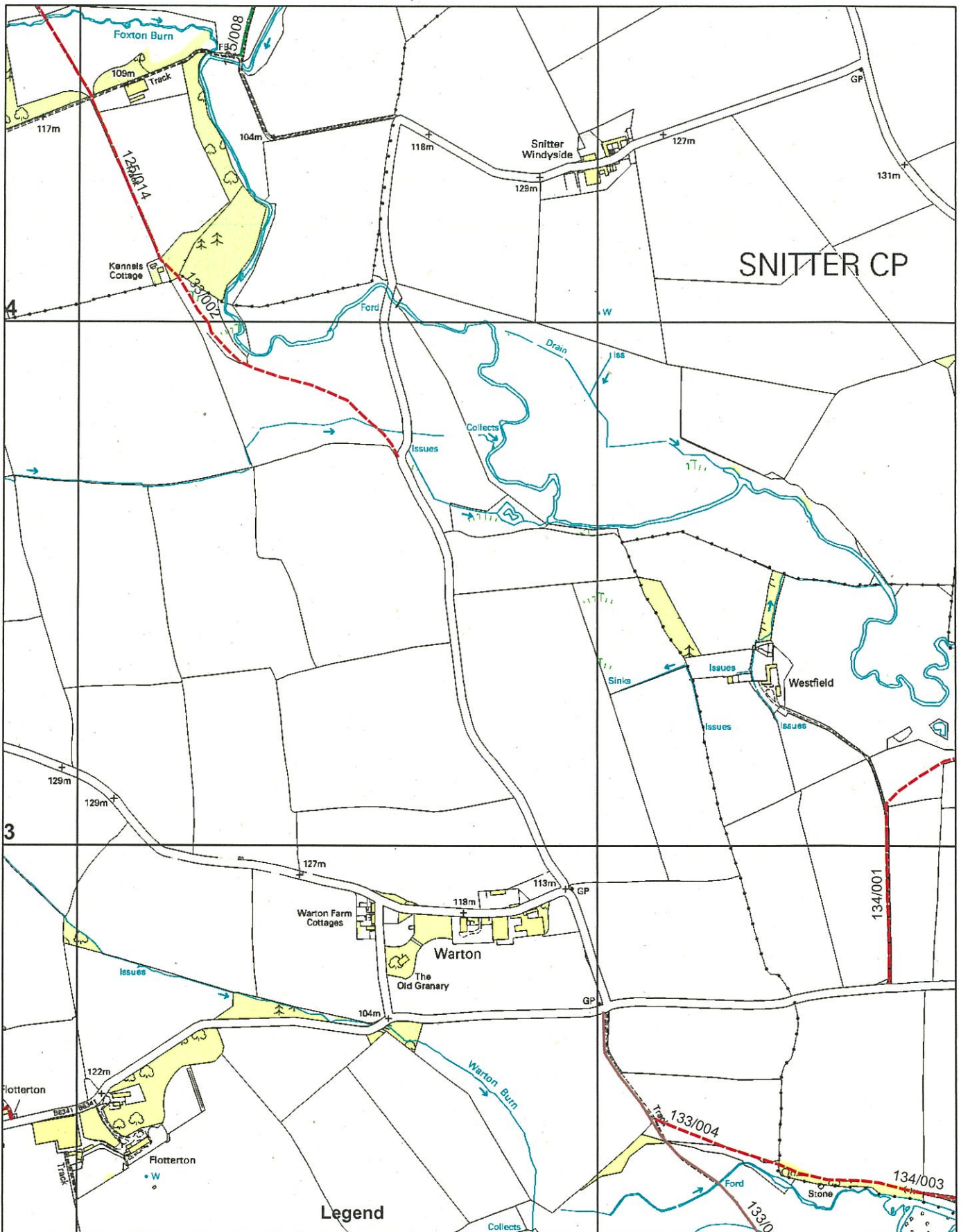
Page 127

OS Map

NT 90 SE/NU 00 SW

Date

October 2016



Legend

- Footpath
- Bridleway
- Restricted Byway
- Byway Open to All Traffic
- 1km Gridlines

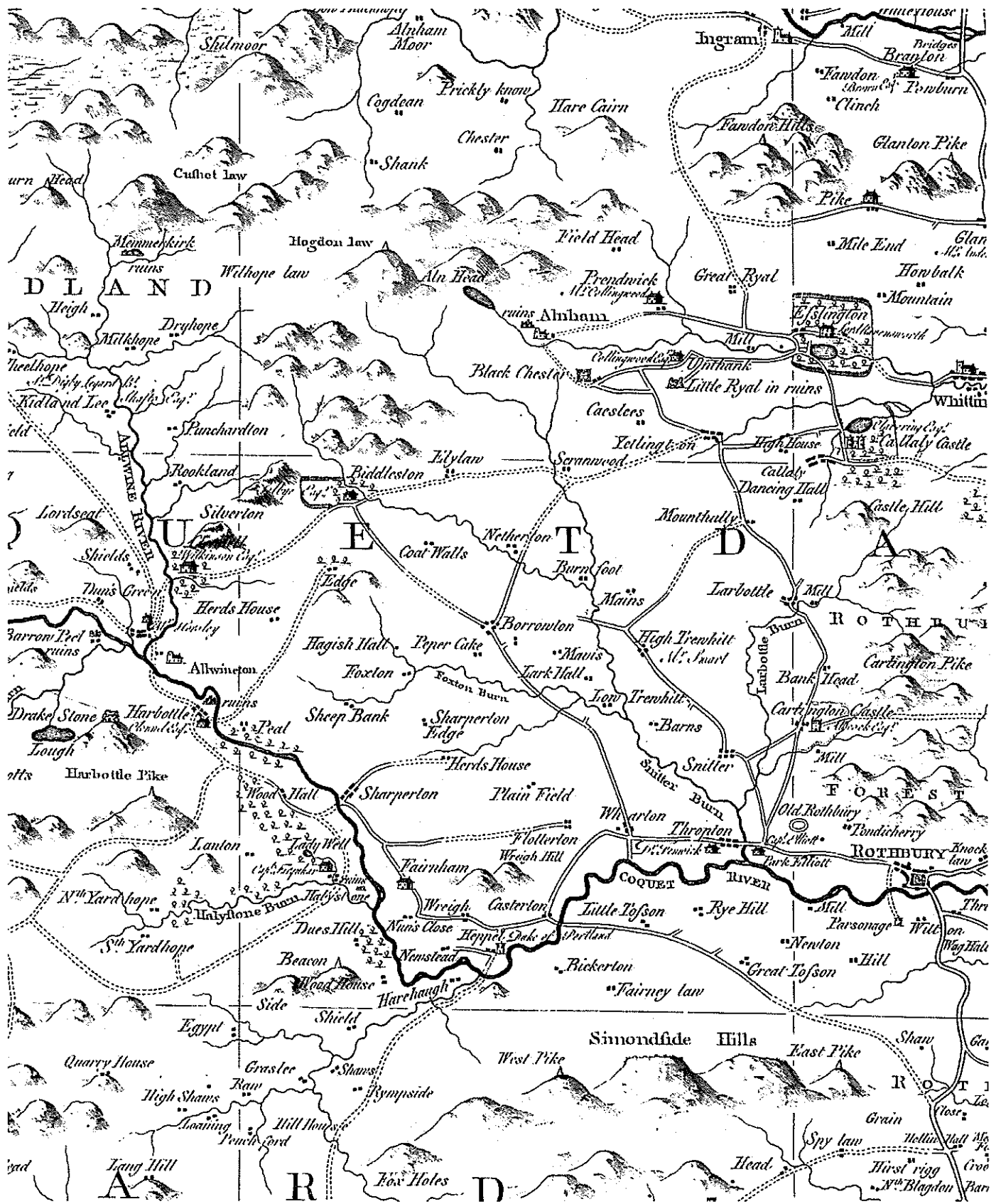
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way

Scale: 1:10,000


Northumberland
 County Council
 Sustainable Transport
 Local Services
 County Hall Morpeth Northumberland
 NE61 2EF Tel: 01670 533000

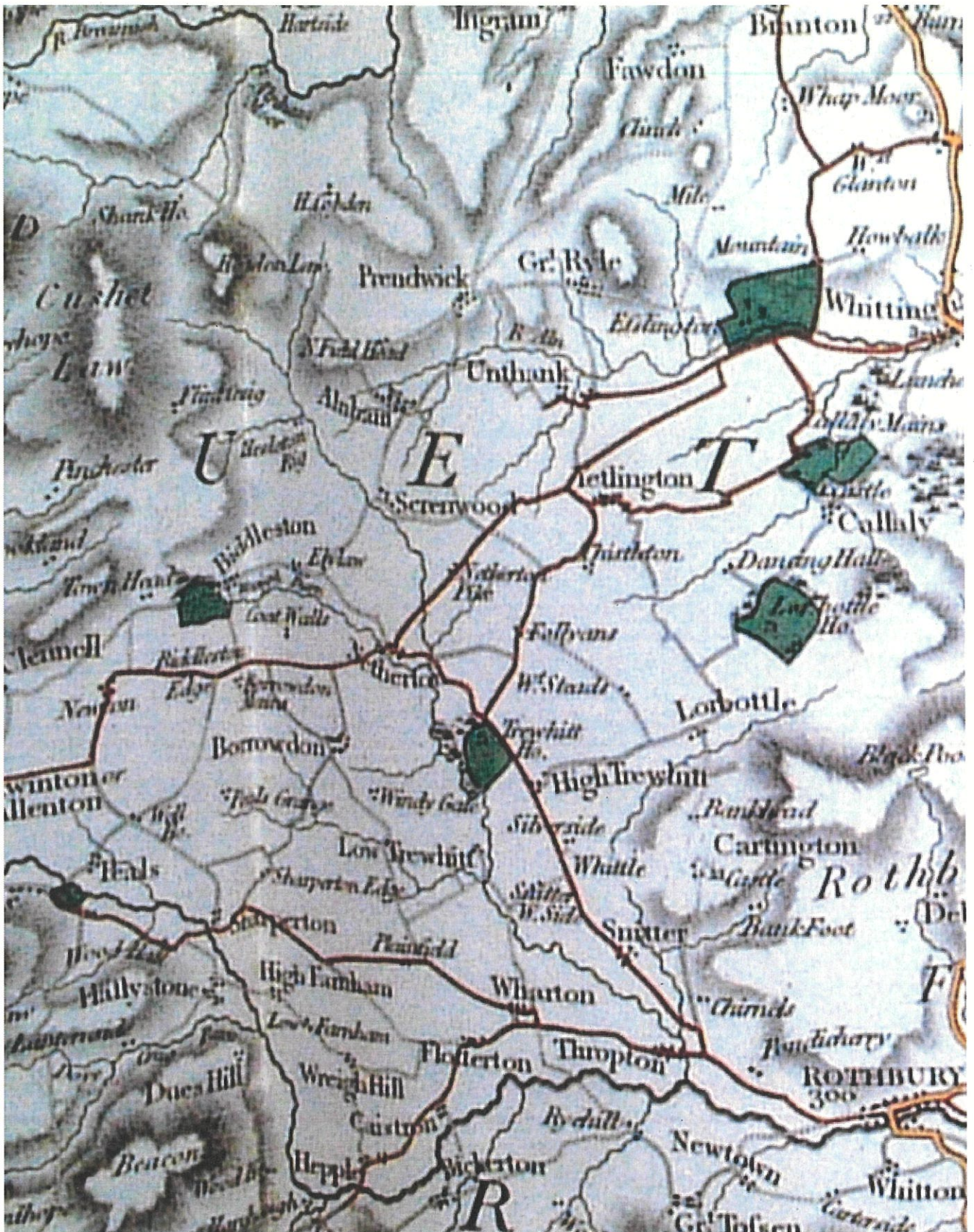
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Armstrong's County Map
1769

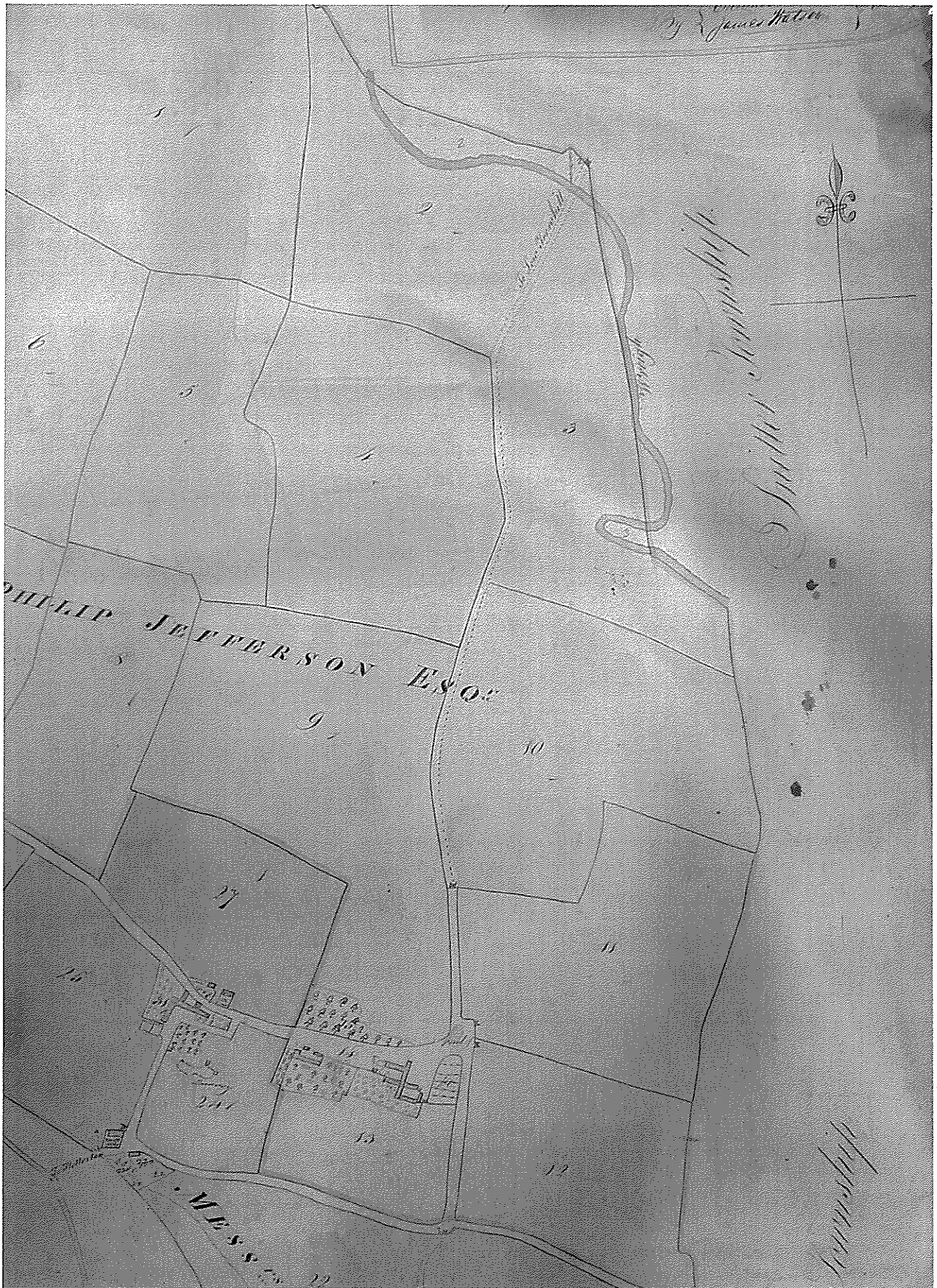


Fryer's County Map
1820









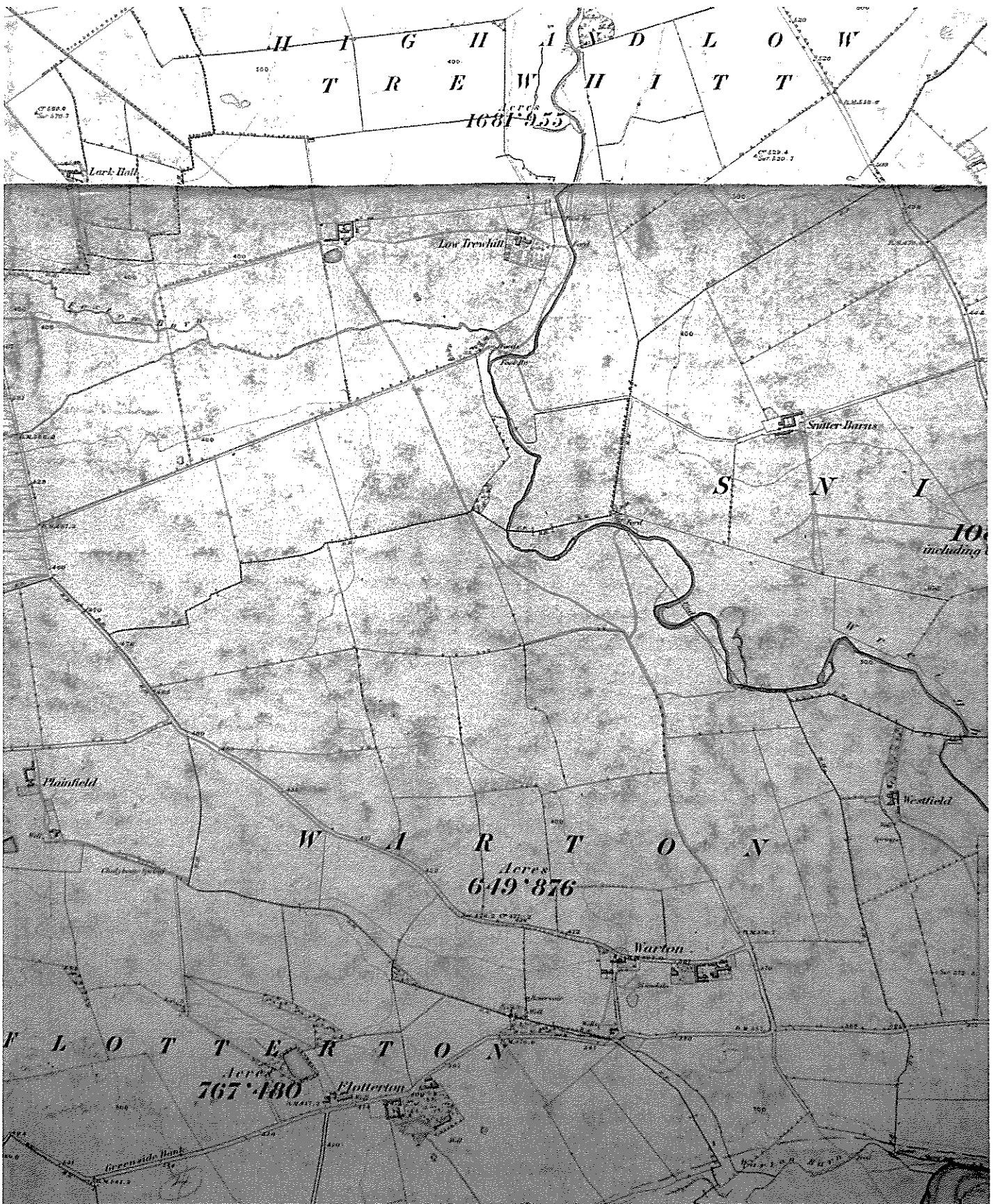


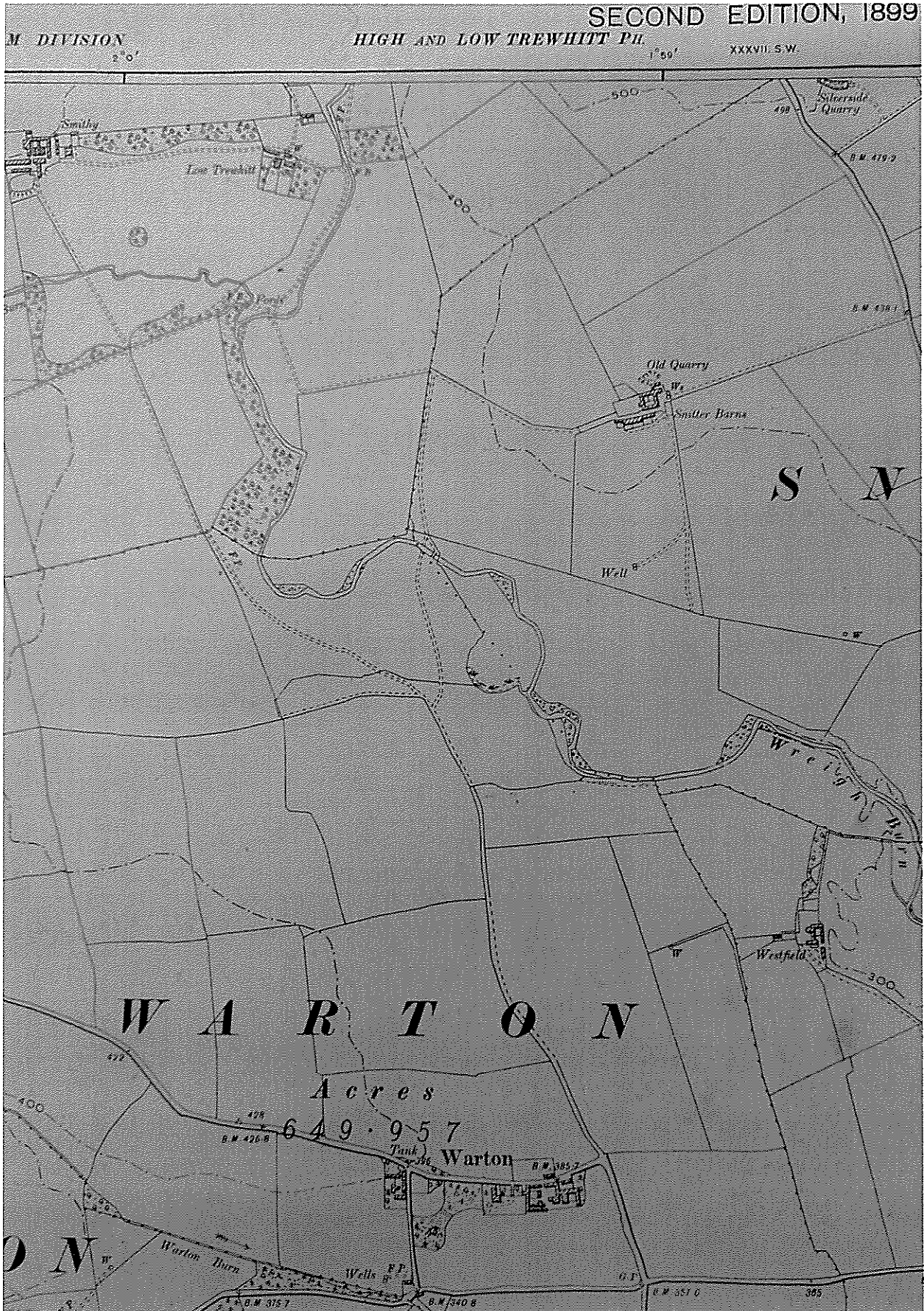
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
TOWNSHIP OF DEBDON (Detached).			RECAPITULATION.		
1	.216	House, garden, &c. (Whitfield House).	411-036	Land.	
2	5-540	Pasture, &c.	.740	Public road.	
3	38-097	Rough pasture.	411-796	Total area of the Township Wreighill.	
	88-858	Area of the Township of Debdon (De- tached).			
RECAPITULATION FOR THE TOWNSHIP.			TOWNSHIP OF SNITTER.		
	287-084	Land.	1	20-085	Rough pasture, &c.
	.882	Public road.	2	14-600	Pasture.
	287-966	Total area of the Township of Deb- don.	3	27-882	Pasture, &c.
			4	24-786	Pasture, &c.
			5	11-809	Pasture.
			6	.883	Houses, yards, garden, &c. (Silverside).
			7	5-597	Pasture.
			8	9-940	Pasture, &c.
			9	10-293	Pasture, &c.
			10	.544	Wood, &c.
			11	14-991	Pasture, &c.
			12	31-868	Pasture.
			13	7-008	Public road.
			14	12-234	Arable.
			15	13-947	Arable.
			16	10-846	Pasture.
			17	21-027	Pasture.
			18	20-710	Pasture, &c.
			18a	.181	Township road.
			19	.860	Houses, yards, garden, &c. (Snitter Barns).
			20	.152	Houses and yards.
			21	.066	Garden, &c.
			22	1-843	Township road.
			23	83-308	Arable.
			24	16-717	Arable.
			25	10-089	Pasture.
			26	14-278	Arable.
			27	16-400	Arable.
			28	15-919	Arable, &c.
			29	31-975	Pasture, &c.
			30	19-110	Arable.
			31	20-579	Arable.
			32	.566	Pasture.
			33	47-469	Pasture, &c.
				487-280	Carried forward.
TOWNSHIP OF WREIGHILL.					
1	17-289	Pasture.			
2	.740	Public road.			
3	35-969	Pasture.			
4	22-482	Pasture.			
5	21-192	Pasture.			
6	.299	Gardens.			
7	.022	House, &c.			
8	.201	Houses, yards, } &c. } Wreighill.			
9	.072	Houses and gar- den.			
10	90-668	Pasture, &c.			
11	12-670	Pasture, &c.			
12	22-214	Pasture, &c.			
13	18-718	Pasture, &c.			
14	17-067	Pasture, &c.			
15	40-886	Pasture, &c.			
16	1-104	Pasture.			
17	47-185	Pasture, &c.			
18	35-155	Arable.			
19	28-028	Pasture, &c.			
	411-796				

