

Park Lane to Pheasants Hall: historical document analysis

Application to record a bridleway from Park Lane to Pheasants Hall, Bishopsbourne in two discrete parts

I. Introduction

A. Quick reference

Location plan¹



Illustration i

A.1. **Existing public rights of way comprised in application way:** CB295 (part), CB289, CB291

A.2. **Parish of:** Bishopsbourne

1 See application map at part II below for large-scale representation.

- A.3. **Former parish of:** Bishopsbourne
- A.4. **District of:** Canterbury
- A.5. **Hundred of:** Kinghamford
- A.6. **Termination points:** first part — part of Park Lane in Bishopsbourne; second part — Crows Camp Road at Bishopsbourne old station to Pheasants Hall Road at Pheasants Hall
- A.7. **Termination points Ordnance Survey grid references:** first part — TR18965242 and TR18805229; second part — TR18585236 and TR17865062
- A.8. **Postcode:** CT4 5HY
- A.9. **Ordnance Survey Explorer sheets:** 138 and 150
- A.10. **Ordnance Survey County Series 25" sheets:** Kent LVI/4, LVI/8, LVII/1

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 historical researcher in relation to South and East Kent. I am a director and member of the Institute of Public Rights of Way and Access Management. I am employed as a casework officer for the Open Spaces Society, and was formerly a civil servant in the Department for the 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 which in the parish of Bishopsbourne. The way is in two separate parts, referred to below as P–C and B–A–X–Y (the intervening part across the former Elham Valley railway, C–B, was stopped up in 1890). The way is currently recorded as footpaths CB295 (part), CB289 and CB291 on the definitive map and statement. The application seeks to record the way as a bridleway.

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 currently shown on the definitive map for Kent as a footpath should instead be shown as a bridleway, and to any extent necessary, that the order also be made under section 53(3)(c)(i), that a way should be added to the said definitive map as a bridleway.

D.2. The way begins on Park Lane in Bishopsbourne 108m south-west from its junction with The Street at P (Ordnance Survey grid reference TR18965242), and continues west-southwest and then south-west along Park Lane, coincident for all or part with footpath CB295, until that footpath turns west-northwest across a field at C (TR18805229), where the way terminates (for the purposes of this application), a distance of 210m.

D.3. The way then resumes on Crows Camp Road on the south-west side of the bridge over the former Elham Valley Railway at the former Bishopsbourne station at B

(TR18585236), and passes, coincident with footpath CB289 south-southeast along an unsealed track on the south-west side of the former railway cutting for 235m to A (TR18685215), where the way turns south-west, resuming the line of Park Lane, then south-southwest, for 1,260m to the intersection with bridleway CB276 at X (TR17985114), then continuing, now coincident with footpath CB291, south-southwest for 525m to Pheasants Hall Road opposite Pheasants Hall at Y (TR17865062), a distance of 2,020m.

D.4. The points P to C and B to Y are identified in the application map at part II below. Points P and A to C are labelled consistent with the diversion order map at Illustration xxviii below.

D.5. The commencement of the application way at P, being in Park Lane 108m south-west of its junction with The Street, is the point at which Park Lane is understood to cease to be publicly maintainable according to the council's list of streets held under section 36(6) of the Highways Act 1980. The list is ambiguous, because it states the maintainable length to be 108m, but that the south-west termination of the maintainable length is at C (the distance from The Street to C being around 320m). Moreover, the whole of Park Lane between The Street and C is publicly maintainable because that part between P and C is recorded in the definitive map as public footpath CB295, the footpath predates the National Parks and Access the Countryside Act 1949, and such footpaths are publicly maintainable and should be recorded in the list. However, the commencement at P has been selected as this point might be regarded as the limit of the part of Park Lane generally regarded as being a publicly maintained highway for motor vehicles.

E. Background

E.1. The application way appears historically to be one of several well-established routes between Bishopsbourne village and the high woodland pastures to the south. While it is not possible to say whether this particular route is ancient, the initial character of Park Lane between P and C is suggestive of a very long-established path. It may perhaps have been used as one of the droeways employed in mediæval times to take pigs to the high woodland pastures to the south of the Nail Bourne valley.

F. Grounds for application

F.1. The correct test for an application made under s.53(3)(c)(ii) is:

...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... [.]

F.2. The evidence of proposals for railway lines put forward in the middle of the nineteenth century is that the application way was originally an occupation road. There is no convincing evidence of bridle rights until the mid-1880s. We address the status of occupation road in item I.G below.

F.3. The diversion of part of the application way in the late nineteenth century, on the initiative of the Elham Valley Railway Company, makes conclusive provision for the creation of a bridleway between A and B, and demonstrates the recognised status of the application way as a whole as a bridleway. The evidence of the diversion order is supported by its recognition as a bridleway in the minutes and records of the former Bridge

Union Rural Sanitary Authority and in the plans and book of reference prepared in 1884–85 for the proposed deviation of the railway.

F.4. The most likely explanation for the change of status during the 1880s is that the application way was used by the landowner as an occupation road, but was also a bridleway. It was only in the plans for the Elham Valley Light Railway deviation (item V.E below) that a distinct status as bridle road was recognised.

F.5. The applicant believes that the evidence, taken together, makes abundantly clear that the application way is a bridleway throughout.

G. Occupation road

G.1. The earlier railway plans record that the application way is an occupation road. That status is compatible with the existence of a public bridleway. It may well be that this part of the application way was used by vehicles — for example, farm carts serving both the farm and the fields — and was regarded as an occupation road by at least some of those with cause to use it. The estate owner may have taken the view that vehicular use relied on private rights.

G.2. The classification of a way as an occupation road might readily be taken to indicate a (private) way for vehicles, subsuming any subsidiary rights for pedestrians or equestrians, whether private or public. As an occupation road and bridleway, provision of a level crossing would be quite sufficient for both purposes — whereas, had the application way been recorded as a public road, a bridge would have been mandatory. Thus, classification as an occupation road relied on the highest level of rights exercisable, and subsidiary rights were of little importance in this context.

G.3. Put another way, there is no reason why an entry referring to ‘occupation road’ in the ownership of the landowner should not embrace public bridle rights.

G.4. We therefore suggest that classification of the application way in the earlier railway plans as an occupation road is consistent with bridleway status, and subsumes any subsidiary public rights on foot and on horseback.

H. Width of application way

H.1. Park Lane between The Street and C is consistently defined as a discrete parcel on Ordnance Survey County Series maps at a scale of 1:2,500, with an area of .304 acres (1938). The length of this part of the way (and therefore of the parcel) is 318m, from which can be derived an average width of 3.8m.

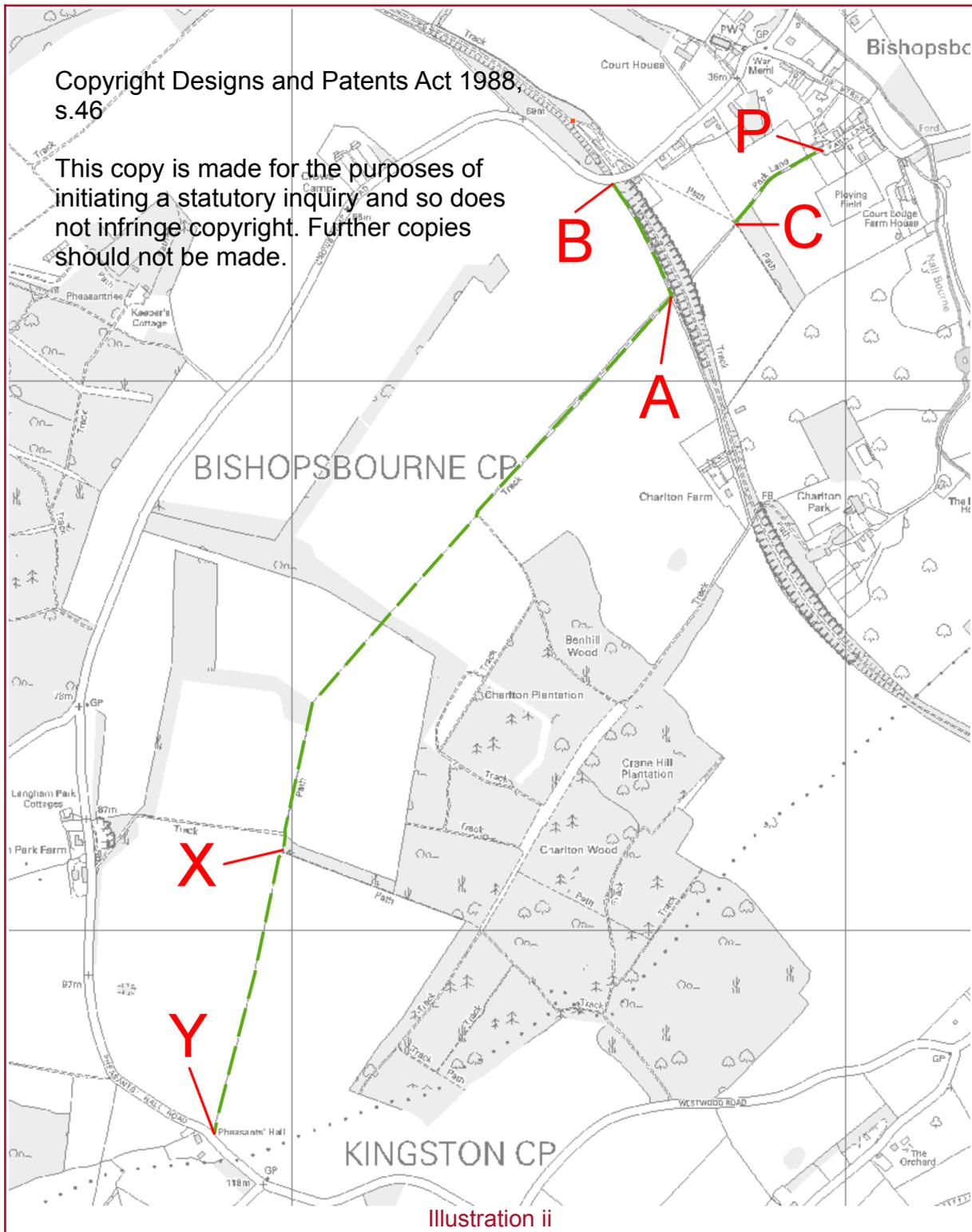
H.2. On the 1972 National Grid plan, an area of .146ha is assigned to part of Park Lane ending at C. The length of this part of the way (and therefore of the parcel) is 257m, from which can be derived an average width of 5.7m. However, this parcel now includes a substantial turning circle at P, and can be discounted.

