

Aldergate bridleway: application to record a bridleway from Court-at-Street to Aldergate Bridge, Lympe

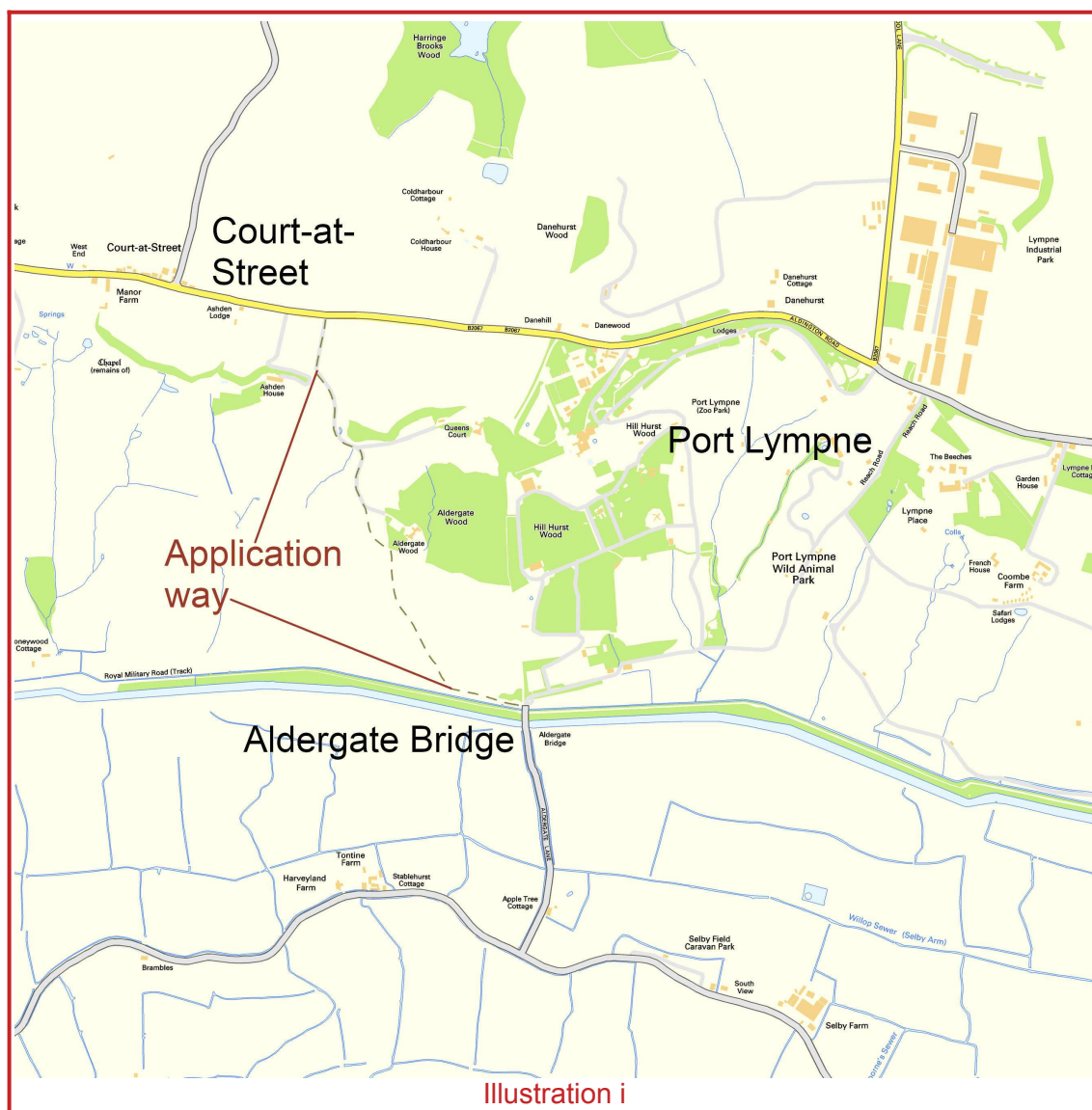
Historical document analysis

I. Introduction

A. Quick reference

A.1. **Location plan** (see application plan at item I.E below for the details):

Location plan



- A.2. **Existing recorded public rights of way comprised in application way:** HE330 (part), HE324
- A.3. **Parish of:** Lympne
- A.4. **Ancient parish of:** Lympne¹
- A.5. **District of:** Folkestone and Hythe
- A.6. **Former rural district of:** Elham
- A.7. **Hundred of:** Street²
- A.8. **Termination points:** A point ('A') on the Aldington Road (B2067) approximately 375 metres east of the road junction in Court-at-Street, and a point ('B') immediately on the north side of Aldergate Bridge
- A.9. **Termination points Ordnance Survey grid references:** [TR09583530](#); [TR10073434](#)
- A.10. **Postcode:** CT21 4PE
- A.11. **Ordnance Survey Explorer sheet:** 138
- A.12. **Ordnance Survey County Series 25" sheets:** Kent LXXIV/9 and LXXIV/13

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1 A very small part of the application way in the vicinity of B also lies within the formerly-significant Cinque Port Liberty of Hythe.

2 Part of Lympne lies in the hundred of Worth.

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C. The applicant

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

D. Locational details

D.1. This application relates to a way recorded as footpath HE330 (part) and footpath HE324 leading from Court-at-Street to Aldergate Bridge, in the parish of Lympe. The application seeks to record the way as a bridleway.

E. Application

E.1. The application is made under s.53(5) of the Wildlife & Countryside Act 1981 to Kent County Council that a definitive map modification order be made under s.53(3)(c)(i) and (ii) that a way should be added to the definitive map and statement for Kent as a bridleway, and so far as the way is coincident with recorded footpath HE324, that the footpath be upgraded to bridleway.

E.2. It may also be open to the council to delete parts of footpath HE324 which are not coincident with the line of the application bridleway, but such a proposal is not part of the application. Moreover, the evidence of the first- and second-edition Ordnance Survey County Series twenty-five inch plans (see Ordnance Survey County Series 25-inch plans at item III.C below) is that the bridleway was, between a point a little south of W, and B, paralleled by a footpath on approximately the same line as the bridleway, but set slightly higher up the slope. If so, it may be that the application way should be added to the definitive map and statement, and the existing footpath retained on the parallel alignment.

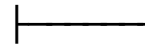
E.3. The application way begins at A (Ordnance Survey grid reference [TR09583530](#)) on the Aldington Road (B2067) approximately 375 metres east of the road junction in Court-at-Street, descends a tarred road leading to Aldergate Wood (a house and woodland), and then continues to descend across rough pasture to terminate at B immediately on the north side of Aldergate Bridge ([TR10073434](#)).

E.4. The points A to B, and intermediate points W to Z, are identified in the application plan on page 5 below.

Plan key

Map centred on point W at TR09683483

Scale: approx. 1:5,140 (when printed A4)



90m

Application way



Line of definitive footpath HE324 (unamended)



Line of definitive footpath HE324 (where diverted)

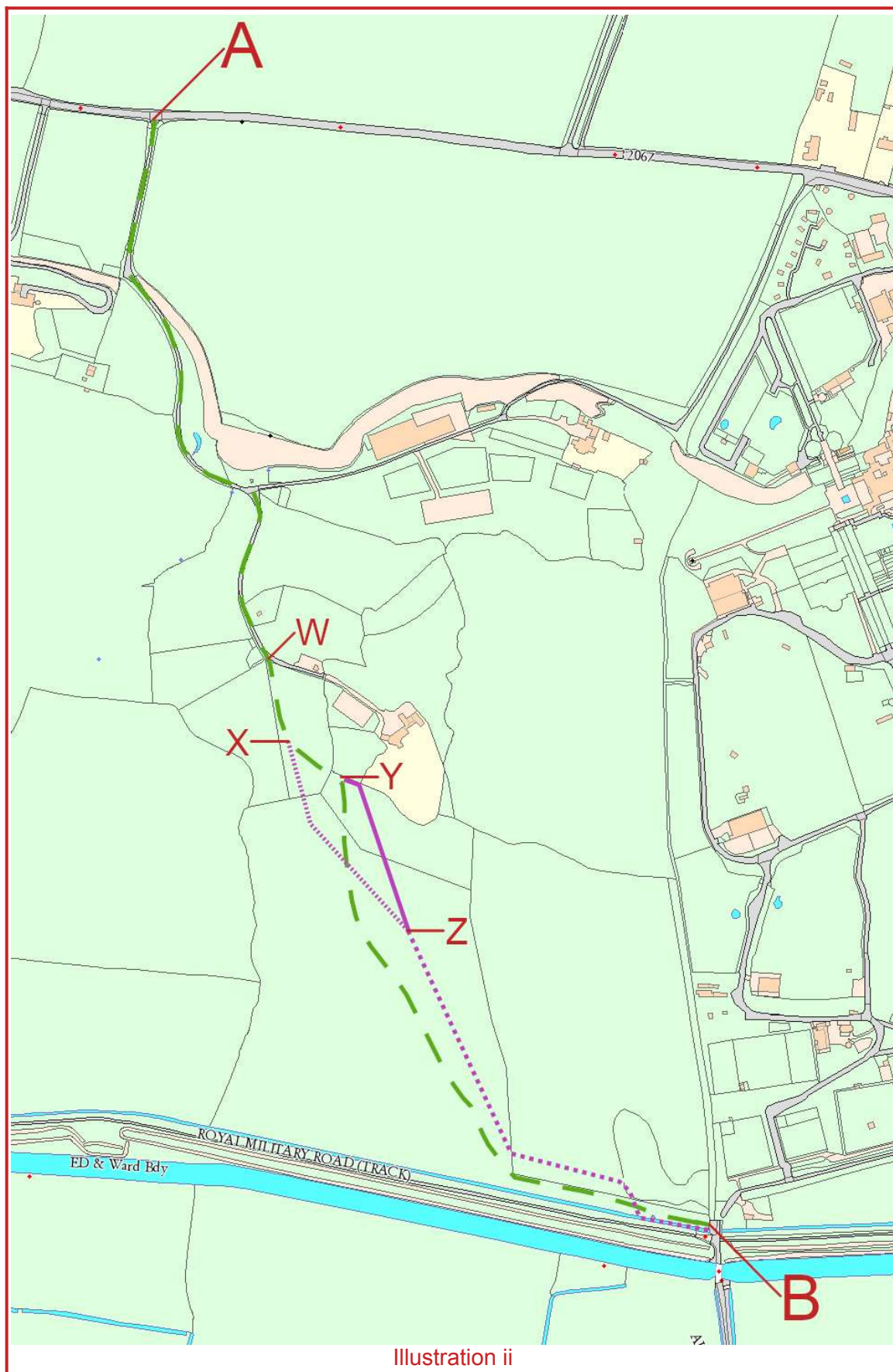


Extinguished line of definitive footpath HE324



Note that the purported line of definitive footpath HE324 (where shown in purple as extinguished or undiverted) is as identified in the plan embodied in the Highways Act 1980 Kent County Council (Footpath HE324 (Part) Lympe) Public Path Diversion Order 1995. The plan is not necessarily conclusive as to the true line of the footpath other than the part set out in the order as the line to which the path is diverted.

