

Martin Lodge Farm restricted byway: document analysis

Application to record a restricted byway from Lucerne Lane to Dover Road

I. Introduction

A. Quick reference

A.1. Location plan (see application map at part II below for scale representation):



- A.2. Parish of: Langdon, St Margaret's at Cliffe
- A.3. Former parish of: East Langdon
- A.4. Termination points: Lucerne Lane (Martin) and Dover Road (near Oxney Court)
- A.5. Termination points Ordnance Survey grid references: TR34054702, TR35074668
- A.6. Postcode: CT15 5JX
- A.7. Ordnance Survey Explorer sheet: 150
- A.8. Ordnance Survey County Series 25" sheets: Kent LVIII/15

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 Langdon and St Margaret's at Cliffe, between Lucerne Lane and the Dover Road, passing under the Deal to Dover railway and close to Martin Lodge Farm. The way is not currently recorded on the definitive map and statement. The application 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)(i) that a way should be added to the definitive map and statement for Kent as a restricted byway.

D.2. The way begins on Lucerne Lane in Martin village, at the point where the lane turns from south-southeast to west-southwest, at A (TR34054702), and proceeds 310m generally southeast across an arable field to and under the railway bridge under the Dover to Deal railway at B (TR34334691), then 310m generally east and then southeast across an arable field to C (TR34634685), then 380m east and then south-southeast across the same field to D (TR34954680), then 110m south-southeast across the same field to E (TR35034673), then 60m in the same direction to join the Dover Road at F (TR35074668) northwest of Oxney Court. A total distance of 1,170m.

D.3. The points A to F are identified in the application map at part II below.

E. Background

E.1. The application way appears on the oldest detailed maps available for Kent. It is recognisably distinct in the *Andrews* map (Topographical Map of the County of Kent, item IV.A below), and is shown on a consistent alignment on the subsequent, turn of the

century, Ordnance Survey, Mudge-Faden one-inch map of Kent, the Ordnance Survey, Old Series one-inch map of Kent, and Greenwood's map of Kent. None of these maps can provide assurance that the way was recognised at the time as a public highway, although its consistent depiction as a minor road connecting Martin to the Dover and Deal turnpike is suggestive that it was.

E.2. The map and apportionment for the Tithe Act 1836 (item IV.F below) refers to the application way as an 'occupation road' which is titheable. While the documents provide some evidence of private status at this time (around 1841), they were not prepared with the primary purpose of distinguishing public and private highways, and as a largely unenclosed way across an agricultural landscape, it is possible that the way was both titheable and public. Moreover, the Tithe Act assessment is contradicted by contemporary findings to the contrary, and similar findings over the subsequent half century.

E.3. Beginning in 1844, plans were put forward for railways to link Deal and Dover. It was to be nearly forty years before a connection was made, but a series of similar but often distinct proposals were drafted and deposited in Parliament together with Bills seeking Parliamentary authority. The proposals comprised:

Railway	Item	Date	Status
Kentish Coast Railway	IV.G	1844	Parochial Highway
Dover and Deal railway and Cinque Ports, Thanet and Coast junction	IV.H	1845	Public highway
Herne Bay, Margate, Ramsgate railway — Deal and Dover line	IV.I	1845	Parochial Highway
London, Chatham and Dover Railway (Extensions to Walmer and Deal)	IV.J	1861	Public Road
Dover Deal Sandwich and Ramsgate Tramway	IV.K	1871	(turning marked)
Deal, Walmer and Dover Railway	IV.M	1873	Occupation road
Dover and Deal Railway	IV.N	1873	Public road

E.4. With one exception, every railway proposal recorded the status of the application way as a public road or parochial highway (which is likely to have intended to refer to a public way of carriageway status). Moreover, the proposals comprise several distinct alignments, so that the plans are not mere copies of previous work. The conclusion to be drawn from the consistent findings of the railway surveyors over this period is that the application way was indeed a public road.

F. Grounds for application

F.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*¹, 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

1 [2012] EWCA Civ 334

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."

F.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.'²

F.3. The correct test under s.53(3)(c)(i) is whether:

'the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path...'

The surveying authority must therefore make an order consequent on this application where the evidence (of the application, taken with any other evidence) shows that there is a reasonable allegation of the existence of the application way.

F.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 reputation as a public carriageway over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006 (as to which, see below), there were full vehicular rights.

G. Natural Environment and Rural Communities Act 2006

G.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. The application is therefore made for a restricted byway.

² [Consistency Guidelines](#): para.2.17.

H. Points awarded

H.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*³.

H.2. Points:

Item	Item	Points
Topographical Map of the County of Kent	IV.A	0
Ordnance Survey, Mudge-Faden one-inch map of Kent	IV.B	1
Ordnance Survey, Old Series one-inch map of Kent	IV.C	1
Dover, Deal and Sandwich Turnpike	IV.D	0
Greenwood's map of Kent	IV.E	1
Tithe Act 1836	IV.F	0
Kentish Coast Railway	IV.G	5
Dover and Deal railway and Cinque Ports, Thanet and Coast junction	IV.H	1
Herne Bay, Margate, Ramsgate railway — Deal and Dover line	IV.I	1
London, Chatham and Dover Railway (Extensions to Walmer and Deal)	IV.J	3
Dover Deal Sandwich and Ramsgate Tramway	IV.K	0
Ordnance Survey County Series 1:2,500 first edition	IV.L	1
Deal, Walmer and Dover Railway	IV.M	0
Dover and Deal Railway	IV.N	3
Definitive map survey	IV.O	1
Total points		18

I. Width of application way

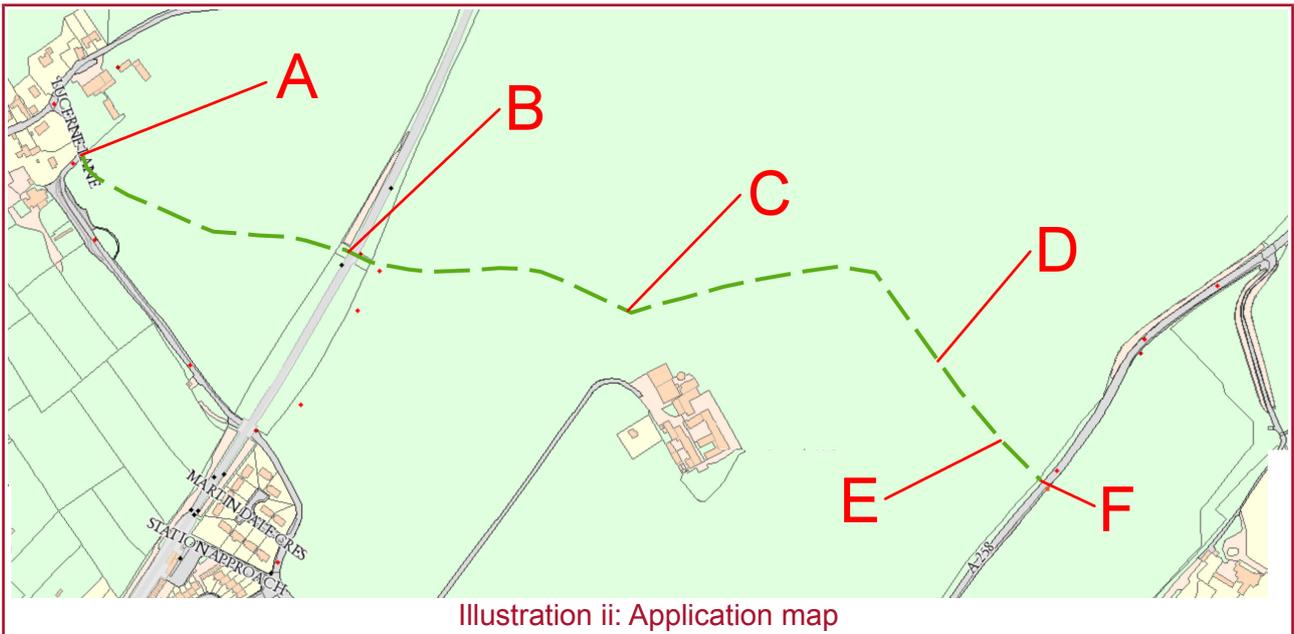
I.1. The application way is not identified on Ordnance Survey maps at a scale of 1:2,500 as a discrete parcel with an allocated area. The way is shown as a track with a conventional width.

I.2. The only record of the area occupied by part of the way is in the Tithe Act 1836 evidence (item IV.F below). The apportionment identifies parcels 201 and 183, which fall between A and C, as having a combined area of 2 rods and 17 perches, or 2,453 square metres. The distance between A and C being 620 metres, this suggests an average width of 3.95 metres. Although the data in the apportionment relate to a (private) occupation road, there seems to be no reason not to treat them as valid in relation to the public way.

I.3. There is no available datum to establish a defined historic width between C and F, and a width of 4 metres is sought, consistent with the way between A and C, and sufficient to pass two horse-drawn vehicles.

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

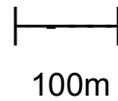
II. Application map



Map centred on C at TR34634685

Scale: approx. 1:8,100 (when printed A4)

Application way is marked — — —



III. Along the way



Illustration iii: Junction at A of application way (straight on) with Lucerne Lane (to right)



Illustration iv: View north along application way (undefined) from B



Illustration v: Railway bridge at B from north

IV. Evidence

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A. Topographical Map of the County of Kent

A.1. **Date:** 1769

A.2. **Source:** British Library⁴



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

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

A.3. **Description:** Original scale: two inches to one mile; orientation: unchanged (north). 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 purpose of the individual sheets appears to owe more to the desire to show potential clients' country estates than to give an accurate representation of the county at that scale.

A.4. A number of ways are shown on the map in the vicinity of Martins (*sic*) village, which is depicted on the map. One of these, enclosed by the ellipse added to the map, is broadly consistent with the application way. However, the connection towards Ringwould from about B is not consistent with any way known today.

A.5. **Conclusion:** The Andrews map provides some support for the existence of the application way at the date of survey, but tells us nothing about the status of the way.

