

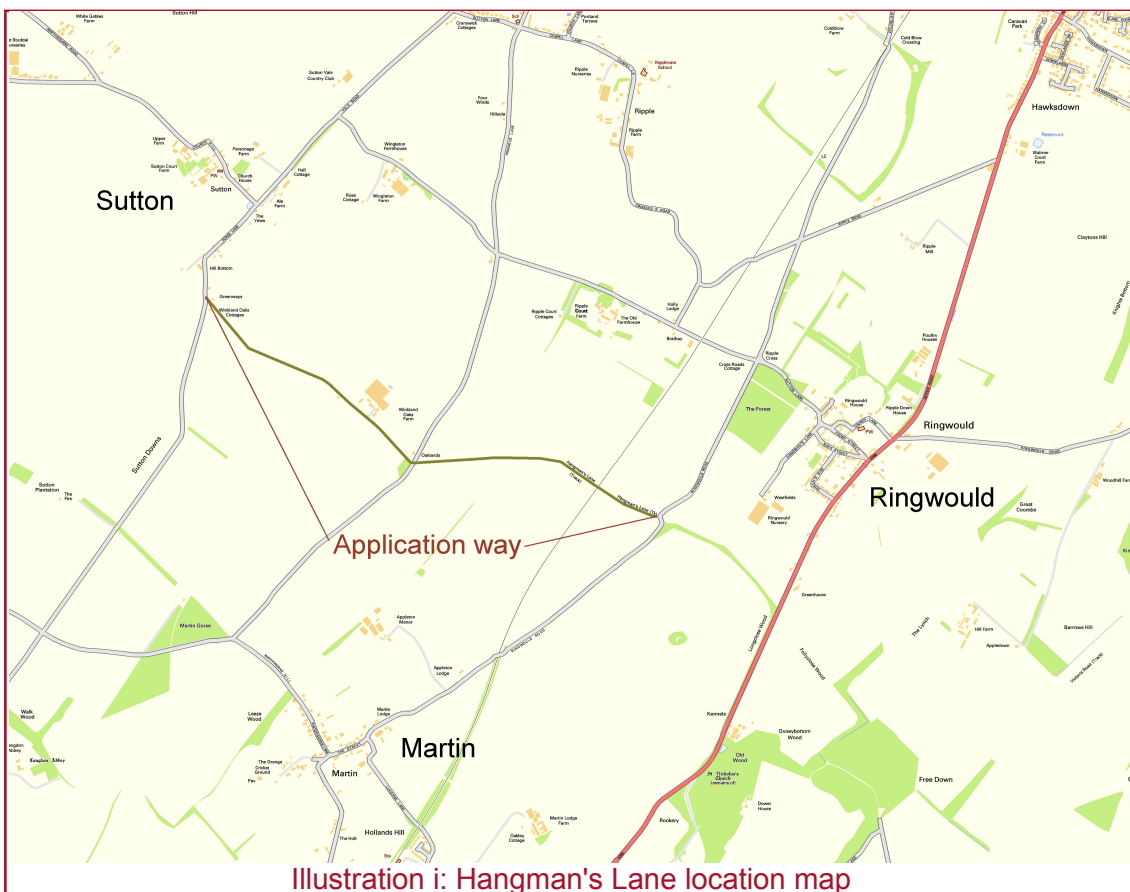
Hangman's Lane: document analysis

Application to record Hangman's Lane, Ripple and continuation to Dover Hill, Sutton, as a bridleway

I. Introduction

A. Quick reference

A.1. Location plan (see application map at part II below for scale representation):



A.2. Parishes of: Ripple and Sutton

A.3. Former parishes of: Ripple, Sutton (including a detached part of Sutton) and Waldershare

A.4. Termination points: From Ringwold Road near Ripple Cross, via Oaklands, to Dover Hill on Forge Lane, Sutton

A.5. Termination points Ordnance Survey grid references: TR35184795 via TR34204817 to TR33384883

A.6. Postcode: CT15 5HW

A.7. Ordnance Survey Explorer sheet: 138, grid squares TR3547, TR3448 and TR3348

A.8. Ordnance Survey County Series 25" sheets: Kent LVIII/15 and LVIII/11

B. The applicant

B.1. The application, the evidence for which is summarised in this document, is made by Hugh Craddock on behalf of the British Horse Society. I am appointed by the society as a volunteer 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 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.

C. Locational details

C.1. This application relates to a way, Hangman's Lane, and its continuation to the north-west, which lie in the parishes of Ripple and Sutton, in the district of Dover, Kent. The way is currently recorded in the definitive map and statement for Kent as footpaths EE451 and EE427. The application seeks to record the way as a bridleway.

D. Application

D.1. The application is made under section 53(5) of the Wildlife & Countryside Act 1981 to Kent County Council that a definitive map modification order be made under section 53(3)(c)(ii) that a way shown in the definitive map and statement for Kent as public footpaths EE451 and EE427 should instead be shown as a public bridleway.

D.2. Footpath EE451, also known as Hangman's Lane, begins on a dogleg in Ringwould Road south-southwest of Ripple Cross at A (Ordnance Survey grid reference TR35184795), and proceeds west-northwest as an enclosed track for a distance of 270m to a level crossing over the Deal and Dover railway at B (TR34934808), then continuing in the same direction as an enclosed track for a further 175m, then turning west, initially along a headland, before continuing in the same direction across an arable field, to join the Martin to Ripple road at C (TR34204817) opposite Oaklands (formerly known as Winkland Oaks Cottages), a distance of 585m. The total distance of footpath EE451 from A to C is 1,030m.

D.3. Footpath EE427 continues from the opposite site of the Martin to Ripple road from C, northwest along the drive to Winkland Oaks Farm, continuing along the southwest side of the farm buildings to a gate at D (TR33924843), a distance of 375m, then continuing initially west-northwest and resuming northwest along a track to join Dover Hill on Forge Lane at E (TR33384883), a distance of 690m. The total distance of footpath EE427 from C to E is 1,065m.

D.4. The points A to E are identified in the application map at section II below.

E. Background

E.1. The application way between A and C appears historically to be part of an old road between Ringwould and West Langdon. Hangman's Lane is a named road in Ringwould

village, and the traces of a more substantial, enclosed road can still be traced between A and B, both in the remaining physical features, and on older maps.

E.2. Between C and E, the application way is of more uncertain origin, and may have become established as a public road, privately maintainable, only in the late eighteenth or early nineteenth century.

F. Special review

F.1. Part of footpath EE427 between C and D was formerly shown on the definitive map and statement as a Road used as Public Path (RUPP). It was downgraded to footpath status as part of the Special Review, apparently on the basis that it had previously been shown as CRF (Carriage Road Footpath) rather than on the basis of any evidence, and the absence of any objection (confirmed by the objection schedule) led to it remaining on the map as a footpath rather than reverting back to RUPP status when the review was abandoned in 1983¹.

G. Grounds for application

G.1. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another*², Lewison LJ said, at paragraph 22,

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

'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.'

G.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 increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind.'³

G.3. 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

1 Email communication from Rights of Way team, Melanie McNeir, dated 12 July 2016.

2 [2012] EWCA Civ 334

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

highway reputation over many years, indicating that the route does indeed have highway status, and that, taking into account all the evidence, the proper status is a bridleway.

H. Points awarded

H.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*⁴.

H.2. Points:

Item	Ref	Points A–C	Points C–E
Ringwould estate map	IV.A	1	0
Ordnance Survey, Mudge-Faden one-inch map of Kent	IV.B	1	0
Greenwood's map of Kent	IV.C	1	0
Ordnance Survey, one-inch Old Series map of Kent	IV.D	0	0
Tithe Commutation Act 1836	IV.E	3	5
London Chatham and Dover Railway (Extensions to Walmer and Deal)	IV.F	5	0
Deal and Dover Railway	IV.G	1	0
Ordnance Survey boundary records	IV.H	0	0
Dover and Deal Railway	IV.I	1	0
South Eastern Railway (Dover and Deal)	IV.J	1	0
Ordnance Survey, County Series twenty-five inch first edition	IV.K	0	1
Wingham Highway Board	IV.L	0	0
Ordnance Survey, County Series twenty-five inch second edition	IV.M	2	0
Eastry Rural District Council highways report (1906)	IV.N	4	0
Finance (1909–1910) Act 1910 maps	IV.P	5	0
Eastry Rural District Council wages book	IV.O	1	0
Eastry Rural District Council report (1911)	IV.Q	0	4
Eastry Rural District Council report (1913)	IV.R	0	1
The Electricity (Supply) Acts 1882 to 1922 incorporate:	IV.S	0	2

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

Eastry Rural District Council report (1924)	IV.T	0	1
Sale particulars (1936)	IV.U	1	1
Total points		27	15

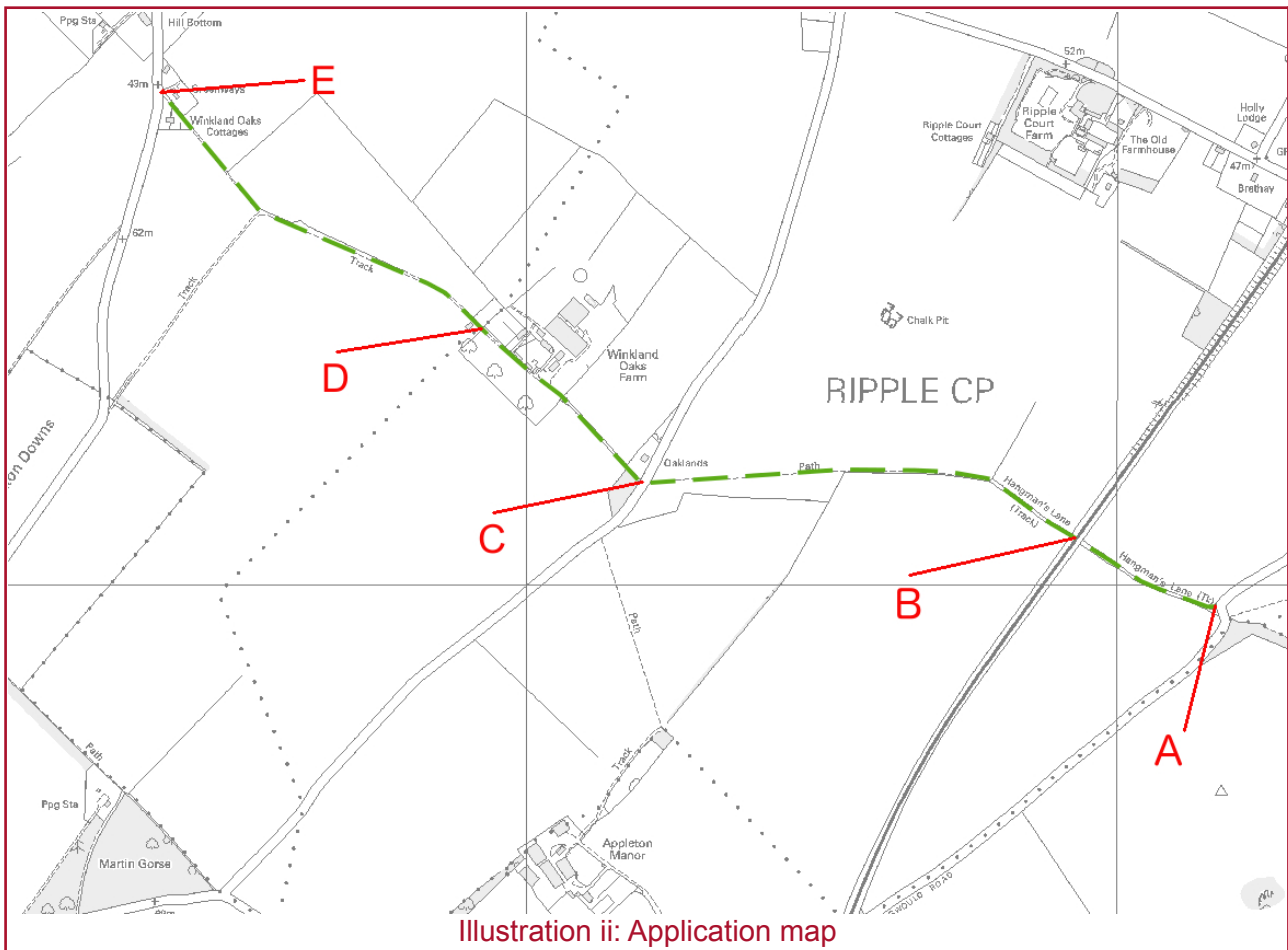
I. Width of application way

I.1. The width recorded in the definitive statement between A and B is '3 to 4 feet'⁵ but should be consistent with the measured width. The width of the application way from B to C is consistent with a field path, and proposed to be recorded as 3 metres. The width of the application way between C and D should be consistent with the measured width.

I.2. The width from D to E is indicated by the area assigned to the way in the Ordnance Survey map at a scale of 1:2,500, third edition: parcel number 53 is identified as 'road' with an area of 0.812 acres (0.32 ha). Given a length between D and E of 690 metres, this suggests an average width of 4.75m.

⁵ Public footpath EE451 has a recorded width of 3-4 feet on eastern side of railway.

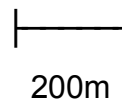
II. Application map



Map centred on C at TR34204817

Scale: approx. 1:12,880 (when printed A4)

Application way is marked ---



III. Along the way



Illustration iii: Ringwoud Road at A



Illustration iv: Between A and the railway



Illustration v: Railway crossing (east side)



Illustration vi: West of the railway crossing



Illustration viii: Between B and C



Illustration vii: Headland between B and C



Illustration ix: From C towards B



Illustration x: Drive C to Winkland Oaks Farm



Illustration xi: C towards D



Illustration xii: Nearing D



Illustration xiii: Between D and E



Illustration xiv: Towards E

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A. Ringwould estate map

A.1. **Date:** 1709

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



Illustration xv: Hill's Ringwold estate map

A.3. **Description:** a historic early C18 estate plan, bearing the following legend—

'A Map and description of all y^e lands belonging to a Certaine Farme, situate lyeing & being in y^e two severall Parishes of Rings-wold, & Sutton, (nere Dover) in y^e County of Kent; belonging to Herbert Jacob Esq^r shewing y^e Contents of each In-dividall Peece as also y^e Quantity in each severall Feild, & Parish, with y^e Total of y^e Whole, likewise shewing y^e Trees, Gates, ffiles, baare places, Ponds, foot-paths & horfe Roads leading thorow or by y^e said land wth y^e Names of those Places leading to, also shewing w^t. fence belongs to y^e land & w^t. dos not wth. y^e Names of those Perfons whose land bounders thereunto by

ye Order of ye a boue laid Owner. Meafured & Mapt & herein defcribed by me
Fra: Hill. 1709'.

A.4. Hangman's Lane is shown extending north-east from A at a junction with Ringwould Road, and is labelled 'Road to West Langdon'.

A.5. **Conclusion:** The depiction of Hangman's Lane from A towards B, as a road to a neighbouring village, is good evidence of the reputation of the application way as a public road to West Langdon at the date of the map.

A.6. **Points:**

Part	Points
Between A and C	1
Between C and E	0

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

B.1. **Date:** c.1801

B.2. **Source:** Kent County Archives⁷

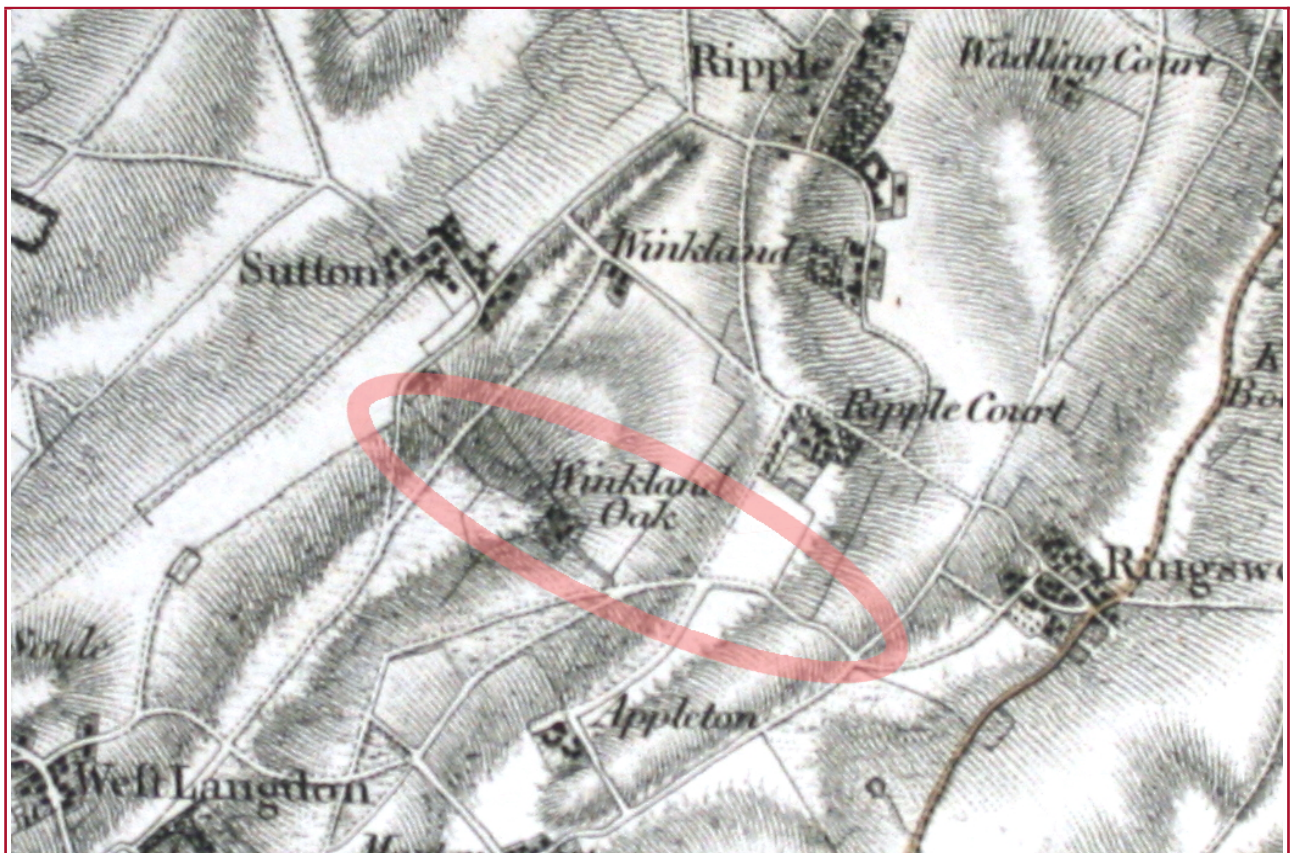


Illustration xvi: Mudge-Faden one inch map 1801

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

⁷ Also available at: mapco.net/kent1801/kent1801.htm

B.4. This map of Kent was the first Ordnance Survey map to be published. The survey of Kent was commenced in the 1790s by the Board of Ordnance, in preparation for the feared invasion of England by the French. However, the map of Kent was not published by the Ordnance Survey until well into the nineteenth century: instead, this map was initially published on 1st January 1801 by William Faden, Geographer to the King, for sale to the public.

