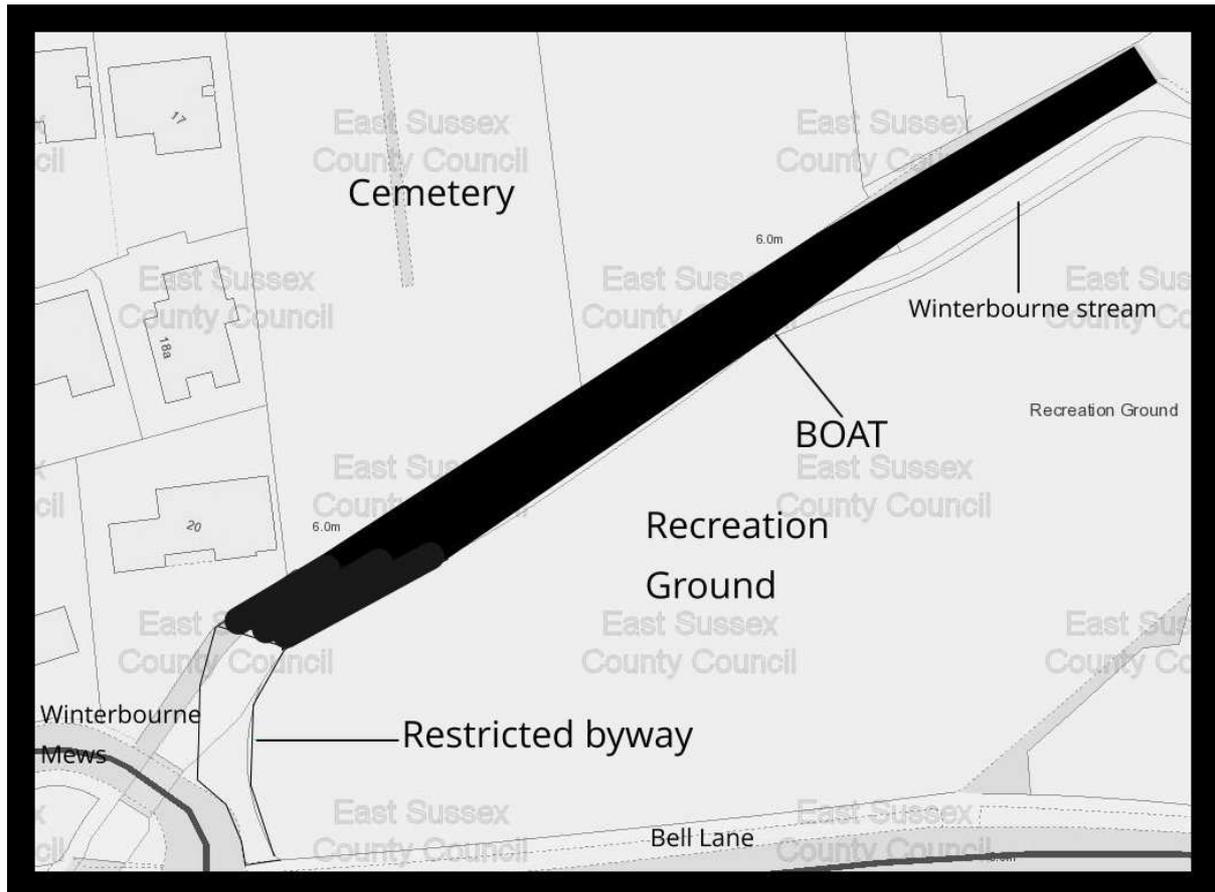


APPLICANTS STATEMENT

Our reference- SUS-1173

THE APPLICATION ROUTE

Here is the application map



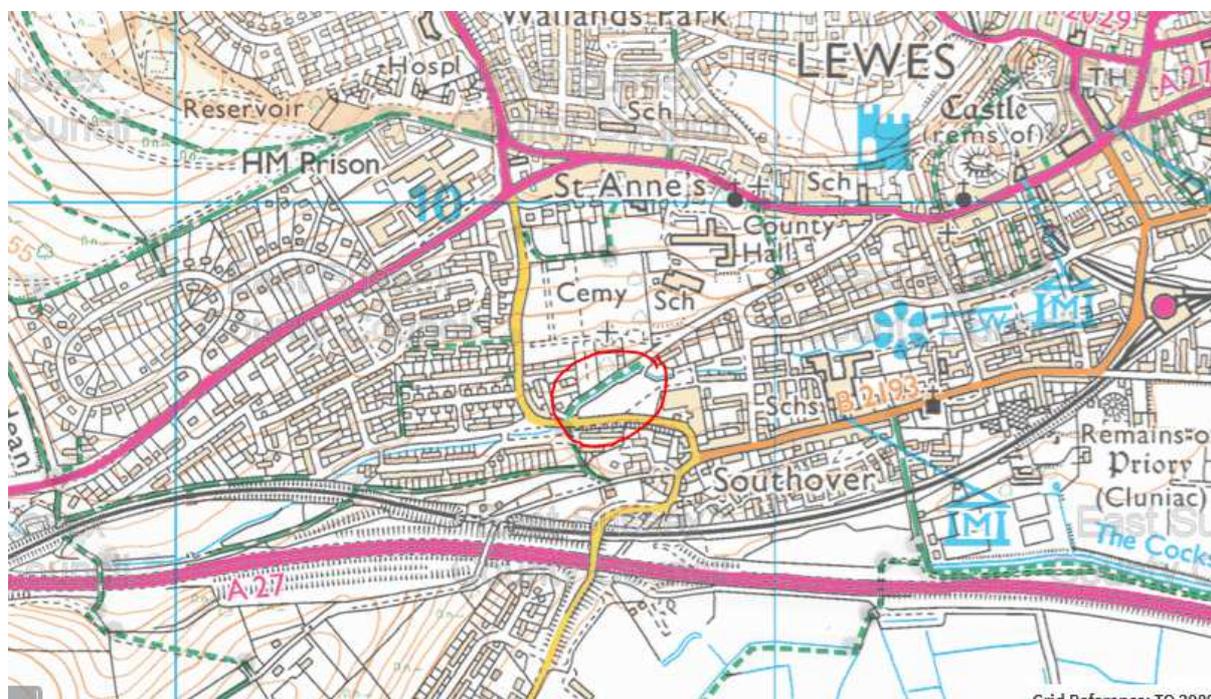
The application route runs from grid reference TQ 40775 09729 to a junction with Winterbourne Mews and Bell Lane at

The route is in Lewes Town. It was formerly in the parish of Lewes St Anne, sometimes known as St Peter and St Mary Westout.

Application is being made to upgrade most of footpath LTC/9/1 to byway open to all traffic with a width of 5 metres and to add a new restricted byway from TQ 40664 09657 to a junction with Winterbourne Mews and Bell Lane, also with a width of 5 metres. The variation is because there is a very short section at the extreme southwest end between footpath LTC/9/1 and Winterbourne Mews which is not currently on the list of streets, whereas both Winterbourne Mews and footpath LTC/9/1 are on the list of streets.

The purpose of the application is to record a route for cyclists and equestrians from the lower part of the town to the upper.

The map below shows the application route in context.



1. BACKGROUND

1.1.1 The Winterbourne Stream rises near Falmer, 4 miles west of Lewes, and joins the River Ouse in Lewes east of the application route. As its name suggests, traditionally it is dry for much of the year. In the 20th century a pumping station was installed at Newmarket, upstream from the application route. This has enabled control of the water, so the stream levels now respond to the demands of flood control.

1.1.2 Lewes is a hilly town and in the days when all traffic was on foot and by horse, it would have been important to find routes which were as easy as possible for these forms of traffic. Rotten Row, which forms the east-north easterly extension of the application route and is comparatively easily graded by the standards of the town, may have been one of these route.

1.1.3 Rotten Row and the Winterbourne stream appear to share the same course along the application route.

1.1.4 At some time around the 1960s the stream where it runs along the application route, was culverted. A new development of houses was built at the western end of the route in the second part of the 20th century and a new street, Winterbourne Mews, was created.

1.1.5 The photos below, taken in October 2021 shown that the application route has walls on either side, with a gap where the stream joins the route.



The photo above is taken looking west at the point where the Winterbourne joins the application route. The stream comes in from the left. There is a gap in the wall on the southern side to allow this. Although it is not clear from the photograph, there appears to be a slope underneath the greenery leading down to the stream level.

