

Black Lane: BHS statement of case

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I. Introduction

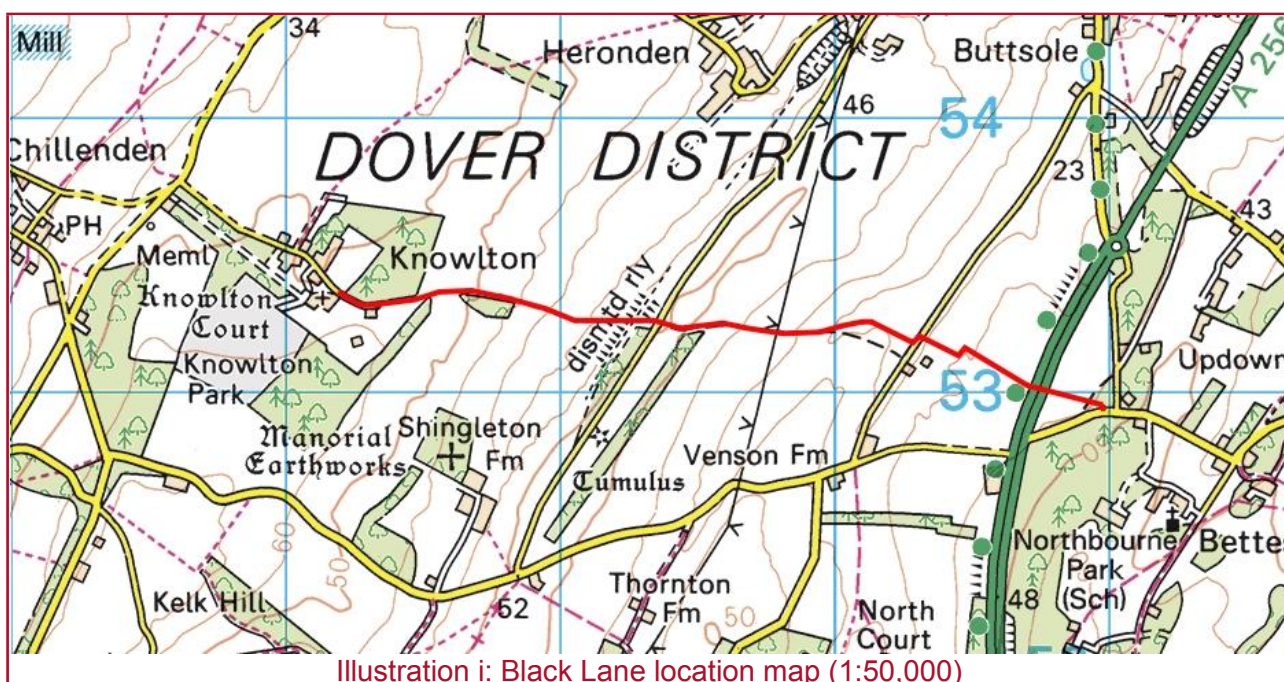
A. Introduction

A.1. This statement of case is made by the British Horse Society in relation to the Kent County Council (Bridleway EE488 at Goodnestone & Eastry) Definitive Map Modification Order 2019 ('the order'). It replaces all previous representations made by the society in relation to the order and the application for an order. It includes a submission (at part III below) seeking modification of the order as made.

A.2. In order to enable comparison, the numbering of documents in this statement of case preserves the numbering in the society's historical document analysis v.1.70, to which reference is made in the surveying authority's statement of case. It includes two new documents, at items VI.ZA. Pettman estate sale and VI.ARA. Bartholomew's map, which have been numbered outside the existing sequence but located chronologically.

B. Quick reference

B.1. Location plan:



B.2. Existing public rights of way comprised in application way: EE261 (part of way only)

B.3. Parishes of: Goodnestone and Eastry

B.4. Former parishes of: Knowlton and Eastry

B.5. Termination points: Knowlton Lane opposite Knowlton Church, and Betteshanger near the Roman Road

B.6. Ordnance Survey termination points: TR28165337 to TR31015290

B.7. Postcode: CT3 1PT

B.8. Ordnance Survey Explorer sheet: 150

B.9. Ordnance Survey County Series 25" sheets: Kent XLVIII/13 and 14 and LVIII/2

C. The applicant

C.1. This statement of case is prepared by Hugh Craddock on behalf of the British Horse Society. The order referred to the Secretary of State for determination is the Kent County Council (Bridleway EE488 at Goodnestone & Eastry) Definitive Map Modification Order 2019. The order was made on the application of the British Horse Society which I represent for this purpose. I am appointed by the society as a volunteer access and bridleway officer for historical research in South and East Kent. I am employed as a case-work officer for the Open Spaces Society, and was formerly a civil servant in the Department for Environment, Food and Rural Affairs (and predecessor departments), whose responsibilities included Part I of the Countryside and Rights of Way Act 2000 and the Commons Act 2006.

D. Locational details

D.1. This order relates to a way in the parishes of Goodnestone and Eastry, in the district of Dover, in East Kent. The way is currently recorded in part on the definitive map and statement as a footpath, and in part is not recorded at all. The order seeks to record the way as a bridleway throughout.

E. Nomenclature

E.1. References in this document to Black Lane are (unless the context otherwise demands) to the order route. And references to the points from A to M are to the points as they are marked on the order plan.

E.2. References to Knowlton Lane are to the public road from point A west towards the Sandwich Road. References are made to Thornton Lane (the minor road between Thornton Road at Thorntonhill Cottages and Eastry, intersecting at G), Venson Bottom (the minor road between Venson Farm and Buttsole Pond, intersecting at I/J)¹, the Dover Road (now the A256 Betteshanger bypass, which is established on a slightly more westerly alignment than the original turnpike road, intersecting at K/L), Cater Road (a minor road from the Dover Road to Straight Mile, slightly east of M), Thornton Road (a road from the Cuckolds Corner to Betteshanger via Thorntonhill Cottages, which after crossing the Dover Road continues as Straight Mile, intersecting at M, east to Northbourne).

E.3. The Dover Road is the former Dover, Waldershare to Sandwich turnpike, authorised in 1801². The turnpike adopted the former Roman road between Woodnesborough and just south of Buttsole Pond (now a roundabout on the A256), before veering to a slightly more westerly route south, intersecting at K/L, and through Tilmanstone, which is now approximately the course of the A256 Betteshanger bypass. The route south of Buttsole Pond appears to have been an improvement of an existing way, but does not appear as a principal road on maps surveyed before 1801.

1 There is some doubt about the correct name, if any, for this lane. It is described as Pike Road on Google mapping, but has no name on Ordnance Survey maps, however Pike Road is undoubtedly the name of a road leading south from Thornton Road towards Eythorne. Venson Bottom is adopted here for convenience.

2 Under an Act of 41 Geo 3, c.11.

E.4. For an explanation of the terms class I, II and III maps, please see paras.G.5–G.7 below.

F. Summary

F.1. Black Lane is a bridleway between Knowlton and Betteshanger, part on an old way between Canterbury and Deal. Black Lane may be millennia old — it is certainly centuries old, and part of the way between B and G is or was significantly incised into the down-land³. At present, only a small part of the order route is recorded on the definitive map and statement, as a footpath (E–G) which terminates on the parish boundary between Eastry and Goodnestone owing to mistakes made at the time of the survey under Part IV of the National Parks and Access to the Countryside Act 1949 (see para.I.1 below).

F.2. The evidence that a bridleway lies between Knowlton and Thornton Lane (A–G, and that E–G is accordingly incorrectly recorded as a footpath) is overwhelming. No evidence has been offered to the contrary, save the survey in 1910 for the East Kent mineral light railway (item VI.AT below) which identified a footpath — and which, immediately following construction, was rebutted on the intervention of the highway authority, recorded in the Eastry Rural District Council surveyor’s reports (item VI.AV below), on the basis that the way was indeed a bridleway.

F.3. The evidence for bridleway status further east, from Thornton Lane to Betteshanger (G–M) is more confusing. There is convincing evidence of existence and status leading up to the first half of the nineteenth century. In the middle of that century, it is apparent that landowners sought to undermine the status of this part of Black Lane, perhaps inspired by a rapid diminution in use following the decline of Deal as a naval port and the improvement of alternative routes (such as Thornton Road) as metalled roads suitable for carriages. Black Lane east of the Dover Road (L–M) was obliterated by woodland planting. Its status was diminished (but not entirely suppressed) in various proposals for railways crossing its course between G and H.

F.4. Yet the evidence of status preceding these late nineteenth century sources cannot be displaced by later equivocal attempts to suppress that status. The evidence demonstrates that Black Lane was and remains an integral means of communication on foot and on horseback from east to west (and *vice versa*) across the East Kent downs: if the evidence of status of A–G is overwhelming, that status must infect the entirety of the order route. Moreover, the evidence shows that Black Lane has always been described as a continuous way between Knowlton (and places further west) and Betteshanger and Deal, such that its termination at G on a lonely country lane, with no realistic onwards route to Betteshanger or Deal save a lengthy and awkward detour to north or south, is not credible.

F.5. It is therefore submitted that the order route is a public bridleway throughout.

G. Background and analysis

G.1. The order route is known as Black Lane in its entirety⁴, and is part of a historic way between Canterbury and Deal. At least from mediæval times, and perhaps from Roman, Deal was a significant Channel port. It did not possess the safe harbour of Dover and

3 It is understood that the incised way between B and C was filled in during the post-war period (personal communication from landowner).

4 The way is labelled as such on the Ordnance Survey County Series first edition map surveyed around 1871, save L–M, which had been obliterated by this time.

other Channel ports, but it was protected from heavy seas in strong prevailing winds by the Goodwin Sands (the part of the Channel in the lee of the Goodwin Sands is known as ‘the Downs’), and the town established an important role as an anchorage for trading and naval vessels, and as a place where minor repairs could be effected, provisions taken on board, and passengers could embark for, and disembark from, journeys to the continent and elsewhere. It follows that there was a significant demand for travel inland to and from Deal, and particularly travel via Canterbury to and from London.⁵

G.2. Black Lane is clearly of indeterminate but significant age. Some sources represent it as a route of some substance. Much of the order route, notably between D and east of G, is significantly sunken below the level of the surrounding land, in an undulating chalk landscape area where deeply incised ways can form only over many hundreds of years, which is suggestive of use over a very substantial period of time. A mediæval settlement may have existed between E and F (in the Heronden valley) known as Woghope or Woodhope⁶ — there is now no trace. Part of the route is coincident with a parish boundary, and most of the route west of G lies along long-established field boundaries. Between G and H, the route is itself a well-defined boundary between adjacent fields. Black Lane cannot therefore be recent in origin: although it is not represented on the earliest published maps of Kent, those maps are highly selective in what is represented, and the physical evidence of long-established use demonstrates that it must have subsisted contemporary with such maps.

G.3. In a paper for the *Archaeologia Cantiana*⁷ entitled *Old Roads in East Kent and Thanet*⁸, the author, George P Walker, writes somewhat speculatively that:

‘There can be little doubt that most of these [pilgrims’] roads were in existence at the time of Julius Cæsar’s invasion in 54 B.C., and that, on his way to Barham Downs, he would most likely make use of the one that started from the Strand at Deal, passed through Upper Deal, Knowlton, Goodnestone and Adisham on its way to Canterbury. Parts of this road can be traced to this day.’

G.4. The earliest available mapping, dating from the late seventeenth century and eighteenth century, presents a more ambiguous position. Broadly, maps of this era show a way from Canterbury to Deal which cleaves to one of three identifiable routes.

G.5. The first, earliest and most primitive class of maps (‘class I’) shows no direct route between the respective city and town, but only the possibility of travel between Canterbury and Sandwich, then to pass close to the coast south to Deal: such a route is commended, for example, in the entry for London to Deal in *Paterson’s Roads* (see item VI.S below), which describes a route via Canterbury, Sandwich, Cottington⁹ and Deal.

G.6. The second class (‘class II’: presented in part V below) shows a direct if sinuous route between city and town: some of these appear to follow (for the major part) the course

5 *The Invader’s Shore (Deal)*, W P D Stebbing, 1937

6 *Memorials of the Royal Ville and parish of Eastry*, W F Shaw, p.66: www.ebooksread.com/authors-eng/w-f-william-francis-shaw/liber-estriae-or-memorials-of-the-royal-ville-and-parish-of-eastry-in-the-cou-hci.shtml, attributed to notes in the manuscript collection of William Boteler.

7 The journal of the Kent Archaeological Society.

8 [Vol.38, 1926, p.75–87.](#)

9 The only surviving element of the manor of Cottington appears to be Cottington Court Farm, on the main road between Deal and Sandwich about 1km northwest of Sholden.

of a stream or river, and in general, to the extent that these maps identify a genuine line of route, the way might be said to pass through Tilmanstone and to the south of Knowlton. In practice, the origins and characteristics of these early maps, not derived from detailed survey, cast considerable doubt on their correctness. Perhaps the best that can be said is that the cartographers wished to show that a more direct way was available between Canterbury and Deal than required travel via Sandwich.

G.7. The third class ('class III': see relevant maps in part VI below) shows a way between Canterbury and Deal which passes immediately to the north of Knowlton House or Knowlton Park, and continues east via Betteshanger. The class III way is presumably that envisaged by George P Walker as an ancient 'pilgrim's road'.

G.8. It is not difficult to trace the entire route between Canterbury and Deal, of which Black Lane forms part. It is shown on the first published Ordnance Survey map, the Mudge-Faden one-inch map of Kent (item VI.N below). It is reproduced below in the half-inch map, published in 1807, showing a broader context of East Kent¹⁰, in which that route is presented as a main road with a thickened casing on one side and coloured salmon in the reproduction (a larger copy is at Annexe C at p.140 below).

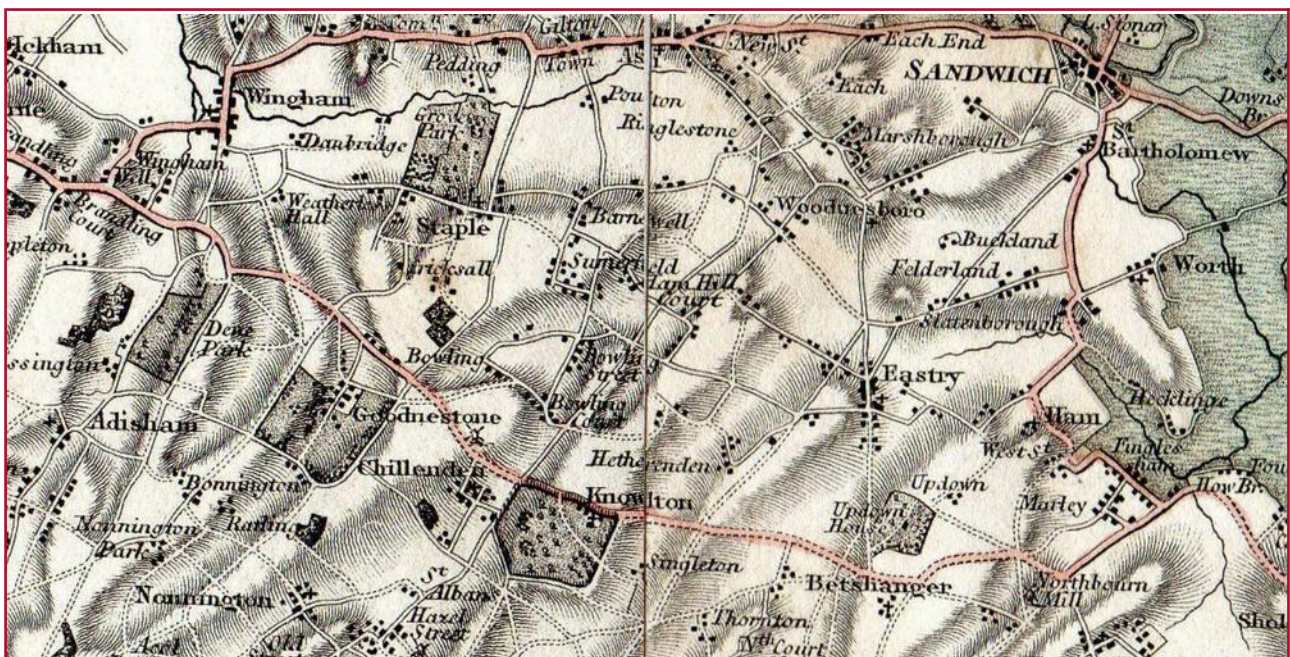


Illustration ii: Mudge-Faden half-inch map of Kent

G.9. The route follows the Roman road east out of Canterbury, through Littlebourne, to Wingham Well¹¹, along Wingham Well Lane, descending Neavy Downs to cross the Adisham Road, along Crockshard Lane and up Crockshard Hill past Crockshard Farm, along Goodnestone Road and Clay Lane past Claypits, then descending the downs north of Chillenden immediately past Chillenden mill (on an alignment to the northeast of the present road, and which has been lost), crossing Sandwich Road immediately opposite the junction with Knowlton Lane (this part being briefly recorded as footpath EE276), continuing along Knowlton Lane through Knowlton and along Black Lane to Betteshanger,

¹⁰ Mernick.org.uk Collectors' Circle (copyright in public domain).

¹¹ The present A257 northeast from Bramling to Wingham is the product of a nineteenth century road improvement: the road from Canterbury to Wingham formerly passed through Wingham Well and along Mill Road.

then east of Betteshanger along the old road (diverted to the present Straight Mile in the nineteenth century) to the Broad Lane and Northbourne Road crossroads north of Northbourne. From here, the way followed Broad Lane over How Bridge, to continue southeast along Bridge Hill and what is now the main road to Sholden and Deal (but which was not laid out as a main road north of Bridge Hill until 1797, when the road was turnpiked). It will be seen that, while much of this route remains part of the public road network today, a significant part from near Chillenden mill to near Little Betteshanger is now unrecorded or under-recorded as public highways.

G.10. Many early maps were largely the product of plagiarism, and derived from contemporary sources. So it may be that most of the maps identified in Class I and Class II maps (see part V below) derive from a handful of (or fewer) original surveys of various dates. It is hard to reconcile the several maps of the eighteenth century which show a Class II route between Canterbury and Deal, with the numerous sources from the turn of the eighteenth century and early years of the nineteenth century which show a Class III route — and indeed, which suggest that the Class III route had primacy and that no line consistent with the Class II route existed. Any account of these differences is, on the evidence available, a matter of speculation pending authoritative historical research. It is clear that Black Lane continued to be used as a public way through the nineteenth century, even if Thornton Road, now maintained to a higher standard suitable for carriages, became the preferred route — particularly as the use of horse-drawn vehicles increased during this period¹². For some journeys, Black Lane would have remained more direct, even if the surface was inferior and more acutely graded.

G.11. Regardless of the history, the general (but not invariable) position is that maps, insofar as they show Black Lane at all, tend to show a route which is already in decline, and one which may have been eclipsed, probably during the first half of the nineteenth century, by alternative routes. One possible explanation for the decline can be found in the parallel decline of Deal following the close of the Napoleonic Wars. Deal had expanded steadily during the seventeenth and eighteenth centuries, owing to its importance as a naval station, and serviced an ever-increasing tonnage of vessels, both naval and merchant, navigating the Downs. During the Napoleonic Wars between 1793 and 1815, the town was busy victualling naval shipping and accommodating naval and military officers. In 1795–96, a signal telegraph was commissioned by the Admiralty between Deal and London, with a semaphore hut in Betteshanger. The population of Deal increased by 35% between 1801 and 1811. Between 300 and 400 sailing craft could be at anchor in the Downs at any one time. But after the close of the Napoleonic Wars in 1815, Deal fell into a decline, employment fell, and property prices collapsed. Demand for pilots diminished, pilotage services migrated to Dover, and landing privileges were withdrawn. Fewer vessels had need of anchorage in the Downs.¹³ By the time William Cobbett passed through in 1823, he wrote notoriously that: 'Deal is a most villainous place.'¹⁴

G.12. Pilots were accustomed to take on vessels at Deal, and to alight from them along the Thames estuary coast, typically at Gravesend. If necessary, if there were no hires

12 Planning Inspectorate: April 2016: www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines, para.6.14: 'It is generally accepted that longer distance use of horse drawn vehicles increased significantly during the late 18th and early 19th century. Some highways which had been adequate for hooped traffic were unsuitable for wheeled traffic and consequently fell into disuse.'

13 *Archaeologia Cantiana* Vol 84 1969 *Rise and decline: Dover and Deal in the C19*, John Whyman.

14 *Rural Rides*, Sept. 3rd to 6th, 1823: [From Dover to the Wen](#). Cobbett continues: 'It is full of filthy-looking people. Great desolation of abomination has been going on here; tremendous barracks, partly pulled down and partly tumbling down, and partly occupied by soldiers. Everything seems upon the perish.'

available in the opposite direction, the journey back to Deal might be made by land, through Canterbury and along Black Lane. But the falling away of pilotage activity in Deal, and then the opening of the Minster to Deal railway in 1847, must have greatly diminished the use of Black Lane as part of a long-distance route between Canterbury and Deal, while the sparsely populated countryside along the route would have generated little local traffic. Accordingly, traffic along Black Lane must have reduced substantially in the first part of the nineteenth century.

G.13. It seems that the decline in use was more than matched by the determination of nineteenth century local landowners to erase Black Lane as a historic way, at least east of Thornton Lane (G–M). A series of documents of that era seek to diminish its status, notwithstanding the strong evidence of its historic character. These commence with the Contracted map of principal roads in Eastry (item VI.AD below), dating from 1836, which records the application way between E and M as the ‘Supposed Road to Knowlton’ — yet five years later, the Knowlton tithe map recorded the same way as ‘From Betshanger’. In 1861, the plans for the Ramsgate Sandwich Deal and Dover Railway (item VI.AJ below) recorded the application way as an ‘Occupation Road’; in 1862–65 the several consecutive plans for the Dover, Deal and Sandwich Railway (item VI.AK below) recorded a ‘Road’ or ‘Occupation Road’, while in 1872 the Walmer, Deal and Adisham Railway (item VI.AP below) refers to an ‘Occupation Road’ in the book of reference, but the identification of a public road in the section has been subsequently erased. The Ordnance Survey County Series twenty-five inch 1st edition (item VI.AQ below) map, surveyed in 1872, shows no defined way east of the Dover Road between L and M, and woodland planted across the way immediately west of M. Were there no evidence of the historic existence of the way prior to the middle of the nineteenth century, these documents would tend to suggest that no public way existed east of Thornton Lane at G.

G.14. And yet there is sufficient evidence that Black Lane remained in public use in some form into the twentieth century, and indeed, that part of it, between E and G, was recorded as a public footpath on the post-war definitive map and statement (and that the omission of the part between A and E appears attributable to some administrative confusion: see para.I.1 below).

G.15. The evidence for the existence of public rights over the way G–M relies partly on the depiction of the way on historic maps. However, apart from a slight dog leg between I and J, the course of Black Lane is a direct and continuous way between A and M and indeed, is today a public road beyond points A (heading west) and M (heading east). The evidence for the status of the way between A and G is unassailable, and it is inevitable that if this part of the way is a bridleway, then the whole of the route must be of at least the same status. It is inconceivable that all users of Black Lane, heading due east from Chillenden, would have turned off south or north along Thornton Lane, or along Venson Bottom, with none continuing east towards Betteshanger and Deal, for the character of the way on historical maps is that Black Lane was at one time a significant and direct through route. Indeed, the only possible reason for using Black Lane to reach Eastry (via Thornton Lane or Venson Bottom) as opposed to continuing on to Betteshanger and Deal, is for transit on horseback from Knowlton village itself, for Heronden Road provides a more direct route from Chillenden and places further west. Yet Knowlton has always been little more than a hamlet, and hardly capable of accounting for such a physically well-established track.

G.16. Moreover, a series of historical documents (see table below) describe the application way as a way leading to Deal or Betteshanger, destinations which make sense only in the context of a way which leads east from Knowlton direct to Betteshanger.

Item	Ref. (Pt.VI)	Date	Labels employed
Eastry Court estate map	B	1728	To Betshanger, To Knowlton
Boteler archive	H	1790–92	Bridleway to Knowlton
The History and Topographical Survey of the County of Kent	M	1800	bridle-way to Eastry and Deal
Cary's Itinerary	X	1821	Canterbury...to Deal avoiding Sandwich, [via] Goodneston, Knowlton and How Bridge
Upper Venson estate plan	Y	1821	From Knowlton, To Betshanger
ZA. Pettman estate sale	VI.ZA	1828	the Bridle way leading from Betshanger to Knowlton
Knowlton parish terrier	AC	1833	bridle road leading from the Church to Deal
Contracted map of principal roads in Eastry	AD	1836	Supposed Road to Knowlton
Knowlton tithe map	AF	1840–41	From Betshanger
Knowlton Ordnance Survey boundary records	AM	1866–69	From Betshanger
Order of exchange (glebe land)	AO	1870	to Betshanger
Eastry Rural District Council surveyor's reports	AV	1900, 1913	Bridle Path to Betteshanger; Bridle Rd from Betteshanger to Knowlton
Application for order under the Electricity Supply Acts 1882 to 1922	AW	1923	the road leading from Thornton Road to Knowlton

In *Commission for New Towns & Anor v JJ Gallagher Ltd*, Neuberger J (as he was then) accepted the evidence of two expert witnesses:

‘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.’¹⁵

15 At para.90: www.bailii.org/ew/cases/EWHC/Ch/2002/2668.html

It is submitted that such a designation in relation to a bridle road is of equal probative value.

G.17. Thus whatever was done in the second half of the nineteenth century to diminish the status of Black Lane, its status as a bridleway endures because:

- first, the evidence of status from the eighteenth century onwards is sufficiently convincing that subsequent documents, themselves of uncertain credibility, cannot displace a finding that the way was and remains a public bridleway;
- secondly, Black Lane is credible only as a continuous way across East Kent, providing a means of travelling from Canterbury to Deal;
- thirdly, there is abundant evidence that Black Lane was always regarded as a continuous way from Knowlton and beyond, east towards Betteshanger and Deal, because that is how it was described, and how it continued to be described even into the twentieth century when it had ceased to fulfil that description in practice.

G.18. The importance of the historical maps is more than the mere representation of Black Lane as a physical feature: the maps demonstrate that Black Lane was regarded as one of a handful of options for travellers between Canterbury and Deal, and by some mapmakers as the pre-eminent such route. It follows that the status of Black Lane as a public way cannot be in doubt, because no reliable mapmaker, still less a generation of mapmakers over a century or more, would present Black Lane as a through route if it were not regarded as a public way. Moreover, as those who were most likely to buy such maps would travel on horseback or by carriage, it is safe to conclude that the way is at least of bridleway status.

H. Private rights

H.1. The existence of Black Lane as an ancient feature of the landscape is beyond doubt. Black Lane is part of a long-distance route which traverses, among others, the parishes of Goodnestone, Chillenden, Knowlton, Eastry and Betteshanger¹⁶, across sparsely populated countryside. Historical records suggest that the land in each parish has traditionally been in separate estates and ownerships.

H.2. A private way must be attributable to either:

- private ownership, such that the way is owned by a specific landowner who has exclusive control of the way, and who uses the way either for the private purposes of the landowner, or for the landowners' tenants, employees or others — an example is a carriage drive across a park, where both the drive and park are owned by the landowner, and the carriage drive provides a means of access to the principle house of the landowner;
- private right of way (or easement), such that the way is owned by A (A is the owner of the 'servient tenement': in this case the land crossed by the way), but B has a private right of way along it to provide a means of access to B's own land (B is the owner of the 'dominant tenement') — an example is a track from a public road across a field to a cottage, where A owns the field and the track across it, but B has a right of way along the track as a necessary means of access to the cottage.

16 The parishes of Chillenden and Knowlton were absorbed into Knowlton, and the parish of Betteshanger into Northbourne, in the first half of the twentieth century.

H.3. Neither context is remotely likely in relation to Black Lane. The lane traverses land in several separate ownerships, and it appears that it has done so since the mediæval period, when the land was formerly church land. There are no plausible circumstances which could give rise to Black Lane having been established as a private right of way: Black Lane is physically a through route, with terminations on other public roads (and crossing public roads), and there is no evidence of any significant habitation along or near its alignment which could give rise to a private right of way: the way is too well-defined, too long, and the land traversed lacking in patterns of land use likely to give rise to such private rights.

I. Public footpath EE261

I.1. The application way between E and G is recorded on the definitive map and statement as public footpath (Eastry) EE261. The following explanation of the omission of the route between A and E has been given by a council officer in an email dated 6 January 2014:

‘I’ve had a look at the gap at Black Lane and it appears that there was some confusion in the early 1950s as to the extent of the public highway (see attached). Goodnestone Parish Council identified the whole route from Knowlton to Thornton Lane as a public path, but a pencilled annotation on the statement suggests that someone thought the whole length was an unclassified road. The Draft Map for Goodnestone Parish shows the length of Black Lane as a public highway but with a pencilled annotation marking the end of the road as being by the church. The extent of the road at that time is confirmed by the 1953 Highway Inspector’s map but for some reason the length of path between the road and the parish boundary never made it onto the original Definitive Map (relevant date 1952), although the section of the route in Eastry parish did make it on as FP EE261. It seems likely that the missing section should be recorded on the Definitive Map, but you would need to make a s53 application so that the matter can be more fully investigated (application pack attached).’

J. Grounds for confirmation of order

J.1. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another*¹⁷, 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

17 [2012] EWCA Civ 334

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”

J.2. While no single piece of evidence in this application is conclusive, the applicant believes that, taken as a whole, the evidence in this statement of case demonstrates highway reputation over many years, indicating that the route does indeed have highway status, and that the correct status is as bridleway.

K. Points awarded

K.1. Points have been awarded to each piece of evidence in relation to the application way, calculated according to the guidance in *Rights of Way: Restoring the Record*¹⁸. No points have been awarded in relation to evidence of the part of the application route between E and G which is recorded on the definitive map and statement as a public footpath, insofar as the evidence supports only a public footpath.

K.2. The summary table of points below is intended to provide a guide to those evidential items which are considered to be most significant in supporting confirmation of the order.

K.3. **Points** (In the following table, a blank entry indicates zero points):

Item	Ref. (Pt.VI)	Points A–G	Points G–I	Points J–M
Knowlton Court ye Seat of St Thomas D’Aeth Bart & Dame Elizabeth his Wife	A			
Eastry Court estate map	B	2	4	4
A Topographical Map of the County of Kent	C			
An accurate map of the county of Kent	D			
Parochial map of the Canterbury diocese	E	1	1	1
Cary’s New and Correct English Atlas	F			
Updown Park diversion order	G			5
Boteler archive	H	2		
Mr Boys’ Agricultural Account of Kent	I			
The History of London, and its environs	J			
Ordnance Survey, one inch surveyor’s drawing, Canterbury (East)	K	1	1	1
Barlow-Hasted map of Kent	L	1	1	1
The History and Topographical Survey of the County of Kent	M	3	1	1
Mudge-Faden one-inch map of Kent	N	2	2	2
Guide to Watering and Sea-bathing places	O			

¹⁸ Sarah Bucks and Phil Wadey, 2nd ed. 2017.

Laurie & Whittle's new and improved English atlas	P	1	1	1
Ordnance Survey, Mudge-Faden half-inch map of Kent	Q			
The British Atlas	R			
Paterson's Roads — Thanet and Kent and Sussex Coast	S			
Beating the bounds: Eastry	T			
Ordnance Survey, Old Series one-inch map of Kent	U	1	1	1
Greenwood's map of Kent	V			
New County Atlas	W			
Cary's Itinerary	X	2	2	2
Upper Venson estate plan	Y	3	3	1
Leigh's new Pocket Road-Book	Z			
Pettman estate sale	ZA	1	3	1
The picturesque beauties of Great Britain	AA			
Moule's The English Counties delineated	AB			
Knowlton parish terrier	AC	2	1	1
Contracted map of principal roads in Eastry	AD			
Eastry tithe surveyor's field books	AE	2		
Knowlton tithe map	AF	3	1	1
Eastry tithe map	AG	2	2	1
Plan of estates in Eastry and Worth	AH			
Dugdale's Curiosities of Great Britain	AI			
Ramsgate Sandwich Deal and Dover Railway	AJ			
Dover, Deal and Sandwich Railway	AK			
Field sketch map	AL			
Knowlton Ordnance Survey boundary records	AM	3		
The National Gazetteer of Great Britain and Ireland	AN			
Order of exchange (glebe land)	AO	3	1	1
Walmer, Deal and Adisham Railway	AP			
Ordnance Survey County Series twenty-five inch 1st edition	AQ			
Boundary Commission map	AR			
Bartholomew's map	ARA			

Ordnance Survey County Series twenty-five inch 3rd edition	AS			
East Kent mineral light railway	AT			
Finance (1909–1910) Act 1910	AU	5		
Eastry Rural District Council surveyor's reports	AV	3	1	1
Application for order under the Electricity Supply Acts 1882 to 1922	AW	1		
Knowlton estate sale	AX			
Total		44	26	26

II. Objections to the order by third parties

A. Introduction

A.1. Objections have been made to the surveying authority by several persons owning land along Black Lane. This part addresses those objections so far as they have been disclosed to date, in response to the surveying authority's proposal to make the order now submitted to the Secretary of State for confirmation.

A.2. We do not respond to any representation which is not material to confirmation of the order.

B. ET Landnet Ltd

B.1. Michael Wood of ET Landnet responded on behalf of Mr and Mrs Fox-Pitt and Mr Ledger.

'The Applicant acknowledges that the evidence he has adduced is not always consistent and that it paints a picture of a declining importance for the route in the nineteenth century. His assessment that prior thereto the route was a significant route within the highway network rests mainly on a supposition of its physical location with regard to Deal and the role Deal played in maritime history. Whilst interesting, this is not evidence that the route was thereby a public road.'

B.2. We agree that the evidence is not always consistent. However, the assessment of Black Lane's importance in earlier times relies on the evidence and not on supposition. The narrative about Deal is merely one explanation for the possible *decline* of importance of Black Lane — not its significance.

'The historical, physical, existence of the route or parts of the route are depicted in a number of maps, and the Applicant fairly acknowledges that despite it appearing on a series of private maps, the extent of plagiarism could well mean that this "evidence" is based on a limited number of actual surveys. It is clear (and the Applicant accepts this) that there is inconsistency in the way in which the claimed route is dealt with over more than two centuries of mapping.'

B.3. We agree that plagiarism or trade in copyright may account for the similarity of some maps. However, there is abundant evidence that Black Lane was a through route (in some cases, the dominant route), shown as such on maps of impeccable credentials.

'The scoring system for each individual piece of evidence may enable a uniform approach to be taken to the assessment of a particular document out of context but the evidence must be taken together and considered as a whole. Accordingly, evidence that does not support the existence of a public road carries equal weight when considered against evidence that may be supportive of that status.'

B.4. We agree: the evidence must be taken together and considered as a whole (see section I.J above). However, as we explain at para.I.G.17 above, later evidence which

does not support public status cannot displace convincing earlier evidence of such status, particularly where it is apparent that the later evidence itself is inconsistent, and may be explained by a revisionist campaign to deny the existence of a right of way.

'None of the evidence is conclusive. Given the context in which the Applicant sets his case, namely that the route must have formed part of a vital highway network providing a key connection to Deal, one would have expected much greater consistency in the way the route was treated and mapped. One might also have expected that the maps which carry annotations to explain the destination of the claimed route where it is heading west from Eastry would be other than "Knowlton" which the Applicant notes had little significance in terms of population. The inconsistencies in the depiction of the route and the descriptions ascribed to it (where they are made) go to the key issues of whether the route was or was not public and whether if public, the route was a road or a bridleway. The evidence does not depict or describe the route in a manner where it could be said that public status was reasonably inferred. There is also inconsistency in the depiction of the existence of a through route which would be essential if the way was a public highway. To some extent, the inconsistency is also highlighted by the Applicant's request to the County Council to add the route as a restricted byway, requiring as it does a finding that public vehicular rights can be shown, countered by his request in the alternative that they find the route to be a bridleway.'

B.5. We disagree. The evidence for bridleway status between A and G is overwhelming, and between G and M is convincing. Moreover, the evidence is consistently supportive of the existence of a right of way until the middle of the nineteenth century, when some — but only some — evidence of status of Black Lane between G and M is suggestive that it may be no more than an occupation road. However, we show that this later evidence is not only inconsistent and contrary to the convincing evidence of earlier date, but that it adopts a pattern which is suggestive that contemporary landowners sought to deny the existence of a well-established right of way.

B.6. That the destination of Black Lane heading west (not from Eastry, as suggested, but from Betteshanger) might be stated as 'Knowlton' simply reflects that the village is the first named place encountered in that direction.

'The telling analysis of the Applicant's case is how he views the evidence which does not support his claim for public status (either for a restricted byway or a bridleway). Where that is the case, his approach is to challenge the competency of those compiling the record, particularly for the nineteenth century railway map evidence. In contrast, he overplays the depiction on some documents such as the Tithe Map despite the neighbouring maps appearing to be in conflict. The reality is that errors could have been made by anyone in any gathering of evidence and the subsequent depiction of that information in graphic format.'

B.7. The evidence, taken as a whole, is manifestly irreconcilable: the application way cannot both be a bridleway (as to which there is abundant evidence from the eighteenth and nineteenth centuries) and a private occupation road with no public rights (which is a legitimate inference from some of the railway evidence when taken in isolation at face value). Thus it is inevitable that some of the evidence is wrong, misleading or mistaken.

This statement of case attempts to provide an explanation for the inconsistency. It may not be the only plausible explanation, but no better has been offered by any objector.

B.8. However, we do say that the attribution to the application way of public status is supported by such weighty evidence — enduring from the Eastry Court estate map of 1728 (item VI.B below) to the botched completion of the definitive maps and statements for Eastry and Goodnestone in the early 1950s (explained at item I.I above) — that the railway and limited other evidence, apparently to the contrary, must be discounted as wrong, and that these evidential sources contain elements which call into question their correctness.

B.9. While ‘errors could have been made by anyone in any gathering of evidence and the subsequent depiction of that information in graphic format’, it is not credible that such errors were perpetuated in many different evidential sources, both written and graphical, over a century or more, including many which were prepared by persons of local provenance.

‘The strongest evidence (in terms of the “scoring system”) relied upon by the Applicant is that from the Finance Act 1909/10 records and his assertion that the uncoloured nature of part of the route identifies it as a white road and hence a public vehicular highway. However as is apparent from the extracts of the valuation plans, a number of hereditaments abut the claimed route and it is equally plausible that the route was no more than an occupation road to provide access for different owners/occupiers of land, none of whom claimed ownership and which, as a consequence of being in use by several different owners/occupiers, was deemed to have no value attributable to any individual.’

B.10. We do not consider that the evidence from the Finance (1909–1910) Act 1910 (item VI.AU below) is the strongest evidence in support of the order. Notwithstanding its score of five points, there is much from an earlier period that, taken together, provides much greater assurance of status. As to the alternative inference that the Finance Act maps show only an occupation road, there is no evidence of such shared, private rights until the questionable evidence of the railway plans in the late nineteenth century, whereas there is abundant evidence of public bridleway rights. Moreover, we concede that the evidence of vehicular use of the application way is insufficient to sustain a claim for a restricted byway, and it is unlikely that the way was nevertheless a private occupation road. It is highly unlikely that it was a private bridleway (see Private rights at item I.H above).

‘A section of the claimed route is already recorded as a public footpath, and a modification in the terms sought would require a determination that the evidence as a whole proves on a balance of probabilities that the higher right of way exists. Essentially in determining the “exists on a balance of probabilities test”, much of the evidence is neutral. Much of it proves that there was a physical route (in whole or in part), but most of the evidence was not produced through a public process intended to establish or record the highway status of tracks. In order to support public status for the route, the evidence requires creative interpretation (“a leap of faith”) and the determination cannot be based upon this but solely upon the evidence.’

B.11. The balance of probabilities test — that the order should be confirmed if, on the balance of probabilities, a bridleway is shown to exist as recorded in the order — applies to

the order route as a whole.¹⁹ But most of the evidence is not neutral, While some of the evidence (such as some early mapping) does indeed do no more than confirm the existence of a physical route, even so, we say that a way consistently shown on a generation of maps — in some cases as a pre-eminent route — over a considerable distance was likely to be public and not private.

B.12. No ‘creative interpretation’ is involved in reaching a conclusion that a right of way exists: on the contrary, we say that it is the only legitimate conclusion which may be drawn from the evidence.

C. Heronden Farm

C.1. Simon Roscoe responded on behalf of Betty Hogben for Heronden Farm.

‘Mr Roscoe concludes that the footpath has not been used for a considerable time and is merely historic.’

C.2. We agree (save that the way is not a footpath).

¹⁹ The objectors’ representative’s comment was made in the context of representations to Kent County Council against the making of the order, and is not relevant to confirmation of the order.

III. Objection by the society to order

A. Introduction and summary

A.1. Objection is made by the society to the order in respect of four elements: two in relation to the precise alignment at points F and M, one in respect of width, and one in respect of limitations.

A.2. The society seeks that the order alignment requires adjustment at the crossing of the former East Kent Light Railway (point F on the order map) and between the Dover Road and Straight Mile (between points L and M).

A.3. It also seeks that the width of the order way between G and M should be recorded as three metres. And it asks that the order is modified to include known limitations, but otherwise should provide that there are no others.

B. East Kent Light Railway crossing

B.1. Line 1 of the East Kent Light Railway was planned to cross Black Lane between Knowlton and Thornton Lane. The deposited plan and book of reference described Black Lane as a 'footpath' vested in the Eastry parish council (see item VI.AT below).

B.2. The line was authorised by the Board of Trade in the East Kent Mineral (Light) Railways Order 1911, made under the Light Railways Act 1896. Under art.3(1) of the Order, certain provisions of the Railways Clauses Consolidation Act 1845 were incorporated in the order, but, *inter alia*, ss.46 to 48 and 59 were excluded.

B.3. Article 23(1) empowered the railway company to carry the railway across any public highway (other than those expressly addressed in arts.21 and 22) on the level.

B.4. Section 16 of the Railways Clauses Consolidation Act 1845, incorporated by art.3(1) of the 1911 Order, empowered the railway company, 'for the purpose of constructing the railway, or the accommodation works connected therewith', to:

'...divert or alter, as well temporarily as permanently, the course of...roads, streets, or ways, or raise or sink the level or any...roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper'.

B.5. Section 53 of the 1845 Act provides that:

'If...it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad, or railway, either public or private, so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expence maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.'

B.6. Soon after construction, the surveyor to Eastry Rural District Council reported to the council on 22 July 1913 (see item VI.AV below) that,

'The Bridle Rd from Betteshanger to Knowlton is obstructed with high embankment of Chalk: Mr Wilks [the representative of the railway proprietors] suggests that this should be diverted a few yards towards Eastry and over the line where the embankment is not so high.'

The report book is annotated that this proposal was 'approved subject to diversion being satisfactory'.

B.7. Accordingly, it appears that the railway company employed its powers under ss.16 and 53 of the 1845 Act (as incorporated) to make a small diversion of Black Lane in order to cross the railway embankment. It may be that the diverted route remains maintainable by the successor railway authority as provided for in s.3.

