

## **RIGHTS OF WAY COMMITTEE AGENDA**

**Monday, 18 November 2019 at 4.30 pm in the Bridges Room - Civic Centre**

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From the Chief Executive, Sheena Ramsey

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Item	Business
1	<b>Apologies for Absence</b>
2	<b>Constitution of the Committee</b> (Pages 3 - 4)  Report of the Chief Executive
3	<b>Declarations of Interest</b>
4	<b>Minutes</b> (Pages 5 - 6)  The committee is asked to approve the minutes of the previous meeting held on 18 March 2019.
5	<b>Rights of Way Applications</b>  <b>5.1 - Application for a Definitive Map Modification Order to Upgrade the Status of Public Footpath LA/33 to a Bridleway</b> (Pages 7 - 56)  Report of the Strategic Director, Corporate Services and Governance
6	<b>Progress on Rights of Way Matters</b> (Pages 57 - 64)  Report of the Strategic Director, Corporate Services and Governance and the Strategic Director, Communities and Environment

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**TITLE OF REPORT:** Constitution

**REPORT OF:** Sheena Ramsey, Chief Executive

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### **Purpose**

The constitution of the Committee and the appointment of the Chair and Vice Chair as approved by Council for the 2019/2020 municipal year is as follows:-

**Chair** Councillor K Wood  
**Vice Chair** Councillor S Dickie

**Councillors** D Bradford  
A Geddes  
M Ord  
J Simpson  
A Wheeler

### **Recommendation**

The Committee is asked to note the report

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**GATESHEAD METROPOLITAN BOROUGH COUNCIL**

**RIGHTS OF WAY COMMITTEE MEETING**

**Monday, 18 March 2019**

**PRESENT:** Councillor K Wood (Chair)  
Councillor(s): S Dickie, A Geddes, M Ord and A Wheeler

**APOLOGIES:** Councillor(s): C Bradley and D Bradford

**RW28 MINUTES**

RESOLVED - That the minutes of the meeting held on 16 July be agreed as a correct record.

**RW29 PROGRESS ON RIGHTS OF WAY MATTERS**

The Committee were updated with regards to the following Legal Matters.

The Claim for a footpath at Sherburn Towers, Rowlands Gill has been submitted to the Secretary of State for determination, officers are waiting for the start date for this.

A further two applications need to be submitted to Secretary of State but they are being staggered due to a backlog at the Planning Inspectorate in dealing with submissions.

Principal Works carried out between July 2018 and February 2019, include works at:

- Kibblesworth, Lamesley 35
- Coalburns, Ryton Footpath 10
- Keelmans Way, Blaydon 76
- Derwent Country Park Access, Blaydon 85
- Blaydon Burn, Blaydon Bridleway 25
- Watergate Park, Gateshead Bridleway 10

RESOLVED - that the information contained within the report be noted.

**Chair.....**

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**18 November 2019**

**TITLE OF REPORT:**           **Application for a Definitive Map Modification Order to upgrade the status of public footpath LA/33 to a bridleway**

**REPORT OF:**               **Strategic Director, Corporate Services and Governance**

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## **Summary**

This report to Committee sets out, summarises, and evaluates the evidence gathered and submitted to the Council to determine whether there is sufficient evidence to make a definitive map modification order to upgrade part of a public right of way on the definitive map and statement.

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## **1. Purpose of the report**

To investigate an application and evidence for a definitive map modification order as to whether bridleway rights exist over a section of an existing public footpath at Clarty Lane, Kibblesworth, Gateshead as shown by a broken black line on the plan at Appendix 2 to the report.

## **2. Background**

- 2.1 By virtue of Section 53(2)(b) of the Wildlife and Countryside Act 1981, the 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 in consequence of events described in Section 53(3).
- 2.2 The relevant statutory provision which applies where an existing public footpath on the Definitive Map and Statement is being upgraded to public bridleway status, on the basis of historical documentary evidence, is Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981. This requires the 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.'

2.3 The definition of a bridleway under Section 66(1) is

'a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway'.

2.4 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.

### **The Application**

2.5 The Council received an application on the 20<sup>th</sup> November 2018 which was dated 1<sup>st</sup> November 2018 and registered on 26<sup>th</sup> November 2018 to upgrade a footpath to a bridleway onto the definitive map and statement of public rights of way. The applicant submitted historical map evidence and no user evidence forms to support the claim. The historical map evidence is set out at Appendix 3 to the report.

2.6 The plan that accompanied the application showed the claimed upgrade route being to the eastern side of the current footpath alignment. This was clarified with the applicant who confirmed that it is intended that the current alignment of the footpath is the route for the claimed upgrade from Point A to Point B which is shown on the plan at Appendix 2.

2.7 Following receipt of the application, the Council displayed notices along the current public footpath route requesting any persons who use it on horseback/as a bridleway to complete a user evidence form. The local user groups were also contacted to determine if any of their members used the claimed right of way and wanted to submit evidence. Following this, 14 user evidence forms were received. A detailed assessment of the user evidence is set out at paragraph 4 onwards below and the user evidence is set out in a table at Appendix 4.

2.8 On investigating the claim, the Council in its capacity as Surveying Authority, inspected documentary evidence and this is set out at paragraph 4 below.

2.9 In addition to the above investigations, the landowners of the claimed upgrade route were also sent landowner evidence forms to determine whether they recognised the footpath as a bridleway or whether they had done anything to rebut any presumption of dedication of the claimed right of way as a bridleway. The landowner evidence is assessed at paragraph 4 below and their evidence is set out in a table at Appendix 5.

### 3 Site Investigation

The route which is subject to the claimed upgrade is indicated on the plan at Appendix 2 from point A to point B. It is approximately 1036 metres in length and commences at Point A, where there is a fingerpost on Moormill Lane, Kibblesworth. A well worn muddy track continues through an open farm gate where it proceeds along the field edge that has residential houses to the west to a kissing gate and locked boom gate that has boulders on the east side to close the gap. It then crosses over the disused railway line, Bridleway 72 to another kissing gate and locked boom gate. It then continues for approximately 380 metres where it then changes from a mud track to a stoned track, continuing to the far edge of Beggardene Wood, Point B on the plan.

### 4 Consideration of the Claim

4.1 In determining the application, the committee must decide the following:

- (a) if there is evidence to demonstrate, on the balance of probability, the existence of a public bridleway from point A to point B over footpath LA33 which is currently recorded as a public footpath.

The burden of proving this falls to the applicant and matters such as suitability of a way and possible nuisance or need are irrelevant and cannot be taken into account when reaching a decision.

#### Documentary Evidence

4.2 The application was submitted with the following documentary evidence:

- a) Enclosure 1803 Blackburn Fell  
Shows the claimed upgrade route.  
Enclosure documents can provide conclusive evidence of public rights of way, however, the lack of consistency between different maps and awards with their corresponding acts of parliament means that every case must be examined individually in the context of the local circumstances and the prescribed details of the process, all of which may vary.
- b) Tithe Map 1847  
See 4.3(a) below.
- c) Bell map 1850 – northern coalfield  
This map shows the claimed upgrade route finishing in a wooded area.
- d) OS 1<sup>st</sup> edition 1856 from sheets VI.16&XII.4  
Claimed upgrade route is shown and called Clarty Lane which is not numbered.
- e) Railway Plan North Durham Railway 1863

The claimed upgrade route is shown and numbered as plot 230. The reference books refers to the claimed upgrade route as 'Bridle Road' and the occupier is written down as 'The Public'. The proposed railway would cross Clarty Lane and this is shown within the limits of deviation. Railway Plans can be good evidence to support a claim that a highway existed at the time they were made. The status of a way had an impact on cost of the scheme and it is unlikely that railway plans would show a route at a higher status if that wasn't the case.

- f) Topographical OS 1864; OS1896 1:2,500 and 1898 1:10,000  
The claimed upgrade route is shown.
  
- g) New OS England and Wales 1 inch 1898, sheet 20, Newcastle Upon Tyne  
The claimed upgrade route is shown as third class fenced road, the applicant in their application refers to it as an unmetalled fenced road. Whilst there is a slight discrepancy with interpretation, it can clearly be concluded that it is not depicted as a footpath, which is shown on the key.
  
- h) Finance Act 1910  
From point A to where it meets bridleway LA,72a which is the disused railway, the claimed upgrade route is included in parcel 118. However, south of that bridleway to point B of the claimed upgrade route, it is out-with the parcels either side of it. The exclusion from the assessable parcel is evidence of the possible existence of a public right of way. Under the Finance Act 1910, owners of land could apply for a deduction in the amount of tax paid on land if they admitted to a right of way across it. Both the applicant and officers were unable to locate the book.
  
- i) OS 1944 6 inch  
The claimed upgrade route is shown and south of the railway line, it is labelled as Clarty Lane.
  
- j) Photographs  
photographs of the claimed upgrade route were also submitted with the application shown which show occasional hoof prints.
  
- k) OS 1896 2:2,500  
The claimed route is shown.
  
- l) OS 1898  
The claimed upgrade route is shown.

4.3 In addition to the documentary evidence submitted in support by the Applicant, the Council also carried out its own research and inspected the following documentary evidence:

- a) Apportionment book Tithe Map 1847  
The claimed upgrade route is marked as Kibblesworth South Road and is not numbered. One side is coloured in red and the other side is coloured in blue.

