

# **DEVELOPMENT CONTROL AND REGULATION COMMITTEE**

**Meeting date: 7 June 2022**

**From: Executive Director – Economy and Infrastructure**

## **HIGHWAYS ACT 1980 SECTION 118 – PUBLIC FOOTPATH NO 115033 PARISH OF FARLAM: DISTRICT OF CARLISLE**

### ***1.0 EXECUTIVE SUMMARY***

- 1.1 The County Council made an Order under Section 118 of the Highways Act 1980 on 26 September 1997 to extinguish a section of public footpath no 115033 at Silver Top in the parish of Farlam.***
- 1.2 Since the Order was made negotiations have broken down with the landowners and approval is now sought to abandon the Order.***
- 1.3 The County Council has the discretion not to proceed with an Order to which there are representations or objections or may withdraw an Order for other reasons, such as external factors making a scheme no longer appropriate. In order to bring the procedure to an end the County Council must make a formal resolution not to proceed and should notify the applicant and those who have made representations or objections to the passing of the resolution to make the Order.***
- 1.4 A location plan is attached as Appendix A.***

### ***2.0 POLICY POSITION, BUDGETARY AND EQUALITY IMPLICATIONS, AND LINKS TO COUNCIL PLAN***

- 2.1 The relevant corporate theme is “To provide a safe and well managed highway network, secure infrastructure improvements and support local economic growth”.***
- 2.2 The relevant procedure is an “administrative quasi-judicial” one. The conditions which must be satisfied for an order to be confirmed are that it should appear to Members “that it is expedient” for the public footpath to be extinguished on the grounds set out in paragraph 5.1 of this report.***

### **3.0 RECOMMENDATION**

- 3.1 *That, the County Council abandon the Order made under Section 118 of the Highways Act 1980 to extinguish public footpath no 115033 in the parish of Farlam, as copy attached at Appendix B and all those who made representations or objections to the Order be informed.*

### **4.0 BACKGROUND**

- 4.1 On 26 September 1997 an Order was made to extinguish a section of public footpath no 115033 at Silver Top in the parish of Farlam on the basis that it was not needed for public use (copy of Order attached at Appendix C).
- 4.2 The nearby public bridleway no 125007/115035 is a dead-end route which runs between U1055 at its north end and Carnetley Farm at its southern end (see overview map at Appendix B). The Brampton area is one with few useable bridleways and there was a considerable demand for riding access.
- 4.3 The three affected landowners at the time were prepared to dedicate bridleway rights over the section between the end of public bridleway no 115035 at Carnetley and the eastern end of U1056. This route is recorded only as public footpath and includes the entire length of public footpath no 115033 and a short section of public footpath no 115034. This agreement was subject to the route being relocated onto a hard track around the edge of the field.
- 4.4 Therefore, the Order was made to extinguish the section of footpath no 115033 crossing the field. No objections were received to the making of the Order.
- 4.5 However, negotiations with the three landowners have broken down and there is unlikely to be any formal agreement to dedicate the bridleway rights as mentioned in 4.3 above.

### **5.0 LEGAL IMPLICATIONS**

- 5.1 Under Section 118(1) of the Highways Act 1980 (**the Act**), the County Council must be satisfied that that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way.
- 5.2 The County Council has the discretion not to proceed with an order to which there are representations or objections or may withdraw an order for other reasons, such as external factors making a scheme no longer appropriate, but in doing so should take into account all relevant interests. In order to bring the procedure to an end the County Council must make a formal resolution not to proceed and should notify the applicant and those who have made representations or objections to the passing of the formal resolution to make the Order.

## **6.0 OPTIONS**

- 6.1 The Committee may accept or reject the recommendation. If the recommendation is rejected by Members, Officers will continue to negotiate with the landowners to see if the bridleway may be dedicated.
- 6.2 If the recommendation is accepted then the section of footpath shown B-C on the Order Map at Appendix C will remain on the Definitive Map.

## **7.0 ASSESSMENT AND CONCLUSION**

- 7.1 The Council made the Extinguishment Order subject to the affected landowners entering into an Agreement to upgrade sections of public footpath no 115033 and a short section of public footpath no 115034 to a bridleway, and to create a new section of bridleway. Unfortunately, such agreement has not been possible and without the upgrade the section of public footpath is still required by the public. therefore, the recommendation is to abandon the Order.

