

WILDLIFE AND COUNTRYSIDE ACT 1981

DEFINITIVE MAP AND STATEMENT FOR THE  
METROPOLITAN COUNTY OF WEST YORKSHIRE

OMNIBUS MODIFICATION ORDER 1985

Whereas pursuant to Section 53(2)(a) and 55(5) of the Wildlife and Countryside Act 1981 (hereinafter called "the Act") it appears to the West Yorkshire Metropolitan County Council (hereinafter called "the surveying authority") that the Definitive Map and Statement for West Yorkshire Metropolitan County requires modification in consequence of the occurrence of events specified in Section 53(3)(a) and Section 55(5) of the Act.

Now, therefore, the surveying authority, in exercise of the power conferred by Section 53(2)(a) and 55(5) of the Act, hereby make the following Order;

- 1 For the purpose of this Order the relevant date shall be 30 April 1985.
- 2 The Definitive Map and Statement for West Yorkshire Metropolitan County shall be modified as described in Schedule "A" and Schedule "B" annexed hereto and shown on the map accompanying this Order.
- 3 This Order shall have effect on the date it is made.
- 4 This Order shall be cited as the OMNIBUS MODIFICATION ORDER 1985 (WEST YORKSHIRE METROPOLITAN COUNTY DEFINITIVE FOOTPATH MAP)

*Delegated powers as allocated for by resolution of Traffic & Highways Committee of 22 November 1984*

THE COMMON SEAL of West Yorkshire

Metropolitan County Council was hereunto  
affixed this 22 day of OCTOBER 1985  
in the presence of:-

*Ian R. Cartwright.*

Authorised Signatory

Number in Seal Register 18144.

LS.PO'H.W&CA/OMNIBUS.M.O

SCHEDULE "B"

MODIFICATIONS TO THE DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF WEST YORKSHIRE TO GIVE EFFECT TO ALTERATIONS ALLOWED FOR UNDER SECTION 55(5) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

Kirklees MDC

Batley

Additions - Footpath - Towngate Road with branch into Arncliffe Road; off Enfield close to Chaster Street  
Additions - Byeway - Grange Road

Colne Valley

Additions - Footpath - Crimble Clough east to Clough Road; across Deanhead Moss; Varley Road, Slaithwaite to Commercial Street across Scar Wood; Intake Lane to Lingards Moor; Krives Lane and Sledgate Lane; Egerton southwest; Woods Ave., Marsden to Meltham Road; Manchester Road, Linthwaite to Ramsden Mill Lane; New Lane to Westwood Edge Road; Rochdale Road across Wholestone Moor; Black Moss Reservoir southward across White Moss; near Wessenden Head; Black Moss Reservoir east to Wessenden Brook; Cabe Whams south to Back Moss Reservoir; Linsgreave Head southeast to Outlane - Denshaw Road; New Lane to Deanhead Reservoir; Olney Street to Waverley Street, Slaithwaite;  
Additions - Bridleway - Worts Hill Lane, Hollin Hall Lane

Denby Dale

Additions - Footpath - Manorstead Skelmanthorpe southeast; Kirkby Lane; Warburton Road Emley east to Hag Hill and eastward; off Springfield Close, Clayton West southeast; Green Lane near Denby Common; Dark Lane, Station Road Skelmanthorpe west and north to Baildon Dike; Bilham Road, Clayton West southeast; Wakefield Road, Denby Dale to Wood Nook  
Additions - Bridleway - Factory Lane; Tipping Lane  
Addition - Byway - from Out Lane, Emley along Broomfield Lane and Crawshaw Lane

Dewsbury

Addition - Footpath - Briestfield Road northwest to Mellor Hill  
Additions - Bridleway - at Lady Wood Bottom; Mill Bank Thornhill eastward; Healey Mills Bridge westward; Healey Lane Briestfield; Sowood Lane to Upper Dimpledale

Heckmondwike

Additions - Footpath - Off Chapel Lane northeast; off Walkley Lane southward; Sykes Avenue southward; Cawley Lane to Heights Lane to Harewood Avenue

Holmfirth

Additions - Footpath - Spring Grove to Bank Top Lane Digley; Cowcliff Hill Road to Ing Royd, Thurstonland to Height Green (parts); Mag Bridge north east; Lip Hill Lane; Cartworth Lane; Dover Road; Marsh Lane towards West Royd; Upper House Road at Upper House southeast; Cowcliff Hill Road to Bent Road at Fields Head; Greenhill Bank Road southeast; Lea Lane near Cocking Steps Bridge southeast to Old Moll Road and branch to Spring Wood; off Sheffield Road at Jackson Bridge to East Street; Brockholes Lane southeast beside Railway; Wessenden Head south to Black Hill and Dun Hill; from Featherbed Moss southeast to Dean Head and Black Hill



Huddersfield

Additions - Footpaths - Shepherds Thorn Lane north-east; adjoining M62; Quarby Fold; Scar Top Lane; Prospect Place, Outlane; from Morley Lane along Colne Vale Road across Canal and westward; Scar Lane to Britannia Road; Dry Clough Road north-east;

Warren House Lane, Clayton Fields Off Birkby Lodge

Additions - Bridleway:- Bourne View Road to Moor Lane; Lower Quarry Road; Mulehouse Lane

Kirkburton

Additions - footpath:- Thurstonland to Height Green (parts); Hey Lane north-east;

Stocks Moor Road north to Wood End; Pennistone Road to Causeway Foot Lane and Shaw Lane;

Far Bank Lane to Cleveland Way; Stony Ford Lane; off Stead Lane and off Balk Lane; off Honley Road to Farnley Hey; Field Lane north of Toft Lane; Penistone Road to Holly Bank House; Back Lane, Shelley; Lascelles Hall Road south-east; connection to Path 141; off Common Lane to Manor Park Way; off Gawthorpe Lane eastward; off Linfit Lane south via Burton Royd; Woodsome Lees south-west to Mill Lane; off St Mary's Lane to Stafford Hill Lane; Ridings Wood;

Additions - Bridleway:- Stead Lane and Balk Lane; Long Tongue Scrog Lane; Field Lane; Long Lane; Thurgory Lane; Denby Lane; Denby Grange Lane; Sowood Lane.

Addition - Byeway:- Common Lane.

Meltham

Additions - Footpath:- Holmfirth Road south-west to Calmlands; Sefton Lane west via Sefton Mill Yard;

Mirfield

Additions - Footpath:- Leeds Road near Child Lane westward; Huddersfield Road to Park Avenue; adjoining Finching Dike; off Pinfold Lane via Blake Hall Park to Park Drive North; off Station Road west to Newgate; off Newgate alongside River Calder;

Addition - Bridleway:- off Huddersfield Road along The Clough to Stocks Bank Road

Spenborough

Additions - Footpath:- Branch Path 66 off Upper Lane; Hunsworth Lane north-west to Whitehall Road, West end of Ferrand Lane Gomersal westwards through Lanes Wood; off Bradford Road near Rawfolds Bridge to Pyenot Hall Lane; Pits Lane at Hartshead; off Bradford Road at Birkenshaw along Furness Lane then south; across Toft Shaw Moor

Additions - Bridleway:- Off Moorside at Moorbottom north-west; Quaker Lane; Hodgson Lane

Change of Status - Footpath to Bridleway

Colne Valley Path No:- 1pt

Dewsbury Path Nos:- 22pt; 70

Huddersfield Path Nos:- 24; 207pt; 393

Meltham Path No:- 34pt

Change of Status - Bridleway to Footpath

Kirkburton Path No:- 207

Spenborough Path Nos:- 8pt; 88pt

Change of Status - Footpath to Byway

Holmfirth Path Nos:- 158; 182

Huddersfield Path No:- 233

Change of Status - Public Path to County Road

Batley Path No:- 10

Denby Dale Path No:- 110pt

Heckmondwike Path No:- 2pt

Holmfirth Path Nos:- 99; 100

Huddersfield Path Nos:- 149; 219; 225; 258; 297pt; 387; 402pt; 417; 419pt -

Kirkburton Path Nos:- 67; 160pt

Mirfield Path Nos:- 37; 58; 59

Spenborough Path Nos:- 44pt; 92pt; 139pt

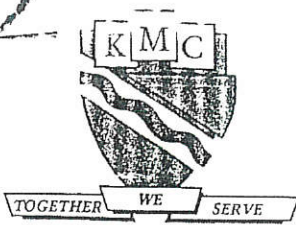
Re-Classification of RUPP to Footpath

Huddersfield Path Nos:- 1; 4; 29; 38; 64; 69; 85; 108; 132; 141; 142; 152;  
154; 157; 159; 172; 176; 178; 198; 213; 236; 270; 287;  
297pt; 300; 301; 317; 329; 331; 333; 342; 369; 381;  
394; 400; 402pt; 414pt; 430

