

NORTH YORKSHIRE  
LOCAL ACCESS FORUM

WEDNESDAY 12<sup>th</sup> February 2014

COMMONS ACT 2006 s.38 APPLICATION – BURNMOOR COMMON

1.0 PURPOSE OF THE REPORT

1.1 This report draws members' attention to consultation on an application to fence an area of common land at Burnmoor Common near Bentham

2.0 BACKGROUND

2.2 s.38 of the Commons Act 2006 prohibits any restricted works on common land without consent from the relevant National Authority

2.1 In considering applications the relevant National Authority (The Planning Inspectorate) must consider the public interest, which includes the following:

- (a) nature conservation;
- (b) the conservation of the landscape;
- (c) the protection of public rights of access to any area of land; and
- (d) the protection of archaeological remains and features of historic interest

3.0 THE APPLICATION

3.1 The application is attached at Appendix 1 for members' consideration

4.0 RECOMMENDATION

4.1 It is recommended that members consider the application and make comments as appropriate to the Planning Inspectorate.

Contact:

Aidan Rayner  
PRoW Team Leader  
01609 533077

**APPLICATION FOR CONSENT TO CARRY OUT WORKS ON  
COMMON LAND**

Commons Act 2006: Section 38

National Trust Act 1971: Section 23

Greater London Parks and Open Spaces Order 1967

Return completed application to:

The Planning Inspectorate  
Room 3/25B, Hawk Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Tel: 0303 444 5408  
Fax: 0117 372 6241

E-mail: [commonlandcasework@pins.gsi.gov.uk](mailto:commonlandcasework@pins.gsi.gov.uk)

- Before you apply for consent you should consult informally and widely about the proposed works as this may help you identify and overcome any objections.
- Answer all the questions on this form in full, tick all relevant boxes and use a separate sheet where there is insufficient space for your answer.
- Refer to separate Notes on completing this form (the "Notes") and Guidance Sheets (list at Annex F of notes) before applying.
- Consult informally and widely about your ideas before developing a formal proposal.
- Read Guidance Sheets 1a, 1b and 1c for all Section 38 cases.
- Read Guidance Sheet 2a if the land is owned by the National Trust.
- Read Guidance Sheet 2b if the land is owned and/or managed by a London borough, or registered as a town or village green.

### Legislation (See Notes 1 and 2)

This application is made under:

- Section 38: Commons Act 2006
- Section 23: National Trust Act 1971
- Article 12: The Greater London Parks and Open Spaces Order 1967
- Article 17: The Greater London Parks and Open Spaces Order 1967

### SECTION A – The common land (see Notes 3 and 4)

1. Name and full address of common

BURNMOOR, BENTHAM  
LANCASTER

CL no or VG no

CL 136

Commons Registration Authority

NORTH YORKSHIRE COUNTY COUNCIL

### SECTION B1 – The applicant (or agent acting on behalf of the applicant)

2. Forename

Surname

Organisation (if appropriate)

Title (Mr/Mrs/Miss/Dr)

Full Postal Address

Postcode   
Telephone No/Mobile   
E-mail address

3. Do you prefer to be contacted by  Post  E-mail

**SECTION B2 – The owner of the common land**

4. Forename   
Surname   
Organisation (if appropriate)   
Title (Mr/Mrs/Miss/Dr)   
Full Postal Address   
Postcode   
Telephone No/Mobile   
E-mail address

5. Does the owner support your application?  Yes  No  
6. Provide written evidence of the owner's views.  Evidence enclosed

**SECTION C – Area of common and common rights (Note 5)**

7. What is the total area of the common as registered?

What common rights, if any, are registered? (e.g. number and type)

8. Are the common rights ever exercised?

Yes  No

If yes, please give details e.g. which commoners are active, which rights are exercised and how frequently?

9. Give details of any relevant leaseholders, other occupiers, those holding any relevant charges or those with rights of access over the land.

N/A.

### SECTION D1 – The proposal (See Note 6, 7)

10. What works are proposed? (tick **all** that apply)

- fencing
- building(s)
- other structures(s)
- ditch(es), trench(es), embankment(s)
- sealed paths, roads or tracks (e.g. concrete or tarmacadam)
- other works, please specify:

CATTLE GRID

11. What area (in square metres) will the works occupy or the fencing enclose?

-

How long (in metres) will the works/fencing be?

1044m

12. Are the proposed works permanent or temporary?

- permanent
- temporary
- mixed permanent and temporary

If temporary, how long will they be needed? **See note 8.**

13. Is this application, or any part of it, for works that have already been carried out? **See Note 9.**

Yes  No

14. Describe the proposed works below and make clear which works, if any, have already been carried out.

(SEE ATTACHED PLAN)

15. Explain why the proposed works are needed. **See Note 10.** If the proposed works include fencing, please explain why it is needed by completing section D2.

TO PREVENT STOCK STRAYING FROM THE COMMON AND TO ENSURE STOCKING REQUIREMENTS OF ELS/HLS AGREEMENT ARE KEPT TO, TO PREVENT ROAD TRAFFIC ACCIDENTS WHEN CROSSING THE COMMON, TO PREVENT ACCESS OF UNAUTHORISED VEHICLES ONTO THE COMMON TO PROTECT IMPORTANT HABITATS.

**SECTION D2 – Where the proposed works include fencing**

(If your proposal does not include fencing, go straight to SECTION E)

16. Please give details of the type(s) of fence proposed, including the height and the materials used.

(AS PER ATTACHED SPECIFICATION)

17. Please explain why the fencing is needed. This should cover: why fencing of this type is needed, what the aim of the fencing is, and why it is the length proposed. You should also explain what other types of fencing, if any, have been considered and rejected. If you are seeking permanent consent please explain why a temporary consent would not be appropriate.

(SEE SECTION D1 : 15)

18. Please say what other measures (if any) you have considered (i.e. alternatives to fencing) and explain why these are not suitable.

ALTERNATIVE METHODS ARE EITHER TOO EXPENSIVE OR IMPRACTICAL

19. Give details of any measures proposed to mitigate the visual affects of the fencing.

WILL BE LOCATED OFF THE SKYLINE AND AWAY FROM THE ROAD. MATERIALS WILL BE CONSISTENT WITH NEARBY FENCING TO REDUCE LANDSCAPE IMPACTS.

20. How will you ensure the public and others with rights (e.g. common rights holders) will have access to the land after the fencing is in place? Give details of the number, type and location of stiles, gates, gaps or other means of access.

EXISTING ACCESS WILL REMAIN IN PLACE AND FOUR STILES WILL BE INTEGRATED INTO THE FENCE.

**SECTION E – Planning permission. (See Notes 11 and 12.)**

21. a) Is planning permission needed for your proposal?  Yes  No  
b) If yes, has planning permission been given?  Yes  No  
If yes to b), please enclose a copy of the planning permission.  Copy enclosed.

**SECTION F - Designations**

22. Is the proposal in or near a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) a Special Protection Area (SPA) or a wetland listed in accordance with the Ramsar convention?  Yes  No  
**See Note 13 and Guidance Sheet 8.**

If yes, please give details and identify this area on the map (see Section J).

[Empty box for details of designations]

23. Will the proposal affect a Scheduled Ancient Monument (SAM)?  Yes  No  
**See Note 14.**

If yes, please give details and identify the location of the SAM on the map (see Section J).

[Empty box for details of SAM]



24. Is the proposal in a National Park?

Yes  No

If yes, please give the name of the National Park.

Is the proposal in an Area of Outstanding Natural Beauty (AONB)?

