

APPLICANT'S STATEMENT

APPLICATION FOR A
DEFINITIVE MAP MODIFICATION ORDER



**TO UPGRADE RELEVANT SECTIONS OF FOOTPATHS 165 AND 166
TO A BRIDLEWAY, AND FOR THE ADDITION OF SECTIONS OF
BRIDLEWAY, IN THE PARISHES OF YAPTON, CLIMPING AND
MIDDLETON-ON-SEA**

APPLICANT'S STATEMENT

The Applicant is Julie Robinson of Bilsham Manor, Bilsham Lane, Yapton, West Sussex, BN18 0JX.

1. THE APPLICATION ROUTE



Fig. 1 – Photograph extract from Application Map

The application route crosses land within the parishes of Yapton, Climping and Middleton-on-Sea in the County of West Sussex. Historically, before parish boundary changes, the route ran across land within the parishes of Yapton, Climping, Middleton and Felpham. It is shown between the points marked A. to G. on the Ordnance Survey 1:25000 map extract in Fig. 1 above. Grid references are as follows:

Point A – SU 979 028

Point B – SU 981 027

Point C – SU 981 025

Point D – SU 985 015

Point E – SU 986 012

Point F – SU 984 008

Point G - SU 982 005

A copy of the Application Map reproduced from the Ordnance Survey Explorer map OL10 at scale 1:25,000 accompanies this application.

The application route from point A. of this application at Bilsham Road heads east on Cinders Lane and then south east across land within the parish of Yapton. It then crosses land in Climping, which historically was a park attached to Ford Climping and Ilsham Manor, later to be known as Park Farm, crosses again into the parish of Yapton, going across the A259 to the Grevatt's Bridge and then continuing south and south west over land within the parish of Middleton to point G. at Ancton Lane. Land use is varied along the route, being an unadopted lane between points A. to B., an area of allotments, former retail nursery and industrial unit between points B. to C., agricultural between points C. and E., woodland between points E. and F. and pasture fields between points F. and G.

The application route largely follows the routes recorded on the Definitive Map for Chichester as Footpaths 165 and 166. However, there are some material differences in the recorded routes of these paths and the historic route, which forms the subject of this application. These differences occur between points B. to C. and points D. to E. The route between points F. and G. is not recorded on the Definitive Map, but originally this formed part of the historic route. This section was diverted by Chichester Rural District Council in 1954.

The applicant will bring evidence that historic public use of the application route means that it should be recorded upon the Definitive Map as a bridleway.

Where the route follows Footpath 165 and 166 the application is for the route to be upgraded to a bridleway and, where the application route differs from the course of footpath 165 and 166, the application is for the addition of these sections of bridleway.

2. DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

In order to be able to modify the definitive map and statement, the surveying authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the "balance of probabilities" test rather than "beyond reasonable doubt" was confirmed by the High Court in *Todd, Bradley v Secretary of State for EFRA* (2004) 4 All ER 497.

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, Lewison LJ said, at paragraph 22,

'In the nature of things where an inquiry goes back over many years (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, and each piece of evidence as a link in the 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 cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."

Within this Statement, the applicant has used quotes from three books, "Roads and Tracks for Historians" and "Medieval Roads and Tracks" by Paul Hindle (Phillimore & Co. ISBN-13: 978-1860771828 and Shire, 2008 – ISBN 978-0-74780-390-4 respectively) and Roads and Tracks of Britain by Christopher Taylor (Dent, 1979 – ISBN 0-460-04329-3).

Paul Hindle is a former Senior University Lecturer now concentrating on researching, writing and lecturing in various fields of historical geography and whose main academic interests include old maps, roads and tracks and towns and roads in medieval England. He has published several books on these subjects.

Christopher Taylor FBA is the former Head of Archaeological Survey for the Royal Commission on the Historical Monuments of England and winner of the Landscape Archaeology Medal in 2013. He is also the author of several published books.

Both Roads and Tracks of Britain by Christopher Taylor and works by Paul Hindle are suggested further reading in Historic England's publication "Pre-Industrial Roads Trackways and Canals":

<https://content.historicengland.org.uk/images-books/publications/iha-preindustrial-roads-trackways-canals/preindustrialroadstrackwayscanals.pdf>

The purpose of including these comments by experts in the field is that the evidence given in this case is from a very historic source and, therefore, the information they give in relation to the nature of highways from the medieval and later period are very relevant.

A. THE VICTORIA COUNTY HISTORY

(i) Climping

(a) Date

Volume 5, Part 1 - Published 1997.

(b) Relevance

The Victoria History of Sussex is part of the national series planned to create a comprehensive encyclopaedia of English local history. It was started around the time of Queen Victoria's Diamond Jubilee in 1897. For each of the 39 historic English counties there exists, or is planned, a set of volumes containing a separate history of each town and rural parish. Work on the history of Sussex is still ongoing with 12 volumes already published.

The research involved in the production of the history of each parish can be of particular use and relevance to persons researching rights of way recorded on the Definitive Map and Statement if it reveals information concerning historic routes.

(c) Archive

British History Online is run by and from the Institute of Historical Research (IHR) in London and offers free access to a range of highly reputable sources, including publications of the Victoria County History (VCH).

The History of Climping available via the BHO is taken from the volume concerning the Arundel Rape: South Western Part Volume 5 Part 1, published in 1997. This is available online at: <http://www.british-history.ac.uk/vch/sussex/vol5/pt1/pp126-147>

Volumes of the Victoria County History are also available to view in the West Sussex Record Office (WSRO).

(d) Meaning

The Victoria County History for Climping gives the history of Park Farm under "Manors and Other Estates". The relevant extract is reproduced below as follows:

"PARK FARM in the north-west represents the medieval park attached to Ford, Climping, and Ilsham manor, which despite being in Climping parish was always called Ford park. (fn. 212) John de Bohun was confirmed in free warren in Ford shortly before 1279, (fn. 213) and a park had been created by 1297. (fn. 214) In 1540 it contained 80 a., (fn. 215) but the acreage was given as 100 a. from 1608. (fn. 216) In the 16th century and early 17th it was leased for periods of 21 years, (fn. 217) and it seems to

have been disparted between 1592 and 1608. (fn. 218) The land descended with the manor until some time between 1625 and 1646, when it was sold by Sir Henry Garway to Thomas Bridger. (fn. 219) Thomas's sister and heir Margaret Dench was succeeded by her son Ambrose, whose son and namesake conveyed the farm in 1686 to Henry and Grace Hall. (fn. 220) Thereafter it perhaps descended with first Middleton manor and then a moiety of that manor (fn. 221) until 1803 when a member of the Coote family had it. (fn. 222) In 1821 it was settled on Joseph, Ruth, and Richard Coote. (fn. 223) The same or another Joseph had it in 1843, (fn. 224) and Mary Coote, widow, sold it in 1861 to Christ's Hospital. (fn. 225) It later belonged to the Langmead family. (fn. 226)"

Under the heading "Communications" it states:

"There was no direct route to Middleton apart from the beach before the 19th century, (fn. 157) but a road from Felpham to Madehurst was said to run through Park farm in the north-west corner of the parish in 1564. (fn. 158)"

Footnote 158 is as follows:

158. A.C.M., MD 2345, rot. 3d.

(A.C.M. means Arundel Castle Manuscripts, and the reference number of the document at the Castle archives follows).

Further information about this is set out under **B. Sheriff of West Sussex Court Session Held at Madehurst in 1564.**

Also of note under "Manors and Other Estates" is that Atherington Manor was leased between 1532 and 1621 by the Edmunds family and that the same family were granted the Manor of Ilsham St John in 1546, which descended with the Yapton Manor demesnes until exchanged by George White Thomas before 1819 for other land in Yapton.

Within the information given for the history of Climping about Ford Park it is stated that during the 16th and early 17th centuries it was leased for periods of 21 years. This would cover the date in question, 1564. Calendar Patent Rolls for this period are available online and the applicant has found the following:

21 May. Lease for 21 years to Antony Stoughton, one of the pages of the queen's chamber, in consideration of his service, of the herbage of the park of Fourde, co. Sussex (80 ac. pasture), and the agistment of the park, now in the tenure of William Duce, parcel of the honour of Petworth, except woods and underwoods, at the yearly rent of 10l. Stoughton is to keep all hedges, etc. in repair and to have sufficient 'hedgebote' and 'palebote.'
By p.s.

m. 12.]

Fig. 2 - extract from Calendar Patent Roll, Philip and Mary 1555-7 p.396

1123.) 18 April 1570. Lease for 21 years to John Edmondes of the herbage of Fourde Park, co. Sussex, and the agistment of the same park, parcel of the late honour of Perworthe, co. Sussex; with reservations; from Lady Day last; yearly rent £10. In consideration of the surrender by Edmondes of a patent, 27 May, 3 & 4 Philip and Mary, leasing the premises to Anthony Stoughton for 21 years from Michaelmas then last at the same rent; and for a fine of £30 paid at the Exchequer.
By the Commissioners by virtue of the Queen's warrant.

Fig. 3 - extract from Calendar Patent Roll, Eliz 1 Vol 5 – 1569-1572 p.129

164 21 June 1579. Lease for 21 years from Lady Day last to Walter Edmondes of:
(i) lands (detailed, tenants named) in Aldrington, Sussex, parcel of the manor there, and leased *inter alia* to John Edmondes, by patent, 14 Feb. 12 Eliz. (C.P.R., Eliz. V, 1101), yearly rent £7 4s. 8d.
(ii) the herbage and agistment of Ford park (tenant named) leased to John Edmondes, by patent, 18 April 12 Eliz. (C.P.R., Eliz. V, 1123), yearly rent £10.
Woods and quarrying reserved; on surrender by Walter Edmondes of the previous patents and for £34 9s. 4d. paid at the Exchequer.
(mm 7. H) By P.S.

Fig. 4 - extract from Calendar Patent Roll, Eliz 1 Vol. 8 – 1578-80

The applicant found the following explanation for the historic meaning of agistment on Wikipedia:

“Agistment originally referred specifically to the proceeds of pasturage in the king's forests. To **agist** is, in English law, to take cattle to graze, in exchange for payment.”

Your attention is drawn to the name of the Lessees in Figs. 2-4, “John Edmondes” and “Walter Edmondes”, about whom further information about other land they leased or owned at this period in Climping has been outlined and about which further information is given under (ii) below in the Victoria County History for Yapton.

It is also stated under the history for Park Farm that ownership passed in 1686 (WSRO SAS-WH/270) from Ambrose Dench to Henry and Grace Hall of Bilsham (following a contested will) who, as part of the same transaction, also received the Manor of Middleton.

(e) Assessment

The information the Victoria County History provides in relation to Climping parish is that the former park associated with Ford, Climping and Ilsham Manor later came to be known as Park Farm and that in 1564 a road between Felpham and Madehurst passed through the park.

The application route runs immediately to the east of the former buildings associated with Park Farm (which are no longer in existence). The area once called Park Farm is now part of Northwood Farm.



Fig. 5 - extract from Yeakell & Gardner 1778 showing Park Farm named on the map

In order to meet the description of the road given, that of a road that ran between Felpham and Madehurst and passed through Ford Park, the road would have run north/south or a direction approximating this. In this regard, it is relevant to note that historically Felpham parish included the hamlet of Ancton, which lies to the south of the former Park Farm.

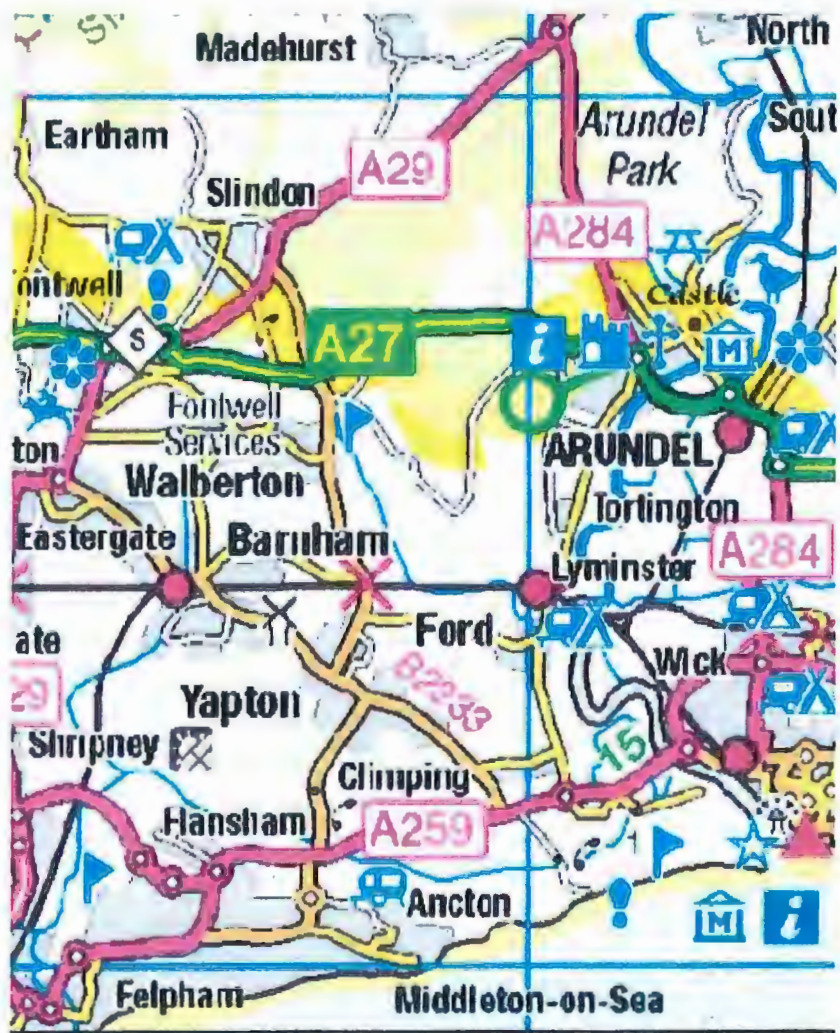


Fig. 6 - extract taken from online WSCC Rights of Way iMap

Using an extract taken from the WSCC Rights of Way iMap is an easy way to show on a modern map the juxtaposition of Felpham, Madehurst and the hamlet of Ancton. Madehurst is at the top of Fig. 6 and Felpham the bottom left. Park Farm lay within the triangle of land formed by the A259, B2132 and B2233 roads, where the word "Climping" is written.

Today, because the A27 is now a dual carriageway, it is only possible to turn left at the Avisford junction north of Walberton but, historically, it was possible to go straight on. So, from Fig. 6, it is of particular note in relation to this application, that the B2132 road encompasses all the brown coloured road which leads off the A29 just south of Slindon, crosses the A27 and goes south to Yapton and also the brown coloured road going south from Yapton which crosses the A259 continuing south to Middleton-on-Sea, and then going in a westerly direction to Felpham. This, in recent centuries, would have been the obvious route by roads suitable for *vehicles* between Felpham and Madehurst.

(ii) YAPTON

(a) Date

The history of the parish of Yapton is contained within the volume concerning the Arundel Rape: South Western Part Volume 5 Part 1, published in 1997.

(b) Relevance

The relevance of the information contained within the Victoria County History has been stated under (i).

(c) Archive

The History of Yapton is available from the same online source as that for Climping at: <http://www.british-history.ac.uk/vch/sussex/vol5/pt1/pp245-261> and the volumes are also available at the WSRO.

(d) Meaning

An extract from the section under "Communications" is shown below:

"The parish is bisected by the road from Chichester to Climping, mentioned from c. 1212; (fn. 58) the enlargement of Ford airfield south-east of the village caused its closure at that point between 1942 and 1959. (fn. 59) Bilsham Road leading to Felpham and Middleton is recorded from 1646, (fn. 60) and North End Road leading to Walberton and Arundel from 1678; (fn. 61) by 1835 they formed part of the route from London to Bognor. (fn. 62)..."

This information would appear to suggest that Bilsham Road (the B2132) is a much later road than, for instance, the main Chichester to Climping Road (the B2233) which runs through Yapton centre which is "mentioned" from c. 1212. Examination of both the Bilsham Road as shown on the Yeakell & Gardner map and Yapton Lane going north towards Walberton and the main Chichester to Arundel road (also the B2132) shows that they are much wider roads than, say, the roads around Yapton Church, the section of the Chichester to Climping Road that passes through Yapton centre and the adjoining section of North End Road where the main settlement area was. This indicates that by the time of the Yeakell & Gardner map these highways had likely been improved or introduced in response to the increase in the use of wheeled vehicles, which obviously needed much wider roads in order to be able to pass comfortably. Yapton Lane heading north from Yapton, as previously mentioned, led to the main Chichester to Arundel road (now the A27). Both Chichester and Arundel were major ports and held regular markets at this time, with Arundel being the nearest.

Paul Hindle in the aforementioned book *Medieval Roads and Tracks* says on page 17:

"In medieval times the roads had been generally adequate in both quantity and quality for the amount of traffic using them. In the mid sixteenth century it seems that the fine balance between the durability of the roads and the amount of traffic was upset, and it was only then that the roads became unable to cope with the sheer volume of that traffic".

Under "Manors and Other Estates", the following mention of John Edmunds (or the Edmunds family) as previously noted under (i) is given in relation to the following Manors associated with the parish of Yapton, as follows:

The Manor of Yapton Shulbrede was sold to John Edmunds in **1544**.

Yapton Manor was granted by Henry FitzAlan, Earl of Arundel, to John Edmunds in **1568**.

The Manor of Bercourt and Wildbridge was granted by the Earl of Arundel to John Edmunds in **1568**.

Bilsham Manor was granted by the Earl of Arundel to John Edmunds in **1568**

The Manor of Yapton Coverts was conveyed to Walter Edmunds in **1592**.

