



Order Decision

Inquiry held on 28 January 2020

by Sue M Arnott FIPROW

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

Decision date: 09 April 2020

Order Ref: ROW/3193904

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981. It is known as the Northumberland County Council Definitive Map Modification Order (No 30) 2016 Byways Open to All Traffic Nos 20 & 17 (Parishes of Bamburgh & North Sunderland).
- The Order is dated 1 December 2016. It proposes to modify the definitive map and statement for the area by recording a byway open to all traffic from the B1340 public road south of Bamburgh, via Greenhill and Fowberry, to the U2018 public road at Shoreston Hall, as shown on the Order map and described in the Order schedule.
- There were four letters of objection and one representation outstanding when Northumberland County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.

Summary of Decision: Confirmation of the Order is proposed, subject to the modifications set out in the Formal Decision below.

Procedural Matters

1. I held a public local inquiry into the Order at County Hall in Morpeth on 28 January 2020, having visited the site of the claimed byway open to all traffic during the previous afternoon, unaccompanied. At the close of this event, none of the parties present requested that I make a further visit.
 2. This was the second inquiry held to determine this Order. The first was held by another inspector on 18 September and 24 October 2018. However, ill-health prevented him from completing his decision. It therefore became necessary to repeat the event in 2020.
 3. In the intervening period, one of the objectors (Mr Johnson) died. He had spoken at the first inquiry but obviously I was unable to hear his personal evidence at my inquiry. Unfortunately, the previous inspector's notes were not available to me but Mr Bell kindly provided a copy of his notes, these recording briefly Mr Johnson's contribution. In reaching my decision, I have taken this into consideration, together with comments submitted from all other parties, in these regrettable circumstances.
 4. At my inquiry, the order-making authority, Northumberland County Council (NCC), drew attention to a mistake that had been made in measuring the distances stated in the route descriptions in the Order Schedule. The figures given had been measured in yards rather than metres and therefore each needed to be corrected. No-one has suggested that this had caused the Order to be misleading when it is otherwise quite clear in its intention, nor has it
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resulted in prejudice to any party. I am therefore content to make the required corrections as appropriate.

The Main Issues

5. There are two main issues here: the first is whether the evidence shows that a public right of way for vehicles was once in existence along the Order route; the second is whether any such rights still exist today that should be recorded on the definitive map and statement. A third issue concerns changes to the details recorded in the definitive statement for the connecting public footpaths and bridleway that would be necessary as a consequence but this is essentially an administrative formality.
6. The Order was made by NCC under the Wildlife and Countryside Act 1981 (the 1981 Act) on the basis of events as specified in sub-section 53(3)(c)(i) and (iii), proposing to add to the definitive map and statement a byway open to all traffic (BOAT), that is "*a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used*"¹ along the route marked on the Order map as R-S-T.
7. If I am to confirm it, I must be satisfied that the evidence available shows that the public rights of way described in the Order subsist when judged on a balance of probability.

Reasons

8. On the basis of the historical evidence it discovered, NCC concluded that public vehicular rights of way did (and still do) exist along the Order route, relying on the legal maxim '*once a highway, always a highway*'. Further, NCC considered that Section 67 of the Natural Environment and Rural Communities Act 2006 (the 2006 Act) does not affect the continued existence of such rights.
9. Sub-section 67(1) of that Act provides that upon commencement on 2 May 2006 any existing public right of way for mechanically propelled vehicles (MPVs) was extinguished if it was over a way which, immediately before that date, was not shown in the definitive map and statement or was shown as either a footpath, bridleway or restricted byway unless such rights were saved by virtue of falling into one of the categories for exemption.
10. NCC took the view that public MPV rights were not extinguished, having been saved by sub-section 67(2)(b) which provides as follows: "(2) Sub-section (1) does not apply to an existing public right of way if ... (b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 ... (list of highways maintainable at public expense)".
11. Consequently the Order was made to record a BOAT on the basis that a public vehicular right of way exists, that rights for MPVs have been saved, and that the route satisfies the description of a BOAT having the character of a way that is mostly used in the manner in which a public footpath or bridleway is used².

