

APPLICANTS STATEMENT

Our reference- Beddingham F

THE APPLICATION ROUTE



Application is being made to add a byway open to all traffic on part of Comps Farm Lane, between point A, a junction with the lane referred to as having the reference UC1054 in the East Sussex (UC 1097 Beddingham) (Prohibition of driving) order1987 and point B, a point on Comps Farm Lane 180 metres from point A.

The route is in Beddingham Parish,.

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 none of the evidence presented below has been considered before in a rights of way context.

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 The application route is shown and is highlighted in yellow. Note the dip to the south which differentiates the route from the current A27. But the route is only shown as going as far west as Beddingham

2.2.3 WHAT THIS EVIDENCE SHOWS



2.2.4 THE SIGNIFICANCE OF THIS EVIDENCE

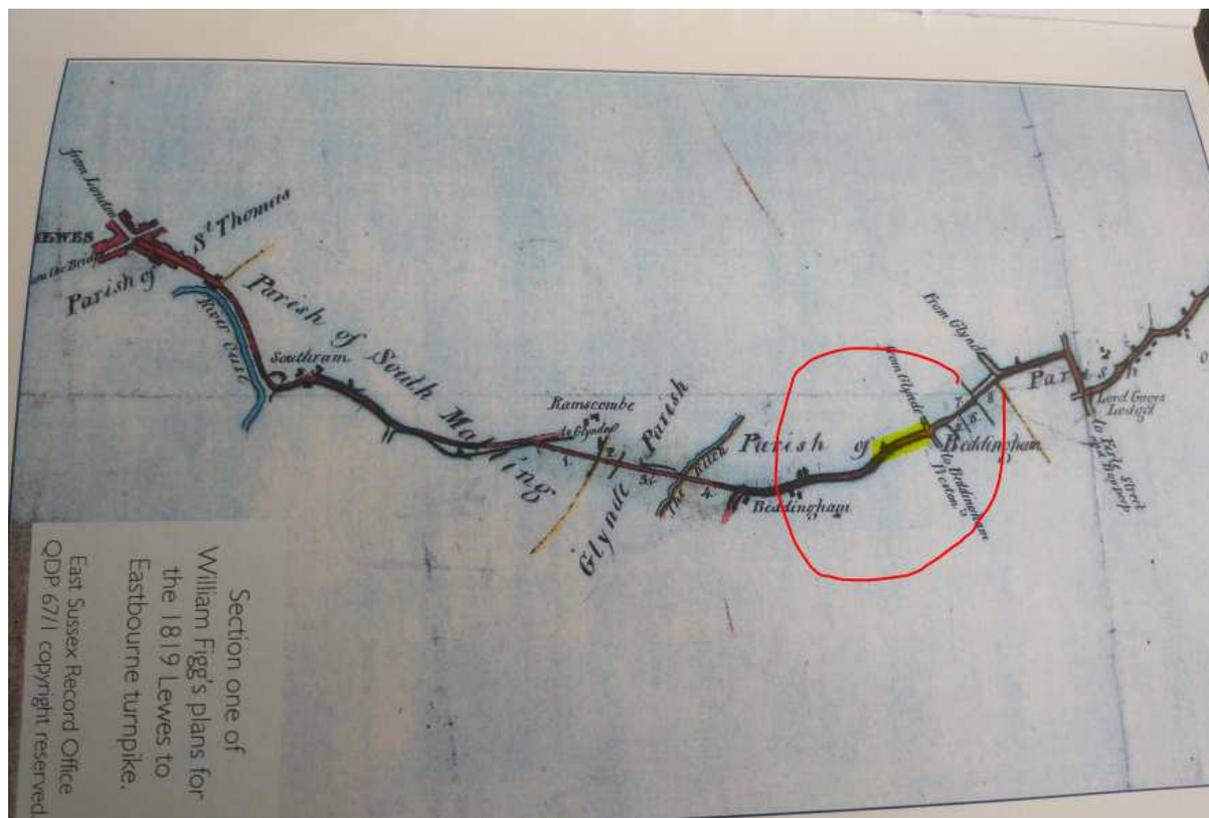
2.2.5 The prospectus for this series of maps sets out the aim of covering all of Sussex and showing all public and private roads and all bridleways. These aims were not achieved. Only the southern half of the county was covered and few private roads were shown. (The sheer volume of missed out private 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 TURNPIKE PLAN

2.3.1 Peter Longstaff-Tyrell's book "Turnpike Territory" published by the Eastbourne Local History Society, ISBN 9780954 764 739, records that a new turnpike was built between Lewes and Polegate in 1819.

