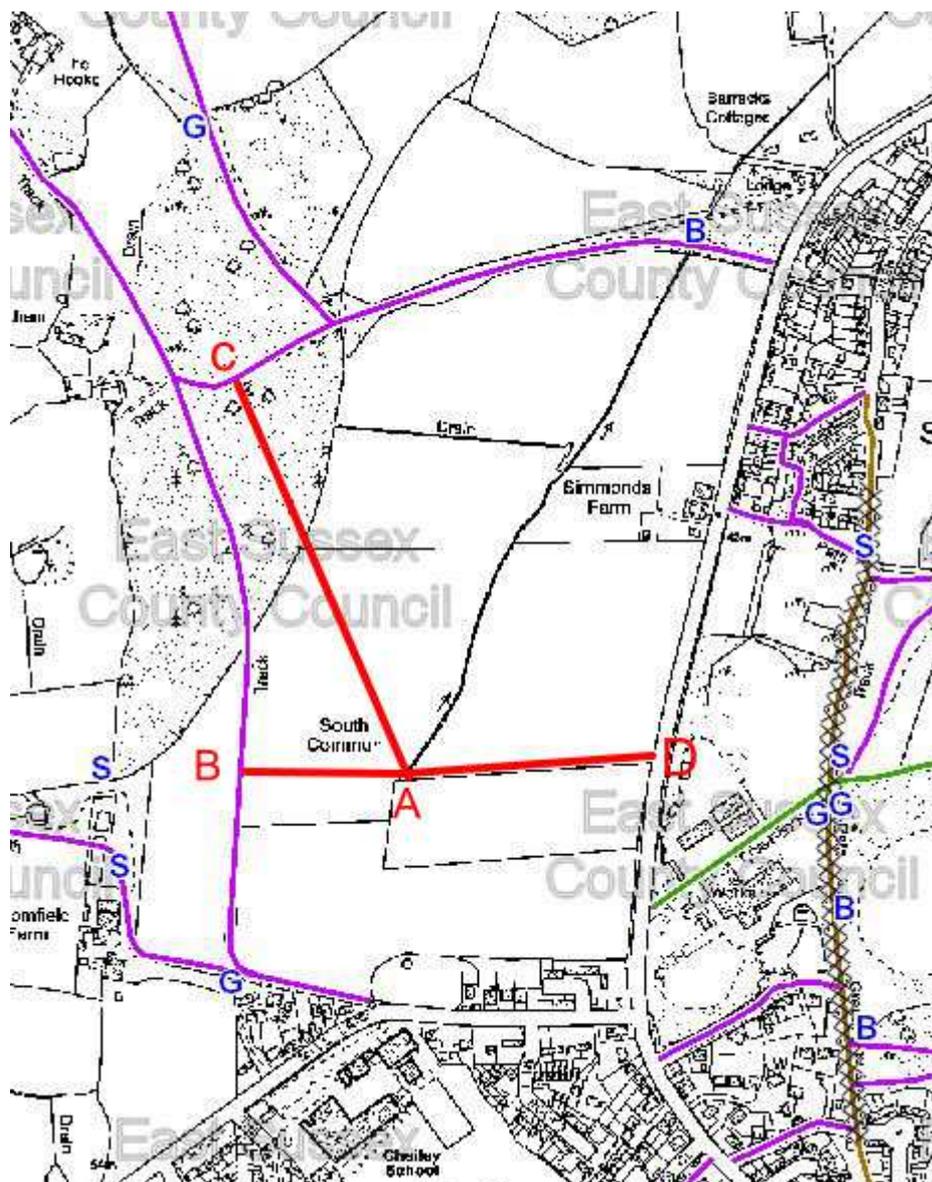


APPLICANTS STATEMENT

Our reference- Chailey F

THE APPLICATION ROUTES



The application routes run as follows

From point A, grid reference 538740 117736 to Chailey footpath 5a at grid reference 538567 117742

From point A, grid reference 538740 117736 to Chailey footpath 7b at grid reference 538556 118153

From point A, grid reference 538740 117736 to point D on the Lewes to Chailey Road at grid reference 539002 117761

The routes are in Chailey Parish,.

