

Green Lane Road, Goodnestone Park: document analysis

Application to record a restricted byway from Cave Lane via Goodnestone Gap and Uffington Gate to Goodnestone Park Upper Corner/Stone Cross

I. Introduction

A. Quick reference

- A.1. Existing right of way comprised in upgrade: bridleway EE269
- A.2. Parishes of: Goodnestone, Wingham
- A.3. Former parishes of: Goodnestone, Wingham
- A.4. Termination points: Junction of Cave Lane with Goodnestone Hill and Goodnestone Road; to Goodnestone Park Upper Corner or Stone Cross
- A.5. Termination points Ordnance Survey grid references: TR25565553 and TR24715424
- A.6. Postcode: CT3 1PF
- A.7. Ordnance Survey Explorer sheet: 150
- A.8. Ordnance Survey County Series 25" sheets: Kent XLVII/11, XLVII/15
- A.9. Location plan (this is not the application map, for which see part II below):

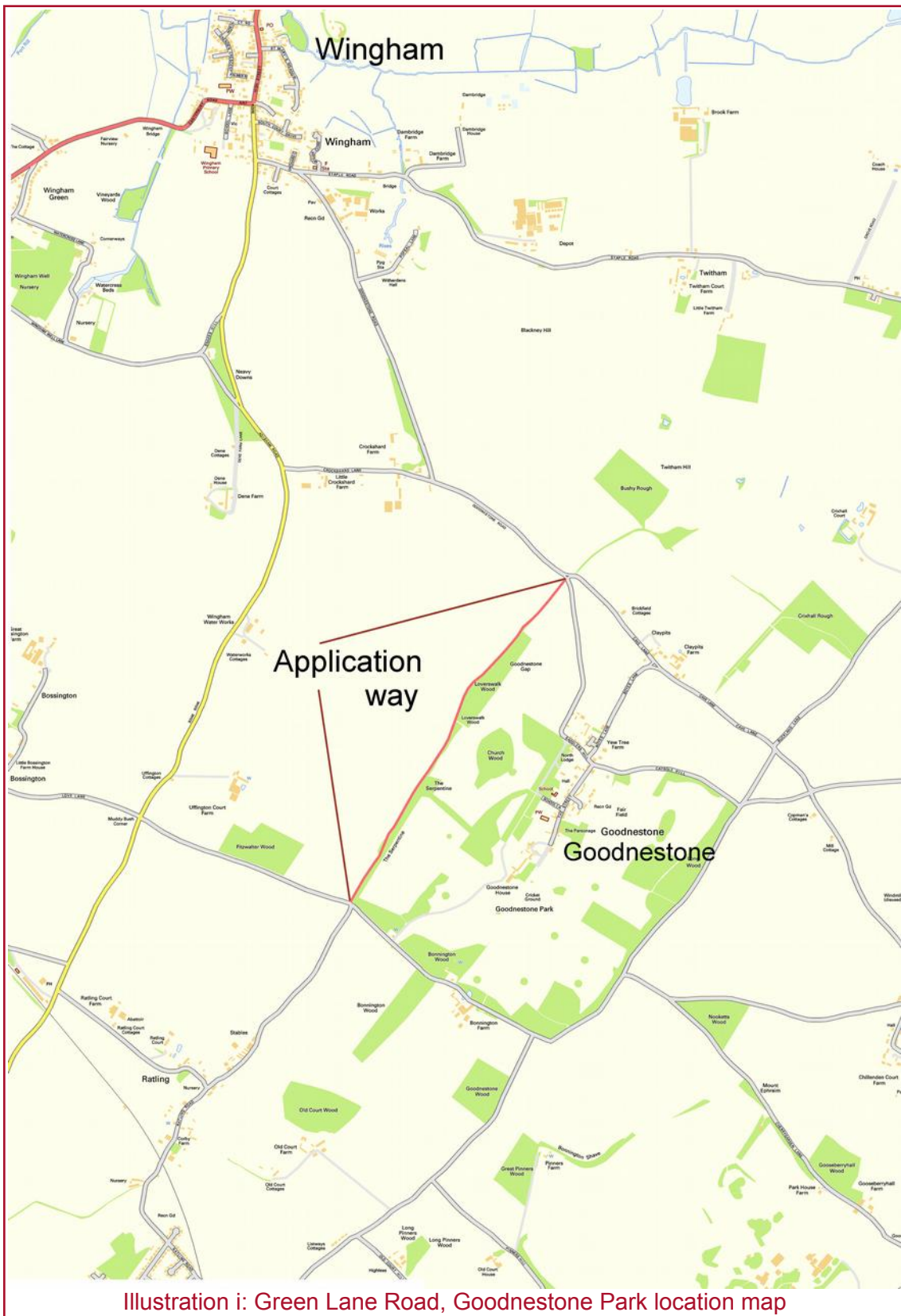


Illustration i: Green Lane Road, Goodnestone Park location map

B. The applicant

B.1. The application, the evidence for which is summarised in this document, is made by Hugh Craddock on behalf of the British Horse Society. I am appointed by the society as a volunteer district access and bridleway officer for the borough of Epsom and Ewell in

Surrey, and am also authorised to make applications on behalf of the society in relation to East Kent. I am employed as a casework 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.

C. Locational details

C.1. This application relates to a way in the parishes of Goodnestone and Wingham, in the district of Dover in East Kent. The way is currently recorded on the definitive map and statement as bridleway EE269. The application instead seeks to record the way as a restricted byway.

D. Application

D.1. The application is made under section 53(5) of the Wildlife & Countryside Act 1981 to Kent County Council that a definitive map modification order be made under section 53(3)(c)(ii) that a way shown in the definitive map and statement for Kent as a bridleway ought to be there shown as a restricted byway.

D.2. The way is or was formerly known as Green Lane Road. It begins to the north of Goodnestone at the junction of Cave Lane, Goodnestone Hill and Goodnestone Road, at A (Ordnance Survey grid reference TR25565553), following the parish boundary between Goodnestone and Wingham leading 410m southwest to Goodnestone Gap at B (TR25305522), then, still following the parish boundary and the northwest boundary of Goodnestone Park, continuing 520m southwest, then south-southwest, resuming southwest, to C (TR25025478, where the parish boundary turns to the northwest), then continuing 620m southwest along the northwest boundary of Goodnestone Park, to the junction of Love Lane and Hallsdown Road at Goodnestone Park Upper Corner or Stone Cross at D (TR24715424). A total distance of 1,550m.

D.3. The definitive bridleway EE269, and the application way which is contiguous with it, depart slightly from the established route along the west boundary of Goodnestone Park between TR24865452 and TR24825443. The definitive and historical line follow the park pale, whereas the present established route detours to the west, dropping into a depression created by the remains of a former chalk pit outside the park pale.

D.4. The points A to D are identified in the application map at part II below.

E. Background

E.1. The application way historically appears to be a link in one of the routes which cross this part of East Kent from northeast to southwest — other examples can be found in Buckland Lane and Palm Tree Lane (which follow the opposite side of Goodnestone Park), bridleways EE275/EE279 through Chillenden, and the Sandwich Road (past Knowlton War Memorial and through Nonington).

E.2. The application way may be an old drove road, but its representation on late eighteenth and early nineteenth century maps confirm that it was also used as a carriageway. To the southwest of Goodnestone Park Upper Corner or Stone Cross, the route continues

to Ratling as a tarred road, and beyond Ratling as Ratling Street¹, via South Peak Corner, towards Barham Downs, Barham and Kingston. To the northeast of Cave Lane, the route continues to Staple as bridleway EE269A².

E.3. The *Goodnestone Park and Estate Heritage Management Plan* states that:

‘The park pale for Goodnestone on the north-west side of the park is actually formed in part by the parish boundary between it and Wingham. The earthwork to this boundary comprises a double lynchet³ which reaches a height of several metres. As well as being a parish boundary, this earthwork may also be a boundary between the Manor of Goodnestone and the Manor of Uffington which lay to the north-west. An old routeway “Love Lane” is also aligned along this boundary. The route follows a ridge of high ground from Twitham in the north to Ratling in the south and may be prehistoric in origin. Its orientation follows the “grain” of routeways and fields across this landscape i.e. north-east to south west and could be an ancient drove route.’⁴

F. Nomenclature

F.1. The way is referred to as Green Lane Road in the Wingham tithe apportionment⁵, and as Love Lane in the *Goodnestone Park and Estate Heritage Management Plan*. The appellation ‘Love Lane’ is also used for the minor road from Adisham to Bonnington Farm (to which the application way is joined at its southern end): accordingly, this latter appellation for the application way may be misleading, and ‘Green Lane Road’ has for preference been used in this application.

F.2. At the southern end of the application way (D), the crossroads with Love Lane and (from Ratling) Hallsdown Road, is generally known as Stone Cross. On the Nonington Poor Law Commissioners map of 1859⁶, it is labelled as Goodnestone Park Upper Corner.

F.3. Uffington Gate is a label given on earlier maps to the gap in the Goodnestone Park pale which permits the passage of the public footpath (EE268) from Goodnestone village to Muddy Bush Corner⁷. The gate is shown, and labelled as such, on the Goodnestone Park footpaths diversion of 1835 (see item IV.G below), when the path across the park was diverted to a slightly more northerly alignment (but which did not affect the location of the gate).

F.4. Goodnestone Gap is a label given on maps (including large scale contemporary maps) to the gap in the Goodnestone Park pale which permits the passage of the public right of way (currently recorded as footpath EE182) from Goodnestone to Crockshard Farm and Wingham (to the northwest of the gap, the right of way becomes restricted byway EE182A).

1 Currently recorded on the definitive map and statement as footpaths EE286A, CB526 and bridleway CB200: an application has been made to upgrade the two footpaths to a restricted byway.

2 An application has been made to record a bridleway between EE269A and Staple Road at Twitham.

3 Referred to elsewhere within this document as the park pale (which was intended to confine deer within the park).

4 Consultation draft, December 2009, 2.4.2(i), p.24.

5 www.kentarchaeology.org.uk/Research/Maps/WIN/02.htm: parcel 635 — see analysis at item IV.H below.

6 Canterbury Cathedral Archives, CCA–U3/118/19/1.

7 The junction of the Adisham Road and Love Lane.

G. Grounds for application

G.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*⁸, Lewison LJ said, at paragraph 22,

'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922:

"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."

G.2. The Planning Inspectorate *Consistency Guidelines* recognise that several pieces of evidence which are individually lightweight in themselves (such as an historic map or a tithe map) may, collectively, convey a greater impact:

'If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind.'⁹

G.3. The correct test under s.53(3)(c)(ii) is whether:

'the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—...(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description'.

G.4. While no single piece of evidence in this application is conclusive, the applicant believes that, taken as a whole, the evidence in this document analysis demonstrates that prior to the Natural Environment and Rural Communities Act 2006 (as to which, see below), there were full vehicular rights.