A.6. **Points:** 0

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

B.1. **Date:** c.1801

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

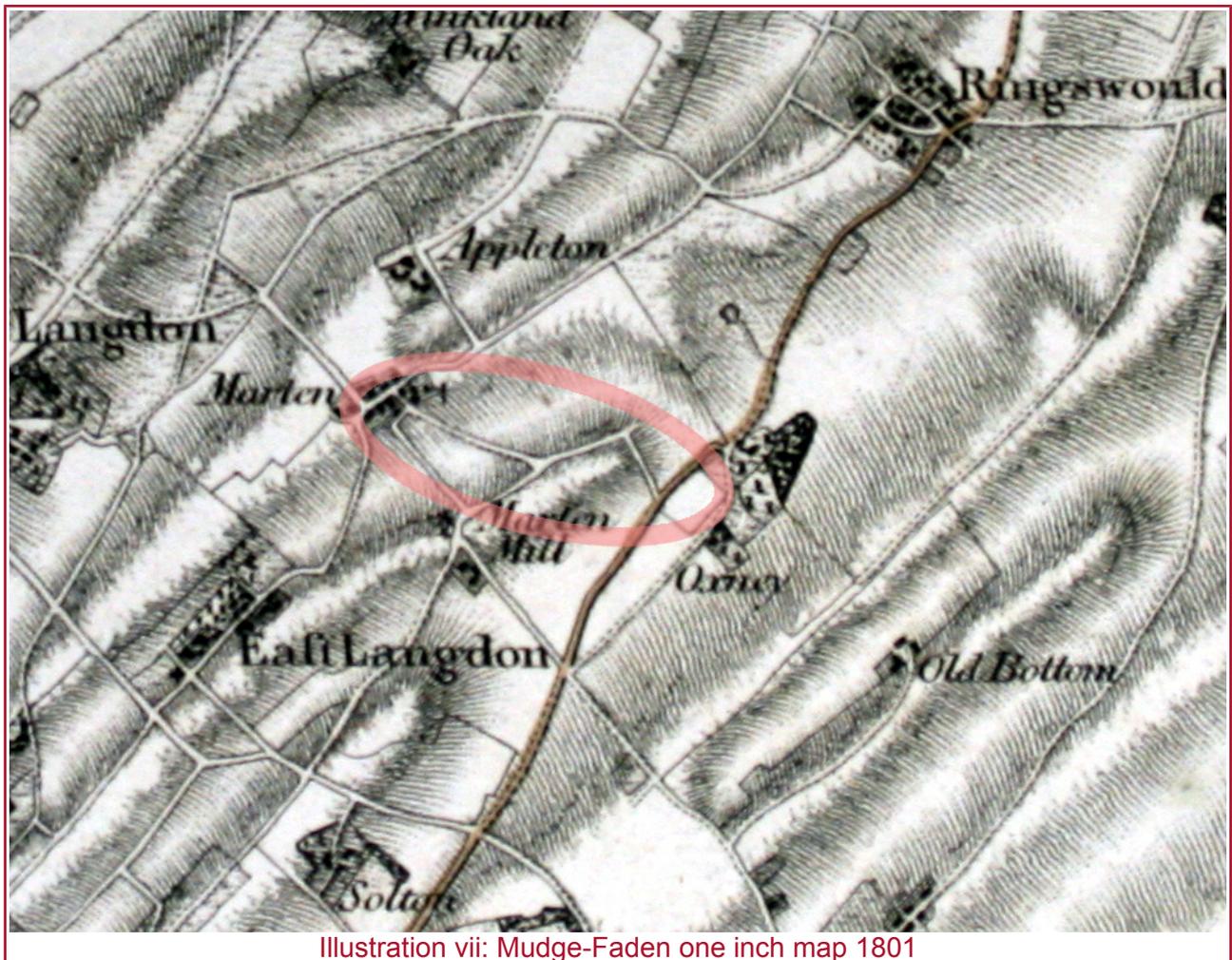


Illustration vii: Mudge-Faden one inch map 1801

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

B.4. The Mudge-Faden map shows the entire application way as an unenclosed way between A and C, and as an enclosed way beyond to F. A connecting way is shown between C and Martin Mill, and a spur is shown to the east from the turn in the way between C and D.

B.5. **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. The Mudge-Faden map is good evidence for the existence of a defined way along the claimed route. It cannot be demonstrated with confidence that the application way is a public highway, but its depiction is consistent with a public highway.

B.6. **Points:** 1

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

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

C.2. **Source:** National Library of Australia⁵

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

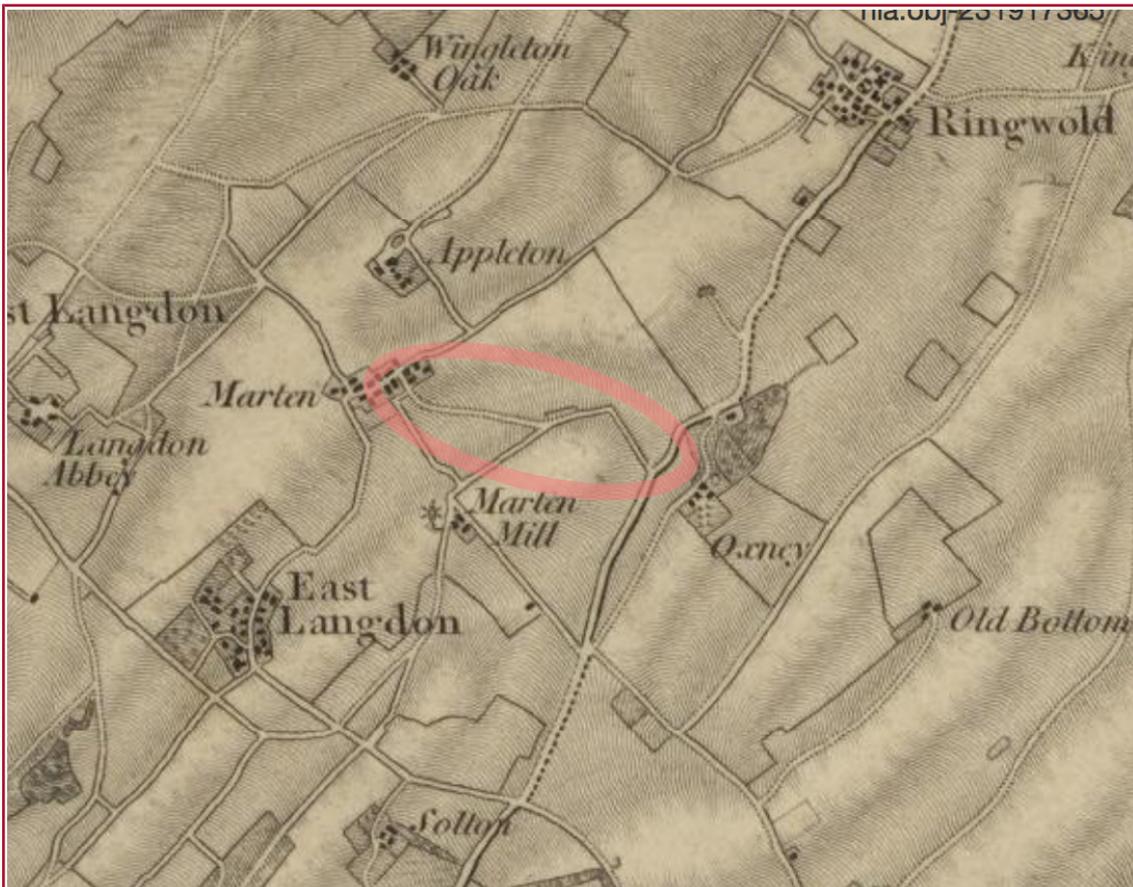


Illustration viii: OS Old Series one inch map

C.3. **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 map, the 'official' Ordnance Survey Old Series map was based on the same survey data, and is consistent with the Mudge-Faden map.

C.4. The Ordnance Survey Old Series map shows the entire application way as an unenclosed way between A and C, and as an enclosed way beyond to F. A connecting way is shown between C and Martin Mill.

C.5. **Conclusion:** The Ordnance Survey Old Series map is good evidence of the existence of the application way as a well-defined road or bridleway in the early nineteenth century. 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. It can therefore 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.

C.6. **Points:** 1

D. Dover, Deal and Sandwich Turnpike

D.1. **Date:** 1818

D.2. **Source:** House of Lords Parliamentary Archives⁶

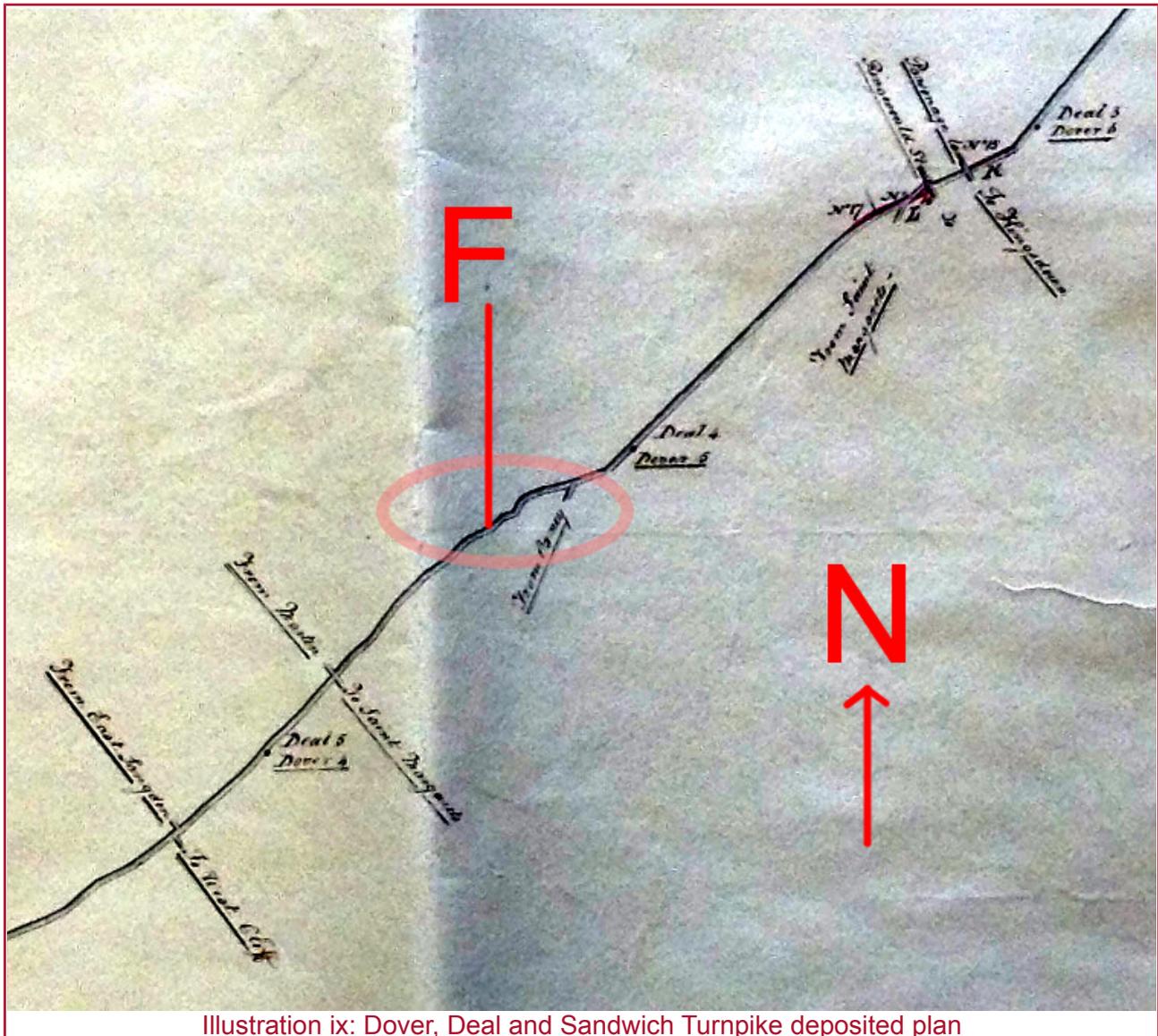


Illustration ix: Dover, Deal and Sandwich Turnpike deposited plan

D.3. **Description:** The Dover, Deal and Sandwich turnpike was established in the late eighteenth century, but various improvements were proposed under the Dover, Deal and Sandwich Turnpike Act 1818⁷.