¹ Section 66 of the 1981 Act

² A characteristic of a BOAT established in the case of *Masters v SSETR* [2000] 2 All ER 788, (CA) [2000] EWCA Civ 249, (CA)[2000] 4 All ER 458, (CA)[2001] QB 151

12. Mr Kind and the Trail Riders' Fellowship (TRF) submit that the Order route is a carriageway over which full vehicular rights for the public remain. However, their position is that this is not a route which falls to be shown on the definitive map and statement since it fails the statutory test insofar as it does not fit the description of a BOAT.
13. In contrast, all other objectors challenge the existence of a public vehicular right of way over the central section between points I shall refer to as X (at Greenhill) and Y (at Fowberry). They point out that the unfenced track is open to the fields through which it passes and therefore of a quite different character to the two end sections. It is their case that no such through-road has ever existed, nor has any right of way been exercised by the public other than on foot and by horse riders from a nearby riding school.
14. Given the conflicting reasons for objection, for ease of reference in this decision (and intending no disrespect to any party), I shall refer to Mr Kind and the TRF simply as "the TRF" and to the other objectors (all of whom have an interest in land crossed by the Order route) as "the land-owners".

Historical documentary evidence

Highway records

15. The case in support of the Order route being a public carriageway throughout its length relies on documentary evidence dating back to 1827. In reaching a conclusion on whether or not a way has been dedicated as a highway Section 32 of the Highways Act 1980 requires me to take into consideration any map, plan or history of the locality, or other relevant document tendered in evidence, giving it such weight as is appropriate.
16. There is no doubt that the Order route is recorded as a highway maintainable at the public expense. That is not disputed. It has been included on the list of such roads³ kept by NCC since the version compiled in 1964; this describes the section in Bamburgh parish (R-S on the Order map) as U.2021 and that part in North Sunderland parish (S-T) as U.2018.
17. All later versions of this record show the two unclassified roads along this same alignment and, at some time in the past which cannot be ascertained for certain, the highway authority (NCC) has surfaced parts of these roads with tarmac, namely sections I shall call R-X and T-Z-S-Y (X, Y and Z being points I will add to the Order Map). In short, these are sections which lead from recognised public vehicular roads to Greenhill and to Fowberry respectively.
18. However, the version of the County Surveyor's record dated 1961 shows a different picture. The route from R via X does not proceed to point Y at Fowberry but takes a more direct line to point S. There is a spur which leads from S to Y along the Order route but the length running immediately eastwards from point Y is not recorded as being publicly maintainable. That situation is an exact reflection of the 1951 version of the Council's map.
19. Taking a step back even further in time, the record of publicly maintainable highways for which responsibility was transferred from Belford Rural District Council to NCC (the 'Handover Map' dated 1932), shows no connection at all

³ See paragraph 10 above.

between Greenhill and Fowberry⁴. Maps which were subsequently prepared by NCC under the 1935 Restriction of Ribbon Development Act (which are presumed to have been based on the Handover Map) show an identical gap⁵.

20. The obvious discrepancy between the 1930s and current (post-1964) records can only be explained in one of two ways: either there was a formal procedure that resulted in the central portion being 'adopted' as a publicly maintainable highway, or there was a mistake in drafting the post-1935 maps. In my view, the absence of any formal documentation to indicate the former, and an examination of the 1951 and 1961 versions of the map (both showing the maintainable highway along the line of a footpath⁶) weigh in favour of the latter.

Earlier evidence

21. The earliest evidence of the Order route as a physical entity is a map published by Greenwood in 1827/8. This shows the route from R through to T via S in its entirety in the category "cross roads", a term which has no clear definition. To add confusion, Greenwood also shows the route now recorded as Bridleway 10⁷ and a road via New Shoreston that connects with the Order route (at a point I shall call Z⁸) which today is accepted as being private.
22. Earlier commercial maps by Fryer (1820) and Cary (1820-1832) suggest the early nineteenth century was a period of significant change in terms of the highway network. No other contemporaneous documents have been submitted but it may be safe to conclude that a track has physically existed along the line of the Order route since 1828. What cannot be deduced with any confidence from the Greenwood map is whether that track was a public or private one.
23. Some 30 years later the Ordnance Survey (OS) identified the route clearly as a track on its First Edition 25" to one mile map of 1864/5. The accompanying 'Book of Reference' notes the Order route between R and X as "Private Road", between T and Z as "Public Road" and the various sections between simply as "road". Curiously, what is now the private road to New Shoreston was recorded as part of the same public road as T-Z.
24. It was not the role of the OS to determine the true legal status of the ways it recorded and therefore the descriptions cannot be regarded as conclusive. They may, however, be good evidence of the reputation of the way at the time (although mistakes are not unknown). The obvious conflict in the status of the New Shoreston road with its status today casts an element of doubt over the veracity of this evidence but, as far as the Order route is concerned, it is only T-Z which receives any support from the Book of Reference as a public road.
25. The layout of the track carrying the Order route does not change on OS map editions published in 1899 and 1925/6 through to twenty first century Explorer maps in 2000 and 2005.
26. The maps prepared under the 1910 Finance Act offer no support for a public way along the central section X-Y-S-Z, the track passing through various land

⁴ But includes a link from point S south westwards to the C64 Ingram Lane via what is now Bridleway 10 (Bamburgh Parish).