None of these route are currently on the definitive map or statement.

Application is being made to add the routes as footpaths.

1. DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

1.1.1 In order to be able to modify the definitive map and statement, the surveying authority needs to have a discovery of evidence which shows that it can be reasonably alleged that 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 England Reports 497.

1.1.2 The evidence submitted from the Chailey Warringore inclosure is, in the absence of any subsequent legal event affecting the routes, conclusive evidence of the existence of these rights of way.

2. TITHE RECORDS

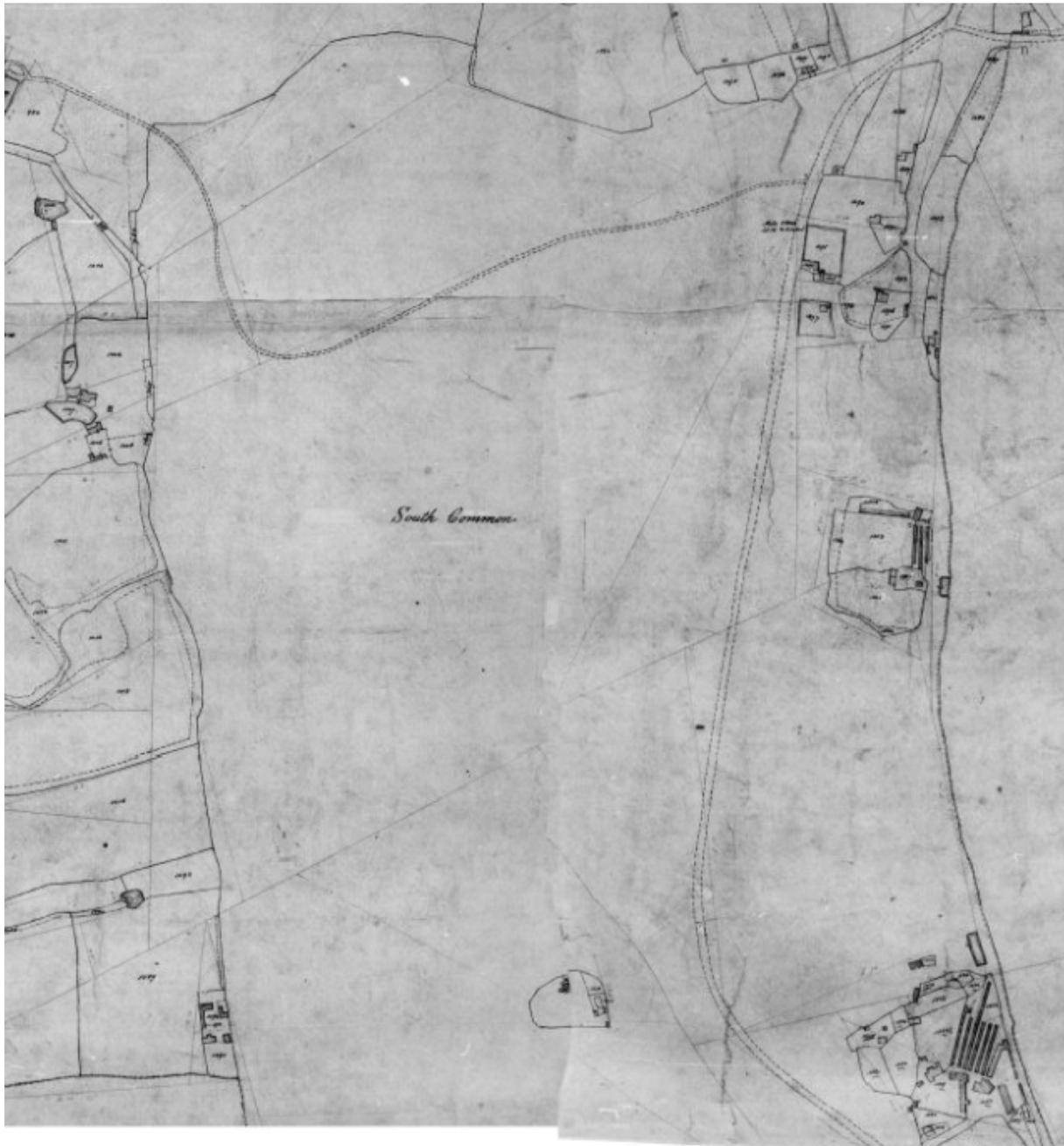
1.1.1 The Tithe Commutation Act of 1836 enabled tithes to be converted into a monetary payment system. Maps were drawn up to show the tithe-able land in order to assess the amount of money to be paid.

