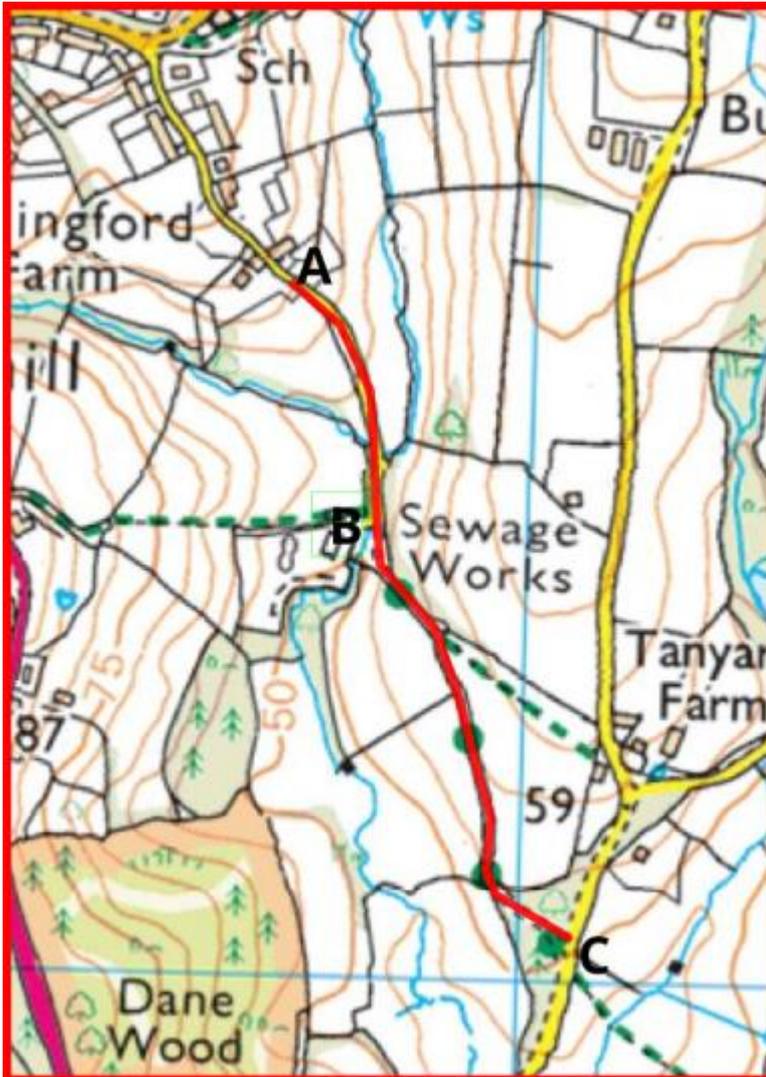


APPLICANTS STATEMENT

Our reference- Danehill C

THE APPLICATION ROUTE



The application route runs from point A, which is at the southern end of the section of Collingford Lane recorded as maintained by East Sussex Council at grid reference 540783 127627, to point C on a junction with Tanyard Lane at grid reference 541042 127018.

The route is in Danehill Parish,.

None of it is currently on the definitive map or statement.

Application is being made to add a byway open to all traffic.

1. DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

1.1.1 In order to be able to modify the definitive map and statement, the surveying authority needs to have a discovery of evidence which shows that it can be reasonably alleged that highway rights exist.

1.1.2 As the authority has not considered whether or not the application route is a right of way that should be on the definitive map and statement before I believe that all the evidence presented below represents a discovery of evidence.

1.1.3 The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and another* (2012) EWCA Civ 334 Levinson LJ said, at paragraph 22 "In the nature of things where an enquiry goes back over many year (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless". As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922: 'It has been said that circumstantial evidence is to be considered as a chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cord. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength.

Whilst no single piece of evidence is conclusive, I believe that, take as a whole, the pieces of evidence demonstrate highway reputation over many years.

2. HISTORIC MAPS

2.1.1 Planning Inspectorate consistency guidelines comment on these maps as follows: under "Other post-1800 maps" (page 11) 12.43 "Commercial maps are rarely sufficient in their own right to permit the inference to be drawn that a route is a highway. However, combined with evidence from other sources, they can tip the balance of probability in favour of such status".

2.2 YEAKELL AND GARDNER'S SUSSEX 1778-1783

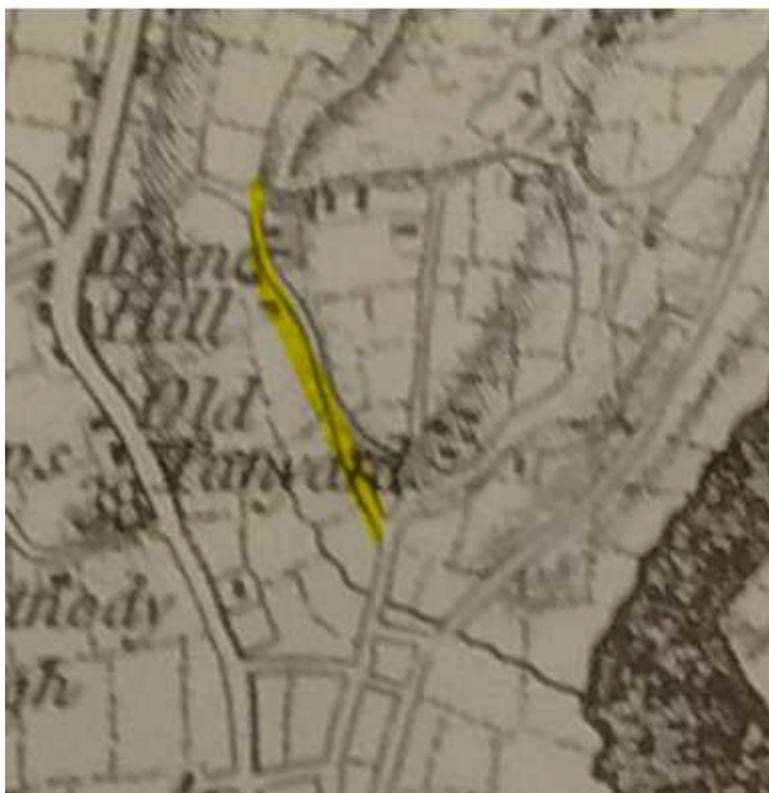
2.2.1 The application route is too far north to appear on this map.

2.3 GARDENER AND GREAM MAP 1795

2.3.1 This map is held at the Keep under reference AMS 608/1/1/29/17 The map at the Keep does not have a key.

2.3.2 What this evidence shows

2.3.3 The extract of the map below shows Collingford Lane. It appears to be the only continuation from what is now School Lane. The continuation of School Lane to the north east is not shown. The route is shown as a through route, not a dead end.



2.3.4 The significance of this evidence

2.3.5 Few private roads were shown. (The sheer volume of missed out private roads and tracks can be seen by comparing the number of roads shown on later maps such as the first edition of the ordnance survey 1-2500 series.) The existence of a way on this map means that it was more likely than not, a public route.

2.4 FIGG'S MAP OF EAST SUSSEX

2.4.1 This is held by the East Sussex record office at the Keep under reference ACC 3553
The catalogue says

Plan [by William Figg] of roads in Eastern
Sussex showing turnpike gates and
milestones; settlements shown in some
detail

c1820

East Sussex Record Office

ACC 3553

2.4.2 The reference suggests that only public roads were shown.

2.4.3 What this evidence shows

2.4.4 The extract of the map below shows Collingford Lane. It appears to be the only continuation from what is now School Lane. The continuation of School Lane to the north east is not shown. The route is shown as a through route, not a dead end.



2.4.5 The significance of this evidence

2.4.6 This evidence suggests that Collingford Lane was a road like other roads on the map. The map appears to show only public roads.

2.5 GREENWOOD AND GREENWOOD MAP OF SUSSEX 1825

2.5.1 This map is held at the Keep under reference AMS 6008/1/129

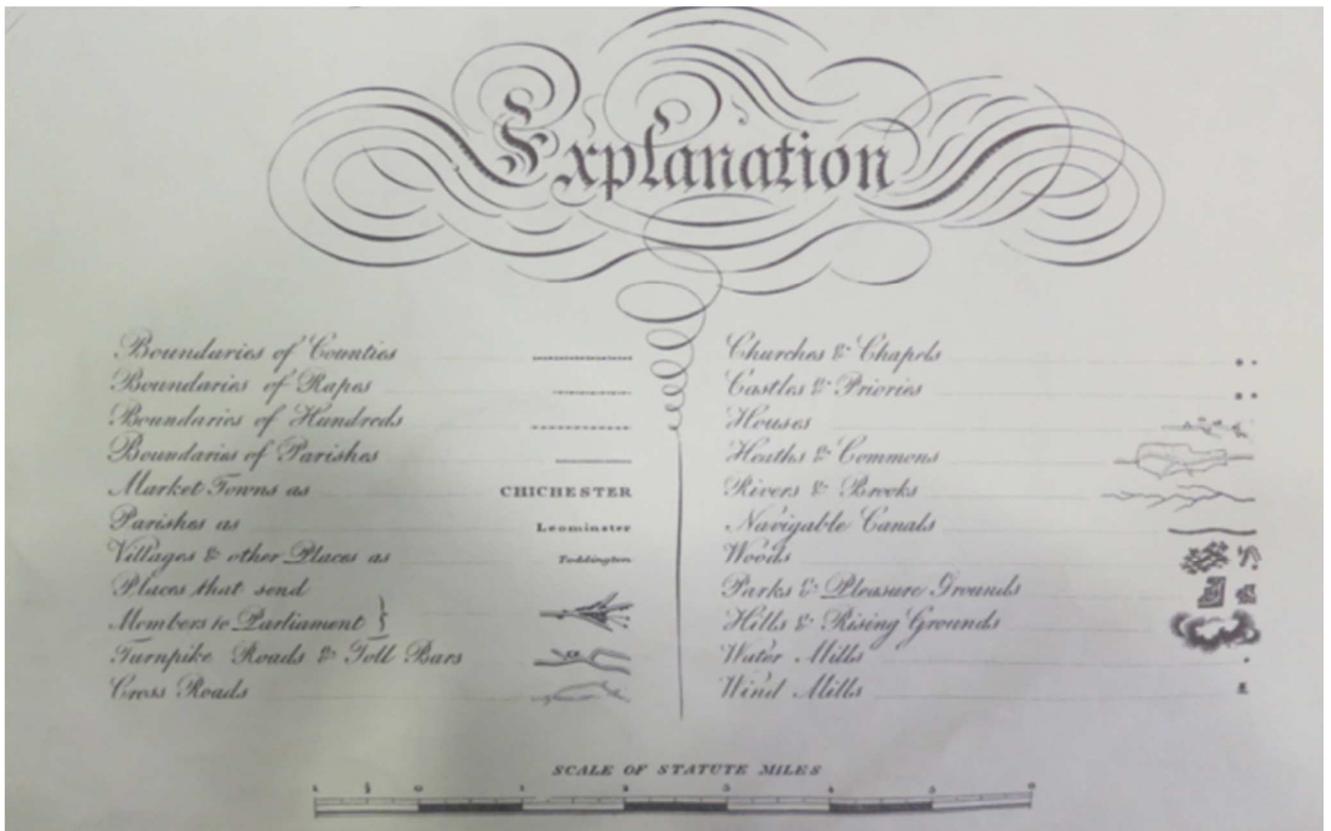
2.5.2 What this evidence shows

2.5.3 The extract of the map below shows Collingford Lane. It appears to be the only continuation from what is now School Lane. The continuation of School Lane to the north east is not shown. The route is shown as a through route, not a dead end