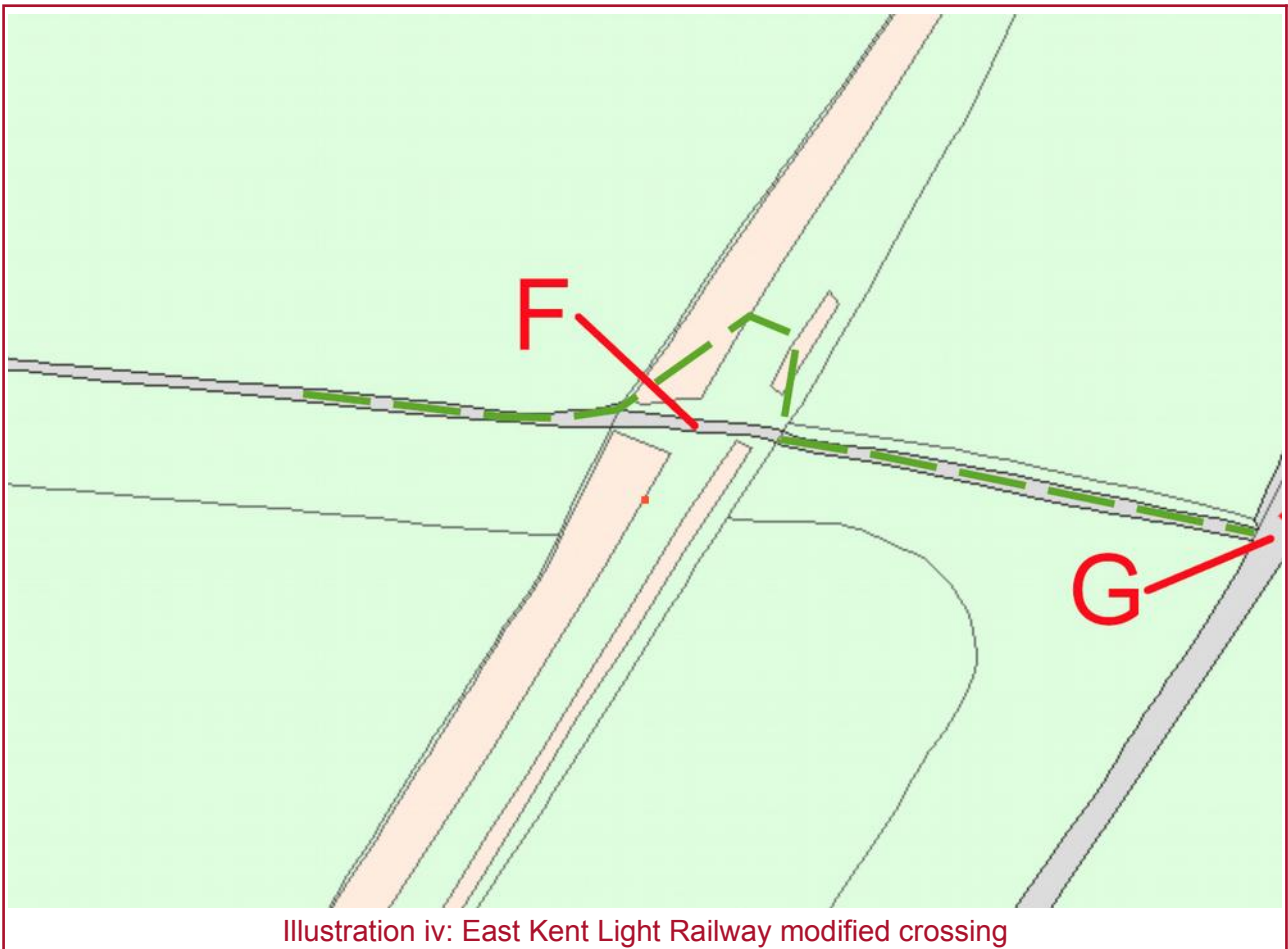
B.8. No map records the diverted route — the Ordnance Survey County Series 1:2,500 map of 1938 is an outline edition which does not show detail within the boundaries of the railway line.



Illustration iii: East Kent Light Railway, west side approach (looking north)

B.9. However, on site survey reveals what may be a more gradual ascent to the crossing on the approach from the west. This is considerably more accessible than the direct alignment visible in the photograph and shown on current large scale mapping, which is remarkably steep for mounted horses.

B.10. It is suggested that the crossing was relocated approximately 20 metres to the north, as shown on the map below (on a MasterMap base).



B.11. The relocation of the crossing being carried out in accordance with the powers conferred by ss.16 and 53 of the 1845 Act, it is submitted that the revised alignment has legal force, and the crossing identified on the definitive map and statement in respect of footpath EE261 is incorrect and requires modification.

C. Eastern termination (Betteshanger)

C.1. The eastern termination of Black Lane — that is, the point at which it merges with Straight Mile to continue east towards Betteshanger and Deal — is uncertain. Eighteenth and nineteenth century maps record different termination points. The Ordnance Survey County Series twenty-five inch 1st edition (item VI.AQ below) map does not show the way here, the course of the way having, by this date, been planted to woodland.

C.2. The photograph below shows (with a red arrow, with notice of the order visible above the bank) the point of termination (M) on Straight Mile between the Dover Road and Betteshanger identified in the order; the following photographs show (also with a red arrow) the sought altered point of termination (MX) approximately 40 metres further east along that road at its junction with Cater Road.

Order-identified point of termination at M



Illustration v

Alternative point of termination MX



Illustration vi

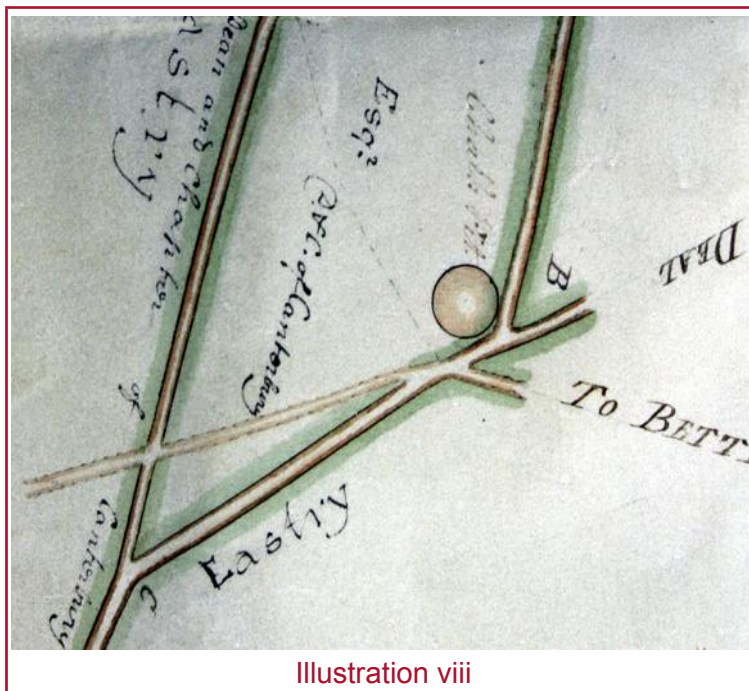
Relevant mapping

C.3. A small number of historical sources show the east end of Black Lane, and are of sufficient scale to attempt to identify its point of termination on the Straight Mile road between the Dover Road and Betteshanger. Extracts are reproduced below, with cross-reference to part VI below.

Eastry Court estate map 1728 (item VI.B)



Updown Park diversion order 1789 (item VI.G)



Ordnance Survey, Mudge-Faden one inch map of Kent c.1801 (item VI.N)



Illustration ix

Ordnance Survey, Old Series one inch map 1831 (item VI.U)



Illustration x

Greenwood's map of Kent 1819–20 (item VI.V)



Illustration xi

Contracted map of principal roads in Eastry 1836 (item VI.AD)

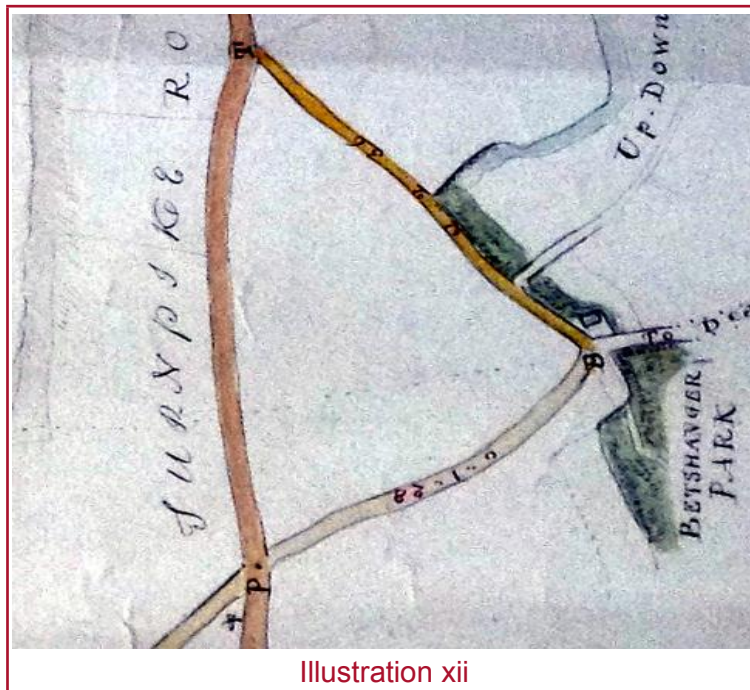


Illustration xii

Eastry tithe map 1841 (item VI.AG)

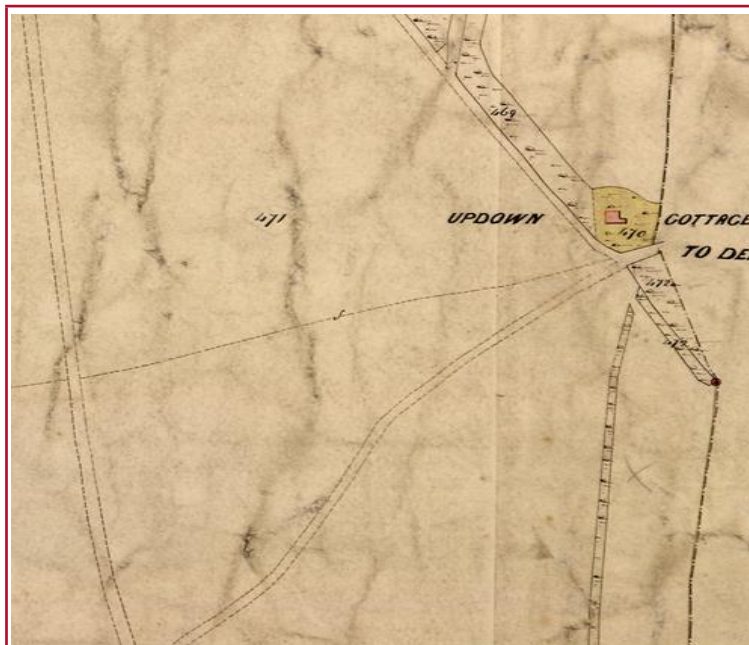


Illustration xiii

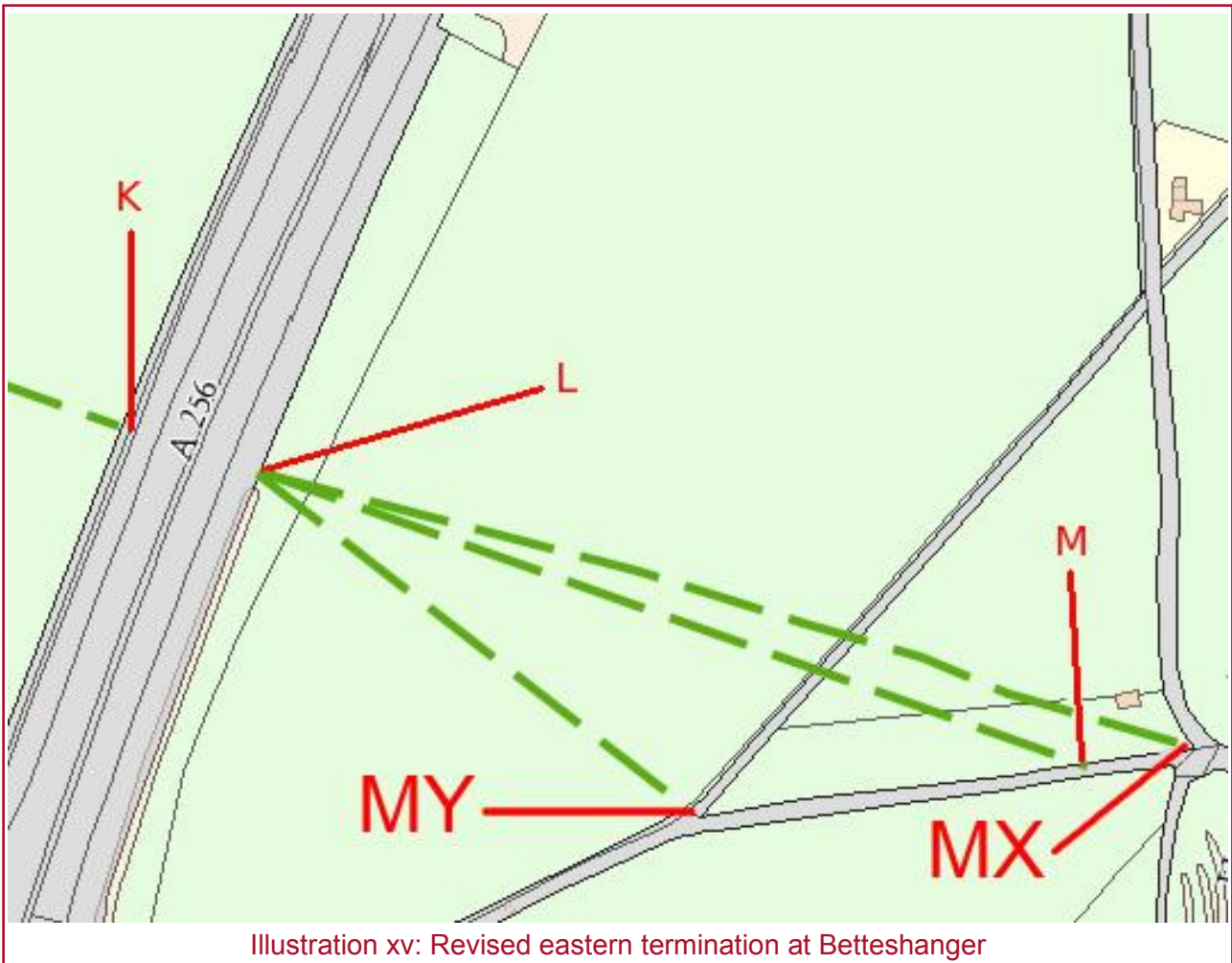
Plan of estates in Eastry and Worth mid-C19 (item VI.AH)



Illustration xiv

Analysis of maps

C.4. This analysis refers to the junction between Black Lane and Straight Mile identified in the order as M, to the junction between Cater Road and Straight Mile as MX, and to the junction between the diverted Updown Park road and Straight Mile as MY, as shown in the map extract below (on a MasterMap base).



C.5. Of these sources, the Eastry Court estate map of 1728 (Illustration vii) shows a junction significantly to the west of the present-day junction with Cater Road. However, comparison with the Updown Park diversion order (see paragraph following) suggests that the junction may be that shown, in approximately the same position, in the diversion order plan, with the former Updown Park road, subsequently diverted further west.

C.6. The Updown Park diversion order (Illustration viii) plan of 1789 clearly identifies the chalk pit now occupied by Trees Cottage, on the east side of the corner of Straight Mile and Cater Road. Cater Road is not marked, but a footpath is shown on a similar alignment. This map shows a junction approximately adjacent to, but west of, the chalk pit, approximately at the point at which the footpath joins the Straight Mile road, at or near MX. However, its reliability is rendered less certain by the spur, at the same junction, to the southeast, labelled to Betteshanger — no other map appears to show a way on this alignment.

C.7. The one-inch maps surveyed by the Ordnance Survey towards the end of the eighteenth century — the Mudge-Faden one-inch map of Kent (Illustration ix) published around 1801, the Ordnance Survey, Old Series one-inch map of Kent (Illustration x) here shown in a later state of 1831, as well as Greenwood’s map of Kent (Illustration xi) published in 1819–20, all show a junction well to the west, approximately half-way along the Straight Mile road between the Dover Road and Cater Road. These maps also show the new line of the Updown Park road diverted in 1789, which appears to join the Straight Mile road between the Dover Road and Betteshanger at the same place as Black Lane. They all

show an alignment for Black Lane which suggests that passage west from Betteshanger along Black Lane would have adopted a straight alignment, whereas passage along Thornton Road would have required a marked turn to the left. This suggests, today, a junction adjacent to the junction with the Updown Park diverted road at MY.

C.8. The Contracted map of principal roads in Eastry (Illustration xii) of 1836 and the Eastry tithe map of 1841 (Illustration xiii) both show Black Lane joining the Straight Mile road between the Dover Road and Betteshanger precisely at the junction with Cater Road, MX.

C.9. Finally, the Plan of estates in Eastry and Worth (Illustration xiv), thought to date from the mid-nineteenth century, adopts approximately the same plan as the Ordnance Survey one-inch maps, showing a junction approximately one-third of the way between M and the Dover Road, again probably at MY.

C.10. No later map shows the junction at a large scale, and neither the first nor any later edition of the Ordnance Survey County Series large scale 1:2,500 map shows the way east of the Dover road.

C.11. None of these maps is conclusive, and the variation between them is marked. The steep and unbroken bank along the north side of Straight Mile between MY and MX suggests that Black Lane has never formed a junction between these two points. This leaves the alternatives of MY and MX. The Ordnance Survey and Greenwood maps are broadly consistent in showing the junction in the vicinity of MY, and the Eastry Court estate map may be similar (but may alternatively agree with the Updown Park diversion order). On the other hand, the Eastry tithe map is carefully and accurately drawn (though not classified as 'first class') and to a large scale (3 chains to one inch: 1:2,376), and shows the junction precisely at MX. The Contracted map of principal roads in Eastry, though drawn to a smaller scale and possibly derived from the tithe map, and the Updown Park diversion order of 1789, both concur with it.

C.12. Therefore it is concluded that the tithe map should be relied upon, and a modification is sought so that the termination of the way is shown at MX, and the way forms a direct line between L and MX.

D. Width

D.1. The society objects to the provision in the order for the width of the way between G and M, viz, a width of 2.5 metres between G and M.

D.2. The width of the way is a matter of historical deemed dedication. It is a question of what width of way was used by historical users. There is no evidence of what width was used: no map shows the width of this part of the application way.

D.3. Planning Inspectorate guidance states that:

Circumstances, such as the nature of the surface and other physical features, may dictate what may be considered reasonable. In the absence of evidence to the contrary, Inspectors should ensure that the width recorded is sufficient to enable two users to pass comfortably, occasional pinch points excepted.²⁰

D.4. Deemed dedication is a legal fiction. It is used here to indicate that the owner has dedicated an adequate public bridleway. Adequacy goes to sufficient width (pinch points

20 [Widths on Orders](#), Advice Note 16, Planning Inspectorate, revised April 2016.

apart) for the public, safely and comfortably, to exercise the dedicated right of way, in each direction: the very definition of 'pass and repass'. A width of 2.5 metres is not a sufficient width for two horses to meet and pass safely and comfortably within the confines of the right of way, both on the ground, and in the airspace immediately above. Where a rider sits on a large saddle horse, with knees and feet in a normal riding position, the width across the toes can easily reach 1.2 metres. The width needed for two horses to squeeze past each other within the confines of a right of way is therefore around 2.5 metres. That is hardly 'passing comfortably' as per the DEFRA guidance, and indeed, no sane rider would expect to pass so close to another rider that their feet might clash — anymore than a motorist would aim to pass another vehicle on the road so that the wing mirrors would be knocked back (but noting that vehicles are inanimate objects, whereas two horses, passing so close, might be expected to react unpredictably).

D.5. That 2.5 metres is an atypical width is evidenced by the statutory requirement (so far as it goes) for bridle gates to have a five foot (about 1.5 metre) gap²¹ — sufficient clearance for *one rider at a time* to ride through without catching feet or saddle packs. We therefore submit that the order's intention to record a width of 2.5 metres makes for an unsafe and uncomfortable bridleway, and suggest that a width of 3.5 metres would be sufficient and proper, and likely to accord with historical use, being sufficient comfortably to pass two riders. In an open landscape, it is likely that a bridleway would have been at least of this width.

E. Limitations

E.1. The order records no limitations on the way. It is apparent that Black Lane generally was an unenclosed road across arable downland. Few if any gates were likely to be required for the purposes of agriculture.

E.2. The Ordnance Survey County Series twenty-five inch 1st edition (item VI.AQ below) County Series map does not clearly identify any gate across Black Lane. However, it is accepted that one may exist at E, where the detail, comprising trees, parish boundary, boundary stone and bench mark, is confused. In addition, no way is shown east of L, and therefore it is not possible to conclude, with any confidence, whether any gate was formerly maintained between L and M.

E.3. On the Ordnance Survey, twenty-five inch 2nd edition County Series map²², a gate is shown at E but not otherwise (and again, noting that no way is shown east of L).

E.4. On the Ordnance Survey County Series twenty-five inch 3rd edition (VI.AS below) County Series map, gates are shown at C and E. A gate is also shown at G2 (obscured by a bench mark) and two further gates between G and H.

E.5. On the Ordnance Survey, twenty-five inch 4th edition County Series map²³, gates are also shown either side of the East Kent Light Railway line at F, but only one gate between G and H.

21 S.145 of the Highways Act 1980.

22 Not reproduced in this statement of case, but available at: maps.nls.uk/os/25inch-england-and-wales/kent.html . See sheets Kent XLVIII/13 and 14 and LVIII/2.

23 Again, not reproduced in this statement of case, but available at: maps.nls.uk/os/25inch-england-and-wales/kent.html .

E.6. No other map is at a sufficient scale to indicate the presence of gates, save the tithe maps. However, the tithe maps were not concerned with the presence of gates, and cannot be relied upon for that purpose.

E.7. It is submitted that only the gate at E may fulfil a historical limitation, being sited at the boundary between two parishes, consistently present on successive County Series maps. No other gate consistently has been shown on all four editions of the County Series maps.

E.8. The society therefore requests that the order is modified to record a gate at E, and to record that no other limitations subsist.

IV. Along the way



Illustration xvi: Black Lane at Knowlton Church east from A



Illustration xvii: Black Lane east of E



Illustration xviii: Black Lane west of Thornton Lane at G



Illustration xix: Black Lane east of Thornton Lane (G)



Illustration xxi: Black Lane east from Venson Bottom (J)



Illustration xx: Black Lane looking east towards H

V. Class II maps

This part of the evidence features a number of small-scale maps of Kent which show road communications between Canterbury and the east coast of Kent according to class II identified in para.I.G.6 above. They depict a direct if sinuous route between city and town: some of these appear to follow (for the major part) the course of a stream or river, and in general, to the extent that these maps identify a genuine line of route, the way may be said to pass through Tilmanstone and to the south of Knowlton. None of these maps shows the way passing through Knowlton.

A. Kent Actually Survey'd and Delineated

A.1. **Date:** 1688

A.2. **Source:** British Library²⁴



Illustration xxii: Seller: Kent Actually Survey'd and Delineated

A.3. **Description:** This map is an updated reprint of John Seller's map of 1681. It is one of the earliest maps of Kent to depict a way between Canterbury and Deal, which purports to pass through Bekesbourne, Adisham, Ratling, Nonington, Holtstreet, Easole Street (both now settlements within Nonington along the Sandwich Road), Tilmanstone, Stoneheap, Great Mongeham and Upper Deal.

A.4. **Conclusion:** The depiction of the way on the map shows remarkable fidelity to the present day route from Ratling (note the dogleg along Ratling Road), Easole Street, Sandwich Road, Kelk Hill, and across the junction with Mill Top into Thornton Road. The route from Thornton Road to Tilmanstone is now less easy to identify, but from Tilmanstone it is likely to have continued along bridleway EE378 (prior to a diversion of 1884 this was the main road between these places) and footpath EE379 to pick up Willow Woods Road past Stoneheap into Great Mongeham. The cross road from north to south shown between Stoneheap and Great Mongeham may be Northbourne Lane/Stoneheap Road.

24 cc.5.a.67: copy available at www.oldkentmaps.co.uk/images/Kent/025-v.jpg .

A.5. The Canterbury to Deal way is shown on an alignment well to the south of Knowlton, which is depicted as an isolated village, and therefore the map does not appear to show the course of Black Lane. As a map showing very few roads, the map does not however preclude the existence of Black Lane.

A.6. **Points:** 0

B. Maps of the Counties of England and Wales

B.1. **Date:** 1695

B.2. **Source:** British Library²⁵



Illustration xxiii: Morden: Maps of the Counties of England and Wales

B.3. **Description:** This map by Robert Morden is very similar to the Seller map (item V.A above) in its depiction of the Canterbury to Deal way.

B.4. **Conclusion:** The same conclusion is drawn as for the Seller map: the Canterbury to Deal way is shown on an alignment well to the south of Knowlton, and therefore the map does not appear to show the course of Black Lane. As a map showing very few roads, the map does not however preclude the existence of Black Lane.

B.5. **Points:** 0

C. The New Description and State of England

C.1. **Date:** 1701

C.2. **Source:** British Library²⁶

25 7.tab.51: copies available at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/morden_ken_1695.html and www.oldkentmaps.co.uk/K-028-iii.htm .

26 579.d.28: copy available at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/morden_ken_1701.html .



Illustration xxiv: Morden: The New Description and State of England

C.3. **Description:** This widely published map, also by Robert Morden, is printed at a smaller scale than the 1695 map (item V.B above), and accordingly contains sparser information: in particular, many small villages are omitted. But the alignment of the Canterbury to Deal way, and of the north-south route (perhaps Northbourne Lane/Stoneheap Road), is similar, save that the route between Adisham and Easole Street now fulfils a more northerly alignment than is apparent on the 1695 map.

C.4. **Conclusion:** The same conclusion is drawn as for the Seller map (item V.A above) and the 1695 map (item V.B above): the Canterbury to Deal way is shown on an alignment well to the south of Knowlton, which on this map is not depicted, and therefore the map does not appear to show the course of Black Lane. As a map showing very few roads, the map does not however preclude the existence of Black Lane.

C.5. **Points:** 0

D. A New Description Of England and Wales

D.1. **Date:** 1724

D.2. **Source:** British Library²⁷

²⁷ k.top.16.20: copies available at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/moll_ken_1724.html and www.oldkentmaps.co.uk/K-035-i.htm.



Illustration xxv: Moll: A New Description Of England and Wales

D.3. **Description:** This map by Herman Moll is similar in presentation to the small scale Morden 1701 map (item V.C above). The north-south route (perhaps Northbourne Lane/ Stoneheap Road) has been omitted. The alignment of the way west of Tilmanstone adopts a more westerly than northerly direction consistent with the Morden 1695 map (item V.B above). The way is not shown continuously into Canterbury, and is shown as a light, single line, so that it better resembles a river than a highway: there is no key to explain this depiction.

D.4. **Conclusion:** The same conclusion is drawn as for the Seller map (item V.A above) and Morden maps: the Canterbury to Deal way is shown on an alignment well to the south of Knowlton, and therefore the map does not appear to show the course of Black Lane. As a map showing very few roads, the map does not however preclude the existence of Black Lane.

D.5. **Points:** 0

E. A collection of maps from the London Magazine

E.1. **Date:** 1749

E.2. **Source:** British Library²⁸

²⁸ c.24.d.20: copies available at:
freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/kitchin_ken_1760.htm and www.oldkentmaps.co.uk/K-041-i.htm .



Illustration xxvi: Kitchin: A collection of maps from the London Magazine

E.3. **Description:** This map, by Thomas Kitchin, is relatively small scale, and some small villages are omitted. It is similar to the Morden map (item V.C above), in terms of the alignment of the Canterbury to Deal way and of the intersecting north-south route (perhaps Northbourne Lane/Stoneheap Road). The map presents a key, which describes the Canterbury to Deal way as a cross road.

E.4. **Conclusion:** The same conclusion is drawn as for the preceding class II maps: the Canterbury to Deal way is shown on an alignment well to the south of Knowlton, which is not depicted, and therefore the map does not appear to show the course of Black Lane. As a map showing very few roads, the map does not however preclude the existence of Black Lane.

E.5. **Points:** 0

F. An Accurate Map of the County of Kent Divided into its Lathes

F.1. **Date:** 1751

F.2. **Source:** British Library²⁹

²⁹ c.10.d.18: copies available at www.oldkentmaps.co.uk/K-045-ii.htm .



Illustration xxvii: Bowen: An Accurate Map of the County of Kent

F.3. **Description:** This map by Emanuel Bowen is very similar to the Seller map (item V.A above) in its depiction of the Canterbury to Deal way. The accuracy of the map is called into question by the absurd inclusion of the course of a stream or river with a source in the vicinity of Bridgehill House near Adisham, and generally following but on the south side of the Canterbury to Deal way with an outlet to the sea in Deal — not only is there no such feature (the landscape being chalk downland with little or no surface drainage), but the watercourse and the parallel way cuts across the undulating landscape and does not follow a valley.

F.4. **Conclusion:** The same conclusion is drawn as for the Seller map: the Canterbury to Deal way is shown on an alignment somewhat to the south of Knowlton, and therefore the map does not appear to show the course of Black Lane. The reliability of the map is now considerably brought into question by the depiction of an impossible watercourse. As a map showing very few roads, the map does not preclude the existence of Black Lane.

F.5. **Points:** 0

VI. Primary evidence

This part presents the evidence which directly pertains to the existence and status of Black Lane. A list of contents may be found on p.1 above.

A. Knowlton Court ye Seat of St Thomas D'Aeth Bart & Dame Elizabeth his Wife

A.1. **Date:** 1719

A.2. **Source:** Engraving by Johannes Kip³⁰

30 Offered for sale by Peter Harrington Gallery: www.peterharrington.co.uk (downloaded 26 December 2015, now shown in thumbnail at www.peterharringtongallery.co.uk/knowlton-court-ye-seat-of-st-thomas-d-aeth-bart-dame-elizabeth-his-wife-57280.html), also now available at: mapwoman.com/product/harris-kip-knowlton-court/ .

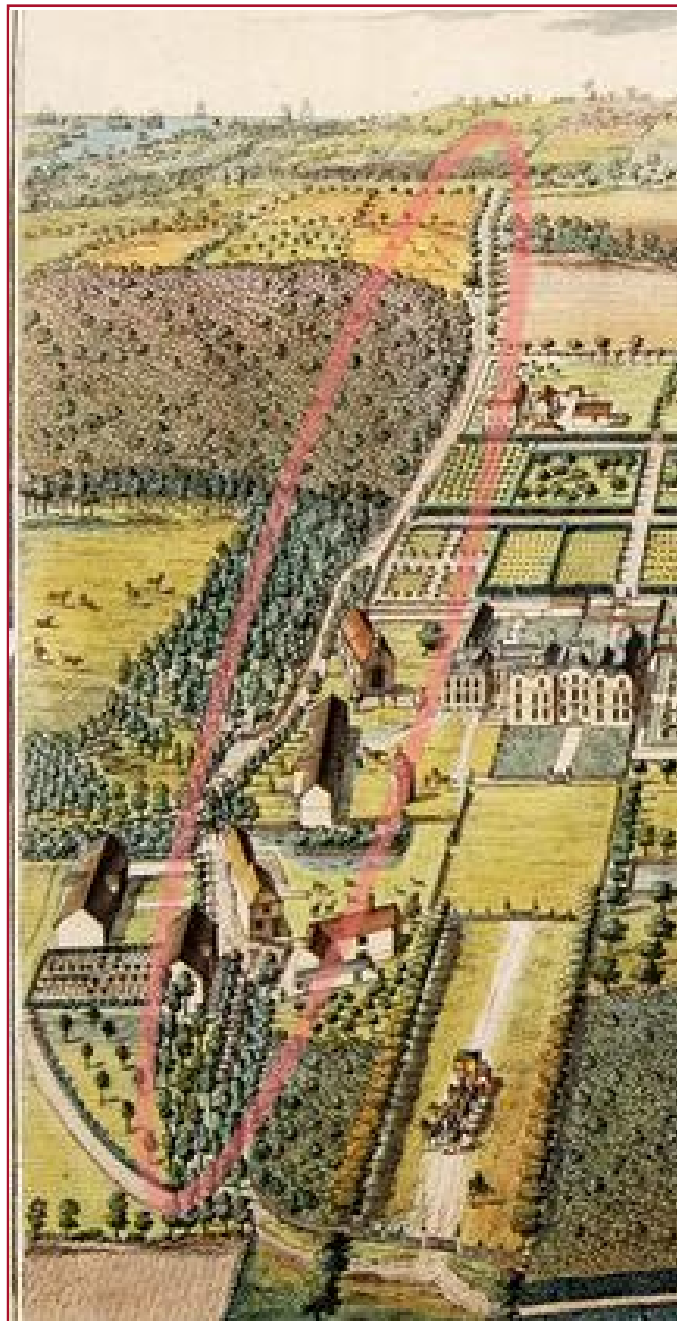


Illustration xxviii: Knowlton Court by Jan Kip

A.3. **Description:** A print from a copper engraving by Jan Kip, hand coloured, of Knowlton Court in 1719. Kip was a Dutch draftsman, engraver and print dealer. An extract is shown from the top left corner of the print, showing Knowlton Court itself, and Knowlton church to the left (*i.e.* north) of Knowlton Court. In turn, to the left of the church, leading up (east) out of the village, is a lane or road, passing to the right (south) of Home Wood, before continuing east along an avenue lined with trees on either side.

A.4. **Conclusion:** The road featured in the engraving is readily identifiable as Knowlton Lane in Knowlton village, leading into Black Lane past Home Wood and beyond towards Thornton Lane. The engraving demonstrates the existence in the early eighteenth century of a substantial road extending east beyond Knowlton Lane towards Thornton Lane, notwithstanding its absence from the contemporary small scale maps (presented in part V

above). That the road is shown lined with ornamental trees suggests a way of some substance that formed a notable feature of the estate.

A.5. **Points:** 0

B. Eastry Court estate map

B.1. **Date:** 1728

B.2. **Source:** Canterbury Cathedral Archives³¹

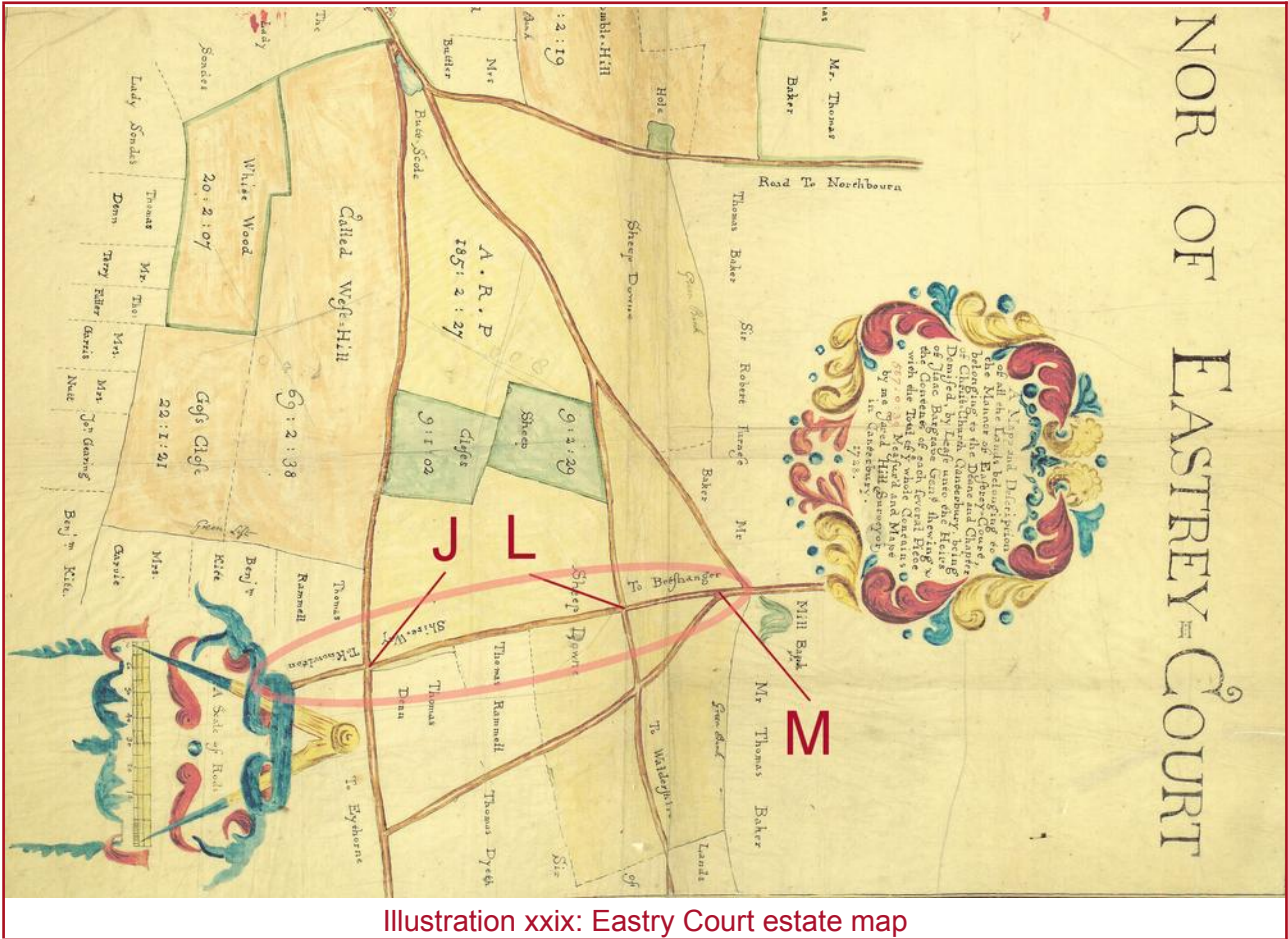


Illustration xxix: Eastry Court estate map

B.3. **Description:** Original scale: scale marked on map in rods; orientation: rotated 90° (top is north-northeast). A copy of the entire map is at Annexe A at p.136 below.

B.4. The map is described, in a cartouche, as:

'A Mapp and Description of all the Lands belonging to the Mannor of Eastrey-Court, belonging to the Deane and Chapter of Christ-Church Canterbury, being Demised, by Lease unto the Heirs of Isaac Bargrave Gen.^T shewing the Contents of each several Piece with the Total of the whole Contains 587:0:39³² Measur'd and Mapt by me Jared Hill Surveyor in Canterbury. 1728.'

31 CCA-U63/19308

32 237.65 ha

Jared Hill (1687–1745) is a fairly well-known estate surveyor (and member of a dynasty of land surveyors) who was active throughout most of south-east England and served as surveyor to Canterbury Cathedral between 1717 and 1736³³.

A second cartouche contains the following guidance:

'Note, the fence is known to what Land it Properly belongs by a Green stroke along by the black line, **Example**, you find will from **A** to **B** the Green stroke to be of the Pyke's side, **But** from **B** to **C** the Green stroke is of Mr. James Cabble side, **The** Dotted lines signifie Division without fence as mark stones.'

B.5. The estate of Eastry Court is shown as extending sufficiently far south of Eastry to include the lands in the parish of Eastry north of the application way. The application way is shown from slightly west of its intersection with Venson Bottom at I/J, east to its intersection with the Betteshanger Road at M, and is coloured sienna in common with other roads shown on the plan. Between L and M, the application way is labelled, 'To Bettshanger'. To the east of J, the way is labelled, 'Shire-Way', and to the west of I, 'To Knowlton'.

B.6. **Conclusion:** The estate map was prepared by a professional surveyor on behalf of the landowner (it is conceivable, but less likely, that the map was commissioned by the lessee). The map reasonably may be assumed to represent the disposition of the landowner. It shows the application way as road, and labels it 'Shire-Way': a shireway is a public bridleway³⁴. The way is labelled as leading to Knowlton and Betteshanger, both destinations lying beyond the limits of the map: such labels are recognised as being associated with public highways, generally of at least the status of bridle-road.

B.7. Overall, this estate map is good evidence that the application way was regarded by the owner of the Eastry Court estate (*viz*, Christ Church, Canterbury) as a shireway or public bridleway. Although the map does not include land west of Venson Bottom, the depiction of the application way leaving Venson Bottom at point I in the direction of Knowlton, labelled 'To Knowlton', is strongly suggestive that the whole of the application way was regarded as attracting the same status.

B.8. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>Points</i>	2	4	4

C. A Topographical Map of the County of Kent

C.1. **Date:** 1769

C.2. **Source:** British Library³⁵

33 *A Dictionary of Land Surveyors and Local Map-Makers of Great Britain and Ireland 1530-1850*, Sarah Bendall.

34 See, for example, *The Old Roads of England*, Sir William Wilkinson Addison, 1980, p.162: "Shireway: bridleway"; *A General Dictionary of Provincialisms*, William Holloway, 1840, p.151: "A bridle-way. S Sussex"; *A Dictionary of Archaic and Provincial Words*, James Orchard Halliwell, 1855, vol.II, p.733: "Shire-way: a bridle-way South".

35 k.1.tab.21: copy of index map available at www.oldkentmaps.co.uk/K-060-i.htm .

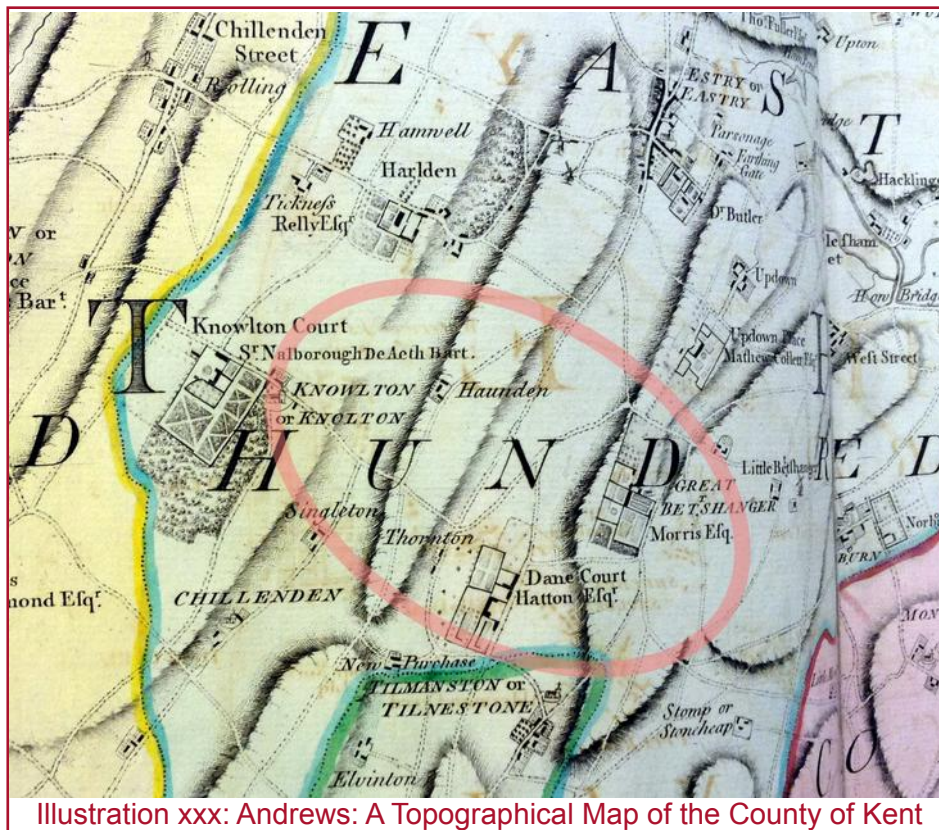


Illustration xxx: Andrews: A Topographical Map of the County of Kent

C.3. **Description:** This remarkable map comprises 25 sheets covering the county of Kent, surveyed and published by Thomas Kitchin, John Andrews, Andrew Dury and William Herbert. The maps are published at a scale of two inches to one mile, although the purpose of the maps appears to owe more to the desire to flaunt potential clients' country estates than to give an accurate representation of the county at that scale.

C.4. A number of ways are shown on the map in the vicinity of Knowlton Court, which is specifically depicted on the map.

C.5. **Conclusion:** It is difficult to relate the ways shown on the map to present or past dispositions of the road network. However, it is suggested that Knowlton Lane is shown to the north of Knowlton Court, and that Black Lane is shown continuing south-east, past a turning to Singleton (which no longer exists, if it ever did); across the unlabelled Thornton Lane (shown as the track proceeding south-south-west of Haunden (now Heronden) which traverses a ridge shown by hachures); continuing in the same direction to a junction with Venson Bottom near the 't' of Thornton; then proceeding (in the perception of the cartographer) north-east to a junction with Cater Road, before heading east-south-east along the old road (now bridleway EE376) from Betteshanger towards Little Betteshanger. The structure of the map is confusing, and the alignment of the way from the 't' of Thornton north-east to a junction with Cater Road is more consistent with the alignment of Thornton Road.