Yes  No

If yes, please give the name of the AONB.

FOREST OF BOWLAND

Will the proposal affect a national or local nature reserve, area of special landscape value, or World Heritage Site?

Yes  No

If yes, please give details and identify the area on the map (see Section J).

### SECTION G – Existing works and adjacent common land. (See Note 15)

25. Are there any existing buildings, roads, fences or other constructions on the common?

Yes  No

If yes, please give details. Please also identify these on the map (see Section J).

ROADS, TRACKS, ~~AND~~ SHOOTING BUTTS

26. Does any area of common land or village green of a different registration number adjoin the common on which the works are proposed?

Yes  No

If yes, please give details. Please also identify the boundaries on the map (see Section J).

### Section H – Public access (See notes 16, 17, 18.)

27. a) Do the public have a right of access to the common for air and exercise under section 193 of the Law of Property Act 1925?

Yes  No

b) Is the common subject to an Order of Limitation made under Section 193?

Yes  No

If yes to b), give its date, and send us a copy of the order.

Date of the order

Copy enclosed.

28. Will the works exclude (rather than simply restrict) any right of access for any person (e.g. fencing that crosses a public right of way or road)? Rights of access for persons includes access on foot, horseback or in vehicles.

Yes  No

If yes, please explain what exclusions you seek.

**SECTION I – Advertisement and consultation (see Notes 19 - 22)**

29. You must advertise your proposal in one main local newspaper and at the main points of entry to the common (or, if there are none, at a conspicuous place on the boundary of the common) within 7 days of making your application. Use the draft notice at **Annex A** of the **Notes**.

A notice has been prepared following the format at Annex A.

30. You must also send a copy of the notice (using the letter at **Annex C, C1** or **C2** of the **Notes**) to the following:

- the owners of the land (if different from the applicant)
- the commons council or commoners' association (if there is one)
- all active commoners (please refer to **Note 20**)
- others with a legal interest e.g. tenants, those with easements, or other rights over the land and any other person occupying the land
- the Commons Registration Authority (usually the county council or unitary authority)
- the relevant parish council, where known
- Natural England
- English Heritage
- National Park Authority (if the proposal is in a National Park)
- AONB Conservation Board or Joint Advisory Committee (if the proposal is in an AONB)
- Open Spaces Society (**see Note 22**)
- the local authority or other body in which the management of the common is vested under a scheme of management made under the Metropolitan Commons Act 1866 or the Commons Act 1899 or any other regulatory scheme or Act for the common (if there is any such scheme or Act)

Even if you have consulted with Natural England or English Heritage before making this application you still need to send them a copy of the notice.

31. Which newspaper will the advertisement appear in?

CRAVEN HERALD

On what date?

~~19/12/13~~ 02/01/14

On what date will the representation period end?

~~20/01/14~~ 03/02/14

**This date must be at least 28 days from the date the application is advertised. Incorrect notices are a common problem and may result in you having to re-advertise, so please read note 19 carefully.**

**Section J – Maps (See Note 23)**

32. Please enclose two copies of the map that meets the requirements set out in Note 23. The map should show everything required by sections F and G of this form, and it must clearly show what you are proposing to do and where. **Incorrect or unclear maps are a common type of problem with applications for works, so please read note 23 carefully.**
- Two copies of the map have been prepared.

**Section K – Checklist (tick to confirm)**

33. For all applications:
- I have read the relevant Notes and Guidance Sheets.
  - I have read and adhered to the principles set out in the Code of Practice (link from Guidance Sheets 1a and 2a).
  - I have answered all the questions on this form in full. (Where appropriate.)
  - I have enclosed two copies of the map that meets the requirements of Note 26.
  - I have enclosed a copy of the commons register in respect of this common, where registered, i.e. details of the land, rights, ownership and the register map.
  - I have enclosed a copy of any document mentioned in answering the questions on this form (e.g. planning permission, scheme of management, written permission of the landowner, etc.)
  - I understand that any of the application papers may be copied to anyone who asks to see them.
34. For Section 23 (National Trust Act 1971) only:
- I have enclosed a letter from the National Trust confirming its view that the proposed works are "desirable" under Section 23(1)
35. I will, as soon as possible:
- Advertise the proposal in one local newspaper
  - Post a copy of the notice at the main entry points to the common
  - Send a copy of the notice to all those listed at Section I
  - Place a copy of the notice, map and application at the inspection point
  - Write to you using the letter at Annex D of the Notes, to confirm that the advertising requirements have been met.

Signed

Name

Date

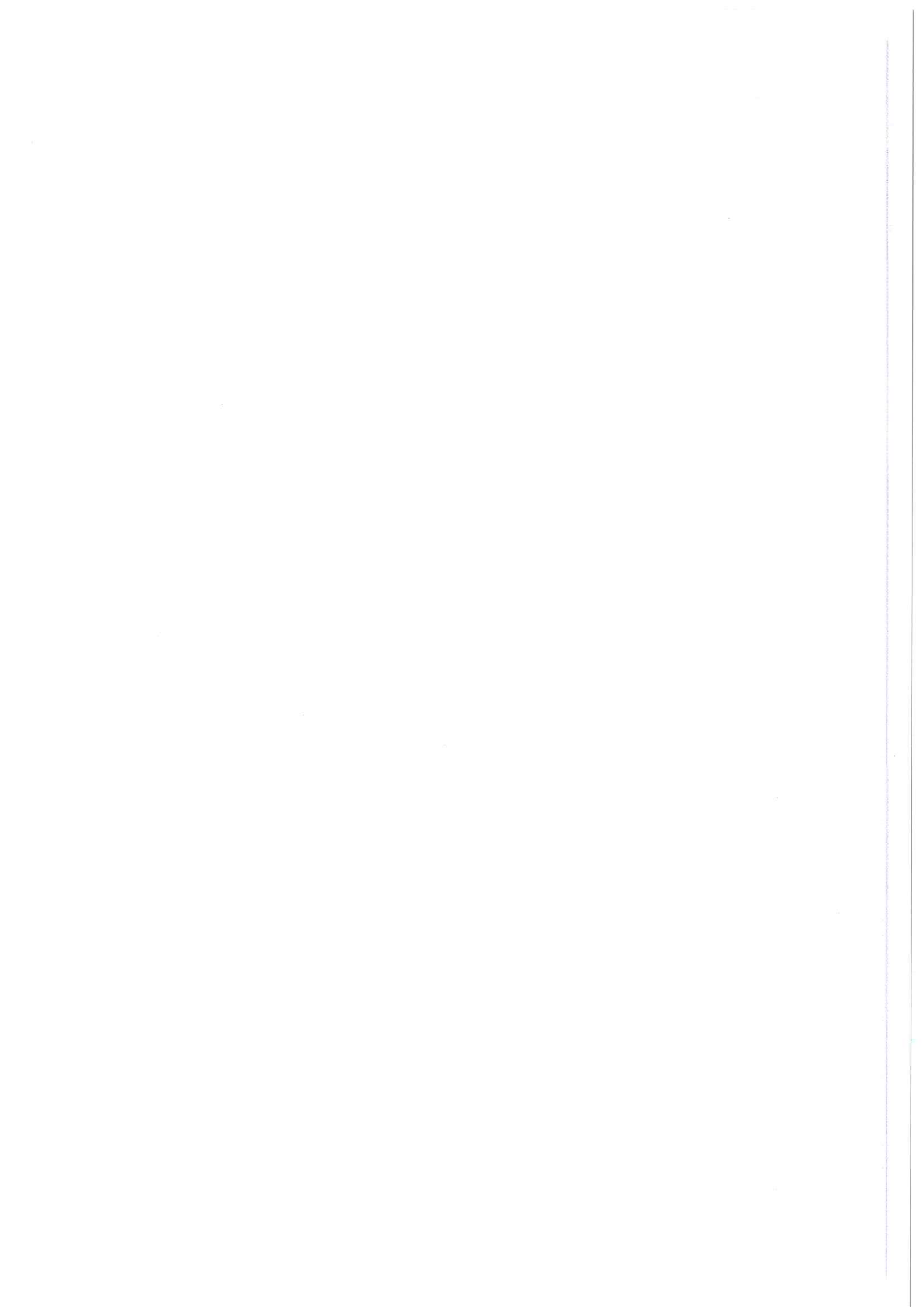
**You should keep a copy of the completed form.**

