



Northumberland County Council

RIGHTS OF WAY COMMITTEE

24 April 2024

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

ALLEGED PUBLIC BRIDLEWAY No 29 PARISH OF LONGHORSLEY

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 public rights over the route of existing Public Footpath No 29, from C141 road, immediately west of High Southward Edge, in an easterly direction to join the C138 road, south of Muckley.

Recommendation

It is recommended that the committee agrees that:

- (i) there is not sufficient evidence to show, on a balance of probabilities, that public vehicular rights exist over the route Q-R;**
- (ii) there is sufficient evidence to show, on a balance of probabilities, that public bridleway rights exist over the route Q-R;**
- (iii) the route be included in a future Definitive Map Modification Order as a public bridleway.**

1.0 BACKGROUND

1.1 By virtue of section 53 of the Wildlife and Countryside Act, 1981 the County Council is required to keep the Definitive Map and Statement under continuous review and make modification orders upon the discovery of evidence, which shows that the map and statement need to be modified.

1.2 The relevant statutory provision which applies to upgrading an existing public right of way on the Definitive Map and Statement, based on historical documentary evidence, is Section 53(3)(c)(ii) of the Wildlife and Countryside

Act, 1981. This requires the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

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

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

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

2.0 PUBLIC EVIDENCE

- 2.1 In June 2019, Diane Holmes of Ulgham made a formal application seeking to modify the Definitive Map of Public Rights of Way by upgrading to public bridleway status, existing Public Footpath No 29, from the C141 road at High Southward Edge, in an easterly direction to join the C138 road, south of Muckley.
- 2.2 Ms Holmes supplied the following analysis of the evidence to accompany her application:

“The route

“1. The application route is in the parish of Longhorsley and follows the line of FP 411/029. It can be seen on OS Explorer 325, Morpeth and Blyth.

“2. It leaves the C141 at GR NZ 119 936 (A) and goes in a south-easterly direction to join the C138 at GR NZ 138 930 (B).

“3. It has the character of an old road with distinct edges marked by the remnants of hedges, wall footings, a bank and / or ditch. Overall it is wide, approximately 7 metres, but parts are narrowed as a result of infilling with gorse and saplings.

See photographs.

“Documentary evidence

“1. 1869 Armstrong’s map of Northumberland

The line of the application route is shown on this early county map which was sold to the travelling public indicating the more important roads over which they had the right to travel. It is shown as an enclosed route, which is what the existing remnants of hedges and wall footings would suggest.

“At its western end (A), it continues along what is now a minor tarmac county road in the direction of Wingates. Its junction with another road at its eastern end (B) is clearly shown, not far from Muckley, as today.

See map extract

“2. 1828 Greenwood’s map of Northumberland

The full length of the application route is clearly shown on this map, even including the kink that exists today not far from High Southward Edge. Again it is shown as enclosed to form a distinct lane. It should be noted that the major north-south bridleway (411/019) which is on the definitive map today is not shown. This suggests that the application route was likely to be of a higher status, as a public highway, at that time.

See map extract

“3. 1842 Tithe plan for the parish of Longhorsley, township of Freeholder’s Quarter DT 192 M

The township boundary crosses the application route so it appears on two tithe plans.

“This one covers the western part of the route from (High) Southward Edge (A). It is shown as an enclosed lane and at its south-eastern end where it crosses into Muckley Ground in the next township, it is labelled ‘*to Morpeth*’. This shows it was recognised as a public route leading to the nearest market town even though some distance away.

See extract

“4. 1847 Tithe plan for the parish of Longhorsley, township of Riddell’s Quarter DT 391 M

On this plan it is again labelled as a road, this time ‘*from Tosson*’, where it enters this township. This is further evidence that it was a public road of some importance which passed through a number of townships. Its junction with the road near Muckley can be located in relation with the farm labelled ‘*Smallburns*’.

“This road from Longhorsley is labelled ‘*from Rothbury*’, suggesting that this was an area through which people travelled, probably with livestock, from the area around Rothbury to the important market which was held at Morpeth.

See extract

**“5. 1859 OS Boundary Remark Book
TNA OS 26/7848**

These records are kept at The National Archives at Kew.

“The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841. It laid out the statutory duties and legal requirements with regard to public boundaries and their mapping.

“The Act allowed the Ordnance Survey to summon the Clerk of the Peace and any books, maps, papers or other documents he held and provided that it was an offence to obstruct or hinder the Ordnance Survey surveyor. The production of these sketch books was advertised and they were open to public inspection.

“This survey work was done by ‘meresmen’ who were respected members of the community. The process of ‘mereing’ included the perambulating of boundaries ascertaining their position relative to

ground features, obtaining a 'mered' agreement from the local authorities [parishes or townships] on either side of the boundary. This information is taken from 'Public Boundaries and the Ordnance Survey 1840 – 1980' by J R S Booth, edited by R A G Powell, published 1980 and can be seen on the open access shelves at Woodhorn.

"Amongst other features, these sketch maps show where a public road passes through or along a parish boundary. They are not easy to read as the details are recorded by hand and the sketch follows the township boundary across the page from left to right, unrelated to the orientation of the boundary.

"The extract provided should be compared with that given for the OS 2nd edition, 1895 on which the township boundaries show up clearly. It can be seen that the boundary of Freeholders' Quarter with Riddells Quarter cuts across the application route and then follows its northern boundary from that point to its south eastern point (B) where it joins the current county road network.

"The key feature to note on page 18 (the upper extract) is the shape of the junction with the road labelled 'from Morpeth' and 'to Rothbury'. The first fence line on the south side of the route is also shown in the same position as today.

"On page 19 (the lower extract) the key feature is the kink in the fence line on the north side of the old road which shows up clearly on the OS 2nd edition and can still be seen on the OS today and can be found on the ground too. The joining fences can also be checked against the OS 2nd edition.

"This evidence shows that the application route was considered to be a public road in the mid 19th century by those responsible for mapping boundaries between parishes and townships.

See extract

"6. 1866 OS 1st ed. Scale 1:10,560 (6")

Roll 11

The relevant sheet in the 25" series is missing from Woodhorn. However it can be seen on roll 11 at the scale of 1:10,560 (6") which shows it to be in the parish of Longhorsley, in the township of Freeholders' Quarter for the western section and in Riddells Quarter township for the eastern section.

"An extract made from www.old-maps.co.uk at the scale of 6" to the mile (1:10,560) shows the application route with its enclosing walls/hedges with the same changes in shape that were visible on the documents mentioned above. The boundary between the two townships shows up on this map.

See extract

"7. 1895 OS 2nd ed. Scale 1:10,560 (6")

Sheets LIV SW & SE

These map show the application route following the same line as on the 1st edition OS and the earlier documents.

“The application route is not labelled FP and is joined by a path with that labelling at its east end which suggests that it is of higher status, as the earlier documents indicate.

See extract

“8. **1910 Finance Act plan** **NRO 436/LIV/14**

It is interesting to note that the attitude of the landowner on either side of the township boundary was different. One was keen to ensure that he did not risk having to pay any development tax should he wish to sell his land at a later date and the other was unconcerned, as was often the case in Northumberland.

“In **Riddells Quarter**, the land agent or owner has made it clear on the plan that he does not own the land included within the boundaries of the old lane as shown by his annotation ‘Not with Haredene’. This indicates that he believed that the land had public rights as a road and therefore would not be liable to tax.

“However in **Freeholders Quarter**, it can be seen from the plan that the owner of hereditament 100 did not have those concerns and included the land within the lane as part of his land holding of the adjacent two fields. Likewise the owner of the next section of the application route which falls within hereditament 97 (outlined in grey) also took this opportunity to include the land in the lane within his ownership.

“Neither of the owners of these two hereditaments claimed a deduction for ‘right of way or user’. But then nor did any landowner in this township or any of the other townships in this parish. Anyway there was no obligation under this Act for this claim to be made even if it was well known that a route with public rights crossed the land.

“This information can be seen in the **Field Book** associated with this parish. **NRO 2000/42**

See extracts

“9. **1947 OS County Series Scale 1:25,000 (2 ½”)**

On this 20th century OS map, but one prepared before the definitive map had been created, the application route is not shown labelled as either ‘FP’ or ‘BR’ in spite of the fact that two paths labelled ‘FP’ are shown joining it. This suggests they would be joining a lane with higher public rights as otherwise they would be pointless dead ends. This is further evidence that it is likely that the application route had public rights for horses and carts ie as a public road.

See extract

“Conclusion

It would appear that the application route was a significant minor road in the late 18th and early 19th centuries as shown by the early county maps, the tithe plans and the OS Boundary Remark Book. However it is possible that it fell out of regular use as travel speeded up and the short cut it provided was no longer needed resulting in it being shown as no more than a footpath in the parish survey for the definitive map in the early 1950s.

“Please will you consider the evidence for upgrading it to public bridleway from its current status of public footpath?”

3. LANDOWNER EVIDENCE

3.1 By letter, dated 18 October 2019, Mrs DL Pickering of High Southward Edge responded to the consultation, stating:

“Further to your letter of the 17th September, 2019, regarding the above:

“I hereby strongly object to the proposed modification of Public Footpath No 29 on the Definitive Map, to a Bridleway. Footpath comes up onto my land through my Garden / Driveway, Stile at both ends for Walkers.

“There is already on the Definitive Map a Bridleway No 19, The Devil’s Causeway, the most historic of all from Hadrian’s times. Bridleway goes across my field and continues both sides onto other peoples’ land for a very long distance both ways. Don’t see why there should be an additional Bridleway.

“The proposed modification of Footpath No 29 would go no further, for instance than to the end of my Garden / Driveway onto the road. The road is on a road junction with very fast travelling traffic of all kinds and this would be a danger to both Drivers and horse riders. Likewise it would be hazardous to Drivers and horse riders if they were coming INTO the entrance of my Garden / Driveway. The Bridleway would go no further than to a road at the other end.

“Living here I work in garden both sides of Driveway, lawn and border both sides, some hedging too, I feel a Bridleway would be a further infringement and intrusion of my rights for quality of life, privacy and peace to be able to work and maintain garden without interruption, also for relaxation when I have visiting relatives.

“The outer Gates of my property are locked for security reasons, property having been broken into three times in the past, twice in a daytime, once nighttime.

“If Bridleway is granted there will be a further two Bridleway Wickets which I would be responsible for maintaining – I believe I would have to pay 75% cost of any repairs.

“I have Public Liability Insurance which is an added expense for me as a Pensioner.

“Personally I feel utterly humiliated, distressed and disgusted at the resurrection of something initially from 250 years ago, should be presented now and that someone else has applied for the ADDED Bridleway. In my Grandparents’, Parents and my time there has never been a Bridleway through Garden / Driveway.

“If my objections are overruled then I will NEVER believe that I have any personal rights at all EVER for what happens to what I own and pay for, and that Others’ rights and what you decide take precedence over

mine and for what Others' want for recreational purposes. By the way I won't be picking up any horse muck off my Garden / Driveway in the event of ADDED Bridleway. (I use other ORGANIC feed on my garden plants)."

4. CONSULTATION

4.1 In September 2019, 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 15 October 2019, Longhorsely Parish Council responded to the consultation stating:

"Members of Longhorsley Parish Council considered the above mentioned document at its meeting held on 9th October 2019. Members fully supported and welcomed this application."

4.3 By email, in October 2019, the British Horse Society responded to the consultation, stating:

"Parish of Longhorsley, alleged public bridleway 29
"This route has the appearance of an old road, being wide and between hedges or the remains of old walls. It links minor roads and so would help to create a safer network for the numerous local riders to use."

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 evidence of a "Country Road" over a route approximating to that of alleged Bridleway No 29.