2.3.2 Plans for the turnpike made by William Figg are reproduced in the book. An extract is shown below. The application route is highlighted in yellow.



2.3.3 THE SIGNIFICANCE OF THIS EVIDENCE

2.3.4 The period of the turnpike ended in 1878 and the road became a main road under the [Highways and Locomotives \(Amendment\) Act of 1878](#) section 13

Main Roads

13 Disturnpiked roads to become main roads, and half the expense of maintenance to be contributed out of county rate

For the purposes of this Act, and subject to its provisions, any road which has, within the period between the thirty-first day of December one thousand eight hundred and seventy and the date of the passing of this Act, ceased to be a turnpike road, and any road which, being at the time of the passing of this Act a turnpike road, may afterwards cease to be such, shall be deemed to be a main road; and one half of the expenses incurred from and after the twenty-ninth day of September one thousand eight hundred and seventy-eight by the highway authority in the maintenance of such road shall, as to every part thereof which is within the limits of any highway area, be paid to the highway authority of such area by the county authority of the county in which such road is situate out of the county rate, on the certificate of the surveyor of the county authority, or of such other person or persons as the county authority may appoint, to the effect that such main road has been maintained to his or their

Provided that no part of such expenses shall be included in—

- (1) Any precept or warrant for the levying or collection of county rate within the metropolis, subject and without prejudice to any provision to be hereafter made; or
- (2) Any order made on the council of any borough having a separate court of quarter sessions under section one hundred and seventeen of the Municipal Corporation Act, 1835.

The term "expenses" in this section shall mean the cost of repairs defrayed out of current rates, and shall not include any repayment of principal moneys borrowed, or of interest payable thereon.

2.3.5 This demonstrates that the route of the turnpike shown on the map above became a public road. The route can be identified as including the application route by the distinctive dip west of point B

