



A.9. **Termination points:** from the western termination of bridleway ER16 to Ringwould Road (opposite Hangman's Lane)

A.10. **Termination points Ordnance Survey grid references:** TR35194795 via TR35254793

A.11. **Postcode:** CT14 8HQ

A.12. **Ordnance Survey Explorer sheet:** 138

A.13. **Ordnance Survey County Series 25" sheet:** Kent LVIII/15

## B. The appellant

B.1. The appeal, 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.

## C. Locational details

C.1. This appeal relates to a way connecting with recorded bridleway ER16. Bridleway ER16 leads west-south-west from a junction with Hangman's Lane in Ringwould village, referred to as X (OS grid reference TR35644816). Bridleway ER16, so far as recorded on the definitive map and statement, has no connection to a highway at its west-southwestern end. The appeal way closes the gap between recorded bridleway ER16 and Ringwould Road, the appeal way straddling the parish boundary between Langdon and Ripple.

C.2. The way is not currently recorded on the definitive map and statement. The appeal seeks to show that a definitive map modification order should be made to record the way as a public bridleway.

C.3. References in this appeal document to bridleway ER16 are to the recorded part of the bridleway between X and the start of the appeal way, referred to as A (TR35254793).

## D. Application and determination

D.1. The application was made by the appellant<sup>2</sup> on 28 July 2017 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)(iii), that particulars contained in the map and statement require modification, and to any extent necessary, under section 53(3)(c)(i), to show a way, comprising two limbs A–B and A–C, in the definitive map and statement for Kent as a bridleway.

D.2. The application was registered by Kent County Council in the register of applications with reference: PROW/DO/C397.

D.3. That application was refused in a determination dated 31 March 2023 and communicated to the appellant on 5 April 2023. However, the surveying authority decided on its own initiative to make a definitive map modification order in relation to recording the limb A–B acting under the free-standing duty imposed by s.53(2)(b) of the 1981 Act.

D.4. It follows therefore that an appeal lies<sup>3</sup> against the determination of the surveying authority to refuse to make the order applied for, in relation to limb A–C.

<sup>2</sup> *i.e.* the appellant acting on behalf of the British Horse Society.

<sup>3</sup> Under para.4(1) of Sch.14 to the 1981 Act.

D.5. Accordingly, the subject of the appeal is that an order should be made under section 53(3)(c)(i), so as to add a bridleway beginning at the meeting of the parish boundaries of Ringwoud with Kingsdown, Langdon, and Ripple, and the south-west termination of bridleway ER16 so far as is shown on the definitive map and recorded in the definitive statement, at A (TR35254793). Then turning west-northwest to pass along or inside the edge of a belt of woodland, straddling the parish boundary of Ripple and Langdon, for a distance of 60 metres to end on Ringwoud Road opposite the junction with Hangman's Lane at C (TR35194795).

D.6. The application also sought to add a bridleway beginning on Ringwoud Road in the parish of Langdon at the south-western corner of a triangular copse on the south-eastern side of the road near, but south-west of, the junction with Hangman's Lane, at B (Ordnance Survey grid reference TR35134785). The way proceeds north-east for 140 metres along the south edge of the copse and to pass through a belt of woodland, to point A. Kent County Council has decided on its own initiative to make an order for this purpose, and this appeal does not address this part of the original application. This way nonetheless is closely connected with the appeal way, and is referred to below as the way A–B.

D.7. The appellant gratefully acknowledges the position recorded in the determination which shows that there is no discrepancy between the definitive map and the definitive statement in relation to A–C, and that the way A–C is recorded in neither. The determination notes<sup>4</sup> that the present definitive statement records that bridleway ER16 has connections:

Ringwoud Road (D1939), Hangman's Lane (D1942) and track leading to D1939<sup>5</sup>

and that the first-mentioned connection to Ringwoud Road is accounted for by the spur of bridleway ER16 leading north-west from X and the connection to Hangman's Lane is made at X. Accordingly, the definitive map and statement are in agreement in recording that ER16 terminates at A — the definitive statement noting that from A, there is a 'track leading to D1939'. As the decision report observes (para.90),

the mention of a track, implies there was a physical track on the ground which may match either A–B or A–C, but the statement is not detailed enough to conclude...which.

## E. Grounds of appeal

E.1. This appeal is made against the determination of Kent County Council, as surveying authority, to refuse the appellant's application to that council for a definitive map modification order, as described in paras.I.D.1 to I.D.4 above. The appeal extends only to that part of the refusal which relates to the way A–C.

E.2. The authority determined<sup>6</sup> that there is:

4 At appendix B, para.88.

5 The D1939 is the Ringwoud Road which passes through C.

6 Decision report, appendix B, para.135.

not sufficient evidence to suggest claimed route A–C is a public highway, as such it is not reasonable to allege that this route should be recorded as a bridleway.

E.3. The appeal is brought on the grounds that:

- The authority was mistaken to conclude (para.130) that evidence of the appeal route on older maps ‘only indicate a physical route on the ground’, and that ‘these maps were unlikely to be concerned with differentiating between routes which were public or private’.
- The authority was mistaken to conclude (para.131) that the omission of the appeal way in the Railway plans (item III.H below) implied that, ‘the surveyor of these plans did not consider A–C a route of note (such as a public highway)’. In addition, new evidence shows that the appeal way was recognised in one such plan (the North Kent Railway 1846 at Illustration xviii below).
- That the authority was mistaken to conclude (para.132) that the only value attributable to the Ordnance Survey boundary records (item III.I below) is that these confer ‘no positive indication of this route being of highway status’.
- That the authority gave insufficient weight (para.133) to the representation of the appeal way on certain of the Ordnance Survey county series 1:2,500 maps (item III.J below).
- That the authority, in determining the application in respect of the appeal way, was wrong to conclude (para.134) that, ‘it cannot confidently be said whether the way would be considered public or private.’
- That the authority applied the wrong test in deciding whether to grant the application in respect of the appeal way. The authority determined (para.135) that,

there is not sufficient evidence to suggest claimed route A–C is a public highway, as such it is not reasonable to allege that this route should be recorded as a bridleway.

E.4. However, as regards the correct test, the test to be applied in relation to the application is whether the claimed way ‘subsists [Test A] or is reasonably alleged to subsist [Test B]’ (section 53(3)(c)(i) of the Wildlife and Countryside Act 1981: reference to Tests A and B added).

E.5. In *Todd v Secretary of State for Environment, Food and Rural Affairs*,<sup>7</sup> Evans-Lombe J noted (at [11]) that:

It is accepted that the former test [Test A] would require the authority to be satisfied of the subsistence of the right of way to the normal civil burden of proof i.e. on the balance of probabilities, whereas the latter test [Test B] imposes on the authority a lesser burden, namely one which obliges them only to be satisfied of the existence of facts which raise a prima facie case for the subsistence of the way.

E.6. Evans-Lombe J referred to the decision of the court in *R v Secretary of State for the Environment ex parte Norton and Bagshaw*,<sup>8</sup> in which Collins J said:

<sup>7</sup> [2004] EWHC 1450 (Admin): [www.bailii.org/ew/cases/EWHC/Admin/2004/1450.html](http://www.bailii.org/ew/cases/EWHC/Admin/2004/1450.html).

<sup>8</sup> [1994] 68 P&CR 402.

To answer either question must involve some evaluation of the evidence and a judgment upon that evidence. For the first of those possibilities to be answered in the affirmative, it will be necessary to show that on a balance of probabilities the right does exist. For the second possibility to be shown it will be necessary to show that a reasonable person, having considered all the relevant evidence available, could reasonably allege a right of way to subsist.

E.7. It is suggested that the authority erred in seeking to establish that there was 'sufficient evidence to suggest claimed route A–C is a public highway', and that the correct test is whether there is 'a *prima facie* case for the subsistence of the way'. On applying the correct test, it is suggested that Test B is satisfied.

E.8. Should the inspector determining the appeal conclude that the status of the way A–C is that of a right of way on foot only, the applicants seeks that the Secretary of State direct that an order be made to show the way as footpath vice bridleway.

## F. Route used on the ground

F.1. It should be noted that the alignment used 'on the ground', and presumably reinstated by the farmer following annual cultivation, lies not along X–A, but along X–C. This doubtless is for the eminently practical reason that the only physical outlet at present onto Ringwould Road is at C, and a bridleway sign has been erected by the highway authority at or near C.<sup>9</sup>

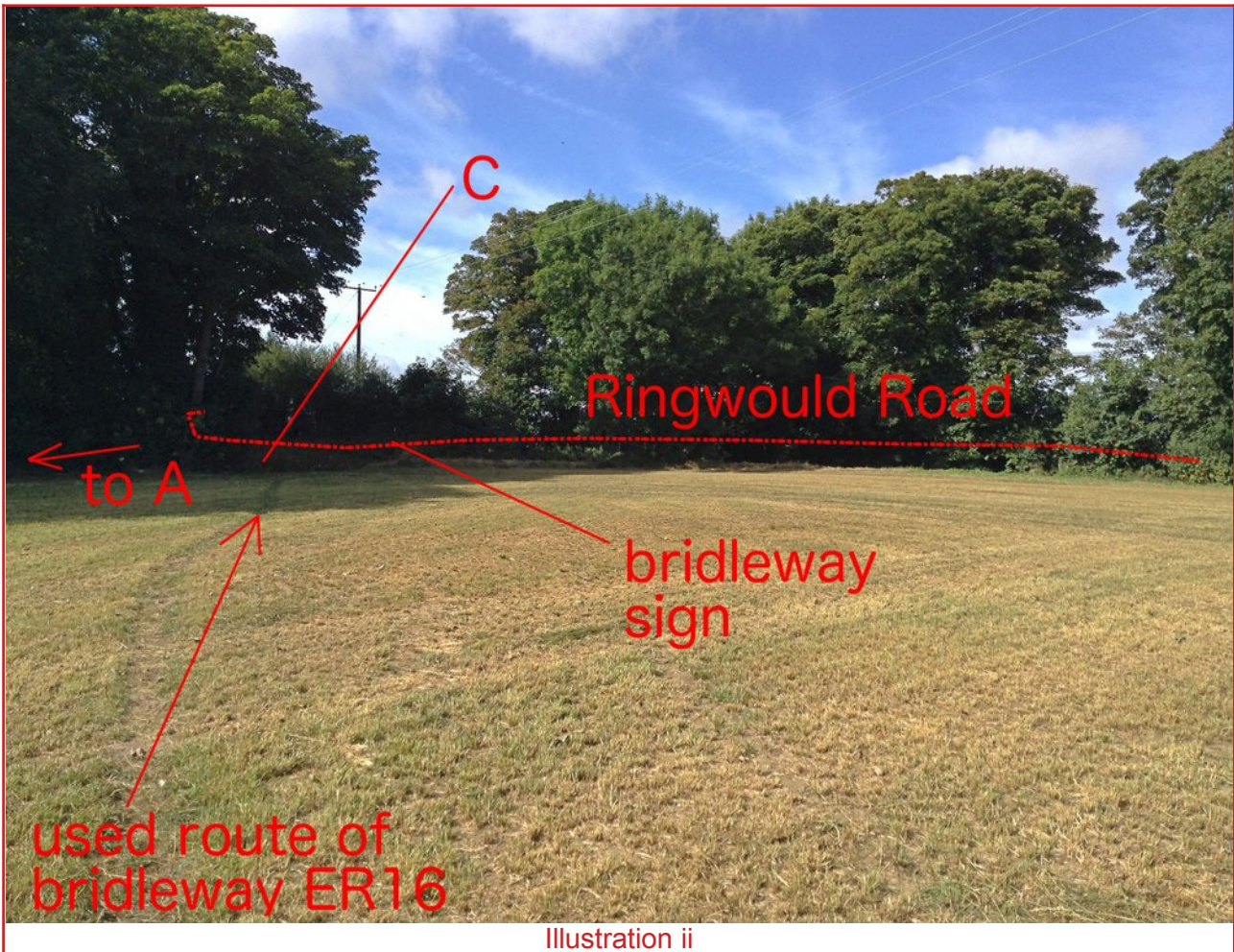
F.2. However, the line X–C is entirely different from the alignment shown on the definitive map and statement, nor is it (in any respect) part of the way comprised in the appellant's application.

F.3. Illustration ii below shows Ringwould Road on an approach along the informal line X–C of bridleway ER16, which terminates on the road at approximately C, where the public bridleway sign stands.

9 The bridleway sign and used line can be seen in July 2009 via Google Streetview at: [goo.gl/maps/ZwDS6Bu39PccemsV9](https://www.google.com/maps/@51.4585,0.7585,15z).



## Ringwould Road at C



F.4. The points B, A and C are identified in the application map at part II below.

## G. Background

G.1. Public bridleway ER16 leads out of Hangman's Lane (a residential street) in Ringwould village towards Ringwould Road. Bridleway ER16 may occupy the former course of Hangman's Lane from Ringwould to Sutton, although it is possible that Hangman's Lane, an enclosed way, adopted a more circuitous alignment via the other limb of bridleway ER16 (north-west from X) and then south-west along Ringwould Road to C: if so, then bridleway ER16 may be a long-established direct short-cut across fields (as it is recorded on several early maps as an unenclosed or partly unenclosed way). Hangman's Lane then continues north-west from C towards and over the railway line to Winkland Oaks Farm, West Langdon and Sutton (now bridleway EE451 and EE427).