B.5. The map shows Hangman's Lane as an enclosed way from Ringwould Road at A to approximately B, beyond which it is enclosed on the south side as far as a junction with an intersecting road between Ripple Court and Appleton which no longer exists. Beyond the junction, as far as C, the way is unenclosed. The map then shows the application route from C to Wingleton Oak (now Winkland Oaks Farm) at D as a minor drive, but no way is shown connecting D to E.

B.6. **Conclusion:** The Ordnance Survey map of Kent was prepared in response to an invasion threat, and primarily had a military purpose. However, this map was published privately by Faden for public and not military use. It is therefore likely to reflect the needs of the purchasing public, rather than purely military requirements.

B.7. The Mudge-Faden map is good evidence for the existence of a public way along the claimed route between A and C. Moreover, the route being shown as a part-enclosed road, it must have been capable of accommodating passengers on horseback, at least.

B.8. **Points:**

Part	Points
<i>Between A and C</i>	1
<i>Between C and E</i>	0

C. Greenwood's map of Kent

C.1. **Date:** 1819–20

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

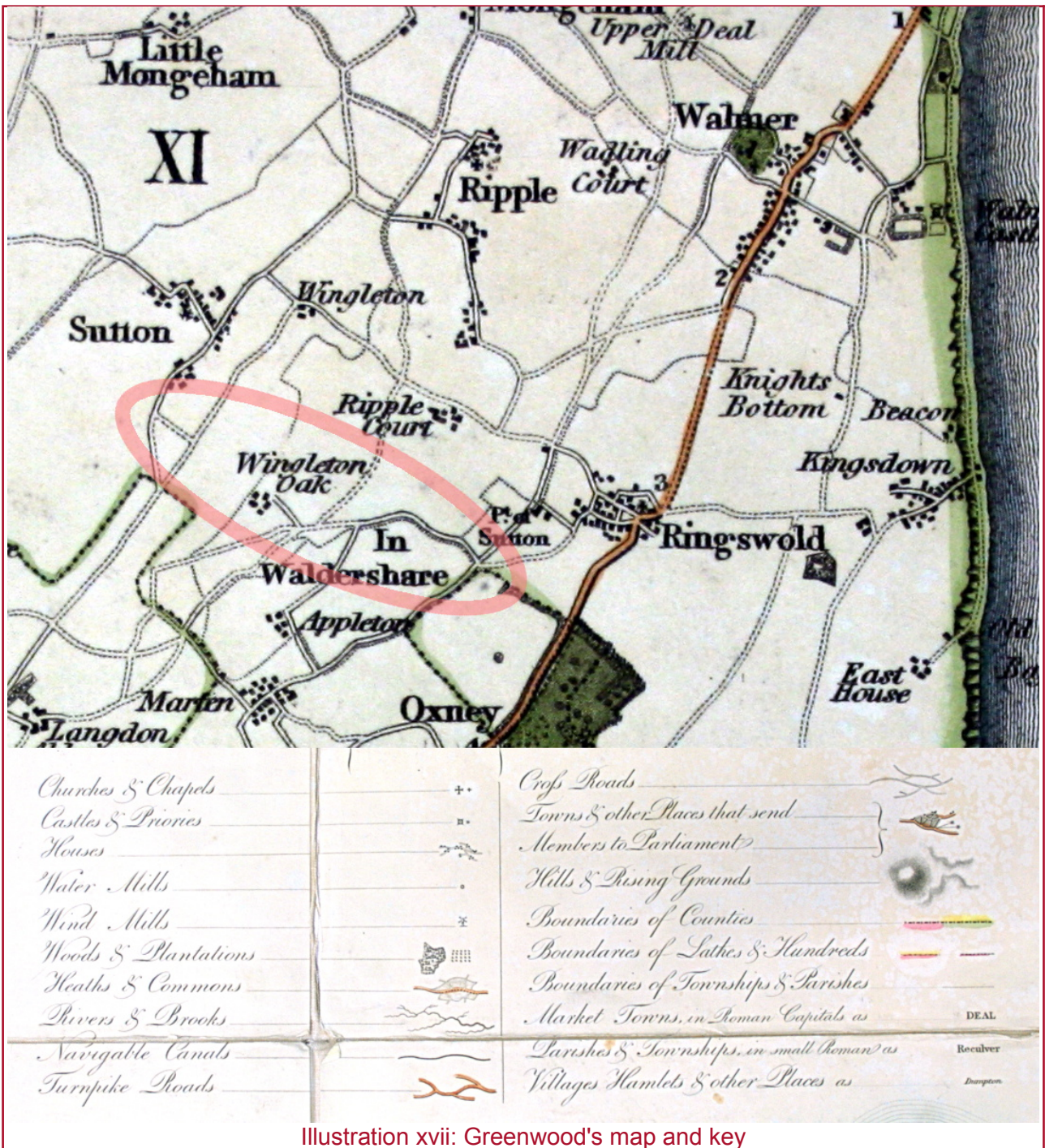


Illustration xvii: Greenwood's map and key

C.3. **Description:** Original scale: one inch to one mile (1:63,360); orientation: unchanged (north). This copy appears to be state iii, published between 1821 and 1827.

C.4. Greenwood's map shows Hangman's Lane as an enclosed way from Ringwold Road at A to a little short of the Martin to Ripple road at C, where it becomes unenclosed. The junction between these two routes is staggered and not fully consistent with later mapping, but is nonetheless broadly consistent. Greenwood's map then shows the application route from C to Wingleton Oak Farm (now Winkland Oaks Farm) at D, and a short stub at E, but no way is shown connecting D to E.

C.5. **Conclusion:** Greenwood's map is good evidence for the existence of a defined way along the claimed route between A and D. The key describes the route as a 'cross road', which is suggestive of a public way of at least bridleway status between A and C.

C.6. **Points:**

Part	Points
<i>Between A and C</i>	1
<i>Between C and E</i>	0

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

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

D.2. **Source:** National Library of Australia⁸.

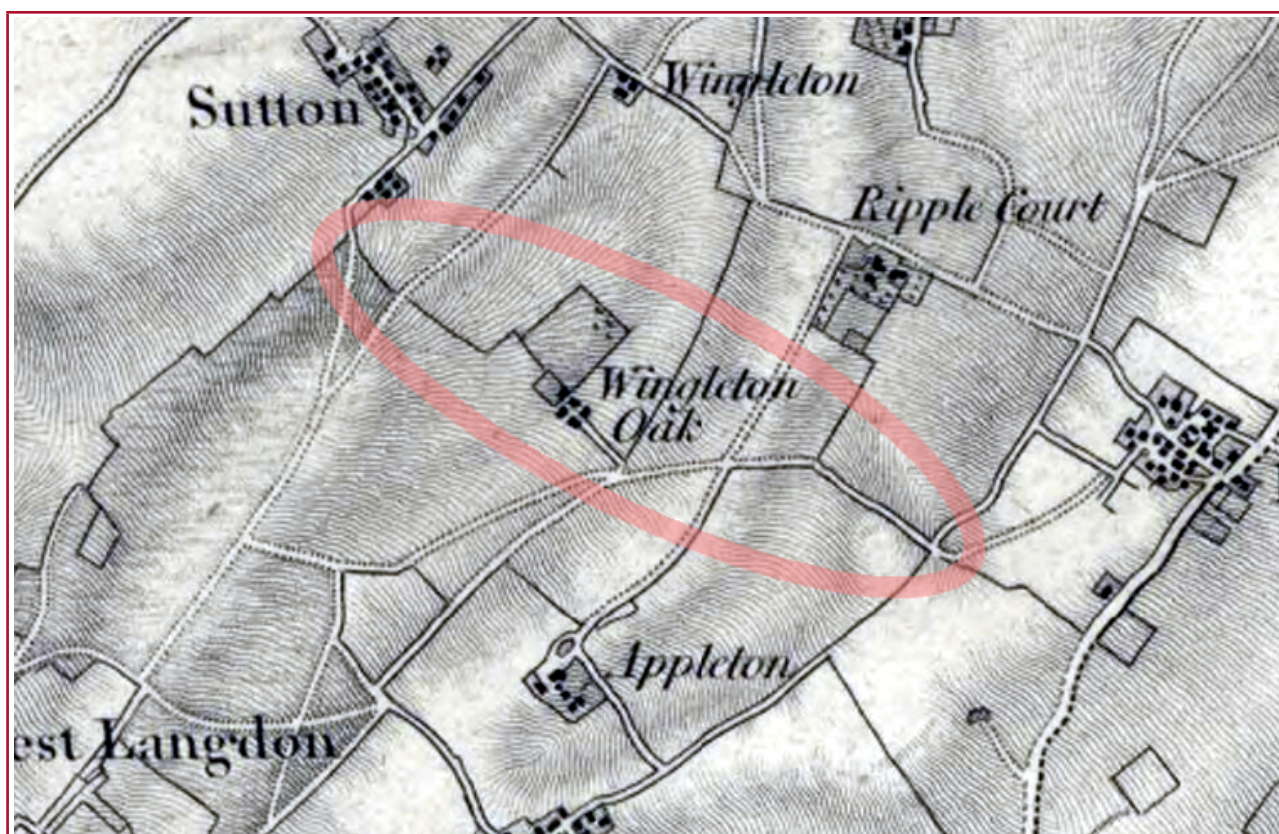


Illustration xviii: OS Old Series 1" map

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

D.4. This is the Old Series one inch map first published officially by the Ordnance Survey. The map reproduced here is state 4, from circa 1831, but believed to be unchanged from state 1. Although published some years later than the Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.B above), the 'official' Ordnance Survey Old Series map was based on the same survey data, and is consistent with the Mudge-Faden map.

8 nla.gov.au/nla.obj-231917365.

D.5. The map shows Hangman's Lane as an enclosed way from Ringwould Road at A to approximately B, beyond which it is enclosed on the south side as far as a junction with an intersecting road between Ripple Court and Appleton which no longer exists. Beyond the junction, as far as C, the way is unenclosed. The map then shows the application route from C to Wingleton Oak (now Winkland Oaks Farm) at D, but no way is shown connecting D to E.

D.6. **Conclusion:** While the Old Series map is not conclusive as to the public status of the way, it was primarily intended for military use, and the surveyor was unlikely to map footpaths being of little military interest.

D.7. The Ordnance Survey Old Series map is good evidence for the existence of a defined way along the claimed route between A and D.

D.8. **Points:**

Part	Points
<i>Between A and C</i>	0†
<i>Between C and E</i>	0

† No points are scored as this map is repetitive of the Mudge-Faden map at item IV.B above.

E. Tithe Commutation Act 1836

E.1. **Date:** 1841

E.2. **Source:** map: Kent County Archives⁹; tithe award: Kent Archaeological Society¹⁰

9 Kent tithe maps are available as images on CD.

10 www.kentarchaeology.org.uk/Research/Maps/SUT/01.htm and www.kentarchaeology.org.uk/Research/Maps/RIP/01.htm.

Sutton tithe map:

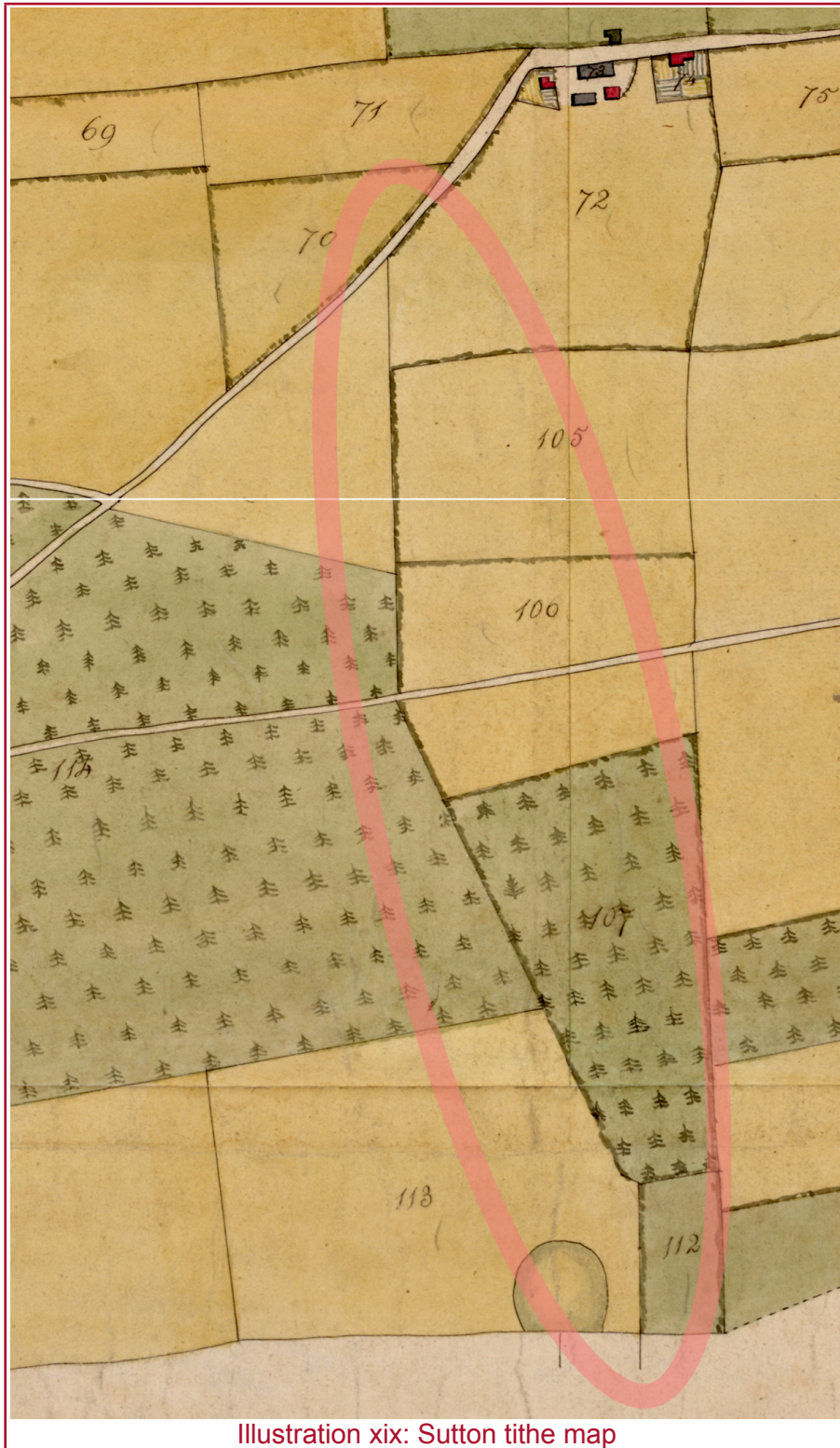


Illustration xix: Sutton tithe map

Ripple tithe map:

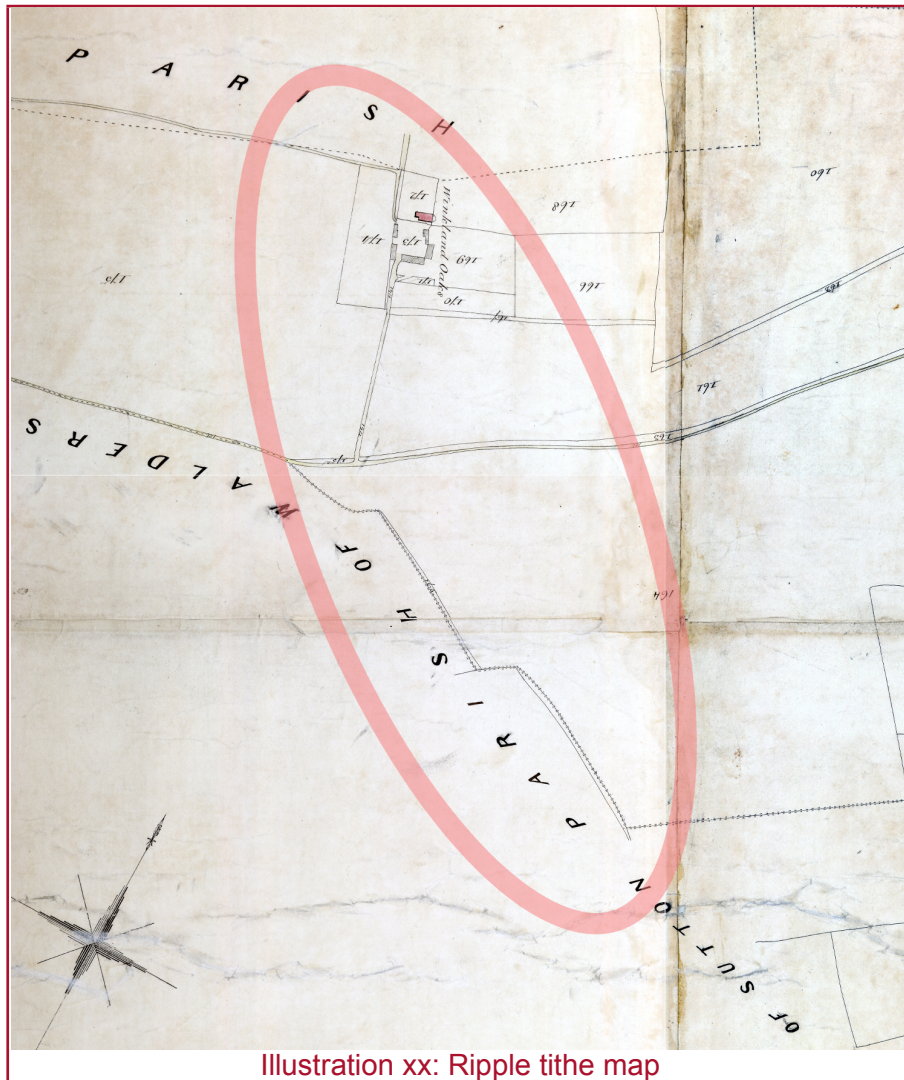


Illustration xx: Ripple tithe map

Sutton (detached) tithe map:

