



Northumberland County Council

Your ref:

Our ref:

Enquiries to: Rebecca Little

Email: Rebecca.Little@northumberland.gov.uk

Tel direct: 01670 622611

Date: Tuesday 12 December 2023

Dear Sir or Madam,

Your attendance is requested at a meeting of the **RIGHTS OF WAY COMMITTEE** to be held in **CONFERENCE ROOM 1 - COUNTY HALL** on **WEDNESDAY, 20 DECEMBER 2023** at **10.00 AM**.

Yours faithfully

Dr Helen Paterson
Chief Executive

To Rights of Way Committee members as follows:-

L Bowman, A Dale, J Foster, C Hardy, JI Hutchinson (Chair), A Sharp, M Swinbank, D Towns and A Wallace (Vice-Chair)



Dr Helen Paterson, Chief Executive
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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 OF PREVIOUS MEETING

(Pages 1
- 8)

The minutes of the Rights of Way Committee meeting held on Wednesday, 25 October 2023, as circulated, to be agreed as a true record and be 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.

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|-----------|---|-------------------------|
| 4. | REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED RESTRICTED BYWAY NO 29 PARISH OF BLANCHLAND | (Pages 9
- 76) |
| 5. | REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED PUBLIC BRIDLEWAYS Nos 33 & 4 PARISHES OF BRINKBURN & ROTHBURY | (Pages
77 - 234) |
| 6. | REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED BYWAY OPEN TO ALL TRAFFIC No 40 PARISH OF ROTHBURY | (Pages
235 -
276) |
| 7. | REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED BYWAY OPEN TO ALL TRAFFIC No 26 PARISH OF BRINKBURN | (Pages
277 -
320) |
| 8. | URGENT BUSINESS (IF ANY) | |

To consider such other business as, in the opinion of the Chairman, 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.

Agenda Item 2

NORTHUMBERLAND COUNTY COUNCIL

RIGHTS OF WAY COMMITTEE

At a meeting of the **Rights of Way Committee** held in **Council Chamber, County Hall, Morpeth, Northumberland, NE24 3SE** on **Wednesday, 25 October 2023** at **10:00 a.m.**

PRESENT

Jl Hutchinson
Chair - in the Chair

MEMBERS

L Bowman
J Foster
A Sharp
D Towns

A Dale
C Hardy
M Swinbank
A Wallace

OTHER COUNCILLORS

Councillor V Jones

OFFICERS

A Bell
T Crowe
C Humphries
R Little
Z Quinn

Definitive Map and Search Officer
Solicitor
Principal Lawyer
Assistant Democratic Services Officer
Definitive Map and Search Technical Officer

Around 5 members of the press and public were present.

1 **MEMBERSHIP AND TERMS OF REFERENCE**

RESOLVED that this was noted.

2 **DISCLOSURE OF MEMBERS' INTERESTS**

Councillor Hutchinson noted that he had a personal but non-prejudicial interest in item 9 of the agenda.

Councillor Hardy noted that he had non-prejudicial interests in items 7, 8 and 9 in the agenda but had not pre-determined any application.

Councillor Towns and Swinbank noted that they had personal and prejudicial interests in item 9 of the agenda and would leave the meeting while the item was discussed and voted upon.

RESOLVED that this was noted.

3 **REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC FOOTPATH NO 45 PARISH OF MATFEN**

A. Bell - Definitive Map and Search Officer, introduced the report with the aid of a PowerPoint presentation, a further map was handed out to committee members as there had been an error in the printing of the report.

Members were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public footpath rights over a route between the C342 road and the U9022 road, at Matfen.

Following the report, members were invited to ask the Definitive Map and Search Officer questions, which the following information was then provided:

- Deposits under section 31(6) of the Highways Act had to be re-submitted within 20 years, previously to that it was 10 years, prior to the 10 years, within 6 years.
- A map and statement, on their own, would not prevent public rights of way being acquired.
- A landowner has no protection until a declaration is submitted.

Councillor Hardy proposed to accept the officer's recommendation, this was seconded by Councillor Wallace.

A vote was taken and was unanimous.

RESOLVED that there was insufficient evidence to indicate that public footpath rights had been reasonable alleged to exist over the application route D-E.

4 **WEST WOODBURN VILLAGE GREEN**

Ch.'s Initials.....

C Humphries – Principal Lawyer, introduced the report and members were asked to consider the withdrawal of the Village Green application submitted by Corsenside Parish Council in relation to land to the east of West Woodburn County First School, Whiteacre, West Woodburn.

Following the report, members were invited to ask questions to the Principal Lawyer, the following information was then provided:

- Some of the subject land had been sold to the Parish Council since the application was submitted.

Councillor Hardy proposed to accept the officer's recommendation to confirm the withdrawal of the Village Green application, this was seconded by Councillor Wallace.

A vote was taken and was unanimous.

RESOLVED that the committee approved the withdrawal of the application in respect of land lying to the east of West Woodburn County First School, Whiteacre, West Woodburn.

5 **VILLAGE GREEN ON THE EAST SIDE OF CHURCH STREET, ROTHBURY**

C. Humphries – Principal Lawyer introduced the report where members were asked to consider the withdrawal of the Village Green application submitted by Rothbury Parish Council in relation to land on the east side of Church Street, Rothbury.

Councillor Sharp proposed to accept the officer's recommendation to confirm the withdrawal of the Village Green application, this was seconded by Councillor Hardy.

A vote was taken and was unanimous.

RESOLVED that the committee approved the withdrawal of the application in respect of the land lying to the east side of Church Street, Rothbury.

6 **HORNCLIFFE VOLUNTARY VILLAGE GREEN - SCHOOL FIELDS**

C. Humphries – Principal Lawyer introduced the report where members were asked to determine the application to register land lying on the northeast side of Tofts Lane, Horncliffe, Berwick upon Tweed as a Village Green.

Councillor Hardy proposed to accept the officer's recommendation, this was seconded by Councillor Wallace.

A vote was taken and was unanimous.

RESOLVED that the committee approved the registration of the land lying on the north east side of Tofts Lane, Horncliffe, Berwick Upon Tweed (otherwise referred

to by the applicant as the School Playing Field at Horncliffe County First School) as a Village Green and the Commons Registration Authority register of Village Greens updated accordingly.

7 **HORNCLIFFE VOLUNTARY VILLAGE GREEN APPLICATION - PLAY PARK**

C. Humphries – Principal Lawyer introduced the report. Members were asked to determine the accompanying application to register land and buildings lying to the south west of Tweed Row, Horncliffe, Berwick upon Tweed (described by the applicant as the Horncliffe Play Park).

A letter from Mike Robbins, Strategic Estates Manager was provided to the committee and read: “I have been advised by Horncliffe Parish Council that they have applied for land in their ownership to be dedicated as Village Green. The land in question was transferred to the Parish Council by Berwick upon Tweed Borough Council on 26 February 2009, comprising land for a children’s play area.

The Transfer contained a clause which limited the use to children’s playground. The question has been raised as whether Northumberland County Council as beneficiary of the covenant (following Local Government Reorganisation in 2009) would invoke this covenant to prevent the land being declared village green. I can confirm that as the person within the Council responsible for its property assets that the Council considers that the use as a Children’s playground is entirely compatible with the requirements of a village green and would be happy for the designation to proceed. The Council as landowner does not see this covenant as an impediment to the Village Green will not take any action to enforce this.”

Councillor Hardy proposed to accept the officer’s recommendation, this was seconded by Councillor Wallace.

A vote was taken and was unanimous.

RESOLVED that the committee approved the registration of the land and buildings lying to the south west of Tweed Row, Horncliffe, Berwick Upon Tweed (otherwise referred to by the applicant as the Horncliffe Play Park) as a Village Green and the Commons Registration Authority Register of village Greens updated accordingly.

Councillors Towns and Swinbank left the meeting.

8 **REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC FOOTPATH NO 31 PARISH OF ELLINGHAM**

A. Bell - Definitive Map and Search Officer, introduced the report with the aid of a PowerPoint presentation, and asked committee members to consider all the relevant evidence gathered in support and in rebuttal of the existence of public footpath rights over a route between the U2029 road in Ellingham village and Public Footpath No 14.

Councillor Dale proposed to accept the officer's recommendation, this was seconded by Councillor Wallace.

A vote was taken and was unanimous.

RESOLVED that:

- i. There was sufficient evidence to indicate to indicate that public footpath rights had been reasonable alleged to exist over the route T-U;
- ii. The route was to be included in a future Definitive Map Modification Oder as a public footpath.

Councillor Swinbank returned to the meeting at this point.

9 **REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC BRIDLEWAY NO 31 PARISH OF KIRKWHELPINGTON**

A. Bell - Definitive Map and Search Officer, introduced the report with the aid of a PowerPoint presentation, and asked committee members to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over a route from the existing northern end of Public Bridleway No 31, north of Kirkwhelpington, in a north-westerly direction to join the C195 road north of Middle Whitehill.

Councillor Wallace proposed to accept the officer's recommendation for (i) and (ii), this was seconded by Councillor Hardy.

A vote was taken and was unanimous.

Councillor Wallace then further proposed that recommendation (iii) was to be modified to read "The T-X route be included in a future Definitive Map Modification Order as a public bridleway following consultation with landowners and other consultees seeking agreement to divert the bridleway onto an alternative route." This was seconded by Councillor Hardy.

RESOLVED that:

- i. There was insufficient evidence to indicate that public bridleway rights had been reasonably alleged to exist over the route T-S;
- ii. There was sufficient evidence to indicate that public bridleway rights had been reasonably alleged to exist over the route T-X;
- iii. T-X route be included in a future Definitive Map Modification Order as a public bridleway following consultation and agreement being sought from consultees and landowners as to a possible alternative route.

10 **REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BYWAY OPEN TO ALL TRAFFIC NO 30 & RESTRICTED BYWAY NO 29 PARISH OF WHITTINGHAM**

A. Bell - Definitive Map and Search Officer, introduced the report with the aid of a Ch.'s Initials.....

PowerPoint presentation, and asked committee members to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over a route from the south end of Whittingham Lane (BOAT No 24) in a westerly direction to join the C178 road, south of Whittonlea Quarry.

Councillor Hardy proposed to accept the officer's recommendation for (i), (ii) and (iii), this was seconded by Councillor Sharp.

A vote was taken and was unanimous.

Councillor Hardy proposed to accept the officer's recommendation (iv), this was seconded by Councillor Wallace.

A vote was taken and was unanimous.

Councillor Hardy proposed to accept the officer's recommendations (v) and (vi), this was seconded by Councillor Bowman.

A vote was taken and was unanimous.

RESOLVED that:

- i. There was sufficient evidence to indicate that public vehicular rights had been reasonably alleged to exist over the route F-E-D;
- ii. There was sufficient evidence to show, on a balance of probabilities, that public vehicular rights existed over the route D-C;
- iii. There was insufficient evidence to indicate that public vehicular rights or public bridleway rights had been reasonably alleged to exist over the route E-X;
- iv. The Natural Environment and Rural Communities Act 2006 had appeared to have extinguished the public's motor vehicular over the E-D-C section of the route.
- v. The F-E part of the route was to be included in a future Definitive Map Modification Order as a byway open to all traffic.
- vi. The E-D-C part of the route was to be included in a future Definitive Map Modification Order as a restricted byway.

11 **VERBAL BRIEFING REGARDING THE COUNCIL'S RIGHTS OF WAY IMPROVEMENT PLAN**

T. Fish – Area Countryside/Rights of Way Officer spoke to members and gave the following information:

- The Highways Authority were required to produce a Rights of Way Improvement Plan (ROWIP) under s.60 of the Countryside and Rights of Way Act 2000.
- Northumberland County Councils ROWIP was produced in 2009 and had not been reviewed or updated.
- In consultation with Stakeholders, officers and SMT planned to revise and propose policies that reflected the current position and direction of rights of way and access for the County.
- A draft ROWIP would be produced for approval by the Rights of Way Committee.

- A public consultation would take place once approved by the Rights of Way Committee. This would include stakeholders, Parish Councils, user groups and the wider public.
- The final ROWIP containing a 5-year delivery plan would be produced for approval by the Rights of Way Committee.
- The draft ROWIP would be prepared for the Rights of Way Committee meeting in February 2024.

RESOLVED that this was noted.

CHAIR.....

DATE.....

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Northumberland County Council

RIGHTS OF WAY COMMITTEE

20 December 2023

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

ALLEGED RESTRICTED BYWAY No 29 PARISH OF BLANCHLAND

Report of the Director of Environment and Transport
Cabinet Member: Councillor John Riddle, Roads and Highways

Purpose of report

In this report, the Rights of Way Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of higher rights over the route of existing Public Footpath No 29, from the southern end of existing Byway Open to All Traffic No 80 in the Parish of Hexhamshire, at the edge of Slaley Forest, in a south-easterly direction across Blanchland Moor to join existing Byway Open to All Traffic No 26, north of Pennypie House.

Recommendation

It is recommended that the Committee agrees that:

- (i) there is sufficient evidence to indicate that, on a balance of probability, public vehicular rights have been shown to exist over the route C-D;**
- (ii) that the public's motor vehicular rights over the route appear to have been extinguished by virtue of s67 of the NERC Act 2006;**
- (iii) the route be included in a future Definitive Map Modification Order to upgrade the existing public footpath to restricted byway status.**

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 This route has been the subject of three previous applications. In March 1979 the Ramblers' Association applied for a public footpath to be recorded as part of the countywide Second Review of the Definitive Map. Upon the introduction of the Wildlife and Countryside Act 1981 procedures, the Second Review was abandoned. In January 1985 the Ramblers Association made a second application, this time using the s.53 Wildlife & Countryside Act procedures, for public footpath rights to be added to the Definitive Map of Public Rights of Way. This application was considered by the Council's Definitive Map Panel in November 1990, whereupon members resolved to include the route in a future Definitive Map Modification Order (DMMO) as a public footpath.
- 1.4 In July 1993, before any public footpath DMMO had been made, one Malcolm Watson made multiple applications to record a number of byways open to all traffic through and around Slaley Forest. One of the alleged byway routes coincided with part of the alleged footpath route. The byway application was considered by the Council's Rights of Way Sub-Committee in May 1994, and the route was then included as one of 18 modifications in the omnibus Definitive Map Modification Order (No 1) 1996. The Order attracted 8 objections and was subsequently referred to the Secretary of State for determination. Following a public inquiry held on 2 and 3 July 2002, the Inspector appointed by the Secretary of State to determine the Order issued an interim decision, that the Order be confirmed subject to various modifications. This interim decision attracted objections and led to a second public inquiry, held on 16 and 17 September 2003. On 18 October 2004, the Order was confirmed, with a number of modifications, one of the main ones being the removal of Byway Open to All Traffic No 29, on the basis that, on the balance of probability, the evidence did not show that a vehicular right of way had been shown to exist.
- 1.5 In May 2011 the Council's Rights of Way Committee revisited the user evidence submitted in conjunction with the Ramblers' 1985 footpath application (this evidence had not been considered by either of the public inquiries relating to DMMO (No 1) 1996) and determined that the route should be included in a future DMMO as a public footpath. DMMO (No 14) 2012 attracted one sustained objection, on the grounds that the route should be recorded as a restricted byway. After considering all the previously considered evidence, the 'new' user evidence, and some new documentary evidence, the Inspector appointed by the Secretary of State concluded that, on a balance of probability, public vehicular rights had still not been shown to exist, but that public footpath rights had. The Order was confirmed, as made.
- 1.6 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 October 2019, Alan Kind of Newcastle made a formal application seeking to modify the Definitive Map of Public Rights of Way by upgrading an existing public footpath to restricted byway status, between the southern end of existing Byway Open to All Traffic No 80 in the Parish of Hexhamshire and existing Byway Open to All Traffic No 26 in the Parish of Blanchland, south of Slaley Forest.
- 2.2 Mr Kind supplied an analysis of the evidence to accompany his application. In September 2022, he submitted 4 additional pieces of evidence, and a revised analysis of the evidence:

“In October 2019 Alan Kind submitted an application to modify the definitive map and statement. That application included a statement of grounds setting out the evidence and the relevant law. This paper is a revision of that statement of grounds amended to include 4 additional pieces of documentary evidence not available when the application was made.

“Most of these documents as listed are maps, or images of printed text, and are embedded in this document rather than appended as separate documents. Where documents are appended these are marked as such in the list below. For clarity, the 3 items of ‘new evidence’ giving rise to the application are **highlighted in red** below. The 4 additional items not in the application are **highlighted in blue**.

“List of documents

1. **1713 An Account of Certain Charities... Containing ... to which is Added A Brief Account and Description of the Parish and Parish-Church of Hexham, in the County aforesaid ...** Appended
2. 1758 Marshall’s Blanchland Royalty Map
3. 1769 Armstrong’s Map of Northumberland
4. 1765 Inclosure Act, ‘An Act for dividing and inclosing a certain common, moor, tract of waste land, within the barony or manor of Bulbeck ...’ Appended
5. 1771 Extract images and transcription of the inclosure award and plan (Bulbeck Common Inclosure Award, 1771, CRO Ref QRA 9
6. 1787 Cary’s Map of Northumberland
7. 1794 Cary’s ‘Grid Plan’ Map of England
8. **1801 The Monthly Magazine or British Register, Volume XII, Part II for 1801**
9. 1808 Boundary Disputes Plan
10. **1815 John Cary’s Reduction of his Large Map of England and Wales**
11. **1819/20 Greenwood’s Map of Durham (& Note_Greenwood_Background, Appended)**
12. 1820 Fryer’s Map of Northumberland
13. 1827 John Cary’s Map
14. John Cary’s half-inch to one-mile scale map: a comparison of the mileage of roads shown with the Parliamentary returns of carriage road mileage, 1814 ... Appended
15. 1828 Greenwood’s Map of Northumberland
16. **1831 Greenwood’s Map of Durham**
17. **1833 Chapman & Haes’s Map of Northumberland**

18. 1834 John Cary's Reduction of his Large Map of England and Wales

19. 1860 6 Inches to 1 Mile (1:10.560) Ordnance Survey Map

"Earlier Orders Concerning This Route

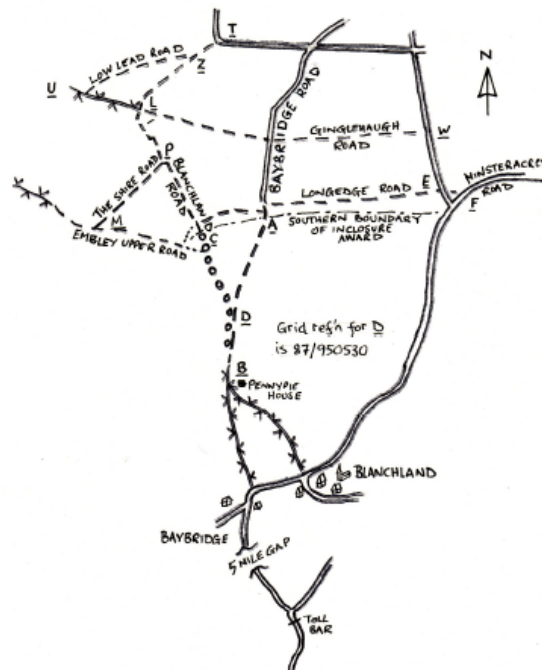
This route has been subject to two orders and four decision letters:

- Northumberland County Council Public Rights of Way Modification Order No 1 1996: FPS/R2900/7/18, 29 August 2002; 15 January 2004; 18 October 2004
- Northumberland County Council Public Rights of Way Modification Order No 14 2012: FPS/P2935/7/43, 7 July 2015. The current recorded status is public footpath 507/029 Blanchland, established on the basis of user evidence in the 2012 order.

"Reopening the Issue of Status

1. It is established law that the process of applying for, and (separately) making, an order to modify the definitive map, is not barred to further orders after an initial order has been made. (Express statutory provision apart, such as regarding restricted byways in CRoWA 2000). What matters is the 'discovery' of evidence, and that discovered evidence must then be considered with all other available evidence, whether 'new', or not. In the Wildlife and Countryside Act 1981, S.53(3)
 - (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—
 - (i) 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;
2. In R v. Secretary of State for the Environment, ex p. Riley [1989] CO/153/88, the ability to 'reopen' the question of status of a way previous subject to a definitive map reclassification order was considered. Held: that there is no res judicata in this statutory provision, and MacPherson J provided an oft-quoted reference to a 'better greybeard's evidence' being added to a (earlier) 'not very convincing greybeard's' evidence,' and the whole being weighed together (at D-E on page 10 of the judgment).
3. Stubbing Court v. Secretary of State for EFRA [2012] (consent order) is a case concerning an order to delete a public right of way from the definitive map and statement. The Secretary of State consented to judgment on the point that there is no 'gatekeeper test' for the discovered evidence (the 'new evidence'). Once there is new evidence then the test of sufficiency (cogency, positivity, etc.) is applied to all the evidence together. It is wrong to apply any different test to any part of the evidence: the relevant test must be applied to all the evidence.

4. In this application there is the evidence previously considered, plus 'new evidence', which is also evidence that speaks to the historical public status of the road. It does not matter if this 'new evidence' alone is not sufficient to establish the claimed status. What matters is whether this 'new evidence', plus all other evidence, weighed together, is sufficient to prove.
5. The correct approach is to establish that there is discovery of evidence and, if there is, forget that the route has been subject to an earlier application, or order. Consider this application as a stand-alone issue.
6. The documents relied upon are set out in the chronological sequence of the evidence. Sketch Map Showing the Key Local Highway Network
7. The grid reference in this sketch map is visual from a paper map. Current digital mapping gives a reference of 942530. Route A-D-B is now recorded as a BOAT



"Key Issues

8. The moor crossed by the application route is not a place of public resort. There is no purpose to the inclosure-awarded public Blanchland Road bringing public traffic southwards to point C (on the sketch map above) if the public can then lawfully go no further.
9. The inclosure commissioners could, and did, award private (carriage) roads. If the purpose of the public Blanchland Road was only to bring private traffic to point C, then why not make the public right of way stop at the junction with Longedge Road?

10. From point C on the sketch map, and much of the way to point D, the application route coincides with a well-worn single hollow-way. If it were not filled with heather it would be even-more visible. What sort of private traffic would be constrained to this linear route, and heavy enough, over years, to make this hollow-way?



11. Simply, does the whole of the historical evidence, the 'presumption' against pointless dead-ends and in favour of through routes (*Eyre v. New Forest Highways Board*, below), and the physical presence of a well-worn roadway, point sufficiently strongly to there being a through public highway along the application route?

"Historical evidence

12. 1713 *An Account of Certain Charities ... Containing ... to which is Added A Brief Account and Description of the Parish and Parish-Church of Hexham, in the County aforesaid*
 - 12.1. At page 57-59 (of the document, page 75-77 of the PDF) is a description of the bounds of the Parish of Hexham. At the foot of page 58, "From Gingleshaugh-ford to Knightcleughhead along the Highway which leads through the High-Quarter from the City of Durham to Allendale, etc. five Miles and thirty five Chains."
 - 12.2. Gingle(s)haugh is a place name on the older OS maps, and has a ford across the Devil's Water, close to Rawgreen. The ford is on Ginglehaugh Road, which is set out as a public carriage road in the *Bulbeck Common Inclosure Award of 1771*.



- 12.3. Knightscleugh Head is 2 miles southeast of Allendale Town, close to (what is now) a bridleway and to the ancient Stobb Cross.



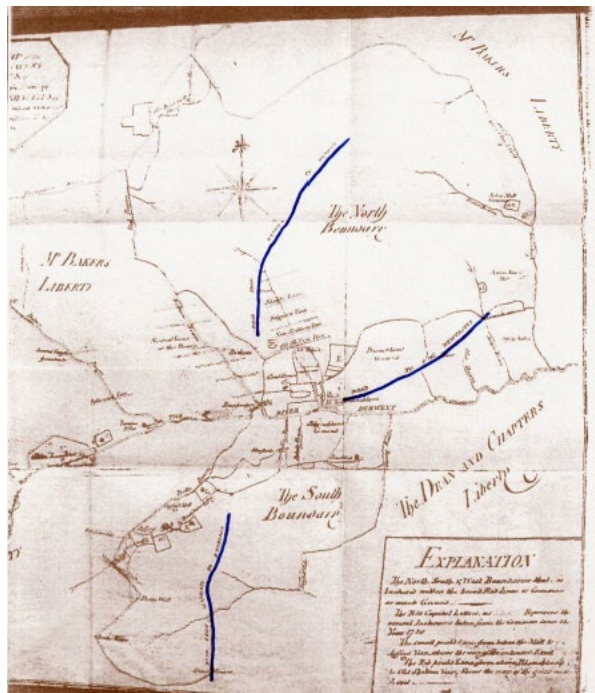
- 12.4. The “Highway which leads through the High-Quarter” can be identified by using the online facility on the National Library for Scotland website, where the onscreen cursor identifies which Quarter (parish) the cursor is sitting in. Then using online OS mapping the distance along this road from Gingleshaugh-ford can be measured reasonably precisely. 5 miles 35 chains is 5.44 miles. A plot of 5.44 miles along this highway route arrives very close to Knightscleughhead.



- 12.5. We can say with a high probability where and how the road (as described) from Durham City to Allendale (which is about 40 miles in distance) goes from Gingleshaugh to Knightscleughhead. Can we say where “the highway” (as distinct from ‘a highway’) ran from Durham, to arrive at Gingleshaugh?
- 12.6. The road from Durham, up the Wear Valley (now the A690), and then up Weardale (now the A689) must have been a regular route from time far out of mind. ‘Keys to the Past’ website notes that ‘Stanhopa’ was first recorded in 1183. Stanhope Castle was in use in the 14th Century, and in 1327 Edward III spent a week there while looking to engage the Scottish army. Eastgate and Westgate (to the west of Stanhope, on the A689, were the borders of the Bishop of Durham’s private hunting park, and can be connected to a lease of the park in 1419.
- 12.7. The road that is now the A68, which crosses the A690/689 near Crook, did not exist as a recognisable through-route until it was first turnpiked by an Act of 1792. For traffic from Durham to turn north up that corridor, then turn west for Gingleshaugh, is much more complicated than the alternatives.

- 12.8. There is a medieval road heading north from Wolsingham, via Salters Gate, and Espershiels, that will arrive at Gingleshaugh in about 18 miles, from the east, along Ginglehaugh Road. After Wolsingham there is no obvious place for rest and food on this route.
- 12.9. If the traffic from Durham turned north at Stanhope (obviously rest and food available), and ascended Crawleyside Bank (steep, but this was later turnpiked, so it was manageable) and then forked left for Baybridge and Blanchland (where there was an abbey since 1165) the continuation northwards, and along the application route, brought traffic to Gingleshaugh in much the same 18 miles.
- 12.10. This latter (Stanhope) route attained increasing importance on pre-OS maps, whereas the Salters Gate route diminished in relative importance. On balance, the via-Stanhope route is most probable to be the Durham City to Gingleshaugh-ford route in the 1713 description.
13. 1758 Marshall's Blanchland Royalty Map
- 13.1. This plan was originally located by the surveying authority.
- 13.2. The copy provided was not very crisp, but I have printed it and marked-on in blue the 'Roads To ...' that I can see.
- 13.3. When looking at this plan it is important to remember that the north arrow points to magnetic north, and that the then-position of magnetic north was discussed in evidence regarding the 1996 order. More importantly here, an anticlockwise rotation of this plan is necessary to bring the features (the Potter Burn is a good example) into alignment with the same features on the OS map extract below.
- 13.4. The three roads named on this 1758 plan, and highlighted in blue, are: i) the road mainly south out of Baybridge, to Edmundbyers Cross, and then to Stanhope; ii) the road from Baybridge to Blanchland, and then continuing as the current 'B' road towards Hexham and Newcastle; and, iii) the BOAT over Blanchland Moor to what is now Slaley Forest. This is probably the route that continues as 'Baybridge Road' on the inclosure award (below). The current OS map shows many more roads, bridleways, and footpaths in the same area, which this 1758 plan does not show.
- 13.5. Two examples are, i) the Blanchland to Edmundbyers road; and, ii) the branch off the Baybridge to Stanhope road, which runs to Eastgate via the Rookhope valley.

Both of these are clearly shown on John Cary's 1794 map (about 5 miles to one inch, below).



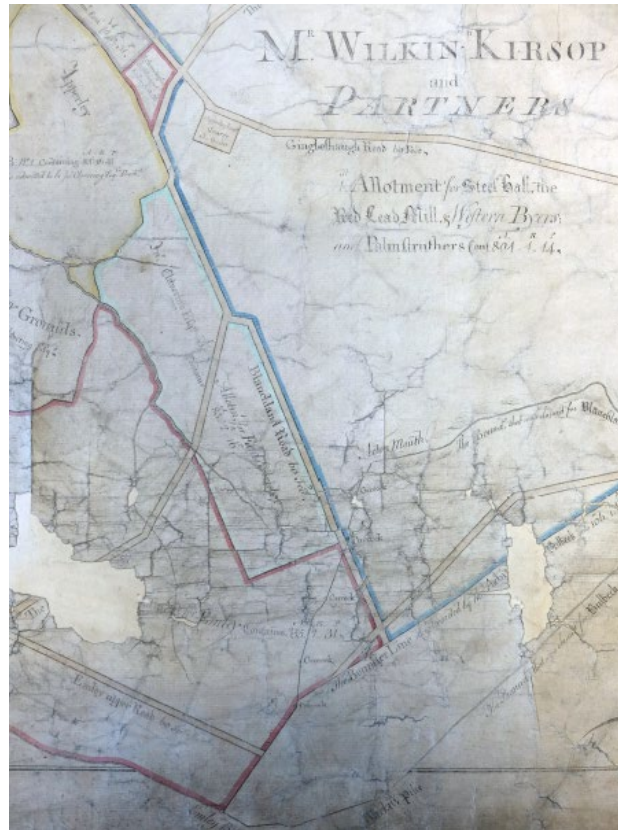
13.6. I respectfully submit that it is improbable that these roads shown by Cary were not in existence at 1758, but were in existence by 1794, given that, for example, Stanhope is a settlement dating back at least to 1170. Similarly, it is improbable that all the roads and paths on the OS extract, but not on the 1758 plan (and, indeed, not on the other commercial and early OS maps) sprang into being after the publication of maps not showing them, and making of the definitive map and statement. Not much weight should therefore be given to the 1758 plan not showing the application route as evidence that the application route did not then exist.

14. 1769 Armstrong's Map of Northumberland

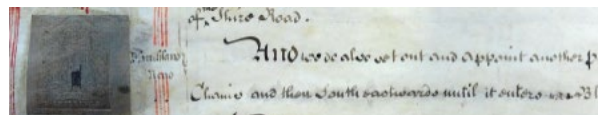
14.1. Armstrong does not show any route north from Baybridge or Blanchland, to, past, or through, what is now Slaley Forest.



15. 1771 The Inclosure Award Evidence



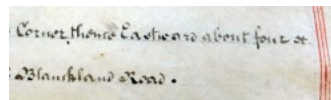
- 15.1. The Bulbeck Common Inclosure Award, 1771, is in the Northumberland County Record Office under reference QRA 9. The Act of Parliament empowering this inclosure award is 'An Act for dividing and inclosing a certain common, moor, tract of waste land, within the barony or manor of Bulbeck, in the county of Northumberland'.
- 15.2. This Act and award do not cover the land crossed by the application route, but do provide evidence of reputation for the linear continuation to the north of the application route, which is now recorded by Northumberland County Council as BOAT 525/080 Hexhamshire.
- 15.3. What is now BOAT 525/080 is set out in the 1771 inclosure award as a public highway for all classes of traffic:



public highway 70 foot in breadth through the said Common leading out the
Blanchland Common, as the same is now by dike and also at the dike end.

of the Close Road about twenty four chains of
the said Close Road which we shall hereinafter

is also shown from Appleby Dike Corner the
after refer to and call by the name of Blanchland



[The colour differences in these extracts is not relevant. Just an accident of the photo process]

- 15.4. AND we do also set out and appoint another public highway sixty feet in breadth through the same common leading out of the Shire Road about twenty four chains southeastward from Apperley Dike Corner, thence eastwards about four xx (?) chains and then southeastwards until it enters Blanchland Common, as the same is now by stakes and land marks staked and set out, which we shall hereinafter refer to and call by the name of Blanchland Road. [my emphasis].
- 15.5. The important word in this setting out is 'enters'. Blanchland Road 'enters' Blanchland Common. 'Enters' means "Come or go into (a place). 'She entered the kitchen.' Set foot in. Cross the threshold of. Pass into. Gain access to. Intrude into. Invade. Infiltrate." 'Enter' does not mean 'get to the entrance and then stop.'
- 15.6. It cannot reasonably be said that Blanchland Road, as awarded, got to the boundary between Blanchland Common, and Bulbeck Common (which boundary could not, under basic commons law, be fenced prior to inclosure) and then stopped. Plainly, the road that was set out as Blanchland Road could only 'enter' Blanchland Common if it already existed at the date of inclosure, because the Bulbeck Inclosure Commissioners had no remit or powers as regards Blanchland Common. Bulbeck Common was not a place of public resort. Blanchland village was and is. Likewise Baybridge.
- 15.7. There has, for at least 35 years, been a gate at this inclosure boundary fence to my own knowledge. The only reason for a gate is because Blanchland Road 'entered' Blanchland Moor, and did not stop at the boundary of the commons. This gives additional weight to the name 'Blanchland Road' itself, across Blanchland Common, in the Manor of Blanchland. It was the road to Blanchland, just as Baybridge Road was the road to Baybridge, Ginglehaugh Road was the road to Ginglehaugh (a place), and The Shire Road was the road into Hexhamshire.
- 15.8. A note on the view of the courts on a 'through route presumption' is included below.
- 15.9. Usefully, in the determination of the order for restricted byway 'Whiteleyshield Road', near Carrshield, Northumberland, under PINS reference FPS/P2935/7/37M, In her interim decision of 4 March 2015, Inspector Sue Arnott observes, "[58] ... I can accept that the majority of traffic on this route would have been on foot or with horses but I cannot fault the logic of the argument that the Inclosure Commissioners would not have set out Whiteleyshield Road as a full carriage road if a bridle road would have been sufficient. Since the Order route is the only possible extension of

that awarded section of road, on a balance of probability, I conclude it would also have been a full vehicular highway.” In her final decision of 17 December 2015, “[19] In short, prior to considering the Turnpike Act of 18264, I concluded at paragraph [58] that since the Order route is the only possible extension of the awarded Whiteleyshield Road, on a balance of probability, it would likewise have been a full vehicular highway. That conclusion has not changed. “

15.10. There is also photographic physical evidence regarding the application route, and this is set out below the historical evidence.

16. 1787 Cary’s Map of Northumberland

16.1. This is a small scale map (all the county is little bigger than A4) and, like Armstrong’ it has few roads shown in the application area.



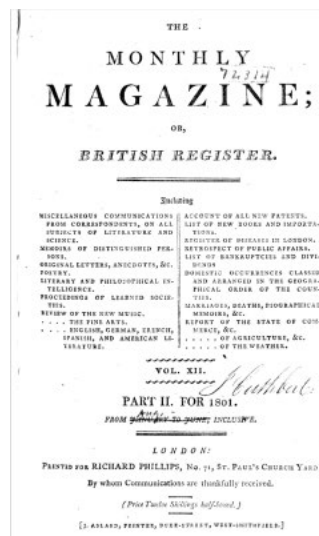
17. 1794 Cary’s ‘Grid Plan’ Map of England 17.1. This is a small scale map, and, like Armstrong’s it has few roads shown in the application area.



18. 1801 The Monthly Magazine or British Register, Volume XII, Part II for 1801

18.1. Found on Google Books Online. Page 259, 1 October.

- 18.2. "Provincial Occurrences". "Northumberland and Durham". "It is in contemplation to open a more free communication through the western part of the County of Durham, by a new turnpike road from Barnard Castle, that shall proceed by way of Stanhope and Blanchland, to Corbridge or Hexham; with certain collateral branches, viz. one from Barnard Castle, by West Pitts and Redford, to Walsingham [Wolsingham] ..."
- 18.3. It is possible that this 'new turnpike' road did not take in the application route (and the inclosure-awarded Blanchland Road), but it is probable that it did. This proposal is consistent with the depiction of a through route by John Cary in his "Reduction of his Large Map of England and Wales" after the 1815 edition, and by the 1834 edition; and also in Cary's "Improved Map..." of 1827 (below).



- 18.4. This 'improved road' shown by Cary comes northwards from Stanhope, forks left at Edmundbyers Cross, goes to Blanchland (maybe via Baybridge, but Blanchland's facilities would be utilised) and then 'straight up' to Dotland and Hexham. This is clearly the line up the west side of what is now Slaley Forest (i.e. via the application route) and not the more easterly route up the middle of Slaley Forest (i.e. Baybridge Road). That route, down to Peth Foot and across the Devil's Water, is very steep for turnpike improvement.
- 18.5. There is no record that this "contemplation" of a turnpike road went any further towards an Act of Parliament, and Cary's depiction (by 1834) as a turnpike was presumably based on proposals, but that cannot be said without more of his 1827 map.

PROVINCIAL OCCURRENCES.

WITH ALL THE MARRIAGES AND DEATHS.

Arranged geographically, or in the Order of the Counties, from North to South.

* Authentic Communications for this Department are always very thankfully received.

WORTHINGTON AND NEWMAN.
It is in contemplation to open a new free communication through the western part of the county of Durham, by a new tunnel and from Burnard Castle, that shall proceed by way of Hildesley and Blunthorpe, to Grebidge or Hildesley, with certain collateral branches, viz. one from Burnard Castle, by West Farm and Redden, to Wadsworth; one from near the Mill-house quarries, on Hildesley Moor, that shall pass by Gild Hill and Hildesley Field, and meet the Lobbly-bill road, near Hildesley; one from a place further north, on the old Moor, that shall pass through Kinnosforth, and meet the branch of the Lobbly-bill road, near Black-Holly; and one from Blunthorpe, South Westward, that shall pass by Blunthorpe Lead Mills, across the river Wear, near Wadsworth, and across the river Tyne, near Wadsworth, to communicate with the Stannum road, near Roughton. The proposed road, as above, will compare the shortest line from London to Edinburgh, and, with the proper branches, as above, will be of the greatest advantage to the improvement of the country at large, as well as to the persons immediately interested.

The following is an estimate of the expenses which will be incurred in the completion of the design for improving and extending the building of the railway at Newcastle, as lately laid before the public by the committee, &c.—Contract for the new building 8450—Alterations and improvements in the old house, with iron roofings, water closets, &c. 800—Total 9250.

The heat at Newcastle has been lately excessive, both by night and day. On Tuesday August 28, at 11 o'clock in the afternoon, Fahrenheit's thermometer, being exposed by Mr. Pease's mathematician of North Shields, in the shade, in a northern aspect, stood at 72 degrees. The Well India road follows exactly &c.

The following details are arrived at Newcastle from David's Sixty-sixth Regiment. The boats, with 393 casks of blisters, and 10 tons of fish, the produce of 24 whales. The Boreas, with 474 casks of blisters, and 14 tons of fish, the produce of 15 whales and 2 fish. The Commerce, with 323 casks of blisters, and 20 tons of fish, the produce of 17 whales, and the Mission, with 200 casks of blisters, and 10 tons of fish the produce of 14 whales.

At Monkwearmouth Shire, Mr. J. J. Banks, mason and cooper, to Miss Rich, at Newcastle.

In London, Mr. F. A. Bellman, merchant, to Miss H. Hunt, of Stockton upon Tyne.

At Newcastle, J. Hill, esq. of Howard Street, to Miss M. Moly, of Newcastle.

In London, at St. Luke's church, Mr. I. Gibson, jun. of St. David's, to Miss R. Wigglesworth, daughter of Mr. B. Wigglesworth, watchmaker.

At Newcastle, Mr. P. Paxton, builder, to Miss Rowntree.

At South Shields, Capt. A. Dixon, of the 2nd regt., to Miss J. Dixon, second daughter of Admiral Dixon.

At South Shields, T. Wallis, esq. to Miss Smith.

At Durham, Mr. J. Watton, master of the Cook Inn, to Miss M. Norton.

At Newcastle, Mr. J. Hudson—Aged 65. Mrs. Millburn, widow, late of Newcastle, aged 51 years and one day, J. Wilkinson, esq. banker, and a captain in the Newcastle armed militia—Mrs. Verity, wife of Mr. Verity, draper—Aged 44, Mr. D. Bell, wainwright—Mr. J. Tappin, brewer.

In Gateshead, aged 90, Mrs. Wilson, relict of R. Wilson, esq. attorney.

At Sunderland, Mr. J. Collins, ship-builder.

At Durham, aged 60, Mr. J. Marshall, master of the Duke and Crown public house, in the market place.—Aged 65, Mr. J. Clark, coach-maker.—At an advanced age, Mr. A. Archer, an honest industrious man, many years in the employment of the late Mr. Lawrie, attorney—Aged 47, Mr. J. Perrin, shoe-maker.—Suffering aged 65, Mrs. Sainsby, wife of Mr. W. Sainsby, baker.

At North Shields, aged 73, Mr. W. Adamson, a man of considerable integrity and uncommon industry.—Mr. R. Culbertson, hair-dresser.—Aged 60, Mr. W. Taylor, brewer.—Miss French, wife of Mr. G. French, ship-owner.—Mrs. H. Perry of the cut-toms.

At Alnwick, Miss J. Fisher, of the Queen's Head Inn.

At Stockton, Mrs. Twinn, of the Shaker-pears Inn—was 100 with year, Mrs. Ayres, wife of Mr. J. Ayres, of the Custom-house.—Mrs. Wray, wife of Mr. Wray, comedian.—Mrs. Jackson, widow of Ogden, Northumbria.—Miss Bunting, youngest daughter of W. Bunting, esq. of the Holling.

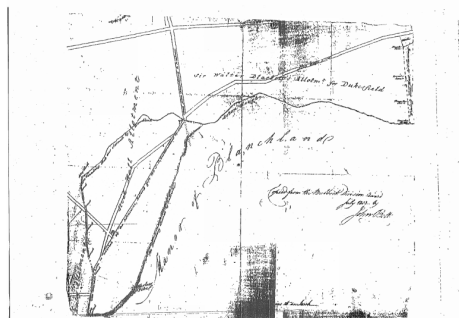
At Harton, aged 75, Miss A. Oliver.

At High Shields, near Blunthorpe, Mr. J. Ristley.

18.6. The turnpike “contemplation” of itself does not show that the application route was already a public highway in 1801, but the rest of the route as mapped was, and by 1820 Fryer was mapping the application route as existing. Had Fryer been working from a turnpike “contemplation” of a not-yet-existing road then he would have shown a turnpike road. He showed an ordinary minor road. The probability is that the application route existed in 1801, and was thereby open to be turnpiked in the usual way.

19. 1808 Boundary Disputes Plan (put in at the most-recent public hearing)

19.1. In considering this document it is important to bear in mind the Highways Act 1980, s.32: Evidence of dedication of way as highway.
A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, 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 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.



- 19.2. This 'Boundary Disputes Plan' was made intra-parties for boundary dispute resolution. It was not made for the purpose of setting down public highways. In any case, the plan carries these words: "Copied from the Bulbeck Division Award July 1808 by John ????" So clearly, as regards the public highways, this 1808 plan shows only, and exactly, what was shown in the 1771 Bulbeck award plan.
- 19.3. This 1808 plan cannot carry much, if any, weight to show that routes not shown were not acknowledged public highways.
20. 1815 John Cary's Reduction of his Large Map of England and Wales, Comprehending the Whole of the Turnpike Roads, By Order of the Postmaster General
- 20.1. This edition shows a non-turnpike road from Stanhope to Hexham, via Dead Friars, Blanchland (not via Baybridge), and then up towards Slaley and the ancient Travellers Rest inn, then down the Shield Hall / Peth Foot road, to Dotland and on to Hexham. See the evolution of this map in 1834, below.



21. 1819/1820 Greenwood's Map of Durham
- 21.1. Greenwood's survey of 1819, and first published map of 1820, shows no topographical detail outside of the actual boundaries of County Durham. The northern boundary shows several roads 'leading onwards' and most are named for a destination. At Baybridge the road heading northwards is marked "To Hexham" and is represented as a "Cross Road". Nothing in this representation indicates just what route this road "To Hexham" took, but reference to the next, 1831, version of Greenwood's map answers this.
- 21.2. The plate reproduced here was found on the National Library of Scotland website.



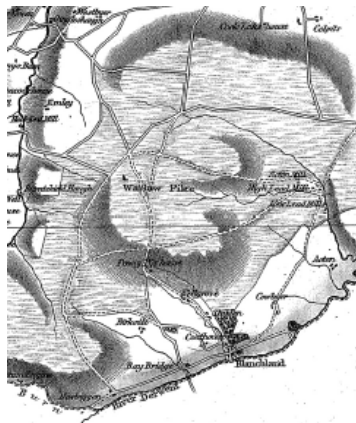


22. 1820 Fryer's Map of Northumberland

22.1. Fryer's Map of Northumberland, 1820, is an important piece of evidence in the whole pattern of evidence in this case. An extract of the relevant area is above.

22.2. Fryer's is the earliest map of Northumberland that shows the wider, and more complete, network of roads, and there is no earlier map in such detail from which Fryer could have, or did, copy. If Fryer did not copy, then his map must be based on a survey: there is no other rational conclusion. The roads that Fryer shows in this extract correlate closely to roads and public paths shown in the Ordnance Survey extract, above. Fryer names 'Newbiggen' in a place rather further from Baybridge than is 'Newbiggin' on the OS map, but if the relative distance of Blanchland to Baybridge is seen on both maps, then Fryer's Newbiggen is close by the current public footpath running northwestwards to join the Carriers' Way (as named on the OS maps, which in turn joins Longedge Road, (now) through the southern edge of Slaley Forest.

22.3. The location of the 'wishbone' of roads at Pennypie; the fork to the southeast of Warlaw Pike; the location of Warlaw Pike itself; and the shape of, and junctions with, Longedge Road, show persuasively that the surveyors on whose work Fryer's map was based, could see a 'road' on the ground along the application route, in or before 1820.

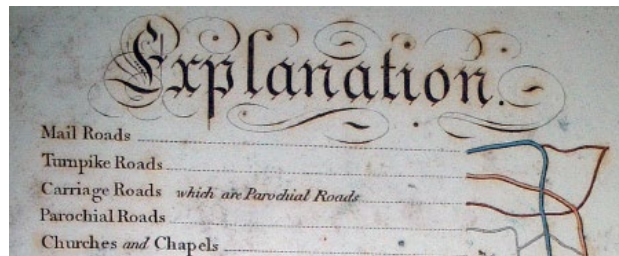


23. 1827 John Cary's Map

- 23.1. 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, is probably the most-respected commercial map series covering all of England and Wales. My own research and investigation indicates that, for Northumberland, Cary's map was (within measurement accuracy limits) strongly similar to the known mileage of public vehicular highways within ten years either side of the date of the map. I attach my paper 'John Cary's half-inch to one-mile scale map of Northumberland (1825): a comparison of the mileage of roads shown with the Parliamentary returns of carriage road mileage, 1814', which sets out my analysis.



- 23.2. Cary's plate 58 (his maps were on a grid pattern, rather than to county boundaries) is dated 1827, and is part of the series that was issued piecemeal between 1820 and 1832, with some local revision in 1834. This below is an extract from plate 58:
- 23.3. Cary's map shows the application route clearly, coloured in brown, as part of a longer route from Hexham, via Dotland (an ancient settlement), via Baybridge (an ancient bridge), to make a junction with the Tyneside-to-Stanhope road, at Edmundbyers Cross. There is still the remains of a stone stoop here (see below), which suggests roads and a junction of considerable antiquity.
- 23.4. The brown colouring of the application route as part of a longer route is explained in the key to Cary's 1827 map, which is reproduced below. The brown colour indicates 'Carriage Roads which are Parochial Roads.' It is reasonable to conclude that Cary's surveyors believed that this 'brown route' was something more than a simple 'Parochial Road'. 'Parochial' means 'of the parish', and in 1827 the parishes were the highway authority



- 23.5. It may be contended (but nobody has, in submission) that Cary showed this 'Carriage Road' by accident, or that he copied, or that he simply made it up. Why should he have invented it? He certainly did not copy the information from Fryer, and I have never encountered any roads-in-detail commercial map between Fryer in 1820, and Cary by 1827.
- 23.6. The 6 Inches to 1 Mile (1:10.560) Ordnance Survey Map (surveyed 1860) for the site shows the application route, and also the BOAT, forming a 'Y' junction at the south end of the application route. It may be contended (but nobody has in submission) that the road with the spot heights, which is now the BOAT (usually known as Baybridge Road, or The Old Coach Road) was before 1827 the 'main road', and that Cary made a mistake in showing the application route and The Shire Road as part of his 'Carriage Road' route south from Dotland. But it is risky to presume a mistake in such a situation, from a perspective 188 years later., and I note that the Inspector stopped short of deeming Cary's map a mistake in her final decision letter for the 1996 order. There are two factors that make presumption of a mistake by Cary particularly risky and unsound.
- 23.7. Firstly, Cary's route is not wholly on inclosure roads – indeed, the BOAT across Blanchland Moor was outside the Bulbeck Inclosure area – and we cannot at this distance say, particularly without evidence, that all other parts of this Cary route were better – perhaps considerably better – than the application route some 188 or more years ago.
- 23.8. Secondly – and this reinforces the first point – the BOAT across Blanchland Moor is now a well-made track, but at some point in time it probably was not. At the junction of the application route and the BOAT (point B on the application plan) there is, heading towards Slaley, immediately adjacent to the current made track, a parallel track with a wet bottom. The Ordnance Survey map shows only one track, which rather suggests that in 1860 there was only one track, and it is not probable that, when the made track was available, traffic used and 'made' a wet beaten track instead. There is no evidence that the track shown in the 1860-survey OS map is the 'made' track, rather than this immediately adjacent 'beaten track'. I respectfully submit that it would not be rational to presume (without evidence) that the OS was showing the current made track and not its wet and beaten companion, and then to presume, founded only on that previous presumption, that Cary made a mistake in showing his 'Carriage Road'.

23.9. A photograph of this 'parallel track' is included with the set of photographs below.

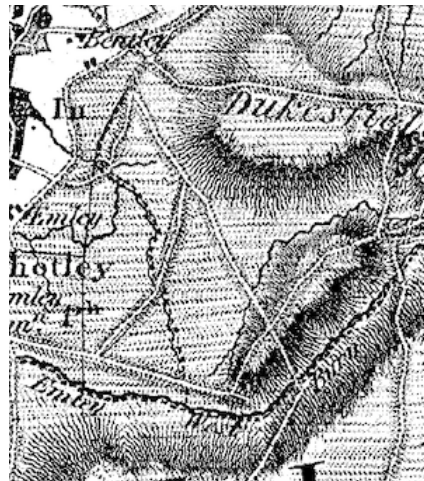
23.10. Simply, without evidence of mistake, Cary, with his good reputation, who had no earlier cartographer from whom to crib this brown-coloured road, should be given some reasonable evidential weight as to the then-reputation of the application route.

24. 1828 Greenwood's Map of Northumberland

24.1. I respectfully submit that Greenwood did not simply copy Fryer or Cary. The information he shows is considerably different from both, and he would scarcely have had sufficient time to copy Cary on to his own plates, and then print.

24.2. Greenwood does show the northern end of the application route, out into Blanchland Moor extending southwards a considerable distance beyond Longedge Road.

24.3. But take care with Greenwood hereabouts. If the application route is followed northwards along what is now the edge of Slaley Forest, as first Blanchland Road, and then as The Shire Road, it is clear that Greenwood has no through-road connection between the inclosure roads around Leadpipe Hill (on the current OS) and the road at Bentley. But the inclosure roads did make this connection. It seems to me to be more of a 'convention' for Greenwood as to how, or if at all, he depicted open roads over particular terrain. This 'consistent inconsistency' is apparent right across his map of Northumberland, and it is improbable that he is simply wrong in so many places.

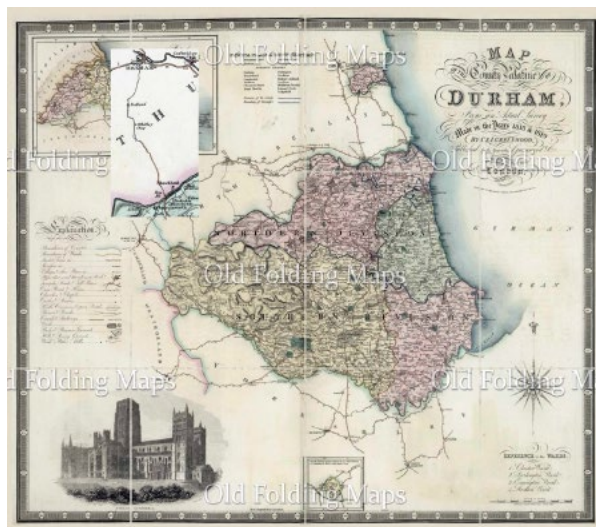


25. 1831 Greenwood's Map of Durham

25.1. This map is stated to be based on the 1819 survey, but updated. This version shows a pattern of roads extending outside the boundaries of the county. This may be because the map shows, for example, Bedlingtonshire and Norhamshire, which are now in Northumberland, but were then detached parts of County Durham. Whatever, the road north from Baybridge, "To Hexham" on the 1820 map, is now shown in full, as a "Cross Road", passing just to the west of Whitley Chapel, and through Dotland

(both ancient settlements). A simple visual comparison with a marked-up portion of OS map shows that this road takes in the application route, and uses Gingleshaugh-ford. These 2 maps taken together (and other maps presented here reinforce this) are strongly persuasive that the road from Baybridge to Hexham took in the application route, and Gingleshaughford. The latter fact also reinforces that this was also the 1713 Durham City, via Gingleshaugh-ford, to Knightscleughhead road.

- 25.2. There are 2 alternative roads to Hexham in this 'corridor'. One crosses the Devil's Water at Peth Foot ford, and the other via Linnels Bridge. Both have approaches far steeper than that at Gingleshaugh-ford. Neither of these alternatives is shown here by Greenwood, although the Linnels Bridge road is now much more prominent as it is the B6306.



26. 1833 Chapman & Hall's Map of Northumberland

- 26.1. This is a small single plate map of Northumberland, not much bigger than A4. The types of road are not identified in a key (usual at this scale), but known turnpike roads are shown more prominently than the other roads. The road from Baybridge northwards to Hexham, via the application route, Whitley Chapel, and Dotland, is clearly shown in the same style as the other roads.

- 26.2. The broken out section is marked with red arrows to highlight the Baybridge to Hexham road, and the application route is highlighted in orange.



27. 1834 John Cary's Reduction of his Large Map of England and Wales, Comprehending the Whole of the Turnpike Roads, By Order of the Postmaster General 27.1. See also the 1815 version, above. In this 1834 version, the 1815 route via Peth Foot is still shown, but a turnpike has been added, straight up the west side of what is now Slaley Forest, along the line of the BOAT, which is the awarded portion of Blanchland Road, and most probably along the application route.



28. 1860 First Edition 6" Scale Ordnance Survey Map

- 28.1. This OS map clearly shows the actual physical feature of the awarded Blanchland Road and Longedge Road. It also shows the application route continuing from the edge of the Bulbeck Division, south-south-eastwards, past Warlaw Pike, to a junction with the (continuation of) Baybridge Road.
- 28.2. This map does not show the legal extent of the awarded roads. It shows only what existed on the ground at the date of survey. Please note that the map shows the worn holloway path in the area of the Bulbeck award, meandering on both sides of the straight boundary line. This meandering holloway is still visible on the ground; some of it in the trees. By the second edition (1898) this meandering line has disappeared from the map.
- 28.3. The meandering route shown on the map, which is the application route, is also clearly visible on the ground in many places, and within the limits of scale, clearly accords with the road shown on each of Fryer's and Cary's detailed maps, which were made some 30 years before the OS first survey.



29. The 'through route presumption'
[This is not argued to be a legal presumption; it is more one of common sense and experience.]
- 29.1. 4.1. Part 2 of PINS's Consistency Guidelines states: Rural Cul-de-Sac 2.48, The courts have long recognised that, in certain circumstances, culs-de-sac in rural areas can be highways. (e.g. Eyre v. New Forest Highways Board 1892, Moser v. Ambleside 1925, A-G and Newton Abbott v. Dyer 1947 and Roberts v. Webster 1967). Most frequently, such a situation arises where a cul-de-sac is the only way to or from a place of public interest or where changes to the highways network have turned what was part of a through road into a cul-de-sac. Before recognising a cul-de-sac as a highway, Inspectors will need to be persuaded that special circumstances exist. 2.49, In Eyre v New Forest Highway

Board 1892 Wills J also covers the situation in which two apparent culs-de-sac are created by reason of uncertainty over the status of a short, linking section (in that case a track over a common). He held that, where a short section of uncertain status exists it can be presumed that its status is that of the two highways linked by it.

- 29.2. Expanding this guidance a little further is of assistance. In *Eyre v. New Forest Highway Board* (1892) JP 517, the Court of Appeal under Lord Esher, MR, considered an appeal against a decision of Wills J, who had rejected an application by Mr Eyre that Tinker's Lane in the New Forest was not a publicly repairable highway and should not be made up by the Board. Lord Esher commended Wills J's summing-up as "... copious and clear and a complete exposition of the law on the subject; it was a clear and correct direction to the jury on all the points raised."
- 29.3. Wills J: "It seems that there is a turnpike road, or a high road, on one side of Cadnam Common; on the other side, there is that road that leads to the disputed portion, and beyond that if you pass over that disputed portion, you come to Tinker's Lane which leads apparently to a number of places. It seems to connect itself with the high road to Salisbury, and with other more important centres, and I should gather from what I have heard that there are more important centres of population in the opposite direction. You have heard what Mr Bucknill says about there being that better and shorter road by which to go. All that appears to me on the evidence is that, for some reason or other, whether it was that they liked the picturesque (which is not very likely), or whether it is that it is really shorter; there were a certain portion of the people from first to last who wished to go that way. It is by the continual passage of people who wish to go along a particular spot that evidence of there being a high road is created; and taking the high roads in the country, a great deal more than half of them have no better origin and rest upon no more definite foundation than that. It is perfectly true that it is a necessary element in the legal definition of a highway that it must lead from one definite place to some other definite place, and that you cannot have a public right to indefinitely stray over a common for instance... There is no such right as that known to the law. Therefore, there must be a definite terminus, and a more or less definite direction..."
- 29.4. "But supposing you think Tinker's Lane is a public highway, what would be the meaning in a country place like that of a highway which ends in a cul-de-sac, and ends at a gate onto a common? Such things exist in large towns... but who ever found such a thing in a country district like this, where one of the public, if there were any public who wanted to use it at all, would drive up to that gate for the purpose of driving back again? ... It is a just observation that if you think Tinkers Lane was a public highway, an old and ancient public highway, why should it be so unless it leads across that common to some of those places beyond? I cannot conceive myself how that could be a public highway, or to what purpose it could be dedicated or in what way it could be used so as to become a public highway, unless it was to pass

over from that side of the country to this side of the country. Therefore it seems to me, after all said and done, that the evidence with regard to this little piece across the green cannot be severed from the other... it would take a great deal to persuade me that it was possible that that state of things should co-exist with no public way across the little piece of green... I am not laying this down as law; but I cannot understand how there could be a public way up to the gate – practically, I mean; I do not mean theoretically, - but how in a locality like this there could be a public highway up to the gate without there being a highway beyond it. If there were a public highway up Tinker’s Lane before 1835, it does not seem to me at all a wrong step to take, or an unreasonable step to take, to say there must have been one across that green.”

- 29.5. 4.3. There are three often-cited cases on culs-de-sac and whether such can be (public) highways: *Roberts v. Webster* (1967) 66 LGR 298; *A.G. v. Antrobus* [1905] 2Ch 188; *Bourke v. Davis*, [1890] 44 ChD 110. In each of these the way in dispute was (apparently) a genuine dead-end with no ‘lost’ continuation. Fundamental argument in each was whether or not a cul-de-sac (especially in the countryside) could be a (public) highway. In each case the court took the point that the law presumes a highway is a through-route unless there are exceptional local circumstances: e.g. a place of public resort, or that the way was expressly laid out under the authority of statute, such as an inclosure award. In *A.G. (At Relation of A H Hastie) v. Godstone RDC* (1912) JP 188, Parker J was called upon to give a declaration that a cluster of minor roads were public and publicly repairable highways. “The roads in question certainly existed far back into the eighteenth century. They are shown in many old maps. They have for the most part well-defined hedges and ditches on either side, the width between the ditches, as is often the case with old country roads, varying considerably. There is nothing to distinguish any part of these roads respectively from any other part except the state of repair. They are continuous roads throughout and furnish convenient short cuts between main roads to the north and south respectively [note the similarity of logic here with *Wills J in Eyre*]. It is possible, of course, that a public way may end in a cul-de-sac, but it appears rather improbable that part of a continuous thoroughfare should be a public highway and part not. It was suggested that there might be a public carriageway ending in a public footpath and that *Cottage Lane* and *St Pier’s Lane* are public carriageways to the points to which they are admittedly highways, and public footpaths for the rest of their length. I cannot find any evidence which points to this solution of the difficulty, and so far, at any rate as evidence of the user of the road is concerned, there is no difference qua the nature of that user between those parts of the roads which are admittedly highways and those parts as to which the public right is in issue.”
- 29.6. 4.5. Although it is not a ‘precedent’, it is useful to note the view of Inspector Dr T O Pritchard, when tasked to consider the true status of a through-route that currently ‘changes status’ part-way. He said it is “... probably for part of a continuous route to be

part footpath and part carriageway”, expressly taking the Godstone case as authority. [FPS/A4710/7/22 723, of 31 March 1999].

30. Photographs of the Application Route



These photographs show the pronounced holloway along the application route. It is even more clear where the heather has been burned off.



Above: the wet road parallel to the 'causewayed' BOAT, Baybridge Road.

The 'notch' of the holloway on the application route is clearly visible on the skyline.



31. Summary

- 31.1. In most cases, to prove the status of a public highway we have to look at a number pieces of evidence, none of which speak directly to the status (that would be 'positive evidence') and aggregate all of these to make an overall view on the balance of probabilities.
- 31.2. This case has no status-specific evidence, but it does have a good set of pieces of indirect evidence which, examined individually and then taken together, show a strong probability that this application route was historically part of a longer public road, heading southwards towards Blanchland and Baybridge.
- 31.3. The direct northern contiguous stretch is set out in an inclosure award as 'Blanchland Road', just as other roads in the same award are named for their destination or direction: Ginglehaugh Road, Shire Road, Baybridge Road, and others.
- 31.4. Blanchland Common, at the south end of the awarded Blanchland Road was not a place of public resort. Unless the awarded Blanchland Road continued across Blanchland Common, that awarded public carriage road had no destination other than a fence. The inclosure commissioners were practical men. Would they set out such a largely useless dead end and call it Blanchland Road, some two-and three-quarter miles distant from Blanchland? Not probable.
- 31.5. Then we have the discovered evidence that there was at least 'contemplation' of making the application route into a turnpike road. Plainly this was never done, but taking the evidence as a whole it is indicative that the application route was part of a longer through-route from Blanchland / Baybridge, to Dotland, and on to Hexham and beyond. This fits with the road shown in Greenwood's maps.
- 31.6. The application route is a well-defined holloway, on the old mapped alignment, and in that is similar to the sections of holloway that survive in the Bulbeck inclosure area. How could this well-defined holloway come into existence other than by wear and tear from traffic using the whole through-route? What traffic other than public would exit the end of a dead-end public road, cross a common on a narrow linear corridor, and then rejoin a public road further along?
- 31.7. It is probable that the 1713 (and earlier) road from Durham City to Allendale went along the application route to get to

Gingleshaugh-ford and beyond. This fits with the road shown in Greenwood's maps.