Tithe Maps are solely concerned with identifying titheable land. They were not intended to establish or record rights of way. They are generally good evidence of the topography of the roads they portray, especially those which form boundaries of titheable land. The land either side of the claimed upgrade route have numbers, which are set out in the Tithe apportionment book 'Lamsley Tithe Apportionment 1846'. The land marked as 24 and 69, which is either side of the claimed bridleway, is recorded as mixture of arable land and meadow/pasture.

- b) Topographical OS 1 inch to 1 mile First Series 1864  
Shows the claimed upgrade route.
- c) OS 25 Inch England and Wales Durham VI.16 1919  
Shows the claimed upgrade route.
- d) OS 1 Inch England and Wales Durham VI.SE 1944  
shows the claimed upgrade route as other road (not classified by Ministry of Transport).
- e) OS 25 Thousand NZ25 1954  
Clearly shows Clarty Lane, shows the claimed upgrade route terminating onto a footpath which is currently LA/32/2.

Ordnance Survey Mapping provides an accurate representation of routes on the ground at the time of the survey but are not indicative of the rights whether public or private.

- f) Definitive Statement 1965  
Line 6 states the surface is 'earth, grass and ash ballast'  
Line 11 states this route was included in the 1932 Survey of Rights of Way.

#### **Conclusion of Documentary Evidence**

- 4.4 After assessing the documentary evidence above, it can be concluded that the claimed route is clearly shown as an established route with possibly higher rights than a footpath that is part of a local highway network. Although the fact that the claimed route is shown on pre-ordnance survey maps is not evidence that it is or has been used by the public, it is more than likely that it has been used for that time and recognised as a highway for it to be shown on those maps.

## **Landowner Evidence**

- 4.5 A landowner is able to evidence his or her intention not to dedicate a public right of way in a number of ways. As this is currently a public right of way with footpath rights, the landowner is unable to lock gates or erect signs as this would prevent users using a public right of way. However, there may be evidence of the landowners having an intention not to dedicate the route as a *bridleway* during the statutory 20 year period.
- 4.6 From a search of the land registry, officers ascertained that the alignment of the claimed upgrade route is unregistered, which means no landownership details are available online.
- 4.7 Landowner 1 has indicated that they have no objection to the claimed upgrade route being upgraded.
- 4.8 Landowner 2 states that he has farmed the land for over 50 years and that it has never been a bridle path, it is a track from the farm buildings that stood on the land and is now a housing estate. The landowner feels the path is pointless as horseriders have access on the left side of the lane, which is a disused clay pit turned into a country park and they have use of the old mineral railway line. They also feel it will only lead to a dead end at beggar dene wood and it will give access to cars/motorbikes which spoils the area and the walks for genuine country ramblers. No user evidence form was completed and returned.
- 4.9 There is no rule that a cul-de-sac cannot become a highway by dedication at common law or under the provisions of section 31 of the Highways Act 1980. The requirement is that a cul-de-sac must have a defined end point and this would usually be an adopted highway, another public right of way or a 'point of public interest' such as a seashore or a viewpoint. The identified termination point of the claimed upgrade route is the wood which is consistent with the map evidence.
- 4.10 In conclusion, none of the landowner evidence shows that horseriders have been stopped from using the footpath and there is no evidence of no intention to dedicate and no landowner of the claimed upgrade route came forward from the signs that were placed on the claimed route.

## **User Evidence**

- 4.11 The process of adding a public right of way to the Council's Definitive Map and Statement of public rights of way is set out in the Highways Act 1980 and the Wildlife and Countryside Act 1981. The Highways Act deals with the type and character of the evidence put forward to 'claim' the right of way in question, whilst the Wildlife and Countryside Act sets out the way in which this evidence becomes part of, an application and then – if the Committee so decides, an 'order'.

4.12 Section 31(1) of the Highways Act 1980 provides: 'where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

4.13 In this case, the two important issues are i) the need for a period of 20 years public use without interruption, and, ii) absence of evidence that the landowner(s) had no intention to dedicate the right of way.

4.14 Section 31(2) provides 'the period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question.

4.15 The committee are therefore requested to determine:

- (a) Was there an 'event' that brought the claimed route of way into question and if there was, when was it?
- (b) Is there a full 20 years of evidence of public use of the claimed right of way 'as of right' stretching back from that date? And if so
- (c) Is there any evidence that the landowner(s) has given sufficient evidence of their intention not to dedicate the claimed right of way to the public?

#### **The Date of Bringing into Question**

4.16 In order to determine whether the claimed upgrade route has been dedicated in accordance with Section 31 of the Highways Act 1980, it needs to be determined how the use was brought into question. An event which can bring a claimed route into question can consist of:

- (i) Locked gates being put on the claimed right of way;
- (ii) Notices being erected along the claimed right of way to deny it is a public right of way;
- (iii) Landowner stopping or challenging the use of the claimed right of way;
- (iv) Notices stating that the claimed right of way can only be used with the permission of the landowner; and
- (v) Lodging an application for a Definitive Map Modification Order.

4.17 As this claimed upgrade route is already a footpath, there are no notices or obstructions, therefore, it would be a challenge to the use of a horse on the footpath, as it is not a bridleway. As none of the users provided any evidence of this, the view of the officers is that the date the use of the footpath as a bridleway as being brought into question is the date the application was made.

### **Is there 20 year's use during the relevant period from 1998-2018?**

- 4.18 The period of 20 years referred to is calculated retrospectively from the date when the right of the public to use the way was brought into question. As this is the date the application was made which was in 2018, therefore, the 20 year period is 1998-2018 which is 20 years of retrospective use from the date of the application.
- 4.19 From 14 the user evidence forms, at Appendix 4, 10 have used the claimed right of way regularly for at least 20 years during the relevant 20 year period on horseback. 1 of the completed user evidence forms indicated that they do not currently use the claimed route, but would like to and 3 have indicated that they have used it on foot. Therefore, we are only assessing the evidence of the 10 user evidence forms. The frequency of the use is 5 users weekly, 2 users monthly, 3 users less than monthly. 7 users start where the claimed route joins Bridleway 72 down to point B.
- 4.20 In order to satisfy the statutory test of dedication, the use not only has to be use during the relevant period but it also has to be enjoyed by the 'public' and not just by a class or section of the public. For example, employees of a particular business using the route to get to work. When assessing the user evidence, it appears that the use is by riders from a local stables in Pockley and also riders from Harlow Green to Beamish. Therefore the user evidence supports the fact that the claimed right of way is actually enjoyed by the public as a bridleway.
- 4.21 Taking the above into account it is the view of the Officers that there is sufficient user evidence from the public claiming to have used the claimed right of way on horseback for at least 20 years and continuously throughout the relevant period from 1998 to 2018 to satisfy the requirements of Section 31(1) of the Highways Act 1980.

### **Is the claimed public use 'as of right' and uninterrupted?**

- 4.22 The term 'as of right' in this context means without force, without secrecy and without permission. Further, the use of the claimed right cannot be across common or access land as that use would be with permission and therefore not as of right. Also, any permission granted or access denied, must be by the landowner or by someone authorised by the landowner.
- 4.23 From the user evidence all 10 users confirmed that they did not ask permission of any landowner before using the claimed upgrade route. Further, all confirmed that they had not been stopped from using it. This confirms their use was not with the permission of the landowner and was not in secret.

- 4.24 The final element is whether the use of the claimed right of way was by force. 7 users confirmed there are stiles, sometimes rubbish and chicanes. There are no locked gates as this is already a public footpath. This means therefore it has been used without force.
- 4.25 Use of the claimed route must be without interruption which does not refer to the interruption in continuity of use, but the actual and physical stopping of the enjoyment of the public's use. For example, if a landowner erected a gate to stop horses.
- 4.26 However, all the user evidence appears to confirm that horses are able to use the claimed route. Therefore, there is no interruption in use of the claimed right of way as a bridleway.
- 4.27 It is the view of the officers for the reasons set out above, that the nature of the public's alleged use of the claimed right of way was 'as of right' and uninterrupted for the purposes of Section 31(1) of the Highways Act 1980.

#### **Implied Dedication at Common Law**

- 4.28 Dedication at common law is presumed if the claimed route has been used by the public as of right. There is no defined length of time over which the use must occur, it simply must be long enough to justify an inference that there was an intention by the landowner to dedicate. A landowner needs to be legally capable of dedicating the way as public, therefore any periods in which the land was occupied by tenants could not be included in the period of user as generally the person with capacity to dedicate a right of way will be the person who holds the freehold title of the land. However, a tenant could dedicate a way if they did so with the agreement of the freeholder.
- 4.29 In order to satisfy the legal test of dedication at common law, there needs to be evidence (documentary or user) of public use for such a period that the landowners were aware of the public's use and took no steps to discourage that use. The common law presumption can be rebutted by demonstrating that the landowner had no intention of dedicating the land to the public by either stopping people, restricting the use or it lacked the capacity to dedicate the land.
- 4.30 The Council considers that the balance of evidence is supportive of a bridleway on the claimed upgrade route and the statutory provision can be relied upon in this case.

## **5. Bowes Valley Nature Reserve**

- 5.1 The Bowes Valley Nature Reserve is on the site of a clay pit and brickworks. The nature reserve is located to the east of the claimed upgrade route. It is now a nature reserve with a network of public rights of way forming a green space for people and wildlife. Leaflet of the nature reserve is at Appendix 6.
- 5.2 Presently, to access the Bowes Valley Nature Reserve from Footpath LA/32/2, Clarty Lane there are three footpaths, one of those being a Public Right of Way, Footpath LA/34/6. These footpaths link into a bridleway that runs throughout the nature reserve as well as linking onto bridleway LA/72a/11, which is the Bowes Railway Path.
- 5.3 A recent site visit by officers noted there is visible evidence of use on horseback on footpath LA/32/2, Clarty Lane, along with visible evidence of access into the Reserve.
- 5.4 If members approve the recommendation, officers propose to approach the nature reserve about the possibility of one of the footpaths being dedicated as a bridleway so that access to the reserve can be made from the claimed upgrade route.