C.6. It is suggested that the map does show the existence of a way heading east along the north side of Knowlton Court, but is inconclusive about further details. Moreover, the depiction of an extensive network of ways on the map confers no certainty about the status of any one way as a public route. However, the Andrews map is the first at any scale to document a through route past Knowlton.

C.7. **Points:** 0

D. An accurate map of the county of Kent

D.1. **Date:** 1780

D.2. **Source:** British Library³⁶



D.3. **Description:** A map of Kent by C Downes. The map appears to show Thornton Road as (according to the key) the 'principal road' between Canterbury and Deal, as part of a way via Goodnestone, Chillenden, the south side of Knowlton park, Betteshanger, How Bridge and Sholden. It therefore shows the Canterbury to Deal highway in class II, but at a larger scale than hitherto, with substantially more detail than present in the small scale maps set out in part V above. The map does not show the Sandwich Road or Thornton Lane, but may show Venson Bottom as the road leaving Eastry to the south-west.

D.4. **Conclusion:** The route shown on the map as a principal road is closely consistent with an alignment between Canterbury and Deal which passes from Wingham Well, via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, past Chillenden Mill and Chillenden, Thornton Road, past Betteshanger along what is now bridleway EE376, Broad Lane, to How Bridge and along Sandwich Road via Sholden to Deal.

D.5. The map shows Black Lane between Knowlton Park and Thornton Road as a minor unenclosed route, with no apparent outlet onto, or depiction of, the Sandwich Road at the western end of Knowlton park. The junction with Thornton Road is apparently incorrectly shown, as there is no known provenance for a termination on that road at that place (probably in the vicinity of Thorntonhill Cottages), and it may be that the map draws somewhat on the Andrews etc. map of 1769 in that respect (item VI.C above). The map therefore does not show Black Lane as a through route, and it is inconclusive as to whether Black Lane was regarded as a cross-road with public status.

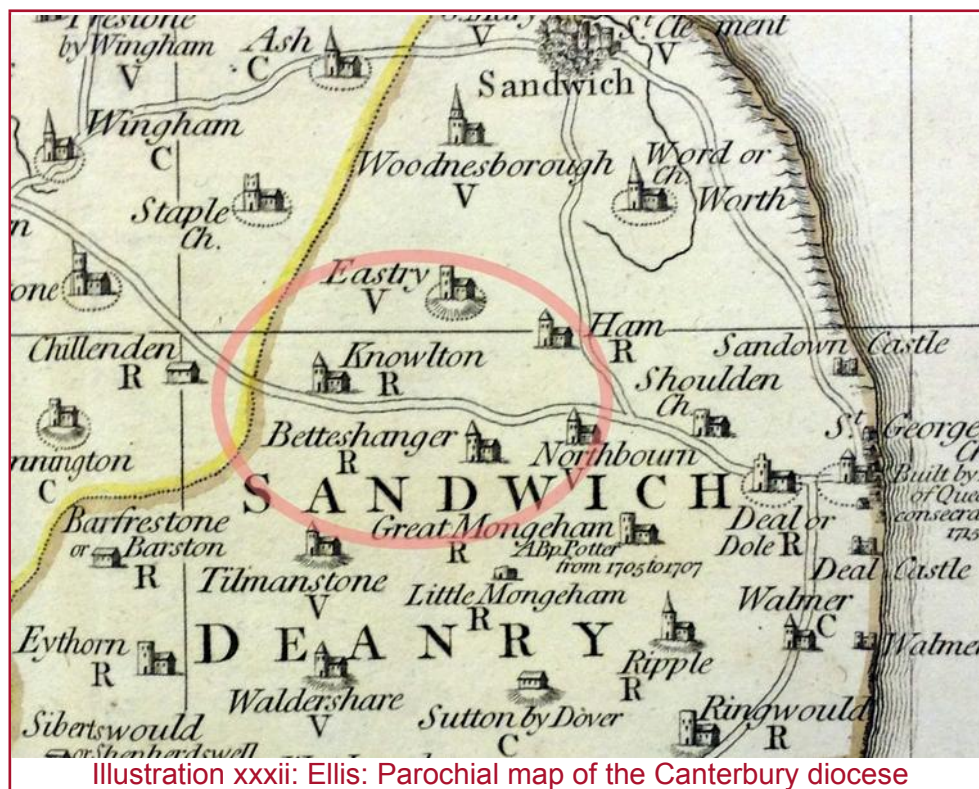
D.6. **Points:** 0

³⁶ cc.6.a.19: copy available at www.oldkentmaps.co.uk/K-065-iii.htm .

E. Parochial map of the Canterbury diocese

E.1. **Date:** 1782

E.2. **Source:** British Library³⁷



E.3. **Description:** This map by Joseph Ellis features East Kent, being a presentation in map form of the diocese of Canterbury to the Archbishop of Canterbury. It is the first map to cleave to a class III route, and shows a way between Canterbury and Deal from Wingham Well via Goodnestone, Chillenden, Knowlton, Northbourne and Sholden.

E.4. **Conclusion:** The route has similarities to the Downes map (item VI.D above), and appears to follow a way from Wingham Well via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, past Chillenden Mill to Chillenden. However, from Chillenden, the map does not show the pronounced loop performed by Thornton Road to the south of Knowlton park, and the alignment is consistent with a route along Station Road, Knowlton Lane and Black Lane.

E.5. As the way is shown well to the north of Great Mongeham, it seems likely that the route into Deal lay via How Bridge to Sholden, although the map does not clearly show a deflection north to How Bridge; it is difficult to conceive of any alignment further south which does not pass through Great Mongeham (which is well to the south of the way).

E.6. The way is shown on an alignment which passes through or adjacent to Chillenden and Knowlton, and in a generally easterly direction to Betteshanger. It is consistent with the course of Black Lane, and is therefore taken to show Black Lane as part of a principal way between Canterbury and Deal.

37 k.top.16.20

E.7. **Points:**

Part	A–G	G–I	J–M
points	1	1	1

(This is the first of two early county or area maps to score points: no more than two such maps are scored.)

F. Cary's New and Correct English Atlas

F.1. **Date:** 1787

F.2. **Source:** British Library³⁸



Illustration xxxiii: Cary's New and Correct English Atlas

F.3. **Description:** This map, by John Cary, shows a dense but distinctly rectilinear pattern of roads. Despite the reputation of Cary as one of the leading map makers of this period, the map of east Kent is manifestly inaccurate: the road pattern bears little relationship to the the known network or to other contemporary maps, place names are incorrectly located (Chillenden is shown southwest of Knowlton), misspelt (Gunston for Goodnestone) or omitted entirely (Eastry).

F.4. **Conclusion:** This Cary map shows some considerable similarity (with simplification) to the Downes map (item VI.D above), but bizarrely, with the entire exclusion of the Canterbury to Deal 'principal road' marked on that map, and with no accurate representation of Thornton Road.

F.5. The map does show a route on a northwest to southeast alignment through Knowlton. But it is not easy to relate this route to the road network shown on the map, which does not appear to be reliable. Therefore no conclusions are drawn.

F.6. **Points:** 0

38 C.24.f.1

G. Updown Park diversion order

G.1. **Date:** 1789

G.2. **Source:** Kent County Archives³⁹

Diversion order plan

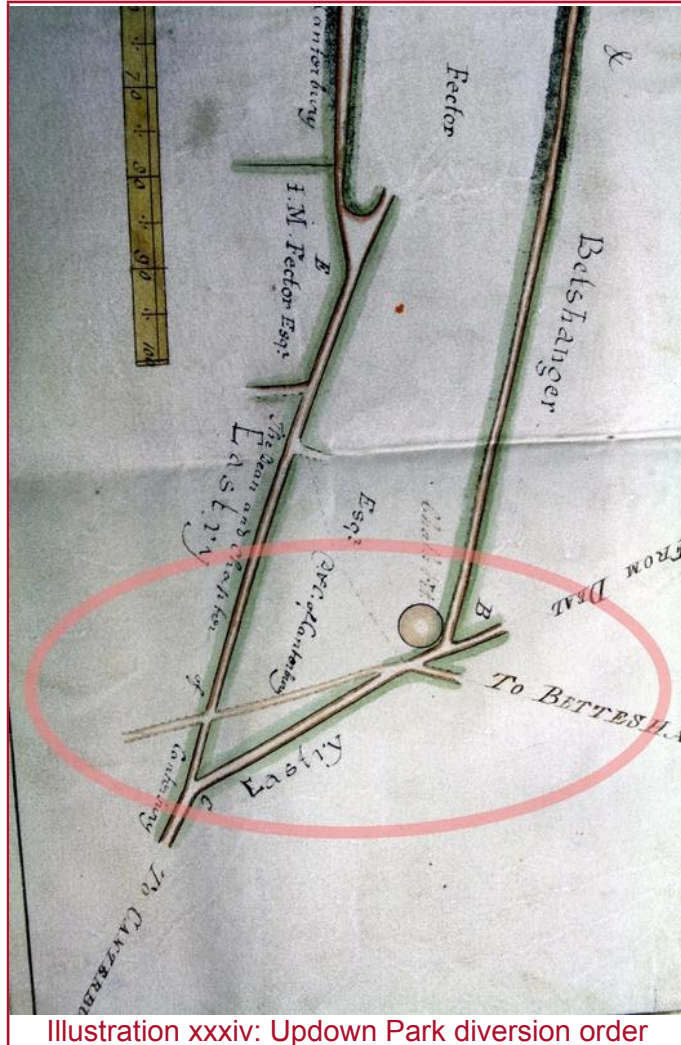
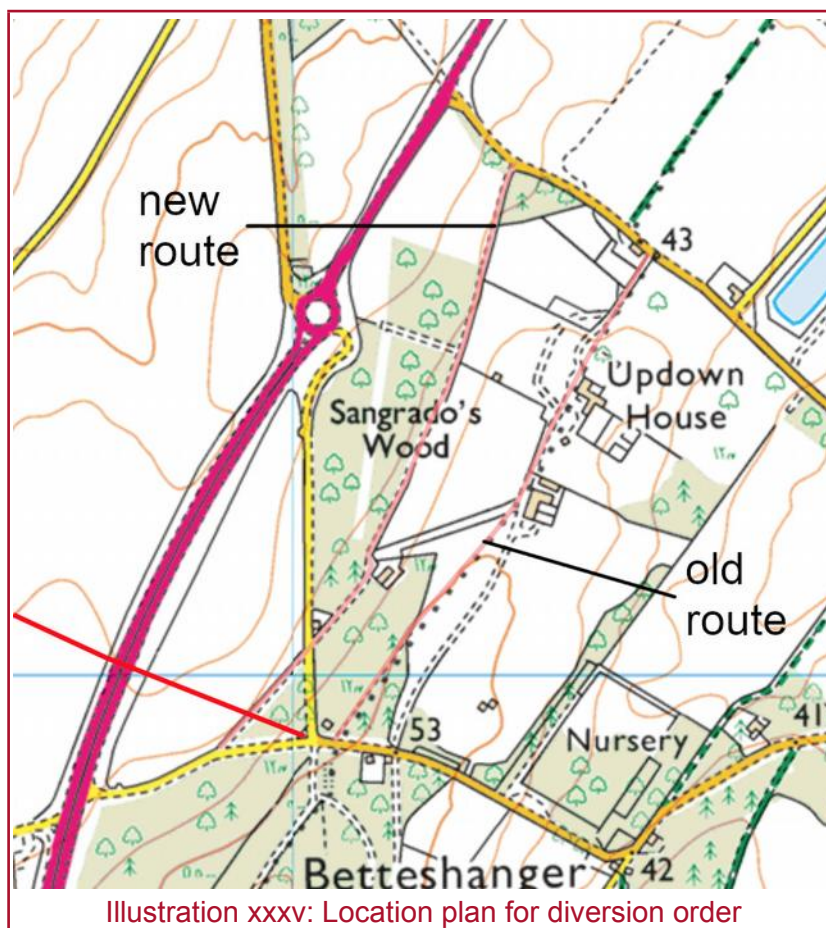


Illustration xxxiv: Updown Park diversion order

³⁹ Q/RH/2/32

Location plan



G.3. **Description:** A copy of the entire order map is at Annexe B at p.138 below. The diversion order was made to remove a public highway from within Updown Park to a new alignment outside the park further to the west. Black Lane is shown in the same colouring as both neighbouring roads and the road to be diverted, and can be seen west from the chalk pit at M (near the point labelled B on the plan), over a junction with the replacement highway west of Updown Park, and continuing west. Thornton Road is shown on a more southerly alignment west from the chalk pit at M, turning south-southwest at the junction with the drive from Updown Lodge, and marked 'To Canterbury'. A pecked line between the chalk pit at M heading northwest to a junction with the replacement highway appears to represent a footpath.

G.4. Illustration xxxv shows the approximate location of the diverted road, and its replacement alignment to the west, both coloured salmon.⁴⁰

G.5. **Conclusion:** The colouring of Black Lane shows that it was regarded as a public highway. The diversion order is good evidence of the status of Black Lane as a public way between L and M, and therefore strongly suggestive of similar status west of L. The distinct depiction on the order map of a footpath (which corresponds to the alignment of Cater Road today) indicates that Black Lane is of at least bridleway status. It may be

⁴⁰ The replacement alignment is the subject of an application for a definitive map modification order as a restricted byway: PROW/DO/C374.

noted that, on the order plan, Thornton Road is marked as the pre-eminent road to Canterbury.

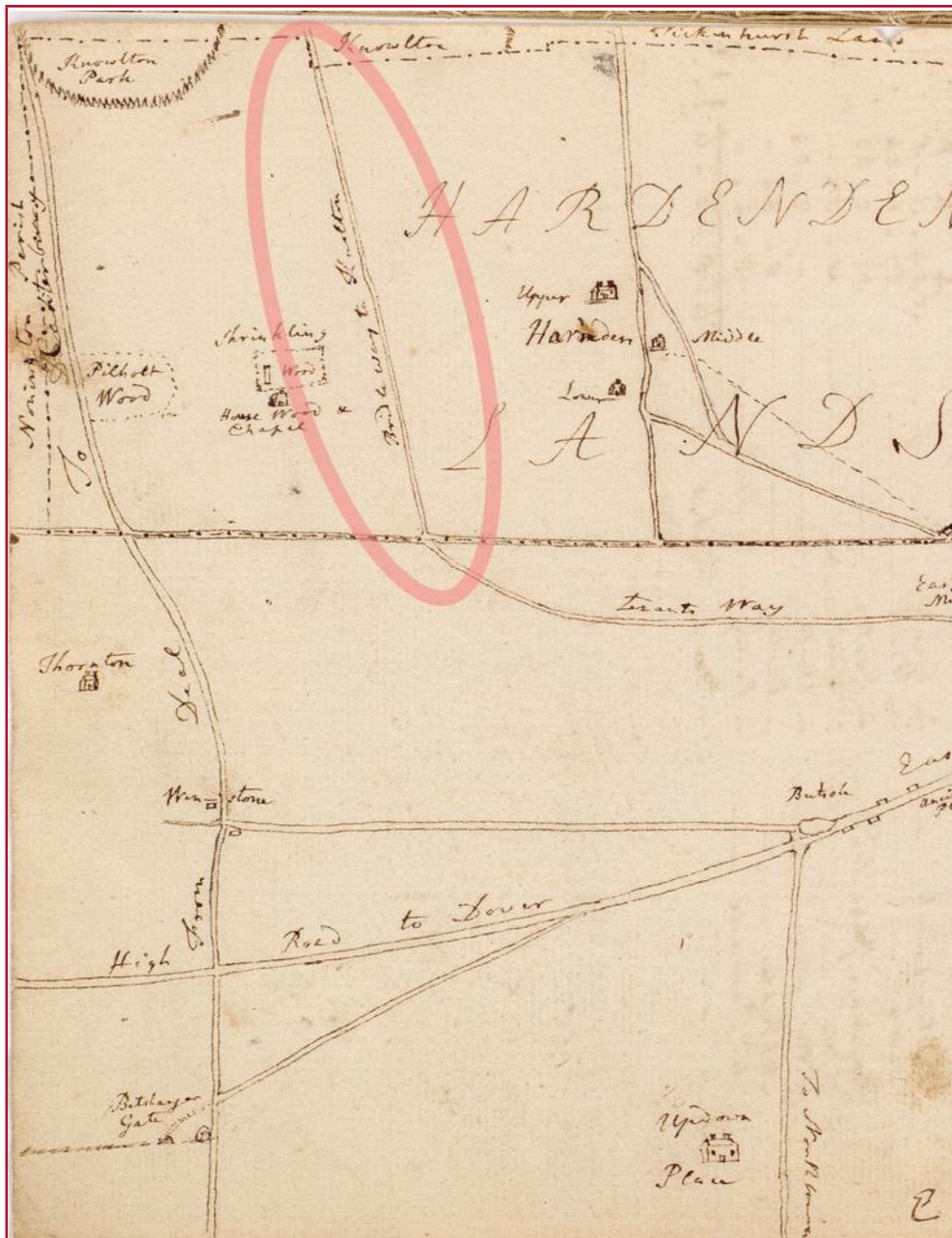
G.6. **Points:**

Part	A-G	G-I	J-M
points	-	-	5

H. **Boteler archive**

H.1. **Date:** 1790-92

H.2. **Source:** Canterbury Cathedral Archives⁴¹



41 CCA-U11/6/6/3

H.3. **Description:** A sketch map contained within Boteler’s *Collections for the Hundreds of Bewsborough, Cornilo and Eastry and part of Ringslow*. The sketch map shows the application route between A and G, annotated ‘Bridleway to Knowlton’, but does not show the route beyond G.

H.4. **Background:** William Boteler (1745–1818) was the head of a prominent local gentry family and the last male descendant. He was born in Eastry and lived there for nearly all his married life. His family had lived in Eastry parish for many generations. He was a Fellow of the Society of Antiquaries (FSA). His brother-in-law, William Boys FSA partnered him as Edward Hasted’s main support in completing the first edition of Hasted’s *History of Kent* and Boteler was himself the author of an outstanding history of Sandwich. Edward Hasted, the historian of the 12 volume County of Kent, acknowledged Boteler’s major contribution in his preface to the 4th volume. Hasted also dedicated the 9th volume of the second edition to Boteler, observing how the public were indebted to him for the pleasure and information his work would give to them. The Revd. William Francis Shaw, Vicar of Eastry, also used the manuscript records of Boteler, volumes, A, B and C, as a major source of information for his book *Memorials of the Royal Ville and Parish of Eastry*, published in 1870.⁴²

H.5. **Conclusion:** the Boteler sketch map is good evidence for the existence of a public bridleway between A and G, being prepared by a local historian who was intimately acquainted with the local area, and annotated as such. The sketch map recognisably shows ways around Eastry which are metalled highways today, with some annotated exceptions:

- Black Lane (marked as ‘bridleway’ between A and G);
- A track parallel to Thornton Lane from the junction with Black Lane at G, north to Eastry, which is annotated ‘Tenant’s Way’;
- A (presumed) footpath between Heronden and Eastry Mills, representing the shortest route between those two points, which is marked by a dashed line.

H.6. It may be concluded that the route between A and G was recognised by Edward Boteler, a notable local historian, as a public bridleway. But the sketch map does not show the entirety of the route.

H.7. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	2	–	–

(This is the first of two local parish, estate or manorial maps to score points: no more than two such maps are scored for any part of the application route.)

I. Mr Boys’ Agricultural Account of Kent

I.1. **Date:** 1794

I.2. **Source:** British Library⁴³

42 From *East Kent History*, the website of the Addelam History Research Group. The source is at: www.eastkenthistory.org.uk/people:william-boteler-f-s-a, and contains footnoted references.

43 Ac.3484/3.(6).

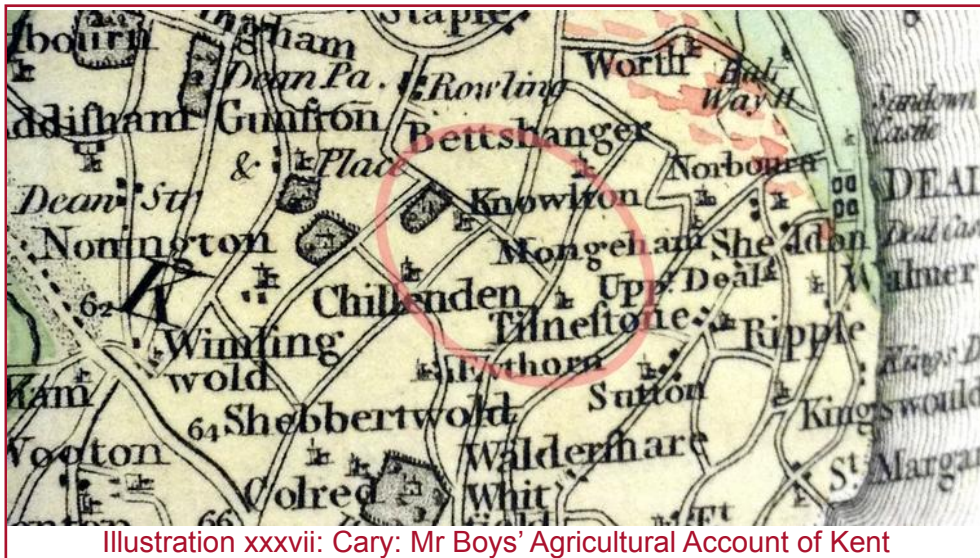


Illustration xxxvii: Cary: Mr Boys' Agricultural Account of Kent

I.3. **Description:** This map by John Cary appears in the locally prepared contribution to an officially published agricultural survey of England. It shows a network of apparently minor ways in the vicinity of Knowlton Park, which is identified on the map. Eastry is not marked, nor is Thornton Road; villages or parishes are marked carelessly (Chilenden is shown to the south of Knowlton). A way is shown to the north of Knowlton park.

I.4. **Conclusion:** This map is identifiable as an evolution of Cary's map of Kent published in *Cary's New and Correct English Atlas* (item VI.F above). It is difficult to relate the ways shown on the map to any other mapping which precedes or follows it, other than the maps which appear to be derived directly from it (see, in particular, the Benjamin Baker map in item VI.P below).

I.5. The map does show the existence of a way northwest to southeast along the north side of Knowlton park, but is inconclusive about further details. Moreover, the depiction of an extensive network of ways on the map confers no certainty about the status of any one way as a through route.

I.6. **Points:** 0

J. The History of London, and its environs

J.1. **Date:** 1797

J.2. **Source:** British Library⁴⁴

44 3055.(4): copy available at www.pastpages.co.uk/site-files/maps-uk/Kx/KKM001.jpg and www.oldkentmaps.co.uk/refresh-all.htm?K-076-i.htm .



Illustration xxxviii: History of London (Kent)

J.3. **Description:** This map, engraved by Samuel Neele and published by John Stockdale, was published in *The History of London, and its environs*. This map also appears to be derived from Cary's map of Kent published in *Cary's New and Correct English Atlas* (item VI.F above), but with simplification of the road network (many roads are omitted), and with some corrections (Eastry is now marked).

J.4. **Conclusion:** As with Cary's maps, this map does show the existence of a way northwest to southeast along the north side of Knowlton park, but is inconclusive about further details: there are no obvious connections west to Goodnestone and Wingham, nor east to Betteshanger and Deal — the map shows no through route between Canterbury and Deal south of the Canterbury to Sandwich road and north of the Canterbury to Dover road. Therefore no conclusion is drawn.

J.5. **Points:** 0

K. Ordnance Survey, one inch surveyor's drawing, Canterbury (East)

K.1. **Date:** 1797

K.2. **Source:** British Library website⁴⁵

45 www.bl.uk/onlinegallery/onlineex/ordsurvdraw/c/zoomify82432.html

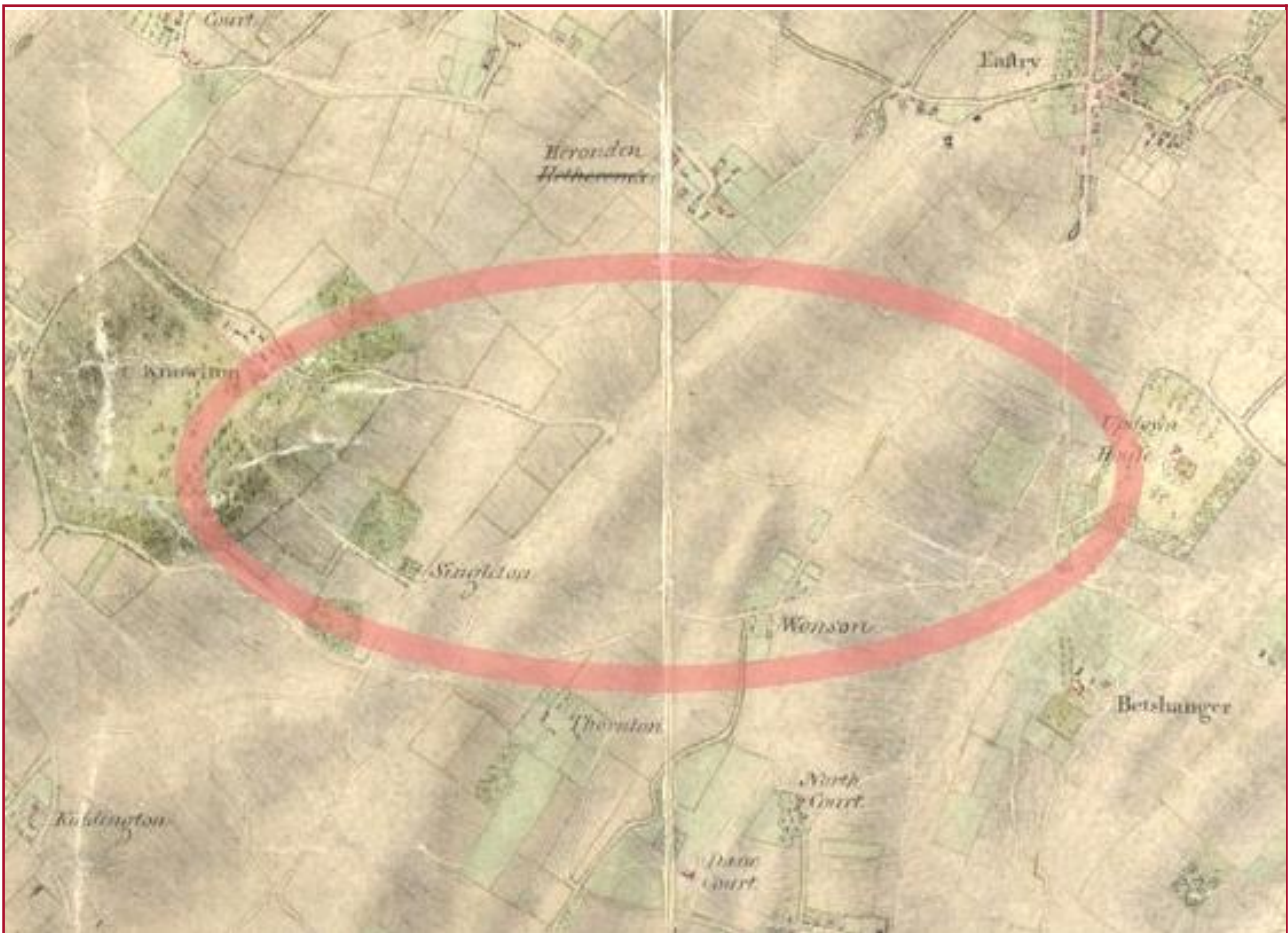


Illustration xxxix: OS one inch surveyor's drawing

K.3. **Description:** Facing the threat of invasion, the English government commissioned a military survey of the vulnerable south coast. An accurate map of Jersey had already been made, soon after a French attempt to capture the island in 1781, but this had been restricted to government use only. The new maps were to be published at the detailed scale of one inch to the mile. Responsibility for what became an historic venture fell to the Board of Ordnance, from which the Ordnance Survey takes its name. From its headquarters in the Tower of London, engineers and draftsmen set out to produce the military maps by a system of triangulation. The survey of Kent was first to go ahead. It began in 1795 under the direction of the Board's chief draftsman, William Gardner. Critical communication routes such as roads and rivers were to be shown clearly and accurately. Attention was paid to woods that could provide cover for ambush, and elaborate shading was used to depict the contours of terrain that might offer tactical advantage in battle. Preliminary drawings were made at scales from six inches to the mile, for areas of particular military significance, down to two inches to the mile elsewhere.⁴⁶

K.4. The Ordnance Survey one inch surveyor's drawing shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, generally east to and across Thornton Lane, and then unenclosed towards and across Venson Bottom and what is now the Dover Road, to a junction with Thornton Road at Betteshanger at M.

K.5. Thornton Road is also shown as a more southerly alignment between Chillenden and Straight Mile, passing through Venson (labelled as Wenson).

⁴⁶ From the Curator's introduction to the Ordnance Survey drawings, British Library: www.bl.uk/onlinegallery/onlineex/ordsurvdraw/curatorintro23261.html.

K.6. **Conclusion:** The Ordnance Survey one inch drawing is the first reliable mapping showing the known ways in the vicinity of Black Lane. It is good evidence for the existence of a defined way along the application route. The drawing is not conclusive of the status of Black Lane as a highway, but Black Lane is shown as part of a through route, and for the reasons given in item I.H above, it is likely to be a public way. As the basis for a military survey, the surveyor was likely to be interested in ways capable of being used by military transport, and Black Lane is therefore likely to be at least of the status of bridle road.

K.7. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	1	1	1

(This is the first of two Ordnance Survey maps to score points: no more than two such maps are scored.)

L. Barlow-Hasted map of Kent

L.1. **Date:** 1797–1801

L.2. **Source:** reproduced from www.ancestry.com⁴⁷ and The Old Map Shop⁴⁸: engraved by William Barlow in Edward Hasted's *The History and Topographical Survey of Kent*: published in in 12 Volumes.

47 Indexed at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_Pages/ENG_pages/ken.htm; map at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/barlow-Hasted_eastry_1800.html .

48 www.theoldmapshop.com .

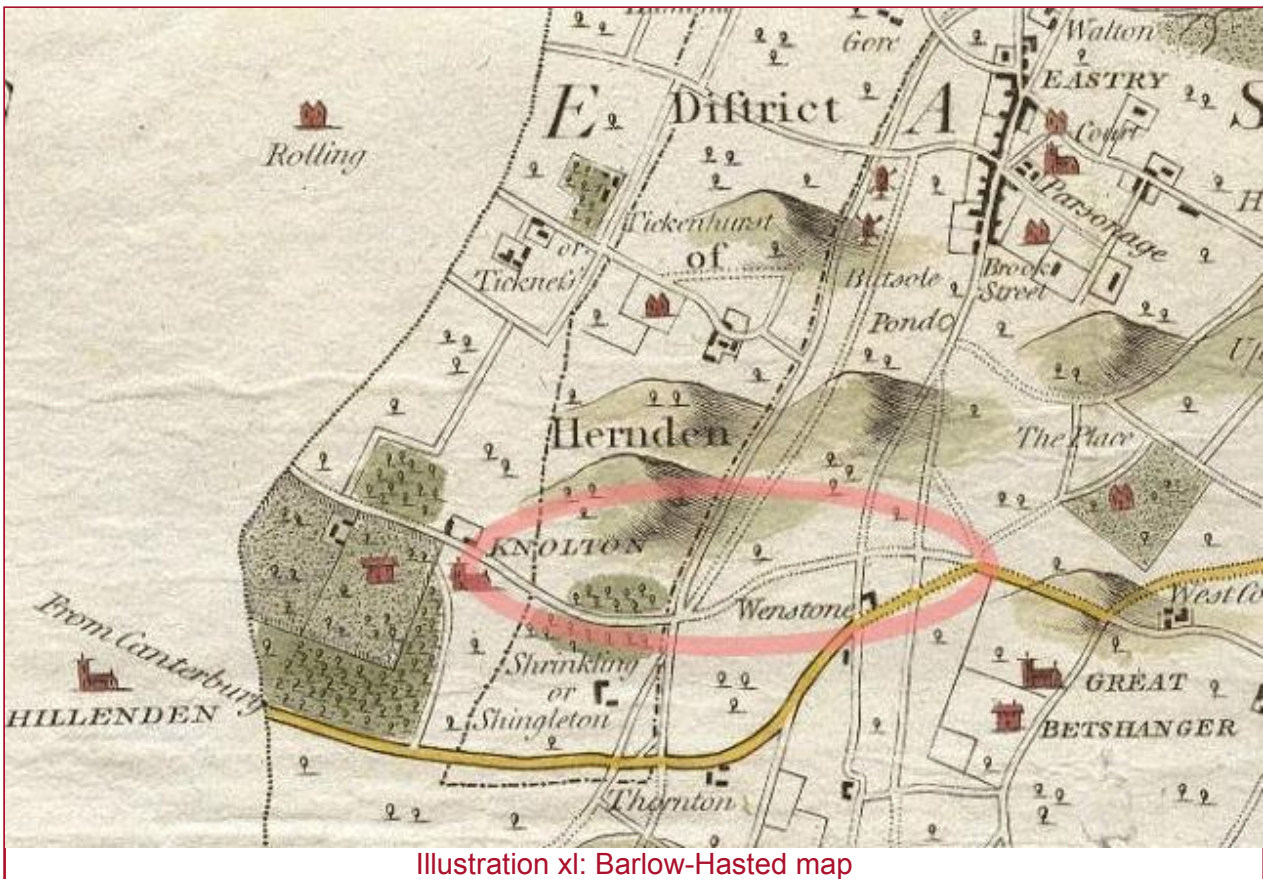


Illustration xl: Barlow-Hasted map

L.3. **Description:** William Barlow's maps of Kent were incorporated within the first edition of Edward Hasted's *The History and Topographical Survey of Kent*. Each map represented one or more of the Kent hundreds: that shown here is an extract from the hundred of Eastry.

L.4. The Barlow-Hasted map shows the Canterbury to Deal way as a class II route, from Wingham Well, via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, Chillenden Mill, Chillenden, Thornton Road, Betteshanger, Finglesham, How Bridge and Sholden. The route is shown coloured sienna.

L.5. But the map also shows Black Lane as a subsidiary route, being a continuation of Knowlton Lane from Knowlton (printed as 'Knolton') at A, initially enclosed, generally east to and across Thornton Lane, and then unenclosed towards and across Venson Bottom (near Venson, marked Wenstone) and what is now the Dover Road, to a junction with Straight Mile at Betteshanger at M.

L.6. **Conclusion:** The Barlow-Hasted map is good evidence for the existence of a defined way along the application route. The map was widely commercially published, and would tend to show through routes which were public highways, whereas certain minor routes of questionable public status (such as the track from Knowlton to Tickenhurst, and the drive through Updown park) are shown with lines across the junction with public ways. However, as the application route is not shown as the principal road between Canterbury and Deal, it cannot be assumed that the status is any greater than bridleway.

L.7. The map shows Thornton Road, to the south, coloured sienna as the principal route from Canterbury to Deal, but *c.f.* the Mudge-Faden map at item VI.N below.

L.8. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	1	1	1

(This is the first of two large scale commercial maps to score points: no more than two such maps are scored.)

M. The History and Topographical Survey of the County of Kent

M.1. **Date:** 1800

M.2. **Source:** *The History and Topographical Survey of the County of Kent*, by Edward Hasted: Volume 10⁴⁹.

M.3. **Description:** The following extract appears in the description relating to the parish of Knowlton, referred to as Knolton, in reference to the house at Knowlton Park:

‘Adjoining to the gardens, at the back of the mansion, is the church and parfonage-houfe, and beyond this, on the declivity of the hill *northward*, clofe to the bridle-way to *Eaftry* and *Deal*, a fmall parcel of coppice wood.’

M.4. **Conclusion:** The publication provides confirmation of the contemporary status of the application route as a ‘bridle-way’ to Eastry and Deal. A bridleway to a named and distant destination such as Deal could be only a public way. The publication drew on extensive local research by William Boteler, a local man born and resident in Eastry, which formed the nucleus of Hasted’s survey of East Kent (see para.H.4 above). As the narrative refers to the bridleway continuing to both Eastry and Deal, and as such a way to Deal could not rationally lie via Eastry, the source provides some evidence of the status of the entire application way.

M.5. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	3	1	1

N. Mudge-Faden one-inch map of Kent

N.1. **Date:** c.1801

N.2. **Source:** Mapco.net⁵⁰: © Copyright David Hale and the MAPCO : Map And Plan Collection Online 2006–13

49 www.british-history.ac.uk/survey-kent/vol10/pp87-94

50 <http://mapco.net/kent1801/kent1801.htm>

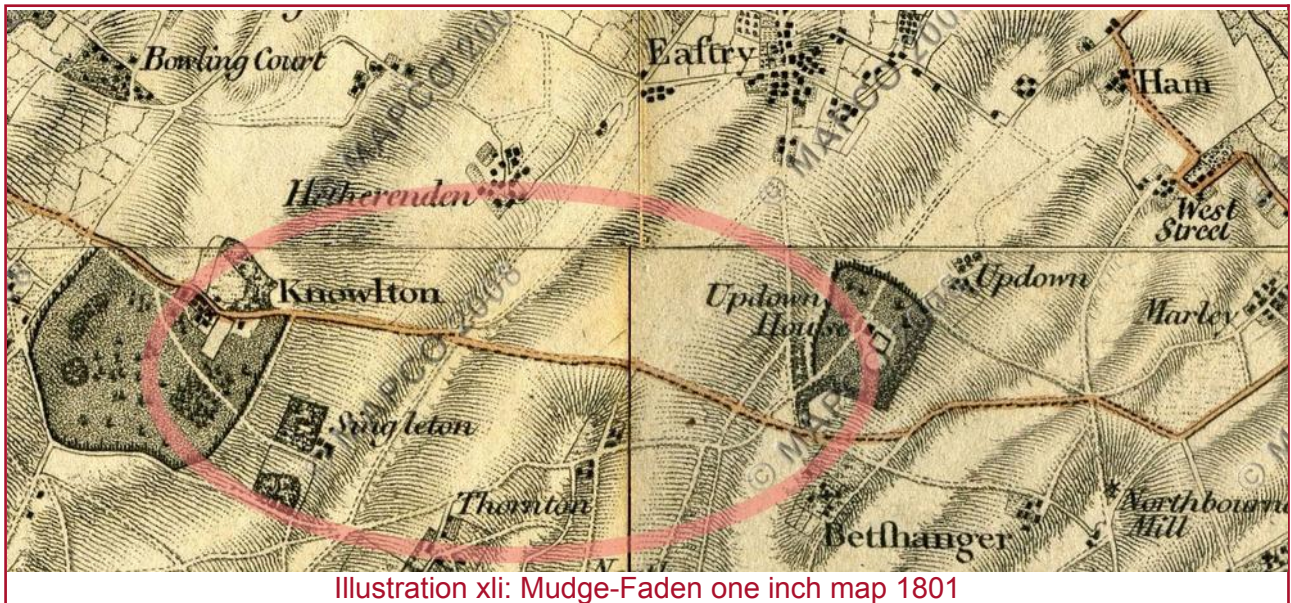


Illustration xli: Mudge-Faden one inch map 1801

N.3. **Description:** This map of Kent was the first Ordnance Survey map to be published. The survey was commenced in the 1790s by Captain William Mudge, later Director General of the Ordnance Trigonometrical Survey, in response to the feared invasion of England by the French (see Ordnance Survey, one inch surveyor's drawing, Canterbury (East) at item VI.K above). However, the map of Kent was not published by the Ordnance Survey itself until well into the nineteenth century: instead, a map based on the same source data was initially published on 1st January 1801 by William Faden, Geographer to the King, for sale to the public.

N.4. The Mudge-Faden map shows the Canterbury to Deal way as a class III route, from Wingham Well, via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, Chillenden Mill, Knowlton, Betteshanger, How Bridge and Sholden.

N.5. The map shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, with a thicker casing on the southern side, but unenclosed from approximately point B (still with a thicker casing on the southern side), generally east to and across Thornton Lane, across what is now the Dover Road, to a junction with Thornton Road at Betteshanger at M.

N.6. The route has been hand-coloured in sienna, in common with other routes shown with a thicker casing on one side. This appears to be reserved for primary routes (see the Sandwich to Deal road through Ham, which joins the continuation of the application route near How Bridge). Black Lane is shown as part of such a through route between Canterbury and Deal, via the same alignment from Wingham Well to How Bridge as is shown in Ellis' Parochial map of the Canterbury diocese (item VI.E above). The Mudge-Faden map shows that the route continued west towards Chillenden Mill in a direct line from the present T-junction with the Sandwich Road (rather than the present detour via Chillenden village).

N.7. **Conclusion:** The Ordnance Survey map of Kent was prepared in response to an invasion threat, and primarily had a military purpose. However, this map was published privately by Faden for public and not military use. It is therefore likely to reflect the needs of the purchasing public, rather than purely military requirements.

N.8. The Mudge-Faden map is good evidence for the existence of a public way along the application route: the thickened casing on one side and colouring indicates a primary route on horseback. It is inconceivable that a way would have been identified on a map sold for public use with this accentuation of a through route in colour, unless it were regarded as a public highway. Moreover, the now lost alignment of the way west from the junction of Knowlton Lane with the Sandwich Road also affirms the status of Black Lane as part of a then significant through route, in a manner which is no longer apparent from present day mapping.

N.9. The contrast with the Barlow-Hasted map of Kent (see item VI.L above), which highlights a more southerly through route along Thornton Road, is striking: the maps are approximately contemporary with each other, and appear to be based on broadly contemporary survey data, yet the surveyors have drawn different conclusions on the primacy of the two routes for traffic between Canterbury and Deal. We know from subsequent surveys that Black Lane was in decline, and it seems most likely that at this time, around the turn of the eighteenth century, there was increasing use of Thornton Road, particularly by carriages, as an alternative to Black Lane.

N.10. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	2	2	2

(This is the second of two large scale commercial maps to score points: no more than two such maps are scored.)

O. Guide to Watering and Sea-bathing places

O.1. **Date:** 1803

O.2. **Source:** British Library⁵¹

51 10348.a.6: copy available at www.pastpages.co.uk/site-files/maps-uk/GFM114.jpg and www.antiquemapsandprints.com/sussex-the-coast-from-sandwich-to-winchelsea1808-map-157857-p.asp.