Re-Classification of RUPP to Bridleway

Huddersfield Path Nos:- 6; 8; 26; 62; 71; 140; 147; 162; 285; 293; 296; 348;  
353; 383; 390; 397; 398; 414pt; 419pt; 425pt; 427





**Kirklees**  
METROPOLITAN COUNCIL

Solicitor's Office  
Michael P. G. G. G. G.  
Legal Services

Kirklees House  
Market Street  
Huddersfield HD1 2TG

Tel: 0484 422133  
DX: 712986 Huddersfield  
Fax: 0484 442307

18th October 1991

If calling please ask for Mrs S M Kronman Ext 2221  
Our Ref: SMK/JSM/D112.119  
Your Ref:

Architectural & Design Partnership  
82 Huddersfield Road  
Holmfirth  
Huddersfield  
HD7 1AZ

Dear Sir/Madam

**KIRKLEES METROPOLITAN COUNCIL  
(PUBLIC FOOTPATH NO.40 (PART) MELTHAM  
LOWER GREAVE WILSHAW)  
PUBLIC PATH DIVERSION ORDER 1991**

I now enclose a copy of the above Order and Notice relating to it. As you will see, the objection period expires on the 22nd November 1991 and I will keep you informed of progress.

Yours faithfully

G N Y Lomas  
for Solicitor to the Council

Encs.

PUBLIC PATH DIVERSION ORDER  
TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257

KIRKLEES METROPOLITAN COUNCIL

(PUBLIC FOOTPATH NO. 40 (PART) MELTHAM LOWER GREAVE WILSHAW)  
PUBLIC PATH DIVERSION ORDER 1991

WHEREAS the Kirklees Metropolitan Council are satisfied that it is necessary to divert the footpath to which this Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 or the enactments replaced by that Part of that Act.

NOW THEREFORE the Kirklees Metropolitan Council in pursuance of the powers in that behalf conferred by Section 257 of the Town and Country Planning Act 1990 hereby make the following Order:

1. The footpath over the land situate at Manor Farm Lower Greave Wilshaw Huddersfield shown by bold black dashes on the map annexed hereto and described in Part I of the Schedule hereto shall be diverted as provided by this Order.
2. There shall be created to the reasonable satisfaction of the Kirklees Metropolitan Council an alternative highway for use as a replacement for the footpath referred to in Article 1 above as specified in and over the land described in Part II of the Schedule hereto and shown by bold black dots on the map contained in this Order.
3. The diversion of the footpath referred to in Article 1 above shall have effect on the date on which it is certified by the Kirklees Metropolitan Council that the provisions of Article 2 above have been complied with.
4. Where immediately before the date on which a highway is diverted in pursuance of this Order there is apparatus under in on or across that highway belonging to statutory undertakers for the purpose of carrying on their undertaking the undertakers shall continue to have the same rights in respect of the apparatus as they then had.
5. This Order may be cited as the Kirklees Metropolitan Council (Public Footpath No. 40 (PART) MELTHAM Manor Farm Lower Greave Wilshaw Huddersfield) Public Path Diversion Order 1991.

Schedule A

Description of site of existing path.

A public footpath 1.2 metres wide shown by a broken black line on the map annexed hereto commencing at its junction with Meltham path number 63 at map reference 1173, 0996 (marked A on the map) and continuing in an easterly direction for approximately 90 metres to the filed boundary at map reference 1182 0097 (marked B) and then in a north easterly direction for approximately 50 metres into the field, to map reference 1185 1000 (marked C) being part of public footpath number 40 in the former Urban District of Meltham.

Schedule B

Description of site of new path.

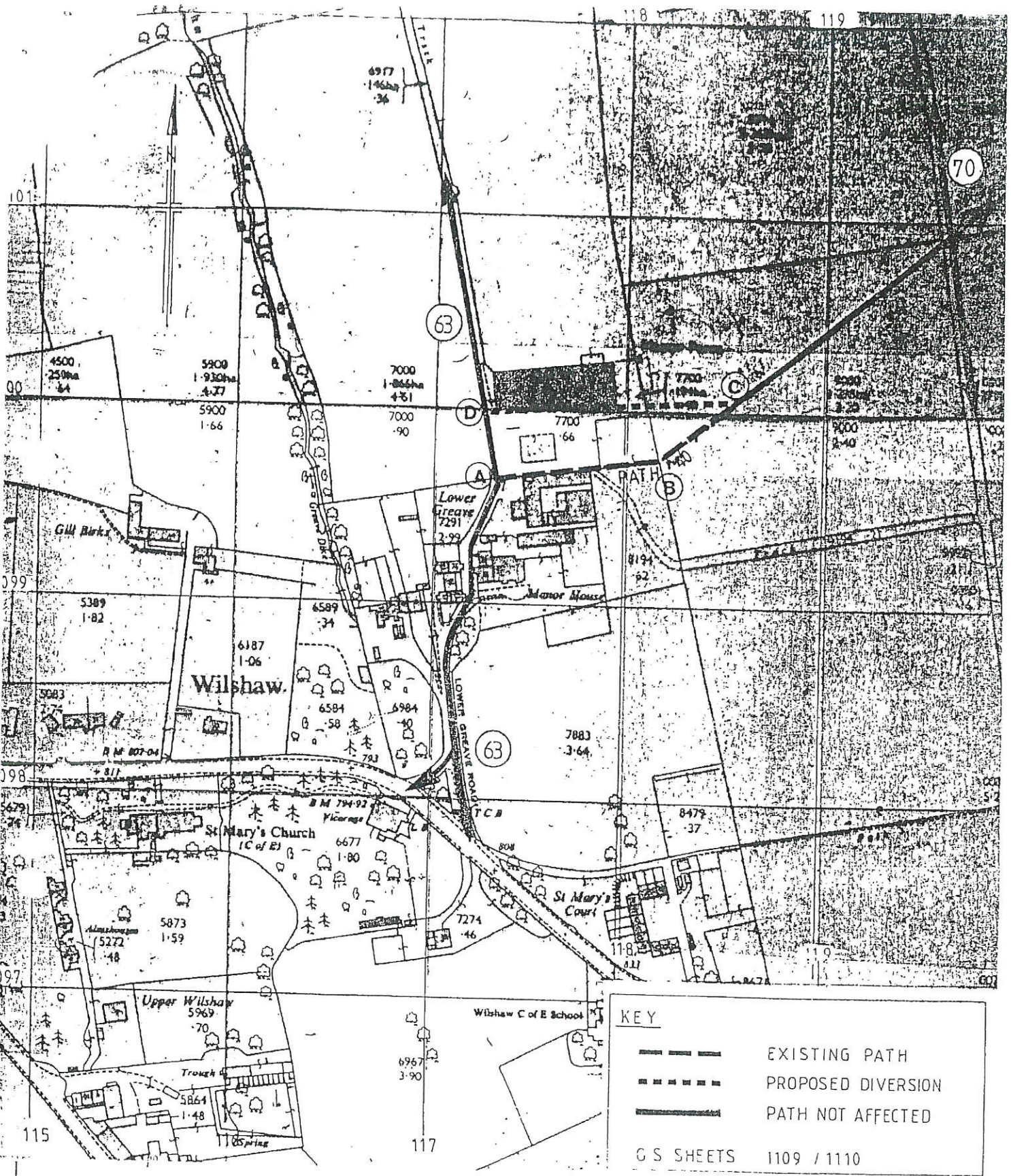
A public footpath 1.8 metres wide shown by a dotted black line on the plan commencing at a point on Meltham path number 63, approximately 35 metres to the north of the existing path, at map reference 1172 1000 (marked D) and continuing in an easterly direction for approximately 130 metres to rejoin the existing path number 40 at map reference 1185 1000 (marked C).