Application plan



F. Nomenclature

F.1. No particular name is known for the application way itself: it is referred to in this application as the ‘application way’.

F.2. The application way begins on the Aldington Road east of Court-at-Street. It descends the access road to Queen’s Court and Aldergate Wood. At the fork in the road to Queen’s Court, stood below the road a house called Eldergate:³ this no longer exists, marked only by a sheep fold on later Ordnance Survey County Series 25-inch plans (item III.C below). Aldergate Wood is the name of a wood and of a house within it, east of X, formerly the home of Margaret Helen Waterfield, a notable watercolourist.⁴

F.3. At the bottom, the application way joins an unclassified county road, Aldergate Lane, immediately north of a bridge over the Royal Military Canal. The road formerly continued north-east from the bridge (Reach Road) through what is now Port Lymgne wild animal park to join the Aldington Road: it was diverted to a more easterly alignment along what is now bridleway HE317.

F.4. The canal marks the northern limits of Romney Marsh. The rising land to the north of the canal is known as the Uplands. The drainage system in this part of the Marsh is known as Willop Watering.

G. Background

G.1. The application way appears historically to be a bridleway incorrectly classified as a footpath under Part IV of the National Parks and Access to the Countryside Act 1949. The bridleway evidently is of considerable age: the way from W to X and Y is a significantly-incised holloway which is likely to have been established only by user over several centuries: see Illustration x and Illustration xi at p.13 below.

G.2. There can be little doubt that at least footpath rights subsist over the application way: it has been recorded as such under the 1949 Act, although most of the line south of W is shown on the definitive map and statement on a nearby alignment, which may or may not in part coincide with the line of a parallel footpath shown on the first- and second-edition Ordnance Survey County Series 25-inch plans (item III.C below).

G.3. Only part of the application way is shown on the map prepared for Lymgne under the Tithe Act 1836 (item III.A below), and this is not indicative of status. It is unsurprising that the bridleway is not otherwise shown — cross-field paths seldom are represented on tithe maps, having little or nothing to do with the apportionment of tithe rent charge.

G.4. The earliest evidence of bridleway status is shown on the plans for the Weald of Kent Railway in 1864 (item III.B below), in which the application way is identified on the deposited plan and described in the deposited book of reference as a ‘Public Bridle Road’ owned by the way warden (or lay surveyor) of highways appointed by Lymgne parish vestry.

G.5. The Ordnance Survey County Series 25-inch plans (item III.C below) mark the bridleway through four successive editions of the plans, first surveyed in 1871 and last revised in 1939 — a span of nearly 70 years. The bridleway is labelled as a bridle-road on all but the first edition, and is supplemented by a parallel footpath on the first two.

3 It seems that Eldergate is an alternative earlier mode of spelling Aldergate.

4 See Elham Rural District Council at item III.F below for correspondence from Miss Waterfield.

G.6. The plans for the South-Eastern Railway (Sandgate branch) (item III.D below) identify the application way only as a 'road', and are inconclusive.

G.7. Some of the Late C19 and early C20 Ordnance Survey one-inch maps (item III.E below) depict the application way as a track or road, in preference to a path, which provide some support for bridleway status.

G.8. Minutes of the Elham Rural District Council (item III.F below) document that the application way was considered to be a bridleway by the council, the surveyor and the landowner in 1901, possibly in 1923, and again in 1927.

G.9. The Finance (1909–1910) Act 1910 documentation (item III.G below) does not record any right of way across the relevant hereditament, but no conclusion can be drawn — landowners were not obliged to identify rights of way, and the existence of a right of way is not in doubt.

G.10. The National Parks and Access to the Countryside Act 1949: parish survey (item III.H below), prepared under Part IV, recorded the application way as a 'path', and then in detail as a 'footpath'.

G.11. It is submitted that the evidence of bridleway status given in the Weald of Kent Railway deposited plans, shown on the Ordnance Survey County Series 25-inch plans, together with the proceedings of the Elham Rural District Council in the early twentieth century, along with suggestion of bridleway status on some Late C19 and early C20 Ordnance Survey one-inch maps, is, when taken together, convincing evidence of such status.

H. Grounds for application

H.1. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune v Wiltshire Council*, Lewison LJ said⁵:

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:

'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.'

H.2. The Planning Inspectorate *Consistency Guidelines* recognise that several pieces of evidence which are individually lightweight in themselves (such as an historic map or a tithe map) may, collectively, convey a greater impact:

If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly

5 [\[2012\] EWCA Civ 334](#): at [22]

increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind.⁶

H.3. The correct test under s.53(3)(c)(ii) is whether:

...the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—... (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description... [.]

H.4. s.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.

H.5. While no single piece of evidence in this application is conclusive, the applicant believes that, taken as a whole, the evidence in this document analysis demonstrates bridleway reputation over many years, indicating that the route does indeed have bridleway status.

I. The 1995 diversion

I.1. Footpath HE324 was subject to the Highways Act 1980 Kent County Council (Footpath HE324 (Part) Lympne) Public Path Diversion Order 1995 made on 19 July 1995 under section 119 of the 1980 Act, which was confirmed without objection by the council on 30 August 1995. The effect of the order was to divert the footpath from the former alignment X–Y–Z to a new alignment X–Z further west, as shown in purple on the application plan.

I.2. It is contended that the diversion order had no effect on the claimed bridleway. Alternatively, it is contended that, so far as the order related to a small part of the application way, the application way was diverted to the new line with the status of bridleway.

J. Discovery of evidence

J.1. The evidence contained in this analysis does not appear previously to have been taken into account in deciding whether and in what form to include the existing footpath, now recorded as HE330 (part) and HE324, on the definitive map and statement. There is no suggestion that the railway plans or the minutes of Elham Rural District Council were consulted before deciding whether or how to include (formerly) footpath 10 on the parish statement and subsequently the draft map.

J.2. Therefore, the evidence disclosed in this application is wholly or at least partly new evidence, and there is discovery of new evidence for the purposes of s.53(2) of the 1981 Act.

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

K. Points awarded

K.1. Points have been awarded to each piece of evidence in relation to the application way. But, having regard to the existing status of the application way as a definitive public footpath, points have been awarded only insofar as the evidence is indicative of a right of way on horseback or, where relevant, for vehicles — thus evidence which is suggestive of a public footpath attracts no points. Otherwise, the points have been calculated according to the guidance in *Rights of Way: Restoring the Record*.⁷

K.2. Points:

Item	Ref	Points
Tithe Act 1836	III.A	0
Weald of Kent Railway	III.B	5
Ordnance Survey County Series 25-inch plans	III.C	3
South-Eastern Railway (Sandgate branch)	III.D	0
Late C19 and early C20 Ordnance Survey one-inch maps	III.E	1
Elham Rural District Council	III.F	5
Finance (1909–1910) Act 1910	III.G	0
National Parks and Access to the Countryside Act 1949: parish survey	III.H	0
Total points		14

L. Width of application way

L.1. It is submitted that the width of the application way be that measured from the second-edition Ordnance Survey County Series 25-inch plans (item III.C below) where it was and remains enclosed; that below W, it be the width of the holloway measured from bank top to bank top; and beyond, that it be recorded as a width of three metres sufficient to pass two equestrians.

M. Limitations

M.1. It is accepted that long-standing limitations in the form of gates should be recorded at A, at the corner of Aldergate Wood, and B. No other gate appears to qualify on that basis.