1.1.3 Tithe maps can be accessed at the National Archive in black and white. The maps have been digitalised by the Geneologist web site.

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

1.1.5 The evidence presented below

2.1.1 This is an extract from the Chailey tithe map which predates the enclosure.



2.1.2 What this evidence shows

2.1.3 The area covered by the application route is shown as open common.

2.1.4 The significance of this evidence

2.1.5 Although tithe maps did not generally show foot. paths, the whole area is open, so it is probable that there were no fixed ways at the time. Because the area was common , it would have been criss-crossed with desire lines, there being no physical impediments to access across the common, and an owner with little reason to object. The inclosure award served the interests of those who gained allotments of land out of the inclosure, and the minimal cost to them was to suffer the establishment of a small number of rights of way across their holdings, to replace the many rights of way which probably existed before inclosure.

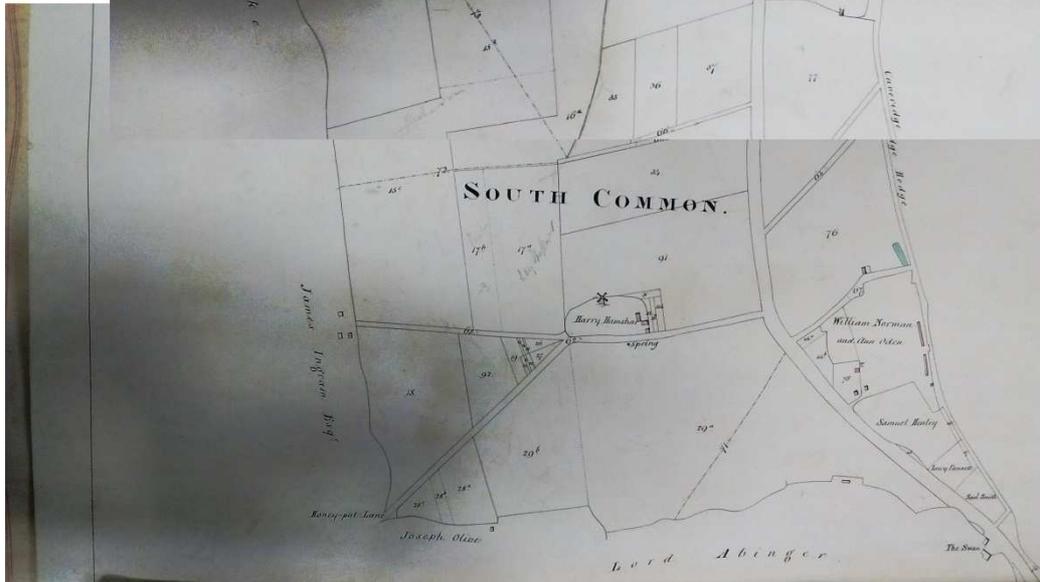
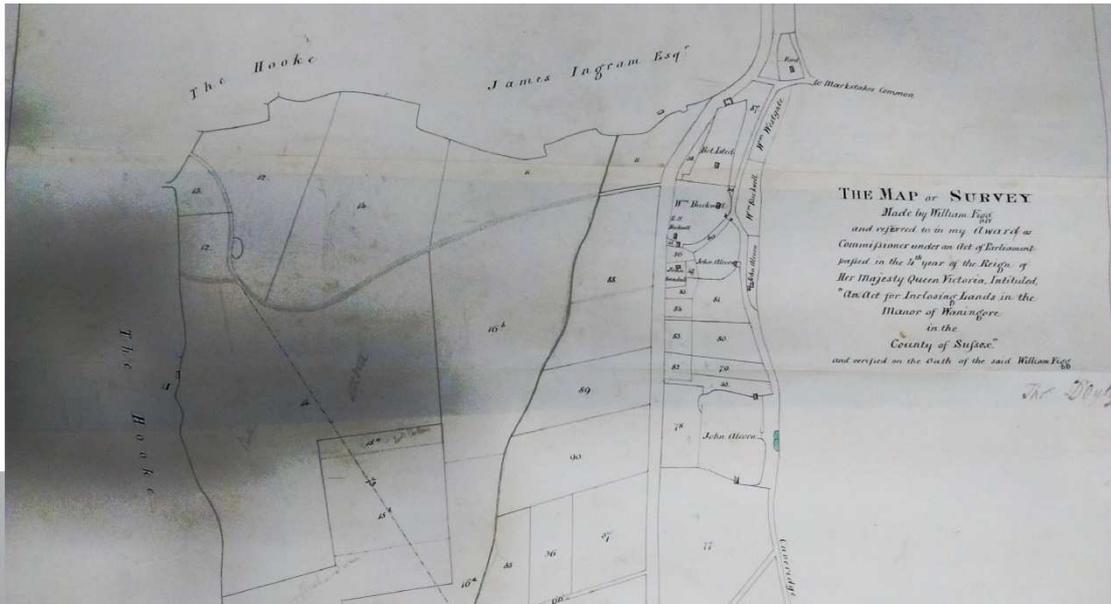
3. INCLOSURE RECORDS

