

# Lonely Lane: document analysis

## Application to record Lonely Lane, Betteshanger as a restricted byway

### I. Introduction

#### A. The applicant

A.1. The application, the evidence for which is summarised in this document, is made by Hugh Craddock on behalf of the British Horse Society. I am appointed by the society as a volunteer district access and bridleway officer for the borough of Epsom and Ewell in Surrey, and am also authorised to make applications on behalf of the society in relation to East Kent. I am a member of the Institute of Public Rights of Way and Access Management. I am employed as a casework officer for the Open Spaces Society, and was formerly a civil servant in the Department for Environment, Food and Rural Affairs (and predecessor departments), whose responsibilities included Part I of the Countryside and Rights of Way Act 2000 and the Commons Act 2006.

#### B. Locational details

B.1. This application relates to a way in the parish of Eastry, East Kent. The way is not currently recorded on the definitive map and statement. The application seeks to record the way as a restricted byway.

#### C. Application

C.1. The application is made under section 53(5) of the Wildlife & Countryside Act 1981 to Kent County Council that a definitive map modification order be made under section 53(3)(c)(i) that a way should be added to the definitive map and statement for Kent as a restricted byway.

C.2. The application for the 'old' way relates to the route from point A (TR31325371) on Northbourne Road near Betteshanger approximately 140 metres south-east of the intersection with the Eastry bypass, leading 15 metres south south-west along an enclosed track to point X (TR31315370). From point X, the way passes 580 metres south south-west along an inclosed track to Westwood at point C (TR31115315), passing through a gate at C adjacent to the junction with the drive to Updown House. From C, the route passes 130 metres south and then immediately south-west along an enclosed drive to point D (TR31035304) on Cater Road at Rose Cottage. From D, the route passes 195 metres south-west along the inside boundary of the woodland to point E (TR30905289) on Straight Mile approximately 210 metres east of the intersection with the Dover Road — a total distance of 920 metres.

C.3. The application for the 'new' way relates to the route from the same point X (TR31315370) south south-west of point A on Northbourne Road, leading south-west across a field, across the corner of Sangrado's Wood, across a further part of the same

field, across the boundary fence of the A256 and through an area of scrub, to point B (TR31065353) at the join of the southbound carriageway of the A256 Eastry bypass with the roundabout located at the junction of the Eastry bypass with Dover Road and Cater Road — a distance of 295 metres.

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

C.5. The route from A to X, a distance of about 15 metres, is common to both the old road and the new road. The old road was established by a diversion order made by the magistrates' court in 1789. The new road was specified by a diversion order made by the magistrates' court in 1892, in substitution for the old road. It is the view of the applicant that the new road was not set out, nor certified as fit for use, and that the 1892 diversion was not brought into effect. However, the application recognises that there is some uncertainty about the status of the old road and the new road, and application is made for both, so that the determining authority may decide, on the basis of the available evidence, whether the old road or the new road should be added to the definitive map and statement as a restricted byway.

## D. Nomenclature

D.1. No particular name is known for the application way itself: it is referred to in this application as the 'application way' or, informally, Lonely Lane.

## E. Discovery of evidence

E.1. There is no evidence that the application way has ever formally been considered for inclusion on the definitive map and statement for Kent. It appears that it was excluded from the draft map and statement prepared under Part IV of the National Parks and Access to the Countryside Act 1949. Therefore, there has been no discovery of evidence for the purposes of s.53(2) of the 1981 Act, and the evidence disclosed in this application is wholly new evidence.

E.2. Therefore, there is discovery of new evidence for the purposes of s.53(2) of the 1981 Act.

## F. Natural Environment and Rural Communities Act 2006

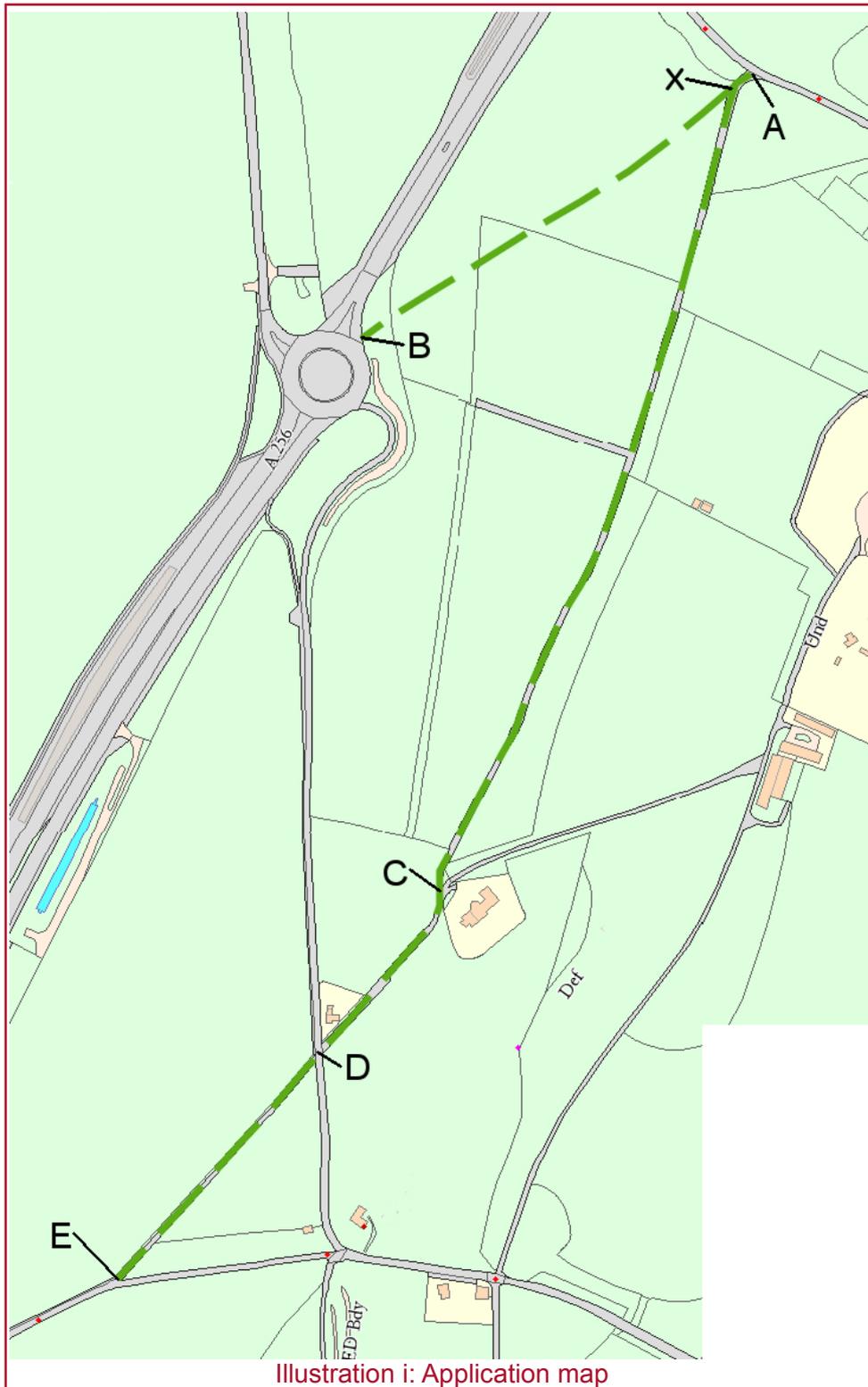
F.1. The application seeks to show that the application way is a public carriageway. None of the application way is recorded as publicly maintainable in the list of streets held by Kent County Council under section 36(6) of the Highways Act 1980. The effect of section 67 of the Natural Environment and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