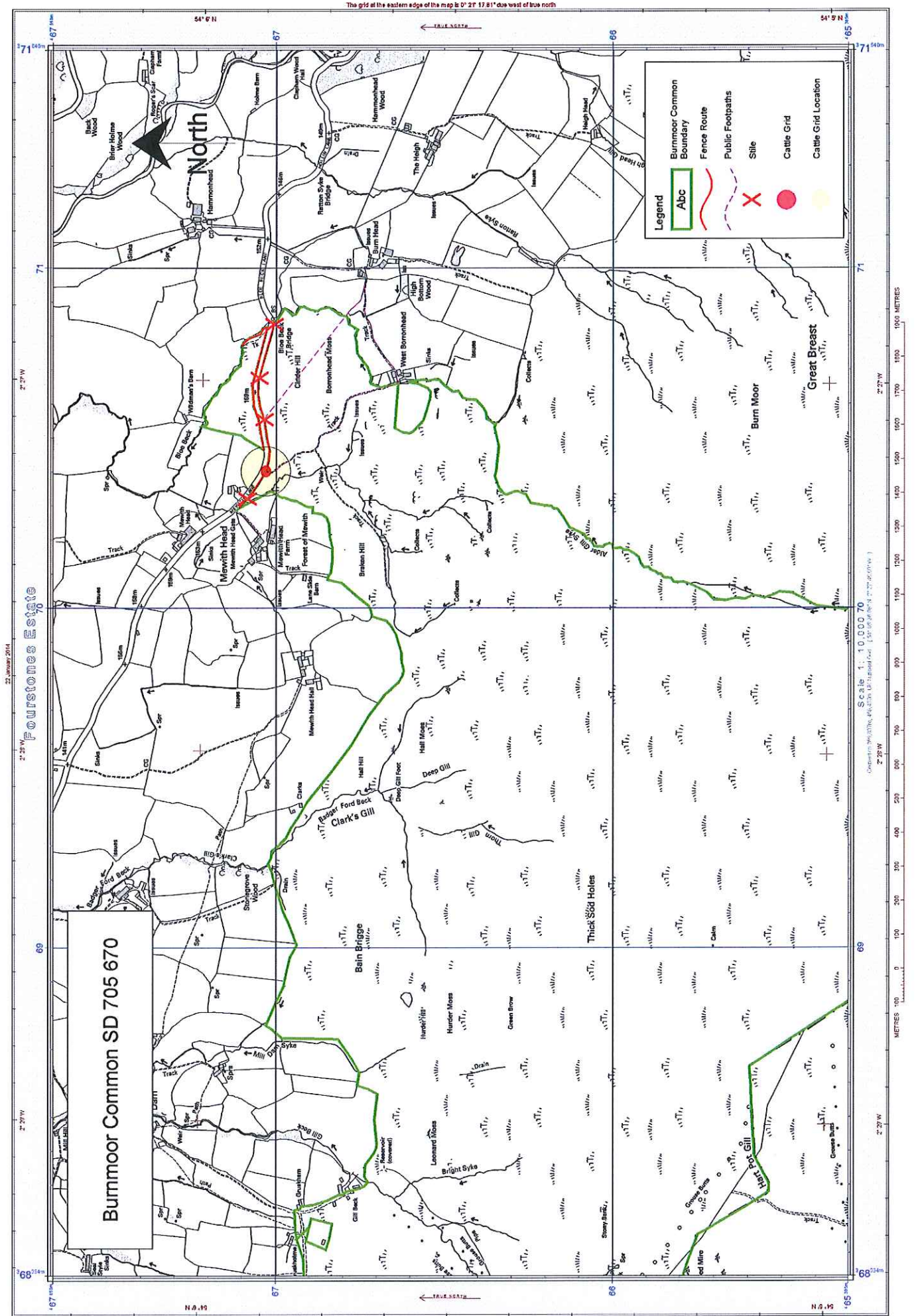
**Data Protection Act**

Your application will be in the public domain. Therefore all documents (both paper and electronic) associated with it may be disclosed during the application process to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed following a request for information under the Environmental Information Regulations 2004.

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22 January 2014

**Fourstones Estate**

**Burmoor Common SD 705 670**

**Legend**

- Burmoor Common Boundary
- Fence Route
- Public Footpaths
- Stile
- Cattle Grid
- Cattle Grid Location

Scale 1:10,000 70  
 Coordinates: 54° 0' 0" N, 2° 28' 0" W (OSGB 36)