31.8. On the balance of probabilities this route was historically part of a longer route, carrying the same public traffic throughout."

3. LANDOWNER EVIDENCE

3.1 By email, on 28 May 2021, Savills responded to the consultation on behalf of the Lord Crewe's Charity, stating:

"I write to confirm that Lord Crewe's Charity own the full length of the alleged restricted Byway and that we rebut this claim.

"I look forward to receiving a copy of your draft report."

4. CONSULTATION

4.1 In February 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". One reply was received and is included below.

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

"Parish of Blanchland
Alleged restricted byway no 29

"This proposal is supported by wide ranging evidence including the old county maps of Cary and Greenwood whose reputation for good survey work within the limitations of their time is well known. The BHS supports the recording of this alleged restricted byway."

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.

1713 Account of Certain Charities (applicant's transcript)

This seemingly describes the boundary of part of Hexham Parish as "from Gingleshaughford to Knightscleughhead along the highway which leads through the High Quarter from the City of Durham to Allendale etc five miles and thirty five chains." This specifically described route (from Gingleshaughford to Knightscleughhead) is not part of the alleged restricted byway route, but Mr Kind argues that the application route is a part of the longer Durham – Allendale route referred to.

1758 Marshall's Blanchland Royalty Map (applicant's copy)

The route of the alleged restricted byway is not shown, though the route of existing Byways Open to All Traffic Nos 31 and 26 does appear to be. The applicant is emphasising this to illustrate that, when this byway open to all traffic route is absent from a later Cary map, this should not be taken as an indication that the road didn't exist.

1769 Armstrong's County Map

There is no evidence of a road or track over the route of alleged Restricted Byway No 29, though there isn't a road depicted over the route of existing Byways Open to All Traffic No 26 (Blanchland) or No 80 (Hexhamshire) either.

1771 Bulbeck Common Inclosure Award

The Award covers land immediately to the north of the alleged restricted byway route - not land crossed by the alleged restricted byway, itself. The otherwise cul-de-sac Blanchland Road set out in the Award is shown ending on the north end of the alleged restricted byway and is described as a sixty foot wide public highway from the Shire Road "..... southeastwards until it enters Blanchland Common".

1787 Cary's Map of Northumberland (applicant's copy)

This is a relatively small scale map showing a limited number of roads in the application area and no road resembling the application route.

1794 Cary's Grid Plan Map of England (applicant's copy)

This is also a relatively small scale map showing a limited number of roads in the application area and no road resembling the application route.

1801 Monthly Magazine or British Register (applicant's copy)

A proposal to create a new turnpike road between Barnard Castle and Corbridge / Hexham is identified. The applicant believes the proposed route probably incorporated the alleged restricted byway route.

1808 Boundary Disputes plan (applicant's copy)

Although this plan shows the northerly continuation of the alleged restricted byway route (i.e. existing Byway Open to All Traffic No 80 in the Parish of Hexhamshire), nothing is identified over the claimed route itself. The plan would appear to have been copied directly from the inclosure award plan (which itself, seemingly deliberately, didn't show anything across the disputed ground), so the lack of any route is arguably unremarkable.

1815 John Cary's Reduction of his England and Wales Map (applicant's copy)

This map shows a single – apparently non-turnpike – road from Stanhope, through Blanchland and via Dotland, to Hexham. It is difficult

to be certain, given the small scale of the map, whether this corresponds to the route of the alleged restricted byway, or not.

1819 / 20 Greenwood's County Map (of Durham) (applicant's copy)

This map only covers Durham, but the onward continuation of a Cross Road into Northumberland, at Baybridge, is labelled "To Hexham". The route to Hexham is not identified on this map.

1820 Fryer's County Map

There is clear evidence of an "Other Road" over the route of alleged Restricted Byway No 29 (and also the southern part of existing BOATs Nos 26 (Blanchland) and 80 (Hexhamshire) too).

1827 Cary's Map

There is clear evidence of a "Carriage Road which is a Parochial Road" over the route of alleged Restricted Byway No 29 (and also the southern part of existing BOATs Nos 26 (Blanchland) and 80 (Hexhamshire) too).

1828 Greenwood's County Map

There is no clear evidence of a road or track over a route resembling alleged Restricted Byway No 29, though the routes of existing Byways Open to All Traffic No 26 (Blanchland) and 80 (Hexhamshire) are depicted as "Cross Roads".

1831 Greenwood's County Map (of Durham) (applicant's copy)

Although primarily a map of roads in Durham, this map also shows a limited number of continuations in the neighbouring counties, including what appears to be the claimed route, as part of a longer route to Hexham.

1833 Chapman and Hall's Map of Northumberland (applicant's copy)

Given the small scale of the map, it isn't possible to be certain that this route corresponds with that of the alleged restricted byway, but the straight line suggests that it probably does.

1834 John Cary's Reduction of his England and Wales Map (applicant's copy)

This map shows a turnpike road from Stanhope, through Blanchland and via Dotland, to Hexham. Given the small scale of the map, it isn't possible to be certain that this route corresponds with that of the alleged restricted byway, but the straight line suggests that it probably does.

c.1860 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an unenclosed track / path along the route of existing Public Footpath / alleged Restricted Byway No 29. In the accompanying Book of Reference, existing Byway Open to All Traffic No 26 is identified by the parcel number "4" in Shotley High Quarter, which corresponds with "Public road". The route of alleged Restricted

Byway No 29 is not identified by an individual parcel number. It appears to be covered by the more general parcel number "5" which corresponds with "Rough pasture &c (Blanchland Moor)". By way of comparison, neither existing BOAT No 80 or RB No 100 (both Parish of Hexhamshire), which are set out as public roads in the Bulbeck Common Inclosure Award, appear to have individual parcel numbers either. They appear to be covered by the general parcel number "42" in Newbiggin Township (Detached), which corresponds with "Rough Pasture &c (Embley Fell, Bulbeck Common, - part of)".

c.1865 Ordnance Survey Map: Scale 1:10,560 (applicant's copy)

There is clear evidence of an unenclosed track / path along the route of existing Public Footpath / alleged Restricted Byway No 29.

1897 Ordnance Survey Map: Scale 1:2500

As with the 1860s maps, there is clear evidence of an unenclosed track / path along the route of existing Public Footpath / alleged Restricted Byway No 29.

1951 Highways Map

There is no evidence of a publicly maintainable highway depicted over the route of alleged Restricted Byway No 29 (but nor is such a route depicted over the routes of existing BOATs Nos 26 or 80 (which bookend the alleged RB 29 route) either.

1954 / 57 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an unenclosed track / path over the existing footpath / alleged restricted byway route.

Original Definitive Map and Statement

Byway Open to All Traffic No 26 was, then, identified as a public bridleway. No public rights were identified over the route of existing Public Footpath / alleged Restricted Byway No 29, nor existing Byway Open to All Traffic No 80.

1964 Highways Map

There is no evidence of a publicly maintainable highway depicted over the route of alleged Restricted Byway No 29 (but nor is such a route depicted over the routes of existing BOATs Nos 26 or 80 (which bookend the alleged RB 29 route) either.

1977 / 78 Ordnance Survey Map: Scale 1:10,000

There is clear evidence of a "Path" depicted over the route of existing Public Footpath / alleged Restricted Byway No 29.

2012 Definitive Map Modification Order (No 14) 2012

Existing Public Footpath No 29 was added to the Definitive Map by means of this Order, made in December 2012, and confirmed by an

Inspector appointed by the Secretary of State in November 2015, following a Public Hearing.

6. SITE INVESTIGATION

- 6.1 From a field gate, at the south-west corner of Slaley Forest, where existing Public Footpath No 29 (Parish of Slaley) joins existing Byway Open to All Traffic No 80 (Parish of Hexhamshire), the route proceeds, largely undefined across the heather moorland, in a southerly direction for a distance of 120 metres. At this point it joins a 2 metre wide, stone surfaced perimeter track, and proceeds in a south-easterly direction along this track for a distance of 250 metres, to a point where the stone track diverts easterly, but the existing public footpath / alleged restricted byway continues in a general south-easterly direction for a further 845 metres to join existing Byway Open to All Traffic No 26, 1020 metres north of Pennypie House. At the point where the stone track and existing footpath / alleged restricted byway separate, the route was obstructed by a post and rail fence. The next 100 metres or so of the route appears to proceed along a shallow 'sunken lane', but the remainder of the route is barely discernible on the ground.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2023, a draft copy of the report was circulated to the applicant and those landowners / occupiers who responded to the initial consultation for their comments. No additional comments have been received.

8. DISCUSSION

- 8.1 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.

- 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 Although Mr Kind's application sought to record this route as a restricted byway, when determining this application, the Council must consider all the available evidence. It is sometimes the case that the evidence which is gathered may point to the existence of higher or lower public rights than those that were originally applied for. **Page 39**

- 8.4 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.
- 8.5 In paragraphs 60 to 68 of her November 2015 decision letter, in relation to DMMO (No 14) 2012, the Inspector set out her conclusions regarding the historical evidence, then available. She began by noting that the evidence presented to the July 2015 Local Hearing was largely the same as that presented to the earlier Public Inquiries regarding DMMO (No 1) 1996. In Paragraph 61 she stated *“It remains the case that the main evidence in support of a public carriageway along the Order route post-dates the 1771 Inclosure Award. This includes the maps by Fryer in 1820 and Cary in 1827, the latter carrying slightly more weight on account of its key identifying the route as a carriage road and parochial road.”* To support this current application, Mr Kind has supplied some new map evidence. Greenwood’s County Map of Durham (1831) is perhaps the most significant of these. Although, primarily, concerned with routes within the neighbouring County of Durham, it also shows selected linking routes into adjoining counties and one of these is a route between Baybridge and Hexham that certainly appears to incorporate the application route. Chapman & Hall’s Map of Northumberland (1833) and John Cary’s Reduction of his England and Wales Map (1834), though both are small scale maps, appear to identify a route between Baybridge and Dotland (south of Hexham) that corresponds, more closely, with the one depicted on Greenwood’s Map of 1831 than any of the likely alternatives.
- 8.6 Further on, in Paragraph 61 of her 2015 decision letter, the Inspector continued .. *“Whilst the OS maps show a track was in existence from 1860 through to 1923 at least, its written records in 1860 cast a degree of doubt over any presumption it was a ‘public road’ that may be raised by Cary’s map.”* A route of some description was still being shown on OS maps up until at least 1977. Where a route is described as a “Public Road” in the Book of Reference accompanying the First Edition 25” OS Map, this can only be taken as limited weight in support of public vehicular rights. By the same token, though, where a route is identified as a “Private road” this can only be taken as very limited weight against the existence of public highway rights. In this case, however, the Book of Reference is entirely silent as to the route’s status. Although the route now recorded as Byway Open to All Traffic No 26 was identified in the Book of Reference as a “Public Road”, other acknowledged public roads (set out in the 1771 Bulbeck Common Inclosure Award and currently recorded on the Definitive Map as either byways open to all traffic or restricted byways) were not. Hexhamshire BOAT 80 (i.e. the northerly continuation of the application route) and Restricted Byway No 100 (which crosses BOAT 80) are not identified by individual parcel numbers and appear, only, to be covered by a general parcel number “42” relating to Rough Pasture &c (Embley Fell, Bulbeck Common – part of”).
- 8.7 In Paragraph 63 of her 2015 decision letter, the Inspector adds *“I accept that the 1771 Inclosure Award lends some weight to the proposition that the “Blanchland Road” continued into and across Blanchland Common [footnote ‘Since no evidence has come to light to show this road ever led to Blanchland village as opposed to joining the road to Baybridge, I conclude the name must have been referring in general terms to Blanchland Common or Blanchland Manor.’]. Yet I find the Greenwood map difficult to dismiss. Although it cannot easily be reconciled with its two contemporaries, it does raise some doubt over*

the eventual destination pre-inclosure of the subsequently awarded Blanchland Road.” Although it is certainly the case that Greenwood’s 1828 County map of Northumberland does not depict any road or track over the application route, his 1831 Map (of Durham) does. Not only that, it is the only route shown between Blanchland / Baybridge and Hexham. It is, undoubtedly, curious that a route which failed to be depicted as (what would have been) just one amongst several, on the 1828 map, should suddenly be promoted to be part of what was presumably considered to be the primary route just 3 years later. Since the route had already been shown, earlier, on Fryer’s County map, it clearly wasn’t an entirely new one. This suggests that, either, the main flow of traffic shifted fairly dramatically, between 1828 and 1831 or, alternatively, that Greenwood simply realised he had erred by failing to identify the route on his 1828 map.

8.8 In summary, we have the earliest maps (Blanchland Royalty Map (1758), Armstrong’s County Map (1769) and Cary’s Map (1787)) which all depict only a limited selection of routes, none of them showing the application route. There is the Bulbeck Common Inclosure Award of 1771 which sets out a comprehensive collection of public roads. The application route lies just outside the area subject to the Inclosure Award (so, unsurprisingly, the application route, itself, is not shown), but a 60 foot wide public road (that would otherwise be a cul-de-sac) is shown terminating at the Award boundary which is also the northern end of the application route. Whilst it is certainly the case that we can’t be sure that the application route was an existing public road at the time the Inclosure Award was made, the way the Inclosure Commissioners set out a road connecting to the application route is exactly what we would expect them to do, if it did. We then have a few additional maps showing only a limited number of routes or providing insufficient detail, where the application route does not appear to be identified. Then there is Fryer’s County Map of 1820 and Cary’s Map of 1827. These two maps are more detailed, show a greater selection of routes and clearly identify the application route (as an “Other road” and as a “Carriage Road which is a Parochial Road” respectively). Set against this, there is Greenwood’s County Map (of Northumberland) (1828) which definitely does not show any road or track over the application route. But then Greenwood’s County Map (of Durham) (1831) very definitely does identify a road over the application route, and the smaller scale Chapman and Hall’s Map (1833) and Cary’s Map (1834) do appear to show a routes matching the application one. On the First Edition (1860s) and Second Edition (1890s) Ordnance Survey maps, both the application route and the existing BOAT alternative, to the east, are shown, in the same way, as unenclosed tracks. Although the existing BOAT route was identified as a “Public road” in the Book of Reference to accompany the First edition map, the application route was not, but other nearby inclosure awarded roads (that are now recognised as byways open to all traffic) also failed to be identified as “Public roads”, so this omission isn’t considered to be significant.

8.9 When this matter was previously considered the positive evidence in favour of a vehicular right of way (primarily the existence of a northerly continuation as set out in the Bulbeck Common Inclosure Award of 1771, and the depiction of the application route, itself, on Fryer’s County Map of 1820 and Cary’s Map of 1827) was deemed to have been outweighed by the route’s non-depiction on Greenwood’s County Map of 1828 and, to a lesser extent, its non-depiction as a “Public road” in the 1860s OS Book of Reference. The introduction of Greenwood’s County Map (of Durham) (1831) and, to a lesser extent, Chapman & Hall’s Map of 1833 and Cary’s Map of 1834, would appear to tip the balance of evidence back in favour of a vehicular highway.

- 8.10 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.
- 8.11 At this stage, there is no evidence to suggest that any of the saving provisions identified, in 8.10 above, would apply to the application route. Any public motor-vehicular rights which existed over this route would appear to have been extinguished by s.67 of the NERC Act 2006. It would be appropriate to recognise the public's remaining vehicular rights over the route by upgrading the existing public footpath to restricted byway status.
- 8.12 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. There is no evidence that the application route has ever been enclosed by boundaries. On that basis, it is proposed that the restricted byway / byway open to all traffic be identified 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).
- 8.13 Not all public highways are publicly maintainable. In broad terms, public footpaths and bridleways which existed prior to the National Parks and Access to the Countryside Act 1949 are automatically publicly maintainable. Section 23 of the Highways Act 1835 provided that no roads coming into existence after that Act would be publicly maintainable unless prescribed procedures (for adoption) were followed. The List of Streets is the Council's record of which public highways are considered to be publicly maintainable.
- 8.14 In *Attorney General v Watford Rural District Council (1912)* it was determined that once a route had been found to be a public highway, the onus lay on the highway authority to demonstrate that it wasn't publicly maintainable, rather than for anyone else to prove that it was. Given that the map evidence appears to show that this road existed prior to 1835 then, in the absence of any clear evidence that this road is privately maintainable, the presumption must be that it is publicly maintainable and, on that basis, if it is recorded on the Definitive Map as a restricted byway, it should also be recognised as a publicly maintainable highway on the Council's List of Streets.

9. CONCLUSION

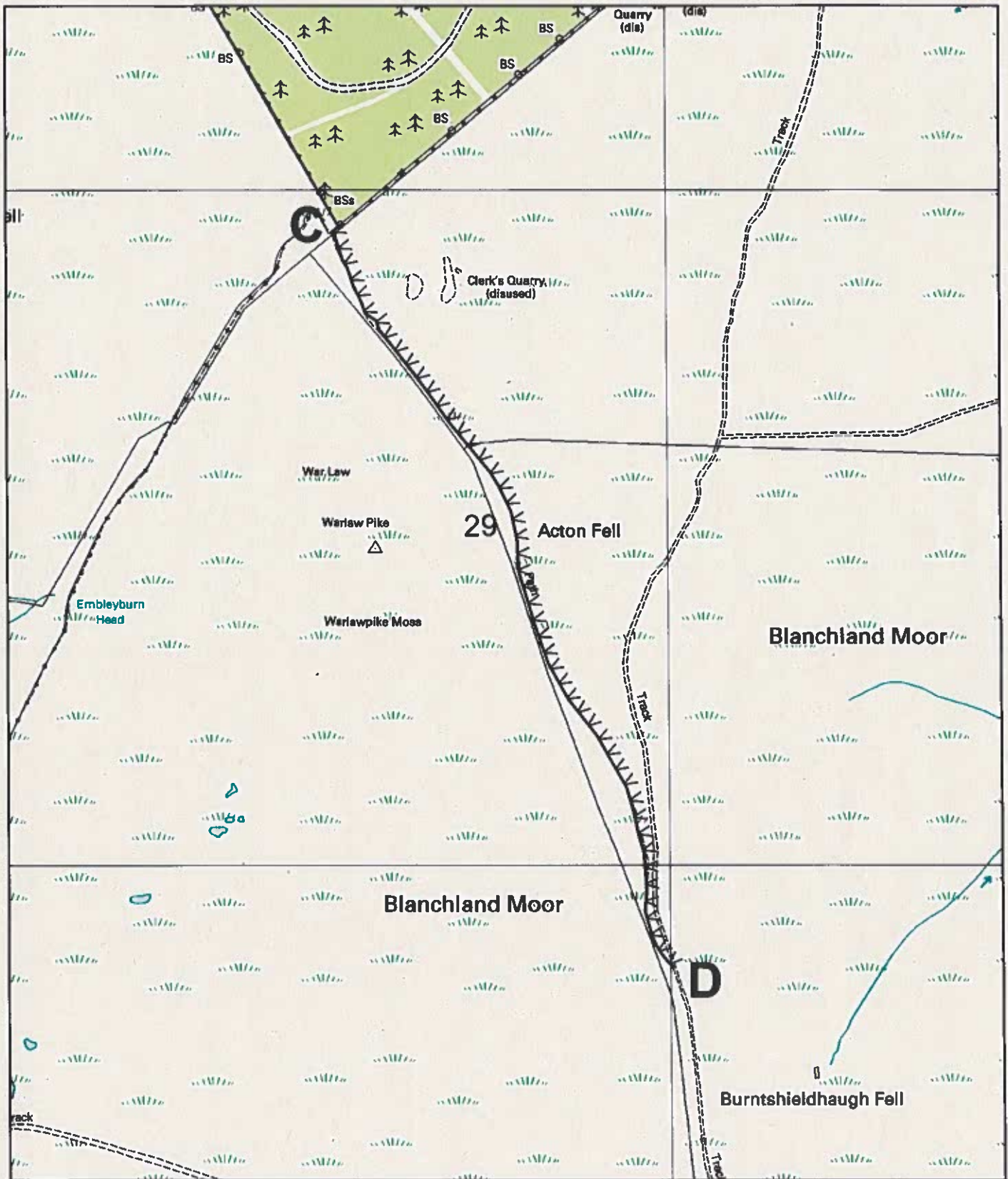
- 9.1 Based on the documentary evidence available, on a balance of probability, it appears that public vehicular rights have been shown to exist over the route C-D.

- 9.2 The Natural Environment and Rural Communities Act 2006 would appear to have extinguished the public's motor vehicular rights over the whole C-D route.

BACKGROUND PAPERS

Local Services Group File: 507/029z

Report Author Alex Bell – Definitive Map Officer
(01670) 624133
Alex.Bell@Northumberland.gov.uk



Northumberland
County Council

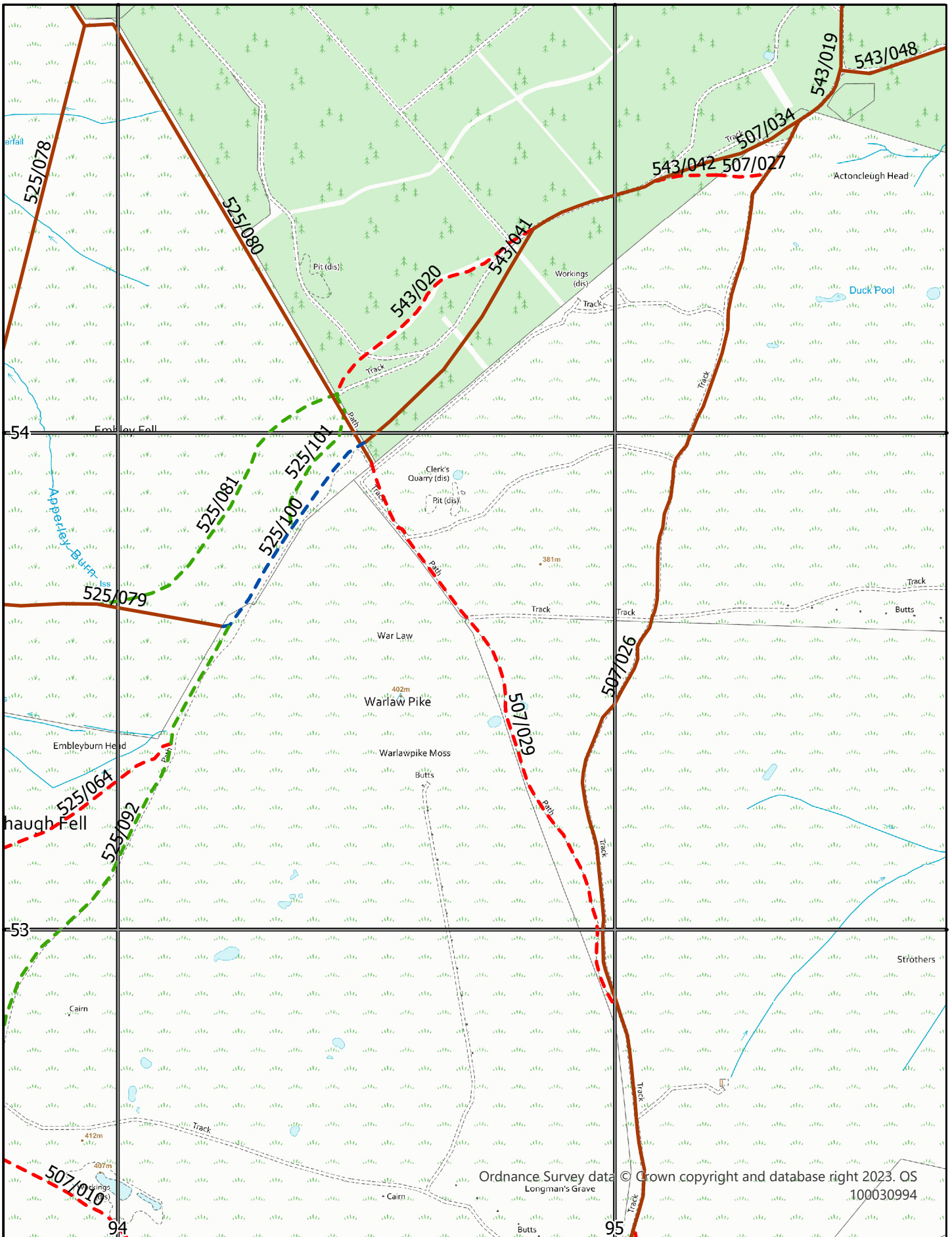
Infrastructure Records, Local Services
County Hall Morpeth Northumberland
NE61 2EF Telephone 0345 600 6400

Wildlife & Countryside Act, 1981

VVVVVVVV Alleged Restricted Byway

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Former District	Tynedale	Parish	Blanchland	Scale	NTS
Def. Map. No.	230	O.S. Map	NY95SW	Date	September 2020



Northumberland
County Council

County Hall, Morpeth, NE61 2EF
Contact: Highway Search Team

Email: Highwaysearch@northumberland.gov.uk

Legend

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

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

**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) public footpath 507/029 Blanchland to restricted byway. (Blanchland Road)

from 94480 - 53971 at the southern end of the BOAT known as Blanchland Road, then a varying course overall southwards to 94964 - 52932 on the BOAT known as Baybridge Road.

and shown on the map accompanying this application.

I attach copies of following documentary evidence (including statements of witnesses) in support of this application.

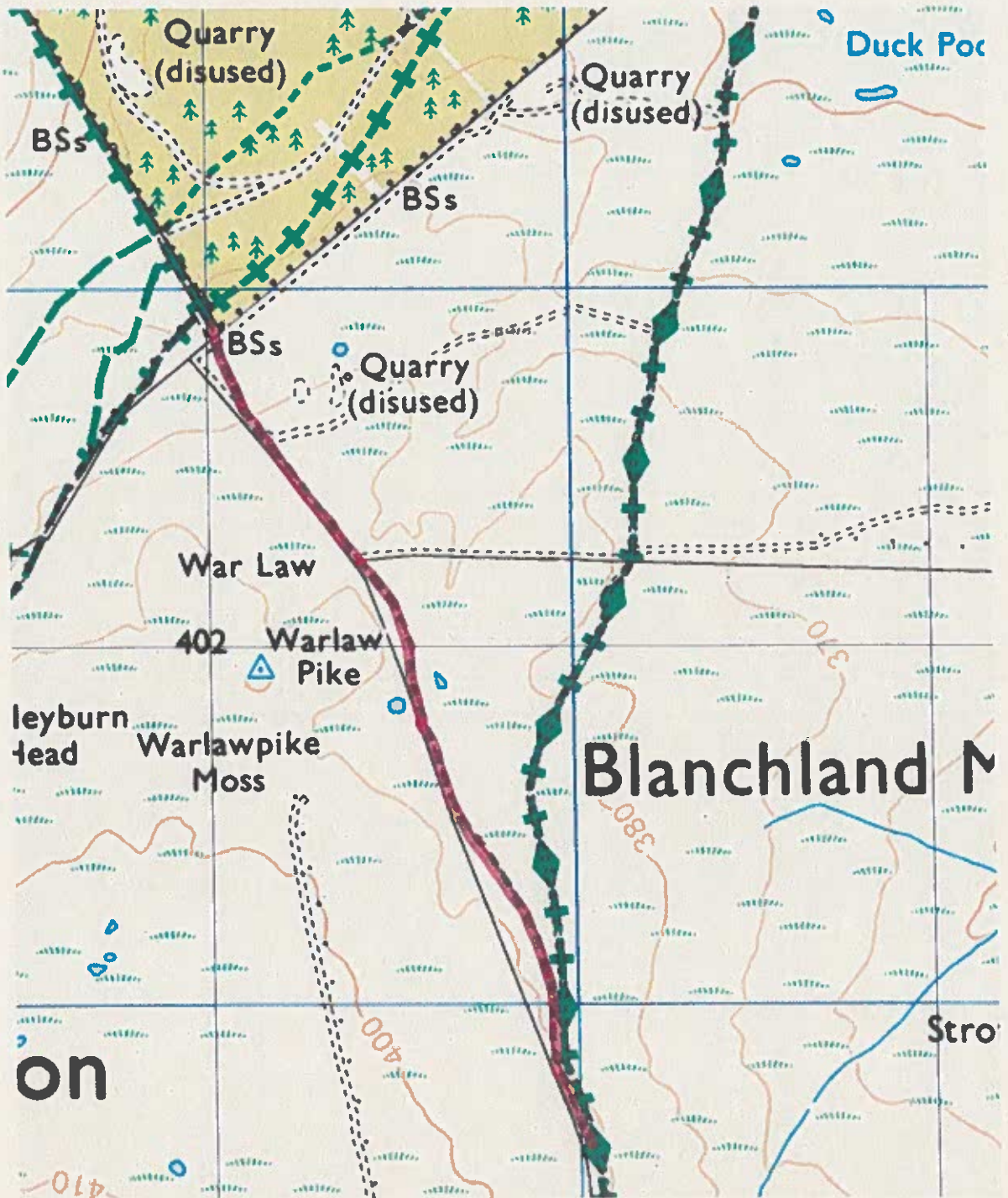
List of documents

1. Location map
2. 1758 Marshall's Blanchland Royalty Map
3. 1769 Armstrong's Map of Northumberland
4. 1765 Inclosure Act, 'An Act for dividing and inclosing a certain common, moor, tract of waste land, within the barony or manor of Bulbeck, in the county of Northumberland'
5. 1771 Extract images and transcription of the inclosure award and plan (Bulbeck Common Inclosure Award, 1771, CRO Ref QRA 9
6. 1787 Cary's Map of Northumberland
7. 1794 Cary's 'Grid Plan' Map of England
8. 1801 The Monthly Magazine or British Register, Volume XII, Part II for 1801
9. 1808 Boundary Disputes Plan
10. 1815 John Cary's Reduction of his Large Map of England and Wale
11. 1820 Fryer's Map of Northumberland
12. 1827 John Cary's Map
13. 1860 6 Inches to 1 Mile (1:10.560) Ordnance Survey Map
14. 1828 Greenwood's Map of Northumberland
15. 1834 John Cary's Reduction of his Large Map of England and Wales
16. A statement of grounds in support of this application

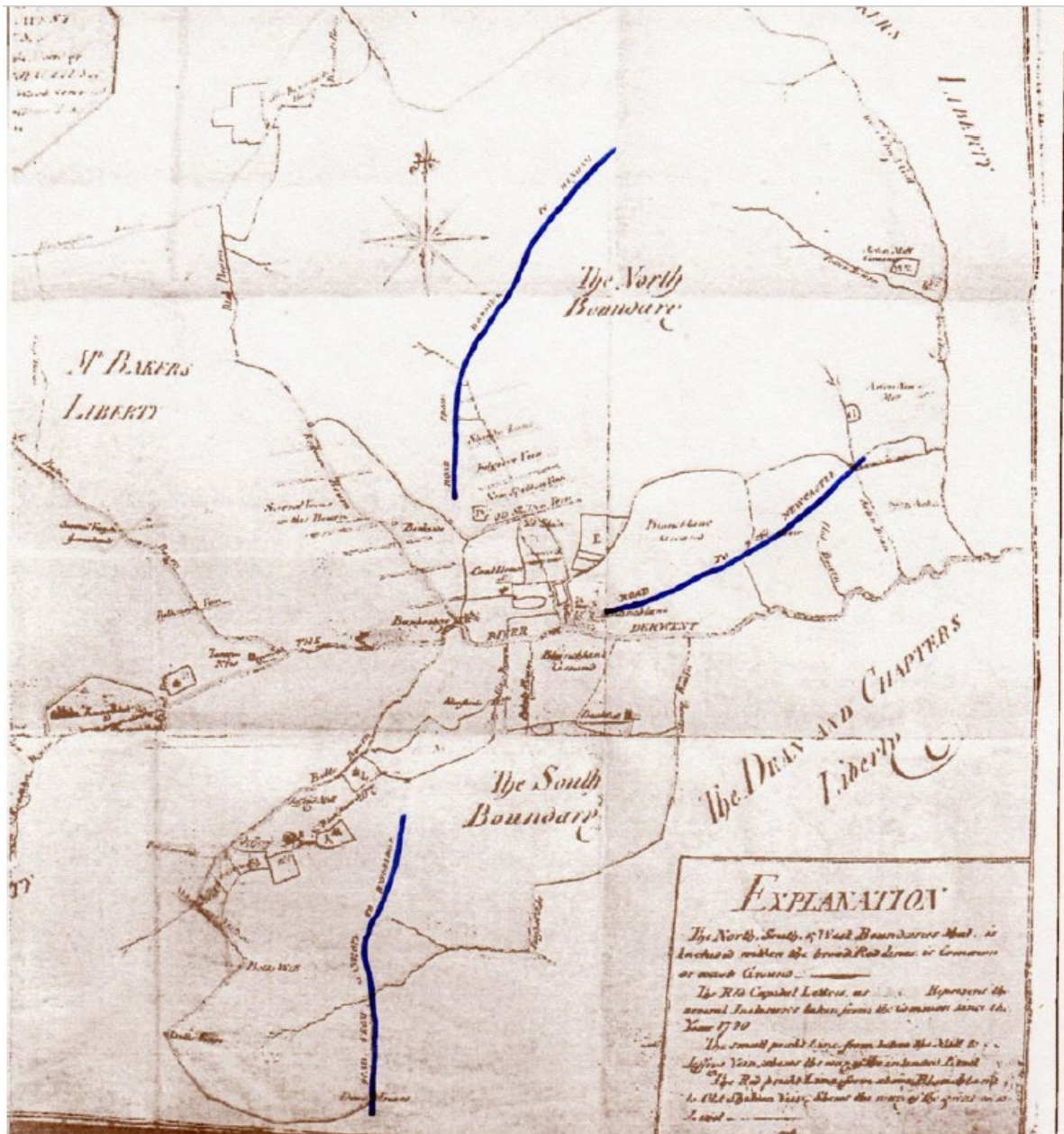
Dated:

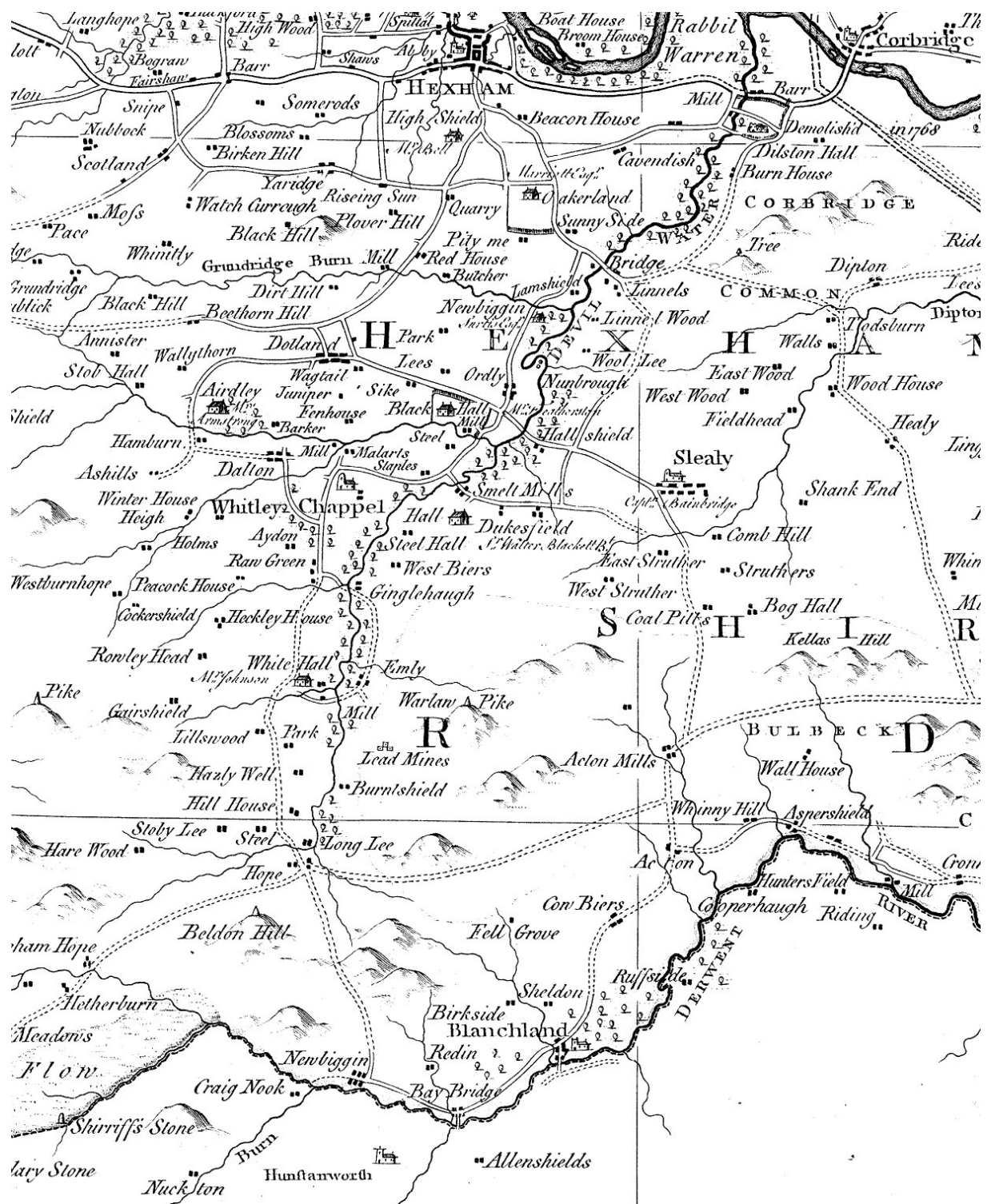
Signed:

Location Plan

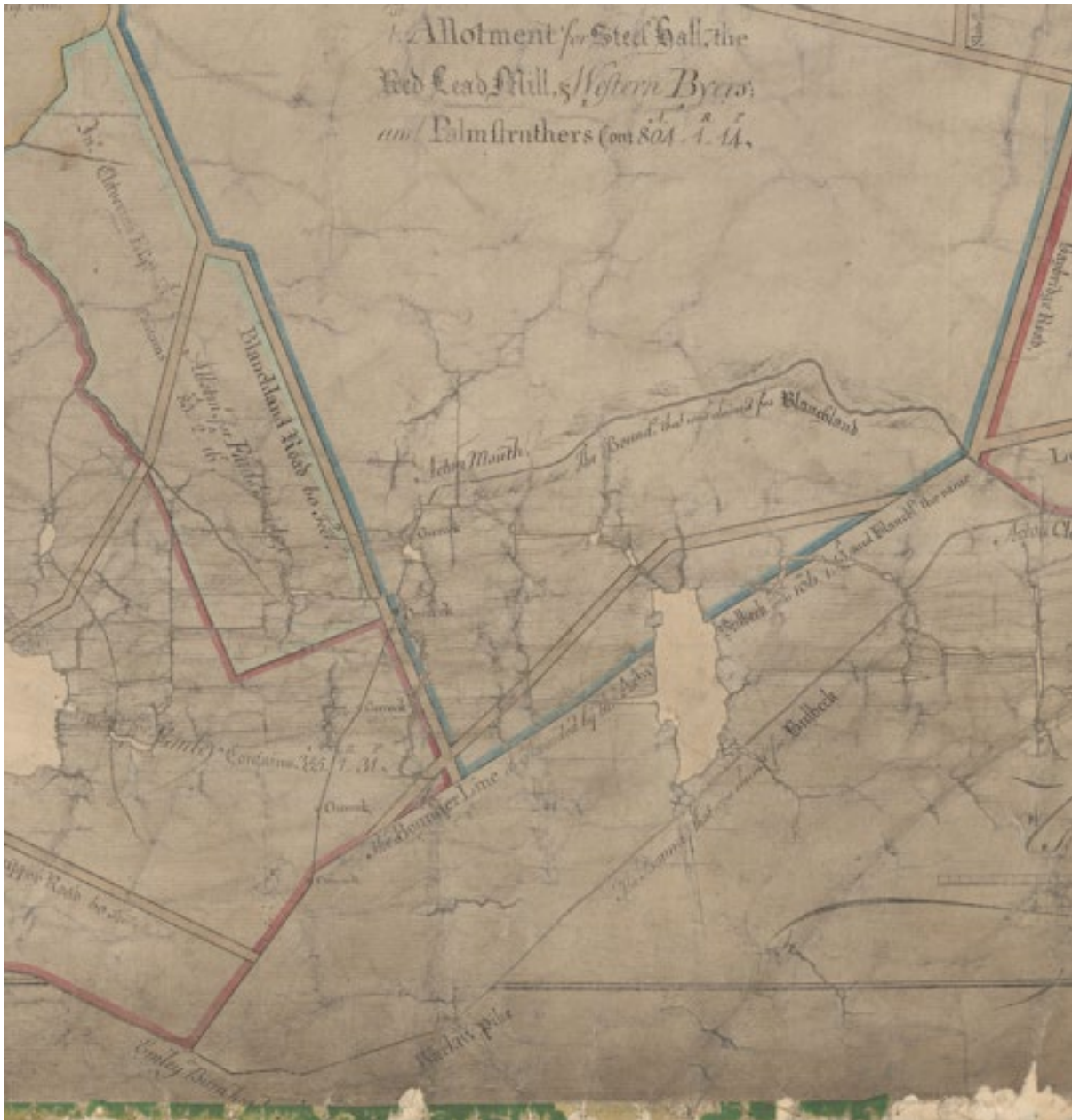


Marshall's Blanchland Royalty Map
1758





Bulbeck Common Inclosure Award
1771







THE
MONTHLY
72314
MAGAZINE;
OR,
BRITISH REGISTER.

Including

MISCELLANEOUS COMMUNICATIONS FROM CORRESPONDENTS, ON ALL SUBJECTS OF LITERATURE AND SCIENCE.	ACCOUNT OF ALL NEW PATENTS.
MEMOIRS OF DISTINGUISHED PER- SONS.	LIST OF NEW BOOKS AND IMPORTA- TIONS.
ORIGINAL LETTERS, ANECDOTES, &c.	REGISTER OF DISEASES IN LONDON.
POETRY.	RETROSPECT OF PUBLIC AFFAIRS.
LITERARY AND PHILOSOPHICAL IN- TELLIGENCE.	LIST OF BANKRUPTCIES AND DIVI- DENDS
PROCEEDINGS OF LEARNED SOCIE- TIES.	DOMESTIC OCCURRENCES CLASSED AND ARRANGED IN THE GEOGRA- PHICAL ORDER OF THE COUN- TIES.
REVIEW OF THE NEW MUSIC.	MARRIAGES, DEATHS, BIOGRAPHICAL MEMOIRS, &c.
. . . . THE FINE ARTS.	REPORT OF THE STATE OF COM- MERCE, &c.
. . . . ENGLISH, GERMAN, FRENCH, SPANISH, AND AMERICAN LI- TERATURE. OF AGRICULTURE, &c. OF THE WEATHER.

VOL. XII.

J. Phillips
PART II. FOR 1801.

FROM ~~JANUARY~~ ^{July} TO JUNE, INCLUSIVE.

LONDON:

PRINTED FOR RICHARD PHILLIPS, No. 71, ST. PAUL'S CHURCH YARD:

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(Price Twelve Shillings half-bound.)

[J. ADLARD, PRINTER, DUKE-STREET, WEST-SMITHFIELD.]

PROVINCIAL OCCURRENCES.

WITH ALL THE MARRIAGES AND DEATHS,

Arranged geographically, or in the Order of the Counties, from North to South.

•• Authentic Communications for this Department are always very thankfully received.

NORTHUMBRIA AND DURHAM.

It is in contemplation to open a more free communication through the western part of the county of Durham, by a new **turnpike road** from Barnard Castle, that shall proceed by way of Stanhope and Blanchland, to Corbridge or Hexham; with certain collateral branches, viz. one from Barnard Castle, by West Pitts and Redford, to Walsingham; one from near the Mill-stone quarries, on Stanhope Moor, that shall pass by Gold Hill and Healey Field, and meet the Lobley-hill road, near Dipton; one from a place further north, on the said Moor, that shall pass through Edmondbyers, and meet the branch of the Lobley-hill road, near Black-Hedley; and one from Blanchland, South Westwards, that shall pass by Rookhope Lead Mills, across the river Wear, near Westgate, and across the river Tees, near Winch-bridge, to communicate with the Stanmore road, near Brough. The proposed road, as above, will complete the shortest line from London to Edinburg, and, with the proper branches, as above, will be of the greatest advantage to the improvement of the country at large, as well as to the persons more immediately interested.

The following is an estimate of the expenses which will be incurred in the completion of the design for improving and extending the building of the infirmary at Newcastle, as lately laid before the public by the committee, &c.—Contract for the new building 2925l.—Alterations and improvements in the old house, with iron bedsteads, water closets, &c. 890l.—total 3815l.

The heat at Newcastle has been lately excessive, both by night and day. On Tuesday August 18, at 2 o'clock in the afternoon, Fahrenheit's thermometer, being exposed by Mr. Fringle, mathematician of North Shields, in the shade, in a northern aspect, stood at 77 degrees. The West India heat seldom exceeds 85.

The following vessels are arrived at Newcastle from Davis's Straights fishery. The Sarah, with 393 casks of blubber, and 10 tons of fins, the produce of 14 whales. The Everetta, with 414 casks of blubber, and 12 tons of fins, the produce of 15 whales and 1 seal. The Content, with 323 casks of blubber, and 10 tons of fins, the produce of 13 whales; and the Middleton, with 300 casks of blubber, and 10 tons of fins the produce of 14 whales.

Married.] At Monkwearmouth Shore, Mr. J. Eusbank, mercer and draper, to Miss Busby, of Sunderland.

In London, Mr. F. A. Hellmers, merchant, to Miss H. Hunt, of Stockton upon Tees.

At Hampstead, J. Bird, esq of Howard Street, Strand, to Miss M. Mole, of Newcastle.

In London, at St. Luke's church, Mr. J. Gibson, jun. of Barnard Castle, to Miss R. Wrigglesworth; daughter of Mr. B. Wrigglesworth, warehousman.

At Newcastle, Mr. P. Paxton, builder, to Mrs. Ewart.

At Sydenham, Capt. A. Dixon, of the navy, to Miss J. Dixon, second daughter of Admiral Dixon.

At South Shields, T. Wallis, esq. to Miss Smith.

At Durham, Mr. J. Watson, master of the Cock Inn, to Miss M. Nelson.

Died.] At Newcastle, Mr. J. Hudson—Aged 95, Mrs. Milburn, widow, late of Bywell.—Aged 51 years and one day, J. Wilkinson, esq. banker, and a captain in the Newcastle armed association.—Mrs. Verty, wife of Mr. Verty, draper.—Aged 41, Mr. D. Bell, woollen draper.—Mr. J. Talyntire, shoemaker.

In Gateshead, aged 90, Mrs. Wilson, relict of R. Wilson, esq. attorney.

At Sunderland, Mr. J. Colling, ship-builder.

At Durham, aged 68, Mr. J. Marshall, master of the Rose and Crown public house, in the market place.—Aged 65, Mr. J. Clark, coach-maker.—At an advanced age, Mr. A. Arthur, an honest industrious man, many years in the employment of the late Mr. Lewins, attorney.—Aged 57, Mr. J. Pearson, shoe-maker.—Suddenly aged 63, Mrs. Suddick, wife of Mr. W. Suddick, skinner.

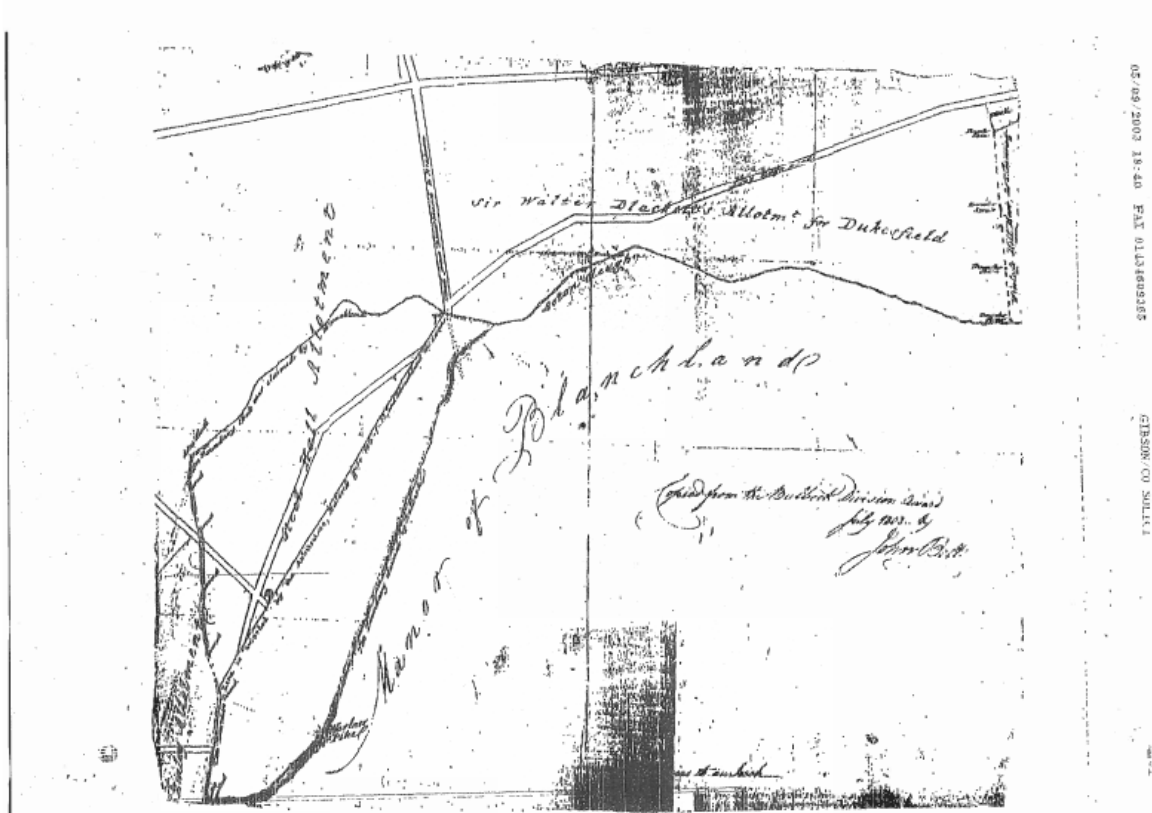
At North Shields, aged 37, Mr. W. Adamson, a man of considerable ingenuity and uncommon industry.—Mr. R. Cuthbertson, hair-dresser.—Aged 68, Mr. W. Taylor, brewer.—Mrs. French, wife of Mr. G. French, ship-owner.—Mr. H. Perry of the customs.

At Alnwick, Miss J. Foster, of the Queen's Head Inn.

At Stockton, Mrs. Teutin, of the Shakespeare Inn.—In her 76th year, Mrs. Ayres, wife of Mr. J. Ayres, of the Custom-house.—Mrs. Wray, wife of Mr. Wray, comedian.—Mrs. Jobson, widow, of Ogle, Northumberland.—Miss Bainbridge, youngest daughter of W. Bainbridge, esq. of the Riding.

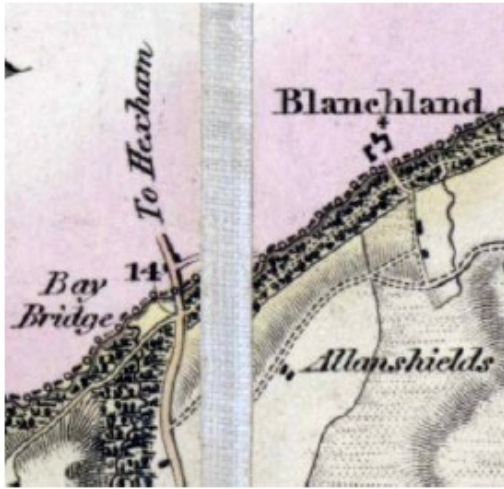
At Harton, aged 37, Miss A. Oliver.

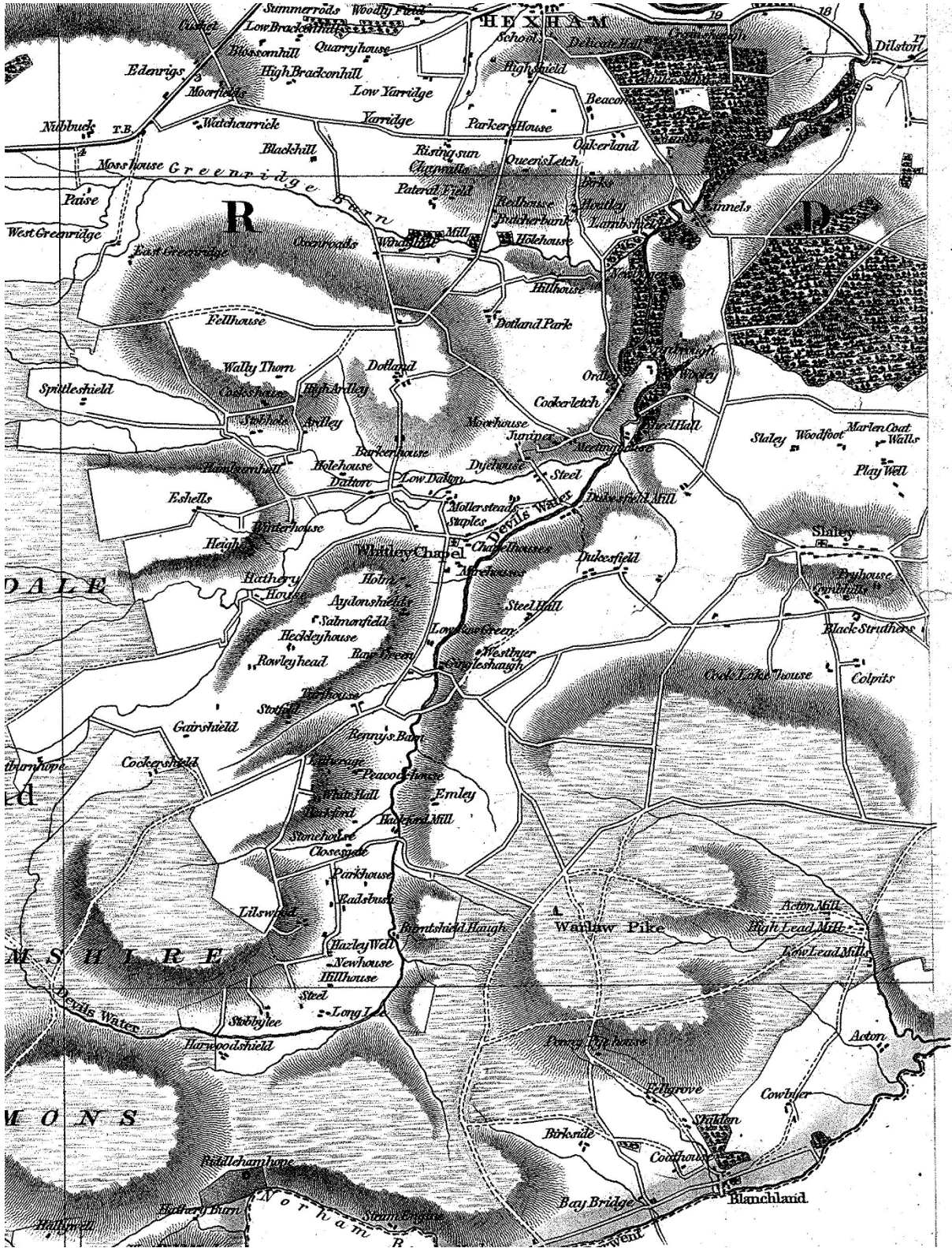
At High Shields, near Hexham, Mr. J. Ridley,





Greenwood's County Map (of Durham)
1819 / 20

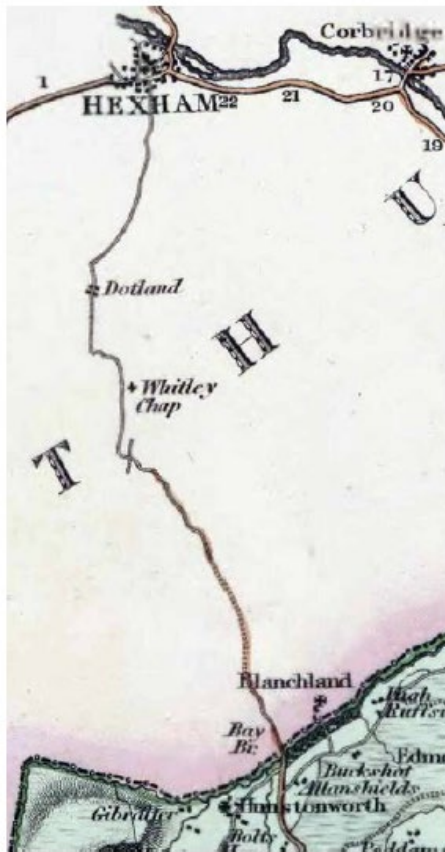






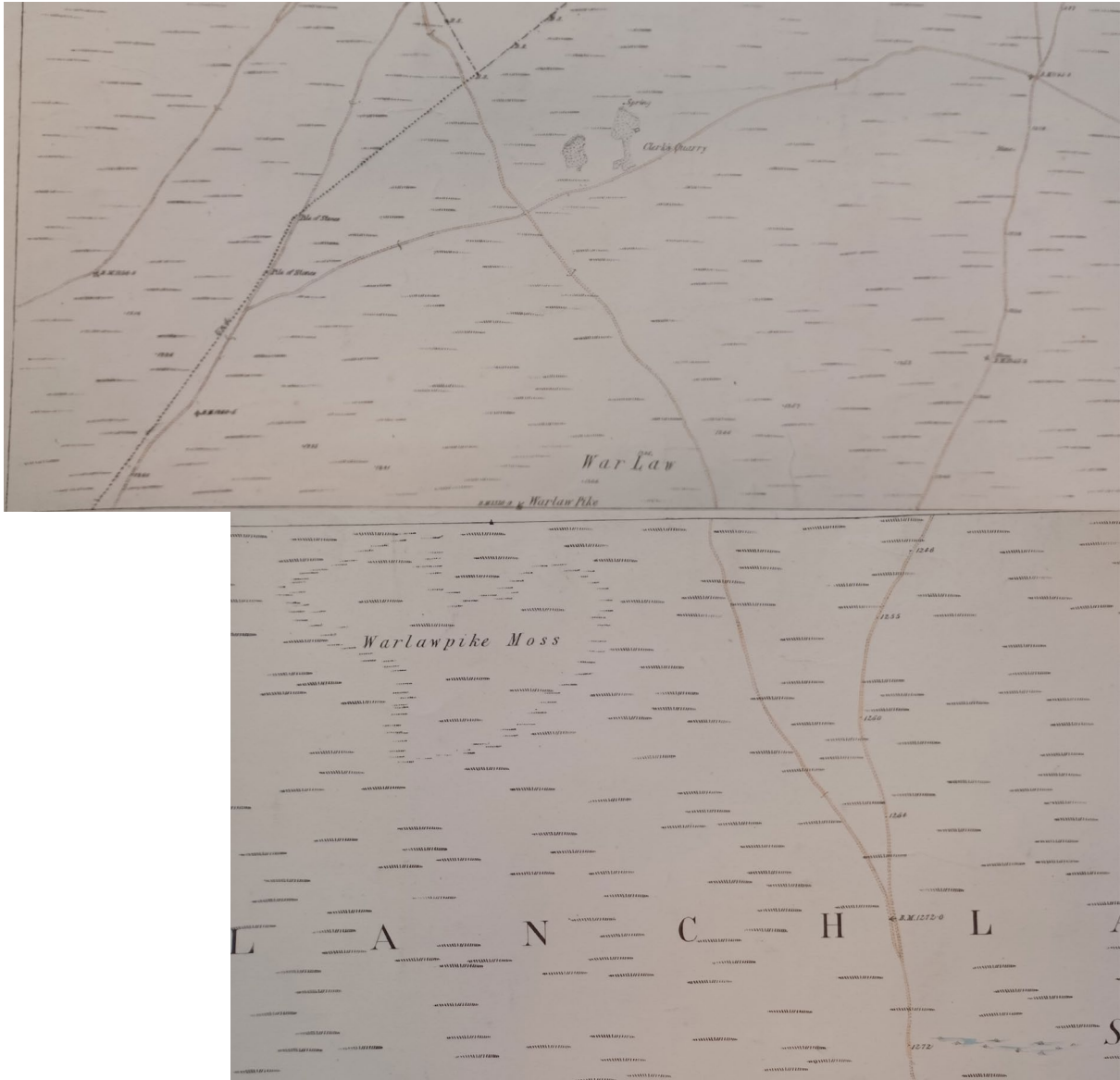


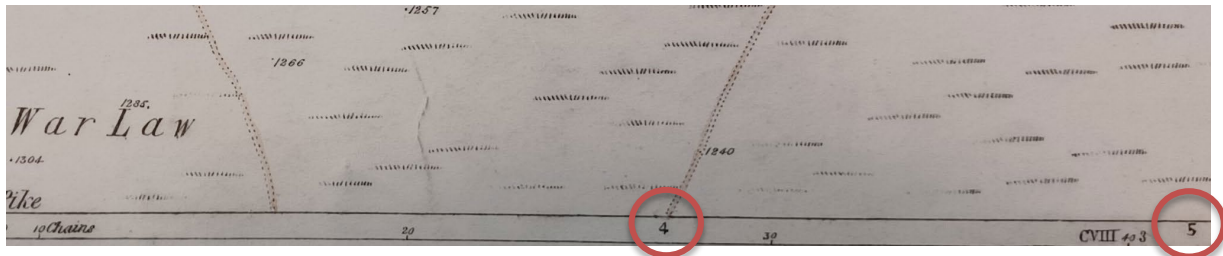
Greenwood's County Map (of Durham)
1831





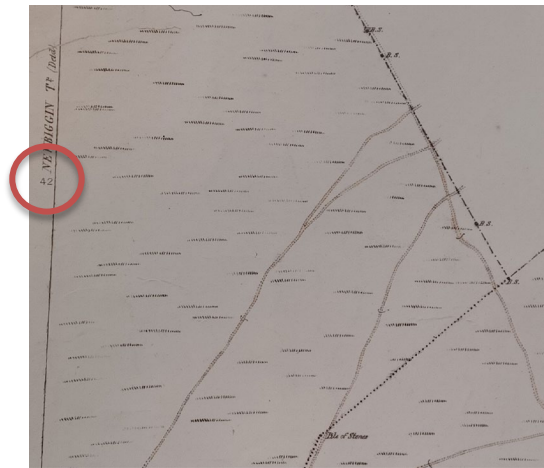






TOWNSHIP OF SHOTLEY HIGH QUARTER.

No. of Sheet.	No. on Plan.	Area in Acres.	Description.
CHL. 15.	1	·198	Pond.)
"	2	·147	Pond. } Duck Pools.
"	3	·141	Pond. }
CVIII. 7.	4	8·165	Public road.
CVIII. 3.	5	2403·886	Rough pasture, &c. (Blanchland Moor).
CHL. 14.	6	·081	Waste, &c.
"	7	11·863	Wood.
"	8	2·401	Arable.
"	9	1·033	Arable.
CVIII. 2.	10	5·871	Arable.
"	11	5·030	Pasture.
"	12	2·653	River. (Devils Water).
"	13	105·626	Rough pasture, &c.
"	14	·184	Old dam. (water).
CHL. 16.	15	5·973	Pasture, &c.
"	16	·200	Houses, &c. (High Actonmill).
"	17	6·684	Pasture, &c.
CVIII. 4.	18	·180	House, gardens, &c. (Acton Mill).
CVIII. 2.	19	1·726	Pasture, &c.
"	20	3·649	Pasture, &c.
"	21	·413	Pasture, &c.
"	22	12·064	Pasture, &c.
"	23	10·116	Arable, &c.
"	24	6·156	Pasture.
"	25	4·880	Arable, &c.
"	26	6·814	Pasture, &c.
"	27	2·862	Wood.
"	28	1·243	Houses, &c. (Burntshield Haugh).
"	29	1·039	Arable.
"	30	·171	House, gardens, &c.
"	31	3·130	Pasture.
"	32	5·869	Rough pasture, &c.
"	33	6·603	Pasture, &c.
"	34	·439	Wood.
"	35	·202	Wood.
"	36	·680	Rough pasture & trees.
"	38	·463	Pasture, &c.
"	39	4·039	Arable, &c.
"	40	13·773	Wood, &c.
		2646·647	Carried forward.