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

II. Along the way

■ At A, looking south



Illustration iii

■ Cattle-grid, south of A



Illustration iv

At the turn to the south-east, south of A



Illustration v

The descent



Illustration vi

Towards the junction near Queen's Court



Illustration vii

Towards W, looking south



Illustration viii

W, looking south-east



Illustration ix

Below W, looking south



Illustration x

Towards W, looking north



Illustration xi

Below X, looking towards B



Illustration xii

Between X and B, looking towards X



Illustration xiii

Near B, looking west



Illustration xiv

At B, looking west



Illustration xv

Aldergate Bridge, looking south from B



Illustration xvi

III. Evidence

A. Tithe Act 1836

A.1. **Date:** 1839–41

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

■ *Lympne tithe map*

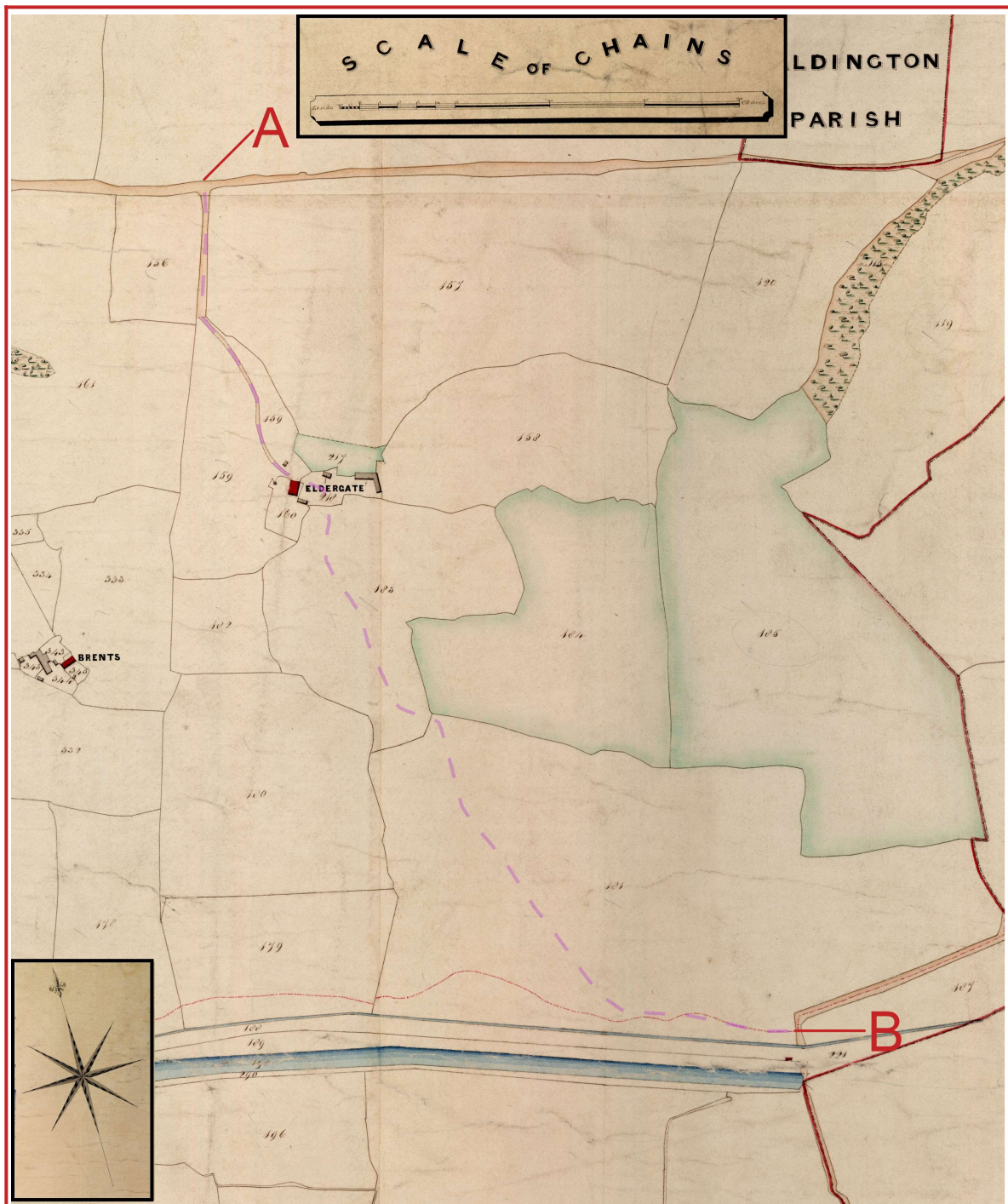


Illustration xvii

A.3. **Description:** Original scale — one inch to three chains (1:2,376); orientation — unchanged (top is north-northeast). The tithe map for Lympe is first class.⁸

A.4. The application way is shown only between the Aldington Road and Eldergate (a habitation then standing approximately at the fork to Queen's Court). This part of the way is shown coloured sienna: usage of sienna elsewhere on the map suggests it was intended to show metalled roads, but not necessarily public roads. The application way is not shown beyond this point. Nor, however, is any other way now recorded on the definitive map and statement as an unenclosed public footpath or bridleway.

A.5. **Analysis:** The Tithe Act 1836⁹ enabled tithes (*i.e.* a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the land subject to tithes in order to assess the amount of money to be paid. An assessment of the tithe due and the rent charge substituted was set out in an apportionment. The 1836 Act was amended in 1837¹⁰ to allow maps produced to be of first class or second class.

A.6. 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.

A.7. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass droves could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Footpaths, bridleways and unenclosed tracks were more likely to be at least partially productive (for example as pasture). Although the process was not necessarily concerned with rights of way, inferences can sometimes be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured yellow or sienna to indicate public status, but in others, the colouring may show that roads had a metalled surface. Highways expressly may be described as such in the apportionment.

A.8. **Conclusion:** The majority of the application way is not recorded on the title map. This is unsurprising: most tithe maps do not record unenclosed, cross-field public paths, because they were not considered to have any significant impact on the apportionment of tithe rent charge.

A.9. That part of the application way which is shown on the tithe map is shown as a road, probably a metalled road. It is not possible to draw any conclusions about the status of that part of the way.

A.10. **Points:** 0

8 See the record for this tithe apportionment held by the National Archives: [IR 30/17/236](#).

9 Available from [The Act for the Commutation of Tithes in England and Wales with an analysis, explanatory notes and an index](#), by J M White, 1836.

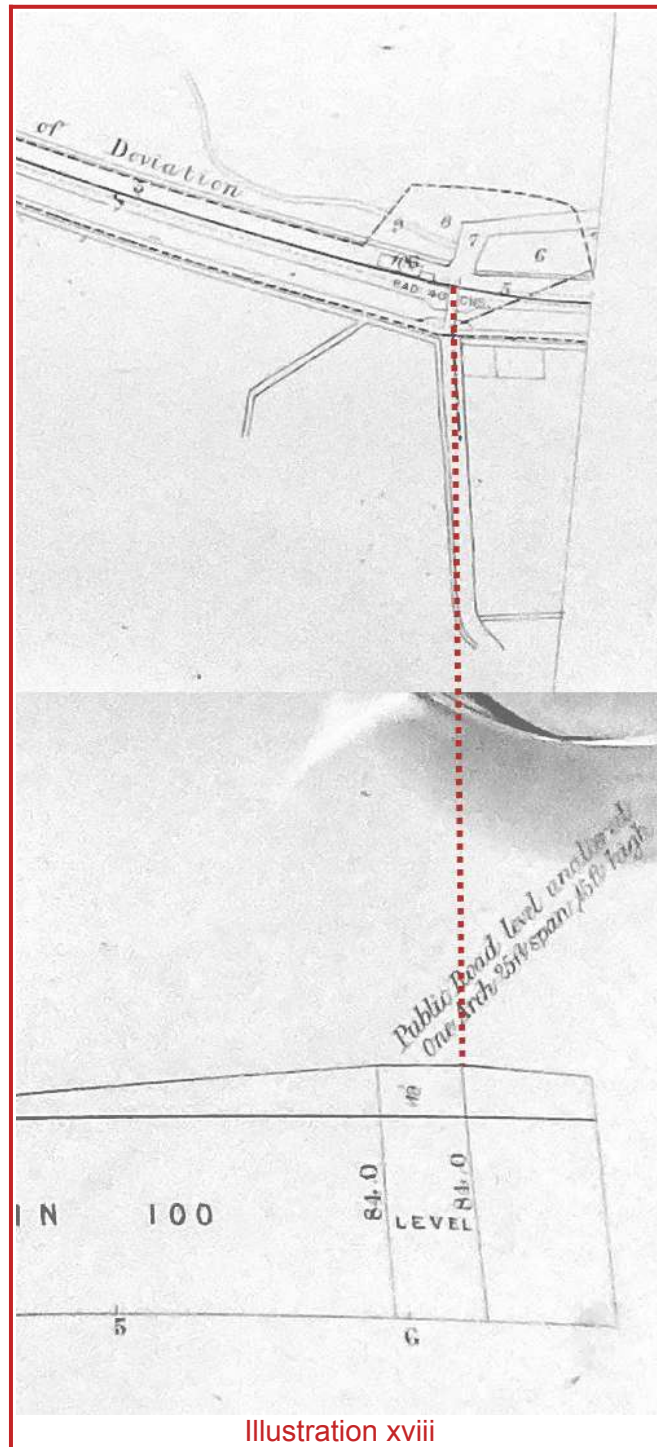
10 Tithe Commutation Act 1837, c.69, s.1. Available from [A collection of the Public General Statutes passed in the seventh year of the reign of William IV and the first year of Victoria](#), 1837.

B. Weald of Kent Railway

B.1. **Date:** 1864

B.2. **Source:** Parliamentary Archives¹¹

■ *Railway deposited plan and section*



11 HL/PO/PB/3/plan1864/W32

Railway deposited book of reference

The parish of Lymington in the County of Kent

DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
7 Public road and Bridge over Canal	James Stoneham, Way Warden		
8 Field	Mr Edward Holmwood, Mr Charles Rolfe the elder, Mr P. and Edward Muggeson, Mr Knatchbull and James Rolfe	Charles Rolfe the elder	Charles Rolfe the elder and James Rolfe
9 Public Bridle Road	James Stoneham, Way warden.		
10 Lodge and Cottage	Her Majesty's Secretary of State for War		Henry Horn

Illustration xix

B.3. **Description:** Original scale: scale marked on a separate page, and cannot be applied to individual sheets owing to variations in photographs; orientation: unchanged (north is approximately top).

B.4. The railway proposals were put forward by the putative Weald of Kent Railway Company, proposing a railway from Hadlow via Paddock Wood, Cranbrook and Tenterden to Hythe. The railway between Tenterden and Hythe would have adopted a line alongside the Royal Military Canal. The proposals were supported by the South Eastern Railway (SER) to protect its position against similar ambitions put forward by the London, Chatham and Dover Railway (LCDR).

B.5. The application way is marked on the deposited plan, labelled as parcel 9, and described in the deposited book of reference as a 'Public Bridle Road' owned by James Stoneham,¹² the way warden appointed by Lymington parish vestry.

B.6. Royal Assent was granted in the Weald of Kent Railway Act 1864,¹³ but only for a railway from Cranbrook to Tenterden. In the event, even this line was not built, as the sponsor, the SER, lost interest following the financial collapse of the LCDR.¹⁴

B.7. **Analysis:** Most railways constructed in the nineteenth century were enabled by an Act of Parliament. The Act conferred the powers necessary to build the line, including to acquire land by compulsory purchase.¹⁵ From 1845, the authorising Act incorporated the Railways Clauses Consolidation Act 1845, which set out all the general provisions appropriate to such a project.

B.8. Under the standing orders of Parliament, it was required of the promoters¹⁶:

That a plan, and also a duplicate of such plan, on a scale of not less than four inches to a mile, be deposited for public inspection at the office of the clerk of the peace for every county, riding, or division, in England..., in or through

¹² In relation to parcel 7 (Aldington Lane/Reach Lane), spelled 'Stonham'.

¹³ 1864 c. ccxxxiii (27 & 28 Vict.), subject to a deviation authorised under the Weald of Kent Railway Act 1865, c. lxxxii (28 & 29 Vict.).

¹⁴ [Hawkhurst branch line](#), Wikipedia, sourced 7 February 2025.

¹⁵ By incorporation of the Land Clauses Consolidation Act 1845.

¹⁶ From the standing orders of the House of Lords in the mid nineteenth century.

which the work is proposed to be made, maintained, varied, extended, or enlarged, on or before the 30th day of November..., immediately preceding the session of parliament in which application for the bill shall be made; which plans shall describe the line or situation of the whole of the work, and the lands in or through which it is to be made, maintained, varied, extended, or enlarged, or through which every communication to or from the work shall be made, together with a book of reference containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers, of such lands respectively... .

Standing orders also provided for a copy of the deposit to be provided to the clerk of the peace for the county, and extracts to be provided to the clerk of each parish.

B.9. The deposit would be made in November, usually with the intention that Royal Assent would be granted in the following year. The deposit then was subject to examination by the Examiners of Petitions for Private Bills to ensure compliance. If the deposit was non-compliant, it would be rejected and (at best) await a further opportunity for deposit the following autumn. Numerous errors in the deposit might be identified to show that it was non-compliant. This imposed an incentive on the promoters to ensure that the deposit was accurate, credible and truthful.