H.3. On the Ordnance Survey County Series 1:2,500 map Kent LVI/4 published in 1946, part of the application way between A and X is assigned a discrete parcel number (691) with an area of 0.613 acres. The length of this part of the way (and therefore of the parcel) is 543m, from which can be derived an average width of 4.5m.

H.4. A width of 3.8m is therefore sought to be recorded between P and C, and 4.5m between A and X. There being no evidence of width between X and Y, a sufficient width of

3m is requested, which is the minimum width capable of comfortably passing two mounted riders, and therefore likely to be the minimum width established by long use.

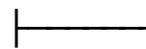
II. Application plan



Map at X is grid reference TR17985114

Scale: approx. 1:10,900 (when printed A4)

Application way is marked 



200m

III. Along the way (P–C)



Illustration iii: Below C



Illustration iv: Further below C



Illustration v: Towards P

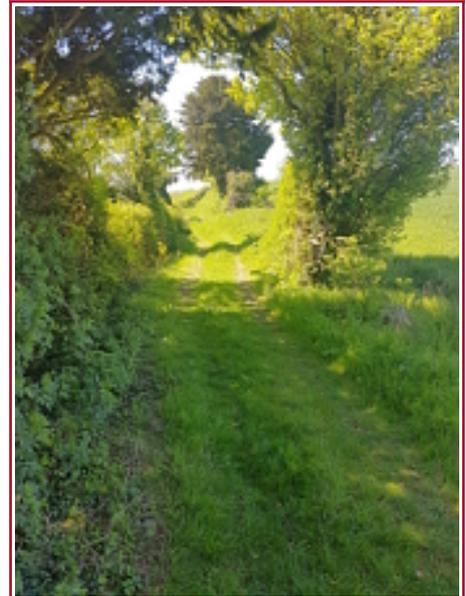


Illustration vi: From A towards X

IV. Along the way (A–Y)



Illustration viii: B: jct with Crows Camp Road



Illustration vii: Between B and A



Illustration ix: At A: right turn to Pheasants Hall



Illustration x: X: bwCB276 joins from right



Illustration xii: Y: Pheasants Hall



Illustration xi: At P

V. Evidence

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A. South Eastern Railway (Canterbury to Dover)

A.1. **Date:** 1846

A.2. **Source:** Kent County Archives²

Deposited South Eastern Railway plan

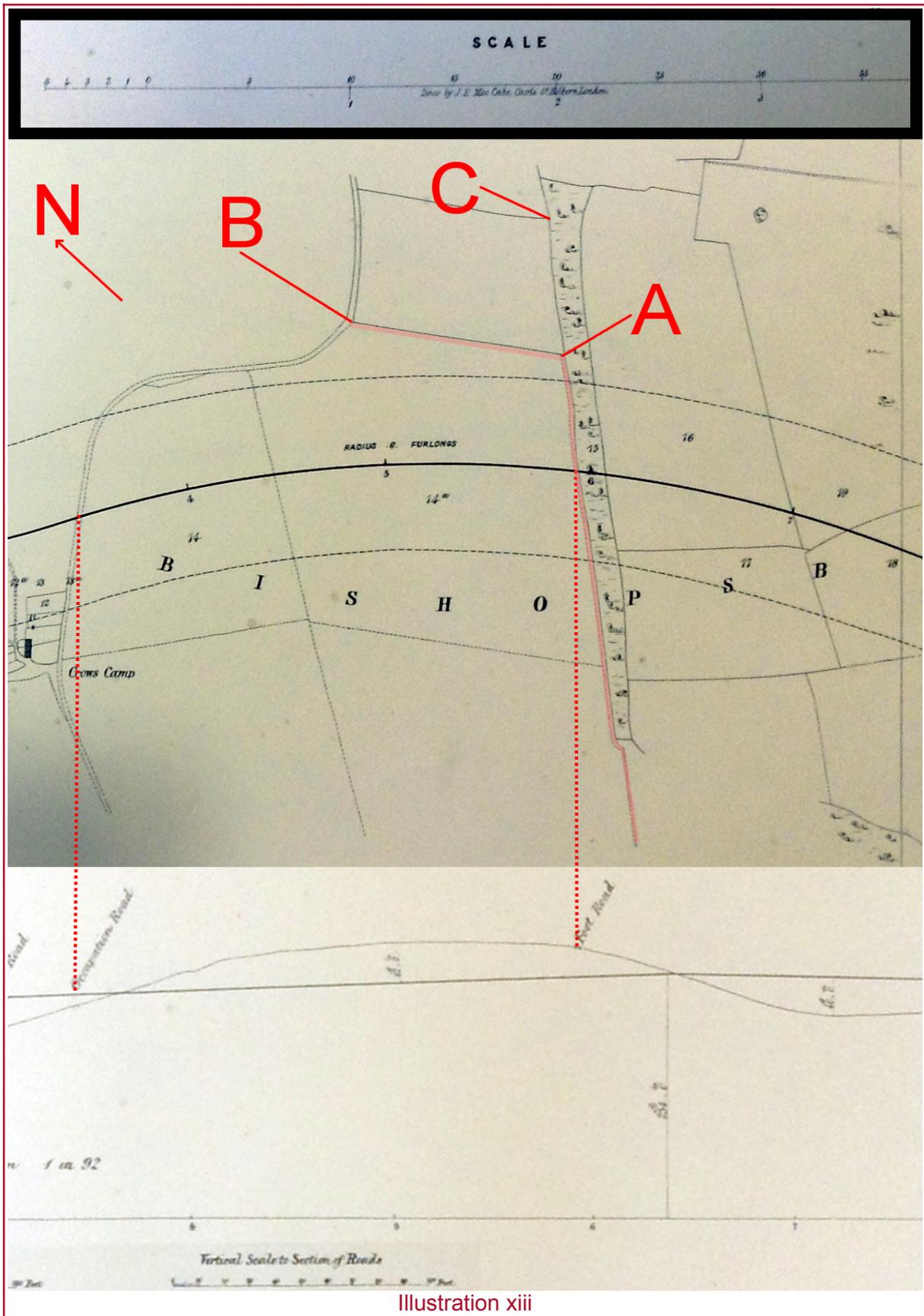


Illustration xiii

Deposited South Eastern Railway book of reference

COUNTY OF KENT.				
No. of Plan.	Description of Property.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.
12a	Footpath	Surveyors of Highways		
13a	Public highway from Hardres to Bishopsbourne	The same		Charles Finch Dowsett
13	Arable	Matthew Bell .. .. .	.....	The same
14	Arable	The same .. .. .	.....	The same
14a	Arable and occupation road	The same .. .. .	.....	In hand
15	Plantation	General Sir Frederick William Mulcaster .. .. .	.....	John Harvey
16	Arable	The same	John Harvey	John Harvey

Illustration xiv

A.3. **Description:** original scale: a scale is marked on the plan; orientation: no change (top is north-northeast).

A.4. The plan shows the application way bisected by the proposed railway slightly to the south of point A. The plan shows the application way south from point A (only), as part of parcel 14a. In the book of reference, parcel 14a is described as 'Arable and occupation road', owned by Matthew Bell, and occupied by Charles Finch Dowsett.

A.5. However, on the section, the application way is annotated as 'Foot Road'. The sections do not appear to be consistent with the book of reference: Crows Camp Road, to the west of the application way, is described as 'Public Highway' in the book of reference (parcel 13a), but as 'Occupation Road' in the section.

A.6. **Conclusion:** The entry for the application way is uncertain in its meaning. It is described in the book of reference as an occupation road (impliedly private), with specified owners, but in the section it is labelled as a foot road (impliedly public).

