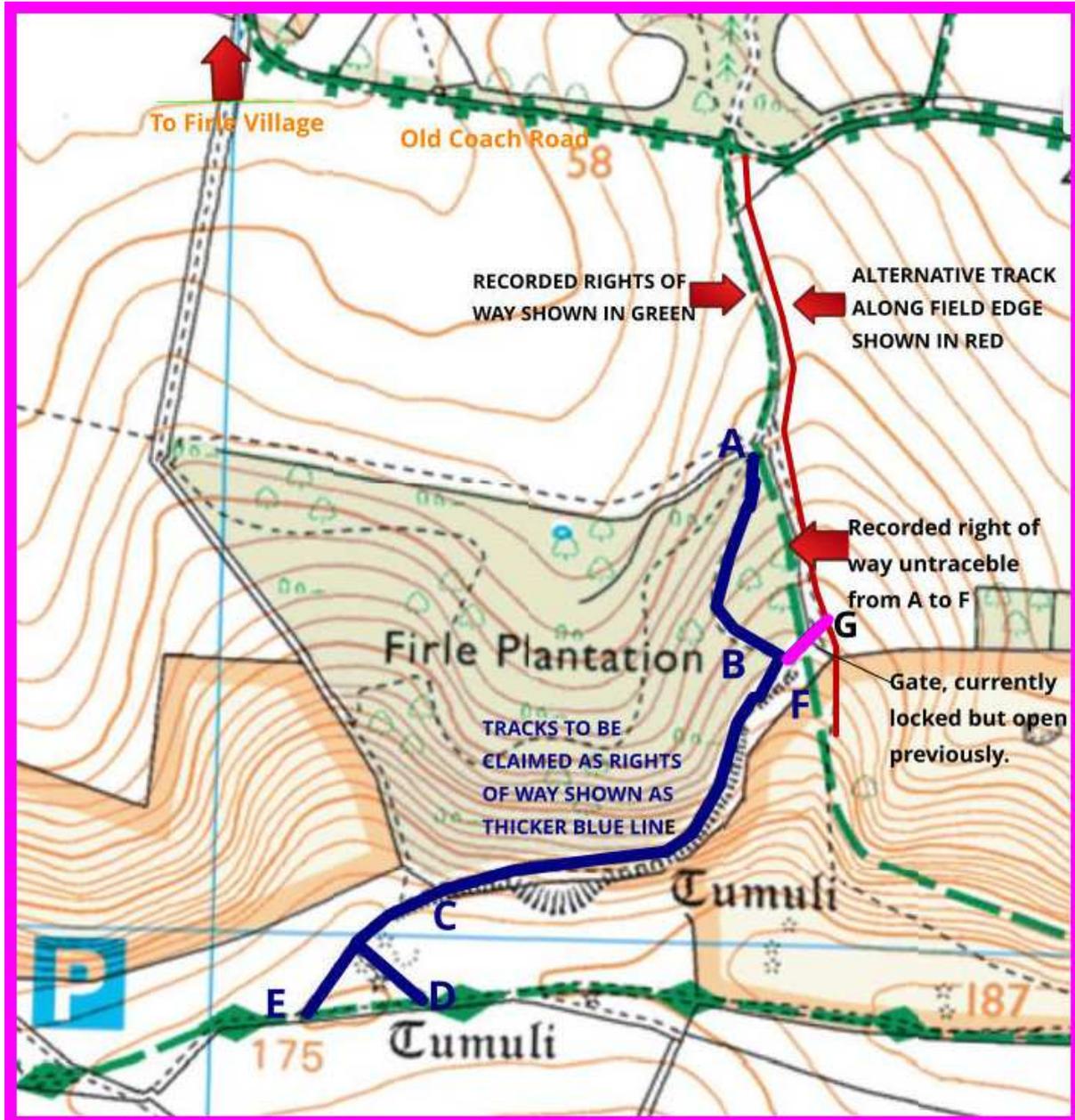


APPLICANTS STATEMENT

Our reference- Firle B

THE APPLICATION ROUTE



Application is being made to add

- A bridleway from point A, a junction with bridleway Firle 12 at grid reference TQ 47531 06495 to point B at grid reference TQ 47557 06281
- A bridleway from point B to point C at grid reference TQ47219 06049

- A bridleway from point C to a junction with bridleway Firle 7a at grid reference TQ 47191 05950
- A bridleway from a junction with the claimed bridleway immediately above at grid reference TQ 47127 05994 to a junction with bridleway Firle 7a at grid reference 47110 05944
-

The route is in Firle Parish. The parish was formerly known as West Firle

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

1. DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

1.1 Discovery of Evidence

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

1.1.2 I believe that all of the evidence set out below with the exception of the definitive map material is new in that it has not been considered in a rights of way context before.

2. HISTORIC MAPS

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

2.2 YEAKELL AND GARDNER'S SUSSEX 1778-1783

2.2.1 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

2.2.2 WHAT THIS EVIDENCE SHOWS

2.2.3 Within the limits of the scale the application route is shown as a road or track leading to a windmill



2.2.4 THE SIGNIFICANCE OF THIS EVIDENCE

2.2.5 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 county 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.

2.2.6 The map does not have a key.

2.3 GARDENER AND GREAM MAP 1795

2.3.1 This map is held at the East Sussex records office 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 The eastern section is at <https://digitalarchive.mcmaster.ca/islandora/object/macrepo%3A80922>

