

Black Lane (PINS ref: ROW–3237045) BHS comment on objector’s statement of case

A. Introduction

A.1. These are the comments on the British Horse Society (BHS) on the statement of case submitted by ET Landnet on behalf of its client, Mr Fox-Pitt. We refer below to the position represented by ET Landnet as the case made by ‘the objector’. We refer to references in the BHS statement of case as ‘SOC, X.Y’, meaning item Y in part X of the statement of case. We refer to the order way as ‘Black Lane’. We refer to numbered paragraphs in the objector’s statement of case as ‘ETL, para.X’.

A.2. We make the following observation in opening.

A.3. Firstly, we recognise, as the objector observes, that there are inconsistencies in the evidence in support of confirming the order. That is why there is an order before the Secretary of State. If Black Lane had remained in continuous and unchallenged use up to the present day, the whole of it would have been readily identified and added to the definitive map and statement under Part IV of the National Parks and Access to the Countryside Act 1949. As it is, use has been in decline since the early nineteenth century (SOC, I.G), and only part was recorded under the 1949 Act — and then only as an apparently dead-end footpath (see our comments at para.C.20 below).

A.4. Secondly, the Knowlton estate was acquired in 1904 by Maj. Francis Elmer Speed,¹ of whom Marietta Fox-Pitt (née Speed), the present owner of Knowlton Court, is a descendent. Andrew Fox-Pitt, who farms the estate (and is assumed to be the ‘Mr Fox-Pitt’ cited by ET Landnet as its client), is Mrs Fox-Pitt’s son. Thus the Knowlton estate has been in the continuous possession of the present family for well over a century, and can be assumed to have acquired estate papers on the purchase of the estate in 1904.

A.5. The burden of proof (on the balance of probabilities) in seeking to confirm a definitive map modification order lies on the surveying authority and the order supporters. There is no obligation on an objector to produce any evidence to prove a contrary case. Nevertheless, it is submitted that, in relation to Black Lane, which undoubtedly has been in existence for centuries, is such a central feature of the Knowlton estate that it is named, depicted or referred to in numerous historical documents, and which is alleged by the objector to be an enduring private right of way (presumably for the benefit of the estate and others), it is notable that not one single document has been submitted by the objector in his statement of case. It does not seem unreasonable in the circumstances to conclude that, notwithstanding the objector’s long association with the estate, and the long history of the estate, the objector does not possess a single piece of evidence which supports his contention that Black Lane is not a highway, or that it is a private bridleway. That in itself is remarkable.

1 Knowlton Court website: www.knowltoncourt.co.uk/Our-History.html

B. The evidence

B.1. The objector states (ETL, para.7) that: ‘The historical physical existence of a track either in whole or in part, which is on or in proximity to the Order Route is not in issue.’ The evidence shows (SOC, VI.A) that Black Lane was in existence in the early eighteenth century, but its incised nature (particularly, now, between E and G) suggests a much older origin.

B.2. The objector questions (ETL, para.8) whether the status of the entirety of Black Lane can be inferred from the status of any part. Leaving aside that the objector does not appear to accept that any part of the order way is a highway (and that, if the objector is right about that, presumably the same principles require that if the objector is right about any one part being wholly private, it cannot then be inferred that any other part is private), the BHS reaffirms the position adopted in its statement of case (SOC, I.G) — that numerous sources refer to Black Lane as a single, through route, that its very name implies a single, through route, and that, although interrupted by several public roads, all of these roads form perpendicular intersections which offer no logical alternative continuation save for journeys to places immediately adjacent (of which there are few indeed).² Thus a traveller from west of Knowlton and heading east along Black Lane is most unlikely to wish to deviate, but to have in mind an intention to continue east as far as (at least) Bette-shanger or Northbourne — and quite possibly, to continue to Deal. Any significant deviation from Black Lane begs the question why the traveller chose to set out along Black Lane in the first place?

B.3. The objector comments (ETL, para.9) on the mapping evidence as regards scale and size. The BHS agrees that many early maps are small scale (ETL, para.9.1). But where relevant, they clearly identify a way which runs to the north of Knowlton Park, and which, notwithstanding the small scale, must show Black Lane. No other parallel way (save Thornton Road to the south) has been identified or suggested.

B.4. The objector states that the extracts presented of various maps are too small to allow comparison of the depiction of the order way with other ways which may be recognised as highways today (ETL, para.9.2). The BHS carefully has considered this point. The BHS submitted to the order-making authority larger, contextual, extracts of all of the evidence used in its application for the order, and reasonably expected that such material would be presented by the authority in its own statement of case. However, the authority, in preparing its statement of case, has instead largely relied on the BHS’s own evidence set out in its application analysis (and now reproduced in the BHS statement of case). The BHS therefore annexed to its statement of case (SOC, pp.136–155) larger reproductions of a number of documents which are key to its case, and which the inspector and the objector may find helpful.

B.5. The BHS has considered, in response to the objector’s comments, whether it would be helpful at this stage to provide larger extracts of other maps contained in its evidence, but in relation to the large number of relatively small scale maps dating from the late seventeenth and early eighteenth century, concluded that the extracts given in the statement of case are sufficiently large, in terms of the area covered — for example, the extract from *Laurie & Whittle’s new and improved English atlas* (SOC, VI.P) extends 13km from

² This part of Kent shows a nucleated settlement pattern, with few dwellings or farmsteads outside of the villages. No dwelling is found now, nor was found in the last 150 years, in Thornton Lane south of Eastry itself; no dwelling is found in Venson Bottom between Buttssole Pond and Lower Venson Farm save, in the post-War period, a dwelling opposite H. No dwelling is found on the Dover Road between Buttssole Pond and Tilmanstone save one due west of Betteshanger church.

north to south and 17km from west to the Kent coast — that larger extracts would not significantly add to understanding or analysis of its case. Moreover, where possible, hyperlinks have been included in the statement of case to other online sources for the maps, where they may be viewed in their entirety.

B.6. However, in relation to the following maps, the BHS has concluded that further, larger extracts of the submitted maps may be helpful, and these are annexed. These extracts are not new evidence, but merely afford an opportunity to view the evidence in a slightly wider context.

- Item VI.E: *Parochial map of the Canterbury diocese* (annexe 1 at p.22 below)
- Item VI.H: *Boteler archive* (map) (annexe 2 at p.24 below)
- Item VI.L: *Barlow-Hasted map of Kent* (annexe 3 at p.26 below)
- Item VI.V: *Greenwood's map of Kent* (annexe 4 at p.28 below)

B.7. In addition, the BHS's statement of case (SOC, VI.N), *Mudge-Faden one-inch map of Kent*, ought to state that a larger extract is available at annexe C to the statement of case (SOC, p.140), in the form of the later-published half-inch edition (wrongly labelled, at annexe C, as the one-inch edition).