1820 Fryer's County Map

There is no evidence of a road or track over the route of alleged Bridleway No 29.

1827 Cary's Map

There is no evidence of a road or track over the route of alleged Bridleway No 29.

1828 Greenwood's County Map

There is clear evidence of a "Cross Road" over the route of alleged Bridleway No 29.

1842 Tithe Award (Township of Freeholders' Quarter) [Applicant's copy]

There is clear evidence of an enclosed road or track over the westernmost 60% of the alleged bridleway route. Where it passes into the next township (Muckley) it is labelled "to Morpeth".

1847 Tithe Award (Township of Riddell's Quarter) [Applicant's copy]

There is clear evidence of an enclosed road or track over the easternmost 40% of the alleged bridleway route. At its western end (where it comes in from the abovementioned Freeholders' Quarter) it is labelled "From Tosson". At its eastern end it connects with a road "From Rothbury".

1859 Boundary Remarks Book [Applicant's copy]

Whilst the eastern part of the alleged bridleway route is clearly identifiable (as a physical entity) in the sketch contained within the extract supplied by the applicant, its status remains ambiguous. It's not possible to make out all of the text in the extract, but I wasn't able to make out anything which specifically addressed the route's status.

c.1860 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track of variable width along the route of existing Footpath No 29 / alleged Bridleway No 29. The middle section is generally the widest and the western part appears to be the narrowest.

c.1860 Ordnance Survey Map: Scale 1:2500

There isn't a copy of the relevant map sheet at the Northumberland Record Office and the applicant hasn't supplied a copy with her application. In the Book of Reference which accompanied this map (there is a copy of this at the Record Office), there are various parcels of land in both the Freeholders Quarter and in Riddell's Quarter which are identified as either "Public Road" or "Private Road". The application route is broken down into four separate land parcels on the 1897 OS map, with the areas for those parcels being identified as (working from west to east) 0.996 acres, 1.615 acres, 2.056 acres and 3.695 acres. It looks like the western section might have grown by about 8%, with the addition of a small rectangle of land projecting into Southward Edge Plantation but, otherwise, the parcels appear to be the same, when comparing the 1st and 2nd edition 1:10,560 scale maps. There are parcels in Freeholders Quarter with areas of 0.904 acres (#77), 1.615 acres (#78) and 2.056 acres (#100) and one in Riddell's Quarter with an area of 3.695 acres (#118). For all four of these parcels, the corresponding entry in the Book of Reference is "Private Road".

1897 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track of variable width along the route of alleged Public Bridleway No 29.

1898/9 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track of variable width along the route of alleged Public Bridleway No 29.

Finance Act 1910 plan (2 parts)

There is clear evidence of an enclosed road / track over the route of alleged Bridleway No 29, on the Ordnance Survey base map. The westernmost 60% of the route is not shown as being separated from the surrounding land by coloured boundaries (where it is, this is generally a good indication of public highway status). The easternmost 40% is, however, shown as being separated from the surrounding land by an amended coloured boundary, with an explanatory annotation stating that the road is "Not within Haredene".

1922/3 Ordnance Survey Map: Scale 1:2500

There is clear evidence of an enclosed road / track of variable width along the route of alleged Public Bridleway No 29.

1924 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of an enclosed road / track of variable width along the route of alleged Public Bridleway No 29.

1932 Morpeth Rural District Handover Map

The route of alleged Bridleway No 29 is not coloured to identify it as a publicly maintainable road.

Restriction of Ribbon Development Act 1935 Map

The alleged bridleway route is identified as an enclosed lane (western section) and by a dashed line (the remainder of the route) on the base map, but it is not coloured so as indicate that this is a route to be protected from ribbon development.

1947 Ordnance Survey Map: Scale 1:25,000) [Applicant's copy]

There is clear evidence of a variable width enclosed track over the route of the alleged public bridleway.

1950 Ordnance Survey Map: Scale 1:10,560

There is clear evidence of a variable width enclosed track over the route of the alleged public bridleway.

1951 Highways Map

Although a track is identifiable on the base map, the route of alleged Bridleway No 29 is not coloured so as to identify it as a publicly maintainable road.

c.1952 Definitive Map – original Survey Schedules & Map

The route of existing Public Footpath No 29 exists on the base map, but it was not identified for inclusion as a public right of way at this stage.

Draft Map

The route of existing Public Footpath No 29 exists on the base map, but it was not identified for inclusion as a public right of way at this stage.

1956 Bridges & Roads Committee minutes (17 September 1956)

The minutes state that “The Footpaths Sub-Committee submitted the following report by the Clerk on certain objections and representations relating to the paths in the Rural Districts of Haltwhistle and Morpeth, with the recommendation that it be approved and adopted:

...

“The Sub-Committee will remember that at their last meeting when the recommendations arising out of objections to the draft map for Morpeth District Council were approved, they were informed that representations made by the Ramblers’ Association with regard to omissions from the draft map remained to be dealt with.

“Consideration has now been given to these representations and the Sub-Committee are recommended to approve the inclusion of the footpaths set out below, in the draft map for Morpeth Rural District. Consequent upon the Sub-Committee’s approval the modifications will be advertised and objections heard in accordance with the procedure already laid down.”

Under “FP 2 Stanton & FP 9 Riddells Quarter” a route is described “From County Road C138 south of Muckley Butts to the east end of Linkham Lane – Continuation of FP 2 in Stanton Parish.” This amendment, in effect, added what is now Public Footpath No 13 to the Definitive Map process.

Provisional Map

The route of existing Public Footpath No 29 exists on the base map, but it was not identified for inclusion as a public right of way at this stage.

A new public footpath (Footpath No 13, though here recorded as FP No 9 in Riddell’s Quarter) has been added, though, and the most northerly 15 metres of this route appears to share the same route as the (added later) Footpath No 29.

1962 Original Definitive Map and Statement

There is clear evidence of a wide, enclosed track on the base map, but only the most easterly 15 metres is identified as a public right of way (i.e. the northern end of Public Footpath No 13).

1964 Highways Map

The route of alleged Bridleway No 29 is identified with a dashed line on the base map, but the route is not coloured so as to identify it as a publicly maintainable road.

1966 Highways Committee minutes (12 December 1966)

The minutes state that “The Footpaths Sub-Committee have delegated authority to carry out the appropriate procedure for the preparation and review of the “Footpaths Map” required to be undertaken by the Council. The Definitive Map was completed in 1962 and the first Draft Review of the Map has been prepared and advertised and subsequently arrangements were made for the hearing of objections and representations by Counsel. Following the holding of the public inquiries by Counsel, the Sub-Committee considered a report of the Clerk and their decisions on the individual objections and representations are set out below for the information of the Committee. The Draft Map will now be amended to take account of the Sub-Committee’s decisions which will be advertised as required by the Act and the Map will then be prepared in its “Provisional” form.”

Under “Longhorsley 29” it is noted that the Ramblers’ Association had made a representation that the path should be added to the Definitive Map. The “recommendation” (i.e. sub-committee decision) was “The draft map and statement be modified by the insertion of a footpath (No 29) from High Southward Edge to the junction of County Road C138 and footpath No 13.”

First Review Definitive Map and Statement

The remainder of the alleged bridleway route has now been added as a public footpath (Footpath No 29). Existing Public Bridleways Nos 19 (Longhorsley) and 32 (Netherwitton) have also been added.

2006 List of Streets at 2 May 2006

The route of alleged Bridleway No 29 was not identified as a publicly maintainable highway on the Council’s List of Streets on 2 May 2006.

6. SITE INVESTIGATION

- 6.1 From a point marked R, on the C138 road, south of Muckley, a 2 to 3 metre wide grass track, in a 40 to 46 foot wide (12.19 to 14 metre) corridor proceeds in a westerly direction for a distance of 130 metres, to a field gate with adjacent step stile. Beyond this, a 46 to 58 foot wide (14 to 17.6 metres) grass corridor continues in a westerly direction for a further 430 metres to a stile. From here, the alleged bridleway, continues in a westerly direction, within a 60 to 88 foot corridor (18.29 to 26.8 metres) for 320 metres to a pedestrian gate with step stile alongside. For parts of this section a 1 to 2 metre wide trodden earth / grass path exists through sections of gorse / shrubbery, whilst for other parts an ill-defined route easily proceeds between sparsely spread trees. A 2 metre wide trodden earth / grass path, between shrubbery, within a 60 to 68 foot (18.29 – 20.7 metres) corridor continues westerly for a further 225 metres to another step stile. Then an ill-defined grass surfaced track within a 60 to 68

foot (18.29 – 20.7 metres) corridor, containing some trees and bushes, continues westerly for a further 185 metres to a field gate with adjacent step stile. Beyond this, the route follows the edge of a field in a westerly direction for 340 metres to another step stile. It then proceeds in a south-westerly direction, within a 14 to 16 metre wide corridor, for a distance of 30 metres. It then continues as a grass track in a north-westerly direction for a distance of 350 metres to a field gate. The middle section, here, is largely indistinguishable from the adjacent field, but both ends appear to be 21 to 30 foot wide (6.5 to 9.14 metres) corridors. Through this field gate, the alleged bridleway proceeds along a 2.5 metre wide tarmac driveway along the edge of the garden of High Southward Edge for a distance of 20 metres to a double field gate (with adjacent step stile) at Point Q, on the C141 road.

7. COMMENTS RECEIVED ON THE DRAFT REPORT

- 7.1 In March 2024, 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 Section 53 (3)(c)(ii) of the Wildlife and Countryside Act 1981, requires the County Council to modify the Definitive Map when evidence is discovered which, when considered with all other relevant evidence available to them shows:

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

- 8.2 When considering an application / proposal for a modification order, Section 32 of the Highways Act 1980 provides for “any map, plan or history of the locality or other relevant document” to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.
- 8.3 Although Ms Holmes’ application only sought to record this route as a public bridleway, 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.
- 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 The route of the alleged bridleway is readily identifiable on Armstrong’s, and Greenwood’s County Maps of 1769 and 1828, but not on Fryer’s County Map of 1820 or Cary’s Map of 1827. It is common for Armstrong’s, Fryer’s Cary’s and Greenwood’s maps to be presented as evidence in support of additional public rights. Where a route is shown on one or two of these maps, this is generally viewed as decent evidence in support of public highway rights

(usually vehicular but, potentially, just bridleway). Where a route is consistently depicted on all four maps the cumulative effect of this is considered to be particularly persuasive.

- 8.6 On the plans produced in association with the Finance Act of 1910, the eastern part of route of the alleged bridleway is shown as being separated from the surrounding land by coloured boundaries. This is generally taken to be a good indication that the route was considered to be a public vehicular highway, at that time. That said, the western part of the route is not shown as being separated from the surrounding land by coloured boundaries.
- 8.7 The route of the alleged public bridleway has been consistently identified as an enclosed track on Ordnance Survey maps between c.1860 and 1950. The Book of Reference accompanying the 1st Edition OS map appears to have identified the route as a "Private Road".
- 8.8 In the Freeholders' Quarter and Riddell's Quarter Tithe Awards, the alleged route is clearly shown as a road / track and is annotated as "From Tosson" on the Riddell's Quarter tithe map. This doesn't mean that the route was necessarily a public road, but it does indicate that a significant route did exist at that time.
- 8.9 On the Survey maps produced in association with preparation of the first Definitive Map of Public Rights of Way, in the early 1950s, the route of existing Footpath No 29 was not identified as a public right of way for inclusion. Neither the route of Public Footpath No 13, nor that of Public Bridleway No 19, were included, either.
- 8.10 Footpath No 13 was not on the original Draft Map, published in the early 1950s. From the Bridges and Roads Committee minutes, in 1956, the route was added as the result of a successful representation made by the Ramblers' Association. It was then included on the Provisional Map.
- 8.11 Footpath No 29 and Bridleway No 19 (and its continuation, Bridleway No 32 in the Parish of Netherwitton) were both added at the First Review of the Definitive Map (Relevant Date 1 November 1963), Footpath No 29 on the basis of another representation by the Ramblers' Association. It is not known what evidence was presented or considered in relation to this. Since the Ramblers are a walking organisation, if this was a user evidence based application, it is not hard to see why a route which may, potentially, have higher rights might nevertheless only get recorded as a public footpath.
- 8.12 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. None of these saving provisions would appear to apply here so, if public vehicular

rights are determined to exist over this route, the motor vehicular element would seem to have been extinguished, leaving just restricted byway rights.