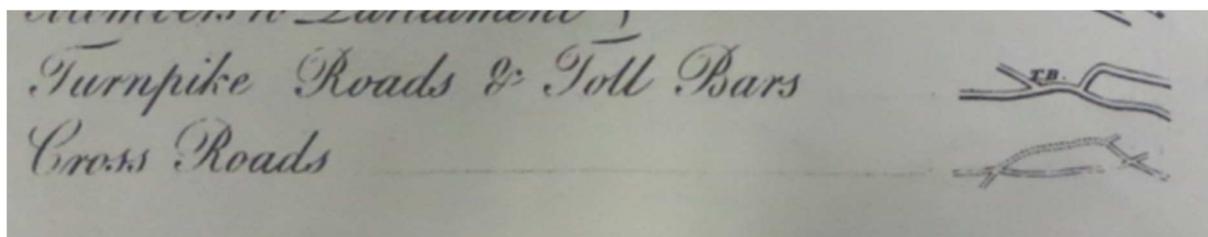


2.5.4 The significance of this evidence

2.5.5 The map has a key, which is shown below



2.5.6 A close up of the key explains how roads were depicted. (See below)



2.5.7 Paragraph 2.24 of the Planning Inspectorate's constancy guidelines says "In modern usage, the term "cross road"/"crossroads" is generally taken to mean the point where two roads cross. However, old maps and documents may attach a different meaning to the term. These include a highway running between, and joining, other highways, a byway and a road that joined regional centres.

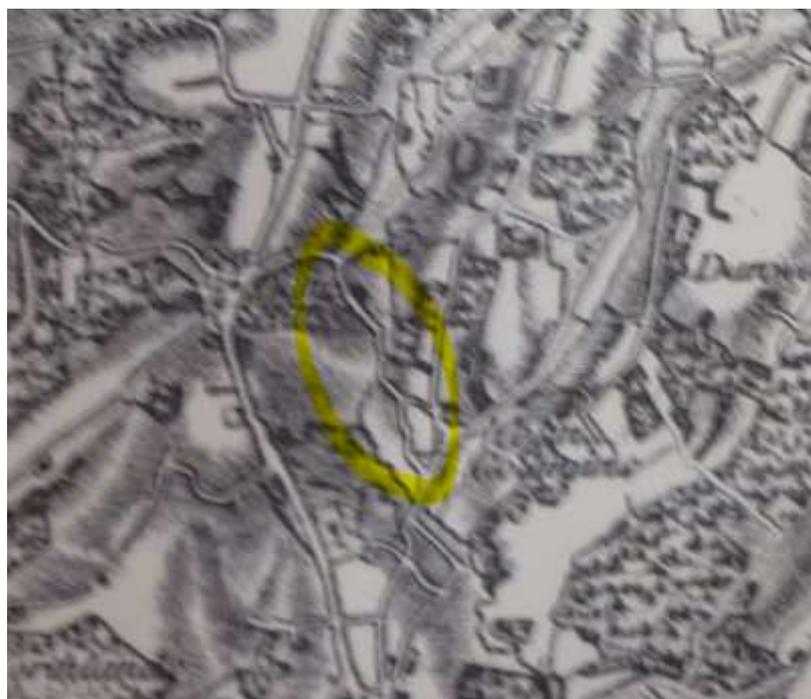
2.5.8 Few private roads were shown. (The sheer volume of missed out private roads and tracks can be seen by comparing the number of roads shown on later maps such as the first edition of the Ordnance Survey 1-2500 series.) The existence of a way on this map means that it was more likely than not, a public route.

2.6 MUDGES MAP (UPDATED TO 1873 BUT BASED ON A SURVEY OF 1813)

2.6.1 The map is held at the Keep as part of the Brighton Pavilion collection under reference BHM000009. The map at the Keep does not have a key.

2.6.2 What this evidence shows

2.6.3 The extract of the map below shows Collingford Lane. It appears to be the only continuation from what is now School Lane. The continuation of School Lane to the north east is not shown. The route is shown as a through route, not a dead end.



2.6.4 The significance of this evidence

2.6.5 Few private roads were shown. (The sheer volume of missed out private roads and tracks can be seen by comparing the number of roads shown on later maps such as the first edition of the Ordnance Survey 1:2500 series.) The existence of a way on these tracks means that it was more likely than not, a public route.

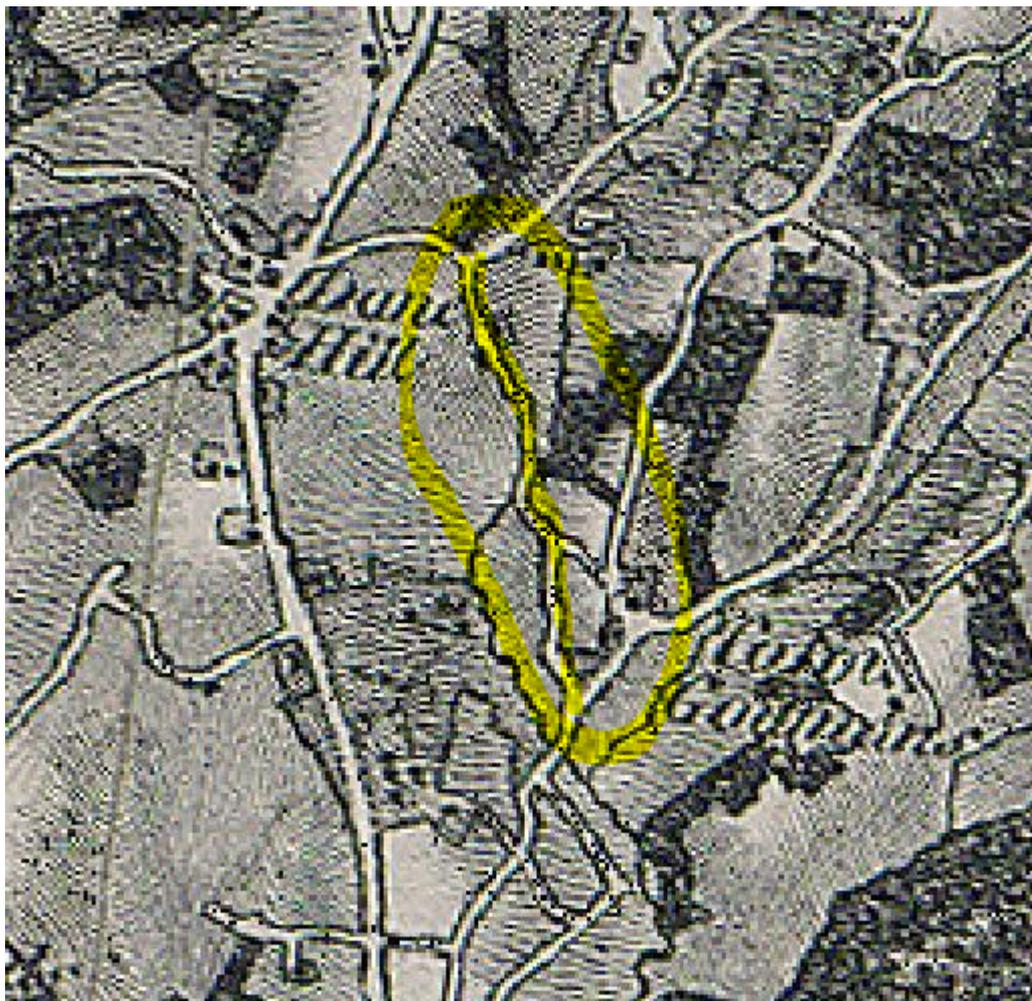
3. FIRST EDITION OF THE ORDNANCE SURVEY 1" MAP

3.1.1 Cassini maps formerly published reproductions of the first edition of the Ordnance Survey 1" map. This extract is taken from a map published by Cassini which is in my possession. According to Cassini, the maps for Sussex were first published between 1813 and 1819.

3.1.2 Copies of the instructions given about the portrayal of private roads are given in correspondence held at the national archive under reference OS 3/260. The instruction given is "as these plans are intended for military purposes no existing roads should be omitted; but to distinguish those roads which are entirely on trespass the line of the main road from which they branch is not to be broken for them"

3.1.3 What this evidence shows

3.1.4 Collingford Lane is shown as a through route. The extension of what is now School Lane extending to the northeast now appears for the first time. The line at the end of the road at the end is broken.



3.1.5 The significance of this evidence

3.1.6 This evidence suggests that this was a road and a through route. As there is no line across the ends of the route this suggests that this was a public route.

4. TURNPIKE PLANS

4.1.1 There are no turnpike plans relevant to this application.

5. INCLOSURE RECORDS

5.1.1 The application route does not appear to be covered by any inclosure. order

6. TITHE RECORDS

6.1.1 The Tithe Commutation Act of 1836 enabled tithes to be converted into a monetary payment system. Maps were drawn up to show the tithe-able land in order to assess the amount of money to be paid.

6.1.2 The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. No-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers roads could carry a tithe as they were used as pasture. It was in the interest of landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured in yellow or sienna to indicate public status.