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

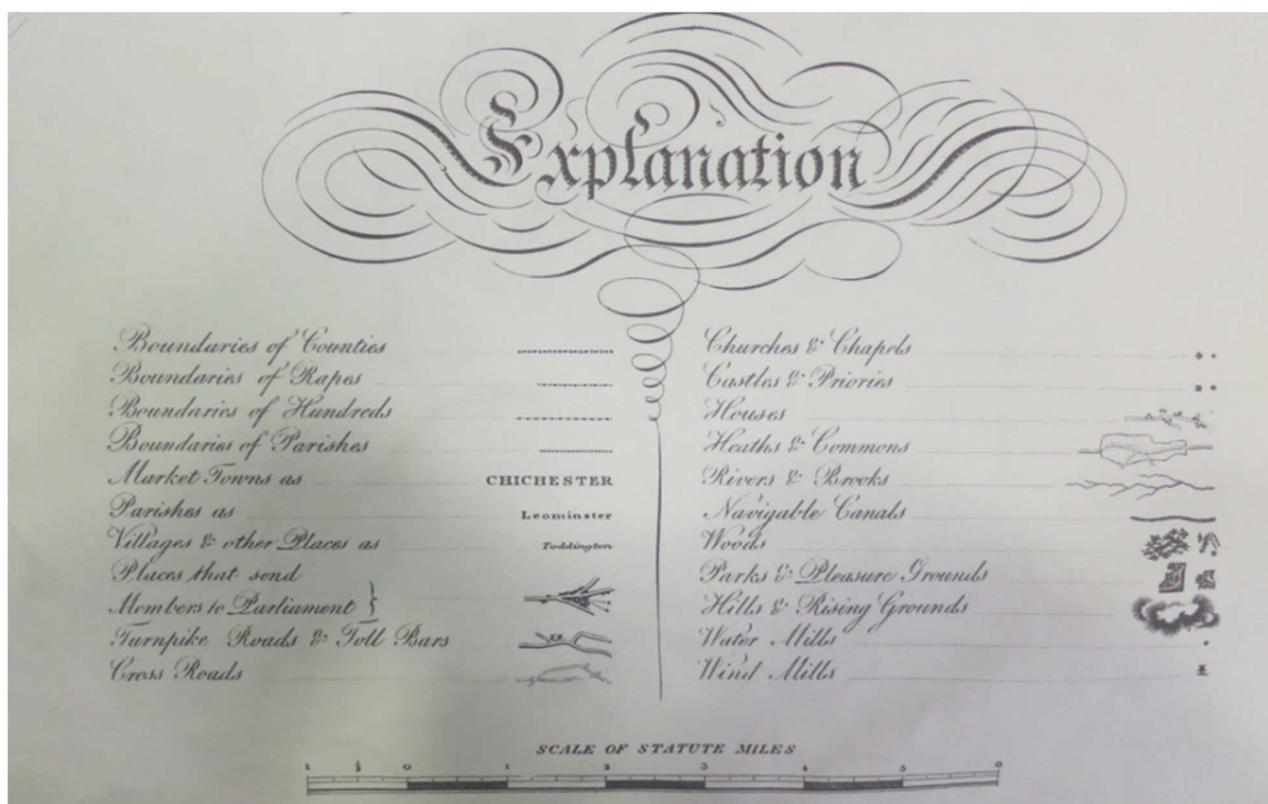
2.4.2 WHAT THIS EVIDENCE SHOWS

2.4.3 The route is shown in the manner of a turnpike and the distinctive dip that starts at point B can be seen

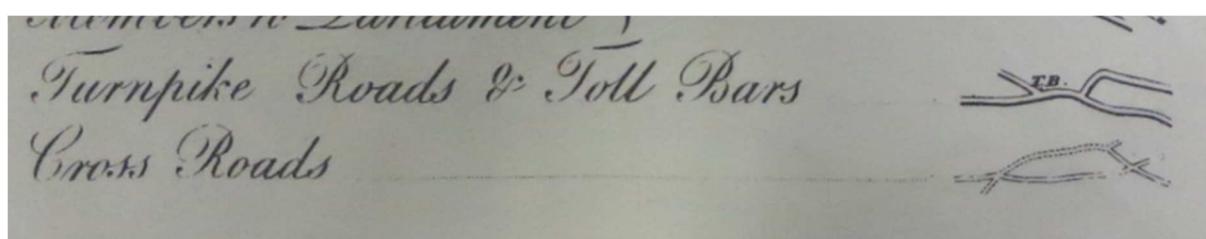


2.4.4 THE SIGNIFICANCE OF THIS EVIDENCE

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.

3. TITHE RECORDS

3.1.1 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.

3.1.2 The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. No-titheable land deemed to be unproductive was usually excluded from the process. It is common

therefore for no tithe to be payable on roads, although wide grass drovers roads could carry a tithe as they were used as pasture. It was in the interest of landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured in yellow or sienna to indicate public status.