C. The Order Making Authority's Core Evidence

C.1. **Mudge's map** (ETL, para.11): The objector states that: 'this map shows features only and is not any indication of possible public status.' On the contrary, as the order-making authority observes, and as we note (SOC, VI.N), Black Lane and its continuation in either direction has been hand-coloured in sienna. This practice has been adopted in relation to a small number of key routes in Kent: other routes given the same treatment can be seen in the larger half-inch extract (SOC, p.140), being the Canterbury to Sandwich via Wingham road, the Sandwich to Deal via Ham Road, and the Sandwich to Deal via the coast road (leading east out of Sandwich). The Mudge map was published privately, some 87 years before the Ordnance Survey (on its own published maps) first introduced the disclaimer that: 'The representation on this map of a road, track or footpath is no evidence of the existence of a right of way.'³ In indicating key routes in sienna, the publisher must have done so confident that the routes were highways. Moreover, the Mudge half-inch map, published around six years later in 1807 (SOC, VI.Q), retained the same colouring of Black Lane — hardly likely if the original map generated criticism that it was wrong.⁴

C.2. **Tithe maps** (ETL, para.12): It is noted that the objector does not expressly refer to the Knowlton tithe map (SOC, VI.AF), and may be presumed to accept that the direction label thereon, 'From Betshanger', is evidence of the highway status of Black Lane as at least a bridleway.⁵

³ *Ordnance Survey Maps: a concise guide for historians*, Richard Oliver, 3rd ed., p.114.

⁴ At this time, colouring of maps was done manually after printing. Thus, even if the publisher was reluctant to alter the engraved plates, the colouring might with ease be omitted.

⁵ See the *Consistency Guidelines* (2016), para.8.12, in relation to tithe maps: 'However, the annotation of a road 'to' or 'from' a named settlement is suggestive of public rights.' In [Commission for New Towns v JJ Gallagher Ltd](#) [2002] EWHC 2668 (Ch) at [90], Neuberger J (as he then was) said: 'It was agreed between both experts that the designation "from X" or "to X" on a road was indicative of highway status. A specific description of a lane as leading from one village to another, particularly when one bears in mind that it was a carriageway (albeit that its status as a public carriageway is in issue) does provide some support for the notion that it was a public carriageway.'

C.3. The use of such direction labels on the Eastry tithe map is inconsistent (ETL, para.14): they appear in relation to some roads, but not others. For example, none appears on what is now BOAT EE109 from Eastry to Hammill, on bridleway EE478 from Eastry to Worth, on Pike Road (from Venson to Tilmanstone), nor on bridleway EE266 from Venson to Tilmanstone. Yet all of these ways are long-standing bridledways or public roads. It is unsurprising that no label appears against Black Lane, given that no other bridleway in the parish is annotated, and not every road is annotated. Therefore no conclusions can be drawn from the absence of any label on the Eastry tithe map.

C.4. We know that the Barlow-Hasted map of Kent (SOC, VI.L) represented by hand-colouring that Thornton Road was considered to be the preferred road between Canterbury and Deal (compared with Black Lane as shown on the Mudge-Faden map (SOC, VI.N)), and it is no surprise that Thornton Road is, on the Eastry tithe map, annotated 'to Deal' and 'from Knowlton': these are the respective destinations at the parish boundary. The treatment of Black Lane on the Eastry tithe map is consistent with bridleway status. While the BHS states that the exclusion of the road from titheable rating between D and L is supportive of public status, the surveyor has done nothing to resolve its status one way or another. We note (SOC, VI.AG.6) that, in particular, the surveyor does not accord Black Lane (again, between D and L) the same treatment as known private roads, which are braced with adjoining parcels for the purposes of rating.

C.5. The objector suggests (ETL, para.13) that the exclusion of rating is consistent with its character as an occupation road, providing access to a number of separate holdings along its length. It is equally consistent with a public bridleway.

C.6. **Ordnance Survey 1:2500 Map and Book of Reference (1871 onwards)** (ETL, para.15): We state (SOC, VI.AQ.7) that: 'The presence of two bench marks between E and F⁶ are [*sic*] consistent with the public status of the lane, as are the frequent recorded spot heights and the status as 'road' reported in the book of reference.' We say only that these data are *consistent* with public status: not that they are proof of it. Nevertheless, we note that, on the second edition OS County Series sheets XLVIII/13 and 14 and LVIII/2 (those sheets which, collectively, show Black Lane)⁷, no spot height appears other than on Black Lane and other ways recognised today as public roads,⁸ and no bench mark appears other than on such ways or buildings immediately adjacent to them.

C.7. We add that we do not accept the statement in *Rights of Way Law: A guide to law and practice*⁹ that:

The Ordnance Survey states that spot heights are positioned to meet the requirements of its surveyors when levelling an area and do not, and never have had, any bearing on rights of way along any road, track or path.

This statement is attributed to a 'Letter to Hereford and Worcester CC, 18 January 1996'. A letter sent at such a remove from the date of survey, over a century earlier, in circum-

6 The bench marks shown on the 1st edition map are erased on the 2nd edition, and replaced by one new one, about 200m east of E.

7 Available at: maps.nls.uk/view/103680710, maps.nls.uk/view/103680719 and maps.nls.uk/view/103681871 respectively.

8 In one case, spot heights are marked along what is now bridleway EE376, which formerly was a public road before a diversion order took effect.

9 Cited by the objector as Riddall and Trevelyan Fourth Edition, extract from 6.3.9–10 included at appendix 2 to objector's statement of case.

stances where the majority of surveying guidance has been lost, cannot be reliable authority for the proposition.

C.8. A more correct explanation is to be found in *A resumé of the publications of the Ordnance Survey for England and Wales*¹⁰:

The Manuscript Plans¹¹...Bench Mark (B.M.) and surface level altitudes are then inserted on the plans, the lines of levels running along the principal roads.

...In country 1/2500 levelling the Bench Marks occur about every third of a mile. In towns, about 15 to the linear mile are cut.

Surface levels are shown at any defined change of level between these Bench Marks.

C.9. While the BHS does not suggest that every way which is marked with spot heights on early Ordnance Survey County Series large scale plans must inevitably be a 'principal road', the copious annotation of such features along Black Lane (between A and F), and the adoption of consistent practice in relation to all three sheets which depict Black Lane, does provide some modest support for its status as a bridleway rather than a private way.

C.10. The objector suggests (ETL, para.17) that the alteration in the line of Black Lane, between H and I, is evidence that the way was not a highway at all, because there was no apparent objection to the realignment.