6.1.3 Tithe maps can be accessed at the National Archive in black and white. The maps have been digitalised by the Geneologist web site. Tithe maps and apportionments for East Sussex are also available on line at <https://apps.eastsussex.gov.uk/leisureandtourism/localandfamilyhistory/tithemaps/> I have taken screenshots from this source. I have not provided a copy of the Fletching tithe map because it is in the authority's possession on this site.

6.1.4 At the time of the Tithe Commutation the application route was in Fletching Parish. The extract below is from the tithe map of that parish.

6.1.5 What this evidence shows

In the extract below Collingwood Lane is shown throughout in sienna. There appears to be a number at the very bottom but this appears to relate simply to the waste



A close up of the number suggests that it is 435, but it could also be 455,



6.1.6 Apportionments are also given at <https://apps.eastsussex.gov.uk/leisureandtourism/localandfamilyhistory/tithemaps/> but neither of these apportionments are shown. However there is a copy of the apportionment at the East Sussex Record Office where it is held under the reference TDE 145/2/455

6.1.7 This shows that apportionment 435 was held by a Mr Benjamin Martin and that plot 435 is a pasture called Hilly Field. This does not appear to be an accurate description of our route.

		Black Dog					
Benjamin	Himself	424	sandy pit field	Meadow	2	25	1
		425	sandy pit garden		1	2	
		435	Hilly field	pasture	1	3	13
				pasture ground	14	1	2

The details can be seen more clearly in the catalogue entry (for some reason each entry is catalogued separately.)

Plot 435, Hilly Field, in

Fletching; pasture

 TDE/145/2/435 ·  27 Mar 1841 ·  East
Sussex Record Office

Farm name, etc: Black Dog

Landowner: MARTIN, Benjamin

Occupier: MARTIN, Benjamin

Area: 1 acres 3 rods 18 perches (1.8625 acres)

Remarks:

Page in apportionment: 19

[View Record](#)



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6.1.8 It also shows that apportionment 455 was a waste of the Manor.

		Wastes and common land				
Manor Lord of the	1230	Wouham Green	1	2	23	
	1331	Waste near Stallingham	2	-	17	
	51	Piece of waste	32	2	30	
	53	Part of enclosed Common	28	1	14	
	68	d: d:	103	3	22	
	124	Piece of waste	2	2	10	
	173	d:	17	3	16	
	189	d:	18	1	27	
	200	d:	9	3	17	
	204	d:	1	2	34	
	219	d:	1	1	26	
	227	d:	13	3	31	
	421	Waste	1	3	12	
	440	d:	1	3	18	
	461	d:	3	1	16	
	472	d:	4	-	14	
	490	d:	8	-	28	
	524	Piece of Waste & Waste	8	-	20	
	717	Piece of waste	9	3	13	
	762	d:	-	2	6	
867	d:	-	1	25		
1102	d:	-	3	32		
1139	d:	4	-	2		
1162	Waste west of Turnpike opposite the Sheffeld works Inn	4	1	38		
1423	Sea ponds	-	1	20		
1428	piece of waste	-	3	32		
1721	Flething Common	9	-	7		
1817	grazing common	6	1	30		
Total amount			295	3	17	

6.1.9 Or, as the catalogue describes it:

Plot 455, waste, in Fletching;

[not stated]

TDE/145/2/455 · 27 Mar 1841 · East

Sussex Record Office

Farm name, etc: wastes and common land

Landowner: MANOR, LORD OF

Occupier: MANOR, LORD OF

Area: 4 acres 0 rods 4 perches (4.025 acres)

Remarks:

Page in apportionment: 20

6.1.10 The significance of this evidence

6.1.11 It is not clear whether the “waste” was just the section at the extreme south, or the whole of Collingford Lane. Perhaps it is more significant that the whole of the lane is shown in sepia. Although it has been disputed, the decision in *Dunlop v Secretary of State for the Environment and Cambridgeshire County Council* [1995] 94 LGR 427 is current case law. It ruled, amongst other things, that all roads coloured brown (sienna) or otherwise excluded from tithe must be public rights of way. So far as I can tell, the other roads coloured in sienna on the tithe map are roads today.

7. RAILWAY, CANAL AND RIVER RECORDS

7.1.1 There do not appear to be any railway canal or river records relevant to this application.

8. QUARTER SESSIONS RECORDS

8.1.1 There do not appear to be any quarter sessions records relevant to this application.

9. FIRST EDITION OF THE ORDNANCE SURVEY 25 INCH TO THE MILE MAP

9.1.1 Ordnance survey maps are not usually of use for rights of way purposes because they usually purport only to show physical features and not legal rights. However the early maps in the first edition series contain valuable extra information when cross referenced to the books of reference that were published with them. These are indexed by parish. There are also books showing the derivation of names shown on the map and surveys of parish boundaries

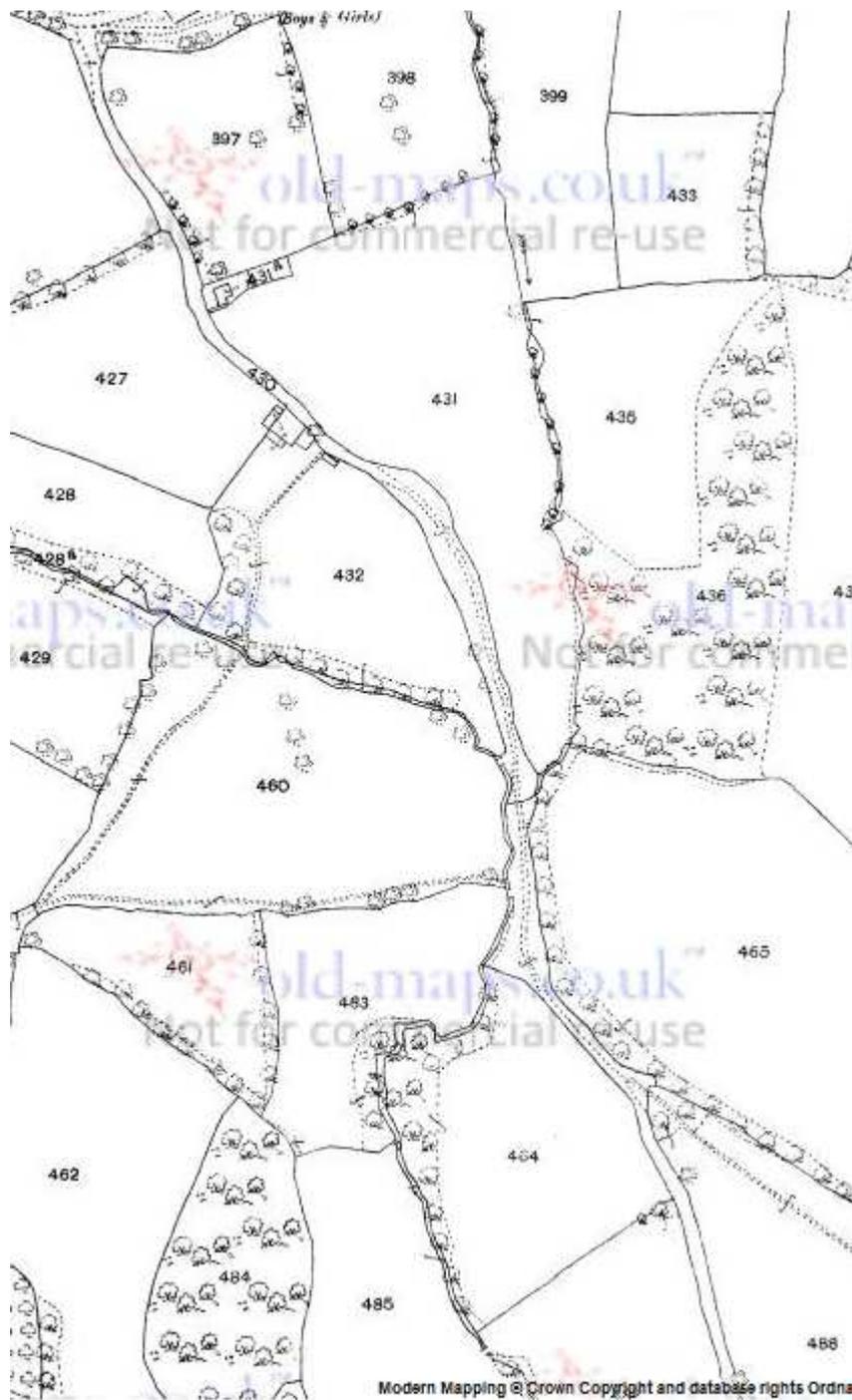
9.1.2 It is often said that the disclaimer on the ordnance survey maps means that they are not evidence of public rights. This is not the case. While it is obvious that it is not possible to say “It is on the OS map therefore it is a right of way”, these maps provide evidence from which inferences can be drawn. For example, if a route is over one landowner’s land and leads only to a barn on that land, it can be inferred that this route was probably private. But if a route goes from one public highway to another and crosses the land of a number of owners or occupants or a number of occupants were dependent on the way to access their land then, in the absence of evidence of private rights or wayleaves, it can be inferred that public rights are likely to exist. Such evidence is unlikely to be conclusive on its own, but taken with other evidence, may support the existence of public rights.