This information shows that by the end of the 16th century, the Edmunds family would have had control of a substantial area of Yapton. John and Walter Edmunds were also the lessees of Ford Park and Atherington Manor in Climping from 1570, as previously noted in the reproduced extracts from the Calendar Patent Rolls. This may have been the first time in a long while that so much land in Yapton was under the control of a resident landowner and may well have led to road improvements in order that their newly granted lands could be conveniently accessed. The fact that they were granted Bilsham Manor, and that a highway from Yapton to Middleton is recorded from 1646 is therefore significant.

However, it is relevant here to refer back to the extract from the VCH for Climping reproduced on pages 5 and 6 of this Statement. This notes that Ford Park was disparked between 1592 and 1608 and that it was sold by Sir Henry Garway to Thomas Bridger between 1625 and 1646. This could give an indication why the Edmunds invested instead in the Bilsham Road.

The VCH also confirms that enclosure at Yapton took place piecemeal by agreement over a period of time from the middle ages, rather than by later Parliamentary Enclosure and, therefore, the following under the heading "Agriculture" is applicable to Cinders Lane and the land beyond it within the parish of Yapton.

"Open arable fields seem to have ringed Yapton village on three sides in the Middle Ages: East Town field north of Ford Lane, (fn. 305) the Cinders east of Bilsham Road, (fn. 306) and Tacklee or South Street field south-west of the village. (fn. 307)"

This means that prior to the gradual enclosure of the open fields around Yapton, Cinders Lane would have led to a place of common resort where tenants of the various Manors would have held strips of land in the communal fields. Yapton and the adjacent hamlet of Bilsham were comprised of several smaller manors – it could be described as a typical medieval multi-manor parish (as was Climping). Some of these lands were held by various religious orders such as Tortington Priory until the Dissolution. It is perhaps why there are very many public rights of way around the parish – these were no doubt necessary in order that all the various manors could operate harmoniously. However, despite the undoubted age of many of the routes, today they are all recorded as only of public footpath status.

The lack of routes with higher rights is a particular problem throughout the West Sussex coastal plain and is likely due to early enclosure and then a later tendency of the Manors to engross copyholds back into demesne holdings and then let large tracts to wealthy yeoman farmers. This had the effect that, by the eighteenth century or perhaps even earlier, the majority of the local population were reduced to landless farm labourers on meagre wages who were reliant upon poor relief. As the VCH for Yapton says:

"In the early 1830s nearly all able-bodied labourers received an allowance or regular relief during part of the year and many the whole year".

Clearly, therefore, such people would not have had horses to ride nor the wherewithal to object to the diminution of local rights of way by reference to Quarter Sessions. According to an article in the BBC History Magazine, apparently an Italian visitor to England reported with astonishment in 1557 that "there is no male or female peasant who does not ride on horseback", which only serves to emphasise the change in circumstances of the rural poor that had occurred by the 18th century. Quote taken from: <https://www.historyextra.com/period/tudor/deadly-beasts-of-tudor-england/>

Christopher Taylor says in his before mentioned book "Roads and Tracks of England" in the chapter on Medieval Roads, page 140:

"The trackways or access roads of the open or common field system of England seem the rarest of all roads of whatever date. Unlike most prehistoric tracks and Roman roads they have not always survived as routes into the present day. This is because in post-medieval times and especially in the eighteenth and early nineteenth centuries when these common fields were swept away and replaced by the hedged fields which are the familiar pattern we have now, these access roads disappeared with them. Yet it would be a grave mistake to think that we can no longer see them, for the majority survive in various forms".

In this regard, it is also worth quoting the following expert commentary:

Historic England publication "A Brief Introduction to Ancient Paths and Highways" (2015):

"Roads often gained special status as legal and customary rights of way. As a result, many routes that have declined in importance still survive as public footpaths".

Paul Hindle's work "Roads and Tracks for Historians" (2001) page 14:

"It may be worthwhile consulting the definitive footpath map for an area before setting out, not only to see where you may walk legally, but also to spot some of the many long disused roads which still survive as footpaths".

Again from the chapter on Medieval Roads in Christopher Taylor's book "Roads and Tracks of England" page 113:

"It is very rare to find that a documented medieval road has disappeared without trace. Almost invariably it has lost its original importance and changed its role, but it is nearly always there in some form today."

(e) Assessment

The history for Yapton reveals that in the late 16th century the Edmunds family came into possession of several Manors around Yapton and were living at Yapton House or Place, the house associated with the demesne which was situated immediately south of the Church, certainly by 1621, when it was known as "the great farm". This is prior to the dates 1646 and 1678 when Bilsham Road and North End Roads are apparently recorded for the first time in historic documents. However, whilst the area comprising Ford Park was leased by the Edmunds family, a comparison with the VCH for Climping and the references given therein, reveals that it was owned by Thomas Bridger by 1646 and later Quit Claimed by a relative in the late 17th Century following disputes over his will to Henry and Grace Hall of Bilsham, together with the Manor of Middleton.

Information is given in the history about the whereabouts of the former common open fields of the parish, those in the east of the parish being located on lands known as The Cinders, and about the many different manors with courts and tenants that existed prior to the Dissolution. Also outlined is the piecemeal enclosure which took place from the middle ages and the very difficult later circumstances of the majority of inhabitants of the West Sussex coastal plain parishes which resulted from it.

B. SHERIFF OF WEST SUSSEX COURT SESSION HELD AT MADEHURST IN 1564

(a) Date

1564

(b) Relevance

This document gives evidence that a road, described at the time as "the Queen's Highway" and used by horsemen and by pedestrians, ran through Ford Park. The applicant submits that, on the balance of probability, this can only refer to the application route.

(c) Archive

This record is held at the Arundel Castle Archives under reference MD 2345, rot 3, dorse. A photograph of the entry on the Court Roll provided by Arundel Castle staff is on the memory stick submitted with this Statement as **Appendix 1**, together with a copy of the transcript and the explanatory document, which are also included within this Statement below, and a note of Heather Warne's credentials.

(d) Meaning

The following is an explanation of the Court Sessions held at Madehurst for the Sheriff of West Sussex and a transcript of the reference relating to Ford and Climping tithing which is cited in the Victoria County History as evidence that, at this date, a road between Felpham and Madehurst ran through Ford Park, which was later known as Park Farm.

The information and the transcript which follows was provided by Heather Warne who is the Emeritus Archivist at Arundel Castle:

"Evidence of public rights of way at Climping

from ACA/MD 2345, 1564

The following extract was taken from a small collection of records, held at Arundel Castle Archives, of Court sessions (or 'tourn) held at Madehurst for the Sherrieff of West Sussex. Whereas these courts would have been held at least once a year, few records have survived. Arundel Castle Archives have four rolls ref. MD 2344-2348 for the years 1562, 1564, 1565 and 1567. Civil law and the keeping of the peace was the work of the Hundred courts throughout the County and each of these hundreds was divided into smaller units, nominally of 10 householders, called 'tithings'.

During the Queen Elizabeth's reign (1558-1603) these old orders of governance were being replaced by new laws which gradually replaced this old system of County governance with a new system under the jurisdiction new courts of Quarter Sessions under the judicial power and supervision of Justices of the Peace. But the business carried on in much the same way as before, bringing into line, by a system of fines and other penalties, all those who had 'broken the Queen's peace'. This involved the maintenance of public roads and bridges, reporting illegal weights and measures and the apprehension of felons and other wrongdoers. T

The entry Climping, below, comes into the first of these categories. There was always a clear distinction between tracks were anciently 'the King's/Queen's highway' and other tracks which were of private access status across private land. The latter were not the business of the Hundred courts or Quarter Sessions, though they might be presented to court for an investigation to the made.

In the numerous orders for maintenance of public highways that I have come across in Sussex hundredal records, an order to 'raise' the highway was very common. This meant that the adjacent landowners were liable for all the costs and labour of importing stones or other handy material to keep the right of way above the water table and the mud –usually absolutely vital in Sussex!

The jurors of each tithing or hundred court, and of this Sheriff's tourn, were sworn in on oath to tell the truth. If any of them agreed that a fact was true from memory and experience 'time out of mind' than that would be taken as the firmest sort of evidence that could be given.

Nevertheless, many former public routes of 'King's highway' status were later diverted or stopped up, by agreement of the Justices of the Peace at Quarter Sessions, or after the 1890s, by County Councils. To be sure that an agreed 16th century route had not been stopped up in this way, the relevant later records should be consulted, not just the Climping parish tithe map and award (1839) but also the Quarter Sessions Order books which have been published and any other indexes that exist for stopped rights of way before or after 1839.

The Sheriff's tourn of *Nomanslande* held on the 13th day of April in the 6th year of the reign of Queen Elizabeth [1st, 1564]

Translation of relevant entry:

MD 2345, rot 3, dorse: submission to the sheriff's tourn from Ford and Climping tithing, translated from Latin text as follows.

Forde and Clympynge: The head man there with four sworn assistants from the aforesaid tithing came and presented that all was well. They further presented that George Shorte, John Gawne and Anthony Stente have closed up the gate which exists across the common way in the park of Forde; and that from time beyond the memory of any man who now lives to say otherwise, it was used by horsemen and by pedestrians, leading [both] from *Le De'an'* [probably for *decanna* –the tithing] to Madhurste and from le Madhurste as far as Felgham [Felpham] to the common harm of the Lady Queen's liege subjects [*ligeorum*]. It is therefore ordered that the same George, John and Anthony must allow the said gate to operate [*inseraf*] there and also that they cause the said Queen's Highway [which is] in the said park, to be raised and mended in before the feast of All Saints next (1 Nov.), on pain of a 20 shilling fine.

*The verb *occludo* is formed from *ob* – against and *cludere* to enclose, so I believe the second translation of nearer the meaning."

(Provided by Heather Warne, Emeritus Archivist Arundel Castle)

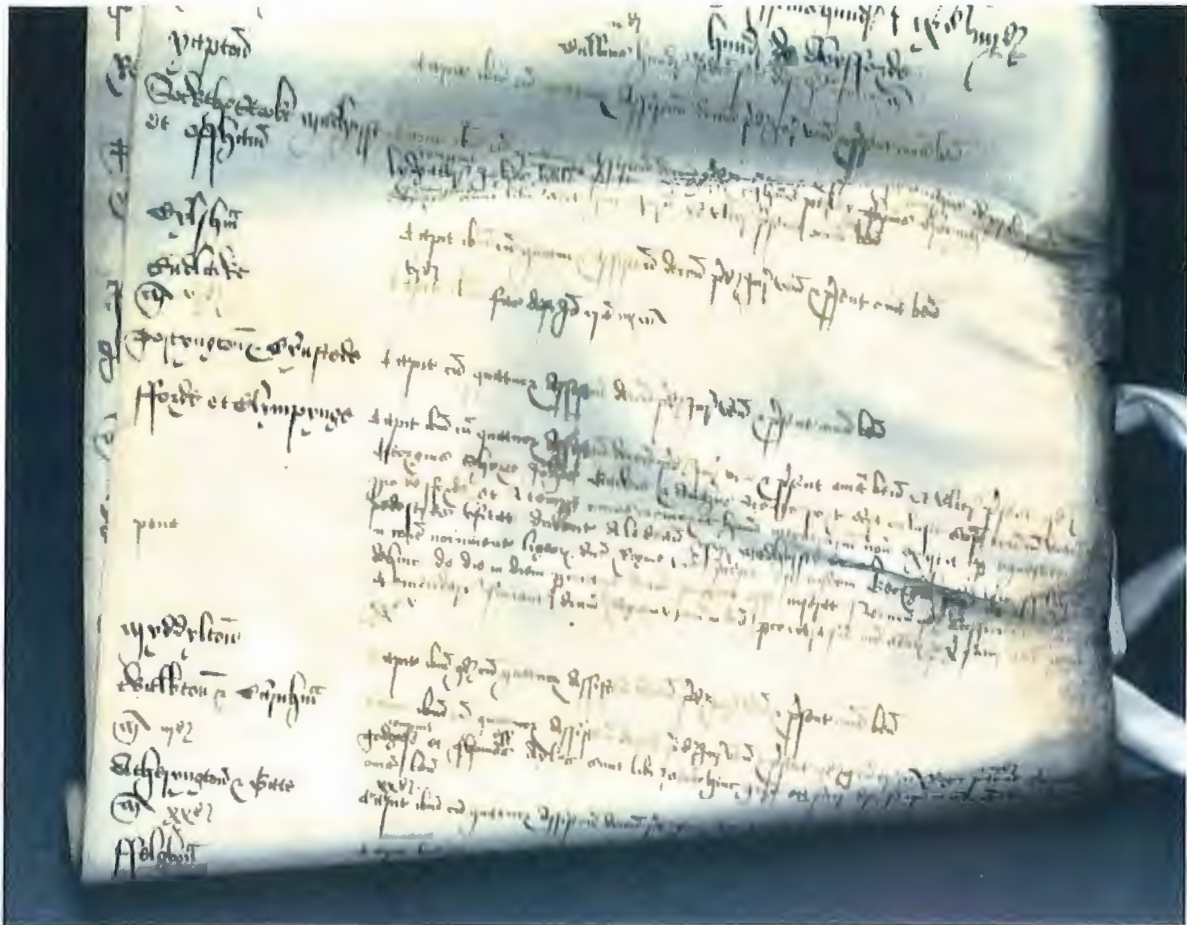


Fig. 7 - Photograph provided by Arundel Castle Archives of the Court Roll reference MD 2345 rot 3 dorse showing entry for Ford and Climping tithing

(e) Assessment

The information that this document provides is not only that of a road said to exist in Ford Park but a route described as "the Queen's Highway". The sworn witnesses say that it had been used by horsemen and pedestrians using a phrase that we would deem "time out of mind" and also that it extended from Ford Park as far as Madehurst and Felpham.

In the Introduction, pages 6-7 of Paul Hindle's *Medieval Roads and Tracks* he says the following about roads that came into being in this period:

"The nature of these new medieval roads differed from that of Roman or modern roads; essentially the road was not a physical entity, a thin strip of land with definite boundaries; rather it was a right of way, an 'easement' with both legal and customary status, leading from one village or town to the next. If the route was much frequented it became a physical track, with two important provisos. The first was that if the road was obstructed or had become 'foundrous' in wet weather, then the traveller had the right to diverge from the road, even if that entailed trampling crops. The second proviso was that where the road had to climb a hill or bank then multiple tracks would develop, the traveller taking the easiest route then available. Many of the surviving sections of

medieval roads come in this category, where roads left uncultivated land and the tracks have thus not been ploughed out or otherwise destroyed".

The highway the subject of the indictment sounds as if it is just such a road – an easement across private land used as a bridleway but for the use of all the Queen's subjects.

C. HISTORIC MAPS

(i) YEAKELL AND GARDNER'S SUSSEX

a) Date

All the sections of this map were never finished but the sections that were, were published between 1778 and 1783. It is at a scale of two inches to one mile.

b) Relevance

Thomas Yeakell and William Gardner were two young surveyors who began this map of the whole of Sussex "the Great Survey" sponsored by the 3rd Duke of Richmond. Unfortunately the project for the whole County was never completed. They were among the first cartographers to be employed by the Board of Ordnance in 1790 when it started the great Ordnance Survey. This map was the first engraved map of Sussex and employed many of the techniques later adopted by the Ordnance Survey. In the book "Printed Maps of Sussex" (1982) by David Kingsley there is an extract for a Prospectus for this map dated 11 June 1778 which states that "Every Inclosure, however small, is described; every Road, public and private, every Bridle-way and Foot-path; ...". On the section of the map showing Yapton and the surrounding area, aside from roads enclosed by hedges on the map, other routes are represented by dotted tracks. The map has no key, however.

c) Archive

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

Yapton is in the second row of squares down from the left hand side, click on the third square in.

A copy is also held at West Sussex Record Office in the maps area under reference PM 249.



Fig. 8 - Extract from Yeakell & Gardner Sussex taken from above website showing application route in parishes of Yapton and Climping and passing to east of buildings associated with Park Farm



Fig. 9 - extract from Yeakell & Gardner 1778 showing continuation of application route south over a bridge over the Ryebank Rife to Ancton

d) Meaning

This map is incredibly significant and useful for the detail it gives compared to all other works before and some after, which showed nothing of the local road network at all, let alone minor highways.

The application route is shown as a dotted track. There is no key to this map, but the applicant has come across at least 3 other roads that the Victoria County History found documentary evidence for the existence of whilst researching the local parish histories, that are also depicted thus on this map. According to the prospectus quoted above, they perhaps represent all those other routes other than roads enclosed by hedges, such as footpaths, bridleways, cart tracks, etc.

When considering the area comprising Park Farm, only tracks of this nature are drawn. Only two of these are routes running approximately north/south and could therefore represent the Queen's Highway mentioned in the 1564 Sheriff's Court. They converge into one track north of the Park Farm buildings.

The more westerly one terminates at the road known as Grevatt's Lane in Yapton, whilst the other is the application route. This more westerly track, which the applicant will refer to as "Scots Pine track" for ease of reference, does not appear on any later Tithe maps, the OS Boundary records, or the early OS County Series maps unlike the application route. It would not appear therefore to have any history as a legal and customary right of way.

A track in this place reappears on the 1938-39 1:2500 OS County Series map and is clearly a farm track linked through the centre of the farm to the other track which had historically been seen going east from the centre of the farm to the Chichester to Climping Road. Today there are Scots Pine Trees along mostly it's western side with an occasional tree on the east side, and it may once have formed a tree lined access drive to Park Farm off the main Bognor to Littlehampton Road. It's appearance in the same place as the one shown on the Yeakell & Gardner map would appear to be purely coincidental.