G.5. The application way was included on the parish map for Goodnestone, and on the draft map and statement prepared under Part IV of the National Parks and Access to the Countryside Act 1949, as a bridleway. There is no evidence that any of the documents addressed in this analysis were relied upon in preparing these maps, there has been no prior discovery of evidence for the purposes of s.53(2) of the 1981 Act, and the evidence disclosed in this application appears to be wholly new evidence.

⁸ [2012] EWCA Civ 334

⁹ [Consistency Guidelines](#): para.2.17.

H. Natural Environment and Rural Communities Act 2006

H.1. The application seeks to show that the application way is a public carriageway. None of the application way is recorded as publicly maintainable in the list of streets held by Kent County Council under section 36(6) of the Highways Act 1980. The effect of section 67 of the Natural Environment and Rural Communities Act 2006 is to extinguish public rights for mechanically propelled vehicles where none of the exceptions in section 67 apply. None of those exceptions is claimed to apply, and the application is therefore made for a restricted byway.

I. Points awarded

I.1. Points have been awarded to each piece of evidence in relation to the application way. But, having regard to the existing status of the application way as a definitive public bridleway, points have been awarded only insofar as the evidence is indicative of a right of way for vehicles — thus evidence which is suggestive of a public bridleway attracts no points. Otherwise, the points have been calculated according to the guidance in *Rights of Way: Restoring the Record*¹⁰.

I.2. Points:

| Item | Ref | Points A–C |
|---|------|------------|
| Goodnestone survey of roads | IV.A | 4 |
| Barlow-Hasted map of Kent | IV.B | 1 |
| Ordnance Survey, Mudge-Faden one-inch map of Kent | IV.C | 1 |
| Greenwood's map of Kent | IV.D | 1 |
| Paterson's Roads — Thanet and Kent and Sussex Coast | IV.E | 0 |
| Ordnance Survey, Old Series one-inch map of Kent | IV.F | 0 |
| Goodnestone Park footpaths diversion | IV.G | 0 |
| Tithe Commutation Act 1836 | IV.H | 3 |
| Inclosure Act 1845, order of exchange | IV.I | 0 |
| Ordnance Survey boundary records | IV.J | 2 |
| Finance (1909–1910) Act 1910 | IV.K | 5 |
| Total points | | 17 |

J. Width of application way

J.1. In the tithe map for Wingham prepared under the Tithe Commutation Act 1836 (item IV.H below), the application way (Green Lane Road) is recorded as having an area of 0a1r25p (0.187ha). This area relates to the part of the road which lies within the parish of Wingham.

J.2. The Ordnance Survey County Series first edition map shows that the application way forms the parish boundary between Goodnestone and Wingham for a distance of

¹⁰ Sarah Bucks and Phil Wadey, 2nd ed. 2017.

930m (between A and C), for 410m of which (between A and B) the parish boundary follows the centre of the application way, and the remainder (*i.e.* 520m) is wholly within the parish of Wingham (where the parish boundary lies along the Goodnestone side of the way). (Between C and D, the way lies wholly within the parish of Goodnestone.)

J.3. Assuming the way between A and C to be of consistent width, the width of the way may be calculated to be:

$$\frac{0.187 \times 10000}{930 - \frac{410}{2}} = 2.6$$

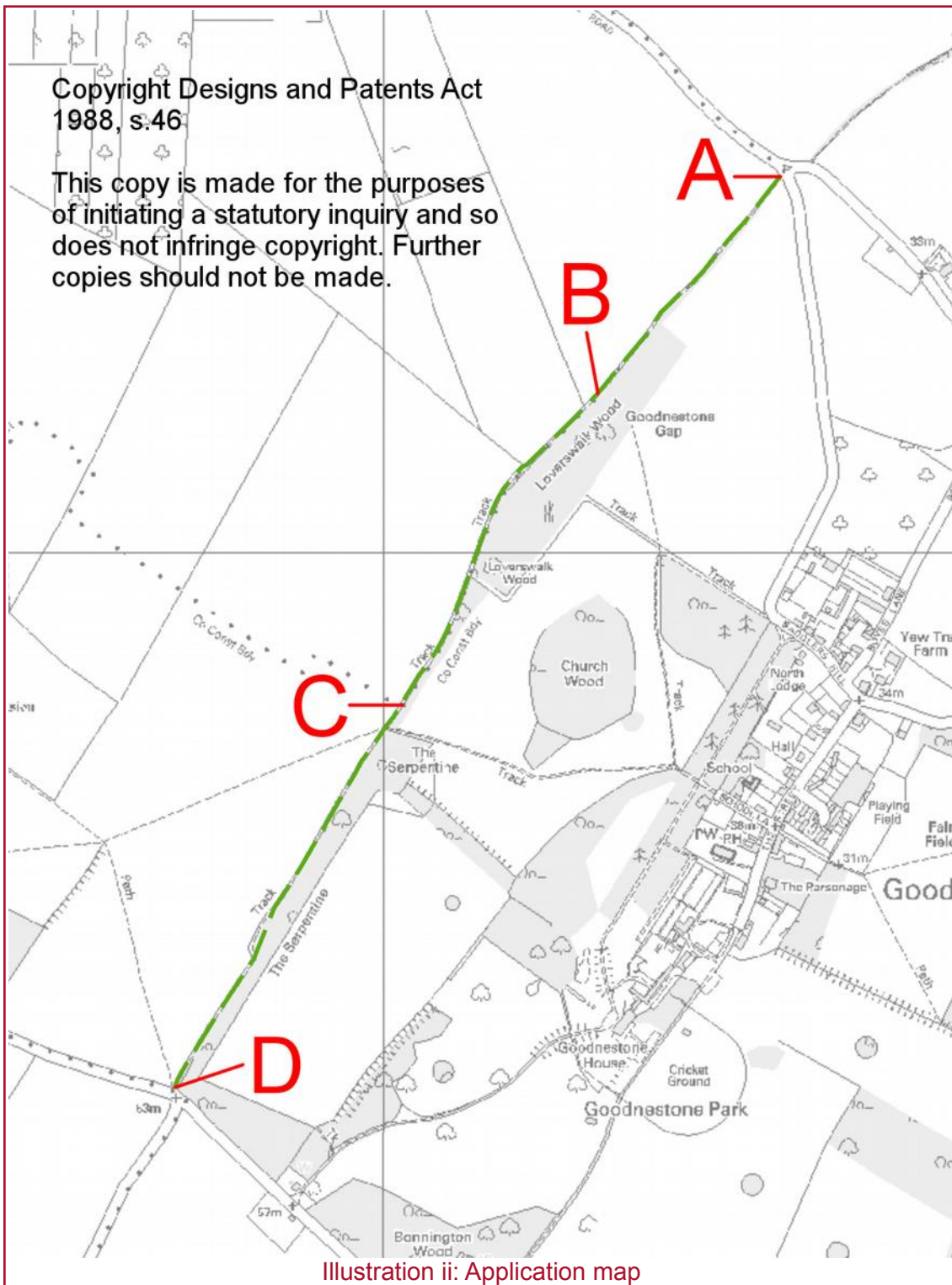
J.4. However, the earlier Goodnestone survey of roads (item IV.A below) records the entire way between A and C to be a half-road, with responsibility shared between the two parishes. On this basis, the width of the way may be calculated to be:

$$\frac{0.187 \times 10000}{\frac{930}{2}} = 4.0$$

J.5. The latter calculation delivers a width more consistent with a public carriage road, as a width of 2.6m would be unable to pass two carriages, and would be unusually tight even for a bridleway across open land. Accordingly, it seems more likely that the Wingham tithe apportionment calculation was founded in the understanding of the full length of the application way between A and C being a half-road, as recorded in the Goodnestone survey of roads, and that this perception was not challenged until the formal Ordnance Survey review around a century later, recorded in the Ordnance Survey boundary records (item IV.J below).


J.6. A width of 4.0m is therefore sought for the way between A and C. There being no characteristics of the way between C and D which create a likelihood that the width of that part of the way would differ from A to C, the same width is sought between C and D.

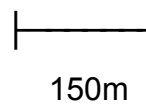
II. Application map



Map centred on C at TR25025478

Scale: approx. 1:8,880 (when printed A4)

Application way is marked 



III. Along the way (1)



Illustration iii: At A: junction with Cave Lane



Illustration iv: Between A and B: park pale on right



Illustration v: At B: Goodnestone Gap



Illustration vi: Between B and C: boundary stone (TR2519755122)



Illustration vii: At C: Uffington Gate



Illustration viii: Between C and D: diversion at old chalk pit

Along the way (2)



Illustration ix: Between C and D: park pale



Illustration x: At D: junction with Love Lane

IV. Evidence

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A. Goodnestone survey of roads

