

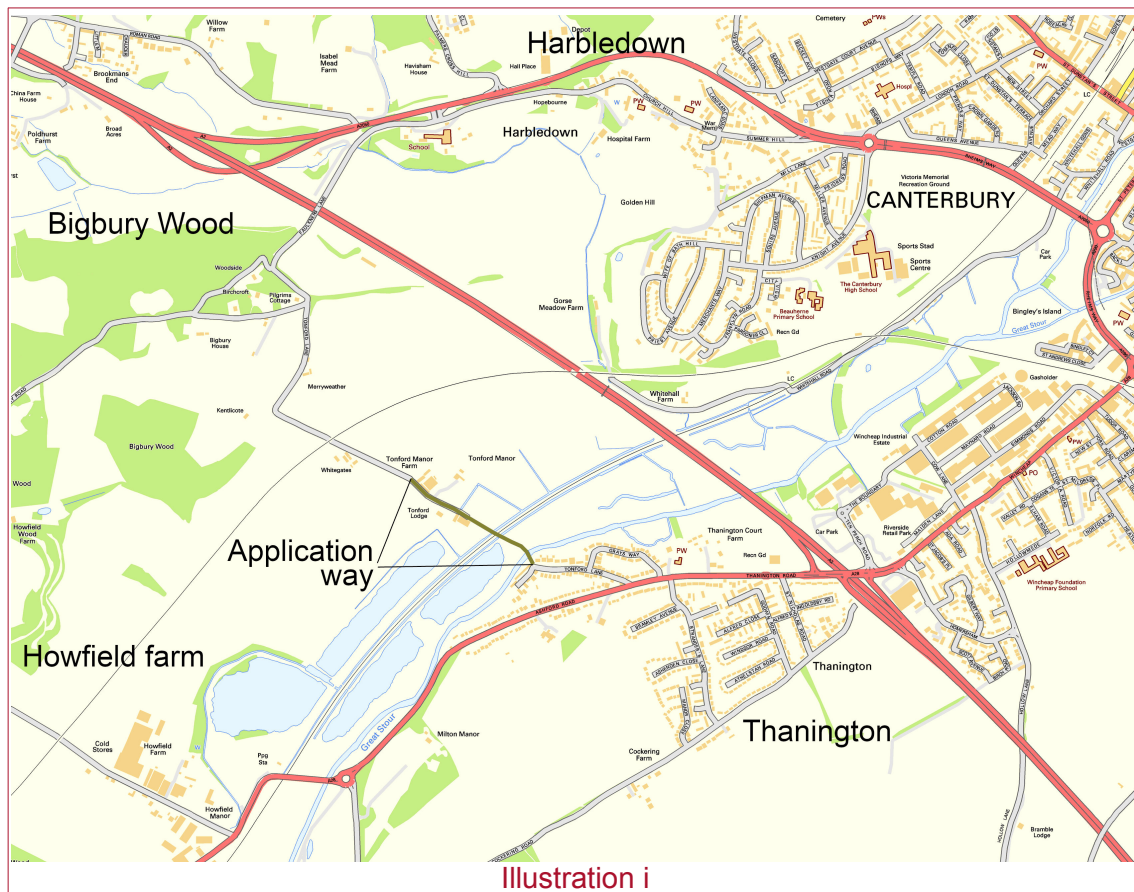
Tonford Lane: application to record a byway open to all traffic from Tonford Manor Farm to Hassall Reach, Thanington

Historical document analysis

I. Introduction

A. Quick reference

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



A.2. Parish of: Thanington

A.3. Ancient parish of: Thanington

A.4. Hundreds of: Westgate, Bridge and Petham

A.5. Termination points: Tonford Lane at Tonford Manor Farm (junction with footpath CB456); Tonford Lane at junction with Hassall Reach

A.6. Termination points Ordnance Survey grid references: TR12355703, TR12725677

A.7. Postcode: CT2 9BH

A.8. Ordnance Survey Explorer sheet: 150

A.9. Ordnance Survey County Series 25" sheet: Kent XLVI/6

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 historical researcher in relation to South and East Kent. I am a member of the Institute of Public Rights of Way and Access Management. I am employed as a casework officer for the Open Spaces Society, and was formerly a civil servant in the Department for Environment, Food and Rural Affairs (and predecessor departments), whose responsibilities included Part I of the Countryside and Rights of Way Act 2000 and the Commons Act 2006.

C. Locational details

C.1. This application relates to part of a way known as Tonford Lane, in the parish of Thanington in the district of Canterbury, Kent. The way is not currently recorded on the definitive map and statement. The application seeks to record the way as a byway open to all traffic.

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)(i) that a way should be added to the definitive map and statement for Kent as a byway open to all traffic.

D.2. The way is a continuation of Tonford Lane, which begins at the junction with Faulkners Lane, Bigbury. Tonford Lane crosses under the Faversham and Canterbury railway line (the upper railway crossing: see para.E.3 below) into the parish of Thanington, to reach a junction with footpath CB456 adjacent to Tonford Manor Farm. The application way begins at the junction, point A (at Ordnance Survey grid reference TR12355703) and continues along an enclosed road, Tonford Lane, south-east past Tonford Manor towards the Ashford and Canterbury railway line, crossing the line at B (TR12615687: the lower railway crossing), continuing in the same direction towards the Great Stour, then turning south south-east and crossing the river by both ford and footbridge at C (TR12715681), continuing in the same direction to a junction with Hassall Reach at D (TR12725677), where the application way ends. Tonford Lane continues east to a junction with the Ashford Road.

D.3. The points A to D are identified in the application map at part II below.

E. Nomenclature

E.1. The application way is known as Tonford Lane: it is referred to in this application as the 'application way'. Only part of Tonford Lane is included in this application.

E.2. Tonford Lane terminates, at its southern end, on the Ashford Road, A20. Formerly, before the construction of the Ashford Road as an improvement to the Ashford to Canterbury turnpike, the way continued south to Strangers Lane.

E.3. References to the upper and lower railway crossings are explained at para.F.5 below.

F. Background

Tonford ford

F.1. The ford across the River Great Stour on Tonford Lane very likely has been in use for several thousand years: indeed, Tonford is named for it ('Tonford' — the manor at the ford). Bigbury (or Bigberry) Camp, or hill fort, is an iron-age fort standing a little over one kilometre to the north-west of the ford, dating perhaps as far back as 300 BCE (it is possible that it was this fort which was laid waste by Caesar's expeditionary force in 55–54 BCE). The ford probably was one of the lowest reliable fording points across the Great Stour, particularly in an era when the tides reached almost to Canterbury. It is inevitable that, during the iron age when the camp was founded and occupied, there was access across the Great Stour to the south, and indeed, the position of the camp so close to the ford may show that the camp was intended to control the crossing.¹

F.2. Fords arise where there is a meeting of demand and physical capability — where there is sufficient need for a crossing, together with the capacity to make a reasonably safe crossing (at least in favourable conditions). Once established, a ford tends to endure, although it may be abandoned owing to deteriorating hydrological conditions, improved crossings elsewhere (such as a new bridge) or evolving patterns of movement.

F.3. And as a long-established ford, it is likely that the lines of communication on both sides of the Great Stour leading to Tonford Lane ford also are long-established — perhaps as old as the ford itself.

F.4. Tonford is a manor distinct from Thanington Court (which is on the other, south, side of the river), and known to have existed in 1215. It is impossible to confirm that the route taken, in pre-Roman times, between Bigbury Camp and Thanington and lands to the south of the Great Stour then lay along Tonford Lane. But Tonford Manor is a fortified manor house dating from the fifteenth century, located just to the north of Tonford Lane: it is inevitable that Tonford Lane itself must long have passed between Bigbury Hill and the ford along the line to the south of the manor house, and unlikely that its line significantly has changed.

Railway crossings

F.5. Tonford Lane is crossed twice, by two railways — the upper crossing is a bridge under the former London, Chatham and Dover Railway (Illustration iii at p.10 below),² and

1 Drawing on *Thanington — an introductory history*, Prof. Clive Church, 2015 (www.canterbury-archaeology.org.uk/download/i/mark_dl/u/4013261347/4637291182/THANINGTON%206.pdf), *The British Settlement in Bigbury Wood, Harbledown, Archaeologia Cantiana* (1874) 9:13–15 (kentarchaeology.org.uk/arch-cant/vol/9/british-settlement-bigbury-wood-harbledown), and *Bigberry Camp, Harbledown, Kent*, Ronald F. Jessup, in *The Archaeological Journal* (1932) 89: 87–115 (archaeologydataservice.ac.uk/archives/view/archjournal/contents.cfm?vol=89).

2 Authorised under the East Kent Railway Act 1853 (c.cxxxii, 16 & 17 Vict.), the East Kent Railway (Extension to Dover) Act 1855 (c.clxxxvii, 18 & 19 Vict) and the East Kent Railway (Extension to Dover) Amendment Act 1857 (c.lxxvi, 20 & 21 Vict.). The East Kent Railway was renamed the London, Chatham and Dover Railway in 1859.

the lower crossing is a level crossing over the former South Eastern Railway (Ashford to Ramsgate and Margate: Illustration vi and Illustration vii at p.10 below).³

F.6. The lower level crossing lies across the application way at point B, and is now passable only on foot and on cycle. It is not known at what date the level crossing was closed to vehicles, nor on what authority, but this appears to have occurred during the post-war period.

G. Grounds for application

G.1. The evidence for public carriageway rights over the application way is incontrovertible. A ford across the River Great Stour has probably existed at this site for over two millennia (Background at item I.F above). A way linking the ford to Bigbury Hill and Harbledown is shown on the earliest reliable maps from the late eighteenth century (items IV.A to IV.E below). The application way is identified on the map prepared under the Tithe Act 1836 (item IV.F below). The application way consistently is identified as a public road for various railways planned or actually built along Great Stour valley — two lines subsequently being constructed across Tonford Lane (items IV.G to IV.L below). The footbridge across the river at the ford has long been publicly maintainable, and appears to be an old Hundred bridge — maintainable at the expense of the administrative Hundred and later by the county council and not the parish vestry (Highway authority minutes at item IV.M below). Records prepared under the Finance (1909–1910) Act 1910 (item IV.O below) are inconclusive, but consistent with public rights over the application way. The application way was recognised as a public road expressly to be excluded from any right of way recorded under Part IV of the National Parks and Access to the Countryside Act 1949: draft map (item IV.Q below) on the instructions of the county council, and included on the Highway inspector's map of publicly-maintainable roads in 1952 (item IV.R below). Finally, the way remains today on the Highway authority list of streets (item IV.S below).

G.2. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another*,⁴ 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.'

³ Authorised under the South Eastern Railway (Ashford to Canterbury, Ramsgate and Margate Branch) Act 1844 (c.xxv, 7 & 8 Vict.).

⁴ [2012] EWCA Civ 334

G.3. 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.⁵

G.4. The correct test under section 53(3)(c)(i) is whether:

...the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is...subject to section 54A, a byway open to all traffic;

Section 54A is not yet in force. The surveying authority must therefore make an order consequent on this application where the evidence (of the application, taken with any other evidence) shows that there is a reasonable allegation of the existence of the application way.

G.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 highway reputation over many years, indicating that the route does indeed have highway status, and that there were and remain full vehicular rights.

H. Discovery of evidence

H.1. There is no evidence that the application way ever has formally been considered for inclusion on the definitive map and statement for Kent. It appears that it was excluded from the draft map and statement prepared under Part IV of the National Parks and Access to the Countryside Act 1949 on the grounds that it was a publicly-maintained road (see National Parks and Access to the Countryside Act 1949: draft map at item IV.Q below). Therefore, there has been no previous discovery of evidence for the purposes of section 53(2) of the 1981 Act, and the evidence disclosed in this application is wholly new evidence.

I. Status of highway

I.1. The application shows that the application way is a public carriageway. The application way is recorded as publicly maintainable in the list of streets held by Kent County Council under section 36(6) of the Highways Act 1980. The effect of section 67 of the Natural Environment and Rural Communities Act 2006 is to extinguish public rights for mechanically propelled vehicles unless any of the exceptions in section 67 apply. However, per subsection (2)(b), section 67:

...does not apply to an existing public right of way if—...immediately before commencement it was not shown in a definitive map and statement but was

⁵ [Consistency Guidelines](#): para.2.17.

shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense)

I.2. The entry for Tonford Lane in the list of streets for the Canterbury district (Highway authority list of streets at item IV.S below) in 2003 and 2020 shows that it was and remains in the list, and therefore was in the list immediately before the commencement date of 2 May 2006. There is some imprecision in the measurements shown in those entries which, taken together, do not account for the full length of Tonford Lane — but nor do they account for any identifiable part of it. In *Trail Riders Fellowship v Secretary of State for the Environment, Food And Rural Affairs*,⁶ Holman J observed that:

...the purpose of a LoS...is essentially to identify and record which streets are maintainable at public expense, but not, in contrast to a [definitive map and statement], precisely to delineate them.

I.3. Moreover, the ford across the Great Stour has long been accompanied by a foot-bridge, which may be of ancient origin (see Highway authority minutes at item IV.M below) and a ‘Hundred bridge’ (*i.e.* a bridge of such significance that formerly it was maintained not by the inhabitants of the parish, but by the larger Hundred), and which was and remains publicly maintainable. Thus, plainly, the whole of Tonford Lane has been recognised as publicly maintainable.

I.4. It therefore is contended that all of the application way appears, and at the relevant commencement date, appeared in the list of streets. Thus rights for mechanically-propelled vehicles have not been extinguished, and the way remains an all-purpose public carriageway.

I.5. It further is contended that the way satisfies the definition of a ‘byway open to all traffic’ in section 66(1) of the Wildlife and Countryside Act 1981:

“byway open to all traffic” means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used

I.6. Plainly, the way is not at the present time, and is not capable of being, used by vehicular traffic (save by cycles and by vehicles proceeding north-west from Tonford Manor and Tonford Manor Farm), and therefore ‘is used by the public mainly for the purpose for which footpaths and bridleways are so used’ — *i.e.* on foot and on cycle.

I.7. In the event that the surveying authority concludes that rights for mechanically-propelled vehicles are not proven, the authority in the alternative is asked to consider whether the order way satisfies, on the balance of probabilities, the test for a restricted byway, bridleway or footpath, as the case may be.

J. Points awarded

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

⁶ [2017] EWHC 1866 (Admin) at: www.bailii.org/ew/cases/EWHC/Admin/2017/1866.html.

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

J.2. Points:

Item	Ref	Points
Ordnance Survey surveyor's drawing, Canterbury (East)	IV.A	0
The History and Topographical Survey of the County of Kent	IV.B	3
Ordnance Survey, Mudge-Faden one-inch map of Kent	IV.C	1
Greenwood's map of Kent	IV.D	0
Ordnance Survey, Old Series one-inch map of Kent	IV.E	1
Tithe Act 1836	IV.F	0
Central Kentish Railway and Sandwich Docks	IV.G	5
Kent Railway	IV.H	1
Central Kent Railway	IV.I	1
South Eastern Canterbury Ramsgate and Sandwich Railway	IV.J	1
South Eastern Canterbury Ramsgate and Margate railway	IV.K	1
North Kent Railway continuation from Strood to Dover	IV.L	0
Highway authority minutes	IV.M	4
Ordnance Survey County Series 25-inch maps	IV.N	0
Finance (1909–1910) Act 1910	IV.O	0
Bartholomew's map	IV.P	1
National Parks and Access to the Countryside Act 1949: draft map	IV.Q	2
Highway inspector's map	IV.R	3
Highway authority list of streets	IV.S	2
Total points		26

K. Width of application way

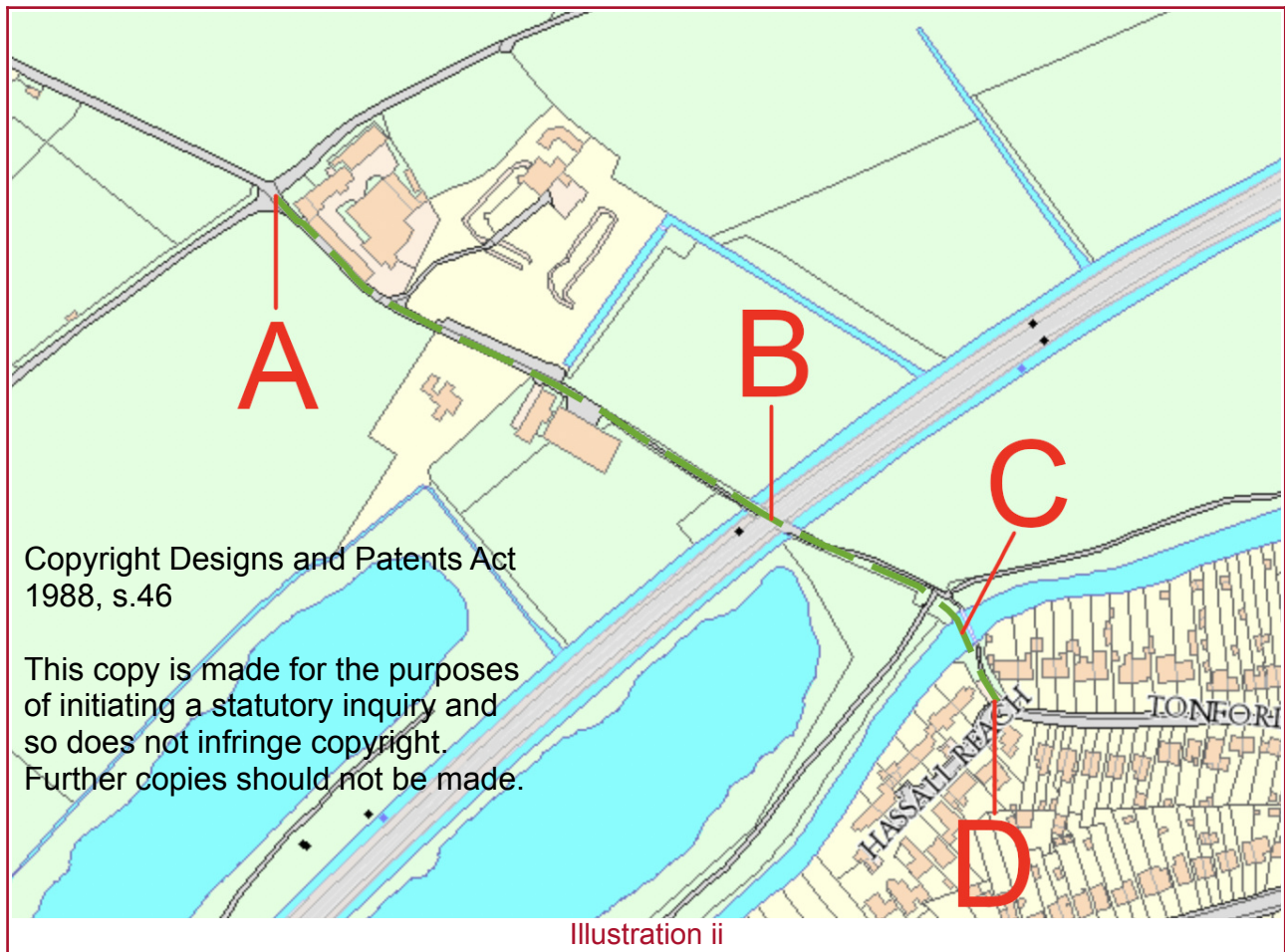
K.1. The application way generally has been unenclosed, although in the post-war period, enclosure has taken place. No record of historical width is available, and it is proposed that the application way should be recorded with the width shown on the current Ordnance Survey MasterMap, including the full width of both ford and footbridge between the north side of the ford at C, and D.

