

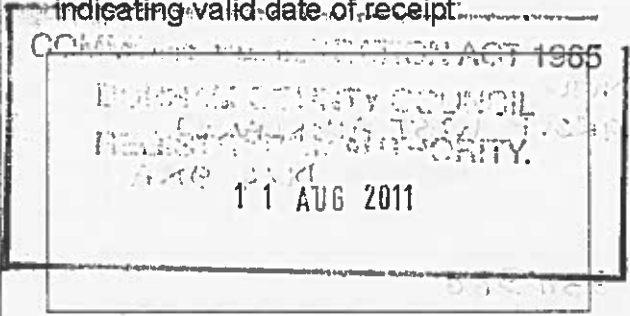
**WEST AUCKLAND: FLEECE & NURSERY**

**APPENDIX 1**

**Application Form and supporting submissions**

# Commons Act 2006: Section 15 Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:



Application number: **NL36**

Register unit No(s):

VG number allocated at registration:

[Empty box for VG number]

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1-6 and 10-11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7-8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

### 1. Registration Authority

To the

DURHAM COUNTY COUNCIL  
COUNTY HAU  
DURHAM CITY

**Note 1**  
Insert name of registration authority.

**Note 2**

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

**Note 3**

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

**2. Name and address of the applicant**

Name:

Full postal address:

Telephone number: (incl. national dialling code)

Fax number: (incl. national dialling code)

E-mail address:

**3. Name and address of solicitor, if any**

Name:

Firm:

Full postal address:

Post code

Telephone number: (incl. national dialling code)

Fax number: (incl. national dialling code)

E-mail address:

**Note 4**

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

\* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

**4. Basis of application for registration and qualifying criteria**

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under section 15(8):

If the application is made under section 15(1) of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

SEE SUPPORTING STATEMENT

Section 15(3) applies:

Section 15(4) applies:

If section 15(3) or (4) applies please indicate the date on which you consider that use as of right ended.

If section 15(6)\* applies please indicate the period of statutory closure (if any) which needs to be disregarded.

**Note 5**

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

\* Only complete if the land is already registered as common land.

**Note 6**

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

**5. Description and particulars of the area of land in respect of which application for registration is made**

Name by which usually known:

THE FUEECE AND NURSERY LAND

Location:

LAND BETWEEN FRONT STREET AND THE NURSERY, NORTH OF THE GREEN, WEST AUCKLAND

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) \*

**6. Locality or neighbourhood within a locality in respect of which the application is made**

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

WEST AUCKLAND VILLAGE, NOW CENTRAL TO THE WEST AUCKLAND PARISH COUNCIL ADMINISTRATIVE AREA

Tick here if map attached:



7. Justification for application to register the land as a town or village green

**Note 7**

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

THE LAND SUBJECT OF THIS APPLICATION HAS BEEN USED FOR LAWFUL RECREATION AND SPORTING ACTIVITIES FROM 1973, AT LEAST, AT WHICH TIME IT WAS LANDSCAPED AND MAINTAINED FOR THAT PURPOSE BY THE LOCAL AUTHORITY. RECREATIONAL USE BEFORE THEN GOES BACK INTO THE 1950'S AND POSSIBLY AS FAR BACK AS 1920'S.

THE LAND HAS NO KNOWN OWNER, HAS ALWAYS BEEN OPEN AND UNFENCED (UNTIL PARTIAL ENCLASURE IN MAY 2010) AND NO CONSENT HAS EVER BEEN SOUGHT FROM ANYONE TO UNDERTAKE RECREATIONAL ACTIVITIES.

PLEASE SEE ATTACHED BACKGROUND HISTORY, FULLER JUSTIFICATION FOR REGISTRATION, AND 23 WITNESS STATEMENTS IN SUPPORT OF THE PARISH COUNCIL'S APPLICATION

**Note 8**

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

**Note 9**

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

**Note 10**

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

LAND UNOCCUPIED (SEE QUESTION 11)  
OWNER(S) UNKNOWN

9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

—

10. Supporting documentation

1. COVERING LETTER
2. PARISH COUNCIL RESOLUTION
3. APPLICATION FORM
4. MAP OF AREA PROPOSED FOR REGISTRATION
5. MAP OF PARISH COUNCIL AREA
6. BACKGROUND HISTORY
7. CASE FOR REGISTRATION
8. PARISH COUNCIL 'CAUTION' LAND
9. WITNESS STATEMENTS LIST
10. WITNESS STATEMENTS

**Note 11**

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

**11. Any other information relating to the application**

SEE ALL ATTACHED DOCUMENTS

POSSIBLE OBJECTOR:

MA ABEL ARMSTRONG  
27 FRONT STREET  
WEST AUCKLAND  
DL14 9HW

**Note 12**

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

8<sup>th</sup> August 2011

Signatures:

Susan Hall

**REMINDER TO APPLICANT**

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

**Data Protection Act 1998**

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.



## Statutory Declaration In Support

*To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.*

<sup>1</sup> *Insert full name (and address if not given in the application form).*

I.....<sup>1</sup> solemnly and sincerely declare as follows:—

<sup>2</sup> *Delete and adapt as necessary.*

1.<sup>2</sup> I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (<sup>3</sup> one of the applicants)).

<sup>3</sup> *Insert name if Applicable*

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

<sup>4</sup> *Complete only in the case of voluntary registration (strike through if this is not relevant)*

4.<sup>4</sup> I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

*Cont/*

<sup>4</sup> Continued

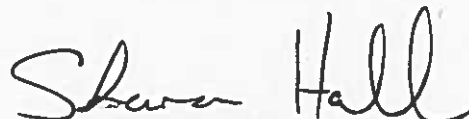
been received and are exhibited with this declaration; or  
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

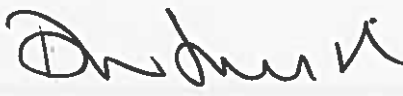
Declared by the said SHARON HALL )

at BISHOP AUCKLAND )

this 8<sup>th</sup> day of August 2011 )

  
Signature of Declarant

Before me \*

Signature: 

Address: SMITH ROAD SOLICITORS.  
SANDYBAY SQUARE  
BISHOP AUCKLAND

Qualification: SOLICITOR.

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\* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

*Please initial all alterations and mark any map as an exhibit*

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# West Auckland Parish Council

Sharon Hall, Clerk to the Council  
20 Loweswater Grove, West Auckland  
BISHOP AUCKLAND

County Durham DL14 9NA

☎ 01388 834360 ✉ [sharon.home@btopenworld.com](mailto:sharon.home@btopenworld.com)

1

10 August 2011

Ms Jill Errington  
Senior Committee Services Officer  
Durham County Council  
County Hall  
Durham City

Dear Ms Errington

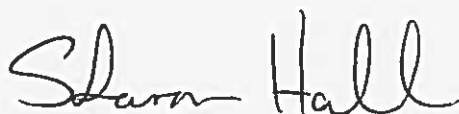
**APPLICATION FOR THE REGISTRATION OF LAND AS A TOWN OR VILLAGE GREEN,  
UNDER SECTION 15 OF THE COMMONS ACT 2006  
THE FLEECE AND NURSERY LAND, WEST AUCKLAND**

Following earlier discussions between Durham County Council officers and the Parish Council, on behalf of West Auckland Parish Council I now enclose with this letter an application for village green registration at The Fleece and Nursery Land, West Auckland. This includes my sworn statutory declaration.

Should you wish clarification on any points in the document please do not hesitate to contact me.

On one specific point, the erection of fencing, this matter is detailed in the Background History, and clearly distinguishes between the 1993/4 closed fencing which established adverse possession rights for Mr Steven Robinson (land excluded from this application), and the fencing erected in early May 2010 in The Nursery which has never been fully closed and, though a troublesome nuisance, has been erected for less than two years and has never denied physical access to the open space (included in this application).

Yours sincerely



Sharon Hall  
Parish Clerk

# West Auckland Parish Council



Minutes of Meeting held Monday, 7<sup>th</sup> March 2011 at 7.00 pm,  
Parish Community Room, Monteith Close, West Auckland

2

present: Cllr J Bell  
Cllr E Farrer  
Cllr P Fenwick  
Cllr J Ferguson  
Cllr C Mairs, vice-Chairman  
Cllr V Raine  
Cllr L Kieny  
Cllr W Robinson  
Cllr A Turner  
Cllr K Tweedie  
PC Andy Hucker  
PC Jessica Walker  
JEFF KACE, DCC

## 11.18 TO ACCEPT APOLOGIES FOR ABSENCE.

Apoloiges were received from Cllr Charlton and Cllr Roberts

## 11.19 DECLARATION OF INTEREST IN ITEMS ON THE AGENDA.

There were no declarations of interest received

## 11.20 TO CONFIRM MINUTES OF PREVIOUS MEETING

The minutes were agreed to be a true account of the previous meeting and signed accordingly.

## 11.21 TO RECEIVE AND CONSIDER COMPLAINTS FROM MEMBERS OF THE PUBLIC

Chris McCale attended the meeting to request that the Parish Council consider allowing a club group to use the parish community rooms premises once the Village Centre closes. This was agreed in principle and it was resolved that any financial implications such as heating and lighting costs would be considered by the Parish Council for all groups holding sessions in the Community Parish rooms. Chris stated that the wii and television purchased by the Parish Council for the Village Centre would be returned. The Parish Council will then decide where the equipment can be used. The Parish Council thanked Chris for her commitment to the Village Centre

Residents attended to make the Parish Council aware of their planning permission request to have an unadopted access made between 25-26-27 East Green Road. The Parish Council were fully supportive of this closure and emphasised that the residents have the authority to grant permission

**11.22 TO RECEIVE POLICE REPORT.**

PC Hucker introduced PC Walker and provided details of the crime statistics for the previous month. He also advised that a speed watch initiative will be taking place in schools and throughout the village in coming months. He emphasised the volunteers to man the speed guns would be welcome.