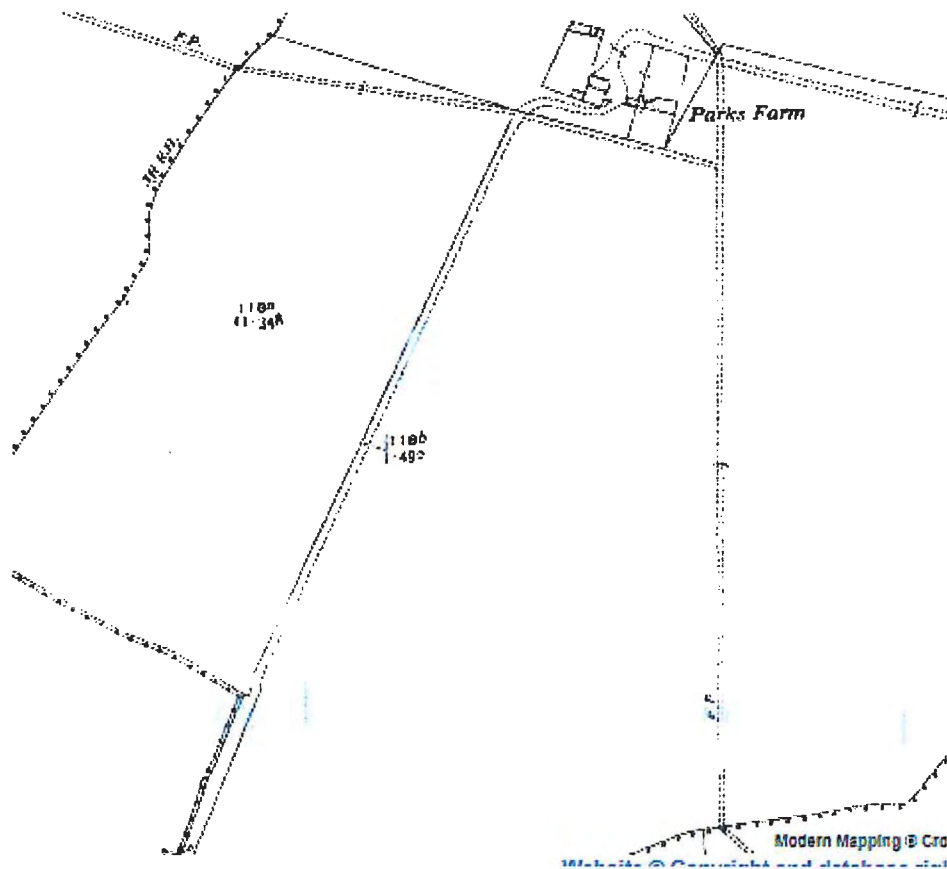


Fig. 10 - extract from OS 1:2500 1938-39 map taken from old-maps.co.uk website

Returning to consideration of the Yeakell & Gardner map, looking at Ancton hamlet itself, you would have to ask yourself why the settlement grew up at the end of a long lane? Surely it is more likely that originally the settlement area was located immediately adjacent to the application route because it was a convenient road going north?

Indeed, is it not likely that the Park Farm buildings were also located adjacent to the same convenient highway?

According to the Felpham and Middleton Local History Workshop:

<http://fmlhw.webplus.net/ancton.html>

"The former Ancton farmhouse, now known as Ancton House, is the oldest building still standing in the hamlet and dates in part from the mid 16th century..... In the centre of the hamlet, between Ancton House and a meadow called Stable Mead, where the lane bends to the south, the present road surface is markedly lower than the land either side, reminiscent of a "hollow-way" and perhaps formed by the passage of men and their animals over many centuries. Saxo-Norman and later medieval pottery fragments found in the gardens of Ancton House and a nearby bungalow in Kingsmead Gardens, do in fact confirm that occupation of Ancton has been continuous for a millennium or more."

(e) Assessment

The Yeakell & Gardner map shows only two routes running approximately north/south through Park Farm. All four routes shown running to and from Park Farm itself are only shown as single dotted tracks, which would tend to the conclusion that they must at this period have been more than footpaths. Only two of the routes within the former Park seem to have been consistently through time regarded as public rights of way. One is the east/west route between Park Farm and Bilsham Road (recorded on the Definitive Map as FP 144). The other is the application route.

A highway between Felpham and Madehurst that passed through Ford Park as described at the Sheriff's Court in 1564 most likely would have gone via Ancton, situated immediately south of the former park, a hamlet within Felpham parish. The area of the former park was also not very large, some 80 acres at the time of the indictment, and there would therefore appear to be little opportunity for mistaken identity of the route in question.

The depiction of the route is exactly how Paul Hindle describes the nature of medieval roads on pages 16 and 17 of this Statement, as an "easement" across land linking settlements, not a strip of land with definite boundaries.

(ii) FIRST ORDNANCE SURVEY OLD SERIES MAP OF SUSSEX

a) Date

The Ordnance Survey Old Series Map at a scale of one inch to one mile was published in 1813.

b) Relevance

This map gives a useful insight into the local road layout between the Yeakell & Gardner map and the later Tithe Maps.

c) Archive

A copy of the Old Series Ordnance Survey map produced from these is held at WSRO under reference PM 249.

d) Meaning

This map has no key but would appear to only show vehicular roads. Of interest however is that the application route from the eastern end of Cinders Lane and the Park Farm buildings is shown as a double peaked line track. On this and later OS maps the meaning of this would be an unfenced road. The remainder of the application route is not shown.

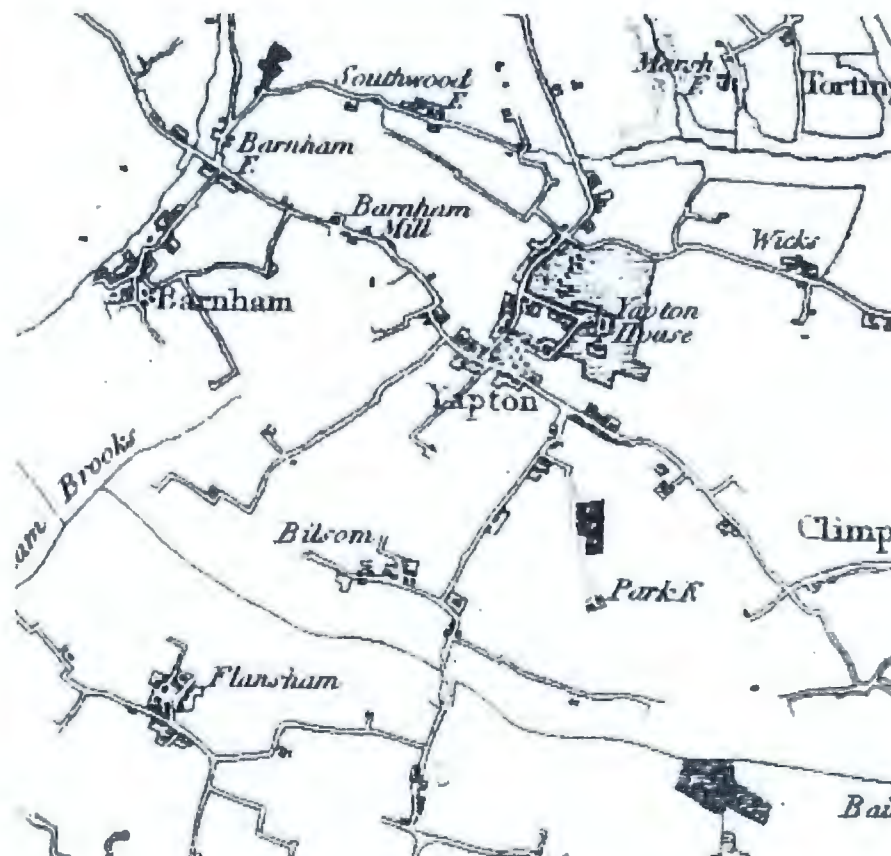


Fig. 11 – Photograph extract from OS Old Series 1813

e) Assessment

There is not much of relevance to the application route with the map not showing minor highways like footpaths and bridleways, save to note that the surveyor recorded the portion between Cinders Lane and Park Farm as an unfenced road. This part of the application route presumably therefore had no stiles along it at this point in time.

iii. GREENWOOD AND GREENWOOD MAP OF SUSSEX

a) Date

This map was published in 1825.

b) Relevance

Christopher (1786-1855) and John Greenwood (fl. 1821-1840) were brother cartographers who produced large scale maps of England and Wales in the 1820's. Their output includes superb maps that were finely drafted and elegantly engraved. Between 1817 and 1830 they produced a series of splendid large scale folding maps of most of the Counties based upon their own surveys.

In Hollins and Oldham (1995) Judge Howard examined various maps from 1777 to 1830 including Greenwoods, Bryants and Burdetts. Maps of this type, which showed cross roads and turnpikes, were maps for the benefit of wealthy people and were very expensive to purchase. There was "no point showing a road to a purchaser if he did not have the right to use it".



Fig. 12 – Photograph extract from Greenwood and Greenwood's Sussex 1825
Showing area of application route

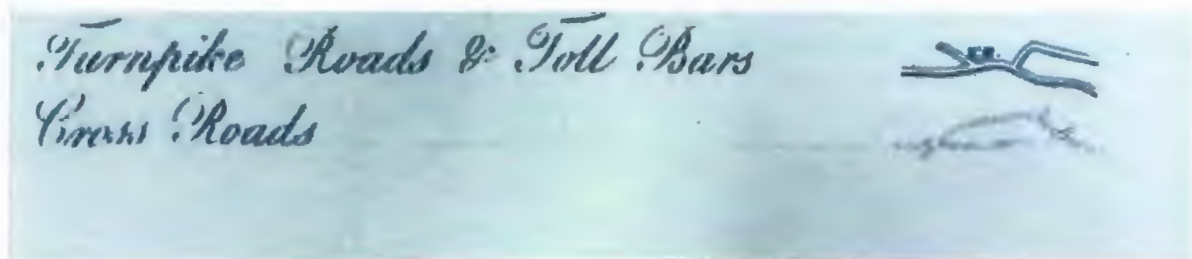


Fig. 13 - Extract from the Roads section on Explanation to Greenwood Sussex Map

c) Archive

A copy of this map is held at WSRO in the maps section under reference PM 249.

d) Meaning

This map shows roads and has an Explanation (or key) which does not feature bridleways and footpaths.

e) Assessment

As seen in Figs. 12 and 13 the Greenwoods depict the section of the application route from Cinders Lane to Park Farm as a cross road.

This map only has a key for vehicular roads not minor highways. However, they record a portion of the application route as a cross road and again we must assume the absence of any stiles between these points at this date.

D. EVIDENCE WHICH POINTS TO CHANGES TO THE HIGHWAY NETWORK IN YAPTON – NOT PART OF THE APPLICATION ROUTE, BUT RELEVANT TO IT

(a) Date

1646 (Bargain and Sale Deed), 1778 (Yeakell & Gardner Sussex map), 1795 (Gardner & Gream Sussex map), 1678 (Conveyance)

(b) Relevance

Whilst the application route can certainly be seen to fit the description of a highway between Felpham and Madehurst, the Victoria County History for Yapton says that the Bilsham Road, is only mentioned from 1646 and clearly they did not find any evidence that it existed before.

In addition, both the maps by Yeakell & Gardner and Gardner & Gream show a road existing between the top of the Bilsham Road in Yapton and the Church, which the applicant has not found depicted on the other slightly later maps. Another deed of 1678 describes "the highway from Yapton Church to Arundel".

The area encompassing the former Church and location of Yapton Place, extending as far as North End Road to the west, Ford Lane to the north and the line of the Portsmouth & Arundel Canal to the south is shown as the area of an historic parkscape to Yapton Place on maps and in the WSCC Historic Environment Records.

Whilst this is circumstantial evidence, it may indicate a more direct route through Yapton for the original road described in 1564 than was possible later.

(c) Archive

1646 Bargain & Sale Deed - Sussex Record Society (SRS) Vol. XXIX, page 33 no. 141.
1678 Conveyance – ditto, pages 145-146 no. 665. Copies of SRS Volumes are held at the WSRO. Map by Yeakell & Gardner of Sussex available online or at WSRO, map by Gardner & Gream available at the WSRO, for both of which references have already given.

(d) Meaning

The Victoria County History, as already outlined, cites a deed in the volume above which is the earliest record they found, amongst all the very many deeds, documents and records examined in countless archives whilst compiling the history of Yapton, of reference to the existence of the road known as the Bilsham Road. Whilst it is not actually named in the deed, the description of the highways would appear to be it and other parts of the road now known as the B2132 south of the centre of Yapton.

Deed and counterpart signed respectively by John Pay, with seal, and William Cox, seal gone. Witnesses:—George Edmonds, John Hyett, Robert Packe.

141. 16 April, 22 Chas. I. (1646).

Bargain & Sale by NICHOLAS WEST of Westborne, gent., to JOHN PAY of Felpham, yeoman,—for £260—of 3 closes of arable land containing 18 ac. lying between the highway from Yapton to Felpham, W., the highway from Yapton to Middleton, S., land of Eliz. Woolwyn, widow, E. and land of said John Pay, N.; 2½ ac. of arable between the highway from Ancton to Yapton, S., lands of Thomas Nashe, N., William Peers, W. and a lane called Stroude lane, E.; 6 ac. of arable between land of Elizabeth Woolwyn, N. & S., Thomas Cooper, W., . . . Spence, esq., E. and Henry Farwell N.; 2 ac. of meadow and 4 ac. arable lying together between Thos Cooper, N., meadow of Henry Farwell, W., Elizabeth Woolwyn, E., Elmer lane, S. and other lands of Thomas Cooper, W.; all in Felpham alias Phelpham in occupation of said John Pay.

Signature of Nicholas West and seal. Witnesses:—Hen. Hamden, junr., Edwd Sanders, William Baldwin. Also Bond of said Nicholas West for performance of Covenants.

142. Easter term, 22 Chas. I. (1646).

Fine between JOHN PAY, querent, and NICHOLAS WEST and MARY his wife, deforciant, concerning 22 ac. of land, 2 ac. meadow, and 10 ac. pasture in Felpham alias Phelpham.

143. Trin. term, 22 Chas. I. (1646).

Recovery by JOHN WOOD against JOHN PAY of 22 ac. of land, 3 ac. meadow and 10 ac. pasture in Felpham alias Phelpham.

144. 8 July, 22 Chas. I. (1646).

Deed between NICHOLAS WEST and JOHN PAY and JOHN WOOD of Chichester, merchant, to lead the uses of the above Fine and Recovery.

Signatures of Nicholas West and John Wood, seals gone. Witnesses:—William Baldwin, William Cox, Joseph Briday.

145. 20 Oct., 24 Chas. I. (1648).

Bargain & Sale by WILLIAM PIERS of Bosham, gent., and ADREY his wife to JOHN PAY of Felpham, yeoman—for £340—of a barn and lands in Ancton, described as in Deed of 12 Jan., 4 Chas. I., No. 137, in occupation of John Walter.

Signatures of William Peers and Audrey Peers and seals. Witnesses:—William Baldwin, Thos. Cooper, John Walter.

Fig. 14 — photograph extract from SRS Vol.XXIX (from WSRO)

The applicant also wishes to highlight that another road immediately north of the application route is shown on the maps by Yeakell & Gardner and Gardner & Gream in the late 18th Century. In the following extract from Yeakell & Gardner, the application route can be seen coming up from the south. Marked by red arrows are the top of the Bilsham Road and then what appears to be a minor highway existing between the main Chichester to Climping Road and Yapton Church, upon which there has been encroachment by a field enclosure near the junction. As can be seen, two other minor highways lead off this which merge into one going east. Today the main one of these is recorded on the Definitive Map as FP 363 but, in the absence of the road shown in the extract below, now accesses off Church Road at a point which has been pushed further to the south. The fact that a route today recorded as public is accessed off the road indicated with a red arrow is indicative that this road was also public.



Fig. 15 – enlarged extract from Yeakell & Gardner with red arrows added by applicant

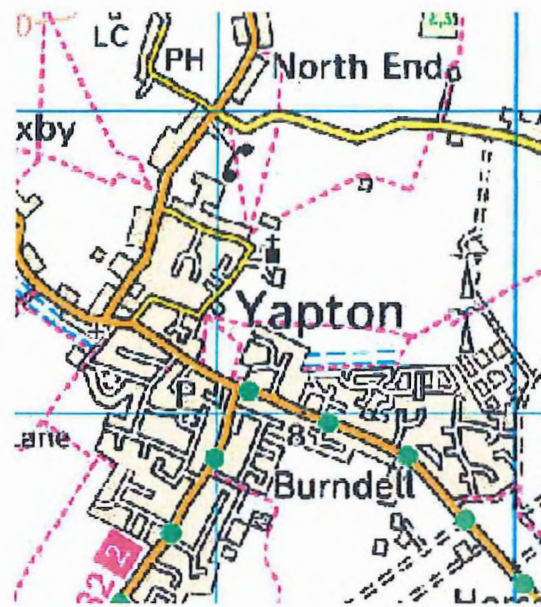


Fig. 16 – extract from WSCC iMap showing FP 363 (the dotted red line running immediately under “Yapton”)

Overleaf is an extract from the Gardner & Gream map of Sussex of 1795. They view this road between the top of Bilsham Road and Yapton Church slightly differently and draw it as a main highway.

However, the road is not evident on the later maps like the Ordnance Survey Old Series or Greenwood & Greenwood and does not appear on the plan or Book of Reference for the Portsmouth & Arundel Canal of 1815.

It is known that the area immediately north of the Canal route extending as far west as North End Road and north to Ford Lane was part of a Park to the main residence in the village called Yapton House or Place. It's eventual extent can be seen on the OS Old Series map extract in Fig. 11. Whether this road was a casualty of that park can only be speculated, but there are no entries on the Quarter Sessions catalogue list at WSRO for Yapton between the years 1773 and 1949.



Fig. 17 – enlarged extract from Gardner & Gream Sussex 1795

Whether the following reproduced extracts of transcribed deeds contained within Sussex Record Society Vol. XXIX under the heading "Yapton" indicate that the route originally also continued on northwards past the Church, perhaps via either of the two minor highway routes shown by dotted tracks also seen on Yeakell & Gardner (and seen in Fig. 16), is also purely speculative. However, the applicant draws to your attention "the highway from Yapton to Walberton" mentioned in Fig. 18 and, in Fig. 19, "the highway from Yapton Church to Arundel".