2.3.2 WHAT THIS EVIDENCE SHOWS

2.3.3 Within the limits of the scale the application route appears as a road or track leading to a windmill



2.3.4 THE SIGNIFICANCE OF THIS EVIDENCE

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

2.4 GREENWOOD AND GREENWOOD MAP OF SUSSEX 1825

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

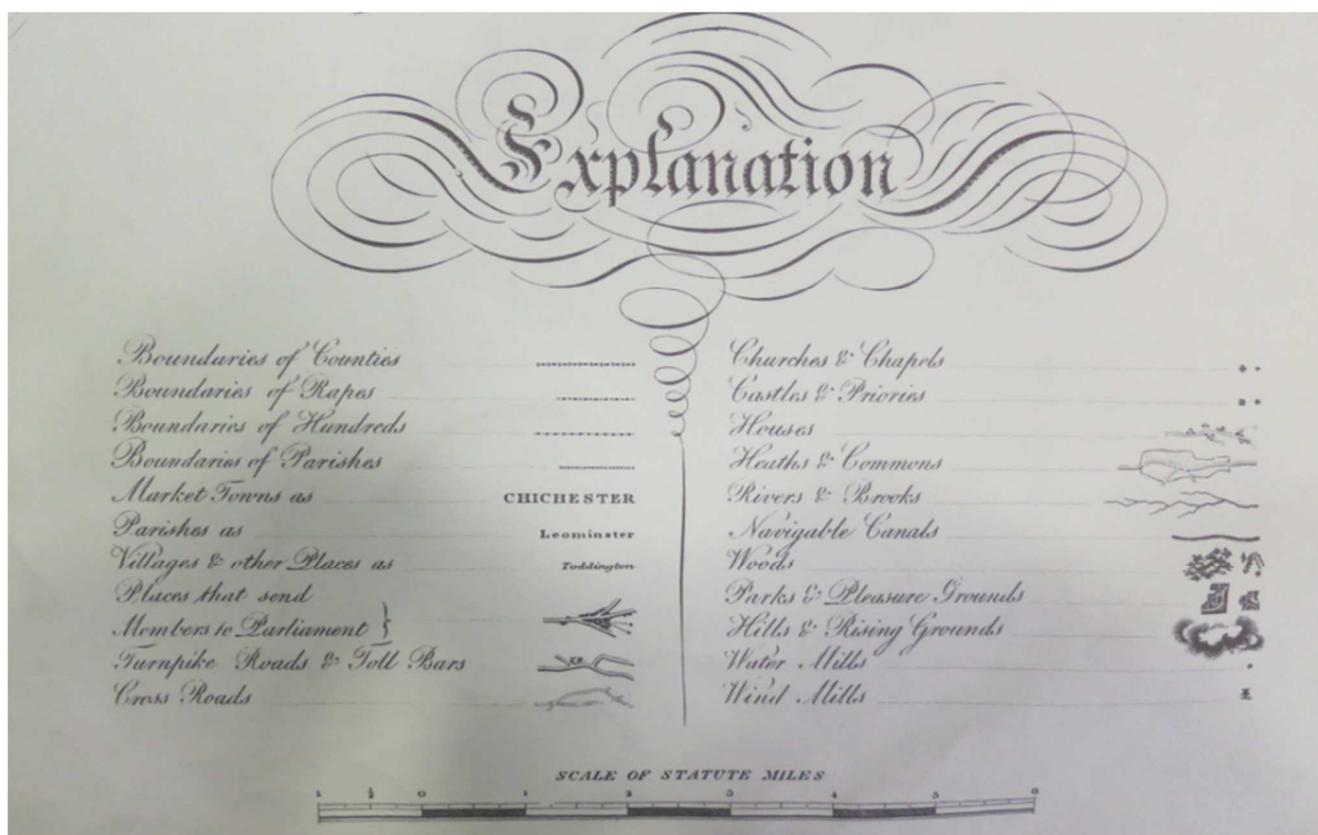
2.4.2 WHAT THIS EVIDENCE SHOWS

2.4.3 Within the limits of the scale the bulk of the application route is shown as a road.

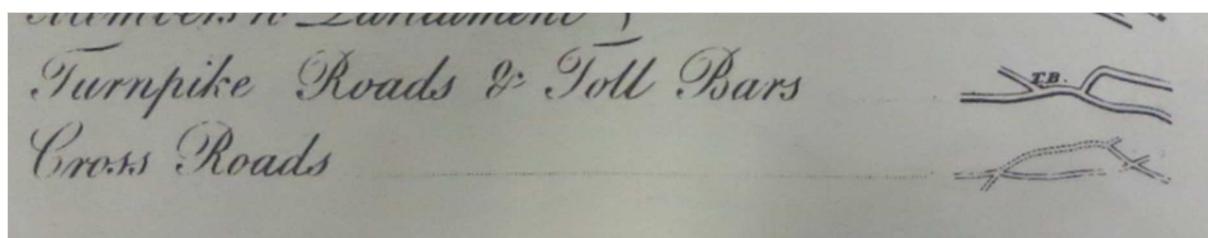


2.4.4 THE SIGNIFICANCE OF THIS EVIDENCE

2.4.5 The map has a key, which is shown below



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



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

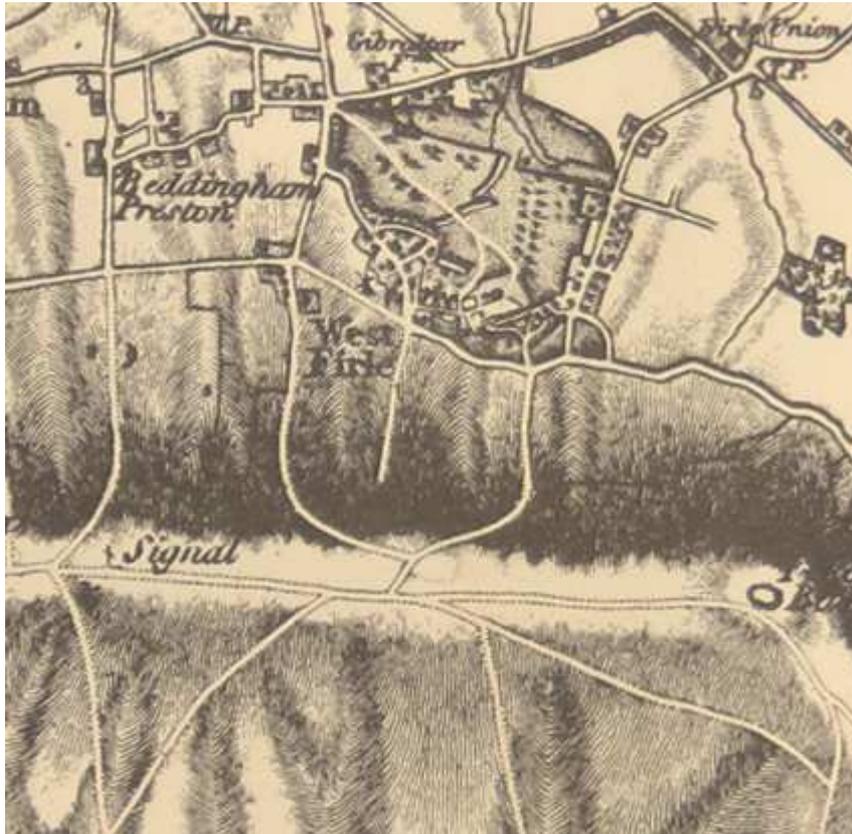
2.4.8 Few private roads were shown. (The sheer volume of missed out private roads and tracks can be seen by comparing the number of roads shown on later maps such as the first edition of the ordnance survey 1-2500 series.) The existence of a way on this map means that it was more likely than not, a public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

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

2.5.1 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.