**11.23 CLERK'S TABLING OF CORRESPONDENCE/ENDORISING INVOICE CHEQUES.**

CHEQUE No	DETAILS	AMOUNT	PREVIOUSLY AGREED
100310	DCC Christmas lights	£996.40	Y
100311	Parish Rooms keys and cleaning materials	£57.61	Y
100312	DCC Car Park Contribution	£5000.00	Y
100313	CDALC Subscriptions	£257.34	Y
100314	DCC Monteith buildings insurance	£60.00	Y

The Clerk tabled all correspondence received and any cheques endorsed for invoices as detailed above.

The Clerk also advised that the PC laptop was not working and was in need of repair/replacement. It was resolved that a replacement should be purchased if required (this isn't necessary at present as a free repair was obtained).

**11.24 TO RECEIVE FINANCE WORKING GROUP UPDATE.**

The finance working group are due to meet on the 21<sup>st</sup> March 2011.

**11.25 TO RECEIVE ENVIRONMENT/PLANNING WORKING GROUP UPDATE.**

**i To discuss Parish Plan Project**

The Nursery West Auckland Parish Council resolved to apply to Durham County Council for the registration of the public open space between Front Street and The Nursery in West Auckland (marked red on Plan A circulated at the meeting) as a Village Green, under Section 15 of the Commons Act 2006. Plan attached.

**ii To discuss snow clearing contingency plan**

Jeff Race, DCC attended the meeting and provided a presentation on how winter weather conditions are managed by DCC on a budget of £2.75 million per annum. He explained how roads are prioritised and why all roads cannot be cleared due to cost implications. They have purchased 42000 tonnes of salt this year and 1800 salt bins are supplied across the county.

Jeff advised that DCC can provide insurance cover for volunteers clearing snow and that snow shovels and ploughs for use by volunteers can be provided by DCC.

**iii Oaklev Cross Community Hall**

To be carried to next agenda due to time restrictions.

Chairman's Signature..... *[Signature]* ..... Date..... *[Date]* .....

iv Royal Wedding

It was resolved that a maximum of £500 could be given tot he Workingmen's Club and Memorial Hall providing they are willing to hold an event and cater for the residents who wish to celebrate the forthcoming Royal Wedding. It was also resolved that £300 would b give to the youth club if they are in a position to hold such an event for the youths of the village. Cllr Rielly agreed to contact all three organisations.

v Westlife

To be carried to next agenda due to time restrictions.

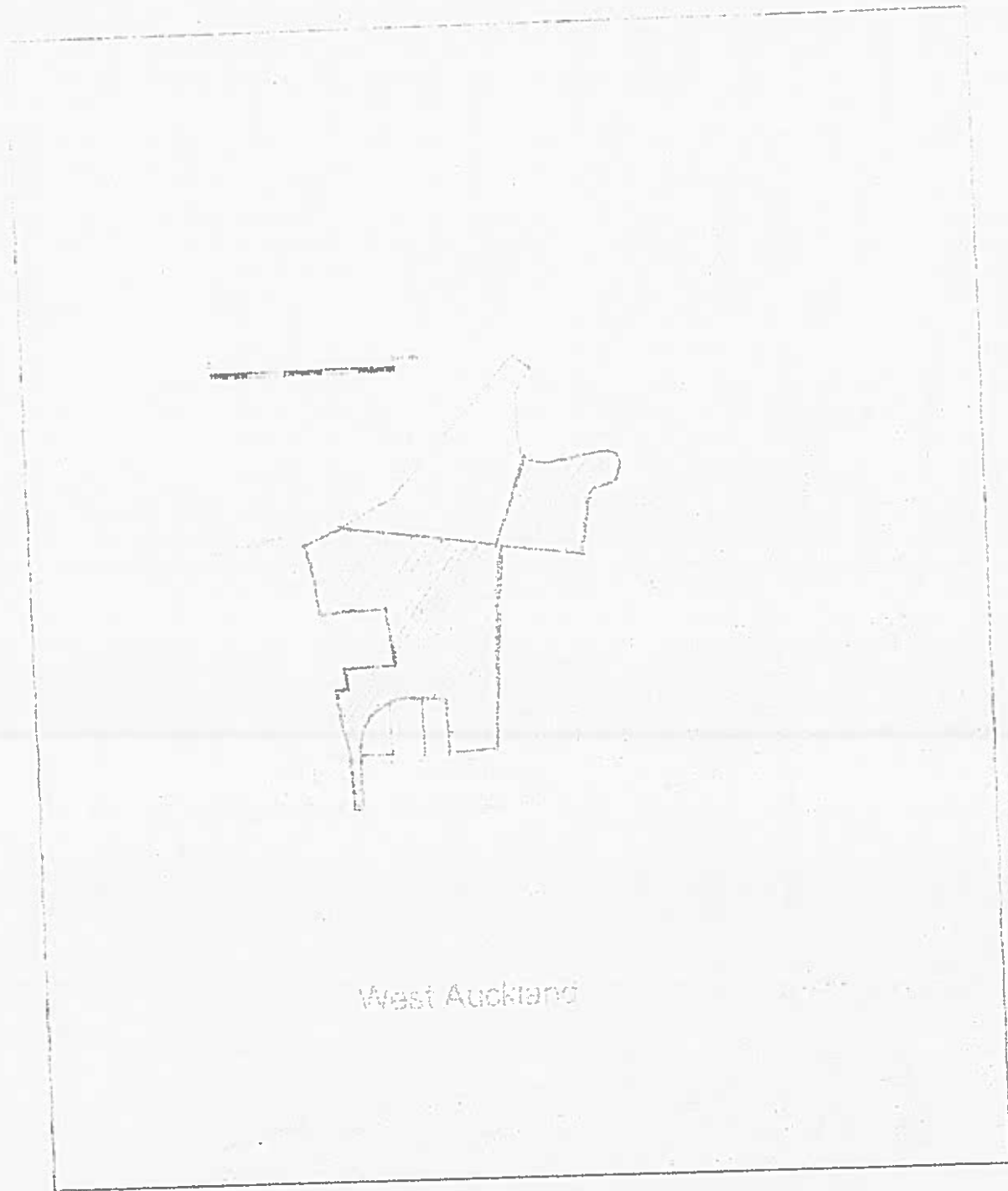
vi Bottle Banks

To be carried to next agenda due to time restrictions.

**11.26 TO RECEIVE ITEMS FOR MONDAY, 11<sup>TH</sup> APRIL 2011 MEETING (INTERIM MEETING 21/03/11 )**

- To consider purchase of carpet and desk for Community Parish Rooms
- To consider running cost contributions from to local groups for use of premises
- To discuss Oakley Cross Community Hall
- To discuss Westlife
- To discuss bottle banks

Chairman's Signature.....*H. O'Brien*..... Date *4/4/11*



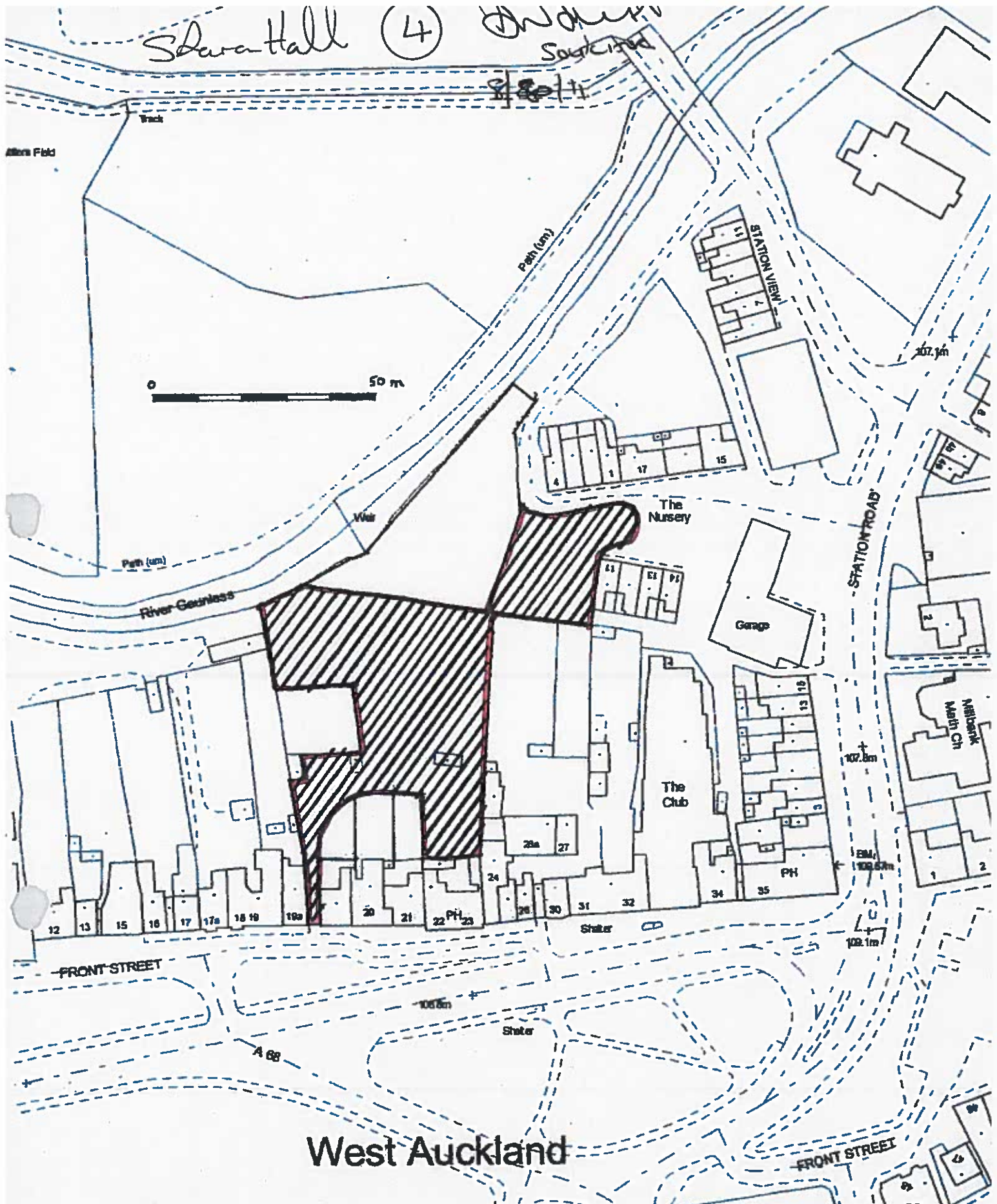
Proposed area for village green registration between  
Front Street and The Nursery, West Auckland, County Durham

### PLAN A

The gap between the two areas of land is defined by the original corner of the stone garden wall and the original timber corner post of the land enclosed by Mr Steven Robinson, and subsequently acquired by adverse possession by him. The gap was sufficient to provide pedestrian access only between the two spaces, and is one metre in width.