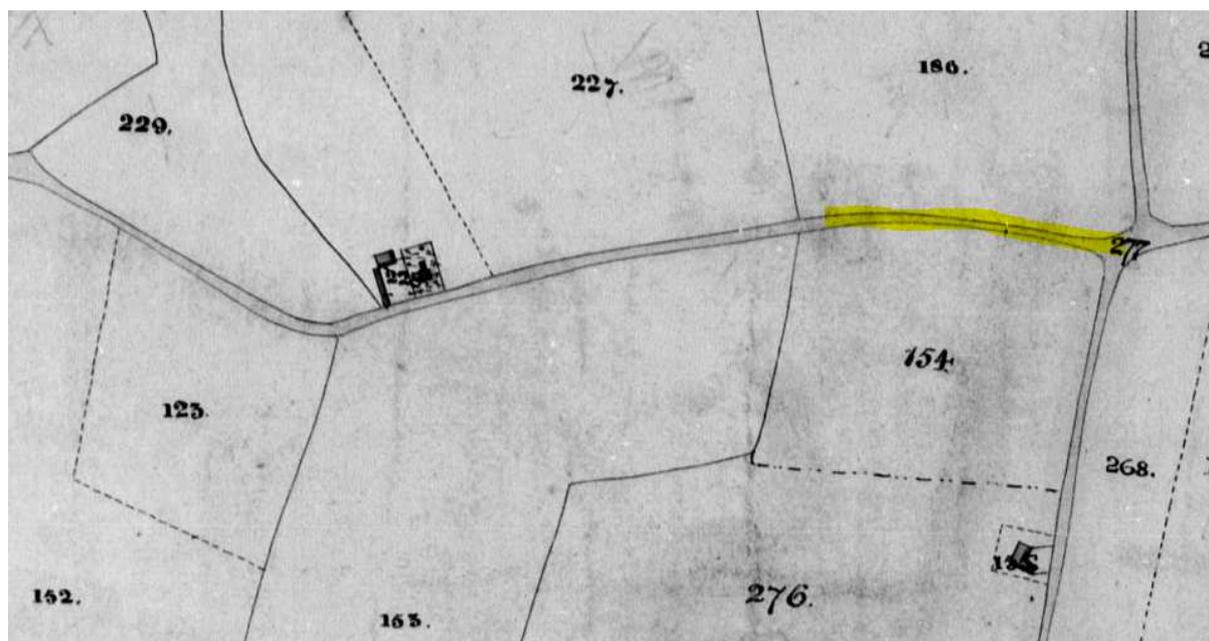
3.1.3 Tithe maps can be accessed at the National Archive in black and white. The maps have been digitalised by the Genealogist web site at <https://www.thegenealogist.co.uk/search/advanced/landowner/tithe-records/>. Tithe maps and apportionments for East Sussex are also available on line at <https://apps.eastsussex.gov.uk/leisureandtourism/localandfamilyhistory/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

3.1.4 THE EVIDENCE PRESENTED BELOW

3.1.5 This evidence is taken from the Genealogist site.

3.1.6 WHAT THIS EVIDENCE SHOWS

3.1.7 The application route is shown and appears to be numbered 277. The distinctive southern dip of the road is shown and what is now Comps Farm is also shown as being to the north of the road..



277 is listed in the apportionment as roads, river and marsh. No owner or occupier is given.

246	Church and Churchyard		2	8
277	Roads River and Marsh	52	1	20

3.1.8 THE SIGNIFICANCE OF THIS EVIDENCE

3.1.9 The application route appears to be a road running south of Comps Farm.

4. RAILWAY, CANAL AND RIVER RECORDS

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

5. INLAND REVENUE VALUATION

5.1.1 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.