⁵ But no link to Ingram Lane from S.

⁶ A route depicted as a "FP" by earlier Ordnance Survey maps.

⁷ See Footnotes 4 and 5 above

⁸ This junction lies adjacent to Clashope Cottage, formerly known as Shoreston Cottage.

parcels but not being separated from them. The section between R and X is in fact excluded from adjacent land holdings, as is T-Z, adding to the inference that these two were regarded as highways and probably vehicular ones. It is interesting to note that the New Shoreston road is likewise excluded, again giving the impression that this was the continuation of the highway T-Z although other explanations are possible.

27. Thus, an examination of the evidence pre-dating the 1932 Handover Map reveals little of any great substance to support a public road beyond R-X and T-Z. Whilst the Order route appears to have been in existence as a physical track since Greenwood published his map in 1827/8, in my view reliance on this as evidence of a public vehicular road is somewhat thrown into doubt by the inclusion of the New Shoreston (apparently private) road and what is now Bridleway 10. As far as the Greenhill section (R-X) is concerned, its inclusion on the Handover Map is supported by the 1910 Act evidence, if not the OS Book of Reference whilst both sources support the southern section (T-Z). It is therefore easy to trace the origin of their inclusion in 1932.
28. The basis for the depiction of Z-S-Y (and Bridleway 10) cannot be explained by the earlier evidence although there is no doubt that the record shows these routes as being maintained at the public expense in 1932 whilst the New Shoreston road is not. There is no evidence to suggest any formal highway diversion took place in the early twentieth century and in the absence of any such proof I can place no weight on this theory at all.
29. More importantly, section X-Y is not shown as being maintainable at the public expense at that time. Nor was it subsequently included in the map drawn up under the 1935 Act as I noted above⁹ or on a map dated 10 January 1938 identified with a 'County Surveyor's Office' stamp.

The definitive map and statement

30. The first appearance of a part of X-Y was on NCC's 1951 Highways Map which connected the two end sections (R-X and T-Z-S) but via a route which was shown on the small scale OS base as a single dashed line, broadly between X and S but not via Y. This appears to be tagged with a question mark to which a comment "*check and connect if necessary*" appears to be attached. In the absence of any better explanation it seems to me that the connection was simply drawn to follow the underlying line on the base map.
31. In fact this line had appeared on earlier OS maps, it being marked on the 1899 and subsequent OS maps as a footpath (until the 1987 edition which failed to show it at all). The line was adjusted on the 1964 highways map, suggesting that a mistake had been discovered.
32. This is important because when preparations began for the first definitive map and statement¹⁰ in early 1950s, it is now accepted that known public roads were pre-drawn onto the maps supplied to local surveyors who were to record thereon any public footpaths, bridleways and 'roads used as public paths'. Since the relevant records show the surveyors completed their task in 1954, it is reasonable to deduce that the pre-drawn highways were based NCC's 1951 map.