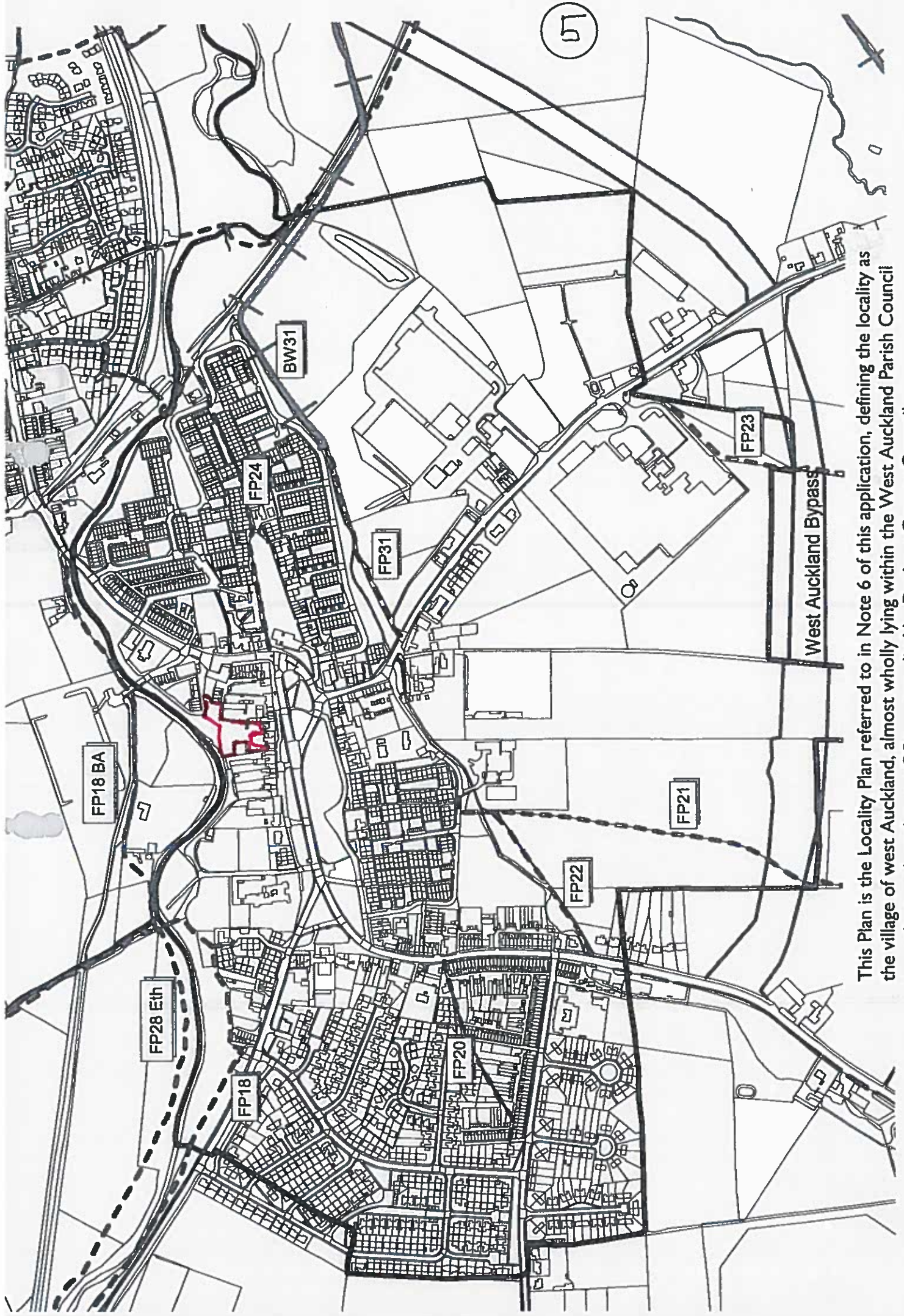
Sharon Hall (4) Director  
Society



# West Auckland

This Plan is the Plan A referred to both in Note 5 of this application and in the Statutory Declaration of Sharon Hall, Clerk to West Auckland Parish Council, made this .....<sup>7<sup>th</sup></sup>.....day of August 2011... before me.....see above....., and also in Witness Statements, all maps being based on OS 1:1250, provided by the former Wear Valley District Council, enlarged where necessary, but always provided with a scale bar.





This Plan is the Locality Plan referred to in Note 6 of this application, defining the locality as the village of west Auckland, almost wholly lying within the West Auckland Parish Council area, the map based on an OS map supplied by Durham County Council.

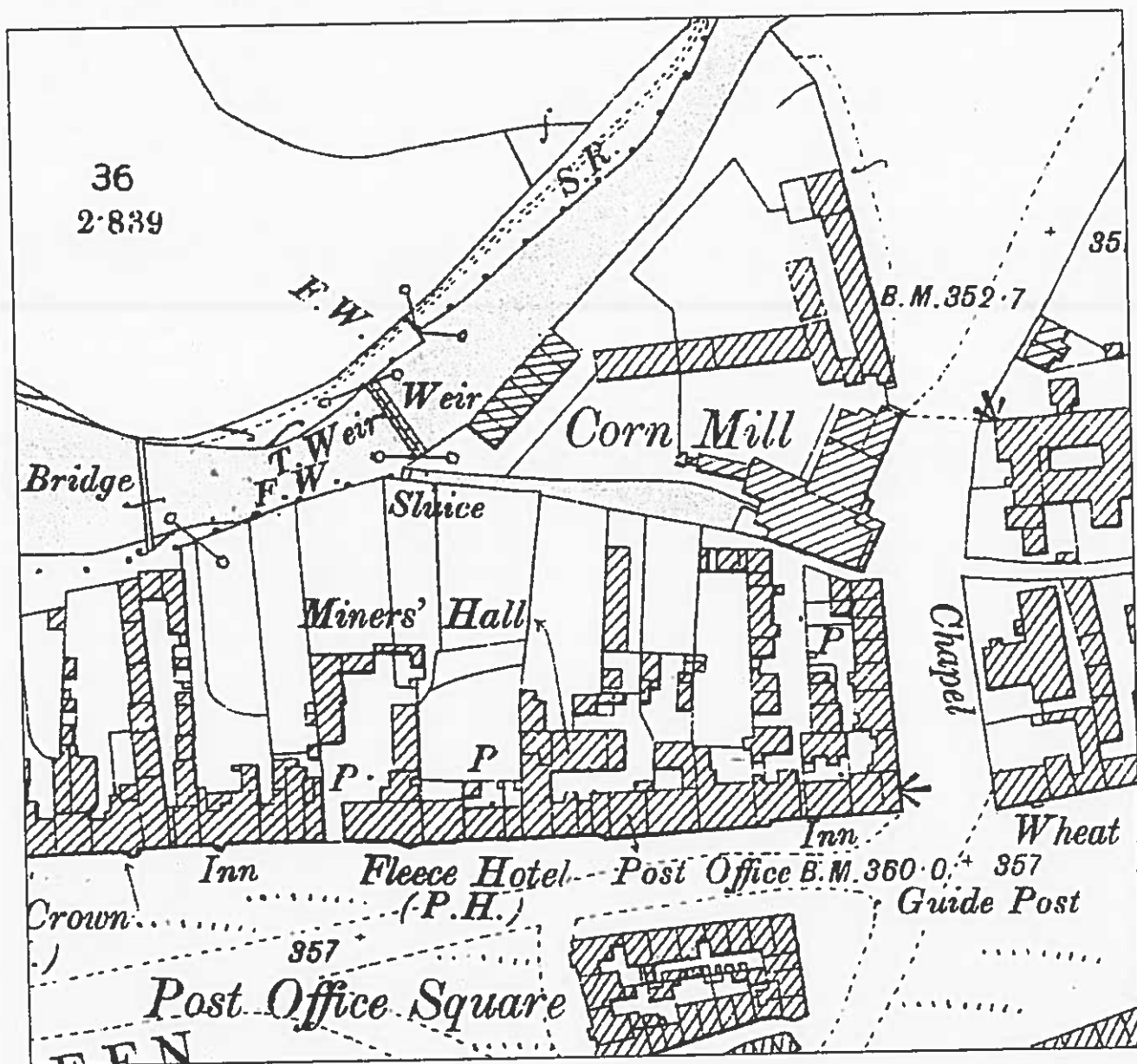
WEST AUCKLAND PARISH COUNCIL

PROPOSED 'FLEECE AND NURSERY' VILLAGE GREEN REGISTRATION OF LAND BETWEEN FRONT STREET AND THE NURSERY, WEST AUCKLAND, COUNTY DURHAM

BACKGROUND HISTORY

1897

These notes trace the history of the open space to the north of the village green between The Nursery, the River Gaunless and Front Street, land that is the subject of this application for village green registration. The land lies within West Auckland Conservation Area and its historical development, particularly the separate histories of the 'Fleece' area behind Front Street and the 'Nursery' area to its NE, is very relevant to this application.