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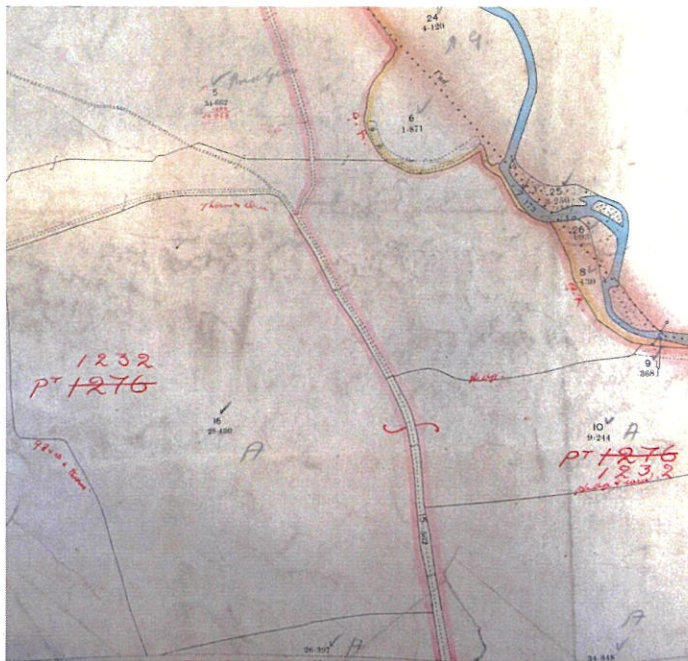
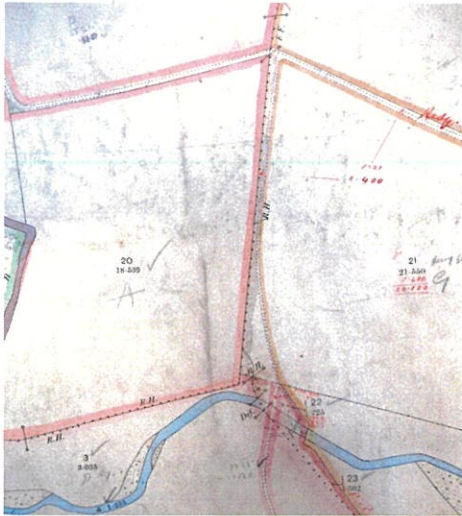
PARISH OF ROTHBURY.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan	Area in Acres.	Remarks.
RECAPITULATION.					
18-154	Land.		25	426-343	Brought forward.
.140	Water.		26	14-016	Pasture, &c.
18-294	Area of the Town- ship of Leo Ward (Detached).		27	11-486	Pasture.
			28	.122	Garden.
				1-091	Houses, yards, garden &c. (Warton, part of).
			29	.542	Public road.
			30	.124	House and garden.
			31	.637	House, garden, &c.
			32	8-735	Arable.
			33	2-151	House, yards, garden &c. (Warton, part of).
			34	.052	Wood.
			35	16-386	Pasture, &c.
			36	18-701	Arable.
			37	1-910	Public road.
			38	11-576	Arable.
			39	8-712	Pasture.
			40	24-946	Arable.
			41	45-641	Pasture, &c.
			42	1-003	Pasture.
			43	20-067	River Coquet.
			44	18-739	Rough pasture, &c.
			45	2-081	Rough pasture, &c.
			46	14-155	Pasture, &c.
				649-876	
RECAPITULATION.					
				618-863	Land.
				10-149	Public roads.
				21-864	Water.
				649-876	Total area of the Township of War- ton.
TOWNSHIP OF WARTON.					
1	84-207	Arable.			
2	29-958	Arable.			
3	37-201	Arable.			
4	1-297	Stream (Wroigh Burn).			
4a	.065	Pasture (island).			
5	37-623	Pasture, &c.			
6	2-165	Pasture.			
7	3-456	Public road.			
8	9-209	Arable.			
9	28-169	Arable, &c.			
10	4-241	Public road.			
11	17-199	Arable.			
12	23-498	Arable.			
13	21-395	Arable.			
14	29-480	Arable.			
15	26-397	Arable.			
16	34-841	Pasture.			
17	7-053	Pasture.			
18	14-092	Pasture.			
19	15-077	Arable.			
20	13-863	Arable.			
21	16-709	Arable.			
22	.484	Wood.			
23	18-224	Arable.			
24	.510	Wood.			
	426-343	Carried forward.			
TOWNSHIP OF GREAT TOSBOURNE AND RYEHILL.					
1	23-056	Arable, &c.			
2	1-992	Pasture, &c.			
2a	.398	Furze, &c.			
3	6-775	Pasture, &c.			
	32-221	Carried forward.			

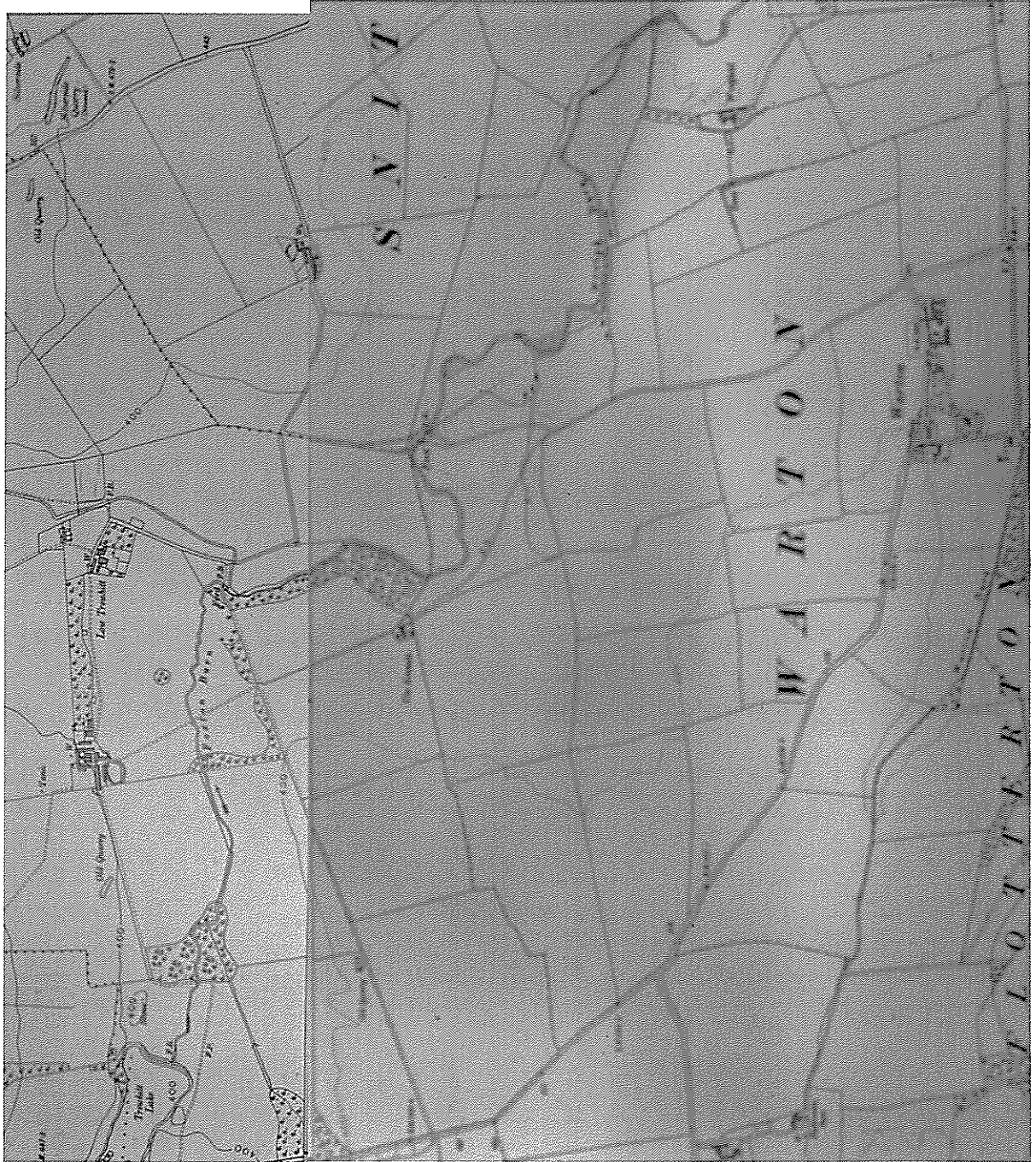


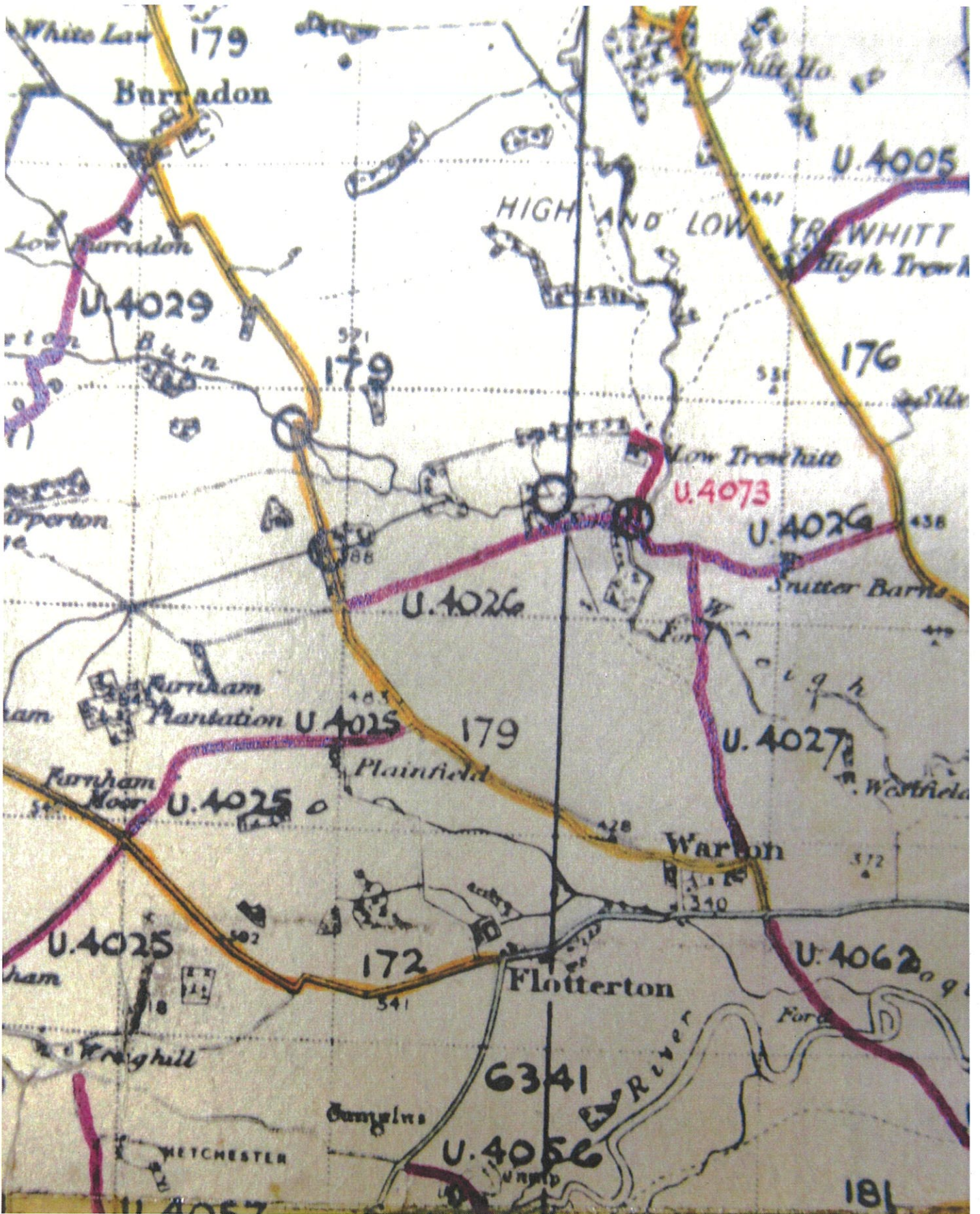


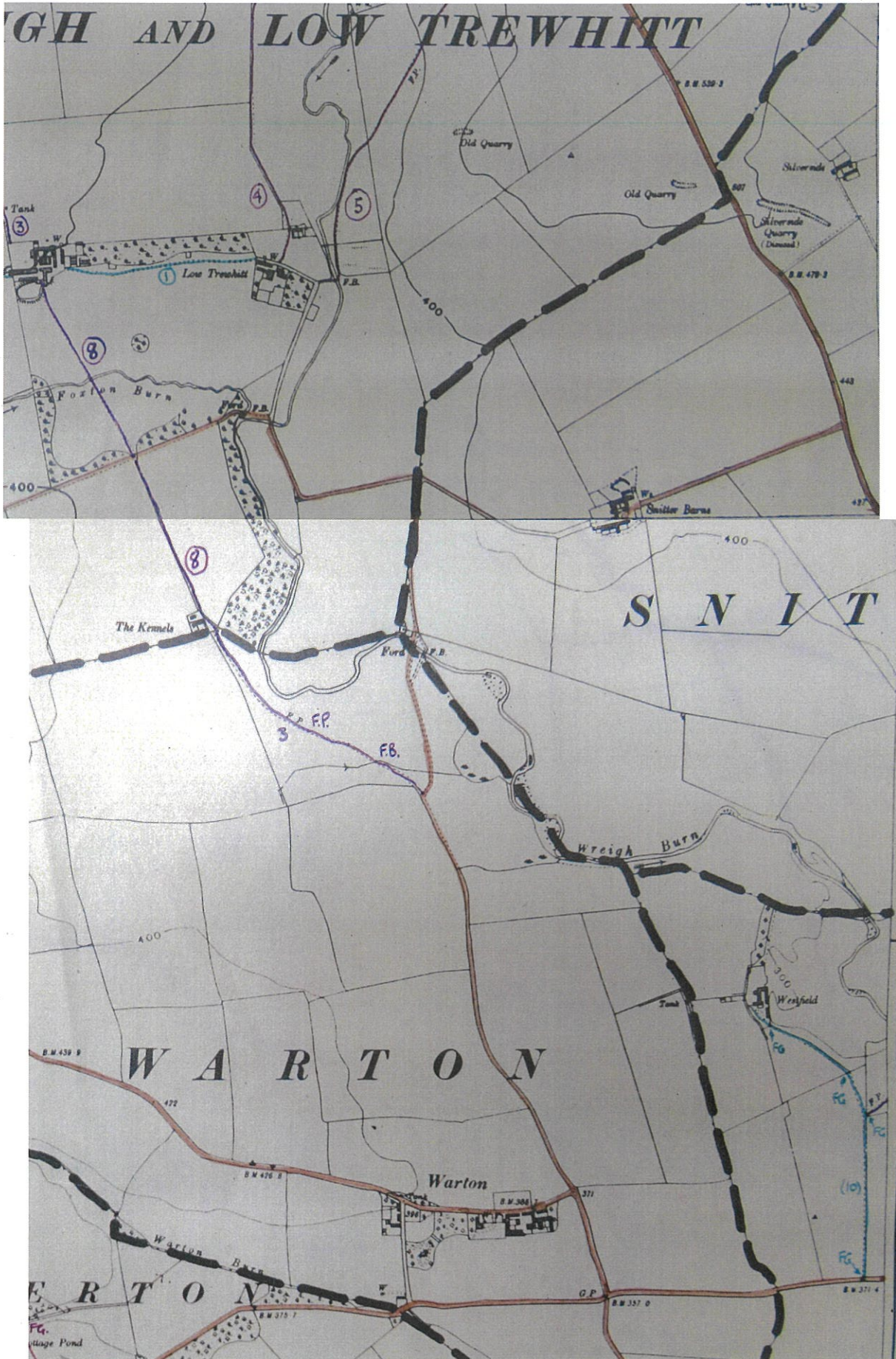
Finance Act 1910 Plan











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

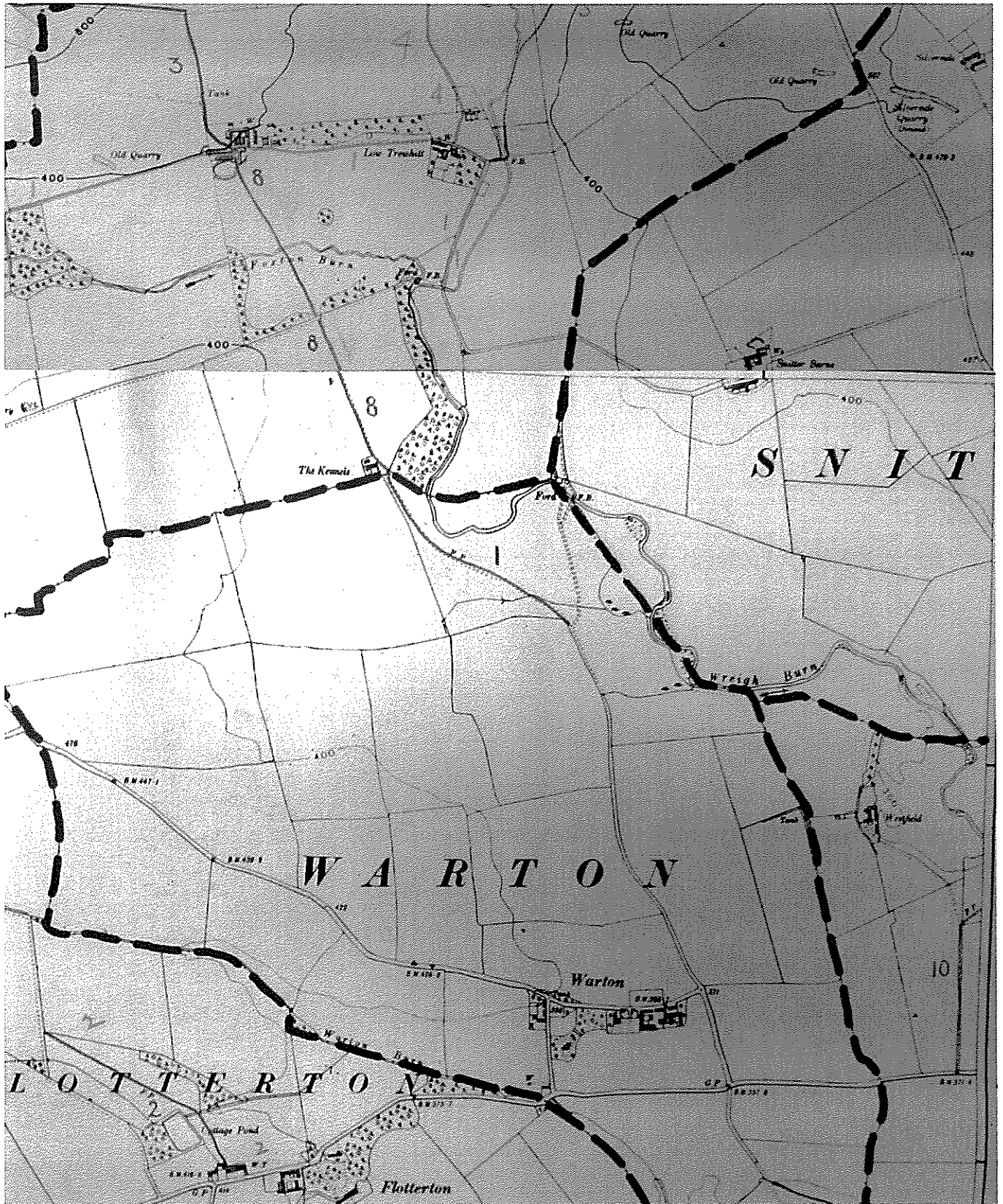
Parish of WARTON in the Rural District of _____

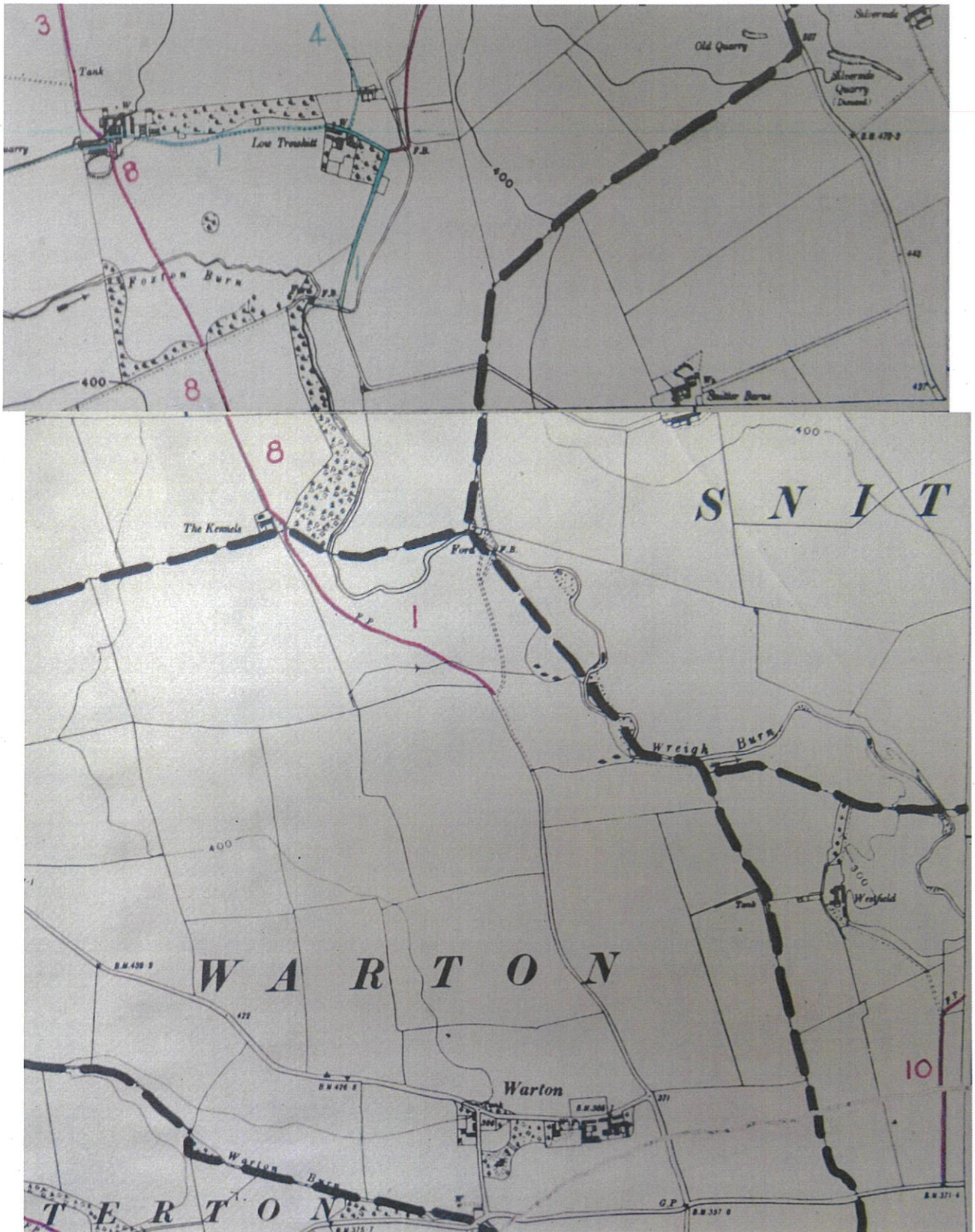
Borough }
Urban District } of ROTHBURY (RURAL)
(Delete whichever is inapplicable).