L. Limitations

L.1. The highway is subject to a level crossing and gates at B, but not necessarily the gates which are now installed.

L.2. The highway crosses the ford at C subject to the obligation of the highway authority to maintain the ford, and to maintain a footbridge adjacent to it.

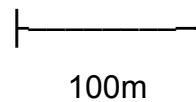
II. Application map



Map approximately centred on B at TR12615687

Scale: approx. 1:3,870 (when printed A4)

Application way is marked — — —



III. Along the way



Illustration iii: upper railway bridge



Illustration iv: railway crossing from NW



Illustration v: Tonford Manor Fm



Illustration vi: railway crossing



Illustration vii



Illustration viii



Illustration ix: ford and footbridge from NW



Illustration x: ford from footbridge



Illustration xi: ford from SE

IV. Evidence

Contents

A. Ordnance Survey surveyor's drawing, Canterbury (East).....	12
B. The History and Topographical Survey of the County of Kent.....	13
C. Ordnance Survey, Mudge-Faden one-inch map of Kent.....	15
D. Greenwood's map of Kent.....	16
E. Ordnance Survey, Old Series one-inch map of Kent.....	17
F. Tithe Act 1836.....	19
G. Central Kentish Railway and Sandwich Docks.....	21
H. Kent Railway.....	25
I. Central Kent Railway.....	27
J. South Eastern Canterbury Ramsgate and Sandwich Railway.....	35
K. South Eastern Canterbury Ramsgate and Margate railway.....	43
L. North Kent Railway continuation from Strood to Dover.....	46
M. Highway authority minutes.....	47
N. Ordnance Survey County Series 25-inch maps.....	49
O. Finance (1909–1910) Act 1910.....	51
P. Bartholomew's map.....	57
Q. National Parks and Access to the Countryside Act 1949: draft map.....	60
R. Highway inspector's map.....	61
S. Highway authority list of streets.....	64

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

A.1. **Date:** 1797

A.2. **Source:** British Library website⁸

Ordnance Survey Drawing

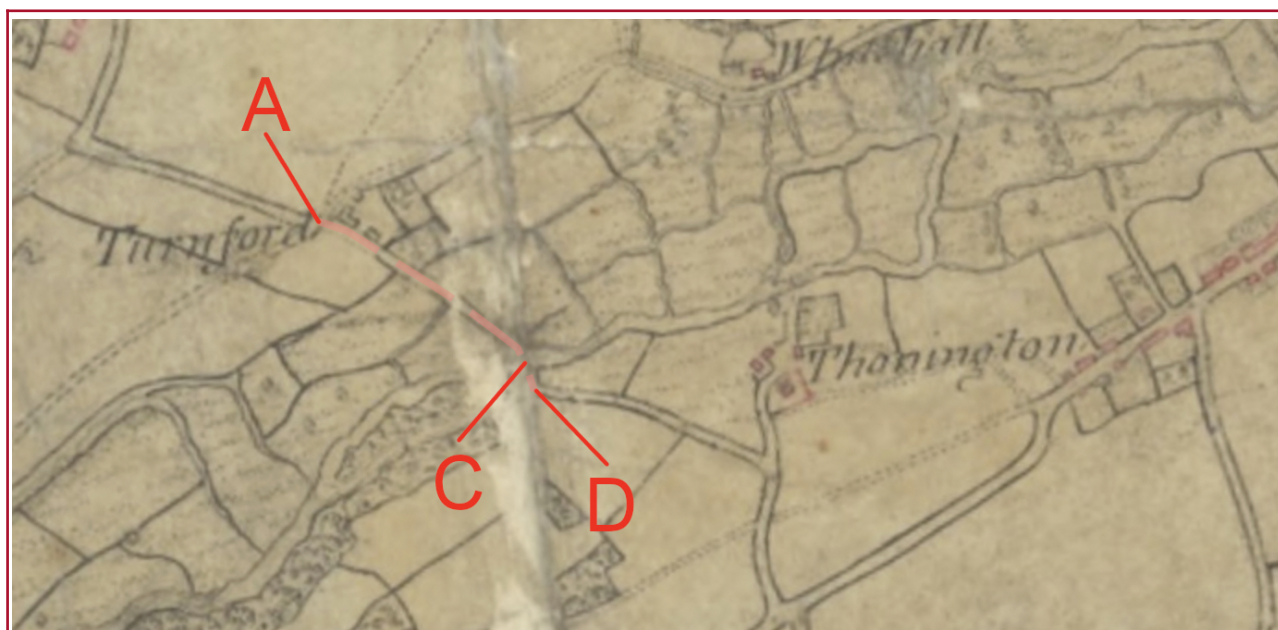


Illustration xii

8 Sheet 107/109: www.bl.uk/onlinegallery/onlineex/ordsurvdraw/c/002osd000000006u00370000.html

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

A.4. Facing the threat of invasion, the English government commissioned a military survey of the vulnerable south coast. An accurate map of Jersey had already been made, soon after a French attempt to capture the island in 1781, but this had been restricted to government use only. The new maps were to be published at the detailed scale of one inch to the mile. Responsibility for what became an historic venture fell to the Board of Ordnance, from which the Ordnance Survey takes its name. From its headquarters in the Tower of London, engineers and draftsmen set out to produce the military maps by a system of triangulation. The survey of Kent was first to go ahead. It began in 1795 under the direction of the Board's chief draftsman, William Gardner. Critical communication routes such as roads and rivers were to be shown clearly and accurately. Attention was paid to woods that could provide cover for ambush, and elaborate shading was used to depict the contours of terrain that might offer tactical advantage in battle. Preliminary drawings were made at scales from six inches to the mile, for areas of particular military significance, down to two inches to the mile elsewhere.⁹

A.5. The drawing shows the application way as part of a continuous Tonford Lane between Bigberry Wood to the north-west, and Thanington to the south-east. The drawing precedes the construction of the new turnpike (now the A24), and what is now Cockerling Road formed the main road along the Stour Valley.

A.6. **Conclusion:** The Ordnance Survey drawing is good evidence for the physical existence of the way. As the first road fording the Great Stour upstream of the city of Canterbury, it may be expected to be a significant local road, connecting lands on either side of the Stour valley.

A.7. **Points:** 0

B. The History and Topographical Survey of the County of Kent

B.1. **Date:** 1797–1801

B.2. **Source:** By William Hasted. Originally published by W Bristow in 12 volumes, Canterbury, 1800, and now available online. Maps separately held by Kent County Archives: engraved by William Barlow.

9 From the Curator's introduction to the Ordnance Survey drawings, British Library:
www.bl.uk/onlinegallery/onlineex/ordsurvdraw/curatorintro23261.html.

Barlow-Hasted map



B.3. **Description:** Original scale: not known; orientation: unchanged (north).

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

B.5. The map shows a way between Tonford Manor and Thanington across the Great Stour approximately corresponding with the application way.

B.6. In the accompanying volume 9, Hasted writes, in relation to the parish of Thanington:¹⁰

On the opposite, or northern side of the river, over which there is here a long wooden bridge for foot passengers only, and a ford, there is a large tract of meadows, and at the edge of them the manor and borough of Toniford.

B.7. **Conclusion:** The Barlow-Hasted map is good evidence for the existence of a defined way along the application route. The map was widely commercially published, and would tend to show through routes which were public highways. Moreover, the accompanying narrative for the parish of Thanington records that, in Hasted's time, there was a 'long wooden bridge for foot passengers'. Such a bridge could only have been installed and maintained at public expense, demonstrating the public status of the way itself.

B.8. **Points:** 3

¹⁰ Vol.9: www.british-history.ac.uk/survey-kent/vol9/pp21-27.

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

C.1. **Date:** 1801

C.2. **Source:** Kent County Archives, also available at Mapco.net

Mudge-Faden map

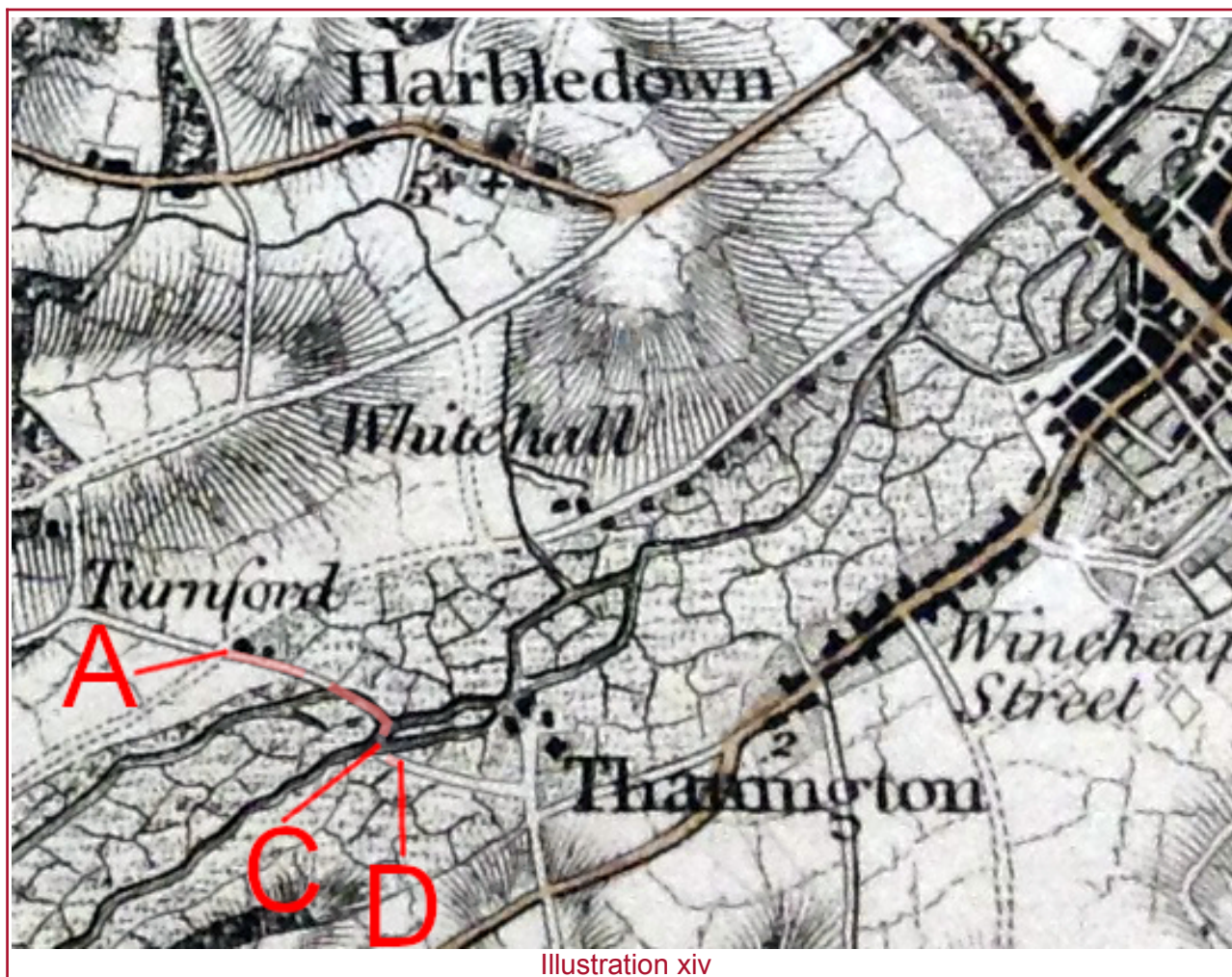


Illustration xiv

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

C.4. This map of Kent was the first map primarily to rely on the survey data collected in the Ordnance Survey surveyor's drawing, Canterbury (East) (item IV.A above). However, the Ordnance Survey did not itself publish a map of Kent until well into the nineteenth century: instead, this map was initially published on 1st January 1801 by William Faden, Geographer to the King, for sale to the public.

C.5. The application way appears as an enclosed road between 'Turnford' and Tharlington. The road appears to ford the river, with an extended part of the road subsumed in a northern channel of the river which now is dry.

C.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. It may be said that a through road of this kind is more likely to be public than private.

C.7. **Points:** 1

D. Greenwood's map of Kent

D.1. **Date:** 1819–20

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

Greenwood map

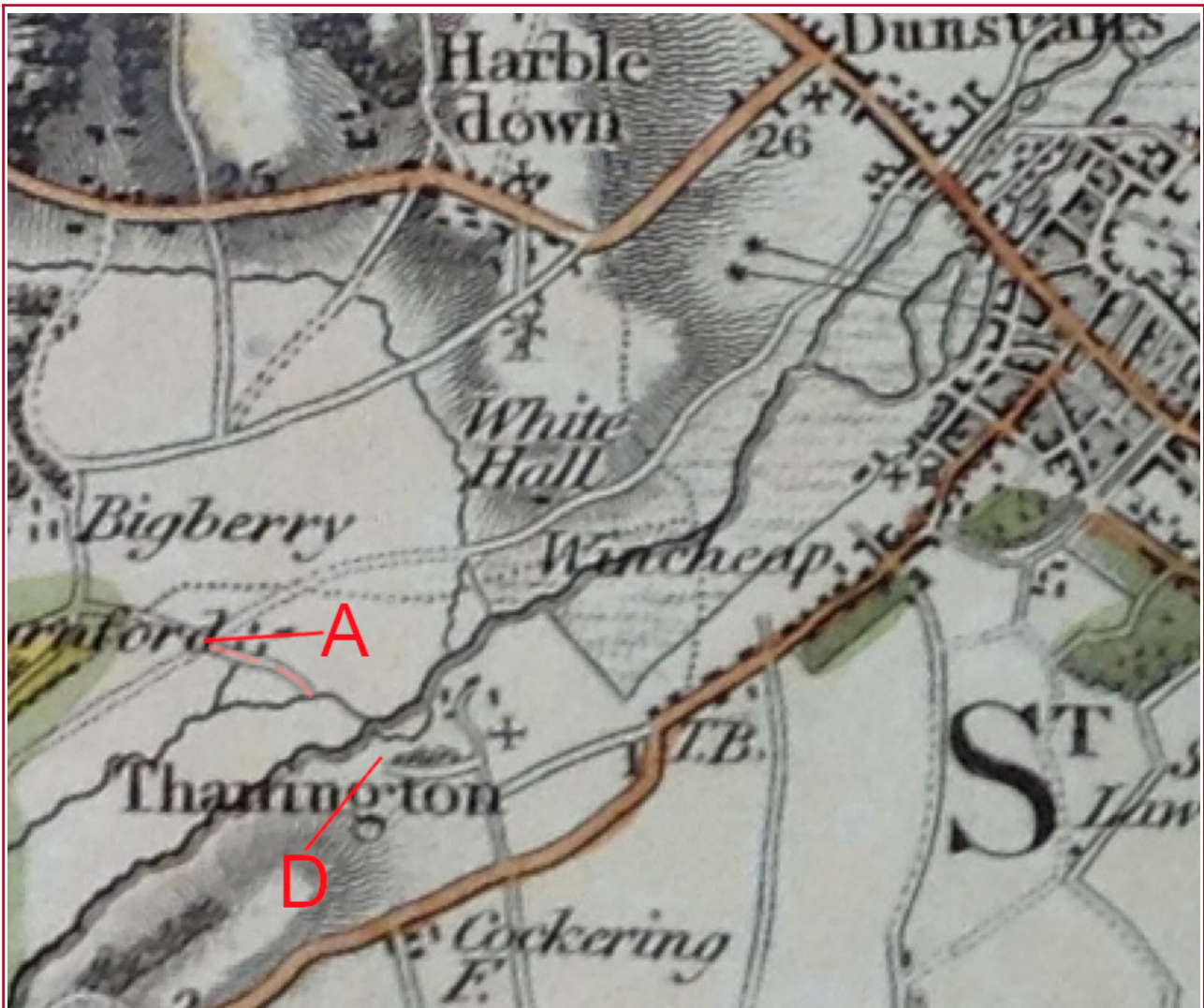


Illustration xv

Greenwood map key



D.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.

D.4. Christopher and John Greenwood were among the notable firms of publishers in the period 1820–50 who attempted to produce large-scale maps of the counties in competition with the Ordnance Survey. In the long run their efforts were unsuccessful but before giving up the struggle they published between the years 1817 and 1830 a series of splendid large-scale folding maps of most of the counties based on their own surveys. Unfortunately, they were unable to complete the series, but published large scale maps of all the counties except Buckinghamshire, Cambridgeshire, Herefordshire, Hertfordshire, Norfolk, Oxfordshire and Rutland.¹¹

D.5. The map shows part of the application way, south-east from Tonford, as far as the subsidiary channel of the Great Stour (as shown in the Ordnance Survey, Mudge-Faden one-inch map of Kent at item IV.C above).

D.6. **Conclusion:** The key to the Greenwood map records the application way as a 'cross road', suggestive of a public highway of inferior status to turnpike roads (separately marked). The continuation of the way along the channel and across the Great Stour may be omitted because it was always under water.

