



# Northumberland County Council

CASTLE MORPETH LOCAL AREA COUNCIL  
9 August 2021

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## REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC BRIDLEWAY NO 36 PARISH OF BELSAY

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

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### **Purpose of report**

In this report, the Council is asked to give consideration to all the relevant evidence gathered in support and rebuttal of a proposal to add to the Definitive Map and Statement a public bridleway from the B6309 road immediately south-west of Burnside Lodge in a general easterly direction for a distance of 2700 metres to join Public Bridleway No 10, 235 metres south of the Belsay Estate Office.

### **Recommendation**

**It is recommended that the Council agree that:**

**In the light of the evidence submitted it appears that public bridleway/restricted byway rights have not been reasonably alleged to exist over the route.**

### **1.0 BACKGROUND**

- 1.1 By virtue of Section 53 of the Wildlife and Countryside Act, 1981, the County Council is required to keep the Definitive Map and Statement under continuous review and make modification orders upon the discovery of evidence, which shows that the map and statement need to be modified.
- 1.2 The relevant statutory provisions which apply to adding a public right of way on the Definitive Map and Statement based on historical documentary evidence is Section 53(3)(c)(i) of the Wildlife and Countryside Act, 1981, which requires the County Council (as Surveying Authority) to modify the Definitive Map and Statement following:

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

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

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

## **2.0 PUBLIC EVIDENCE**

- 2.1 In October 2018, Edward Liddle of Steel, Hexham submitted an application to amend the Definitive Map and Statement by adding a public bridleway from a point marked A on the B6309 road immediately south-west of Burnside Lodge in a general easterly direction for a distance of 2700 metres to a point marked B on Public Bridleway No 10, 235 metres south of the Belsay Estate Office.
- 2.2 The application is supported by historical evidence including a 1790 diversion of a public road, Fryer’s County Map of 1820, Greenwood’s County Map of 1828, the Ponteland Turnpike Trust papers of 1828 and 1829, the 1840 Tithe Award for Belsay township, the 1st Edition O.S. 25” plan of 1866 with the accompanying Book of Reference, the 2<sup>nd</sup> Edition O.S. 6” plan of 1895, Bartholomew’s half inch map of 1902, the 1910 Finance Act and recent editions of the Ordnance Survey plans.
- 2.3 The application was also accompanied by the following submission:

### **Belsay Park**

#### The route

“1. The alleged route is in the parish of Belsay and is currently unrecorded as a public right of way. It can be seen on OS Explorer 316 Newcastle upon Tyne.

“2. It starts at GR NZ 102783 (A), where it leaves BW 401/010, going in a westerly direction to meet the C340 at GR NZ 075782 (B).

“3. It is a well defined track with a stone surface, which links a public bridleway to a minor road. It is approximately 5m wide.

“4. The notice at the west end of the alleged route indicates that there is no access for vehicles to the horse trials. This is an important annual event and it is understandable that the estate does not want horseboxes approaching the venue along an unsuitable track. However, vehicular rights are not alleged, only bridleway rights.

*See photographs*

The documentary evidence

## **1. C1790 Diversion of the public road**

**Historic England**

See <https://historicengland.org.uk/listings/the-list/list-entry/1001042>

In the listing of properties on the Historic England website, under Belsay Hall, list entry number 1001042, it states that the owner at that time, Sir William Middleton, fifth Bt, diverted the existing **public road** onto a new road which '*entered by Bankfoot from where it ran due east to meet the Ponteland to Jedburgh road, rather than leading directly past the Castle and manor*'.

This provides evidence that the section of the alleged route from the C340 to Bankfoot was a public road prior to 1790. The public rights, associated with the road that took a line from there to emerge on the Morpeth road at Sheepfold, were diverted onto what is now the alleged route.

*See extracts*

## **2. 1820 Fryer's map of Northumberland**

The full length of the alleged route is clearly shown on this map. It also shows a remnant of the old road described above. The alleged route is shown as an 'other road' as opposed to a turnpike road, such as the road close to its east end, which is the A696 today'.

*See extract*

## **3. 1828 Greenwood's map of Northumberland**

The full length of the alleged route is also shown on this map. In addition it shows the line of the old road from which the public rights were diverted. The alleged route is shown as a 'cross road', that is a minor road connecting two roads of greater importance.

*See extract*

## **4. 1828 Ponteland Turnpike Trust**

**QRUp22**

On the plan entitled '*Plan of that part of the proposed road between Edinburgh and Newcastle in the county of Northumberland. Surveyed under the direction of J L Macadam. 1828*', a spur is shown indicating approximately where the application route left the proposed line of the turnpike (A). There would have been no need to show it if it had not been a public road.

*See extract*

## **5. 1829 Ponteland Turnpike Trust**

**QRUp24**

Only a year later another plan was surveyed. This one was entitled '*Plan of the intended new line of the road from Newcastle to Otterburn in the county of Northumberland. Surveyed in 1829 by Thomas Sopwith.*' The existing roads

were shown in brown and the proposed new road in red. The application route is shown, if rather faintly. It should be noted that this plan is not aligned to north.

These two turnpike plans show that two highly respected highway surveyors of the time, when drawing up plans of their proposals, considered it necessary to indicate that there was a public road leaving the turnpike at this point.

*See extract*

**6. 1840 Tithe plan for the township of Belsay in the parish of Bolam DT 34S**

“The alleged route is shown in brown in the same manner as all other public roads in the area are shown. However its destination is not shown, but then there was not a village or another parish at the western end of the alleged route’.

*See extract*

**7. 1866 OS 1<sup>st</sup> ed. Scale 1:2,500, (the 25”) sheets LXXIX/1 & LXXVIII/4  
OS Book of Reference for the Parish of Bolam, township of Belsay**

“The eastern part of the alleged route is shown on sheet LXXIX/1 annotated with the plot number 53. The western part is shown on sheet LXXVIII/4 with the plot number 300. The full length of the alleged route is shown to be in the parish of Bolam, township of Belsay.

In the Book of Reference accompanying this sheet, on page 7, plot 53 is described as ‘**public road**’. On page 10, plot 300 is also described as ‘**public road**’.

*See extracts*

**8. 1895 OS 2<sup>nd</sup> ed. Scale 1:10,560 (the 6”) sheets LXXIX NW & LXXVIII SE**

The route is again split between these two sheets with the east section on sheet LXXIX NW and the western part on sheet LXXVIII SE. The route is not annotated either as FP (footpath) or BR (bridle road) which suggests it was believed to have a higher status, that of a road.

*See extract*

**9. 1902 Bartholomew’s cycling map National Library of Scotland map collection**

The map series at the scale of two miles to one inch, was produced to meet the needs of the many cyclists and tourists at the start of the twentieth century who wanted to get out into the countryside. It shows by the use of colour which public roads were suitable for cycling. Those with orange dashes were good quality roads and those with orange dots were described as ‘indifferent, passable for cyclists’ but still recommended for use by cyclists.

As cyclists were not allowed to go off-road until 1968, one can presume that all those roads that were recommended for cyclists to use were in fact public roads.

From the extract and the key it can be seen that the alleged route was one of these, shown by the orange dots along it. The dashes also indicate that it was a motoring road.

*See extract*

#### **10. 1910 Finance Act Plan Field Book**

**NRO 436/LXXIX/1 & LXXVIII/4  
NRO/2000/36**

“The eastern part of the route is shown on sheet LXXVIII/4 and the western part of the route is shown on sheet LXXIX/1.

“The full length of the route is shown to be in hereditament 247. There is no deduction shown for ‘right of way or user’ for this plot. However there was no obligation on the landowner to claim the deduction so this does not show that there were or were not public rights along the track.

“It appears that owners of large estates in Northumberland were often not bothered with the small deduction that was on offer as this situation has been seen on many estates for which this series of documents has been checked. Very few deductions were claimed in this area as a quick look through the field book will show and yet today there are many public rights of way and minor roads for which a deduction could have been claimed.

*See extracts*

#### **11. Recent editions of the OS**

The alleged route continues to be shown clearly on OS maps in the 20<sup>th</sup> century.

*See extract*

It is understood that the route has been regularly used by local people in the recent past. This is now prevented by the route having a locked gate at its east end, close to the village.

However there is no intention of gathering user evidence as it is believed that the documentary evidence is sufficient to demonstrate that public rights existed in the past.

#### Conclusion

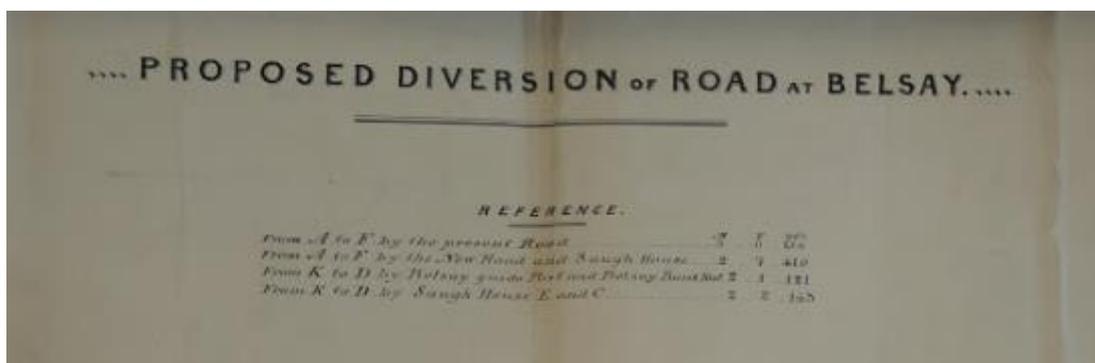
The evidence listed above suggests that public rights have existed over this route since the late 18<sup>th</sup> century. Please can you investigate to see if there is sufficient evidence for this route to be added to the definitive map as a public bridleway?”

### 3. LANDOWNER EVIDENCE

- 3.1 By letter dated 10<sup>th</sup> February 2020, Galbraith Group in a report by Liz Sobell, on behalf of the Belsay Estate responded with the following comments.
- i) “I have been asked by Belsay Trustees to examine evidence submitted in support of an application to add a bridleway to the definitive map. The alleged way runs south of Belsay Hall between the C340 at GR NZ075782 on the west and on the east at a point on Bridleway 401/010 at GR NZ102783.
  - ii) “The supporting evidence submitted by the claimant in support of this claim consists largely of maps ranging in date from 1820 to recent times, but the basis of the claim is an alleged highway diversion dating to around 1790 which is described in the Historic England website entry for Belsay Hall.
  - iii) “The following report will demonstrate that the c.1790 diversion cannot be verified with documentary evidence, and that, crucially, a later highway diversion extinguished any supposed public right of way along the claimed route.
  - iv) “The claimant’s documentary evidence begins by referring to a record in Historic E’s online National Heritage List for England (“NHLE”). The record concerned is at <https://historicengland.org.uk/listing/the-list/list-entry/1001042> and is the “listing” relating to the status of Belsay Hall as a Grade I Listed Building. The relevant paragraph states: “*In c.1790, Sir William Middleton, fifth Bt. (1738-95), Captain of the Royal Horse Guards and MP for Northumberland from 1774, diverted the public road which ran along the boundary of the earliest deer park from Burnside northwards to Sheepfold on the Morpeth road, thus increasing the enclosed area. The new road entered the park by Bankfoot from where it ran due east to meet the Ponteland to Jedburgh road, rather than leading directly past the Castle and Manor*”.
  - v) “Two places are marked as ‘Sheepfold’ on Northumberland sheet 78.4 of the 1896 Ordnance Survey 25” map: one is north of Burnside at GR NZ075787, but does not join the Morpeth road. The other ‘Sheepfold’ is at GR NZ 081790, and is on the Morpeth road, but has no track leading to it which is recorded on Ordnance Survey maps dating between 1885 and 1967. The closest track is located 401 metres east of ‘Sheepfold’ at GR NZ085791, just south of the original location of Saugh House Farm at GR NZ086792 (The historic location of Saugh House is shown between points E and K on the plan at Appendix A, although Saugh House was later rebuilt at GR NZ 086795). This seems the most likely candidate for a way which was to be diverted from running past the Castle and Manor House, since it also leads past Belsay Townfoot at GR NZ086783.
  - vi) “Notwithstanding the reference in the NHLE to a 1790 diversion, it is not possible to confirm the veracity of the statement in the NHLE or give an accurate interpretation of the routes involved in any c.1790 diversion, as no documentary reference has been supplied to prove its existence. Moreover, I have made a thorough search of Northumberland Quarter

Session books (where a public highway diversion was required (at that time) to be endorsed by Justices of the Peace and recorded) and no record could be found.

- vii) “However, the search did produce two relevant highway diversions, both dated 1837, holding the references NRO QRH 134 and NRO QRH 135 respectively. Both diversions use the same plan, which is reproduced at Appendix A.
- viii) “NRO QRH 134 and NRO QRH 135 demonstrate that there was a major reorganisation of the road network around Belsay in 1837. Here it might be useful to provide a timeline summarising the historical content.
- **1810 -1817** Belsay Hall was built, following a design by Sir Charles Monck (1779 - 1867, third son of Sir William Middleton, 5th baronet).
  - **1828 and 1829** Two turnpike roads were established east of Belsay: the Newcastle to Edinburgh Turnpike (NRO QRUP 22) and the Newcastle to Otterburn Turnpike (NRO QRUP 24).
  - **1830s** The village of Belsay was removed from its original position between Belsay Castle and the newly built Hall and aligned on the east side of the Newcastle to Edinburgh Turnpike (present-day A696).
  - **1837** Sir Charles Monck created two new lengths of road in order to divert and extinguish public rights over the road allegedly created by the c.1790 highway diversion (NRO QRH 134 and NRO QRH 135, both orders using the same plan).
- ix) NRO QRH 135 is concerned with a length of road created to simplify and shorten the route coming east from the direction of Capheaton, and is annotated on the plan (Appendix A) by the letters E and F. The road is uncoloured but outlined in red.
- x) NRO QRH 134 created a new length of road, also outlined on red, between the letters D and C on the plan, and provided a more level route than that between D to B to C.
- xi) NRO QRH 134 also stopped up the highway on the route between letters L and D and letters L/B/C, outlined in blue on the plan.
- xii) Figure 1 below is an extract from the diversion plan titled ‘Reference’:



- xiii) The letter ‘A’ marks the position of Belsay Guide Post at GR NZ 102785; ‘F’ is the most westerly point of the new length of road at GR NZ 053781. The measured length between these two points if travelling

by the line of the road which was to be stopped up (i.e. A-L-B-C-I-H-G-F) was 3 miles and 154 yards. In comparison, Points A to F via the new length of road and Saugh House (i.e. A-K-E-F) measured 2 miles 7 furlongs and 410 yards.