B. Mid Kent and Dover railway (Landowner's Line)

B.1. **Date:** 1851

B.2. **Source:** Kent County Archives³

Deposited Mid Kent and Dover railway (Landowner's Line) plan

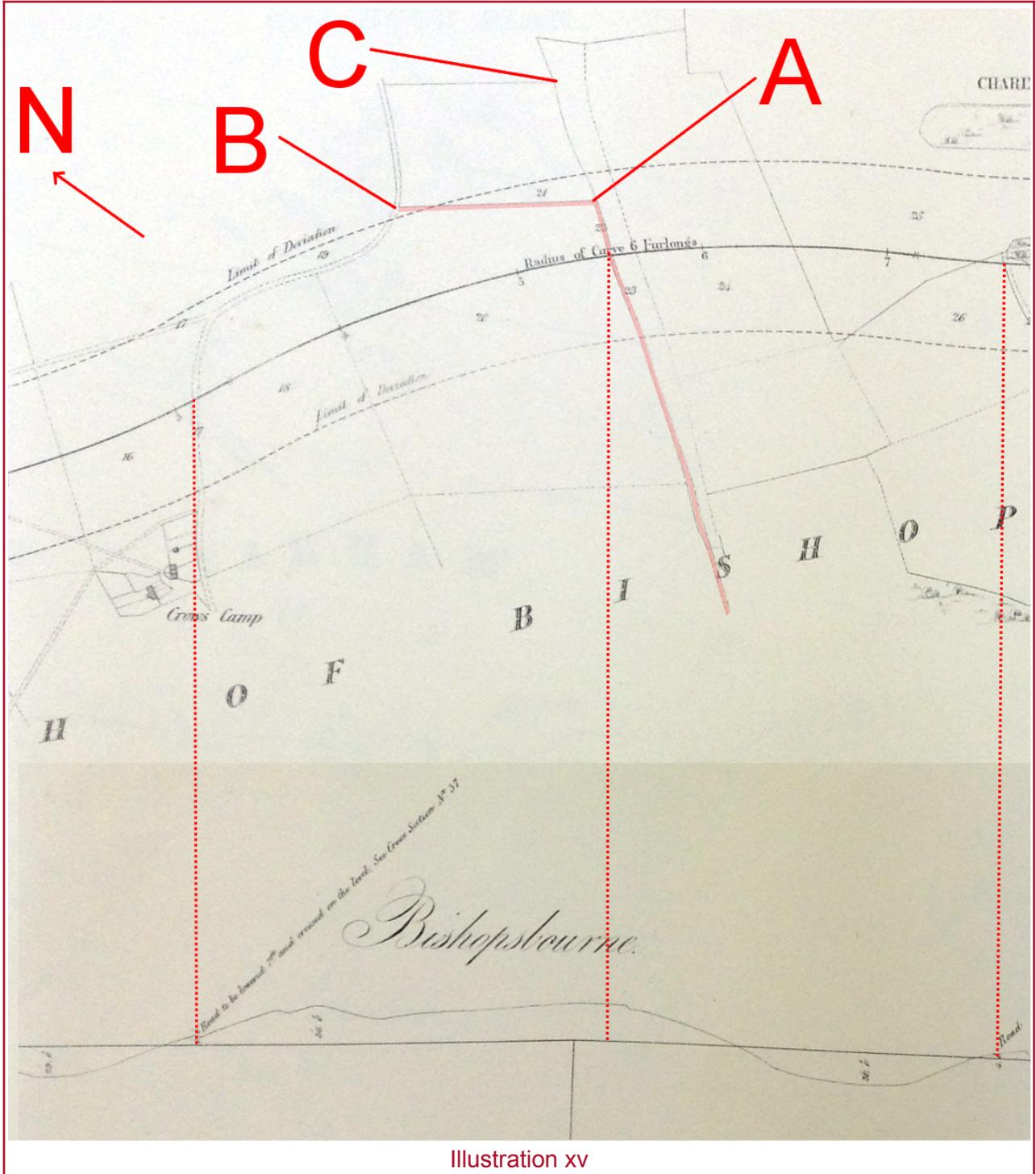


Illustration xv

Deposited Mid Kent and Dover railway (Landowner's Line) book of reference

No. on Plan.	Description of Property.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.
21	Field	The same		The same
22	Road	The same, and Frederick Montresor Mulcaster		The same, and John Harvey
23	Road and waste land	Frederick Montresor Mulcaster		John Harvey
24	Field	The same		The same

Illustration xvi

B.3. **Description:** original scale: a scale of six chains to the inch is marked on the index map, but it has not been possible reliably to apply it to this extract; orientation: no change (top is north-northeast).

B.4. The plan shows the application way bisected by the proposed line of railway shortly south of point A. The application way appears to be labelled as parcel 22, and as part of parcel 23. In the book of reference, parcel 22 is described as a 'Road', owned by Matthew Bell (not shown in the extract) and Frederick Montresor Mulcaster, and in the occupation of the same, together with John Harvey.

B.5. Other ways are described in the book of reference as, variously, footpath, occupation road, parish road or highway (the last two owned by the surveyor of highways). The parish entries for Bishopshourne are certified by 'Matthew Bell, Lord of the Manor', and 'William Kite, Surveyor of Highways'. In certain other entries for other parishes, a 'Road' is owned by the surveyor of highways.

B.6. **Conclusion:** The entry for the application way is uncertain in its meaning. It is neither described as an occupation road (impliedly private) nor as a parish road or highway, but merely as a road, owned by local landowners. It may have been private, or it may have been considered to be a privately maintainable public way, not vested in the surveyor of highways.

C. Elham Valley Railway 1866

C.1. **Date:** 1864–65

C.2. **Source:** Kent County Archives⁴

4 Q/RUm/533

Deposited Elham Valley Railway 1866 book of reference

RAILWAY N ^o 7			
<i>Parish of Bishopscourt in the County of Kent</i>			
No. OF PLAN.	DESCRIPTION OF PROPERTY	OWNERS OR REPUTED OWNERS	LESSEES OR REPUTED LESSEES
32	<i>School House and Yard</i>	<i>Matthew Bell</i>	<i>Matthew Bell</i>
33	<i>Pasture Field, Rick Yard, Footpaths and Cart Road</i>	<i>Matthew Bell</i>	<i>John Perkins</i>
34	<i>Hedge Row or Shaw</i>	<i>Matthew Bell</i>	<i>John Perkins</i>
35	<i>Arable Field and Footpath</i>	<i>Matthew Bell</i>	<i>William Hooper</i>
36	<i>Occupation Road</i>	<i>Matthew Bell</i>	<i>William Hooper</i>

Illustration xviii

C.3. **Description:** original scale: a scale in chains is marked on the index map, but it has not been possible reliably to apply it to this extract; orientation: no change (top is north-northeast).

C.4. The deposited plans show a proposed alignment for the railway which crosses the application way between the 4m and the 4m1f markers, at approximately A. North-east of A, the field boundary is shown in three parts, with a 'Hedge Row or Shaw' identified as the centre part labelled as parcel 34. It is presumed that the application way follows the north-east boundary of parcel 33 (on the north-west side of the application way), which is described as 'Pasture Field, Rick Yard, Footpaths and Cart Road', owned by Matthew Bell and occupied by John Perkins.

C.5. Parcel 33 also contains 'Footpaths' and parcel 35 a 'Footpath'. It is suggested that these are references to the footpath passing north-south (*i.e.* diagonally across parcels 33 and 35) from the school house (parcel 32) to Charlton Farm marked on the deposited plan. A footpath is shown on this alignment across parcel 35 on the Ordnance Survey County Series first edition twenty-five inch plan surveyed in 1872 and published in 1873. In addition, a footpath is also marked on the deposited plan, and on the Ordnance Survey County Series first edition plan, on the opposite diagonal of parcel 33. These paths would account for the references to footpaths. The application way must therefore be referred to as a 'Cart Road'.

C.6. No provision for a bridge is shown on the plan nor the section.

C.7. **Conclusion:** The application way corresponds to cart road identified in parcel 33. It may have been private, or it may have been considered to be a privately maintainable public way, not vested in the surveyor of highways. In either case, no provision was made for a bridge.

C.8. The plans received Royal Assent under the Elham Valley Railway Act 1866⁵ but the Act was not put into effect.

⁵ c.cccxvi, 29 & 30 Vict.

