

The Kent County Council (Restricted Byway EE499, Eastry and Woodnesborough) Definitive Map Modification Order 2023

ROW/3359373

Statement of case for the British Horse Society as supporter of the order

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I. General submissions

A. Quick reference

Location plan



A.1. **Planning Inspectorate reference:** ROW/3359373

A.2. **Surveying authority:** Kent County Council

A.3. **Order:** The Kent County Council (Restricted Byway EE499, Eastry and Woodnesborough) Definitive Map Modification Order 2023

A.4. **Parishes of:** Eastry and Woodnesborough

A.5. **District of:** Canterbury City Council

- A.6. **Former district of:** Eastry Rural Sanitary Authority/District Council
- A.7. **Ancient parish of:** Eastry
- A.8. **Hundred of:** Eastry
- A.9. **Termination points:** Selson Lane opposite Great Selson Farm, and Drainless Road about 700m north-west of Poison Cross
- A.10. **Termination points Ordnance Survey grid references:** [TR30035558](#) and [TR30325611](#)
- A.11. **Postcode:** CT13 0EG
- A.12. **Ordnance Survey Explorer sheet:** 150
- A.13. **Ordnance Survey County Series 25" sheet:** Kent XLVIII/9

B. Introduction

B.1. This statement of case is made by the British Horse Society in relation to the definitive map modification order made by Kent County Council on 20 December 2023 ('the order').¹ It replaces all previous representations made by the society in relation to the application for an order.

B.2. The society is the applicant for the order, and is referred to hereafter as 'the applicant'. The applicant supports confirmation of the order.

B.3. This statement of case comprises at part I (this part) general submissions in support of the order; at part II below, *Objections to the order by third parties*, the applicant's comments on objections made in connection with the order; at part III below, *Photographs along the order way*, photographs of the order way; at part IV below, *Documentary evidence*, the documentary evidence relating to the order way, and at part V below, annexes containing more extensive or complete copies of certain documents shown in extract in part IV.

B.4. In this statement of case:

- References are in the form 'I.A.1', where 'I' represents the part number which is shown in the footer of each page. Thus this bullet point is within para.I.B.4. Cross-references within an item (this is item I.B *Introduction*) may be shortened to, for example, 'para.B.2'.
- The lettering A and B refers to the lettering adopted in the order plan (see next page).
- Cross-references in the electronic pdf are hyperlinked (for example, the following leads to *Ordnance Survey, Old Series one-inch map of Kent* at item IV.D below).

B.5. Some of the maps contained in this document are available as high-quality scans online, in most cases mounted by the National Library of Scotland. Where appropriate, extracts of the maps are reproduced in this document, and hyperlinks are given to enable reference to the wider contextual position. Use of the hyperlink generally will take the user to the relevant portion of the map (the user then can zoom in or out, or scroll to a neighbouring area). The links are invariable.

¹ The full title of the order is given at para.A.3 above.

C. Application

C.1. Application was made on 27 January 2019 under section 53(5) of the Wildlife & Countryside Act 1981 to Kent County Council as surveying authority that a definitive map modification order be made under section 53(3)(c)(i) to record the order way in the parishes of Eastry and Woodnesborough as a restricted byway.

C.2. That application was granted by the authority in a determination dated 27 November 2023.

C.3. The order way begins on Selson Lane immediately west of and opposite Great Selson Farm at A (Ordnance Survey grid reference TR30045558), along a track, initially paved, north-northeast for a distance of 610m along the west side of a headland, to a junction with Drainless Road at B (TR30325611).

C.4. The points A and B are identified in the order map.

D. Nomenclature

D.1. The order way lies between Selson Lane and Drainless Road, the latter formerly known as Drainless Drove. Selson is a hamlet along Selson Lane in the vicinity of the southern end of the order way. Great Selson Farm is opposite the southern end of the order way. Little Selson Farm is approximately 250 metres further east-southeast along Selson Lane, on the south side of the road, and Selson Farm on the north side. Wells Farm is another 250 metres further east-southeast along Selson Lane (after a dog-leg) on the north side of the road.

D.2. The order way has been described by the applicant as 'Great Selson Farm Road' for convenience, by reference to the nearest habitation. There is no evidence for that name, and the order way is referred to in this submission as the 'order way' (save in the footer to the document).

D.3. Eastry is a village approximately one kilometre south-east of the southern end of the order way (reached via Selson Lane). Woodnesborough lies approximately one kilometre north-east of the northern end of the order way (as the crow flies).

D.4. These names are marked on the Ordnance Survey 1:10,560 map shown on the following page.²

² TR25NE ed.A, TR35NW ed.A; surveyed/revised 1954–59, published 1960.

100



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- Way (1): the order way;
- Way (2): a way projecting south-southwest from about 100 metres west of A towards the road between Hamill and Eastry recorded as BOAT EE335;
- Way (3): a way projecting south-southwest from the far end of the dog-leg in Selson Lane ;

3

- Way (4): a way projecting south-southwest from Selson Lane opposite Wells Farm;
- Way (5): a way projecting north from Selson Lane at Wells Farm to Drainless Road.

E.2. Also shown is the Eastry to Hammill footpath, which is the subject of an order to add to the definitive map and statement,⁴ and which awaits referral to the Secretary of State for confirmation following one objection.

The order way, and other unrecorded ways in its vicinity



Illustration iii

F. Grounds for confirmation

F.1. The order way historically has the character of a minor road chiefly useful for local traffic.

F.2. The way appears on several historical maps, including the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A below), the *Barlow-Hasted map of Kent* (item IV.B below), the *Ordnance Survey, Old Series one-inch map of Kent* (item IV.D

⁴ The Kent County Council (Public Footpath EE500 at Eastry and Woodnesborough) Definitive Map Modification Order 2024. Closed to objection on 10 January 2025.

below), but not clearly on the *Ordnance Survey, Mudge-Faden one-inch map of Kent* (item IV.C below). Critically, it is also one of the public roads identified as maintainable on the *Contracted map of principal roads in Eastry* (item IV.E below), and is excluded from apportionment in the *Eastry tithe map* (item IV.F below).

F.3. By 1910, the plans for the *East Kent mineral light railway* (EKLR: item IV.K below) show the way as no more than an occupation road, but the plans and books of reference for the railway were not reliable, and the assessment in 1910 cannot displace highway status acquired previously. Moreover, it is clear from the reports of the surveyor to and minutes of the *Eastry Rural Sanitary Authority/District Council* (item IV.L below) that the EKLR's assessment of the way was mistaken, and not endorsed by the then highway authority. Those reports, and the council minutes, support a status of at least bridleway, while a series of editions of *Bartholomew's map* (item IV.I below) also suggest a public path. However, while such twentieth-century sources are supportive of a public right of way, they cannot displace earlier evidence of a public carriage road. And the order way largely is uncoloured on the record plan prepared under the *Finance (1909–1910) Act 1910* (item IV.J below).

F.4. The order way was not included in the *Parish map prepared under Part IV of the National Parks and Access to the Countryside Act 1949* (item IV.O below) by Eastry parish council. But the council omitted from its parish map most of the parish's rural paths and cart tracks, and some of these were added to the definitive map and statement either at draft stage, or over the subsequent 75 years. Omission from the parish map is not contemporary evidence that the order way was perceived not to be a public way.

F.5. None of the evidence records that gates ever have been placed at either end of the order way, or along it, save in relation to the EKLR crossing (see *Limitations* at item I.J below). Indeed, there remain no gates to this day. It would be astonishing if an entirely private road had remained open to the public throughout, over a period of well over two centuries (and in all probability since time immemorial), and yet had not become dedicated to public use. It would be even more astonishing given the evidence which shows that the way was considered to be publicly maintainable.

F.6. In short, there is good evidence in the *Contracted map of principal roads in Eastry* that the way is a publicly-maintainable road; there is much supportive or consistent evidence, and the only evidence that it is no public way is found in the notoriously unreliable ELKR plans, which themselves are contradicted by contemporary local-authority minutes and reports.

F.7. Therefore it is submitted that there is sufficient evidence in support of confirmation of the order, demonstrating reputation as a highway.

F.8. The courts have given guidance on how evidence of highway status is to be considered. In [*Fortune v Wiltshire Council*](#),⁵ Lewison LJ said, at paragraph 22,

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

⁵ [2012] EWCA Civ 334.

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

F.9. The Planning Inspectorate *Consistency Guidelines* recognise that several pieces of evidence which are individually lightweight in themselves (such as an historic map or a tithe map) may, collectively, convey a greater impact:

If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind.⁶

F.10. Section 32 of the Highways Act 1980 provides that:

A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

F.11. The applicant believes that, taken as a whole, the evidence in this document analysis demonstrates highway reputation over many years, indicating that the route does indeed have highway status, and that the evidence is supportive of it being a public carriageway.

F.12. However, if the inspector considers for any reason that vehicular rights are unproven, the inspector is asked to review instead whether the order should be modified to record bridleway rights.

G. Natural Environment and Rural Communities Act 2006

G.1. This statement of case seeks to show that the order way is a public carriageway. None of the order way is recorded as publicly maintainable in the list of streets held by Kent County Council under section 36(6) of the Highways Act 1980. The effect of section 67 of the Natural Environment and Rural Communities Act 2006 is to extinguish public rights for mechanically propelled vehicles where none of the exceptions in section 67 applies.

G.2. The order therefore is correctly made for a restricted byway.

⁶ [*Consistency Guidelines*](#): para.2.17.

H. Points awarded

H.1. Points have been awarded to each piece of evidence in relation to the order way, calculated according to the guidance in *Rights of Way: Restoring the Record*.⁷

H.2. **Points:**

Item	Item no.	Points
Ordnance Survey surveyor's drawing, Canterbury (East)	IV.A	0
Barlow-Hasted map of Kent	IV.B	1
Ordnance Survey, Mudge-Faden one-inch map of Kent	IV.C	0
Ordnance Survey, Old Series one-inch map of Kent	IV.D	1
Contracted map of principal roads in Eastry	IV.E	4
Eastry tithe map	IV.F	3
Ordnance Survey County Series first-edition twenty-five-inch plan	IV.G	1
Later Ordnance Survey one-inch and twenty-five-inch maps	IV.H	2
Bartholomew's map	IV.I	1
Finance (1909–1910) Act 1910	IV.J	3
East Kent mineral light railway	IV.K	0
Eastry Rural Sanitary Authority/District Council	IV.L	3
Wells and Little Selson farms conveyance	IV.M	1
National Farm Survey map	IV.N	2
Parish map prepared under Part IV of the National Parks and Access to the Countryside Act 1949	IV.O	0
Total points		22

I. Width of order way

I.1. On the *Contracted map of principal roads in Eastry* (item IV.E below), the order way is identified with an area of 0a, 3r, 2p,⁸ which is equivalent to 0.31 ha. The length of the order way is 610m, which suggests a mean width of 5.0m.

I.2. But on the *Ordnance Survey County Series first-edition twenty-five-inch plan* (item IV.G below), the defined width of the carriageway incorporated in the order way is identified with an area of 0.211 ha. This would suggest a mean width of 3.46m. This is very narrow for a carriageway, as it would not allow for two vehicles to pass. It is likely to record the width worn on the ground by the passage of vehicles, and not the width avail-

⁷ Sarah Bucks and Phil Wadey, 2nd ed. 2017.

⁸ i.e. 0 acres, 3 rods and 2 perches

able to the drivers when there was occasion to pass two vehicles. Given that the order way is and, on the available evidence, always has been partly or wholly unenclosed (and that the present hedge on the eastern side is a relatively modern one), it is submitted that it is inevitable that carriage drivers would have had liberty to pass as necessary, that the recorded width should respect that liberty, and that the correct width is that implied in the *Contracted map*.

I.3. As the *Contracted map* is likely to have been prepared with the specific objective of devolving maintenance obligations on a contracted party, the width of the roads under contract would have been fundamental to costing the contract. Indeed, an endorsement on the map (para.IV.E.10 below) explains that its primary purpose is as a reference of the 'Distance Measured', and that the focus is on such measurements rather than the 'true Situation' of the roads.

I.4. The area of road stated in the *Contracted map* is therefore likely to have been reliable (indeed, it is likely to record the width of road maintained by the parish at that time), and the applicant supports confirmation of the five-metre width stated in the order.

I.5. To record a lesser width would be not only to depart from the evidence, but to risk that, were the order way subsequently fenced in to the recorded width, two vehicles would be unable to pass. As there is no suggestion that two vehicles were unable to pass, it is suggested that such a reduced width would be incorrect.

J. Limitations

J.1. There is no evidence on any document here referred to which suggests that the order way ever were subject to any limitation such as a gate.

J.2. Exceptionally, the construction of the *East Kent mineral light railway* (item IV.K below) enabled gates to be erected on either side of the level crossing, under the authority of the order enabling the line to be built. However, the subsequent closure of the line and removal of the track have rendered the gates redundant and they have been removed. The former gates should not be recorded as limitations.

K. Law cases

K.1. The following cases are cited in this statement of case.

Case	Reference	Citation
<i>Fortune v Wiltshire Council</i>	I.F.8	[2012] EWCA Civ 334
<i>Giffard v Williams</i>	IV.F.5	(1869) 38 LJ (Ch) 597

II. Objections to the order by third parties

A.1. The applicant has had regard to the unattributed objection dated 14 March 2024 submitted in response to consultation on the application by the surveying authority.

A.2. The objection records detailed comments on two aspects of the applicant's case. These are fully referred to, and addressed, under *Contracted map of principal roads in Eastry* (item IV.E below) and under *Eastry tithe map* (item IV.F below). Therefore, they are not further addressed here.

III. Photographs along the order way



Illustration iv: At A, Selson Lane



Illustration v: Just north of A



Illustration vi: At B, Drainless Road

IV. Documentary evidence

This part presents the evidence which directly pertains to the existence and status of the order way. A list of contents may be found at p.1 above.

A. Ordnance Survey surveyor's drawing, Canterbury (East)

A.1. **Date:** 1797

A.2. **Source:** British Library website⁹; National Archives¹⁰

■ Ordnance Survey Drawing, Canterbury (East)

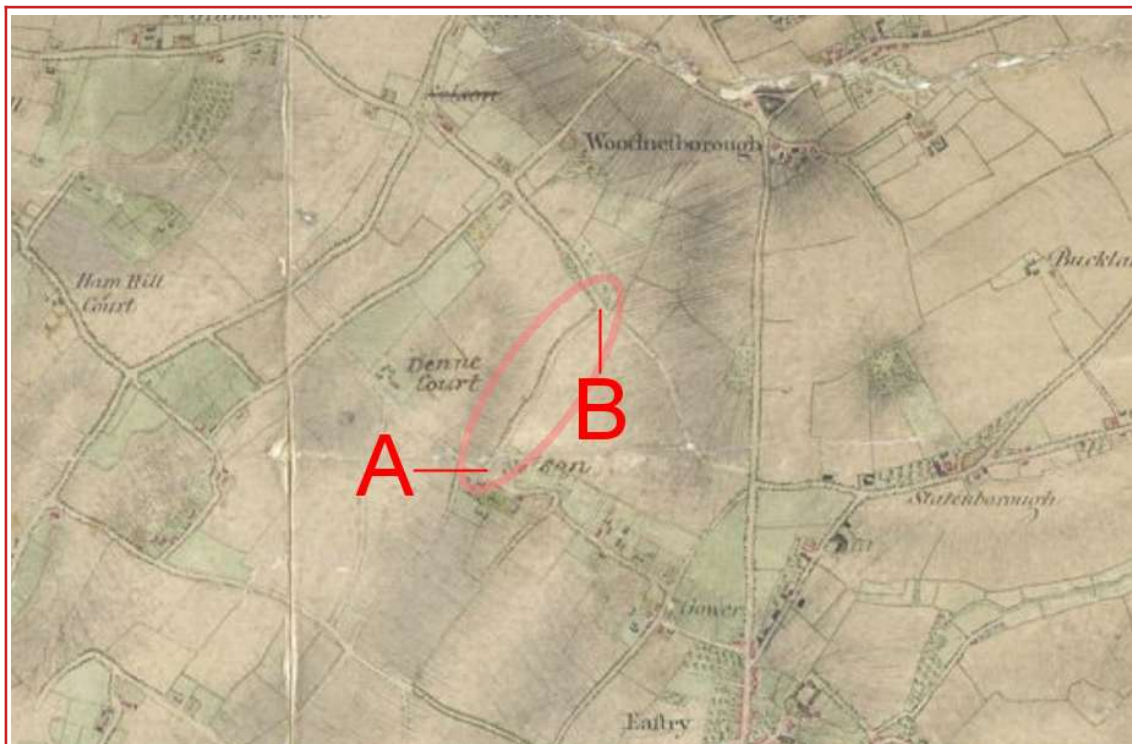


Illustration vii

⁹ britishlibrary.oldmapsonline.org/maps/a70167eb-6949-5984-a1a0-912a6f5d928e/

¹⁰ MR 1/599

Topographic Survey manuscript 'fair' copy

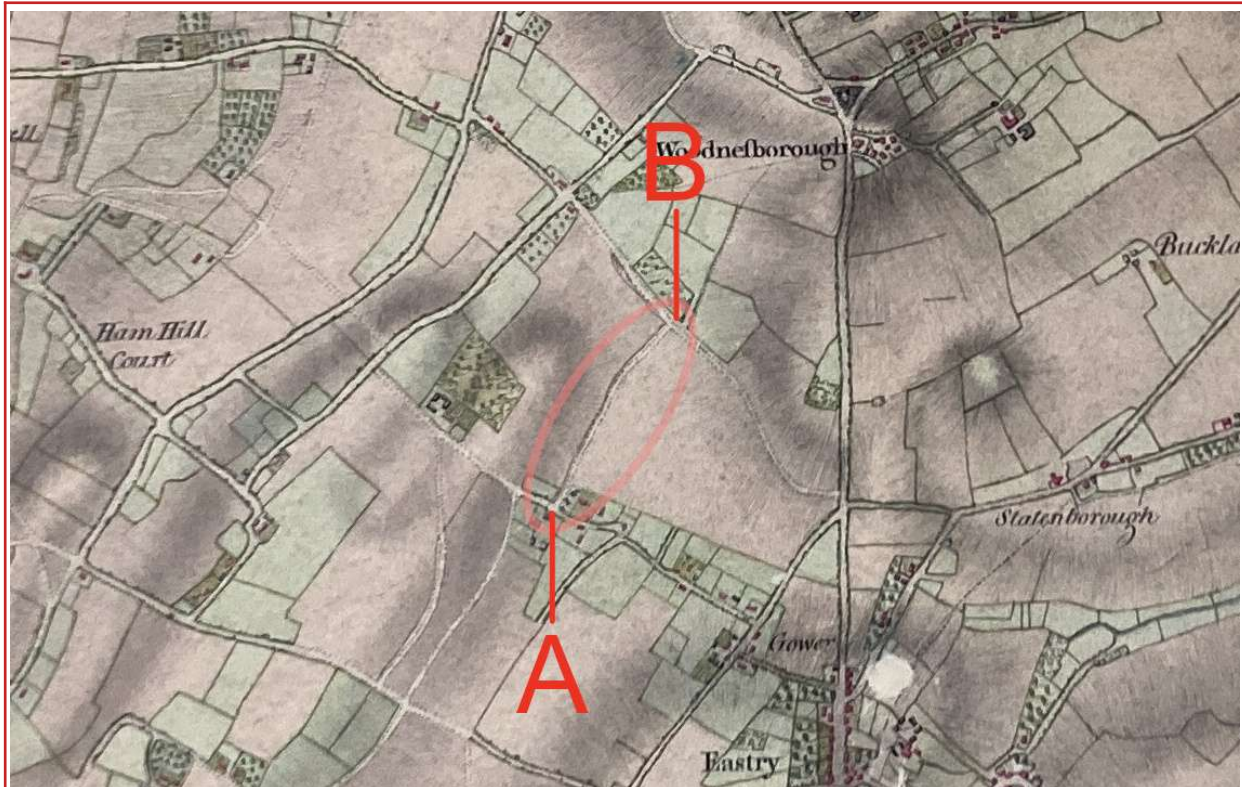


Illustration viii

A.3. **Description:** Original scale: three inches to one mile (1: 21,120); orientation: unchanged (top is north).