C.11. We respond first, that it is not suggested that the highway has been realigned: the order route is as is shown on the first edition of the Ordnance Survey County Series large scale map of 1872–73 (SOC, VI.AQ), consistent with earlier mapping, and not as shown on subsequent County Series editions.

C.12. Secondly, so far as subsequent editions of these maps (SOC, VI.AS) show an alternative route, set further south, they merely show the physical existence of such a route: they do not show that the original alignment has ceased to be available: it may, for example, have been reinstated or trodden out after cultivation.

C.13. More likely, however, is that public use of the original order alignment ceased, and the public adopted the alternative route further south. As the surveying authority notes in its statement of case (ETL, para.32), 'unofficial diversions can occur and be in place for many years before they are discovered.' The additional distance was minimal, and had the advantage of following what was now an established headland. There was no definitive map of rights of way at this time, and no strong reason for the highway authority to engage with a minor realignment which had no significant impact on use, and may have been more convenient. We do not know whether any measure of public concern was raised at the time. Nothing can be drawn from the realignment.

C.14. The objector notes (ETL, para.18) that Black Lane is annotated, on the County Series maps, as 'F.P.' (*i.e.* footpath). Such annotations appear on the second and third edition maps (the latter at SOC, VI.AS) between E and G, and between J and Cater Road (*i.e.* which crosses Black Lane between L and M); the distinction on large scale maps

10 Maj. F P Washington RE, 1890: reproduced in *Sheetlines* (the journal of the Charles Close Society), 67/21.

11 This section describes how the manuscript plans, having been structured from parish or tertiary triangulation, are filled out with detail from right line surveying entered in a field book.

between footpath and bridle road was abandoned in the late 1940s.¹² The annotations reflect the view of the Ordnance surveyor that the relevant parts of Black Lane were primarily in use as a footpath (and not, it may be noted, as an occupation road). During this period (*i.e.* of the second and third editions), it seems likely to have been the practice of a surveyor to record a bridleroad (*i.e.* 'B.R.') where such use was apparent, but the practice was somewhat haphazard, with many bridleroads not so recorded, or recorded as tracks or roads without annotation (as is Black Lane between G and I). We can conclude only that the surveyor did not, at the time, see cause to record the relevant parts of Black Lane as a bridle road vice footpath. Perhaps, by this time, the use predominantly was on foot? Clearly, such annotations cannot be evidence that a way is not a bridleway, merely because the surveyor did not note equestrian use at the time of his survey, any more than the absence of carts at such a time demonstrates that a way is not a cart road.

C.15. The objector suggests (ETL, para.19) that the presence of six 'solid structures' (*i.e.* gates) across Black Lane, identified on the Finance Act plans (SOC, VI.AU), is also evidence against highway status. Gates across bridleways are commonplace — they signify no such evidence. The objector's assertion (ETL, para.20) that 'a gate across a highway is not impossible, it is nonetheless unusual' is untenable in relation to a bridleway, and unsupported by evidence.

C.16. We observe further that the Finance Act plans are drawn on the third edition County Series map (SOC, VI.AS), and that no gate is shown on that map at H. Moreover, it is noted that none of the gates identified by the objector between G and I appears on the first edition County Series map (SOC, VI.AQ), and it seems that these may have been put in place in the late nineteenth or early twentieth centuries when public use was in decline.

C.17. **Finance Act 1909/10 Maps and Field Books** (ETL, para.21): We agree that limited weight can be given to this material.

C.18. The evidence in support of the public status of Black Lane predominantly dates from a period prior to the Finance Act material. There is nothing in the Finance Act evidence which contradicts a finding of public status. As we explain in our statement of case (SOC, VI.AU), some hereditaments crossed by Black Lane claim deductions for rights of way (but the deductions cannot reliably be attributed to any particular path), while others do not. There was no obligation on the occupiers of land to seek a deduction for a right of way across the land, and (depending on their circumstances), there might well be good reasons for not doing so.

C.19. Thus a number of grounds (SOC, VI.AU.6) explain why no discount might be claimed in respect of a public right of way, in respect of those hereditaments where no deduction was granted. But then, none of the hereditaments claimed a deduction for an easement (a private right of way), notwithstanding the objector's claim that Black Lane is an occupation road (ETL, para.12), a private track (ETL, para.20), or a private bridle road (ETL, *inter alia* para.60).

C.20. **Parish Maps, Draft Maps, and Definitive Maps** (ETL, para.28): The objector states that the process under Part IV of the National Parks and Access to the Countryside Act 1949 was followed 'without error. It resulted in the recording of a single public footpath, with no apparent anomaly as to the status of that route.'

C.21. Manifestly, the objector's assertion is incorrect. The outcome of that process was to record a public footpath from the parish boundary between Goodnestone and Eastry (at

¹² *Ordnance Survey Maps: a concise guide for historians*, Richard Oliver, 3rd ed., p.109.

E), as far as Thornton Lane (*i.e.* to G), with no recorded continuation west to Knowlton hamlet, and to the east, no onward continuation towards Betteshanger (the widely acknowledged objective of the path: see SOC, I.G16), save a lengthy detour along Thornton Lane perpendicular to the direction of travel 1.7 km north-northeast to Eastry, or 1 km south-southwest to Thorntonhill Cottages. The surveying authority's officer has documented (reported at SOC, I.I) the history of this outcome, and it cannot be doubted that an error was perpetrated. The only question is the extent of the error, and how it should be corrected.

C.22. We add that the extent of the rights of way network in the parish of Eastry was substantially under-identified in the 1949 Act survey. Two other bridleways were unrecorded or recorded only as a footpath,¹³ three unsealed roads were unrecorded,¹⁴, while a network of footpaths across the arable lands west of Eastry went and remain wholly unrecorded. This is not a promising basis from which to assert the integrity of the 1949 Act process.

C.23. **Applicant's evidence** (ETL, para.30): The purpose of Black Lane as a through route to Deal is not anecdotal but founded in evidence: see the sources cited in SOC, I.G, and particularly in the table at I.G.16.

C.24. The objector appears to misunderstand the contribution made by evidence from the nineteenth century. Generally, this supports the status of Black Lane as a bridleway, but certain documents, notably the *Contracted Map of Principal Roads in Eastry* (SOC, VI.AD) in 1836, and the nineteenth century railway plans, introduce some ambiguity into its status. The decision-maker must weigh these documents together, but we say that the evidence of status was amply documented by this time, and that any evidence which is ambiguous is capable of an interpretation which supports public status.