D. Elham Valley Light Railway

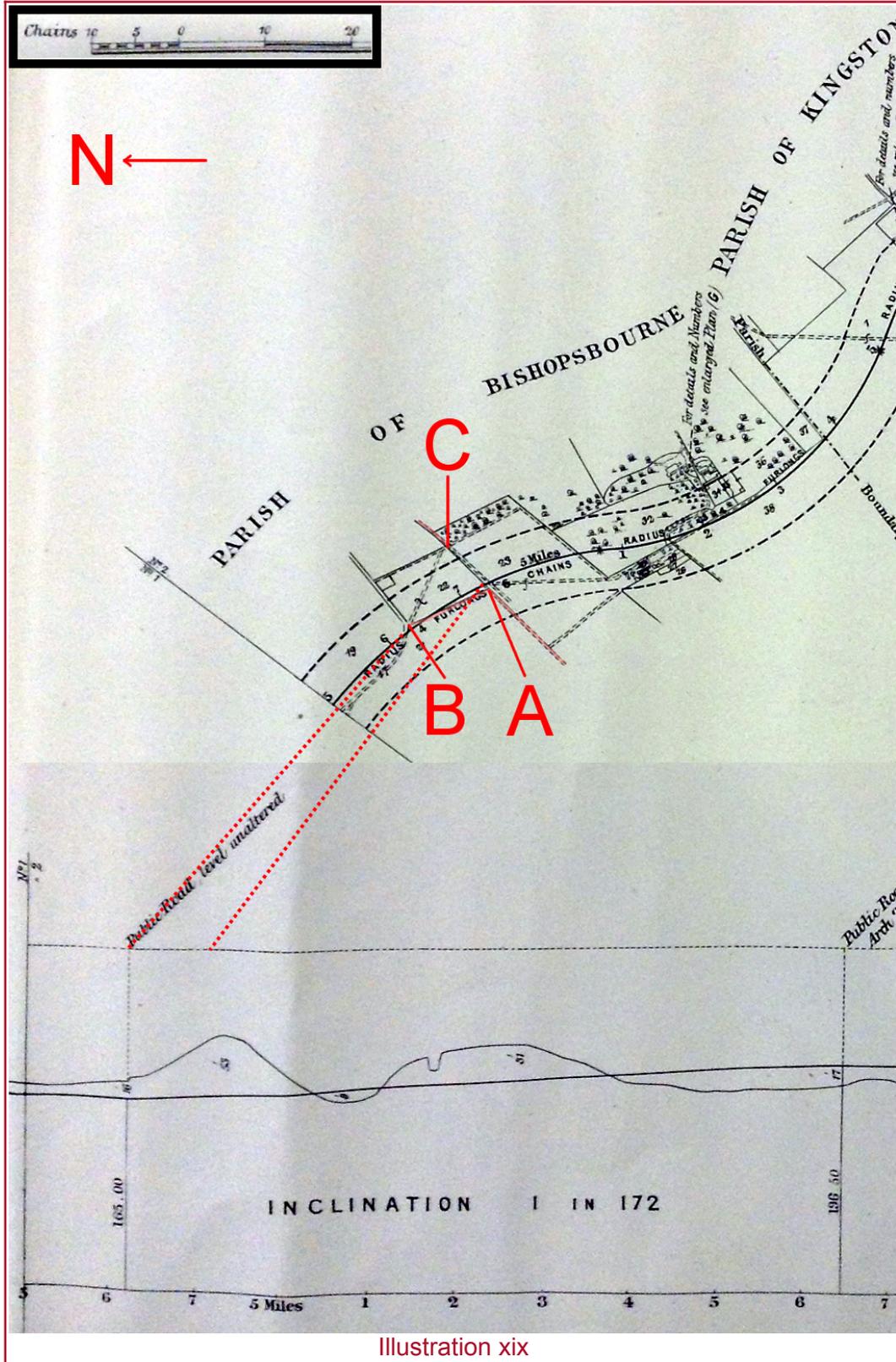
D.1. **Date:** 1879–80, 1880–81

D.2. **Source:** Kent County Archives⁶

D.3. **Description:** original scale: scale in chains marked on map; orientation: unchanged (top is east).

6 Q/RUm/720

Deposited Elham Valley Light Railway 1880 plan



Deposited Elham Valley Light Railway 1880 book of reference

THE ELHAM VALLEY LIGHT RAILWAY.—SESSION 1880.				
PARISH OF BISHOPSBOURNE.				
COUNTY OF KENT.				
No. on Plan.	Description of Property.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.
20	Public road ¹	The Wingham Highway Board	... ..	... ..
21	Field, occupation road and footpath	Matthew Bell	... ..	John Perkins
22	Field and footpath	Matthew Bell	... ..	John Perkins
23	Field, footpath, occupation road and copse	Matthew Bell	John Holdstock	John Holdstock

Illustration xx

D.4. This is the first proposal for the a light railway through the Elham Valley. The deposited plans show a proposed alignment for the railway which crosses the application way between the 4m7f and the 5m markers, at approximately A. The application way is shown alternately as following the north headland of parcel 23 (north-east of A), and either the south headland of parcel 21 or the north headland of parcel 23 (south-west of A). No provision for a bridge is shown on the plan nor the section.

D.5. In the deposited book of reference, the application way is likely to be that recorded as an occupation road in both parcels 21 and 23. The land is shown as owned by Matthew Bell, and occupied by John Perkins (parcel 21) or John Holdstock (parcel 23).

D.6. While all of parcels 21, 22 and 23 contain references to a footpath, it is suggested that the footpath is that identified in the plan and book of reference for the Elham Valley Railway 1866 at paragraph C.5 above, whereas the identified occupation road in parcels 21 and 23 is consistent with the application way (there is no other candidate for an occupation road in parcel 21⁷).

D.7. Identical provision is found in the plans and book of reference deposited for the 1880–81 Parliamentary session⁸.

⁷ Crows Camp Road is separately identified on this plan as parcel 17, 'Private road'. However, on the adjoining plan, it is identified as parcel 20, 'Public road'. Section 28 of the Elham Valley Light Railway Act 1881 provides that the road comprised in parcels 17 and 20 may be bridged with a reduced width of roadway, and states that the roadway is in the class of 'Public roads'.

⁸ Q/RUm/745

D.8. This second deposit was given Royal Assent in the Elham Valley Light Railway Act 1881⁹, as a light railway subject to the provisions of Part V of the Regulation of Railways Act 1868¹⁰. The enabling Act incorporated the provisions of the Railways Clauses Consolidation Act 1845¹¹ and took no derogating powers as regards the crossing with the application way. The line was not built until after the 1885 Act (as to which, see part V.E below).

D.9. **Conclusion:** The application way corresponds to the occupation way noted in parcels 21 and 23.

E. Elham Valley Light Railway deviation

E.1. **Date:** 1884–85

E.2. **Source:** Kent County Archives¹²

9 (44 & 45 Vict.), c.cxxxii

10 S.7: www.legislation.gov.uk/ukpga/Vict/31-32/119/crossheading/vlight-railways/enacted

11 S.2

12 Q/RUm/842

Deposited Elham Valley Light Railway deviation 1884–85 plan

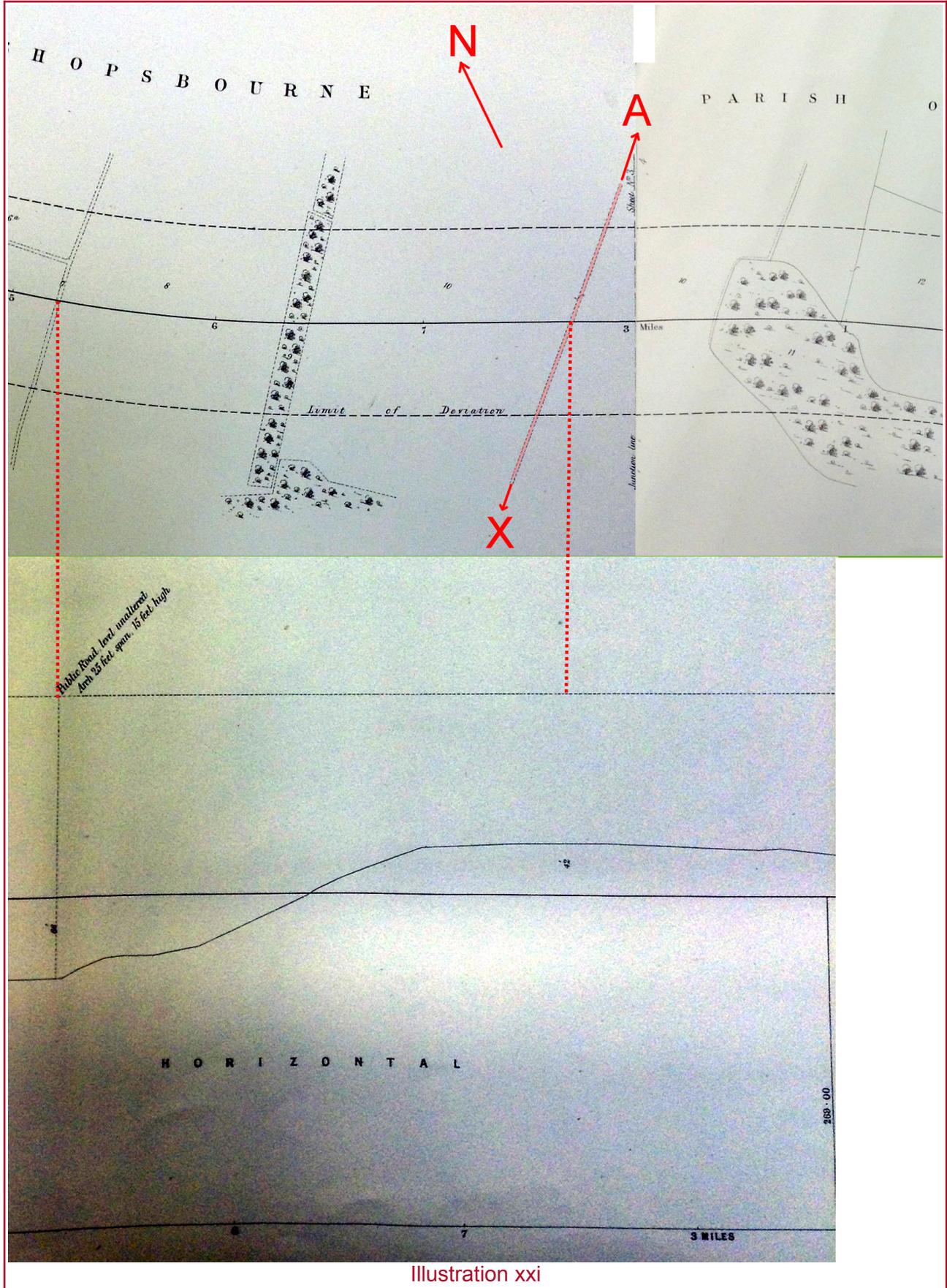


Illustration xxi

Deposited Elham Valley Light Railway deviation 1884–85 book of reference

Elham Valley Light Railway.
Deviation of the Railway authorised by the Elham Valley Light Railway Act, 1881.
Parish of Bishopsbourne in the County of Kent.

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
10	Field and public bridle road	Matthew Bell The Bridge Rural Sanitary Authority	... ..	Matthew Bell
11	Wood and public bridle road	Matthew Bell The Bridge Rural Sanitary Authority	... ..	Matthew Bell

Illustration xxii

E.3. **Description:** original scale: a scale in chains is marked on the index map, but it has not been possible reliably to apply it to this extract; orientation: rotated by c.17° (top is north-northeast).

E.4. These plans document a revised proposal for a more southerly alignment or deviation to the Elham Valley Light Railway through Bishopsbourne, Bridge and Barham, partly to avoid interference with the parkland of prominent local landowners, including Matthew Bell, who owned Bourne Park.

E.5. The deposited plans show a proposed alignment for the railway which crosses the application way between the 2m7f and the 3m markers, between A and X, approximately at [TR18305173](#). The application way is shown following a cross-field alignment through parcel 10. No provision for a bridge is shown on the plan nor the section.