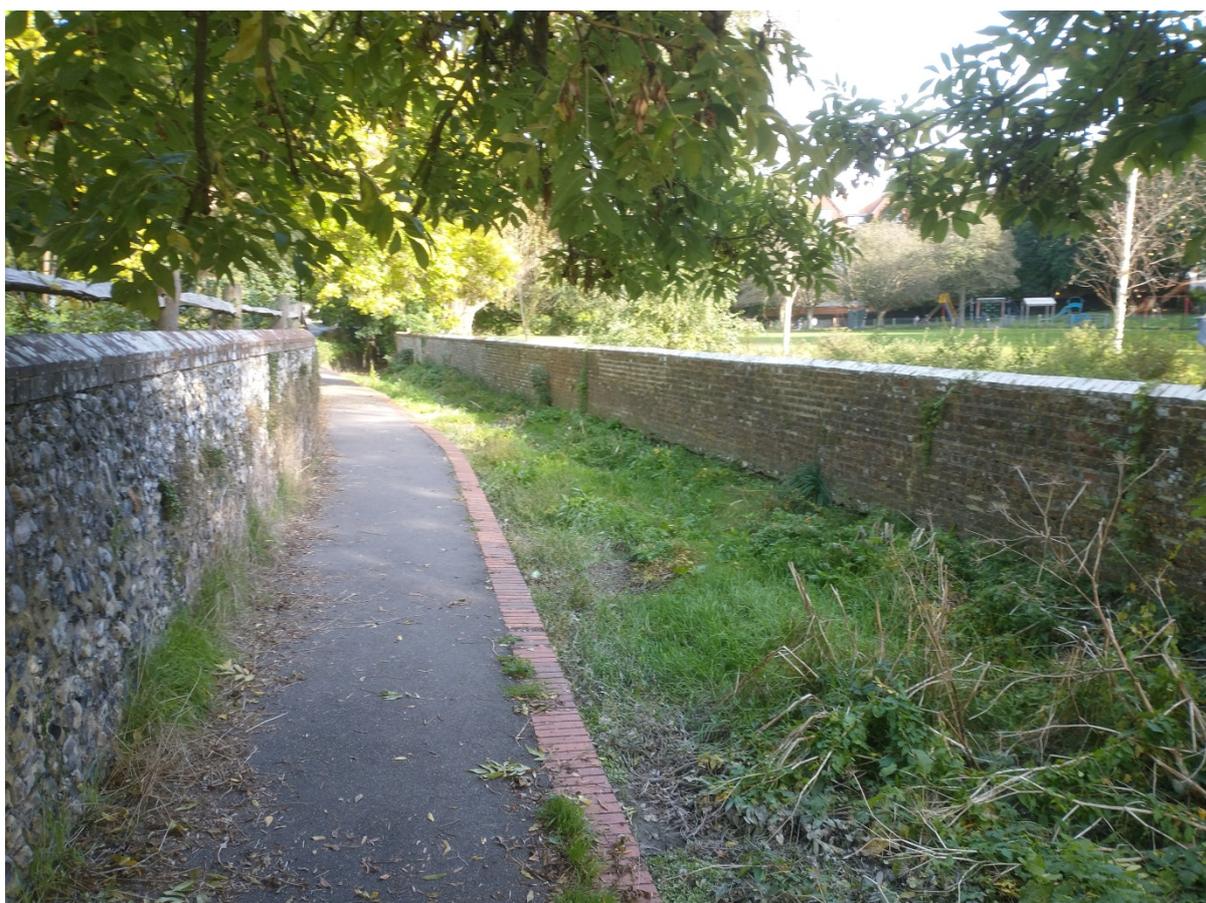


Photo above is around the midpoint of the route looking east. The stream bed is about 0.6 metres below the path.



The photo above is taken over the northern wall of the route. It shows that the land immediately starts to slope upward.



Photo above shows the west end of the route, with Winterbourne Mews coming in from the right. There appears to be the remains of a gradual slope up, now obscured by concrete bag supports.



Photo above at the western end. The stream goes under Winterbourne Mews and a footpath continues beside it, but the southern wall turns off. (to the right in the picture)



Photo above shows the western end of the route.

2. DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

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

2.1.2 The evidence discovered in this application includes a number of early maps, ordnance survey 1-2500 maps, the tithe map for the parish, and material produced for the Finance Act of 1910.

2.1.3 The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and another* (2012) EWCA Civ 334 Levinson LJ said, at paragraph 22 "In the nature of things where an enquiry goes back over many year (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless". As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922: 'It has been said that circumstantial evidence is to be

considered as a chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cord. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength.

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

3. HISTORIC MAPS

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

3.2 YEAKELL AND GARDNER'S SUSSEX 1778-1783

3.2.1 This map is available on-line as part of the "Old Sussex Mapped" project of the University of Portsmouth at

http://www.envf.port.ac.uk/geo/research/historical/webmap/sussexmap/Yeakell_36.htm

3.2.2 What this evidence shows

3.2.3 The application route is shown as part of a road. It is coloured sepia.



3.2.4 The significance of this evidence

3.2.5 The prospectus for this series of maps sets out the aim of covering all of Sussex and showing all public and private roads and all bridleways. These aims were not achieved.

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

3.2.6 The map does not have a key.

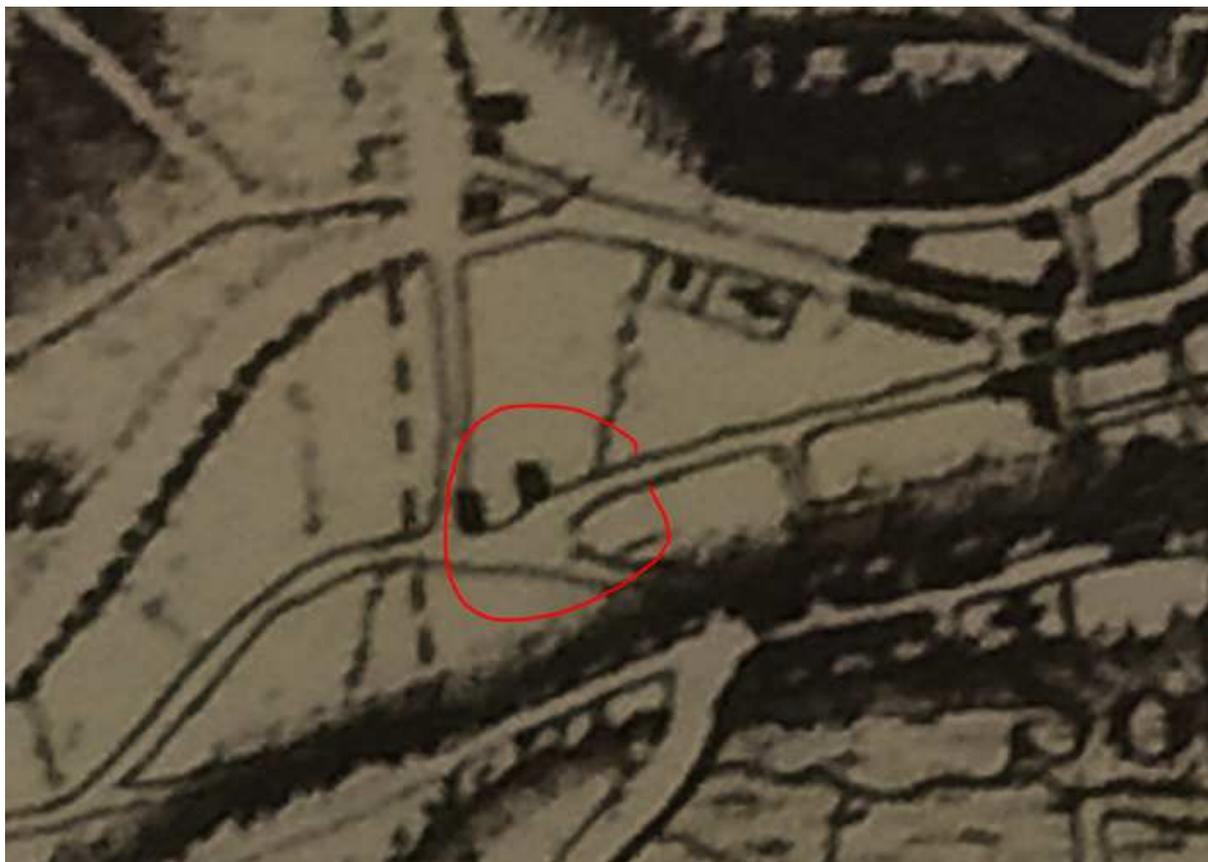
3.2.7 The sepia colouring suggests that the road was considered an important one.

3.3 GARDENER AND GREAM MAP 1795

3.3.1 This map is held at the Keep under reference AMS 608/1/1/29/17 The map at the Keep does not have a key. The map is also available online on the McMaster University site in two sections. The western section is at <https://digitalarchive.mcmaster.ca/islandora/object/macrepo%3A80921> The eastern section is at <https://digitalarchive.mcmaster.ca/islandora/object/macrepo%3A80922>

3.3.2 What this evidence shows

3.3.3 The application route is shown as a road.



3.3.4 The significance of this evidence

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

3.4 GREENWOOD AND GREENWOOD MAP OF SUSSEX 1825

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

3.4.2 What this evidence shows

3.4.3 It is not clear whether or not the application route is shown



3.4.4 The significance of this evidence

3.4.5 I do not think that any inference can be shown from this map.

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

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

3.5.2 What this evidence shows

3.5.3 The application route is shown as a road.



3.5.4 The significance of this evidence

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

3.6 A GENERAL COMMENT ON THE SIGNIFICANCE OF EARLY MAPS FOR THIS APPLICATION

3.6.1 The portrayal of these routes on these maps does not automatically mean that they are rights of way. However the routes are portrayed in the same way as other public roads and in the case of the Yeakell and Gardner maps, the route is shown in the same way as other routes which were major public roads at the time.