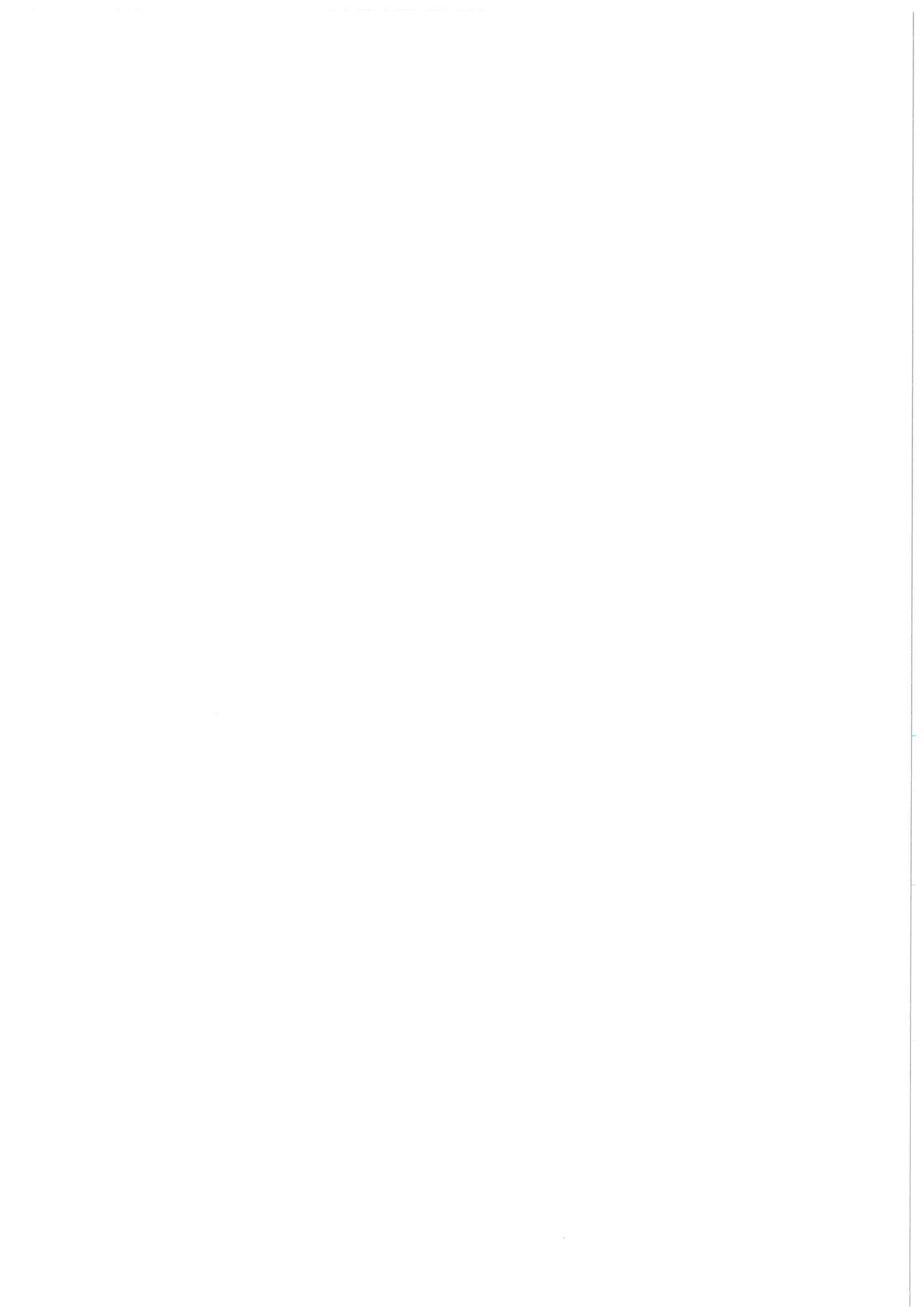


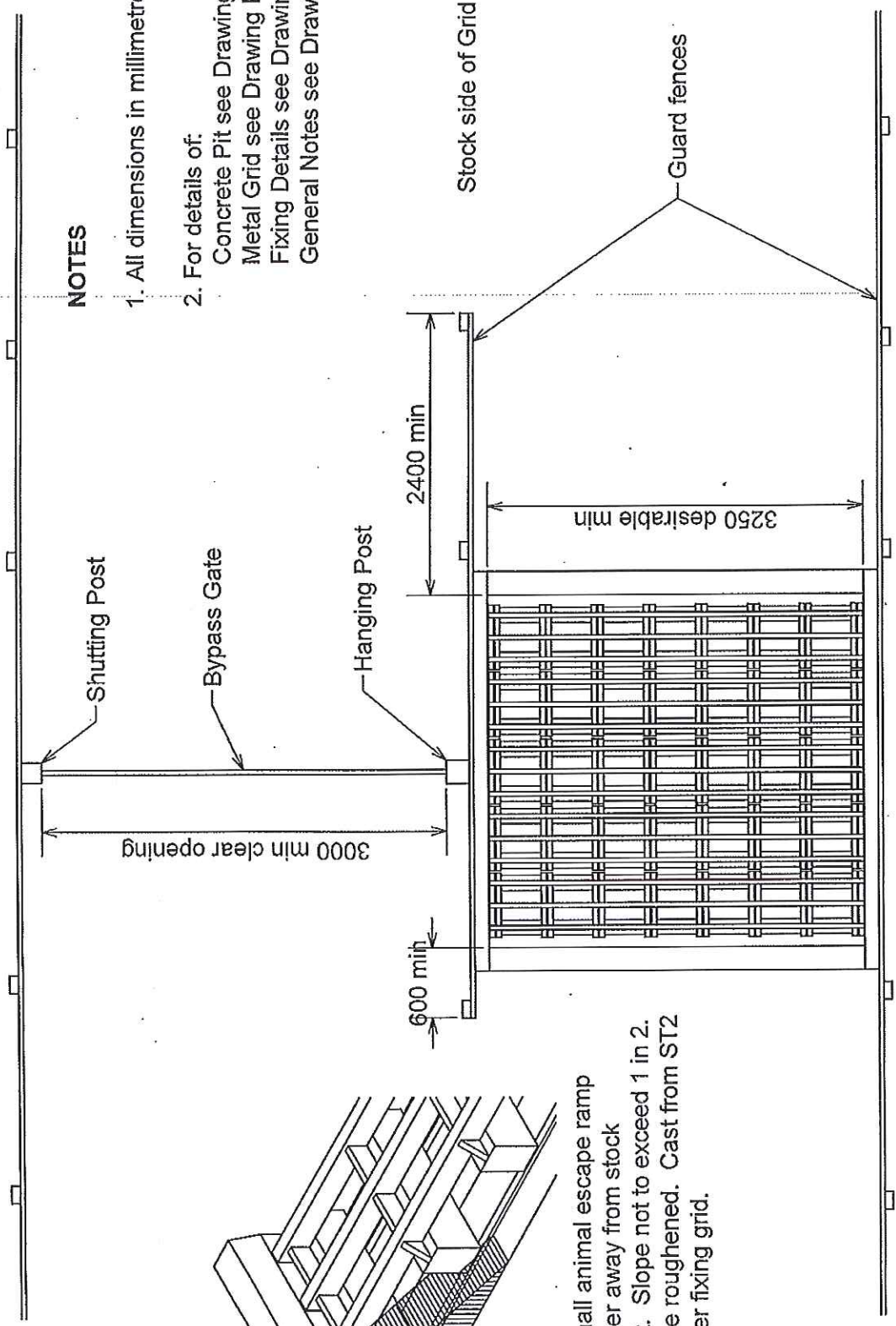
The grid at the eastern edge of the map is 0° 21' 52.81" due west of true north

The grid at the western edge of the map is 0° 23' 59.63" due west of true north

← TRUE NORTH

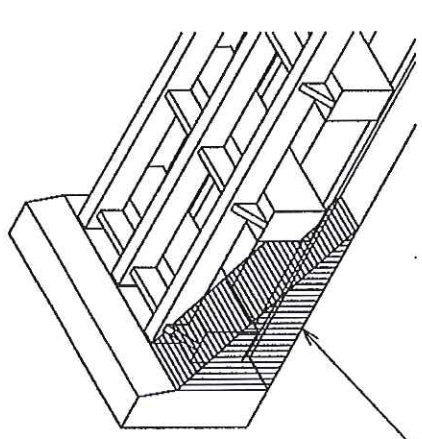
← TRUE SOUTH





**NOTES**

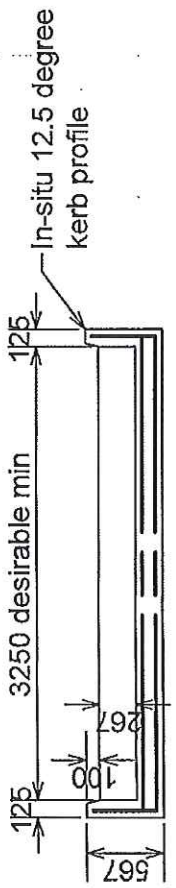
1. All dimensions in millimetres.
2. For details of:  
 Concrete Pit see Drawing KL26  
 Metal Grid see Drawing KL27  
 Fixing Details see Drawing KL28  
 General Notes see Drawing KL29



150 wide small animal escape ramp in each corner away from stock containment. Slope not to exceed 1 in 2. Surface to be roughened. Cast from ST2 concrete after fixing grid.