28 TOWNSHIP OF NEWBIGGIN (DETACHED).

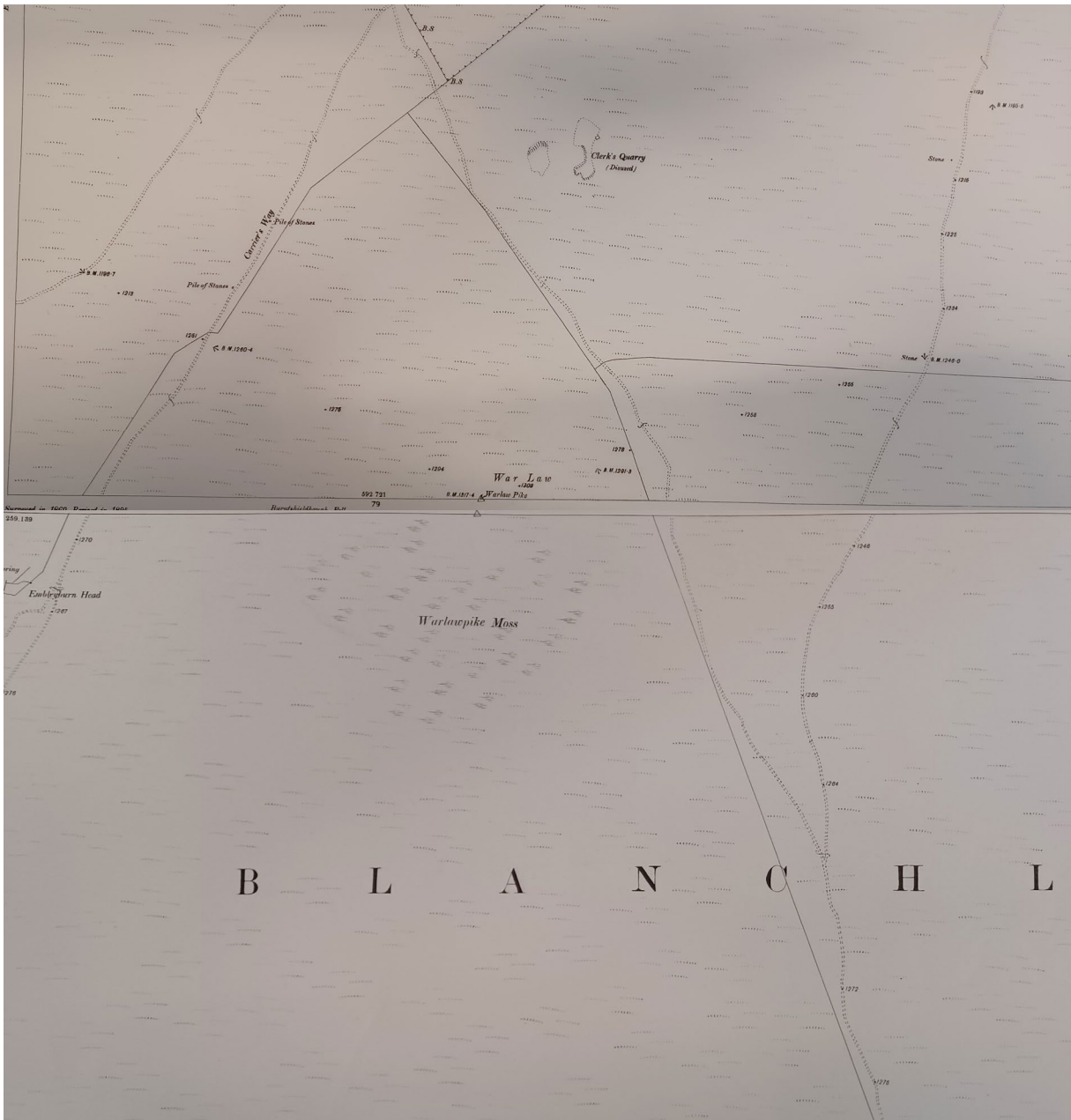
No. of Sheet.	No. on Plan.	Area in Acres.	Description.
CIII. 14.	40	231-405	<i>Brought forward.</i>
	41	14-239	Arable, &c.
"	42	28-762	Arable.
"	42	272-538	Rough pasture, &c. (Embley Fell, Bulbeck Common,—part of).
"	43	1-466	Arable.
"	44	1-418	Wood.
"	45	16-363	Arable, &c.
"	46	0-051	Garden.
"	47	0-225	Garden.
"	48	2-046	Arable.
"	49	8-299	Pasture, &c.
"	50	5-595	Pasture.
"	51	1-916	Rough pasture, &c.
"	52	12-520	Pasture.
"	53	0-903	Houses, yards, &c. (Embley).
"	54	12-227	Pasture, &c.
"	55	26-776	Pasture.
"	56	17-660	Rough pasture, &c.
"	57	67-930	Rough pasture.
"	58	7-168	Rough pasture.
"	59	1-052	Rough pasture, &c.
"	60	9-690	Wood, &c. (Embley Banks).
"	61	12-300	Rough pasture.
"	62	17-729	Rough pasture.
"	63	66-972	Rough pasture, &c.
"	64	0-871	Public road.
		838-121	

RECAPITULATION.

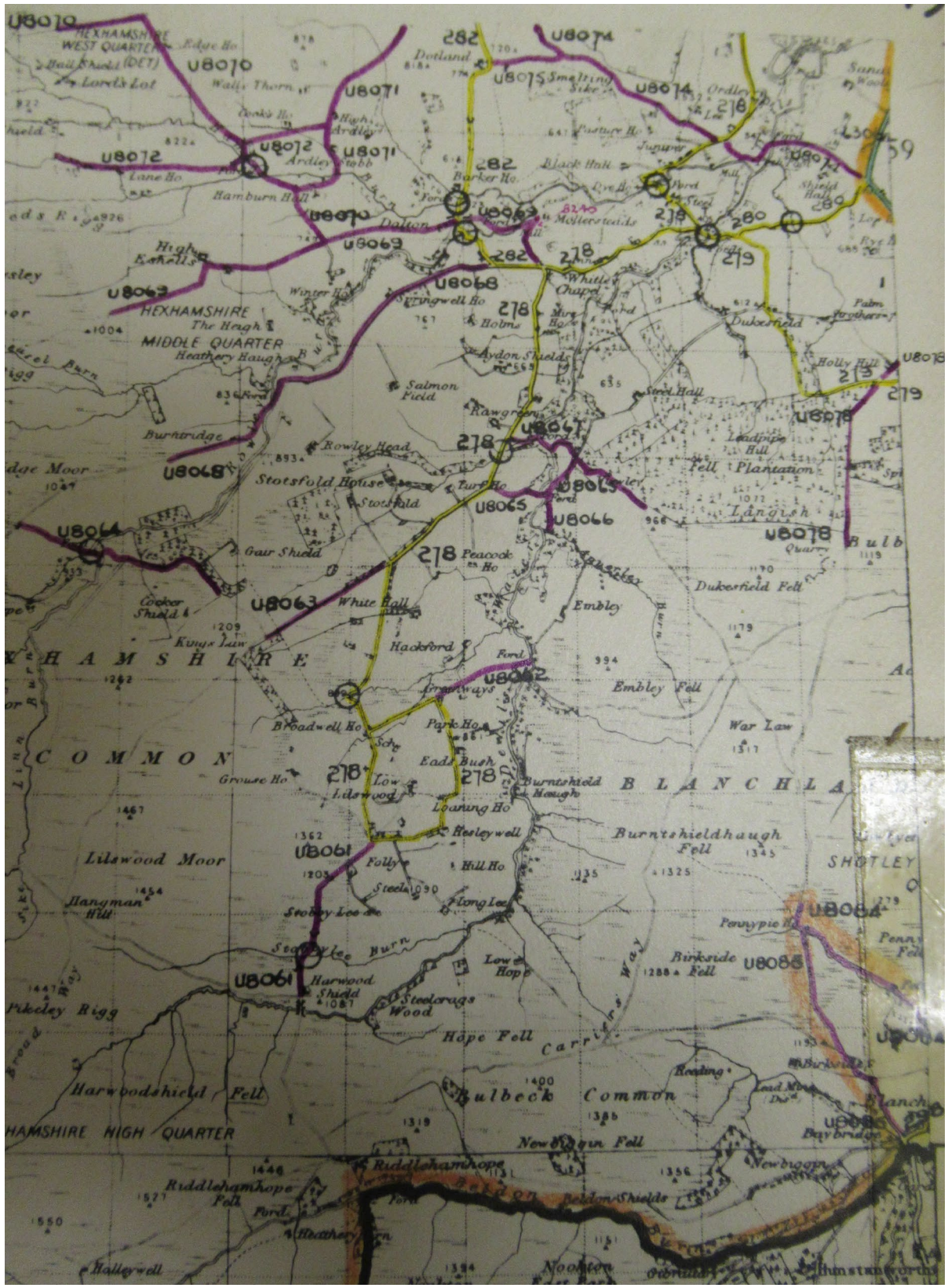
831-765	Land.
1-589	Public roads.
4-767	Water.
838-121	Area of the Township of Newbiggin (Detached).

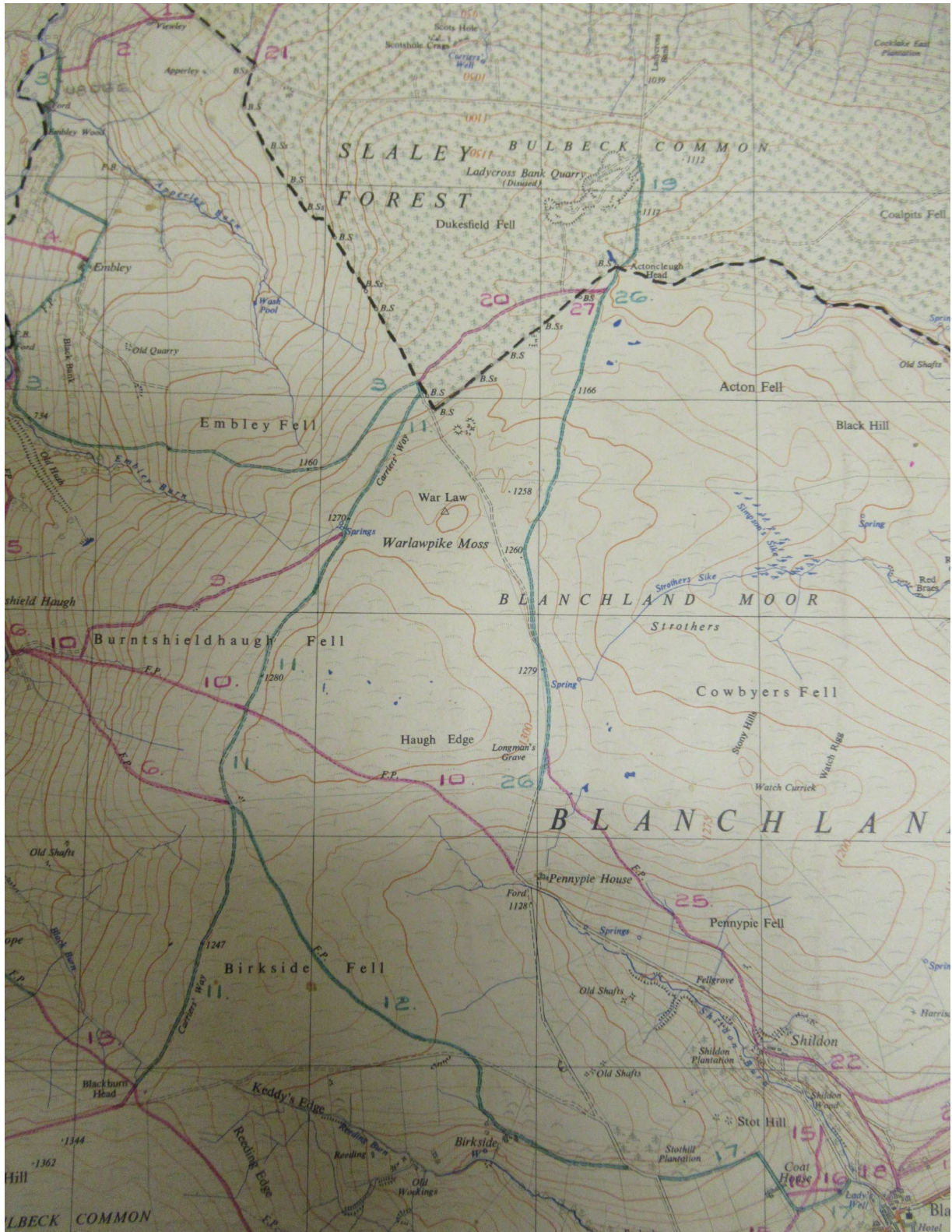
RECAPITULATION FOR THE TOWNSHIP.

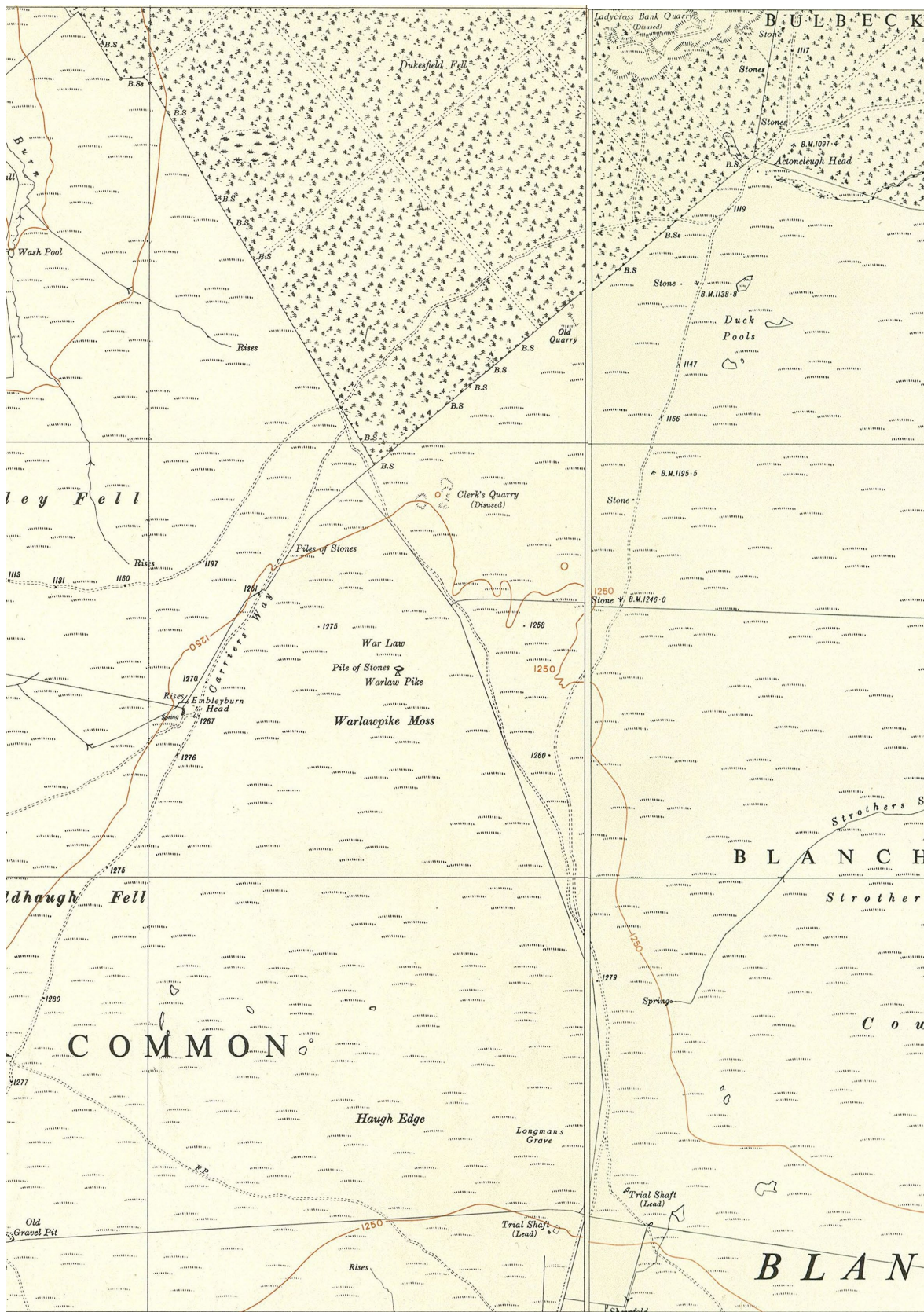
2426-223	Land.
6-559	Public roads.
11-508	Water.
2444-290	Total area of the Township of Newbiggin.

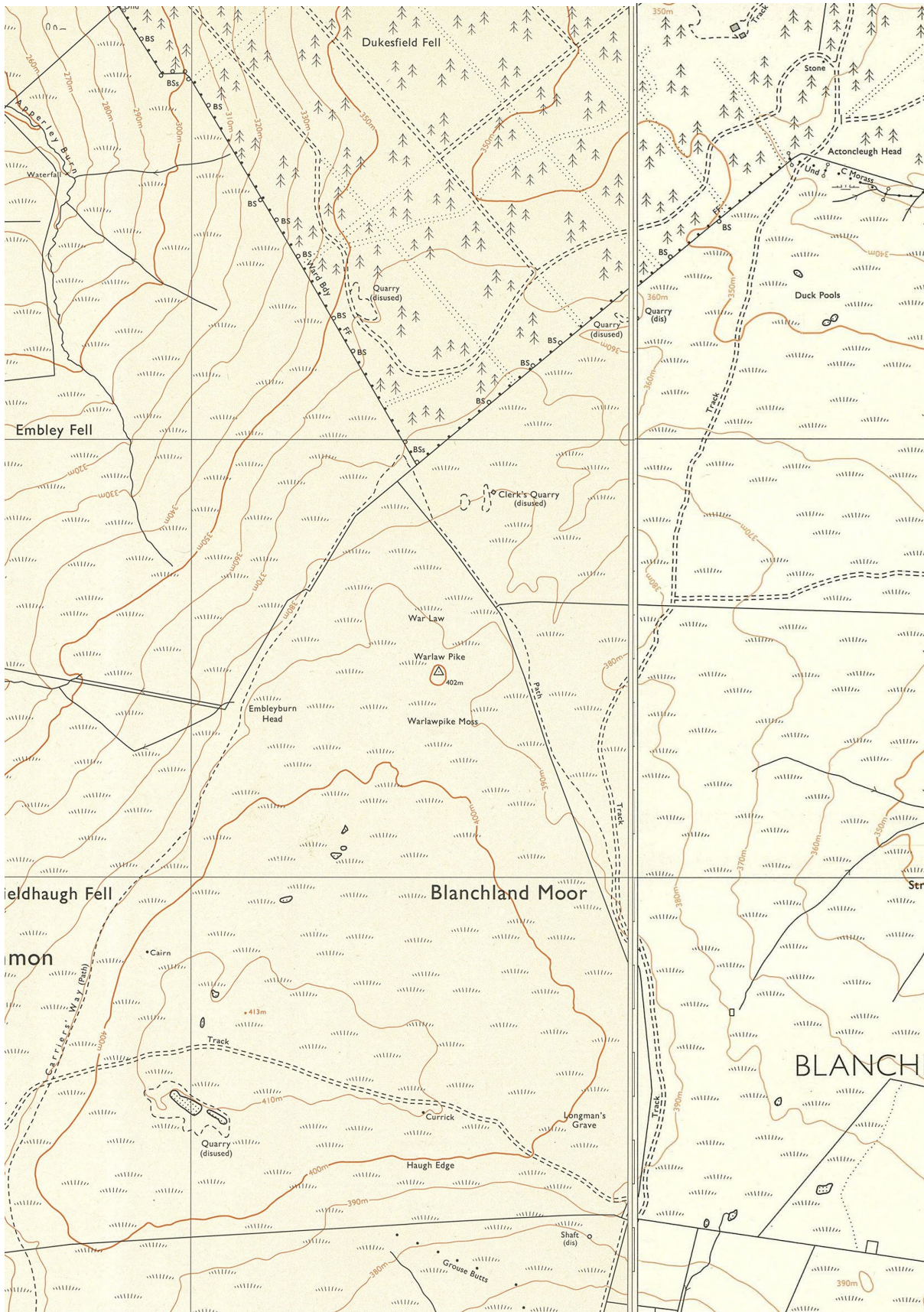


Highways Map
1951









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Northumberland County Council

RIGHTS OF WAY COMMITTEE

20 December 2023

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

ALLEGED PUBLIC BRIDLEWAYS Nos 33 & 42 PARISHES OF BRINKBURN & ROTHBURY

Report of the Director of Environment and Transport
Cabinet Member: Councillor John Riddle, Roads and Highways

Purpose of report

In this report, the Rights of Way Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over a route from the eastern end of the U4066 road north-west of Wagtail Farm, in a general south-easterly direction to join the northern end of the U4038 road at Brinkburn Station.

Recommendation

It is recommended that the Rights of Way Committee agrees that there is sufficient evidence to indicate that public bridleway rights have been reasonably alleged to exist over the route V₁-V-W-X and that route be included in a future Definitive Map Modification Order.

1.0 BACKGROUND

1.1 The relevant statutory provisions which apply to adding a public right of way to the Definitive Map and Statement based on 20 years user evidence are Sections 53(3)(b) and 53(3)(c)(i) of the Wildlife and Countryside Act, 1981, which require the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

“The expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway” [s53(3)(b)]

or

“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;” [s53(3)(c)(i)]

- 1.2 It is an unresolved question whether it is permissible to invoke section 53(3)(c)(i) in a case to which section 53(3)(b) applies. There is a case (Bagshaw), which is indirect authority to the effect that in any case of deemed dedication reliance on paragraph (c)(i) is perfectly acceptable. Members are therefore invited to apply the lower test.
- 1.3 Section 31 of the Highways Act 1980 (HA80) provides for the presumption of dedication of a public right of way following 20 years continuous use. Sub-section (1) states:

“Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”
- 1.4 It is necessary to show that there has been uninterrupted use, as of right, by the public over a period of 20 years or more. ‘As of right’ means openly, not secretly, not by force and not by permission. The public must have used the way without hindrance (e.g. objections, verbal / written warnings, etc) or permission from the landowner or his agents. The 20 year period may be shown at any time in the past and is generally taken to run backwards from the date when the use of the path was first “brought into question”, whether by a notice or otherwise.
- 1.5 The Committee must consider whether there is sufficient evidence to allege that the presumption is raised. The standard of proof is the civil one that is the balance of probabilities. Members must weigh up the evidence and if, on balance, it is reasonable to allege that there is a public right of way, then the presumption is raised. The onus is then on the landowner to show evidence that there was no intention on their part to dedicate.
- 1.6 Such evidence may consist of notices or barriers, or by the locking of the way on one day in the year, and drawing this to the attention of the public, or by the deposit of a Declaration under section 31(6) HA80 to the effect that no additional ways (other than any specifically indicated in the Declaration) have been dedicated as highways since the date of the deposit.
- 1.7 All the relevant statutory provisions and competing rights and interests have been considered in making this report. The recommendation is in accordance with the law and proportionate, having regard to individuals’ rights and the public interest.

2.0 PUBLIC EVIDENCE

- 2.1 In June 2021 the County Council received an application, from Simon McClurey-Rutkiewicz, to add to the Definitive Map and Statement a public bridleway from the eastern end of Mill Lane (the U4066 road), just to the north-east of Wagtail Farm, in a general south-easterly direction to the northern end of the U4038 road at the former Brinkburn Station (V-W-X).
- 2.2 The proposal was supported by user evidence from 16 members of the public, 9 of whom claim to have used the path on foot and bicycle or foot and horseback for periods in excess of 20 years.

3. LANDOWNER EVIDENCE

- 3.1 By letter, dated 12th September 2022, the Northumberland Estates responded to the consultation, stating:

“I am in receipt of your letter dated 30th August 2022 received at this office on 5th September 2022.

“As requested, I return the plans confirming ownership of land is managed by Northumberland Estates at the sites which applications have been made on. I confirm we will be objecting to the application at Rothbury – and request at this stage that we are provided with a copy of the application submitted by Simon McClurey Rutkiewicz and the supporting evidence of the 16 members of the public – I think rather than waste people’s time and energy this needs to be disclosed now.

- 3.2 By note, received on 24th October 2022, Jessica Pringle of Wagtail Farm responded to the consultation stating:

“Wagtail Farm, Tenancy June Taylor farming in partnership with Jessica & Geoff Pringle.

“Personally I have ridden both horses and cycle since railway was taken up in 60s from Wagtail to West Raw (Brinkburn).”

- 3.3 By letter, dated 25th November 2022, Ward Hadaway responded to the consultation, stating:

“We are instructed by The Honourable Lord Max Ralph Percy in relation to the above and, in particular, to respond to your pre-order consultation letter of 30 August 2022 requesting information in support or rebuttal of the proposal to add Alleged Bridleway No. 33 (Parish of Brinkburn) and Alleged Bridleway No. 42 (Parish of Rothbury) (as identified on plan 20 appended to this letter at Appendix 1 from V-W-X) to the Definitive Map and Statement (together hereinafter referred to as "the Application Route").

“Lord Percy owns the freehold title to the land over which the Application Route passes ("the Land"), registered at HM Land Registry with title numbers ND126322 and ND126072.

“We are instructed to object to the proposal to add the Application Route to the Definitive Map and for the reasons set out below, it is

submitted that the alleged footpath has not been reasonably alleged to subsist and accordingly that the Council ought to reject the Proposal and decline to modify the Definitive Map.

“1. The Application Route

“1.1. The Application Route is a former railway line, forming part of the Rothbury branch line of the Northumberland Central Railway, which ran from Scots Gap to Rothbury. The Application Route runs along the former railway track from Wagtail Farm at point V to the former Brinkburn Station at point X.

“1.2. The Land was transferred to the North British Railway Company on 12 November 1875. It is reported by G.W.M Sewell in his study *The North British Railway in Northumberland*¹ that the last service on this line was on 9 November 1963 and that the tracks were lifted the following year. The Land was conveyed from the British Railways Board back to the Duke of Northumberland on 29 October 1970.

1.3. The term "the Northumberland Estates" is used (and will be used in this Letter) to collectively refer to the various interests and landholdings of the Duke of Northumberland, his companies and the trusts and settlements associated with the Duke and the Duke's family. The Land has formed part of the Northumberland Estates since 1970.

1.4. Pursuant to a Trust Instrument and a Vesting Deed dated 19 April 1972 the Land (and other land) was vested in the trustees of the Tenth Duke of Northumberland's 1972 Settlement ("the Trustees"). The Land was subsequently transferred by the Trustees to Lord Percy on 23 December 2014 by way of a Vesting Deed and transfer of a portfolio of titles.

1.5. The Application Route is abutted by Wagtail Farm, which has been leased to the Taylor family since 1989 and West Raw Farm which is currently tenanted by William Carmichael Charleton, known (and hereinafter referred to) as Michael Charleton, and has been since 1963. Butterknowes Farm is to the south west of the Application Route. The tenant farmers of Wagtail, West Raw and Butterknowes farms use the Application Route with the permission of the Northumberland Estates.

1.6. A portion of the Application Route running from point E to point F on the plan appended to this letter at Appendix 2 has formed part of St Oswald's Way long-distance walking route since approximately 2007, pursuant to a permissive path licence granted to Northumberland County Council and Alnwick County Council. Consequently, the relevant portion of the Application Route is marked by waymarkers and "kissing"/"wicket" gates were installed by the Council in approximately 2007 to enable access to the route.

1.7. From 1970 until approximately 2000, a shooting licence in respect of the Application Route (and other land) was granted to the Carmichael syndicate (with the Carmichael syndicate having some limited ongoing shooting rights until 2003), and the Application Route and surrounding area was used for shooting. Since 2000, shooting has continued to take place on the Application Route, initially organised directly by the Northumberland Estates, and from 2016 under a new shooting licence

to John Dodds. In addition, the Application Route is also frequently used for hunting by the Morpeth Hunt.

2. The legislative framework

2.1. It is acknowledged that Northumberland County Council ("the Council") have a duty, by virtue of section 53(2)(b) of the Wildlife and Countryside Act 1981 ("WCA 1981") to keep the Definitive Map and Statement under continuous review, and we note that in determining whether to update the Definitive Map, the Council are obliged to take into account the relevant test set out in section 53(3)(c)(i) WCA 1981. This requires the Council to modify the Definitive map following:

" (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them shows –
(i) 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"

2.2. An application was made to the Council in June to add the Application Route to the Definitive Map and Statement ("the Application"), supported by user evidence forms completed by 16 individuals. Where, as in this case, an application is based upon user evidence, we note the use must satisfy the statutory test set out section 31(1) Highways Act 1980 ("the HA 1980") which states -

"Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

2.3. We submit that, due to the reasons set out below, the user evidence in support of the Application is not sufficient to satisfy the test set out in section 31 HA 1980, and consequently a public right of way has not been reasonably alleged to subsist over the Application Route requiring the Council to modify the Definitive Map pursuant to section 53 WCA 1981. We therefore respectfully invite the Council to decline to make a Definitive Map Modification Order in response to the Application.

3. The Relevant Period

3.1. In accordance with s31(2) of the HA 1980, the period of 20 years referred to in s31(1) HA 1980 is calculated retrospectively from the date when the right of the public to use the way is first brought into question.

3.2. Section 31(6) of the HA 1980 provides for a landowner to deposit with the appropriate council a map and statement indicating which ways he admits to have dedicated as highways and that such a deposit, along with statutory declarations at the relevant intervals, shall act to evidence the negative intention of the landowner to dedicate any additional ways.

3.3. Prior to a transfer of a portfolio of titles to Lord Percy on 23 December 2014, the freehold title to the Land was held by the trustees of the Tenth Duke of Northumberland's 1972 Settlement ("the Trustees").

3.4. The Trustees (in addition to other individuals being the trustees or statutory owners of other land comprising part of the Northumberland Estates) deposited with the Council a statement and plan under s31(6) of the HA 1980 in October 1997 (the relevant extracts of which are enclosed at Appendix 3), such plan including the land over which the Application Route passes. Furthermore, the Trustees, as landowners, made statutory declarations in January 1998, May 2003 and May 2013. The statutory declarations are appended to this letter at Appendix 4. Such a declaration is deemed sufficient both to demonstrate that the landowner did not have an intention to dedicate the route as a right of way, and as consequently call the public's right to use the way into question. The right of the public to use the route was therefore brought into question, at the latest, by January 1998, but may have been brought into question earlier as set out in paragraphs 3.6 below.

3.5. Therefore, in order for the Application to meet the statutory test, there is a need to demonstrate that the requirements of s31(1) HA 1980 are met in respect of a 20 year period prior to January 1998. The relevant period is therefore, at the latest, the twenty year period from January 1978 to January 1998.

3.6. However, the public right to use the Application Route appears to have been first brought into question prior to the deposit of the s31(6) statement by the locking of a number of gates across the Application Route.

3.7. As detailed in the witness statements of Michael Charleton, tenant at West Raw Farm (appended to this letter at Appendix 5) and Alan Wilson, a former fencer for the Northumberland Estates (appended to this letter at Appendix 6), it is believed that gates were first erected along the Application Route in the early 1970s after the Land was transferred back to the Northumberland Estates. Gates are currently located on the Application Route at the points marked A – D on the plan appended to this letter at Appendix 2. As referred to in paragraph 8 of his witness statement, Michael Charleton recalls that when gates were originally erected they were located on the boundary between West Raw farm and Wagtail Farm and at the railway cutting (the locations of two of the current gates at those locations marked B and C on the plan at Appendix 2), as well as at the boundary between West Raw Farm and Butterknowes Farm in the approximate location marked C on Exhibit 3 to his witness statement, this gate being located underneath the bridge over the railway line at the southern end of Brinkburn Station Cottage. Alan Wilson recalls installing five gates on the boundaries between each farm along the length of the former railway line (part of which is the Application Route).

3.8. Although it is not known precisely when the gates were first locked, it is understood that they were locked shortly after they were installed and Stephen Mills, former gamekeeper for the Northumberland Estates who used the Application Route very frequently in the course of his

duties (his witness statement is appended at Appendix 7), asserts that when he first became the gamekeeper responsible for the Land in 1989, the gates were locked the majority of the time. Michael Charleton appears to share this recollection, stating that the gates were often locked, and that as far as he recalls the reason why the gates were sometimes left unlocked was due to keys getting lost from time to time. We understand that the gates were initially locked with "Estate Padlocks", with keys held by the Northumberland Estates and the local tenant farmers, and are now locked with combination locks.

3.9. It is submitted that the locking of the gates with keys held by the Estate and issued only to a limited number of properties is clearly an action inconsistent with an intention to allow public use of the Application Route, and as such the public right to use the Application Route was called into question by the locking of the gates, likely in the late 1970s or early 1980s. Consequently, it is submitted that the relevant period is considerably earlier than January 1978 to January 1998, and is instead a twenty year period prior to the locking of the gates in the late 1970s or early 1980s.

3.10. As detailed in section 1 above, until late 1963 the land over which the Application Route passes was used as an operational railway line (and was owned by the British Railway Board until it was conveyed back to the Duke of Northumberland in 1970). Pursuant to section 55 of the British Transport Commission Act 1949, it is (and was from the enactment of the legislation in 1949) an offence to trespass upon the lines of railways or sidings or in any tunnel or upon any railway embankment cutting or similar work now or hereafter belonging or leased to or worked by the Boards.

3.11. As such, prior to late 1963 it would have been a criminal offence to walk along the Application Route, and consequently it is submitted that any use prior to this date could not contribute to the acquisition of public rights. This was the conclusion reached by the Inspectors decision dated 19 December 2007 in respect of a proposed footpath running along the line of the former Alnwick to Alnmouth railway (reference FPS/R2900/7/45) in which it was stated at paragraph 8 that "Whilst the route was an operational railway it would have been a criminal offence to walk along it and any such use could not contribute to the acquisition of public rights over it."

3.12. For the reasons set out in the above paragraphs it is our primary submission that an uninterrupted 20 year period as required by s31(1) HA 1980 cannot be established for the period covered by the user evidence forms and consequently, without it being necessary to consider the user evidence, the Application must fail.

3.13. Without prejudice to the above position, it is critical to note that the actions taken by the Northumberland Estates throughout the period of claimed use are demonstrative of a landowner who is intent on protecting its land from accrual of public rights. The actions referred to by the landowner elsewhere in this letter are sufficient to call into question the public's right to use the way for the purposes of s31 or, at the very least, evidential of a landowner who clearly has no intention whatsoever to dedicate public rights of way over its land.

4. Analysis of User Evidence

4.1. Notwithstanding the conclusions set out in paragraph 3.12 above that it is unlikely that an uninterrupted 20 year period of use can be established due to the locking of gates across the route calling into question the public's right to use the Application Route, we submit that in any event the user evidence submitted in support of the Application provides insufficient evidence of public use to conclude that it has been reasonably alleged that the Application Route existed as a public right of way prior to 1998.

4.2. Pursuant to section 31(1) of the HA 1980, and following *R v Oxfordshire County Council ex parte Sunningwell*, public use of the Application Route must be "as of right", namely without force, secrecy or permission.

4.3. In addition, in considering whether the quality and quantity of public use of the Application Route is sufficient to raise the presumption of dedication under section 31(1) of the HA 1980, it is submitted that while statute does not stipulate a minimum usage, following the Supreme Court decision in *R (Lewis) v Redcar and Cleveland Borough Council* the extent and quality of the use should be sufficient to alert an observant owner to the fact that a public right is being asserted.

4.4. Further, following the High Court decision in *Powell v Secretary of State for the Environment Food and Rural Affairs* it is our submission that the correct approach is to firstly examine the quality, and quantity, of the user evidence and then subsequently consider if any of the vitiating elements of the above tripartite test can apply.

4.5. The Quantity and Quality of User Evidence It is submitted that in order to meet the requirements of Lewis, it must be demonstrated that the Application Route has been used by the public at large, contrasted with sporadic use of the Application Route by a nominal number of people.

4.5.1. The Application consists of 16 User Evidence forms (UEFs). As discussed in paragraph 4.6 below, 3 of these 16 UEFs refer to use which is with permission (and a further UEF refers to use which we understand was with permission), and not, therefore, use "as of right". In the context of the combined population of the Parishes of Rothbury and Brinkburn, recorded as 2,329 in 2011 (the most up to date publicly available census figures), it is submitted that the quantum of user evidence is therefore very limited and not sufficient to constitute 'use by the public' as required by s31(1) HA 1980.

4.5.2. In addition while the UEFs assert frequent use of the Application Route, a considerable number also demonstrate a general lack of familiarity with the Application Route. Three of the 16 UEFs relating to use after 1970 do not recognise the existence of any gates on the route, despite, as set out above, the evidence of Michael Charleton and Alan Wilson being that there has been a number of prominent (often locked) gates on the route since the early 1970s. The UEF completed by Samantha Davidson refers to the gates having been in place for "approx. 20 years", despite the witness evidence of Alan Wilson and Michael Charleton suggesting that gates having been in situ

approximately 50 years prior to the completion of the UEF. Further, despite there currently being a number of prominent signs on the Application Route (in particular located near the point F on the plan appended to this letter at Appendix 2 which state "Private, No Public Access") clearly distinguishing between the St Oswald's Way and the stretch of the Application Route over which no permissive rights are granted, there being small plastic signs on a number of the gates reading "No cycling" and "No horses" and Stephen Mills recalling a sign on the Application Route at the boundary of Wagtail Farm reading "Permissive Right of Way" being in place when he became gamekeeper in 1989, 9 out of the 12 UEFs which refer to use after 1989 do not recognise the existence of the signs.. We submit that these points potentially raise further questions as to the familiarity of the users with the Application Route.

4.5.3. Further, the impression created by the UEFs of considerable public use of the Application route prior to 1998 appears to be at odds with the recollection of Northumberland Estates employees during this period. At paragraph 7 of his witness statement, Stephen Mills comments that prior to the creation of the St Oswald's Way permissive route, he "rarely saw anyone using the Alleged Bridleway when [he] was working along it". As referenced briefly above, Stephen Mills spent a very considerable amount of time on the Application Route while employed as a gamekeeper for the Northumberland Estates, visiting the Application Route at least once a week during the winter months, but often daily or twice daily (particularly in the spring months) to manage wildlife. As such, it is asserted that he would have been well placed to notice frequent use of the Application Route by the public at large.

4.5.4. In addition, while 7 of the UEFs state that users have ridden horses along the Application Route, this is also at odds with the perspectives of Michael Charleton and Stephen Mills as regards use of the route. Stephen Mills comments that other than use by the Whitton Trekking Centre and June Gibson (which was with likely with permission, discussed further below) he "rarely saw anyone try to use the Alleged Bridleway on a horse". Michael Charleton notes that while he does recall "some" horses on the line, his understanding is that these were likely ridden out from either Wagtail Farm or West Raw Farm, or with his express permission.

4.6. As of Right

4.6.1. As stated at paragraph 4.2 above, a key requirement of the statutory test is that the use of the Application Route is as of right. This is established by considering the tripartite test set out in *R v Oxfordshire County Council, ex parte Sunningwell 6* which is that the use must be without force, secrecy or permission.

4.6.2. Three of the 16 UEFs submitted in support of the Application state that use of the Application Route was (at least for some of the duration of use) with permission:

4.6.2.1. Suzanne Laidlaw states that she received permission to use the route from Jack Carr at Wagtail Farm and Michael Charleton at West Raw in approximately 1975;

4.6.2.2. Kenneth Davidson states that he received permission from Michael Charleton of West Raw farm in approximately 1984; and

4.6.2.3. James Fenwick states that he received permission from Mr and Mrs Taylor (of Wagtail Farm) in 1983.

4.6.3. It is submitted that the use of these individuals after the date upon which permission was received was not "as of right" and should be discounted when considering the extent of public use of the Application Route. Once the use of the Application Route by Suzanne Laidlaw, Kenneth Davidson and James Fenwick after 1975, 1984 and 1983 respectively is discounted, this leaves only 13 UEFs which assert evidence of use by the public "as of right" prior to 1998.

4.6.4. In addition, as briefly discussed above, while 7 of the UEFs assert use of the Application Route on horseback, it is submitted that it is very likely that such use was with permission, and should therefore be discounted when considering the extent of public use. Stephen Mills notes at paragraph 8 of his witness statement that while Mary Rains asserts use of the Application Route with groups of riders from the Whitton Trekking Centre, he understands that permission to use the Application Route was sought from Northumberland Estates after the Trekking Centre had been prevented from using the Garleigh (Lordenshaw) Hill fort route. Further, while Michael Charleton acknowledges in his witness statement that there has been some use of the Application Route on horseback, it appears to be his understanding that these horses were being ridden out from either Wagtail Farm or West Raw Farm (and therefore using the route with permission) or the use was with his express permission. Mr Charleton specifically recalls giving permission to Ann Foggin to use the route on horseback, which is not acknowledged in her UEF, albeit she acknowledges that Mr Charleton did inform her that the route was not public. When Ann Foggin's use with permission is taken into account, it would suggest that four of the individuals who submitted UEFs were using the Application Route with permission and not "as of right".

4.6.5. While the UEF completed by William Gaskell refers to use of the Application Route by a pony and trap, it is submitted that such use was also very likely to have taken place with permission, and should therefore not be considered when evaluating public use. As detailed in paragraph 10 of Michael Charleton's witness statement and also noted in the witness statement of Stephen Mills, it is understood that the only individual using the Application Route in this way was June Gibson, a former partner of Michael Charleton. We understand that Ms. Gibson lived with Mr. Charleton at West Raw Farm from approximately 1989 to 2020 and as such any use of the Application Route was with his permission. Mr. Charleton also notes that notwithstanding this permission, Ms Gibson did not frequently use the Application Route in this way due to the difficulties caused by the need to open and close the gates along the route.

4.6.6. In addition to the instances of express permission discussed above, it is submitted that (as is reflected in the witness statements of Michael Charleton and Stephen Mills) there is a general understanding that tenants of the Northumberland Estates have an implied permission to access other land owned by the Northumberland Estates. At

paragraph 7 of his witness statement Stephen Mills states that he would "recognise the tenants of the Estate and it was accepted that Estate tenants generally had permission to be on Estate land so I wouldn't have challenged those persons". Michael Charleton also appears to recognise this understanding, commenting that the tenants of Butterknowes Farm would use the Application Route to move stock but that "as they were tenants of the Estate it was always considered that they had permission....". Consequently, it is submitted that while it is not disputed that there was some public use of the Application Route during the relevant period, the perception of frequent public use created by the UEFs does not take into account that a number of Northumberland Estates tenants used the Application Route on the basis of this implied permission, and should therefore not be taken into account when considering the extent of public use of the Application Route.

4.7. It is therefore our submission that UEFs submitted in support of the Application provide insufficient evidence of public use to conclude that a public right of way has been reasonably alleged to subsist over the Application Route. It is submitted that they are insufficient in terms of quantum and in some instances show a general lack of familiarity with the route or use of the route that is at odds with the recollection of Northumberland Estates employees or tenants, and in a number of cases provide evidence only of use that was with the permission of Northumberland Estates or Northumberland Estates' tenants on their behalf. The granting of permission to Northumberland Estate tenants and select individuals is reflective of the typical approach taken by the Estate to land such as the Application Route. Nevertheless, it was, and remains, the primary intention of the Northumberland Estates to prevent use of the Application Route by the public at large, granting permission (including permissive access to the public by way of the St Oswald's Way) as and when appropriate taking into consideration the interests of the Estate and its tenants.

5. Lack of Intention to Dedicate

5.1. As set out above, we submit that the test set out in s31 HA 1980, requiring 'use by the public' is not met during this period, due to insufficient user evidence and/or such limited use not being as of right.

5.2. However, notwithstanding the above conclusions, we contend that in any event there is an extensive and continuous history of actions which demonstrate a lack of intention to dedicate the Application Route as a public right of way, further preventing the test in s31 HA 1980 from being met:

5.2.1. The decision made by the Northumberland Estates to erect and maintain a number of gates across the Application Route which (as discussed at paragraph 3.8 above) were subsequently locked with Estate padlocks and keys issued only to a limited number of individuals, not only (we submit) calls into question the public's right to use the Application Route, but is also sufficient in itself to demonstrate a clear intention not to dedicate the Order Route a public right of way. While the witness statement of Alan Wilson, former Estate Fencer, does assert that the initial purpose of the gates was to prevent livestock moving between the farms, it is submitted that the subsequent locking

of the gates with keys provided only to a limited number of individuals demonstrates a clear intention to prevent public access without permission. In any event, it is submitted that both the erection and the locking of the gates provide clear evidence of a landowner actively managing and controlling access to the Application Route, without any intention to dedicate it as a public right of way. We further submit that the same conclusion can be drawn in respect of the depositing by the Northumberland Estates of a statement and a plan pursuant to s31(6) HA 1980 and the subsequent making of the three statutory declarations.

5.2.2. A number of the UEFs submitted in support of the Application as well as the witness statements provided by Stephen Mills and Michael Charleton demonstrate that there have been consistent efforts made by the Northumberland Estates and its tenant farmers to challenge users of the Application Route. The UEFs submitted by both Ann Foggini and Kenneth Davidson assert that they were informed that the Application Route was not public, while the UEF submitted by William Gaskell refers to his friend being prevented from using the Application Route to cycle to work in Rothbury. Both Michael Charleton and Stephen Mills refer to challenging individuals they have come across using the Application Route and advising them specifically that the Application Route is not a public right of way. We submit that the actions of Mr Charleton and Stephen Mills demonstrate a clear lack of intention on behalf of the Northumberland Estates to dedicate the land as a public right of way.

5.2.3. As referenced briefly above, from 1970 until approximately 2000, a shooting licence in respect of the Application Route (and other land) was granted to the Carmichael syndicate (with some limited ongoing shooting rights granted until 2003), and from 2000 shooting on the line was run directly by the Estate, with the frequency of shoots varying over the years, but generally 6-12 times per year. Stephen Mills recalls that the shooting would generally take place for several hours over the course of the day, with the guns being along the stretch of the Application Route coloured yellow on Exhibit 2 to his witness statement and, when the Estate ran the shoot, the Estate gamekeepers being responsible for unlocking the gates for the shoot. This is echoed by Michael Charleton, who recalls the guns standing on a 150-200 yard stretch near to the railway cutting, coloured yellow on the plan appended at Exhibit 3 to his witness statement, shooting over the crag. We submit that in the granting of a shooting tenancy over the Application Route, and by subsequently running the shooting over the Application Route, preventing access to the Application Route other than for those involved in the shoot, the Northumberland Estates has demonstrated a clear lack of intention to dedicate the land as a public right of way. This can also be said in respect of the Estate granting permission to the Morpeth Hunt to use the Application Route (Stephen Mills comments that this takes place approximately 6 times per year), with the gates to be unlocked by the tenant farmers. Further, it is submitted that the Estate gamekeepers and tenant farmers being responsible for unlocking the gates for shooting and hunting activity respectively is consistent with a landowner that is keen to keep close control over the Application Route, with no intention to allow wider public access.

5.2.4. We also note that significant maintenance works have been carried out by Northumberland Estates on the Application Route, as detailed at paragraphs 10 to 12 of the witness statement of George Tate of the Estate Clerk of Works department (attached at Appendix 9), blocking public access to stretches of the Application Route for periods of time. Mr Tate recalls significant resurfacing works being carried out on a stretch of the Application Route not forming part of St Oswald's Way in 2012 and culvert repair and renewal works being carried out on part of St Oswald's Way from 2012 to 2014. He comments that during these periods the stretches of the Application Route where works were undertaken were closed to prevent public access. In the case of the works on St Oswald's Way, a sign was used to notify the public, but Mr Tate recalls that a sign was not needed for the culvert works because public access was not permitted on that part of the Application Route.

5.2.5. We understand that Mr. Charleton used to use the stretch of the Application Route adjacent to West Raw Farm for the wintering of his un-weaned calves. As can be seen in a note prepared by Northumberland Estates on 2 March 1998 and correspondence sent by Northumberland Estates to Mr Charleton on the same date (both attached at Appendix 8), this was considered a significant obstacle to negotiations with Sustrans regarding allowing use of the Application Route as a permissive cycle way. We submit that in permitting and supporting the use of the Application Route in this way by Mr Charleton, which is likely to have interfered to some extent with public use of the route Northumberland Estates once again demonstrated a lack of intention to dedicate the Application Route as a public right of way. In addition, the negotiations with Sustrans referred to in the documents at Appendix 8 indicate that at this time it was known and understood that the Application Route was not a public right of way, but private land in the control of the Northumberland Estates, and that permission had to be sought to use it.

5.2.6. We note that s31(4) HA 1980 provides that where the owner of the land has erected and maintained a notice inconsistent with the dedication of the land as a highway, in such a manner as to be visible to persons using the way, this is (in the absence of proof of contrary intention) considered sufficient evidence to negative the intention to dedicate the way as a highway.

5.2.7. As referenced in paragraph 4.5.2 above, there are currently a number of prominent notices displayed on the Application Route distinguishing between the permissive St Oswald's Way and the private track, including two notices at approximately the point marked F on the plan at Appendix 2, stating "Private – No Public Access", as well as small plastic signs displayed on a number of the gates reading "No cycling", "No Horses" or similar. In his witness statement, George Tate recalls signs intended to prevent public access reading "Private – No Public Access" or similar being erected on the Application Route and subsequently replaced two or three times when they had been damaged or removed. Michael Charleton also confirms that there are signs along the Application Route advising that it is private, and that when the signs are removed he contacts Northumberland Estates to request that they are replaced. While it is acknowledged that the signs referred to by George Tate were only erected relatively recently (within the last ten years), Stephen Mills refers at paragraph 5 of his witness

statement to recalling signs stating "Permissive Right of Way" in the locations marked with letters A and B on the plan appended to his witness statement at Exhibit 2 being in place from when he commenced his role as gamekeeper in 1989. He recalls replacing the signs on one occasion when they were removed in approximately the late 1990s, but that they disappeared in around the year 2000. Consequently, it is our submission that the use of notices on the route, both in more recent years and also potentially for a significant proportion of the relevant period prior to 1998, demonstrates a clear lack of intention on behalf of the Northumberland Estates to dedicate the Application Route as a public right of way.

6. Common Law

6.1. Dedication of a public right of way at Common Law can be inferred by evidence of user and the acquiescence of the landowner of that user. It is our submission that, as set out in paragraph 4.5 above the quality and quantum of the use evidenced in the application is insufficient to raise any inference of a dedication of the Application Route.

6.2. Further, considering the actions taken on behalf of the landowner detailed at paragraph 5.2, we submit that there is in any case no acquiescence of the landowner to any use of the Application Route. On this basis, there can be no case for the dedication of the Application Route at Common Law.

7. Conclusion

7.1. We do not consider that there is sufficient evidence to justify that an order be made to include the Application Route on the Definitive Map.

7.2. We submit that the depositing of statement and plan pursuant to S31(6) HA 1980 in 1997, and the making of a subsequent statutory declaration in 1998 mean that the right of the public to use the route was therefore brought into question, at the latest, by January 1998. However, it is submitted that the right of the public to use the route was in fact first brought into question by the locking of the gates across the Application Route in the late 1970s or early 1980s. Considering that the Application Route was an operational railway line until 1963, it appears unlikely that an uninterrupted 20 year period as required by s.31(1) HA 1980 can be established.

7.3. We further submit that the user evidence, provided by a small number of individuals, does not demonstrate a level of public use sufficient to conclude that a public right of way has been reasonably alleged to subsist over the Application Route. It is submitted that they are insufficient in terms of quantum, quality and in a number of instances provide evidence only of use that was with the permission of the Northumberland Estates.

7.4. We therefore contend that the legal requirement of actual enjoyment by the public as of right for a period of 20 years without interruption, has not been met.

7.5. Furthermore, the s31(6) deposits and statements, the erection and locking of gates, the granting of access for hunting and shooting, the challenging of users on the route and the erection of signs all demonstrate a consistent lack of intention to dedicate the Application Route as a public right of way. We therefore submit that notwithstanding that the requirement of public use set out in s31(1) HA 1980 has not been met, a lack of intention to dedicate the Application Route as a public right of way has been consistently demonstrated by the Northumberland Estates.

7.6. Therefore, it is our submission that there is no reasonable allegation that a public right of way has been proven to exist over the Application Route.

7.7. We reserve our client's position to make further representations in relation to this matter in due course. Please do not hesitate to contact us if you require any further information.

3.4 Appendix 5 to Ward Hadaway's letter of rebuttal is a witness statement, dated 22 November 2022, from Mr Charleton of West Raw Farm which states:

"I William Carmichael Charleton of West Raw Farm, Rothbury do state as follows that:

"Introduction

"1. I make this statement in relation to land between Wagtail Farm and Brinkburn Station Cottage in Rothbury, Northumberland, which forms part of the Northumberland Estates, ("the Estate") which is affected by an application made by Mr Simon McClurey Rutkiewicz on the 13 June 2021 to modify the definitive map and statement for the County of Northumberland ("the Application"). Northumberland County Council ("The Council") has sought pre-order consultation to establish whether public rights of way can be reasonably alleged to exist along the route shown marked V-W-X on the plan shown at Exhibit 1 ("the Alleged Bridleway").

"Background

"2. I was granted the tenancy of West Raw Farm, Morpeth by the Duke of Northumberland in 1963 and have held the tenancy since that date. The tenancy was held jointly with my father, Septimus Charleton, until his death in 1971. Prior to holding the tenancy at West Raw, I lived at Brinkburn Station Cottage.

"3. West Raw Farm ("West Raw") is located to the South East of Rothbury, and in part lies adjacent to the Alleged Bridleway. The plan appended at Exhibit 2 shows the extent of West Raw Farm edged red. While my tenancy does not include the Alleged Bridleway I, and the other local Estate farm tenants have permission from the Estate to use the Alleged Bridleway. In view of the fact that the Alleged Bridleway is largely adjacent to my farm, it is essentially treated as being part of my tenancy due to the need to use it on a daily basis to access my fields.

"4. At West Raw, I farm sheep and in the past I have also farmed cattle. As the tenant farmer of West Raw I have since the beginning of my

tenancy been along the Alleged Bridleway every day, some days I will be along the route a lot (for example up to 6 times a day) and less on other days (maybe only 3 or 4 times a day) . I use the route to get my sheep from one field to another as it is easier to do this using the Alleged Bridleway and before the Mart in Rothbury closed in 2000 I used the Alleged bridleway to get my sheep to the Mart. The hill sheep have always been brought in using the Alleged Bridleway. These days I go along the route on a gator but in the past I will have walked the route.

“The Application

“5. I am aware that the Application relates to the route shown from V-W-X on the plan attached at Exhibit 1. The Alleged Bridleway runs adjacent to my farm.

“6. When I started my tenancy, the Alleged Bridleway was no longer in use as a railway line, but the track was still laid initially.

“7. Northumberland Estates ("the Estate") acquired the railway line from the railway board around 1970.

“8. Shortly after the Estate bought the railway line they erected gates along its length. I recall that the gates were originally wooden. From this time there was always a gate at the boundaries between Wagtail Farm and West Raw and West Raw and Butterknowes Farm and one at the cutting along the Alleged Bridleway in the approximate locations shown marked A, B and C on Exhibit 3. A gate was more recently (on or before 2010) erected at the approximate location marked D on Exhibit 3.

“9. I have seen the user evidence forms submitted with the Application. I note that a couple of the forms talk about horses being ridden along the Alleged Bridleway; while I do recall some horses on the railway line, these were likely horses being ridden out from either Wagtail Farm or West Raw Farm. I have also given permission to people to use the Alleged Bridleway on horseback, for example I gave permission to Anne Foggin to do so when she was a young girl and neighbour at Butterknowes Farm.

“10. The only person that I am aware of that tried to use a trap or buggy along with the Alleged Bridleway was June Gibson. June was my partner for over 20 years until 2020 and lived at West Raw Farm with me during this time and so any use was with my permission. However, June did not use the trap/buggy very often because of the gates and the need to open and close them; she thought there were too many gates to be bothered to use the line very often with the trap.

“11. The gates were often locked. I do not recall that they were always locked but they were frequently locked for periods of time. The tenant farmers of Wagtail Farm, West Raw, and Butterknowes Farm all had keys to unlock the gates as did the shooting tenants. The tenants of Butterknowes Farm would use the railway line to get their stock to the Mart in Rothbury, but as they were tenants of the Estate it was always considered that they had permission from the Estate to use the line in the same way that I had permission and the tenants of Wagtail also had permission. The keys did get lost from time to time which I think is why

the gates were not always locked. The gates are locked now using combination locks so there are no keys; the gates have been locked much more in the last 10 years or so as a result. When using the permissive route that is St Oswald's way the public use the wicket gates provided by the Council. The public obviously use the wicket gates at the sides provided for the permissive use of that part of the route that is now St Oswald's Way.

“12. Since St Oswald's Way permissive route was created most of the walkers keep to the part of the Alleged Bridleway that now forms part of St Oswald's Way marked E — F on the plan at Exhibit 3 but if I do come across people that I don't know using the part of the Alleged Bridleway marked F-X I do challenge them and advise them that the route is not public and that they shouldn't come along it. I have challenged users on bikes and horses as well as people walking. I try to be helpful though and where users get lost and have used the Alleged Bridleway instead of using the public footpath I will help them get back to the public footpath.

“13. There are signs along the route advising people that the route is private but people knock them down or pull them off. At the gate near Craghead (shown marked B on Exhibit 3) there are two more formal signs saying "Private No Public Access". There are also plastic signs secured by cable ties advising "No cycling" and "No horses" on the gates marked A, B and D on Exhibit 3. I let the Estate know if I notice that new signs are needed because the old ones have been pulled off and they come and erect new signs. People also try to knock down the wicket gates so that they can try to get bikes or quad bikes along the route. People have also tried to damage the rails/fences that are alongside some of the gates for example at the Brinkburn end.

“14. My tenancy excludes any shooting rights as the Estate wanted to be able to grant separate shooting licences, but there has always been shooting along the railway line since the railway line was closed and the track lifted. The frequency of the shooting varies depending on the rights that the current shooting tenant has but whenever there is a shoot the guns are along the Alleged Bridleway; they stand on a 150-200 yard stretch near to the railway cutting (coloured yellow on Exhibit 3) and they shoot over the crag. The gamekeeper would have the key/combination to the gates to be able to unlock the gates for the shoot; I do not have to unlock them for the shoot.”

3.5 Appendix 6 to Ward Hadaway's letter of rebuttal is a witness statement, dated 22 November 2022, from Mr Wilson of Ratcheugh which states:

“I Alan Milburn Wilson of Stewarts Cottage, Ratcheugh do state as follows:

“Introduction

“1. I make this statement in relation to land between Wagtail Farm and Brinkburn Station Cottage in Rothbury, Northumberland, which forms part of the Northumberland Estates, which is affected by an application made by Mr Simon McClurey Rutkiewicz on the 13 June 2021 to modify the definitive map and statement for the County of Northumberland ("the Application"). Northumberland County Council ("The Council") has

sought pre-order consultation to establish whether public rights of way can be reasonably alleged to exist along the route shown marked V-W-X on the plan shown at Exhibit 1.

“Background

“2. Prior to my retirement in 2002 I worked for the Northumberland Estates ("the Estate"). I started working for the Estate in 1958 as an Estate Fencer and held the position until my retirement.

“3. As an Estate Fencer, I was responsible (as part of a small team) for erecting and maintaining fencing, gates and other boundaries on land owned by the Estate.

“4. During the early years of my employment with the Estate (until approximately 1970) my team did not have transport, so mainly worked on the Alnwick Castle estate. However, after this point my team were provided with a Land Rover and trailer and so we worked over a much wider area, including in and around Rothbury.

“The Application

“5. I am aware that the Application relates to the route shown from V-W-X on the plan attached at Exhibit 1 ("the Alleged Bridleway"), and that the Alleged Bridleway forms part of a former railway line.

“6. I can recall being instructed by Mr. Robert Mattison (who was employed by the Estate as the assistant land agent) to install gates along the former railway line. Although I cannot recall precisely when the gates were installed, I believe this was in the early 1970s, as I recall it being one of the first jobs carried out by my team outside the Alnwick Castle estate (after we were provided with transport). The railway track had already been lifted by the time we installed the gates.

“7. To the best of my recollection, we installed five gates along the length of the former railway line (part of which is the Alleged Bridleway), at the boundaries between each farm to prevent livestock moving between the farms, including at the boundary of Wagtail Farm and West Raw Farm.

“8. I do not recall noticing substantial public use or any horses on the Alleged Bridleway when I was installing the gates.”

- 3.6 Appendix 7 to Ward Hadaway’s letter of rebuttal is a witness statement, dated 22 November 2022, from Mr Mills of Denwick which states:

“I Stephen Mills of Broomhouse Farm, Denwick do state as follows:

“Introduction

“1. I make this statement in relation to land between Wagtail Farm and Brinkburn Station Cottage in Rothbury, Northumberland, which forms part of the Northumberland Estates, which is affected by an application made by Mr Simon McClurey Rutkiewicz on the 13 June 2021 to modify the definitive map and statement for the County of Northumberland ("the Application"). Northumberland County Council ("The Council") has

sought pre-order consultation to establish whether public rights of way can be reasonably alleged to exist along the route shown marked V-W-X on the plan shown at Exhibit 1.

“Background

“2. I worked as a gamekeeper for Northumberland Estate ("the Estate") from 1983 to 2010. From 1983 I was the gamekeeper responsible for the moors adjacent to Rothbury and would therefore have occasions to come onto the Alleged Bridleway. From 1989 I was gamekeeper for that part of the Estate that included the Alleged Bridleway.

“3. While I was gamekeeper for the moor, I would at least weekly need to come on to the Alleged Bridleway to control the foxes that would otherwise come onto the moors. From 1989, as gamekeeper I would regularly be on the Alleged Bridleway but the actual frequency would vary depending on the season. I would always be on the Alleged Bridleway at least once a week, but at times this would be daily, or twice a day, and at times overnight. I would be on the Alleged Bridleway most frequently in the Spring time to control any vermin/unwanted wild animals during the lambing season. During the winter months I would go along the line once or twice a week to keep an eye on what was going on on the land.

“4. As gamekeeper my role involves managing the wildlife that would otherwise cause problems for the tenant farmers of the Estate and for the shooting.

“The Application

“5. I recall that the Alleged Bridleway has always been a permissive route. When I became the gamekeeper responsible for the land that included the Alleged Bridleway in 1989 I recall that there were signs on the route stating "Permissive Right of Way". I recall that these signs were located at the boundary of Wagtail Farm and one on a peg at Cragend Cottage pointing back to the direction to the Alleged Bridleway. I have marked where these signs were located with letters A and B on the plan at Exhibit 2. I recall that the signs were knocked down on one occasion in or around the late 1990s and I put them back up. However, around 2000 the signs disappeared and so far as I was aware no further signs were erected other than in connection with St Oswald's Way.

