

Council Report for Definitive Map Modification Order (DMMO) RWO 213

Report To: **Team Manager, Rights of Way and Countryside Team, Communities, Environment & Transport**

Title of Report: **Claimed Public Footpath: Adding a public bridleway from Barcombe Mills Road at TQ 4433 147 to western end of Hayes Lane at TQ 432 149 and Restricted Byway Barcombe 25a.**

Purpose of Report: **To consider whether public rights of way exist under Section 53(5) of the Wildlife and Countryside Act 1981 for an Order modifying the County Council's Definitive Map and Statement of Public Rights of Way.**

RESOLUTION OF THE DIRECTOR OF COMMUNITIES, ENVIRONMENT AND TRANSPORT in accordance with the delegation agreed by the Governance Committee on 23 January 2018, I approve the recommendation of the report.

SIGNED:  **DATE: 28th June 2021**
Andrew Le Gresley

BREAKDOWN OF SECTIONS

SECTION A – Introduction, Legal Position, Description of Route, Land Ownership

SECTION B – Evidence provided in the Application

SECTION C – Consultation Process

SECTION D – Collation of Evidence of Use

SECTION E – Council's Review and Response

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East Sussex County Council ("the Council") makes its comments on the evidence throughout the report. Where the Council is making its own comment on a particular piece of the evidence, it will be written underneath it, indicated as 'The Council:'

SECTION A – Introduction, Description of Route, Land Ownership

1. Introduction

- 1.1 An application has been received by the Council to make an Order modifying its Definitive Map and Statement for the Lewes area by adding a public bridleway. Ms Mary Parker submitted the application on 12 December 2017.
- 1.2 The Applicant has not added numbered or lettered points along the course of the claimed route however the Council has added lettered reference points showing the claimed route between the points A-B-C and B-D as on the accompanying report map.
- 1.3 The application was accompanied by 41 user evidence forms, historical maps and associated documents.
- 1.4 The Applicant has outlined the claimed route as below:

Adding a public bridleway from Barcombe Mills Road at TQ 4433 147 to western end of Hayes Lane at TQ 432 149 and Byway Barcombe 25a and shown on the map accompanying this application.

- 1.5 After carrying out an initial investigation, the Council is satisfied that all relevant application forms have been received and all the relevant landowners have been notified about the application by the Applicant. The Application form (Schedule 7), Notice of Application (Schedule 8), Certificate of Service (Schedule 9) and application map (Report plan) respectively have been correctly completed and provided with the Applicant's evidence.

2. Legal Position

- 2.1 The application has been made under Section 53 of the Wildlife and Countryside Act 1981 which requires the authority to keep the Definitive Map and Statement of public rights of way up to date and amend it where necessary.
- 2.2 The Statutory Test in Section 31 of the Highways Act 1980 states that a highway can be created if there are 20 years uninterrupted use of it, as of right, by the public.
- 2.3 Use of the claimed route by the public must be for a full 20 years. The 20-year period must be calculated retrospectively from a date that use of the claimed route by the public is brought into question. This date is known as the date of challenge.
- 2.4 The 20-year period of use must not be interrupted, for example by a locked gate stopping the public's enjoyment of the way.
- 2.5 Public use of the way must be 'as of right'; use that is not by force, not under secrecy, or with permission of the landowner.

Without force: "Force" may mean physical force to gain access to land, for example by breaking a padlock or cutting down a fence. However, 'force' is not confined to physical acts.

Without Secrecy: There has been no judicial comment on the meaning of use "without secrecy" and accordingly it should be interpreted in its ordinary meaning: open use which is capable of being noticed by the landowner.

Without Permission: "Permission" can be expressly given or be implied from the landowner's conduct, but it cannot be implied from the mere inaction or acts of encouragement of the landowner. Tolerance does not imply consent. Furthermore, the fact that some persons have used a way with consent does not necessarily prevent use by the public in general from being without permission.

- 2.6 There must be sufficient use of the way by the public at large to give rise to a presumption of dedication.
- 2.7 The onus falls on the landowner to show that they did not intend to dedicate it as a public right of way. This can be by means of notices, verbal challenges, locked gates, barriers or depositions with the Highways Authority. If signs or notices are erected, they must be sufficient to bring the challenge to the attention of the public.
- 2.8 In essence, dedication of a public right of way may be presumed where the public have enjoyed use as of right of the claimed route for a continuous period of 20 years, without interruption.

3. The Common Law Test

- 3.1 A path may also be deemed to have become a public right of way under common law over a shorter period of time if the landowner has acquiesced to the public use.
- 3.2 Dedication at common law is possible if the landowner has dedicated the way and the public have accepted such dedication. Mr Justice Dyson held in the case of *Nicholson v Secretary of State for the Environment (DC) (1998) 76 P & CR 191* that:

The more intensive and open the user and the more compelling the evidence of knowledge and acquiescence, the shorter the period that will be necessary to raise the inference of dedication.

4. The Standard of Evidence

- 4.1 There are two tests that must be applied, as set out in the case of *R v Secretary of State for the Environment ex parte Mrs Norton and Mr Bagshaw (1994) 68 P&CR 402*.

Test A: Does a right of way subsist on the balance of probabilities? This requires clear evidence in favour of public rights and no credible evidence to the contrary.

Test B: Is it reasonable to allege that a public right of way subsists? If there is a conflict of credible evidence but no incontrovertible evidence that a right of way cannot be reasonably alleged to subsist, then a public right of way has been reasonably alleged.

- 4.2 The Council should make the Order if either of the tests is made out.
- 4.3 A decision must be based on a consideration of all available relevant evidence. It is a question of whether public rights exist or can be reasonably alleged to exist. The desirability or suitability of having a public right of way cannot be considered under either the Highways Act 1980 or the Wildlife and Countryside Act 1981. This report only considers whether highway rights exist along the claimed route. It is not within the scope of the report to consider the implications of having a right of way where one has been claimed.

- 4.4 The Council can also consider historical maps and documents when making investigating the case and making its decision. The Highways Act 1980, section 32 sets out how any court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was compiled, and the custody in which it has been kept and from which it is produced. When looking at this evidence, the Council has to consider whether the evidence confirms if a public right of way is reasonably alleged to exist. The Council also needs to consider if the evidence is new evidence that was not assessed in the past.
- 4.5 The relevant statutory provisions which apply to adding a path to the Definitive Map and Statement are contained in the Wildlife and Countryside Act 1981 [sections 53(3)(b)] [and] [53(3)(c)(i)] which require the Council, as the Registration Authority, to modify the Definitive Map and Statement following: -

“the expiration in relation to any way in the area to which the map relates of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path” (s53(3)(b))

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies;” (s53(3)(c)(i)).

5. The Original Application and the subsequent amended route.

- 5.1 Initially, the Applicant submitted an application on 12 December 2017 that claimed a route from Pikes Bridge where the Highway extent ended to the junction of Hayes Lane, (A-B only). This route was shown on the accompanying user evidence forms created by the Applicant which had a map of this route prepopulated at the top of the first page.
- 5.2 The Council has annotated the route with reference points of A, B, C and D as on the Report Plan.
- 5.3 This route was rejected by the Council as point B did not reach another public highway or place of public interest. Point B is part of a privately owned driveway (part of Hayes Lane) to Barcombe House and B-D is also a privately owned lane. The claimed route did not meet another public right of way. The Applicant had thought that the whole of Hayes Lane was a public highway.
- 5.4 In checking with the Highways Team, the Council confirmed that the publicly adopted highway extent terminated approximately halfway along Hayes Lane (halfway between C-B) and therefore did not extend to B. The Applicant was asked to reconsider the application route.
- 5.5 On 23 January 2018 the Applicant provided a new map of the claimed route which begins at the southern side of Pikes Bridge (first bridge on report plan) where the adopted Highway ends as point A, goes to point B and then continues along the

whole length of Hayes Lane to point C (to join Barcombe Mills Road) and also from point B to point D (to join Public Restricted Byway Barcombe 25a).

- 5.6 The Council confirmed this route was satisfactory as A-B-C and B-D. The Applicant followed this up with a new application form (Schedule 7) dated 7 February 2018. Between February 2018 and May 2018, the Applicant informed all landowners by sending them a Schedule 8 form, a process which was completed and confirmed by providing the Council with a Schedule 9 form dated 3 May 2018.

6. Description of the Claimed Public Bridleway

- 6.1 The Applicant's route falls within the civil parishes of Barcombe and Ringmer in the Lewes District of East Sussex about 3 miles north north-east of the centre of the county town of Lewes and about 4 and a half miles south-west of the town of Uckfield. It lies outside the South Downs National Park in the Low Weald area of East Sussex.
- 6.2 The claimed route lies within the small settlement known as Barcombe Mills, forming an area through which the River Ouse flows. The water of the River Ouse is travelling in a generally southerly direction to reach the English Channel at Newhaven. Part of the River Ouse at Barcombe Mills forms a short section that flows roughly east-west and is broken up into a number of tributaries and waterways that are controlled by a series of weirs, over which the claimed route A-B crosses. There is a reservoir to the east of the claimed route (about 460 metres from point B to the reservoir's closest point) which is approximately 640 metres long (north-east to south-west) and 300 metres wide (north-west to south-east), where waterworks are also located.
- 6.3 The course of the old London to Lewes Roman road runs through Barcombe Mills on a roughly north-north-east & south south-west trajectory crossing the claimed route on the approach to point B from point A.
- 6.4 The disused and dismantled railway between Lewes and Uckfield runs to the east of Barcombe Mills (its closest point being roughly 70 metres to the west of point C) but does not cross the claimed route and part of which now forms a permissive bridleway.
- 6.5 The immediate area of the claimed route is one where the River Ouse is controlled by a series of weirs and sluices crossed by bridges and also of two adjoining lanes giving access to the collection of properties that form Barcombe Mills.
- 6.6 The wider area of the claimed route is rural in nature, consisting of a mixture of arable fields and grassy pastures used for grazing livestock.
- 6.7 Due to the Covid-19 pandemic which was still ongoing at the time of this report, Council's restrictions did not allow for site visits on grounds of health & safety, apart from those absolutely necessary (which is not applicable to this application) until April 2021. Therefore, a site visit was not carried out until 21 April 2021. However, the Contact Officer was able to review and process the application prior to that from being familiar with the claimed route and the surrounded area.
- 6.8 Using the Applicant's map, the Council's knowledge, site visit and mapping systems including aerial imagery, the following description can be given. The description is simplified and approximate, based on the mapping evidence, and subject to correction and change considering further information. The Applicant has not used

any referenced points in the submission and the Council suggested points A-B-C and B-D to assist the application.

- 6.9 The claimed bridleway commences from the southern side of Pike Bridge (first bridge on report plan) where the extent of the public highway ends about 20 metres east of Barcombe Mills Road, in the civil parish of Ringmer at approximately TQ 4335 1472 at point A. Nearby, public footpath Ringmer 4 has its western termination point approximately 12 metres to the south south-west of this point where it joins the public highway extent south of Pikes Bridge but north of Barcombe Mills Road. The distance between Barcombe Mills Road and the highway extent up to point A is about 20 metres.
- 6.10 From here the claimed path immediately crosses a flat road bridge known as Pikes Bridge over part of the waterway known as the River Ouse, in a northerly direction. The bridge is about 12 metres long. Roughly half-way across the bridge, in approximately 6 metres, the route crosses into the civil parish of Barcombe.
- 6.11 Now in Barcombe parish, and after crossing Pikes bridge, the route continues along a lane, laid out with a hard-tarmac surface, and known locally as the 'old toll road', in a northerly direction for approximately a further 40 metres. Here the western end of public footpath Barcombe 24 joins the claimed route just before the route continues over another section of the River Ouse via a second, humped bridge of about 8 metres long.
- 6.12 After crossing the bridge, the lane continues in a northerly direction for roughly a further 55 metres until it reaches a section with water on both sides with a weir running underneath it. The lane bends to the left to continue in a westerly direction.
- 6.13 The lane continues in this westerly direction for about a further 40 metres before it turns right to continue in a northerly direction once again.
- 6.14 In about 10 metres the lane crosses a third bridge over a further section of the River Ouse. This bridge is flat and known locally as the 'old toll bridge', and there is a local historical sign saying that it was the first place in Sussex to levy tolls. The bridge is about 12 metres long. The route continues in the same northerly direction for about a further 43 metres until it reaches approximately TQ 4331 1490 at point B.
- 6.15 At this junction the eastern end of Hayes Lane and towards point C is to the left, the route to point D is straight ahead and the entrance to Barcombe Mills House is to the right.
- 6.16 At point B the claimed route continues in a westerly direction along the flat tarmac surface of Hayes Lane for approximately 260 metres until it reaches Barcombe Mills Road at TQ 4306 1493 at point C. The last approximate 15 metres of Hayes Lane narrow to restrict access by vehicles to and from the lane. The vehicle entrance to Hayes Lane from Barcombe Mills Road is about 190 metres west along Hayes Lane from B.
- 6.17 Also from point B the claimed path continues straight ahead up a private flat narrow tarmac lane in a northerly direction for approximately 100 metres, the last 10 metres of which arc to the right in an easterly direction so that it reaches Public Restricted Byway Barcombe 25a at TQ 4330 1499 at point D. The lane is only about wide enough for one vehicle. In practice point D is a T-junction where the claimed route from the south meets Public Restricted Byway Barcombe 25a going to the East (right) and Public Footpath Barcombe 26 going to the West (left).

6.18 The total length of the route is thought to be approximately 580 metres, or about 0.36 miles.

7. Site Visit

7.1 The Contact Officer visited the claimed route on Wednesday 21 April 2021. The visit started at 09:50am and ended at 10:50am. The weather was dry, sunny and warm. All of the claimed route was accessible and visited.

7.2 During the visit the following users were seen; 15 pedestrians (3 with a dog; 2 carrying kayaks not with dogs), 1 cyclist and 5 mechanically propelled four wheeled motor vehicles (cars), the majority along A-B, but 2 along B-C and 1 along B-D. It is not known if any of these users were using the claimed route as of right or by private rights. The Officer was not stopped or challenged when using any of the route.

7.3 All of the surface of the claimed route is made-up and of a hard-tarmacked surface apart from the last approximate 15 metres of the western end of B-C which is of a gravel surface to meet Barcombe Mills Road.

7.4 There is an open field gate across the part of the old toll road just south of point A and about 10 metres along the old toll road from its junction with Barcombe Mills Road, being between Barcombe Mills Road and the first bridge, and roughly where the western end of existing public footpath Ringmer 4 reaches the old toll road. The gate was wide open and chained and padlocked to the side fence to keep it open. The sign on it reads 'no unauthorised vehicles beyond this point' and it is understood this is one of two of the gates installed by the Environment Agency (EA) (which brought the route into question), though technically it is actually located at this position on a public highway. This position is not part of the claimed route as this section of highway is not claimed. The claimed route starts where the public highway ends which is roughly where the first bridge is.

7.5 The photographs that follow, taken on the day of the site visit, show the majority of the application route in the following order; A-B, B-C, B-D, together with some photographs of the nearby public car park.

7.6 The long-distance trail the 'Sussex Ouse Valley Way' (SOVW) runs along part of A-B and along B-C. When this trail was created in 2005 it was mistakenly thought that the parts it that fell upon the claimed route already some form of Highway rights and no licenced agreement or otherwise was put in place for the public to walk along it.

7.6 Photographs of A-B



From Barcombe Mills Road looking towards A. Notice the EA sign with posts for the field gate just behind. Public Footpath Ringmer 4 is coming in from the right.



EA gate before point A. Padlocked opened. 'No unauthorised vehicles beyond this point'



Point A. First bridge known as 'Pikes Bridge' and labelled as such on OS maps.



Looking East from Pikes Bridge. Private Fishing sign.



Between Pikes Bridge and the second bridge. Signed ramps.



Ouse Angling Preservation Society (OAPS) sign on gate, as also seen in above photo.



Western end of Barcombe 24, from second bridge, looking East. SOVW signposted.



Continuing after second bridge. Route bends round to left with weirs either side.



Information board sign on outside (eastern) bend of route.



Looking over crossing between weirs, to West.



EA sign on wall above weir to West.



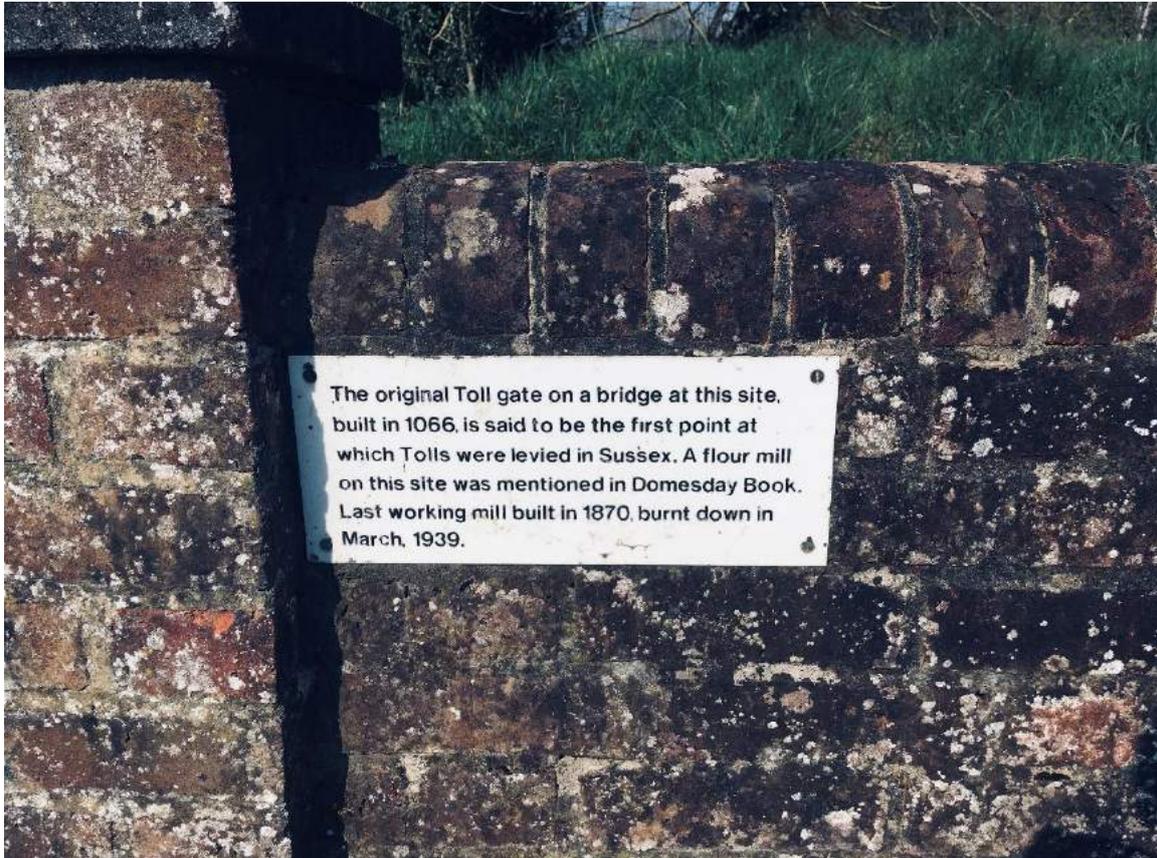
Continuation of A-B after bend to left (West).



Further along A-B. Route bends right ahead to old toll bridge.



Toll bridge on A-B. White barrier permanently open.



Historic sign on Western wall of toll bridge above by white barrier.



Looking East from old toll bridge. Kayaker in distance.



Northern side of toll bridge. EA gate open. Point B in background.



Point B looking back to old toll bridge.



SOVW Waymarker post at point B close to entrance of Barcombe House.



Point B with B-D showing where car is. B-C is to the left. Barcombe House to the right.

7.7 Photographs of B-C



Looking back at point B. Gate to Barcombe House off to left, B-A to right beyond signs.



Point B looking down Hayes Lane as B-C. B-A to left. B-D to right.



Private Lane sign on land to south of B-C (not on claimed route)



B-C, looking West to C, point where Mr Leeson's land ends and Public Highway begins.



C-B, looking East to B, point where Public Highway ends and Mr Leeson's land begins.



Continuation of B-C, looking West. Vehicle access to Barcombe Mills Road to left.



Western end of B-C, narrows here, joins Barcombe Mills Road in background.



Barcombe Mills Road looking East with point C on left of road.



SOVW fingerpost close to photo above on Barcombe Mills Road, left finger pointing to point C.

7.8 Photographs of B-D



Point B looking North towards point D.



Continuation of B-D looking north.



Point C, looking north. This is a T-junction. Public Restricted Byway starts off to the right.



Point C, looking East along Public Byway Barcombe 25a



Point C, looking West along Public Footpath Barcombe 26.

7.9 Views of car park off the claimed route, to give bearings of wider area.



Entrance to car park from Barcombe Mills Road. Public Footpath Ringmer 4 passes through the car park, left to right.



View across car park looking West along roughly showing Public Footpath Ringmer 4 through middle of photo between cars into the distance, with point A beyond trees.



Sign in car park to right on entry.

8. Land Ownership

- 8.1 Upon conducting a Land Registry search, it was revealed that the claimed route runs over land of which some is unregistered, and the owner is unknown. Nearly all the land between point A and point B falls under this category as does the western end of Hayes Lane.
- 8.2 The foreshore, bed and surface of the River Ouse that Pikes Bridge crosses, approximately 30 metres from point A, is owned by The Crown Estate.
- 8.3 The section from point A to the northern end of the old toll bridge TQ 4331 1489 (approximately 15 metres south of point B) is land potentially owned, and claimed as owned, by The Environment Agency (EA). They originally said they owned it but when the Council pointed out that it was unregistered, they admitted that maybe they do not own it and would investigate this further. They believe their records show that they do own this land and that it is probably a clerical error that this has not been registered with the Land Registry. For the purposes of this investigation, and given their historic and ongoing operational interest in this land and their ownership of the neighbouring land, it has been assumed the Environment Agency are the potential owners of this land and they were included in the consultation.
- 8.4 Land running from the northern end of the old toll bridge TQ 4331 1489 and point B is unregistered, and the landowner is unknown.
- 8.5 Point B crosses land owned by Mr Leonard Ramon Thomas Leeson & Mrs Kate Teresa Leeson of Barcombe House. As the route turns left here towards point C it continues on land also owned by Mr & Mrs Leeson for approximately 145 metres at TQ 4317 1491

along the eastern part of Hayes Lane which is known as a private lane to Barcombe House.

8.6 From the end of Mr & Mrs Leeson's land of Hayes Lane to point C the land is unregistered, and the owner is unknown. However, this section is an adopted public highway.

8.7 From point B to near point D at TQ 4329 1498 the route passes over land owned by Mr Stephen Richard Husson & Mrs Rosalie June Husson. This is a private lane giving access to residential properties.

8.8 From near point D TQ 4329 1498 to point D TQ 4330 1499 the route passes over a small section of land owned by Mr Daniel Charles Cornwell & Mrs Tania Anne Cornwell.

8.9 Table 1– Land Ownership

Land Number; Council reference term	Title Number And Property Description	Name of Owner	Years of ownership	Section of claimed route
1	Unregistered land.	Unknown owner The route from point A up to point B, although the section from point A until the northern end of the old toll bridge at TQ 4331 1489 is probably owned by The Environment Agency (EA) The landowner of the section from northern end of the toll bridge to ESX25721 is unknown.	Unknown	A to B (part)
2	ESX25721 Barcombe House, Barcombe Mills, Barcombe, Lewes (BN8 5BT)	Mr Leonard Ramon Thomas Leeson & Kate Teresa Leeson of Barcome House, Barcombe Mills, Barcombe, Lewes, East Sussex BN8 5BT	Since 16/08/2005	Point B
3	ESX109335 Land Lying To The North East	Mr Leonard Ramon Thomas Leeson & Kate Teresa Leeson	Since 16/08/2005	B-C (part)

	Of Barcombe Mills Road, Barcombe, Lewes	of Barcome House, Barcombe Mills, Barcombe, Lewes, East Sussex BN8 5BT		Point B to the start of the public highway.
4	Unregistered land.	Unknown owner But maintained the Council This is the western end of Hayes Lane where the land ESX109335 at TQ 4317 1491 owned by Mr & Mrs Leeson ends to where Hayes Lane meets Barcombe Mills Lane at point C. A small section may be owned by the Conyboro Estate, see Table 13 about Deposits.	Unknown	B-C (part) Public highway
5	ESX188380 The Barn, Barcombe Mills	Mr Stephen Richard Husson & Rosalie June Husson of The Barn, Barcombe Mills, E Sussex BN8 5BT	Since 05/03/2003.	B-D (part)
6	ESX319667 Land at Camoys Farm, Barcombe, Lewes	Mr Daniel Charles Cornwell & Mrs Tania Anne Cornwell	Since 18/11/2008.	B-D (part)

8.10 It is not thought the following is land over which the claimed route falls upon directly, but this is land over which the claimed route in the form of a lane and bridge cross over and above.

Table 2 – Adjoining Land Ownership

7	ESX336074 Foreshore And Bed Of The River Ouse, Lewes	The Queen's Most Excellent Majesty in right of Her Crown, care of The Crown Estate Commissioners.	Since 18/04/2011	Below A-B (part)
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SECTION B – Evidence provided in the Application

9. Applicant’s Evidence provided in support of the application

9.1 There are 41 user evidence forms that have been submitted to support this application for the claimed public right of way. The majority of these were submitted on forms pre-populated and created by the Applicant and not on the Council’s forms. They included the invalid original route A-B mentioned above.

9.2 As such the Council wrote to most users asking them to complete and return the Council’s version of user evidence forms and a new plan. To date 26 of these have been returned. More information about this is detailed below. The table below includes the user evidence provided on the Applicant’s form as well as any additional user evidence provided on the Council’s forms, of which the latter has been put in bold text. Users have been numbered and arranged in alphabetical order of surname.

9.3 Table 3 below contains a summary of the 41 user evidence forms provided by the Applicant to support the claim of the bridleway.

9.4 Table 3 – Summary of User Evidence Forms

User No.	Name	Period of use and frequency	User Comments Summarised
			<p>First form (Applicant’s form) – original version of form provided by applicant for invalid route.</p> <p>Second form (Council’s form) – on the Council’s format with a valid route (if provided).</p>
1	Kate Baker	<p>From 2010-2017</p> <ul style="list-style-type: none"> -on foot, bicycle, vehicle -monthly 	<p>First form</p> <ul style="list-style-type: none"> -claiming Hayes Lane to Barcombe Mills Road -footpath and bridleway -going to Barcombe Mills from home for recreation. -landowner must have known as access to river and used by lots of people, seen others used it. -seen gates and fences. -last page of form with signature missing <p>Second form</p> <ul style="list-style-type: none"> -sent back original first form on Council’s format with no signature page so still missing. -provided new map showing route as application route. -use discounted as form not signed

2	Emily Bell	<p>From 2015-present -on horse -approx 4 times a year.</p>	<p>First form -claiming Barcombe Mills Road to Hayes Lane. -used route to ride horses for Barcombe clients. No other gates other than those from April 2017 by Environment Agency.</p>
3	Grace Blaker	<p>From 1976-present -on foot -annually at least</p> <p>From 1976-present -on foot -twice a year</p>	<p>First form -thought claiming Barcombe Mills Road to Hayes Lane. -used for recreational walking</p> <p>Second form -claiming all claimed route but as a footpath -used for recreational walking to Anchor Inn. -seen others use it.</p>
4	Brighton HF Rambling Club / Clive Botting (?)	<p>From 1990-present -on foot -twice a year</p> <p>From unsure -on foot -twice a year</p>	<p>First form -unsure what route is being claimed -he and his group have used it for many years for walking.</p> <p>Second form -claiming all claimed route -seen others using it -used as recreational walking -thinks landowner must have known as people use it.</p>
5	Jill C Brown	<p>From 1991-present -on foot -at least 4 times a year</p> <p>From 2014-2017 (different to above) -on foot -four times a year</p>	<p>First form -unsure what route is being claimed -for recreational walks. -seen one squeeze stile -Discover Barcombe book has circular walks</p> <p>Second form -claiming all claimed route -used for recreational walking. -thinks landowner must have known as in books. -been told public right of way, by applicant. -seen others using it -seen gates or fences -provided a list of 7 books which mention route.</p>

6	Robert Cheesman	<p>From 1952-present -on foot -twice a year</p> <p>From 1952-present -on foot -3 to 4 times a year</p>	<p>First form -unsure what route is being claimed -used for recreational walking. -surprised not a road at public expense as original road through Barcombe Mills.</p> <p>Second form -claiming all claimed route -going from car park to old station or Anchor Inn -in past others told him public as used to be part of Highway to A26. -seen others using it.</p>
7	Jane Cleaver	<p>From 1989-present -on foot -weekly</p> <p>From 1968-present (different to above) -on foot -weekly</p>	<p>First form -unsure what route is being claimed -used for recreational walking</p> <p>Second form -claiming all claimed route but needs checking. -knows past and present landowners, ie Cornwell, Corks(?) -used for recreational walking -thinks landowner must have known as everyone uses it. -seen signs near Barcombe House for years. -seen gates or fences, locked</p>
8	Mrs Jacqueline Cornwell	<p>From 1977-1990 -on horse and bicycle -weekly</p>	<p>First form -claiming Barcombe Mills Road to Hayes Lane. -knows present and past landowners -used it for recreation, seen others using it. -never challenged.</p>
9	Simon Fawkes	<p>From 1989-1991 And 2014-present -on foot 1989-1991 weekly 2014-present monthly</p> <p>From 1989-1991 And 2014-present -on foot -approx monthly</p>	<p>First form -unsure what route is being claimed -used for recreational walking, dog walking.</p> <p>Second form -claiming most of claimed route but not western end of Hayes Lane. Needs checking. -used for dog walking -thinks landowner must have known as used -seen others using it</p>

			-always assumed it was public right of way.
10	Mr Anthony Fuller	From late 1950s-early 1960s -on foot -for a few years	First from -claiming a footpath from Barcombe Mills to Barcombe -walking for recreation, seen others using it. -always considered it public right of way -form not dated.
11	Nicola Goodwin Provided late: 14 June 2019 Correct format of Map provided 4 July 2019	From 1974-1989 -on horse -4 times a week	First form -to exercise horses -not seen any gates prior to April 2017 -not seen any private signs -never asked permission to use route
12	Grace Gregory	From 1996-present -on foot, bicycle, car -daily From 1996-present -on foot, bicycle, vehicle -daily User nos. 12, 13, 14 & 15 are virtually identical and same handwriting. This is discussed below.	First form -unsure what route is being claimed -used to get to river, to road for recreational walking Second form -claiming the claimed route -recreation -thinks landowner must have known as many people use it. -seen others using it. -not seen gates or fences until gate installed
13	Holly Gregory	From 1993-present -on foot, bicycle, boat -daily, weekly From 1993-present -on foot, bicycle, vehicle -daily	First form -unsure what route is being claimed -used for recreation, exercise, water sports -used in childhood Second form -claiming the claimed route -thinks landowner must have known as many people use it. -not seen gates or fences until gate installed

14	Jonathan Gregory	<p>From 1992-present -on foot, bicycle -weekly</p> <p>From 1992-present -on foot, bicycle, vehicle -daily</p>	<p>First form -unsure what route is being claimed -used for recreational walking</p> <p>Second form -claiming the claimed route -thinks landowner must have known as many people use it. -not seen gates or fences until gate installed</p>
15	Melanie Gregory	<p>From 1992-present -on foot, bicycle, car -weekly</p> <p>From 1992-present -on foot, bicycle, vehicle -daily</p>	<p>First form -unsure what route is being claimed -used for recreational walking</p> <p>Second form -claiming the claimed route -thinks landowner must have known as many people use it. -not seen gates or fences until gate installed</p>
16	Neville Harrison	<p>From 1980-2010 -on foot -2-3 times a year</p> <p>From 1980-2010 -on foot -4-5 times a year</p>	<p>First form -unsure what route is being claimed -used for recreational walking, dog walking</p> <p>Second form -claiming from Barcombe Mills Road to Byway Barcombe 25a. Not claiming Hayes Lane. - used for recreational walking, dog walking -thinks landowner must have known as may use it. -Question 17a says Ramblers told him it was public right of way but next answer of 17b conflicts this -seen others using it</p>
17	John Harvey, Madeleine Harvey	<p>From 1987-present -on foot -twice a year</p> <p>From 1987-present -on foot -twice a year</p>	<p>First form -unsure what route is being claimed. Says section in green but black and white form. -recreational walking.</p> <p>Second form -claiming entire claimed route. -used for recreational walking -thinks landowner must have known as no signs to say private.</p>