D.7. **Points:** 0

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

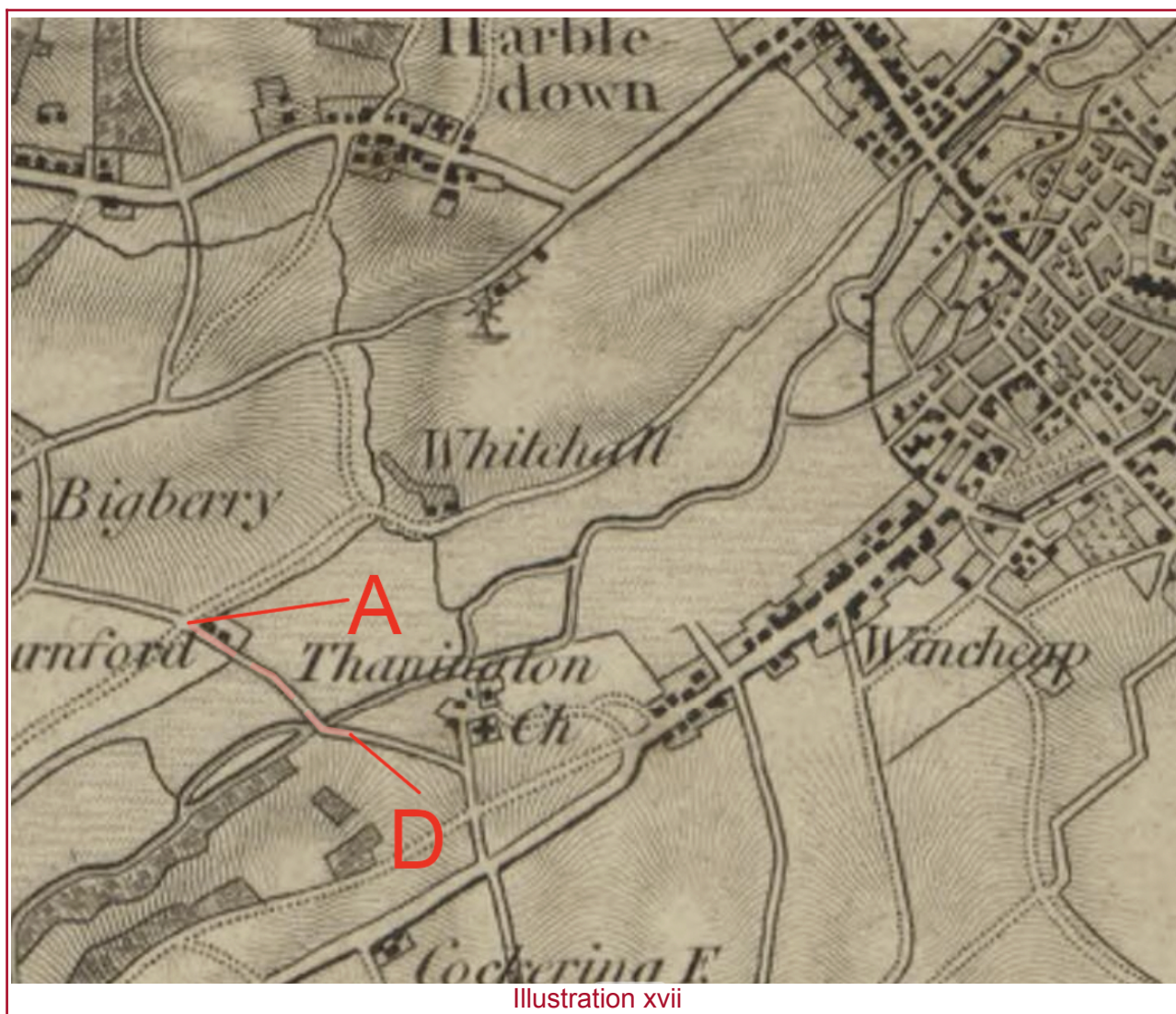
E.1. **Date:** 1831 (but survey dating from late eighteenth century)

E.2. **Source:** National Library of Australia¹²

¹¹ From *Antique Maps*, C Moreland and D Bannister, 1983.

¹² nla.gov.au/nla.obj-231917365

Ordnance Survey Old Series map



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

E.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.C above), the 'official' Ordnance Survey Old Series map was based on the same survey data, and is consistent with the Mudge-Faden map.

E.5. The application way appears as an enclosed road between 'Turnford' and Thanington. It is not clear to the reader of the map whether the road fords the river.

E.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.

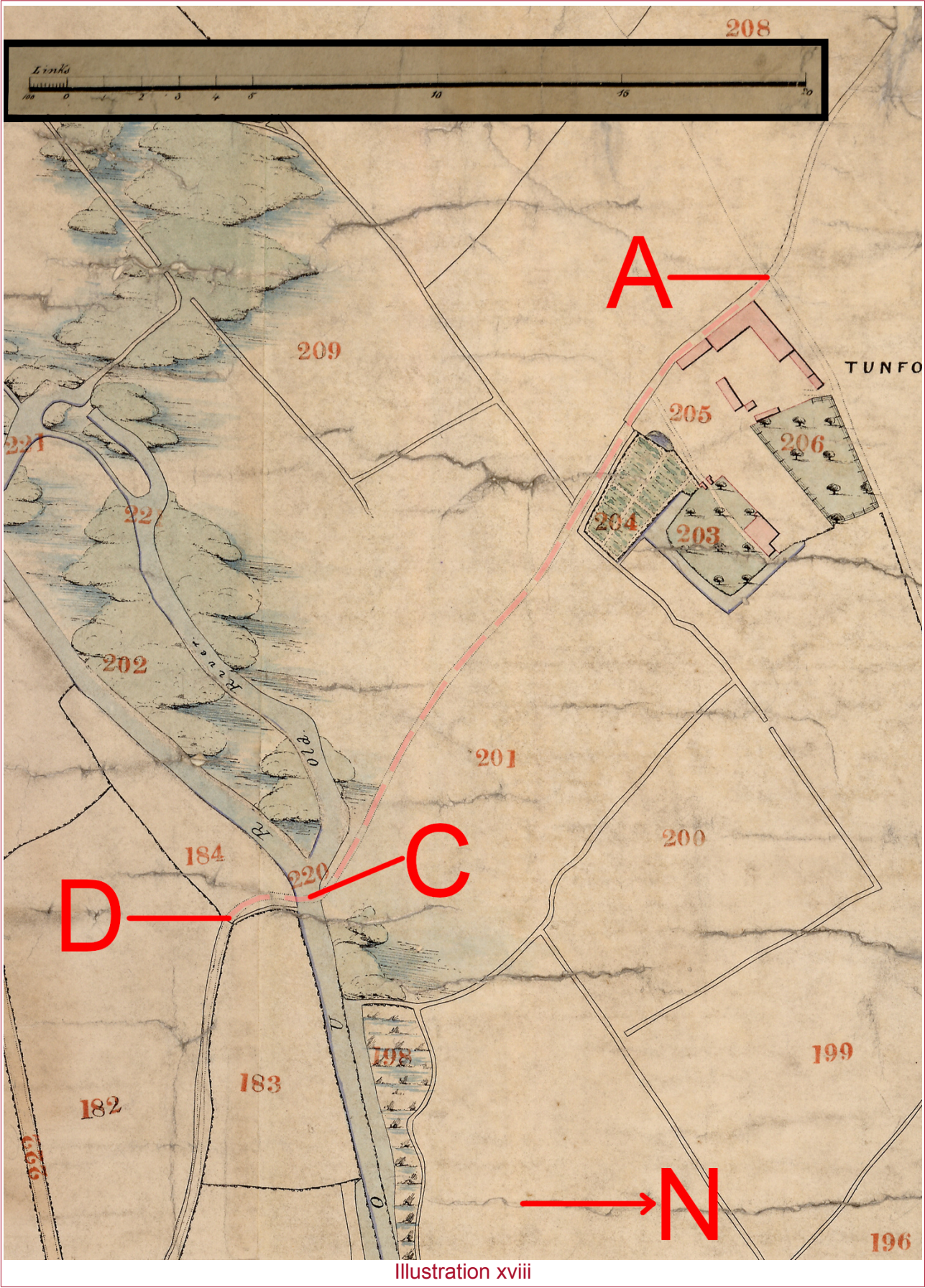
E.7. **Points:** 1

F. Tithe Act 1836

F.1. **Date:** 1838

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

Tithe map for Thanington



F.3. **Description:** Original scale — one inch to three chains (1:2,376); orientation — unchanged (top is south-west). The tithe map for Thanington is first class.¹³

F.4. The Tithe Act 1836 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 titheable land in order to assess the amount of money to be paid. An assessment of the tithe due and the payment substituted was set out in an apportionment. The 1836 Act was amended in 1837 to allow maps produced to be rated as either first class or second class.

F.5. 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.

F.6. The tithe process received a high level of publicity as landowners would be assiduous not to be assessed for a greater payment than necessary. In *Giffard v Williams*, it was said, referring to a tithe map and award:

...the Act of Parliament requires these things to be done, not in a corner, but upon notice in all the most public places; so that it is impossible to treat this document otherwise than as a public one, and as public evidence that at that time the owner of the undivided moiety of this field was aware of the facts.¹⁴

F.7. The application way is depicted on the tithe map as an apparently unenclosed way, past Tonford Manor Farm at A, over the ford at C, to the end of an enclosed road leading from Thanington church to D. The latter enclosed section is assigned the parcel number 223, which is not specified in the apportionment, but appears to be accounted for by roads.

F.8. **Conclusion:** The application way is shown on the tithe map, in continuation of an enclosed road assigned to a parcel number not assessed for tithe, but otherwise not distinguished from the fields over which it passes. It is not possible to infer whether the application way was deducted from the area of any parcel subject to assessment, and no conclusions can be drawn from the map.

F.9. **Points:** 0

G. Central Kentish Railway and Sandwich Docks

G.1. **Date:** 1836

G.2. **Source:** Kent County Archives¹⁵

¹³ See the record for this tithe apportionment held by the National Archives: [IR 30/17/367](#).

¹⁴ (1869) 38 LJ (Ch) 597 at 604, per Stuart V-C.

¹⁵ Q/RUm/142

Deposited plan

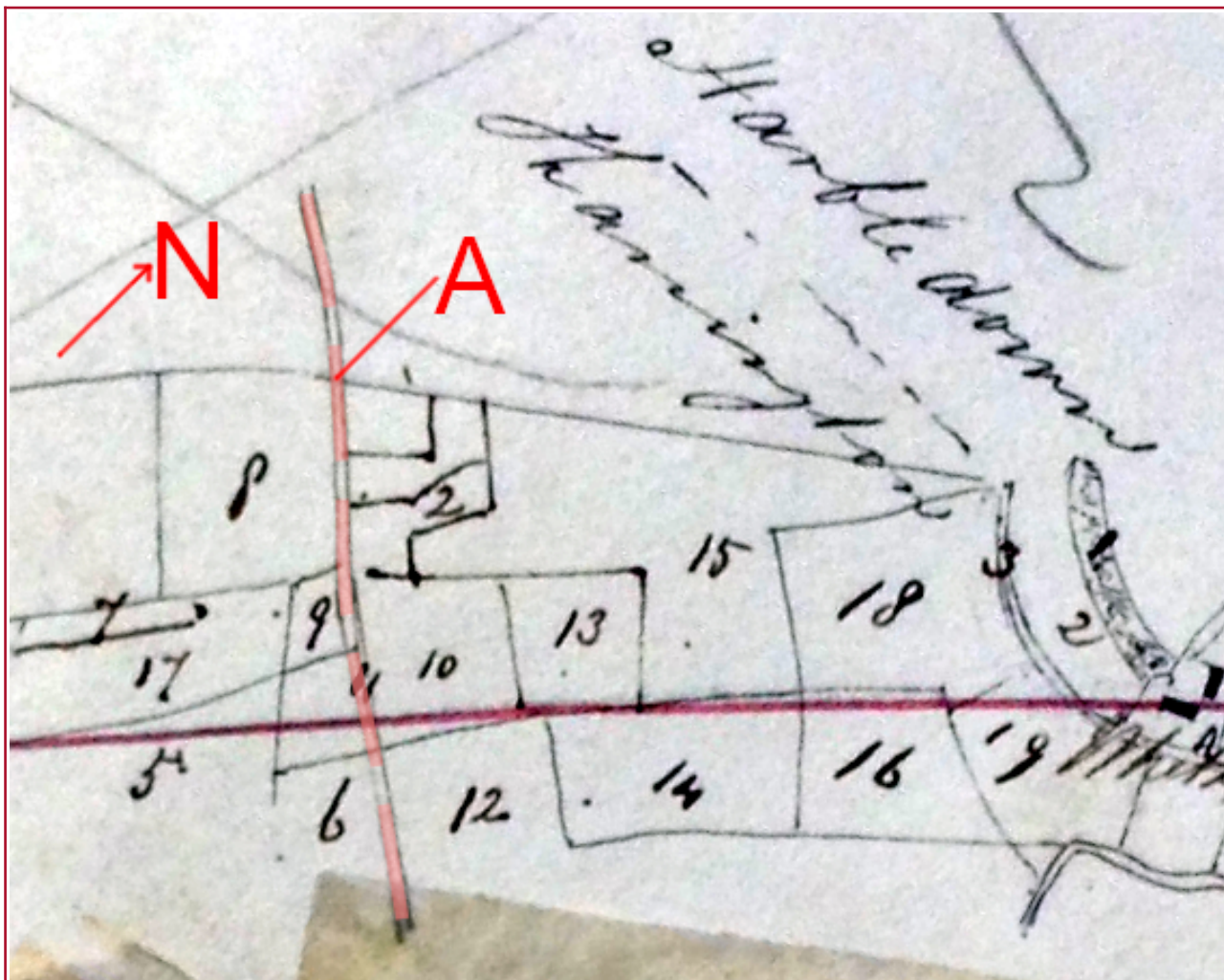


Illustration xix

Deposited plan (enlargement of Tonford Manor Farm)

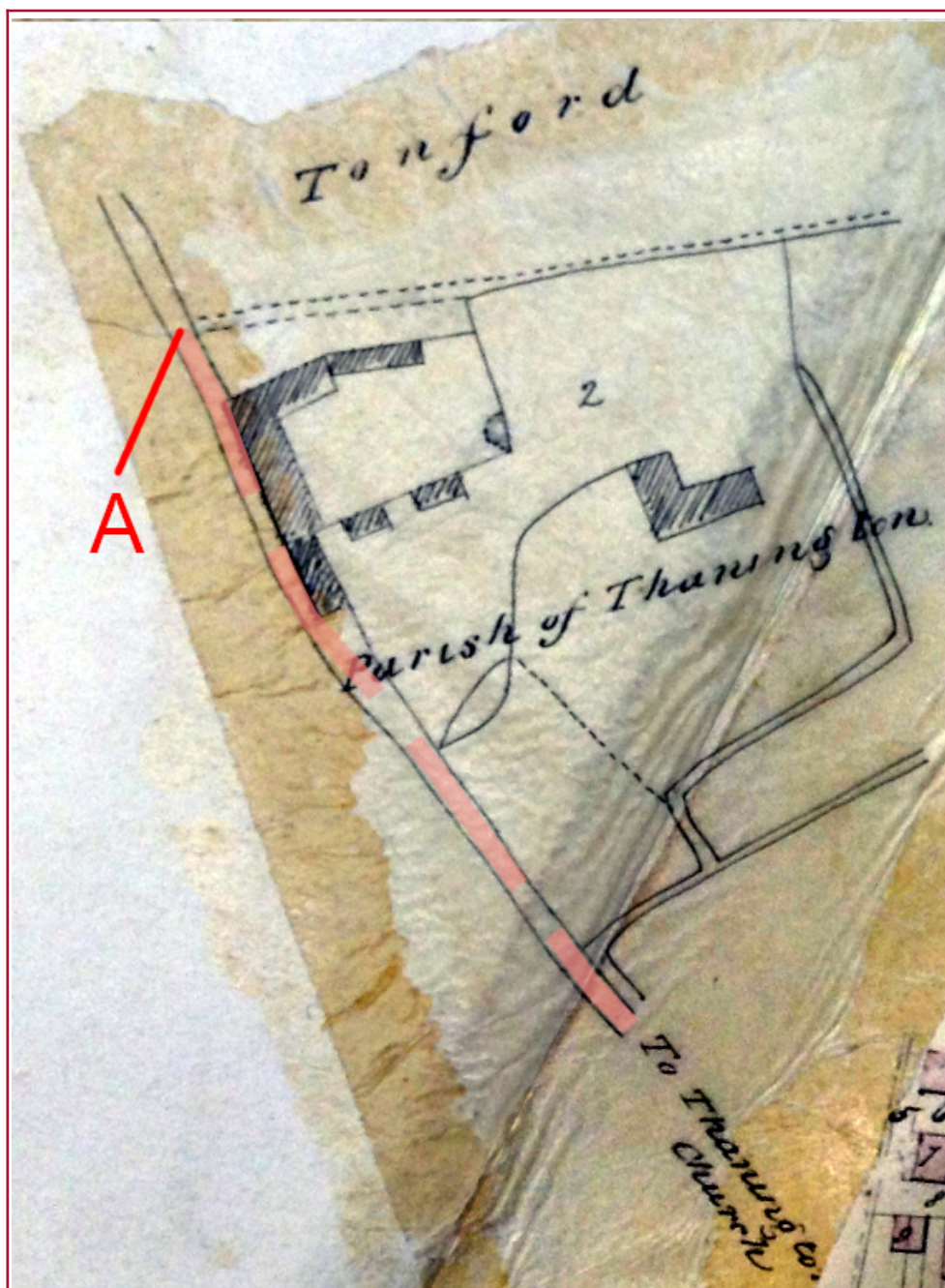


Illustration xx

Deposited book of reference

County of Kent Parish of Thanington				
No. on Plan.	Owners.	Lessees.	Occupiers.	Description of Property.
9.	George Gipps Esq.		Henry Bing	Marsh land
10.	The same		The same	Marsh land
11.	Surveyors of the Highways of Thanington			Carriage Road
12.	George Gipps Esquire		Henry Bing	Marsh land

Illustration xxi

Deposited section

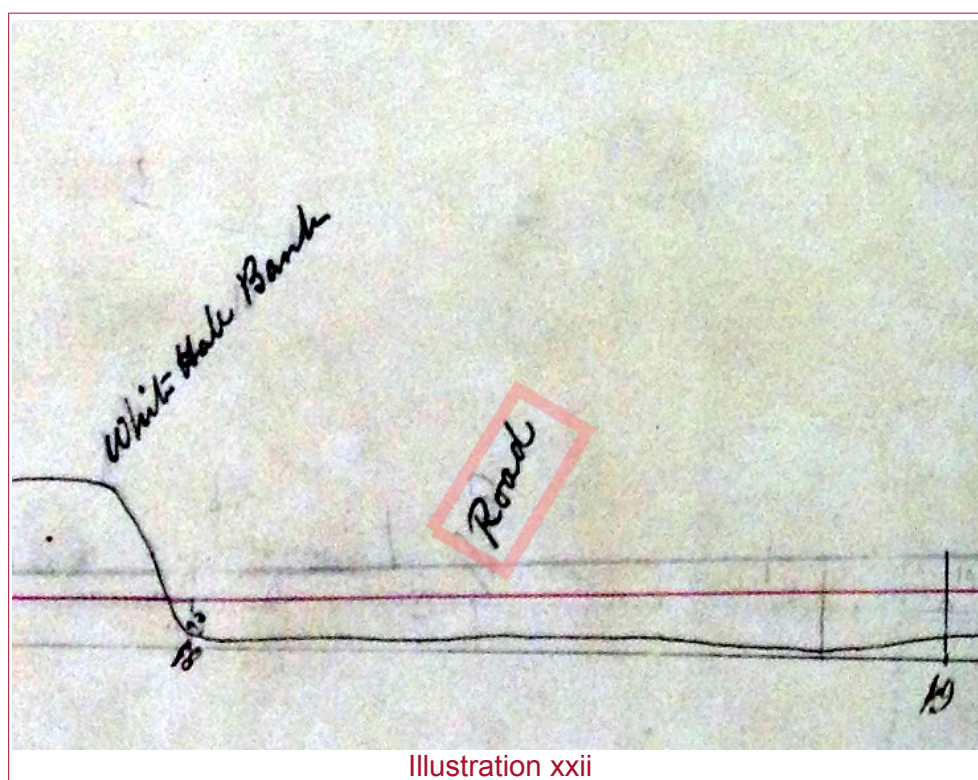


Illustration xxii

G.3. **Description:** Proposals were deposited in Parliament in 1836 for a railway between Greenwich and Sandwich via Ashford and Canterbury. The proposed line on the approach to Canterbury generally is contiguous with the present lower line of the two lines above the Great Stour (*i.e.* the former South Eastern Railway between Canterbury and Ashford). The proposals did not receive Royal Assent.