3.1.1 The Warningore Inclosure Act of 1841 (see appendix 1) is the enabling act for the inclosure of a number of tracts of land in Chailey including land through which the application routes pass. A copy is held at the East Sussex Record office at the Keep under reference ADA 192 Section 27 of the Act gives the power to set out roads, bridleways and footpaths.

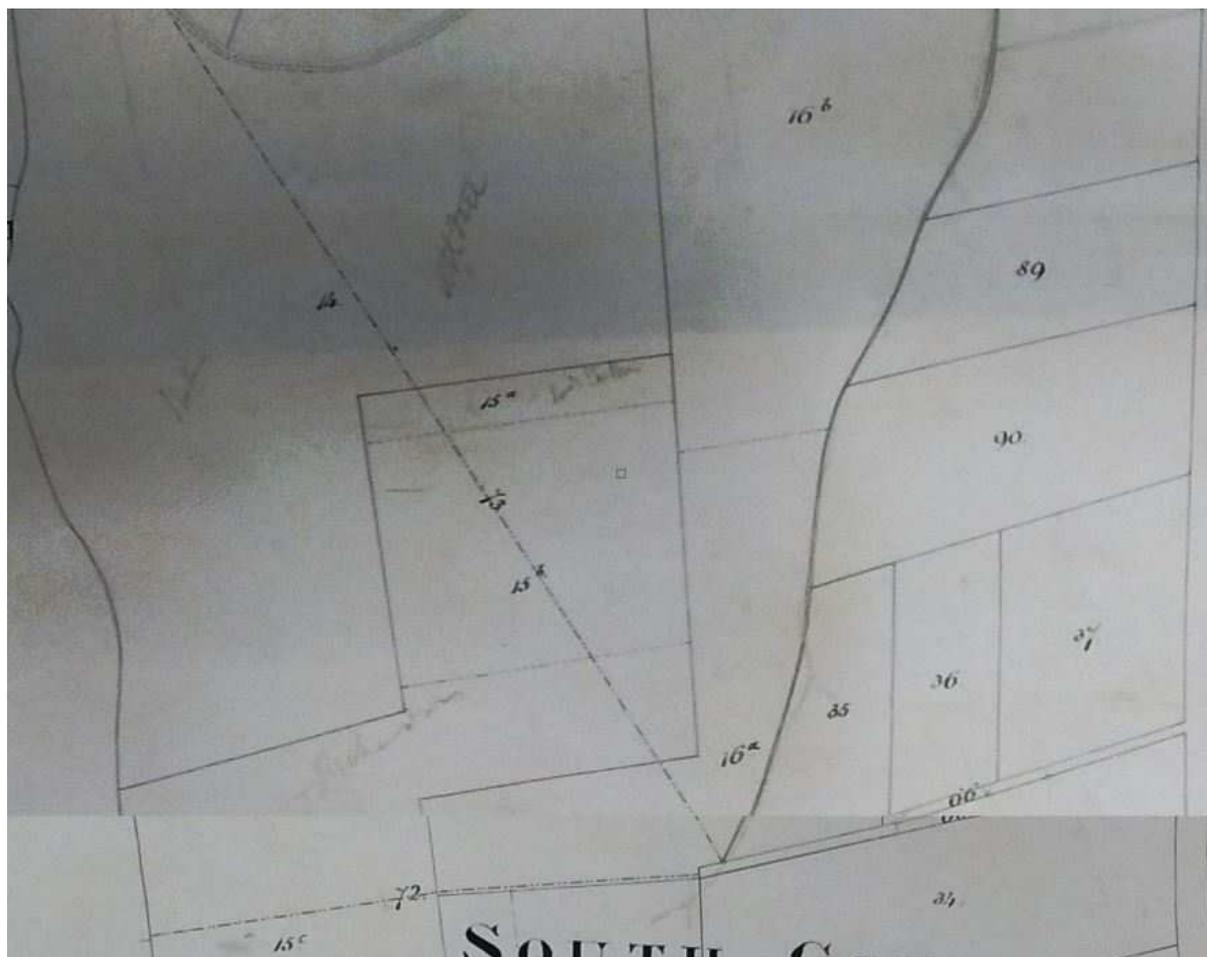
3.1.2 The award and accompanying map are held at the Keep under reference AMS 701. The first page contains certification that the requirements of the act have been complied with, but the significant parts for this application are the map and the sections of the award dealing with the setting out of rights of way.

3.1.3 What this evidence shows- the map

3.1.4 An extract from the map is shown below. I have copied the whole of the map as part of appendix 2 The extract shows the South Common area, which was shown in the tithe evidence above. Note the V shape in the middle, which is formed by a stream and a path. On the right you can see a road. This is the Chailey to Lewes Road. On the left a line shows the boundary of the inclosure.



3.1.5 Below is a close up of showing the application routes



3.1.6 The V is now more clearly discernible. The road is at the extreme right of the picture and the inclosure boundary is shown on the left.

3.1.7 The right side of the V is a stream. The left side is a path, which is numbered 73. It corresponds to the application route A-C.