**Angela Jones**  
**Executive Director – Economy and Infrastructure**  
**May 2022**

## **APPENDICES**

- A**     *Location plan*  
**B**     *Overview Plan*  
**C**     *Copy of made Order*

## **IMPLICATIONS**

Financial:                             Nil  
Electoral Division:                 Corby and Hayton – Roger Dobson

## **PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS** ***[Including Local Committees]***

**No previous decisions**

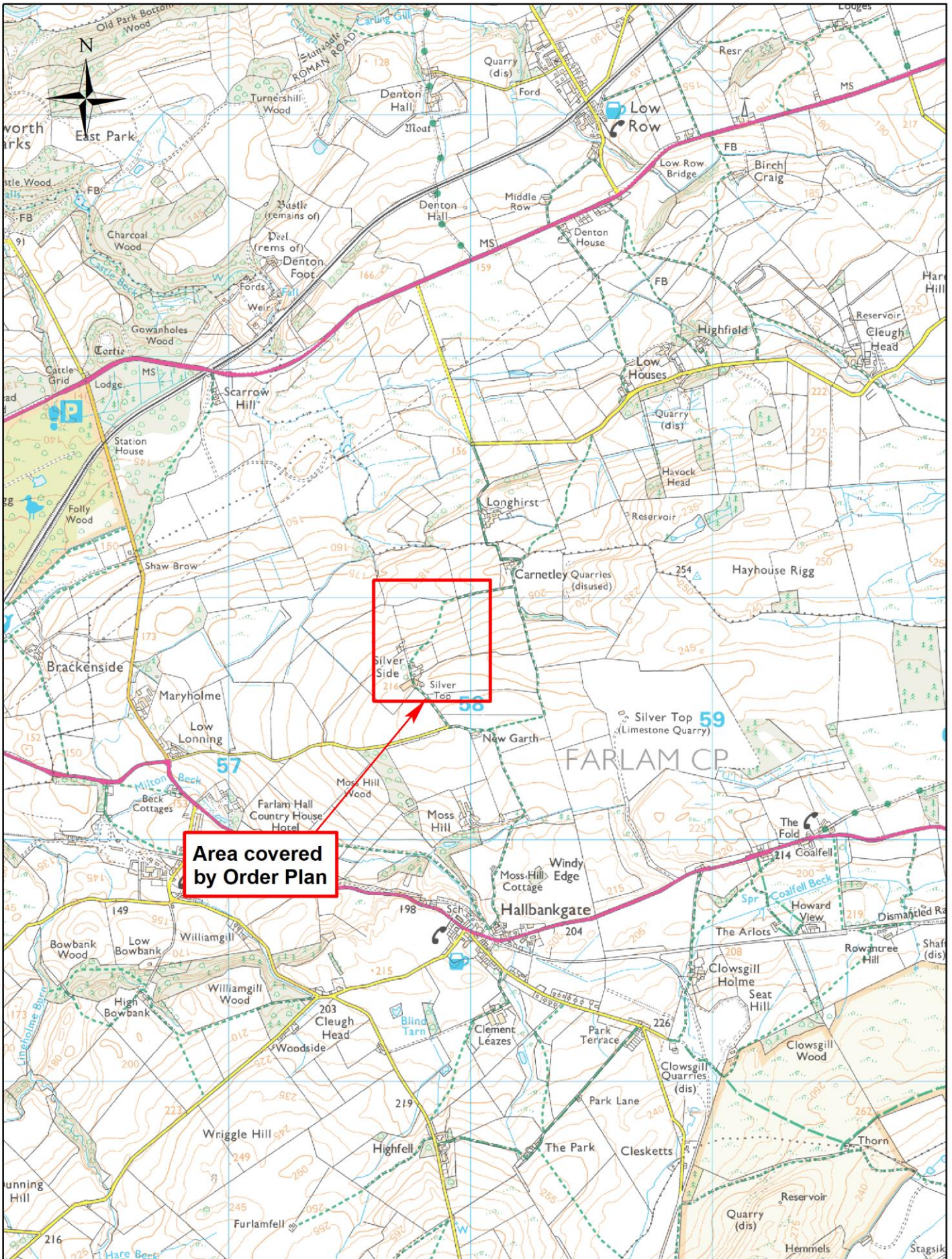
## **CONSIDERATION BY OVERVIEW AND SCRUTINY**

***Not considered by Overview and Scrutiny***

## **BACKGROUND PAPERS**

***Cumbria Countryside Access Strategy.***

Contact: Email: Sandra Smith, Countryside Access Officer  
[Sandra.smith@cumbria.gov.uk](mailto:Sandra.smith@cumbria.gov.uk)