A.4. Facing the threat of invasion, the English government commissioned a military survey of the vulnerable south coast. An accurate map of Jersey had already been made, soon after a French attempt to capture the island in 1781, but this had been restricted to government use only. The new maps were to be published at the detailed scale of one inch to the mile. Responsibility for what became an historic venture fell to the Board of Ordnance, from which the Ordnance Survey takes its name. From its headquarters in the Tower of London, engineers and draftsmen set out to produce the military maps by a system of triangulation. The survey of Kent was first to go ahead. It began in 1795 under the direction of the Board's chief draftsman, William Gardner. Critical communication routes such as roads and rivers were to be shown clearly and accurately. Attention was paid to woods that could provide cover for ambush, and elaborate shading was used to depict the contours of terrain that might offer tactical advantage in battle. Preliminary drawings were made at scales from six inches to the mile, for areas of particular military significance, down to two inches to the mile elsewhere.¹¹

A.5. 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'.¹² The

¹¹ From the Curator's introduction to the Ordnance Survey drawings, British Library: web.archive.org/web/20140911031647/www.bl.uk/onlinegallery/onlineex/ordsurvdw/curatorintro23261.html.

conditions in which they have been stored, rolled, have ensured better preservation of the copies.

A.6. The Ordnance Survey drawing shows the order way between A and B as a way enclosed on the west side and unenclosed on the east side, with shading on the west side of the casing.

A.7. The drawing also shows two wholly-unenclosed other ways leading out of Selson Lane: the first is Way (2) (see *Other local ways* in item I.E above for identification of these ways) from west of A, south-southwest towards the road between Hamill and Eastry (now recorded as BOAT EE335); the second, further west, follows the ancient parish boundary between Eastry and Woodnesborough. It cannot be said whether these ways also were public. Way (2) endures to this day in part, and is shown throughout on Ordnance Survey County Series plans surveyed from 1872 onwards; the other is no longer visible. It is possible that both may be unrecorded public ways, for which (in a largely arable, open-field landscape) little evidence endures.

A.8. Two further ways also are partly visible on the drawing: Ways (3) and (5), but neither leads to any outlet onto another road.

A.9. **Conclusion:** The Ordnance Survey drawing is good evidence for the existence of the way in the late eighteenth century. It cannot be said with confidence that the way depicted is public in character.

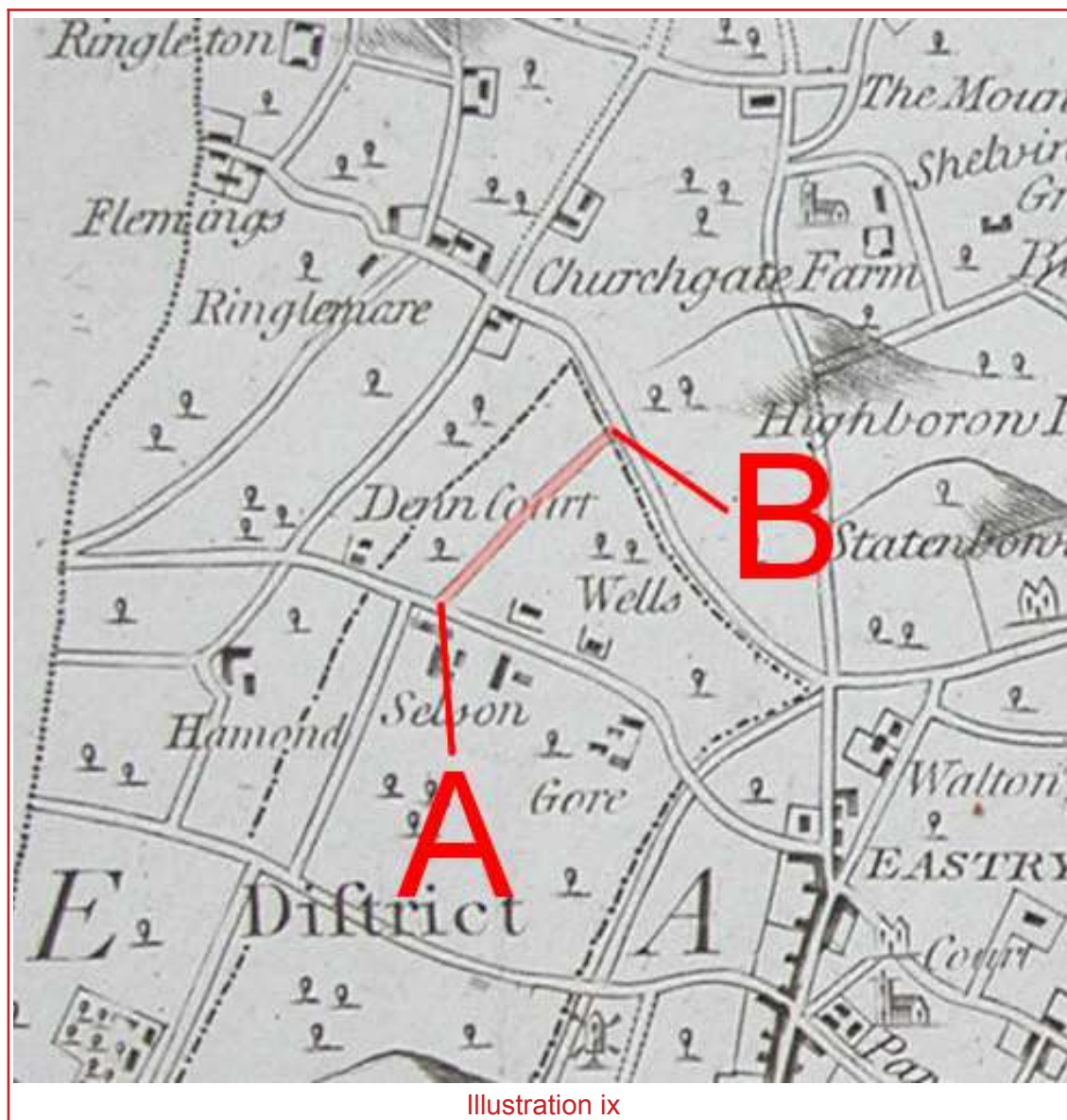
A.10. **Points:** 0

B. Barlow-Hasted map of Kent

B.1. **Date:** 1797–1801

B.2. **Source:** Kent County Archives: engraved by William Barlow in Edward Hasted's *The History and Topographical Survey of Kent*; published in 12 volumes.

■ Barlow-Hasted map, Eastry hundred



B.3. **Description:** Original scale: not known; orientation: unchanged (top is north). A larger extract showing the wider Eastry area is at Annexe A at p.77 below.

B.4. William Barlow's maps of Kent were incorporated within the first edition of Edward Hasted's *The History and Topographical Survey of Kent*. Each map represented one or more of the Kent hundreds: that shown here is an extract from the hundred of Eastry.

B.5. Barlow's map shows a way between A and B corresponding to the order way.

B.6. Also shown is Way (2),¹³ leading south-southwest from Selson from a point slightly west of A.

B.7. **Conclusion:** The Barlow-Hasted map is good evidence for the existence of a defined way along the order way. The map was widely commercially published, and would tend to show through routes which were public highways.

B.8. It cannot be assumed that the status of the way is any greater than bridleway.

B.9. **Points:** 1

¹³ See *Other local ways* in item I.E above.

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

C.1. **Date:** 1801

C.2. **Source:** Mapco.net¹⁴: © Copyright David Hale and the MAPCO : Map And Plan Collection Online 2006–13

Mudge-Faden one inch map

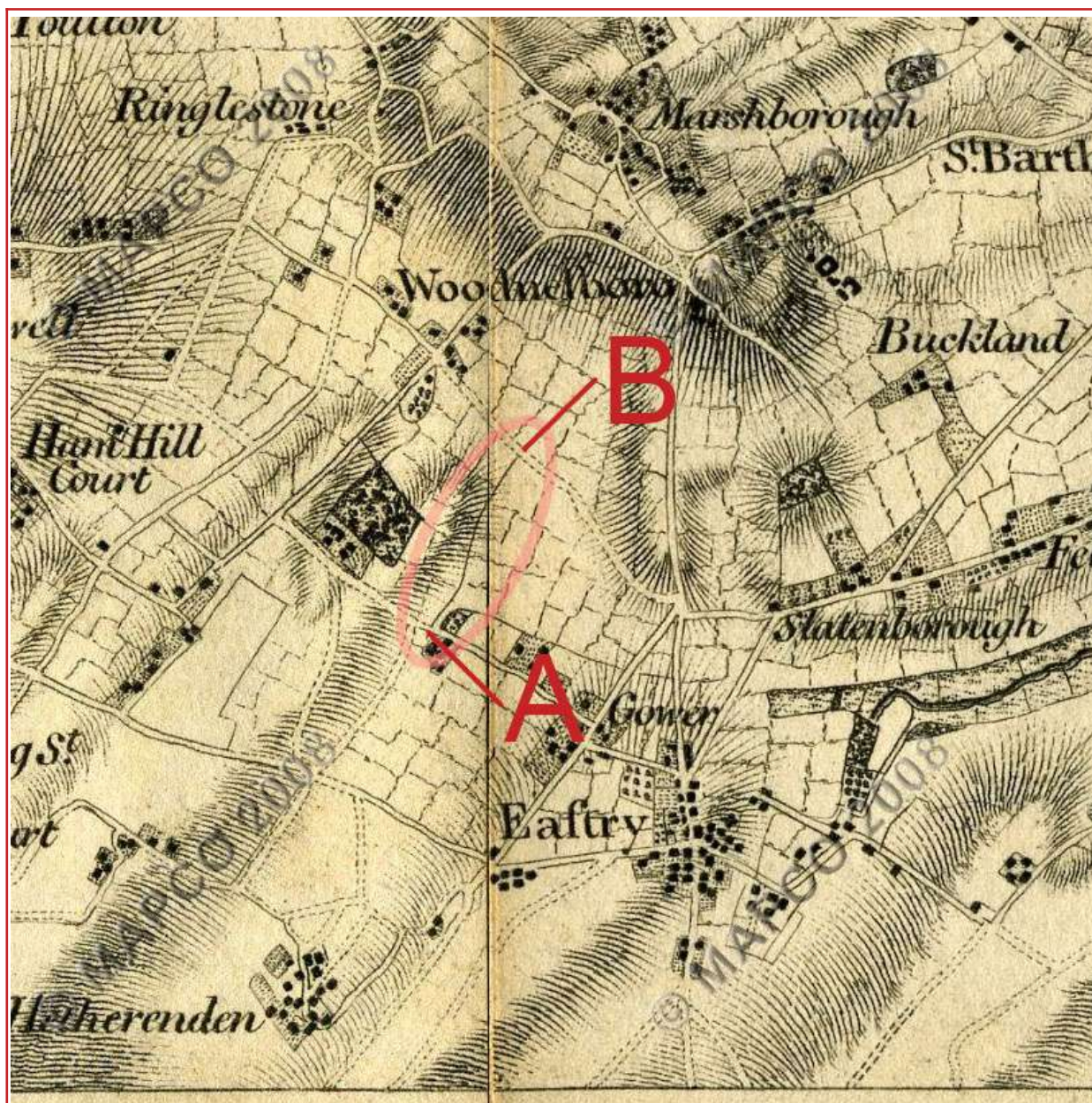


Illustration x

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

¹⁴ mapco.net/kent1801/kent32_01.htm; mapco.net/kent1801/kent31_03.htm

C.4. This map of Kent was the first Ordnance Survey map to be published. It relied primarily on the survey data collected in the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A above). However, the first Ordnance Survey map of Kent was not published by it 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.5. The Mudge map does not clearly identify the order way, notwithstanding that it is marked on the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A above) and the later 'official' *Ordnance Survey, Old Series one-inch map of Kent* (item IV.D below). The course of the order way is marked by a north-south field boundary. But whereas most field boundaries are notional (not intended to represent the actual field pattern), this one is faithful to the line of the order way.

C.6. Moreover, an opening is present at the junction of the 'field boundary' with Selson Lane, on the east side of that boundary, while several of the probably notional field boundaries between A and B also show openings adjacent to the north-south boundary which follows the line of the order way.

C.7. Also shown is Way (2),¹⁵ leading south-southwest from Selson from a point slightly west of A, and another way, further west, which follows the ancient parish boundary between Eastry and Woodnesborough (also visible on the *Ordnance Survey surveyor's drawing, Canterbury (East)*).

C.8. **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.

C.9. The order way is not clearly marked on the map as a road or track, but it may well be represented by the supposed field boundary: this likelihood is supported by the opening visible in Selson Lane at the southern end of the order way. This would be consistent with the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A above), from which the Mudge map is derived, and mapping subsequent to the Mudge map, including the *Ordnance Survey, Old Series one-inch map of Kent* (item IV.D below), which also is derived from the surveyor's drawing. It is suggested that the partial omission of the way is a mistake.

C.10. **Points:** 0

¹⁵ See *Other local ways* in item I.E above.

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

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

D.2. **Source:** National Library of Australia¹⁶

■ Ordnance Survey Old Series one-inch map



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

D.4. This is the Old Series one-inch map as published officially by the Ordnance Survey. The map reproduced here is state 4, from circa 1831, but believed to be unchanged from state 1.

D.5. The Old Series map shows the order way between A and B, unenclosed only on the east side from the end of a field immediately north of A, to B.

D.6. Also shown are Ways (2) and (3),¹⁷ the latter shown only in part, as is another way, further west, which follows the ancient parish boundary between Eastry and Woodnesborough — also visible on the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A above) and *Ordnance Survey, Mudge-Faden one-inch map of Kent* (item IV.C above).

D.7. The Old Series map confirms the data depicted in the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A above), although, oddly, the order way was not explicitly identified on the privately-published *Ordnance Survey, Mudge-Faden one-inch map of Kent* (item IV.C above), issued in 1801.

¹⁶ nla.gov.au/nla.obj-231917365

¹⁷ See *Other local ways* in item I.E above.

D.8. **Conclusion:** While the Old Series map is not conclusive as to the public status of the way, it was primarily intended for military use, and the surveyor was unlikely to map footpaths being of little military interest.

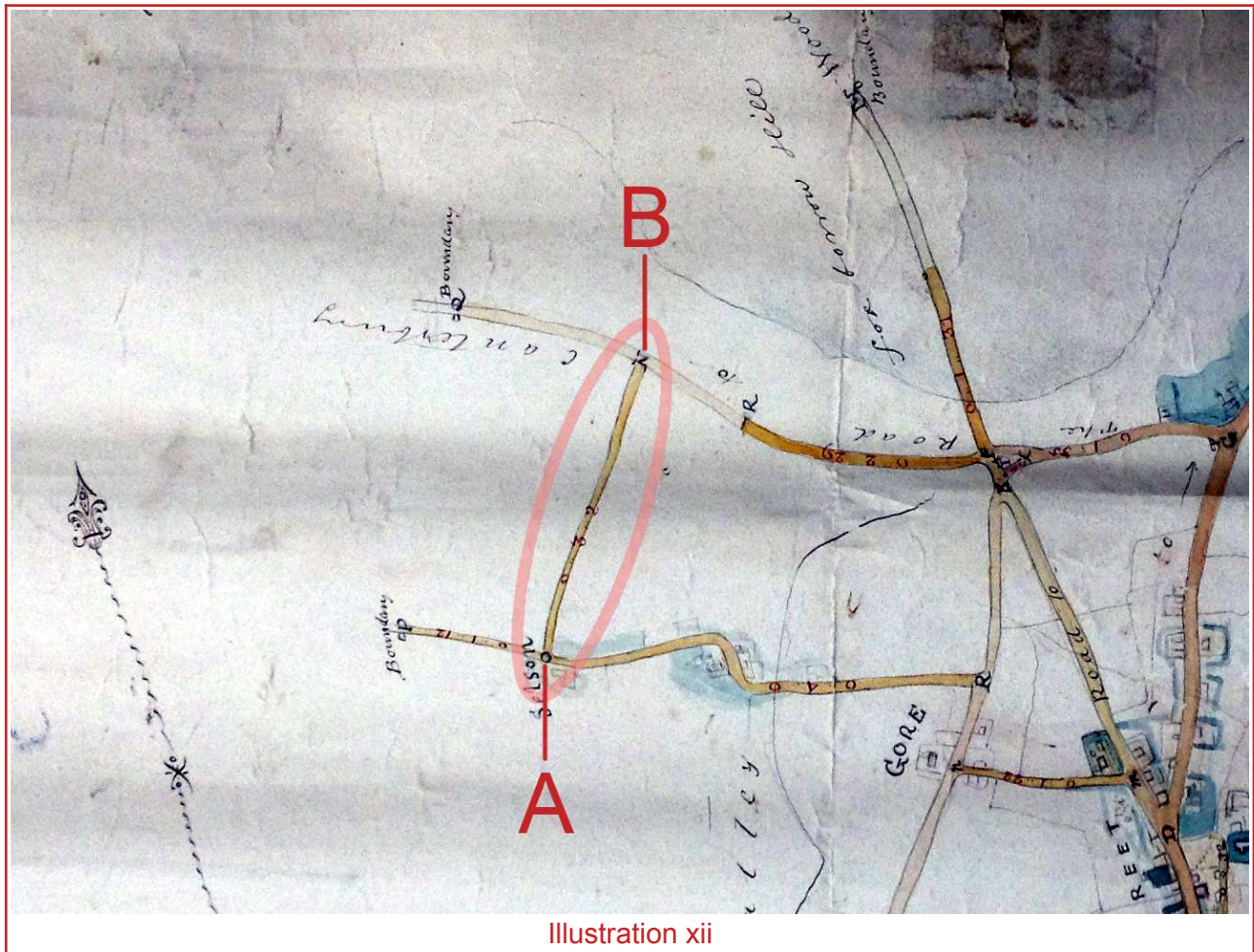
D.9. **Points:** 1

E. Contracted map of principal roads in Eastry

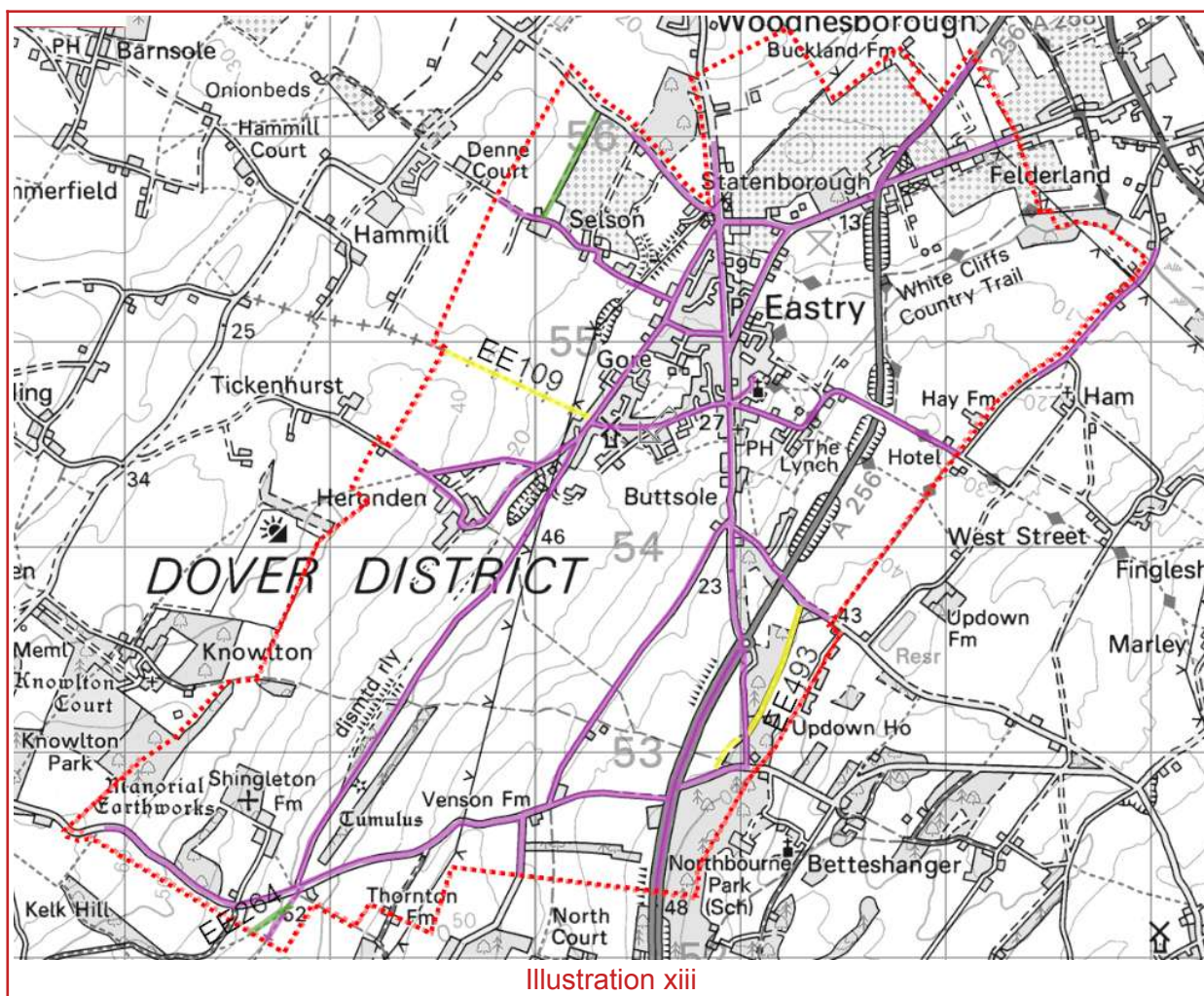
E.1. **Date:** 1836

E.2. **Source:** Canterbury Cathedral Archives¹⁸

Contracted map of principal roads in Eastry



Contracted-map roads shown on Landranger map



Key:

Roads coloured purple on contracted map and acknowledged today to be public roads

Roads coloured green on contracted map and not acknowledged today to be public roads

Public roads in 1836 not coloured purple on contracted map

Ancient parish boundary (approximate course)



(Where the parish boundary lies along the centre line of a road, it is shown displaced in order to maintain clarity. Some half-roads appear to have been maintained partly by the parish, and partly by the neighbouring parish.¹⁹ Such half-roads are left uncoloured where they are not coloured purple on the contracted map — the maintenance responsibility impliedly fulfilled by the neighbouring parish.)