GIVEN under the Corporate Common Seal of the Kirklees Metropolitan Council this 18th day of October 1991 One Thousand Nine Hundred and Ninety


THE CORPORATE COMMON SEAL  
of THE COUNCIL OF THE BOROUGH OF  
KIRKLEES was hereunto affixed  
in the presence of:-

Solicitor to the Council





KEY	
	EXISTING PATH
	PROPOSED DIVERSION
	PATH NOT AFFECTED
G S SHEETS 1109 / 1110	


**Kirklees**  
 Metropolitan Council  
 TRAFFIC AND HIGHWAYS  
 DEVELOPMENT MANAGER  
 P.F. JAMIESON

Title  
**PROPOSED DIVERSION OF  
 MELTHAM FOOTPATH N° 40(P.T.)**  
 Manor Farm - Wilshaw

Scale 1 / 2500	
Drawn E N	Checked J K A W
Section D C	Date SEPT. 1991



31 36  
Dated: 18th October 1991

**KIRKLEES METROPOLITAN COUNCIL**

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**PUBLIC FOOTPATH NO. 40 (PART) MELTHAM  
LOWER GREAVE WILSHAW  
PUBLIC PATH DIVERSION ORDER 1991**

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M. R. G. Vause  
Solicitor to the Council  
Kirklees Metropolitan Council  
Kirklees House  
Market Street  
Huddersfield  
HD1 2TG

NOTICE OF PUBLIC PATH ORDER

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257

KIRKLEES METROPOLITAN COUNCIL

(PUBLIC FOOTPATH NO. 40 (PART) MELTHAM LOWER GREAVE WILSHAW)  
PUBLIC PATH DIVERSION ORDER 1991

The above-named Order made on 18th October 1991 is about to be submitted to the Secretary of State for the Environment for confirmation or to be confirmed as an unopposed Order by the Kirklees Metropolitan Council.

The effect of the Order if confirmed without modifications will be:-

that length of Meltham public footpath No 40 at Lower Greave Wilshaw which runs from the junction with Meltham path No 63 for a distance of approximately 90 metres in an easterly direction to a line approximately 35 metres to the north of the original line.

A copy of the Order and the map contained in it has been deposited and may be inspected free of charge during normal office hours at 4th Floor Kirklees House Market Street Huddersfield

Copies of the Order and map may be purchased.

Any representation or objection with respect to the Order may be sent in writing to the Solicitor to the Council (Ref: SMK/JSM/D112.119), Kirklees House, Market Street, Huddersfield before 22nd November 1991 and should state the grounds on which it is made.

If no representations or objections are duly made or if any so made are withdrawn the Kirklees Metropolitan Council may instead of submitting the Order to the Secretary of State confirm the Order itself. If the Order is submitted to the Secretary of State any representations and objections which have been duly made and not withdrawn will be submitted with the Order.

DATED this 25th October 1991

MR G VAUSE  
Solicitor to the Council

Kirklees House  
Market Street  
Huddersfield  
HD1 2TG





**Kirklees**  
METROPOLITAN COUNCIL

Solicitor to the Council  
John E Emms  
Legal Services

2nd Floor  
Civic Centre III  
Huddersfield HD1 2TG

This matter is being dealt with by Ms S J Haigh

Our Ref: P&H/SJH/JSM/HDV.119  
Your Ref:

Tel: 01484 221000 Ext 800-1444  
Direct Line: 221444  
DX: 712986 Huddersfield  
Fax: 01484 221423

13 March 1998

A & D P  
Architecture & Design Partnerships  
82 Huddersfield Road  
Holmfirth  
Huddersfield  
HD7 1AZ

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257.  
KIRKLEES METROPOLITAN COUNCIL (PUBLIC FOOTPATH NO. 40 (PART)  
MELTHAM - LOWER GREAVE, WILSHAW) PUBLIC PATH DIVERSION ORDER 1991**

I write further to previous correspondence on this matter to inform you that the above Order was confirmed as an unopposed Order by Kirklees Metropolitan Council on the 13th March 1998.

I attach for your information a copy of the Notice and the confirmed Order.

Yours faithfully

*Sandra J Haigh*

S J Haigh (Ms)  
for Solicitor to the Council

WOOD NOOK HOUSE  
WOOD NOOK LANE  
MELTHAM  
HOLMFIRTH  
HD9 4DU  
01484 661814

11<sup>th</sup> May 2016

Dear Mr Cheetham

**Footpath Meltham 70/30**

I have been forwarded a copy of your note to my Member of Parliament. I respond with the following;

1. You should now be aware that the Section 143 Notice regarding the gate and other obstruction on my land at Wilshaw has been withdrawn as it was without merit.
2. Please would you confirm that you have corrected your Definitive Map to show the correct line of FP 40/10 as detailed in the report of my advisor that you were sent a copy of?
3. In your note you refer to "further pubic (sic) reports have been received by the Council about public paths in the area closer to the Coles home". Do any of these reports refer to my property and if so what are they?
4. In relation to item 3 above and FP Meltham 70, I take this opportunity to remind you of the wording of Section 56 (e) of the Wildlife and Countryside Act 1981.
5. Contrary to your assertion to my MP, I did not find our conversation latterly "most pleasant"; indeed I found your manner to be bullying, aggressive and impertinent. It was for this reason I requested that all future contact should be in writing.

Yours sincerely

**Angela Cole**

Public Rights of Way

Fax: 01484 221613

23 June 2016

Mrs Cole  
Wood Nook House  
Wood Nook Lane  
Meltham  
Holmfirth  
HD9 4DU

901

Dear Mrs Cole

**Public Footpath Meltham 70**

Thank you for your letter addressed to me dated 11 May 2016, received in this office on 13 May 2016. Your correspondence raises a number of issues and technical points.

You state that the council's Streetscene service has withdrawn a notice it served regarding obstruction of the above public footpath. I was not involved in drafting, service or withdrawal of the notice so would offer no view on the merits of either its contents or its withdrawal, but I would note that, with the benefit of your and your adviser's submissions, from the information before me the public footpath 70 does appear to be unlawfully obstructed to legitimate public pedestrian user by the objects recently seen at its Wilshaw end.

For the avoidance of doubt, I would note that the council's PROW unit in the I&R service, based at Civic Centre III, is not currently directing, deciding, managing or processing any enforcement action for Meltham 70. However, it provided technical advice to colleagues in the Streetscene service, with background information and a considered conclusion that, based on the known circumstances, the above public footpath can reasonably be considered by the council to be unlawfully obstructed to legitimate pedestrian users exercising their formally recorded public right of way. Without relevant authority or excuse for a structure, a public path should be open and available across its width, as is evident from consideration of relevant case law and relevant legislation. It is not for a highway authority to demonstrate that it has never been previously subject to obstruction. You appear to be the fortunate recipient of a withdrawal of one particular notice by the Streetscene service, but that notice withdrawal had the clear *caveat* that the council may reconsider the matter and explains further potential for enforcement action, e.g. if further public report is received.

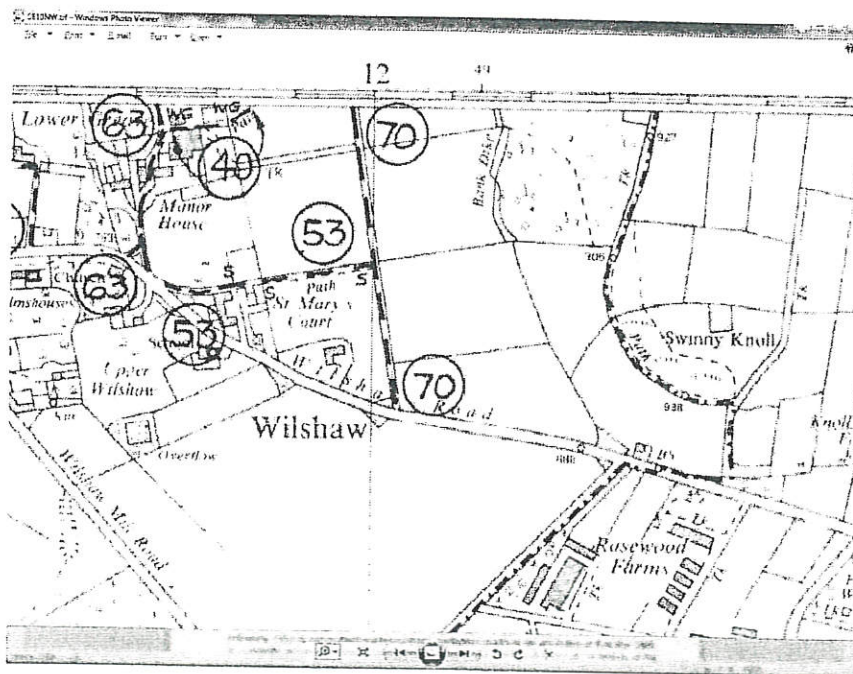
The conclusions expressed in your letters and your advisor's report are not accepted as correct in relation to obstruction of the public way, nor is it accepted that you have correctly identified a right to retain those structure(s) that currently obstruct the recorded public highway, Meltham 70.