- xiv) “Letter K is the location of the junction between the B6924 and the A696 at GR NZ100790. The distance between K and D via Belsay Guide Post (A) and Belsay Bank Foot (GR NZ 079783) measured 2 miles 1 furlong and 121 yards. K to D via Saugh House and points E and C was longer at 2 miles 2 furlongs and 143 yards. However, the replacement of a steep climb with the new length of road between points C and D compensated for the extra length.
- xv) “Appendix B is the order made at the Northumberland Quarter Sessions held on 16<sup>th</sup> September 1837 (NRO QRH 134). The new length of road had been inspected by two justices of the peace and found to be ‘*more commodious to the public than the present highway*’. It confirmed the new length of road made between points C and D on the plan and ordered that ‘*the said Highway mentioned in the said certificate as lying between a certain guide post in the Township of Belsay in the said County called the Black Heddon Guide Post and the point or place on the Turnpike Road between Newcastle upon Tyne and Otterburn in the said County where the same Highway meets the said Turnpike should be stopped up and should be diverted and turned to the new Highway also mentioned in the same certificate lately made between the said guide post and the south west corner of Belsay park in the said Township of Belsay aforesaid*’.
- xvi) “NRO QRH 134 therefore shows that the claimed route carries no public highway right. Any highway which did exist over the claimed route (by virtue of the alleged 1790 diversion or otherwise) was stopped up and ceased to exist as a result of the Order of the Quarter Sessions dated 16<sup>th</sup> September 1836.
- xvii) “There is no dispute that the claimed route is clearly present on historic and contemporary maps. The issue is not, however, physical presence, but whether or not the depicted route carries any public right of way. The following paragraphs will discuss the map evidence submitted in support of the claim.
- xviii) “Fryer’s County map (1820) and Greenwood’s (1828) map both pre-date the diversion and extinguishment of the claimed route in 1837, as do the creation of turnpike roads between Newcastle and Edinburgh (1828) and Newcastle and Otterburn (1829).
- xix) “Belsay Township Tithe Award plan (NRO DT 34S) of 1840 shows the line of the claimed way. However, it was not the prime purpose of a tithe map to depict public ways, but to identify the boundaries of areas where tithe payments were chargeable. In addition, it was possible for an earlier plan to be submitted during the tithe commutation process.

- xx) “The Ordnance Survey maps comprise the bulk of supporting evidence for this claimed way, but these maps, along with Bartholomew’s Cycling map of 1902, carry a disclaimer that representation on a map is not evidence of the existence of a right of way.
- xxi) “The description of a way in an Ordnance Survey Book of Reference as a ‘public road’ relates simply to the appearance of such a way. Ordnance Survey officers were not required to establish the highway status of the routes they mapped, merely to describe their physical appearance.
- xxii) “At paragraph 10 of the submitted claim, the absence of a tax liability deduction in relation to the claimed route in 1910 Finance Act records is accounted for by the suggestion that ‘*owners of large estates in Northumberland were often not bothered with the small reduction that was on offer*’. This is speculation with no documentary evidence to support it. Conversely, the inclusion of the claimed route in the records is of course evidence (albeit not conclusive evidence) that the claimed route is not a highway.
- xxiii) “NRO 2000/36 is held by Northumberland Archives and contains a record of the evidence given by the owner of the Belsay Estate in relation to the 1910 Finance Act.
- xxiv) “Appendix C is an extract from the estate copy of the valuation book (NRO 2000/36), where two claims of £20 each are made for ‘public right of way or user’. One is on Saugh House land and the other at West Belsay. No claim for a deduction is made in relation to any other land within Belsay, but this document shows that the land owner was indeed bothered enough to claim £40 in total.
- xxv) “In conclusion, it has been shown that a former public highway which ran south of Belsay Hall had all public right of way removed and stopped up under a highway diversion order dated 1837. The appearance of the way on maps pre- and post- dating the diversion order (which is the remaining evidence relied on by the claimant) simply reflects the physical existence of the route. The 1910 Finance Act records accurately represent the fact that no right of way existed along the claimed route.”

## **4. CONSULTATIONS**

- 4.1 In March 2018, the County Council carried out a consultation with the Parish Council, known owners and occupiers of the land and the local representatives of the “prescribed and local organisations” listed in the Council’s “Code of Practice on Consultation for Public Path Orders”.
- 4.2 By letter in March 2018 the County Access & Bridleways Officer for the British Horse Society responded to the consultation with the following comments:

“This is a well kept tarmac road providing access to a number of properties and adjacent fields which links to two minor rural roads and so forms an important part of the recreational network in the area. It

was shown to be part of the cycling network in 1902 by the presence on Bartholomew's popular cycling map of that date."

## 5. DOCUMENTARY EVIDENCE

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

1820 Fryer's County Map

There is evidence of a track over the entire length of the claimed route.

1827 Cary's Map

There is evidence of a track over the entire length of the claimed route.

1828 Greenwood's County Map

There is evidence of a track over the entire length of the claimed route.

1840 Belsay Tithe Award (Applicant's Plan)

There is evidence of a track over the entire length of the claimed route identified the same as other public highways in the locality.

c1860 1<sup>st</sup> Edition O.S. Map: Scale 1:2,500 & Book of Reference (Applicant's Plan)

There is evidence of an enclosed track over the entire length of the claimed route.

The claimed route is annotated with the numbers 53 & 300 and identified in the accompanying Book of Reference as 'Public road'.

1897/8 2<sup>nd</sup> Edition O.S. Map: Scale 1:10,560

There is evidence of an enclosed track over the entire length of the claimed route.

1924 3<sup>rd</sup> Edition O.S. Map: Scale 1:10,560

There is evidence of an enclosed track over the entire length of the claimed route.

## 6. SITE INVESTIGATION

6.1 Photographs of the route will be displayed at the Council meeting.

## **7. COMMENTS RECEIVED ON THE DRAFT REPORT**

- 7.1 In July 2021, a draft copy of the report was circulated to the applicant and known owners / occupiers of the land who responded to the consultation.

## **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 or proposal for a modification order, Section 32 of the Highways Act, 1980 provides for “any map, plan or history of the locality or other relevant document” to be tendered in evidence and such weight to be given to it as considered justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.
- 8.3 The representation of a path or track on an Ordnance Survey map is not conclusive evidence that it is a public right of way. It is only indicative of its physical existence at the time of the survey.
- 8.4 It is clear that the claimed route which is depicted on Fryer’s, Cary’s and Greenwood’s Maps was likely an all-purpose highway at the beginning of the 19<sup>th</sup> Century. Its inclusion on the Turnpike records and the Ordnance Survey plans of the area strengthen the evidence in support of public rights existing over the full length of the claimed route, at that time. The landowner does not appear to dispute the accuracy of these plans although does cast doubt on the interpretation and legality of the highways order in 1790 allegedly diverting public rights onto the alignment of the claimed route.
- 8.5 The Highways Order in 1837 was certified by the Justices of Peace at the Northumberland Quarter Sessions on 16<sup>th</sup> September 1837. The Highways Order had the effect of stopping up the route of the alleged path as being unnecessary as a new public highway had been made and dedicated to the public. There is no evidence to suggest that public footpath or public bridleway rights were retained over the alleged route.
- 8.6 Whilst it is accepted that there is map evidence of the physical existence of the claimed route up until the present day there does not appear to be any evidence that post 1837 the landowners have expressed any intention to

dedicate public rights over the alleged route or that there has been any inference of dedication at common law.

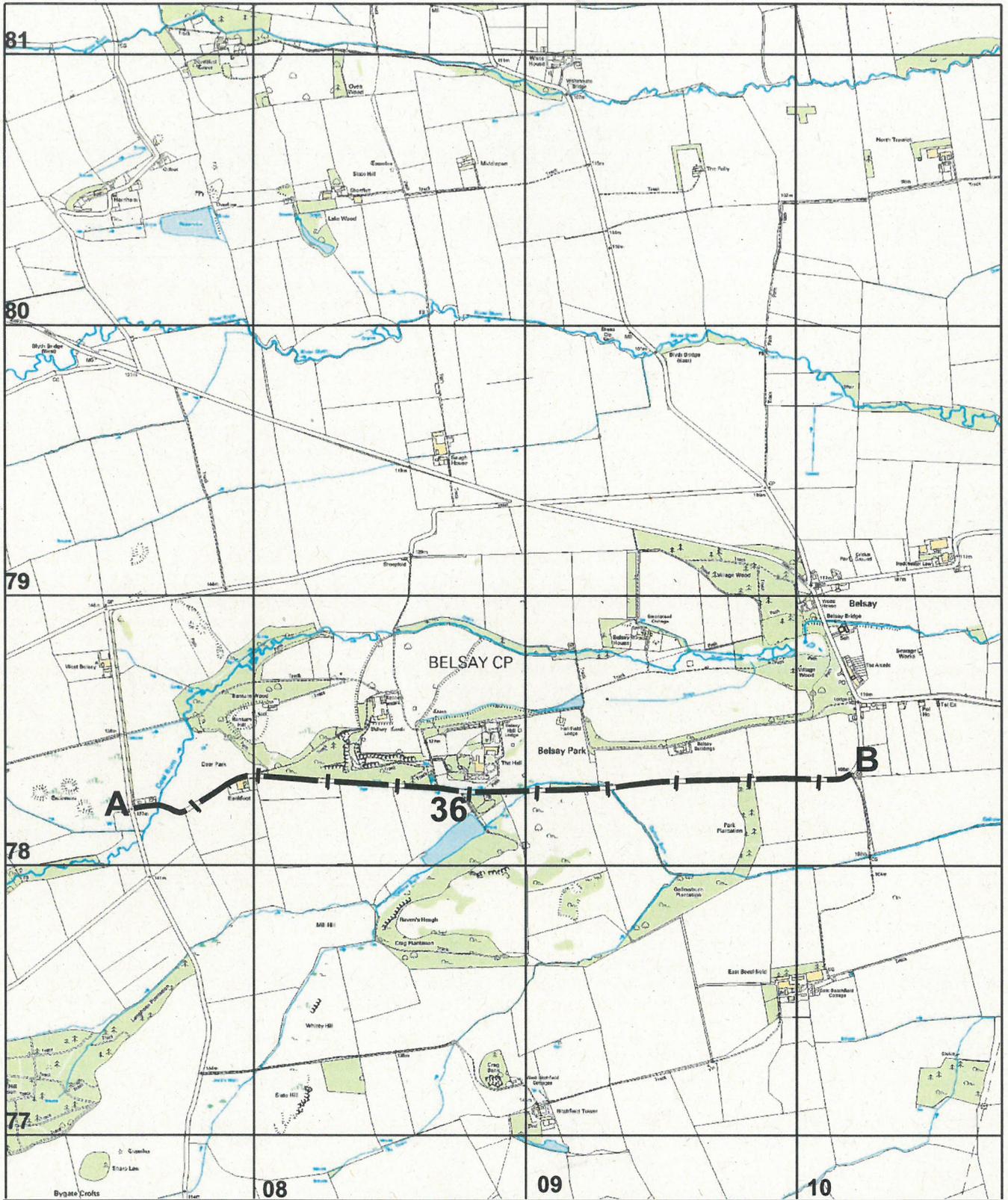
## **9. CONCLUSION**

- 9.1 In the light of the evidence submitted, it appears that the historical evidence is insufficient to demonstrate that, public bridleway or public vehicular rights have been reasonably alleged to exist over the route.