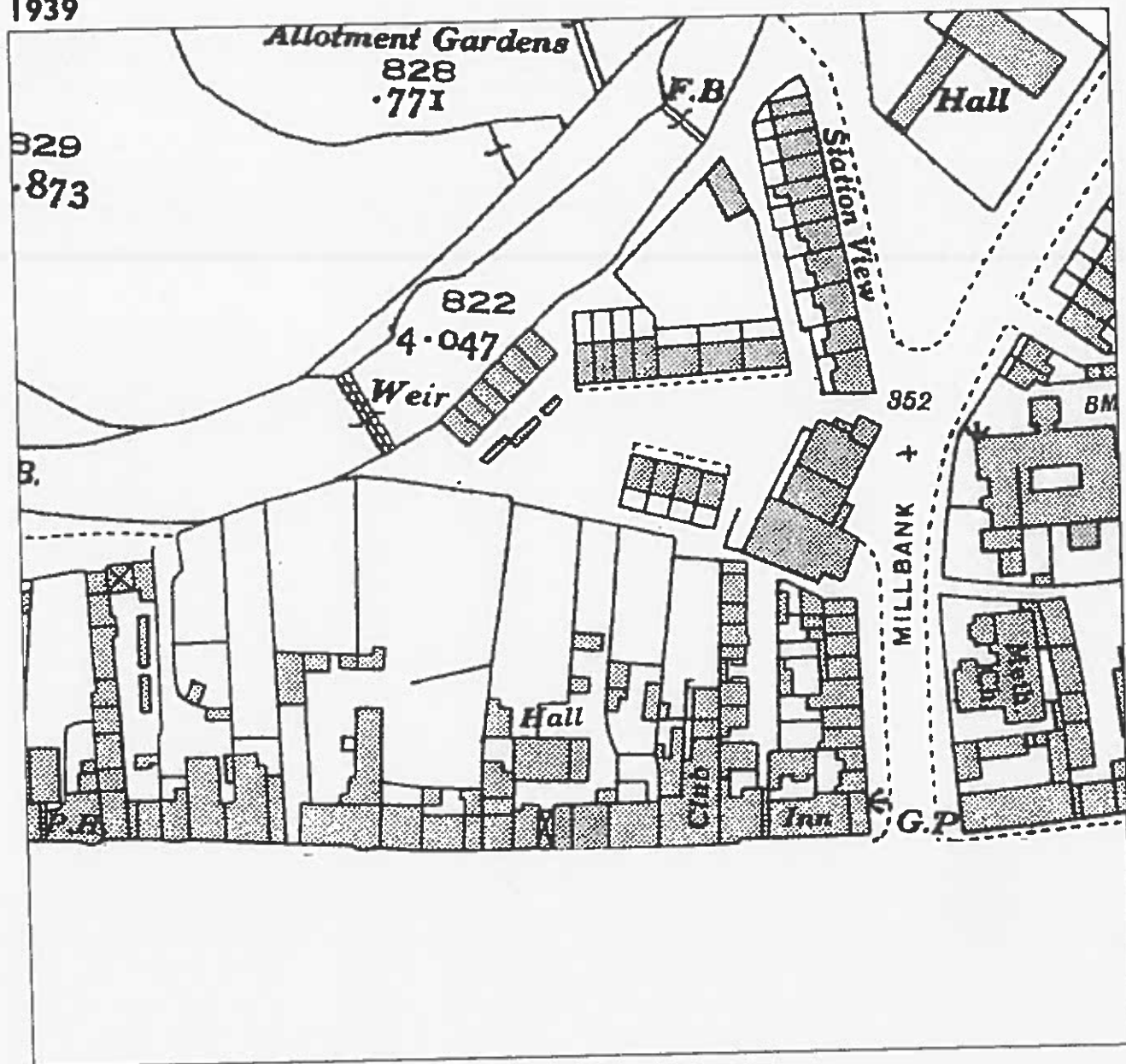
Second edition OS Map (1897)



The second edition OS map (1897) shown above, shows the Corn Mill with its then recently built stone cottages (now The Nursery), north of the Mill Race. This Mill Race comes off the River Gaunless to the west, and is a feature probably centuries old and certainly present in 1857 (1st ed OS map). It has long been the boundary between the Corn Mill area and the rear gardens of the north side of Front Street. At this time the Mill Race prevented any physical link between the two areas; no Front Street properties enjoyed any access from the north, because the Mill Race was in the way.

On Front Street in 1897, the Fleece Hotel (now nos 20,20A and 20B), together with No 21 (private house now) and Nos 22/23 (Prince of Wales PH) occupied the village frontage with yards and gardens stretching back to the River Gaunless (western part of northern boundary) and the Mill Race (eastern part). It is highly likely that all this block of land was formerly owned by West Auckland Brewery, who owned both pubs. In due course Camerons owned both pubs (but not No 21), until sale of the Fleece Hotel c.1973 and Prince of Wales c.2000.

1939



Fourth Edition OS map (1939)

The Mill Race has been filled in by 1919 (3<sup>rd</sup> ed OS), so presumably the Mill had ceased to function. The brick Nursery cottages were built part over the old Mill Race between 1897 and 1919. In 1939 (4<sup>th</sup> edition OS map), see above, the two areas were still distinct with no sign of any form of linkage. Witness statements attached to this application suggest that by as early as 1926 there was recreational use established on both areas, now known as the Fleece and Nursery land, and that at some point the two areas were joined by a breach in the wall for pedestrian access across the infilled millrace. From the date of this breach in the wall, there developed a through pedestrian route, across the land in question, from the alley beside 19 Front Street, to The Nursery and along the riverside to the west. It became an established 'cherished' footpath route, i.e. not a formal right of way. There was no vehicular access at all between the two areas at this time.

### **1950-60s**

In the 1950s and 60s the narrow pedestrian gap that existed in the stone wall that formed the boundary between the former mill race and the open land behind the Prince of Wales and Fleece public houses, and the Nursery land to the north, continued to be used as a through pedestrian route across the open land, all still in communal recreational use.. There was still no vehicular route at all between the Fleece and Nursery areas.

### **1971-74**

In 1971 the six Mill cottages against the river, together with their privies, etc, were demolished and in the following years the area was landscaped as an extension to the open space between the Nursery terraces. By this time the stone wall that formed the boundary between the Front Street properties and the Mill Race had been demolished and the whole area was open space. It is from this date that the local planning authority, Wear Valley District Council from 1974, began the maintenance of the open amenity space with regular grass mowing. With the loss of the wall, there was now no impediment to vehicular use between the two areas, and there may have been occasional vehicular movements, though no recognisable track or route was ever defined in the grass, suggesting use was only very intermittent.

### **c.1994**

In late 1993 or early 1994 Mr Abel Armstrong, then owner of 24 Front Street and the derelict Chapel behind it – both properties with only Front Street vehicular access – began to use a vehicular opening he had created in the stone wall beside his land, which formed the eastern boundary of the 'Fleece' land, thus facing onto that open space. He began to take both private and commercial vehicles both north, through the Nursery and southwest onto Front Street via the alley besides 19 Front Street. The access was opposed by local residents and in an effort to stop him the landlord of the Prince of Wales erected fencing on the Fleece land open space.

Considerable local action, involving local residents and the local district councillor, the late Cllr Mrs Betty Harker, ensued. Ownership of the open land could not be established and, after the dust had settled, only the area formerly occupied by the six Mill houses down by the river remained fenced. This fencing was undertaken by Mr Stephen Robinson, who began to claim adverse possession on the land, although he only owned the site of one cottage at the time. This claim was allegedly made with the tacit private approval of Cllr Harker, because it effectively blocked Mr Armstrong's vehicular access through The Nursery, but maintained a narrow (approx one metre wide) pedestrian route between the two areas of open space. Mr Armstrong's vehicular access north through The Nursery was thus blocked by fencing and he now limited his vehicular access to the Front Street alley only.

In view of the ownership uncertainty, Wear Valley DC ceased maintaining the land south of the line of the Mill Race, the 'Fleece' Land, but did continue to cut the grass in front of the remaining Nursery houses, the 'Nursery' land, though both areas, now separated by the land of Mr Robinson's adverse possession claim, have remained public open space in recreational use throughout the period.

At this time, Cameron Breweries, as successors in title to the West Auckland Brewery, investigated their possible ownership of the open land between the river, the Nursery and Front Street as they then owned the Prince Of Wales PH and had formerly owned the Fleece Hotel PH too, whose land originally stretched back to the river (as detailed in sale particulars in 1857). This legal search of adjacent properties deeds, etc, was probably prompted by the increasing unprofitability of the Prince of Wales PH, and ownership would have allowed them to extend their buildings or develop a beer garden to the rear. They could not prove ownership but, as the most likely claimant to ownership, placed a legal Caution on the land right through to the Nursery, with The Land Registry. Later this Caution was reduced up to the line of the Mill Race, excluding Steve Robinson's land claim and the Nursery land, reflecting the separation of the two areas and the likely limit of West Auckland Brewery's historical ownership (Mr Robinson's fenced land actually included a sliver of land south of the line of the mill race). Cameron's sold the Prince of Wales PH to Wolverhampton and Dudley Breweries, with no land behind it, who then maintained the Caution for a period. When, in turn, they sold the Prince of Wales, the Caution lapsed.

It should be noted that in the fencing 'free-for-all' that ensued in 1994, Mr and Mrs Briggs of 21 Front Street felt compelled to fence the external amenity space they had enjoyed for decades, in part legally secured in an agreement with Cameron's Breweries. This land has remained continuously fenced and thus is, *de facto*, now the private land of Mrs Briggs, achieved by adverse possession.

It should be further noted that for brief periods during the 1990's and running up to the mid 2000's, the land east of Mrs Briggs garden, immediately behind the Prince of Wales, and ending in line with her northern garden fence, has been fenced and gated, fenced and not gated, and now fully open, each fencing being undertaken by tenants of the public house, with the occasional unauthorised use of a small part of that land for refuse and empty bottle storage.