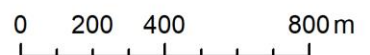


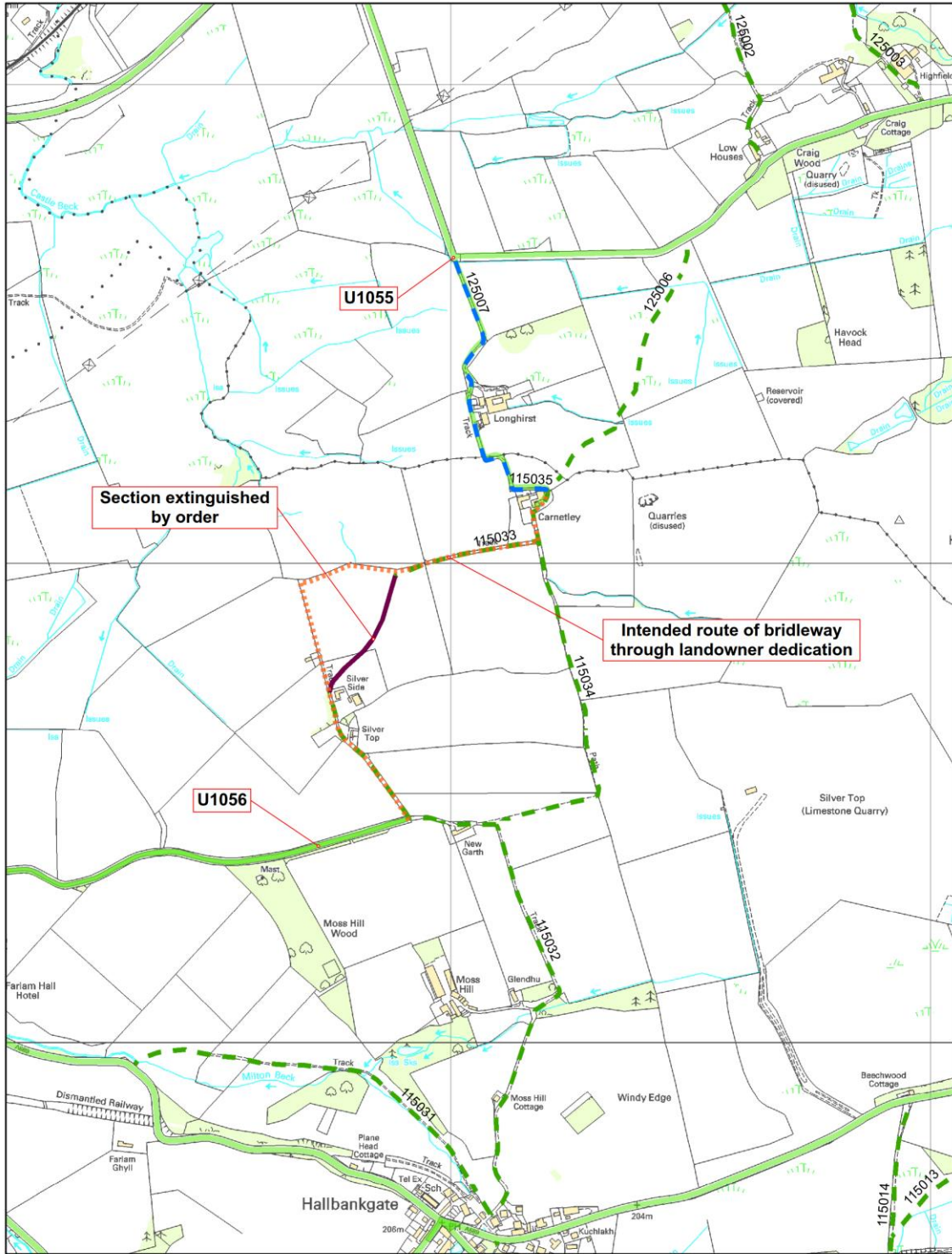
**Area covered  
by Order Plan**



**Location Plan for Silver Side  
Farlam**

Scale 1:20,000 @ A4





**Silver Side - General Area**

Scale 1:10,000 @ A4



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**APPENDIX B**

PUBLIC PATH EXTINGUISHMENT ORDER

HIGHWAYS ACT 1980  
CUMBRIA COUNTY COUNCIL

CUMBRIA COUNTY COUNCIL (FOOTPATH NO 115033 PARISH OF FARLAM)  
PUBLIC PATH EXTINGUISHMENT ORDER 1997

This Order is made by Cumbria County Council ("the authority") under Section 118 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that the footpath described in paragraph 1 below is not needed for public use.

Carlisle City Council have been consulted as required by Section 120 (2) of the 1980 Act and have consented to the making of this Order.