“6. When I started on the Alleged Bridleway in 1989 there were gates; where the railway cutting is and where the Wagtail boundary fence ran down as shown marked C and D on the plan at Exhibit 2. The gates were locked most of the time initially, but from around 2000 they were mostly unlocked. The gates were locked using an "Estate padlock", which meant that a number of people had a key; this would be myself and other gamekeepers for the Estate, the tenant farmers, and anyone else at the Estate who needed access.

“7. I rarely saw anyone using the Alleged Bridleway when I was working along it. I would say that the route was very quiet, especially compared to the rest of the nearby National Park. If I came across people using the route that I did not know, they would stop and challenge them and

tell them that the route was not a public route. I would recognise the tenants of the Estate and it was accepted that Estate tenants generally had permission to be on Estate land so I wouldn't have challenged those persons. Once St Oswald's Way permissive route was created that part of the Alleged Bridleway became busier.

"8. I have seen the user evidence forms submitted with the Application and I note that Mary Rains says she used the Alleged Bridleway with groups of riders from Whitton Trekking Centre. I understood at the time (around 1990) that Whitton Trekking Centre had sought permission from the Estate to use the railway line after the National Park Authority had stopped them from using the Garleigh (Lordenshaw) Hill fort route as part of a management arrangement. Other than the Whitton Trekking Centre I also saw June Gibson use the Alleged Bridleway on her horse, but at the time she was living with the tenant farmer of West Raw Farm and so had permission to be on the line. Otherwise I rarely saw anyone try to use the Alleged Bridleway on a horse.

"9. I do recall seeing an occasional cyclist trying to use the Alleged Bridleway but I would always challenge them.

"10. As the gamekeeper I was also involved in the shoots that took place regularly along the Alleged Bridleway. When I first started along the route in 1989 the shoots took place 6-12 times per year but the frequency varied depending upon who had the shooting tenancy. I understand that the current tenant shoots more often than this. The Carmichael syndicate had the shooting licence until 2000 (and some ongoing shooting rights until 2003) and during that period I was not involved directly in the shooting but undertook my usual gamekeeper role. From 2000 until after I left employment there was no shooting tenant and from 2000-2010 I ran the shooting directly on behalf of the Estate. Between 2000 and 2005 the shooting was again usually 6-12 times per year, but slightly less frequently after that. I had a key to the gates so would be able to unlock any gate as necessary. The shooting would take place for several hours over the course of the day with the guns being along the Alleged Bridleway at the cutting but there would also be beaters and flankers along the ground surrounding the Alleged Bridleway. The shoot always took place along the Alleged Bridleway, usually on the stretch of the Alleged Bridleway coloured yellow on the plan at Exhibit 2. I do not recall that we ever encountered anyone attempting to use the Alleged Bridleway during a shoot.

"11. The Morpeth Hunt would also use the Alleged Bridleway about 6 times a year. The hunt would either ask the tenant farmer in advance to open the gates for them, or they would jump over the wicket fences to the side of the main gates."

3.7 Appendix 9 to Ward Hadaway's letter of rebuttal is a witness statement, dated 23 November 2022, from Mr Tate of The Northumberland Estates which states:

"I George Tate of Northumberland Estates, the Estate Office, Alnwick Castle, Alnwick, Northumberland, NE66 1 NQ do state as follows:

"Introduction

"1. I make this statement in relation to land between Wagtail Farm and Brinkburn Station Cottage in Rothbury, Northumberland, which forms part of the Northumberland Estates, which is affected by an application made by Mr Simon McClurey Rutkiewicz on the 13 June 2021 to modify the definitive map and statement for the County of Northumberland ("the Application"). Northumberland County Council ("The Council") has sought pre-order consultation to establish whether public rights of way can be reasonably alleged to exist along the route shown marked V-W-X on the plan shown at Exhibit 1.

"Background

"2. I currently work for Northumberland Estates ("the Estate") in the Clerk of Works Department ("the Department") based at Alnwick Castle where I have been employed since 1971. My current role is Maintenance Surveyor, a position I have held since February 2022.

"3. However, I was first employed by the Estate as a joiner which involved working on the Rothbury estate and held this position for approximately 26 years before I became the Department Foreman from 1997 until 2022. From February 2022 I was employed as a Maintenance Manager.

"4. My current role as Maintenance Surveyor involves surveying sites and property for the Estate and advising in respect of current and future property maintenance requirements.

"The Application

"5. I am aware that the Application relates to the route shown from V-W-X on the plan attached at Exhibit 1 ("the Alleged Bridleway"). I have been generally aware of the Alleged Bridleway since my time as a joiner, having been instructed to carry out works in the area, including repairs to Brinkburn Station Cottage roof and West Raw farmhouse

"6. I can recall that the Department has erected signs on the Alleged Bridleway for at least the last 10 years, but I cannot be certain of the precise year that I first recall the Department carrying out works on the Alleged Bridleway.

"7. Terry Clarke, the sign writer for the Department, was asked to prepare signs for the Alleged Bridleway by Graham Caygill, the former Head of the Department. Graham Caygill left the employment of the Estate in approximately 2014, so signage must have been erected on the Alleged Bridleway prior to this time. The instruction to erect the signs most likely came from the Agent, who at this time was Rory Wilson.

"8. Although I cannot remember precisely what the signs said, I recall that they were generally intended to prevent public access. The current signs state "Private, No Public Access" and the previous signs would have advised similarly.

"9. While the Department did not carry out a regular schedule of maintenance on the Alleged Bridleway, the Department repaired or replaced the signs when the Estate was made aware by the tenant

farmers or other Estate personnel that the signs had been kicked down and/or removed. I recall that this has happened at least two or three times. Terry Clarke, the sign writer, would also occasionally check the route to check how many new signs were required and since 2013 an annual inspection of the Alleged Bridleway has been carried out by the Department, originally on the instructions of Graham Caygill. My impression is that the Estate and Mr. Charleton the tenant farmer at West Raw Farm are very keen for the signage on the Alleged Bridleway to remain in place.

“10. I also recall that while I was employed as Maintenance Manager the Estate carried out significant maintenance works on the Alleged Bridleway. In 2012, works were carried out to the surface of the stretch of the Alleged Bridleway not forming part of St Oswald's Way (at the Brinkburn Station Cottage end of the track). The surface of the Alleged Bridleway was in very poor condition and was causing water and drainage issues so it was scraped off and works were carried out to reshape the surface of the embankment to form water run off areas. Shrub and tree clearance was also carried out at this point.

“11. In addition, between 2012 and 2014 works were carried out on a culvert under the stretch of the Alleged Bridleway near Wagtail Farm, which forms part of St Oswald's Way. I organised a survey of the culvert, and repairs were carried out in 2012, followed by renewal of the culvert from 2013 to 2014.

“12. As far as I recall, when the surface works and the maintenance works to the culvert were taking place, we had to close the parts of the Alleged Bridleway where the works were taking place, to prevent access by members of the public. As the works to the culvert required closing part of the permissive path along St Oswald's Way, we put a sign on the gate at Wagtail Farm. I do not recall a sign being used when the surface works were being carried out at the Brinkburn Station end of the route because public access was not permitted on that part of the Alleged Bridleway.”

4. CONSULTATION

4.1 In August 2022, 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”. Four replies were received and are included below.

4.2 By email, on 29 September 2022, Rothbury Parish Council responded to the consultation, stating:

“Further to the pre-order consultation, Rothbury Parish Council are fully in support of the proposal to add a public bridleway 160 metres north-west of Wagtail Farm to the Parish of Brinkburn.”

4.3 By email, on 5th November 2022, the British Horse Society responded to the consultation, stating:

“Parish of Brinkburn Addition of Bridleway 33 / Parish of Rothbury Addition of Bridleway 42

“This route follows the line of the old railway line into Rothbury. It is fenced off from adjacent farmland and from vehicular traffic and so would provide an excellent riding route. The user evidence suggests it has been used for many years by local people. It links with the rural road network and an existing bridleway at Brinkburn Station.”

- 4.4 By email, on 28th November 2022, Cycling UK responded to the consultation, stating:

“PB 33/42

Description - Disused railway track with gravel surface

Support - Yes+++

Comment - Oft used by local residents; move FP 107 /006 onto it; – east half is St Oswald’s Way, would be improved.”

- 4.5 By email, on 29th November 2022, Brinkburn Parish Council responded to the consultation, stating:

“Bridleway Number 33

The Parish Council have consulted local people on the proposal to add to the ‘Definitive Map and Statement of Public Rights of Way’ Bridleway 33 as shown on your published draft map. Many local people, whose families have lived in the area for a number of generations, have stated that this path has been in use continually ever since the railway line closed in 1963. It has been used by walkers, cyclists and horse riders for recreational purposes and as a traffic-free route into Rothbury. This safe and easily accessible route for pedestrians, bikes and horses is ideal for families to get from Rothbury to Hesleyhurst, and on to green paths to Brinkburn and the east coast.

“Access to the railway line has been impeded recently by notices saying that this is private land. This has made access to Rothbury from Hesleyhurst very difficult for cyclists in particular, who have had to use to use the B6344. This road is very busy and dangerous for bike riders. Young riders have therefore been prevented from travelling by bike to Rothbury.

“The Parish Council supports the proposal to add Bridleway 33 to the Definitive Map and would welcome regular updates on the progress of the proposal. In addition the Council has a long-standing aspiration to extend this path along the old railway line all the way to Morpeth to provide a safe, environmentally friendly way for people to travel to our Parish and on to Rothbury.

“Please contact us if we can provide further information.”

- 4.6 By email, on 2 December 2022, the Ramblers’ Association responded to the consultation, stating:

“Turning to the user evidence claims you sent me, I have no knowledge or comments, about the Ellingham and Matfen cases, other than it would be nice to have 2 more FPs.

“The Rothbury / Brinkburn path is a different matter. The section from V to the edge of Access Land is, surely, already a right of way. It is very well walked and shown on the OS map as part of St Oswald's Way. I walked it myself about a month ago.

“From the edge of the Access Land i.e. where the path goes left into the field if you are walking from Rothbury, there is a clear notice and gate preventing further progress along the old railway line. I know W to X is walked despite this, mainly by locals, dog walkers etc-but how often, and how "openly" I don't know. I would be amazed if a successful claim based on user evidence could be made, although, again, we would welcome / use it if it became a RoW.”

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.

c.1952 Definitive Map – original Survey Schedules & Map

Footpaths Nos 1 and 8 are shown on a roughly parallel course, north of the alleged bridleway. The OS base map (dated 1925) depicts the route of alleged Bridleways Nos 33 and 42, itself, as part of a railway line. Footpath No 1 starts at the southern end of the public road, close to the western end of the alleged bridleway. Bridleway No 7 ends close to Point X, at Brinkburn Station.

Draft Map

Footpaths Nos 1, 10 and 8 are shown on a roughly parallel course, north of the alleged bridleway. The OS base map depicts the route of alleged Bridleways Nos 33 and 42 as part of a railway line. Footpath No 1 starts close to the western end of the alleged bridleway. Bridleway No 7 ends close to Point X, at Brinkburn Station.

Provisional Map

As with the Draft Map, Footpaths Nos 1, 10 and 8 are shown on a roughly parallel course, north of the alleged bridleway. The OS base map depicts the route of alleged Bridleways Nos 33 and 42 as part of a railway line. Footpath No 1 starts close to the western end of the alleged bridleway. Bridleway No 7 ends close to Point X, at Brinkburn Station.

1962 Original Definitive Map and Statement

Footpaths Nos 16 and 6 are shown on a roughly parallel course, north of the alleged bridleway. The alleged bridleway route is depicted as a railway line. Existing Footpath No 16 is shown beginning at, or very close to, Point V, and existing Bridleway No 7 is shown terminating very close to Point X.

1957 Ordnance Survey Map: Scale 1:10,560

Only the map sheet covering NU 00 SE is available in the department's collection. This map appears to depict the alleged bridleway route as a functioning railway line.

First Review Definitive Map

As with the original Definitive Map, Footpaths Nos 16 and 6 are shown on a roughly parallel course, north of the alleged bridleway. The alleged bridleway route is depicted as a railway line. Existing Footpath No 16 is shown beginning at, or very close to, Point V, and existing Bridleway No 7 is shown terminating very close to Point X.

1978 Ordnance Survey Map: Scale 1:10,000

Only the map sheet covering NZ 09 NE is available in the department's scanned collection. This map only shows the eastern end of the alleged bridleway route, but appears to indicate that, whilst the course of the railway still existed, there was no longer any track along it.

1997 / 98 Section 31(6) deposit by Northumberland Estates

In their 1997 Statement, the Northumberland Estates included a set of Maps identifying the land which they owned, and the public rights of way which they acknowledged to exist over that land. No public rights of way were recognised over the alleged bridleway route. In 1998, the Northumberland Estates submitted a Statutory Declaration indicating that they had not dedicated any additional public rights of way over their land, and followed this up with further statutory declarations in 2003 and 2013.

6. SITE INVESTIGATION

- 6.1 From a point marked V₁, 210 metres north-west of Wagtail Farm, a 3.75 metre wide tarmac track proceeds in a south-easterly direction for a distance of 35 metres, to Point V, at the western boundary of the dismantled railway. Point V is currently identified as the eastern end of the U4066 road, though all the available historical documentary evidence indicates that the U4066 ascended to terminate at the western end of a former bridge over the former railway. The bridge no longer exists, but there is no evidence to indicate that the U4066 was legally diverted onto the tarmac road.
- 6.2 From Point V, a 3 metre wide, mostly tarmac surfaced road proceeds in a south-easterly direction for 155 metres to a point where the road turns east into Wagtail Farm, and passage along the railway line is limited by a field gate with an adjacent step stile. From this point, a 3 metre wide mostly ash surfaced track, with grass verges, proceeds in a south-easterly direction for 235 metres to a field gate with adjacent kissing gate. There were signs on the field gate saying "No Cycling" and "No Horses – Footpath only". Thereafter a 2.7 to 3 metre wide mostly ash surfaced track continues in an easterly direction for 400 metres to a point where the corridor narrows, briefly, to 3.9 metres, where a short bridge crosses a water course, then continues in a general easterly direction for a further 340 metres to a field gate with adjacent pedestrian gate. A sign on the gate stated "Warning – Loose livestock Dogs must be kept on leads" with penned additions saying "No cycling" and "No horses". There was a St Oswald's Way mark on the pedestrian gate. A 3

metre wide grass surfaced track continues in a south-easterly direction for about 50 metres, to a point where there are field gates giving access to fields on either side of the track. Beside the gate on the north side there is a large sign with 3 arrows saying "Public Footpath" pointing through the gate. This appears to be the route of St Oswald's Way, and the existing public footpath which the Way follows lies a short distance into this field. A 2.7 to 3 metre wide ash track with grass verges continues in a south-easterly direction for about 155 metres, where the corridor narrows, briefly, to 4.2 metres, as it crosses a bridge, then continues for a further 50 metres to Point W (the Rothbury – Brinkburn parish boundary). A 2.5 to 2.7 metre wide ash track , with grass verges, continues in a general south-easterly direction for a further 845 metres to a field gate with a handwritten sign saying "No Cycling No horses please" attached. Facing the other direction was a large official looking sign saying "Private No Public Access". A 2.7 metre wide stone surfaced track proceeds in a southerly direction for a distance of 37 metres, passing Brinkburn Station Cottage to another field gate.

- 6.3 Beyond this gate, a 2.7 metre wide stone surfaced track continues in a south-easterly direction for a distance of 20 metres to a junction with existing Public Bridleway No 7 at a tarmac road, 35 metre south-east of Brinkburn Station Cottage (Point X).

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2023, 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 27 November 2023, Ward Hadaway made the following comments in relation to the draft report:

"Thank you for sight of the draft report in respect of the application submitted by Mr Simon McClurey - Rutkiewicz to add alleged bridleway No 33 and alleged bridleway no 42 to the Definitive Map and Statement as a public bridleway ("the Proposal").

"We note the recommendation that the Council's Right of Way Committee agrees that there is sufficient evidence to indicate that public bridleway rights have been reasonably alleged to exist over the route V1 -V-W-X.

"We make the following comments in respect of the draft Report and would be grateful if these could be considered as part of the consideration of the Proposal.

"Notwithstanding the comments in the Report in respect of R v Secretary of State for Wales ex parte Emery we nevertheless wish to draw the Committee's attention to the extensive and detailed evidence set out in our initial response and accompanying witness statements, and reiterate the points made therein. It remains our view that our response and the witness statements submitted detail an extensive history of actions which demonstrate a clear lack of intention to dedicate the proposed route as a public right of way, including (but not limited to) the erection of signage and the locking of gates across the route.

“The above comments are made without prejudice to our primary submission, set out in paragraphs 3.9 and 3.12 of our initial response, that an uninterrupted 20 year period of use cannot be established due to the fact that the public right to use the proposed route appears to have been first brought into question prior to the deposit of the s31(6) Statement by the locking of gates across the proposed route.

“We also note that the Report appears to attribute weight to the consultation responses provided by both Rothbury and Brinkburn Parish Councils. However, the response from Rothbury Parish Council amounts only to stating their support of the creation of a bridleway, providing no evidence of any basis for this. The Brinkburn Parish Council response does allege continual public use since 1963, however it again provides no evidence for this nor any details of the extent of use during the relevant 20 year period. As such it is our view that the comments of the Councils should not carry any weight in determining the matter.

“The Report further states at paragraph 8.5 that "there is a strong suggestion that other users for the period January 1978 to January 1998 do exist" however any decision by the Council must be based on the actual user evidence provided and not on speculation as to what other user may be alleged to have occurred.

“The Council further comments at paragraph 8.8 of the Report that "it is not clear that Jack Carr, Michael Charleton or Mr and Mrs Taylor has any authority to give permission for anyone to use the route", however, it remains our Client's view that the tenants were able in such circumstances to stand in place of the landowner and provide such permission.

“We would also note that Council Officers have previously acknowledged that use of the route is on a permissive basis, and enclose an email which includes extracts of comments made by Tony Derbyshire, Northumberland County Council Area Countryside Officer, to this effect.

“As a final comment, please can you ensure that all witness statements are fully redacted such that personal address details are also redacted.”

By email, on 12 July 2010, Ted Liddle sent the following email to Tracy Hall, at Northumberland Estates, quoting a consultation response provided by Tony Derbyshire, of Northumberland County Council.

I regret to say I omitted to insert the consultation below from NCC into the main report which was a complete oversight on my part but I'm sure it isn't too late to include it. [REDACTED]

Disused Railway Track (DRT) at Rothbury - formal consultation

This is already a well liked and much used route. It has been promoted in the past for cyclists (which you know about, and the agreement has probably lapsed by now), and more recently as the official route of St. Oswald's Way, for pedestrians. However current access is only on a permissive basis, and the route would benefit from a more formal agreement.

As far as I am aware the surface of this track is fairly good in the summer, but I'm not sure how free draining it is in the winter months, or what vehicular use is made of this track by the farmers/gamekeeper etc. There used to be one or two over bridges spanning the track in places, and these were in poor condition, a possible hazard to users, but I don't know if they have been demolished or made safe.

I fully support this scheme and have no concern upon any impact on Footpath no.16, which traverses difficult terrain and is not a path easily used by all.

8. DISCUSSION

- 8.1 Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:

that a right of way, which is not shown in the Map and Statement, subsists or is reasonably alleged to subsist over land in the area to which the Map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or; subject to section 54A, a byway open to all traffic.

- 8.2 When considering an application / proposal for a modification order, Section 32 of the Highways Act 1980 provides for “any map, plan or history of the locality or other relevant document” to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.
- 8.3 The representation of a path or track on an Ordnance Survey Map is not evidence that it is a public right of way. It is only indicative of its physical existence at the time of the survey.
- 8.4 The applicant was advised that the landowner (The Northumberland Estates) had, since 1997 / 98 deposited Maps and Statements and Declarations under s31(6) of the Highways Act 1980 in order to rebut successful claims for public rights of way based on unchallenged long public usage. These deposits have no retrospective qualities but, if made correctly, would be likely to defeat applications relying on user which occurred after the first statutory declaration was received, in January 1998. Officers agree with Ward Hadaway (for the Northumberland Estates) that this would make the relevant 20 year period for the purposes of determining this application to be January 1978 to January 1998.
- 8.5 The proposal is supported by user evidence from 16 people. The applicant concentrated on gathering evidence from people who had used the route before 1998. 7 of the 16 people have indicated that they used the route either on foot and horseback or on foot and by bicycle for the full 20 year period 1978 to 1998. In addition, by combining the user evidence of Chandler with that of K Fenwick, and the user evidence of J Curry with that of J Fenwick, and the user evidence of J Rogers with that of M Rains, 3 more ‘composite’ persons cover the relevant 20 year period. As can be seen on the usergram, the frequency of use ranges from “Every few months” which we have simplified to “3 times per year” up to “daily”. Some people have described a degree of variability in their use – which is only to be expected – but the usergram lacks the necessary sophistication to reflect this. Ward-Hadaway has argued (para 4.5 of their 22/11/22 letter) that they do not believe the quantity of user evidence provided with this application is sufficient to raise a presumption of dedication. Officers can’t agree with this assessment. The application contained evidence from 16 people, 14 of whom were horse-riders and / or cyclists covering a period of use which ended more than 20 years ago. The application is supported by both parish councils and there is a strong suggestion that other users for the period January 1978 to January 1998 do

exist. Ward Hadaway has also noted that they believe the frequency of use described by users (particularly equestrian traffic) is at odds with the recollections of the Estate's staff and tenant.

- 8.6 McClurey-Rutkiewicz's application describes the alleged bridleway as starting at Wagtail Farm and finishing at Brinkburn Station. On the plan attached to his application, the route is depicted starting at the point where Mill Lane crosses the dismantled railway line (Point V) and ending at the point where Bridleway No 7 meets the Brinkburn Station Road (Point X). There is an existing alignment issue in the vicinity of Point V – the old County Road Schedules and more detailed highways maps have the U4066 road ending on the western ramp of the former bridge over the now dismantled railway. The Definitive Map depicts Public Footpath No 45 (formerly Cartington FP 16) as proceeding along a track up the eastern ramp of the former bridge over the dismantled railway and the Definitive Statement describes the footpath as "From the Wagtail Road at the former British Railways (Morpeth Branch), in a south-easterly direction ...". So, the public road ends on the western side of the (now missing) bridge over the former railway and the public footpath crossed that bridge to meet it. As the bridge no longer exists, anyone proceeding along Mill Lane (the U4066), who wishes to continue along Public Footpath No 45, presumably crosses the former railway at the current 'level crossing', immediately to the north, and continues along the track which ends at Little Mill. The last 30 metres of the tarmac track (immediately west of the former railway line) appears to have no recorded status, and nor does the 150 metre long continuation from the current 'level crossing', south-easterly, towards Wagtail Farm. This could be significant, in that a number of the user evidence providers seem to have assumed that the public road ends where the tarmac road swings east, off the dismantled railway line, towards Wagtail Farm, though it is reasonably clear that they must have used the 150 metre long section of dismantled railway line to get to this point.
- 8.7 The southern end of the application route is Point X, where existing Public Bridleway No 7 meets the U4038 road, 40 metres south-east of Brinkburn Station Cottage. The southernmost 20 metres of the application route is actually identified on the Council's List of Streets as being part of the U4038 road (the U4038 terminating at a gate, 20 metres south-east of Brinkburn Station Cottage). This 20 metre long section is the subject of a separate report (alleged Byway Open to All Traffic No 26 (Parish of Brinkburn) which considers the status of the U4038 as a whole).
- 8.8 Whilst everyone seems to have encountered some other people using the route on occasions when they were using it, three people (K Davidson, S Laidlaw and J Fenwick) have also indicated that they had permission to use the route. Suzanne Laidlaw had permission from the tenants (Jack Carr at Wagtail Farm and Michael Charleton at West Raw) in 1975, as she rode Mr Carr's ponies from Wagtail Farm. Kenneth Davidson says he was given permission by Michael Charleton, around 1984. James Fenwick says he was given permission by the tenants, Mr & Mrs Taylor, in 1983. In paragraph 4.6 of their 22/11/22 letter, Ward Hadaway discuss the "as of right" topic. They had, similarly, identified that three of the users had indicated that they had used the route with the permission of one or more of the tenant farmers. This is undoubtedly a complicating factor but, just from the user evidence forms, it isn't clear what the nature of this permission was. There may have been an explicit request for permission to use the route indefinitely, or just that one time that particular user was encountered, they might have asked "Is it OK if I ride along the line?" Or it might, simply, have been a passing nod to the farmer,

who acknowledged the user's presence with a friendly wave back. As Ward Hadaway pointed out in paragraph 1.5 of their letter, the tenant farmers themselves use the route with the permission of The Northumberland Estates – the former railway line is not part of their tenancies. On that basis it is far from clear that Jack Carr or Michael Charleton or Mr & Mrs Taylor had any authority to give permission for anyone to use the route. Commenting on the draft report, Ward Hadaway stated that "it remains our client's view that the tenants were able in such circumstances to stand in place of the landowner and provide such permission." They can argue that position, but it is far from clear that this is the case. Carr, Charleton and the Taylors were not tenants of the railway line, so what authority did they have?

- 8.9 The Taylors' tenancy (now, at least) only appears to include the most westerly 460 metres or so of the alleged bridleway, so most of the route (around 2870 metres) would not be covered by their permission. Suzanne Laidlaw's permission was given in 1975, three years before the relevant period. It is not clear what the nature of this permission was – was it given, just for the purpose of riding the ponies - or whether she was still riding Mr Carr's ponies during any part of the relevant period. Kenneth Davidson's and James Fenwick's permissions do appear to have been given during the relevant 20 year period. On that basis, it may be that Kenneth Davidson and James Fenwick were not using the whole route as of right, with at least part of it, for at least some of the relevant period, being used with the permission of a tenant.
- 8.10 When seeking to claim a 'new' public right of way, on the basis of presumed dedication, it is necessary for the public use to have been without secrecy, without force and without permission. If the majority of use was taking place during the dead of night, so a vigilant landowner might have no idea it was taking place, that use wouldn't usually qualify towards establishing a public right of way. Similarly, if the landowner was taking steps to prevent access by fencing the route off or by locking gates, but users kept removing the fence or breaking the locks, then that use wouldn't usually qualify. And if the only people using a route were people who had been given express permission to do so, from the landowner, then that use wouldn't count, either (they weren't using it by virtue of an acquired right, they were there because they had the landowner's permission to use it).
- 8.11 Although McClurey-Rutkiewicz's application seeks to record a public bridleway, three of the people completing user evidence forms have indicated that they believe the route has a higher status (namely, restricted byway). The documentary evidence, available, provides little in the way of assistance and none of these three users has set out why they think the route might be more than just a public bridleway, except for the fact that Jean Curry appears to have learned to drive using this route. Some people might be arguing for a public vehicular right of way because they know cars or horse drawn vehicles have used the route in the past, but the user evidence currently available does not support more than public bridleway rights.
- 8.12 Based upon the historical map evidence, information from path users and Brinkburn Parish Council's consultation response, it appears that the application route was a functioning railway until 1963. There is no suggestion that the public were walking, riding or cycling along the route whilst it was still a railway. If they had been, anyone trespassing along the railway would have been committing a criminal offence (not merely a civil trespass against the landowner) and such use could not have contributed towards establishing a

public right of way. Once the railway had closed, it seems it did not take long for the public to begin walking, riding and cycling along the route.

- 8.13 The most westerly 1450 metres of the alleged bridleway follows the route of St Oswald's Way, a 97 mile long-distance walking route between Heavenfield (near Hexham) and Holy Island. This section of the path appears to be permissive – since it doesn't follow an existing recorded public right of way. At a point approximately 200 metres north-west of Point W, St Oswald's Way leaves the railway, and follows Public Footpath No 45 on a route slightly further to the north-east. St Oswald's Way appears to have opened in 2006, so after the relevant 1978-1998 20 year period. The background information supplied by Ward Hadaway, in relation to negotiations with Sustrans, around 1998, with regard to a possible cycleway, and dealings with Northumberland County Council, from 2006 onwards, in relation to St Oswald's Way (and the works and signage associated with this Trail), is all useful, but falls outside the key period January 1978 – January 1998.
- 8.14 None of the user evidence providers claim to have been prevented from using the route, during the period January 1978 to January 1998, though 3 of the evidence providers have acknowledged having been given permission to use the route.
- 8.15 No user evidence providers have acknowledged the existence of any locked gates, private signs or other challenges of their right to use the route, during the period January 1978 to January 1998. Suzanne Laidlaw does mention gates that were sometimes locked, but does not give any approximate dates for this. The other users who have mentioned gates have generally stressed that these were never locked. Ann Foggin says she was told by the farmer – Mr Charleton at West Raw – that the way was not public, but she doesn't say when this was. By contrast, Ward Hadaway has asserted, supported by the witness statements provided by a tenant and some past and present employees of the Northumberland Estates, that there have been locked gates across the route. It is their understanding that gates were first erected in the early 1970s, shortly after the former railway line was transferred back to the Northumberland Estates in 1970, and the gates started to be locked not long after they were installed. Stephen Mills, the former gamekeeper, has indicated that when he took up his position, in 1989, the gates were locked the majority of the time and Michael Charleton has indicated the gates were often locked. There is clearly a conflict between some users asserting that no gates existed and the Estate arguing that there were gates from a very early period, and that these gates were routinely locked. There is a similar conflict in relation to past signage which might have challenged the public's right to use the route.
- 8.16 In *R v Secretary of State for Wales, ex parte Emery* 1998 (Court of Appeal) it was held that, in determining, for the purposes of s.53(3)(c)(i) of the Wildlife and Countryside Act 1981, whether a public right of way was reasonably alleged to subsist over land, the question to be considered by the local authority was whether the evidence produced by the claimant together with all the other relevant available evidence showed that it was reasonable to allege a public right of way. If the evidence from witnesses as to user was conflicting but, reasonably accepting one side and reasonably rejecting the other, the right of way would be shown to exist, it was reasonable to allege such a right. In short, where there is a conflict of credible evidence, if the positive evidence in favour of a right of way satisfies the reasonably alleged test then, unless there is some incontrovertible and powerful evidence set against it, the route should be included in a Definitive Modification Order. It is accepted that

the witness statements supplied by Ward Hadaway, on behalf of Northumberland Estates, contain reasonably detailed rebuttals. Although this rebuttal evidence was certainly credible, it would be a massive stretch to argue that any of it was incontrovertible.

- 8.17 Commenting on the draft report, Ward Hadaway has argued that “any decision by the Council must be based on the actual user evidence provided and not on speculation as to what other user may be alleged to have occurred.” That is absolutely correct – any decision can only be based upon the evidence which is available. The point about additional users being likely to exist, for this path, was made primarily to address Ward Hadaway’s observation (in 4.5.1 of their 25 November 2012 letter) that the quantum of evidence in support of the public bridleway (16 user evidence forms from a combined Rothbury and Brinkburn parishes 2011 population of 2329 people) was inadequate. Since the applicant was aware that they would probably need to prove use during the period 1978 to 1998 (given the landowners’ deposits under section 31(6) Highways Act 1980), the current size of the local population isn’t particularly relevant. Given that the likely 20 year qualifying period for public use ended 25 years ago, and ‘users’ would still need to be alive and still live in the Rothbury area (or have some connection to Rothbury), 16 user evidence forms should be considered a reasonable showing.
- 8.18 Commenting, further, on the draft report, Ward Hadaway has observed that Council officers had previously acknowledged that use of the route was on a permissive basis. To support this they enclosed a copy of a 2010 email to them, from Ted Liddle, which enclosed comments he had received from Northumberland County Council’s Area Countryside Officer, Tony Derbyshire. Mr Derbyshire’s comments would have been based on the fact that the route was not, then, a recorded public right of way and the fact that the landowner was currently allowing a certain amount of public use to take place (St Oswald’s Way). But this all relates to a period after the one currently under consideration (i.e. 1978 – 1998). This type of information is only likely to be significant if the section 31(6) deposits were set aside for some reason, so that evidence of more recent use and acts of rebuttal might have a bearing.
- 8.19 An Inspector, appointed by the Secretary of State to determine a Definitive Map Modification Order that has attracted objections, must balance all the conflicting evidence and decide, on a balance of probabilities, whether or not the alleged rights exist. This is not, generally, an easy task. In effect, they must determine which version of events seems to be the most credible. This is the Inspector’s role – it is not the County Council’s. The Council’s role is, essentially, to determine whether or not there is a case to answer.
- 8.20 Based on the user evidence, the consultation responses from the two parish councils and in the absence of any evidence of any clear and definite acts of rebuttal prior to January 1998, it would be appropriate to conclude that public bridleway rights have been reasonably alleged to exist over the route.
- 8.21 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. The user evidence providers have identified a path width mostly in the range 3 to 6 metres. From measurements taken on my site visit, in October 2022, the current width of the track that physically exists on the ground, now, would appear to be 2.5 to 3 metres, typically with grassy margins of a further metre on both sides. The only exceptions being the points where the track crosses three minor water courses in the middle section of the route,

where the corridor width drops briefly to around 4 metres. If the path is included in a future Definitive Map Modification Order, it would seem appropriate to identify it with a width ranging from 4 to 5 metres.

- 8.22 When a site visit was carried out, in October 2022, there were 5 field gates along the route. Three of these were on the St Oswald's Way section, and these three had either a step stile, kissing gate or standard pedestrian gate alongside. Not all of these gates appear to have been acknowledged by users and both Samantha Davidson and Robin Murray specifically stated that there were no gates across the route, initially. By contrast, Mr Charleton has indicated that he believes gates were erected in the early 1970s (and have been maintained subsequently) at 3 locations (A+B+C - identified on a plan enclosed with this report) with a 4th gate being added near Brinkburn Cottage (Point D) around 2010. H doesn't mention the fifth gate, immediately south-west of Wagtail Farm. Mr Mills (who worked in the immediate area from 1989 to 2010, recalls the gates at points A and B on Mr Charleton's plan. Ultimately, it may be determined that some (possibly, even, all) of the current gates weren't in place during the relevant 20 year period (1978 to 1998) and any that weren't would not be considered lawful limitations to public use. That said, cases might be made for each of the present gates being necessary for stock control, and as such they could be authorised by Northumberland County Council.
- 8.23 If a public right of way is, ultimately, determined to exist over this route on the basis of presumed dedication, then it is unlikely that it will be one which is maintainable at public expense. Sections 36(1) to 36(5) of the Highways Act 1980 set out the mechanisms by which highways might be considered maintainable at public expense. As a rule, footpaths and bridleways established on the basis of public user after 1959 will not qualify.

9. CONCLUSION

- 9.1 In the light of the evidence submitted, it appears that there is sufficient evidence to justify that public bridleway rights have been reasonably alleged to exist over the claimed route.

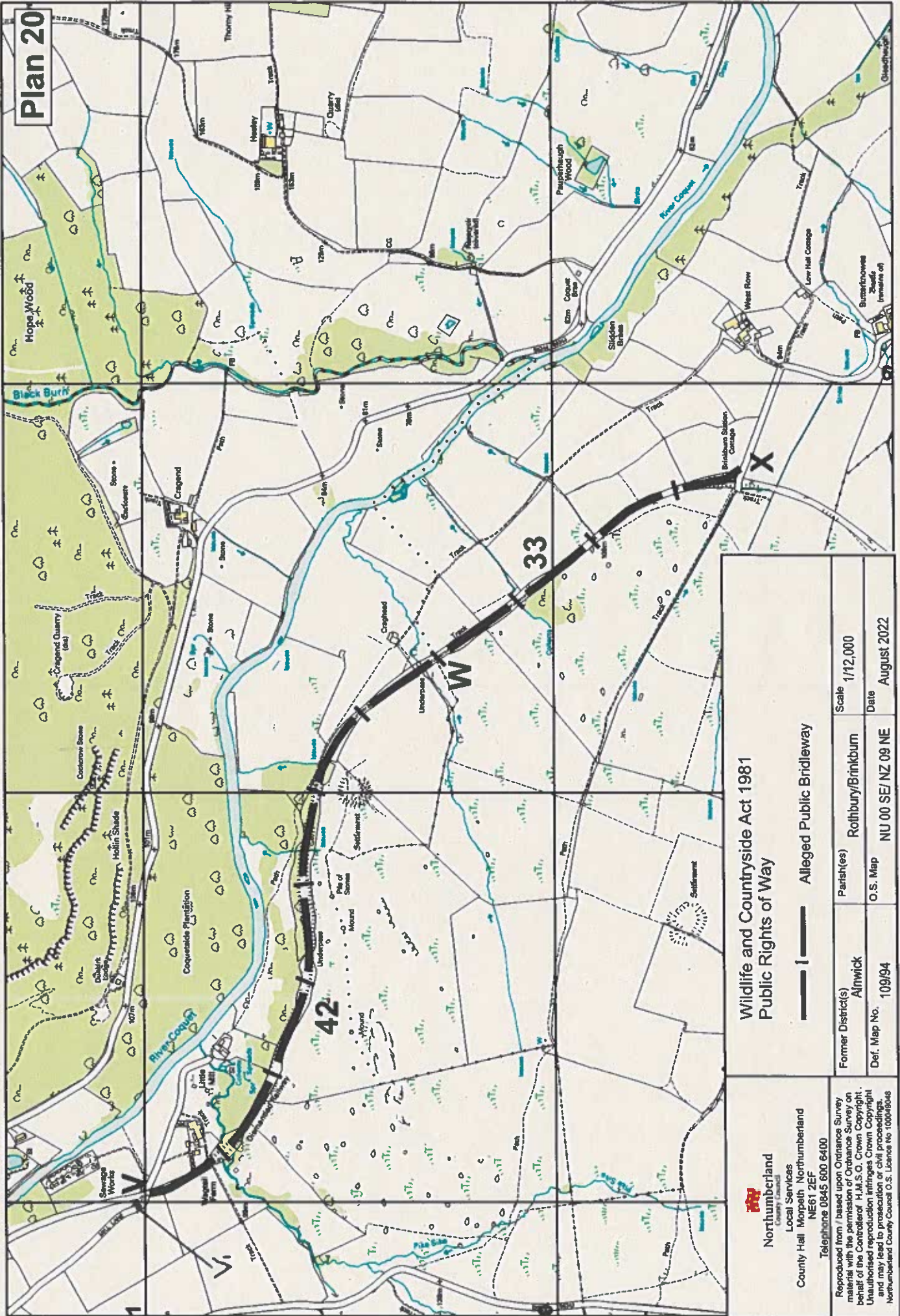
BACKGROUND PAPERS

Local Services Group File: 107/033z & 130/042z

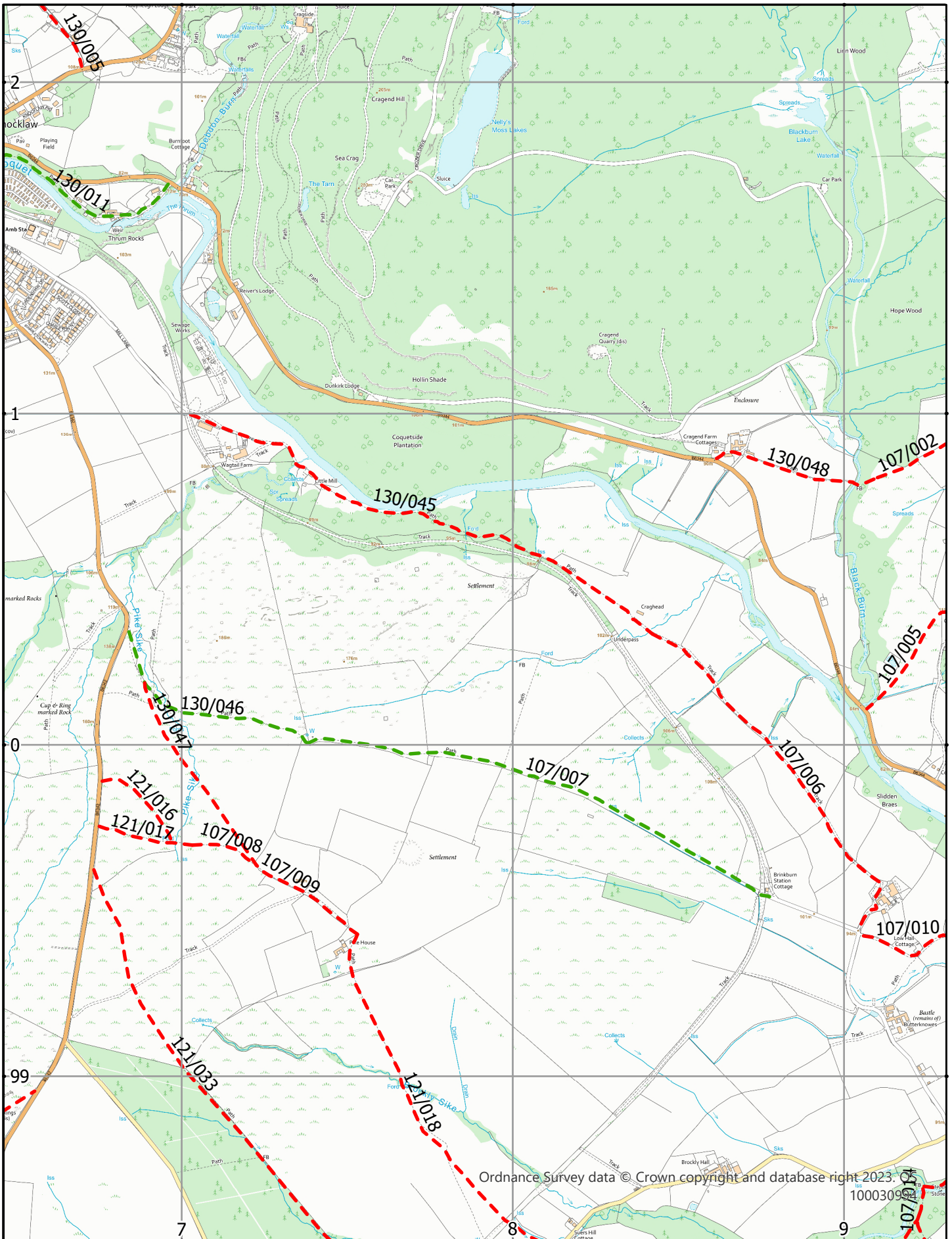
Report Author Alex Bell – Definitive Map Officer

(01670) 624133

Alex.Bell@Northumberland.gov.uk



<p>Northumberland County Council</p> <p>Local Services County Hall Morpeth Northumberland NE61 2EF Telephone 0845 600 6400</p> <p><small>Reproduced from / based upon Ordnance Survey materials with the permission of Ordnance Survey on behalf of the Controller. H.M.S.O. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution if civil proceedings are taken. Northumberland County Council O.S. Licence No. 10000848</small></p>	<p>Wildlife and Countryside Act 1981</p> <p>Public Rights of Way</p> <p>— — Alleged Public Bridleway</p>		<p>Scale 1/12,000</p>
	<p>Former District(s) Alnwick</p> <p>Def. Map No. 109/94</p>	<p>Parish(es) Rothbury/Brinkburn</p> <p>O.S. Map NU 00 SE/ NZ 09 NE</p>	<p>Date August 2022</p>



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Northumberland
County Council

County Hall, Morpeth, NE61 2EF
Contact: Highway Search Team

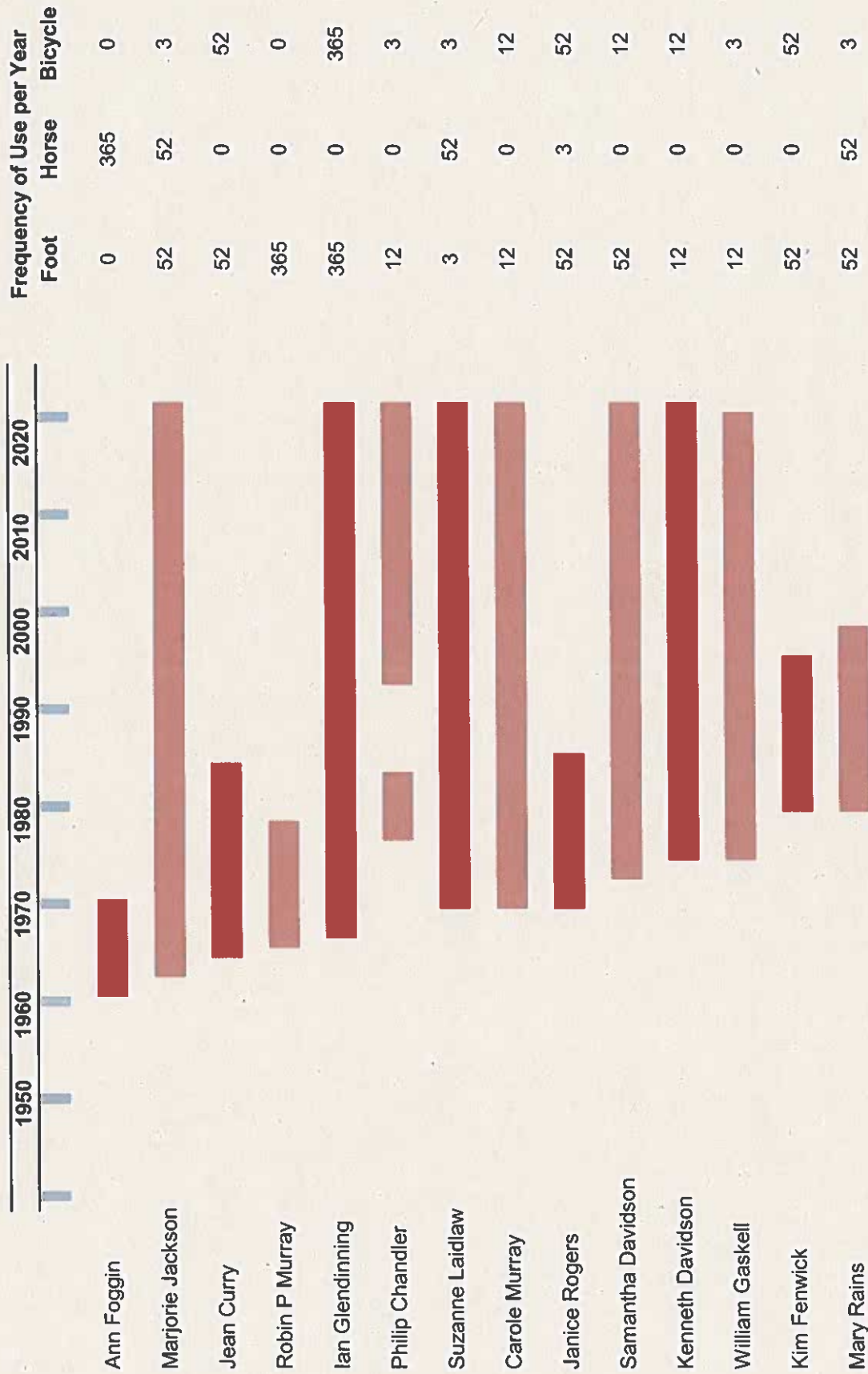
Email: Highwaysearch@northumberland.gov.uk

Legend

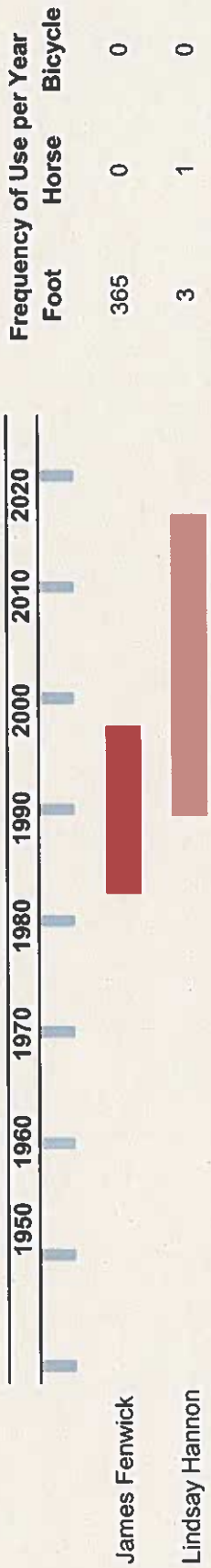
- - - Footpath
- - - Bridleway
- - - Restricted Byway
- - - Byway Open to All Traffic

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

**Usergram for Alleged Public Bridleways Nos 33 and 42
(Parishes of Brinkburn and Rothbury)**



**Usergram for Alleged Public Bridleways Nos 33 and 42
(Parishes of Brinkburn and Rothbury)**



PUBLIC RIGHTS OF WAY

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

APPLICATION FOR MODIFICATION ORDER

Former Borough/District Aldwick.....

Parish Cartington / Brinkburn..... Rights of Way No.
(on Definitive Map)

To: Director of Local Services
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

I/We Simon McCURRY - RUTKIEWICZ..... (Name)

of CLIFFSIDE, HILLSIDE, ROTHBURY, NORTHUMBERLAND..... (Address)

NE65 7YG.....

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

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

from WAGTAIL FARM, ROTHBURY.....

to BRINKBURN STATION.....

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

from

to

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

from

to


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

from

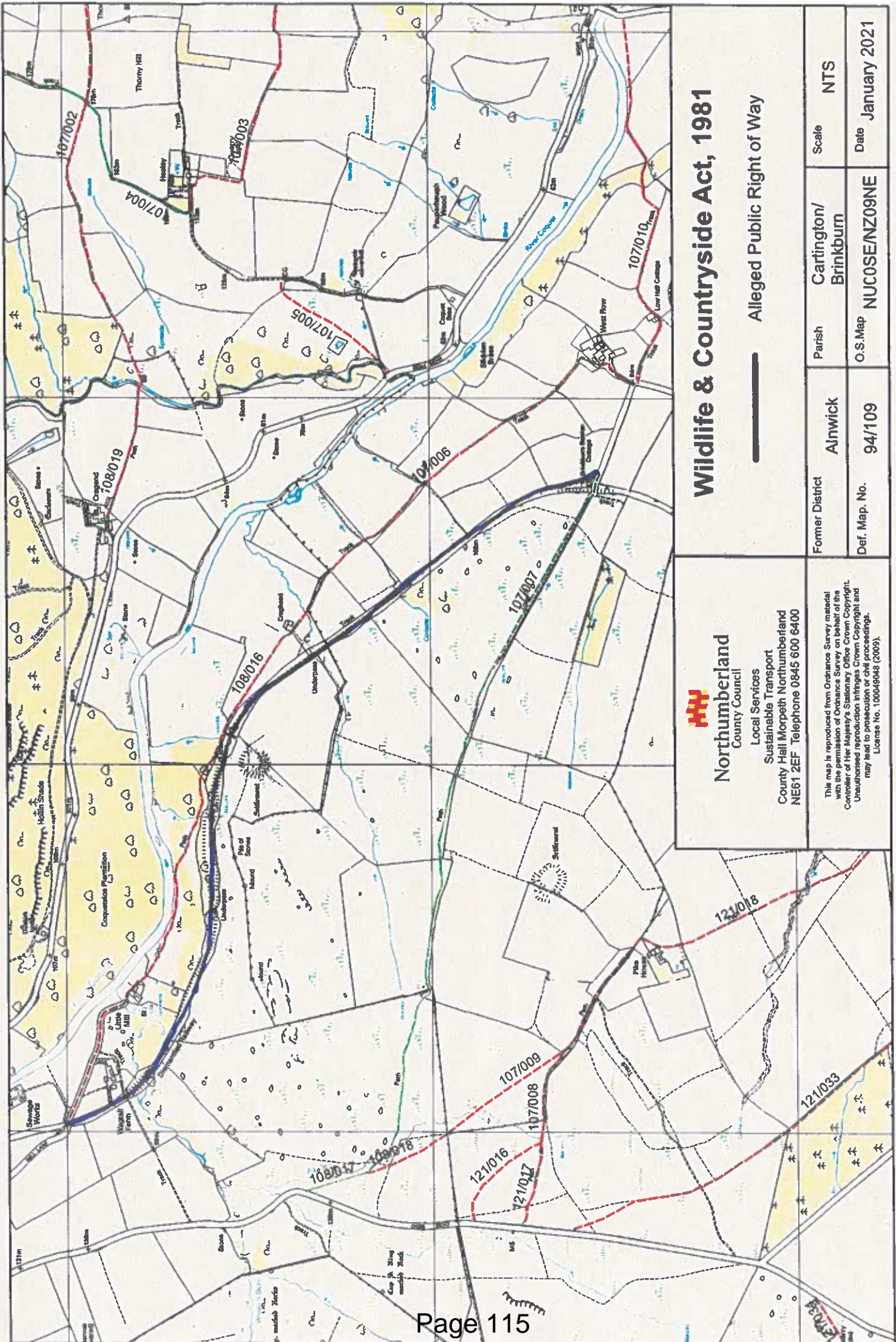
to

by providing that
as shown on the plan attached.

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

Dated 13/06/21..... Signed .....

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



Wildlife & Countryside Act, 1981

Alleged Public Right of Way

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

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Former District	Alnwick	Parish	Carlington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NUC05E/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name MRS JEAN WRAY
Address WATKINS CLOSE, STODDY LANE
..... RESBURY, ALNWICK
..... Postcode DE66 3PO
Year of Birth 18 / 06 / 54

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

1. MOUNT HEALTHY VILLAS, ROTHBURY
1965 / 1984

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

.....
.....
.....
.....

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1965 To 1984

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

AFTER 1984 MOVED TO AMURK
.....
.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot		✓				
On horseback						
By pedal cycle		✓				
By car						✓
Other [1]						

learned to drive using mt tran wagtail to
Brinkburn

4. Has the application route always followed the same course?

Yes

Don't know

No

If no – how and when was the route altered?

.....
.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

.....
.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

gravel
earth

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

c. Other barriers [state what they were and location, how long they were in place and show on your map]

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No Yes

If yes, please give full details, including who gave the permission, why and when

Driving
.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]
[If you wish to provide a separate sketch map, please do so and attach to this statement]

.....
.....
.....
.....
.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name:

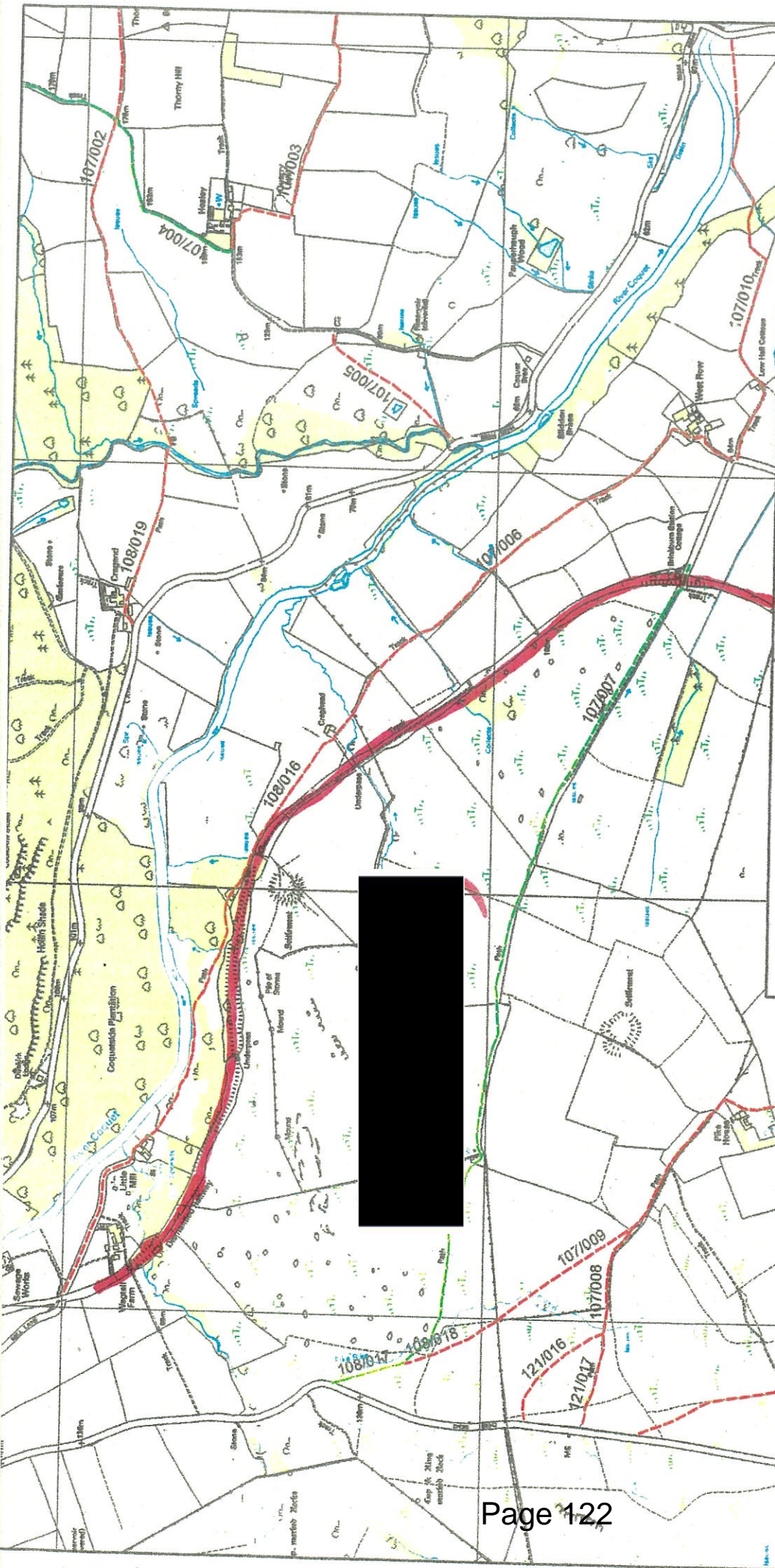
JEAN ROTH WOLBY

Date:

5/2/21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way



**Northumberland
County Council**
Local Services
Sustainable Transport
County Hall Morpeth Northumberland
NE51 2EF Telephone 0845 600 6400

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Former District	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name Mr Kim Fenwick

Address 51 Windsor Gardens

Alnwick

Postcode NE 66 1LP

Year of Birth 5 Nov 1975

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

Armadia Wagtail Road, Corbbury

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

from Wagtail Farm to Brinkburn station

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1980 To 1995

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

..... 1997 to present day. I joined the RAF
 and moved to Alnwick and very rarely
 visited Northwy

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot		✓				
On horseback						
By pedal cycle		✓				
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

I believe the width is approximately
 10m wide.

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

I believe it is mainly earth and
grass

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

.....

How long were they in place?

.....

b. Gates [state locations, indicate whether locked – and when - and show on your map]

.....

c. Other barriers [state what they were and location, how long they were in place and show on your map]

.....

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

The route was regularly used by others
walking and on bikes

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

.....
During the time I used the carriage way
I was never told that I couldn't
use it. it was a great for cycling
and walking along.
.....
.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?


No Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth) 

Print full name:

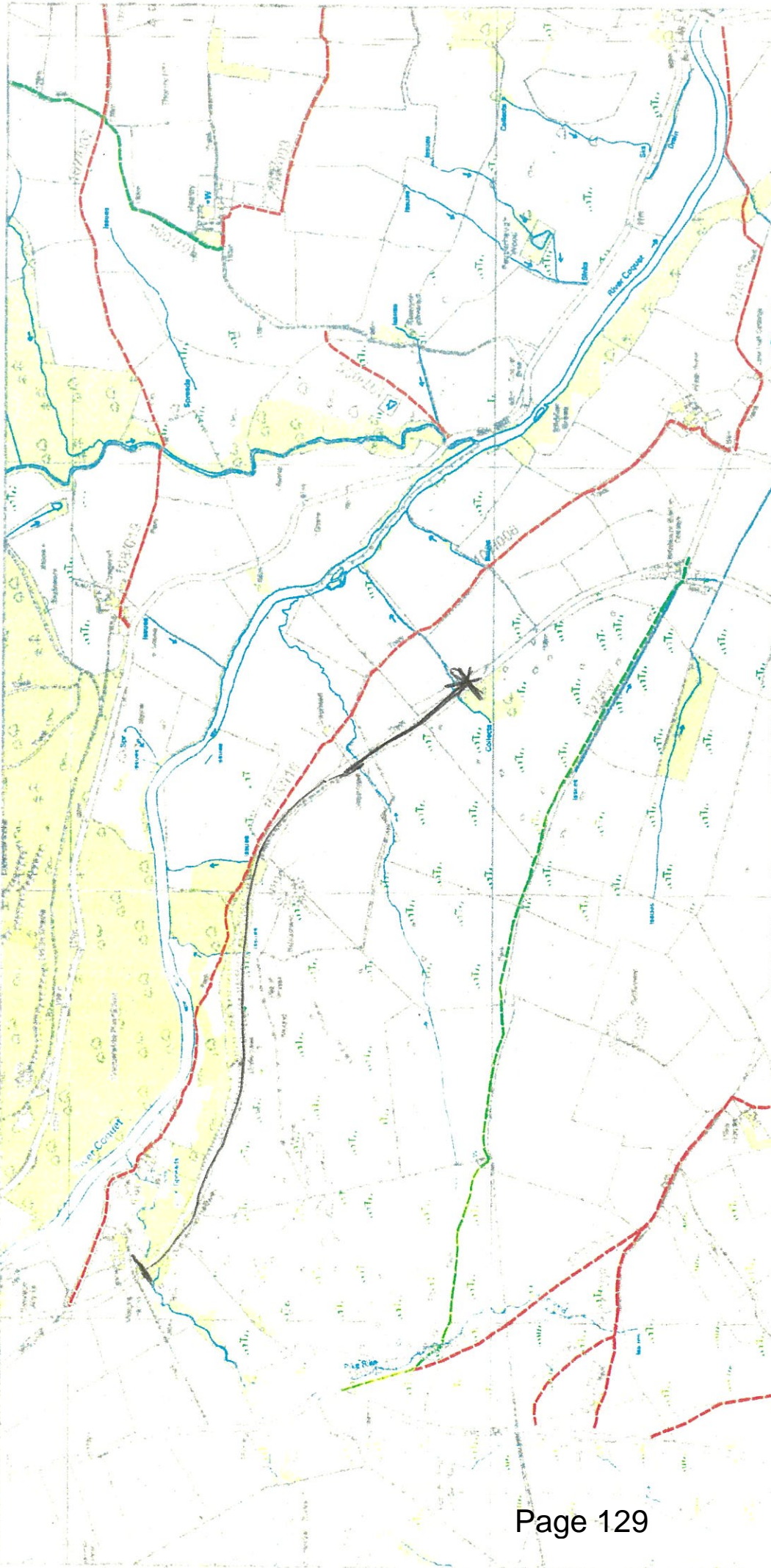
Wm Fenwick

Date:

16 APR 21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981



Northumberland
County Council

Central Services
County Council Offices, 100, Northumberland
Street, Newcastle, NE1 7AF. Telephone: 0275 262 247

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— Alleged Public Right of Way

Parish District:	Alnwick	Pages:	Carlington/ Brambora	Scale:	NTS
Dist. Map. No.:	94/139	OS. Map:	NU00SE/NZ09NE	Date:	January 2021

R. H. Finlayson 16 APR 21

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name L. Hannon

Address Town hall flat, Newbrough

Postcode NE47 5AR

Year of Birth ~~1978~~ 2/1/78

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

West lane, Longframlington 92-96, Wooperton hall
cottages, 96-97, Lookout farm 97-99, Marpeth - 91-92

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

through the industrial estate at Rotherbury
and on to the old railway track. I use

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1990 To 2016

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot				✓		
On horseback					✓	
By pedal cycle						
By car						
Other []						

4. Has the application route always followed the same course?

Yes

Don't know

No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

4/5 metres

.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

Gravel, old railway line

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

.....

How long were they in place?