G.2. On the definitive map for Kent, the south-western end of bridleway ER16 terminates (at point A on the application map at part II below) at a narrow belt of woodland which forms, and since time immemorial has formed, the parish boundary — now, between Ringwould with Kingsdown and Langdon and between Ripple and Langdon, but formerly, between a detached part of Sutton next Ripple and Oxney, and between Ringwould and Oxney.

G.3. The definitive map reflects the original parish survey for Ringwold (item III.L below), which recorded a public bridleway between Hangman's Lane in Ringwold village and the parish boundary. However, the definitive statement entry for bridleway ER16 records that the definitive bridleway has a connection with a 'track leading to D1939'. The statement therefore records that bridleway ER16 does connect with Ringwold Road via a track leading to that road.

G.4. Older maps show that the path continued in two directions from A, both to join Ringwold Road, at points B and C respectively, consistent with the application ways. It is clear that the alignment of bridleway ER16 is directly in line with a continuation of that way south-west into Langdon parish (formerly Oxney parish), along the application way A–B, and that the spur A–C was an alternative route to permit continuation along Hangman's Lane north-west towards West Langdon and Sutton.

G.5. To the north-east of A, from X (the junction of bridleway ER16 with Hangman's Lane in Ringwold village) to A, the definitive and original line of ER16 follows the ancient parish boundary between Ringwold and Kingsdown and Ripple (formerly, between Ringwold and a detached part of the parish of Sutton next Ripple). This boundary also marked the boundary of the liberty of the cinque port of Deal. The map prepared under the Finance (1909–1910) Act 1910 continues to show a boundary in land ownership which follows the then parish and liberty boundary. It seems likely that the boundary was at the least marked by boundary stones until the nineteenth century, and probably was in former times marked by a bank (which continues to be shown further east at Illustration xxvi below on the first edition Ordnance Survey county series 1:2,500 maps, item III.J). If so, the course of a way X–C would necessarily, in earlier times, have followed an alignment to the south of a direct line between these points, *i.e.* the line must have followed the south side of the boundary bank, along the established direct way X–A towards B, before turning off at A to reach C. The existence of the bank would have inhibited a more direct line between X and C.

G.6. Historically, there appears never to have been a direct line route X–C: it is only the absence both of a continuation of bridleway ER16 to B recorded on the definitive map and statement, and any enduring physical obstacle along the former parish and liberty boundary, which has given rise to the present (but unrecorded) alignment of the bridleway 'on the ground' direct between X and C.

G.7. The appeal therefore seeks a direction to record by means of a definitive map modification order a public bridleway in the parishes of Langdon and Ripple, to secure on the definitive map and statement the omitted way A–C.

G.8. In short, each of the two limbs, from A–B and A–C, represents an alternative route by which a member of the public might, now or historically, continue from bridleway ER16 to Ringwold Road.

G.9. The course of the appeal way A–C straddles the parish boundary between Ripple and Langdon, and historically, between the detached part of Sutton next Ripple and Oxney. In Illustration xxv, the OS boundary remark book for Oxney (item III.J below), and Illustration xxvi and xxvii, the first and second editions of the Ordnance Survey county series 1:2,500 maps, the relevant part of the parish boundary is shown as two feet east of the track of the former hedge ('2 ft. Tk. H.');

in Illustration xxvii, the third edition map, the boundary is shown as following the centre of the footpath. The application way A–C may

therefore be inferred to pass on the outside of the former hedge, and straddling the parish boundary.<sup>10</sup>

G.10. There can be little doubt that the public bridleway between Ringwoud and Ringwoud Road is a long-standing, continuous path, which has been defectively recorded on the definitive map and statement. This appeal, if granted, would be a step towards restoring the missing link A–C.

## H. Private rights

H.1. The surveying authority determined<sup>11</sup> that there is ‘not sufficient evidence to suggest claimed route A–C is a public highway, as such it is not reasonable to allege that this route should be recorded as a bridleway.’ It further concluded that evidence of the appeal way on older maps was on the basis that ‘these maps were unlikely to be concerned with differentiating between routes which were public or private’; that the representation of the appeal way in Railway plans (item III.H below) implied that, ‘the surveyor of these plans did not consider A–C a route of note (such as a public highway)’; that the Ordnance Survey boundary records (item III.I below) confer ‘no positive indication of this route being of highway status’; and that, ‘it cannot confidently be said whether the way would be considered public or private.’

H.2. However, there is considerable evidence of the existence of a way of some kind. It may be claimed that such a way is not necessarily a public right of way, and may be an easement, for private or estate use.

H.3. A private road (or path) must be attributable to either:

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

H.4. Neither context is remotely likely in relation to the appeal way. The path across the field from X to A is recorded as a public bridleway, which, for the purposes of the definitive map and statement, ends at A. The authority has resolved to make a definitive map modification order to record a bridleway A–B, in direct continuation of the bridleway X–A.

H.5. In these circumstances, the less favourable outcome for the appeal is that, in due course, the order to record a bridleway A–B is confirmed. (If the order were not confirmed, the only other plausible outcome is that the appeal way A–C must be a bridleway.)

<sup>10</sup> It is not clear why the parish boundary subsequently is marked as following the centre of the footpath, where formerly it was marked following a line outside the hedge. Perhaps this was belated recognition that the boundary line always followed a track next the hedge.

<sup>11</sup> Decision report, appendix B, paras.130–135.



H.6. However, there is good historical evidence of the existence of a way A–C which follows the current and historical parish boundary. It simply is not credible that users of the bridleway X–A did so only with the objective of continuing along A–B, and then joining Ringwould Road towards Martin. Inevitably, some of those users would have wished to continue along Hangman's Lane, and they needed only to turn right for a distance of about 60 metres, following the parish boundary and well established boundary of land ownership,<sup>12</sup> in order to reach Ringwould Road at C and so to cross over into Hangman's Lane.

H.7. There is no suggestion that there ever was any physical obstruction to making such a connection, and indeed the historical evidence confirms that there was a road or track along this line. Why would any such user have continued unnecessarily in the wrong direction for 140 metres to B, only immediately to double back for a similar distance, to return to C, in order to pick up the route along Hangman's Lane? Such a detour might be plausible in the context of a very long-standing physical obstruction (such as a stream or ditch) to an otherwise obvious short-cut, or where rights of way have been statutorily created under an inclosure award or diversion order. But that is not the case here.

H.8. It might be said that the landowners of the adjoining land on both sides of the parish boundary (because, straddling the parish boundary, the way was never wholly owned by one landowner) might have, at some time, challenged persons taking the short-cut along A–C. But we know that the way physically has been in existence for over 300 years (first shown on Francis Hill's Ringwould estate map at item III.A below), and quite probably is ancient in origin. It is not plausible that such a challenge could have been maintained continuously over a period of hundreds of years, in the context of an apparently open, unenclosed and ungated track, just 60 metres in length. And indeed, it is plain that users even now adopt a direct course X–C without challenge, notwithstanding that the line is not a recorded public right of way, and (unlike A–C) is wholly within the ownership of one landowner.

## I. Points awarded

I.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*<sup>13</sup>.

I.2. **Points:**

Item	Ref	Points C–A
Francis Hill's Ringwould estate map	III.A	1
Ordnance Survey, one inch surveyor's drawing	III.B	1
Ordnance Survey, Mudge-Faden one-inch map of Kent	III.C	1
Ordnance Survey, one-inch Old Series map of Kent	III.D	0
Greenwoods' map of Kent	III.E	1
Tithe Commutation Act 1836	III.F	3
Ringwould estate map	III.G	2

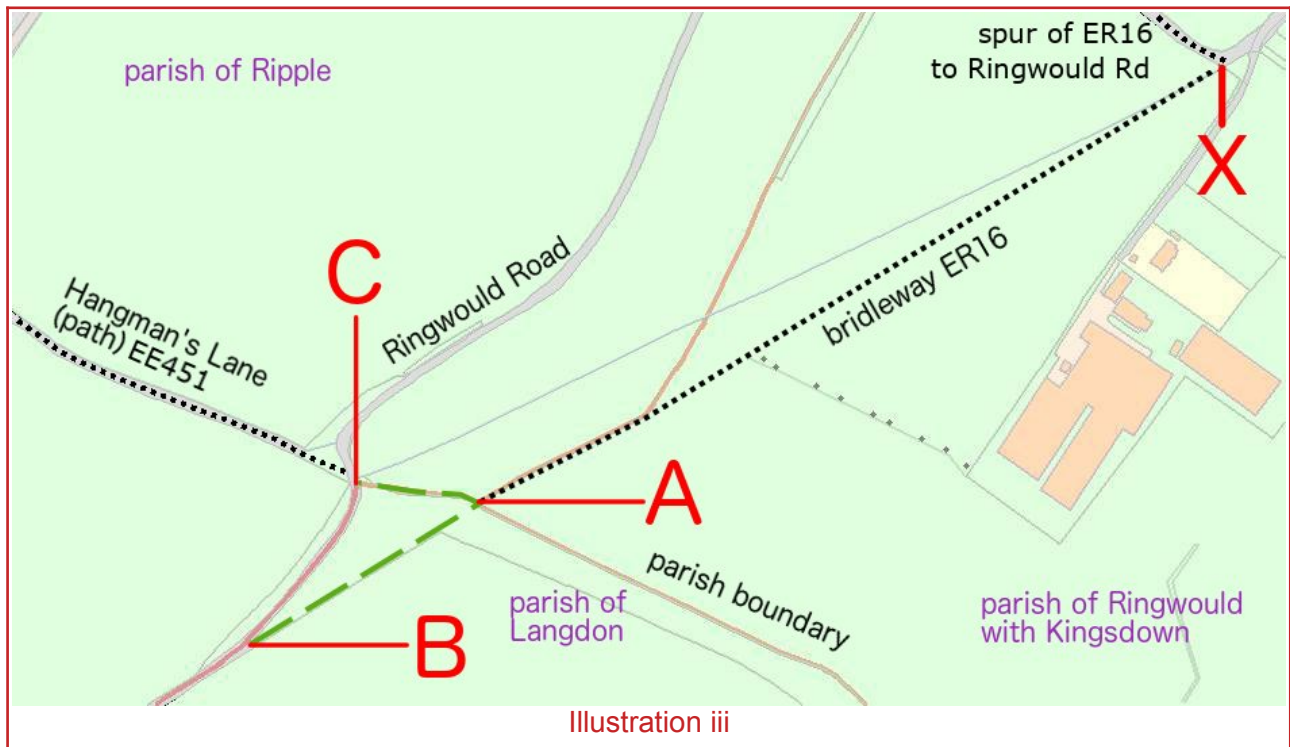
<sup>12</sup> The parish boundary continues to mark the boundary between two land holdings today.

<sup>13</sup> Sarah Bucks and Phil Wadey, 2<sup>nd</sup> ed. 2017.

Railway plans	III.H	0
Ordnance Survey boundary records	III.I	1
Ordnance Survey county series 1:2,500 maps	III.J	1
Ordnance Survey 1:25,000 map	III.K	0
Ringwould parish survey	III.L	0
<b>Total points</b>		<b>11</b>


## II. Application map

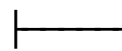
### Application map



Map centred on A at TR35254793

Scale: approx. 1:3,900 (when printed A4)

Application and appeal ways are marked 



50m

### III. Evidence

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#### A. Francis Hill's Ringwold estate map

A.1. **Date:** 1709

A.2. **Source:** Kent County Archives<sup>14</sup>

#### **Hill's Ringwold estate map**



Illustration iv

A.3. **Description:** original scale: not known; orientation: reorientated to 270° so that north is at top. A reproduction of the whole of the map is at Annexe IV.A below.

A.4. The map is annotated:

A Map and description of all y<sup>e</sup> lands belonging to a Certaine Farme, situate lyeing & being in y<sup>e</sup> two severall Parishes of Rings-wold, & Sutton, (nere Dover) in y<sup>e</sup> County of Kent; belonging to Herbert Jacob Esq<sup>r</sup> shewing y<sup>e</sup> Contents of

<sup>14</sup> De/P33.



each In-dividall Peece as also y Quantity in each feveral Feild, & Parifh, with y<sup>e</sup> Total of y<sup>e</sup> Whole, likewise fhewing y<sup>e</sup> Trees, Gates, ftiles, baare places, Ponds, foot-paths & horfe Roads leading thorow or by y<sup>e</sup> laid land w<sup>th</sup> y<sup>e</sup> Names of thofe Places leading to, alfo fhewing w<sup>t</sup>. fence belongs to y<sup>e</sup> land & w<sup>t</sup>. dos not w<sup>th</sup>. e Names of thofe Perfons whofe land bounders thereunto by y<sup>e</sup> Order of y<sup>e</sup> a boue laid Owner. Meafured & Mapt & herein defcribed by me Fra: Hill. 1709.

A.5. The map shows Ringwould Road, but also shows Hangman's Lane north-west from C, and a road south-east from C consistent with the application way A–C. No way is shown consistent with the application way A–B.

A.6. **Conclusion:** The land crossed by the existing bridleway ER16 is largely excluded from the estate being mapped by Francis Hill. The map shows the application way A–C as a road south-east from Ringwould Road at C. However, the destination of the road is unclear: the road is obscured by the cartouche in the top left hand corner of the map, and there is no continuation of the road beyond the cartouche. The same may be said of the main road leading from Dover and Ringwould to Deal (see Annexe IV.A below): this too appears to disappear behind a cartouche, and does not reappear beyond.