## **6. Conclusion**

- 6.1 In light of the user evidence, map evidence and submissions made by landowners, officers would recommend that there is sufficient evidence of use by the public as of right of the claimed upgrade route as a bridleway on the balance of probabilities and therefore to make a definitive map modification order to upgrade the footpath to a bridleway between points A and B.

## **7. Recommendation**

Officers recommend that approval is sought from The Public Rights of Way Committee for the following:

- 7.1 The making of a definitive map modification order to add the claimed bridleway at Clarty Lane, Kibblesworth as shown with a broken black line from point A to point B on the plan at Appendix 2 onto the Definitive Map and Statement of Public Rights of Way.
- 7.2 Grant delegated authority to the Strategic Director of Corporate Services and Governance to undertake the following:
  - 7.2.1 To consult statutory consultees and make a definitive map and modification order to add the bridleway at Clarty Lane as shown from point A to point B on the plan at Appendix 2; and

7.2.2 If no objections are received to confirm the order or if objections are received and not subsequently withdrawn, to send the order to the Secretary of State for confirmation as an opposed order.

7.3 Explore the possibility of the Bowes Valley Nature Reserve dedicating bridleway access from the claimed bridleway into the reserve.

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Contact: Umi Filby Ext. 2219

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**1 FINANCIAL IMPLICATIONS**

None

**2 EQUAL OPPORTUNITIES IMPLICATIONS**

None

**3 STAFFING IMPLICATIONS**

None

**4 ACCOMMODATION IMPLICATIONS**

None

**5 CRIME & DISORDER IMPLICATIONS**

None

**6 ENVIRONMENTAL IMPLICATIONS**

None

**7 HUMAN RIGHTS IMPLICATIONS**

The applicable rights to be considered are the right to protection of property, right to a fair trial and right to respect for private life. However the Wildlife and Countryside Act 1981 and the Highways Act 1980 provides a legal basis for interference with these rights and the risk of these rights being infringed is addressed via the fact that any orders made are subject to an objection period and the statutory legal process.

**8 WARD IMPLICATIONS**

Lamsley

**9 BACKGROUND INFORMATION**

None

- Appendix 2 – Plan of the claimed route**
- Appendix 3 – Map evidence**
- Appendix 4 – User evidence**
- Appendix 5 – Landowner evidence**
- Appendix 6 – Bowes Valley Nature Reserve Leaflet**

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### Proposed upgrade Clarty Lane Footpath to Bridleway STATUS



— Footpath   
 — Bridleway   
 A-B | | | | Proposed upgrade to Bridleway

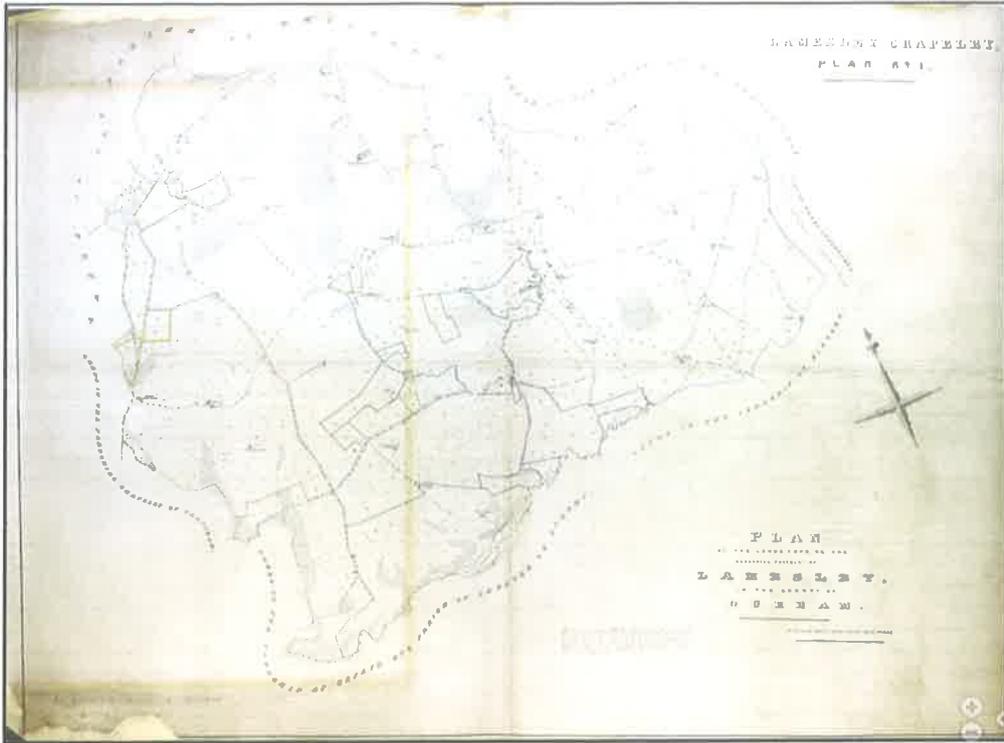
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4 Enclosure 1803 Blackburn Fell Plan DRO Q/D/E 15(2)