665. 13 April, 30 Chas. II. (1678).

Conveyance by THOMAS PECKHAM of Arundel, gent., GEORGE SILVERLOCK of Westborne, chandler, and JANE SILVERLOCK, widow, to OWEN LUDGATER of Selhurst Park, co. Sussex, yeoman, of a messuage with barn, lands &c. called Olivers in occupation of Richard Shepheard in Yapton and Walberton comprising the following closes of land, viz.:—11 ac. arable adjoining the said messuage; 8 ac. adjoining the other close; Rakins, 2 ac. pasture, between James Bell, gent., N. and S., Ford lane, E. and Yapton street, W.; Whitmans, 5 ac. pasture, between said James Bell, N. and S.; Northup, 7 ac., arable, Anne Tilley, widow, S., Richd. Woodland, N., lands of William Madgwick called the Mersh, W., the highway from Yapton to Walberton, E.; the Peasecroft, 5 ac. arable, the highway from Yapton to Walberton, E., the Mersh, W.

Fig. 18 – photograph extract from SRS Vol. XXIX p. 145

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ABSTRACTS OF SUSSEX DEEDS

lands in occupation of . . . French, widow, N., Thos. Staker, S.; East Touno mead, 3 ac., meadow, William Day, E., Anne Tilley, W., Richd. Nash and Thos Bridger, N., Robert Edmonds, gent., S.; 3 ac. of pasture upon part of which a dwellinghouse formerly stood, Wm. Madgwick, E., James Bell, N., the highway from Yapton church to Arundel, S. and W.; 6 ac. pasture, at East Touno, lands occupied by Daniel Lee, E. and part N., Thos Staker, W., and part N., a footway to Arundel, S.; 1 ac. pasture, near Sartlers barn, lands of the mayor, aldermen and citizens of Chichester, N. and W., Yapton street, E.

The said premises were mortgaged, 14 Aug., 28 Chas. II. (1676) to said T. P. by Richard Woodland of Yapton, yeoman, and Mary his wife and the said G. and J. Silverlock for £327.

Also appointment of Nicholas Covert of Chichester, gent., and Richard Shepheard of Yapton as attornies to give scisin.

Counterpart with signatures of Owen Loodgater, Geo. and Jane Silverlock and seals. Witnesses:—Nichs. Covert, Richd. Silverlock, John Wakeford junr.

Fig. 19 – photograph extract from SRS Vol. XXIX p. 146

(e) Assessment

The applicant has drawn representatively with a red line on a copy of a modern OS 1:25,000 scale map, as shown in Fig. 20, how the application route can be said to be a highway from Felpham to Madehurst which ran through the former Ford Park.

Coloured yellow is the Bilsham Road, which the VCH could find no record of prior to 1646.

Indicated by blue crosses are where the route shown crossed the historic parish boundary with Madehurst at the north of the map, and crossed from Felpham parish into Middleton parish at the southern end of the map. It is not clear from the Sheriff's Court record outlined in **B.** whether the bounds of the highway described were from the centres of Felpham to Madehurst, or just within the parish boundaries thereof.

As can be seen, the two routes are incredibly similar. The road later known as the Bilsham Road however, links Yapton to the settlements of Bilsham, Middleton and Felpham to the south without going through Ford Park and Ancton.

Having highlighted a road which no longer exists shown on the Yeakell & Gardner and Gardner & Gream maps immediately to the north of the application route, the applicant has also indicated by a dashed red line a more direct route through Yapton centre which the original highway described in 1564 **may** have taken, as indicated by circumstantial evidence.

The photograph in Fig. 20 is also on the memory stick submitted with this Statement as **Appendix 2.**

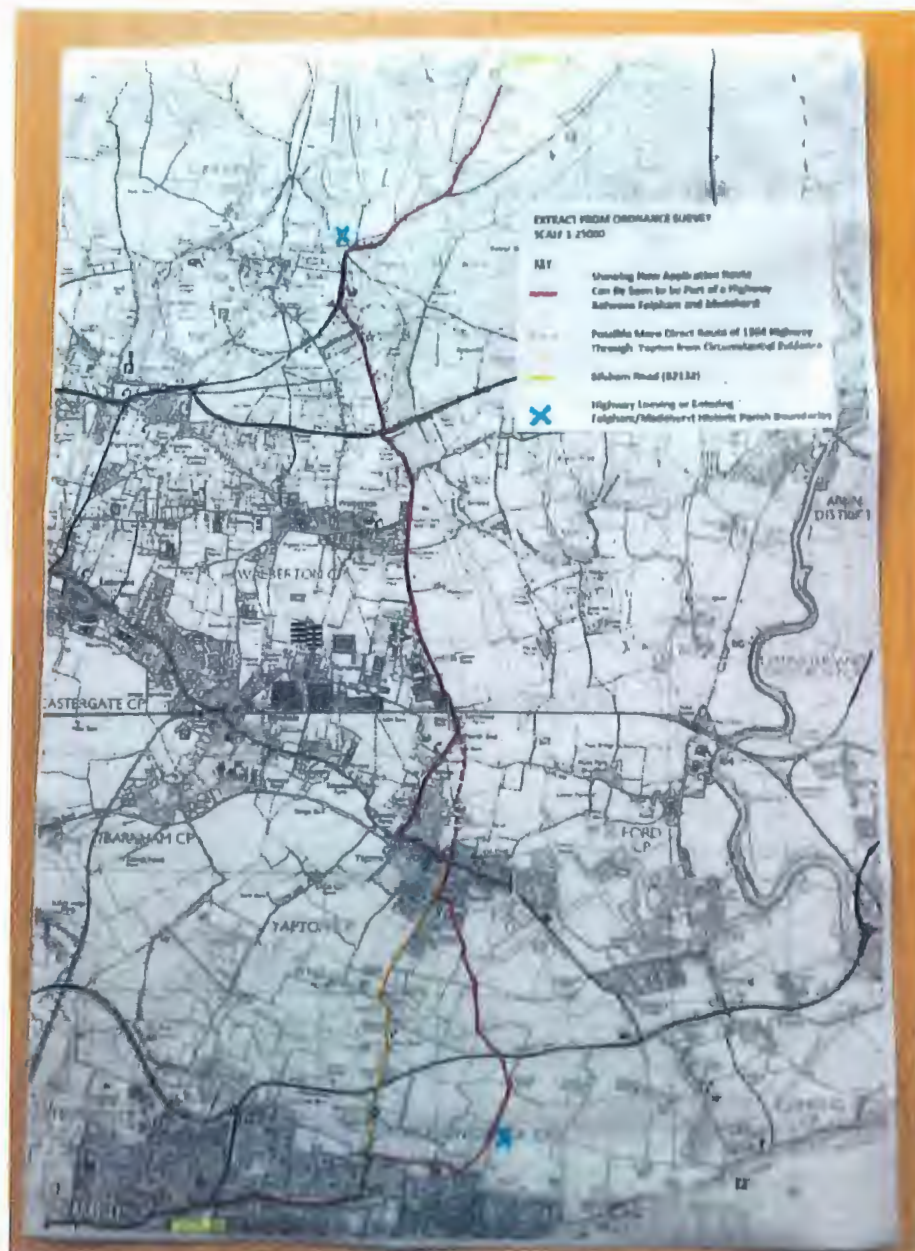


Fig. 20 – photograph of modern OS map Scale 1:25,000 showing how the application route can be said to be part of a highway between Felpham and Madehurst

E. ROAD BUILT BETWEEN BOGNOR AND RUSTINGTON WITH A TOLL FERRY ACROSS THE RIVER ARUN TO LITTLEHAMPTON

(a) Date

The Road and Bridge Project from Bognor to Rustington has Plans and Books of Reference dated 1821 and 1822.

(b) Relevance

The road project would also have required the Plans and Book of Reference to have been deposited with the Clerk of the Peace.

(c) Archive

Two Plans and Books of Reference exist for the road project, stored at WSRO under QDP/W42 and QDP/W46.

(d) Meaning

The project is entitled "A Plan of a Road from the end of an Intended new Bridge over the River Arun, at or near Littlehampton on the west side of the said River, to the Road from Bognor to Arundel at the West end of Grevatt Lane, and of a Road from the end of the said Bridge on the East side of the said River, to the Village of Rustington".

Prior to this time, as can be seen on the earlier maps, there was no road along the coast linking Bognor with Littlehampton, as there is today by the road known as the A259. Initially, west of Littlehampton, this route was made by utilising the existing section of Grevatt's Lane in Yapton, and connecting it by a new section of road to roads at Climping and by another new piece "Ferry Road" to the ferry itself.

There are two plans and tables of reference referring to this project, one is QDP/W42 (1821) and the other QDP/W46 (1822). The applicant has studied the above, but the application route is not drawn on the plans or mentioned in the Books of Reference.

According to the VCH for Climping:

The open coastline and lack of roads made Climping an obvious place for smuggling in the 18th and early 19th centuries. A riding officer had been appointed to combat it by 1730, (fn. 539) and one was drowned, possibly nefariously, in the pond opposite his house in 1802. (fn. 540) One purpose of the new roads and ferry of c. 1824 was the suppression of smuggling.

Elmer Sluice, south of the application route, was apparently a very popular landing place for the smugglers in previous centuries. It became the site of a Coastguard Station in the 1830's.

(e) Assessment

The Plans and Book of Reference for this road project are of no assistance with regard to the application route.

F. TITHE MAPS FOR CLIMPING, FELPHAM, MIDDLETON AND YAPTON

(a) Date(s)

Maps (and Apportionments) Climping 1843 (1843) Felpham 1844 (1844), Middleton 1838 (1848) and Yapton 1839 (1841).

(b) Relevance

The Tithe Commutation Act of 1836 enabled tithes (literally a tenth of the produce of the land) to be converted into a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. The Act was amended in 1837 to allow maps produced to be either first class or second class.

First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners (s. 2 Tithes Act 1847). They had to be at a scale of at least 3 chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to the tithe commutation, and are often at 6 chains to the inch. There was a proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, but this was not strictly adhered to.

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. Non-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 sienna or light brown which typically indicates public status.

(c) Archive and Reference

Tithe maps and apportionments for West Sussex are available at the WSRO on the map viewer. A copy of the Climping Tithe Map is held under reference TD W33, that for Felpham under TD W54, that for Middleton under TD W84 and that for Yapton under reference TD W153. A photograph extracts of the Yapton Tithe Map taken from the map viewer is shown in Fig 23. On the memory stick submitted with this Statement as **Appendix 3** are pictures of the whole Tithe Maps from those held at The National Archives under references IR30/35/65 (Climping), IR30/35/101 (Felpham), IR30/35/182 (Middleton) and IR30/35/306 (Yapton).

(d) Meaning

(i) Felpham

The Felpham Tithe Map does not show any footpaths or bridleways and so is therefore unable to be of assistance.

(ii) Climping

The Climping Tithe Map, whilst showing some rights of way, shows no footpaths or bridleways in the north east of the parish. Park Farm is shown as parcel no. 3. Roads or tracks by which it is reached are apparently too insignificant to be shown on the map. However, both it and all the otherwise landlocked fields must be accessed somehow.

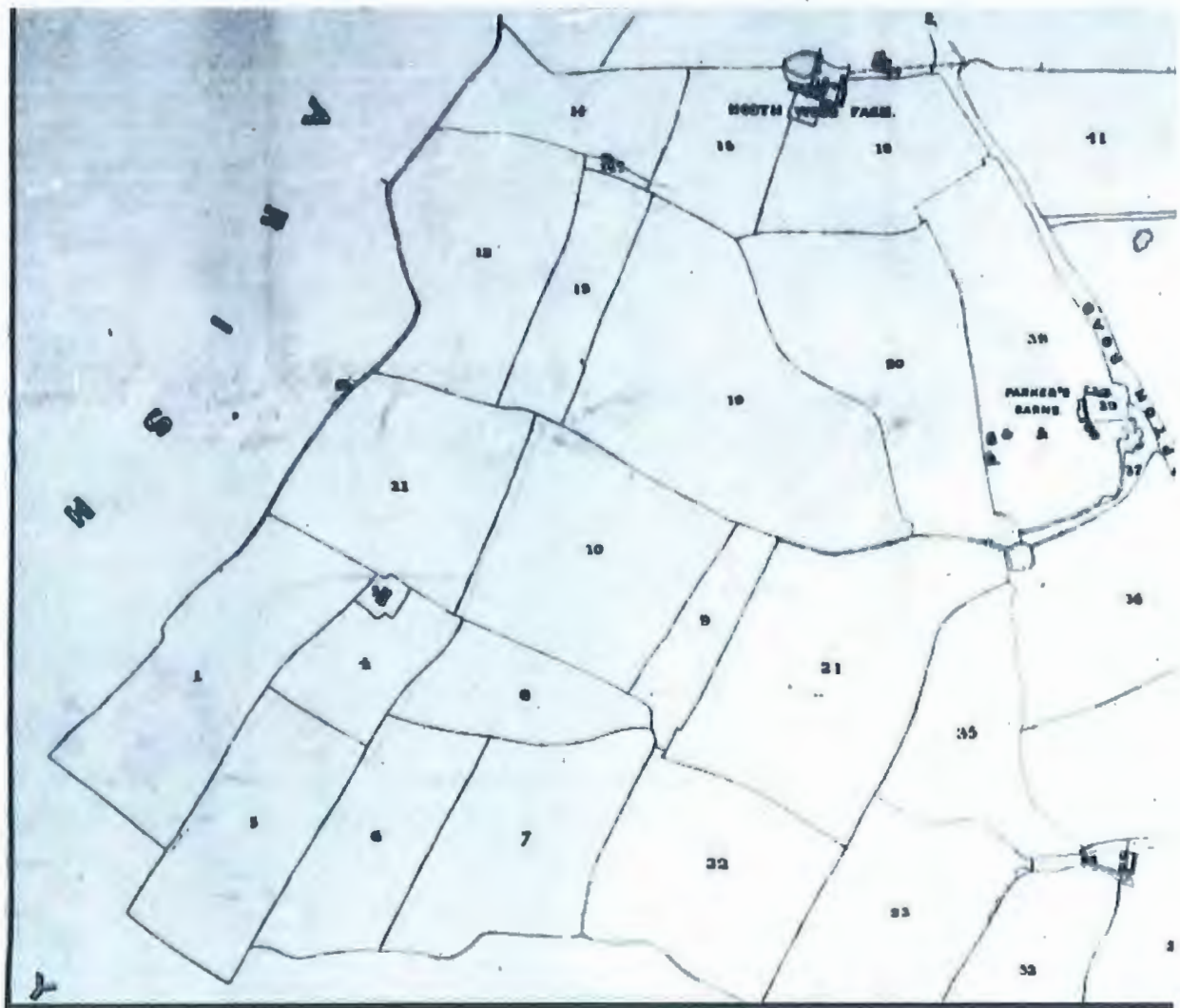


Fig. 21 – extract from IR30/35/65, photo of TNA copy of Climping Tithe Map

(iii) Middleton

According to Roger J P Kain and Richard R Oliver, *The Tithe Maps of England and Wales* (Cambridge 1995), the leading reference work, the Middleton Tithe Map shows "buildings, flagpole, ornamental gardens (coloured), field boundary ownership, hedge

and fence ownership, field gates, woods, heath/moor, footpath and/or bridleway, marsh, waterbodies, sluice, bridges, rock outcrops..."

An enlarged extract from the photograph of the whole Middleton Tithe Map held at TNA is shown in Fig. 22. A footpath or bridleway route may be seen coming from Felpham parish to the west (shown by red arrow added by the applicant) and then going in a northerly direction along the Middleton parish boundary to a bridge over the Ryebank Rife to "Yapton Parish".



Fig. 22 - enlarged photograph extract from IR30/35/182 with arrow in red added by the applicant

(iv) Yapton

According to Roger J P Kain and Richard R Oliver, The Tithe Maps of England and Wales (Cambridge 1995), the leading reference work, the Yapton Tithe Map shows buildings, hedge and fence ownership, field gates, footpath and/or bridleway, named roads, waterbodies, drains, bridges, canal with towpath. Other than obvious roads, other

tracks, the footpaths and/or bridleways referred to, are shown in sepia ink as lines of dots and dashes.

The Yapton Tithe Map shows Cinders Lane coloured sepia and given apportionment number 224 . Within the apportionment it is excluded from tithe but not listed under Roads, Water, Waste & C. with other roads in the village. The application route continues as a line of dots and dashes from it drawn in sepia ink. This is consistent with an easement over private land for a bridleway.