B.10. If the deposit was passed by the Examiners, it would be subject to Parliamentary scrutiny. Petitions might be deposited for or against the Bill — for example, in support of the proposals, in favour of a competing alignment, avoiding a particular landowner's estate, proposing that a station be built to serve a nearby village, or merely seeking a bridge instead of a level crossing, or *vice versa*. In due course, usually within the Parliamentary session following deposit, the Bill could expect to receive Royal Assent in an Act, be withdrawn by the promoters, or be rejected. The deposit was not influenced by whether the proposals proceeded to Royal Assent or not: they remained unchanged (subject to approval by the Examiners) regardless — but the Bill would be amended to reflect any agreed changes to the proposals agreed by or imposed on the promoters during Parliamentary scrutiny. For example, if Parliament decided that a public road should be taken over the railway by level crossing, instead of the bridge proposed in the deposit, then a clause would be inserted in the Bill to that effect.

B.11. **Conclusion:** The deposited plans are good evidence of the reputation of the application way as a bridleway in the mid-nineteenth century. The plans were compiled following local survey and consultation, and subject to initial scrutiny by the Examiners and subsequently by committee in Parliament. Evidently, these plans passed the Examiners, because part of the package received Royal Assent. In the event, the railway along the Royal Military Canal was not included in Royal Assent given in 1864, but this does not impair the fidelity of the deposited plans.

B.12. **Points:** 5

C. Ordnance Survey County Series 25-inch plans

C.1. **Date:** various

C.2. **Source:** British Library, National Library of Scotland¹⁷, Kent County Council¹⁸

¹⁷ Via maps.nls.uk/os/25inch-england-and-wales/kent.html, sheet 74/9 and 74/13.

¹⁸ Kent Landscape Information System: webapps.kent.gov.uk/KCC.KLIS.Web.Sites.Public/Default.aspx

County Series first edition 25" map (surveyed: 1871)



PARISH OF LYMPNE.						3
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.	
101	2.422	Pasture.	116	9.894	Road.	
102	2.553	Houses, yards, garden, &c.	117	.249	Houses and garden.	
103	7.429	Pasture, paths, &c.	118	7.001	Pasture, &c.	
104	2.565	Pasture.	119	12.828	Pasture, &c.	
105	28.667	Arable, &c.	120	.203	House, garden, &c.	
			121	6.500	Arable, &c.	
			122	.974	Houses, yards, &c.	

Illustration xxi

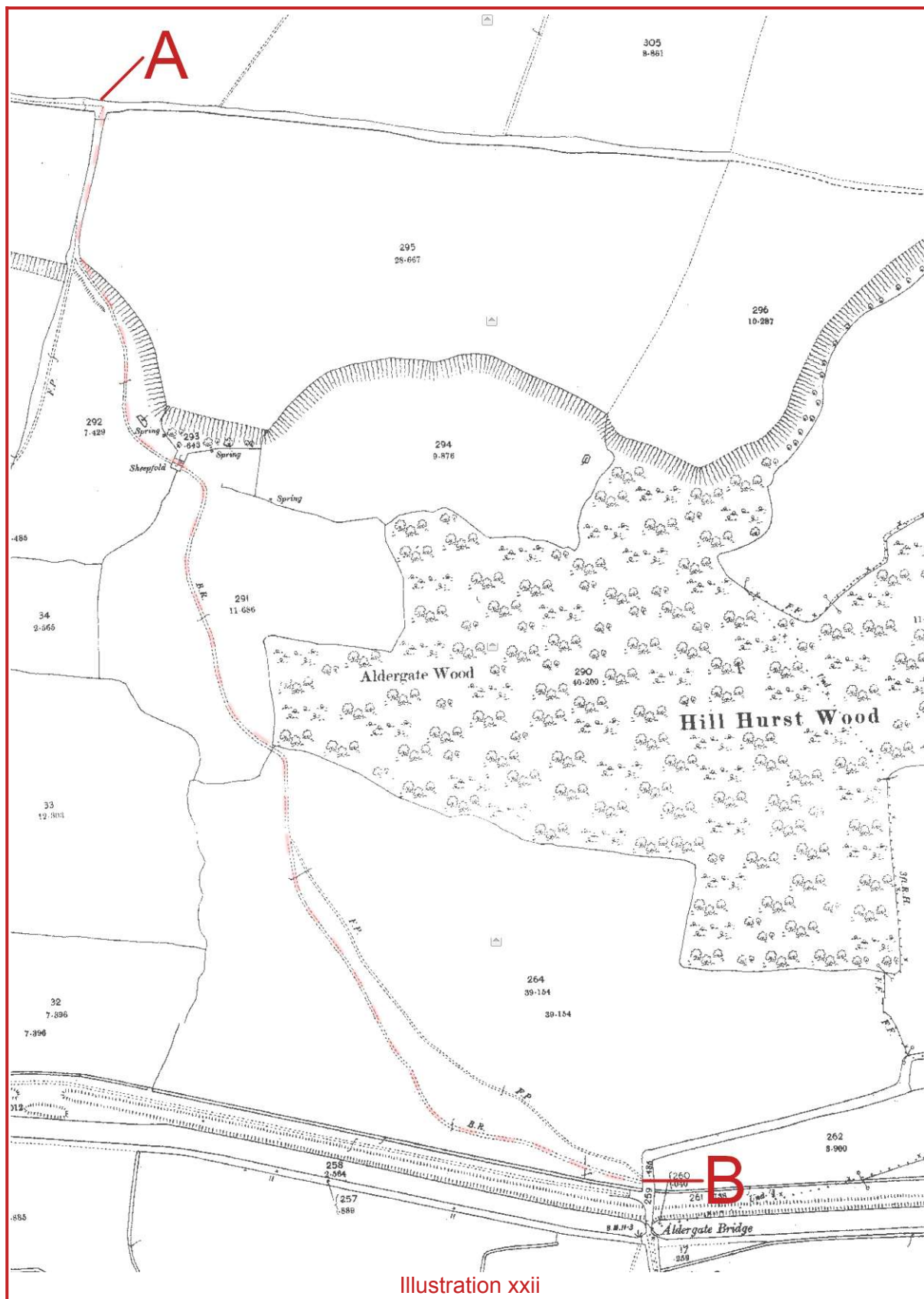
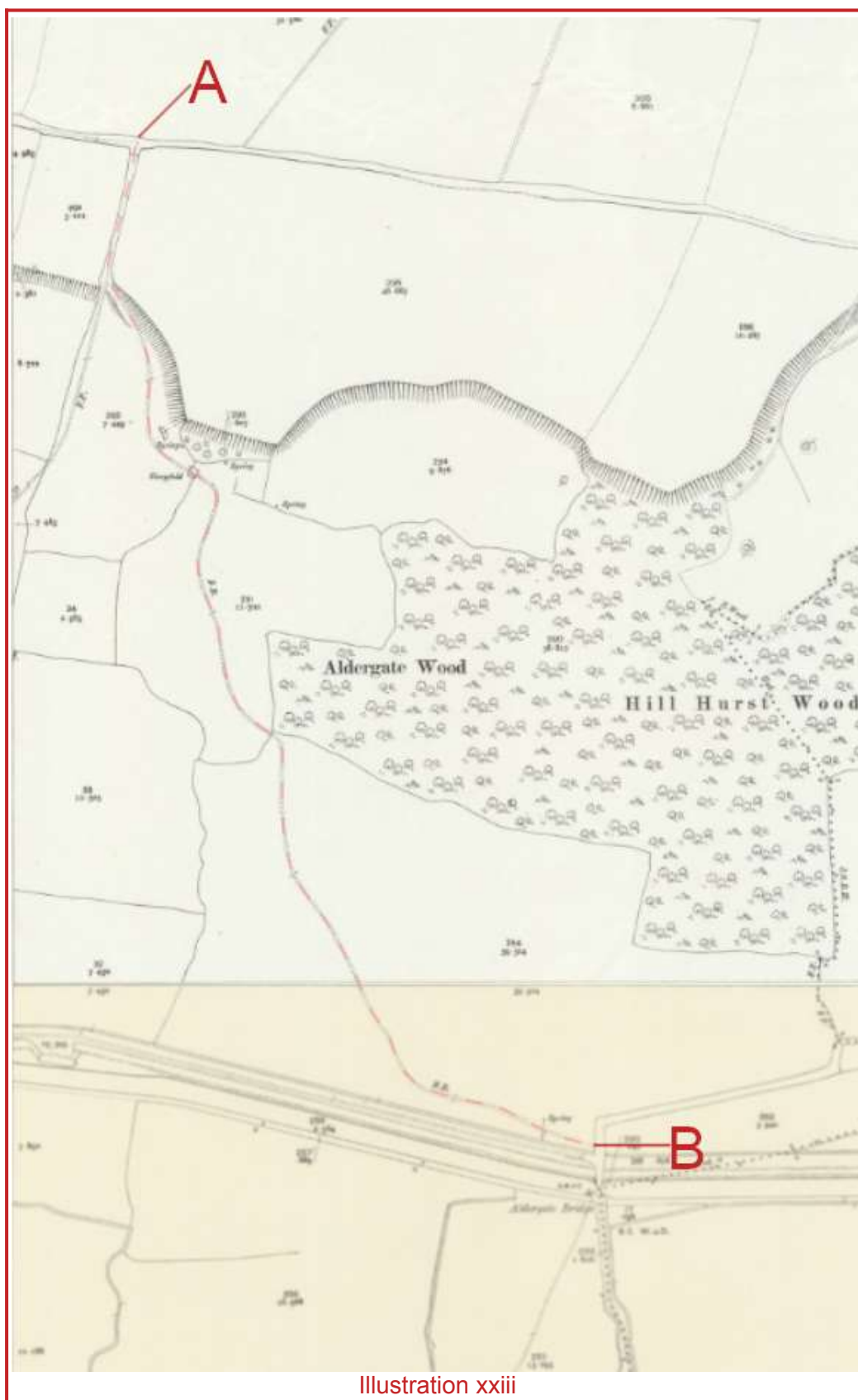
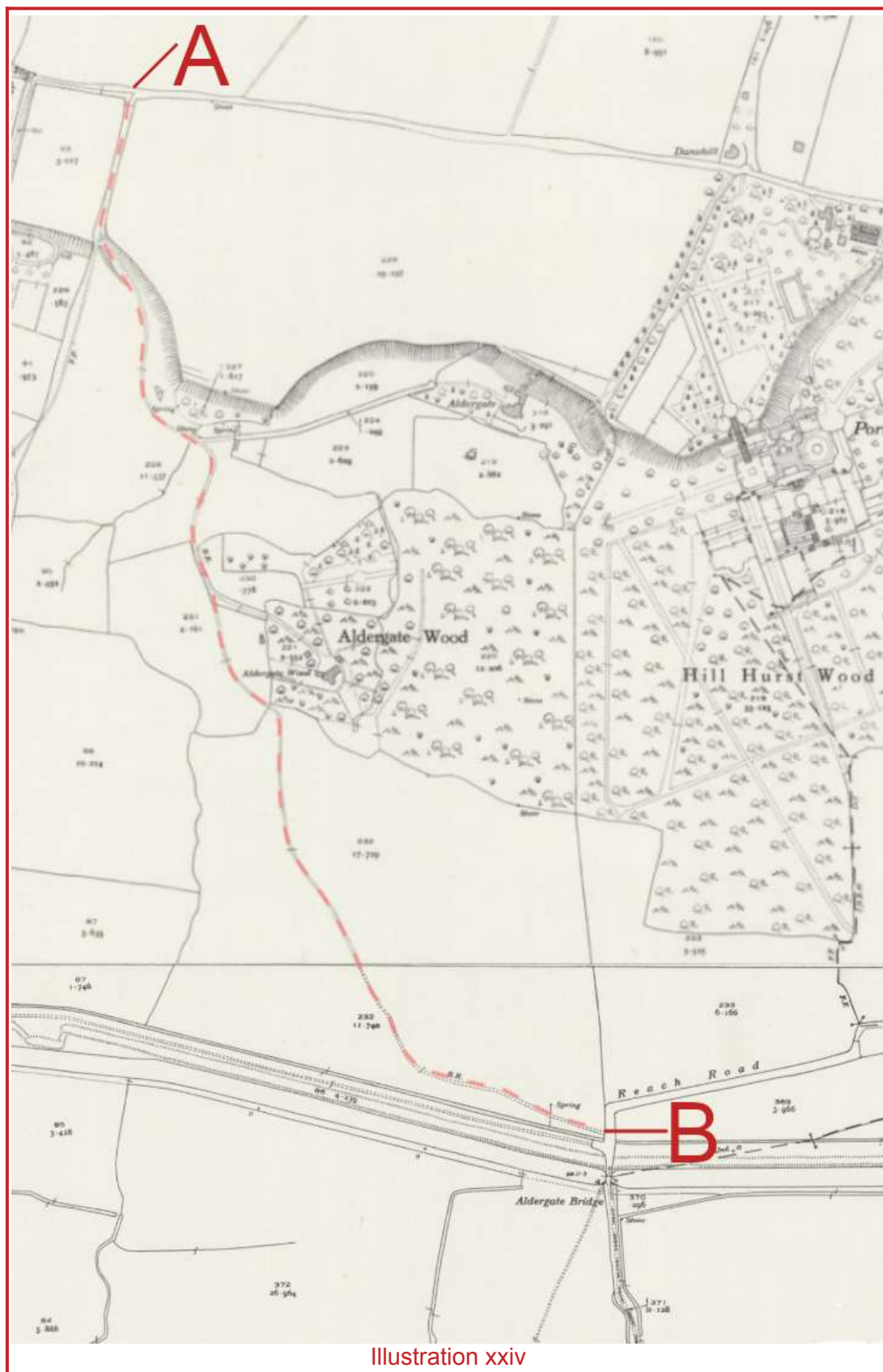