4. FIRST EDITION OF THE ORDNANCE SURVEY 1" MAP

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

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

4.1.3 What this evidence shows

4.1.4 The application route is shown as a road. The ends of the road are broken.



4.1.5 The significance of this evidence

4.1.6 This suggests that the application route was a public road at the time.

5. TURNPIKE PLANS

5.1.1 Organisations wishing to build turnpikes were required to show the owners of all the land within a certain distance of the proposed turnpike, and to place this information on deposit so that it could be inspected by the public and objections made, before Parliament would give the powers needed for the road's construction. Records were well researched as mistakes would have been costly with the possibility of the private bill being thrown out and a rival organisation being given permission.

5.1.2 There are no turnpike plans relevant to this application.

6. INCLOSURE RECORDS

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

7. TITHE RECORDS

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

7.1.2 The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. No-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers roads could carry a tithe as they were sued as pasture. It was in the interest of landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe

documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured in yellow or sienna to indicate public status.

7.1.3 Tithe maps can be accessed at the National Archive in black and white. The maps have been digitalised by the Geneologist web site. Tithe maps and apportionments for East Sussex are also available on line at

<https://apps.eastsussex.gov.uk/leisureandtourism/localandfamilyhistory/tithemaps/>

7.1.4 I have taken screen shots to show how the route is displayed and of any relevant apportionments.

7.1.5 The evidence presented below

7.1.6 Map extracts are shown from the East Sussex Council web site and the Geneologist site. The apportionment is taken from the Geneologist web site

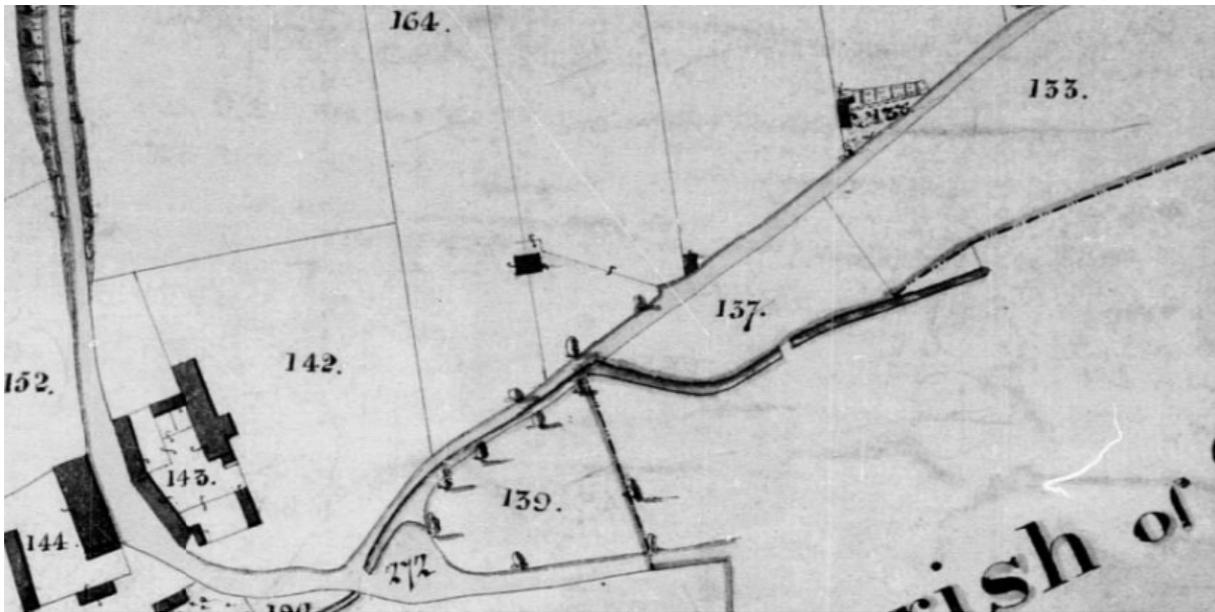
7.1.7 What this evidence shows

7.1.8 On the extract below, taken from the map of Lewes St Anne (sometimes known as St Peter and St Mary Westout) on the ESCC site, the application route is shown partly as a road and partly as a river or stream. The road is shown in sepia, in line with other roads on the map. The road is shown as continuing on the NW side of the stream

7.1.9 No footpaths or bridleways appear to be shown on the tithe map.



7.1.10 The black and white Genealogist map makes clear that the blurred number on the coloured map is number 272 and that there was no separation of the route from the rest of Rotten Row, which is a road today. See below. The lack of a break line suggests that the application route is part of land parcel 272.



7.1.11 On the original apportionment, taken from the Genealogist site, number 272 applies is shown as roads and waste. There is no owner. See below. Appendix 1 shows that the number 272 was applied to most of the roads in the parish that are public roads today, including Rotten Row. One valuation is given on the apportionment for all the roads numbered 272.

LANDOWNERS	OCCUPIERS	Numbers relating to the Plot	NAME AND DESCRIPTION of LANDS AND PREMISES	STATE of CULTIVATION	QUANTITIES or STATUTE MEASURE		FAVOUR TO The Rates	
					Acres	Roods	Acres	Pence
Verrall William (continued)	Diplock John	53	The William Annisdon		-	1	50	
Verrall Harry	Himself	137	Park of Orchard	Pasture	-	2	-	
		139	do	do	-	2	17	
					1	77	-	15
Higney George	Henshaw William	47	The Henshaw House		-	-	27	
Winter John Senr	Walker Walter	48						
	Windsor Thomas	49	Three Cottages, Yard and Buildings		-	-	23	
	Andrews W ^o	50						
	Winter John	24						
Glebe	Wood Alfred	92	Rectory House &c		-	1	8	
	Gear Robert	133	Parsonage Field	Pasture	2	-	20	
		127	Rectory Field	do	1	-	28	
					3	1	8	
Church & Church Yard		110			-	3	35	
Roads and Waste		272			19	3	34	

7.1.12 The significance of this evidence

7.1.13 The case Dunlop v secretary of state for the environment and Cambridgeshire County council CO/1560/94 decided by Mr Justice Sedley ruled that Tithe map evidence is that the ways coloured sepia can only be public ways (presumably this also applies to non-tithed routes where this colouring was not used). The decision is controversial. Nevertheless it makes case law which is binding on decision makers until overturned.

7.1.14 In this case the grouping of the application route with other roads that are public today makes it very likely that the application was a public road at the time of the making of the tithe map.

8. RAILWAY, CANAL AND RIVER RECORDS

8.1.1 I have not found any railway or canal records that are relevant to this route.

9. PARISH AND TOWN MAPS

9.1.1 These maps are of use because they show how the parish or the mapmaker viewed routes within the parish or town at the time the maps were compiled.