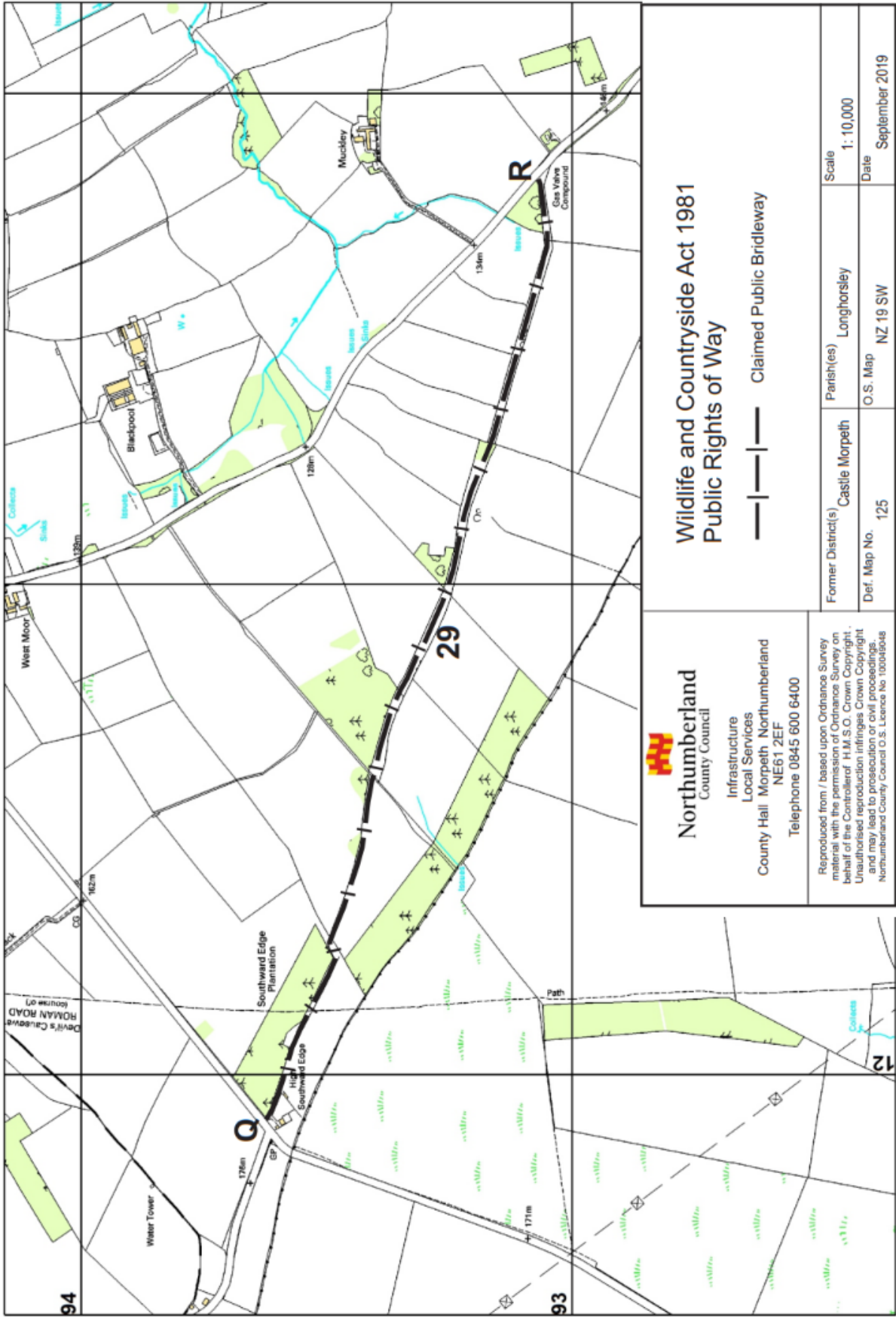
- 8.13 Mrs Pickering, who owns the land crossed by the most westerly 500 metres of the alleged bridleway route, is opposed to the upgrading of the existing public footpath. The presence of another bridleway, crossing the alleged bridleway route, doesn't mean that bridleway rights can't exist over the application route too. Public bridleways often end on public roads. The perceived safety (or lack, thereof) of these junctions isn't relevant when determining what public rights actually exist. If higher rights do exist over this route, it is likely that they came into existence before the internal combustion engine was invented. Mrs Pickering's fears that a bridleway would impact her privacy and security more than the existing footpath are understandable, but these aren't factors which can be taken into account when determining what public rights exist.
- 8.14 This case is not a clear cut one. The route is shown on Armstrong's and Greenwood's maps of 1769 and 1828, but not on Fryer's and Cary's maps of 1820 and 1827. Armstrong's map is less detailed than the others, so shows fewer routes. The fact that this route is shown on Armstrong suggests that he considered it to be reasonably important and probably vehicular. The route is shown on the two 1840s tithe maps. Clearly it existed and the labelling in relation to more distant destinations "to Morpeth" and "from Tosson" is certainly suggestive of public rights, but no more. It doesn't preclude the possibility of the route being a private road that also carried public bridleway or public footpath rights. The route is consistently identified on OS maps as a very wide enclosed lane. This is very strong evidence that such a route physically existed but says nothing about its status. If the accompanying Book of Reference had identified it as a "Public Road" this would have been taken as a small nod in that direction, but it appears that the Book of Reference actually identified the route as a "Private Road" so this should be taken as a small nod in that direction, instead. The eastern end of the route is separated from the surrounding land by coloured boundaries on plans produced in association with the 1910 Finance Act, but the western end is not. This route appears to fit in well, with the existing road network. It could be seen as a logical continuation of the existing (tarmacked) public road west of Point Q. The fact that it wasn't identified for inclusion on the original Definitive Map could have been because it was already thought of as a public road.
- 8.15 If this route was not already recorded on the Definitive Map (as Public Footpath No 29) I would have no hesitation recommending that public vehicular rights had been reasonably alleged to exist and that the route should be included in a future Definitive Map Modification Order as a restricted byway. Since the route is already recorded on the Definitive Map, any application to upgrade its status needs to be considered against the higher level 'balance of probabilities' test. It may seem that there isn't much to go on, when making a distinction between public bridleway and public vehicular rights, however, whilst I believe that, on a balance of probabilities, higher rights probably do exist over this route, I do not feel that I can recommend that these higher rights have been demonstrated to be vehicular. Although it could be argued otherwise, my recommendation is that, on a balance of probabilities, only public bridleway rights have been shown to exist.
- 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. Where no width can be determined by documentary

means (such as an Inclosure Award, Highway Order or dedication document), there is usually a boundary to boundary presumption for public highways. The historical map evidence suggests that this route used to be entirely enclosed by physical boundaries. Much of it still is. On that basis, it is proposed that the enclosed public bridleway be identified with the variable widths ranging from 6.5 metres to 26.8 metres, as identified in paragraph 6.1 above, and that the two currently unenclosed field edge sections be identified with their former enclosed widths of between 6.5 and 9.14 metres in the field immediately east of High Southward Edge and 18.29 to 20.7 metres in the field immediately east of the short dog-leg. The short section through the garden of High Southward Edge itself should be recorded with the lower width of 6.5 metres, reflecting the width identified on the 1:2500 scale OS map of 1897.

- 8.17 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. The majority of this route is not currently recorded on the List of Streets, as Footpath No 29 was only added at the First Review (Relevant Date: 1 November 1963) on the basis of a representation by the Ramblers' Association.
- 8.18 If the claimed route is actually an old road (rather than just a footpath or bridleway) then it wouldn't automatically be publicly maintainable. 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. But given that the map evidence appears to show that this road existed prior to 1835 then, in the absence of any clear evidence that the 'newly discovered' part of 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 road on the Council's List of Streets.
- 8.19 However, if the claimed route is a public bridleway, then it must have been a public bridleway before 1949. It is therefore likely to be publicly maintainable, and on that basis it should also be recognised as a publicly maintainable bridleway on the Council's List of Streets.


9. CONCLUSION

- 9.1 Based on the documentary evidence available, it appears that public bridleway rights have been shown to exist, on a balance of probabilities, over the Q-R route.



Wildlife and Countryside Act 1981 Public Rights of Way

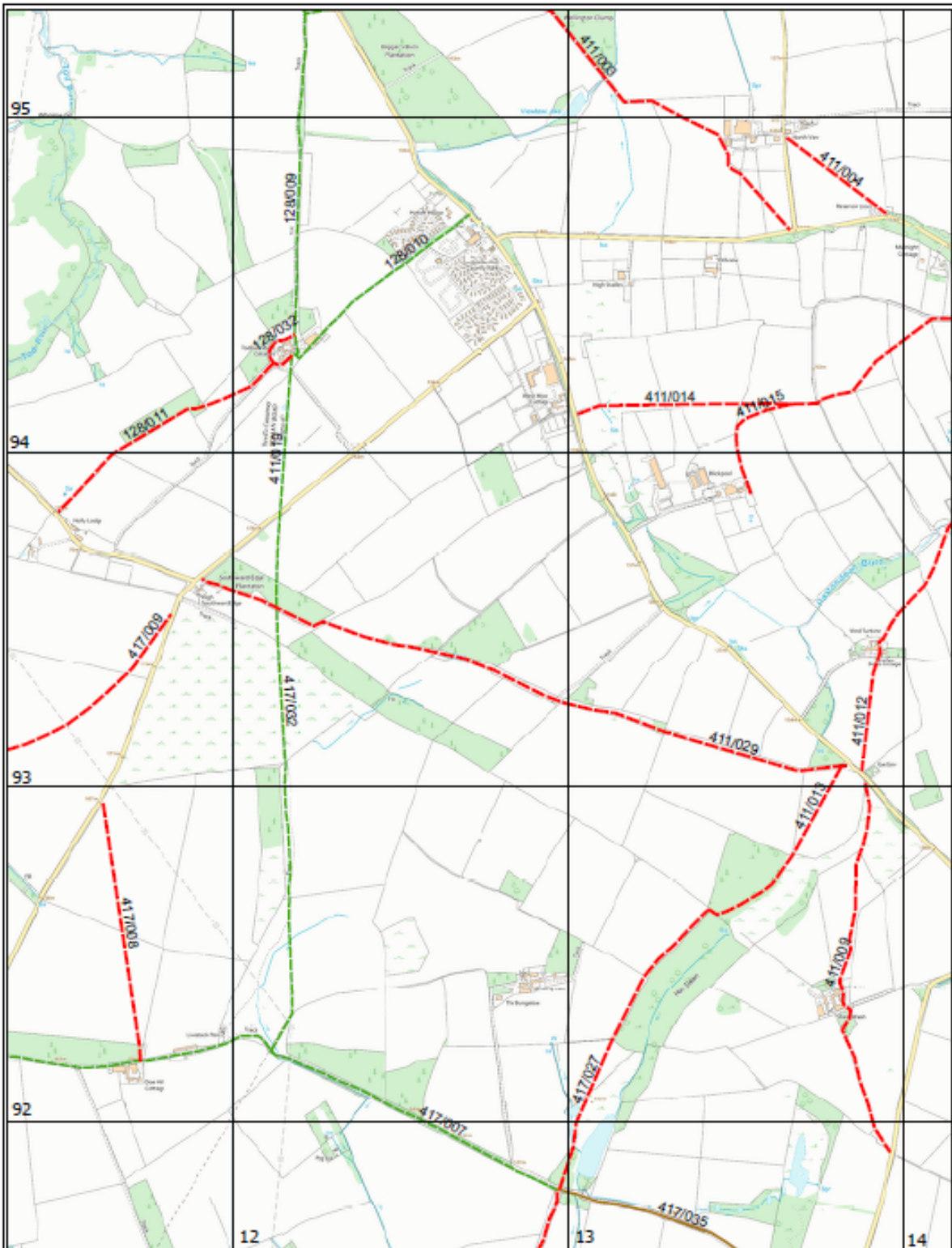
 Claimed Public Bridleway


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

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Former District(s) **Castle Morpeth** Parish(es) **Longhorsley** Scale **1:10,000**

