

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING & REGULATORY FUNCTIONS SUB-COMMITTEE

27 SEPTEMBER 2013

APPLICATION FOR DIVERSION AND CREATION OF FOOTPATHS AND BRIDLEWAYS, SAXTON

Report of the Corporate Director – Business and Environmental Services

1.0 PURPOSE OF REPORT

- 1.1 To advise Members of an application to reorganise a small network of local paths, the effect of which, if pursued, would be to divert and create several footpaths and bridleways around the village of Saxton. A location plan is attached to this report as Plan 1. The sections of footpath and bridleway proposed to be diverted and created are shown on Plans 2, 3 & 4
- 1.2 To request Members to authorise the Corporate Director, Business and Environmental Services, to make a Public Path Diversion Order

2.0 THE COMMITTEE'S RESPONSIBILITIES

- 2.1 Under Section 119 of the Highways Act 1980, the County Council can make a Diversion Order to divert public paths where it is satisfied that it is expedient to do so in the interests of the owner of the land crossed by the route in question.
- 2.2 The Committee's decision whether to make such an Order is the first stage of the process. If Members authorise an Order being made, and there are no objections to that Order, the County Council can confirm the Order, but in doing so will need to be satisfied that the:
 - i) diversion is still expedient as mentioned in paragraph 2.1 above;
 - ii) path will not be substantially less convenient to the public as a result of the Order, and that it is expedient to confirm the Order having regard to the effect which:
 - (a) the diversion would have on public enjoyment of the route as a whole;
 - (b) the coming into operation of the Order would have in respect to other land served by the existing public right of way; and
 - (c) any new public right of way created by the Order would have, in respect to the land over which the right is created and any land held with it.

- 2.3 If there were objection to an Order that is not subsequently withdrawn, the power to confirm the Order rests with the Secretary of State, who will apply the legal tests set out in 2.2 above in determining whether or not to confirm the order.

3.0 BACKGROUND

- 3.1 A joint application has been made by several landowners to divert a number of footpaths and one section of bridleway all situated on agricultural land around the village of Saxton. In addition to the diversions, it is proposed to add a number of new footpaths and a new section of bridleway by separate agreement.
- 3.2 The application has been made primarily to improve agricultural efficiency by diverting cross-field paths to the field edges. The application is therefore made in the interests of the landowners. In addition, it is also proposed to create several footpaths and a length of bridleway to enhance the network and offer more choice to path users. The proposed footpaths will have a recorded width of 2.0 metres, the proposed bridleways will have a recorded width of 3.0 metres and stiles or gates are not required as the land is wholly arable and there is no requirement for stock control.
- 3.3 An informal consultation on the proposal was undertaken with the usual statutory consultees in September 2011.

4.0 REPRESENTATION AGAINST THE PROPOSED DIVERSION

- 4.1 Three objections were received, one from the Parish Council and others from two village residents. The Parish Council subsequently withdrew its objections.
- 4.4 The remaining two objections are concerned with loss of views, loss of historic paths, longer alternative routes and disturbance of wildlife. However, some aspects of the proposal are supported by one of the objectors.

5.0 COMMENTS ON THE OBJECTIONS

- 5.1 **Loss of Views:** The proposal would divert a number of cross-field paths onto field edges and in some cases this would lead to restricted views when compared to existing paths. In particular, the path B - A on Plan 3 climbs gently westwards out of the village and crosses a large arable field. There are unrestricted views from the highest point to the east of A, although somewhat detracted by a large electricity pylon close to the path. The proposed diversion route will run along the north side of this field and is shown as B - C - AB - U - V - W - X - A on Plan 3. Although the proposed diversion route is slightly lower than B - A, good views are afforded to the west of U - V - W - X - A, where the land falls away to Cock Beck and the Crooked Billet.

5.2 Generally where the proposed diverted paths run alongside hedges, views may be restricted. However, this is balanced by the fact that field edge paths will not be subject to ploughing and cropping and therefore be more convenient to use at certain times of the year and hedges provide shelter from the wind.

5.3 **Loss of Historic Paths:** The most contentious diversion on this point is the proposal to divert A – B onto the field edge route B – C – AB – U – V – W – X – A. Both objectors feel that the footpath A - B is an ancient right of way which has been in place for centuries and was historically used by the inhabitants of the area to carry out their daily lives. They consider this to be part of their local and national heritage: “A few extra yards of footpath round individual fields do not outweigh the destruction of this heritage.”