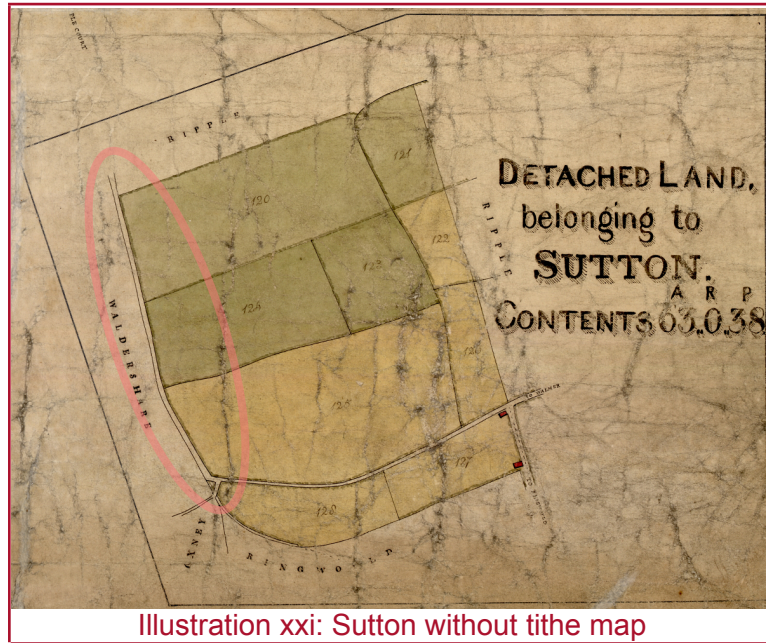


Illustration xxi: Sutton without tithe map

Waldershare tithe map:



Illustration xxii: Waldershare tithe map

E.3. **Description:** The course of the application way appears on the tithe maps for the parishes of Waldershare, Ripple and Sutton, and in respect of Sutton, is also included in the detached part of the parish of Sutton to the south of Ripple.

E.4. From A, Hangman's Lane forms the western boundary of the detached part of the parish of Sutton. The way is shown as an enclosed lane of significant width (greater than the width of Ringwold Road with which it forms a junction). Hangman's Lane is shown as the direct continuation of Ringwold Road from Ripple Cross initially west, and almost immediately northwest: the continuation of Ringwold Road is shown as a T-junction to the south and almost immediately southwest. No tithe parcel number is allocated to Hangman's Lane. The Sutton tithe map and award does not allocated specific parcel numbers to roads and wastes.

E.5. Hangman's Lane is also shown as the eastern boundary of the parish of Waldershare. The application way is shown in the same colour as other local public roads, as far

as a point slightly north of B, where the application way ceases to be fully enclosed. No parcel number is assigned to Hangman's Lane (the adjacent woodland is allocated parcel number 46: Plantation¹¹).

E.6. From the end of the enclosed part of Hangman's Lane north of B, as far as C, now in the parish of Ripple, no annotation appears on the Ripple tithe map.

E.7. From C to D, the way is shown as an enclosed road leading to Winkland Oaks Farm and is allocated tithe parcel 194, which is allocated in the award to 'Public Roads & Waste Lands'. The enclosed road is shown as debouching into the farm yard (tithe parcel number 173: 'Barn Stables Shed & Yards'). The way continues from the west corner of the farmyard as a further enclosed track, coloured similarly to the aforementioned road, but without a tithe parcel number, to the parish boundary at D.

E.8. From D to E, now again in the parish of Sutton, the way is not identified. The Sutton tithe map and award does not allocated specific parcel numbers to roads and wastes.

E.9. **Conclusion:** The identification of Hangman's Lane between A and slightly north of B within the detached part of Sutton in a prominent form, as a continuation of Ringwould Road, and without allocation of a tithe parcel number, and the colouring of Hangman's Lane on the Waldershare tithe map in the same form as other public roads, is suggestive of a public way of significant status. The identification of the way between C and the farmyard of Winkland Oaks Farm slightly south of the parish boundary at D as 'public road [or] waste lands' is good evidence for the status of the way as a public road (as, being an enclosed road, it is clearly not manorial waste).

E.10. **Points:**

Part	Points
<i>Between A and C</i>	3
<i>Between C and E</i>	5

F. London Chatham and Dover Railway (Extensions to Walmer and Deal)

F.1. **Date:** 1861

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

11 www.kentarchaeology.org.uk/Research/Maps/WAD/02.htm.

12 Q/RUm/460

Deposited plan:

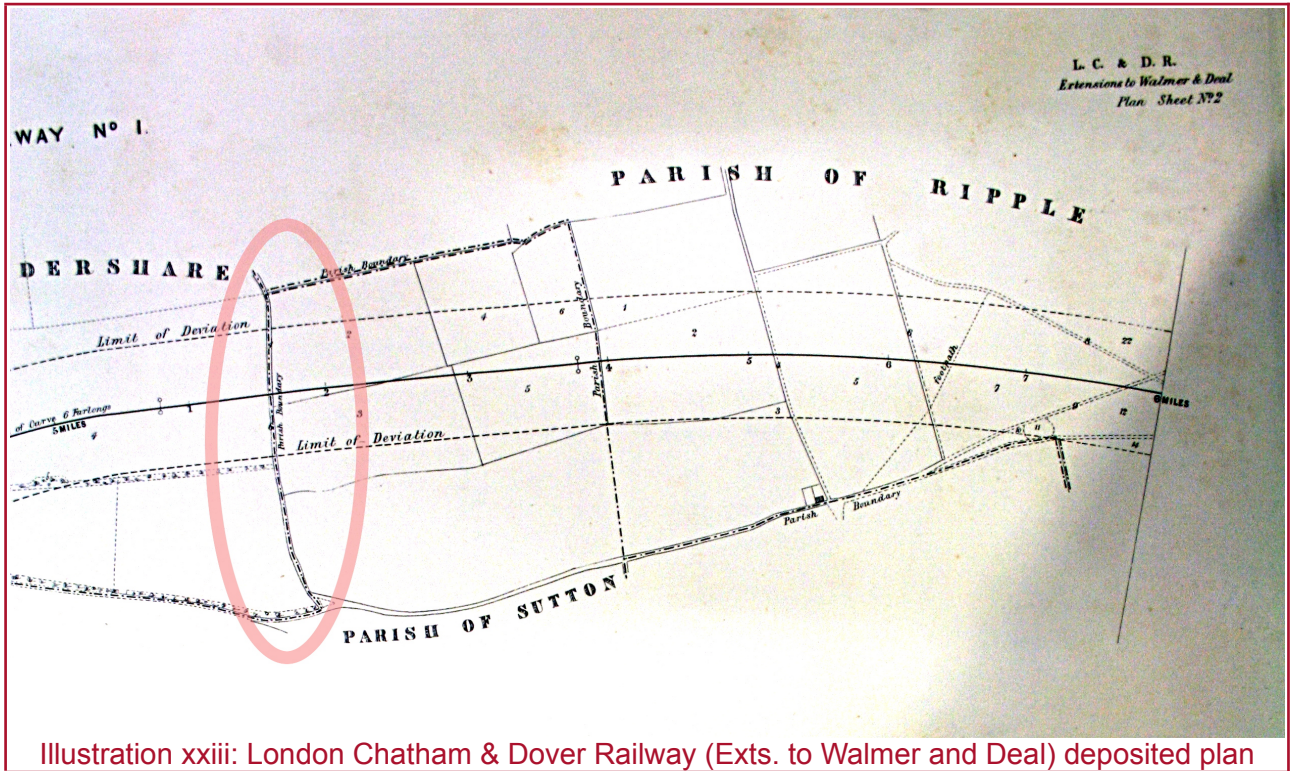


Illustration xxiii: London Chatham & Dover Railway (Exts. to Walmer and Deal) deposited plan

Deposited book of reference:

<i>Parish of Waldershare in the County of Kent</i>				
				<i>Railway No. 1</i>
<small>No. on Plan.</small>	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
6	<i>Bridle Road and Footpath</i>	<i>Charles Staden St. Burke Staden Douglas Brock Staden and The Surveyor of Highways</i>		<i>In hand</i>
<i>Parish of Sutton in the County of Kent</i>				
				<i>Railway No. 1</i>
<small>No. on Plan.</small>	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
1	<i>Bridle Road and Footpath</i>	<i>Charles Staden St. Burke Staden Douglas Brock Staden and Surveyor of Highways</i>		<i>In hand</i>

Illustration xxiv: London Chatham and Dover Railway (Exts to Walmer and Deal) book of reference

F.3. **Description:** The deposited plan for the London Chatham and Dover Railway (Extensions to Walmer and Deal) shows a railway crossing of Hangman's Lane, between A and B. The parish boundary between Waldershare and Sutton (detached) is shown as

following the middle of Hangman's Lane, and the lane is allocated parcel number 6 in the former parish, and 1 in the latter parish. No bridged crossing of Hangman's Lane is shown in the deposited plan. The book of reference describes Hangman's Lane, as regards the portions both in Waldershare and Sutton, as 'Bridle Road and Footpath', and the owner or reputed owner to be Charles Haden, St. Barbe Haden, Douglas Brooke Haden and the Surveyor of Highways.

F.4. No reference is made to the application way in the section.

F.5. **Conclusion:** The deposited plan and book of reference is good evidence as to the status of the application way between A and B as a public bridleway vested in the surveyor of highways. The omission of any provision for a bridged crossing in the deposited plan confirms that that railway company's surveyor concluded that Hangman's Lane was not a carriageway, because this would have required the provision of a bridge or specific provision for a crossing on the level.

F.6. **Points:**

Part	Points
<i>Between A and C</i>	5
<i>Between C and E</i>	0

G. Deal and Dover Railway

G.1. **Date:** 1864

G.2. **Source:** Kent County Archives¹³

Deposited plan:

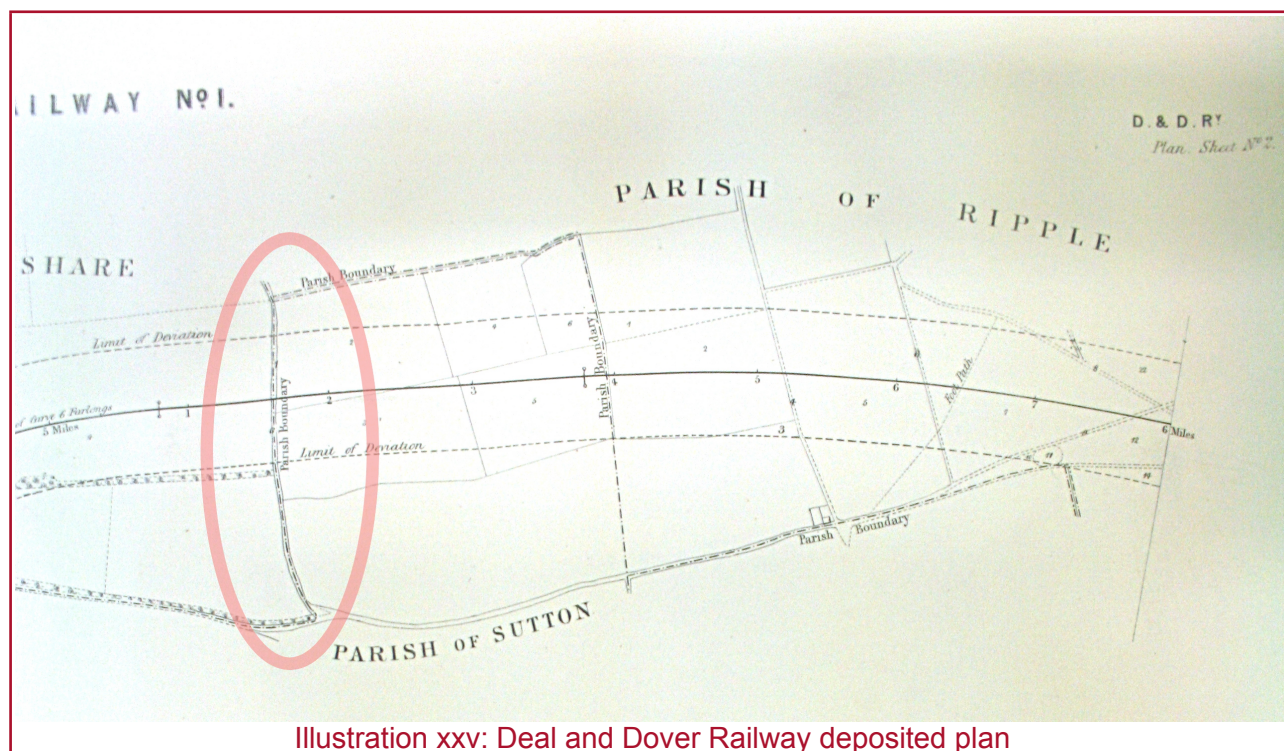


Illustration xxv: Deal and Dover Railway deposited plan

13 Q/RUm/517

Deposited book of reference:

<i>Parish of Waldershare in the County of Kent</i>				
<i>Railway A.1</i>				
<small>No. on Plan.</small>	<small>DESCRIPTION OF PROPERTY.</small>	<small>OWNERS OR REPUTED OWNERS.</small>	<small>LESSEES OR REPUTED LESSEES.</small>	<small>OCCUPIERS.</small>
6	<i>Bridle Road and Footpath</i>	<i>Charles Haden St. Barbe Haden Douglas Brooke Haden and The Surveyor of Highways</i>		<i>In hand</i>
<i>Parish of Sutton in the County of Kent</i>				
<i>Railway A.1</i>				
<small>No. on Plan.</small>	<small>DESCRIPTION OF PROPERTY.</small>	<small>OWNERS OR REPUTED OWNERS.</small>	<small>LESSEES OR REPUTED LESSEES.</small>	<small>OCCUPIERS.</small>
1	<i>Bridle Road and Footpath</i>	<i>Charles Haden St. Barbe Haden Douglas Brooke Haden and Surveyor of Highways</i>		<i>In hand</i>

Illustration xxvi: Deal and Dover Railway book of reference

G.3. **Description:** The deposited plan for the Deal and Dover Railway shows a railway crossing of Hangman's Lane, between A and B. The parish boundary between Waldershare and Sutton (detached) is shown as following the middle of Hangman's Lane, and the lane is allocated parcel number 6 in the former parish, and 1 in the latter parish. No bridged crossing of Hangman's Lane is shown in the deposited plan. The book of reference describes Hangman's Lane, as regards the portions both in Waldershare and Sutton, as 'Bridle Road and Footpath', and the owner or reputed owner to be Charles Haden, St. Barbe Haden, Douglas Brooke Haden and the Surveyor of Highways.

G.4. No reference is made to the application way in the section.

G.5. **Conclusion:** The deposited plan and book of reference is good evidence as to the status of the application way between A and B as a public bridleway vested in the surveyor of highways. The omission of any provision for a bridged crossing in the deposited plan confirms that that railway company's surveyor concluded that Hangman's Lane was not a carriageway, because this would have required the provision of a bridge or specific provision for a crossing on the level.

G.6. The railway was authorised by the Deal and Dover Railway Act 1865¹⁴, but not proceeded with, owing to lack of funds and capacity for investment, and the proposal was abandoned under the London, Chatham and Dover Railway Act 1871¹⁵.

G.7. **Points:**

Part	Points
<i>Between A and C</i>	1†

14 c.cxcvi, 28 & 29 Vict.

15 c.cxxxi, 34 & 35 Vict.

† repeats and confirms data in earlier entry for London Chatham and Dover Railway (Extensions to Walmer and Deal) in item F.