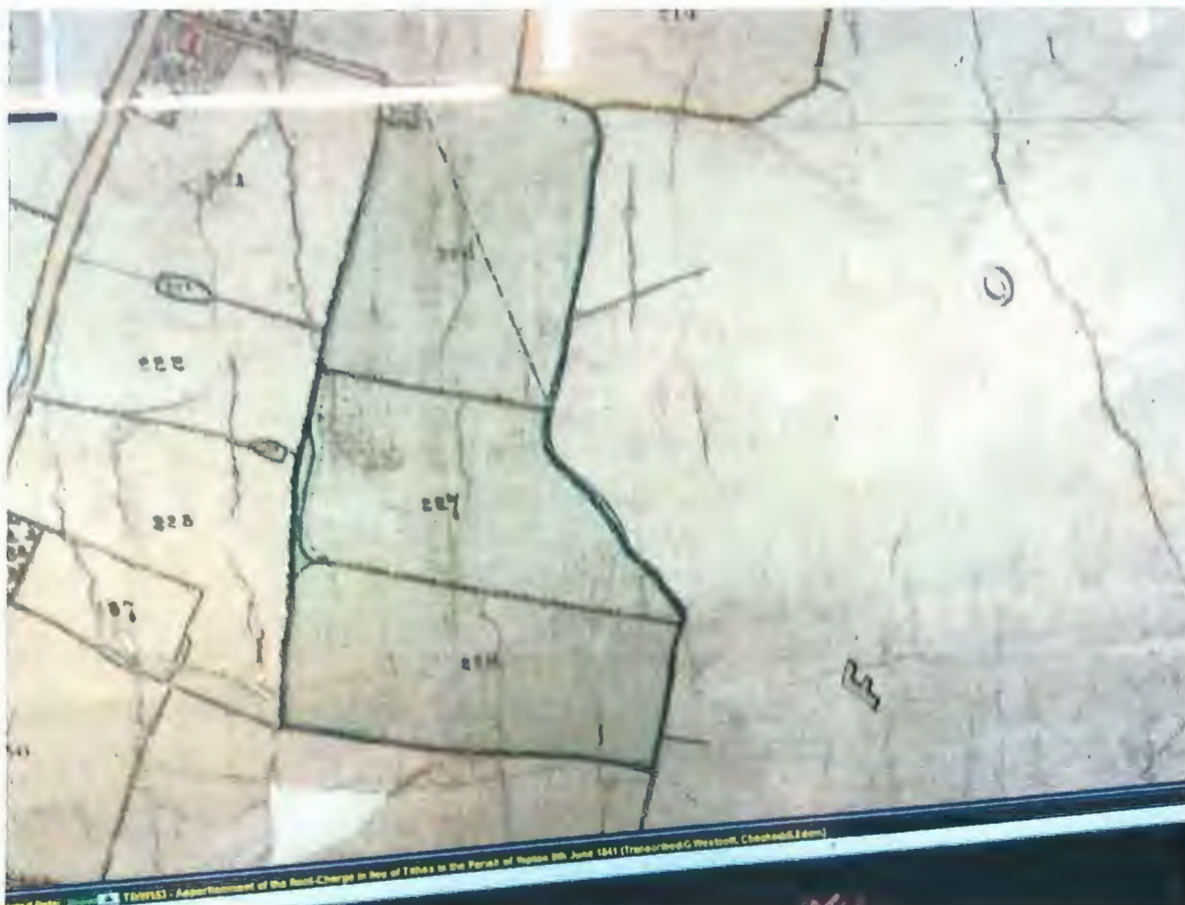


Fig. 23 - extract from TDW153 taken from the map viewer at WSRO showing application route from Cinders Lane (apportionment number 224), crossing apportionment numbers 225 and 226 and running down the eastern edges of 227 and 228 along the boundary with Climping before heading in a south easterly direction towards Park Farm

Fig. 24, a photograph extract from the Yapton Tithe Map is taken from IR30/35/306, the copy held at TNA, as this gives a clearer view than the map viewer at WSRO. It shows a route crossing parcel 254, presumably then going along Grevatt's Lane for a short way, and then continuing down the eastern side of parcel 257 to the bridge over the Rife as seen in Fig. 22, the extract from the Middleton Tithe Map.



Fig. 24 - enlarged photo extract from IR30/35/306, the Yapton Tithe Map held at TNA



Fig. 25 - enlarged photo extract from IR30/35/306, the Yapton Tithe Map held at TNA

Fig. 25 shows that "Scots Pine Track" is not recorded as a right of way – if it were a line of dots and dashes would be seen going along the boundary between parcels 251 and 252 to Grevatts Lane.

(e) Assessment

The Tithe Maps of Yapton and Middleton clearly show a route treated as a minor public highway which closely resembles the application route and also show it entering and leaving from the parishes of Felpham and Climping, whose own maps either do not show public rights of way or do not show the application route. The route differs from that shown on Yeakell & Gardner between points D. and E. of this application, however.

The only public rights of way shown leaving Yapton Parish and going into the area of Park Farm are the application route and the east/west route from Bilsham Road today recorded as FP 144.

G. INCLOSURE RECORDS

There are no Inclosure Awards for Climping or Middleton. There was a Deed of Exchange relating to some land in Yapton but not affecting the land in the parish crossed by the application route. There is an Inclosure Award for Felpham, which mostly relates to the hamlet of Flansham. There is some land at Ancton involved, however, in some exchanges of land that were part of this Award. The details are as follows:

(a) Date

The Act of Parliament 7 Geo. IV c.43 (Private) received Royal Assent on 26th May 1826. The Felpham Inclosure Map is dated 1826 and held at WSRO under reference Add Mss 5179. A copy of the Award (which the applicant thinks is incomplete and also in poor condition) is held at WSRO under reference Slindon Mss 75/7.

(b) Relevance

Parliamentary Inclosure Awards contained powers to create new or divert, stop up or alter the status of highways including roads, bridleways and footpaths.

(c) Archive

The relevant references for the documents are given above under "Date".

(d) Meaning

The Inclosure Map has a small inset section which relates to Ancton and shows some lands which were exchanged. A dotted line is shown on the map along part of the application route between F. and G. (but does not show as far as G.) but the applicant cannot find that it was set out in the Award or otherwise referred to. The dotted line shown only actually crosses parcel 51 on the map. Unfortunately the dotted line representing the route does not reproduce well from the map viewer and the applicant therefore recommends that this is viewed at the WSRO.

(e) Assessment

It is not possible to conclude much from this except that the map appears to be indicating the existence of something along the line of the application route in that location. The applicant suggests this indicates that Felpham parish acknowledged there was a public highway there, which is useful when the later Tithe Map for Felpham does not show footpaths and bridleways. The applicant did not find reference to this route in the section discussing the exchange of parcel. 51 between Thomas Cosens and Richard Coote but, as previously mentioned, the document is in poor condition and appears to have later pages missing. However, the application route only crosses parcel 51 and most would appear to be outside the Award area.

H. QUARTER SESSIONS RECORDS

Evidence relating to the indictment at the Sheriff of West Sussex's Court given by Heather Warne for the system that existed in this area of Sussex prior to the Quarter Sessions which were set up in the reign of Elizabeth 1 has already been given under **B**.

Slightly later, 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 upon which decisions were made.

The Quarter Sessions Records pertaining to highway matters between 1773 and 1949 have been catalogued at WSRO under reference MP 5462. The Highways Act of 1773 allowed the diversion of highways, which previously had required the King's licence or special legislation. Upon this list there are no entries for Yapton or Middleton in this period. There are none for Felpham prior to 1894 or Climping prior to 1936, and none pertain to the application route.

The applicant has also undertaken an online search of The National Archives under "Ad Quod Damnum Sussex" to see if this revealed anything for the period prior to 1773. This brought forth a raft of "hits" from as early as the 13th Century, including an application to close a road passing through a park in Hurstmonceux, but no records pertaining to the parishes through which the application route ran for the time period subsequent to the 1564 Sheriff's Court.

The applicant has not found a map earlier than Yeakell & Gardner showing the area over which the application route runs, nor a parish or manorial map. The date of this map is close to the Highways Act legislation, prior to which it would have been necessary to get the King's Licence for a diversion. The Yeakell & Gardner map is likely therefore to be the earliest available indication of its course. Subsequent Tithe Maps, Boundary Records and early OS County Series maps give a more detailed picture, which have synergy with that recorded on Yeakell & Gardner, with the exception of the application route between points D. and E. The applicant will deal with this point later in the Statement.

I. FIRST EDITION OF THE ORDNANCE SURVEY COUNTY SERIES 25 INCH TO THE MILE MAP SUSSEX

a) Date 1876

(b) Relevance

Ordnance survey maps are not usually of use for rights of way purposes because they usually purport only to show physical features and not legal rights. However the early maps in the first edition series contain valuable extra land use information when cross referenced to the Books of Reference that were published with them. These are indexed by parish.



Fig. 26 - Photo extract from OS First Ed. Sussex LXII 16 1876 1:2500 from map held at the WSRO

(c) Archive

Copies of some first edition of the Ordnance Survey 25 inches to the mile maps can be found in the WSRO together with a set of the Books of Reference (Area Books) that accompanied the first edition maps. The <https://www.old-maps.co.uk/#/> website contains OS map coverage from 1876 for this area.

(d) Meaning

The First Edition map LXII 16 shows the application route. By comparison with what is shown on Yeakell & Gardner approximately 100 years earlier, the application route would appear to follow the same course. Another route shown on the Yeakell & Gardner map going east from the Park Farm buildings to the Chichester to Climping Road has changed course slightly and now exits opposite Horsemere Green Lane via parcels no. 30 and 32. In the Area Book, parcel 32 is identified as "Arable, & C" and parcel 30 identified as "Pasture, & C." indicating an unmade road, such as a grassed farm track. (This area can be seen as parcel number 33 on the Climping Tithe Map).

The area surrounding Park Farm shows considerably less field enclosures than shown on the earlier Tithe Map. The Area Book records that it is being used for arable farming. Neither the route now recorded as FP 144 nor "Scots Pine track" are shown on this map.

Cinders Lane is given the parcel number 265. In the section for Yapton within the accompanying field books, parcel no. 265 reads "Road".

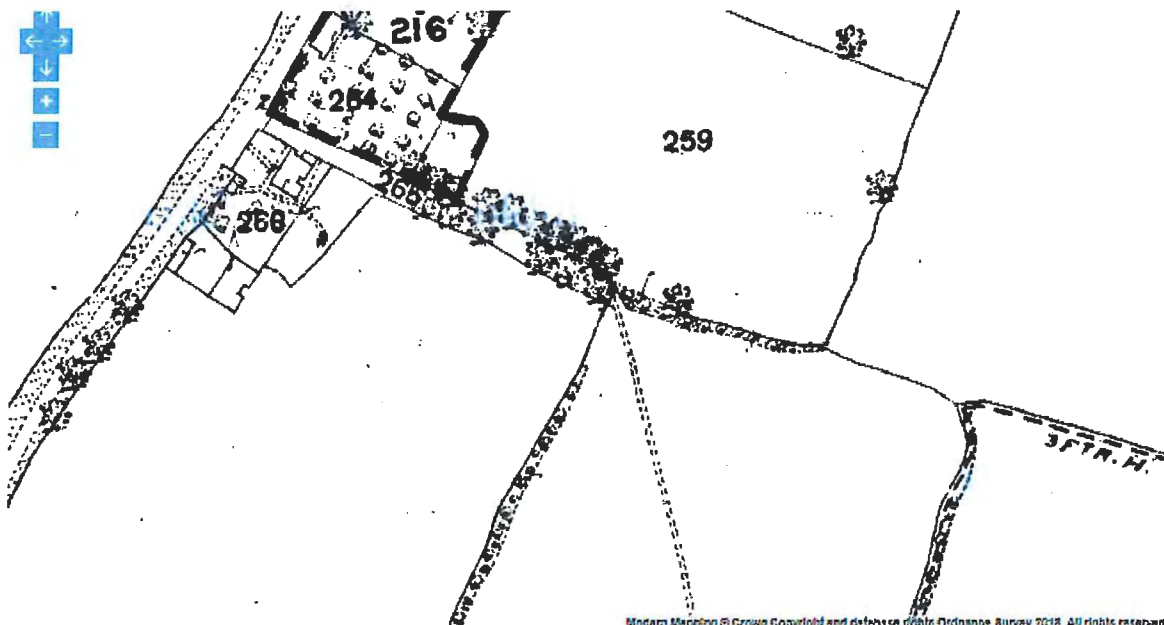


Fig. 27 - Extract from OS First Ed. Sussex 1876 1:2500 showing Cinders Lane as parcel no. 265, taken from old-maps.co.uk website

The entry for parcel 265 in the Reference Book is as below:

264	·662	House, garden, &c.
265	·265	Road.
266	·557	Houses, gardens, &c.
267	12·895	Arable.
268	18·256	Arable, &c.

Fig. 28 - Extract from OS 1st Edition OS Ref. Book Vol. 10 under Yapton

The application route further south is covered by map LXXIV 4 produced from 1874-75.

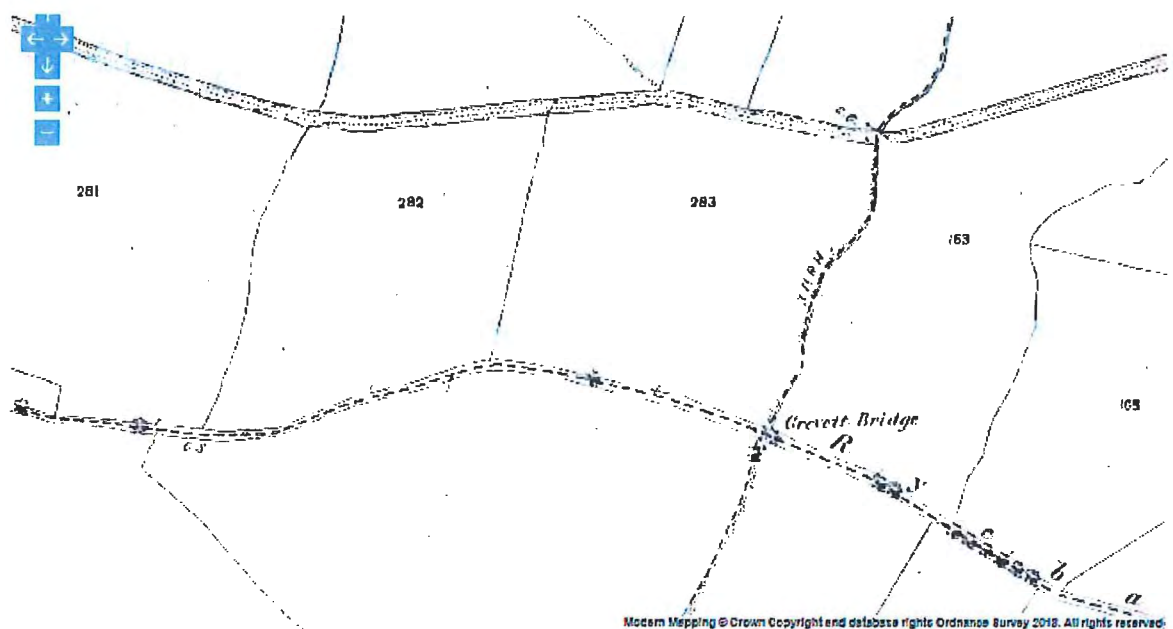


Fig. 29 - Extract from OS First Ed. County Series Maps 1874-76 taken from old-maps.co.uk website showing overlap area between LXII 16 and LXXIV 4 (this site shows the maps as a seamless layer)

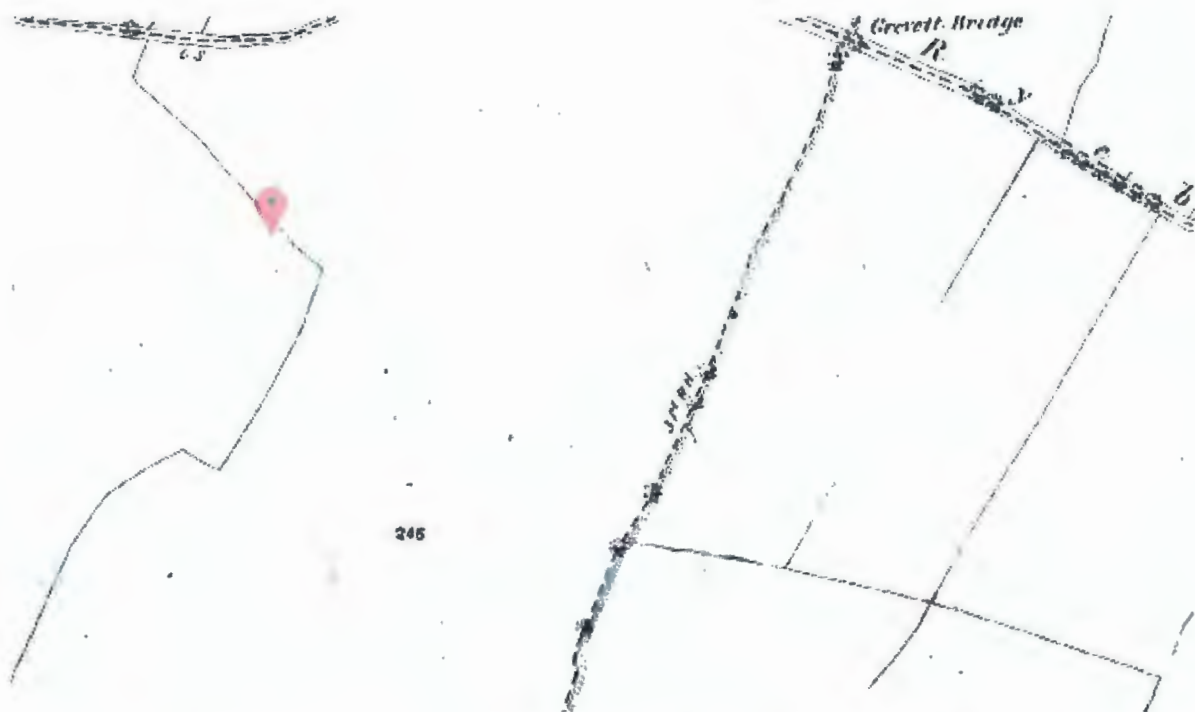


Fig. 30 - extract from OS First Ed. County Series Map LXXIV 4 1:2500 1874-75 showing Grevatt's Bridge south towards Ancton

It is not particularly easy to see in Figs. 29 and 30, but the footpath line is shown going south along the parish boundary.