3.1.8 From the base of the V to the main road on the right is a road or track numbered 66. This corresponds to application route A-D

3.1.9 From the base of the V to the inclosure boundary on the left is a path, which is numbered 72. This corresponds to application route A-B.

3.1.10 What this evidence shows- the award

3.1.11 The award commences with a preamble setting out the authority to make the award. Private and public roadways, bridleways and footways are then set out, before setting out awards of land. I have copied the award in full in appendix 2, with selected enlarged extracts showing the most relevant parts. But here I show how the application routes were treated.

3.1.12 Road and path 66

3.1.13 The award says "I do hereby set out and appoint the following private carriage roads.....And one other private carriage road to the width of 20 feet marked No. 66 in the map or survey annexed to this my award leading over the South Common in the parish of Chailey from the turnpike road from Lewes to Chailey in a Westerly Direction into the

allotment awarded to John Attree marked No.16a in the said map or survey and which said private road adjoins the allotments No.s 35 3b and 37 on the said Map or Survey on the North to the Allotment marked No. 34 in the said Map or Survey on the South and which said Carriage Road is set out and appointed for the use and Convenience of the Owner and Occupiers of the Lands and Allotments adjoining thereto but shall be used and enjoyed as a public footpath for all her Majesties liege subjects". (The text can be seen in "extract A" in appendix 2.)