¹⁹ See, for example, Drainless Drove passing A, and Hay Lane, near Ham, both of which are approximately half maintained by Eastry, and half maintained by the adjoining parish. Under [s.58](#) of the Highway Act 1835, parish councils were able to apportion between them the responsibility for maintenance of half roads, on an application to two justices.

E.3. **Description:** Original scale: none recorded; orientation: unchanged (top is approximately north, see compass on extract). A reproduction of the entire map appears at Annexe B at p.79 below.

E.4. The map is derived from the surveyor's records of the parish of St Mary the Virgin, Eastry, and was drawn in 1836 by surveyor H Foord of Sandwich. It is entitled, 'The contracted map of the principal roads in the parish of Eastry County of Kent 1836'.

E.5. By 'principal roads', the map excludes footpaths and bridle-roads, although some such paths are marked on the map without colouring.

E.6. The maintenance of publicly-maintainable roads was the responsibility of the inhabitants of the parish, assembled in vestry. The vestry was obliged annually to elect one or more lay surveyors to discharge the duty of the parish. This responsibility was terminated by the Highways Act 1959, although in 1863, the Wingham Highway Board took over day-to-day maintenance functions (at the expense of the parish), followed by the Eastry Rural Sanitary Authority and later the Eastry Rural District Council.

E.7. The map is referred to as the 'contracted map' probably on the basis that the maintenance of the parish roads was contracted out (in the same way that the collection of tolls on turnpikes was also contracted, or 'farmed', out). In that event, a clear definition of the responsibilities of the contractor, and the extent of the road network, was essential.

E.8. The map shows a road within the parish of Eastry coincident with the order way. The road is coloured sienna in common with other maintained roads within the parish of Eastry, and an area is given of 0a, 3r, 2p (0.31 ha).

E.9. None of the Ways (2) to (5) is shown.²⁰

E.10. The map is endorsed:

NB The Roads are given only as a Reference of the Distance Measured, places and their Names being omitted, as the time would not allow of Noticing their true Situation...as might have been done were the same required.

E.11. **Analysis:** The map is likely to be a record of those roads in the parish which are maintained by the inhabitants of the parish of Eastry, and which therefore are the responsibility of the lay surveyor appointed by the parish.

E.12. The map faithfully records all those roads in the parish which subsisted at that time, and which today are tarred roads, but with the inclusion of the order way.

E.13. Illustration xiii above shows the roads coloured sienna on the contracted map (or where the colour has faded, nonetheless part of the contracted road network), drawn on a modern Landranger map, where the roads are accorded one of two colours: purple, those which are congruent with roads which today are publicly maintained; and green, not congruent with such roads. It will be seen that there is an almost perfect fit with the present-day road network (leaving aside the Eastry bypass and modern residential-estate roads), save that two ways (coloured green on the Landranger map) are coloured sienna on the contracted map, but not acknowledged today to be public roads, viz the order way, and footpath EE264 (in the far south-west corner). However, the latter is the subject of an order to upgrade to restricted byway, which awaits submission to the Secretary of State for confirmation.

²⁰ See *Other local ways* in item I.E above.

E.14. Yellow identifies roads not coloured sienna on the contracted map, but which were (in 1836) and are now public roads.²¹ Restricted byway EE493 (near the south-east corner) was diverted in 1789, and the court order provided that it was privately maintainable²² — it therefore ought not to appear on the contracted map, and it does not (save as an uncoloured physical feature). BOAT EE109 may, then as now, have been considered too inferior to merit regular maintenance, or it too may have been considered to be privately maintainable.

E.15. Section 32 of the Highways Act 1980²³ requires the decision maker, in deciding whether to confirm the order, to:

...take into consideration any map...which is tendered in evidence, and shall give such weight thereto as the...tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

E.16. As noted above, the contracted map has been retained by, and copied while in the custody of, Canterbury Cathedral Archives, and is held within its extensive collection of records of St Mary's, Eastry.

E.17. **Objection:** In an objection to the application dated 14 March 2024, it is stated:

If we are to accept the Contracted Map as evidence, I think supporting information is required. The Highways Act 1835 required the keeping of detailed accounts by the parish Surveyor which would allow a more secure interpretation of the map (though perhaps none of these survive?). Owners could apply for repair of a route at public expense but it was a lengthy process and it could be reversed if the route were decided 'not to be of sufficient utility' to the inhabitants of the parish.

E.18. We know of no account books kept either by the Eastry parish lay surveyor, or the successor Wingham Highway Board which detail expenditure on particular roads (with some rare exceptions). Generally, for the latter authority, expenditure was recorded against parish and not individual roads. The wage books of the subsequent Eastry Rural District Council endure, and we have inspected one, but this frequently refers to expenditure on 'various roads' in Eastry parish.²⁴ Given that the order way has no known name, it might well be that expenditure was recorded under this generic description, or by reference to a now unknown road name. And it is unlikely that the order way called for constant maintenance, being lightly trafficked.

E.19. **Conclusion:** The map shows the order way as a road between A and B. The map shows only 'principal roads', and what are shown as such are entirely consistent with that part of the tarred road network in Eastry today which is known to have existed in the early nineteenth century — save the order way.

E.20. The map therefore is very good evidence that the order way was regarded as a public carriage road maintainable by the inhabitants of Eastry.

21 Half-roads are left uncoloured where they are not coloured sienna on the contracted map: see the map key.

22 See evidence for Lonely Lane: www.craddocks.co.uk/apps/updown/index.htm.

23 See para.I.F.10 above

24 Eastry RDC highways wages book Eastry 1907–12 RD/Ea/H13

E.21. **Points:** 4

F. Eastry tithe map

F.1. **Date:** 1841

F.2. **Source:** map: Kent County Archives²⁵, National Archives²⁶; tithe award: Kent Archaeological Society²⁷

²⁵ Kent tithe maps are available as images on CD. Tithe surveying lines map: RD/Ea/P4

²⁶ Downloaded from www.thegenealogist.co.uk: IR 30/17/120

²⁷ tedconnell.org.uk/LFH/MAP/EAY/01.htm

Eastry tithe map (parish copy)

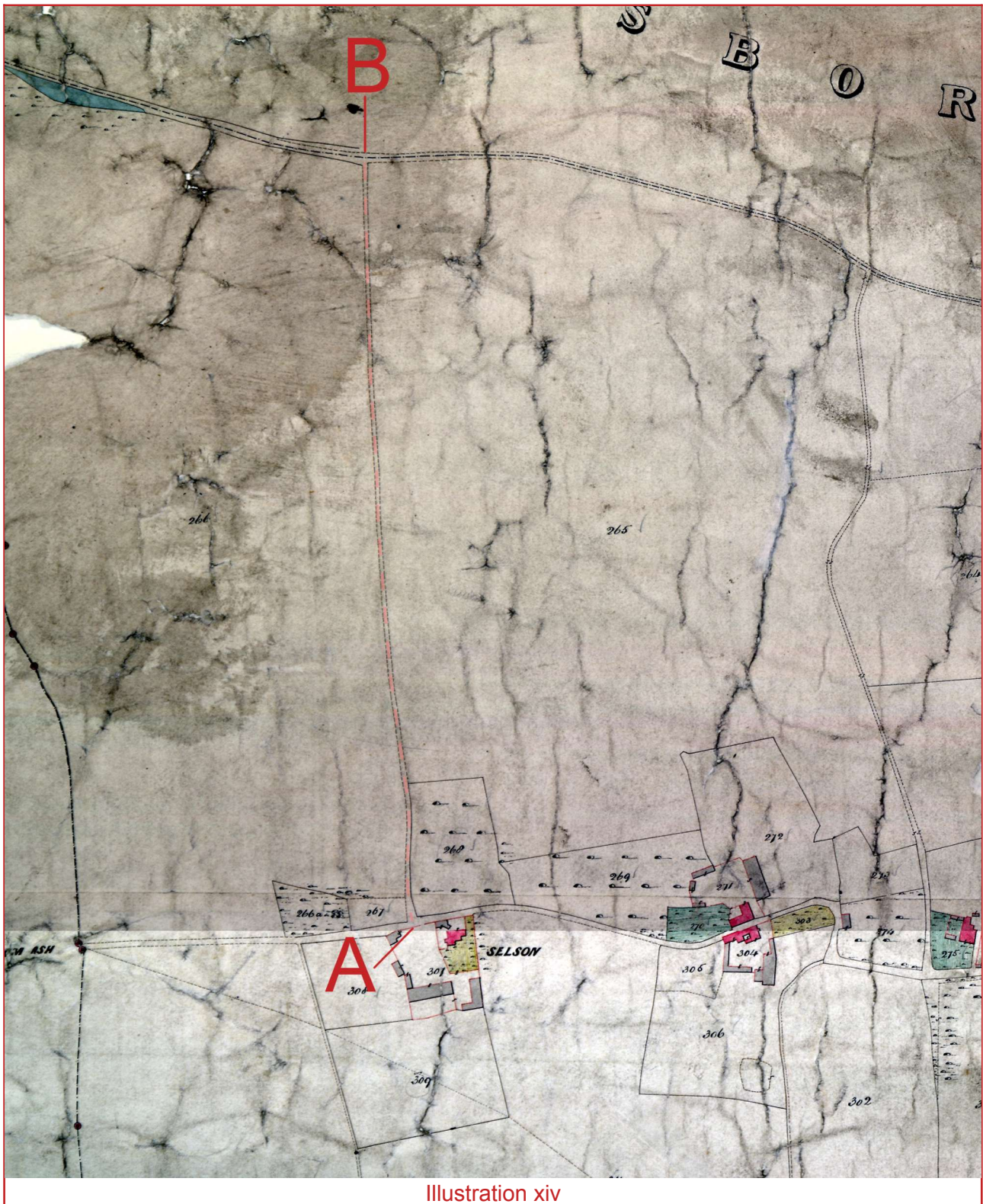


Illustration xiv

100

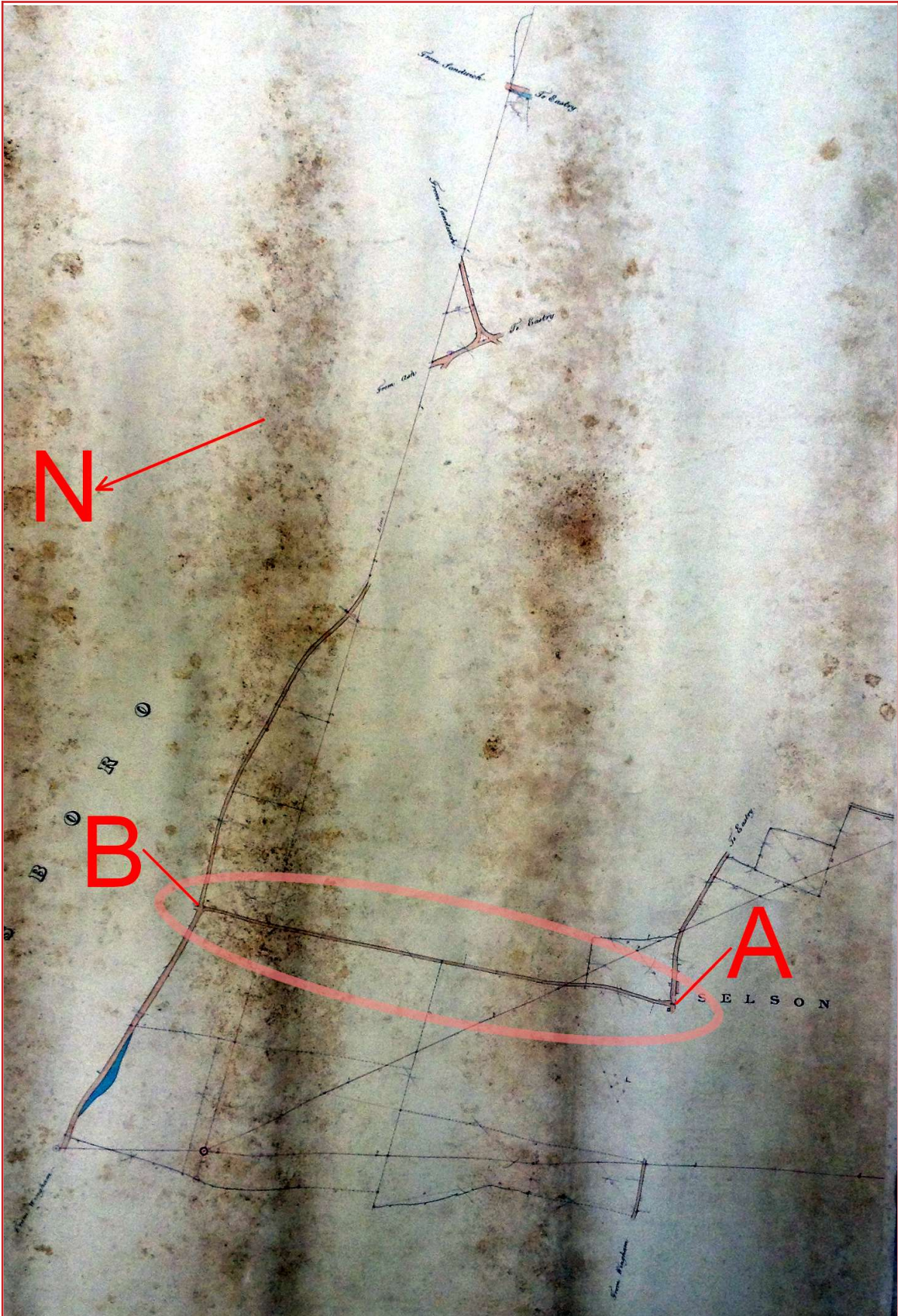


Illustration xv

Eastry tithe map Roads and Waste entry in apportionment

SUMMARY. (continued)
D.D.—London: Printed and Published By Authority, by Shaw & Sons, 137 and 138, Fetter Lane.

LANDOWNERS.	OCCUPIERS.	QUANTITIES in Statute Measure.			RENT CHARGE PAYABLE to Tithe?			Rents and Rates Payable & Appropriations		
		A.	R.	P.	E.	S.	D.			
	Brought forward	2487	"	12	277	14	9	881	15	6
	Roads and Waste	41	"	"	"	"	"	"	"	"
		2715	"	26	310	"	"	910	"	"
	Signed { Mrs Coleman Stephen Elgar.									

Illustration xvi

Dawson's conventional symbols

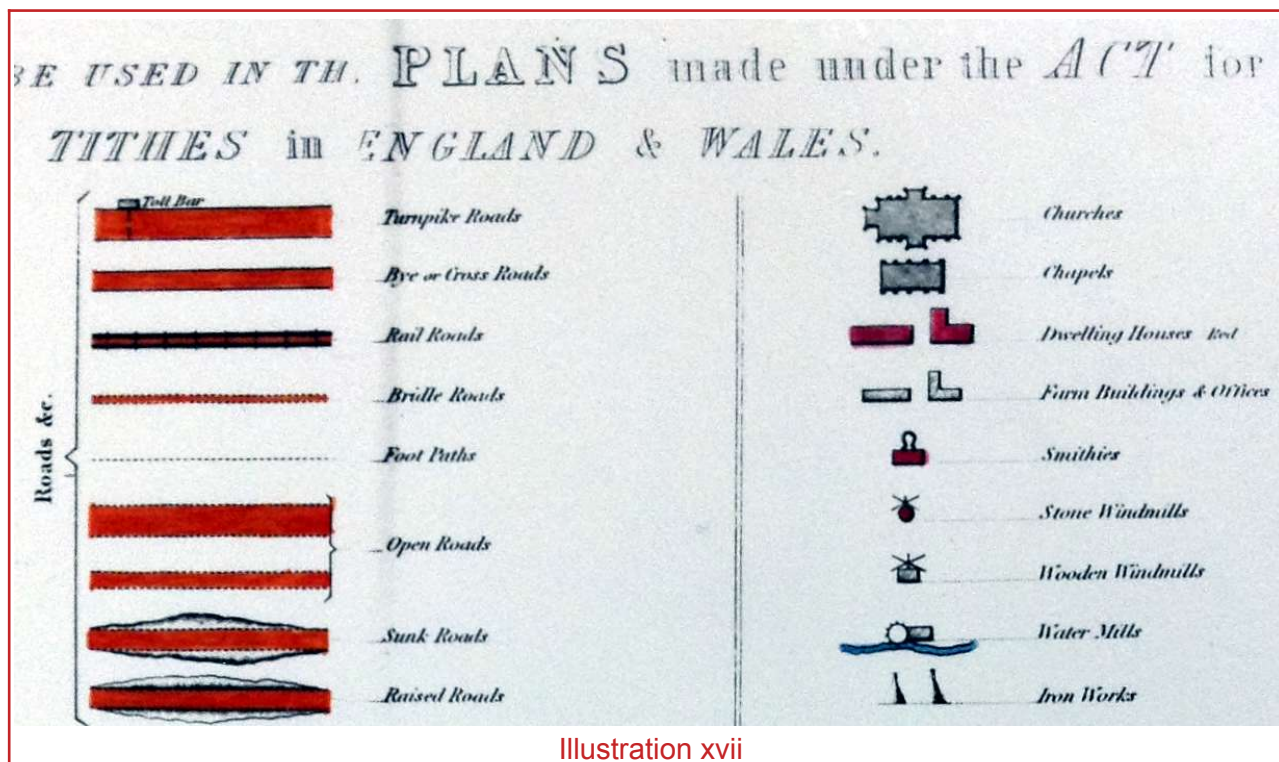


Illustration xvii

Eastry tithe map (Tithe Commissioners' copy)

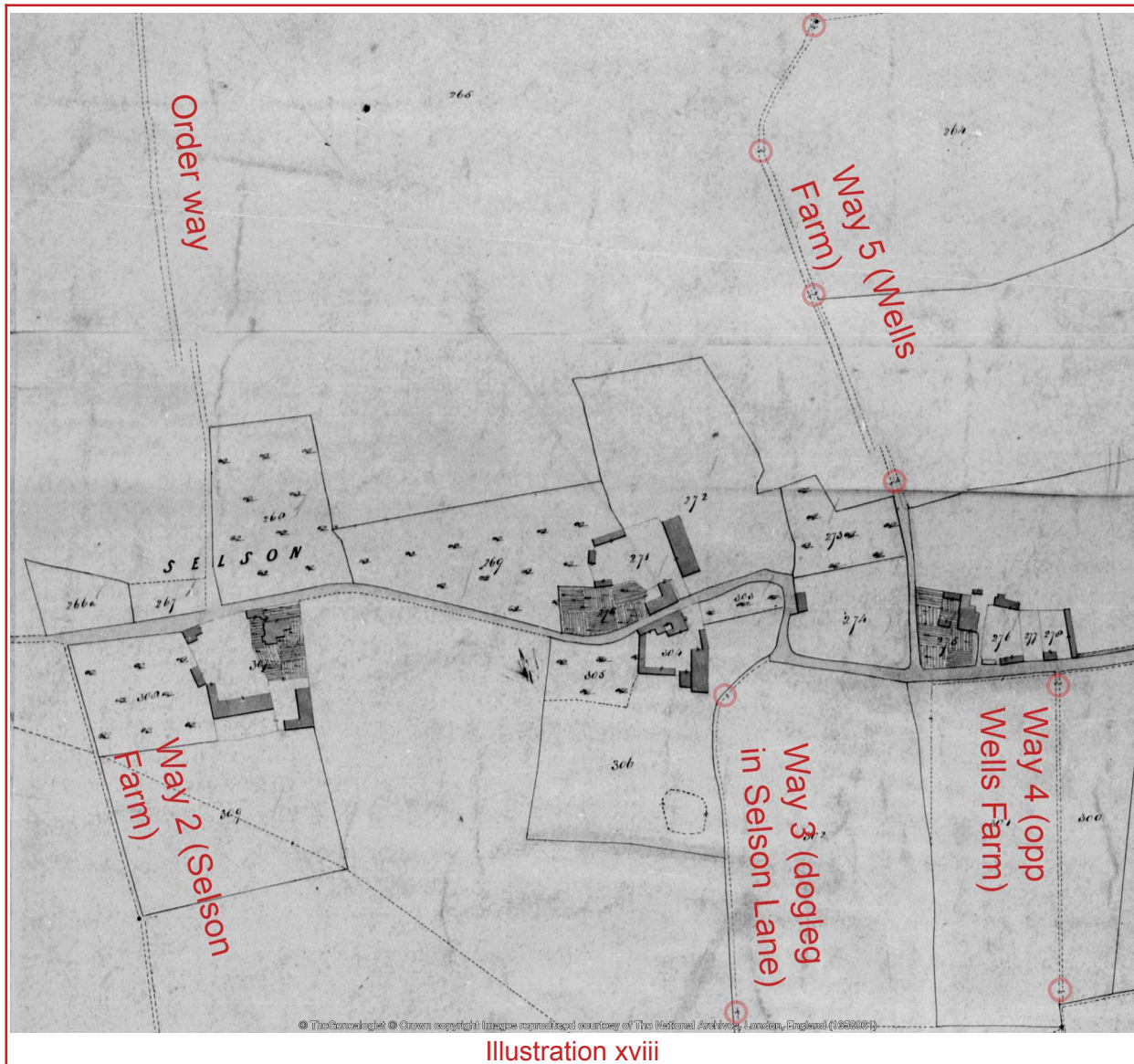


Illustration xviii

F.3. **Background:** The Tithe Act 1836 enabled tithes (*i.e.* a tenth of the produce of the land originally payable to the parish clergy) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid (the rentcharge). An assessment of the tithe due and the payment substituted was set out in an apportionment. The 1836 Act was amended in 1837 to allow maps produced to be either first class or second class.