Illustration xxii





C.3. **Description:** Original scale: 1:2,500 (twenty fives inches to one mile); orientation: unchanged (north is top).

C.4. The Ordnance Survey published in the County Series the first national mapping of England at a large scale of six and twenty-five inches to one mile. Coverage of Kent was in four successive editions prior to the introduction of the post-war National Grid series. All four editions show the application way throughout.

C.5. Colouring in sienna on the first-edition plan indicates that the road was metalled.¹⁹

C.6. On all four plans, the application way is shown following a consistent line.

C.7. On the first-edition plan, the line south from A follows an enclosed road or track, and is part of parcel 103: the area book attributes this to 'Pasture, paths, &c.' South of the enclosed track, the application way is braced to the fields which it crosses. In the most southerly field, parcel 132, the way is shown to bifurcate, and two routes lie roughly parallel, the one to the north and more minor than the application way to the south. They both terminate at B. The area book describes parcels 109 and 132 as 'Pasture, rough pasture, &c.' and 'Rough pasture, &c.' respectively.

C.8. On the second-edition plan, the application way is labelled 'B.R.' (bridle road), and the parallel way to the north, 'F.P.'.

C.9. On the third-edition plan, only the application way now is marked through the most southerly field (now parcel 264). This continues to be labelled 'B.R.'.

C.10. The fourth-edition plan shows new development, at Aldergate (now Queen's Court) and Aldergate Wood. Only the application way is marked through the most southerly field (now parcel 232). This continues to be labelled 'B.R.'.

C.11. **Analysis:** The annotation of the application way as a bridle road on the second-, third- and fourth-edition plans is good evidence for its status as a bridle path and not a footpath. While the Ordnance Survey large-scale plan does not necessarily distinguish public from private paths, the surveyor will have recorded the way as a bridleway because of observations made in the field (such as guideposts, path furniture, mounted passers-by, hoof prints or horse droppings), or because of information received from reliable local sources, or both.

C.12. The application way is acknowledged to be a public path (albeit recorded at present as a public footpath). The annotation of the way as a bridle road cannot refer to anything other than a public bridleway which was noted by a succession of field surveyors on their survey of the area on the occasion of the revision for the second and subsequent editions.

C.13. The attribution of a bridle road was not done in relation to the first edition, and discontinued soon after the fourth edition.²⁰ Moreover, the annotation of the path as a bridle road on three successive editions of the twenty-five and six-inch plans is suggestive that the status was a settled matter: if the annotation had given any cause for objection, it might have been addressed and altered before the publication of the fourth edition some 75 years after the first.

19 '**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.

20 There are some temporal exceptions in both cases, but none material to Kent.

C.14. Although the first-edition plan does not expressly label the application way as a bridleway, it does distinguish the application way from the parallel path by means of a thicker width. This suggests that the application way was the more important and more prominent line between Z and B, which is consistent with its use as a bridleway (at least).

C.15. Further support is found in the braided line of the right of way south of Z: the first- and second-edition maps consistently show (over a period of survey set 25 years apart) parallel lines of footpath and bridle road between Z and B. The paired lines suggest that the use of the bridleway was sufficiently intensive that pedestrians found it easier to adopt a slightly higher path, perhaps to avoid mud and take advantage of a slightly shorter line of route and higher ground.

C.16. **Conclusion:** The Ordnance Survey County Series plans consistently show the presence of the application way and (on the second-, third- and fourth-edition plans) as a bridleway.

C.17. Private bridleways seldom are found. A few were appointed under inclosure awards — but Lympne was not subject to inclosure. A way depicted on the plan as a bridle road is very likely to have been a public bridleway. Moreover, the application way plainly cannot have been mistaken for a footpath, because a parallel footpath and bridleway are shown between Z and B.

C.18. **Points:** 3

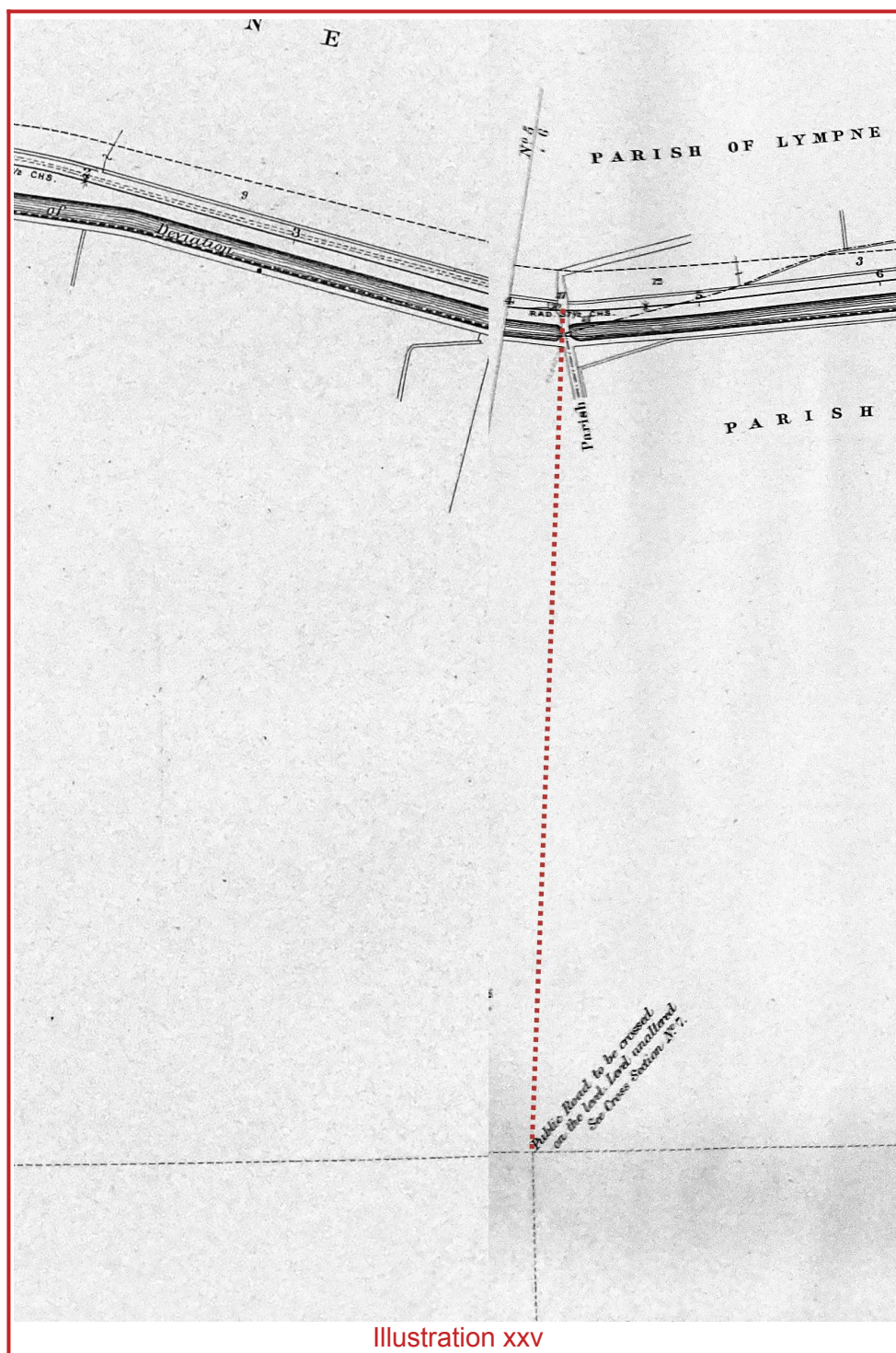
D. South-Eastern Railway (Sandgate branch)

D.1. **Date:** 1886

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

21 Q/RUm/860

Railway deposited plan and section



Railway deposited book of reference

Appledore, Hythe and Sandgate Railway.

Parish of Lympne—continued.