			<ul style="list-style-type: none"> -Saw signs for Sussex Ouse Valley Way (SOVW) -Route published in 2005 book SOVW. -seen others using it.
18	Ian Hilder	<p>From 1993-present -on foot, bicycle -2 or 3 times a year</p>	<p>First form -not sure which path is claimed Used for recreation</p>
19	Mrs Alison Mary Johnson	<p>From 1980s-present -on foot 1980s-1991 once twice annually 1991-2012 daily 2012-present weekly</p> <p>From 1980s-present -on foot, sometimes vehicle 1980s-1991 once twice annually 1991-2012 daily 2012-present weekly</p>	<p>First form -unsure what route is being claimed -recreational walking, dog walking.</p> <p>Second form -claiming entire claimed route as a footpath -recreational walking, dog walking -thinks landowner must have known as many others use it. -information boards from Environment Agency and fishing notices. -seen others using it. -Environment Agency put in gates. -area appears in guidebooks and photographs. -mentioned by the Council as a circular walk.</p>
20	Ben (also known as Tom on second form (same signature on both)) Johnson	<p>From 1991-present -on foot -1991-2012 daily -2012-present weekly</p> <p>From 1991-present -on foot -1991-2012 daily -2012-present weekly</p>	<p>First form -unsure what route is being claimed -recreational walking, dog walking. -supportive of the gates by Environment Agency.</p> <p>-claiming entire claimed route as a footpath -going from home to Barcombe Mills Road -used for recreational walking, dog walking. -thinks landowner must have known as people use it. -seen signs about toll bridge, Environment Agency signs, fishing signs. -seen others using it.</p>

			<ul style="list-style-type: none"> -seen gates or fences, to keep vehicles out but can still walk around them. -mentioned in SOVW guide and the Council's Barcombe Walk.
21	Raphael Kaplinsky	<p>From 1973-present -on foot, bicycle -weekly</p> <p>From 1973-present -on foot, bicycle, vehicle -daily, weekly</p>	<p>First form -unsure what route is being claimed -recreational walking</p> <p>Second form -claiming entire claimed route as a footpath/other so this needs checking -knows past and present landowners personally. -used for recreational walking, dog walking. -Environment Agency wants reduced vehicle use on route. -seen others using it -seen gates or fences, by Environment Agency. -thinks Barcombe history book of photos may be of use.</p>
22	Lucy Kalogerides	<p>From 2009-present -on horse -approx 6 times a year.</p> <p>From 2009-present -on foot, on horse -approx 6 times a year</p>	<p>First form -claiming Barcombe Mills Road to Hayes Lane -used for riding own horse</p> <p>Second form -claiming entire claimed route -going to and from home, riding horse. -thinks landowner must have known as others using it. -seen others using it -seen gates or fences, a gate at Pikes Bridge, locked.</p>
23	Mr Ryan Kearley	<p>From 2007-2017 -on foot, bicycle, vehicle 2010-present weekly</p>	<p>First form -claiming from Barcombe Mills Road to Hayes Lane. No map. -believes owned by Environment Agency -going from home to Lewes -thinks landowner aware as used as Byway until 2017 -used by locals, seen others use it, -saw gates or fences installed a few years ago but not before. -is an old road with no stopping up order -seen No Entry signs to deter drivers using weak bridge.</p>

		<p>From 2007-2017 -on foot, bicycle, vehicle -2010-present weekly</p>	<p>Second form -claiming from Barcombe Mills to Byway Barcombe 25a -going from home to Lewes -thinks landowner aware as used as Byway until 2017 -been told public right of way, indicated by locals. -seen others using it. -seen signs of 'no entry' thinks by locals so deter vehicles using weak bridge. -seen gates or fences installed a few years ago by Environment Agency but never locked until this Spring. -doesn't think a stopping up order was put in place when new road was built.</p>
24	Alan Lehmann	<p>From 1975-present -on foot -approx twice a year</p> <p>From 1976-present -on foot -approx twice a year</p>	<p>First form -unsure what route is being claimed -used for recreational walking, exercise horse.</p> <p>Second form -claiming from Barcombe Mills Road to Hayes Lane and then whole of Hayes Lane. Not claiming Hayes Lane to Byway Barcombe 25a. -used for recreational walking. -thinks landowner must have known as used frequently. -seen others using it. -says route in Waterside Walks book by Ben Perkins</p>
25	Jim Mann	<p>From 2011-present -on foot -3 times a year</p> <p>From 2010-2017 -on foot -3 times a year</p>	<p>First form -unsure what route is being claimed -recreational walking</p> <p>Second form -claiming from Barcombe Mills Road to Hayes Lane and then whole of Hayes Lane. Not claiming Hayes Lane to Byway Barcombe 25a. But as Other public way so needs checking. -going to from Barcombe Mills and Isfield. -used for recreational walking. -seen others using it</p>
26		<p>From 1971-1988 From 1993-2008</p>	<p>First form (already on the Council's format)</p>

	Mrs Kathryn Millbank	<ul style="list-style-type: none"> -on foot, on horse -1971-1988 bi-weekly -1993-2008 monthly 	<ul style="list-style-type: none"> -claiming Barcombe Mills Road to Hayes Lane. No map. -used for creational walking, on horse -acquaintance of present and past landowners. -used route as alternative -thinks landowner must have known due to usage. -signs about historic charges for the toll bridge. -seen others using it. <p>Second response – when map provided</p> <ul style="list-style-type: none"> -claiming from Barcombe Mills Road to Hayes Lane and then whole of Hayes Lane. Not claiming Hayes Lane to Byway Barcombe 25a.
27	Jo Newman	<p>From 2006-present</p> <ul style="list-style-type: none"> -on foot -monthly <p>From 1947-present (different to above)</p> <ul style="list-style-type: none"> -on foot -was daily, now monthly. 	<p>First form</p> <ul style="list-style-type: none"> -unsure what route is being claimed -used for recreational walking <p>Second form</p> <ul style="list-style-type: none"> -claiming entire claimed route -knows past and present landowners personally ie Cornwell, Corks (?) -was a tenant of the land 1970-2006 -used for recreational walking, dog walking. -thinks landowner must have known as used by public. -seen others using it -seen signs of 'private' near Barcombe House for many years. -seen gates or fences, locked. -says Sussex River book by Edna & Mac McCarty (details unsure).
28	Sue Priest	<p>From 1997-2017</p> <ul style="list-style-type: none"> -on horse, bicycle -bi-monthly on horse, unclear how much on horse <p>From unsure-present</p> <ul style="list-style-type: none"> -on foot, on horse, bicycle -monthly, yearly 	<p>First form</p> <ul style="list-style-type: none"> -unsure what route is being claimed -used for recreation <p>Second form</p> <ul style="list-style-type: none"> -claiming entire claimed route. -going to and from Lewes -used for recreational walking -seen others using it -seen gates recently.
29		From 1997-2010	First form

	John Regan	<p>-on bicycle -twice a year</p> <p>From 2002-2012 (different to above) -on foot, bicycle -twice a year</p>	<p>-unsure what route is being claimed -used for recreation and clubs -toll road is historical</p> <p>Second form -claiming entire claimed route. -going to and from home -used for recreation activities -thinks owner would have known as free access. -seen signs about old tolls -seen other cyclists and walkers of his clubs only. -provided printout of a walk around Barcombe Mills by the AA in 1994 which mentions part of route from car park to Pikes Bridge and from Byway Barcombe 25a to Hayes Lane and Hayes Lane to Barcombe Mills Lane.</p>
30	Fran Rawlinson	<p>From 1958-present -on foot 1958-1989 annually 1989-present monthly</p> <p>From 1950-1971 And 1989-present -on foot -weekly 1989-present weekly</p>	<p>First form -unsure what route is being claimed -used for recreational walking, dog walking</p> <p>Second form -claiming entire claimed route -going from car park to Anchor pub, circular. -used for recreational walking. -thinks landowner must have known as well used. -seen others using it</p>
31	Madeleine Simpson	<p>From 1972-present -on foot, on horse -mostly once a month, now 6 times a year</p> <p>From 1972-present -on foot, on horse, on bicycle, by vehicle. -mostly once a month, now 6 times a year</p>	<p>First form -unsure what route is being claimed -used for dog walking, horse riding.</p> <p>Second form -claiming entire claimed route. -knows past and present landowners personally ie. Cornwell. -1991-1995 going from Barcombe to field behind Barcombe House to visit daughter's horse daily. -used also for dog walking -thinks landowner must have known as no one complained. -seen others using it -seen gates by Environment Agency</p>

32	Claire Skinner	From 1961-present -on foot -1961-1969-weekly -1970-present-bi-monthly	First form -not sure which path is claimed -used for recreation, dog walking.
33	Chris Smith	From 1997-present -on foot, bicycle -twice a year walking, 6-8 weeks on bicycle. From 1997-present -on foot, bicycle -from Barcombe Mills Lane near car park to Barcombe House monthly. -along Hayes Lane less frequently. -from Hayes Lane to Byway Barcombe 25a once a year on foot	First form -unsure what route is being claimed -used for recreational cycling, walking. Second form -claiming entire claimed route. -used for recreational walking. -been told public right of way by applicant. -seen others using it
34	Simon & Sarah Tait	From 1972-present -on foot -twice a year	First form -thought claiming Barcombe Mills Road to Hayes Lane. -used for recreational walks.
35	Dr Trish Taylor	From 2009-May 2017 -on horse -approx 4 times a year	First form -claiming Barcombe Mills Road to Hayes Lane -riding for recreation
36	Graham Thompson	From 1957-2017 -on foot -twice a year	First form -thought claiming Barcombe Mills Road to Hayes Lane. -used for recreational walking. -used route since days of steam railway.
37	Andrew Twort	From 1980-2000 -on foot -approx 6 times a year	First form -thought claiming Barcombe Mills Road to Hayes Lane. -used for recreational walking.

38	Steffany Ware	Period use=illegible -on foot -weekly	of First form -thought claiming Barcombe Mills Road to Hayes Lane. -used route to from a farm to the mills.
39	Victoria Whiteman	From Dec 2015-present -on horse -1 to 2 times a year	First form -claiming Barcombe Mills Lane to Hayes Lane -riding for recreation
40	Sian & Christopher Wilkins	From 1990-present -on foot, by car -daily	First form -thought claiming Barcombe Mills Road to Hayes Lane. -used to access house by walking or car. -deeds of home say can use route, others have this. -against Environment Agency gates.
41	Mikhaela Windrum	From 2009-present -on horse -approx weekly	First form -claiming Barcombe Mills Lane to Hayes Lane -used for riding own horses

10. User Evidence Results and Analysis

10.1 In total 41 people provided a user evidence form to support the application which have been arranged in alphabetical order of user surname and given a numerical user number in that same order. Of the 41 forms, 39 which were included in the original submission of the application, 34 of which used the Applicant's version of a user evidence form or variation of, and 5 used the Council's version of a user evidence form.

10.2 The other 2 user evidence forms, both using the Applicant's user evidence form, were submitted after the application was made, in March 2018 and July 2019 for users 36 and 11 respectively. However, initially the Council had 39 user evidence forms, 34 on the Applicant's format and 5 on the Council's version.

10.3 The Applicant's user evidence forms did not ask all the questions the Council usually prefers to ask and did not capture all the information the Council normally requires. Each form included a map which did not make it clear exactly what route was being claimed and the map appeared the same or similar on each form suggesting it had been prepopulated. The Council prefers that each user is required to submit a map on which they themselves draw a line on to show the route they have used and are claiming. Many of these maps suggested a claimed route of A-B however this represented the original route submitted by the Applicant which the Council declined as it did not reach at B a public highway or place of public resort, but a privately owned lane. Since the map was unclear the Council understood that the route many of these users, 25 in total, was claiming was uncertain. However, a number of these forms did make it clearer which route was being claimed. Fourteen users made it clear they were claiming A-B.

An outline of the Methodology

- 10.4 A number of assumptions and generalisations have been made in order to be able to analyse the results. Use that is stated as being less than monthly, for example '2 or 3 times a year' as been logged as annual use. Where use has been stated as bi-weekly and bi-monthly this has been taken to mean less than weekly and less than monthly respectively and been recorded as monthly and annually respectively. Where forms have been completed in joint names the Council has taken this use as 1 user. Where gates have been seen, the Council has logged them as being seen unless it is stated or is clear that the gates seen are those of the Environment Agency.
- 10.5 There are limitations in the user evidence to consider. Some users have recorded only 1 type of use, for example on foot, with one frequency and one time period. However, other users have recorded multiple types of use, with varying frequency and time periods. For example, user 26 (on the Applicant's user evidence form) has recorded use by foot and by horse, weekly and monthly over 2 time periods. The Council has recorded each type of use and its frequency over a time period as 1 individual use. For example, user 32 (on the Applicant's user evidence form) has stated use on foot weekly during one period of time and on foot annually in a different period of time, and each use has been recorded as 1 separate use. Therefore, the total number of users using the route on foot weekly and on foot annually both include user 32. This use will also need to be cross referenced with the route being claimed as this can vary between use, frequency and time periods.
- 10.6 The evidence of use detailed in the original user evidence forms provided will be analysed but it is unfortunate that the route being claimed is unclear, uncertain or A-B only and was clearly prepared to support the original application of the invalid route A-B.
- 10.7 In terms of summarising what the Applicant's version of the user evidence forms show, the Council has decided to group together all the results, being the results from those who had not made it clear which route they were claiming (25 users) with the results from those claiming A-B (14 users). This is based on the assumption that those whose form had not been clear about the route had all intended to claim A-B because that is the route that had been applied for and seemed to be the represented on the same map that appeared on all the user evidence forms. The Council believes that this map had been prepopulated by the Applicant and none of the users had drawn a line on the map to represent the route they had used themselves.
- 10.8 The material collected on all the user evidence forms received consists of many overlapping sets of data. The information covers aspects such as the period of time the users used the route, the route they took, the type of use, the frequency of that use, their purpose for using the route and where they were going from and to, if they lived on or very near the route, their capacity to use the route as described based on their place of residence as well as in this case whether they had also provided a further user evidence form on the Council's format and if there were any differences between that and their original Applicant form. There are multiple ways of analysing the data. Initially, this can involve identifying any forms which can be eliminated or dismissed along with those where less weight will be applied. Many different scenarios of use will emerge, with the times (ie years) of use, route(s) used, type of use (eg on foot, by horse) and frequency of use (eg daily, monthly) varying across the forms. This may make presentation of the results confusing and not immediately clear to understand however, common patterns may emerge which may help in interpreting the figures.
- 10.9 The Council's principle approach has been to eliminate or discount in stages some or all of the evidence and/or evidence forms to see what effect that has on the figures.

Initially, the Council looked to see if any of the forms would need to be eliminated, for example if they were not signed or did not provide a map. The total number of user evidence forms was then reduced by removing those in which the period of use was unclear, then those where the route was unclear, followed by those living in Barcombe Mills who may have private rights and finally any remaining on the Applicant's form, reviewing the figures at each stage. Sufficient user evidence for a successful application may remain. If there was insufficient evidence after these deductions, then the reasons for removal of previous forms would be reviewed and their merits investigated further in depth. For ease of review, as the number of forms reduced, analysis of the figures concentrated on use of the route on foot and by horse with use by bicycle and vehicle reviewed afterwards.

10.10 It is sometimes possible, and required, for the Council to conduct interviews with some of the users to validate some of the use declared. However, this report is written during the Covid-19 pandemic and interviews have not been possible. It is not thought that this has caused any detriment to the evidence or any interested party.

11. The relevant 20-year period

11.1 The Council needs to establish if the route used has been brought into question and if so when this was. In a letter dated 10 April 2018 the Environment Agency have claimed ownership of the old toll road (A-B), and that the fact that it is unregistered with the Land Registry is a clerical oversight they will address. In this letter they acknowledge that they have installed vehicle gates (near to points A and B) on this road due to an increase in non-residential traffic through the Barcombe Mills site which they will close between 2 May 2017 and 31 October 2017. Those with a legal right of access will be given the numbers to the combination padlocks. While this action only applies to part of the application route, does not physically stop those wishing to use the route on foot and by horse and is only addressed to vehicle users, it is sufficient to notify the general public at large that the route is not considered a public right of way and therefore the Council considers 2 May 2017 as the date at which the public enjoyment of the route was brought into question. The relevant period would be measured 20 years back from this, thereby being 1997-2017. The application itself was validated on 12 December 2017.

11.2 The Council must also consider if the landowner(s) made the general public at large aware the route was private and/or not for public use?

11.3 The EA installed gates across the old toll road close to points A and B in May 2017 which would have been sufficient to bring to the attention of the general public that the route was not considered public.

11.4 Landowner Mr Leeson's initial rebuttal was written on his behalf by his solicitor Mr Niall Blackie who states that his client has challenged several people using the route by horse telling them not to use the lane and that the lane was private. Mr Leeson's challenges would have applied to the part of B-C that he owned. There is no other evidence of these challenges. Mr Blackie states that Mr Leeson had erected signs on the lane to make it known the lane was private. It is not stipulated when these signs were visible. Mr Blackie points to user Jane Cleaver, who claims that during the whole relevant period used the whole route weekly on foot and saw 'private signs' near Barcombe House which supports Mr Leeson's claim. In addition, the Council notices that user 27, Josephine Newman, of nearby village of Barcombe Cross, has during the whole period used the whole route on foot both daily and weekly, also seen private signs near Barcombe House for many years but does not stipulate the time period or if this related to use of the route or entry into Barcombe House.

- 11.5 Both of these users had answered 'no' on the original set of forms to indicate if they had seen any private signs, as had all other users, and their claims of private signs only appear on their later forms. The only other mention of signs on the original set of forms was by user 38 who mentioned a 'no access to vehicle' sign.
- 11.6 Also, in contrast to Ms Cleaver's and Ms Newman's claims on the newer forms, of seeing private signs, no others had seen private signs and there was very little other mention of any other signs.

User 23, Ryan Kearley, who lives in Barcombe parish, who for part of the period (2007-2017) has used A-B-D weekly on foot, by bicycle and by vehicle, has claimed that there have never been any signs to indicate that it is not public. He has seen 'no entry' signs, and while it is not clear where, these relate to deter vehicle use.

User 17, Mr & Mrs Harvey, who albeit live outside of the area in Rodmell, during the whole period used the whole route annually on foot specifically claim they didn't see any private signs.

User 29, Mr John Regan, resident of Lewes, had seen the historical sign about the old toll at this location.

User 6 Mr Robert Cheesman, resident of Lewes, had seen signposts, probably by the Environment Agency and local farmers.

It is interesting to review the responses on the issue of signs from the local residents of Barcombe Mills, some of which specifically raise the issue.

Users 12, 13, 14 and 15, all members of the Gregory family living at the same address in Barcombe Mills, who all have during the whole period used the whole route, on foot, by bicycle and by vehicle daily, have said there were no private signs. User 19 Alison Johnson and User 20 Tom (known on earlier form as Ben) Johnson both live at the same property in Barcombe Mills itself, have both during the whole period used the whole route on foot daily (1991-2012) and weekly (2012-2017) and have said not to have seen any private signs. The only signs they had seen were those of the Environment Agency, about the old toll and about fishing. User 21, Rachael Kaplinsky, who also lives in Barcombe Mills, who during the whole period, used the whole route on foot and by bicycle daily has not seen any private signs. User 40, Ms Sian Wilkins and Mr Christopher Wilkins, who live in Barcombe Mills and who during the whole period used A-B on foot and by vehicle daily, said that they did not see any private signs, however we only have the Applicant's version of the form for their evidence.

- 11.7 On balance, it appears that there is more consistent and clearer evidence of there not being private signs, with a greater number of users, particularly those living in Barcombe Mills itself, as opposed to clear evidence of the existence of private signs.

While the Council acknowledges the possibility that some of these signs may have been removed and vandalised against Mr Leeson's wishes, Mr Leeson has not provided any photographic evidence of the private signs he says were present before they were allegedly removed.

There is insufficient evidence that Mr Leeson brought the status of the application into question to the general public through challenges and signs.

Moreover, Mr Blackie has said in his letter that the relevant 20-year period is May 1997 to May 2017 as a result of the gates installed by the Environment Agency.

Mr Husson, owner of B-D has specifically said that he has not challenged walkers and not erected signs explaining that his part of the application route is private and has essentially acquiesced to public use.

Mr Daniel Cornwell's evidence and that of Mrs Tania Cornwell, owners of a small section of B-D, does not state that measures were brought about to bring it to the attention of the general public that the part of the application route they owned was not for public use.

There is insufficient evidence to suggest anything other than the date of calling into question is May 2017 when the Environment Agency installed gates near points A and B.

The Council maintains that the relevant 20-year period be calculated as 20 years back from 2017, thereby being 1997-2017. The user evidence forms will be included in this investigation and the use detailed within will be reviewed and considered.

12. Initial Review of Use from the Applicant's forms

- 12.1 The evidence as presented on the Applicant's forms will be assessed first. Here the results show that there is evidence of incidents of use on foot (a total of 38 incidences being 5 daily, 10 weekly, 6 monthly and 17 annually) by 28 individual users.
- 12.2 There are 10 incidents of use by horse (0 daily, 2 weekly, 3 monthly and 5 annually) by 9 users, 6 of which had only used it by horse, 2 had used it by horse and foot and 1 had used it by horse and vehicle. User 31 used by horse both monthly and annually at different times.
- 12.3 There are 12 incidents of use by bicycle (2 daily, 5 weekly, 1 monthly, and 4 annually) by 12 different users.
- 12.4 There are 5 incidents of use by vehicle (2 daily, 2 weekly, 1 monthly and 0 annually) by 5 different users all of which had some other type of user also recorded. There was 1 instance of use by boat, but this was presumably on the water courses nearby, not the claimed route and was not mentioned by the user when later forms were provided (see upcoming paragraphs).
- 12.5 These results state that the number of incidents of use by horse is small and this use is mostly of a monthly or annual frequency. There is more use of the claimed route on foot than by horse and any other form of transport, with a significant number of 10 users using it on a weekly basis.

13. Applicant's forms - Period of Use

- 13.1 There are 22 users whose use falls completely within the relevant period of 1997-2017.
- 13.2 Of the remaining 17 users, use has been both before this use and/or before and during the relevant period.

Table 4 – Remaining 17 users

Number of users	Period of Use
2	whose use starts and ends before the relevant period
2	whose use starts before the relevant period and ends during,
1	whose use starts at the beginning of the relevant period and ends during
9	whose use starts during the relevant period and ends at the end of the period (2017)
1	who has use that both starts and ends before the relevant period and use that starts before the relevant period and ends during
1	who has use that starts and ends before the relevant period and then use that starts during the relevant period and ends at the end of the period
1	whose time of use is uncertain

Of these 17 users, 2 can claim use for a 20-year period uninterrupted (the 2 users whose use starts before the relevant period and ends during).

14. Applicant's forms - Type of Use

14.1 Of the 22 users whose use falls completely within the relevant period, 20 of these used it on foot, 1 used it by horse and 1 used it on foot and by horse.

Overall, there were 9 people using it by horse. These are laid out in Table 5.

Table 5 – Use by Horse

Number of users	Use by horse
2	Completely within the period
1	not in the relevant period (and insufficient use)
1	

	with use both not in the period and in the period but of interrupted use (and insufficient use)
5	in the period but not for long

That follows that there are only 2 users that can claim use by horse, for a full 20 years in the relevant period uninterrupted.

This suggests that the use was overwhelmingly of use on foot with very little by horse.

15. Second set of forms on Council format

15.1 Once the Applicant had resubmitted the Application to include an acceptable route, as per the current application of A-B-C & B-D, the Council wrote to 34 (who had used the Applicant's version of the user evidence form) of the 39 users asking them to complete and return a Council's version of a user evidence form.

Of these, 24 responded and returned a Council version of the form, and 10 did not.

15.2 The remaining 5 users of the 39 total users had already used the Council's version of the user evidence form but had either not completed it in fully, or correctly, or not provided a sufficient map and further information was required. Therefore, 3 were asked to complete a new form again of the Council's version along with a new map and asked to answer questions previously missed (users 1,10,23). User 1 only replied with a new map, user 10 did not reply and user 23 did reply with a new form and map.

One user was asked to provide a new map and answer questions (user 8) but did not reply.

One user was asked just for a new map (user 26) who did reply with it.

Therefore, of these remaining 5, 2 users replied, 1 did in part and 2 did not. The evidence of users 23 and 26 can be used fully but less weight can be applied to the evidence of users 8 and 10 as they have not replied with a map and full answers to questions and, in the case of user 10 a new form. User 1 has not replied with the page containing the signature and therefore this evidence will have less weight applied to it.

At this point the Council had 29 user evidence forms of the new Council version (3 of limited use) and 10 on the old Applicant's version.

15.3 The Council had also asked the Applicant to ask users 36 and 11 (who had provided their forms late ie. after the original submission of the application) for copies of their user evidence on the Council's version of the forms but these have not been provided and the Council relies on their evidence on the Applicant's version of the user evidence form.

This meant the Council now had 29 user evidence forms on their version and 12 on the Applicant's form, accounting for the 41 forms in total.

15.4 Of the 29 forms on the Council's format, 2 (users 8 and 10) were less influential without a map and 1 (user 1) was to be discounted due to a lack of signature.

This left 26 fully usable Council version forms, along with 12 on the Applicant's format making 38 forms in total.

However, the 12 forms remaining on the Applicant's format was limited by the fact that the accompanying map does not make clear the application route.

16. Changes in use between that recorded on the Applicant's forms and that recorded on the Council's format forms

16.1 Some of the results and responses from the Council's version of user evidence forms differ to the responses on the Applicant's forms. The Council's forms ask more questions, so more detail and more specific answers were anticipated.

The main difference is that 21 of the 24 returned forms now claimed the application route, while 2 claimed A-B-C and 1 claimed A-B-D, though such possible differences to the previous forms was expected.

In terms of the 5 users who had already provided a Council form but were asked to clarify points, and ignoring 2 that did not reply and 1 that is invalid, of the 2 that did reply 1 (user 26) was claiming A-B-C and the other (user 23) was claiming A-B-D.

That means overall that 21 were claiming the full application route, 3 were claiming A-B-C and 2 were claiming A-B-D along with the 12 on the Applicant's format which was regarded as A-B only. This totals 38 forms.

16.2 Other details such as the type of use, frequency and time periods have also changed, and reasons why need to be considered, though this may be the result of better recollection, correcting previous errors or increased extent of the claimed route. For example, use by user 14 has changed from on foot and bicycle weekly to on foot and bicycle daily. User 22 stated on the original user evidence form that use was 6 times a year on horse but on the later form it appears as 6 times a year on horse with the addition of on foot as well. The Applicant's user evidence form asked if any gates had been seen other than those closed by the Environment Agency in April 2017. Only 1 of these forms, user 40, answered yes but made it clear that the gates seen were those by the EA.

In summary, of the 41 user evidence forms received in total, 1 was discounted, 2 were partially discounted without a map, 12 remained on the Applicant's form and 26 were now fully usable on the Council's form, a total of 38.

17. Incidents of Use – on all 38 fully useable forms

17.1 Table 6 – All Incidents of Use

	Of the 12 forms on the Applicant's form, the incidents of use are:
on foot	1 daily, 2 weekly, 0 monthly and 5 annually by 7 users
by horse	0 daily, 2 weekly, 1 monthly and 2 annually by 5 users.
Summary	On Applicant's form there were 8 incidents of use on foot by 7 users. On the Applicant's form there were 5 incidents of use by horse by 5 users.

	Of the 26 forms on the Council's format, the incidents of use are:
On foot daily	8 daily (5 which were the same as on the Applicant's version and 3 which were new incidents where the use had changed from weekly to daily).
On foot weekly	6 weekly (5 previously recorded on Applicant's form and 1 incident that had been changed from incidents of monthly and annually).
On foot monthly	6 monthly (3 previously recorded on the Applicant's form and of the other 3, 1 had changed from weekly & monthly to just monthly, 1 had changed from 0 on foot use to on foot monthly & annually, and 1 had changed from just monthly to monthly & annually).
On foot annually	14 annually (11 previously recorded and of the other 3 they had all changed from 0 use on foot to 2 on foot annually and 1 to on foot monthly & annually).
By horse daily	0 incidents
By horse weekly	0 incidents
By horse monthly	3 incidents. (2 previously recorded and 1 where use had changed from just annually to monthly & annually).
By horse annually	3 incidents. (as previously recorded).
Summary	On the Council's form there were 34 incidents of use on foot by 26 users On the Council's forms there were 6 incidents of use by horse by 4 users.
Total on foot	This in total is 42 incidents of use on foot by 33 users. 5 users did not have any use on foot.
Total by horse	This is a total of 11 incidents of use by horse by 9 users.

18. Use by Period, and Changes made – on foot and by horse

18.1 Table 7 - Use by Period, and Changes made

	Of the 12 forms on the Applicant's form, the breakdown of periods on foot and by horse:
5 users	had used that fell completely within the relevant period.
	Of the remaining 7 users,
1	had use that started and ended before the relevant period,
1	had started before and ended during
4	started during the period and ended at the end of the period
1	was of an unknown period.

	Of the 26 forms on the Council's form, the breakdown of periods on foot and by horse:
12 users	had use completely within the relevant period which had not changed.
	Of the remaining 14 users, 5 had not changed but period of use was as follows:
1	had use that started and ended before the period and also started before the period and ended during,
1	had use that started before the period and ended during,
1	had use that started and ended before the period and use that started during the period to the end of the period
2	had use that started in the period and continued until the end of the period.