D.4. The plan deposited with the Bill for the improvements shows the turnpike road past F, but no turning to Martin is marked on the plan.

D.5. **Conclusion:** The deposited plan for the turnpike improvements does not mark the application way at its junction with the turnpike. This may be because the way was not recognised at that time as a public road, or because its status was believed to be an inferior public bridleway.

D.6. **Points:** 0

6 HL/PO/PB/3

7 c.xxvi, 58 Geo. 3

E. Greenwood's map of Kent

E.1. **Date:** 1819–27

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

Greenwood map

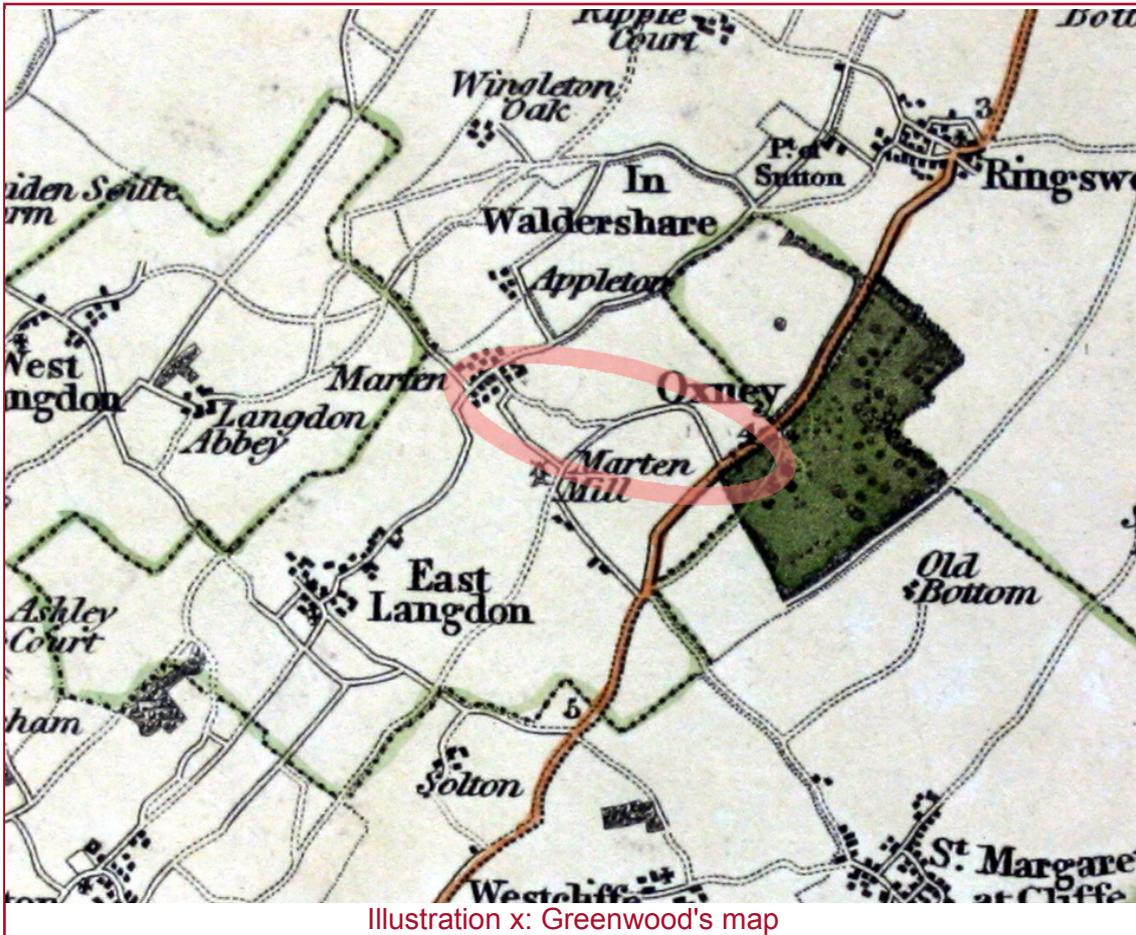


Illustration x: Greenwood's map

Greenwood map key

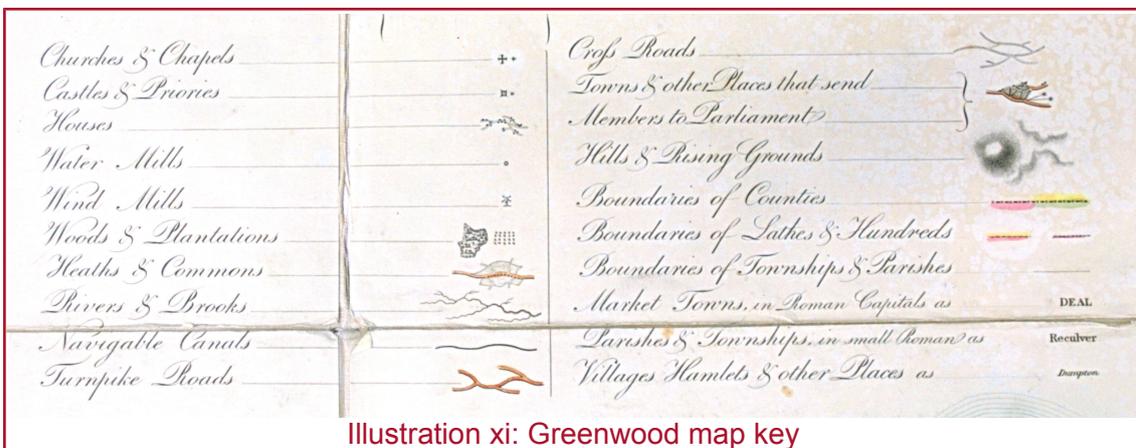


Illustration xi: Greenwood map key

E.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.

E.4. Greenwood's map shows the entire application way as an unenclosed way between A and C, and as an enclosed way beyond to F. A connecting way is shown between C and Martin Mill. The way is described in the key as a 'cross road'.

E.5. **Conclusion:** Greenwood's map is good evidence for the existence of a defined way between A and F. The key describes the route as a 'cross road', which is suggestive of a public carriageway.

E.6. **Points:** 1

F. Tithe Act 1836

F.1. **Date:** 1841

F.2. **Source:** map — Kent County Archives⁸; tithe award — Kent Archaeological Society⁹

8 Kent tithe maps are available as images on CD.

9 Tithe apportionment: www.kentarchaeology.org.uk/Research/Maps/EAL/01.htm

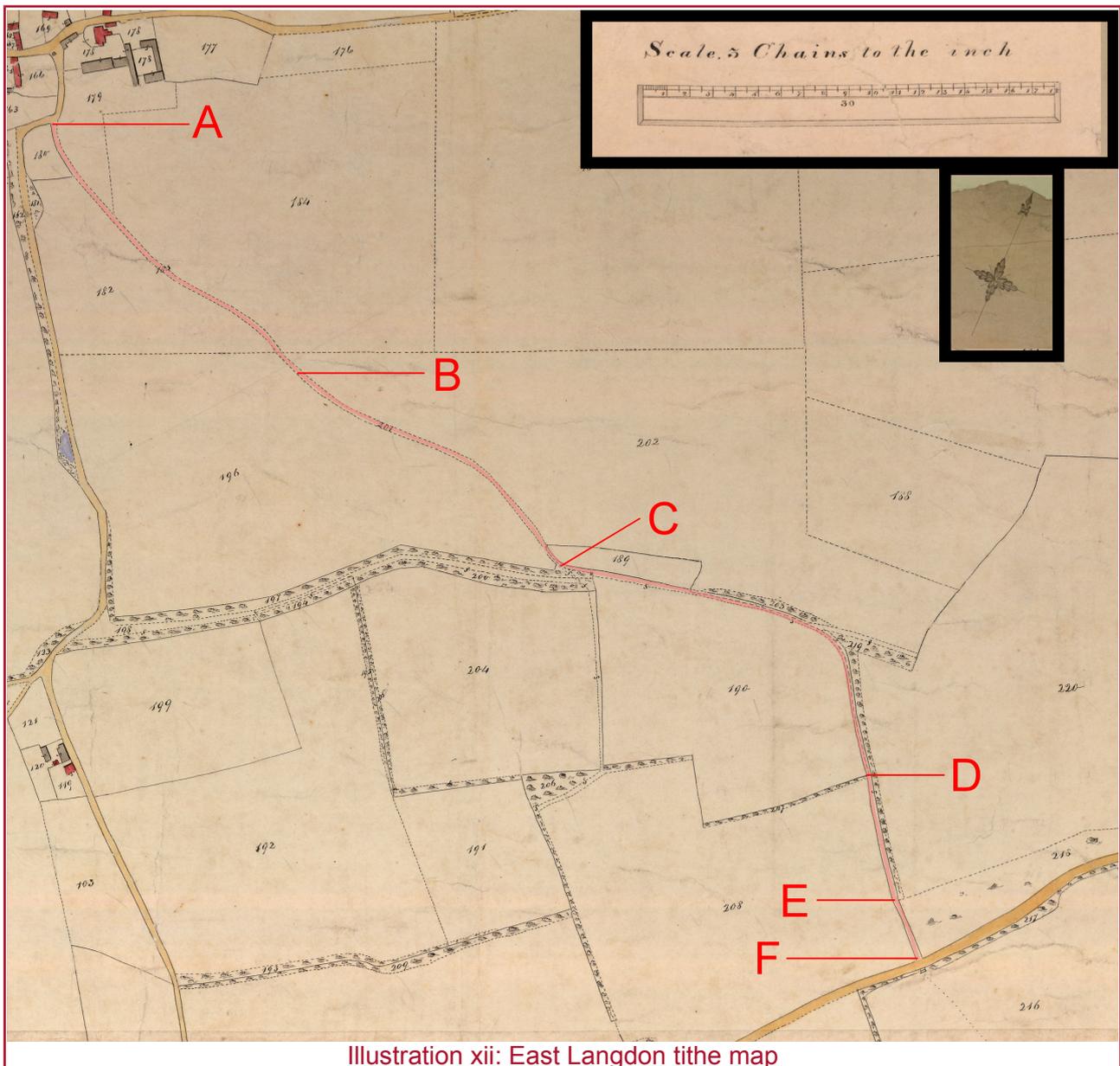


Illustration xii: East Langdon tithe map

F.3. **Description:** The application way is labelled as parcel 183 across the first field south of A (roughly as far as B), and as parcel 201 across the second field, to C. On the tithe apportionment, parcel 183 is described as an 'Occupation road' (area, 1r, 6p) owned by Richard Roffey and occupied by Mark Sandford, and parcel 201 also as 'Occupation road' (1r, 11p) owned and occupied by James Jeken.