A.1. **Date:** 1767–78

A.2. **Source:** Canterbury Cathedral Archives¹¹

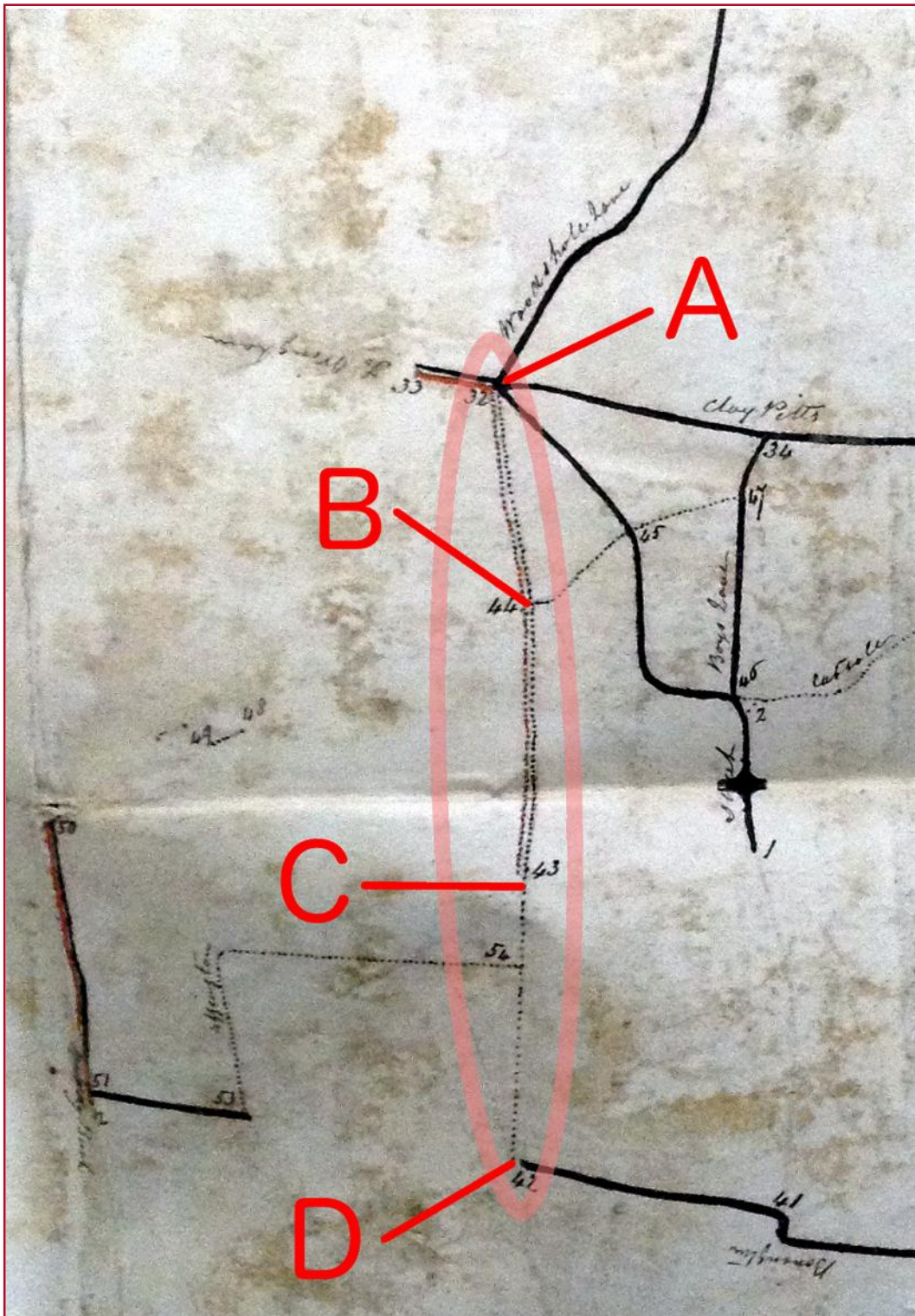


Illustration xi: Survey of estate lands and roads Goodnestone

A.3. **Description:** *A Survey of estate lands and roads Goodnestone*, catalogued as:

'A survey of the lands belonging to Brook Bridges, with plans of the various lands, and a map of the roads in the parish',

and deposited as part of the Fitzwalter Estate records. It has been suggested that,




'This Parish Survey therefore presents a very accurate and complete picture of the state of the parish in the late eighteenth century, and was perhaps



commissioned by the Brook Bridges estate as a prelude to rationalising and consolidating estate land holdings. Subsequent events over the next twenty years would certainly support this view, as many pieces of land changed hands in this period.¹²

A.4. The survey includes a map of roads in the parish of Goodnestone, showing the application way south from A (labelled on the map as point 32) as a double line of dots, part coloured brown and part coloured black, passing through Goodnestone Gap (B, 44) to the turn in the parish boundary near Uffington Gap (C, 43), where the double line ceases, and a single line of dots continues south to Goodnestone Park Upper Corner or Stone Cross (D, 42).

A.5. The map is annotated as follows:

'Reference

Where the road is drawn thus  the whole road is within the bounds of the Parish: — Where drawn thus  or thus  the road is divided between Goodnestone and the adjoining Parish; the Black denotes which side of the road belongs to Goodnestone.

Where there are only dots thus  or thus  the roads are not repaired.

The figures refer to the distance from point to point. To ascertain which, see Index; the figures written with Black Ink, in the Index, shew the Total number of Rods in each length, including the lengths of half road; and the figures written with Red Ink, show the length of such half road.'

A.6. In the index to the map, the distances are given as follows:

From 42 to 43 [*i.e.* D–C] 123½ rods

From 43 to 44 [*i.e.* C–B] 104½ rods (104½ rods half road)

From 44 to 32 [*i.e.* B–A] 81 rods (81 rods half road)

A.7. The total distance is therefore 309 rods, or 1,554m, which accords almost precisely with the length measured today (see paragraph I.D.2 above).

A.8. **Conclusion:** The survey is a detailed assessment of the lands and roads of Goodnestone, prepared for the Goodnestone estate and, until recently, kept among the estate records. It includes a detailed and accurate analysis of the roads on the estate, apportioning liability for maintenance between the parish of Goodnestone, neighbouring parishes, and privately maintainable ways.

A.9. The survey records only those ways which were considered to be public carriage-ways: it refers to roads which are 'not repaired' (*i.e.* by the parish), but not to roads which are not public. In particular, it does not include the estate carriage drive between Bonnington Farm and Goodnestone House, while those roads which are shown are consistent with ways which are recognised today as public roads, or which are documented elsewhere as former roads which have fallen out of use.

A.10. The application way is depicted as one of the roads of the parish, but not maintainable by the inhabitants of the parish. The survey refers consistently to 'roads', and

¹² The *Nash Families in Goodnestone-next-Wingham*, by David Nash Mills (printed by the Faversham Society as part of *About Faversham*, no.55).

excludes footpaths and bridleways. It is therefore good evidence that the application way was considered to be a carriageway at the date of the survey.

A.11. The survey does not quite accord with the Ordnance Survey boundary records (item IV.J below), which assign the section of road from B–C (*i.e.* points 43 to 44) as lying wholly within the parish of Wingham, with the parish boundary along the Goodnestone side of the road, whereas the survey records the road as a half road between A and C entirely. (See item I.J above for the relevance to calculating the width of the way.)

A.12. **Points:** 4

B. Barlow-Hasted map of Kent

B.1. **Date:** 1797–1801

B.2. **Source:** Kent County Archives, also available at www.ancestry.com¹³ and The Old Map Shop¹⁴: engraved by William Barlow in Edward Hasted's *The History and Topographical Survey of Kent*: published in in 12 Volumes.

¹³ Indexed at freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_Pages/ENG_pages/ken.htm

¹⁴ www.theoldmapshop.com .

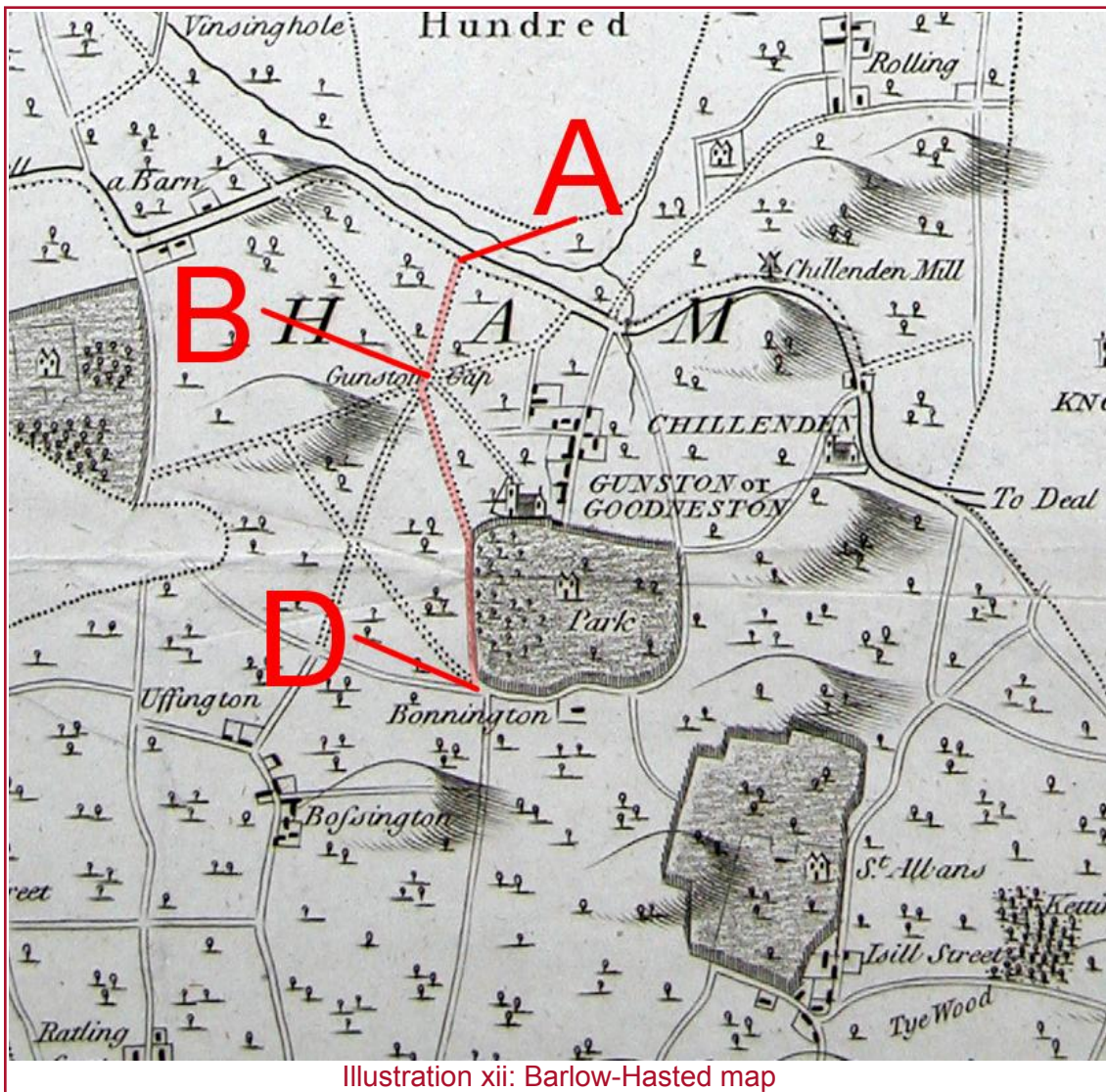


Illustration xii: Barlow-Hasted map

B.3. **Description:** Original scale: not known; orientation: unchanged (north).

B.4. William Barlow's maps of Kent were incorporated within the first edition of Edward Hasted's *The History and Topographical Survey of Kent*. The maps are derived from the county map of Andrews, Dury and Herbert and re-engraved by William Barlow. Hasted and his collaborators did try to correct errors in the maps¹⁵, but they did not have the resources to perform any serious revision of topographical surveying. Each map represented one or more of the Kent hundreds: that shown here is an extract from the hundred of Wingham.

B.5. The Barlow map shows a way, generally straight and on a south-north alignment, between Cave Lane and Goodnestone Park Upper Corner or Stone Cross. The map shows the way passing through Goodnestone Gap (marked Gunston Gap), and then south along the west side of Goodnestone Park. The way is represented by double pecked lines, suggesting an unenclosed way across downland.

B.6. **Conclusion:** The Barlow-Hasted map is some evidence for the existence of a defined way along the application route. The map was commercially published, and would

¹⁵ Shirley Burgoyne Black, *A Scholar and a Gentleman: Edward Hasted, The Historian of Kent* (2001); John Boyle, *Discoveries about Edward Hasted and his History of Kent, Archaeologia Cantiana*, vol.97, pp.235–260 at p.244 (1981).

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, it cannot be assumed that the status is any greater than bridleway.