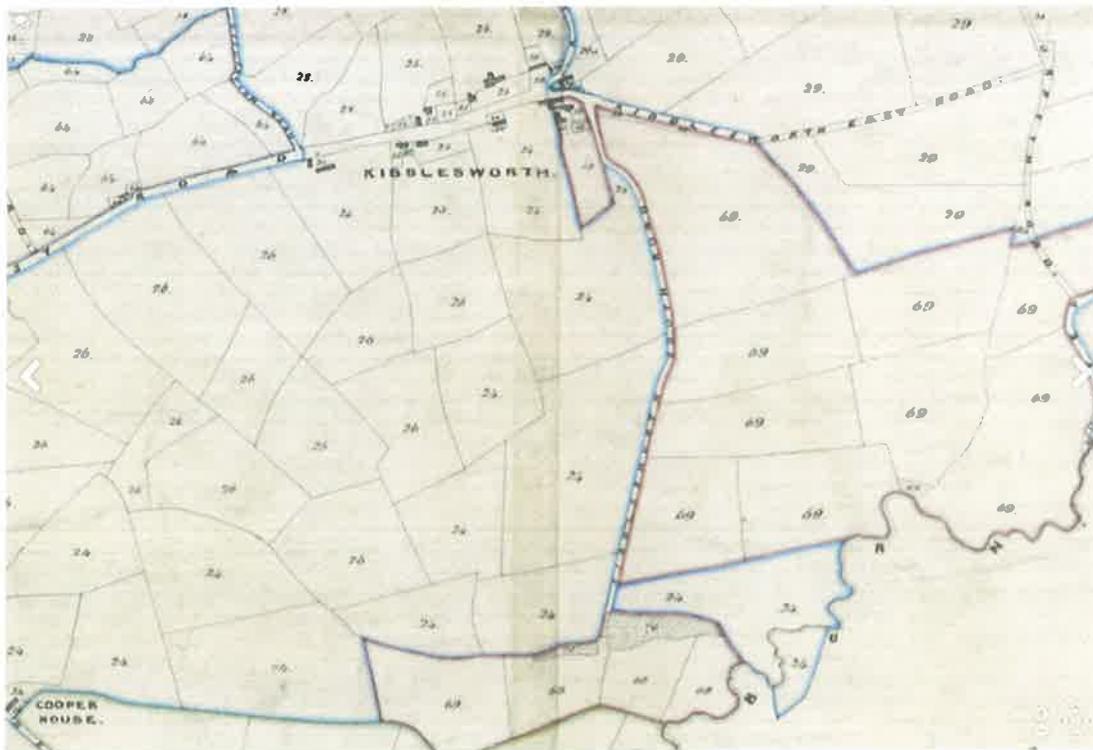


### 5 Tithe 1847

#### Overview

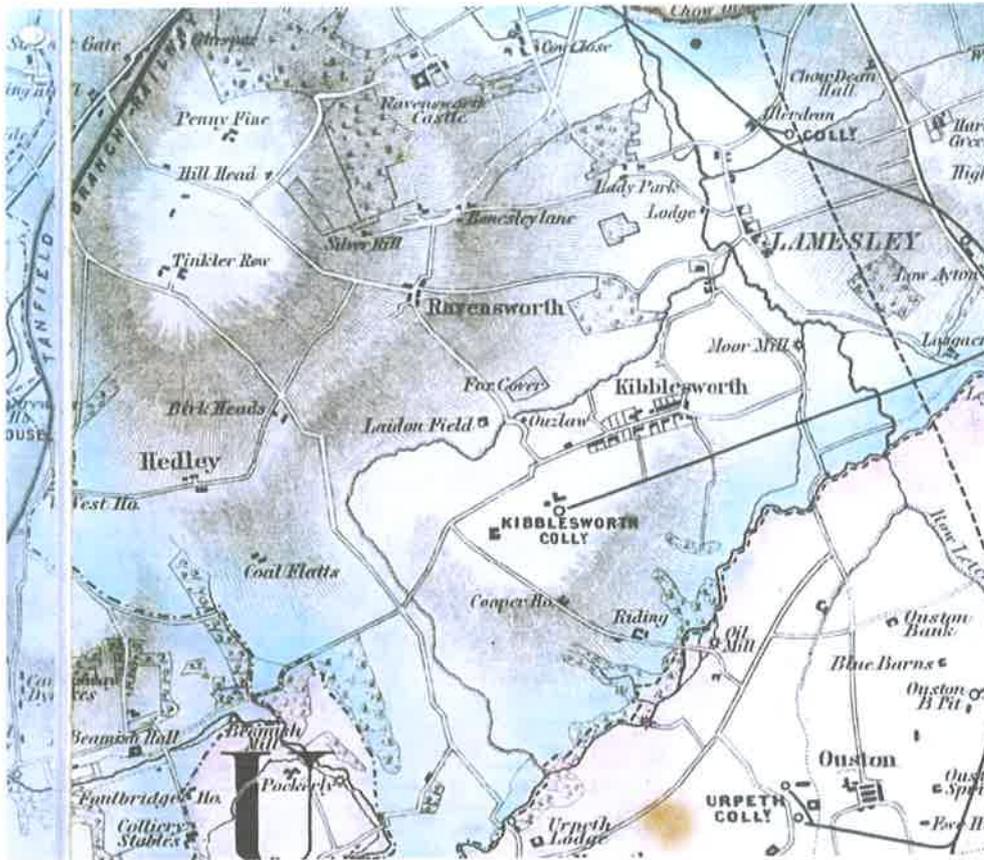


#### Detail



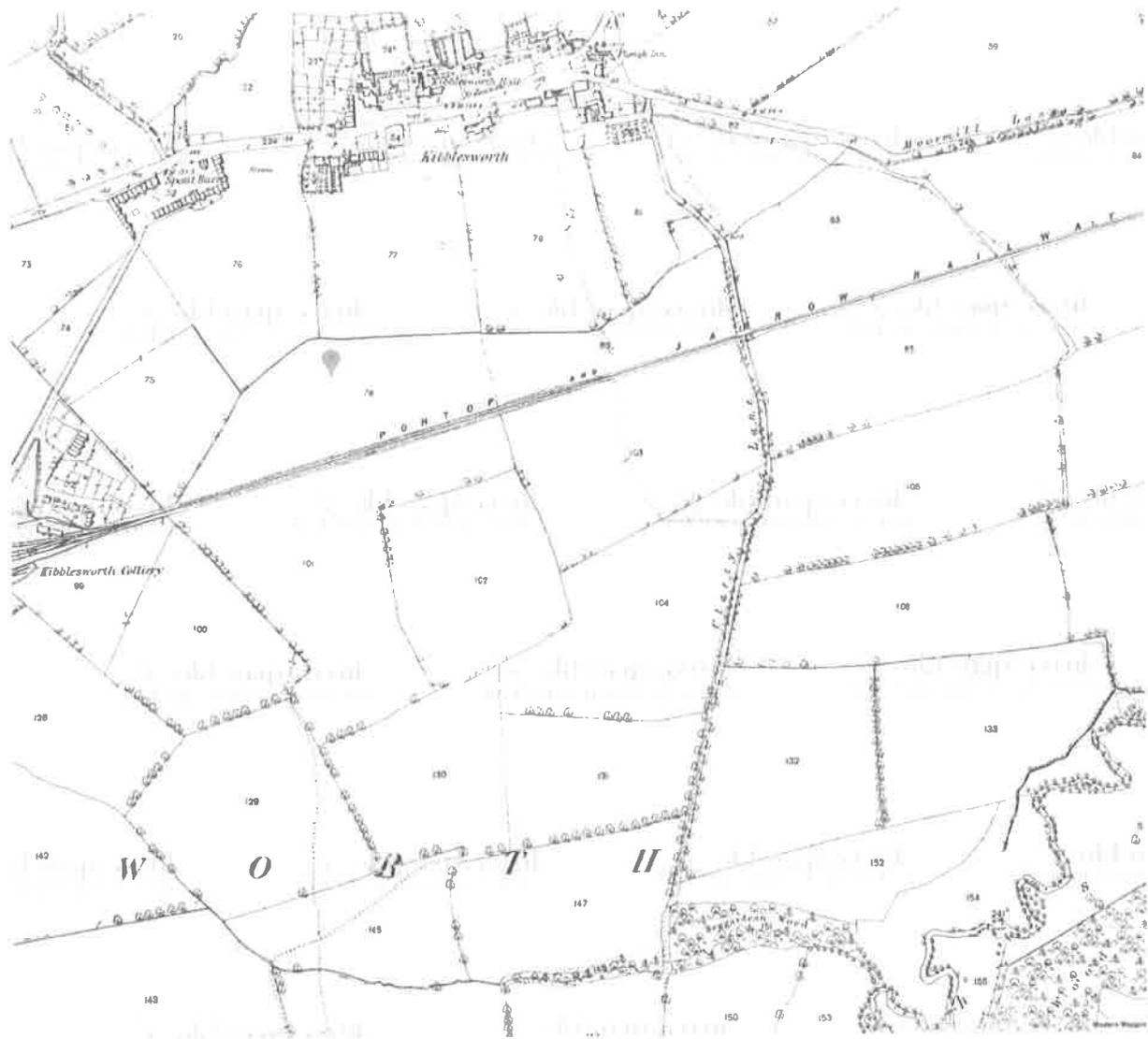
6 Bell 1850

northern coalfield, in the counties of Northumberland & Durham. Includin...



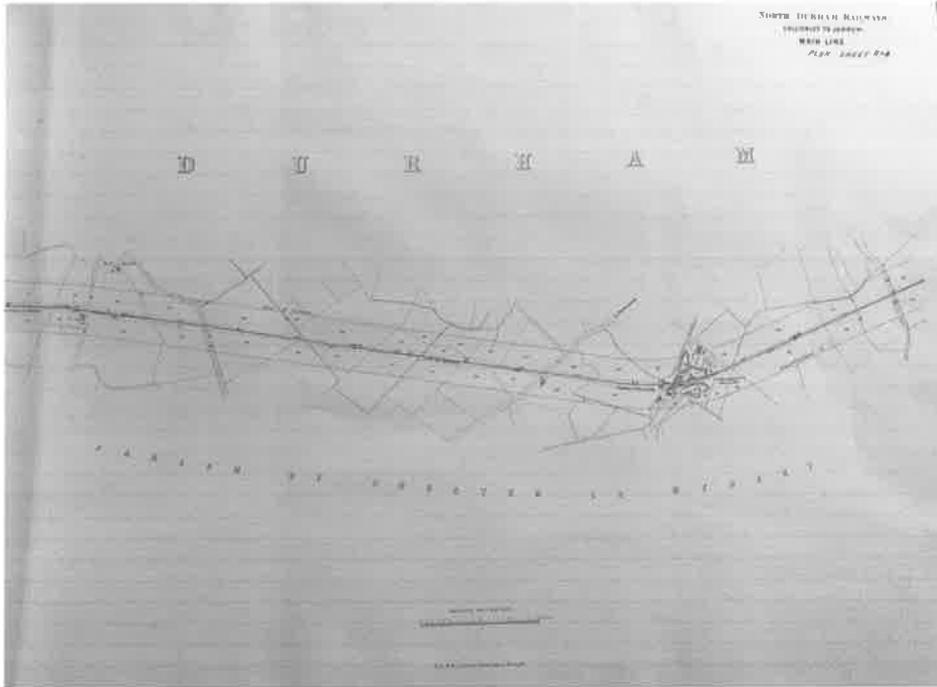
**7 Ordnance Survey 1<sup>st</sup> edition**

Clarty Lane is clearly labelled, but not numbered.

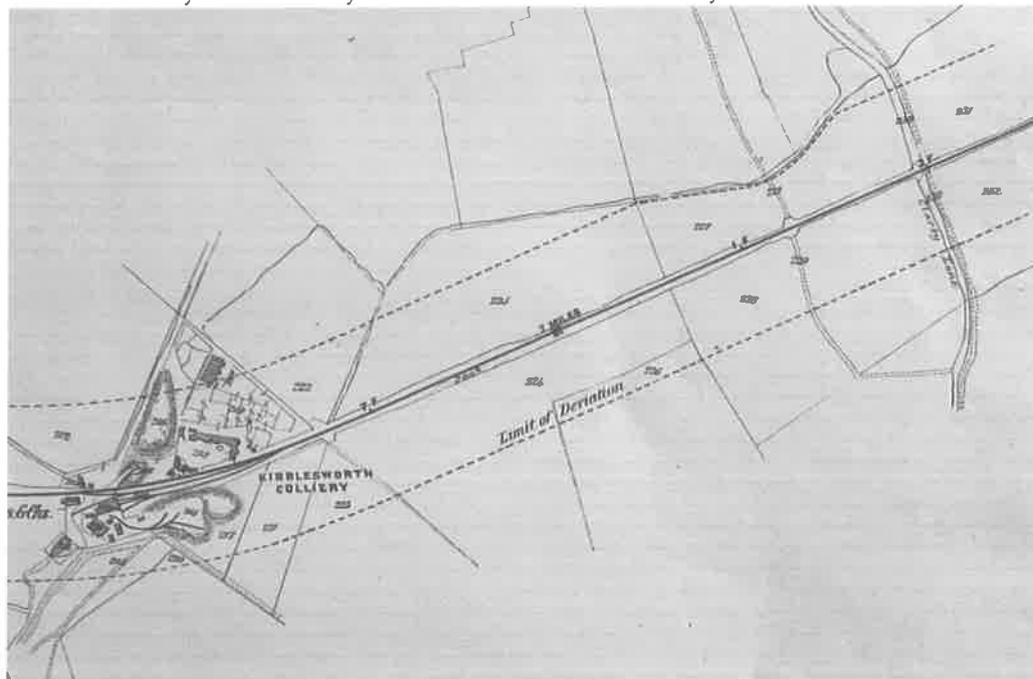


**8 Railway Plan Q/D/P 271** 1863 North Durham Railway from South Medomsley Colliery to Jarrow via Dipton, Crook Gate Morley Hill, **Kibblesworth Colliery** etc., With branches from Colliery to South Pontop Colliery from Burnopfield to North Eastern Railway at Consett, from Pelaw to Jarrow, and from Springwell Cottage to Washington, With location plan by John F. Tone, 30 November 1863