## **BACKGROUND PAPERS**

Local Services Group File D/1/36z

Report Author      John McErlane – Definitive Map Officer  
(01670) 624136  
[John.McErlane@northumberland.gov.uk](mailto:John.McErlane@northumberland.gov.uk)



  
**Northumberland**  
 County Council  
LOCAL SERVICES  
 County Hall Morpeth Northumberland  
 NE61 2EF  
 Telephone 0845 600 6400

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

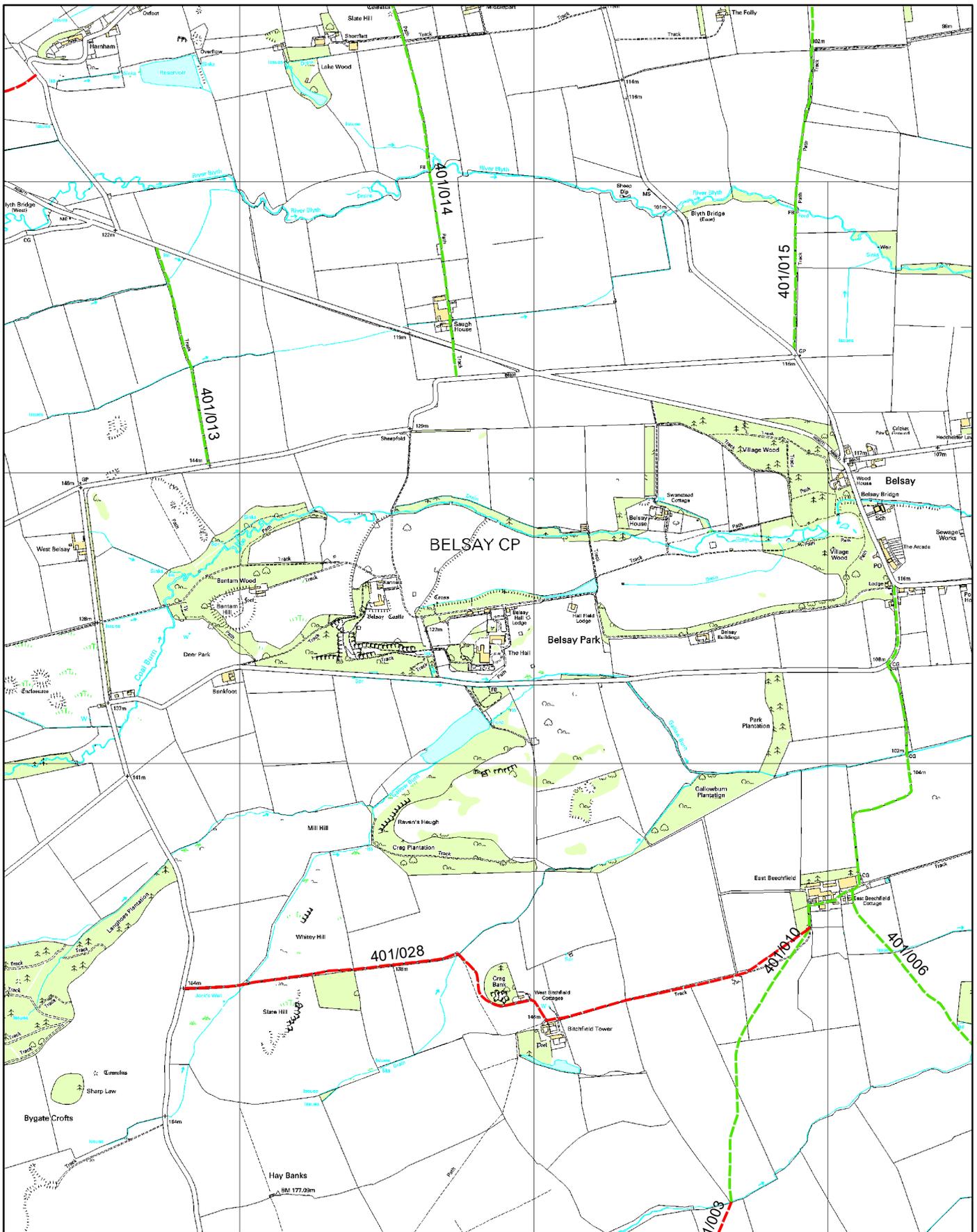

 Alleged Public Bridleway

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Former District(s)	Castle Morpeth
Def. Map No.	170

Parish(es)	Belsay
O.S. Map	NZ 07 NE

Scale	1:10,000
Date	September 2019



**Legend**

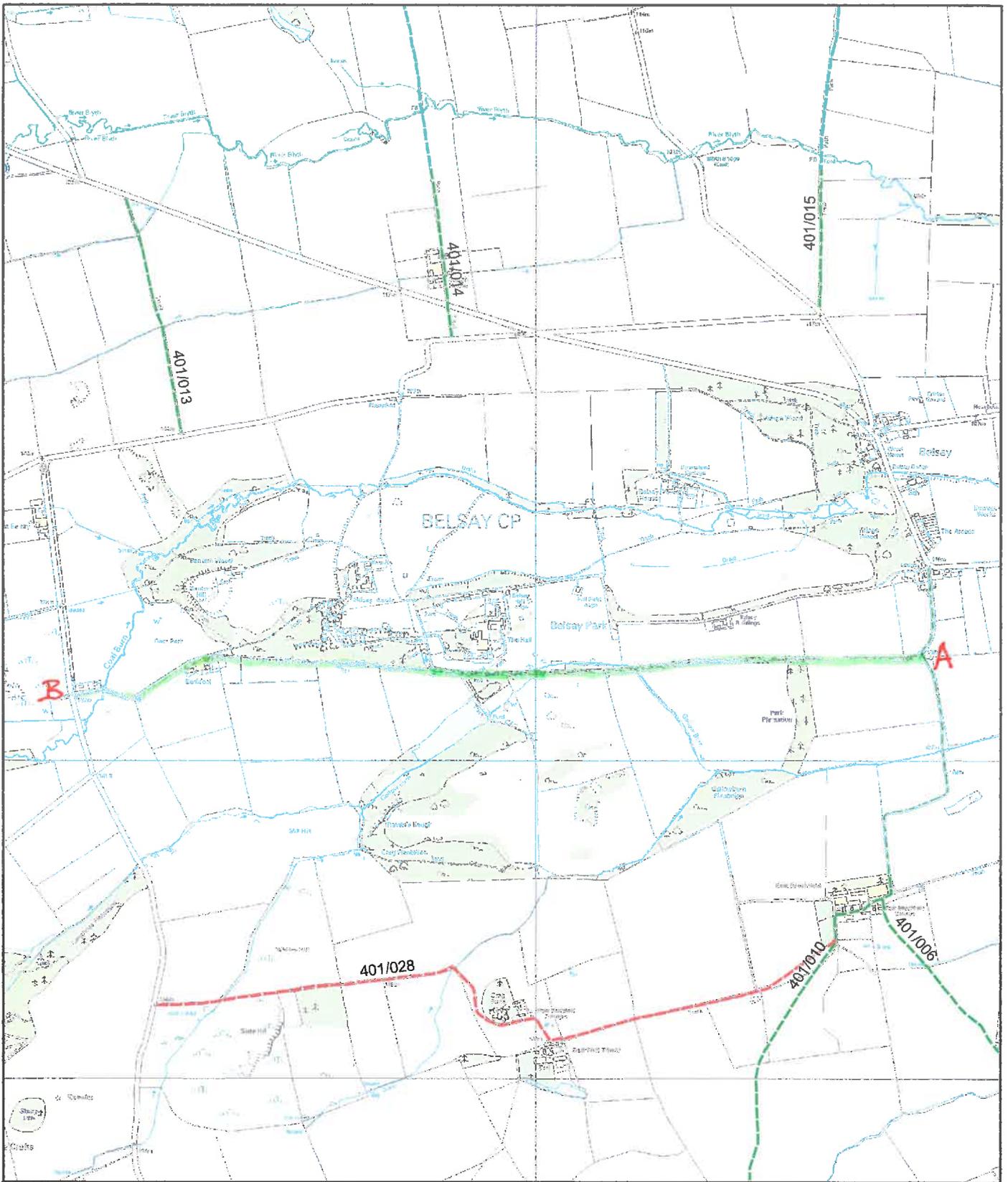
- - - Footpath
- - - Bridleway
- - - Restricted Byway
- Byway Open to All Traffic

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

Scale: 1:18,000

Contact: John McErlane  
Tel: 01670 624136  
EMail: John.McErlane@northumberland.gov.uk

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**Northumberland**  
County Council

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

## Wildlife & Countryside Act, 1981



Claimed Public Right of Way

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Former District <b>Morpeth</b>	Parish <b>Belsay</b>	Scale <b>NTS</b>
Def. Map. No.	O.S. Map	Date

## Belsay Park

### The route

1. The alleged route is in the parish of Belsay and is currently unrecorded as a public right of way. It can be seen on OS Explorer 316 Newcastle upon Tyne.
2. It starts at GR NZ 102783 (A), where it leaves BW 401/010, going in a westerly direction to meet the C 340 at GR NZ 075782 (B).
3. It is a well defined track with a stone surface, which links a public bridleway to a minor road. It is approximately 5m wide.
4. The notice at the west end of the alleged route indicates that there is no access for vehicles to the horse trials. This is an important annual event and it is understandable that the estate does not want horseboxes approaching the venue along an unsuitable track. However, vehicular rights are not alleged, only bridleway rights.

*See photographs*

### The documentary evidence

#### 1. **c1790 Diversion of the public road**

**Historic England**

See <https://historicengland.org.uk/listing/the-list/list-entry/1001042>

In the listing of properties on the Historic England website, under Belsay Hall, list entry number 1001042, it states that the owner at that time, Sir William Middleton, fifth Bt, diverted the existing **public road** onto a new road which '*entered by Bankfoot from where it ran due east to meet the Ponteland to Jedburgh road, rather than leading directly past the Castle and Manor*'.

This provides evidence that the section of the alleged route from the C340 to Bankfoot was a public road prior to 1790. The public rights, associated with the road that took a line from there to emerge on the Morpeth road at Sheepfold, were diverted onto what is now the alleged route.

*See extracts*

#### 2. **1820 Fryer's map of Northumberland**

The full length of the alleged route is clearly shown on this map. It also shows a remnant of the old road described above. The alleged route is shown as an 'other road' as opposed to a turnpike road, such as the road close to its east end, which is the A696 today.

*See extract*

**3. 1828 Greenwood's map of Northumberland**

The full length of the alleged route is also shown on this map. In addition it shows the line of the old road from which the public rights were diverted. The alleged route is shown as a 'cross road', that is a minor road connecting two roads of greater importance.

*See extract*

**4. 1828 Ponteland Turnpike Trust**

**QRUp22**

On the plan entitled '*Plan of that part of the proposed road between Edinburgh and Newcastle in the county of Northumberland. Surveyed under the direction of J L Macadam. 1828*', a spur is shown indicating approximately where the application route left the proposed line of the turnpike (A). There would have been no need to show it if it had not been a public road.

*See extract*

**5. 1829 Ponteland Turnpike Trust**

**QRUp 24**

Only a year later another plan was surveyed. This one was entitled '*Plan of the intended new line of road from Newcastle to Otterburn in the county of Northumberland. Surveyed in 1829 by Thomas Sopwith.*' The existing roads were shown in brown and the proposed new road in red. The application route is shown, if rather faintly. It should be noted that this plan is not aligned to north.

These two turnpike plans show that two highly respected highway surveyors of the time, when drawing up plans of their proposals, considered it necessary to indicate that there was a public road leaving the turnpike at this point.

*See extract*

**6. 1840 Tithe plan for the township of Belsay in the parish of Bolam**

**DT 34 S**

The alleged route is shown in brown in the same manner as all other public roads in the area are shown. However its destination is not shown, but then there was not a village or another parish at the western end of the alleged route.

*See extract*

**7. 1866 OS 1<sup>st</sup> ed. Scale 1:2,500, (the 25")**

**sheets LXXIX/1 & LXXVIII/4**

**OS Book of Reference for the parish of Bolam, township of Belsay**

The eastern part of the alleged route is shown on sheet LXXIX/1 annotated with the plot number 53. The western part is shown on sheet LXXVIII/4 with the plot number 300. The full length of the alleged route is shown to be in the parish of Bolam, township of Belsay.

In the Book of Reference accompanying this sheet, on page 7, plot 53 is described as 'public road'. On page 10, plot 300 is also described as 'public road'.

*See extracts*

**8. 1895 OS 2<sup>nd</sup> ed. Scale 1:10,560, (the 6") sheets LXXIX NW & LXXVIII SE**

The route is again split between these two sheets with the east section on sheet LXXIX NW and the western part on sheet LXXVIII SE. The route is not annotated either as FP (footpath) or BR (bridle road) which suggests it was believed to have a higher status, that of a road.

*See extract*

**9. 1902 Bartholomew's cycling map National Library of Scotland map collection**

This map series at the scale of two miles to one inch, was produced to meet the needs of the many cyclists and tourists at the start of the twentieth century who wanted to get out into the countryside. It shows, by the use of colour, which public roads were suitable for cycling. Those with orange dashes were good quality roads and those with orange dots were described as 'Indifferent, passable for cyclists' but still recommended for use by cyclists.

As cyclists were not allowed to go off-road until 1968, one can presume that all those roads that were recommended for cyclists to use were in fact public roads.

From the extract and the key, it can be seen that the alleged route was one of these, shown by the orange dashes along it. The dashes also indicate that it was a 'motoring road'.

*See extract*

**10. 1910 Finance Act plan NRO 436/LXXIX/1 & LXXVIII/4  
Field Book NRO/2000/36**

The eastern part of the route is shown on sheet LXXVIII/4 and the western part of the route is shown on sheet LXXIX/1.

The full length the route is shown to be in hereditament 247. There is no deduction shown for 'right of way or user' for this plot. However there was no obligation on the

landowner to claim the deduction so this does not show that there were or were not public rights along the track.

It appears that owners of large estates in Northumberland were often not bothered with the small deduction that was on offer as this situation has been seen on many estates for which this series of documents has been checked. Very few deductions were claimed in this area as a quick look through the Field Book will show and yet today there are many public rights of way and minor roads for which a deduction could have been claimed.

*See extracts*

## **11. Recent editions of the OS**

The alleged route continues to be shown clearly on OS maps in the 20<sup>th</sup> century.

*See extracts*

It is understood that the route has been regularly used by local people in the recent past. This is now prevented by the route having a locked gate at its east end, close to the village.

However there is no intention of gathering user evidence as it is believed that the documentary evidence is sufficient to demonstrate that public rights existed in the past.

## **Conclusion**

The evidence listed above suggests that public rights have existed over this route since the late 18<sup>th</sup> century. Please can you investigate to see if there is sufficient evidence for this route to be added to the definitive map as a public bridleway?