C.25. We do not agree (ETL, paras.31–32) that the earlier maps are of such a small scale that there is uncertainty about what is shown. There can be little doubt, in nearly every case, that where a way is shown running east to west to the north of Knowlton Park, it is a reference to Black Lane, and indeed, much of the evidence is of sufficiently large scale or clarity as to allow for no doubt whatsoever (for example, the *Eastry Court estate map* SOC, VI.B; *Updown Park diversion order* SOC, VI.G; *Mudge-Faden one-inch map of Kent*, SOC, VI.N). Indeed, by the late eighteenth century, maps such as the *Barlow-Hasted map of Kent* (SOC, VI.L) show, with remarkable fidelity, both Black Lane and Thornton Road as distinct, broadly parallel, ways.

C.26. As to whether such depiction or identification is evidence of highway status, the position relies not only on the particular circumstances of each item of evidence, but the picture presented by the evidence taken as a whole. Some items are adamant in their identification of Black Lane as a bridleway. Some maps merely show it as part of the road network (albeit as a through route connected to other recognised highways), but others show it as a pre-eminent route (notably, but not uniquely, the *Mudge-Faden one-inch map of Kent*, SOC, VI.M) which is not compatible with private status.

C.27. We agree that, in some cases, a particular map may add little to the weight of evidence of bridleway status — the objector refers (ETL, para.35) to the *Ordnance Survey Old Series one-inch map of Kent* (SOC, VI.U), and we agree with the objector's assessment of

¹³ Heronden bridleway, application PROW/DO/C380; Foxborough Hill bridleway, application PROW/DO/C385.

¹⁴ Lonely Lane, application PROW/DO/C374; Great Selson Farm Road, application PROW/DO/C415; BOAT EE335 from Eastry to Hammill added on a subsequent review.

that item, which accords with our own. However, we disagree that the same observations can be applied (ETL, para.36) to *Greenwood's map of Kent* (SOC, VI.V): in that case, the carriage drives across Knowlton Park, and indeed Updown Park to the east, are shown under the same green stipple as the parkland, and the drives are bounded by gates at their termination on public roads. A more extensive extract of Greenwood's map is at annexe 4 below (p.28 below), and similar treatment can be seen as regards a number of parks in this area of East Kent: a purchaser of the map would have known and understood such carriage drives to have been private roads. There is no reason why a purchaser might have inferred that Black Lane was private, and the purchaser would have expected it — an obvious through route — to be public.

C.28. **Eastry Court Estate Map** (ETL, para.38/SOC, VI.B): A copy of the entire map is included at SOC, VII.annexe A. The objector states that: 'There is no evidence to support the Applicant's contention that a shireway was a term meaning bridleway...'. On the contrary, footnote 34 in the statement of case (SOC, p.43) gives three sources for 'shireway' as a regional expression having the meaning of a bridleway, two of which are now reproduced below.

shine.] To shine; iō glitter. *E. Sussex.*
To SHIMPER, v. n. To simmer. Norf.
SHIRE-WAY, s. A bridle-way. S. Sussex.
SHOAF, s. A sheaf. Norf.
Figure 1: A General Dictionary of Provincialisms, William Holloway, 1840, p.151

he must be a *shere-man* by his tongue,"
 Forby, p. 296.
SHIRE-WAY. A bridle-way. South.
SHIRK. To slink from anything. Hence shirky, deceitful. South.
Figure 2: A Dictionary of Archaic and Provincial Words, James Orchard Halliwell, 1855, vol.II, p.733

C.29. The objector continues: 'or that (if it did [mean a bridleway]) the term implies any public right.' We address the question of a 'private bridleway' at s.D below below, but in this context, the expression 'shireway' manifestly does refer to a public way — it is a way available to, or relevant to, the shire or county as a whole, much as a 'county road' is an expression widely used to describe a minor road repairable by the county highway authority.

C.30. The objector suggests that: 'This is a private document, so little weight would normally be given to such a source.' On the contrary, as we observe (SOC, VI.B6):

The estate map was prepared by a professional surveyor on behalf of the landowner... The map reasonably may be assumed to represent the disposition of the landowner.

As such, the estate map is excellent and enduring evidence of the status of Black Lane, as recorded on behalf of the then owner of the land over which it passes. It is inconceivable that an experienced surveyor, who had been retained by the landowner (Canterbury Cathedral) for the previous 11 years, would have erred in this respect, and that the error would have gone uncorrected. Moreover, the estate map describes the way continuing, off the map to the west of point I, 'To Knowlton', which implies that the way between A and I was of the same status as that part depicted on the map.

C.31. **Boteler archive** (ETL, para.39/SOC, VI.H): A copy of the entire map is included below at annexe 2 (p.24 below). It is not understood why the objector states that the bridleway annotated on the map (which shows Black Lane between E and G) 'does not join to a feature which is annotated as a highway.' It clearly joins with Thornton Lane at G.

The continuing route on the other side of Thornton Lane at G, annotated as 'Tenants Way', leading towards Eastry Mill, is of uncertain status: it may well be an occupation road (as the annotation suggests), but as the continuation is on the opposite side of Thornton Lane, nothing can be deduced from it as being relevant to the status of Black Lane between E and G. The Boteler map does not generally identify highways other than roads: as we observe in the SOC, VI.H5, it shows only ways recognised as public roads today, with three exceptions, one of which is Black Lane between E and G, and a second is the 'Tenants Way'. Thus one would not expect to find Black Lane, a bridleway, identified on this sketch map at all, but Boteler has chosen to include the part between E and G for reasons which cannot now be identified, and having done so, he has expressly identified it as the 'bridleway to Knowlton'. Thus the absence of part of Black Lane is unsurprising and of no consequence (the map does not depict any other bridleway in the parish); but conversely, the inclusion of part, for whatever reason, is excellent evidence of its status, prepared by a local historian of remarkable standing.

C.32. **Cary's Itinerary** (ETL, para.42/SOC, VI.X): We do not now contend that the evidence arising from this document argues for a carriageway. Nor does the itinerary include a map. Its significance lies in the description of a route through Knowlton, with a view (when heading towards Deal) 'on r. Knowlton Court, Capt. D'Aeth' — a view which would only appear on the right side if seen from Black Lane (the view would be seen to the left, if at all, from Thornton Road).

C.33. **Upper Venson Estate Plan** (ETL, para.43/SOC, VI.Y): It is generally accepted that destination labels on a map (in this case, 'To Betshanger' and 'From Knowlton') are indicative of public rights (see para.C.2 above): there is no reason to depart from that likelihood owing to the plan having been produced for private purposes. Thornton Lane is attributed in the same way ('To Eastry' and 'From Kittington'¹⁵). Moreover, halves of the widths of Black Lane and Thornton Lane (where they frontage the draughtman's client's plots) are recorded as apportioned to the client (the estate of John W Stone), a likelihood only in relation to public highways, where the presumption of *usque ad medium filum viae*¹⁶ applies. If, as contended by the objector, Black Lane were a private occupation road, it is highly unlikely that it would be owned *ad medium filum* by the frontager, for that would place no-one in overall control of the way, and in the ownership of multiple frontagers, each of them unable to grant a private right of way over the whole of the way even in relation to their own frontage. Indeed, if, as the objector contends, this part of Black Lane were an occupation road, why would the client have acquired any title to Black Lane and Thornton Lane whatsoever, for the client would have required either the grant of a private right of way, or the ownership of the whole of the road?