	Of the same remaining 14 users, 4 had changed their period of use as follows but provide use completely within the relevant period
1	had increased their period of use but it started before the period but still continued until the end
1	had slightly reduced their period of use but it still started before the period and continued until the end
1	had increased their period of use so it now started before the period and continued until the end as opposed to starting in the period and continuing until the end
1	changed their use from beginning before the period and continuing until the end to having use that started and ended before the period and also use that started before the period and continued until the end of the period.
	Of the same remaining 14 users, 5 had changed their period of use as follows which did not cover the full period
1	reduced their use from starting at the beginning of the period and ending during to starting and ending during
1	reduced their use but still started and ended in the period
1	reduced their use from starting before the period and continuing to the end to starting during the period and continuing to the end
1	had use starting before the period and continuing to the end but now the period was unsure
1	had use starting before the period and continuing to the end but now the start time was unsure.
Summary	<p>This meant that there were 5 users completely within the relevant period on the Applicant's form and 16 on the Council's form, totalling 21 users out of the 38 forms.</p> <p>Of these 21 users, there were 28 incidents of use on foot (9 daily, 5 weekly, 3 monthly, 11 annually) over 21 users.</p> <p>Of the same 21 users, there were 2 incidents of use by horse (1 weekly, 1 annually) by the same user (user 31). This user's use had not changed between the 2 forms and was claiming the whole route.</p>

	<p>There were 14 users claiming use in part of the period</p> <p>3 whose period of use was uncertain.</p> <p>These resulted in 35 users being clear their use was during either all or some of the relevant period.</p>
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19. Routes being claimed of the 35 users in the relevant period

19.1 Table 8 Routes being claimed

	<p><u>Of these 35, the Routes claimed within whole or part of the period are:</u></p>
	<p>15 claimed the whole period and of the whole route, 3 claimed the whole period and A-B 1 claimed the whole period and A-B-C, 0 claimed the whole period and A-B-D, 2 claimed the whole period but the route was uncertain,</p>
	<p>4 claimed part of the period and the whole route, 5 claimed part of the period and A-B, 2 claimed part of the period and A-B-C, 2 claimed part of the period and A-B-D and 1 claimed part of the period but the route was uncertain.</p>
	<p>So 32 out of 35 were certain of the route (as well as claiming all or some of the period), 19 (60% of 32) claimed the whole route, 8 (25%) claimed A-B, 3 (9%) claimed A-B-C, and 2 (6%) claimed A-B-D.</p> <p>Therefore 32 claimed all or some of the period and of a route that was certain, ie at least A-B.</p>

20. Summary of 32 users claiming use in the period and of a known route.

20.1 Table 9 - 32 users claiming use in the period and of a known route.

	<p>Of these 32, there were:</p>
Incidents	<p>35 incidents of use claimed on foot</p> <p>7 incidents of use by horse (of these, 3 users were claiming both on foot and by horse, 4 claimed just by horse).</p>
Users	

	<p>19 users claiming the whole route, all claiming it at least on foot, 2 of which also claimed it by horse.</p> <p>13 users were claiming part of the route (of these, 4 claiming A-B on foot only, 4 claiming A-B by horse only, 2 claiming A-B-C on foot only, 1 claiming A-B-C on foot and horse, 2 claiming A-B-D on foot only).</p>
<p>On foot</p>	<p>The frequency of use on foot is more than that by horse.</p> <p>Of the 32 users, 28 were claiming on foot, 19 claiming the whole period, 9 claiming part of period,</p> <p>19 users claimed the whole route, 4 claiming A-B, 3 claiming A-B-C, 2 claiming A-B-D.</p> <p>There is some overlap here, as the 19 claiming the whole period are not the same as the 19 claiming the whole route.</p> <p>Whole period, whole route, 15 users (incidents 8 daily, 4 weekly, 3 monthly, 6 annually) Whole period, A-B, 3 (1 daily, 2 annually) Whole period, A-B-C, 1 (1 annually) Whole period, A-B-D, 0</p> <p>Part period, whole route, 4 (1 monthly, 3 annually) Part period, A-B, 1 (1 annually) Part period, A-B-C, 2 (1 weekly, 1 monthly, 1 annually) Part period, A-B-D, 2 (1 weekly, 1 annually)</p> <p>The predominant feature is 15 whole period and whole route.</p> <p>Of the 32 within the period and of a known route, there were 35 incidents of use on foot (9 daily, 6 weekly, 5 monthly, 15 annually), by 28 users.</p>
<p>By horse</p>	<p>The frequency of use by horse is considerably lower and the use is split between use of the whole route (2 users), A-B (4 users) and A-B-C (1 user), with 8 incidents of use.</p> <p>In terms of these users' ability to get to the route I am confident they are living locally enough to get to it and use it by horse and that they are using it for leisure. We only have the evidence from users 2, 35, 39 and 41 on the old forms so this is limited, and then they only used part of the route during part of the period.</p> <p>We have Council forms for users 22, 26 and 31 but user 26 only used part of the route for part of the period. User 22 used the whole route but only for part of the period. Only user 31 used the whole route for the whole period.</p> <p>Between 1997-2008 we only have user 26 and 31 by horse with only user 31 using the whole route,</p>

	<p>2009-2017 we have use by users 22, 31, 35 and 41 and 2015-2017 we have use by users 2, 22, 31, 35, 39 and 41.</p> <p>So there seems to be only 2 users by horse in the first half of the period and 6 in the second half. While there has been use by horse during the 20-year period, it is spread over different sections with A-B only being the most common (57%), and during the period of most use (2009-2017).</p> <p>In terms of use by horse, there is little evidence to support sustained use of the whole route during the period and similarly little evidence to support each of the other sections individually during the period.</p> <p>User 2, A-B, 20015-2017, monthly User 22, whole route, 2009-2017, annually User 26, A-B-C, 1997-2008, monthly User 31, whole route, 1972-2017, monthly, annually, User 35, A-B, 2009-2017, annually User 39, A-B, 2015-2017, annually User 41, A-B, 2009-2017, weekly</p> <p>There are only 2 users claiming the whole route, and the remaining 5 claim part of the route (4 claiming A-B)</p> <p>There are only 2 users who claim use prior to 2009 and only 1 of those use covers the whole relevant period. Three of the remaining claim use from 2009 and 2 claim use from 2015.</p> <p>There are 8 incidents by the 7 users (1 weekly, 3 monthly and 4 annually)</p> <p>The evidence from 4 of the users is on the Applicant's form and 3 is on the Council's form.</p> <p>Only user 31 claims the whole route over the whole period, as monthly and annually, on the Council's form.</p> <p>This is very limited evidence of use by horse.</p>
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21. Validity of the User Evidence forms

21.1 The Council is satisfied that all the users live at a suitable place that would make it possible for them to use the route or part of the route as claimed and at the frequency described. The users either live in Barcombe Mills village itself or just outside, elsewhere within the parish of Barcombe, in villages close by, in other settlements in the Lewes District, in the county town of Lewes itself or in the nearby city of Brighton. User 37 has since moved out of area.

21.2 The Council is also satisfied that the route they are taking is satisfactory in terms of their description of where they are going from and to. The Council is satisfied that the purpose of all the visits are for valid reasons and as described which is mainly for local access or visitors enjoying the beauty of the area and exercising. Many users have used the route as part of a longer countryside route which includes following the course of the River Ouse.

21.3 Overall, the Council does not question the validity of the completed forms and consider they have been completed in good faith, notwithstanding that the Applicant's original forms did not allow the users to clearly identify the route they were using and perhaps asked leading questions.

21.4 However, there are some anomalies: -.

The second set of forms by users 12, 13, 14 and 15 were completed very similarly, using the same wording and answers, and some pages, such as pages 3 and 4, look like exact copies of each other for all 4 users, although all forms were independently signed. It may be that the pages that were identical were copied to save time.

Some local residents (possible up to 8 users) of Barcombe Mills may have some private rights over all or part of the claimed route as suggested by user 40.

The Council attributes less weight to the use only on the Applicant's format (7 users, 1 of which may have private rights above).

22. Review of the remaining 32 forms

22.1 Table 10 – Review of the 32 forms

Number of users	Of 32 users who are claiming use (on foot and by horse) at some point in the relevant period and of part of the route, if we take out the following:
8 users	Residents of Barcombe Mills, who may have private rights
7	Those on the Applicant's form
	And all use other than that on foot (as the other use is considered by the Council to be insufficient)
	This leaves the following:
17	Use at some point in the relevant period and of all or part of the route, by non-residents of Barcombe Mills, on Council forms, use on foot, as below: Whole period, whole route, 8 users (incidents, 1 on foot daily, 2 on foot weekly, 3 on foot monthly, 5 on foot annually) Whole period, A-B, 0 Whole period, A-B-C, 1 (1 on foot annually) Whole period, A-B-D, 0 Part period, whole route, 4 (1 on foot monthly, 3 on foot annually) Part period, A-B, 0

	Part period, A-B-C, 2 (1 on foot weekly, 1 on foot monthly, 1 on foot annually) Part period, A-B-D, 2 (1 on foot weekly, 1 on foot annually) So 12 users claim use during the whole period or part of, of the whole route, on foot, of regular frequency, through visiting as of right, and providing the evidence on the Council form.
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This evidence demonstrates a satisfactory level of use as of right on foot over a 20-year period, uninterrupted during the relevant period of 1997-2017. The Council is satisfied that the use as been 'as of right' when compared to the evidence put forward that would challenge this.

While users 7, 8 and 21 claim to know the landowners personally, for all 3 this relates to knowing the Cornwell family who own a very small section of B-D and any perceived permission does not appear to apply to the rest of the claimed route.

23. Review of Evidence of Use by Bicycles

23.1 Table 11 – Use by Bicycle

There were 14 incidents of use by bicycle by 12 users.
If we take out User 1 which was discounted as the form was not signed. Users 12,13,14,15, 21 which may have private rights User 18 who does not make clear what route is being claimed User 28 who is not clear of the years used (2 incidents)
This leaves 5 incidents, by 4 users. User 23, part period, A-B-D, 1 incident of cycle, weekly. User 29, part period, whole route, 1 incident of cycle, annually. User 31, whole period, whole route, 2 incidents of cycle, 1 monthly and 1 annually. User 33, whole period, whole route, 1 incident of cycle, monthly.
This is very limited evidence of use by bicycle.

24. Review of Evidence of Use by Vehicles

24.1 Table 12 – Use by Vehicles

There were 12 incidents of use by vehicle by 9 users.
If we take out User 1 who was discounted as the form was not signed.

Users 12,13,14,15, 19, 40 who may have private rights.
This leaves 2 incidents by 2 users. User 23, part period, A-B-D, weekly User 31, whole period, whole route, monthly
This is very limited evidence of use by vehicle.

25. Summary of User Evidence results

25.1 The application is to modify the Council's map to register a bridleway.

Only user 31 claims use by horse over the whole route over the whole period, as monthly and annually, on the Council's form.

The Council believes that while the user evidence shows that there is some use by horse, as of right, uninterrupted over the relevant 20-year period, this evidence is very low and not a significant or sufficient level that could lead to a presumed dedication of a bridleway.

25.2 The level of use by bicycle provided in the evidence is very low.

25.3 The level of use by vehicle provided in the evidence is even lower than that of bicycle.

25.4 There is considerably more evidence of use on foot. There are 12 users who claim, over the whole period or part of, the whole route, across various frequencies, on the Council's form and who are visitors to the area.

25.5 While the information provided by the guidebooks cannot be used to determine status, they do suggest an interest in the area for recreational walking and that much of the route is considered open, accessible and considered suitable for walkers and in part for cyclists. Users 5, 17, 19, 20, 21, 24, 27, 29 mention the route being detailed in books or similar literature.

25.6 However, it appears there is sufficient evidence to show the route has been dedicated for use on foot.

26. Historical and Documental Evidence

Historical and Medieval County maps

26.1 The Council holds its own copies of a number of historic maps of the County of Sussex. The majority of these, while providing an interesting record of historical place names and approximate locations, such as John Norden's 1595 map and John Ogilby's 1675 map, do not provide the level of accuracy, provenance and detail required, and are of too large a scale, to realistically support the existence of historical public rights of way. This principle also applies to the maps by Budgen (1724) and Overton & Bowles (c. 1740).

The Council will consult its copy of the Gardner & Gream (1795) map which helpfully appears to show more detail such as field boundaries and more minor

roads. In a similar manner the Christopher & John Greenwood (1825) map will also be reviewed.

However, little weight can be applied to this type of evidence as they were not created to record public rights of way.

The Keep – East Sussex Record Office

27.1 Officers have visited the East Sussex Record Office, known as The Keep (www.thekeep.info) at Falmer to inspect historical records where applicable and necessary. These may typically include resources such as railway records, Finance Act (1910) documents, Estate maps, the Inclosure Award index and the Council's paperwork concerning preparing the Definitive Maps, which may include surveys and objections. Usually, these resources will only be checked and reviewed further if such evidence is raised by the Applicant, however the Council will check the parish and Ramblers surveys to see if there is anything relevant. Beyond this, the onus is on the Applicant to carry out relevant research at The Keep, or elsewhere, and to provide that to the Council as part of their evidence. It is not always considered necessary for the Council to go in search of information not mentioned by the Applicant in their evidence or to seek out further documentation to support the Applicant's point of view. However, the Council will review, include and act upon any relevant and additional evidence it finds during the course of its investigations, beyond that provided by the Applicant.

27.2 Historic OS maps were obtained from the website of the National Library of Scotland (www.nls.uk). The Council will only carry out a limited search of the OS maps, and similar 20th century 'Old Touring' maps and 'Rural District' maps because such maps contain a disclaimer that states that their maps do not confirm, convey or confer in any way the status of the routes shown. It is considered that they are generally produced to show physical features on the ground and remain silent on whether a route is a public right of way or not.

27.3 Tithe maps, the Quarter Sessions Index, the Council's original 1950s and 1960s draft, provisional and definitive maps, relevant surveys, Deposit records, Highway Terrier and current Definitive maps can all be inspected on the Council's internal systems and will be consulted as standard even if the Applicant has not referred to them.

27.4 At the time of writing this report the Covid-19 pandemic is reducing the opening frequency and opening times of the Keep and impacting on the services it provides. The number of documents available to be seen on one day is limited. This has reduced the number of times the Council can visit the Keep and the amount of time it can spend there. Priority was given to seeing those documents which give considerable weight to the investigation.

Table 13 – The Applicant's Evidence with the Council's comments and its own research

28.1 Table 13 below contains, in bold text, the historical maps and evidence provided by the Applicant to support the claim of the bridleway. This evidence has been checked where possible. This table also includes The Council's comments on the Applicant's evidence and provided its own copies of the same evidence if it has it. The Council has carried out its own historical research, which is also summarised in the table below, combining its research with that of the Applicant's. The full research and accompanying maps are contained in the file of evidence.

<p>Applicant's Statement Numbered Point</p> <p>or Council's own Map No.</p>	<p>Document Name</p> <p>(Bold=Applicant's evidence)</p>	<p>Summary of Applicant's Comments (from Applicant's Statement)</p> <p>And Council Comments</p>
	<p>Roman Road</p>	 <p>3.6 The line of the road passing through Barcombe Mills.</p>
	<p>The Council:</p>	<p>This shows the old toll bridge between A and B.</p> <p>It is believed this once formed part of a course of a Roman road.</p>
	<p>Footpath photograph</p>	
	<p>The Council:</p>	<p>This shows footpath Barcombe 24 entering from the right and joining the course of the road between A and B, looking towards the direction of B.</p>
	<p>Garner and Gream Map</p>	

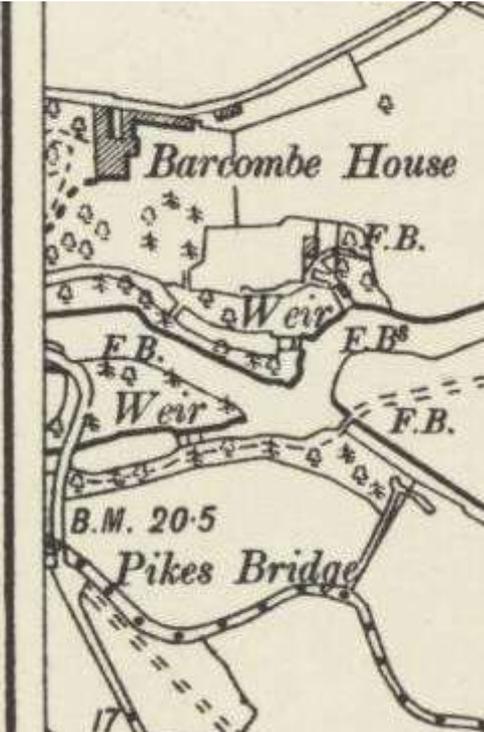
	1795	
	<p>The Council: Gardner and Gream map 1795</p>	 <p>Nothing confirmative can be deduced from this map, however it does look like part of B-C may be shown as some sort of route.</p>
	Greenwood map	
	The Council:	

	<p>Christopher and John Greenwood's Map of Sussex (1825) (1" to 1 mile)</p>	 <p>The detail on the map is too limited to decipher anything specific about the route.</p>
	<p>List of published walks featuring Barcombe Mills</p>	<p>List of publications featuring Barcombe Mills</p> <p>Walk Barcombe Mills and The River Ouse can be found in the book Classic Walks in East Sussex by Ben Perkins 2001 page 63 S. B. Publications</p> <p>Walk Barcombe Mills can be found in a book Family Walks in East Sussex by Sally and Clive Cutter 1994 Page 25 Scarthin Books of Cromford Derbyshire</p> <p>Walk Cooksbridge and Barcombe Mills can be found in 10 Walks In and Around Lewes Walk No 9 Lewes Footpaths Group</p> <p>Walk Barcombe Mills and The Ouse can be found in Walks to Interesting Places Page 14.</p> <p>Walk Barcombe Mills and The River Ouse can be found in Waterside Walks in Sussex by Ben Perkins Page 46</p> <p>Walk Barcombe Mills and The River Ouse can be found in East Sussex Year Round Walks by David Weller Page 28 Countryside Books.</p> <p>Walk Barcombe Mills can be found in Walks For All Ages by Terry Owen Page 16 Bradwell Books</p>

		<p>Discover Barcombe have numerous walks that take in Barcombe Mills</p> <p>All the walks mentioned take in/on the path in Question</p> <p>If you look on East Sussex Circular Walks one can find a Barcombe Mills walk on that particular website.</p> <p>Also mentioned in Sussex River by Edna and Mac McCarthy.</p>
	<p>The Council:</p>	<p>The Council does not have access to these books and no extracts have been provided by the Applicant.</p> <p>It is known that Ben Perkins was a member of the Ramblers in Sussex for many years and wrote many books about routes to walk within Sussex.</p> <p>It is not sure which website is being referred to however on the Council's own website, https://www.eastsussex.gov.uk/leisureandtoursm/discover-east-sussex/circular/, the 'Barcombe Walk – 5.5 miles' can be found, which includes using part of A-B, and B-C, see map below</p>  <p>The following text is used:</p> <p>4) Turn immediately right after the bridge and follow the riverside footpath to Barcombe Mills. Turn right onto the road, crossing the bridge and follow the road passing the old toll house and site of the old toll bridge.</p> <p>5) Continue to follow the road to join the main road.</p>

		<p>In 4) it is saying to follow footpath Barcombe 24, then turn right on reaching the road between A-B (see section Footpath photograph above; photograph with black dog), cross the old toll bridge and effectively in 5) to turn left at B to follow B-C out to Barcombe Mills Road.</p>
	<p>OS map 1813</p>	
	<p>The Council:</p>	<p>The detail and scale of this map are too minimal to determine anything with accuracy but it looks like A-B-C may be shown as some sort of route.</p>
	<p>OS map Sussex LIV.3 25 inch to 1 mile 1875</p>	<p>See map below</p>

		 <p>This shows part of A-B as some form of route. Other 1875 map not available.</p>
	<p>OS map Sussex LIV 6 inch to 1 mile</p> <p>1878 (published date)</p>	 <p>A-B and B-C seem to be shown as some form of route but the status of it is unknown.</p>
	<p>OS map Sheet 310-Lewes (Hills) 1 inch to 1 mile</p> <p>1895</p>	<p>See map below</p>

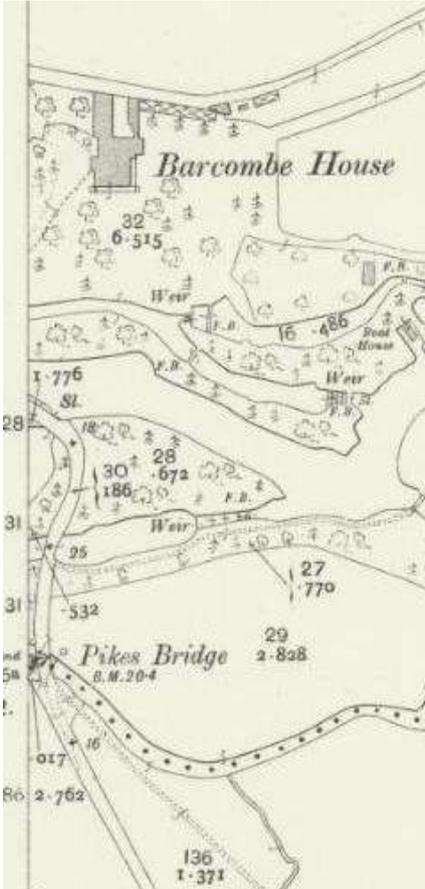
		 <p>A-B and B-C and possibly B-D seem to be shown as some form of route but the status of them is unknown.</p>
	<p>OS map Sussex LIV.NE 6 inch to 1 mile 1899</p>	 <p>Part of A-B seems to be shown as some form of route but the status of it is unknown.</p>
	<p>OS map Sussex LIV.NW 6 inch to 1 mile 1899</p>	<p>See map below</p>

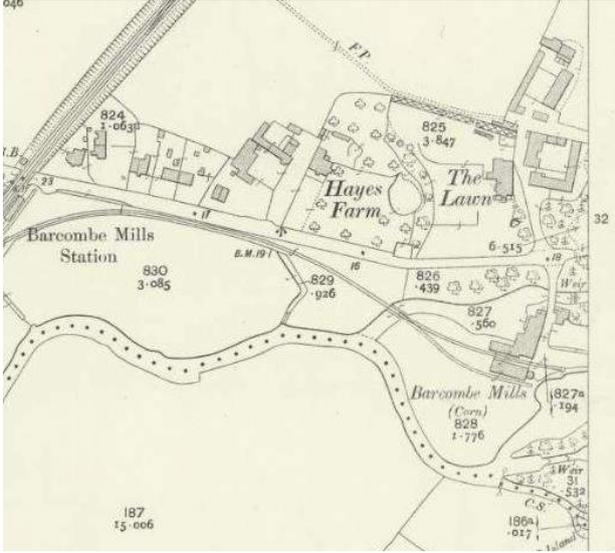
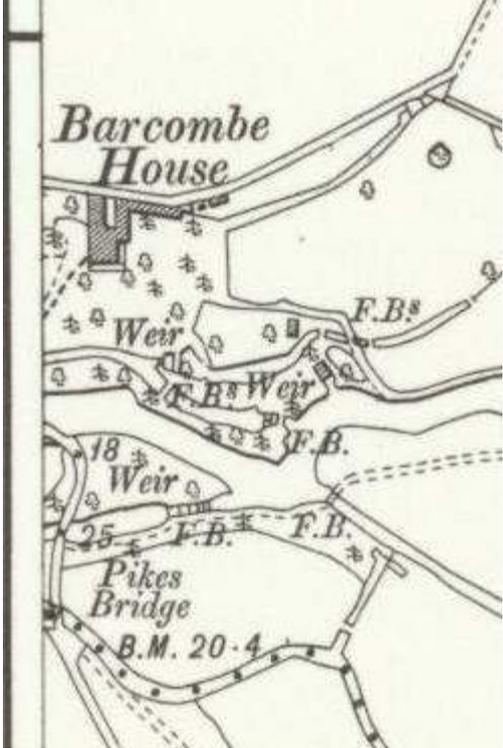


Part of A-B and B-C and B-D seem to be shown as some form of route but the status of them is unknown.

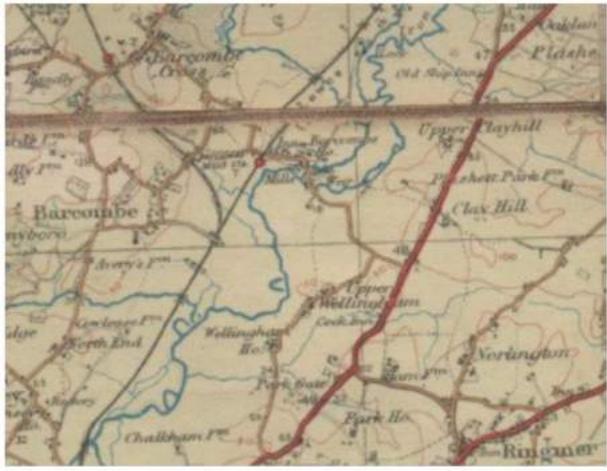
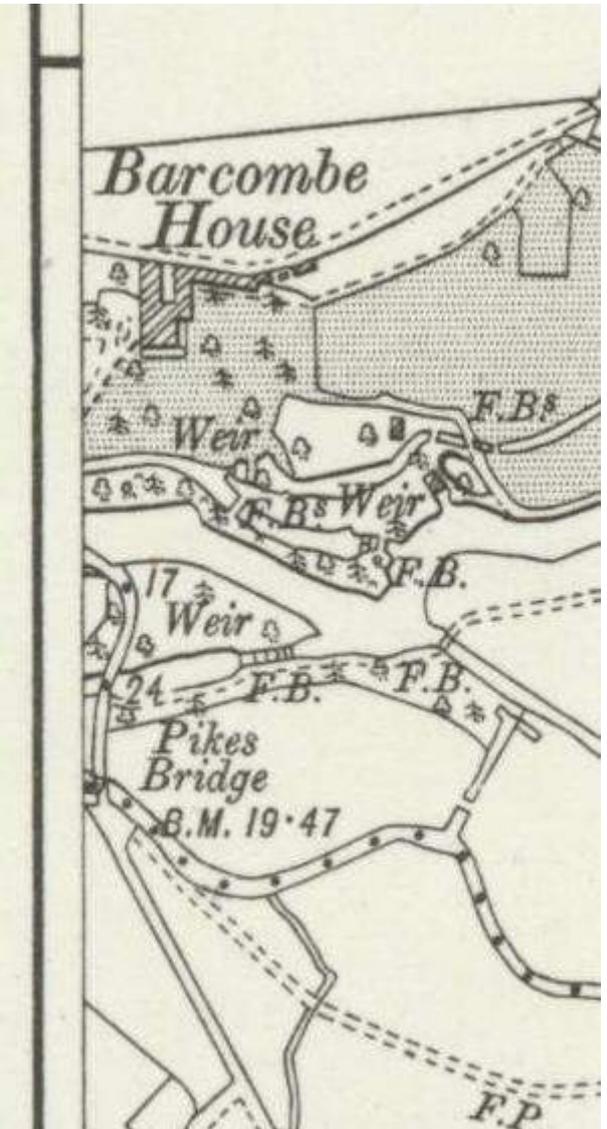
OS map
Sussex LIV.3
25 inch to 1 mile
1899

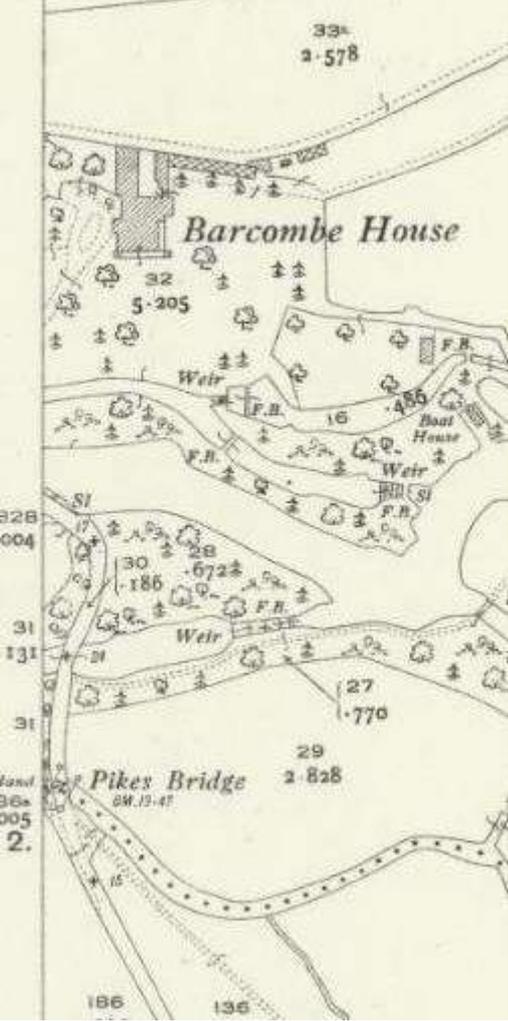


		<p>Part of A-B and B-C seems to be shown as some form of route but the status of it is unknown.</p>
	<p>OS map Sussex LIV.2 25 inch to 1 mile 1899</p>	 <p>Part of A-B and B-C and B-D seem to be shown as some form of route but the status of them is unknown.</p>
	<p>OS map Sussex LIV.3 25 inch to 1 mile 1910</p>	 <p>Part of A-B seems to be shown as some form of route but the status of it is unknown.</p>
	<p>OS map</p>	

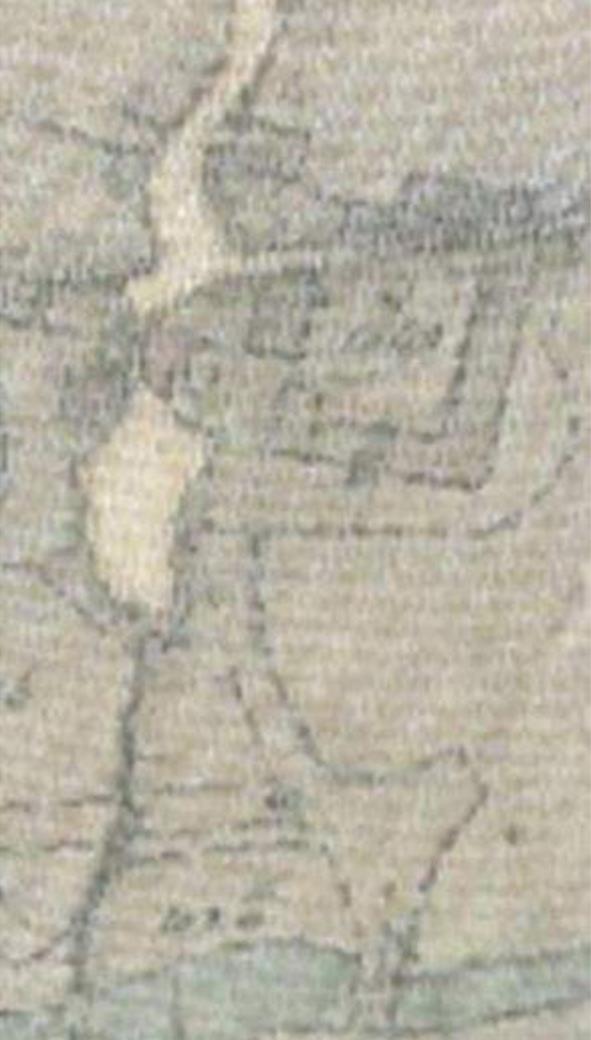
	<p>Sussex LIV.2 25 inch to 1 mile</p> <p>1910</p>	 <p>Part of A-B and B-C and B-D seem to be shown as some form of route but the status of them is unknown.</p>
	<p>OS map Sussex LIV.NE 6 inch to 1 mile</p> <p>1911</p>	 <p>Part of A-B seems to be shown as some form of route but the status of it is unknown.</p>
	<p>OS map Sussex LIV.NW 6 inch to 1 mile</p> <p>1911</p>	<p>See map below</p>

		 <p>Part of A-B and B-C and B-D seem to be shown as some form of route but the status of them is unknown.</p>
	<p>OS map 1912</p>	
	<p>The Council:</p>	<p>A-B and B-C seem to be shown as some form of route but the status of them is unknown.</p>
	<p>OS map 1922</p>	<p>See map below</p>

		
	<p>The Council:</p>	<p>The detail and scale of this map are too minimal to determine anything with accuracy.</p>
	<p>OS map Sussex LIV.NE 6 inch to 1 mile 1931</p>	

		Part of A-B seems to be shown as some form of route but the status of it is unknown.
	<p>OS map Sussex LIV.3 25 inch to 1 mile</p> <p>1931</p>	 <p>Part of A-B seems to be shown as some form of route but the status of it is unknown.</p>
	<p>OS map Sheet 183 Eastbourne</p> <p>1 inch to 1 mile</p> <p>1946</p>	

		
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		 <p data-bbox="778 1205 1385 1505">It is possible most parts of A-B, B-C and B-D are visible as some form of route or track but the quality of the map is poor. There are bits missing and the colouring is not clear and may have faded. It is not possible to determine if any of the claimed route is subject to tithes or not and it is even less clear whether the claimed route was public or private. The tithe evidence does not support the application.</p>
	<p data-bbox="450 1572 683 1639">Quarter Sessions Index</p> <p data-bbox="450 1675 746 2042">A PDF document that consists of photographs of pages from a paper file entitled 'Index to Highway and Footpath Diversions Etc 1773-1949' which is laid out as an index by parish in alphabetical order detailing where rights</p>	<p data-bbox="778 1572 1359 1809">The Council cannot find anything relevant in the 'Index to Highway and Footpath Diversions Etc 1773-1949' for Ringmer or Barcombe, because there is nothing listed under either parish for any diversion or stopping up order that would be associated with or connected to the claimed route.</p> <p data-bbox="778 1841 890 1877">Ringmer</p>

SURVEY OF RIGHTS OF WAY SCHEDULE

CHALISY Rural District Council. BISHOPSTON Parish.

ALL MARKINGS on maps should be made in ORDINARY PENCIL.

In completing this form please use the symbols set out on pages 10 and 11 of the Pamphlet.

Path No. 24 [Please number (NOT in brackets or circle) each path in the Parish consecutively as mentioned in pamphlet, page 9, paragraph (b). The number should also be marked on the map.]

Symbol of Path ~~24~~  (Please cross out those which do not apply).

From Pices Bridge

To Lower Clayhill

(1) Details of gates, stiles, bridges, etc., in paths:

NOTES. (i) Please give a short description of each in the order they come in the direction "From" and "To" given above.

(ii) The site of each gate or stile, etc., should be shown on the map by an arrow and the appropriate symbol followed by the letter (a), (b), (c), etc., to which it refers.

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____
- (f) _____
- (g) _____
- (h) _____
- (i) _____
- (j) _____

(2) Obstructions to passage on the paths. Please show on map by a number in a circle (thus ①) the position of any obstruction to free passage, such as barbed wire, overgrown hedges, bridge missing, faulty stile, gate or bridge, etc., and below, set out against the number the nature of the obstruction and briefly what is required to remedy the matter.

- ① Barbed wire
- ② Barbed wire. Footbridge missing.
- ③ Barbed wire.
- ④

① _____
② _____

- (3) **Ploughed Fields.** If a path goes through an arable field and the path is by custom regularly ploughed the section of path in that field should be marked with an "A".
- (4) **Reasons for believing path to be a public right of way,** for example: "Awarded" or "Repaired at public expense (with date)" or "Mentioned in minutes of Parish Council dated..... when annual stile was repaired by the Parish Council."

(ii) Do the owners of the land through which the path passes admit it as a public right of way? If not, any information as to the lengths of path concerned and the owner's reasons will be appreciated.