F.4. First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners. They had to be at a scale of at least three chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at six chains to the inch. Lt. Dawson commended a convention of signs and symbols to be used (see Illustration xvii

above), which included bridle roads and footpaths, but this seldom was strictly adhered to.²⁸

F.5. The tithe process received a high level of publicity as landowners would be assiduous not to be assessed for a greater payment than necessary. In *Giffard v Williams*, it was said, referring to a tithe map and award:

...the Act of Parliament requires these things to be done, not in a corner, but upon notice in all the most public places; so that it is impossible to treat this document otherwise than as a public one, and as public evidence that at that time the owner of the undivided moiety of this field was aware of the facts.²⁹

F.6. **Description:** Original scale: three chains to one inch (1:2,376); orientation: unchanged (top is north-northeast). The tithe map for Eastry is second class.³⁰ A reproduction of the entire map appears at Annexe C at p.81 below, annotated to draw attention to specific ways. The extracts in Illustration iv above and in Annexe C are from the parish copy held by Kent County Archives.

F.7. On the Eastry tithe map, the order way is shown as an unenclosed way between A and B, save for the most southerly part adjacent to a parcel 268 ('Orchard') on the eastern side of the way, which is shown by a continuous casing and therefore hedged or fenced. The way is shown separate from the adjacent parcels numbered 265 ('Great Field') and 266 ('Longtie Field') and is not braced with those parcels, nor is the way identified with a separate parcel number.

F.8. Other public roads also are shown as unrated in the tithe assessment: for example: Drainless Road, Selson Lane, Thornton Lane, Thornton Road, Venson Bottom, public bridleway EE266 (Venson Farm to Tilmanstone), Dover Road, Cater Road: some of these are annotated with parcel number 571, which does not appear in the tithe award, but is presumed to be included within the entry for 'Roads and Waste' (see Illustration xvi above). However, parcel number 571 appears to have been applied incompletely. Whereas driveways of presumed private status are instead braced into the parcels which they cross: way (5) from just east of Little Selson Farm north to Drainless Road, the driveway to Shingleton Farm, tracks parallel to but east of Thornton Lane, the driveway to Updown House^{31 32}.

F.9. Footpaths are shown on the tithe map by a single closely-pecked line (two bridleways are distinguished on the map by double pecked lines annotated 'Bridle road'). This distinction appears to follow Lt. Dawson's guidance referred to above. That guidance also commended that:

The boundaries and limits of all lands and parcels of land which are to be treated separately under the provisions of the Tithe Act, should be marked on

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

29 (1869) 38 LJ (Ch) 597 at 604, per Stuart V-C.

30 See the record for this tithe apportionment held by the National Archives: [IR 30/17/120](#).

31 This way formerly was a public road, but diverted by order of the court in 1789 to the line now recorded as restricted byway EE493. It therefore is possible to be entirely confident of the status of both ways at the date of the tithe assessment.

32 These ways are annotated or discernible on the tithe map reproduced at Annexe C at p.81 below.

the Plans, whether they be defined by fences or not. This will be more particularly requisite in cases which claim exemption from rent-charges under the Act; and where no boundary fences appear, the limits should be shown by a dotted line.

F.10. On the plan drawn up by the surveyor to assist in constructing the tithe map, the order way is shown coloured sienna, in common with the public roads which it joins at either end, as well as various other public roads visible on the plan. Nearly all of these roads are annotated to show destinations.

F.11. The tithe map also depicts Ways (2) to (5).³³

F.12. **Objection:** In an unattributed objection to the application dated 14 March 2024, it is stated (letters (a) to (e) have been inserted to assist in distinguishing elements of the objection):

(a) The high resolution image of the Tithe Map held by Kent Archives contains detail that is not visible on the copy supplied by the applicant. (b) The route is represented with dotted lines and without its own parcel number in exactly the same way as the other private tracks between the fields of Great Selson farm, Little Selson farm, Selson Farm and Wells Farm lying to the north and south of Selson Lane. (c) Only one of the 5 tracks is braced with neighbouring land. (d) The public roads are shown with solid lines. (e) In addition there is an explicitly labelled 'Bridle Road' on this map further north towards Woodnesborough (next to parcel 37) by which we can conclude that the route A–B was not considered to be one.

F.13. (a) This statement of case (as did the application historical document analysis) includes an extract of the tithe map showing the order way. This is presented at a sufficient scale of reproduction that, in our view, all relevant features are visible. However, we now annexe a reproduction of the entire map at Annexe C at p.81 below. While the quality of this reproduction is limited by its inclusion as an annexe to this document, it shows, in our view, sufficient detail to enable study of the tithe map as a whole. As noted at footnote 25 above, digitised copies of the tithe map can be obtained from Kent County Archives.

F.14. (b) We agree that the order way is represented by 'dotted lines and without its own parcel number'. As noted elsewhere, the pecked casing shows that the order way was unenclosed — as is (among local public roads), for example, most of Venson Bottom (unenclosed on the west side of the road), Black Lane (bridleway EE488) between Venson Bottom and Thornton Lane, much of Thornton Road, the southern half of Thornton Lane, and Drainless Road east of the junction with the order way.³⁴ Nothing turns on it: in a downland landscape largely given over to arable cultivation with few hedgerows, many roads (whether private or public) were unenclosed.

F.15. (c) As noted above, the way is not braced with the parcels which it traverses, whereas several roads, considered private today, are so braced. The omission of a parcel reference number is not significant: as noted above, some public roads are annotated with parcel number 571, and others are not. All public roads excluded from assessment presumably are grouped in the apportionment under the general heading of 'Roads and Waste', for which an area of 41 acres (16.6 ha) is given.

³³ See *Other local ways* in item I.E above.

³⁴ These highways are annotated on the tithe map reproduced at Annexe C at p.81 below.

F.16. The order way may be compared with several other ways in its vicinity.³⁵ These four ways are shown at Illustration xviii above on the marked-up extract from the Tithe Commissioner's copy of the tithe map held by the National Archives.

F.17. These ways comprise Way (2) projecting south-southwest from Selson Lane, about 100 metres west of A, to connect with the line of alleged footpath EE500;³⁶ Way (3) projecting in the same general direction from the dog-leg in Selson Lane near Wells Farm, also connecting with the same alleged footpath; Way (4) again in the same general direction, from opposite Wells Farm, and Way (5), leading north from Wells Farm. The first two ways are shown as metalled on the *Ordnance Survey County Series first-edition twenty-five-inch plan* (item IV.G below), and are shown on the *Ordnance Survey surveyor's drawing, Canterbury (East)* (item IV.A above) and the *Ordnance Survey, Old Series one-inch map of Kent* (item IV.D above), and the first, way (2) also is shown on the *Barlow-Hasted map of Kent* (item IV.B above) and the *Ordnance Survey, Mudge-Faden one-inch map of Kent* (item IV.C above).

F.18. However, Ways (3), (4) and (5) are shown as braced on the Tithe Commissioner's copy of the tithe map, and the omission of braces in respect of Ways (3) and (4) on the parish copy appears to be an oversight in the copying.³⁷

F.19. That leaves, apart from the order way, only Way (2) not shown as braced. It is suggested that this way too was then considered to be a public way (not necessarily a vehicular highway) which was not publicly maintainable — or at least, which was not considered to warrant inclusion on the *Contracted map of principal roads in Eastry* (item IV.E above). As such, it was shown in the same manner as the order way.

F.20. (d) Public roads, in common with other roads, are shown with solid or pecked casings, depending on whether the road was enclosed or open (see para.F.14 above).

F.21. (e) Annotation as 'bridle road' is unusual on a tithe map: only two such annotations appear on the Eastry tithe map (bridleway EE226A from Foxborough Hill to Sandwich, and bridleway EE491 from Venson Bottom to Thornton Lane).³⁸ That the order way is not so annotated is suggestive that it was not then considered to be a bridleway, but consistent with its being a carriageway, as the order provides. (There are, however, several ways believed to be bridleways at the time of the tithe assessment which also are not annotated as such: for example, bridleways EE382, EE488, EE266, EE478.)

F.22. **Conclusion:** The absence of any rating assigned to the order way is good evidence of public status.

F.23. The order way is shown as generally unenclosed: as a private way, it would very likely have been assessed as a discrete parcel, or braced with the neighbouring land. It is not, and the most likely explanation is that, as a public road, it was regarded as not liable to be rated.

F.24. It is not inevitable that unrated roads are public and rated roads are private: inconsistent treatment is encountered elsewhere. But there are two factors present in Eastry parish which suggest that it is a sound inference here.

35 See *Other local ways* in item I.E above.

36 An order has been made in respect of application PROW/DO/C511, for a footpath connecting Eastry (Gore Lane) to Hammill Farm. The order awaits submission to the Secretary of State for confirmation.

37 Way (5) is shown as braced on both copies.

38 Both bridleways were added to the definitive map and statement following applications from the society.

F.25. The first, noted above, is that other, presumably private, roads are either braced with neighbouring parcels or assigned their own parcel reference (other than reference 571).

F.26. The second is that ways which were not capable of productive agricultural use could be omitted from the apportionment whether they were private or public. But in this case, the order way is of minor status, which crosses (for nearly all of its length) open ground with productive land on either side. It is unlikely that such a way, if privately owned and with no public rights, would be excluded from assessment: it offered grazing which would be of value to the owner. But as a public way, with maintenance the responsibility of the parish surveyor, the way had no formal value to anyone apart from the parish, and could be excluded from assessment.

F.27. This conclusion is supported by the order way's appearance on the surveyor's preparatory plan of surveying lines, in which the order way is shown coloured sienna, in common with other known public roads in the vicinity.

F.28. **Points:** 3

G. Ordnance Survey County Series first-edition twenty-five-inch plan

G.1. **Date:** 1872

G.2. **Source:** British Library

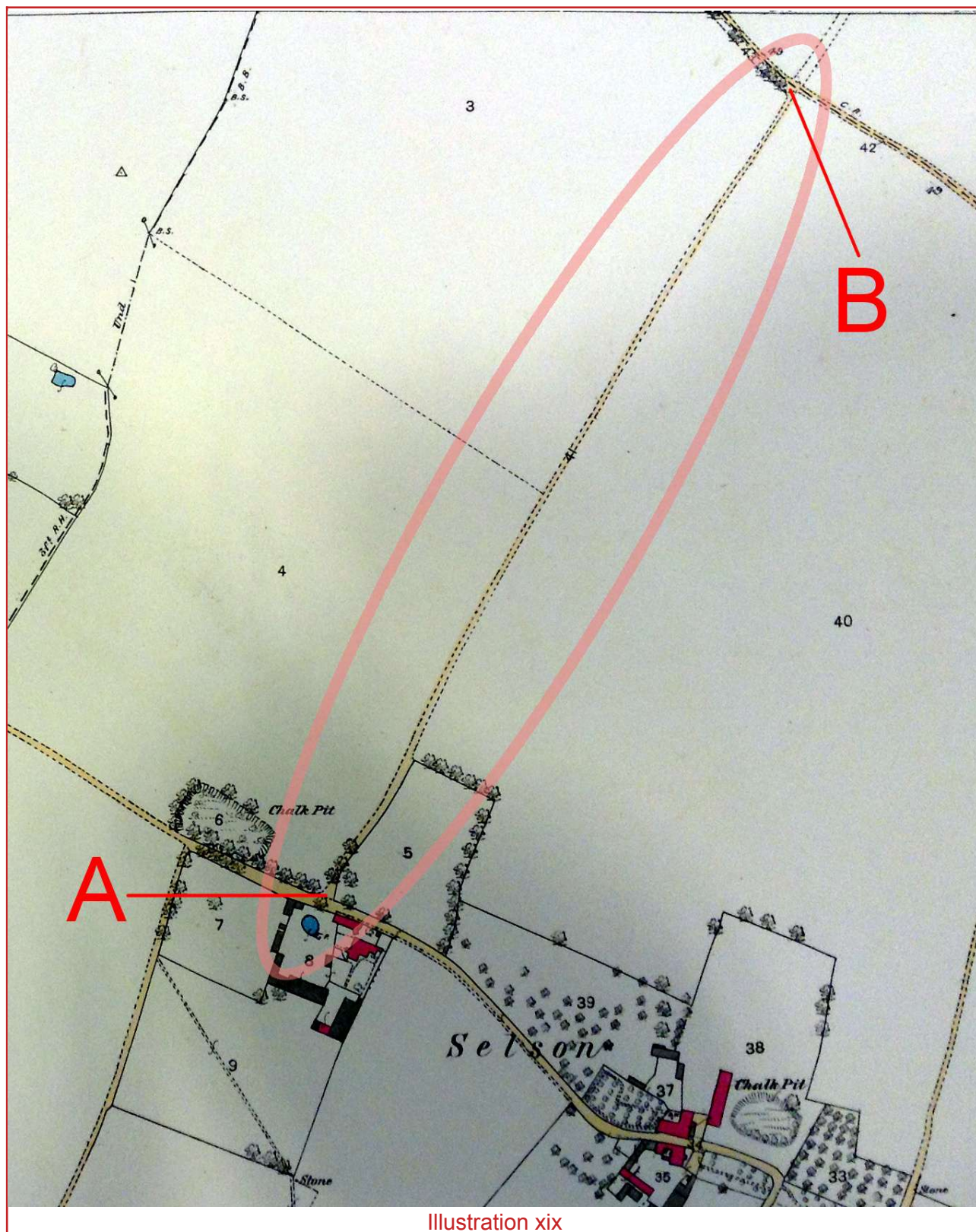


Illustration xix

³⁹ Sheet Kent XLVIII/9, surveyed 1872.

<p>PARISH OF EASTRY, IN THE COUNTY OF KENT—(EASTERN DIVISION). HUNDRED OF EASTRY.</p>					
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
1	21.895	Arable.	37	.690	Houses, sheds, garden, &c.
2	1.067	Pasture.	38	2.704	Pasture and chalk pit.
3	26.987	Arable.	39	2.229	Orchard.
4	20.583	Arable.	40	47.225	Arable.
5	1.730	Pasture.	41	.522	Road.
6	.503	Chalk pit.	42	.563	Road (part of).
7	1.229	Pasture, &c.	43	.512	Road (part of).
8	.953	Houses, sheds, garden, &c.	44	22.888	Arable.

Illustration xx

G.3. **Description:** Original scale: 1:2,500; orientation: unchanged (top is north). An extract for a larger area appears at Annexe D at p.83 below.

G.4. The Ordnance Survey County Series first-edition plans are the first large-scale maps to be produced of Kent, with the survey dating from 1872. Plan XLVIII/9 shows the order way throughout and hand-coloured in sienna, signifying that the way was metalled.⁴⁰

G.5. The order way is shown as bounded by pecked lines and therefore unenclosed, save adjacent to parcel 5, where the way is enclosed by a fence or hedge on the east side. No gates are shown at either end or intermediately.

G.6. The order way is identified as parcel 41. In the book of reference for the parish of Eastry published with the first-edition map, the entry refers to the parcel comprised in the order way as a 'road', with an area of 0.522 acres (0.211 ha).

G.7. **Conclusion:** The Ordnance Survey County Series first-edition plan shows that the order way was a metalled or made road throughout, capable of sustaining wheeled traffic. While by no means a conclusive indication of a public road, the metalled surface, recorded by the surveyor, is consistent with public status, and with the obligation of maintenance by the inhabitants of the parish identified in the *Contracted map of principal roads in Eastry* (item IV.E above).

⁴⁰ 'Carriage drives were tinted sienna on 1:2500 sheets produced before about 1880, and again from 1884 onwards... (SC, 25:6:1884) This instruction was presumably cancelled after 1889 or so.' *Ordnance Survey Maps—a concise guide for historians*, 3rd ed., Richard Oliver. However, in practice, it seems that colouring was not restricted only to 'carriage drives', but any road or path which was metalled.