## G. Width of application way

G.1. The width of the claimed route from A to E is specified as twelve feet, or 3.65 metres, in the 1789 order.

G.2. The width of the claimed route from X to B is specified as sixteen feet, or 4.9 metres, in the 1892 order map.

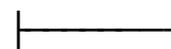
## II. Application map



Map centred on C at TR31115315

Scale: approx. 1:4,600 (when printed A4)

Application way is marked 



100m

### III. Evidence

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#### A. Magistrates' court diversion order

A.1. **Date:** 1789

A.2. **Source:** Kent County Archives<sup>1</sup>

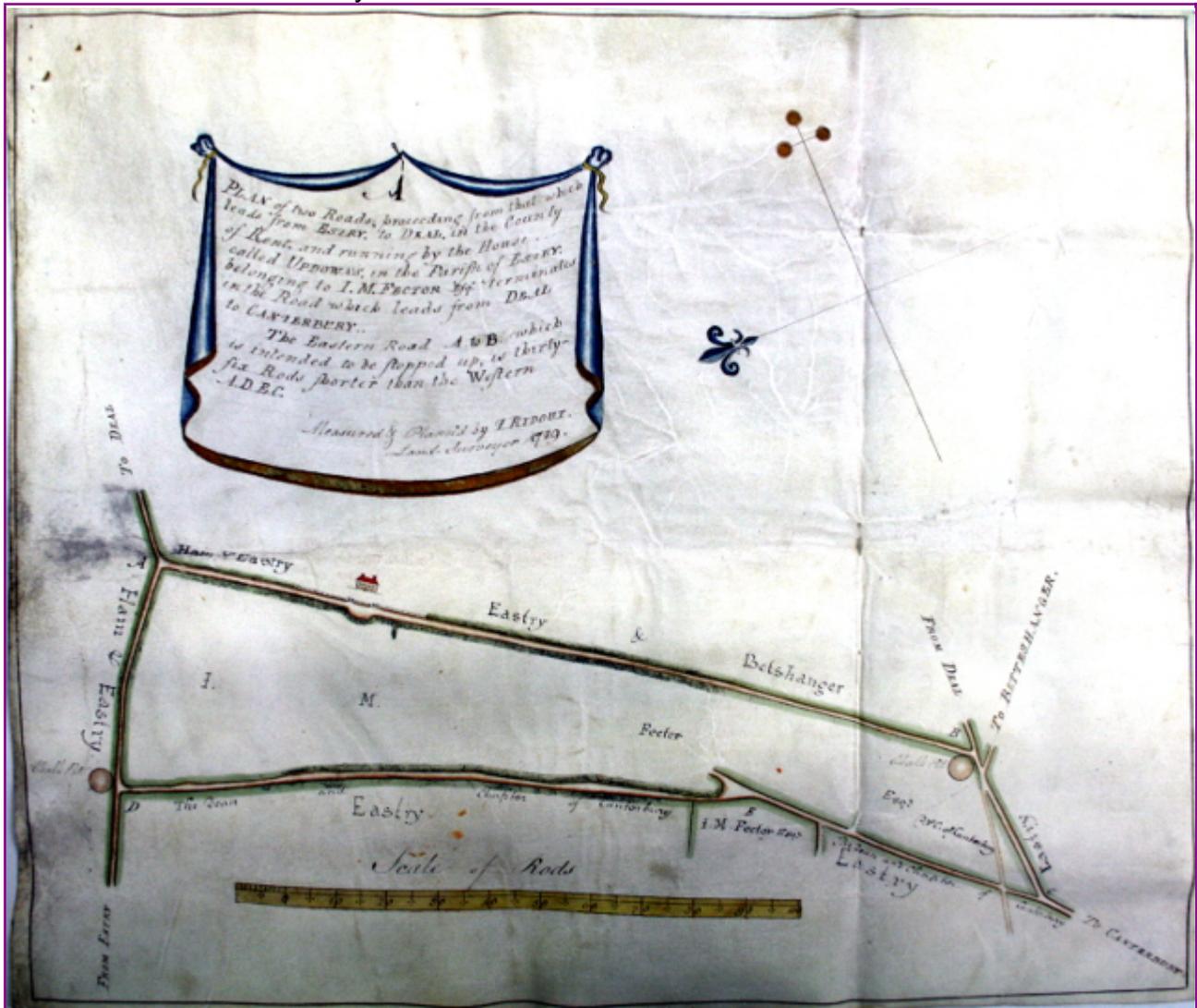


Illustration ii: Magistrates' court diversion order map, 1789

A.3. **Description:** The order provides for the diversion of a highway through Updown Park, to a new alignment to the west of Updown Park, so as to make the highway more commodious to the public. The alignment of the stopped up and substitute highways is set out in a plan accompanying the order (the stopped up highway is marked AB on the plan, and the substitute highway is marked DEC). The substitute highway is coincident with the

1 Q/RH/2/32

claimed route AXCDE (as marked on the application plan). The order was made on 7 July 1789, and a certificate of completion was issued on 1 September 1789. The order provides that the substitute highway is to be maintained at the expense of John Minot Fector Esquire of Updown House, and his heirs and assigns. A transcript of the order and associated documents is in the annexe at p.9.