A.7. Although the map claims to show 'gates, stiles,...footpaths and horse-roads leading through or by the said land', the map does not deliver on the promise. It is not possible to state with certainty that the road shown on the map south-east from C is indeed the application way, in view of its omission between A and the village, but it seems likely, because no record has been found of any highway south-east from C along the parish boundary towards the road from Dover to Deal — even if such a way existed, it would have occupied the same alignment as the application way A–C. Perhaps the partial representation is explained by A–C at this time being enclosed, whereas the continuation C–X was an unenclosed field path which was not included on the map. An example of this distinction can be found in Illustration xviii (the North Kent Railway 1846 at item III.H below), which shows A–C to be enclosed, before (at C) opening into the field beyond, and in the Ordnance Survey, one inch surveyor's drawing (item III.B below).

A.8. The depiction of the road from C towards A, as a road of some substance, is therefore good evidence of the reputation of the application way at the date of the map, as at least a bridleway.

A.9. **Points:** 1

## B. Ordnance Survey, one inch surveyor's drawing

B.1. **Date:** 1797

B.2. **Source:** British Library<sup>15</sup>; National Archives<sup>16</sup>

### **OS Drawing: Canterbury (East)**



Illustration v

15 St Margaret's Bay: [www.bl.uk/onlinegallery/onlineex/ordsurvdraw/s/002osd000000006u00368000.html](http://www.bl.uk/onlinegallery/onlineex/ordsurvdraw/s/002osd000000006u00368000.html);  
Canterbury East: [www.bl.uk/onlinegallery/onlineex/ordsurvdraw/c/002osd000000017u00367000.html](http://www.bl.uk/onlinegallery/onlineex/ordsurvdraw/c/002osd000000017u00367000.html).

16 MR 1/599

**OS Drawing: St Margaret's Bay**



Illustration vi



## Topographic Survey manuscript 'fair' copy

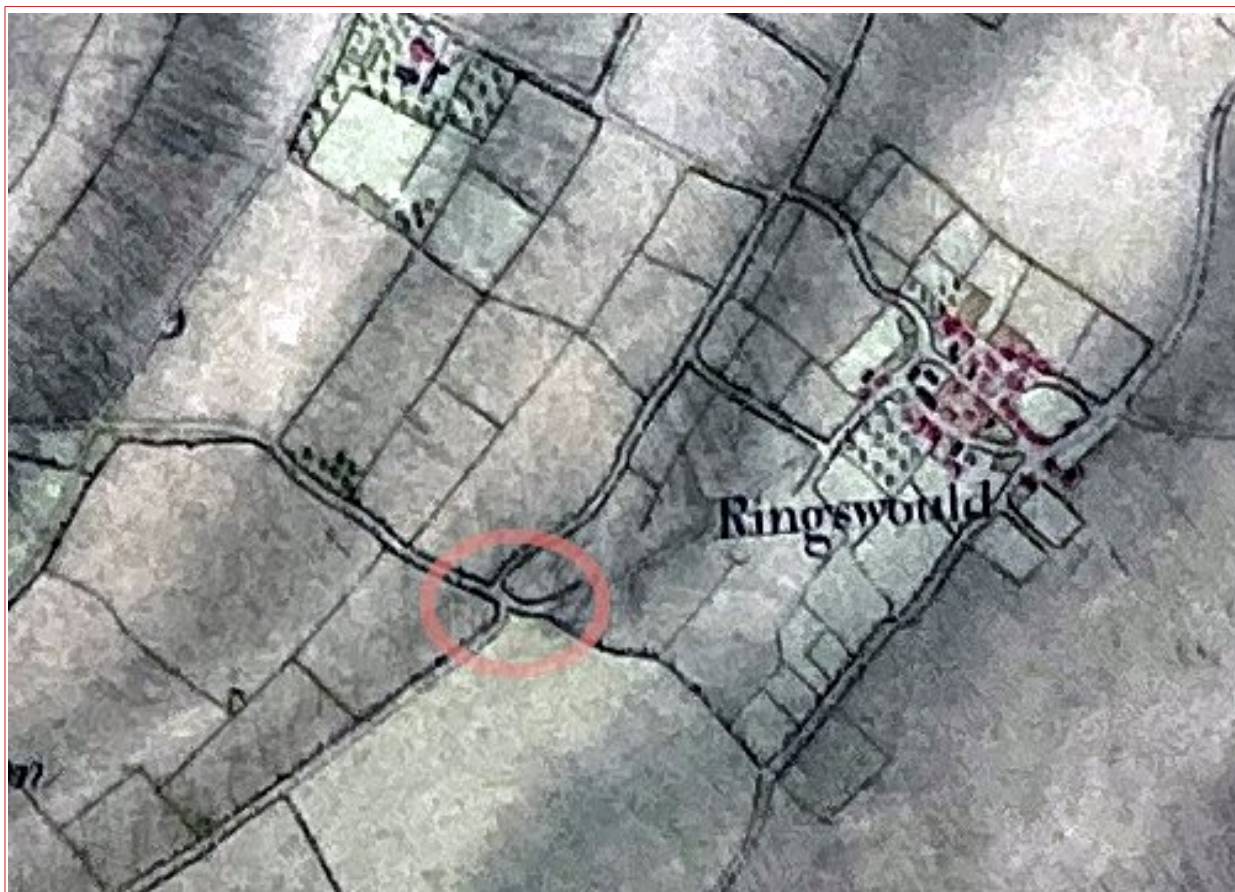


Illustration vii

B.3. **Description:** Original scale: believed to be 1:31,680 (two inches to one mile); orientation: unchanged (north).

B.4. Both drawings and the 'topographical survey' copy show the application way A–C, as part of a continuous way X–C. The part A–C appears to be shown enclosed (being drawn with a continuous casing), whereas the continuation X–C is drawn with pecked lines and appears to be unenclosed.

B.5. **Analysis:** Facing the threat of invasion, the English government commissioned a military survey of the vulnerable south coast. An accurate map of Jersey had already been made, soon after a French attempt to capture the island in 1781, but this had been restricted to government use only. The new maps were to be published at the detailed scale of one inch to the mile. Responsibility for what became an historic venture fell to the Board of Ordnance, from which the Ordnance Survey takes its name. From its headquarters in the Tower of London, engineers and draughtsmen set out to produce the military maps by a system of triangulation. The survey of Kent was first to go ahead and began in 1795 under the direction of the Board's chief draughtsman, William Gardner. Critical communication routes such as roads and rivers were to be shown clearly and accurately. Attention was paid to woods that could provide cover for ambush, and elaborate shading was used to depict the contours of terrain that might offer tactical advantage in battle.



Preliminary drawings were made at scales from six inches to the mile, for areas of particular military significance, down to two inches to the mile elsewhere.<sup>17</sup>

B.6. It seems that good copies were made of the drawings to be held by the War Office. These copies are now held in the National Archives, described as, 'Topographic Survey manuscript 'fair' copies of Kent & Sussex, surveyed by Gardner & Yeakell, at 3 inches to 1 mile'.<sup>18</sup> The conditions in which they have been stored, rolled, have ensured better preservation of the drawings.

B.7. **Conclusion:** The Ordnance Survey drawings show the application way A–C as part of a route between Ringwould village, continuing north-west along Hangman's Lane towards West Langdon, which coincides with the course of bridleway ER16 X–A. The drawings provide good evidence of the existence of the application way A–C at the end of the eighteenth century.

B.8. **Points:** 1

17 From the Curator's introduction to the Ordnance Survey drawings, British Library:  
[www.bl.uk/onlinegallery/onlineex/ordsurvdraw/curatorintro23261.html](http://www.bl.uk/onlinegallery/onlineex/ordsurvdraw/curatorintro23261.html).

18 *Topographical survey and early Ordnance Survey maps at the National Archives: Public Record Office*, Ivan Parr, published in *Sheetlines* (Charles Close Society), no 68 (December 2003), pp.35–43 at p.38

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

C.1. **Date:** 1801

C.2. **Source:** Kent County Archives<sup>19</sup>

### **Mudge-Faden one-inch map 1801**



Illustration viii

C.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.

C.4. The Mudge-Faden map shows an unenclosed way approximately along the alignment of bridleway ER16 south-west from Ringswold to approximately A, continuing west-north-west to a junction with Ringswold Road at C, opposite Hangman's Lane. No way is shown consistent with the application way from A to B.

C.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. The Mudge-Faden map provides some

<sup>19</sup> Also available at: [mapco.net/kent1801/kent52\\_02.htm](http://mapco.net/kent1801/kent52_02.htm)



evidence for the existence of a public highway A–C, as part of a route between Ringwold village, continuing north-west along Hangman’s Lane towards West Langdon, which coincides with the course of bridleway ER16 X–A.

C.6. **Points:** 1

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

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

D.2. **Source:** National Library of Australia<sup>20</sup>

#### OS Old Series one-inch map



D.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.

D.4. The map shows a way approximately along the alignment of bridleway ER16 south-west from Ringwold to approximately A, continuing west-northwest to a junction with Ringwold Road at C, opposite Hangman’s Lane. No way is shown consistent with the application way A–B.

<sup>20</sup> <http://nla.gov.au/nla.obj-231917365>.

D.5. **Conclusion:** The Ordnance Survey Old Series map is of some evidence for the existence of a public highway A–C.

D.6. **Points:** 0 — no points are scored as this map is repetitive of the Mudge-Faden map at item III.C above.

## E. **Greenwoods' map of Kent**

E.1. **Date:** 1819–20

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

### **Greenwoods' map**



Illustration x



## Greenwoods' map key



Illustration xi

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

E.4. Greenwood's map shows a way approximately along the alignment of bridleway ER16 south-west from Ringwold to approximately A, continuing west-northwest to a junction with Ringwold Road at C, opposite Hangman's Lane. The way is described in the key as a 'cross road'. No way is shown consistent with the application way from A to B.

E.5. Christopher and John Greenwood were among the notable firms of publishers in the period 1820–50 who attempted to produce large-scale maps of the counties in competition with the Ordnance Survey. In the long run their efforts were unsuccessful but before giving up the struggle they published between the years 1817 and 1830 a series of splendid large-scale folding maps of most of the counties based on their own surveys. Unfortunately, they were unable to complete the series, but published large scale maps of all the counties except Buckinghamshire, Cambridgeshire, Herefordshire, Hertfordshire, Norfolk, Oxfordshire and Rutland.<sup>21</sup>

E.6. **Analysis:** In *Fortune v Wiltshire Council*,<sup>22</sup> Lewison LJ wrote in his judgment of the court:

As the judge [at first instance] pointed out, in 1829 the expression 'cross road' did not have its modern meaning of a point at which two roads cross. Rather in 'old maps and documents, a "cross road" included a highway running between, and joining other, regional centres'. Indeed that is the first meaning given to the expression in the Oxford English Dictionary ('A road crossing another, or running across between two main roads; a by-road').

E.7. In *Hollins v Oldham*,<sup>23</sup> HHJ Howarth (sitting as a High Court Judge) said, in relation to *Burdett's Map of Cheshire* dated 1777, which adopted the same classification as the Greenwood's map in relation to roads:

<sup>21</sup> From *Antique Maps*, C Moreland and D Bannister, 1983.

<sup>22</sup> [2012] EWCA Civ 334: [www.bailii.org/ew/cases/EWCA/Civ/2012/334.html](http://www.bailii.org/ew/cases/EWCA/Civ/2012/334.html).

<sup>23</sup> [1995] (unreported) C94/0206.

Burdett's map of 1777 identifies two types of roads on its key: firstly turnpike roads, that is to say roads which could only be used upon payment of a toll and, secondly, other types of roads which are called cross roads. That does not mean a place where two roads cross (as one would understand it to be in this case) but a road called a cross road. This latter category, it seems to me, must mean a public road in respect of which no toll was payable. This map was probably produced for the benefit of wealthy people who wished to travel either on horseback or by means of horse and carriage. The cost of such plans when they produced would have been so expensive that no other kind of purchaser could be envisaged. There is no point, it seems to me, in showing a road to such a purchaser which he did not have the right to use. Pingot Lane must have been considered, rightly or wrongly, by Burdett as being either a bridle way or a highway for vehicles.

E.8. It is accepted that not every road shown on the Greenwoods' map must (if it is not a turnpike) inevitably be a cross-road — undoubtedly there are exceptions, such as some (but not all) roads leading only to isolated farmsteads or country houses. But it is submitted that, where a road is connected to highways at either end, it is more likely than not to be shown because it was recognised as a cross-road and of utility to the public who might buy the map.

E.9. **Conclusion:** Greenwood's map is good evidence for the existence of a public highway A–C. The key describes the route as a 'cross road', which is suggestive of a highway of inferior status to turnpike roads (separately marked).