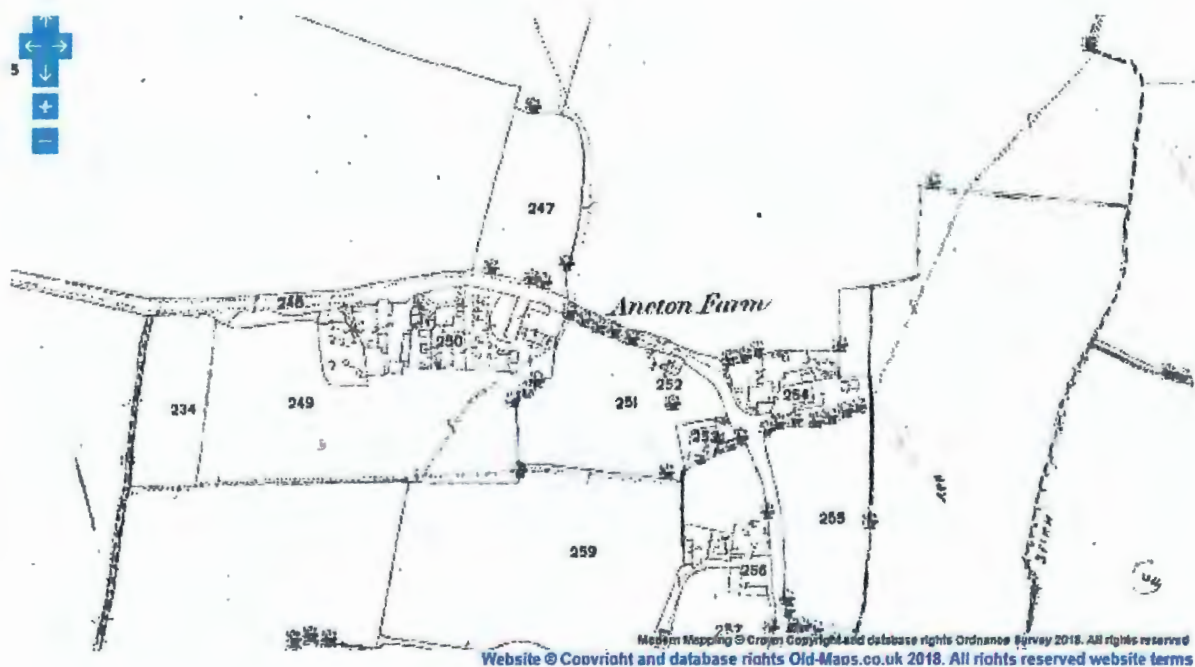


Fig. 31 - extract from OS First Ed. County Series map 1:2500 LXXIV 4 1874-75 showing application route from Middleton boundary across land within Felpham parish to Ancton Lane

(e) Assessment

The first OS County Series maps of 1874-76 show the application route following a very similar course to that seen on the Yeakell & Gardner map, with the exception of Fig. 29 which shows a discrepancy.

J. BOUNDARY REMARK BOOKS

(a) Date

The Boundary Remark Books are dated 1872

(b) Relevance

The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841. Of particular value for determining highway status are the Boundary Sketch Maps (OS 27) and the Boundary Remark Books (OS 26). These were produced under Parliamentary authority (the 1841 Act), with the power to summon the Clerk of the Peace and any books, maps, papers or other documents he held (s. 5 of the 1841 Act). The Boundary Sketch Map was advertised for public inspection. The records have been in official custody, firstly by the Ordnance Survey, and latterly by The National Archives.

Detailed information can be found in the OS Boundary Remark Books. The boundary survey was approved by the representatives, known as meresmen, for each parish. They are the result of the Ordnance Survey's checking of the boundaries with the meresmen from the parish on each side.

(c) Archive

The Boundary Remark Book for Yapton with adjoining parishes Barnham (inc. 4 detached portions), Walberton, Binsted, Ford and Climping is held at The National Archives under reference OS26/10600.

That for the parish of Felpham with Barnham, Yapton and Middleton is held under reference OS26/10572.

Photographs of both are on the memory stick submitted with this Statement as **Appendix 4**.

The Boundary Sketch Map OS27/5280 dated 1873 is also held at The National Archives, photographs of this are on the memory stick submitted with this Statement as **Appendix 5**.

(d) Meaning

Fig. 33 shows the route approaching point C. of this application from Yapton, hugging the boundary with Climping on the Yapton side and then crossing the boundary to head towards Park Farm.

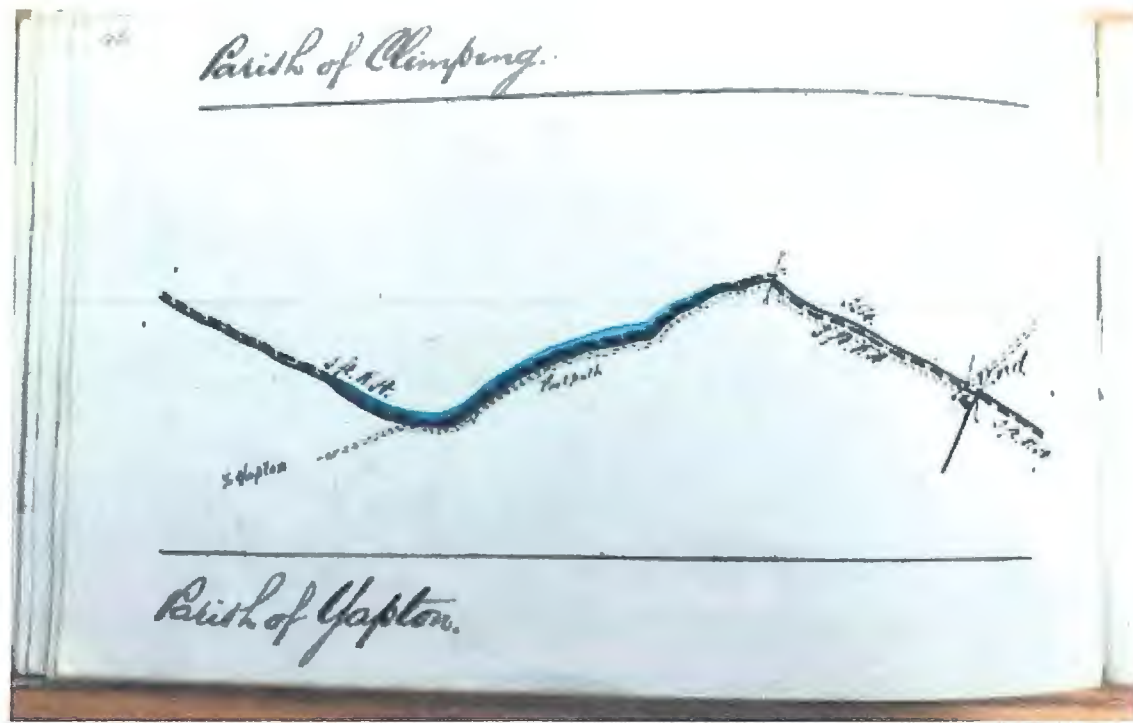


Fig. 32 - photograph extract from BRB OS26/10600

Fig. 33 shows the application route crossing the boundary between Climping and Yapton parishes with a stile on the point of entry or exit on the southern boundary of Park Farm.

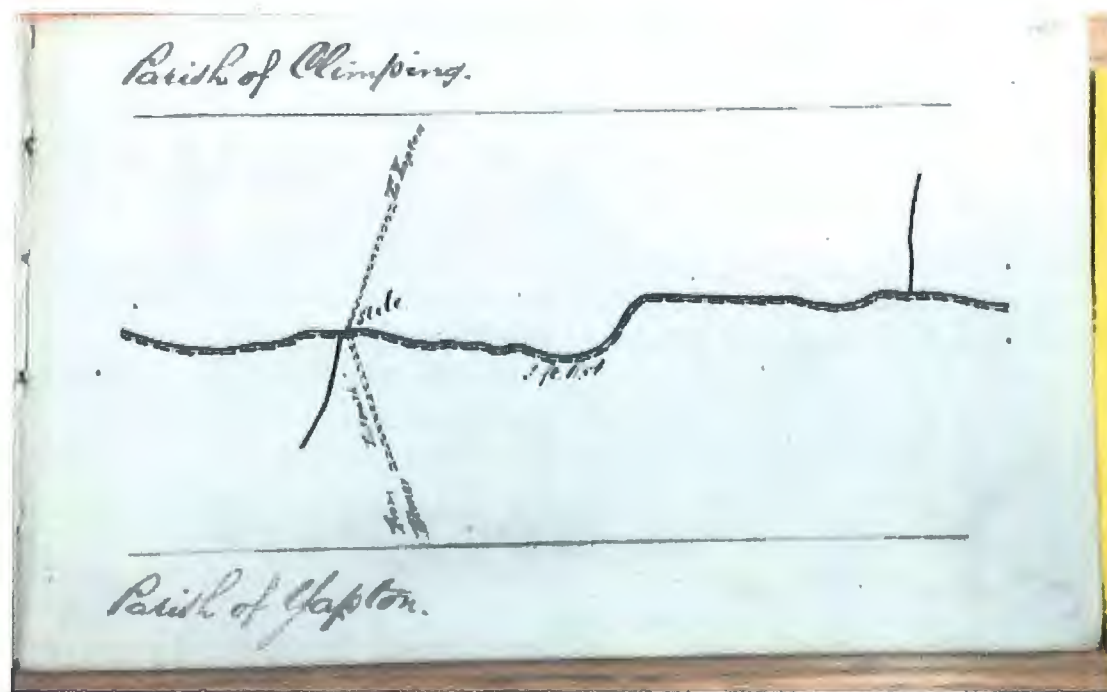


Fig. 33 – photograph extract from BRB OS26/10600

Fig. 34 shows that the route to the Grevatt's Bridge south of Grevatt's Lane has been drawn along the boundary of Yapton and Climping on the Yapton side. At the bridge, the route crosses to the Middleton parish boundary with Felpham.

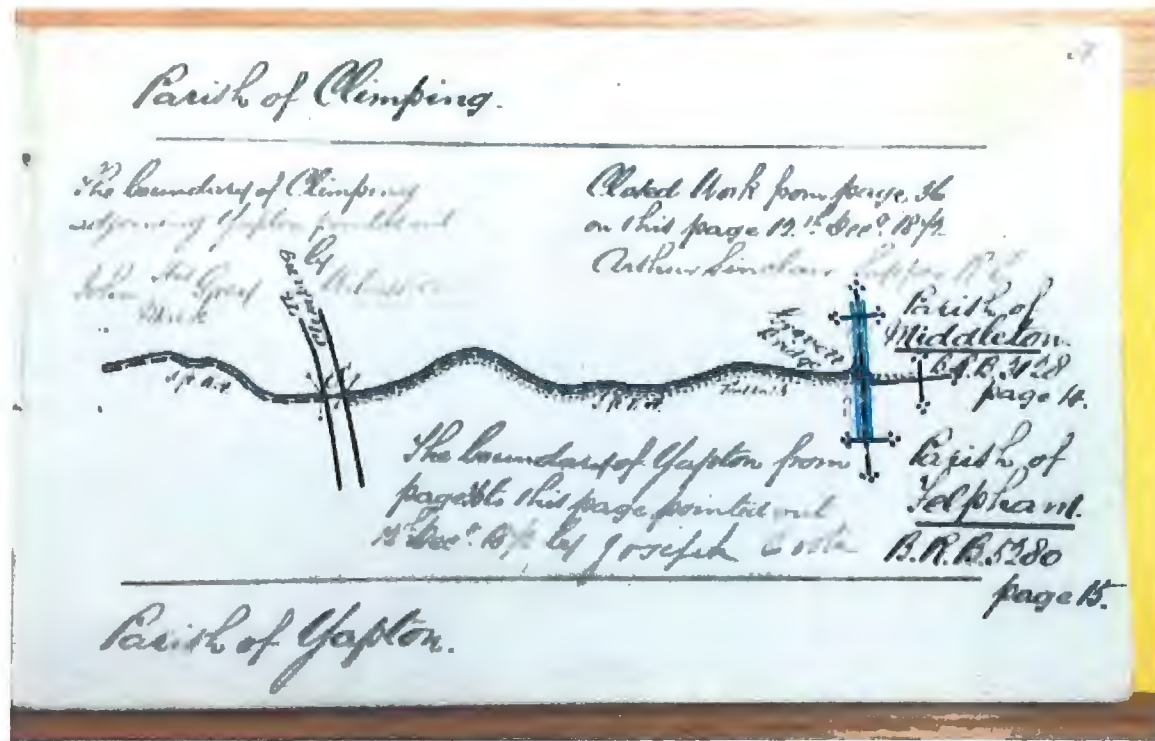


Fig. 34 – photograph extract from BRB OS26/10600

Fig. 35 is taken from Boundary Remark Book OS26/10572 and shows part of the application route south of Grevatt's Bridge.

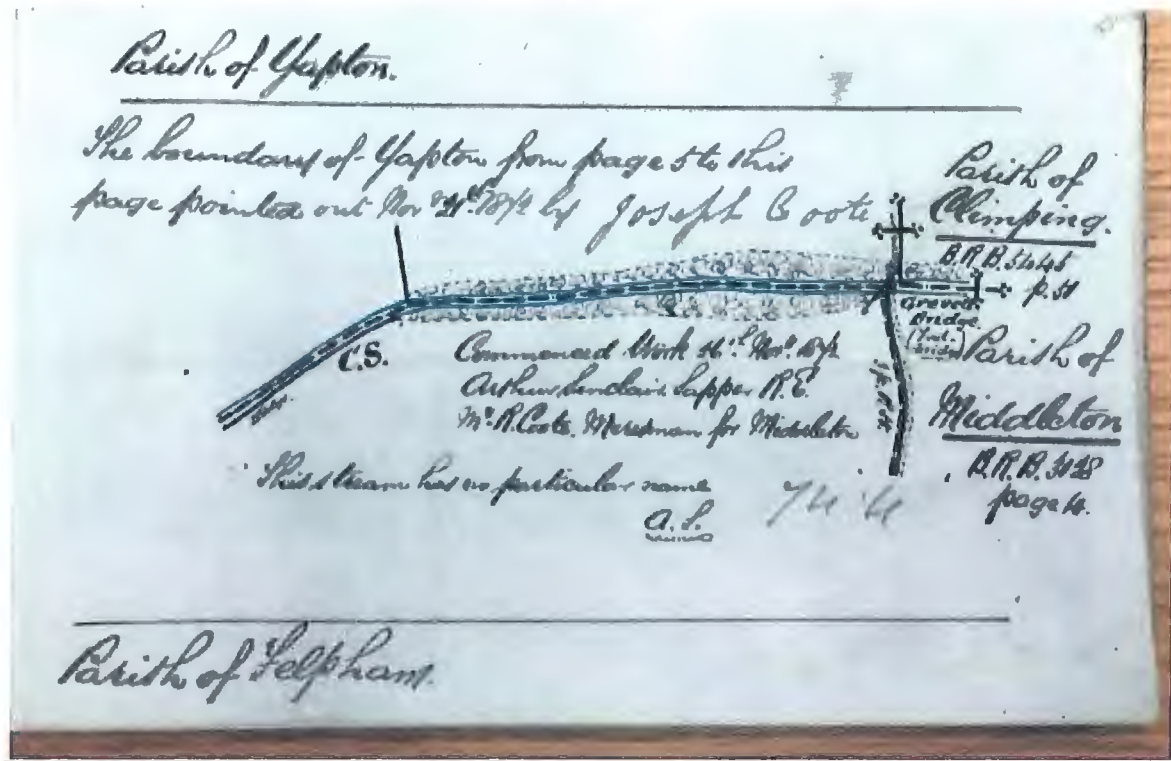


Fig. 35 – photograph extract from BRB OS26/10572

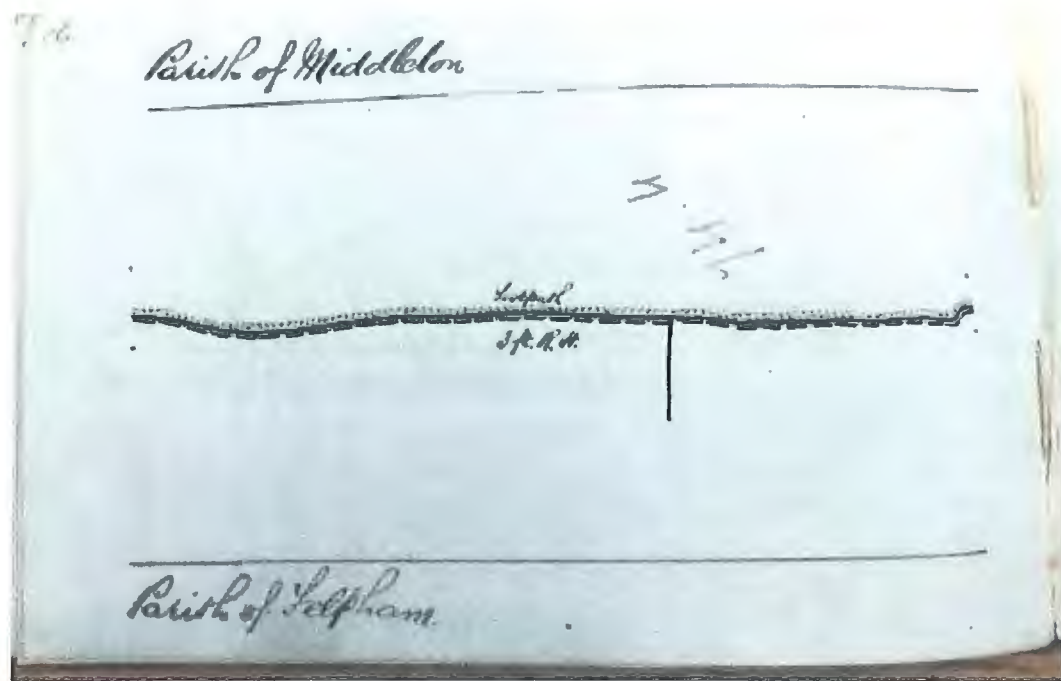


Fig. 36 – photograph extract from BRB OS26/10572 showing part of the route between points E. to F. of this application.