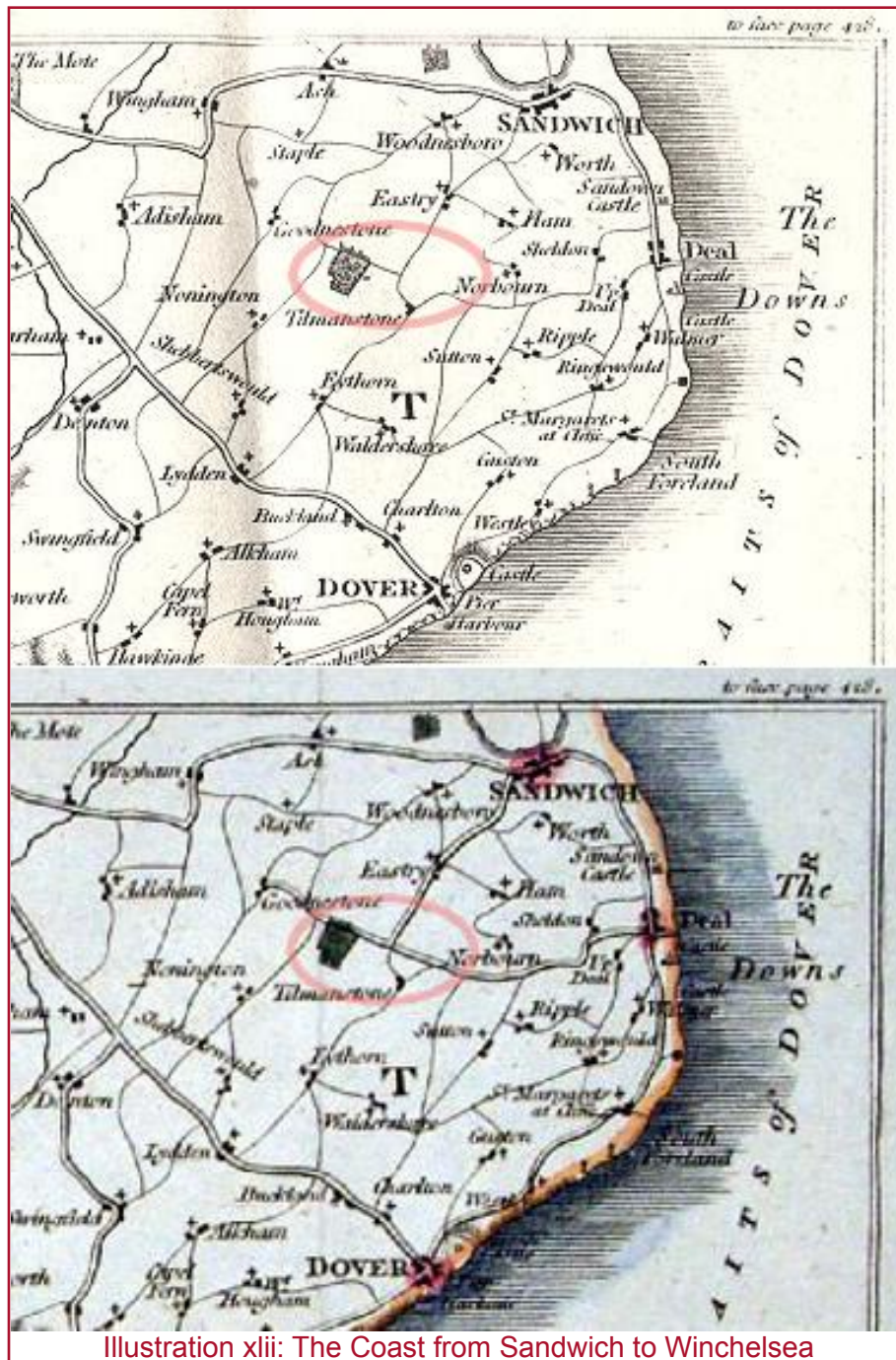


Illustration xlii: The Coast from Sandwich to Winchelsea

O.3. **Description:** Contained within *A Guide to all the Watering and Sea Bathing Places, with a description of the Lakes; a sketch of a tour in Wales, and Itineraries.... Illustrated with maps and views*. Published in several subsequent editions. Maps of *The Coast from Sandwich to Winchelsea* from two editions are shown in Illustration xlii (above and below).

O.4. In the later edition, the map shows a way from Goodnestone east-southeast, north of a park, crossing a road south-southeast from Eastry, and continuing east-southeast and then east to the south of Norbourn (now Northbourne) and via Sheldon to Deal. The way is shown marked with two parallel lines, the line on the south side being marked more boldly. The road southwest from Sandwich through Eastry to join the way is similarly marked.

O.5. In the earlier edition map, the emphasis along Black Lane and the Dover Road is omitted, both ways being shown by single continuous lines. This map also appears to omit Black Lane east of the Dover Road.

O.6. **Conclusion:** The map shows this way as one of several key routes in Kent, being marked by twin parallel lines with a bold emphasis on the line on the southern side. The park east of Goodnestone appears to be Knowlton Park, and the route therefore is consistent with the representation of Black Lane. The road connecting Black Lane with Eastry and Sandwich appears to be the Dover Road.

O.7. The modifications made to a later edition suggest that the omission of Black Lane as a key route was corrected, perhaps owing to feedback or comparison with other mapping.

O.8. **Points:** 0

P. Laurie & Whittle's new and improved English atlas

P.1. **Date:** 1806

P.2. **Source:** British Library⁵²

52 19.a.7: copy available at www.oldkentmaps.co.uk/K-073-i.htm .

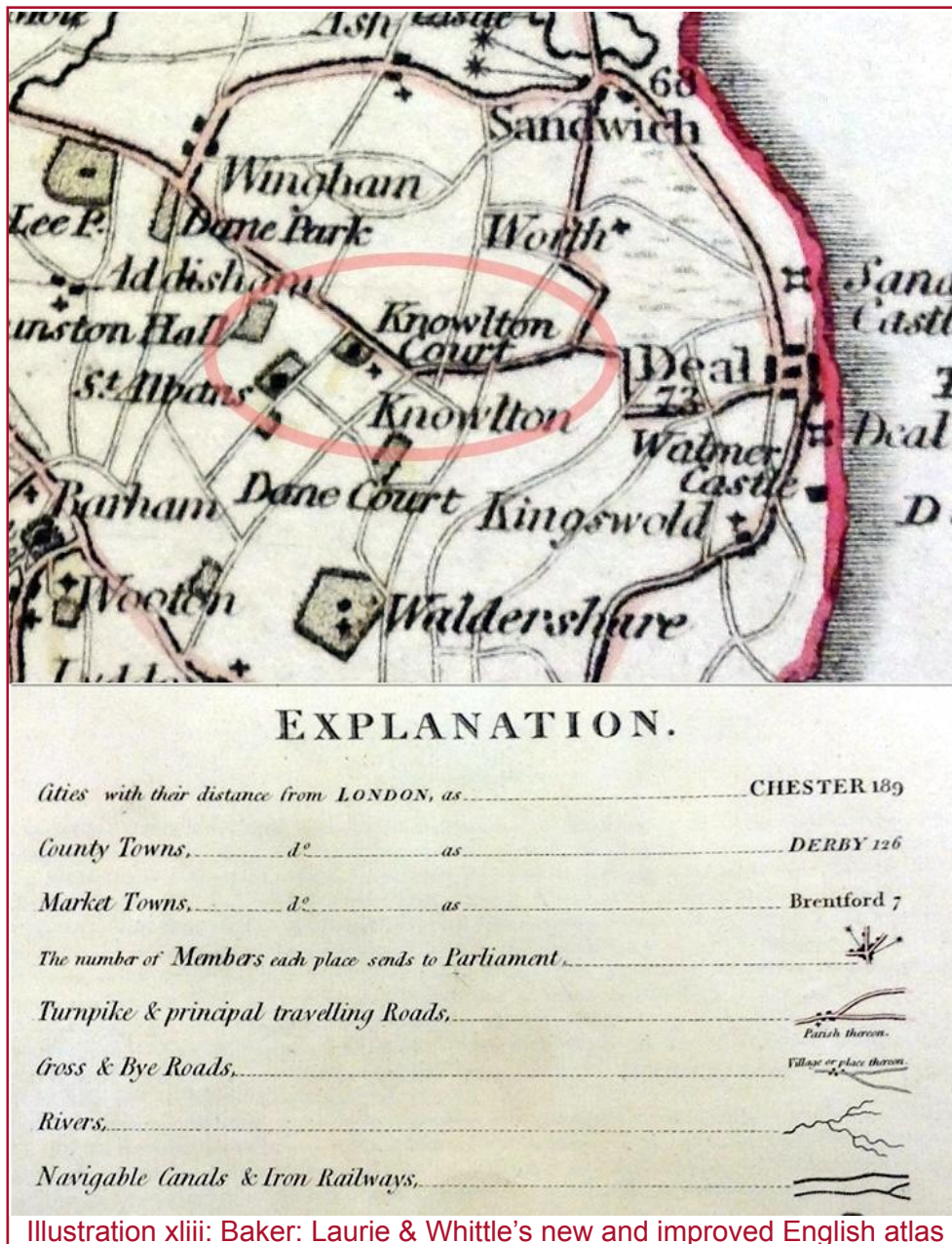


Illustration xliii: Baker: Laurie & Whittle's new and improved English atlas

P.3. **Description:** This map by Benjamin Baker may date from 1792, but was published in Laurie and Whittle's *New and Improved English Atlas* around 1807. The way from Canterbury to Deal is shown as a class III route, from Wingham Well through Knowlton and then to Deal via Northbourne and Great Mongeham.

P.4. The map appears to be derived from the Cary map published in 1794 in Mr Boys' *Agricultural Account of Kent* (item VI.I above), which in turn may be derived from Downes' *An accurate map of the county of Kent* (item VI.D above), but with the reinstatement of the Canterbury to Deal way which was noted to be absent from the Cary map.

P.5. The way is identified passing to the north of Knowlton Court, which is labelled as such. The way is coloured pink, which the key represents as a 'principal travelling road'.

P.6. **Conclusion:** As with the Cary map, it is difficult to relate the ways shown on the map to contemporary understanding of the road network. Eastry still is not marked, nor is Thornton Road. Some manifest errors present on the Cary map have been corrected (e.g.

Betteshanger and Chillenden are now omitted altogether, as opposed to being wrongly located), but others persist (Eastry remains absent).

P.7. However, the course of the way north of Knowlton Court, and in a generally easterly direction beyond Knowlton, together with the representation of the way as a 'principal travelling road', shows that Black Lane is depicted as part of a through route between Canterbury and Deal. The status of the way as a 'principal travelling road' means that Black Lane must have been regarded as a public way.

P.8. **Points:**

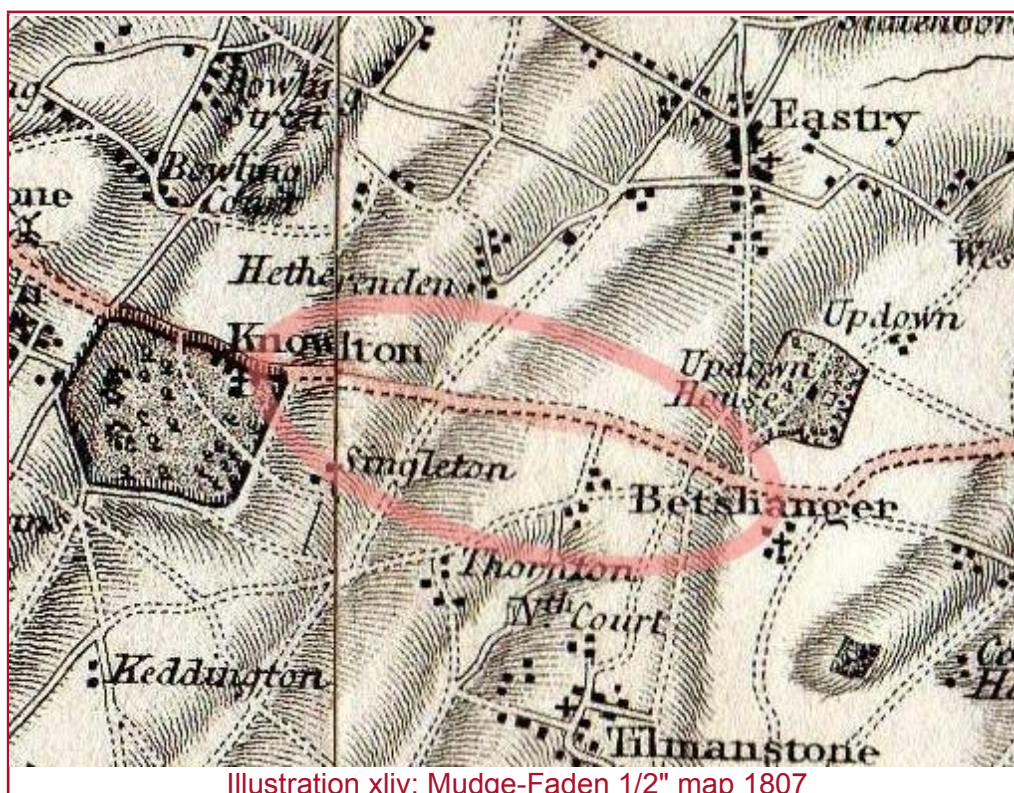
<i>Part</i>	A-G	G-I	J-M
<i>Points</i>	1	1	1

(This is the second of two early county or area maps to score points: no more than two such maps are scored.)

Q. Ordnance Survey, Mudge-Faden half-inch map of Kent

Q.1. **Date:** c.1807

Q.2. **Source:** Mernick.org.uk Collectors' Circle⁵³ (copyright in public domain)



Q.3. **Description:** A larger extract is at Annexe C at p.140 below. The half inch map shows the Canterbury to Deal way as a class III route, from Wingham Well, via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, Chillenden Mill, Knowlton, Betteshanger, How Bridge and Sholden. Black Lane is shown as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, with a thicker casing possibly apparent on the

53 www.mernick.org.uk/cc/kentmap/

southern side, but unenclosed from approximately point B (still with a thicker casing on the southern side), generally east to and across Thornton Lane, across what is now the Dover Road, to a junction with Thornton Road at Betteshanger at M. The route is marked in pink, which appears to be reserved for primary routes.

Q.4. **Conclusion:** The Mudge-Faden half-inch map is good evidence for the existence of a defined way along the application route: the thickened casing on one side and colouring indicates a primary route on horseback. However, the map is clearly derived from the Mudge-Faden one-inch map of Kent (item VI.N above), and adds little new information.

Q.5. **Points:** 0

(as this map confirms the one-inch map in item VI.N)

R. The British Atlas

R.1. **Date:** 1810

R.2. **Source:** British Library⁵⁴

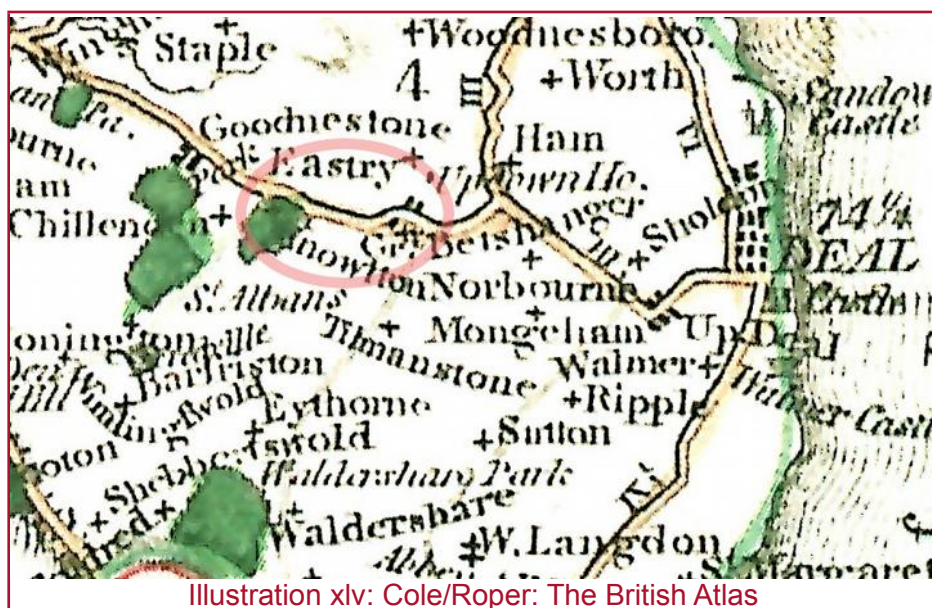


Illustration xlv: Cole/Roper: The British Atlas

R.3. **Description:** This map was first published by G Cole and John Roper in 1804, but published in the British Atlas in 1810. It shows a principal route between Canterbury and Deal, on an alignment from Wingham Well to Betteshanger as is shown in Ellis' Parochial map of the Canterbury diocese (item VI.E above), but diverging to a more southerly approach to Deal via Northbourne Road and Great Mongeham. The route therefore falls within class III.

R.4. **Conclusion:** The alignment of the Canterbury to Deal way is shown clearly passing to the north side of Knowlton park, and then broadly east towards Betteshanger, and so Black Lane appears to be comprised in the way. Black Lane is shown as a 'principal road'. The map is therefore good evidence of the status of Black Lane as a through route of some significance.

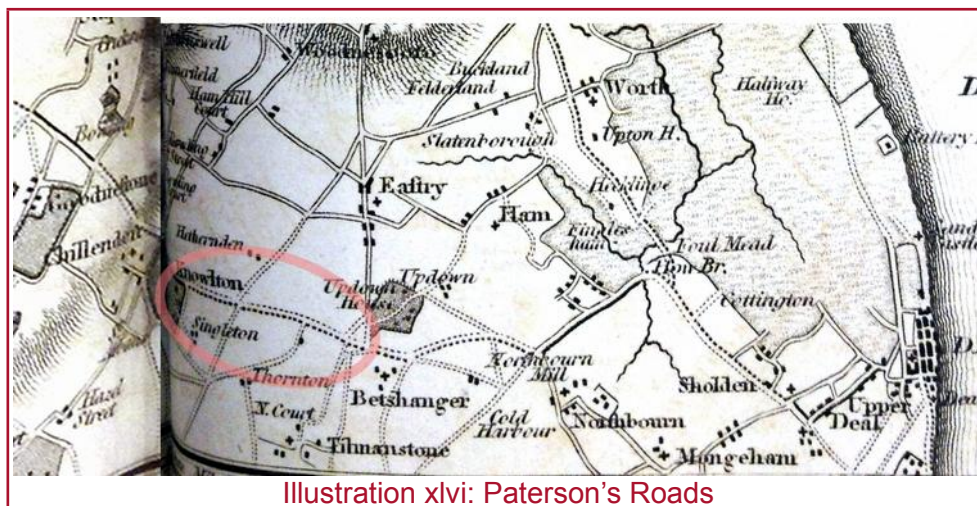
R.5. **Points:** 0

54 47.d.3: copies available at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/coleroper_ken_1835.html and www.oldkentmaps.co.uk/K-091-i.htm.

S. Paterson's Roads — Thanet and Kent and Sussex Coast

S.1. **Date:** 1811

S.2. **Source:** British Library⁵⁵



S.3. **Description:** This map by J Thomson appears as one of several maps of Thanet and the Kent and Sussex coast annexed to the thirteenth edition of *Paterson's Roads*, a directory of main roads⁵⁶.

S.4. The Thomson map shows a class III way, with thickened casing on one side, from Canterbury to Deal from Wingham Well via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, Chillenden Mill, Knowlton, Betteshanger, How Bridge and Sholden. Black Lane is shown as a continuation of Knowlton Lane from Knowlton at A, unenclosed, with a thicker casing on the southern side, generally east to and across Thornton Lane, across what is now the Dover Road, to a junction with Straight Mile at Betteshanger at M.

S.5. The map appears to be derived from the Mudge-Faden one-inch map of Kent (item VI.N above): however, whereas the Thomson map has been revised now to show the Dover to Sandwich turnpike (*i.e.* the coastal turnpike via Cottington), and no longer shows the route via Ham as a principal road, the map does not show the Dover, Waldershare and Sandwich turnpike (which was authorised in 1801), and continues to show the class III route as the principal way from Canterbury to Deal.

S.6. **Conclusion:** Revision of the data contained in the map, which appear to be derived from the Mudge-Faden one-inch map of Kent, suggests that the representation of principal roads was at least partially researched and updated. The Thomson map is good evidence for the existence of a defined way along the application route: the thickened casing indicates a primary route on horseback.

S.7. **Points:** 0

T. Beating the bounds: Eastry

T.1. **Date:** 1814 and 1897

⁵⁵ 10348.d.15: copy available at www.pastpages.co.uk/site-files/maps-uk/Mx/MEM006.jpg .

⁵⁶ The directory entry for London to Deal suggests an itinerary via Sandwich, and does not refer to a direct route from Canterbury to Deal.

T.2. **Source:** Eastry parish council website⁵⁷

T.3. **Description:** The parish council website publishes a report of an: ‘account of beating the bounds in the spring of 1897 taken from the minute book of the Eastry parish council.’ This describes a perambulation of the parish boundary led by the chairman of the council, members of the council and six boys.

T.4. Conducting the perambulation in a clockwise rotation, the 1897 report states:

‘...Turning to the right across Knowlton Park in a direct line to Black Lane, another stone is situated about 10 rods (57m.) from the road in the Park. The next stone was found just inside the fence against the Lane. Turning to the right, down the Lane to the corner of Heronden Farm land and then to the left along the Bank. ...’

T.5. The perambulation for 1814 is also recorded:

‘...Crossing the park fence, thro’ a shave, leaving the fence on the left hand, separating Shingleton Farm from the Vicarage land, following the line of fence to Black Lane, turning to the right down the lane to a corner of fence separating G.H.De Ath’s land from lands of Upper Harnden Farm. ...’

T.6. The perambulation of 1897 refers to Black Lane twice as a ‘Lane’. The 1814 perambulation similarly refers to Black Lane as a ‘lane’. Reference is made to a boundary stone found inside the lane. The parish boundary between Knowlton and Eastry — now the parish boundary between Goodnestone and Eastry — follows the centre of Black Lane between D and E.

T.7. **Conclusion:** The nineteenth century perambulations provide some evidence for the status of Black Lane as a ‘lane’ in which a boundary stone was maintained. A lane, which was relied upon as the boundary between two parishes, is consistent with highway status.

T.8. **Points:** 0

U. Ordnance Survey, Old Series one-inch map of Kent

Date: 1831 (but survey dating from late eighteenth century)

Source: National Library of Australia⁵⁸

57 www.eastrypc.co.uk/beatingthebounds.asp

58 <http://nla.gov.au/nla.obj-231917365>

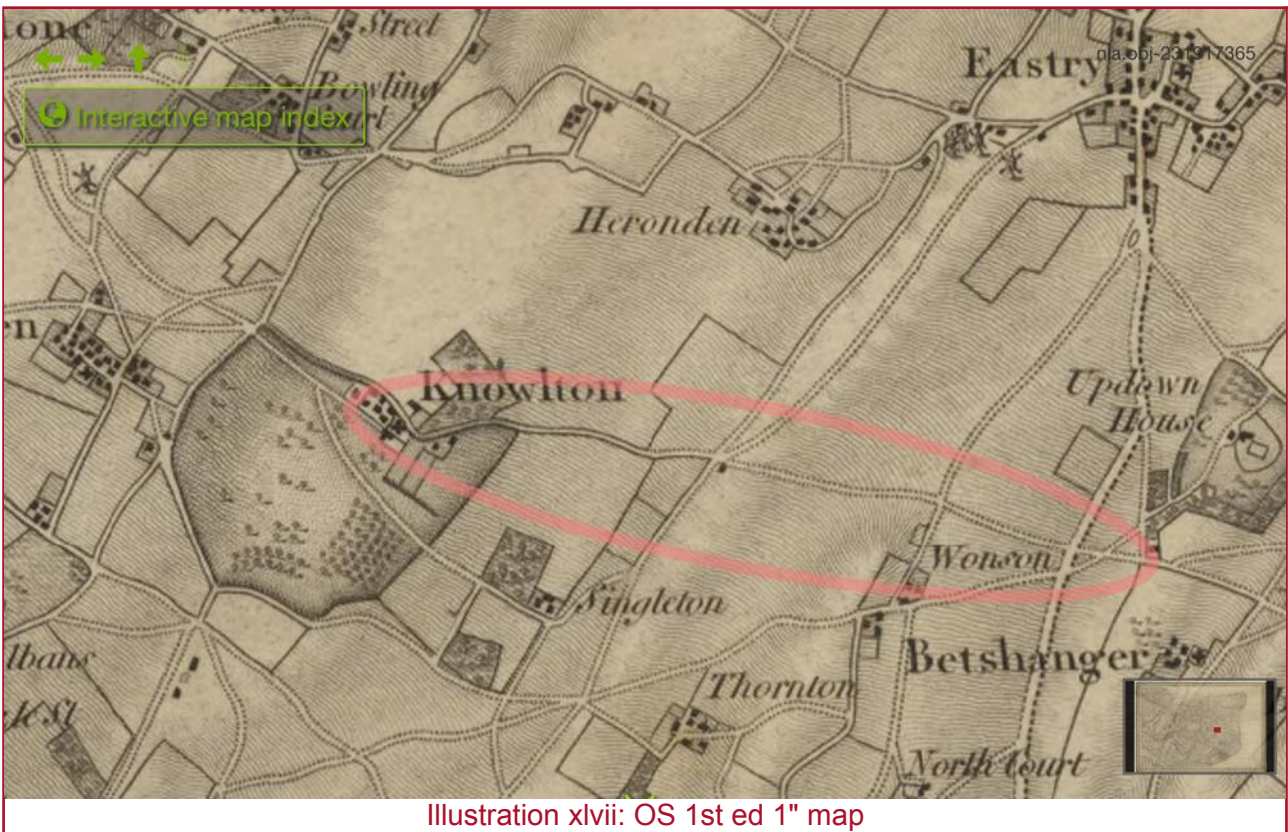


Illustration xlvii: OS 1st ed 1" map

U.1. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north). This is the Old Series one inch map first published officially by the Ordnance Survey. The map reproduced here is state 4, from circa 1831, but believed to be unchanged from state 1. Although published some years later than the Mudge-Faden one-inch map of Kent (item VI.N above), the 'official' Ordnance Survey Old Series map was based on the same survey data, and is consistent with the Mudge-Faden map.

U.2. No principal way is now shown between Canterbury and Deal: those ways shown as such on the earlier maps are no longer marked in any distinctive form. Instead, the map now introduces the recently established Dover, Waldershare and Sandwich turnpike as a principal road on a south to north alignment.

U.3. The map shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, but unenclosed from approximately point G, generally east to and across Thornton Lane, Venson Bottom, the Dover Road, to a junction with Thornton Road at Betteshanger at M.

U.4. **Conclusion:** While the Old Series map is not conclusive as to the public status of the way, it was primarily intended for military use, and the surveyor was unlikely to map footpaths being of little military interest. The Ordnance Survey Old Series map is good evidence for the existence of a defined way along the application route, but the loss of a thicker casing suggests a diminution in status of the way since the publication of the Mudge-Faden one-inch map of Kent.

U.5. **Points:**

<i>Part</i>	A-G	G-I	J-M
<i>points</i>	1	1	1

(This is the second of two Ordnance Survey maps to score points: no more than two such maps are scored.)

V. Greenwood's map of Kent

V.1. **Date:** 1819–20

V.2. **Source:** Kent County Archives



Illustration xlvi: Greenwood's map

V.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north). Greenwood's map shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, but unenclosed from approximately point E, generally east to and across Thornton Lane, across Venson Bottom and the Dover Road, to a junc-

tion with Thornton Road at Betteshanger at M. Neither Black Lane, nor Thornton Road, is shown as a principal route, whereas the Dover, Waldershare and Sandwich turnpike is so shown.

V.4. **Conclusion:** Greenwood's map is good evidence for the existence of a defined way along the route of Black Lane. The key describes the route as a 'cross road', which is suggestive of a public way.

V.5. **Points:** 0

(This is the third of several large scale commercial maps: no more than two such maps are scored.)

W. New County Atlas

W.1. **Date:** 1820

W.2. **Source:** British Library⁵⁹

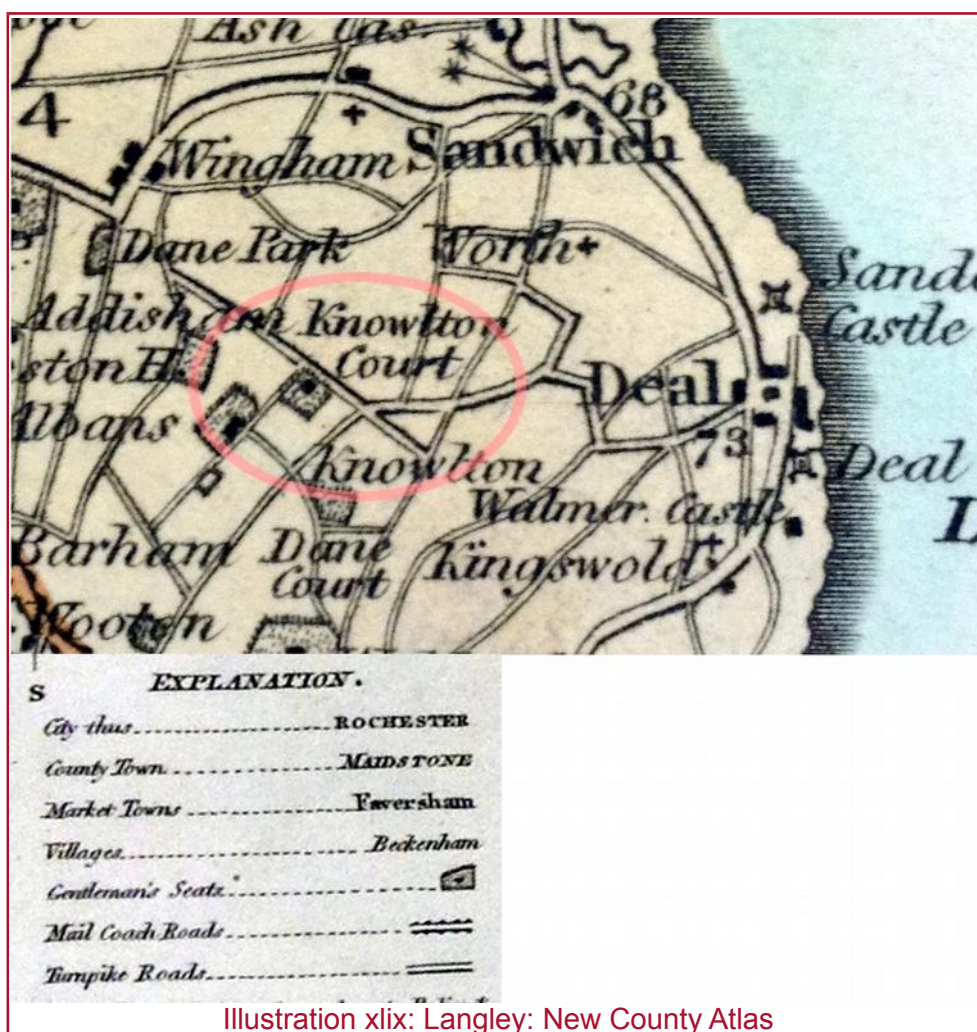


Illustration xlix: Langley: New County Atlas

W.3. **Description:** This map by Edward Langley was first published in 1816, but appears here in *Langley's New County Atlas of England and Wales* published c.1820. The map

59 c.8.a.19: copies available at www.oldkentmaps.co.uk/K-107-i.htm and www.pastpages.co.uk/site-files/maps-TB/IDT009.jpg .

appears to be derived from Baker's map in Laurie & Whittle's new and improved English atlas in 1806 (item VI.P above, and see the notes in that item on the derivation of that map). The way from Canterbury to Deal is shown as a class III route, from Wingham Well through Knowlton and then to Deal via Northbourne and Great Mongeham (note however that the map excludes a small part of the previously identified route east from Wingham Well, where the label 'Dane Park' appears).

W.4. The way is shown passing to the north of Knowlton Court, which is labelled. The way is shown with a thicker casing on one side (inconsistently marked), which is identified in the key as a 'turnpike road'. As none of the roads comprised in the class III route has ever been part of a turnpike, this classification appears to be an erroneous reference to a class of turnpikes and other principal roads.

W.5. **Conclusion:** The Langley map suffers from the same defects as the Baker map. Nevertheless, the course of the way to the north of Knowlton Court, and in a generally easterly direction beyond Knowlton, together with the representation of the way as a 'turnpike road' (*i.e.* taken here to mean principal bridle road), shows that Black Lane is depicted as part of the through route between Canterbury and Deal. However, the map is clearly derived from the Baker map, and adds little new information.

W.6. **Points:** 0

(as this map relies on the Baker map, see item VI.P)

X. Cary's Itinerary

X.1. **Date:** 1821

X.2. **Source:** *Cary's New Itinerary, or an Accurate Delineation of the Great Roads both Direct and Cross throughout England and Wales.*⁶⁰

⁶⁰ John Cary, made by Command of His Majesty's Postmaster General for Official Purposes under the Direction and Inspection of Thomas Hasker Esq Late Surveyor and Superintendent of the Mail Coaches (9th edition) books.google.co.uk/books?id=wBEHAAAQAAJ

'Advertisement' (Introduction):

IN Books which are published as Guides to Travellers, Accuracy must ever be regarded as the principal object; the Proprietor therefore deems it incumbent upon him to state the Authorities under which this ITINERARY was first published. It might, perhaps, be sufficient to say, that it was brought forward under the sanction of *His Majesty's Postmaster General*: but he cannot avail himself of such an indulgence without noticing the circumstances which procured him that very honourable patronage.

Having had it in command from the *Postmaster General* to make a Survey, under the direction of Mr. HASKER, the late Surveyor and Superintendant of the Mail Coaches, of all the *principal Roads* throughout the kingdom, for official purposes, the accuracy of which (*as required by an Act of Queen Anne, for all Roads measured on account of the GENERAL POST OFFICE*) is attested on the oaths of the several Surveyors employed, it was deemed to be a Work of such utility to the Public, that it ought not to be withheld; as, from the precision with which it was executed, much benefit might accrue to the Traveller; and as the distances on those Roads were planned from one stationary object to another, it would enable him to determine, beyond dispute, the exact length of his stages.

Extensive as was this Survey, it was nevertheless considered not to embrace the whole of those Roads to which the Traveller might wish occasionally to refer; therefore the Proprietor has, with great industry and care, selected from the County Surveys such other Roads as appeared to him essential, the distances on which, although not regulated by his own Survey, and, of course, not calculated from one stationary mark to another, yet he has every reason to believe are faithful, the whole being verified by the different Postmasters throughout the kingdom, and officially communicated by letter to FRANCIS FREELING, Esq. Secretary to the General Post Office, and THOMAS HASKER, Esq. the late Superintendant of the Mail Coaches, and by them forwarded to the Author. Through the same channel he also received a List of such Inns as supply Post Horses and Carriages (which are added at the end of each Route), Seats, &c. &c.

FIFTH

Illustration I: Cary's Itinerary ('Advertisement')

Extract of itinerary from London to Deal:

[15]		ROADS measured from LONDON BRIDGE.		[16]
CANTERBURY , as p. 4		M	F	<i>To DEAL, avoiding Sandwich.</i>
Littlebourne	4 2	55 2	59 4	Brandling, as p. 15
Brandling	1 1	60 5	60 5	¼ m. on l. to Sandwich, 7½.
Wingham	1 4	62 1	63	Goodneston
Guilton Town	3	65 1	64 7	Knowlton
Ash	3	65 4	69	How Bridge
Each End	1 4	67		<i>Cross the Stour R. which passes on l. through Sandwich to the Sea.</i>
SANDWICH	1 3	68 3		Cottington
531 H. 2735 I.—Ma. ar. 7 Mo.; dep. 6 Aft.				<i>To DEAL, as p. 15</i>
St. Bartholomew	5	69		2 2
Ham	1 7	70 7		71 7
West Street	4	71 3		<i>Brandling, on r. is Brandling Court, Capt. Sir James Wood.</i>
Finglesham	4	71 7		<i>Between Brandling and Goodneston, on r. Dene Park, Sir H. Oxenden, Bt.</i>
How Bridge	4	72 3		<i>Goodneston, on r. Goodneston Park, Sir Brooke Wm. Bridges, Bt.; and Rowling Court, Hon. Miss Finch.</i>
Cottington	5	73		<i>Knowlton, on r. Knowlton Court, Capt. D'Aeth; Dane Court, E. Rice, Esq.; St. Albans, Wm. Hammond, Esq.; and Fredville, John Plumtre, Esq.</i>
Sholdon	6	73 6		<i>2 m. beyond Knowlton, on l. Updown House, J. M. Fector, Esq.; opposite, Betishanger House, F. Morrice, Esq.</i>
Upper Deal	4	74 2		<i>To ELTHAM, as p. 11</i>
LOWER DEAL	1	75 2		7 7
A corporate Town—1367 H. 7351 I.—Ma. ar. 8 Mo.; dep. 5 Aft.				Chiselhurst
<i>INNS. Sandwich, Bell, Rose. Deal, Hoop and Griffin, Royal Exchange, Three Kings.</i>				3 2
<i>Canterbury, 2 m. beyond, on r. The Mote, Earl Cowper; nearly opposite, Howlets, G. Gipps, Esq.</i>				11 1
<i>Littlebourne, near, on r. Lee Priory, Thomas Barret Brydges Barret, Esq.</i>				ST. MARY CRAY
<i>Brandling, 1 m. beyond, on r. Dene Park, Sir H. Oxenden, Bart.</i>				2 2
<i>Wingham College, late Mrs. Hey; near to which is Goodneston Park, Sir Brooke Wm. Bridges, Bart.</i>				13 3
<i>Between Wingham and Guilton Town, on r. Brook, J. Godfrey, Esq.; and The Grove, Mrs. Brockman.</i>				<i>Chiselhurst, on l. of the Common, Mrs. M. Townsend; opposite, Holme-wood Lodge, the late Gen. Morgan; further on, Camden Place, Thom-son Bonar, Esq.; and opposite, Mrs. Weddell, Herbert Jenner and Geo. Stone, Esqs. Gen. Twiss, and Pheasant Grove, Lady Wake.</i>
<i>On r. of Sandwich, Fenderland House, Mrs. Dare; Statenborough House, T. Moulden, Esq.; beyond which, Updown House, J. M. Fector, Esq.; and Dane Court, Edw. Rice, Esq.</i>				<i>To Charing, as p. 12</i>
<i>Near Sandwich are the Ruins of the Roman Castle of Rutupiae, or Rich-borough.</i>				48
<i>Near Deal, on l. Sandown Castle.</i>				Pett Place
				4
				48 4
				Frogwood
				1
				49 4
				Westwell
				1 2
				50 6
				Eastwell
				1 5
				52 3
				<i>By Eastwell Park to Boughton Lees</i>
				1
				53 3
				<i>Cross the Ashford and Canterbury Road and Stour R.</i>
				Wye
				2
				55 3
				<i>224 H. 1322 I.</i>
				<i>Pett Place, Rev. George Sayer.</i>
				<i>Eastwell Park, G. Finch Hatton, Esq.</i>
				<i>At Wye, Spring Grove, T. Brett, Esq.</i>

Illustration II: Cary's Itinerary (to Deal)

X.3. **Description:** This is the ninth edition of John Cary's itineraries, originally surveyed by commission to the Post Office, but subsequently published primarily for travellers to plan journeys from London to principal destinations. In addition to the itinerary from London to Dover, a subsidiary route is included from Canterbury to Deal 'avoiding Sandwich', via Goodnestone, Knowlton and How Bridge. Reference is made to Knowlton Court 'on r[ight]'. The distance is given from Goodnestone to Knowlton (1.7 miles) and from Knowlton to How Bridge (4.1 miles).

X.4. **Conclusion:** Cary's itinerary identifies a class III route from Canterbury to Deal via Knowlton. The introduction to the publication suggests that this route is an 'other road' as appears to the author to be 'essential', the distance having been verified by the relevant district Postmaster. A similar itinerary appears in the seventh and eighth editions of 1817⁶¹ and 1819⁶², so that the itinerary via Knowlton was presented in the same form in successive editions. The distances given between Goodnestone and How Bridge correlate well with the distance read off the Ordnance Survey map via Chillenden Mill, Knowlton, Straight Mile, Betteshanger, Broad Lane and How Bridge, viz: Goodnestone to Knowlton (1.6 miles) and from Knowlton to How Bridge (4.0 miles). The reader's attention is specifically drawn to Knowlton Court on the right of the route. These attributes confirm that the itinerary lies along Black Lane.

X.5. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	2	2	2

Y. Upper Venson estate plan

Y.1. **Date:** 1821

Y.2. **Source:** Kent County Archives⁶³

61 <http://books.google.co.uk/books?id=sZ1bAAAAQAAJ>, page 294

62 <http://books.google.co.uk/books?id=LxEHAAAAQAAJ>, page 115.

63 U229/P6

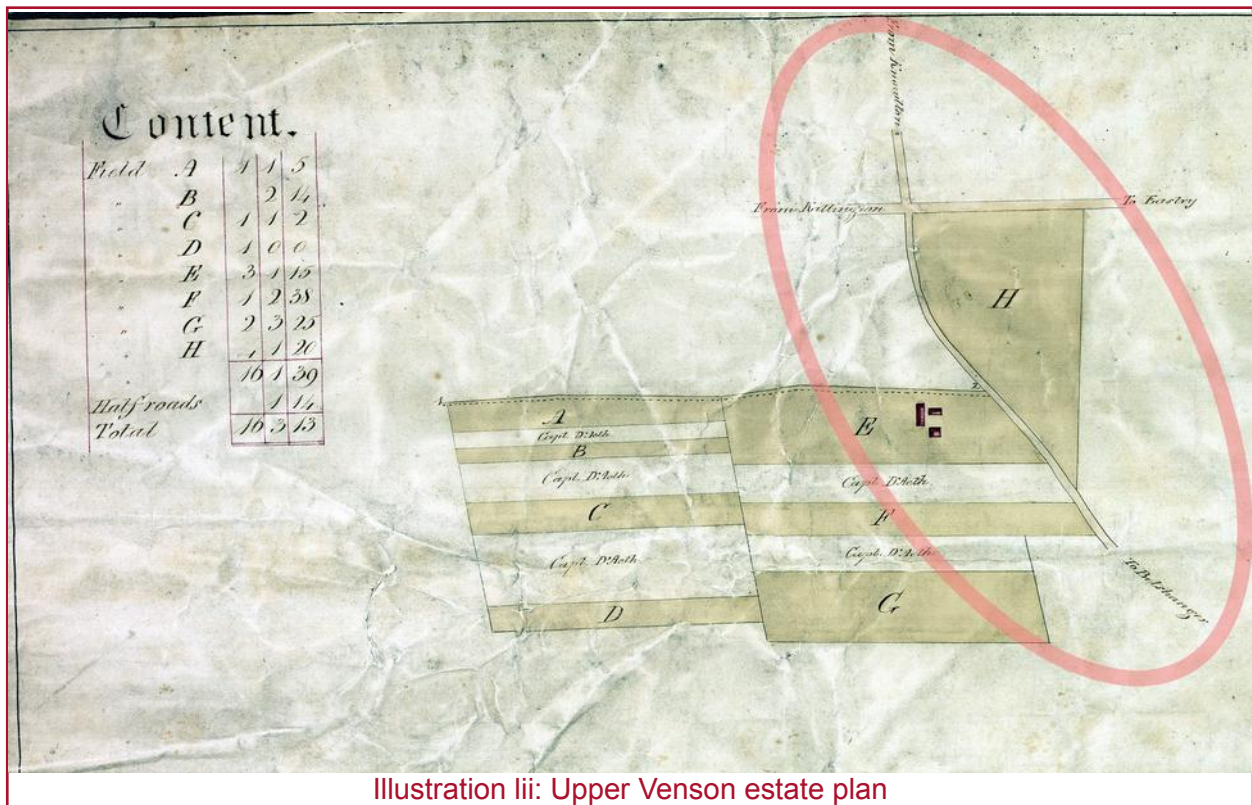


Illustration iii: Upper Venson estate plan

Y.3. **Description:** A copy of the entire plan is at Annexe D at p.142 below. The estate plan depicts fields, tenanted as Upper Venson Farm, where the ownership of various blocks within the fields was divided between two landlords. Upper Venson Farm (also known as Poor Start Farm) was demolished after the Second World War, but formerly lay east of point G (at TR29575318). The plan shows Thornton Lane marked as 'From Kittington' and 'To Eastry', and Black Lane north of point G as 'From Knowlton' and south-east of Upper Venson Farm as 'To Betshanger'. Both Thornton Lane and Black Lane are shown coloured sienna and with no gates or closures across either road. In the table of areas, 'half roads' are allocated 1 rood and 14 perches (1,366 square metres).

Y.4. **Conclusion:** The estate plan is supportive of the existence of a highway east and west of point G. The colouring of Black Lane and the destination labels to Knowlton and Betteshanger suggest a public highway, consistent with the known highway along Thornton Lane. The table of areas refers to Black Land and Thornton Lane as 'roads', and allocates to the estate half of the width of the highway *ad medium filum*: if Black Lane were an occupation road, it is likely that it would be wholly owned by the estate, or by some other person.

Y.5. **Points:**

Part	A-G	G-I	J-M
points	3	3	1

(This is the second of two local parish, estate or manorial maps to score points: no more than two such maps are scored for any part of the application route.)

Z. Leigh's new Pocket Road-Book

Z.1. **Date:** 1825

Z.2. **Source:** British Library⁶⁴



Illustration liii: Hall: Leigh's Pocket Road-Book

Z.3. **Description:** This small-scale map by Samuel Hall depicts only principal roads: these include the class III Canterbury to Deal way from Wingham via Dear Park, Knowlton and Betteshanger. The way is shown as passing to the north of Knowlton park and through Knowlton village.

Z.4. **Conclusion:** Despite the small scale, the map shows an alignment of the Canterbury to Deal way which must comprise Black Lane between Knowlton and Betteshanger. The nature of the way as a principal road means that it must be a public highway.