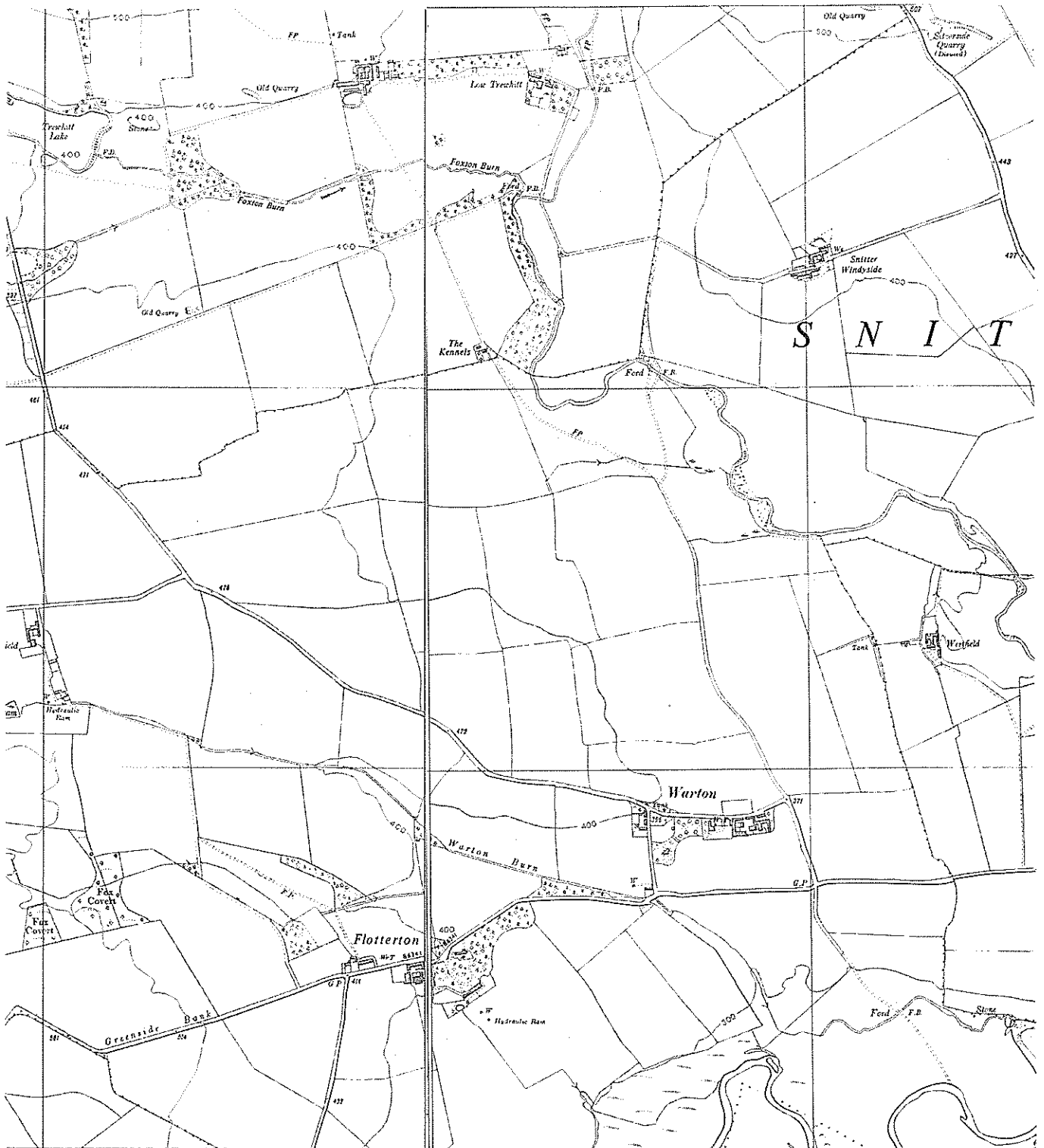
1. Number of highway on Map 3
2. Kind of Path (i.e., F.P., B.R.) F.P.
3. Starts at BRANCHES SEE NO. 2 to KENNELS (LOW TREWHITT)
4. Name of Path (if any) _____
5. Is the Path well defined? YES EXCEPT AT SOUTH END
6. Is the Path metalled? If so, define length. NO
7. If its width can be stated, insert here 2'
8. What is the present condition of the path, stiles, etc.? SATISFACTORY
9. Is it subject to being ploughed out? NOT AT PRESENT.
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
NIL
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
'N' USE
12. Have persons been prevented using the highway? _____
13. Give particulars of any obstructions NIL
14. Names of owners of freehold and previous owners, if known, for past 30 years.
LORD ARMSTRONG
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 F.P. VERY OBSCURED AT SOUTH END DUE TO FARM TRAFFIC AND OBLITERATION BY STOCK.

Surveyed by	Address	Dates of Survey
<u>George A Dary</u>	<u>Warton</u>	<u>17-2-52</u>
<u>RLE Nelson</u>	<u>Prospect Farm, Warton</u>	

Important :- Sheet No. of Map on which Highway is shown
285 / 60 / 41/503/1







1958 County Road Schedule

ALNWICK DIVISION

Unclassified Roads in Rothbury Rural District

		Brought Forward	46.430 miles
U.4027	Warton - Snitter Barns Road	From C.179 at Warton to U.4026 west of Snitter Barns.	0.96
U.4028	Burnfoot - Follions Road	From C.176 at Burnfoot to C.175 south of Follions.	0.76
U.4029	Sharperton - Burradon Road	From C.172 east of Sharperton via Sharperton Edge to C.179 at Burradon.	2.08
U.4030	Billsmoor Foot - Raw Farm Road	From B.6341 south of Billsmoor Foot via Fenchford to the entrance of Raw Farm.	0.61
U.4031	Bowershiel - High Carrick Road.	From B.6341 north of Bowershiel north-westwards to the entrance to High Carrick.	1.11
U.4035	Lordenshaw - Great Tosson Road.	From B.6342 south of its crossing with the Lordenshaw Burn north-eastwards to U.4061 at Great Tosson.	2.64
U.4042	North End - Low Hall Road	From C.106 at North End to Low Hall	0.41
U.4043	New Moor Hall Road	From C.106 south of the Swarland Burn to New Moor Hall at U.D. boundary.	0.34
U.4047	Moor Lodge - Snitter Road	From B.6341 at Moor Lodge via South Cartington to C.176 at Snitter.	3.23
U.4056	The Caistron Road	From B.6341 $\frac{1}{2}$ mile south of Flotterton south-eastwards via Caistron to the River Coquet.	0.31
U.4057	Hepple - Wreighill Road	From B.6341 at Hepple Smithy to a point 250 yards south-east of Wreighill	0.88
U.4058	Holystone - Campville Road	From C.180 at Holystone Priory via Holystone School to Campville.	0.375
U.4059	Road in Rothbury	Rothbury Bridge via Croft Road to Rothbury Station, Providence Lane, Brewery Lane, High Street, Church Street, and the road from Market Street Rothbury via The Cross to Church Street.	1.01
U.4060	Haw Hill and Gravelly Bank, Rothbury	Gravelly Bank from its junction with B.6341 and Haw Hill.	0.69
		Forward	<u>62.035 miles</u>

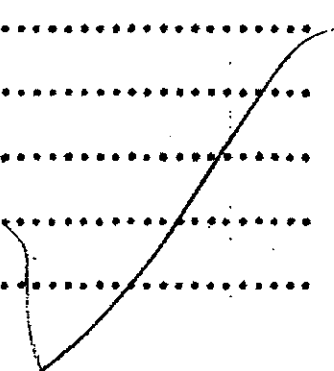


NORTHUMBERLAND COUNTY COUNCIL.

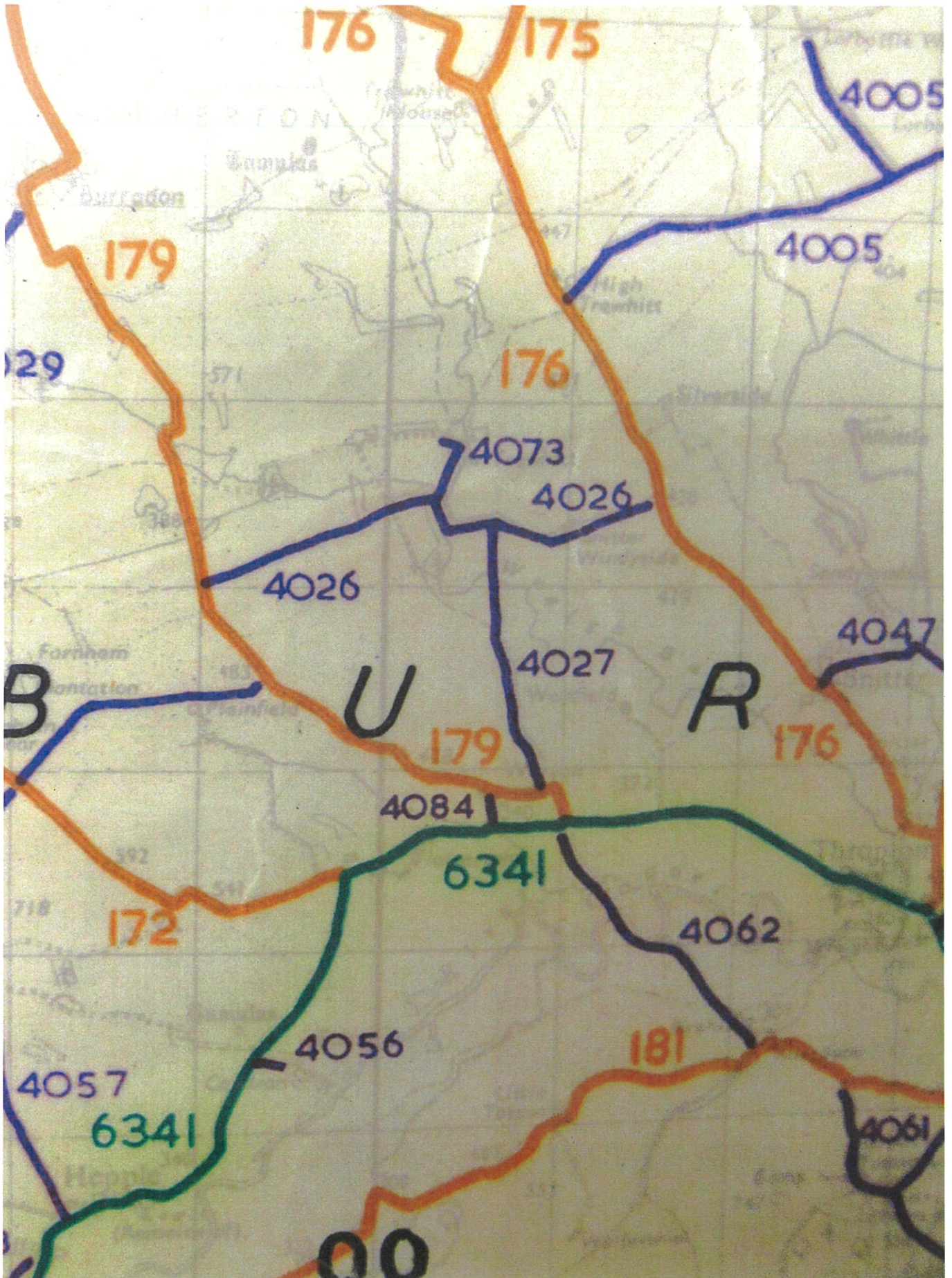
NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949:
PART IV.

PUBLIC RIGHTS OF WAY - STATEMENT.

1. ~~Borough~~
~~Urban district~~
Rural district ROTHEBURY
2. Parish SNITTER
3. Number of Footpath on Map 2
4. Name of Path
5. Kind of Path (i.e. (FP/BR)) F.P. width 8 feet.
6. General Description of Path From the Warton - Snitter Windy Side Road ...
in a north-westerly direction to the Netherton Parish Boundary joining F.P. 14.
in that parish.
.....
.....
.....
7. Other relevant information
.....
.....
.....
.....



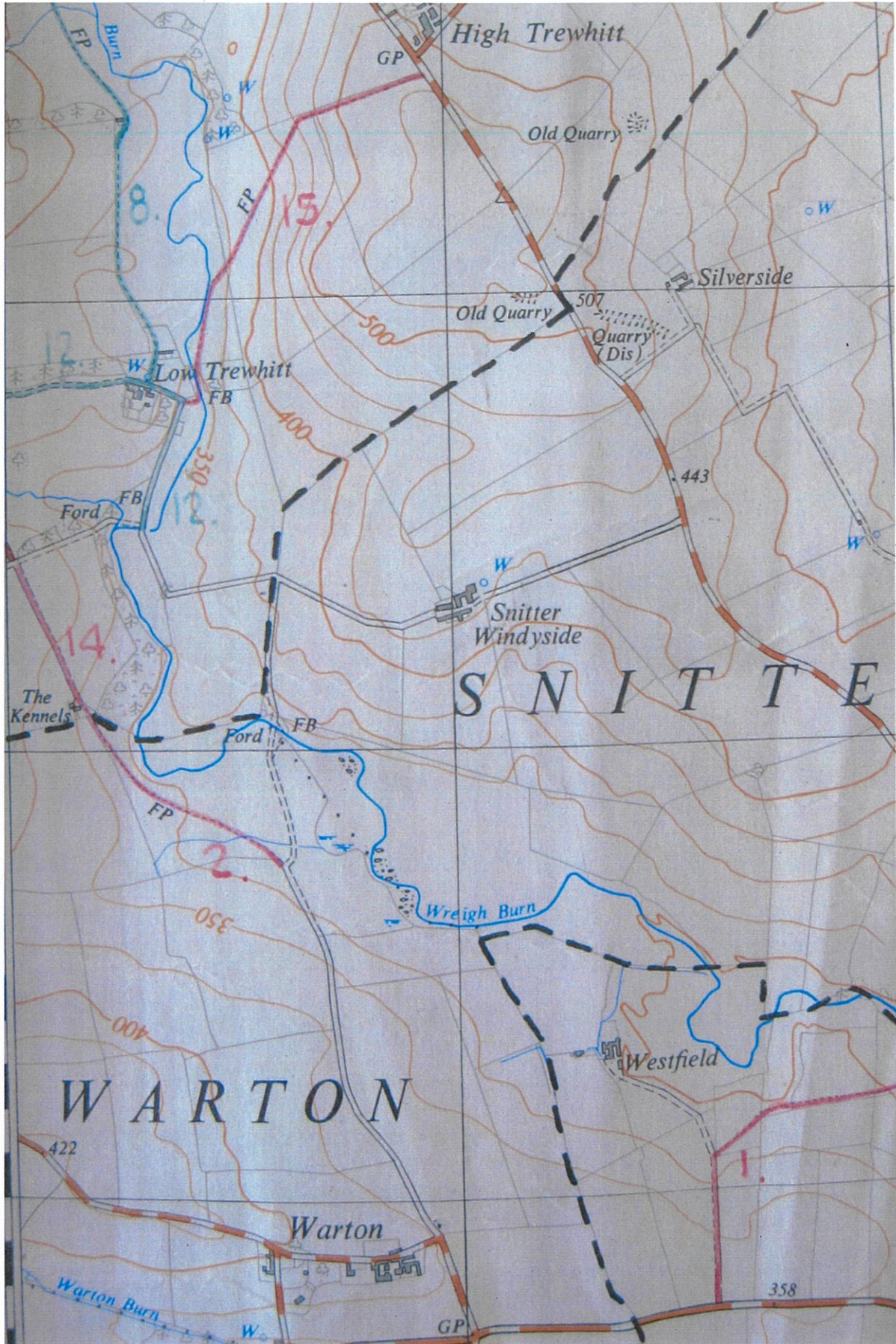
Extract from the Council's 1964 Highways Map



1964 County Road Schedule

- 90 -

<u>Route No.</u>	<u>Name of Road.</u>	<u>Description.</u>	<u>Responsible Division or Authority.</u>	<u>Mileage.</u>	<u>Total Mileage.</u>
U.4025	Farnham Tile Works-Low Farnham-Plainfield.	From C.172 at Farnham Tile Works via High Farnham and Low Farnham, recrossing C.172 at Farnham Moor to join C.179 east of Plainfield.	Alnwick.	2.78	2.78
U.4026	Snitter Windyside Road.	From C.179 north of Plainfield eastwards via Snitter Windyside to join C.176 south of Silverside.	Alnwick.	1.76	1.76
U.4027	Warton-Snitter Windyside Road.	From C.179 at Warton northwards to U.4026 west of Snitter Windyside.	Alnwick.	0.96	0.96
U.4028	Netherton Burnfoot-Follions Road.	From C.176 at Netherton Burnfoot to C.175 south of Follions.	Alnwick.	0.76	0.76
U.4029	Sharperton-Burradon Road.	From C.172 east of Sharperton north-eastwards via Sharperton Edge to C.179 at Burradon.	Alnwick.	2.08	2.08
U.4030	Billsmoor Foot-Highshaw Road.	From B.6341 south of Billsmoor Foot via Penchford and Raw Farm to the entrance to Highshaw Farm.	Alnwick.	1.21	1.21
U.4031	Bowershield-High Carrick Road.	From B.6341 north of Bowershield north-westwards to the entrance to High Carrick.	Morpeth.	1.11	1.11
U.4032	Bowershield Road.	From B.6341 south of the entrance to North Riding via Bowershield to a point approximately 330 yards east of Bowershield.	Morpeth.	0.42	0.42
U.4033	Elsdon-Eastnook Road.	From B.6341 at Elsdon via Landshot to Eastnook, including branch road to Hudspeth.	Morpeth.	3.33	3.33
U.4034	Folly Road.	From B.6341 west of the Bird in the Bush (Public House), northwards for a distance of 550 yards towards the Folly.	Morpeth.	0.32	0.32
U.4035	Lordenshaw-Great Tossen Road.	From B.6342 south of its crossing with the Lordenshaw Burn north-eastwards to U.4061 at Great Tossen.	Alnwick.	2.64	2.64
U.4036	Rothley Village Road.	From C.161 north of Scots Gap to Rothley Village.	Morpeth.	0.20	0.20

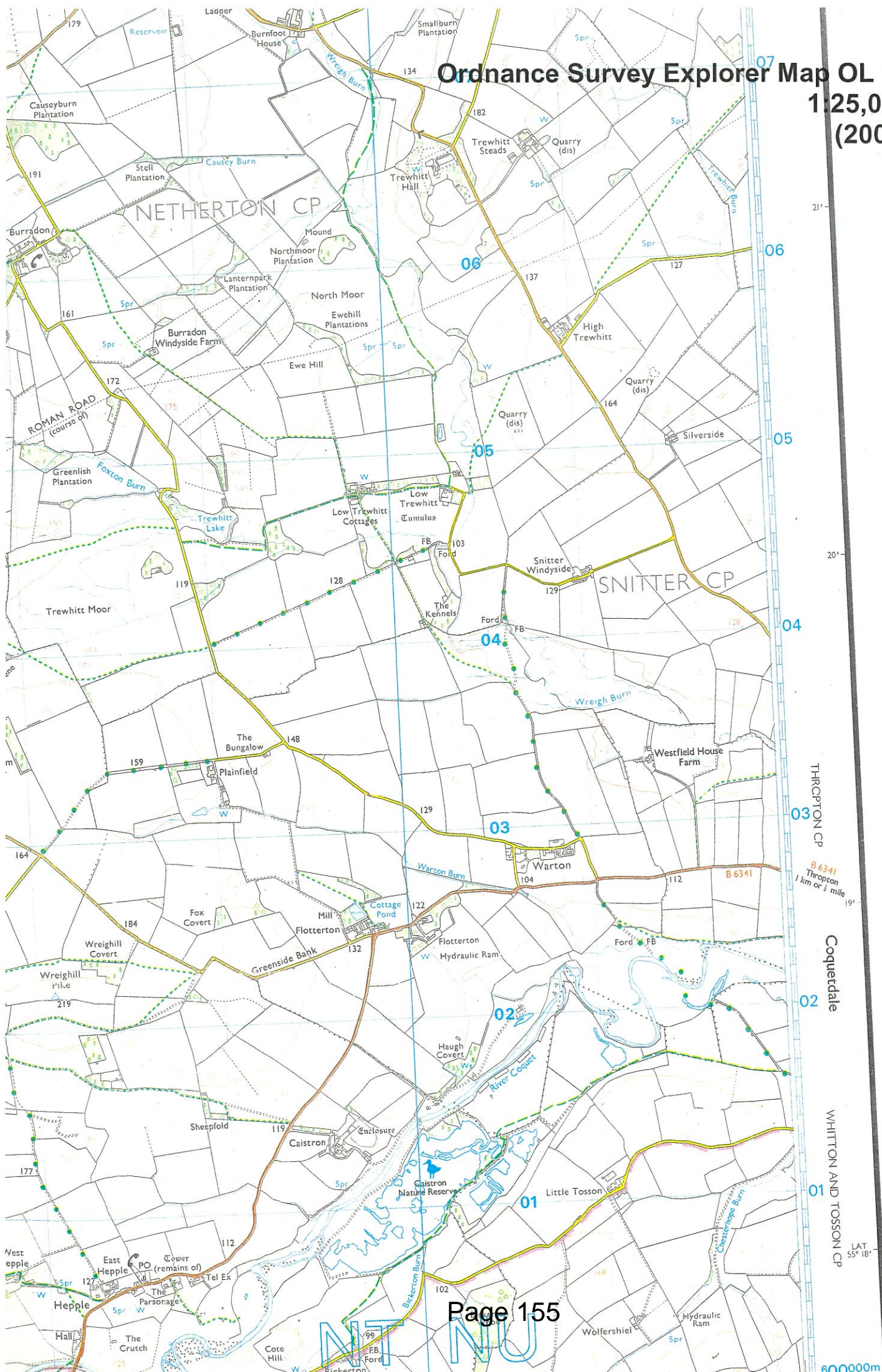


1974 County Road Schedule

Route No.	Name of Road	Description	Responsible Division or Authority	Mileage	Total Mileage
U.4022	Burradon-Biddlestore Hall.	From C. 172 at Burradon Mains (NF. 963070) northwards to U.4017 at Biddlestore Hall (NF. 960082).	Alwrick Division.		0.80
U.4023	Alwinton-Coquet Valley Road.	From C. 172 at Alwinton (NF. 923060) north-westwards and westwards via Shillmoor, barrowburn to Kakerdon (NF. 804094) including 133 yd. long spur from just north of Barrowburn Bridge north-eastwards to Barrowburn Farm.	Alwrick Division.		11.78
U.4024	Alwinton-Clemnell Road.	From U.4023 south-east of Alwinton (NF. 923060) north-eastwards to Clemnell (NF. 923070).	Alwrick Division.		0.79
U.4025	Farnham Tile Works-Low Farnham-Plainfield.	From C. 172 at Farnham Tile Works (NF. 967036) southwards, eastwards and north-eastwards via High Farnham and Low Farnham, recrossing C. 172 at Farnham Moor to join C. 179 east of Plainfield (NF. 803034).	Alwrick Division.		2.78
U.4026	Snitter Windyside Road.	From C. 179 north of Plainfield (NF. 990040) eastwards via Snitter Windyside to join C. 176 south of Silverside (NF. 015045).	Alwrick Division.		1.76
U.4027	Marton-Snitter Windyside Road.	From C. 179 at Marton (NF. 009029) northwards to U.4026 west of Snitter Windyside (NF. 006044).	Alwrick Division.		0.96
U.4028	Netherton Burnfoot-Follions Road.	From C. 176 at Netherton Burnfoot (NF. 997073) north-eastwards to C. 175 south of Follions (NF. 007076).	Alwrick Division.		0.76
U.4029	Sharpercon-Burradon Road.	From C. 172 east of Sharpercon (NF. 963037) north-eastwards via Sharpercon Edge to C. 179 at Burradon (NF. 980060).	Alwrick Division.		2.08
U.4030	Billsmoor Foot-Highshaw Road.	From B.6341 south of Billsmoor Foot (NF. 943967) northwards via Perchford and Haw Farm to the entrance to Highshaw Farm (NF. 941982).	Alwrick Division.		1.21

Ordnance Survey Explorer Map OL 16

1:25,000
(2005)



THROPTON CP
B 6341
Thropton
1 km or 1/2 mile

Coquendale

WHITTON AND TOSSON CP

LAT 55° 18'



600000m

Highways Act 1980 Section 36(6)
County Of Northumberland
List of Streets which are highways maintainable at the public expense
As at 02-May-2006

Road Number	Description	Length - Metres
U4024		
	U4023 TO CLENNELL CATTLE GRID	1,275
	<i>Total length for U4024</i>	1,275
U4025		
	C172 (WEST) TO C172 (EAST)	2,921
	C172 CROSSROADS TO C179	1,539
	<i>Total length for U4025</i>	4,460
U4026		
	U4027 TO C176	969
	C179 TO U4073 LOW TREWITT	1,416
	U4073 TO U4027	419
	<i>Total length for U4026</i>	2,803
U4027		
	FORD TO U4026	317
	C179 TO FORD	1,249
	<i>Total length for U4027</i>	1,565
U4028		
	C176 JCT TO C175 JCT	1,209
	<i>Total length for U4028</i>	1,209
U4029		
	C172 TO U4019	1,409
	U4019 TO C179 VIA LOW BURRADON FAR	1,951
	<i>Total length for U4029</i>	3,360
U4030		
	B6341 JCT TO HIGH SHAW FARM	1,872
	<i>Total length for U4030</i>	1,872
U4031		

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Northumberland County Council

NORTH NORTHUMBERLAND LOCAL AREA COUNCIL
RIGHTS OF WAY SUB-COMMITTEE
14 December 2022

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

ALLEGED BYWAY OPEN TO ALL TRAFFIC No 23 PARISH OF NETHERTON

Report of the Executive Director of Local Services
Cabinet Member: Councillor Jeff Watson, Healthy Lives

Purpose of report

In this report, the North Northumberland Local Area Council Rights of Way Sub-Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4073 road, from the U4026 road, south of Low Trehwitt, in a general northerly then westerly direction to Low Trehwitt.