Def. Map No. **125** O.S. Map **NZ 19 SW** Date **September 2019**




Northumberland
 County Council
 County Hall, Morpeth, NE61 2EF
 Contact: Highway Search Team
 EMail: Highwaysearch@northumberland.gov.uk

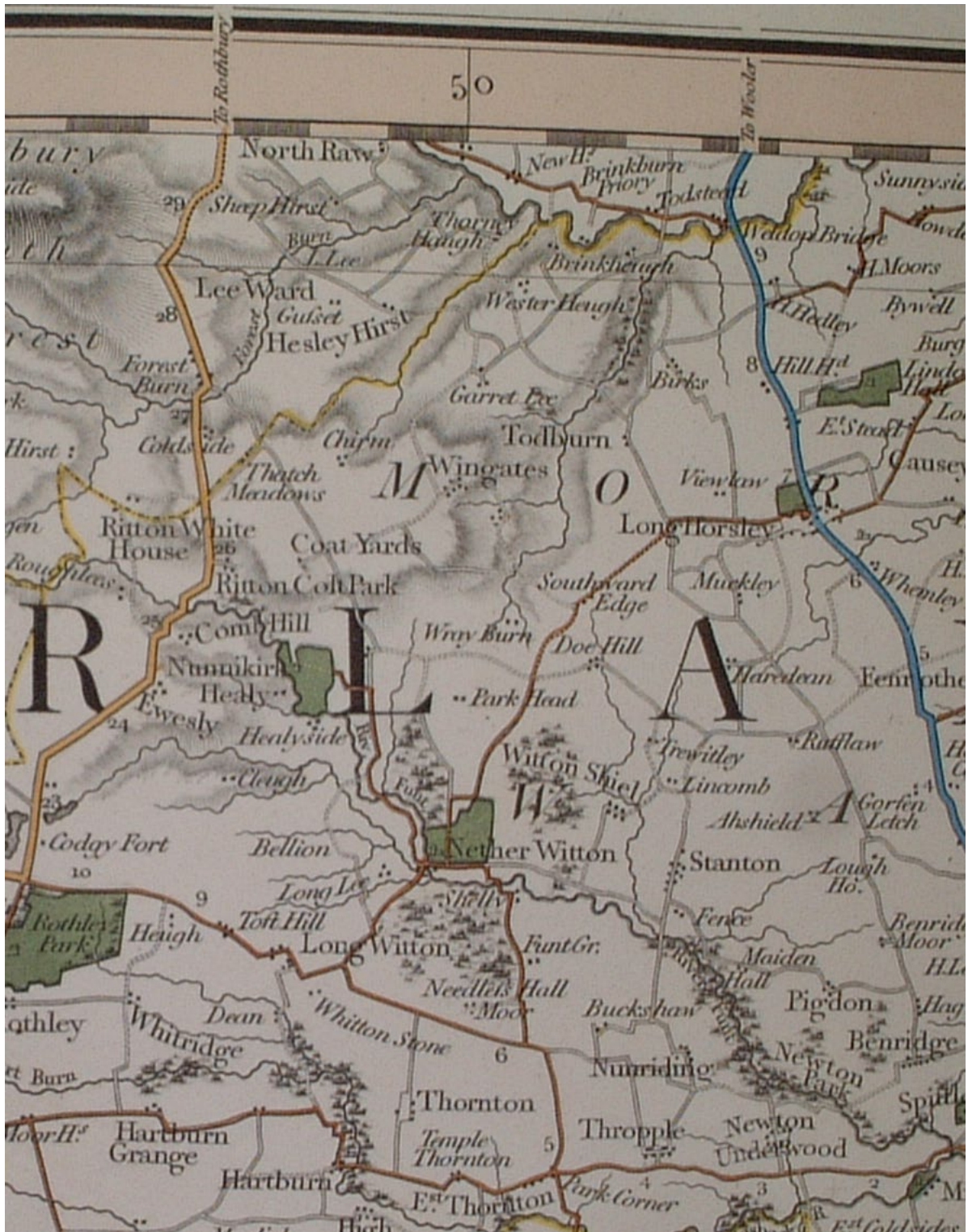
- Legend**
- Footpath
 - Bridleway
 - Restricted Byway
 - Byway Open to All Traffic

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

Scale: 1:15,000

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Greenwood's County Map
1828



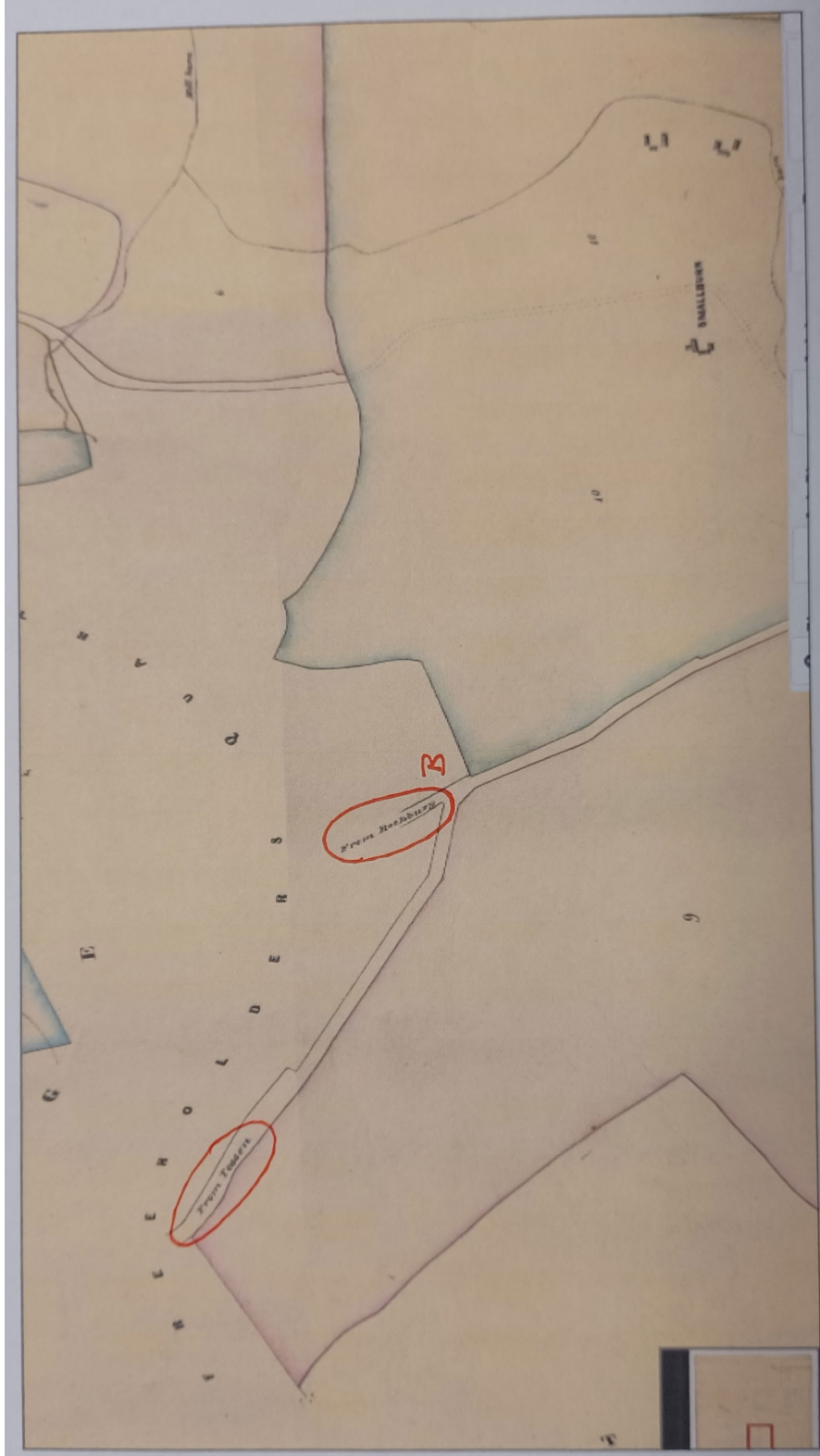
Title Award (Freeholders' Quarter)

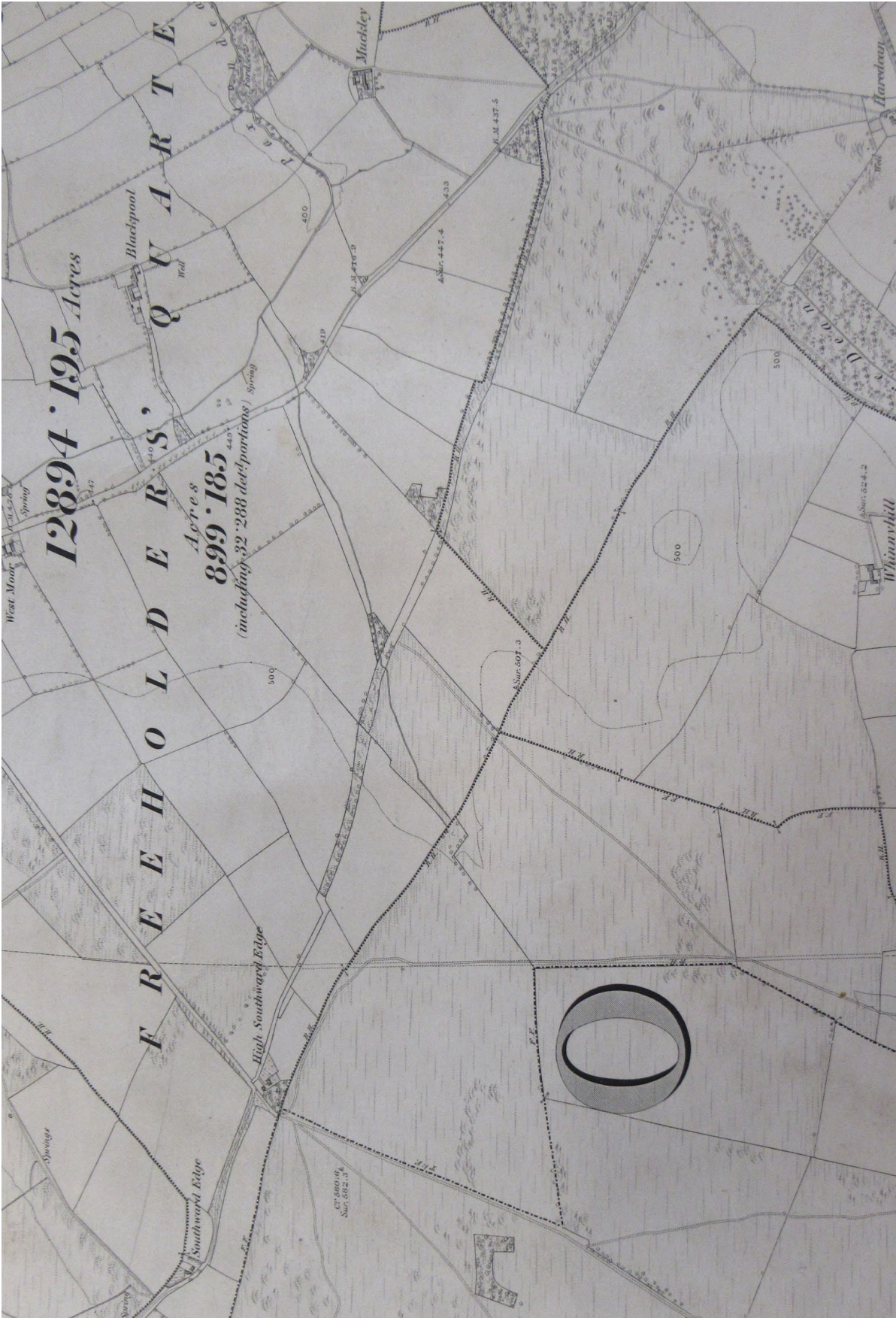
1842

[Applicants copy]



Tithe Award (Riddell's Quarter)
1847
[Applicants copy]





F LONGHORSLEY.