A.4. The Highways Act 1773<sup>2</sup>, section 19, empowered two or more Justices of the Peace in Special Sessions to make orders for the diversion of a highway 'so as to make the same nearer or more commodious to the Publick', the consent of the landowner being necessary. The court of Quarter Sessions was authorised to hear and determine appeals against such orders, but was not required to confirm an order where no appeal had been made. Before closing the old section of a diverted highway two Justices had to certify that the new highway had been completed, and the certificate of completion was then required to be enrolled by the clerk of the peace among the Quarter Sessions records.

A.5. **Conclusion:** The diversion order is conclusive evidence of the existence of the substitute highway from the date of the certificate of completion, which is enrolled among the papers. The status of the highway is not specifically cited in the order, but the stopped up and substitute ways are each referred to as either 'Highway' or 'Road'. Reference is made in the order to both Northbourne Road and Straight Mile as both 'Road' and 'Highway'; both these ways are known to be carriageways, and it is reasonable to conclude that the diverted way, which was referred to using the same interchangeable language, was also and remains a carriageway.

## B. Magistrates' court diversion order

B.1. **Date:** 1892

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

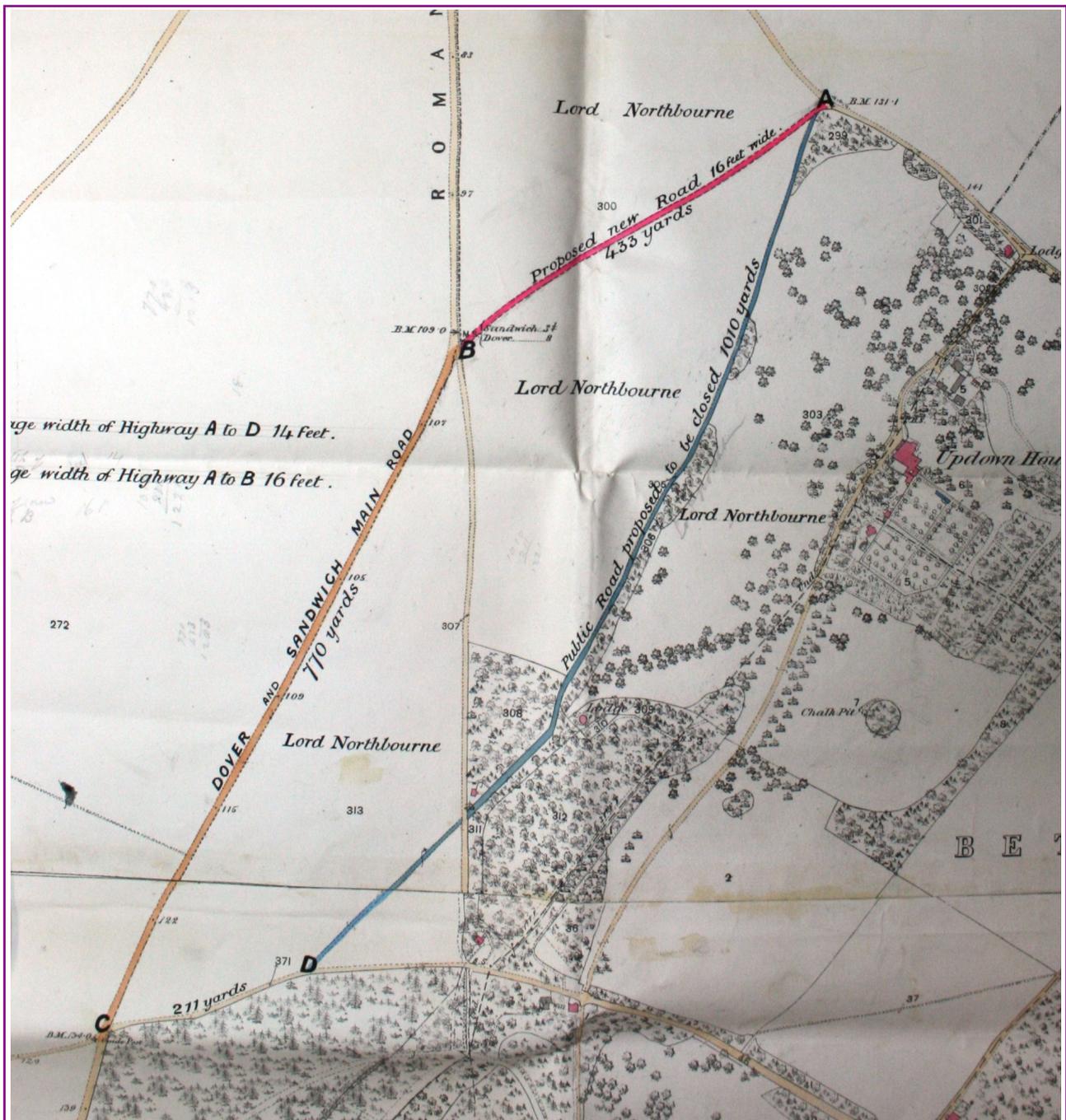


Illustration iii: Magistrates' court diversion order map, 1892

B.3. **Description:** The order provides for the diversion of the diverted highway established by the 1789 order, to a new alignment to connect more directly with the Dover Road, so as to make the highway nearer and more commodious to the public. The alignment of the stopped up and substitute highways is set out in a plan accompanying the order. The application of Lord Northbourne for the diversion dated 30 November 1891 undertakes to pay the expenses of diverting the highway, 'including its future maintenance'. The stopped up highway is coincident with the claimed route AXCDE, the substitute highway is coincident with the claimed route AXB<sup>3</sup>. The order was made on 3 September 1892. A transcript of the order and associated documents is in the annexe at p.13.

3 Note that point B falls short of the original termination of the diverted route on the Dover Road, owing to the roundabout more recently established at this junction.

B.4. **Conclusion:** The status of the highway is not specifically cited in the order, but the stopped up and substitute ways are each referred to as either 'Highway' or 'Road'. Reference is made in the order to Northbourne Road, Straight Mile as 'Highway' and to the Dover Road as 'Road'; all these ways are known to be carriageways, and it is reasonable to conclude that the diverted way, which was referred to using the same interchangeable language, was also intended to be a carriageway.