G.9. Points: 1

H.1. **Date:** various, 1858–1957

OS County Series second-edition 25-inch plan, revised 1896, published 1898⁴¹



v.2.0 May 2025



Illustration xxii

⁴² maps.nls.uk/view/103680671#zoom=4.2&lat=9229&lon=14318&layers=BT

OS County Series fourth-edition 25-inch plan, revised 1938, published 1946⁴³



Illustration xxiii

43 maps.nls.uk/view/103680668#zoom=4.1&lat=9119&lon=14281&layers=BT



Illustration xxiv

44 maps.nls.uk/view/239767285#zoom=5.8&lat=4725&lon=2271&layers=BT



Illustration xxv

⁴⁵ maps.nls.uk/view/255276857#zoom=6.4&lat=4313&lon=10035&layers=BT



Illustration xxvi

⁴⁶ maps.nls.uk/view/259703657#zoom=6.5&lat=5384&lon=15318&layers=BT



Illustration xxvii

⁴⁷ maps.nls.uk/view/239767267#zoom=6.2&lat=5055&lon=2383&layers=BT



Illustration xxviii

48 maps.nls.uk/view/239259781#zoom=7.5&lat=7224&lon=5507&layers=BT

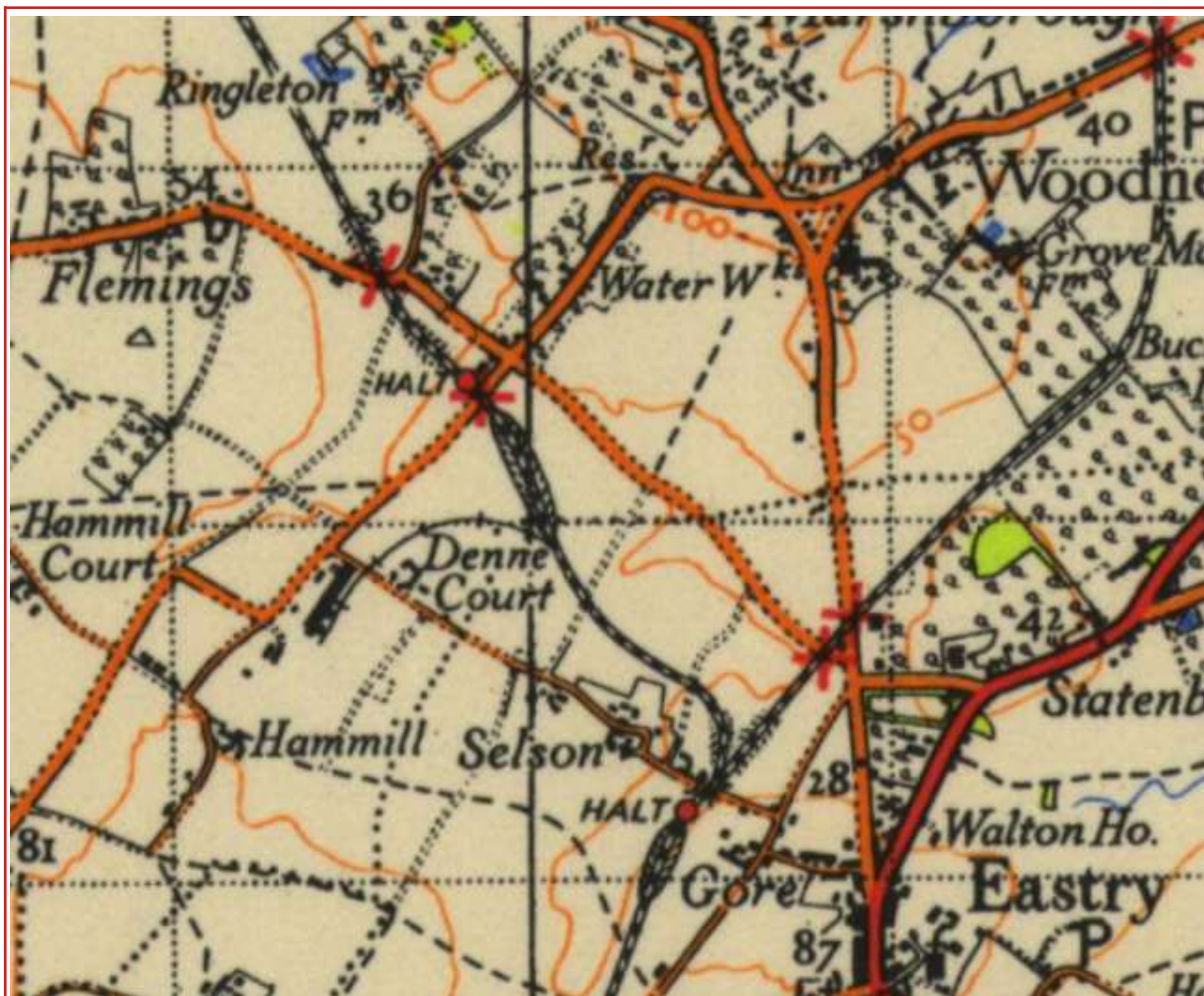


Illustration xxix

49 maps.nls.uk/view/74466972#zoom=7.2&lat=8669&lon=8290&layers=BT

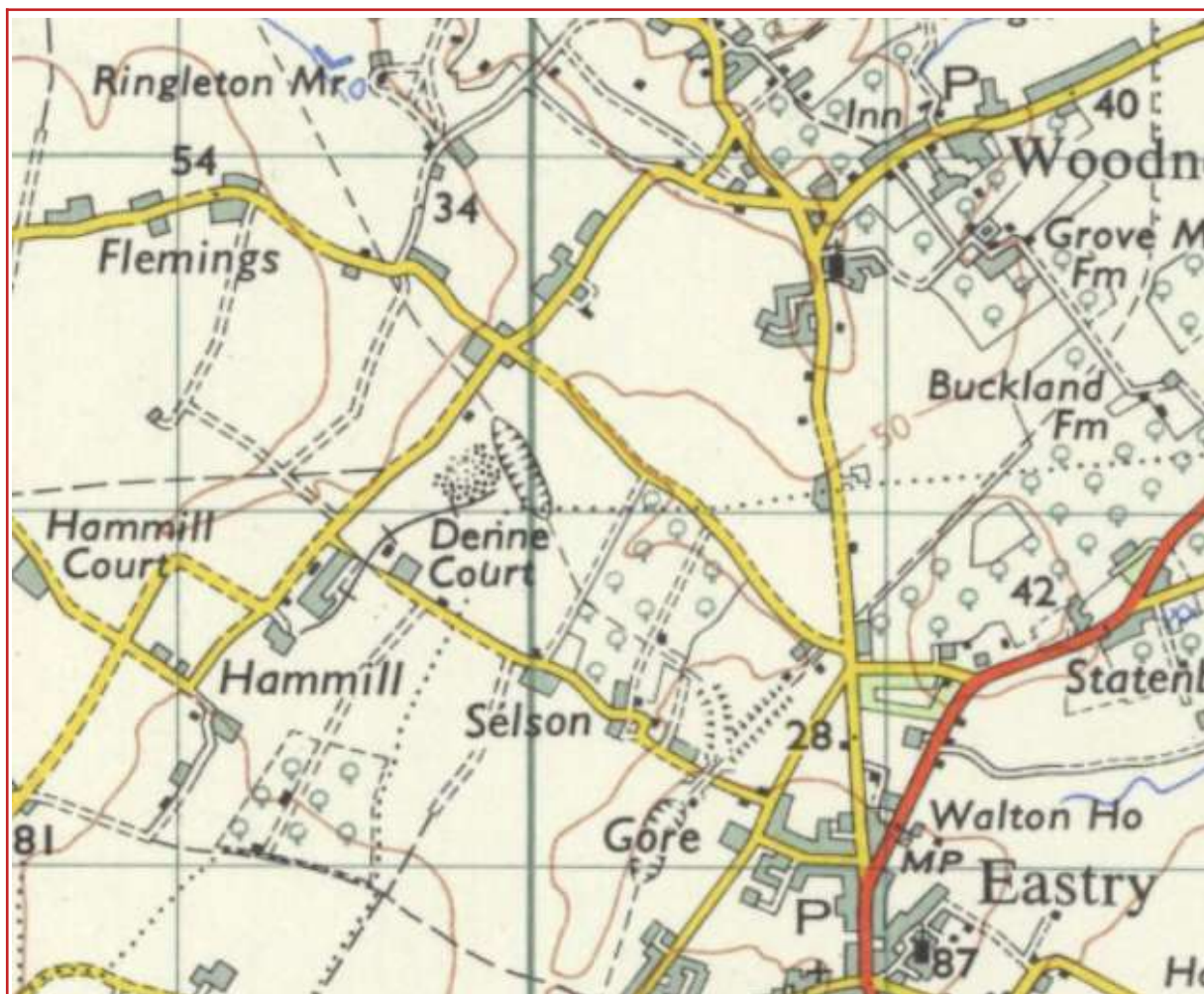


Illustration xxx

H.3. **Description:** Ordnance Survey County Series twenty-five-inch plans — original scale: near twenty-five inches to one mile (1:2,500)⁵¹; orientation: unchanged (top is north). Ordnance Survey one-inch maps — original scale: one inch to one mile (1:63,360); orientation: unchanged (top is north). Footnotes to each extract offer hyperlinks to scans of the relevant plans and maps on the website of the NLS, as well as (in relation to the one-inch extracts) to the relevant key.

H.4. The Ordnance Survey County Series twenty-five-inch plans in second to fourth editions follow through from the *Ordnance Survey County Series first-edition twenty-five-inch plan* (item IV.G above).

H.5. The second-edition plan shows the order way generally unenclosed, and it now is braced to the adjoining parcel to the west (76) for the purposes of calculating the area. No gates are shown.

H.6. The third edition shows the way in identical form.

50 maps.nls.uk/view/91577490#zoom=7.3&lat=8842&lon=7863&layers=BT

51 Plans drawn at exactly twenty-five inches to the mile would be at a scale of 1:2,534.

H.7. The fourth edition shows the way now as wholly enclosed on the east side. The course of the *East Kent mineral light railway* (item IV.K below) is depicted by its boundary fencing: the detail, in the form of the line of the single-track railway,⁵² is not shown as a war-time economy. However, the order way is shown as continuing across the line on an unchanged course, presumably on a level crossing. Gates are shown on the order way only as must have been necessary across the level crossing.

H.8. The Ordnance Survey one-inch maps follow through from the *Ordnance Survey, Old Series one-inch map of Kent* (item IV.D above).

H.9. The [New Series](#) (surveyed 1858–72, published 1878) shows the order way generally as unenclosed (with dotted casing), and comparable to other local roads, with the exception of the Sandwich to Eastry road, which is shown wider, with a strengthened casing. No key was published for this series.

H.10. The [Revised New Series](#) (revised 1893, published 1898), the first one-inch map to be published in colour, shows the order way as inferior to the majority of local roads, being drawn more narrowly, and still generally unenclosed. The way is depicted similarly to some other minor local roads (such as Hammill Farm Lane, and the western half of BOAT EE109), as well as other roads or tracks not now recognised as public roads. The [key](#) represents the order way as 'Unmetalled Roads', not being first, second or third class metalled roads.

H.11. The position is unchanged on the [Third Edition](#) (revised 1904, published 1905), save that Hammill Farm Lane is now shown with a broader width (but similarly uncoloured), whereas part of BOAT EE109 remains shown identically. The [key](#) represents the order way as unchanged.

H.12. The [Fourth Edition](#) (revised 1909, published 1911), which has reverted to black printing on white, is otherwise similar to the Third Edition. The [key](#) represents the order way as unchanged.

H.13. The [Popular Edition](#) (revised 1914, published 1920) again is largely unchanged, apart from the readoption of colour printing, and the [key](#) represents the order way as 'Minor Roads'.

H.14. The position is unchanged on the [New Popular Edition](#) (revised 1936 published 1945), except that the [key](#) now represents the order way as 'Minor Roads in towns, Drives and Unmetalled Roads'.

H.15. The [Seventh Series](#) (revised 1954–57, published 1959) now shows the order way as enclosed on the east side. The [key](#) again represents the order way as 'Minor Roads in towns, Drives and Unmetalled Roads'.

H.16. **Conclusion:** The order way continued to be shown as a minor track or road throughout the Ordnance Survey County Series second- to fourth-edition twenty-five-inch plans, and on the Ordnance Survey one-inch maps into the modern era. No gates were depicted as present at either end of the road. This suggests that the road remained accessible to the public throughout this period, consistent with its being a public road.

H.17. **Points:** 2

⁵² The junction with a spur to Hammill brickworks is shown slightly to the west: it seems likely that the points were located west of the level crossing.

I. Bartholomew's map

I.1. **Date:** 1904, 1922 and 1953

I.2. **Source:** National Library of Scotland⁵³ (1904 and 1922); personal copy (1953 map)

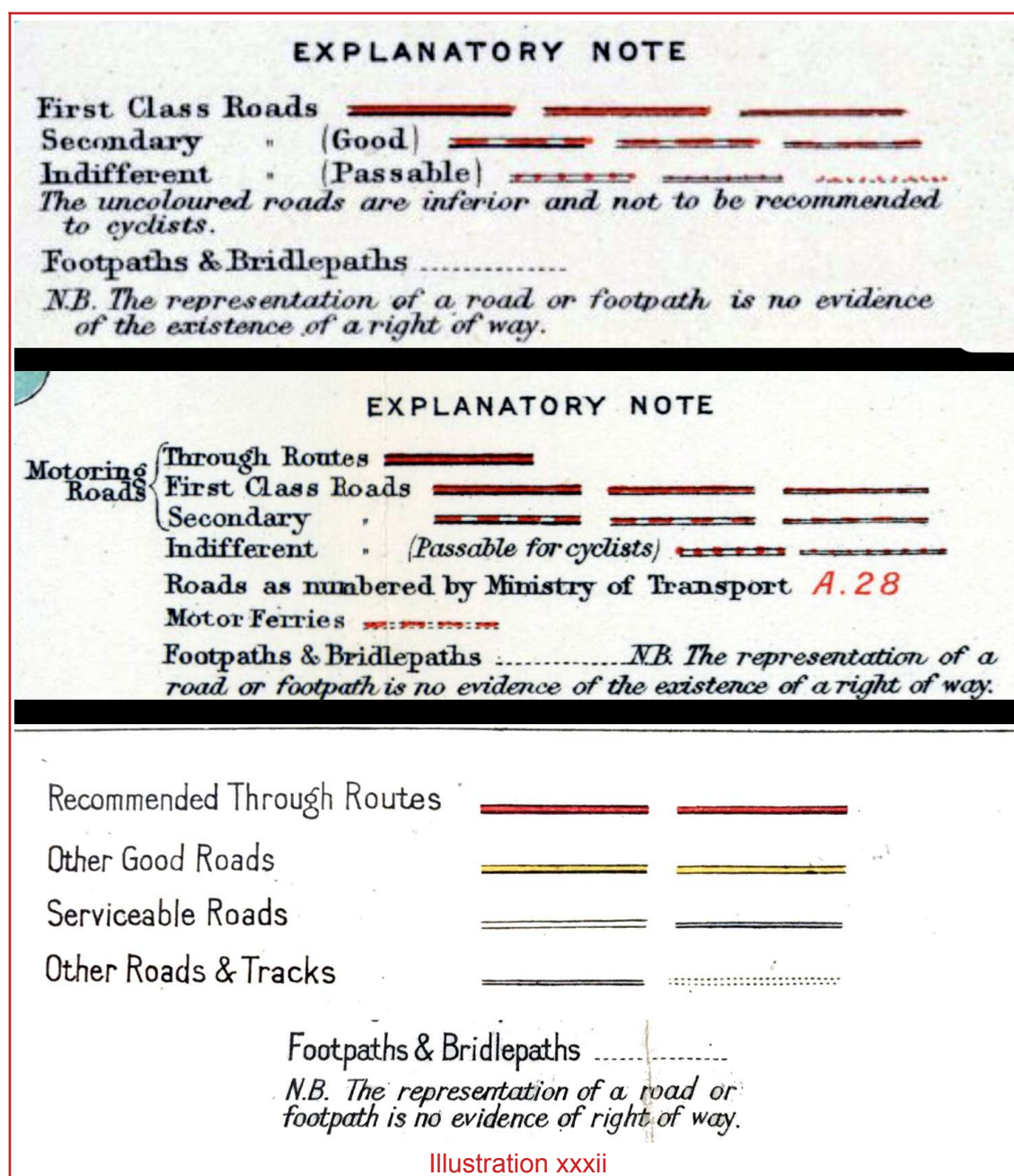
⁵³ maps.nls.uk/mapmakers/bartholomew.html

Bartholomew's maps: 1904, 1922 and 1953 editions



Illustration xxxi

Bartholomew's maps keys: 1904, 1922 and 1953 editions



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

I.4. Bartholomew's maps from the first half of the twentieth century, dating from 1904,⁵⁴ 1922⁵⁵ and 1953 show an evolving road network. However, the order way consistently is shown as a footpath or bridleway.

I.5. **Conclusion:** While the maps are not convincing evidence of public rights, it seems unlikely that an entirely private path, not subject to any public rights of passage, would

⁵⁴ maps.nls.uk/view/97131104#zoom=8.0&lat=7003&lon=9704&layers=BT

⁵⁵ maps.nls.uk/view/75202935#zoom=8.7&lat=6974&lon=9565&layers=BT

have been depicted on successive editions over half a century without objection being taken.

I.6. **Points:** 1

J. Finance (1909–1910) Act 1910

J.1. **Date:** 1911

J.2. **Source:** National Archives⁵⁶

Finance Act field book hereditament 220

Reference No.... 2211.....

GROSS VALUE.....£ 3450..

Less Value attributable to Structures, timber, &c. (as before) £ 500

FULL SITE VALUE.....£ 2950

Gross Value (as before).....£ 3450..

Less deductions in respect of—

Fixed Charges, including—

Fee Farm Rent, rent seek, quit rent, chief rents, rent of Assize£

Any other perpetual rent or Annuity.....£

Tithe or Tithe Rent Charge £ 1050

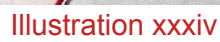
Other Burden or Charge arising by operation of law or under any Act of Parliament £

If Copyhold, Estimated Cost of Enfranchisement.....£

Public Rights of Way or User£ 50.

Rights of Common.....£

Illustration xxxiii



J.3. **Description:** original scale: 1:2,500; orientation: unchanged (top is north). A more extensive extract of the record plan appears at Annexe E at p.85 below. A copy of the field book entry for hereditament 220 is at Annexe F at p.87 below.

J.4. In relation to the order way, it generally is excluded from assessment as a 'white road', except for the most southerly end of the way immediately north from A, which crosses part of hereditament 220 without marked exclusion.

J.5. Ways (3) and (5) similarly are excluded, or partly excluded, as 'white roads'.⁵⁷

J.6. In the field book for hereditament 220, a deduction of £50 is recorded for 'Public Rights of Way or User'.

J.7. **Analysis:** The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The primary purpose was to charge a tax (increment levy) on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways. First, public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads'. This is because s.35 of the 1910 Act provided,

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

A highway authority was a rating authority.

J.8. Secondly, discounts from the valuation could be requested for land crossed by foot-paths or bridleways.

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

J.10. **Conclusion:** The exclusion of the order way from assessment is some evidence that the way was considered to be a public highway, most likely of carriageway status. However, the exclusion also of Ways (3) and (5) leaves it difficult to draw any firm conclusions.

J.11. The incorporation of the southerly end of the order way in hereditament 220 does not undermine any conclusion drawn: the practice of the valuer on this sheet was not to exclude some public roads from the assessment where the exclusion was unnecessary because the status was apparent from neighbouring treatment of the same feature: so, for example, the order way is known to be excluded because for the most part, it is: an inference of exclusion may be drawn for the southerly end without its being expressly drawn as excluded (it is possible that the area of the southern end was not included in the calculation of the area of hereditament 220).⁵⁸

J.12. Similarly, Selson Lane, which the order way joins at a T-junction at A, is similarly shown within hereditament 220 in the vicinity of A, but its status as a public road is clear from the exclusion east of A.

J.13. In effect, the valuer adopted a short-hand which allowed for exclusion to be inferred where appropriate. From the valuer's (and the taxpayer's) perspective, what was

⁵⁷ See *Other local ways* in item I.E above.

⁵⁸ The area of hereditament 220, Selson Farm, is given variously as 98a,0r,2p and 99a,0r,17p.

important was that the area of the road was excluded from the valuation of the hereditament, and from the assessment.

J.14. In addition, the valuer allowed a deduction in value of £50 for public rights of way. Only two footpaths across hereditament 220 are identified on the Ordnance Survey County Series plan adopted for record plan purposes, or on any other edition of the County Series plans, and these are highlighted in green on the more extensive extract at Annexe E at p.85 below. The approximate length of these footpaths within the hereditament is 460 metres. A deduction of £50 is a surprisingly high figure for such a short length of footpath, and it is possible some of the deduction is allowed for the order way: if so, again, it must have been recognised as public right of way.