H. Ordnance Survey boundary records

H.1. **Date:** 1869

H.2. **Source:** National Archives¹⁶

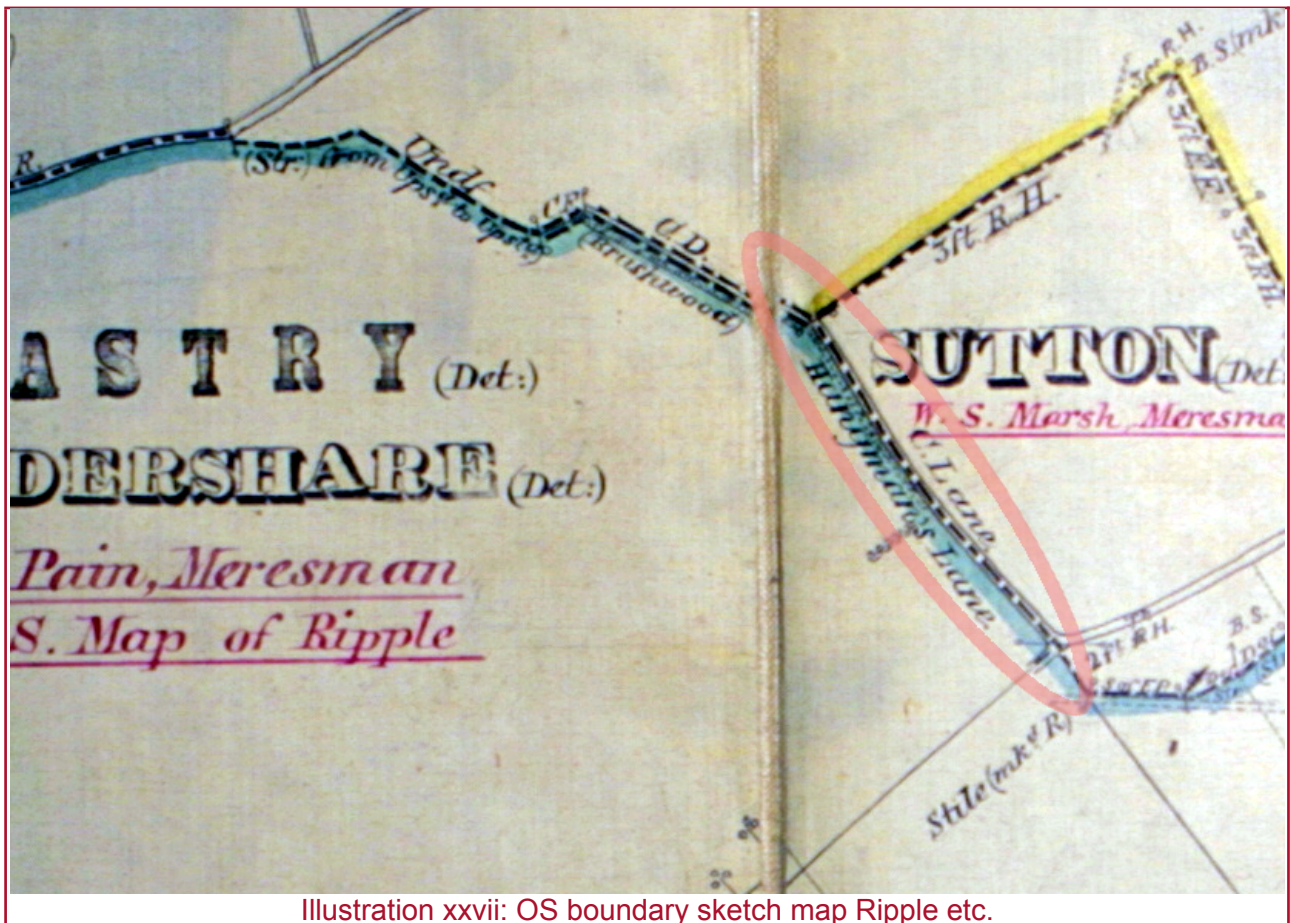


Illustration xxvii: OS boundary sketch map Ripple etc.

H.3. **Description:** The Ordnance Survey boundary maps date from the late 1860s, and record the Ordnance Survey's surveyors efforts to capture the precise location of parish boundaries from local knowledge. These maps were drawn up following perambulation of the boundaries by the surveyor accompanied by the parish meresman (that is, a senior resident of the parish who was specially tasked with knowledge of the parish's boundaries, and who very likely would have acquired such knowledge first hand from his predecessor as meresman).

H.4. The boundary of the parishes of Waldershare and Sutton (detached) was recorded as located along the centre of Hangman's Lane ('C. Lane').

H.5. **Conclusion:** The boundary sketch map records the existence of Hangman's Lane. That the boundary is recorded as following the centre of the lane suggest that the lane is

¹⁶ OS 27/2824

of some antiquity, and likely also to be the boundary between two estates. This is consistent with the lane's status as having greater public rights than on foot only.

H.6. **Points:**

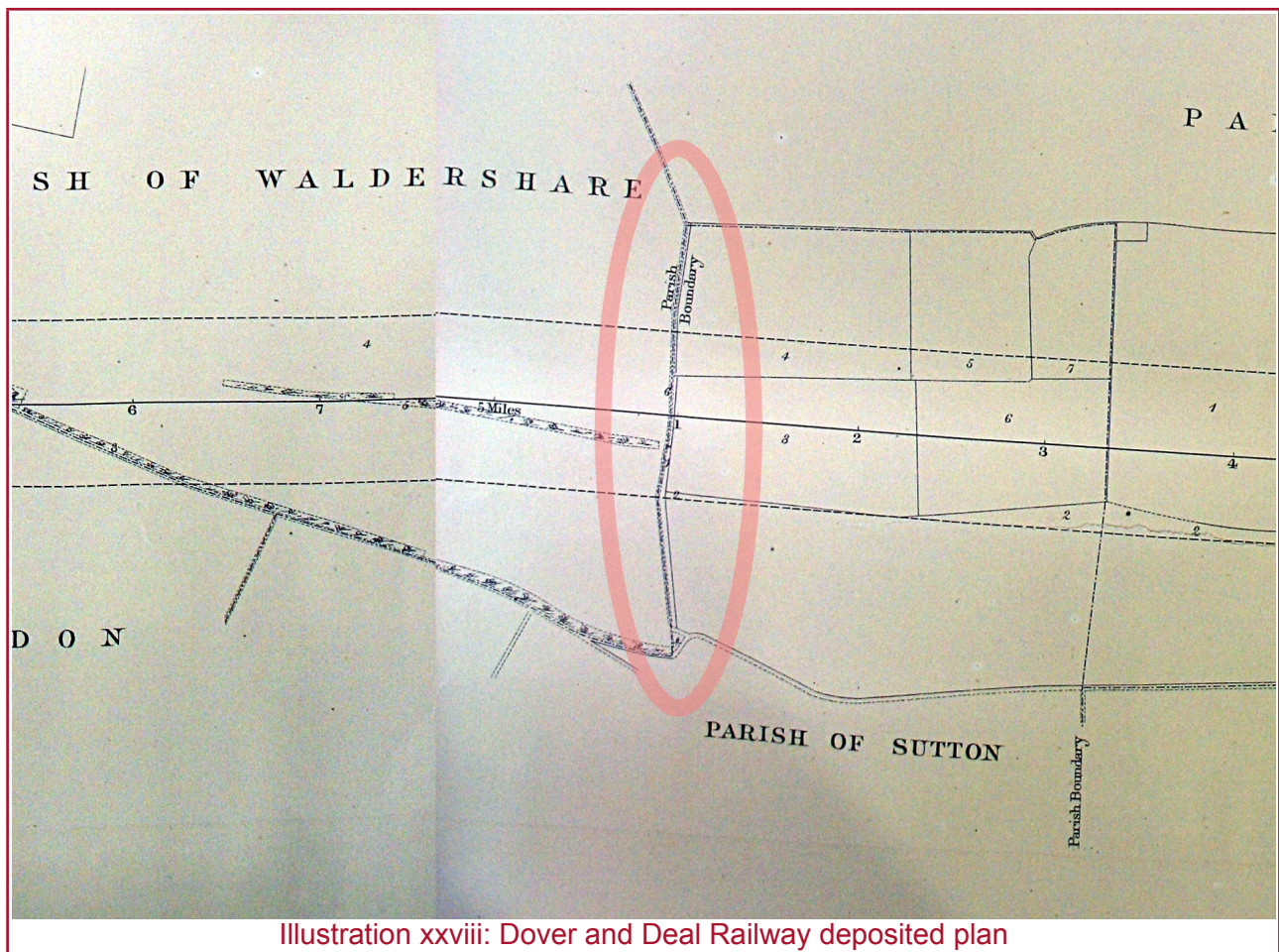
Part	Points
<i>Between A and C</i>	0
<i>Between C and E</i>	0

I. **Dover and Deal Railway**

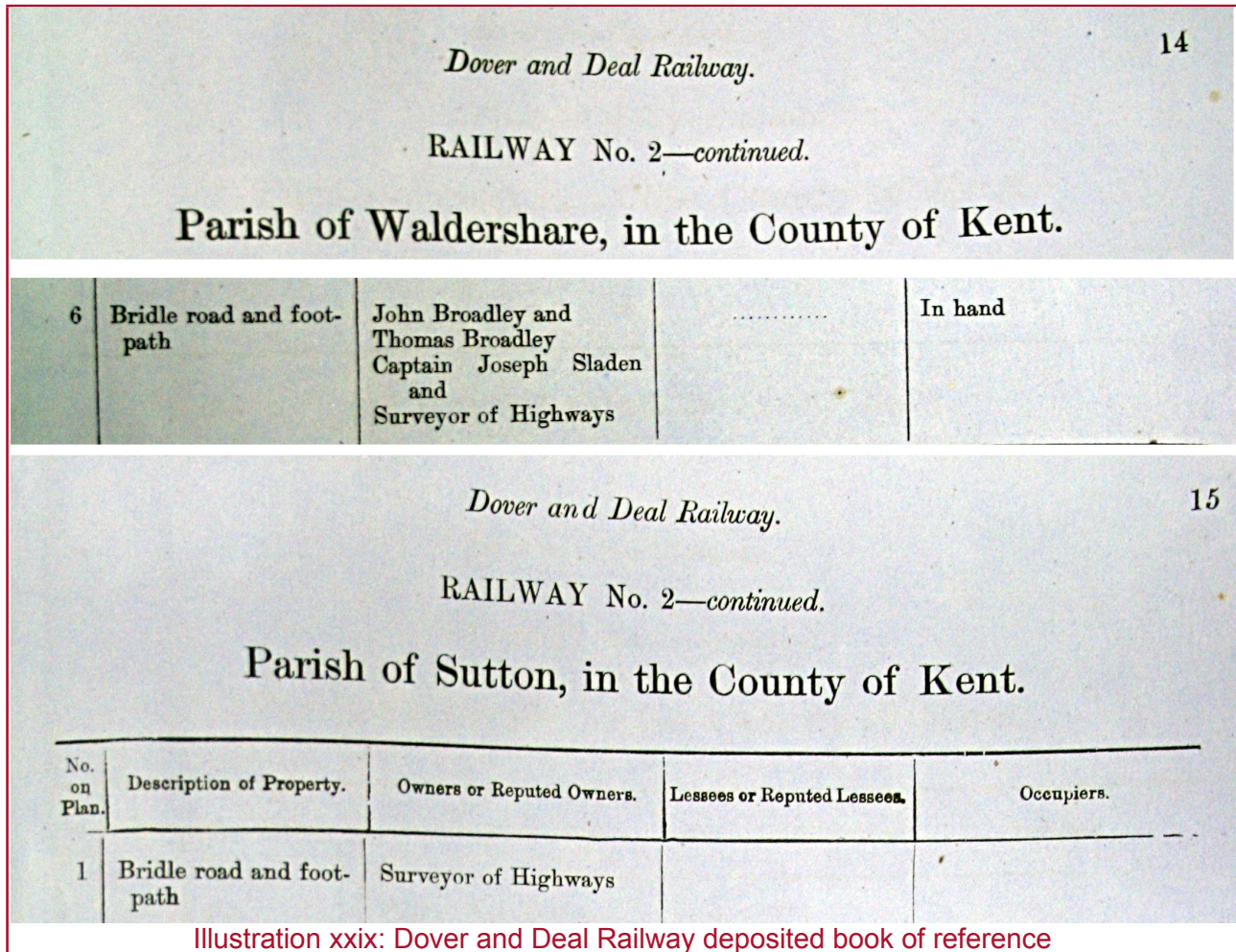
I.1. **Date:** 1873–74

I.2. **Source:** Kent County Archives¹⁷

Deposited plan:



Deposited book of reference:



I.3. **Description:** The deposited plan for the Dover and Deal Railway shows a railway crossing of Hangman's Lane, between A and B. The parish boundary between Waldershare and Sutton (detached) is shown as following the middle of Hangman's Lane, and the lane is allocated parcel number 6 in the former parish, and 1 in the latter parish. No bridged crossing of Hangman's Lane is shown in the deposited plan. The book of reference describes Hangman's Lane, as regards the portions both in Waldershare and Sutton, as 'Bridle road and footpath', and the owner or reputed owner as regards the portion in Waldershare to be John Broadley, Thomas Broadley, Captain Joseph Sladen and the Surveyor of Highways. The sole owner as regards the portion in Sutton is given as the Surveyor of Highways.

I.4. No reference is made to the application way in the section.

I.5. **Conclusion:** The deposited plan and book of reference is good evidence as to the status of the application way between A and B as a public bridleway vested in the surveyor of highways. The omission of any provision for a bridged crossing in the deposited plan confirms that that railway company's surveyor concluded that Hangman's Lane was not a carriageway, because this would have required the provision of a bridge or specific provision for a crossing on the level.

I.6. **Points:**

Part	Points
<i>Between A and C</i>	1†
<i>Between C and E</i>	0

† repeats and confirms data in earlier entries for London Chatham and Dover Railway (Extensions to Walmer and Deal) in item F and Deal and Dover Railway in item G.

J. South Eastern Railway (Dover and Deal)

J.1. **Date:** 1873–74

J.2. **Source:** Kent County Archives¹⁸

Deposited plan:

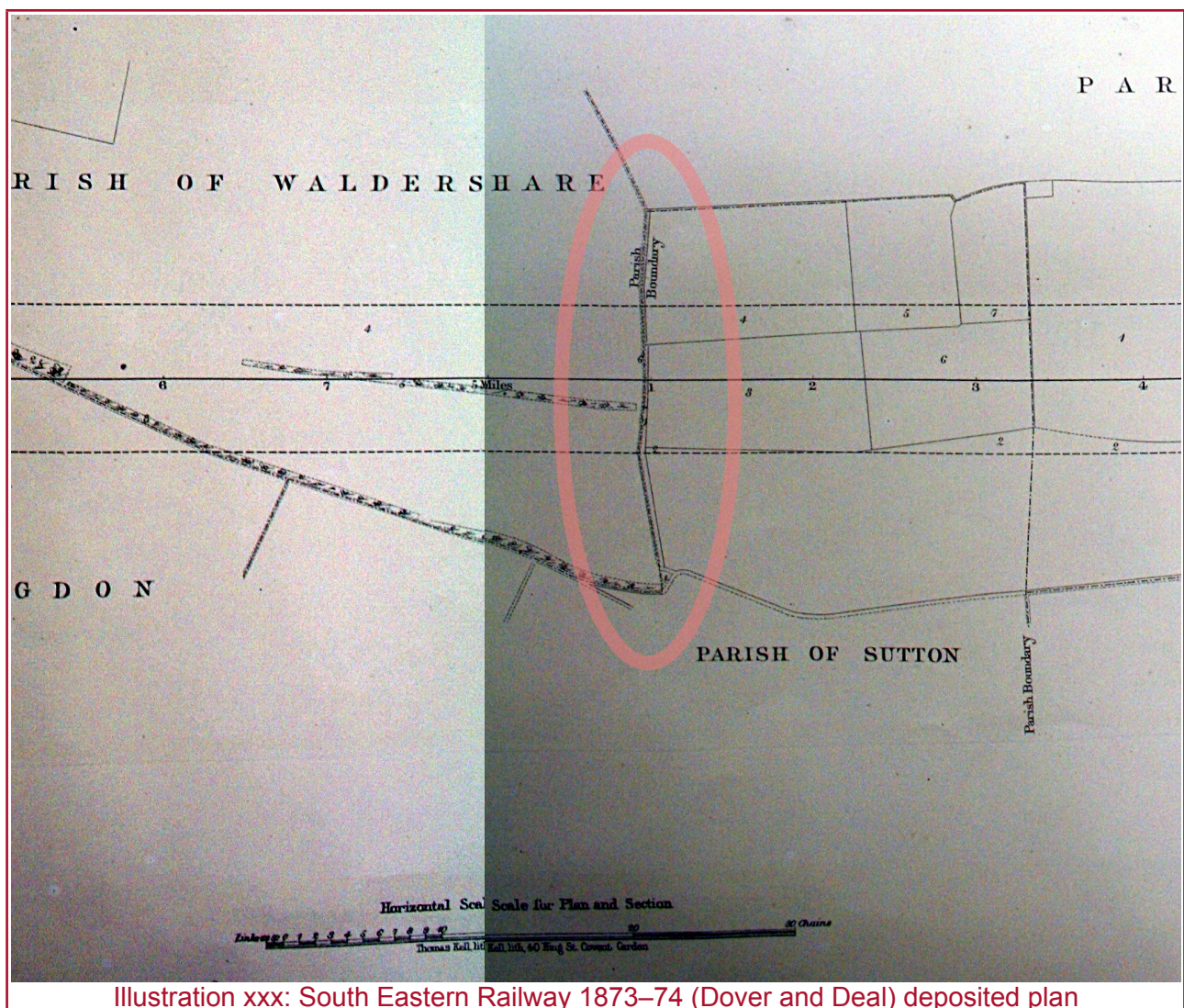
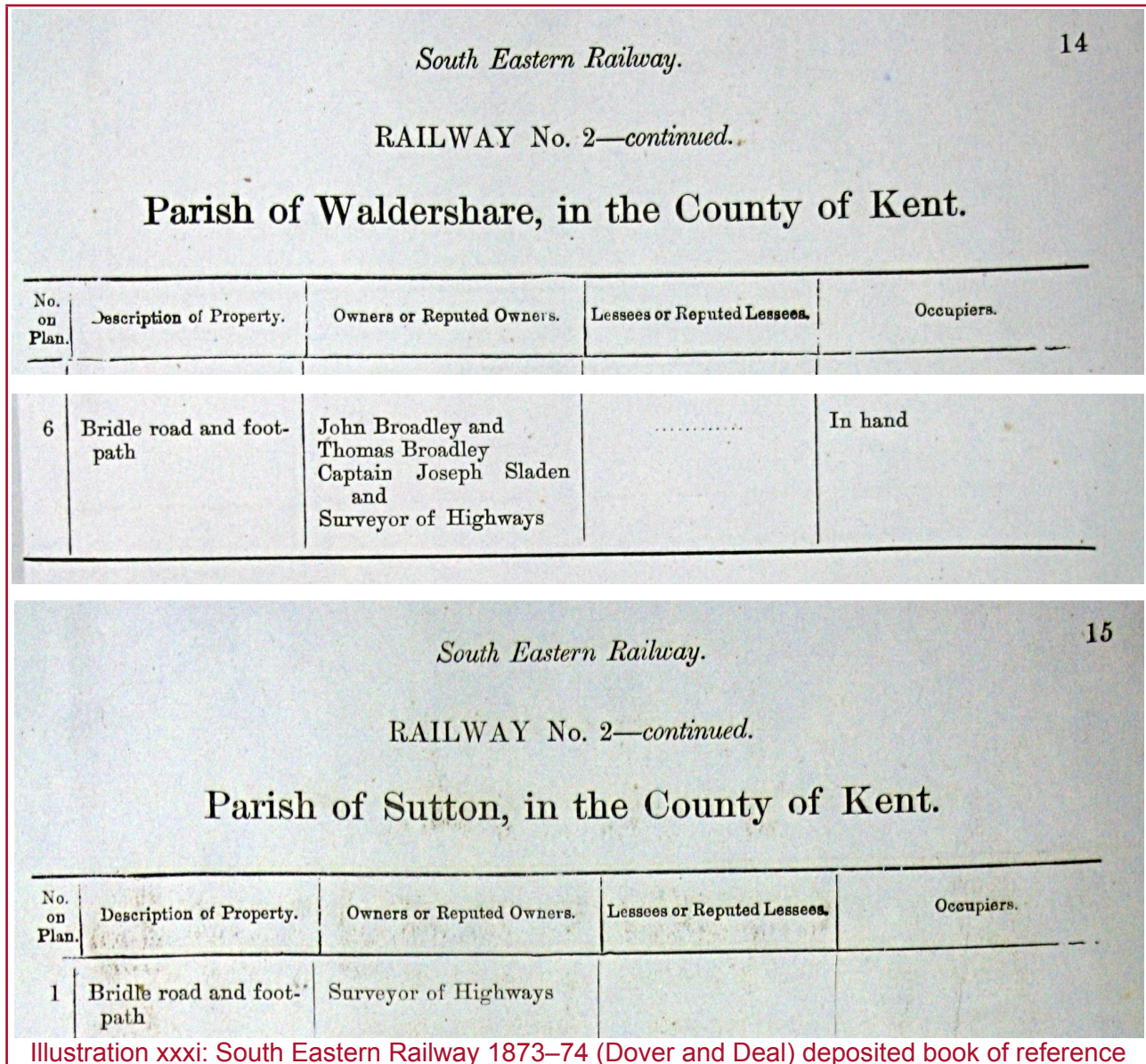


Illustration xxx: South Eastern Railway 1873–74 (Dover and Deal) deposited plan

Deposited book of reference:



J.3. **Description:** The deposited plan for the South Eastern Railway (Dover and Deal extension) shows a railway crossing of Hangman's Lane, between A and B. The parish boundary between Waldershare and Sutton (detached) is shown as following the middle of Hangman's Lane, and the lane is allocated parcel number 6 in the former parish, and 1 in the latter parish. No bridged crossing of Hangman's Lane is shown in the deposited plan. The book of reference describes Hangman's Lane, as regards the portions both in Waldershare and Sutton, as 'Bridle road and footpath', and the owner or reputed owner as regards the portion in Waldershare to be John Broadley, Thomas Broadley, Captain Joseph Sladen and the Surveyor of Highways. The sole owner as regards the portion in Sutton is given as the Surveyor of Highways.