2.5.2 WHAT THIS EVIDENCE SHOWS

2.5.3 Subject to the limitations of the scale, the bulk of the application route is shown as a road or track.



2.5.4 THE SIGNIFICANCE OF THIS EVIDENCE

2.5.5 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. FIRST EDITION OF THE ORDNANCE SURVEY 1" MAP

3.1.1 Copies of the first edition of these maps can be found at the University of Portsmouth web site at <https://www.visionofbritain.org.uk/> and the National Library of Australia at <https://nla.gov.au/nla.obj-231917049/view>

3.1.2 The maps for Sussex were first published between 1813 and 1819.

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

3.1.4 THE EVIDENCE PRESENTED BELOW

3.1.5 This evidence is taken from the National Library of Australia.

3.1.6 WHAT THIS EVIDENCE SHOWS

3.1.7 Subject to the limitations of the scale the bulk of the application route is shown as a road or a track.



3.1.8 THE SIGNIFICANCE OF THIS EVIDENCE

4. THE WINDMILL

4.1.1 A route to a windmill is likely to be public as people would want to visit the mill to have material ground into flour and also to buy the resulting products

Wikipedia at https://en.wikipedia.org/wiki/List_of_windmills_in_East_Sussex describes the mill as last mentioned in 1724.

5. TITHE RECORDS

5.1.1 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.

5.1.2 The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. No-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers roads could carry a tithe as they were used as pasture. It was in the interest of landowners for un-tithed 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.

5.1.3 Tithe maps can be accessed at the National Archive in black and white. The maps have been digitalised by the Genealogist web site at <https://www.thegenealogist.co.uk/search/advanced/landowner/tithe-records/> . Tithe maps and apportionments for East Sussex are also available on line at <https://apps.eastsussex.gov.uk/leisureandtourism/localandfamilyhistory/tithemaps/>

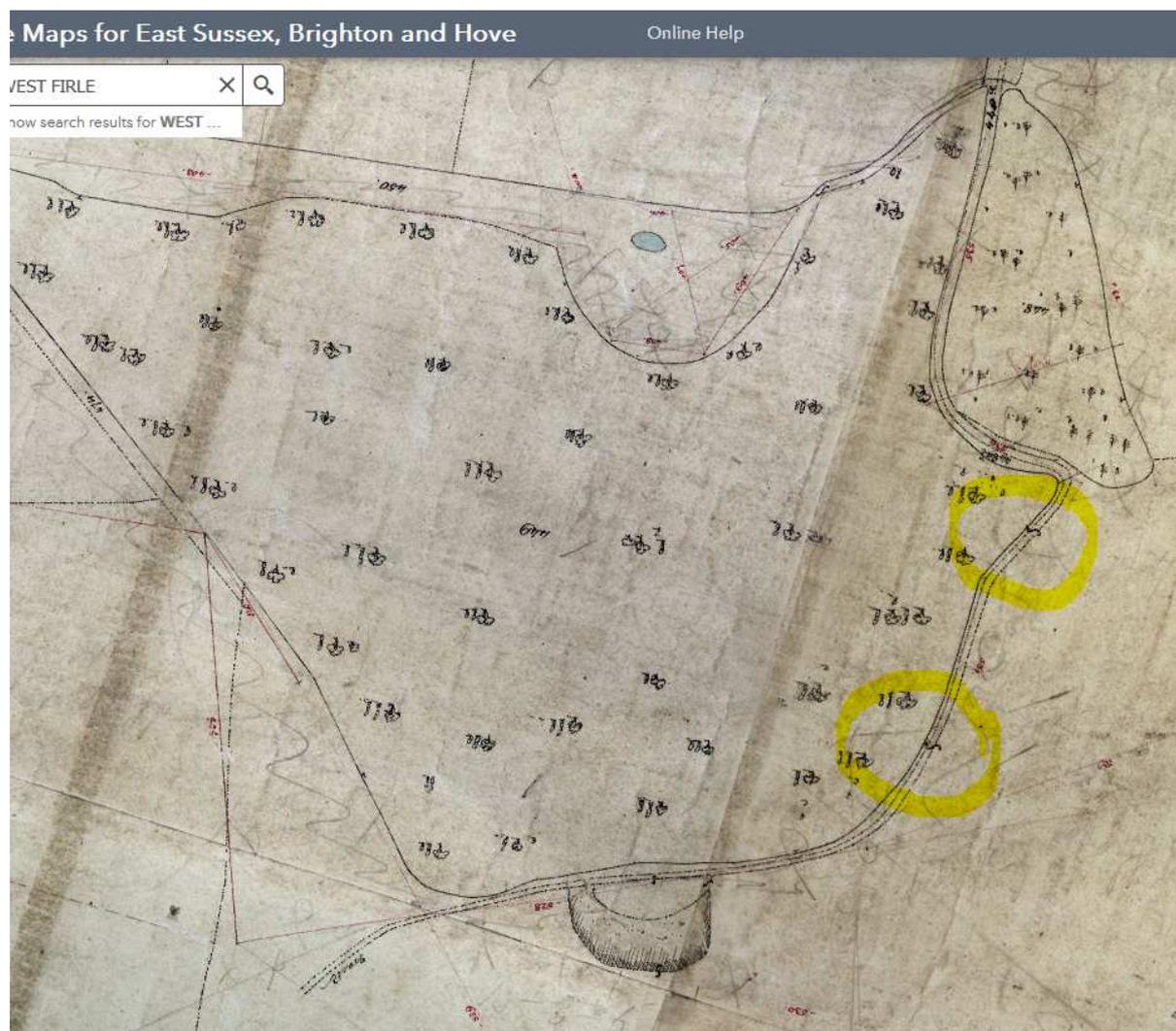
5.1.4 I have taken screen shots to show how the route is displayed and of any relevant apportionments.