B.5. The order was made under sections 84 to 92 of the Highways Act 1835<sup>4</sup>. Section 85 provides that two justices may:

'proceed to certify...that the proposed new Highway is nearer or more commodious to the Public; ...and the said Certificate of the said Justices, together with the Proof and Plan so laid before them as aforesaid, shall, as soon as conveniently may be after the making of the said Certificate, be lodged with the Clerk of the Peace for the County in which the said Highway is situated, and shall (at the Quarter Sessions...) be read by the said Clerk of the Peace in open Court; and the said Certificate, together with the Proof and Plan as aforesaid, ...shall be enrolled by the Clerk of the Peace amongst the Records of the said Court of Quarter Sessions'.

B.6. Section 91 then provides that, unless there is an appeal against the order,

'then the Justices at the said Quarter Sessions shall make an Order to divert and turn and to stop up such Highway...but no old Highway...shall be stopped until such new Highway shall be completed and put into good Condition and Repair, and so certified by Two Justices of the Peace upon View thereof, which Certificate shall be returned to the Clerk of the Peace, and by him enrolled amongst the Records of the Court of Quarter Sessions next after such Order as aforesaid shall have been made pursuant to the Directions hereinbefore contained.'

B.7. No such order, and no such certificate, appears among the records of this diversion, nor is there any evidence that the diverted way XB was set out, created or brought into public use: on the contrary, the way intended to be stopped up, XCDE, remained in public use, and XCD continues in public use to this day. The applicant infers that no such certificate of 'good condition and repair' was, or could ever be, issued by the justices.

4 5 & 6 Will. 4, Cap.50

## C. Eastry Rural District Council surveyor's report

C.1. **Date:** 1904

C.2. **Source:** Kent County Archives<sup>5</sup>

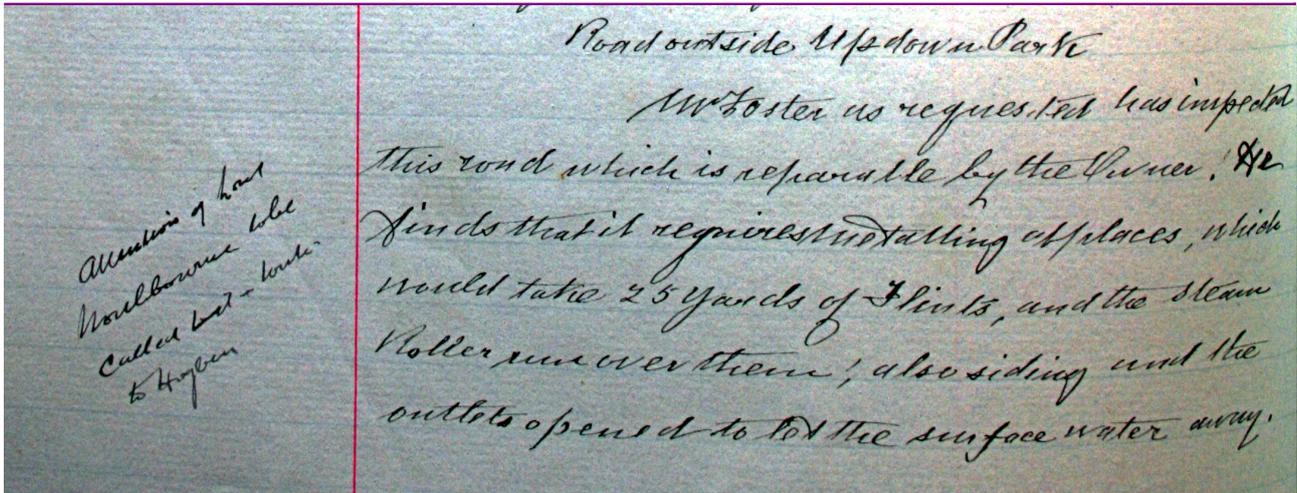


Illustration iv: Eastry RDC highways report book 1904

C.3. **Description:** The report book of the Eastry Rural District Council highways surveyor, dated 24 May 1904, records:

'Road outside Updown Park. Mr Foster as requested has inspected this road which is repairable by the Owner. He finds that it requires metalling at places, which would take 25 yards of Flints, and the Steam Roller used over them; also siding and the outlets opened to let the surface water away.'

C.4. A marginal note states:

'Attention of Lord Northbourne to be called [indecipherable] — [took or look] to Hogben'

C.5. **Conclusion:** The minute appears to relate to the application way, taking account of the reference to the road being 'outside Updown Park' and that it is repairable by the Owner. The minute confirms that the application way was considered in 1904 to be a public road, privately maintainable.

C.6. The minute does not strictly confirm whether the way from A to B, or from A to E, was referred to, although the reference to the way as the 'road outside Updown Park' tends to prefer the latter.

<sup>5</sup> Eastry Rural District Council highways report book, RD/Ea/H5, p.43.

## **IV. Annexe 1: transcript in connection with magistrates' order granted in relation to the diversion of a road at Updown, Betteshanger, 1789**

From Kent County Archives, Q/RH/2/32

### **A. Consent of owner of land of new road to be created (29 June 1789)**

We the Dean and Chapter of the Cathedral and Metropolitan Church of Christ Canterbury in the County of Kent Lords of the Manor of Eastry in the said County being owners of the Lands lying in the said Parish of Eastry described in the Plan hereunto annexed thro' which Part of a certain Highway lying between the Road leading from Eastry to Deal and between another Road leading from Deal to Canterbury is intended to be diverted and turned DO hereby consent to the making and continuing such new Highway thro' our said Lands without any Consideration to be paid for the same In Witness whereof the said Dean and Chapter have hereunto affixed our common Seal the twenty ninth Day of June in the year of our Lord One thousand seven hundred and eight nine.

[sealed]

### **B. Consent of lessee of land of new road to be created (30 June 1789)**

I Isaac Bargrave Gent. being Lessee of the Dean and Chapter of the Cathedral and Metropolitan Church of Christ Canterbury of the Lands described in the Plan hereunto annexed lying in the Parish of Eastry in the County of Kent thro' which Part of a certain Highway lying between the Road leading from Eastry to Deal and between another Road leading from Deal to Canterbury is intended to be diverted and turned DO hereby consent to the making and continuing such new Highway thro' the said Lands of which I am Lessee as aforesaid Given under my Hand and Seal the thirtieth day of June One thousand seven Hundred and Eighty nine.