No. on Plan.	Area in Acres.	Remarks
22	296.104	<i>Brought forward.</i>
23	14.961	Pasture.
24	22.013	Pasture, &c.
25	9.055	Arable, &c.
26	12.494	Arable, &c.
27	38.919	Pasture, furze, &c.
28	11.883	Pasture, &c.
29	.499	Wood.
405.928		
RECAPITULATION.		
401.293	Land.	
4.635	Public roads.	
405.928		Area of the Township of Bigge's Quarter (Detached, No. 7).
RECAPITULATION FOR THE TOWNSHIP.		
2884.951	Land.	
33.908	Public roads.	
6.664	Water.	
2925.523		Total area of the Township of Bigge's Quarter.
TOWNSHIP OF FREEHOLDERS' QUARTER.		
1	57.852	Pasture, rough pasture, &c.
2	11.178	Pasture, &c.
3	10.466	Rough pasture and furze.
4	7.232	Arable.
5	4.714	Arable, &c.
6	6.082	Arable.
7	14.578	Arable.
8	3.988	Arable.
116.040		<i>Carried forward.</i>

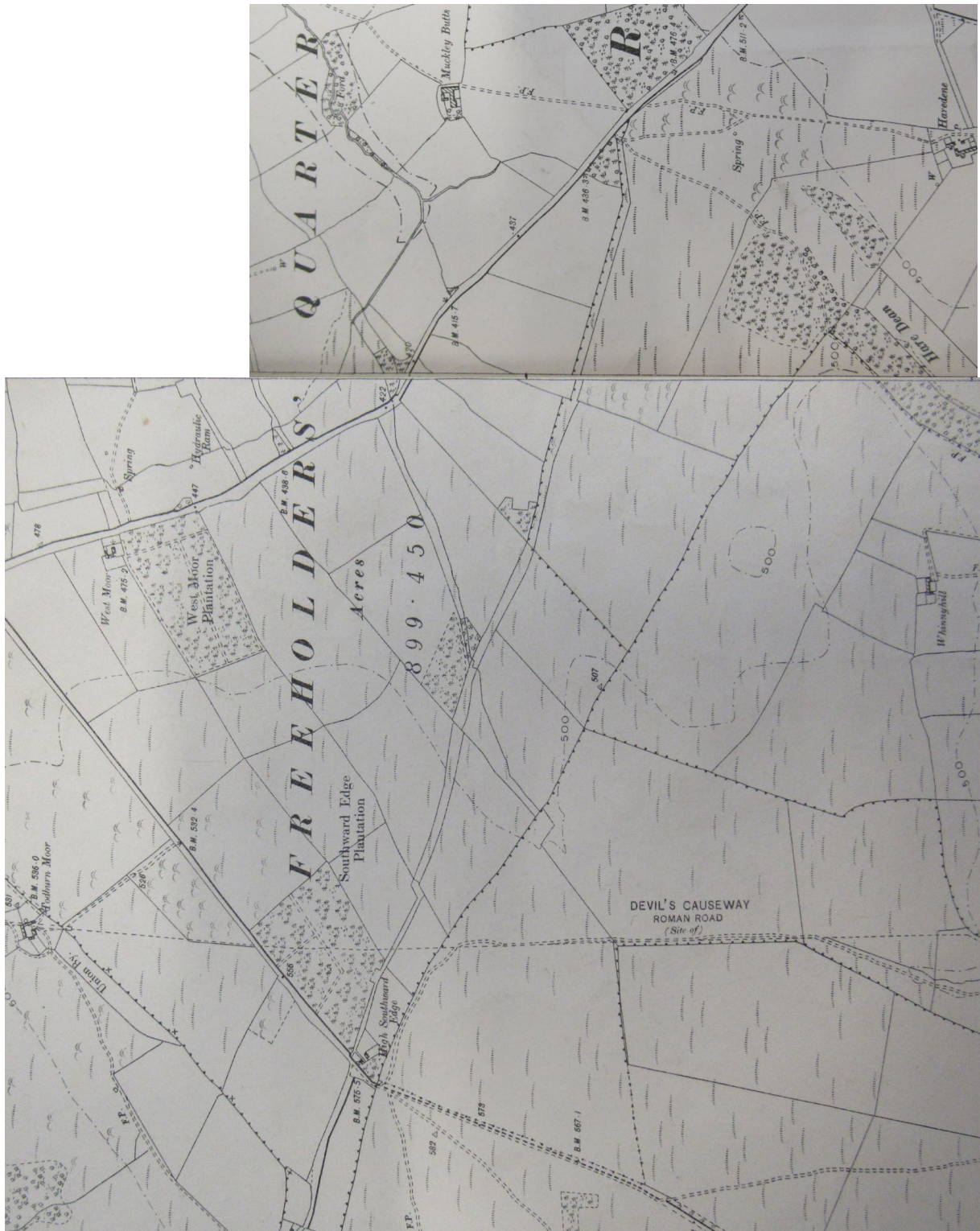
PARISH OF LONGHORSLEY.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
9	116.040	<i>Brought forward.</i>	55	400.308	<i>Brought forward.</i>
10	6.110	Arable.	56	5.304	Pasture, &c.
11	9.561	Arable.	57	23.632	Rough pasture, &c.
12	2.822	Arable.	58	9.942	Arable.
13	1.967	Arable.		.456	Houses, gardens, &c. (Southward Edge).
14	2.082	Arable.	59	1.363	Arable.
15	2.156	Arable.	60	5.625	Arable.
16	13.356	Arable.	61	4.292	Arable.
17	9.595	Arable.	62	5.367	Arable.
	.698	Houses, garden, &c. (West Moor).	63	3.255	Public road.
18	4.104	Arable.	64	15.516	Arable, &c.
19	.451	Grass, &c.	65	4.287	Public road.
20	27.325	Pasture, &c.	66	.093	Wood.
21	7.330	Arable.	67	.511	Wood.
22	5.550	Arable, &c.	68	.445	Houses, gardens, &c. (High Southward Edge).
23	2.999	Arable.	69	2.420	Pasture.
24	6.973	Arable.	70	.142	Arable.
25	6.484	Arable, &c.	71	14.096	Arable, &c.
26	6.835	Arable, &c.	72	6.925	Pasture.
27	6.438	Arable, &c.	73	3.167	Pasture, &c.
28	6.495	Arable, &c.	74	14.975	Rough pasture and furze.
29	9.007	Arable, &c.	75	10.945	Pasture.
30	3.875	Arable.	76	14.459	Pasture.
31	1.079	Arable.	77	.904	Private road.
32	3.615	Arable.	78	1.615	Private road.
33	4.785	Pasture.	79	11.829	Pasture.
34	.302	Public road.	80	8.243	Arable.
35	.313	Houses, garden, &c.	81	23.640	Pasture.
36	3.583	Pasture.	82	14.971	Pasture.
37	21.718	Pasture, &c.	83	15.214	Pasture.
38	6.511	Furze, &c.	84	8.326	Public road.
39	14.054	Pasture.	85	16.264	Arable, &c.
40	14.291	Arable.	86	5.843	Pasture.
41	.142	Pasture.	87	9.443	Arable.
42	1.048	Private road.	88	8.265	Arable.
43	5.430	Arable.	89	3.009	Wood.
44	11.497	Arable, &c.	90	.337	Wood.
45	.226	Wood.	91	9.547	Arable, &c.
46	3.458	Public road.	92	11.407	Arable, &c.
47	.781	Houses, yards, gardens, &c. (Black-pool).	93	3.263	Pasture.
	.140	Garden.	94	10.496	Pasture.
48	13.444	Pasture.	95	8.048	Arable.
49	11.798	Pasture.	96	6.761	Pasture.
50	6.976	Arable.	97	1.214	Public road.
51	5.771	Pasture, &c.	98	13.313	Rough pasture, &c.
52	5.905	Pasture, &c.	99	.524	Wood, &c.
53	5.133	Arable, &c.			
54					
400.308		<i>Carried forward.</i>	740.162		<i>Carried forward.</i>

PARISH OF LONGHORSLEY.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
	740.162	<i>Brought forward.</i>	TOWNSHIP OF FREEHOLDERS' QUARTER (Detached, No. 2).		
100	2.056	Private road.	1	.703	Houses, gardens, &c.
101	11.978	Pasture.	2	.953	Garden.
102	14.672	Pasture, &c.	3	3.286	Pasture.
103	.858	Wood.	4	4.390	Arable.
104	9.140	Pasture.		9.332	Area of the Township of Freeholders' Quarter (Detached, No. 2).
105	7.644	Arable.	TOWNSHIP OF FREEHOLDERS' QUARTER (Detached, No. 3).		
106	12.013	Arable.	1	1.950	Houses, yards, garden, &c.
107	.282	Wood.	2	1.193	Pasture.
108	14.522	Pasture, &c.	3	.450	Pasture.
109	.065	Wood.	4	3.328	Arable.
110	9.577	Pasture.	5	.800	Arable.
111	5.126	Pasture, &c.	6	1.178	Public road.
112	6.835	Arable.	7	.811	Furze, &c.
113	.772	Houses, yards, garden, &c. (Muckley).	8	1.953	Arable.
114	.039	Garden.	9	1.721	Arable.
115	10.444	Arable.		13.384	
116	1.116	Wood.	RECAPITULATION.		
117	19.596	Pasture, &c.		12.206	Land.
	866.897			1.178	Public road.
				13.384	Area of the Township of Freeholders' Quarter (Detached, No. 3).
RECAPITULATION.			RECAPITULATION.		
	846.055	Land.			
	20.842	Public roads.			
	866.897	Area of the Township of Freeholders' Quarter, exclusive of the detached portions.	TOWNSHIP OF FREEHOLDERS' QUARTER (Detached, No. 4).		
TOWNSHIP OF FREEHOLDERS' QUARTER (Detached, No. 1).			1	.230	Houses, garden, &c.
	.077	House, garden, &c.	2	.461	Pasture.
	.077	Area of the Township of Freeholders' Quarter (Detached, No. 1).	3	.703	Arable.
				1.394	Area of the Township of Freeholders' Quarter (Detached, No. 4).