5.1.5 THE EVIDENCE PRESENTED BELOW

5.1.6 This evidence is taken from the East Sussex County Council web site.

5.1.7 WHAT THIS EVIDENCE SHOWS

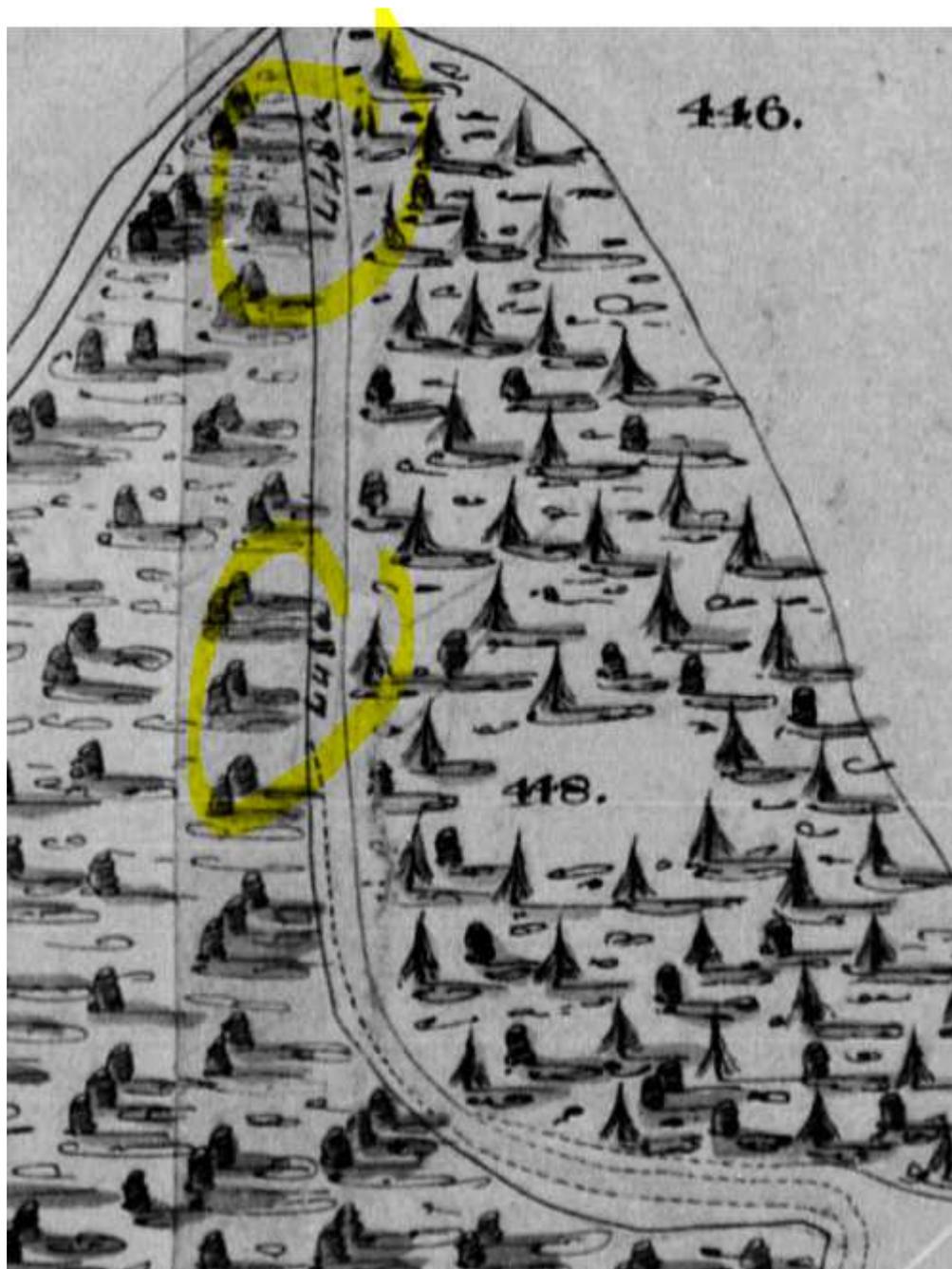
5.1.8 The bulk of the application routes are shown. It is separated from surrounding land. Where it is on open downland there are ~ marks separating it from the surrounding land. The route appears to be shown in sepia.



5.1.9 The route is numbered 448a



5.1.10 This can be seen more clearly from the version of the map on the Genealogist web site below.



5.1.11 On the ESSC site the details of the apportionment 448a are shown. The route is described as an old road. All the surrounding apportionments are shown as being owned by the same owner.

Plot:	448a
LandOwner Surname:	Gage
LandOwner Firstname:	Lord
Occupier Surname:	Gage
Occupier Firstname:	Lord
Land Description:	Old Road
Cultivation:	No data
Acres / Roods / Perches:	0 / 1 / 36 
2nd Occupier Surname:	and others
Page No:	6
Date:	23 Sep 1843

5.1.12 THE SIGNIFICANCE OF THIS EVIDENCE

5.1.13 I suggest that there was something different about the route shown, otherwise it would not have been shown as separate from the surrounding land, perhaps because it carried public rights.

5.1.14 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 brown 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

6. INLAND REVENUE VALUATION

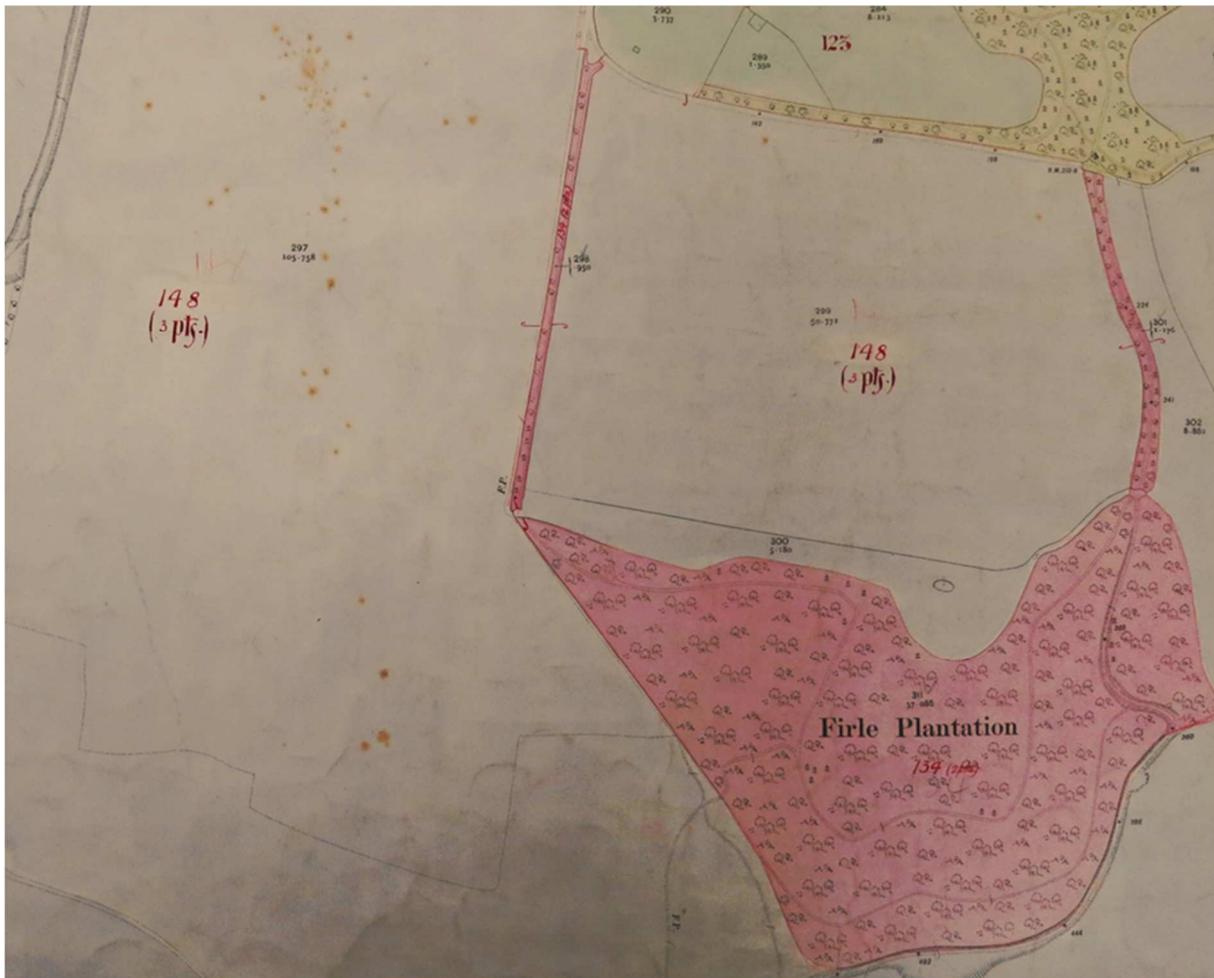
6.1.1 The Finance (1909-10) Act 1910 provided for land valuations to take place across the country so that the increase in its value could be taxed. Deductions from the assessable value could be claimed by landowners where the land was crossed by a footpath or bridleway. Where a vehicular highway crossed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