⁹ See paragraph 19 above

¹⁰ Under the National Parks and Access to the Countryside Act 1949

33. It is therefore unsurprising to find the Order route pre-drawn in brown on the survey map but it is curious to note that this takes a line via point Y, not the direct line between X and S. That might be explained by the larger scale of the base map (at 1:10,560) annotating the direct line FP and perhaps prompting the draftsman to mark the Order route, being the more realistic position for a publicly maintainable road; indeed it may even have been the discovery of this mistake that resulted in the alteration which later appeared on the 1964 road map. However that is entirely supposition since there is no evidence to explain the depiction of the Order route on this survey map.
34. Irrespective of its brown colouring, it appears the Order route was surveyed as part of this exercise since field gates (FG) are marked along its length, at points X, Y and at three places between. The path identified by the surveyor in 1954 as "Footpath 1" in Bamburgh Parish was described as extending from Fowberry to Bamburgh, not from Greenhill as might have been expected if its start point was its junction with the brown road (U2021).
35. Although there was clearly a track in physical existence along the full length of the Order route with field gates (which would have permitted vehicular use), it does seem to me that the local surveyors were noting this as a public right of way on foot in Bamburgh Parish.
36. Once the definitive map moved to its draft, provisional and final stages, the Order route itself ceased to be shown at all, mostly probably because NCC regarded it as a publicly maintainable road on the basis of its 1951 road map (whilst noting its mistaken alignment at Fowberry). Footpath 1 and Bridleway 7 in Bamburgh (now 9 and 10) and Shoreston Footpaths 1 and 2 (now 10 and 9 in North Sunderland) all connect with the Order route. In the definitive statements for these paths, the Order route is described as "*the Greenhill-Saddlershall road*" and "*the Fowberry-Shoreston Hall road*".

Evaluation of the historical evidence

37. I start by according the most significant weight to the record that is regarded as conclusive, that is the definitive map and statement. Four public rights of way connect with the Order route, one of which is a bridleway. The logical deduction from this is that a public right of way for horse riders and (non-motorised) cyclists must exist in one direction or the other along the Order route, if not both. Unfortunately, I do not have before me the surveyor's notes for (what is now) Bamburgh Bridleway 10 to assist in establishing its original destination but the 1932 Handover Map had identified it as a part of the same publicly maintainable road as T-Z-S-Y.
38. Having examined the surveyor's notes for Bamburgh Footpath 1 (now No 9), it appears to me that there was a recognition that the public's rights on foot continued southwards via the Order route although the Handover Map had clearly *not* identified X-Y as a publicly maintainable road.
39. The definitive statements for the four connecting public paths refer to the Order route as a 'road'¹¹. This is not a description which originates from the local surveyor but must have arisen from NCC's own highway records.
40. The list of highways maintainable at the public expense is a document that records maintenance responsibility, not public rights. It is not conclusive of the

¹¹ Paragraph 36 refers

status of the roads that are shown. The TRF submit that the inference to be drawn is that the routes recorded are most probably public carriageways whilst NCC explain that in Northumberland there is no evidence to suggest public footpaths or bridleways were ever intentionally included on its list of publicly maintainable highways.

41. Although I recognise that (potentially) the highway authority's own records are a very strong piece of evidence supporting the Order, in this case I exercise caution when allocating weight for several reasons.
42. Firstly, such records were prepared principally for internal use by the highway authority; early versions were not openly in the public domain at the time and were not subject to direct public scrutiny.
43. Secondly, the various versions of NCC's highway map are not consistent. When traced back to the initial Handover Map in 1932, the Order route is *not* included in its entirety. Notes on the 1951 map and an unexplained addition with a further alteration in 1964 leave me with significant doubts over the recording of section X-Y as a publicly maintainable road.
44. Pre-1932 evidence supports the existence of a track along the full length of the Order route since 1828 at least, but evidence of a public carriageway as a through-route is, at best, dependent on a generous interpretation of Greenwood's map which itself contains ambiguities.
45. In these circumstances, I reject the TRF's assertion that the 'presumption of regularity' and the 'presumption of lawfulness' should operate here. In both cases, I consider there to be cogent evidence that shows, on a balance of probability, that X-Y was *not* considered to be a publicly maintainable highway in 1932 and that it was probably *not* a public carriageway at all. I find the evidence *does* point to a mistake being made that led to its inclusion in the 1964 and all subsequent records compiled under Section 36 of the Highways Act 1980 and preceding legislation.
46. I do, however, find there to be evidence that X-Y was reputed to be a public footpath (at least) in the 1950s when the definitive map was being prepared but that the mistake in the county's road record led to this being omitted. It is entirely possible that bridleway rights also subsisted at that time¹² as a continuation of Bridleway 10 but there is insufficient evidence before me to draw that conclusion on a balance of probability.
47. Having examined the evidence in some depth, I have less hesitation in concluding that sections R-X and T-Z-S-Y have been maintainable at the public expense since 1932 (at least) and that, on a balance of probability, they carry a public right of way for all types of traffic, despite both being cul-de-sac highways, albeit ones which serve to provide access to several properties. Both have been surfaced with tarmac by the highway authority at some stage in the past¹³, the obvious inference being that this was in recognition of a right of way for the public that would demand a treatment of that nature.
48. In summary it is my conclusion that, historically, a public right of way for vehicles and all other types of traffic has existed over parts of the Order route, specifically section R-X and T-Z-S-Y, but not between X and Y. I also agree with

¹² I have noted that field gates were recorded by the surveyor along the route, not stiles.