The highway authority must have regard for all users and the definitive map and statement do(es) not recognise any limitation to public access across the whole footprint of the definitive width. I note the relevance and effect of historic structures/limitations below. I am



not aware of any reason that a relevant enforcement notice could not be issued or followed to conclusion regarding the structure(s) erected at Meltham 70, nor am I aware of any error by the council in choosing to pursue the original enforcement action to protect and assert the public right of way. The claims in your submissions that the council may not take enforcement action regarding any object(s) in/on Meltham 70 are refuted in full.

The public path diversion order for Meltham public footpath 40 has not been subject to a legal event modification order. Mr Dunlop was supplied with an 'as-published' copy extract of the DMS regarding a particular issue, and the relevant footpath, Meltham 70, has not been subject to any public path or modification order since 1985. Your submissions also mention restrictions to path 40 users. Unlike path 70, other nearby paths do have formal authority for limitations, i.e. structures recorded in the current DMS. E.g. 1985 DMS 'as published' copy extract below showing stiles on path 53 (marked "S"): similarly stiles are recorded for path 40 in the DMS as it crosses from the neighbouring fields to meet path 70.



I referred your query about other day-to-day path requests from the public in the vicinity to our Streetscene service colleagues, who have been allocated the requests and would generally consider them. I understand that they are generally quite busy and may not deal with all requests immediately.

Although it is referred to, both by you and Mr Dunlop, there is no "section 56 (e) of the Wildlife & Countryside Act 1981", I imagine that you may be referring to the provisions of section 56 1 (e). Just like similar topics covered in the associated subsections (such as claims to alleged unrecorded public rights,) the alleged existence of any unrecorded limitations to user would have to be proven with sufficient evidence; the definitive map and statement may be appropriately modified by order further to consideration of such sufficient evidence (potentially with or without application for a DMMO under s53 [5]). Reminding the council of these subsections does not, for example, make an alleged unrecorded right of way 'subsist', nor does it authorise an alleged unrecorded limitation, such as a right to retain a gate/stile etc.

In plain terms, although the DMS is conclusive, section 56 allows for (amongst other things)  
(i) the potential existence of additional rights of way or rights to retain limitations to user, and  
(ii) the addition of such rights to the DMS by order when proven.  
It facilitates changes to the formal record; it does not mean the record is incorrect.

Section 56 does not mean that such potential rights do exist, nor does this section in itself provide a lawful excuse or justification for unauthorised acts e.g. for riding a horse or for the erection of structures without evidence of their authority. Of course, you have made no such DMMO application for the recording of structure(s) you allege as being legitimate limitation(s) to user.

For a route shown on the 1952 DMS, the existence of a gate or gap on site in any period following 1952 is not in itself evidence that a limitation ought to be recorded or that the DMS is currently in error or that there is, as alleged to you by Mr Dunlop, both (i) "*a failure of the Surveying Authority*" and/or that (ii) "*In 1985 the definitive map was sealed showing the gate obstruction in the wrong place and failing to record the gap that existed*".

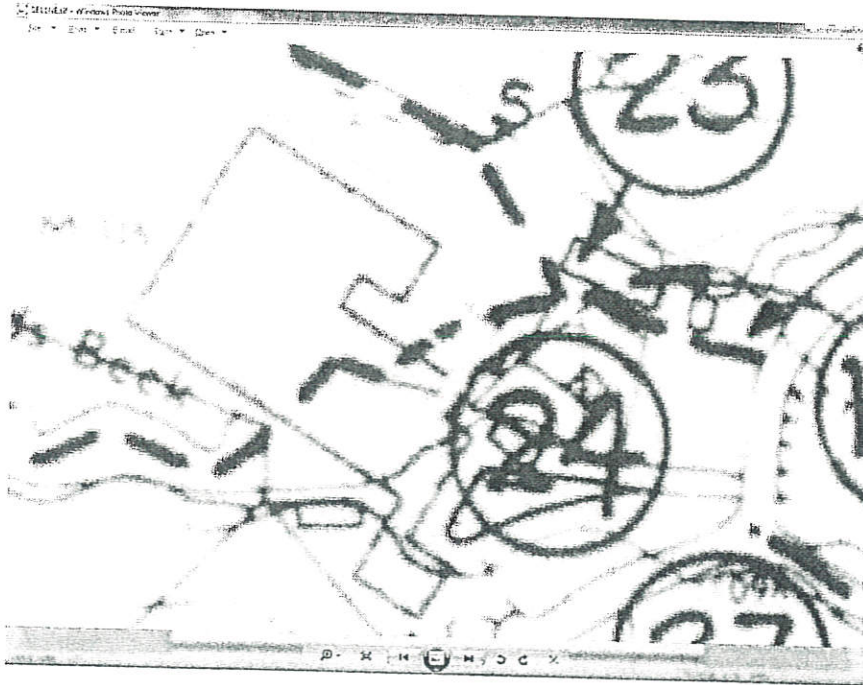
Regarding footpath 70 and the structures thereon, the only pre-1952 evidence (mentioned in your submissions apparently to legitimise or justify retention of those structures *in situ*) is mention of Ordnance Survey-produced maps. These are documents which would likely have been available to those undertaking the process of publishing the "1952" definitive map and statement. Neither the 1952 or 1985 DMS records a limitation of any description at Wilshaw on public footpath 70, whether 'gap', 'gate' or whatever else.

Mr Dunlop writes to you about Meltham 70, "*The Definitive Map shows a gate upon this highway*". Perhaps you could provide the council with evidence of this, i.e. a gate allegedly included in the 1985 DMS.

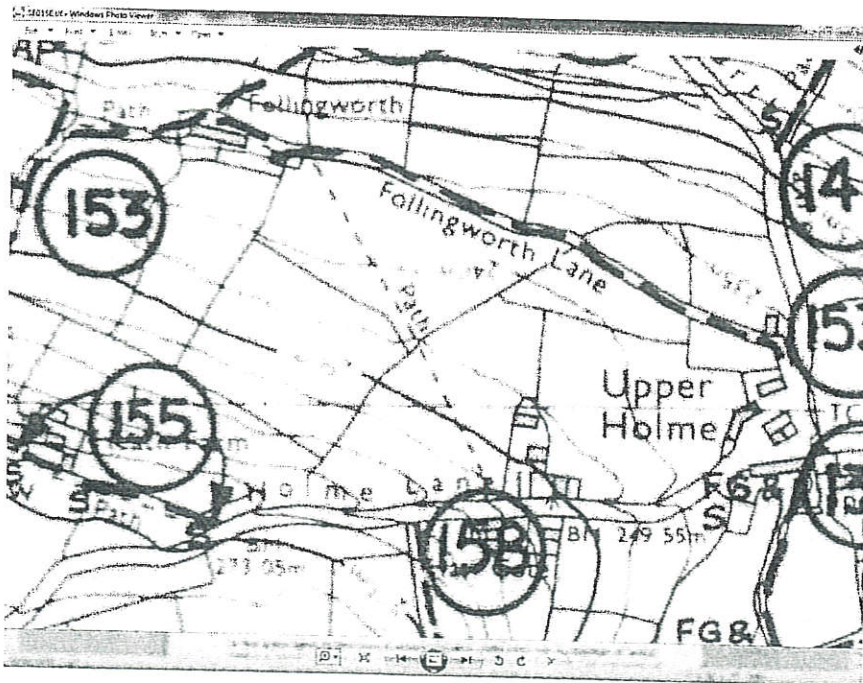
I've been trying to understand what this could mean, and perhaps this refers to the published product of the Ordnance Survey rather than the PROW annotations thereon, that make it the DMS. I would note, as an example, if the Ordnance Survey base map used to produce and publish a DMS had in various locations, a reservoir, a factory, a stable, a house, or a wall shown on it, with unchanged '1952' paths marked as running over each of them, that would not necessarily mean that the DMS was wrong or required modification. Rights of way are not changed by being interfered with physically on the ground. In such examples, it may just mean that someone has changed what is on the ground without the relevant, appropriate, diversion, closure or authority and the OS subsequently surveyed and reflected the physical world in its map product, all before the relevant council used that OS product as a base onto which it annotated the relevant PROW data.

E.g. below, a factory unlawfully erected since the original DMS and shown on the OS base map used for production of a subsequent DMS. This does not mean the factory was authorised by or in the later DMS – in this case the factory unlawfully obstructed the path when it was extended after 1952.