J.4. No reference is made to the application way in the section.

J.5. **Conclusion:** The deposited plan and book of reference is good evidence as to the status of the application way between A and B as a public bridleway vested in the surveyor of highways. The omission of any provision for a bridged crossing in the deposited plan

confirms that that railway company's surveyor concluded that Hangman's Lane was not a carriageway, because this would have required the provision of a bridge or specific provision for a crossing on the level.

J.6. This proposal was sponsored jointly by, and put into effect jointly by, the South Eastern Railway and the London, Chatham and Dover Railway, under the authority of the Dover and Deal Railway Act 1874¹⁹, following some delay, and opened in 1881.

J.7. **Points:**

Part	Points
<i>Between A and C</i>	1†
<i>Between C and E</i>	0

† repeats and confirms data in earlier entries for London Chatham and Dover Railway (Extensions to Walmer and Deal) in item F, Deal and Dover Railway in item G), and Dover and Deal Railway in item I.

K. Ordnance Survey, County Series twenty-five inch first edition

K.1. **Date:** 1872

K.2. **Source:** Ordnance Survey County Series map: British Library; Ordnance Survey book of reference: Bodleian Library²⁰

19 c.lii, 37 & 38 Vict.

20 Available [online](#).

County Series first edition twenty-five inch map:

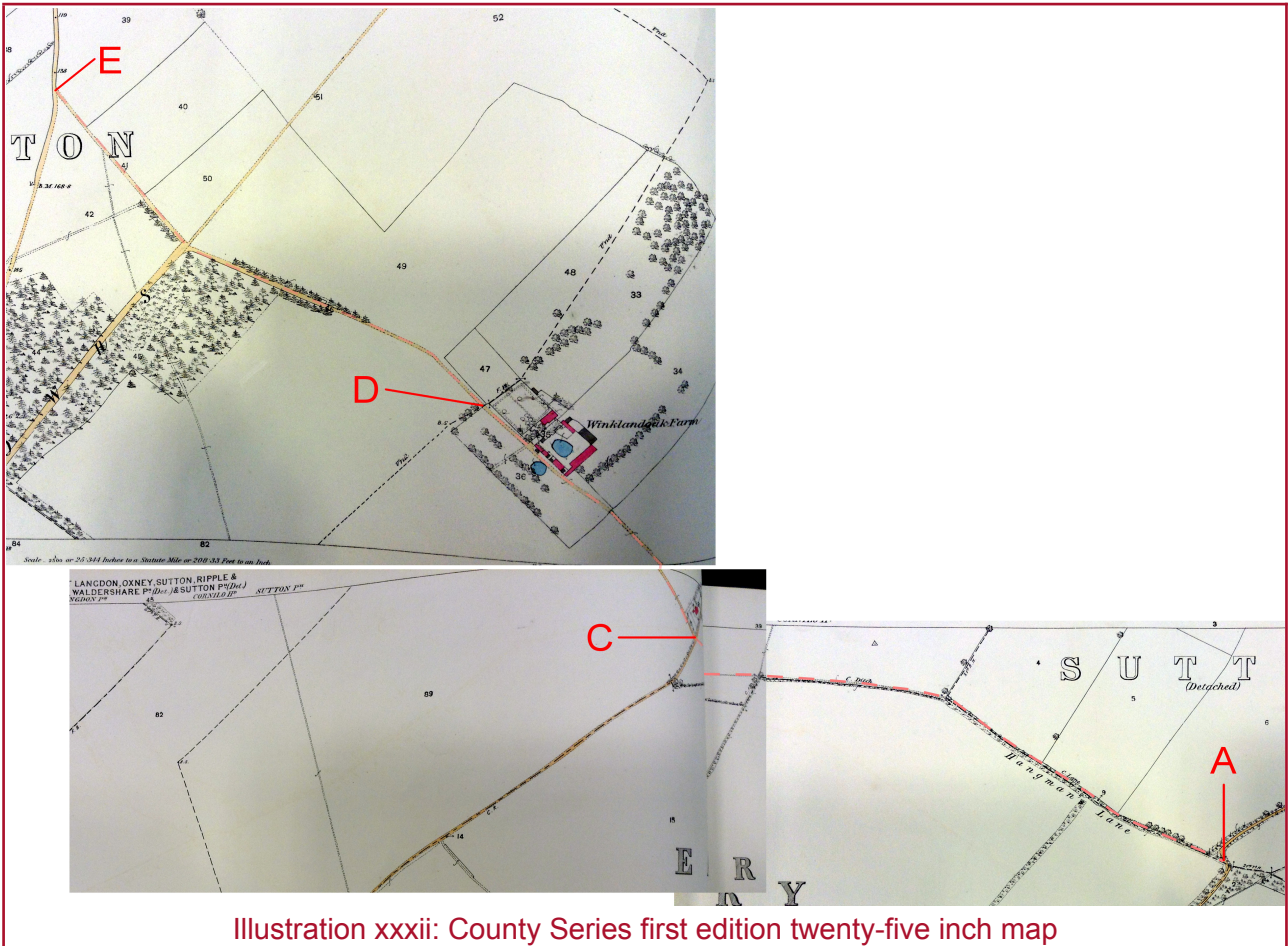


Illustration xxxii: County Series first edition twenty-five inch map

Book of reference — Sutton (detached):

2

PARISH OF SUTTON.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
78	17.143	Arable.	PARISH OF SUTTON (DETACHED).		
79	2.738	Wood, &c.	1	3.715	Pasture.
80	11.008	Arable, &c.	2	5.041	Pasture.
81	13.597	Arable.	3	6.875	Arable.
82	74.854	Arable.	4	9.871	Arable.
83	.149	Road.	5	9.211	Arable.
84	2.348	Arable.	6	21.080	Arable, &c.
85	.055	Road.	7	.426	Road.
	1006.901		8	8.116	Arable, &c.
			9	.428	Wood.
				64.763	

Illustration xxxiii: Ordnance Survey book of reference Sutton (detached)

Book of reference — Sutton:

PARISH OF SUTTON,
IN THE
COUNTY OF KENT—(EASTERN DIVISION).

HUNDRED OF CORNILO.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
1	30·718	Arable, &c.	39	7·151	Arable.
2	53·055	Arable, &c.	40	6·059	Arable.
3	21·730	Arable, &c.	41	·302	Road.
4	9·733	Arable.	42	4·117	Arable, &c.
5	·501	Road.	43	8·400	Wood.

Illustration xxxiv: Ordnance Survey book of reference Sutton

K.3. **Description:** The application way is shown on the Ordnance Survey County Series first edition 1:2,500 map. Hangman's Lane between A and B is identified as parcel 9, and classified in the book of reference for the parish of Sutton (detached) as 'Wood'. The application way between D and E is identified as parcel 41 and classified in the book of reference for the parish of Sutton as 'Road'. No other part of the application way is separately allocated a parcel number on this map.

K.4. The application way between C and E is colour-washed yellow, indicating that the way was observed by the surveyor to be metalled.

K.5. **Conclusion:** The book of reference contains no relevant evidence for the existence of Hangman's Lane, recording the parcel enclosing the lane as 'Wood'. However, the description of the application way between D and E as a 'Road' is some evidence of the status of the way as a public way, as a private farm track was unlikely to be so described.

K.6. **Points:**

Part	Points
<i>Between A and C</i>	0
<i>Between C and E</i>	1

L. Wingham Highway Board

L.1. **Date:** 1878

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

²¹ HB/W1, W2

Read a letter from Mr. W S Marsh, Waywarden of Sutton, calling attention to the Bridle Path at Little Sutton which is now entirely closed by the Embankment of the Dover & Deal Railway
Referred to the Surveyor.

As to Bridle Path at Little Sutton

The District Surveyor Reports that he had seen the Contractor of the Dover & Deal Railway and examined the Plans with reference to the Bridle Path known as Hangman's Lane now in course of being closed by the Railway Embankment and he found that the Act gave them power to 'close up' the same - To keep it open would render the building of a Bridge necessary at a cost of £400 or £500.

The Clerk is directed to write Mr. Marsh and explain that the work is in accordance with the Plan.

Read letter from Mr. May of Sutton Court calling the attention of the Board to a Bridle Road in the Parish of Sutton in course of being closed by the Dover and Deal Railway Company and requesting the Board to use their influence that the same might be left open.

Illustration xxxv: Wingham Highways Board

L.3. **Description:** The Wingham Highway Board was the highway authority for Sutton and Ripple (but not Ringwould) between 1863 and 1880. The minutes of the board record as follows:

17 October 1878

Read a letter from Mr W S Marsh, Waywarden of Sutton, calling attention to the Bridle Path at Little Sutton which is now entirely closed by the Embankment of the Dover & Deal Railway.

| Referred to the Surveyor.

21 November 1878

As to Bridle Path at Little Sutton

The District Surveyor Reports that he had seen the Contractor of the Dover & Deal Railway and examined the Plans with reference to the Bridle Path known as Hangman's Lane now in course of being closed by the Railway Embankment and he found that the Act gave them power to close up the same. To keep it open would under [sic] the building of a Bridge necessary at a cost of £400 or £500.

The Clerk is directed to write to Mr. Marsh and explain that the work is in accordance with the Plan.

10 April 1879

Read letter from Mr. May of Sutton Court calling the attention of the Board to a Bridle Road in the Parish of Sutton in course of being closed by the Dover and Deal Railway Company and requesting the Board to use their influence that the same might be left open.

L.4. The matter is not further mentioned. The Board was abolished in the Spring the following year.

L.5. **Conclusion:** The Surveyor advised the Board that the Act — presumably the Dover and Deal Railway Act 1874 — gave the railway company power to close the bridleway. It does not. S.2 of the Act incorporates the Railways Clauses Consolidation Act 1845, which makes provision for a railway crossing a public footpath or bridleway. The 1874 Act confers no special powers in respect of such a path.

L.6. No further action is recorded against the letter from Mr May, in April 1879, referring to the obstruction of the bridleway. Given that a crossing demonstrably was created over the railway line — and endures today, as a foot crossing — it appears that enforcement action was taken either by the Board, or its successor, the Eastry Rural Sanitary Authority.

L.7. **Points:**

Part	Points
<i>Between A and C</i>	0
<i>Between C and E</i>	0

M. Ordnance Survey, County Series twenty-five inch second edition

M.1. **Date:** 1896

M.2. **Source:** National Library of Scotland²²

²² maps.nls.uk/os/25inch-england-and-wales/index.html.

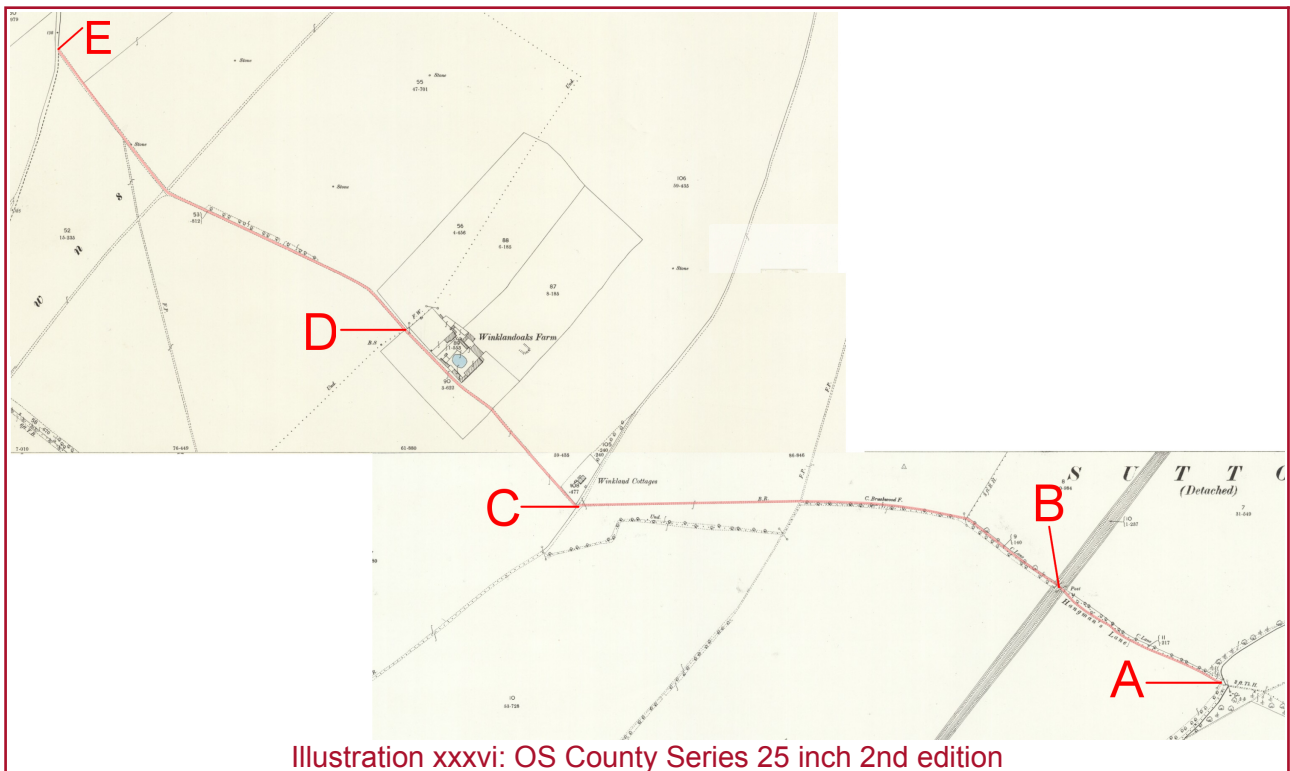


Illustration xxxvi: OS County Series 25 inch 2nd edition

M.3. **Description:** The application way is shown west-northwest from A as a track, labelled 'Hangman's Lane', with wood or scrub along the east side, bounded by a fence or hedge between the scrub and the adjacent field parcel. The map records that the parish boundary runs along the 'centre of lane'. The railway crossing is shown at B, and the lane continues west-northwest, and then west, no longer bounded by any permanent feature. After crossing a footpath, the way is shown cross-field, and marked 'BR' (bridle road) to reach the Ripple to Martin road at C. From C to E, the way is shown as a track across fields.

M.4. **Conclusion:** The annotation of the application way as 'BR' (bridle road) between B and C is good evidence for its status as a bridle path and not a footpath. While the Ordnance Survey map 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, or because of information received from reliable local sources, or both. As the application way is acknowledged to be a public path (albeit recorded at present as a public footpath), the Ordnance Survey's annotation of the way as a bridle road cannot refer to anything other than a public bridleway which was noted by the field surveyor.