¹³ Mr Johnson reported being told by locals that the road to Fowberry was paved in 1954.

- NCC's view (as set out in my paragraph 10 above) that rights for MPVs have not been extinguished by the effect of the 2006 Act on account of these roads being included in NCC's list of maintainable highways. I must therefore go on to consider whether these two sections of the Order route qualify for recording on the definitive map.
49. Before doing so, I will also record my conclusion that the evidence is sufficient to show that the public have, long ago, established a public right of way on foot over the central section, X-Y. Consequently, I conclude that the Order should be modified to record this status.
50. It was the evidence of Mr Johnson¹⁴ that he and his family had farmed at Fowberry since 1979 and that during that period X-Y had never been used by vehicles other than private farm traffic. Although I understand that Mr Kind had himself used the route on a motorcycle, there is no case put before me from the TRF that there is direct evidence of any significant use by the public with vehicles in recent times.
51. As far as other types of users are concerned, in 2017/8 Mr Johnson accepted that X-Y was regularly used by walkers following the marked long-distance paths as well as families staying at the Fowberry Caravan Site. I have already concluded that the way was accepted as a footpath in the 1950s and that sits easily with Mr Johnson's view some three decades later and through to his verbal evidence in 2018. What is less clear is the evidence to support use by horse riders and cyclists, both of which is referred to in general terms in the responses to consultation on this Order from the British Horse Society and the CTC.
52. Mr Johnson spoke of use by horse riders but it is not entirely clear whether this was recognition of a long-standing right or permission for use granted to a local riding school. In 2014 the British Horse Society reported that the Order route is "*regularly used by local horse riders*", but without further evidence I am not satisfied that there is enough to tip the balance in favour of a conclusion that X-Y is a long-established bridleway or that it could be presumed to have been dedicated in more recent times. Consequently, but without prejudice to any further evidence that may come forward, I rely on my conclusion that the evidence before me is sufficient to show a public right of way on foot only.

The definition of a BOAT

53. Having determined that a full public carriageway continues to subsist along the two ends of the Order route, I next need to consider whether or not the route fits the statutory description of a BOAT insofar as it is "*a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used*". If not, the route may be a vehicular highway but not one which should be recorded on the definitive map.
54. To assist with my determination on this point I was provided with many examples in Northumberland where similar routes had been recorded as BOATs and many other examples where roads of a similar character had been rejected, essentially on the basis that they formed part of the ordinary road network.

¹⁴ And, judging by her written objection, Ms Johnson too.

55. At Greenhill, the road from the B1340 at point R has a tarmac surface for part of its length, partly concrete and partly aggregate. Besides the main farmhouse on the south side of the road at Greenhill, there are several cottages to the north, all of which rely on the Order route for vehicular access.
56. In the case of T-Z-S-Y, the single-track road has a tarmac surface throughout. It is bounded on both sides for most of its length by walls, fences and/or hedges. Whilst I was told that it sees frequent pedestrian use as part of the Northumberland Coast Path and St Oswald's Way, especially in the summer months, equally it sees regular vehicular traffic, often towing caravans, travelling to and from the touring caravan site at Fowberry Farm.
57. Although it is not definitive evidence, the copies of the OS Explorer map dated 2000 and 2005 illustrate an interesting distinction between the two parts, although the basis for this may be hard to discern. Whereas the OS shows T-Z-S-Y as a yellow road (a "Road generally less than 4m wide"), for R-X it uses the green-dot notation to represent "Other routes with public access"¹⁵.
58. NCC argued for consideration of the route as a whole, rather than piecemeal, although that argument is perhaps no longer relevant given my conclusion over the status of X-Y. For the TRF, Mr Fletcher advanced some interesting propositions for why none of the Order route should be recorded on the definitive map whilst also arguing that the historical evidence supports a carriageway throughout its length.
59. For the landowners, at the inquiry Mr Boulton pointed to the fact that the road R-X services several properties at Greenhill but that there is no public vehicular traffic as such. In its original objection the Bamburgh Four and Twenty¹⁶ had accepted the Order route carried the status of bridleway but not BOAT, and further pointed out that at both ends there are road signs indicating there is 'no through road' to vehicles. At the inquiry, Mr Fell accepted public roads lead to Greenhill and Fowberry but emphasised that these do not connect.
60. There are two main sources of guidance on interpretation of the definition of a BOAT (as set out above at paragraph 6): Defra Circular 1/09 and the case of *Masters v the Secretary of State for the Environment, Transport and the Regions* [2000]¹⁷.
61. When deciding whether a way ought to be shown on the definitive map and statement as a BOAT, paragraph 4.38 of Circular 1/09 advises authorities to "*examine the characteristics of the way. Relevant case law suggests that, for a carriageway to be a BOAT, it is not a necessary precondition for there to be equestrian or pedestrian use or that such use is greater than vehicular use. The test also relates to its character or type and whether it is more suitable for use by walkers and horse riders than vehicles.*"
62. In making reference to the *Masters* case, Mr Fletcher highlighted the view of Hooper J (at first instance) that the definition is to be considered purposively in order to distinguish BOATs from ordinary roads. He further argued that NCC had not measured or taken notice of the use of the way and were not entitled to make the Order for want of evidence of the character of the way.