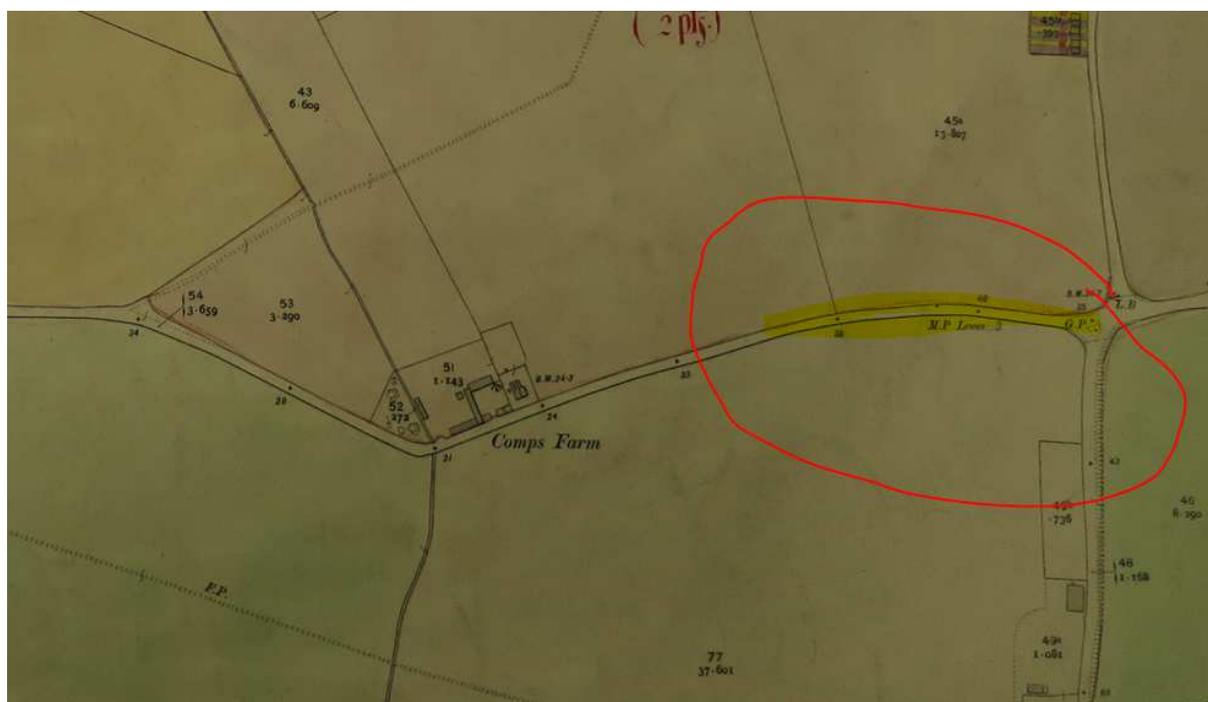
5.1.2 Of these records, the PINS Definitive Map Orders Consistency Guidelines states under the heading "Exclusion of a route on the map record" at para. 11.7 ".... So if a route in dispute is external to any numbered hereditament, there is a strong possibility that it was considered a public highway, normally but not necessarily vehicular...."