.....

b. Gates [state locations, indicate whether locked – and when - and show on your map]

Yes, to access line at Rothbury end, one other opposite Clayhead I think.

c. Other barriers [state what they were and location, how long they were in place and show on your map]

.....

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

many other walkers, dog walkers other trails over the years

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

It has been used as such for years, seemingly long before I used it. My parents & older brother walked it also.

.....
.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):

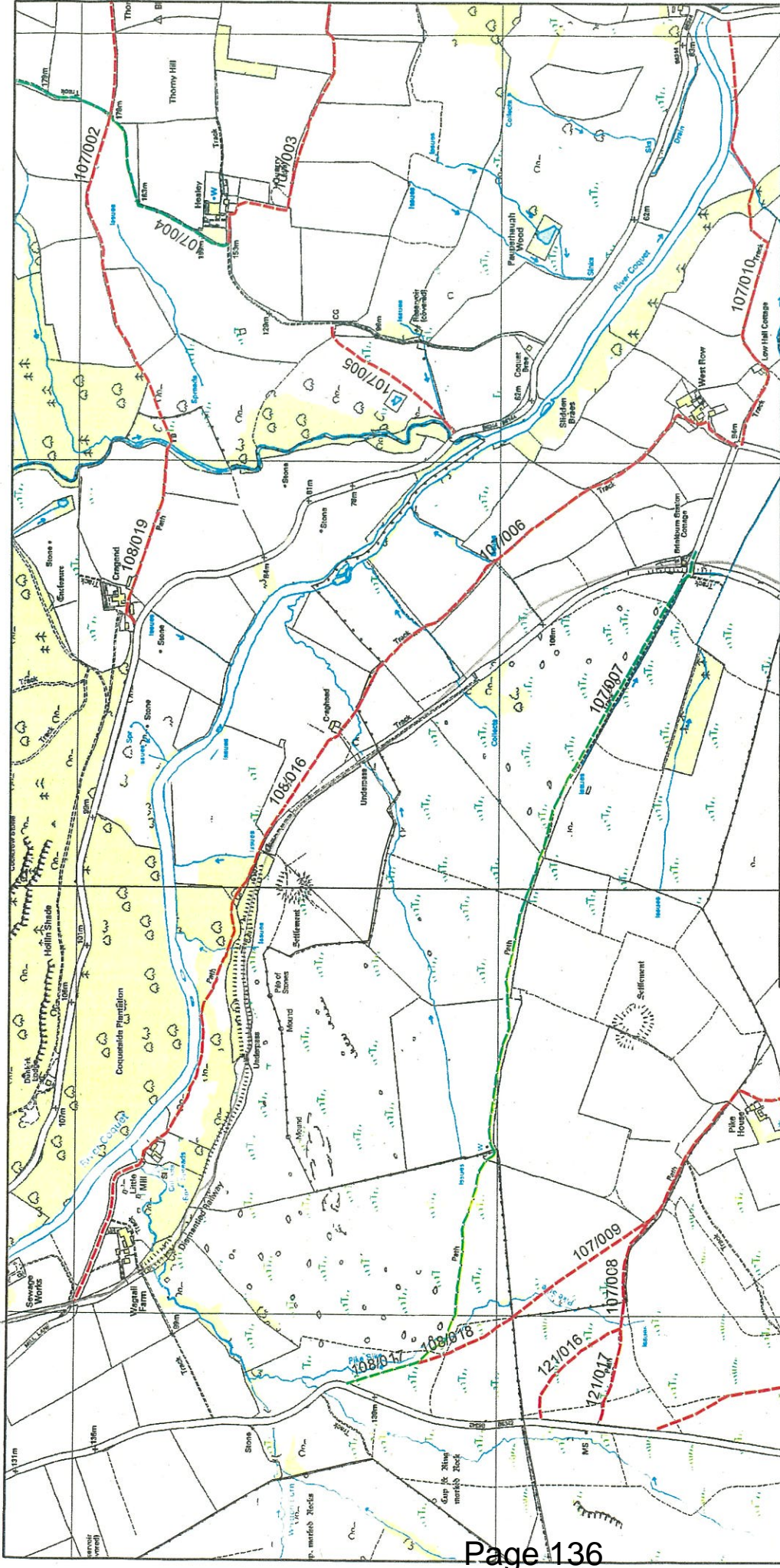
[REDACTED]

Print full name: LINDSAY HANNON

Date: 5/3/21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way



Local Services
Sustainable Transport
County Hall Morpeth Northumberland
NE61 2EF Telephone 0145 600 6400

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Former District	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name JANICE ROGERS

Address KADENSA THROPTON

..... MORPETH

..... NORTHUMBRIA

Postcode NE65 7LT

Year of Birth 1957

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

..... MOUNT HAGEN VILLAGES, GARLEIGH RD, ROXBURY NE65 7RF

..... 1960 TO 1985

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

..... STARTING AT WAGTAIL FARM TAKE UP THE OLD RAILWAY-
..... LINE WITH WAGTAIL FARM ON YOUR LEFT FOLLOW THE
..... OLD TRACK TO BRINKBURN. BESIDE BRINKBURN STATION COTTAGE
..... TAKE THE ROAD PAST BUTTERKNIVES AND JOIN UP WITH ROAD 107/007

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1970 To 1985

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

No

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot		✓				
On horseback				✓		
By pedal cycle		✓				
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

APPROXIMATELY 20 FT

.....

.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

..... GRASS & GRAVEL

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

..... NO

How long were they in place?

.....

b. Gates [state locations, indicate whether locked – and when - and show on your map]

..... YES AT THE BANKSWAN SIDE OF THE CANYON, UNLOCKED, USED TO KEEP SHEEP FROM STRAYING

c. Other barriers [state what they were and location, how long they were in place and show on your map]

.....

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

..... LOCAL PEOPLE OUT WALKING, HORSES OCCASSIONALLY, ALSO CYCLISTS

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

THE OLD RAILWAY LINE HAS ALWAYS BEEN USED FOR
PEOPLE TO TAKE WALKS, EVER SINCE I WAS A YOUNG
CHILD. IT IS AN EXCELLENT ROUTE TO EXERCISE AND
ENJOY THE COUNTRYSIDE. THERE ARE CANES TO THE
RIGHT OF THE LINE WHERE WE ALSO PLAYED AS CHILDREN.

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name:

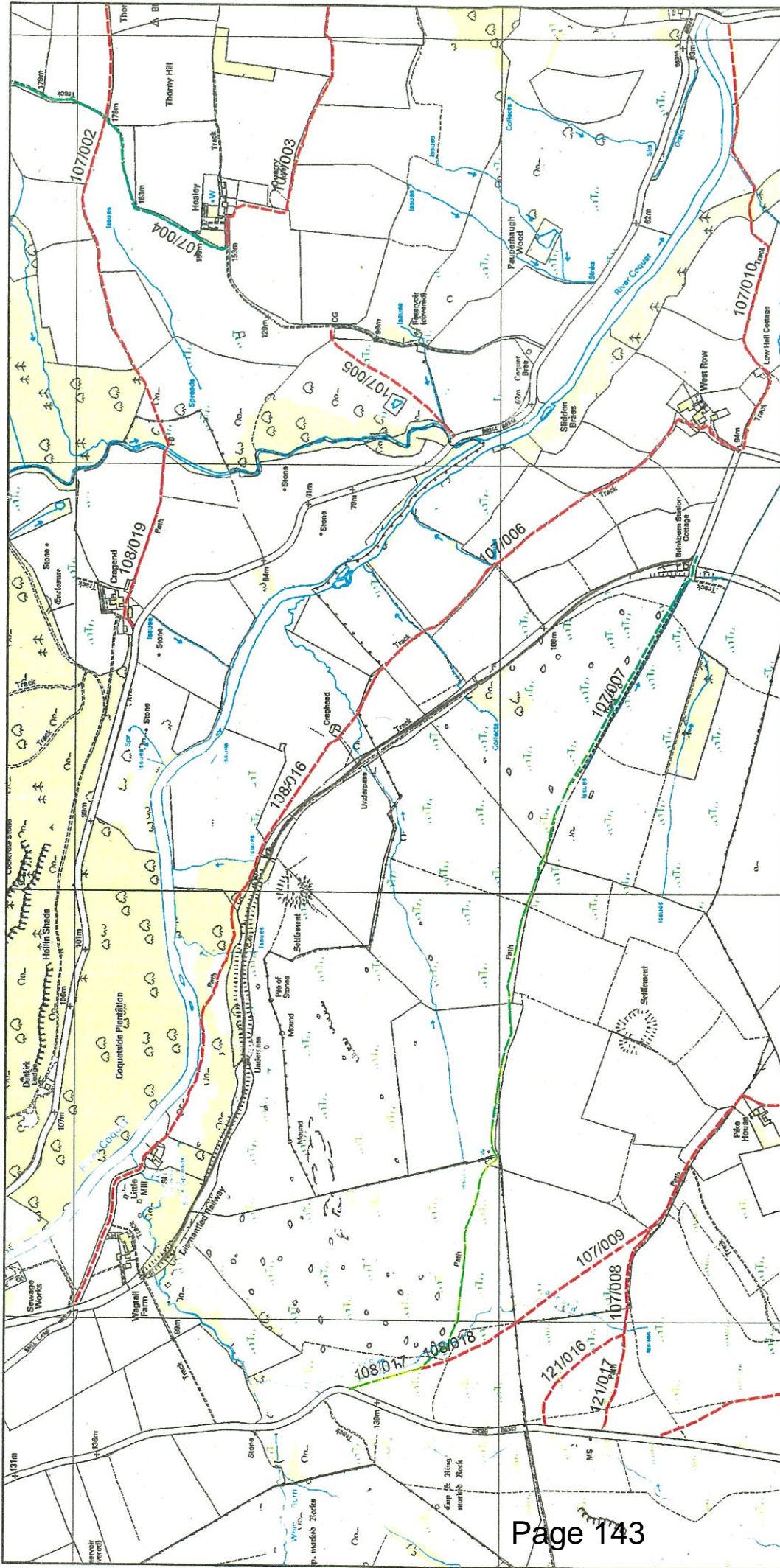
JAKE ROGERS

Date:

29TH JANUARY 2021

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way



Local Services
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Former District	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name WILLIAM M. F. GASKELL

Address 11 EMBLETON TCF THE LEE

LONGFRAWLINGTON, MORPETH

NORTHUMBERLAND Postcode NE65 8JJ

Year of Birth 1944

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

.....
.....

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

THE ROUTE OF THE DISUSED RAILWAY LINE
FROM WASTAIL FARM TO BRINKBURN STATION

.....
.....

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1975 To 2020

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot			✓			
On horseback						
By pedal cycle				✓		
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

FROM 4 TO 6 METRES

.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

ALL OF THE ABOVE
IN VARYING DEGREES

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

3 GATES UNLOCKED

c. Other barriers [state what they were and location, how long they were in place and show on your map]

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

BRINK BURN STATION 2019

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

WALKERS / CYCLISTS / PONY & TRAP

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

A FRIEND CYCLING TO HIS WORK IN ROTHBURY
2019

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

I HAVE LIVED AT MY PRESENT ADDRESS
SINCE 1975. I HAVE REGULARLY USED THE
ROUTE ON FOOT + BICYCLE. IT IS A VERY
NICE ROUTE + CORRIDOR FOR BIRDS + MAMALS.
WHY WOULD ANYONE WANT TO DENY THE PUBLIC
ACCESS.

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name: *WILLIAM F. GASKELL*

Date: *31.1.2021*

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name JAMES FENWICK

Address 8 FULLERS WALK

..... ALDWICK

..... Postcode NE66 1BW

Year of Birth 09-01-1956

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

..... ALCOCK WINGAIL ROAD

..... ROXBURY

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

.....

.....

.....

.....

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1983 To 1997

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

..... IN 1998 WE MOVED TO SCOTLAND
 FOR WORK

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot	✓					
On horseback						
By pedal cycle						
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

..... 2.6 METERS IT WAS AN DISUSED RAILWAY LINE
 SOME PARTS WERE 1.5 METERS AS THE GRASS HAS GROWN IN

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

CINDER FROM THE RAILWAY

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

YES

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

YES

c. Other barriers [state what they were and location, how long they were in place and show on your map]

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

MANY WALKERS AND CYCLISTS

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom? *MR + MRS DAYKOR THE TENANT FARMER*

b. When? *1983*

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

I THINK ALL DISUSED RAILWAY LINES
SHOULD BE MADE INTO PUBLIC RIGHT OF WAY
THE SURFACE IS THERE ALREADY TO WALK
CYCLE ON.

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):

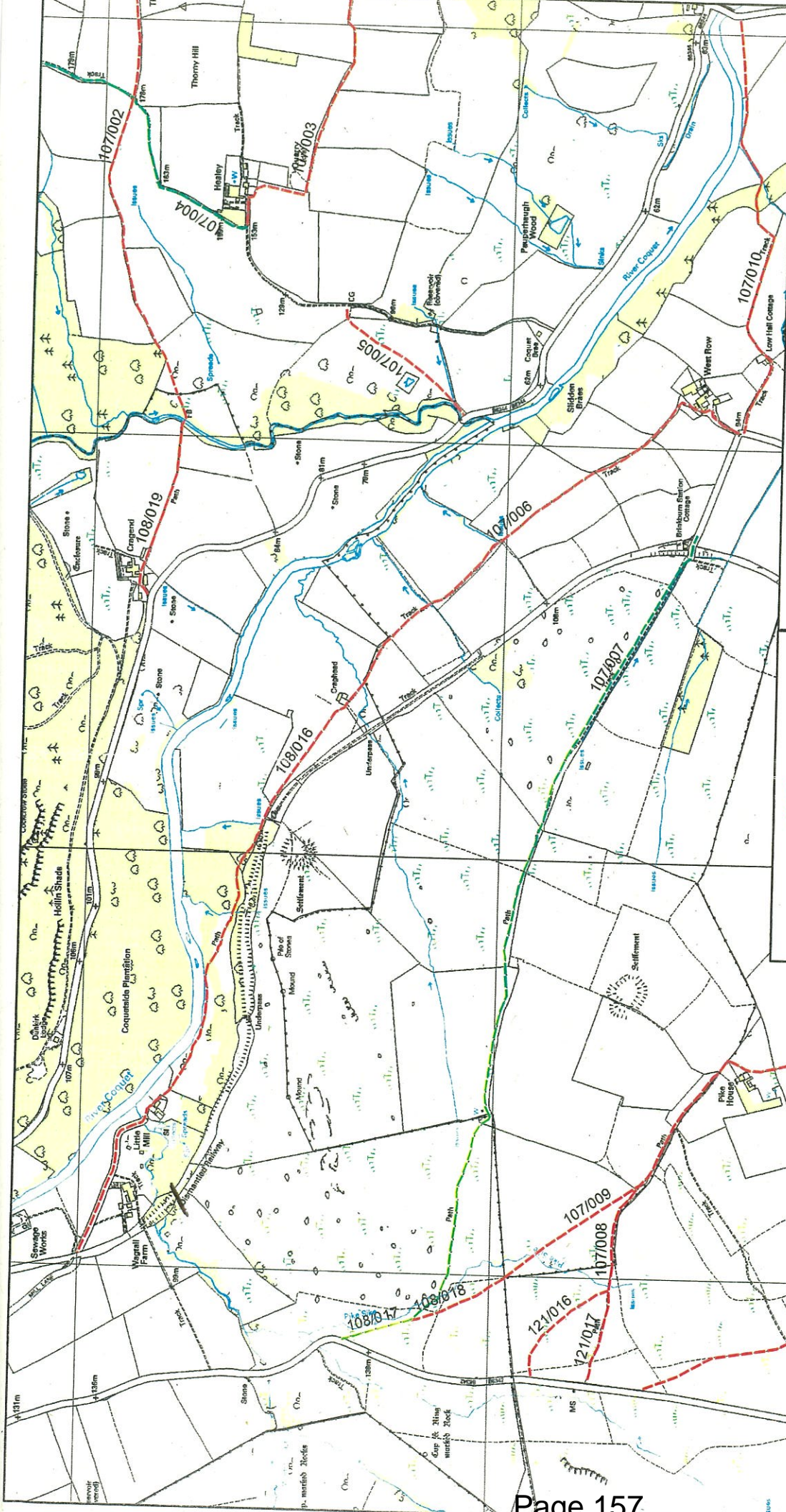


Print full name: JAMES ARTHUR FENWICK

Date: 28/1/21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way

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

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Former District	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name ROBIN P. MURRAY

Address 23 ANNYCOMBE CLOSE, ROXBURY,
MORPETH, NORTHUMBERLAND

Postcode NE65 7QF

Year of Birth 7-10-1951

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

ARCADIA, WASTAIL ROAD, ROXBURY, MORPETH,
NORTHUMBERLAND

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

I have no OS grid points, but when I was younger I
walked and played along the whole route from the
old Railway Station to Brinkburn station. I used to
collect raspberries, blackberries etc

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1966 To 1978

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

I didn't use the railway line as much once I started work in 1968, but continued to use it mainly weekends

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot	X	X	X			
On horseback						
By pedal cycle						
By car						
Other []						

In my old age I walk along the line approx 3 times per year due to poor hips.

4. Has the application route always followed the same course?

Yes

Don't know

No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

The route is the width of the old railway line when I used it, but it has become overgrown and an industrial site now takes up part of the route I used to take

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

varying - the base is mainly the foundation the railway ran on, but a lot of grass has taken over.

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

None that I remember

How long were they in place?

b. Gates [state locations, indicate whether locked - and when - and show on your map]

In later years there were two gates and they were never locked in my time

c. Other barriers [state what they were and location, how long they were in place and show on your map]

None that I remember

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes - state when and give details, including when they were present and mark their location on your map

Only signs were when it was a working railway line

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

Usually meet at least 2 or 3 people

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No Yes

If yes – please provide details

.....
Some photos from more recent times
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

.....
.....
.....
.....
.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name:

ROBERT PHILIP MURRAY

Date:

25TH JANUARY 2021

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name MARY RAINS

Address 3 CHURCH FIELDS

..... THROPTON

..... MORPETH Postcode NE65 7EB

Year of Birth 1951

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

..... LIVED IN ROTHBURY EARLY 1980'S - 1998

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

..... OLD RAILWAY LINE FROM ROTHBURY

..... INDUSTRIAL ESTATE TO BRINKBURN STATION

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

VERY FREQUENTLY
FromEARLY.....1980's..... To 1998.....

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

.....NO.....
.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot		✓				
On horseback		✓				
By pedal cycle				✓		
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....
.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

.....VARIES.....
.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

..... VARYING SURFACES

7. Have there ever been any of the following on the application route?

- a. Stiles [state locations and show on your map]

.....

How long were they in place?

.....

- b. Gates [state locations, indicate whether locked – and when - and show on your map]

..... GATE AT WAGTAIL FARM & ANOTHER ABOUT HALF WAY

- c. Other barriers [state what they were and location, how long they were in place and show on your map]

.....

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

..... WALKERS, CYCLISTS & HORSE RIDERS

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

..... I used this path extensively before
..... moving to Thropton in 1998 for
..... dog walking and horse riding, often
..... in groups of 8 or more riders
..... from Whithen Trekking centre. At that
..... time we never encountered any problems.

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):

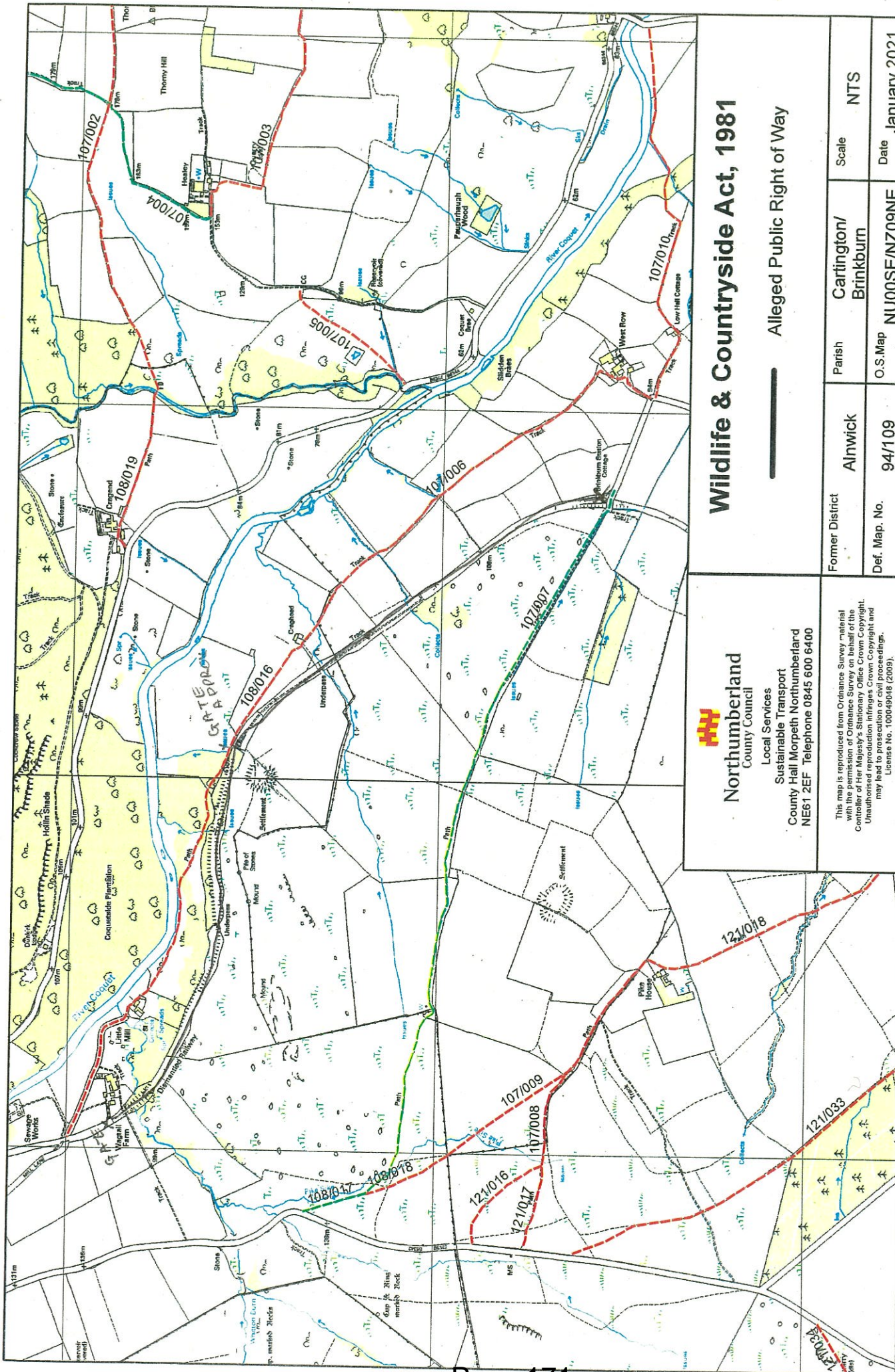


Print full name: MARY ALISON RAINS

Date: 15. 4. 21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

— Alleged Public Right of Way

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

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Former District	Alnwick	Parish	Carlington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name Ann Feggin

Address Tosson Tower Farm
Rothbury

Postcode NE65 7NW

Year of Birth 1955

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

Butterknowes Farm Longframlington
had my pony then horse along the lane for
about 12 yrs when young with friends or their
horses too

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

route runs from Brinkburn Station
village to Wagtail Farm

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1961 To 1970

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

No

.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot						
On horseback	✓	✓				
By pedal cycle						
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

In the 60's it was the width of
the railway track that was
taken up.

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

grass & earth

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

No

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

No

c. Other barriers [state what they were and location, how long they were in place and show on your map]

No

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

Other horse riders and walkers

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

grass & earth

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

No

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

No

c. Other barriers [state what they were and location, how long they were in place and show on your map]

No

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

Other horse riders and walkers

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

The farmer - Mr. Charlton West Raw

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

It would be such an asset to be able to use the old railway line as a bridle path - would not be suitable for motor vehicles. Wonderful walk for seeing world life & tourists would love a new route as well as locals.

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name:

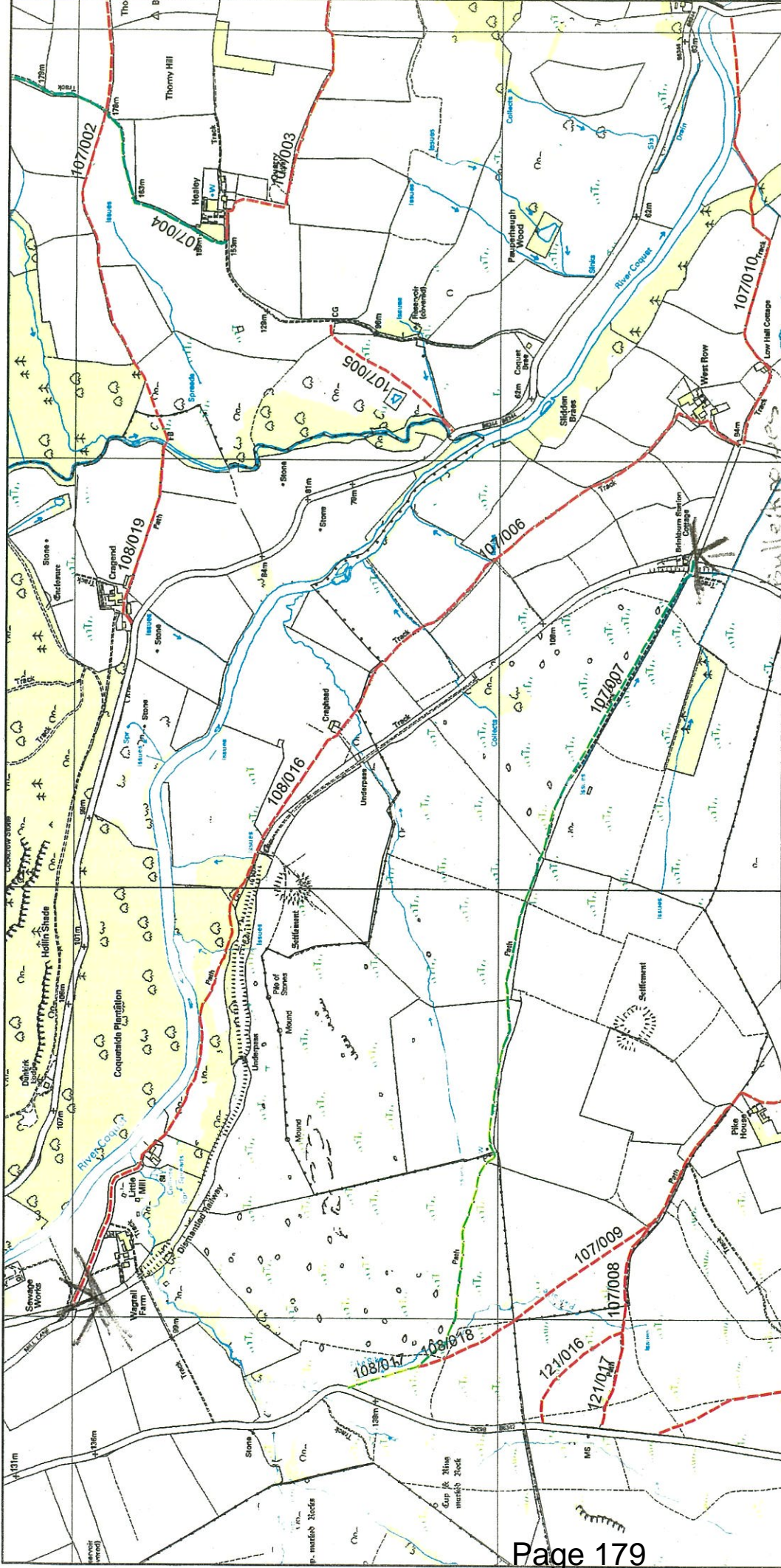
Ann Foggin

Date:

25.1.21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

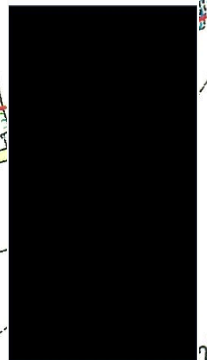
Alleged Public Right of Way



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

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Former District	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021



PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name IAN GLENDINNING

Address GLENLAW, LONGFRAM LINGTON

MORPETH

NORTHUMBERLAND Postcode NE65 8JE

Year of Birth 1951

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

No

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

From Blackburn Station to Wigtail Farm

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1967 To ONWARDS

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

No

.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot	✓	✓	✓			
On horseback						
By pedal cycle	✓	✓	✓			
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

10 yards Plus

.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

Shale

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

and Gates at each end of Farms property
and one near Craighed Cottage

c. Other barriers [state what they were and location, how long they were in place and show on your map]

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes – state when and give details, including when they were present and mark their location on your map

Sign on Fence at Brinkburn Station

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

People walking, cycling

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

ears ago I went to a meeting I think by Sustrans about a cycle tracks around Rothbury, one was to Thrapston via the riverside, can't remember the second, but the third was from Wagtail Farm to Brinkburn Station. Maybe the parish council will have records of these meetings. The meeting was in the parish Hall

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):

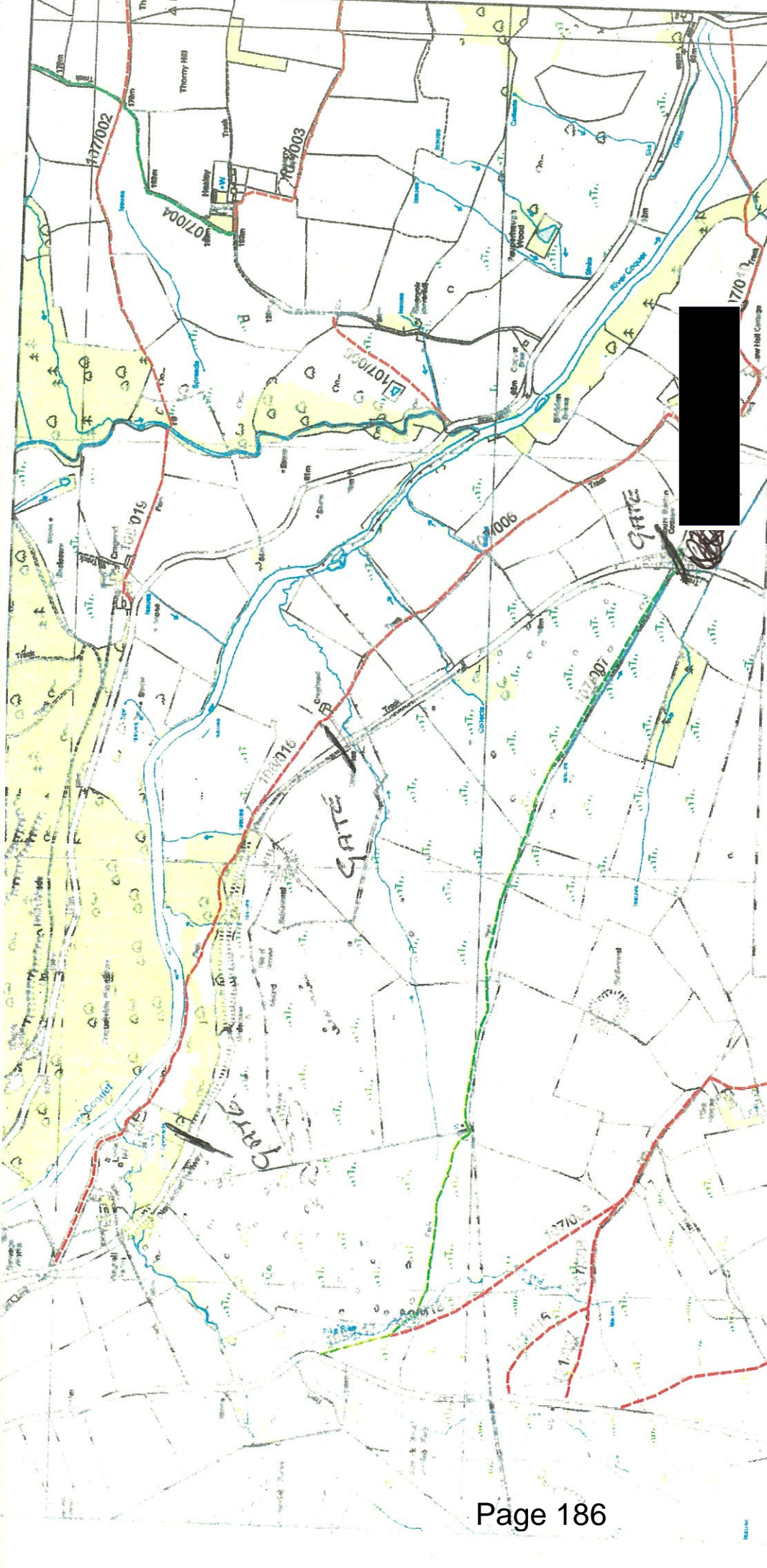


Print full name: **IAN GLENDINNING**

Date: **1 - 2 - 21**

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way



Northumberland County Council
 Local Services
 Sticks and a Trap
 County Hall, Northumberland
 NE6 2BN Telephone 01665 455140

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Form or District:	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name K.J. DAVIDSON

Address 37 Jubilee crescent

ROTHBURY

Postcode NE65 7QZ

Year of Birth 04/04/1971

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

GATEHOUSE, GARLEIGH ROAD, ROTHBURY

NE65 7RB

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

From just past the factories along the industrial estate ROTHBURY
Into the cutting along to the WAGEHILL FARM.
Then along ^{to the} (still the old railway line) BRINKBURN STATION.

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From *1975* To *2021*

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

*The old railway line is there and every day use is not feasible
I have used the route to Emberton Terrace where my grand mother lived*

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot			✓			
On horseback						
By pedal cycle			✓			
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....
.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

4m it is an old railway line

.....
.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

Gravel
.....
.....

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

stiles and GATES TO separate the two farms that are
on the route.

How long were they in place?

they have been there as long as I can remember.

b. Gates [state locations, indicate whether locked – and when - and show on your map]

GATES TO separate farms and to steer stock onto the hill
from the west farm.

c. Other barriers [state what they were and location, how long they were in place and show on your map]

~~KISSING GATE~~

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

There are many people that use the old railway including all of
my family. MOTHER FATHER AND four of us kids, and now three
of us kids have NINE children. Page 189 use the route occasionally.

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom? *Michael charleston*

b. When? *1984 ish*

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

cant remember

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

.....
.....
.....
.....
.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):

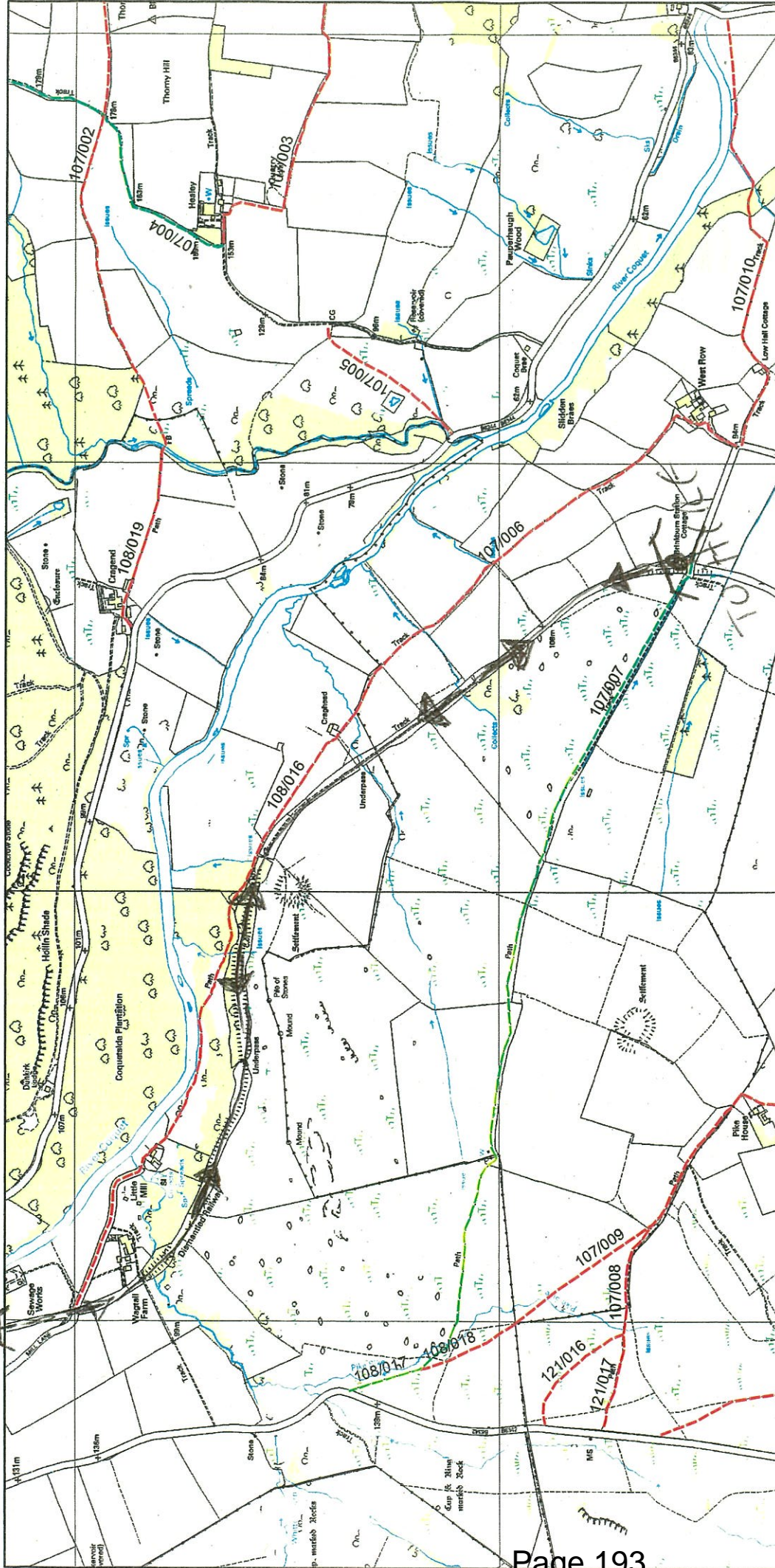


Print full name: KENNETH JASON DAVIDSON

Date: 23/01/21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



<p>Wildlife & Countryside Act, 1981</p> <p>— Alleged Public Right of Way</p>		<p>Former District</p> <p>Almwick</p>	<p>Parish</p> <p>Carlington/Brinkburn</p>	<p>Scale</p> <p>NTS</p>
<p>Northumberland County Council</p> <p>Local Services Sustainable Transport County Hall Morpeth Northumberland NE61 2EF Telephone 0845 600 6400</p>		<p>Def. Map. No.</p> <p>94/109</p>	<p>O.S. Map</p> <p>NU00SE/INZ09NE</p>	<p>Date</p> <p>January 2021</p>

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PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name SUZANNE DAWN LAIDLAW

Address 8 STANLEY Rd, NEMARKET, SUFFOLK

Postcode CB8 8AF

Year of Birth 1965

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

ROTBURY 1965-1993, YETBURN 1993-1998

IRELAND 1998-2000

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

Joining the old railway line at gate by Wagtail farm, proceeding along the old railway line until leaving it at Binkburn Station Cottage.

OS MAP 81 07/00 08/99

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From approx 1970 To present day

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

I didn't use it much 1998-2000 as I was living in Ireland and only returned for holidays

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot				✓		
On horseback		✓				1970-1978
By pedal cycle				✓		
By car						
Other []						

4. Has the application route always followed the same course?

Yes

Don't know

No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

Approx 3-4m

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

Old cinder that the railway was built on.

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

There may have been a stile by the 2d gateway from Wagtail farm.

How long were they in place?

Don't remember.

b. Gates [state locations, indicate whether locked – and when - and show on your map]

Yes gates at different locations. Sometimes locked.

c. Other barriers [state what they were and location, how long they were in place and show on your map]

N/A

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

Frequently meet walkers.

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

- a. From whom? JACK CARR, WAGTAIL FARM (Also Michael Charles West Law)
- b. When? approx. 1975, as I rode his ponies from Wagtail.

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
Will look for old photographs.
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

We used to use the route to visit our relations at West Raw Farm, either on foot or bicycle.
.....
.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name: SUZANNE DAWN LAIDLAW

Date: 30.01.21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name MARJORIE JACKSON

Address 30, WOODLANDS

..... ROTHBURY, MORPETH,

..... NORTHUMBERLAND Postcode NE65 7XZ

Year of Birth 1955

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

..... 1972-1986, whilst married.

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

..... Wagtail Farm along old railway line to
..... Brinkburn station

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

See attached map - marked * →
Old railway line between Wagtail Farm
and Brinkburn 2 station.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1963 To To-Date. 30/1/21.

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot		✓				
On horseback		✓				
By pedal cycle				✓		
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

^u The width of the railway line - Don't know.

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

Grass / Gravel / Earth
.....
.....

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

n/a
.....

How long were they in place?

.....

b. Gates [state locations, indicate whether locked – and when - and show on your map]

Wagtail farm gate and one just beyond - Not locked
.....

c. Other barriers [state what they were and location, how long they were in place and show on your map]

.....

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

- Meeting up with friends to ride ponies along line to Butterknowes farm.
- Other dog walkers.
- families out walking.
- cyclists.
- 4 runners.

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

..... Photograph of myself cycling - however
..... in the early days we didnt have a camera thus no
..... photos of riding the ponies back & forth along the line.

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

On a regular basis as a child aged approx 8yrs onwards
I would meet friends to ride ^{ponies} along the old railway line ^{to Butter knoves} ~~and St James~~
As well as walking with parents, taking my own children on walks
with the dog and grandchildren when on occasion of visits ^{and} friends
As well as cycling to exercise photo enclosed

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name: **MARJORIE JACKSON**

Date: **30/1/21.**

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Cycling along old railway line onto
Brinkburn Station from Wagtail farm.
Cragend farm in the distance.



PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name Carole Murray

Address Gleann Luadh Carishader Uth
St. Lewis

Postcode AS2 9ER

Year of Birth 1962

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

Heatherview NE575Y 2015 to current

Highway NE570Y 1995 to 2015

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

The old railway line Lomby
from Lomby Industrial estate to Brinkburn
Station

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1970..... To current.....

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

NO
.....
.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot			✓			
On horseback						
By pedal cycle			✓			
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No.

If no – how and when was the route altered?

.....
.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

The width approx 12 feet
.....
.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

earth

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

How long were they in place?

b. Gates [state locations, indicate whether locked – and when - and show on your map]

c. Other barriers [state what they were and location, how long they were in place and show on your map]

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes

Don't know

No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

regularly other walker, runners, cyclist & on
one occasion a horse & drawn cart

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

As a child my grandmother took me along this route picking blackberries

As a parent I took my daughter on a bike ride on the back of my bike and as she got bigger she rode her own bike (between '95 and 2010)

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name:

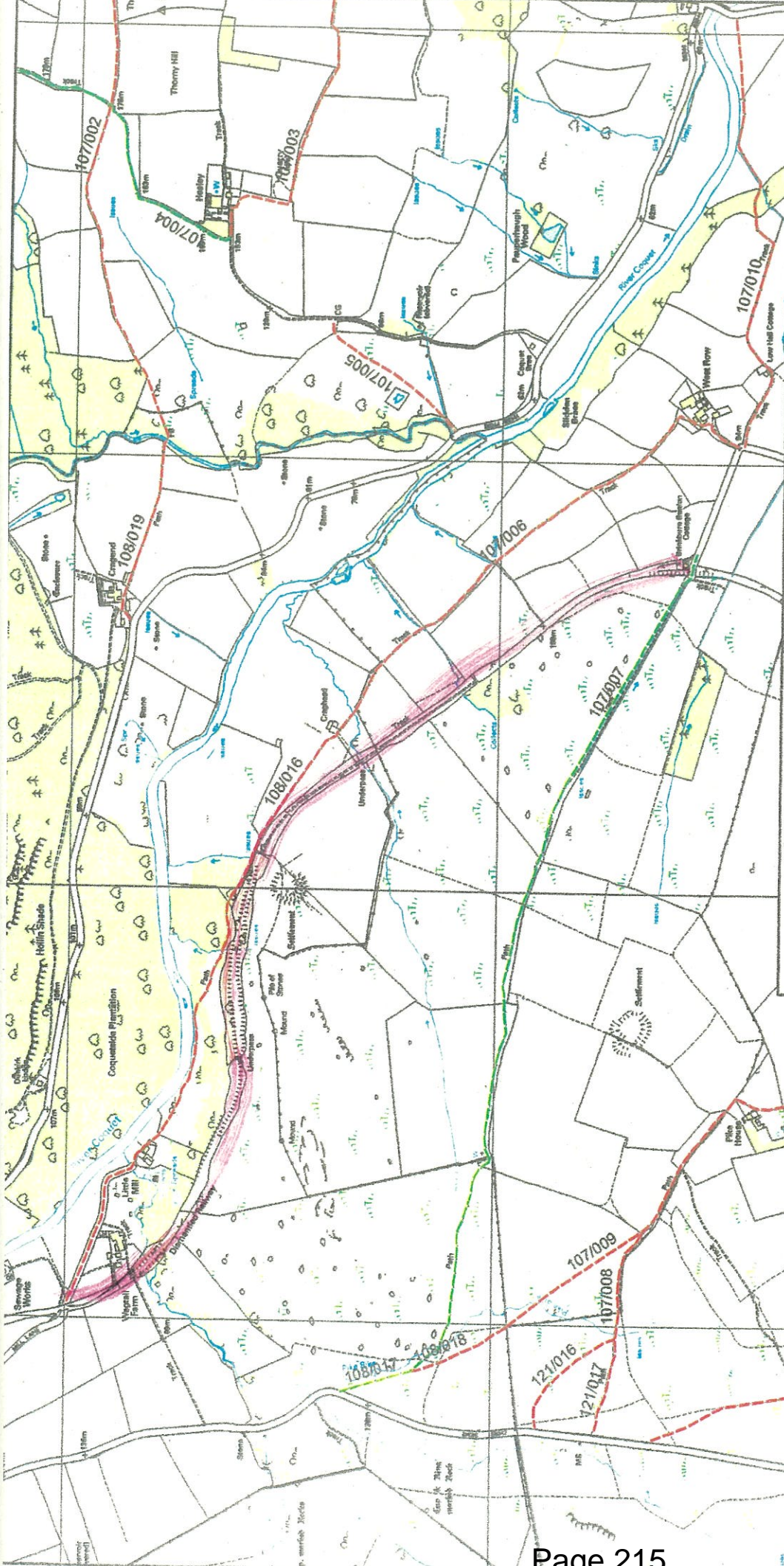
Carole Murray

Date:

11/2/2021

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way



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

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Former District	Alnwick	Parish	Carlington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name Samantha Davidson

Address 12 Embleton Tce, The Lee, Longbushington
Morpeth, Northumberland

Postcode NE65 8JJ

Year of Birth 31~12~1968

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required]

Gate House, Garleigh Rd, Rothbury
Wreigh Burn Fields, Thropton

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

Start Brinkburn Station Cottage - follow road
leading onto ^{disused} R line. Continue this path until Wagtail
Farm. OS Grid Ref's = NU 070 009
N2 087 996

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From 1973 To 2021

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

No.

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot		✓				
On horseback						
By pedal cycle			✓			
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

The disused railway line route is approx 10-12 ft wide. Plenty room for pass other walkers, cyclists or horseback. Narrower in some areas where road has³ been blotted for railway line.

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

Gravel and earth throughout route Some was
more earthy. Grassy area to Gate 2 (see map)

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

Yes - see map Gate 1 and Gate 2 were stiles
before pedestrian "kissing" gates
How long were they in place? Gate A stile + Gate - not locked
20 yrs approx.
There were no gates or stiles originally.

b. Gates [state locations, indicate whether locked - and when - and show on your map]

Gate 1 + Gate 2 unlocked (see map)
Gate A + Gate 4 unlocked " "

c. Other barriers [state what they were and location, how long they were in place and show on your map]

No other barriers

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes - state when and give details, including when they were present and mark their location on your map

.....

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

.....

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

School trip to search for artifacts from the Railway line c. 1977. Found a metal bolt + old sleeper. Sleeper still visible near to Brinkburn Railway Cottage. At least 30 pupils on trip.

I have walked + cycled this route since a child (dob 1968) to visit my grandmother at Embleton Terrace

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No

Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No

Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):



Print full name: *Samantha Dorothy Davidson*

Date: *7/2/20*

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name PHILIP CHANDLER

Address DENESIDE STATION ROAD

ROTHBURY NORTHUMBERLAND

Postcode NE65 7QJ

Year of Birth 1967

Have you lived at any other addresses during the time you have used the path or way? If so, please provide details and years [full addresses are not required].

CRAMLINGTON (1967-1983), MORPETH (1983-1986)

SUNDERLAND (1986-1990), WHALTON (1990-1993)

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
As a bridleway (public rights on foot and on horseback or bicycle)
As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

WAGTAIL FARM (NU 07084 00887) VIA OLD

RAILWAY LINE TO FORMER BRINKBURN

STATION (NZ 08747 94580)

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From To

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

1983 - 1993 - FAMILY GAVE UP STATIC CARAVAN
ON RIVERSIDE SITE IN ROTHBURY

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot			✓			
On horseback						
By pedal cycle				✓		
By car						
Other []						

4. Has the application route always followed the same course?

Yes Don't know No

If no – how and when was the route altered?

.....
.....

5. Approximately how wide is the application route?

[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know']

THE ROUTE VARIES BETWEEN APPROX 10 - 15 FEET

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

ASH / CINDER BED OF DISUSED RAILWAY

7. Have there ever been any of the following on the application route?

- a. Stiles [state locations and show on your map]

1 (A) ON MAP

How long were they in place?

SINCE MID 1990s

- b. Gates [state locations, indicate whether locked – and when - and show on your map]

4 (B, C, D, E) ON MAP - ALL GATES ALLOWED WALKING / CYCLING ACCESS

- c. Other barriers [state what they were and location, how long they were in place and show on your map]

8. Did any of the above prevent you from using the application route?

No Yes

If yes, please give details

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

Yes Don't know No

If yes – state when and give details, including when they were present and mark their location on your map

10. Have you seen other people using the application route whilst you have been using it?

No Yes

If yes, please provide any additional information about this

WALKERS, MOUNTAIN BIKERS, HORSE RIDERS AND FARM VEHICLES

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No Yes

If yes, provide details and dates

.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No Yes

If yes, by whom and when?

.....

14. Have you ever been stopped or turned back when using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No Yes

If yes, please give details including when this happened

.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc.)

No Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc.)

No Yes

If yes – please provide details

.....
ROUTE INCLUDED ON 'NORTHUMBERLAND NATIONAL PARK -
RUTHBURY & COQUETDALE' CYCLE + WALKING GUIDE (COPY
ATTACHED - ORIGINAL AVAILABLE IF REQUIRED)

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

.....
I HAVE BEEN USING THE OLD RAILWAY LINE
FOR WALKING AND CYCLING FROM WHEN
I WAS ABLE (EARLY 1970's) RIGHT UP
TO THE PRESENT DAY AND HAVE NEVER BEEN
CHALLENGED OR OBSTRUCTED FROM DOING SO

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

No Yes

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

No Yes

PART F: Statement of Truth
(all applicants must complete this Part)

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE

Signature (of the person making the statement of truth):

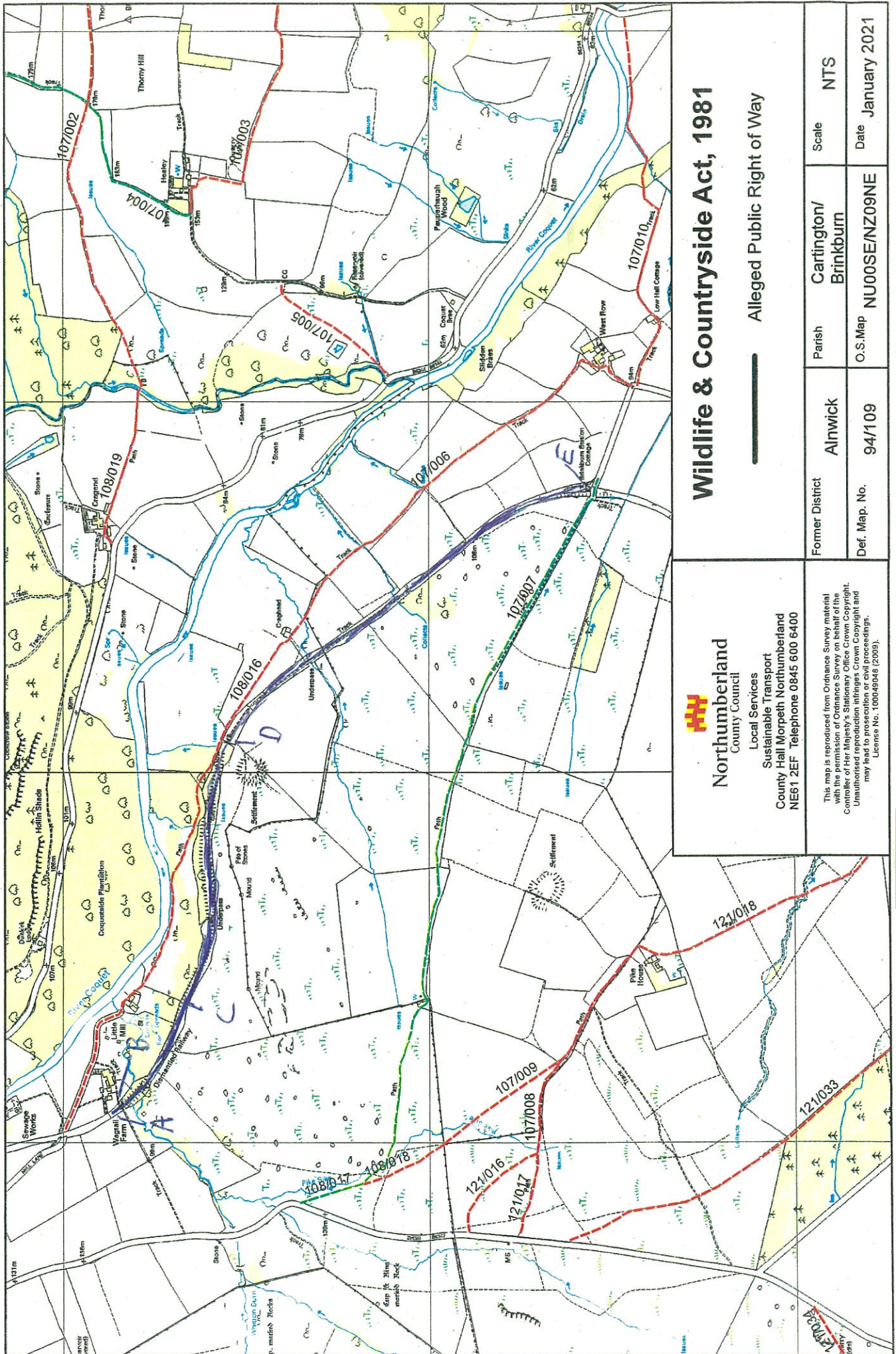


Print full name: PHILIP CHANDLER

Date: 14/2/21

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.



Wildlife & Countryside Act, 1981

Alleged Public Right of Way



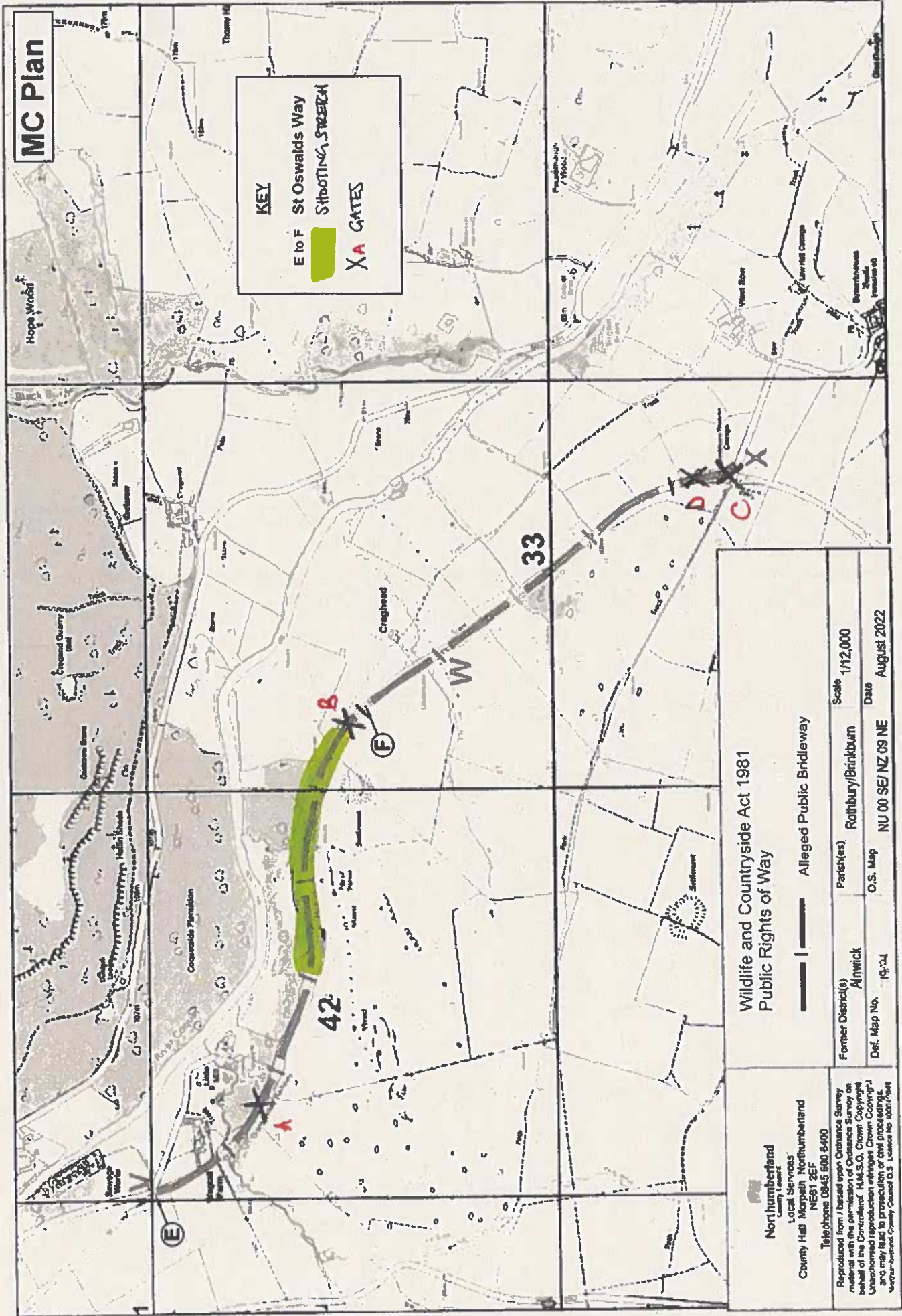
Northumberland
County Council
Local Services
Sustainable Transport
County Hall Morpeth Northumberland
NE61 2EF Telephone 0845 600 6400

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Former District	Alnwick	Parish	Cartington/ Brinkburn	Scale	NTS
Def. Map. No.	94/109	O.S. Map	NU00SE/NZ09NE	Date	January 2021

19/2/21

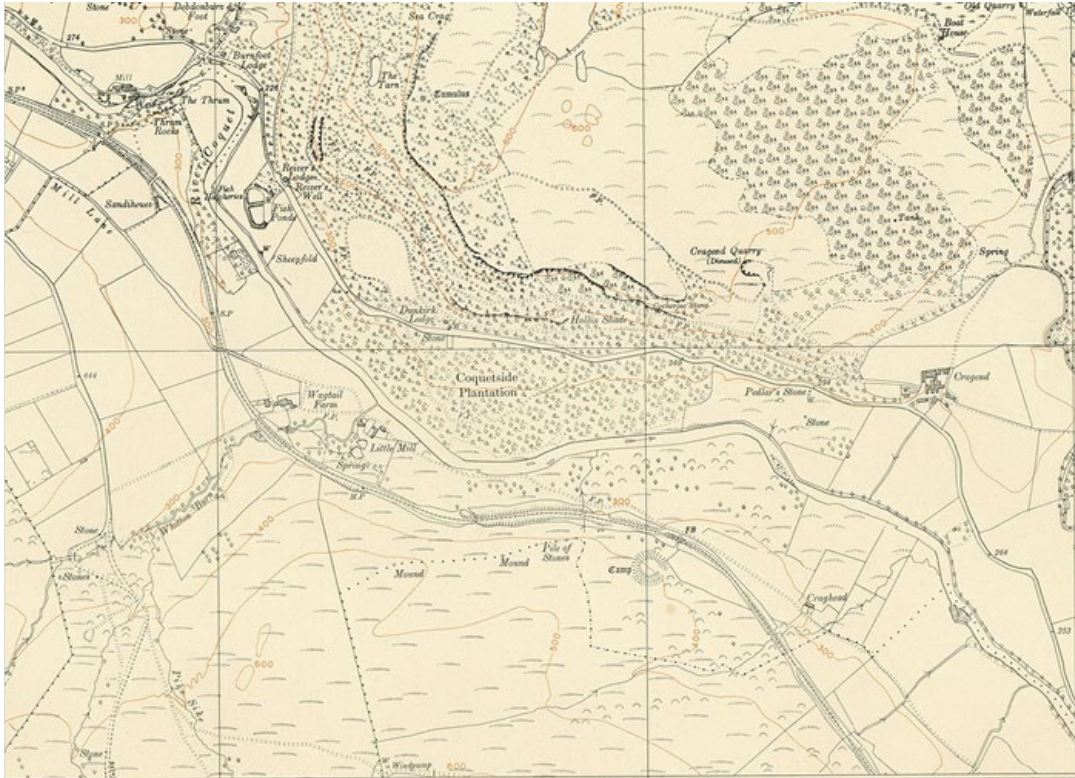
MR CHARLETON'S GATE PLAN
EXHIBIT 3



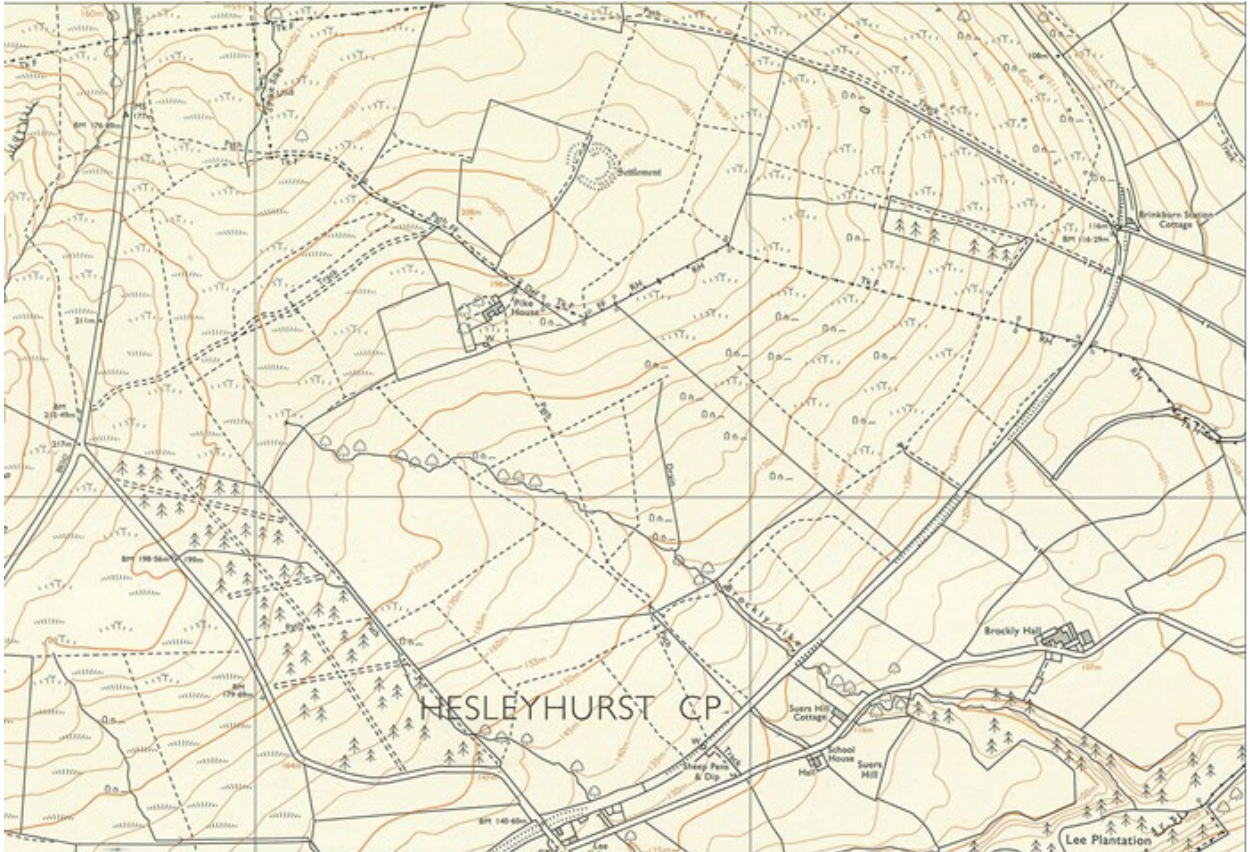
MC Plan

KEY
 E to F St Oswalds Way
 SHOOTING STRECH
 X A GATES

<p>Northumberland Local Services County Hall Midpath Northumberland NE81 2EP Telephone 0845 800 6400</p> <p><small>Reproduced from / based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller, H.M.S.O. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Northumberland County Council O.S. Licence No. 1001/01/01</small></p>	<p>Wildlife and Countryside Act 1981 Public Rights of Way</p> <p>— Alleged Public Bridleway</p>		<p>Scale 1/12,000</p>
	<p>Former District(s) Alnwick</p> <p>Def. Map No. 19:24</p>	<p>Parish(es) Rothbury/Brintburn</p> <p>O.S. Map NU 00 SE/ NZ 09 NE</p>	<p>Date August 2022</p>



1:10,000 O.S. Map
1978



The Northumberland Estates' s.31(6) Deposit 1997 / 1998



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Northumberland County Council

RIGHTS OF WAY COMMITTEE
20 December 2023

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

ALLEGED BYWAY OPEN TO ALL TRAFFIC No 40 PARISH OF ROTHBURY

Report of the Director of Environment & Transport
Cabinet Member: Councillor John Riddle, Roads & Highways

Purpose of report

In this report, the Rights of Way Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4066 road, from the junction of Wagtail Lane and Wagtail Road to a point 170 metres north-west of Wagtail Farm.