LANCASHIRE COUNTY COUNCIL SPECIAL DETAILS	GENERAL	CATTLE GRID GENERAL ARRANGEMENT	Sheet no.	KL25
			Date	Feb 2008
			Revision	-

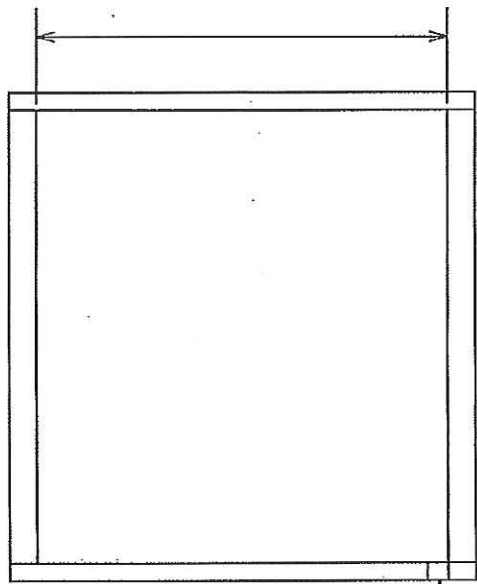




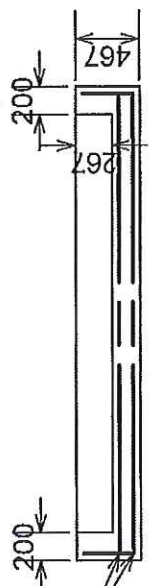
SECTION A-A



Pit length between end walls 2600 min  
 except for deer containment 4000 min



PLAN



SECTION B-B



Drainage outlet at low point of pit floor, connected to carriageway drainage or soakaway.

Two layers of A393 mesh reinforcement. 50 cover to top, bottom and sides. Bottom layer turned up into walls.

**NOTES**

1. All dimensions in millimetres.
2. All concrete to be C35/45, maximum free water/cement ratio 0.50, minimum cement content 320 kg/m<sup>3</sup>.

LANCASHIRE COUNTY COUNCIL  
 SPECIAL DETAILS

GENERAL

CATTLE GRID  
 CONCRETE PIT

Sheet no.

KL26

Date

Feb 2008

Revision

-

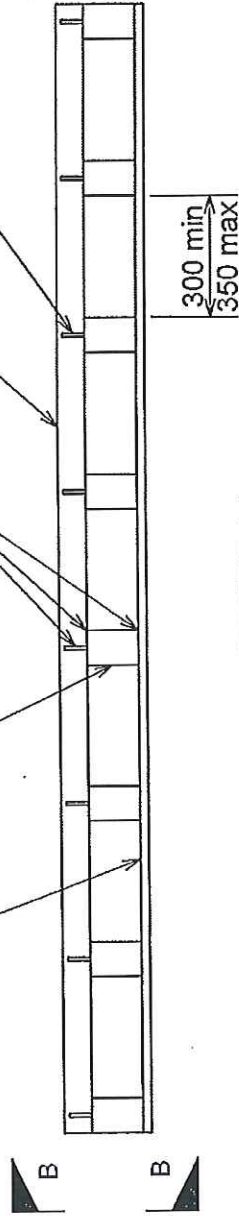
EN 10210 S355J2H 150 x 100 x 4.0

S275 130 x 25 Flat

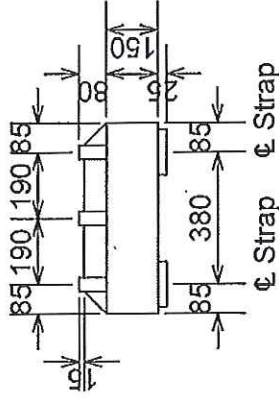
EN 10210 S355J2H 80 x 40 x 8.0

S275 65 x 10 Flat

a3



SECTION A-A



SECTION B-B

**NOTES**

1. All dimensions in millimetres.
2. All structural hollow sections to be Grade S355 J2H in accordance with EN 10210.
3. After fabrication the grid shall be hot-dip galvanized in accordance with EN ISO 1461. The galvanizer shall provide such vents and drains to enclosed cavities as are necessary for safety and process reasons.
4. Welding symbols refer to BS EN 22553 (ISO 2553: 1992).



PLAN

LANCASHIRE COUNTY COUNCIL  
SPECIAL DETAILS

GENERAL

CATTLE GRID  
METAL GRID ELEMENT

Sheet no.

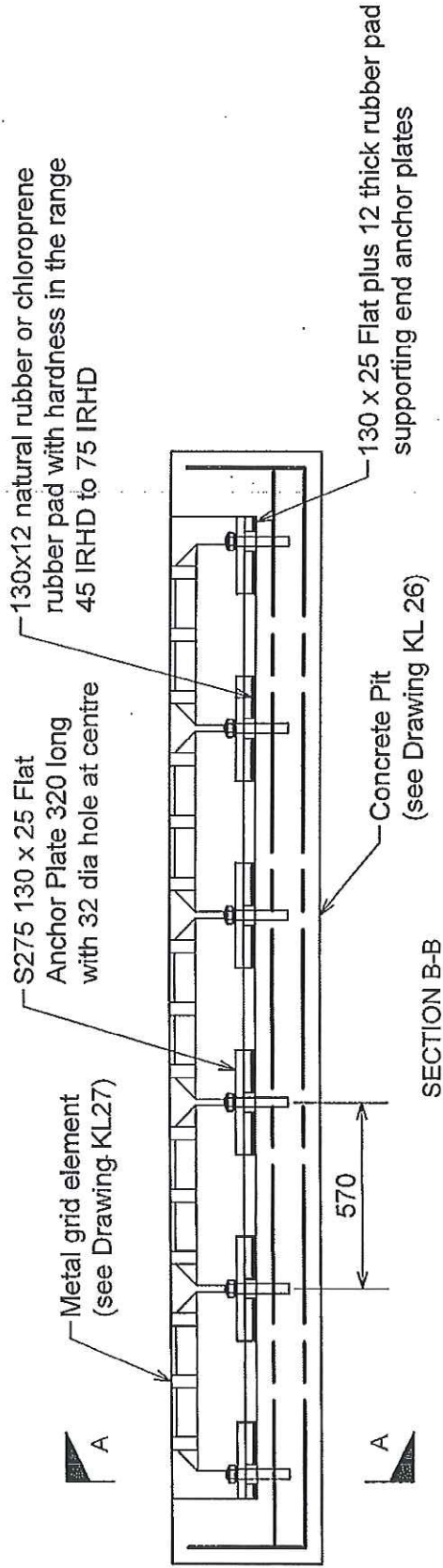
KL27

Date

Feb 2008

Revision

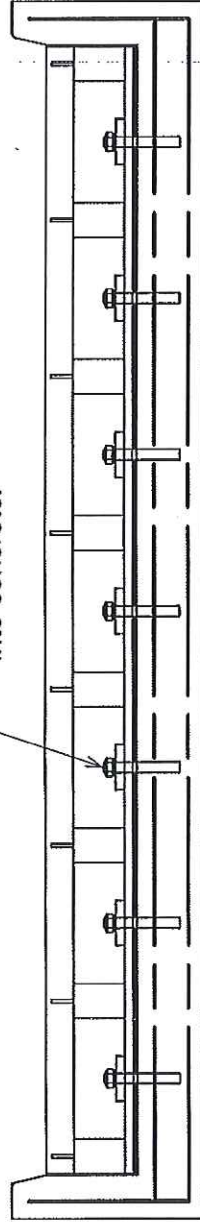
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**NOTES**

1. All dimensions in millimetres.
2. After fabrication the anchor plates shall be hot-dip galvanized in accordance with EN ISO 1461.