E.10. **Points:** 1



**Oxney tithe map**

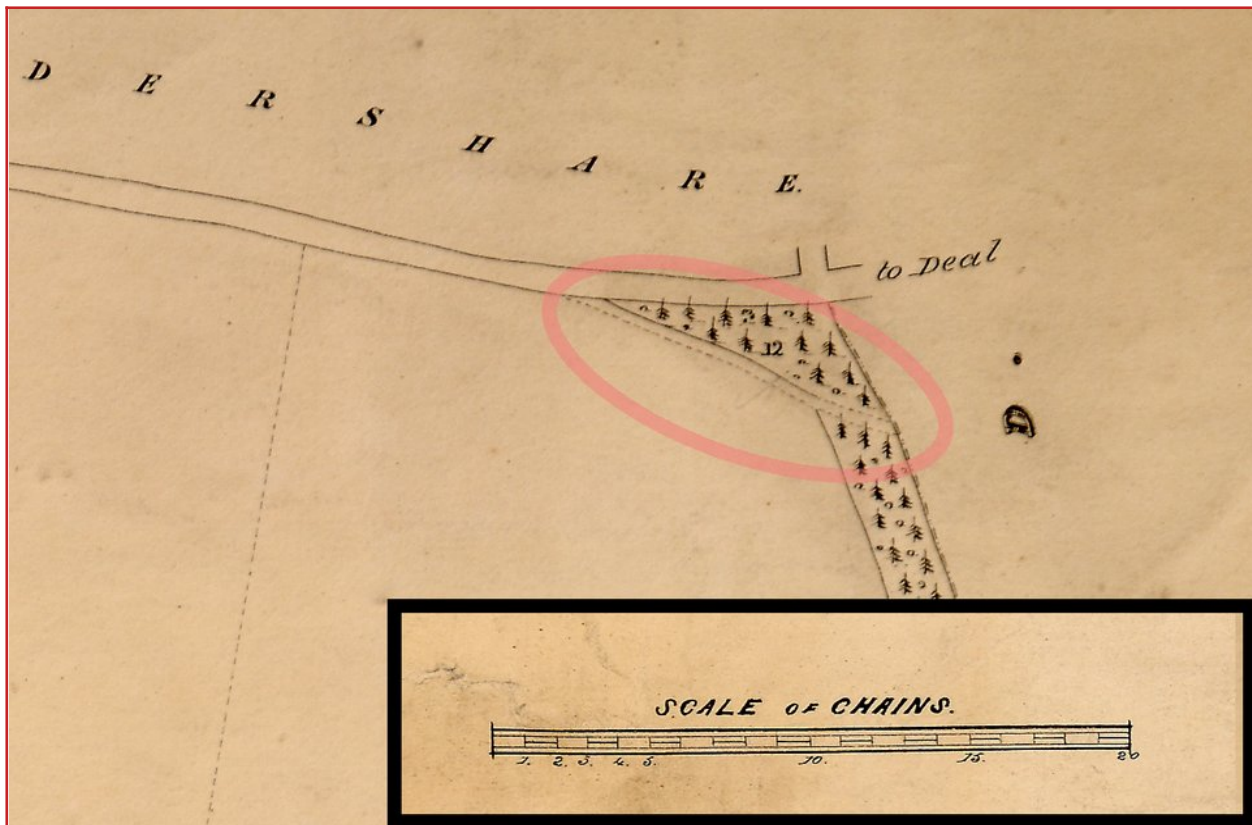


Illustration xiii



**Ringwould tithe map**



Illustration xiv



Waldershare. None of the roads coloured ochre on the tithe map is marked with a tithe parcel number, and these roads are collectively referred to in the tithe award schedule as 'Public Roads': the tithe award schedule elsewhere enumerates 11 occupation roads which are marked on the tithe map with discrete parcel numbers, and it may therefore be concluded that those roads coloured ochre are public roads.

F.8. The tithe map for Oxney shows only the application way A–B.

F.9. The tithe map for Sutton shows the application way approximately as a continuation of bridleway ER16 towards C, though it cannot be stated with confidence that the way lies through A.

F.10. The tithe maps (other than that for Oxney) are generally supportive of the existence of the appeal way at the time of the tithe redemption survey, and the ochre colouring of the application way between A and C on the tithe map for Waldershare is strongly suggestive of a public right of way of at least bridleway status.

F.11. **Points:** 3



## G. Ringwould estate map

G.1. **Date:** 1846

G.2. **Source:** Kent County Archives<sup>26</sup>

### Ringwould estate map (Holtum)

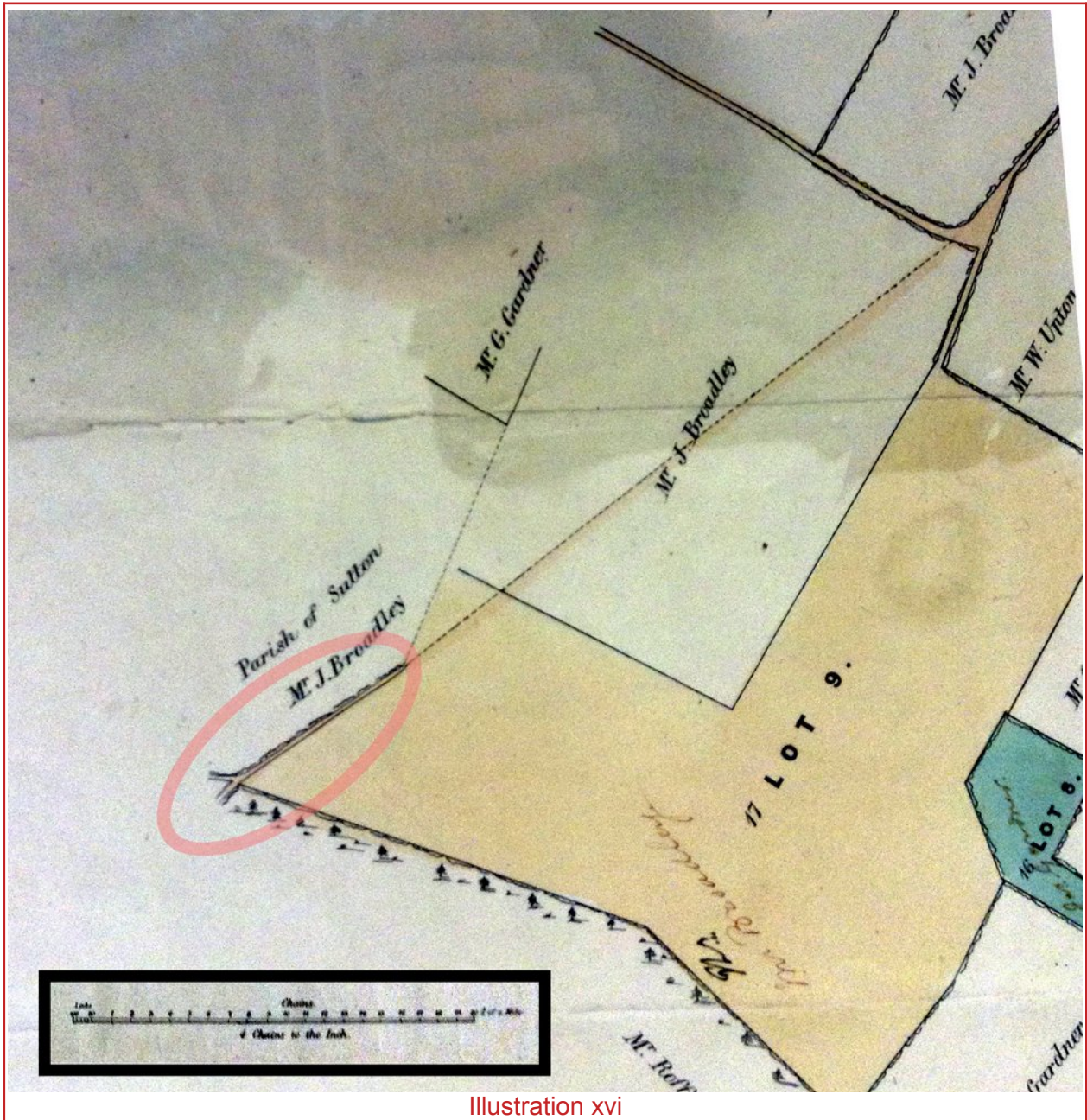


Illustration xvi



## Enlargement of A



G.3. **Description:** original scale: 4 chains to the inch — the map contains a scale marked in chains [20 chains, marked at intervals of 1 chain]; orientation: rotated by 270° so that north is at the top. This is a map of an estate at Ringwould, apparently for sale, as the land is identified into separate lots. The map was drawn by W Holtum of Walmer. The map shows various roads and paths coloured in ochre. The map shows a track along the line of definitive public bridleway ER16 from X, across parcel 17, named West Field (part of lot 9). At the parish boundary at A, the way bifurcates, with truncated spurs in the directions of both B and C; the line between X and A, and perhaps a short part of the spur to B, is partly coloured ochre.

G.4. **Conclusion:** The spurs from A are consistent with public paths to both B and C. The representation of the way as an enclosed lane coloured ochre is suggestive of status as bridleway. As both spurs are beyond the extent of the estate being marketed, neither spur is fully drawn or coloured to points B and C.