Isaac Bargrave

### **C. Consent of occupier of land of new road to be created (4 July 1789)**

I John Curling being the present Occupier (as Tenant to Mr Bargrave) of the Lands described in the Plan hereunto annexed lying in the Parish of Eastry in the County of Kent thro' which part of a certain Highway lying between the Road leading from Eastry to Deal and between another Road leading from Deal to Canterbury is intended to be diverted and turned, do hereby consent to the making and continuing such new Highway thro' the said Lands of which I am Tenant as aforesaid Given under my Hand and Seal the Fourth day of July One Thousand and Seven Hundred and Eighty Nine.

Jn Curling

#### D. Magistrates' court order (7 July 1789)

We William Hugessen and John Dilnot Esquires two of his Majesty's Justices of the Peace for the said County at a Special Session held at the Sign of the Dog in Wingham within the East Division of the Lath of Saint Augustine in the said County on the Seventh day of July one thousand and seven hundred and Eighty nine having upon view found that a certain part of a Highway within the parishes of Ham Eastry and Betshanger within the said Division and County lying between the Highway leading from Eastry to Deal and the Highway leading from Deal to Canterbury for the Length of One Hundred and forty Rods or thereabouts and particularly described in the Plan hereunto Annexed may be diverted and turned so as to make the same more Commodious to the Public. And having viewed a Course proposed for a new Highway in Lieu thereof through the Lands and Grounds of the Dean and Chapter of the Cathedral and Metropolitan Church of Christ Canterbury and demised by them by Leave to Isaac Bargrave Gent. lying in Eastry aforesaid of the length of One Hundred and Sixty Rods or thereabouts and of the breadth of twelve feet or thereabouts particularly described in the Plan hereunto Annexed and having received Evidence of the Consent of the said Dean and Chapter to the said new Highway being made through their said Lands hereinbefore described by Writing under their Common Seal And also of the Consent of the said Isaac Bargrave thereto by Writing under his Hand and Seal We do hereby Order that the said Highway be diverted through the Lands aforesaid And we do Order the John Minot Fector Esquire of Updown House in the Parish of Ham shall be at the whole and Sole expense of making the said new Road And also that he the said John Minot Fector and his Heirs shall at all times hereafter maintain and keep the said New Road in good repair which he the said John Minot Fector hath consented and agreed to do Dated this Seventh day of July One thousand seven hundred and Eight nine.

W Hugessen

John Dilnot

#### E. Deed (30 August 1789)

[page 1]Agreed this thirtieth Day of August In the year of our Lord One thousand Seven Hundred and Eighty Nine Between John Minot Fector of Updown House in the Parish of Ham in the County of Kent Esquire of the one Part and Alexander Davison Thomas Kite and William Pittock Surveyors of the Highway of the Parish of Eastry in the said County of Kent of the other Part Whereas by and Order bearing date on or about the Seventh Day of July now last past under the Hands and Seals of William Hugessen and John Dilnot Esquires two of his Majesty's Justices of the Peace for the said County at a special Session held at the Sign of the Dog in Wingham within the East Division of the Lath of Saint Augustine in the said County Reciting that they the said Justices having upon a View found that a certain Part of a certain Highway within the Parishes of Ham Eastry and Betshanger within the said Division and County lying between the Highway leading from Eastry to Deal and the Highway leading from Deal to Canterbury for the length of one Hundred and forty Rods or thereabouts and particularly described in a certain Plan thereunto annexed might be diverted and turned so as to make the same more commodious to the Public and having viewed a course proposed for a new Highway in lieu thereof through the Lands and Grounds of the Dean and Chapter of the Cathedral and Metropolitan Church of Christ Canterbury and demised by them by Lease to Isaac Bargrave Gentleman lying in Eastry aforesaid of the length of One Hundred and Sixty Rods or thereabouts and

of the breadth of twelve feet or thereabouts particularly described in the plan thereunto annexed and having received Evidence of the Consent of the said Dean and Chapter to the said New Highway being made through their said Lands therein and hereinbefore described by Writing under their Common Seal and also of the Consent of the said Isaac Bargrave thereto by writing under his Hand and Seal Did thereby order that the said Highway should be diverted through the Lands aforesaid And did order that the said John Minot Fector should be at the whole and sole Expence of making the said new Road And also that he the said John Minot Fector and his Heirs should at all Times thereafter maintain and keep the said new Road in good Repair which he had consented and agreed to do As by the said Recited Order will more fully appear And whereas the said new Highway is now properly made and fit for the reception of Travellers Now those Presents Witness and it is hereby declared and agreed by and between all the said Parties

[page2]hereto and it is the true Intent and Meaning of them and each and [missing] And that the said John Minot Fector for himself his Heirs and Assigns Covenant Promise and Agree to and with the said Alexander Davison Thomas Kite and William Pittock and their Successors Surveyors of the Highways of the Parish of Eastry for the time being and all other the Owners and Occupiers of Lands Tenements or Hereditaments in the same Parish That he the said John Minot Fector his Heirs and Assigns shall and will from time to time and at all times hereafter will and sufficiently repair amend maintain and keep repaired the said new Highway so made by him as aforesaid And also shall and will save defend keep harmless and indemnified as well the said Alexander Davison Thomas Kite and William Pillock the present Surveyors of the Highways of the said Parish of Eastry and their successors for the time being as also all and every the present and future Inhabitants and occupiers of Lands Tenements or Hereditaments in the same Parish of and from the repair and amending of the said New Highway and also of and from all Costs Changes Damages and Expenses whatsoever which they any or either of them shall or may at any time or times hereafter bear pay sustain expend or be put under for or by reason of the not repairing maintaining or keeping the said new Highway so made by the said John Minot Fector as aforesaid in good or sufficient repair. In Witness whereof we have hereunto set out Hands and Seals the Day and Year first above written.

Sealed and Delivered / being first	)	J M Fector
legally Stamped/ In the presence of	)	Alex Davison
John Hodges		Thos Kite
J B Blummer		

## F. Certificate of completion (1 September 1789)

We whose Names are hereunto subscribed being the Justices of the Peace who have viewed the several Highways described in the Plan hereunto annexed and made an Order for the diverting the Old Highway and being satisfied that the new Highway therein described is properly made and fit for the reception of Travellers Do hereby Order the said Old Highway being of the length of One Hundred and forty Rods and of the breadth of Twenty feet upon a Medium as appears by the said Plan to be stopped up and the Land and Soil thereof to be vested in John Minot Fector Esquire whose Land adjoins thereto in lieu and as a compensation for the Expence he has been at in making such New Highway and of his the said John Minot Fector having entered into an agreement in Writing with the Surveyor of the Highways of the said Parish of Eastry That he and his Heirs shall hereafter at his and their own proper Costs and Charges maintain and keep the said New Highway so made by him as aforesaid in good repair and to indemnify the Inhabitants of the said

Parish of Eastry for the time being from the Costs and Charges of maintaining and keeping the said New Highway in repair Dated this first day of September 1789.