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
9	Pasture field, road and spring	Sir John William Honeywood, Bart.	Bedo Hobbs	Bedo Hobbs
10	Waste ground	Her Majesty's Principal Secretary of State for War		
11	Public road and bridge	Her Majesty's Principal Secretary of State for War Elham Rural Sanitary Authority (Robert Loneragan, Clerk)	Lords Bailiff and Jurats of the Level of Romney Marsh	
12	Pasture field	Sir John William Honeywood, Bart.	Bedo Hobbs	Bedo Hobbs
13	Parapet of Royal Military Canal, military road and ditch	Her Majesty's Principal Secretary of State for War	William Paine

Illustration xxvi

D.3. **Description:** Original scale: scale marked on a separate page, and cannot be applied to individual sheets owing to variations in photographs; orientation: unchanged (north is approximately top).

D.4. The railway proposals were put forward by the South-Eastern Railway, proposing a railway from Appledore to Hythe and Sandgate. The railway would have adopted a line almost entirely alongside the Royal Military Canal.

D.5. The application way is marked on the deposited plan, within the parcel labelled 9, and described in the deposited book of reference as a 'Pasture field, road and spring' owned by Sir John William Honeywood, Bart., leased and occupied by Bedo Hobbs.

D.6. In the event, the proposals did not receive Royal Assent.

D.7. **Analysis:** See the Weald of Kent Railway (item III.B above) for explanation of the Parliamentary process associated with deposited proposals.

D.8. The application way is described in the book of reference only as a 'road', with a private owner for the field, road and spring. The description is inconclusive. Other entries in the book of reference refer to 'public footpath's owned by the rural sanitary authority,²² and to 'occupation road's.²³ A 'road' in Hurst²⁴ is now footpath AE499, one in Lympne²⁵ is

22 e.g. Ruckinge 15, Aldington 5, Lympne 19

23 e.g. Aldington 4, Lympne 3 & 5, Newington (det.) 3

24 Hurst 1

now footpath HE329, and one in Newington (detached)²⁶ is now footpaths HE327 and HE328.

D.9. **Conclusion:** The description of the application way as a 'road' is inconclusive. Notably, it is not described as an occupation road, nor as a public footpath. The four ways described as 'road' have in common that they lead down from the Uplands to the Royal Military Canal, and may well once have had a continuation south until construction of the canal severed or diverted the ways. It is not inevitable that a private road and public bridle road should be recorded as owned by the rural sanitary authority. Nor is the status of the application way as a public right of way in question. It is suggested that the deposited plans are neutral.

D.10. **Points:** 0

E. Late C19 and early C20 Ordnance Survey one-inch maps

E.1. **Dates:** various

E.2. **Source:** National Library of Scotland²⁷

OS New Series sheet 305 surveyed 1870–72, published 1878²⁸



Illustration xxvii

²⁵ Lymphne 7

²⁶ Newington (det.) 1

²⁷ maps.nls.uk

²⁸ maps.nls.uk/view/239767615#zoom=5.7&lat=4224&lon=4106&layers=BT



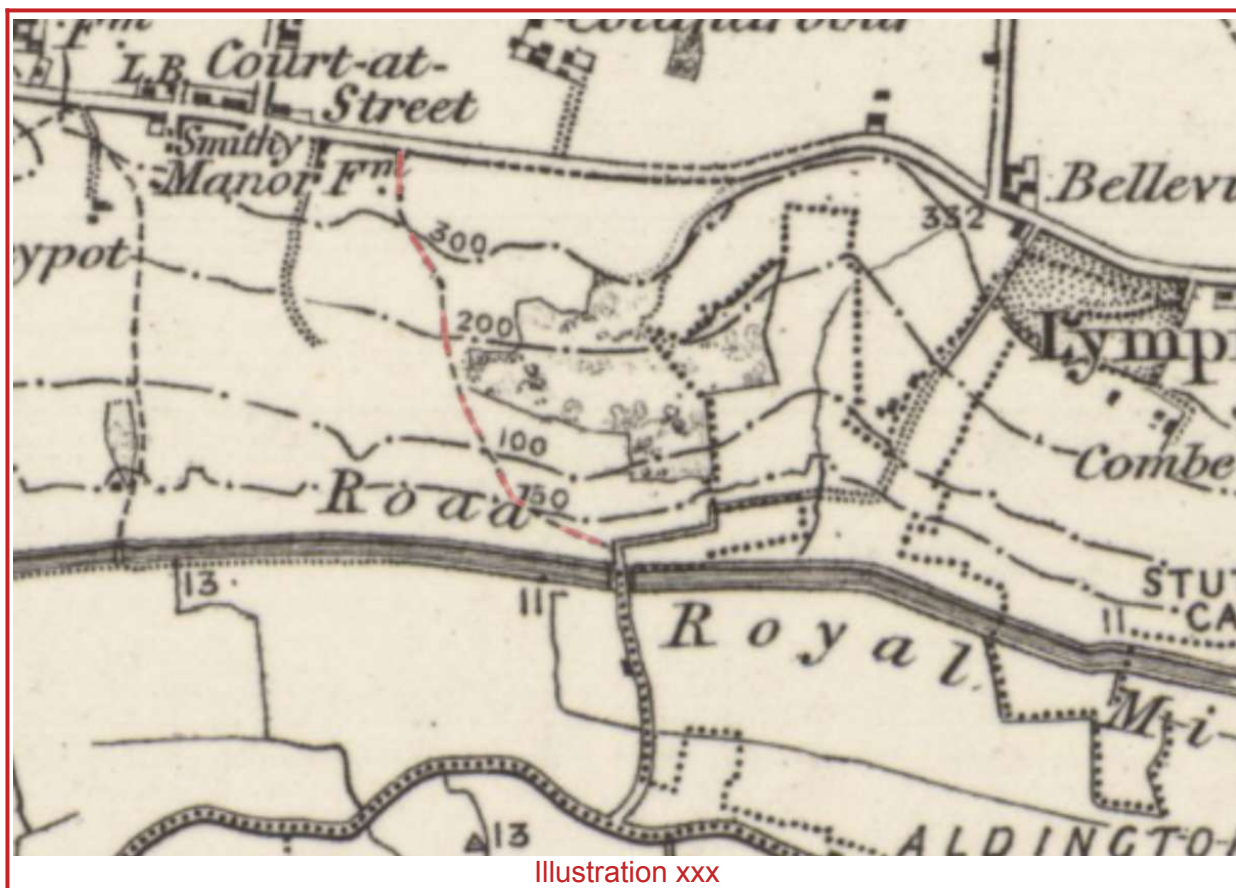
Illustration xxviii

29 maps.nls.uk/view/101168942#zoom=6.0&lat=6811&lon=6945&layers=BT



Illustration xxix

30 maps.nls.uk/view/239767597#zoom=5.5&lat=4612&lon=4608&layers=BT



E.3. **Description:** Original scale: one inch to one mile (1:63.670); orientation: unchanged (north is top).

E.4. The Ordnance Survey published a succession of one-inch maps for public use from the first early 19th century Old Series maps onwards. The application way is not recorded on early nineteenth-century county maps, and first appears on the New Series one-inch map, surveyed in 1870–72 and published in 1878, as a unfenced minor road or track.

E.5. On the revised New Series one-inch map revised in 1893 and published in 1895, the application way is shown as one of ‘footpaths’ (there is no symbol shown in the key for bridleways).

E.6. On the Ordnance Survey third-edition one-inch map revised in 1904 and published in 1905, the application way is once again shown as an unmetalled, unfenced road (but not as a ‘footpath’, while there is no symbol shown in the key for bridleways).

E.7. On the Ordnance Survey fourth-edition one-inch map revised in 1909–10 and published in 1912, the application way reverts to being shown as one of ‘footpaths’ (there is no symbol shown in the key for bridleways).

E.8. On the Popular edition one-inch map revised 1914–1919 and printed in 1921, and subsequently, the application continues to be shown as a path, save that on the key of the Popular and New Popular editions, such paths now are described as ‘Bridle & Footpaths’.

³¹ maps.nls.uk/view/239767591#zoom=5.5&lat=4631&lon=4502&layers=BT

E.9. **Conclusion:** The Ordnance Survey one-inch maps provide some support for the status of the application way being greater than a footpath.