G.5. **Points:** 2

## H. Railway plans

H.1. **Date:** 1861–1874

H.2. **Source:** Kent County Archives<sup>27</sup>

### North Kent Railway 1846

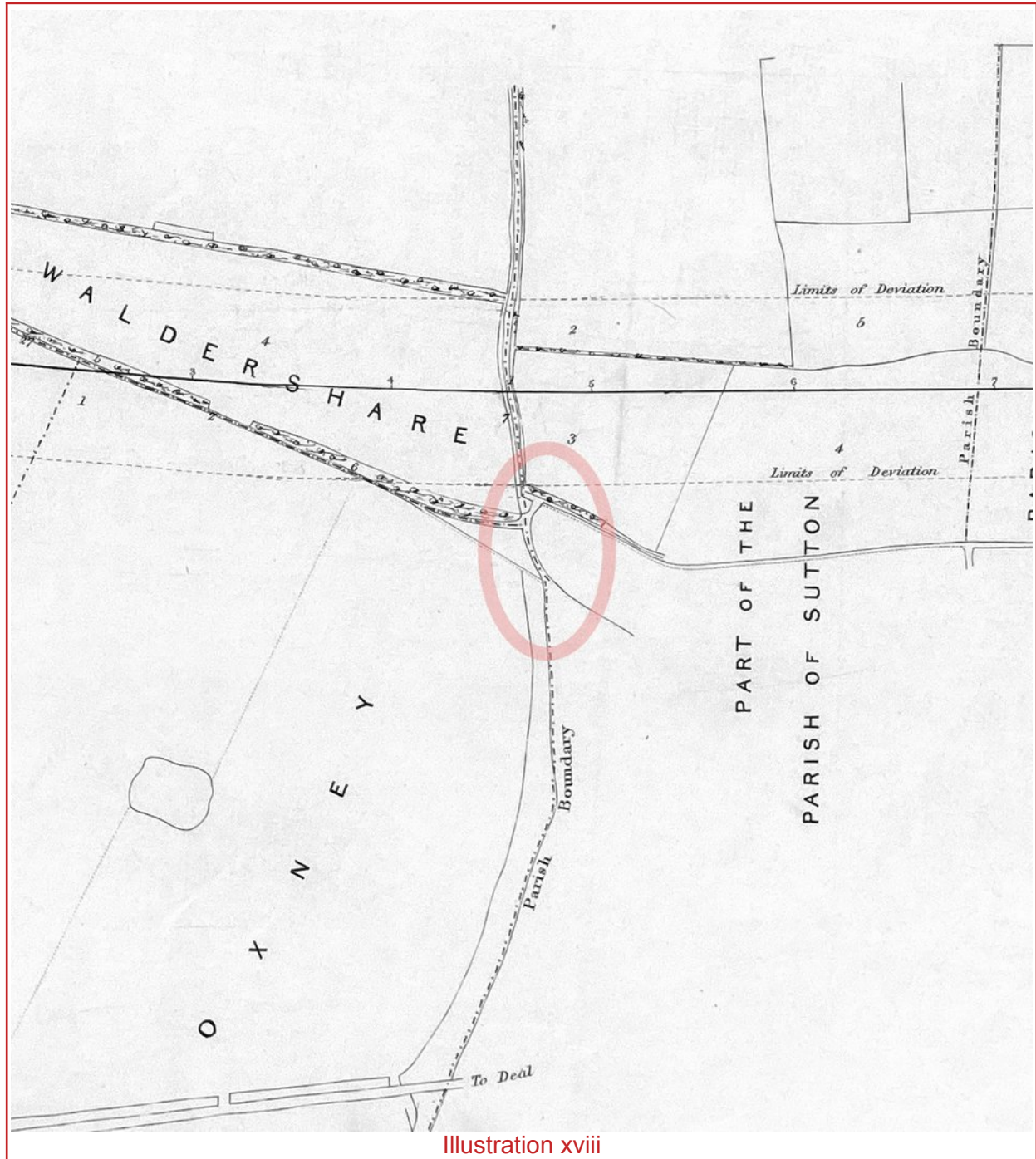


Illustration xviii

27 Q/RUm/293, 460, 517, 623, 634

**London Chatham and Dover Railway (Extensions to Walmer and Deal) 1861**

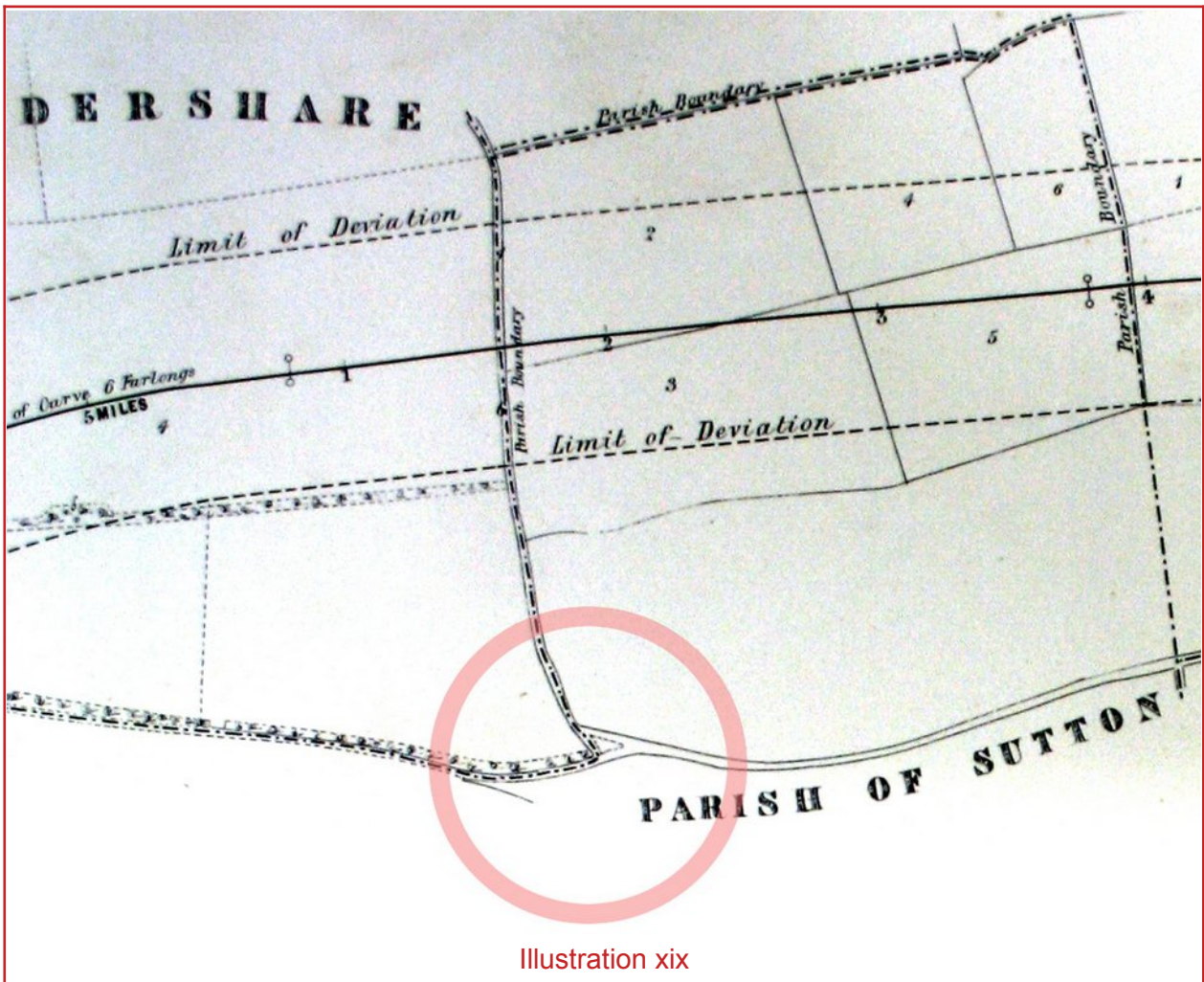


Illustration xix



**Deal and Dover Railway 1864**

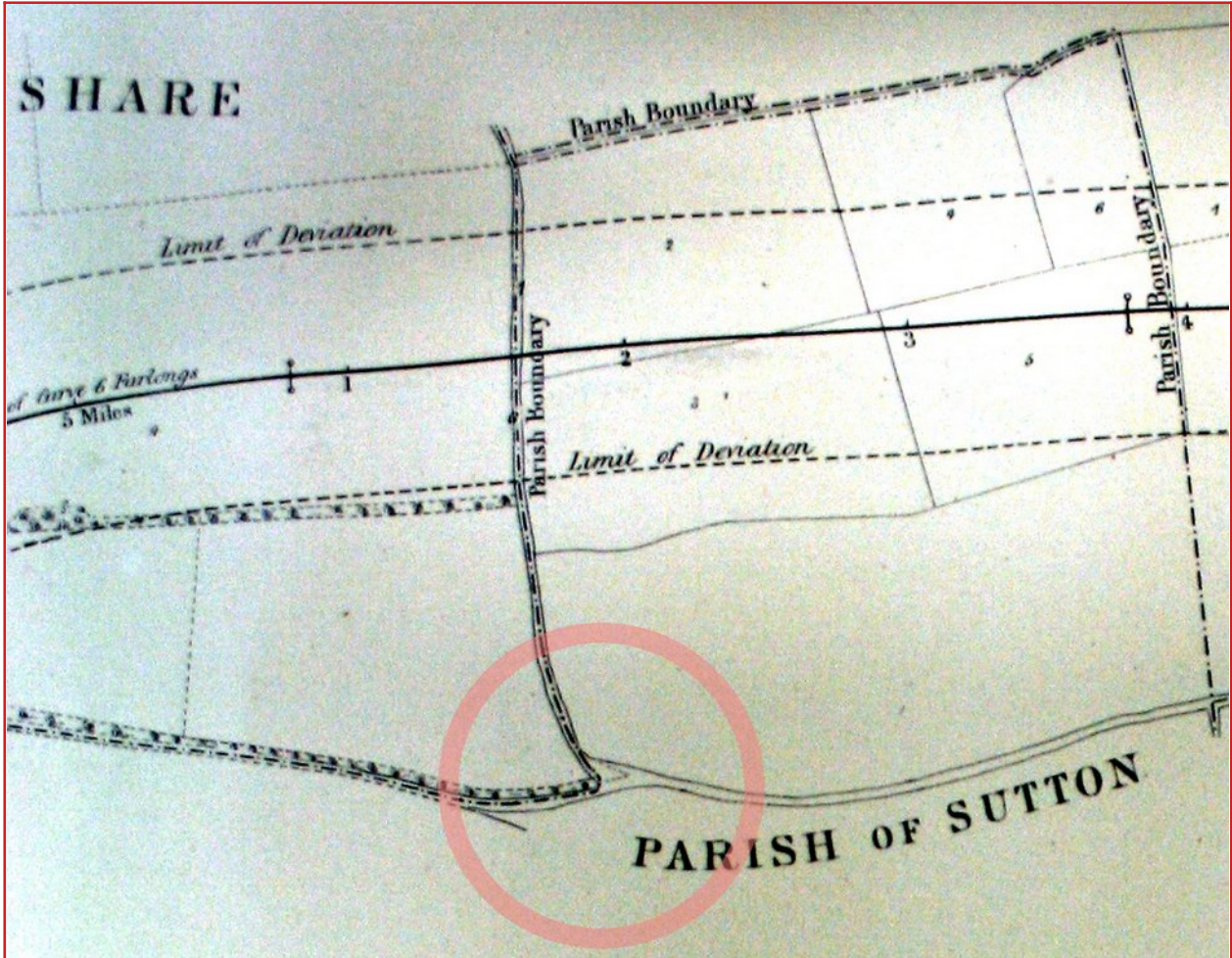


Illustration xx



**Dover and Deal Railway 1873–74**

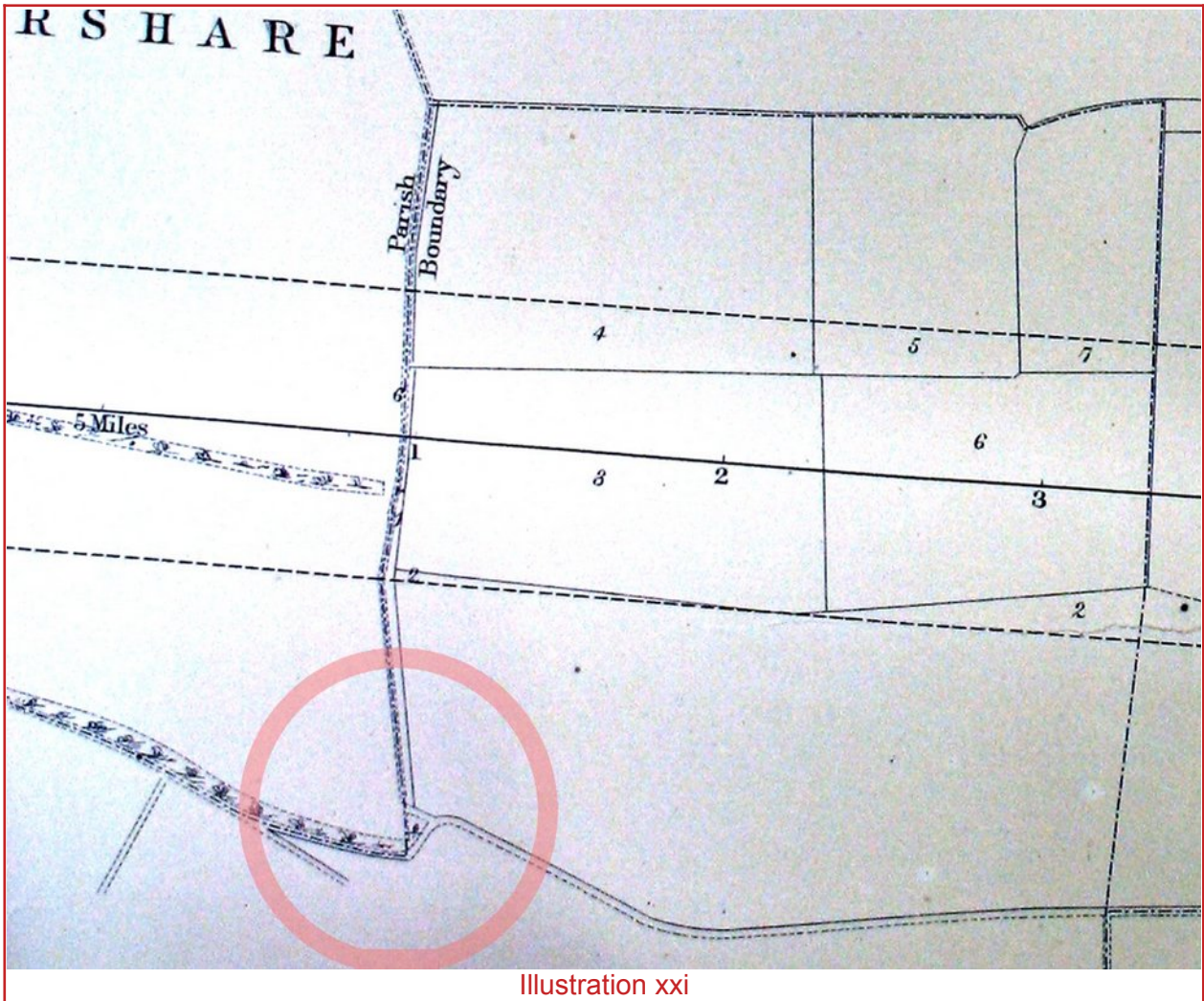


Illustration xxi

## South Eastern Railway (Dover and Deal) 1873–74

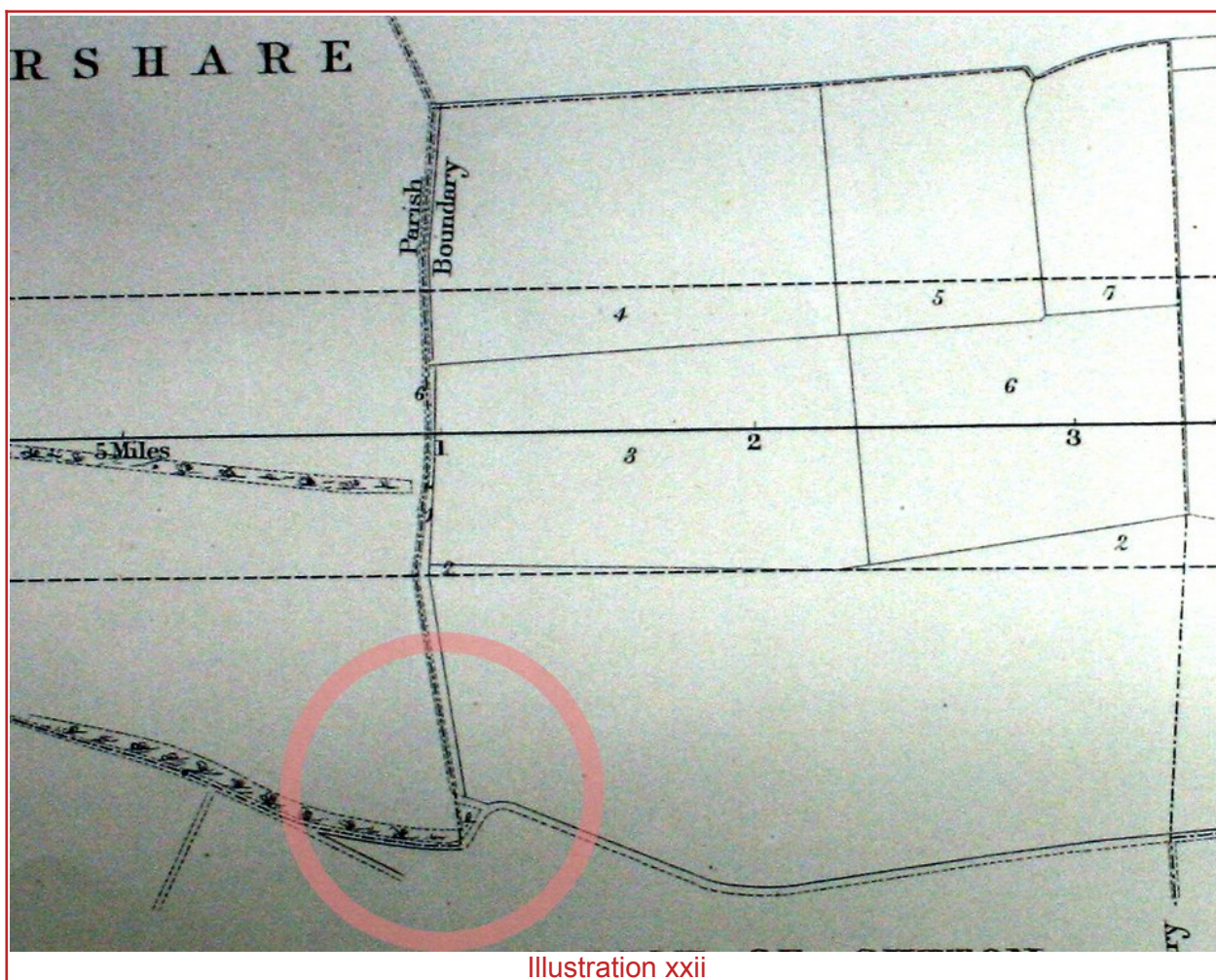


Illustration xxii

H.3. **Description:** Proposals to extend the railway from Deal to Dover were brought forward contemporary with the railway opening to Deal station in 1847, but various schemes fell through, until eventually the South Eastern Railway and the London, Chatham & Dover Railway co-operated on a joint railway running inland through Martin. Five Bills were brought before Parliament for this route, between 1846 and 1874 (in addition to others for a route on a line further to the south-east).

H.4. The extracts are from the deposited plans for each Bill — only the last of these, the South Eastern Railway, was eventually built, belatedly opening in 1881. The plans show the railway line crossing Hangman's Lane north-west of the crossing of Ringwold Road, and the limits of deviation do not include land south of Ringwold Road, nor the appeal way.

H.5. All of the plans either show or allude to the application way A–B. In Illustration xviii, the way is shown from A to B as a track with pecked casing on the south side; in Illustration xix and Illustration xx, a single line coincides with the way north-east from B towards A; in Illustration xxi and Illustration xxii, the way is shown from B towards A by double pecked lines.