F.4. **Conclusion:** In the tithe apportionment, the application way is identified in part as an occupation road, and elsewhere braced with adjacent fields for the purposes of measurement. On the tithe map, the way is uncoloured, compared with known public roads, which are shaded ochre. The tithe redemption documents are evidence that the application way was not considered to be a public road at the date of the apportionment. However, tithe documents do not usually identify public paths, and no conclusion can be drawn about inferior status.

F.5. **Points:** 0

G. Kentish Coast Railway

G.1. **Date:** 1844

G.2. **Source:** Kent County Archives¹⁰

Deposited plan

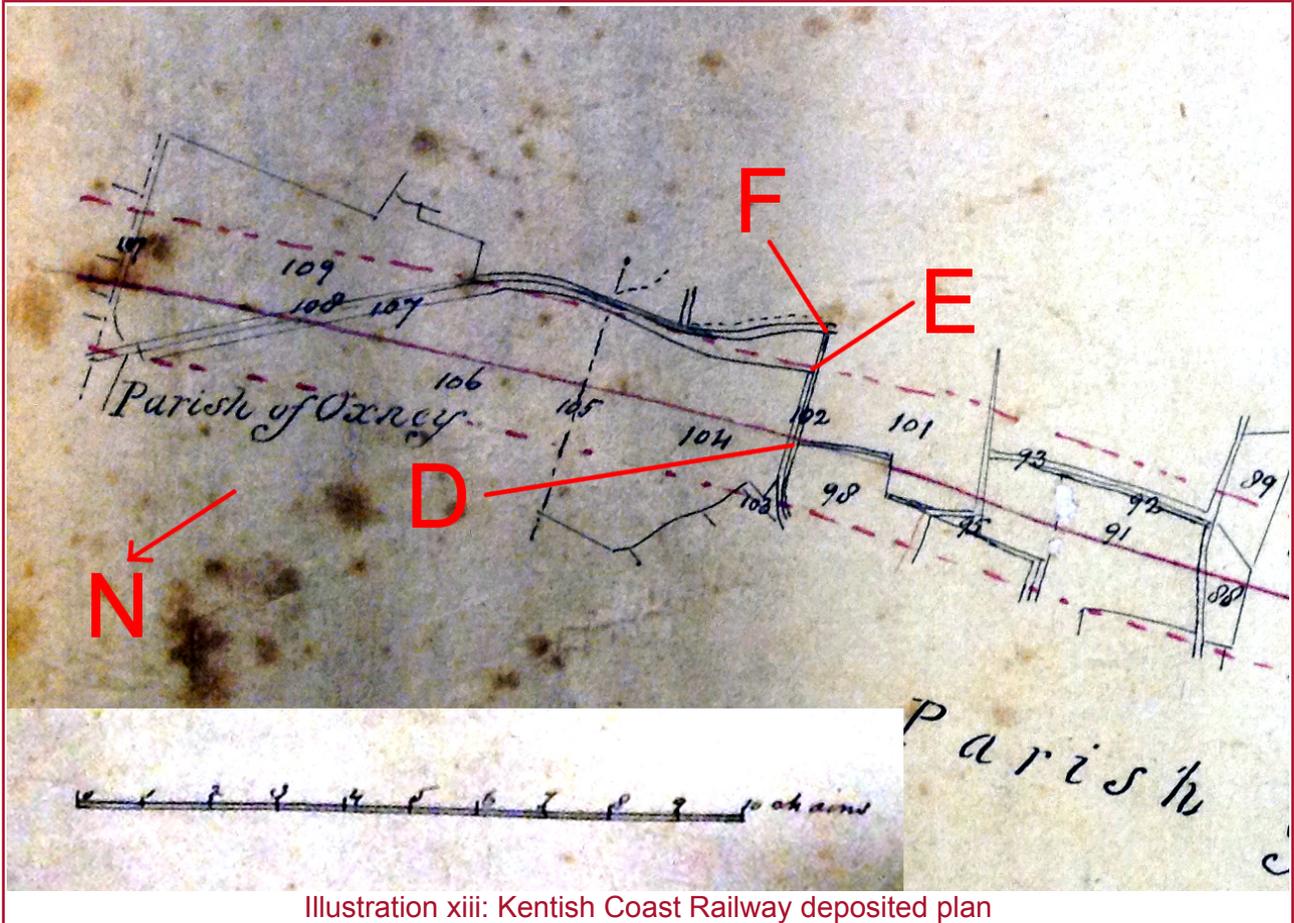


Illustration xiii: Kentish Coast Railway deposited plan

Book of reference

KENTISH COAST RAILWAY.				IN THE COUNTY OF KENT.
THE PARISH OF <i>East Langdon</i>				
NUMBER ON PLAN.	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
101	Land	James Cohen		Himself
102	Parochial Highway from Martin to Oxney			
103	Curvet	James Cohen		James Cohen

Illustration xiv: Kentish Coast Railway book of reference

10 Q/RUm/269

G.3. **Description:** A Bill and plans were deposited in Parliament in 1844 for the Kentish Coast Railway. The railway, which was not built, would have crossed the application way at approximately point D, a little north of its junction with the then turnpike road between Dover and Deal.

G.4. The plans deposited in 1844 show the application way between F and D recorded as parcel 102. No railway sections were published. In the book of reference, parcel 102 in the parish of East Langdon is stated to be a 'Parochial Highway from Martin to Oxney'.

G.5. The Bill did not receive Royal Assent.

G.6. Similar provision is made in the plans deposited in 1845 for the Herne Bay, Margate, Ramsgate railway — Deal and Dover line (see item IV.I below).

G.7. **Conclusion:** The plans are good evidence for the status of the application way as a public road between D and F. The repetition of the same status in the plans deposited in 1845 confirms that the promoter for that railway saw no need to update the plans in the light of the 1844 deposit.

G.8. **Points:** 5

H. Dover and Deal railway and Cinque Ports, Thanet and Coast junction

H.1. **Date:** 1845

H.2. **Source:** Kent County Archives¹¹

Deposited plan

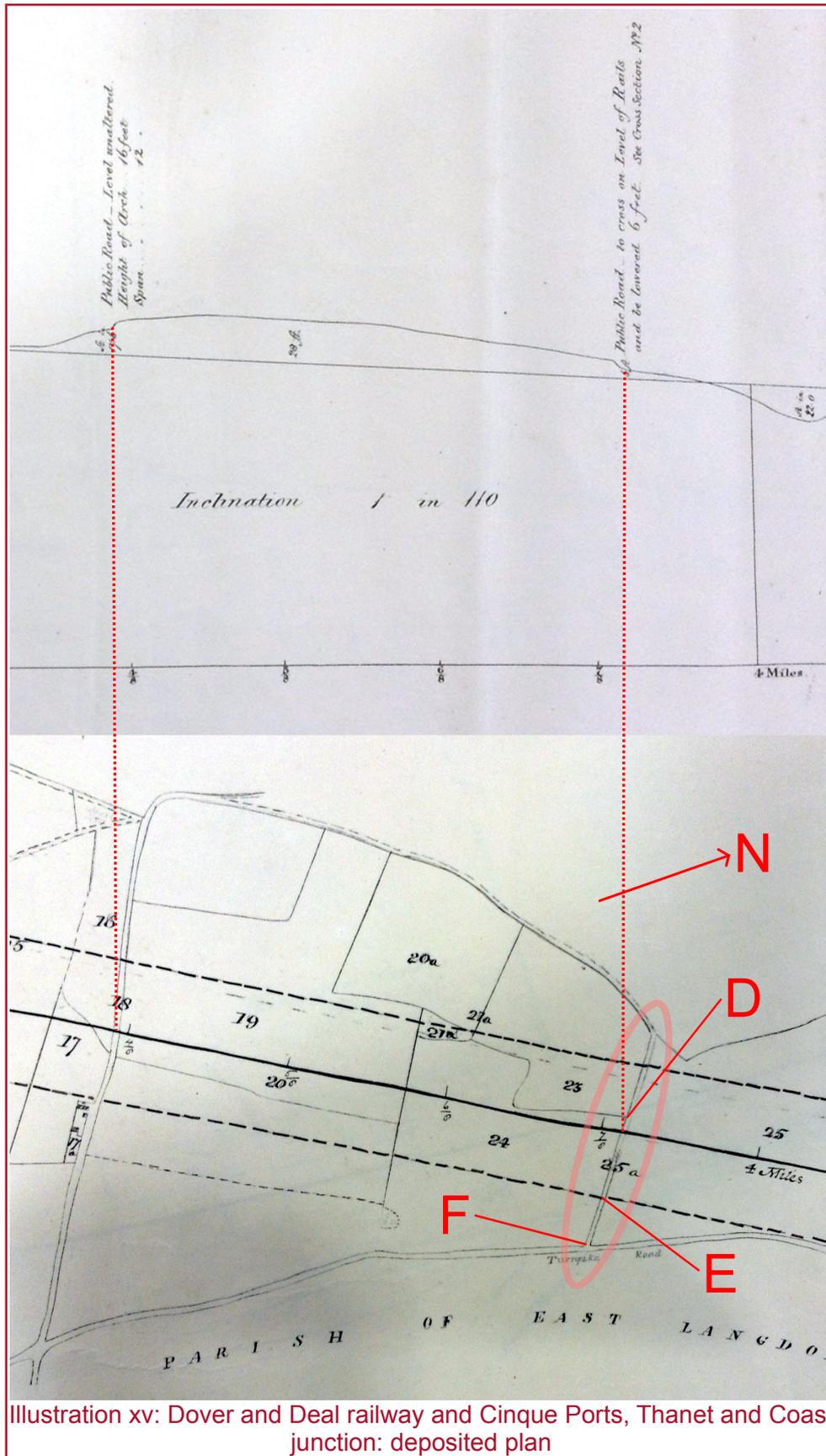


Illustration xv: Dover and Deal railway and Cinque Ports, Thanet and Coast junction: deposited plan

Book of reference

DESCRIPTION OF PROPERTY.	OWNERS, OR REPUTED OWNERS.	LESSEES, OR REPUTED LESSEES.	OCCUPIERS.
Public highway	James Johns, Surveyors of highways		In hand

Illustration xvi: Dover and Deal railway and Cinque Ports, Thanet and Coast junction: book of reference

H.3. **Description:** A Bill and plans were deposited in Parliament in 1845 and 1846 for the Dover and Deal Railway and Cinque Ports, Thanet and Coast Junction. The railway, which was not built, would have crossed the application way at approximately point D, a little north of its junction with the then turnpike road between Dover and Deal.