W Hugessen

John Dilnot

## V. Annexe 2: transcript in connection with magistrates' order granted in relation to the diversion of a road at Updown, Betteshanger, September 1892

From Kent County Archives, Q/RH/2/586

### A. Notice to highways board of application (30 November 1891)

To the Eastry Union Rural Sanitary Authority exercising all the powers of a Highway Board within their District.

I the undersigned the Right Honorable Lord Northbourne being the owner of Updown House and Lands appurtenant thereto and desirous of stopping up part of a certain highway in the parish of Eastry within your District between the points marked A and D on the plan herewith prepared by my surveyor Mr Thomas Ashenden and to divert the said highway from the point marked A to the point marked B on the said plan through my said Land do hereby require you to give notice to the Churchwardens of the said Parish to assemble the Inhabitants thereof in Vestry and to submit to them such my desire. I hereby undertaking to pay the expenses attending the View by Justices and the stopping up and diverting such highway including its future maintenance and including also the charges of the Board's Solicitor of and incidental to the preparation and publication of Notices and obtaining the sanction of the Court of Quarter Sessions to the said stopping up and diversion.

Dated the 30<sup>th</sup> November 1891

Northbourne

This is the application of Lord Northbourne referred to in the Certificate of Justices hereunto annexed dated 3<sup>rd</sup> September 1892

John James Harvey

H. Fitzwalter Plumptre

### B. Notice to churchwardens of application (15 March 1892)

Eastry Highway Authority

To the Churchwardens of the parish of Eastry in the County of Kent

In pursuance of an Order of the Eastry Union Rural Sanitary Authority exercising all the powers of a Highway Board within their district dated 15<sup>th</sup> of March instant **I do hereby give you Notice** to assemble the Inhabitants of your said Parish in Vestry for the purpose of considering a certain Notice served upon the Highway Authority by or on behalf of the Right Honourable Lord Northbourne of his desire to stop up and divert a certain Highway in your said Parish **and I further give you Notice** that I shall in pursuance of the order of the Highway authority aforesaid attend the Vestry Meeting so to be summoned by you and produce the Notice served on the said Authority together with a plan of the Highway desired to be stopped and diverted

Dated the Fifteenth day of March 1892

Fred. I. Cloke

Clerk to the said Eastry Union  
Rural Sanitary Authority

Gave duplicate of the above notice to Mr Fuend Pillock, Churchwarden of Eastry, personally this 15 March 1892

Fred I. Cloke

This is the Notice to the Churchwardens of Eastry referred to in the Certificate of Justices hereunto annexed dated 3 Sept. 1892

John James Harvey  
H. Fitzwalter Plumptre

### C. Notice to parish of meeting (19 March 1892)

#### Parish of Eastry

In pursuance of a Notice from the Clerk to the Eastry Union Rural Sanitary Authority exercising all the powers of a highway Board within their district We the undersigned Churchwardens of the Parish of Eastry Kent do hereby convene a Meeting of the Inhabitants of the said parish to be held at the Vestry room of such parish on Monday the 28<sup>th</sup> day of March 1892 at 10.30, o'clock for the purpose of considering a certain notice served upon the said Highway authority by or on behalf of the Right Honorable Lord Northbourne of his desire to stop up part of a certain Highway in the said parish leading from and out of the highway from Northbourne (which passes by the Lodge & Grounds of Updown House towards the Village of Eastry) which said part so proposed to be stopped up is of the length of 1010 yards between the points marked A and D on the plan and to divert the said Highway from the said point marked A in a South Westerly direction to and into the Road called Roman Road otherwise called the Dover and Sandwich Main Road at the point B on the said plan such diverted Highway being of the length of 433 yards and consenting to such proposed stopping up and diversion or otherwise

Dated the 19<sup>th</sup> day of March 1892

Fuend [?] Pillock ) Churchwardens  
Sty Moat ) of the Parish  
) of Eastry

This is the Notice of Vestry Meeting referred to in the Certificate of Justices hereunto annexed dated 3<sup>rd</sup> Sept. 1892

John James Harvey  
H. Fitzwalter Plumptre

### D. Consent of parish (28 March 1892)

Extract from the Minutes of a Vestry Meeting of the Inhabitants of the parish of Eastry in the county of Kent holden on Monday the twenty eighth day of March 1892 pursuant to public Notice as required by Law.

The Clerk to the Eastry Union Rural & Sanitary Authority attended this Meeting and produced a Notice served upon the said Authority by or on behalf of the Right & Honourable Lord Northbourne of his desire to stop up and divert a certain highway in the said parish as particularly described in the aforesaid notice and delineated on the Map or plan thereof now produced to this meeting and signed by the Chairman [?].

Resolved unanimously that the consent of this Meeting be given to Lord Northbourne's proposal to stop up so much of the aforesaid Highway and to divert the said Highway in the manner described or referred to in the aforesaid notice and plan and that this Meeting hereby directs all necessary steps to be taken to carry the same into effect pursuant to the 84<sup>th</sup> Section of the Act 5&6 W 4 Cap 50.

William Wilson

Chairman of the Vestry

This is the Copy resolution of Vestry referred to in the Certificate of Justices hereunto annexed dated 3<sup>rd</sup> Sept. 1892

John James Harvey

H. Fitzwalter Plumptre

### E. Consent of owner of land of new road to be created (22 April 1892)

No. 18

Consent from the Owner of the Land through which a new highway is proposed to be made

I the Right Honourable Lord Northbourne of Betshanger in the County of Kent being the owner of the lands described in the Ordnance Map or plan hereunto annexed through which part of a certain highway between A and D is intended to be diverted and turned do without consideration in money for the said Land and Soil thereof hereby consent to the making and continuing such new highway through my said lands.