However no evidence has been submitted by the objectors to support their claim. Early Ordnance Survey maps show the path, but First Edition County Series plans date no earlier than the 1850's. From the First Edition it is possible to determine that the route was shown as a footpath at that time and it ran across the middle of several fields and alongside former field boundaries on others. In the absence of further information it is impossible to speculate on earlier existence of the route.

5.4 The objectors consider that the section M – O on Plan 2 to have a feature of historical interest in the form of the Hungate shield on the wall of Manor Farm, one of the older buildings in the village. The proposal would divert the path off a farm track at Manor Farm, onto a field edge on the north side of a wall. The objector felt that views of the family shield, a point of interest at Manor Farm, would be restricted. However, the path would not be diverted more than 3 - 5 metres from the existing track and it would still be possible to see the shield on the building. The field edge wall is not of any great height and it is possible to see over it without difficulty.

5.5 **Longer Alternative Routes:** Although the existing path A – B is more direct and runs across open land, it is subject to ploughing and cropping and therefore may not be as convenient to use at certain times of the year. The proposed route is longer and therefore less convenient in that respect, but officers do not consider it to be substantially so, especially when considering the time taken to walk the respective routes. At an average walking speed of 1.2 m/sec, it would take 17 minutes to walk the existing path from the Crooked Billet to Main Street, a distance of 1,230 metres. It would take approximately 21.7 minutes, or an additional 4 minutes 40 seconds, to walk via the proposed diversion. The diversion route is 335 metres longer. It is considered that this distance does not of itself give rise to the route becoming substantially less convenient by following the diversion, particularly when accounting for the improved footing offered.

- 5.6 **Disturbance of Wildlife:** It is not considered that diverting the paths will disturb wildlife to any significant degree. There is a badger sett north of Point A but the path will run around the edge of the sett. The sett shows signs of illegal digging and the presence of a public footpath may actually help to deter such activity. Public enjoyment of the field edge paths is likely to be enhanced by the presence of wildlife.

6.0 SUPPORT FOR THE PROPOSED DIVERSION

- 6.1 The Ramblers and the Parish Council have expressed support for the proposals. However, the Ramblers point out that the diversion of footpath 35.55/5 (A – B on Plan 3) remains the most contentious.
- 6.2 The proposal for additional paths by agreement will include creating a footpath onto the site of the historic Battle of Towton (1461), offering a unique panoramic view of the battlefield site from a Trig Point overlooking the site (Point I on Plan 2). The Towton Battlefield Society fully supports the proposal.
- 6.3 The overall proposal will add by agreement, an additional 2,625 metres of footpath and 806 metres of bridleway to the network. The Ramblers comment that the additional paths more than compensate for the paths that are proposed to be extinguished, though this is not material in determining whether or not the legal grounds are met for promoting the proposed diversion order. The additional paths are largely already in use by the public which the landowner acknowledged; he has offered these routes to the community, in part to compensate for the proposed amendment to the network which is mainly for his benefit, to allow better management of his land.

7.0 FINANCIAL IMPLICATIONS

- 7.1 There may be financial implications for the authority in covering any cost associated with any subsequent decision making required by the Secretary of State. Such costs cannot be avoided. The Planning Inspectorate may decide that a public inquiry should be held to resolve an application.

8.0 IMPLICATIONS FOR EQUALITIES

- 8.1 Consideration has been given to the potential for any adverse equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

9.0 LEGAL IMPLICATIONS

- 9.1 It is considered that the Council could justify making a Diversion Order on the grounds that the legal tests set by section 119 (1) Highways Act 1980 are met. That is to say, it is in the owner's interests to have the various rights of way diverted onto a more convenient line for him, and it is considered that the proposed new routes would not be substantially less convenient to the public. The additional proposed footpath and bridleway creations will further enhance the right of way network around Saxton.