5.1.3 THE EVIDENCE PRESENTED BELOW

5.1.4 The Finance Act 1910 map for this area is held at the National Archive under reference IR 124/1/192

5.1.5 WHAT THIS EVIDENCE SHOWS

5.1.6 There is a white road which dips to the south at Comps Farm and passes south of the farm.



5.1.7 THE SIGNIFICANCE OF THIS EVIDENCE

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

5.1.9 The white road contains the application route.

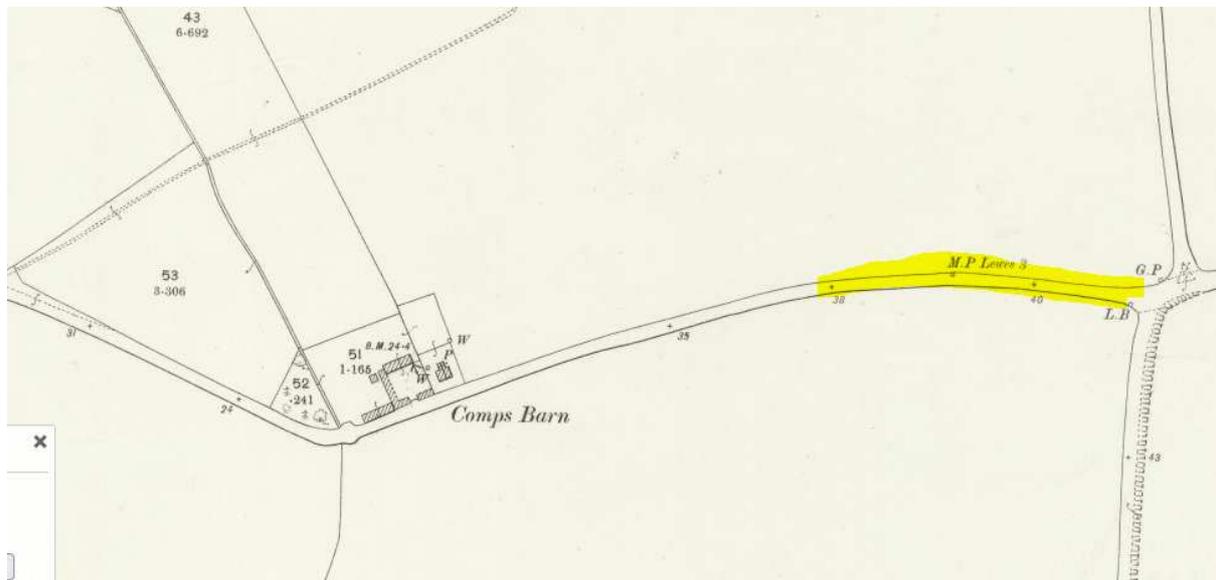
6. OTHER MAPS

6.1.1 The National Library of Scotland has a number of maps covering the application route at <https://maps.nls.uk/geo/explore/#zoom=16&lat=50.85323&lon=0.06173&layers=168&b>

6.1.2 WHAT THIS EVIDENCE SHOWS

6.1.3 In each case the road of which the application route is part is depicted as dipping at Comps Farm/Barn, to pass it to the south.

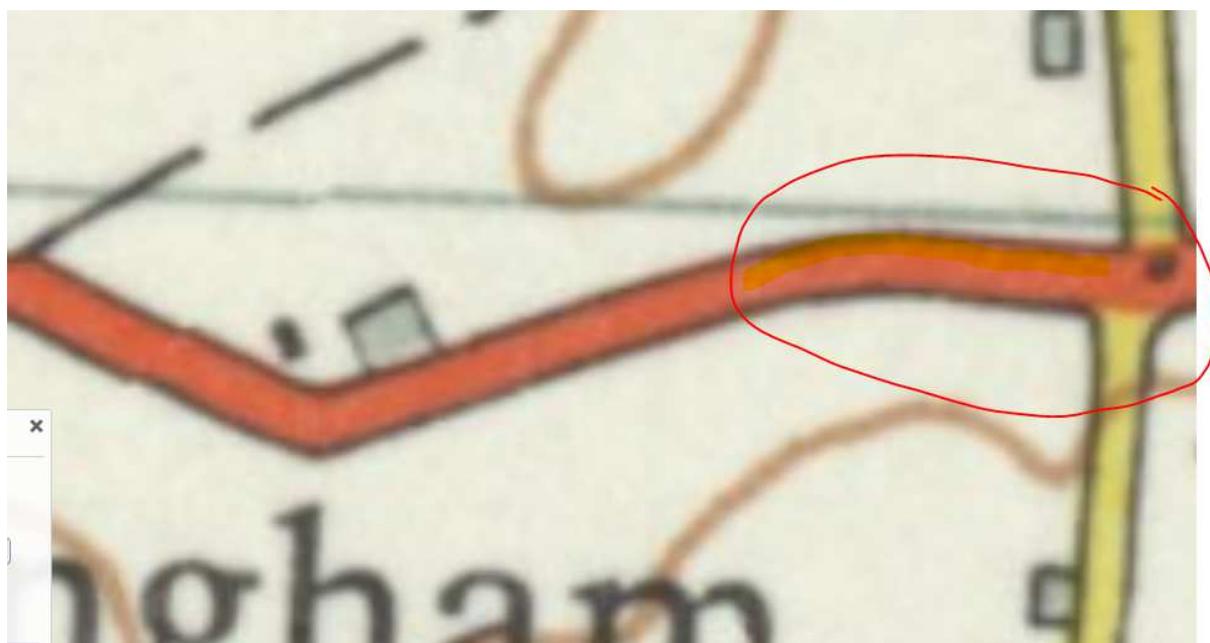
6.1.4 2nd EDITION OF THE ORDANCE SURVEY (OS) 1-2500 map 1890s



6.1.5 OS 1-25,000 MAP 1937-61



6.1.6 OS ONE INCH 7TH SERIES MAP 1955 TO 1961



6.1.7 THE SIGNIFICANCE OF THIS EVIDENCE

7. AN ORDER

7.1.1 By 1985 the A27 had been diverted to a more direct and northerly route in the vicinity of the application route. The route can be seen on a modern OS map (taken from the ESCC online rights of way map). The route is straighter and runs north of Comps Farm. I have highlighted the application route.