3.1.14 Footpath 72 and footpath 73

3.1.15 "And I do further set out and appoint the following public footpaths through and over the said commons and wastelands by the said Act directed to be divided and inclosed, that is to say..... One other public footpath of the width of three feet marked No. 72 in the map or survey annexed to this my award and leading across the said South Common in an easterly direction from a stile in the old enclosed land of James Ingham esquire called Barn Mead over the allotments awarded to Thomas Richardson esquire and John Attree respectively into the private carriage road marked No. 66 and along the same into the Turnpike from Lewes to Chailey." (the text can be seen at the bottom of "extract B" and the top of "extract C" in appendix 2.

3.1.16 "And one other public footpath of the width of three feet marked No. 73 in the map or survey annexed to this my Award leading across the South Common in the parish of Chailey from a public footpath through the lands of the late Henry Poole called The Hook in a South Easterly direction to the western end of the said private carriage road herebefore mentioned marked No.66 on the said map or survey and along the same into the turnpike road between Lewes and Chailey." (the text can be seen towards the top of "extract C" in appendix 2

3.1.17 The significance of this evidence

3.1.18 This is a legal event which conclusively sets out a right of way as a footpath along the routes described.

4. QUARTER SESSIONS RECORDS

4.1.1 Highway functions were discharged by Justices of the Peace in Quarter Sessions before powers were handed over to what are now the highway authorities. Court records provide conclusive proof of the matters on which decisions were made.

4.1.2 I have not found any quarter sessions records or other stopping up or diversion orders affecting the application route.

5. 1ST DEFINITIVE MAP SURVEY

5.1.1 The routes are not on the maps prepared by parishes or on the draft first definitive map.

6. DETERMINING THE ROUTE

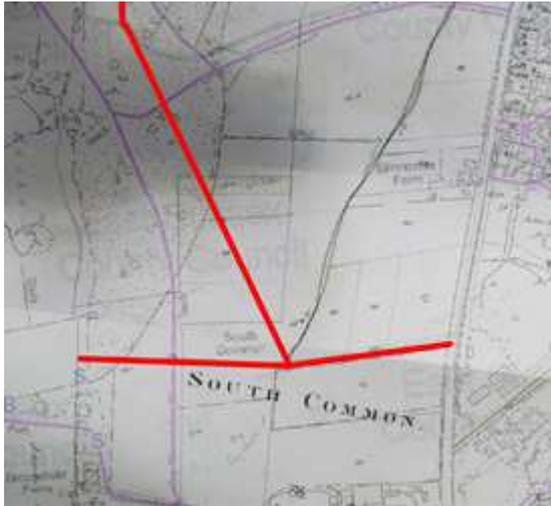
6.1.1 In order to determine the route on the ground I overlaid a screen shot of the current rights of way map onto the relevant section of the inclosure award. Below you can see the result



I was able to orientate the map using the following landmarks:

- The Lewes/Chailey Road
- The road to the south which runs along the bottom of the map above, and which forks roughly half way across the bottom of the map
- The stream which starts at point A and runs north-northeast.
- The drive at the top of the map which is shown on both the rights of way map and the tithe map.

6.1.2 I then drew the routes set out in the award. See below.



6.1.3 You can see that the paths extend beyond the routes which are currently rights of way, which are shown in purple. These purple routes appear to have been established by user since the inclosure order.

6.1.4 Since there appears to be no purpose in adding the “extra” parts of the routes to the definitive map application is made to add the routes to the points at which they meet other rights of way.

7. CONCLUSION

7.1.1 The routes do not appear on any subsequent maps. Nevertheless they are clearly set out in the inclosure order and map. This is conclusive proof that they came into being. In the absence of any legal event changing their status they continue to exist today.

8. REQUEST

8.1.1 I request the surveying authority to add the routes to the definitive map as footpaths

APPENDICES

- 1) The Warningore Inclosure Act
- 2) Excerpts from the award and accompanying map.