H.4. The plans deposited in 1845 show the application way between F and D recorded as parcel 25a. In the railway sections, the crossing is annotated, 'Public Road — to cross on Level of Rails and be lowered 6 feet. See Cross Section No.2'. However, beyond C, the plans show the way continuing approximately west-southwest to join Lucerne Lane at the bend in the road a little south of the present railway bridge. In the book of reference, parcel 25a in the parish of East Langdon is stated to be a 'Public highway', and the owner or reputed owner to be the 'Surveyors of highways'.

H.5. Identical provision is made in the plans deposited in 1846¹².

H.6. Neither the 1845 nor the 1846 Bill received Royal Assent.

H.7. **Conclusion:** The plans are good evidence for the status of the application way as a public road between D and F. The repetition of the same status in the plans deposited in 1846 confirm that the railway company saw no need to update the plans in the light of the 1845 deposit. The continuation of the way on the plan along a different alignment west of C does not necessarily indicate that, at that time, the public road continued on that alignment, as (in common with the application way northwest of C), this part of the way was outside the limits of deviation, and is not recorded with any defined status. The way beyond C may therefore be either a diverging public way, or an occupation road, and is also shown on consecutive Ordnance Survey County Series maps between the first and fourth editions. There was no need to show the application way between A and C, as this was not relevant to the proposal.

H.8. **Points:** 1 (as supplementing the status reported at item IV.G above)

I. Herne Bay, Margate, Ramsgate railway — Deal and Dover line

I.1. **Date:** 1845

I.2. **Source:** Kent County Archives¹³

12 Q/RUm/315

13 Q/RUm/301

Deposited plan

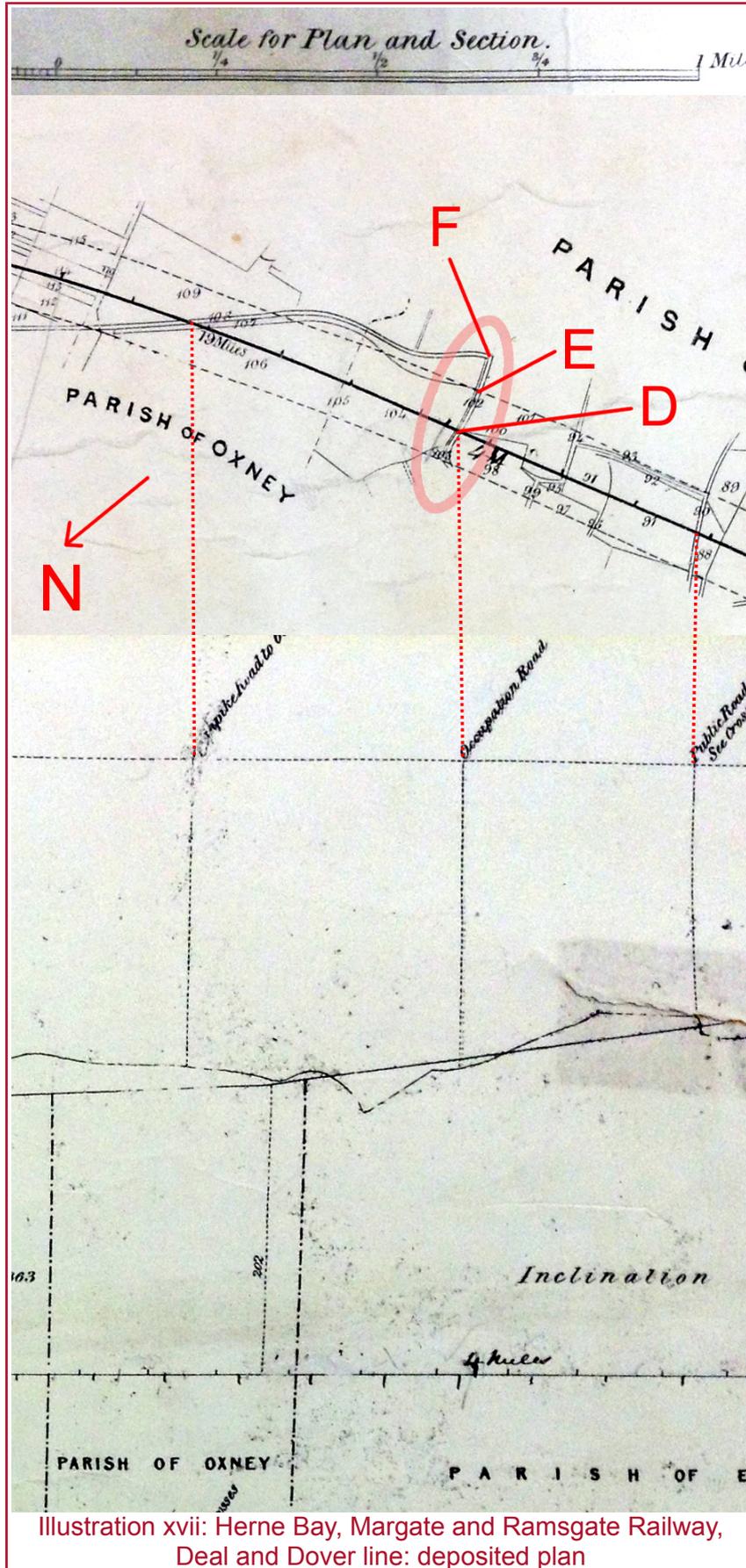


Illustration xvii: Herne Bay, Margate and Ramsgate Railway, Deal and Dover line: deposited plan

Book of reference

THE PARISH OF <i>East Langford</i>		in the County of <i>Kent</i>		
Number on Plan	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
98	<i>Sand</i>	<i>Richard Roffey</i>	<i>Mark Sandford</i>	<i>Mark Sandford</i>
99	<i>Private Occupation Road</i>	<i>James Sebel</i>		<i>Himself</i>
100	<i>Carvel</i>	<i>James Sebel</i>		<i>Himself</i>
101	<i>Sand</i>	<i>James Sebel</i>		<i>Himself</i>
102	<i>Parochial Highway from Martin to Oxney</i>	<i>Surveyor of East Langford</i>		
103	<i>Carvel</i>	<i>James Sebel</i>		<i>James Sebel</i>

Illustration xviii: Herne Bay, Margate and Ramsgate Railway, Deal and Dover line: book of reference

I.3. **Description:** A Bill and plans were deposited in Parliament in 1845 for the Herne Bay, Margate and Ramsgate Railway, Deal and Dover line. The railway, which was not built, would have crossed the application way at approximately point D, a little north of its junction with the then turnpike road between Dover and Deal.

I.4. The plans deposited in 1845 show the application way between F and D recorded as parcel 102. In the railway sections, the crossing is annotated, 'Occupation Road'. In the book of reference, parcel 102 in the parish of East Langdon is stated to be a 'Parochial Highway from Martin to Oxney', and the owner or reputed owner to be the 'Surveyor of East Langdon'.

I.5. Similar provision was made in the plans deposited in 1844 for the Kentish Coast Railway (see item IV.G above), but the 1844 deposited plans did not include sections.

I.6. The Bill did not receive Royal Assent.

I.7. **Conclusion:** The plans are good evidence for the status of the application way as a public road between D and F. The repetition of the same status in the plans deposited in 1845 confirms that the promoter for the 1845 railway saw no need to update the plans in the light of the 1844 deposit.

I.8. While the section refers to the application way as an 'occupation road', the book of reference must take precedence, referring to both the status of the way, and the owners and occupiers affected by the proposed works.

I.9. **Points:** 1 (as supplementing the status reported at item IV.G above)