¹⁵ A notation usually employed to represent publicly maintainable routes where the extent of the public's rights is not clear.

¹⁶ Formerly the Four and Twenty Committee of St Aiden's Church

¹⁷ Case reference at Footnote 2 refers

63. Whilst I acknowledge his first point, I disagree with his second. As I have set out above, Circular 1/09 states in terms that a strict quantitative assessment of the numbers of different types of user will not necessarily provide the answer.
64. Following the available guidance (which is based largely on the *Masters* case) leads away from a literal analysis of the balance of user towards a more pragmatic approach. Rather than a direct assessment of its current main use, it is the 'concept', 'type' or 'character' of the way, and its 'suitability for use by pedestrians and horse riders' that is said to define it as a BOAT.
65. Although both sections R-X and T-Z-S-Y have a tarmac surface, I do not regard that factor alone as one which should outweigh all other aspects of 'character'. Surface aside, the physical nature of both sections (particularly their width, verges and boundaries) display the characteristics I would attribute to a minor highway that would be more suited to use by pedestrian use although it is clear that motorised vehicles do use both R-X and T-Z-S-Y to access properties at Greenhill and at Fowberry respectively.
66. The essential question is whether these two carriageways are "*used by the public mainly for the purpose for which footpaths and bridleways are so used*" since that is the test to be applied in the context of the relevant guidance. Although the answer is not clear cut, in my view both fall into this category and should be recorded on the definitive map as BOATs.

Other matters

67. Some objectors expressed concern over problems that might be caused by motor vehicles using the Order route as a way from Shoreston through to the coastal road at Greenhill. Whilst I recognise these are understandable fears, they are not matters that are relevant to my determination of the extent of the public rights that exist over the Order route.

Conclusion

68. Having regard to the above and all other matters raised at the inquiry and in the written representations, I conclude that the Order should be confirmed with the modifications as noted in paragraph 52 above so as to record the section I have identified as X-Y as a footpath, and in paragraph 4 to correct the distances stated in the Order Schedule.

Formal Decision

69. I propose to confirm the Order subject to the following modifications:

On the Order map

- Add points X, Y and Z;
- Amend the notation used to depict section X-Y so as to indicate "Public Footpath to be added";

In the Order Index

- Add "Bamburgh FP 20 – Addition – NU 13 SE – 32"

In the Order schedule

- **Bamburgh Footpath No 9:** In Part II Statement delete "Byway Open to All Traffic No 20 (the Greenhill–Saddlershall road) and substitute "Footpath No 20";

- **Bamburgh Bridleway No 10:** In Part II Statement delete "(the Greenhill-Saddlershall road)";
- **Bamburgh Byway Open to All traffic No 20:**

In the heading add "and **Footpath No 20**"¹⁸

In Part I Map: Amend description to read: "Adding thereto a byway open to all traffic, from a point marked R, on the B1340 road, 230 metres north-east of Greenhill, in a general south-westerly direction along the U2021 road for 245 metres to point X; continuing as a footpath in a south westerly, southerly then south-westerly direction for 805 metres to point Y; then as a byway open to all traffic in a southerly then easterly direction along part of the U2018 road for a distance of 310 metres, to a point marked S on Byway Open to All Traffic No 17, in the Parish of North Sunderland, 135 metres west of Saddlershall."