B.7. **Points:** 1

C. **Ordnance Survey, Mudge-Faden one-inch map of Kent**

C.1. **Date:** 1801

C.2. **Source:** Mapco.net¹⁶: © Copyright David Hale and the MAPCO : Map And Plan Collection Online 2006–13

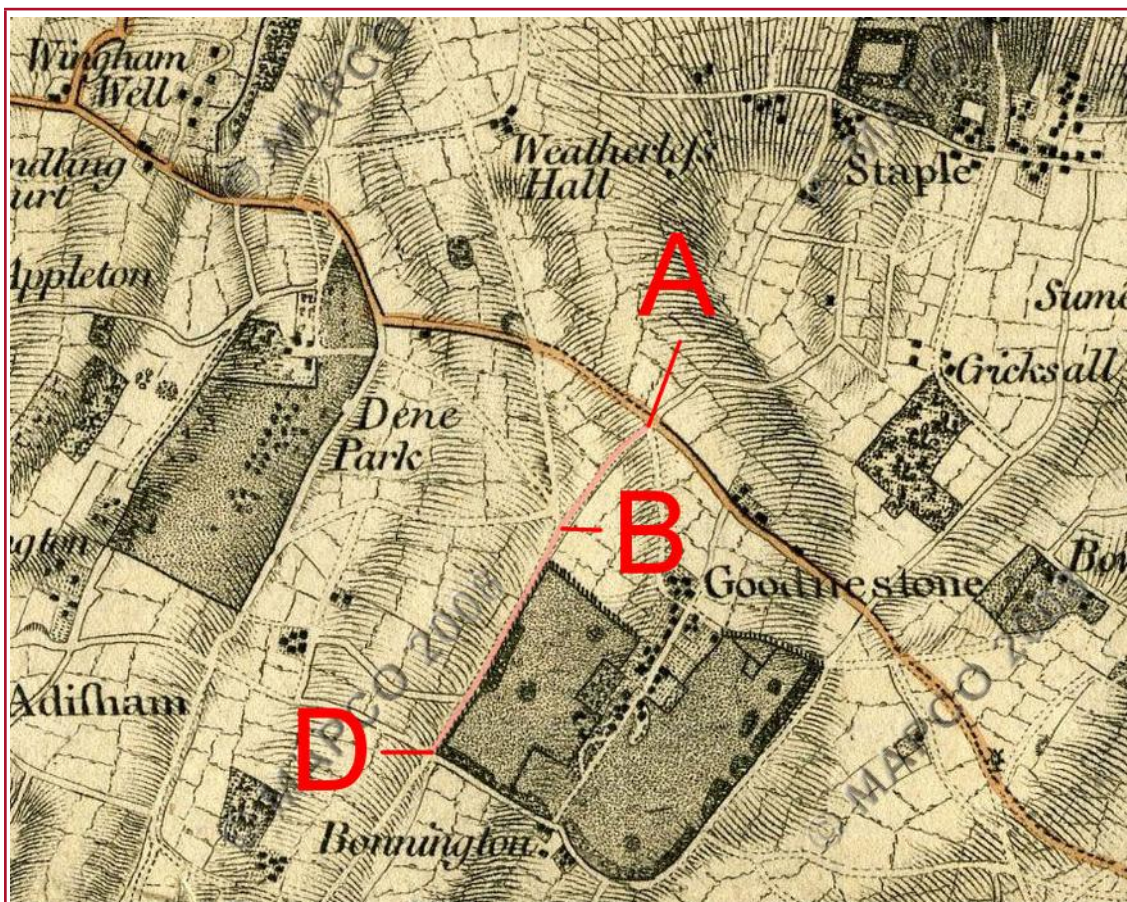


Illustration xiii: Mudge-Faden one inch map

C.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north).

C.4. This map of Kent was the first Ordnance Survey map to be published. The survey of Kent was commenced in the 1790s by the Board of Ordnance, in preparation for the feared invasion of England by the French. However, the map of Kent was not published by the Ordnance Survey until well into the nineteenth century: instead, this map was initially published on 1st January 1801 by William Faden, Geographer to the King, for sale to the public.

16 mapco.net/kent1801/kent31_02.htm, mapco.net/kent1801/kent31_03.htm

C.5. The Mudge-Faden map shows a way, fairly straight but aligned north-northeast to south-southwest, between Cave Lane and Goodnestone Park Upper Corner or Stone Cross. The map shows the way passing through Goodnestone Gap. The way is represented by double peaked lines, suggesting an unenclosed way across downland.

C.6. **Conclusion:** The Mudge-Faden map shows a way coincident with the application way between A and D. Goodnestone Gap is shown, marked B.

C.7. 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. The map provides some evidence for the existence of a public way along the application route.

C.8. **Points:** 1

D. Greenwood's map of Kent

D.1. **Date:** 1819–20

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

Greenwood map

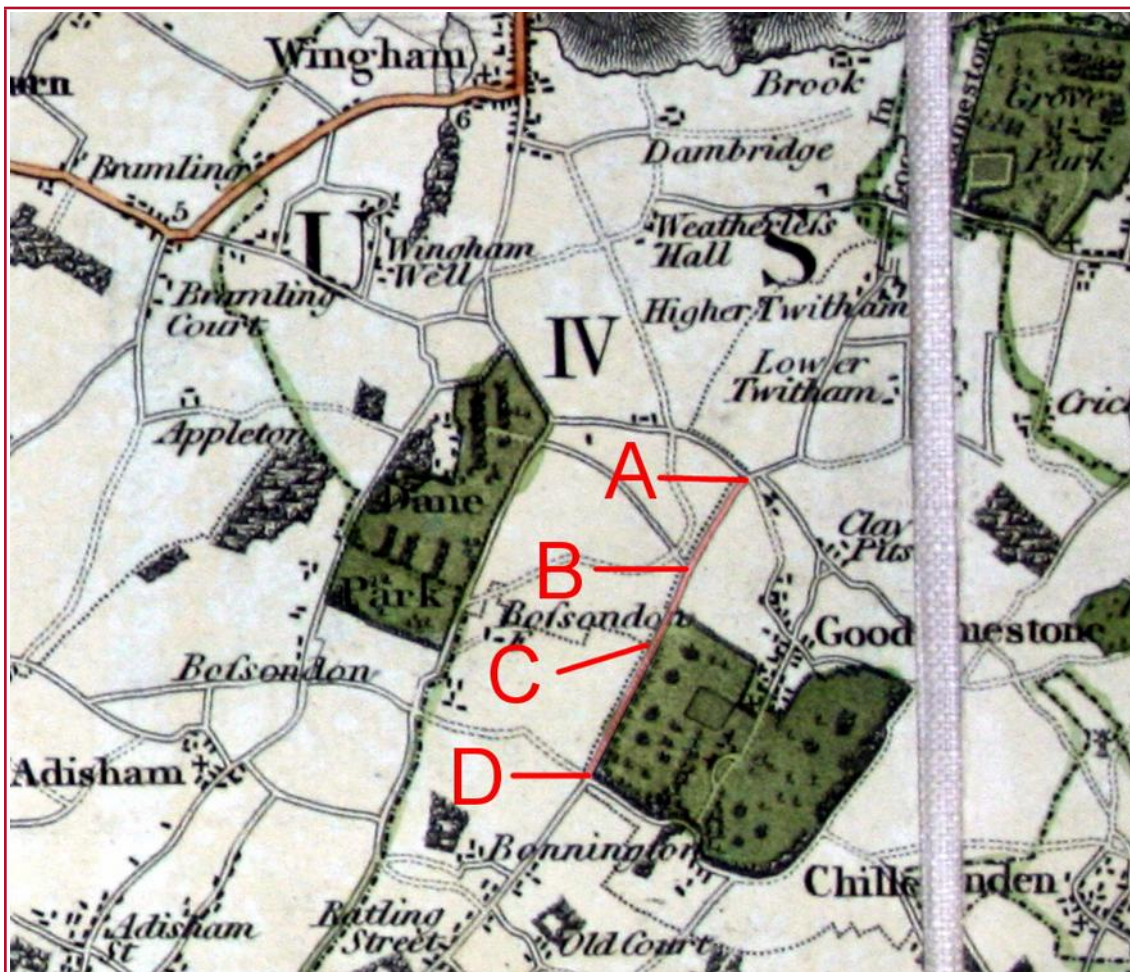


Illustration xiv: Greenwood map

Greenwood map key

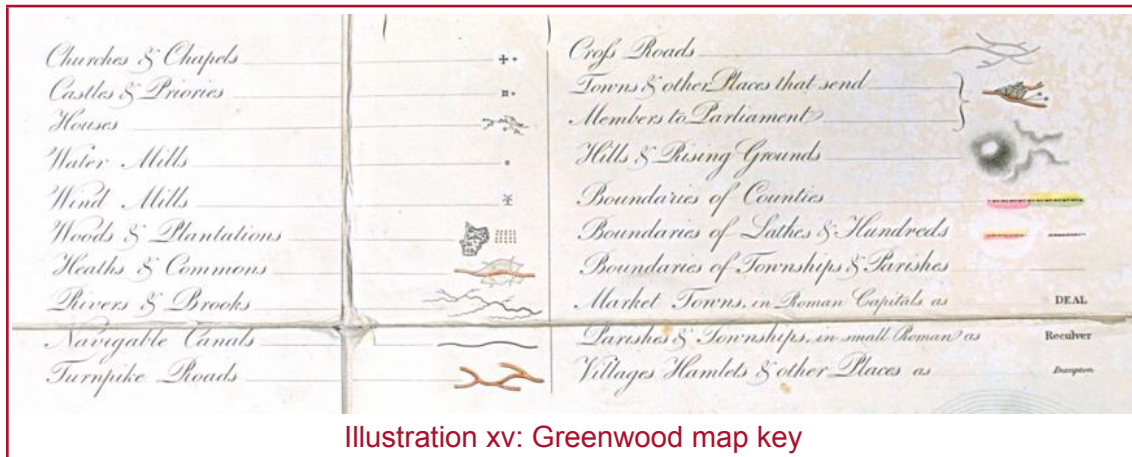


Illustration xv: Greenwood map key

D.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north). This copy appears to be state iii, published between 1821 and 1827.

D.4. The Greenwood map shows an almost straight way between Cave Lane and Goodnestone Park Upper Corner or Stone Cross, with the more southerly part of the way following the northwest boundary of Goodnestone Park. The map shows a junction at B with a road from Crockshard Farm (now restricted byway EE182A).. The way is represented by double continuous lines, suggesting an enclosed way.

D.5. In the key to the map, the way is described as a 'cross road'.

D.6. **Conclusion:** The Greenwood map shows a way coincident with the application way between A and D. The description of the way as a 'cross road' is strongly suggestive of a public road.

D.7. **Points:** 1

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

E.1. **Date:** 1811

E.2. **Source:** British Library¹⁷

17 10348.d.15: copy available at www.pastpages.co.uk/site-files/maps-uk/Mx/MEM006.jpg .