G.4. The deposited plan shows the application way between a point north of Tonford Manor Farm south-east towards the River Great Stour (which is not marked). The way is

shown crossed by the railway to the south of Tonford Manor. An enlargement of Tonford shows the way in detail, with the buildings of Tonford Manor Farm forming the north-east boundary of the way; the way is labelled with the destination: 'To Thanington Church'.

G.5. The way is labelled as parcel 11, and in the deposited book of reference, the parcel is described as 'Road to Thanington Church' owned by the Surveyors of Highways of Thanington. In the section, the way is shown merely as a 'Road'.

G.6. **Conclusion:** The plans identify the application way as a road owned by the surveyors of highways, which leads to Thanington church (the church is on the Ashford Road about 250m east of the junction with Tonford Lane). The way must therefore be a public road which lies across the Great Stour.

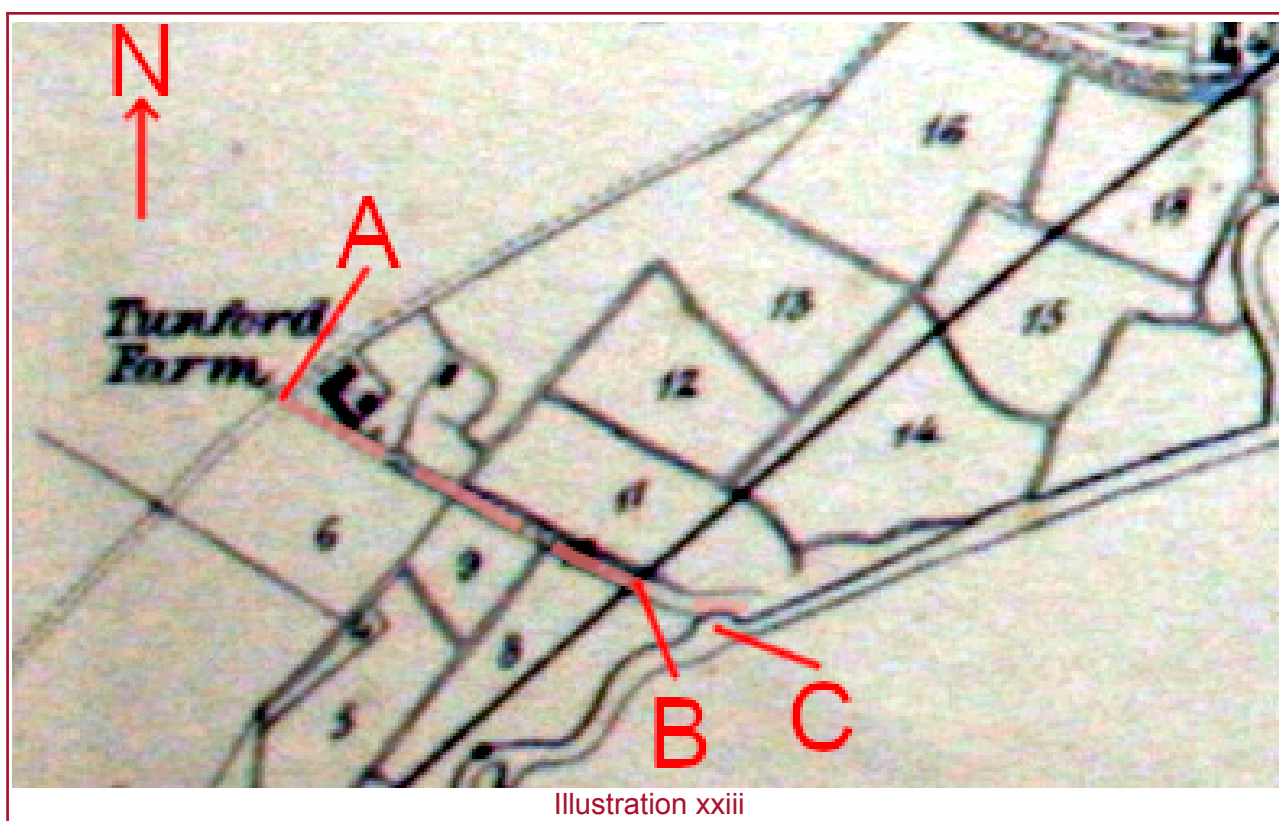
G.7. **Points:** 5 (being the earliest railway record)

H. Kent Railway

H.1. **Date:** 1836

H.2. **Source:** Kent County Archives¹⁶

Deposited plan



Deposited book of reference

County of <i>Kent</i>		Parish of <i>Thanington</i> ⁵⁵		
No. on Plan.	Description of Property.	Owner or reputed Owner.	Lessee.	Occupiers.
<i>9</i>	<i>Meadow</i>	<i>The same</i>		<i>The same</i>
<i>10</i>	<i>Road to Thanington Church</i>	<i>Surveyors of Highways</i>		
<i>11</i>	<i>Meadow</i>	<i>George Gypis</i>		<i>The same</i>

Illustration xxiv

Deposited section

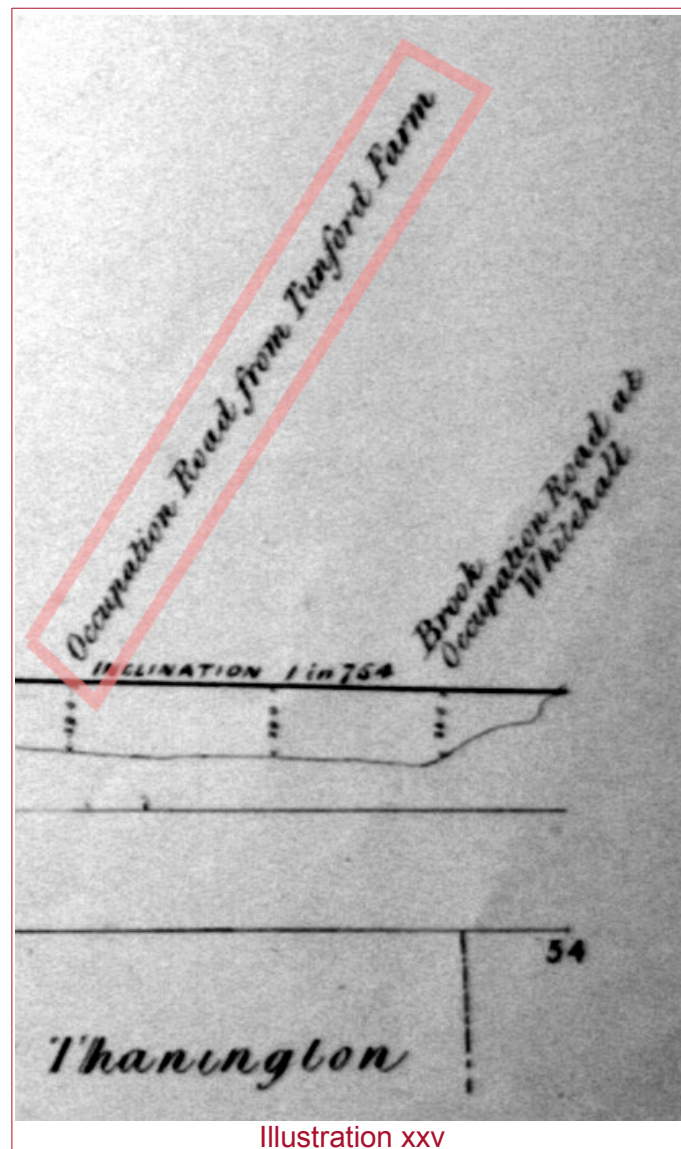


Illustration xxv

H.3. **Description:** Proposals were deposited in 1836 for a railway between Deptford and Ramsgate (with a branch to Dover) via Faversham and Canterbury, and the line would have approached Canterbury via Chilham and the Stour valley. The proposed line on the approach to Canterbury generally is contiguous with the present lower line of the two lines above the River Great Stour (*i.e.* the former South Eastern Railway between Canterbury and Ashford). The proposal did not receive Royal Assent.

H.4. The deposited plan shows the application way between Tonford Manor Farm (described on the plan as Tunford Farm) and the Great Stour. The way is shown crossed by the railway in the vicinity of the present crossing at B. No ford across the Great Stour is shown at C. However, the way is labelled as parcel 10, and in the deposited book of reference, the parcel is described as 'Road to Thanington Church' owned by the Surveyors of Highways.

H.5. **Conclusion:** The plans identify the application way as a road owned by the surveyors of highways, which leads to Thanington church (the church is on the Ashford Road about 250m east of the junction with Tonford Lane). The way must therefore be a public road which lies across the Great Stour.

H.6. **Points:** 1 (not being the first railway plan)

I. Central Kent Railway

I.1. **Date:** 1837–40

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

17 Q/RUm/152, 163 and 179

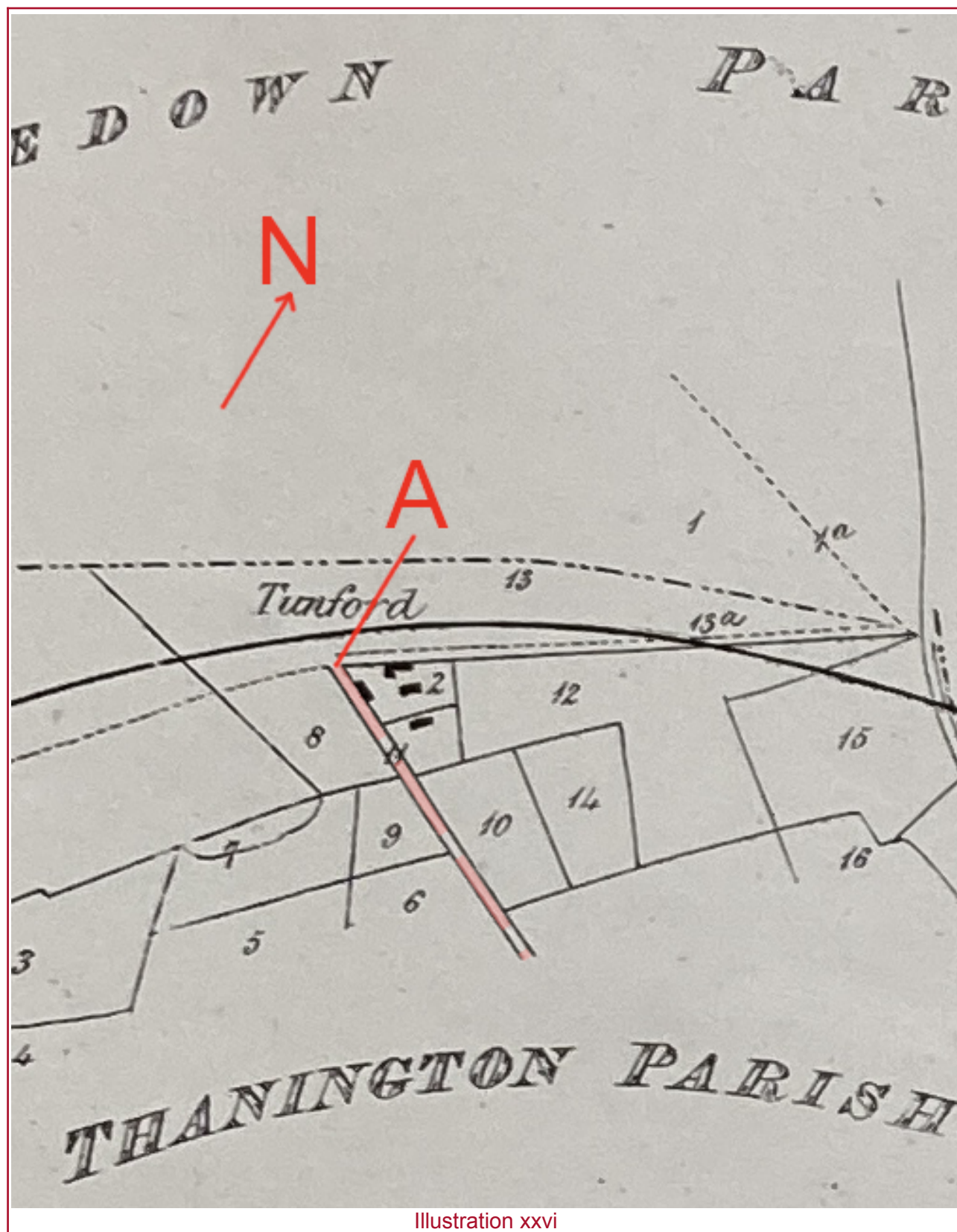


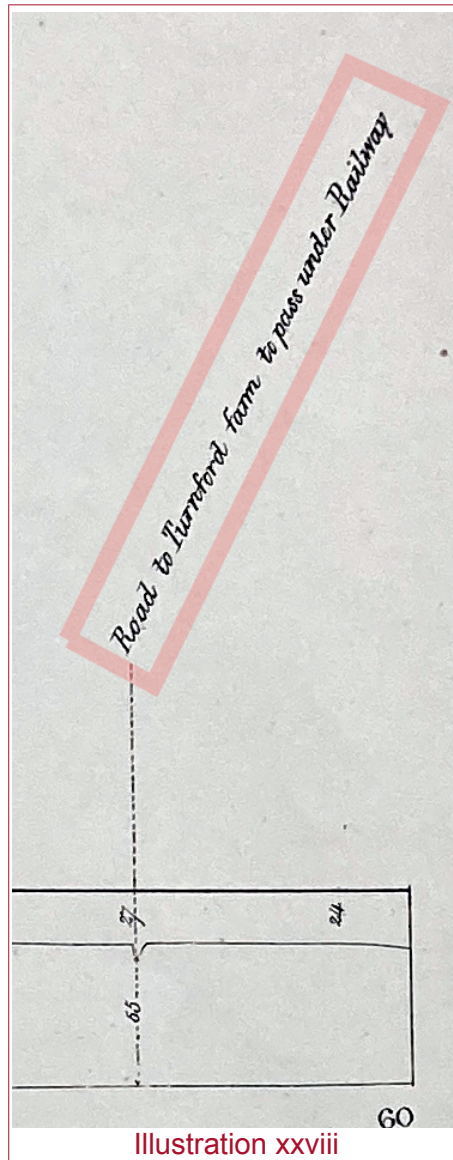
Illustration xxvi

Deposited book of reference 1837

<i>N^o on plan</i>	<i>Owners</i>	<i>Lessees</i>	<i>Occupiers</i>	<i>Description of property</i>
40	George Giffys		William Pidduck	Achle
40 ^a	Same		Same	Footpath and Occupation Road
<i>Parish of Tharlington</i>				
10	Same		Same	Same
11	Surveyors of Highways }			Carriage Road to Tharlington Church
12	George Giffys		Henry Byng	pasture

Illustration xxvii

Deposited section 1837



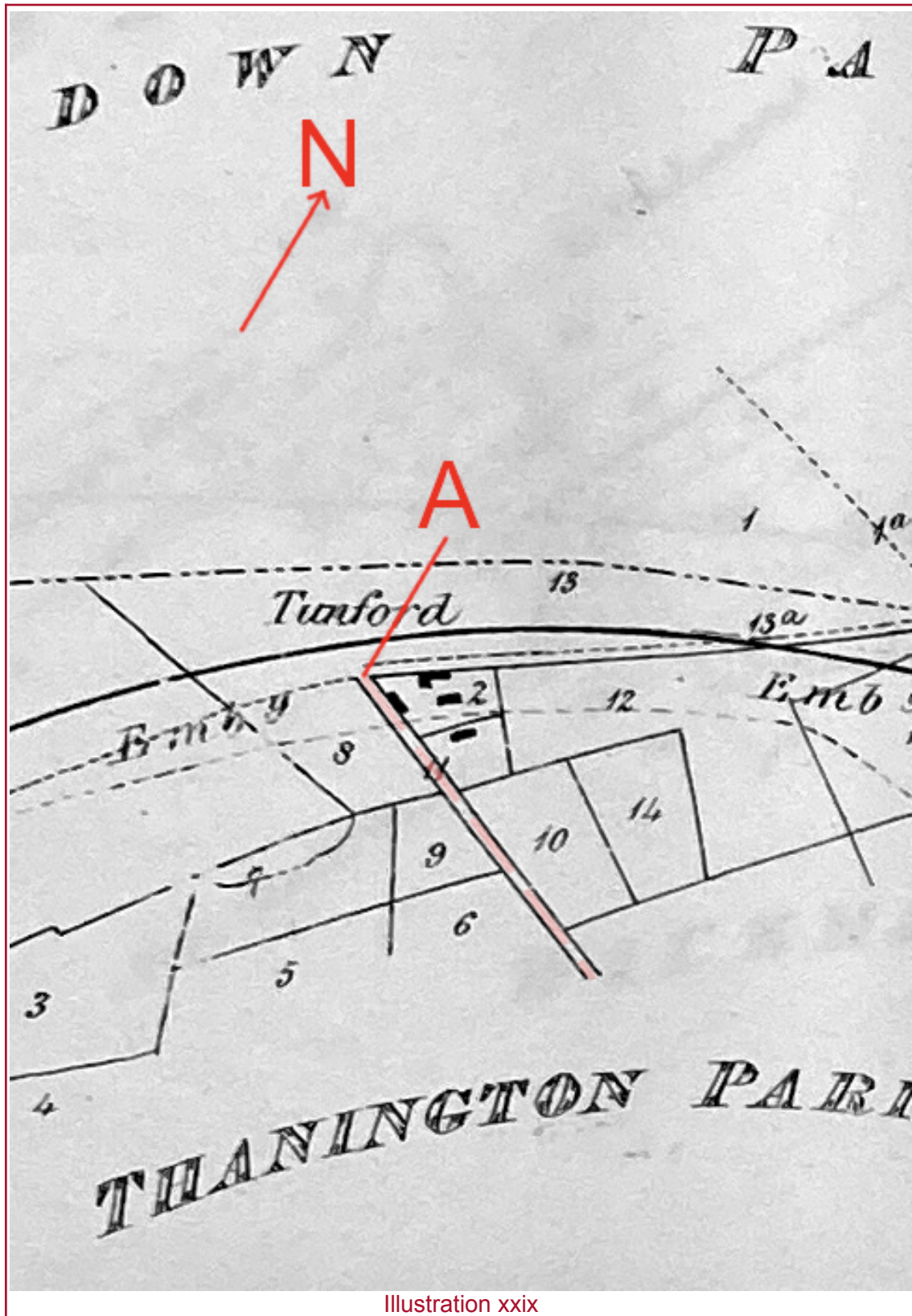


Illustration xxix

Deposited book of reference 1838

Parish of Thanington			
100			
Owners	Leases	Occupiers	Description of Property
10 Same		Henry Bryng	Carrage Road to
11 Surveyors of Highways		Same	Thanington Church
		Same	Pasture
12 George Gipps		Same	Arable
13 Same		Thomas F.	Footpath through 13
			Meadow