In Part II Statement: Amend description to read: "As a 6.5 to 7.8 metre wide byway open to all traffic, from the B1340 road, 230 metres north-east of Greenhill, in a south-westerly direction for a distance of 195 metres. Then as a 7.4 metre, narrowing to 6.3 metre, wide byway continuing in a south-westerly direction for a further 50 metres to Greenhill. Then as a 7.2 to 7.3 metre wide footpath continuing in a south-westerly direction for a further 85 metres. Thereafter as a 5 metre wide footpath in a south-westerly direction for a distance of 170 metres to a junction with Public Footpath No 9, then in a general southerly direction for a distance of 180 metres, crossing the Ingram Burn by means of a bridge/culvert, then in a south-westerly direction for a distance of 55 metres, then southerly direction for 155 metres, then westerly direction for 140 metres. Thereafter as a 5.7 metre wide footpath, in a westerly direction, for a distance of 20 metres to the entrance to Fowberry. Thereafter as a 6 metre wide byway in a southerly direction for a distance of 200 metres to a junction with Public Bridleway No 10. Thereafter as a 6.5 to 7 metre wide byway in an easterly direction for a distance of 110 metres to join Byway Open to All Traffic No 17, in the Parish of North Sunderland, 135 metres west of Saddlershall."

Formal Decision

70. Since the confirmed Order would (if modified) show as a highway of one description a way shown in the Order (as made) as a highway of another description, I am required by virtue of Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 to give notice of my proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Sue Arnott

Inspector

¹⁸ For clarity the amended text is underlined

APPEARANCES

In support of the Order

Mr A Bell Definitive Map Officer; Northumberland County Council

In support of public vehicular rights but opposing the Order as made

Mr A Fletcher Of Counsel; instructed by the Trail Riders' Fellowship

Mr A Kind Also representing the Trail Riders' Fellowship
(Statutory objector)

Objecting to the Order

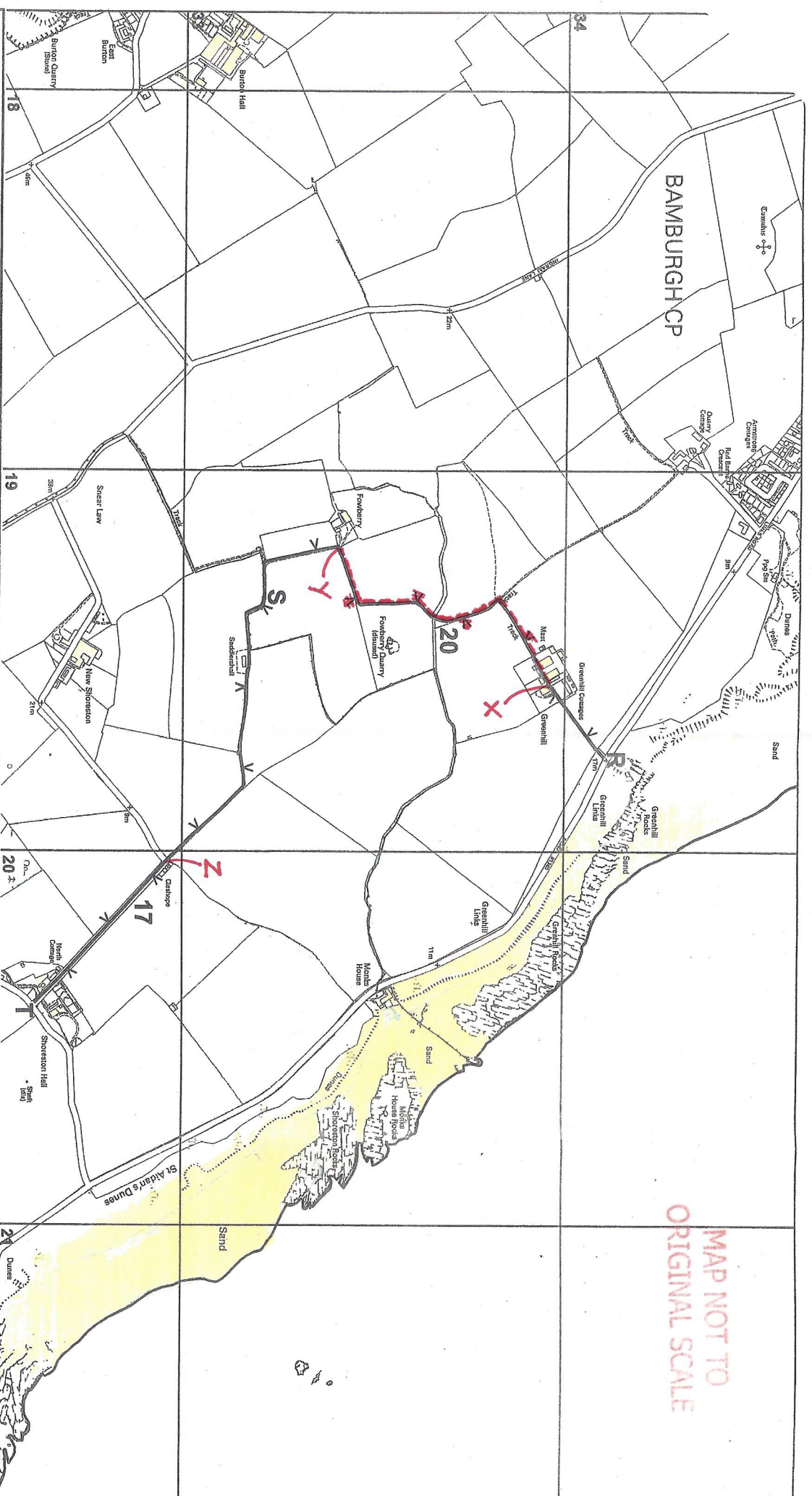
Mr L Fell Representing 'The Bamburgh Four & Twenty' of St Aidan's Church
(Statutory objector)