Recommendation

It is recommended that the sub-committee agrees that:

- (i) there is sufficient evidence to indicate, on a balance of probabilities, that public vehicular rights have been shown to exist over the route S-W-V;**
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the S-W-V route;**
- (iii) the route be included in a future Definitive Map Modification Order to upgrade this length of public bridleway to a byway open to all traffic.**

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 upgrading an existing 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. This requires the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows :

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

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

2.0 PUBLIC EVIDENCE

- 2.1 In the late 1980s the County Council carried out consultations regarding proposals to add a number of unsealed tracks in the north of the County to the Definitive Map as byways open to all traffic on the basis that the routes were included in the County Council's "List of Streets" as unclassified County roads (UCR). The rationale for doing so was that it would not be obvious to members of the public (particularly horse riders, walkers and cyclists) that they were legally entitled to use routes such as these (which were considered to have vehicular status), because their physical appearance might suggest otherwise.
- 2.2 The view, held by those officers of the Council responsible for maintaining the 'List of Streets' for the County of Northumberland was (and still is) that only public roads (not public bridleways or public footpaths) were shown on this List. The only exceptions to this are the surfaced paths and alleyways providing pedestrian links between roads, in urban areas. Thus, tracks in rural settings, which have their own unique reference numbers (e.g. the 'U4073' road), were considered to be all-purpose public highways maintainable at public expense.
- 2.3 Shortly afterwards, the processing of applications from third parties seeking to record public footpath or public bridleway rights was afforded a higher priority. Later on, the process of recording UCRs as byways open to all traffic was effectively suspended because the Ordnance Survey indicated that they would be showing such routes on their published maps as being an "Other route with public access". Although, on that basis, members of the public would still be unclear as to precisely what rights they had over routes identified in this fashion.
- 2.4 The most recent advice from DEFRA (paragraph 4.42, Rights of Way Circular 1/09) is that inclusion on the List of Streets may provide evidence of vehicular rights but that this should be examined on a case by case basis. In view of this advice, it is considered prudent to evaluate the status of the U4073 unclassified County road based upon more than simply its inclusion in the List of Streets.

3. LANDOWNER EVIDENCE

- 3.1 By letter, received 23 February 2018, R Torrance and J Lazams of Foxton Cottage, Low Trehwitt, responded to the consultation, stating:

"We do not own any land traversed by any of these routes.

"All the routes are marked as Byways open to all traffic. However, two are unsuitable for public traffic, only fit for tractors. These are no. 21 between R and the turn off to Kennels Cottage just west of S.

"Also number 15 which goes through a stream south of point T and into fields. These two routes have had almost no motor vehicles except farm vehicles in the past 20 years. They are used by walkers, horse riders etc. I would say that the same holds for the period May 2001 to May 2006.

"The other two routes are used by vehicles accessing the farm and cottages, and farm traffic, as well as walkers. These are number 14 U to T and number 21 T to S and 23 S to W to V."

4. CONSULTATION

- 4.1 In February 2018, 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 email, on 26th February 2018, Ms H Evans responded to the consultation on behalf of Cycling UK, stating:

"Ted has now looked at these and come back to me with the attached and also the comment that "Most are standard changes to confirm existing BOATs but a few are really good gains to the access network. No comment means we support and no comments are necessary".

Cycling UK did not make any comments in relation to this particular proposal.

- 4.3 By email, on 8th May 2018, the British Horse Society responded to the consultation, stating:

"Netherton parish

"Alleged byway open to all traffic 23 (Low Trehwitt) This is a short section of narrow tarmac road which acts as the access to Low Trehwitt and the cottages beside it. It also leads to two public bridleways so it is well used by horse riders making use of the off-road network and by vehicles accessing the properties. It forms an important part of the recreational network of the area and is probably used by walkers and cyclists as well. The BHS supports its addition to the definitive map."

- 4.4 By email, on 10th May 2018, Netherton & Biddlestone Parish Council responded to the consultation, stating:

“Further to correspondence dated 14/2/18, Netherton & Biddlestone Parish Council are only aware of walkers and horse riders using the routes, as opposed to open to all traffic.”

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

Although Low Trehitt is identified on the map, there is no evidence of a road or track resembling the route of alleged Byway No 23.

1820 Fryer's County Map

There is clear evidence of an “Other Road” resembling the route of alleged Byway No 23.

1827 Cary's Map

There is clear evidence of a “Parochial Road” resembling the route of alleged Byway No 23.

1828 Greenwood's County Map

Whilst there is no evidence of a Cross Road” resembling the route of alleged Byway No 23, there is clear evidence of a track over a parallel route to Low Trehitt Cottages.

c.1860 Ordnance Survey Map: Scale 1:2500

There is no evidence of a road / track over the north-south section of the route of alleged Byway No 23. The east –west section, actually at Low Trehitt, is shown and doesn't appear to be enclosed. An unenclosed track, following a parallel route, much closer to the Wreigh Burn, is depicted on the map.

1867 Ordnance Survey Map: Scale 1:10,560

There is no evidence of a road / track over the north-south section of the route of alleged Byway No 23. The east –west section, actually at Low Trehitt, is shown and doesn't appear to be enclosed. An unenclosed track, following a parallel route, much closer to the Wreigh Burn, is depicted on the map.

1897 Ordnance Survey Map: Scale 1:2500

As with the 1860 OS map, there is no evidence of a road / track over the north-south section of the route of alleged Byway No 23. The east –west section, actually at Low Trehitt, is shown and still doesn't appear to be enclosed. An unenclosed track, following a parallel route, much closer to the Wreigh Burn, is depicted on the map.

Finance Act 1910 plan

There is clear evidence of a mainly unenclosed road or track over the route of alleged Byway No 23. The route is not shown as being separated from the surrounding land by coloured boundaries. This is no surprise for the unenclosed section, but if the enclosed section (at Low Trehitt) had been separated, this would have been good evidence in support of vehicular highway rights. Parallel to the track, shown on the OS base map, is the pencilled addition of a further route. This pencilled addition is the route of the U4073 and it is annotated "Private Road From Bridge to Farm Steading".

1923 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track over the whole route of the alleged byway (as per the pencilled amendments to the 1897 OS base map used for the Finance Act calculations). The parallel track, closer to the Wreigh Burn, appears to have completely disappeared.

1932 Rothbury RDC Handover Map

No handover map appears to have survived for the former Rothbury RDC area.

c.1938 Restriction of Ribbon Development Act 1935 Map & Schedule

No map or schedule for the Rothbury RDC area appears to have survived.

1946 Bridges & Roads Committee Minutes (30 Sept 1946)

An extract from these minutes states:

"(20) Rothbury Rural District: Unadopted Roads in remote districts.

The Rothbury Rural District Council have forwarded me a copy of their Highways Advisory Committee's report which they have adopted, and have requested that lengths of road enumerated in the Report should be taken over and made up to a passable standard of repair. They state that such a step would not only improve greatly the existing means of communication in the area, but would, to some extent, facilitate the engagement of shepherds and other agricultural workers on large remote farms without whose services such farms would revert to deer forests or come under controlled afforestation and be certainly lost to food production.

"They have divided their recommendations into three groups.

"Group A covers a length of 10 miles, and they ask that these roads be given first consideration. Group B covers a length of 3 miles and Group C a length of 18 miles, a total of 31 miles.

"The following are the roads included in Group A, together with my notes:-

...

"5. Windyside Law, Trehitt Bridge to farm cottages. The existing public road through the ford is hardly ever used and has grown green. The diversion which is maintained by the Cragside Estate is in bad condition. The road serves the farmhouse and six cottages."

The Committee resolved:

"That every application of this kind be considered on its merits as and when received, and for that purpose be referred to a Sub-Committee consisting of the Chairman and Vice Chairman, Alderman Pitt and Councillor Minoughan, for investigation and report, with power to meet the District Council concerned."

1951 Highways Map

The route of alleged Byway Open to All Traffic No 23 is coloured purple so as to identify it as a publicly maintainable road. It is labelled as the "U4073". The route has been drawn in a slightly different purple to the other routes, and the road number has also been drawn in purple (almost all the other road numbers are drawn in black ink) which suggests that this route was a later addition, not shown on the original 1951 map.

1951 Bridges & Roads Committee Minutes (24 Sept 1951)

An extract from these minutes states:

"(8) Rothbury Rural District.
(a) Roads to Farms

"As reported to the Committee at their last meeting, the Agent for the Cragside Estate has asked the County Council to take over the road to Low Trehitt Farm, and a similar request has been made by Sir Angus Watson in respect of Witton Hill Head road.

"In 1946, the Rothbury Rural District Council asked that certain lengths of road serving remote districts should be taken over and put into a passable standard of repair, in order to improve the existing means of communication in the area and to facilitate the engagement of workers whose services are essential to save some of the remote farms from being lost to food production. The Committee then decided that each application should be considered on its merits, but after a meeting with representatives of the Rural District Council, no definite decisions were reached. It was, however, agreed to make representations to the War Office with regard to the repair of the road to Trows and Uswayford Farms, but they disclaimed any responsibility other than to their tenant at Trows.

"The road to Low Trewitt serves the farm and seven cottages and could be put in a reasonable state of repair without a great

deal of work. The Sub-Committee recommend that it be taken over if this work is carried out."

c.1952 Definitive Map – original Survey Schedules & Map

The route of alleged Byway Open to All Traffic No 23 exists on the base map, but it is *not* coloured brown. Known public roads were generally coloured brown to indicate what the extent of the road network was considered to be. Despite this, a bridleway numbered "1" and two footpaths, numbered "4" and "5" end on the uncoloured road. In the Schedules for existing Netherton Bridleways Nos 12, 8 and 15 (at that time identified for inclusion as High & Low Trehwitt Bridleway 1, and Footpaths 4 and 5, respectively) the rights of way are identified as starting at Low Trehwitt House - the status of the road is not mentioned.

1953 Bridges & Roads Committee Minutes (21 Sept 1953)

An extract from these minutes states:

"(41) Private Street Works – New Streets Act 1951
Rothbury Rural District – Road to Low Trehwitt

"The Committee have already agreed to adopt this road subject to it being made up, and repairs have now been carried out to a length of 0.263 miles from the existing County road to the farm, but the remaining length of 0.25 miles from the farm to seven cottages has not been repaired although the owners are anxious for it to be taken over.

"I recommend that the length to the farm be adopted and that the remainder be taken over when it has been made up to a satisfactory standard."

The Committee approved this recommendation.

Draft Map

The route of alleged Byway Open to All Traffic No 23 exists on the base map. It is identified for inclusion on the Definitive Map as part of a public bridleway, numbered "1". A public bridleway and a public footpath end on the public bridleway / alleged byway route.

Provisional Map

As with the Draft Map, the route of alleged Byway Open to All Traffic No 23 exists on the base map. It is identified for inclusion on the Definitive Map as part of a public bridleway, numbered "1". A public bridleway and a public footpath end on the public bridleway / alleged byway route.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track over the route of alleged Byway No 23.

1958 County Road Schedule

In this Schedule, the entry for the U4073 road states:

“U4073 Road to Low Trehitt
From U4026 at Low Trehitt Bridge northwards to gate at Low
Trehitt Farm.”

The length of the U4073 road is identified as 0.272 miles.

1962 Original Definitive Map

The route of alleged Byway No 23 exists on the base map, and is identified as part of Public Bridleway No 12. Unofficial pencilled annotations have been made, crossing the through the V-W-S route and labelling this as “U4073”.

1962 Original Definitive Statements

The original Definitive Statements for the public right of way intersecting with the alleged byway open to all traffic state:

Public Bridleway No 8 (Netherton)

“From the Netherton Burnfoot – High Trehitt Road south-east of Netherton Burnfoot in a south-easterly, south-westerly and south-easterly direction by the east side of Northmoor Plantation to join the County Road U4073 at Low Trehitt.”

Public Footpath No 15 (Netherton)

“From the County Road U4073 south-east of Low Trehitt in an easterly and north-easterly direction crossing the Wreigh Burn by the footbridge to join the High Trehitt – Snitter Road south of High Trehitt.”

1964 Highways Map

The route of alleged Byway Open to All Traffic No 23 is coloured purple so as to identify it as a publicly maintainable road. It is labelled as part of the “U4073”.

1964 County Road Schedule

In this Schedule, the entry for the U4073 road states:

“U4073 Road to Low Trehitt
From U4026 at Low Trehitt Bridge northwards to gate at Low
Trehitt Farm.”

The length of the U4073 road is identified as 0.27 miles.

First Review Definitive Map

The route of alleged Byway No 23 exists on the base map, and is identified as part of Public Bridleway No 12.

1974 County Road Schedule

In this Schedule, the entry for the U4073 road states:

"U4073 Road to Low Trehitt
From U4026 at Low Trehitt Bridge (NU 003045) northwards to
gate at Low Trehitt Farm (NU 003048)."

The length of the U4073 road is identified as 0.27 miles.

2005 Ordnance Survey Explorer OL16 Map: Scale 1:25,000

There is clear evidence of a road / track over the route of alleged Byway No 23. The short section immediately east of point V is identified as public bridleway. The remaining (majority) of the route is identified as a yellow road (in the map key this refers to a Road generally less than 4 metres wide).

2006 The Council's 'List of Streets' (2 May 2006)

The route of the alleged byway (the U4073) is clearly identified as publicly maintainable highway.

6. SITE INVESTIGATION

- 6.1 From a Point marked S, on the U4026 road (alleged BOAT 21) a 2.7 metre wide tarmac road, in a 6 to 7 metre wide corridor proceeds in a north-easterly direction for 290 metres. A 3 metre wide tarmac road, in a mostly 6.4 metre wide corridor (widening to 7.9 metres around the entrance to Low Trehitt) continues in a westerly direction for a distance of 140 metres, to a 6 metre wide cattle grid / field gate combination at a Point marked V.
- 6.2 The first 380 metres of this route is currently recorded on the Definitive Map as part of Public Bridleway No 8 and the final 50 metres is currently recorded as part of Public Bridleway No 12.

7. DISCUSSION

- 7.1 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."

- 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 The route of alleged Byways Open to All Traffic Nos 21 & 14 is identified on the County Council's current List of Streets as being the U4026 road. The route was identified on the Council's 1951 and 1964 Highways Maps (albeit, apparently, as a later addition in the case of the 1951 map) and on the 1958, 1964 and 1974 County Road Schedules. No 1932 Handover Maps or Maps and Schedules produced under the Restriction of Ribbon Development Act 1935 appear to have survived for the Rothbury Rural District area. The County Council's Bridges and Roads Committee minutes from 1946 to 1953 indicate that the Council took over maintenance responsibility for the route in 1953 and provide the background for why this was done.
- 7.5 A route (but not *the* route, in the case of the main north-south section) has been consistently identified on Ordnance Survey maps since the 1860s. On the earlier OS maps, the track wasn't enclosed. On the 1920s OS maps, and subsequently, the route is depicted as being enclosed. The route would not appear to be shown on Armstrong's County Map of 1769, but a route is shown on Fryer's and Greenwood's County Maps of 1820 and 1828, and on Cary's Map of 1827. The enclosed route was not separated from the surrounding land by coloured boundaries, on the plans produced in association with the Finance Act 1910, and the map is annotated with the note "Private Road from Bridge to Farm Steading".
- 7.6 The County Council accepts that, given the way the regulations were written with regard to the way highway authorities could include publicly maintainable highways in the List of Streets, there was no impediment to public bridleways and public footpaths also being included. That is not to say that any bridleways or footpaths were so shown – just that they could be. It must, therefore, be entirely proper to consider each UCR on a case by case basis, but that does not mean that we should begin with the assumption that each UCR is no more than a public footpath unless higher rights can be proven by other means. In Northumberland there is no evidence to suggest that public footpaths and public bridleways were deliberately shown on the 1958, 1964 or 1974 County Road Schedules (forerunners of the modern day List of Streets). The fact that a route is shown on these schedules must, therefore, be evidence of some weight that public vehicular rights exist.
- 7.7 Letters from DEFRA, dated 2003 and November 2006, and Rights of Way Circular 1/09 set out the approach Inspectors and order making authorities should take in determining the status of routes included on the List of Streets. In summary, the guidance states that the inclusion of a route on the List of Streets is not a record of what legal rights exist over that highway but may provide evidence of vehicular rights. However, this must be considered with all other relevant evidence in order to determine the nature and extent of those rights. Highway Authorities are recommended to examine the history of such routes and the rights that may exist over them on a case by case basis in order to determine their status.
- 7.8 The Natural Environment and Rural Communities Act 2006 (NERC Act 2006) had a major impact upon the recording of byways open to all traffic based upon historical documentary evidence. Under section 67 of the Act, any existing, but unrecorded, public rights of way for mechanically propelled vehicles were extinguished unless one of the 'saving' provisions applied. In brief, these saving provisions were (a) if the main lawful public use between

2001 and 2006 was with motor vehicles; (b) if the route was on the List of Streets (on 2 May 2006) and not also on the Definitive Map as something less than a byway open to all traffic; (c) the route was legally created expressly for motor vehicular use; (d) the route was a road deliberately constructed for public motor vehicular use; or (e) the vehicular highway came about as a result of unchallenged motor vehicular use before December 1930.

- 7.9 Of the saving provisions above, the main one (b), will not apply to this section of the U4073 road. Where a route is shown on the Definitive Map as a footpath, bridleway or restricted byway, then the fact that it is shown on the List of Streets will not be sufficient to prevent the public's motor vehicular rights from being extinguished.
- 7.10 Under section 67(2)(c) of NERCA 2006, the public's motor vehicular rights would not be extinguished if those rights had been created on terms that expressly provided for a right of way for mechanically propelled vehicles. Although the Council sometimes has landowner highway dedication documents for roads added in the 1950s and 1960s, no dedication documents exist for this route (and even if they did, based upon past experience, it would be unlikely for them to explicitly dedicate a *vehicular* public right of way).
- 7.11 Under section 67(2)(a) of NERCA 2006, the public's motor vehicular rights would not be extinguished if they are over a way whose main lawful use by the public during the period of 5 years between 2nd May 2001 and 2nd May 2006 was with mechanically propelled vehicles. The difficulty here is that the Council has no clear evidence regarding the balance of public user during this 5 year period. Although the U4073 is a tarmac road, it is a vehicular cul-de-sac. It is clearly used, reasonably often, by the landowners / people living at Low Trehitt, but it seems doubtful that this use constitutes "use by the public".
- 7.12 Under section 67(2)(e) of NERCA 2006, the public's motor vehicular rights would not be extinguished if they are over a way that had been in long use by mechanically propelled vehicles before 1930, when it first became an offence to drive 'off-road'. There is no evidence of long-standing public motor vehicular use before 1930 in this instance.
- 7.13 Finally, under section 67(2)(d) of NERCA 2006, the public's motor vehicular rights would not be extinguished if they are over a way that had been created by construction of a road intended to be used by MPVs. This was the saving provision that the Inspector, determining Definitive Map Modification Order (No 23) 2012, at Kilham, considered to have saved public motor vehicular rights in that instance, and the Council has applied the same reasoning in several similar situations, subsequently. In all of these previous situations, we had a highway dedication from the landowner, combined with Council Bridges and Roads Committee Minutes showing that that the Council agreed to be responsible for future maintenance, providing the road was constructed to a suitable standard. Whilst we do have the September 1953 Bridges and Roads Committee Minutes agreeing to take over responsibility for the 0.263 mile long section as far as Low Trehitt Farm, this section having been suitably made up/ repaired, we don't appear to have any road / highway dedication from the landowner.
- 7.14 The two least problematical explanations for the lack of a landowner highway dedication would be (1) there was, in fact, a landowner dedication, made in or before 1953, but the documentation for this has subsequently been

accidentally lost or misfiled or (2) it was not considered necessary for there to be a dedication because the route was already believed to be a public vehicular highway (albeit one that was not, until that moment, publicly maintainable). The problem with the second alternative is that this route was in the process of being recorded as a public bridleway on the Definitive Map – if vehicular rights were already considered to exist, we should have expected this route to be identified as a Carriage Road Bridleway (i.e Road Used as a Public Path) - not as a public bridleway.

- 7.15 This route was already in the process of being recorded as a public bridleway. Whilst it might be tempting to believe its simultaneous addition to the Council's List of Streets, as the U4073, might be no more than an affirmation that the Council was responsible for maintaining the public bridleway, this ignores the earlier Bridges and Roads Committee minutes which seem to be envisaging a route which is more than just a public bridleway, and would suggest unrealistic special treatment for this public bridleway, over and above all the other publicly maintainable public bridleways being recorded at that time. Seventy years on, it would seem prudent to rely on the presumption of regularity, and take the view that, in the absence of any clear evidence to the contrary, the Council must have acted correctly in taking over responsibility for the maintenance of this section of road.
- 7.16 For a route to be a byway open to all traffic, it has to be (i) a public motor vehicular right of way and (ii) a route which is nevertheless used (or is likely to be used) by the public mainly for the reasons which footpaths and bridleways are used. The whole route has a drivable tarmac surface, and is clearly in regular use by the owners of the immediately surrounding farms, the residents at Low Trewhitt, the cottages and their visitors, but the route is a short vehicular cul-de-sac as far as the motoring public is concerned, from which two public bridleways and one public footpath branch off. From the consultation responses of R Torrance & J Lazams, Netherton Parish Council and the British Horse Society, and from my own site visit, it seems likely that the 'general public' will use of the route primarily on foot, horseback and bicycle, with any motor vehicular use being less frequent. Applying a character test, the route might seem borderline for being recorded on the Definitive Map as a byway open to all traffic. At present, however, the route is recorded on the Definitive Map as a public bridleway. There is no mechanism for simply deleting the bridleway from Definitive Map altogether. If the Council doesn't upgrade the route (to correctly identify the public vehicular rights which appear to exist) its only other option is to leave things just as they are at present – with the route misleadingly identified as only a public bridleway.
- 7.17 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. Where no width can be determined by documentary means (such as an Inclosure Award, Highway Order or dedication document), there is usually a boundary to boundary presumption for public highways. It is proposed to record the alleged byway with a width varying from 6.0 to 7.9 metres, as identified in paragraph 6.1, above.