E.6. In the deposited book of reference, parcel 10 is recorded as a 'field and public bridle road'. The land is shown as owned by Matthew Bell and the Bridge Rural Sanitary Authority, and occupied by Matthew Bell.

E.7. Parcel 11 is also recorded as including a public bridle road. This path may be bridleway CB276 which passes through the southern part of Charlton Wood.

E.8. The deviation was not implemented, owing to the high costs and displacement from communities along the valley (such as Bishopsbourne). Instead, the Elham Valley Railway Act 1885¹³ authorised only a deviation between Lyminge and Cheriton¹⁴, and made no reference to the deviation at Bishopsbourne *etc.* The railway was built along the line of the 1881 Act, but incorporating the deviation south of Lyminge, and with minor deviations elsewhere and a cut-and-cover tunnel under Bourne Park.

13 (48 & 49 Vict.), c.xxxviii

14 Preamble to the Act: 'And whereas it has been found that the levels of a portion of the said railway between the points herein-after described can be beneficially altered and improved and it is therefore expedient that the Company be empowered to alter the levels of the said authorised railway and to acquire the lands necessary for that purpose'. S.4 gave effect to the deposited plans for the deviation.

E.9. **Conclusion:** The application way is consistent with the way shown on the deposited plan. The plans for the 1884–85 deviation record, for the first time, the railway company's recognition of the application way as a public bridleway. The record of vesting of the bridle road in the highway authority provides additional confirmation of status.

F. Bridge Union Rural Sanitary Authority

F.1. **Date:** 1888–89

F.2. **Source:** Canterbury Cathedral Archives¹⁵

Minute of BURSA 6 September 1888

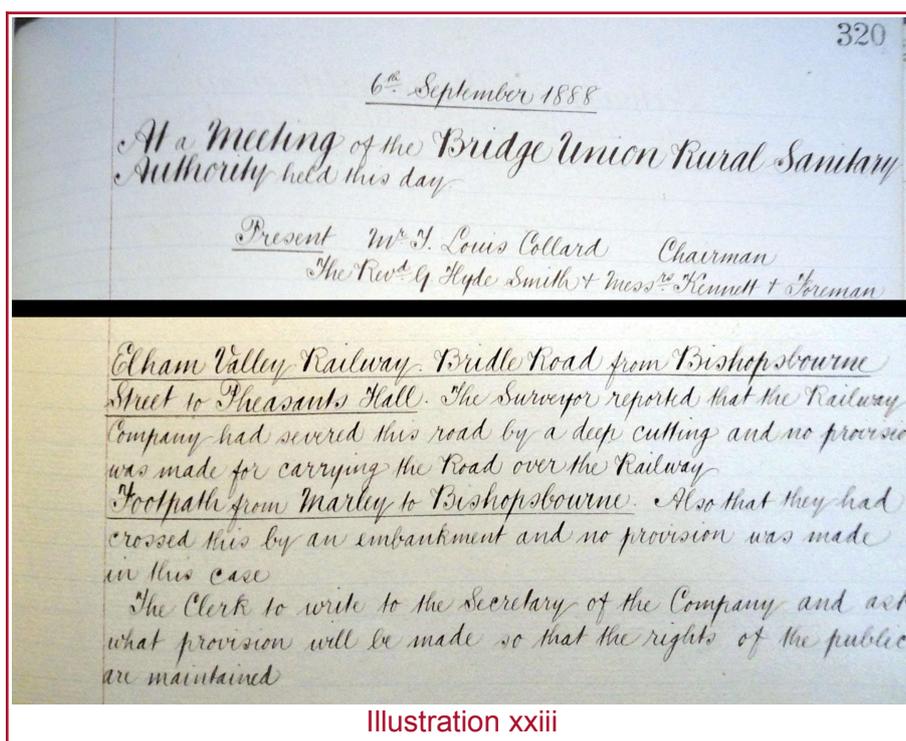
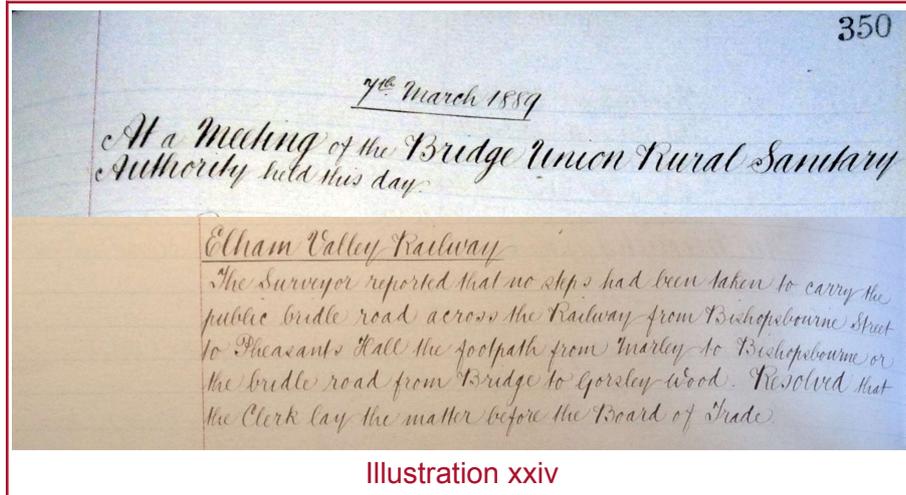


Illustration xxiii

Minute of BURSA 7 March 1889



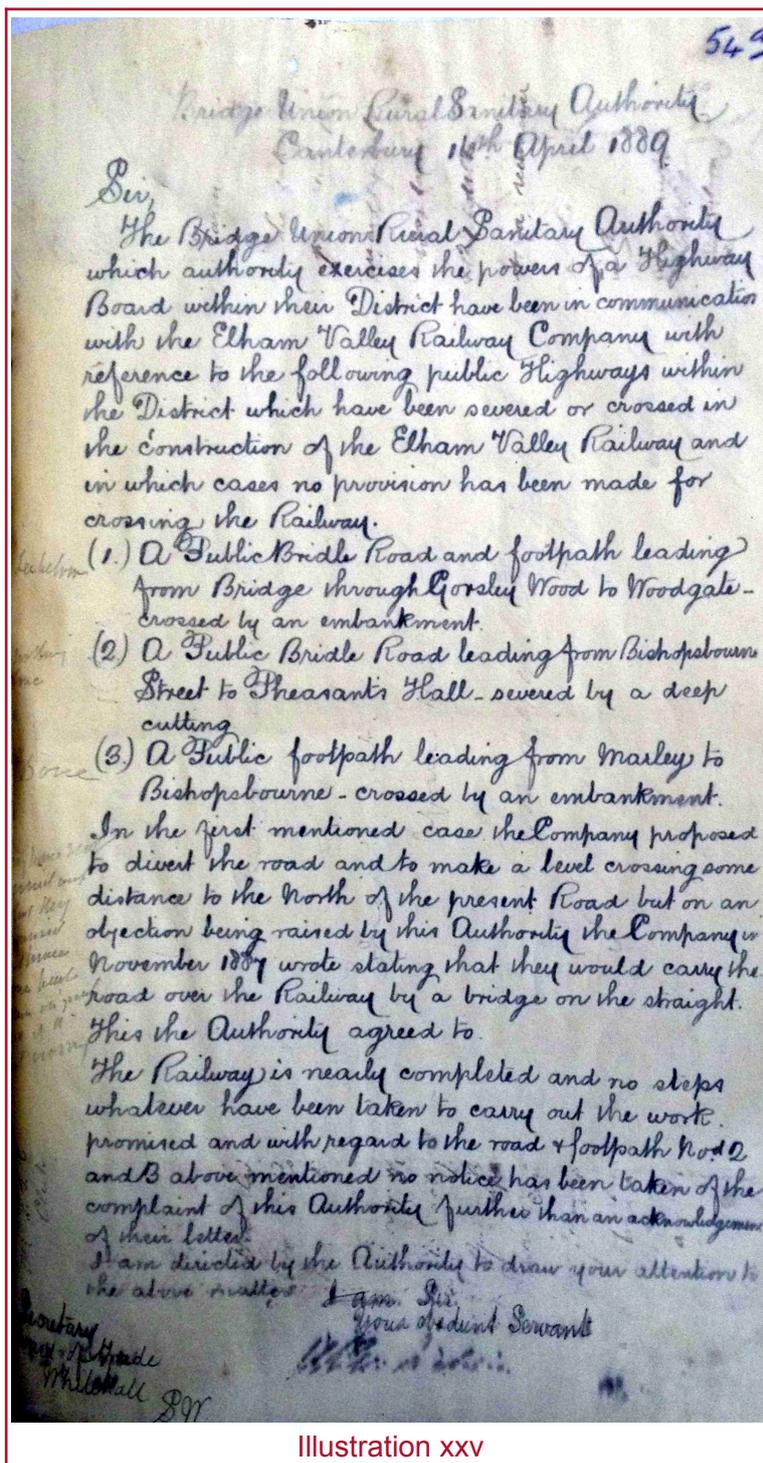


Illustration xxv

F.3. **Description:** The Bridge Union Rural Sanitary Authority (BURSA) engaged in protracted correspondence with the Elham Valley Light Railway Company (EVLRC) following the construction of the railway through Bishopsbourne in 1899.

F.4. On 6 September 1888, it was minuted:

Elham Valley Railway Bridle Road from Bishopsbourne Street to Pheasants Hall. The Surveyor reported that the Railway Company had severed this road

by a deep cutting and no provision was made for carrying the Road over the Railway.

The Clerk to write to the Secretary of the Company and ask what provision will be made so that the rights of the public are maintained.