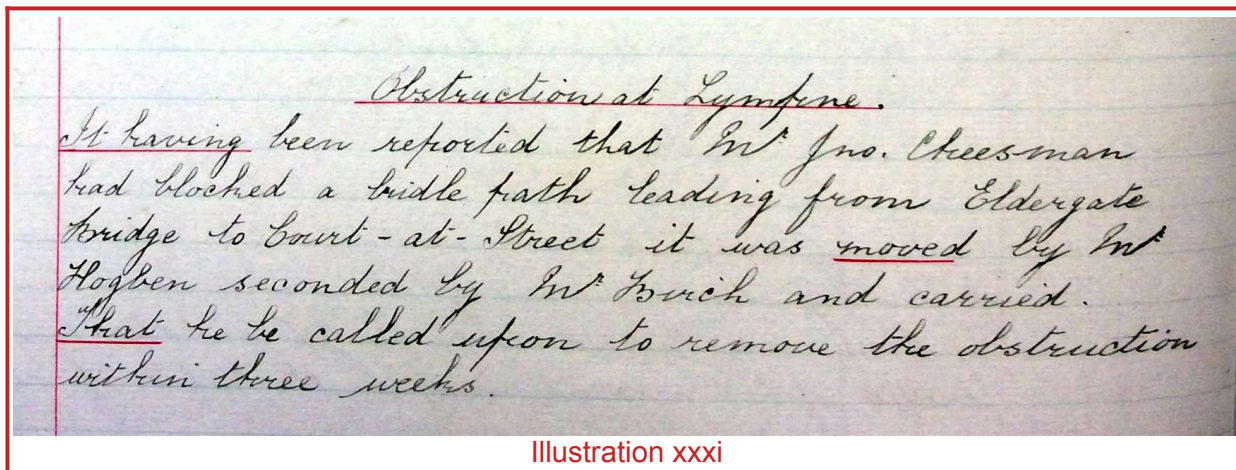
E.10. **Points:** 1

F. Elham Rural District Council

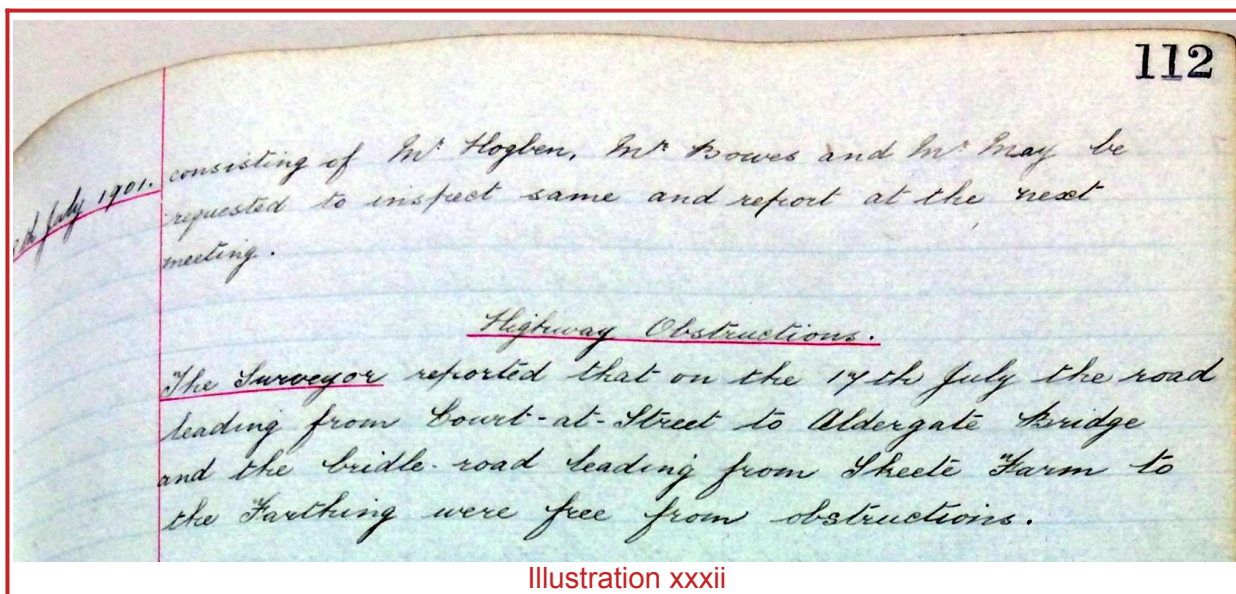
F.1. **Date:** 1901

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

Minutes of meeting on 20 June 1901³²



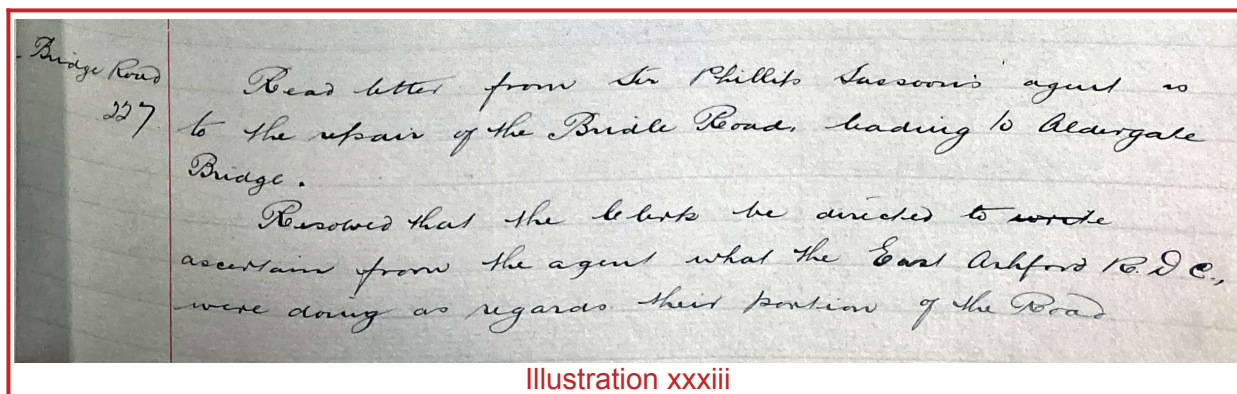
Minutes of meeting on 18 July 1901³³



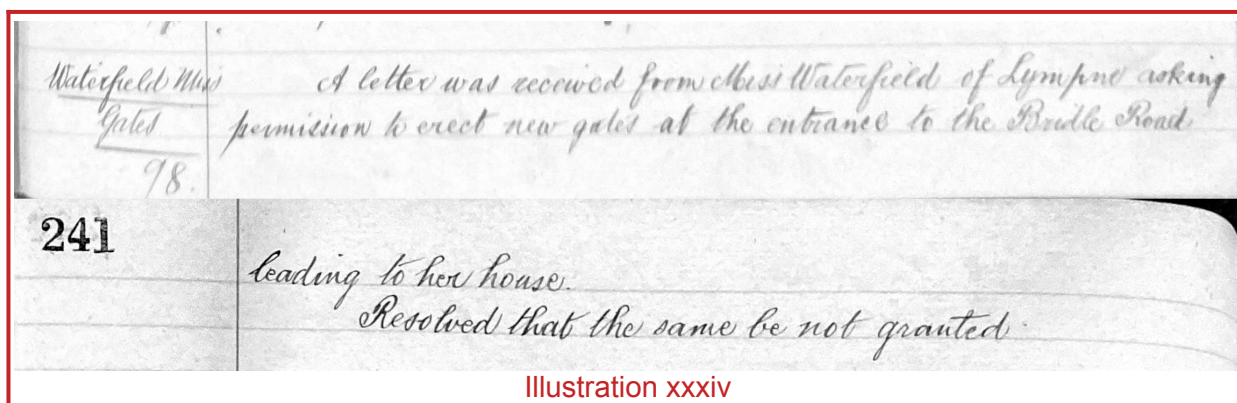
³² Elham Rural District Council, minutes, vol.2 1900–05, RD/EL1/AM1/2, p.107

³³ *Ibid*, p.112

Minutes of meeting on 1 March 1923³⁴



Minutes of meeting on 1 December 1927³⁵



F.3. **Description:** Elham Rural District Council was the highway authority for the parish of Lymington from 1894 until 1929.

F.4. At a meeting of the Elham Rural District Council on 20 June 1901, it is minuted that:

Obstruction at Lymington

It having been reported that Mr Jno. Cheesman had blocked a bridle path leading from Eldergate [sic] Bridge to Court-at-Street it was moved by Mr Hogben seconded by Mr Birch and carried that he be called upon to remove the obstruction within three weeks.

F.5. At the following meeting on 18 July, it is minuted that:

Highway Obstructions

The Surveyor reported that on the 17th July the road leading from Court-at-Street to Aldergate Bridge and the bridle-road leading from Sheete Farm to the Farthing were free from obstructions.

F.6. At a meeting on 1 March 1923, it is minuted that:

³⁴ Elham Rural District Council, minutes, vol.7 1922–25, RD/EL1/AM1/7, p.92

³⁵ Elham Rural District Council, minutes, vol.8 1925–28, RD/EL1/AM1/9, p.240–241

Read letter from Sir Phillip Sassoon's agent as to the repair of the Bridle Road leading to Aldergate Bridge.

Resolved that the Clerk be directed to write to ascertain from the agent what the East Ashford RDC were doing as regards their portion of the Road.

The marginal note reads: 'Bridle Road 227'.

F.7. At a meeting on 1 December 1927, it is minuted that:

A letter was received from Miss Waterfield of Lympne asking permission to erect new gates at the entrance to the Bridle Road leading to her house.
Resolved that the same be not granted.

The marginal note reads: 'Waterfield Miss Gates'.

F.8. Miss Waterfield is Margaret Helen Waterfield, 'an English artist best known for her watercolor paintings of flowers and other plants.'³⁶

By 1918, she started hunting for land on which to build her own home and had found it adjacent to Port Lympne with a view of Romney Marsh. Margaret moved to Aldergate Wood at the age of 57 in 1921 and created a garden that would serve as her residence for the remainder of her life.

F.9. **Conclusion:** The council refers to the application way on at least two separate occasions. The first, in 1901, refers to the path being a 'bridle path' or 'bridle-road' which had been obstructed, and the third to a bridle road which formed the access to 'Aldergate Wood', a house owned by Miss Waterfield, who wished to install gates across the entrance to it (the request was refused).

F.10. The minute of 1907 is more equivocal. The reference to a 'Bridle Road leading to Aldergate Bridge' suggests the application way. But the involvement of Sir Phillip Sassoon's agent, Sassoon being then the owner of Port Lympne, calls into question whether the 'bridle road' can be the application way, noting that at the time of the valuation under the Finance (1909–1910) Act 1910 (item III.G below), the entire length of the application way lay within the estate of the neighbouring Cold Harbour Farm owned by P H Cheesman. It may instead refer to Reach Road, the road leading from Aldergate Bridge north-east to the Aldington Road at Bellevue. Reach Road is a public road or cart road (see para.III.H.5 below), which was recorded on the first definitive map and statement as a carriage-road-footpath, diverted in the second half of the twentieth century, and is now a bridleway HE317 following a more easterly alignment. It is possible that Reach Road mistakenly was referred to as a bridle road. Regardless, the portion of the road south of Aldergate Bridge (Aldergate Lane) was, at this time, the parish boundary between Lympne (to the west) and a detached portion of Aldington (to the east). Aldington being in East Ashford rural district, Elham rural district council was concerned to establish respective maintenance responsibilities.

F.11. Notwithstanding the uncertainty in relation to the 1907 minute, the records of the council show that the application way was regarded by the council's surveyor and its members, in both 1901 and 1927, as a bridleway, and that in 1927, that view was shared by Miss Waterfield, as landowner, who sought permission to gate the bridleway.

F.12. **Points:** 5

³⁶ This and the following quotation from [Margaret Helen Waterfield](#), *Wikipedia*, sourced 18 January 2025.