Another analogous situation that may help clarify this, is that if on the base OS map (subsequently used for publishing of a DMS), OS has printed a dashed line and the word "Path" alongside, this depiction does not mean that this is the line of a public footpath, nor would it excuse people walking across it without authority, nor would it be considered as sufficient evidence of the existence of unrecorded rights. E.g. as below:



Regarding Meltham 70, you claim that OS maps of various ages depict a gate. Even if a gate were accepted by the council as existing historically, and if it were accepted by the council that evidence suggested that a gate ought to be recognised by the council as justified and/or authorised, what evidence is there before the council when considering the path and any complaint about its obstruction, that any gate allegedly depicted is, and was in



1952, (and/or prior to 1952,) a locked gate, precluding public passage through the gateway and only leaving in practice a narrow gap to the side?

As for your reported personal experience, a gate noted as being in place and locked in 1977, even if that scenario is accepted, does not in itself mean either that it is authorised or that it merits modification of the DMS for a route first recorded in the '1952' DMS. An obstruction (e.g. reservoir/factory/house/gate) is not merited by its continued presence if its initial presence is without lawful authority.

The council is in possession of a letter from 1973 and one from 1978 regarding both alleged bridleway user and rights, and seeking the recording of a bridleway over path 38 to Lower Cote and all of path 70. The letters state that there is "*ample evidence of over 20 years of use*" and "*we shall be glad to bring forward at least ten reputable persons to any enquiry as and when required*". Whereas this is not necessarily evidence that public bridleway rights subsist<sup>#</sup>, it is contemporary evidence regarding the availability of the route in question before that time in 1978 when it is reported that "[...] *the new manager has wired off paths 38 and 70, leaving only access for walkers [..]*"

<sup>#</sup> The 1978 local authority letter in reply identified that "*a substantial amount of evidence of bridleway user may be required*".

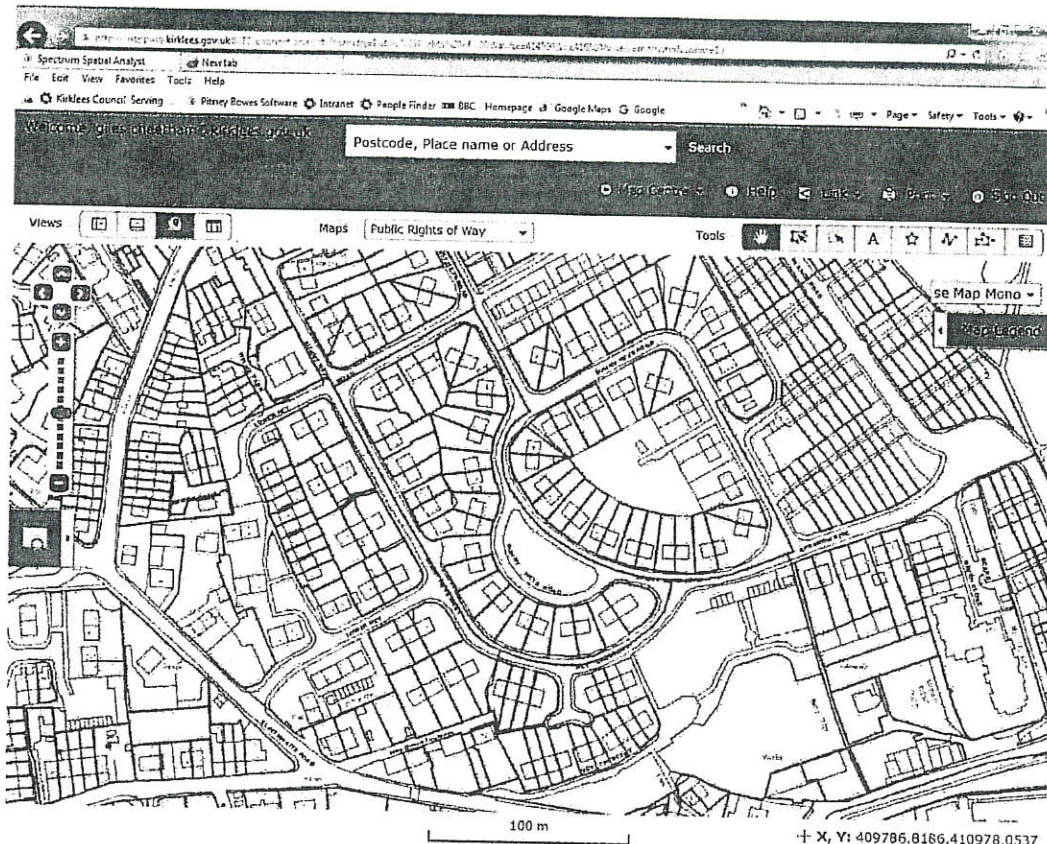
It will be evident to you from the contents of this letter that numerous contentions made to the council in your submissions are considered incorrect and/or have not been supported by adequate relevant evidence. I would suggest that you should not rely upon them.

On the action taken by the council, service of notice under s143, has no mention of "wilful". "Wilful" is specific to prosecution under section 137 Highways Act 1980, I am not aware of any intention or action of the council to initiate prosecution. In any case, 'wilful' may just refer to a continuation of an obstruction already brought to someone's attention. Obstruction is a continuing offence – it is not restricted to the initial act of erecting/causing obstructions. In any case, legislation for enforcement processes involving notices under s143 has no mention of "wilful". As a general point, there are even more alternative remedies, highway authorities may also abate a nuisance and, under common law, remove obstructions from public highway without notice, as expressly preserved by Highways Act 1980, s333. Further, as a public highway maintainable at public expense, the surface of Meltham 70 is vested in the highway authority and your title for the land carrying the path is limited to sub-soil only. See *Reynolds v Presteigne Urban District Council* (1896) 1 Q.B. 604.

As a further analogy, you may consider the plan below, which shows Land Registry title parcels in part of Meltham. Much of the recorded public vehicular highway network is shown within the LR titles, as your land is presumably shown in yours. This does not permit the obstruction of these public highways by the Meltham resident owners over any part of the public highway, nor does it permit resident owners to allow passage to only some of the legitimate public users or to restrict public use to only a selected part of the highway. In an analogous situation, if they blocked off all but a narrow part of the road, I imagine the council would likely simply remove the blockage without notice.

There is further clarity in case law, the decision in *Herrick & Anor v Kidner & Anor* [2010] EWHC 269 (Admin), including at paragraph 65, "[...] any structure erected within the legal extent of the footpath, and which prevents public passage or the enjoyment of amenity rights over the area of its footprint, significantly interferes with the exercise of public rights of way."





Streetscene correctly noted that the council may revisit the issue. It is "correct", because in the circumstances the combination of structure(s) recently erected is not authorised and obstructs legitimate public passage over the public highway, including for those who are less mobile or otherwise would have difficulties negotiating them, such as some larger people or those with small children, babies or perambulators. Without relevant authority, landholders may not encumber or interfere with public passage over the public highway, and such encumbering action is not authorised on any basis that people can (or have to) just squeeze their way through. The council's responsibilities are to all footpath users, not just to those who report issues and/or to those both lithe and agile enough to negotiate encumbrances alleged to be "*de minimus*", where those encumbrances evidently do not allow "*full use by those entitled to use it*". It would be reasonable and appropriate for the council to revisit the matter, even without any reference to further public complaint.

#### Allegations and claims from various parties that the DMS is in need of modification

Just briefly touching on matters to be determined in future by the council as surveying authority not in connection with the obstruction issues, I would note your submission that, '*modern user evidence relied upon by all parties {bar possibly one} appear to have had to have ridden by finger posts that identified the route as "Public Footpath" thus destroying any claim they were using it as of right.*'

Any party considering this suggestion may wish to view the decision in *R v Oxfordshire CC, ex p Sunningwell Parish Council [2000] 1 AC 335*, and examples subsequent to that case law.

Please let me know if you wish to receive an application pack for you to apply to the council for a definitive map modification order to record any limitation(s) that you consider are currently omitted from the formal record of public rights of way, whether on your land or



elsewhere in Kirklees. This would apply, for example, to any structure to be proven by available evidence to be a justified limitation to public user, including any currently unrecorded structure on Meltham public footpath 70. Alternatively, you may wish to provide formal authorisation otherwise made.

Please let me know if you wish to receive an application pack for you to apply for an order to correct any of the other nearby alleged errors on the definitive map and statement noted in Mr Dunlop's report to you.

I would again note that any relevant evidence you possess about associated allegations/claims and any unrecorded public rights of way matters would be most welcome. Appropriate consideration by the council of evidential matters is obviously assisted by our having the evidence to consider. This would apply to the bridleway DMMO application 'claim' affecting your property already received by the council as well as any 'claim' you may wish to propose either regarding limitations to path 70 or other nearby alleged DMS "errors".