Illustration xxx

Deposited section 1838

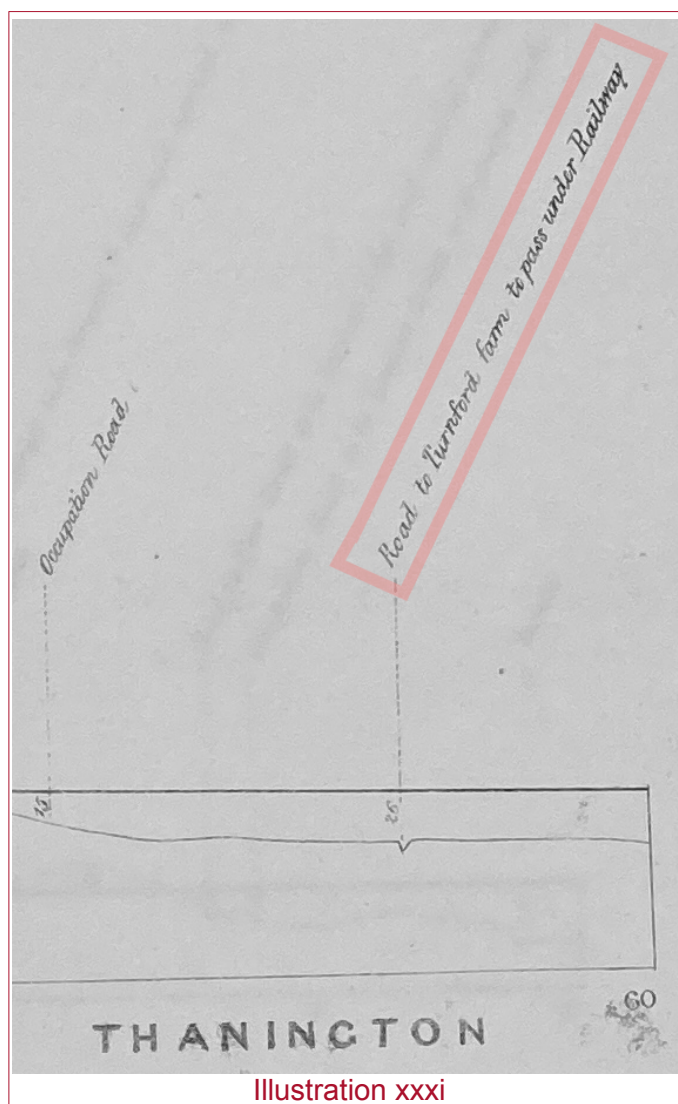


Illustration xxxi

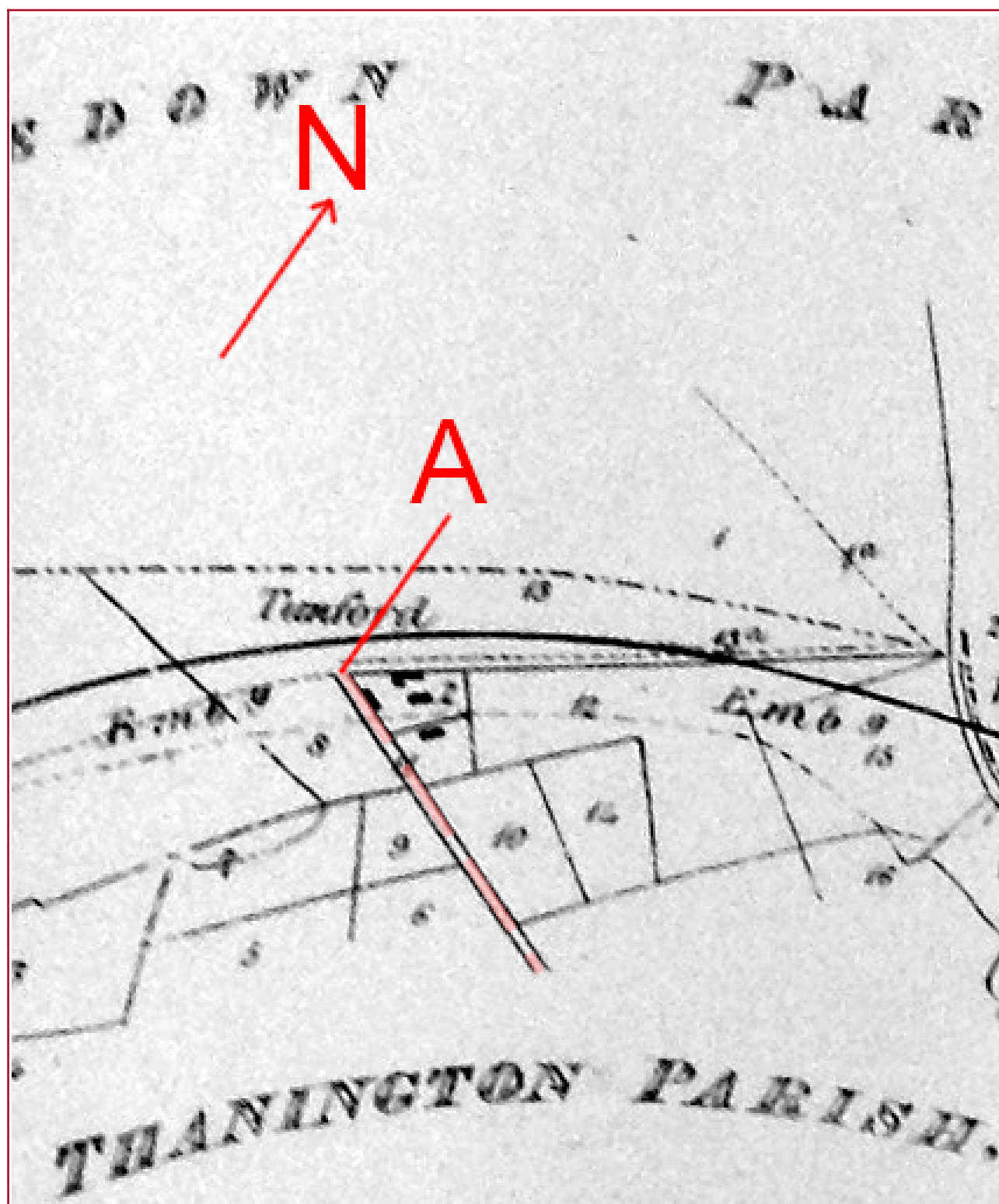


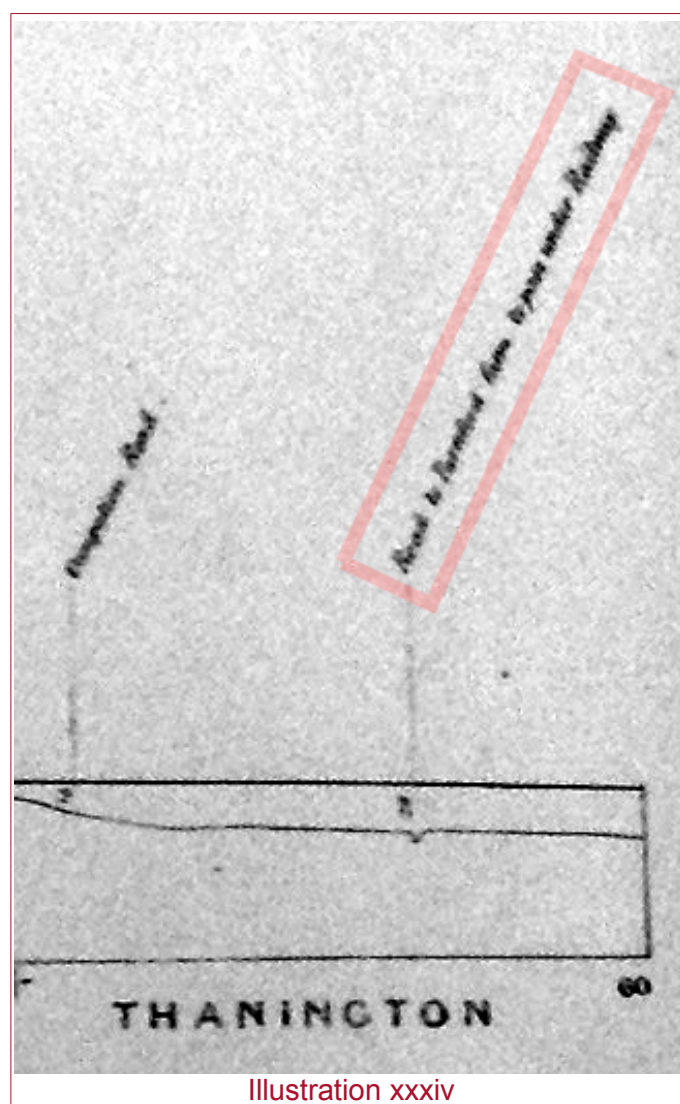
Illustration xxxii

Deposited book of reference 1839–40

Parish of Thanington.				
10	Same	Same		Same
11	Carriage Road to Thanington Church	Surveyors of Highways		
12	Pasture			Henry Berra

Illustration xxxiii

Deposited section 1839–40



I.3. **Description:** Proposals for the Central Kent Railway were deposited in each of the years 1837, 1838 and 1839, for a line from Deptford to Sandwich via Maidstone, then north of Ashford and through Canterbury, and approximately corresponding to the present course of the former South Eastern Railway line between Ashford and Canterbury (being

the lower of the two lines above the Great Stour),. None of the proposals received Royal Assent, and further proposals were deposited in later years.

I.4. The plans for the 1837 proposal show the application way to the south-east of A at Tonford Manor Farm, and the proposed railway would have crossed Tonford Lane slightly north of A. The plans leave the application way north of A unmarked, although referred to in the section as requiring a bridge. The application way is labelled as parcel 11, and in the book of reference it is identified as: 'Carriage Road to Thanington Church' and owned by the surveyor of highways. The section identifies Tonford Lane (*i.e.* north of A) as a 'Road to Turnford (*sic*) farm to pass under Railway'.

I.5. The plans for the 1838 proposal are similar, although the entry in the book of reference also refers to Henry Byng as the occupier of the land.

I.6. The plans for the 1839 proposal are also similar, with the identical entry in the book of reference, save that the occupier is once again omitted and left blank.

I.7. **Conclusion:** The plans identify the application way as a carriage road owned by the surveyor of highways, which leads to Thanington church (the church is on the Ashford Road about 250m east of the junction with Tonford Lane). The way therefore must be a public road which lies across the Great Stour.

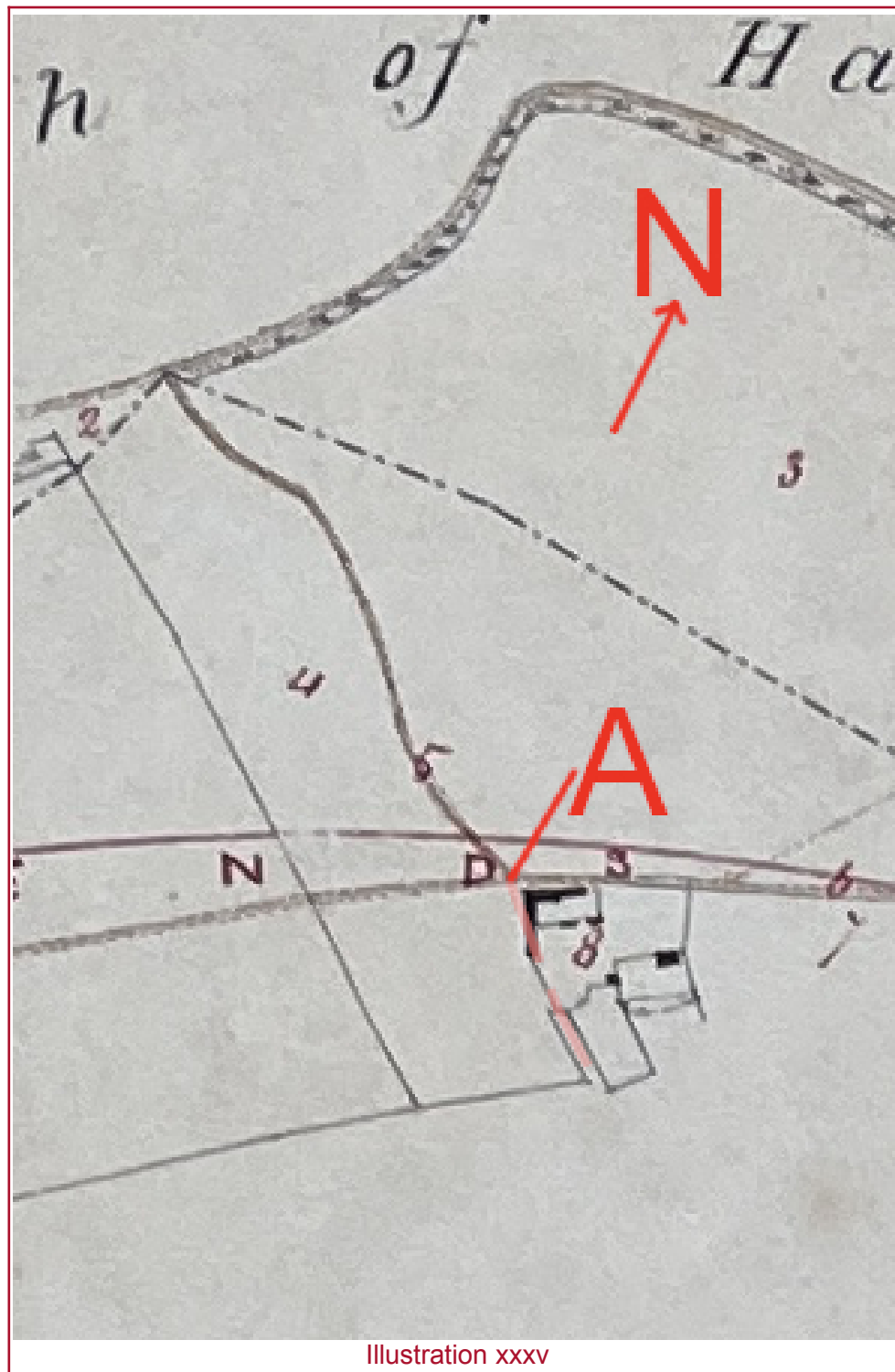
I.8. **Points:** 1 (not being the first railway plan)