Sent to NCC October 2018

**Photographs showing the character of the route**



Sir William created a landscape park which extended over the area covered by Belsay Park today. It was set out with plantations of woods and specimen trees to frame the long-distance views, notably Bantam Wood and Crag Plantation. By 1757 Bantam Folly, a ferme ornée, had been built facing the 'Roman' camp (as the earthworks of the prehistoric promontory fort were then thought to be), with a cold bath situated in the valley bottom. Lady Anne Middleton is reputed to have planted up Bantam Hill as a wild garden, with snowdrops (Hackett 1972). Belsay Lough (drained in 1805) was constructed to add a reflective sheet of water in the best C18 landscape tradition.

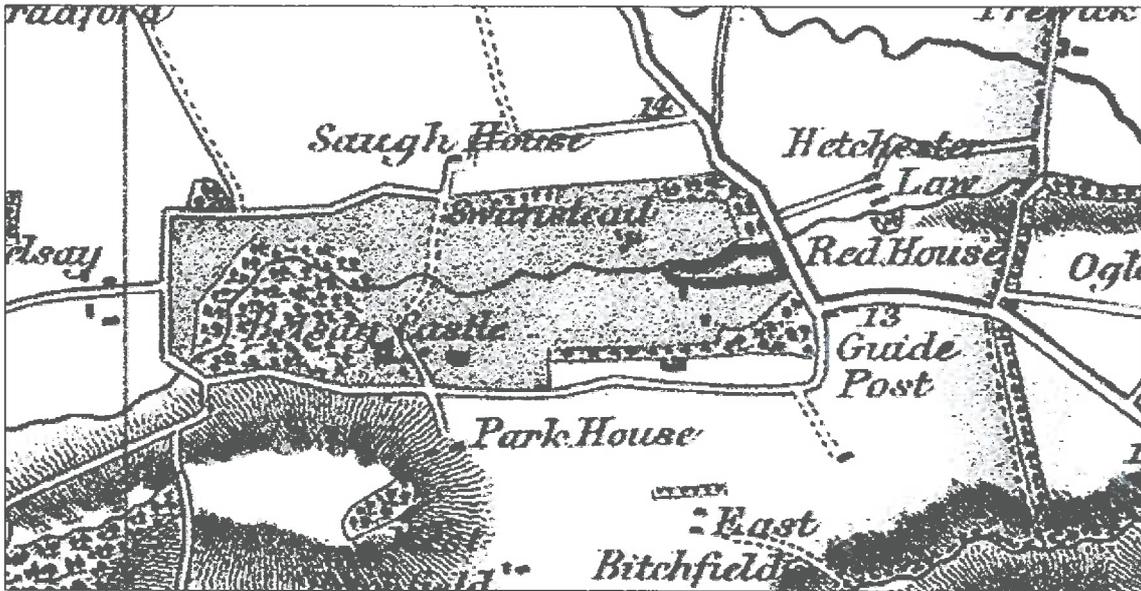
In c 1790, Sir William Middleton, fifth Bt (1738-95), Captain of the Royal Horse Guards and MP for Northumberland from 1774, diverted the public road which ran along the boundary of the earliest deer park from Burnside northwards to Sheepfold on the Morpeth road, thus increasing the enclosed area. The new road entered the park by Bankfoot from where it ran due east to meet the Ponteland to Jedburgh road, rather than leading directly past the Castle and Manor.

Sir Charles Monck (1779-1867), William's third son, inherited the Belsay estate in 1795, and also estates in Essex and Lincolnshire. Between 1804 and 1806 he travelled extensively, his diaries documenting his passion for Greek art and architecture. He recorded the new neoclassical buildings in Germany, including the Brandenburg Gate. In Greece he met Sir William Gell (1777-1836), the antiquary and topographer, whose studies of classical antiquities and architecture influenced him in his transformation of the Belsay estate, from 1806 until his death in 1867.

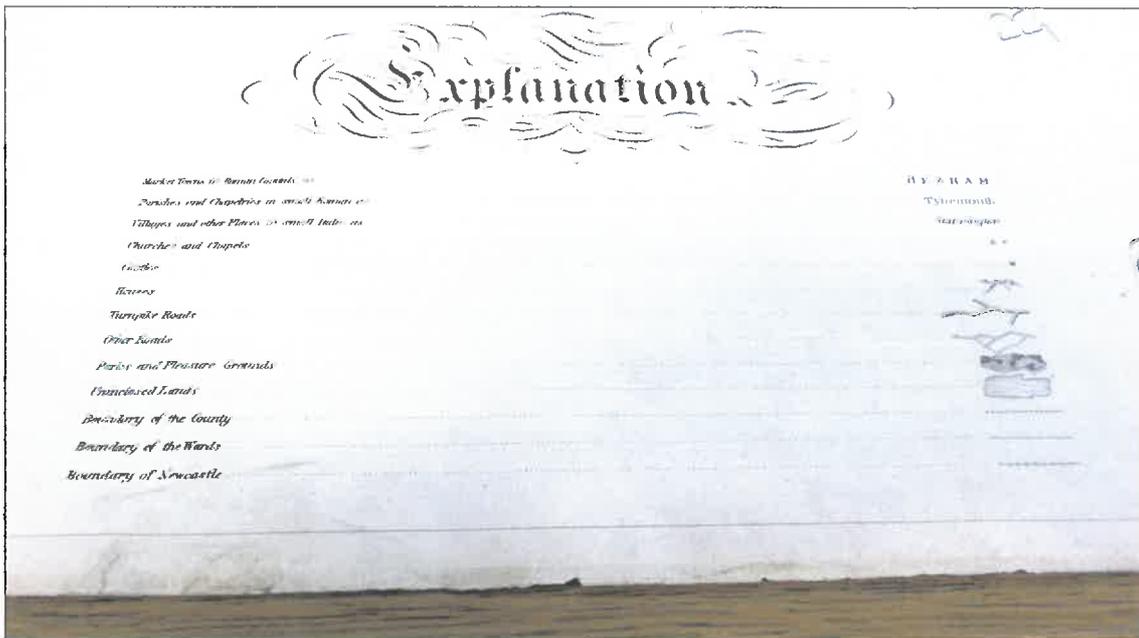
Belsay Hall and its landscape are the centrepiece of his large-scale estate reorganisation and improvement. Inspired by early 'picturesque' theory and following Humphry Repton's principles and techniques, Belsay is a unique, remarkable, and unusually early example of a Greek Doric house and associated picturesque landscape. The picturesque landscape incorporates the Quarry (the source of stone for the Hall), lakes, dells, ponds and a cascade, and lodges built in the Greek style to reflect the Hall. Belsay village, relocated northwards to its current position outside Belsay Park, was built in corresponding Neoclassical style.



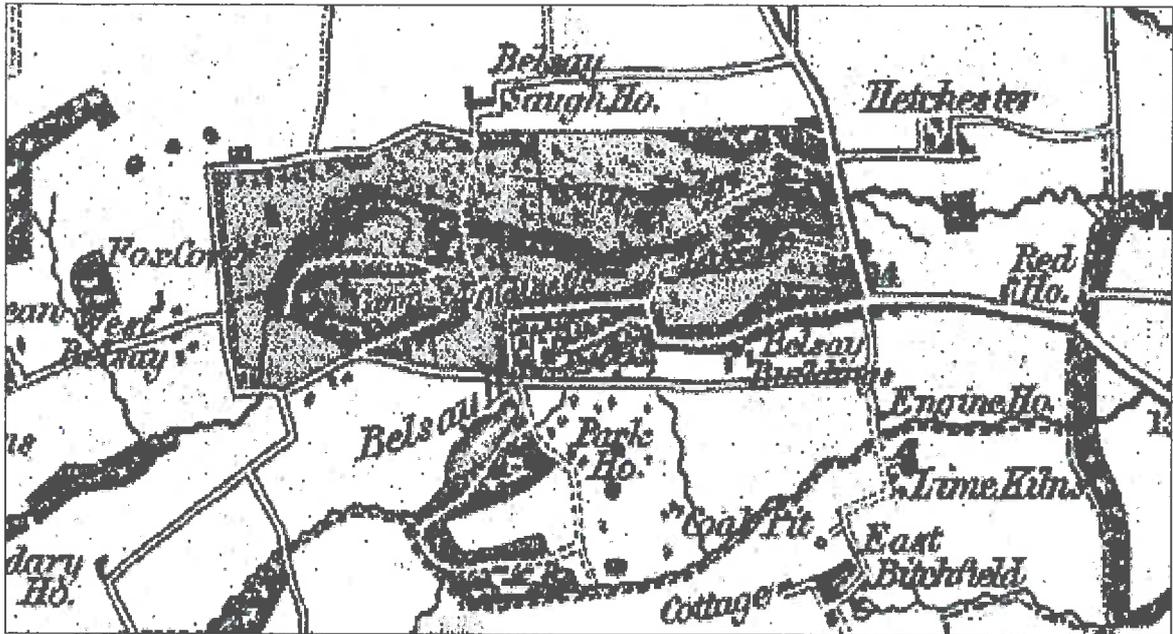
1820 Fryer's county map of Northumberland