Recommendation

It is recommended that the committee agrees that:

- (i) there is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route U-V-Y-Z;**
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the route;**
- (iii) the U-V-Y-Z route be included in a future Definitive Map Modification Order as byways 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.
- 1.4 This route was originally consulted upon as being alleged BOAT 40 in the Parish of Rothbury and alleged BOAT 28 in the Parish of Cartington. On 1 April 2021 Cartington parish ceased to exist; the land that was formerly Cartington became part of either Rothbury or Thropton parishes

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 streets. Thus, tracks in rural settings, which have their own unique reference numbers (e.g. the ‘U4066’ 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 U4066 unclassified County road based upon more than simply its inclusion in the List of Streets.

3. LANDOWNER EVIDENCE

- 3.1 By letter, dated 31st May 2018, Northumberland Estates responded to the consultation, stating:

“Parish of Rothbury & Cartington Proposed Byway Open to All Traffic Route 28 and 40 Plan 21

This route is an existing NCC adopted highway. There is no requirement to change the designation to have a Byway Open to All Traffic.”

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, 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 emails, on 2nd and 12th April 2018, the British Horse Society responded to the consultation, stating:

Rothbury Parish

“Alleged Byway Open to All Traffic 40 (Mill Lane)

This is a tarmac road that is well used by walkers and motor vehicles and more lightly used by horse riders and cyclists as it provides access to a number of residential properties and to Wagtail Farm besides being the route of the promoted walking route St Oswald’s Way. So it should surely be added to the definitive map.”

Cartington Parish

“Alleged Byway Open to All Traffic 28 (Mill Lane)

This is a tarmac road used as access to Wagtail Farm. Although it looks like a public road and is used as such, it is also part of St. Oswald’s Way, so it would probably benefit from being added to the definitive map.

- 4.4 By email, on 15th March 2018, Rothbury Parish Council responded to the consultation, stating:

“Rothbury Parish Council fully support the proposals within the Rothbury parish regarding the review of the definitive map and statement of public rights of way.”

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 clear evidence of an enclosed “Country Road” closely approximating to the route of alleged Byway No 40.

1820 Fryer's County Map

There is clear evidence of an enclosed “Other Road” closely approximating to the route of alleged Byway No 40.

1827 Cary's Map

There is clear evidence of an enclosed “Parochial Road” road or track closely approximating to the route of alleged Byway No 40.

1828 Greenwood's County Map

There is clear evidence of an enclosed “Cross Road” closely approximating to the route of alleged Byway No 40.

c.1860 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track labelled “Mill Lane” over the route of alleged Byway No 40. The road is identified with the land parcel number “74”. In the accompanying Book of Reference, this parcel is identified as “Public road”.

1866 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track labelled “Mill Lane” over the route of alleged Byway No 40.

1897 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track labelled “Mill Lane” over the route of alleged Byway No 40. The alignment of the road, where it meets the newly constructed railway, has altered slightly.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track labelled “Mill Lane” over the route of alleged Byway No 40.

Finance Act 1910 plan

There is clear evidence of a mainly enclosed road / track over the route of alleged Byway No 40. The route is identified as being separate from the adjacent land by coloured boundaries. This is a good indication that the road was considered to be public at that time.

1925 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track labelled "Mill Lane" over Mill Lane, the route of alleged Byway No 40.

1951 Highways Map

The route of alleged Byways Open to All Traffic No 40 is coloured so as to identify it as a publicly maintainable road. It is labelled as "U4066".

c.1952 Definitive Map – original Survey Schedules & Map

The route of alleged Byway Open to All Traffic No 40 exists on the map as a brown coloured line. Known public roads were generally coloured brown to indicate what the extent of the road network was considered to be.

Draft Map

The route of alleged Byway Open to All Traffic No 40 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). One public footpath is shown beginning or terminating on the route of the alleged byway.

Provisional Map

The route of alleged Byway Open to All Traffic No 40 exists on the base map. As with the previous 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). One public footpath is shown beginning or terminating on the route of the alleged byway.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track labelled "Mill Lane" over the route of alleged Byway Open to All Traffic No 40.

Original Definitive Map

The route of alleged Byways Open to All Traffic No 40 exists on the base map, but is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

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

Public Footpath No 16 (Cartington)

“From the Wagtail Road at the former British Railways (Morpeth Branch), in a south-easterly direction by Craghead, to the Brinkburn Parish Boundary joining Footpath No 6 in that parish.”

1958 County Road Schedule

The entry for the U4066 road, in the 1958 County Road Schedule, states:

“U4066 Wagtail Road, Rothbury
From B6342 200 yards east of Rothbury Station south-eastwards to bottom of west ramp to railway bridge on road to Wagtail Farm.”

The length of the U4066 road is identified as 0.55 miles.

1964 Highways Map

The route of alleged Byways Open to All Traffic No 40 is coloured so as to identify it as a publicly maintainable road. It is labelled as “U4066”.

1964 County Road Schedule

The entry for the U4066 road, in the 1964 County Road Schedule, states:

“U4066 Wagtail Road, Rothbury
From B6342 200 yards east of Rothbury Station south-eastwards to bottom of west ramp to railway bridge on road to Wagtail Farm.”

The length of the U4066 road is identified as 0.55 miles.

First Review Definitive Map (Relevant Date 1 Nov 1963)

As with the Original Definitive Map, the route of alleged Byways Open to All Traffic No 40 exists on the base map, but is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1978 County Road Schedule

The entry for the U4066 road, in the 1974 County Road Schedule states:

“U4066 Wagtail Road, Rothbury
From B6342 200 yards east of the former Rothbury Station (NU 064016) south-eastwards to bottom of west ramp to railway bridge on road to Wagtail Farm (NU 069010).”

The length of the U4066 road is identified as 0.55 miles.

2005 Ordnance Survey Explorer 340 Map: Scale 1:25,000

There is clear evidence of an enclosed track over the route of alleged Byway Open to All Traffic No 40. The route is shown as a yellow line.

In the map key, under “Roads and Paths” the yellow line symbol denotes “Road generally less than 4 metres wide”.

2006 The Council’s ‘List of Streets’ (2 May 2006)

The majority of the route of the alleged byway is clearly identified as publicly maintainable highway. In the vicinity of Point W, the line clearly supports the U-V-Y-Z alignment, rather than the U-V-W one.

6. SITE INVESTIGATION

- 6.1 From a point marked U, at the junction of Wagtail Lane and Wagtail Road, 10 metres north of number 15 Lordenshaw Drive, a 2.75 to 3.5 metre wide tarmac track, in a 6.75 to 9.25 metre wide corridor proceeds in a south-easterly direction for a distance of 655 metres, to a point marked W, 170 metres north-west of Wagtail Farm.
- 6.2 The exact alignment of the most eastern 30 metres of the alleged route is still uncertain. A further site visit will be undertaken to determine the character of the alternative Y-Z route.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2023, a draft copy of the report was circulated to those landowners / occupiers who responded to the initial consultation for their comments
- 7.2 By letter, dated 21 November 2023, Northumberland Estates, the landowner, made the following comments in relation to the draft report:

“Wildlife & Countryside Act 1981 - Review of the Definitive Map and Statement of Public Rights of Way-Alleged Byway Open to All Traffic No 40 (Parish of Rothbury)

I refer to your letter of 8th November 2023.

I would wish to reiterate the point that in our view we do not consider it necessary to change the designation of the route to a Byway Open to All Traffic bearing in mind the fact that the route in question is an existing adopted highway and consequently it should be quite clear to all potential road users that this is a public right of way. The Estate is not endeavouring to argue, as might be concluded by paragraph 8.14 to your report, that notwithstanding the route being referred to in the Council's List of Streets of publicly maintained roads, that there are no public rights of way over it.

Whilst I accept that this is not the purpose of your current proposal or consultation, I would also stress that the Northumberland Estates would be resistant to any future move to have the route no longer designated as being publicly maintained, in light of its significance for those living in and moving around the locality.

In terms of the route, this is U-V-W as shown on your plan not U-V-Y-Z. I think a site inspection will clarify that the latter is not used as the right

of way as the route Y-W has not been accessible since the removal; of the bridge which crossed the discontinued railway line.”

8. DISCUSSION

8.1 Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:

that a right of way, which is not shown in the Map and Statement, subsists or is reasonably alleged to subsist over land in the area to which the Map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or; subject to section 54A, a byway open to all traffic.

8.2 When considering an application / proposal for a modification order Section 32 of the Highways Act 1980 provides for “any map, plan or history of the locality or other relevant document” to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

8.3 The representation of a path or track on an Ordnance Survey Map is not evidence that it is a public right of way. It is only indicative of its physical existence at the time of the survey.

8.4 The route of alleged Byway Open to All Traffic No 40 is identified on the County Council’s current List of Streets as being the U4066 road. The whole route appears to have been identified on both the Council’s 1951 Highways Map and the later 1964 Highways Map. It was also included in the 1958, 1964 and 1974 County Road Schedules.

8.5 The route has been consistently identified as an enclosed road / track on Ordnance Survey maps since the 1860s. The route is also shown on Armstrong’s, Fryer’s and Greenwood’s County Maps of 1769, 1820 and 1828 and on Cary’s Map of 1827. In the Book of Reference, accompanying the First Edition 25” Ordnance Survey Map, the route is identified as a public road. On the plan, prepared under the Finance Act 1910, the route is clearly identified as being separate from the adjacent land by coloured boundaries, indicating it was considered to be public at that time.

8.6 Although other public rights of way were identified nearby, and one public footpath was identified beginning on the route, the route itself was not included on the Draft, Provisional or original Definitive Maps as a footpath, bridleway or Road Used as Public Path (RUPP). On the Survey Map the route is coloured brown in the same way that other public roads were identified.

8.7 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.

- 8.8 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.
- 8.9 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.
- 8.10 Of the saving provisions above, (b) will apply to the route of alleged Byway No 40. The public's motor vehicular rights would not have been extinguished by the NERC Act 2006.
- 8.11 There is uncertainty regarding the exact alignment of the most easterly 30 metres of the alleged route, in the vicinity of Point W. On the original consultation plan, the route is depicted starting at the point where Wagtail Lane and Wagtail Road meet, 10 metres north of number 15 Lordenshaw Drive (Point U) and ending at the point where Mill Lane crosses the dismantled railway line (Point W). However, the old County Road Schedules and more detailed highways maps have the U4066 road ending on the bottom of the western ramp of the former bridge over the now dismantled railway (Point Z). The Definitive Map depicts Public Footpath No 45 (formerly Cartington FP 16) as proceeding along a track down the eastern ramp of the former bridge over the dismantled railway and the Definitive Statement describes the footpath as "From the Wagtail Road at the former British Railways (Morpeth Branch), in a south-easterly direction ...". So, the public road ends on the western side of the (now missing) bridge over the former railway and the public footpath crossed that bridge to meet it. As the bridge no longer exists, anyone proceeding along Mill Lane (the U4066 road), who wishes to continue along Public Footpath No 45, presumably crosses the former railway at the current 'level crossing', immediately to the north, which is the end of the alleged route, according to the original consultation plan (Point W). The most easterly

30 metres of the surfaced track (immediately west of the former railway line) appears to have no recorded status.

- 8.12 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.
- 8.13 This route has a reasonable driveable tarmac surface and will be used by those living at the dwelling at Wagtail Farm, their visitors and also by farm traffic. From my site visit and the consultation responses, the route would appear to be well used by non-motorised traffic, and also carries the route of the regional walking trail of 'St Oswald's Way'.
- 8.14 The Northumberland Estates has suggested that it is not necessary for this route to be recorded as a byway open to all traffic; public rights over the route not being in doubt, by virtue of it already being recorded on the Council's List of Streets. Of course, being recorded on the List of Streets does not prove a route's status - it is more a statement about maintenance liability. A number of landowners in Northumberland (including The Northumberland Estates) have, in the recent past, argued that certain routes on the Council's List of Streets have no public rights of way over them, whatsoever.
- 8.15 Responding to the draft report, The Northumberland Estates has indicated that they do not consider it necessary to "change" the designation of the route to byway open to all traffic. This implies that it currently has some other designation, which will be altered by this process. This is not the case. The route currently has no status identified. It is recorded on the Council's List of Streets as the U4066 road and will remain so recorded; but being on the list of Streets is a statement about maintenance liability, not the public rights that exist over it. Its physical appearance is no guarantee of status. There are many minor roads and tracks that are private roads with only public footpath or bridleway rights over them - and sometimes no recognised public rights over them whatsoever.
- 8.16 The Northumberland Estates also argued that "Bearing in mind the fact that the route in question is an existing adopted highway ... consequently it should be quite clear to all potential road users that this is a public right of way." But the road isn't an "adopted highway". We don't have any adoption records, per se, for this route. It is recorded on the Council's List of Streets having been identified as a publicly maintainable highway since the 1950s. The status of the route isn't quite as certain as the Northumberland Estates appears to be suggesting and, as indicated earlier, some landowners (including the Northumberland Estates, as recently as 2016) have argued that some U roads are not public vehicular highways or, in some instances, not even public rights of way of any description. These challenges have sometimes been made in circumstances where the provenance of the road is bolstered by the existence of a 1930s Handover Map and a map and / or schedule prepared under the Restriction of Ribbon Development Act 1935 - documents which aren't available to support the status of routes in the former Rothbury RDC area.
- 8.17 With regard to the southern end of the route, a highway doesn't automatically get diverted, simply because a bridge is removed, even if this is, mistakenly, taken as grounds for tweaking its alignment on the List of Streets. The public rights (and the Council's highway maintenance responsibility) remain where they were, unless due process is followed. In this instance, we have been

unable to discover any evidence that the southern end of the road, up to the former bridge over the former railway, was lawfully diverted. Therefore, notwithstanding the physical challenge this presents, the road appears to end at Point Z (not point W) with Public Footpath No 45 as its easterly continuation. To resolve this situation, it would appear to make sense for Footpath No 45 to be diverted away from the non-existent bridge - perhaps terminating at Point W, instead, if the dismantled railway does get recognised as a public bridleway or if the Y-Z section of road is legally diverted to Y-W. Or, if neither of those things happen, for the footpath to be diverted to incorporate the W-Y section of road.

- 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. Usually there is a boundary to boundary presumption for public highways. However, where no defined corridor exists, and there is no (usually) documentary evidence to establish width, the Council has adopted a standard width of 5 metres (wide enough for two vehicles travelling in opposite directions to pass each other) for vehicular rights of way. On this basis it is proposed to record Byways Open to All Traffic No 40 with a width varying from 6.75 to 9.25 metres, as identified in paragraph 6.1 above.

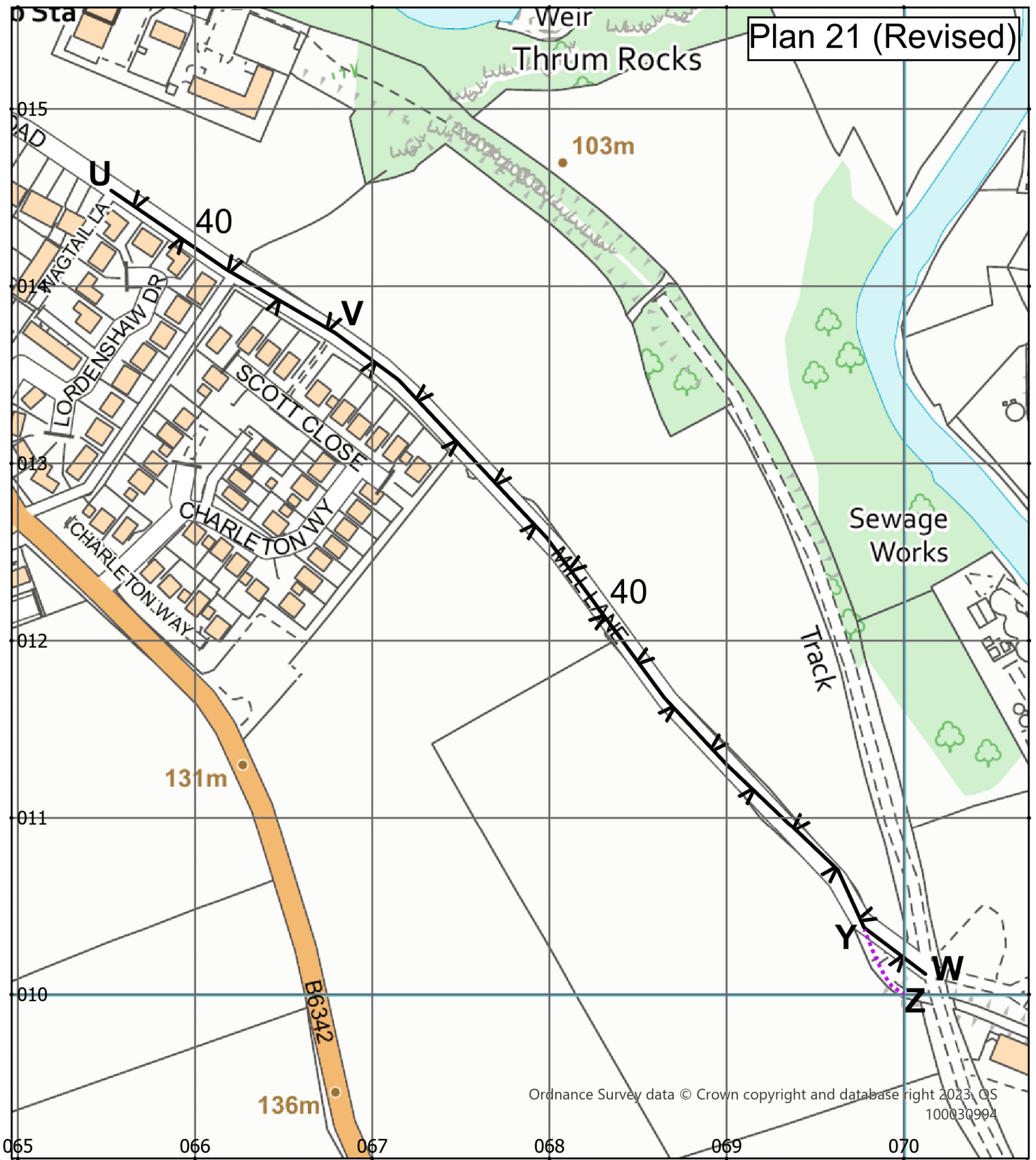
9. CONCLUSION



- 9.1 In light of the documentary evidence submitted, it appears that public vehicular rights have been reasonably alleged to exist over the route of alleged Byway Open to All Traffic No 40 (U-V-Y-Z, not Y-W).
- 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. It would 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.

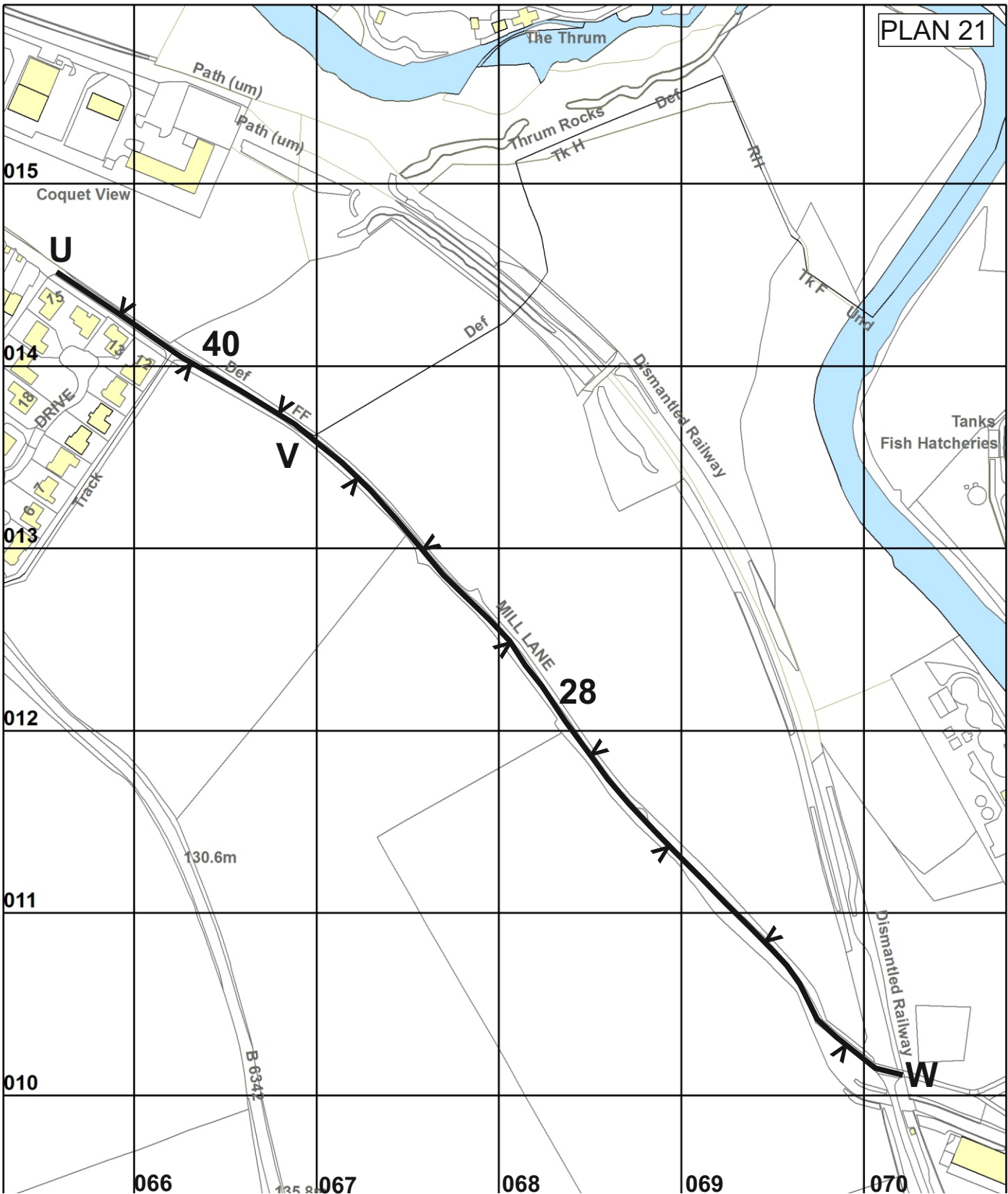
BACKGROUND PAPERS

Local Services Group File: 130/040z

Report Author Zara Quinn – Definitive Map & Search Technical Officer
07542 318328
Zara.Quinn@Northumberland.gov.uk



 <p>Northumberland County Council</p> <p>Infrastructure Records, Local Services, County Hall, Morpeth, Northumberland, NE61 2EF Email: Alex.bell@northumberland.gov.uk</p>	<p align="center">Wildlife & Countryside Act, 1981 Public Rights of Way</p> <p align="center">  Alleged Byway Open to All Traffic </p>		
<p>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of His Majesty's Stationary Office Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. License No. 100049048 (2013).</p>	<p>Former District(s): Alwick</p> <p>Def Page: 246 94</p>	<p>Parish(es): Rothbury</p> <p>O.S. Map: NU 00 SE</p>	<p>Scale: 1:3000</p> <p>Date: November 2023</p>



NORTHUMBERLAND

Northumberland County Council

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

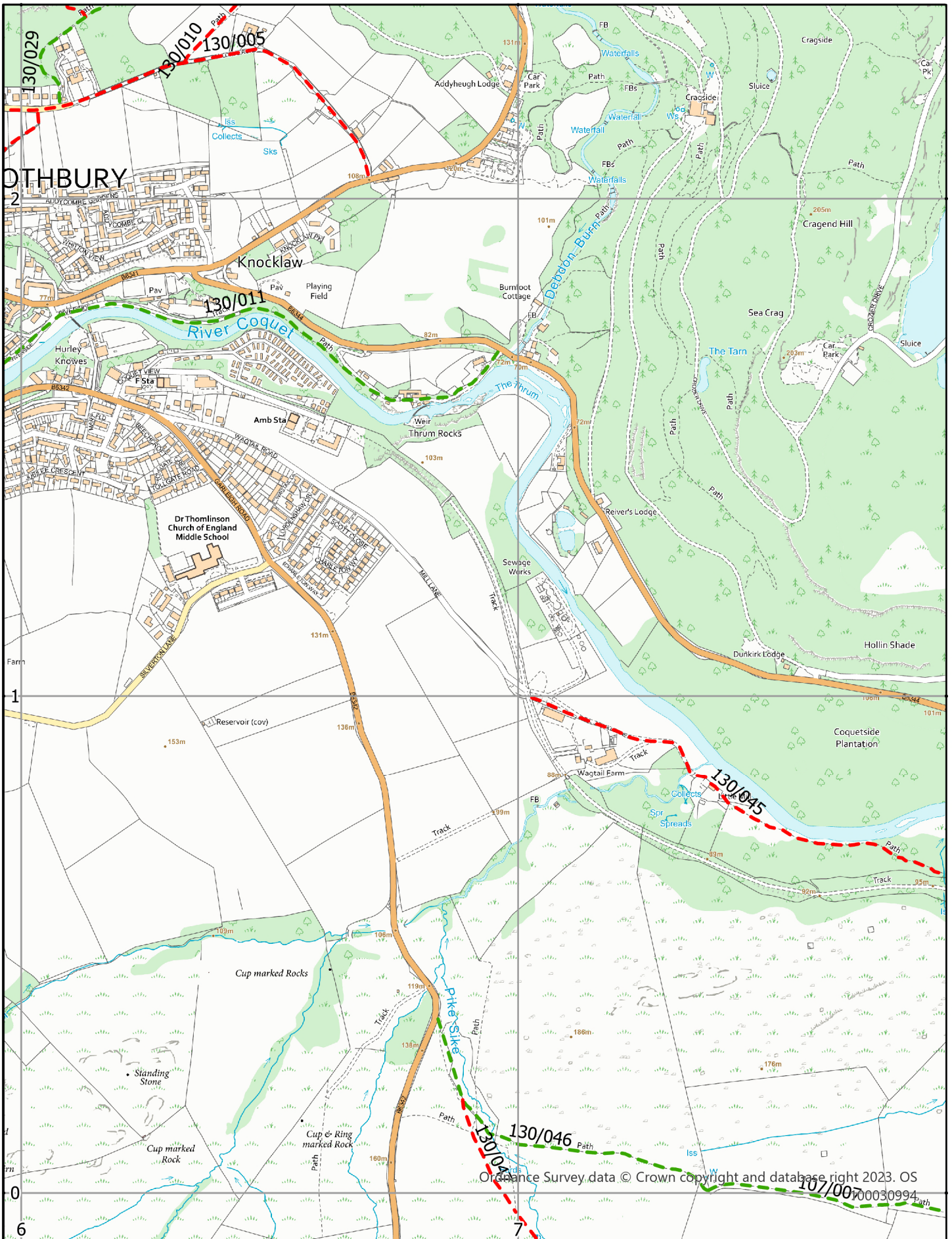
**Wildlife and Countryside Act 1981
Public Rights of Way**



Alleged Byway Open to All Traffic

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Former District(s) Alnwick	Parish(es) Rothbury/Cartington	Scale 1:3,000
Def. Map No.	O.S. Map NU 00 SE	Date October 2016



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Northumberland
County Council

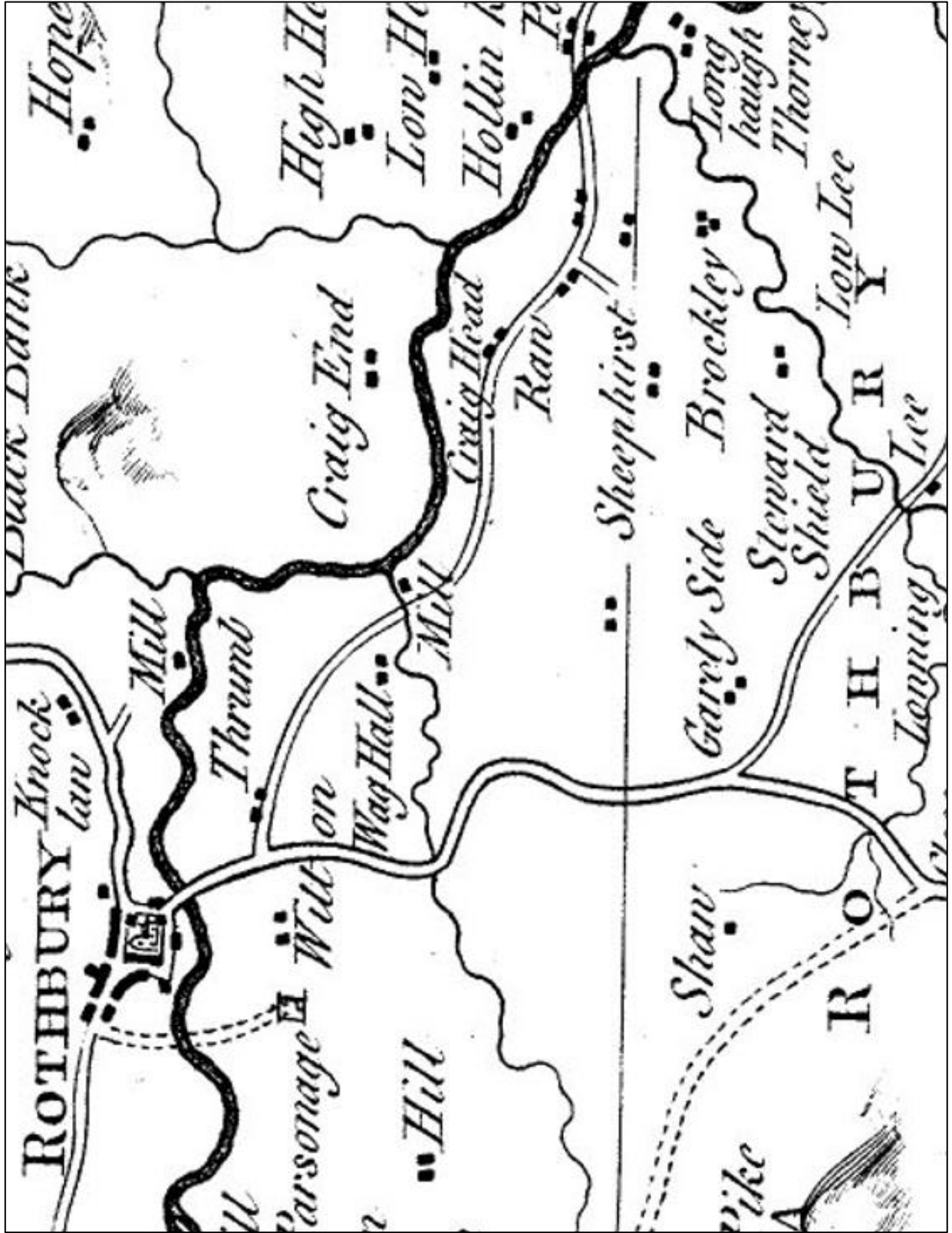
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Contact: Highway Search Team

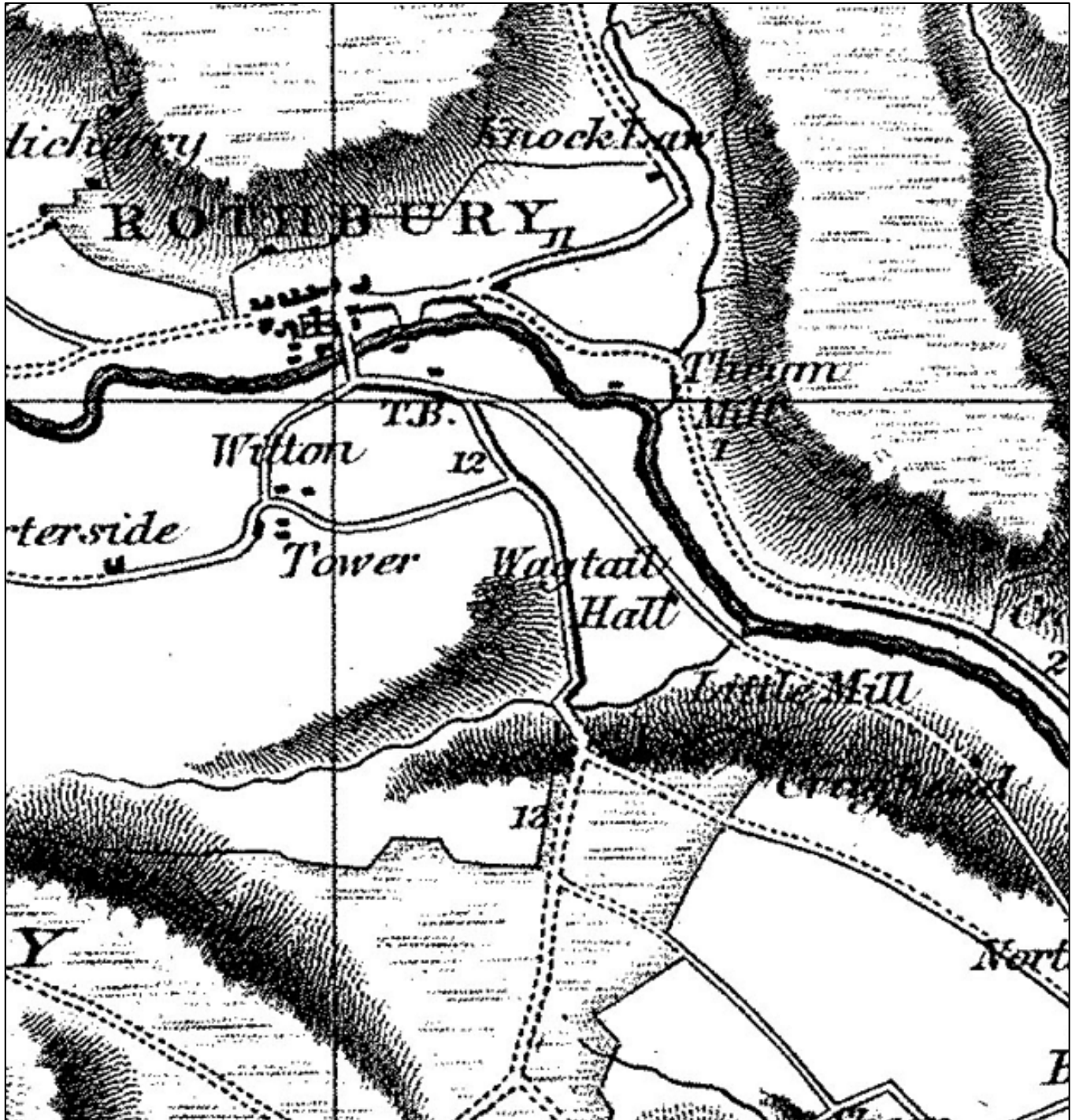
Email: Highwaysearch@northumberland.gov.uk

Legend

- Footpath
- Bridleway
- Restricted Byway
- Byway open to all traffic

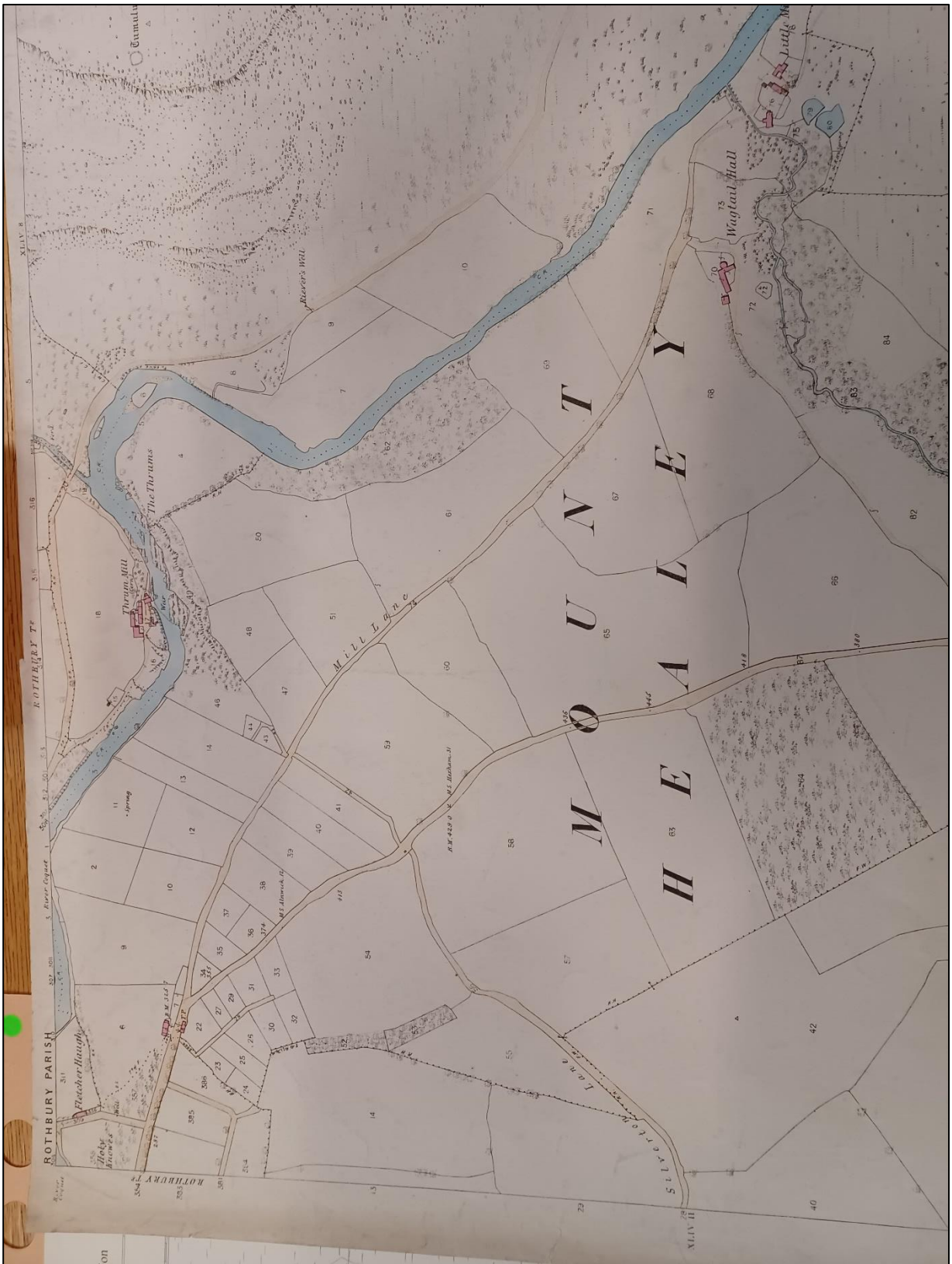
This is a computer generated extract of the Working Copy of the Definitive Map of Public Rights of Way







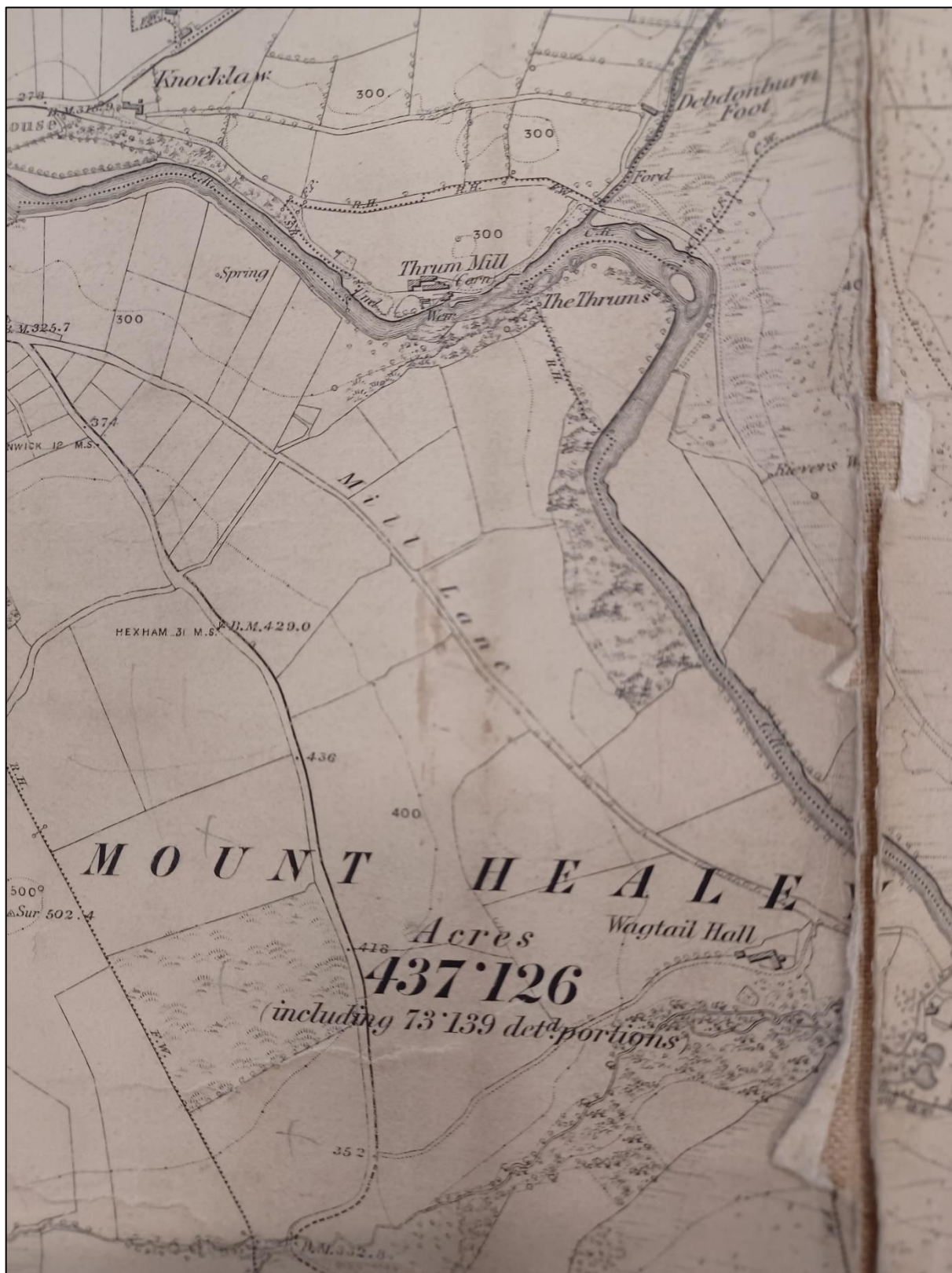




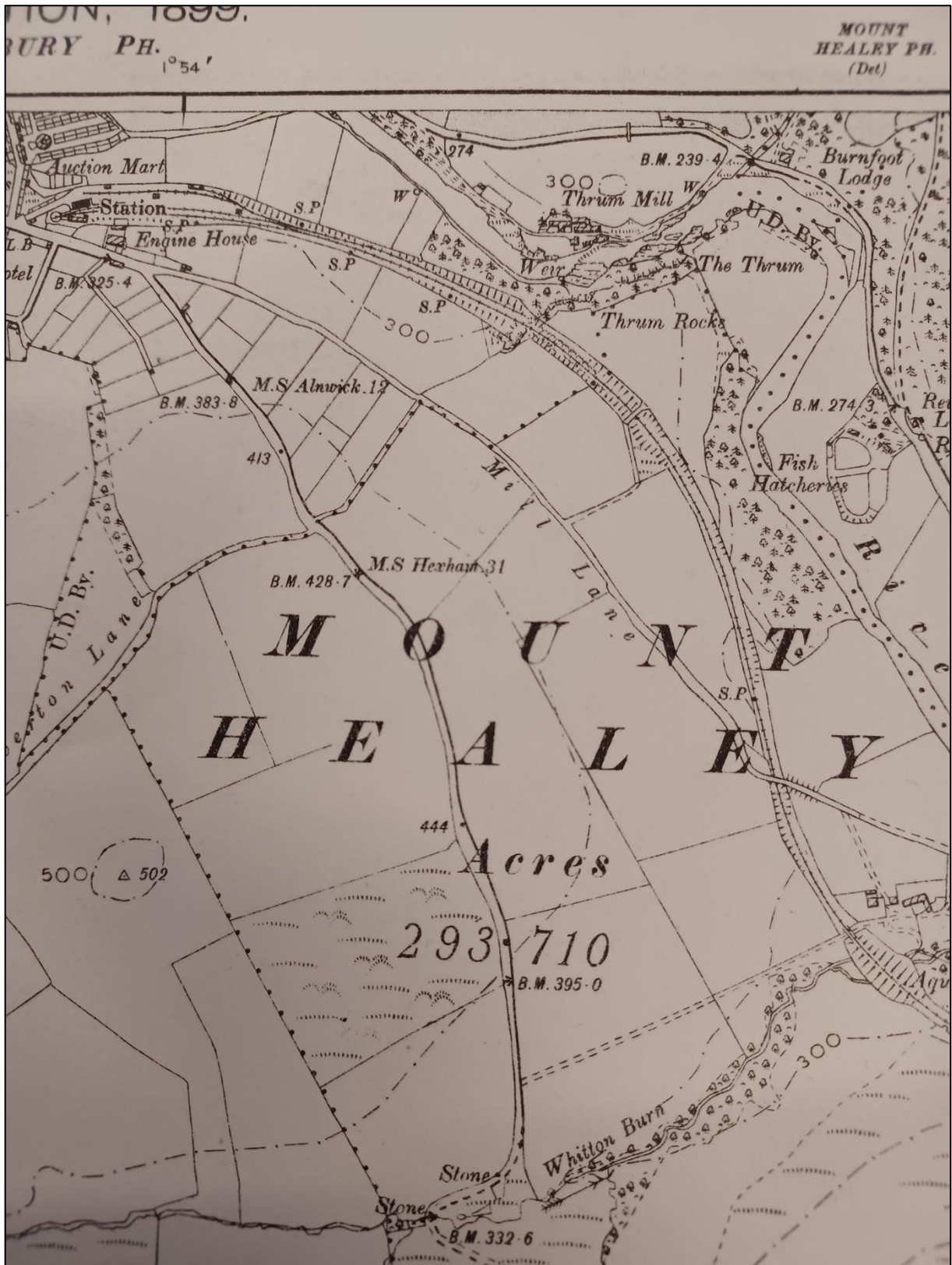
PARISH OF ROTHEBURY.

29

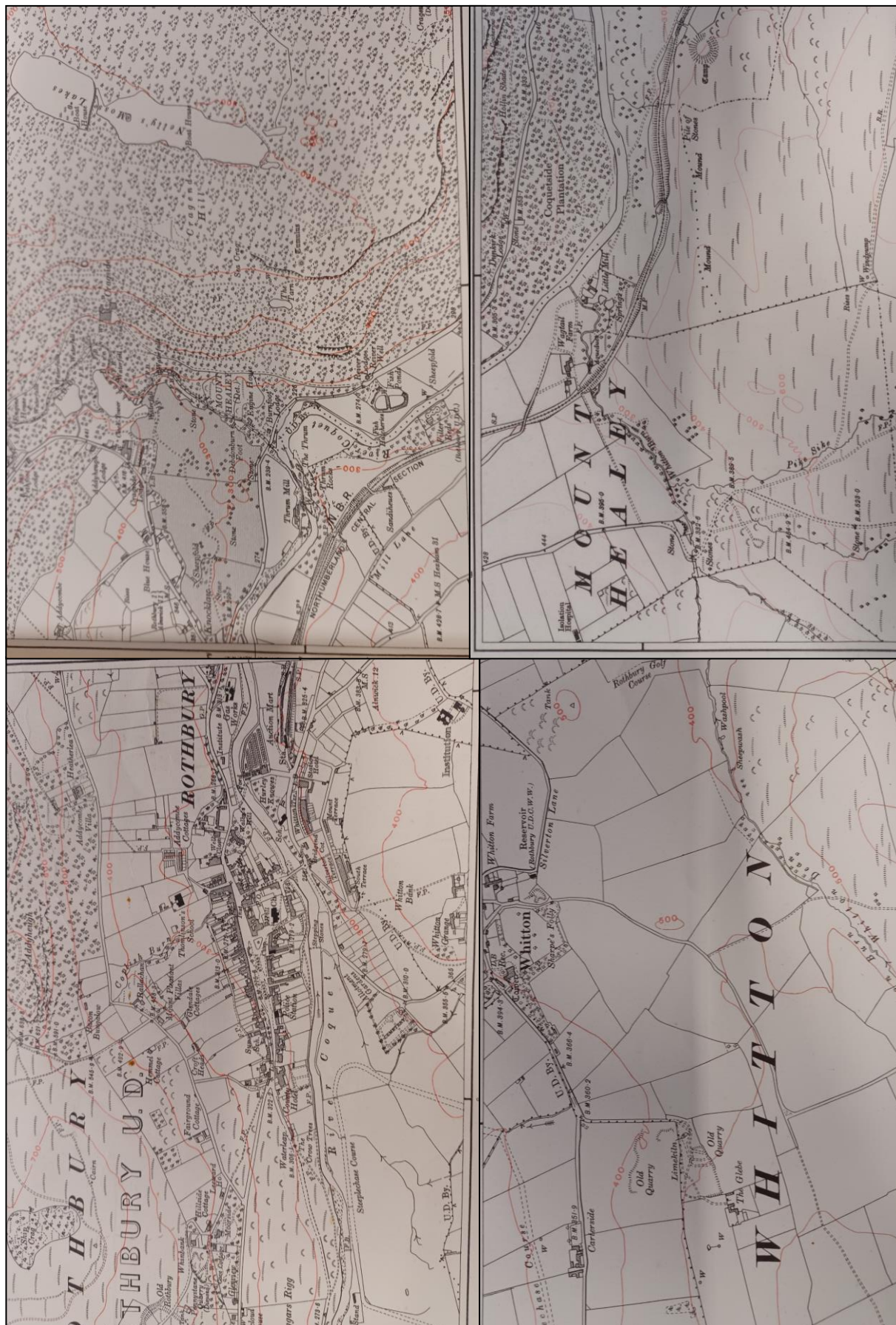
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
	178-101	<i>Brought forward.</i>	TOWNSHIP OF MOUNT HEALEY (Detached, No. 2). 1 .668 Public road. 2 15-756 Wood, &c. 3 .841 House, garden, &c. 4 .280 Garden. 5 87-119 Rough pasture, furze, &c. 6 .718 Rough pasture. 54-827 RECAPITULATION. 54-164 Land. .668 Public road. 54-827 Area of the Township of Mount Healey (Detached, No. 2). TOWNSHIP OF MOUNT HEALEY (Detached, No. 3). 1 3-867 Rough pasture, &c. 2 3-445 Rough pasture, &c. 3 .150 Pasture. 4 1-660 Pasture. 5 2-468 Pasture. 6 5-285 Pasture. 7 .694 Pasture. 8 .278 Houses, gardens, &c. 9 .050 Knocklaw, part of. 10 .600 Arable. 11 .03840 Public road. 18-241 RECAPITULATION. 17-901 Land. .340 Public road. 18-241 Area of the Township of Mount Healey (Detached, No. 3).		
67	6-141	Arable.			
68	8-144	Arable.			
69	5-090	Arable.			
70	.415	Houses, yards, &c. (Wagtail Hall).			
71	4-782	Pasture.			
72	1-722	Pasture, &c.			
72a	.065	Garden.			
73	1-348	Pasture.			
74	2-423	Public road.			
75	4-540	Pasture, wood, &c.			
76	.298	Houses, yards, garden, &c.			
77	.143	Houses, garden, &c. (Little Mill).			
78	.664	Pasture.			
79	.100	Pond.			
80	.167	Pond.			
81	8-087	Pasture.			
82	5-400	Arable.			
83	8-618	Wood, &c.			
84	1-815	Pasture.			
85	4-497	Pasture.			
86	117-211	Rough pasture, furze, &c. (Rothbury Forest).			
87	4-216	Public road.			
363-987					
RECAPITULATION.					
349-458	Land.				
8-154	Public roads.				
6-375	Water.				
363-987	Area of the Township of Mount Healey (exclusive of the detached parts).				
TOWNSHIP OF MOUNT HEALEY (Detached, No. 1).					
.071	Public road.				
.071	Area of the Township of Mount Healey (Detached, No. 1).				

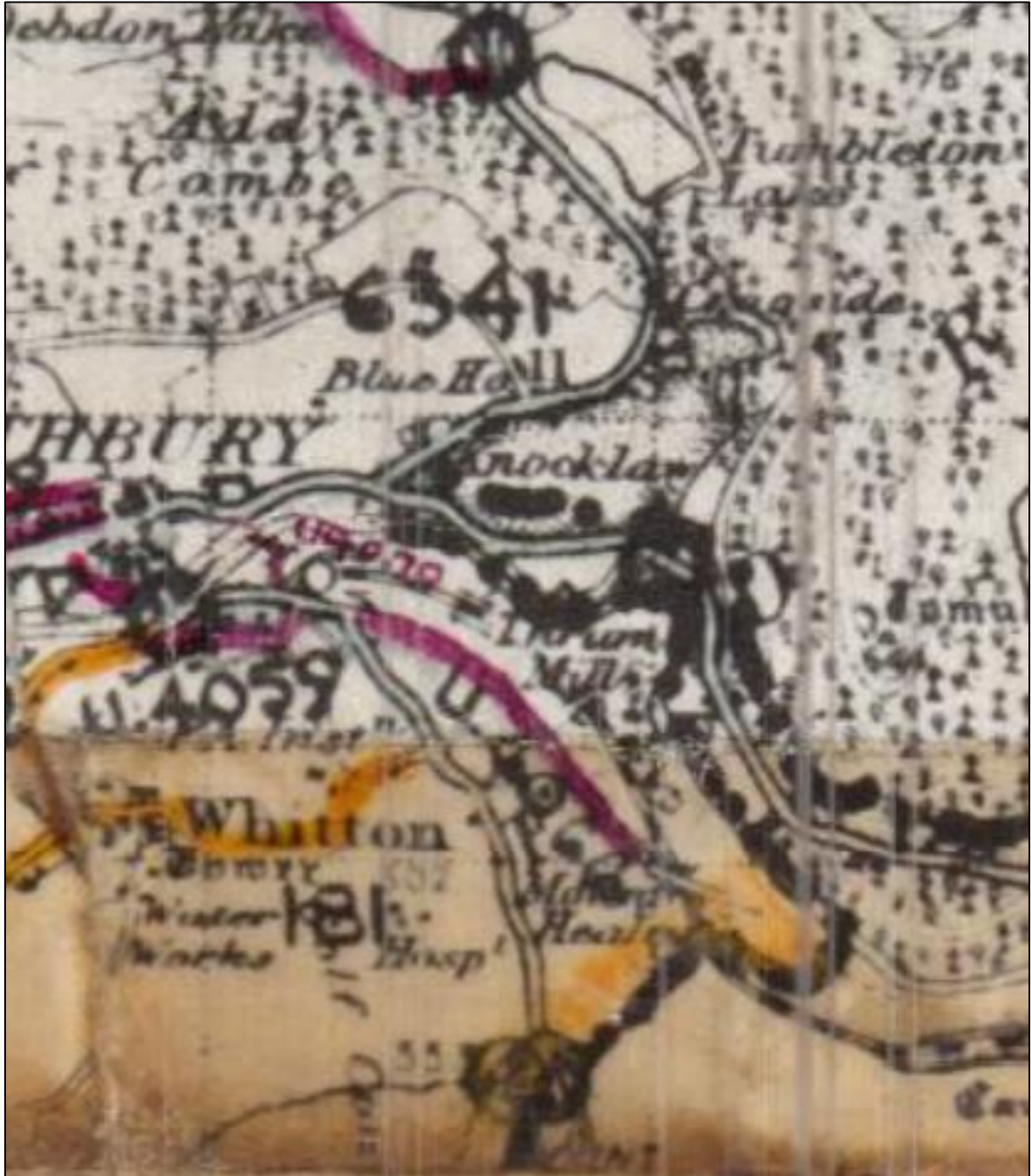




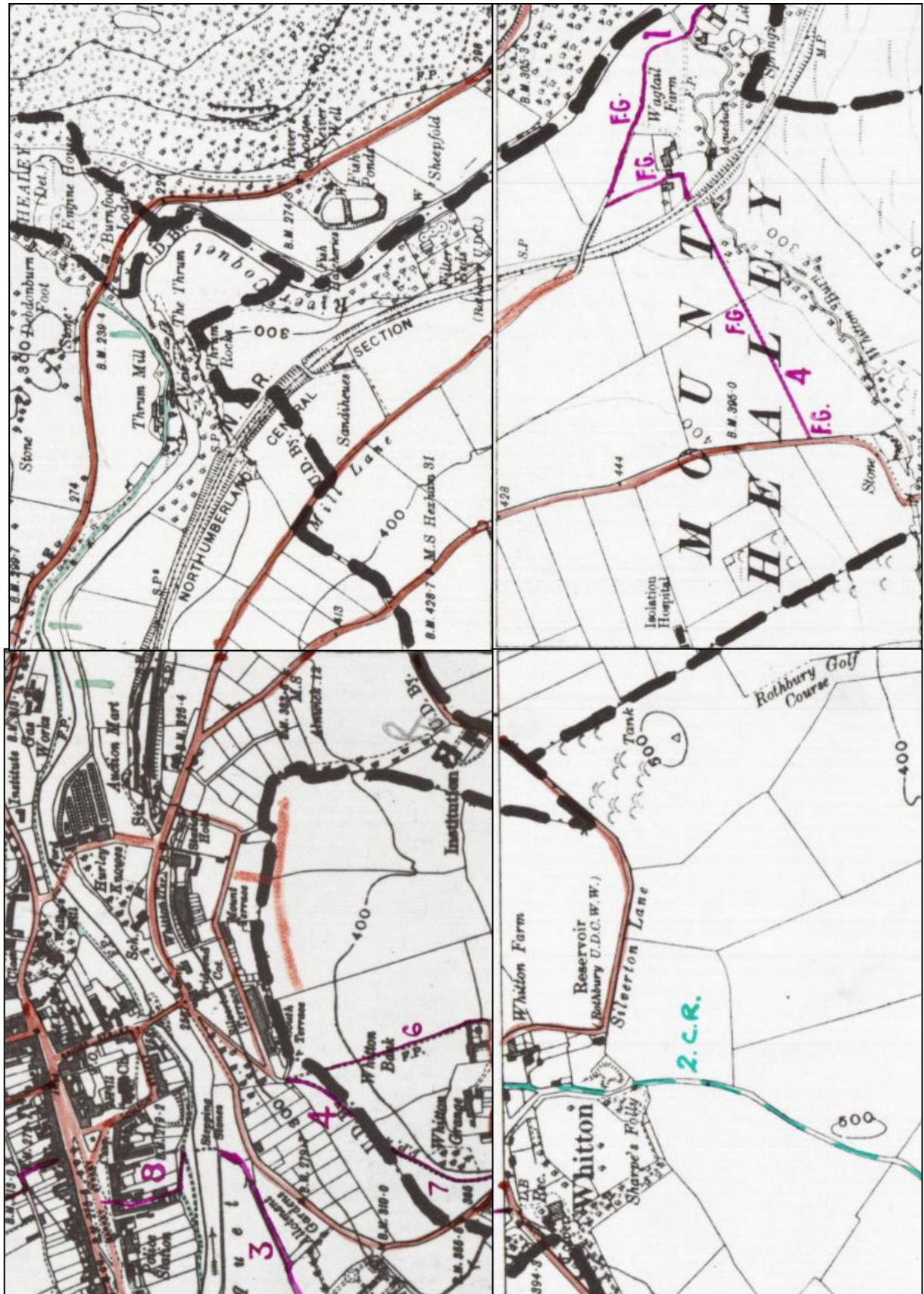








Definitive Map - Original Survey Schedules & Map
C. 1952



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

Parish of MOUNT HEALEY in the Rural District of

ROTHBURY

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

1. Number of highway on Map. 1
2. Kind of Path (i.e., F.P., B.R.) F.P.
3. Starts at WATTON FARM to WEST BAY FARM
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.? BAD IN PLACES
ESPECIALLY WHERE IT SWIRTS THE RIVER
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 50 years
Duke of Northumberland

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>G. W. Carr</u>	<u>Little Mill Farm Rothbury</u>	<u>22/5/54</u>

Important:—Sheet No. of Map on which Highway is shown
OS 936 M L 1 NW

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

Parish of MOUNT HEALEY in the Rural District of
ROTHBURY

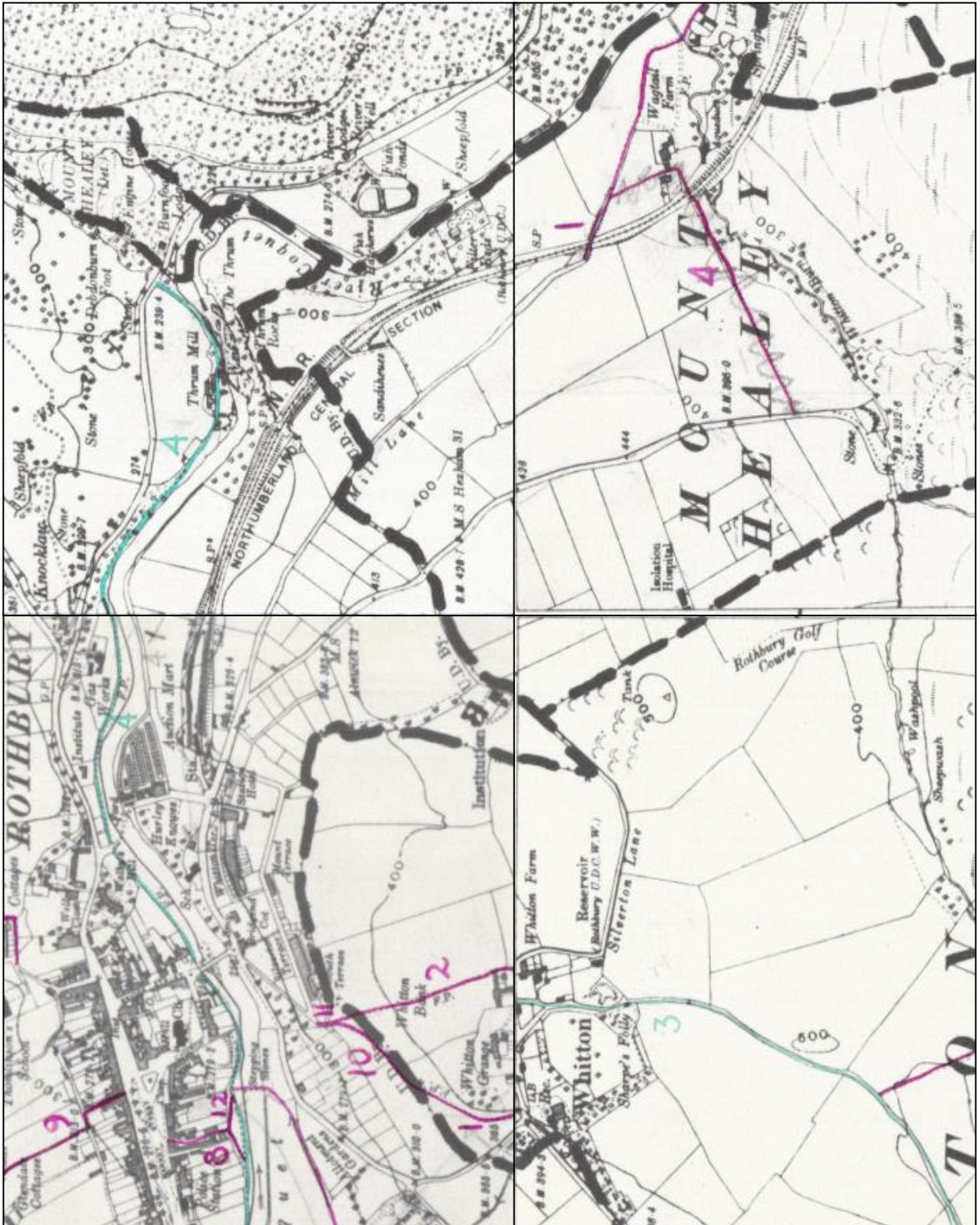
Borough
Urban District } of _____
(Delete whichever is inapplicable).