F.5. On 7 March 1889, it was minuted:

Elham Valley Railway The Surveyor reported that no steps had been taken to carry the public bridle road across the Railway from Bishopsbourne Street to Pheasants Hall the footpath from Marley to Bishopsbourne or the bridle road from Bridge to Gorsley Wood. Resolved that the Clerk lay the matter before the Board of Trade.

F.6. On 16 April 1889, BURSA wrote to EVLRC:

...with reference to the following public Highways within the District which have been severed or crossed in the construction of the Elham Valley Railway and in which cases no provision has been made for crossing the Railway....(2) A Public Bridle Road leading from Bishopsbourne Street to Pheasants Hall – severed by a deep cutting....The Railway is nearly completed and no steps whatever have been taken to carry out the work promised and with regard to the road and footpath No.d 2 and 3 above mentioned no notice has been taken of the complaint of this Authority further than an acknowledgement of their letter. I am directed by the Authority to draw your attentions to the above matters.

F.7. Various correspondence continued about the other crossings referred to in the letter of 16 April 1889, but none about the Park Lane crossing.

F.8. **Conclusion:** The minutes of the BURSA and its correspondence are good evidence that the BURSA considered the application route to be a public bridleway. It may be assumed that further action by BURSA against the EVLRC was in due course headed off by a commitment to seek a diversion of the route obstructed at A — as to which, see Bishopsbourne diversion order (item V.G below).

G. Bishopsbourne diversion order

G.1. **Date:** 1890

G.2. **Source:** Kent County Archives¹⁶, Canterbury Cathedral Archives¹⁷

¹⁶ Diversion order: Q/RH/2/572

¹⁷ Application: CCA-RD/BR/A/Z/3

Application to Bridge Union Rural Sanitary Authority

To the Bridge Union Rural Sanitary authority exercising the powers of a Highway authority in the Bridge Union in the County of Kent comprising the parish of Bishopstowne in the said County.

As Solicitors and Agents for the Elham Valley Light Railway Company (such Company being desirous of diverting and turning a part of the Highway (being a Bridleway) leading from the village of Bishopstowne towards Pheasants hall and Park Wood, situate in the parish of Bishopstowne, such diversion commencing at the point marked A on the plan and proceeding along the South West of the Elham Valley Railway and terminating at the point B on the plan at a junction with the highway and carriage way leading to the said Village and the Company being also desirous of stopping up so much of the said Bridleway as lies between the points A and C on the plan as being unnecessary) Do hereby give you notice of such the desire of the said Company and on behalf of such Company hereby request you to take such steps and make such orders as may be necessary for effecting the same under and by virtue of the several Acts of Parliament authorizing you to act in this behalf.

Dated the 25th day of June 1890.

Kingsford Wightman
Canterbury

Illustration xxvi

Application map to Bridge Union Rural Sanitary Authority

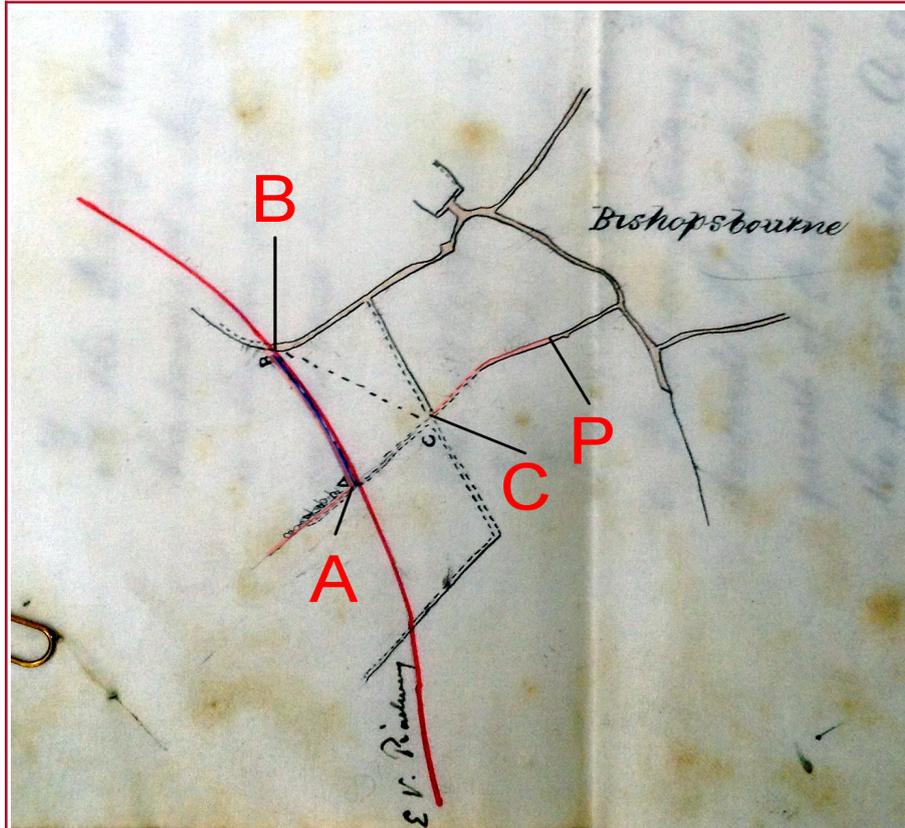


Illustration xxvii

Bishopsbourne order map 1890

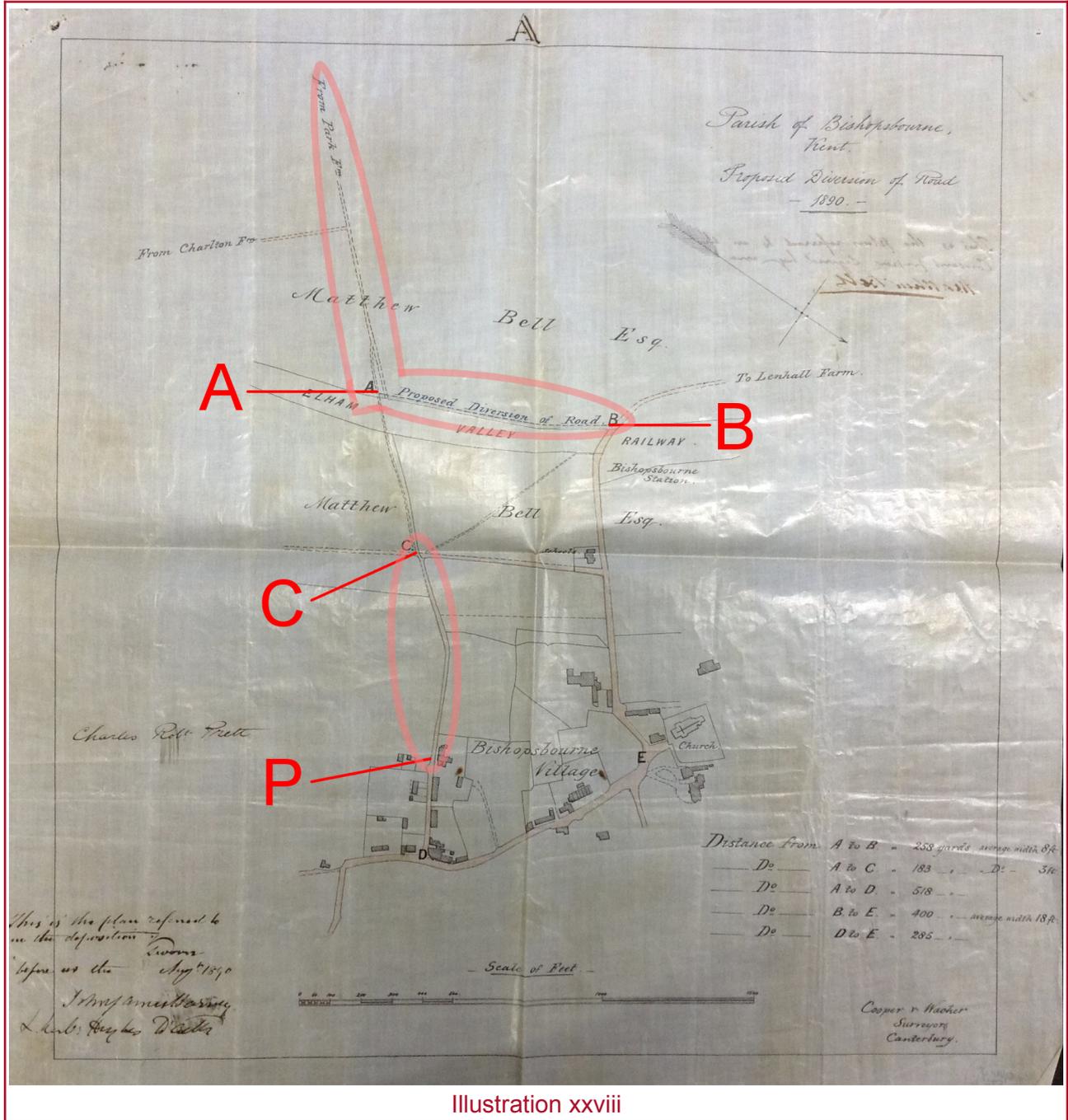


Illustration xxviii

Kent) Whereas on the ninth day of July 1890 at Bishopsbourne in
(to wit) the said County the Board of Guardians of the Bridge Union
acting as the Rural Sanitary Authority and exercising all the powers
of a Highway Board in such Union which comprises the Parish
of Bishopsbourne in the said County made application and request
unto us John James Harvey and Lewis Warbrough D. Esquires
2 of Her Majesty's Justices of the Peace in and for the said County
to view a certain Public Highway being a Bridleway situate in the
said Parish of Bishopsbourne leading from the Village of Bishopsbourne
towards Pheasants Hall and Park Wood in the same Parish and
did at the same time produce unto us a certain Order in writing
for such application and request bearing date the 11th day of July
1890 under the hand of The Rev^d. Thomas Strot Clerk the said Order
to be Chairman at a Vestry of the Inhabitants of the said Parish
of Bishopsbourne from which Order it also appeared as the fact is
that the Elham Valley Light Railway Company were desirous of
diverting and turning the said Highway being a Bridleway from
the point marked A on the Plan hereafter referred to along the South
western side of the Elham Valley Railway by a road already made
to the point marked B on the said Plan being a distance of 258
yards so as to make the said Highway more commodious to the
Public and to form a junction with the Highway and carriage way
near to the Bishopsbourne Station leading to the Village of Bishopsbourne
and to the Parish Church And also that the said Railway Company
were desirous of stopping up so much of the Highway being a
Bridle way first hereinbefore mentioned as lies between the points
A and C on the said Plan being a distance of 183 yards as
being unnecessary by the formation of the said New road between
A and B as aforesaid and from which said Order it also
appeared as the fact is that the Elham Valley Light Railway
Company had caused such Vestry to be assembled for the purpose
of considering such proposed diversion and stopping up and that
the said Inhabitants in such Vestry as aforesaid assembled deemed
it expedient that the said Highway being a Bridle way from the
point marked A to the point marked B should be turned and
diverted in manner aforesaid and that the part of the said