*7 Mrs S. Currier
of Hensley, near Easthorpe*

(5) Other remarks (if any):

(6) Path surveyed by (Name) *Mr. Peter*
(Address) *14, 2nd Ave
Ringmer, Lewes*
(Date) *10.2.51*

H.P.C.C. 5a, 5/5a

Path No. 4. BARCOMBE HILLS TO LOWER CLAYHILL.

C. Start of path is blocked by wire where it leaves the road from Barcombe Mills. Crosses grass field to small stream, where there is a barbed wire fence and no footbridge.

B. Still another barbed wire fence crosses the path near a barn. From the barn there is a well-trodden grass strip across ploughed field and then south-east to the 'Hokfield Road' by an easily followed track. It is hardly surprising that the western end of this path is not used. Was in order before 1939 War.

Ringmer 4 is currently on the Definitive Map and the Definitive Statement says it starts from Pikes Bridge which is currently on A-B and not on Barcombe Mills Road.

SURVEY OF RIGHTS OF WAY SCHEDULE

Chailley Rural District Council *Barcombe* Parish.

ALL MARKINGS on maps should be made in ORDINARY PENCIL.

In completing this form please use the symbols set out on pages 10 and 11 of the Pamphlet.
Path No. *24* Please number (NOT in brackets or circle) each path in the Parish consecutively as mentioned in pamphlet, page 8, paragraph (b). The number should also be marked on the map.

Symbol of Path FF. ~~11111111~~ (Please cross out those which do not apply).
From *Brown's Tea Garden (old Mill)*
To *Pellets Bridge (Barcombe Mills)*

(1) Details of gates, stile, bridges, etc. in paths:

Notes: (i) Please give a short description of each in the order they came in the direction "From" and "To" given above.

(ii) The site of each gate or stile, etc., should be shown on the map by an arrow and the appropriate symbol followed by the letter (a), (b), (c), etc., to which it refers.

- (a) *Foot bridge (missing)*
- (b) *F.B.*
- (c) *F.G.*
- (d) *S*
- (e) *S*
- (f) *S*
- (g) *F.B. (missing) Premier Wood*
- (h) *S*
- (i) *S*
- (j) *F.B. (recently restored)*
- (k) *W. G. to road*

(2) Obstructions to passage on the paths. Please show on map by a number in a circle (thus ①) the position of any obstruction to free passage, such as barbed wire, overgrown hedges, bridges missing, faulty stile, gates or bridge, etc., and below, set out against the number the nature of the obstruction and briefly what is required to remedy the matter.

- ① *Foot bridge missing*
- ② *Foot bridge missing*
- ③ *Foot bridge missing on May 27 but recently restored.*
- ④

③

④

(3) **Ploughed Fields.** If a path goes through an arable field and the path is by custom regularly ploughed the section of path in that field should be marked with an "A".

(4) (i) **Reasons for believing path to be a public right of way,** for example: "Awarded" or "Repaired at public expense (with date)" or "Mentioned in minutes of Parish Council dated..... when second title was reported by the Parish Council?"

D.P. Co Minutes

April 19 1924. Princes Bridge defective. Complaints. Responsibility of P.C. denied.

July 25 1925. Right of way questioned. Princes Bridge broken down. Complaints.

July 16 1931. Defective bridge at old Mill house referred to C.R.D.C.

Jan 21 1935. C.R.D.C. take no action.

Mar 9 1935. Referred back by B.P.C. to C.R.D.C.

Jan 17 1949. Again recommendation made for rebuilding Princes Mill Bridge to that by War Dept Agent to R. White & Sons of London E.C.4.

undisputed use over a long period.

(ii) Do the owners of the land through which the path passes admit it as a public right of way? If not, any information as to the lengths of path concerned and the owner's reasons will be appreciated.

This path should follow the E bank of the river all the way but it is actually impassable from either end and at least three

(5) *Other remarks if any:* *Foot bridges are missing. Access at the N end is only possible by going through the tea gardens. It appears that the bridges were removed by the military during the war as a defence measure and have not been restored. It is time this path was put in order so that the public may again enjoy this riverside walk.*

(6) Path surveyed by (Name) *Six Pathfinders Rambling Club*

(Address)

(Date) *May 27 1951*

H.F.C. 3b. 936.

Path No. 24. FROM BRIDGE'S TEA GARDENS TO THE ROAD AT WIDE.

B.

This path should follow the east bank of the Ouse all the way, but it is actually impassable from either end at least three footbridges are missing. Access at the north end is only possible by going through the tea gardens. It appears that the bridges were removed by the military during the war as a defence measure and have not been restored. It is time this path was put in order so that the public may again enjoy this riverside walk.

Barcombe 24 is currently on the Definitive Map and the Definitive Statement says it starts from Pikes Bridge which is currently on A-B and not on Barcombe Mills Road. However, this footpath reaches a different bridge to that which Ringmer 4 reaches, about 50 metres to the north. It is understood that the bridge Ringmer 4 reaches is Pikes Bridge and the bridge Barcombe 24 reaches is not Pikes Bridge and its name is unknown. Both Pikes Bridge and the unnamed bridge are on the old toll road between A and B.

SURVEY OF RIGHTS OF WAY SCHEDULE

Chailay Rural District Council Bascombe Parish.

ALL MARRINGS on maps should be made in ORDINARY PENCIL.

In completing this form please use the symbols set out on pages 30 and 11 of the Pamphlet.

Path No. 25 [Please number (NOT in brackets or circle) each path in the Parish consecutively as mentioned in pamphlet, page 8, paragraph (b). The number should also be marked on the map].

Symbol of Path Footpath (Please cross out those which do not apply).

From Bascombe House
To Old Mills

(1) Details of gates, stiles, bridges, etc. in paths:

NOTES. (i) Please give a short description of each in the order they come in the direction "From" and "To" given above.

(ii) The site of each gate or stile, etc., should be shown on the map by an arrow and the appropriate symbol followed by the letter (a), (b), (c), etc., to which it refers.

(a) W. G

(b) F. G

(c) F. G

(d) F. Bridge

(e) F. G

(f) _____

(g) _____

(h) _____

(i) _____

(j) _____

(2) Obstructions to passage on the paths. Please show on map by a number in a circle (thus ①) the position of any obstruction to free passage, such as barbed wire, overgrown hedges, bridges missing, faulty stile, gate or bridge, etc., and below, set out against the number the nature of the obstruction and briefly what is required to remedy the matter.

① _____

② _____

③ _____

④ _____

⑤ _____

③

④

(3) **Ploughed Fields.** If a path goes through an arable field and the path is by custom regularly ploughed the section of path in that field should be marked with an "A".

(4) (i) **Reasons for believing path to be a public right of way,** for example: "Awarded" or "Required at public expense (with date)" or "Mentioned in minutes of Parish Council dated..... when second title was revised by the Parish Council!"

B. P. Co Minutes

Mar 14. 1950 Stiles replaced instead of gates near Oil Mills

undisputed use over a long period

(ii) Do the owners of the land through which the path passes admit it as a public right of way? If not, any information as to the lengths of path concerned and the owner's reasons will be appreciated.

(5) Other remarks (if any):

Good flint road the whole way. It is actually a private road but owing to No 24 having no bridges has been used by the public for a number of years. It is suggested that K.G. be provided to prevent cattle straying and should be footpath only.

(6) Path surveyed by (Name)

S/L Rathfinders Renting club

(Address)

(Date) May 27 1951

H.P.C. No. 936

Path No. 25. BARCOMBE HOLE TO OIL MILLS
Good flint road the whole way. It is actually a private road but owing to No. 24, having no bridges has been used by public for a number of years now. It is suggested that kissing gates be provided to prevent cattle straying, and should be footpath only.

Barcombe 25 is on the Definitive Map and Statement and at this location is known as Byway Barcombe 25a.

SURVEY OF RIGHTS OF WAY SCHEDULE

Chailoy Local District Council Barcombe Parish.

ALL MARRINGS on maps should be made in ORDINARY PENCIL.

In completing this form please use the symbols set out on pages 10 and 11 of the Pamphlet.
Path No. 26 [Please number (NOT in brackets or circles) each path in the Parish consecutively as mentioned in pamphlet, page 8, paragraph (b). The number should also be marked on the map].

Symbol of Path: FF ~~FF~~ ~~FF~~ (Please cross out those which do not apply).

From Barcombe House or The Lawn
To Barcombe Mill Road

(1) Details of gates, stiles, bridges, etc. in paths:

NOTES. (i) Please give a short description of each in the order they come in the direction 'From' and 'To' given above.

(ii) The site of each gate or stile, etc., should be shown on the map by an arrow and the appropriate symbol followed by the letter (a), (b), (c), etc., to which it refers.

- (a) W G
- (b) S } level Crossing
- (c) S }
- (d) S exit
- (e) _____
- (f) _____
- (g) _____
- (h) _____
- (i) _____

(2) Obstructions to passage on the paths. Please show on map by a number in a circle (thus ①) the position of any obstruction to free passage, such as barbed wire, overhead cables, bridge raising faulty stile, gate or bridge, etc., and below, set out against the number the nature of the obstruction and briefly what is required to remedy the matter.

- ① _____
- ② _____
- ③ _____
- ④ _____

③

④

(3) **Ploughed Fields.** If a path goes through an arable field and the path is by custom regularly ploughed the section of path in that field should be marked with an "X".

(4) (i) **Reasons for believing path to be a public right of way,** for example: "Awarded" or "Repaid at public expense (with date)" or "Mentioned in minutes of Parish Council dated _____ when second title was registered by the Parish Council."

undisturbed use over a long period.

(ii) Do the owners of the land through which the path passes admit it as a public right of way? If not, any information as to the lengths of path concerned and the owner's reasons will be appreciated.

(5) **Other remarks if any:**

Continues No 25. W across the railway. Good well trodden path. There is a permissive path parallel to the railway on W side Southward to Barcombe Mills Station (see No 50)

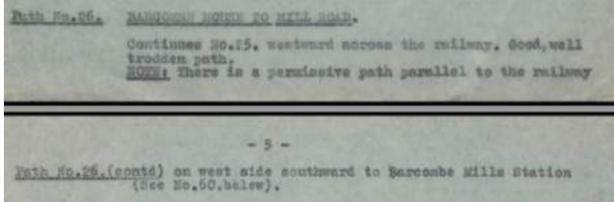
(6) Path surveyed by (Name):

S/x Pathfinders Rambling Club

(Address):

(Date) *May 27 1951*

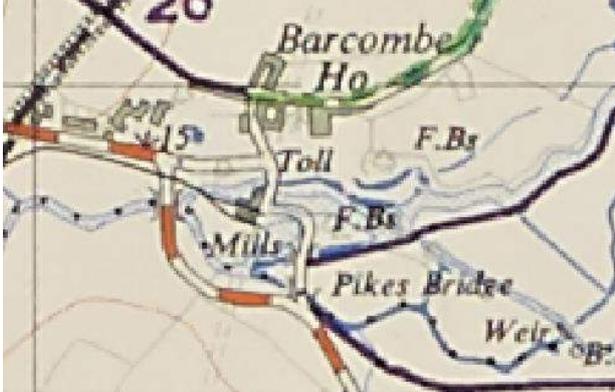
H.P.C.C. 5a. 536.

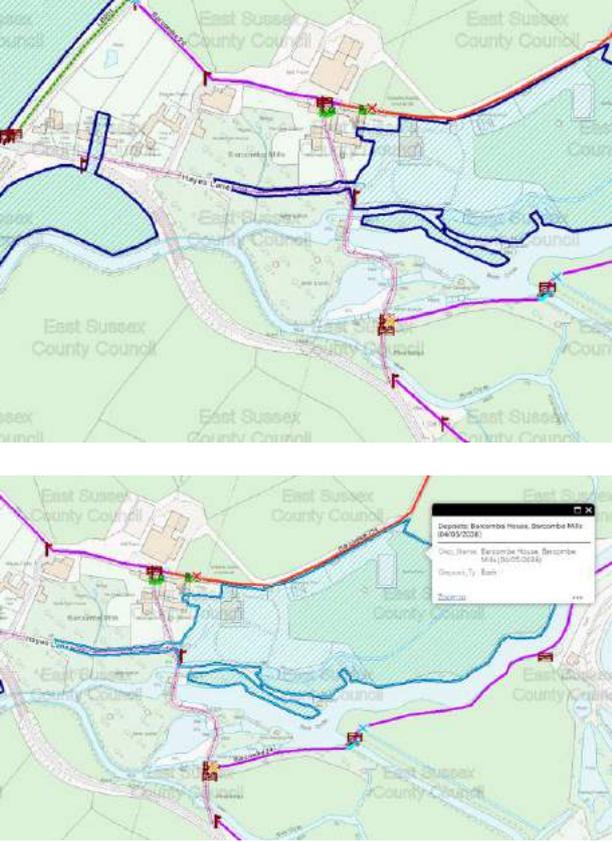


Barcombe 26 is on the Definitive Map and Statement and at this location is known as a footpath.

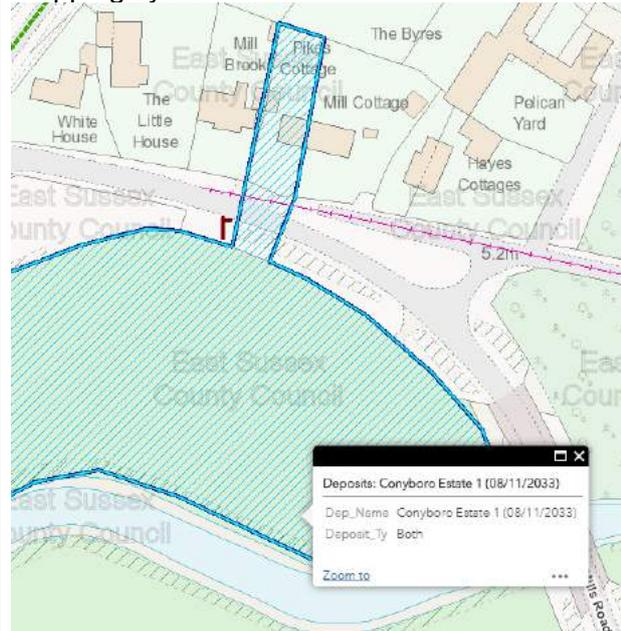
We can see from the 1946 OS map that the current course of Barcombe Mills Road to the south of Barcombe Mills village avoiding the old toll road was in existence by the time the local surveys were carried out above in the 1950s. It is possible that the western end of both existing public footpaths Ringmer 4 and Barcombe 24 when surveyed terminated on the old toll road of A-B which was thought at that time to still have public highway status and that at some time after they were added to the Definitive Map such highway status were removed.

<p>C/C 97/3 (The Keep reference) Chailey Rural District (RD) draft map</p> <p>1954</p>		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>C/C 97/14 Chailey RD Provisional map</p> <p>1957</p>		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>C/C 97/25 Chailey RD Definitive map</p> <p>1957</p>		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>C/C 97/28 Chailey RD Draft Revised map</p> <p>1960</p>		<p>See map below</p>

		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>C/C 97/34 Chailey RD Provisional Revised map</p> <p>1963</p>		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>C/C 97/40 Chailey RD Revised Definitive map</p> <p>1963</p>		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>TQ 41 SW Draft Revised maps (abandoned review)</p> <p>1971</p>		<p>See map below</p>

		 <p>None of the claimed route is shown as being a claimed public right of way.</p>
<p>Deposited Maps and Statements</p> <p>Deposited Declarations</p>		<p><u>Deposit-‘Barcombe House, Barcombe Mills’.</u> This is to protect against claims for Rights of Way and Common Land.</p> <p>Images below from the Council’s internal mapping systems:</p>  <p>Map and Statement deposited 4 May 2018 By Mr Leeson. No Declaration has yet been submitted. This Deposit falls outside of the relevant period.</p> <p><u>Deposit-‘Conyboro Estate 1’</u> This is to protect against claims for Rights of Way and Common Land.</p>

Images below from the Council's internal mapping systems:



Images below from the 2013 Deposit paperwork:



There is a document with both the Map & Statement section and the Declaration section completed.

The map indicates the estate is claiming ownership of a section of Barcombe Mills Road and B-C.

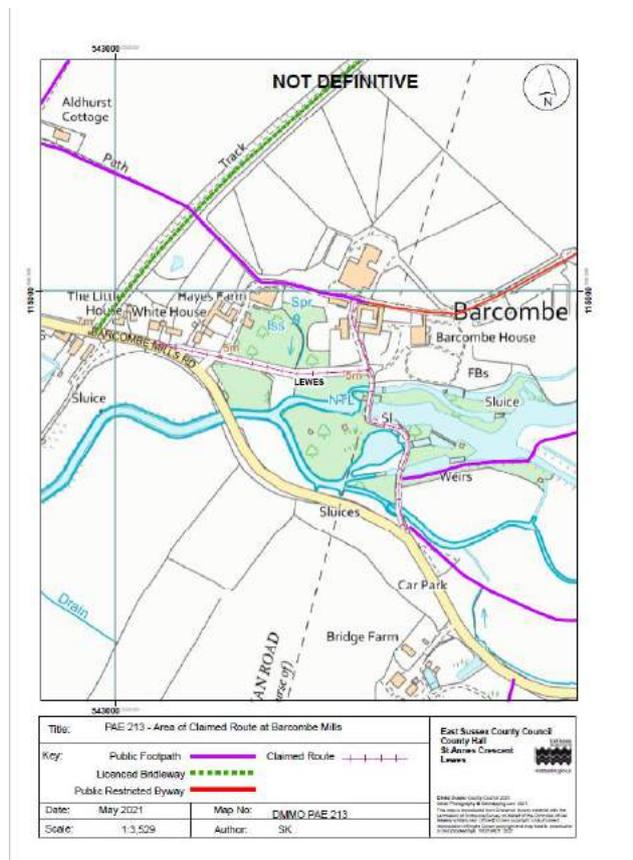
It refers to a map deposited on 1 November 2013 but this cannot be found. This paperwork was signed on 4 November 2013 by The

	<p>Conyboro 1965 Settlement c/o Strutt and Parker LLP, 201 High Street, Lewes (as authorised agents). The Council paperwork says this particular document was received by the Council on 8 November 2013 and processed by the Council on 12 November 2013.</p> <p>It is probable that this is both the Deposited map and statement, and the Declaration, but this is invalid as both have been completed on the same form, and to be valid the declaration should be submitted on a date after the map and statement have been submitted.</p> <p>As the forms mention a prior deposited map and statement of 1 November 2013 it would suggest that this is the Declaration however the map and statement of 1 November cannot be found which would make the form invalid.</p> <p>Council letters and notes mention this form is the Deposited map and statement, which if so the Declaration which is also included on the same form cannot be accepted as the Declaration which should be submitted afterwards. As no Declaration has been submitted the Deposited map and statement process and paperwork is incomplete.</p> <p>The Council understands that the land of Barcombe Mills Road and part of B-C that the Deposit may cross is owned as a Public Highway and not the Conyboro Estate.</p> <p>The map also indicates the estate is claiming ownership of Pikes Cottage (Land Registry title number ESX264666). It is possible they owned this during the relevant period but since 2019 it has been owned by a third party and is not part of the claimed route anyway.</p> <p>All previous Deposits maps by the Conyboro Estate do not cover Barcombe Mills Road and part of B-C, only this 2013 Deposit paperwork does.</p> <p>It is not totally clear from the map of the 2013 Deposited paperwork that their estate outlined in pink actually crosses the road and claimed route. The darker pink outline of the estate on the Deposited map looks like it excludes Barcombe Mills Road and the claimed route, and that the Council's internal mapping system is incorrect.</p>
--	--

The Conyboro Estate have been notified of the application with referenced to the Deposited paperwork, should there be any query over its validity or accuracy, and no response has been received.

Given the probable invalidity of the Deposited map and statement paperwork, the probability that they do not own the land of the claimed route, that the previous estate Deposits never previously affected the claimed route, and may not even cover it now, and the lack of any representation by them, the Council concludes that this Deposit has not affect and does not stop or protect against any claim of deemed dedication along the claimed route.

Definitive Map
Electronic
Copy



Definitive Map
Paper Copy



29. Historical Conclusion

29.1 The claimed route is partly shown on some of the historical maps but in places they are not clearly shown and the status cannot be determined using these maps.

29.2 The Council has not had sight of the books and publications in which it is said the claimed route is mentioned as a public way. If such descriptions do exist, while they may indicate that some believe the claimed route is for public use, they could not be used to determine status.

29.3 All of the claimed route can in parts and on various maps, though sometimes not at the same time, be depicted as some form of route or road on the OS maps. However, the status of the claimed route cannot be determined by these maps.

29.4 The Tithe maps are not clear and are inconclusive. They do not support the application.

29.5 The Quarter Sessions Index does not provide any evidence that would support the application.

29.6 The parish surveys detail the adjoining public rights of way of Ringmer 4, Barcombe 24, Barcombe 25a, and Barcombe 26, all of which today are recorded on the Council's Definitive Map. According to the surveys, Ringmer 4 starts at Pikes Bridge and Barcombe 24 ends there, however they do not connect to each other. Ringmer 4 begins just south of the bridge understood to be Pikes Bridge and Barcombe 24 ends just south of the second bridge to the north of Pikes Bridge, being a distance of about 60-64

metres apart. The only mention of the old toll road in any of these 4 path surveys is the mention of a 'road' on the survey of Barcombe 24 where it meets Pikes Bridge.

29.7 None of the maps used to prepare and update the Definitive Map from the 1950s to the 1970s support the application.

29.8 The claimed route is not recorded on the Definitive Map and Statement today and there is no record of it ever having been on it.

29.9 There is not sufficient evidence in the historical material to support the application.

SECTION C – Consultation Process

30. Consultations with User Groups and Statutory Consultees

- 30.1 On 22 March 2018 the Council consulted with several national groups, including the Ramblers Association, the British Horse Society and the Auto Cycle Union, as well as local groups including the South Downs Society and the Society of Sussex Wealdmen. The District and Parish Councils, the Environment Agency and The Crown Estate were also consulted.
- 30.2 Sarah Rayfield of the British Horse Society responded on 22 March 2018. She supported the claim and would welcome the addition of the bridleway.
- 30.3 Mr Christopher Smith of the Open Spaces Society responded on 27 March 2018. He supported the route and is himself one of the persons who completed a user evidence form provided by the Applicant. He said he regularly cycles with others along the route from point A and to the west. He claims all the route is well used and one of the best used routes in Sussex.
- 30.4 The Crown Estate responded on 5 April 2018. They did not object to the claim but wished that if the definitive map was amended to show the said bridleway that the route used the existing Pikes Bridge over the river and not over the water itself. They also requested an amended plan, assumed to be a copy of the Definitive Map for the area if it was updated.
- 30.5 The Environment Agency responded on 10 April 2018. They oppose the claim. They admit that the route from point A to the northern side of the old toll bridge TQ 4331 1489 is unregistered as according to Land Registry but that they thought they owned it up until our letter and will investigate this matter. They argue that the claimed route would change the status of the land which may have a detrimental effect on their existing relationships they have developed over time with local residents, landowners and local partners. They would not be prepared to fund any maintenance nor meet any associated costs.
- 30.6 Barcombe Parish Council responded on 11 April 2018. They support the claim. The claim was discussed at their April meeting and the Councillors felt it was appropriate that the route could continue as a right of way for horses, cycles and pedestrians.
- 30.7 David Finney of The Society of Sussex Wealdmen responded on 20 April 2018. They support the application. They have no documentary evidence. They mentioned that the stretch from where footpath Barcombe 24 meets the route (between point A and point B at TQ 4335 1478) to the western end of Hayes Lane at point C) forms part of promoted route The Sussex Ouse Valley Way (SOVW) and that he has walked that section occasionally over the last 15-20 years. He said the section where footpath Barcombe 24 meets the route (between point A and point B at TQ 4335 1478) and heads south to Barcombe Mills Road (at point A) is frequently used by walkers going to and from the car park nearby and his society's group walks have used that route periodically, most recently on 1 April 2018. He has no comment on the part between point B and point D. They think the claim will secure the SOVW route and will provide a link between Barcombe Mills Road and Byway Barcombe 25a for non-vehicular users.
- 30.8 County Councillors Jim Sheppard and Philip Daniel were consulted on 25 September 2019. On 26 September 2019 Cllr Daniel replied to say that he did not have any information to assist but generally in favour of making public rights of way available unless there were strong reasons for not doing so. On 6 May 2021, at the time when this report was being finalised, the Council held County Council elections and these Councillors above were replaced with those detailed at the end of the report.

30.9 The evidence from the Open Spaces Society, Barcombe Parish Council and the Society of Sussex Wealdmen suggests that they believe a public footpath or public bridleway already exists at the location.

31. Consultations with Landowners

Initial Response of the Landowners to the Application

31.1 On 22 March 2018 the Council wrote to landowners Mr & Mrs Leeson, Mr & Mrs Husson and by request the Ouse Angling Preservation Society (“OAPS”) with all the evidence asking for comments within 42 days (3 May), which was extended to 20 June. The EA had already been written to, at this point as a statutory consultee and adjoining landowner as it wasn’t known at this point that they considered themselves to be landowners. It was later discovered that Mr & Mrs Cornwell were landowners too, and they were written to on 4 May 2018 asking for comments by 20 June as detailed further below in 31.6.

31.2 In a letter dated 19 April 2018 solicitor Niall Blackie, on behalf of Mr Leonard Leeson of Barcombe House, responded to oppose the application.

31.3 Table 14 - Initial Response from Mr Leeson – 19 April 2018.

Numbered point/section Or Council response	Comments by Mr Leeson, 19 April 2018
	<p>We write in relation to the above application for the existence of a Bridleway, and are instructed to object to the application. We confirm that our client is the owner of land registered at the Land Registry under title numbers ESX25721 and ESX109335, both of which are affected by the application.</p> <p>Whilst our client objects to any Order being made which would see recognition of the route as a Bridleway, he asks us to confirm that he accepts that the route is well used as a footpath.</p>
	<p>Legal Test Under s53 Wildlife and Countryside Act 1981 ('the 1981 Act') the Council is obliged to make an Order where a new right of way has been created, being a right of way such that the land over which the right subsists is a public path. Under s66 of the 1981 Act 'public path' means a highway being either a footpath or a Bridleway.</p> <p>Common law provides for the evidence to show that it can be inferred that the land owner intended, at some point, to dedicate public footpath rights and the public, by using the routes, accepted that dedication. s31 of the Highways Act 1980 ('the 1980 Act') provides that where a way has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is presumed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. This provision</p>

	<p>reverses the burden of proof, but does not affect the fundamental point that there must be use of a sufficient degree in order to make an Order.</p> <p>It is important to consider whether the evidence shows that there was sufficient use by people whom the owner would have recognised as purporting to use the route ‘as of right’. It is recognised that if the use is of a period of less than 20 years, it is possible to draw an inference if the quality and depth of the evidence is apparent.</p> <p>Importantly, the route claimed here is a Bridleway; under s66(1) of the 1981 Act that includes “a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway”. Under s30(1) of the Countryside Act 1968 any member of the public has a right to ride a bicycle on any Bridleway; however, s66(3) of the 1981 Act explicitly states that the provisions of s30(1) of the 1968 Act shall not affect the definition of Bridleway in s66(1) of the 1981 Act which is to be used for the purpose of deciding whether a Bridleway has come into existence. It is submitted therefore that, whilst under the 1968 Act a bicycle can be ridden on a Bridleway, the 1981 Act means that use of a route by the public with bicycles is not relevant to any question as to whether that route has been or should be inferred to have been dedicated as a Bridleway. A Bridleway can only be dedicated where the public has enjoyed use of it on or with a horse (as defined in the legislation).</p> <p>You should therefore ignore all evidence of use by bicycle or on foot.</p>
The Council:	<p>Section 68(2)(1A)(b) of the Natural Environment and Rural Communities (NERC) Act 2006 amended section 31 of the Highways Act 1980 to say that dedication of a restricted byway is allowed by virtue of use for non-mechanically propelled vehicles, which includes use by pedal cycle, if conditions allowed for all other types of non-mechanically propelled vehicles (such as horse-drawn vehicles).</p> <p>In its requirement to fully review all evidence of use, the Council will also consider use on foot to establish if there is any evidence that a footpath has been dedicated.</p>
	<p>Enjoyed as of right and without interruption</p> <p>To be as of right the use must have been open, without force, without secrecy and without permission:</p> <ol style="list-style-type: none"> 1. Our client moved to Barcombe House in July 2005. Since then, he has challenged several people who have travelled along the route without right or permission by horse, asking them not to use it and informing them that it is a private lane; this has occurred on about 5 occasions over the last few years. Mr Leeson has spoken to horse riders when challenging their use that the lane is a private road, owned by himself, and asked them to refrain from using it in the future. 2. Our client has also erected several notices to make it clear that the route is private. The notices have included unequivocal wording to the route as a “Private Road”. The notices have been located at the start of

	<p>the lane leading up to our client's house from the Mills, and have been erected for up to 13 years; this is supported by Jane Cleaver who says that signs near Barcombe House have been there 'for years'. Some of the notices erected by our client have either been vandalised or stolen; as a result there have been periods when no notice was present because it had been stolen and before a replacement had been erected, which would explain why some of the user evidence refers to there being no signs. There may also have been periods when the notice was insufficiently clear because it had been vandalised. The signs are now on metal poles set into concrete and warn off improper use from both directions. However the fact that one user noticed the signs as being there for 'many years' is indicative that the signs were in situ for substantial periods.</p> <p>3. Gates were installed by the Environment Agency. Those gates were locked by the Environment Agency in May 2017 until October 2017. Several of the user statements refer to the gates, including Lucy Kalogerides'.</p> <p>The locking of the gates unequivocally brought into question the right of the public to use the route such that if it is relevant, the 20 year period runs back from May 2017 to May 1997.</p>
The Council:	<p>2. The Council has not seen any photographic evidence of these signs that were present in the past but have now since disappeared. It is not clear where these signs were located and where the "...start of the lane.." actually means. The western end of Hayes Lane (part of B-C) is not owned by Mr Leeson and is maintainable as a public highway.</p>
	<p>The evidence before the Council</p> <p>Although several statements have been submitted as to the use of the route, several factors cast doubt on the strength of the claim. As you know, an earlier application included various user statements, but these were not in the Council's preferred format, making it difficult to draw any conclusions as to their probative value.</p> <p>Of the 26 people who have submitted statements in respect of the current claim, only 9 have ever used the route on horseback. Of those, only 3 appear to have potentially used the route for in excess of 20 years:</p> <p>i) The applicant claims to have used it, first bi-weekly and then monthly. ii) Ms Kalogekides used it 6 times a year for a short period. This is very infrequent iii) Ms Priest says she has known the route for 20 years; however, her evidence is not at all clear as to the number of years she has actually used it, and whether on given occasions that use was on horse or bicycle. Also, the plan attached to her evidence does not correctly depict the route, because in addition to the claimed route her plan includes a road to the north of the proposed route which is shown on the definitive map as being part Restricted Byway and part Footpath; it is not therefore clear whether her evidence as to use relates to the claimed route, or the other route. The infrequency of that use (between</p>

	<p>monthly and yearly) is insufficient to establish a presumption of dedication.</p> <p>iv) Ms Simpson's evidence is unclear. She states she has used the route from 1972 to 2018, and that her use was monthly for the first 10 years, and "more latterly approx 6 times per year". It is not clear if Ms Simpson's use has been continual over the 46 year period, or whether there was a break after the first 10 years, given that her reference to 'more latterly' would need to cover a very lengthy period since 1982. Even if the use has been continual over the 46 year period, it is submitted that the frequency of use since 1982 (approximately 6 times per year) is insufficiently regular to establish a presumption of dedication.</p> <p>This level of use, even taken at face value, is minimal. In short, the best that can be said is that for most of the period, perhaps two or three horses a month were ridden on the route. An owner of the land could not reasonably be expected to have noticed such infrequent use, or to have been in a position to take steps to challenge it.</p> <p>If one takes into account the original evidence, bearing in mind the lack of complete information, and ignoring those who have made statements for both applications, there is little of consequence added to the above. Ms Bell used it 4 times a year over 2 years; Ms Cornwell claims greater use (a 13 year period, ending in 1990) but is unspecific as to how much equine use (as distinct from footpath use) was involved; Ms Windrum used it weekly for an 8 year period; there was minimal use by Dr Taylor and Ms Whiteman.</p>
<p>The Council:</p>	<p>Limitations of the Applicant's version of the user evidence forms have been discussed in part 10.3.</p> <p>The use by horse is discussed in part 41.</p>
	<p>Conclusion</p> <p>The evidence of use is scant and falls well below the threshold which must be met in order for the Council to make a draft Order modifying the map. It does not show a sufficient degree of use over a full 20 year period to bring the presumption into play at all. The evidence as to use is insufficiently clear to enable an inference of dedication to be drawn under the common law.</p> <p>Further, sufficient evidence exists to demonstrate that the landowner had no intention to dedicate the route during the relevant period, and that on the contrary he took steps to avoid any inference being drawn. The evidence of challenge and of the erection and re-erection of signs indicates that our client was conscious of some level of use, but that he took reasonable and sensible steps to ensure that users were aware that the route was not a public route. It is well established that a single act of interruption is of much more weight than many acts of user (Poole v Huskinson (1843)).</p> <p>The case of Winterburn v Bennett [2016] EWCA Civ 482 is a recent instance (albeit in the closely related field of 'village green' law) where the Court of Appeal has explained that signage and challenges do not have to be effective in practice to be effective in law. In that case signs</p>

	<p>were repeatedly taken down by members of the public. The Court approved a dictum from Patten LJ that the trial judge had held that ‘the signs [i.e. the ones in that case, which were simply expressed] were sufficient in number and location; and were clearly enough worded; so as to bring to the actual knowledge of any reasonable user of the land that their use of it was contentious. In these circumstances is the landowner to be treated as having acquiesced in that user merely because a section of the community (I am prepared to assume the minority) were prepared to take direct action to remove the signs?’ Patten LJ held that the owner’s case was right. In the Winterburn case David Richards LJ put it thus: ‘In circumstances where the owner has made his position entirely clear through the erection of clearly visible signs, the unauthorised use of the land cannot be said to be “as of right”. Protest against unauthorised use may, of course, take many forms and it may, as it has in a number of cases, take the form of writing letters of protest. But I reject the notion that it is necessary for the owner, having made his protest clear, to take further steps of confronting the wrongdoers known to him orally or in writing, still less to go to the expense and trouble of legal proceedings. The situation which has arisen in the present case is commonplace. Many millions of people in this country own property. Most people do not seek confrontation, whether orally or in writing, and in many cases they may be concerned or even frightened of doing so. Most people do not have the means to bring legal proceedings. There is a social cost to confrontation and, unless absolutely necessary, the law of property should not require confrontation in order for people to retain and defend what is theirs. The erection and maintenance of an appropriate sign is a peaceful and inexpensive means of making clear that property is private and not to be used by others. I do not see why those who choose to ignore such signs should thereby be entitled to obtain legal rights over the land.’ The same is true here. Enough has been done to make clear that the owner did not acquiesce in the use of the route.</p> <p>We would respectfully suggest that the Council should not make a draft Order. Our client should not be put to the substantial cost of objecting to the confirmation of that Order, given the lack of evidence as to user and the clear evidence as to challenge.</p>
The Council:	Mr Leeson’s actions to demonstrate his intentions not to dedicate the route are discussed in the part determining the relevant 20-year period in part 11.