9. CONCLUSION

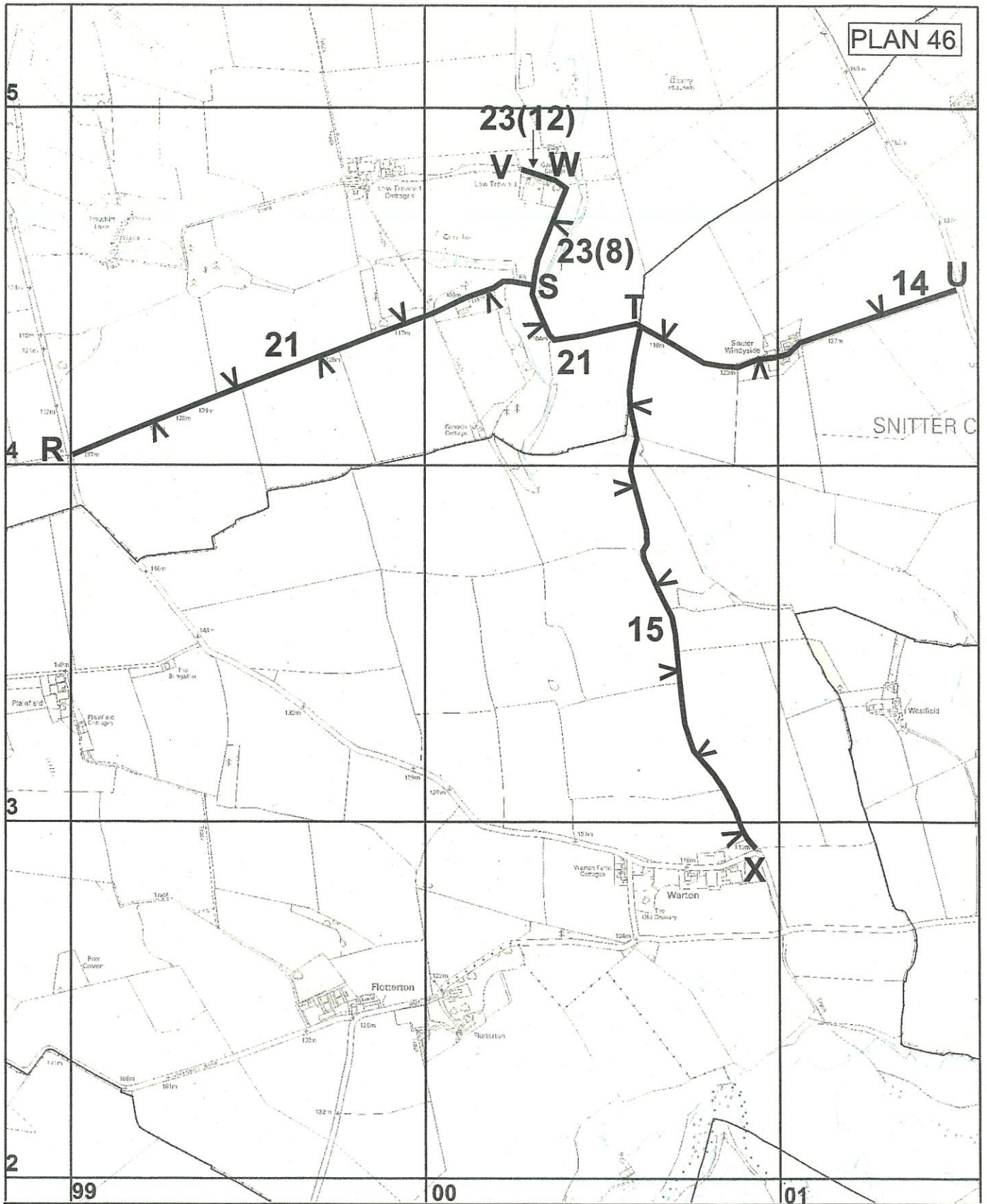
- 9.1 In light of the documentary evidence available, it appears that, on a balance of probability, public vehicular rights have been shown to exist over the route of alleged Byway Open to All Traffic.

- 9.2 The Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motor vehicular rights over the route.
- 9.3 The route would appear to satisfy the balance of user / character test for being recorded on the Definitive Map as a byway open to all traffic and it would, therefore, be appropriate to recognize the public's rights over the route by recording it on the Definitive Map as a byway open to all traffic.

BACKGROUND PAPERS

Local Services Group File: A/25/23z

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NORTHUMBERLAND

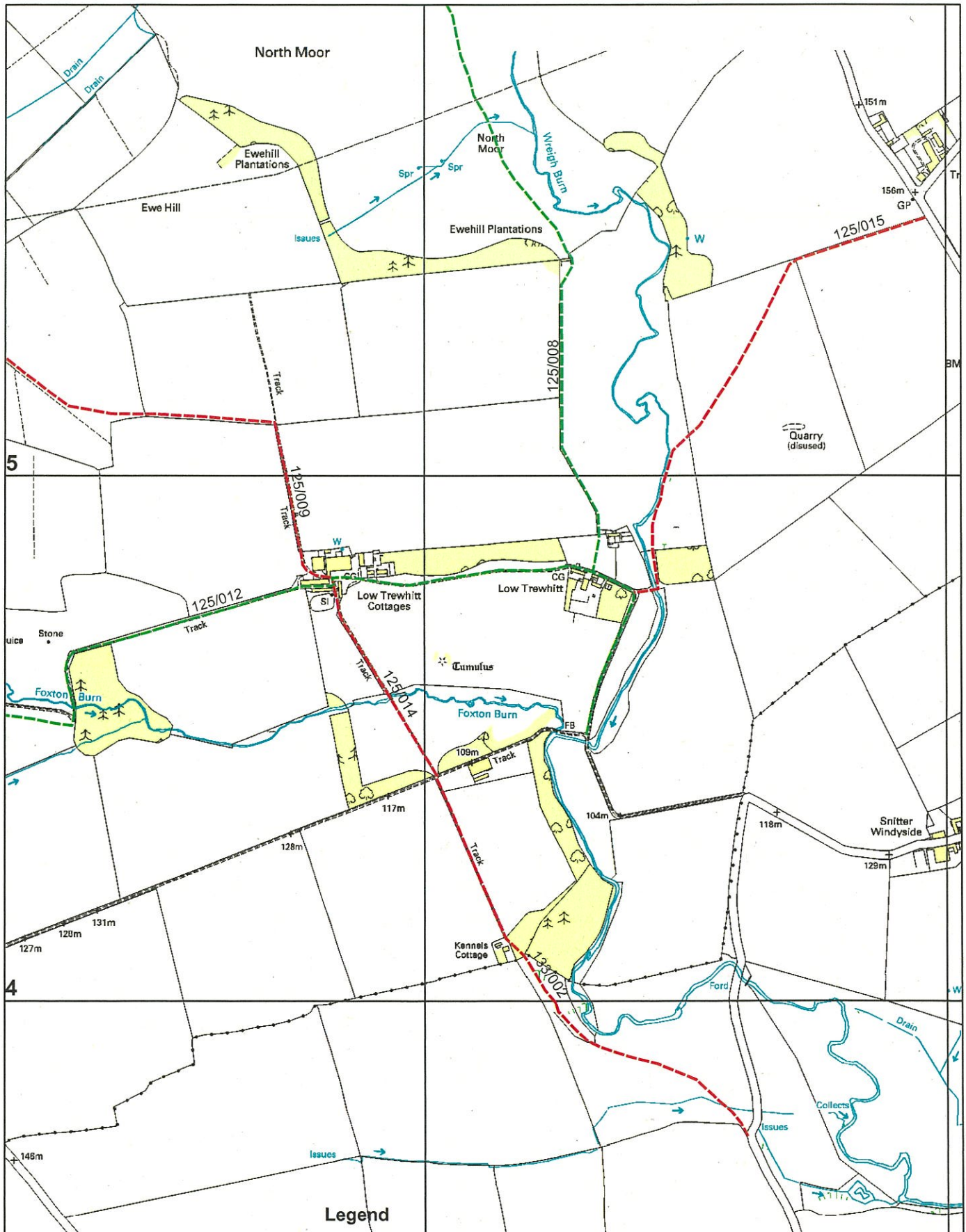
Northumberland County Council
 Infrastructure
 Local Services
 County Hall Morpeth Northumberland
 NE61 2EF
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**Wildlife and Countryside Act 1981
 Public Rights of Way**

 Alleged Byway Open to All Traffic

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Former District(s) Alnwick	Parish(es) Netherton/Snitter	Scale 1:15,000
Def. Map No. Page 172	O.S. Map NT 90 SE/NU 00 SW	Date October 2016



Legend

- Footpath
- Bridleway
- Restricted Byway
- Byway Open to All Traffic
- 1km Gridlines

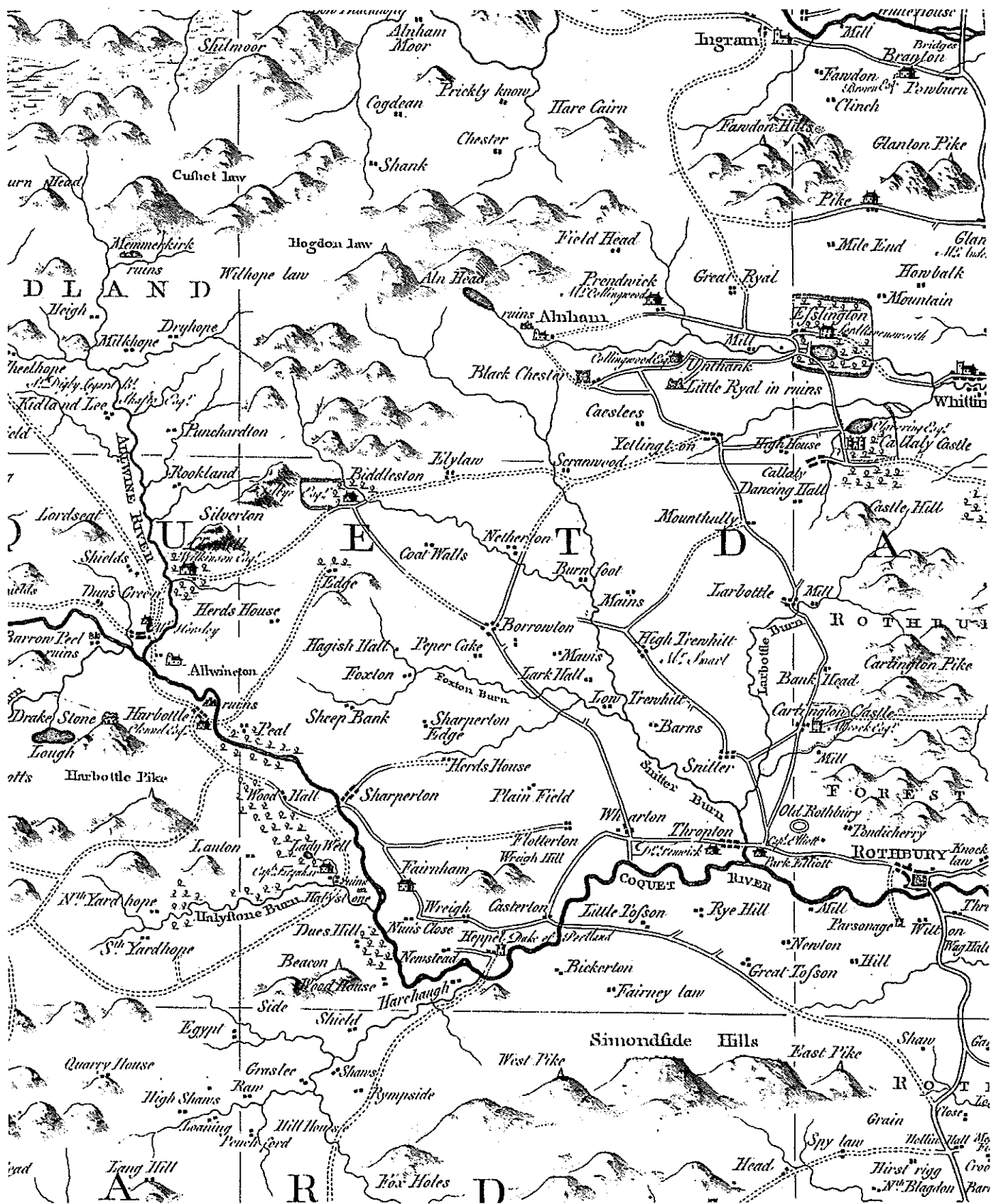
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way

Scale: 1:10,000

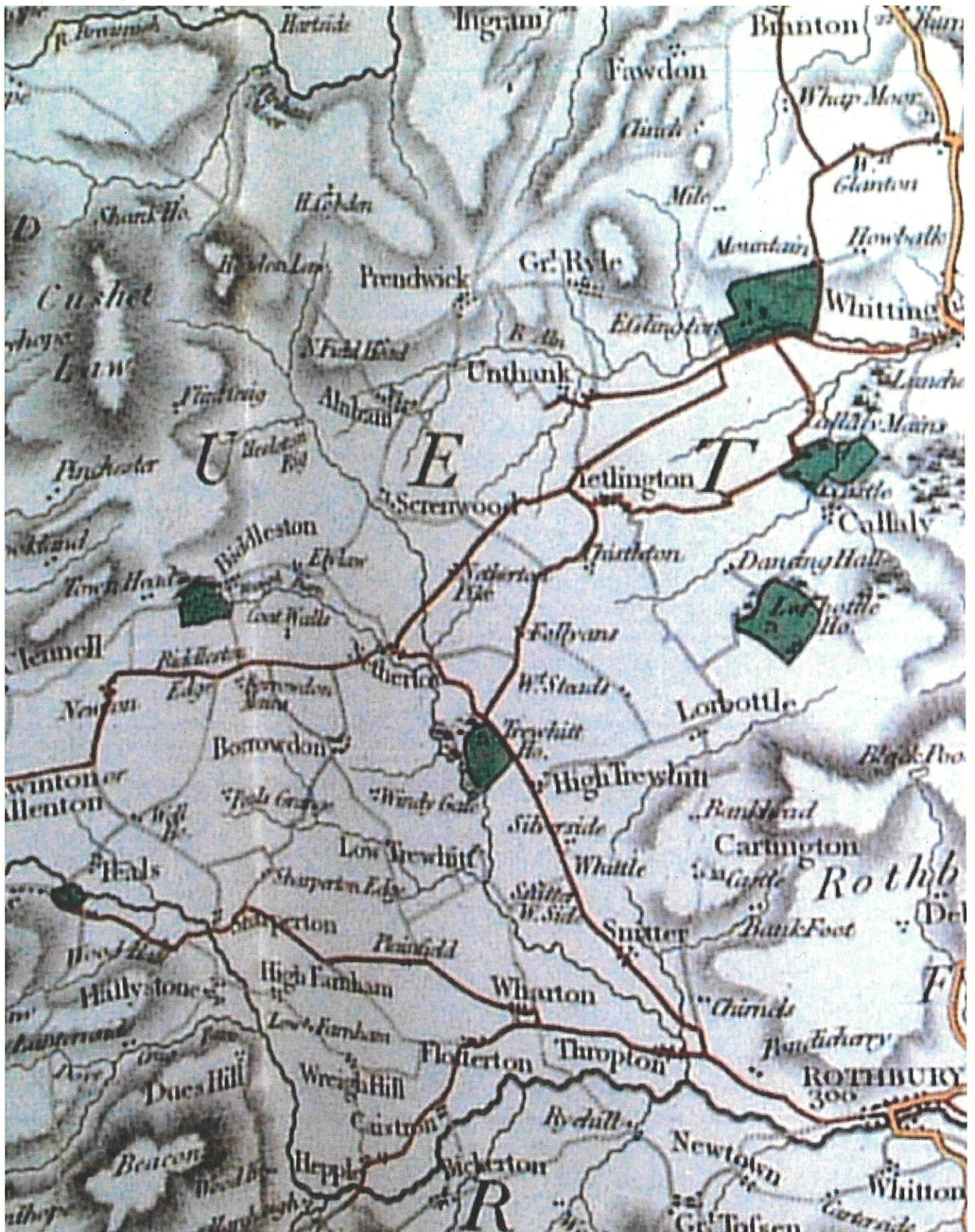

Northumberland
 County Council
 Sustainable Transport
 Local Services
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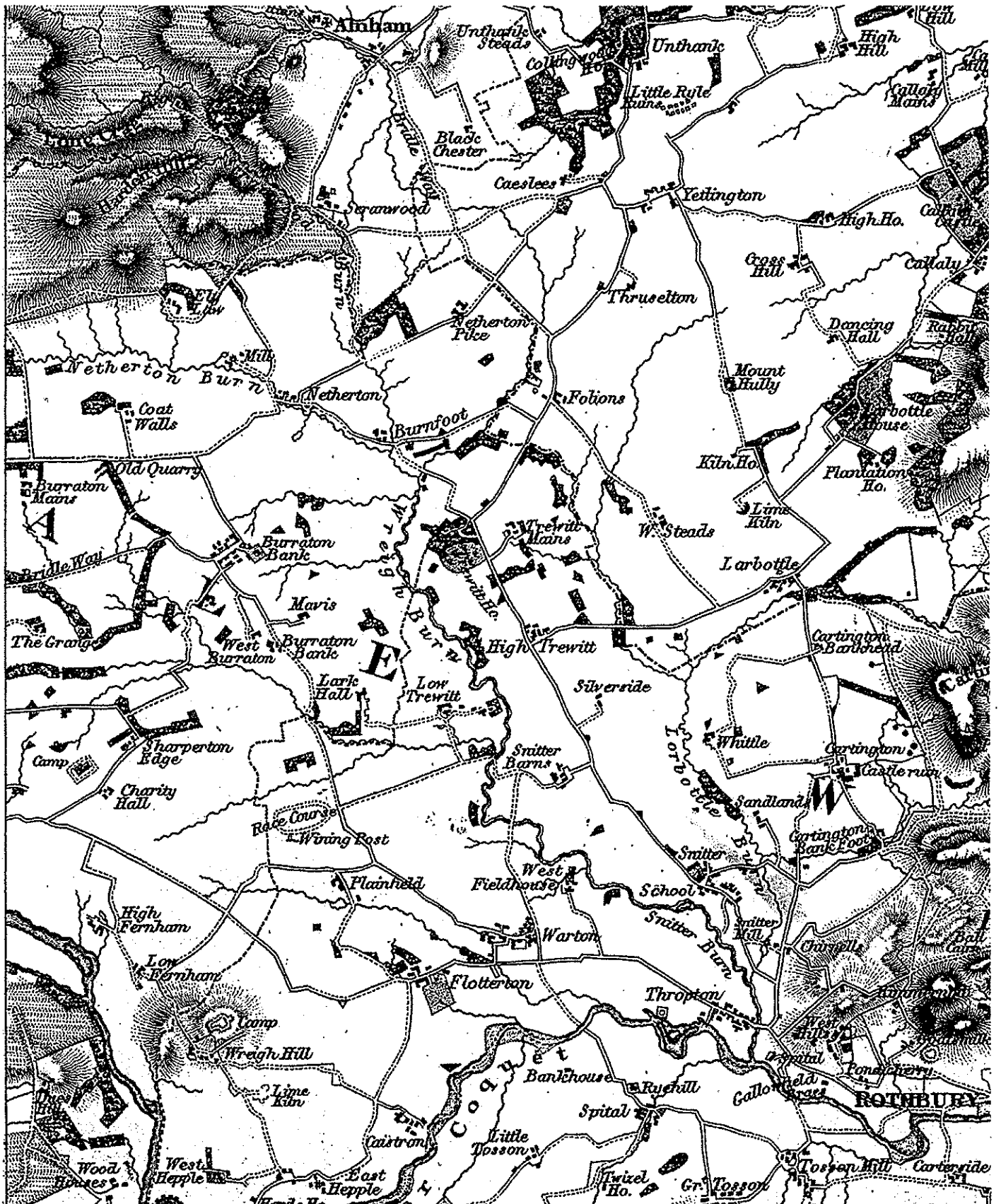
Armstrong's County Map
1769