Key



1828 Greenwood's map of Northumberland



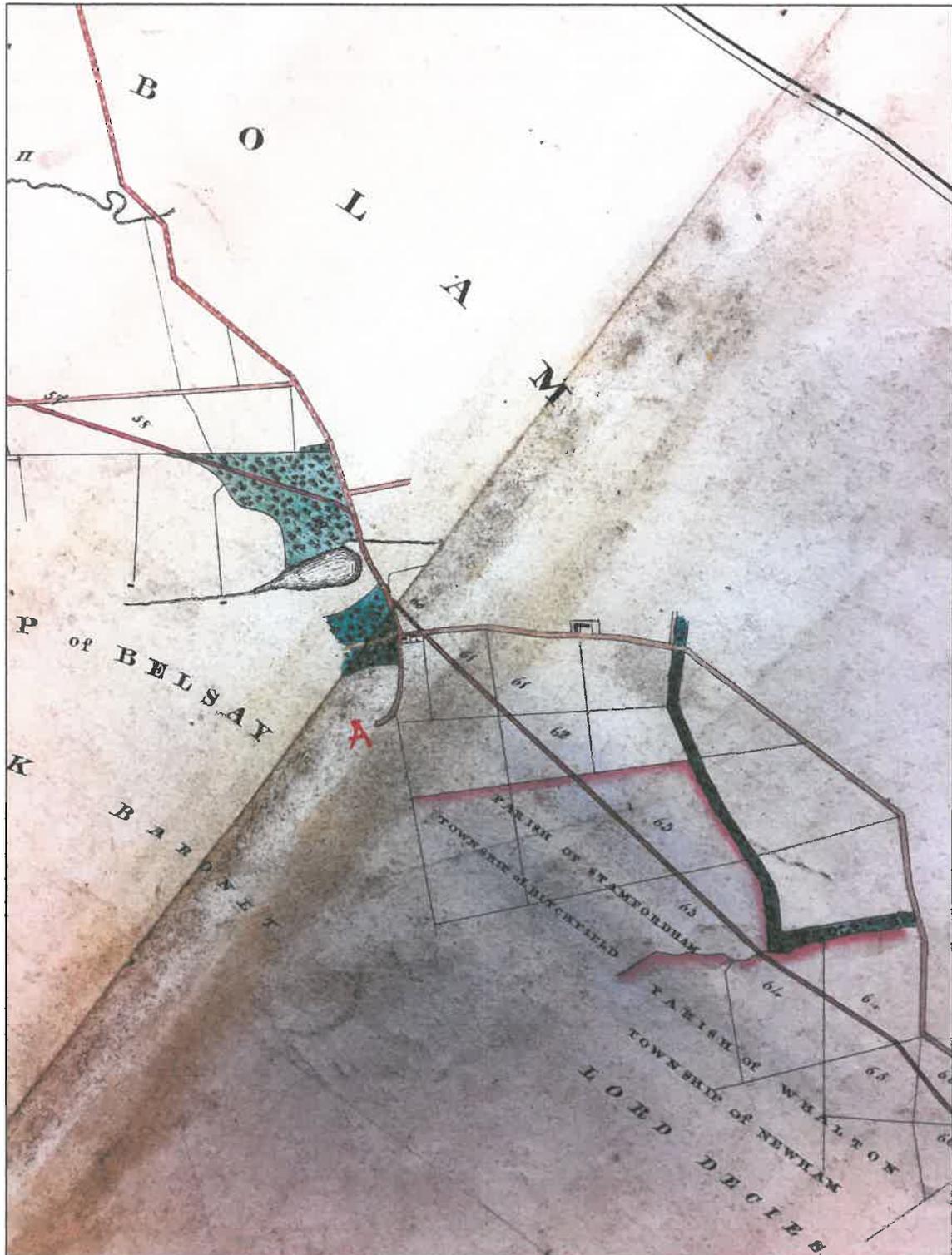
Key

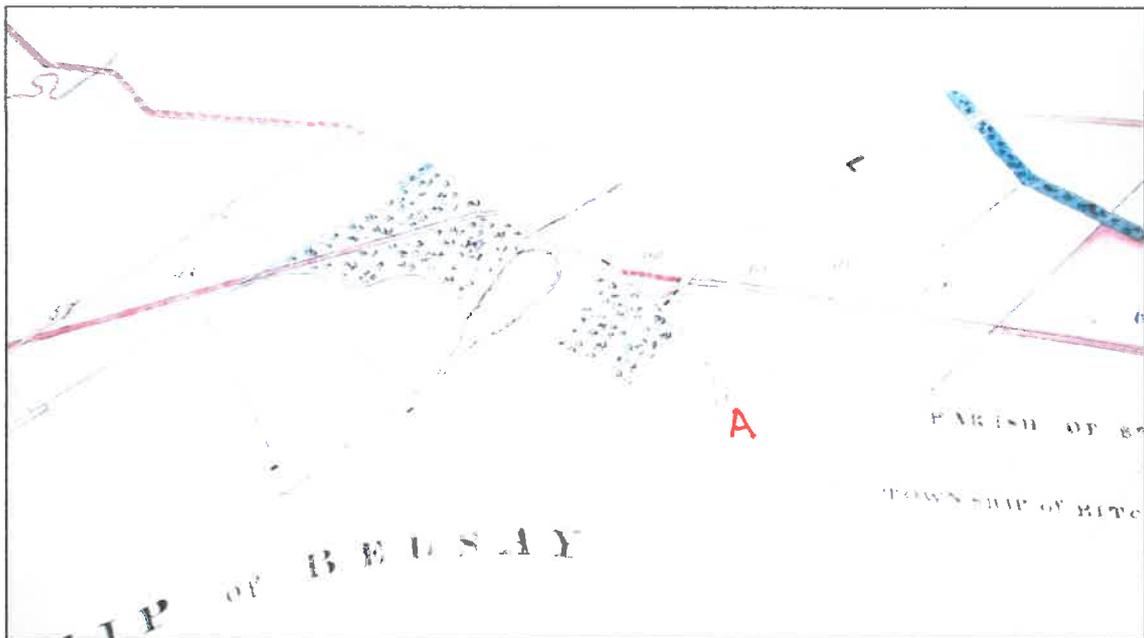
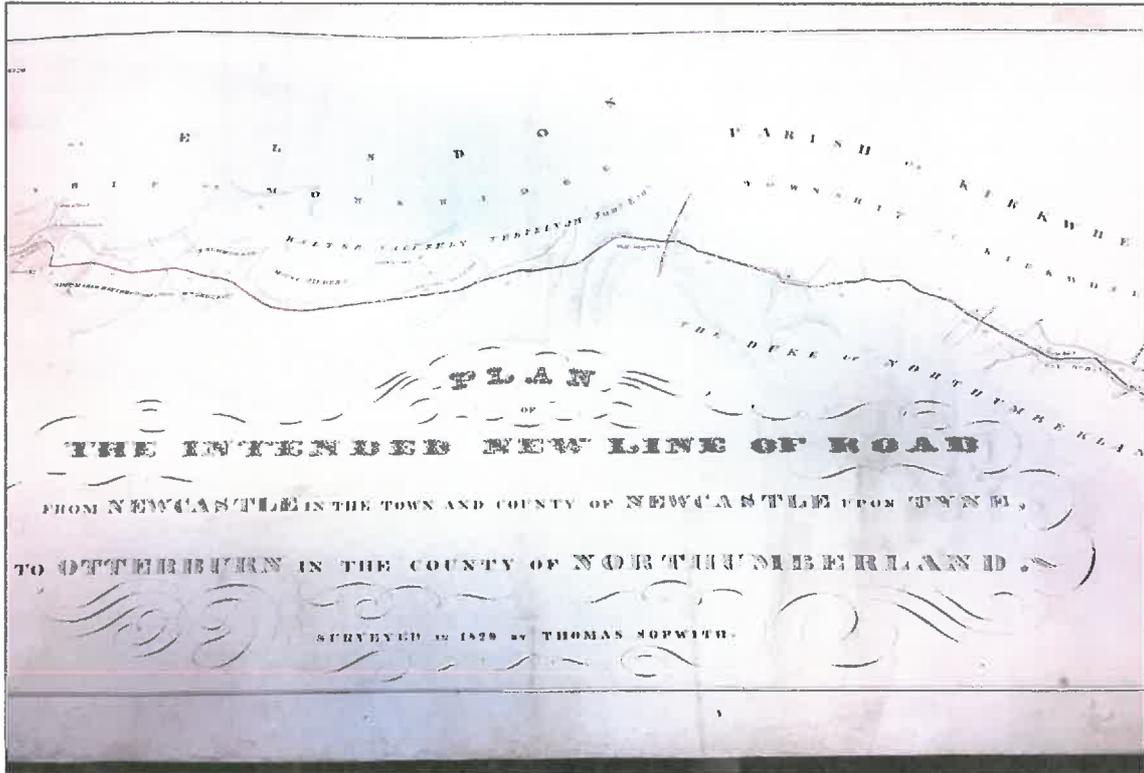
## Explanation

<p>Boundaries of Counties —————</p> <p>Boundaries of Wards - - - - -</p> <p>Market-Towns as <b>HESHAM</b></p> <p>Parishes as <b>ACCOMB</b></p> <p>Villages and other Places as <b>WONGE</b></p> <p>Places that send Members to Parliament </p> <p>Turnpike Roads &amp; Toll Bars </p> <p>Cross Roads </p> <p>Churches &amp; Chapels </p>	<p>Castles &amp; Towers </p> <p>Houses </p> <p>Heaths &amp; Commons </p> <p>Rivers &amp; Brooks </p> <p>Navigable Canals </p> <p>Railways </p> <p>Woods </p> <p>Parks &amp; Pleasure Grounds </p> <p>Hills &amp; Rising Grounds </p> <p>Wind &amp; Water Mills </p>
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SCALE OF STATUTE MILES.

1828 Turnpike Plan





See enlargement of plan on separate sheet

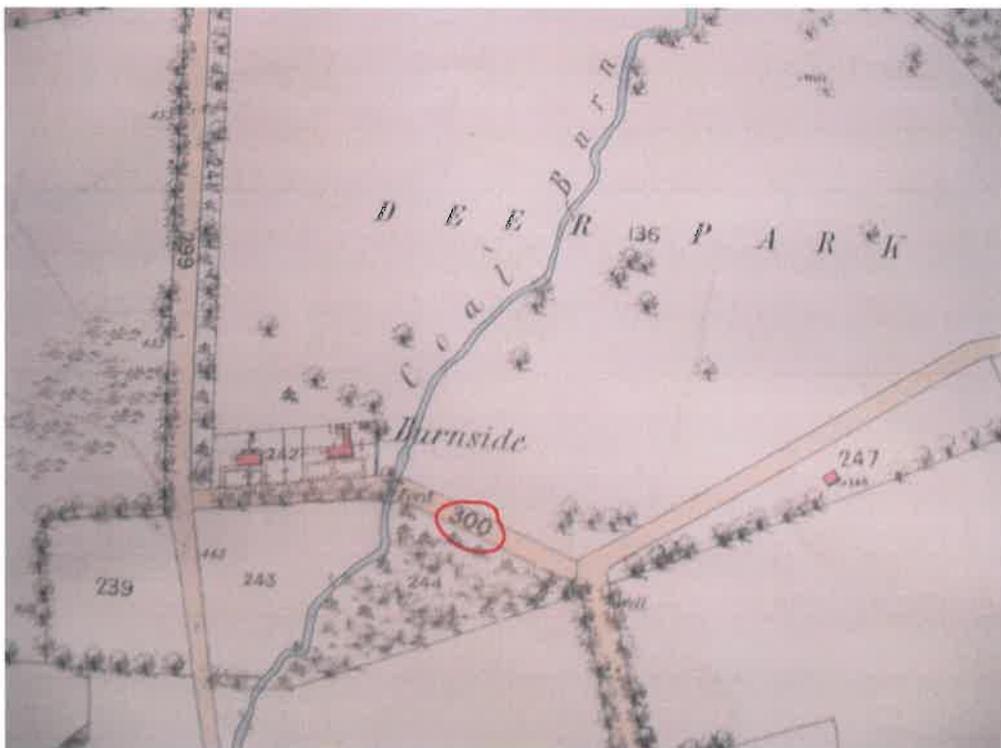
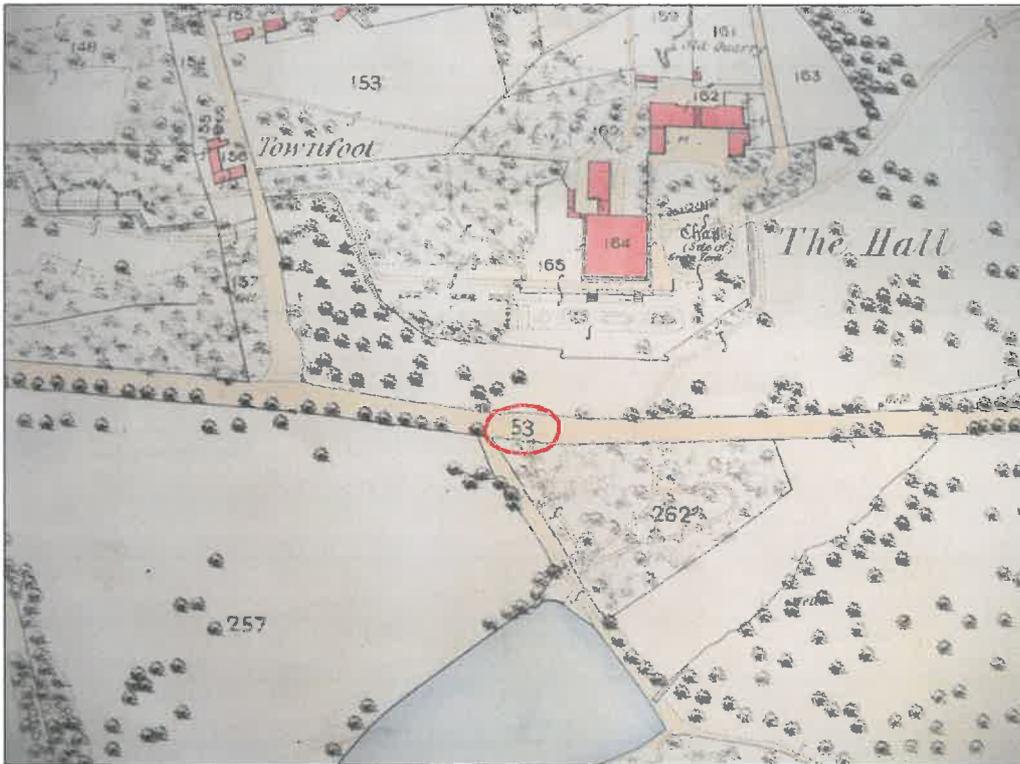
Map of BIRNIA