#### Problems on nearby paths

Your submissions note "*as a matter of interest*" issues of restriction to users on nearby paths, which I noted at paragraph 2 on page 2 above. If you have any concerns about other paths on the public highway network that are subject to obstruction, encroachment, unauthorised structures or other interference, you may report them to the council for investigation and action, giving details of the location(s) and any concerns you may have.

I mentioned to Mr McCartney M.P. that our earlier conversations were "*most pleasant*", which they were\*, however upon being informed by me that landholders can't just do as they wish to the public highway, your approach to me changed considerably from those earlier conversations. As a council officer, I am often in the middle of disputes between parties and I try to deal with them all without fear or favour, whether the information I share is received happily or not. Your comments and submissions may have varying merit, in the council's considerations of various PROW matters.

\*e.g. during one of our cordial chats you had happily, freely and clearly commented that you and your husband "*had acquiesced*" to public bridleway user over the years.

#### Note for information on DMMO application to record a public bridleway

The route is subject to a formal application for a definitive map modification order (DMMO) to record it as a public bridleway. These are often referred to as "upgrades", and such an order would have to be made if it is found that alleged unrecorded public bridleway rights subsist.

That decision would be based on evidence and would have little or nothing to do with the state of the way, or other matters of convenience, other than as they may affect the way's public highway status.

When considering such evidence, all available information would be considered, including evidence from those of various different viewpoints, including those in support or opposition, and those who provide evidence for or against the recording of a public bridleway. It is the council's independent job to assess and weigh up the balance of that evidence, where it is relevant, whoever it is from. If people don't like the council's DMMO decision, there is



currently a potential for challenge, both against refusal and against making a definitive map modification order. The council is unlikely to be the final arbiter in disputed cases. The Deregulation Act 2015 PROW provisions may change some aspects of DMMO process for this case when they come into force.

The council has formed no view on the alleged existence of bridleway rights and the application received has no bearing on the above response regarding footpath obstruction.

Although you appear to prefer to avoid telephone or email communication with the council, I would courteously remind you that I am available on 01484 221000 or email [giles.cheetham@kirklees.gov.uk](mailto:giles.cheetham@kirklees.gov.uk) as well as by post if you so wish. Much of the contents of this letter are fundamentally repeating the PROW information I gave you in various telephone conversations some months ago before the latest structures were erected, hopefully the expansion provided above is informative, although I recognise that you may not receive it happily.

Yours sincerely



Giles Cheetham  
Definitive Map Officer

SCHEDULE "B"

MODIFICATIONS TO THE DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF WEST YORKSHIRE TO GIVE EFFECT TO ALTERATIONS ALLOWED FOR UNDER SECTION 55(5) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

Kirklees MDC

Batley

Additions - Footpath - Towngate Road with branch into Arncliffe Road; off Enfield close to Chaster Street  
Additions - Byeway - Grange Road

Colne Valley

Additions - Footpath - Crimble Clough east to Clough Road; across Deanhead Moss; Varley Road, Slaithwaite to Commercial Street across Scar Wood; Intake Lane to Lingards Moor; Krives Lane and Sledgate Lane; Egerton southwest; Woods Ave., Marsden to Meltham Road; Manchester Road, Linthwaite to Ramsden Mill Lane; New Lane to Westwood Edge Road; Rochdale Road across Wholestone Moor; Black Moss Reservoir southward across White Moss; near Wessenden Head; Black Moss Reservoir east to Wessenden Brook; Cabe Whams south to Back Moss Reservoir; Linsgreave Head southeast to Outlane - Denshaw Road; New Lane to Deanhead Reservoir; Olney Street to Waverley Street, Slaithwaite;  
Additions - Bridleway - Worts Hill Lane, Hollin Hall Lane

Denby Dale

Additions - Footpath - Manorstead Skelmanthorpe southeast; Kirkby Lane; Warburton Road Emley east to Hag Hill and eastward; off Springfield Close, Clayton West southeast; Green Lane near Denby Common; Dark Lane, Station Road Skelmanthorpe west and north to Baildon Dike; Bilham Road, Clayton West southeast; Wakefield Road, Denby Dale to Wood Nook  
Additions - Bridleway - Factory Lane; Tipping Lane  
Addition - Byway - from Out Lane, Emley along Broomfield Lane and Crawshaw Lane

Dewsbury

Addition - Footpath - Briestfield Road northwest to Mellor Hill  
Additions - Bridleway - at Lady Wood Bottom; Mill Bank Thornhill eastward; Healey Mills Bridge westward; Healey Lane Briestfield; Sowood Lane to Upper Dimpledale

Heckmondwike

Additions - Footpath - Off Chapel Lane northeast; off Walkley Lane southward; Sykes Avenue southward; Cawley Lane to Heights Lane to Harewood Avenue

Holmfirth

Additions - Footpath - Spring Grove to Bank Top Lane Digley; Cowcliff Hill Road to Ing Royd, Thurstonland to Height Green (parts); Mag Bridge north east; Lip Hill Lane; Cartworth Lane; Dover Road; Marsh Lane towards West Royd; Upper House Road at Upper House southeast; Cowcliff Hill Road to Bent Road at Fields Head; Greenhill Bank Road southeast; Lea Lane near Cocking Steps Bridge southeast to Old Moll Road and branch to Spring Wood; off Sheffield Road at Jackson Bridge to East Street; Brockholes Lane southeast beside Railway; Wessenden Head south to Black Hill and Dun Hill; from Featherbed Moss southeast to Dean Head and Black Hill

SCHEDULE "A"

MODIFICATIONS TO THE DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF WEST YORKSHIRE TO TAKE ACCOUNT OF EVENTS WHICH HAVE OCCURRED UNDER SECTION 53(3)(a) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

Kirklees MDC

Path Diversion Orders

Barley	2pt; 3pt; 5pts; 15pt; 21pt; 22pt; 25pts; 28pt; 37pts; 39; 40pt; 41pt; 48pt
Colne Valley	4pt; 14pt; 38pt; 46pt; 47pt; 50pt; 62pt; 72pt; 87pt; 89pt 101pt
Denby Dale	21pt; 38pt; 39pt; 40pt; 49pts; 50pt; 70pt; 84pts; 94pt; 104pt
Dewsbury	25pt
Hackmondwike	5pt; 8; 11pt; 12pt
Holmfirth	3pt; 13pt; 23pts; 25pts; 37pt; 38pt; 40pt; 52pt; 58pts; 72pt; 80pt; 89pt; 95pt; 103pt; 119pt; 122pts; 124pt; 140pts
Huddersfield	3pt; 4pt; 22pt; 37pts; 51pt; 56pt; 60pt; 72pt; 107pt; 148pt; 212pt; 235pt; 272pts; 276pt; 280pt; 284pt; 314pt; 338pt; 368pt; 407
Kirkburton	62pt; 65pt; 126pt; 133pt; 137pt; 138pt; 139pt; 151pt; 170pt
Meltham	36pt; 52pt
Mirfield	17pt; 32pt
Spenborough	3pt; 12pt; 13pt; 14pts; 16pts 17pt; 21pt; 24pt; 34pt; 36pt 37pt; 41pt; 46pt; 50pts; 51pts; 52pts; 53pts; 66pt; 72pt; 88pt; 95A; 97pt; 102pt; 104pt; 106pt; 109pts; 113pt; 114pt; 116pt; 120pt; 133pt; 137pt

Path Extinguishment Orders

5pt; 6pts; 8pt; 16; 24; 25pt; 29pt; 31; 33pt; 43pt
1pt; 2pt; 4pt; 5pts; 6pt; 9pt; 10pt; 12pt; 14pt; 16; 17; 18; 19; 20pt; 21pt;; 22pt; 25pt; 26pt; 27; 28; 29pt; 30pt; 71; 141pt; 172pt; 173pt
19pt; 20pt; 65pt; 66Apt
4
1pt; 96pt; 124pt; 140pt; 141pt
40pt; 74; 86pts
19pt; 64pt; 74pt; 135; 206pt; 207pt
41pt
15pt; 19pt; 39pt; 41; 42pt; 43pt; 54pt; 55pt
10pt; 12pt; 21pt; 23pt; 37pt; 40pts; 42pt; 50pt; 72pt; 95pt; 103pt; 104pt; 106pt; 109pt; 110pt; 111pt



SCHEDULE "B"

MODIFICATIONS TO THE DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF WEST YORKSHIRE TO GIVE EFFECT TO ALTERATIONS ALLOWED FOR UNDER SECTION 53(5) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

Bradford MDC

Addingham

Additions - Footpath:- off Southfield Terrace, Plumbtree Banks Lathes to Netherwood House Farm; Causeway Foot Farm northward, near Farfield House beside River to Farfield Cottage.