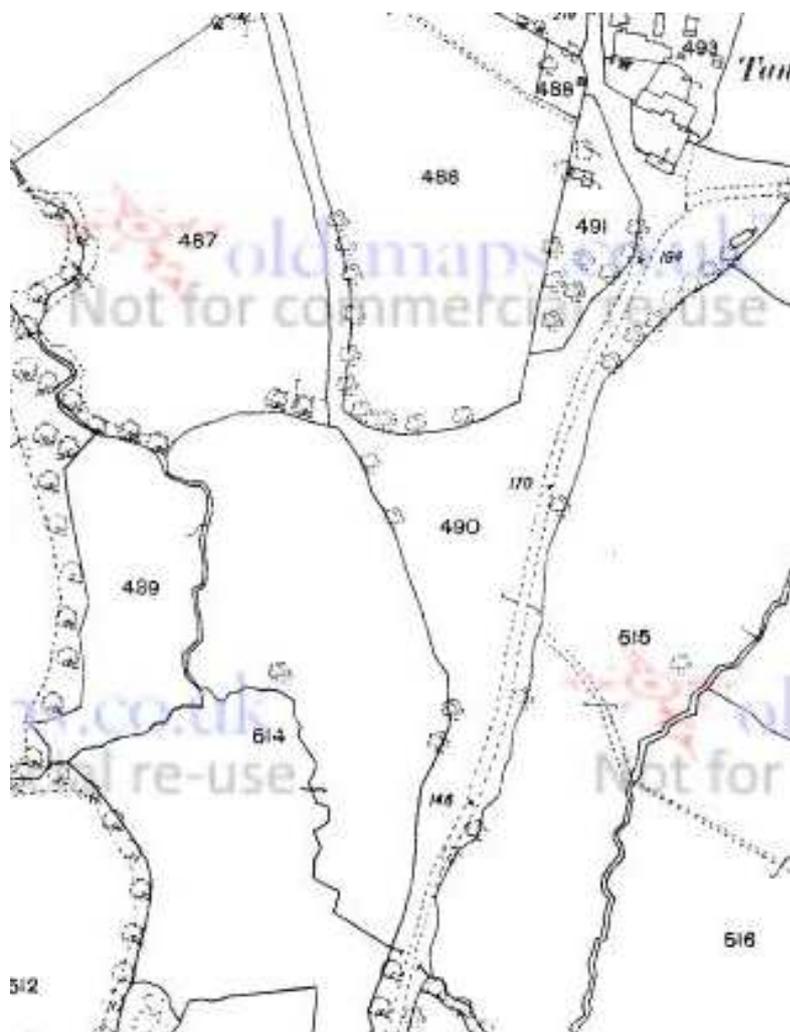
9.1.3 Copies of the first edition of the Ordnance Survey 25 inches to the mile maps can be found online at <https://www.old-maps.co.uk/#/Map/540500/127500/12/100315>

9.1.4 I have copied extracts showing the route map from these sources.

9.1.5 What this evidence shows

9.1.6 Collingford Lane is shown in the manner of a road. At the top it is numbered 430. At the bottom it appears to be in a land parcel numbered 490, along with the road which is now Tanyard Lane.





9.1.7 The significance of this evidence

9.1.8 Planning Inspectorate consistency guidelines say at Section 12, page 9 & 10: (After observing that the Courts have determined OS maps are not evidence of the status of a way): "12.35 Nevertheless, the inclusion of a route on a series of OS maps can be useful evidence in helping to determine the status of a route, particularly when used in conjunction with other evidence (Section 2.16 to 2.21 'Evidential Weight' refers)".

9.2 BOOKS OF REFERENCE/AREA BOOKS

9.2.1 Area books accompanied the first edition maps contain land use information. Parcels of land were numbered on the maps and the reference book can be used to determine land use. The reference books were set out by parish. The application route was in Fletching Parish at the time.

9.2.2 These books of reference have been digitalised by the Bodleian Library. The volume containing Fletching can be found at <http://dbooks.bodleian.ox.ac.uk/books/PDFs/555055181.pdf>

9.2.3 What this evidence shows

9.2.4 Land parcel 430 is described as a road. Land parcel 490 is described as a pasture

425	8·226	Pasture.	470	3·691	Pasture, wood, &c.
426	3·339	Arable.	470a	2·309	Road, &c.
427	2·835	Arable.	471	5·855	Wood, &c.
428	1·395	Pasture.	472	·496	Road.
428a	·812	Wood, &c.	473	·160	Pasture.
429	2·669	Pasture, wood, &c.	474	2·659	Pasture.
430	1·103	Road, &c.	475	1·929	Houses, yard, pasture, and wood.

PARISH OF FLETCHING.

7

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
476	1·756	Pasture, &c.	518	·242	Pasture.
477	·358	Houses, yards, and garden.	519	5·081	Arable, wood, &c.
478	1·811	Road, &c.	520	10·214	Wood, &c.
479	3·432	Pasture, &c.	521	4·760	Arable, wood, &c.
479a	·374	Houses, gardens, &c.	522	4·985	Pasture, &c.
480	7·896	Arable and wood.	523	4·671	Pasture, wood, &c.
481	·667	House, yard, and pasture.	524	1·127	Pasture.
482	7·296	Pasture, &c.	525	2·667	Pasture and wood.
483	17·874	Wood.	526	·534	Houses, yards, gardens, &c.
484	2·462	Wood.	527	·080	Pond.
485	2·534	Pasture, wood, &c.	528	1·148	Road, &c.
486	3·245	Pasture and wood.	529	6·773	Pasture, &c.
487	3·934	Pasture, wood, &c.	530	2·135	Pasture.
488	4·430	Pasture, wood, &c.	531	3·362	Arable.
488a	·100	Garden.	532	4·011	Pasture, stream, &c.
489	1·436	Pasture, &c.	533	10·769	Arable and wood.
490	4·179	Pasture.	534	1·368	Pasture, stream, &c.
491	·580	House, pasture, trees, &c.	535	3·192	Pasture.
492	1·073	Pasture, &c.	536	·535	Road, &c.
			537	2·639	Arable and wood.
			538	4·320	Pasture, &c.

9.2.5 The significance of this evidence

9.2.6 This evidence confirms that part of Collingford Lane was considered to be a road. I suggest that the definition of the rest as a pasture is mistaken. Given the shape of the land parcel it is unlikely to be a pasture, but will more likely be a road.

9.2.7 However as the area was formerly a waste, it may be reasonable to designate it as pasture. That does not mean that the road does not continue across it.

9.2.8 In the nearly identical case of *Eyre v New Forest Highways Board*, case decided by the Court of Appeal in 1892 and which remains a convenient summary of the law today. The case considered the powers of the highway board to metal a way across a common in the New Forest. The summing up at first instance of the judge, Wills J, to the jury is quoted in full in the report of the judgment of the Court of Appeal

9.2.9 .In *Eyre*, it was suggested by the plaintiff that a public highway terminated at a gate onto the common, and that there was no defined highway across the common. In his summing up to the jury at first instance, Wills J said: 'But supposing you think Tinker's Lane is a public highway, what would be the meaning in a country place like that of a highway which ends in a cul de sac, and ends at a gate on to a common? Such things exist in large towns. In Leeds, which is a place where I have done a good deal of my hardest forensic work, there were scores of streets which ended with dead walls and which were repaired by the public. ...but who ever found such a thing in a country district like this, where one of the public, if there were any public who wanted to use it at all, would drive up to that gate for the purpose of driving back again? I have known it successfully established in a beautiful walk leading to a cliff end or a place on the sea shore. ...But what do you find such a thing for in this part of the world? I cannot conceive it. It is a just observation that if you think Tinker's Lane was a public highway, an old and ancient public highway, why should it be so unless it leads across that common to some of these places beyond? I cannot conceive myself how that could be a public highway, or to what purpose it could be dedicated or in what way it could be used so as to become a public highway, unless it was to pass over from that side of the country to this side of the country. Therefore, it seems to me, after all said and done, that the evidence with regard to this little piece across the green cannot be severed from the other; and it is comparatively of little import-ance, because if I were a juror, and were satisfied in my own mind that Tinker's Lane was really a public highway up to that gate, I do not know, but I think, it would take a great deal to persuade me that it was possible that that state of things should co-exist with no public way across the little piece of green.

9.2.10 The Court of Appeal decided that: 'The summing up was copious and clear, and a complete exposition of the law on this subject; it was a clear and correct direction to the jury on all the points raised'

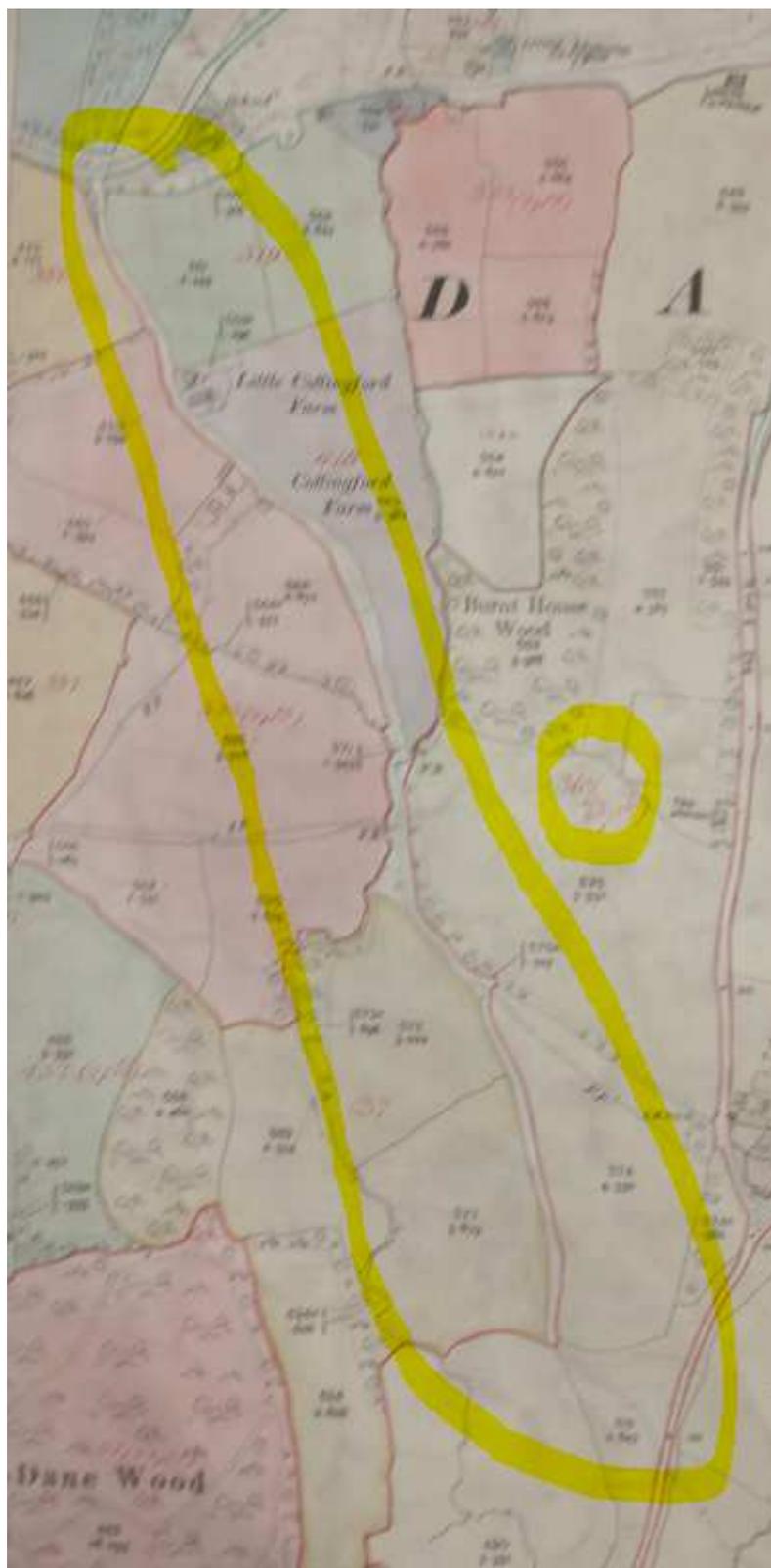
10. INLAND REVENUE VALUATION

10.1.1 The Finance (1909-10) Act 1910 provided for land valuations to take place across the country so that the increase in its value could be taxed. Deductions from the assessable value could be claimed by landowners where the land was crossed by a footpath or bridleway. Where a vehicular highway crossed land, it was often omitted from the valuation, and shown on the Inland Revenue's plans as a "white road". If a route were a private vehicular way, then it could be developed, increase in value and so be taxed. Accordingly, private tracks were not usually excluded from the assessable hereditaments

10.1.2 What this evidence shows

10.1.3 The Finance Act map covering the application route is held at the National Archive under reference IR 124/4/89. An extract from the map covering the route is shown below.