31.4 In a letter dated 24 April 2018 Mr Stephen Husson and Mrs Rosalie Husson of The Barn wrote to the Council to oppose the application.

31.5 Table 15, Initial Response from Mr & Mrs Husson– 24 April 2018.

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comments by Mr & Mrs Husson, 24 April 2018</p>
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	<p>Further to our letter to Natalie McClean dated 23 February 2018 and receipt of your letter and enclosures dated 22 March 2019 we are writing as one of the landowners to restate our objection to the granting of additional bridleways within the hamlet of Barcombe Mills.</p>
	<p>During the 15 years we have lived in Barcombe Mills we have not objected to the many walkers and dog-walkers that use our private lane. We have not erected signs to say the road is private property as we do not want to deface what is otherwise a beautiful area. We have been happy to allow free access to the many dogwalkers and families that come to Barcombe Mills from Lewes and surrounding areas to enjoy the beauty-spot that is our home.</p>
The Council:	<p>Mr Husson is acquiescing to use on foot between B-D.</p>
	<p>We are convinced that this application has come about because the EA has seen fit to close the gates either side of the weir road that crosses the rivers and millstreams that enter the River Ouse at this point. These gates do not restrict pedestrian access. From the many affidavits produced it would seem that users of the various bridges and lanes in the vicinity believe that the gate closure is an attempt to prohibit their access to and enjoyment of this area. From the landowners viewpoint this is certainly not the case. We are quite happy for the status quo to continue. Closing the gates in the summer months safeguards the many visitors that come here particularly at weekends and school holidays from the vehicular traffic that use the bridges. It is not necessary for Hayes Lane to become a public right-of-way for the current alternative vehicular access arrangement to continue.</p>
	<p>However, we must draw the line on encouraging horseriders to use the bridges and the lanes of Barcombe Mills should they become designated public bridleways. The reason being that the combination of dogwalkers, families, the necessary to-ing and fro-ing of residents cars and delivery vehicles together with the addition of horseriders would be a dangerous mix. If a horse went out of control amongst children and dogs the result would be calamitous and could lead to injuries and possible litigation. We consider it grossly unfair if any liability should fall on the landowners following such events.</p>
The Council:	<p>Considerations relating to the suitability, desirability, and health & safety impact of the making and confirmation of an Order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such Order must be made and confirmed based on the relevant evidence alone.</p> <p>However, if the application is successful, we would work with landowners, local residents and users to help address any issues that might arise from the change in use of the route.</p>

	<p>The only bridleway in Barcombe Mills runs west - east past the Mill Farm Livery but goes nowhere either end. So connecting Barcombe Mills Road to this length of bridleway is pointless. The nearest bridleway is along the disused Lewes to Uckfield railway line that is accessible only from Barcombe Mills Road opposite the old railway ticket office. On talking to the Mills Farm Livery owners we are informed that the Applicant does not keep a horse at the livery and has therefore no need for access to it.</p>
	<p>It is our belief that this bridleway application has no merit and we strongly urge the Council to reject it.</p>

31.6 On 30 April 2018 Mrs Tania Cornwell telephoned the Council and spoke to Ruth China-Roberts about this claim, that she owns a section of the route and had not been notified. Stephen Kisko telephoned her back on this day and discussed the claim with her and followed it up with an email to her detailing the application process. He agreed that she was a landowner and on 4 May 2018 he wrote to her with all the evidence provided by the applicant and asked for responses by 20 June 2018.

31.7 On 18 June 2018 the Council received an email response from Mr Daniel Cornwell. He stated that he understood the claimed route was connecting on their land to Byway 25a which had previously been a RUPP but that his family had not been consulted about it. He further objected to the claim as he didn't think the link of the claimed route with Byway 25a would be beneficial as Byway 25a joined up at its other end with two footpaths. The Council replied on 21 June 2018 stating that the current classification of Byway 25a was a Restricted Byway as Barcombe 25a, and that their comments were placed in file for review. On 22 June 2018 Mrs Cornwell emailed a reply suggesting that the Restricted Byway should never have been given byway status given that the only access (to the restricted byway) (without trespass) is by footpath.

32. Initial Response of the Adjoining and Nearby Landowners to the Application (those who the Applicant also sent a Schedule 8 form to)

32.1 The applicant served Schedule 8 notification forms on 6 other local neighbouring and/or adjoining landowners as well as the landowners over which the path crossed. These neighbouring landowners were:

- Mr & Mrs Dafour of Old Mill Bungalow, Barcombe,
- Mr & Mrs Young of Hayes Farm / Farmhouse, Barcombe Mills Road, Barcombe,
- Ms Prior of The Stables, Barcombe Mills,
- the Owner/Occupier of River Lawn, Barcombe Mills
- the Owner/Occupier of The Lawn Cottage, Barcombe Mills
- the Owner/Occupier of New Mill House, Barcombe Mills

32.2 On the 3 April 2018 the Council wrote to these persons as Statutory Consultees with a copy of Schedule 7 application form and plan inviting comments about the application.

32.3 On 4 April 2018 the Council received an emailed response from Mr Young of Hayes Farmhouse

32.4 Table 16, Initial Response from Mr Young – 4 April 2018.

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comments by Mr Young, 4 April 2018</p>
	<p>I live at Hayes Farmhouse in Barcombe Mills. Whilst I am not a landowner of the proposed modification to the route to incorporate a bridle way, my property does border part of the proposed route.</p> <p>I have lived in the property for 5 years and would consider making the route a bridleway a poor decision. Since the route was tarmaced last year it sees heavy use from residents of properties on the route as well as delivery vans going to Mill Farm. To introduce horses to this route would dramatically increase the chance of serious injuries to both motorists, horses and their riders. As such I would oppose this application.</p>
<p>The Council:</p>	<p>Considerations relating to the suitability, desirability, and health & safety impact of the making and confirmation of an Order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such Order must be made and confirmed based on the relevant evidence alone.</p> <p>However, if the application is successful, we would work with landowners, local residents and users to help address any issues that might arise from the change in use of the route.</p>

32.5 On 13 April 2018 the Council received a letter from Mr Stephen Rigby (unsigned) of Riverlawn which abuts the route to oppose to the application mostly on health & safety grounds.

32.6 Table 17, Initial Response from Mr Rigby – 13 April 2018.

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comments by Mr Rigby, 13 April 2018</p>
	<p>Objection to; Application for bridleway under the Wildlife and Countryside Act 1981 – Section 53 Claimed Public Right of Way at Barcombe Mills</p>

	<p>I respond below following receipt of your letter dated 3rd April, 2018, received 7th April, 2018.</p> <p>I am a local resident who has lived at Riverlawn for almost 11 (eleven) years. The property is bordered to the South and East by Hayes Lane (the subject area of the proposed claim).</p> <p>At first glance it appears that this application establishes a public right of way for pedestrians and cyclists which it appears does not currently exist. As a result it appears numerous submissions have been made in support of this application/claim. I believe however that the right of way for pedestrians and cyclists already exists. I am therefore led to believe that the purpose of this application is to extend the existing rights of way to include a bridleway. This should be made clearer.</p> <p>It is also not clear from the copy that I have where access is being gained at the southern extremity of the map close to Pikes Bridge and does not show whether access is being sought via the car park or on to the Barcombe Mills road. Please would you kindly seek clarification and kindly respond.</p>
<p>The Council:</p>	<p>Mr Rigby believes that the public have a right to use the route on foot and by bicycle.</p> <p>The Applicant has confirmed that the claimed route begins on the southern side of Pikes Bridge where the public highway extent from Barcombe Mills Road ends.</p>
	<p>OBJECTION</p> <p>I have challenged several riders in the past on the proposed route, who themselves have been very polite and apologised as they did not know it was not a bridleway.</p> <p>I have no prejudicial views of riders and horses of any kind and was brought up with horses, but it is for good reason that they have been challenged. It is to maintain the amenity and the current rights of way for local residents and users for safety reasons, and I would be very grateful if you would give due consideration to all that are listed below.</p> <p>1/ There is little to no riding in this area and very few horse-riders are using this currently (perhaps 2 a month). Riding in this area is extremely limited and can be accessed using existing alternative routes and unless horse-riders wish to walk their horses round in circles there seems little need for this proposal except where horses are to be unloaded from the public car park to be lead off-road to the stables at Mill Farm. Any other would involve the use of the Barcombe Mills Road at some point except for Mill Farmhouse to the northeast of the hamlet which is a boundary for horse riders in that direction and is accessed via a tarmac road a few hundred metres further down. (not shown on the map).</p> <p>2/ For the purposes of this application by agreeing to it you will be imposing additional legal responsibilities and duties on the landowners, which may increase insurance and maintenance responsibilities that do not currently exist.</p>

	<p>3/ It would reasonably be assumed that by granting the rights over this land for a bridleway that is a safe place for both experienced and inexperienced riders, experienced and inexperienced horses to use and the public to also be safe in their occupation and use of this Right of Way.</p> <p>I assume that a health and safety assessment has not been carried out. In considering this proposal I would have thought that the applicant or those deciding on this proposal would benefit all parties concerned. For reasons 2/ and 3/ any agreement to this application could lead to a Delict (for a negligent breach of duty of care for any actions which inflicts loss or harm and could trigger a legal liability), created on the basis of a moral responsibility i.e. a duty of care under tort and I would strongly recommend that legal advice be taken in this regard.</p>
<p>The Council:</p>	<p>Considerations relating to the suitability, desirability, and health & safety impacts of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.</p> <p>However, if the application is successful, we would work with landowners, local residents and users to help address any issues that might arise from the change in use of the route.</p>
	<p>BACKGROUND</p> <p>It has been calculated by others that there are circa 100 vehicle movements per day down this single lane.</p> <p>Hayes Lane is an intrinsic part of what is now a private access road used only for vehicular, pedestrian and cycling access by residents and their invited visitors as well as for other services such as mail, refuse collection, deliveries including oil deliveries and emergency vehicles.</p> <p>The eastern side of the lane is used for parking cars by local residents and occasional use is made of the verges close to the very south western tip of the defined right of way, close to Hayes Farm for the same by visitors, anglers and walkers to access the Mills and local footpaths.</p> <p>In addition, children now use this newly laid tarmac lane to ride their bicycles, scooters, skateboards and rollerblading.</p> <p>The area around the 'Mills' has been frequented by visitors and day trippers for many generations. In the summer it is occupied by hundreds of day trippers from far away, who bring their families, friends and pets to spend whole days enjoying the Mills, including large sections of the river banks and the land spanning the bridges, between the sluices and weirs for their recreation which would be affected by this application (see below).</p>
<p>The Council:</p>	<p>Part of Hayes Lane (the western end of B-C) is a public highway maintainable at public expense.</p>

Mr Rigby has acknowledged use at this location by the public on foot and by bicycle as well as claiming it to be well used for recreation.

Hayes Lane (South and East)



Fig 1. Southern (left of picture) and Eastern (right of picture) elements of Hayes Lane

The Southern element of Hayes Lane

Maximum width 2.85m (suitable only for single lane traffic) extending for over 200 metres.

4/ The surface is tarmac* and has no speed restrictions. This part of the lane consists of two blind bends, one of which leads to the eastern element of Hayes Lane.

In the summer months, overhanging trees and plants (nettles and balsam) make the lanes narrower.

The Eastern element of Hayes Lane



Figs 2. and 3. Driveway with reversing cars with little visibility and narrowing to south eastern corner (blind bend) where cars further restrict the width of the lane.

5/ This part of the lane has maximum width of 2.70m (suitable only for single lane traffic) extending for circa 100 metres. The surface is tarmac*.

This also has two blind bends, no speed bumps and no speed restrictions (see images below).

Cars park on the south eastern corner of Hayes Lane narrow the lane to around 2.5m.

	<p>ROAD SAFETY ON HAYES LANE (South and East)</p> <p>6/ Along the entire proposed route, all but one of the properties enables vehicles to enter the properties in a forward direction and exit in the same forward direction. All other vehicles would need to reverse back in to the lane, making this a potential hazard as in some cases visibility is extremely limited.</p> <p>7/ I understand that if a Bridleway were to be established that horses and their riders would have priority over other traffic. Considering this, many groups of vehicles (more than one car at a time) enter and exit the private stretch of lane looking for The Anchor from April to September. They are unlikely to be familiar with countryside protocol of giving way to horses and may lead to accidents or altercations.</p> <p>8/ Large vehicle movements would be compromised many who are already unable to reverse down the lanes.</p>
	<p>EMERGENCY VEHICLES AND THE ENVIRONMENT AGENCY</p> <p>9/ As the lanes are narrow and long (see above), this could impede emergency traffic (including that of the Environment Agency) in times of potential flooding and emergency vehicles who would need to reverse considerable distances and delay critical services.</p> <p>The Environment Agency require uninterrupted access to the southern part of the lane and the Mills bridge area for the purposes of maintaining the rivers, riverbanks and land throughout the year and use tractors and trailers which restricts visibility for reversing.</p> <p>10/ The southern part of Hayes Lane has several uncovered culverts and deep ditches which are a hazard not only to reversing vehicles, but to foot traffic, cyclists and would also be for horses. As has happened before, cars get stuck in these, and if anyone or thing were to step into one of these it would almost certainly cause an injury in times of flooding they cannot be seen. Reversing a car in times of moderate flood could mean that vehicles become easily inundated with water and as has happened before cars lost to flooding.</p> <p>Other factors.</p> <p>11/ Shotgun and other gun use in the vicinity could give rise to a startled horse.</p> <p>12/ If for any reason a horse bolts or is startled there is nowhere for the horse, walkers or cyclists or drivers to go except backwards, possibly into other obstructions behind them.</p> <p>To the southern part of the lane, users would have nowhere to go as the verges are lined with stinging nettles during the summer. To the east high hedging and fencing.</p> <p>There are other areas potentially affected by the granting of this application. They are;</p>

FOR RIDERS USING THE ROAD/BRIDGES OVER THE MILLS (owned and maintained by the Environment Agency)

Whether the horses or riders are experienced or not, there are obstacles, which would need to be considered.

The Mills are a picturesque and beautiful area to visit. There is a price to pay for all of this and for the purposes of this application it must be understood that this would not be a safe environment for riders, other users, horses or other animals.

As outlined above many hundreds of visitors come to the Mills each year in their droves. The Mills roads and Mills bridges become busy and sometimes loud. It should be expected that many of these visitors have little or no understanding of the rules of the countryside.

13/ On a summers day there can be a real party atmosphere, people picnicking, barbequing, playing ball games, swimming, drinking, loud music, boating, using other inflatable craft, fishing, sticks being thrown to excitable dogs. Children and adults running around with people in bare feet and swimming costumes.

14/ With disabled access being provided by the Environment Agency from the car park, many with limited mobility are also now able to access and enjoy the Mills.

15/ Large groups of canoeists (including school groups), their canoes, paddles and offload equipment from the car park and carry them to the Mills bridges where they often block the thoroughfare on the bridges preparing for their trips throughout the week in the summer.

Groups of cyclists often restrict access over the bridges as they stop for a break.



Fig 4. Low walls on the Mills bridges

It must also be understood and appreciated that not everyone likes horses and some fear them and there are few/ no passing places.

Many pets are not accustomed to horses and will defend themselves and their owners if they feel threatened.

16/ Should a horse become lively, startled or bolt there is little escape, there are low walls, hazardous drops, symphonic and other weirs, deep bodies of water, all of which pose life threatening risk.



Fig 5 Opening at Hayes Lane entrance with a similar restriction at the southern end of the Mills bridges.

	<p>17/ The bridge gates are shut at both ends between March and October, restricting vehicular access over them purely to local residents and the Environment Agency.</p> <p>Access to the bridges over the Mills for most users is via two narrow passageways between the fences and gateposts (see also image of car park access below).</p>
	<p>FOR RIDERS USING THE CAR PARK</p> <p>18/ The car park was clearly not designed for equestrian parking. It has a single entrance and exit, has no defined parking bays and is limited in size.</p> <p>I am led to believe that the hard-standing was designed for cars and smaller vehicles. It is unclear whether this is suitable for heavier/larger traffic. It already becomes muddy, waterlogged and rutted in the winter. Large horse boxes may not have been factored into this and may lead to significant cost implications on an already over-burged local parish council.</p> <p>A height barrier was initially installed to stop high vehicles and travellers from parking in the public car park. It was removed for unknown reasons, but does not preclude this from being installed again if the need arises.</p> <p>Currently canoes are loaded and unloaded in the car park and this could present issues for all users of the car park, where both horses and canoes are being loaded or unloaded at the same time.</p> <p>The vehicles transporting horses are large and the car park was not designed for equestrian use. Indeed, The Horse Council* recommends that:-</p> <p>“Tarmac is a slippery surface for a horse.”</p> <p>“There should be more than a single entrance and exit.”</p> <p>“Trailer Lengths. The first thing to consider is the length of a truck and trailer combination. A 2- horse trailer bumper-pull with a dressing room (19 feet) has become common and so has the truck with an extended cab (20 feet). This truck and trailer combination will be 39 feet long plus 18 more feet is needed for unloading/loading thus requiring a minimum of 57 feet. So you can imagine larger trailers that carry 3 and 4 horses and maybe 6 horses will need a parking space 80 feet in length for a margin of safety.</p> <p>With a minimal turning radius it could be hard to turn and reverse in such a small area, and would restrict the amount of parking for people and could cause parking issues and/or interfere with traffic flows for others.”</p> <p>*As outlined by the Horse Council “Equestrian and Car Parking” under ~[http://www.nhhorsecouncil.org/NHHC%20Forms/Equestrian%20Parking-General.pdf]</p> <p>It is also certainly questionable as to whether there is sufficient space for unloading or saddling a horse during peak periods.</p>

FOOTPATH ACCESS TO AND FROM THE CAR PARK



Fig 6. Footpath and disabled access from the car park on to the Mills bridges.

19/ The footpath is supposed to provide access for disabled users and gates have been provided by the Environment Agency on to the Mills.

As you can see from the photograph the path from the car park to the bridges is already uneven and waterlogged and restricts use by people with disabilities. Horses will exacerbate this and likely make it completely unsuitable for disabled access throughout the year as hoof marks will remain when this path dries up or will need additional maintenance and expense.

<p>The Council:</p>	<p>This path from the old toll road to the car park is not part of the claimed route.</p>
	<p>ROAD ACCESS TO AND FROM THE CAR PARK</p> <p>20/ Visibility at the entrance of the car park off the Barcombe Mills Road is restricted.</p> <p>Access onto and off Barcombe Mills Road is on a bend and is at all times to be negotiated with caution as cars approach this area at speed and is not completely safe, even for car users.</p>

The Council:	The road access to the car park is not part of the claimed route.
	<p>FOR RIDERS ACCESSING THE MILL FARM STABLES AT BARCOMBE MILLS</p> <p>21/ As previously outlined, it is understood there is little 'riding' to be done in this area, and this application does not significantly extend any access to other bridleway areas as there are existing routes which allow for this. There are stables to the back of the hamlet at Mills Farm, which is a private equine livery which has its own access in and out from the main highway and surrounding countryside from the western side of the lane where the stable owners have access and rights from this part of the road.</p>

32.7 On 19 April 2018 the Council replied to Mr Rigby and confirmed that it had received his comments which had been placed on file for review.

32.8 On 21 April 2018 the Council received a joint email from Chris & Sian Wilkins to oppose the application.

32.9 Table 18, Initial Response from Mr & Mrs Wilkins – 21 April 2018.

Numbered point/section Or Council response	Comments by Mr & Mrs Wilkins, 21 April 2018
	we write to register our objection to the above application. We have been residents of Barcombe Mills since 1990, when we acquired Barcombe Cottage (marked near the centre of the Council map). Our reasons for objecting to the application include the following arguments:
1	The route being considered for the new bridleway comprises mostly very narrow lanes, which the residents, such as ourselves, are daily compelled to use to get to and from our homes. So narrow are these lanes that they are difficult to negotiate even in a single large 4x4 and for the most part do not allow for two cars - of any size - to pass one another so 'backing up' our vehicles to give way to oncoming traffic is a constant fact of life for us. To allow horse traffic would not only worsen the situation, but we suspect could prove stressful (and potentially injurious) to the horses themselves.
The Council:	Considerations relating to the suitability & desirability, and health & safety impacts of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981 are not

	<p>considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.</p> <p>However, if the application is successful, we would work with landowners, local residents and users to help address any issues that might arise from the change in use of the route.</p>
2	<p>The proposed new bridleway does not actually provide access to anywhere unreachable at the present time. The southern part of the route, over the river bridges and along Hayes Lane, simply leads back in a loop on to the main road, where it begins. The route to the north leads to the another private, gated road, which allows access to New Mill House. There is already a long-established bridleway along the disused railway track, starting opposite the old Barcombe Mills station buildings and leading towards Isfield. But to reach that from the proposed new bridleway would involve crossing open, privately-owned farmland.</p>
3	<p>In the 28 or so years since we have lived in the Mills, we do not recall seeing horses being ridden or led over the old bridges and along the proposed route. This has certainly not, in our experience, been a common occurrence.</p>
4	<p>With the exception of one small off-road public car park, parking space in this location is very limited. Should the addition of a new bridleway attract horse boxes, their presence would only add to our problems of access and congestion.</p>

33. Initial Response from the Applicant

33.1 On 27 June 2018 the Council wrote a letter to the applicant with all the evidence received during the first consultation with the landowners and statutory consultees and asked for comments by 25 July 2018.

33.2 On 21 July 2018 the Council received a response from the Applicant as below.

33.3 Table 19, Initial Response from the Applicant – 21 July 2018.

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comments by the Applicant, 21 July 2018</p>
	<p>Re Claimed path at Barcombe Mills, Thank you for sending me copies of the objections relating to this claim. I would reply as follows:</p>

1	<p>Environment Agency: Regarding the erection of gates to limit vehicular use, I have been informed that a number of local residents strongly objected.</p> <p>I am not claiming that any footpath should be upgraded to bridleway status. The paths that I am claiming are not shown on the Definitive Map as footpaths nor on the Highways Terrier as adopted roads.</p> <p>If the Environment Agency does not own the claimed roads then there appears to be no obligation on them to maintain them. However, as I understand it the EA is responsible for the maintenance of the bridges and the road on either side.</p> <p>The EA does not make it clear what it thinks such adverse effects might be.</p>
2	<p>FBC manby bowlder: The overall period of use stretches collectively from 1961 (walking) and from 1972 (on horseback)</p> <p>Use on foot is strong supporting evidence that these roads are much used public rights of way. S68 of the Natural Environment and Rural Communities Act 2006 indicates that bicycle use is evidence of a public right of way up to Restricted Byway status.</p> <p>None of my claimants have been challenged by Mr. Leeson. However, in 2010 fences were erected, presumably by him, alongside FP Barcombe 24 which prevented people reaching the river or having space for a picnic. This obstruction caused a large public outcry and was taken down.</p> <p>Local residents have informed me that they have no recollection of seeing "private road" notices prior to this last year when he erected a "private road no parking" sign. I have been told that Mr Leeson has objected to local residents parking their cars in Hayes Lane. If private notices were erected in 2005, there is sufficient evidence to claim 20 years' use prior to then.</p> <p>The gates were to prevent access by motorists other than the locals who were given the numbers of the padlocks. Gaps were left at the side to provide for walkers and riders as the EA recognised the route as being in use by the public.</p>
3	<p>Mark Young: The use of the claimed routes by motor vehicles is not relevant. Certainly the occasional vehicle to the adjoining houses is far less dangerous to riders than the frequent, fast moving traffic on the main road.</p>
4	<p>Tania Cornwall. Although Byway 25a dead ends to the east, the byway itself is a point of special interest with views over the river, of wildlife and the sites of the historic mills. It is a very pleasant too and fro route to add to one's ride.</p>

5	<p>Ouse Angling Preservation Society: The rights of OAP to access the route does not negate other people's rights.</p> <p>Although the routes are mostly privately owned, members of the public have been walking, riding and cycling as of right.</p> <p>OAPS admits there is considerable legitimate pedestrian use.</p> <p>It is hard to understand why cyclists should access the claimed route via the rough surfaced car park when the tarmac route extends to the main road.</p> <p>The no entry sign at the Barcombe Mills Road entrance is intended for motorists and is actually not visible to people coming from the west, and barely visible to those approaching from the east. The use or not by motorists and the danger they may be to vulnerable groups is not relevant to this claim.</p>
6	<p>Karl Parker. I agree that it is sad that some visitors to the countryside leave litter. I am sure that horse riders do not leave litter. However, such behaviour is not relevant to the claim.</p>
7	<p>Stephen Husson. His wishes are not relevant to the legal status of the claimed route.</p> <p>The unlikely event of a horse becoming out of control and therefore dangerous is not relevant. Furthermore, the claimed route is a safe haven for horse riders!</p> <p>The ridden route along the old railway is a permissive path not a public right of way. Its future use is currently threatened by plans to re-open the railway link to Uckfield.</p>
8	<p>Stephen Rigby: As far as I can ascertain, the route mostly belongs to the Environment Agency or Barcombe House, so I would question on what grounds Mr Rigby is able to challenge riders. None of the claimants have ever been challenged when using the claimed route.</p> <p>The situation at present is that the rights of way exist but they have not been put onto the Definitive map. Furthermore, he admits that a right of way for pedestrians and cyclists already exists.</p> <p>Access for horse riders would be from the adopted extent of the Barcombe Mills Road.</p> <p>An increase in owners' responsibilities is not relevant. Once the route is officially adopted as a right of way, some of the responsibilities would devolve to the highways authority.</p> <p>A concern for future health and safety implications is not relevant.</p>

	<p>I have visited the route on foot on numerous occasions and cannot recall seeing a moving vehicle there. It would be surprising that parents allowed their children to play in Hayes Lane if it were subject to 100 vehicle movements per day. However, I have been informed that the estimate of 100 vehicles a day relates to some work to be undertaken at his property temporarily.</p> <p>Single lane traffic widths are common in the surrounding countryside.</p> <p>The problems which might be faced by reversing vehicles are extremely hypothetical.</p> <p>It is extremely unlikely that people would ride a horse along the route when flooded.</p> <p>There is no authorised shoot in the immediate neighbourhood of Barcombe Mills. Elsewhere the sound of shotguns is something that horses often face and have to learn to accept.</p> <p>He admits that the area is frequented by visitors – presumably along the claimed route.</p> <p>It is hard to envisage groups of cyclists so large that other legitimate users could not pass.</p> <p>The ‘passageways’ between the fences and gateposts are wide enough for horse riders to pass through.</p> <p>I have myself spent much of my life exploring Sussex on horseback with suitable parking being an important aspect (see my book Sussex Rides). It is hard to believe that anyone would wish to bring a horse by trailer or lorry to the car park at Barcombe Mills in order to ride along local roads and the short length of claimed route. Incidentally, the Horse Council is in America and its views on trailers are not relevant to the situation in the UK.</p>
	<p>Communications of support from:</p> <p>Crown Estate. – who own the water below the tidal limit.</p> <p>Society of Sussex Wealdmen</p> <p>Barcombe parish council: referred to “route can continue to be used.....”. This implies that the parish council is aware of present use by walkers, riders, and cyclists.</p> <p>Finally, although “need” is not a legal measure for proving that a path is public, nevertheless I would like to point out the inadequate availability of bridleways in Barcombe. For comparison I have to hand bridleway surveys that have been carried out in my parish of St. John Without and the neighbouring East Chiltington. I have measured the bridleways shown in Barcombe on the Ordnance Survey map, leaving out the disused railway which is permissive and Byway 25 which according to the Definitive Map is not currently accessible to riders:</p> <p>This showed the following statistics:</p>

	<p>St. John Without Area 3.84 sq.km Population 54 Length of bridleway 4.64 km</p> <p>East Chilton Area 9.75 sq. km Population 474 Length of bridleway 17.8 km</p> <p>Barcombe Area 17.8 sq.km Population 1,473 Length of bridleway 3.6 km</p> <p>So Barcombe is much bigger, has far more people yet only a tiny length of bridleways. Elsewhere, the keeping of horses is considered a useful economic activity.</p> <p>I trust that this response to the objections is sufficient to convince you that there are public rights of access along the claimed route.</p>
The Council:	<p>The Applicant is correct that considerations relating to the suitability & desirability of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.</p>

34. Final Response Comments from Landowners.

34.1 On 22 August 2018 the Council wrote to all four landowners with the evidence provided from the applicant of 21 July 2018 and all other evidence and comments received during the first stage consultation with other landowners, adjoining landowners, statutory consultees and others, and asked for responses by 19 September 2018.

34.2 On 6 September 2018 the Council received an emailed response from Karl Parker of the OAPS (not a landowner but given all the evidence as an interested party).