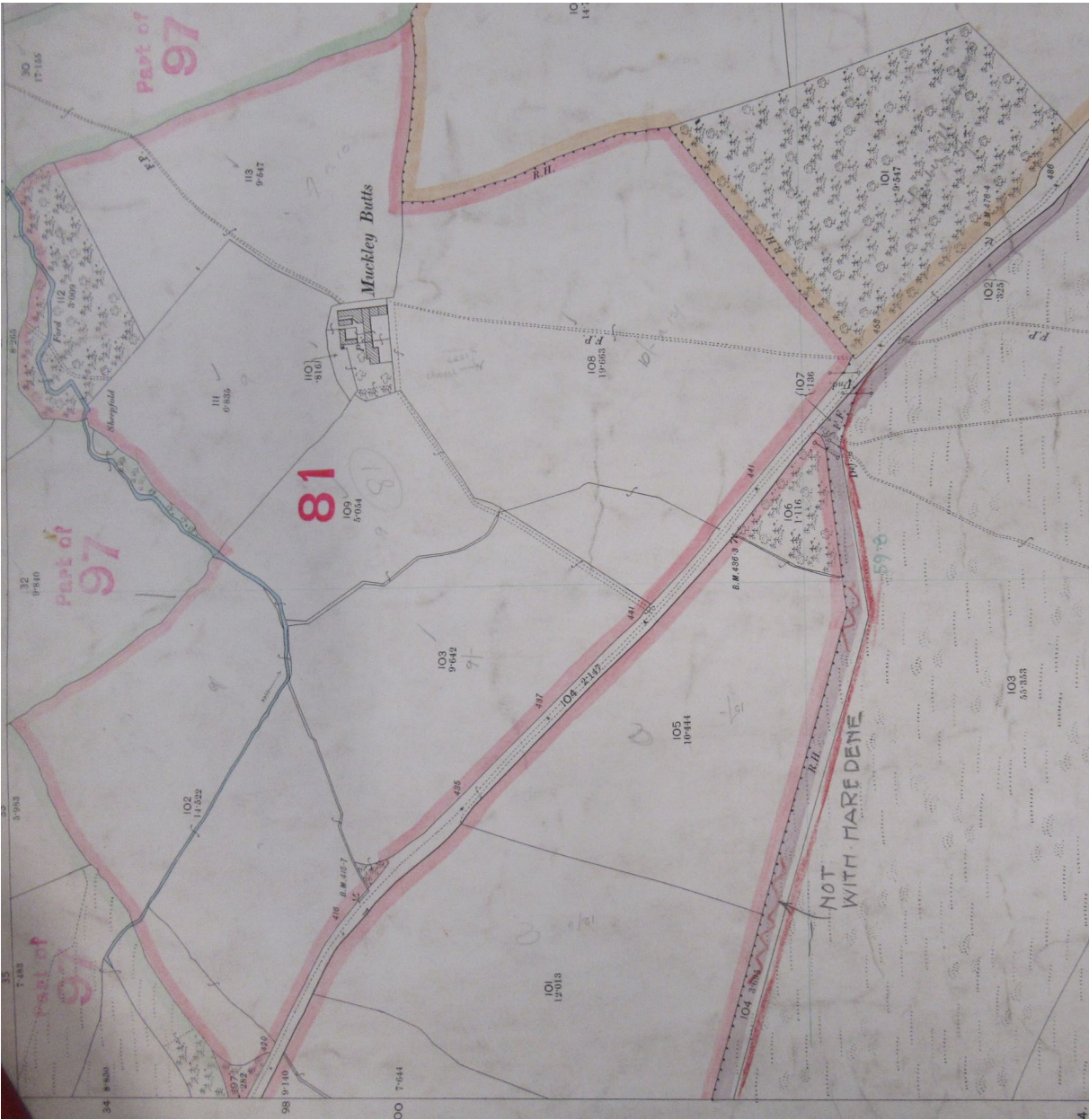
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
	547-289	<i>Brought forward.</i>		1058-833	<i>Brought forward.</i>
68	-617	Rough pasture and furze.	113	11-098	Arable.
			114	16-920	Arable.
69	-142	Pasture.	115	19-594	Arable.
70	4-533	Furze, &c.	116	25-475	Pasture.
71	3-289	Arable.	117	12-928	Arable, &c.
72	5-625	Arable.	118	3-695	Private road.
73	14-094	Arable, &c.	119	20-530	Rough pasture & furze.
74	-975	Houses, yards, garden, &c. (Whemley-burn).	120	55-353	Rough pasture, furze, &c.
			121	36-236	Pasture, &c.
75	-217	Gardens.	122	2-391	Wood.
76	8-000	Pasture, &c.	123	1-000	Wood.
77	4-242	Pasture.	124	29-612	Arable.
78	9-651	Arable.	125	13-536	Arable, &c.
79	7-502	Arable, &c.	126	7-618	Pasture, &c.
80	8-182	Arable.	127	-946	Houses, yards, garden, &c. (Small-burn).
81	-020	Houses.			
82	1-533	Public road.			
83	3-757	Public road.	128	14-835	Arable.
84	8-336	Arable.	129	9-183	Pasture.
85	9-994	Arable.	130	11-952	Pasture, quarry, &c.
86	25-620	Arable, &c.	131	19-466	Pasture, &c.
87	14-361	Arable.	132	7-964	Pasture, &c.
87a	-082	Wood.	133	20-867	Pasture.
88	10-817	Pasture, &c.	134	-511	Houses, yard, garden, &c. (Horsleybarns.)
89	11-776	Arable.			
90	10-757	Arable.	134a	-163	Wood.
91	17-104	Pasture.	135	16-713	Wood, &c.
92	25-380	Pasture, &c.	136	10-314	Pasture, &c.
93	24-399	Pasture, &c.	137	11-489	Arable, &c.
94	18-434	Pasture.	138	-636	Pasture and furze.
95	33-636	Pasture, &c.	139	1-002	Houses, yards, &c. (Haredcan.)
96	20-085	Arable.			
97	11-425	Arable.	140	1-118	Pasture.
98	10-595	Arable.	141	24-512	Pasture, quarries, &c.
99	14-720	Pasture.	142	1-091	Public road.
100	9-547	Wood.	143	38-085	Pasture.
101	14-034	Arable.	144	10-963	Pasture, &c.
102	37-509	Pasture, &c.	145	6-810	Arable.
103	13-037	Pasture, &c.	146	9-456	Pasture, &c.
104	23-727	Arable.	147	18-866	Pasture.
105	5-634	Arable.	148	16-676	Pasture.
106	18-759	Arable.	149	16-474	Pasture, &c.
107	4-974	Wood, &c.	150	16-156	Arable.
108	21-057	Pasture, &c.	151	16-267	Pasture, &c.
109	9-111	Pasture, &c.	152	1-221	Public road.
110	-050	House, garden, &c.	153	12-453	Pasture, &c.
111	-073	House and garden.	154	14-186	Pasture, &c.
112	12-302	Arable.	155	15-804	Pasture, &c.
	1058-833	<i>Carried forward.</i>		1670-918	<i>Carried forward.</i>



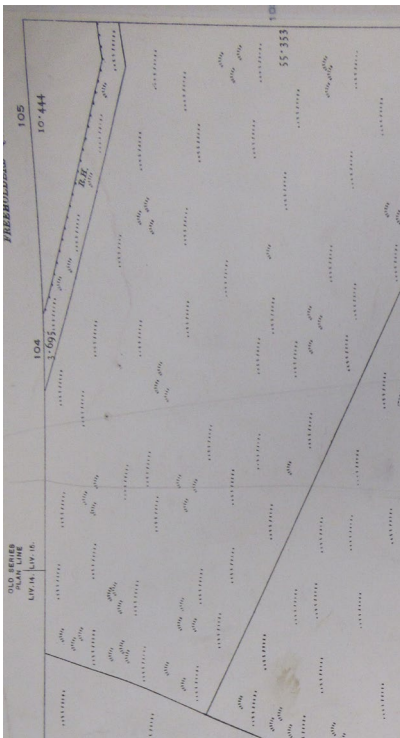
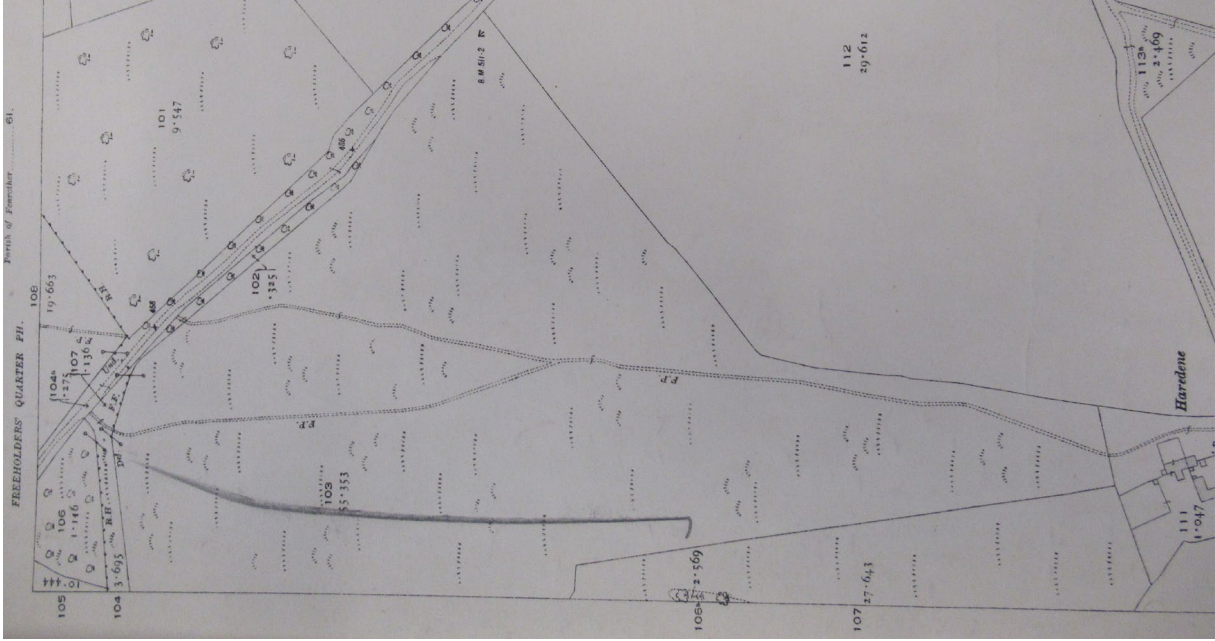
Finance Act 1910 Plan
(Western section)