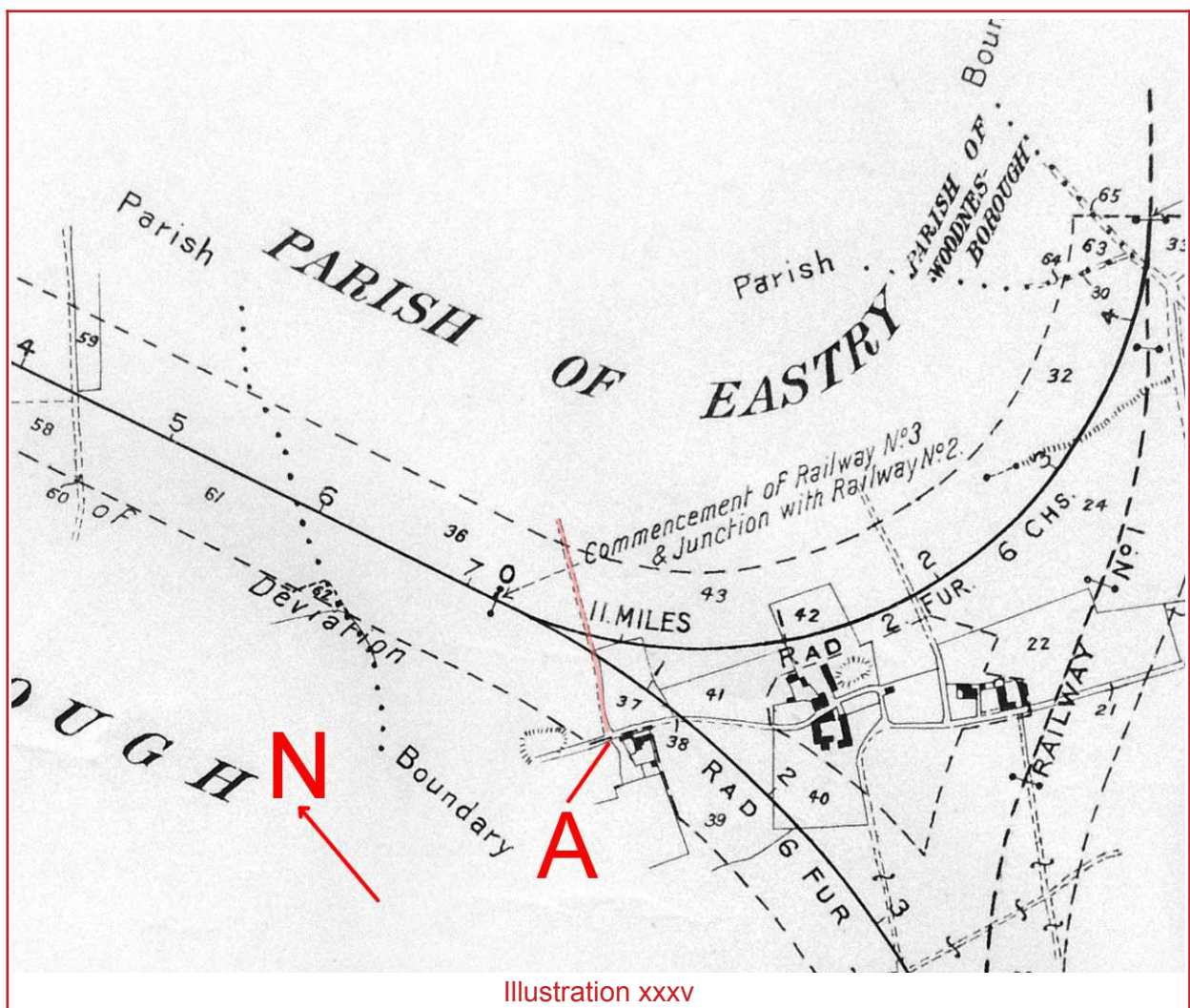
J.15. **Points:** 3

K. East Kent mineral light railway

K.1. **Date:** 1910

K.2. **Source:** Kent County Archives⁵⁹

East Kent light railway deposited plan, lines 2 & 3



59 Q/RUm/1151

East Kent light railway deposited book of reference

46

EAST KENT MINERAL (LIGHT) RAILWAYS.

Parish of EASTRY, in the County of KENT.

RAILWAY No. 2—*continued*.

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
36	Arable and occupation road	The Right Honourable The Earl of Guilford	Lewis Pettman
37	Meadow	The Right Honourable The Earl of Guilford	Lewis Pettman
38	Public road	The Eastry Rural District Council	The Eastry Rural District Council
41	Meadow	Mrs. H Ewbank	Alexander Norwood Hogben	Alexander Norwood Hogben
42	Meadow	Charles Henry Whitford	Charles Henry Whitford
43	Arable, meadow and occupation road	Charles Henry Whitford Walter Henry Clark George Drayson Walter William Woodruff	Alexander Norwood Hogben	Charles Henry Whitford Alexander Norwood Hogben Walter Henry Clark

Illustration xxxvi

K.3. **Description:** original scale: not known; orientation: unchanged (north marked on plan).

K.4. Originally called the East Kent Mineral (Light) Railway when first proposed in 1909, the undertaking later became generally known as the East Kent Light Railway. The promoters included Kent Coal Concessions Ltd, the original promoter of the Kent coalfield. The railway was promoted under the Light Railways Act 1896. The 1896 Act required the deposit of plans and books of reference in connection with a submission seeking authorisation under the Act. Line 1 was intended to run from Shepherdswell to Richborough via Eastry, and line 2 from Eastry to Canterbury via Wingham. Line 3 was intended to form the south-western curve joining line 2 to line 1 south of Eastry (the northern curve to join line 1 was intended to form part of line 2).

K.5. Lines 1, 2 and 3 were among the initial raft of proposals for a network of lines serving prospective East Kent collieries. The lines were authorised by the Board of Trade under the 1896 Act in the East Kent Mineral (Light) Railways Order 1911,⁶⁰ and lines 1 and 2 were built (line 2 terminated short of Canterbury at Wingham), but the line 3 south-western curve (marked 'RAD 6 FUR...') was not built (instead a shorter spur was built

⁶⁰ SR&O 1911/5771

within the limits of deviation of lines 1 and 2, which enabled line 2 to begin north of Eastry station), nor was the northern curve. Accordingly, only one line was built across the order way, and even that was on a somewhat more northerly alignment than either line shown on the plan (but just within the limit of deviation).

K.6. The order way is shown as forming the eastern boundary of parcel 36. In the book of reference, parcel 36 is recorded as 'Arable and occupation road', owned by the Rt Hon Earl of Guilford, and occupied by Lewis Pettman.

K.7. Way (5) also is shown, forming the eastern boundary of parcel 43. In the book of reference, parcel 43 is recorded as 'Arable, meadow and occupation road', owned by four persons, leased to another, and occupied by the lessee and two of the four owners.

K.8. Ways (3) and (4) also are shown, within parcel 20. In the book of reference (not shown), parcel 20 is recorded as 'Arable, occupation road and footpaths', owned by five persons, leased to another, and occupied by the lessee, two of the five owners and Eastry parish council (the latter, presumably in respect of the footpaths).

K.9. **Analysis:** Constructed cheaply, the promoters necessarily minimised costs. For example, the bridge over the River Stour at Richborough was built, after some delay, with a fixed span vice the swing bridge authorised⁶¹; only one bridge was built to cross a road on the entire network of lines 1 and 2.⁶² None of the collieries which the railway sought to serve was successful, save the East Kent Colliery at Tilmanstone, and the railway settled down to trade with the East Kent Colliery and to provide a sparse freight and passenger service on the lines to the north of that colliery.

K.10. In respect of lines 1 and 2, sections 46 to 48 and 59 of the Railways Clauses Consolidation Act 1845 were excluded from incorporation in the 1911 Order,⁶³ and the order itself provided for public highways to be taken over the railway (with the one exception mentioned) on the level. In common with other crossings for ways which were not perceived as public roads, no specific provision is made in the elevation nor the order⁶⁴ for the crossing of the order way, and a level crossing would routinely have been provided.

K.11. The plan and book of reference for line 2 document the order way as an occupation road. As any crossing was to be provided on the level, a crossing for an occupation road would have required gates, and the promoting railway company would have been indifferent to the distinction in status between an occupation road and a public road.

K.12. Whereas acknowledged roads and bridleways across lines 1 and 2 were recorded as in the occupation of the Eastry Rural District Council (for example, entries 1, 2, 5 and 6 in Eastry parish), footpaths were recorded in the occupation of Eastry Parish Council (for example, entries 8 and 10), although there is no legal basis for such a distinction. The following table records those ways which cross lines 1 and 2 which either are shown in the plans as having the status of bridleway, or which today are recorded as bridleway or byway.

61 en.wikipedia.org/wiki/East_Kent_Light_Railway

62 Selson Lane, Eastry: now demolished. (The bridge over the River Stour also crossed a road.)

63 See art.3(1).

64 See arts.21–22.

Line 1 (Shepherds well to Woodnesborough only)					
Parish	Par- cel no.	Char- acter	Recorded status in deposit	Present status	Comment
Shep-herdswell	22	enclosed	public footpath	BOAT (ER93)	↓ under-recorded (footpath vice road)
Eythorne	24	field path	public bridle road	none (possibly diverted to footpath EE337)	? not known
Eythorne Tilmanstone	30 1	enclosed	Public road (Pilgrim's Way)	bridleway (EE335B)	↑ higher status than now recorded but likely under-recorded as bridleway vice road
Eastry	1	enclosed	public bridle road	BOAT (EE335)	↓ under-recorded (bridleway vice road)
Eastry	2	enclosed	Public bridle road	footpath (EE264)	↑ higher status than now recorded but likely under-recorded as bridleway vice road ⁶⁵
Eastry	10	unen- closed	public footpath	bridleway (EE488)	↓ under-recorded (footpath vice bridleway)
Eastry	15	unen- closed	Public bridle road	bridleway (EE490)	↔ correct
Eastry	19	unen- closed	Public bridle road	BOAT (EE109)	↓ under-recorded (bridleway vice road)
Woodnes- borough	4	unen- closed	public footpath	bridleway (EE226A)	↓ under-recorded (footpath vice bridleway)
Woodnes- borough	15	unen- closed	public footpath	footpath (ES12)	↔ correct (but evidence of higher rights which are not currently recorded)
Line 2					
Eastry	36	unen- closed	occupation road	[order way]	?

⁶⁵ Subject to order to upgrade to restricted byway following application PROW/DO/C398, and now awaiting referral to Secretary of State.

Woodnesborough	57	unen-closed	occupation road	application to record as bridleway ⁶⁶	↔ correct (but evidence of bridle rights which are not currently recorded)
Staple Woodnesborough	11 42	partly unen-closed	Public road occupation road	public road (Poulton Lane) bridleway (EE193)	↔ correct in entry for Staple ↓ unrecorded in entry for Woodnesborough (occupation road vice bridleway)
Wingham	22	unen-closed	Public bridle road	restricted byway (EE165A)	↓ under-recorded (bridle road vice road)
Wingham	16	partly unen-closed	Public road	BOAT (EE63)	↔ correct

K.13. Of those rights of way identified along the course of line 1 between Shepherdswell and Woodnesborough and along the whole of line 2, seven were under-recorded in the book of reference compared to status shown in the present definitive map and statement, five were correctly recorded (on current evidence, albeit three may be subject to unrecorded higher rights), and two were recorded with a higher status than currently recorded on the definitive map and statement (but such higher status may well be justified on historical evidence, and in relation to one of the ways an application has been made to upgrade to restricted byway). These data do not inspire confidence that the right status always was recorded by the railway surveyor, and in particular, that the status frequently was under-recorded.

K.14. It may be that, where the proposed line was crossed by what were perceived to be occupation roads or footpaths, the rural district council's surveyor was not consulted. This may help explain why some public roads and bridleways were under-recorded as footpaths. The history of the East Kent Light Railway suggests that it always erred on the side of minimising costs, by under-recording public rights.

K.15. It seems likely that the survey was done without sufficient diligence, for only three years later the railway undertaker was challenged by the surveyor to *Eastry Rural Sanitary Authority/District Council* (item IV.L below) as to proper provision for what had been recorded as an 'occupation road' crossing.

K.16. **Conclusion:** The East Kent Light Railway's surveyor often recorded public highways with inferior or no public status.

K.17. The recording of the order way as an occupation road is some indication of the reputation of the way at the date of the survey (1910), but by no means conclusive, nor capable of displacing status previously recognised. It appears to have been demonstrated as incorrect, when the surveyor to the highway authority challenged the standard of re-instatement of the order way.

K.18. **Points:** 0

⁶⁶ Under reference: PROW/DO/C436

L. Eastry Rural Sanitary Authority/District Council

L.1. Date: 1890, 1913

L.2. Source: Kent County Archives⁶⁷

ERSA, report, 7 January 1890

Spillstone
7 January 1890.

To the Chairman & Members
of the Eastry Highway Authority

Gentlemen
Woodnesborough

I have to report that
Mr. Henry Samariss, Wells Farm, Eastry,
has ploughed up a Footpath in his
field between Mr. Baker's land and
his, which is a continuation of the one
that leads from Selson to Woodnesborough.
I wrote him regarding this on the 19th
Ultimo, but as he has taken no notice
of my letter, I have brought the matter
before you.

Collett to road
Mr Samariss
requering him
re-estate road

Illustration xxxvii

Eastey June 24th 1913

To the Chairman & Members of the
Eastey Rural District Council.

Gentlemen

Light Railway Crossings

In reference to my report at last meeting
about the rough state of road,
where the Light Railway had crossed
over at bottom of Chapel Hill Sythorne
the Contractor has had it rolled
and replied to my letter saying he
had made arrangements to make
everything safe. I met Mr. Brotherton
the Contractors Manager in reference to
the condition they have left the road
where they have crossed road near
Wells Farm Eastey. The Manager
replied me to Mr. Stevens the Engineer.
As the work had been carried out
to his instructions I wrote Mr. Stevens
last night.

clerk. to write

Illustration xxxviii

ERDC, report, 8 July 1913

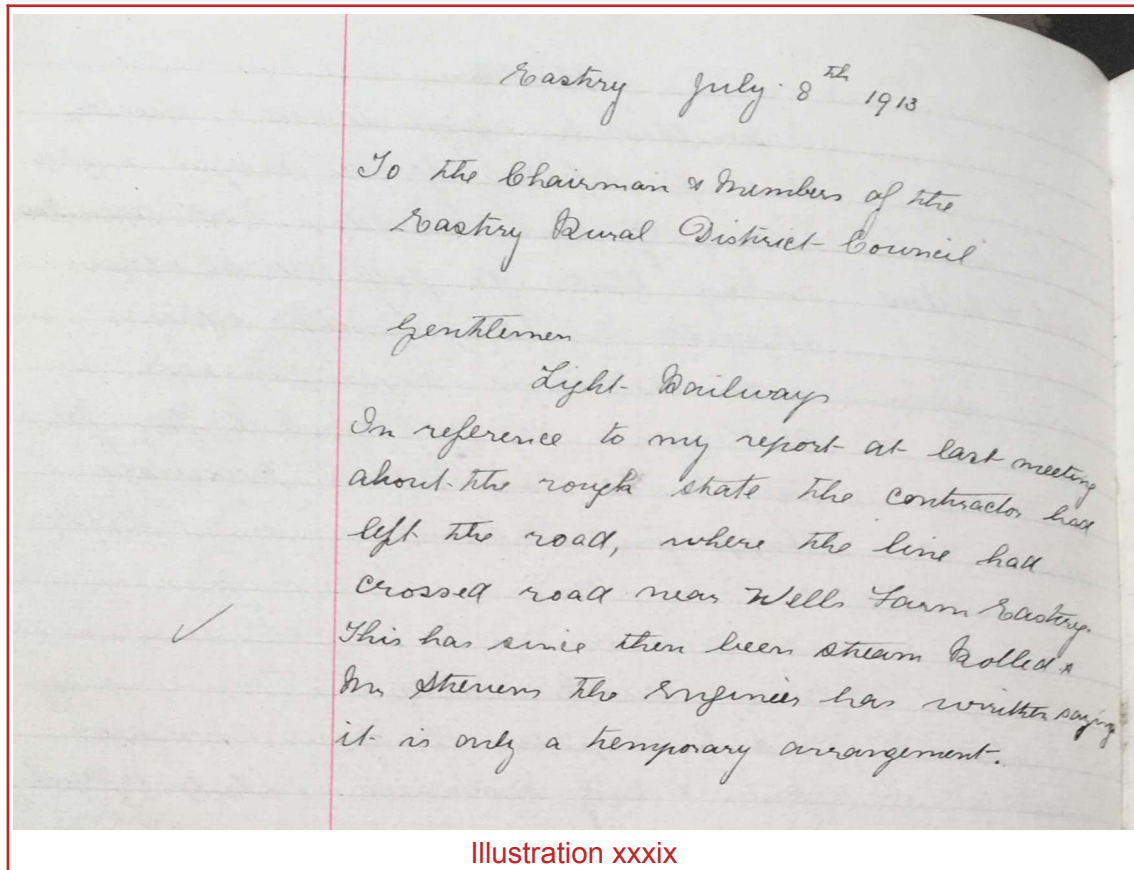


Illustration xxxix

ERDC, report, 5 August 1913

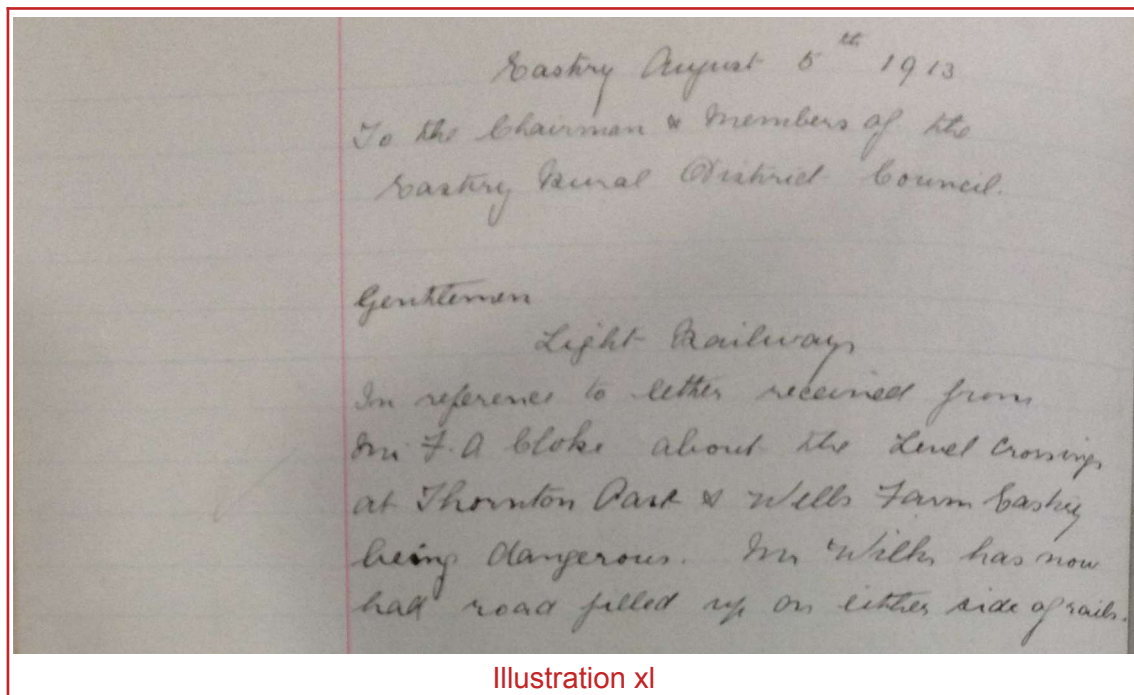


Illustration xl

East Kent Light Railways

Also a letter from the Woodnesborough Parish Council with reference to the obstruction of a footpath leading from Worth to Woodnesborough through Buckle's field. The Clerk stated he had called the Surveyor's attention to the matter and also to the level crossing near Thornton Bad and at Welby Farm. The Surveyor reported the steps taken by him with reference to the matter complained of. Before

Illustration xli

Bastrey November 25th 1913

To the Chairman & Members of the
Bastrey Rural District Council

Gentlemen

Woodnesborough

In reference to letter received at last meeting from the Woodnesborough Parish Council, about the Bridle Path leading from Selson Farm Bastrey to Woodnesborough Church being left dangerous, where the Light Railway has crossed it.

I have inspected this & found one of the sleepers loose and wanted filling up a little each side of metals, which has now been done.