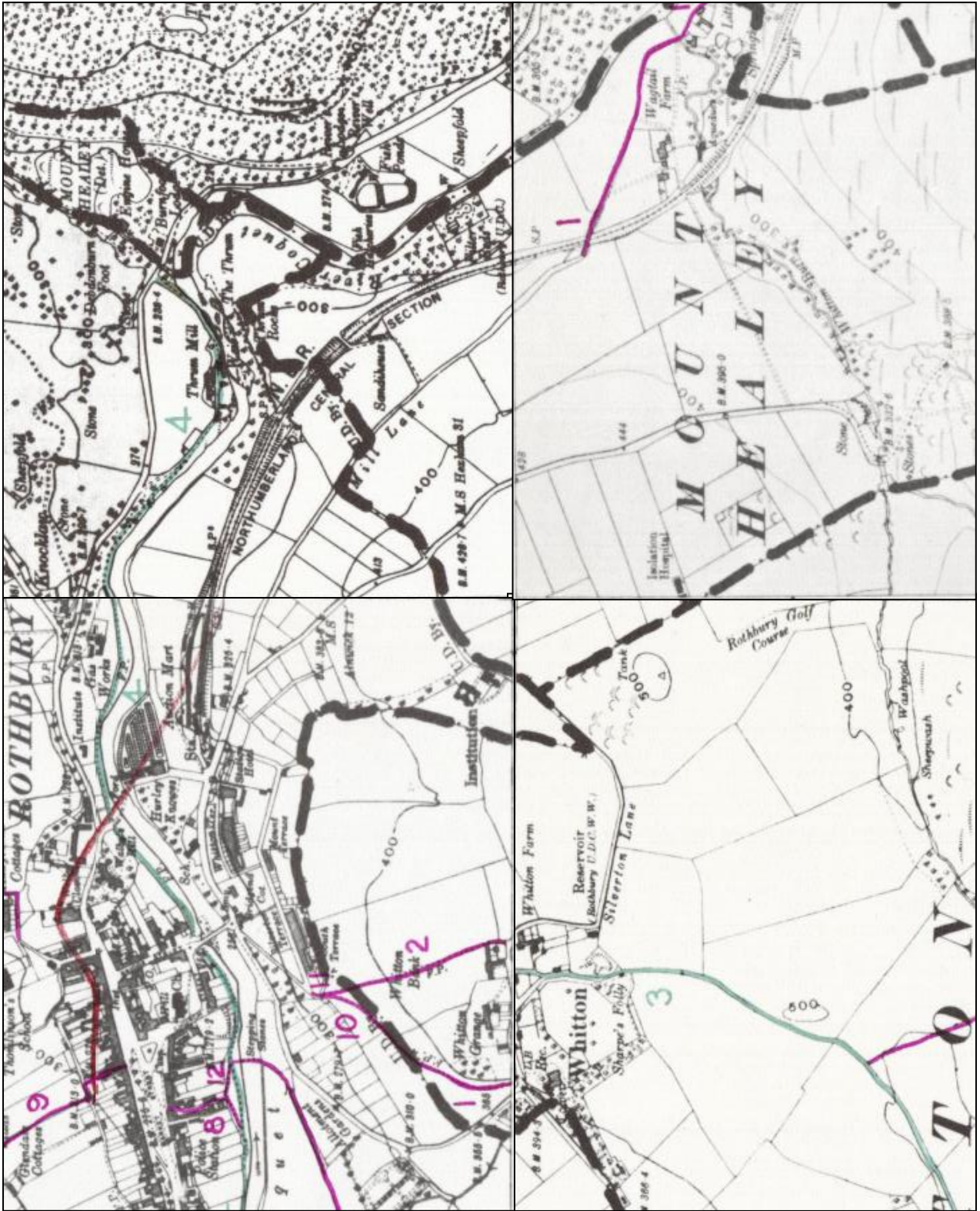
1. Number of highway on Map. 4
2. Kind of Path (i.e., F.P., B.R.) F.P.
3. Starts at WAGTAIL FARM to HELHAM Rd.
4. Name of Path (if any) _____
5. Is the Path well defined? YES
6. Is the Path metalled? If so, define length 100 yds.
7. If its width can be stated, insert here _____
8. What is the present condition of the path, stiles, etc.? FAIR
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
Duke of Northumberland.
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 _____

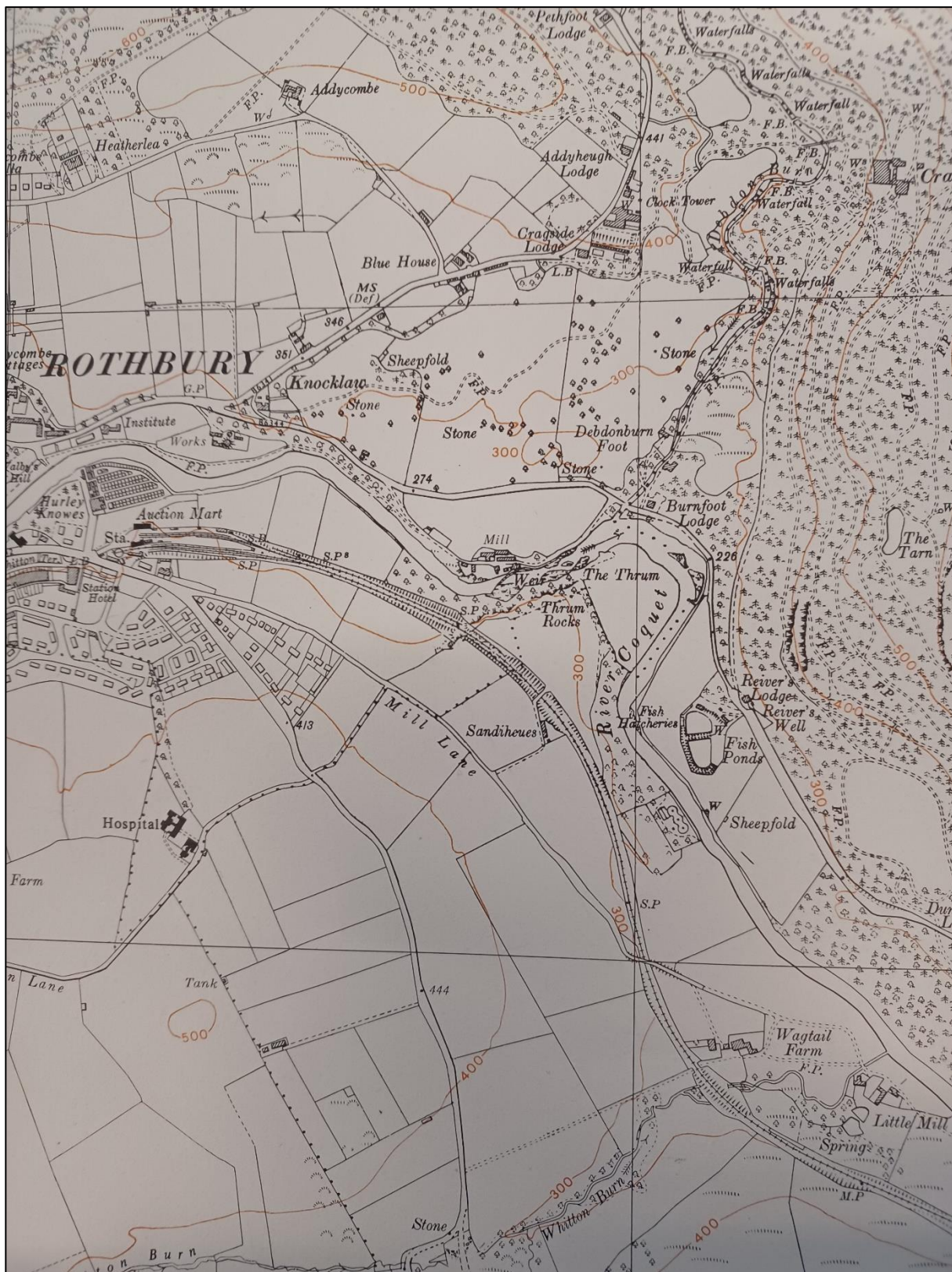
Surveyed by	Address	Date of Survey
<u>J. W. Carr</u>	<u>Little Mill Farm Rothbury</u>	<u>22/5/54</u> X

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

OS 7936 N L 1 NW

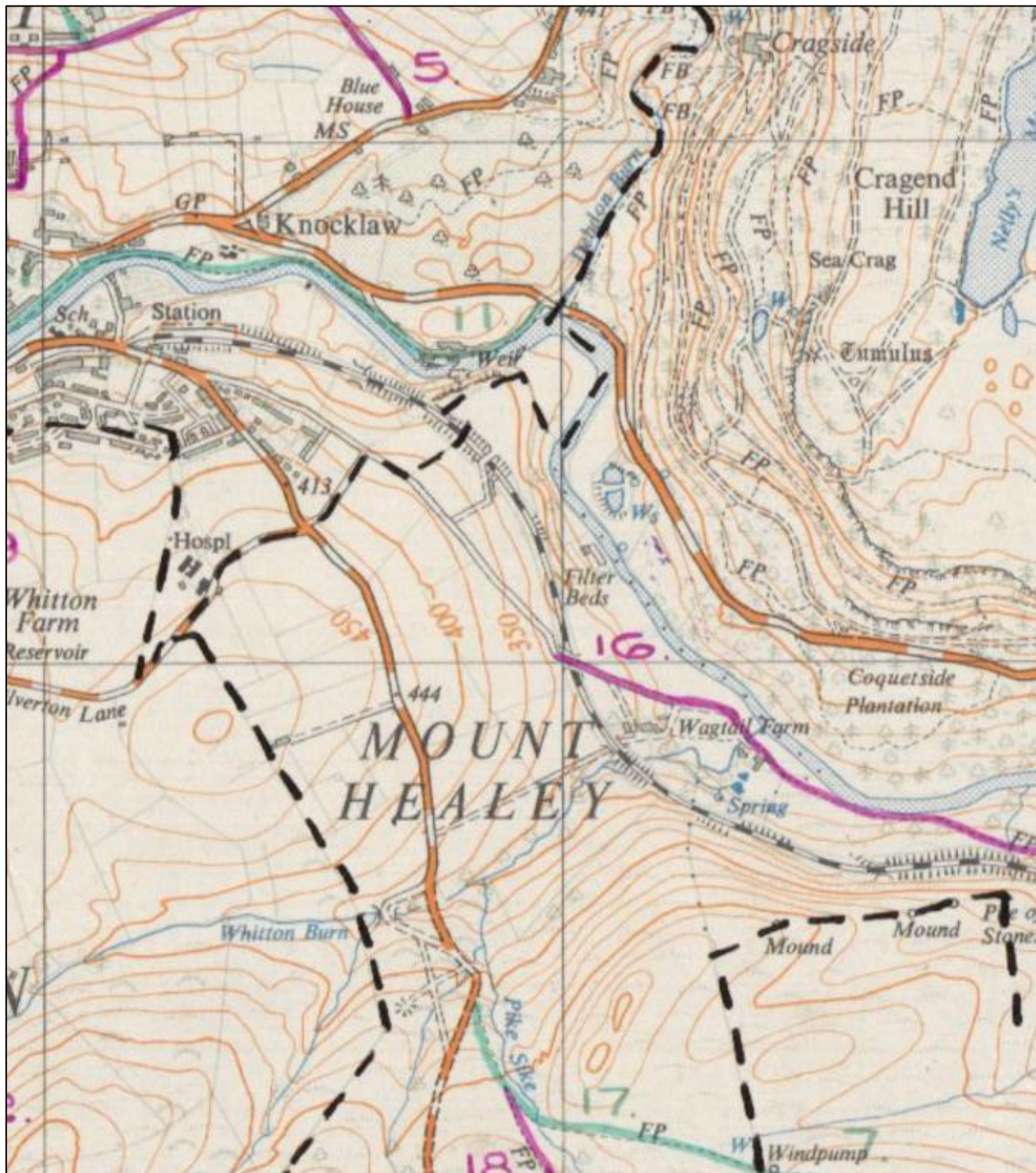






County Road Schedule 1958

	<u>Unclassified Roads in Rothbury Rural District</u>	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.4025 at Great Tosson and continuing northwards to its junction with C.181 600 yards east of Allerdene.	1.73
U.4062	Allerdene - Warton Road	From B.6341 at its junction with C.179 south-eastwards via the Coquet forway 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	Branton - Great Ryle	From the Glendale R.D. boundary at Hille Moor to C.169 at Milemoor Plantation.	0.54
U.4065	Ingram - Prendwick	From the Glendale - Rothbury R.D. boundary at Bowl Holes Shottons Dene to C.169 Prendwick Cottage.	0.51
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.

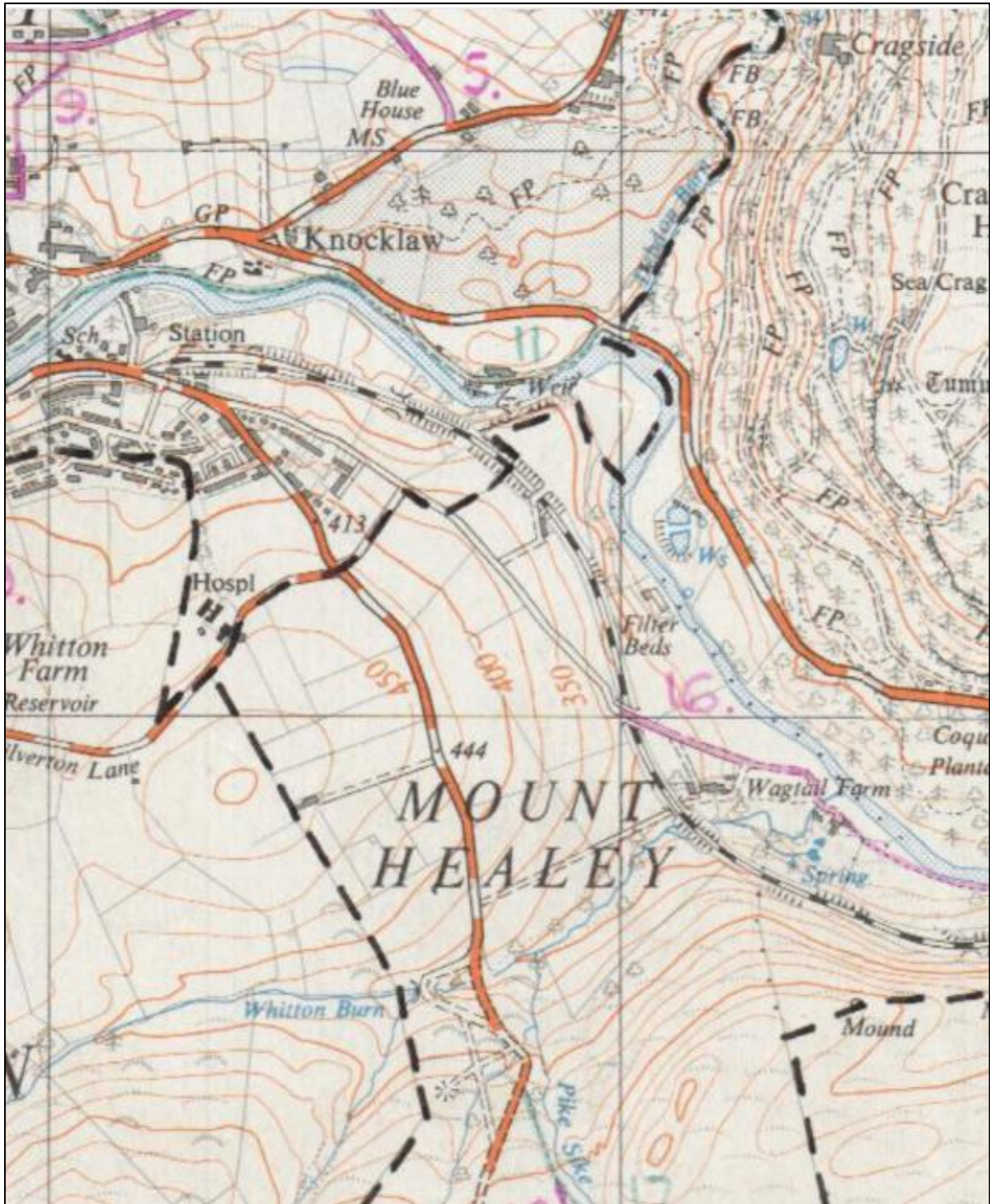
PART IV.

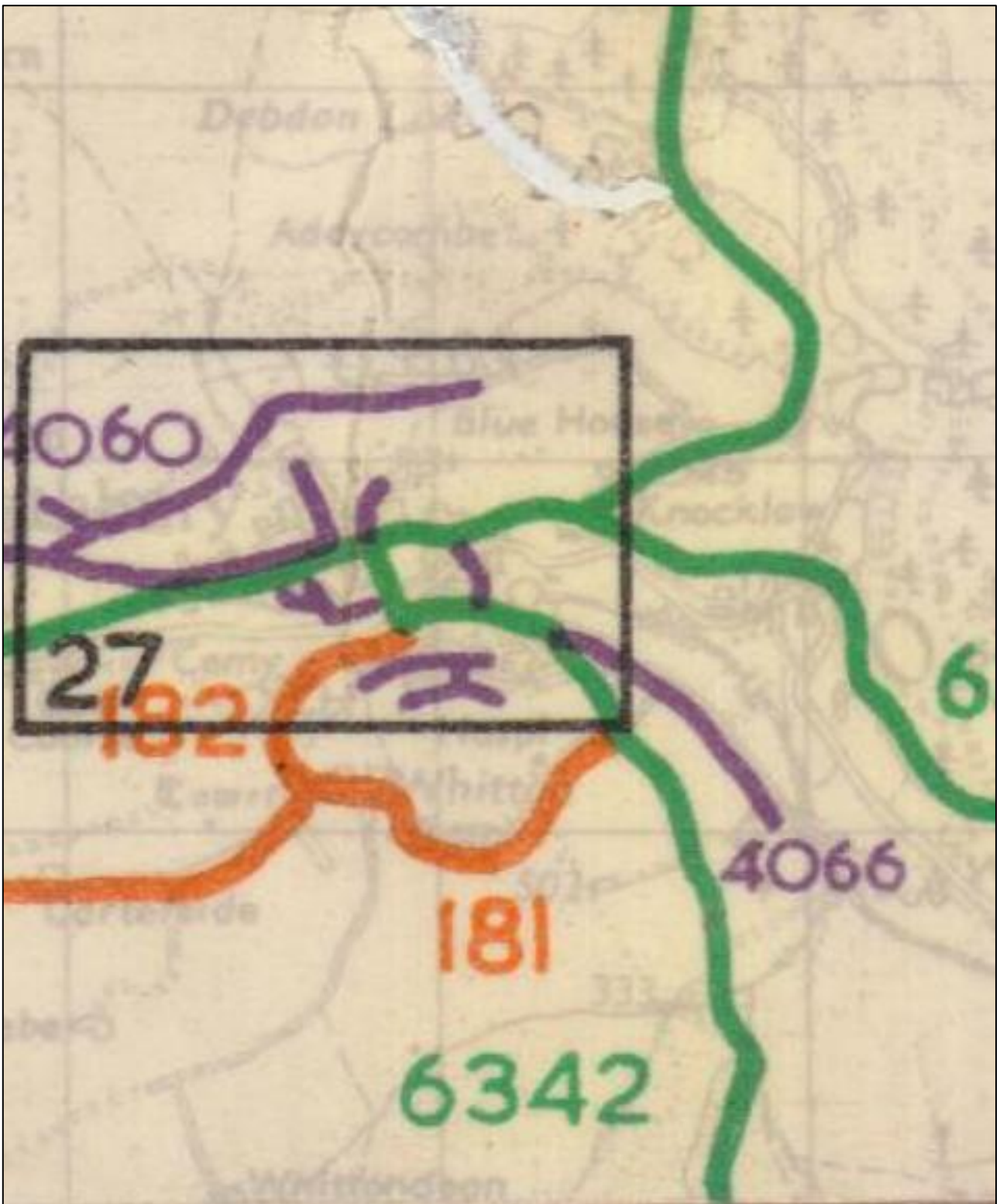
PUBLIC RIGHTS OF WAY - STATEMENT.

1. Borough
Urban district
Rural district ROTHBURY
2. Parish CARTINGTON
3. Number of Footpath on Map 16
4. Name of Path
5. Kind of Path (i.e. (FP/BR) F.P.
6. General Description of Path From the Wagtail Road at the British Railways..
(Morpeth Branch) in a south-easterly direction by Craghead to the Brinkburn..
Parish Boundary joining F.P. 6 in that parish.....
.....
.....
.....
7. Other relevant information

County Road Schedule
1964

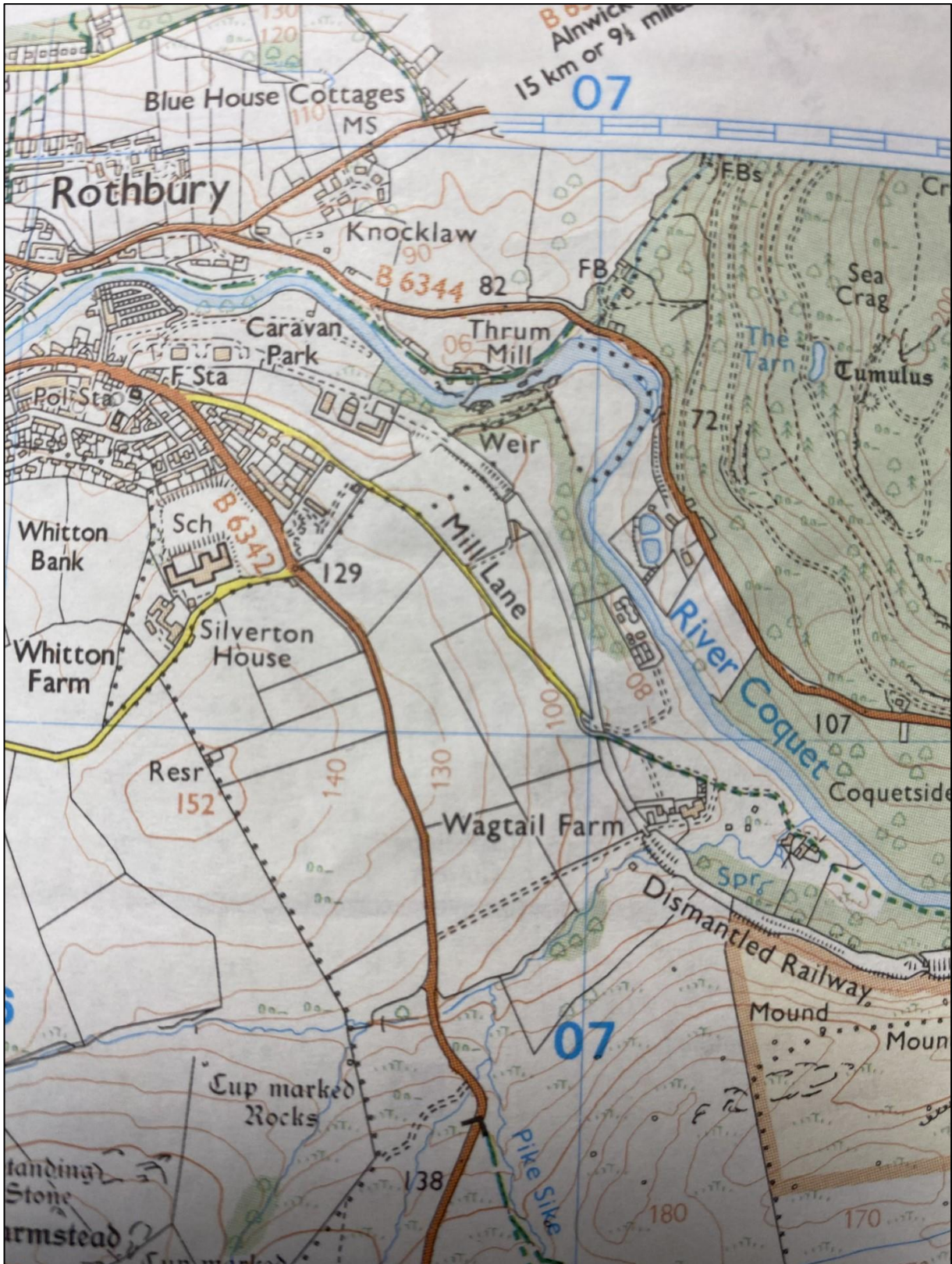
Route No.	Name of Road.	Description.	Responsible Division or Authority.	Mileage.	Total Mileage.
U.4060	Haw Hill and Hillside Road (Part).	From Gravelly Bank, U.4059, eastwards to 'Heather Lea' and including link to Cove Cottage, (1,680 Yards).	Alnwick.	0.91	0.91
U.4061	Antons Letch-Great Tosson-Allerdene 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.181 680 yards east of Allerdene.	Alnwick.	1.73	1.73
U.4062	Allerdene-Marton Road.	From B.6341 opposite its junction with C.179 south-eastwards via the Coquet Fordway to C.181 at Allerdene.	Alnwick.	1.25	1.25
U.4063	Howmoor Plantation Road.	From C.178 near Whittonlea Quarry via Reynards Lodge to Howmoor Plantation.	Alnwick.	0.34	0.34
U.4064	Great Ryle-Branton.	From C.169 at Milemoor Plantation north-eastwards to the Rural District boundary south of Plantation House. (Continues in Glendale Rural District as U.1098).	Alnwick.	0.54	0.54
U.4065	Ingram-Frendwick.	From C.169 at Frendwick Cottage northwards to the Rural District boundary. (Continues in Glendale Rural District as U.1100).	Alnwick.	0.81	0.81
U.4066	Wagtail Road, Rothbury.	From B.6342 200 yards east of Rothbury Station south-eastwards to bottom of west ramp to railway bridge on the road to Wagtail Farm.	Alnwick.	0.55	0.55
U.4067	Church Street, Longframington.	From A.697 at Longframington Schools via north and west sides of St. Laurence's Church to C.188.	Morpeth.	0.08	0.08
U.4068	Monkridge-Soppit.	From A.696 at Monkridge northwards to the Rural District boundary at the ford over Elsdon Burn. (Continues in Bellingham Rural District as U.5065).	Morpeth.	0.58	0.58
U.4069	Elsdon Village Roads. (See also U.4082 and U.4085).	From B.6341 at Cheekgate via School to Castlegate and returning southwards along east side of St. Cuthbert's Church to rejoin B.6341 opposite junction with C.186, (357 yards). Also from Bird-in-Bush Inn, crossing C.186, to Pinfold, (160 yards).	Morpeth.	0.30	0.30





County Road Schedule
1974

Route No.	Name of Road	Description	Responsible Division or Authority	Mileage	Total Mileage
U.4063	Howmoor Plantation Road.	From C.178 near Whittonlea Quarry (NU 065106) eastwards and southwards via Reynards Lodge to Howmoor Plantation. (NU 067104).	Alnwick Division.		0.34
U.4064	Great Ryle-Branton.	From C.169 at Mleemoor Plantation (NU 034129) north-eastwards to the Berwick District boundary south of Plantation House (NU 037138). (Continues in Berwick District as U.1098).	Alnwick Division.		0.54
U.4065	Ingram-Prendwick.	From C.169 at Prendwick Cottage (NU 004124) northwards to the Berwick District boundary at NU 009135. (Continues in Berwick District as U.1100).	Alnwick District.		0.81
U.4066	Wagtail Road, Rothbury.	From B.6342 200 yards east of the former Rothbury Station (NU 064016) south-eastwards to bottom of west ramp to railway bridge on the road to Wagtail Farm. (NU 069010).	Alnwick Division.		0.55
U.4067	Church Street, Longframlington.	From A.697 at Longframlington Schools via north and west sides of St. Laurence's Church to C.188. (NU-131010).	Morpeth Division.		0.08
U.4068	Monkridge Soppit.	From A.696 at Monkridge (NY 914917) northwards to the Tynedale District boundary at the ford over Elsdon Burn. (NY 917926). (Continues in Tynedale District as U.5065).	Morpeth Division.		0.58
U.4069	Elsdon Village Roads. (See also U.4062 and U.4065).	From B.6341 at Checkgate via School to Castlegate and returning southwards along east side of St. Cuthbert's Church to rejoin B.6341 opposite junction with C.186, (357 yards). Also from Bird-in-Dush Inn, crossing C.186, to Pinfold, (160 yards). (NY 936933).	Morpeth Division.		0.30



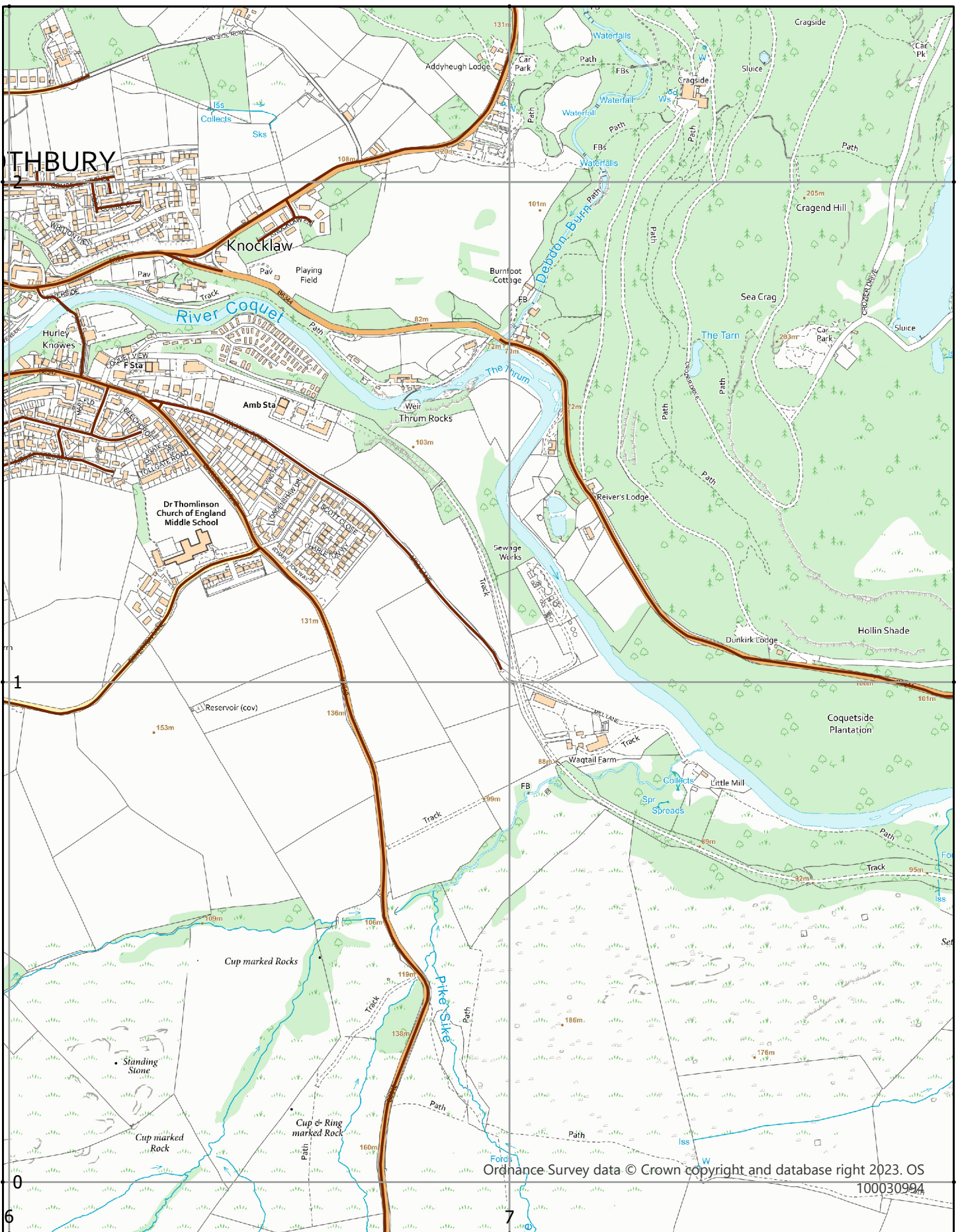
The Council's 'List of Streets' (at 2 May 2006)

*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*

<i>Road Number</i>	<i>Description</i>	<i>Length - Metres</i>
U4064	C169 JCT TO DISTRICT BOUNDARY U1098	874
	<i>Total length for U4064</i>	<i>874</i>
U4065	C169 JCT TO U1100 DISTRICT BOUNDARY	1,319
	<i>Total length for U4065</i>	<i>1,319</i>
U4066	B6342 JCT TO U4066 WAGTAIL ROAD	16
	B6342 TO ROAD END AT S/FACE CH NEAR	916
	<i>Total length for U4066</i>	<i>932</i>
U4067	U4067 TO A697	94
	C188 TO U4067/U4086	59
	<i>Total length for U4067</i>	<i>154</i>
U4068	A696 JCT TO U5065 (DISTRICT BOUNDARY	930
	<i>Total length for U4068</i>	<i>930</i>
U4069	CRAWFORD CLOSE CUL-DE-SAC - ELSDO	58
	CRAWFORD CLOSE CUL-DE-SAC - ELSDO	19
	C186 JCT TO U4082 JCT	52
	B6341 JCT TO C186 JCT	101
	B6341 JCT TO B6341 JCT	322
	CRAWFORD CLOSE CUL-DE-SAC	57
	<i>Total length for U4069</i>	<i>609</i>
U4070	B6342 JCT TO U4070 FOOTWAY	123
	U4070 TO U4070 VIA STEPPING STONES	55

02-May-2006

Page 268 of 730



**Network Management
Information System**

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Page 276

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		
Drn: ZQ	Date: October 2023	Scale: 1:10,000



Northumberland County Council

RIGHTS OF WAY COMMITTEE
20 December 2023

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

ALLEGED BYWAY OPEN TO ALL TRAFFIC No 26 PARISH OF BRINKBURN

Report of the Director of Environment & Transport
Cabinet Member: Councillor John Riddle, Roads & Highways

Purpose of report

In this report, the Rights of Way Committee is asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U4038 road, between the C168 road, 15 metres south of East Raw and Brinkburn Station Cottage.

Recommendation

It is recommended that the committee agrees that:

- (i) there is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route;**
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the 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: **Page 277**

“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 streets. Thus, tracks in rural settings, which have their own unique reference numbers (e.g. the 'U4038" 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 U4038 unclassified County road based upon more than simply its inclusion in the List of Streets.

3. LANDOWNER EVIDENCE

- 3.1 By letter, dated 31st May 2018, Northumberland Estates responded to the

consultation, stating:

**“Parish of Brinkburn Proposed Byway Open to All Traffic No 26
Plan 13**

This route is already an adopted highway according to Northumberland County Council. The route has issues re poor maintenance. The Estate do not believe there is any requirement for a BOAT to be created due to the road adoption but do require NCC to maintain it.”

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, 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 12th April 2018, the British Horse Society responded to the consultation, stating:

“Alleged Byway Open to All Traffic 26 (Brinkburn Station)

This is a useful route for walkers, cyclists and horse riders as it leads to both public footpaths and a public bridleway. St Oswalds’s Way also connects to it. It will also be used by vehicles as access to Butterknowes and West Raw Farms. 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 there is an east-west route passing The Raw, there is no evidence of a road or track approximating to the route of alleged Byway No 26.

1820 Fryer’s County Map

There is clear evidence of an “Other road” approximating to the most southerly half of the route of alleged Byway No 26.

1827 Cary's Map

There is clear evidence of a "Parochial road" approximating to the route of alleged Byway No 26.

1828 Greenwood's County Map

There is clear evidence of a "Cross road" closely approximating to the route of alleged Byway No 26.

1866 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a mostly enclosed road / track over the route of alleged Byway No 26. The railway and Brinkburn station have yet to be constructed.

1897 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track over the route of alleged Byway No 26.

1899 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a mostly enclosed road / track over the route of alleged Byway No 26.

Finance Act 1910 plan

There is clear evidence of a mainly enclosed road / track over the route of alleged Byway No 26. The route is identified as being separate from the adjacent land by coloured boundaries. This is a good indication that the road was considered to be public at that time.

1923 Ordnance Survey Map: Scale 1:2,500

There is clear evidence of a mostly enclosed road / track over the route of alleged Byway No 26.

1925 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a mostly enclosed road / track over the route of alleged Byway No 26.

1951 Highways Map

The route of alleged Byway Open to All Traffic No 26 is coloured so as to identify it as a publicly maintainable road. It is labelled as "U4038".

c.1952 Definitive Map – original Survey Schedules & Map

The route of alleged Byway Open to All Traffic No 26 exists on the map as a brown coloured line. Known public roads were generally coloured brown to indicate what the extent of the road network was considered to be.

Draft Map

The route of alleged Byway Open to All Traffic No 26 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). Two public footpaths and one public bridleway are shown beginning or terminating on the route of the alleged byway.

Provisional Map

The route of alleged Byway Open to All Traffic No 26 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). Two public footpaths and one public bridleway are shown beginning or terminating on the route of the alleged byway.

1957 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a mainly enclosed road / track over the route of alleged Byway Open to All Traffic No 26.

1958 County Road Schedule

The entry for the U4038 road, in the 1958 County Road Schedule, states:

“U4038 East Row – Brinkburn Station Road
From C168 at East Row to Brinkburn Station.”

The length of the U4038 road is identified as 0.64 miles.

1962 Original Definitive Map

The route of alleged Byway Open to All Traffic No 26 exists on the base map, but is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

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

Public Footpath No 6 (Brinkburn)

“From Footpath No 16 in the Parish of Cartington at that parish boundary in a south-easterly and south-westerly direction 45 by the West Row to join the Brinkburn Station - East Row road, east of Brinkburn Station.

Public Bridleway No 7 (Brinkburn)

“From Bridleway 17 in the Parish of Cartington at that parish boundary in a south-easterly direction crossing the bridge over the British Railway Lines to join the public road at Brinkburn Station.”

Public Footpath No 10 (Brinkburn)

“From the Brinkburn Station - East Row road in an easterly direction to join the Pauperhaugh - East Row road south of the bridge over the River Coquet”

First Review Definitive Map (Relevant Date 1 Nov 1963)

The route of alleged Byway Open to All Traffic No 26 exists on the base map, but is not identified as a public footpath, public bridleway or Road Used as a Public Path (RUPP).

1964 Highways Map

The route of alleged Byway Open to All Traffic No 26 is coloured so as to identify it as a publicly maintainable road. It is labelled as "U4038".

1964 County Road Schedule

The entry for the U4038 road, in the 1964 County Road Schedule, states:

"U4038 East Row – Brinkburn Station Road
From C168 at East Row north-westwards to Brinkburn Station."

The length of the U4038 road is identified as 0.64 miles.

1974 County Road Schedule

The entry for the U4038 road, in the 1974 County Road Schedule, states:

"U4038 East Row – Brinkburn Station Road
From C168 at East Row (NZ 093988) north-westwards to former
Brinkburn Station (NZ 088996)."

The length of the U4038 road is identified as 0.64 miles.

2005 Ordnance Survey Explorer 340 Map: Scale 1:25,000

There is clear evidence of an enclosed track over the route of alleged Byway Open to All Traffic No 26. The route is shown as a yellow line. In the map key, under "Roads and Paths" the yellow line symbol denotes "Road generally less than 4 metres wide"

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

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

6. SITE INVESTIGATION

- 6.1 From a point marked T, on the C168 road, 15 metres south of 'East Raw', a 3 metre wide tarmac surfaced track, in a 5.5 to 9 metre wide corridor proceeds in a general north-westerly direction for a distance of 690 metres, to a point 90 metres south-west of West Raw Farm. Thereafter, a 3 metre wide tarmac track, in a 6 to 8 metre wide corridor, continues in a westerly direction for a distance 255 metres, and then a 3 metre wide stone surface track, in a 6 to 7 metre wide corridor, proceeds in a northerly direction for a distance of 25

metres to a field gate, at a point marked U, 20 metres south east of Brinkburn Station Cottage.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In November 2023, a draft copy of the report was circulated to those landowners / occupiers who responded to the initial consultation for their comments.
- 7.2 By letter, dated 21 November 2023, Northumberland Estates, the landowner, made the following comments in relation to the draft report:

“Wildlife & Countryside Act 1981 - Review of the Definitive Map and Statement of Public Rights of Way-Alleged Byway Open to All Traffic No 26 (Parish of Brinkburn)

I refer to your letter of 8th November 2023.

I would wish to reiterate the point that in our view we do not consider it necessary to change the designation of the route to a Byway Open to All Traffic bearing in mind the fact that the route in question is an existing adopted highway and consequently it should be quite clear to all potential road users that this is a public right of way. The Estate is not endeavouring to argue, as might be concluded by paragraph 8.14 to your report, that notwithstanding the route being referred to in the Council's List of Streets of publicly maintained roads, that there are no public rights of way over it.

Whilst I accept that this is not the purpose of your current proposal or consultation, I would also stress that the Northumberland Estates would be resistant to any future move to have the route no longer designated as being publicly maintained, in light of its significance for those living in and moving around the locality.”

8. DISCUSSION

- 8.1 Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:

that a right of way, which is not shown in the Map and Statement, subsists or is reasonably alleged to subsist over land in the area to which the Map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or; subject to section 54A, a byway open to all traffic.

- 8.2 When considering an application / proposal for a modification order Section 32 of the Highways Act 1980 provides for “any map, plan or history of the locality or other relevant document” to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced. **Page 283**

- 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 Byway Open to All Traffic No 26 is identified on the County Council's current List of Streets as being the U4038 road. The whole route appears to have been identified on both the Council's 1951 Highways Map and the later 1964 Highways Map. It was also included in the 1958, 1964 and 1974 County Road Schedules.
- 8.5 The route has been consistently identified as a mainly enclosed road / track on Ordnance Survey maps since 1866. Although the route is not shown on Armstrong's County Map of 1769, it is shown on Fryer's and Greenwood's County Maps of 1820 and 1828 and on Cary's Map of 1827. On the plan, prepared under the Finance Act 1910, the route is clearly identified as being separate from the adjacent land by coloured boundaries, indicating it was considered to be public at that time.
- 8.6 Although other public rights of way were identified nearby, with two public footpaths and one public bridleway identified as either beginning or ending on the route, the route itself was not included on the Draft, Provisional or original Definitive Maps as a footpath, bridleway or Road Used as Public Path (RUPP). On the Survey Map the route is coloured brown in the same way that other public roads were identified.
- 8.7 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.
- 8.8 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.
- 8.9 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.

- 8.10 Of the saving provisions above, (b) will apply to the route of alleged Byway No 26. The public's motor vehicular rights would not have been extinguished by the NERC Act 2006.
- 8.11 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.
- 8.12 Most of this route (from East Raw to 25 metres south-east of Brinkburn station) has a reasonable driveable tarmac surface. This part of the route will be used by those living at the dwellings at 1 and 2 East Raw, Beacon View, Glenlaw, Butterknowes Farm and West Raw, their visitors and also by farm traffic. The remaining most northern 25 metres of the route has a rougher stone / earth / grass surface and will be used by those living at Brinkburn Station Cottage and their visitors. From my site visit, the route would also appear to be well used by non-motorised traffic.
- 8.13 The Northumberland Estates has suggested that it is not necessary for this route to be recorded as a byway open to all traffic; public rights over the route not being in doubt, by virtue of it already being recorded on the Council's List of Streets. Of course, being recorded on the List of Streets does not prove a route's status - it is more a statement about maintenance liability. A number of landowners in Northumberland (including The Northumberland Estates) have, in the recent past, argued that certain routes on the Council's List of Streets have no public rights of way over them, whatsoever.
- 8.14 Responding to the draft report, The Northumberland Estates has indicated that they do not consider it necessary to "change" the designation of the route to byway open to all traffic. This implies that it currently has some other designation, which will be altered by this process. This is not the case. The route currently has no status identified. It is recorded on the Council's List of Streets as the U4038 road, and will remain so recorded; but being on the list of Streets is a statement about maintenance liability, not the public rights that exist over it. Its physical appearance is no guarantee of status. There are many minor roads and tracks that are private roads with only public footpath or bridleway rights over them - and sometimes no recognised public rights over them whatsoever.
- 8.15 The Northumberland Estates also argued that "Bearing in mind the fact that the route in question is an existing adopted highway ... consequently it should be quite clear to all potential road users that this is a public right of way." But the road isn't an "adopted highway". We don't have any adoption records, per se, for this route. It is recorded on the Council's List of Streets having been identified as a publicly maintainable highway since the 1950s. The status of the route isn't quite as certain as the Northumberland Estates appears to be suggesting and, as indicated earlier, some landowners (including the Northumberland Estates, as recently as 2016) have argued that some U roads

are not public vehicular highways or, in some instances, not even public rights of way of any description. These challenges have sometimes been made in circumstances where the provenance of the road is bolstered by the existence of a 1930s Handover Map and a map and / or schedule prepared under the Restriction of Ribbon Development Act 1935 - documents which aren't available to support the status of routes in the former Rothbury RDC area.

- 8.16 Advice from the Planning Inspectorate in their 'consistency guidelines' states that it is important to have the correct width, where known, recorded in the definitive statement. Usually there is a boundary to boundary presumption for public highways. However, where no defined corridor exists, and there is no (usually) documentary evidence to establish width, the Council has adopted a standard width of 5 metres (wide enough for two vehicles travelling in opposite directions to pass each other) for vehicular rights of way. On this basis it is proposed to record Byway Open to All Traffic No 26 with a width varying from 5.5 to 9 metres, as identified in paragraph 6.1 above.

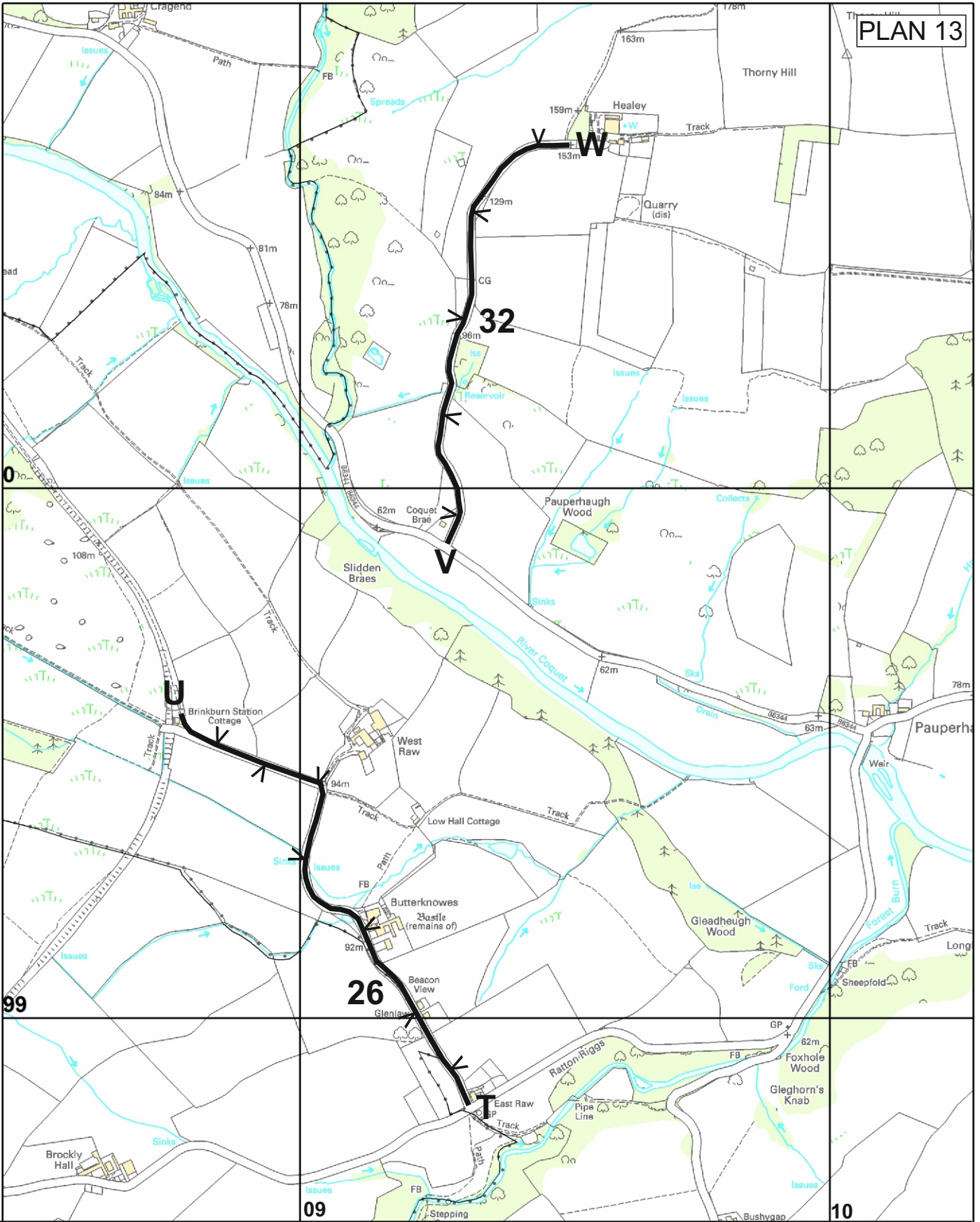
9. CONCLUSION

- 9.1 In light of the documentary evidence submitted, it appears that public vehicular rights have been reasonably alleged to exist over the route of alleged Byway Open to All Traffic No 26.
- 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. It would 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: 107/026z


Report Author Zara Quinn – Definitive Map & Search Technical Officer
07542 318328
Zara.Quinn@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)
 Aln

Parish(es)
 Brinkburn

Scale
 1:10,000

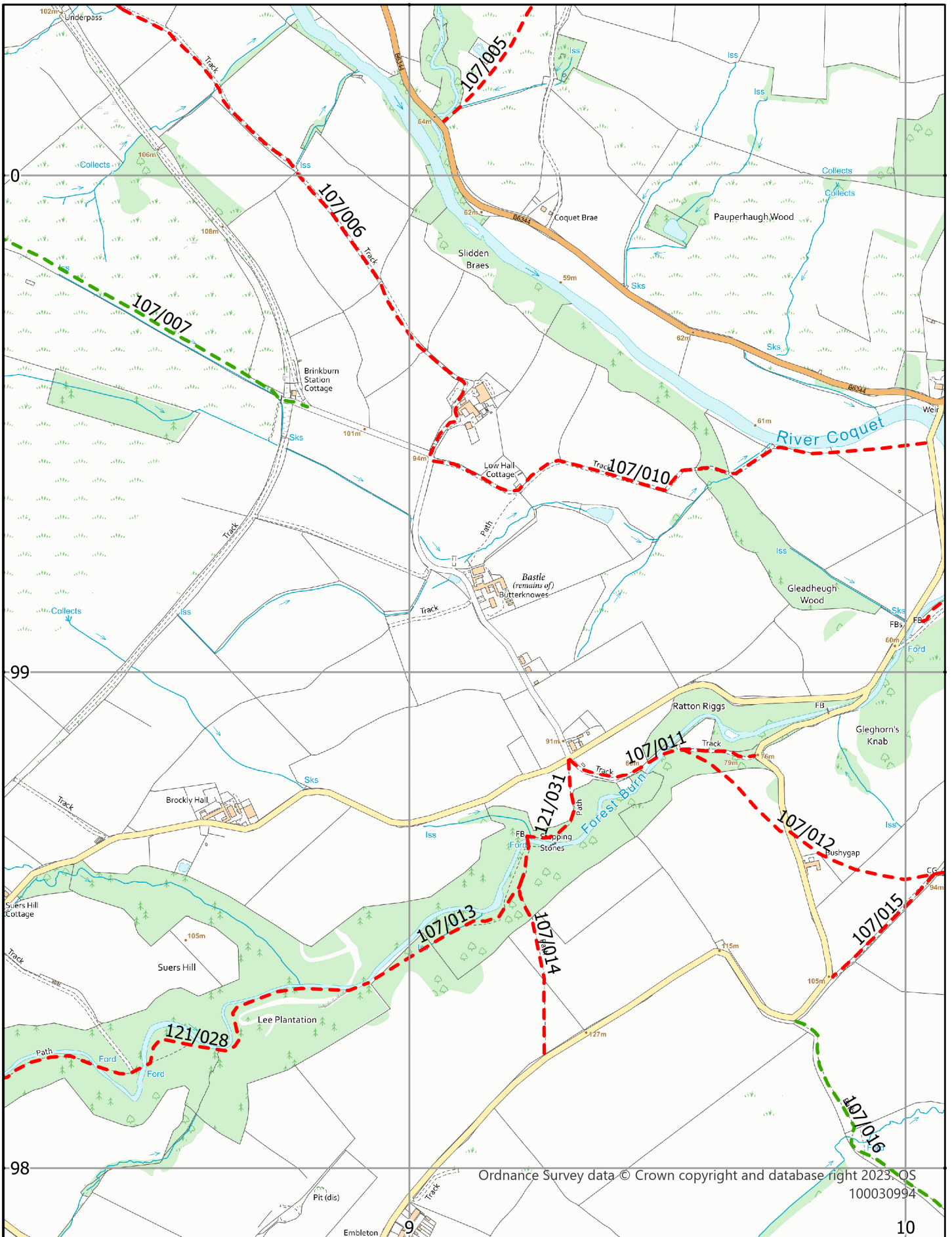
Def. Map No.