C.34. Taking the elements of the plan together, we say that the Upper Venson estate plan is itself good evidence of highway status in 1821, by virtue of the colouring of the highways, the annotation of destination labels, and the ownership of the highway up to the centre line.

C.35. **Knowlton Parish Terrier** (ETL, para.44/SOC, VI.AC): It is hardly surprising that Black Lane is described as 'the bridle road leading from the Church to Deal' — if, as seems likely, the way between Canterbury and Deal via Knowlton was a carriageway from Canterbury only as far as Knowlton (and it has not been suggested that Knowlton Lane is

¹⁵ 'To Kittington' implies the use of footpath EE264: an application has been made to record this way as a restricted byway: PROW/DO/C398, on the basis that it was formerly a road.

¹⁶ 'As far as the centre line of the way'.

historically other than a carriageway), then the bridle road beyond Knowlton begins, then and now, at the church (*i.e.* at A). The way as a whole aptly may be described as a way from Canterbury to Deal, but as a bridle road only from Knowlton onwards. Moreover, the terrier relates to the possessions of the ecclesiastical parish of Knowlton, focused on the church at Knowlton, adjacent to the beginning of Black Lane — it is entirely natural, in those circumstances, to refer to the bridle road as beginning at the church, as indeed it does.

C.36. We address the question of a ‘private’ bridleway at s.D below below, but there is no basis for suggesting (as appears to be suggested: ETL, para.45.2) that Black Lane is a ‘church way’, legitimately used only for travelling to the church for services — there is no evidence for that whatsoever, and to the limited extent that church ways exist, the BHS is not aware of any that is said to be a bridleway (where would a congregant leave his horse?). And it is not obvious why a church way would be required for journeys to a church in the former parish of Knowlton, from land in the thinly populated parts of the parishes of Eastry and (formerly) Betteshanger, where there was and remain no more than a handful of dwellings in close proximity to the way, and parishioners were expected and would wish to attend the more convenient parish church in Eastry or Betteshanger respectively.

C.37. As to ‘a route for the use of...the Parish only and not for the public at large’, we are not aware of any legal concept of a parish path, restricted to the inhabitants of the parish, in English law¹⁷ — and again, as Black Lane passes from one parish into and crosses another, it is in any case impossible to conceive how such a thing could subsist in this context.

C.38. The reference in the terrier to a ‘bridle road’ is therefore exactly what it appears to be: a reference to Black Lane being a public path.

C.39. **Contracted Map of Principal Roads in Eastry** (ETL, para.46/SOC, VI.AD): Given that the BHS does not, in its statement of case, contend that Black Lane is a carriageway, it is hardly surprising that it is not documented on the contracted roads map. The roads map is just that — a map of publicly-maintainable vehicular roads in the parish, presumably for the purposes of contracting out repair. The map records only those vehicular roads within the parish which today are recognised as publicly-maintainable, with the following exceptions:

- Byway open to all traffic EE109 from Eastry to Hammill (omitted)
- Great Selson Farm Road (included, but not currently recorded as publicly maintainable)¹⁸

Lonely Lane, which is a public road but privately maintainable, is rightly omitted.¹⁹

C.40. In addition, several presumed footpaths or bridleways are identified on the map by uncoloured pecked lines (and therefore excluded from the contract) — most of these today are shown on the definitive map and statement. Among these is the entirety of Black Lane, shown as a single pecked line between approximately C and Upper Venson Farm (also known as Poor Start Farm) which formerly lay east of point G (at TR29575318), as

¹⁷ Other than in relation, possibly, to the creation of statute under an inclosure award.

¹⁸ Lies between Great Selson Farm and Drainless Road: the subject of application PROW/DO/C374 to record as a restricted byway.

¹⁹ Lies between Northbourne Road and Straight Mile (see *Updown Park diversion order*, SOC, VI.G): the subject of application PROW/DO/C415 to record as a restricted byway.

double pecked lines between there and H, and as a (faint) single pecked line between H and M. That part lying between G and I is annotated 'Supposed Road to Knowlton'.

C.41. As a bridleway, it is unsurprising that Black Lane is not presented as one of the contracted roads — no other bridleway is so identified. The contracted roads are vehicular highways which are maintainable by the parish. However, in common with various other footpaths and bridleways, Black Lane is marked as such on the map. It is notable that, having marked Black Lane on the contracted roads map as a footpath or bridleway, the draughtsman has gone on to annotate part of it as the 'Supposed Road to Knowlton'. The annotation does not diminish the status of the way as a bridleway, but draws the user's attention to it. Why is it a 'supposed' road?

C.42. The Oxford English Dictionary defines 'supposed' to mean:

Believed or thought to exist, or to be what the noun or noun phrase modified denotes, but without conclusive evidence and perhaps mistakenly; assumed to be true or genuine.

C.43. In this context, it may be said that the annotation suggests that Black Lane (or at least, the part between G and I) is believed by some to be a public road (and potentially publicly maintainable), but that the draughtsman is uncertain. In the absence of any colouring or measurement, then for the purposes of the contracted roads map, the draughtsman is clear that Black Lane is deemed not to be a publicly maintainable road. Indeed, perhaps the objective of the annotation is to provide a rationale for excluding any part of Black Lane from the maintenance contract — an exclusion which was anticipated to be controversial or disputed.

C.44. In the event, the contracted roads map provides assurance that Black Lane was considered, by the draughtsman acting on behalf of the surveyor for the parish of Eastry, to be a public path, but that there was some conflict within the community as to whether its correct status, between G and I, was a public road maintainable by the parish.

C.45. The objector is mistaken (ETL, paras.49–50) to infer that the depiction and annotation of Black Lane is to cast doubt on its highway status: for the reasons given, the only dispute is whether part of the lane is a publicly-maintainable road. If Black Lane were considered not to be a highway of any kind, it wouldn't appear on the map at all.