34.3 Table 20, Final Response from the OAPS– 6 September 2018.

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comments by OAPS, 6 September 2018</p>
	<p>Thank you for forwarding the latest correspondence dated 22-08-18 concerning the above application to OAPS Ltd, this is much appreciated.</p> <p>Further to this and in reply to the numbered notes made by Ms M Parkers dated 21st July 2018 in response to the many objections, we offer the following additional information for your subsequent considerations: (The numbers therein referred are in direct reply to Ms Parkers as numbered comments)</p>

1	<p>EA para 3: OAPS Ltd is fully aware of the conveyance title chains granting the EA the road associated with the area, which we now understand (gained from the correspondence sent by them dated 10th April 2018) the EA are not fully aware of themselves. As the EA correctly point out, they have maintained the area for over 30 years but we note none of this area is currently registered with the Land Registry, contrary to their beliefs. We would add, our longest served bailiff, Jim Smith will testify that the EA's predecessor, the National River Authority also maintained and repaired the old toll road, (he actually helped with this maintenance on a number of occasions). I reiterate, OAPS Ltd can confirm via its extant records, combined with other publicly available records, the EA do own the old toll road, of this we are certain.</p>
2	<p>Manby Boulder Solicitors. Para 3: Firstly, I for one have witnessed Mr Leeson challenge people accessing his road (and other land) without permission on a number of occasions, I have also challenged many others myself on Mr Leeson's behalf, (at his request), as have other OAPS's bailiffs. It is up to the land owner how they lawfully manage and control the problems that arise from the general public abusing access rights to footpaths over their lands. With regard to other land owned by Mr Leeson mentioned, which is irrelevant to this claim, but as a brief explanation of OAPS's understanding: Due to the current popularity of the Barcombe Mills area many visitors are now over spilling the EA controlled land creating problems for the bordering land owners. Attempts have been made to control this behaviour which is understandably not welcomed by visitors who believe they can 'do as they wish' with little or scant regard to the owners rights and privileges. A balance needs to be struck between these conflicting interests, it is private land with a footpath running through it, not public land as many visitors mistakenly believe.</p> <p>Para 4 Re the private road signage: I have been informed by Jim Smith (OAP bailiff of the last 46 years) that he is certain East Sussex County Council installed a 'private road' sign just north of the entrance to OAPS's car park, he is not certain of the actual date this was erected but believes it was well before 1979. He also states the sign was originally placed in exactly the same location as the current one which now replaces it (the previous steadily disintegrating over time). He also states the road has always been known as a 'private road' 'for as long as he can remember', this statement supported by OAPS's title deeds with the mention of the private road dating back to before 1880. (copies can be forwarded upon request). Further to this: ESCC purchased part of the private road, from Camois Court to Hayes Farm and from Pikes Bridge to Wellingham, from Obed Corke in 1947 (ESRO ref: ACC 9062/2), it also requisitioned land at Siggs Farm (ESRO ref: C/J 2/32), for a new road bridge over the river to link the two roads, bypassing the remaining private toll road completely. This purchase did not include the road from Hayes Farm to Barcombe</p>

	<p>House, (later sold to the Barcombe House owners in 1979), or the old toll road itself from Pikes Bridge to Barcombe House, (currently owned by the EA). It is my understanding these 'private roads' were later the subject of a 'stopping up order' in the early 1950's to conclude the legal formalities of the bypass scheme, (a copy of which I have currently been unable to locate). This may account for why the 'private road' signs were originally erected by ESCC in the first instance.</p>
The Council:	Mr Leeson has not mentioned that he delegated powers to challenge users to the OAPS Ltd.
5	<p>OAPS Ltd. Para 2: It is good to note that it is admitted the route claimed is privately owned and the only right of way accepted is that of a footpath. We dispute horse riding and cycling have been 'as of right' over any of these private roads, in truth these activities have been without consent or the agreement of the owners so technically a 'trespass'. Both activities increase perceivable risk to the legitimate owners, their tenants and to footpath users. I do note however the vast majority of cyclists are courteous and considerate, dismounting prior to accessing this area for their refreshment breaks.</p> <p>Para 4: The no entry signs at both ends of the old toll road have been in place for many years during which time the foliage around them has grown up considerably, obscuring them slightly. The signs are still visible and clear for all to see when entering, although as I previously, and EA subsequently mentioned, a few chose to ignore them hence the gates being installed some years ago to control this problem. One of the signs, albeit partly truncated (a standard no entry symbol) on the western side, is shown in Mr Stephen Rigby's photo on page 5 of his 13th April 2018 objection letter, another is found at the eastern entrance which states the same. It is OAPS's understanding the gaps to the sides of these gates are to allow pedestrian, disabled mobility and pushchair users authorized access. Although from a practical view point it would be possible for a horse to pass through these restrictive gaps OAPS believe this was never intended, this type of abuse would therefore be deemed unauthorised and classified as a trespass.</p>
The Council:	<p>Para 2: A right on way on foot is being recognised.</p> <p>Para 4: It is not clear when or for how long the no entry signs existed. Pedestrian access on the old toll road is here classed as 'authorised'.</p>
6	<p>Karl Parker It is expected that dog owners clear their dogs mess up after them so surely this is also expected of other animal owners using well trodden public footpaths. Although the dung produced (in this instance) is relatively safe it is not pleasant to trample under foot or pick up on mobility scooter and pushchair wheels, which in turn is transferred to</p>

	<p>vehicles. In consideration of the current use of the area it is our opinion the practice of leaving horse manure were it falls (in this area) would be classified as a form of littering.</p>
<p>The Council:</p>	<p>Considerations relating to the environmental impact of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.</p> <p>However, if the application is successful, we would work with landowners, local residents and users to help address any issues that might arise from the change in use of the route.</p>
<p>7</p>	<p>Stephen Hussen. Para 2.</p> <p>The threat of out of control animals (also speeding cyclists) is very relevant to this claim. I quote from a ramblers association advice note: (http://www.ramblers.org.uk/advice/rights-of-way-law-in-england-and-wales/animals-and-rights-of-way.aspx) my emphasis.</p> <p>Horses and rights of way “A footpath is defined as a highway ‘over which the public has a right of way on foot only’, so horse riders are restricted to bridleways and byways. It’s not an offence for a horse to be ridden along a footpath, but it is potentially an act of trespass against the landowner. If the horse rider has permission to be there then there is no trespass, but if no permission has been given then the landowner is entitled to order the rider off the land and can also sue for any damages caused.</p> <p>Local authorities have a duty under section 122 of the Road Traffic Regulation Act 1984 ‘to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)’. Given this duty, in situations where horse riding on footpaths is causing a problem to other users, district, county, and unitary authorities should be encouraged to use their powers to make bylaws or traffic regulation orders preventing horse riders from using specific paths for safety reasons or because such use is damaging the surface of the right of way. Failure to abide by a bylaw or road traffic regulation order is a criminal offence.”</p> <p>All available evidence clearly supports the fact there is a substantial increased risk of personal injury when sharing confined spaces with large animals, not to mention the costs of repairing damage caused by an animals foot fall, (which is the responsibility of the road owners, contrary to Ms Parkers personal beliefs). The Health & Safety implications here are particularly relevant when considering the large number of dogs, many running free and protective to their owners, combined with noisy, excitable children frequenting the area and using the confined narrow roads which are the subject of this claim, either of which greatly increases the chances of spooking any large animal present with likely devastating results. The safety of visitors and legitimate users is of paramount importance, it would be wholly</p>

	irresponsible and negligent to believe otherwise. The EA and other private land owners have a clear legal 'duty of care' towards individuals accessing their land, allowing horses free reign over a footpath will only increase any deemed risk of personal injury when undertaking the required risk assessments, this is a fact not a fiction.
The Council:	<p>Considerations relating to the suitability, desirability, and health & safety impacts of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.</p> <p>However, if the application is successful, we would work with landowners, local residents and users to help address any issues that might arise from the change in use of the route.</p>
8	<p>Stephen Rigby. Para 4 & 5, in reply as above. Para 14 Ms Parker states "It is hard to believe that anyone would wish to bring a horse.....to the car park at Barcombe Mills in order to ride along local roads and the short length of the claimed route". With this in mind I would ask, for who's benefit the claimed bridleway route is being made, other than for herself and a 'few' like minded local individuals?</p>
	<p>Re: Final notes: The final notes Ms Parker makes regarding 'needs' and 'wants' are irrelevant and show clear bias towards her own personal equestrian interests to the detriment of the legitimate private land owners and public footpath users. This area cannot by any stretch of the imagination be considered suitable or safe for equestrian activities (which Ms Parker partly admits by implication). Given the spasmodic, occasional use evidenced by a 'few' known locals, who's technical trespass holds the support of this bridleway claim, these claims could and should be legitimately disregarded.</p> <p>As previously stated, a public footpath from the car park, along the old toll road, crossing over Barcombe House's private drive up to the existing byway leading to Mill Farm is accepted by OAPS to be 'as of right'.</p> <p>This concludes OAPS's further comments regarding this claim, I hope you find the above informative and of some help with your deliberations and subsequent decision. If we can be of any further assistance please do not hesitate in contacting me.</p>
The Council:	OAPS claim a public footpath exists along A-B-D.

34.4 On 11 September 2018 the Council responded to confirm that his comments had been added to the file. The Council asked what the term 'bailiff' meant in terms of the OAPS and advised that the secondary evidence from Mr Jim Smith needed to come from him directly.

34.5 On 12 September 2018 the Council received a reply from Karl of OAPS explaining that a water bailiff is a law enforcement officer responsible for the policing of bodies of water and has been for 46 years. A statement from Mr Smith will follow.

34.6 On 13 September 2018 the Council received a call from Jim Smith, a bailiff of OAPS, to give evidence following Karl Parker's evidence. He explained the term of bailiff as Karl had done, he said a sign on Hayes Lane that used to say 'private road' was there for many years before falling into disrepair and there is now a new one erected by the landowner. He said the roads in the area had always been accepted as private roads. He confirmed Pikes Bridge was the first bridge you come to when walking the claimed route from Barcombe Mills Road. He will put all his evidence in writing.

34.7 On 21 September the Council received a letter from Mr J.F. Smith dated 19 September 2018 stating he was for 50 years full time bailiff for Ouse Angling Preservation Society and employed to enforce the river by-laws.

34.8 Table 21, Response from the OAPS, Mr Jim Smith– 19 September 2018.

Numbered point/section Or Council response	Comments by OAPS, 19 September 2018
	See hand-written letter below

Dear Mr Kisco my name is Mr. Jim. Smith.
and i was for close on 50 years. i was
full time Bailiff on the Ouse at Barcombe
mills for the Ouse Angling Preservation Society
Est 1876. to look after the Fishery that
was the liver Ouse Employed as full time
Bailiff to enforce the Fishery Byelaws and
revalent Permits to fish and stop any
illegal Poaching Holding a full warrant
issued by the then East Sussex River Board
and this enabled the warrant Holder to
enter any Land except the Curtilage of a
Dwelling or a Duck Decou and had the
Same Powers as a Police Constable
i started on the Rivers in 1964 working
on the Rivers on all sorts of River work
and at the time i was in a Honary
Capacity for the Ouse Angling Preservation Society
and Held a full warrant to enforce the Law
of Fisheries Laws.

On the Subject of RWO 213 Hayes Farm Sign Post
The Sign was on a Finger Post on the
Edge of a Road section that was the
main Road and the Road was
realigned and a new Bridge over
the Ouse was put in by the County
Council to replace the Bailey Bridge

(2) over the River Ouse at Barcombe mill.
The sign Post was a Esce. sign Post
with a Black top and Painted white and
Black and stood on the Boundary
of the County Council Road and had
The letters Private Road I like many
others knew it as the Private Road
to the Property known as Barcombe
House and to my knowledge was
never a Bridle way or Path
and was used by the Parsons that
also lived at Barcombe and also
the Dustcart in the days of Chailly Rural
District Council Preceded by Lewes District Council
and also Lories delivering to Property at
Barcombe mill As the Bridges over the
mill would not take Heavy Lories
Also that Section of road from
Barcombe Car Park in Ringmer Parish
the Route through that Section of Road
to join up to the Junction of track
at mill Farm was never to my knowledge
in all my years working out at
Barcombe mill was never a Bridle
Way But Access to the Various Properties
in that Area of the mill and all the
Surrounding land was Private Property
except for a footpath down the
Steps over the old Weirfield (a) Lewes
Railway the Path footpath only came out
to Barcombe Millage known as the Crink

	<p>3) as far as I know it was never a Bridal way on the entire Route And in recent time The Owner of Barcombe has erected a new sign to say it a Private Road no Parking residents only. you can see the Road at Hays Farm that was the original road Called Barcombe Lane this lines up with a large oak and Ash tree fence the line of the old Road and the Bailey Bridge over the River Guse at Barcombe mill Barcombe Lane was made up at Barcombe mill with truck Loads of Rubble brought in by Railway Bomb rubble from the London Blitz</p> <p>JF Smith Hon Head Bailiff and Angling Preservation Society Est 1875 19 September 2018</p>
The Council:	It is thought that the private road sign referred to was in connection to Hayes Lane.

34.9 On 10 September 2018 the Council received an emailed letter from the solicitors of landowner Mr Leeson, Niall Blackie of FBC Manby Bowdler.

34.10 Table 22, Final Response from Mr Leeson–10 September 2018.

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comments by Mr Leeson, 10 September 2018</p>
	<p>We have reviewed the latest representations from Mary Parker, submitted on 21 July 2018.</p> <p>There is little in Ms Parker's comments which actually relates to the evidence of use. Ms Parker says that there is sufficient evidence to claim 20 years' use prior to 2005. Whilst she is not specific as to which use she refers to, in terms of the claimed use on horseback, her comments are disputed given that only 9 of the users who submitted statements in support of her application have ever used the route on horseback and of those only 3 appear to have potentially used the route for in excess of 20 years. Aside from Ms Priest and Ms Simpson (and their evidence is unclear), none of the others have used the route for in</p>

	<p>excess of 20 years. Ms Kalogerides has only used the route on horseback from 2009. It is submitted that insufficient evidence exists to claim 20 years' use on horseback prior to 2005.</p> <p>Ms Parker's statement that "none of the claimants have ever been challenged when using the claimed route" has to be set against the comments by our client as to the challenges made to several people who have used the route on horseback since 2005.</p> <p>The comment that "the rights of way exist but they have not been put onto the Definitive map" is logically unsound; it presupposes the outcome of the current process and adds nothing to the application.</p> <p>Mr Rigby's comments dated 13 April 2018 as to the lack of use of the claimed route by horse riders (he says "there is little to no riding in this area and very few horse-riders are using this currently (perhaps 2 a month)" is a useful indication of the actual levels of use of the claimed route by horse riders, from a local resident who has lived close to the claimed route for 11 years. Mr Rigby's estimations support our estimate of the level of use of the claimed route by horse riders, as set out in our letter dated 19 April 2018. In fact our client has not seen a horse rider using the claimed route for several months.</p>
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35. Final Response Comments from the Applicant.

35.1 On 2 October 2018 the Council wrote to the applicant with all the replies from the latest stage of the consultation process asking for final comments by 30 October 2018.

35.2 On 26 October 2018 the Council received the final comments from the Applicant. As various names and terms have been used by all parties to describe places associated with this claim, the Council emailed a copy of the report plan with points A-D and other used place names and asked the applicant to confirm her terms for these places, upon which the Council received a reply, which assists this report. The Applicant response is summarised as follows.

35.3 Table X, Final Response from the Applicant–26 October 2018.

Numbered point/section Or Council response	Comments by the Applicant, 26 October 2018
	With respect to the objections, I would reply as follows
1	<p>Jim Smith's objection</p> <p>Regarding sign post on the main road when it was re-aligned after the bailey bridge was replaced: This would have been in the early 1970's. This is before the period of time on which usage is being claimed.</p>

	<p>He refers to the road leading to Barcombe House as being used by the people living at Barcombe. People living at Barcombe would not necessarily have any special permission to go to Barcombe Mills so they must have done so as of right.</p> <p>The sign at the junction of the Old Toll Road and the main Barcombe Mills Road relates to unauthorised vehicles.</p> <p>The fact that the track leading to Mill Farm was not known to him as a bridleway was probably because it had not been signposted. In the past it was not unusual for rights of way to be not signed. In 1985 I was employed part time by the Countryside Research Unit at Brighton Polytechnical College to carry out a survey of bridleways in East Sussex. I still have a copy of the results which show that I inspected 7 bridleways in the parish of Barcombe and found 4 waysigns were missing at the junctions with roads. Although the route being claimed now as a right of way was not put on the Definitive Map, it should be understood that this was an error because if it was not a public path, how else would horse riders and drivers have reached the then RUPP 25 which was put on the Definitive Map.</p>
2	<p>OAPS objection I notice that the file's name is "redacted" Why is this?</p> <p>The fact that the land is not registered with the Land Registry is likely to be due to past incompetence on the part of staff of the relevant authorities. It is a situation that I have encountered at a past Public Inquiry relating to a right of way diversion and an exchange of highway land. However OAPS admits that the EA does own the old toll road which is excellent news as the EA does not object to the current claim.</p> <p>Reference to Mr Leeson challenging people. I have since been able to contact a number of the claimants to make sure that they had never been challenged and none has ever been challenged or known anyone who had been challenged. However, a friend of mine, who moved a few years ago to Barcombe, was shouted at and shot at when she was on the definitive footpath Barcombe 24 alongside the river. Another person was stopped by someone calling himself a water bailiff from launching his kayak from the definitive path alongside the river even though the Ouse River Navigation Act 1790 gives him the right to do so as the Act has never been rescinded.</p> <p>Several claimants reminded me that a few years ago Mr Leeson fenced alongside footpath 24 so that people could not reach the river and it would appear that this caused such a public outcry that he had to remove the fencing.</p> <p>The vague reference to people "doing as they wish" needs to be explained in detail. To which path does he refer? The claimed one or an existing one? It is not illegal for people using a right of way to stop for refreshment.</p> <p>Regarding the private road sign just north of OAPS entrance, it does not look to me like an official ESCC sign. Sometimes there are private road signs at the entrances to roads that serve houses and are not open to motor traffic but are, nevertheless, open to walkers and riders</p>

	<p>e.g. Westmeston 5 where a sign at the roadside says "Private road No Parking Residents only".</p> <p>I searched for a stopping up order - nothing was found so it was probably never done.</p> <p>Regarding horse riding and cycling along the claimed routes. All the claimants who have ridden the route without consent or agreement did so as of right, therefore it was not trespass. I have not discovered any evidence of any accident or damage occurring as a result of a horse being ridden along the claimed route.</p> <p>Signage. Again these signs are intended for motor vehicles.</p> <p>The gates erected last year were intended to stop unauthorised vehicles. Gaps alongside the gates were wide enough for equestrian use and there was no indication that they were otherwise restrictive.</p> <p>Regarding mess. I am not sure what other animals are taken along footpaths. Horse dung, along with cow or sheep dung, is a normal part of walking in the countryside along bridleways. This statement seems to suggest that OAPS presumes that the claimed route is at least a footpath.</p> <p>'ramblers association' advice note (Presumably The Ramblers). Trespass does not occur when the rider believes the path to be a bridleway as is the case at Barcombe Mills. There is no bylaw nor road traffic regulation order at Barcombe Mills.</p> <p>It is arguable that the claimed route is a confined space. The surface is tarmac which is a normal highway surface and withstands horses' footfall. Whose are these dogs running free? Trespassers or legitimate users. If they are protective of their owners they would be a greater risk to other people than horses under the control of their riders. Again, are the noisy, excitable children trespassers? Imagined dangers of this kind are not relevant to a right of way claim.</p> <p>The claim is certainly not for myself as, being of advanced years, I have had to give up horse riding and only walk with difficulty. I simply wish to ensure that future generations can also enjoy that which I have enjoyed.</p>
The Council:	The Applicant was advised that the Council redacts certain contact details (eg email addresses, telephone numbers) and signatures as standard.
3	<p>Niall Blackie of FBC Manby Bowdler objections. While use by horse riders is limited there is sufficient use by cyclists, according to the Natural Environment and Rural Communities Act 2006, to claim this route .</p> <p>I have been endeavouring to contact the claimants to ascertain if they have ever been challenged and so far none of them have.</p>

	<p>The whole point of the process by which people can claim rights of way rests on the fact that when the Definitive Map was created many paths were wrongly or not at all recorded.</p> <p>On the occasions when I have visited the route, I have seen the occasional rider and also hoof prints and dung.</p> <p>The Ramblers advice note is mainly about dangerous wild animals and domestic animals known to be dangerous being allowed to roam in fields with public rights of way across them. It also refers to racehorses being exercised along bridleways. None of this is relevant.</p> <p>I trust the above will establish that the claimed routes at Barcombe Mills should be recorded on the Definitive Map as a right of way. Although the original claim was for a bridleway, it may be more suitable to claim the route as a restricted byway.</p>
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36. Applicant's Request to the Planning Inspectorate for a Direction

- 36.1 On 23 May 2019 the Applicant emailed the Council to advise that she had applied to the Planning Inspectorate for a Direction of the Council to determine the application.
- 36.2 On 22 May 2019 the Planning Inspectorate advised the Council that the Applicant had made the Direction to the Planning Inspectorate.
- 36.3 On 20 September 2019 the Planning Inspectorate confirmed to the Council that they should determine the application within 12 months of this date, ie by 20 September 2020.
- 36.4 Unfortunately, as a result of Covid-19 having an impact on Council processes and other work pressures, this deadline was not able to be met.

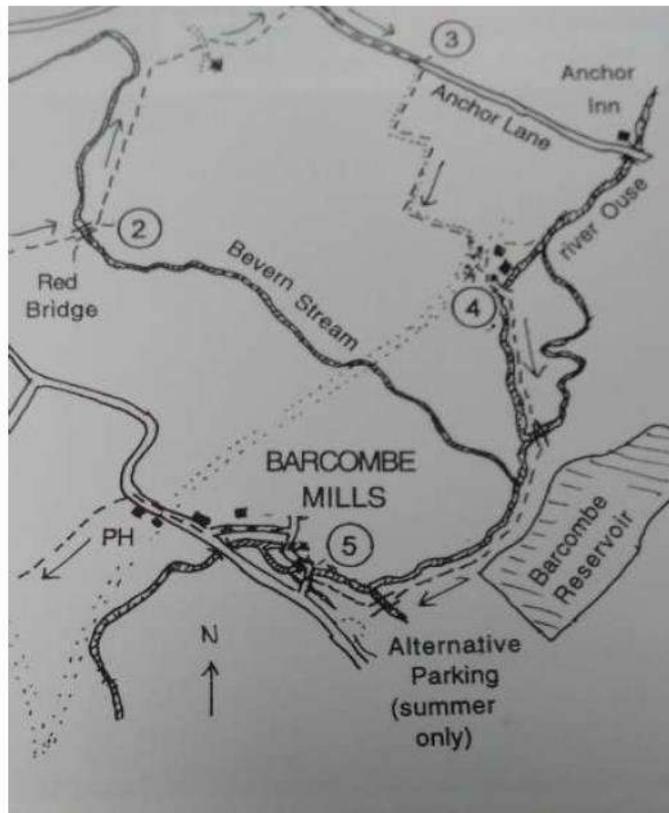
37. Further representations

- 37.1 Table 24, Representations from Open Spaces Society (OSS) made by Chris Smith – 24 June 2020

Numbered point/section Or Council response	Comment by OSS, 24 June 2020
	FURTHER EVIDENCE FROM WALKING GUIDES, BARCOMBE MILLS BRIDLEWAY RWO 213 24/6/20
	During the Coronavirus lockdown I have had occasion to examine my collection of walks guides covering routes near Lewes. I have also searched on the internet for walks in the same area. As part of this

	<p>research I have found a number of routes in the material that cover the application routes.</p> <p>As these are walking guides they offer no evidence either way of use by cyclists, equestrians or powered vehicles. However I have submitted my own evidence of use on a bicycle. They rarely mention the northern fork of the claimed routes. This may be because walkers would normally prefer to use the riverside path to the Anchor pub rather than the inland</p> <p>Except where noted the guide authors do not claim that the routes they describe are rights of way. However as a walks guide writer myself I am aware that authors would not include in a guide a route where it was necessary to ask for individual permission, or where a walker might be turned back or find an obstruction. I would expect a comment if the route were, for example, closed on one day a year. Nor is there any mention anywhere of “permissive path” or similar signs, which a guide writer might mention.</p> <p>On the basis that people would probably have used the guides, the provision of a guide is also some evidence of use, although of course it is not possible to say how many people used the routes and when.</p> <p>People may enter or exit the claimed routes at the following points</p> <ol style="list-style-type: none"> 1) From the west on Barcombe Mills Road. 2) At the junction of footpath 26/byway 25a to the north 3) At the junction with Barcombe footpath 24 4) At or near the junction with Ringmer footpath 4 (including Barcombe Mills Road to the East or the car park.) <p>I have described the route used by each entry.</p>
The Council:	As Mr Smith has pointed out, these references to the claimed route in these guide books and elsewhere on the internet do not convey any status of the routes, nor give any indication as to if the public used them, and if so by how many and what route they used.
	<p>Walks around the East Sussex Countryside, by ESCC published 2003-2006, no ISBN. Uses 1-3. For map and extract see below- internet.</p>
	<p>Village Walks in East Sussex by Ben Perkins 1998 ISBN 1 85306 505 6 Uses 3-1 Extracts:</p>

⑤ At a lane, turn right over an ivy covered bridge. Follow this lane as it winds between mill ponds and sluices and past the old toll house where a list of the charges imposed until as recently as 1939 is displayed. At a junction, turn left and follow the lane out to join a road. Bear right along the road past the old Barcombe Mills station, now a restaurant, and the Angler's Rest. About 100 yards past the pub, go left over a stile where you have a choice of signed paths. Follow the lower, left-hand edge of two fields with stiles between them. A lavishly waymarked path then crosses three more small fields. Go over the old railway and ahead across a field where a path should be defined through any growing crop. In the next field veer half-right aiming just to the right of a house with red tile-hung walls. An enclosed path passes to the right of this house and out via the drive from the house

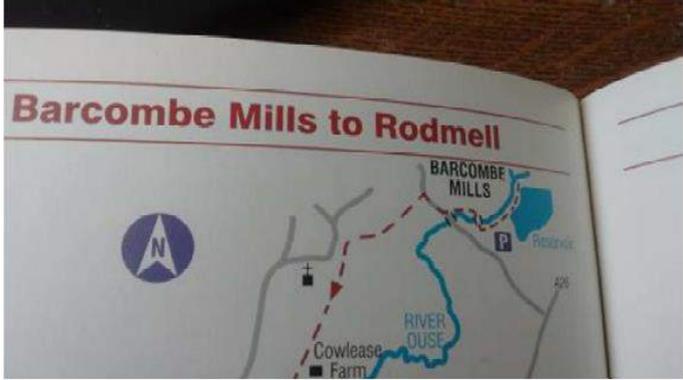


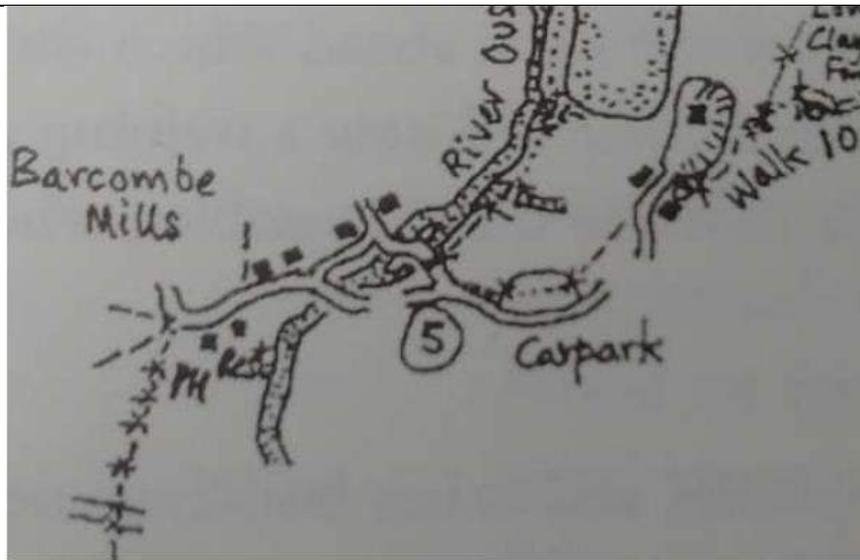
The Council:

The Council does not have access to nor seen the original of this book.

The highlighted words describe part of A-B and then B-C.

It is known that Ben Perkins was a member of the Ramblers in Sussex for many years and wrote many books about routes to walk within

	Sussex. His walking books are also mentioned by the Applicant and user 24; Alan Lehmann.
	<p>The Sussex Ouse Valley Way by Owen and Anderson 2005 ISBN 0-954964-0-X. Uses 3-1 Extracts:</p>  <p>Immediately turn right to continue walk along east bank of river. Upon reaching gate, continue ahead on path between two arms of the river. After 50m cross wooden footbridge over river with raised banks of Barcombe Reservoir ahead. Turn right and follow river bank passing the point where the two arms of the river join as one again. Upon reaching reservoir building on left go through gate and continue along river bank in meadow. At another footbridge cross side tributary with pill box on left. Turn right and continue to enter wooded area passing old lock now converted to fish ladders on right and with old Pikes Bridge ahead. Cross stile to left of bridge and turn right on to lane to continue.</p> <p>Crossing Pikes Bridge follow lane as it bears left and right over other bridges passing several water courses and ponds. When lane reaches houses and entrance to Barcombe House on right, turn left at cross lanes to reach public road. Turn right and pass old Barcombe Mills railway station on left.</p>
The Council:	The Council does not have access to nor seen the original of this book. The highlighted words describe part of A-B and then B-C.
	Ten Walks from Lewes by Lewes Footpath Group 1999. No ISBN Uses 1-4

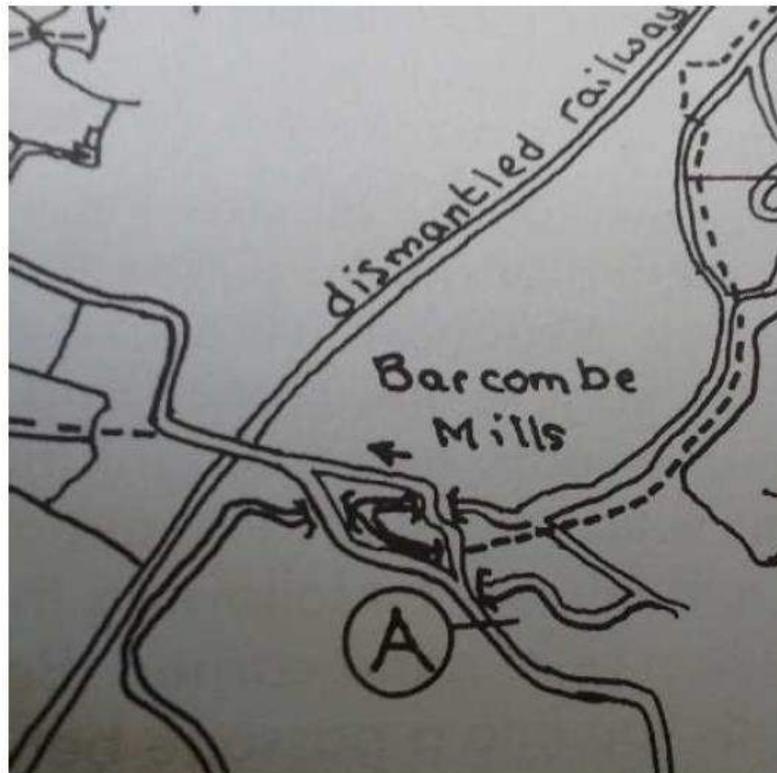


As the road bears right, follow a path on the left into the old road, and turn right at the end over a series of bridges over the river Ouse. This is the highest point on the river where it is tidal and the original toll-gate was built in 1066 – the first point at which tolls were levied in Sussex (although to judge by the price list on the wall pedestrians passed over free). It also seems to be the point where Roman roads from the north and west (see walk 9, paragraph 5, page 42) met and crossed the river on their way to Lewes. Flour mills were noted here in the Domesday Book.

You may now take a shorter alternative walk 10a which is now described.

Carry on over the last bridge and take the path immediately to the left into a car park. Pass round the car park and take a waymarked path at a stile in the eastern corner. Follow across a field to a Dutch barn to join the access road to the water works for 100 yards. Follow

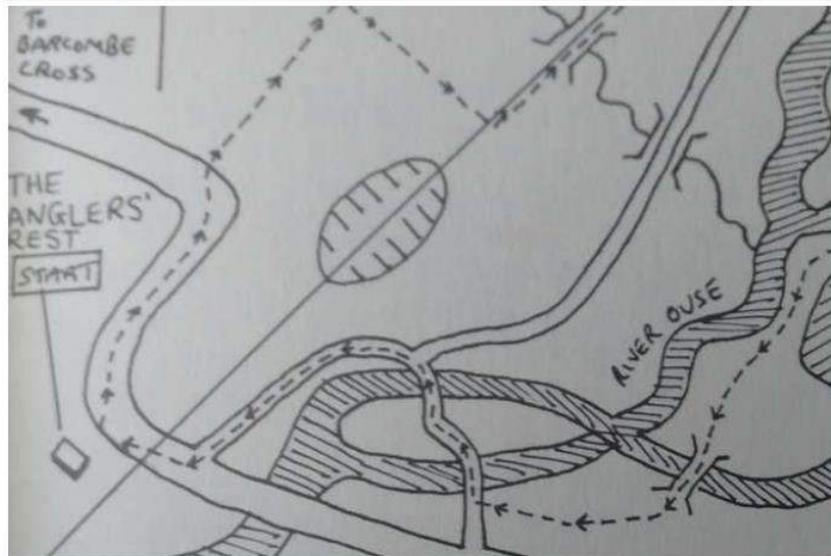
The Council:	The Council does not have access to nor seen the original of this book. The highlighted words describe C-B and then most of B-A.
	Walks to Interesting Places Heathfield Group of the Ramblers 1996. ISBN 0-900613-99-8. Uses1-3 Extracts:



A. With your back to the road go to the far left-hand corner of the car park and walk along the path there to a drive. Turn right, passing Barcombe Mills Pool and a series of weirs. The bridge you pass is on a site of historic interest as you will see from the plaque affixed to it. At the junction turn left and keep straight on until you reach a road. Bear right past the old Barcombe Mills Station (now a restaurant) to a stile a little further on on the left. Cross the field to the stile ahead (not the one in the bottom left-hand corner). Follow the fence along, with good views of the Downs to your left, and cross the stile at the end through to the road.