Illustration xxix

Bishopbourne order page two

Highway being a Bridle way from the point marked A to the point marked C on the Plan should be stopped as being unnecessary.

7 And whereas on the 9th day of July 1890 We the said Justices in pursuance of such Order Application and request and of the Statute in that behalf made and provided did together view the said Public Highway or being a Bridle way hereinbefore mentioned and it appeared to us upon such view that the said Highway might be diverted and turned from the point A to the point B on the Plan along the South west side of the Echam Valley Railway by the Road already made with a junction with the Highway near to Bishopbourne Station as aforesaid and that the part of the Highway and Bridle way first hereinbefore mentioned between the points A and C on the Plan might be stopped up as unnecessary.

8 And We did thereupon direct the said Bridge Union Rural Sanitary to affix a Notice in the form or to the effect of Schedule (N: 19) to the Statute aforesaid annexed in legible characters at the place and by the side of each end of the said Highway from whence the same is proposed to be diverted and turned and stopped up and also to insert the same Notice in one Newspaper published or generally circulated in the County where the said Highway so proposed to be diverted and turned and stopped up lies for four successive weeks next after our said view of such Public Highway and to affix a like Notice on the Door of the Church of the Parish in which such Highway or is proposed to be diverted and turned and stopped up lies to wit the Parish of Bishopbourne on four successive Sundays next after the making of such view by us.

9 And whereas Matthew Bell Esquire the Owner and Occupier of the Land through which the said New Highway being a Bridle way is proposed to be made for the diversion thereof as aforesaid hath consented thereto by writing under his hand which consent hath been duly verified before us.

10 NOW We the said Justices on the Tenth day of August 1890 at the City of Canterbury and County of the same upon due proof having been given to our satisfaction of the premises and of the said Order under the hand of the said Reverend Thomas Haist and of the said several Notices having been so published as aforesaid and a Plan being now delivered to us particularly describing the Old and Proposed New Highway

Bishopsbourne order page three

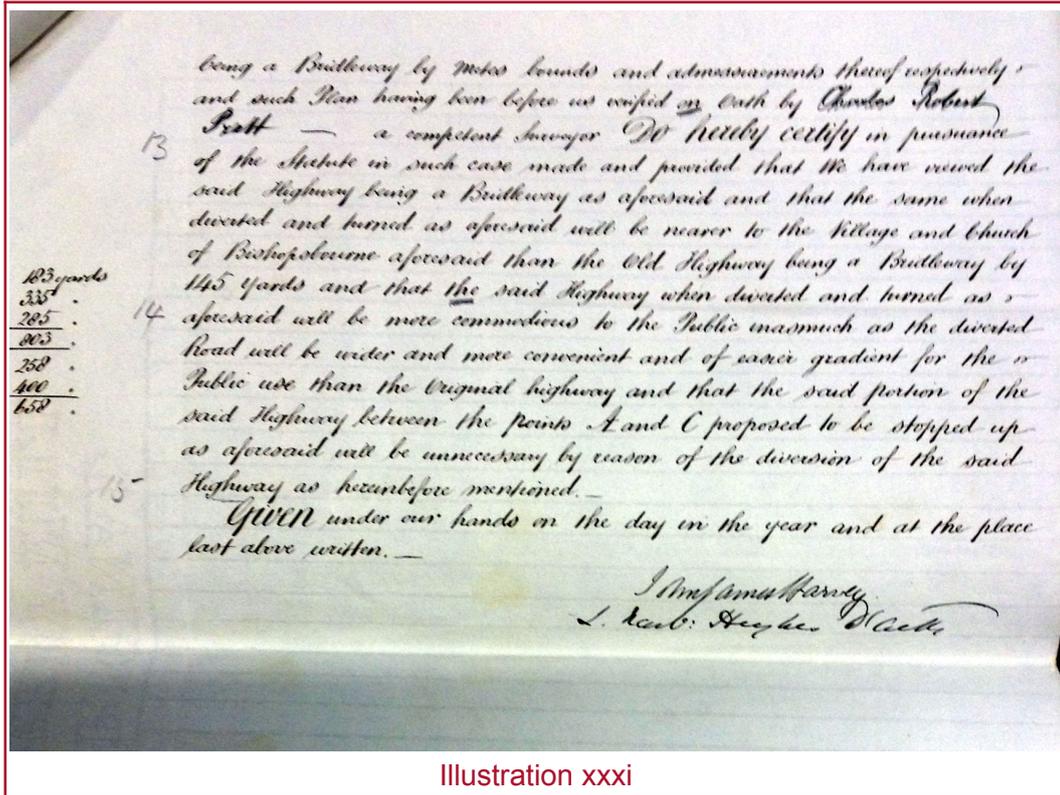
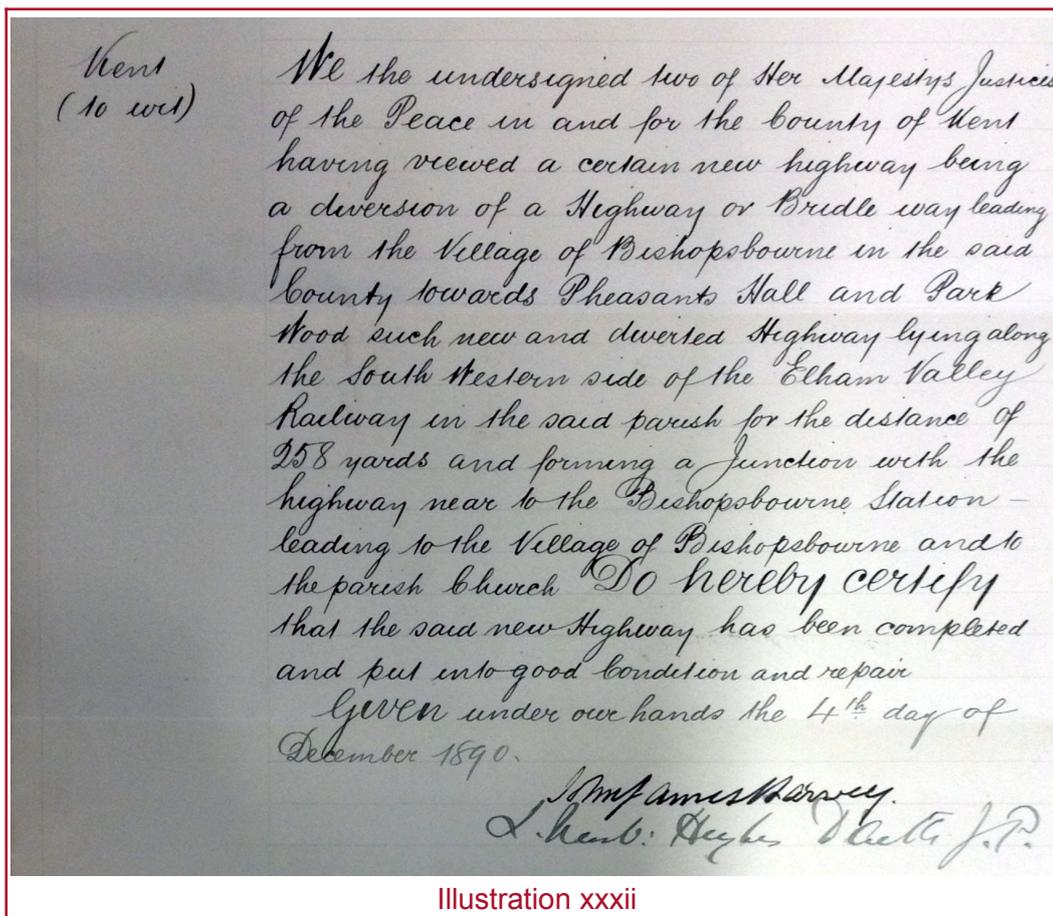


Illustration xxxi

Bishopsbourne order certificate of completion



G.3. Description:

G.4. On the 26 June 1890, the solicitors and agents to the Elham Valley Light Railway applied to the Bridge Union Rural Sanitary Authority (Illustration xxvi):

To the Bridge Union Rural Sanitary Authority exercising the powers of a Highway authority in the Bridge Union in the County of Kent comprising the parish of Bishopsbourne in the said County—

As Solicitors and Agents for the Elham Valley Light Railway Company (such Company being desirous of diverting and turning a part of the Highway (being a Bridleway) leading from the village of Bishopsbourne towards Pheasants hall and Park Wood, situate in the parish of Bishopsbourne, such diversion commencing at the point marked A on the plan and proceeding along the South West of the Elham Valley Railway and terminating at the point B on the plan at a junction with the highway and Carriage way leading to the said Village and the Company being also desirous of stopping up so much of the said Bridleway as lies between the points A and C on the plan as being unnecessary) we Do hereby give you notice of such the desire of the said Company and on behalf of such Company hereby request you to take such steps and make such orders as may be necessary for effecting the same under and by virtue of the several Acts of Parliament authorizing you to act in this behalf.