H.6. However, the appeal way A–C is identified only in Illustration xviii (the North Kent Railway 1846), perhaps because the planned alignment of the railway was slightly further



to the south-east of the later proposals and therefore nearer to the way A–C. The appeal way is shown as a track following the parish boundary, which opens out into the field at A. As the land is outside the limits of deviation, no part of the relevant land is identified in the book of reference.

H.7. **Conclusion:** The plan for the North Kent Railway 1846 convincingly shows the course of the appeal way, but is silent on its status. Later plans do not show the appeal way (but some show the application way A–B), perhaps because it was well beyond the limits of deviation and of no concern.

H.8. **Points:** 0

## I. Ordnance Survey boundary records

I.1. **Date:** 1869–71

I.2. **Source:** National Archives<sup>28</sup>

### Boundary sketch map, Ripple

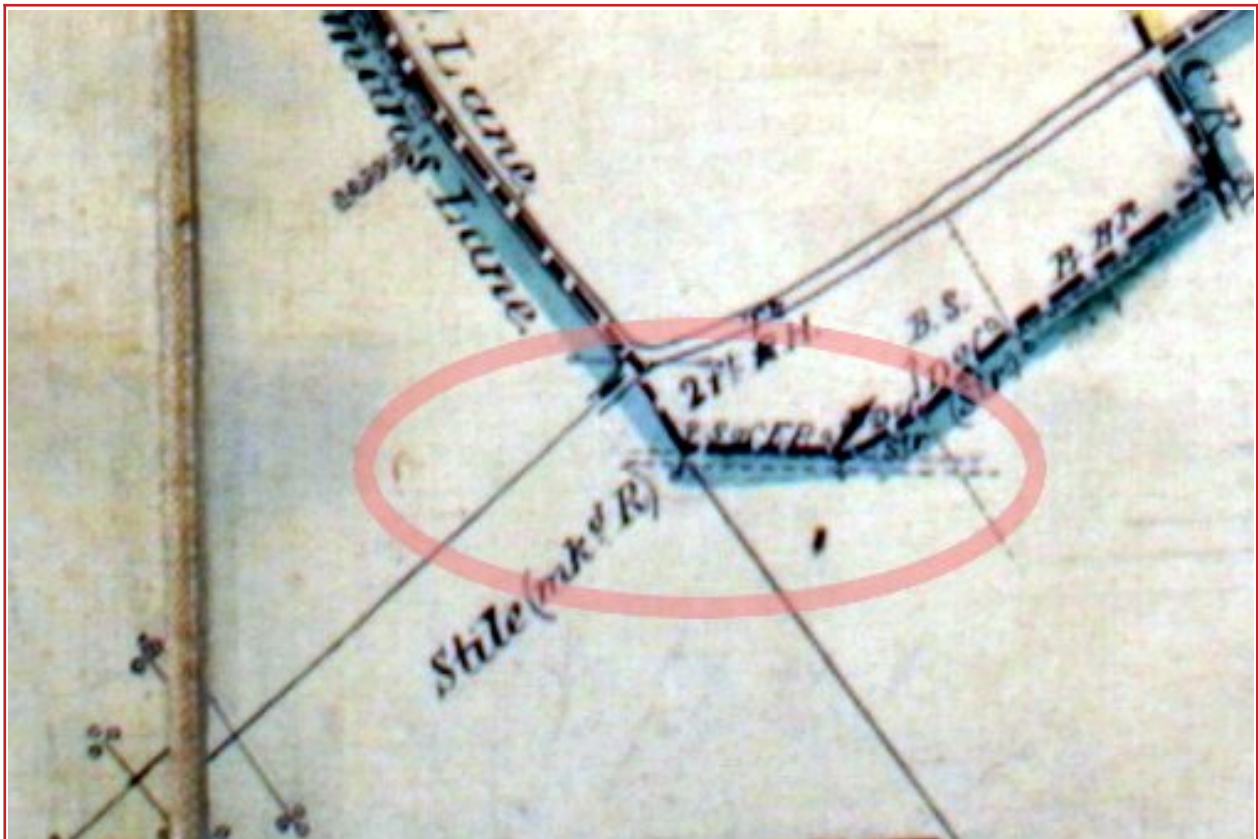


Illustration xxiii

**Boundary sketch map, Waldershare**

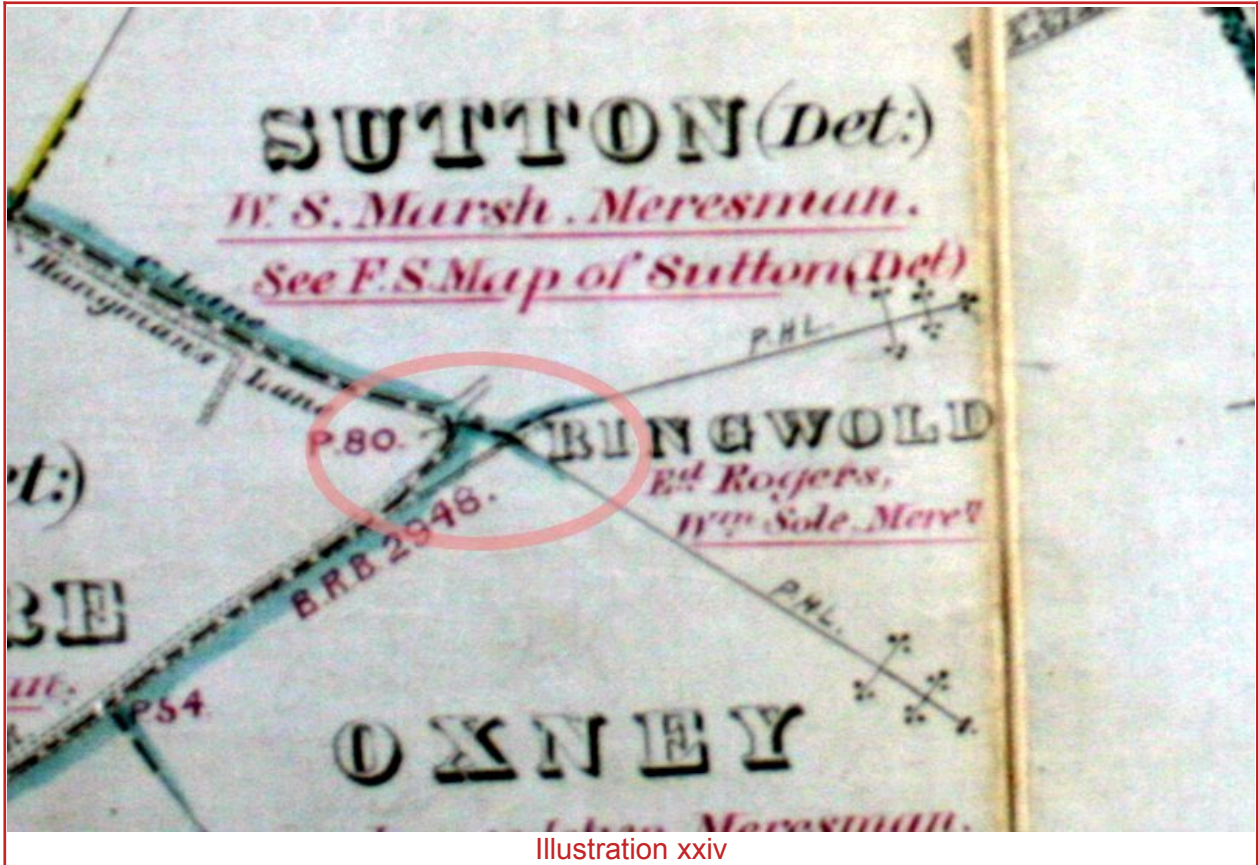


Illustration xxiv



## Boundary remark book, Oxney

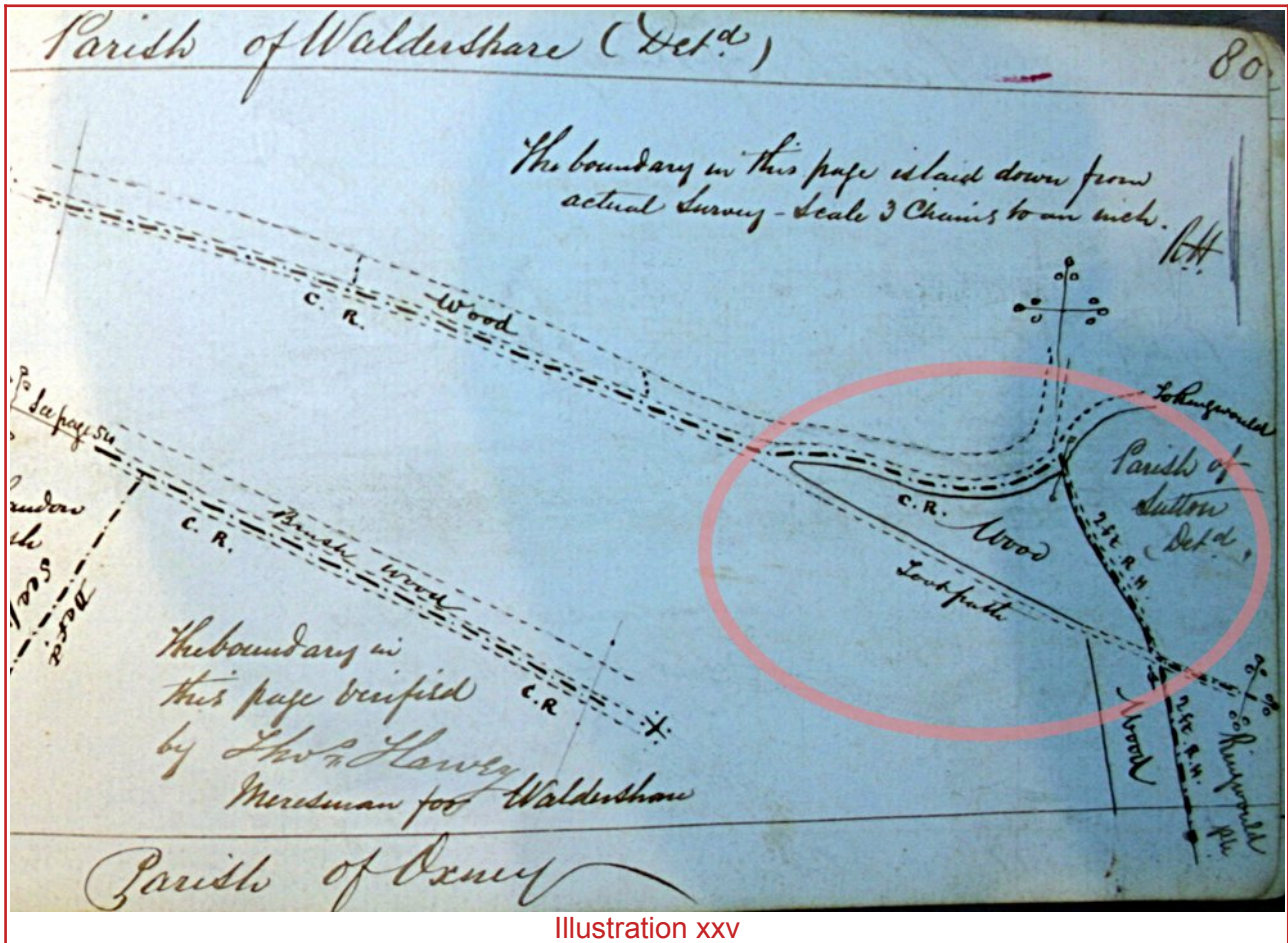


Illustration xxv

I.3. **Description:** original scale: boundary sketch maps for Ripple, Sutton (Illustration xxiii) and Waldershare (Illustration xxiv), 12 chains to the inch; boundary remark book for Oxney (Illustration xxv), 3 chains to the inch (see below); orientation: unchanged for all. The boundary sketch maps dates from the 1860s, and record the Ordnance Survey's surveyor's efforts to capture the precise location of parish boundaries from local knowledge.