7.1.2 I asked East Sussex County Council for details of any diversion, stopping up or other orders that they had in relation to the older route. They produced the following:

EAST SUSSEX COUNTY COUNCIL

ROAD TRAFFIC REGULATION ACT 1984

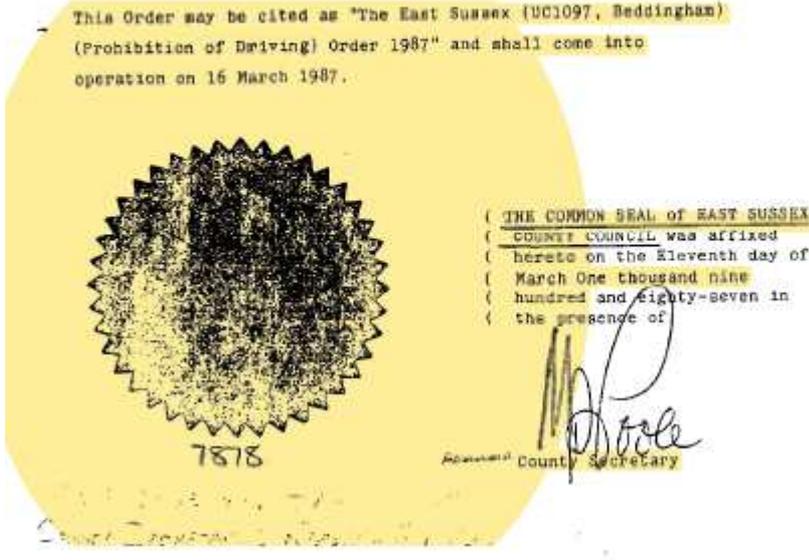
The East Sussex (UC1097, Beddingham)
(Prohibition of Driving)
Order 1987

East Sussex County Council, in exercise of their powers under sections 1(1) and (2), 2(1) to (3) and 3(2) of the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers, and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, hereby make the following Order:

1. Save as provided in Article 2 of this Order, no person shall, except upon the direction or with the permission of a police constable in uniform or of a traffic warden, cause or permit any vehicle to proceed on that length of the UC1097 road, Beddingham, which extends from a point 180 metres west of its junction with the UC1054 road, south-westwards and then north-westwards for a total distance of 515 metres.
2. Nothing in Article 1 of this Order shall apply to:
 - (a) a vehicle requiring access to premises in the specified road;
 - (b) a vehicle requiring access for the purpose of agriculture;
 - (c) a vehicle being used in connection with any building operation or demolition in or adjacent to the said length of road; the removal of any obstruction to traffic in the length of road; the maintenance, improvement or reconstruction of the length of road so referred to or the laying, erection, alteration or repair in or adjacent to the said length of road of any sewer or any main pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line as defined in the Telegraph Act 1878.

- (d) a vehicle being used for police, fire brigade or ambulance purposes;
- (e) a vehicle being used in the service of a local authority or a water authority in pursuance of statutory powers or duties; or
- (f) a vehicle being used for the purpose of delivering or collecting postal packets as defined in section 87 of the Post Office Act 1953.

This Order may be cited as "The East Sussex (UC1097, Beddingham) (Prohibition of Driving) Order 1987" and shall come into operation on 16 March 1987.



7.1.3 This order prohibits certain traffic on the part of Comps Farm Lane immediately to the west of the application route whilst confirming that that part of the route is a road., but does not affect the application route itself.

7.1.4 I again asked if ESCC had any further order relating to the application route but they were unable to find anything else. See their reply below.