10.0 RECOMMENDATIONS

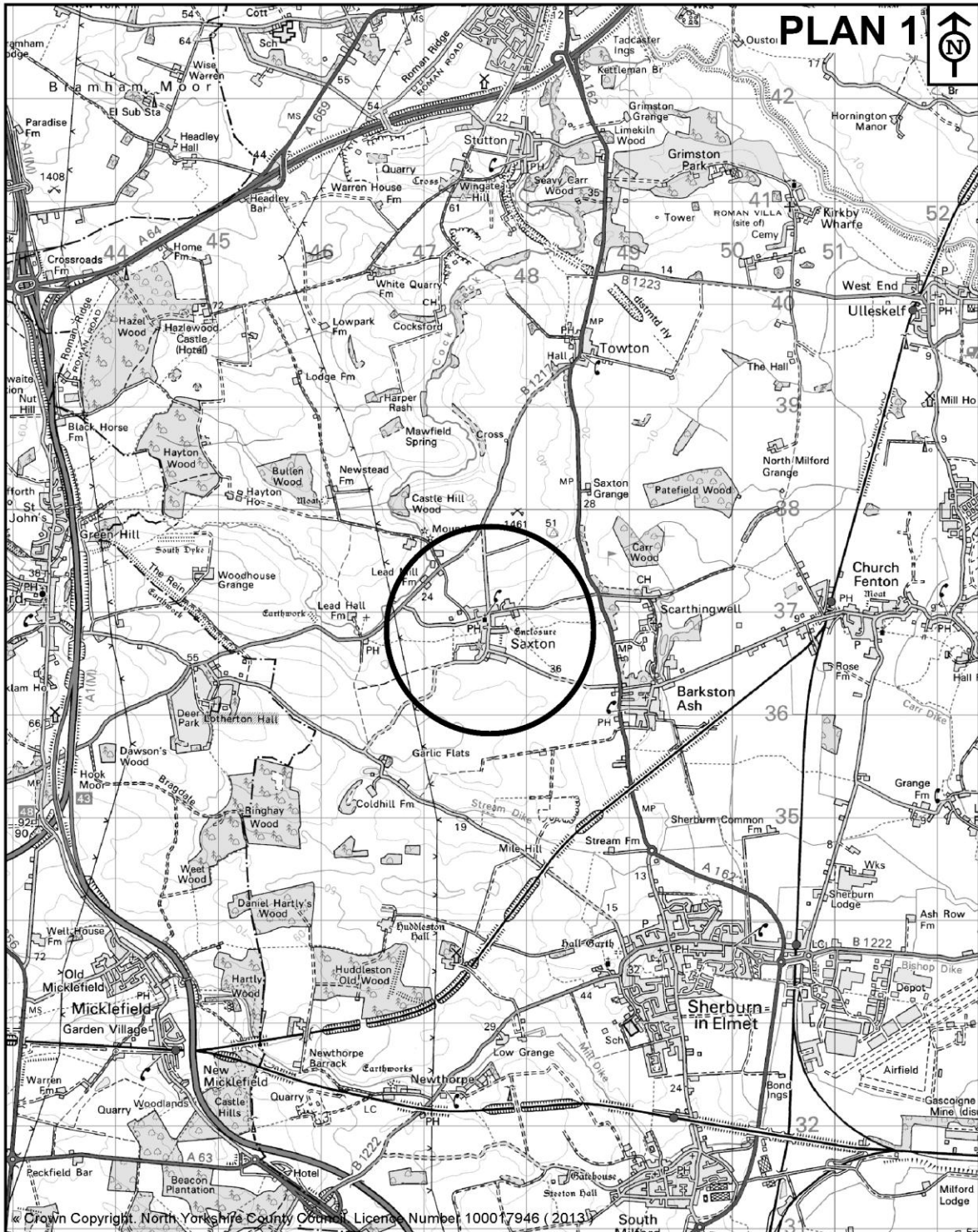
- 10.1 It is recommended that the Committee authorise the Corporate Director, Business and Environmental Services to make a Diversion Order for the routes shown on Plans 2, 3 & 4; and
- 10.2 in the event that formal objections are made to that Order, and are not subsequently withdrawn, the Committee authorise the referral of the Order to the Secretary of State for determination, and permit the Corporate Director, under powers delegated to him within the County Council's Constitution, to decide whether or not the County Council can support confirmation of the Order.