Z.5. **Points:** 0

(This is the third of several early county or area maps: no more than two such maps are scored.)

ZA. Pettman estate sale

ZA.1 **Date:** 1828

ZA.2 **Source:** British Newspaper Archive⁶⁵

64 24.a.30: copies available at www.pastpages.co.uk/site-files/maps-uk/GGM019.jpg and www.oldkentmaps.co.uk/K-110-i.htm

65 www.britishnewspaperarchive.co.uk/viewer/bl/0001409/18281118/003/0001 (£)

**FREEHOLD LANDS,
EASTRY.**

TO BE SOLD BY AUCTION,
By JOHN PARKER,

AT the BELL INN, EASTRY, on WEDNESDAY,
the 18th day of Nov., 1828, at one o'clock precisely.
(By Order of the Trustees of Mr. William Pettman, and
with the concurrence of the mortgagee.)

: IN FOUR LOTS,

The following parcels of Freehold Arable LAND, lying and being at or near a place called Wenson Bottom, in the parish of Eastry, viz:—

Lot 1. Two several pieces or parcels of Land adjoining each other; and containing together, by estimation, 13 Acres, more or less, lying next the Bridle way leading from Betshanger to Knowlton, and on the north side thereof.

Lot 2. A piece or parcel of Land near the above lot, and adjoining the same Bridle way, on the south, and containing, by estimation, 1 Acre, more or less.

Lot 3. One other piece or parcel of Land, containing, by estimation, 1 Acre 1 Rood, more or less, on the south side of the said Bridle way, and abutting to land late of Mrs. Rammell east, to lands of John Graham west, and to lands late of William Pettman north and south.

Lot 4. One other piece or parcel of LAND, containing by estimation four Acres, more or less, on the same side of the said Bridleway, abutting to lands of Captain D'Arth, east and west to land's late of Mrs. Rammell north, and to other lands late of the said William Pettman, towards the south.

All the above Lands are in the occupation of Mr. James Boddell, as yearly tenant.

For further particulars apply to J. J. PEIRCE, esq. Solicitor, Canterbury; or to G. W. GRAVENER, esq. Solicitor, Dover.

N. B. The Tenant will show the Lands.

Illustration liv: Auction 1828

ZA.3 **Description:** The Kentish Chronicle for 18 November 1828 contains an advertisement of the sale by auction of lands of the late William Pettman:

'The following parcels of Freehold Arable LAND, lying and being at or near a place called Wenson Bottom, in the parish of Eastry, viz:—

Lot 1. Two several pieces or parcels of Land adjoining each other; and containing together, by estimation, 13 Acres, more or less, lying next the Bridle way leading from Betshanger to Knowlton, and on the north side thereof.

Lot 2. A piece or parcel of Land near the above lot, and adjoining the same Bridle way, on the south, and containing, by estimation, 1 Acre, more or less.

Lot 3. One other piece or parcel of Land, containing, by estimation, 1 Acre 1 Rood, more or less, on the south side of the said Bridle way, and abutting to land late of Mrs Rammell east, to lands of John Graham west, and to lands late of William Pettman north and south.

Lot 4. One other piece or parcel of LAND, containing by estimation four Acres, more or less, on the same side of the said Bridleway, abutting to lands of

Captain D'Aeth, east and west to lands of Mrs. Rammell south, and to other lands late of the said William Pettman, towards the south.

All the above Lands are in the occupation of Mr. James Buddall, as yearly tenant.'

ZA.4 Conclusion: The advertisement of auction clearly relates to land located in Venson (formerly Wenson) Bottom, either side of what is described as a 'bridleway leading from Betshanger to Knowlton', which must be the order way. The land therefore appears to lie between G and I, or possibly between I and L. As the trustees of the late freeholder, William Pettman, the trustees might be expected to have full knowledge of the land, and therefore of the status of the application way.

ZA.5 It has not been possible to relate the plots described in the advertisement to those recorded in the Eastry tithe map and apportionment⁶⁶ (item VI.AG below). Many of the holdings on the arable downs here were defined only by boundary stones, with a gradual trend towards rationalisation into larger parcels. For example, it can be seen that no trace of the complex holding of strips described in the Upper Venson estate plan (item VI.Y above) of 1821 endured by the date of the tithe survey in 1841.

ZA.6 Points:

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	1	3	1

AA. The picturesque beauties of Great Britain

AA.1. Date: 1829–33

AA.2. Source: British Library⁶⁷

66 The tithe apportionment for Eastry is transcribed at: www.kentarchaeology.org.uk/research/tithes/eastry .

67 Wq1/2228: copies available at www.pastpages.co.uk/site-files/maps-uk/lx/IGM002.jpg and www.oldkentmaps.co.uk/K-123-iii.htm .

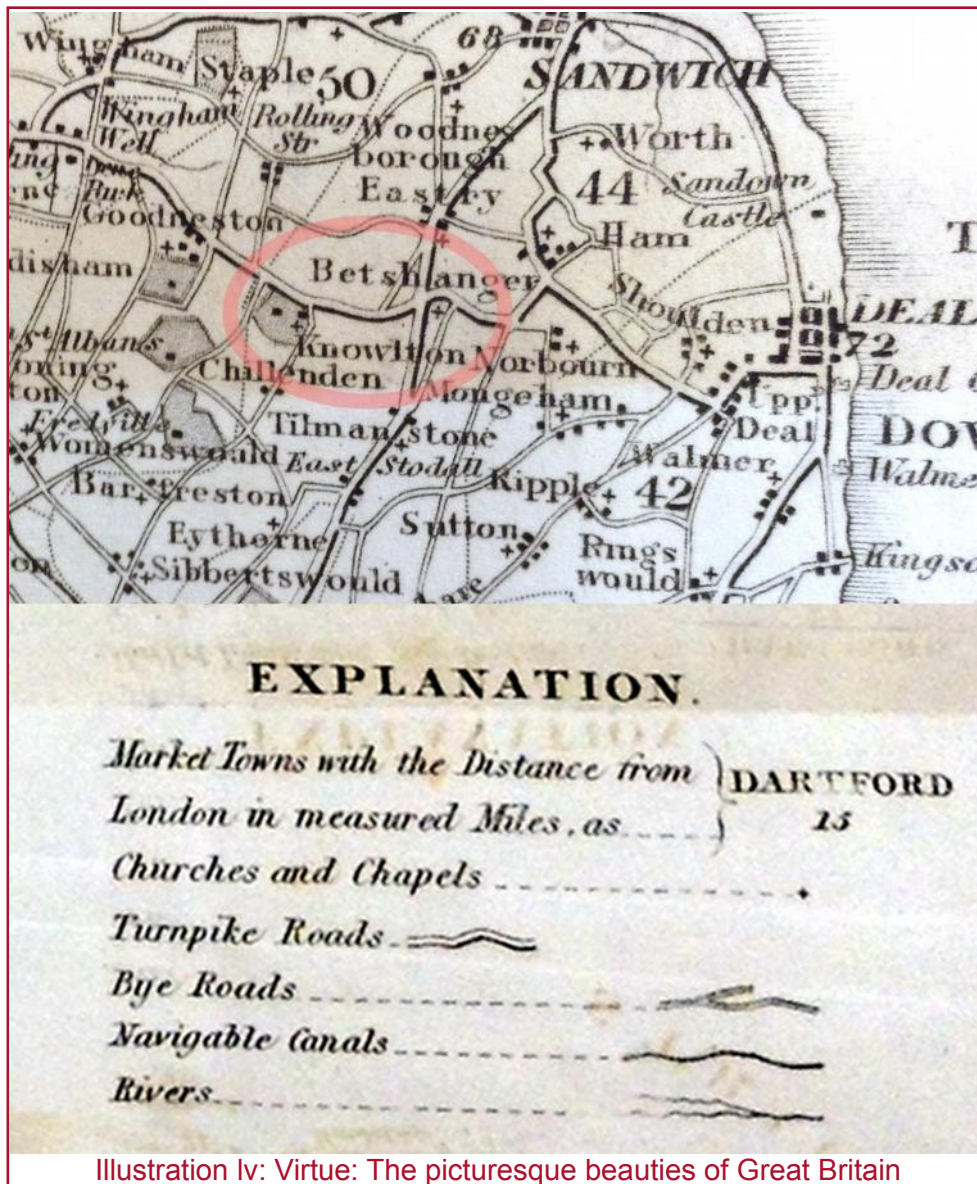


Illustration Iv: Virtue: The picturesque beauties of Great Britain

AA.3. **Description:** The map by George Virtue is not obviously derived from any of its predecessors, and shows a class III route between Canterbury and Deal, from Wingham Well via north of Goodnestone, Knowlton, Betteshanger and Sholden. The way is shown to the north of Knowlton Park, and is shown continuing east past what appears to be a junction with Venson Bottom, across the Dover Road, and east to join Straight Mile. The way is identified in the key as a 'turnpike road'. As none of the roads comprised in the class III route has ever been part of a turnpike, this classification appears to be an erroneous reference to a class of turnpikes and other principal roads.

AA.4. **Conclusion:** The Virtue map shows the Canterbury to Deal way as consistent with a route from Wingham Well via Adisham Road, Crockshard Hill, Goodnestone Road, Cave Lane, Chillenden Mill, Knowlton, Betteshanger, How Bridge and Sholden.

AA.5. The Virtue map is good evidence for the existence of a defined way along the application route: the thickened casing indicates a primary route on horseback, which must be a public highway.

AA.6. **Points:** 0

(This is the fourth of several early county or area maps: no more than two such maps are scored.)

AB. Moule's The English Counties delineated

AB.1. **Date:** 1830

AB.2. **Source:** British Library⁶⁸



Illustration Ivi: Moule's The English counties delineated

AB.3. **Description:** Moule's map is not obviously derived from any of those previously published. It shows a familiar class III route from Canterbury to Deal via Wingham, Dane Park, Goodnestone, Chillenden and Betteshanger. But it is also distinctive: it does not label Knowlton as such, although Knowlton Park is clearly recognisable, and the course of the Canterbury to Deal way east of Betteshanger follows a circuitous route not elsewhere identified. On this map, Black Lane is clearly incorporated within the course of the Canterbury to Deal way, but the way is not marked as a principal route, whereas the course of the Dover, Waldershare and Sandwich turnpike, and the Dover and Sandwich turnpike (via Deal) both are so marked.

AB.4. **Conclusion:** The map confirms Black Lane as one of a number of roads in the area which, while not principal routes, selectively are shown. As such, it is likely to be at least a bridleway.

AB.5. **Points:** 0

(This is the fifth of several early county or area maps: no more than two such maps are scored.)

AC. Knowlton parish terrier

AC.1. **Date:** 1833

AC.2. **Source:** Canterbury Cathedral Archives⁶⁹

68 C.29.b.2

69 CCA-DCb-D/T/K/14

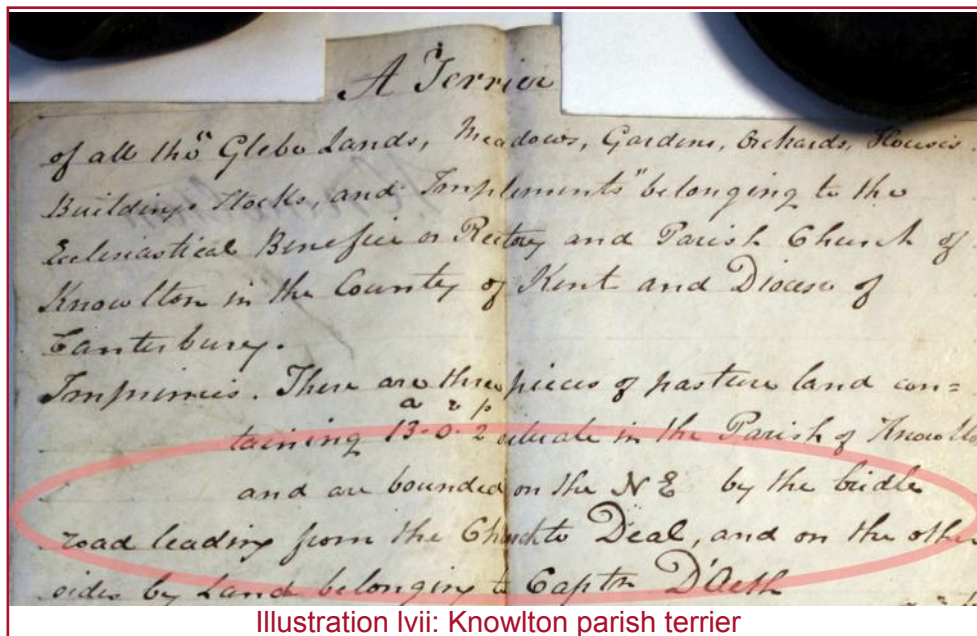


Illustration lvii: Knowlton parish terrier

AC.3. **Description:** A terrier or inventory of property held by the benefice of Knowlton. The terrier refers to three pieces of pasture land in the parish of Knowlton:

‘bounded on the north-east by the bridle road leading from the Church to Deal, and on the other side by Land belonging to Captn D’Aeth’

AC.4. **Conclusion:** The terrier provides confirmation of the contemporary status of the application route as a ‘bridle road’ to Deal. A bridleway to a named and distant destination such as Deal could be only a public way. The terrier was prepared locally, and reflected local knowledge.

AC.5. **Points:**

Part	A-G	G-I	J-M
points	2	1	1

AD. Contracted map of principal roads in Eastry

AD.1. **Date:** 1836

AD.2. **Source:** Canterbury Cathedral Archives⁷⁰

⁷⁰ CCA-U3-275/22/2

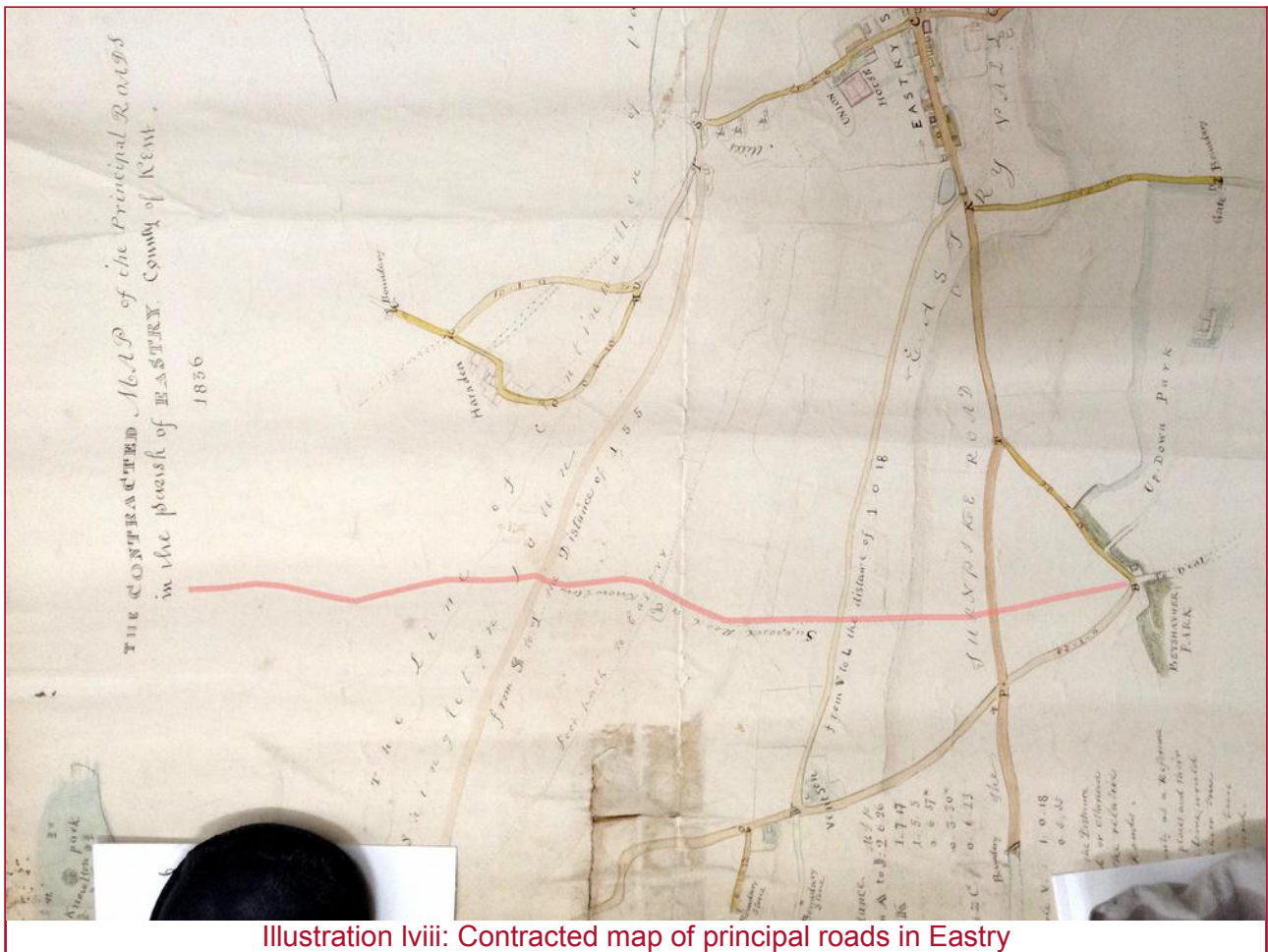


Illustration Iviii: Contracted map of principal roads in Eastry

AD.3. **Description:** Original scale: none recorded; orientation: rotated 270°. A copy of the entire map is at Annexe E at p.144 below. The map is derived from the parish records of St Mary the Virgin, Eastry, and was drawn in 1836 by surveyor J Foord of Sandwich. It is entitled, 'The contracted map of the principal roads in the parish of Eastry County of Kent 1836'.

AD.4. The map is most likely to be a record of those roads in the parish which at that time were recognised as maintained by the inhabitants of the parish of Eastry, and the responsibility of the surveyor appointed by the parish. Presumably, the surveyor wished to invite tenders for the maintenance of those roads by a contractor, and the map formed part of the specification. By 'principal roads', the map appears not to record footpaths and bridle roads.

AD.5. The map shows the application way as either a single pecked line (between E and Upper Venson or Poor Start Farm, and between J and M), or as a double pecked line (between Upper Venson or Poor Start Farm and I). The way is marked, 'Supposed Road to Knowlton'.

AD.6. **Conclusion:** The map shows the application way within the parish of Eastry in its entirety as either a path or track: the map is therefore good evidence of the existence of the way throughout from A to M at this date.

AD.7. The reference to the application way being the 'supposed road to Knowlton' is likely to represent a question over its status as a publicly-maintainable road, and not a question about its existence. The way is clearly marked on the map in the same way as other

paths, but the map's purpose is to record those principal roads which were maintainable by the local inhabitants. Accordingly, the intention appears to be to justify the way not being shown as one of the principal roads, and therefore not being recorded as one of those roads which the inhabitants are liable to maintain and which the contractor must therefore maintain. The map may therefore be a snapshot in the decline of Black Lane as a key route, at a date when there may have been some dispute over its precise status.

AD.8. This is the first document to call into question the status of Black Lane — though it does so merely in questioning whether Black Lane is a bridle road or carriage road, the latter maintainable by the parish.

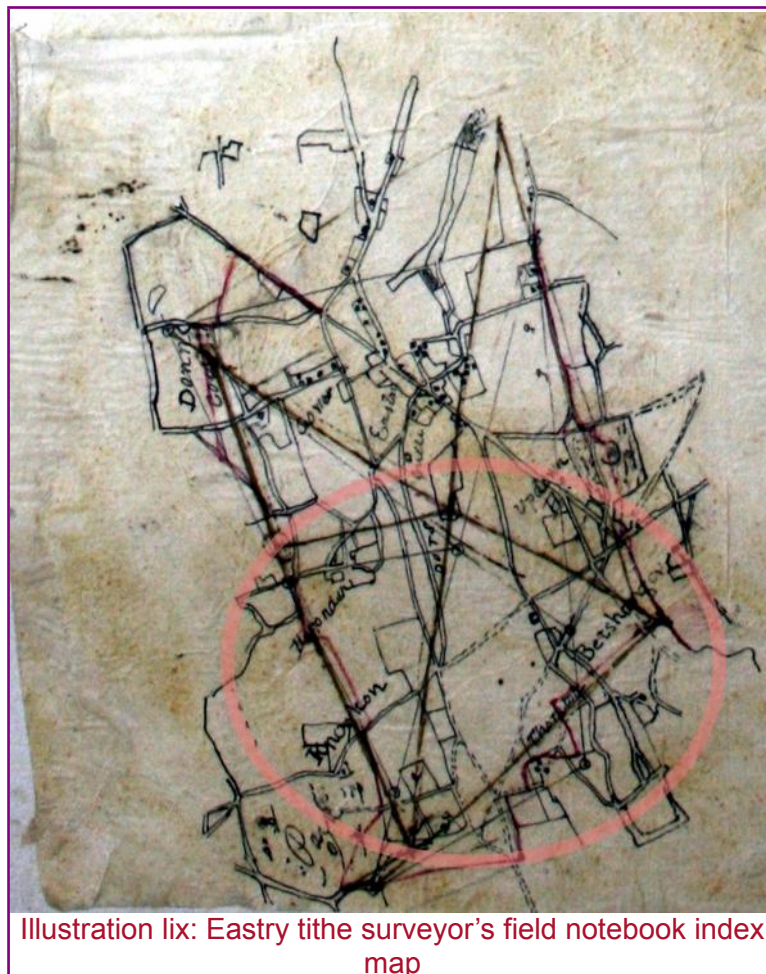
AD.9. **Points:** 0

AE. Eastry tithe surveyor's field books

AE.1. **Date:** 1840

AE.2. **Source:** Kent County Archives⁷¹

Eastry tithe surveyor's index map:



71 U304/O3/1

Eastry tithe surveyor's field book — page 1:

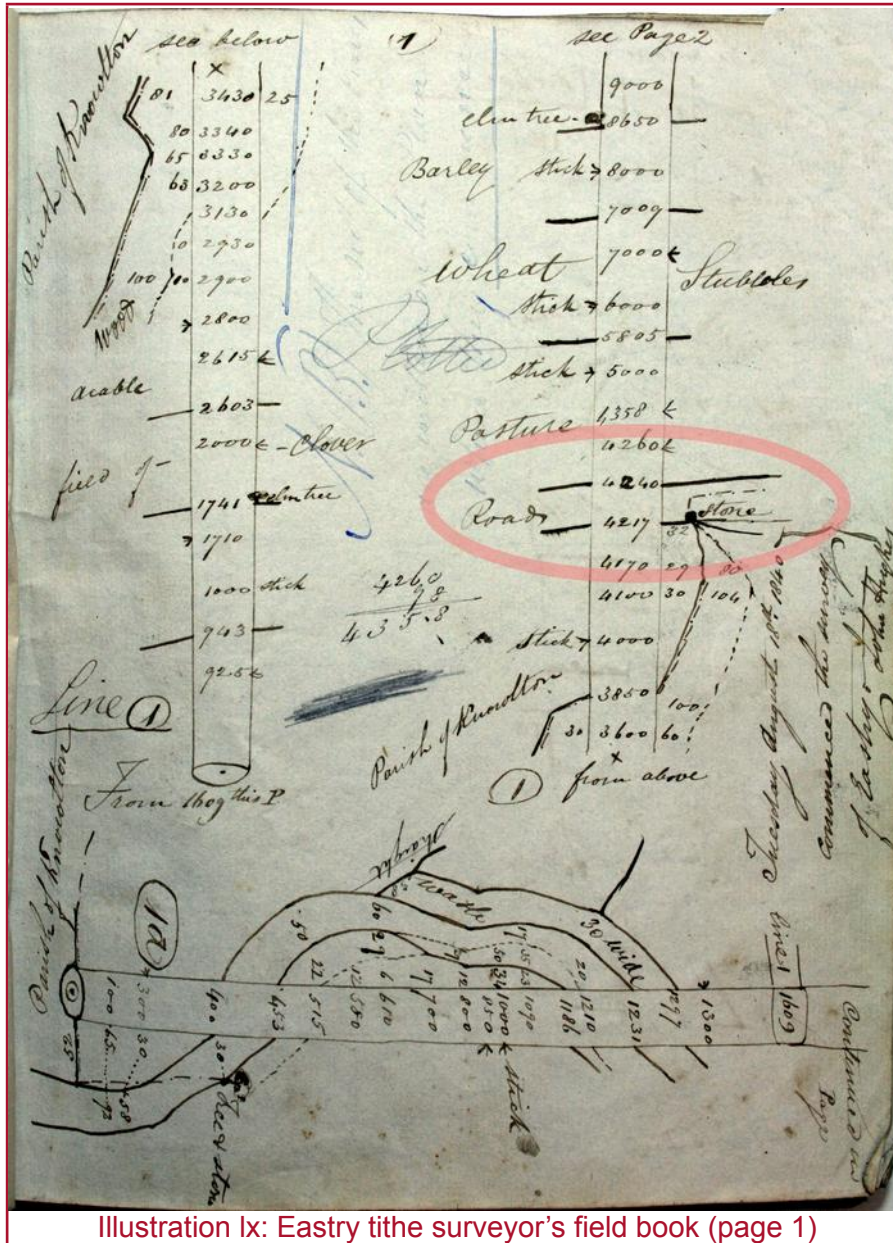


Illustration ix: Eastry tithe surveyor's field book (page 1)

AE.3. **Description:** The tithe surveyor's field books were drawn in connection with the surveys for the Eastry tithe map (see item VI.AG below) during 1839–41 and subsequently deposited with the tithe commissioners. *Illustration ix: Eastry tithe surveyor's field notebook index map* shows the surveyor's transects. The index map also shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, but unenclosed from approximately at G, generally east to and across Thornton Lane, across Venson Bottom and the Dover Road, to a junction with Thornton Road at M.

AE.4. Line 1 of *Illustration ix: Eastry tithe surveyor's field book (page 1)* appears to show a transect from the south-west corner of Eastry parish at approximately TR27805264 to the north-east corner of the parish. It is difficult to place the transect, but it may follow a line east along the parish boundary, before turning north-east to follow the alignment shown on the index map. If so, then line 1 shows the crossing of Black Lane between 4,217 links (848 metres) and 4,240 links (853 metres) from the root of line 1. The crossing is marked

as 'Road'. The markings on the sketch map to the right of the crossing correspond to the boundary stone formerly located at D and marked as such on the Knowlton Ordnance Survey boundary records (item VI.AM below), together with other tracks which appear on contemporary maps.

AE.5. **Conclusion:** The surveyor's field book index map may provide confirmation of the existence of a defined way, described as a 'road', along the application route. The transect along line 1, if correct in its identification of the intersection with Black Lane 32 links (6 metres) west of point D, provides support for the status of Black Lane as a road. It is also suggestive that the width of the road at the intersection was 23 links (4.6 metres).

AE.6. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	2	–	–

AF. Knowlton tithe map

AF.1. **Date:** 1840–41

AF.2. **Source:** map: Kent County Archives⁷²; tithe award: Kent Archaeological Society⁷³

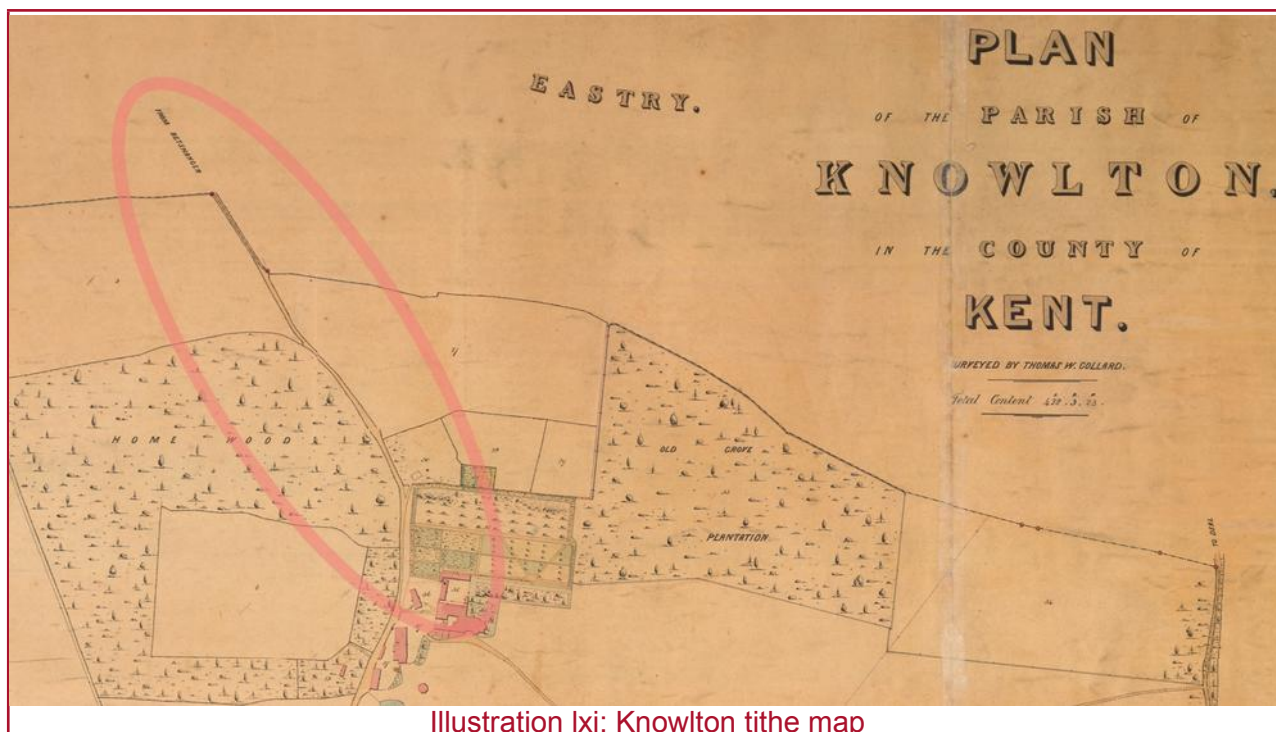


Illustration Ixi: Knowlton tithe map

AF.3. **Description:** Original scale: not marked but one inch to three chains (1:2,376); orientation: unchanged (top is east-southeast). A copy of the tithe map is at Annexe F at p.146 below.

AF.4. The tithe map for Knowlton, which is first class, shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, to D. Beyond D, the map is marked 'From

⁷² Kent tithe maps are available as images on CD.

⁷³ www.kentarchaeology.org.uk/Research/Maps/KNW/02.htm

Betshanger'. No part of Black Lane is shown as titheable. In the tithe apportionment for Knowlton, 'Roads and Waste' is shown in the summary as occupying 2 acres.

AF.5. **Analysis:** The Tithe Commutation Act 1836 enabled tithes (*i.e.* a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. An assessment of the tithe due and the payment substituted was set out in an apportionment. The 1836 Act was amended in 1837 to allow maps produced to be either first class or second class.

AF.6. First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners. They had to be at a scale of at least three chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at six 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 to⁷⁴.

AF.7. The tithe process received a high level of publicity as landowners would be assiduous not to be assessed for a greater payment than necessary. In *Giffard v Williams*, it was said, referring to a tithe map and award:

'...the Act of Parliament requires these things to be done, not in a corner, but upon notice in all the most public places; so that it is impossible to treat this document otherwise than as a public one, and as public evidence that at that time the owner of the undivided moiety of this field was aware of the facts.'⁷⁵

AF.8. 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' routes could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Footpaths, bridleways and unenclosed tracks were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not necessarily 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 to indicate public status, and highways expressly may be described as such in the apportionment.

AF.9. **Conclusion:** The label showing origin from Betteshanger, and the absence of any titheable rating, is good evidence of the public status of Black Lane east of D. Compare with the drives from Thornton Road and Sandwich Road to Knowlton Court, which are braced into the titheable area. Similar destination labels are used against other known public roads: Thornton Road ('to Deal'); Mill Top ('To Nonington'); Sandwich Road ('To St. Albans'); Griffin Hill ('From Chillenden'); Station Road ('From Chillenden'); the road from Goodnestone to the Sandwich Road ('To Goodneston'); Sandwich Road ('From Sandwich'); the road from Eastry ('From Eastry')⁷⁶. These roads are summarised in the apportionment as 'Roads and Waste'.

74 *Survey of lands (Tithe Act.), letter from Lt. Dawson, R.E., to the Tithe Commissioners for England and Wales, on the Nature, Scale and Construction of the Plans required for the Tithe Commutation Act, 29 November 1836* (copy held at the National Archives).

75 (1869) 38 LJ (Ch) 597 at 604, per Stuart V-C.

76 Planning Inspectorate: April 2016: www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines, para.8.12: '...the annotation of a road "to" or "from" a named settlement is suggestive of public rights.'

AF.10. It is sometimes said that the exclusion of a way from being rated as titheable is not an indication that the way is or is not public. However, in the circumstances of an enclosed track across open farmland, it is submitted that the absence of any rating is likely to indicate that the way was public. If it were a private track, then the track would have had productive value as grazing, and ought to have been assessed as rateable assigned to the track's owner. A private track could be abandoned at any time and the land farmed as productively as the neighbouring land (which was rateable) — it would be iniquitous for the rateable value of the track to be excluded from calculations.

AF.11. But as a public road, one would expect the surveyor to assess either that the rateable value lay with the parish vestry (which was not liable to assessment), or that no-one had any express entitlement to it.

AF.12. While other explanations for exclusion may be apparent, they are clearly not relevant here: for example, the owner of the track might have been exempt from tithes (glebe land for example) — but that should be obvious, and there is no reason here to infer that the ownership of the track was vested in some third party who was coincidentally exempt from tithes. It may be noted that the land to the south of Black Lane to the east of Knowlton House (comprising parcels 27–30 on the tithe map) was glebe land at this date (see Order of exchange (glebe land) at item VI.AO below), but is nonetheless duly recorded on the tithe map and demarcated by a thin red line.

AF.13. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	3	1	1

AG. Eastry tithe map

AG.1. **Date:** 1841

AG.2. **Source:** map: Kent County Archives⁷⁷; tithe award: Kent Archaeological Society⁷⁸

⁷⁷ Kent tithe maps are available as images on CD.

⁷⁸ www.kentarchaeology.org.uk/Research/Maps/EAY/02.htm



Illustration Ixii: Eastry tithe map

AG.3. **Description:** Original scale: one inch to three chains (1:2,376); orientation: unchanged (top is northeast). A copy of the extract is at Annexe G at p.148 below.

AG.4. The tithe map shows Black Lane between the intersection of Black Lane with the Knowlton/Eastry parish boundary at D, east to the Betteshanger parish boundary just beyond M. Between E and G, Black Lane is depicted as an enclosed road and is not titheable. Between G and I, Black Lane is depicted as an unenclosed road: there are no braces across the road, and the road forms the boundary to each titheable parcel, so this part is also not titheable. Between J and L, Black Lane is shown as a track represented by a single pecked line, but for the first approximately 200 metres, the track forms the boundary to the adjoining titheable parcels, and in common with the following section of approximately 100 metres adjacent to a field boundary, this section is also not titheable. The last part of this section of approximately 170 metres is braced and forms part of tithed parcel 458. Between L and M, the track is also represented by a single pecked line, is braced and forms part of tithed parcel 471.

AG.5. For **analysis**, see paras.AF.5–AF.8 above.

AG.6. **Conclusion:** The absence of any titheable rating, except as regards the last part of the application way east of L, is good evidence of the public status of Black Lane between D and L. Compare with other public roads of known status, which are also shown as untithed: Thornton Lane, Thornton Road, Venson Bottom, public bridleway EE266 (Venson Farm to Tilmanstone), Dover Road, Cater Road: some of these are specifically annotated with parcel reference 571, which does not appear in the tithe award, but is presumed to be incorporated in the entry in the tithe apportionment for 'Roads and Waste'. Whereas compare with driveways of presumed private status which are not: the driveway to Shingleton Farm, tracks parallel to but east of Thornton Lane, and the driveway to Updown House, all of which are braced with adjoining parcels, so that the area of those ways are added to those of the adjoining parcels for the purposes of apportionment.

AG.7. By this time, it may be that the most eastern part of the order route, part of J–L and the entirety of L–M, was no more than a cross-field bridlepath which no longer demanded separate identification as a ‘road’.

AG.8. **Points:**

Part	A–G	G–I	J–M
points	2	2	1 (part)

AH. Plan of estates in Eastry and Worth

AH.1. **Date:** Middle of C19 (see Description)

AH.2. **Source:** Canterbury Cathedral Archives⁷⁹

First estate plan

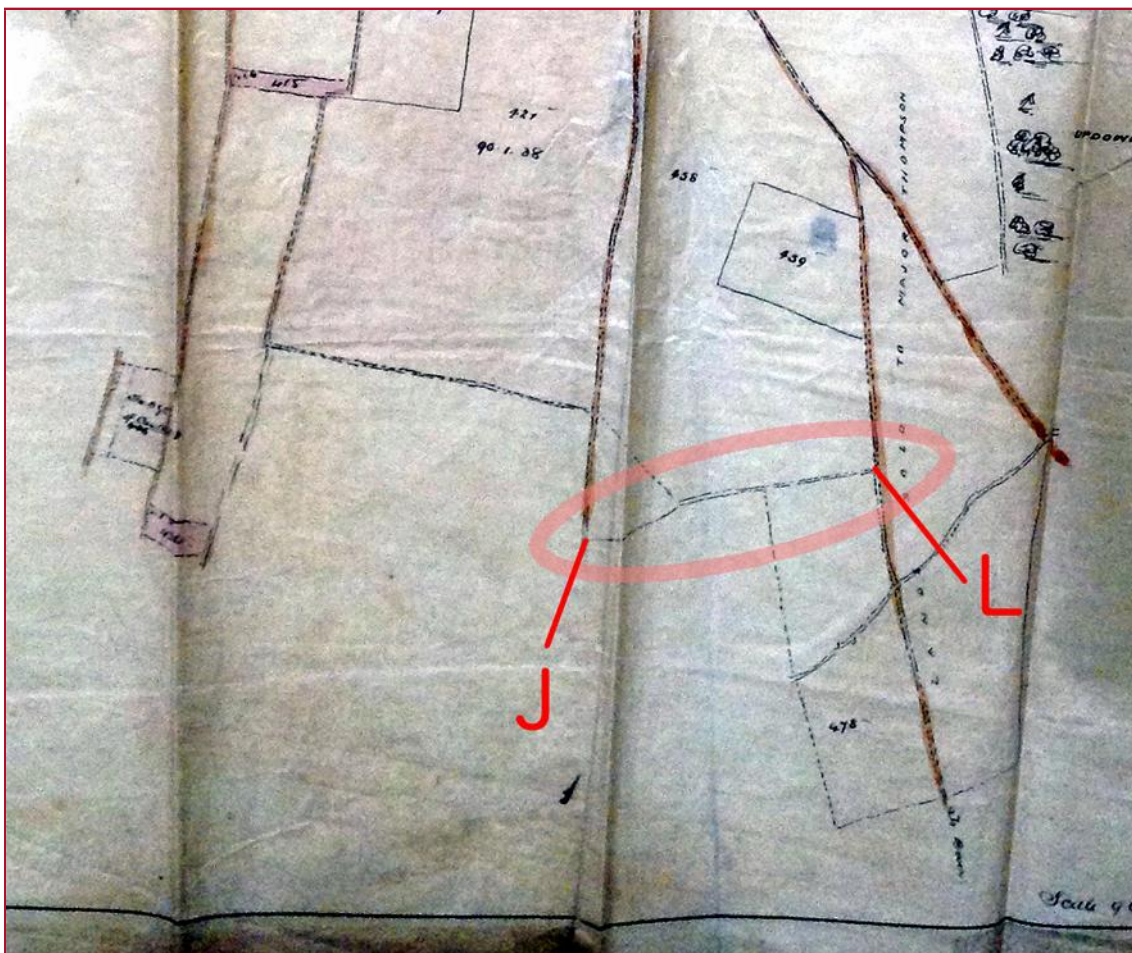


Illustration Ixiii: Plan of estate in Eastry and Worth

79 CCA-U63/19309, 19310

Second estate plan

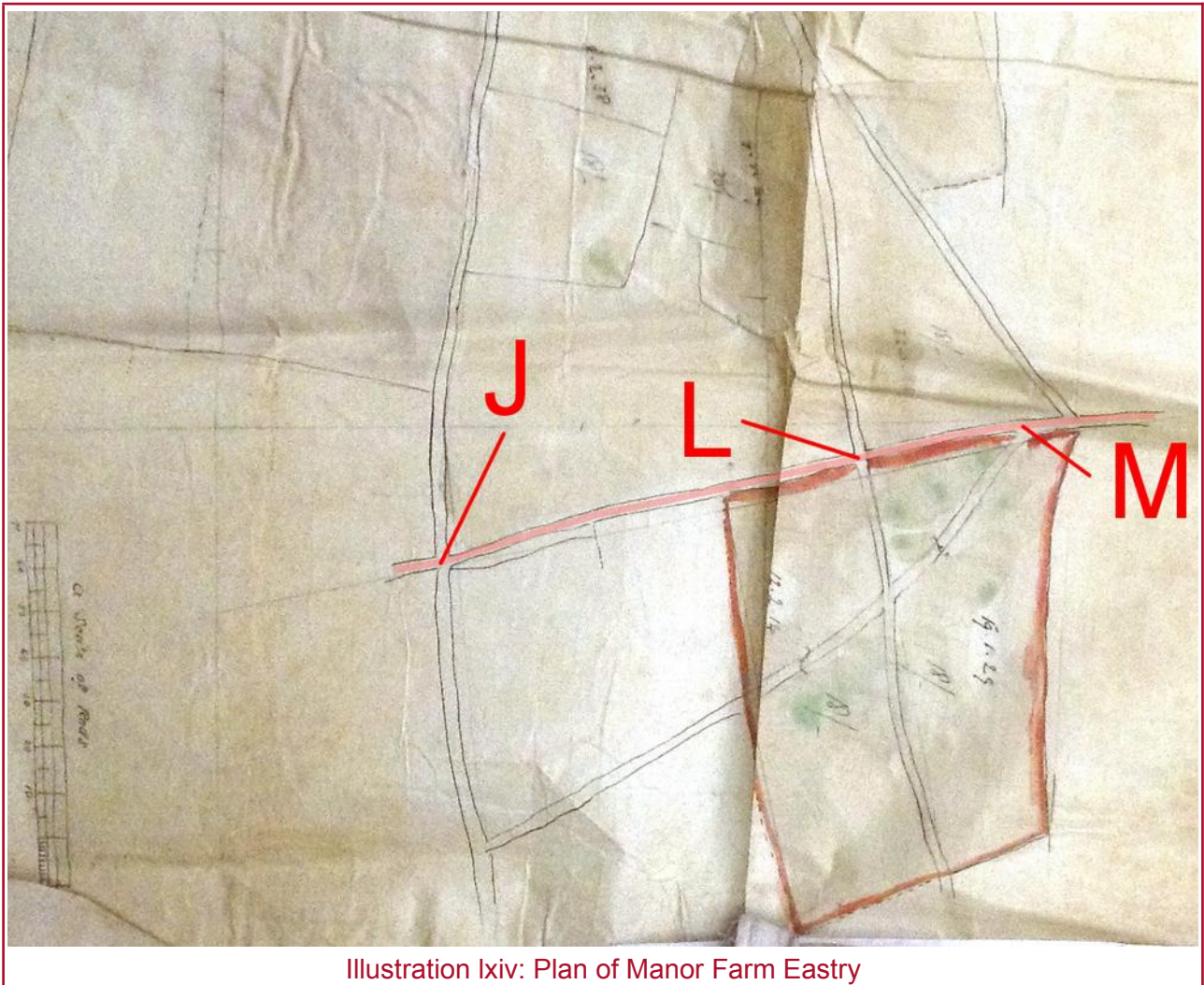


Illustration Ixiv: Plan of Manor Farm Eastry

AH.3. **Description:** First estate plan — original scale: marked as nine chains to one inch (1:7,128); orientation: unchanged (north); second estate plan — original scale: as marked on plan; orientation: rotated 270°.