M30 Grade 4.6 rag bolt with black nut and washer, galvanized to BS 7371-6. Rag bolt min 100 embedment into concrete.



LANCASHIRE COUNTY COUNCIL  
SPECIAL DETAILS

GENERAL

CATTLE GRID  
FIXING DETAILS

Sheet no.

KL28

Date

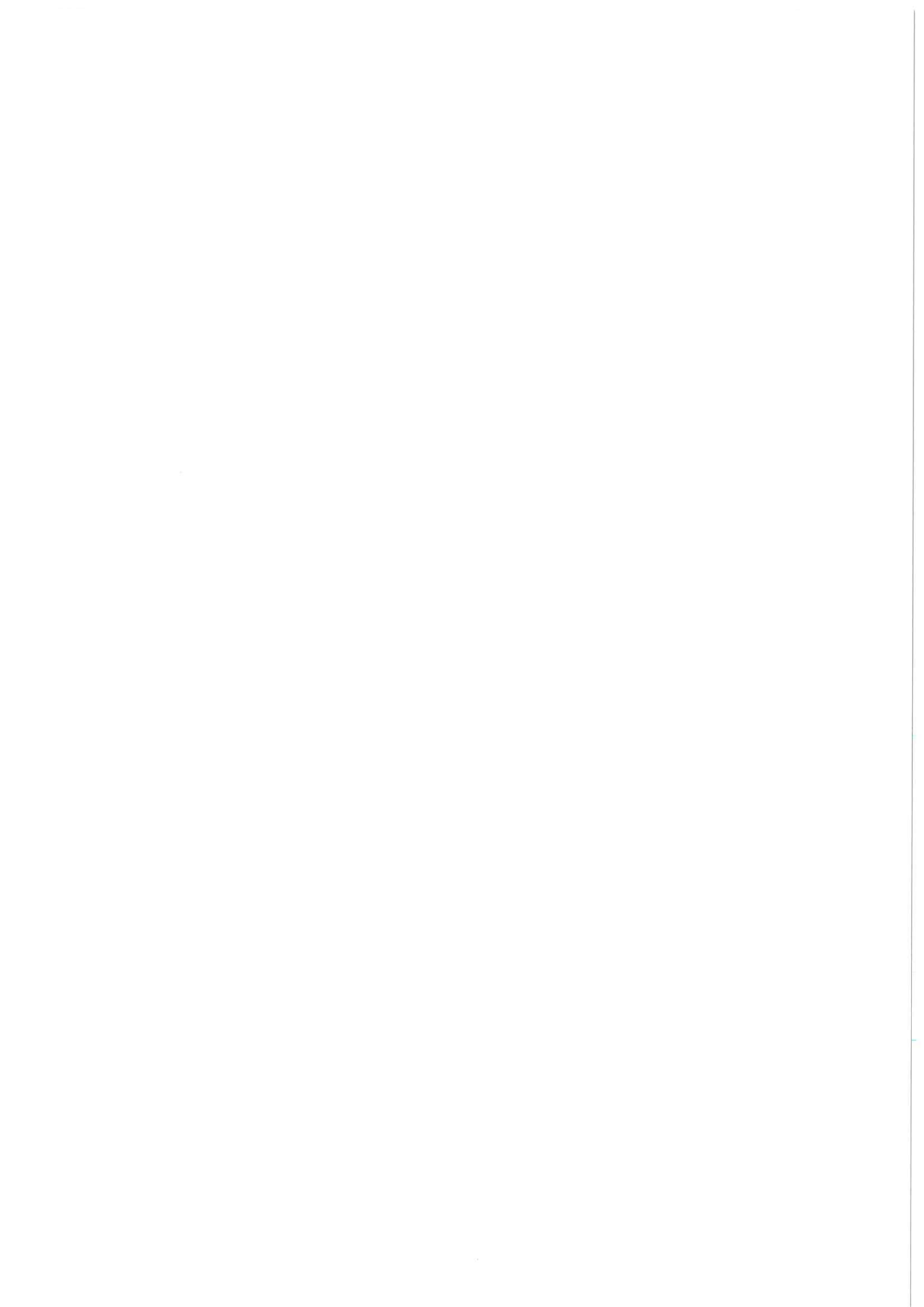
Feb 2008

Revision

**NOTES**

1. Cattle grids shall be sited to be clearly visible to approaching traffic.
2. Cattle grids shall not be sited within 18 metres of a junction.
3. Cattle grids should be sited on straight sections of road.
4. The approach width shall be adequate for anticipated manoeuvres.
5. The aprons and grid shall maintain the longitudinal profile of the road and shall be in the same plane. Where the longitudinal gradient exceeds 1 in 20 particular consideration shall be given to skid resistance.
6. Cattle grids shall be sited so that their top surface has a transverse gradient flatter than 1 in 40.
7. Warning signs to diagram 552 shall be provided on approaches to cattle grids.
8. Reflectors shall be fitted to end posts of guard fences and to any bypass gate. A notice shall be fixed in a position visible from the grid informing of the location of the grid and of the nearest public telephone.
9. The Design Life of the grid is 50 years.
10. The grid is designed to support HA loading to BD 37/01.
11. The grid should be checked regularly for corrosion, wear and deformation. Fixings should be checked and tightened. The pit should be clear of weeds, leaves, rubbish and debris. Guard fencing, gates and ancillary equipment should be inspected and maintained regularly. All signs and notices should be inspected to ensure they remain visible and readable.

LANCASHIRE COUNTY COUNCIL SPECIAL DETAILS	GENERAL	CATTLE GRID NOTES	Sheet no. KL29	Date Feb 2008 Revision -
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# HIGHER LEVEL STEWARDSHIP AGREEMENT MAP

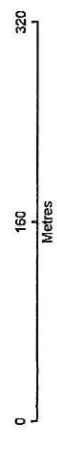
- Options**
- Maintenance of hedgerows/ditches of very high environmental value
  - Management of woodland edges/hedgerow buffer strips
  - Protection of trees
  - Woodland and orchards
  - Visibility of archaeological features on moorland
  - Historic and landscape
  - Buffer strips and grass margins
  - Arable land
  - Encourage a range of crop type
  - Maintenance of watercourse fencing
  - Resource protection
  - Grassland
  - Upland grassland and moorland
  - Linear access (agreements in October 2010 only)
  - Permissive Open Access (agreements in October 2010 only)
  - Lowland heathland
  - Inter-tidal and coastal
  - Wetland
- Number within circle represents number of trees in parcel

- HB
- HC/DHC
- HC/OHC
- HC/OHC/LOHC
- HD/OHD
- HE/OHE
- HF/OHF
- HG/OHG
- HJ/OHJ
- HJ/OHJ/HU/OHJ
- HK/OHK
- HL/OHL/HU/OHL
- HN
- HN
- HO
- HP
- HQ

Option codes are annotated on the map. Please see scheme handbooks for detailed explanation of each option code.