Baildon

Additions - Footpath - Tonge Park to Lonk House Farm; Haygate Lane; Loadpit Beck to Rydal Avenue; Dobrudden northwards; eastend Prod Lane eastwards and northwards; Oak Place; near Hawksworth Spring southeast; Otley Road to Esholt Lane; Bruntcliffe Way northeast; Green Road to Cliffe Avenue and Baildon Road; Holden Lane; War Memorial northwest; Silson Lane; Filton House northwest to Bingley Road; Moorgate northeast to Strawberry Gardens.

Strawberry Gardens northwest to Hawksworth Road; Hawksworth Road to Sconce Crag; Sconce westward; Cliffe Avenue to Green Road; Green Road northwest; Dobrudden Farm southwest; Dobrudden Farm eastwards.

Additions - Bridleway - Bingley Road southwest to Shipley Glen Road; Hardaker Lane; Bingley Road southward towards Dobrudden.

Bingley

Additions - Footpath - Manor Drive to Backfield Road; Brankstone Drive northward; Grange Road northwest and southwest; Ryecroft; Moor Edge High Side; near Morton Beck south of Holroyd Mill; Hillside Road to Canal.

Addition - Bridleway - Cuckoo Park Lane to Crummack Lane.

Denholme

Additions - Footpath:- near Doe Park Reservoir; Foreside Bottom Lane; Station Road southward; Whalley Lane northeast; Minorca Mount northwest.

Ilkley

Additions - Footpath:- near Netherwood House Farm; Prospect Road southwest; Cheltenham Avenue to Ben Rhydding Drive; Hag Farm Road; Hillings Lane to Stocks Hill; Hangingstone Road to Ben Rhydding Drive; Ben Rhydding Drive and continuing west towards Gib Field; near Bracken Hill; Turnpike Farm southwest; Carlrayne Lane; Langbar Road to Middleton Woods; Princess Road to Queens Road; Sun Lane Burley southeast; Rombalds Lane to Hanging Stones Road; Holme Road northwest.

Deletions - Path No 33

Keighley

Additions - Footpath:- joining parts of Path No 150 north of West Lane Haworth; Changegate eastward; Ivy Bank Lane; Outside Lane to Bodkin Lane;

SCHEDULE "A"

MODIFICATIONS TO THE DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF WEST YORKSHIRE TO TAKE ACCOUNT OF EVENTS WHICH HAVE OCCURRED UNDER SECTION 53(3)(a) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

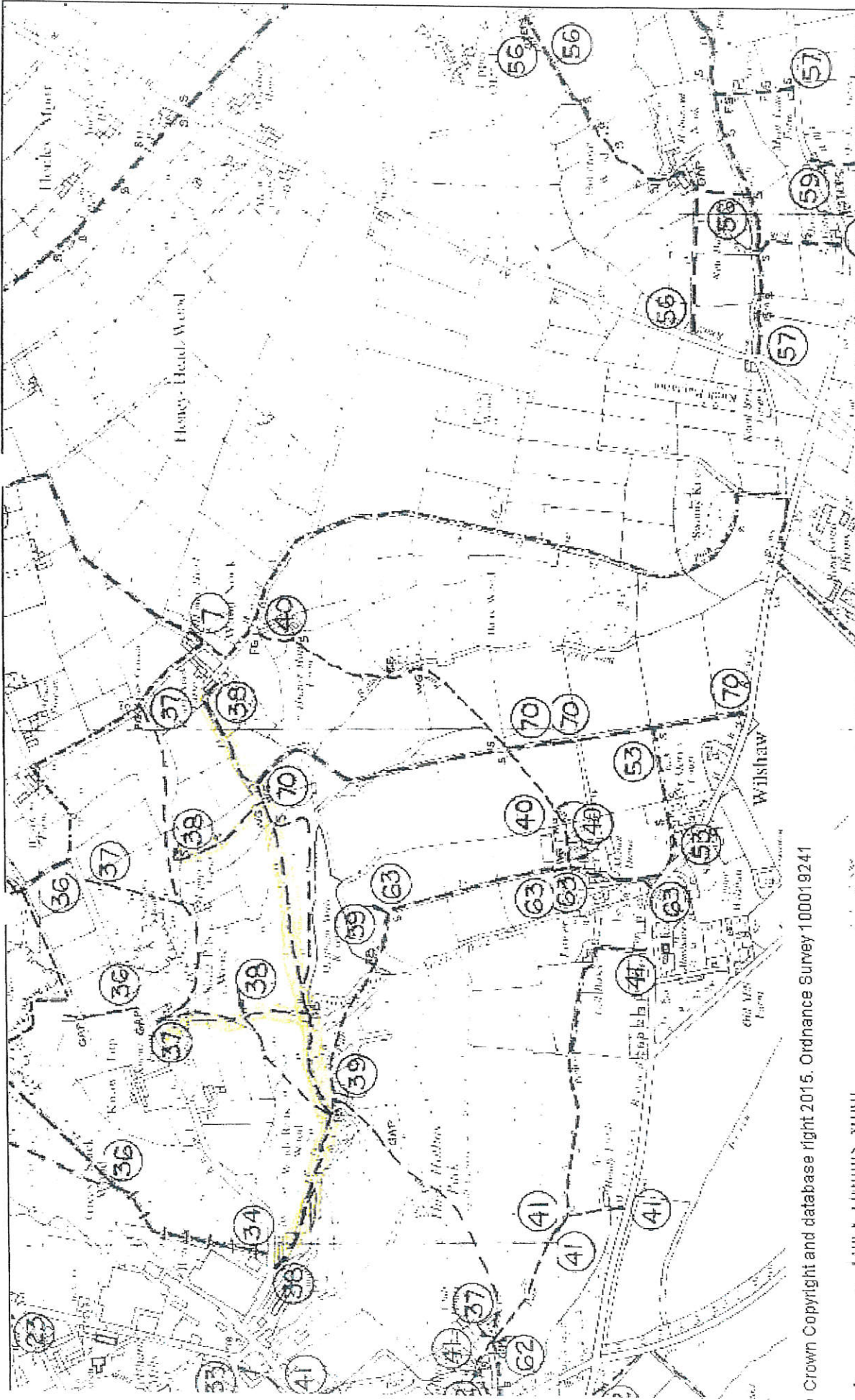
Bradford MDC

Path Diversion Orders

Addingham 6pt, 9pt, 19pt, 37pt, 40pt  
 Baildon 18pt, 20pt, 32pt, 35pt  
 Bingley 5pt, 23pt, 24pt, 25pt, 26pt, 33pt, 36pt, 43pt, 47, 115, 170pt, 178, 182pt, 212, 232  
 Denholme 25pt, 26pt, 29pt, 33pts, 82pt  
 Ilkley 3pt, 6pt, 15pt, 31pt, 45pt, 47pt, 49pt, 52pt, 65pt  
 Keighley 17pt, 18pt, 66pt, 69pt, 76pt, 78A, 82A, 98pt, 109pt, 127pt, 146pt, 168pt, 195, 204pt  
 Queensbury 25pt, 26pt  
 Shipley 41, 49, Footpath-Hillfoot to Nabwood Drive  
 Silsden 11pt, 12pt, 25pt, 27pt, 31pt, 33pt, 45pt, 46pt, 50pt  
 Steeton- 16  
 with-Eastburn

Path Extinguishment Orders

1pt, 26, 33, 35pt  
 36pts, 171pt, 182pt, 183pt  
 27pt  
 8, 45pts, 52pt, 60, 70pt  
 12pt, 18pts, 20 21pts, 72pts, 99, 109pt  
 11pt, 12pt, 20pt, 28pt, 33pt, 34pt  
 45pt  
 1pt, 5pts



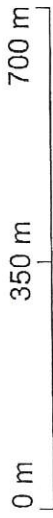
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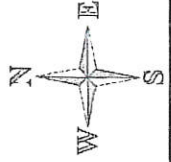
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E-Mail: [maps@kirkcaldy.gov.uk](mailto:maps@kirkcaldy.gov.uk)