J. London, Chatham and Dover Railway (Extensions to Walmer and Deal)

J.1. **Date:** 1861

J.2. **Source:** Kent County Archives¹⁴

Deposited plan

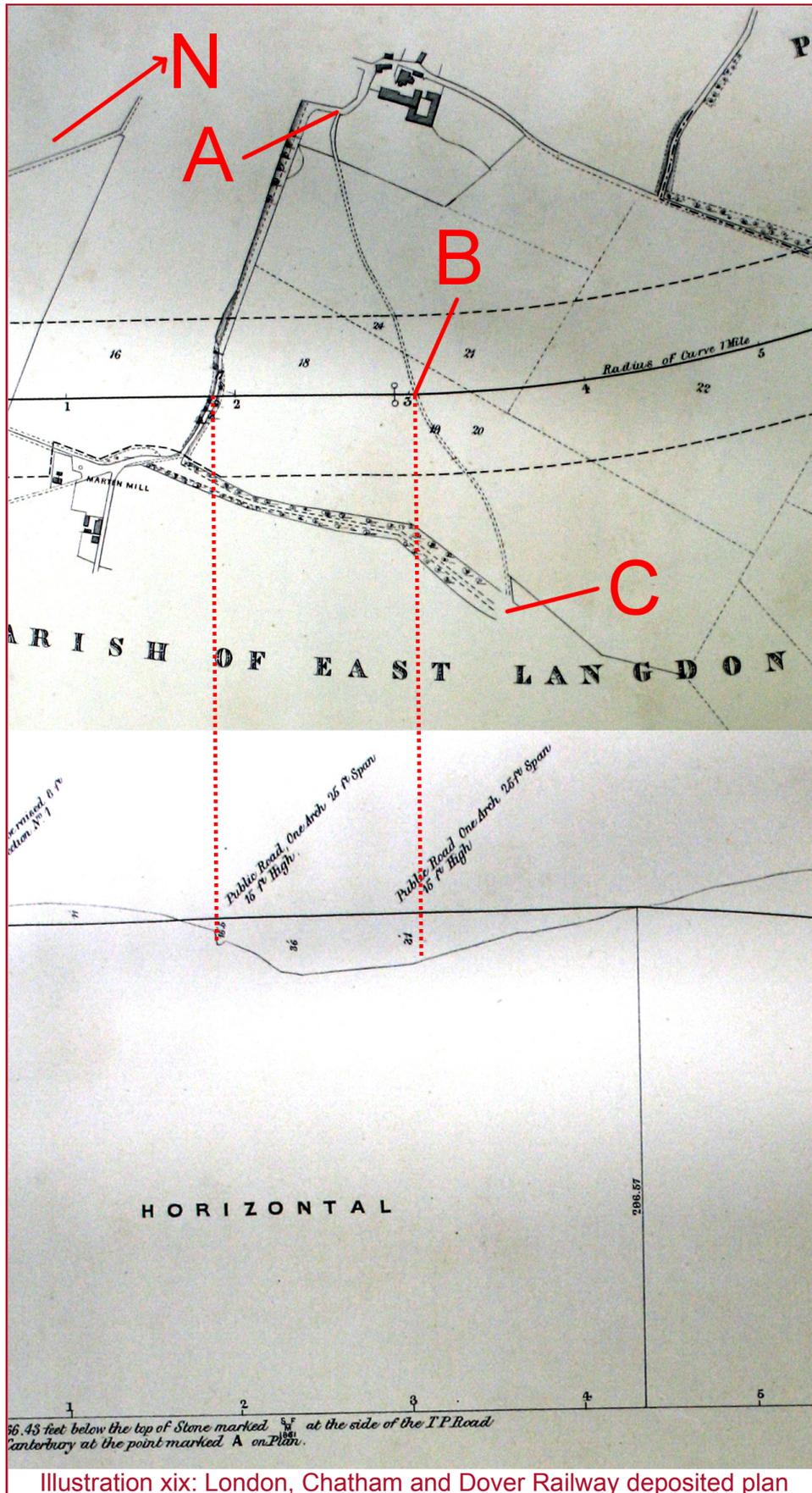


Illustration xix: London, Chatham and Dover Railway deposited plan

Book of reference

No. on Plan	DESCRIPTION OF PROPERTY	OWNERS, OR REPUTED OWNERS	LESSEES, OR REPUTED LESSEES	OCCUPIERS
16	Arable	James Selvin		James Selvin
17	Public Road & Pond	Surveyors of Highways		
18	Arable	James Selvin		James Selvin
19	Public Road	Surveyors of Highways		James Selvin
20	Arable	James Selvin		James Selvin
21	Arable	William John Banks	Mark Sanford	Mark Sanford
22	Arable	William John Banks	Mark Sanford	Mark Sanford

Illustration xx: London, Chatham and Dover Railway, book of reference

J.3. **Description:** A Bill and plans were deposited in Parliament in 1861 for the London, Chatham and Dover Railways proposal for an extension to Walmer and Deal. The railway, which was not built, would have crossed the application way at point B, and was identical in alignment to the railway which was built nearly 20 years later.

J.4. The plans deposited in 1861 show the application way between A and C recorded as parcel 19. In the railway sections, the crossing is annotated, 'Public Road One Arch 25ft Span 15ft High'. In the book of reference, parcel 19 in the parish of East Langdon is stated to be a 'Public Road', and the owner or reputed owner to be the 'Surveyors of Highways'.

J.5. Identical provision is made in the plans deposited in 1864¹⁵ for the Deal and Dover Railway.

J.6. The Bills received Royal Assent as the London, Chatham and Dover Railway (Deal Extension) Act 1862¹⁶, and the Deal and Dover Railway Act 1865¹⁷.

J.7. **Conclusion:** The plans are good evidence for the status of the application way as a public road between A and B. The repetition of the same status in the plans deposited in 1864 confirm that the promotor of that railway saw no need to update the plans in the light of the 1861 deposit.

J.8. **Points:** 3 (as supplementing the status reported at item IV.G above *et seq* after an interval of 15 years)

K. Dover Deal Sandwich and Ramsgate Tramway

K.1. **Date:** 1871

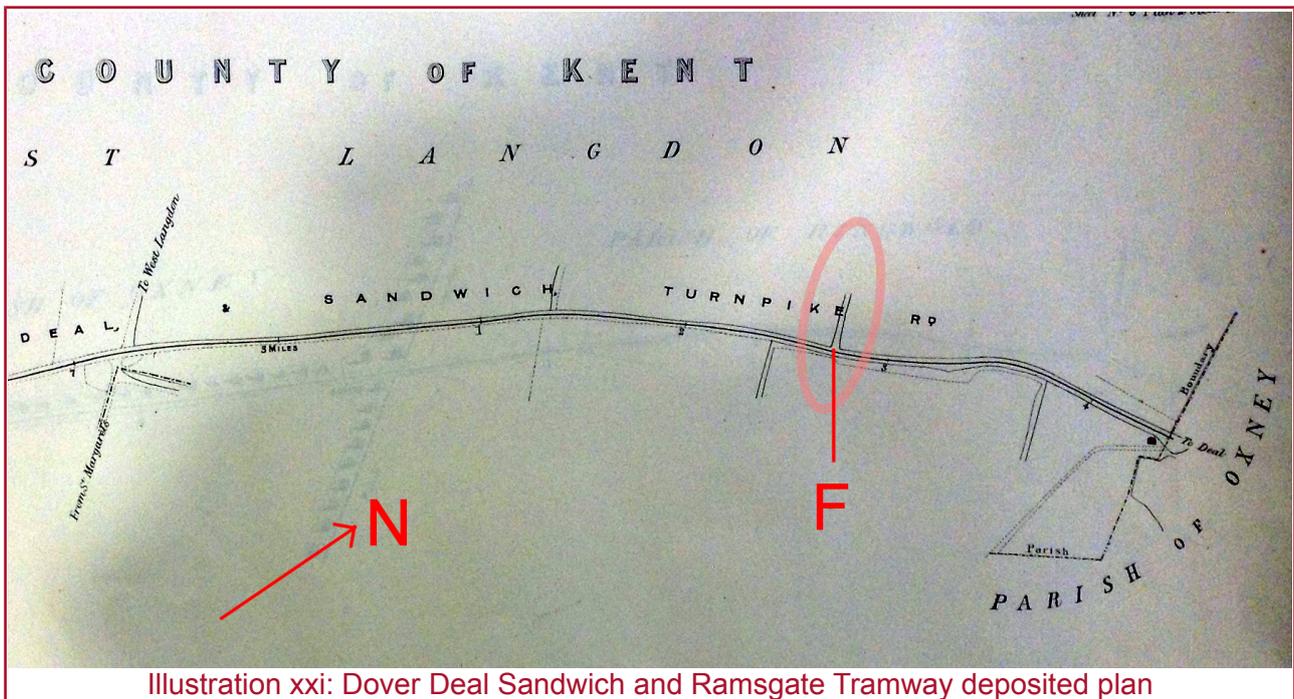
K.2. **Source:** Kent County Archives¹⁸

15 Q/RUm/517

16 c.clxiii, 25 & 26 Vict.

17 c.ccxcvi, 28 & 29 Vict.

18 Q/RUm/607



K.3. **Description:** Given the persistent failure to connect Dover and Deal by a railway line, the Dover, Deal, Sandwich and Ramsgate Tramway was proposed in 1871 as a substitute, comprising a tramway almost entirely laid along the existing Dover to Sandwich via Deal turnpike. It is understood that the proposal was refused by the Board of Trade, but that a similar proposal in 1872, to operate between Dover and Margate, was authorised but failed to raise sufficient finance¹⁹.

K.4. The deposited plan shows a turning off the turnpike at F, at a distance of 5 miles and $2\frac{3}{4}$ furlongs from the origin in Dover, and $3\frac{1}{2}$ furlongs (670m) from the turning to Martin and St Margaret's. This corresponds with the same distance measured off the map as 700m.

K.5. The turning on the deposited plan is not annotated.

K.6. The Bill did not receive Royal Assent.

K.7. **Conclusion:** The deposited plan marks the turning to the application way at F, but does not assign any status or explanation to the way. No conclusion can therefore be drawn.

K.8. **Points:** 0

L. Ordnance Survey County Series 1:2,500 first edition

L.1. **Date:** 1871–73

L.2. **Source:** British Library

¹⁹ Wikipedia, Cinque Ports Light Railway, en.wikipedia.org/wiki/Cinque_Ports_Light_Railway

Map

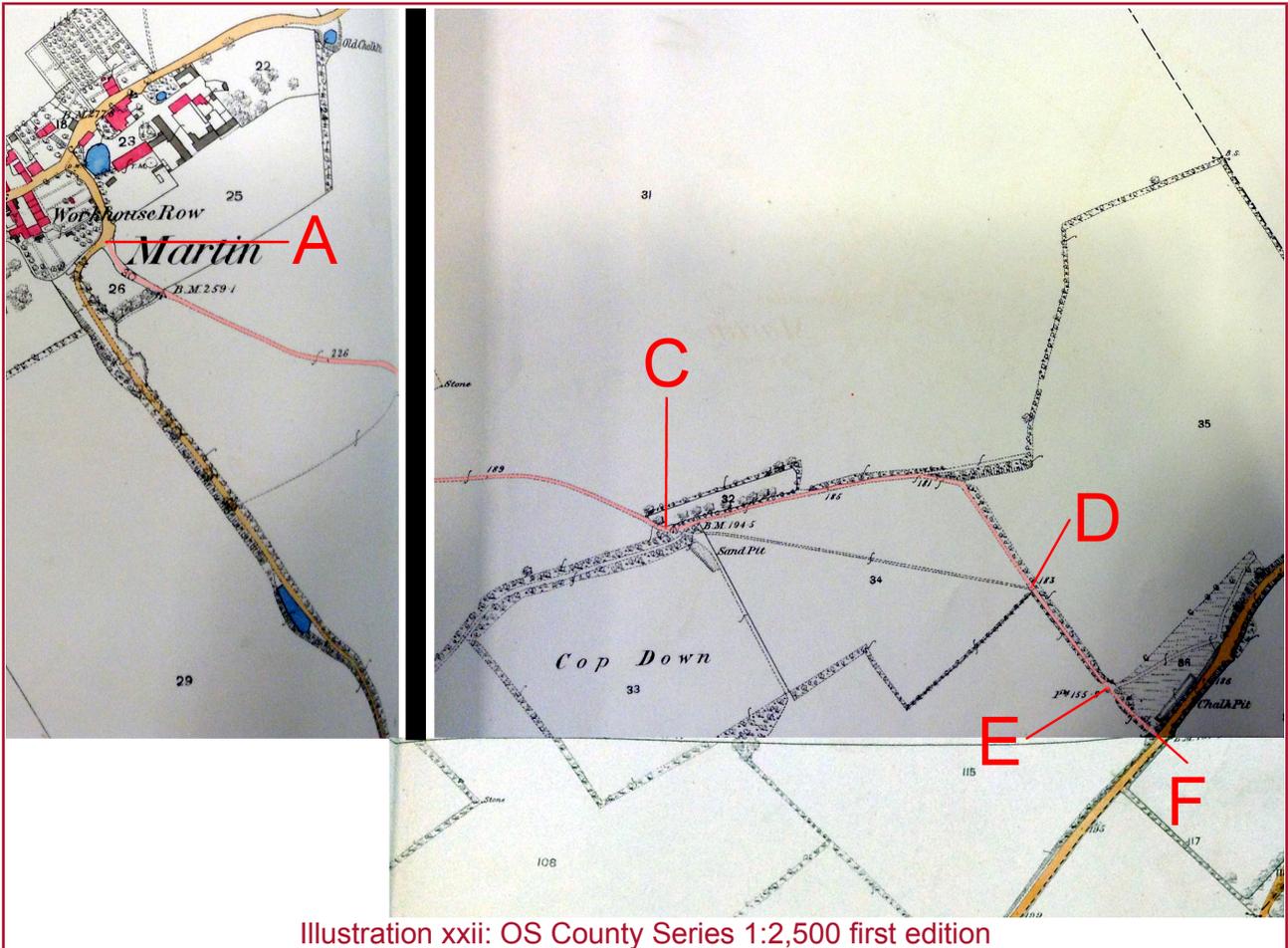


Illustration xxii: OS County Series 1:2,500 first edition

Book of reference

PARISH OF EAST LANGDON,
 IN THE
COUNTY OF KENT—(EASTERN DIVISION).