J. South Eastern Canterbury Ramsgate and Sandwich Railway

J.1. **Date:** 1836–40

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

¹⁸ Q/RUm/144, 149 and 192



Deposited section 1836

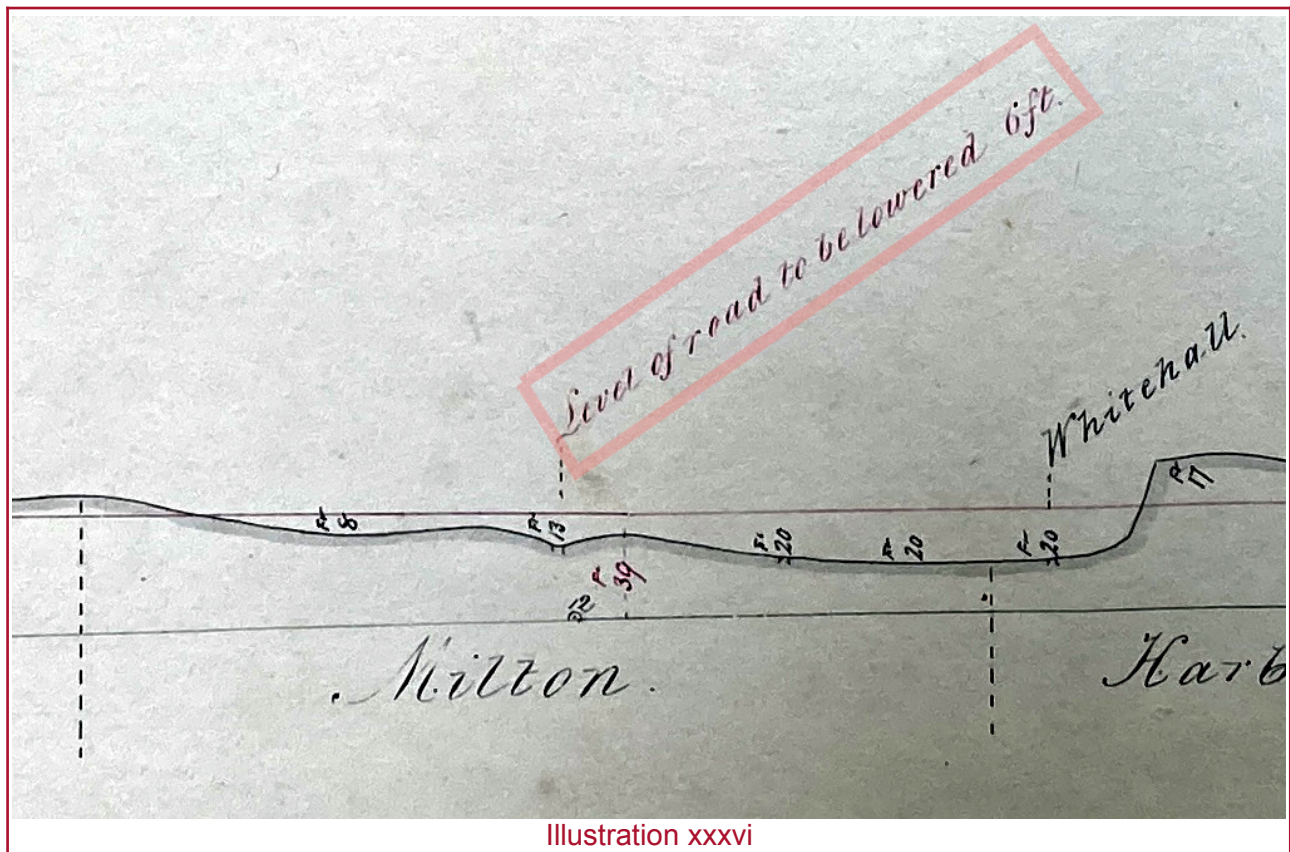
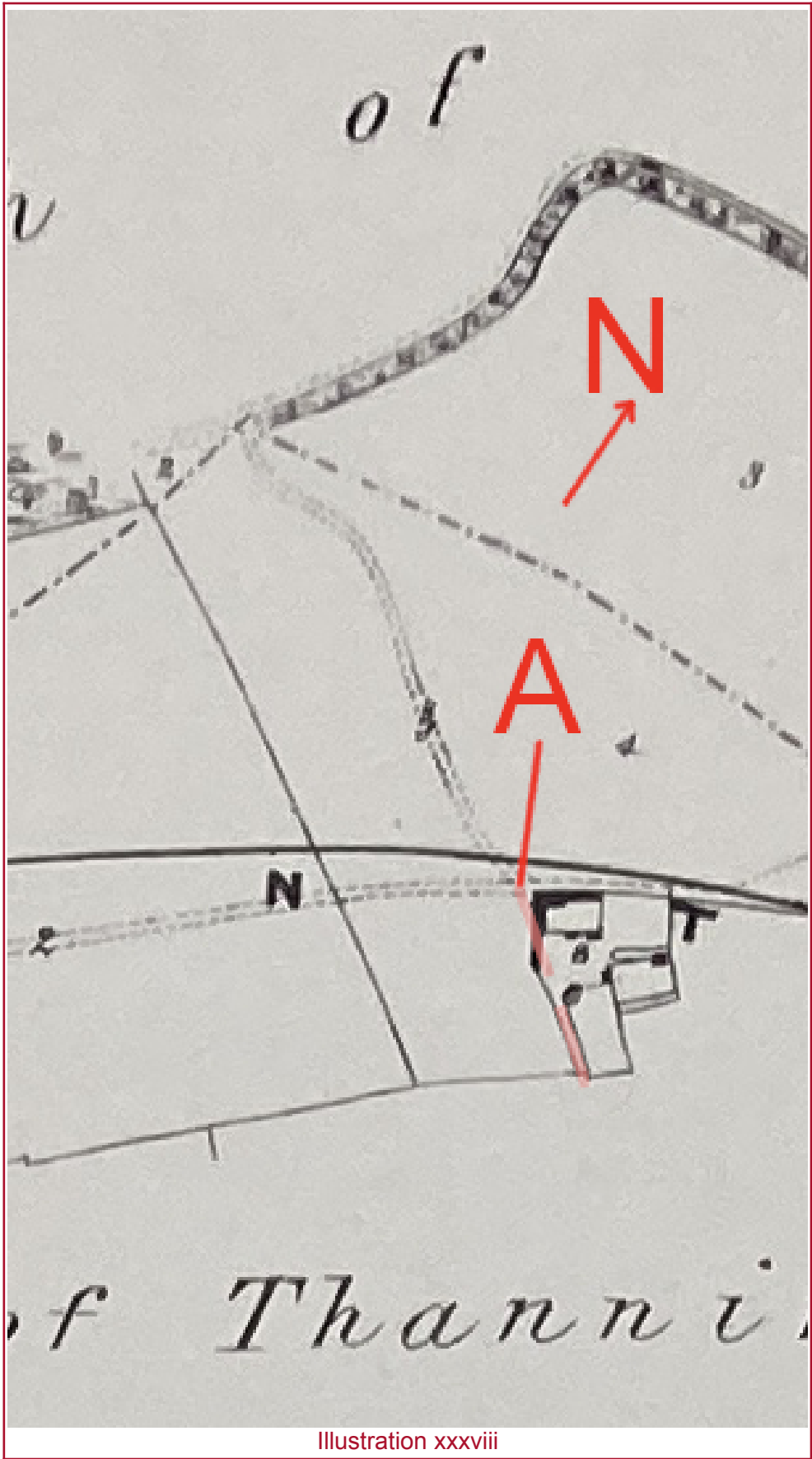


Illustration xxxvi

Deposited book of reference 1836

Parish of Tharlington. In the County of Kent and in the County of the City of Canterbury.				
No	Description of Property	Owners	Leases	Occupiers
1	Arable land	George Gips		William Pidduck
2	Road leading from Howfield to Canterbury	George Gips		
3	Drove way from Howfield to Marshes	George Gips		William Pidduck
4	Arable field	George Gips		Henry Bing
5	Parish Road from the Ashford and Canterbury Turnpike road into Bigberry Wood	The Surveyors of Highways		

Illustration xxxvii



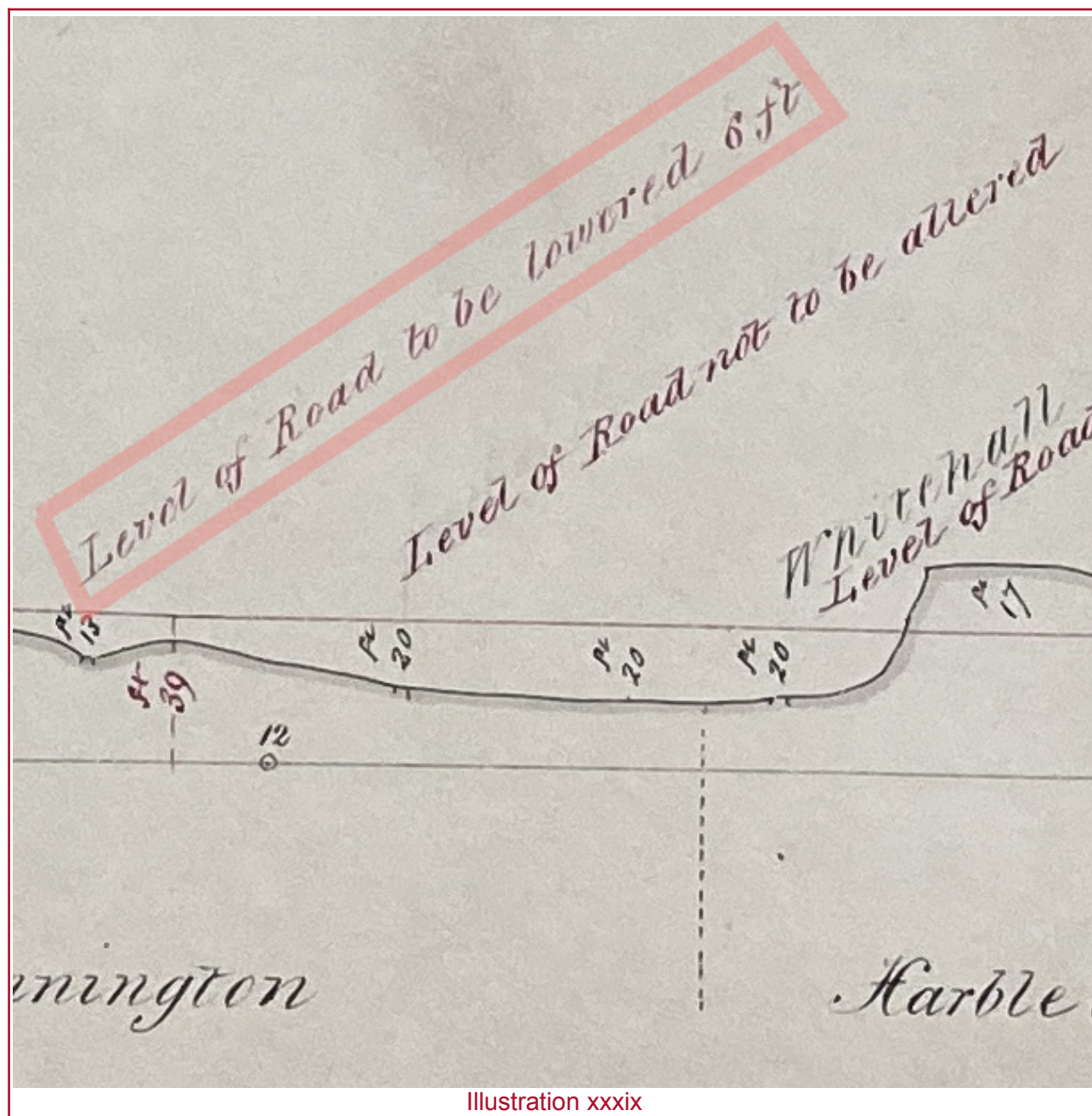


Illustration xxxix

Deposited book of reference 1837

Parish of Thanington
In the County of Kent and in the County of the City of Canterbury

<i>No</i>	<i>Description of Property</i>	<i>Curse</i>	<i>Leases</i>	<i>Occupiers</i>
1	Arable field	George Gypss		William Pidduck
2	Road from Houghfield to Canterbury	George Gypss		William Pidduck
3	Driveway from Houghfield to Marshes	George Gypss		Henry King
4	Arable Field	George Gypss		
5	Parish Road from the Ashford and Canterbury Turnpike Road into Bighelm Wood	The Surveyors of Highways		
6	Road from Houghfield to Canterbury	George Gypss		Henry King
7	Pasture field	George Gypss		

Illustration xi

Deposited plan 1840

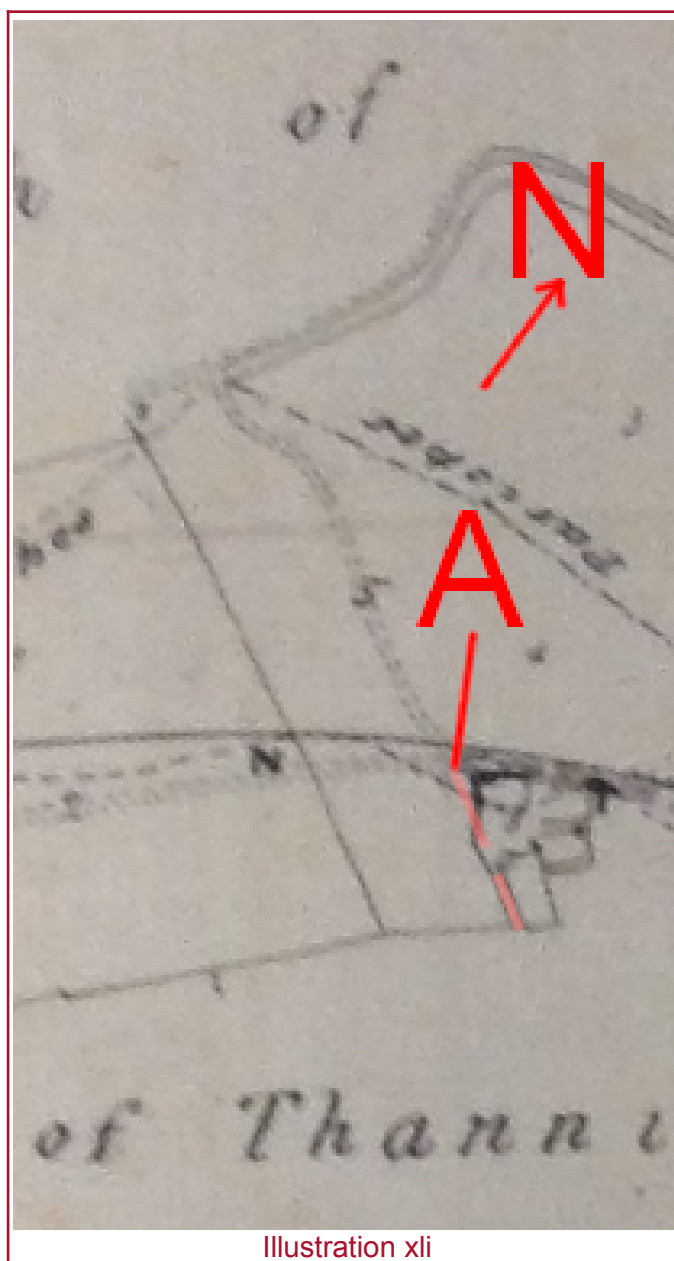
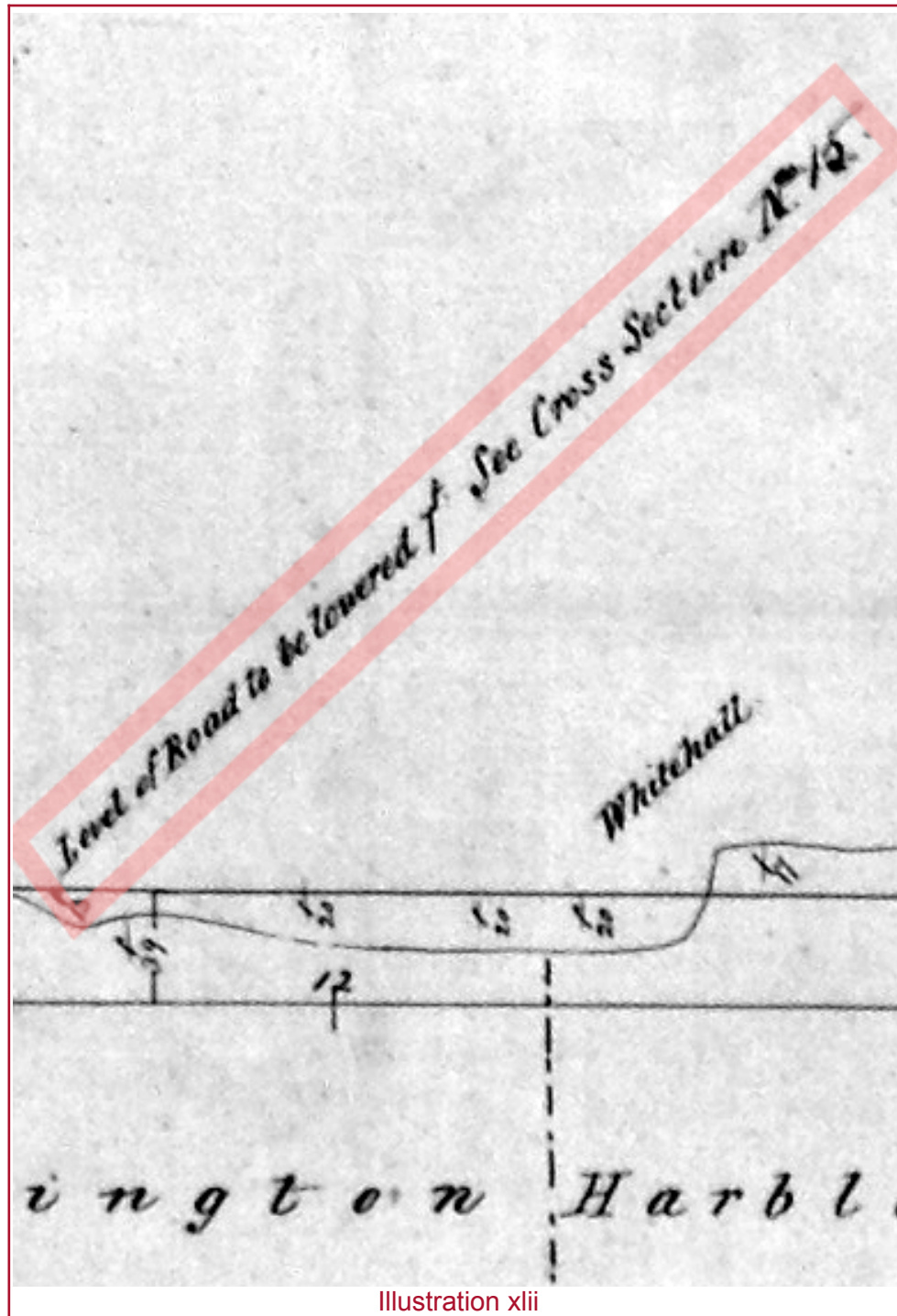


Illustration xli

Deposited section 1840



Deposited book of reference 1840

No. on Plan	Description of Property.	Owner or reputed Owner.	Lessee.	Occupiers.
1	able field	George Gipps		William Pidduck
2	Road from Howfield to Canterbury	George Gipps		
3	Droeway from Howfield to Marshes	George Gipps		William Pidduck
4	able field	George Gipps		Henry Bing
5	Parish Road from the Ashford and Canterbury Turnpike Road into Bigbury Wood	The Surveyors of Highways		
6	Road from Howfield to Canterbury	George Gipps		

25

Illustration xliii

J.3. **Description:** Proposals for the South Eastern Canterbury Ramsgate and Sandwich Railway were deposited in each of 1836, 1837 and 1840, comprising a line from Ashford to Ramsgate following the Great Stour and generally corresponding to the present line between Ashford and Canterbury (being the lower of the two lines above the Great Stour). None of the proposals received Royal Assent.

J.4. The plans for the 1836 proposal showed Tonford Lane north-west of A at Tonford Manor Farm, and the proposed railway would have crossed Tonford Lane slightly north of A. The plans leave the application way south of A unmarked. Tonford Lane is labelled as parcel 5, and in the book of reference it is identified as: 'Parish Road from the Ashford and Canterbury Turnpike Road into Bigbury Wood' and owned by the surveyor of highways. The turnpike road is now the Ashford Road (A28), and therefore the book of reference confirms the status of the application way south-east from A to the Ashford Road. The section identifies the application way as a 'road to be lowered' (the way is shown as in the parish of Milton: the same error on the plan has been corrected to 'Thanington').

J.5. The plans for the 1837 proposal are similar, with the identical entry in the book of reference. The section has been amended to show the correct parish of Thanington.

J.6. The plans for the 1840 proposal are also similar, with the identical entry in the book of reference.

J.7. **Conclusion:** The plans identify Tonford Lane as a parish road. Although the plans do not clearly identify the application way south of A, it is clear from the entry in the books of reference that the parish road extended south-east along the application way to the Ashford Road. The way therefore must be a public road which lies across the Great Stour.