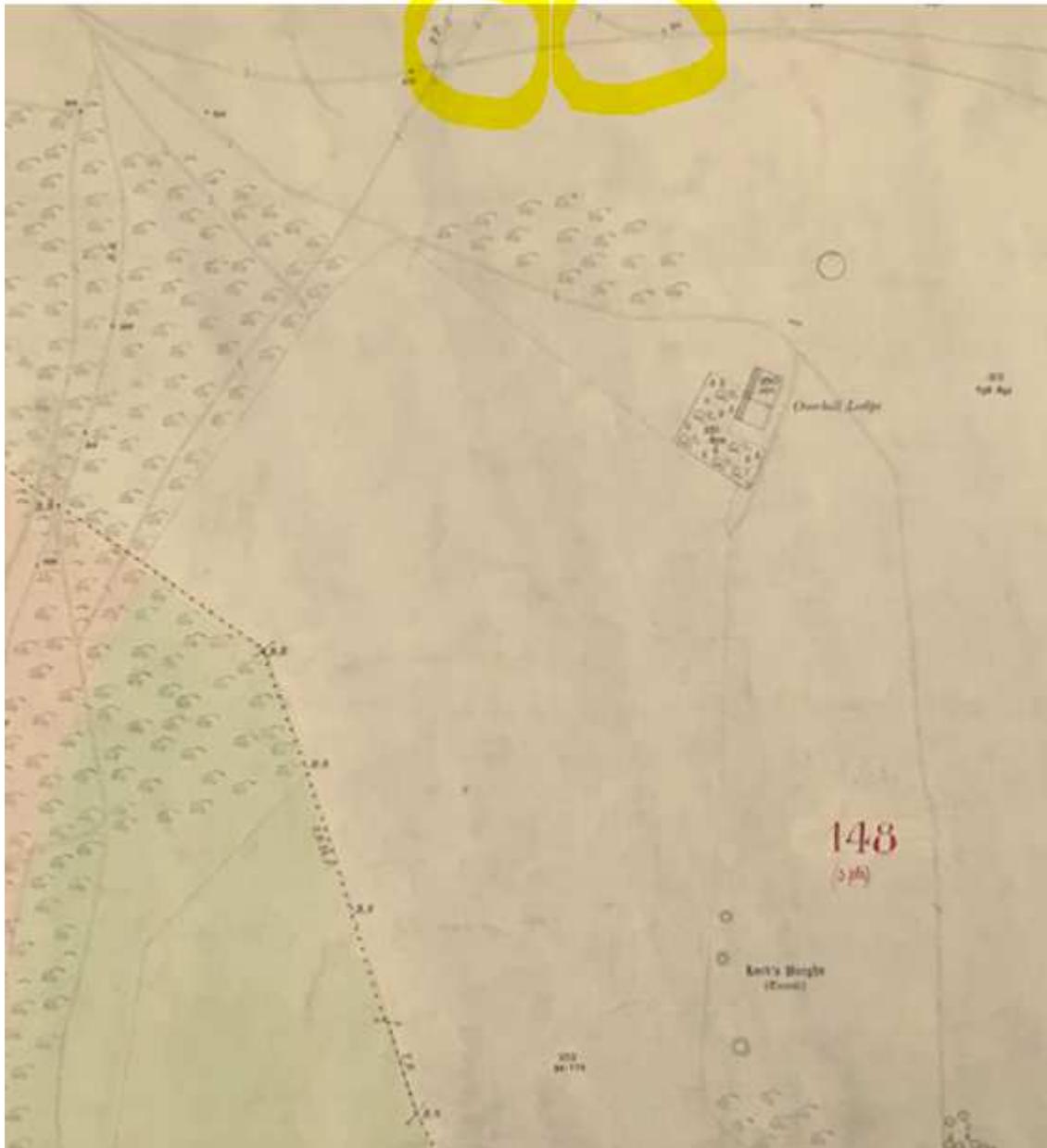
and shown on the Inland Revenue's plans as a "white road". If a route were a private vehicular way, then it could be developed, increase in value and so be taxed. Accordingly, private tracks were not usually excluded from the assessable hereditaments.

6.1.2 THE EVIDENCE PRESENTED BELOW

6.1.3 This evidence is taken from the map held at the National Archive under reference IR 124 1 197 which shows the bulk of the routes. A small portion is shown on the map held under reference IR 124 1 201

6.1.4 The application routes are not a white road. They are part of hereditaments 134 and 148.





6.1.4 The application route is not a white road. It is part of hereditaments 134 and 148.

6.1.5 THE SIGNIFICANCE OF THIS EVIDENCE

6.1.6 The route does not appear to have been considered at public road at the time, but it is set out as a route on the underlying map

7. FIELD BOOKS

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

1.1.2 I have not examined the field books because there are other rights of way in the hereditaments so the presence or absence of a deduction would not be significant.

8. OTHER MAPS

8.1.1 The National Library of Scotland has a number of maps covering the application route at

<https://maps.nls.uk/geo/explore/#zoom=15&lat=50.84114&lon=0.08602&layers=1&b=1> .