Kompass mapping copy extract of as-published 1985 modified DM



Scale 1: 10000





HUDDERSFIELD

SE II

SE 2

THAM

NIRKURTON

HOO NORTH

DENBY DALL

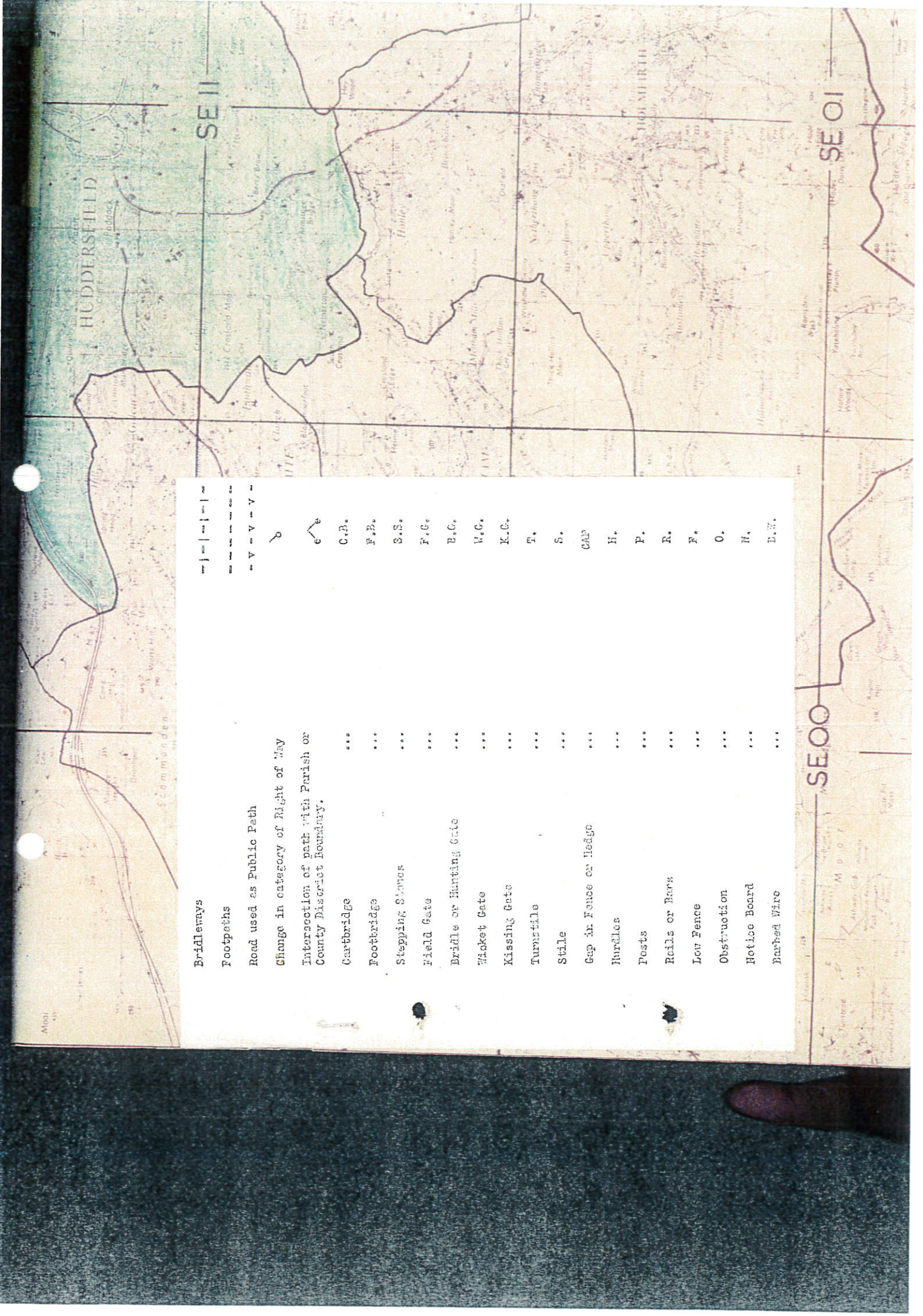
SE 01

SE 20

Relevant Date 20th April 1966.

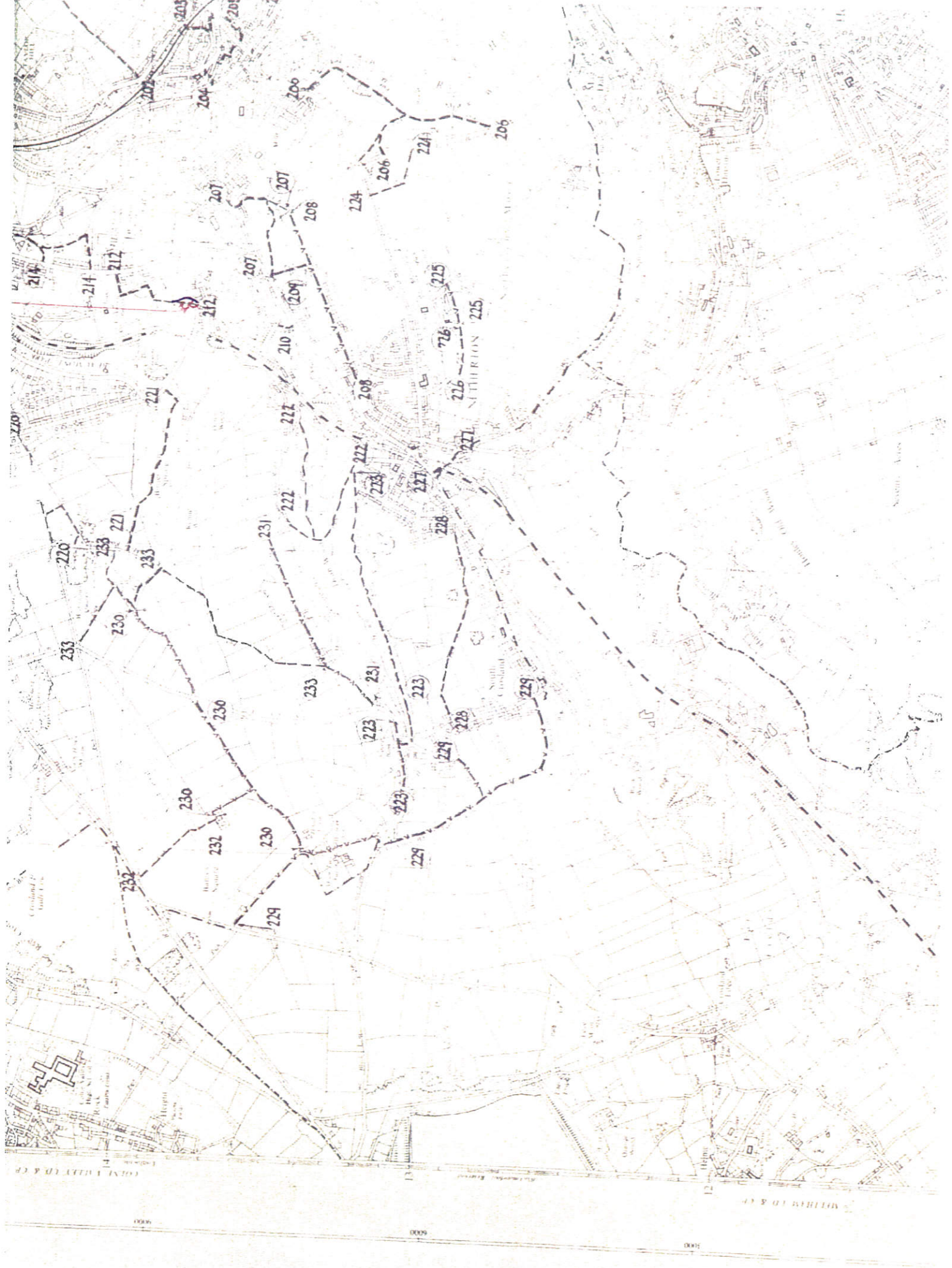






Bridleways	- -   -   -   -   -
Footpaths	- - - - -
Road used as Public Path	- - V - - V - -
Change in category of Right of Way	⋈
Intersection of path with Parish or County District Boundary.	⊄
Cartbridge	C.B.     ...
Footbridge	F.B.     ...
Stepping Stones	S.S.     ...
Field Gate	F.G.     ...
Bridle or Harting Gate	B.G.     ...
Wicket Gate	W.G.     ...
Kissing Gate	K.G.     ...
Turnstile	T.       ...
Stile	S.       ...
Gap in Fence or Hedge	GAP     ...
Hurdles	H.       ...
Posts	P.       ...
Rails or Bars	R.       ...
Low Fence	F.       ...
Obstruction	O.       ...
Notice Board	N.       ...
Barbed Wire	B.W.     ...





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