10.1.4 It shows that nearly all of Collingford Lane is a "white road", but that a small portion at the extreme south is part of a very large hereditament numbered 367.



10.1.5 The significance of this evidence

10.1.6 Where a route is shown as a white road the overwhelming likelihood is that it was a public road. There are a few other possibilities, (for example the land was a waste of no value) but they are so rare that I suggest that the onus of proof is on any party wishing to put forward an alternative explanation.

11. 1.1 FIELD BOOKS

11.1.1 The Inland Revenue created Field Books for calculating the value of each numbered hereditament on the map. Where rights of way crossed a hereditament the landowner could (but was not obliged to) claim for a reduction in value on account of this. A deduction made for rights of way in a field book is evidence of the existence of rights of way, but the lack of a deduction may only be evidence that the landowner chose not to make a claim.

11.1.2 I have not examined the field book entry for hereditament 367 because it is a large hereditament including a number of rights of way, so no inference can be drawn whether or not a deduction was made for rights of way.

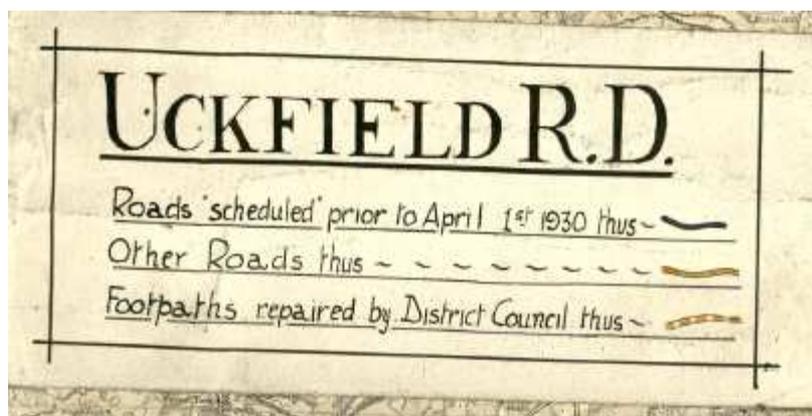
12. THE HANDOVER OF RESPONSIBILITY FOR HIGHWAYS

12.1.1 In 1930 responsibility for minor roads passed from district councils to county councils. However until 1934 East Sussex delegated responsibility for these roads back to the district councils. District Councils prepared handover maps and schedules showing the roads that they were responsible for and for which the county council would now take over responsibility. The application route was in the Uckfield Rural District Council area at the time.

12.1.2 A document called "Road Classification map" is held at the East Sussex Record Office under the reference C/R 65/11. According to the catalogue this document dates from 1933 and shows the "roads scheduled prior to 1 April 1930. I believe this to be the handover map described above.

12.1.3 What this evidence shows

12.1.4 The map has a key, which is reproduced below.



12.1.5 My understanding is that the roads shown in black had been scheduled as main roads and handed over to the county council before 1/4/1930 and that the roads and paths in Ochre were the ones that were now being handed over. Uncoloured roads were main roads such as former turnpikes that the district council had never been responsible for.

12.1.6 It is not possible to display the current on line map of adopted roads in such a way that it shows adopted roads over large areas, but the authority will note that all the ochre roads except Collingwood Lane are adopted today.

12.1.7 The handover map extract below shows that Collingwood Lane was to be handed over in its entirety as a road. At first sight it appears to be numbered 59a, but this number is given to another road. Collingwood Lane is numbered 194.



12.1.8 The East Sussex Record Office holds a document called "Uckfield Rural District Council - schedule of rural roads, bridleways and footpaths" under reference C/R 66/16. The catalogue dates it as 1933.

12.1.9 It contains details of roads etc. with reference numbers that correspond with the numbers on the handover map. The extract below shows that road 194 shows that Collingford Lane was recorded as a lane running from road 15b to Tanyard Road. It was 917 yards long and saw occasional use. It is not identified as a footpath in the remarks.

12.1.10 Using a current ordnance survey map, I have measured Collingford Lane as 0.56 miles or 985 yards miles in its entirety. I suggest the margin of error is acceptable.

12.1.11 Road 15b, which is described as one end of Collingford Lane, is named as Homefield Lane. The map above suggests that this was the road now named as School Lane.

SCHEDULE OF ROADS, BRIDLEWAYS AND FOOTPATHS.							
Road No. on Plan	Parish	Name of Road	Commencement and Termination	Character of Surface	Ave. Width (Carriageway)	Length Yds.	Remarks
189	Rotherfield	Stetchingly Lane	From B2100 at Gatts Hill to Stetchingly Farm	Water bound and gravel	10' 2"	325	Occasional No through traffic
190	East Hoathly	Church approach	From A.22 to East Hoathly Church	Gravel etc.	12' 0"	73	do.
191	Hadlow Down	Stocklands Lane	From Church Road (377) to Stocklands Road (387)	do.	10' 2"	293	Occasional
192	do.	Buzens Lane	From B2102 at Little Hadlow to Dog Kennel Head (185)	do.	10' 2"	771	do.
193	Hayfield	Chequers Lane	From A207 at Chequer Farm to Froggole Head (118)	do.	9' 6"	850	do.
194	Barnhill	Collingford Lane	From Howfield Road (125) to Tanyard Road (59a)	Gravel etc.	8' 2"	927	do.
195	Crowborough	Cinder Path	From Mount Pleasant (42b) to B2100 near Crowboro' Sta.	Clinker	4' 11"	287	Footpath
196	do.	school path	From Whitehill road	Tar surfaced	9' 0"	275	do.

12.1.12 The significance of this evidence

12.1.13 This evidence shows that Uckfield Rural District Council believed that the whole of Collingford Lane was a road maintainable by them. It would not have been so maintainable if there were not public rights over the road. It is strongly implied that these rights included vehicular rights.

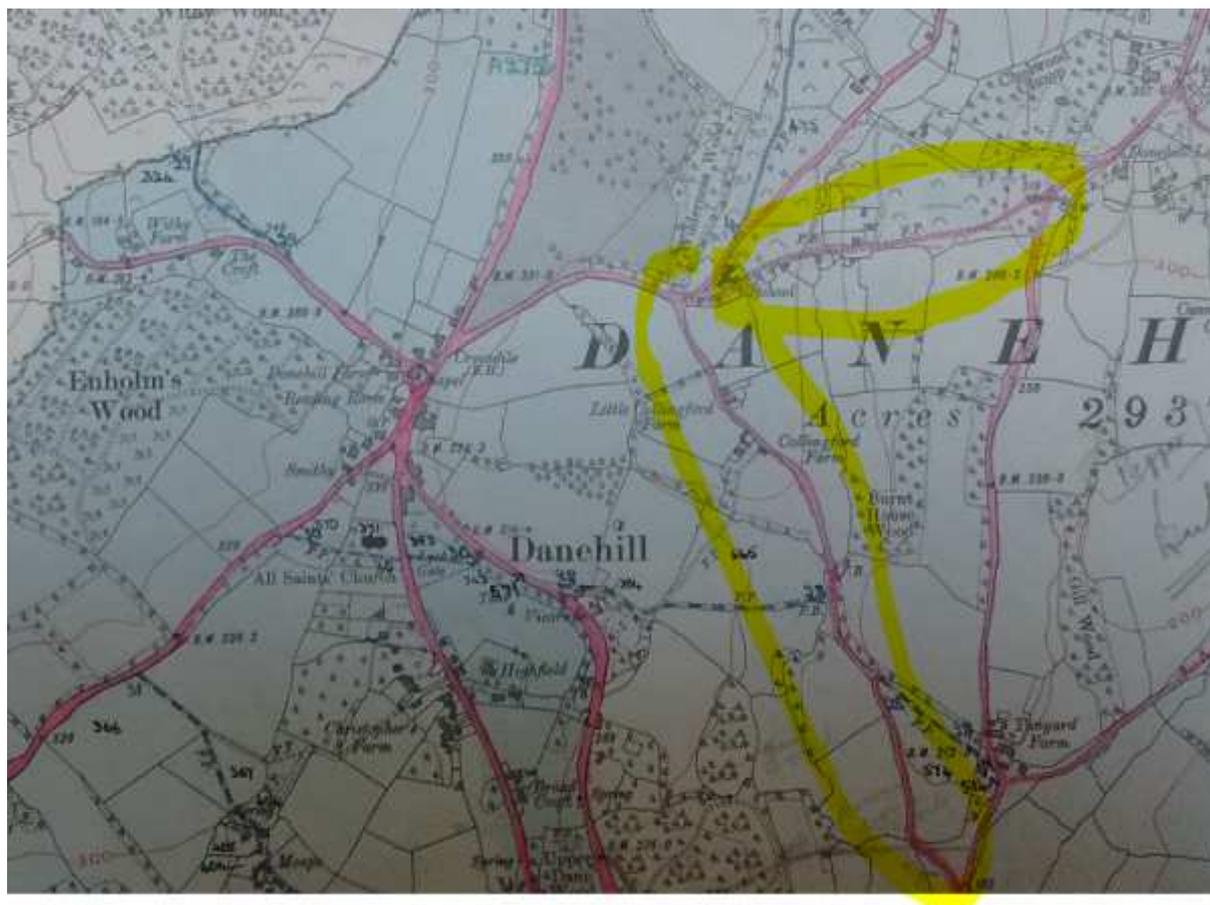
13. THE 1932 RIGHTS OF WAY ACT SURVEY

13.1.1 The 1932 Rights of Way Act enabled councils to draw up maps of rights of way if they wished to do so. District Council were responsible for this. The process was limited to recording what parish councils thought were the rights of way in their area and whether or not landowners admitted their existence.