M.5. **Points:**

Part	Points
<i>Between A and C</i>	2
<i>Between C and E</i>	0

N. Eastry Rural District Council highways report (1906)

N.1. **Date:** 1906

N.2. **Source:** Kent County Archives²³

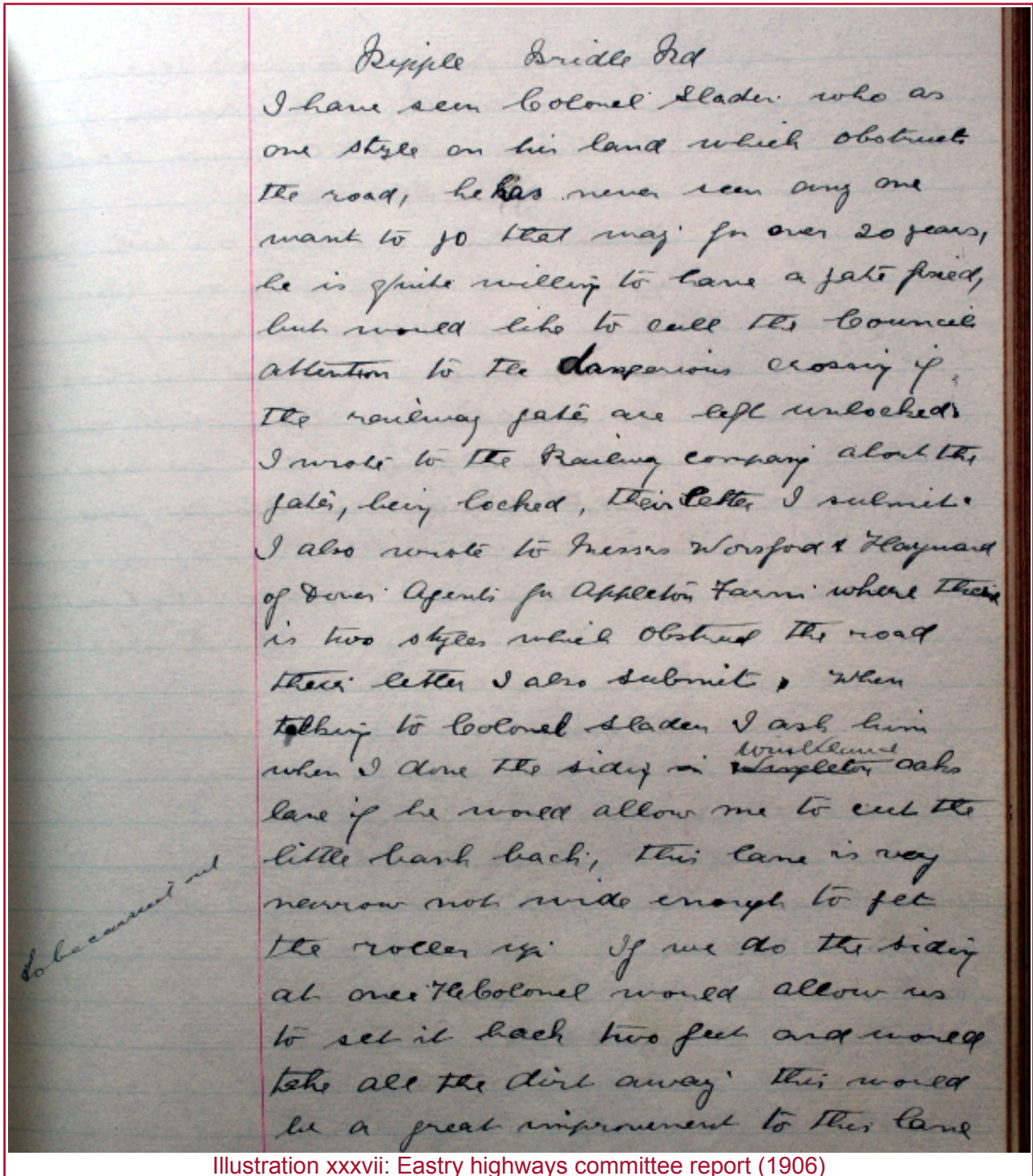


Illustration xxxvii: Eastry highways committee report (1906)

N.3. **Description:** The report of the surveyor to the Eastry Rural District Council highways committee records:

'Eastry February 13th 1906 ... Ripple bridle road. I have seen Colonel Sladen who has one style on his land which obstructs the road, he has never seen anyone want to go that way for over 20 years, he is quite willing to have a gate fixed but would like to call the council's attention to the dangerous crossing if

23 RD/Ea/H5, Eastry Rural District Council highways committee reports.

the railway gates are left unlocked. I wrote to the Railway Company about the gates being locked, their letter I submit. I also wrote to Messrs Worsford and Haywood of Dover, Agents for Appleton Farm where there is [sic] two styles which obstruct the road their letter I will also submit. When talking to Colonel Sladen I ask him when I done the siding in Winkland Oaks Lane if he would allow me to cut the little bank back, this lane is very narrow not wide enough to get the roller up. If we do the siding at once the Colonel would allow us to set it back two feet and would take all the dirt away. This would be a great improvement to this lane.'

The report is marginally annotated: 'To be carried out'.

N.4. **Conclusion:** The report appears to refer to the application way as the 'Ripple bridle road'. Lieutenant Colonel Joseph Sladen was resident at Ripple Court until his death in 1930. The reference to Ripple bridle road on Colonel Sladen's land is more likely to be to the application way between A and C, as the Colonel is reported as having concerns about the level crossing gates, which would be less relevant to the context if the stile on Col. Sladen's land were between C and F; moreover, the books of reference for the Dover and Deal Railway and the South Eastern Railway (Dover and Deal), deposited in 1873–74, both refer to one of the owners of that part of Hangman's Lane which then lay in the parish of Ripple as Capt. Joseph Sladen.

N.5. In 1936, Winkland Oaks Farm was sold by auction (see item U) as a single lot comprising the whole of the application way between C and E, and Appleton Farm was sold in two relevant lots (lots 1 and 2) comprising so much of the way between A and C which is enclosed or bounded by headland. The reference to stiles on Appleton Farm are therefore likely to lie within so much of the way between A and C which is enclosed or bounded by headland, consistent with the Appleton Farm estate put up for sale in 1936.

N.6. The report also refers to the Col. Sladen approving works to Winkland Oaks Lane. That lane may be the application way and road leading from C to Winkland Oaks Farm (short of D), as the Martin to Ripple road has no known name, is referred to in a subsequent report²⁴ as 'the road leading from Ripple school to Martin', and the requirement for the landowner's approval to and assistance with the works is more consistent with the character of the road leading to the farm itself. However, it cannot be said that the identification is certain.

N.7. The report is therefore good evidence for the status of the way between A and C as understood by the surveyor to the highways committee, and (as the report was accepted by the committee with a record that the work was to be carried out), by the committee also. The agreement of Col. Sladen to install a gate also confirms that the landowner was of the same opinion as the highways committee as regards the way between A and C. The correspondence with the railway company about the gates at the level crossing confirms that the level crossing was gated at this time (the reference to the gates being 'locked' must be a reference to their being closed and latched, as opposed to leaving the gates open, since locked gates would be an obstruction regardless of the status of the way).

24 See item IV.Q.

N.8. Points:

Part	Points
Between A and C	4
Between C and E	0

O. Eastry Rural District Council wages book

O.1. Date: 1908–11

O.2. Source: Kent County Archives²⁵

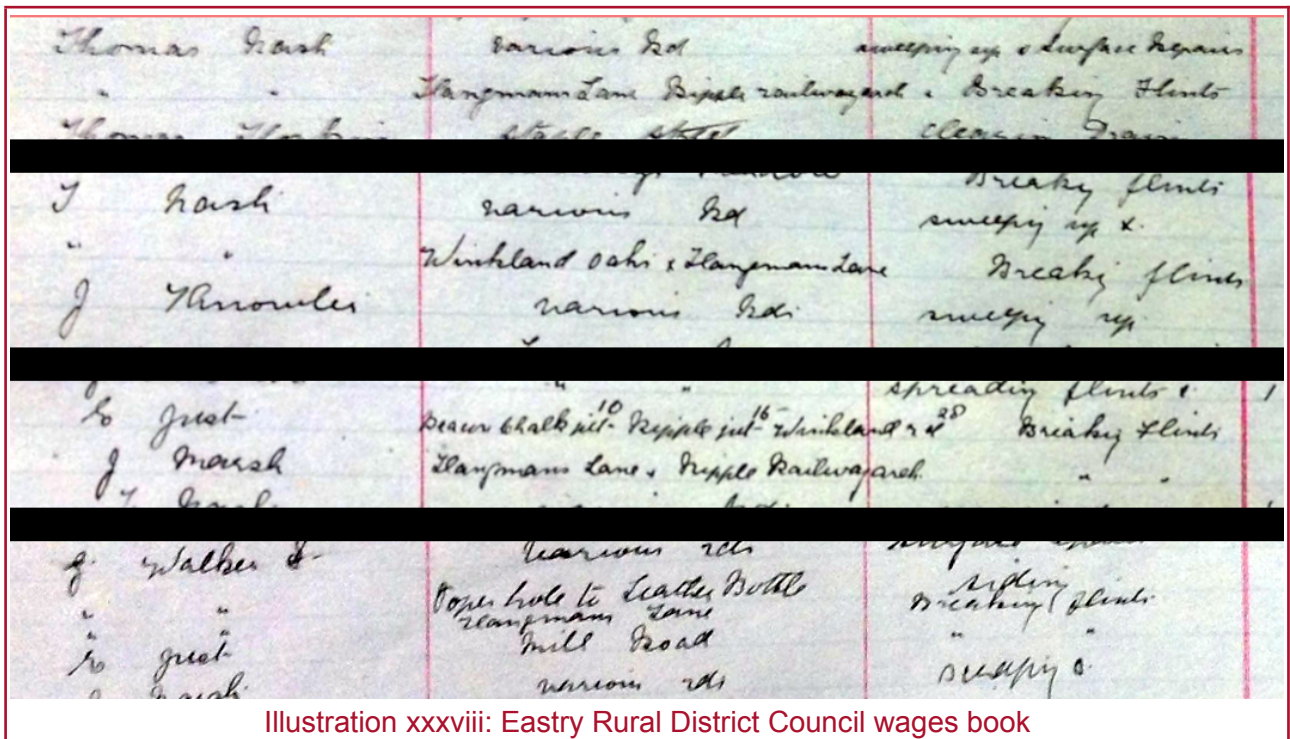


Illustration xxxviii: Eastry Rural District Council wages book

O.3. Description: The wages book maintained by the surveyor to the Eastry Rural District Council records payments made to labourers for work done on the highways in the district.

O.4. Payments are recorded as follows:

Fortnight ending 26 August 1908 (p.24)

| Thomas Nash Hangman's Lane Ripple railway arch Breaking Flints

O.5. £1/6s/3d is paid and assigned wholly to the parish of Ripple.

Fortnight ending 25 August 1909 (p.59)

| J Nash Winkland Oaks and Hangman's Lane Breaking Flints

O.6. £1/9s/2d is paid and assigned wholly to the parish of Ripple.

25 Rd/Ea/H13

Fortnight ending 25 January 1911 (p.98)

| J Marsh Hangman's Lane & Ripple railway arch Breaking Flints

O.7. £1/19s is paid and assigned wholly to the parish of Ripple.

Fortnight ending 15 November 1911 (p.120)

| G Gust Hangman's Lane Breaking Flints

O.8. £1/15s is paid and assigned wholly to the parish of Ripple.

O.9. **Conclusion:** Wages are recorded as being paid to several labourers for work done on or in Hangman's Lane. The work clearly relates to the application way, because the work is assigned to the parish of Ripple (the residential road in Ringwoud of the same name lies in the area of the Dover Rural District Council). It is highly unlikely that work would be done to a footpath. The nature of the work — breaking flints — is suggestive that the labourer may have been preparing flints for use elsewhere, and not repairing the road. But as there is no known quarry in or adjacent to the application way, it seems that the work was nevertheless done in the application way.

O.10. The record of work done, spread over a three year period, is consistent with the way being regarded as a public road (of at least bridleway status), from which flints might be sourced for use in highway repairs elsewhere in the district.

O.11. **Points:**

Part	Points
<i>Between A and C</i>	1
<i>Between C and E</i>	0

P. Finance (1909–1910) Act 1910 maps

P.1. **Date:** 1911

P.2. **Source:** National Archives²⁶; Kent County Archives²⁷

26 IR 124/5/160

27 IR4/25/1

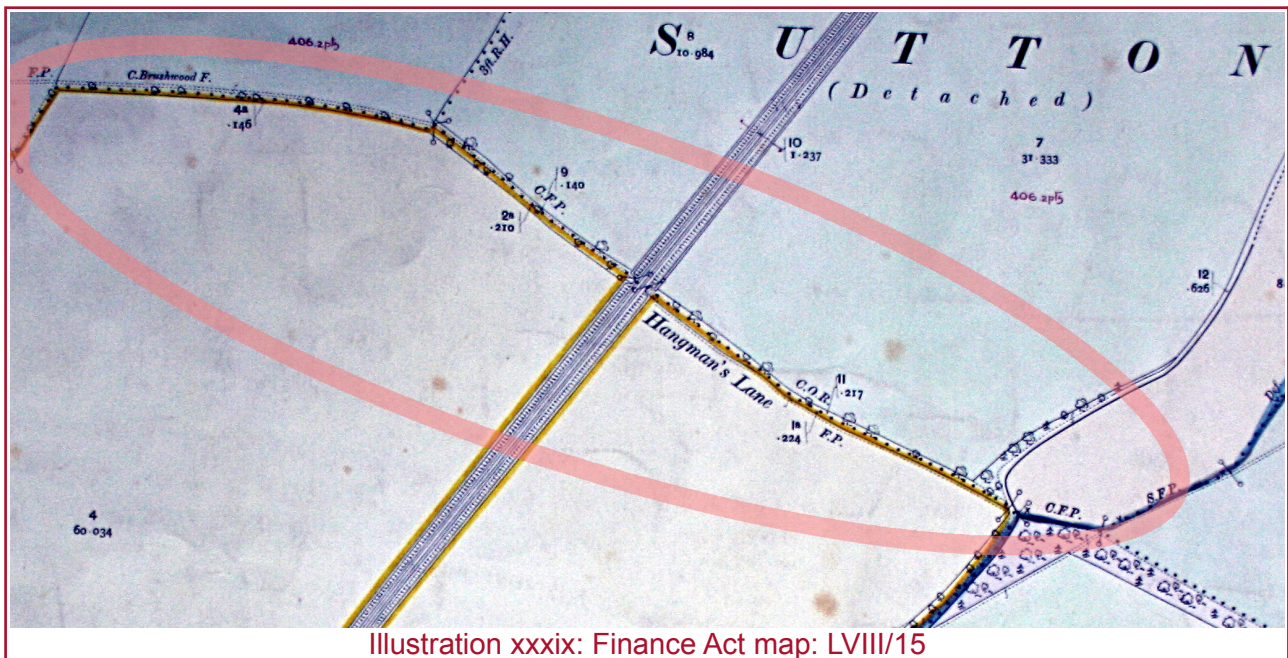


Illustration xxxix: Finance Act map: LVIII/15

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

P.4. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The primary purpose was to charge a tax (increment levy) on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways. First, public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads'. This is because s.35 of the 1910 Act provided,

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

A highway authority was a rating authority.

P.5. 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...'²⁸. 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 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).

²⁸ Discounts for easements affecting the land were separately requested and recorded in the valuation book.

- 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.

P.6. The December 1910 *Instructions to Valuers* stated that: '183. Site Value Deductions not Claimed by the Owner. — In making Original Valuations under Section 26(1) of the [1910 Act], Valuers will give credit for any deductions under the provisions of Section 25, so far as they are known to them and that notwithstanding the fact that such deductions may not have previously been claimed by or on behalf of the owner.' It follows that, if a deduction for a right of way is given in a particular case, and there is no evidence (as is usually the case) that it was requested by the landowner, the deduction can have only arisen either because it was nevertheless requested, or because the existence of the right of way was known to the valuer. It is unlikely that valuers would have volunteered deductions except in cases where the right of way was obvious — perhaps because it was sign-posted as such, or referred to as such by the landowner or an employee of the landowner when the valuer was surveying the land.

P.7. All land had to be valued unless it was exempted by the Act. S.94 provided harsh penalties for making false declarations.

P.8. The Finance Act map shows Hangman's Lane uncoloured between A and the end of the enclosed part of the lane northwest of B. Beyond this point to F, the application way is shown as part of the hereditaments:

- Hereditament 406: Ripple Court
- Hereditament 407: Winkland Oaks Farm

P.9. Both hereditaments are recorded in the field books for East Langdon, which the National Archives reports as 'missing at transfer'. However, the duties on land values book contains entries for units 406 and 407: a deduction of £50 is shown for rights of way in relation to unit 406, and none for unit 407.

P.10. **Conclusion:** The exclusion of Hangman's Lane from the hereditaments between A and the end of the enclosed part of the lane northwest of B provides strong support for its status as a public highway of at least bridleway status, and the then owners' acknowledgement of that status. No conclusions can be drawn from the deductions for Ripple Court (unit 406), as the unit extends to 80 ha and is known to include other public rights of way. Nor can any conclusion be drawn from the absence of any deductions for Winkland Oaks Farm (unit 407), as no landowner was obliged to claim deductions, and in some circumstances, a landowner may have been incentivised not to do so.