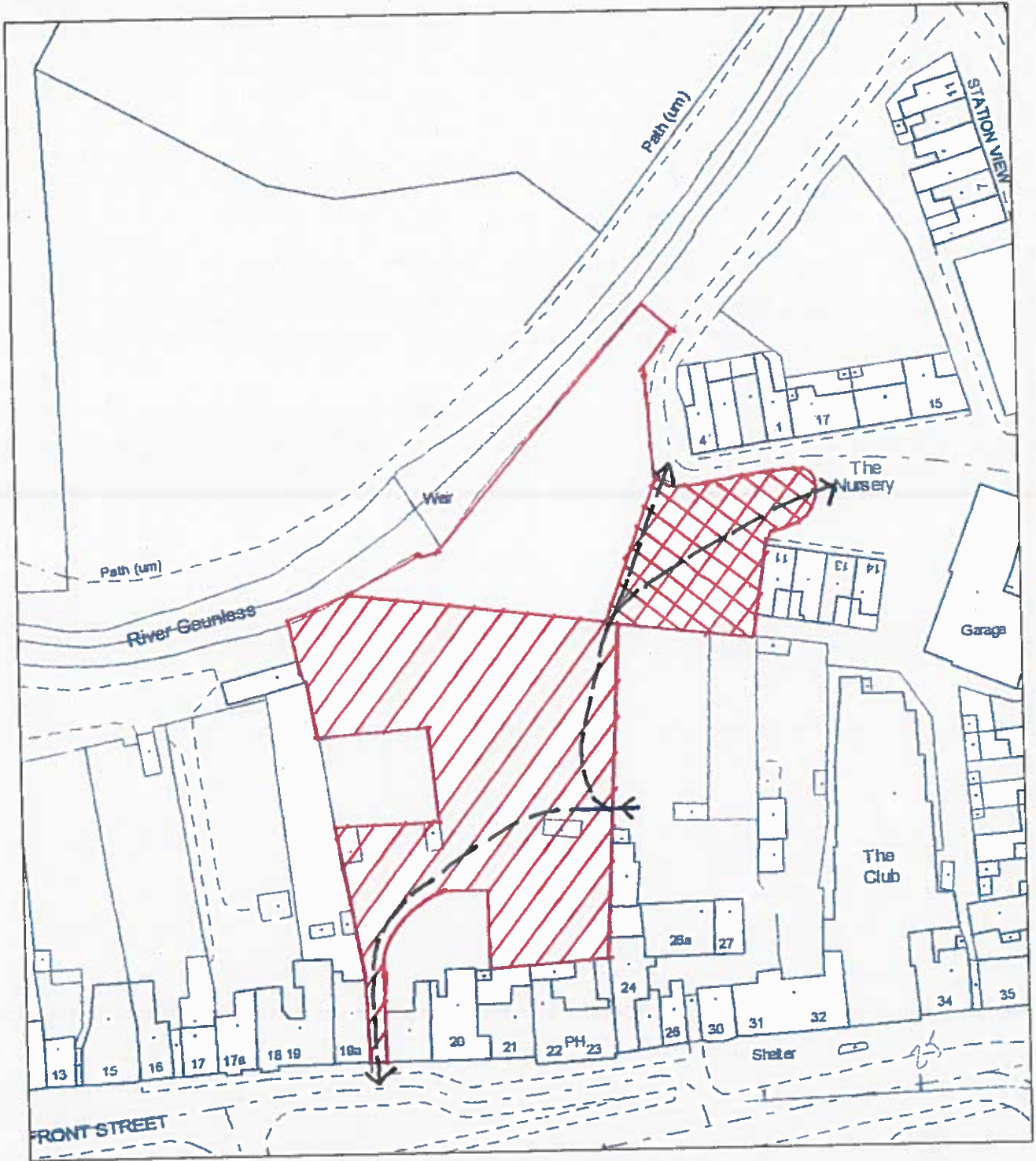
## **2006**

In 2006, as the deadline for the twelve year occupation of Steve Robinson's adverse possession land approached, the fencing was torn down by relatives of the original owners of one of the six Mill cottages (joined by relatives of Mr Armstrong), who then formally opposed his claim. The claim was finally settled in 2008-9 at a Land Registry Tribunal which awarded Mr Robinson his fenced land.

Since the removal of the fencing in 2006 Mr Armstrong, his son-in-law Mr John-Paul Cliff (who lives in one of the two converted houses in the old Chapel) as well as their family, friends and acquaintances, have taken vehicular access through The Nursery with private and commercial vehicles on a regular basis with many vehicle movements a day. The vehicles include commercial vans, trucks, horseboxes, a lorry with a fixed crane, several caravans at a time, and on one occasion a double-decker bus! These vehicles destroyed the grass surfacing and a mudded track developed through the open area to the detriment of local residents, and other residents in the village, who regularly enjoy the riverside walk and recreational use of the land, further degrading the appearance and amenity of these public open spaces.

**2008-11**

In Feb 2008 West Auckland Parish Council placed a Caution on the two parcels of open space land, in an effort to demonstrate the community's intention to retain these spaces as open public amenity spaces. In a further effort to limit access in The Nursery, the Parish Council placed bollards around the Nursery land, only for two bollards to be removed by Mr Armstrong and Mr Cliff, to maintain their vehicular access. In April 2008 Mr Armstrong placed a Caution on the Nursery land.



- (1) West Auckland Parish Council 'Caution' land behind Front Street hatched in red
- (2) West Auckland Parish Council and Abel Armstrong 'Caution land' in The Nursery, cross-hatched in red
- (3) Steven Robinson land between these two parcels of land, subject of planning permission for two houses
- (4) Current vehicular access routes from Mr Armstrong/Mr Cliff's land

In 2009 the Parish Council asked Mr Armstrong to cease vehicular access through The Nursery, only to be told he held documents that proved he had legal rights to the route. The Parish Council then requested sight of these documents within fourteen days, but received no reply.

In early May 2010 Mr Armstrong and Mr Cliff erected a fence around the Nursery land, establishing a gated vehicular access of approximately two metres at its junction with the 'Fleece' land, thus including a portion of Mr Robinson's land, so denying local Nursery residents direct access to their cherished open space. Access was however not completely denied as two gates were always left open, except for when they were very occasionally closed for a day or so when horses were impounded, when even a small pedestrian gate allowed access. In any event, one of the gates quickly became damaged and was left permanently open, thus the land has never been fully enclosed.

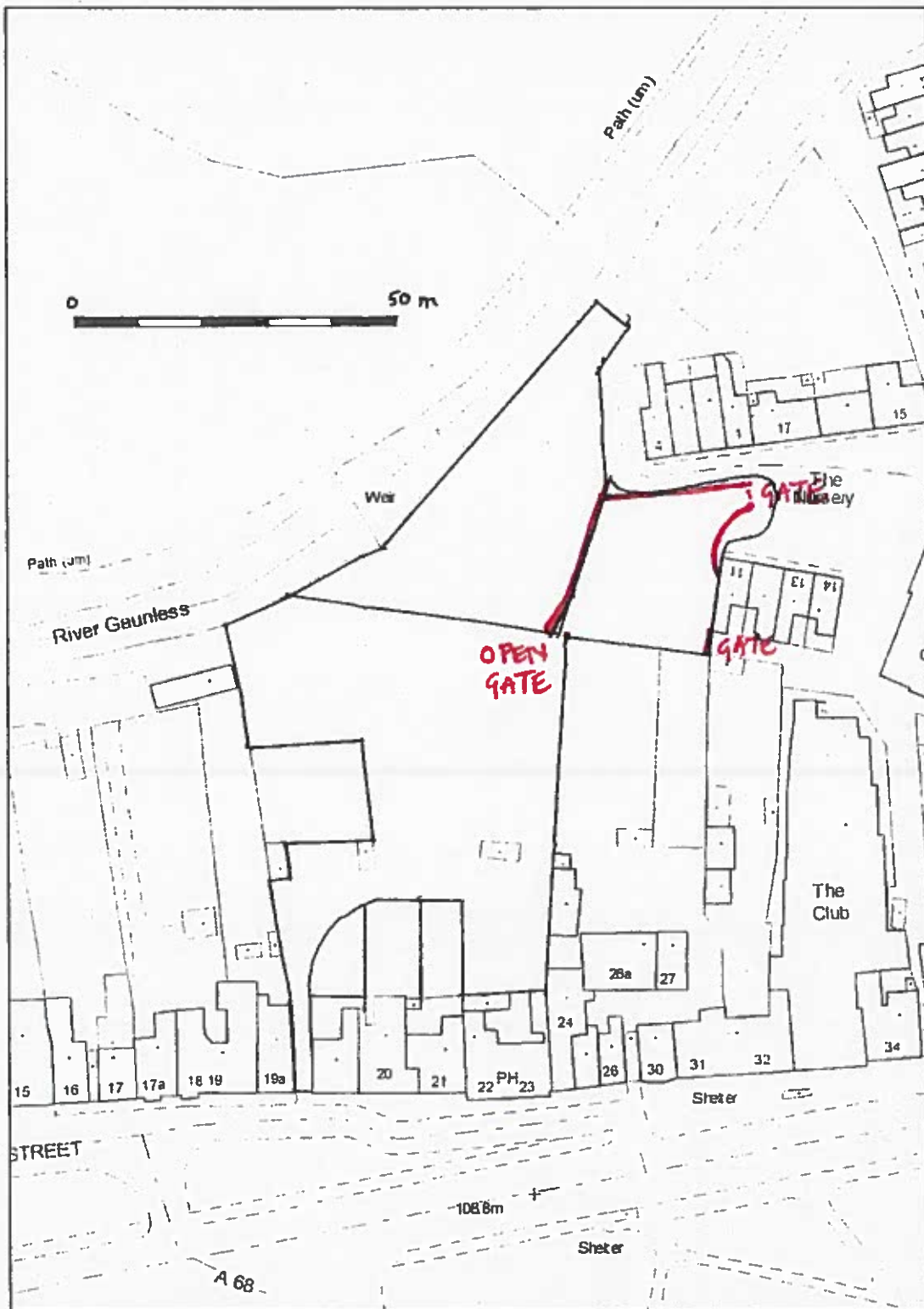
During 2010 and 2011 Mr Robinson, having secured planning permission for two houses on his land, has brought in substantial rubble stonework to erect a high stone wall along his southern boundary, in compliance with his approval, i.e. leaving only a one metre pedestrian gap between his land and Mr Armstrong's. He has so far laid the foundation for that wall to almost within a metre of his corner boundary, thus allowing Mr Armstrong and his family to take vehicular access through the two metre wide access. Mr Armstrong's response has been to partially remove stonework from the corner of his boundary wall to widen the access.