Supplement options are annotated where present e.g. HL13, HR4

- CA1/PC Capital Item
- CL/OF Capital Item
- CL/WS Capital Item
- Positions of capital items are indicative and for identification purposes only
- SX12345678 RLR field number
- Remaining land comprising agreement area

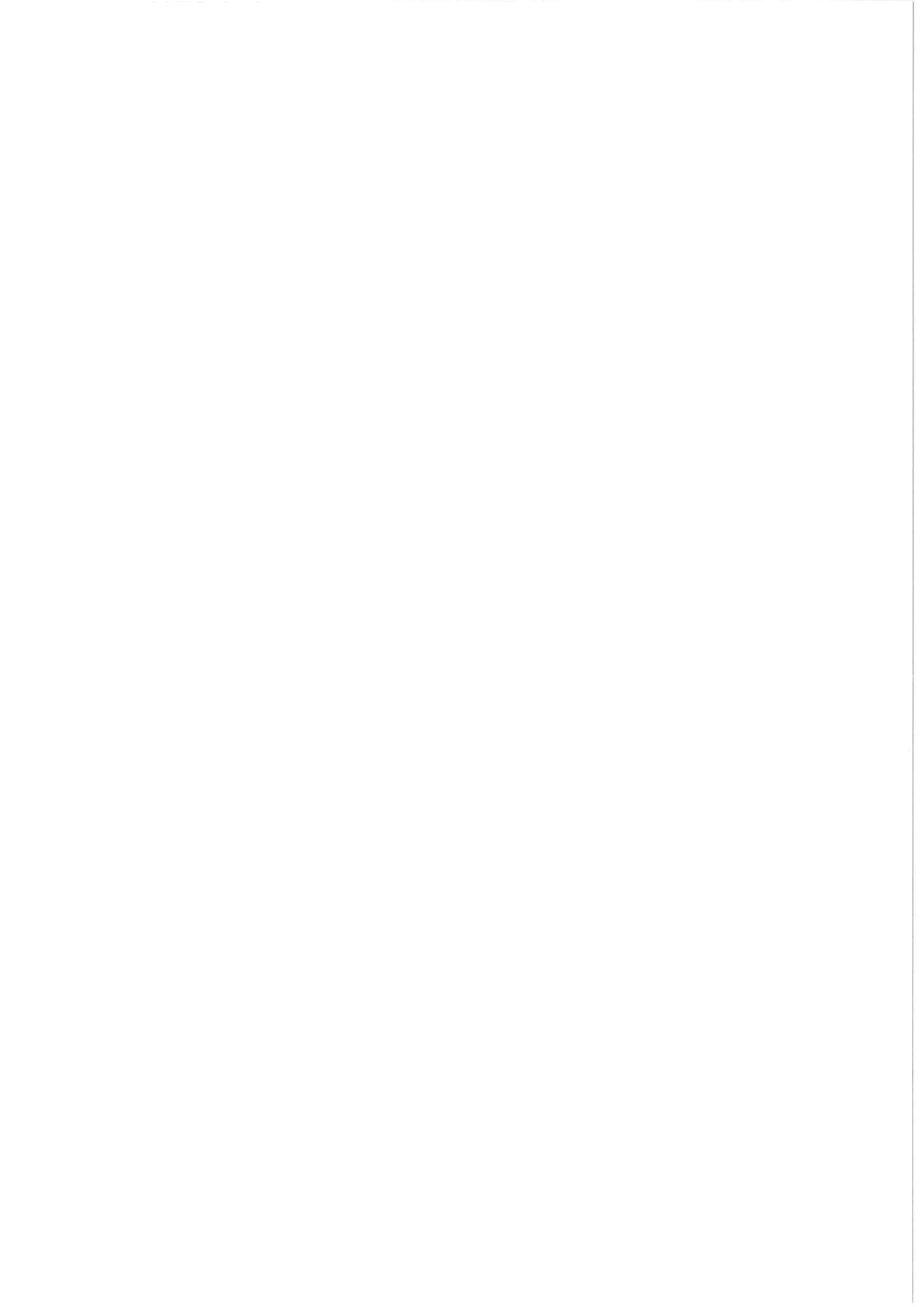


Map provided for the sole purpose of supporting ES Scheme Applications and Agreements.  
 Map produced by Natural England. © Crown copyright and database right 2013.  
 Ordnance Survey licence number 100022021.