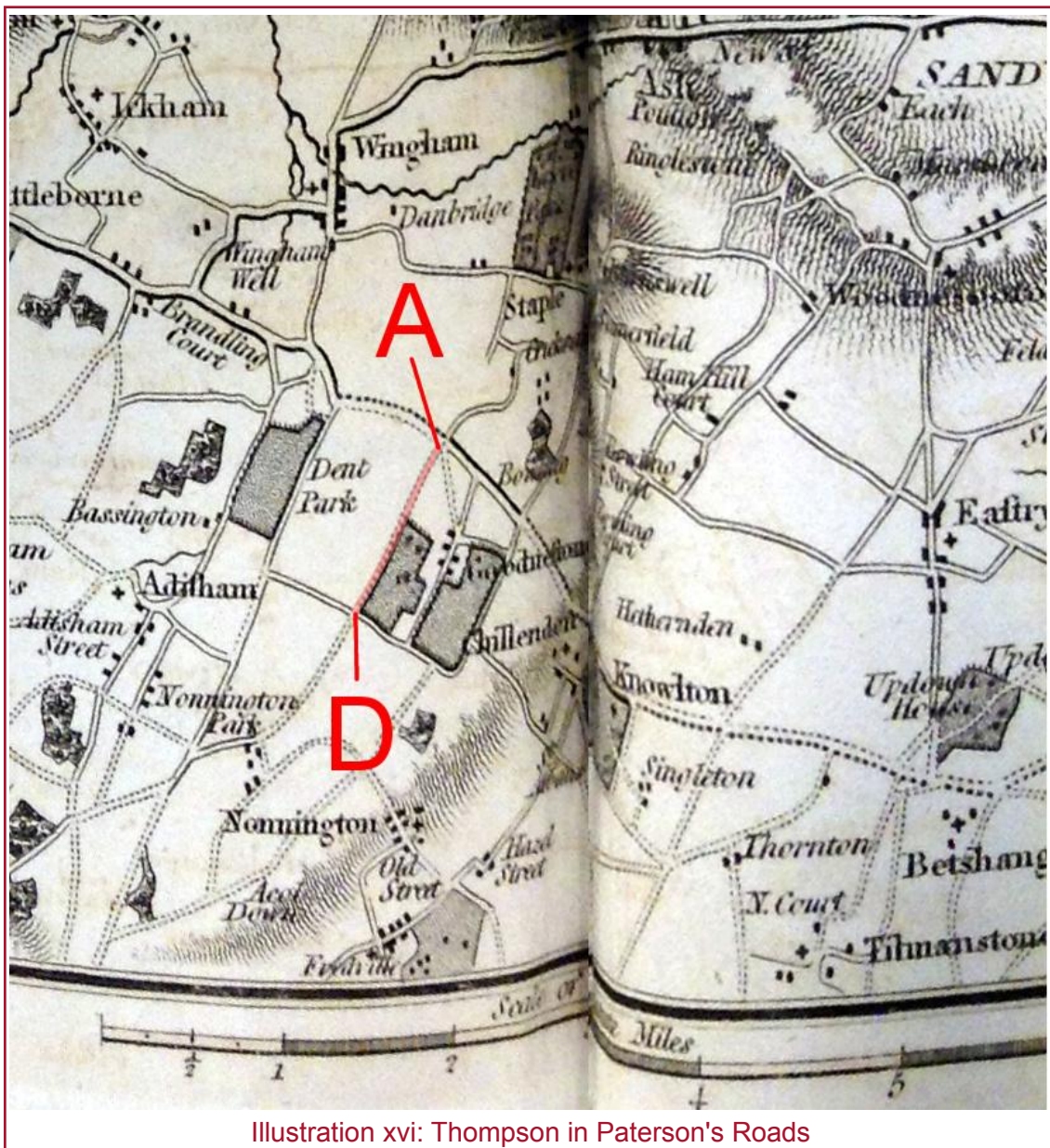


Illustration xvi: Thomson in Paterson's Roads

E.3. **Description:** Original scale: not known, but scale marked in miles; orientation: unchanged (north). 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 roads. The map appears to be derived from the Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.C above): however, the map has been revised (not visible in the extract above) to show the Dover, Deal and Sandwich turnpike, the trustees of which were authorised to build a new road at Hacklinge under an Act of 1797¹⁸.

E.4. The Thomson map shows a way between A and D, shown by parallel dotted lines, suggesting an unenclosed way across downland.

E.5. **Conclusion:** The Thomson map appears to be derived from the Mudge-Faden map, but has been revised so as to include the Dover, Deal and Sandwich turnpike, suggestive that the representation of at least principal roads was researched and updated. The Thomson map appears to focus on key roads available to the public, and although prob-

¹⁸ Dover, Deal and Sandwich Turnpike Act 1797, 58 Geo.III, c.xxvi.

ably based on the Mudge-Faden map, to have been revised. The Thomson map shows a way consistent with the entirety of the application way between A and D, and is good evidence for the existence of a defined route along the application way.

E.6. Given the smaller scale of the Thomson map, and the greater selectivity of what is shown, it can be concluded with some confidence that the way was a defined feature in the landscape, capable at least of accommodating ridden horses, and probably a carriageway.

E.7. **Points:** 0 (no more than two historical maps to be scored)

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

F.1. **Date:** 1831 (but survey dating from late eighteenth century)

F.2. **Source:** National Library of Australia¹⁹

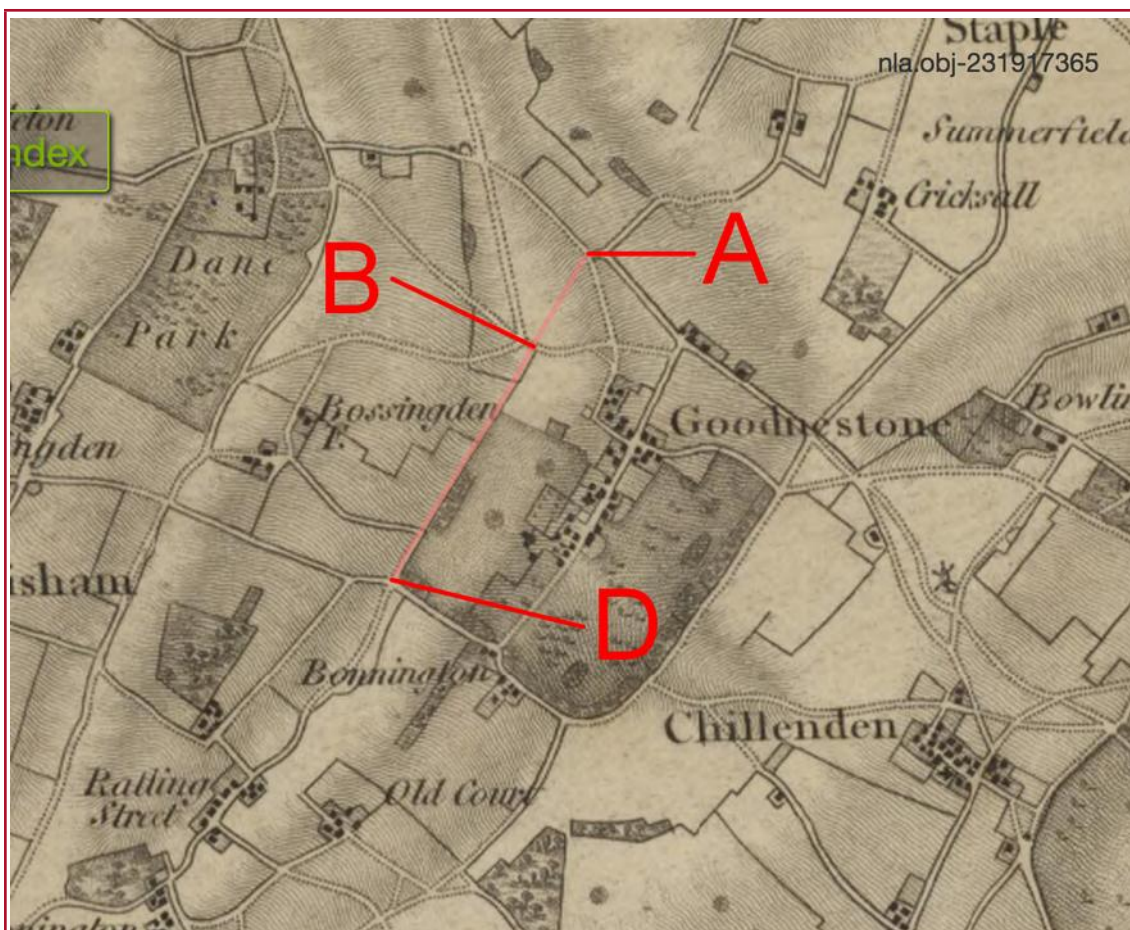


Illustration xvii: OS Old Series one inch map

F.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north).

F.4. 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 Ordnance Survey, Mudge-Faden

¹⁹ nla.gov.au/nla.obj-231917365

one-inch map of Kent (item IV.C above), the 'official' Ordnance Survey Old Series map was based on the same survey data.

F.5. However, in this case, the application way, while identifiable on the Mudge-Faden map, is absent from the Old Series map, with the exception of a short spur north from Goodnestone Park Upper Corner or Stone Cross, which shortly turns west to Uffington Court.