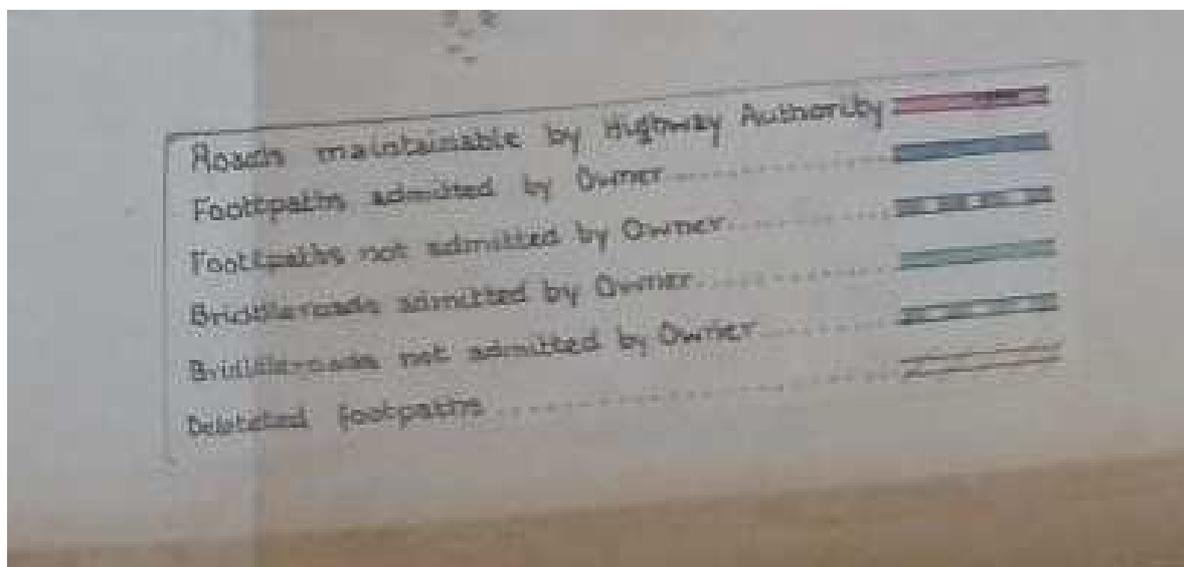
13.1.2 What this evidence shows

13.1.3 The maps drawn up by Uckfield District Council are held at the East Sussex Record Office under reference in a folder under reference DW/B 96/2. Below is an extract covering the application route.

13.1.4 Collingford Lane is shown through in pink, along with other roads. The route is not shown as a footpath or bridleway but there are paths coming off of it.



There is a key on the last map in the folder, which is reproduced below:

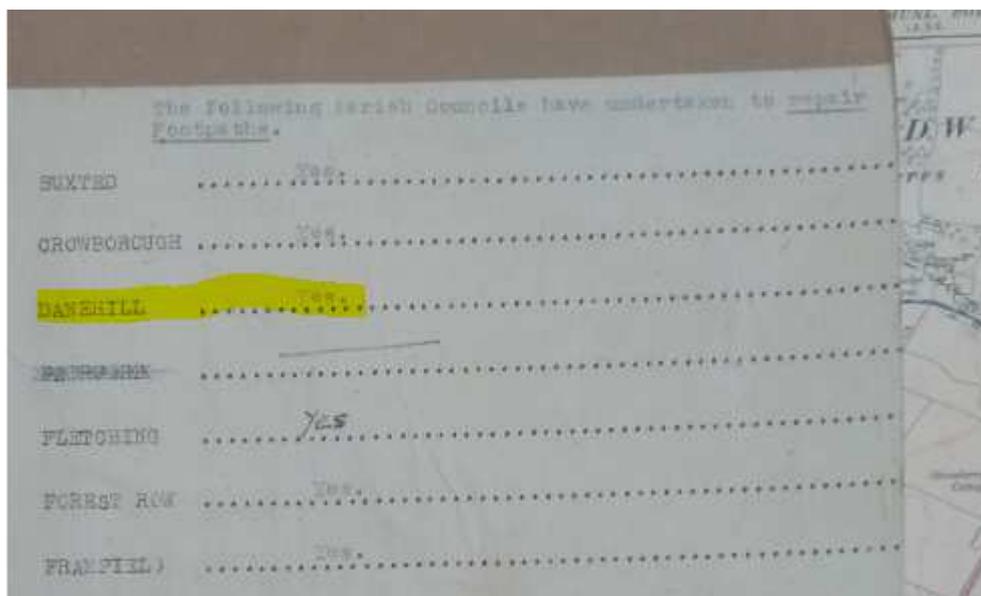


13.1.5 The significance of this evidence

13.1.6 This is evidence that Collingford Lane was considered by Uckfield Rural District Council to be a publically maintainable road throughout. Nearly all the other routes shown in pink are public highways with vehicular rights today. There is one exception on the map. A path to the northeast of Collingford Lane, running just to the south of the school, is shown in pink. It is today recorded as a footpath.

13.1.7 However this footpath was shown on the handover map above as maintainable by the district council. Very few other paths were

13.1.8 An explanation may be found in note below, which occurs in the first few pages of the folder held under reference DW/B 96/2. District councils had been responsible for footpaths and bridleways since 1894, but in practice they tried to delegate this responsibility to the parishes. This note shows which parish councils had agreed to maintain their footpaths. Danehill (the parish the application route was now in) is one of these. It may be that the route past the school was one that the district council had excluded from this agreement.



13.1.9 So the possibility cannot be ruled out that Collingford Lane was a publically maintainable highway with less than full vehicular rights. However I suggest that this is unlikely. In any case the route must have had at least footpath rights since two footpaths come off of it.

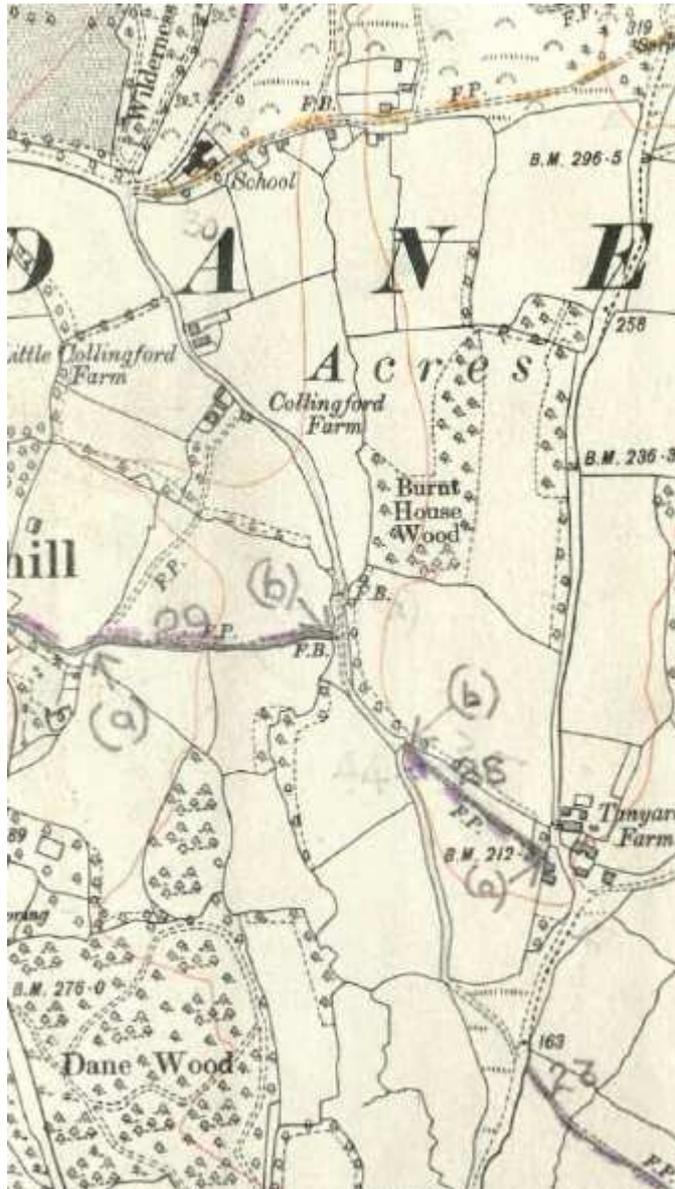
14. THE FIRST DEFINITIVE MAP SURVEY

14.1.1 The surveys for the first definitive map took place in the 1950s.

14.1.2 A first step was to ask parishes to draw on maps and produce schedules for the rights of way they believed to exist in their area. By now the application route was in Danehill Parish. The maps drawn up by the Parish can be found at the East Sussex Records Office in a file held under reference C/R 68/7. Below is an extract covering the application route.

14.1.3 What this evidence shows

14.1.4 Collingford Road is not shown as a right of way on the map. But two public footpaths, 28 and 29 are shown coming off of it.