AH.4. The first estate plan (Illustration Ixiii) is an undated map acquired from the Church Commissioners in a 1966 deposit, attributed to the eighteenth century, but which refers to parcel numbers used on the Eastry tithe map, and so likely to date from the middle of the nineteenth century.

AH.5. The second estate plan (Illustration Ixiv) is also an undated map acquired from the Church Commissioners, attributed to the eighteenth or nineteenth centuries, but clearly based on the Eastry Court estate map (item VI.B above).

AH.6. The first plan shows the application way between J and L (the original alignment of the turnpike followed the eastern boundary of the present dual carriageway, and so the termination of the track shown on the map is likely to be at L vice K). It is shown as a single, possibly pecked, path from J to the junction with a path from the northwest⁸⁰, and thence as a double pecked track east to L.

⁸⁰ An application has been made to record this path, the Heronden bridleway, as a public bridleway (application PROW/DO/C380).

AH.7. The second plan shows the application way between Venson Bottom and the terminus of the application way at M: in common with the Eastry Court estate map, the way is shown as an enclosed route.

AH.8. **Conclusion:** The estate maps provide good evidence of the physical existence of the application way between J and L and J and M respectively, but do not indicate whether any public rights exist.

AH.9. The absence of the continuation of the way west of J is accounted for by the exclusion of any estate interest in this part of the land.

AH.10. **Points:** 0

AI. Dugdale's Curiosities of Great Britain

AI.1. **Date:** 1850

AI.2. **Source:** British Library⁸¹



Illustration Ixv: Dugdale's Curiosities of Great Britain

AI.3. **Description:** Thomas Dugdale was an antiquarian and cartographical publisher. *Curiosities of Great Britain* was first published in 1835, containing a series of finely detailed county maps. This map dates from the 1850 edition. The Dugdale map shows a way between Wingham and Thornton Lane via Knowlton, passing to the north of Knowlton Park. However, nothing is shown to continue the way east beyond Thornton Lane to Bette-shanger, where the way resumes towards Deal to the east of the Dover, Waldershare and Sandwich turnpike.

AI.4. **Conclusion:** The Dugdale map is evidence of the existence of the application way between A and G only, and the small scale of the map is suggestive that the way must have been considered to be a public road. The omission of the application way east of G may reflect the declining importance of Black Lane as a through route — but this small scale map fails also to show Thornton Road.

AI.5. **Points:** 0

(This is the sixth of several early county or area maps: no more than two such maps are scored.)

81 Downloaded DRT Isidyv314d5967.

AJ. Ramsgate Sandwich Deal and Dover Railway

AJ.1. **Date:** 1861

AJ.2. **Source:** Kent County Archives⁸²

82 Q/RUm/463B.

Ramsgate, Sandwich, Deal and Dover Railway deposited plan:

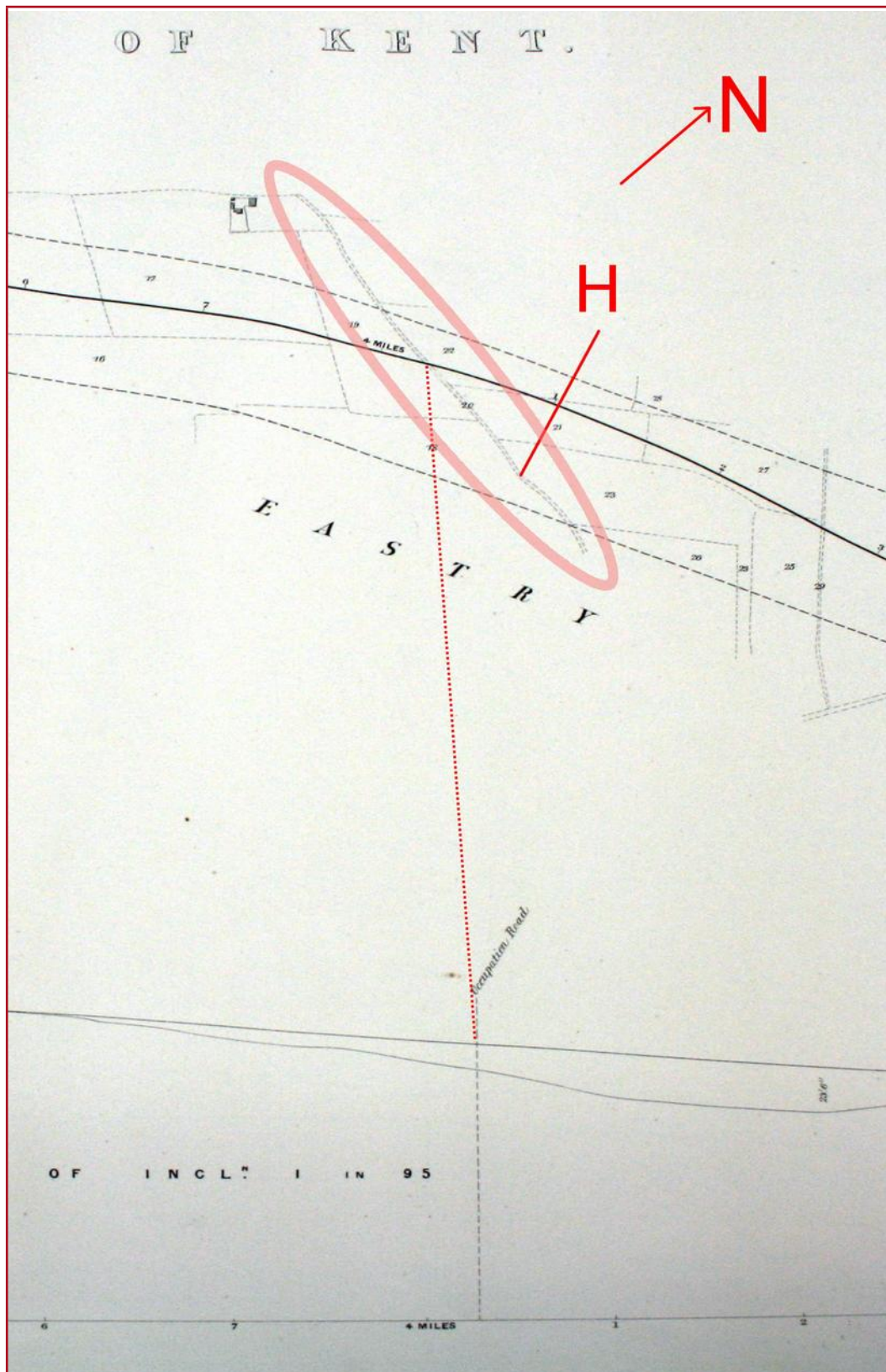


Illustration lxvi: Ramsgate Sandwich Deal and Dover Railway deposited plan

Ramsgate, Sandwich, Deal and Dover Railway deposited book of reference:

Parish of <i>Eastrey</i>		County of <i>Kent</i>		
Numbers referring to Plan.	DESCRIPTION OF PROPERTY.	NAMES of OWNERS or REPUTED OWNERS.	NAMES of LESSEES or REPUTED LESSEES.	OCCUPIER'S NAMES.
15	Field	Admiral George Hughes William D. Beth	William Grey	William Grey
16	Field	Admiral George Hughes William D. Beth	William Grey	William Grey
17	Field	William Boteler		George Wood
18	Field	William Boteler		George Wood
19	Field	William Boteler		George Wood
20	Occupation Road	William Boteler		George Wood, Joseph Patten Baker and Thomas Medgetts

Illustration Ixvii: Ramsgate Sandwich Deal and Dover Railway deposited book of reference

AJ.3. **Description:** The alignment for the proposed Ramsgate Sandwich Deal and Dover Railway is shown in Illustration Ixvi so as to cross Black Lane east of Thornton Lane, between G and H (the former Upper Venson or Poor Start Farm can be identified in the north-west corner of the plan extract). Black Lane is depicted as plot 20, and in the section the application way is referred to as an 'Occupation Road'. Similarly, in Illustration Ixvii, the plot is recorded as an 'Occupation Road' in the ownership of William Boteler and in the occupation of George Wood, Joseph Patten Baker and Thomas Medgetts⁸³.

AJ.4. **Analysis:** The proposal for the railway does not expressly record Black Lane between G and H as a public way, but as an occupation road. However, the Bill was not enacted, and the railway was not built, and as observed by the court in similar circumstances in *Trail Riders Fellowship v Secretary of State for the Environment, Food and Rural Affairs*⁸⁴, the plans attract less credibility; moreover, as the Bill was withdrawn⁸⁵ (whereas the plans cited in *Trail Riders Fellowship* were given effect by an Act), it cannot be assumed that they were endorsed by Parliamentary scrutiny.

AJ.5. The recording of probable public rights of way (other than public roads) in the deposited plans and book of reference for this proposed Ramsgate, Sandwich, Deal and Dover Railway is unreliable. The following table analyses every public right of way (other than carriageways which are today metalled and tarred) which is shown on the definitive map, or any path shown on near contemporary 1:2,500 Ordnance Survey mapping⁸⁶, as intersecting the proposed alignment of the railway between Shepherds Well and West Street (near Ham) (where the proposed lines to Deal and Sandwich diverge). The table records the location of each right of way or path, and the representation of it in the deposited plan and book of reference.

83 This may be a mis-spelling of 'Thomas Medgett'.

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

85 House of Commons, *Official Report*, 29 April 1862, [vol.117](#), p.163.

86 Ordnance Survey OS 1:2,500 second edition c. 1896–98, available from: maps.nls.uk/os/25inch-england-and-wales/index.html.

Description of present right of way	Grid ref.	Right of way no.	Description in book of reference		
			Parcel	Owner	Occupier
footpath from Eythorne Road to Long Lane	TR261489	FP ER78	Siberts-would 17 Path	Edward Royds Rice	(Lessee: Robert Potter) Robert Potter and William Higgins
bridleway from Sheperdswell-Barfrestone road to Shepherswell Road	TR265495	BW EE342	Barfreston 6 Public Road	The Surveyors of the Parish John Harvey Thomas Wilmott	The Surveyors of the Parish John Harvey Thomas Wilmott
footpath from Roman Way to Kelk Hill	TR282515	FP EE323	Nonington 8 Public Road	The Surveyor of the Parish John Spanton	The Surveyor of the Parish John Spanton
footpath from Kittington Cottages to Thorntonhill Cottages	TR286521	FP EE264	Eastry 4 Public Road	The Surveyors of the Parish Stephen Clark William Pittock	The Surveyors of the Parish Stephen Clark William Pittock
bridleway from Thorntonhill Cottages to Pike Road	TR288522	BW EE262A	Eastry 7 Private Occupation Road	Admiral George Hugh William D'Aeth and Edward Royds Rice	(Lessee William Wilson and William Wilson junior) William Wilson and William Wilson junior
Black Lane	TR299532	—	Eastry 20 Occupation Road	William Boteler	George Wood, Joseph Patten Baker and Thomas Medgetts
bridleway from Venson Bottom to Heronden	TR302534	—	Eastry 29 Occupation Road or Footpath	William Boteler and Aldborough Henniker	George Wood and Thomas Medgetts
footpath from Northbourne Road to Lower Street	TR310540	FP EE259	Eastry 37 Field and Footpath	William Boteler	(Lessee: John Oldfield) John Oldfield
bridleway from Northbourne Road to Hay Hill	TR317540	BW EE382	Eastry —	Not separately identified	Not separately identified

Description of present right of way	Grid ref.	Right of way no.	Description in book of reference		
			Parcel	Owner	Occupier
footpath from Eastry to Updown Farm	TR319541	FP EE257	Eastry —	Not separately identified	Not separately identified ⁸⁷

AJ.6. The deposited plans and book of reference failed to record the correct status of rights of way which were perceived (at the time the plans were prepared) not to be carriageways. In the table above, none of the intersecting routes now recorded as public rights of way on the definitive map and statement for Kent (and recorded as paths on the second edition Ordnance Survey 1:2,500 map) is expressly recorded in the book of reference as a public path. Relevant entries refer to the right of way in some cases as a public road, but otherwise as a 'path', 'footpath' or 'occupation road', and the owner, lessee where relevant, and occupier, appear to be the private interests in the land. In some cases, such as the bridleway from Northbourne Road to Hay Hill, the way is not separately identified in the book of reference. In the case of the footpath from Eastry to Updown Farm, the existence of a public footpath is noted neither in the plan nor the book of reference, but specifically cited in public notice of the deposit of the plans and book of reference⁸⁸. Whereas in relation to public roads, the ownership of land is vested in the surveyor of highways, none of the entries identified in the table, apart from acknowledged public roads, refers to the interest of the highway authority.

AJ.7. **Conclusion:** Section 46 of the Railways Clauses Consolidation Act 1845, by convention incorporated in the special Act for the construction of railways approved by Act of Parliament enacted after 1845, provided for the bridging of public roads, but for other public highways to be taken over the railway on the level (with the consent of local justices) unless provision were made to the contrary in the special Act⁸⁹: however, the plans provide no indication that any such provision was intended in relation to Black Lane. If Black Lane was considered to be a public bridleway, it did not greatly matter to the railway company whether it was recorded as an occupation road or as a public path, since in either case, it was required only to provide a crossing on the level.

AJ.8. **Points:** 0

AK. Dover, Deal and Sandwich Railway

AK.1. **Date:** 1862–85

AK.2. **Source:** Kent County Archives⁹⁰

⁸⁷ The path expressly is identified as a public footpath in notice of the application to Parliament for an Act: see [London Gazette, 29 November 1861, p.5136](#), para.3.

⁸⁸ *Ibid.*

⁸⁹ See also *Dartford Rural District Council v Bexley Heath Railway Company* [1898] AC 210.

⁹⁰ Q/RUm/466, 483, 505

Deposited plan 1862

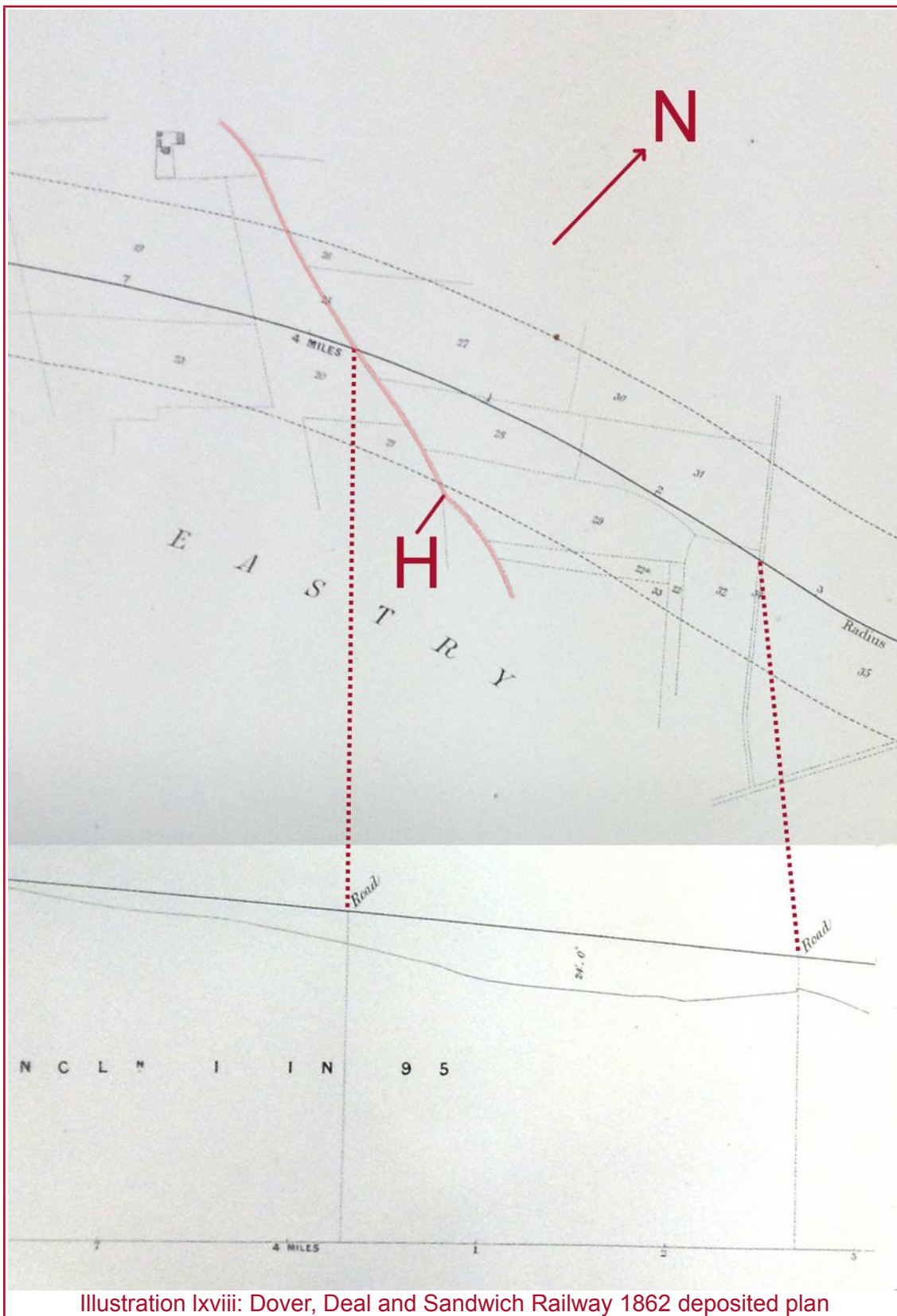


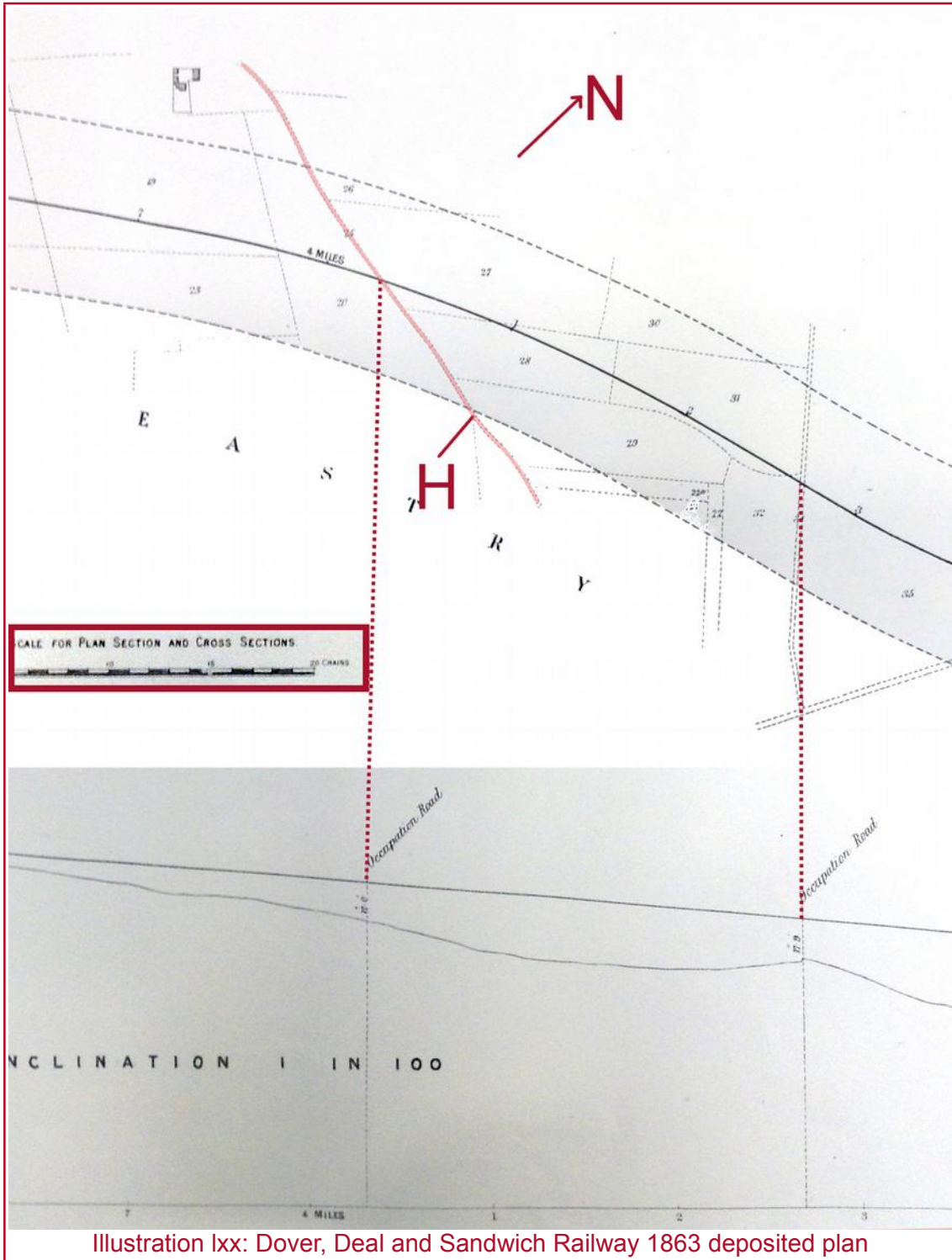
Illustration Ixviii: Dover, Deal and Sandwich Railway 1862 deposited plan

Deposited book of reference 1862

PARISH of <i>Eastley</i>		COUNTY of <i>Hert</i>		
Numbers referring to the Plan.	DESCRIPTION of PROPERTY.	NAMES of OWNERS or REPUTED OWNERS.	NAMES of LESSEES or REPUTED LESSEES.	OCCUPIERS' NAMES.
<i>24</i>	<i>Field</i>	<i>George Hughes William D'Arby</i>	<i>William Grey</i>	<i>William Grey</i>
<i>25</i>	<i>Occupation Road</i>	<i>William Boteler</i>		<i>George Wood William Patton Boteler Thomas Medgett</i>
<i>26</i>	<i>Field</i>	<i>William Boteler</i>		<i>George Wood</i>

Illustration Ixix: Dover, Deal and Sandwich Railway 1862 deposited book of reference

Deposited plan 1863



Book of reference 1863

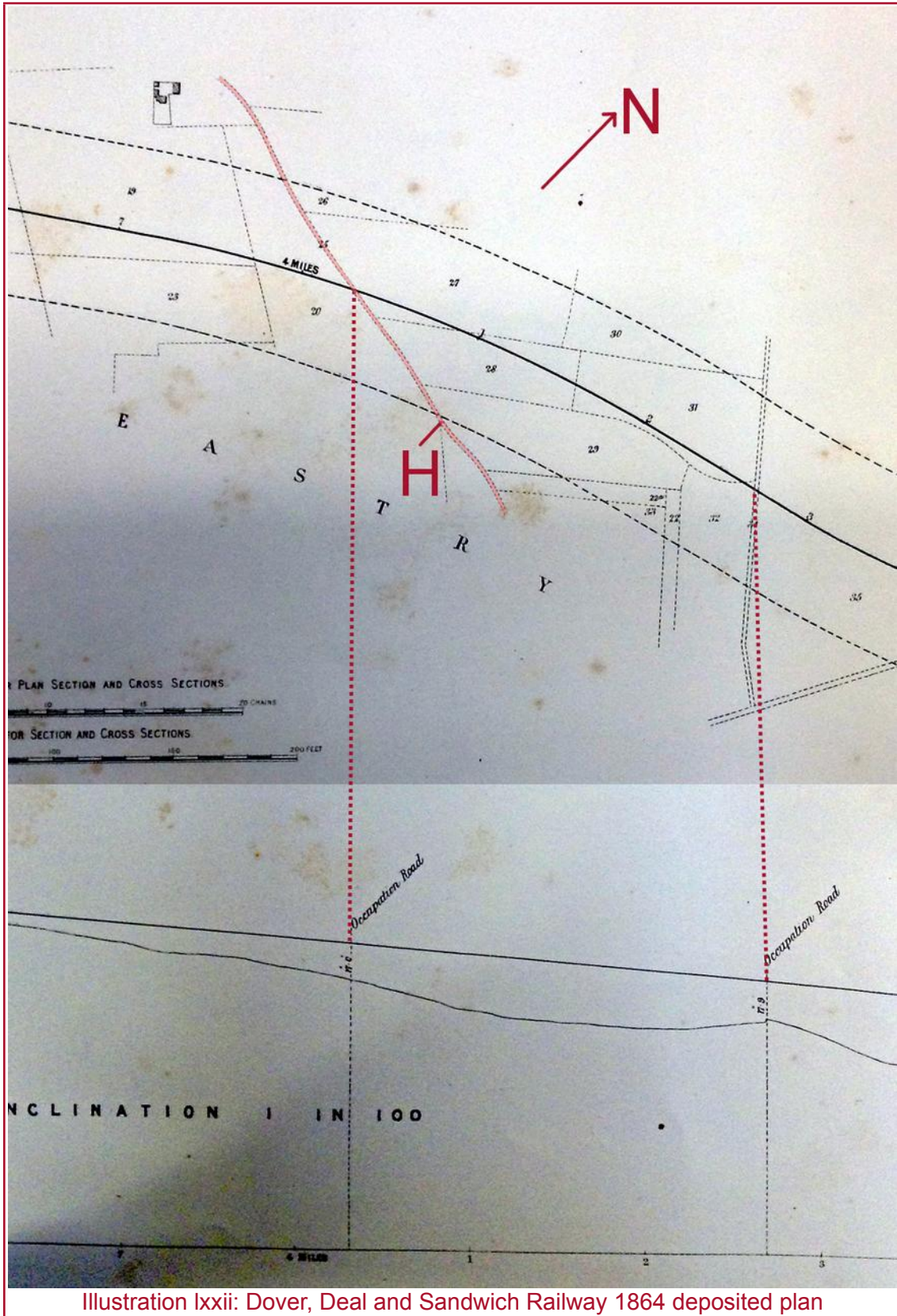
Railway No 1

PARISH of *Eastby* COUNTY of *Hert*

Numbers referring to the Plan.	DESCRIPTION of PROPERTY.	NAMES of OWNERS or REPUTED OWNERS.	NAMES of LESSEES or REPUTED LESSEES.	OCCUPIERS NAMES.
<i>24</i>	<i>Field</i>	<i>George Hughes & William D'Ash</i>	<i>William Grey</i>	<i>William Grey</i>
<i>25</i>	<i>Occupation Road</i>	<i>William Boteler and Aldborough Henneker</i>		<i>George Wood William Patten Parker Thomas Medgith</i>

Illustration lxxi: Dover, Deal and Sandwich Railway 1863 deposited book of reference

Deposited plan 1864



Book of reference 1864

No. in Plan	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.	OBSERVATIONS.
24	Field	Ditto	Ditto	Ditto	
25	Occupation Road	William Boteler and Aldborough Henniker		George Wood Joseph Patten Baker Thomas Medgetts	

Illustration lxxiii: Dover, Deal and Sandwich Railway 1864 deposited book of reference

AK.3. **Description:** Original scale: not marked on 1862 plan (but planned line marked off in furlongs), marked on 1863 and 1864 plans; orientation: unchanged (top is northwest).

AK.4. A Bill for the Dover, Deal and Sandwich Railway was presented to Parliament in each of the 1862–83, 1863–64 and 1864–65 Sessions. The course of the line through Eastry parish is identical to that of the Ramsgate Sandwich Deal and Dover Railway (item VI.AJ above), which was presented to Parliament in 1861.

AK.5. The course of the application way is shown between G and H in the deposited plan for each year by double pecked lines, and assigned plot number 25. The former Upper Venson or Poor Start Farm can be identified in the north-west corner of the plan extracts.

AK.6. In the 1862 section, the application way is labelled 'Road'. In the 1863 and 1864 section, it is labelled 'Occupation Road'.

AK.7. In the 1862 book of reference for Eastry parish, plot 25 is attributed to an 'Occupation Road', and the owner is given as William Boteler and in the occupation of George Wood, William Patten Baker and Thomas Medgetts. In the 1863 book of reference, it is again attributed to an 'Occupation Road', but in addition, the owner is also given as Aldborough Henniker, the occupiers being unchanged. In the 1864 book of reference, it remains an 'Occupation Road', with the same owners as 1863, but occupier William Patten Baker has been replaced (or corrected) as one of the occupiers by Joseph Patten Baker.

AK.8. None of these Bills received Royal Assent, the proposals were not put into effect, and instead, the Deal and Dover Railway Act 1865⁹¹ was granted Royal Assent on approximately the present alignment of the Deal and Dover railway.

AK.9. **Conclusion:** the deposited documents for the Dover, Deal and Sandwich Railway disclose that the company's surveyor identified the application way initially in 1862 as a road, suggesting some uncertainty about the status, and subsequently as an occupation road.

AK.10. The sections show that no provision was made for a bridge in accordance with ss.46 and 49 of the Railways Clauses Consolidation Act 1845, which required the railway to be carried over or under a private carriage road by means of a bridge.

AK.11. Section 46 provided for other public highways (not being carriageways) to be taken over the railway on the level (with the consent of local justices) unless provision were

91 28 & 29 Vict., c.ccxcvi

made to the contrary in the special Act⁹². It may therefore be assumed that a level crossing were intended to be provided.

AK.12. It is submitted that the railway plans labour under the same defects in assessment as those prepared for the Ramsgate Sandwich Deal and Dover Railway (item VI.AJ above).

AK.13. **Points:** 0

AL. Field sketch map

AL.1. **Date:** c.1900 (but see below)

AL.2. **Source:** Kent County Archives⁹³

⁹² See also *Dartford Rural District Council v Bexley Heath Railway Company* [1898] AC 210.

⁹³ U2735/P/1

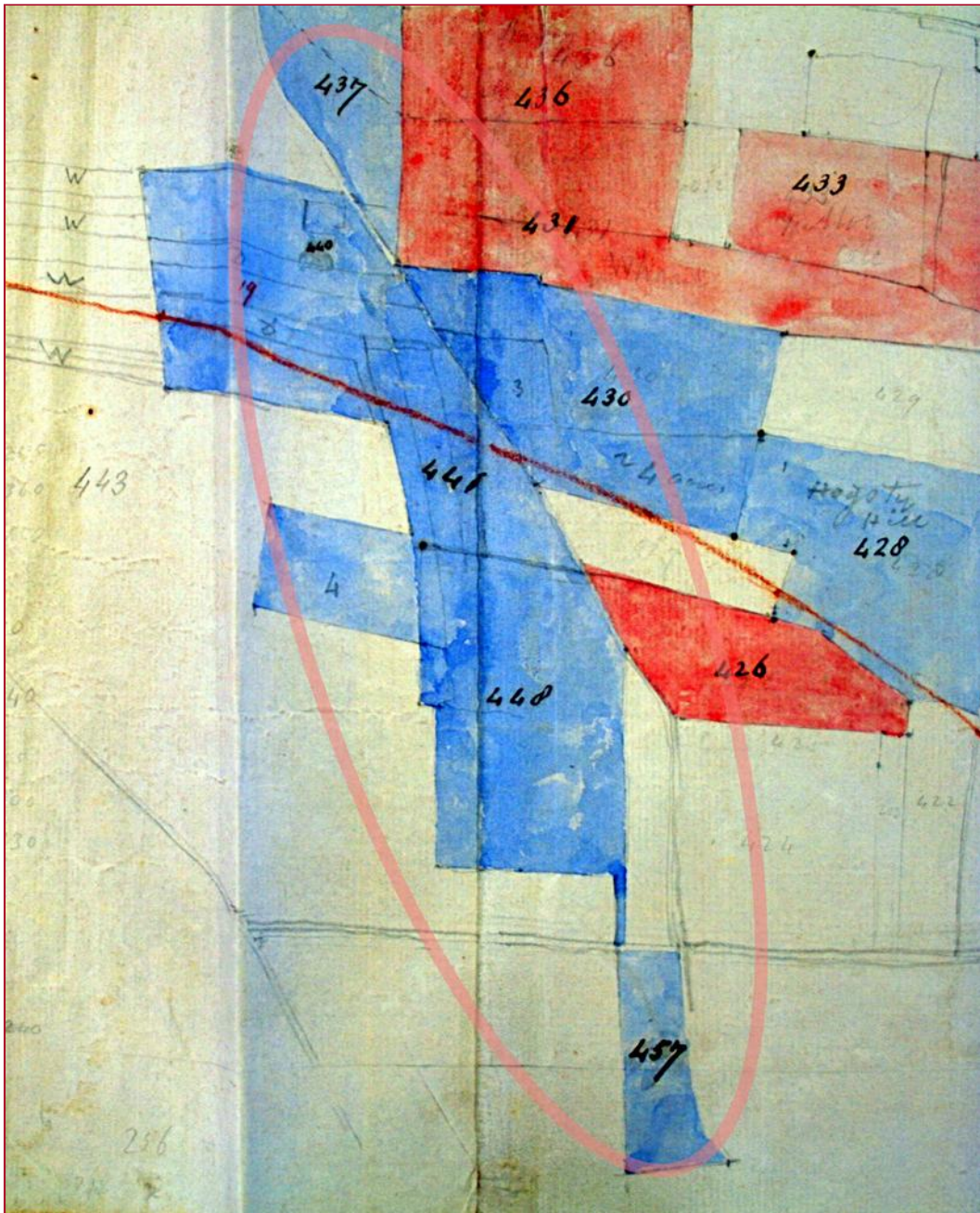


Illustration Ixxiv: Field sketch map

AL.3. **Description:** The sketch map of fields south of Eastry has been dated by the Kent county archive to *circa* 1900. It shows fields between Venson Bottom and Thornton Lane, some of which are colour washed. A key (not shown) describes the numbers and names of colour washed fields, and their area. A line, in brown, passes diagonally from left to right across the map, which is consistent with the planned alignment of the Ramsgate, Sandwich, Deal and Dover Railway, a Bill for which was presented to Parliament in 1861 (item VI.AJ above), or the Dover, Deal and Sandwich Railway (item VI.AK above), presented to Parliament in consecutive years 1862–64.

AL.4. The application route is shown between G and I as a track confined within two continuous lines, and from J towards K indistinctly, but at least in part as a track confined within two continuous lines.

AL.5. **Conclusion:** The map is dated by the custodian archive to *circa* 1900, but faithfully reproduces the planned alignment of one of several railway proposals put forward in 1861–64. As the railway was not built, it is unlikely that the alignment would have been marked on the map at a substantially later date, the line having ceased to have any relevance once the proposed failed to attain Royal Assent and the project was abandoned.

AL.6. It is possible that the line reproduces the planned route of the later Walmer, Deal and Adisham Railway (item VI.AP below), which was presented to Parliament in 1872, but the alignment and field patterns subtly differ.

AL.7. It is reasonable to conclude that the detail on the map was completed to reflect the interests of one or more owners of the land. The inclusion of the application route is therefore significant, and is evidence that the way existed and was recognised by the owner or owners of at least some of the land crossed between G and K, in or around the year 1861. The map does not identify the way as having any particular status.

AL.8. **Points:** 0

AM. Knowlton Ordnance Survey boundary records

AM.1. **Date:** 1866–69

AM.2. **Source:** National Archives⁹⁴

94 See extracts for catalogue references.

OS Boundary journal of inspection Goodnestone⁹⁵:

BOUNDARY SKETCH MAPS. Goodnestone next Wingham							
Journal of Inspection and Remarks.							
Applicant's Name and the Title	Boundary	Post Town	Inspected: If only a Part named, what Part	Checked with a Plan: If a Part only, what Part	Name and Date of the Plan	Other Plans known to be in existence:—Name of them, by whom and where kept	Remarks or Differences pointed out
<p>Reverend Frederick Goodnestone Park.</p> <p>Rev. Doddell</p> <p>Bank to King</p> <p>and to Goodnestone</p> <p>G. G. Bridges</p>		Wingham generally		NC	nil		<p>examined the boundaries of several Parishes with this of Goodnestone on the ground that much care & attention had been bestowed on various difficult points and the greatest accuracy was exhibited</p> <p>Wingham?</p> <p>Goodnestone</p> <p>Bank Green Bridge..</p> <p>The above also examined the boundaries of the Parishes of</p> <p>Sturanton</p> <p>Chilenden</p> <p>Staple</p> <p>Goodnestone</p> <p>Stungstone</p> <p>Stonington</p> <p>Wormenwold</p> <p>Barpreston, and</p> <p>Wingham.</p> <p>H. J. Jelland</p> <p>1874</p>

Illustration lxxv: OS Boundary journal of inspection Goodnestone

Eastry OS boundary field sketch map⁹⁶:

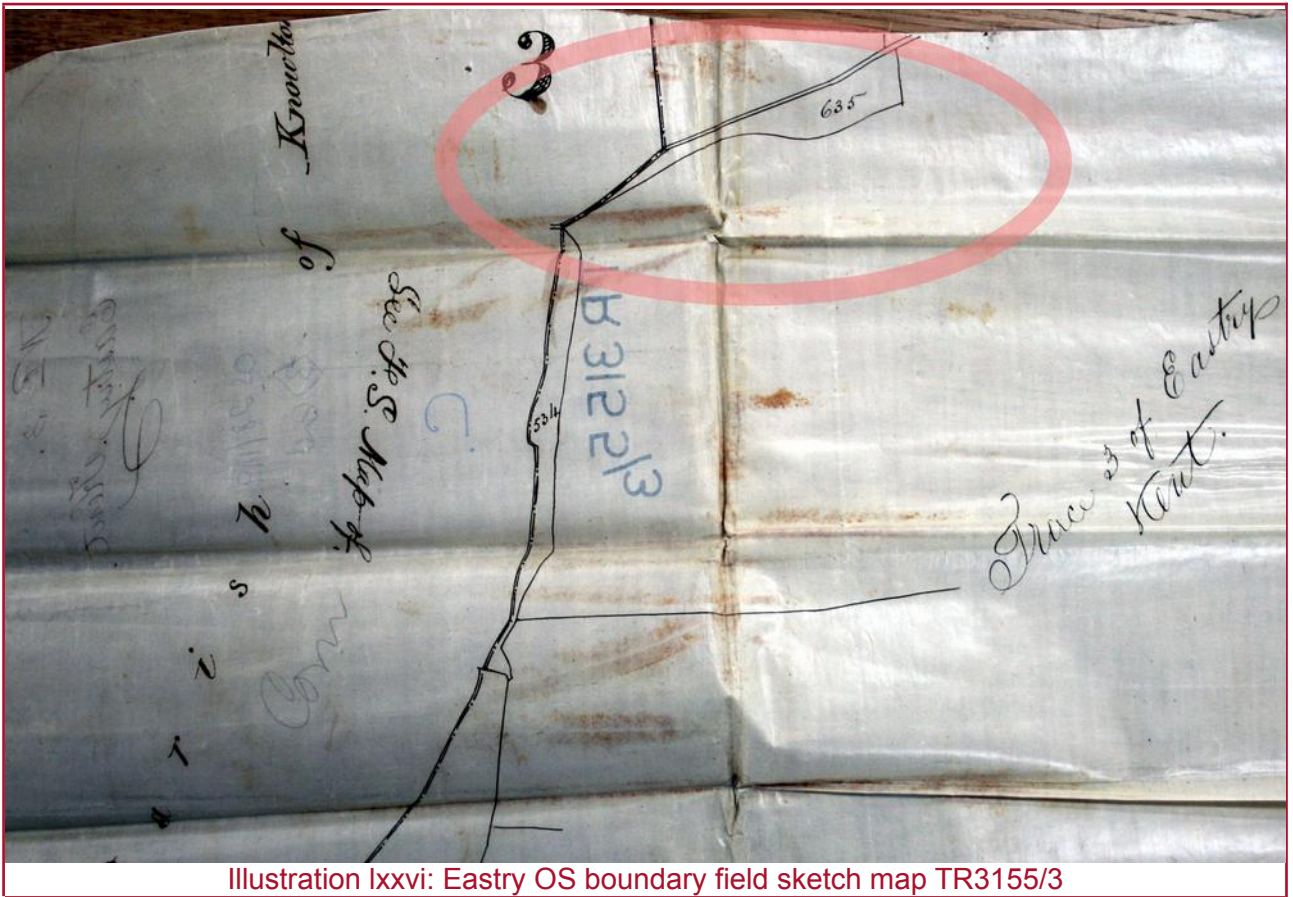


Illustration lxxvi: Eastry OS boundary field sketch map TR3155/3

Knowlton OS boundary field sketch map⁹⁷:

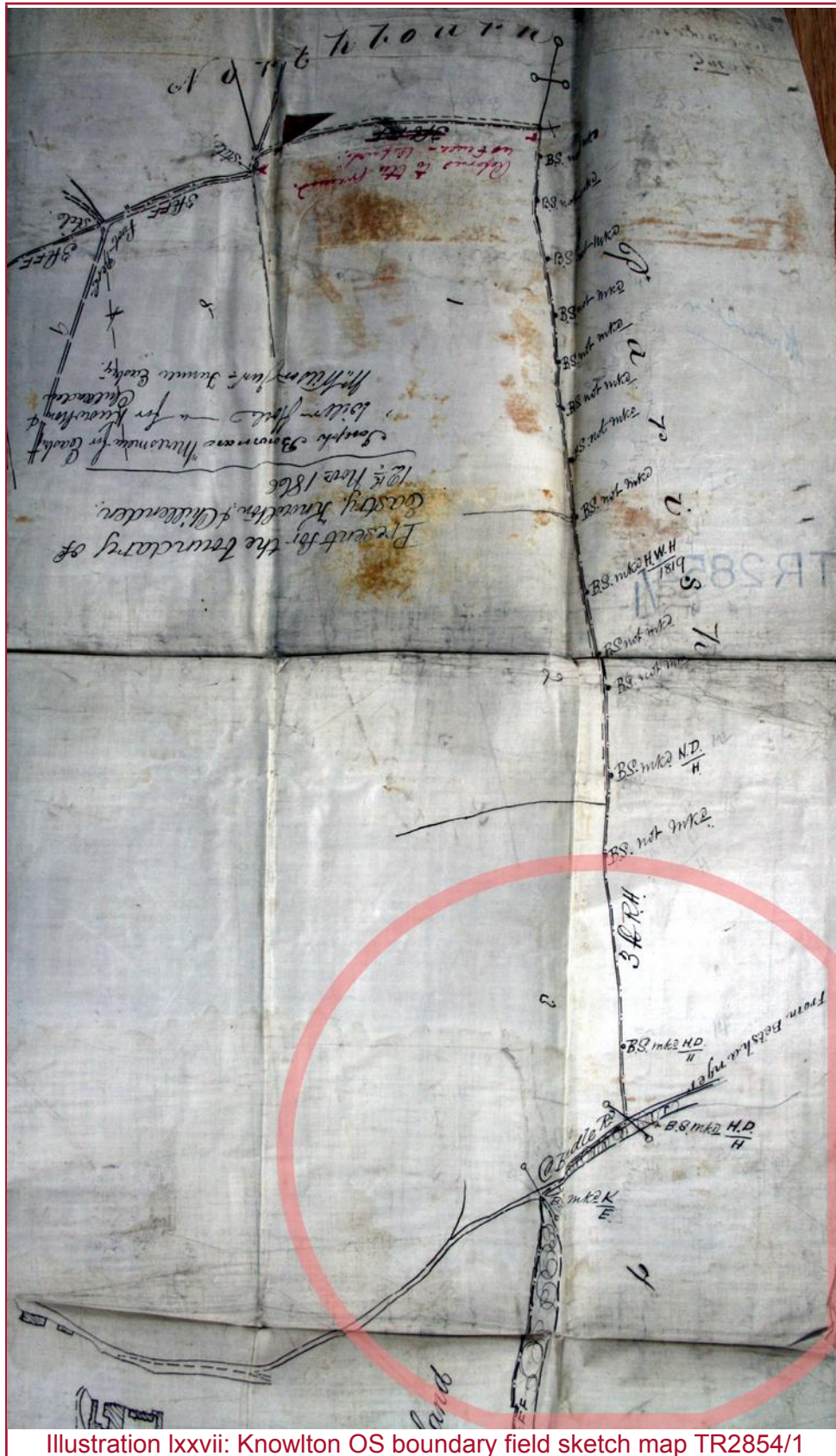


Illustration Ixxvii: Knowlton OS boundary field sketch map TR2854/1

aries by the surveyor accompanied by the parish meresman (that is, a senior resident of the parish who was specially tasked with knowledge of the parish's boundaries, and who very likely would have acquired such knowledge first hand from his predecessor as meresman).