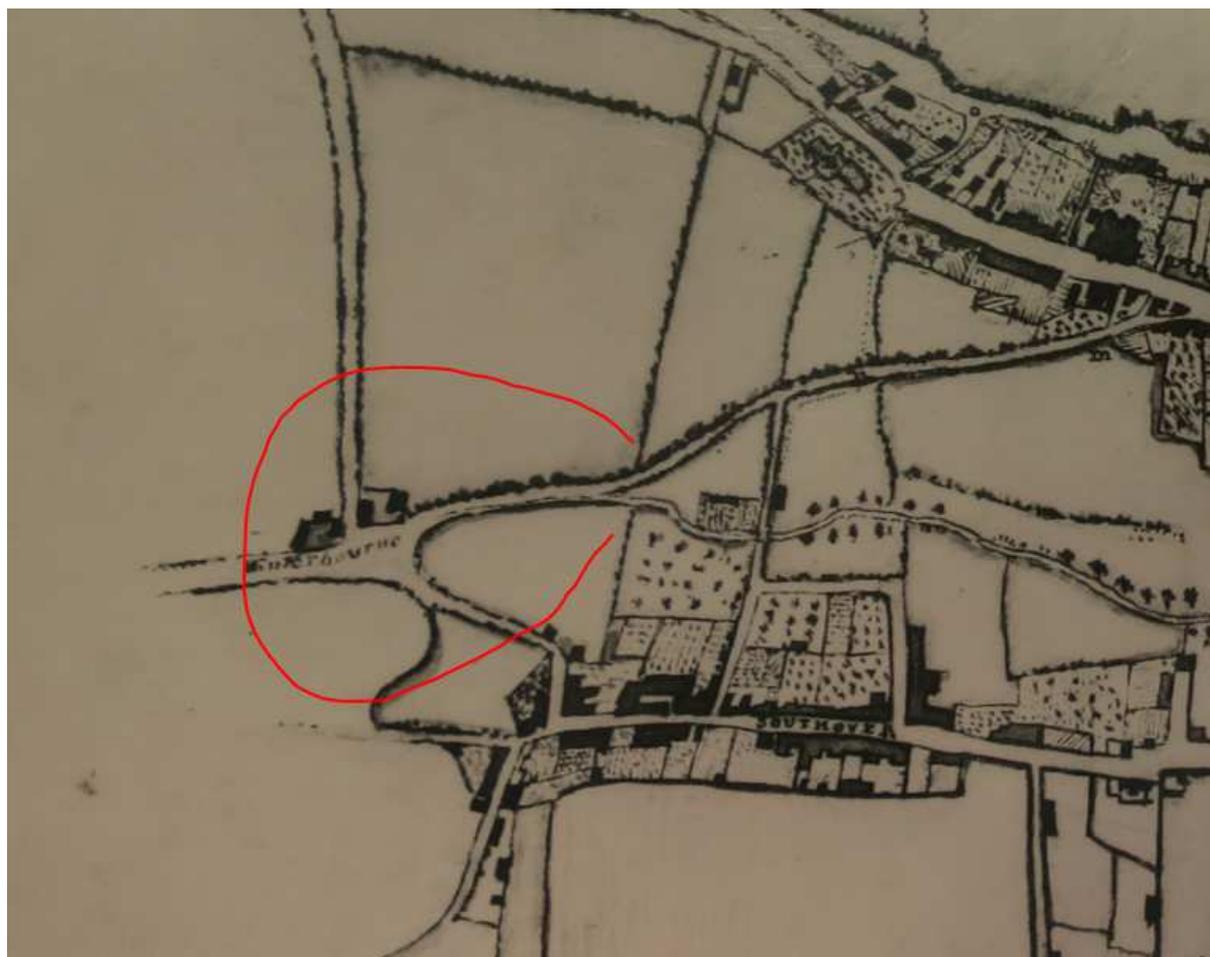
9.2 MAP OF LEWES

9.2.1 The evidence presented below

9.2.2 A map of the parish of Lewes is held at the Keep under reference AMS 6008/3/6/10. The catalogue dates it as circa 1788.

9.2.3 What this evidence shows

9.2.4 The application route is shown in the same way as other roads and the rest of Rotten Row. The stream appears to be part of the road.



9.2.5 The significance of this evidence

9.2.6 This evidence suggests that the application route was a road at the time of making the map.

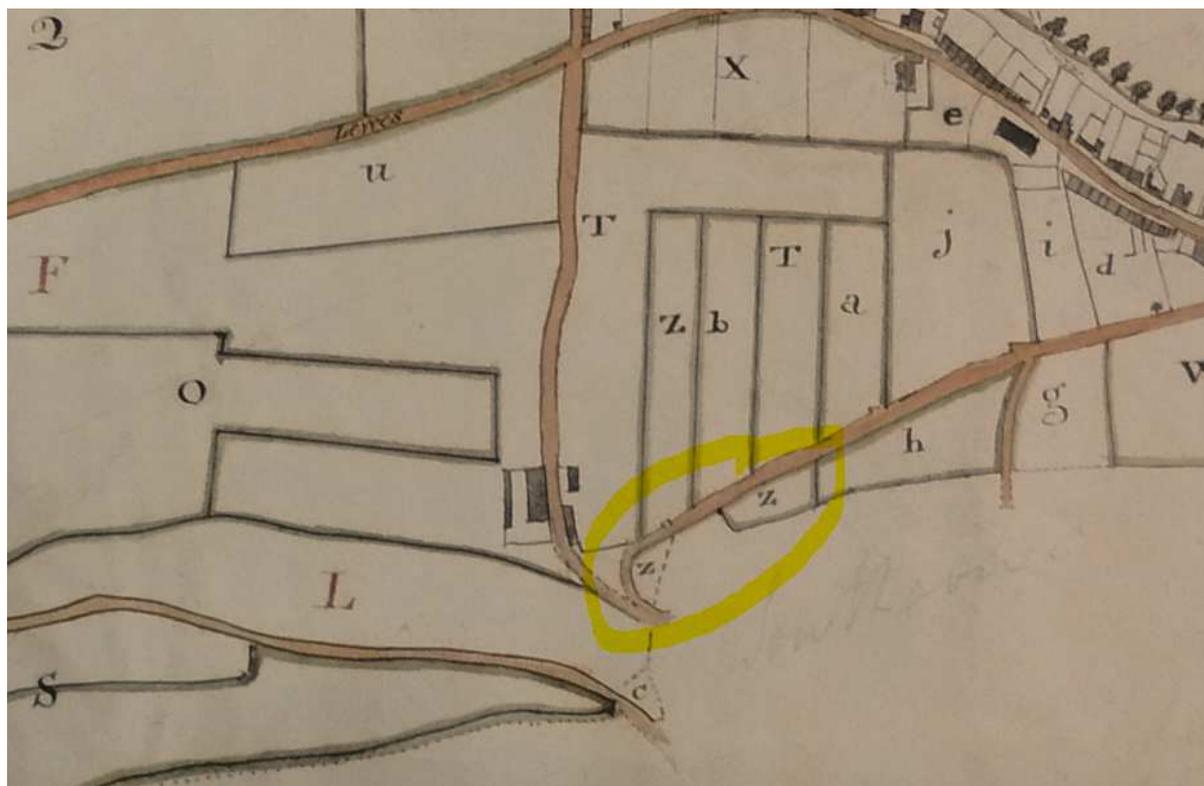
9.3 MAP OF ST ANNES PARISH

9.3.1 The evidence presented below

9.3.2 A map of the parish of St Anne is held at the Keep under reference LAN/13/309B. The catalogue dates it as circa 1820.

9.3.3 What this evidence shows

9.3.4 The application route is shown in the same way as other roads and the rest of Rotten Row.



9.3.5 The significance of this evidence

9.3.6 This evidence suggests that the application route was a road at the time of making the map.

10. QUARTER SESSIONS RECORDS

10.1.1 Highway functions were discharged by Justices of the Peace in Quarter Sessions before powers were handed over to what are now the highway authorities. Court records provide conclusive proof of the matters on which decisions were made. From around the 1960s these powers appear to have been given to the Secretary of State instead, and subsequently local highway authorities were given powers to make orders.

10.1.2 I have found no relevant quarter sessions or orders and, in response to freedom of information request, I have been told by East Sussex County Council that they have no record of the stopping up or diversion of any part of the application route.

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

11.1.1 It is often said that the disclaimer on the early OS maps means that they are not evidence of public rights. This is not the case. Whilst before the 1950s it is not possible to say "*It is on the OS map therefore it is a right of way*", earlier OS maps provide evidence from which inferences can be drawn. For example, if a route is over a single landowner's land and leads only to a barn on that land, it can be inferred that this route was probably private. But if a route goes from one public highway to another and crosses the land of a number of owners or occupants or a number of occupants were dependent on the way to access their land then, in the absence of evidence of private rights or wayleaves, it can be inferred that public rights are likely to exist. Such evidence is unlikely to be conclusive on its

own, but taken with other evidence, may support the existence of public rights on the balance of probabilities.

11.1.2 In addition, after observing that the Courts have determined OS maps are not evidence of the status of a way, the Planning Inspectorate Consistency Guidelines say at Section 12, page 9 & 10

11.1.3 *“12.35 Nevertheless, the inclusion of a route on a series of OS maps can be useful evidence in helping to determine the status of a route, particularly when used in conjunction with other evidence (Section 2.16 to 2.21 'Evidential Weight' refers)”*

11.1.4 And contemporary wisdom was that the disclaimer on the early OS maps was simply to avoid the potential of litigation, as declared in The Countryside Companion (1948 page 320):

11.1.5 *“In practice the qualifying statement of the Ordnance Survey may be regarded as a safeguarding clause to absolve them from being involved in any footpath litigation.....A path which is shown, may, however, generally be presumed public.”*

11.1.6 . Whilst Ordnance Survey surveyors were instructed not to investigate public status the Instructions to Ordnance Survey Field Examiners 1905 is clear in its direction that:

11.1.7 *“Mere convenience footpaths for the use of a household, cottage or farm; or for the temporary use of workmen, should not be shown; but paths leading to any well-defined object of use or interest, as to a public well, should be shown. N.B. – A clearly marked track on the ground is not in itself sufficient to justify showing a path, **unless it is in obvious use by the public**”*