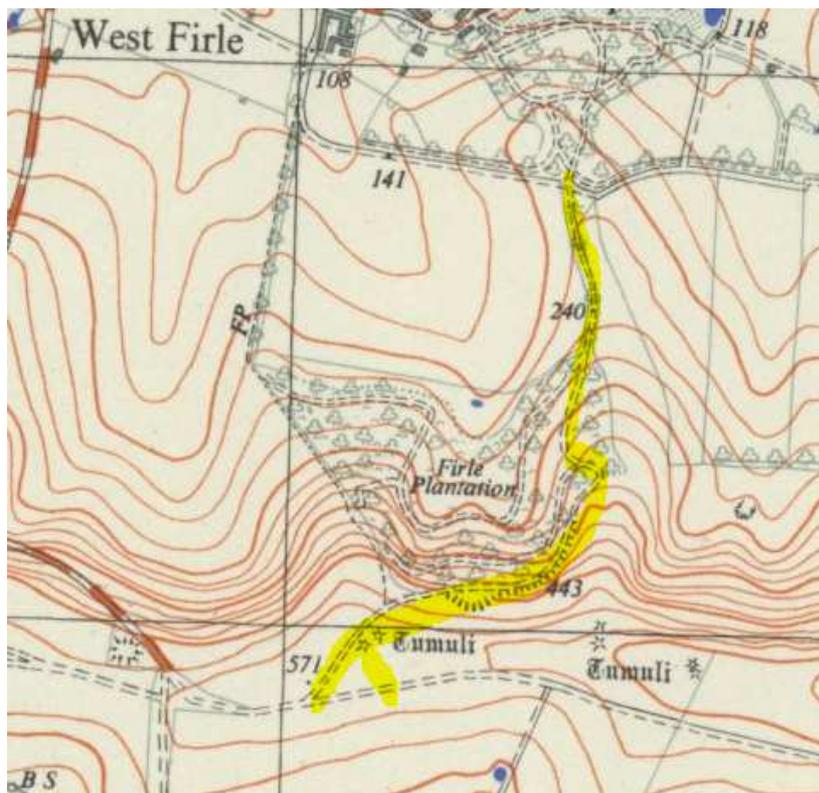
8.1.2 WHAT THIS EVIDENCE SHOWS

8.1.3 The bulk of the application routes are shown on these maps.

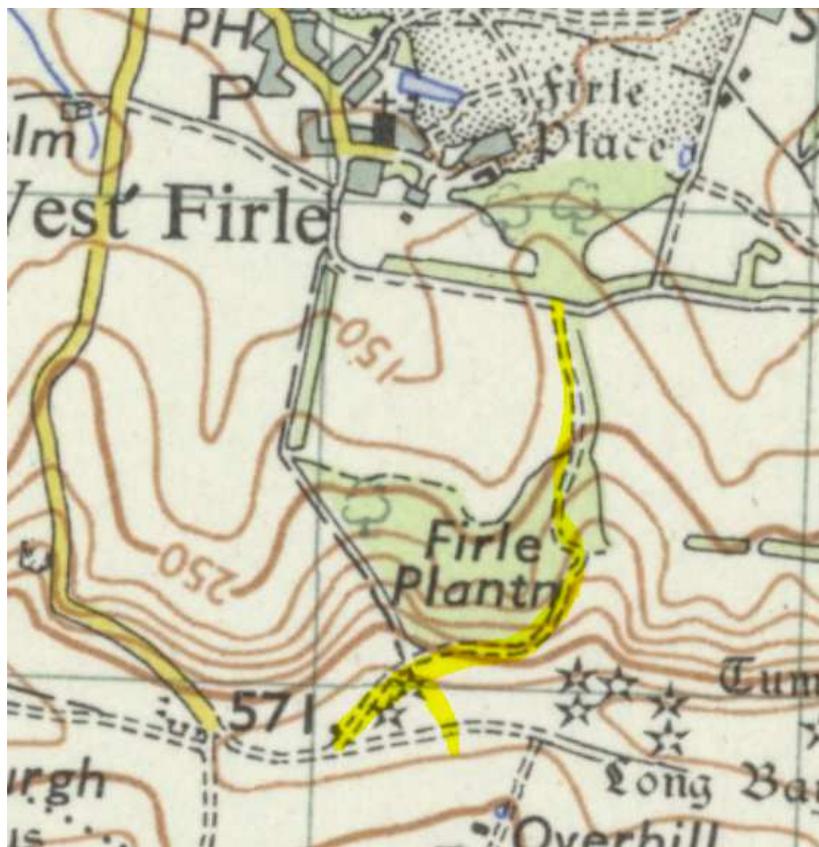
8.1.4 Ordnance Survey one inch map (OS) map of 1885-1900