AM.4. Illustration lxxv: OS Boundary journal of inspection Goodnestone records that the boundaries of Knowlton parish (among others) were examined by Baron FitzWalter of Goodnestone Park, George Dodds, his agent, and B G Bridgers.

AM.5. Illustration lxxvi: Eastry OS boundary field sketch map TR3155/3 records the boundary of Eastry with, *inter alia*, Knowlton, which is briefly coincident with Black Lane (the map is based on a tracing of the Eastry tithe map at item VI.AG above).

AM.6. Illustration lxxvii: Knowlton OS boundary field sketch map TR2854/1 records the boundary of Knowlton with, *inter alia*, Eastry (based on a tracing of the Knowlton tithe map at item VI.AF above), which shows the boundary coincident with Black Lane in greater detail, marked in particular with the status of Black Lane as 'Bridle Rd' and the direction to the east as 'From Betshanger'. There are also notes that the boundary is marked by stones at both changes in direction where the boundary joins and departs from the course of Black Lane. This sketch map is annotated: 'Present for the boundary of Eastry, Knowlton, & Chillenden: 12th Nov^r 1866/Joseph Bowman Meresman for Eastry; Will^m Hoile Meresman for Knowlton and Chillenden; Mr Wilson Jun^r—Farmer Eastry'. The extract also shows a footpath coincident with the boundary of Knowlton and Eastry, further north, which is the alignment of the public footpath from Knowlton to Eastry recorded on the definitive map as EE260.

AM.7. Illustration lxxviii: Knowlton OS boundary sketch map TR2755 is the final boundary sketch map for Staple, Knowlton, Chillenden and Goodnestone. The map reproduces the findings recorded in illustration lxxvii, and Black Lane is annotated as 'Bridle Road'. The parish boundary is noted as following 'C.R.', which is described in the key as 'Centre of Road'.

AM.8. **Conclusion:** The sketch maps were drawn up under the guidance of local gentry and parish meresmen tasked with responsibility for determining boundaries, and these persons agreed the details recorded. Black Lane is expressly annotated as a bridle road between D and E, and the parish boundary is marked as following the centre of the 'road'. A false attribution of the status of Black Lane would have been corrected by those consulted, and the maps are therefore good evidence for a status as bridleway.

AM.9. **Points:**

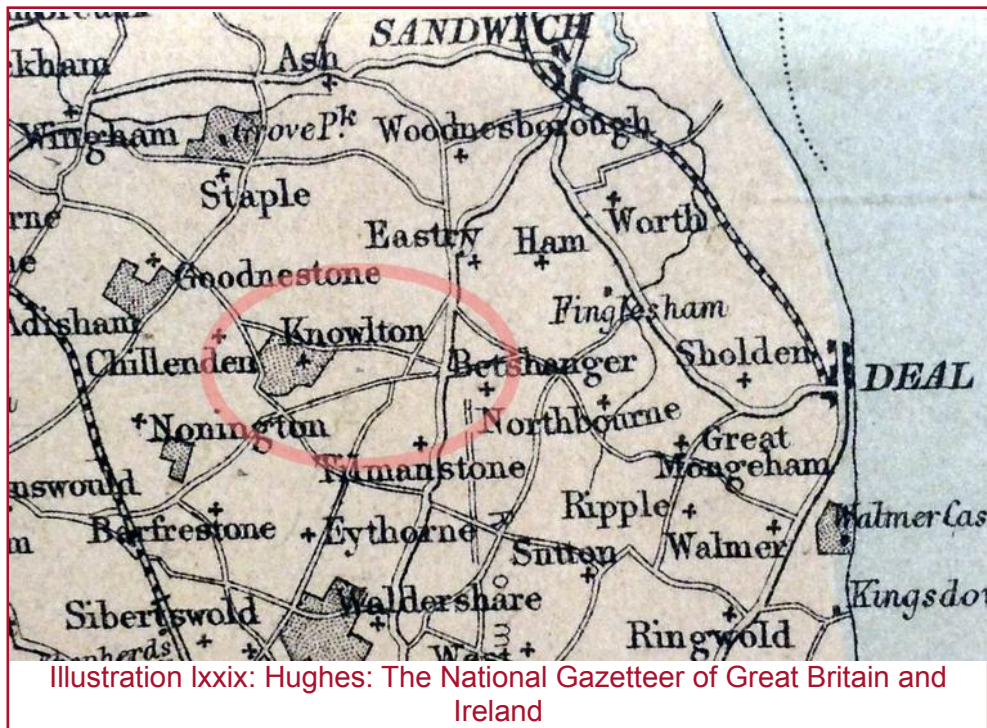
<i>Part</i>	A–G	G–I	J–M
<i>bridleway</i>	3	–	–

AN. The National Gazetteer of Great Britain and Ireland

AN.1. **Date:** 1868

AN.2. **Source:** British Library⁹⁹

99 10348.i.7: copies available at www.oldkentmaps.co.uk/K-166-A.htm and freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_files/ENG/KEN/hughes_kent_1870.htm.



AN.3. **Description:** The map by William Hughes is not obviously derived from any of its predecessors, and shows no principal route between Canterbury and Deal. The map shows Black Lane as a continuation of Knowlton Lane from Knowlton at A generally east to and across Venson Bottom and the Dover Road, to a junction with Thornton Road at Betteshanger at M.

AN.4. **Conclusion:** The map is good evidence for the existence of a defined way along the application route. There is no published key, but the map shows only selected through routes, noting that neither Sandwich Road (through Nonington) nor Thornton Lane appears on the map, and the depiction of Black Lane may be assumed to show a public way.

AN.5. **Points:** 0

(This is the seventh of several early county or area maps: no more than two such maps are scored.)

AO. Order of exchange (glebe land)

AO.1. **Date:** 1870

AO.2. **Source:** National Archives¹⁰⁰

100 MAF 14/13/1207

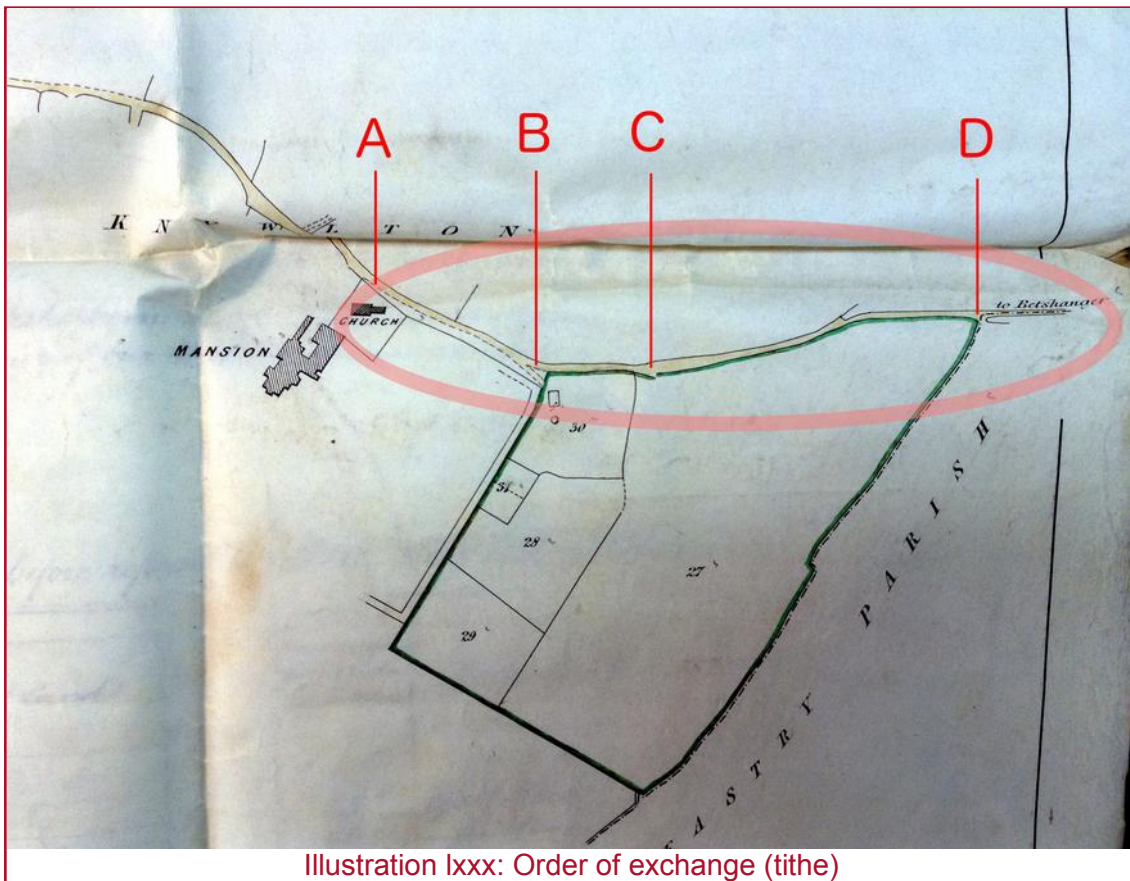


Illustration lxxx: Order of exchange (tithe)

AO.3. **Description:** S.5 of the Tithe Act 1842 permitted the Tithe Commissioners to make an order of exchange between glebe land and other land on the application of the incumbent of the living and with the consent of: the owner of the other land, the Ordinary (*i.e.* the bishop) and the patron of the living.

AO.4. An order of exchange was made by the Tithe Commissioners on the application of the Reverend Wyndham Charles Hardy Hughes D'Aeth, rector of Knowlton, as regards rectorial glebe land in the parish of Knowlton, and George William Hughes D'Aeth of Knowlton Court, as regards other land in the parish, and with the consent of the Archbishop of Canterbury and the patron of the living.

AO.5. The plan embodied in the order showing the glebe land to be surrendered by the rector (outlined in green in illustration lxii above) abuts the application way east of Knowlton Court. The application way is colour-washed in sienna and marked, east from D, 'to Betshanger'.

AO.6. **Conclusion:** The representation of the application way between A and D coloured sienna demonstrates that it was regarded as a public highway, sienna typically being used to distinguish highways from other tracks and roads. The flag 'to Betshanger' which appears against the application way on the east side of the plan, shows that the application way was regarded as a public highway leading east from D to Betteshanger, such flags seldom being used other than on public highways: the way to Betteshanger was necessarily via G and M. The plan therefore indicates that the way east of A is at least of bridleway status.

AO.7. Points:

<i>Part</i>	A-G	G-I	J-M
<i>bridleway</i>	3	1	1

AP. Walmer, Deal and Adisham Railway

AP.1. **Date:** 1872

AP.2. **Source:** Kent County Archives¹⁰¹

101 Q/RUm/601

Walmer, Deal and Adisham Railway deposited plan:

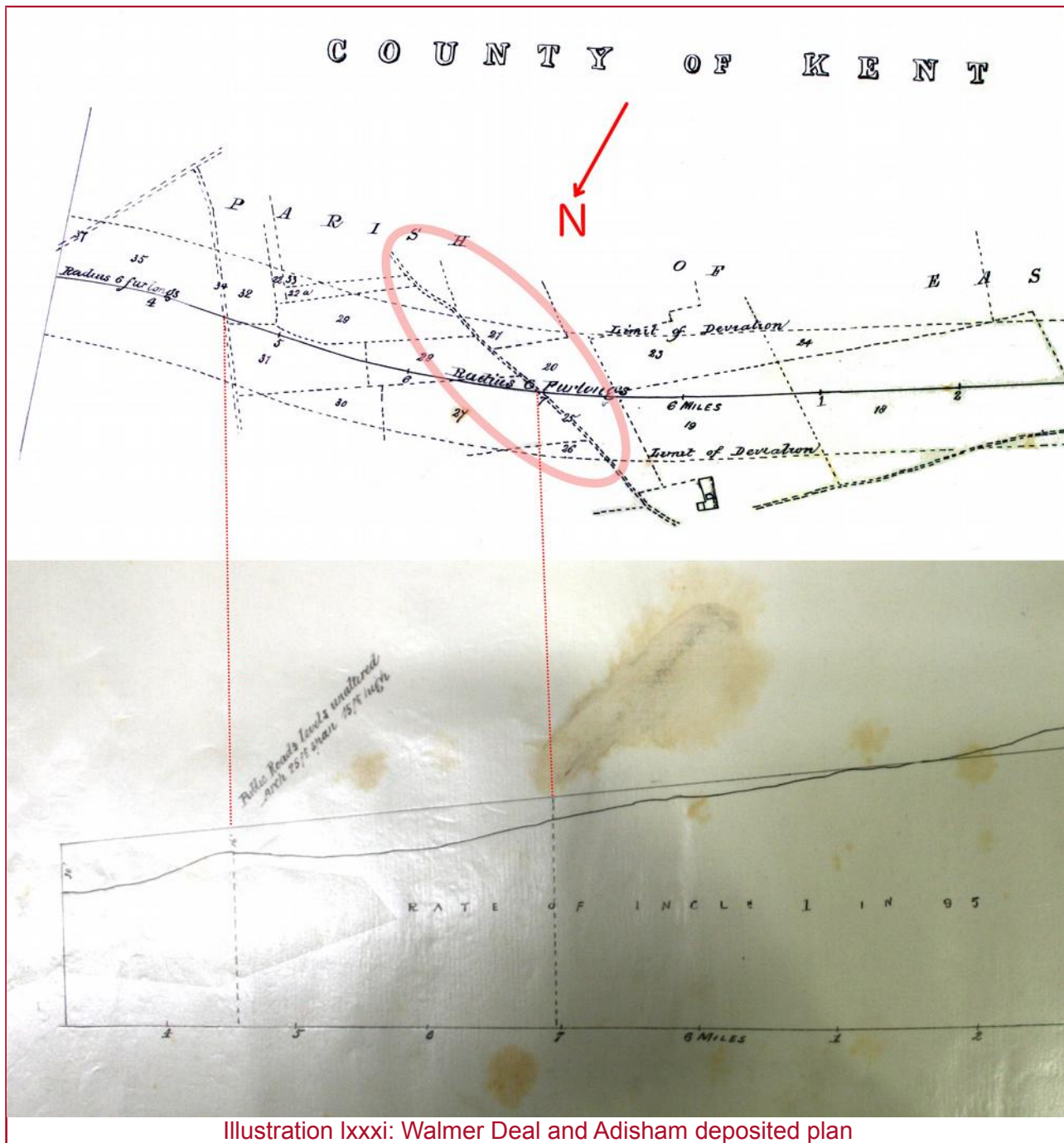


Illustration lxxxi: Walmer Deal and Adisham deposited plan

Walmer, Deal and Adisham Railway book of reference:

Parish of Eastwy, County of Kent

<i>75th Map</i>	<i>Description of property</i>	<i>Owners or reputed Owners</i>	<i>Lessees or reputed Lessees</i>	<i>Occupiers</i>
23 ^a	Field	William Hammond		George Terry
23	Field	George Hughes William D Ash	William Grey	William Grey
24	Field	George Hughes William D Ash	William Grey	William Grey
25	Occupation Road	Richard Boteler, Charlotte Boteler, Elizabeth Boteler, Mary Boteler, and Catherine Boteler		George Wood, Thomas Medgetts, William Pittock
26	Field	Richard Boteler, Charlotte Boteler, Elizabeth Boteler, Mary Boteler, and Catherine Boteler		William Pittock

Illustration lxxxii: Walmer Deal and Adisham deposited book of reference

AP.3. **Description:** The alignment for the proposed Walmer Deal and Adisham Railway is shown on Illustration lxxxi (north is approximately at the bottom) so as to cross Black Lane east of Thornton Lane, between G and H (the former Upper Venson or Poor Start Farm can be identified in the north-west corner of the deposited plan extract).

AP.4. The section does not refer to any proposed bridge in relation to Black Lane, but a vertical line in the section is shown at the appropriate place, and it appears that a textual entry for a public road bridge has been erased (presumably before deposit).

AP.5. Black Lane is depicted as plot 25, and in Illustration lxxxii, the plot is recorded as an 'Occupation Road' in the ownership of Richard, Charlotte, Elizabeth, Mary and Catherine Boteler and in the occupation of George Wood, Thomas Medgetts and William Pittock.

AP.6. **Analysis:** On the face of it, the proposal for the railway does not record Black Lane between G and H as a public way, but only as an occupation road. However, the railway was not built, and as observed by the court in similar circumstances in *Trail Riders Fellowship v Secretary of State for the Environment, Food and Rural Affairs*¹⁰², the plans attract less credibility. Indeed, the Bill was reported by one of the Examiners of Petitions for Private Bills to the Select Committee on Standing Orders as non-compliant with Standing Orders¹⁰³ and subsequently certified by the Examiners as such¹⁰⁴. The Bill was not proceeded with.

AP.7. The recording of probable public rights of way (other than public roads) in the deposited plans and book of reference for this proposed Walmer Deal and Adisham Railway is non-standard. The following table analyses every public right of way (other than carriageways which are today metalled and tarred) which is shown on the definitive map, or any path shown on near contemporary 1:2,500 Ordnance Survey mapping¹⁰⁵, as intersecting the proposed alignment of the railway between Adisham and West Street (near Ham). The table records the location of each right of way or path, and the representation of it in the deposited plan and book of reference.

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

103 House of Commons, *Official Report*, 12 February 1872, [vol.127](#), p.24.

104 House of Commons, *Official Report*, 7–8 March 1872, [vol.127](#), pp.81–82.

105 Ordnance Survey OS 1:2,500 second edition c. 1896–98, available from: maps.nls.uk/os/25inch-england-and-wales/index.html.

Description of right of way	Grid ref.	Right of way no. ¹⁰⁶	Description in book of reference		
			Parcel	Owner	Occupier
public bridleway from Ratling to Listways Cottages	TR241532	BW EE285	—	Not separately identified	Not separately identified
public footpath from Ratling to Old Court Farm	TR244531	FP EE283A	Nonington 24a Footpath	John Laurence	Henry Pledge
public footpath from Pinner's Hill to Bonnington	TR253528	FP EE281	Nonington 40a Occupation Road	William Hammond	William Hammond, William Spanton
public footpath behind Easole Street	TR260521	FP EE311	Nonington 56 Footpath	William Hammond	William Hammond
public footpath from Nonington to Mill Lane	TR264518	FP EE318	Nonington 76 Footpath	William Hammond	William Hammond
public footpath from Mill Lane to Kittington Cottages	TR270516	FP EE321	Nonington 102 Footpath	George William Hughes D'Aeth	John Hammell
public footpath from near Limekiln Plantation to Kittington Cottages	TR273517	FP EE307A	Nonington 103 Occupation Road	George William Hughes D'Aeth	John Hammell
footpath from Kittington Cottages to Kittington Farm	TR274517	—	Nonington 103b Footpath	George William Hughes D'Aeth	John Hammell
public footpath from Kittington Cottages to Thorntonhill Cottages	TR280518	FP EE323	Nonington 108 Footpath	George William Hughes D'Aeth	(Lessee, William Wilson) John Hammell
public footpath south-east down Kelk Hill	TR282519	FP EE264	Nonington 109 Occupation Road	George William Hughes D'Aeth	(Lessee, William Wilson) John Hammell

106 Recorded in the definitive map and statement for Kent.

Description of right of way	Grid ref.	Right of way no.	Description in book of reference		
			Parcel	Owner	Occupier
public footpath to Shingleton Cottages	TR285521	FP EE263	Nonington 110 Occupation Road	George William Hughes D'Aeth	(Lessee, William Wilson) John Hammell
public footpath from Thorntonhill Cottages to Shingleton Farm	TR288523	FP EE262	—	Not separately identified	Not separately identified
Black Lane	TR298532	—	Eastry 25 Occupation Road	Richard, Charlotte, Elizabeth, Mary and Catherine Boteler	George Wood, Thomas Medgetts and William Pittock
bridleway from Venson Bottom to Heronden	TR302534	—	Eastry 34 Occupation Road	Aldborough Henniker and Richard, Charlotte, Elizabeth, Mary and Catherine Boteler	Thomas Medgetts and George Wood
public footpath from Northbourne Road to Lower Street	TR310540	FP EE259	Eastry 43 Footpath	Dean and Chapter of Canterbury	(Lessee, George Terry) Ruth Oldfield
public bridleway from Northbourne Road to Hay Hill	TR317540	BW EE382	—	Not separately identified	Not separately identified
public footpath from Eastry to Updown Farm	TR319541	FP EE257	—	Not separately identified	Not separately identified

AP.8. The deposited plans and book of reference consistently failed to record the correct status of rights of way which were perceived (at the time the plans were prepared) not to be carriageways. In the table above, none of the intersecting routes now recorded as public rights of way on the definitive map and statement for Kent (and recorded as paths on the second edition Ordnance Survey 1:2,500 map) is presented in the book of reference as a specifically public path. Relevant entries refer to the right of way either as a 'footpath' or as an 'occupation road', and the owner, lessee where relevant, and occupier, appear to be the private interests in the land. In some cases, such as the bridleway from Northbourne Road to Hay Hill, the way is not separately identified in the book of reference.

Whereas in relation to public roads, the ownership of land is vested in the surveyor of highways, none of the entries identified in the table refers to the interest of the highway authority.

AP.9. **Conclusion:** Section 46 of the Railways Clauses Consolidation Act 1845, by convention incorporated in every special Act for the construction of railways after this date, provided for the bridging of public roads, but for other public highways to be taken over the railway on the level (with the consent of local justices) unless provision were made to the contrary in the special Act¹⁰⁷: however, the plans provide no indication that any such provision was intended in relation to Black Lane. If Black Lane was considered to be a public bridleway, it did not greatly matter whether it was recorded as an occupation road or as a public path, since in either case, the railway company was empowered only to provide a crossing on the level.

AP.10. However, in this case, the presence of a vertical line in the section, and the appearance of an entry for a public road bridge, subsequently erased, suggests that the railway company's surveyor encountered some ambiguity about the status of Black Lane and provided on the plans for a bridge, but for unknown reasons, subsequently erased the provision.

AP.11. **Points:** 0

AQ. Ordnance Survey County Series twenty-five inch 1st edition

AQ.1. **Date:** 1872–73

AQ.2. **Source:** British Library; book of reference: Kent County Archives¹⁰⁸

County Series 1:2,500 map 1st edition, West:

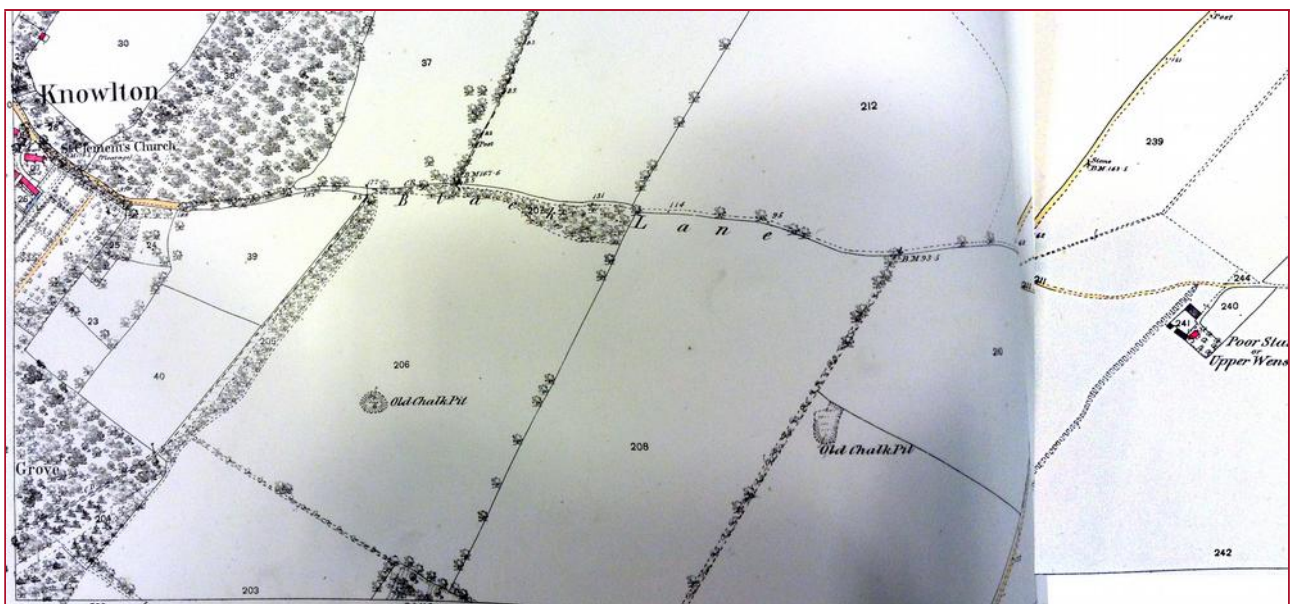


Illustration lxxxiii: OS 25" map 1872 (west)

¹⁰⁷ See also *Dartford Rural District Council v Bexley Heath Railway Company* [1898] AC 210.

¹⁰⁸ Parish of Eastry: EK/0471/P5

County Series 1:2,500 map 1st edition, East:

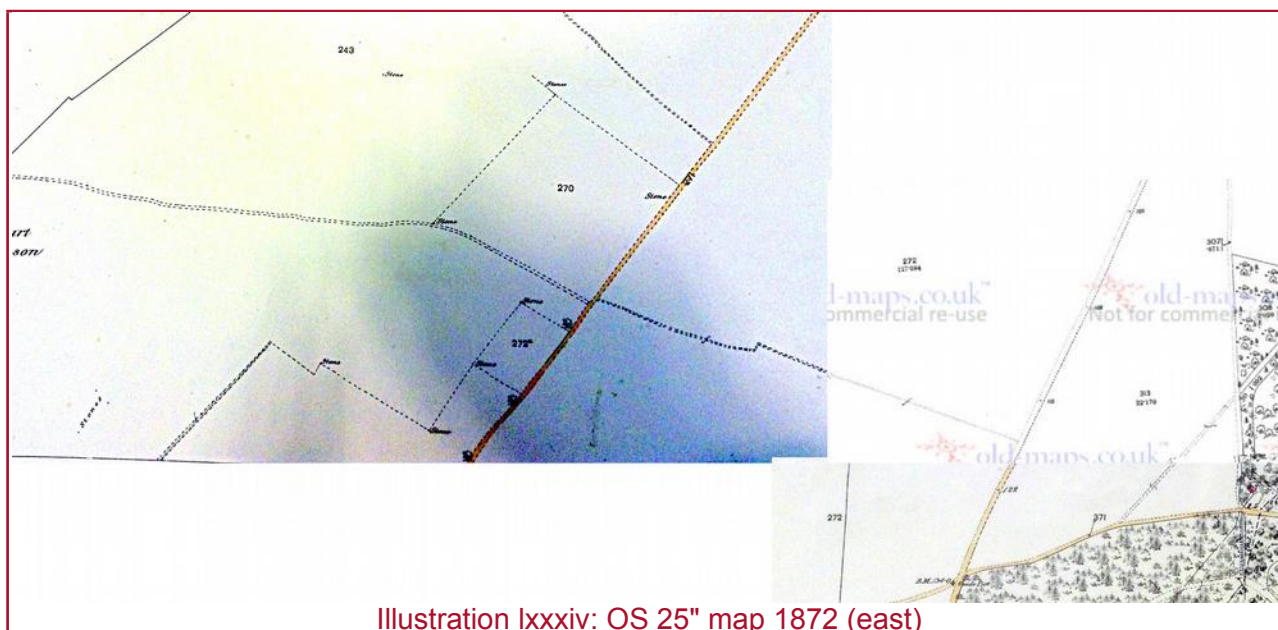


Illustration lxxxiv: OS 25" map 1872 (east)

AQ.3. **Description:** Original scale: 1:2,500; orientation: unchanged (top is north). A copy of the map is an annexe H at p.150 below.

AQ.4. The Ordnance Survey County Series first edition twenty-five inch map shows Black Lane as a continuation of Knowlton Lane from Knowlton, initially enclosed and metalled¹⁰⁹, but with a cessation of metalling at C, and the southern boundary unenclosed east from D. A boundary stone is depicted at D, and a further boundary stone and bench mark at E. Approximately 200 metres east of E, the lane reverses enclosure, with the unenclosed boundary being on the north side. A further bench mark is depicted approximately 200 metres west of the (as yet unbuilt and therefore unrecorded) light railway crossing at F. Numerous spot heights have been surveyed and recorded along the lane between A and G. The lane is again metalled from G to Poor Start (or Venson) Farm (between G and H), and unenclosed on both sides east from Thornton Lane at G to Venson Bottom at I. The map depicts a dog-leg briefly to the north along the road at Venson Bottom for approximately 10 metres, before resuming east-southeast from J towards the Dover Road slightly to the east of K, again with a dog-leg of about 10 metres part way between J and K. No line is shown east of the Dover Road from L to M.

AQ.5. The Ordnance Survey books of reference for Knowlton (parcel 10) and Eastry (parcel 211) to the plans contains the following entries for Black Lane:

No on plan	Area in ha ¹¹⁰	Remarks	Description
10	0.64	Road	From the Sandwich Road to D
211	0.53	Road	G to I

109 Metalling is shown on the first edition map by a sepia hand-coloured wash.

110 Converted from the area shown in acres.

AQ.6. The feature shown on the map as parcel 211 corresponds to Black Lane between G and I: the area of the parcel, at 0.53 ha, corresponds to a width of around 5.5 m over the distance of 950 m.

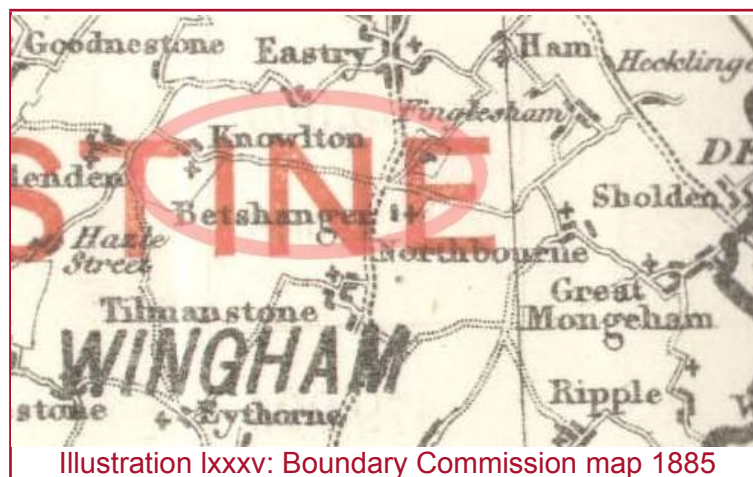
AQ.7. **Conclusion:** The Ordnance Survey first edition twenty-five inch map is good evidence for the existence of a defined way along the application route from A to K. The presence of two bench marks between E and F are consistent with the public status of the lane, as are the frequent recorded spot heights and the status as 'road' reported in the book of reference.

AQ.8. **Points:** 0

AR. Boundary Commission map

AR.1. **Date:** 1885

AR.2. **Source:** Londonancester.com¹¹¹



AR.3. **Description:** This map printed by Eyre & Spottiswoode on behalf of the Boundary Commission for England and Wales appears to be based on an Ordnance Survey quarter-inch map of unknown but substantially earlier date: the Ordnance Survey began work on a 1:126,720 topographical map in 1859¹¹². The quarter-inch map shows Black Lane as a continuation of Knowlton Lane from Knowlton at A, initially enclosed, but unenclosed from approximately B, generally east across the Dover Road, to a junction with Straight Mile at Betteshanger at M.

AR.4. **Conclusion:** The representation of the way on the map is consistent with a through route of some significance, noting that neither Thornton Lane nor Venson Bottom appears on the map, nor is Thornton Road (the alternative parallel way between Chillenden and Betteshanger) shown. The date of the Ordnance Survey base map is unknown, but likely to date from the 1860s derived from the Ordnance Survey, Old Series one-inch map of Kent (item VI.U above).

AR.5. **Points:** 0

(This is the eighth of several early county or area maps: no more than two such maps are scored.)

111 www.londonancester.com/maps/bc-kent-th.htm

112 *Ordnance Survey maps: a concise guide for historians*, Richard Oliver, 3rd edition, p.56.

ARA. Bartholomew's map

ARA.1 **Date:** 1904 and 1922

ARA.2 **Source:** National Library of Scotland¹¹³

Bartholomew's map: 1904



Bartholomew's map: 1922



113 maps.nls.uk/mapmakers/bartholomew.html

Bartholomew's maps: keys

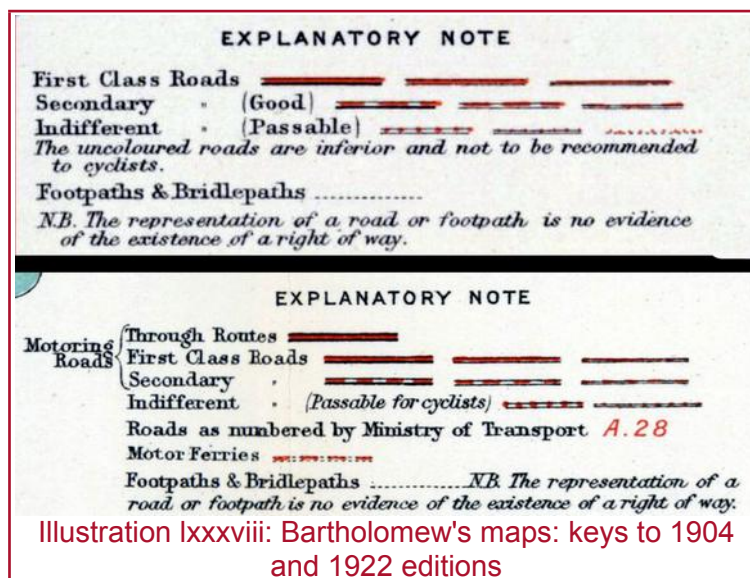


Illustration lxxxviii: Bartholomew's maps: keys to 1904 and 1922 editions

ARA.3 **Description:** Original scale: half inch to one mile (1:126,720); orientation: unchanged (north).

ARA.4 Black Lane is shown in the 1904 and 1922 editions of the Bartholomew map in part, between A and G and between J and K, as a footpath or bridlepath, and between G and I as an inferior road not recommended for cyclists. Black Lane is not shown between L and M.

ARA.6. Paragraph 12.41 of the *Consistency Guidelines*¹¹⁴ notes that:

'current evidence indicates that, although Bartholomew were highly regarded as map producers, they did not employ independent surveyors to carry out any surveys on the ground nor to determine the nature and status of the roads on their maps. Moreover, they do not appear to have examined the legal status of the routes on their Cyclists' Maps before colouring them for use as suitable for cyclists.'

ARA.5 **Conclusion:** The Bartholomew's maps are probably no more than indicative that Black Lane continued to subsist as a physical feature during the first half of the twentieth century.

ARA.8 **Points:** 0

AS. Ordnance Survey County Series twenty-five inch 3rd edition

AS.1. **Date:** 1905

AS.2. **Source:** National Library of Scotland¹¹⁵

114 Planning Inspectorate: April 2016: www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines.

115 maps.nls.uk/os/25inch-england-and-wales/kent.html

County Series 1:2,500 map 3rd edition, West:

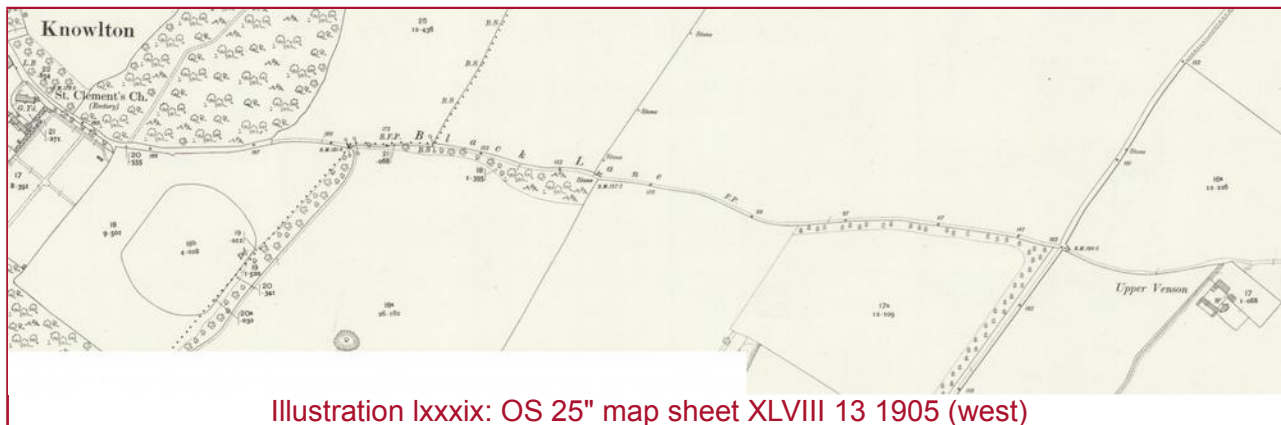


Illustration lxxxix: OS 25" map sheet XLVIII 13 1905 (west)

County Series 1:2,500 map 3rd edition, East:



Illustration xc: OS 25" map sheet XLVIII 13 1905 (east)

AS.3. **Description:** Original scale: 1:2,500; orientation: unchanged (top is north). A copy of the map is an annexe I at p.152 below.

AS.4. These maps are extracted from the third edition of the Ordnance Survey County Series maps at a scale of 25 inches to one mile, revised in 1905. Black Lane is shown as a continuous feature between A and the Dover Road at L. Between D and E, the map is marked 'S.F.P', which indicates that the parish boundary runs along the side of the 'foot-path'. Bench marks are marked at D and at the end of the first field east of E, and a boundary stone is marked at E. Between E and F, the way is marked as 'F.P.' (footpath). A further bench mark is shown slightly east of G. The historical route east of H is shown as ending short of Venson Bottom, and an alternative route along the headland is shown to a point south of I. Between J and L, the route is shown as 'F.P.' (footpath).

AS.5. East of the Dover Road between L and M, the land has been planted to woodland, and no path is shown.

AS.6. **Conclusion:** The Ordnance Survey County Series third edition twenty-five inch map is good evidence for the continuing existence of a defined way along the application route from A to K. The presence of two bench marks between E and F are consistent with the public status of the lane. The third edition attributes footpath status, documenting the decline in perceived status during the nineteenth century. However, the Ordnance Survey

does not purport to document rights of way, and the attribution is merely indicative of what the surveyor identified in his survey.

AS.7. **Points:** 0

AT. East Kent mineral light railway

AT.1. **Date:** 1910

AT.2. **Source:** Kent County Archives¹¹⁶

East Kent mineral light railway deposited plan:

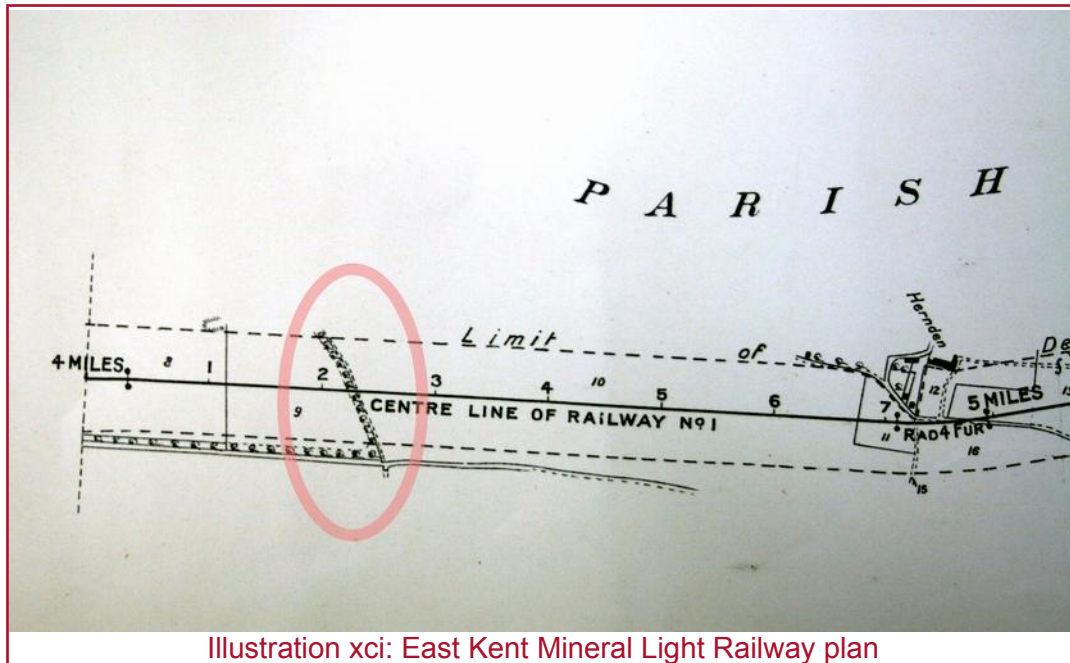


Illustration xci: East Kent Mineral Light Railway plan

East Kent mineral light railway deposited book of reference:

9	Arable	Francis Elmer Speed	Whitehead, clerk In hand
10	Arable and public footpath	William Samuel Perry Kelly Patterson	Frederick Courtney Hogben	Frederick Courtney Hogben The Eastry Parish Council

Illustration xcii: East Kent Mineral Light Railway book of reference

AT.3. **Description:** Originally called the East Kent Mineral (Light) Railway when first proposed in 1909, the undertaking later became generally known as the East Kent Light Railway. The promoters included Kent Coal Concessions Ltd, the original promoter of the Kent coalfield (see extract from the report to the highway committee at item VI.AV below). The railway was promoted under the Light Railways Act 1896. The 1896 Act required the deposit of plans and books of reference in connection with a submission to the Board of Trade seeking authorisation under the Act.

116 Q/RUm/1151.

AT.4. Line 1 was among the initial raft of proposals for a network of lines serving prospective East Kent collieries. The line was authorised and built.

AT.5. Constructed cheaply, the promoters necessarily minimised costs (for example, it is suggested that the bridge over the River Stour was built with a fixed span vice the swing bridge authorised¹¹⁷). None of the collieries which the railway sought to service was successful, save the East Kent Colliery at Tilmanstone, and the railway settled down to service the East Kent Colliery and to provide a sparse freight and passenger service on the lines to the north of that colliery.

AT.6. Illustration xci shows Black Lane as a physical feature which crosses the proposed line between plots 9 and 10 in Knowlton parish, at a distance of just over 4 miles and 2 furlongs from the point of origination in Eythorne. However, in common with other crossings for routes which were not perceived as public roads, no comment about the requirement for a crossing appears on the plan nor the elevation, and a level crossing was intended.

AT.7. Illustration xcii records for Knowlton parish that plot 10 was in the ownership of William Samuel Perry and Kelly Patterson, leased by Frederick Courtney Hogben, and in the occupation of Mr Hogben and Eastry Parish Council. The land is recorded as 'arable and public footpath'.

AT.8. **Conclusion:** The Board of Trade made the East Kent Mineral (Light) Railways Order 1911. Certain provisions of the Railways Clauses Consolidation Act 1845 were incorporated in the order, but ss.46 to 48 and 59 (which provided by default for roads to be taken across a railway by means of a bridge) were excluded¹¹⁸, and most highways, including public roads, were to be taken over the railway on the level.

AT.9. The East Kent Light Railway's surveyor tended to record public highways with the lowest possible status. The plan and book of reference documents the course of Black Lane as a public footpath. This is consistent with the present status of Black Lane on the definitive map and statement (at G) as a public footpath. It seems likely that the survey was done without reference to the Eastry highway committee's surveyor and without sufficient diligence, for only three years later the railway undertaker was challenged by the highway authority's surveyor as to proper provision for a bridleway (see Eastry Rural District Council surveyor's reports at item VI.AV below).

AT.10. Whereas acknowledged roads and bridleways across the proposed line were recorded as in the occupation of the Eastry Rural District Council (see, for example, entries 1, 2, 5 and 6 in Eastry parish), footpaths were recorded in the occupation of Eastry Parish Council (see, for example, entries 8 and 10), although there is no legal basis for such distinction. It may be that consultation on the entries for public footpaths took place only at parish council level, and that the highways authority's surveyor was not given an opportunity to comment.