P.11. **Points:**

Part	Points
<i>Between A and C</i>	5
<i>Between C and E</i>	0

Q. Eastry Rural District Council report (1911)

Q.1. **Date:** 1911

Q.2. **Source:** Kent County Archives²⁹

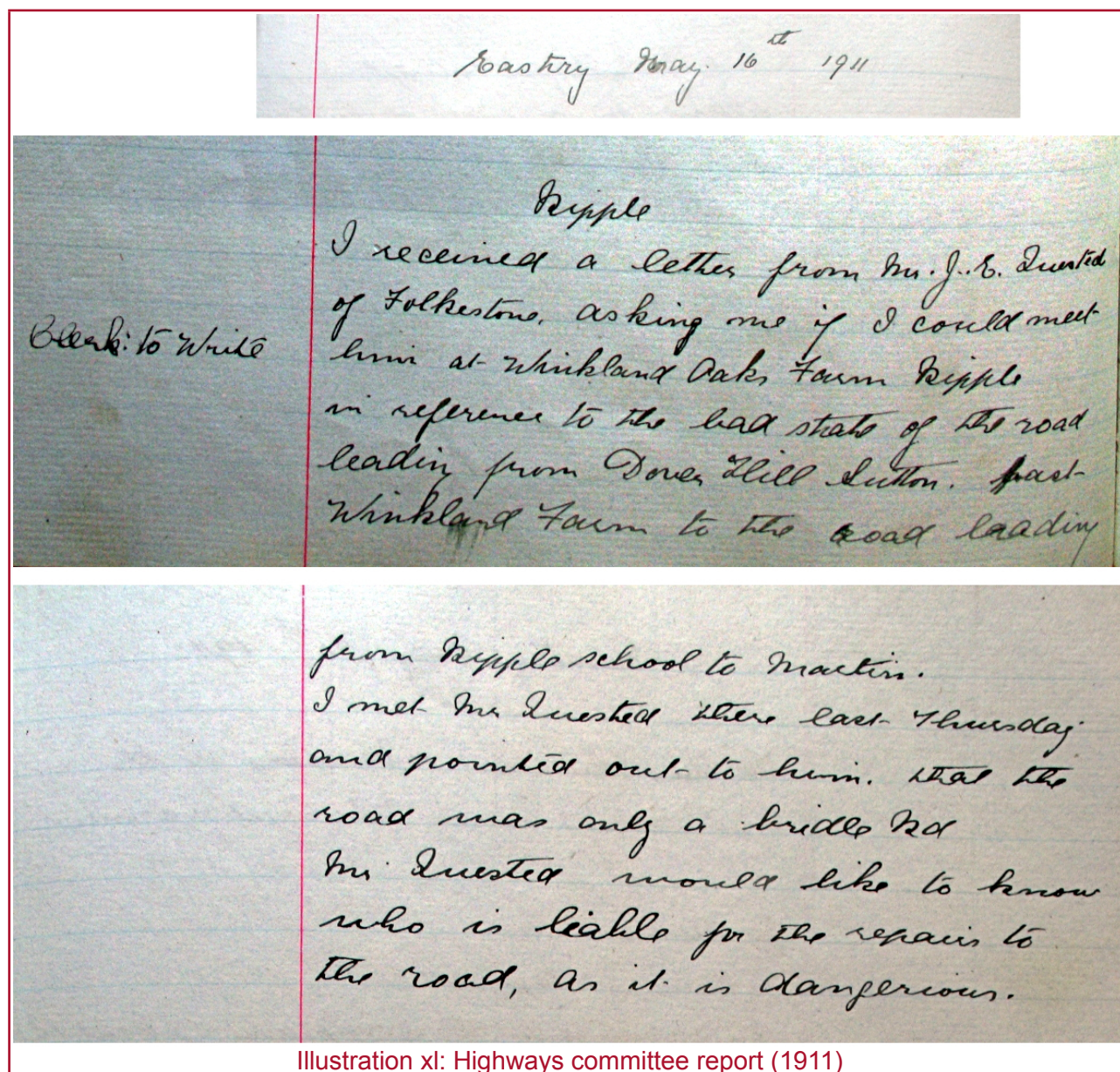


Illustration xl: Highways committee report (1911)

Q.3. **Description:** The surveyor's report to the Eastry Rural District Council highways committee records:

'Eastry May 16th 1911. ... Ripple. I received a letter from Mr J.E. Quested of Folkestone, asking me if I could meet him at Winkland Oaks Farm Ripple in reference to the bad state of the road leading from Dover Hill Sutton past Winkland Farm to the road leading from Ripple school to Martin. I met Mr Quested there last Thursday and pointed out to him that the road was only a bridle Rd. Mr Quested would like to know who is liable for the repairs to the road, as it is dangerous.'

The report is annotated: 'Clerk to write'.

29 RD/Ea/H6, Eastry Rural District Council highways committee minutes.

Q.4. **Conclusion:** The report clearly refers to the application way between C and E, and identifies the way as 'only a bridle Rd'. The report is therefore good evidence for the status of the way between C and E as understood by the surveyor to the highways committee, and (as the report was accepted by the committee with a record that the clerk was to write), by the committee also.

Q.5. **Points:**

Part	Points
<i>Between A and C</i>	0
<i>Between C and E</i>	4

R. Eastry Rural District Council report (1913)

R.1. **Date:** 1913

R.2. **Source:** Kent County Archives³⁰

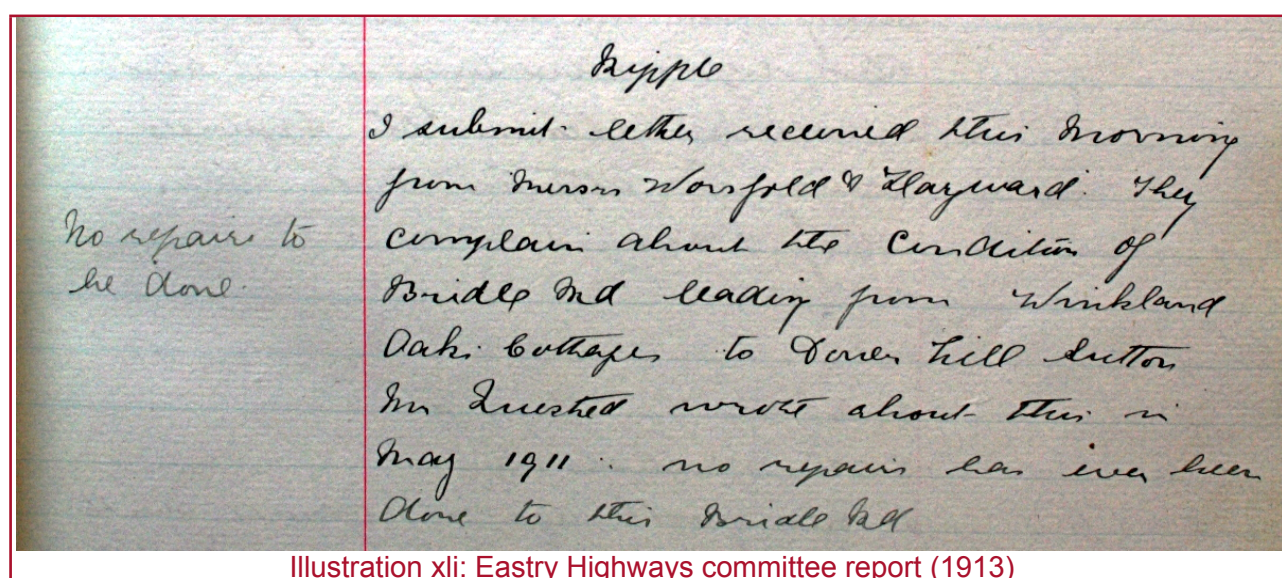


Illustration xli: Eastry Highways committee report (1913)

R.3. **Description:** The surveyor's report to the Eastry Rural District Council highways committee meeting of 19 August 1913 records:

'Ripple. I submit letter received this morning from Messrs Worsfold & Hayward. They complain about the condition of Bridle Rd leading from Winkland Oaks Cottages to Dover Hill Sutton. Mr Quested wrote about this in May 1911: no repairs has ever been done to this Bridle Rd'.

The report is marginally annotated: 'No repairs to be done'.

R.4. **Conclusion:** The report refers to the application way between C and E. The report confirms that the application way continued to be recognised as a public bridle road, but that it was not publicly maintainable (possibly because the part between C and E may have been perceived as dating from after 1835³¹).

³⁰ RD/Ea/H7, Eastry Rural District Council highways committee minutes.

³¹ Under the Highways Act 1835, ways in existence before this date were deemed to be publicly maintainable; ways originating after this date were not publicly maintainable by default.

R.5. There is some inconsistency with the report in item IV.N above, in which maintenance of 'Winkland Oaks Lane' (i.e. from C to D) is contemplated: if that minute refers to the application way, it is suggested that the road from C to Winkland Oaks Farm south of D was considered publicly maintainable, but not the bridle road from the farm through D to E.

R.6. **Points:**

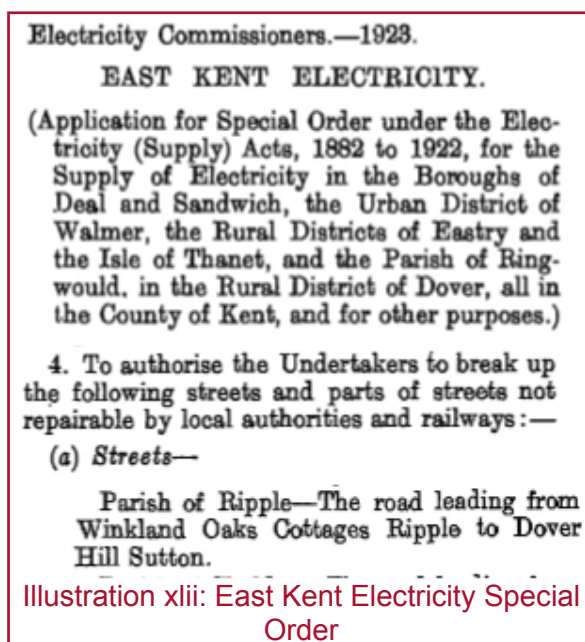
Part	Points
<i>Between A and C</i>	0
<i>Between C and E</i>	1†

† confirms data in earlier entry in item IV.Q above.

S. Electricity Supply Acts 1882 to 1922

S.1. **Date:** 1923

S.2. **Source:** London Gazette³²



S.3. **Description:** The notice published in the London Gazette gives notice of the intention of an electricity undertaker for East Kent to lay its apparatus in certain streets not repairable by local authorities and railways: one of those specified, in the parish of Ripple, is: 'The road leading from Winkland Oaks Cottages Ripple to Dover Hill Sutton.'

S.4. **Analysis:** The Electricity (Supply) Acts 1882 to 1922 provide for powers to be conferred on undertakers for the supply of electricity for public and private purposes. In the present case, notice of intention was given in the London Gazette for 23 October 1923 that application would be made to the Electricity Commissioners for a Special Order under the Electricity (Supply) Acts 1882 to 1922, to confer powers for the supply of electricity in East Kent.

S.5. The Electricity (Supply) Acts 1882 to 1922 incorporate:

- [Electric Lighting Act 1882](#)

32 Issue 32873, p.7140: www.thegazette.co.uk/London/issue/32873/page/7140.

- [Electric Lighting Act 1888](#)
- [Electric Lighting Act 1909](#)
- Electricity (Supply) Act 1919
- [Electricity \(Supply\) Act 1922](#)

S.6. The notice sets out, *inter alia*, details of 'streets and parts of streets not repairable by local authorities and railways' which the applicant wishes to 'break up' in order to lay its apparatus. The notice gives an opportunity for any 'local or other public authority, company or person desirous of bringing before the Electricity Commissioners any objection respecting the application'. The notice also contains for the same purpose a list of routes which are county roads, and of roads over railway bridges and level crossings. It seems that none of these is considered to be maintainable by the local district council, and that therefore public notice need be given of the application.

S.7. Section 32 of the Electric Lighting Act 1882 defines street in a similar form to section 48 of the New Roads and Street Works Act 1991 (similar definitions have been used in legislation for around 150 years):

'The expression "street" includes any square, court, or alley, highway, lane, road, thoroughfare, or public passage, or place within the area in which the undertakers are authorised to supply electricity by this Act or any license, order, or special Act'.

A street is therefore likely to be a public highway, but:

- it may not be publicly maintainable (there being no words in the definition which might imply such a requirement);
- exceptionally, it may not be a public highway, if it nevertheless conforms to an element of the description such as a (wholly private) 'square' or 'road'.

S.8. In addition:

- Electric lighting under the Act may be provided for both public and private purposes, and public purposes mean *inter alia*, in section 3(3) of the 1882 Act, 'lighting any street...belonging to or subject to the control of the local authority'. A privately maintainable public highway would be subject to the control of the local authority (but not maintained by it), and lighting such a street would be a naturally public purpose. Lighting a wholly private way would be a private purpose.
- Section 3 of the 1882 Act refers to local authorities assuming the powers of the undertaker: 'with respect to the breaking up of any street repairable by such local authority'. The Acts therefore explicitly recognise the distinction between a street which is repairable by the local authority and a street which is not publicly repairable (*i.e.* maintainable).
- The marginal note to section 13 of the 1882 Act, 'Restriction on breaking up of private streets...' must be read in the context of the provision itself. Section 13 provides that the Act does not

'authorise or empower the undertakers to break up any street which is not repairable by such local authority, or any railway or tramway, without the consent of the authority, company, or person by whom such street, railway, or tramway is repairable, unless in pursuance of special powers in that behalf... after notice has been given to such authority, company, or person by advertisement or otherwise, as the Board of Trade may direct, and an opportunity

has been given to such authority, company, or person to state any objections they may have thereto.'

The presumption is that such streets may be broken up in order to lay apparatus, subject to an opportunity for the body by which the street is repairable to voice its objections. The reference to 'private street' in the marginal note to section 13 therefore appears to qualify 'street' as one which is privately maintainable vice one which is wholly private. If section 13 was concerned with wholly private ways, the body having responsibility for repair would be the owner, and it would not be necessary to distinguish the body by which the street is maintainable. Compare with Part XI of the Highways Act 1980, which sets out the code for *Making up of Private Streets*, in which: "private street" means a street that is not a highway maintainable at the public expense', and therefore includes a highway which is not maintainable at public expense.

- Section 14 requires the consent of the local authority to place an electric line above ground in a street, and the authority is empowered to seek a magistrates' court order if the line is 'dangerous to the public safety'. The requirement for such consent in relation to a street which is a wholly private way would be odd, and inexplicable if the private way was not used by the public.

S.9. The draughtsman, in defining a 'street', is likely to have had in mind public highways which were privately maintainable, or wholly private ways in use by the public (such as carriage roads leading to stations built by the railway company, or unadopted new residential streets in towns), or at most, wholly private ways in towns which served significant numbers of dwellings or commercial premises (such as private squares or yards). It is not possible to reconcile the duty placed on an undertaker in section 14 of the 1882 Act (to seek consent to place electric lines in a street) with its application to a wholly private way not used by the public.

S.10. The draughtsman of the Electric Lighting Act 1909 appeared to be uncertain of the definition of 'street'. Section 3 of the 1909 Act refers to 'roads', which are defined in section 25 of the Act so as to include any street as defined in the 1882 Act. Given that 'street' is defined in the 1882 Act to include a 'road', it is not clear whether this circular provision can have been intended, and is suggestive of some confusion on the part of the draughtsperson.

S.11. The definition of 'street' does not extend to embrace a wholly private track, farm drive or path in the countryside. Such a way does not obviously fall within any of the components included in the definition of 'street' (unless, in particular circumstances, it might have the characteristics of a 'lane' or, if given a metalled surface, a 'road'). And while the definition of 'street' is not exhaustive, the *eiusdem generis* rule applied to the definition does not suggest that other, wholly private ways in the countryside were contemplated: quite the contrary. It would be inconsistent with the scheme of the Electricity (Supply) Acts 1882 to 1922 as a whole to apply the powers as regards streets to entirely rural, wholly private ways, without compensation for the owner, given that section 12(1) of the 1882 Act excludes undertakers from acquiring powers to compulsorily purchase private land: it would otherwise allow an undertaker to lay apparatus on private land without compensation, merely on the justification that the works were done along a part of that land which happens to conform (on one interpretation) to the general description of a 'lane' or 'road'. The only justification for conferring powers on an undertaker to lay apparatus in a rural way is if it is a public way, albeit it may be privately maintained.

S.12. The Lord Chancellor, Lord Halsbury, said in *Mayor of Tunbridge Wells v Baird and Others*³³, in the context of the extent of the vesting in the highway authority of the surface of a highway maintainable at public expense³⁴:

"What is usually done in a street" may include water-pipes and gas-pipes as well as sewers, and it could not be supposed that any such power was intended to be conveyed by such language. I think what his Lordship must have meant was such things as are usually done in a street for the purpose, as he elsewhere in his judgment describes it, of maintaining it as a street, and are incident to the maintenance and repair of the street as a street. For that purpose it would be intelligible. For any other purpose it would appear to me to be inconsistent with the language of the enactments, and contrary altogether to the policy which the Legislature has certainly always pursued of not taking private rights without compensation, in which it is essential to take private property. Parliament has always provided for compensation, and in this section the language itself imports that where private property is being dealt with it can only be done "with the consent of the owner".'

