



Figure 1 Silverlink Bridge - Gilesgate

This enquiry was triggered by concern over the effects of bottle-mining on the steep banks of Pelaw Beck. Some of the adjacent land (since developed for housing) had for long years been occupied by a soft drinks manufacturer, some of the old bottles buried as rubbish being now deemed as valuable. The excavations have been undermining mature trees and so threatening damage to the 1938 Silverlink steel footbridge (Span 190 ft). This was of concern to the Friends of Pelaw Wood, a voluntary group charged with woods management on behalf of Durham County Council. Neither the Police nor the Council have

been able to prevent the excavations, due to much of the land being unregistered. It became necessary therefore to research all adjoining ownerships, this being facilitated by a local councillor's grant from the Neighbourhood Budget.

Amongst the adjoining ownerships were the two churchyards of St Giles Church, unregistered but owned by the Church Commissioners. Record of their boundaries had been lost and establishing these became a necessary adjunct of the Ownership Search under the Council's grant of £180, which was to cover cost of Land Registry Searches and copies of associated maps and legal documents. The search was conducted on a voluntary basis by Ian Zass-Ogilvie, supported by Paul Stringer and his colleagues at the Durham Diocesan Office. We are also particularly grateful to Keith Lewis of Longden Walker & Renney Solicitors for his legal advice.



Figure 2 Silverlink Bridge as seen from SW

### Note of process:

#### A. Searches of Index Maps and Official Copies of Registers obtained from the Land Registry:

Search of Index Map of land around N abutment of Silverlink Bridge (3 ownerships)

Official Copy of Register + Map for land registered to **Miller Homes (DU 215485)**

Search of Index Map of St Giles Western Churchyard – unregistered land (1 ownership)

Official Copy of Register + Map for land registered to **College of Hild & Bede (DU 241634)**

Official Copy of Register + Map for land registered to **Durham County Council (DU 315407)**

**B. Documents filed at the Diocesan Office were inspected and copied (in date order):**

- Conveyance to Ecclesiastical Commissioners 18.06.1865 – c.3.0 acres of land down to Pelaw Beck, originally intended for **Eastern Churchyard**
- Deed of Appropriation by Ecclesiastical Commissioners 26.07.1911 – c.1.5 acres, southern half of **Eastern Churchyard** down to Pelaw Beck, is to be treated as Glebe land, for benefit of Vicar of St Giles.
- Conveyance to Ecclesiastical Commissioners 05.07.1920 – c.2.0 acres of land down to Pelaw Beck, for **Western Churchyard**. [Note this had been preceded in 1840 by several smaller acquisitions by the Vicar at the time in commencement of land assembly for the **Western Churchyard**.]
- Diocesan File Note 04.01.1975 signifying the sale of c.1.5 acres of Glebe land immediately adjacent to **Eastern Churchyard** for £2,528 approx. It is likely this was sold to Wood & Watson Ltd for use by adjacent soft drinks factory, since the Land Registry OCR for Miller Homes (DU 215485) refers to William Wood's permission being required for any subsequent disposition prior to 18.07.2018.

**C. Four maps inspected and copied with permission at Durham County Record Office, showing incremental development of site between 1856 and 1939:**

- DRO OS 1:2500 27.1: (1856-57); (1897); (1920); (1939)

**D. 2018 Ordnance Survey Map (1:1250) purchased from UK Map Centre:**

- Serial No. 130504 Coordinates: 428492, 542609 (01/01/2018) - marked-up with ownerships by IZO

**E. Findings:**

**Eastern Churchyard of St Giles Church** comprises c. 1.9 acres and is bounded on the southern side by a low stone wall. The land to the south of that (probably c. 1.2 acres) now wooded and a large part of which slopes steeply down to Pelaw Beck, is now vested principally in Miller Homes. However, a triangular portion (SW corner covering the Silverlink Bridge abutment) has been acquired at some stage by Durham County Council. See attached coloured OS map.

**Western Churchyard of St Giles Church** (being the 1920 c. 2.0 acre enlargement of the original churchyard immediately around the church) has the Pelaw Beck as its southern boundary i.e. the southern section of this parcel of land runs steeply down to Pelaw Beck and is lightly wooded with heavy undergrowth - clearly unsuitable for burials. Its western boundary with the Hild Bede land is partly marked by iron fencing. The eastern boundary is marked in part by the Miller Homes' St Giles Court development and attached parcel of land, but with no further marking other than a projected line down to the Beck, as per 1920 Conveyance.

**The boundaries of the unregistered wooded land** on the steep northern bank of Pelaw Beck (which triggered the need for this enquiry) can therefore now be determined with reasonable precision. Southern boundary is the Beck, northern boundary is determined by the parcel of land owned by Miller Homes on the south side of their St Giles Court development, eastern boundary is determined by the parcel of land owned by Durham County Council (at bridge abutment) and western boundary by that of St Giles' Western Churchyard. **(Area of this parcel of unregistered land is c. 0.4 acre)**

**A footnote on registration with the Land Registry** – for most of Durham this was not compulsory until 1967, therefore the majority of church land, although owned, is classified as unregistered. There is obviously other land that is neither owned nor registered, as in the case above, and its management can become problematic.

**F. Recommendation:**

Under section 1 of the Compulsory Purchase (Vesting Declarations) Act 1981 a local authority or other public body ('the authority') can acquire land by means of a general vesting declaration. The detailed provisions governing this procedure are set out in Parts II and IV and Schedule 1 of the Compulsory Purchase (Vesting Declarations) Act 1981, and, subject to the transitional provisions where previous regulations might be relevant, the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017 and the Compulsory Purchase of Land (Vesting Declarations) (Wales) Regulations 2017. These provisions apply equally to registered and unregistered land. *[Extract from HM Land Registry Practice Guide 54 – 11<sup>th</sup> Sept 2017.*



Figure 3 On bridge looking northwards - trees overhanging

In view of the inherent danger to the bridge structure from falling trees, it is imperative that appropriate land and woodland management be put in place for the newly delineated 0.4 acre site of unregistered brownfield land. It would seem that this can only be done effectively by the land ownership being vested in Durham County Council using the legislation noted above. Site inspection and the photographs show the heavily wooded nature of the terrain, with numbers of mature trees rooted in steeply sloping ground (areas of which have been subject to historic tipping) close to the bridge. The prevailing SW wind and illicit bottle-mining, which currently cannot be prevented, considerably add to the risk factor.

Inevitably the vesting of this relatively small area of land, which immediately adjoins land at the bridge abutment already acquired by the Council, would incur unwelcome additional expense in a time of austerity, but the author of this report would be prepared to liaise voluntarily with the Council in taking the matter forward, to their direction.

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16<sup>th</sup> February 2018



Figure 4 The steeply sloping unregistered land (c. 0.4 acre)