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

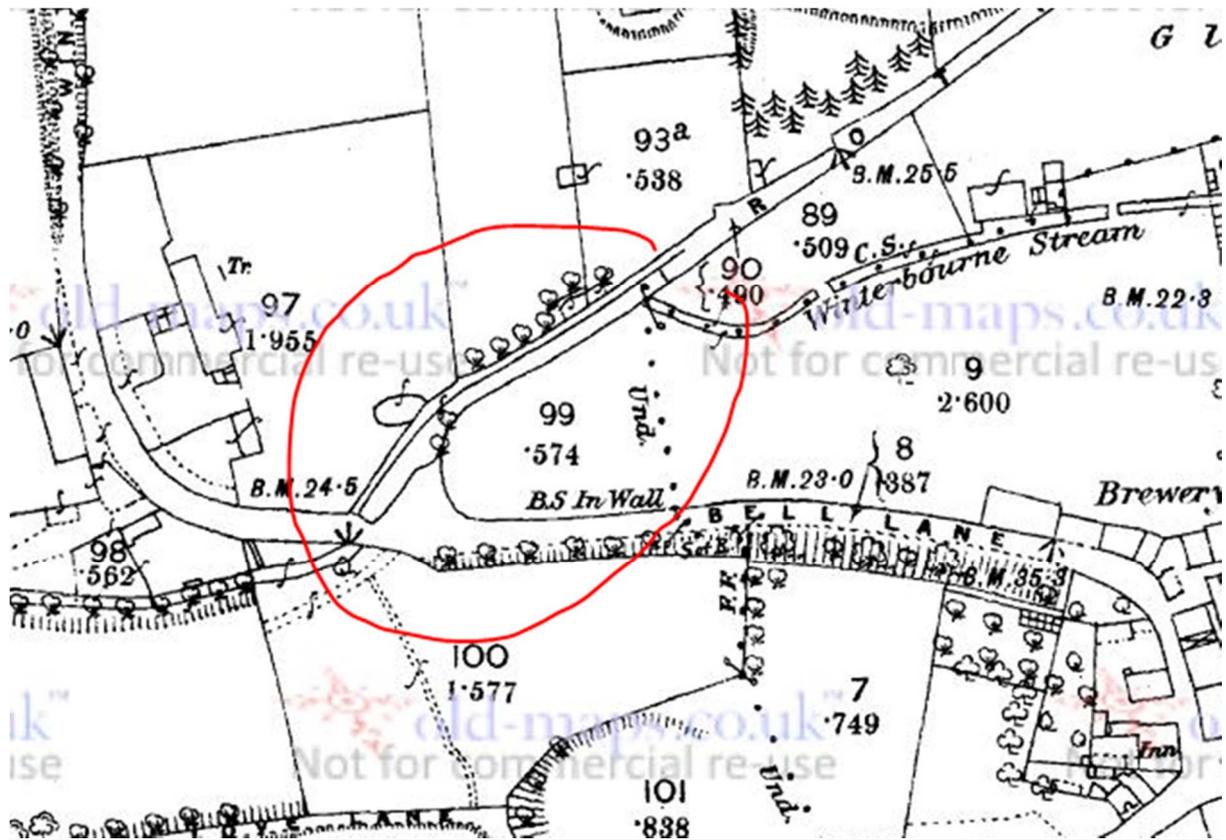
11.1.9 Copies of the Ordnance Survey 25 inches to the mile maps could in the past be found online at <https://www.old-maps.co.uk/#/>