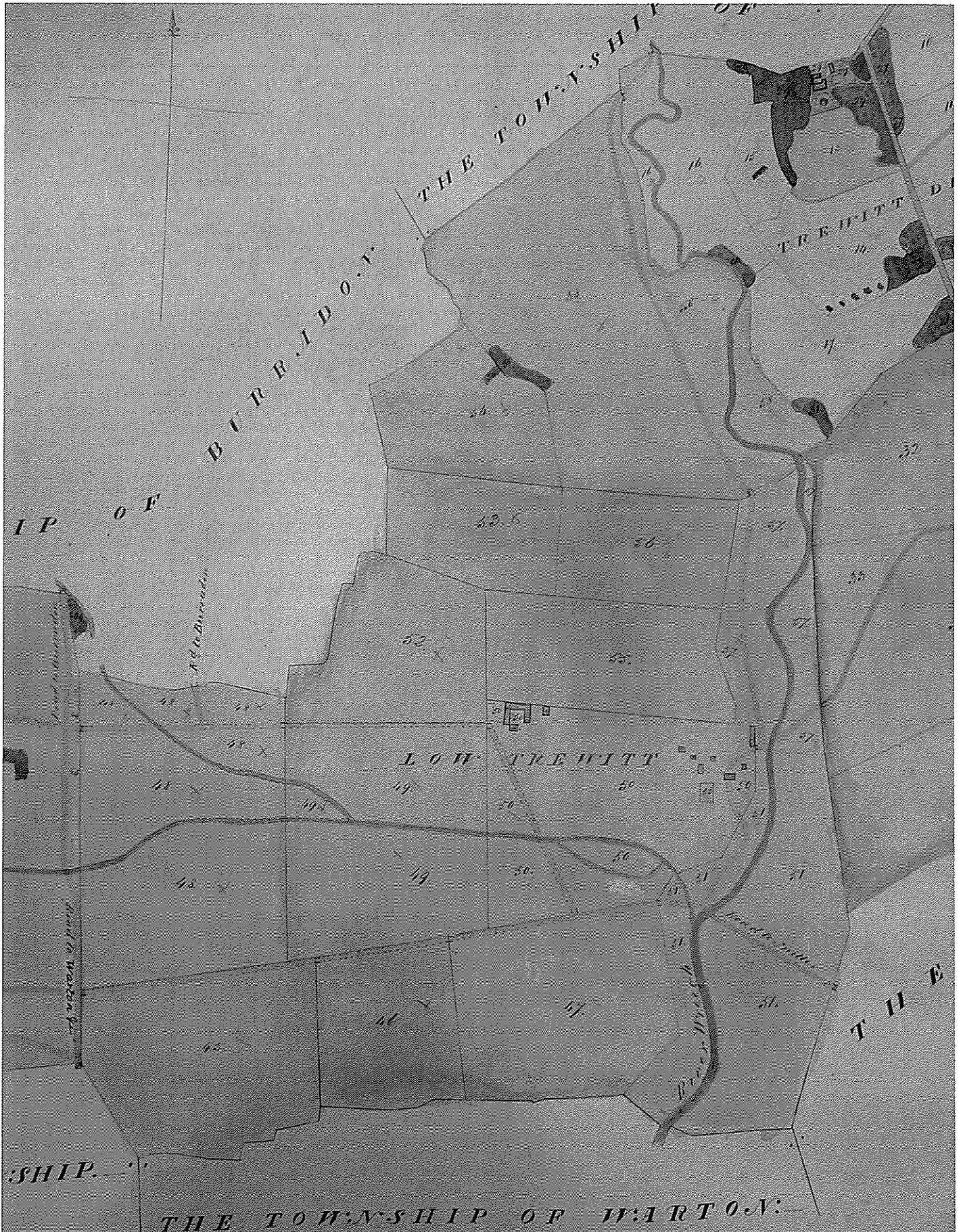


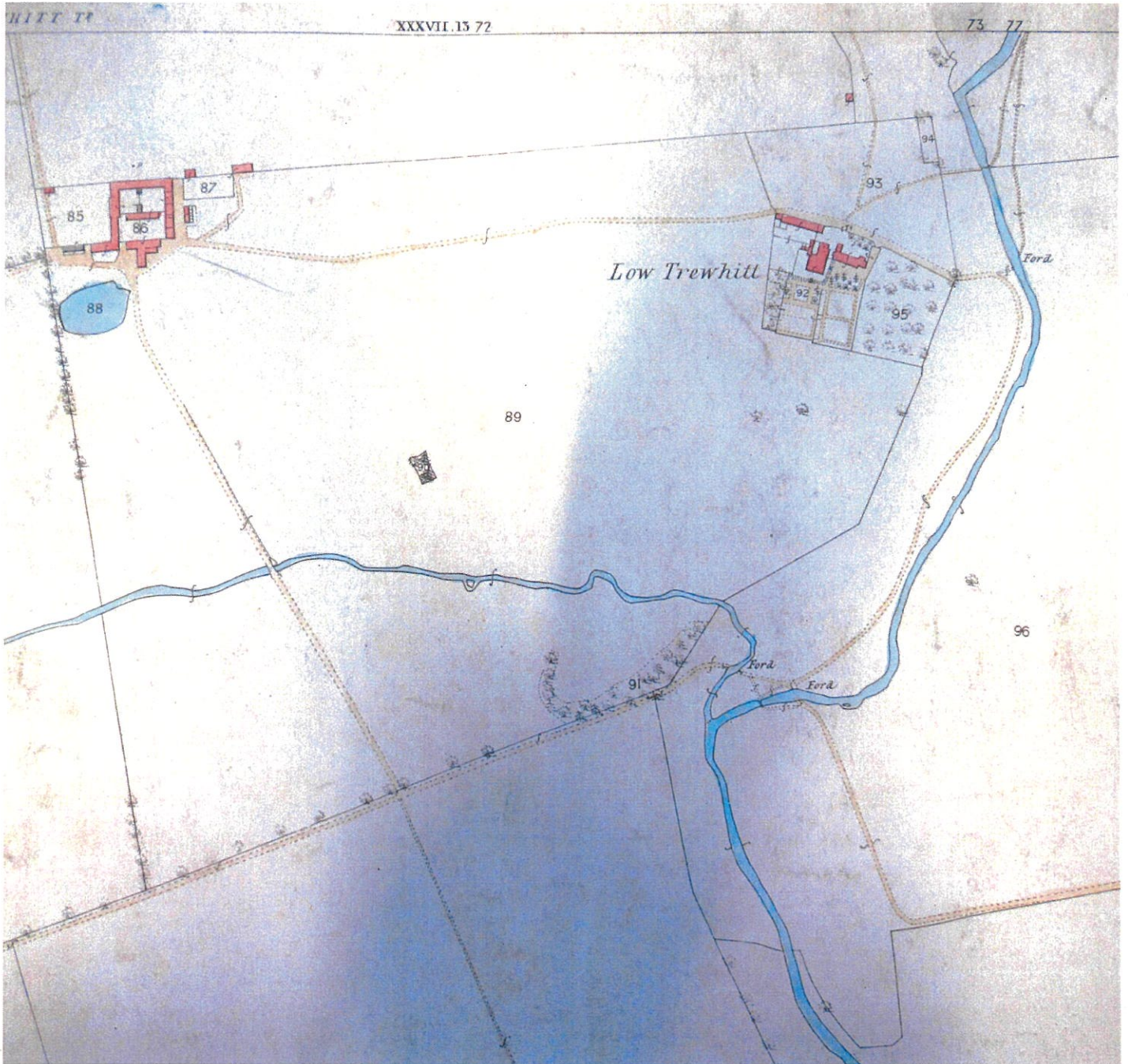


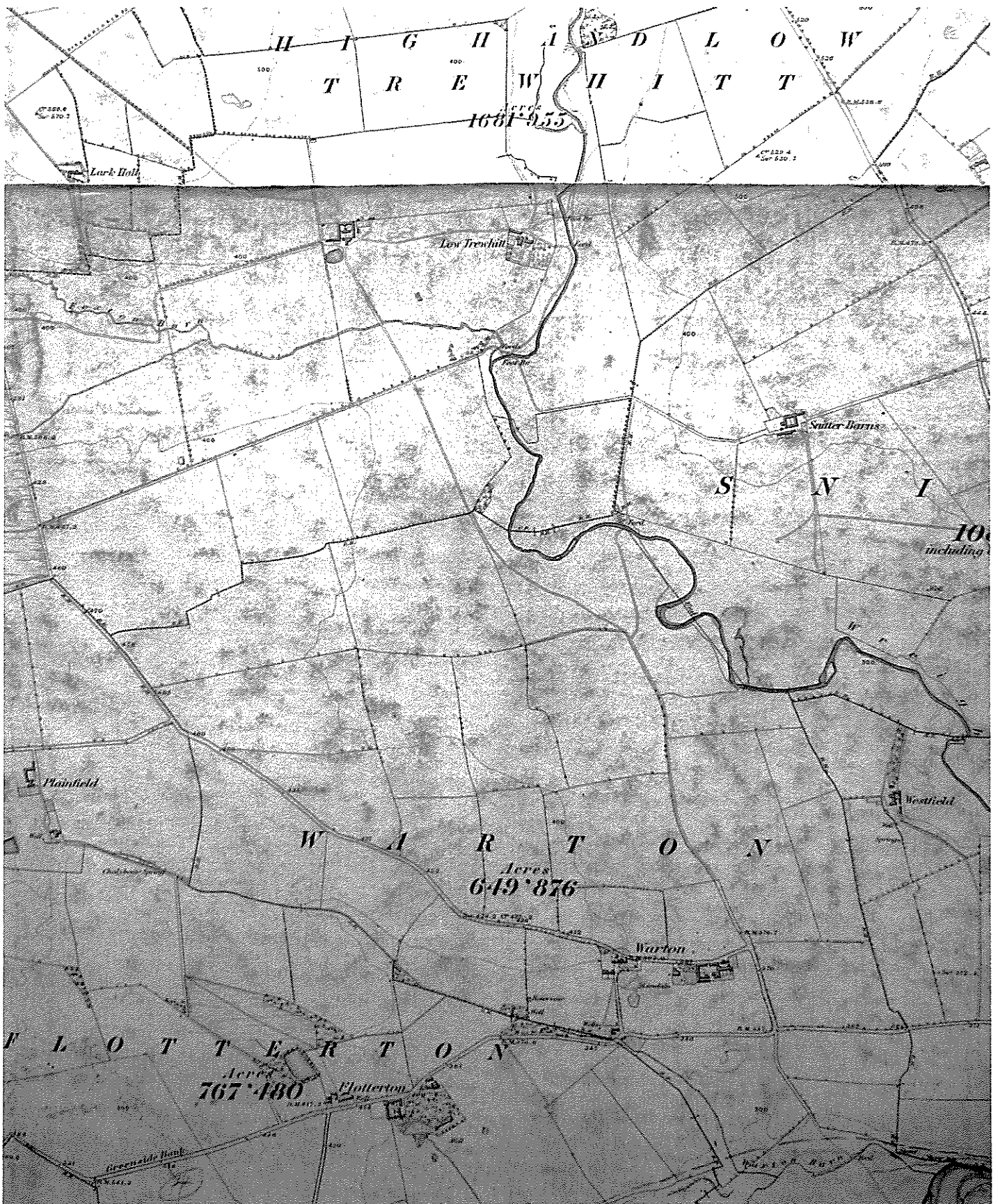
Greenwood's County Map
1828



High and Low Trehitt Tithe Award
1841



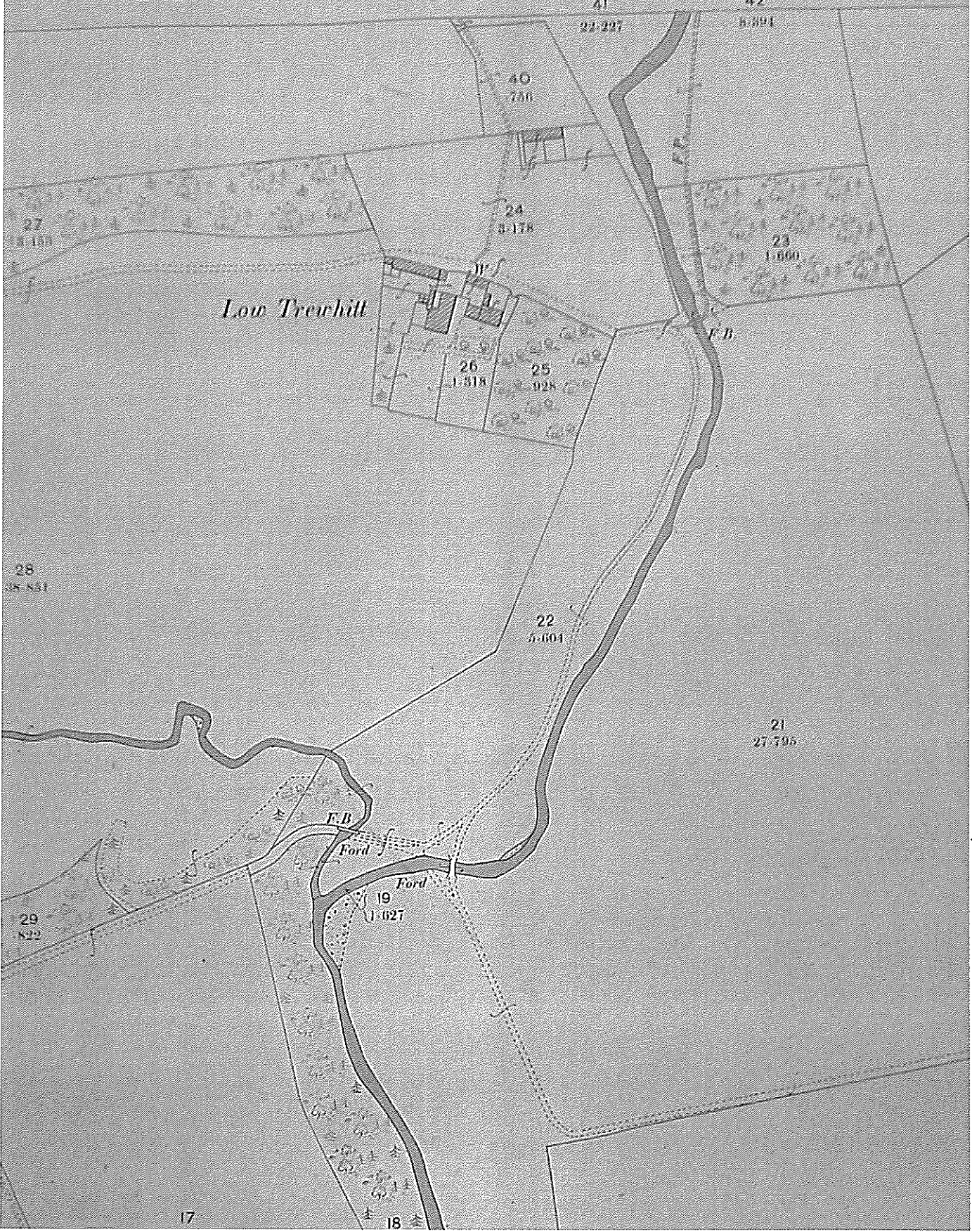


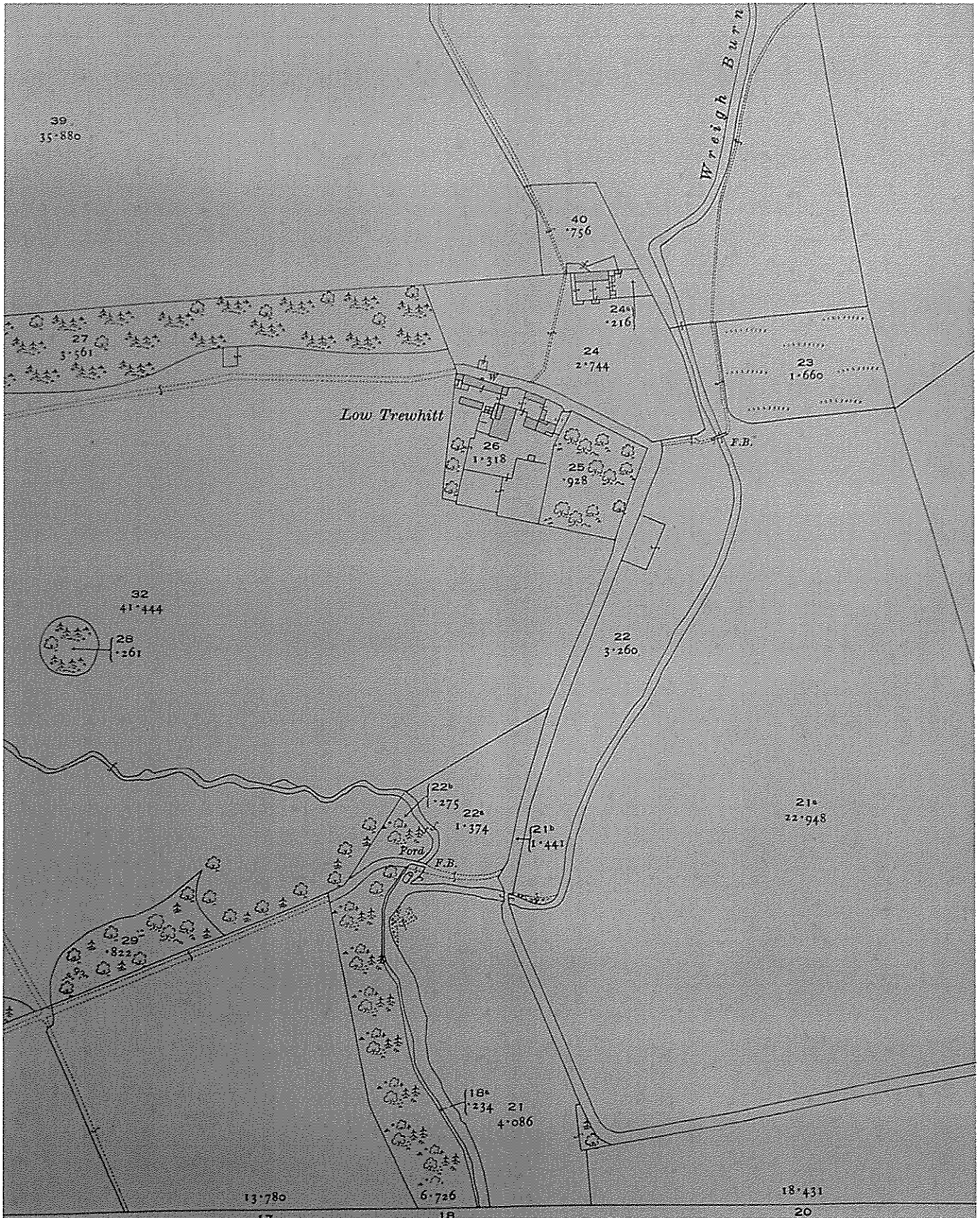


TION 1897.

ROTHBURY UNION

HIGH AND LOW TREWHITT PH





REPORTS OF THE COUNTY SURVEYOR.—Continued.

Decision of the Committee.

(17) **Roadside Stands for Milk Churns.**

In recent years the collection of milk by road vehicles has assumed considerable proportions and the practice has grown up of erecting stands for milk churns, on or adjoining the highway. During the war years no action was taken except in one or two cases to interfere with this practice as it undoubtedly was a convenience to farmers and facilitated the collection of the milk churns.

The time appears to have arrived when the matter should be put on a proper basis.

The County Councils Association have been in communication with the Ministry of Agriculture on the matter, and a leaflet has been issued by the latter Ministry, which the Association considers satisfactory.

It recommends that the erection of these stands be agreed to, subject to the siting and design being approved. It is pointed out that there is no legal right to erect these stands and in giving such consent as they are able, the County Council should protect themselves against third party claims.

I therefore recommend that only those stands be permitted where the farmer concerned is prepared to enter into an agreement under the following headings:—

- (1) Site to be approved and any costs in forming approach to be paid by the farmer.
- (2) The stand to be constructed to an approved design and of approved materials.
- (3) An undertaking to be given to remove the stand, on demand, and to restore the site to my satisfaction.
- (4) An indemnity to be given, covering the County Council against third party claims and other actions due to the existence of the stand.
- (5) Any other condition which the Clerk of the County Council considers desirable.

(18) **Class III Roads.**

(a) I have now received notification from the Ministry of Transport that they have accepted for Classification as class III Roads a total of 945.93 miles of road, as from the 1st April, 1946.

I submit a schedule (Appendix C) which sets out the mileage of road in the various Districts in the County.

It will be noted that the Ministry have classified 42.90 miles of roads in Urban Districts and Boroughs which were not previously a County responsibility.

Of the 1728.02 miles of road which have been delegated to the Rural District Councils 731.84 miles have been classified leaving 996.18 miles unclassified.

Approved.

REPORTS OF THE COUNTY SURVEYOR.—Continued.

Decision of the Committee.

(6) The Ministry of Transport have asked for an estimate of the cost of maintenance of Class III Roads for the current financial year 1946-47, which amounts to:—

	Gross Cost.	M. of T. Grant.	Nett.
<i>Provided in 1946-47 Estimate.</i>			
Delegated County Roads	£ 84,808	£	£
County Roads maintained direct	13,147	52,867	52,867
Unmaintained Roads	1,569		
<i>Not provided—</i>			
Roads in Urban Areas, not previously County Roads	23,101	11,550	11,551
	£ 127,835	63,917	63,918

(19) **Northumberland County Education Committee.**

The Director of Education has forwarded to me the following recommendation of the Education Committee:—

“That the Bridges and Roads Committee be asked if they will prepare a scheme on behalf of the Education Committee, for the levelling and preparation for re-seeding of school playing fields.”

Some of the large plant which we have—such as tractor scrapers and bulldozers—would be very suitable and available for levelling areas and preparing for re-seeding, provided they are not required for more urgent road works.

At the present time, pending the commencement of large road works, I have some machines which could be transferred to such work.

Surveys would be required before work is put in hand and careful supervision would be necessary.

I would suggest an establishment charge of 10 per cent. on the actual cost of the works be made, to cover the cost of preparation of the scheme and supervision.

(20) **Rothbury Rural District: Unadopted Roads in remote districts.**

The Rothbury Rural District Council have forwarded me a copy of their Highways Advisory Committee's report which they have adopted, and have requested that the lengths of road enumerated in the Report should be taken over and made up to a passable standard of repair. They state that such a step would not only improve greatly the existing means of communication in the area, but would, to some extent, facilitate the engagement of shepherds and other agricultural workers on large remote farms without whose services such farms would revert to deer forests or some under controlled afforestation and be certainly lost to food production.

They have divided their recommendations into three groups.

That the request be agreed to, subject to the establishment charge of 10 per cent.

That every application of this kind be considered on its merits as and when received, and for that purpose be referred to a Sub-Committee consisting of the Chairman and Vice-Chairman, Alderman Pitt and Councillor Minnaghan, for investigation and report, with power to meet the District Council concerned.

REPORTS OF THE COUNTY SURVEYOR.—Continued.

Decision of the Committee.

Group A covers a length of 10 miles, and they ask that these roads be given first consideration. Group B covers a length of 3 miles, and Group C a length of 18 miles, a total of 31 miles.

The following are the roads included in Group A, together with my notes:—

1. Whittton to Dene Hill, and on to Lovingshaw-Tossen road.
This road serves two farms, one bungalow, two cottages at Hill Head and three small week-end cottages, eight properties in all. The road is in very bad repair.
2. From Rowhope Bridge to Usway Ford, and outby farms, Rowhope and Trows.
There are three outby farms and little more than a track as far as Trows, after that a rough road to Usway Ford.
3. From Clennell to Kidlandlee.
This is a rough road to Kidlandlee and then only a rough track serving White Burn Shank, Milkhope and the Heigh, all outby farms. At Kidlandlee, there is a small school and school-house, two cottages and the big house, seven habitable dwellings in all.
4. Toqlaw Moor by Church, to School and Yellington.
There is only the school on this road.
5. Windyside Lav, Trewitt Bridge to farm cottages.
The existing public road through the ford is hardly ever used and has grown green. The diversion which is maintained by the Cragside Estate is in bad condition. The road serves the farmhouse and six cottages.
6. Greenleighton from Quarry Gate to Farm.
This road serves Chertners Dyko Head and Fallowlees Farm.
The road to Greenleighton Farm is fair, but there is only a track to the other farms. It serves six dwelling-houses in all.

A very important principle is involved in this request. If these proposals are agreed to then we can expect similar requests from all the other Rural Districts in the County involving a large mileage of road.

In the past the cost of repairs to these roads has been paid by either the tenant or landowners concerned, and has been a charge on the estates. If they are relieved of this responsibility, then it appears to me that the properties will increase in value.

There are some roads which the County Council might agree to take over, provided the Estate Owners agreed to put them into reasonable condition, but the present application asks the County Council to take the roads over and pay the cost of any necessary work.

REPORTS OF THE COUNTY SURVEYOR.—Continued.

Decision of the Committee.

(21) Newcastle-Edinburgh Trunk Road, A.696: Improvement of sharp bend at Capitation Corner.

The Minister of Transport has invited the County Council to carry out on his behalf, as his agents, the preparation of plans, specification and estimate for the following improvement:—

Improvement of sharp bend by widening and regrading and insertion of a 2000 ft. radius curve for a length of approximately 400 yards.

That the invitation be accepted.

(22) Restriction of Ribbon Development Act, 1935: Standard Widths—Middle of Road.

Approved.

(i) Tyne Tunnel Approach Road.

Plans of three sections of this proposed road from Wideopen to Coast Road, A.1058, were approved by the Committee in March. A small amendment is necessary to a portion of the first section—Wideopen to Camperdown—in order to accommodate the proposed flyover at the junction with the Wideopen Diversion and the following scheme for this section is resubmitted:—

Plan No. Scheme. Effective standard width.
S1/4— Wideopen to Camperdown 120 ft.

I recommend that the Committee approve the plan as now submitted and authorise its submission to the Minister of Transport for approval.

The Minister has suggested that the whole scheme Wideopen to the Coast Road should be advertised, in order that any objections can be dealt with at this stage, and I recommend that this be done.

(23) Sea Walls at Beadnell and Seahouses.

(a) The seawall supporting the road leading from Beadnell Village to the Harbour was damaged during recent storms. The sea undermined the wall and a large cavity was formed, but fortunately the wall did not collapse.

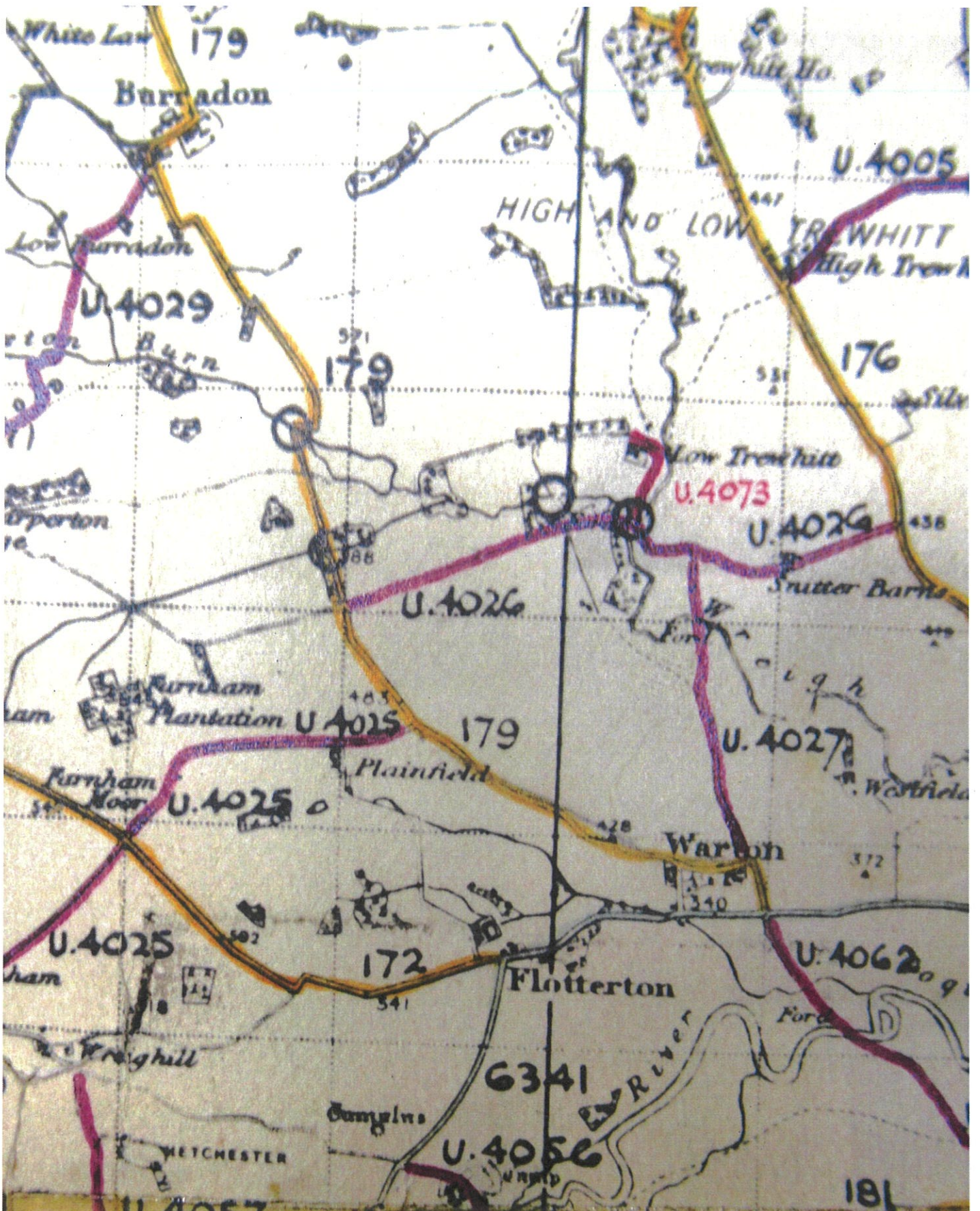
(c) Approved.