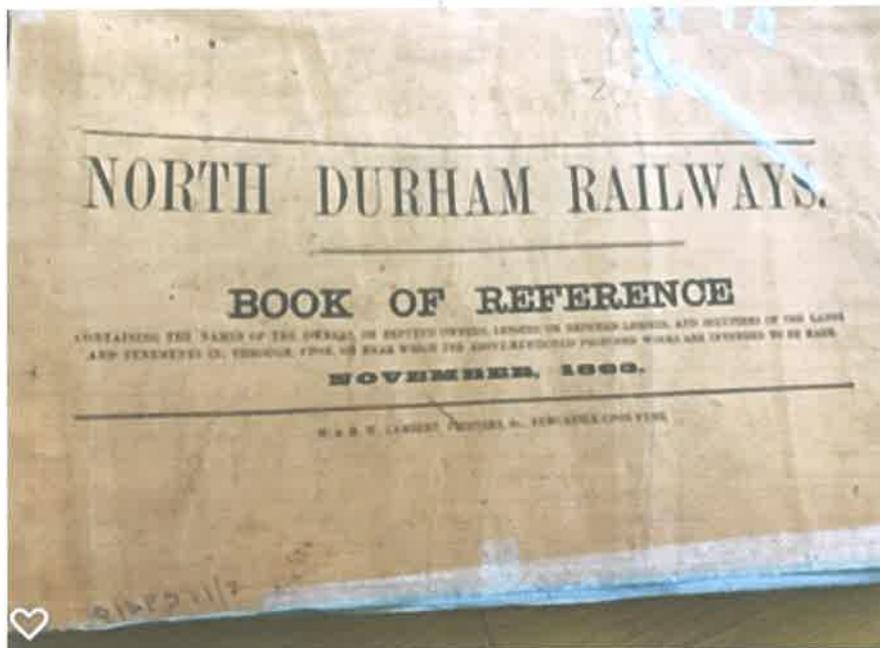
Overview sheet 4



Detail – Clarty Lane clearly shown both sides of railway as 230



## Reference book



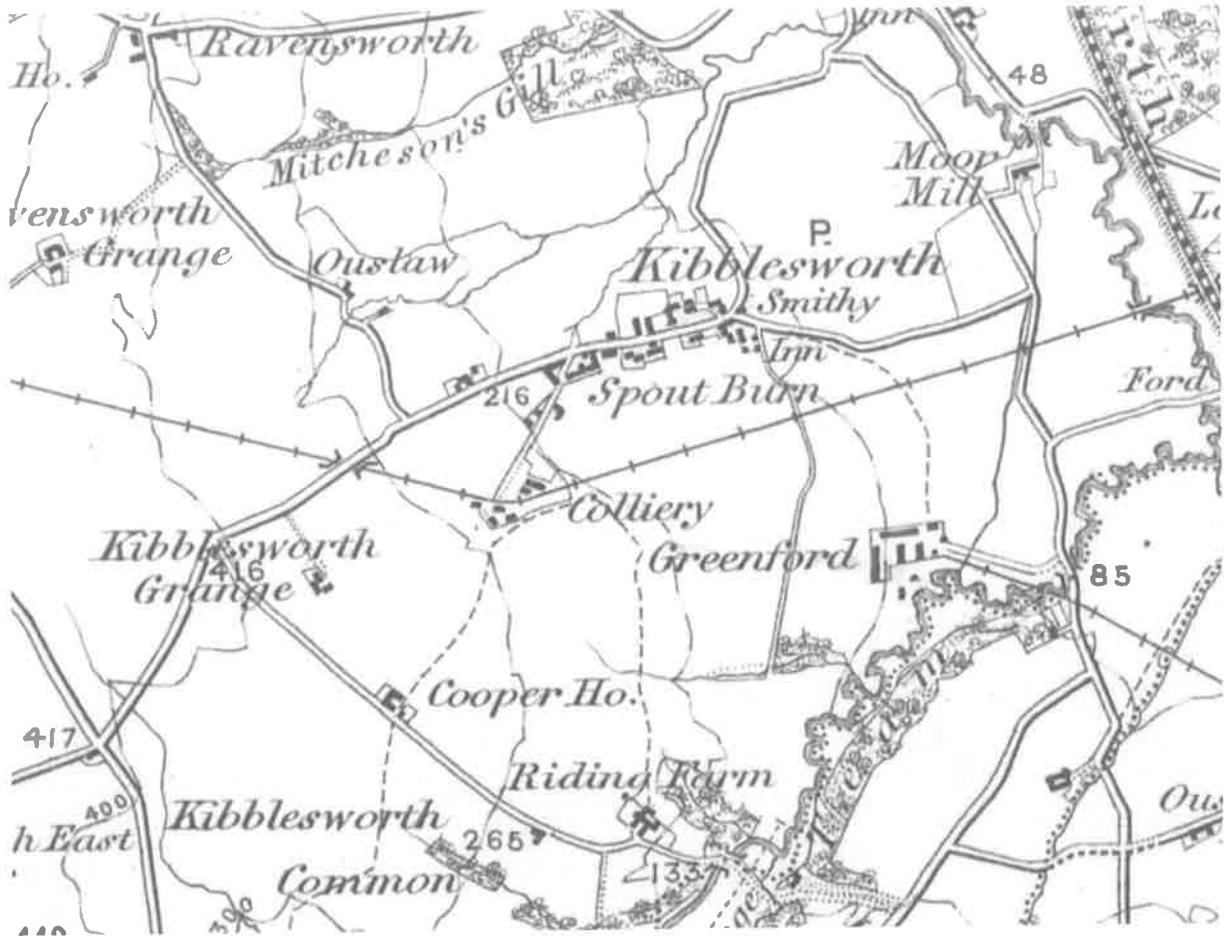
## 230 Bridle Road, public

THE PARISH OF		<i>Chester-le-Street</i>	IN THE COUNTY OF DURHAM	
SUMBER ON PLAN.	DESCRIPTION OF PROPERTY	OWNERS OR REPUTED OWNERS	LESSEES OR REPUTED LESSEES.	OCCUPIERS
226	Arable field	The Right Honourable Lord Rainsworth		William Anderson
227	Arable field	The same		William Anderson
228	Arable field	The same		William Anderson
229	Passengers Road	The same		William Anderson
230	Bridle Road	The same and Galvoly Bewicke Bewicke		The Public
231	Pasture field and footpath	Galvoly Bewicke Bewicke	Thomas Robson	Thomas Robson
231 <sup>a</sup>	Stables and Railway	Galvoly Bewicke Bewicke		John Lloyd, William Hill, William Wood, and Charles Wood, Robson
232	Arable field and footpath	Galvoly Bewicke Bewicke	Thomas Robson	Thomas Robson
233	Dirt road	Galvoly Bewicke Bewicke		The Public
234	Arable field	The Right Honourable Lord Rainsworth		Thomas Robson

## 9 Ordnance Survey topographical 1864



12 OS one inch England and Wales 1898, sheet 20 Newcastle upon Tyne  
 Outline with key, shows alleged route as unmetalled road.