11.1.10 I have copied extracts showing the route map from this source.

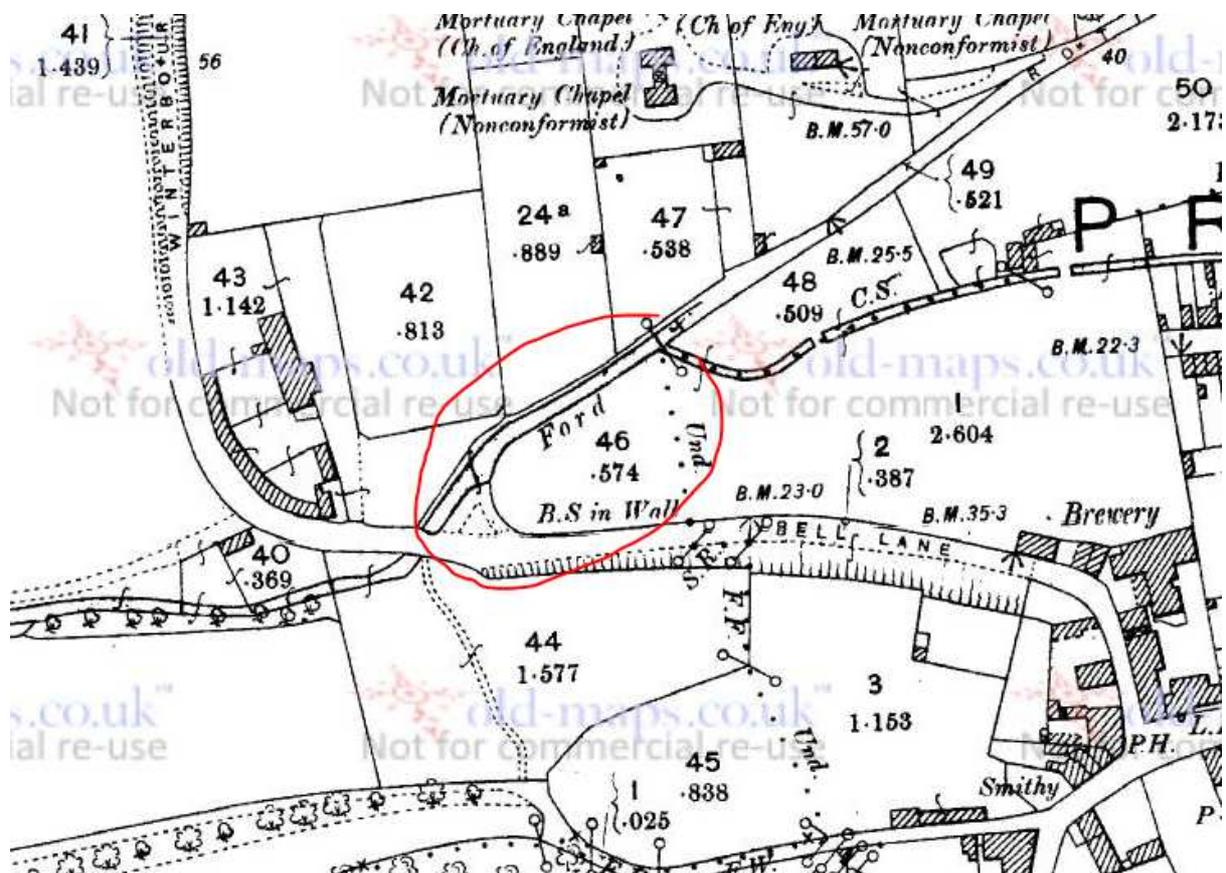
11.1.11 The evidence presented below

11.1.12 Below is an extract from the first Ordnance Survey 1-2500 map covering the area.

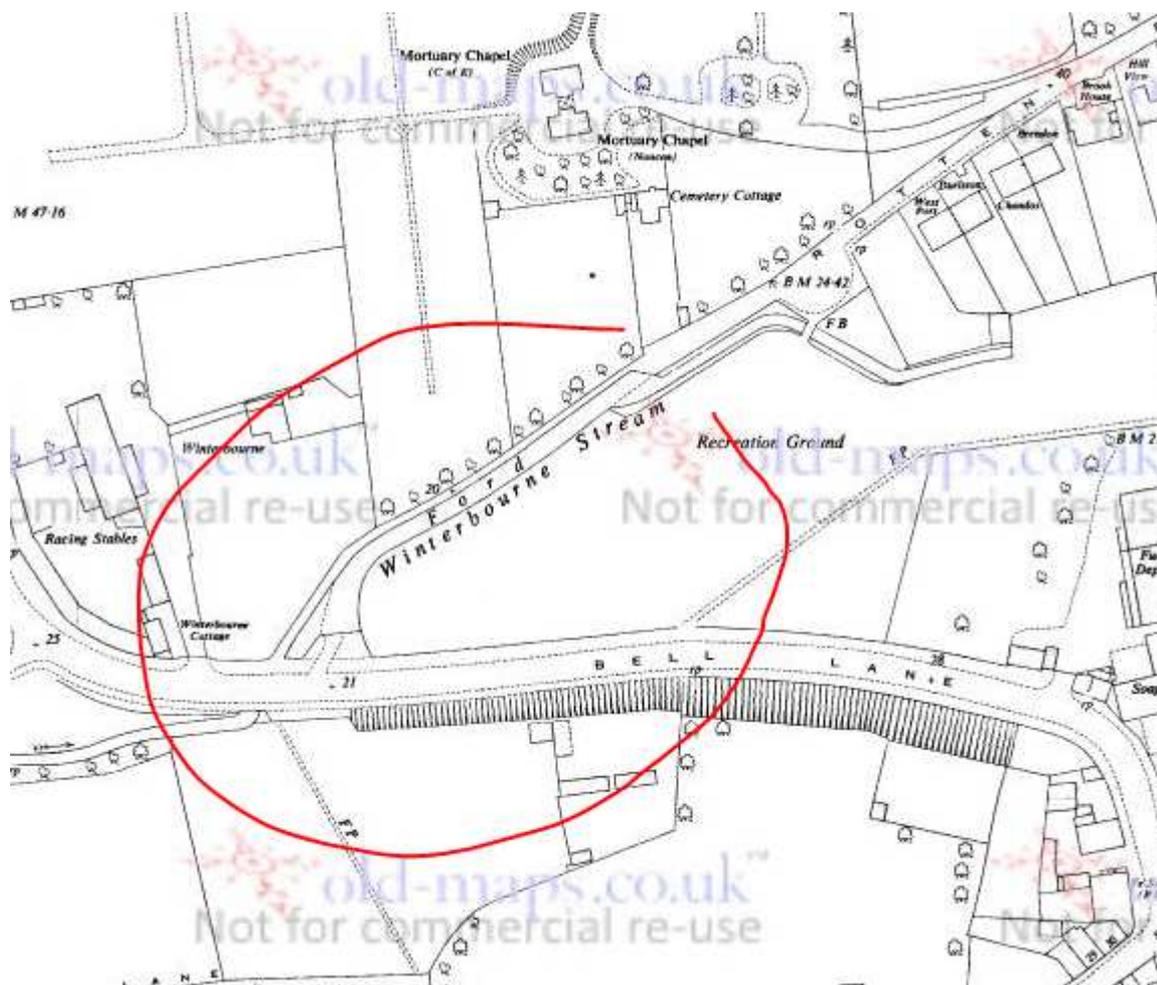
11.1.13 1st edition of 1874/5 below



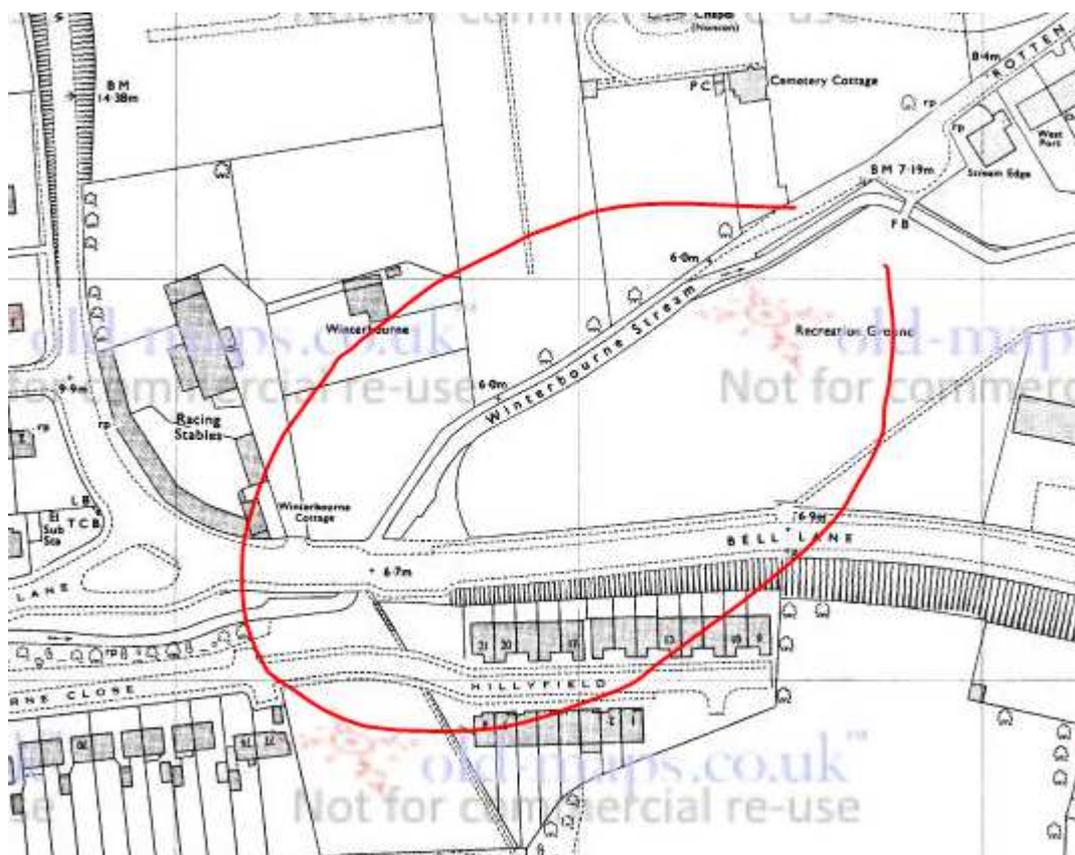
Second edition of 1899 below



1955 Edition below



1973



11.1.14 What this evidence shows

11.1.15 The first edition suggests a section of the application route is separate from the rest and the second edition clarifies this. The main part of the route is labelled as a ford, i.e. a road running through water. This designation persists through maps up to 1955. The second edition and 1955 editions show how vehicles exited the ford at the south west end. However by 1973 this part of the route is no longer described as a ford and the exit is no longer shown. The stream is separated from the more northerly strip. But this strip is not labelled FP, which was the usual way footpaths were shown.

11.1.16 The significance of this evidence

11.1.17 Planning Inspectorate consistency guidelines say at Section 14 paragraph 14.2.35(After observing that the Courts have determined OS maps are not evidence of the status of a way): Nevertheless, the inclusion of a route on a series of OS maps can be useful evidence in helping to determine the status of a route, particularly when used in conjunction with other evidence (Section 2.16 to 2.21 'Evidential Weight' refers)".

11.1.18 The evidence suggests that the route was a road, partly through water, up to at least 1955.

12. INLAND REVENUE VALUATION

12.1.1 The Finance (1909-10) Act 1910 provided for land valuations to take place across the country so that the increase in its value could be taxed. Deductions from the assessable value could be claimed by landowners where the land was crossed by a footpath or bridleway. Where a vehicular highway crossed land, it was often omitted from the valuation,

and shown on the Inland Revenue's plans as a "white road". If a route were a private vehicular way, then it could be developed, increase in value and so be taxed. Accordingly, private tracks were not usually excluded from the assessable hereditaments

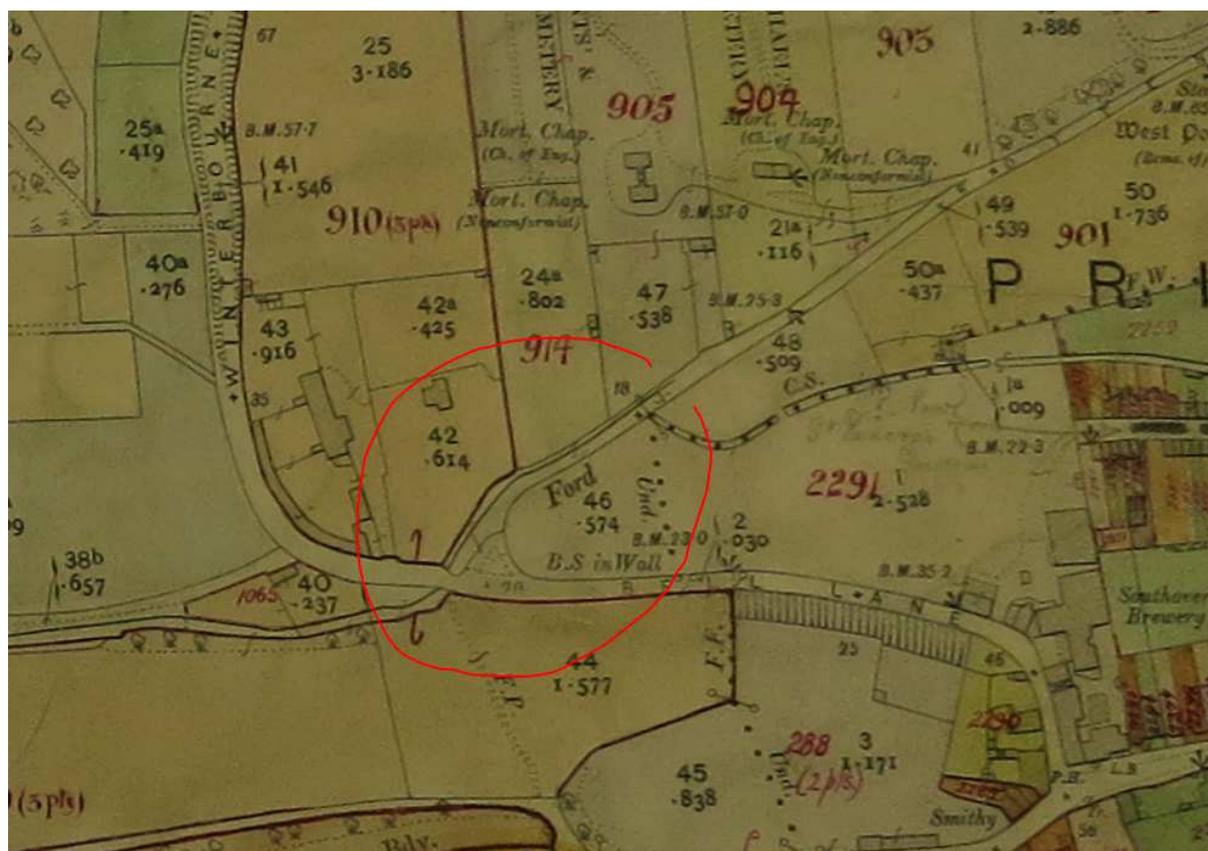
12.1.2 The evidence presented below

12.1.3 The evidence below is an excerpt from the map held at the National Archive under reference IR 124/1/159

12.1.4 What this evidence shows

12.1.5 Unfortunately the relevant map has faded and the colours have run. For example Bell Lane, which has been shown as a road on maps from the 18th century onwards, starts off as white but then appears to fade into a sort of green colour. The continuation of Bell Lane to the north west, Winterbourne Hollow is white. This affects the application route. The south western exit to the ford and some of the application route is the same sort of green. However there is a clear colour change between the narrow north western part of the application route and the remainder. The western and eastern continuations of the Winterbourne are clearly white.