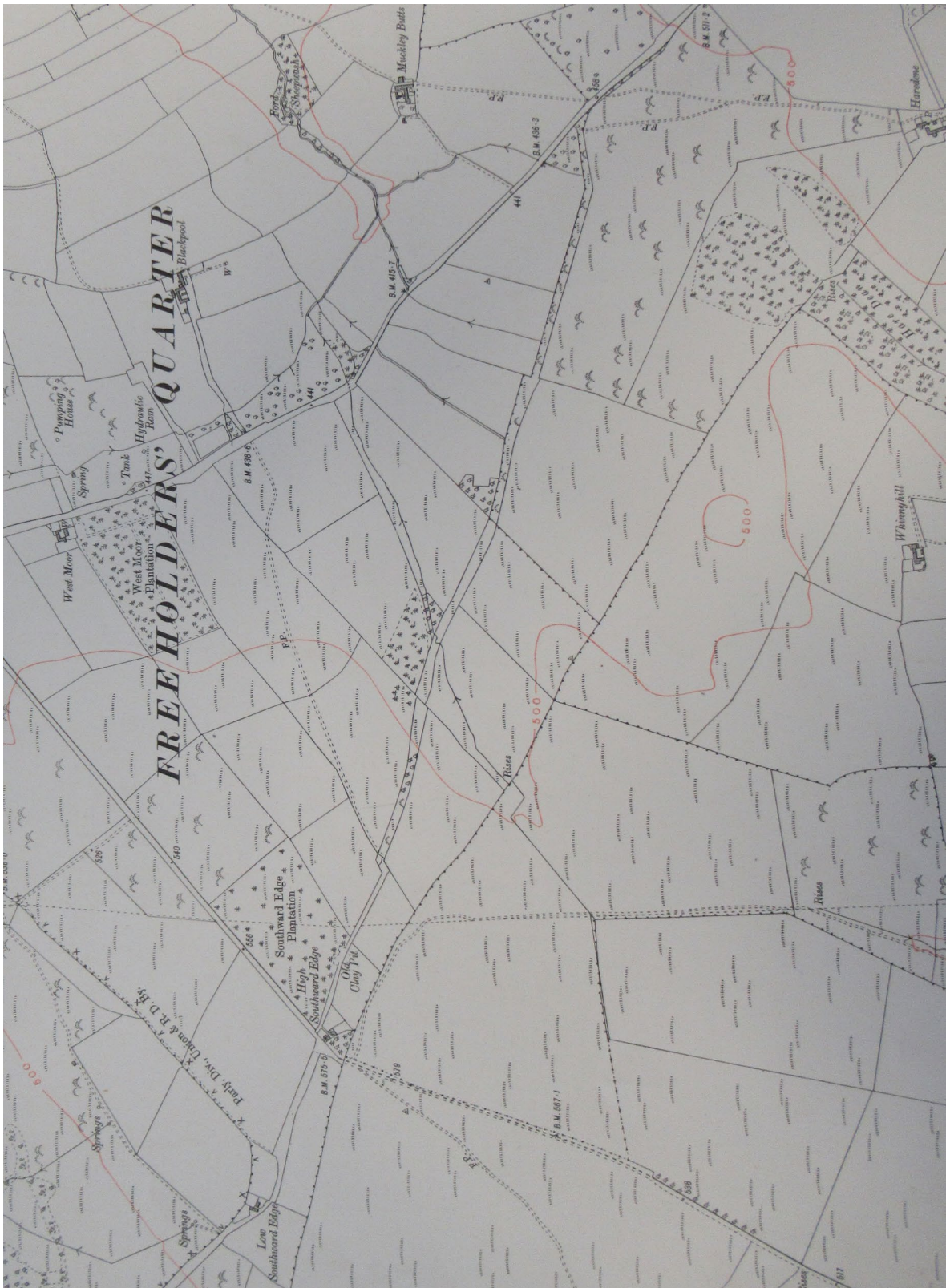


Finance Act 1910 Plan
(Eastern section)



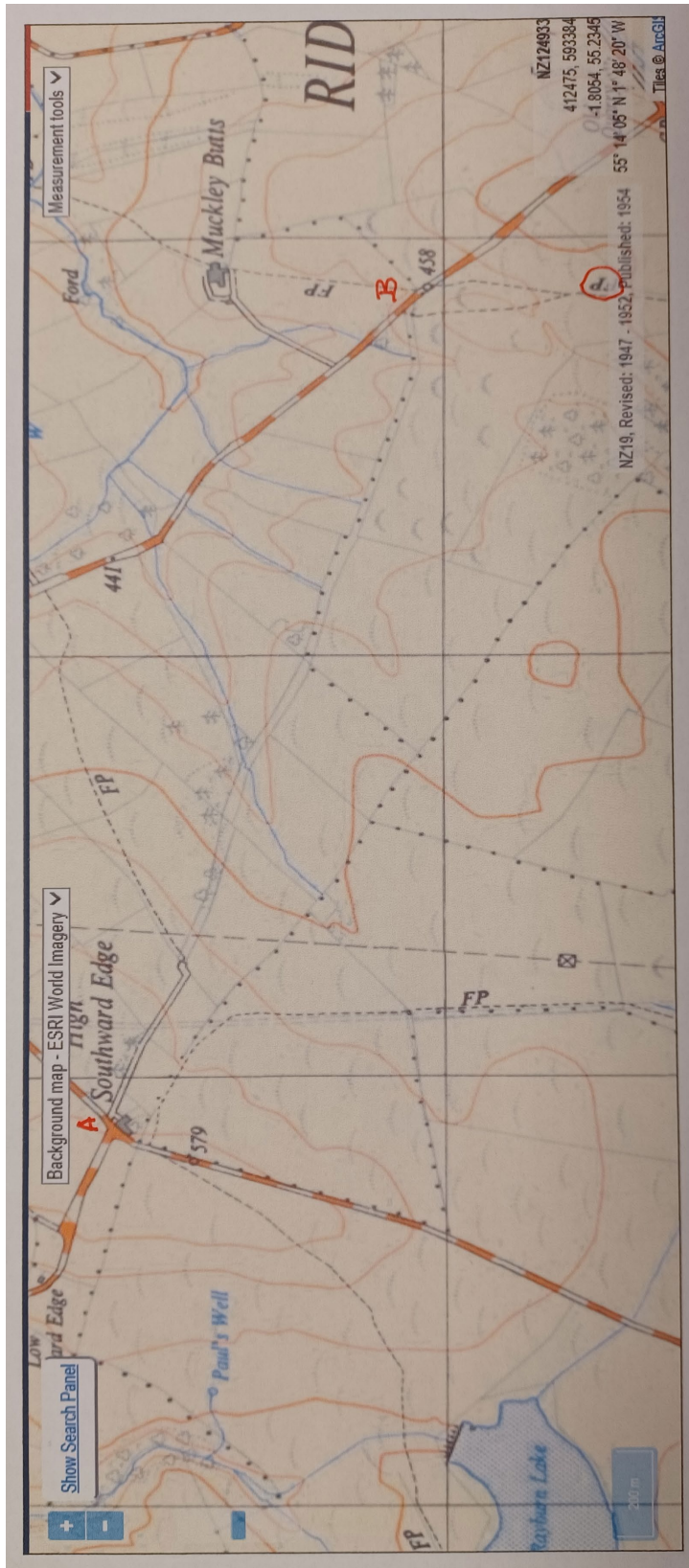
3rd Edition O.S. 25" Map
1922 / 23
(middle and eastern sections)





Morpeth RD Handover Map
1932



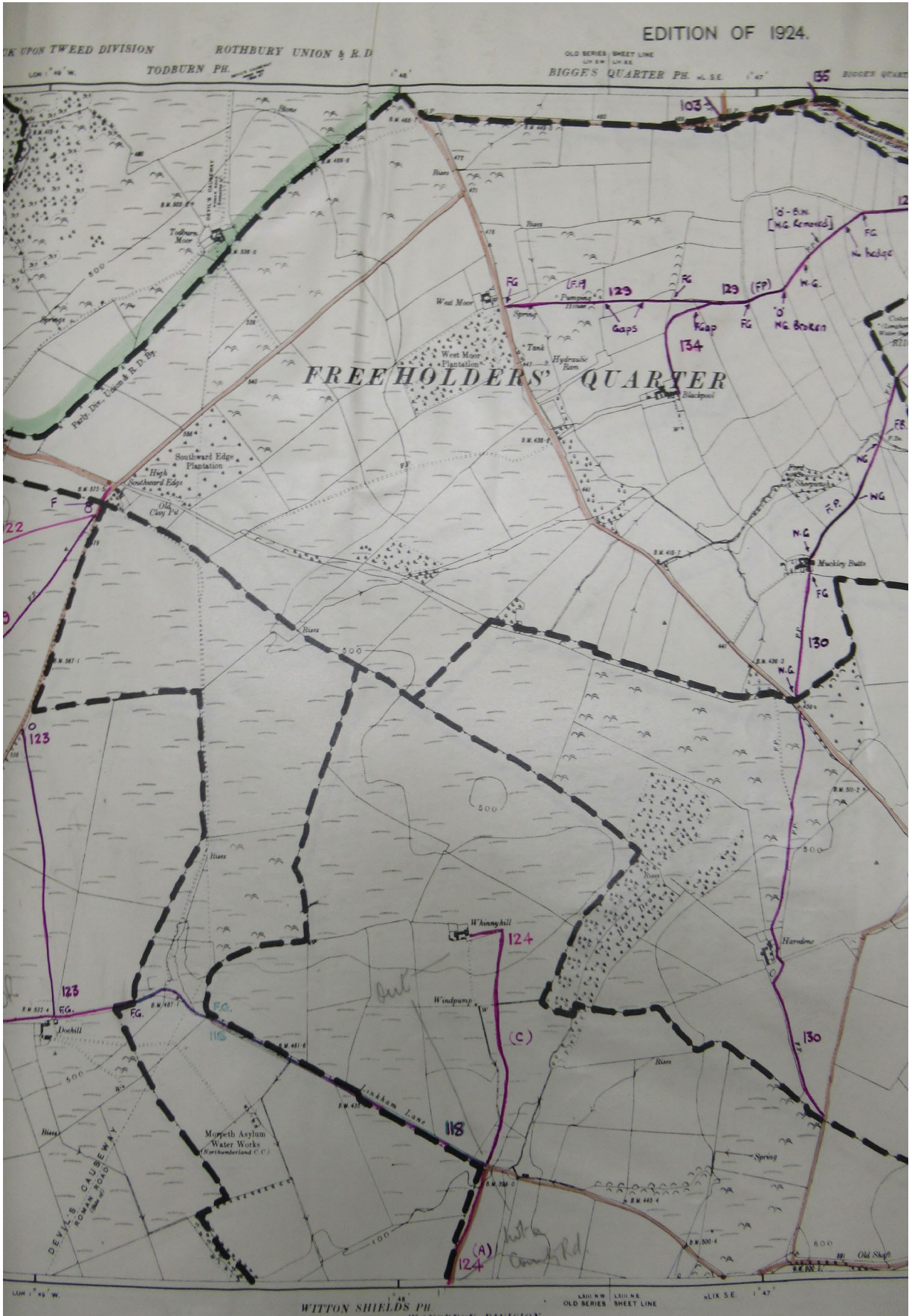




1951 Highways Map



Survey Map





206
111

BRIDGES AND ROADS—17TH SEPTEMBER, 1956.

REPORTS OF COUNTY SURVEYOR—continued.