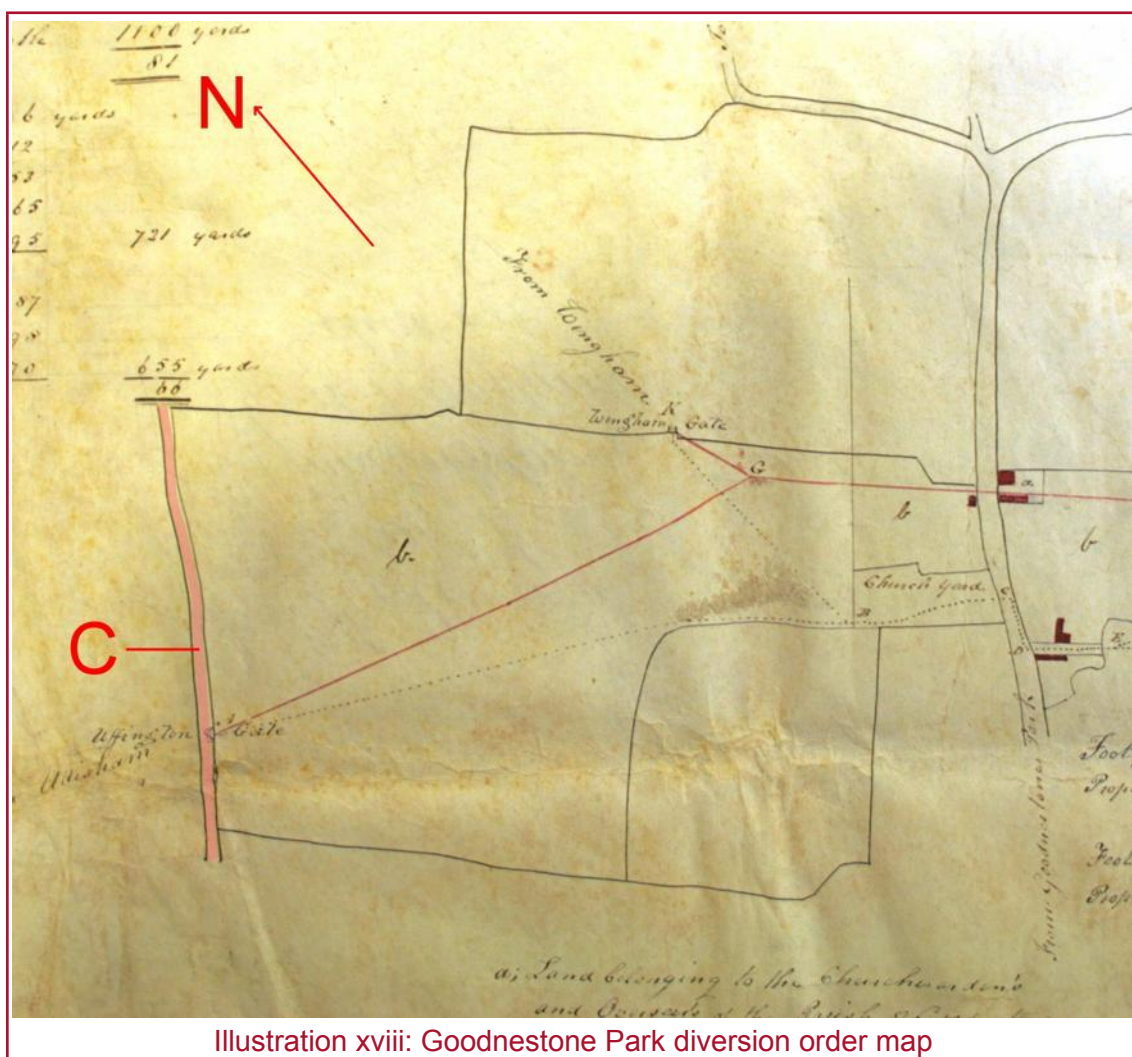
F.6. **Conclusion:** The omission of the application way from the Old Series map suggests that it had become regarded as an unimportant way by the early years of the nineteenth century.

F.7. **Points:** 0

G. Goodnestone Park footpaths diversion

G.1. **Date:** 1835

G.2. **Source:** Kent County Archives²⁰



G.3. **Description:** Original scale: not marked; orientation: unchanged.

G.4. Orders made in 1835 by Wingham magistrates, diverting certain footpaths from Rowling Stile, Chillenden Gate, Wingham Gate and Uffington Gate across Goodnestone Park to new alignments.

G.5. The application way is shown as bounding the northwest side of the park, and is the terminus, marked 'Uffington Gate', of the diverted and original alignments of one of the paths to be diverted. The way is shown enclosed by parallel continuous lines.

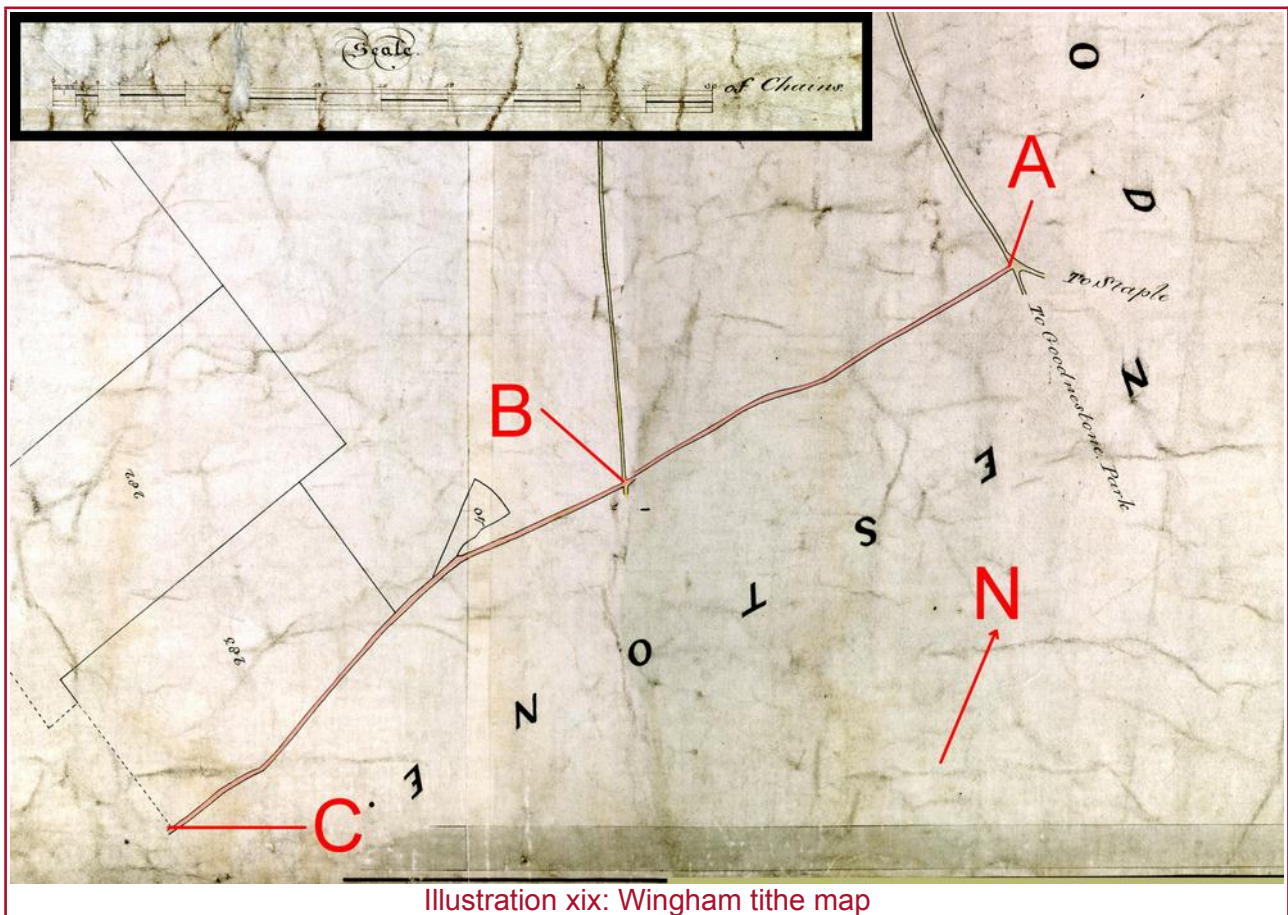
G.6. **Conclusion:** The part of the footpath to be diverted is shown as beginning on the application way at a point known as 'Uffington Gate' (the path is shown as originating 'From Adisham'). The application way is shown as an enclosed road, but as the footpath is marked as continuing across the road to Adisham, the map does not provide any indication of the status of the way.

G.7. **Points:** 0

H. Tithe Commutation Act 1836

H.1. **Date:** 1841

H.2. **Source:** map — Kent County Archives²¹; tithe award — Kent Archaeological Society²²



H.3. **Description:** Original scale: scale bar shown; orientation: rotated 270°.

21 Kent tithe maps are available as images on CD.

22 www.kentarchaeology.org.uk/Research/Maps/WIN/02.htm.

H.4. The tithe map for Wingham shows a way from the junction of Cave Lane and Goodnestone Hill at A, southwest along the parish boundary between Wingham and Goodnestone. The way is shown enclosed by continuous lines and coloured sepia. The way forms a junction with another way, similarly presented, at B, and continues southwest to the point at C where the parish boundary turns to the west-northwest.

H.5. **Analysis:** The Wingham tithe apportionment lists the following roads:

| Parcel no. | Tithe apportionment road | Area (a.r.p.) | Area (Ha) | Matched road today | Est. length of roads | Of which, length of half roads | Est. average width |
|------------|---|---------------|-----------|---|----------------------|--------------------------------|--------------------|
| 620 | Witherdens Hall | 1.2.11 | 0.645 | Popsal Lane (RB EE63); FP EE166 | 720 | | 9.0 |
| 622 | Turnpike Road to Sandwich | 9.0.21 | 3.714 | A257 | 3130 | | 11.9 |
| 623 | Road to Ickham | 0.2.3 | 0.213 | Wingham Road | 360 | | 5.9 |
| 624 | The Drove road | 2.3.36 | 1.236 | B2046 (part High Street, Adisham Road) | 2500 | 220 | 5.2 |
| 625 | Farm Road to Dean Park | 0.2.28 | 0.298 | Dene Farm Lane | 510 | | 5.8 |
| 626 | Road to Wingham Wells & Neavy Downs | 2.0.26 | 0.898 | Wingham Well Lane | 1880 | | 4.8 |
| 627 | Old Canterbury Road | 0.3.11 | 0.341 | Mill Road | 560 | | 6.1 |
| 628 | Well Head Road | 0.3.0 | 0.304 | Watercress Lane | 730 | | 4.2 |
| 629 | Road to Preston | 1.1.31 | 0.612 | Preston Hill | 1200 | 470 | 6.3 |
| 631 | Petts Road | 0.2.24 | 0.284 | Petts Lane (EE169) | 550 | | 5.2 |
| 632 | Little Wenderton (Road) | 1.3.18 | 0.770 | Wenderton Lane | 1730 | 790 | 5.8 |
| 634 | Hearts Delight Road (Half Park) | 0.0.30 | 0.103 | Hearts Delight Lane | 520 | | 2.0 |
| 635 | Green Lane road (Half Park) | 0.1.25 | 0.187 | EE269 | 930 | 410 | 2.6 |
| 636 | Goodnestone Road | 1.1.21 | 0.578 | part Goodnestone Road, EE178 | 2090 | | 2.8 |
| 637 | Crockshire Farm Road | 3.1.21 | 1.387 | Crockshard Lane/Hill; part Goodnestone Road | 1250 | 160 | 11.9 |
| 638 | Road to Staple | 4.0.8 | 1.646 | Staple Road | 2690 | 810 | 7.2 |
| 639 | Road from Twitham Farm | 0.1.37 | 0.228 | (Higher Twitham Farm to Staple Church) | 810 | 470 | 4.0 |
| 640 | Twitham Road | 0.1.18 | 0.163 | Pettocks Lane (DMMO application) | 360 | 180 | 6.0 |
| 641 | Old Workhouse Road | 0.0.30 | 0.103 | School Lane | 140 | | 7.3 |
| 642 | Dambridge Farm Road to Brook | 1.0.15 | 0.456 | Dambridge Farm Road | 1380 | | 3.3 |
| 643 | Road to Rushams | 0.2.36 | 0.325 | Rusham Road | 740 | 30 | 4.5 |
| 644 | Road from Neavy Downs to Blackney Downs | 0.1.24 | 0.183 | FP EE80 | 530 | | 3.5 |
| 645 | Road from Hearts Delight to GUILTON | 0.2.32 | 0.312 | Nash Road | 885 | 885 | 7.0 |
| 646 | Drove Way Farm Road | 0.1.36 | 0.224 | BW EE150 | 260 | 260 | 17.3 |
| 647 | Wamstone Road | 0.3.1 | 0.307 | Walmestone Road | 960 | 530 | 4.4 |
| 648 | Rd from Elmstone to Ash | 0.2.17 | 0.260 | Part Church Hill (Elmstone) | 520 | 40 | 5.2 |
| 649 | Rd from Elmstone to Ash | 0.0.4 | 0.014 | Part Church Hill (Elmstone) | 50 | 50 | 5.5 |
| 650 | Road from Perry Farm to four turnings | 0.0.15 | 0.051 | Perry Lane (but no part identified in parish) | | | ### |

H.6. One road listed in the apportionment has not been reliably identified: no.650, Road from Perry Farm to four turnings: the road appears to be Perry Lane, but no part of Perry Lane is shown as falling within the parish of Wingham on the Ordnance Survey County Series first edition map.