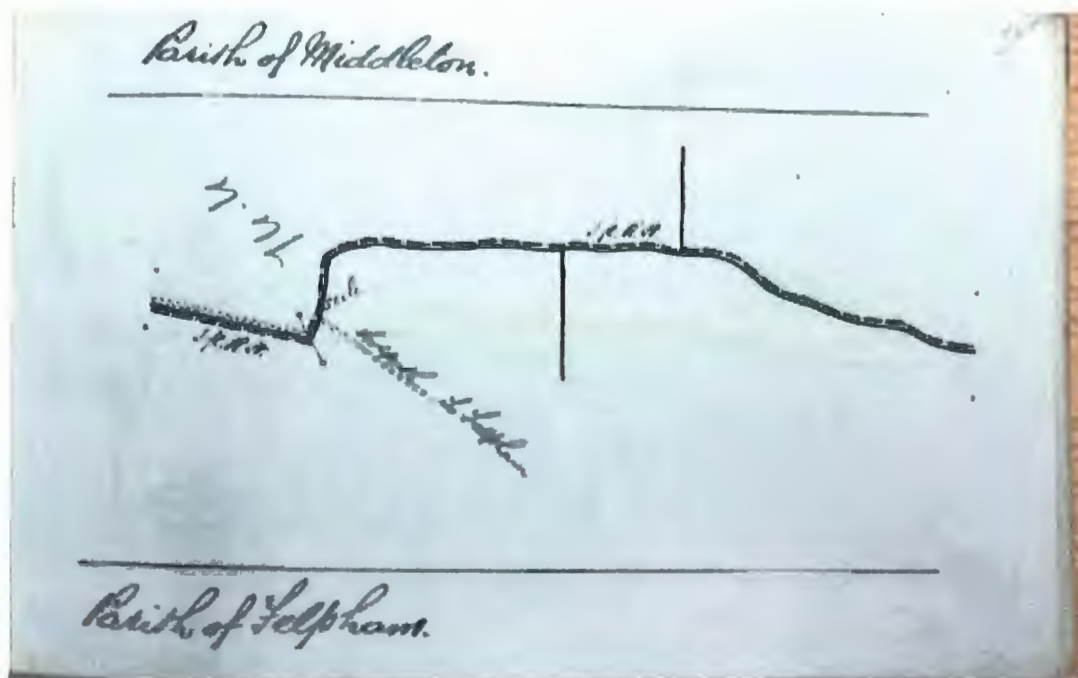


Fig. 37 – photograph extract from BRB OS26/10572 showing application route at point F. of this application, heading towards point G.

The records show that by this date the application route is definitely only able to be used as a footpath, having a stile on one the parish boundaries of Yapton with Climping (on the southern boundary of Park Farm), and another on the boundary of Middleton with Felpham at the point of entry to Ancton Farm. It also crossed the Ryebank Rife by a bridge described as a footbridge. Having said that, locally maps Sussex (West) Sheets LXII 8 and LXII 15 dated 1910 both show local routes marked B.R. with stream crossings marked "F.B.". One of these upon recent examination turned out to be an aged and decrepit small culvert, quite possibly the original, and perfectly wide enough for a horse to cross! No doubt bridges or culverts, depending on what they are made of, may need replacing several times over the course of centuries. If the route was more used as a footpath in later times then no doubt a simple bridge suitable for pedestrians would be much cheaper to provide than one capable of taking the weight of horses.

The area where "Scots Pine Track" would appear is on page 48 of OS26/10600, but no path is drawn. Neither does it appear on the Boundary Sketch Map showing Climping parish OS27/5280, photographs of which are provided as Appendix 5.

At the time these records are drawn up Richard and Joseph Coote are mentioned in the VCH for Climping and Felpham as owning both Park and Ancton Farms, which means that a large proportion of the land over which the application route ran was in the hands of this family. They are also the Meresmen for Yapton and Middleton parishes.

Not one path of any of the rights of way shown in these records or others for parishes nearby is described as a bridleway or bridle road at the time of the OS Boundary Records and the first 1:2500 series maps. All are described as footpaths and most would appear to have a stile somewhere along the route. Therefore, any evidence that any formerly had a higher status clearly has to be brought from an earlier period.

(e) Assessment

By this time clearly the application route was only able to be used as a footpath.

With regard to the route itself, the boundary records accord with what is shown on the earlier Yapton Tithe Map in the respect that the route followed the Yapton boundary between Grevatt's Bridge and Grevatt's Lane. However, the applicant points out that this is not what is shown on Yeakell & Gardner, which shows it cutting across the fields to Grevatt's Bridge. The route shown would appear to represent an unlikely and unnecessary detour away from the direction of travel.

The Boundary Remark Books, as is clear from comments within, rely heavily upon what is shown on the earlier Tithe Maps. Therefore, bearing in mind how OS maps subsequent to the first edition show the route, as the applicant will detail, the applicant believes that the route drawn on the Yapton Tithe map and then copied to the Boundary Records is possibly not accurate. No doubt the route following the boundary instead of cutting across fields would appeal more to landowners. The applicant will deal with the discrepancies between Footpaths 166 and 165 in the following point..

K. THE DIFFERENCES BETWEEN THE ROUTES RECORDED UPON THE DEFINITIVE MAP FOR FOOTPATHS 166 AND 165 AND THE APPLICATION ROUTE BETWEEN POINTS B. TO C., D. TO E. AND F. TO G.

(a) Date

From the first known recording of the application route in 1778, to the recording of Footpaths 166 and 165 upon the first Definitive Map which has a relevant date of 1952.

(b) Relevance

If making an application based upon historic evidence, then the application needs to be upon the best evidence of it's original course.

(c) Archive

The description given in the 1564 indictment, the map by Yeakell & Gardner (1778), those Tithe maps which show the route (Yapton and Middleton), the auction particulars WSRO Add Mss 28642/28643, the OS boundary records, the later OS County Series maps up to the period of the first Definitive Map, the maps recording paths claimed by Yapton, Climping and Middleton-on-Sea Parish Councils subsequent to the 1932 Rights of Way Act and stored at WSRO under reference AM/796/13/5. For most of the evidence detailed references have already been given.

(d) Meaning

The applicant is relying upon the description in the early record, of a road between Felpham and Madehurst that passed through Ford Park and comparing this description to the only public right of way in existence through the former park, seen on the earliest map available of 1778, with a continuous history of being a public right of way, and able to meet this description.

(i) Difference Between Points B. to C. of this application and Footpath 166

The applicant draws your attention to how the application route between points B. to C. is shown upon the Yeakell & Gardner map (Fig. 8), the OS Old Series 1813 map (Fig. 11) and Greenwood map (Fig. 12) the Yapton Tithe Map (Fig. 23) and the First (1876) (Figs. 26 & 27) and then the subsequent editions up to 1938-39 (Fig. 38) of the OS 1:2500 series maps.

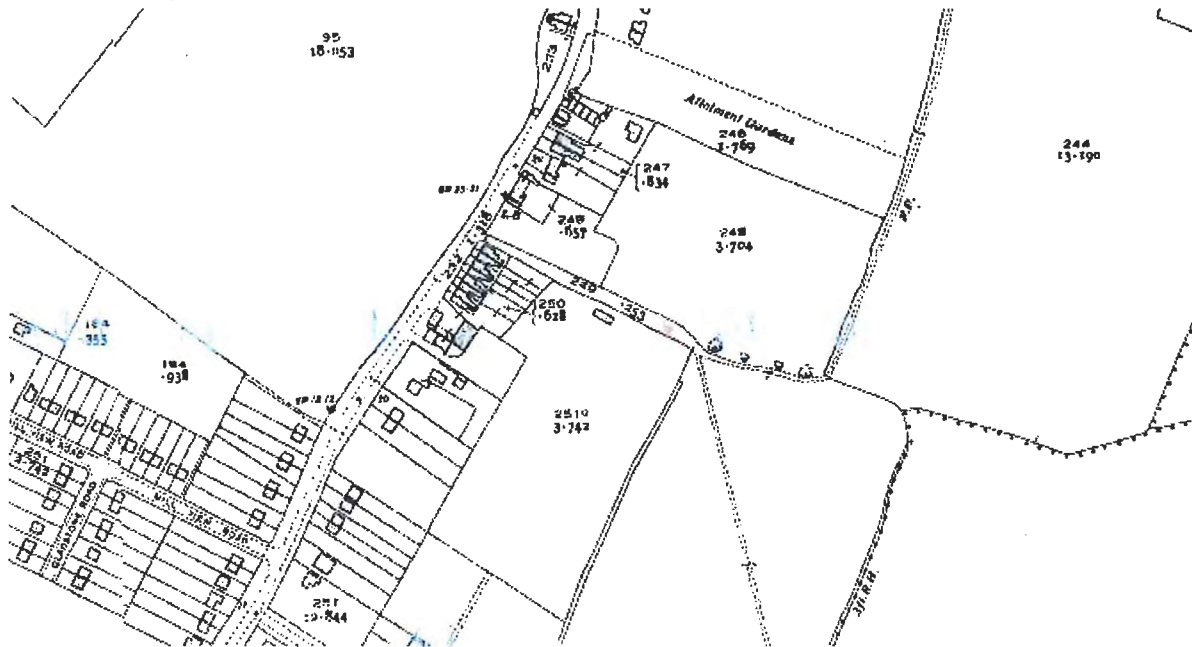


Fig. 38 - extract from OS County Series 1:2500 Sussex 1938-39 taken from old-maps.co.uk website

Its course may also be seen in the Auction Sale Particulars Plan dated 1862 and stored at the WSRO under reference Add Mss 28643. The Auction Plan shows the application route as a "Footpath" and the Particulars (Add Mss 28642) that Cinders Lane was considered a private road, as it was part of the lands sold.



Fig. 39 - enlarged photograph extract from WSRO Add Mss 28643

The particulars detail the lands as "Synders or the Cinders" and by reference to the numbers on the Yapton Tithe Map and Apportionment as no. 224 Cinders Lane, 225 Barn and Yard, and nos. 226, 227 and 228 as Upper, Middle and Lower Cinders Field. According to the VCH for Yapton, the Cinders were part of the common open fields surrounding Yapton in medieval times.

Containing 112. 0r. 10p. the particulars of which									
From reference to the Yapon Tithe Map and Apportionment Plan for the Parish of Yapton and this Survey annexed.									
	Description							Cultivation	
224	Cinders Lane	-	-	-	-	-	-	-	-
225	Cinders Barn and Yard	-	-	-	-	-	-	-	-
226	Upper Cinders Field	-	-	-	-	-	-	arable	-
227	Middle Cinders Field	-	-	-	-	-	-	arable	-
228	Lower Cinders Field	-	-	-	-	-	-	arable	-
Apportioned Land Tax, £2.									

Fig. 40 - enlarged photograph extract from WSRO Add Mss 28642

This path was claimed by Yapton Parish Council subsequent to the 1932 Rights of Way Act as seen on the map "Yapton 1" stored at WSRO under reference AM/796/13/5 and seen in the photograph extract in Fig. 41 below. The northerly extent of the route is drawn as going along Cinders Lane and then as per points B. to C. of this application.



Fig. 41 - enlarged photograph extract from map "Yapton 1" stored at the WSRO under reference AM/796/13/5

Between the initial recording of paths by the parishes in 1935 and the drawing up of the first Definitive Map it appears that this section of path had been moved to the northern and eastern boundary of the parcel of land off the eastern end of Cinders Lane down to as far as point C, instead of going diagonally across it.

The reason for the change between the historic course represented by the application route B. to C. and what was recorded upon the Definitive Map may be due to the location of the Yapton allotment site changing from a site slightly further north off the Bilsham Road to a site off Cinders Lane east of point B. of this application. The land for this was leased from local farmers the Loveys, who subsequently it appears also sold

the remaining parcel up to point C. to a landscape nursery business. Both Mr. W. Loveys and his son Mr. J.C. Loveys were in their time stalwarts of the Parish Council. However, no doubt both the allotment holders and owners of the nursery business probably preferred the footpath to go round rather than through their sites.

The applicant has not, however, found any evidence of a formal legal diversion of it by reference to the aforementioned Quarter Sessions catalogued list at the WSRO, or an extensive search of the online London Gazette archive. The London Gazette search did bring up a Notice of a raft of changes to be made to the draft Definitive Map dated 8th August 1956, in which the only path whose route was being amended in Yapton parish was path no. 359.

The applicant asked Georgia Hickland of WSCC Legal Services if they had any information about a diversion between 1932 and the first Definitive Map, and received a reply on 16th October 2018 that the path was recorded in the "moved" position from the first draft and she could not find evidence of a diversion on Path 166's file.

Fig. 42 shows the position in 1951 – the former allotment site to the north which was accessed off the Bilsham Road can be seen marked:

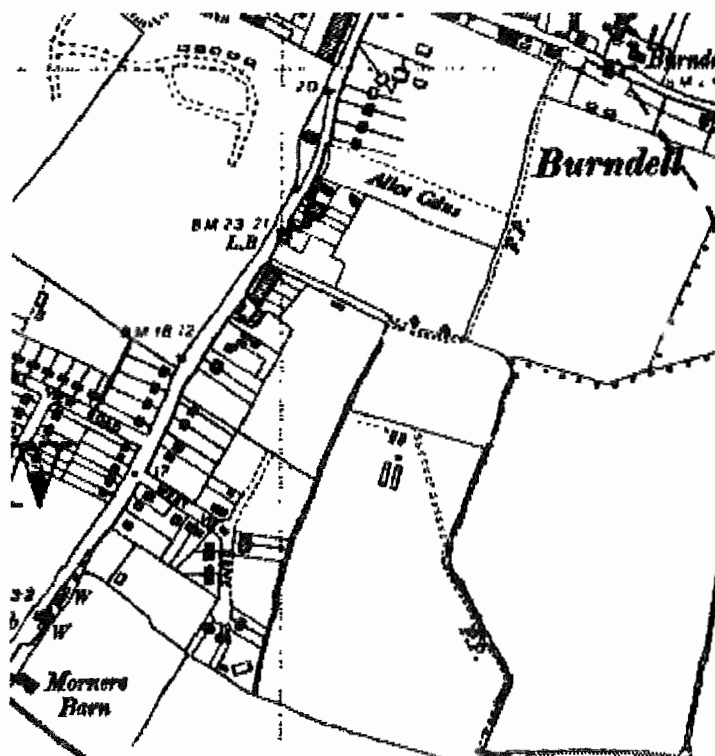


Fig. 42 - extract from OS scale 1:10,560 1951 taken from old-maps.co.uk website

It is known that some land to the east of the Yapton parish boundary in Ford and Climping parishes was compulsorily purchased for use as an airfield and this use continued from 1942 until about 1959. The main Chichester to Climping Road was closed just east of Yapton causing considerable inconvenience and all traffic having to use the Bilsham Road instead. According to the Yapton Parish Council Minutes in 1950

there was some talk of an alternative route utilising either Cinders Lane or tunneling the Chichester to Climping Road under the runways. In the event it appears neither happened and the road was eventually re-opened and land returned to landowners. This use also affected the public use of those footpaths crossing the airfield area. Originally it appears the public could obtain passes to cross the airfield but this was then withdrawn.

However, there is no indication that the airfield use in this period had any lasting effect on the recording of the application route upon the Definitive Map, especially in regard to the discrepancy in the application route B. to C. and the route recorded upon the Definitive Map as this section was within the parish of Yapton and not part of the area requisitioned.



Fig. 43 - extract from first Chichester Definitive Map relevant date 3/7/1952, stored at WSRO under reference AM/796/1/1

(ii) Difference Between Points D. to E. of this Application and Footpath 165

The applicant refers to Fig. 5 which shows how Yeakell & Gardner recorded the application route on the earliest known map which shows it.

The discrepancy occurs on the Yapton Tithe Map which shows the route at this point apparently having to head east along Grevatt's Lane and then go south following the parish boundary with Climping to Grevatt's Bridge instead of going across field parcel 257. The applicant has already pointed out that this represents an unnecessary and unlikely detour away from the direction of travel.

The Boundary Remark Book OS26/10600 is compiled with the help of the Meresman for Yapton, Richard Coote, who is also a major local landowner. The Remark Books actually rely heavily upon what is shown on the Tithe Maps.

On the First Edition OS County Series Map of 1876, as shown in Fig. 34, not surprisingly the route is recorded as per the Boundary Remark Books.

However, note how, in the second edition maps of 1896 two footpaths are shown at this location. One represents the application route from D. to E. and the other that which was recorded on the Tithe and Boundary records.