DAVID BOWE
Corporate Director – Business and Environmental Services

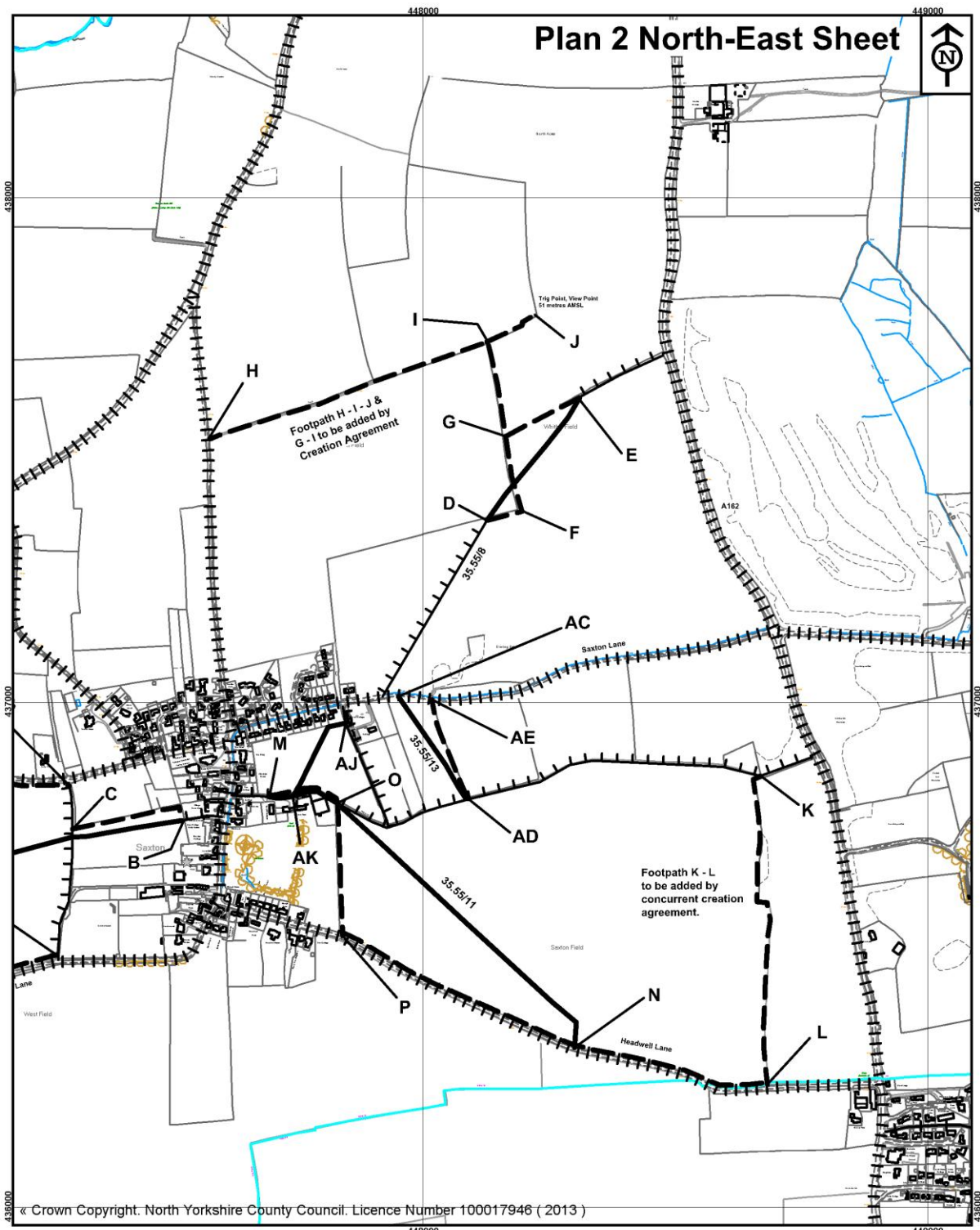
Author of Report: Andy Hunter




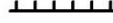


Background Documents:

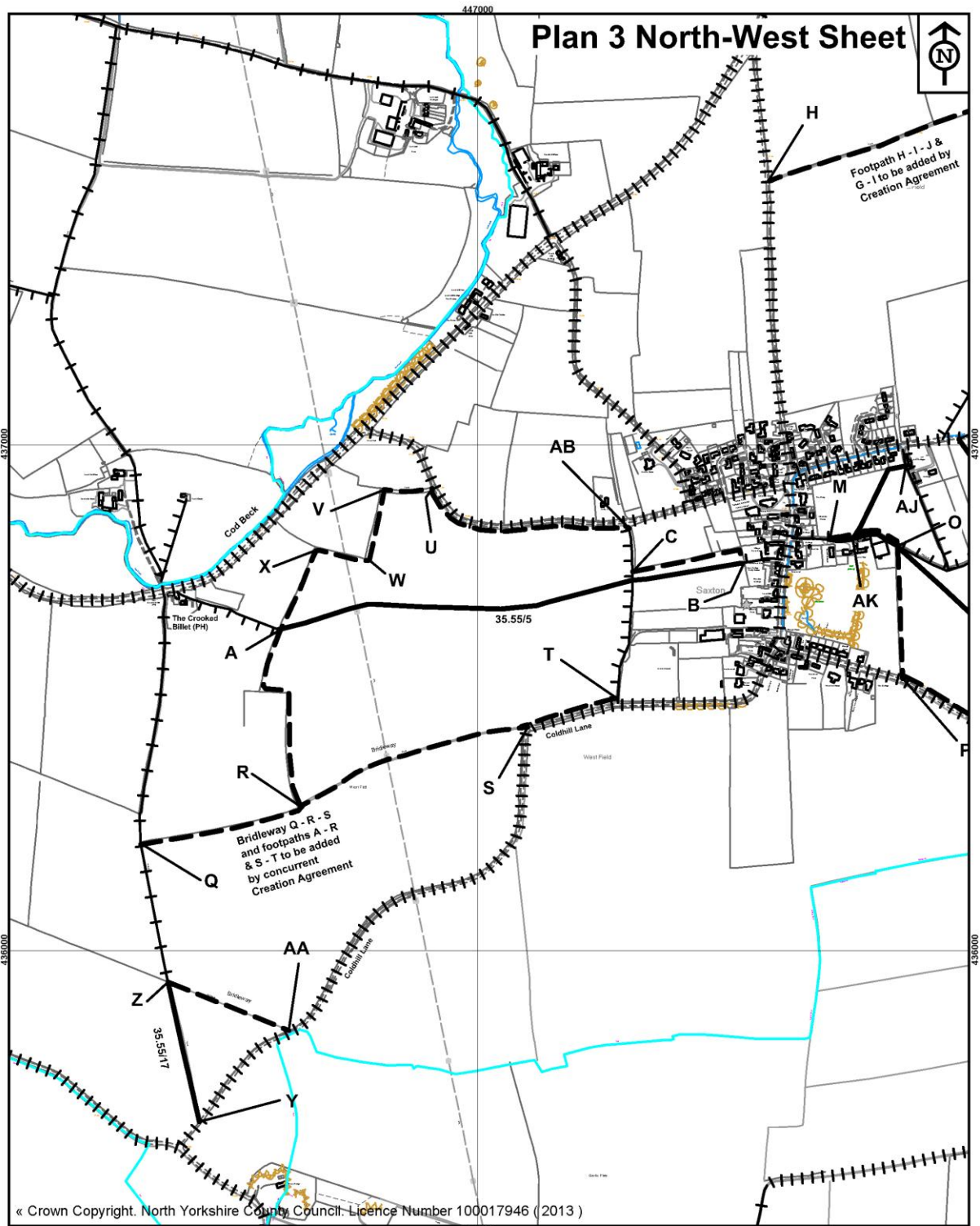
Definitive Map Team Case file ref: SEL/2009/01/DO



 <p>North Yorkshire County Council Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p align="center">PLAN 1 LOCATION PLAN</p> <p>Map drawn on 9 August 2013 Drawn by AWH Scale 1:50000</p>	<p align="center">North Yorkshire County Council Application for Diversion & Creation of Footpaths & Bridleways, Saxton</p> <p align="center">Plan prepared for the Planning & Regulatory Functions Sub-Committee on 20 September 2013</p> <p align="center">File Ref No. SEL/2009/01</p>
--	---	--