B. Turn left and about 100m after crossing the bridge over the dismantled railway line, turn right over a stile. Cross the field bearing slightly right to a stile by a large oak. Bear hard left across the next. In the field after that turn right along the edge to the corner and continue along the next side

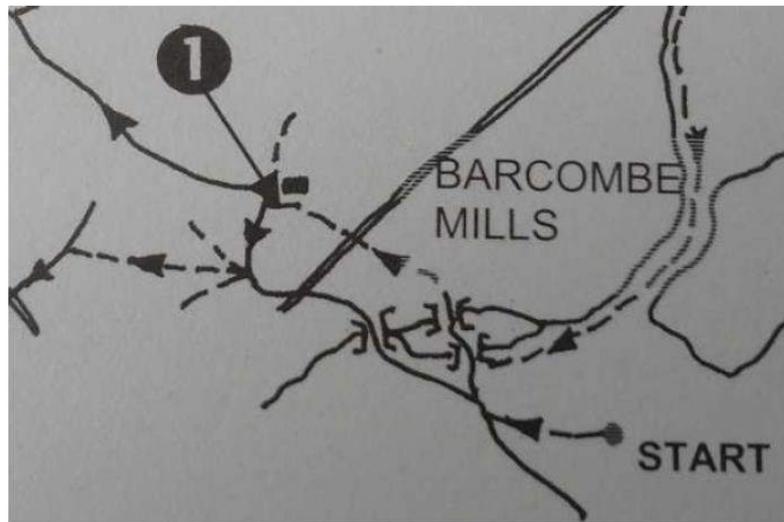
The Council:	The Council does not have access to nor seen the original of this book. The highlighted describe part of A-B and then B-C.
	Short Walks from East Sussex pubs Rupert Taylor 1995 ISBN 1-85306-364-9 Uses 3-1 Extracts:



Shortly the surround of Barcombe reservoir will come into view – the expanse of water shielded behind a tall grassy bank. The path runs between reservoir and river before you branch to the right and cross another long bridge toward a solid track and the entrance to the site of the old mills. This is a place of excitement: bridges, weirs and rushing water among great old trees. In late Victorian times this was a popular Sunday destination for Lewes folk, who travelled the short distance on the railway and enjoyed picnics here. **Turn right when you join**

the track and follow it to a squat little building which was once the toll house. It was the first place in Sussex where road tolls were levied and was around at the time of the Norman Conquest. But it seems to be in the middle of nowhere – and that's where the Roman road comes in. **Follow the track off to the left until it joins Barcombe Mills Road** and turn right, past Barcombe Mills station (now a café and restaurant) to the Anglers' Rest beside it.

The Council:	The Council does not have access to nor seen the original of this book. The highlighted words describe part of A-B and then B-C.
	Walks in the Uckfield Area Dawn and Mick Harker first printed 1995, revised and reprinted 2004. ISBN 0-9518505-7-1 Uses 4-2 Extracts:



There is a grass car park at Pikes Bridge for use in summer but limited parking on the road. Leave the car park by the footpath in the far left hand corner (under the large oak tree), **turn right onto the track and continue over the bridge and past the site of the old Toll Booth.** **At the junction carry straight on turning left on reaching the barn ahead.** On the left-hand bend (opposite a lamp post), turn right and continue across a field, the old railway track and a second field to reach the road. POINT 1

The Council:

The Council does not have access to nor seen the original of this book.
The highlighted words describe part of A-B and then B-D.

INTERNET

I have also searched the internet and found the following walks.
Walks around the East Sussex Countryside An online version of the printed ESCC guide above at
<https://eastsussexgovuk.blob.core.windows.net/media/1251/barcombe.pdf>
Uses 3-1 Excerpts as follows:



	<p>4) Turn immediately right after the bridge and follow the riverside footpath to Barcombe Mills. Turn right onto the road, crossing the bridge and follow the road passing the old toll house and site of the old toll bridge.</p> <p>5) Continue to follow the road to join the main road. Turn right to follow past the old Barcombe Mills station on your left, to find the next footpath sign on the left. Of the three footpaths at this point, follow the left hand one along the field edge to the stile in the field corner. Continue, crossing two footbridges and the route of the old railway,</p>
	<p>Sussex Living https://east.sussexliving.com/barcombe-mills-walk/ Uses 4-2 no map, but description as follows:</p> <p>This walk is a good stomp, feeling at times like a long yomp, but it's pan flat and well worth the effort. From the Barcombe Mills car park, walk west under the giant oak towards the narrow road. Follow the road over Pikes Bridge and the Andrews Stream, past the fish ladder, around the weir pool and then across the old toll bridge. Wander down the drive opposite the old toll bridge, turning left at the T-junction. Follow the concrete roadway until the path bears right by the silo.</p> <p>Across the far side of the field, take the steps down to, and across the track-bed of the old railway line. Look left and the old station is in the distance. It closed in 1969 as part of Uckfield to Lewes line. Up the other side and through a narrow gap, keep the hedge on the right and follow the path all the way to the road.</p>
The Council:	<p>The webpage link could not be reached.</p> <p>The words include a description of part of A-B and then B-D.</p>
	<p>Viewranger https://my.viewranger.com/route/details/MjNfNDMzNQ== very badly plotted, but appears to use 3-2</p>
The Council:	<p>The webpage link could not be reached.</p>
	<p>My favourite pub walks myfavouritepubwalks.co.uk/shopping/pubwalk/LS_Anchor-Inn_Barcombe_345.doc Uses 2-3. No map. Excerpt below.</p>

	<ol style="list-style-type: none"> 1. From the Anchor Inn car park, go through the kissing gate in the right hand corner and follow the river edge on the <i>Sussex Ouse Valley Way</i>. Note the sign saying keep dogs on leads here due to ground nesting birds. 2. Continue along the path until you come to a clearing with farm buildings. Keep straight ahead onto the tarmac farm track which follows the right hand bank of the River Ouse. 3. Just keep to this track as it weaves its way between tree and hedge-lined fields in the Ouse flood plain. As you reach the buildings of Barcombe Mills, go past the green gate and follow the track as it turns left between the houses (one of the houses has free range chicken and duck eggs for sale outside with an honesty box). 4. At the cross roads go straight ahead and follow the tarmac road as it crosses a series of bridges over branches of the Ouse where a series of weirs can be seen. Look out for the footpath sign on the left indicating the next stretch of the <i>Sussex Ouse Valley Way</i>. 5. Cross the footbridge and continue with the main river on your left. Through a kissing gate and past the pumping station and over another bridge. After a short stretch walking between two branches of the river, you pass through another kissing gate and out into open pasture again. 6. Now head back towards the farm buildings, following the edge of the river. 7. Cross over the bridge and turn right to rejoin the path and clearing from earlier on the walk. From the footpath sign in the clearing, take the blue route on the <i>Sussex Ouse Valley Way</i> which is also marked by a black and yellow arrow which becomes visible on your left as you enter the trees 8. Now just follow this path back to the welcome of Anchor Inn and enjoy some freshly prepared home-made food. 9. If the weather is fine you may wish to top off the day by hiring one of the pubs rowing boats and exploring further up the river.
The Council:	<p>The webpage link resulted in a Word document being downloaded which included the words above but the author is unknown. It appears to come from this website; http://myfavouritepubwalks.co.uk/shopping/</p> <p>The highlighted words describe D-B and then part of B-A.</p>
	<p>Alltrails https://www.alltrails.com/explore/trail/england/eastsussex/barcombe-cross-and-barcombe-mills This is a copy of the ESCC walk. Here is an excerpt from the introduction” Uses 1-3.</p> <p>A circular walk from the village of Barcombe Cross in East Sussex. The route is across fields and along quiet country lanes, following the River Ouse to Barcombe Mills and visiting the three villages of Barcombe. This walk is one of a collection published through a collaboration with East Sussex County Council.</p> <p>However the material is of interest because people who have walked the route have added their comments. They are reproduced below. (accessed 25/6/20)</p> <p>The comments are out of the relevant period but suggest that there is no issue with the route on the ground to the present day.</p>

Matt de B



hiking

3 days ago

Really nice walk, well signposted with easy to follow directions... we did it on a sunny June evening with our dog, and the countryside is beautiful and varied throughout, especially the walk along the river. Easy terrain so would be suitable for most abilities & a few stiles which are easy to navigate. Parked in the high street car park next to the village stores as suggested on here.

Hannah May recorded Barcombe Cross an...



hiking

1 month ago

Really lovely walk! Definitely dog friendly. I would say there were only around 4/5 stiles that our lab couldn't navigate himself so just be mindful of that if you've got a big dog. Managed the walk in around 2 and a half hours at 8 months pregnant without too much issue, but definitely worked up an appetite for lunch by the end. Some interesting things to see along the way, beautiful flowers, world war 2 pill box, a 5* bug hotel and lovely river side spots for a picnic (we'll definitely do that next time). Instructions were super clear to us. Would definitely recommend. Disclaimer - my phone ran out of battery and therefore the recording of our walk cut out 8km in. We didn't cheat and cut the walk short

Ghandi E C recorded Recording - Apr 07, 09...



running

2 months ago

Good run although not straightforward the first time you do it.

Cathy Dart



hiking

11 months ago

We have now navigated this walk twice. First time made a couple of wrong turnings but second time surprised ourselves with how smooth the walk was. If you like wild water swimming, bring your swimming costume. Pip the dog loved it both times.

Maria Allgood recorded **Recording - May 29...**



hiking

May 2019

Lovely walk in the Sussex countryside. Beautiful views of the South Downs as well as following the River Ouse through fields and villages. I would recommend this dog friendly walk. There is free parking next to the Village shop in Barcombe Cross. The directions are clear and accurate. Really enjoyed this walk.

Ann Davies recorded **Barcombe Cross and ...**



hiking

6 days ago

Emma Barry recorded **Barcombe Cross an...**



hiking

1 month ago

Glen Bishop recorded **Recording - May 14, ...**



hiking

1 month ago

Emma Barry recorded **Barcombe Cross an...**



hiking

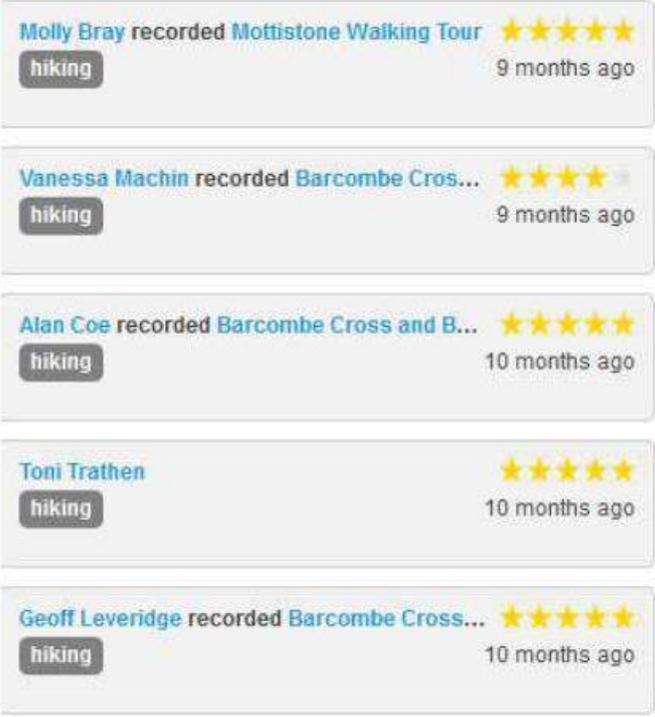
2 months ago

Sarah Germaney



hiking

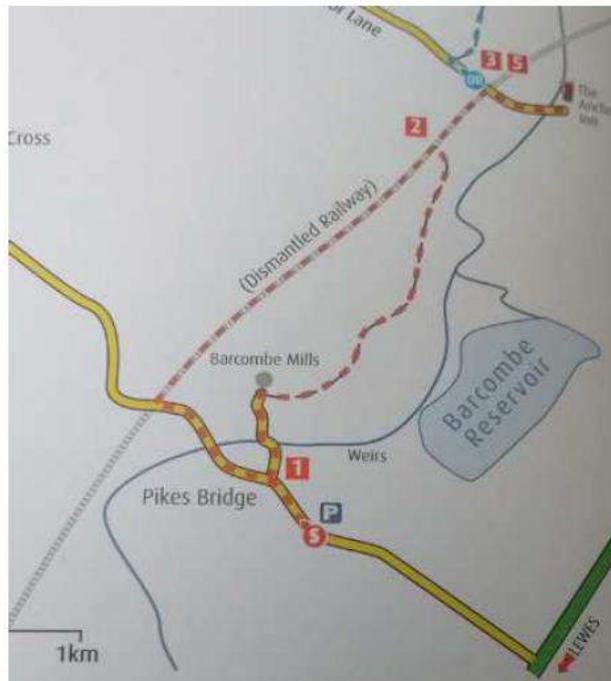
2 months ago

	 <p>Molly Bray recorded Mottistone Walking Tour ★★★★★ hiking 9 months ago</p> <p>Vanessa Machin recorded Barcombe Cros... ★★★★★ hiking 9 months ago</p> <p>Alan Coe recorded Barcombe Cross and B... ★★★★★ hiking 10 months ago</p> <p>Toni Trathen ★★★★★ hiking 10 months ago</p> <p>Geoff Leveridge recorded Barcombe Cross... ★★★★★ hiking 10 months ago</p>
The Council:	<p>The webpage link could not be reached.</p> <p>While the introduction mentions Barcombe Mills, it is not clear that the claimed route is the route being used.</p>

37.2 Table 25, Representations from Open Spaces Society (OSS) made by Chris Smith – 25 June 2020

<p>Numbered point/section</p> <p>Or Council response</p>	<p>Comment by OSS, 25 June 2020</p>
	<p>EVIDENCE FROM CYCLING GUIDES, BARCOMBE MILLS BRIDLEWAY RWO 213 25/6/20</p>
	<p>Further to my collection of evidence from walking guides, I subsequently examined my cycle ride guides. I found further evidence of use.</p> <p>There are fewer cycling guides than there are walking guides. This may be because there are fewer cyclists and may also be because only a small proportion of cyclists are touring cyclists.</p> <p>As these are cycling guides they offer evidence of use as a bridleway.</p>

	<p>So far as I am aware there has only been one similar guide to equestrian routes in Sussex and this is now out of print. So the absence of mentions in such guides below should not be taken to mean that there is no equestrian use.</p> <p>Except where noted the guide authors do not claim that the routes they describe are rights of way. However as a guide writer myself I am aware that authors would not include in a guide a route where it was necessary to ask for individual permission, or where someone might be turned back or find an obstruction. I would expect a comment if the route were, for example, closed on one day a year. Nor is there any mention anywhere of “permissive route” or similar signs, which a guide writer might mention.</p> <p>On the basis that people would probably have used the guides, the provision of a guide is also some evidence of use, although of course it is not possible to say how many people used the routes and when.</p> <p>People may enter or exit the claimed routes at the following points</p> <ol style="list-style-type: none"> 1) From the west on Barcombe Mills Road. 2) At the junction of footpath 26/byway 25a to the north 3) (Footpath only) 4) At or near the junction with Ringmer footpath 4 (including Barcombe Mills Road to the East or the car park.) <p>I have described the route used by each entry.</p>
<p>The Council:</p>	<p>As Mr Smith has pointed out, these references to the claimed route in these guide books and elsewhere on the internet do not convey any status of the routes, nor give any indication as to if the public used them, and if so by how many and what route they used.</p>
	<p>Cycling In Sussex, a guide at easy leisure cyclists including those with Children by Huston and Bullivant. Published 2008 ISBN 978-1-906148-07-2 uses 4-2 Extracts:</p>



Starting point: Driving from Barcombe Cross, sweep painlessly down the hill in your car and cross the bridge. There's a car park on the left, just after the Environment Agency sign at the entrance to Barcombe Mills. Alternatively, if you're driving from Lewes/Uckfield on the A26, turn off near Clayhill Nurseries towards Barcombe Mills. The car park is on your right before the bridge.

Alternative Starting Point – Isfield Post Office:
See **Optional Route** (Instruction 4).

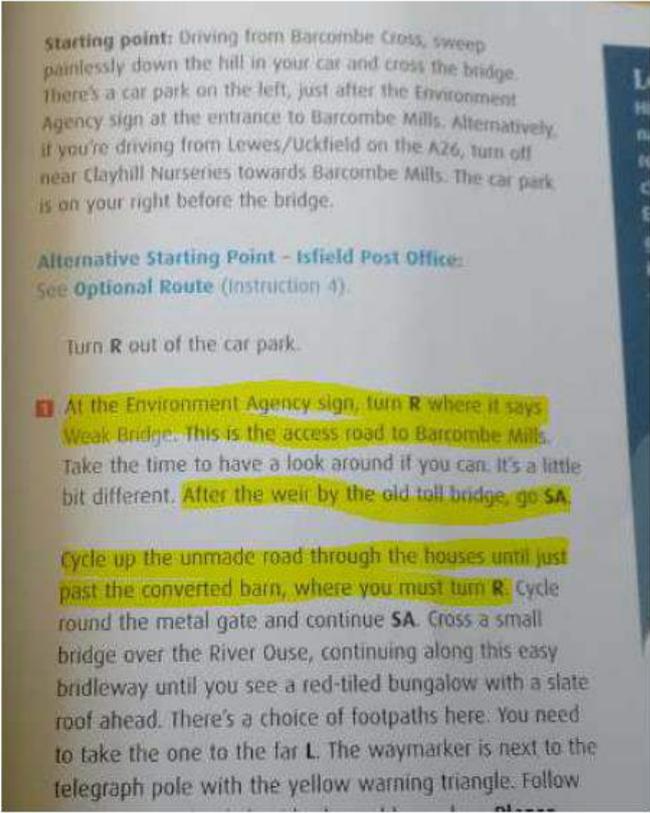
Turn **R** out of the car park.

1 At the Environment Agency sign, turn **R** where it says **Weir Bridge**. This is the access road to Barcombe Mills. Take the time to have a look around if you can. It's a little bit different. After the weir by the old toll bridge, go **SA**.

Cycle up the unmade road through the houses until just past the converted barn, where you must turn **R**. Cycle round the metal gate and continue **SA**. Cross a small bridge over the River Ouse, continuing along this easy bridleway until you see a red-tiled bungalow with a slate roof ahead. There's a choice of footpaths here. You need to take the one to the far **L**. The waymarker is next to the telegraph pole with the yellow warning triangle. Follow the track that leads beside the red bungalow. **Please dismount and push your bike on this very short stretch through the trees.**

R= right, SA = straight ahead.

Note that where the route goes onto a footpath later on, riders are advised to dismount. There is no such advice for the application route.

	 <p>Starting point: Driving from Barcombe Cross, sweep painlessly down the hill in your car and cross the bridge. There's a car park on the left, just after the Environment Agency sign at the entrance to Barcombe Mills. Alternatively, if you're driving from Lewes/Uckfield on the A26, turn off near Clayhill Nurseries towards Barcombe Mills. The car park is on your right before the bridge.</p> <p>Alternative Starting Point - Isfield Post Office: See Optional Route (Instruction 4).</p> <p>Turn R out of the car park.</p> <p>I At the Environment Agency sign, turn R where it says Weir Bridge. This is the access road to Barcombe Mills. Take the time to have a look around if you can. It's a little bit different. After the weir by the old toll bridge, go SA.</p> <p>Cycle up the unmade road through the houses until just past the converted barn, where you must turn R. Cycle round the metal gate and continue SA. Cross a small bridge over the River Ouse, continuing along this easy bridleway until you see a red-tiled bungalow with a slate roof ahead. There's a choice of footpaths here. You need to take the one to the far L. The waymarker is next to the telegraph pole with the yellow warning triangle. Follow</p>
<p>The Council:</p>	<p>The Council does not have access to nor seen the original of this book.</p> <p>The highlighted words describe A-B and then B-D.</p>
	<p>INTERNET</p> <p>Travel Log Lewes Cycle rides http://www.travelloglewes.co.uk/wp/cycling/691-2/ Uses 4-1</p> <p>This is my own web site. I put the ride up in 2014 based on my personal use in the period before that (see my evidence form). Since the ride has been on the web site no one has contacted me to say that they had any trouble riding it. I have received comments from people which say how much they enjoyed it.</p> <p>Extracts:</p> 

	4). Turn right just after a car park, on a little lane which wanders over a number of bridges. This is scenic Barcombe Mills. Come to a junction. Turn left on a slightly rough track. Continue straight ahead on the track to re-join the main road. Bear right and follow the road into Barcombe village, ignoring a number of turnings on the left.
The Council:	The webpage link was reached and the paragraph above was found. The words include a description of part of A-B and then B-C.

37.3 Table 26, Representations from the Applicant – 4 December 2020

Numbered point/section Or Council response	Comment by Applicant, 4 December 2020
	1st os 1813 map 
The Council:	Due to the scale, the claimed route cannot be identified.

BM IR map 2



The Council:

This looks like a map from the Finance Act 1910. It is possible some of A-B and/or B-D is shown but it is uncertain. B-D may be part of hereditament 17. It is not possible to tell if any of the claimed route is shown and if so if it is excluded from any hereditament. Finance Act maps alone are not enough to determine status of routes.

BM IR map 3



The Council:

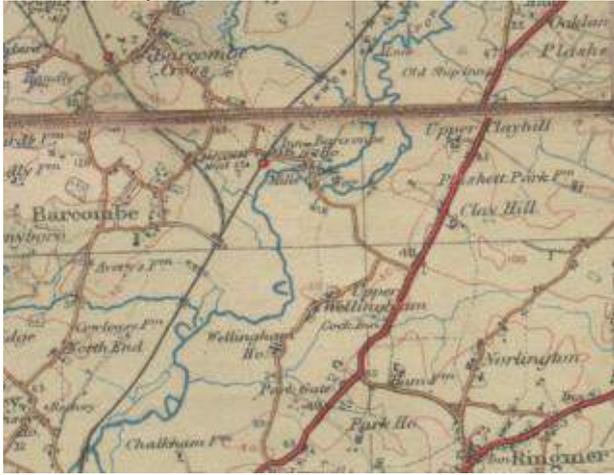
This looks like a map from the Finance Act 1910. It is possible some of A-B and also B-C and B-D is shown and excluded from a hereditament, but it is uncertain. Finance Act maps alone are not enough to determine status of routes.

BM map 1831



The Council:

Due to the scale, the claimed route cannot be identified.

	<p>BM OS map 1922</p> 
<p>The Council:</p>	<p>Due to the scale, the claimed route cannot be identified.</p>
	<p>Greenwood map 1825</p> 
<p>The Council:</p>	<p>Due to the scale, the claimed route cannot be identified.</p>

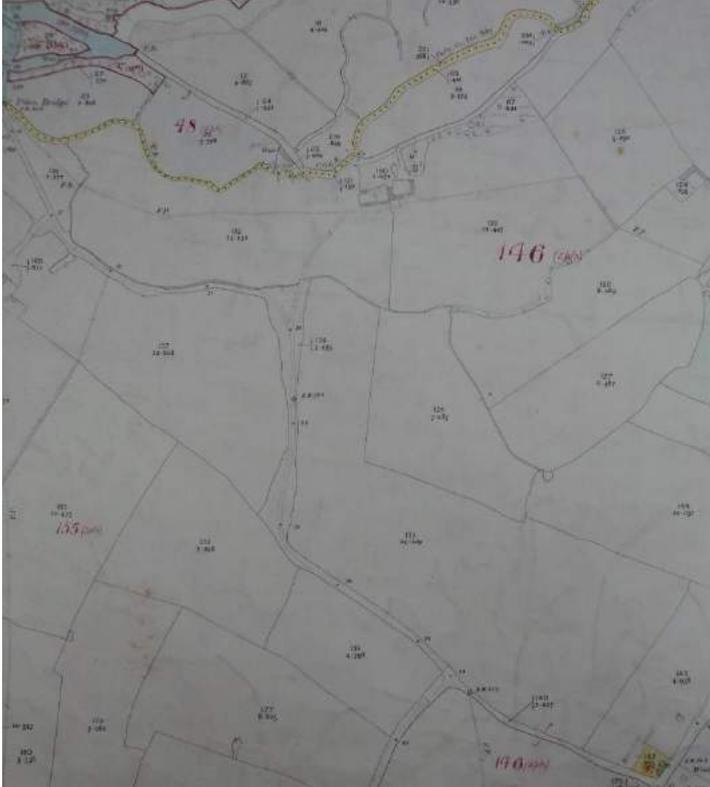
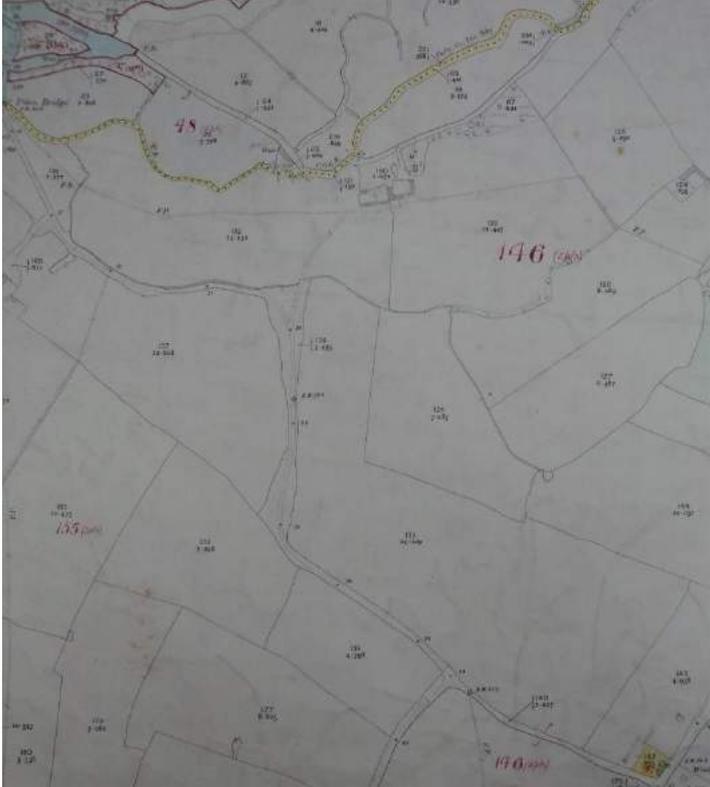
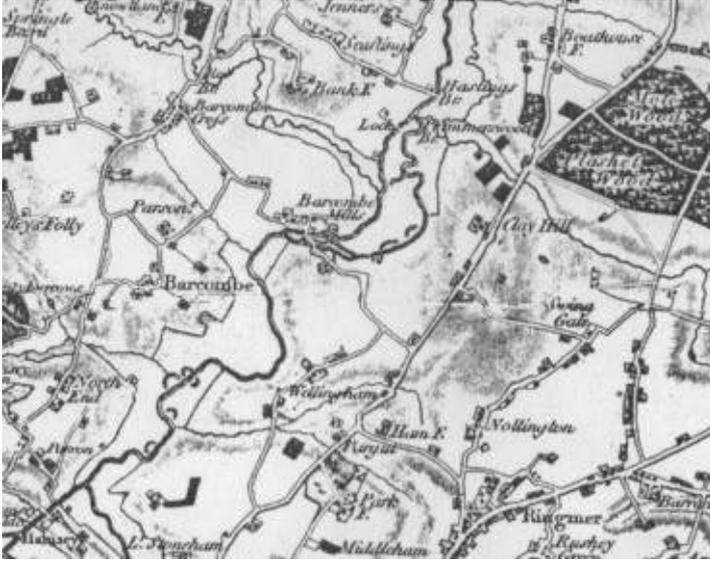
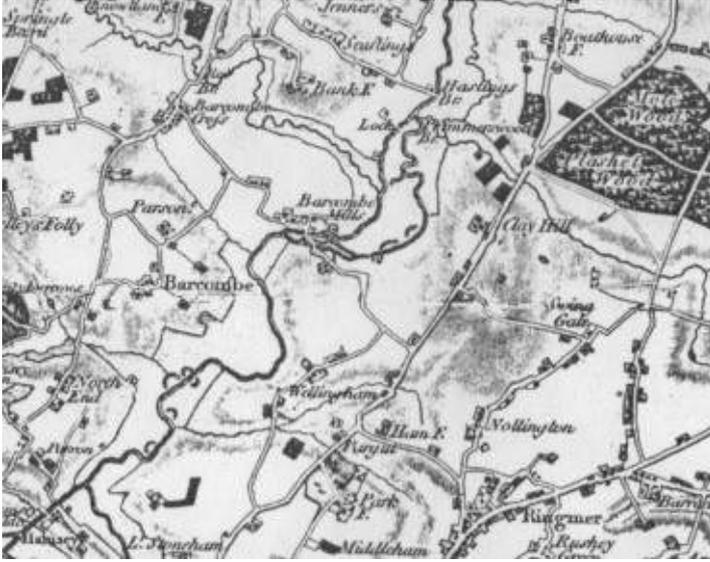
	<p>OSmap 1813</p> 
<p>The Council:</p>	<p>Due to the scale, the claimed route cannot be identified. It is possible A-B and B-C are shown but this is uncertain.</p>

37.4 Table 27, Representations from the Applicant – 19 January 2021

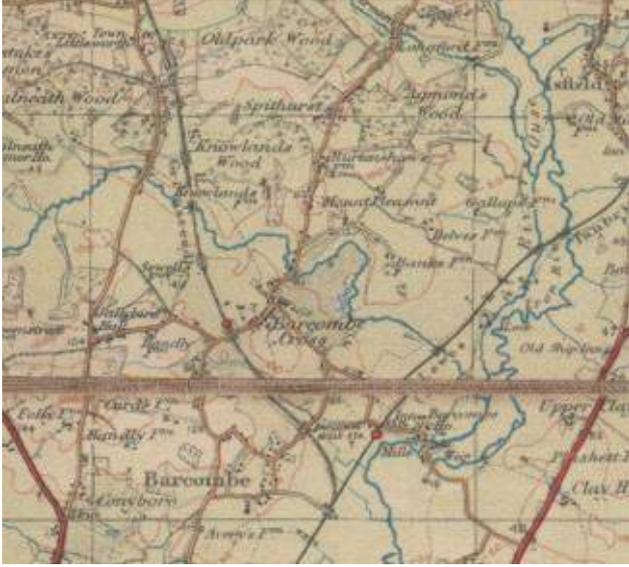
<p>Numbered point/section Or Council response</p>	<p>Comment by Applicant, 19 January 2021</p>
	<p style="text-align: center;">Map information relating to Barcombe Mills</p> <p>Budgeon map: dated 1724. Very small scale.</p> <p>Yeakell & Gardner map. dated between 1778 and 1783. No modern road. The road from Wellingham goes along the old toll road and Hayes Lane. Also show a road going north to the mill.</p> <p>Garner & Gream map dated 1795. No railway. The road from Wellingham follows the course of the old toll road and Hayes Lane.</p> <p>Greenwood map dated 1825 Not very clear but definitely shows only one route.</p> <p>IR map 3 and IR map 4. The IR maps which are dated 1831 show a road from the railway station going directly to Barcombe House. This must be Hayes Lane. (No modern main road) The north west corner of IR4 shows the old toll road. From Pikes Bridge there is a dotted yellow parallel lines going generally eastwards which is a watercourse and the parish boundary between Ringmer and Barcombe.</p>

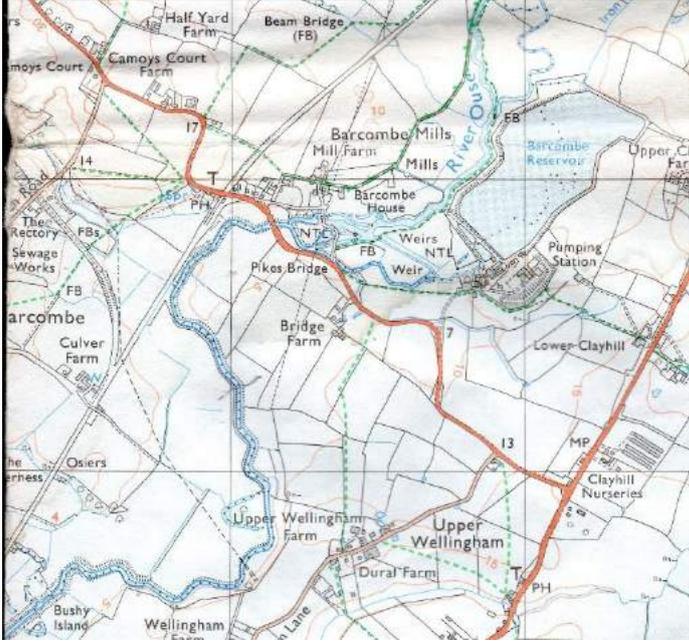
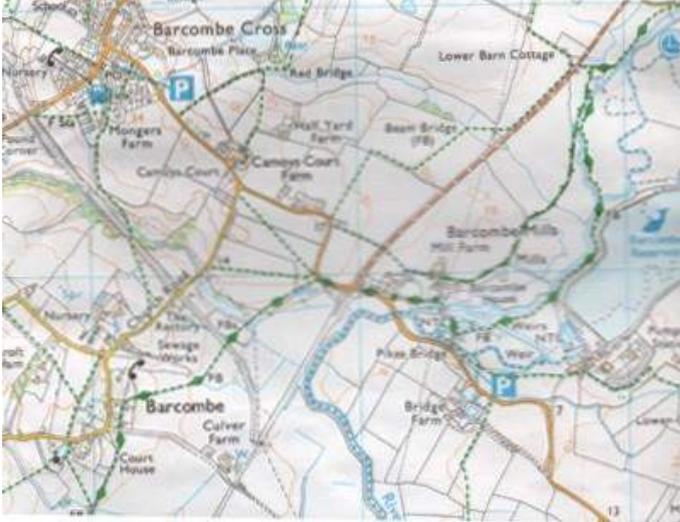
	<p>The straight parallel lines going south east from Pikes Bridge probably indicate the farm track to Bridge Farm.</p> <p>OS 1813 map. No railway. Road from Wellingham clearly follows route of old toll road and Hayes Lane.</p> <p>OS Map dated 1831. Show road crossing the river and continuing north then turning east along the route of Byway Barcombe 26. It also shows the railway.</p> <p>OS map dated 1912 clearly shows road going along Hayes Lane.</p> <p>OS 1922 Shows road from Wellingham crossing the river and then turning sharp left, west towards Barcombe Cross. It also has a line going north east on north side of river.</p> <p>OS 1940 revised 1946 shows the new main road. It has the word TOLL beside the old toll road. It also has a line on the north side of the river going north east towards Isfield which is probably the Byway.</p> <p>OS 1982 Shows footpath Barcombe 24 finishing at the old toll road. It is not usual to create rights of way that dead end so therefore the old toll road must have been a public road when this path was put on the Definitive Map.</p> <p>OS map 2010 Shows the public footpath known as the Ouse Valley Way going along Hayes Lane and over Pikes Bridge to join FP Barcombe 24.</p>
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The Council:	Due to the scale, the claimed route cannot be identified with any success. It is possible A-B and B-C are shown but this is uncertain.
	<p>Greenwood map 1825</p> 
The Council:	Due to the scale, the claimed route cannot be identified.
	<p>IR map 3</p> 

The Council:	Please refer to the Council's comments in the above table.
<p data-bbox="432 264 555 297">IR map 4</p> 	
The Council:	Please refer to the Council's comments in the above table.
<p data-bbox="432 1256 616 1290">OS map 1813</p> 	
The Council:	Please refer to the Council's comments in the above table.