HUNDRED OF CORNILO (DETACHED).

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
29	22.196	Arable, &c.			
30	.079	Road.			
31	125.848	Arable, &c.			

Illustration xxiii: Book of reference: East Langdon

L.3. **Description:** Original scale: 1:2,500; orientation: unchanged (north). The Ordnance Survey County Series first edition plans are the first large scale maps to be produced of Kent, with the survey dating from 1871 and publication following in 1873.

L.4. The plan shows the application way throughout. At A, the application way forms a junction with Lucerne Lane, with Lucerne Lane to the south of the junction appearing to form a spur of more recent origin. The first part of the application way, for a distance of about 50m, is shown as an enclosed way, identified as parcel 50, which is described in the book of reference for East Langdon as 'Road', with an area of 320 sqm. Beyond the initial enclosed way, the way is unenclosed, and the area of the way is braced with the neighbouring parcels which it crosses. The way is shown as a cross-field way to a junction at C with a track from Martin Mill. Here, the track is shown to turn east and then south, as a headland way around two sides of the field. Between C and D, a footpath is shown which provides a 'short cut' directly across the field. South of D, the way is confined within thin strips of coppice, before emerging at E into an area of rough pasture close to the Dover Road (which at this time, remained a turnpike). The way continues over the western boundary of the pasture, to join the Dover Road at F. At E, a connecting way is shown projecting east to join the Dover Road further east.

L.5. **Conclusion:** The entries in the area book published alongside the first edition, for the application way immediately south of A as a 'road', provides some support for its status as a public highway. The depiction of a footpath between C and D is suggestive that the application way is a public road, with pedestrians adopting a short cut across parcel 34 to reduce the distance walked.

L.6. The spur at E east to the Dover Road is suggestive that the traditional entry onto the Dover Road at F had become difficult to use because of the climb from the field onto the road, and that traffic had established an alternative route with a less demanding access onto the main road.

L.7. **Points:** 1

M. Deal, Walmer and Dover Railway

M.1. **Date:** 1873

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

Deposited plan

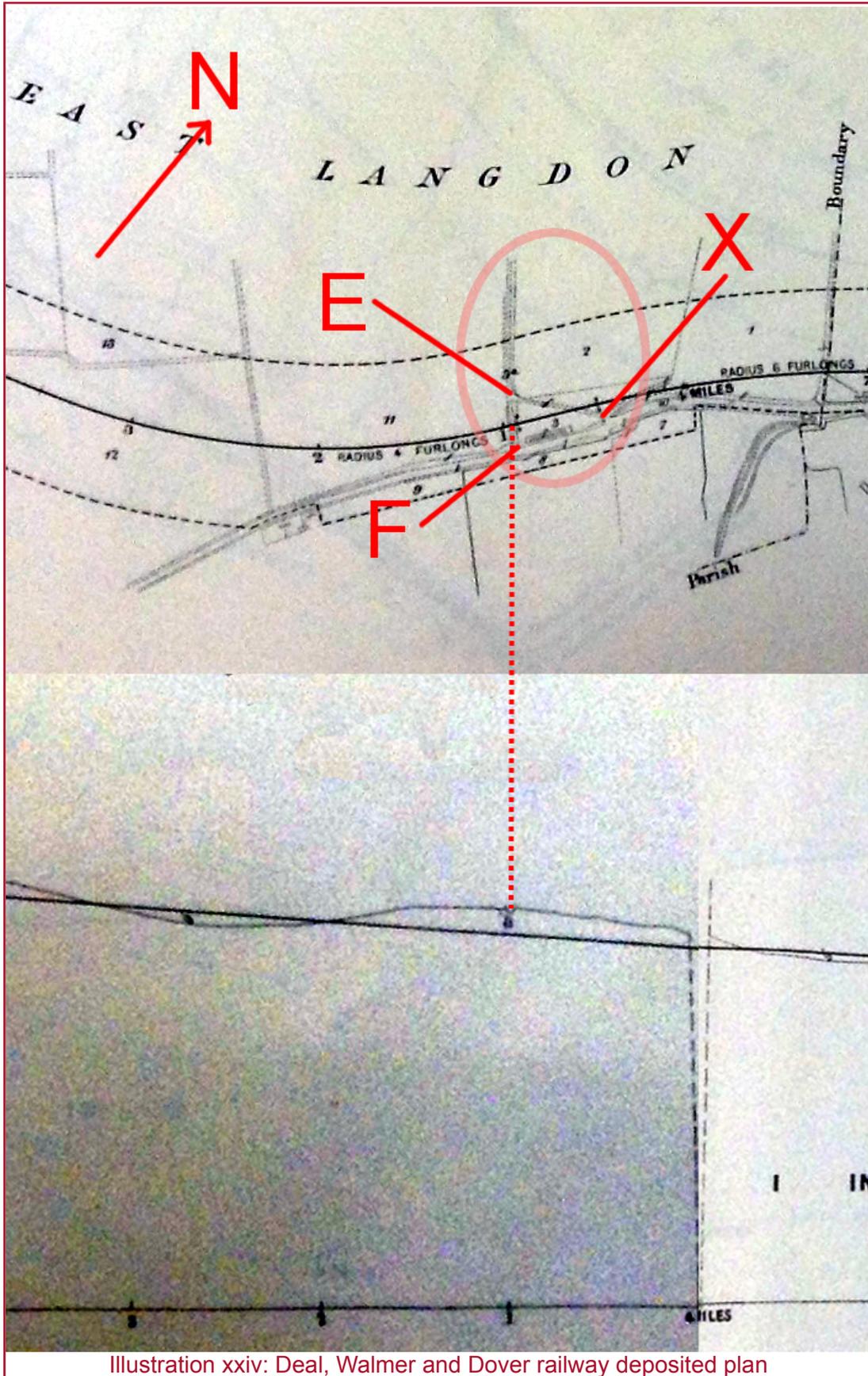


Illustration xxiv: Deal, Walmer and Dover railway deposited plan

Book of reference

DEAL, WALMER AND DOVER RAILWAY.
RAILWAY No. 2.
Parish of EAST LANGDON, in the County of Kent.

Number on Plan.	Description of Property.	Owners, or reputed Owners.	Lessees, or reputed Lessees.	Occupiers.
1	Arable field	James Jeken	George Jeken
2	Arable field	James Jeken	George Jeken
3	Pasture, bank and occupation roads	James Jeken	George Jeken
3A	Occupation road	James Jeken William John Banks	George Jeken William John Banks

Illustration xxv: Deal, Walmer and Dover railway book of reference

M.3. **Description:** A Bill and plans were deposited in Parliament in 1873 for the Deal, Walmer and Dover Railway. The railway, which was not built, would have crossed the application way between E and F.

M.4. The plans deposited in 1873 show the application way between E and F recorded as parcel 3a. The application way is not noted in the railway sections. In the book of reference, parcel 3a in the parish of East Langdon is stated to be an 'Occupation road', and the owner or reputed owner to be James Jeken and William John Banks; the occupiers are recorded as George Jeken and the same William John Banks.

M.5. The Bill did not receive Royal Assent. The Bill was withdrawn on 23 April 1874, as the South Eastern Railway and the London, Chatham and Dover Railway had committed to proceed with its Bill for the Dover and Deal Railway (see item IV.N below).

M.6. **Conclusion:** The plans provide no evidence of the status of the application way as a highway, and indeed, record it as merely an occupation road. However, the deposited documents associated with the Bill are unique among railway deposits in describing the application way as apparently private, the Bill was withdrawn by its promoters, and it was superseded by the deposited documents for the Dover and Deal Railway, which did identify the way as public.