1840 Tithe plan for the township of Belsay in the parish of Bolam

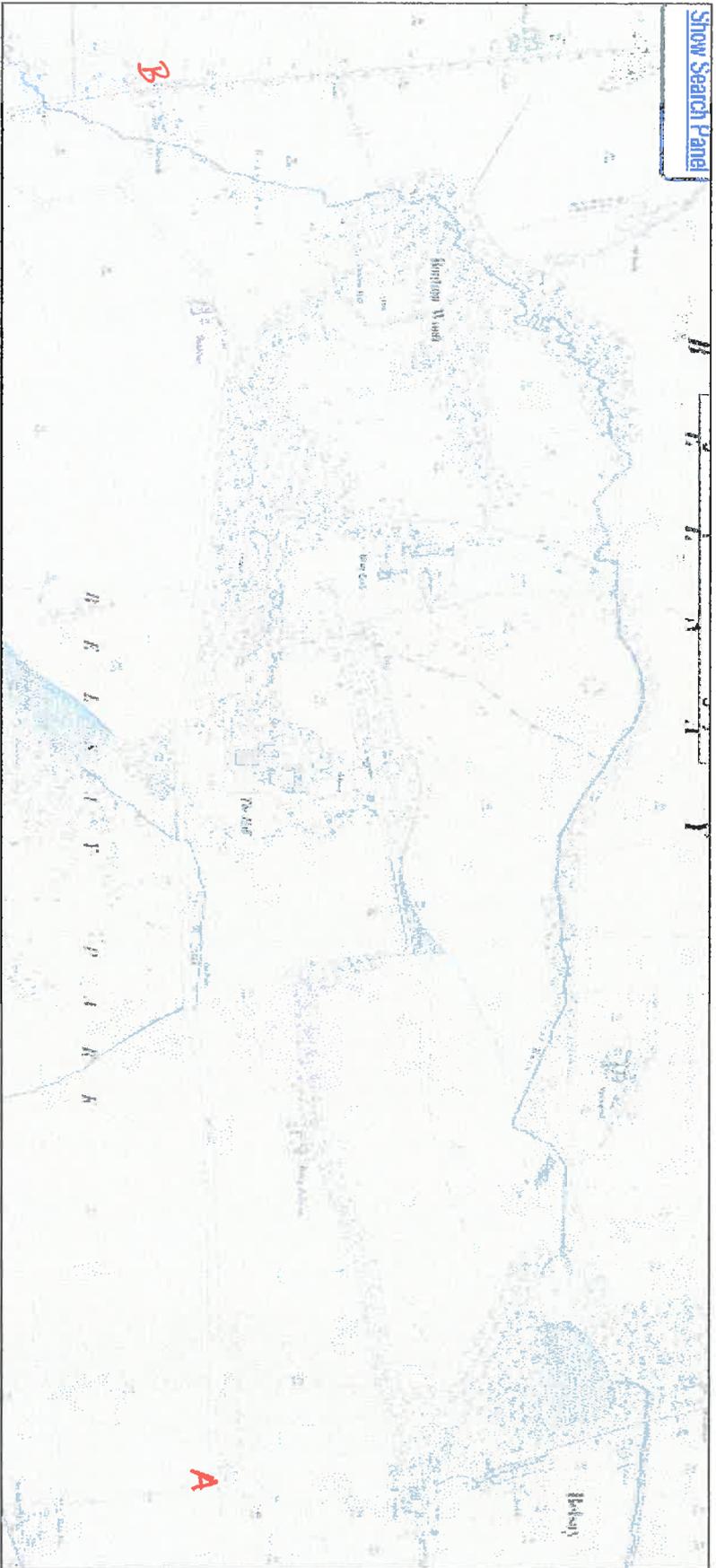


1866 OS 1<sup>st</sup> edition scale 1:2,500 (25")

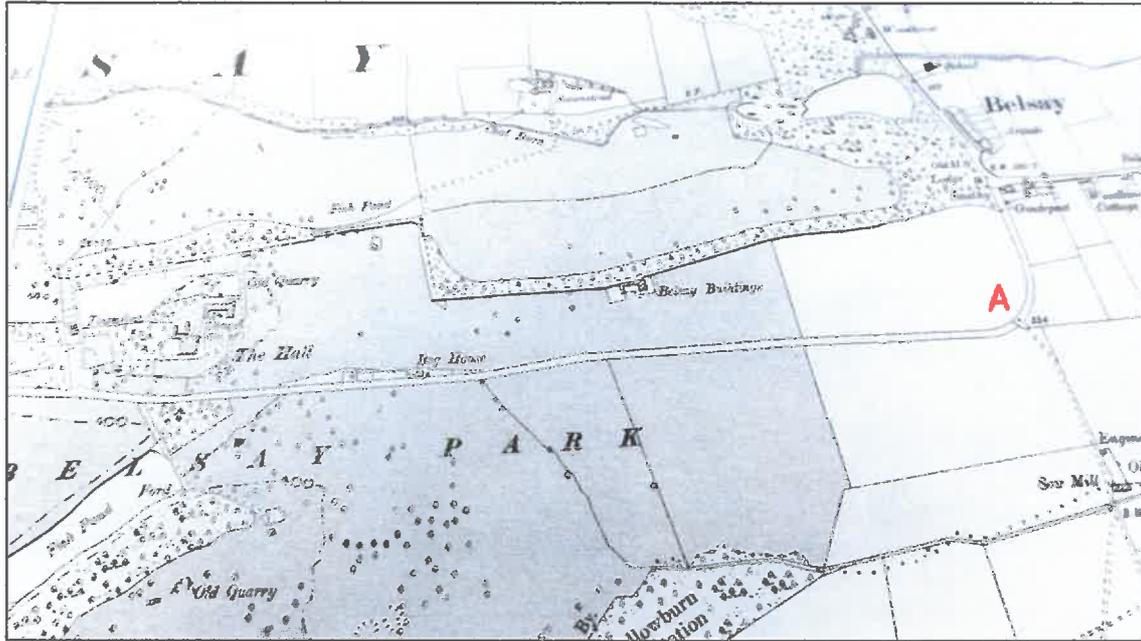




1895 OS 2<sup>nd</sup> ed scale 1:10,560 (6")



1895 OS 2<sup>nd</sup> ed Scale 1:10,560



1902 Bartholomew's cycling map Scale: 2 inches to 1 mile



Key

**EXPLANATORY NOTE**

Motoring Roads {

- Through Routes
- First Class Roads
- Secondary
- Indifferent *(Passable for cyclists)*

*The uncoloured roads are inferior and not to be recommended.*

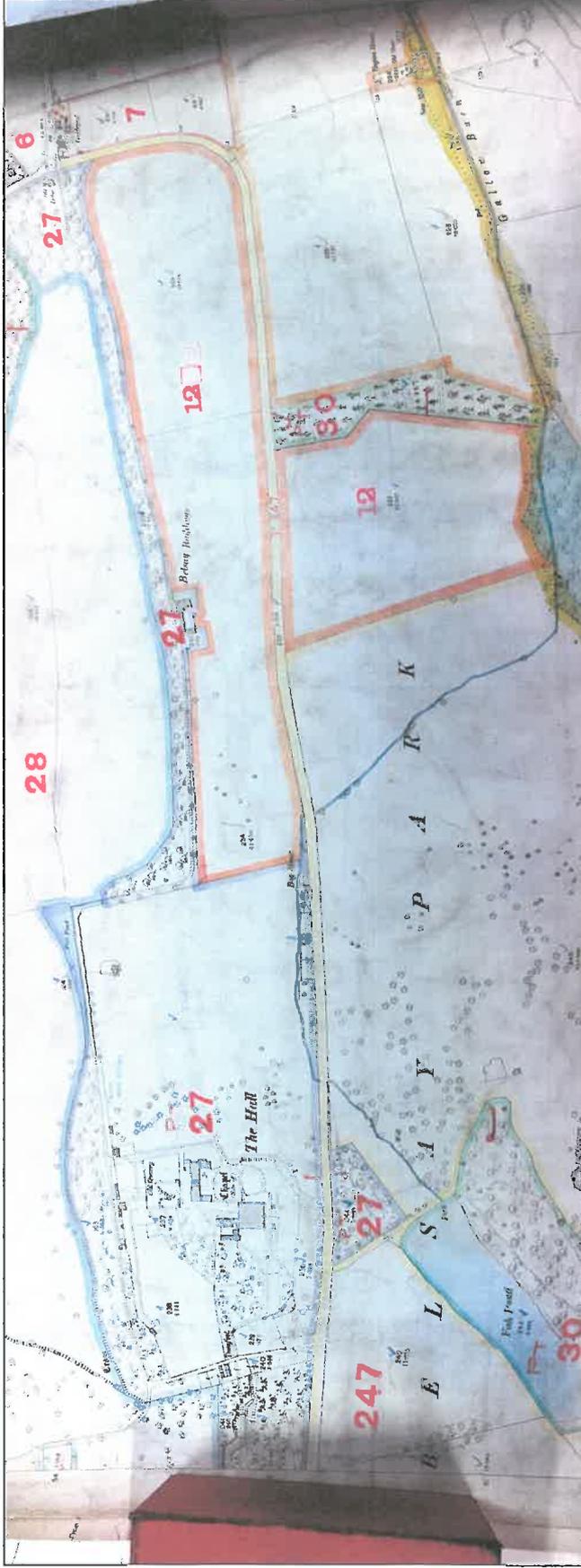
Footpaths & Bridlepaths ..... *NB. The representation of a road or footpath is no evidence of the existence of a right of way.*  
*The figures thus 190 represent heights in feet above sea level.*

Railways *(LC! Level Crossing)*

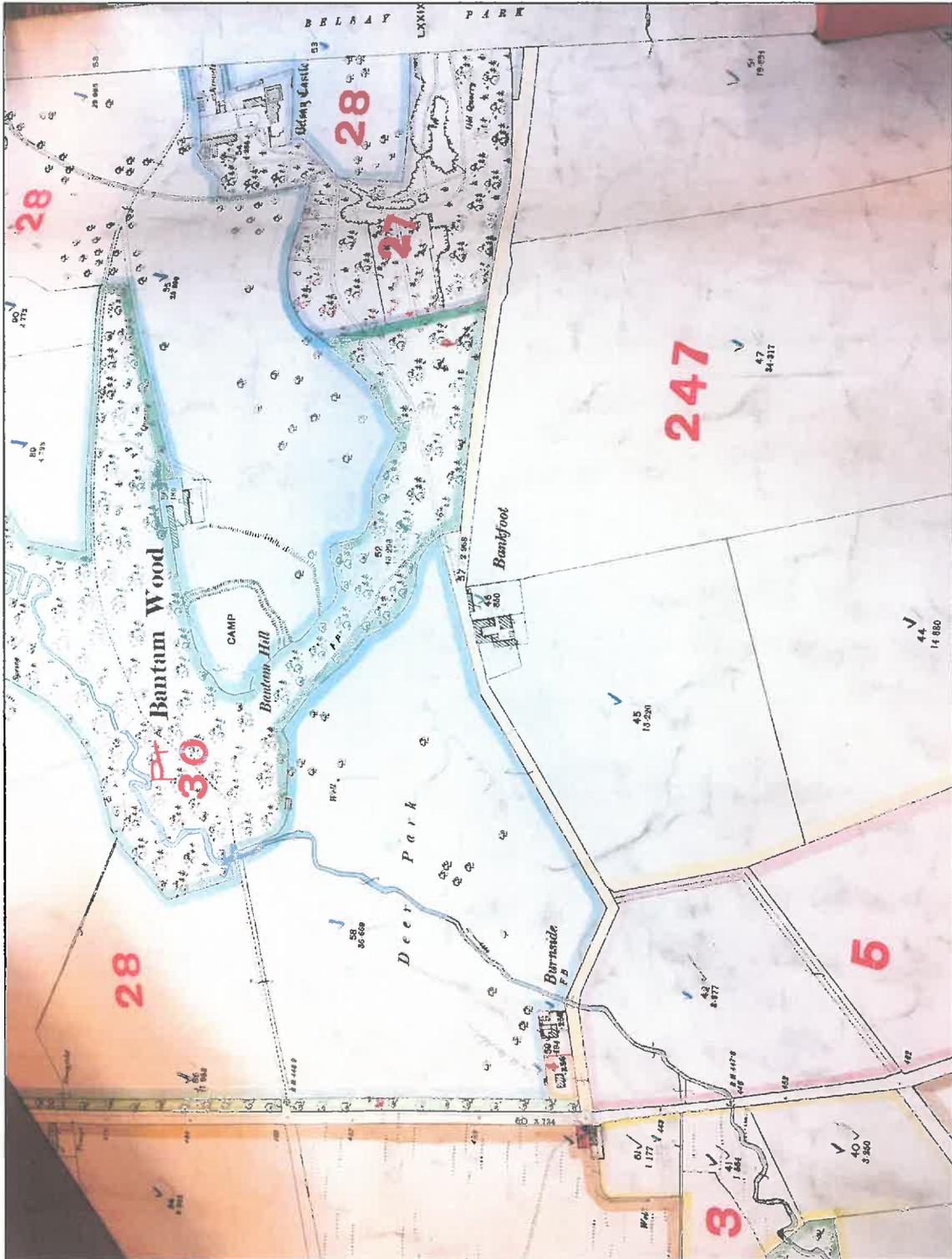
Canals

County Boundaries

1910 Finance Act plan

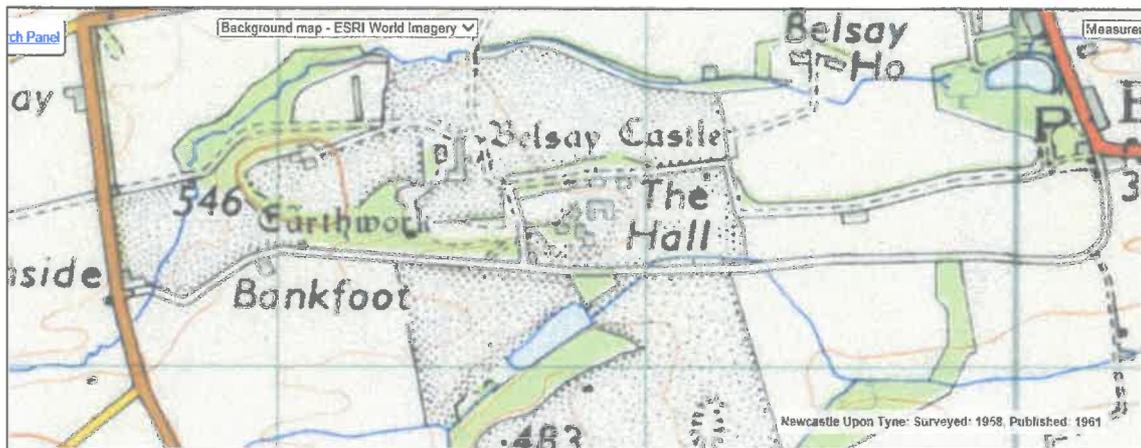


See enlarged copy of western end on separate sheet

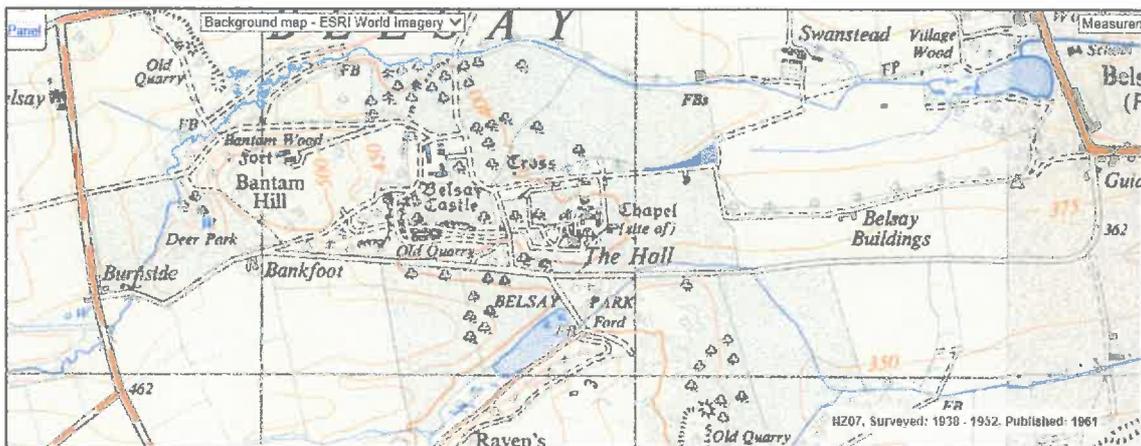


## Recent editions of the OS

### 7<sup>th</sup> Popular edition



### 1961



**BELSAY ESTATE**  
**PARISH OF BELSAY**  
**ALLEGED PUBLIC**  
**BRIDLEWAY 36**  
**REPORT BY LIZ SOBELL MA**

ALLEGED BRIDLEWAY NO. 36  
PARISH OF BELSAY

1. I have been asked by Belsay Trustees to examine evidence submitted in support of an application to add a bridleway to the definitive map. The alleged way runs south of Belsay Hall between the C340 at GR NZ075782 on the west and on the east at a point on Bridleway 401/010 at GR NZ102783.
2. The supporting evidence submitted by the claimant in support of this claim consists largely of maps ranging in date from 1820 to recent times, but the basis of the claim is an alleged highway diversion dating to around 1790 which is described in the Historic England website entry for Belsay Hall.
3. The following report will demonstrate that the c.1790 diversion cannot be verified with documentary evidence, and that, crucially, a later highway diversion extinguished any supposed public right of way along the claimed route.
4. The claimant's documentary evidence begins by referring to a record in Historic England's online National Heritage List for England ("NHLE"). The record concerned is at <https://historicengland.org.uk/listing/the-list/list-entry/1001042> and is the "listing" relating to the status of Belsay Hall as a Grade I Listed Building. The relevant paragraph states: *"In c.1790, Sir William Middleton, fifth Bt. (1738-95), Captain of the Royal Horse Guards and MP for Northumberland from 1774, diverted the public road which ran along the boundary of the earliest deer park from Burnside northwards to Sheepfold on the Morpeth road, thus increasing the enclosed area. The new road entered the park by Bankfoot from where it ran due east to meet the Ponteland to Jedburgh road, rather than leading directly past the Castle and Manor"*.
5. Two places are marked as 'Sheepfold' on Northumberland sheet 78.4 of the 1896 Ordnance Survey 25" map: one is north of Burnside at GR NZ075787, but does not join the Morpeth road. The other 'Sheepfold' is at GR NZ081790, and is on the Morpeth road, but has no track leading to it which is recorded on Ordnance Survey maps dating between 1885 and 1967. The closest track is located 401 metres east of 'Sheepfold' at GR NZ085791, just south of the original location of Saugh House Farm at GR NZ086792 (The historic location of Saugh House is shown between points E and K on the plan at Appendix A, although Saugh House was later rebuilt at GR NZ 086795). This seems the most likely candidate for a way which was to be diverted from running past the Castle and Manor house, since it also leads past Belsay Townfoot at GR NZ086783.
6. Notwithstanding the reference in the NHLE to a 1790 diversion, it is not possible to confirm the veracity of the statement in the NHLE or give an accurate interpretation of the routes involved in any c.1790 diversion, as no documentary reference has been supplied to prove its existence. Moreover, I have made a thorough search of Northumberland Quarter Session books (where a public highway diversion was required (at that time) to be endorsed by Justices of the Peace and recorded) and no record could be found.