Communities, Economy & Transport

Rupert Clubb
BEng (Hons) CEng FICE
Director

County Hall
St Anne's Crescent
Lewes
East Sussex
BN7 1UE

Tel: 0345 60 80 190
Fax: 01273 479536
www.eastsussex.gov.uk



Your request and our response are set out below.

Request

In response to an earlier request for details of any traffic regulation order covering this route, you provided details of an order, which I now attach. The order does not cover the eastern section of the lane from its junction with road UC1054 to a point 180 metres west of this. I have highlighted this in my document "close up". The 180 metres are shown as maintainable by the authority on its online map of adopted roads. See my document ESCC map of adopted roads. However, this 180-metre stretch is blocked and inaccessible to anyone other than a pedestrian.

Please provide the following information in relation to this 180-metre stretch:

- 1) Any stopping up order or other legal event stopping up or changing the status of the stretch.
- 2) Any order or any other document which may explain why this stretch is not accessible to motor vehicles.

Response

East Sussex County Council does not hold any further information which explains why the gate is located where it is and not on the original limit of the Prohibition of Driving order. A short section of Comps Farm Lane is shown on our records as a part of the A27 Trunk Road but we are unable to confirm if this is accurate.

If it is trunk road, it is possible that changes were made by National Highways and therefore they may have further information. Even if it is not trunk road changes may have been made as part of a side roads order.

Therefore regulation 12(4)(a) applies to your request. Regulation 12(4)(a) provides an exception to the duty to disclose information when information is not held.

I then made a freedom of information request to National Highways asking them for any information that they held relating to the application route. They replied with details of the amendments made to an area between Beddingham roundabout and a roundabout near Lewes. This area is well to the west of the application route. No information was provided about the application route.

7.1.5 THE SIGNIFICANCE OF THIS EVIDENCE

7.1.6 There does not appear to have been any order or other legal event stopping up, diverting or limiting access to the application route.

8. CURRENT OWNERSHIP

8.1.1 The application route is unregistered at the land registry.

8.1.2 THE SIGNIFICANCE OF THIS EVIDENCE

8.1.3 This is consistent with long-term highway status.



9. THE ONLINE MAP OF MAINTAINABLE STREETS

9.1.1 Both East and West Sussex Councils maintain online maps of streets that they are responsible for maintaining. The East Sussex Map can be found at <https://escc.maps.arcgis.com/apps/webappviewer/index.html?id=f1ebafa02f6746a39a693e7ead3ff1fb> Publically maintainable highways are highlighted in blue

9.1.2 THE EVIDENCE PRESENTED BELOW

9.1.3 The evidence below is taken from this source.

9.1.4 WHAT THIS EVIDENCE SHOWS

9.1.5 The application route is shown as a publically maintainable highway.



9.1.6 THE SIGNIFICANCE OF THIS EVIDENCE

9.1.7 If there were no public rights over the route it would normally be outside the council's powers to maintain it. The portrayal of the route on this map is therefore evidence of the existence of public rights and exemption from the provisions of the NERC Act.

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 The photos below were taken by me in March 2022

10.1.4 WHAT THIS EVIDENCE SHOWS

10.1.5 At point B facing east.



Nearly at point A, facing east.



At point A looking east.



The gate at point B was locked on my visit. Immediately west of point A number of obstructions are in place, including a gate and a concrete cylinder. The gap at point A is very narrow. I have been unable to discover who placed these obstructions on the route.

10.1.6 THE SIGNIFICANCE OF THIS EVIDENCE

10.1.7 The route is clearly not useable by four wheeled vehicles and the narrow gap at point A would be very difficult to navigate on a motor bike. The route appears only to be useable as a footpath at present

11. CONCLUSION

11.1.1 When the period of the turnpike ended the application route became a public carriageway. I have found no evidence of it being stopped up or diverted. It is on the online map of publically maintainable highways and is therefore exempt from the NERC Act provisions. It is not useable by motorised traffic. I therefore conclude that it is a byway open to all traffic.

12. REQUEST

12.1.1 I request the surveying authority to add the route to the route to the definitive map and statement.

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