The necessary repairs have been completed.

(b) At Seahouses, the Bamburg road, west of Seahouses Station, runs along the sea front and the area of land between the road and the sea belongs to the National Trust. The sea has washed away part of an old retaining wall and has eaten into the adjoining cliffs with the result that the edge of the cliff is now near the back of the footpath.

(d) Received.

In order to protect the sea wall it will be necessary to construct a fairly extensive sea wall. I have had a survey made and am preparing a scheme for the construction of a new wall providing for an ultimate road width of 100 ft., which I will submit to the next meeting of the Committee.



(S) *Rothbury Rural District.*(a) *Roads to Farms.*

As reported to the Committee at their last meeting, the Agent for the Cragside Estate has asked the County Council to take over the road to Low Trewitt Farm, and a similar request has been made by Sir Angus Watson in respect of the Whitton Hill Head road.

In 1946, the Rothbury Rural District Council asked that certain lengths of road serving remote districts should be taken over and put into a passable standard of repair, in order to improve the existing means of communication in the area and to facilitate the engagement of workers whose services are essential to save some of the remote farms from being lost to food production. The Committee then decided that each application should be considered on its merits, but after a meeting with representatives of the Rural District Council, no definite decisions were reached. It was, however, agreed to make representations to the War Office with regard to the repair of the road to Trows and Uswayford Farms, but they disclaimed any responsibility other than to their tenant at Trows.

The road to Low Trewitt serves the farm and seven cottages and could be put into a reasonable state of repair without a great deal of work. The Sub-Committee recommend that it be taken over if this work is carried out.

The Whitton Hill Head road serves three farms, one bungalow, two cottages at Hill Head and three small week-end cottages; the farm tenants are responsible for its maintenance and it is in very bad condition. While the Sub-Committee appreciate the desirability of this road being put into repair, they feel unable to recommend that it be taken over unless it is first put into a reasonable state of repair.

(b) *Physic Lane, Thropton.*

Under the Thropton Common Award, this road is set out as a carriageway 33 feet in width; it has never been maintained by the highway authority although a length of some 300 yards has been built up. During the war considerable damage was done to the latter section by War Department vehicles, but it has since been put into a reasonable state of repair.

There are a number of small encroachments on the awarded width and while the Sub-Committee do not consider it essential or even desirable that these should be removed at the present time, they feel that the awarded width should be protected and, subject to the views of the Clerk of the Council on this point, they recommend that the built-up length be taken over.

(c) *Hillside Road, Rothbury.*

The Rothbury Rural District Council have asked that the County Council should put Section 150 of the Public Health Act, 1875, into operation in respect of the above road, which is an awarded road, making it a public right of way but a private carriageway maintainable by the adjoining owners. The Sub-Committee consider it desirable that this road should be put into repair and taken over, and they therefore recommend that the County Surveyor be instructed to prepare, after consulting the Clerk of the County Council regarding the method of procedure, the liability of the Council in respect of the public right of way and the question of any encroachments, an estimate and draft apportionment, to include any necessary contribution by the Council.

Resolved that the report be received.

133.—The Sub-Committee appointed to consider the proposals in relation to highways to be incorporated in the County Plan submitted their report, which is set out below, and which, as instructed by the Committee on the 19th March, they had forwarded to the County Planning Committee:—

COUNTY DEVELOPMENT PLAN.—HIGHWAYS.

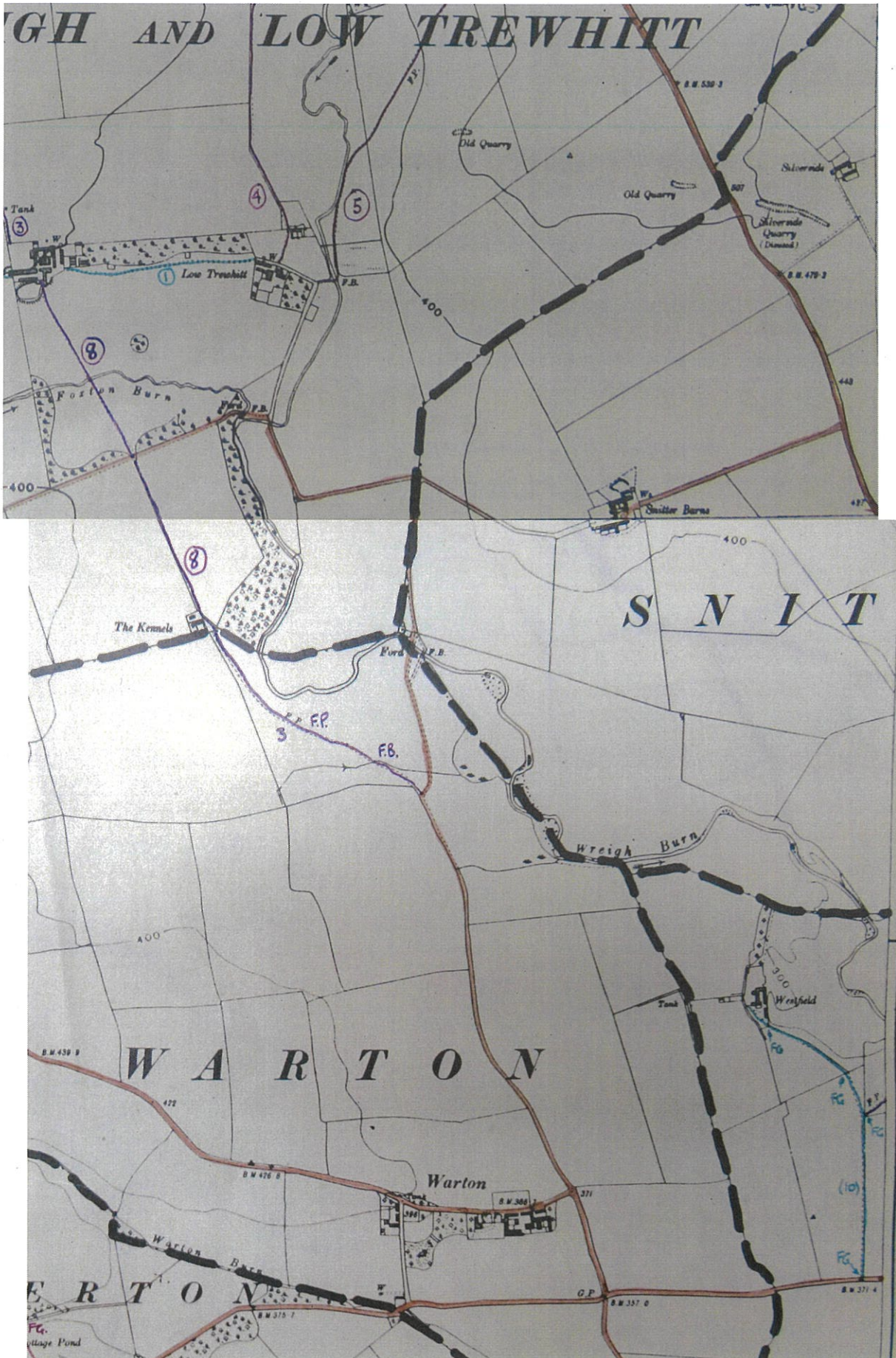
REPORT OF THE SUB-COMMITTEE.

The number of entry and exit points to and from the County of Northumberland are limited by natural barriers, the River Tweed in the north, the Cheviots and Pennines in the west and south, and the River Tyne in the south east, and there is a general convergence of the main traffic flow from these points of entry towards the industrial area around Newcastle and Tyneside and the crossings of the River Tyne leading to Durham and the South.

The predominant traffic routes in the County are the Great North Road (Trunk Road A.1) and the West Road from Newcastle to Carlisle (Trunk Road A.69). A.1 carries most of the long distance north-south traffic while A.69 is a very important east-west link and serves the townships of the Tyne valley; in addition, both roads distribute local traffic to most of the County. The Newcastle-Jedburgh Road (Trunk Road A.696/68) is a further route from Tyneside to Scotland via Otterburn and Carter Bar, but its use by heavy traffic is restricted by low railway bridges. A subsidiary, though comparatively little used, route to the north is A.68, which runs from the Darlington and Bishop Auckland areas in Durham with a link to A.1 at Scotch Corner, enters the County at Allensford and joins Trunk Road A.696 at Elishaw, north of Otterburn, from where it forms part of the Trunk Road to Scotland over Carter Bar. Other important routes are the Morpeth-Coldstream Road A.697, which provides another route to Scotland, the Gateshead-Hexham Road A.695, which serves the south bank of the Tyne, and the Ashington-Alnwick Road A.1068. The industrial and urbanised area in the south east of the County is served by a network of Class I and Class II roads which connect the various urban areas with each other and with Newcastle and Tyneside, and among these is the Coast Road A.1058, from Newcastle to Lynemouth, which is the heaviest trafficked route in the County.

The general road pattern in Northumberland was not designed or laid out for modern fast moving traffic and the rapid growth of road transport has made it necessary to consider the complete overhaul of the existing system. Much was done in the inter-war years, particularly as regards the improvement of surfaces, but it was only towards the end of this period that effective measures to control ribbon development became available, and a lot remains to be done to fit the road system to modern traffic needs. In the south east of the County, industry originally depended largely on rail transport and, as a result, there is a network of main line and mineral railways in this area providing numerous level crossings and narrow bridges which restrict the movement of road traffic. In other parts of the County, the main roads pass through old townships and villages whose narrow streets are quite inadequate to deal with the mingled local and through traffic, and serious congestion results. In the rural areas, traffic is distributed by an extensive system of Class III and Unclassified Roads, and although the volume of traffic carried by these is small compared to the main roads, there has been a great increase in the weight and size of the individual loads using them.

The Ministry of Transport have laid down that, in deciding upon the ultimate volume of traffic to be provided for, allowance should be made for an increase of 75% on pre-war figures. While the present day volume of traffic has not yet shown the anticipated increase, comparative census figures indicate that the numbers of commercial vehicles and public service



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

Parish of High & Low Trewhitt in the Rural District of Rothbury
 Borough } of _____
 Urban District } (Delete whichever is inapplicable).

1. Number of highway on Map ①
2. Kind of Path (i.e., F.P., B.R.) BR
3. Starts at Low Trewhitt House to Walter Beades Road
4. Name of Path (if any) _____
5. Is the Path well defined? Yes
6. Is the Path metalled? If so, define length NO
7. If its width can be stated, insert here Varies from about 4ft to 6ft path width
8. What is the present condition of the path, stiles, etc.? Very rough
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
11. Grounds for believing the path to be public (if known), e.g. "Awarded," "Repaired at Public Expense" (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant
12. Have persons been prevented using the highway? No
13. Give particulars of any obstructions _____
14. Names of owners of freehold and previous owners, if known, for past 30 years
Lord Armstrong
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 Private Road to farm buildings. then cut through through gate at wood & left along wood side through gate & over stone bridge then right across field past lake to gate on to Buntingford Winton Road.

Surveyed by	Address	Dates of Survey
<u>John F. H. Christoph</u>	<u>Low Trewhitt Thorpston North</u>	<u>21/1/62</u>

Important:—Sheet No. of Map on which Highway is shown
N 251 / N.W. / OST No 912

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

Parish of High Row Tieshitt in the Rural District of
Rothbury
Borough } of R
Urban District } (Delete whichever is inapplicable). BR

1. Number of highway on Map 4
2. Kind of Path (i.e., F.P., B.R.) FP
3. Starts at Row Tieshitt House to Ripper on Northern Boundary
4. Name of Path (if any) _____
5. Is the Path well defined? No
6. Is the Path metalled? If so, define length _____
7. If its width can be stated, insert here _____
8. What is the present condition of the path, stiles, etc.? _____
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 _____
11. Grounds for believing the path to be public (if known), e.g. "Awarded," "Repaired at Public Expense" (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant _____
12. Have persons been prevented using the highway? No
13. Give particulars of any obstructions _____
14. Names of owners of freehold and previous owners, if known, for past 30 years
Rad Armstrong
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 Runs from Row Tieshitt House north
direct across field & north main 15 Ripper & gate in
boundary fence

Surveyed by	Address	Dates of Survey
<u>John J. H. Elmer</u>	<u>Row Tieshitt 1 Main Mothett</u>	<u>2/1/52</u>


Important :- Sheet No. of Map on which Highway is shown
NXL1 / SW / OST No 94

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

Parish of High & Low Trewitt in the Rural District of Rathfriland

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

1. Number of highway on Map 5
2. Kind of Path (i.e., F.P., B.E.) F.P.
3. Starts at Low Trewitt to High Trewitt
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.? Foot bridge is dangerous
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 _____
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
Foot bridge used to be repaired by local authority
12. Have persons been prevented using the highway? No
13. Give particulars of any obstructions _____
14. Names of owners of freehold and previous owners, if known, for past 30 years
Road Authority
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 Runs from gate at bottom of hill at Low Trewitt house near foot bridge, then left & through gate & then through wood on to High Trewitt & across two fields to road near High Trewitt House.

Surveyed by	Address	Dates of Survey
<u>John F.H. Chinn</u>	<u>Low Trewitt 1 Ingham Munthell</u>	<u>21/1/52</u> 

Important :- Sheet No. of Map on which Highway is shown
NXLI / NW / OS 1 No 412

REPORTS OF COUNTY SURVEYOR—continued.

The purchase of the following clothing is recommended by the Sub-Committee:—

	£	s.	d.
700 Suits (Plastic)—Messrs. McBean & Co., Ltd., Glasgow—at £2 2s. 2d. each ...	1,475	16	8
100 Suits (Waterproof)—Messrs. McBean & Co., Ltd., Glasgow—at £3 13s. 0d. each ...	365	0	0
100 Suits (Plastic)—Messrs. Barbour & Sons, Ltd., South Shields—at £3 0s. 0d. each ...	300	0	0
	<u>£2,140</u>	<u>16</u>	<u>8</u>

A sum of £2,500 is included in the annual estimate for the purchase of clothing.

(40) Department of Scientific and Industrial Research.

Courses on Road Materials and Construction are to be held at the Road Research Laboratories Centre at Harmondsworth, Middlesex, between September, 1953, and April, 1954, and I shall be glad if the Committee will agree to the following members of my staff attending:—

- Mr. C. F. L. Girven, Deputy County Surveyor—16th March to 1st April, 1954.
- Mr. D. F. Esson, Senior Engineering Assistant—17th November to 26th November, 1953.

A fee of £10 10s. 0d. will be charged for each course to cover tuition and registration costs.

(41) Private Street Works.—New Streets Act, 1951.

Castle Ward Rural District Council are concerned at the number of private streets which are being developed and which are not being constructed to the standard required for adoption, and they have asked if the County Council will consider making application to the Minister of Housing and Local Government for an Order applying the provisions of the s. Act to their area.

Castle Ward Rural District—Brunton Park Estate Roads, North Gosforth.

Some roads on the Brunton Park Estate constructed before the war are practically built up, but they have not been adopted and are now in a bad condition. Numerous complaints have been received as well as a petition asking for these roads to be made up and taken over, and Mr. J. O. G. Hilton, the District Councillor for the area, who lives on the estate, is willing to approach the owners concerned to see if agreement can be reached for the roads to be made up to a standard which would enable the County Council to adopt them.

Decision of the Committee.

Approved.

Deferral until information is available about the effects of the Act's provisions in urban districts.

Approved.

REPORTS OF COUNTY SURVEYOR—continued.

I recommend that the necessary information regarding the costs of making up be given to Mr. Hilton and that, if agreement cannot be reached, the roads be considered for making up under the Private Street Works Act, 1952, and the Committee consider their programme for next year.

Castle Ward Rural District—Road to Low Trewhitt.

The Committee have already agreed to adopt this road subject to its being made up, and repairs have now been carried out to a length of 0.263 miles from the existing County road to the farm, but the remaining length of 0.25 miles from the farm to seven cottages has not been repaired, although the owners are anxious for it to be taken over.

I recommend that the length to the farm be adopted and that the remainder be taken over when it has been made up to a satisfactory standard.

Castle Ward Rural District—New Road Road.

Mr. Col. J. W. Sale, Estates Office, Wooler, has asked for this road, which is 0.71 miles long and serves six cottages and 'The House,' to be taken over. There is a 12ft. wide carriage-way in good repair and subject to the provision of sight lines at the junction with the main road and to improvements to the drainage, I recommend that the road be adopted.

Castle Ward Rural District—Haydon Bridge and Wyke Streets.

As instructed, I have prepared the specifications for the private street works required in the streets at Togston, Beck Belmont Gardens, Haydon Bridge, and Stephenson Terrace, Wyke, and I now submit these to the Committee, together with the estimates of the probable expenses of the works and provisional apportionments of the estimated expenses among the premises liable to be charged therewith.

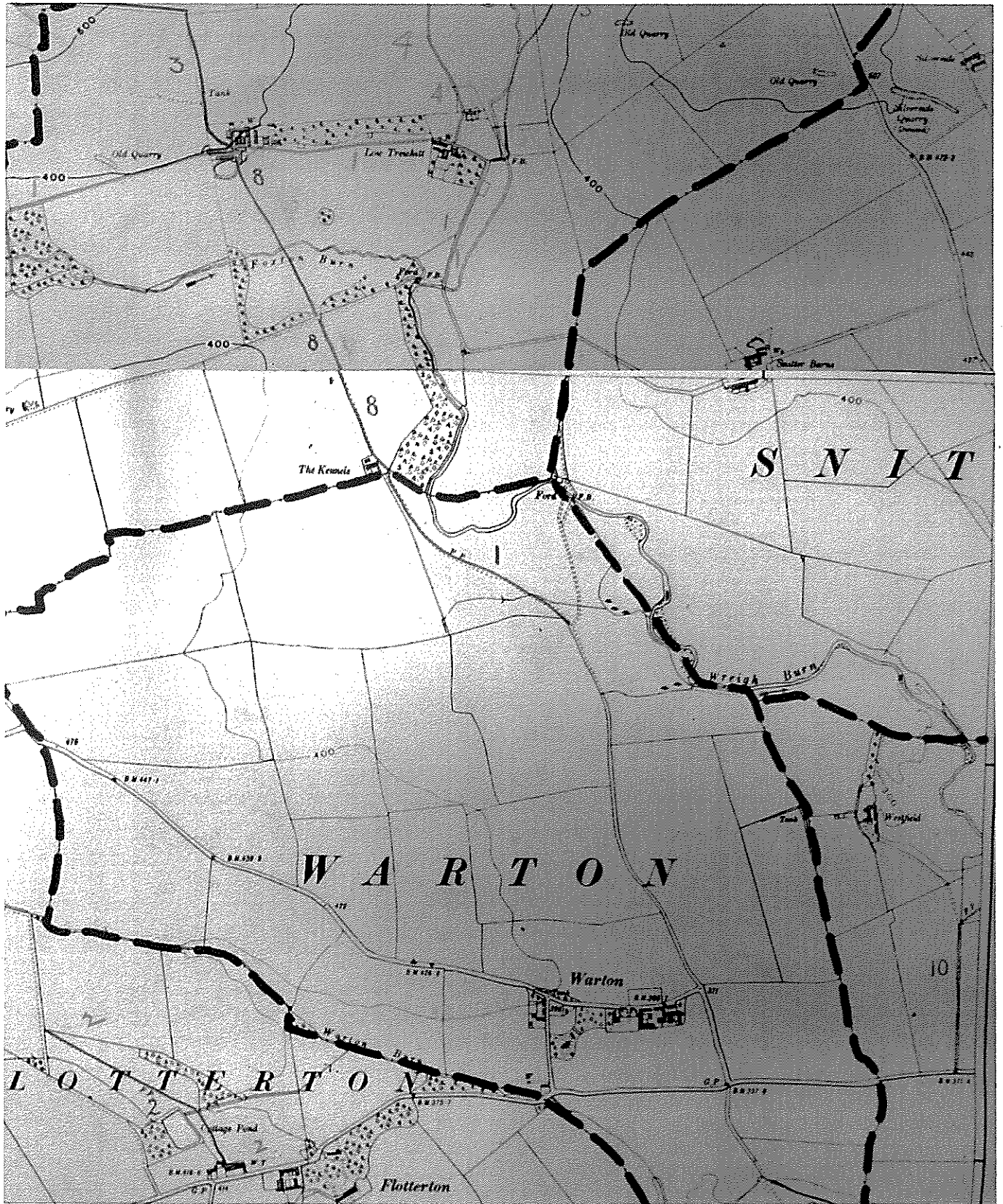
In Stephenson Terrace, Wyke, it is proposed that the County Council should contribute £47 lbs. 3d. in respect of the old right of way which ran along the line of the road and should bear the cost of re-setting existing gullies, estimated at £8 0s. 0d., and it is also recommended that in all cases the Council should pay the apportionments in respect of the frontages of the accesses of other streets where it is not practicable to charge these against particular properties. At Togston the Council must pay the apportionment against the Mission Room, and at Belmont Gardens, Haydon Bridge, they own the Haydon Bridge Hostel, the grounds of which form most of the north frontage to the street and this frontage has been apportioned at 100 per cent.

Decision of the Committee.

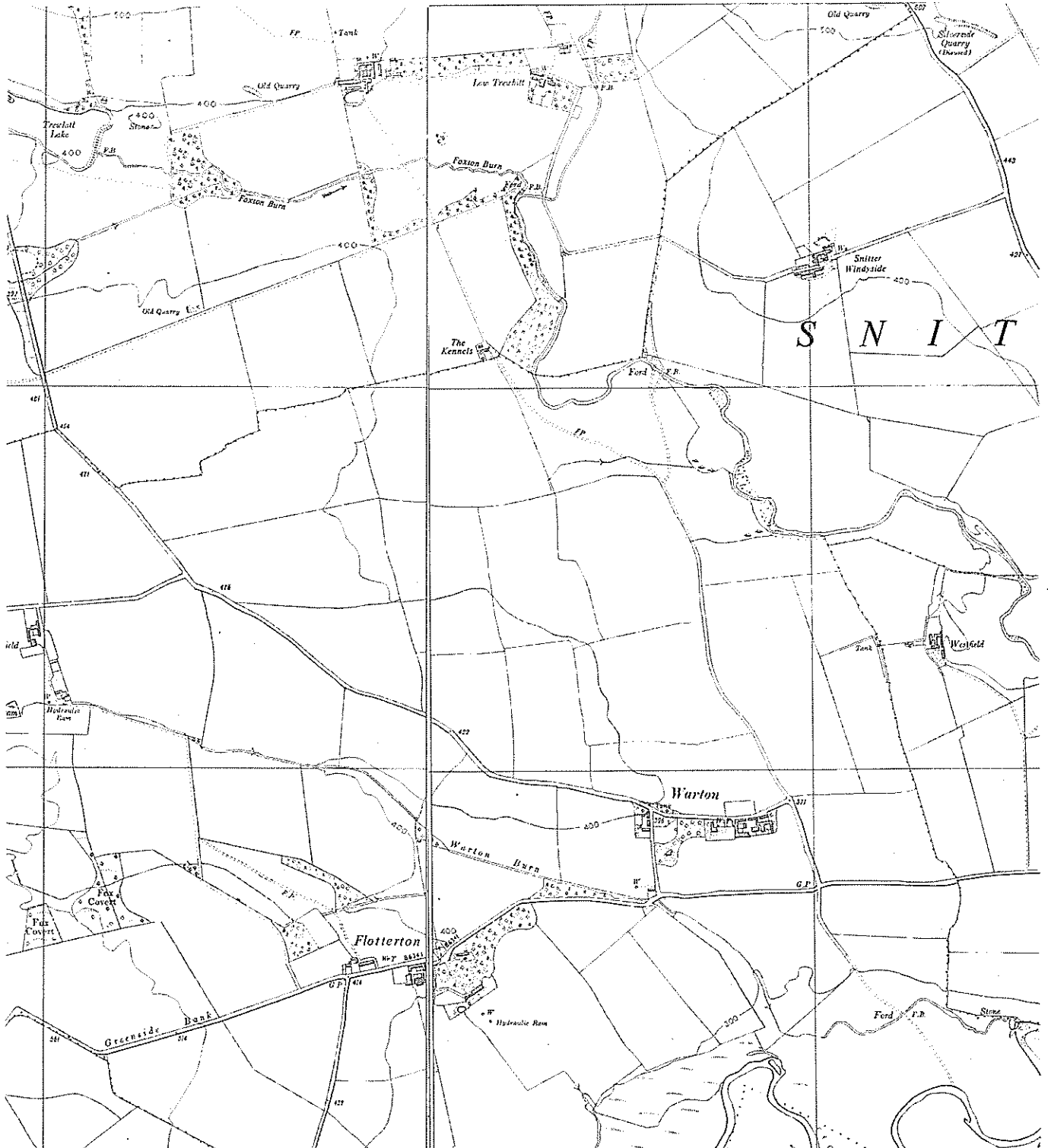
Approved.