M.7. **Points:** 0

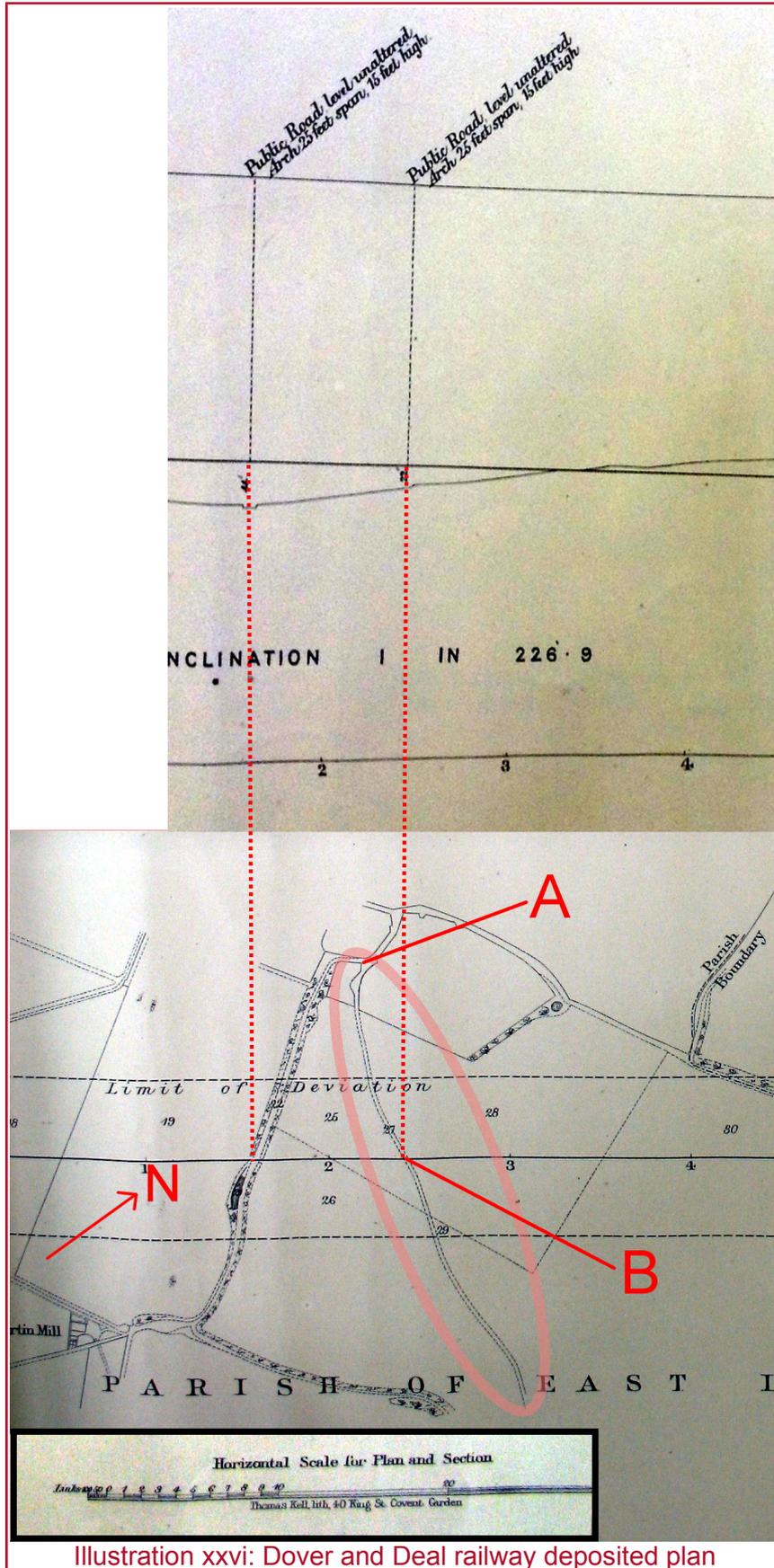
N. Dover and Deal Railway

N.1. **Date:** 1873

N.2. **Source:** Kent County Archives²¹

21 Q/RUm/623

Deposited plan



Book of reference

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
26	Arable field and shaw	James Jeken	George Jeken
27	Public road	Surveyor of Highways		
28	Arable field	William John Banks	Mark Sandford	Mark Sandford

Illustration xxvii: Dover and Deal railway book of reference

N.3. **Description:** A Bill and plans were deposited in Parliament in 1873 for the Dover and Deal Railway. The railway was planned to cross the application way at point B, and was identical in alignment to the railway which was built a few years later.

N.4. The plans deposited in 1873 show the application way between A and C recorded as parcel 27. In the railway sections, the crossing is annotated, 'Public Road level unaltered Arch 25 feet span, 15 feet high'. In the book of reference, parcel 27 in the parish of East Langdon is stated to be a 'Public road', and the owner or reputed owner to be the 'Surveyors of Highways'.

N.5. An identical presentation as respects the application way is contained in the deposited plans and book of reference for the South Eastern Railway (Dover and Deal) line, 1873²². However, it was the Dover and Deal railway, which was proposed to be put into effect jointly by the South Eastern Railway and the London, Chatham and Dover Railway, which received Parliamentary authority under the Dover and Deal Railway Act 1874²³, and opened in 1881. Owing to the delay, the powers to construct the railway were extended by the Dover and Deal Railway Act 1877, the Dover and Deal Railway Act 1878, and the Dover and Deal Railway Act 1879²⁴.

N.6. S.2 of the Dover and Deal Railway Act 1874 incorporates the Railways Clauses Consolidation Act 1845. S.4 confers powers on the two companies to 'make and maintain, in the line and according to the levels shown on the deposited plans and sections, the railways herein-after described...'. S.5 conferred powers to cross certain roads on the level, but none of those specified relates to the application way.

N.7. S.49 of the Railways Clauses Consolidation Act 1845 requires that a bridge over a public road must be of a width of 25 feet (but 12 feet in relation to a private carriage road), and the arch at a height of 15 feet across at least ten feet (fourteen feet over nine feet for a private carriage road). The bridge which was built is in accordance with the specification (see Illustration v in part III above).

22 Q/RUm/269

23 c.lii, 37 & 38 Vict.

24 cc. ccxxxi, 40 & 41 Vict; clxxxvi, 41 & 42 Vict; v, 42 & 43 Vict.

N.8. **Conclusion:** The plans are good evidence for the status of the application way as a public road between A and C. The repetition of the same status in the plans for the South Eastern Railway (Dover and Deal) line, which was subsequently constructed, confirms that the specification in the plan received the full approval of Parliament.

N.9. Had the application way been a private road, or a public path, the railway promoter could have substantially reduced construction costs by reducing the dimensions of the bridge, or provided a crossing on the level for a public right of way. It did not, and instead, the railway promoter built a full size public carriage road bridge. The evidence of public road status is convincing.

N.10. **Points:** 3 (as supplementing the status reported at item IV.G above after a further interval of 12 years)

O. Definitive map survey

O.1. **Date:** 1950

O.2. **Source:** Kent County Archives²⁵

O.3. **Description:** East Langdon parish council held meetings and parish meetings in preparation for its contribution to the first definitive map and statement for Kent. The following minutes are recorded relevant to the application way.

O.4. Parish meeting held on 23 October 1950

A special Parish Meeting was held at the parish hall at 7.30 pm on Monday 23rd October to discuss the proposed map showing 'Rights of Way' in the parish.

Nine members of the parish and all the Parish Councillors were present with Mr W G Hollis in the chair.

The chairman explained the reason for the meeting saying it was open to the people of the parish to express their views as to which Rights of Way should be retained and which, for various reasons, should be omitted.

The clerk then read the minutes of the last Parish Meeting which was the Annual Parish Meeting held on 27th of March 1950.

Mr Freeman then stated that these minutes should not be discussed until the next Annual Parish Meeting and that the minutes of the last Special Meeting should be read.

The clerk then read the minutes of the Special Meeting held on Nov. 9th, 1949 which were passed.

The chairman then suggested that the clerk should endeavour to obtain a definite ruling about the reading of minutes of parish meetings.

The chairman then asked the opinion of the meeting about each right of way separately. Where opinion was unanimous that a right of way was of no present use it was decided to omit it; all others were to be included in a revised map. The chairman explained that the revised map would be exhib-

ited for a fortnight to enable objectors to state their views before the map was submitted to the Rural District Council.

O.5. Parish council meeting held on 27 November 1950

Footpaths. The chairman read a letter he had received from the clerk to St Margaret's Parish Council, regarding two footpaths omitted from the draft map exhibited in the church porch in October.

It was suggested that as these paths are continuations of footpaths in St Margaret's parish, their inclusion in the draft map might be reconsidered.

The council discussed the matter but decided that as the parish meeting held on Oct 23rd had unanimously voted against their retention, and as they apparently serve no useful purpose and would not justify the expense of upkeep, they would not include them in the draft map to be submitted to the Rural District Council.

The clerk was instructed to inform the clerk to the St Margaret's Parish Council accordingly.

O.6. Parish council meeting, date not recorded

The draft map was received from the county council and studied by the Parish Council. It was observed that those footpaths which, with the consent of a Parish Meeting, had been deliberately omitted from the map submitted by the Parish Council, had been included in the County Council Draft Map and the clerk was asked to write about the matter.

O.7. Parish Council meeting, 21 September 1953

Rights of way. It was decided to inform the County Council that the Parish Council was still of the opinion that Footpaths 5, 6 & 7 should be omitted from the draft map, and would like their view to be heard by the person appointed by the County Council.

O.8. Parish Council meeting, 25 July 1955

Public Footpaths: The text of a letter from the County Hall Maidstone was read. It was to the effect that the Ramblers Assn (Southern Area) had objected to the omission of certain routes from the draft map and statement of Public Rights of Way for this parish.

The matter was discussed and the general opinion was that very few ramblers if any had been seen in the district when the paths in question were in use. The clerk however was requested to make further enquiries into the use if any of the paths in question.

O.9. Parish Council meeting, 19 March 1956

Survey of Rights of Way. The text of a letter from the County Hall Maidstone dated 8th February was read to the effect that the Ramblers Association (Southern Area) had withdrawn their objection to the omission of four of the paths leaving the following three for the use of which they will continue to press *i.e.*

- 03 Martin Lodge to parish boundary
- 04 Poison down to Four Bells Inn
- 05 near to Langdon Church to parish boundary

O.10. Special Parish Council Meeting 29 April 1956

This special meeting of the Council was convened to enable its members to discuss the text of letters from the Clerk of the KCC in relation to the objection made by our Council to the inclusion in the draft statement of paths nos. 5, 6 & 7 and to give our Council an opportunity of being heard in relation to its objection by a person appointed by the County Council.

The matter was fully discussed and it was decided that either Cllr Hollis or Cllr Smisson [?] should attend the meeting with the KCC representative, such meeting being held in the Offices of the DRDC²⁶ Temple Ewell on Monday May 27th at 10:30 am.

O.11. Parish Council meeting, 27 May 1956

Public Footpaths. Cllr Hollis attended the special meeting at Temple Ewell today. He confirmed the exclusion by the Council of paths 5, 6 & 7 from the draft map and statement of paths and stated that to the best of his knowledge these were never used and practically non-existent. Everybody at the meeting was well informed on the matter and no one suggested that the paths be kept in or that anyone used them.

O.12. Parish Council meeting, 20 January 1958

Rights of way Footpaths. The text of a letter from the KCC dated 2/1/58 was read, indicating the determinations made by the County Council in relation to the outstanding representations and objections concerning paths in this parish. The Council was still of opinion that these paths should be as first recommended and not added as new routes for the reason that they have been nothing more than accommodation footpaths *i.e.* Martin Lodge to Ripple parish boundary and Poison Down to the School.

O.13. **Conclusion:** The parish council meeting held on 27 November 1950 identifies two paths which originate in St Margaret's parish and continue into East Langdon parish. At that time, and since, the boundary between the two parishes follows a line parallel with the Dover Road, but approximately 300m to the northwest of it. The only identifiable right of way corresponding to this description is the application way (or, so far as the way between C and D is concerned, a diagonal cross-field footpath between those two points).

O.14. The applicant is unable with assurance to identify the second inter-parish right of way, but suggests that it may follow either of the field boundaries to the north of F between the Dover Road and Ringwould Road, or that it is a reference to a way between C and Lucerne Lane immediately to the south of Martin Mill station railway bridge — no part of such a way lies in St Margaret's parish, but it might be described as one of two footpaths between the parishes.

O.15. The refusal of the parish council to include this right of way on its parish map, notwithstanding its acknowledgement that it was an eligible right of way, explains the omission from the definitive map, and provides some contemporary support for the status of the application way.

O.16. **Points:** 1