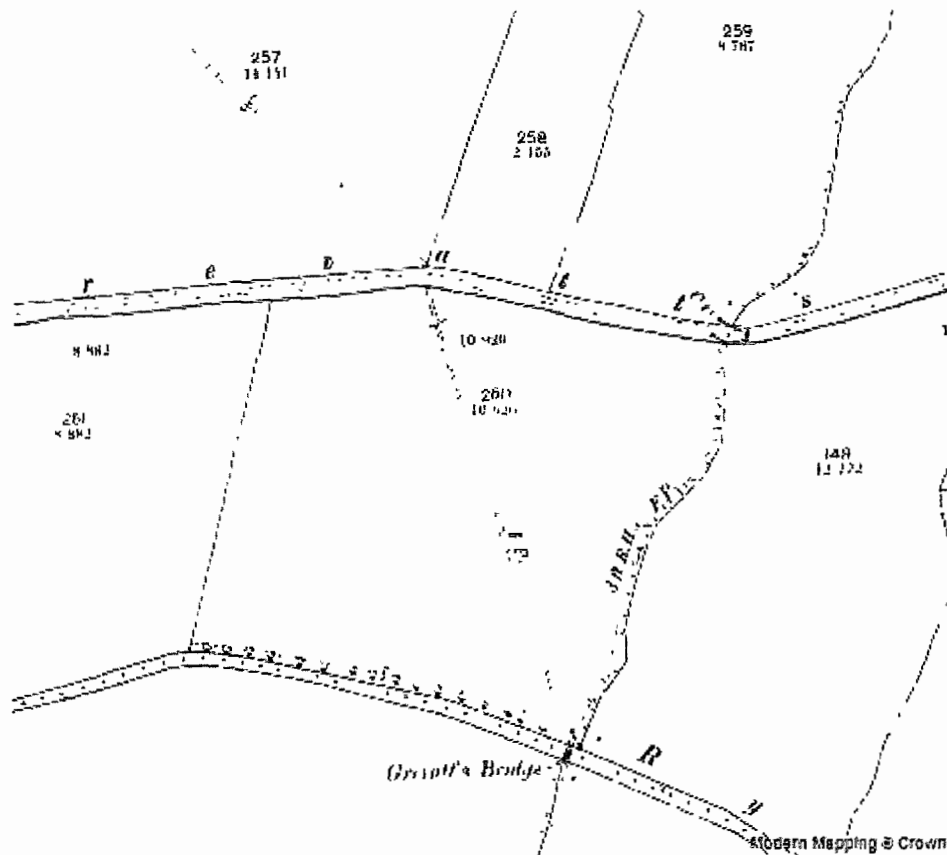


Fig. 44 – extract from OS 1896-97 1:2500 scale

And in the next 1910 edition, the OS decides to disregard the Boundary Records and map what is actually the course

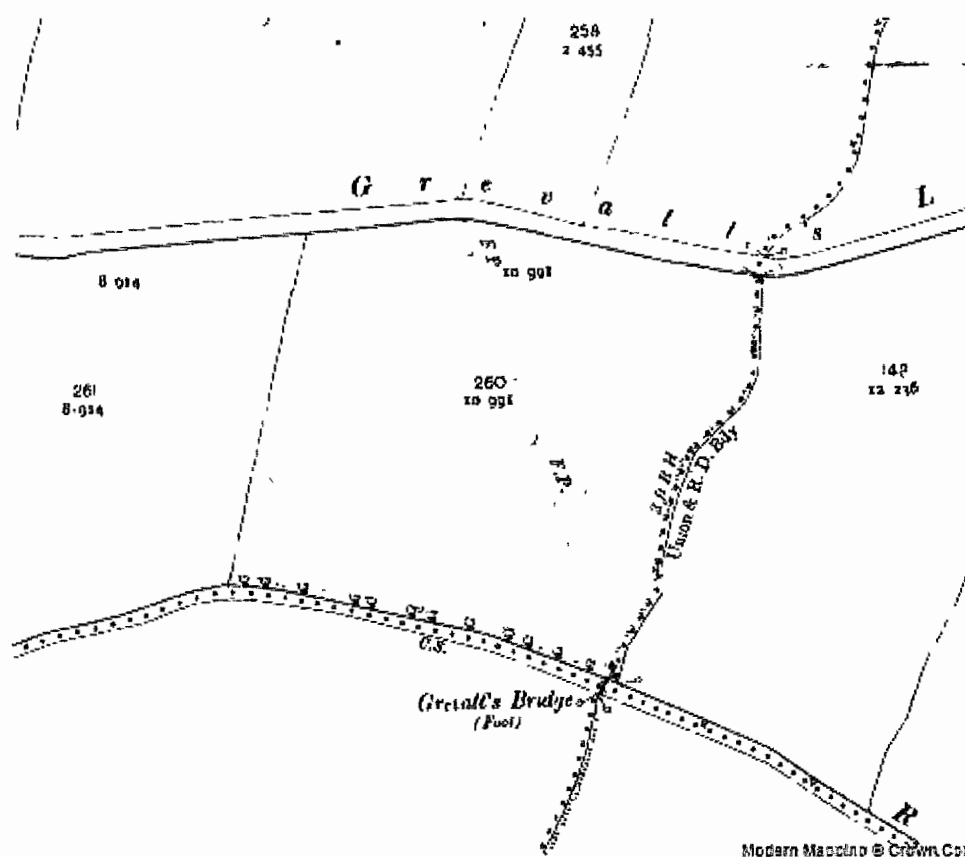


Fig. 45 – photograph extract from OS 1910 1:2500 taken from old-maps.co.uk website

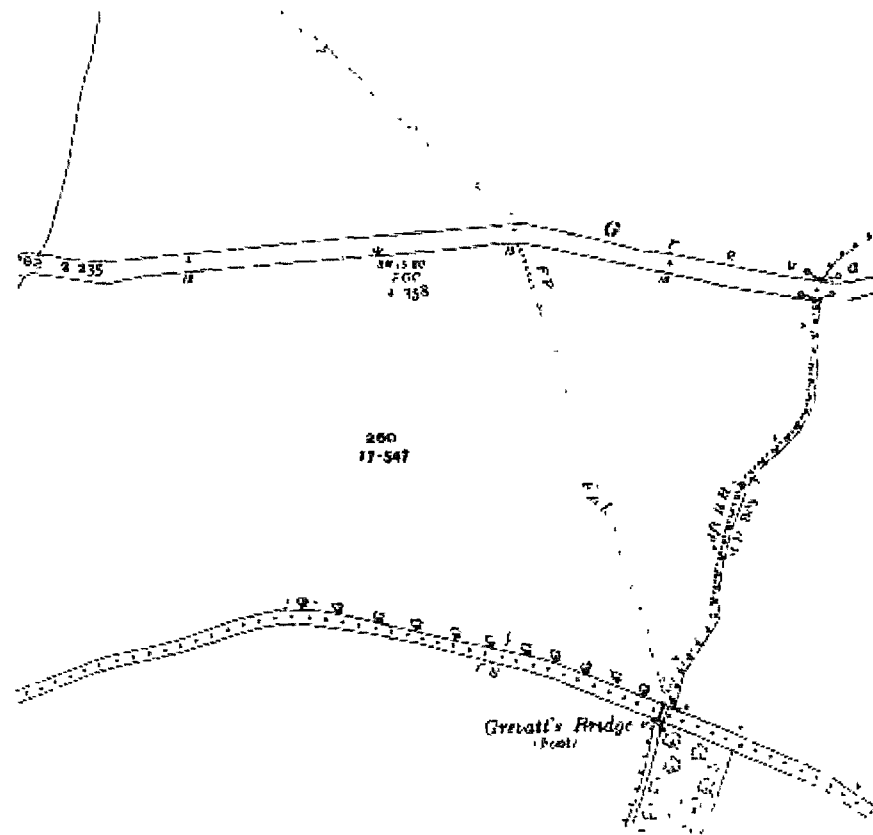


Fig. 46 – extract from OS 1938-39 1:2500 taken from old-maps.co.uk website

Apart from what is recorded on the Tithe Map therefore, there would appear to be more evidence that the *actual* course that the public took was directly across the fields between these points, since Yeakell & Gardner and the later Ordnance Survey would have mapped what was apparent on the ground.

(iii) Difference Between Points F. to G. of this Application and Footpath 165

This portion of the application route was diverted by Chichester Rural District Council in 1954. Two notices were found in *The London Gazette*, the first in the issue of 18th June 1954 stating that the Order had been made on 3rd March 1954 and was about to be submitted to the Minister of Housing and Local Government for confirmation. The other, in the issue of 17th September 1954, states that it has been confirmed, with modifications. An extract from the issue of 18th June 1954 is shown in Fig. 47, which gives details of the Order.

GAZETTE, 18 JUNE, 1954

3615

THE NATIONAL PARKS AND ACCESS TO THE
COUNTRYSIDE ACT, 1949.

(Wat- CHICHESTER RURAL DISTRICT COUNCIL.

Chichester Rural District Council Middleton-on-Sea
Footpath Diversion Order No. 2, 1954.

NOTICE is hereby given that the above Order was made on the 3rd day of March, 1954, and is about to be submitted to the Minister of Housing and Local Government for confirmation.

The Order relates to land situate in the parish of Middleton-on-Sea.

The effect of the Order will be to divert the public footpath leading from Ancton Lane, Middleton-on-Sea, via Lane End Farm in a north-easterly direction for a distance of 410 yards approximately across parcel No. 68 on the Ordnance Survey Map Sussex (West) LXIXIV.4 Revision of 1939 to a line commencing at the northern end of the footpath to be stopped up, eastwards for a distance of 35 yards, and then southwards for a distance of 463 yards, to join the existing public footpath leading from Ancton Way in a westerly direction to Ancton Lane, Middleton-on-Sea.

A certified copy of the Order and of the map contained in the Order has been deposited at the Council Offices, Pallant House, Chichester, and will be open for inspection free of charge between the hours of 9 a.m. and 5 p.m. Mondays to Fridays and from 9 a.m. to 12 noon on Saturdays.

Any objection or representation with reference to the Order may be sent in writing to the Secretary, Ministry of Housing and Local Government, Whitehall, London, S.W.1, before the 19th day of July, 1954, and any such objection or representation should state the grounds on which it is made.

Dated this 17th day of June, 1954.

LEONARD BAILEY, Clerk of the Council.

Pallant House,
Chichester.
(042)

Fig. 47 – extract from London Gazette 18 June 1954

(e) Assessment

With regard to the application route between points B. to C., the applicant believes evidence has been shown that what is recorded upon the Definitive Map as the course of Footpath 166 between these points is not the historic course. The applicant has also not found evidence that a legal diversion of the route to its present position was made.

With regard to the application route between points D. to E., the earliest record of the route comes from the well respected map by Yeakell & Gardner dated c. 1778. The record of the route taking what appears to be an unnatural diversion away from the direction of travel along Grevatt's Lane and then down to Grevatt's Bridge comes from the Yapton Tithe Map of 1839. What is recorded thereon then forms the basis of the 1872 OS Boundary Records. When recording the route under the 1932 legislation, you can see from Fig. 41 that the landowners who mostly make up the Yapton Parish Council cannot resist drawing a route that they consider even more convenient!

However, from as early as the 1896 Second Edition County Series Map, the OS are showing the route as per the application route points D. to E., and in the 1910 and 1938-39 versions they ignore the Tithe Map route which keeps to the parish boundary between Grevatt's Lane and the bridge, and show the route as per the application route D. to E.

This route is very similar to what was shown on the earliest record available, that of Yeakell & Gardner of 1778, with the later OS 1:2500 maps obviously being of a much larger scale.

Bearing in mind this claim is for a former bridleway whose origins no doubt pre-dated enclosure, the applicant feels that it was more likely to take the direct course shown on the majority of the available map evidence, rather than the course suggested by the Yapton Tithe Map.

It is difficult to draw conclusions from the record of what was submitted by the parishes in response to the 1932 Rights of Way Act, which can be found in the WSRO under AM/796/13/5 in relation to the application route since the course drawn by both Yapton and Climping for the route around Park Farm and going south would appear to be contradictory. However, it is again worth noting, as it was not marked on their Tithe map, that the application route within Climping parish is claimed on the map marked "Climping 4" as path No. 9.

The application route between points F. to G. was diverted by Chichester Rural District Council in 1954. However, the applicant submits that there has now been a discovery of evidence that on the balance of probability this route has higher rights than that of footpath and those higher rights should therefore remain on the original line.

The route applied for has not been made in order to cause maximum irritation to landowners but simply because, as this application for an upgrade of the application route to a bridleway is made upon historic evidence, then the application must be for the best evidence that can be found of what the historic course of that route was.

L. PARISH HIGHWAY RECORDS

In 1564 no part of the highway referred to is named. It pre-dates the Highways Act of 1773 which said that all common highways had to be named before indictment for obstruction or disrepair could take place.

It is to be noted that the application route is located in the outer extremities of the parishes of Yapton, Climping, Felpham and Middleton and may well therefore have been neglected by all of them. Clearly the various parts of the route which in recent centuries has formed the vehicular route between Felpham and Madehurst did become named at some point and were maintained to some degree.

No parish highway records are known to be in existence, however, for the parishes in question except for Climping, and these records only date from the late 19th century when we know the route was only able to be used as a footpath.

The Tithe Map and Apportionment for Yapton implies that Cinders Lane is a private road but it is shown with a public right of way leading from its eastern end. In the Parish Highway Classification and Report of 1890 (WSRO WDC/SU18/1/10) Cinders Lane is not listed. From a look through it, the report reveals that most of the parish roads in the local area are pretty rudimentary in their formation, usually being comprised of beach shingle. Few highways reach even "fair" in the assessment of condition, many are "poor", "bad" or "very bad".

The Yapton Parish Council Minutes dating from their inception in 1894 are still stored in the Clerk's Office in the Village Hall and have not yet been transferred to the WSRO. From reading the Minutes it would appear that after the farmer Mr W Loveys sold land to the landscape nursery business which included Cinders Lane there are a number of complaints to the Parish Council about the condition of the lane to which it appears they were forced to apply to the District and County Councils to try to get help in resolving.

M. SECTION 31 DEPOSIT HIGHWAYS ACT 1980 - NORTHWOOD FARM

(a) Date

12 February 2015. According to WSCC records, a deposit has been in place since May 1993.

(b) Relevance

A Section 31 Deposit should contain details of all highways a landowner admits exist on their land. The land area of Northwood Farm as identified by a red border on the map supplied encompasses the area of the former Park Farm which, according to evidence within the Victoria County History for Climping, was historically the Park attached to Ford Climping and Ilsham Manor.

(c) Archive

The applicant was supplied with a copy of the Deposit upon request of WSCC. It has the reference CA16 2/15. A further copy is not supplied with this Statement as WSCC has this.

(d) Meaning

The map showing the public highways admitted by the landowner, Mrs Susan M. Abbot, as existing within the former area of Park Farm are marked in green and noted as FP 166 and FP 144.

(e) Assessment

The Victoria County History for Climping states that a road between Felpham and Madehurst ran through Ford Park in 1564. The Applicant has shown how the application route can meet the description given and it is the only public highway in the area of the former park that can do so. The owner of the land admits to no other highways than FP 144 and FP 166 existing in that area.

N. CONCLUSION

The applicant has given a resume of the history of the local area by reference to the Victoria County History as it relates to the application route. Whilst it appears that in 1564 a road described as the Queen's Highway ran between Felpham and Madehurst through Ford Park, only an apparently minor highway was still apparent by Yeakell & Gardner's map of 1778. However, a highway which three people were punished for obstructing was likely an incident of some notoriety at the time and it is highly unlikely that within 200 years it would have completely disappeared leaving no trace whatsoever either within the park or outside it.

There is no evidence from a search of entries under "Ad Quod Damnum" held at The National Archives of an application to stop up or divert a former King/Queen's Highway which ran through Ford Park, although this search did reveal many items in the Sussex area dating from as far back as the 13th Century including several at Arundel and one at Walberton. Nor is there any entry on the catalogued list held at the WSRO of highway matters dealt with at Quarter Sessions between the years 1773 to 1949. A search of The London Gazette archive brought up the diversion of the route between points F. and G., but no others.

The experts on the subject that the applicant has quoted, namely Christopher Taylor and Paul Hindle, say that roads from this period that gained legal and customary status may often have lost their previous importance but still be found in use as public footpaths.

It would appear from the Victoria County History for Yapton that the Bilsham Road, which for a long time has been the obvious route for vehicular traffic between Felpham and Madehurst was not itself mentioned until 1646 and that in the late 16th Century the Edmunds family were granted many manors around Yapton, one of which was Bilsham Manor. It is therefore quite likely that this road was made subsequent to the indictment mentioned above, or was already in existence but then became the favoured route which was maintained by the parishes, whilst the application route over time became more used as a footpath. Any highway between Felpham and Madehurst would be likely to have passed through the parish of Yapton and indeed it would appear that the majority of the route described in 1564 still exists today.

As James Kenny the Archaeology Officer at Chichester District Council recently commented to me in an email "archaeological evidence is hard to find on the coastal plain where agriculture has been so hard on the land" which means that evidence of any former road would have long since been destroyed in areas like that of the former Park Farm which has been intensively farmed.

Evidence for the former status of rights of way on the West Sussex Coastal Plain is difficult to find when early enclosure and other factors meant that the local population in this formerly remote area were reduced to abject poverty before the time that the sort of records that are relied upon tend to be available. The area "was off the beaten track", rural and remote in nature and probably saw few travellers or merchants on horseback. Therefore it is unlikely if stiles appeared on the application route in later centuries that a further complaint would have been made to Quarter Sessions when the Bilsham Road route was equally or more convenient.

The rural poor themselves could not have made complaint, as they would not have been able to afford a horse to ride and thereby make representations that they had been disadvantaged by the change. That is also pre-supposing that the route's former purpose was not just forgotten over the passage of time.

The applicant submits that a discovery of evidence has been found and that it can be shown that, on the balance of probability, this relates to the application route. No other public routes exist within the former park which clearly pre-date the time of the map by Yeakell & Gardner of 1778 which can fulfil the description given of a highway from Felpham to Madehurst that passed through Ford Park. The Victoria County History Arundel Rape: South Western Part Volume 5 Part 1 was not published until 1997 and therefore the evidence contained within the archives at Arundel Castle would not have been known at the time of the compiling of the first Definitive Map for the area.

O. REQUEST

The Applicant requests that the application route be recorded upon the Definitive Map and Statement for Chichester as a Bridleway.

Julie Robinson

28 September 2018

	<u>APPENDICES</u>	
Appendix 1	Transcript of ACM MD 2345 rot 3 dorse (Sheriff of West Sussex Court Session at Madehurst 1564) Photograph of the Court Roll entry Note of Heather Warne's Credentials	On Memory Stick and On Paper Ditto On Paper
Appendix 2	Map in Fig. 15 showing how application route can be seen to be a highway between Felpham and Madehurst.	Photograph on Memory Stick And Paper Copy
Appendix 3	Photographs of Tithe Maps held at The National Archives for Yapton, Felpham, Climping and Middleton.	On Memory Stick

Appendix 4	Photographs of Boundary Remark Books held at The National Archives under references OS26/10600 and OS26/10572.	On Memory Stick
Appendix 5	Photographs of Boundary Sketch Map held at The National Archives under reference OS27/5280	On Memory Stick