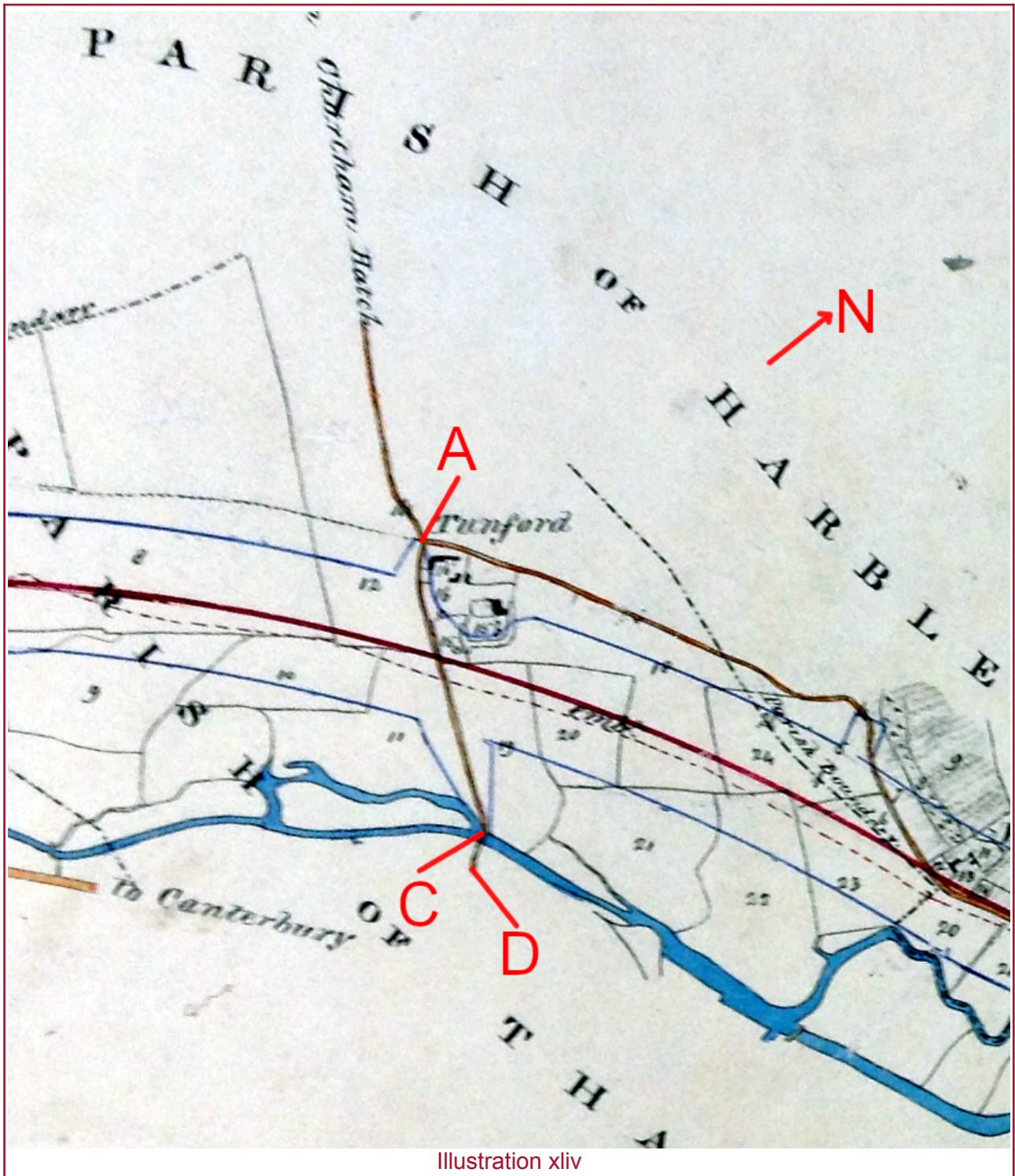
J.8. **Points:** 1 (not being the first railway plan)

K. South Eastern Canterbury Ramsgate and Margate railway

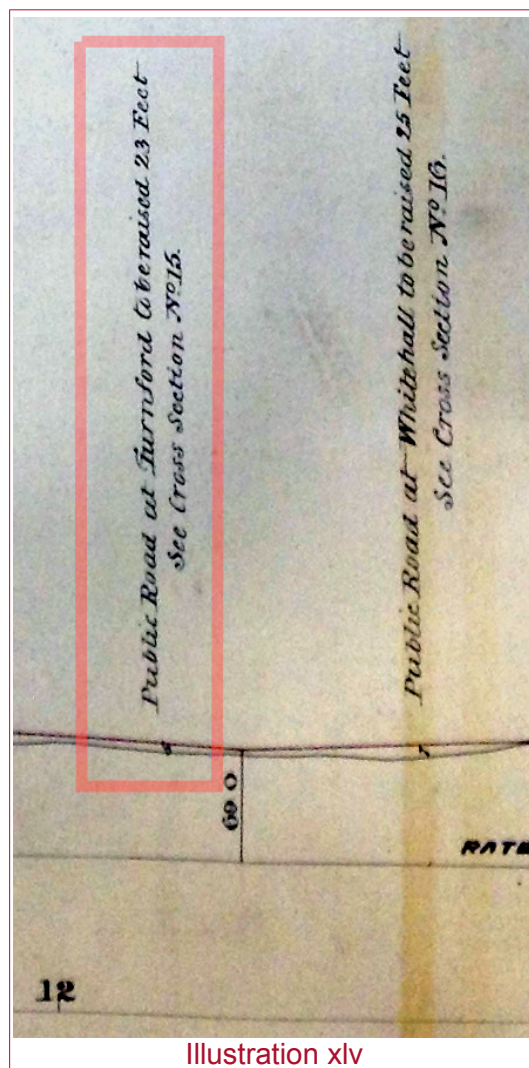
K.1. **Date:** 1841

K.2. **Source:** Kent County Archives¹⁹

Deposited plan



Deposited section



K.3. **Description:** The South Eastern Canterbury Ramsgate and Margate railway was planned to run from Ashford to Margate via Canterbury. The proposal did not receive Royal Assent (later proposals deposited in 1843 proceeded to Royal Assent).

K.4. The deposited plan shows the application way from north of Tonford Manor Farm, labelled 'To Chartham Hatch', south-east towards the Great Stour. The way is shown crossed by the railway to the south of Tonford Manor. The way is shown to continue through the Great Stour, at what plainly is a ford.

K.5. The book of reference has not yet been inspected, but the section describes the application way as "Public Road at Turnford to be raised 23 Feet See Cross Section No. 15"

K.6. **Conclusion:** The description of the application way in the section as a 'public road' is good evidence of its status at the time.

K.7. **Points:** 1 (not being the first railway plan)

L. North Kent Railway continuation from Strood to Dover

L.1. **Date:** 1850–51

L.2. **Source:** Kent County Archives²⁰

Deposited plan

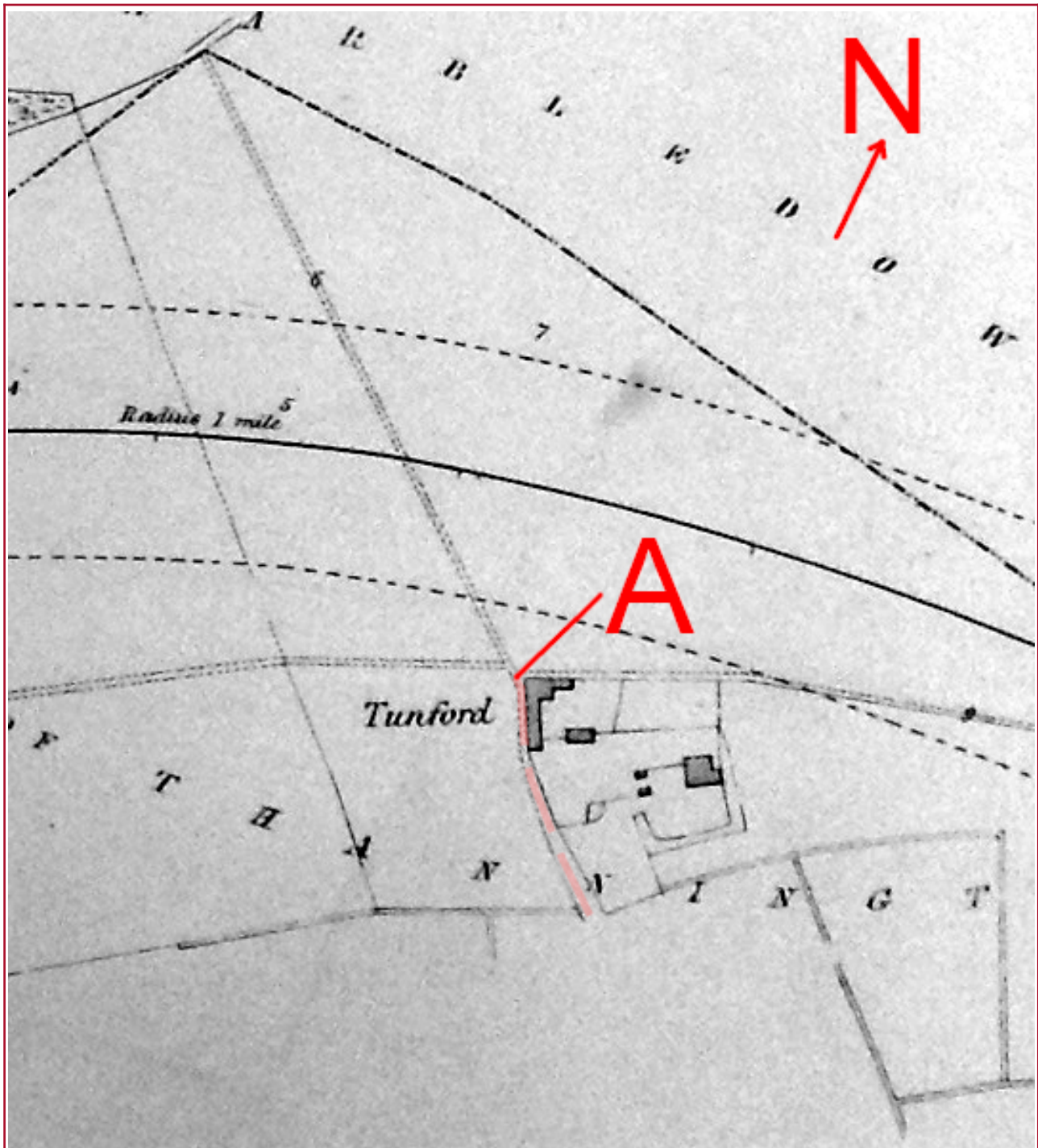
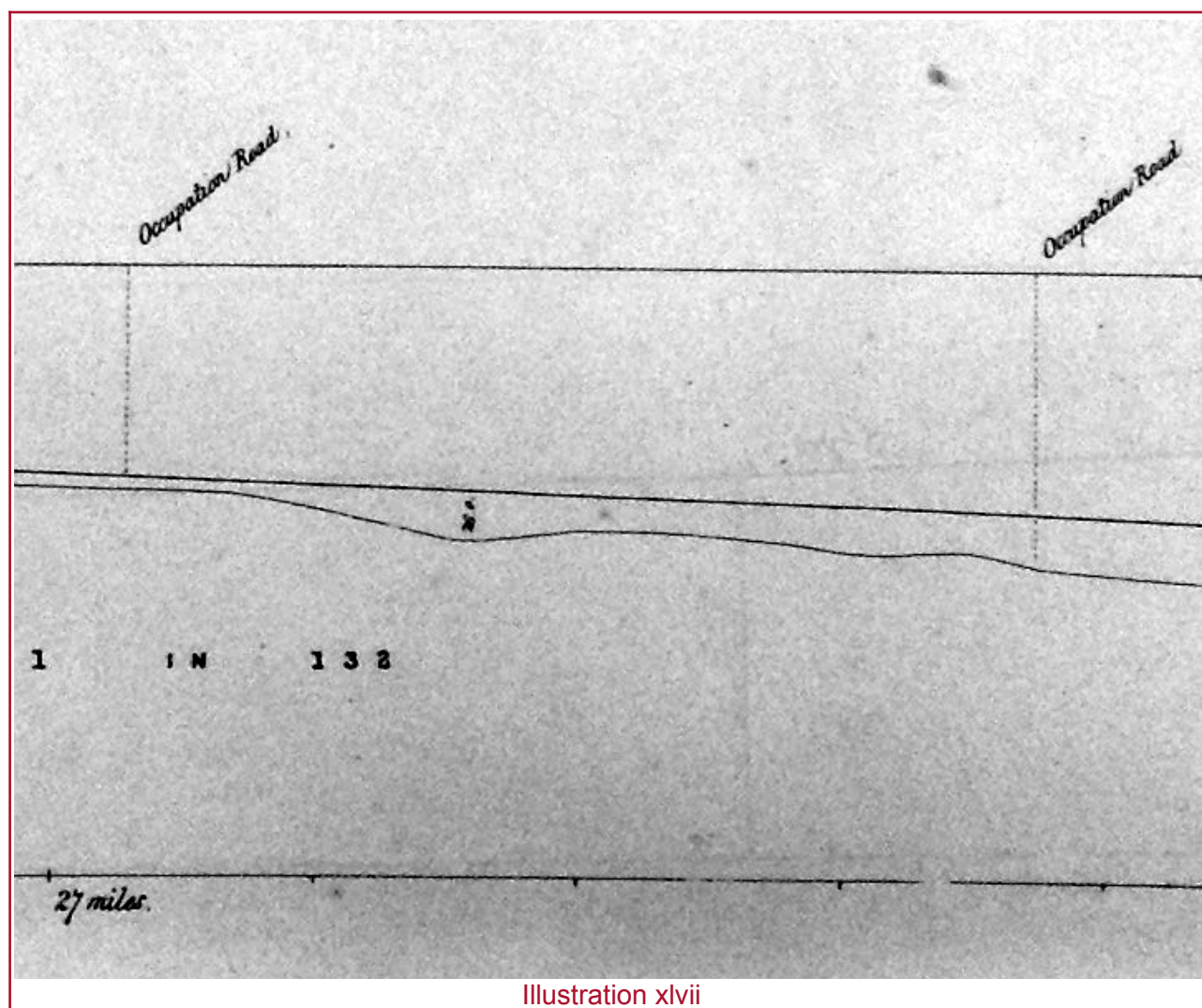


Illustration xlv

Deposited section



L.3. **Description:** The North Kent Railway continuation from Strood to Deal and Dover was proposed to extend the line of the railway beyond Strood. The proposed line between Faversham and Canterbury generally is contiguous with the present line (being the higher of the two lines above the Great Stour). The proposal did not receive Royal Assent.

L.4. The proposed line would have crossed Tonford Lane above Tonford Manor Farm (as it does today). The book of reference has not been inspected, but the road is recorded in the section as an 'occupation road'.

L.5. **Conclusion:** The proposals suggest that Tonford Lane, north of Tonford Manor Farm, was an occupation road and not a public road (although this does not preclude the existence of foot or bridle rights).

L.6. **Points:** 0

M. Highway authority minutes

M.1. **Date:** various

M.2. **Source:** Kent County Archives/Canterbury Cathedral Archives

Home Highways Board minutes, 9 June 1868²¹

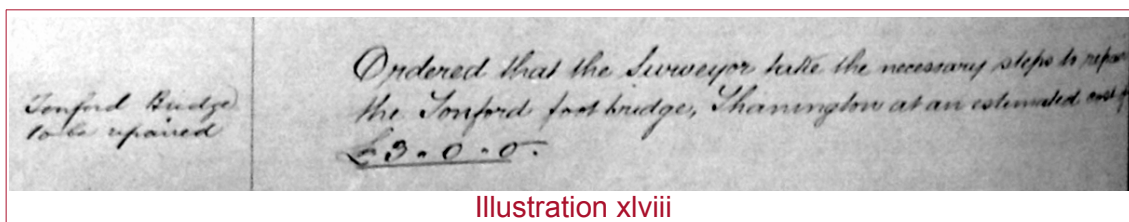


Illustration xlvi

Home Highways Board minutes, 13 December 1876²²

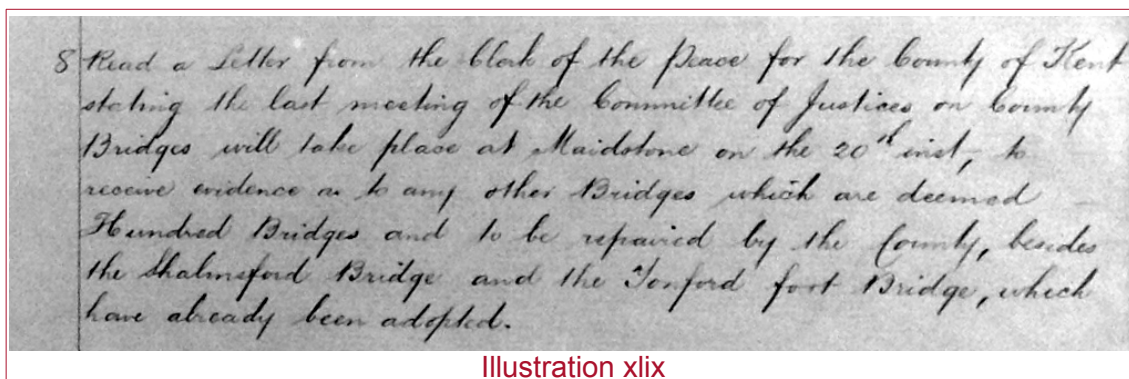


Illustration xlix

Bridge Union Rural Sanitary Authority minutes 26 May 1881²³

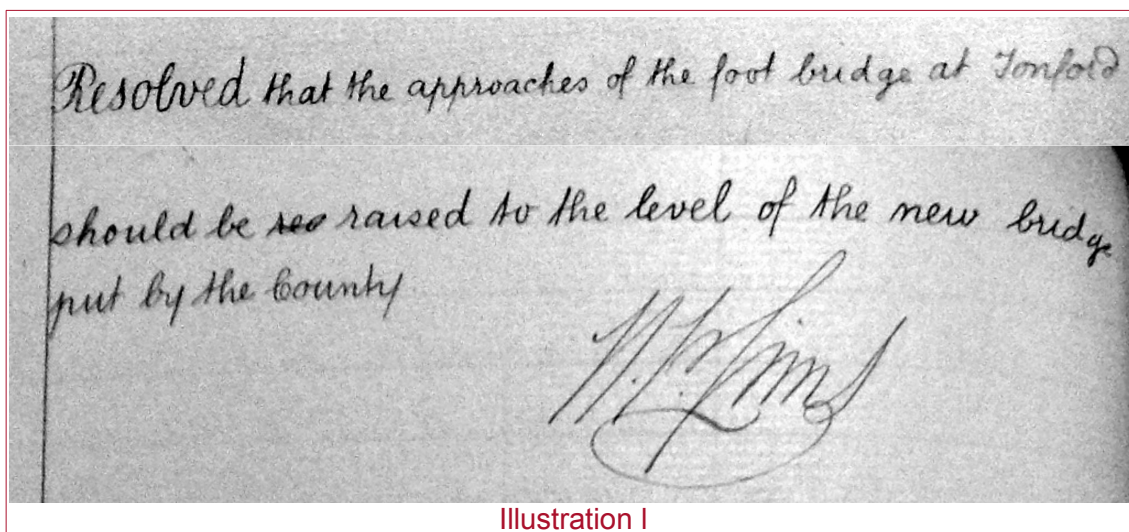


Illustration l

M.3. Description:

M.4. At a meeting of the Home Highways Board on 9 June 1868, it was:

Ordered that the Surveyor take the necessary steps to repair the Tonford foot-bridge, Thanington at an estimated cost of £3,0,0.