C.46. **Railway Map Evidence** (ETL, para.51): The annotation of Black Lane in the *Contracted map of Principal Roads in Eastry* signals further uncertainty over status in subsequent railway plans (further considered in turn below) dating from 1861 to 1872 (and the *East Kent mineral light railway* plan dating from 1910: SOC, VI.AT). The railway documentation is itself inconsistent — it refers to Black Lane as a 'road' as well as an 'occupation road', one plan shows provision for a costly road bridge erased, and none of the plans was put into effect. We have cited (SOC, VI.AJ4; VI.AP6) *Trail Riders Fellowship v Secretary of State for the Environment, Food and Rural Affairs*,²⁰ in which the court agreed that unimplemented plans attract less credibility:

Much was made on the claimant's behalf of evidence relating to plans for railways to be constructed during the nineteenth century which would have crossed the order route. These could be regarded as consistent with the view being taken by those responsible for the plans that there were vehicular rights.

20 Paragraph 28: [\[2015\] EWHC 85 \(Admin\)](#).

Nevertheless, the plans were never put before Parliament and so there was no detailed consideration of the issue.

C.47. The objector states (ETL, para.51) that: ‘None of this [railway plan] material supports the designation of the Order Route as a restricted byway or bridleway’. We disagree. All the relevant mid-nineteenth century railway plans proposed lines crossing Black Lane between G and I — the very part to which the annotation, ‘supposed road’ was applied in the *Contracted map of Principal Roads in Eastry*. If, as we posit above, the annotation ‘supposed road’ questioned whether Black Lane, between G and I, was a public road or merely an occupation road and bridleway, that would sufficiently explain the uncertainty evident in the plans, and the status generally recorded in them.

C.48. The relevant railway plans (leaving aside the East Kent mineral light railway) generally record that Black Lane, between G and I, is an occupation road. That status is compatible with the existence of a public bridleway. It may well be that this part of Black Lane, serving Upper Venson Farm (see para.C.40 above) was used by vehicles — for example, farm carts serving both the farm and the fields — and was regarded as an occupation road by at least some of those with cause to use it (it seems — see para.C.43 above — that others regarded it as a public road). The BHS reserves its position whether, in consequence, this part of Black Lane is a public carriageway,²¹ but we accept that some local interests, in the mid-nineteenth century, may have taken the view that vehicular use relied on private rights. If so, the classification of this part of Black Lane as an occupation road, for the purposes of the railway proposals, embraced subsidiary bridleway rights.

C.49. It is notable that, in general, the relevant railway books of reference refer to footpaths and bridleways without distinguishing whether they are private or public, and record them in the ownership and occupation of the same interests as the land itself. A table of extracts from the books of reference is in the appendix (p.18 below).²² It is unclear from the books of reference, without further context, whether a particular recorded path is believed to be private or public — by contrast, all public roads are given as in the occupation of the parish surveyor, and turnpike roads in the occupation of the turnpike trustees. There are exceptions in relation to the books of reference for the *Dover, Deal and Sandwich Railway* (SOC, VI.AK) prepared for the second and third years of deposit (1863–64, 1864–65), in which some (but only some) paths are annotated as vested in the surveyor of highways, and then only in relation to certain parishes.

C.50. Thus the classification of a way as an occupation road might readily be taken to indicate a (private) way for vehicles, subsuming any subsidiary rights for pedestrians or equestrians, whether private or public. As an occupation road and bridleway, provision of a level crossing would be quite sufficient for both purposes — whereas, had Black Lane been recorded as a public road, a bridge would have been mandatory. Thus, classification as an occupation road relied on the highest level of rights exercisable, and subsidiary rights were of little importance in this context.

C.51. Put another way, there is no reason why an entry referring to ‘occupation road’ in the ownership of various landowners should not embrace public bridle rights, given that an entry for ‘bridle road’ or ‘footpath’, referring only to landowners, must be capable of embracing public bridle or foot rights.

²¹ It would now be a restricted byway, in consequence of the operation of s.67 of the Natural Environment and Rural Communities Act 2006.

²² The extracts do not include Deal, which is a built-up area subject (at that time) to a separate borough council.

C.52. We therefore suggest that classification of Black Lane in the railway plans as an occupation road is consistent with bridleway status, and subsumes any subsidiary public rights on foot and on horseback.

C.53. **Ramsgate, Sandwich, Deal and Dover Railway** (ETL, para.52/SOC, VI.AJ): We explain at SOC, VI.AJ.5 that the railway company's survey consistently disregarded public paths in its plans. This provides a further reason that Black Lane might be classified merely as 'occupation road'.

C.54. **Dover, Deal and Sandwich Railway** (ETL, para.53/SOC, VI.AK): Three annual deposits of plans were made (in 1862, 1863 and 1864). The first deposited plan describes Black Lane only as a 'road', the second and third as an 'occupation road'. Again, the railway company's surveys appear to be indifferent whether the way is an occupation road or a public path — the provision would have been the same.

C.55. **Walmer, Deal and Adisham Railway** (ETL, para.54/SOC, VI.AP): We explain at SOC, VI.AP.4 and 5 that, while Black Lane is recorded in the deposited book of reference as an 'occupation road', the plan appears to have made provision for a public road bridge, but the provision has been erased at a later date.²³ The erasure suggests a rather late and embarrassing change of position on the part of the railway company, which appears to have been persuaded that Black Lane was not, after all, a public road. Instead, the deposited book of reference describes an occupation road. We add that, while the objector's contention that a public road bridge was marked on the plan simply in error (and subsequently erased) is possible, it is no small matter for a railway company to commit to building a public road bridge in place of a level crossing — even in the mid nineteenth century, the additional costs would have been substantial, and not lightly entered into. It is highly unlikely that such provision would have been made in error, and more likely that provision was made in accordance with the company's then understanding, which subsequently was revised for reasons not now recorded.

C.56. **East Kent Mineral Light Railway** (ETL, para.55/SOC, VI.AT): The plans for the East Kent Light Railway are unique in proposing a crossing of Black Lane west of Thornton Lane (specifically, at F), and in being put into effect. The objector notes that the book of reference describes Black Lane as a footpath. But as we observe in our statement of case (SOC, VI.AV), ten years earlier in 1900, and three years later in 1913, the highway authority, Eastry Rural District Council, unequivocally described the way as a bridle path or bridle road. We suggest (SOC, VI.AT.10) that one possible explanation for the discrepancy is that the railway company surveyor consulted only the parish council about the status of public paths, and was wrongly informed (or that he consulted no-one at all and relied on local inspection or the annotation as 'F.P.' on the second or third edition County Series Ordnance Survey map: see para.C.14 above). Corroboration for this explanation is given in the book of reference, which refers to Eastry parish council as one of the occupiers of the land and footpath, notwithstanding that the district council was, at that time, the highway authority.