S.13. The notice contains the following entries, set out in the first column, together with the presumed location in the second column, and comments on the entry in the third column:

Description in notice	Presumed location	Comments
<i>Parish of Ash—</i>		
i. Richborough Castle Road	TR319603 to TR323602	Now known as Castle Road: restricted byway EE43A; title unregistered
ii. White House Drove Road	TR318604 to TR319613	Unrecorded ('private street' in NSG); title unregistered
iii. Rubery Drove Road	TR314607 to TR315613	Unrecorded; registered title
iv. Potts Farm Drove Road	TR301609 to TR304621	Public footpath EE49; registered titles
v. the road leading from Sandhill Farm to Cooper Street	TR298604 to TR304602	Public footpath EE52; title unregistered
vi. the road leading from Lower Goldstone to Red House Ferry	TR294611 to TR296625	Now known as Goldstone Drove; public footpath EE55; part title unregistered
vii. the road leading from Ash Main Road to Poulton Farm (Poulton Lane)	TR281582 to TR281577	Part adopted road, part public bridleway EE193; title unregistered

33 [1895–9] All ER Rep Ext 2006

34 In the case, the vesting occurred under s.149 of the Public Health Act 1875.

viii. the road leading from Durlock Road to Ash-Canterbury Main Road	TR275577 to TR268582	Now known as Pedding Lane; part adopted road, part public footpath EE124; land unregistered
ix. the road leading from West Marsh Road to the Marshes	TR274615 to TR274624	Now known as Westmarsh Drove; public footpath EE76; 'private street' in NSG; unregistered title with caution
x. the road leading from Paramour Street to Downfield Farm	Not identified	
xi. the road leading from Overland Lane, Corking to Ware Road	TR275598 to TR280607	Part public bridleway EE86 and EE73; part adopted road (Ware Farm Road); part unrecorded; land generally unregistered
<i>Parish of Betteshanger—</i>		
xii. the road leading from Northbourne Road to New Road, Betteshanger	TR313537 to TR309529	Unrecorded; subject of application 374 to record as restricted byway; part unregistered
<i>Parish of Eastry—</i>		
xiii. the road leading from Eastry Mills to Hammill	TR302545 to TR285552	BOAT EE109; part unregistered
<i>Parish of Eythorne—</i>		
xiv. the road leading from Upper Eythorne to Brimsdale Farm	TR283491 to TR280491	Now known as Flax Court Lane; public bridleway EE345; 'private street' in NSG; part unregistered
<i>Parish of Goodnestone and Wingham—</i>		
xv. the road leading from Twitham Farm to Caves Lane, Goodnestone,	TR262568 to TR255555	Part adopted, part unrecorded, part public bridleway EE269A; land unregistered
xvi. the road leading from Buckland Lane to Crixhall Farm	TR269554 to TR267556	Public bridleway EE28; land unregistered
<i>Parish of Great Mongeham—</i>		
xvii. the road leading from Cherry Lane to the road leading from Northbourne to Ripple	TR346512 to TR342507	Now known as Pixwell Lane; BOAT ED53; part adopted; unregistered title

<i>Parish of Little Mongeham—</i>		
xviii. the road leading from Little Mongeham Farm to Ripple and Sutton Road	TR333509 to TR343501	Public footpath EE422; title registered
<i>Parish of Nonington—</i>		
xix. the road leading from Holt Street to Nonington Mill	TR262521 to TR268517	Now known as Mill Lane; adopted road; unregistered title
xx. the road leading from Gooseberry Hall to Young Wood, Goodnestone (Pilgrims Way)	TR266530 to TR259538	Now known as Cherrygarden Lane; BOAT EE280; 'private street' in NSG; part unregistered
<i>Parish of Northbourne—</i>		
xxi. the road leading from Willow Wood to Telegraph Farm	TR312506 to TR311511	Now known as Willow Woods Road (Roman Road); public bridleway EE377; 'private street' in NSG; part unregistered
<i>Parish of Preston—</i>		
xxii. the road leading from Preston Road to Marley Brook Farm	TR252616 to TR249618	Unrecorded; unregistered title
<i>Parish of Ripple—</i>		
xxiii. the road leading from Winkland Oaks Cottages Ripple to Dover Hill Sutton	TR342482 to TR334488	Public footpath EE427; title registered
<i>Parish of Sholden—</i>		
xxiv. the road leading from Walnut Tree Farm (Sholden) to Sandwich Bay	TR371545 to TR360572	Now known as Ancient Highway; BOAT EE245; adopted; title registered
<i>Parish of Stourmouth—</i>		
xxv. the road leading from North Court Farm, Upper Stourmouth to New Road	TR256630 to TR266630	Restricted byway EE485
<i>Parish of Sutton—</i>		
xxvi. the road leading from Sutton Court to Maydensole Farm (near Napchester)	TR334493 to TR314476	Public footpath EE417; part unregistered
<i>Parish of Wingham—</i>		

xxvii. the road leading from Dambridge Farm to Brook Farm (Brook Road).	TR249571 to TR260571	Now known as Dambridge Farm Road; part adopted, part restricted byway EE165A; part unregistered
<i>Parish of Woodnesborough</i> —		
xxviii. the road leading from Foxborough Hill, Woodnesborough to Sandwich Station	TR308561 to TR331576	Part was known as Black Lane (Sandwich), now St Barts Road; part public foot-path EE226, public bridleway ES8, part BOAT ES10, part adopted; part unregistered title, part land unregistered
<i>Parish of Worth</i> —		
xxix. the road leading from Woodnesborough and Sandwich Road to Station	TR323574 to TR331576	Part known as Black Lane (Sandwich); part now known as St Barts Road; part BOAT ES10, part adopted; part land unregistered
xxx. the road leading from Deal and Sandwich Main Road to Worth Street Road,	TR329568 to TR334560	Now known as Coventon Lane; public bridleway EE236; part unregistered title
xxxi. the road leading from Deal and Sandwich Main Road to Temptye Farm,	TR328564 to TR341565	Public bridleway EE236; part unregistered title
xxxii. the road leading from Blue Pigeons Farm to Sandwich Bay	TR344566 to TR355575	Public bridleway EE232; part unregistered title

S.14. Of 32 'streets' recorded in the notice:

- 11 are now recorded as public carriageways,
- 8 are recorded as public bridleways,
- 8½ are recorded as public footpaths,
- 3½ are not recorded as public ways (but without prejudice to whether they may be unrecorded public ways), and
- 1 could not be located.

S.15. At least 28 of 31 identified 'streets' notified as 'streets and parts of streets not repairable by local authorities and railways' cited in the public notice in the *London Gazette* are today public highways. This is strong evidence that such streets were considered to be public highways which were privately maintainable, and were not wholly private ways. Inclusion in the list is therefore evidence of the public status of these ways at the date of the notice.

S.16. The majority of the streets are now recognised as roads and public bridleways. Of those which are currently recorded as public footpaths, or not recorded as public ways, three (apart from the application way, xv) are under application to be recorded as restricted byways (xii, xxiii, xxviii), and two are the likely subject of future applications (xviii and xxvi).

S.17. **Conclusion:** Ways notified as streets not repairable by local authorities are likely to be those which were regarded at the time as of at least bridleway status, being described as 'roads'. The notice is good evidence of the status of the application way between C and E as a public way, privately maintainable, of at least the status of bridleway.

S.18. **Points:**

Part	Points
Between A and C	0
Between C and E	2

T. Eastry Rural District Council report (1924)

T.1. **Date:** 1924

T.2. **Source:** Kent County Archives³⁵

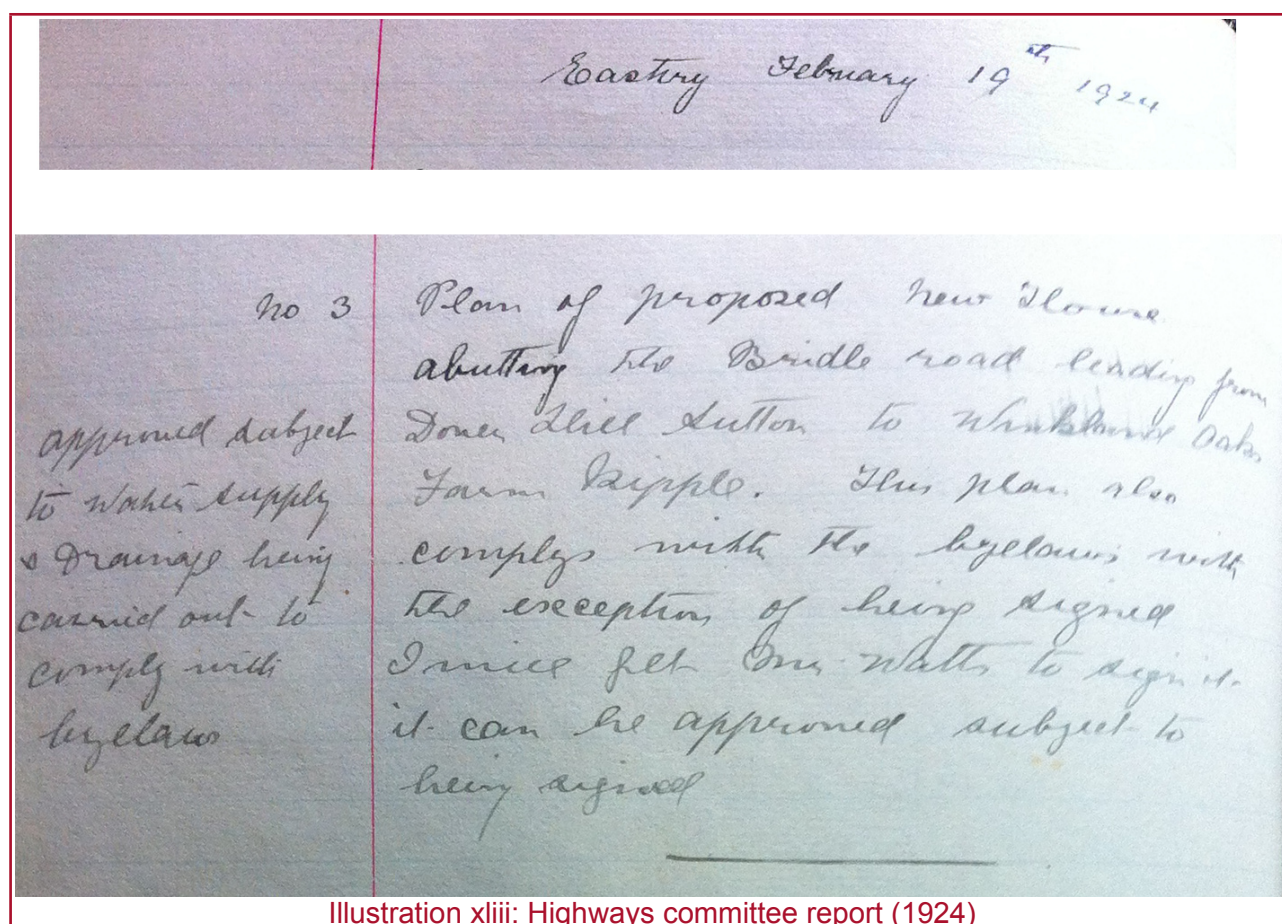


Illustration xliii: Highways committee report (1924)

T.3. **Description:** The surveyor's report to the Eastry Rural District Council highways committee records:

35 RD/Ea/H8, Eastry Rural District Council highways committee minutes.

'Eastry February 19 1924 ... No 3 Plan of proposed New House abutting the Bridle road leading from Dover Hill Sutton to Winkland Oaks Farm Ripple. This plan also complys [*sic*] with the byelaws with the exception of being signed[.] I will get Mr Watts to sign if it can be approved subject to being signed.'

A marginal note to the report states: 'Approved subject to water supply & drainage being carried out to comply with byelaws'.

T.4. **Conclusion:** The report refers to the application way between D and E. The report confirms that the application way continued to be recognised as a public bridle road by the surveyor to the highways committee, and (as the report was accepted by the committee with a record of approval), by the committee also.

T.5. **Points:**

Part	Points
<i>Between A and C</i>	0
<i>Between C and E</i>	1†

† confirms data in earlier entries for reports to the Eastry Rural District Council highways committee in items IV.N, IV.Q and IV.R above.

U. Sale particulars (1936)

U.1. **Date:** 1936

U.2. **Source:** Kent County Archives³⁶

Map, lot 6

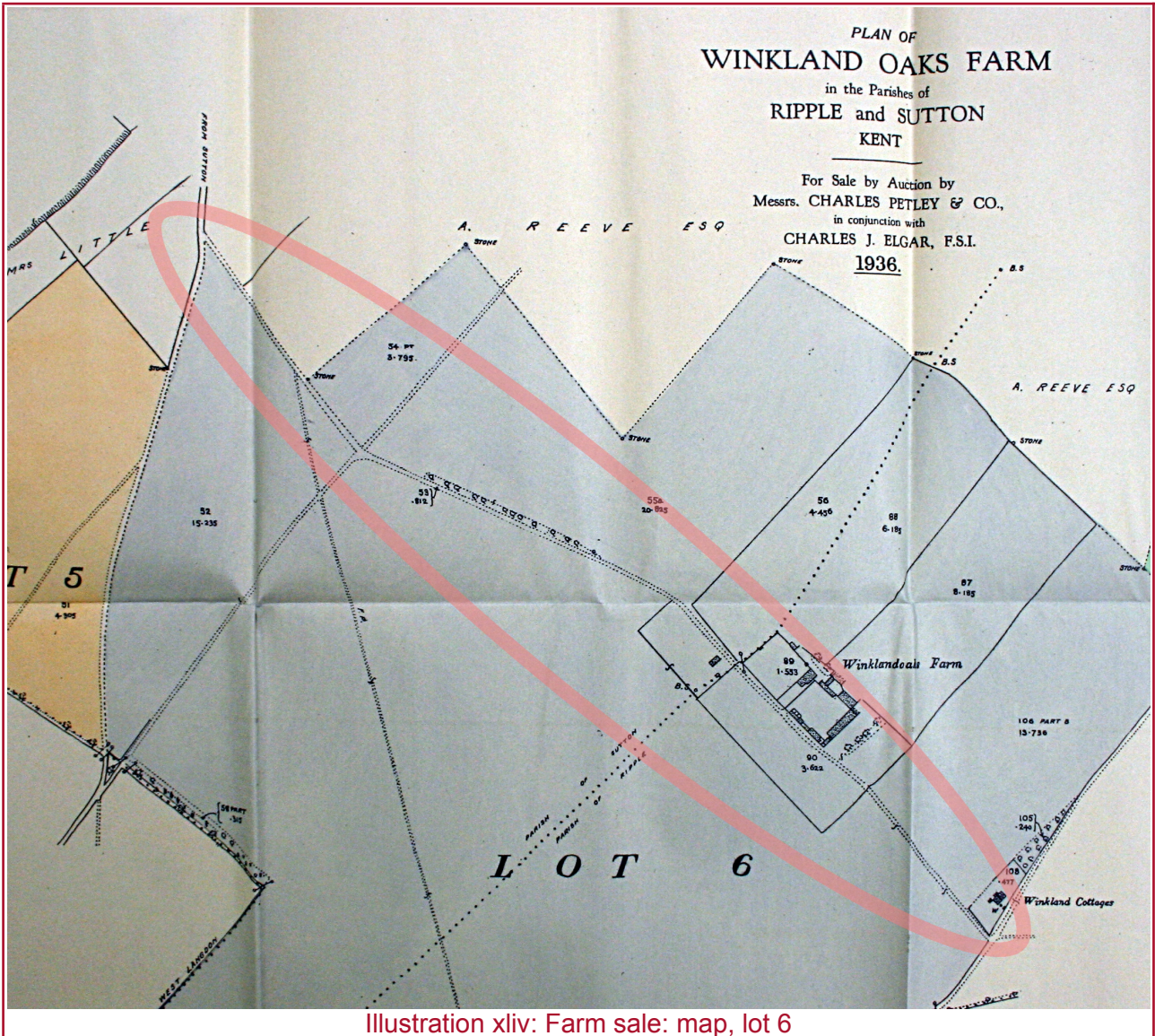


Illustration xlv: Farm sale: map, lot 6

Map, lots 1 and 2

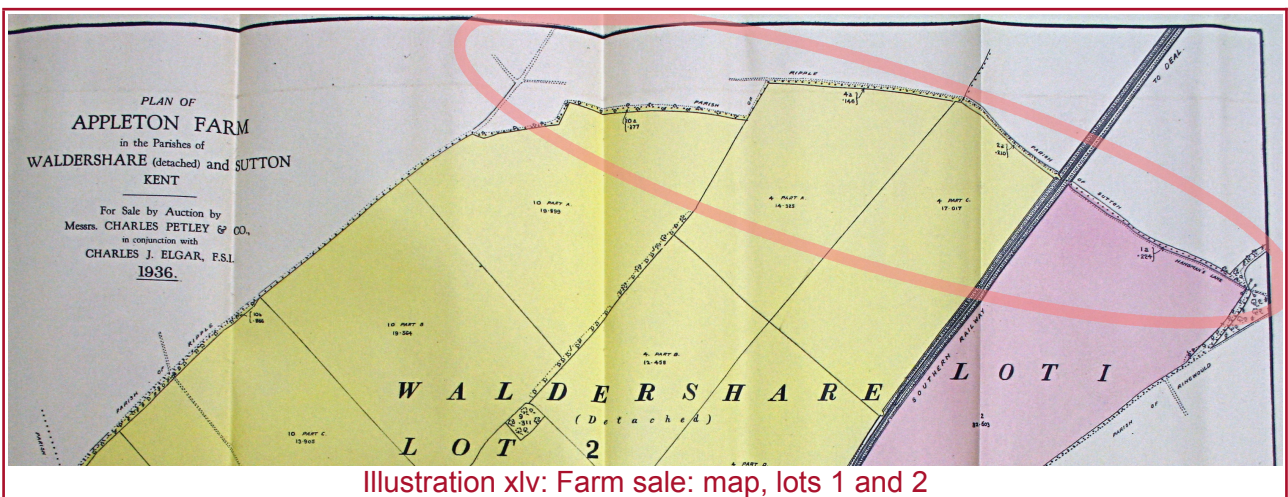


Illustration xlv: Farm sale: map, lots 1 and 2

Particulars of sale, lot 6

LOT 6 (Coloured Grey)

The Useful Upland Holding

known as

WINKLAND OAKS FARM

Situated in the Parishes of Ripple and Sutton, comprising :—

Farmhouse Premises, Two Cottages, One Bungalow, Arable and Pasture Land

SCHEDULE TO LOT 6.

No. on Plan.	Parish.	Description.	Acreage.	Total.
87	Ripple	Pasture	8.185	
88	Do.	Do.	6.185	
89	Do.	Homestead	1.553	
90	Do.	Pasture	3.622	
105	Do.	Shaw	.240	
106	Part B. Do.	Arable	13.736	
107	Part A. Do.	Do.	59.120	
107	Part B. Do.	Pasture	2.760	
108	Do.	Cottages and Gardens	.477	
				95.878
52	Sutton	Arable	15.235	
53	Do.	Road	.812	
54	Do.	Arable	3.795	
55	Do.	Do.		

Illustration xlvi: Farm Sale: particulars of sale, lot 6

U.3. **Description:** Particulars of sale for the auction of Winkland Oaks Farm and Appleton Farm on 26 September 1936.

U.4. The whole of the application way between C and E lies within lot 6, Winkland Oaks Farm. Between C and D, the application way is marked on the map, derived from the Ordnance Survey, and part of parcel numbers 107 and 90 but not separately identified; between D and E, it is allocated parcel number 53, and this is identified in the particulars as 'road'.

U.5. The application way between A and C lies partly within lots 1 and 2, Appleton Farm. From A to B, the way is partly coloured into lot 1. Between B and C, so much of the way which is enclosed or bounded by headland is included in lot 2, but the cross-field path beyond as far as C is excluded.

U.6. **Conclusion:** The description of the application way between D and E as 'road' is suggestive of a public right of way greater than a footpath. Only one other parcel in the particulars of sale is described as 'road', being the drive to Appleton Farm, which is not now recorded as a public right of way, but on which a public footpath terminates at its northern end, suggestive that public rights have been incorrectly omitted from the appropriate record.

U.7. The partial inclusion of Hangman's Lane between A and B in lot 1 appears to relate to the western half of the lane. This suggests that, historically, the halves of the lane belongs to the owners of the land on either side, which is a characteristic of ancient public ways with higher rights than on foot.

U.8. **Points:**

Part	Points
<i>Between A and C</i>	1
<i>Between C and E</i>	1