Given under my hand this 22<sup>nd</sup> day of April 1892

Northbourne

This is the Consent referred to in the Certificate of Justices hereunto annexed and deposition of Thomas Ashenden dated 3<sup>rd</sup> September 1892

John James Harvey

H. Fitzwalter Plumptre

### F. Notice to public of hearing (13 July 1892)

NOTICE IS HEREBY GIVEN

THAT on the 18<sup>th</sup> day of October next, application will be made to Her Majesty's Justices of the Peace assembled at Quarter Sessions in and for the County of Kent, at St. AUGUSTINE'S, for an order for diverting and turning and stopping up a certain highway situated in the Parish of Eastry, in the said County, and leading at the point marked A on the plan hereinafter referred to, from and out of the highway from Northbourne which passes by the

Lodge and Grounds of Updown House towards the Village of Eastry to a point marked D on the said plan, to and into another highway about 273 yards West of Betshanger Lodge, which said first mentioned highway is intended to follow a new road to be made by the Right Honourable Lord Northbourne from the said point A to the point B on the said plan forming a junction with the Dover and Sandwich Main Road so as to be nearer and more commodious to the public and that the Certificate of two Justices having viewed the said highway so proposed to be diverted and turned and stopped up and that the proposed new highway will be nearer and more commodious to the public, with the plan of the old and proposed new highway, will be lodged with the Clerk of the Peace for the said County, on the 17<sup>th</sup> day of September next.

Dated the 13<sup>th</sup> day of July 1892.

By order of the Rural Sanitary Authority exercising all the powers of a highway Board in the Eastry Union.

Fred. I. Cloke  
Clerk to the said Authority.

This is the notice marked B referred to in the Certificate of Justices and deposition of G Lawrence dated 3<sup>rd</sup> Sept. 1892

John James Harvey  
H. Fitzwalter Plumptre

## G. Depositions (3 September 1892)

[page 1]County of Kent to wit

The depositions of Thomas Ashenden of the City of Canterbury Surveyor and George Lawrence of the parish of Betshanger in the said County Gardener taken and made upon Oath before the undersigned two of Her Majesty's Justices of the Peace in and for the said County the third day of September 1892.

And I the said Thomas Ashenden for myself say that the plan hereunto annexed marked A is a true and correct plan of the highway leading at the point marked A on such plan from and out of the highway from Northbourne which passes by the Lodge and Grounds of Updown House towards the Village of Eastry to a point marked D on the said plan to and into another highway about 273 yards west of Betshanger Lodge which said highway from A to D is proposed to be stopped up and diverted into a new road intended to be made by the Right Honorable Lord Northbourne which is correctly shewn on the said plan and commences at the point A and ends at B on the said plan the said highway from A to D and the diversion thereof from A to B being situate in the parish of Eastry and that the metes bounds and admeasurements thereof respectively are correctly described on the said plan.

That the signature "William Wilson" to the order of the inhabitants of the parish of Eastry in Vestry assembled on the 28<sup>th</sup> day of March 1892 hereunto annexed and marked with the letter V is I believe of the proper handwriting of the said William Wilson the Chairman of the said Vestry.

That the signature "Northbourne" to the consent paper annexed marked C is the proper handwriting of the Right Honorable Lord Northbourne the owner and occupier of the Land required for the diversion of the said Highway.

That I did cause the Notice hereunto annexed and marked B to be inserted and the same was duly inserted and advertised in the Kentish Gazette being a Newspaper published and generally circulated in the County of Kent on the 19<sup>th</sup> & 26<sup>th</sup> July and 2<sup>nd</sup> & 9<sup>th</sup> August 1892.

And I the said George Lawrence for myself say that I did by and under the direction of John James Harvey and Henry Fitzwalter Plumptre two of Her Majesty's Justices of the Peace for the said County [page 2] and of the Eastry Union Rural Sanitary authority on the 16<sup>th</sup> day of July 1892 cause a true Copy of the Notice hereunto annexed marked B under the hand of Frederick Spencer Cloke the Clerk to the Rural Sanitary Authority of the Eastry Union exercising all the powers of a highway Board in the Eastry Union and comprising the said parish of Eastry to be affixed in legible characters at the place and by the side of each end of the said highway from whence the same is proposed to be diverted and turned at the points marked A, B, C, D on the plan annexed and that such Notice continued to be so affixed and published for four successive weeks thereafter.

That I did also cause to be affixed a like true copy of the said Notice signed as aforesaid to the door of the Church of the said parish of Eastry in which the said highway is situate for 4 successive Sundays next after the View by such Justices of the said highway referred to in the said Notice that is to say the 17<sup>th</sup>, 24<sup>th</sup>, 31<sup>st</sup> July 1892 and the 7<sup>th</sup> of August 1892.

{? depositions of Thomas Ashenden George Lawrence were taken sworn the third day of September at Canterbury Before us}

Ths. Ashenden  
G Lawrence

John James Harvey  
H. Fitzwalter Plumptre

## H. Justices' order (3 September 1892)

[cover]1892 Copy Certificate of Magistrates re diversion of highway at Eastry Kent.  
Kingsford Whitewick & Co, Canterbury

[page 1]County of Kent to wit

Whereas on the 30<sup>th</sup> day of November last the Right Honourable Lord Northbourne of Betshanger in the county of Kent being the owner of the land hereinafter mentioned and being desirous that a certain public highway situate in the parish of Eastry in the said County and leading at the point marked A on the ordnance map or plan hereunto annexed from and out of the highway from Northbourne which passes by the Lodge and Grounds of Updown House towards the Village of Eastry to a point marked D on the said plan to and into another highway about 273 yards west of Betshanger Lodge should be diverted by stopping up the same and carrying the same through and by means of a new road coloured red on the said plan which traverses the field No. 300 on the said map or plan from the point A to the point B on the said plan and forming a junction with the Dover and Sandwich Main Road whereby the said highway will be made nearer and more commodious to the public using the same did by a notice in writing under his hand required the Eastry Union Sanitary Authority as the surveyor of the highways for the said parish of Eastry in pursuance of sec. 84 of the Act of the fifth and sixth years of the reign of King William the 4<sup>th</sup> Chapter 50 to give notice to the Churchwardens of the said parish of Eastry