Approved.

That the specifications, estimates and provisional apportionments be approved, and that the necessary formal resolution be submitted to the Council for adoption.







1958 County Road Schedule

ALNWICK DIVISION

Unclassified Roads in Rothbury Rural District

		Brought Forward	62.035 miles
U.4061	Antons Letch - Great Tosson - Allerdene Road	From B.6341 at Antons Letch via Sweep Road, Ladies Bridge, crossing C.181 at Newtown, linking up with U.4035 at Great Tosson and continuing northwards to its junction with C.181 600 yards east of Allerdene.	1.73
U.4062	Allerdene - Marton Road	From B.6341 at its junction with C.179 south-eastwards via the Coquet fordway to C.181 at Allerdene.	1.25
U.4063	Howmoor Plantation Road	From C.178 near Whittonlee Quarry via Reynards Lodge to Howmoor Plantation.	0.34
U.4064	Brenton - Great Hyle	From the Glendale R.D. boundary at Mile Moor to C.169 at Milemoor Plantation.	0.54
U.4065	Ingram - Frenwick	From the Glendale - Rothbury R.D. boundary at Bowl Holes Shottons Dene to C.169 Frenwick Cottage.	0.31
U.4066	Magtail Road, Rothbury	From B.6342 200 yards east of Rothbury Station south-eastward to bottom of west ramp to railway bridge on road to Magtail Farm.	0.55
U.4070	Scottish Ford Road	From B.6342 at Rothbury Railway Station via the Scottish Ford to B.6341	0.13
U.4071	Jubilee Crescent Rothbury	Off Croft Road, U.4059 for a distance of 399 yards	0.227
U.4072	Physic Lane, Thropton	From B.6341 130 yards east of the Cross Keys Public House, Thropton in a north-easterly direction for 200 yards.	0.114
U.4073	Road to Low Trewitt.	From U.4026 at Low Trewitt Bridge northwards to gate at Low Trewitt Farm.	0.272
		TOTAL	67.998 miles



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 ROTHBURY
- 2. Parish NETHERTON
- 3. Number of Footpath on Map 8
- 4. Name of Path
.....
- 5. Kind of Path (i.e. FP/BR) B.R.

6. General Description of Path From the Netherton Burnfoot - High Trehitt Road
south-east of Netherton Burnfoot in a south-easterly, south-westerly and south-
easterly direction by the east side of Northmoor Plantation to join the County
Road U.4073 at Low Trehitt.
.....
.....
.....

7. Other relevant information
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.....
.....
.....

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 ROTHBURY

2. Parish NETHERTON

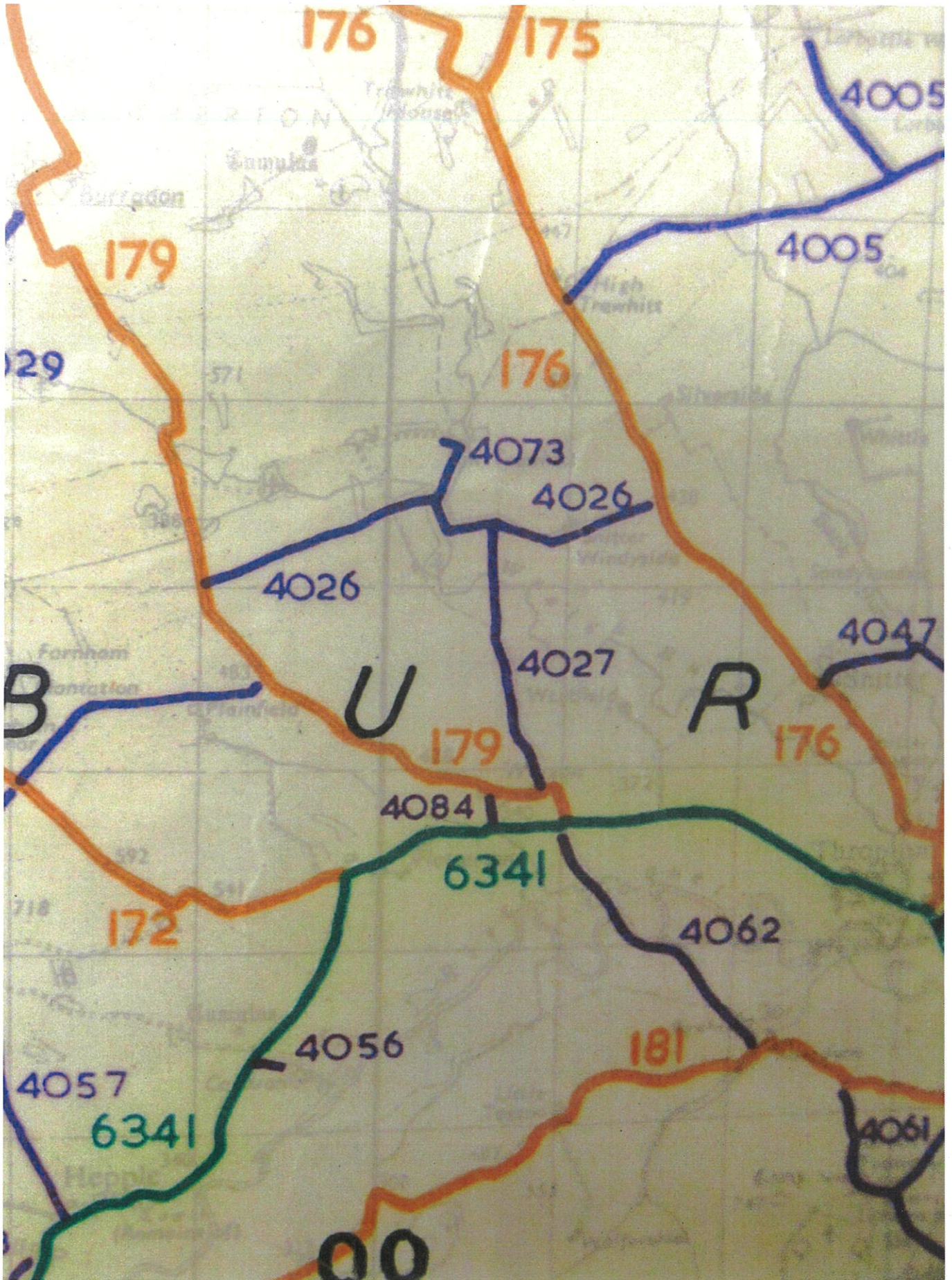
3. Number of Footpath on Map 15

4. Name of Path

5. Kind of Path (i.e. FP/BR) F.P.

6. General Description of Path From the County Road U.4073 south-east of Low
Trehitt in an easterly and north-easterly direction crossing the Wreigh Burn by
the footbridge to join the High Trehitt - Snitter Road south of High Trehitt.
.....
.....
.....

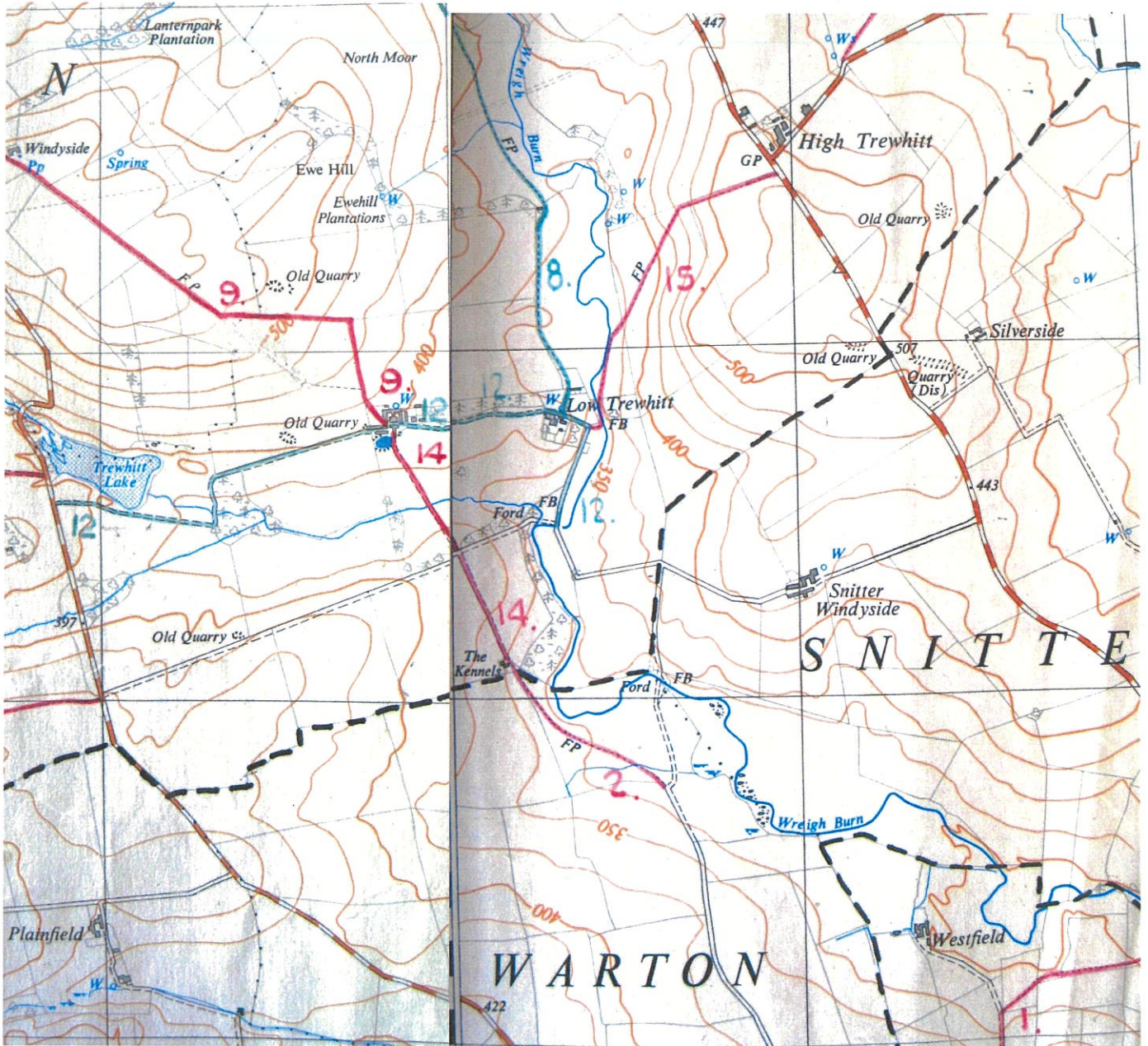
7. Other relevant information



1964 County Road Schedule

- 94 -

Route No.	Name of Road.	Description.	Responsible Division or Authority.	Mileage.	Total Mileage.
U.4070	Scottish Ford Road.	From B.6342 at Rothbury Railway Station northwards via the Scottish Ford to B.6341.	Alnwick.	0.13	0.13
U.4071	Jubilee Crescent, Rothbury.	Off Croft Road, U.4081, for a distance of 399 yards.	Alnwick.	0.23	0.23
U.4072	Physic Lane, Thropton.	From B.6341 130 yards east of the Cross Keys Public House, Thropton in a north-easterly direction for 200 yards.	Alnwick.	0.11	0.11
U.4073	Road to Low Trehitt.	From U.4026 at Low Trehitt Bridge northwards to gate at Low Trehitt Farm.	Alnwick.	0.27	0.27
U.4074	Todholes Road.	From C.187 three-quarters of a mile south of Elsdon northwards to and including culvert at Todholes.	Morpeth.	0.30	0.30
U.4075	Alnham-Shankhouse Road.	From C.169 at Castle Farm, Alnham, westwards via Alnham Vicarage to Shankhouse.	Alnwick.	3.37	3.37
U.4076	Crosshill Farm Road.	From C.174 at High Houses southwards for 368 yards towards Crosshill Farm.	Alnwick.	0.21	0.21
U.4077	High Street, Rothbury.	From B.6341 at County Hotel eastwards to Providence Lane, including 3 No. connections to Market Street, (600 yards).	Alnwick.	0.34	0.34
U.4078	Providence Lane, Rothbury.	From east end of High Street northwards to High Street Back, (91 yards), and Woodlands Estate Road, (excluding path beyond turning space), (178 yards).	Alnwick.	0.15	0.15
U.4079	Brewery Lane, Rothbury.	From B.6341 At Queen's Hotel northwards to Thomlinson's School, (141 yards).	Alnwick.	0.08	0.08
U.4080	Church Street, Lower Market Street and Low Main Street, Rothbury.	From B.6342 at north end of Rothbury Bridge westwards and northwards to B.6341 at Newcastle Hotel, including link on south-west side of Cross, (305 yards). Also from Church Street westwards via Bus Station to Well's Strand, (178 yards). Also off Lower Market Street southwards for 71 yards.	Alnwick.	0.32	0.32

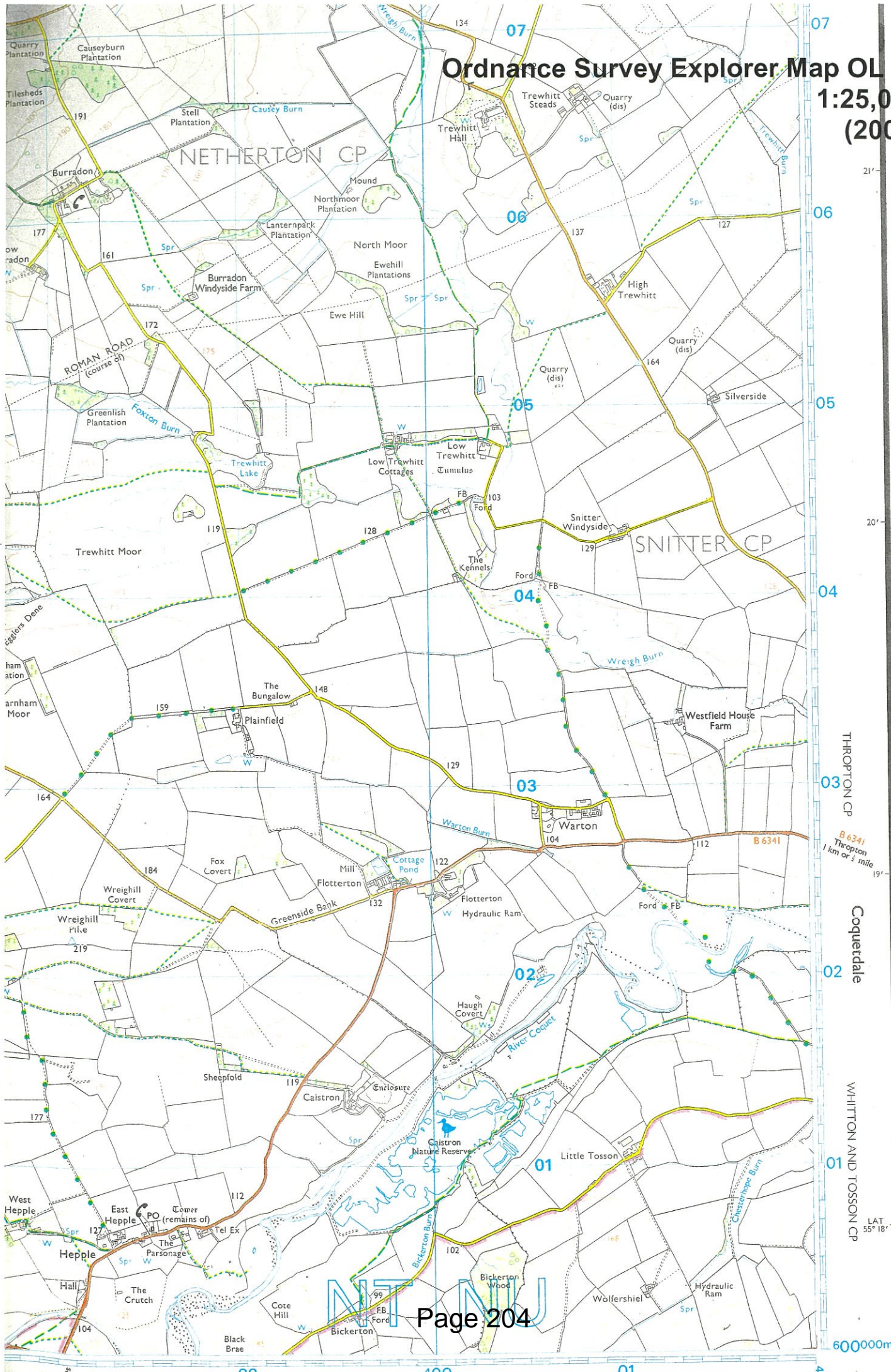


1974 County Road Schedule

Route No.	Name of Road	Description	Responsible Division or Authority	Mileage	Total Mileage
U.4070	Scottish Ford Road.	From B.6342 at former Rothbury Railway Station (NU 061016) northwards via the Scottish Ford to B.6341. (NU 061017).	Alnwick Division.		0.13
U.4071	Jubilee Crescent, Rothbury.	Off Croft Road, U.4091, for a distance of 399 yards. (NU 061014).	Alnwick Division.		0.23
U.4072	Proysic Lane, Thropton.	From B.6341 140 yards east of the Cross Keys Inn, Thropton (NU 032021) in a north-easterly direction for 200 yards.	Alnwick Division.		0.11
U.4073	Road to Low Irewhitt.	From U.4026 at Low Irewhitt Bridge (NU 003045) northwards to gate at Low Irewhitt Farm. (NU 003046).	Alnwick Division.		0.27
U.4074	Techoles Road.	From C.187 three-quarters of a mile south of Eilsdon (NY 942923) north-eastwards to and including culvert at Techoles. (NY 945924).	Morpeth Division.		0.30
U.4075	Alnham-Shankhouse Road.	From C.169 at Castle Farm, Alnham, (NT 966109) westwards via Alnham Vicarage to Shankhouse. (NT 962134).	Alnwick Division.		3.37
U.4076	Crosshill Farm Road.	From C.174 at High Houses (NU 037097) southwards for 368 yards towards Crosshill Farm.	Alnwick Division.		0.21
U.4077	High Street Rothbury.	From B.6341 at County Hotel (NU 053017) eastwards to Providence Lane, (NU 057016) including 3 No. connections to Market Street, (600 yards).	Alnwick Division.		0.34

Ordnance Survey Explorer Map OL 16

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(2005)



B 6341
Thropton
1 km or 1/2 mile

Coquetdale

WHITTON AND TOSSON CP

LAT 55° 18'

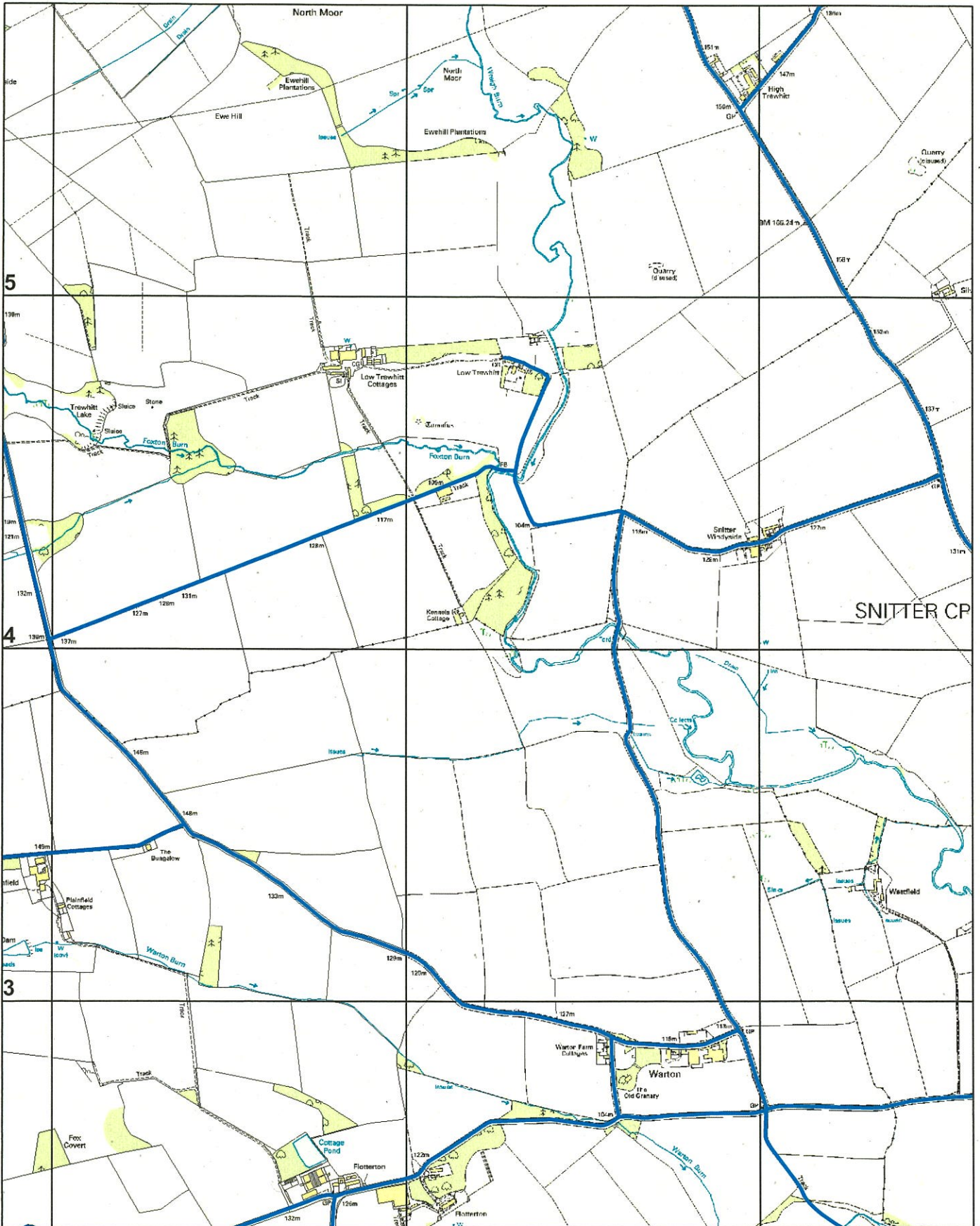


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Highways Act 1980 Section 36(6)
County Of Northumberland
List of Streets which are highways maintainable at the public expense
As at 02-May-2006

Road Number	Description	Length - Metres
U4070		
	U4070 RIVER BANK TO B6341 JCT	52
	<i>Total length for U4070</i>	<i>230</i>
U4071		
	U4081 CROFT ROAD TO U4071 JUBILEE C	63
	U4071 CUL-DE-SAC (W) TO U4071 CUL-DE-	300
	<i>Total length for U4071</i>	<i>363</i>
U4072		
	B6341 TO ROAD END PHYSIC LANE THROP	196
	<i>Total length for U4072</i>	<i>196</i>
U4073		
	U4026 TO LOW TREWITT CATTLE GRID	421
	<i>Total length for U4073</i>	<i>421</i>
U4074		
	C187 JCT TO TODHOLES CULVERT	488
	<i>Total length for U4074</i>	<i>488</i>
U4075		
	CASTLEHILL TO SHANKHOUSE	3,688
	C169 JCT TO CASTLEHILL FARM	1,800
	<i>Total length for U4075</i>	<i>5,488</i>
U4076		
	C174 JCT TO CROSSHILL FARM	348
	<i>Total length for U4076</i>	<i>348</i>
U4077		
	U4077 TURKS HEAD (W) TO B6341 MARKE	36
	B6341 MARKET STREET TO U4077 LINK RO	23
	U4077 LINK ROAD TO U4077 TURKS HEAD	12



Network Management
Information System

Highways Act 1980 Section 36(6)
County of Northumberland
List of Streets which are highways
maintainable at the public expense
as at 02-May-2006

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Date:
Sept 2022

Scale:
1:15,000