Illustration xlii

ERDC, minute, 11 November 1913

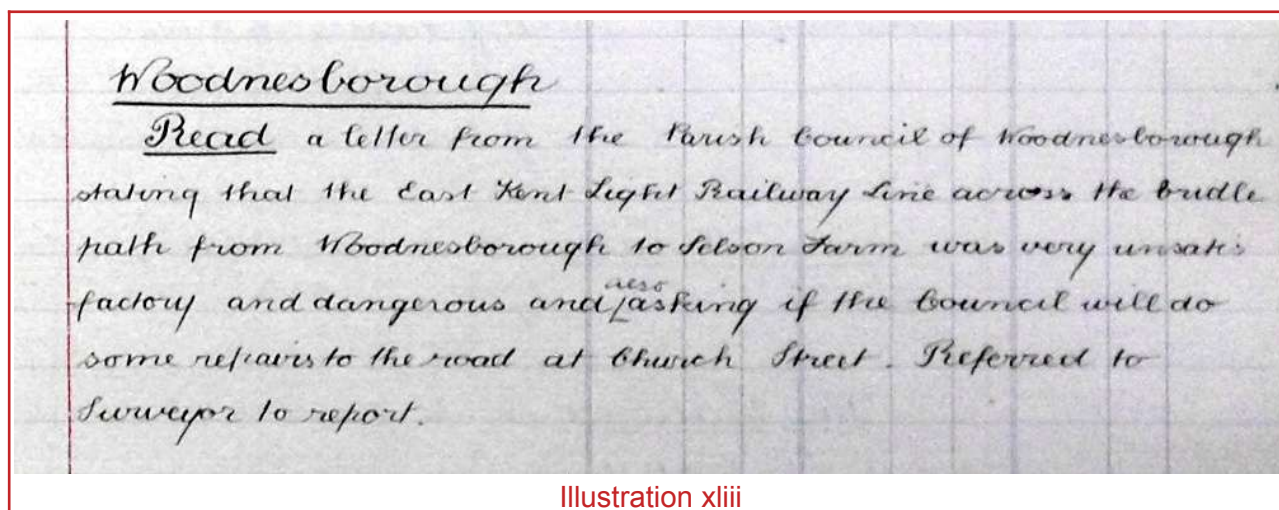


Illustration xliii

ERDC, minute, 25 November 1913

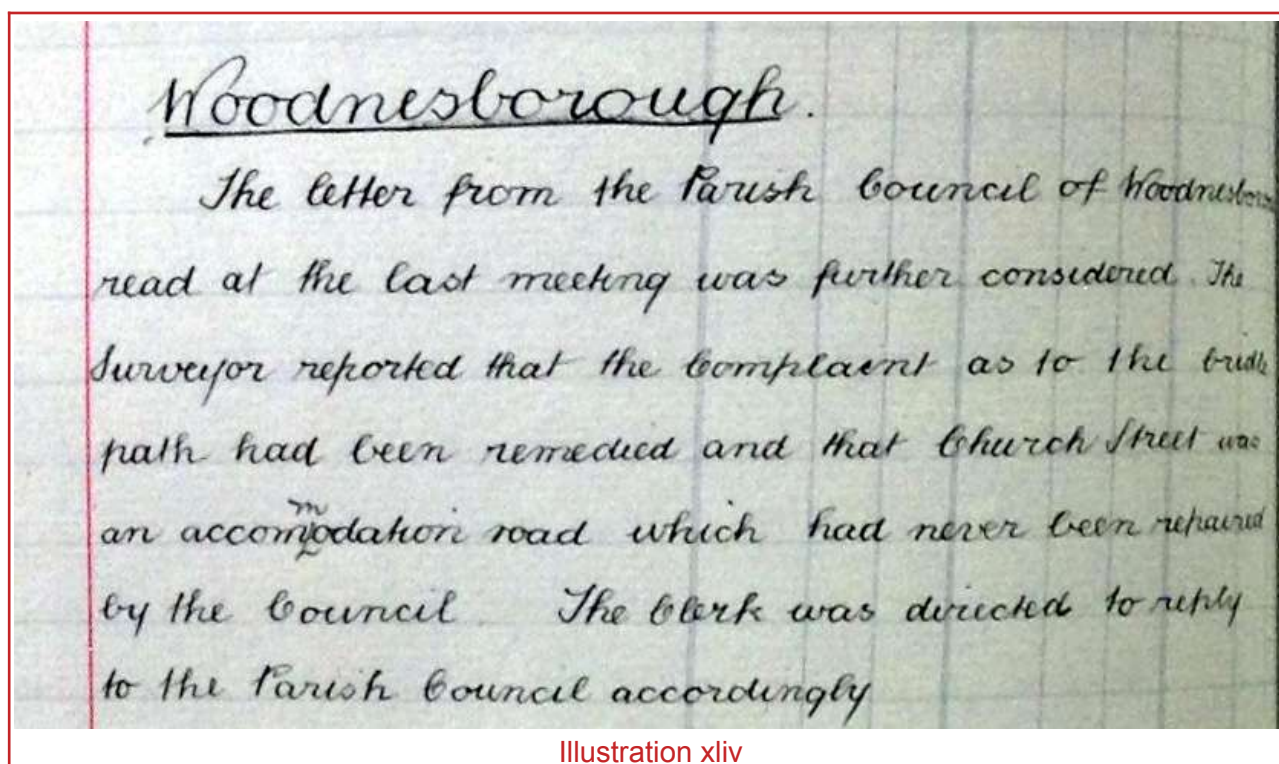


Illustration xliv

L.3. **Description:** The Easry Rural District Council (initially, until 1894, the Easry Rural Sanitary Authority) was responsible for the management and maintenance of non-main roads in its area between the winding up of the Wingham Highway Board in 1880 and the transfer of remaining highway functions to Kent County Council in 1929.⁶⁸

L.4. The council, at its meetings, received regular reports from its appointed surveyor. These reports were recorded in the surveyor's report books.

⁶⁸ Under [s.30](#) of the Local Government Act 1929.

L.5. Reference appears to be made to the level crossing across the order way in the surveyor's reports, which implies a public status to the way. The council was not concerned with occupation or accommodation crossings which were not public ways, and would have had no business challenging the railway company's standard of reinstatement of a private road: indeed, the surveyor's reports and the council's minutes generally are clear that the council had no concern for private roads, save in relation to considering the proposed adoption of private roads.

L.6. Surveyor's report: 7 January 1890, p.130⁶⁹ (Illustration xxxvii):

Gentlemen

Woodnesborough

I have to report that Mr Henry Famariss, Wells Farm, Eastry has ploughed up a Footpath in his field between Mr Baker's land and his, which is a continuation of the one that leads from Selson to Woodnesborough. I wrote him regarding this on the 19th ultimo, but as he has taken no notice of my letter, I have brought the matter before you.

L.7. The report book contains the marginal comment: 'Clerk to write to Mr Famariss requesting him to re-instate road.'

L.8. Surveyor's report: 24 June 1913, p.265⁷⁰ (Illustration xxxviii):

Gentlemen

Light Railway Crossings

In reference to my report at last meeting about the rough state of road, where the Light Railway had crossed over at bottom of Chapel Hill Eythorne. The Contractor has had it rolled and replied to my letter saying he had made arrangements to make everything safe. I met Mr Brotherton the Contractor's Manager in reference to the condition they have left the road where they have crossed road near Wells Farm Eastry. The Manager referred me to Mr Stevens the Engineer as the work had been carried out to his instructions. I wrote Mr Stevens last night.

L.9. The report book contains the marginal comment: 'Clerk to write'.

L.10. Surveyor's report: 8 July 1913, p.267 (Illustration xxxix):

Gentlemen

Light Railways

In reference to my report at last meeting about the rough state the contractor had left the road, where the line had crossed road near Wells Farm Eastry. This has since then been steam rolled and Mr Stevens the Engineer has written saying it is only a temporary arrangement.

L.11. The report book contains a marginal tick.

L.12. Surveyor's report: 5 August 1913, p.1⁷¹ (Illustration xl):

69 RD/Ea/H2 (1884–93)

70 RD/Ea/H6 (1908–13)

Gentlemen

Light Railways

In reference to letter received from Mr F A Cloke about the Level Crossings at Thornton Park and Wells Farm Eastry being dangerous. Mr Wilks has now had road filled up on either side of rails.

L.13. The report book contains a marginal tick.

L.14. The minute of the council meeting on that same day records:

East Kent Light Railway

Also a letter from the Woodnesborough Parish Council with reference to the obstruction of a footpath leading from Worth to Woodnesborough through Buckland field. The Clerk stated he had called the Surveyor's attention to the matter and also to the level crossing near Thornton Oast and at Wells Farm. The Surveyor reported the steps taken by him with reference to the matters complained of. Deferred.

L.15. The minute of the council meeting on 11 November 1913 records⁷²:

Woodnesborough

Read a letter from the Parish Council of Woodnesborough stating that the East Kent Light Railway line across the bridle path from Woodnesborough to Selson Farm was very unsatisfactory and dangerous and also asking if the Council will do some repairs to the road at Church Street. Referred to Surveyor to report.

L.16. Surveyor's report: 25 November 1913, p.19 (Illustration xlii):

Gentlemen

Woodnesborough

In reference to letter received at last meeting from the Woodnesborough Parish Council, about the Bridle Road leading from Selson Farm Eastry to Woodnesborough Church being left dangerous, where the Light Railway has crossed it.

I have inspected this and found one of the sleepers loose and wanted filling up a little each side of metals, which has now been done.

L.17. The report book contains a marginal tick.

L.18. The minute of the council meeting on that same day records:⁷³

Woodnesborough

The letter from the Parish Council of Woodnesborough read at the last meeting was further considered. The Surveyor reported that the complaint as

71 RD/Ea/H7 (1913–20)

72 RD/Ea/Am7, p.15

73 RD/Ea/Am7, p.18

to the bridle path had been remedied and that Church Street⁷⁴ was an accommodation road which had never been repaired by the Council. The Clerk was directed to reply to the Parish Council accordingly.

L.19. **Analysis:** In respect of the 1890 report (para.L.6 above) of a ploughed path on the land of Henry Famariss, there is only one path identified on Ordnance Survey County Series maps between Selson and Woodnesborough, and that is the order way from A to B, then continuing from Drainless Road, opposite point B, north-northwest for about 680m, to join (what is currently recorded on the definitive map and statement as) footpath EE220A east-northeast to Foxborough Hill opposite Woodnesborough church. This continuation from B to Woodnesborough appears on the first, second and third edition County Series maps. Although it is omitted as a continuous path from the fourth edition and the 1956 National Grid plan, the physical existence of part of the way north from B remains marked then and on current large-scale maps as an enclosed lane.

L.20. No other path of any kind is shown, or was shown, on Ordnance Survey or any other map between Selson and Woodnesborough. Way (5)⁷⁵ is shown north-northeast from Wells Farm, generally as far as Drainless Road (part of parcel 43 in the plan for line 2 of *East Kent mineral light railway* at item IV.K above, also described as ‘occupation road’) but no continuation has ever been shown north of that road to Woodnesborough, other than the path previously described from B.

L.21. While the precise location of the ploughed footpath on Mr Famariss’ land⁷⁶ is uncertain, the surveyor’s report refers to the continuation of the footpath as ‘the one [*i.e.* footpath] that leads from Selson to Woodnesborough’. It therefore is suggested that the ploughed footpath is the Way (2) leading south-southwest from Selson Lane, from a point approximately 100 metres west of A.

L.22. While this report refers to the status of the ploughed way as a footpath, it does not rule out the possibility that the continuation had a greater status, as the marginal note to the report refers to the reinstatement of a ‘road’. This would be consistent with its representation on the Eastry tithe map (Way (2) at item IV.F above, at para.IV.F.17), on which the way (in common with the order way) is not braced to the neighbouring parcels.

L.23. In respect of the reports of 24 June 1913 (para.L.8 above) and subsequently, the surveyor refers to ‘the road where they have crossed road near Wells Farm Eastry’. The site of the former crossing of the East Kent mineral light railway over the order way between A and B is approximately 550m northwest of Wells Farm, and Wells Farm is not the nearest farm (Great and Little Selson Farms are closer). However, there is no nearer crossing to Wells Farm of a public road, other than Selson Lane which is carried under the railway by an underbridge.⁷⁷ The crossing of the Hammill byway (BOAT EE109) is 750m

74 [Church Street](#), Woodnesborough

75 See *Other local ways* in item I.E above.

76 Henry Famariss appears to have been an ephemeral land owner or occupier in Selson. Neither his nor the family name appears in the *Eastry tithe map* apportionment, *East Kent mineral light railway* books of reference, the *Finance (1909–1910) Act 1910* field books or the *National Farm Survey map*. Evidently, however, he was in occupation of Wells Farm at the time of the letter in 1890, and appears in the 1891 census as widower and head of household for Wells Farm, and in Kelly’s 1895 directory as a farmer, of Wells and Selson Farms.

77 The reference plainly is not made to Selson Lane under the bridge, because while the surveyor’s reports of 24 June 1913 and 8 July 1913 refer to a ‘crossed road’, that of 5 August 1913 refers to a ‘level crossing’.

south-southwest and an even less likely candidate for description as ‘near Wells Farm’, while the former footpath from Gore Lane at Gore Farm west-northwest to Hammill has only ever been a footpath (not currently recorded on the definitive map and statement), and more correctly described as being near Gore Farm.⁷⁸

L.24. The only other candidate crossing is Way (5): the road north-northeast from Wells Farm, although there is no convincing evidence that this crossing has had the reputation of being a public right of way. It seems that the surveyor’s reports may refer:

- to the order way, impliedly as a public road; or
- to Way (5); impliedly as a public road.

L.25. If the reports refer to Way (5), the reference implies either that it was perceived to be a public road, or that the surveyor and the council concerned itself with the reinstatement of private occupation roads which were interfered with by the railway company.

L.26. On balance, as there is no suggestion that the council ever concerned itself with private roads,⁷⁹ and the applicant has no other convincing evidence that Way (5) is a public road (it is not, of course, shown as a publicly-maintainable road on the *Contracted map of principal roads in Eastry* at item IV.E above), it is suggested that the surveyor’s reports refer to the order way.

L.27. The final report and minute, of November 1913 (paras.L.15 to L.18 above), refer to the ‘Bridle Road leading from Selson Farm Eastry to Woodnesborough Church’. While this cannot be assumed with certainty to refer to the same road identified in the earlier reports submitted in 1913, it must inevitably refer to the order way, there being no other conceivable way. It must also refer to the same public right of way referred to in the 1890 report (para.L.6 above, analysed at para.L.19 above). Only the public way described at para.L.19 above, commencing with the order way between A and B, leads from Selson to Woodnesborough church, and while the order way begins at *Great Selson Farm*, there was no comparable way at this time from Little Selson.⁸⁰

L.28. **Conclusion:** The reports of the surveyor to Eastry Rural District Council, and the minutes of the council (and its predecessor, Eastry Rural Sanitary Authority), exercising the functions of the highway authority for non-main roads, refer to the order way as, respectively, a way at least of the status of public footpath, and as a bridle road. They may also refer to the order way as a public road over the level crossing, but the location of these reports is not entirely certain.

L.29. The reports and minutes therefore provide convincing evidence of the public status of the order way during the late nineteenth and early twentieth centuries, of at least bridleway status.

L.30. **Points:** 3

78 This footpath is now the subject of an order, following application PROW/DO/C511, which has been referred to the Secretary of State for confirmation.

79 Save where the owner of a road wished to have it adopted.

80 A way leads from Little Selson north-northwest to Drainless Drove (but with no continuation to Woodnesborough) and first is shown on the [Ordnance Survey National Grid 1:2,500 plan TR3055 revised 1956](#). No such way is visible on the [Ordnance Survey County Series 25-inch fourth-edition plan revised 1938](#), or on the plan comprised in the *Wells and Little Selson farms conveyance* (item IV.M below).

M. Wells and Little Selson farms conveyance

M.1. **Date:** 1921

M.2. **Source:** Kent County Archives⁸¹

Wells and Little Selson farms conveyance plan

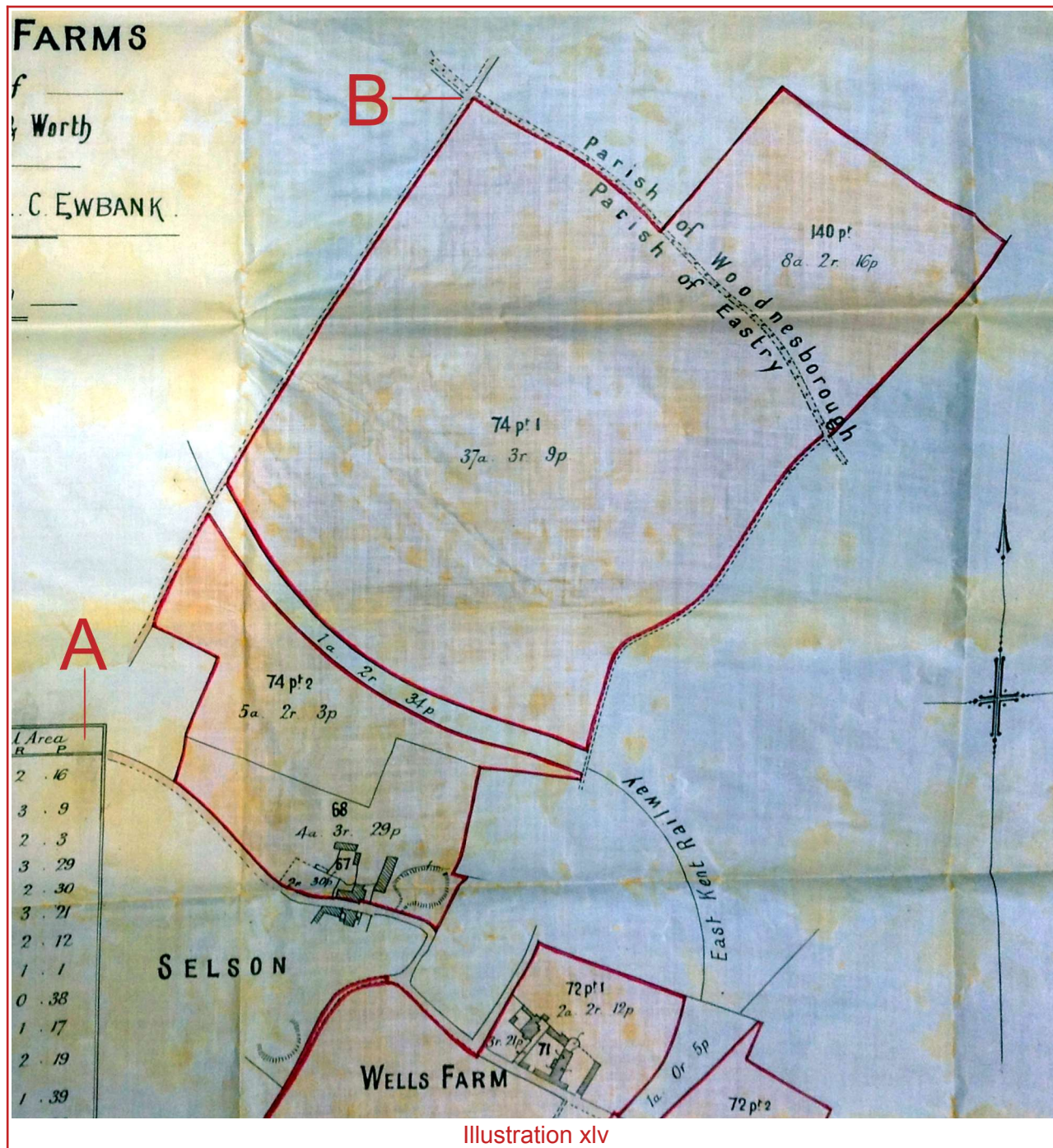


Illustration xlv

M.3. **Description:** original scale: 1:2,500; orientation: unchanged (north marked on plan).

M.4. This conveyance, made on 15 March 1921, conveyed Wells and Little Selson Farms

81 U854/T5

from Miss E K Ewbank and others to Mr Alec Norwood Hogben. The entire relevant part of the conveyance plan appears at Annexe G at p.90 below.

M.5. The land conveyed included Great Field (as identified on the *Eastry tithe map*, see item IV.F above, and which is now divided by the *East Kent mineral light railway*, see item IV.K above), abutting on the order way.

M.6. The order way is coloured sepia, in common with various other roads shown on the conveyance map. These roads are today recognised as public roads or public bridle roads, with the exception of: the continuation of the order way north from B towards Woodnesborough — this way is shown on *Ordnance Survey County Series first-edition twenty-five-inch plan* (item IV.G above) and subsequent editions as a footpath, and the records of the *Eastry Rural Sanitary Authority/District Council* (item IV.L above) suggest it was recognised as a bridle road. A short spur immediately west of Wells Farm, Way (5), also conveys an impression of being coloured sepia: it is not suggested that the spur is a highway, but it is not clear whether the spur is coloured, or whether it is affected by mottling of the paper visible within the adjacent parcel 72pt1.

M.7. **Conclusion:** The conveyance map provides some limited support for the status of the order way being recognised as public, at least of bridleway status.