7. However, the search did produce two relevant highway diversions, both dated 1837, holding the references NRO QRH 134 and NRO QRH 135 respectively. Both diversions use the same plan, which is reproduced at Appendix A.
8. NRO QRH 134 and NRO QRH 135 demonstrate that there was a major reorganisation of the road network around Belsay in 1837. Here it might be useful to provide a timeline summarising the historical context:
  - **1810 – 1817** Belsay Hall was built, following a design by Sir Charles Monck (1779-1867, third son of Sir William Middleton, 5<sup>th</sup> baronet).
  - **1828 and 1829** Two turnpike roads were established east of Belsay: the Newcastle to Edinburgh Turnpike (NRO QRUP 22) and the Newcastle to Otterburn Turnpike (NRO QRUP 24).
  - **1830s** The village of Belsay was removed from its original position between Belsay Castle and the newly built Hall and aligned on the east side of the Newcastle to Edinburgh Turnpike (present-day A696).
  - **1837** Sir Charles Monck created two new lengths of road in order to divert and extinguish public rights over the road allegedly created by the c.1790 highway diversion (NRO QRH 134 and NRO QRH 135, both orders using the same plan).
9. NRO QRH 135 is concerned with a length of road created to simplify and shorten the route coming east from the direction of Capheaton, and is annotated on the plan (Appendix A) by the letters E and F. The road is uncoloured but outlined in red.
10. NRO QRH 134 created a new length of road, also outlined in red, between the letters D and C on the plan, and provided a more level route than that between D to B to C.
11. NRO QRH 134 also stopped up the highway on the route between letters L and D and letters L/B/C, outlined in blue on the plan.
12. Figure 1 below is an extract from the diversion plan titled 'Reference':

**PROPOSED DIVERSION OF ROAD AT BELSAY.....**

---

**REFERENCE.**

<i>From A to E by the present Road</i>	5	0	175
<i>From A to E by the New Road and Saugh Route</i>	2	7	480
<i>From K to D by Belsay gate Post and Belsay Burn</i>	1	1	121
<i>From K to D by Saugh House E and C</i>	2	2	145

Fig. 1. NRO QRH 134 extract: Key to locations annotated on the Highway Diversion Plan

13. The letter 'A' marks the position of Belsay Guide Post at GR NZ 102785; 'F' is the most westerly point of the new length of road at GR NZ 053781. The measured length between these two points if travelling by the line of road which was to be stopped up (i.e. A-L-B-C-I-H-G-F) was 3 miles and 154 yards. In comparison, Points A to F via the new length of road and Saugh House (i.e. A-K-E-F) measured 2 miles 7 furlongs and 410 yards.
14. Letter 'K' is the location of the junction between the B6924 and the A696 at GR NZ100790. The distance between K and D via Belsay Guide Post (A) and Belsay Bank Foot (GR NZ 079783) measured 2 miles 1 furlong and 121 yards. K to D via Saugh House and points E and C was longer at 2 miles 2 furlongs and 143 yards. However, the replacement of a steep climb with the new length of road between points C and D compensated for the extra length.
15. Appendix B is the order made at the Northumberland Quarter Sessions held on 16<sup>th</sup> September 1837 (NRO QRH 134). The new length of road had been inspected by two justices of the peace and found to be *'more commodious to the public than the present highway'*. It confirmed the new length of road made between points C and D on the plan and ordered that *'the said Highway mentioned in the said certificate as lying between a certain guide post in the Township of Belsay in the said County called the Black Heddon Guide Post and the point or place on the Turnpike Road between Newcastle upon Tyne and Otterburn in the said County where the same Highway meets the said Turnpike should be stopped up and should be diverted and turned to the new Highway also mentioned in the same certificate lately made between the said guide post and the south west corner of Belsay park in the said Township of Belsay aforesaid'*.
16. NRO QRH 134 therefore shows that the claimed route carries no public highway right. Any highway which did exist over the claimed route (by virtue of the alleged 1790 diversion or otherwise) was stopped up and ceased to exist as a result of the Order of the Quarter Sessions dated 16<sup>th</sup> September 1836.
17. There is no dispute that the claimed route is clearly present on historic and contemporary maps. The issue is not, however, physical presence, but whether or not the depicted route carries any public right of way. The following paragraphs will discuss the map evidence submitted in support of the claim.
18. Fryer's County map (1820) and Greenwood's (1828) map both pre-date the diversion and extinguishment of the claimed route in 1837, as do the creation of turnpike roads between Newcastle and Edinburgh (1828) and Newcastle and Otterburn (1829).
19. Belsay Township Tithe Award plan (NRO DT 34S) of 1840 shows the line of the claimed way. However, it was not the prime purpose of a tithe map to depict public ways, but to identify the boundaries of areas where tithe payments were chargeable. In addition, it was possible for an earlier plan to be submitted during the tithe commutation process.

20. The Ordnance Survey maps comprise the bulk of supporting evidence for this claimed way, but these maps, along with Bartholomew's Cycling map of 1902, carry a disclaimer that representation on a map is not evidence of the existence of a right of way.
21. The description of a way in an Ordnance Survey Book of Reference as a 'public road' relates simply to the appearance of such a way. Ordnance Survey officers were not required to establish the highway status of the routes they mapped, merely to describe their physical appearance.
22. At paragraph 10 of the submitted claim, the absence of a tax liability deduction in relation to the claimed route in 1910 Finance Act records is accounted for by the suggestion that '*owners of large estates in Northumberland were often not bothered with the small reduction that was on offer*'. This is speculation with no documentary evidence to support it. Conversely, the inclusion of the claimed route in the records is of course evidence (albeit not conclusive evidence) that the claimed route is not a highway.
23. NRO 2000/36 is held by Northumberland Archives and contains a record of the evidence given by the owner of the Belsay Estate in relation to the 1910 Finance Act.
24. Appendix C is an extract from the estate copy of the valuation book (NRO 2000/36), where two claims of £20 each are made for 'public right of way or user'. One is on Saugh House land and the other at West Belsay. No claim for a deduction is made in relation to any other land within Belsay, but this document shows that the land owner was indeed bothered enough to claim £40 in total.
25. In conclusion, it has been shown that a former public highway which ran south of Belsay Hall had all public right of way removed and stopped up under a highway diversion order dated 1837. The appearance of the way on maps pre- and post-dating the diversion order (which is the remaining evidence relied on by the claimant) simply reflects the physical existence of the route. The 1910 Finance Act records accurately represent the fact that no right of way existed along the claimed route.

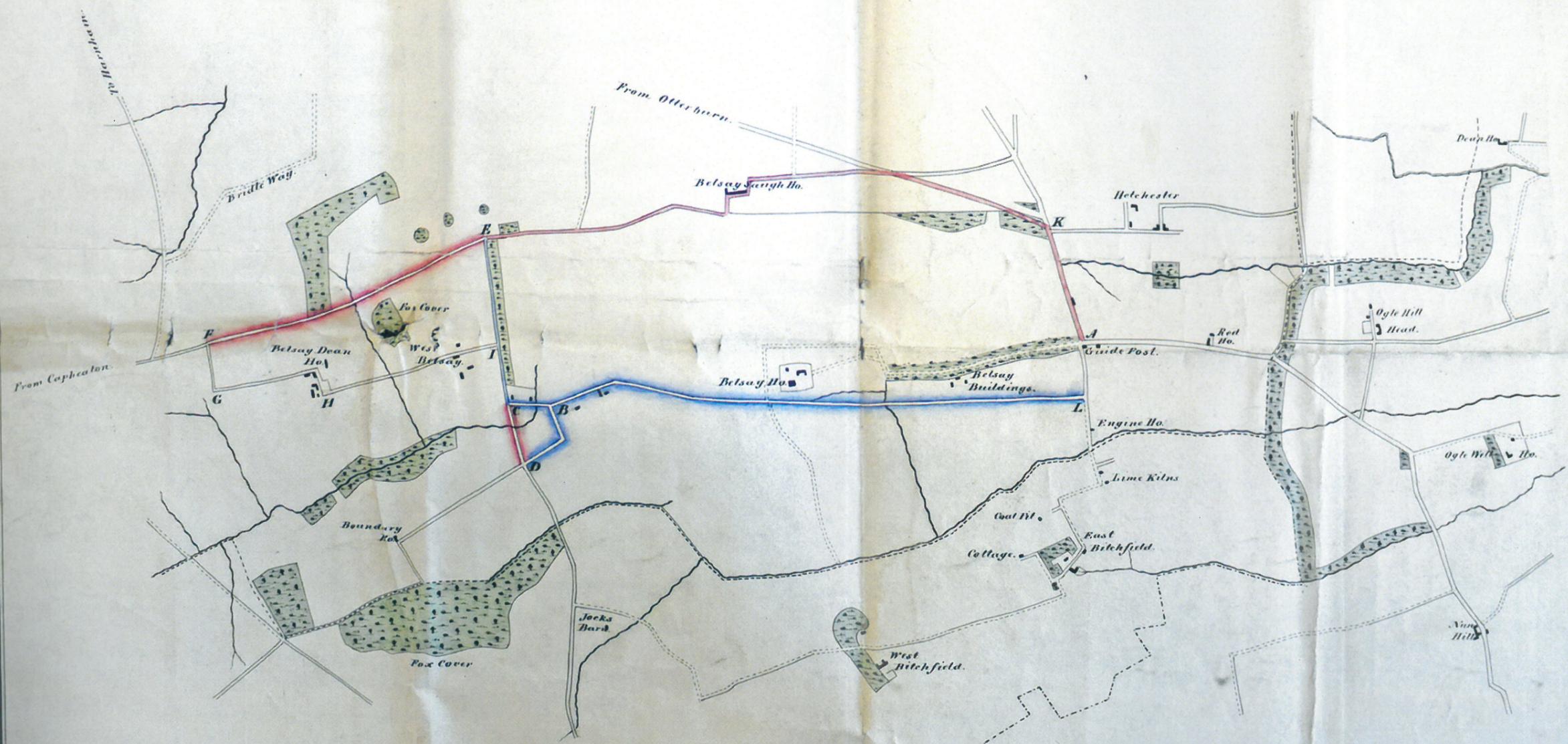
Liz Sobell MA  
11<sup>th</sup> January 2020

# PROPOSED DIVERSION OF ROAD AT BELSAY.

APPENDIX A  
NRO QRH 134

### REFERENCE.

	M.	F.	Yds.
From A. to F. by the present Road.	5	0	154
From A. to F. by the New Road and Saugh House.	2	7	110
From K. to D. by Belsay guide Post and Belsay Bank Foot.	2	1	121
From K. to D. by Saugh House E. and C.	2	2	145



Northumberland, to wit, At the General Quarter Sessions of the peace of our Lady the Queen held at Alnwick — in and for the said County on Thursday the nineteenth day of October — in the first year of the reign of our Sovereign Lady Victoria —