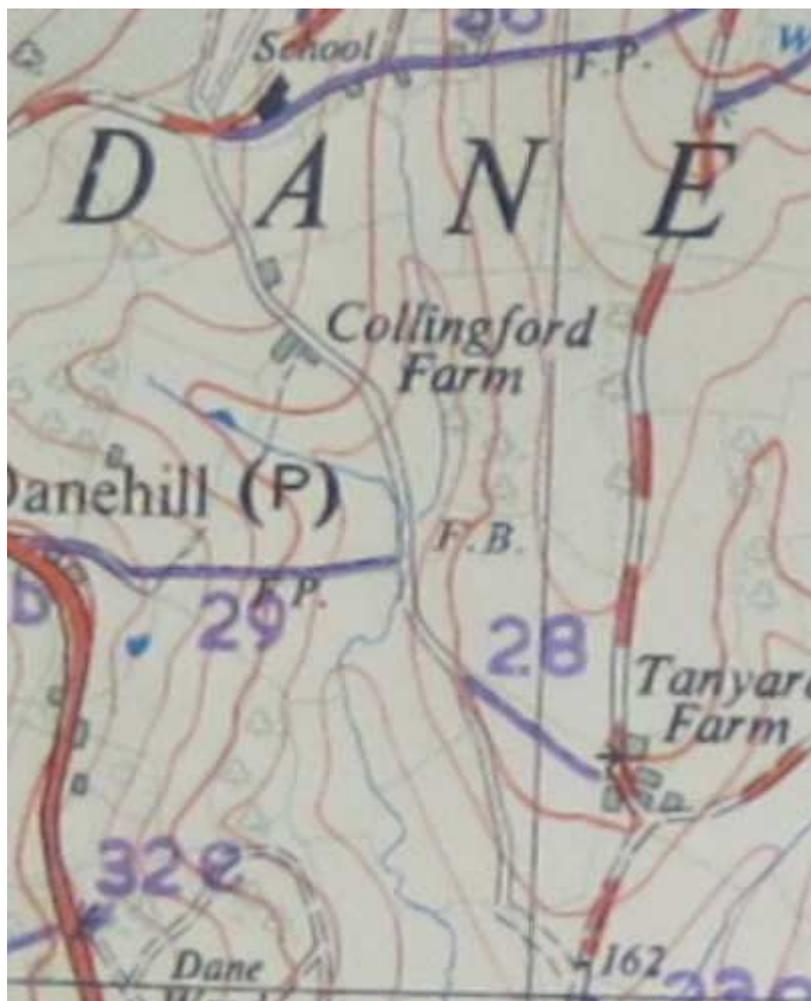


14.1.5 The position had not changed by the time that the first definitive map was produced. The first definitive map and statement for the area is held at the East Sussex Records Office under the reference C/C 97/27.

14.1.6 Extracts from the map and statement are shown below

14.1.7 What this evidence shows

14.1.8 The map shows footpaths 28 and 29 ending at Collingford Lane and the statement confirms this.



*	25	F.P.	401064	Leves Road opposite Path 33 and Inveran Farm	401064	Tanyard Lane	
*	27	F.P.	416272	High of May St.	418268	Parish Boundary (see FLEETING 4)	0.3
*	28	F.P.	410272	Tanyard Lane	401273	Collingford Lane	0.1
*	29	F.P.	408274	Collingford Lane	401274	Leves Road	0.3
*	30a	F.P.	401275	Frankfield Lane	401274	County Road near Danehill Church	0.175
*	30b	*	401276	County Road	401274	Leves Road	

14.1.9 The Significance of this evidence

14.1.10 This evidence shows that Collingford Lane, at least between paths 28 and 29, must have had highway status. Since it was not on the definitive map it was not a bridleway or footpath. As this stretch is in the middle of Collingford Lane there seems to be no suggestion that the rest of the lane did not have highway status.

15. LONDON GAZETTE 6/9/96

On this date the Gazette advertised an East Sussex County Council proposed order to limit the speed of vehicles along the whole of Collingford Lane to 30mph.

EAST SUSSEX COUNTY COUNCIL

*The East Sussex County Council (Roads in Danehill & Fletching)
(30 m.p.h. and 40 m.p.h. Speed Limits) Order 1996*

Notice is hereby given that East Sussex County Council have made in Order on 4th September 1996, coming into operation on 14th September 1996, under sections 82(2), 83(2), 84(1) and (2) of the Road Traffic Regulation Act 1984, as amended, which imposes both 10 m.p.h. restricted road status and 40 m.p.h. speed limit along the following lengths of road:

30 m.p.h. Speed Limit

Danehill:

UC7494 *Chuch Lane*, from the A275 London Road, southwards for approximately 570 metres.

Collingford Lane, for its entire length.

C5 *Freshfield Lane*, from the A275 London Road, south-westwards for approximately 246 metres.

C57 *Horsted Lane* (northern arm), from the A275 London Road, for its entire length to where the northern arm meets the southern arm, a distance of approximately 49 metres.

C57 *Horsted Lane* (southern arm), from the A275 London Road, for its entire length to where the southern arm meets the northern arm, a distance of approximately 50 metres.

C57 *Horsted Lane* from the intersection of the northern and southern arms of Horsted Lane, westwards for approximately 143 metres.

Oak Tree Cottages, for its entire length.

C5 *School Lane*, from the A275 London Road, north-eastwards for approximately 571 metres.

Fletching:

C206 *Fletching Street & Fletching Road*, from approximately 388 metres south-east of the UC7650 Mill Lane, north-westwards and then northwards for approximately 1,029 metres. (extended from Robin Cross Cottages to a point in the vicinity of Knabb Farm).

40 m.p.h. Speed Limit

15.1.1 The Road Traffic Act 1984, section 84 allows a highway authority to erect speed limits on any road. Road is defined in section 142 of the act,

road"—

(a)

in England and Wales, means any length of *highway or of any other road to which the public has access*, and includes bridges over which a road passes. The legislation may be found at <https://www.legislation.gov.uk/ukpga/1984/27/contents>