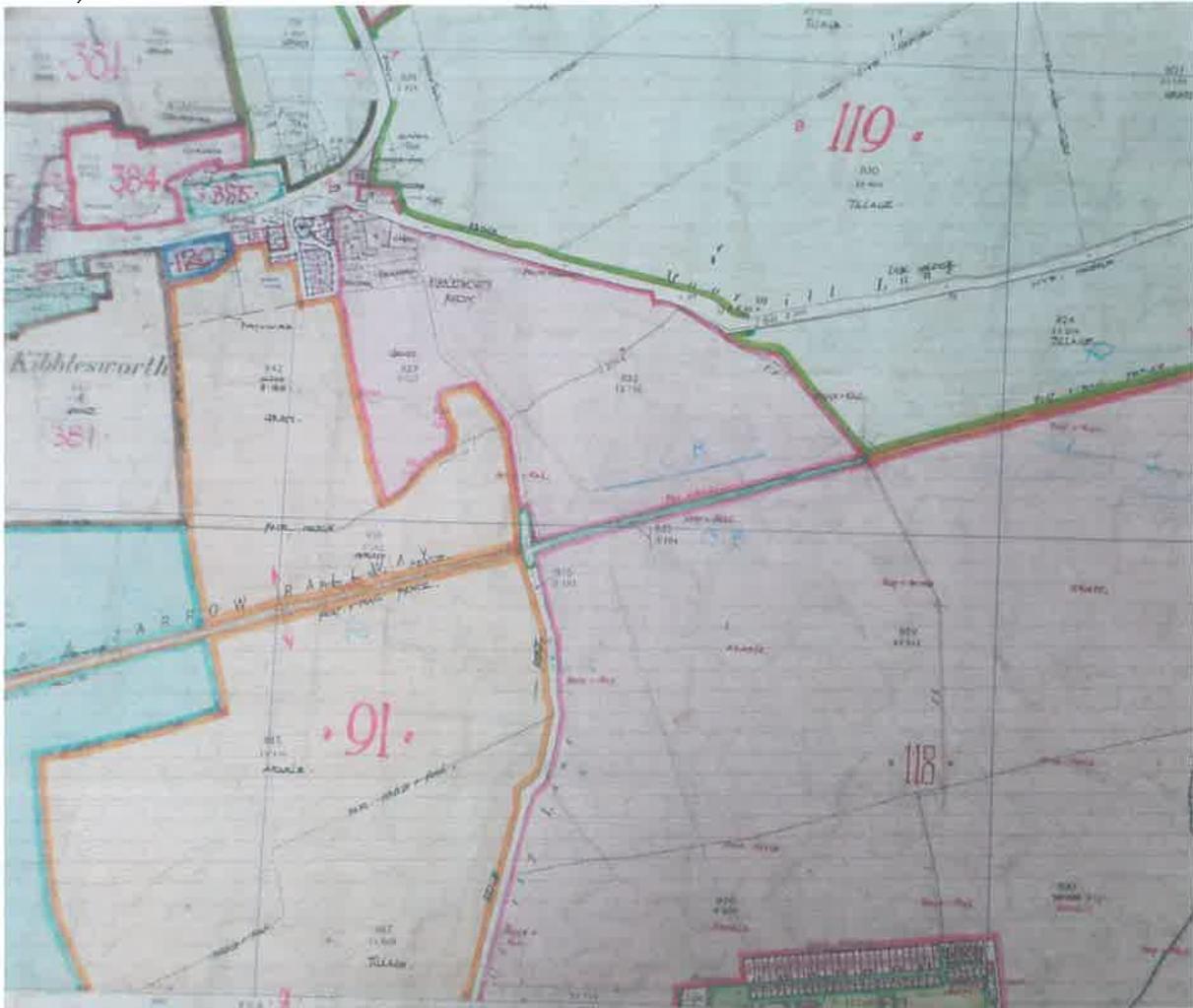


Metalled Roads: First Class	5 (Mile distance) (Altitude) 211	Fence	Lined	Church or Chapel with Tower	⊕
" " Second Class				" " " Spire	⊙
" " Third Class				" " without Tower or Spire	+
Unmetalled Roads				Windmill	⊕
Footpaths				Letter Box	L.B.
Railways, Single Line			Level Crossing	Contours	300 200
" Two or more Lines			Getting	Boundaries, County	- - - - -
Mineral Lines and Tramways			Embankment	" Parish	- - - - -
			Bridge Over	At Villages	Post Office P.
			Bridge Under		Post & Telegraph Office T.

Rivers and Streams when exceeding 15 feet in width are shewn with two lines.  
 For other information see Characteristic sheet.

### 13 1910 Finance Act plan

Clarty Lane is a white road from just north of the old railway line. Above the track passes through plot 118. I have been unable to identify the award book (not any Chester le Street books)



**14 OS 6 inch 1944**

Northern aspect not labelled FP, distinct from 2 neighbouring tracks



**15 Photographic evidence**

Start of route leaving Moormill Lane east of Kibblesworth, the track is well footed .....



...with evidence of a stoned surface. Good width throughout (looking back to road) lower left



Track crosses the disused Railway line, wide, stoned, ditch to one side, avenue of mature trees

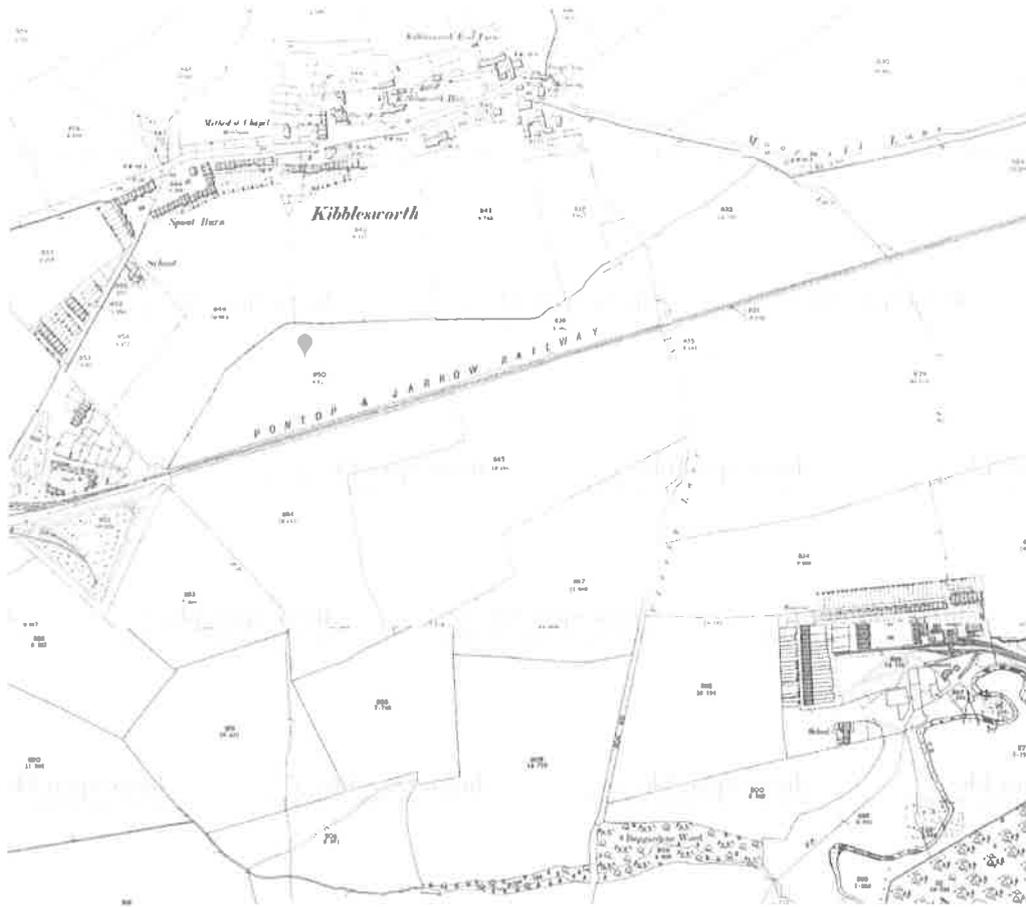


Excellent stoned surface.

Looking back to end of track leaving Beggardene Wood



10 OS 1896 1:2,500 Sheet  
Still clearly marked



11 OS 1898 1:10,500

Clarty Lane still clearly marked





KIBBLESWORTH

Page 37

COOPER HOUSE.

丁 四 田

And whereas I find that the estimated quantity in Statute measure of all the lands of the said Chapelry is as hereinafter next mentioned.

Arable land	3918. 6. 33
Meadow or Pasture	1981. 2. 39
Woodlands	637. 1. 33
Buildings Highways and Waste	165. 1. 7
	<u>6702. 3. 24</u>

And whereas I find that the Tithes of Corn Grain and Hay arising or accruing upon certain lands of the said Chapelry situate within the Township of Kibblesworth and formerly parcel of Blackburn Tith, otherwise called Beamish East moor and containing by estimation Two hundred and fifty one acres and thirty four perches of the whole of which John Eden of Beamish Tith in the said Chapelry Esquire is owner; and the Tithes of Corn Grain and Hay arising or accruing upon certain other lands of the said Chapelry containing by estimation Four thousand five hundred and eighty one acres one rood and thirty one perches of the whole of which The Right Honourable Thomas Henry Baron Ravensworth of Ravensworth Castle in the said Chapelry is owner have been absolutely merged and extinguished in the freehold and inheritance of the lands from which the same respectively arose and were issuing.

And whereas I find that there is an ancient and laudable custom that all the occupiers of the ancient inclosed lands in the Township of Hordley parcel of the lands of the said Chapelry or that some or one of them on behalf of all of them should pay to the Impropriator of the Tithes of the said Township or his Successor or Assignee the annual sum of Two Shillings and two pence instead of the Tithes of Hay arising or accruing upon all the ancient inclosed lands of that Township; and that all the occupiers of the ancient inclosed lands of the said Township of Kibblesworth other parcel of the lands of the said Chapelry or that some or one of them on behalf of all of them should pay to the Impropriator of the Tithes of the said