During 2010 and 2011 Mr Armstrong has periodically 'improved' his vehicular access by laying down broken brick hardcore in the tracks and latterly road planings. These operations were noted by the Durham County Council enforcement officers.

This creation of a through route and its accompanying fencing is a major blemish on the area, a hindrance to the easy access of local residents who are now prevented, in some cases, from walking round to the back of their own houses, without going through gates. It is also a huge disincentive to the recreational use of the land. But that use has not entirely ceased as it is still used for public access, dog walking and sitting out, etc as the gates have never enclosed the land, thus, in theory, recreational use remains an option.

2-8-11





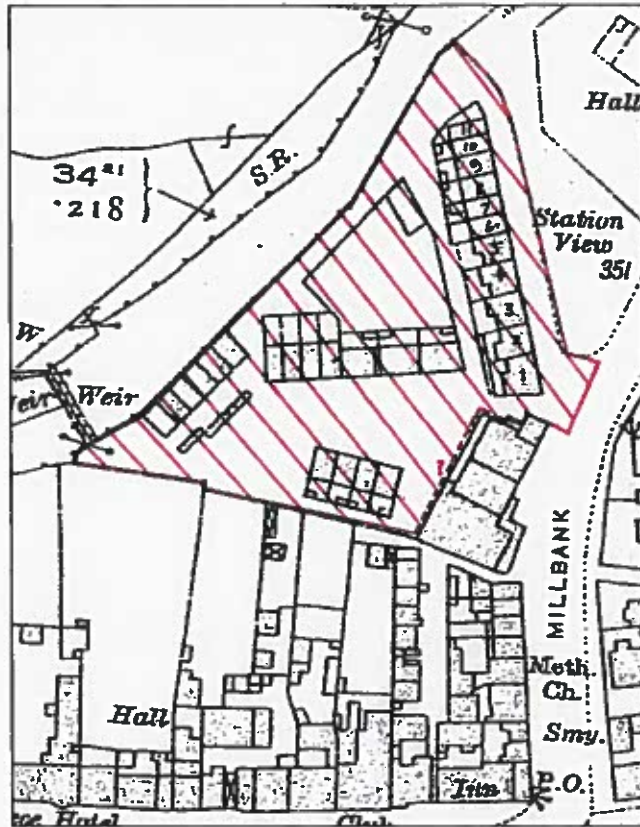
Plan of proposed Fleece+Nursery village green area, also the land held under Caution by West Auckland Parish Council.

Showing, in red, the area of land in The Nursery fenced by Mr A Armstrong in May 2010



LANDOWNERSHIP IN THE NURSERY IN 1934 AND 1945

7



Boundary of 1934 mortgage land as defined in text (no map) between Joseph Vart (borrower) and EJTG Bagshawe (mortgagee)



Boundary of 1945 land sale, as defined on map, between Joseph Vart (vendor) and Herbert Mairs (purchaser)

Evidence based on a 1955 Abstract of Title

THE FLEECE AND NURSERY LAND, WEST AUCKLAND  
**THE CASE FOR VILLAGE GREEN REGISTRATION**

The land proposed for registration comprises two distinct areas – the Fleece land and the Nursery land - that were once historically and physically separate (probably up to c.1971-4, were then wholly joined (from mid 1970s to 1994), and are now linked by a narrow one metre wide strip of land (1994-2011). Throughout this time, and possibly as far back as 1926, both areas have been open land enjoyed by local residents for community uses. The complex history of the area is fully set out in an accompanying document.

The area lies within the West Auckland Conservation Area and in 2009 the Parish Council designated this land, and adjacent areas to the NE as an Action Area as a focus for its future work, such were the issues of environmental degradation, loss of amenity, dereliction and vandalism.

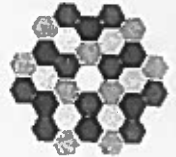
The whole area has been, and still is, used for a range of informal recreational activities including fishing, football, cricket, parties, picnics, dog walking, Guy Fawkes bonfires, general play, sunbathing, kite-flying, etc, etc. It is used by residents whose houses are close to the land, and also used by much of the village who use the River Gaunless route and the path from Front Street as a regular amenity walk within the village.

Those activities have been constant during this time and only the recent partial fencing of the land, and excessive vehicular traffic, around the Nursery, by Mr Abel Armstrong and his family, have limited, but not stopped, the recreational use of that part of the area. Mr Armstrong's fencing, erected May 2010, has never been fully enclosed. The occasional use of the land by travellers and grazing by horses has also, inevitably, restricted, but not curtailed, the easy recreational use of the land by local residents.

During much of this period, and certainly in the past forty years, there has never been a known owner of any part of the land and consequently no consent was ever sought to use the land for recreational purposes. Ownership of The Nursery area is likely to be held originally by the builders of the Nursery houses, and on the Fleece land the owners once were likely to have been West Auckland Brewery, though proof of the latter has since disappeared. From 1974 up to 1994 the whole of the area was maintained by Wear Valley District Council, only the Nursery area being maintained post-1994 until recently.

Village Green registration would enable to Parish Council, working with Durham County Council, to ensure that the land is well-maintained, that unauthorised activities and access are controlled and that the recreational and amenity use of the land is retained and developed, for benefit of local residents.

If registration is successful, the Parish Council, would wish to work with Durham County Council and local residents to protect recreational uses, control inappropriate activities, remove unauthorised fencing, prepare a landscape improvement scheme and develop a regular maintenance regime for grass-cutting.



# Official copy of register of caution title

Title number DU311368

Edition date 30.05.2008

- In accordance with r.134(7) of the Land Registration Rules 2003, this official copy is issued without reference to any application or matter which may affect the caution's subsistence.
- The date at the beginning of the caution details is the date on which the caution was originally delivered for registration.
- Issued on 30 May 2008 at 12:58:36.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website [www.landregistry.gov.uk](http://www.landregistry.gov.uk) or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it.*
- This title is dealt with by Land Registry Durham Office.

Caution register kept under section 19 of the Land Registration Act 2002.

## A: Caution property register

Containing a description of the legal estate to which the caution relates.

DURHAM : WEAR VALLEY

1 (30.05.2008) Caution against first registration of the freehold estate in land relating to the land shown edged with red on the caution plan of the above title filed at the Registry and being land to the south west of The Nursery, West Auckland.

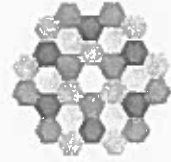
2 (30.05.2008) The statutory declaration accompanying the caution states the cautioner claims the following interest in the estate:

"as 'PARISH COUNCIL'. Under the 'Open Spaces Act 1906' any Local Authority (which for the purposes of the Act includes (Section 1) The Council of any County, of any Municipal Borough, or of any District The Common Council of the City of London and any Parish Council has the power to acquire open space or "undertake the entire or partial care, management, and control of any open space whether any interest in the soil is transferred to the Local Authority or not (Section 9(b)).

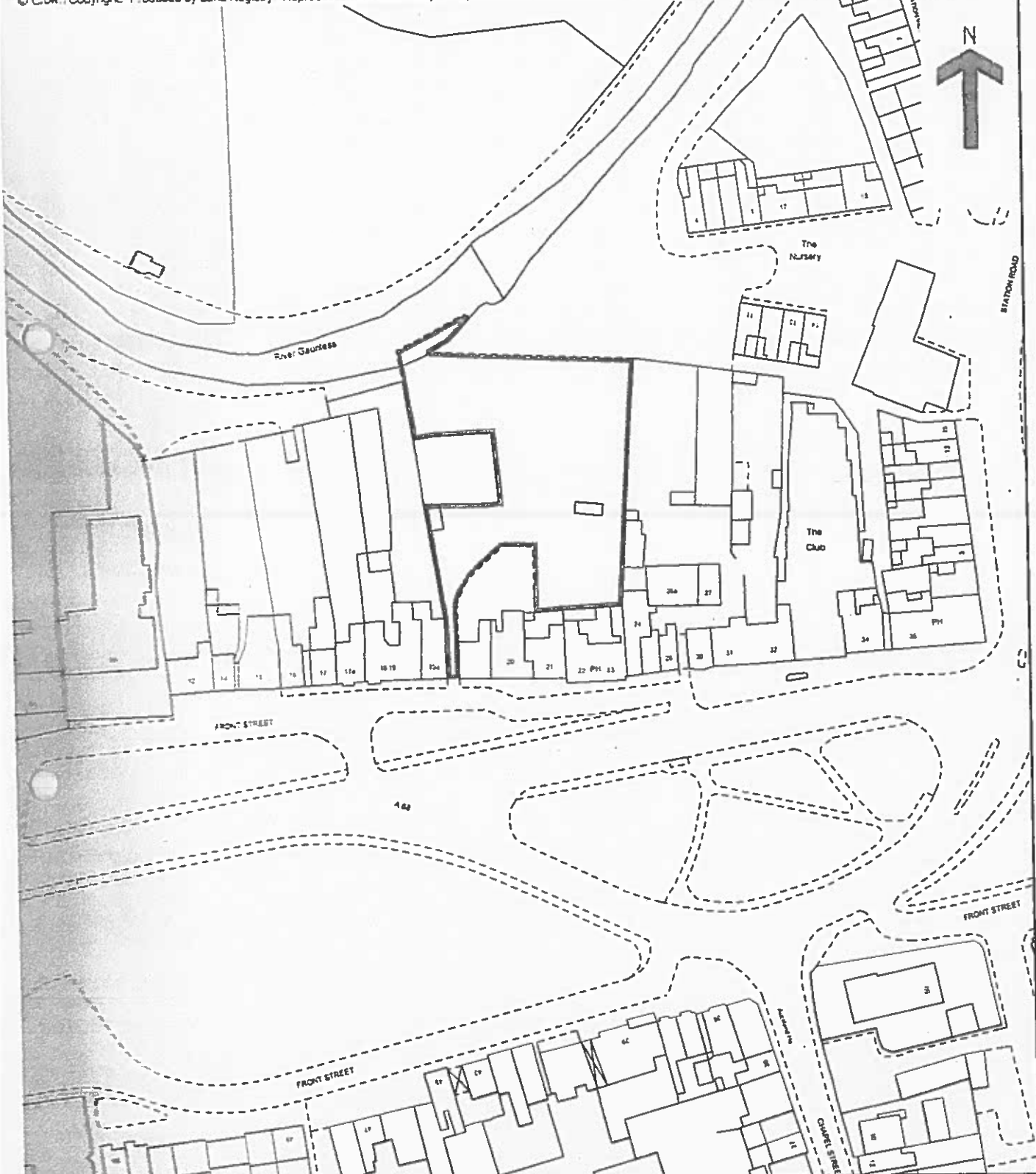
"By virtue of the fact that the area in question constitutes 'open space' in the Parish of West Auckland adjoining an unadopted access known as 'The Nursery' and the Parish Council is extremely concerned that heavy vehicles and lorries have recently been driving over the land for which the Parish Council is responsible".