H.7. Of the roads listed, all of them are now either public roads (including restricted byways), aside from the following:

- no.620 — one limb of Witherdens Hall (now FP EE166);
- no.635 — Green Lane Road (the application way, now BW EE269);
- no.639 — Road from Twitham Farm (likely to be the subject of restricted byway application for definitive map modification order);
- no.640 — Twitham road (now the subject of bridleway application for definitive map modification order no.391);
- no.644 — Road from Neavy Downs to Blackney Downs (now FP EE80);
- no.646 — Drove Way Farm Road (now BW EE150).

H.8. **Conclusion:** The roads listed in the apportionment appear in a section headed: *Roads River & Waste Land*, and are coloured sepia. However, of the roads identified, all of them are now recognised public roads or public rights of way, with the exception of nos.639 and 640, one of which is now the subject of an application to record on the definitive map and statement, and the other which is likely to be the subject of an application in the near future.

H.9. Private roads are separately identified on the map, and not coloured: see Poplar Walk (no.391a) at Wenderton, and the drive to Brook Farm at Staple.

H.10. Although not expressly labelled as public roads, it is suggested that only public roads were included in the relevant section of the apportionment, and that this conclusion is consistent with their being coloured sepia. Of those ways which were included in the list, but which are now not recorded as public roads or restricted byways, all of them have been recognised in other documents as public roads. The tithe map is therefore consistent with the application way (no. 635, Green Lane Road) having the reputation of a carriageway at the date of the survey.

H.11. **Points:** 3

I. Inclosure Act 1845, order of exchange

I.1. **Date:** 1850

I.2. **Source:** National Archives²³

Inclosure award (Goodnestone and Wingham 1358), Stone Cross

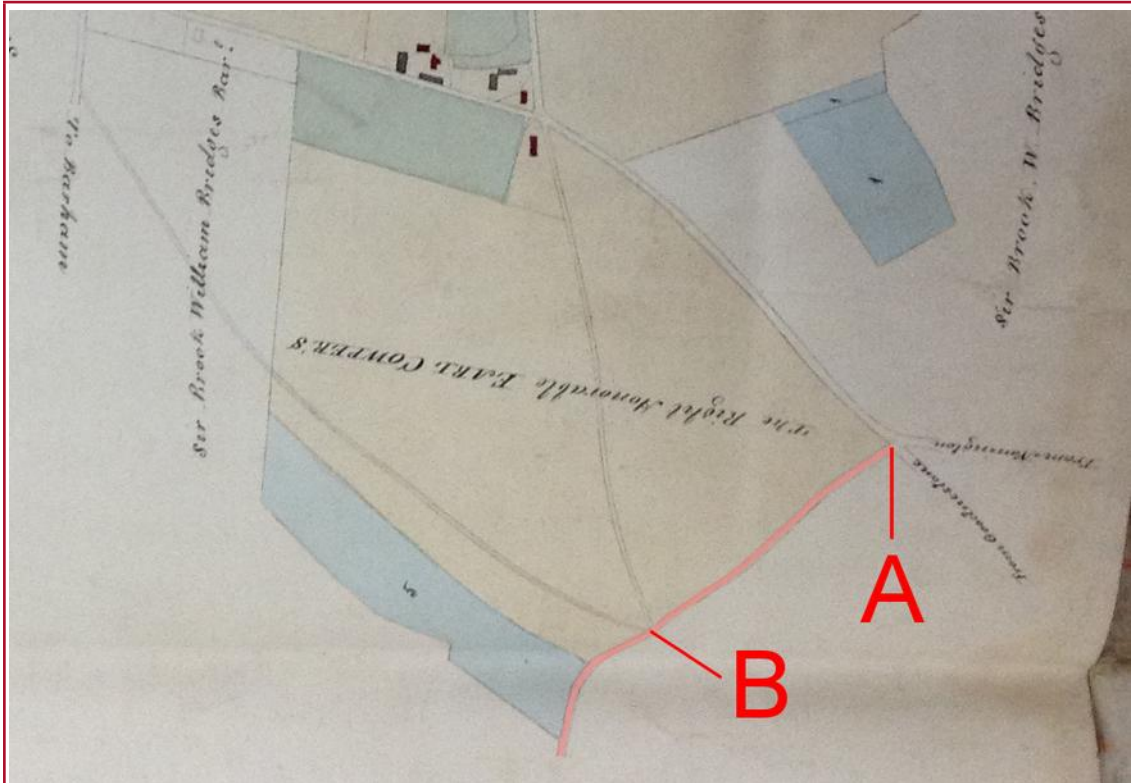
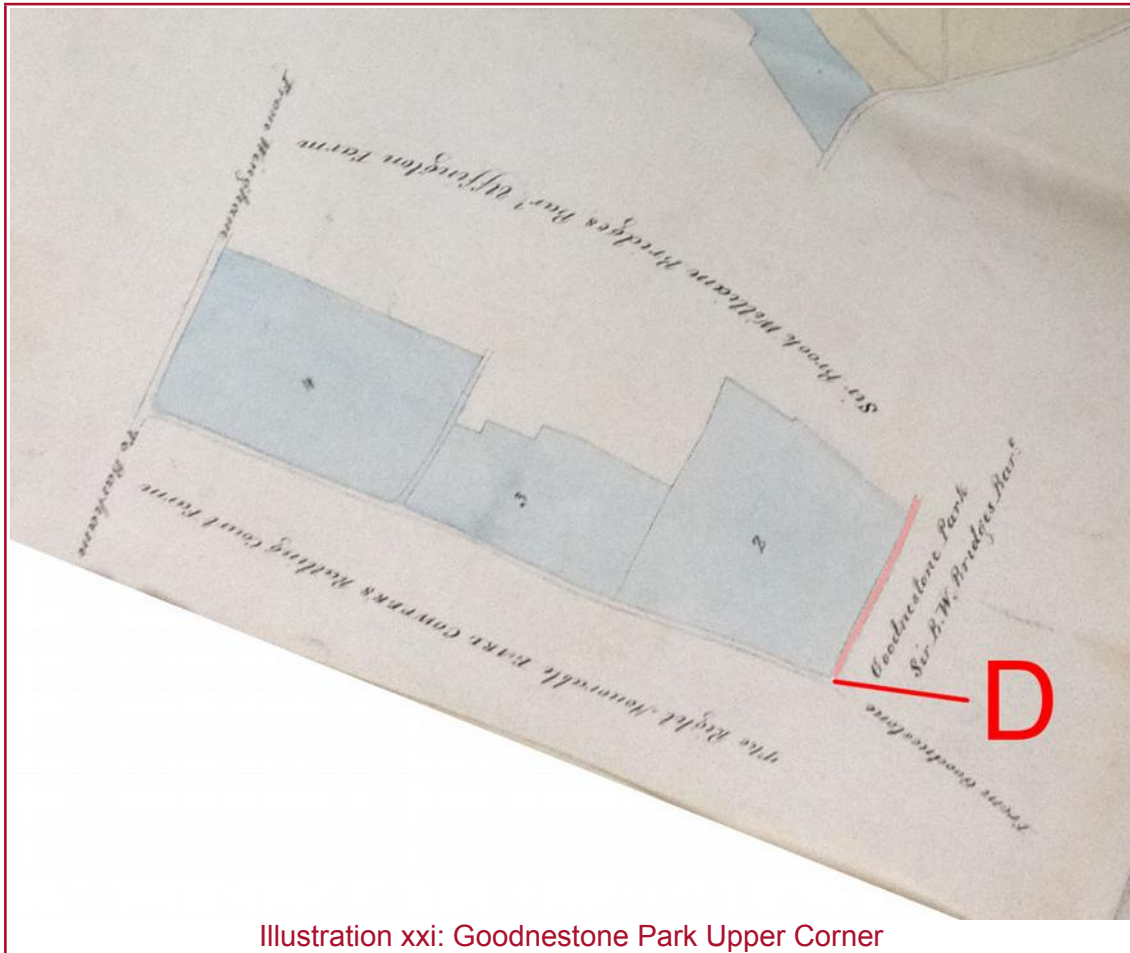


Illustration xx: Crockshard Farm

Inclosure award (Goodnestone and Wingham 1358), Crockshard Farm



I.3. **Description:** original scale: none given; orientation: rotated 265° (Crockshard Farm extract), 290° (Goodnestone Park Upper Corner extract).

I.4. An order of exchange was made by the Inclosure Commissioners in 1851 under section 147 of the Inclosure Act 1845, at the request of the owners of land who wished to make an exchange of their titles.

I.5. Under section 147, the Inclosure Commissioners were empowered to grant an exchange of lands between two different owners, where such lands were not subject to inclosure (*i.e.* were not, for example, common land). The Commissioners were required to be satisfied, following public notice of the proposed exchange, that the exchange would be beneficial to the respective owners, and that the terms of the exchange were just and reasonable. Section 147 was used to overcome difficulties in conveyancing or defects in title at a time before such matters were generally addressed by legislation: it provided that the exchange was to be binding notwithstanding any incapacity or defect in title.

I.6. The plan drawn in the order of exchange shows two separate parts of the application way: on the Crockshard Farm extract (Illustration xx), from A to beyond B towards C; and on the Goodnestone Park Upper Corner extract (Illustration xxi), towards and including D. In common with other roads on the plan, the road is shown uncoloured in both cases.