C.57. The objector challenges our questioning the validity of the evidence in relation to this crossing, where (in relation to other applications for definitive map modification orders) we seek to uphold a record of status. That distinction is amply explained at SOC, VI.AT.9–10, where we observe that the railway company surveyor 'tended to record public highways with the lowest possible status.' Such under-recording was likely to be in the interests of the company (in minimising the cost of crossings), and a product of consulta-

²³ The same erasure appears in the plan deposited in the House of Lords library: HL/PO/PB/3/plan1872/W3.

tion, at best, only with the parish council on the status of perceived rights of way. In fact, there is a catalogue of complaints, over many years, addressed by Eastry Rural District Council about the absence of, and standard of, provision made by the railway company for highways crossing the lines it constructed.

C.58. **Eastry Rural District Council Highway Report** (ETL, para.58, SOC, VI.AV): (The reports are correctly now presented in our statement of case as made to the council, and not to a committee of the council.) The reports by the surveyor to the council refer to Black Lane as a bridle path or bridle road. The objector suggests that such references were in relation to a public footpath over a private bridleway, and that no references to an expressly public bridleway are made.

C.59. We address the question of a 'private bridleway' at s.D below below. But in relation to the surveyor's reports, there is no basis for the suggestion. The council was concerned only with public highways, and here, as in other contexts, there was no reason pedantically to refer to 'public bridleway', vice 'bridleway', any more than to refer to a 'public road', vice road, unless public versus private status was particularly in question — and in these records, it is not. The surveyor was engaged with the protection of a public bridleway, and that is what is recorded in his reports.

D. Private bridleway

D.1. The objector suggests in several contexts that Black Lane is a private bridleway, or a private occupation road, or perhaps some combination of the two. The objector does not appear to deny that Black Lane is ancient in origin,²⁴ and its existence is documented for approaching 300 years. Thus it is undeniably a passage of some kind, and if it is not a public bridleway, it must be either a private occupation road or a private bridleway — in either case, involving an easement for private interests over others' land.

D.2. Certain evidential documents (see the table at SOC, I.I16 for several such references) expressly describe Black Lane as a bridleway (or similar), the value of which the objector dismisses on the basis that references were intended to a private way. But as the documents refer to a bridleway, they cannot have in mind a private occupation road (for vehicular traffic), for that would not be a bridleway at all — they could only envisage a private bridleway. The objector appears to acknowledge this possibility — see, for example:

- ETL, para.38: 'There is no evidence to support the Applicant's contention that a shireway was a term meaning bridleway or that (if it did) the term implies any public right.'
- ETL, para.45.2: 'That a track [described in the terrier as a 'bridle road'] provided access from the Church to Deal is not evidence that the route must therefore have been a highway. The description would apply equally to a route for the use of the Church or the Parish only and not for the public at large.'
- ETL, para.45.3: 'The reference to a "bridle road" in the Terrier...reinforces that the track referred to...was a means of access to parcels of land within the ownership of the Parish.'

²⁴ 'The historical physical existence of a track either in whole or in part, which is on or in proximity to the Order Route is not in issue.' (ETL, para.7)

- ETL, para.60: '[the Eastry Rural District Council] were ensuring that the public right of foot over the private bridle road was capable of being used. Nowhere in the report is the route described as a public bridleway.'

D.3. Thus the objector must accept that, if Black Lane is not a public highway, it is, at least substantially, a private bridleway, for that is the only possible interpretation which can be placed on the many references to its status as 'bridleway'.

D.4. But this possibility may be dismissed as implausible on the following grounds:

D.5. **Too unlikely:** the concept of a private bridleway, as a private right of way, is virtually unknown outside the statutory context of inclosure awards (and even here, they are unusual).²⁵ Today, private bridleways are sometimes found in connection with equestrian establishments, to give access to nearby riding routes, but these are seldom easements, and usually merely a designation of a path wholly owned by the landowner for the use of equestrians.

D.6. Historically, two types of easement were granted or acquired. First, a right of way on foot, typically for access where pedestrian access was sufficient, or to provide a shorter or alternative access on foot than available in a vehicle. Sometimes, a right of way on foot may be the only means of access to a cottage. In these cases, there was no need for access on horseback (a cottager does not keep a horse; a fisherman does not need access to the riverbank on horseback).

D.7. And secondly, a right of way in vehicles, typically for access to a house, land or farm. In these cases, access was available on foot, on horseback, with animals and in vehicles. Access was required for vehicles to service the premises — for business or domestic use, or to cart away farm produce or timber.

D.8. It was seldom the case that an easement for use on horseback would be granted or acquired in isolation.

D.9. A search of the LexisNexis cases database for law reports referring to a 'private bridleway' or 'private bridle road' revealed only three hits, all referring to the statutory provision for the award of a private bridleway in s.10 of the Inclosure Consolidation Act 1801 cited in a single case.²⁶ A search for 'private footpath' revealed 42 hits

D.10. **Too long:** Black Lane is nearly 3 km in length, and crosses (in a direct or nearly direct line) four public roads.²⁷ It crosses one substantial parish in its entirety, another parish in part, and nearly touches on a third. A nineteenth century private carriage road leading to a stately home might possess these attributes, but it is impossible to conceive how a private bridleway might. Does the objector suggest that such a bridleway was granted as a single whole, and if so, by who (having control of the entire land crossed by the way), to whom, when and why? Presumably, the grant must have occurred long ago in the mediaeval period or earlier, when the entire land crossed by Black Lane may have been under the control of the church — as to which see 'too old' and 'too little evidence' below. If, alternatively, separate rights were acquired coincidentally over each section between public roads, why does each section connect as a whole into a single, continuous route?

²⁵ There is no question of former inclosure in relation to Black Lane. Statutory inclosure was rare in Kent.

²⁶ *R (on the application of Andrews) v Secretary of State for Environment, Food and Rural Affairs* [2014] [2014] EWHC 1435 (Admin)

²⁷ Thornton Lane, Venson Bottom, the Dover Road and Cater Road (see SOC, I.E).

D.11. **Too old:** if Black Lane has always been a private bridleway (or for that matter, an occupation road), it must have remained so for a long time — probably at least 500 years, perhaps well over a millennium. A landowner who grants private use of a way which could also serve a wider, public, purpose — as Black Lane does — must be assiduous in preventing that public use, or a public highway will be acquired by dedication at common law. Today, prevention typically requires the use of locked or electronic gates to which those with private rights are issued a key. Such measures are often cast aside over time unless the landowner remains assiduous, and they demand the co-operation of the private users too (who all too easily may cease to bother locking gates or challenge wider public use). But in relation to Black Lane, any such measures must have remained effective, not for years, but generations and centuries — even as the land crossed by the way was divided up into multiple ownerships. Through the centuries, landowners must have continued to lock gates and private right holders must have continued to be issued with and use their keys, and warned off others who ventured that way, else inevitably, public rights would have become established and endured in perpetuity. Such assiduity in the defence of private status is wholly unlikely. And very limited wholly private use — even over centuries — is unlikely to have been sufficient to give rise to the incised character of Black Lane between A and G.