Land Registry  
Official copy of  
caution plan

Title number DU311368  
Ordnance Survey map reference NZ1826SW  
Scale 1:1250  
Administrative area Durham: Wear Valley



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In accordance with r.134(7) of the Land Registration Rules 2003, this official copy issued on 30 May 2008 at 12:58:36 is issued without reference to any application or matter which may affect the caution's subsistence. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).  
This caution plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.  
This caution is dealt with by Land Registry, Durham Office.

# Official copy of register of caution title

Title number DU308793

Edition date 15.02.2008

- In accordance with r.134(7) of the Land Registration Rules 2003, this official copy is issued without reference to any application or matter which may affect the caution's subsistence.
- The date at the beginning of the caution details is the date on which the caution was originally delivered for registration.
- Issued on 18 February 2008 at 11:21:08.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website [www.landregistry.gov.uk](http://www.landregistry.gov.uk) or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it.*
- This title is dealt with by Land Registry Durham (Southfield) Office

Caution register kept under section 19 of the Land Registration Act 2002.

## A: Caution property register

Containing a description of the legal estate to which the caution relates.

DURHAM : WEAR VALLEY

1 (15.02.2008) Caution against first registration of the freehold estate in land relating to the land shown edged with red on the caution plan of the above title filed at the Registry and being land at The Nursery, West Auckland.

2 (15.02.2008) The statutory declaration accompanying the caution states the cautioner claims the following interest in the estate:

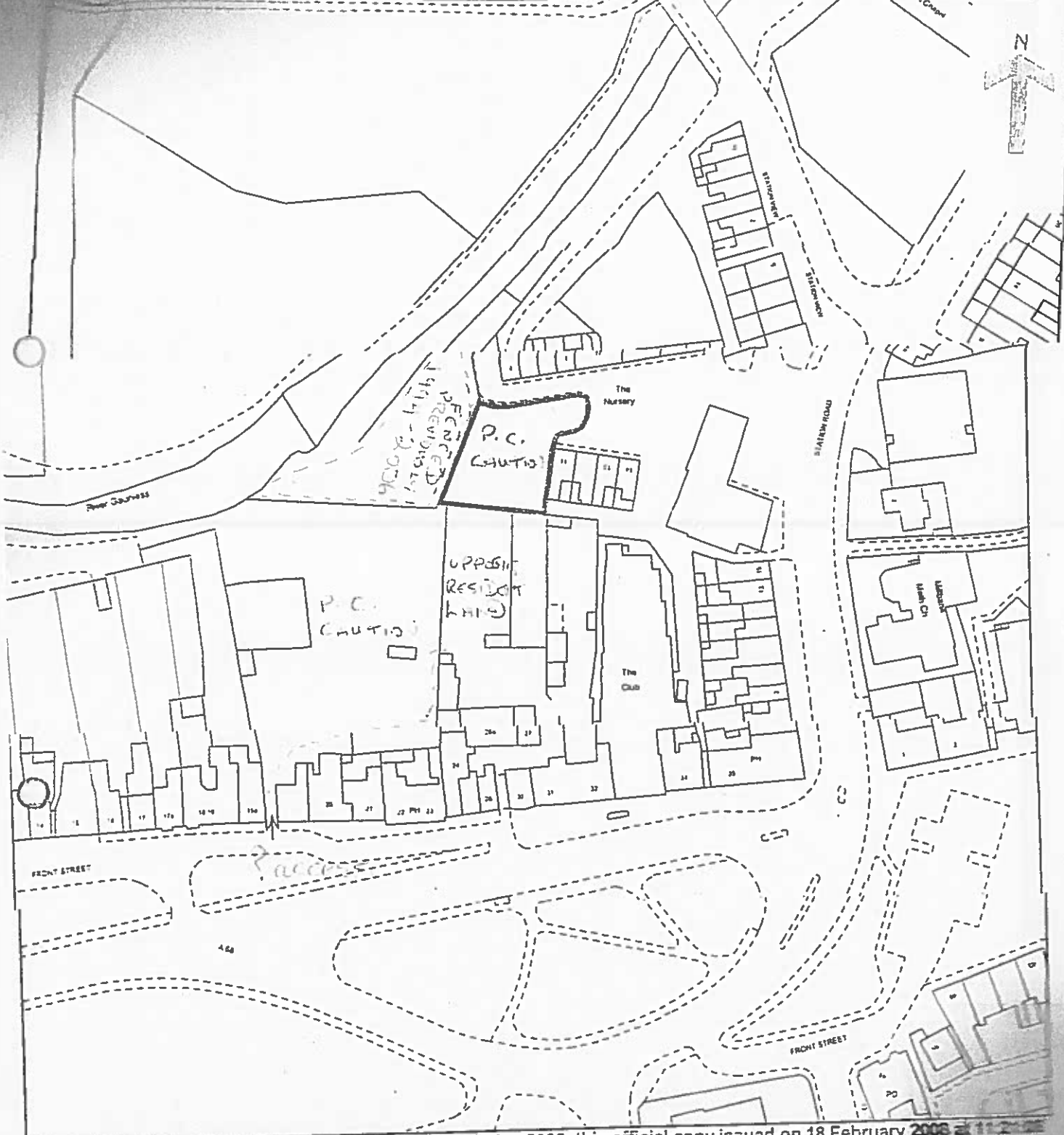
as 'PARISH COUNCIL'. Under the 'Open Spaces Act 1906' any Local Authority (which for the purposes of the Act includes (Section 1) The Council of any County, of any Municipal Borough, or of any District The Common Council of the City of London and any Parish Council has the power to acquire open space or "undertake the entire or partial care, management, and control of any open space whether any interest in the soil is transferred to the Local Authority or not (Section 9(b)).

"by virtue of the fact that the area in question constitutes 'open space' in the Parish of West Auckland adjoining an unadopted access known as 'The Nursery' and the Parish Council is extremely concerned that heavy vehicles and lorries have recently been driving over the land for which the Parish Council is responsible".



The number DL302753  
Ordnance Survey map reference NZ1826SW  
Scale 1:1250  
Administrative area Durham: Wear Valley

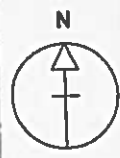
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In accordance with r.134(7) of the Land Registration Rules 2003, this official copy issued on 18 February 2006 at 11.21 AM is issued without reference to any application or matter which may affect the caution's subsistence. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This caution plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries. This caution is dealt with by Land Registry, Durham (Southfield) Office.