I.4. The boundary between the parishes of Ringwold and Sutton (detached) (Illustration xxiii) was recorded south-west along part of the line of definitive public bridledway ER16 as far as A, before turning west-northwest along the belt of woodland to C. The bridledway is shown as an unenclosed track, and the boundary is labelled 'S of FP' (i.e. side of footpath). The boundary changes direction at A at a point labelled 'stile (mk<sup>d</sup> R)' (possibly meaning 'marked right'). However, there is nothing to indicate a path or track along the boundary A-C.

I.5. The boundary of the parish of Waldershare (Illustration xxiv) was recorded along Ringwold Road and then turning up Hangman's Lane, but the surveyor also included a track along the line A to B, to link to the boundary of Sutton and Ringwold.

I.6. The boundary remark book for Oxney and neighbouring parishes (Illustration xxv) records the boundary between Oxney and Waldershare (detached) parish: the way A-B is marked at a 'Footpath' in direct continuation of what is recorded today as bridledway ER16. The page is endorsed that: 'The boundary in this page is laid down from actual Survey —

Scale 3 Chains to one inch.’ It is also stated that: ‘The boundary in this page verified by Thos Harvey Meresman for Waldershare’. The appeal way A–C is marked as a track, along which the parish boundary (between Sutton and Oxney) is defined as 2 feet from the root of hedge.

I.7. **Conclusion:** Only the boundary remark book for Oxney clearly identifies a path or track A–C, following a hedge (later removed or absorbed into the belt of woodland), so that the parish boundary follows a line two feet from the root of hedge, which must therefore lie along the track itself. This is consistent with the third edition Ordnance Survey county series 1:2,500 maps (item III.J below) at Illustration xxviii, which records the parish boundary as ‘C.F.P.’ — i.e. along ‘centre of footpath’.

I.8. **Points:** 1

## J. Ordnance Survey county series 1:2,500 maps

J.1. **Date:** 1898–1945

J.2. **Source:** British Library<sup>29</sup>; National Library of Scotland<sup>30</sup>; Oldmaps.co.uk<sup>31</sup> (© Crown copyright and database rights Oldmaps.co.uk 2016)

### OS 1:2,500 County Series 1st edition (published 1873)

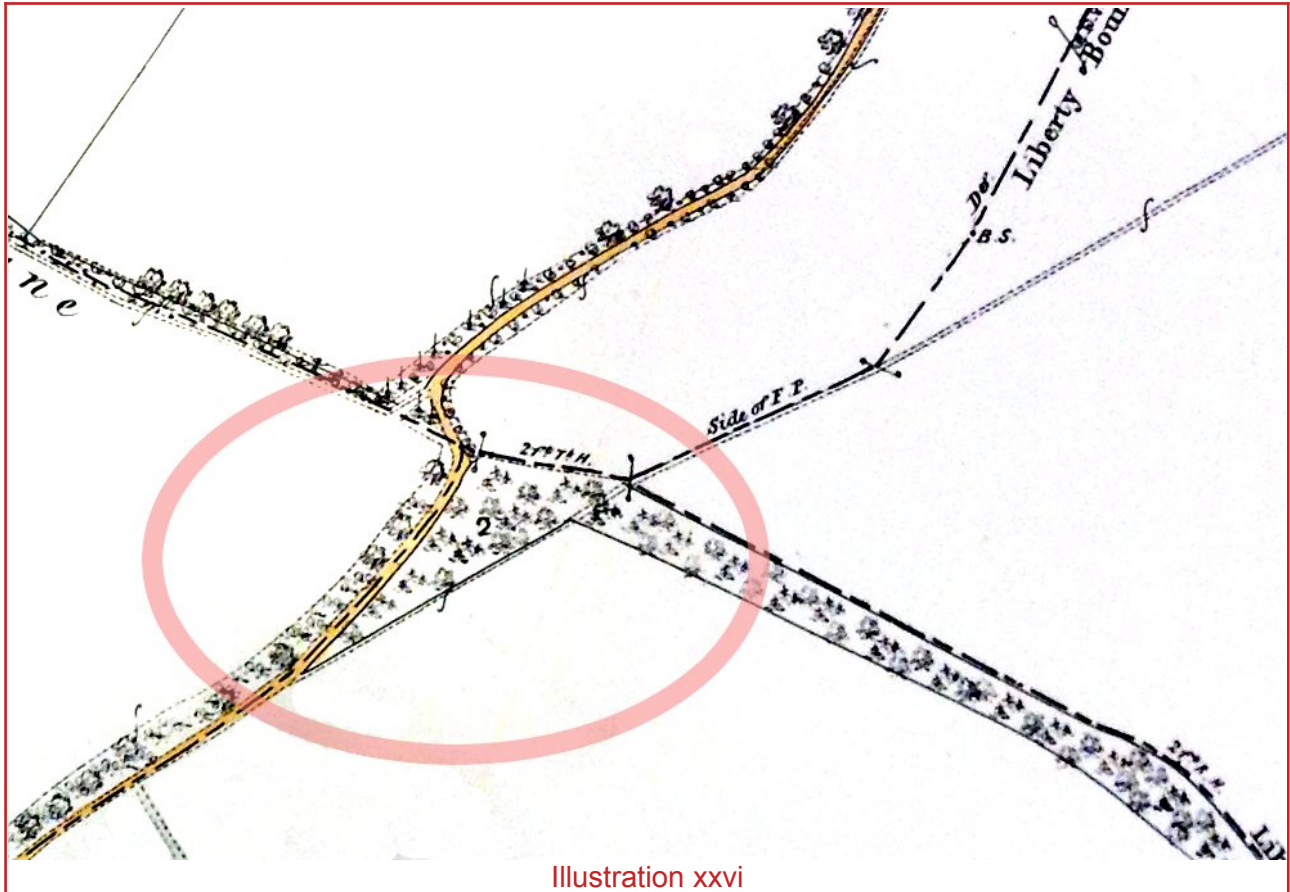


Illustration xxvi

29 OS sheet LVIII–15, County Series first edition.

30 OS sheet LVIII–15, County Series second, third and fourth editions: [maps.nls.uk/view/103681985](https://maps.nls.uk/view/103681985); [maps.nls.uk/view/103681982](https://maps.nls.uk/view/103681982); [maps.nls.uk/view/103681979](https://maps.nls.uk/view/103681979).

31 National Grid plan TR3547.

OS 1:2,500 County Series 2nd edition (published 1898)

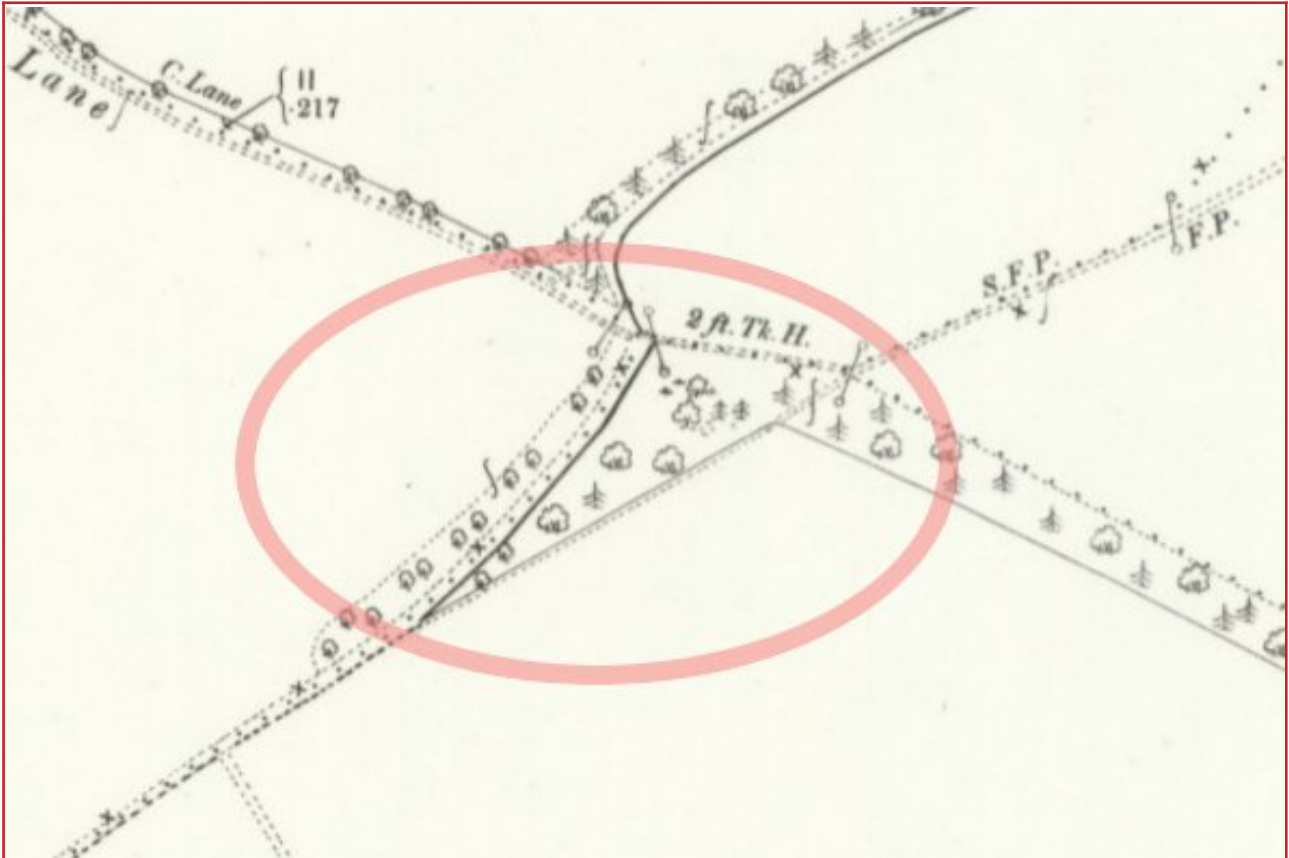


Illustration xxvii



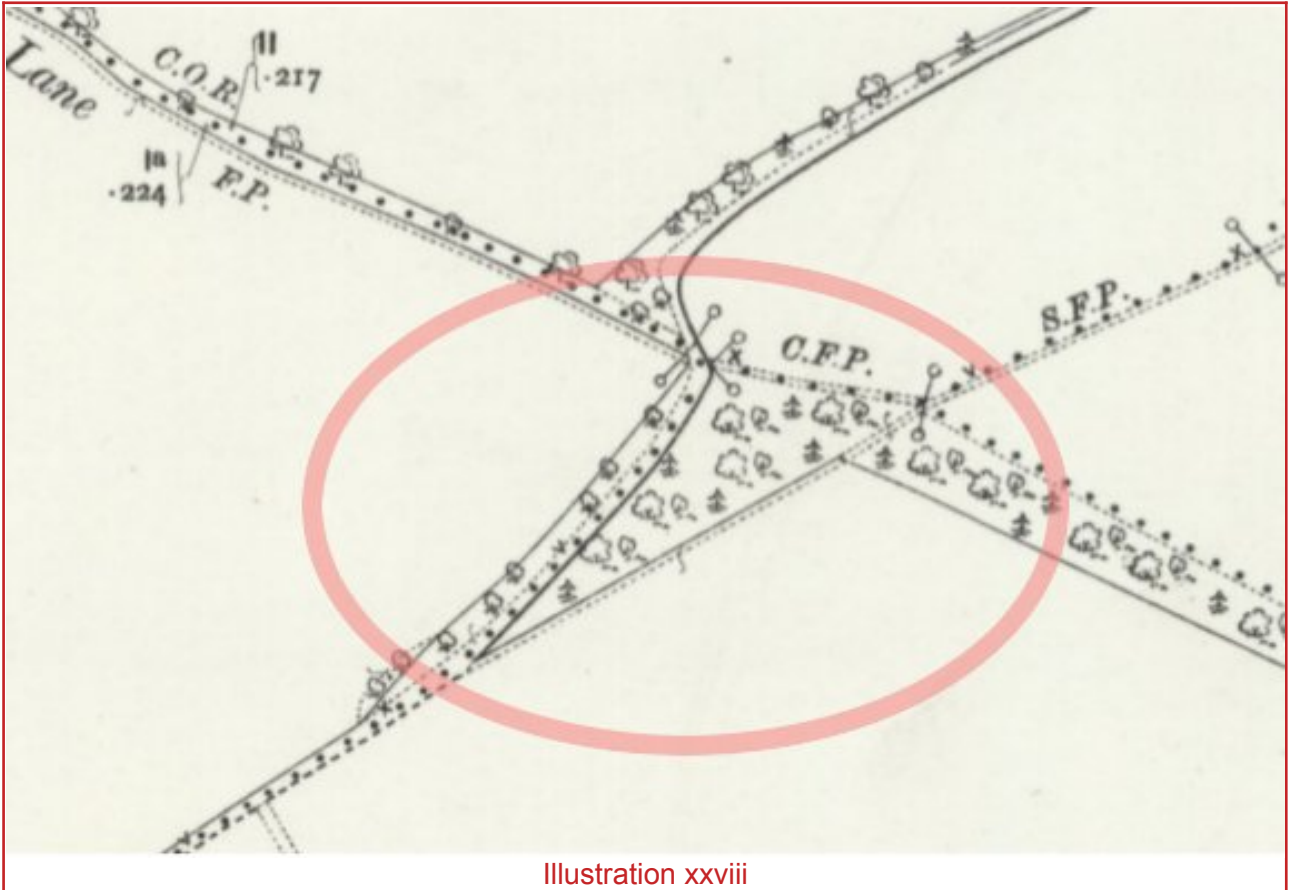


Illustration xxviii

OS 1:2,500 County Series 4th edition (published 1938)