15.1.2 The significance of this evidence

15.1.3 I conclude that Collingford Lane has public access along its whole route.

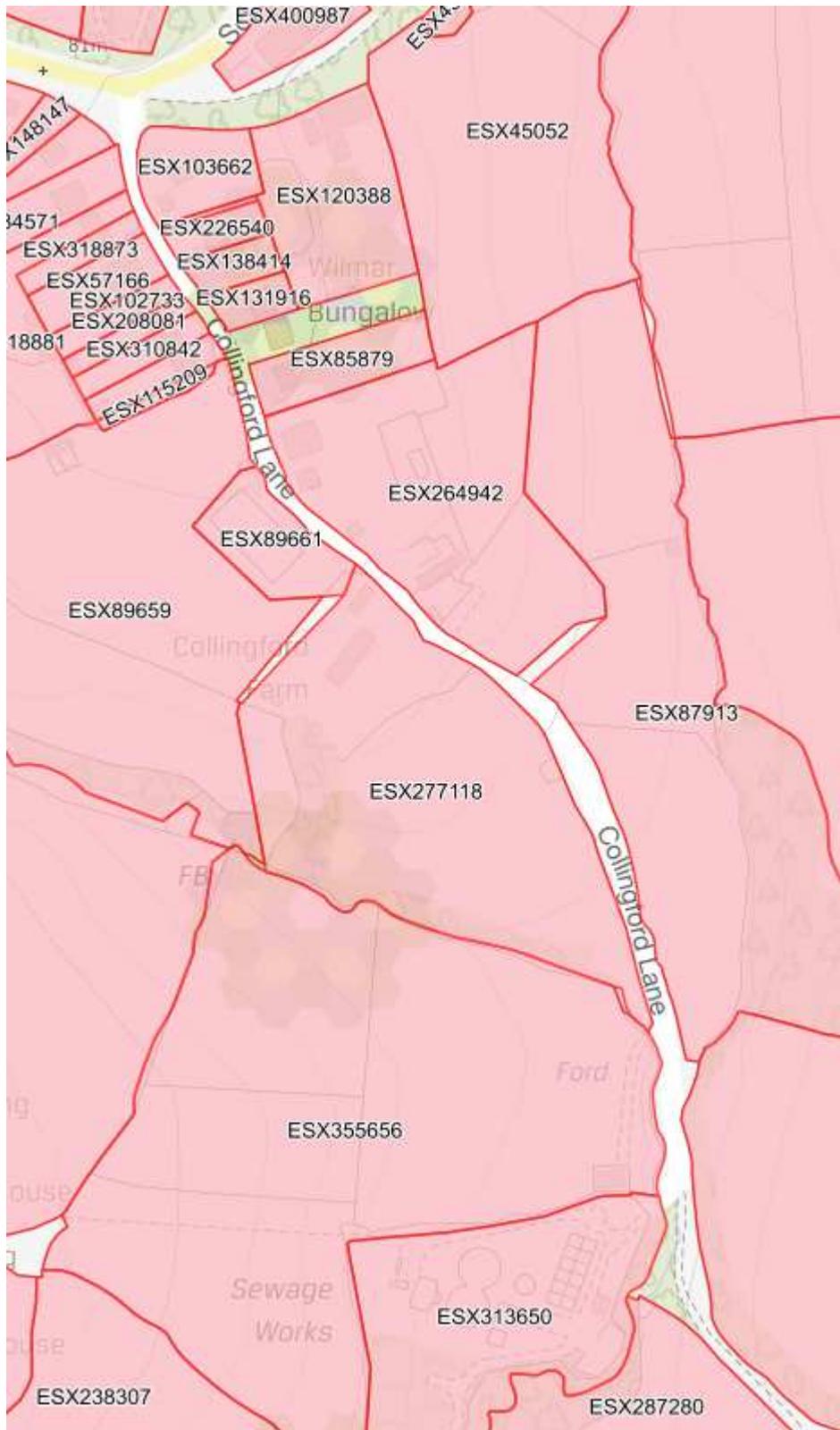
16. CURRENT OWNERSHIP

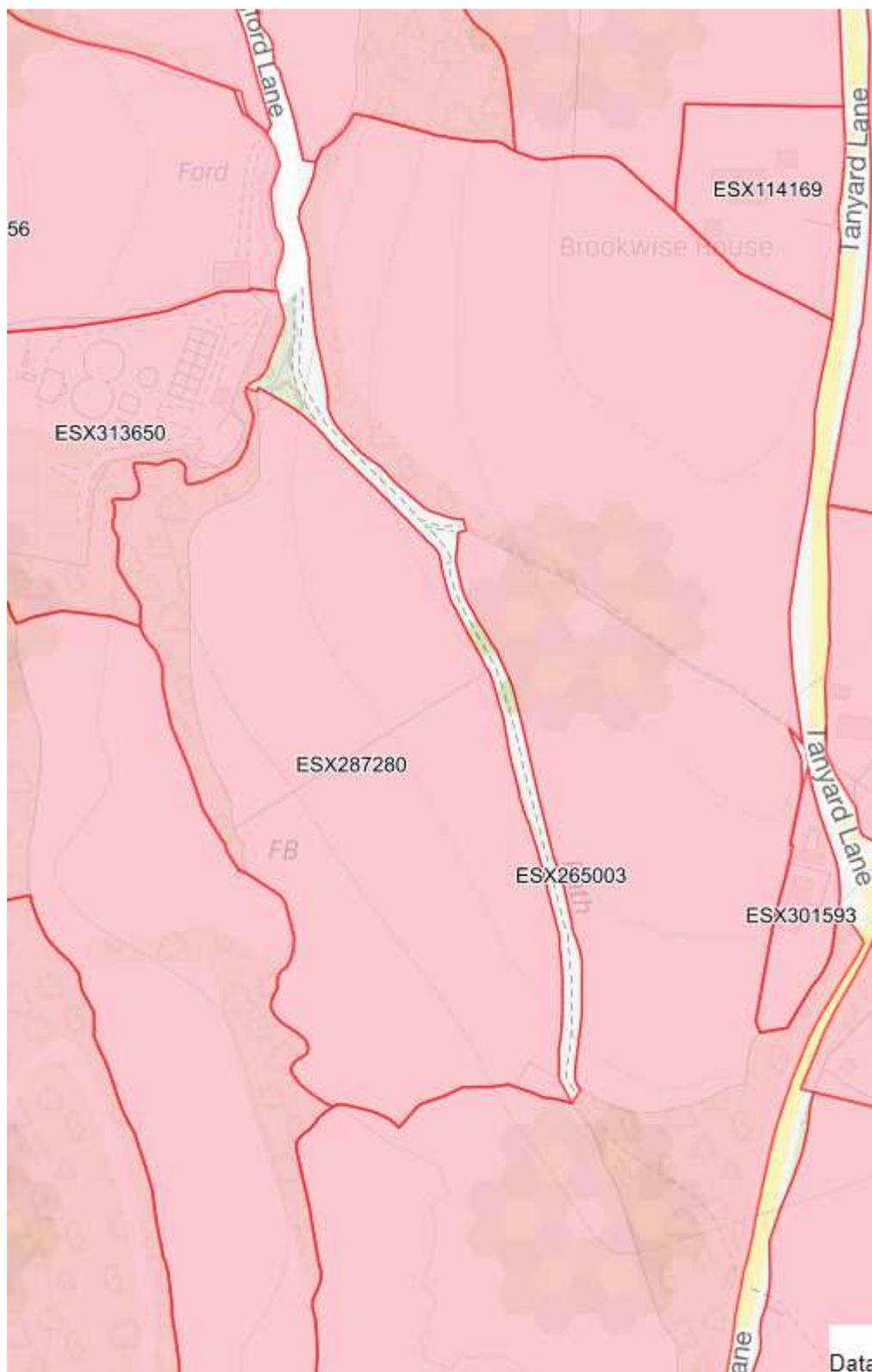
16.1.1 The land registry maintains a map of land registered with it. Registered land is shown in pink and unregistered land is shown in white.

16.1.2 What this evidence shows

16.1.3 The map below is taken from the land registry web site showing the application route. The whole of the route is unregistered except for a small portion at the far south, which is part of land parcel ESX265003.

16.1.4 The bulk of the land is shown to have changed ownership since registration first became compulsory in the 1960s, but the road has not changed hands.





16.1.5 The significance of this evidence

16.1.6 The evidence is manifest that no-one has laid claim to ownership by registration of title, which is consistent with what we would expect of a highway.

17. MAP OF ADOPTED ROADS

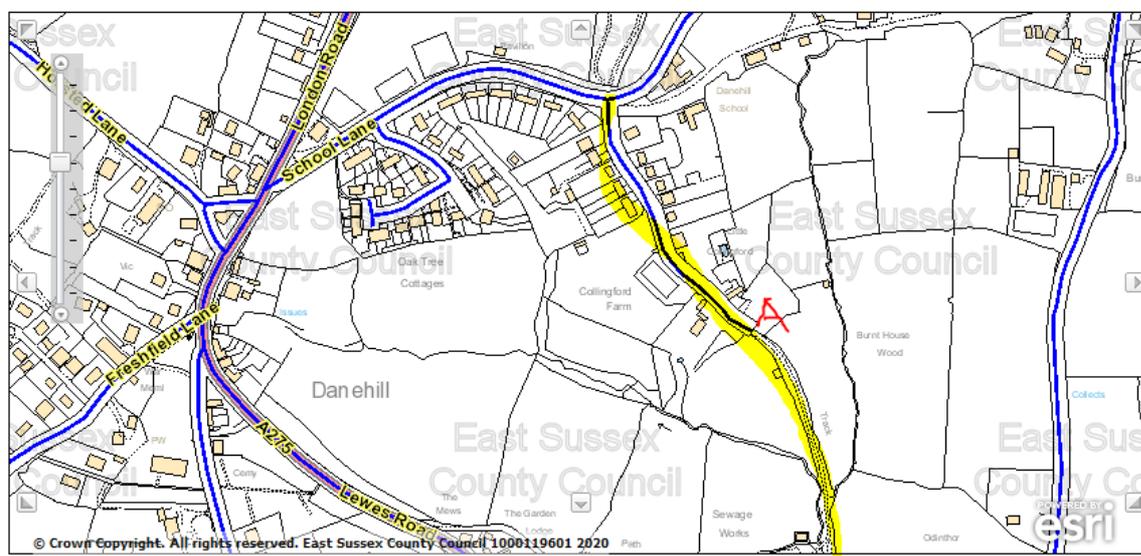
17.1.1 What this evidence shows

17.1.2 Below is an extract from the ESCC online map of adopted roads. It shows that only the section of the Lane north of point A has been adopted. The highway land team of the highway authority has confirmed that the map accurately reflects the list of streets.

Map of adopted roads

To see adopted road information, click on the map and use the map slider to zoom in or out. Alternatively you can use your mouse wheel to zoom in and out. Adopted roads are shown in blue, and only appear when you have zoomed in fully.

For enquiries about any of the adopted, unadopted or part adopted roads shown here, please contact [Highway Land and Information Team](#).



17.1.3 The significance of this evidence

17.1.4 At some point between the 1930s and today the highway authority has started to consider that it is no longer responsible for the maintenance of Collingford Lane south of point A. I have asked the East Sussex Council Highway Land team to tell me why this was, but at the time of the making of this application they have been unable to give me an answer. They have confirmed that the online map of streets correctly represents the formal list of streets.

17.1.5 So I believe that the application route has been removed from the list of streets incorrectly.

17.1.6 The application route is shown on current ordnance survey route as an ORPA (other route with public access) I am advised that this means that it was on the list of streets in the 1990s.

18. IS THE ROUTE USED MORE BY PEDESTRIANS, CYCLISTS AND EQUESTRIANS THAN IT IS BY MOTORISED VEHICLES?

18.1 OBSERVATION

18.1.1 I have walked the application route a number of times. I only ever saw one pedestrian. I saw no vehicles, bicycles or equestrians using the route.

18.2 THE ROUTE TODAY

18.2.1 Collingford Lane runs from School Lane in the north to Tanyard Lane in the South. The section from point A northwards is tarmacked and has houses on either side. It also contains the Collingford Farm buildings.

18.2.2 From point A to point B the Lane is also tarmacked but only gives entry to fields and a sewage station, situated at point B.



18.2.3 Picture, the end of the tarmac at point B. There is evidence of some vehicular use beyond here.

18.2.4 From point B to the end of the lane at point C the Lane is unsurfaced. Depending on the weather, footprints, cycle tracks, and marks of use by the odd horse and motor cycle can be seen.



18.2.5 The picture above was taken at approximately grid reference 540861 127372. The application route deviates to the left. This junction appears to me to be the southern limit of use by farm traffic.



18.2.6 Picture above , between B and C south of the picture above This section would be very difficult for four wheeled vehicles, although some people like a challenge.

18.2.7 These pictures were taken midsummer 2020.

18.2.8 .



The picture above was taken in February 2020. It is at <https://www.geograph.org.uk/photo/6396602> The location is [TQ 4094 2725](#) © Copyright [Simon Carey](#) and licensed for [reuse](#) under this [Creative Commons Licence](#)

18.3 STATEMENT BY LOCAL RESIDENT

18.3.1 David Fry is a local resident who has lived opposite Collingford Farm, near point A, since 2002. A letter from him is displayed in appendix 1. He says that his experience is that pedestrians and equestrians use the application route more frequently than powered vehicles.

18.4 Conclusion to this section

18.4.1 I conclude that the application route is used mainly by pedestrians and equestrians and that use by powered vehicles is limited. It is therefore appropriate to add the route to the definitive map and statement.

19. CONCLUSION

19.1.1 Whilst some of the evidence raises questions about the southern section of the route and no piece of evidence is conclusive, I believe that the overwhelming majority of the evidence supports the view that the route has been for many years a through road with full vehicular rights.

19.1.2 The test at this stage is only “Can it reasonably be argued that the right of way exists as suggested”.

19.1.3 The later test at confirmation of any order is “Is it more likely than not that the right of way exists as suggested”.

19.1.4 I believe this application passes both of those tests.

20. REQUEST

20.1.1 I request the surveying authority to add the route to the definitive as a byway. If the route was on the list of streets at the coming into effect of the NERC act this will be a byway open to all traffic, otherwise it may be a restricted byway. I cannot say whether the route was on the list of streets at the time, but the authority will have records which show this.

20.1.2 I also request that this route be added to the list of streets maintainable by the highway authority. There seems to be no reason why it should have been removed from this list

Appendices:

Appendix 1, Letter from David Fry

Appendix 2, Eyre v New Forest Highways Board

APPENDIX 1 LETTER FROM DAVID FRY

David Fry

Little Collingford
Collingford Lane,
Danehill,
East Sussex,
RH17 7HZ

Mr C. Smith

Dear Chris

My name is David Fry. I live at Little Collingford Farm. I have lived there since December 2002. I am the Ramblers footpath warden for Danehill.

I have not carried out a systematic survey, but obviously I am very familiar with the use of Collingford Lane. Our property was built in 1600 and Collingford Lane was the main access through the village for centuries.

From the north end to Collingford Farm the route is used by walkers and equestrians, but the main use is by vehicles. This is because there are a number of houses on this stretch. Vehicles also use this part of the lane to access the farm.

From Collingford Farm to the sewage works the route is also used by walkers and equestrians. They outnumber the small number of vehicles using the lane to access the sewage works.

From the sewage works to the south end of the lane the route is almost exclusively used by walkers and equestrians, although occasionally a four wheel drive vehicle will use this stretch.

Just to the south of our entrance there is a 30 mile and hour limit sign facing north. This is past our property Little Collingford Farm as you approach Collingford Farm to the south. If the county council does not maintain the route from here to the sewage works it seems an odd place to put a sign. The county council cut back the foliage on the banks on either side of the lane from time to time. My recollection is that they do this right the way down to the sewage works.

Yours etc

David Fry, Dip.Arch. (Oxford), ARB registered architect