LAWDOWERS.	OCCUPIERS.	Number referring to the Plan.	NAME AND DESCRIPTION OF LANDS AND PREMISES.	STATE OF CULTIVATION.	QUANTITIES OR MEASURES.			PAYABLE TO the Count of the County of Middlesex.			REMARKS.			
					A.	R.	P.	S.	D.	S.		D.		
					Brought forward			1534	1	53	3	17	6	
Right Honorable Thomas Henry Baron Ravensworth (Cont <sup>d</sup> )	Bartholomew Gundy	20	Bainley lane south farm		59	3	7	4						
	Mark Snowden	21	Havensworth town farm & premises		215	1	1	11						
	William Richardson	21a	Small garden at Havensworth		1		15							
	Robert Swan	22	Mitcheldsens lands & premises		48	1	25	4						
	Edward Young	23	Havensworth farm & premises		249			12	1					
	Joseph Temperley	24	Copice house, Kibblesworth south farms		279	2	19	11	1					
	Lessee of Kibblesworth Colliery	25	Kibblesworth hall closes & premises		24	5	24							
	Henry Southen	26	Kibblesworth grange farm & premises		178	1	37	7	6	1				
	James Hylam	27	Late General Mordaunt's land & premises		12	2	25	2					15	
	George W. Southen	28	Cusfaw & Kibblesworth hall farms		91	1	56	15						
	Thomas Hensides	29	Kibblesworth north farm		95	2	30	6						
	William Taylor and Company	29a	Public house close & premises		1	2	25							
	John Threlaway	30	Jamesley south farm & premises		196	2	25	19						
	George Swiddell	31	Moore mill farm & premises		47	5	9	9						
	William Wharton Burdon Esquire	32	Long acre & Howliffden farms & premises		384	5		1	7					
	Thomas Baber	33	Trunkish farm & premises		189		4	12						
Samuel Kent	34	Wickenton closes & premises		9	5	24								
Mannah Metcalf	35	High Eighton farm & premises		154	1	35	9							
Thomas Robson	36	Harlow green farm & premises		113	2	38	7							
Thomas Sowebly	37	Greenwell house farm & premises		156	3	27	10							
Isabella Stephenson	37a	Red Robsons cottage & garden				2	3							

LANDOWNERS	OCCUPIERS	Nos. referring to the Plan.	NAME AND DESCRIPTION OF LANDS AND PREMISES	STATE OF CULTIVATION.	QUANTITIES IN SEVERAL MEASURES.			PAYABLE TO the County of Surrey			PAYABLE TO the County of Middlesex			REMARKS			
					S.	R.	P.	S.	R.	P.	S.	R.	P.				
			Brought forward		20	.	28						1	5	6		
John Bowes Esquire (Cont <sup>d</sup> )	Lessee of Madley Hill Collary	56	Part of handy gate five house farms		71	3	20						11			✓	
	John Bowdler	57	Madley west house farm & premises		290				14		1	2	6	25	12	✓	
	Thomas Hoker	58	Madley town farm & premises		281	3	22		12		1	3	9	20	9	✓	
	Lessee of Madley Hill Collary	59	Buck heads farm & premises		7	1	15							6		✓	
	John Watson	60	Madley hill farm & premises		134	1	6		9			2	6	14	2	✓	
	John Bowes Esq <sup>r</sup>	61	Madley woodlands		34	1	29										
					514	3	57		1	15		2	8	9	70	15	
Combert of Gidside Chapel	Henry Sulley	62	Laden field farm & premises		60				5		£			7	14		
John Carr Esquire	James Nylam	63	Kittlesworth common allotment		12	3	20							1	17		
The Honorable Henry Thomas Liddell M. P.	Mess <sup>rs</sup> Henderson	64	Kittlesworth farm & premises		80		11		6		£			11	5		
The Thomas John Cawering Bart.	George Atkinson & others William Hindmarsh	65	Blackton field allotment		41	2	8							5	5	1	✓
	John White	66	Ravenworth field & premises		9		17		2		£			1	19		
	John White	67	The hagg fields		21	1	14							6	16		
					71	3	39		2					14	3	6	
The Thomas John Cawering Baronet and John Bowdler Esquire	John White	68	Lamley pasture farm & premises		60	1	11		10		£			11	9		
Calverley Bewicke Bewicke Esquire	Hull Hobbs	69	Kittlesworth farm & premises		159	3	19		12					22	6	✓	
	Calverley B. Bewicke Esq <sup>r</sup>	70	Plantations in the Kittlesworth farm		2	3	12										
					162	2	51		12					22	6		
Margaret Bewicke	George Hedley	71	The Kiding farm & premises		210		35		15		1	16	9	51	12	✓	





CHARACTERISTICS AND SYMBOLS FOR BOUNDARIES:—

Group	Group	⊙	Municipal Wards	W	Change of Boundary indicating the point at which the character of the boundary changes	U	Any parcel is numbered thus	27
Avonshire	Parliamentary	C	Urban Districts	D	to show its position in relation to the Area of the	U	to show its position in relation to the Area of the	28
Manor	Manor	F	Civil Parishes	P	Independent (Site of)	U	to show its position in relation to the Area of the	29
Manor	Manor	M	Rural Districts	R	Departmental Station	U	to show its position in relation to the Area of the	30
					For Low Waters			

Printed and Published by the Director General of the Ordnance Survey Office, Southampton, 1929.  
 The Altitude is given in Feet above Ordnance Survey Datum, which is about 0.66 of a Foot below the general Mean Level of the Sea.  
 Altitudes indicated thus: 100.00 refer to Bench Marks on Buildings; while those marked thus: 100.00 refer to surface level.  
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In the Rural District of Chester-le-Street

Name of Path Clarty Lane

Status Footpath

Ordnance Sheet—Durham (6') VI S.E. and XII N.E. (2 1/2') 45/25

1. Starting Point Unclass. Rd. 6/9 East end of Kibblesworth

2. Description of Route From K.G. south alongside pasture to K.G. and notice board, level crossing with notice board, and then K.G. and notice board. Along enclosed lane south to K.G. at entrance to Beggardene Wood. Continues through and out of wood to K.G. at Jctn. with F.P. No. 32.

3. Ultimate Destination F.P. No. 32 south of Beggardene Wood

4. Details of Features 5 Kissing Gates  
3 Notice Boards

5. Width of Path Undefined

6. Type of Construction Earth, grass and ash ballast

7. Sections Metalled

8. Sections Ploughed

9. General Condition of :

(a) Path F. Good

(b) Stiles and Gates Good except for last two K.Gs.

(c) Bridges

(d) Stepping Stones

10. Details of any notice boards One notice board north of level crossing states "Warning - Dangerous crossing 33 yds ahead". One notice board south of level crossing states "Warning - Dangerous crossing 17 yds ahead". One notice board on level crossing which is usual warning against trespassers.

11. Included in 1932 Survey of Rights of Way.

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User	Do you use the route	How often	Why use it	How do you use it	Any obstructions	Did you ask permission	Are there any notices on route? Have you been stopped from using it?	Private Access right across land	Any other information
User 1	Yes	1995-2019 Several times a year.  This equates to 24 years of use during the relevant period.	Pockerly to Kibblesworth.	Foot Cycle	None stated.	No	No	No	Route used A-B & B-A
User 2	Yes	1980-2019 From weekly to once monthly.  This equates to 39 years of use during the relevant period.	Pockerly stables to Lamsley.	Foot Horseback cycle	Unable to access when open cast mining was process.	No	No	No	Route used A-B & B-A
User 3	Yes	2005-2019 Less than monthly.  This equates to 14 years of use during the relevant period.	Pockerly to Kibblesworth.	Foot Horseback cycle	None stated.	No	No	No	Route used A-B & B-A

User 4	Yes	1980-2010 Less than monthly.  This equates to 30 years of use during the relevant period.	Pockerly stables to Lamsley	Foot Horseback	None stated	No	No	No	Route used A-B & B-A
User 5	Yes	1980-2010 Less than monthly.  This equates to 30 years of use during the relevant period.	Pockerly stables to Lamsley	Foot Cycle	None stated	No	No	No	Route used A-B & B-A
User 6	Yes	2008-2009 Less than monthly.  This equates to 1 year of use during the relevant period.	Harlow Green-Beamish	Horseback	Stiles Rubbish	No	No	No	Safer hacking, less road to ride on.

User 7	Yes	2007-2009 A few times a month.  This equates to 2 years of use during the relevant period.	Harlow Green-Beamish	Horseback	Stiles	No	No	No	Access to Bridle Path would be beneficial as it would mean we would have less road work.
User 8	Yes	2003 for a couple of years. Once or twice a month.	Bowes Railway to Beamish	Horseback	Stiles Dumped rubbish	No	No	No	This route would be beneficial as it would mean less road work for horse and rider so a lot safer.
User 9	Yes	2007-2009 Monthly.  This equates to 2 years of use during the relevant period.	Harlow Green-Beamish	Horseback	Stiles	No	No	No	Access to Bridle Path would be beneficial as it would mean we would have less road work.

User 10	Yes	2007-2009 A few times a month.  This equates to 2 years of use during the relevant period.	Harlow Green-Beamish	Horseback	Stiles Fly tipping	No	No	No	Access to Bridle Path would be beneficial as it would mean we would have less road work.
User 11	Yes	1992-1994 Less than monthly.  This equates to 2 years of use during the relevant period.	Birtley -Beamish	Dog walker	None stated	No	No	No	Access to Bridle Path would mean it would be safer when out.
User 12	No	I have not used the way personally as it has not been accessible whilst I have been riding, however I would like too.	I would like to ride from Beamish to Springwell.	Horseback	N/A	N/A	N/A	N/A	As a junior rider I would like safer hacking and more bridle paths.