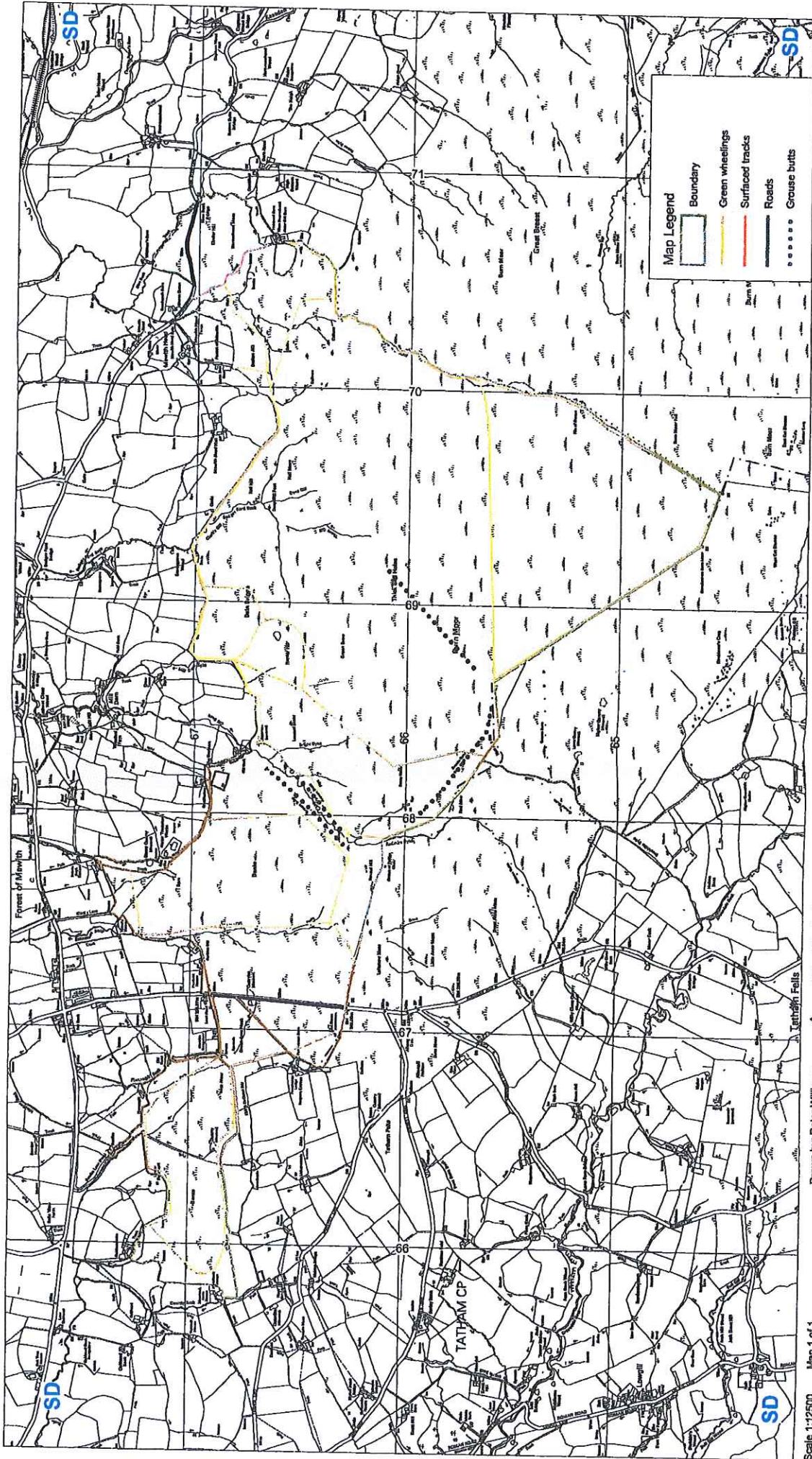
Application Ref: AG00356517







**Bentham Burn Moor AG00356517**  
 Appendix 5 - Moorland Infrastructure



Scale 1:12500 Map 1 of 1

1500 m  
1000 yds

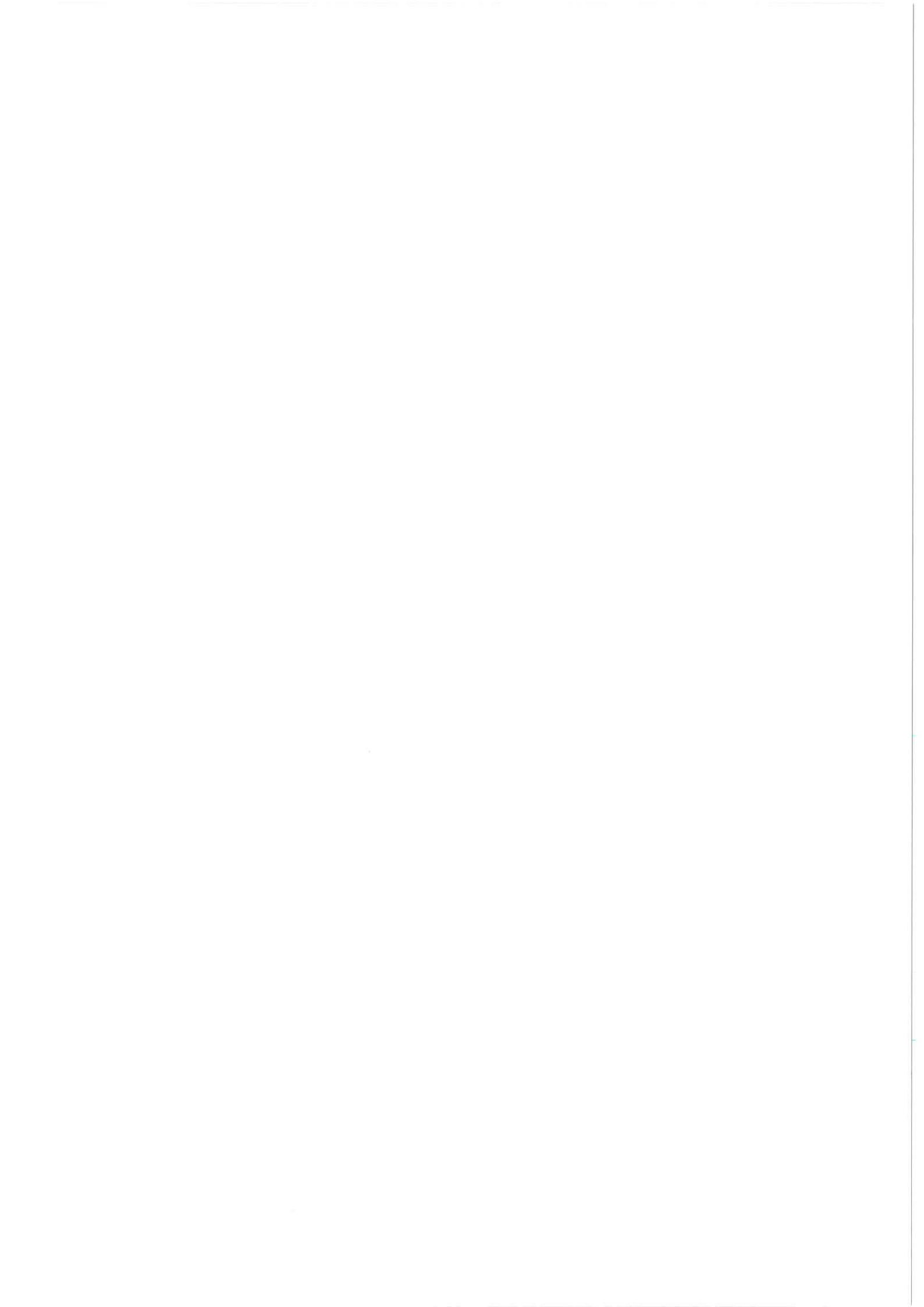
North

Grid

Natural England  
 Niddedale and Craven  
 Third Floor  
 25 Queen Street  
 Leeds  
 LS1 2UN

Drawn by: Peter Williams  
 Date: 24/11/2010  
 Ref: sd66366615  
 © Natural England 2010

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## **FENCING SUPPLEMENT - DIFFICULT SITES**

The fencing associated with this supplement must be carried out to the relevant specification. The supplement is towards the extra work involved on particularly difficult sites e.g. where steep slopes prevent machine access, or underlying rock or topography requires additional posts.

## **RABBIT FENCING SUPPLEMENT**

### **General**

Stock fencing used to support rabbit netting must be constructed in accordance with BS 1722. If the stock fence is being grant-aided it must also conform to the relevant Capital Item specification. New fencing should avoid sites of archaeological or historic importance.

You should ensure any relevant consents are gained before carrying out the work e.g. Scheduled Monument consent from English Heritage.

### **Rabbit netting**

The rabbit fence should be constructed in accordance with BS 10223. Netting should be made from galvanised, 18 gauge, 31mm (1') hexagonal wire mesh.

Use galvanised netting rings to attach the netting to two 2.65mm (1/10'), high tensile, spring steel straining wires (one at the bottom of the fence and one at the top).

The bottom edge of the netting should be buried to a depth of 150mm, or lapped on the surface of the ground towards the rabbit harbourage. Turfs of grass, or other anchors, should be placed on the lapped netting at 1m intervals. Vegetation will later grow through the mesh to provide additional anchorage.

Rabbit fences should be maintained to this specification for at least five years, unless otherwise agreed with your Natural England contact.

## **SHEEP FENCING**

### **General**

All types of fencing should be erected in accordance with British Standard 1722. Before erecting new fencing, all old fencing material must be removed. New fencing should be put up in straight lines, between strainer posts. Strainer posts should be used at each end of the fence and at each corner and turning point. They may also be necessary where there is a significant difference in gradient. All softwood timber must be fully peeled and tanalised or treated with an approved preservative. Durable hardwood, such as oak or sweet chestnut, may be used and does not require treatment with preservatives. Square section timber can be used as an alternative to round sections. Timber sizes quoted are minimum requirements. Barbed wire should not be used where fencing runs alongside access routes, unless this is unavoidable.

New fencing should avoid sites of archaeological or historic importance. You should ensure any relevant consents are gained before carrying out the work e.g. Scheduled Monument consent from English Heritage.

Fences must be maintained to this specification for the life of the agreement.

## **Sheep Fencing**

The fence must be at least 1.05 metres high. If extra height is required, this should be obtained by fixing additional strands of plain or barbed wire.

Wire should be galvanised and comply with BS 4102.

Straining posts should be at least: 125mm top diameter, or 100mm x 100mm cross-section sawn; 2.15 metres long if not set in concrete, or 1.85 metres if in concrete. The spacing between strainer posts should not exceed 150 metres where mild steel line wire is used, or 300 metres for high tensile wire.

Struts should be at least: 80mm top diameter, or 75mm x 75mm if sawn; 1.9 metres long if not set in concrete and at least 1.6 metres where set in concrete. Struts should be notched into the straining post at an angle of no more than 45 degrees.

Intermediate posts should be 65mm top diameter, or 75mm x 75mm if sawn, 1.7 metres long, and spaced no further than 3.5 metres apart.