AT.11. **Points:** 0

AU. Finance (1909–1910) Act 1910

AU.1. **Date:** 1911

117 http://en.wikipedia.org/wiki/East_Kent_Light_Railway

118 See art.3(1).

AU.2. **Source:** National Archives¹¹⁹

Map sheet XLVIII 13:

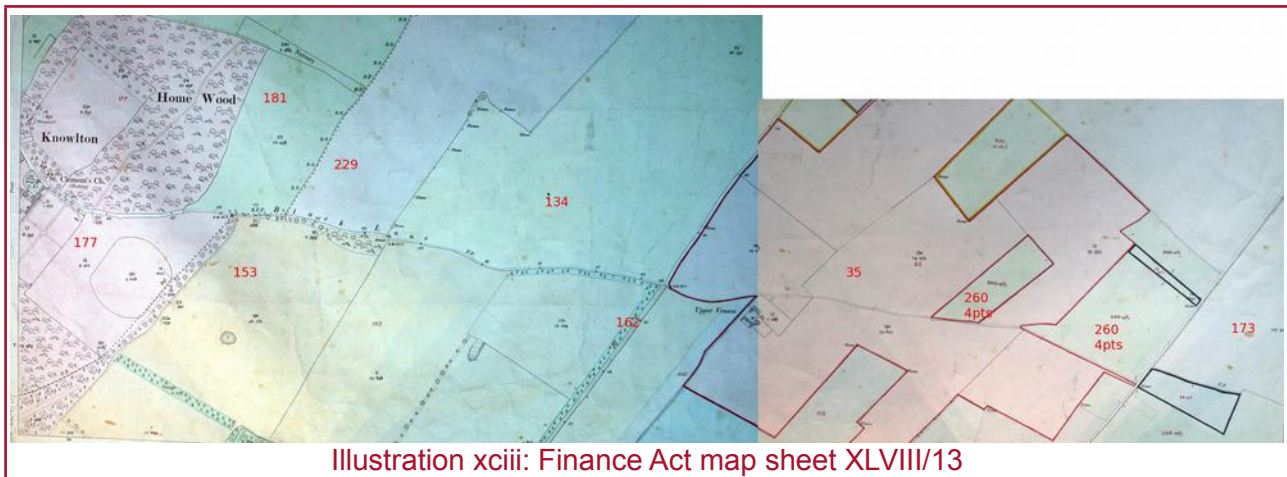


Illustration xciii: Finance Act map sheet XLVIII/13

Map sheet XLVIII 14 and LVIII 2:

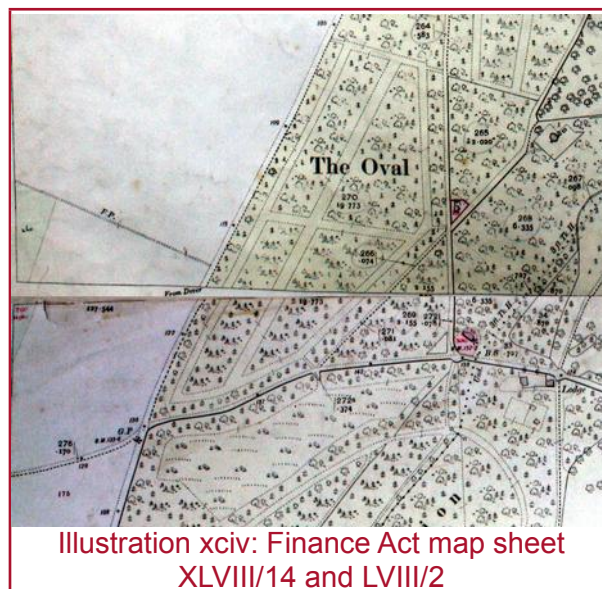


Illustration xciv: Finance Act map sheet XLVIII/14 and LVIII/2

AU.3. **Description:** Original scale: 1:2,500; orientation: unchanged (top is north). A copy of sheet XLVIII/13 and 14 (but not LVIII/2) is an annexe J at p.154.

AU.4. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The primary purpose was to charge a tax (increment levy) on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways. First, public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads'. This is because s.35 of the 1910 Act provided,

'No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority.'

119 IR 58/17321; IR 58/17469–71; IR 124/5/75

A highway authority was a rating authority.

AU.5. That 'white roads' are some evidence of public, probably vehicular, status has been recognised in several cases in the superior courts:

- In *Fortune v Wiltshire Council*, HHJ McCahill QC said (paras.753, 770), that:
‘the probable explanation for sections A and B being untaxed is because they were regarded as a full vehicular highway. ...the treatment of Rowden Lane in the 1910 Finance Act Map is clear and cogent evidence that Sections A and B of Rowden Lane were acknowledged to be a public vehicular highway in 1910’.

On appeal, Lewison LJ upheld the judgment at first instance, observing (para.71):

‘The consensus of opinion, therefore, is that the fact that a road is uncoloured on a Finance Act map raises a strong possibility or points strongly towards the conclusion that the road in question was viewed as a public highway.’

- In *Robinson Webster (Holdings) Ltd v Agombar*, Etherton J said (para.47) said:
‘The 1910 Finance Act map and schedule are, in my judgment, most material evidence in relation to the status of the Blue Land at that time. ... The fact that the Blue Land was not shown as falling within the hereditament of any private individual, but is shown as part of the general road network, in a survey which would have been undertaken by local officers of the Commissioners, and following consultation with the owners of private hereditaments, is a most powerful indication that the Blue Land was at that time thought to be in public ownership and vested in and maintainable by the District Council, which was the highway authority.’
- In *Commission for New Towns v JJ Gallagher Ltd*, Neuberger J found (para.106) that:
The maps are not unambiguous in this regard, and they appear to have been prepared in something of a hurry. ... Accordingly, at least if taken on their own, the Finance Act maps are of only slight value in tending to support the Commission's case [that the way is public].
- In *R (on the application of Ridley) v Secretary of State for the Environment, Food and Rural Affairs*, Walker J said (para.65) that:
‘The point of the Finance Act was to identify taxable land and, taking account of the cases mentioned, I consider that this [Chapel and Primrose Lanes being uncoloured and excluded from surrounding hereditaments] provides strong evidence that both Chapel and Primrose Lanes were recognised as public vehicular highways at this time.’

AU.6. Secondly, discounts from the valuation could be requested for land crossed by foot-paths or bridleways. Under s.25 of the Act, 'The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land...'¹²⁰. Under s.26(1), the Commissioners of the Inland Revenue were required to cause a valuation to

¹²⁰ Discounts for easements affecting the land were separately requested and recorded in the valuation book.

be made of, *inter alia*, the total value of land. Whether a discount was, in fact, given will depend on several factors:

- Whether the right of way was excluded from valuation (i.e. as a 'white road').
- Whether the landowner acknowledged the presence of a right of way on the land (e.g. if it were disputed).
- Whether the landowner wished to reduce the valuation of the land (if development were anticipated, it might be better to secure a higher valuation, so that the increase in value arising from development were minimised. However, as the 1910 Act also provided for other levies, and a valuation might be used for probate purposes, the calculations in a particular case might be for or against a discount from the value of the land).
- Whether the landowner declared the right of way on form 4 or form 7 (a failure to declare might be an oversight).
- Whether the valuer accepted the claim for a discount for a right of way.
- Even if the landowner did not declare the right of way, the valuer could give a discount for a right of way which was 'known to' the valuer.

AU.7. The December 1910 *Instructions to Valuers* stated that:

'183. Site Value Deductions not Claimed by the Owner. — In making Original Valuations under Section 26(1) of the [1910 Act], Valuers will give credit for any deductions under the provisions of Section 25, so far as they are known to them and that notwithstanding the fact that such deductions may not have previously been claimed by or on behalf of the owner.'

AU.8. It follows that, if a deduction for a right of way is given in a particular case, and there is no evidence (as is usually the case) that it was requested by the landowner, the deduction can have only arisen either because it was nevertheless requested, or because the existence of the right of way was known to the valuer. It is unlikely that valuers would have volunteered deductions except in cases where the right of way was obvious — perhaps because it was signposted as such, or referred to as such by the landowner or an employee of the landowner when the valuer was surveying the land.

AU.9. All land had to be valued unless it was exempted by the Act. S.94 provided harsh penalties for making false declarations.

AU.10. Black Lane is excluded from assessable hereditaments between A and F: the exclusion is less certain towards F, but on balance, and in the light of first hand inspection of the source material, it appears to the society that the intention was to exclude the whole of this part of the way.

- Hereditament 177 (Knowlton Park, A to mid-way between C & D): Black Lane excluded from hereditaments; no deduction recorded for rights of way.
- Hereditament 181 (mid-way between C & D to E): Black Lane excluded from hereditaments; £50 deduction recorded for 'paths' (this may in part account for public footpath EE260 between Knowlton and Heronden).
- Hereditament 229 (first field east of E, but map shows field boundary between parcel 229 and Black Lane): Black Lane excluded from hereditaments; £50 deduction recorded for 'path' (this may account for public footpath EE260 between Knowlton and Heronden).

- Hereditament 134 (second field east of E to G): Black Lane believed to be excluded from hereditaments; no deduction recorded for rights of way.
- Hereditament 35 (G to approximately H): Black Lane not excluded from hereditaments; no deduction recorded for rights of way.
- Hereditament 260 (part) (approximately H to I): Black Lane not excluded from hereditaments; no deduction recorded for rights of way.
- Hereditament 173 (J to L): Black Lane not excluded from hereditaments; £150 deduction recorded for ‘footpaths’, and noted that ‘rights of way claimed’. However, hereditament 173 is included with a number of other parcels in the ownership of the Ecclesiastical Commissioners, and it is not possible to assign the deduction to any particular rights of way.
- Hereditament 11 (L to M): Black Lane not excluded from hereditaments. Field book extract not held.

AU.11. **Conclusion:** The exclusion of Black Lane from the hereditaments between A and E, and arguably as far as G, provides significant support for its status as a public highway of at least bridleway status, and the then owners’ acknowledgement of that status.

AU.12. The absence of exclusion of the remaining part of Black Lane between G and M, and the absence of any deduction for rights of way between G and I, does not demonstrate that no right of way exists, only that between G and I, no deduction was claimed for a right of way.

AU.13. **Points:**

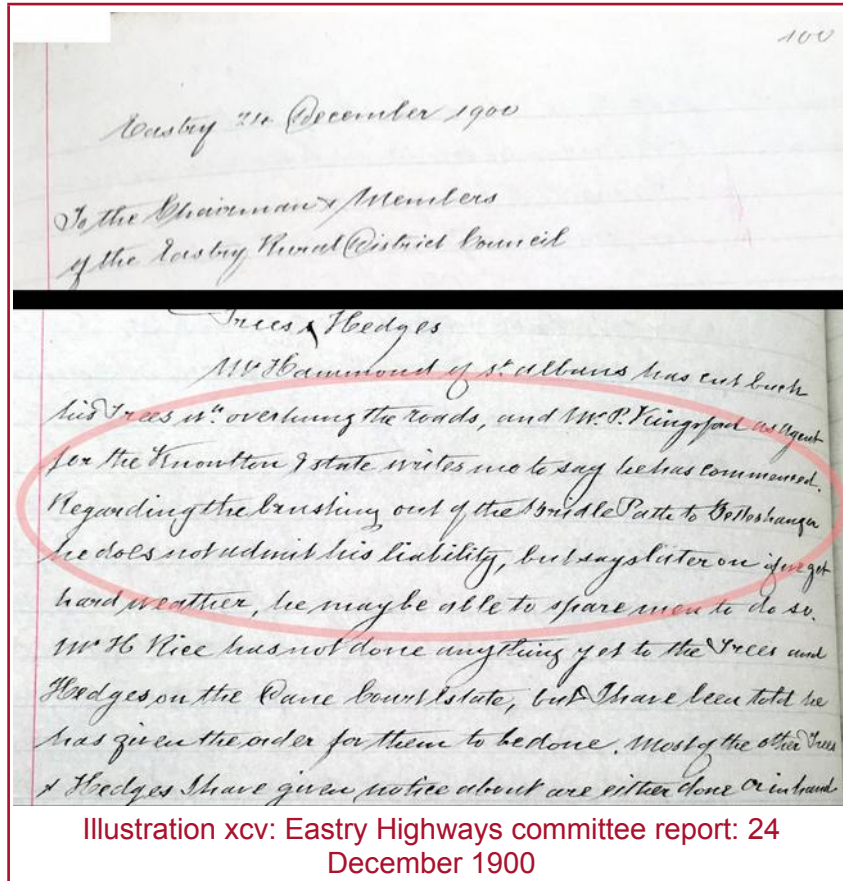
<i>Part</i>	A–G	G–I	J–M
<i>points</i>	5	–	–

AV. Eastry Rural District Council surveyor’s reports

AV.1. **Date:** 1900, 1913

AV.2. **Source:** Kent County Archives¹²¹

121 RD/Ea/H4, H6.



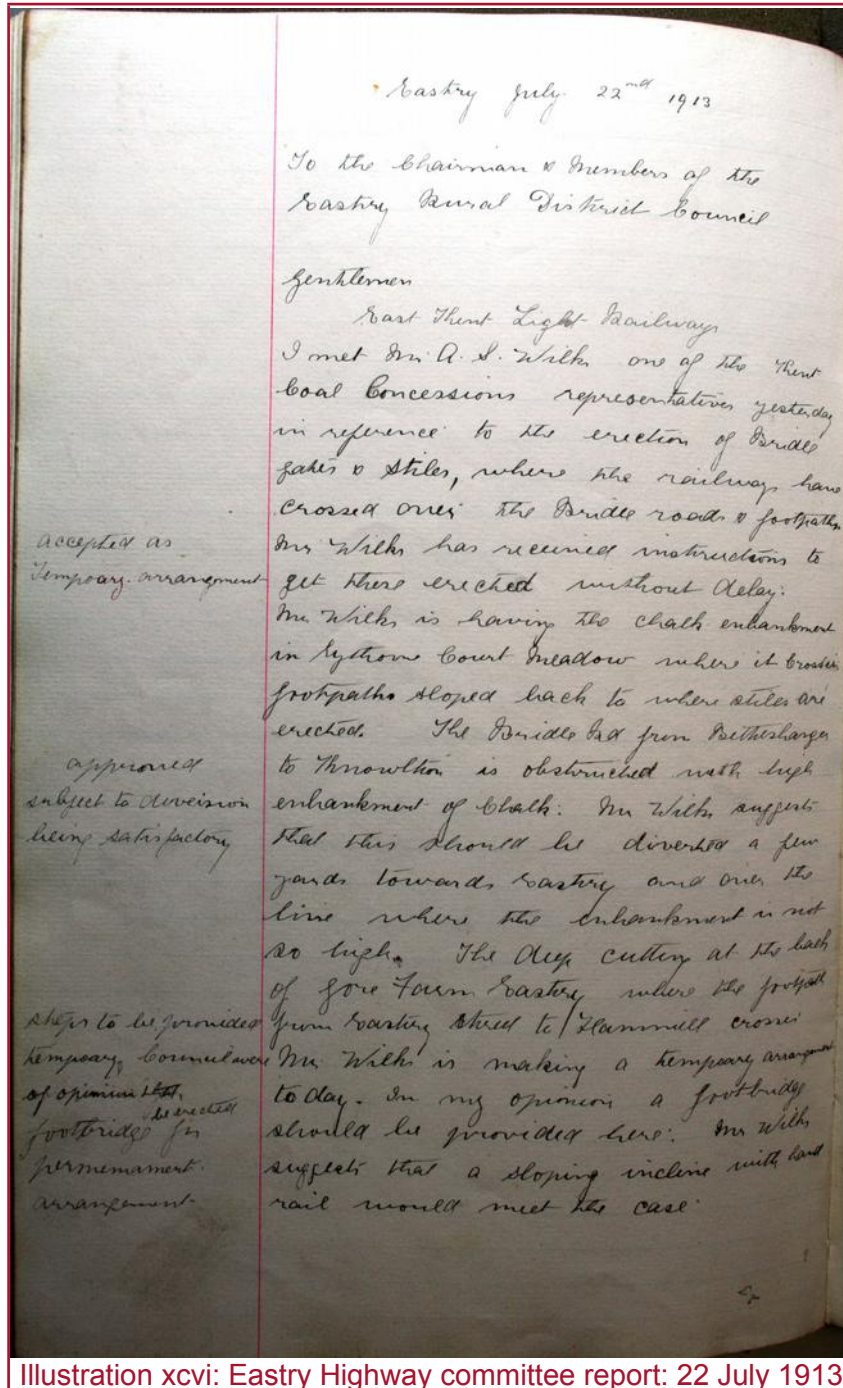


Illustration xcvi: Eastry Highway committee report: 22 July 1913

AV.3. **Description:** The application way is twice referred to in early twentieth century reports by the surveyor of highways to the Eastry Rural District Council, which at the time was the highway authority for all but main roads in its area.

AV.4. The surveyor's report to the council of 24 December 1900 records as follows:

'Trees & Hedges

Mr. Hammond of St. Albans has cut back his trees [which were] overhanging the roads, and Mr P Kingsford as agent for the Knowlton estate writes to say he has commenced. Regarding the brushing out of the Bridle Path to Bette-

shanger he does not admit his liability, but says later on if we get hard weather, he may be able to spare men to do so.'

AV.5. The surveyor's report to the council of 22 July 1913 records as follows:

'East Kent Light Railways

I met Mr A S Wilks one of the Kent Coal Concessions representatives yesterday in reference to the erection of Bridle gates & stiles, where the railways have crossed over the Bridle roads & footpaths. Mr Wilks has received instructions to get these erected without delay: Mr Wilks is having the chalk embankment in Lythorne Court Meadow where it crosses footpaths sloped back to where stiles are erected. The Bridle Rd from Betteshanger to Knowlton is obstructed with high embankment of Chalk: Mr Wilks suggests that this should be diverted a few yards towards Eastry and over the line where the embankment is not so high.

[Comment in margin:] approved subject to diversion being satisfactory'

AV.6. **Conclusion:** The surveyor's reports to the council records the belief of the surveyor, and the council, that Black Lane was of the status of public bridleway between Knowlton and Betteshanger. The surveyor was concerned to ensure that overhanging hedges were cut back, and that the crossing of the light railway at F was made fit and safe for traffic on the bridleway, and this may have been done by means of a short and possibly informal diversion to enable a crossing more on the level (see the society's objection to the order at III.B above). Alternatively, it is possible that little or nothing was done, and the crossing became difficult to use on horseback: this may have contributed to the decline in use of Black Lane in the twentieth century.

AV.7. **Points:**

<i>Part</i>	A-G	G-I	J-M
<i>points</i>	3	1	1

AW. Application for order under the Electricity Supply Acts 1882 to 1922

AW.1. **Date:** 1923

AW.2. **Source:** London Gazette¹²²

122 Issue 32873, p.7140: www.thegazette.co.uk/London/issue/32873/page/7140.

Electricity Commissioners.—1923.

EAST KENT ELECTRICITY.

(Application for Special Order under the Electricity (Supply) Acts, 1882 to 1922, for the Supply of Electricity in the Boroughs of Deal and Sandwich, the Urban District of Walmer, the Rural Districts of Eastry and the Isle of Thanet, and the Parish of Ringwould, in the Rural District of Dover, all in the County of Kent, and for other purposes.)

(d) *Railways*:—The level crossings of the following roads over the railway of the Southern Railway Company—

In the Borough of Deal—
Western Road.

In the Borough of Sandwich—
Saint Bartholomew's Road and Woodnesborough Road.

In the Rural District of Eastry—
Parish of Ash—Poulton Lane, Durlock Road, Richborough Road.
Parish of Eastry—the road leading from Poison Cross to Staple, the road leading from Poison Cross to Woodnesborough, the road leading from Heronden to Nonington, the road leading from Thornton Road to Knowlton.

Illustration xcvi: Electricity Supply Acts 1882 to 1922

AW.3. **Description:** The notice published in the London Gazette on 23 October 1923 gives notice of the intention of an electricity undertaker for East Kent to apply for an order under the Electricity (Supply) Acts 1882 to 1922 to enable it, *inter alia*, to lay its apparatus in certain streets not repairable by local authorities. One of those specified, in the rural district of Eastry, is: ‘...the road leading from Thornton Road to Knowlton’. The application was withdrawn in February 2024.

AW.4. **Conclusion:** The notice refers to a level crossing ‘over the railway of the Southern Railway Company’, but the railway referred to in this item is that of the East Kent mineral light railway (see item VI.AT above). There is no road leading from Thornton Road to Knowlton, but it is suggested that the notice refers to Black Lane, being a road leading from Thornton Lane to Knowlton. It would be unsurprising if the undertaker wished to use Black Lane to supply Knowlton, which would otherwise be located on a no-through road so that electricity would be supplied on a spur. The description of the way as a ‘road’ must indicate that the way between A and G was regarded to be of at least bridleway status.

AW.5. **Points:**

<i>Part</i>	A–G	G–I	J–M
<i>points</i>	1	–	–

AX. Knowlton estate sale

AX.1. **Date:** 1930

AX.2. Source: Kent County Archives¹²³

Sale map:

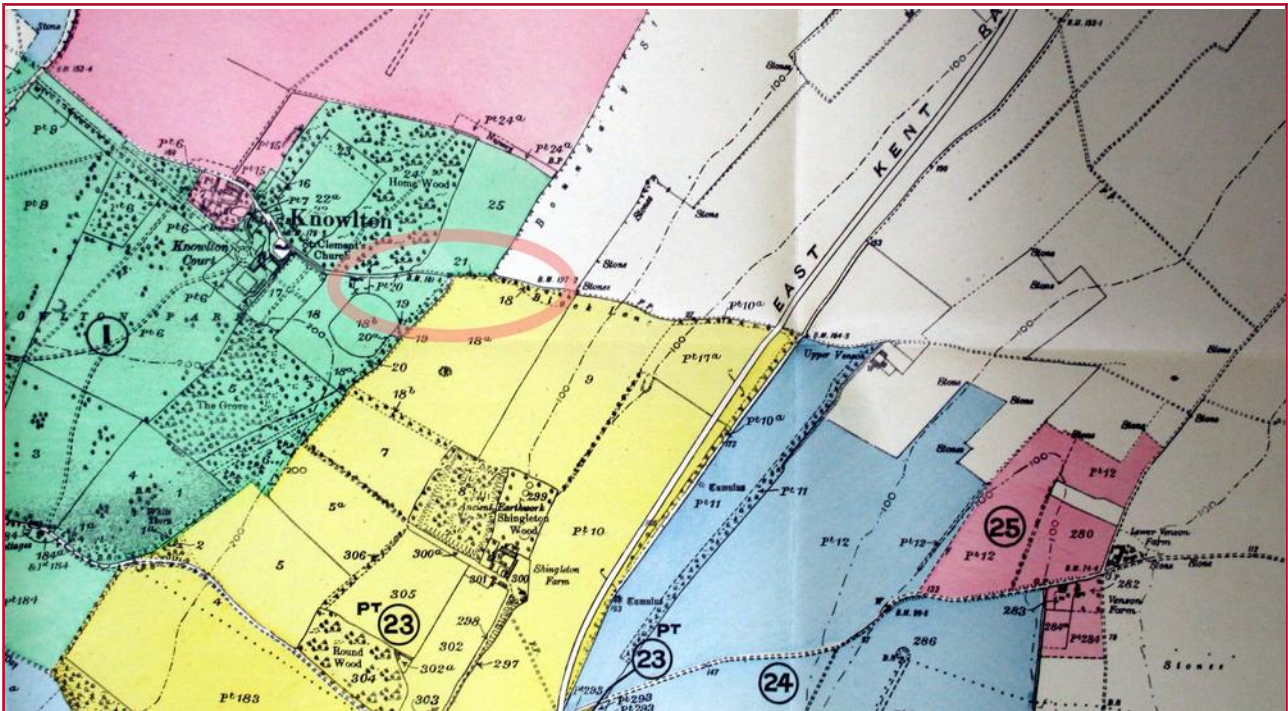


Illustration xcvi: Knowlton estate sale map

123 R/U1/E1/286

Sale particulars — lots 1 and 23:

PARTICULARS.

**The Whole Estate with the Minerals will first
be offered in its entirety.**

LOT 1
(Coloured Green on Plan)

The Well-known Residential Property
of
KNOWLTON COURT
pleasantly situated on the chalk downlands and standing in a finely timbered park
extending to an area of about

282 a. 2 r. 19 p.
(282.618 acres or thereabouts).

SCHEDULE.

No. on Plan	Tenant	Description	Area	Total Area
Pt. 20		Road368	
24		Home Wood	22.492	
		PARISH OF EASTRY.		
6		The Grove (Part)... ..	7.468	
21		Track068	

LOT 23
(Coloured Yellow on plan.)

The Compact Corn Growing and Sheep Holding
known as
Shingleton Farm
situate in the parishes of Eastry, Nonington and Tilmanstone, adjoining Knowlton
Park on the West and extending to

361 a. 1 r. 6 p.
(361.288 acres or thereabouts.)

No. on Plan	Tenant	Description	Area	Total Area
		PARISH OF EASTRY		
2		Copse	1.065	
8		Shingleton Wood	8.864	
Pt. 10a		Belt550	
Pt. 10a		do.	2.953	
Pt. 10a		do.850	
18		Copse	1.395	
18b		Belt	1.176	
304		Round Wood	8.491	
306		Belt795	

Illustration xcix: Knowlton Estate Sale lots 1 & 23

AX.3. Description: The Knowlton Court Estate was sold by auction on 26 July 1930. An Ordnance Survey map was marked with the details of lots to be sold: Illustration xcvi. Lot 1 included Black Lane: relevant parcels are 20 marked (Illustration xcix) as 'Road' between A and D, and 21 marked as 'Track' between D and E. Lot 23 may have included Black

Lane east of E within parcel 18 marked as 'Copse', but the map is indistinct. The rest of Black Lane east of parcel 18 is not within the estate sale.

AX.4. **Conclusion:** The estate sale particulars are ambiguous regarding the status of Black Lane: the reference to parcel 20 as a road may or may not have intended to refer to a public highway: the reference to parcel 21 is similarly ambiguous.

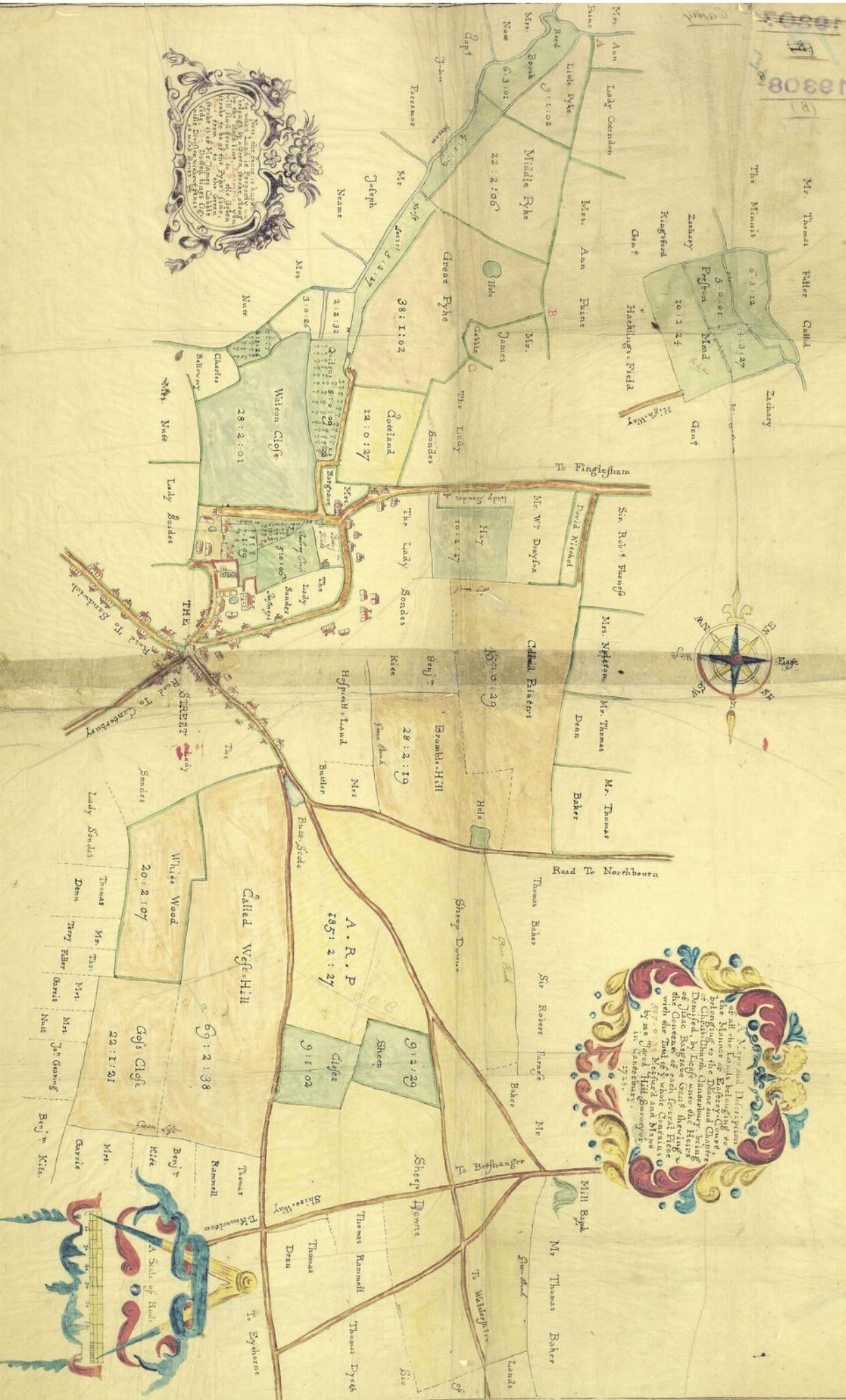
AX.5. **Points:** 0

VII. Annexes

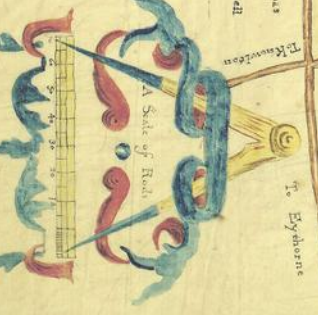
A. Annexe — Eastry Court estate map

(see item VI.B)

A MAPP OF THE MANNOR OF EASTREY-COURT



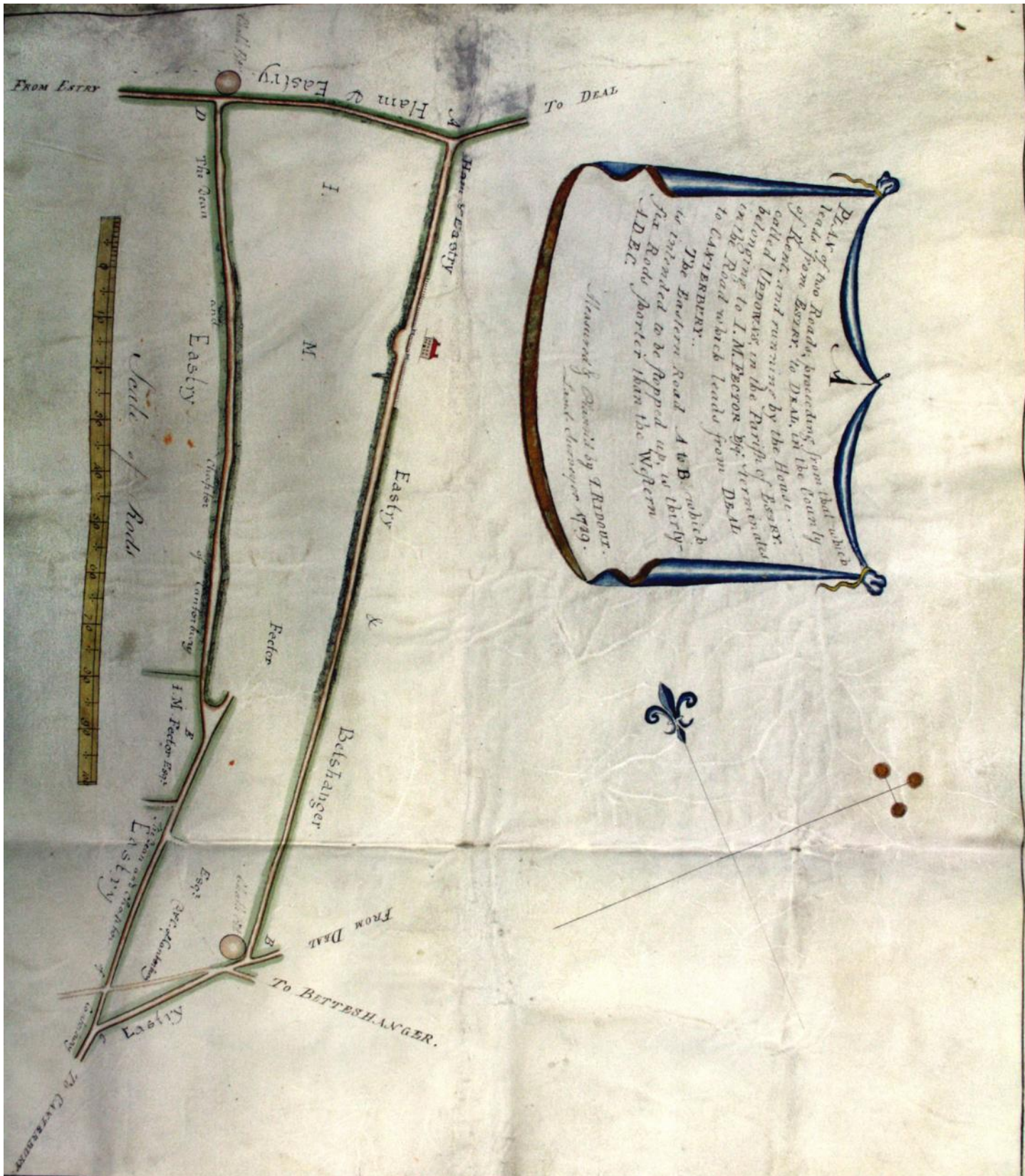
A Map and Description
 of the Lands belonging to
 the Bishoprick of Exeter,
 or the Diocese of Exeter,
 as they were surveyed by
 the Commissioners appointed
 by the Statute in that behalf
 made, in the 13th Year of
 King Henry VIII. The
 same is divided into
 several Parishes, and
 the Lands therein are
 distinguished by their
 respective Owners, and
 the Names of the same
 are hereunto set downe
 with the several Acres,
 Roods, and Perches
 thereof. The same is
 drawn by the Surveyors
 appointed for that purpose
 by the Statute in that
 behalf made, in the
 13th Year of King
 Henry VIII.



A Scale of Rods

B. Annexe — Updown Park diversion order

(see item VI.G)



A

Deal of two Roads, branching from that which
 leads from Essex to Deal, on the town by
 Kent, and running by the house
 called Upwood, in the Parish of Essex
 belonging to J. M. Pector by termination
 on the Road which leads from Deal
 to CAYERSBURY.
 The Eastern Road A to B which
 is intended to be stopped up, is thirty
 six Rods shorter than the Western
 I.D.E.C.

Measured & Surveyed by T. RIDGENT.
 and Charles Jones 1719.



FROM ENTRY

TO DEAL

Hain & Easty

Hain & Easty

Easty

Belshanger

Pector

D
The Town

Easty

Side of Roads

F
J.M. Pector Esq.

Easty

Lacey

FROM DEAL

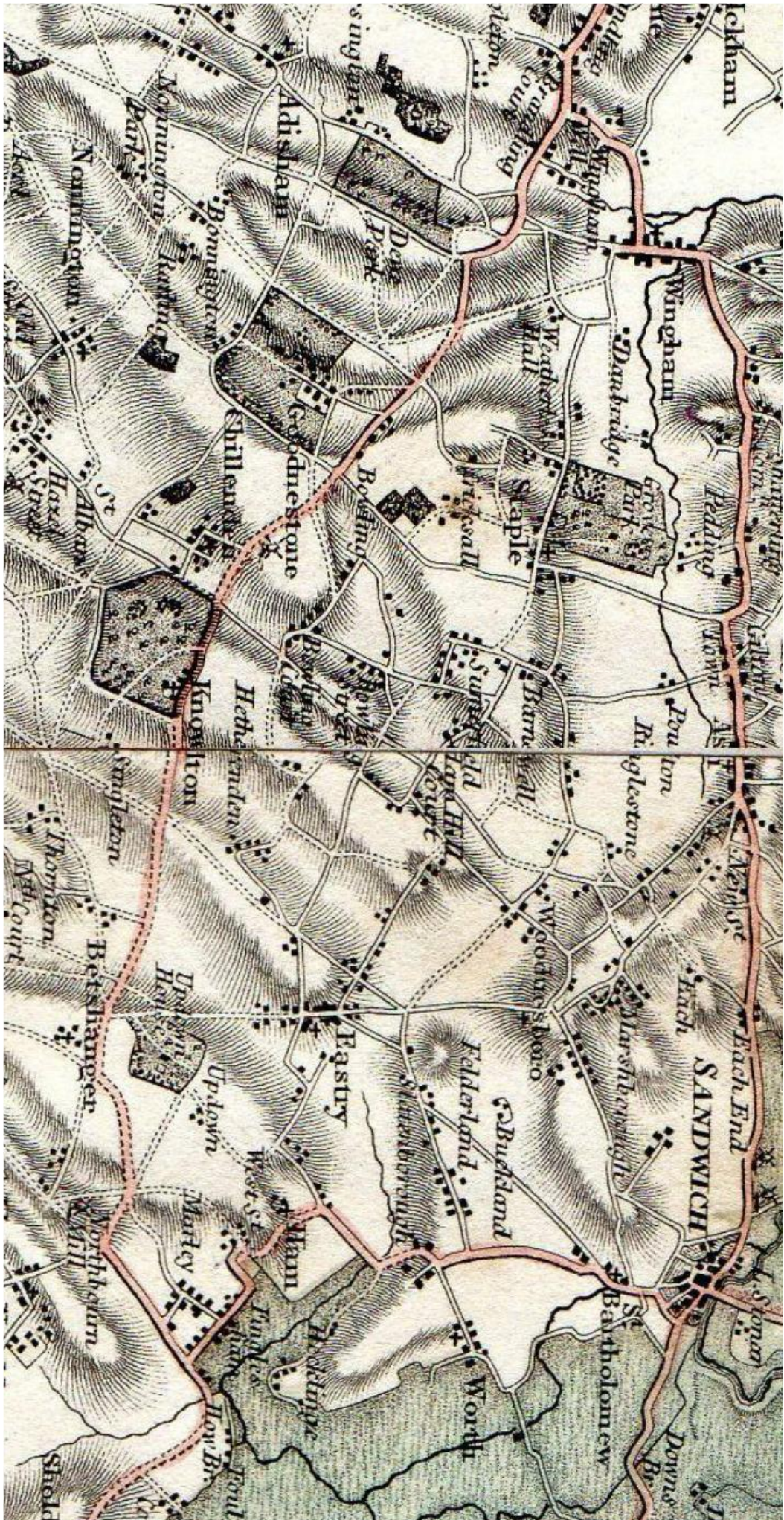
TO BETTESHANGER.



TO CAYERSBURY

C. Annexe — Mudge-Faden one-inch map of Kent

(see item I.G.8)



D. Annexe — Upper Venson estate plan

(see item VI.Y)

L orient.

Field	A	1	1	5
B	1	2	14	
C	1	1	2	
D	1	0	0	
E	3	1	15	
F	1	2	35	
G	2	3	25	
H	1	1	20	
Half roods	10	1	30	
Total	10	3	13	



In measuring this Estate there were neither Hedges nor Bound Walls to give the Boundaries of the several pieces that are subdivided by the land belonging to Capt. Ditch and the several pieces was bounded by both Boundaries and the whole thing is in one piece. Capt. Ditch owned much and might be in dispute the whole or in part of it. Upon calling the contract of purchase and belonging to Capt. Ditch and also those belonging to the State there was a discrepancy of 3 1/2 Acres but was made according to the last purchase only from No 1 to 2 Capt. Ditch allowed that his boundary was only part of the way down the green back. Therefore measured half way up the bank and here joined the quantity required.

George Sleight

PLAN
 of an
 Estate
 in the Parish of
Eastrip
 in the County of
ESSEX
 the property of
JOHN W. STONE
 ESQ.



Buntingford 1811

E. Annexe — Contracted map of principal roads in Eastry

(see item VI.AD)

THE CONTRACTED MAPS of the Principal Roads
in the Parish of EASTERY County of Kent.
1836



F. Annexe — Knowlton tithe map

(see item VI.AF)

The boundaries of the parishes are shown by a dotted line, and the boundaries of the parishes of Northbourn, Eastry, and Nonington, are shown by a solid line. The boundaries of the parishes of Goodneston and Millenden are shown by a dashed line. The boundaries of the parishes of Knowlton and Nonington are shown by a solid line. The boundaries of the parishes of Northbourn, Eastry, and Nonington are shown by a solid line. The boundaries of the parishes of Goodneston and Millenden are shown by a dashed line. The boundaries of the parishes of Knowlton and Nonington are shown by a solid line.

*W. Mellor
1850*

NORTHBOURN.

OF

PARISH

PARISH

OF

EASTRY.

OF THE PARISH OF

KNOWLTON.

IN THE COUNTY OF

KENT.

PRINTED BY THOMAS H. GILLARD.
No. 1. Great St. 11.

1850

PARISH OF GOODNESTON.

*W. Mellor
1850*

PARISH OF MILLENDEN.

PARISH

OF

NONINGTON.



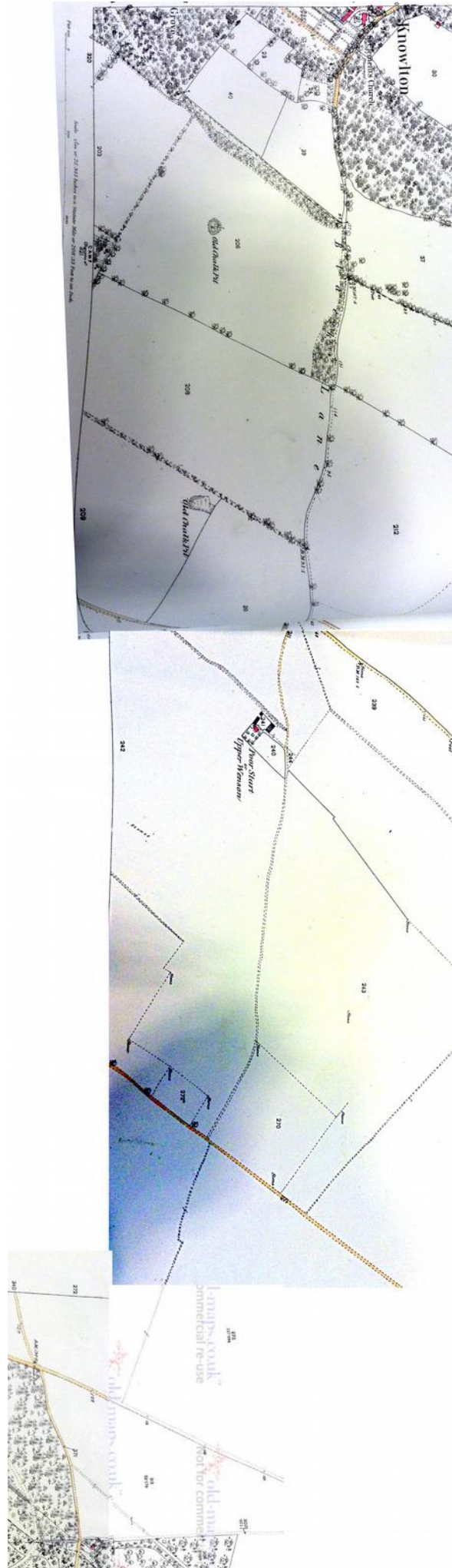
G. Annexe — Eastry tithe map extract

(see item VI.AG)



H. Annexe — Ordnance Survey County Series twenty-five inch 1st edition

(see item VI.AQ)



I. Annexe — Ordnance Survey County Series twenty-five inch 3rd edition

(see item VI.AS)



J. Annexe — Finance (1909–1910) Act 1910

sheet XLVIII/13 and 14 (see item VI.AU)