8.1.5 OS 1-25000 map of 1937-61

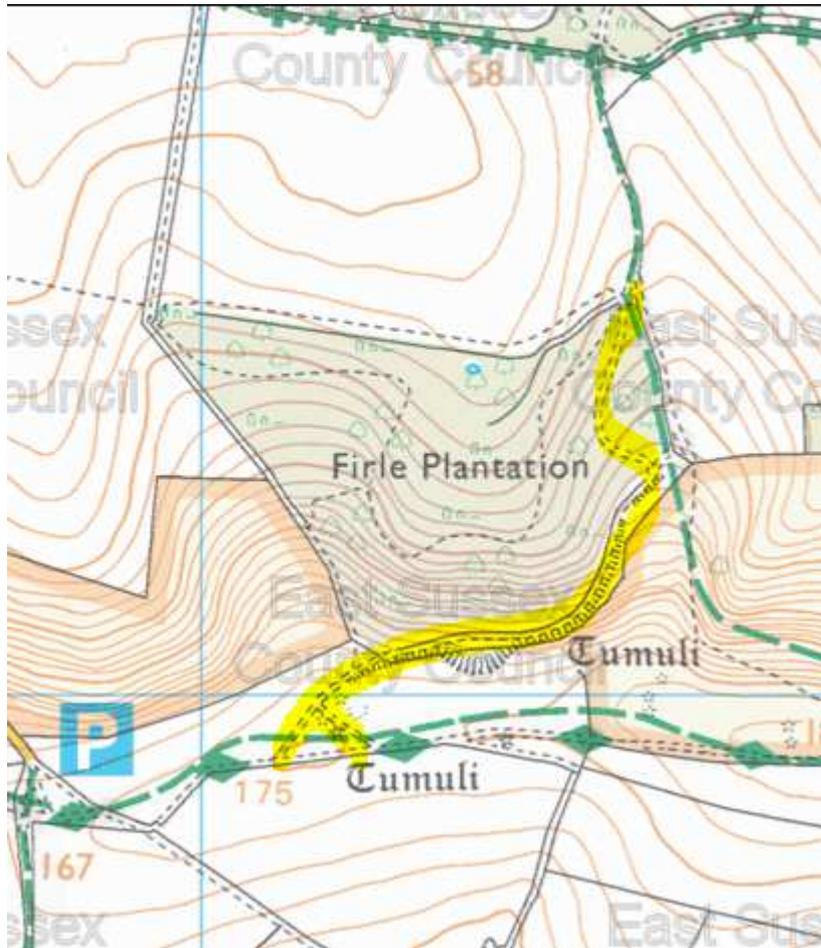


OS 7th series one inch map of 1952-61



8.2 MODERN MAP

8.2.1 The application routes are shown as present.



8.2.2 THE SIGNIFICANCE OF THE MAPPING EVIDENCE

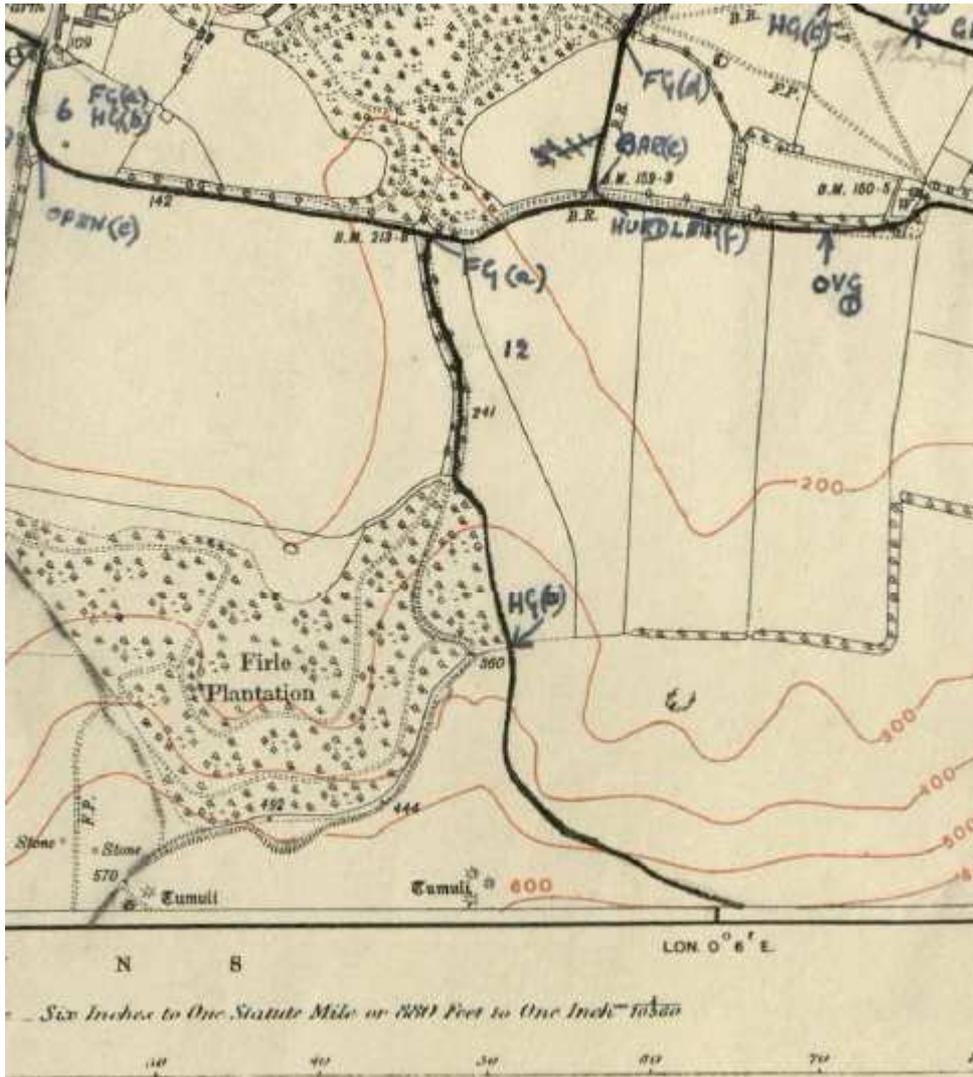
8.2.3 The application routes are shown as being in existence for a long period of time.

9. 1ST DEFINITIVE MAP SURVEY

9.1.1 The first bit of the definitive map process involved the parish drawing the routes that they thought were rights of way on a map.

9.1.2 WHAT THIS EVIDENCE SHOWS

9.1.3 The parish survey did not identify the application routes as rights of way. Instead they identified a route which appears to be the recorded route today, which they numbered 12. This route does not appear on any maps prior to this date. There is a gate marked at point F on the application map, but not near point A, indicating that the route stays inside the Firle Plantation.



9.1.4 This route was shown on the first definitive map and remains on the definitive map as the extract from the online rights of way map below shows.

9.1.5 From point A on the application route the definitive route runs inside the Firle Plantation leaving it at point F on the application map.