M.8. **Points:** 1

N. National Farm Survey map

N.1. **Date:** 1941–43

N.2. **Source:** National Archives⁸²

■ *National Farm Survey, sheet Kent XLVIII/9*

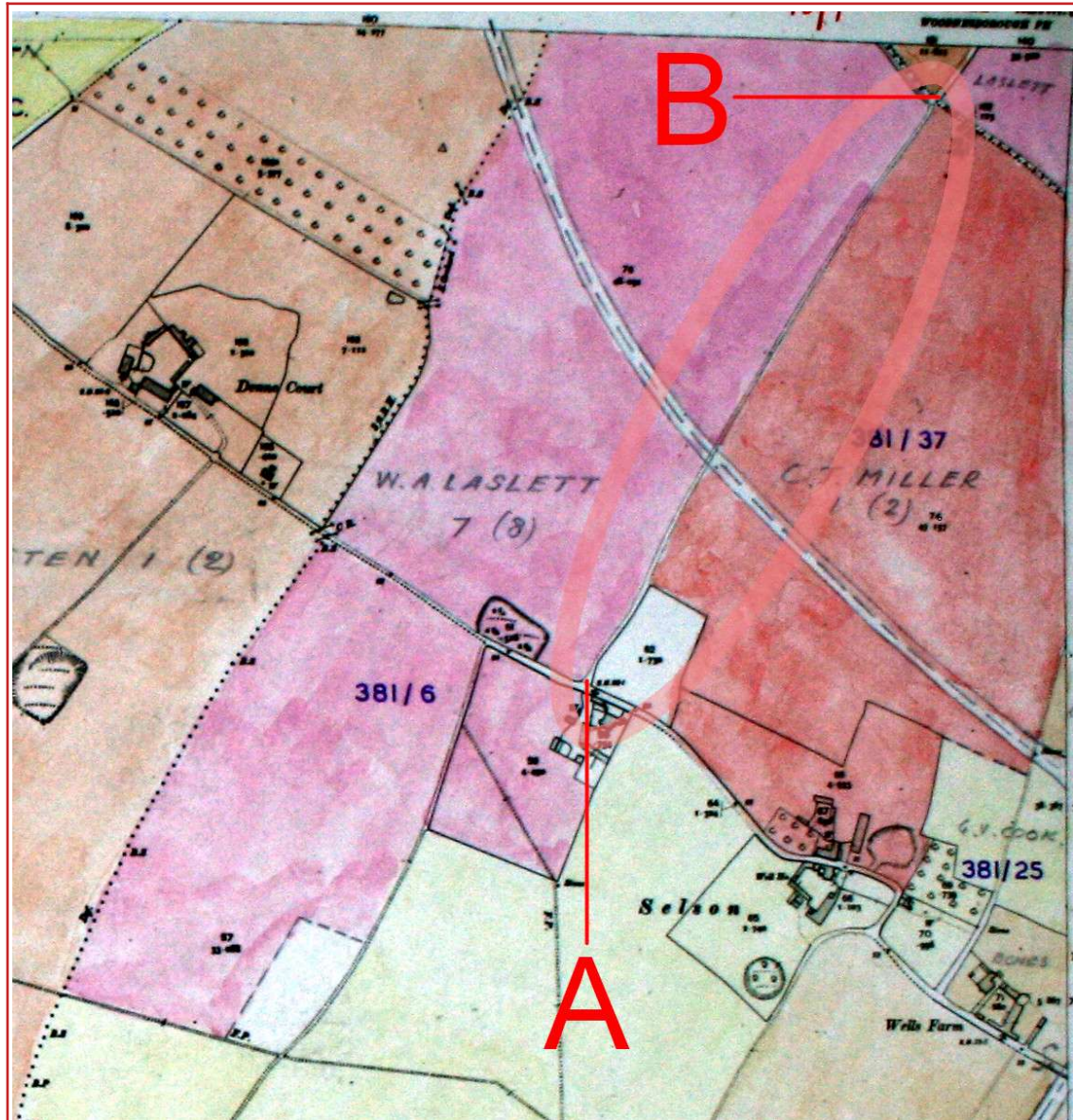


Illustration xlvi

82 MAF 73/20/48

National Farm Survey, sheet Kent XLVIII/9: enlargement



N.3. **Description:** original scale: 1:10,560 (marked on Ordnance Survey County Series maps published at this scale); orientation: unchanged (top is north).

N.4. These records are maps prepared in conjunction with the individual farm records of the National Farm Survey conducted by the (then) Ministry of Food (subsequently the Ministry of Agriculture, Fisheries and Food). The maps show the extent of each farm, or other agricultural holding, with its boundaries. The area of each farm is indicated on the map by the use of a coloured outline or a colour wash, and its code number is added in

black or red ink. The relevance of these records is that where a vehicular highway runs between holdings, it is excluded from the holdings.

N.5. **Conclusion:** The order way divides two holdings — that of W A Laslett and that of C T Miller. The way is shown uncoloured.

N.6. On this sheet,⁸³ other known public roads are similarly uncoloured: e.g. Selson Lane, Drainless Road, Hammill Road, byway EE109 (from Gore Road to Hammill, where it forms the boundary between two farms). Elsewhere, roads are coloured as part of a holding where the land is in the ownership on both sides of the road.

N.7. The exclusion of the order way on the National Farm Survey map suggests that the way was considered to be unproductive land not belonging to the holding on either side of it, and that it was excluded because it was a carriageway. This provides some support for the order way as a restricted byway.

N.8. **Points:** 2

O. Parish map prepared under Part IV of the National Parks and Access to the Countryside Act 1949

O.1. **Date:** 1950

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

⁸³ Marked on a copy of County Series 3rd edition Kent sheet XLVIII/9.

10

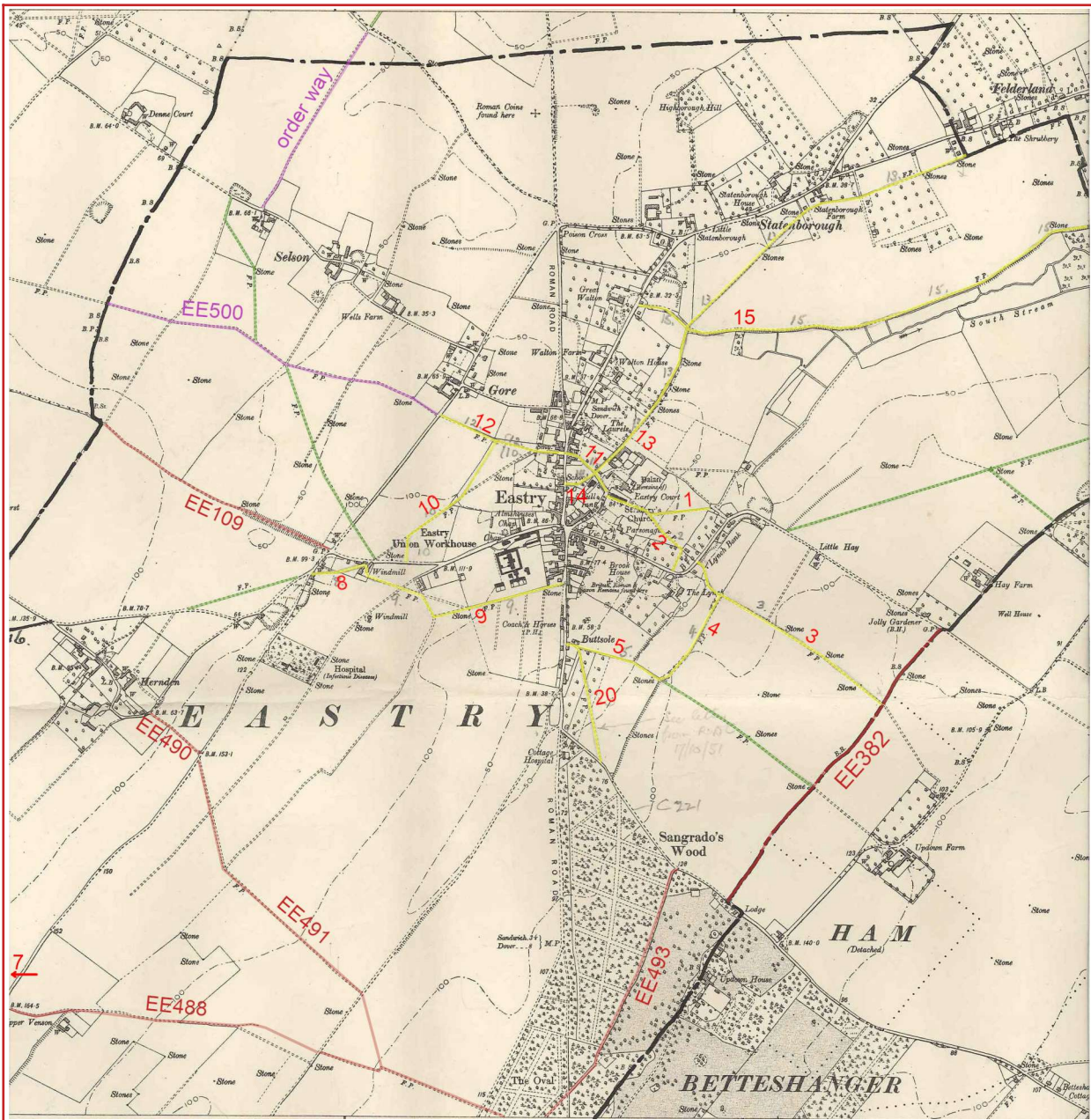


Illustration xlviii

Key:

Paths recorded on parish map (with numbers)

Paths subsequently added to definitive map and statement

Paths under application

Paths annotated 'F.P.' on OS map⁸⁴ but unrecorded

84 The base map used for the parish map is the Ordnance Survey County Series third-edition six-inch map, revised in 1905 and published in 1907:

maps.nls.uk/view/101429676#zoom=3.4&lat=2827&lon=4413&layers=BT

O.3. **Background:** Part IV of the National Parks and Access to the Countryside Act 1949 required surveying authorities to prepare a draft map of public paths, drawing on a survey prepared by the parish council. The initial test set a low bar: whether a path was 'alleged to subsist'.⁸⁵

O.4. **Description:** The parish map for Eastry omitted virtually every public path outside the village core, save certain paths to the east of the village. In '*Parish Council of Eastry 1894–1984*, a history of the affairs of the parish council,⁸⁶ it is stated:

As a result of the Countryside Act of 1949, the Kent County Council consulted all parish councils over the public footpaths in the parishes. A list of fifteen paths within Eastry Parish was drawn up and approved at a public meeting held in December. For some reason some paths which ran from Eastry towards Selson were not included, although they appear on earlier Ordnance Maps, possibly because they were little used.

In Illustration xlviii above, the paths recorded in the parish survey are marked in yellow, with path numbers annotated in red.

O.5. Those paths which were omitted but later added to the definitive map and statement comprise:

- EE493 (Lonely Lane), a restricted byway between Northbourne Road and Betteshanger;
- EE488 (Black Lane), a bridleway between Knowlton and Betteshanger⁸⁷;
- EE491, a bridleway between Thornton Lane and EE488 (Black Lane);
- EE490 (Berry's Lane), a bridleway between Heronden and Thornton Lane;
- EE109, a BOAT between Eastry and Hammill;
- EE382, a bridleway between Hay Hill and Updown.

These paths are shown in red.

O.6. It is suggested that further paths were omitted, these paths long being recorded on the Ordnance Survey County Series plans:

- a footpath between Hammill and Tickenhurst Farm (recorded on the Woodnesborough parish map as FP14);
- a footpath between Eastry Mill and Heronden (cutting off the bend in the road);
- a footpath between Gore Lane and Hammill Farm (EE500)⁸⁸;
- a footpath between the above footpath and Eastry Mill;
- a footpath between the above footpath and Selson.

These paths (so far as they fall within the map area) are shown in green, save that the order way and EE500 are shown in purple.

85 See s.27(1) of the 1949 Act: 'the council...shall...carry out a survey of all lands in their area over which a right of way...is alleged to subsist...'. The draft map required the council to show a right of way where, in the council's 'opinion such a right of way subsisted, or is reasonably alleged to have subsisted...'.
86 Held in the Eastry Collection at Sandwich Guildhall Archive.

87 Part of Black Lane originally was recorded as a footpath between the parish boundary and Thornton Lane (now upgraded to bridleway and extended to Knowlton).

88 Now the subject of an order submitted to the Secretary of State for confirmation.

O.7. It is submitted that the parish council knowingly omitted a large number of public paths from its parish map. Some of these omissions, such as the order way, EE493 and EE109 may have been omitted owing to misunderstanding of what should be included on the map (and whether public roads such as these ought to be included — none was). But the majority of paths were very likely omitted because they crossed arable land, and were perceived to be little used and an interference with agriculture.

O.8. The council's position is reflected in the minutes of a meeting held on 1 March 1954, in relation to what is now recorded as bridleway EE382 (a bridleway between Hay Hill and Updown, which was omitted from the Eastry parish map, but included on the Northbourne parish map: the bridleway straddles the parish boundary). It seems the parish council was asked to reconsider its omission of the bridleway.

In reply to a letter from the Divisional Surveyor, Mr B G Longmore regarding the Bridle Road No.7 retained by the Northbourne Parish Council in the Draft Map prepared by them, it was proposed by Mr J Bones, seconded by Mr B D Gillman that the interest of the Council remains only in the continuance of the Parish Boundary which is in fact the centre line of the Bridle Road. The Bridle Road had served no useful purpose for many years as a road and was brought under cultivation during the recent war. The Council did not therefore include it in the Draft Map for the Parish. Further it was much regretted that the road should be marked by stones which would cause great inconvenience to farm management.

O.9. It may be noted that Jack Bones JP was a noted local historian, of Wells Farm. It is suggested that, under his (and others') influence, the parish council at this time was not sympathetic to rights of way other than those in and around the village which had little impact on farming.

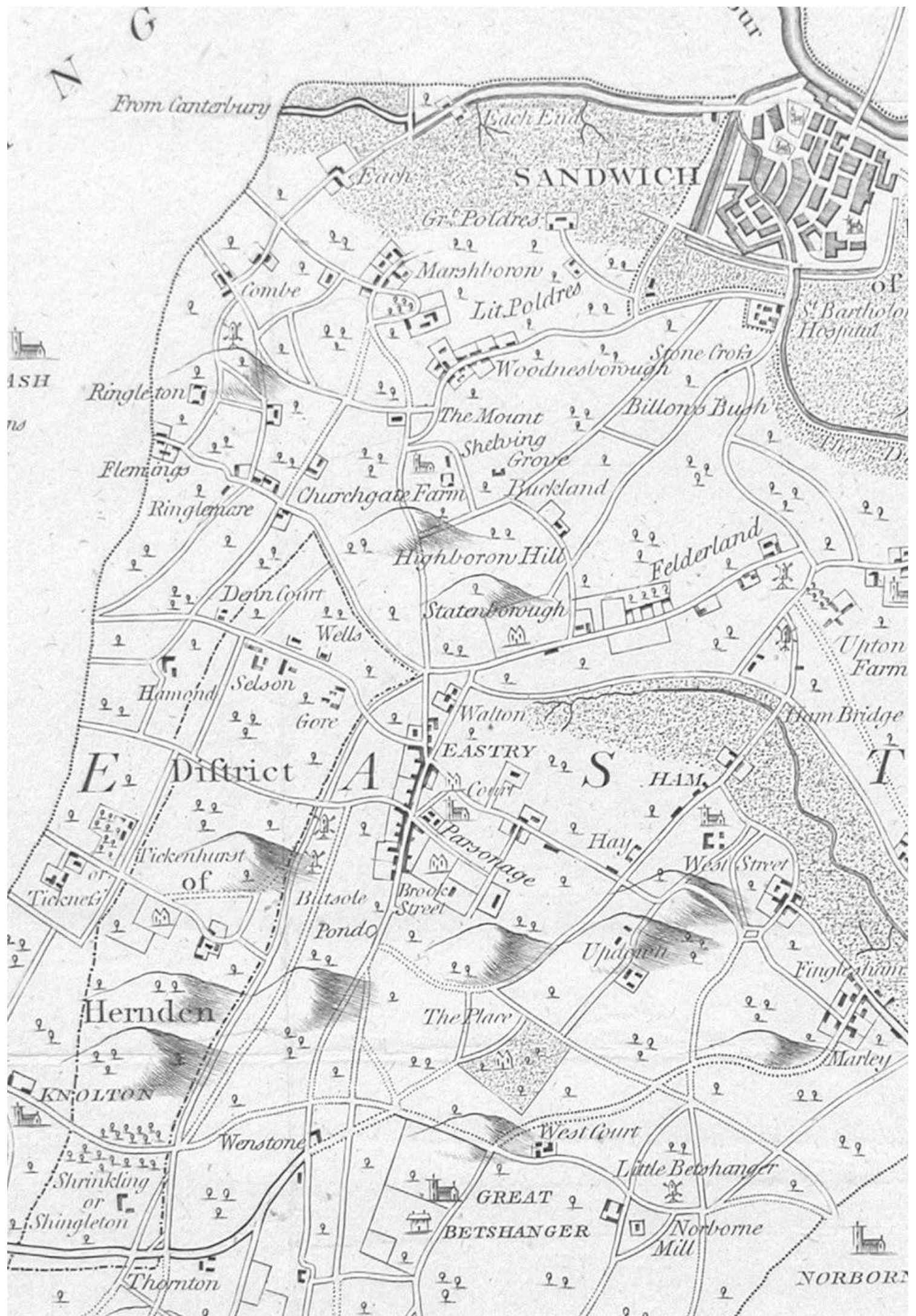
O.10. **Conclusion:** It is suggested that the order way was excluded from the Eastry parish survey either because it was perceived to be a public road, not needing to be recorded, or a rural public path which should be excluded as it was little used and a nuisance to farming.

O.11. **Points:** 0

V. Annexes

Annexe A — Barlow-Hasted map of Kent

(see item IV.B)



Annexe B — Contracted map of principal roads in Eastry
(see item IV.E)

THE COMPRAHESED Map of the Principal Roads
in the parish of EASTREX County of Kent.

1836



Annexe C — Eastrý tithe map

(see item IV.F)

The tithe map has been annotated in red to show relevant highways.

Elet. Contempl. p. 78. F. N

Drainless Road

Order way

Way 300m east
of order way

Selson Lane

Berrys Lane

Thornton Lane

Venson Bottom

Cater Road

Dover Road

Drive to Up-
down House

BW EE266

Driveway to
Shingleton Farm

Thornton Road

We the undersigned, do hereby certify for England and Wales
as hereby being this to be a copy of the Map or Plans presented to the
Superintendent of the said things on behalf of the said
Committee of the said County of Kent
As witnesses our Hands

TRANSLATION

Annexe D — Ordnance Survey County Series first-edition twenty-five-inch plan
(see item IV.G)



Annexe E — Finance (1909–1910) Act 1910: record plan sheet Kent XLVIII/9

(see item IV.J)



Annexe F — Finance (1909–1910) Act 1910: field book hereditament 220

(see item IV.J)

Annexe G — Wells and Little Selson farms conveyance

(see item IV.M)

Plan of WELLS & SELSON FARMS

in the Parishes of
Eastry, Woodnesborough & Worth

THE PROPERTY OF

THE EXORS OF THE LATE M^{RS} L C EWBANK

Ordnance Scale $\frac{1}{2500}$

Schedule

No on Plan	Description	Parish	Total Area
140p ¹	Arable	Woodnesborough	8 2 46
74p ¹¹	D ^o	Eastry	37 3 9
74p ²	D ^o	D ^o	5 2 3
58	Pasture	D ^o	4 3 29
57	Homestead Selson Farm	D ^o	0 2 30
71	D ^o Wells Farm	D ^o	0 3 21
72p ¹	Pasture	D ^o	2 2 12
72p ²	D ^o	D ^o	2 1 1
149	Cottage & Garden	D ^o	0 0 38
52p ¹	Arable	D ^o	49 1 17
52p ²	D ^o	D ^o	13 2 19
52p ³	D ^o	D ^o	2 1 39
51p ¹	D ^o	D ^o	11 2 38
45	Marshland	Worth	3 3 5
46	D ^o	D ^o	3 0 14
47	D ^o	D ^o	3 1 70
48	D ^o	D ^o	2 0 26
Roads & Half Roads			153 0 7
			1 2 3
A			154 2 12