Road and Description of Works.	Grant No.	Estimated Cost.	Amount of Grant.	Percentage of Grant.	Decision of the Committee.
(3) Ministry of Transport and Civil Aviation Grants.					
The following grants have been received from the Ministry of Transport and Civil Aviation since the Committee's last meeting:—					
Trunk Roads Maintenance, 1956-57— A.1	RDN. 570/56	£ 157,947	£ 157,947	100%	That the works proposed will be subject to compliance with the appropriate Ministry circular.
A.69	RDN. 570/56	55,226	55,226	100%	
A.69/68	RDN. 570/56	33,827	33,827	100%	
Trunk Road, A.69 —Whittle Dene	RDN. 571/55	24,400	24,400	100%	
Bridges and Roadworks— Stage II					
Class I Road, A.197—Junction Thorpe Avenue, Morpeth, to East Mill— Reconstruction	E.38/56	29,646	22,235	75%	
Class I Road, A.186—Grey Horse Inn, Shiremoor, to Garden Terrace, Earsdon— Reconstruction	E.40/56	25,125	18,844	75%	
Classification Grant, 1956-57, including Frost Damage	M.9/56 RDN.	£81,087	£39,298	75% 60% 50%	
Marginal Scheme, et. Small Land Acquisition— Class I	36/56 RDN.	1,527	1,145	75%	
Class II	37/56 RDN.	148	89	60%	
Class III	38/56 RDN.	935	468	50%	

BRIDGES AND ROADS—17TH SEPTEMBER, 1956.

will be advertised and objections heard in accordance with the procedure already laid down:—

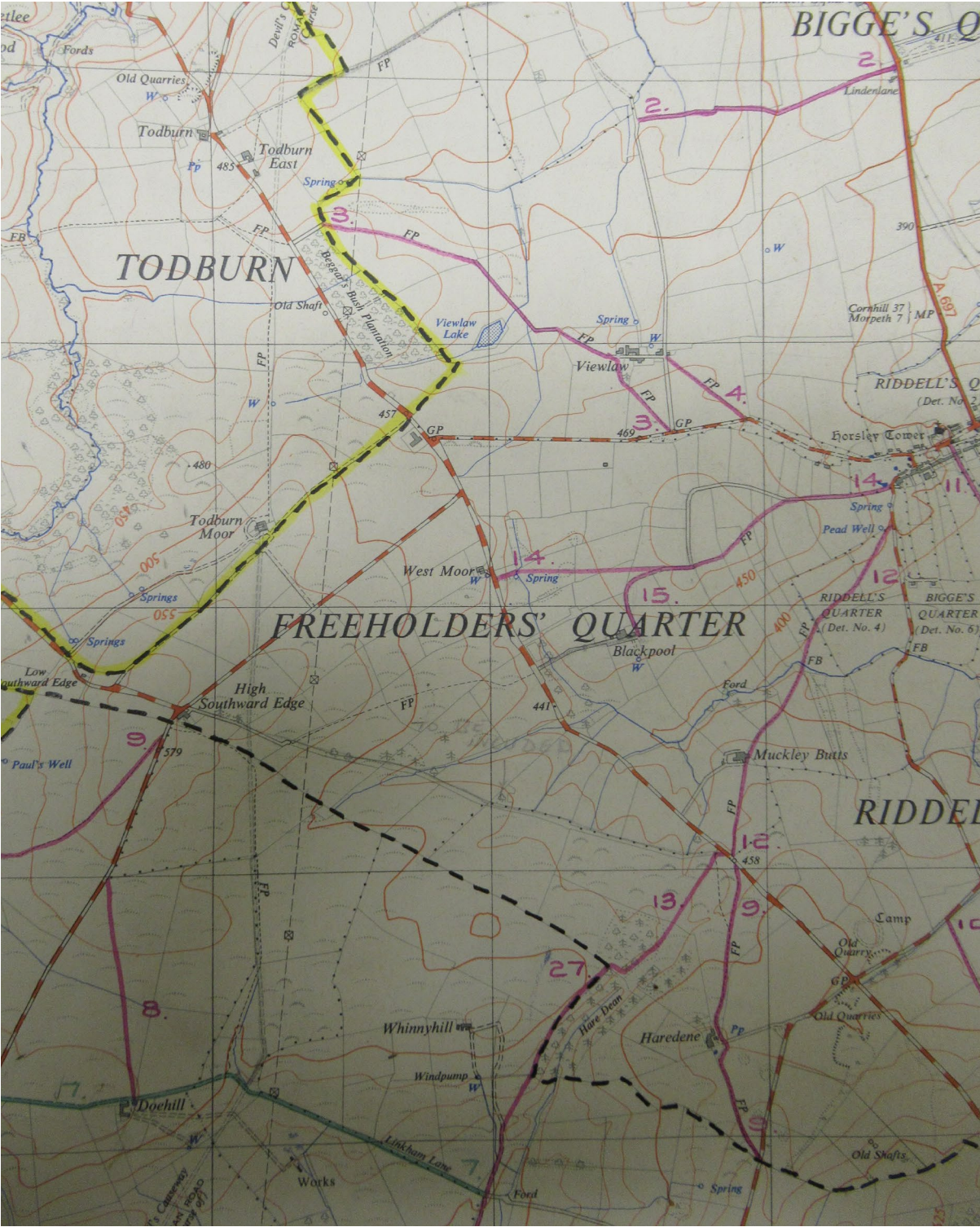
Path.	Description.
Morpeth Rural District. FP. 8 Bigges Quarter FP. 10 Risolds Quarter	From Todburn Parish boundary north-east of Todburn to County Road U.6021 south of South Bicks—Continuation of FP. 1 in Todburn Parish.
FP. 9 Bigges Quarter	From County Road U.6021 approximately 1 mile south of South Bicks to County Road A.697 at Lindeshaie—New path.
FP. 3 Freholles Quarter	From Blackhead to County Road C.138 south of West Moor, Preshilton—Continuation of FP. 3 in same Parish.
FP. 2 Risolds Quarter	From County Road C.138 south of Muckley Batts to the east of Preshilton Lane—Continuation of FP. 2 in Storton Parish.
FP. 3 Easi Thornton	From the Netherwitton Parish boundary at the Old Quarry to the south of Old Park Wood to the County Road U.6032 on the eastern edge of Cobble Wood—New path.
FP. 6 Longshaws	From FP. 3 at Station Mill to BR. 4 at the south end of Woodhouse Strig—New path.
BR. 7 Longshaws	From the Netherwitton Parish boundary south-west of Back Shaw to County Road C.147 at Thaitcock Farm—Continuation of BR. 2 in Netherwitton Parish.
FP. 4 Newton Underwood	From the footbridge at Newton Mill to FP. 1 at Newton Underwood—New path.

Resolved that the report be approved and adopted.

71.—The County Surveyor submitted the following reports which the Committee resolved be dealt with as stated in the second column:—

REPORTS OF COUNTY SURVEYOR.	Decision of the Committee.
(1) Quarterly Estimate. Cheques to be issued, when required, on the requisition of the Bridges and Roads Committee:—£60,000, £60,000, £60,000, £60,000, £60,000, £60,000, £40,000, £40,000, £10,000. Total £450,000.	Approved.
(2) Acquisition of Land. I have to report that the land specified in Appendix B is required for the widening and improvement of roads in the County, and I recommend that the terms and conditions as set forth in the Appendix be approved.	That the land be purchased, and that the Ministry of Transport be approached on the subject at Ottercopps.

County Surveyor's report.



NORTHUMBERLAND COUNTY COUNCIL.

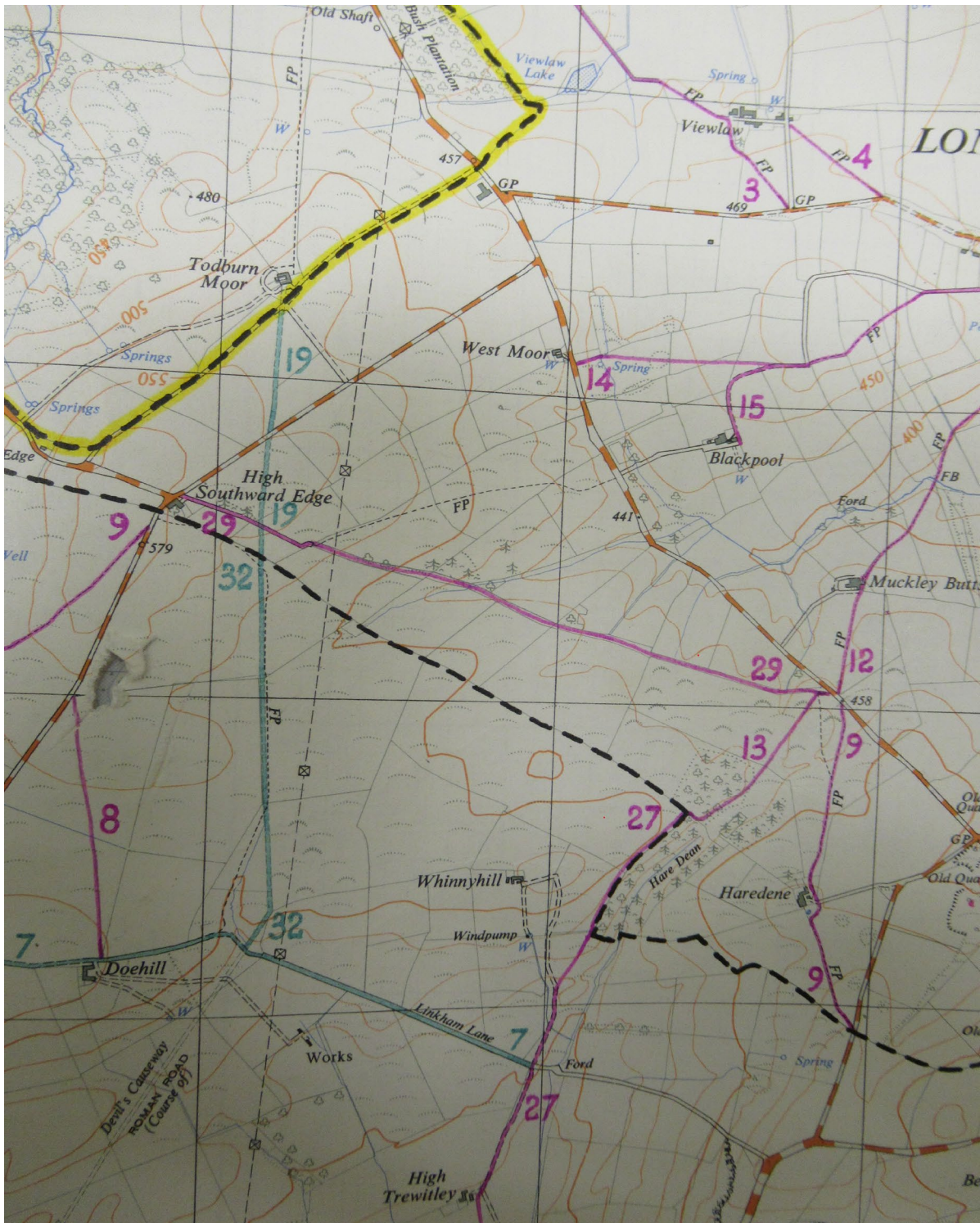
NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.

PART IV.

PUBLIC RIGHTS OF WAY - STATEMENT.

1. Borough
Urban District
Rural District MORPETH
2. Parish LONGHORSLEY.
3. Number of Footpath on Map 13.
4. Name of Path
5. Kind of Path (i.e. FP/BR) F.P.
6. General Description of Path From the Todburn - Harelaw Road about 250 yards
south-east of the entrance to Mickley Butts in a south-westerly direction to
join F.P. 27 at the Netherwitton Parish boundary near Hare Dean.
.....
.....
.....
7. Other relevant information

First Review Definitive Map



NORTHUMBERLAND COUNTY COUNCIL
FIRST REVIEW OF DEFINITIVE MAP
RELEVANT DATE: 1 NOVEMBER 1963

NORTHUMBERLAND COUNTY COUNCIL

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

PUBLIC RIGHTS OF WAY - STATEMENT

- 1. Borough
Urban Districts
Rural District WOBETH
- 2. Parish Longhorsley
- 3. Number of Footpath on Map 29
- 4. Name of Path
- 5. Kind of Path (i.e. FF/BR) Footpath
- 6. General Description of Path From County Road C.142 near High Southward Edge
..... in an easterly-south-easterly direction to the junction of County Road C.138
..... and Footpath 13 in the Parish of Longhorsley
.....
.....
- 7. Other relevant information