Page 287

O.S. Map
 NU 00 SE/ NZ 09 NE

Date
 October 2016

94/109



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Northumberland
County Council

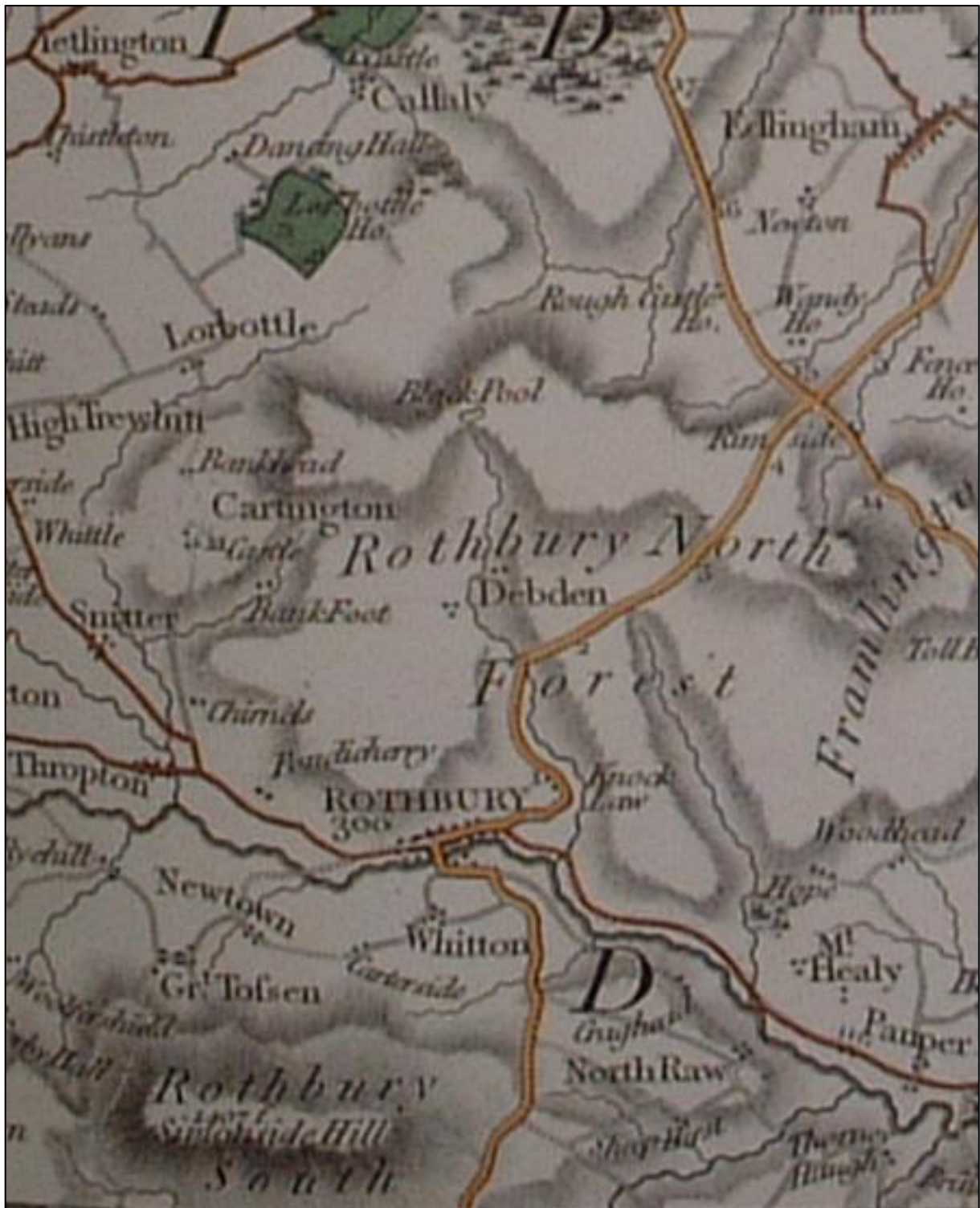
County Hall, Morpeth, NE61 2EF
Contact: Highway Search Team
Email: Highwaysearch@northumberland.gov.uk

Legend

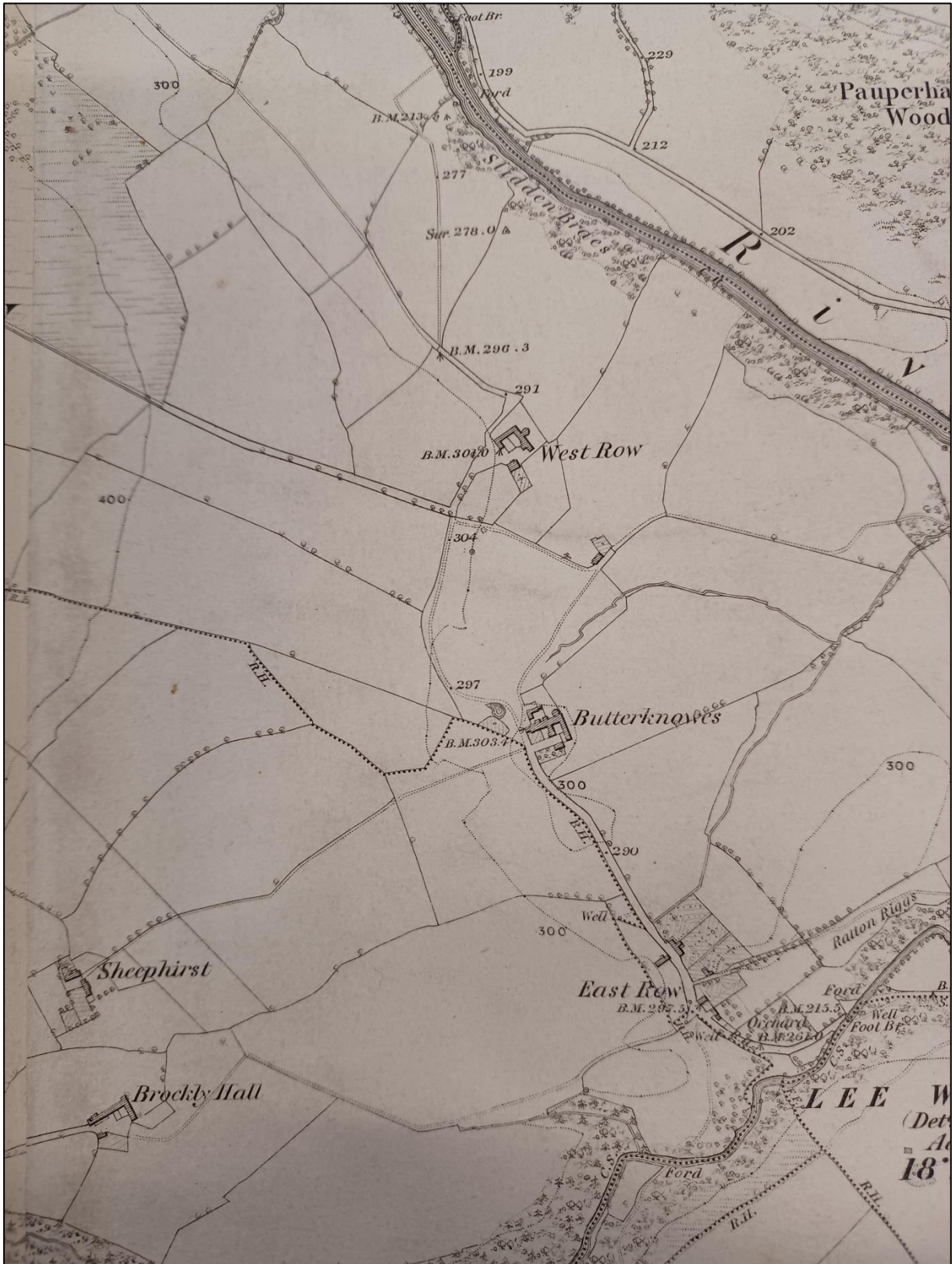
- Footpath
- Bridleway
- Restricted Byway
- Byway open to traffic

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

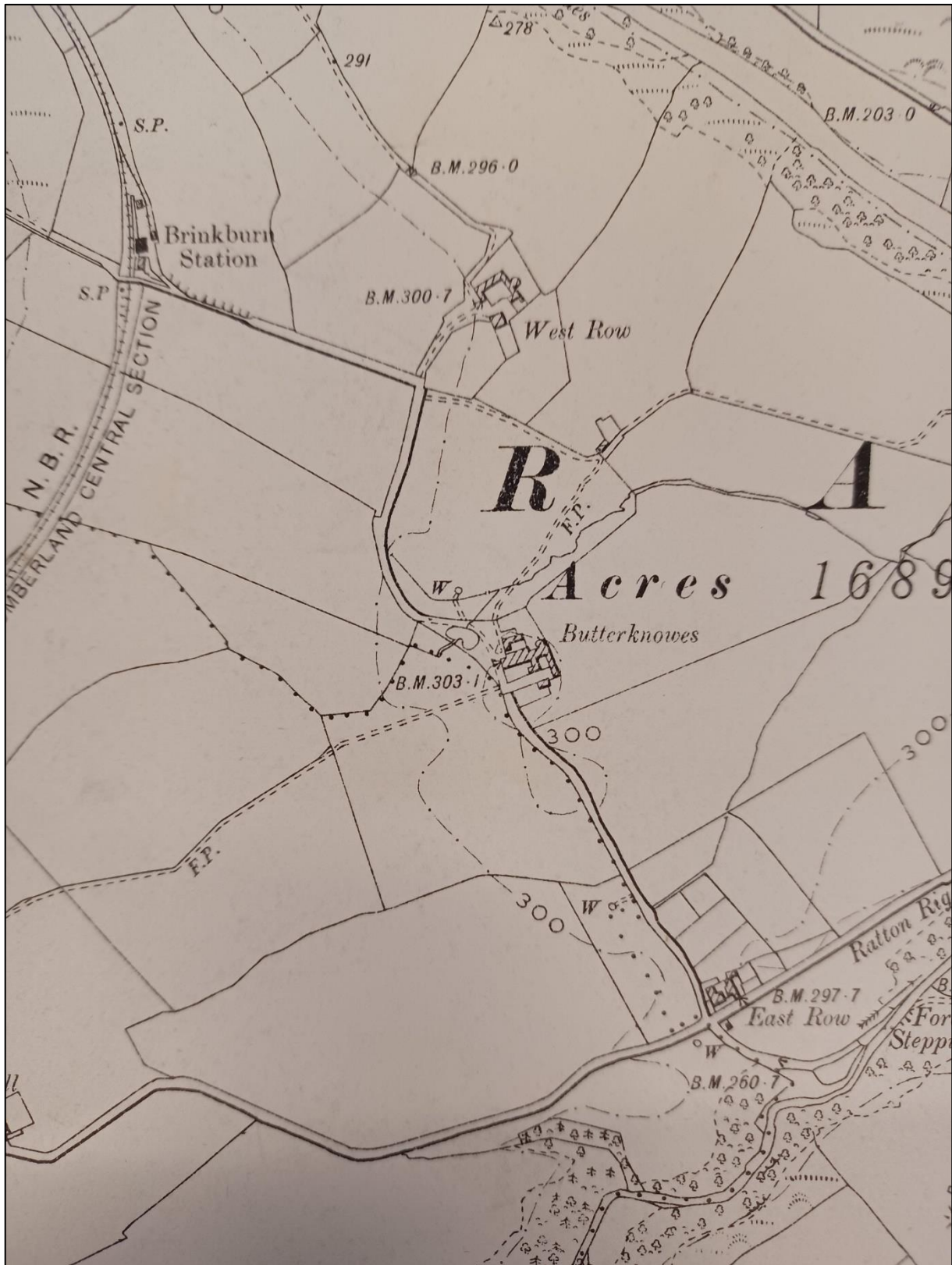




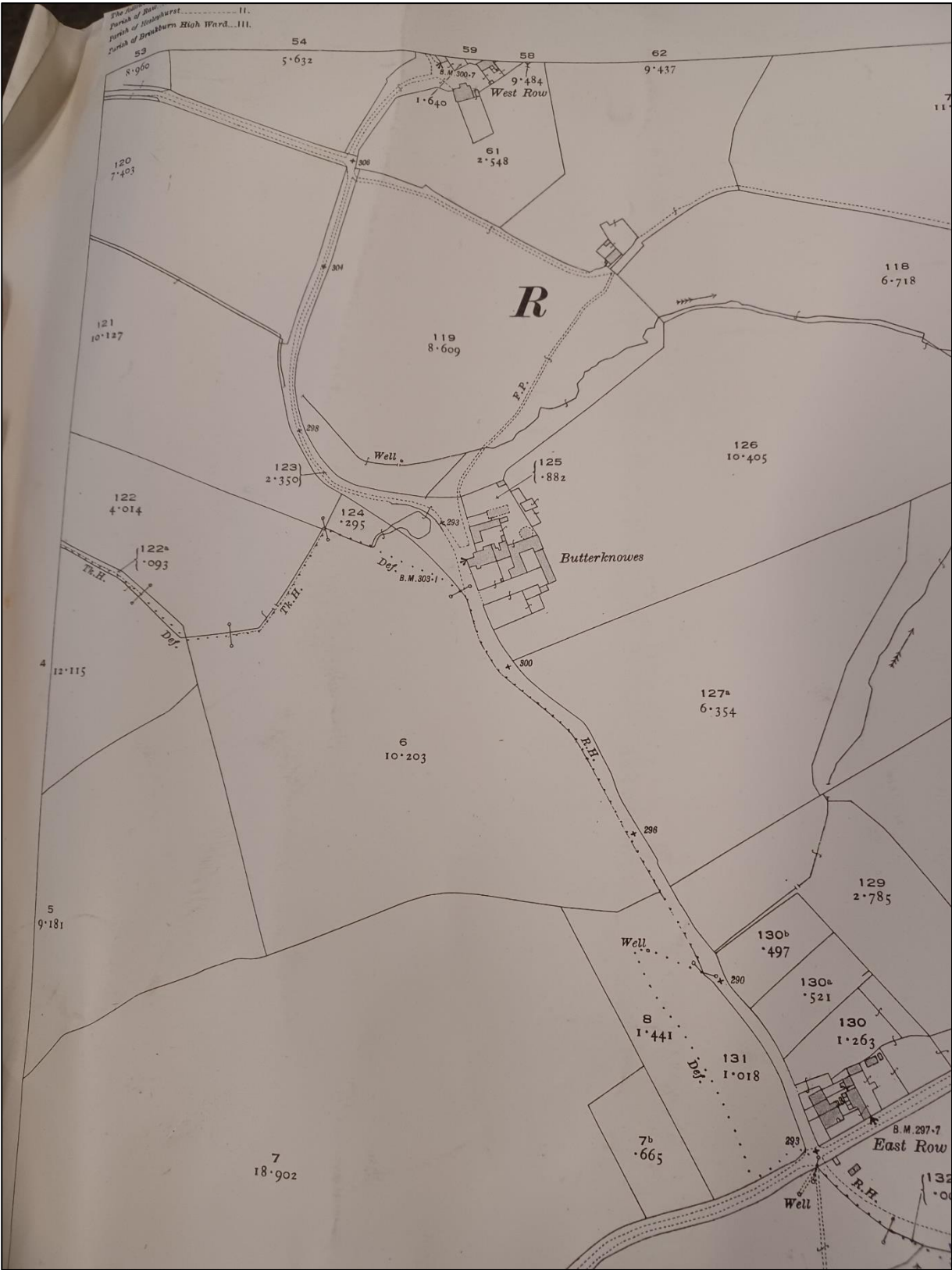


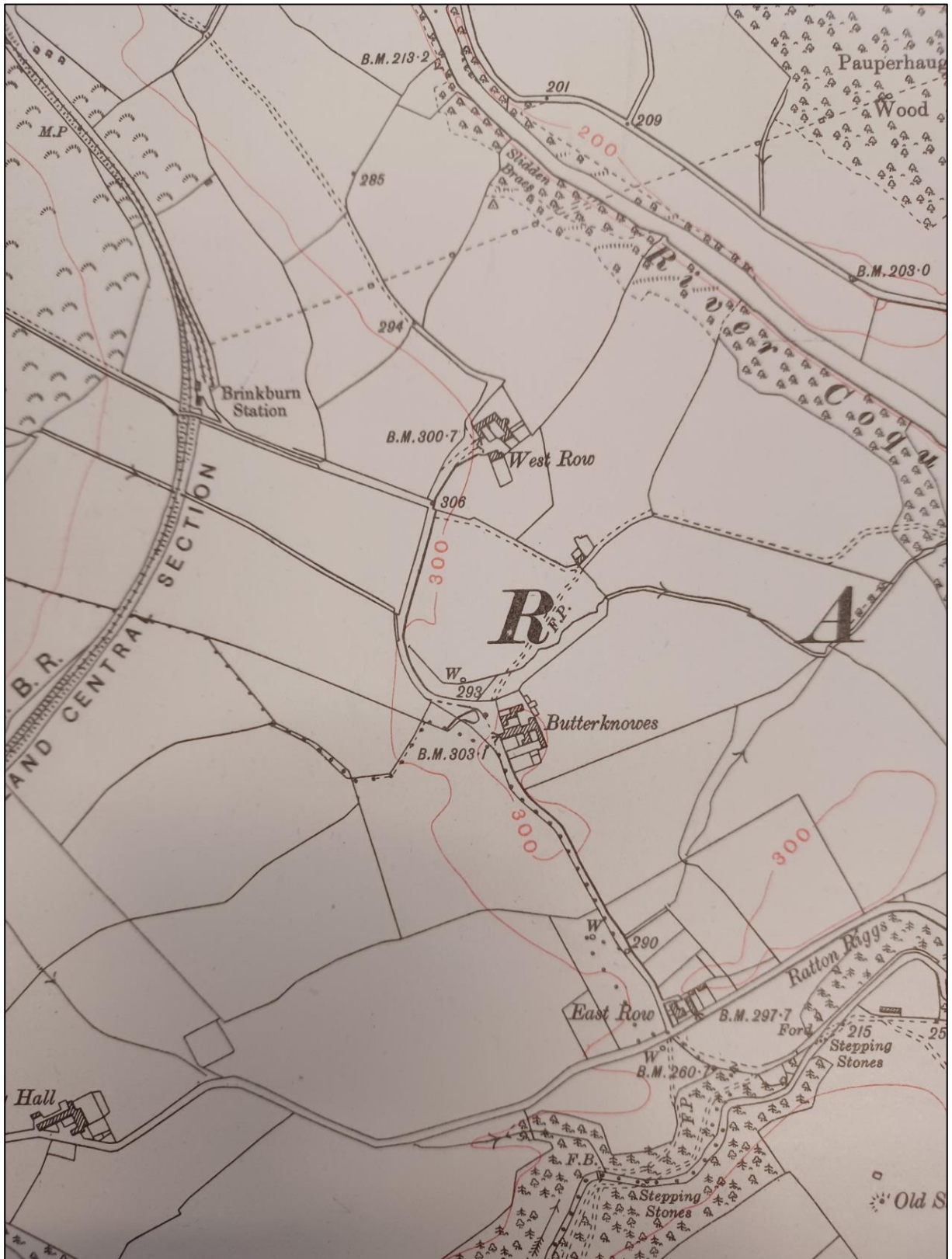


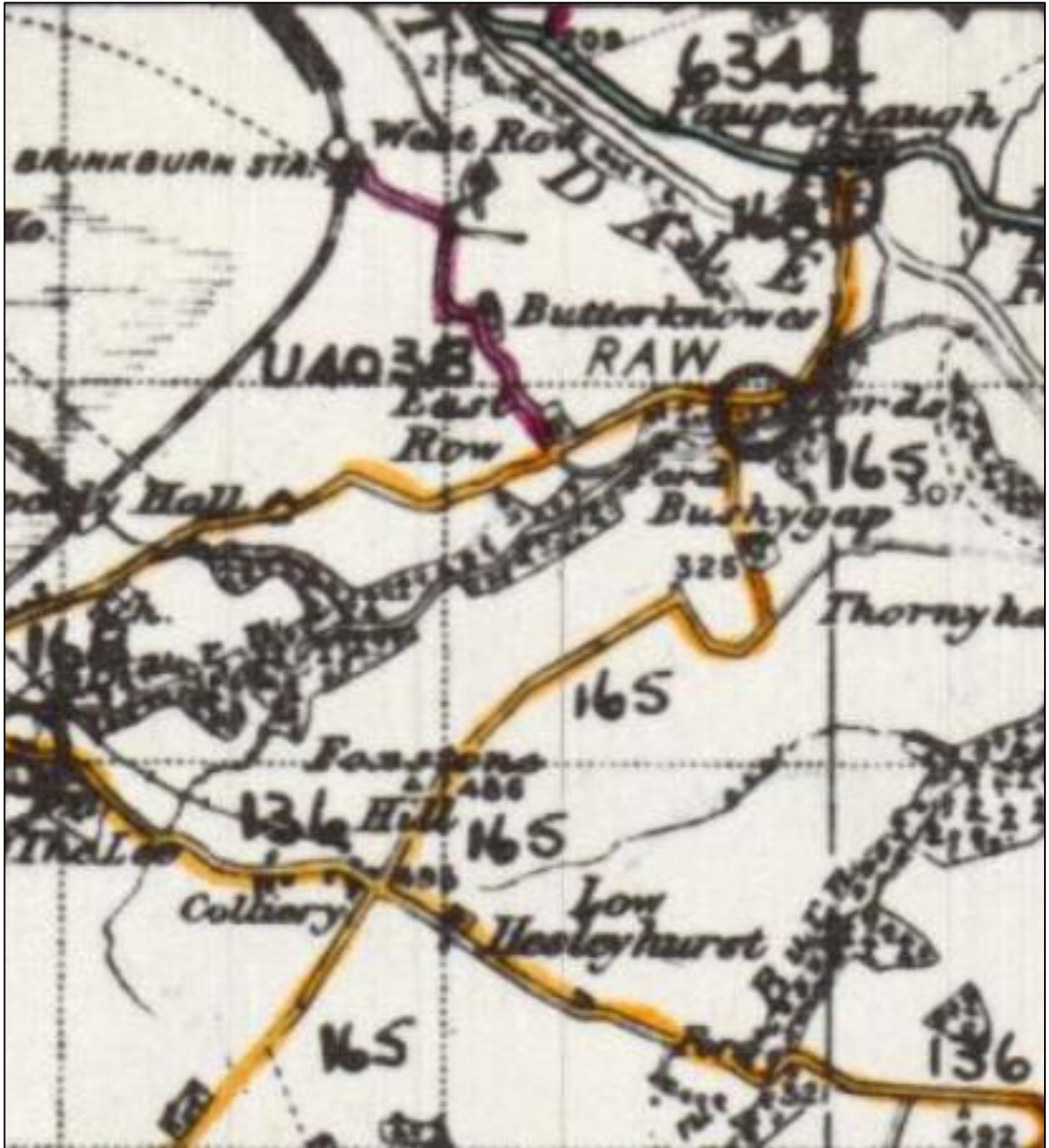




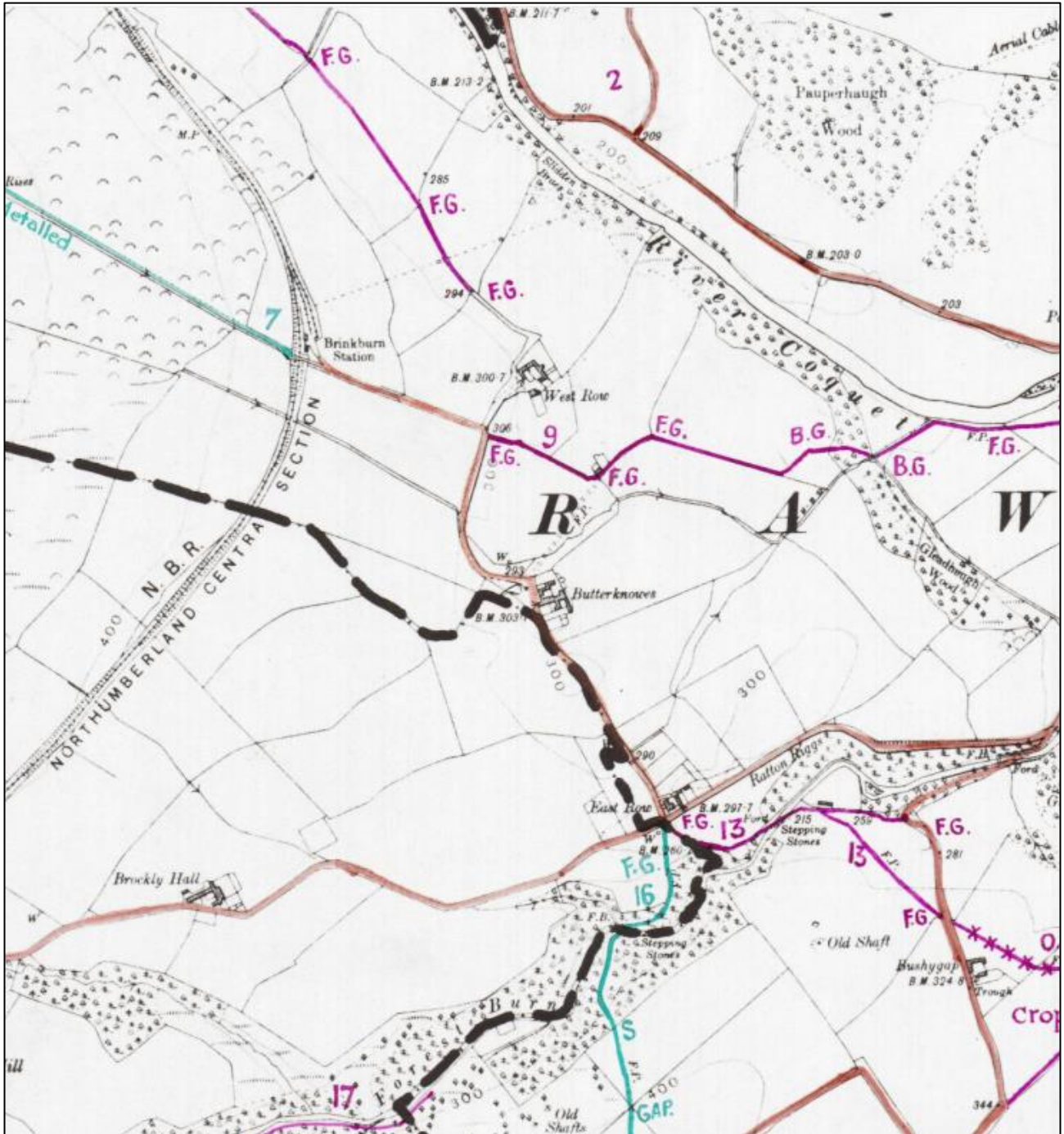








Definitive Map – Original Survey Schedules & Map
c. 1952



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

Parish of RAW in the Rural District of _____

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

1. Number of highway on Map 7 2. Kind of Path (i.e., P.P., B.R.) BR
3. Starts at BRINKWEN STATION to WINDRUP
4. Name of Path (if any) NIL
5. Is the Path well defined? Partly
6. Is the Path metalled? If so, define length YES over half its length
7. If its width can be stated, insert here 8'
8. What is the present condition of the path, stiles, etc.? Private
9. Is it subject to being ploughed out? Yes
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 NIL
12. Have persons been prevented using the highway? Not known
13. Give particulars of any obstructions NIL
14. Names of owners of freehold and previous owners, if known, for past 30 years
CHARLES WETT RAW Tenant
CARR WASTAL FTI "
DUKE OF NORTHUMBERLAND
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
Not used much.

Surveyed by	Address	Date of Survey
<u>R. D. Hill</u>	<u>Private Longhampton</u>	<u>3/5/53</u>

Important :- Sheet No. of Map on which Highway is shown
255 | 45 | 50 NW

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

Parish of RAW in the Rural District of _____

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

1. Number of highway on Map 8 2. Kind of Path (i.e., F.P., B.R.) F.P. FARM ROAD
3. Starts at WEST RAW to CRAGHEAD
4. Name of Path (if any) Nil
5. Is the Path well defined? YES
6. Is the Path metalled? If so, define length YES OR
7. If its width can be stated, insert here 7/8'
8. What is the present condition of the path, stiles, etc.? SUITABLE for farm use

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

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

Used to be a F.P. but path as it crosses next parish (ROSDEN) washed away by flood. F.P. west of CRAGHEAD as shown on map is non-existent

12. Have persons been prevented using the highway? NO
13. Give particulars of any obstructions See 11
14. Names of owners of freehold and previous owners, if known, for past 30 years

DUCE OF NORTHUMBERLAND
CARR Waytail Farm (Tenant)

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.

Suggest no longer required for public use.

Surveyed by	Address	Date of Survey
<u>R. D. ...</u>	<u>Pringale</u> <u>Langbarnthorpe</u>	<u>3/5/53</u>

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

285 / 45 / 51NW

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

Parish of RAW in the Rural District of _____

Borough EUREK District of ROTHBURY
(Delete whichever is inapplicable).

10

1. Number of highway on Map 9
2. Kind of Path (i.e., F.P., B.R.) FP
3. Starts at S. OF WEST RAW ROW to PAUPER HAVEN Bridge
4. Name of Path (if any) N.L.
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 various FP signs 1' / 3'
8. What is the present condition of the path, stiles, etc.? See map OK

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
N.L.

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
Previously the route from Pauperknap to Brambles station. The Station is not now used as such.

12. Have persons been prevented using the highway? NO
13. Give particulars of any obstructions See map
14. Names of owners of freehold and previous owners, if known, for past 30 years.
DUCE OF NORTHUMBERLAND
C. GRADY Pauperknap (Tenant)
Mr. Nilburne Bullinches (Tenant)

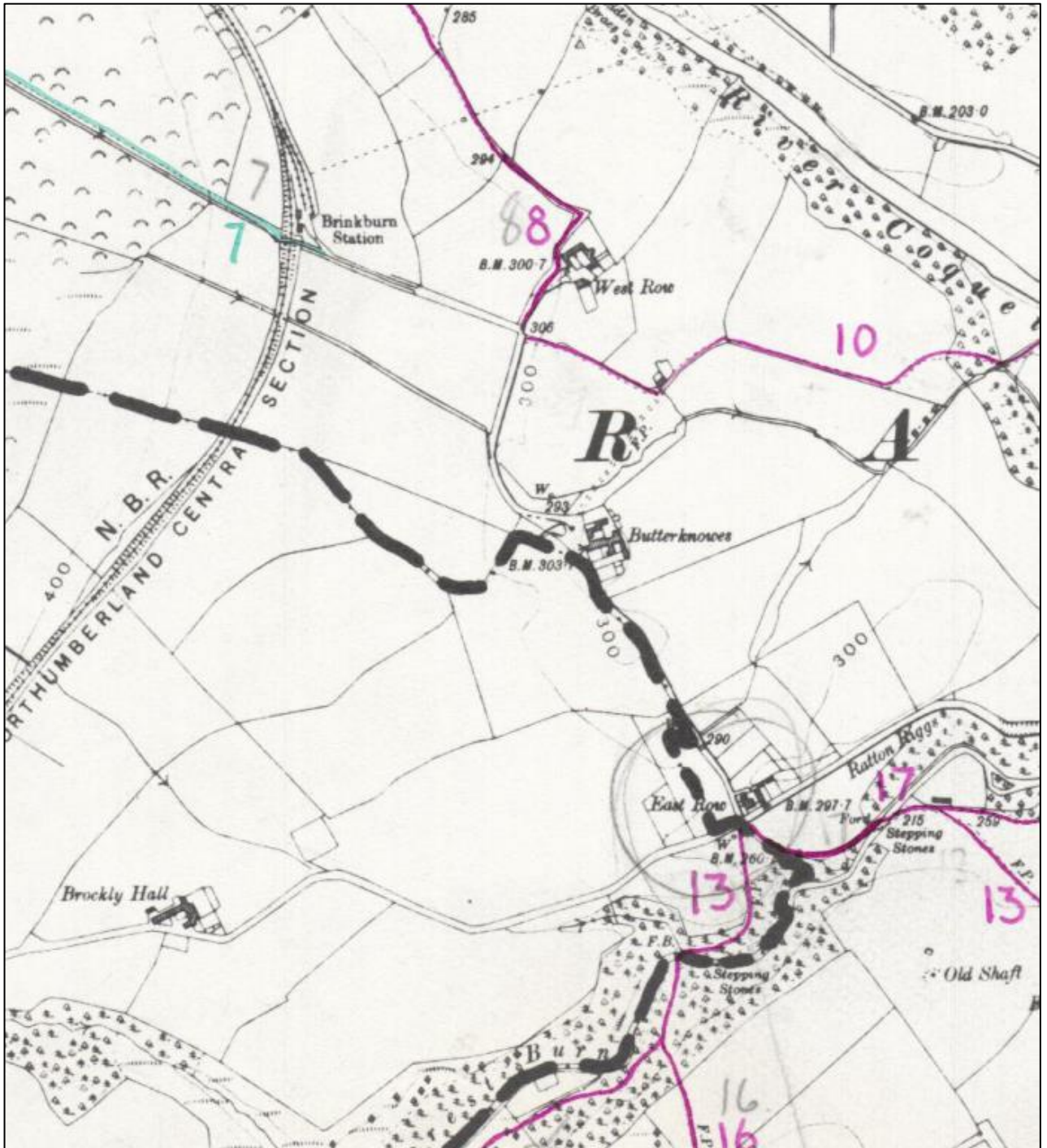
15. What maps have been consulted, and where are they deposited?
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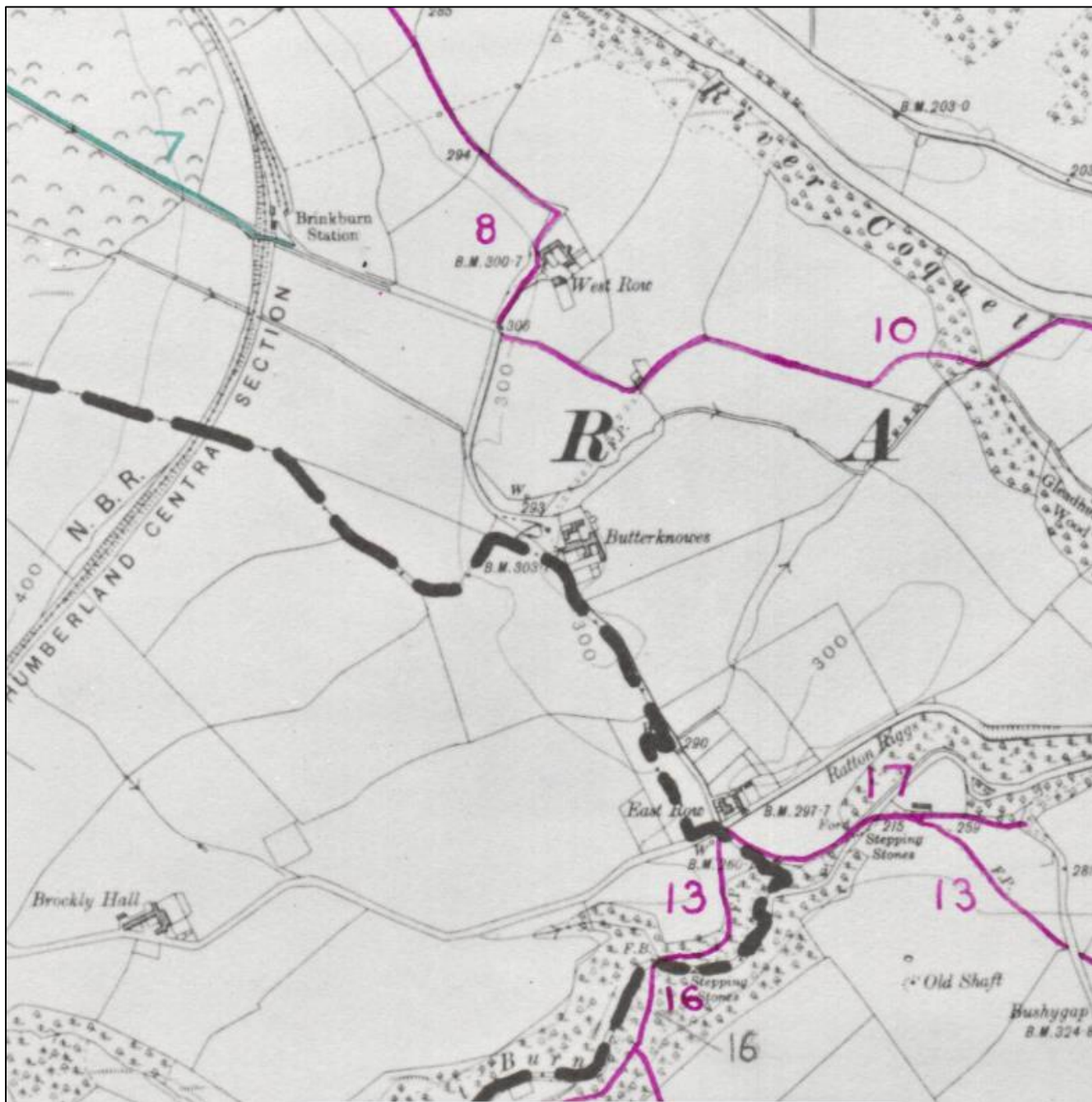
16. What records have been consulted, and where are they deposited?
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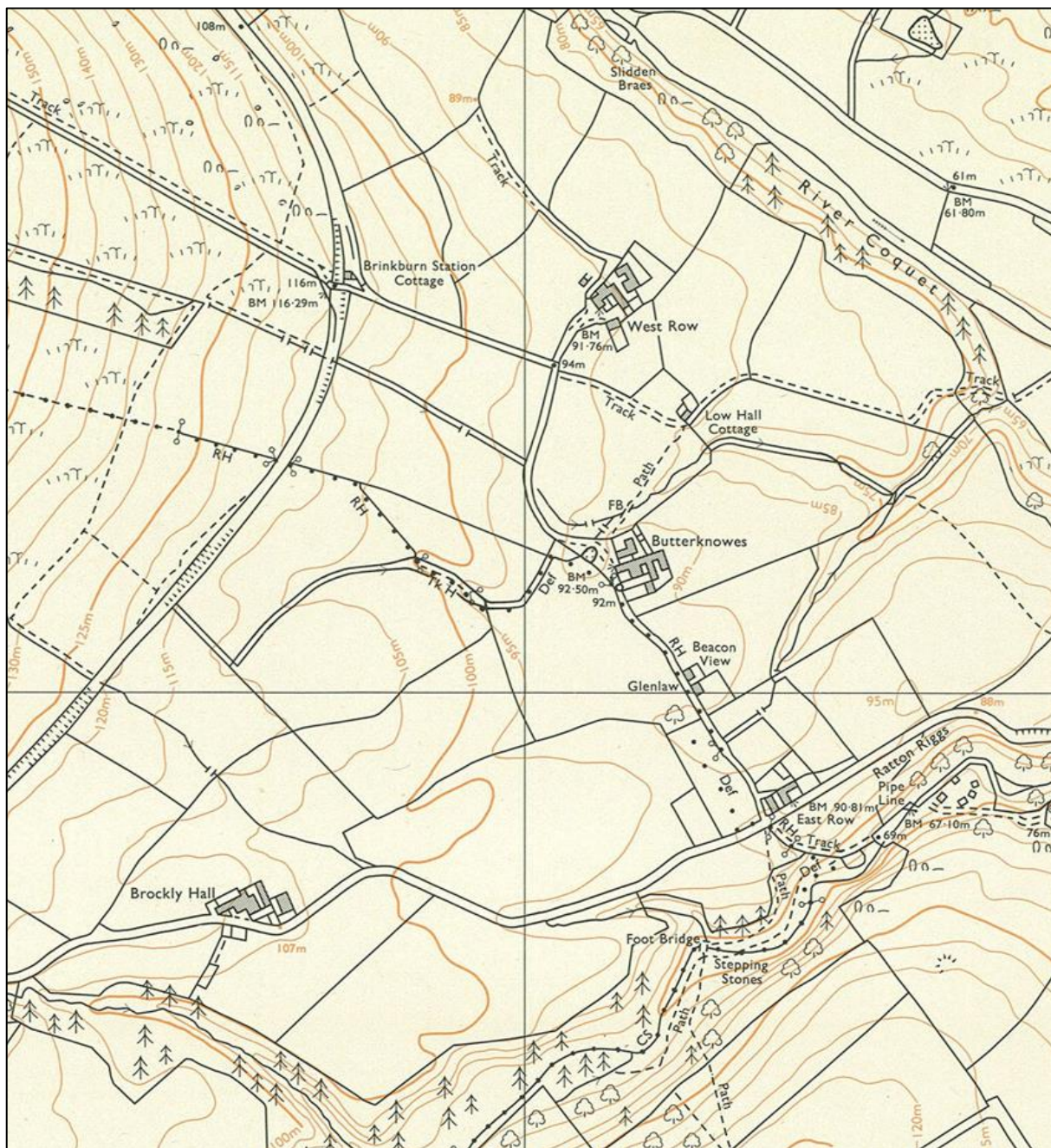
17. Any other relevant information As no longer used for original intention, little sign of its now being public. Useful as short cut from Pauperknap to West Row etc.

Surveyed by	Address	Dates of Survey
<u>R. Bullen</u>	<u>Provington Longpaulington</u>	<u>3/5/53</u>

Important:—Sheet No. of Map on which Highway is shown
285 / 45 / 50 RW





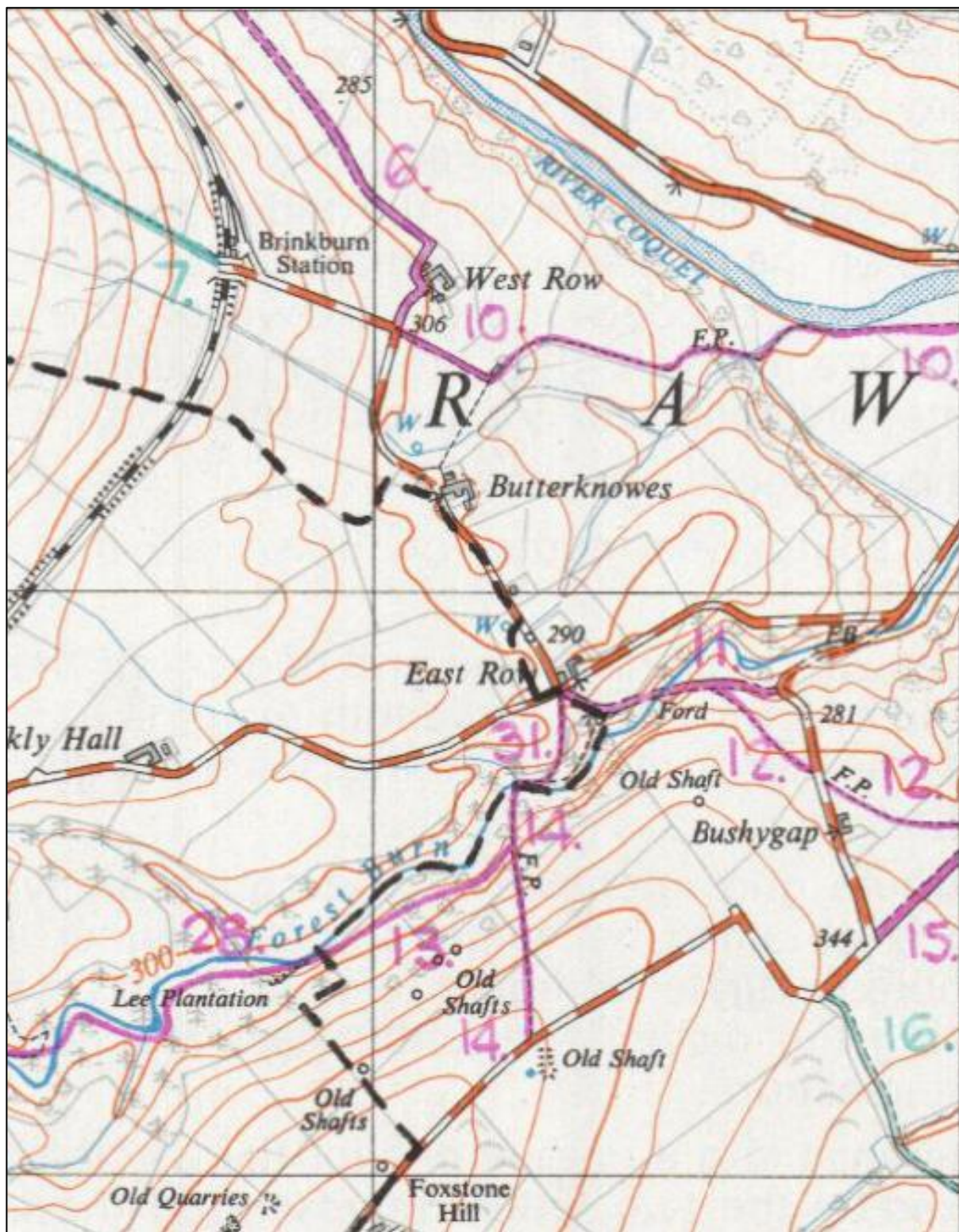


County Road Schedule
1958

MERTON DIVISION

Unclassified Roads in Rothbury Rural District

U.4032	Bowershiel Road.	From B.6341 south of the entrance to North Riding to Middle Riding.	0.42
U.4033	Elsdon - Eastnook Road.	From B.6341 at Elsdon via Lendshot to Eastnook including Branch Road to Hudspeth.	3.33
U.4034	Folly Road	From B.6341 west of the Bird in the Bush (P.H.) Northwards for a distance of 550 yards towards the Folly.	0.32
U.4036	Rothley Village Road.	From C.161 to Rothley Village.	0.20
U.4037	Rothley Shiel Road.	From B.6342 at Rothley Shiel East via Rothley Shield West to B.6342 west of Rothley Crossroads.	1.81
U.4038	East Row - Brinkburn Burn Station Road.	From C.168 at East Row to Brinkburn Station.	0.64
U.4039	North Birks - Todstead Road, with link to Westerheugh.	From C.135 north of North Birks via Tod Burn and River Coquet to B.6344 at Todstead (L.264 mls) and branch road from near Folly over Todburn westwards to C.136 near entrance to Westerheugh (L.327 mls).	2.591
U.4040	Brinkburn High House - Westerheugh Road.	From B.6344 at Brinkburn High House to U.4039 east of the entrance to Westerheugh.	1.15
U.4041	Brinkburn High House - Hare Crossroad.	From B.6344 near Brinkburn High House via Coelshot to C.188 west of the entrance to the Hare Cross.	0.92
U.4044	Vicarage Road, Longframlington.	Late A.697 now by-passed.	0.26
U.4045	Old Road, Longframlington.	From U.4045 to High Veldon.	1.05
U.4046	High Veldon Road.	From C.188 west of Healey Cote North-westwards to Hope.	0.34
U.4048	Healey Cote - Hope Road.	From B.6344 west of Pauperhaugh to Healey.	1.24
U.4049	The Healey Road.		0.55
		Carried forward	<u>14.821</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 BRINKBURN

3. Number of Footpath on Map 6

4. Name of Path

5. Kind of Path (i.e. FP/BR) FP (metalled 7' - 8' wide)

6. General Description of Path From FP 16 in the parish of Cartington at that
parish boundary in a south-easterly and south-westerly direction by the West Row
to join the Brinkburn Station - East Row Road east of Brinkburn Station.
.....
.....
.....

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

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

BRINKBURN
3. Number of Footpath on Map

7
4. Name of Path
5. Kind of Path (i.e. FP/BR) BR (metalled 8' wide).....
6. General Description of Path From BR 17 in the parish of Cartington at that
parish boundary in a south-easterly direction crossing the bridge over the
British Railway Lines to join the public road at Brinkburn Station.
.....
.....
.....
7. Other relevant information
-
-
-
-
-

NORTHUMBERLAND COUNTY COUNCIL.

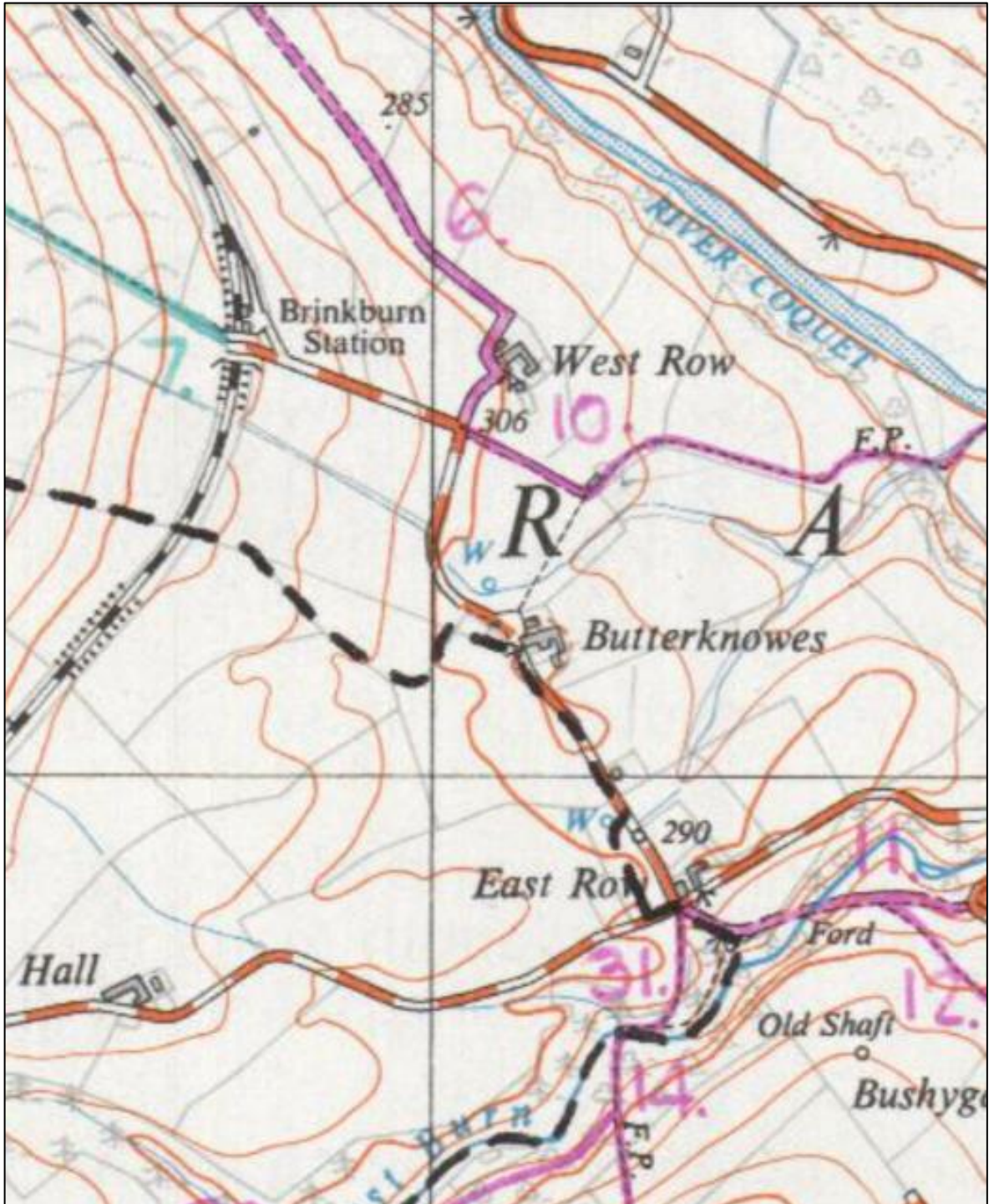
NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949
PART IV.

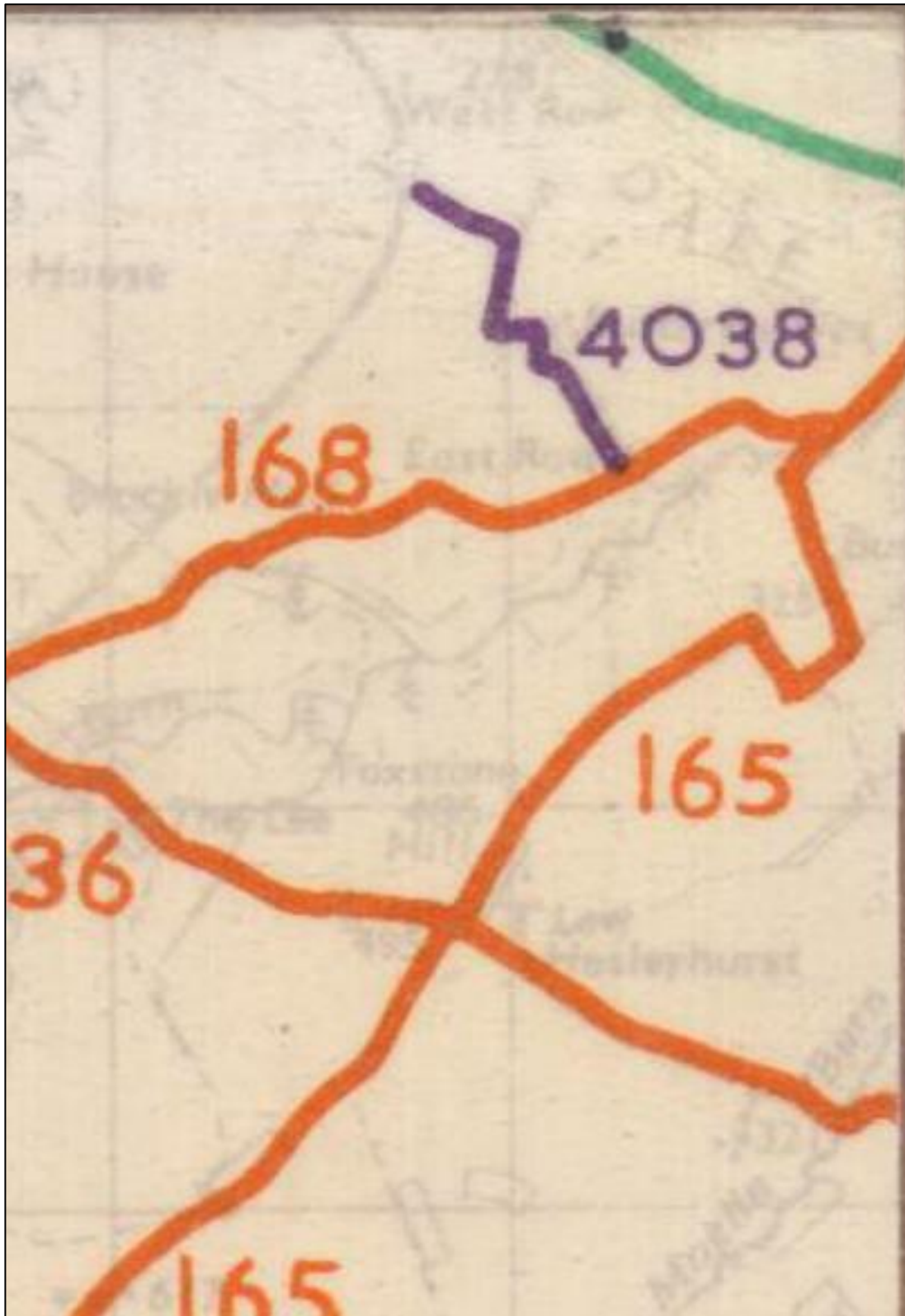
PUBLIC RIGHTS OF WAY - STATEMENT.

1. Borough
Urban District
Rural District ROTHBURY
2. Parish BRINKBURN
3. Number of Footpath on Map 10
4. Name of Path
5. Kind of Path (i.e. FP/BR) F.P. (1' - 2' wide)
6. General Description of Path From the Brinkburn Station - East Row Road
in an easterly direction to join the Pauperhaugh - East Row Road south of the
bridge over the River Coquet.
.....
.....
.....
7. Other relevant information
-
-
-
-
-

**County Road Schedule
1964**

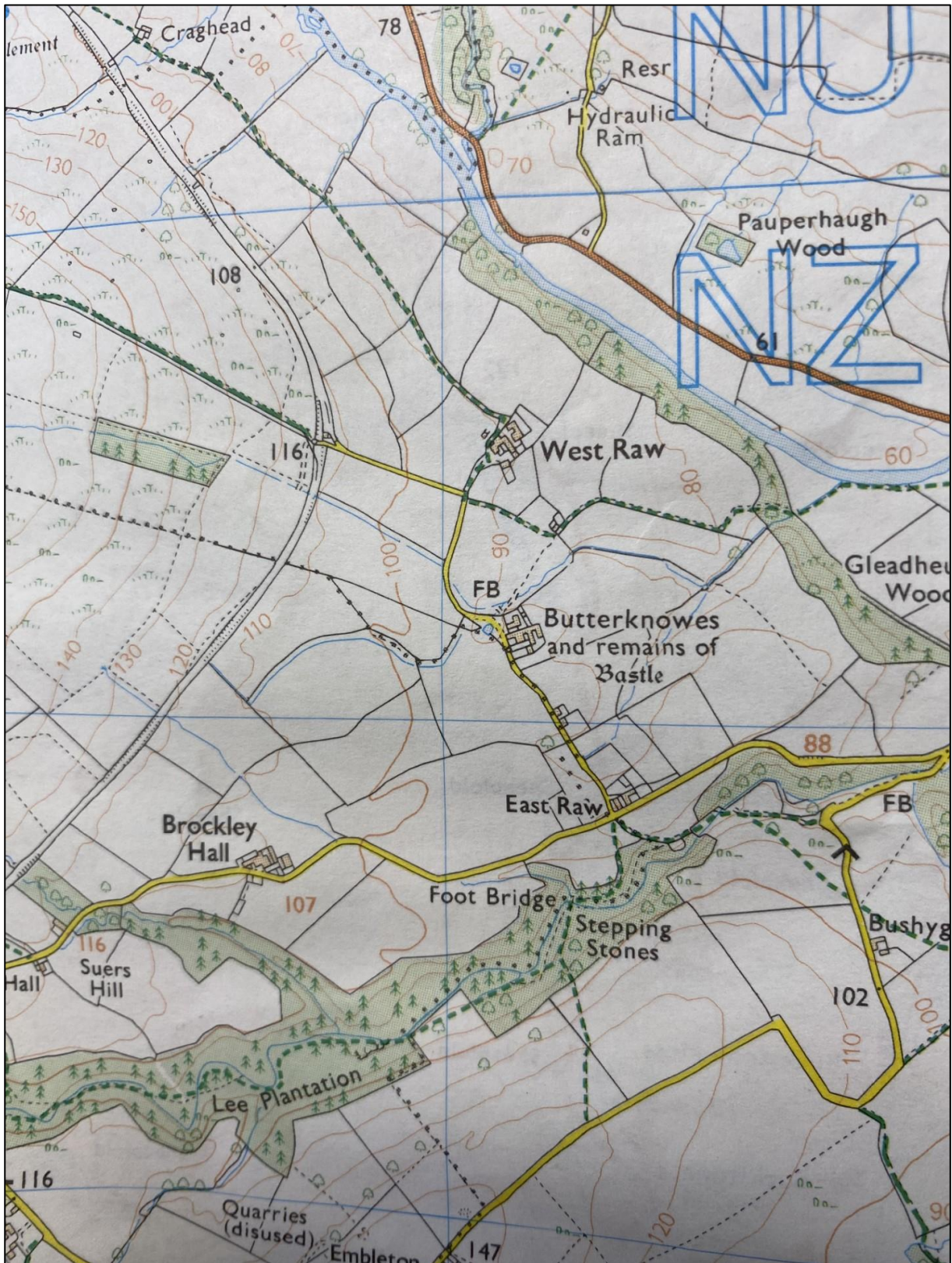
Route No.	Name of Road.	Description.	Responsible Division or Authority.	Mileage.	Total Mileage.
U.4037	Rothley Shield Road.	From B.6342 at Rothley Shield East via Rothley Shield West to B.6342 west of Rothley Crossroads.	Morpeth.	1.81	1.81
U.4038	East Row-Brinkburn Station Road.	From C.168 at East Row north-westwards to Brinkburn Station.	Morpeth.	0.64	0.64
U.4039	North Birks-Todstead Road, with link to Westerheugh.	From C.135 north of North Birks via Tod Burn and the River Coquet to B.6344 at Todstead, (1.264 miles), and branch road from near the Ford over Todburn westwards to C.136 near the entrance to Westerheugh, (1.327 miles).	Morpeth.	2.59	2.59
U.4040	Brinkburn High House-Westerheugh Road.	From B.6344 at Brinkburn High House to U.4039 east of the entrance to Westerheugh.	Morpeth.	1.15	1.15
U.4041	Brinkburn High House-Hare Cross Road.	From B.6344 near Brinkburn High House via Cockshot to C.188 west of the entrance to the Hare Cross.	Morpeth.	0.92	0.92
U.4042	North End-Low Hall Road.	From C.106 at North End, Longframlington, eastwards to Low Hall.	Alnwick.	0.41	0.41
U.4043	Newmoor Hall Road.	From C.106 south of the Swarland Burn south-eastwards to Newmoor Hall at the Rural District boundary. (Continues in Alnwick Rural District as U.3049).	Alnwick.	0.43	0.43
U.4044	Vicarage Road and White Cottages Road, Longframlington.	Off south side of C.188 at Longframlington.	Morpeth	0.28	0.28
U.4045	Old Road, Longframlington.	Late A.697 now by-passed. Serving Low Town, Longframlington.	Morpeth.	1.05	1.05
U.4046	High Weldon Road.	From U.4045 south-eastwards to High Weldon.	Morpeth.	0.34	0.34
U.4047	Moor Lodge-Snitter Road.	From B.6341 at Moor Lodge via South Cartington to C.176 at Snitter.	Alnwick.	3.23	3.23
U.4048	Healey Cote-Hope Road.	From C.188 west of Healey Cote north-westwards to Hope.	Morpeth.	1.24	1.24





County Road Schedule
1974

Route No.	Name of Road	Description	Responsible Division or Authority	Mileage	Total Mileage
U. 4031	Bowersfield-High Carrick Road.	From B. 6341 north of Bowersfield (N.Z. 938953) north-westwards to the entrance to High Carrick (N.Z. 926966).	Morpeth Division.		1.11
U. 4032	Bowersfield Road.	From B. 6341 south of the entrance to North Riding (N.Z. 937948) eastwards via Bowersfield to a point approximately 330 yards east of Bowersfield.	Morpeth Division.		0.42
U. 4033	Elsdon-Eastnook Road.	From B. 6341 at Elsdon (N.Z. 937933) eastwards via Landshot to Eastnook, (N.Z. 967932) including branch road to Hudspeth (N.Z. 945935 to N.Z. 948942).	Morpeth Division.		3.33
U. 4034	Folly Road.	From B. 6341 west of the Bird in the Bush Inn (N.Z. 928934) northwards for a distance of 550 yards towards the Folly.	Morpeth Division.		0.32
U. 4035	Lordenshaw-Great Fossen Road.	From B. 6342 south of its crossing with the Lordenshaw burn (N.Z. 059978) north-eastwards to U. 4061 at Great Fossen (N.Z. 031005).	Alnwick Division.		2.64
U. 4036	Rothley Village Road.	From C. 161 north of Scots Gap (N.Z. 041881) eastwards to Rothley Village (N.Z. 044881).	Morpeth Division.		0.20
U. 4037	Greenleighton Road.	From B. 6342 at Rothley Shield East (N.Z. 045908) north-westwards towards Greenleighton (N.Z. 035914) thence southwards via Rothley Shield west to rejoin B. 6342 west of Rothley Crossroads (N.Z. 040897).	Morpeth Division.		1.81
U. 4038	East Row-Brinkburn Station Road.	From C. 168 at East Row (N.Z. 093988) north-westwards to former Brinkburn Station (N.Z. 088996).	Morpeth Division.		0.64
U. 4039	North Birks-Fodshead Road, with link to Westerhough.	From C. 135 north of North Birks (N.Z. 127972) northwards via Tod Burn and the River Coquet to B. 6344 at Fodshead (N.Z. 126989) (1.264 miles), and branch road from near the Ford over Todburn (N.Z. 126983) westwards to C. 136 near the entrance to Westerhough (N.Z. 109971) (1.327 miles).	Morpeth Division.		2.59



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

*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*

<i>Road Number</i>	<i>Description</i>	<i>Length - Metres</i>
U4031		
	B6341 JCT TO HIGH CARRICK	1,783
	<i>Total length for U4031</i>	<i>1,783</i>
U4032		
	B6341 JCT TO EAST OF BOWERSHIELD	684
	<i>Total length for U4032</i>	<i>684</i>
U4033		
	B6341 JCT TO HUDSPETH ROAD JCT	833
	HUDSPETH ROAD JCT TO EASTNOOK	3,238
	HUDSPETH ROAD JCT TO HUDSPETH	1,349
	<i>Total length for U4033</i>	<i>5,421</i>
U4034		
	B6341 JCT TO DISTRICT BOUNDARY U5097	518
	<i>Total length for U4034</i>	<i>518</i>
U4035		
	B6342 JCT TO SIMIONSIDE PICNIC AREA	3,162
	SIMIONSIDE PICNIC AREA TO U4061 TOSS	1,151
	<i>Total length for U4035</i>	<i>4,313</i>
U4036		
	C161 TO ROTHLEY FARM	310
	<i>Total length for U4036</i>	<i>310</i>
U4037		
	U4037 TO B6342	1,149
	B6342 (S) TO U4037 QUARRY ROAD	1,778
	<i>Total length for U4037</i>	<i>2,927</i>
U4038		
	C168 TO BRINKBURN STN	1,017

02-May-2006

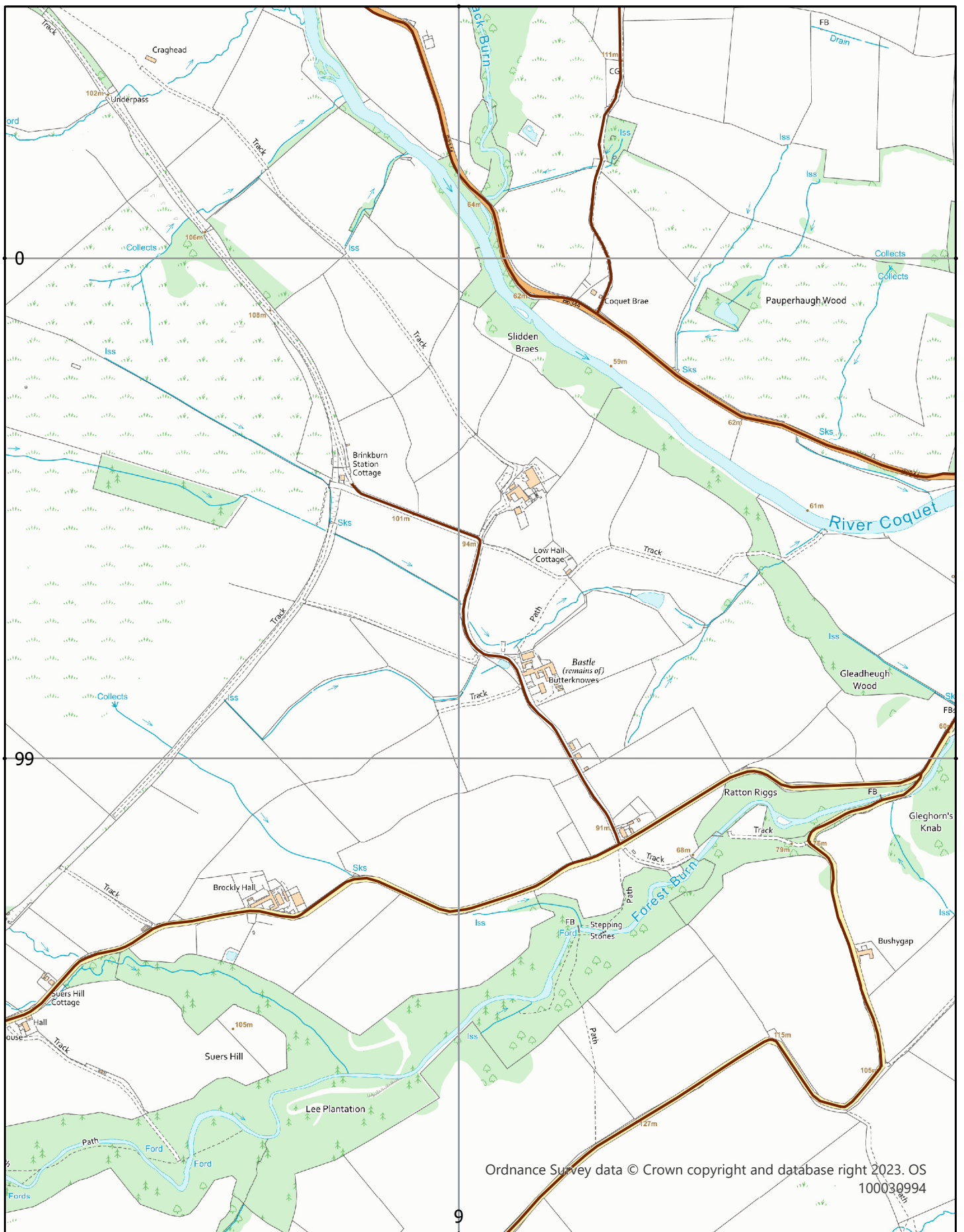
Page 263 of 730

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

<i>Road Number</i>	<i>Description</i>	<i>Length - Metres</i>
U4038		
	<i>Total length for U4038</i>	<i>1,017</i>
U4039		
	U4039 TO C135	1,277
	U4039 TO B6344	751
	U4040 TO U4039	1,156
	C136 TO U4040	1,010
	<i>Total length for U4039</i>	<i>4,194</i>
U4040		
	U4039 TO B6344	1,872
	<i>Total length for U4040</i>	<i>1,872</i>
U4041		
	B6344 TO C188	1,571
	<i>Total length for U4041</i>	<i>1,571</i>
U4042		
	C106 JCT TO LOW HALL FARM	618
	<i>Total length for U4042</i>	<i>618</i>
U4043		
	C172 TO DRAKESTONE VIEWHARBOTTLE	33
	<i>Total length for U4043</i>	<i>33</i>
U4044		
	BEECH TREE CLOSE	89
	C188 (W) TO C188 (E) VICARAGE ROAD	399
	C188 (W) TO C188 (E) WHITE COTTAGES R	45
	<i>Total length for U4044</i>	<i>532</i>
U4045		
	U4046 TO A697 (N)	1,376

02-May-2006

Page 264 of 730



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**Network Management
Information System**

Page 919

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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		
Drn: ZQ	Date: October 2023	Scale: 1:10,000

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