<b>User 13</b>	Yes	2015-2019 Weekly  This equates to 4 years during the relevant period.	Sunniside to Bowes Valley Reserve.	Horseback	Stiles Large stones Chiccanes	No	No	No	
<b>User 14</b>	Yes	2015-2019 Weekly  This equates to 4 years during the relevant period.	Sunniside to Bowes Valley Reserve.	Horseback	Stiles Large stones Chiccanes	No	No	No	

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Landowner Evidence Table

Owners and Occupiers of the land the claimed right of way runs across	Ownership and control of claimed route	Do members of the public use this route?	Have you erected signs warning people not to cross your land?	Have you stopped people crossing your land?	Have you ever obstructed the route?	Have you ever put gates or stile on the route?	Have you deposited s31(6) HA 1980 Statement/declaration?	Have you required people to ask for your permission before crossing your land?	Additional Information
Landowner 1	Title Deed TY338951	Yes Often	No	No	No	No	No	No	I have no objection to the path
Page 53 2	Title Deed TY148085								Has farmed the land for over 50 years, it has never been a bridle path. It is a track from the farm buildings that stood on the land that is now farm buildings. The track only went from the farm yard to the fields. The gate on MoorMill Lane was only put in after the

									<p>Steading was demolished to provide an entrance. Creating a bridleway is going to give access to cars/motorbikes which spoils the area and the walks for genuine country ramblers.</p>
--	--	--	--	--	--	--	--	--	--

**Common frog**

With wetlands in decline nationally, the wetlands at Kibblesworth attain more importance than ever. Look for the swarming tadpoles in April and the emerging juveniles, still with remnants of tails in May and June.



**Smooth newt**

Newts were once common and widespread, but have suffered due to the decline of wetland areas in which to breed. Unlike frogs, they lay their eggs singly under leaves.



Common vetch

Cowslip

Brown hare



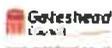
SITA UK delivers a wide variety of recycling and waste management services to businesses and residents throughout the UK.

Our services include: recycling, composting, business waste, security shredding, residential waste, energy from waste, green energy generation, landfill engineering, environmental compliance, bulk haulage, street cleansing, civic amenity site management, and transfer station management.

For more information please contact us on: **0870 421 1122.**

# A Gateway to Nature

## Bowes Valley Nature Reserve



## Welcome to Bowes Valley Nature Reserve

This was the site of a clay pit and brickworks in an area with a history of coal mining. The clay pit was used in the 1990s as a landfill site and has been gradually restored by the waste management company Sita UK.

It is now a nature reserve with a network of new public rights of way forming a green space for people and wildlife.

As you walk across the site you will see nature starting to take hold, with skylarks singing high overhead and wildflowers growing in the meadows. The information boards show the birds, flowers and other wildlife to look out for.

You will also see evidence of the landfill management systems, where liquid is collected and piped to the adjacent water treatment works and landfill gas is collected and used to generate green energy which is fed into the national grid.

Bowes Valley Nature Reserve is part of the Great North Forest, with large areas of trees planted with grant aid from the Forestry Commission. Representatives from the Great North Forest, Gateshead Council and other local groups were closely involved in Sita's design of the reserve and continue to be key to the ongoing management.





**REPORT TO RIGHTS OF WAY COMMITTEE**

**15<sup>th</sup> July  
2019**

**TITLE OF REPORT:** Progress of Rights of Way Matters

**REPORT OF:** Strategic Director, Corporate Services and Governance and Strategic Director, Communities and Environment

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**Purpose of the Report**

1. To update Committee on the progress of Rights of Way cases, plus the principle works carried out on the network between March 2019 and July 2019.

**Background**

2. The rights of way matters and completed matters are set out in Appendix 2.

**Recommendations**

3. It is recommended that the Committee note the report and the updates highlighted in bold.

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Contact: Umi Filby extension 2219 and Zoe Jones extension 3094

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**1. FINANCIAL IMPLICATIONS**

Nil

**2. RISK MANAGEMENT IMPLICATIONS**

Nil

**3. HUMAN RESOURCES IMPLICATIONS**

Nil

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil

**6. SUSTAINABILITY IMPLICATIONS**

Nil

**7. HUMAN RIGHTS IMPLICATIONS**

Nil

**8. WARD IMPLICATIONS**

Chopwell and Rowlands Gill, Blaydon, Ryton Crookhill and Stella, Whickham North, Birtley, Lamesley, Crawcrook and Greenside, Dunston Hill and Whickham South and Sunnyside, Winlaton and High Spen

**9. BACKGROUND INFORMATION**

Nil

## APPENDIX 2

Item No	Case	Ward	Application/ Proposal	Progress/Action
1	North View	Winlton & High Spen	Definitive Map Modification Order	The order has been made but objections have been received. The Order will need to be sent to the Secretary of State for the Environment, Food and Rural Affairs. This is being prepared to be submitted in due course.
2	Application to add a bridleway between RB 44 and Derwent Walk.	Whickham North, Blaydon	Definitive Map Modification Order	The definitive map modification order has been drafted and waiting for instruction to advertise it.
3	Claim at Thomas Street Eighton Banks Right of Way 62	Lamesley	Definitive Map Modification Order	The order has been made but objections have been received. The papers have been prepared and the Order will be sent to the Secretary of State for the Environment, Food and Rural Affairs for confirmation in due course.
4	Claim for a Footpath at Sherburn Towers, Rowlands Gill	Rowlands Gill, Blaydon	Definitive Map Modification Order	An application was received on the 18 <sup>th</sup> August 2015 to record a footpath onto the definitive map and statement at Sherburn Towers, Rowlands Gill, which was approved by committee on 18 <sup>th</sup> March 2016. The order was made on the 9 <sup>th</sup> June 2016 and the objection period for that order expired on 3 <sup>rd</sup> August 2016. One objection was received to the order, which was not withdrawn. The papers have been prepared and the order were sent to Secretary of State for the Environment, Food and Rural Affairs on 18 <sup>th</sup> December 2018. <b>We now have a date for a public local inquiry, which will be on the 10<sup>th</sup> December 2019.</b>
5	Creation Agreement for Footpath Ryton 120	Ryton	Public Path Creation Agreement	Committee approved the making of a public path creation agreement on 12 <sup>th</sup> October 2012. The draft agreement was sent to the landowner's agent on the 31 October 2017 but they have indicated that they will not be responding until opportunities for the land to the south of the development site are considered.

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### Completed Matters

1	<del>Definitive Map</del>	<del>To bring the definitive map and statements into line with the orders and ensure that they are up to date are reviewed and meet the statutory requirements.</del>		<del>A legal event modification order was made on the 13<sup>th</sup> June 2018 and the maps and statements were consolidated on 31<sup>st</sup> May 2018 and advertised on 6<sup>th</sup> July 2018.</del>
2	<del>Creation Agreement dated 4<sup>th</sup> January 2018 between the Council and Durham Wildlife Trust relating to Bridleway Blaydon 124</del>	<del>Blackhall Mill, Blaydon</del>	<del>Creation Agreement</del>	<del>Committee approved the making of a creation agreement on the 7<sup>th</sup> November 2016 and a creation agreement was completed on 4<sup>th</sup> January 2018 to create Bridleway Blaydon 124 at Milkwellburn Wood.</del>

	<b>Milkwellburn Wood, Blackhall Mill, Gateshead</b>			
--	---	--	--	--

**PRINCIPAL WORKS CARRIED OUT ON THE RIGHTS OF WAY NETWORK – March 2019 and July 2019.**

<b>March 2019</b>	<b>Derwent Country Park, Rowlands Gill. Bridleway Blaydon 85</b>	Entrance improvements.
<b>March 2019</b>	<b>Watergate Park, Wickham. Footpath Wickham 87</b>	Replaced footbridge.
<b>April 2019</b>	<b>Galloping Green Road, Eighton Banks. Bridleway Lamsley 70</b>	Construction of new horse stile and kissing gate.
<b>May 2019</b>	<b>Annual strimming programme commenced</b>	As agreed with contractor.
<b>May 2019</b>	<b>Blaydon Burn, Blaydon Bridleway Gateshead 29</b>	Surface and drainage improvements.
<b>May 2019</b>	<b>Golf course entrance, Wrekenton Footpath Gateshead 4</b>	Entrance improved, Gate leaf replaced.
<b>May 2019</b>	<b>Hexham Old Road, Blaydon Footpath Blaydon 96</b>	Repair to steps.
<b>June 2019</b>	<b>Dunkirk Farm, Eighton Banks. Footpath Lamsley 44</b>	Stile replaced.
<b>June 2019</b>	<b>Ryton Golf Course, Ryton. Footpath Ryton 75</b>	Surface improvements.

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Contact: Umi Filby extension 2219 and Zoe Jones extension 3094

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Nil

**2. RISK MANAGEMENT IMPLICATIONS**

Nil

**3. HUMAN RESOURCES IMPLICATIONS**

Nil

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil

**6. SUSTAINABILITY IMPLICATIONS**

Nil

**7. HUMAN RIGHTS IMPLICATIONS**

Nil

**8. WARD IMPLICATIONS**

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**9. BACKGROUND INFORMATION**

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## Current Matters

Item No	Case	Ward	Application/ Proposal	Progress/Action
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5	Creation Agreement for Footpath Ryton 120	Ryton	Public Path Creation Agreement	Committee approved the making of a public path creation agreement on 12 <sup>th</sup> October 2012. The draft agreement was sent to the landowner's agent on the 31 October 2017 but they have indicated that they will not be responding until opportunities for the land to the south of the development site are considered.

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## Completed Matters

None

**PRINCIPAL WORKS CARRIED OUT ON THE RIGHTS OF WAY NETWORK – July 2019 and November 2019**

July 2019 August 2019 September 2019	Annual Strimming Programme	As agreed with contractor.
September 2019	Footpath Lamsley 9, Sunnyside	Construction of 2 x stiles where they had been removed.
September 2019	Bridleway Felling 44, Lingey Lane to South Tyneside.	Removal of 4 x K barriers and 2 x metal chicane bollards.
October 2019	Bridleway Felling 44/3. Access from Ridgeway, Leam Lane.	Installation of handrail and repair to steps.