to assemble the inhabitants of the said parish in vestry and to submit to them the said wish and proposal of the said Lord Northbourne hereinbefore mentioned: And whereas the said Sanitary Authority as surveyor of the highways of and for the said parish of Eastry on the 15<sup>th</sup> day of March last gave notice to the Churchwardens of the said parish to assemble the inhabitants of the city Parish in vestry and submit to them the said wish and proposal of the said Lord Northbourne And whereas on the 19<sup>th</sup> day of March last the Churchwardens of the said parish of Eastry did in pursuance of and obedience to the said notice of the said Lord Northbourne by a notice under their hands dated the said 19<sup>th</sup> day of March and duly affixed to the principal door of the Church of the said parish convene a meeting of the inhabitants of the said parish in vestry to be holden on the 28<sup>th</sup> day of March then instant for the purpose of considering the proposal contained in the aforesaid notice in writing to the said Sanitary Authority as surveyor of the highways of the said [page 2] parish of Eastry and determining whether the said Public highway should be diverted and the said new highway made in lieu thereof. And whereas on the said 28<sup>th</sup> day of March last the inhabitants of the said parish of Eastry being then and there duly assembled in vestry in the said parish in pursuance of the said last mentioned notice of the Churchwardens of the said parish and having then and there the said wish and proposal of the said Lord Northbourne submitted to them agreed to the said wish and proposal and resolved that it was expedient that the said public highway should be stopped up and diverted as aforesaid. And whereas in pursuance of an application of the said Sanitary Authority as surveyor of the highways of and for the said parish of Eastry in that behalf made unto us John James Harvey and Henry Fitzwalter Plumtre Esquire whose names are hereunto set being two of Her Majesty's Justices of the Peace of and for the said county of Kent and acting in and for the said county in and in and for the East petty sessional division of the Saint Augustine within which the set parish of Eastry is situated we the said justices on the 13<sup>th</sup> day of July 1892 together and in the presence of each other at the same time viewed the said public highway hereinbefore described and so resolved to be stopped up and diverted as aforesaid and the line of the said new highway so proposed to be made in lieu thereof as aforesaid and which is wholly situate in the parish of Eastry. And whereas upon such view so made on the application of the said Sanitary Authority as surveyor as aforesaid it appeared to us the said Justices that the said public highway hereinbefore described and so resolved to be stopped up and diverted as aforesaid may be diverted and turned so as to make the same more commodious to the public by stopping up the said part thereof so proposed to be stopped up as aforesaid and by making in lieu thereof the said proposed new highway hereinbefore particularly described. And whereas we the said Justices on the said 13<sup>th</sup> day of July 1892 did direct the said Sanitary Authority as surveyor of the highways of and for the said parish of Eastry to affix, and in pursuance of such directions in that behalf the said Surveyor for four successive weeks next after we the said Justices so viewed the said public highway [page 3] hereinbefore described namely on the 16<sup>th</sup>, 23<sup>rd</sup> and 30<sup>th</sup> days of July and the 6<sup>th</sup> day of August 1892 respectively affixed a notice to the effect of schedule N<sup>o</sup>.19 annexed to the said statute in that case made and provided in legible characters at the place and by the side of each end of the said Public Highway hereinbefore described from whence the same is proposed to be stopped up and diverted as aforesaid and also at each end of the said new highway so proposed to be made in lieu thereof as aforesaid and thereby gave notice that on the 18<sup>th</sup> day of October next application would be made to Her Majesty's Justices of the Peace assembled at Quarter Sessions in and for the Eastern Division of the County of Kent at Saint Augustines in the said County for an order for stopping up the said public highway so resolve to be stopped and diverted as aforesaid and for making in lieu thereof the said new highway hereinbefore particularly mentioned and described and that the certificate of two Justices having viewed the same and proof given to their satisfaction of the several notices

required by the statute having been published with the plan of the old and proposed new highway would be lodged with the clerk of the peace of the said county at his office at Maidstone in the said county on the 17<sup>th</sup> day of September 1892. And whereas the said Sanitary Authority as surveyor in pursuance of the like directions to them by us given in that behalf for four successive weeks next after we the said Justices so viewed the said public highway hereinbefore described namely on the 19<sup>th</sup> & 26<sup>th</sup> days of July 1892 and the 2<sup>nd</sup> and 9<sup>th</sup> days of August 1892 respectively inserted the same notice as last aforesaid and the same notice for the said four successive weeks appeared in a certain newspaper called the Kentish Gazette published on the last mentioned days the said Kentish Gazette then and still being a newspaper published and generally circulated in the said county of Kent and also on four successive Sundays next after the making such view by us the said Justices as aforesaid namely on Sunday the 17<sup>th</sup> 24<sup>th</sup> and 31<sup>st</sup> days of July 1892 and the 7<sup>th</sup> day of August 1892 the said Sanitary Authority as such Surveyor affixed a like notice as last aforesaid on the door of the parish church of the said Parish of Eastry. And whereas the said Lord Northbourne the owner and occupier [page 4] of the Land through which the said new highway is proposed to be made hath consented thereto by writing under his hand which consent hath been duly verified before us. And whereas proof hath now this day been here given unto and before and to the satisfaction of us the said Justices, as well by the evidence of witnesses upon oath as otherwise that the said several notices and resolution of vestry hereinbefore mentioned have been respectively given made agree to affixed and published in the manner and at the times and places hereinbefore particularly mentioned and recited and in manner and form as by the said statute in such case made and provided is required, and a plan has now at the same time been here delivered to us the said justices particularly describing the said old and the said proposed new highway by metes bounds and admeasurements thereof and which said plan has now this day been here verified to and before us the said Justices by the evidence upon oath of Thomas Ashenden a competent surveyor. Now we whose names are hereunto set so being such Justices as aforesaid in pursuance of the aforesaid statute in such case made and provided do hereby certify that on the 13<sup>th</sup> day of July 1892 we together and in the presence of each other at the same time viewed the said highway and the said part thereof so resolved to be stopped up as aforesaid and also the said new highway so resolved to be made in lieu thereof as aforesaid and that upon such view we found that the said public highway may be diverted and turned as before mentioned so as to make the same by 18 yards nearer and more commodious to the public the whole length of the old highway from the point A to D and thence to C on the said map or plan being 1221 yards and the whole length of the new highway and of the continuance thereof by the existing highway from A to B and thence to the point C being 1203 yards the said Justices hereby further certify that the reasons why the said proposed new highway is and will be more commodious to the public are as follows. The said highway will be wider and of better gradient and construction than the old highway.

Given under our hands at the magistrates office 16 Watling Street in the city of Canterbury this third day of September 1892

John James Harvey

H Fitzwalter Plumptre

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