# LR

TITLE NUMBER  
**DU185431**



**DURHAM : DURHAM**

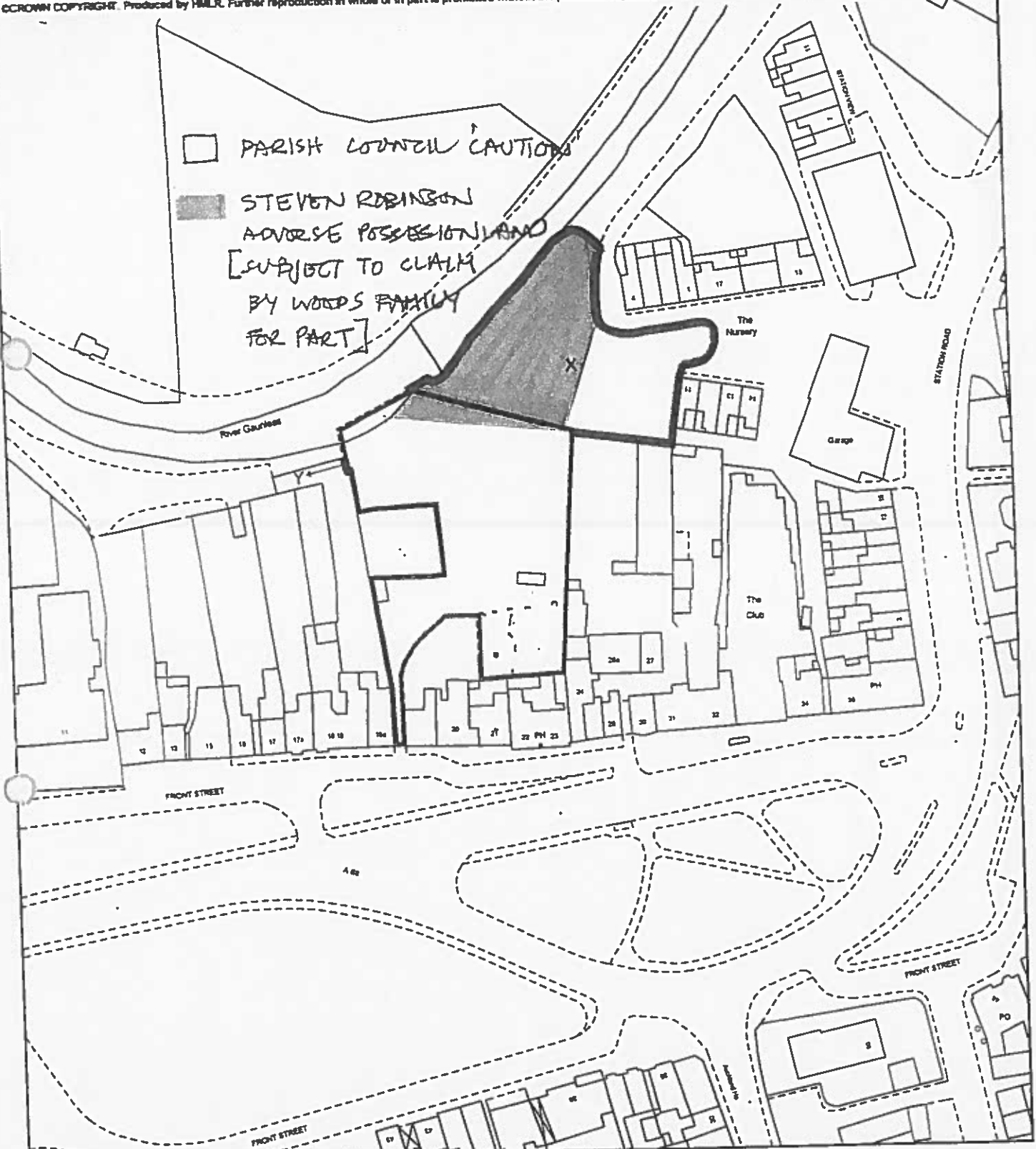
ORDNANCE SURVEY MAP REFERENCE:

NZ1826SW

SCALE 1:1250

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□ PARISH COUNCIL CAUTION  
■ STEVEN ROBINSON  
ADVERSE POSSESSION LAND  
[SUBJECT TO CLAIM  
BY WOODS FAMILY  
FOR PART]



This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Public Guide 7 - Title Plans.

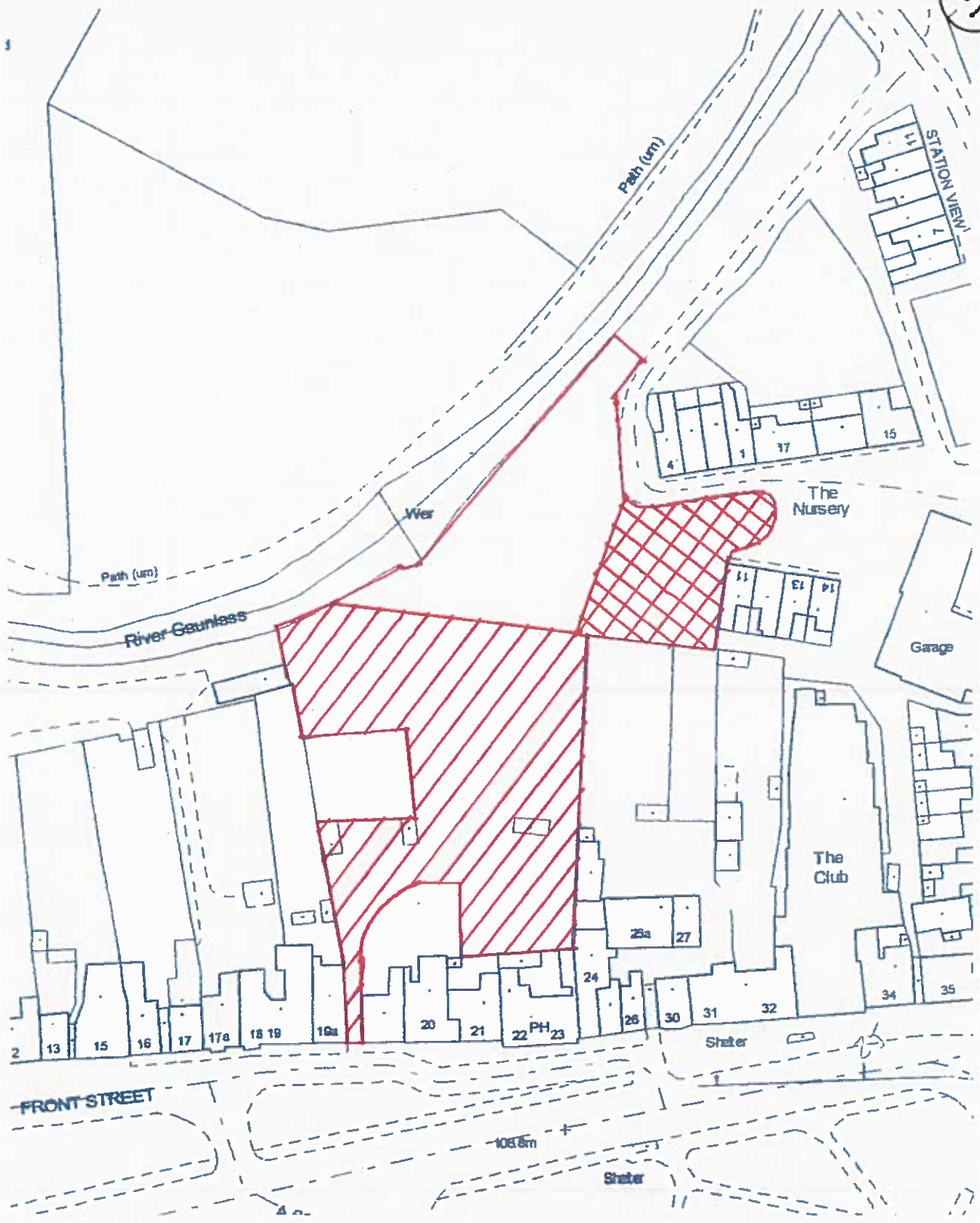
In accordance with r.134(7) of the Land Registration Rules 2003, this official copy is issued without reference to any application or matter which may affect the caution's subsistence.

This copy may be subject to distortions in scale.  
Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.  
Issued on 10 February 2006 at 16:34:19.



+ This title is dealt with by the Durham (Southfield House) District Land Registry.

+



**LAND BETWEEN FRONT STREET AND THE NURSERY, WEST AUCKLAND**

- (1) West Auckland Parish Council 'Caution' land behind Front Street hatched in red
- (2) West Auckland Parish Council and Abel Armstrong 'Caution land' in The Nursery, cross-hatched in red
- (3) Steven Robinson land between these two parcels of land, subject of planning permission for two houses



WEST AUCKLAND PARISH COUNCIL  
**PROPOSED 'FLEECE AND NURSERY' VILLAGE GREEN REGISTRATION  
 OF LAND BETWEEN FRONT STREET AND THE NURSERY,  
 WEST AUCKLAND COUNTY DURHAM**

**WITNESS STATEMENTS FROM WEST AUCKLAND RESIDENTS**

Name	Address	Knowledge of land	Current address, if not local
<b>THE NURSERY</b>			
Mr Gordon Beecham	4 The Nursery	1960-2011	31 Waterson Crescent, Witton Gilbert, DH7 6SH
Mrs Janet Clark	5 The Nursery	1960-1970	12 Fairfield, Evenwood, Co Durham DL14 9SE
Mrs Joan Woodward	11 The Nursery	1961-2011	Still there
Mrs Diane Donohue (daughter)*	11 The Nursery	1963-2011	2 Hillside Court, North Bitchburn, Crook DL15 8FD
Mrs Lynne Byers (daughter)	11 The Nursery	1962-2011	2 Mills Close, Compton Lane, Horsham, West Sussex RH13 5QA
Mrs Susan Brydon (daughter)	11 The Nursery	1965-2011	Cooper House, Woodland, DL13 5RH
Mrs Doreen Garfoot	13 The Nursery	1926-2011	Still there
Mr Jeff Garfoot	13 The Nursery	1966-2011	6 Rush Park, Bishop Auckland DL14 6NR
<b>FRONT STREET</b>			
Mr Colin Tutin	20A Front Street	1954-2011	23 The Square, St Helen Auckland DL14 9EE
Mr Martin Roberts	20B Front Street	1979-2011	Still there
Mr David Roberts (son)	20B Front Street	1979-2011	18 Eastmount Road, Darlington DL1 1JY
Mr William Roberts (son)	20B Front Street	1982-2011	18 George Street, Darlington DL1 5DW
Mrs Brenda Briggs	21 Front Street	1938-2011	Still there
Mr Stanley Fielding (nephew)	21 Front Street	1973-2011	16 Coniston Avenue, West Auckland DL14 9LL
Mrs Jill Wheeler	31 Front Street	1979-2011	75 Front Street, West Auckland DL14 9HL
Ms Helen Renwick	32 Front Street	1979-2011	Still there

REST OF VILLAGE

Mr William Robinson	3 Esthwaite Grove	1960-2011	Still there
Mr Keith Tweddle	16 Copeland Road	1943-2011	Still there
Mrs Laurel King	5 Rydal Grove	1940-2011	Still there
Mrs Hazel Charlton	5 Rydal Grove	1969-2011	Still there
Mrs Lynn Rielly	15 Staindrop Road	1959-2011	Still there
Mr Colin Howson	18 Front Street	1954-2011	20 Berkeley Grove, Bishop Auckland
Mrs Valerie Blower	17 Arnold Street	1946-1993	17 Palairret Close, Bradford on Avon, Wilts BA15 1US