Mr J Boulton Representing Mr F Watson-Armstrong of Bamburgh & Cragside
Estates

DOCUMENTS

1. Copy of the statutory objections and representation
2. Statement of reasons for making the Order submitted by Northumberland County Council and comments on the objections together with bundle of relevant case documents
3. Statement of case submitted by NCC dated 1 June 2018
4. Statement of case of the Trail Riders' Fellowship with accompanying documents submitted by Mr Kind dated 18 June 2018
5. Statement of case submitted by Cllr G Stewart on behalf of North Sunderland Parish Council dated 30 May 2018
6. Addendum to statement of case submitted by Mr A Kind
7. 2 schedules accompanying the 1954 survey map
8. "TRF map comparisons" submitted by Mr Kind
9. "Lengths of the Order route" submitted by Mr Kind
10. Copy of Order Decision D6820/W/14/516046M issued 14 November 2016
11. Extract from TRF publication "Where can I ride"
12. Extract from NCC County Surveyors map dated 1938
13. Extracts from OS Explorer maps dated 2000 and 2005
14. Letter dated 20 September 2018 sent to the Planning Inspectorate by Mr Kind with enclosures
15. Email sent on 25 September 2018 to the Planning Inspectorate by Mr Bell
16. Letters dated 5 April 2019 & 24 June 2019 to the Planning Inspectorate by Cllr G Stewart on behalf of North Sunderland Parish Council
17. Letter dated 30 October 2019 to the Planning Inspectorate by Mr J Boulton on behalf of Bamburgh and Cragside Estates
18. Email sent on 14 January 2020 to the Planning Inspectorate by Cllr G Renner-Thompson
19. Revised proof of evidence of Mr A Bell for NCC dated 27 January 2020
20. Submission on behalf of Mr A Kind (supported by the TRF)
21. Handwritten notes from first inquiry – extract provided by Mr Bell
22. Copy of the legend for the map published by Greenwood 1827 & 1828
23. Aerial photograph provided by Mr A Kind

MAP NOT TO ORIGINAL SCALE



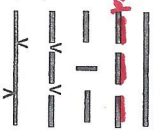
Northumberland
 Northumberland County Council
 Infrastructure
 Local Services
 County Hall Morpeth Northumberland
 Telephone 0845 600 6400 NE61 2EF

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Wildlife and Countryside Act, 1981
Definitive Map of Public Rights of Way for the County of Northumberland

The Northumberland County Council Modification Order (No.30) 2016

- Public Footpath to be deleted
- Public Footpath **to be added**
- Public Bridleway
- Restricted Byway
- Byway Open to All Traffic



| | | |
|----------------------------|---------------------------------------|---------------------|
| O.S. Map NU 13 SE/ 23 SW | Definitive Map No. 32/33 | Scale: 1/10,000 |
| Former District(s) Berwick | Parish(es) Bamburgh/ North Sunderland | Date September 2016 |

Handwritten signature