12.1.6



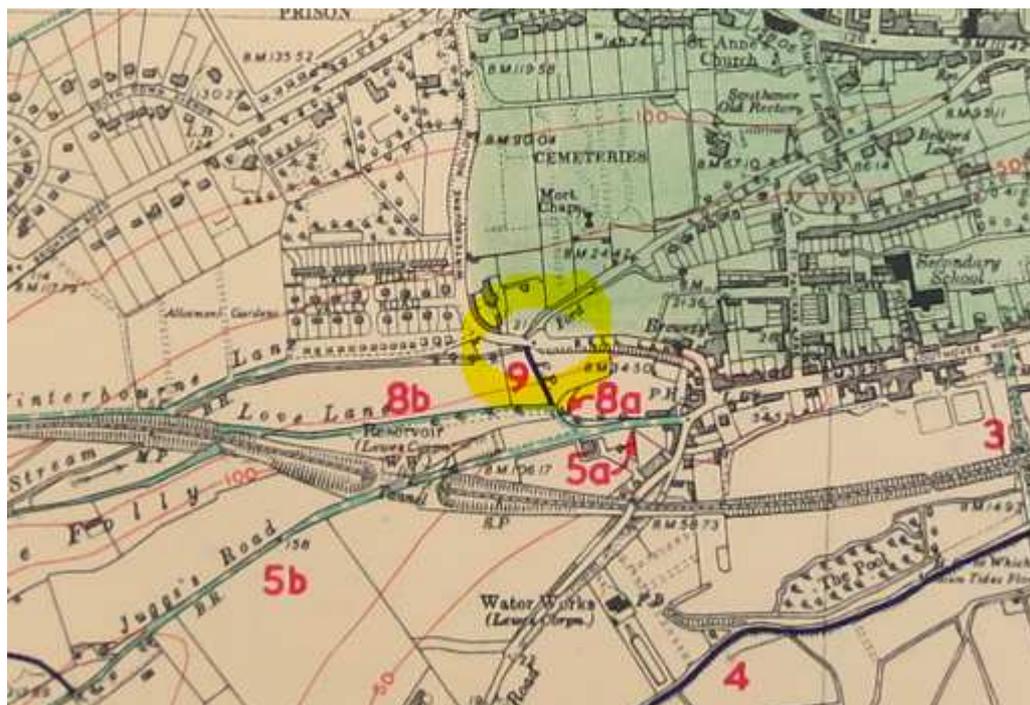
12.1.7 The significance of this evidence

12.1.8 Where a route is shown as a white road the overwhelming likelihood is that it was a public road. However streams and rivers could also be shown in white. The fact that the ford part of the application route does not appear to be white may suggest that it was in some

way different from the rest of the Winterbourne, however this does not explain why it appears to be part of hereditament 2291. The fact that the thin part of the application route appears to be white suggests that it was considered to be a road although it is possible that it was seen as a stream. Again, it is possible that the colours have run.

13. 1ST DEFINITIVE MAP SURVEY

13.1.1 The application route was not surveyed when the first definitive map of Lewes was made because it was part of the central core of the town. Interestingly though, the south wester exit to the ford was included in the area to be surveyed. It seems to have been treated as part of the road at Bell Lane.



13.1.2 The north western side of the application route was added in 1998 as a footpath. I do not have any information about why this status was chosen.

14. FACEBOOK

14.1.1 The evidence presented below

14.1.2 1 posted a question on the Lewes Past facebook page to see if anyone could remember anything of significance about the route. The exchanges are shown below. The page can be found at <https://www.facebook.com/groups/713132045371125> but it will be necessary to scroll down some way.

14.1.3 What this evidence shows

14.1.4 A number of contributors post first or second person accounts which support the existence of a ford before the culverting, the date of which is given as the late 1960s.



Chris Lewes asked a question

30 August at 20:03

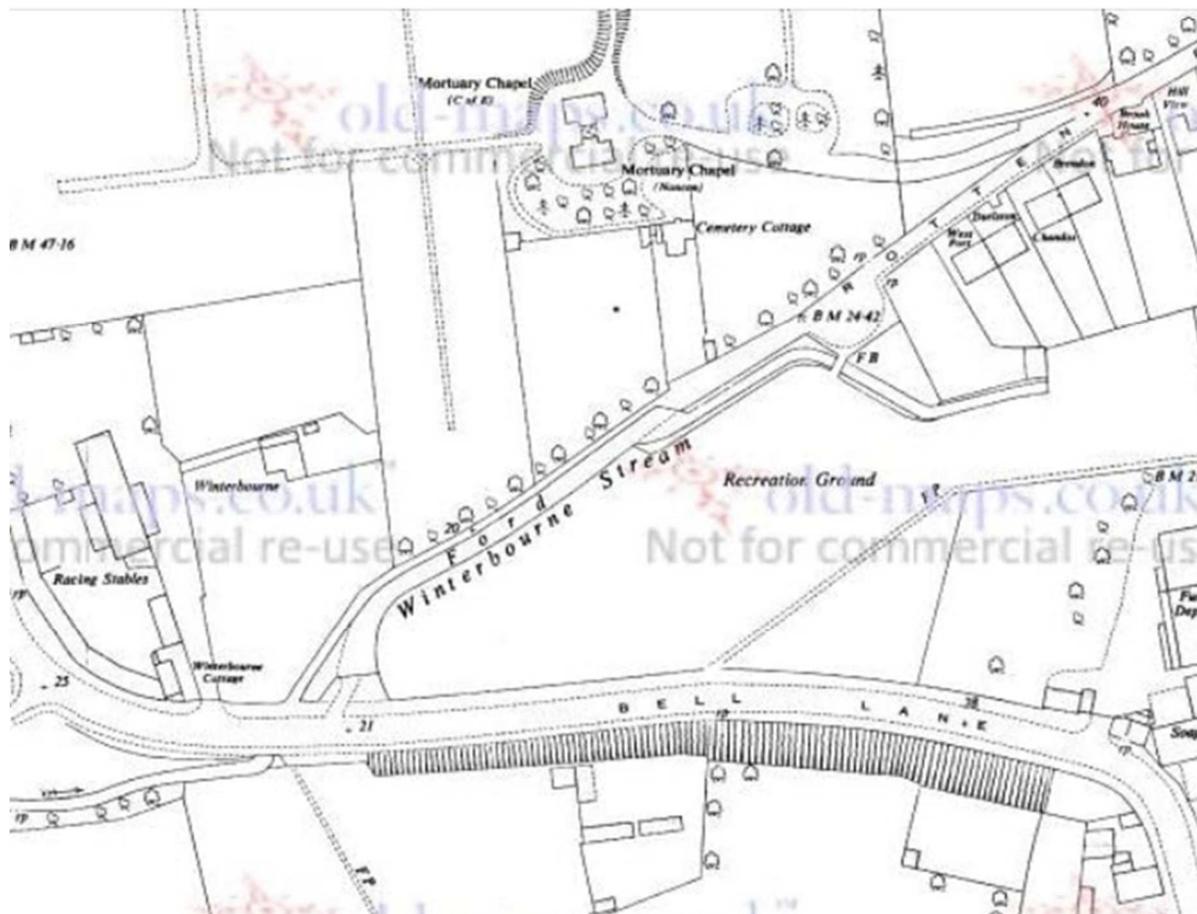


From the 1890s right up to 1956 Ordnance survey maps showed a ford along the Winterbourne stream going from the bottom of Rotten Row to Bell Lane.

Do you know anything about this?

Could you walk, ride or even drive a car?

When was the ford done away with?



All answers ▾



Doug Kilborn
Ford? For large parts of the year the stream is dry anyway

Like · Reply · 1 d



Mike Gurr
Doug Kilborn ..hence "winter....bourne"

Like · Reply · 1 d



Doug Kilborn
Mike Gurr yes



Like · Reply · 17 h



Philip Amey
Doug Kilborn this wasn't always the case until they built the Pumping Station just before the Newmarket Pun on the Brighton Road. Water is now removed there, before it used to flow far more freely.

Like · Reply · 23 h

↳ View 1 more reply



Philip Amey
Doug Kilborn yes it dried up in the Summer but like all Chalk Water Tables there's a point at which it runs freely but the pumping station, I believe, is close to the source of the Winterbourne.

Like · Reply · 21 h



Chris Fuller
We used to live in the property (Westport) adjacent to the footbridge over the stream, I would not call it a ford, it is usually just a dry stream bed, until winter rains make the stream run and occasionally flood, there is a footway adjacent to the ...
[See more](#)

Like · Reply · 1 d



Michael Nichols-marcy
Chris Fuller were theDunns , elizabeth, Paul and Peter your neighbours?

Like · Reply · 1 d



Chris Fuller

Like · Reply · 1 d



Chris Fuller

No we lived there after the Dunns.

Like · Reply · 12 h



Kevin Cramer

There was certainly a ford that run alongside the foot path, it was never used except by us lads for a dare .I lived in winterbourne ,can remember the race horses paddling in the stream .I guess the ford came to an end when the stream was given a brick...