BY THIS ORDER:

- 1. The public right of way over the land situate at Silverside in the Parish of Farlam shown by a continuous bold line on the map attached to this Order and described in the Schedule to this order shall be extinguished after 28 days from the date of confirmation of this Order.
- 2. Notwithstanding paragraph 1 of this order (1) BRITISH TELECOM (2) NORWEB PLC shall have the following rights over the land referred to in paragraph 1 above, namely :-

they shall continue to enjoy all such rights in respect of apparatus belonging to them on under or over the land that they have hitherto enjoyed

SCHEDULE

That length of footpath on land situate at Silverside in the Parish of Farlam commencing at Point B on the map contained in this Order (Grid Reference NY 5773 6075) and extending in a north easterly direction for approximately 280 metres to Point C on the map contained in this Order (Grid Reference NY 5788 6098)

Dated this 26<sup>th</sup> day of September 1997

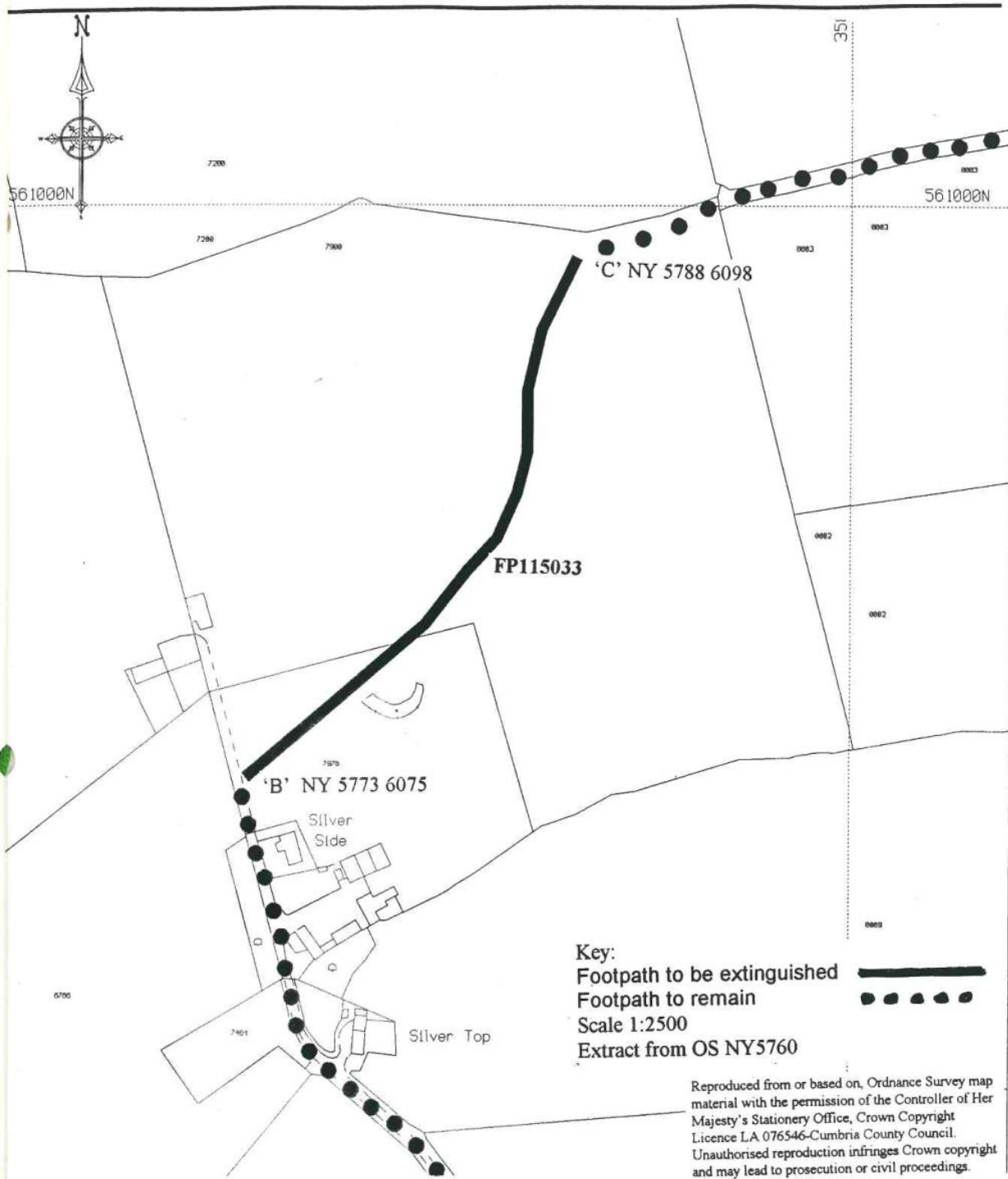
THE COMMON SEAL of )  
CUMBRIA COUNTY COUNCIL )  
was hereunto affixed in)  
the presence of :- )

*ASL*




ASST HEAD OF LEGAL SERVICES

# CUMBRIA COUNTY COUNCIL



Map referred to in the Cumbria County Council  
Footpath No.115033, Parish of Farlam,  
Public Path Extinguishment Order 1997

THE COMMON SEAL OF THE  
CUMBRIA COUNTY COUNCIL  
WAS HEREUNTO AFFIXED IN  
THE PRESENCE OF

  
.....  
1/35/1 Head of Legal Services