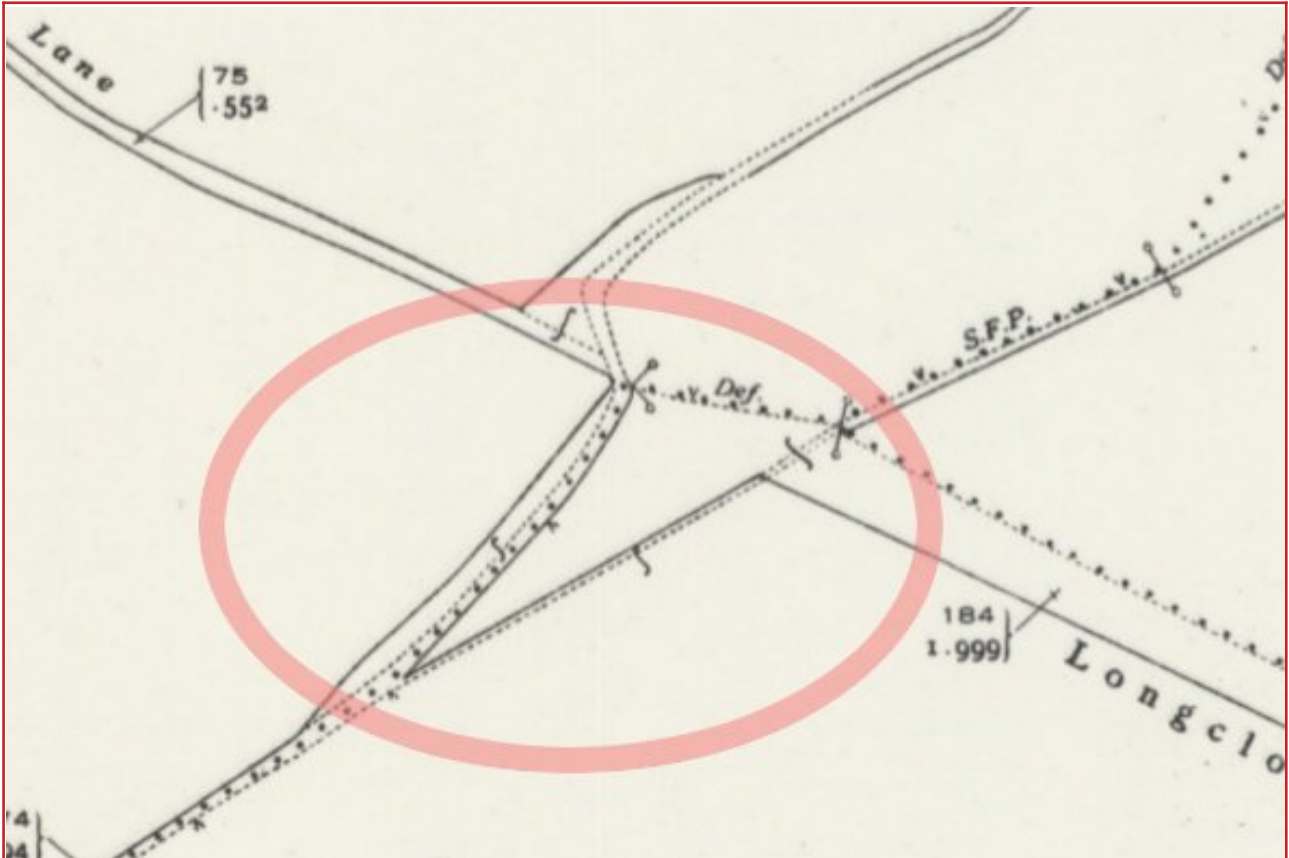
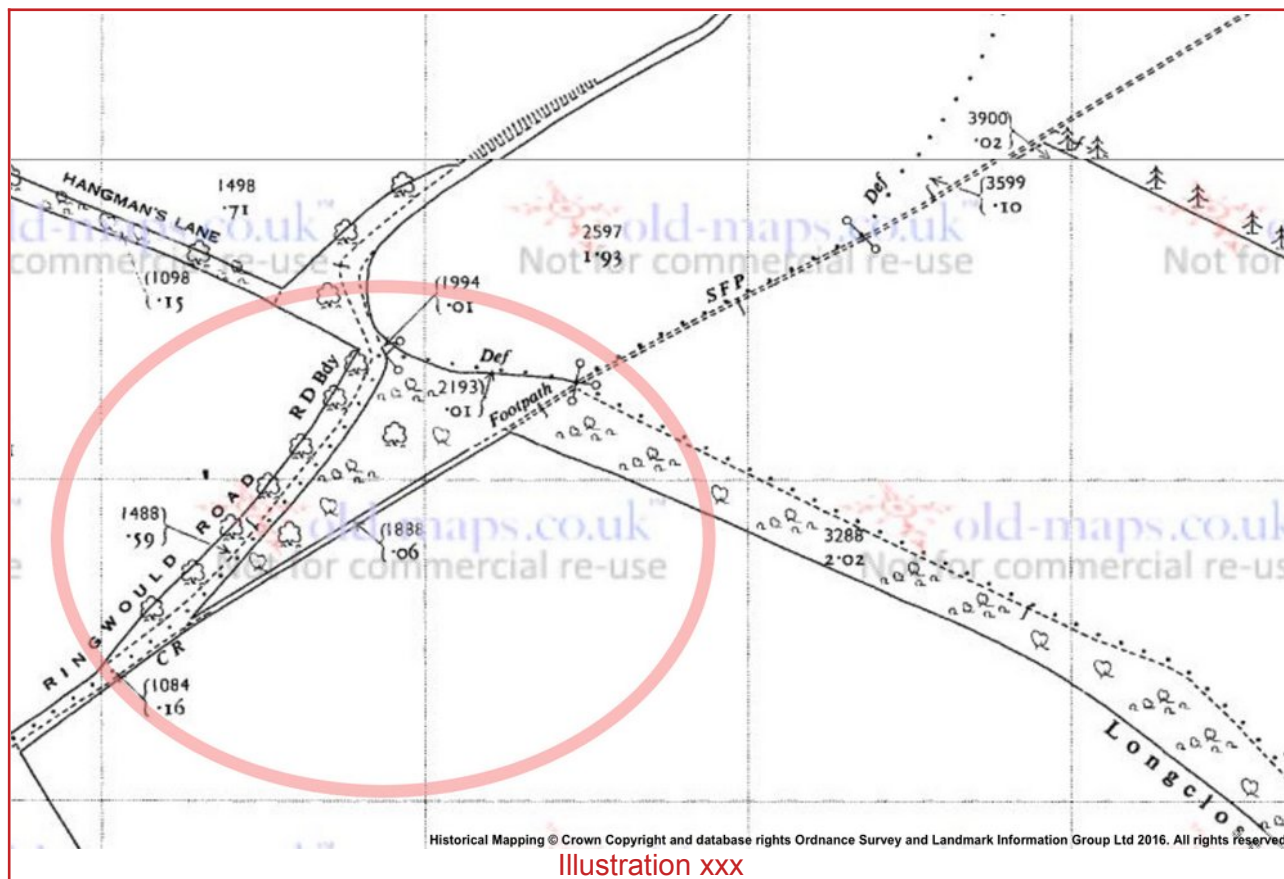


Illustration xxix

## OS 1:2,500 National Grid (published 1957)



J.3. **Description:** original scale: 1:2,500; orientation: unchanged (north). These illustrations show the first, second, third and fourth Ordnance Survey County Series editions published in 1871–2, 1898, 1907 and 1945 respectively, and the first National Grid plan published in 1957.

J.4. The first edition, in Illustration xxvi, published in 1871–72, shows bridleway ER16 recorded as 'F.P.' (coincident with the parish boundary between Ringwold and Sutton (detached), which follows 'Side of F.P.': *i.e.* side of footpath). At A, no track is shown from A to C, but the parish boundary, now between Ringwold and Oxney, is marked '2 ft.Tk.H.', *i.e.* following two feet outside the track of hedge.

J.5. The second edition, in Illustration xxvii, revised in 1896 and published in 1898, a path or track now is shown A–C.

J.6. The third edition, in Illustration xxviii, revised in 1905 and published in 1907, shows the same information, except that the parish boundary A–C is now marked 'C.F.P.', *i.e.* the boundary follows the centre of the footpath.

J.7. The fourth edition, in Illustration xxix, revised in 1938 and published in 1945, shows no path or track A–C, and the parish boundary here is marked as 'Def[aced]'.

J.8. The National Grid first edition, in Illustration xxx, was published in 1957. It does not show any path A–C, but shows the continuation of bridleway ER16 marked as 'Footpath', initially as an unenclosed path, and then as an enclosed path along the southern side of the copse adjacent to Ringwold Road, from A to B.



J.9. **Conclusion:** The Ordnance Survey 1:2,500 maps consistently show a path or track projecting south-west from A in a direct continuation of bridleway ER16, towards Ringwould Road at B. Some of the earlier maps also show a spur west-northwest from A to C, which is variously marked as a track or footpath. While these maps do not attempt to distinguish public rights of way, they provide cogent evidence that bridleway ER16 did continue from its present point of termination at A, both in a logical continuation to Ringwould Road at B, and to the same road at C opposite the junction with Hangman's Lane.

J.10. **Points:** 1

## K. Ordnance Survey 1:25,000 map

K.1. **Date:** 1946

K.2. **Source:** National Library of Scotland<sup>32</sup>

### OS 1:25,000 map 61/34 1946



Illustration xxxi

K.3. **Description:** original scale: 1:25,000; orientation: unchanged.

K.4. This is the first map published at the 1:25,000 scale, in the Provisional (Outline) edition of 1946. No dates are given for revision.

<sup>32</sup> 1946 edition: [maps.nls.uk/view/207357408#zoom=7&lat=9008&lon=4102&layers=BT](https://maps.nls.uk/view/207357408#zoom=7&lat=9008&lon=4102&layers=BT); 1960 edition: [maps.nls.uk/view/95750454#zoom=6&lat=7225&lon=3958&layers=BT](https://maps.nls.uk/view/95750454#zoom=6&lat=7225&lon=3958&layers=BT)

K.5. The map shows footpaths (marked by single pecked lines) following the route of bridledway ER16, and continuing from A to both B and C.

K.6. **Conclusion:** The map suggests that the appeal way A–C remained in use at the date of the survey used to compile the 1946 map.

K.7. The way A–C does not appear on the 1960 edition. This may be attributable to a decline in the use of Hangman’s Lane (from C towards East Langdon and Sutton), so that the primary user of bridledway ER16 was those wishing to continue on Ringwold Road to Martin.

K.8. **Points:** 0

## L. Ringwold parish survey

L.1. **Date:** 1950

L.2. **Source:** Kent County Council<sup>33</sup>

### Ringwold parish survey



L.3. **Description:** original scale: 1:10,560; orientation: unchanged. The Ringwold parish survey recorded a bridledway (now known as ER16) between Hangman’s Lane in Ringwold village (at X) and the parish boundary at A between (the then) parishes of Ringwold and East Langdon.

L.4. **Conclusion:** The right of way was not recorded beyond the parish boundary at A, either in the same direction towards B, or towards C. This is presumably because, in common with all rights of way crossing the parish boundary out of the parish of Ringwould, the role of the parish survey was perceived to be limited to the extent of any right of way within the parish itself.

L.5. No part of the appeal way A–C nor the application way A–B was recorded by Langdon parish council in the Langdon parish survey.

L.6. **Points:** 0



## **IV. Annexe**

A. Annexe — Francis Hill's Ringwould estate map

(see item III.A above)