D.12. **Too little evidence:** if Black Lane were a private bridleway (or occupation road) of many years standing, there is no evidence for it. No-one, least of all the objector, whose family has occupied the land crossed by Black Lane west of Thornton Lane for over a century, has produced any evidence of private rights. None is registered to any of the land crossed by Black Lane.²⁸ No person has claimed such rights. No deduction has been claimed for an easement under the Finance (1909–1910) Act 1910 (see para.C.19 above). Yet, in the absence of a public highway, generations relied on such rights — and indeed, the objector asserts that numerous references to Black Lane are merely to a way which enjoyed such rights. But no documentation of such rights has been found or disclosed, save the ambiguous and unsupported reference to status as ‘occupation road’ in relation to the railway plans.

E. Conclusion

E.1. The logical argument is that an ancient bridleway, serving a manifestly useful public purpose (of travel from Canterbury to Deal and intermediate points), is inherently unlikely to have remained private, even if private in origin, over many hundreds of years. However, we accept that the logical argument is insufficient to prove on the balance of probabilities that Black Lane is a public bridleway. But there is copious evidence that Black Lane is a public highway, precisely in accordance with the logical expectation that it must be.

²⁸ Title K421629, relating to land north of Black Lane between G and H held by Little Mongeham Ltd, contains details of a grant made in 1974 of a right of way for all purposes between G and the site of Upper Venson Farm, in favour of Mrs Fox-Pitt. As the easement is made by express grant, it appears to have no relevance to any historical right of way.

E.2. The only significant evidence which may give rise to questions about highway status is found in the nineteenth century railway plans — and the BHS believes that these are consistent with status as both an occupation road and public bridleway between G and I (and have nothing to say about status either side of this section). In these circumstances, the only plausible conclusion is that Black Lane is a (public) bridleway throughout.

Hugh Craddock
for the British Horse Society, South and East Kent Committee

8 June 2020

Appendix

Railway books of reference: entries relating to paths and tracks

Parish and parcel	Description	Owners, lessees and occupiers, only insofar as reference is made to surveyor of highways (or similar)
<u>Ramsgate, Sandwich, Dover and Deal 1860–61 (SOC, VI.AJ)</u>		
Sibertswold 13	Private occupation road	
Sibertswold 17	Path	
Barfrestone 3	Field and footpath	
Nonington 3	Path	
Nonington 10	Field and footpath	
Eastry 7	Private occupation road	
Eastry 12, 13	Field and footpath	
Eastry 20	Occupation road	
Eastry 29	Occupation road or footpath	
Eastry 37	Field and footpath	
Eastry 42	Half bridle road	
Northbourne 3, 5	Footpath	
Northbourne 6, 7	Field and footpath	
Northbourne 11a, 12	Garden, half brook and occupation road	
Northbourne 13–15	Field, half brook, occupation road and footpath	
Northbourne 16	Field, half brook, occupation road, footpath and building	
Northbourne 18	Field, half brook and footpath	
Sholden 1	Field, footpath and half brooks	
Sholden 8	Field and occupation road	

Sholden 10	Field, half brooks and foot-paths	
Sholden 15	Field and half brook and occupation road	
Sholden 16	Private road	
Sholden 17	Field and footpath and half brooks	
Sholden 18	Field and half brooks and occupation road	
Sholden 20	Field and half brooks and occupation road	
<u>Dover, Deal and Sandwich Railway 1862–63, 1863–64, 1864–65 (SOC, VI.AK)</u>		
Sibertswold 10	Private occupation road	1864–65 entry changed to 'Field'
Sibertswold 15	Footpath	1863–64 add Surveyor of Highways 1864–65 add Surveyor of Highways and Waywarden
Barfrestone 5	Footpath	1863–64 add Surveyor of Highways 1864–65 add Surveyor of Highways and Waywarden
Tilmanstone 2	Field and footpath	
Eastry 12	Private road	
Eastry 13	Bridle road	1863–64 add Surveyor of Highways 1864–65 add Surveyor of Highways and Waywarden
Eastry 25	Occupation road	
Eastry 34	Bridle road	1863–64 add Surveyor of Highways 1864–65 add Surveyor of Highways and Waywarden
Eastry 43	Footpath	
Eastry 46a (from 1863–64)	Footpath	Owner is Surveyor of Highways
Eastry 52	Footpath	1863–64 add Surveyor of

		Highways
Ham 1	Footpath	
Ham 11a	Footpath	
Betshanger 4	Footpath	
Northbourne 3–5	Footpath	
Northbourne 12a	Footpath	
Northbourne 21	Occupation road	
Northbourne 37	Footpath	
Northbourne 44	Footpath	
Sholden 2	Footpath	
Sholden 10	Occupation road	
Sholden 17	Meadow and Plantation Footpath	
Sholden 23	Occupation road	
Sholden 25	Occupation road	
Sholden 28, 30, 32	Field and footpath	
Walmer, Deal and Adisham Railway 1871–72 (SOC, VI.AP)		
Nonington 2	Footpath	
Nonington 24a, 25, 31	Footpath	
Nonington 32, 40a	Occupation road	
Nonington 41a	Footpath	
Nonington 47	Occupation road	
Nonington 56	Footpath	
Nonington 76, 78	Footpath	
Nonington 102	Footpath	
Nonington 103	Occupation road	
Nonington 103a, 103b, 108	Footpath	
Nonington 109, 110	Occupation road	
Eastry 10a, 12, 13	Private road	
Eastry 25, 34	Occupation road	
Eastry 43, 52	Footpath	
Ham 1	Half footpath	

Northbourne 3, 4, 5	Footpath	
Northbourne 12a	Footpath	
Northbourne 21, 22	Occupation road	
Northbourne 37	Footpath	
Northbourne 45	Field and pathway	
Sholden 23	Public footpath	
Sholden 25, 36	Occupation road	
Sholden 44	Footpath	

Annexes

Annexe 1: Parochial map of the Canterbury diocese

(See statement of case item VI.E)



Annexe 2: Boteler archive

(See statement of case item VI.H)

Annexe 3: Barlow-Hasted map of Kent

(See statement of case item VI.L)

A Map of
the HUNDRED of
EASTRY,
with the Liberty of the
Town & Port of Sandwich.

*The District of Hamden in Eastery Parish is distinguished thus
 and is reputed to be within the Hundred of 'Dorsetshire'.*



Annexe 4: Greenwood's map of Kent

(See statement of case item VI.V)