	<p>OS map 1831</p> 
<p>The Council:</p>	<p>Please refer to the Council's comments in the above table.</p>
	<p>os map 1912</p> 
<p>The Council:</p>	<p>Due to the scale, the claimed route cannot be identified. It is possible A-B and B-C are shown but this is uncertain as the buildings are not clearly identifiable.</p>
	<p>OS map 1922</p> <p>See map below</p>

	
<p>The Council:</p>	<p>Due to the scale, the claimed route cannot be identified. It is possible A-B and B-C are shown but this is uncertain as the buildings are not clearly identifiable.</p>
	<p>os map 1940 revised 1946</p> 
<p>The Council:</p>	<p>Due to the scale, the claimed route cannot be identified. It is possible A-B and B-C are shown but this is uncertain as the buildings are not clearly identifiable.</p>
	<p>OS map 1982</p> <p>See map below</p>

	
<p>The Council:</p>	<p>The whole application route can be identified, as can footpaths Ringmer 4, Barcombe 24, Barcombe 26 and Byway Barcombe 25a. The OS maps disclaimer mean that they cannot be relied upon to determine status of routes.</p>
	<p>OS map 2010</p> 
<p>The Council:</p>	<p>This version of the OS map is of a larger scale than the 1982 version and so the claimed route is less easily identified. However, it is assumed it shows the same route as in 1982. It shows the long distance trail Sussex Ouse Valley Way, represented by diamonds along its route, running along footpath Barcombe 24, part of A-B, and along B-C out to Barcombe Mills Road and beyond.</p>
	<p>Yeakell & Gardner map</p> <p>See map below</p>

	
The Council:	No date is given. It is possible A-B and B-C could be shown but this is uncertain. This map is before Barcombe reservoir was built.

38. Contact with Conyboro Estate

38.1 In February 2021 it was acknowledged that from inspecting a Declaration relating to a Deposited Map and Statement called 'Conyboro Estate 1' that the Conyboro Estate may own a very small section of land in Hayes Lane.

38.2 On 25 February 2021 the Council wrote to the agents of Conyboro Estate, who had submitted the above-named Declaration, to ask for any representations on the application and evidence by 25 March 2021. No response was received.

SECTION D – Collation of Evidence of Use

39.1 The following collates the evidence of use uncovered from the evidence provided to the Council from the Applicant, the Landowners and others who had made representations.

39.2 A total of 41 user evidence forms were received which include, in various degrees, use on foot, on horse, by pedal cycle and by vehicle. These are discussed in Section B.

40. Use on foot / walking

40.1 In total and including those user evidence forms later discarded or removed from calculations, 34 users claimed use on foot. After various exclusions, 12 users claim use on foot of the whole route during the whole relevant period or part of the period.

40.2 In an email dated 25 February 2018 Mr Parker of OAPS says that “pedestrian access has always been made freely available over the ‘old toll crossing’ which is very likely to have become a dedicated public footpath” and describes use on foot from the car park, and along the rest of the claimed route.

40.3 In an email dated 27 March 2018, the Open Spaces Society correspondent for Lewes District claims use on foot with reference to their own use and on behalf of others.

40.4 In a letter dated 10 April 2018 the Environment Agency suggest that the status of the section they own (A-B) is already a footpath.

40.5 In an email dated 11 April 2018, Barcombe Parish Council suggest that the route is already used on foot by saying that they feel it is appropriate that such use should continue.

40.6 In a letter dated 13 April 2018, page 1, Mr Rigby says that a right of way for pedestrian already exists and on page 2 and page 4 suggests many visitors use the area, presumably on foot.

40.7 In a letter dated 19 April 2018 solicitor Niall Blackie, on behalf of Mr Leonard Leeson of Barcombe House, says that Mr Leeson accepts that the route is a well-used footpath.

40.8 In an email dated 20 April 2018 the footpath secretary (east) of the SSW say that part of A-B and B-C is part of the Sussex Ouse Valley Way footpath and personal evidence of use is given. Further use by the society and that of the general public is given for the rest of A-B (south of Pikes Bridge to Barcombe Mills Road).

40.9 In a letter dated 24 April landowner Mr Husson says that the EA gates do not stop pedestrian access for visitors on foot.

40.10 In an email dated 21 July 2018 the Applicant states she has visited the route on foot on numerous occasions.

40.11 In an email dated 6 September 2018 Mr Parker of OAPS says, in section ‘Re 5/Para 2’, that there is an accepted right of way on foot and in section ‘8 /Re: Final notes’ he admits that most of A-B, and B-D is a public footpath used ‘as of right’.

40.12 In a written submission dated 24 June 2020, Mr Chris Smith, the Open Spaces Society correspondent for Lewes District and Brighton, provides a list of extracts from books and the internet which give a description of all or part of the application route to be walked on foot.

41. Use by Horse

41.1 In an email dated 11 April 2018, Barcombe Parish Council suggest that the route is already used by horse by saying that they feel it is appropriate that such use should continue.

41.2 In a letter dated 13 April 2018, page 1, Mr Rigby says he says very few riders use the route, perhaps 2 a month.

41.3 In a letter dated 19 April 2018 solicitor Niall Blackie, on behalf of Mr Leonard Leeson of Barcombe House says Mr Leeson has challenged several people on horse along the route on about 5 occasions in last few years saying it is a private lane and not to use it. In the same letter, on page 3, he says that the user evidence forms may suggest use by horse 2 or 3 times a month.

41.4 In a letter dated 10 September 2018 landowner Mr Leeson's solicitor, Mr Blackie, says he agrees with local resident Mr Rigby's estimation of level of use by horse, being 'perhaps 2 a month'.

41.5 In a letter dated 26 October 2018 the Applicant, page 3, the Applicant claims on the occasions she has visited the route she has seen the 'occasional rider' and 'hoof prints and dung'.

42. Use by Bicycle / pedal cycle

42.1 In an email dated 25 February 2018 Mr Parker of OAPS says that "...some access has been seen by pedal cycles who now frequently found using Barcombe Mills as a stopping off point..." and suggests this use is mainly A-B and B-C.

42.2 In an email dated 27 March 2018, the Open Spaces Society correspondent for Lewes District claims use by bicycle with reference to their own use and on behalf of others.

42.3 In an email dated 11 April 2018, Barcombe Parish Council suggest that the route is already used by bicycle by saying that they feel it is appropriate that such use should continue.

42.4 In a letter dated 13 April 2018, page 1, Mr Rigby says that a right of way for cyclists already exists and again mentions them on page 4.

42.5 In a written submission dated 25 June 2020, Mr Chris Smith, the Open Spaces Society correspondent for Lewes District and Brighton, provides a list of extracts from books and the internet which give a description of all or part of the application route to be used by pedal cycle.

43. Use by Vehicles

43.1 The user evidence forms and local residents detail limited use of the claimed route by cars or other mechanically propelled vehicles.

44. Verbal Challenges to Use

44.1 In support of the claim – None

44.2 In opposition to the claim

- a) In a letter dated 13 April 2018 Mr Rigby says he has challenged several riders in the past on the route for safety reasons. However, Mr Rigby is not a landowner.
- b) In a letter dated 19 April 2018 solicitor Niall Blackie, on behalf of Mr Leonard Leeson of Barcombe House states that Mr Leeson has challenged several people on horse along the route on about 5 occasions in last few years saying it is a private lane and not to use it.
- c) In an email dated 6 September 2018 Mr Parker of OAPS says, in section 'Re 2/Para 3', he has witnessed landowner Mr Leeson challenging people accessing his road without permission on a number of occasions and that he and other OAP bailiffs have challenged many people on his behalf and request.
- d) In a letter dated 10 September 2018 landowner Mr Leeson's solicitor, Mr Blackie, says his client has made challenges to several people using the route by horse since 2005.

45. Signs and Notices

45.1 In support of the claim –

- a) a) In a letter dated 24 April 2018 landowner of B-D Mr Husson has specifically not erected signs to say that the road is private as to not object to its use on foot.

45.2 In opposition to the claim –

- a) In a letter dated 19 April 2018 solicitor Niall Blackie, on behalf of Mr Leonard Leeson of Barcombe House states that Mr Leeson has erected several notices to state it is a 'private road' at the start of the lane for up to 13 years though some have been vandalised and stolen resulting in periods of no signs. There are now signs on metal poles to warn of improper use in both directions.
- b) In an email dated 21 July 2018 the Applicant states that she has been told by local residents that a 'private road no parking' sign was erected the previous year.
- c) In an email dated 6 September 2018 Mr Parker of OAPS says, in section 'Re 2/Para 4', that OAP bailiff Jim Smith told him that the Council installed a 'private road' sign just north of OAP car park, sometime before 1979 and is in the same place as the current sign. In section 'Re 5/Para 4' he says that no entry signs at both ends of the old toll road had been in place for many years, but foliage had grown around them obscuring them slightly.

- d) In a letter dated 19 September 2018, page 1, OAPS bailiff Mr Jim Smith says there was a sign on a fingerpost (location unclear) and on page 2 possibly another one (wording unclear) was put there by the Council (location unclear) which said 'private road' intended for Barcombe House. On page 3 Mr Smtih says in recent times the owner of Barcombe House has erected a new sign saying private, no parking and residents only.
- e) In a letter dated 26 October 2018 the Applicant, page 2, states that all signs present were intended for vehicles.

46. Stiles, Gates and Structures

46.1 In support of the claim –

- a) In a letter dated 24 April 2018 landowner Mr Husson, while objecting to the claim overall, says that the EA have erected gates (ie those close to points A and B), which do not restrict use on foot.

46.2 In opposition to the claim –

- a) In a letter dated 13 April 2018 Mr Rigby says bridge gates are shut between March and October restricting vehicular access (photo provided).
- b) In a letter dated 19 April 2018 solicitor Niall Blackie, on behalf of Mr Leonard Leeson of Barcombe House states that Mr Leeson says that gates were installed by the Environment Agency and locked May-October 2017.
- c) In an email dated 21 July 2018 the Applicant mentions the EA gates and the gaps left at the side to allow the public to continue using the route. She states that the 'no entry' sign near point A is intended for vehicles.

47. Other Use considered

47.1 Use under Secrecy. There is no record of any use by secrecy.

47.2 Use under Force. There is no record of any use by force although in an email dated 6 September 2018 Mr Parker of OAPS, in section 'Re 5/Para 2', says that use of the route by horse and by bicycle has been 'trespass' and in section 'Re 5/Para 4' says that a few people chose to ignore the no entry signs.

47.3 Use by Permission. There is no record of any use on the application route by permission.

47.4 Use by Licence. There is no record of any use on the application route by licence.

SECTION E – Council’s Summary and Response

48. Summaries of Evidence from Both Parties

48.1 Summary of Applicant’s Evidence

The Applicant provides 41 user evidence forms to support the claim of a bridleway along with a series of historical maps purporting to show the route. The Applicant says that none of the users have been challenged verbally when using the route nor seen prohibiting signs. The matters around health & safety and suitability are either not valid or not relevant. The Applicant has also suggested that there is evidence to suggest the route should be recorded as a public restricted byway.

48.2 Summary of Landowners’ Evidence

There are 4 known landowners, all of whom have responded and 2 unknown landowners.

Assuming the Environment Agency own most of the section A-B, it is understood that they believe that a public footpath already exists on their land but object to it becoming a public bridleway on health & safety grounds and in terms of subsequent ongoing maintenance responsibilities. Since 2017, they have decided to control the use of vehicles along the section of the route on their land by installing field gates.

Mr Leeson owns part of Hayes Lane of B-C. He says he has made verbal challenges to horse riders telling them that the route on his land is not a public bridleway and erected signs to tell the general public that his part of the lane is private. However, in opposition to this, he has stated that the status of the route was first brought into question to the public in 2017 when the Environment Agency installed their vehicle gates and that the relevant period should be calculated 20 back from 2017, thereby being 1997-2017. He does not agree that the level of use supports a bridleway.

Mr & Mrs Husson own most of B-D. In saying that they have not deterred use of the route on their land by the public on foot, knowing it to be occurring, they have in effect acquiesced to pedestrian use. They object to the route being classified as a public bridleway on health & safety grounds as well as it not being suitable.

Mr & Mrs Cornwell own a very small section of B-D where the claimed route joins Restricted Byway Barcombe 25a. They objected to the application and their response concentrated on not wanting a link to be created to existing Public Restricted Byway Barcombe 25a which they insist should never have been classified as such and instead should be recorded as a public footpath.

49. Council’s response to Evidence of Use

The Council has responded in detail to the evidence of use above.

49.1 The Council has reviewed the evidence of use provided on user evidence forms and maps and analysed their content and merit. Three of the user evidence forms were incomplete, 12 were only provided on the Applicant’s version but a majority had provided full forms using the Council’s version, albeit with some changes and alterations. Five of the users had not made it clear the route they were using, 14 had only used part of the claimed route, 14 had not used it during the entire relevant period and 3 had not made it clear what the period of use was. The most

common type of use was on foot, with a common frequency of annually, though some users had type and frequency of use that varied over time. All users at the time of use were either local to Barcombe Mills, Barcombe parish, the area of Lewes District Council or nearby regions such as Brighton. Many of these factors overlapped between users but a general pattern of use on foot emerges.

49.2 There appears to be a consensus amongst the Applicant, users and landowners that the claimed route is used on foot by the general public for recreational purposes and this has been enjoyed as such for many years. Indeed, the landowners seem to be aware of this and do not necessarily want this to discontinue. The user evidence forms indicate that there is enough evidence to suggest this public use on foot has occurred for at least 20 years uninterrupted as of right. The installation of vehicle gates on part of the route by the Environment Agency has not stopped this use and was not intended to do so. Public use on foot appears to have continued during the relevant 20-year period despite the possible existence of signs suggesting part of B-C was private. Verbal challenges appear to have been made to, and directed towards, horse-riders. The majority of section A-B along with B-C form part of the long-distance walking route 'The Sussex Ouse Valley Way' and signposted as such.

49.3 The landowners do not support the idea that there is enough evidence to suggest public enjoyment of the route by horse, pedal cycle or vehicle over an uninterrupted period of 20 years as of right, despite the Applicant's claim to the contrary. Even though the proof to support the evidence of verbal challenges and prohibiting signs by one of the landowners, Mr Leeson, is minimal, the level of use by horse, pedal cycle and vehicle alone is small enough for the Council to favour this view.

49.4 The Council has considered both the Applicant's version of the user evidence form and those on its own format, the differences between them and all the variations claimed such as period of use, route used, type of use, frequency of use, ability of use, purpose of use, and use by other rights. It has also taken into consideration the claims made to rebut the use, such as private signs, verbal challenges and restrictive infrastructure. In doing so, it has become clear that there is sufficient user evidence to support that the whole route has been dedicated as a public footpath.

50. Council's response to the Comments from the Consultation

The Council has responded to individual points raised throughout the report above.

50.1 The British Horse Society, the Open Spaces Society, Barcombe Parish Council, the Society of Sussex Wealdmen and Councillor Daniel all support the application. The Crown Estate does not object. The Environment Agency object to the claim of a bridleway but acknowledge existing use as a footpath. It was subsequently acknowledged that the EA were landowners of most of the route A-B.

50.2 Four of the landowners (the EA, Mr & Mrs Leeson, Mr & Mrs Husson, Mr & Mrs Cornwell) object to the application. The opinion of the unknown landowners of part of A-B and part of Hayes Lane is unknown.

The landowners object to the claimed bridleway status on a mixture of grounds predominately concerning issues around the fact that there is little or no evidence of use as a bridleway and that such use is not suitable on health & safety grounds.

50.3 Mr Leeson says that he has made verbal challenge to horse riders.

Mr Leeson also says that signs have been present at times to deter public use. Mr Husson has said he specifically did not erect signs that would deter walkers. The EA have erected signs, along with gates, to control access to their section but this has been intended to discourage vehicle use.

The EA object as a change in status would affect their management of access to the site and their relationship with other landowners. Mr & Mrs Leeson object on the basis that there is not enough evidence to support public use of a bridleway. Mr & Mrs Husson object on health & safety grounds. Mr & Mrs Cornwell object because it would provide a linked route to Restricted Byway Barcombe 25a.

The EA indicate they acknowledge their section is used as a footpath. Neither Mr Leeson nor Mr Husson object to the route being used by the public on foot or dispute that it has been used as such in the past.

50.4 Four local residents (Mr Young, Mr Rigby, Mr & Mrs Wilkins and the OAPS) also object primarily on health & safety grounds and that signs and verbal challenges would have deterred public use.

All four have concerns about health & safety. Mr Rigby, Mr Wilkins and the OAPS do not think a bridleway is suitable. Mr Rigby and Mr Wilkins think the route is too narrow for horses to mix with other users. Mr Rigby is concerned about the use of horses interacting with current users such as vehicles, cyclists and the many other visitors to the area. Mr Wilkins does not think there is sufficient evidence of use for a bridleway. The OAPS believe enough verbal challenges would counteract any claim of a public bridleway. The OAPS along with their representative Mr Jim Smith believe signs along the route would have deterred public use. Mr Rigby says the right of a public footpath already exists.

50.5 Overall, the majority of the landowners and some of the local residents object to the status of bridleway but not necessarily to a public footpath. Objection centres around the lack of evidence for a bridleway and the unsuitability of a bridleway. In deciding, the Council must disregard the issues around suitability but consider the evidence of use and whether that has been sufficiently brought into question by the landowners. Mr Leeson and the OAPS offer statements that verbal challenges were made and private signs erected on site.

50.6 The Applicant disagrees with the landowners' objections, by providing evidence of use which she claims is sufficient use by horse, and which do not support the evidence of verbal challenges and private signs. Ms Parker counteracts the concerns regarding health & safety and indeed adds that there is demand for a bridleway in this parish.

50.7 There appears to be a consensus, from user evidence, landowners and local residents, that a public right of way exists along the claimed route on foot but the status of bridleway or above is disputed (level of use, verbal challenges, signs) and by some, is unwanted.

51. Council's response to the Historical Evidence

The Council has responded to individual points raised throughout the report above.

- 51.1 The historical maps that pre-date the OS maps, provided by the Applicant, suggest there was some form of way along some or all of the claimed route but this is not certain and they cannot be used to determine status.
- 51.2 The descriptions of the claimed route detailed in books about local walking trails, and extracts from these detailing instructions following the claimed route, provided by the Applicant, and similarly references of the claimed route found in books about walking and cycling in the area, provided by the OSS, give an insight that walking and cycling may be enjoyed by the public in the Barcombe Mills area but cannot be relied upon to determine status.
- 51.3 The OS maps suggest the existence of some sort of route closely, or exactly, corresponding to the claimed route but they remain silent on the status of such a way.
- 51.4 The Tithe Map that covers the claimed route is too badly damaged and incoherent to be relied upon and the Apportionment numbers cannot be identified. It does suggest the claimed route could have existed on the ground in some form but this is unclear and the status cannot be determined.
- 51.5 The Index to the Quarter Sessions does not suggest anything relevant in these rolls.
- 51.6 The claimed route was not added to the Definitive Map as a result of the process of preparing the Definitive Map in the 1950s and 1960s. However, 2 of the public rights of way surveyed (Ringmer 4 and Barcombe 24) that were added to the Definitive Map terminate along the claimed route and it is unlikely that they were intended to be cul-de-sac routes. More likely, these 2 routes probably joined the claimed route believing it to be a publicly accessible route at the time.
- 51.7 The Finance Act 1910 maps indicate the claimed route existed as some sort of route but its status cannot be determined solely by the maps.
- 51.8 Overall, the historical material supports the view that most, if not all, of the claimed route may have existed on the ground for at least 100 years but nothing here is sufficient enough to be used to support determining the status of the route.

SECTION F - Conclusions

52. Conclusion

- 52.1 The County Council considers that it has investigated the matter fully, having carried out historical research, consulted with relevant bodies, by taking into account the evidence of the Applicant, and the submissions of the affected landowners.
- 52.2 The main issue is whether the evidence discovered, when considered with all other relevant evidence available, shows that it can be reasonably alleged that a public right of way subsists on the claimed route. That is, a route which is not shown on the definitive map and statement but subsists along the route in question such that the map and statement require modification.
- 52.3 For user evidence-based claims, the test which must be applied is whether there has been evidence of use sufficient to raise a presumption of dedication. That is, that the claimed route has been used by the public as of right without interruption for 20 years. Moreover, where historical evidence has also been provided to support the application, the test must be whether all or part of this evidence proves it is reasonable to allege that a right of way subsists.

53. Common Law dedication

- 53.1 Alternatively, a Public Right of Way may be established over a shorter period of time under Common Law. A dedication of a route as a Public Right of Way can be implied from evidence of use by the public and of acquiescence in that use by the landowner. Dedication at Common Law is possible if the landowner has dedicated the way and the public have accepted such dedication. Mr Justice Dyson held in *Nicholson*¹ that;
- 53.2 *The more intensive and open the user and the more compelling the evidence of knowledge and acquiescence, the shorter the period that will be necessary to raise the inference of dedication.*²
- 53.3 Section 5 of the Planning Inspectorates Definitive Map Orders: Consistency Guidelines suggest that even where a claim meets the tests under Section 3 of the Highways Act 1980 for dedication under statute law, there should be consideration of the matter at Common Law.
- 53.4 Dedication at Common Law may be considered where a way has been used by the public for less than 20 years. Where the origin of a highway is not known, its status at common law depends on the inference that the way was in fact dedicated at some point in the past.
- 53.5 Relatively few highways can be shown to have been expressly dedicated. However, in this case, there is some evidence before the Council that landowners Mr & Mrs Husson have carried out any express act of dedication over part of the claimed route during the relevant period. In their written statements Mr & Mrs Husson have claimed that they knew walkers were using their private lane (most of B-D) and did not do anything that would bring it to the attention of the walkers, and the general public at large, that such use was not allowed as of right. It could also be said that the EA also knew pedestrians were using the part of the claimed

¹ *Nicholson v Secretary of State for the Environment* (1996) QBD OT

² *Ibid*

route they own (A-B) and did not stop them doing so, and that the installation of field gates was to deter unwarranted vehicle use not walkers. In this way, the test of express dedication in Common Law for part of the route is passed. However, there is sufficient evidence of use as of right on foot to also allow for presumed dedication to exist.

54. Other Matters

Considerations not permitted within the Act

54.1 The implications and impact relating to the safeguarding of anyone affected, public health, the environment, equalities, health & safety, suitability, desirability and necessity of making or confirming an Order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such Order must be made and confirmed based on the relevant evidence alone.

55. Rights of Appeal

- 55.1 If the Council declines to grant the application, the applicant has a right of appeal to the Secretary of State. The applicant must serve notice of appeal on the Council within 28 days of the Council's decision.
- 55.2 If the Council grants the application and makes an Order, public notice of the Order is given. If any objections are received within a specified period of time the matter is referred to the Secretary of State for a decision.

56. Final Conclusion

- 56.1 To make an Order, it is necessary for the evidence to have found a reasonable allegation of the existence of public rights. Having considered the evidence submitted in support of the claim and that submitted by the landowners, and all matters raised in the written representations, the Council has concluded that there is sufficient evidence, which when considered with all the other relevant evidence, for it to be reasonably alleged that a right for the public subsists over the land in question.
- 56.2 The application for a modification order was accompanied by sufficient evidence to confirm that the current definitive map for the area is incorrect.
- 56.3 However, the Council rejects that there is sufficient evidence that a public bridleway has been dedicated along the application route as claimed. It also does not consider that any higher public right of way has been dedicated by the evidence.
- 56.4 Instead, the Council believes that the evidence shows that the public right of way that the evidence proves has been dedicated is that of a public footpath along the whole length of the claimed route, A-B-C and B-D.
- 56.5 The user evidence is sufficient to prove a public footpath has been dedicated for public use and the evidence to rebut this is insufficient.
- 56.6 To confirm any order, the more onerous test of whether the evidence shows, on the balance of probabilities, that public rights actually exist must be satisfied.

Furthermore, the Officer believes, on the balance of probabilities, a right of way on foot exists.

56.7 Therefore, the only option open to the Council, as the Registration Authority, is to make a Definitive Map Modification Order which would amend the definitive map and statement.

57. Formal Recommendations

57.1 It is recommended that an Order to amend the Definitive Map and Statement for this area is to be made to add a public footpath along the application route.

58. Background Documents

58.1 Evidence and representations submitted by the Applicant, by the landowners and by all other parties are all contained in the file of evidence along with the site inspection report and accompanying photographs, consultation material, all other representations, all the historical research and the Land Registry documents.

Contact Officer: Mr Stephen Kisko, Definitive Map Officer, Rights of Way.

Team Manager: Mr Andrew Le Gresley, Rights of Way & Countryside

Local Members: Councillor Mr Johnny Denis (Division of Ringmer and Lewes Bridge for parishes of Firle; Glynde and Beddingham; Lewes; Ringmer).

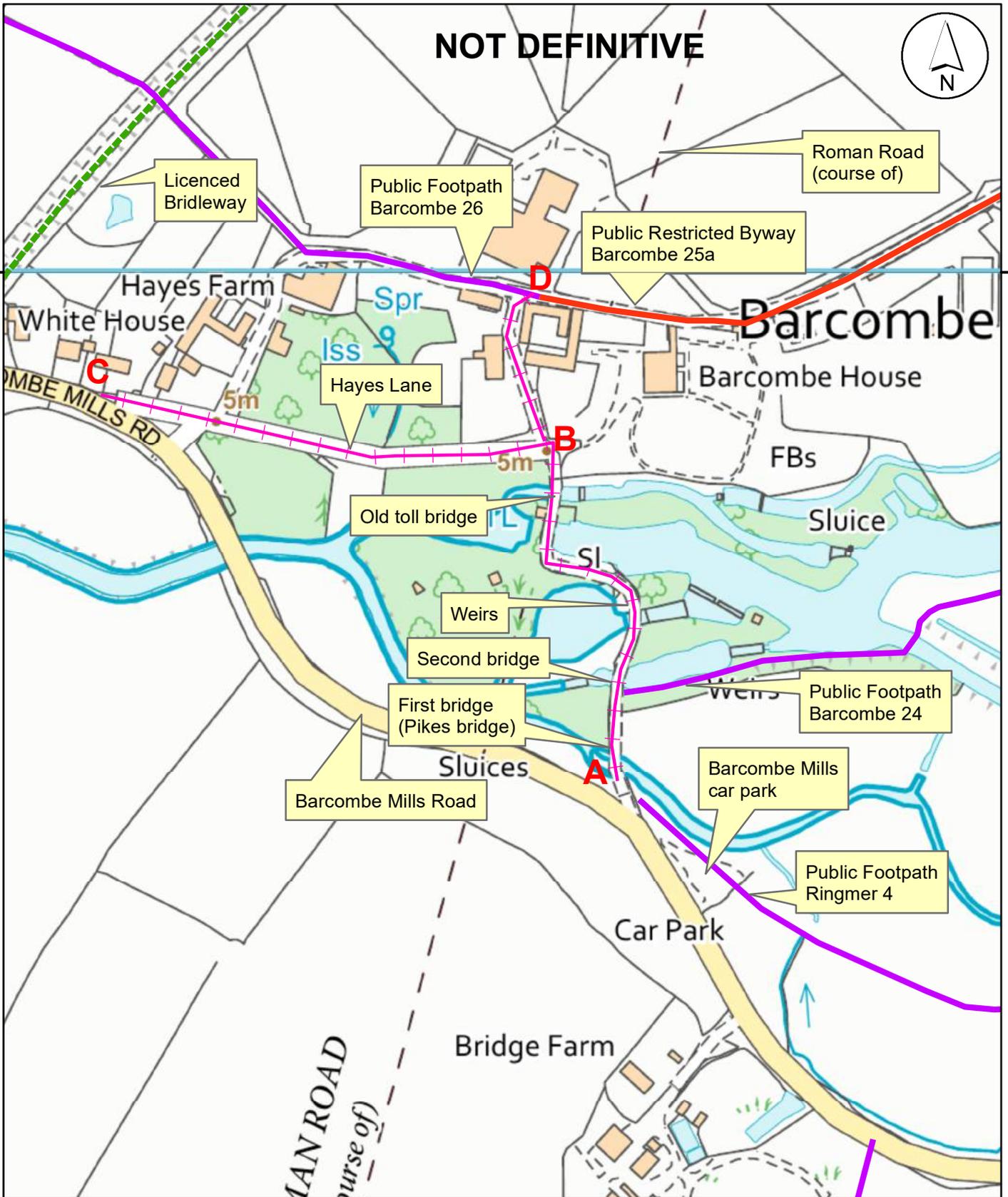
Councillor Mr Matthew Milligan (Division of Chailey for parishes of Barcombe; Chailey; East Chiltington; Hamsey; Newick; St John (Without); Wivelsfield).

NOT DEFINITIVE



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Title: RWO 213 Barcombe Mills application route		East Sussex County Council County Hall St Annes Crescent Lewes  eastsussex.gov.uk	
Key:	Public Footpath 	Public Restricted Byway 	
	Licensed Bridleway 		
	Claimed Public Bridleway (A-B-C; B-D) 		
Date:	June 2021	Map No:	DMMO RWO 213
Scale:	1:2,941	Author:	SK

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