See more

Like · Reply · 1 d · Edited



Mick Symes [Admin](#) +1

The culvert and embankment work right the way through the grange was done in late 1960's some of the lads working on it Neil Penfold was one went on to drive motor scrapers constructing the new reservoir at arlington, check the archive for further det... See more



Like · Reply · 1 d · Edited



Maggie French Walker

Chris Lewes ...cool last name. Is it for real or are you using a Pseudonym? If for real what's your connection to Lewes to achieve this greatness lol

Like · Reply · 1 d



Angela Wooles

Yes it ran from winterbourne through recreation ground back of st pancreas gardens back of the course to the grange after that I'm not sure we used to live in the course but as it's been said before it was mostly dried up except in the winter

Like · Reply · 1 d

Like · Reply · 1 d



Susan Ransom

Angela Wooles we played there a lot didn't we. I remember walking along the river bed 😊

Like · Reply · 17 h



Anita Cook

Angela Wooles were you a Ceder?

Like · Reply · 17 h



Angela Wooles

Anita Cook yes I was and it was spelt sedar

Like · Reply · 9 h



Paul Mockford

Yes I remember in the early 60's there being a ford from the bottom of Rotten Row where the stream meets the footpath and it crossed the other side at the recreation ground before it goes under the road. As kids we often played in the stream and like K... See more

Like · Reply · 1 d



Kevin Cramer

Paul Mockford The flint wall has been there since who knows when ?? but the brick wall / stream banks are sort of new as we say during the 60's. Remember during the 60's floods dragging a young boy out of the water just buy the road bridge in Bell lan... See more

Like · Reply · 1 d



↳ View 1 more reply



Kevin Cramer

Paul Mockford Same here, used to get told off by my Mum, lol.

Like · Reply · 1 d



Ali Harris

My great aunt (born 1916? ish) used to recount how she played in the stream as a child and it had a "sandy bottom". Not sure if that detail was added in from a mixed up memory but it was definitely the place to paddle in the 1910s/20s

Like · Reply · 19 h



...

Like · Reply · 1 d

 **Ali Harris**
My great aunt (born 1916? ish) used to recount how she played in the stream as a child and it had a "sandy bottom". Not sure if that detail was added in from a mixed up memory but it was definitely the place to paddle in the 1910s/20s

Like · Reply · 19 h  1

 **Paul Mockford**
The Winterbourne stream has been badly affected by the new pumping stations at Newmarket, it never used to be dry for as long as it is now. But it's interesting that the volume of water from the well at Pinwell Lane where it is piped causes the stream ... See more

Like · Reply · 17 h

 **Chris Lewes** Author
Thank you all for your helpful comments

Like · Reply · 16 h  1

 **Anita Crowhurst**
Think I have a photo of dad and other men working on a Hugh hole that had something to do with the new pumping station near the old Newmarket Pub. That was just after the floods in 60 /61 shall try to find it.The stream was a great place to have fun in... See more

Like · Reply · 14 h  3

 Write a comment...    

14.1.5 The significance of this evidence

14.1.6 It is sometimes said that information on Facebook is unreliable and this is certainly true where "information" has no source, or where the issue is controversial. But here people are giving information about their lived experience and that of their relatives. The subject is not a controversial one where people might

14.1.7

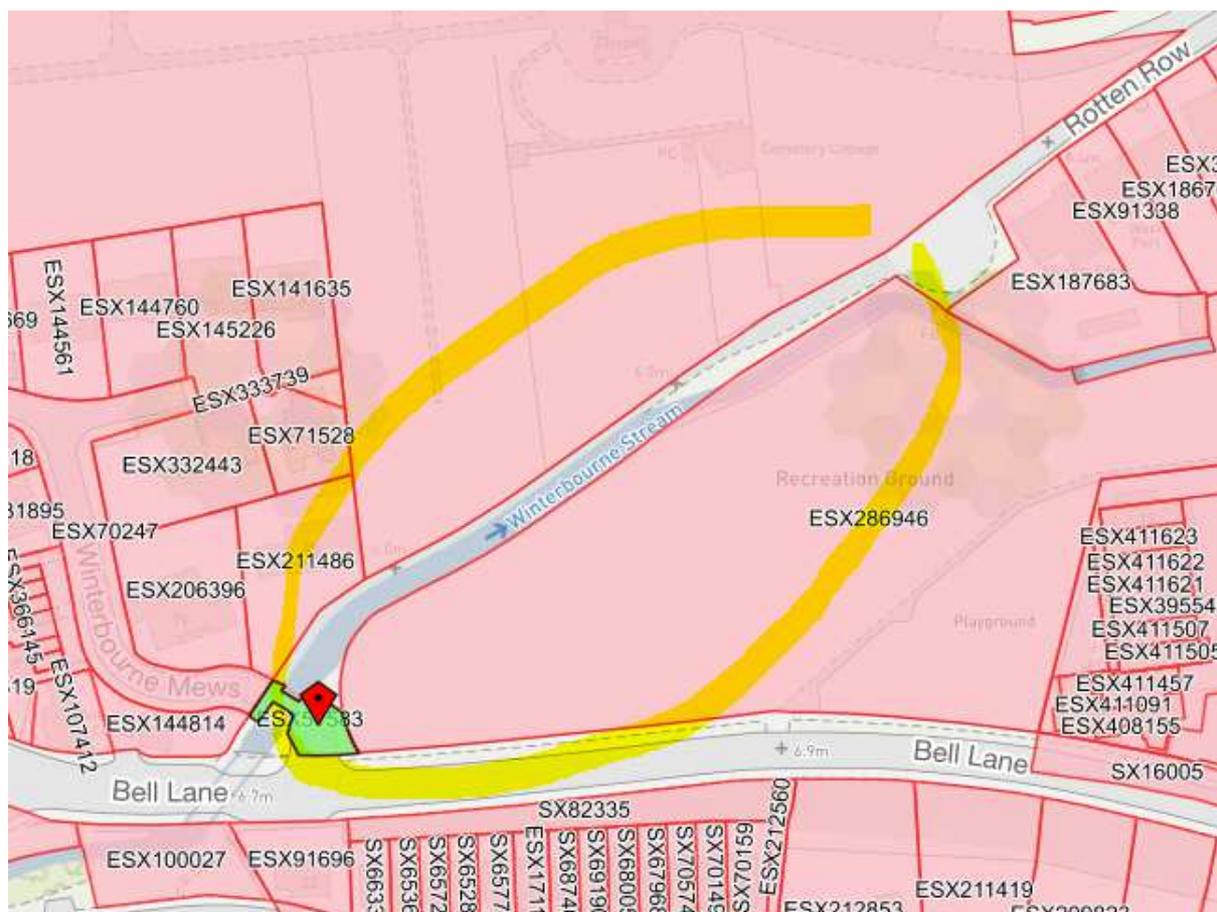
15. CURRENT OWNERSHIP

15.1.1 The evidence presented below

15.1.2 The information below was taken from the land registry web site on 17/1/21

15.1.3 What this evidence shows

15.1.4 Most of the application route has not changed hands since registration became compulsory.



15.1.5 The significance of this evidence

15.1.6 The fact that the application route has not changed hands (with the exception of a small piece now owned by Lewes District Council) since registration first became compulsory is suggestive of highway status. Of course a stream might not have changed ownership either, but I note that the north eastern part of the application route is not a stream and also that the sections of the stream immediately next to the route have changed hands.

16. CONCLUSION

16.1.1 The fact that the route has been shown as a road in the same way as other public roads in the area over a very long period strongly supports the case that the application route is a byway. It may be suggested that only the part of Rotten Row currently recorded as a road was the limit of the road, but the route is regularly shown as a through route and early maps show that before 1899 there was no reason for the road to stop at the north east end of the application route.

16.1.2 The depiction of part of the application route as a ford on ordnance survey maps strongly suggests a highway through water.

16.1.3 The photographic evidence shows that the road was unlikely to have extended north west of the application route. The land slopes up through what is now the cemetery and there is no indication that this has not always been the case.

16.1.4 The evidence from the tithe map strongly suggests highway status as a road. The application route is labelled in the same way as other public roads as “roads and waste ”

with no owner. I have never seen a stream described as a waste, so I conclude that a road is being referred to.

16.1.5 The Finance Act evidence is difficult to interpret, but suggests that at least part of the route was a public road.

16.1.6 The Facebook evidence shows that up until the 1960s the application route still had the characteristics of a road through water, although it had not been used as such for some time.

16.1.7 The land registry evidence is supportive of highway status.

16.1.8 Whilst no single piece of evidence is conclusive, I believe that, taken as a whole, the pieces of evidence demonstrate the existence of a highway over many years. There are possible, if often unlikely, alternative explanations for each individual piece of evidence but, I suggest, no explanation other than the existence of a right of way which explains what all of these pieces of evidence show.

16.1.9 The test is "Is it more likely than not that the right of way exists as suggested". I suggest that this document demonstrates that the test is passed.

17. REQUEST

17.1.1 I request the surveying authority to add the route to the definitive map and statement partly as a byway open to all traffic and partly as a restricted byway

Chris Smith for the Open Spaces Society.