Dated the 26th day of June 1890.

- G.5. A map was enclosed with the application (Illustration xxvii).
G.6. The order was made on 9 July 1890 (Illustration xxix–Illustration xxxi):

Kent (to wit) Whereas on the ninth day of July 1890 at Bishopsbourne in the said County the Board of Guardians of the Bridge Union acting as the Rural Sanitary Authority and exercising all the powers of a Highway Board in such union which comprises the Parish of Bishopsbourne in the said county made application and request unto us John James Harvey and Lewis Narbrough D'Aeth Esquires 2 of Her Majesty's Justices of the Peace in and for the said County to view a certain Public highway being a Bridleway¹⁸ situate in the said Parish of Bishopsbourne leading from the Village of Bishopsbourne towards Pheasants Hall and Park Wood in the same parish and did at the same time produce unto us a certain Order in writing for such application and request bearing date the 4th day of July 1890 under the hand of the Rev^d. Thomas Hirst Clerk therein described to be Chairman at a Vestry of the Inhabitants of the said Parish of Bishopsbourne from which Order it also appeared as the fact is that the Elham Valley Light Railway Company were desirous of diverting and turning the said Highway being a Bridleway from the point marked A on the Plan hereafter referred to along the South Western side of the Elham Valley Railway by a Road already made to the point marked B on the said Plan being a distance of 250 yards so as to make the said Highway more commodious to the Public and to form a junction with the Highway and Carriage way near to the Bishopsbourne Station leading to the Village of Bishopsbourne and to the Parish Church. And also that the said Railway Company were desirous of stopping up so much of the Highway being a Bridle way first hereinbefore mentioned as lies between the points A and C on the said Plan being a distance of 183 yards as being unnecessary by the formation of the said new road between A and B as aforesaid and from which said Order it also appeared as the fact is that the Elham Valley Light Railway Company had caused such Vestry to be assembled for the purpose of considering such proposed diversion and stopping up and that the said Inhabitants in such Vestry as aforesaid assembled deemed it expedient that the said Highway being a Bridle way from the point marked A to the point marked B should be turned and diverted in manner aforesaid and that the part of the said Highway being a Bridle way from the point marked A to the point marked C on the Plan should be stopped as being unnecessary.

And whereas on the 9th. day of July 1890 we the said Justices in the pursuance of such Order application and request and of the Statute in that behalf made and provided did together view the said Public Highway being a Bridle way hereinbefore mentioned and it appeared to us upon such view that the said Highway might be diverted and turned from the point A to the point B on the Plan along the South West side of the Elham Valley Railway by the Road already made with a Junction with the Highway near to Bishopsbourne Station as aforesaid and that the part of the Highway and Bridle way hereinbefore mentioned between the points A and C on the Plan might be stopped up as unnecessary.

18 This is inconsistently spelt both 'Bridleway' and 'Bridle way' in various places.

And we did thereupon direct the said Bridge Union Rural Sanitary to affix a Notice in the form or to the effect of Schedule (N^o.19) to the Statute aforesaid annexed in legible characters at the place and by the side of each end of the said Highway from whence the same is proposed to be diverted and turned and stopped up and also to insert the same Notice in one Newspaper published or generally circulated in the County where the said Highway so proposed to be diverted and turned and stopped up lies for four successive weeks next after our said View of such Public highway and to affix a like Notice on the Door of the church of the Parish in which such Highway so proposed to be diverted and turned and stopped up lies to wit the Parish of Bishopsbourne on four successive Sundays next after the making of such View by us.

And whereas Matthew Bell Esquire the owner and Occupier of the Land through which the said new Highway being a Bridle way is proposed to be made for the diversion thereof as aforesaid hath consented thereto by writing under his hand which consent hath been duly verified before us.

Now we the said Justices on the Fifteenth day of August 1890 at the City of Canterbury and County of the same upon due proof having been given to our satisfaction of the premises and of the said Order under the hand of the said Reverend Thomas Hirst and of the said several notices having been so published and a Plan being now delivered to us particularly describing the Old and Proposed New Highway being a Bridleway by metes bounds and admeasurements thereof respectively and such Plan having been before us verified on Oath by Charles Robert Pyatt — a competent Surveyor Do hereby certify in pursuance of the Statute in such case made and provided that we have viewed the said Highway being a Bridleway as aforesaid and that the same when diverted and turned as aforesaid will be nearer to the Village and Church of Bishopsbourne aforesaid than the Old Highway being a Bridleway by 145 yards and that the said Highway when diverted and turned as aforesaid will be more commodious to the Public inasmuch as the diverted Road will be wider and more convenient and of easier gradient for the Public use than the Original highway and that the said portion of the said Highway between the points A and C proposed to be stopped up as aforesaid will be unnecessary by reason of the diversion of the said Highway as hereinbefore mentioned.

Given under our hands on the day in the year and at the place last above written.

John James Harvey
L Narb Hughes D'Aeth

G.7. A map is embodied with the order (Illustration xxviii).

G.8. A certificate of completion (Illustration xxxii) confirms that the diversion was put into effect:

Kent (to wit)

We the undersigned two of Her Majesty's Justices of the Peace in and for the County of Kent having viewed a certain new highway being a diversion of a Highway or Bridle way leading from the Village of Bishopsbourne in the said County towards Pheasants Hall and Park Wood such new and diverted

Highway lying along the South Western side of the Elham Valley Railway in the said parish for the distance of 258 yards and forming a junction with the highway near to the Bishopsbourne Station leading to the Village of Bishopsbourne and to the parish Church Do hereby certify that the said new Highway has been completed and put into good condition and repair.

Given under our hands the 4th day of December 1890.

John James Harvey
L Narb Hughes D'Aeth J.P.

G.9. **Conclusion:** The order refers to the application way as a bridle way. The order therefore causes the way between A and B to be a bridleway with conclusive effect, and the way between C and A to be stopped up.

G.10. The order describes the application way as a whole to be a bridleway: 'a Bridleway situate in the said Parish of Bishopsbourne leading from the Village of Bishopsbourne towards Pheasants Hall and Park Wood in the same parish'. The order was made with the consent of:

- the inhabitants of the parish assembled in vestry, under the chairmanship of the rector of the parish;
- the operator of the railway (*i.e.* the Elham Light Railway Company) which had constructed its line to interfere with Park Lane; and
- the owner of the land to the north and south of the railway, crossed by Park Lane, and of the land comprised in the diversion between A and B, Matthew Bell Esq;

and was surveyed by 'Charles Robert Pyatt — a competent Surveyor', of Cooper & Wacher, Surveyors, of Canterbury, a local firm. It was highly unlikely that any mistake in the order as to the status of the way, as a whole, would be overlooked, and we can conclude therefore with confidence that the entire application way was considered to be a bridleway.

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.

H.5. All land had to be valued unless it was exempted by the Act.

H.6. The application way is excluded from colouring between P and C, as is the lower part of Park Lane between Bishopsbourne Street and P.

H.7. **Conclusion:** The Finance Act map is good evidence of the reputation of Park Lane as a public highway as far as C, at least of the status of bridleway.

I. Definitive map and statement

I.1. **Date:** 1951–52

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

I.3. **Description:** The application way was recorded on the parish return of rights of way in Bishopsbourne, supplied by the parish council to the county council on 30 October 1951, in fulfilment of its responsibilities under Part IV of the National Parks and Access to the Countryside Act 1949. The return referred to:

5. From Bishopsbourne Street in a south-westerly direction along Park Lane then north-westerly across School meadow to District Road opposite station approach.

6. From District Road at railway bridge in a south-easterly direction along farm road at side of railway for approximately 260 yards; thence in a south-westerly direction over B.R.No. 1 to District Road near Pheasant's Hall. The 260 yards section is metalled.

I.4. In the parish council's covering letter, it is stated:

I am also enclosing for consideration by the appropriate County Members, written evidence which has been furnished by the Bishopsbourne Parish Council in support of their claim that Paths Nos.1, 3 and 7 are footpaths and not bridle-roads as maintained by the Bridge Parish Council and to ask that my Council may be informed in due course of the conclusions reached in respect of such paths.

I.5. Annexed to the covering letter are several letters from tenant farmers declaring, to the best of their knowledge, the status as footpath of certain ways in the parish area (none of which includes the application way).

I.6. Paths 1, 3 and 7 are:

- 1: footpath CB296 (part, in Bishopsbourne parish), parallel to Bridge Hill
- 3: footpath CB286, from Court Lodge Farm north-west across Bourne Park to Bridge Hill
- 7: footpath CB288 (part, in Bishopsbourne parish), from Crows Camp west towards Little Pett Farm

I.7. **Conclusion:** The parish council recorded the application way as a footpath. It also recorded several other footpaths in the parish, which the neighbouring Bridge parish

council appears to have claimed as bridleways²⁰. The parish council was assiduous to claim such ways as footpaths — and indeed, all of the contested ways were recorded as footpaths on the draft definitive map. The correspondence suggests a disposition on the part of the parish council to exclude bridle rights where there was any doubt on the part of the council.

20 The parish return for Bridge is not among those scanned by Kent County Council.