G. Finance (1909–1910) Act 1910

G.1. **Date:** 1911

G.2. **Source:** National Archives

Finance Act record plan

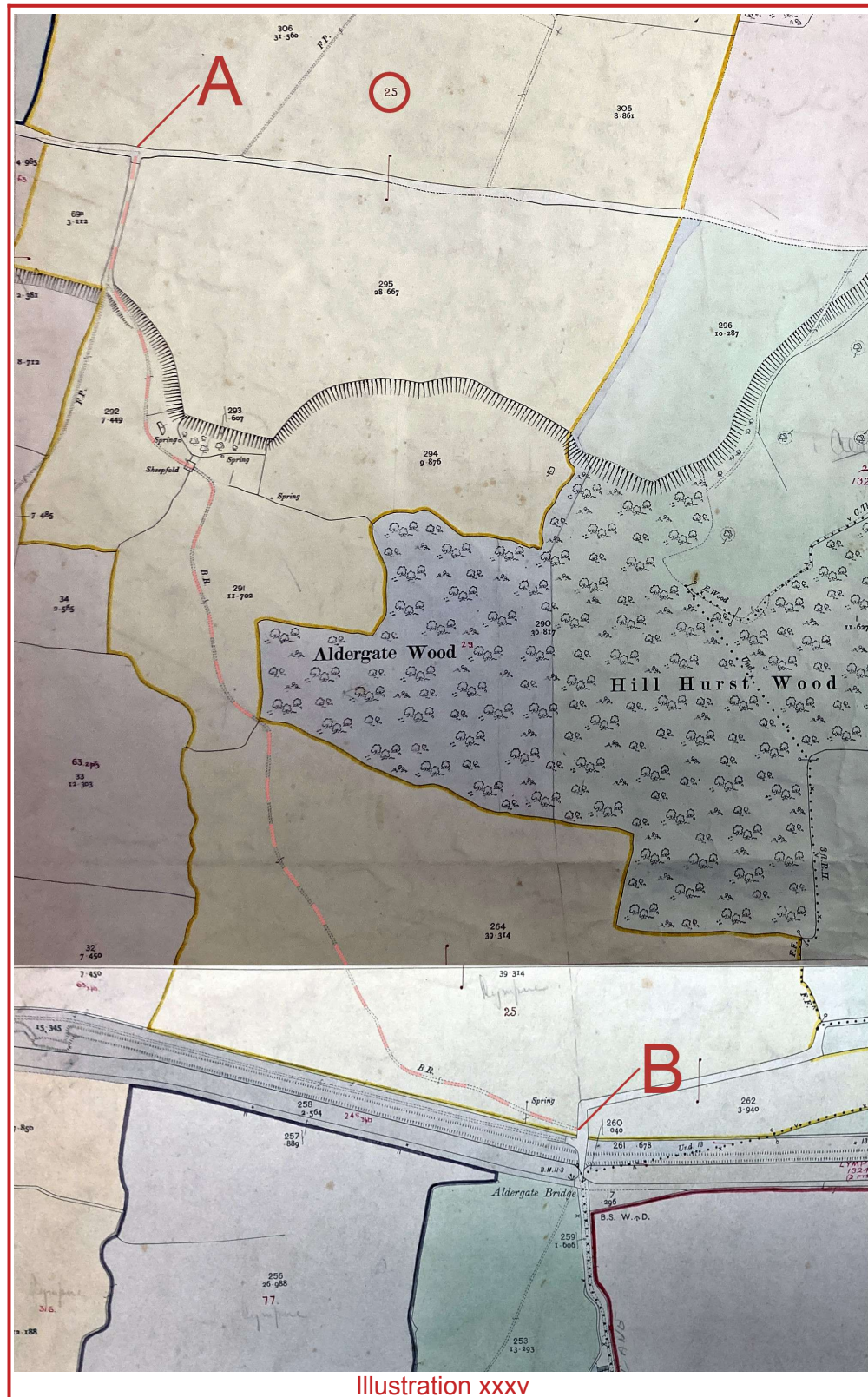


Illustration xxxv

G.3. **Description:** original scale: 1:2,500; orientation: unchanged.³⁷

G.4. Hereditament 25 is Cold Harbour Farm, Lymgne.³⁸ No deduction is claimed for rights of way.

G.5. **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.

G.6. 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.

G.7. Secondly, discounts from the valuation could be requested for land crossed by foot-paths or bridleways. Under s.25 of the Act:

The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land...'.³⁹

G.8. Under s.26(1), the Commissioners of the Inland Revenue were required to cause a valuation to be made of, *inter alia*, the total value of land. Whether a discount was, in fact, given will depend on several factors:

- Whether the right of way was excluded from valuation (i.e. as a ‘white road’).
- Whether the landowner acknowledged the presence of a right of way on the land (e.g. if it were disputed).
- Whether the landowner wished to reduce the valuation of the land (if development were anticipated, it might be better to secure a higher valuation, so that the increase in value arising from development were minimised. However, as the 1910 Act also provided for other levies, the calculations in a particular case might be for or against a discount from the total value of the land).
- Whether the landowner declared the right of way on form 4 or form 7 (a failure to declare might be an oversight).
- Whether the valuer accepted the claim for a discount for a right of way.
- Even if the landowner did not declare the right of way, the valuer could give a discount for a right of way which was ‘known to’ the valuer.

G.9. The Act included provision for a duty on increment in land value (to capture some of the gain from community development, such as building new railways and public services) and a duty on the capital value of unimproved land on which building might be held back

37 Record map at National Archives: sheet 74/9, IR 124/5/310; 74/13, IR 124/5/314

38 Field book at National Archives: IR 58/31136

39 Discounts for easements affecting the land were separately requested and recorded in the valuation book.

for speculative gain.⁴⁰ It was said by the Chancellor, subsequently, that the two duties expressly were designed to help ensure an honest valuation.⁴¹ According to the landowner's disposition, the landowner might favour a higher valuation to minimise increment value duty, or a lower valuation to minimise the capital duty, but either way, there was a risk that favouring one might come at the expense of rendering the other more costly. As there was no obligation to declare rights of way to minimise the valuation (though there was an obligation not to make false declarations), it is hardly surprising that some landowners chose to declare, and others did not. They may have made a decision after careful calculation, or they may have been ignorant that declaration of a right of way could (in some cases) bring possible financial benefits. They may not have wished to draw attention to a right of way, or they may have thought it would make barely any difference (and quite possibly the effect would have been adverse to their expected interests). They may have denied (rightly or wrongly) that a right of way existed, or at least not have wanted formally to acknowledge its existence. We cannot (usually) know.

G.10. Thus the absence of any indication of a right of way in a particular hereditament — even where the evidence of adjacent hereditaments (and otherwise) suggests it was crossed by a right of way — tells us nothing at all. One cannot conclude that the absence of any deductions under the Finance Act 1910 would appear to confirm that no such public route existed, without knowing the motivation why no deductions were claimed — and invariably there is no record of such motivation.

G.11. **Conclusion:** No deduction is recorded in relation to the application way across hereditament 25. As the application way undoubtedly existed at this time, whether it was a footpath or bridleway, the absence of any deduction for the right of way is evidentially neutral. The field book therefore provides no evidence either way as to the status of the application way at the date of the valuation.

G.12. **Points:** 0

40 For completeness, the 1910 Act also included provision for a reversion duty on the term of a lease, and a mineral rights duty. Neither is relevant here.

41 *Land and Society in Edwardian Britain*, Brian Short, 1997, p.20. Rt Hon Lloyd George, speaking in the House of Commons on the repeal of s.4 of the 1910 Act in 1923, said: 'They [the taxes] were only valuable for the purpose of justifying a valuation, and for that purpose they were admirably conceived because if the valuation was too high the half-penny caught them, and if the valuation was too low the increment tax caught them; so that between one and the other we had a perfectly honest valuation.' *Hansard*, 3 July 1923, vol 166, [col.332](#).

H. National Parks and Access to the Countryside Act 1949: parish survey

H.1. **Date:**

H.2. **Source:**

Lympne parish map

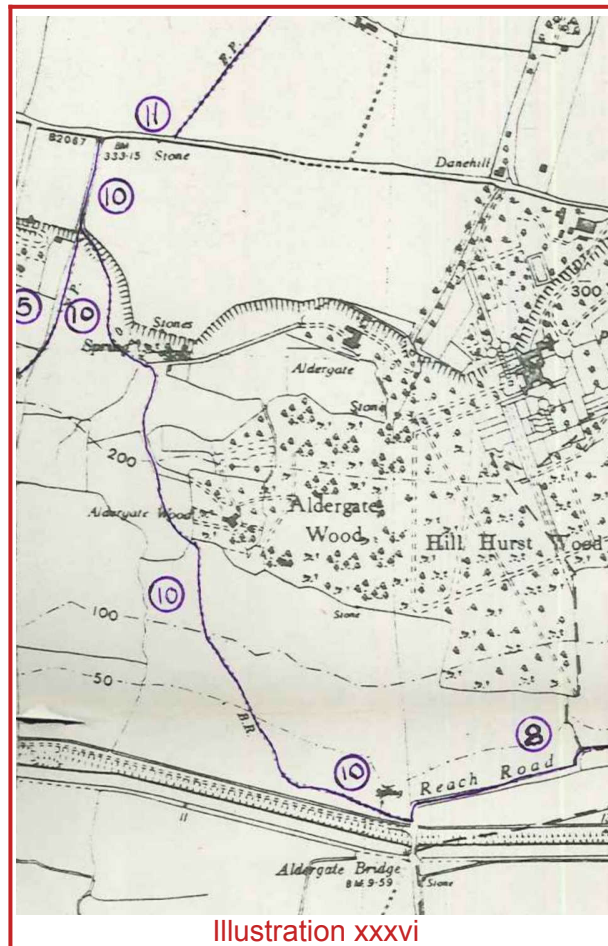


Illustration xxxvi

Lympne parish schedule

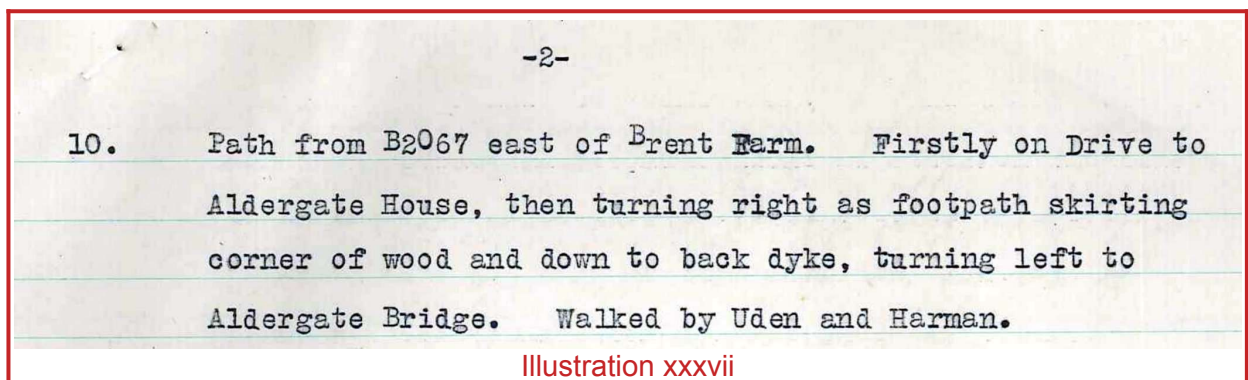


Illustration xxxvii

H.3. **Description:** Parish survey prepared under Part IV of the National Parks and Access to the Countryside Act 1949. The Lympe parish survey recorded the application way as a:

Path from B2067 east of Brent Farm. Firstly on Drive to Aldergate House, then turning right as footpath skirting corner of wood and down to back dyke, turning left to Aldergate Bridge.

H.4. The schedule was headed, 'Schedule of Footpaths'.

H.5. **Conclusion:** Of 23 paths itemised in the schedule, only one expressly was recognised as a bridleway (no.18, now HE321), and one (nos.8 and 9, now HE317, but on a diverted line) as a 'cart road'. The application (recorded as no.10) was described as a 'path', but in the description of route, as a 'footpath'. It is suggested that the parish council was not very careful in recording the correct status of paths.

H.6. **Points:** 0