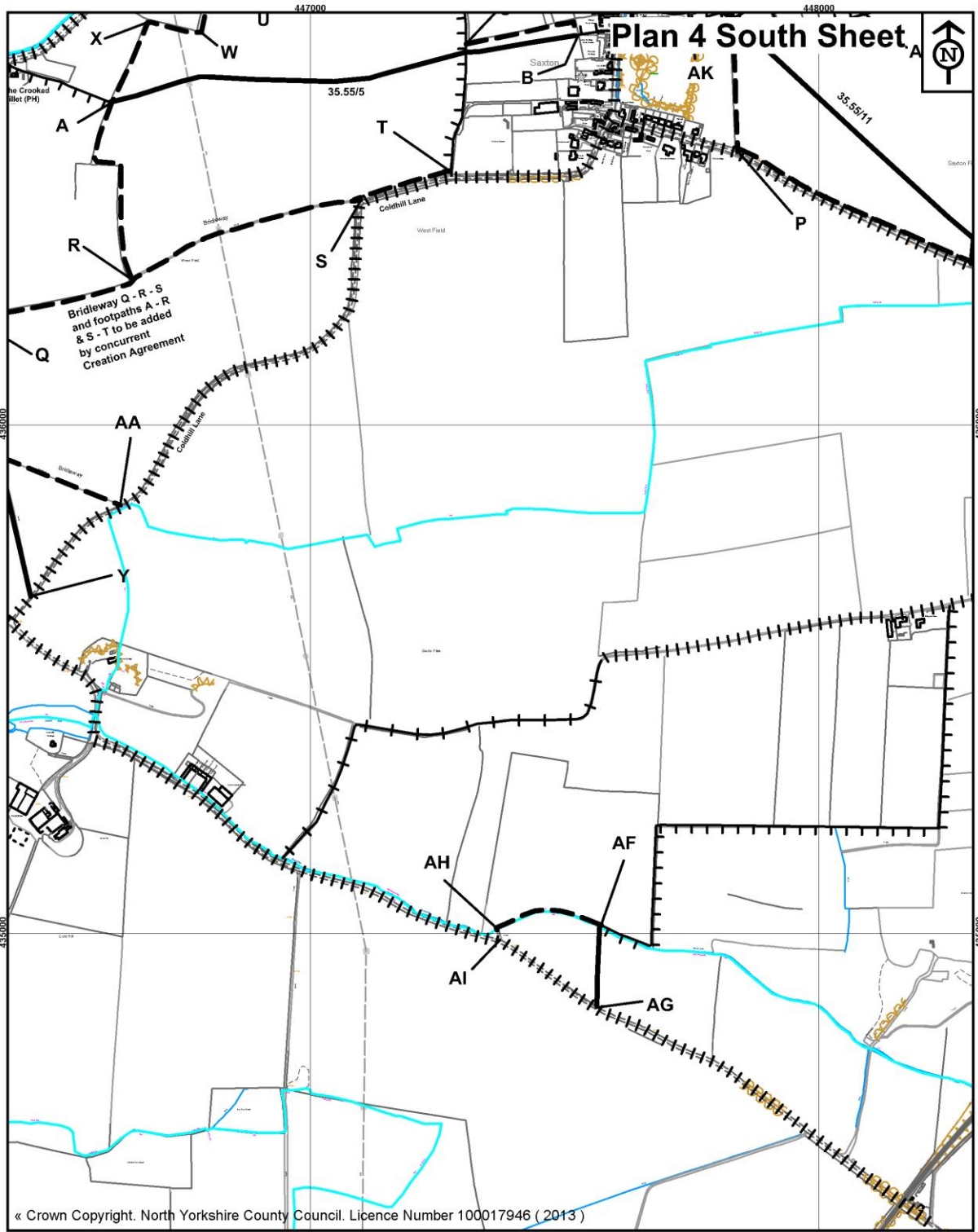
 <p>North Yorkshire County Council</p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>PLAN 2 North-East sheet</p> <p>Key:</p> <p>Route to be added </p> <p>Route to be deleted </p> <p>Other footpaths </p> <p>Other bridleways </p> <p>Maintained Highways </p>		<p>North Yorkshire County Council</p> <p>Application for Diversion & Creation of Footpaths & Bridleways, Saxton</p> <p>Plan prepared for the Planning and Regulatory Functions Sub-Committee on 20th September 2013</p>
	<p>Map drawn on 16 August 2013</p> <p>Drawn by AWH Scale 1:10000</p>	<p>File Ref No. SEL/2009/01</p>	



North Yorkshire County Council
 Public Rights of Way
 Waste and Countryside Services
 County Hall
 Northallerton
 DL7 8AH

PLAN 3 North-West sheet
 Key:
 Route to be added ————
 Route to be deleted ————
 Other footpaths ————
 Other brideways ————
 Maintained Highways |||||
 Map drawn on 14 August 2013
 Drawn by AWH Scale 1:10000

North Yorkshire County Council
 Application for Diversion & Creation of Footpaths & Brideways, Saxton
 Plan prepared for the Planning and Regulatory Functions Sub-Committee on 20th September 2013
 File Ref No. SEL/2009/01



North Yorkshire County Council

Public Rights of Way
Waste and Countryside Services
County Hall
Northallerton
DL7 8AH

PLAN 4 South sheet

Key:

- Route to be added
- Route to be deleted
- Other footpaths
- Other bridleways
- Maintained Highways

Map drawn on 16 August 2013
Drawn by AWH Scale 1:10000

North Yorkshire County Council

Application for Diversion & Creation of Footpaths & Bridleways, Saxton

Plan prepared for the Planning and Regulatory Functions Sub-Committee on 20th September 2013

File Ref No. SEL/2009/01