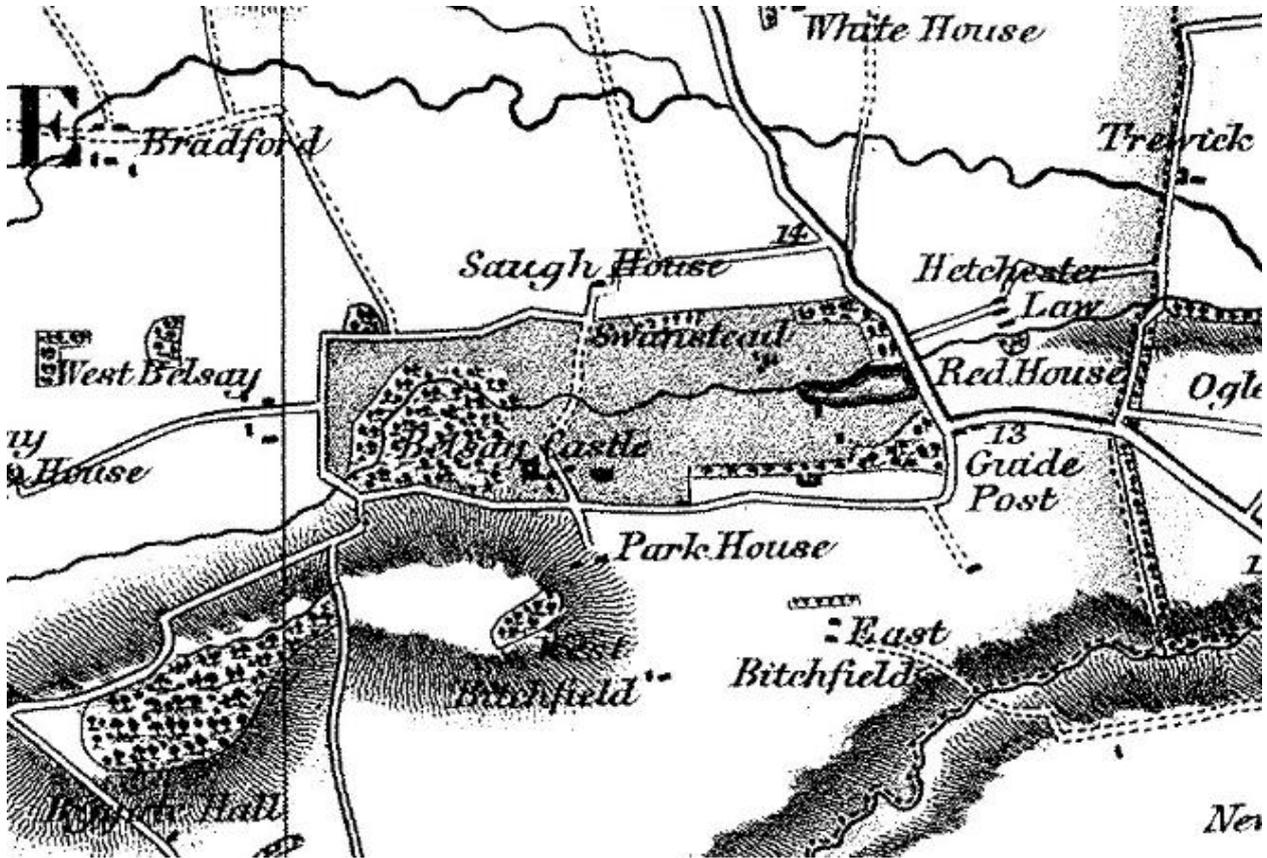
QRH  
134

and others Her Majesty's Justices of the Peace assigned to keep the Peace in the said County  
The Certificate of Sir John Edward Swinburne Baronet and John Cresswell Jobling <sup>Esquire</sup> two of the Justices of the Peace for the said County bearing date the sixteenth day of September last past that they had viewed the present Highway in the Township of Belsay in the said County lying between the point marked D. on the plan hereunto annexed being the place where a certain guide post called the Black Heddon Guide post at present stands and the point marked I. on the same plan being the point or place on the Turnpike Road between Newcastle upon Tyne and Otterburn in the said County where the said present Highway meets the said Turnpike Road and also that they had viewed the road between the said point marked D. and the said point marked I. on the said plan by way of a certain proposed new Highway lying between the said point marked D. and the point marked C. on the same plan the said point marked C. being the south west corner of Belsay Park in the said Township of Belsay And further that the road or way between the said point marked D. and the said point marked I. by the proposed new Highway is more commodious to the public than the present Highway between the same points by reason of several steep ascents and descents being avoided having been read in open Court and the said Certificate together with the proof and plan and the consent in writing of Sir Charles Miles Lambert Monck Baronet the owner of the land through which the said new Highway is proposed to be made required by an Act passed in the fifth and sixth years of the reign of His late Majesty intituled "An Act to consolidate and amend the laws relating to Highways in that part of Great Britain called England" having been enrolled amongst the Records of the said Court of Quarter Sessions pursuant to the said Act and no appeal having been made It was under and by virtue and pursuant to the said Act ordered by the said Court of Quarter Sessions that the said Highway mentioned in the said Certificate as lying between a certain guide post in the Township of Belsay in the said County called the Black Heddon Guide post and the point or place on the Turnpike Road between Newcastle upon Tyne and Otterburn in the said County where the same Highway meets the said Turnpike should be stopped up and should be diverted and turned to the new Highway also mentioned in the said Certificate lately made between the said guide post and the south west corner of Belsay park in the said Township of Belsay aforesaid.

R. 2  
12



FRYER'S COUNTY MAP  
1820



Market Towns in Roman Capitals, as .....	HEXHAM
Parishes and Chapels in small Roman, as .....	Tynemouth
Villages and other Places in small Italic, as .....	Stannington
Churches and Chapels .....	⊕ +
Castles .....	⊠
Houses .....	⌘
Turnpike Roads .....	⌘
Other Roads .....	⌘
Parks and Pleasure Grounds .....	⌘
Unclosed Lands .....	⌘
Boundary of the County .....	⌘
Boundary of the Wards .....	⌘
Boundary of Newcastle .....	⌘

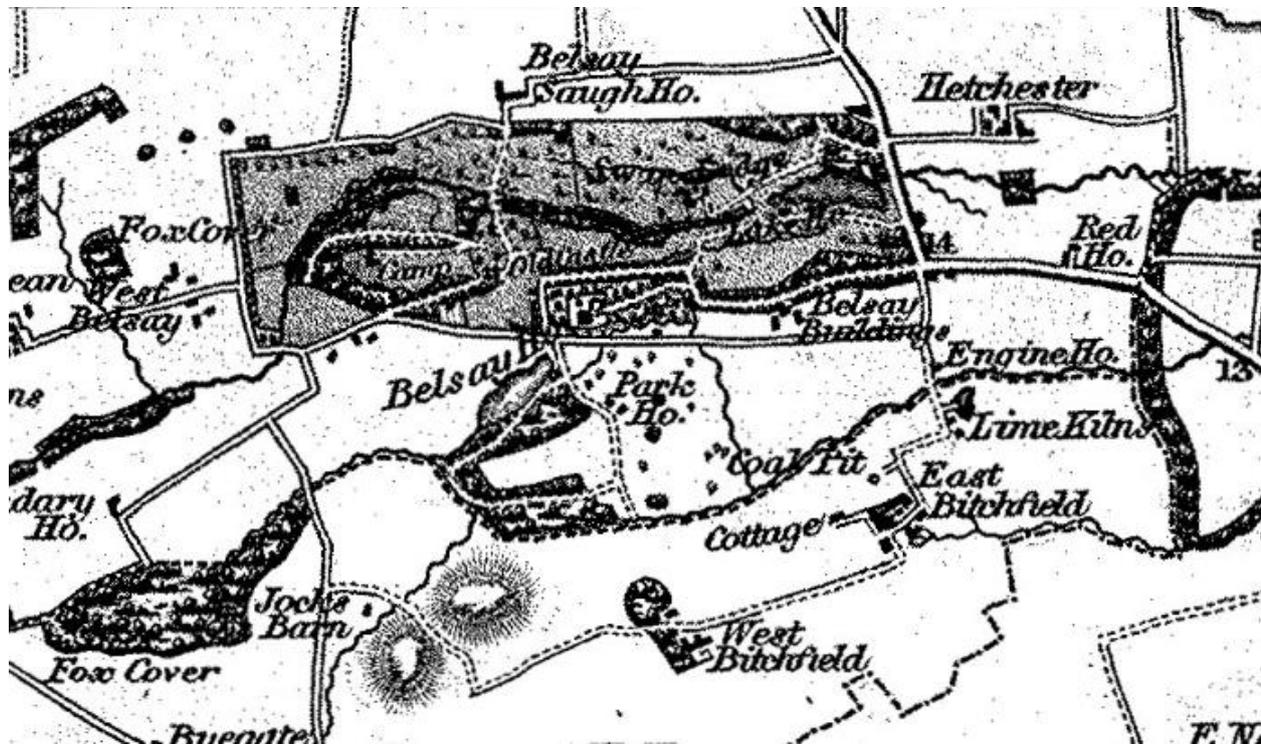


# Explanation.

Mail Roads	
Turnpike Roads	
Carriage Roads which are Parochial Roads	
Parochial Roads	
Churches and Chapels	
Cities	
Borough Towns	<i>{ The Stars denote the Number of Members returned to Parliament }</i>
Market Towns	<i>{ The distance from London is prefixed to each town. }</i> WELLINGTON
Parishes	Sidbury
Villages and Farms	Crablake
Gentlemen's Houses and Grounds	
Hills	<i>{ The Figures denote their Elevation above the level of the Sea }</i>
Lakes and Rivers	
Navigable Canals	
Drains	
Iron Rail Road	
Antient Earth Work	
Roman Roads	
Boundaries of Counties	
Boundaries of Hundreds	
Cliffs	
Piers	
Rocks always uncovered	
Rocks covered at high water	
Rocks always covered	
Sands covered at high water	
Sands always covered	
Anchorage	
Direction of the Currents	

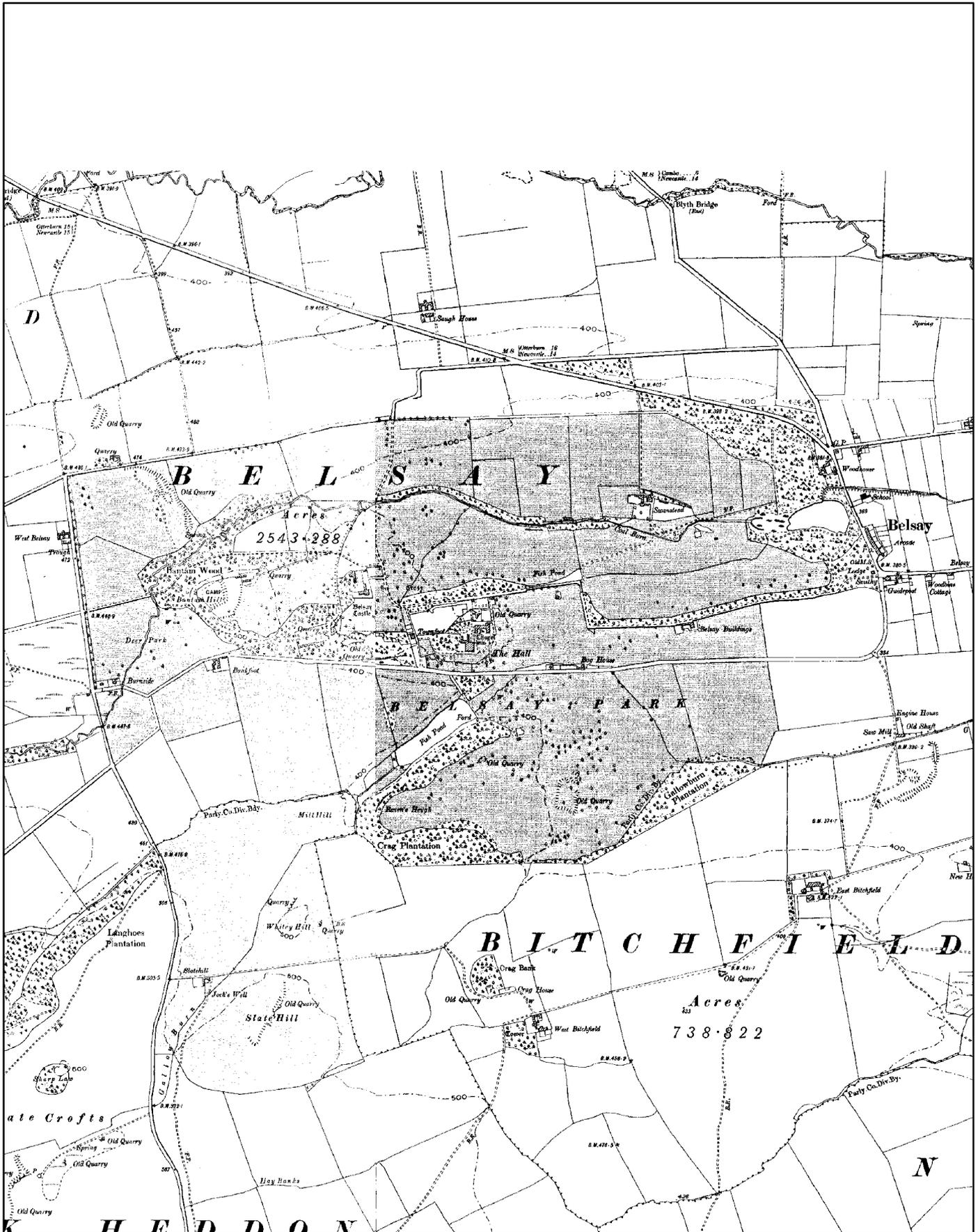
*The figures on the coast show the depth of water in fathoms.*

GREENWOOD'S COUNTY MAP  
1828



Boundaries of Counties .....  
 Boundaries of Wards .....  
 Market Towns as **HEXHAM** .....  
 Parishes as **Accomb** .....  
 Villages and other Places as **Notage** .....  
 Places that send Members  
 to Parliament } .....  
 Turnpike Roads & Toll Bars } **T.B.** .....  
 Cross Roads } .....  
 Churches & Chapels } \* .....

Castles & Priors ..... \* ..  
 Houses .....  
 Heaths & Commons .....  
 Rivers & Brooks .....  
 Navigable Canals .....  
 Railways .....  
 Woods .....  
 Parks & Pleasure Grounds .....  
 Hills & Rising Grounds .....  
 Wind & Water Mills ..... \* ..



# Ordnance Survey Plan 1897/8

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