Ordnance Survey boundary sketch map (Wingham)

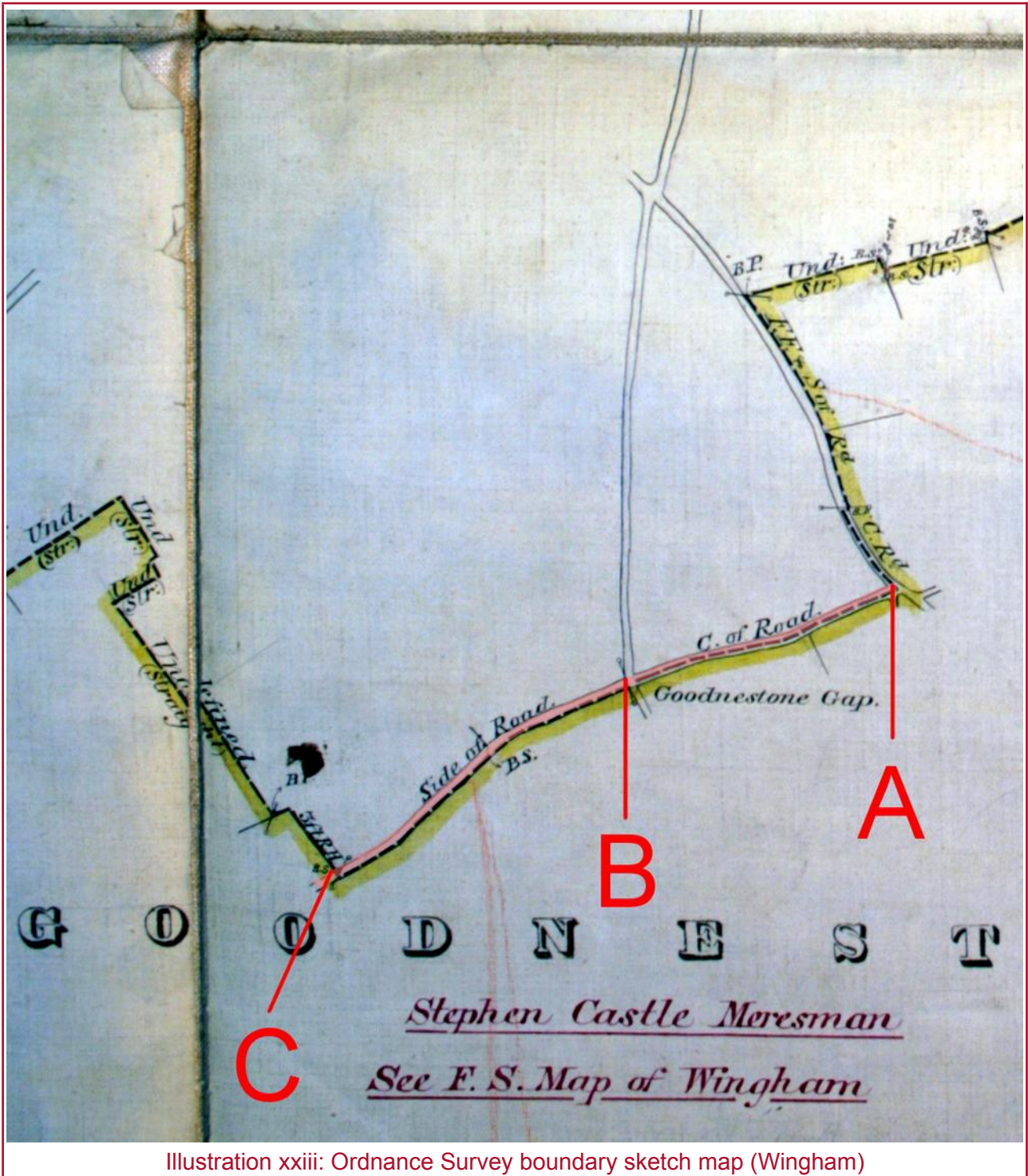


Illustration xxiii: Ordnance Survey boundary sketch map (Wingham)

J.3. **Description:** OS boundary field sketch map — original scale: not known but based on tithe map; orientation: none specific but orientated to north. OS boundary sketch map — original scale: not known; orientation: unchanged.

J.4. The Ordnance Survey boundary maps date from the late 1860s, and record the Ordnance Survey's surveyors efforts to capture the precise location of parish boundaries from local knowledge. These maps were drawn up following perambulation of the boundaries by the surveyor accompanied by the parish meresman (that is, a long-standing

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).

J.5. The application way follows the parish boundary of Wingham and Goodnestone between A and C, where the boundary turns northwest across the land of Uffington Court. Both boundary maps records that the boundary follows the centre of the road between A and Goodnestone Gap at B, and the Goodnestone side of the road between B and C. The latter finding is inconsistent with the Goodnestone survey of roads (item IV.A above), which records the part of the way between B and C as a half road (*i.e.* half in Wingham and half in Goodnestone).

J.6. Between A and B, the field sketch map is annotated:

There is some dispute as to this being a Public Road, the boundary pointed out by the meresmen and the agent for the [?] is Side of Road from \bar{a} ²⁵ to e, and C.Rd. from c to \bar{d} , as shown and observed by the Parishes from time immemorial.

J.7. **Conclusion:** The Ordnance Survey boundary maps record the application way, between A and C, as a road which forms the parish boundary between Wingham and Goodnestone.

J.8. The administrative parish supplanted the manorial estate during the mediæval period: parish boundaries were frequently coterminous with those of manors (although Goodnestone was a borgh or tithing within the great parish of Wingham, and not a manor). Accordingly, historical parish boundaries (*i.e.*, those which were not established as part of local government reform in 1894 or later) are frequently of great age, and derived from boundaries established in the mediæval period or earlier. Where, as here, they are documented to follow a road, it is highly likely that both road and boundary are ancient in origin, and that the road is a public road.

J.9. The 'dispute as to this being a Public Road' suggests that the dispute was as to the public status of the application way, or the question of whether it is publicly maintainable²⁶, and not as to the rights exercisable over it. Given that other documents confidently demonstrate the public status of the way, the annotation provides some support for the status of the application way as a carriageway.

J.10. **Points:** 2

K. Finance (1909–1910) Act 1910

K.1. **Date:** 1911

K.2. **Source:** National Archives²⁷

²⁵ \bar{d} is represented on the application map by B, e by C, and c by A. *I.e.* '...Side of Road from B to C, and C.Rd. from A to B'.

²⁶ See, in the Goodnestone survey of roads (item IV.A), the assessment of the way between B and C as a half-road, such that the parish boundary ought to have followed the centre of the road..

²⁷ IR 124/5/58 and 124/5/61

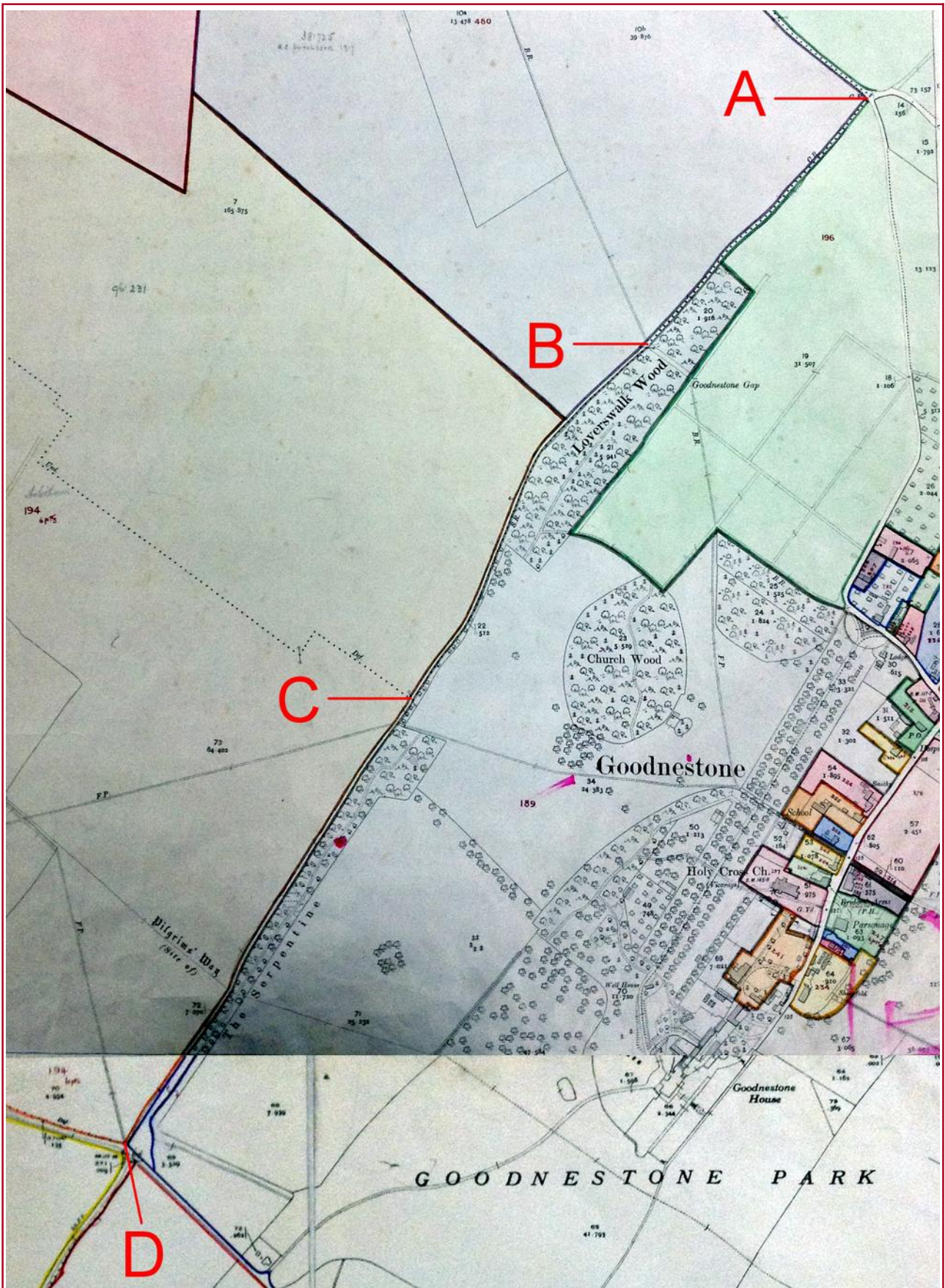


Illustration xxiv: Finance Act map LVII/11 and 15

K.3. **Description:** original scale: 1:2,500; orientation: unchanged.

K.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.'

A highway authority was a rating authority.

K.5. Secondly, discounts from the valuation could be requested for land crossed by foot-paths or bridleways.

K.6. All land had to be valued unless it was exempted by the Act. S.94 provided harsh penalties for making false declarations.

K.7. The application way shown on County Series sheet LVII/11 is uncoloured between the boundaries of the adjacent hereditaments. On sheet LVII/15, the exclusion from colouring is identifiable but less distinct.

K.8. **Conclusion:** The Finance Act map is good evidence that the application way between A and D was regarded as a public highway not subject to assessment. In general, only carriageways were excluded from assessment, and the map supports the status of the application way as a carriageway.

K.9. **Points:** 5