9.1.6 THE SIGNIFICANCE OF THIS EVIDENCE

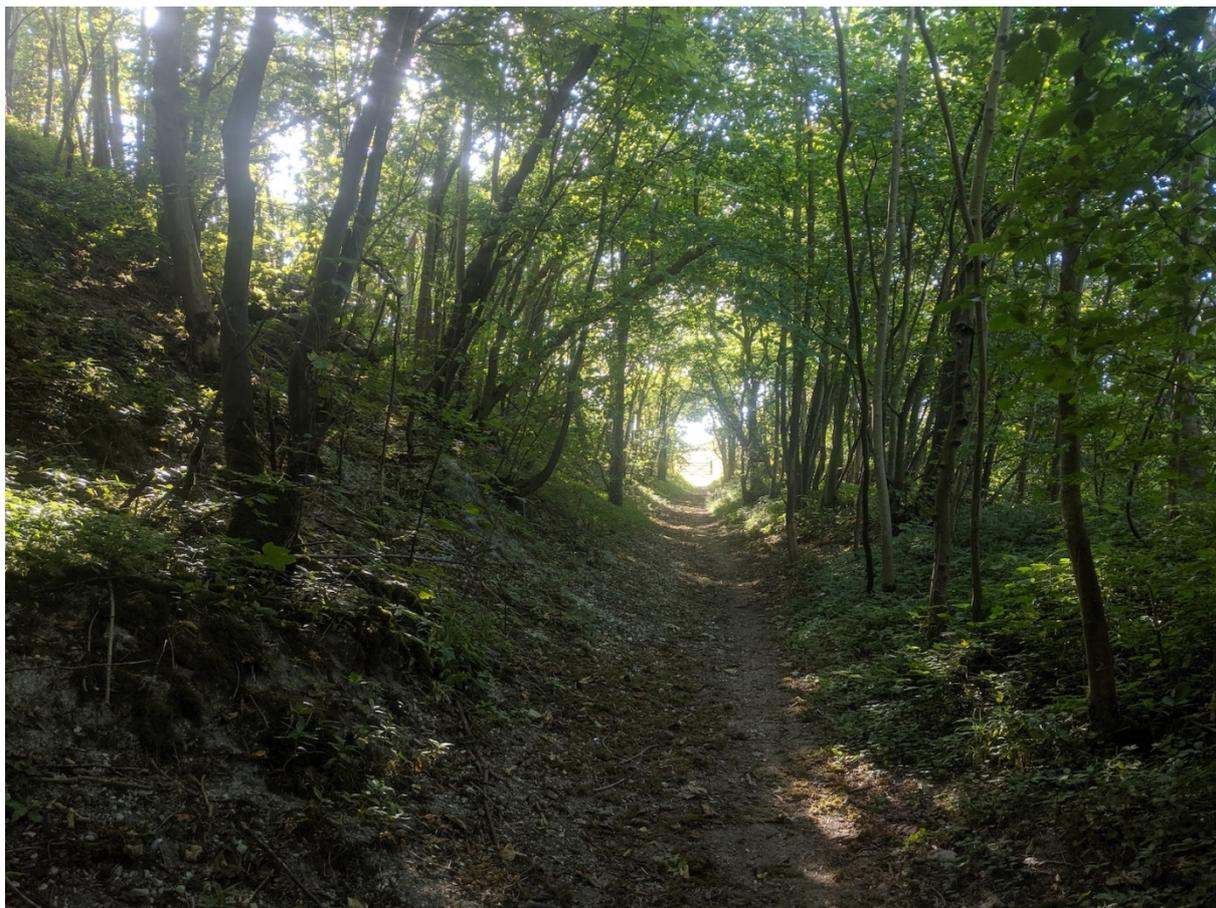
10. THE CHARACTER OF THE ROUTE TODAY

10.1.1 The photographs below illustrate the character of the route today

10.1.2 THE EVIDENCE PRESENTED BELOW

10.1.3 This photo was taken by Piran Montford in on 8/9/2019 It was taken at a point between B and C at the point highlighted on the map sent to me in her email to me of 4/4/22 which can be found in the user evidence.

10.1.4 It shows that the route is clearly in use, but is too narrow to be used by four wheeled vehicular traffic.



10.1.5 The photos below were taken by me in February 2022.

10.1.6 Below: At point A there is no sign of the recorded route of bridleway Firle 12, which should be on the left hand side of the picture, which is taken looking south. However a well-used track goes off to the right which forms the first part of the application route.



10.1.7 This photo below shows the gate at point G taken looking into Firle Plantation. It has a private notice. The notice appears to have been secured by two screws or bolts. The gate was locked.



10.1.8 The photo below is taken facing roughly west along the application route between B and C. The route is clearly well used but too narrow for four wheeled motor vehicles.



10.1.9 This photo below shows the gate at point C looking east. The gate is secured by twine which can easily be lifted of, and indeed seems to be placed in such a way as to enable opening the gate. There is no private sign or any sign of nail or screw holes where a sign might have been. Despite the fallen branches there are clear signs of regular use but the track is not wide enough for four wheeled vehicles.



10.1.10 The photo below is looking south near point B at the point at which the recorded route of Bridleway Firle 12 is shown as crossing the track between B and G. There is no sign of any route in use.



10.1.11 Below: Looking north near point B at the point at which the recorded route of bridleway Firle 12 is shown on the latest ordnance survey map as crossing the track between B and G. There is no sign of any route in use.



11. SITE VISITS and subsequently.

11.1.1 I made two visits to the site in late February 2022 following a report which said that the access to Firle Bostal had been blocked. This is what I found.

11.1.2 The recorded bridleway north of point A was open, signed and showed marks of regular use, but there were a number of trees down across the path.

11.1.3 Just east of point A there is a gate from the plantation into the field, but it was secured shut.

11.1.4 It is not possible to traverse the route shown as the recorded right of way on the definitive map from A towards B. There is no trace of the route and it is covered by trees and scrub. Instead there is a route that initially curves towards the South West and then curves back to go in a south easterly direction to point B. There were some trees down from recent storms but I was able to get through to point B.

11.1.5 There was no signage at point B and I do not think that there has ever been. The natural thing to do is to turn right up the hill rather than down the hill to point G. Nor was there any signage at the point where the definitive route crosses the track between B and G. It did not appear to me possible to follow the definitive route north or south on the definitive route. Trees and scrub seemed to have been in place for some considerable time.

11.1.6 I walked down to point G to find that the gate was locked. I climbed over. I saw a private sign on the gate which could only be seen from the east. I walked up to point F where the recorded route should meet the open downs. The route was blocked by a fence and trees beyond. There was no sign of use.

11.1.7 I returned to point B and walked up the track to point C. There were a number of trees down but the route was obviously in good use. At point C I inspected the gate. I was secured by twine which appeared designed to lift off. I did this and opened the gate. There was no sign on either side of it, and no evidence of screw holes or any other indication that a sign had been there. On this occasion I walked to point E and then along the South Downs Way to the road, where I descended to Firle.

11.1.8 After my visit I contacted the rights of way team at East Sussex County Council and reported the locked gate and the private sign at point B and the number of trees across the route. I was advised that they had contacted the landowner and that they were intending to clear the route. I have subsequently heard from other sources that the gate at point B has been unlocked and the sign removed.

12. USER EVIDENCE

12.1.1 I have collected evidence of use. As I had not seen any private notices myself I did not ask about when any signs appeared. I therefore had to go back to some users for clarification. The forms are reproduced in full in appendix 1 but I summarise them here. The forms are few in number, but demonstrate consistent use over a long period.

12.1.2 Piran Montford, use on foot about annually from October 1995 to October 2019, Saw private sign at point C on last visit but not before.

12.1.3 Jayne Block, use on horseback up to 2017

12.1.4 Chris Smith, use on foot from 1960 onwards

12.1.5 Reverend Peter Owen-Jones (the rector of Firlie since 2005) use on foot weekly 2005 to date. Saw signs near point B and at point C in the last couple of years but not before.

12.1.6 Lynn Bewson use on foot and on a horse from 1981 onwards about twice monthly

12.1.7 Julie Read use on horseback from 2000 to 2019 monthly

12.1.8 Debbie Hills use on horseback from 1999 to the date of signing

12.1.9 Elizabeth Collins use on horseback from 1990 to 2020 monthly

All users used B-C but varied in their use of other parts of the application routes.

13. CONCLUSION

13.1.1 The mapping evidence demonstrates the existence of the application routes over centuries. Early mapping evidence suggests that the route was a road. Any road would probably be public since members of the public would want to get their produce to the mill to be ground and others would want to buy flour.

13.1.2 The engineering of the path, which has clearly been stepped into the hill and looks as if it was once wide enough for a cart supports this view.

13.1.3 The tithe map evidence suggests that the route is clearly separate from the remaining land and the colouring suggests a public way.

13.1.4 The user evidence shows consistent use over a period up to 2019 without hinderance. Although I have seen no private signs there is evidence that some were erected in 2019, although they may have been taken down. So if the date of bringing the route into question is relevant I suggest that the date of calling into question is 2019.

13.1.5 The definitive route of the recorded bridleway has been unusable from A to F for many many years. The evidence suggests that people have been using application route A-B instead. Having reached point B with the intention of ascending to the top of the downs I suggest that people would be inclined to use the application route B-C which slopes gently

up to the downs. Some may have used route B-G but this appears to have been unavailable since 2019.

14. REQUEST

14.1.1 I request the surveying authority to add the routes to the definitive map and statement as bridleways.

14.1.2 I request the opportunity to respond to any comments made on this application.

APPENDICES

Appendix 1, user evidence