M.5. At a meeting of the same board on 13 December 1876, it was minuted as follows:

21 HB/Hm/1, Vol.1, 1863–70, p.343

22 HB/Hm/2, Vol.2, 1870–78, p.364

23 CCA-RD/BR/A/M/1, 1872–82, p.384

Read a letter from the Clerk of the Peace for the County of Kent stating the last meeting of the Committee of Justices on County Bridges will take place at Maidstone on the 20th inst, to receive evidence as to any other Bridges which are deemed Hundred Bridges and to be repaired by the County, besides the Shalmsford Bridge and the Tonford foot Bridge, which have already been adopted.

M.6. At a meeting of the Bridge Union Rural Sanitary Authority on 26 May 1881, it was:

Resolved that the approaches of the foot bridge at Tonford should be raised to the level of the new bridge put by the County.

M.7. **Conclusion:** The highway authority minutes demonstrate that the footbridge at Tonford Lane ford (point C) has long been considered publicly maintainable. It is evident, from the report to the Home Highways Board on 13 December 1876, that the footbridge at the ford had been accepted to be a county bridge, maintainable not by the inhabitants, but by the county as a 'hundred bridge', and therefore of considerable significance. As such, Tonford Lane must also be a highway, of at least footpath status.

M.8. **Points:** 4

N. Ordnance Survey County Series 25-inch maps

N.1. **Date:** various

N.2. **Source:** British Library, National Library of Scotland²⁴

24 Via maps.nls.uk/os/25inch-england-and-wales/kent.html, sheet XLVI/6.

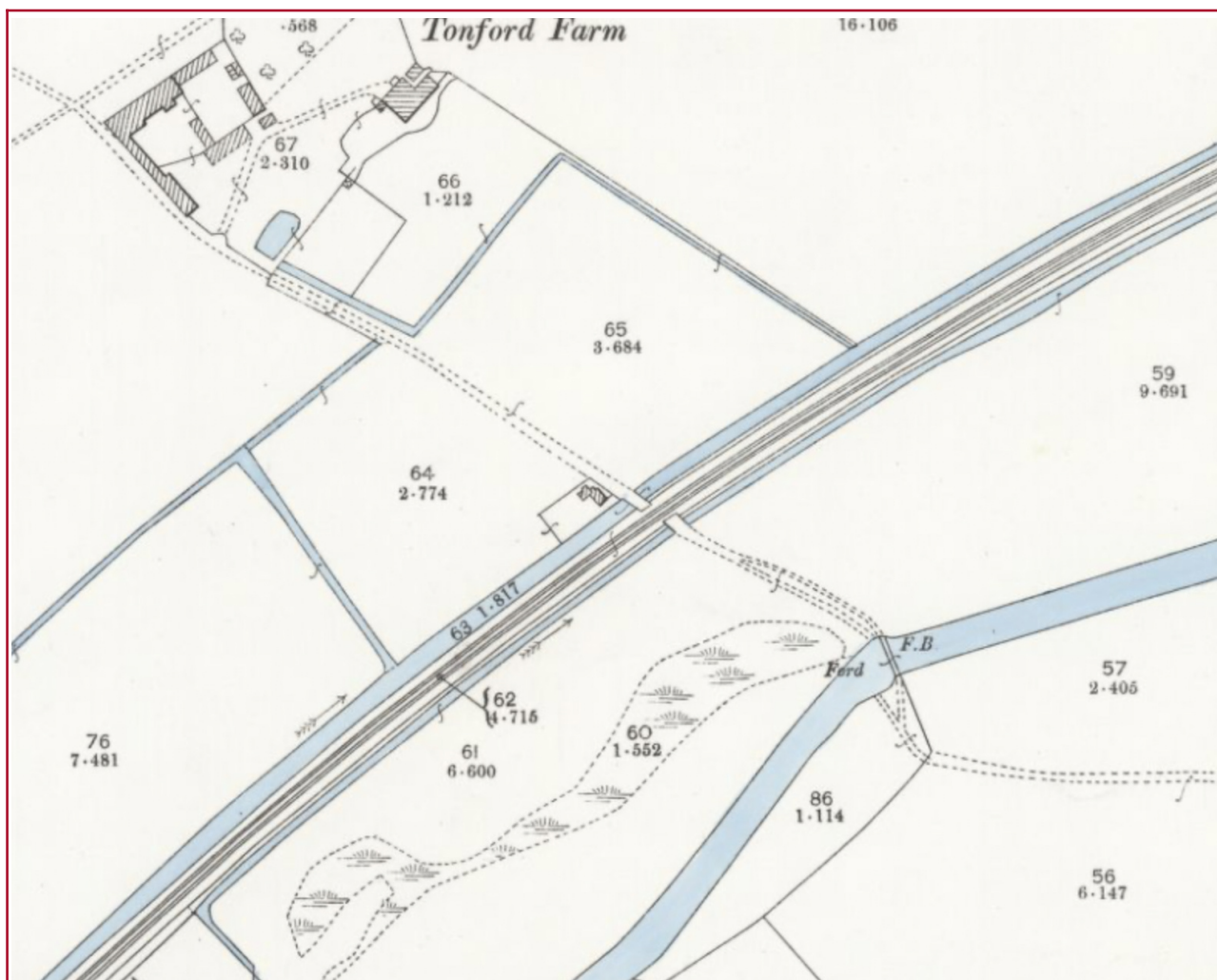


Illustration li

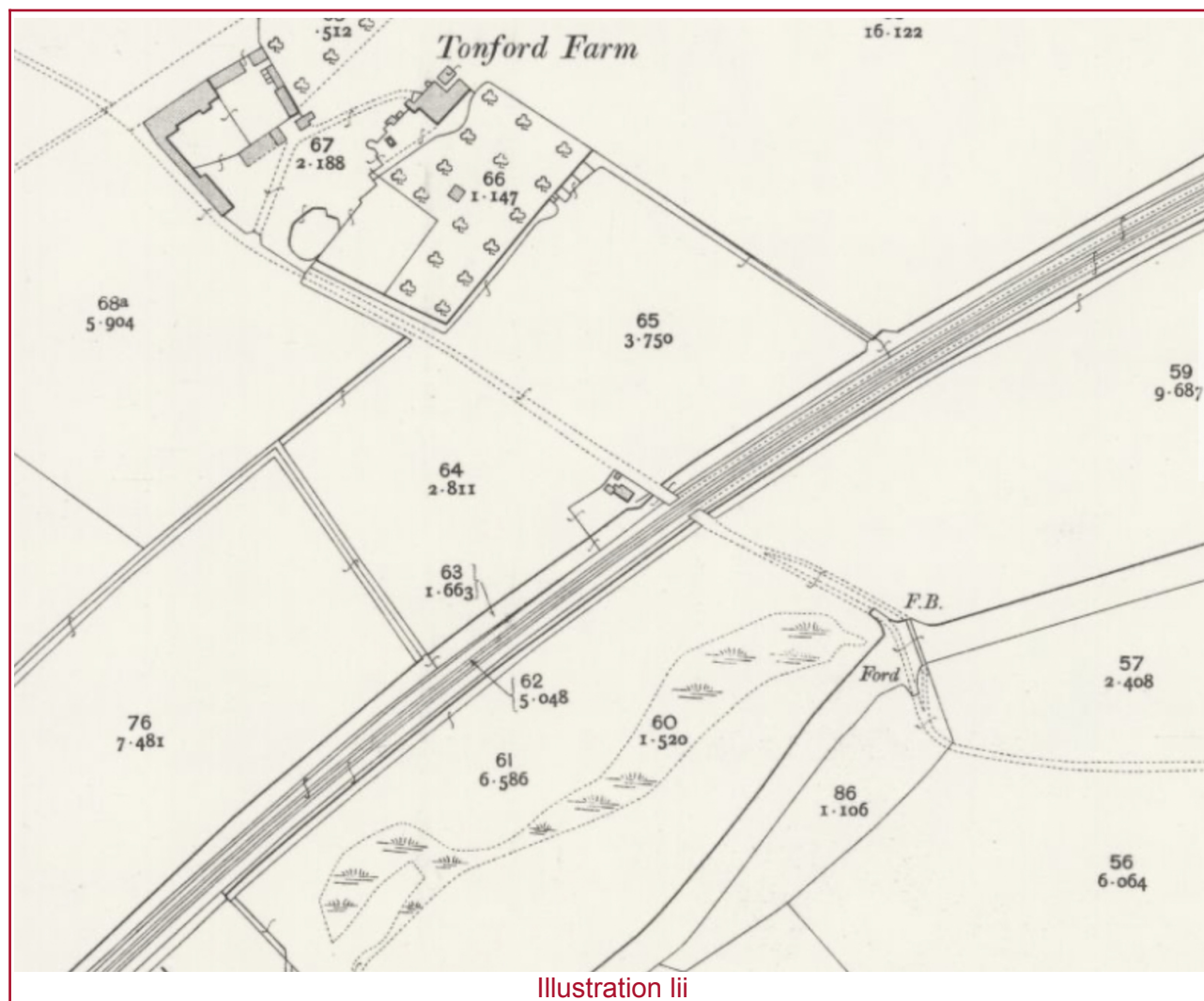


Illustration lii

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

N.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. All four editions show the application way throughout. The second and third editions are reproduced here.

N.5. **Conclusion:** The Ordnance Survey County Series maps consistently show the presence of the application way.

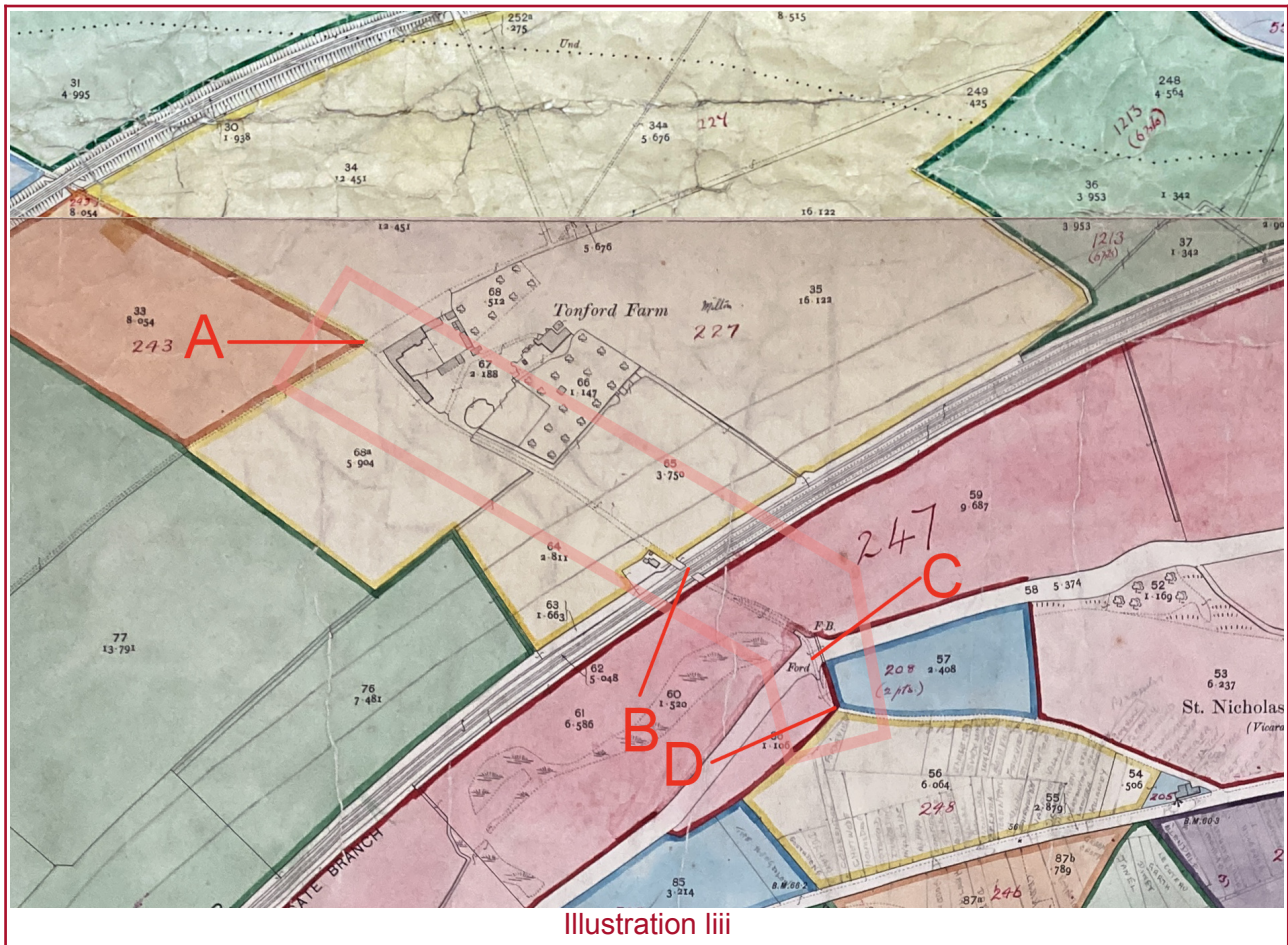
N.6. **Points:** 0

O. Finance (1909–1910) Act 1910

O.1. **Date:** 1911

O.2. **Source:** National Archives²⁵

Finance Act map sheet Kent XLVI/6



Field book for Milton: hereditament 227

Reference No. 227

On Sale V. 6074. Part of the same as in 2145 Blum at Junction of ...

Location Land, in one & buildings

Value Land £ Buildings £ Rateable Value Land £ Buildings £

Occupier Jackville Farm, Richard

Owner Geo. Kelling, Richard

Interest of Owner (Richard) & Charlotte Kelling, Lincoln Rd.

Superior interests

Subordinate interests

Occupier's tenancy, Term 7 yrs. date at end from 11th Oct. 1901

How determinable

Actual (or Estimated) Rent, £ 100 including other hereditaments

Any other Consideration paid

Outgoings—Land Tax, £ 2-0-2 paid by ...

Tithe, £ 6-8-10 paid by ...

Other Outgoings Sale of 22-0-10

Who pays (a) Rates and Taxes (b) Insurance

Who is liable for repairs Geo. Kelling & Richard

Fixed Charges, Easements, Common Rights and Restrictions

Former Sales, Dates

Interest

Consideration

Subsequent Expenditure

Owner's Estimate, Gross Value

Full Site Value

Total Value

Assessable Site Value

Site Value Deductions claimed

Roads and Sewers, Dates of Expenditure

Amounts

Ranfield & Wheeler

J. Digby

H. H. H.

25" Maps LXVI-XLVI-246

Reference No. 227

Particulars, description, and notes made on inspection

For full particulars see title book.

Attached to file.

Area 60² 1² 21²

Particulars of buildings on page

Charges, Easements, and Restrictions affecting market value of Fee Simple

Time 26-8-10 from 1901-1902

22-10-10

Valuation.—Market Value of Fee Simple in possession of whole property in its present condition

£ 1600

Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and other things growing on the land

£ 50

Difference Balance, being portion of market value attributable to structures, timber, &c. £ 1550

Divided as follows:—

Buildings and Structures £ 825

Machinery £

Timber £

Fruit Trees £

Other things growing on land £

Market Value of Fee Simple of Whole in its present condition (as before) £ 1600

Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—

Charges (excluding Land Tax) £

Restrictions £

GROSS VALUE £ 1829

Illustration liv

Field book for Milton: hereditament 247

247 Reference No. *XLVI-2-0*
 Situation *Thanington Court Farm etc.*
 Description *on site particulars of 247*
 Extent *A270-2-3 includes 214*
 Gross Value { Land £
 Buildings £
 Rateable Value { Land £
 Buildings £
 Gross Annual Value, Schedule A, £
 Occupier *L. M. White*
 Owner *Richard & Stan Fishing Assoc.*
 Interest of Owner *See 227*
 Superior interests
 Subordinate interests
 Occupier's tenancy, Term from
 How determinable
 Actual (or Estimated) Rent, £
 Any other Consideration paid
 Outgoings—Land Tax, £
 Tithe, £ *26/5 in Thanington*
 Other Outgoings *8/6 in Thanington*
 Who pays (a) Rates and Taxes (b) Insurance
 Who is liable for repairs
 Fixed Charges, Easements, Common Rights and Restrictions
Delivered to the same footpaths
 Former Sales, Dates
 Interest
 Consideration
 Subsequent Expenditure
 Owner's Estimate, Gross Value
 Full Site Value
 Total Value
 Assessable Site Value
 Site Value Deductions claimed
 Roads and Sewers, Dates of Expenditure
 Amounts
As 227

26 Maps XLVI-2, 3, 6, 7
Inclusion of 555 & 674 & 675
 Reference No.
 Particulars, description, and notes made on inspection
For full particulars see note book attached to file
 Charges, Easements, and Restrictions affecting market value of Fee Simple
Charges £8 x 25 yds = £200
8/6 x 25 yds = £21
Thompson
Milton
 Valuation—Market Value of Fee Simple in possession of whole property in its present condition
£165
£215
£8 x 6
£123
£325
£3465
 Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and other things growing on the land
£211
£2370
 Difference Balance, being portion of market value attributable to structures, timber, &c.
£1095
 Divided as follows:—
 Buildings and Structures.....£ *1095*
 Machinery£
 Timber£
 Fruit Trees£
 Other things growing on land£
 Market Value of Fee Simple of Whole in its present condition (as before)£ *3465*
 Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—
 Charges (excluding Land Tax) *£211*
 Restrictions.....£
 GROSS VALUE...£ *3676*

Illustration IV

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

O.4. The application way is not excluded from any hereditament (nor is any part of Tonford Lane between the upper railway crossing and what is now Hassall Reach at D). It forms part of the following hereditaments:

- Tonford Farm — Milton 227
- Thanington Court Farm etc [north side and part of south side including application way between C and D] — Milton 247

O.5. Tonford Farm is recorded in the field book for Milton²⁶ as hereditament 227, having 30 ha in extent. Under 'Fixed charges, Easements, Common Rights and Restrictions' is entered:

Footpaths & rights of way in favour of Howfield Farm

Under valuation is entered: 'Right W^s £15', but no entry is made under deductions for 'Public Rights of Way or User'.

O.6. Thanington Court Farm is recorded in the field book for Milton as hereditament 247, having 109½ ha in extent (including hereditament 214). Under 'Fixed charges, Easements, Common Rights and Restrictions' is entered:

| Believed to be some footpaths

Under valuation is entered: 'Right W^s £15', but no entry is made under deductions for 'Public Rights of Way or User'.

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

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

A highway authority was a rating authority.

O.8. Secondly, discounts from the valuation could be requested for land crossed by footpaths 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...' ²⁷. 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.

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

O.10. 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

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

for speculative gain.²⁸ It was said by the Chancellor, subsequently, that the two duties expressly were designed to help ensure an honest valuation.²⁹ 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 land 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 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.

O.11. 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.

O.12. **Conclusion:** None of Tonford Lane between the upper railway crossing and point D is recorded in the record plan as excluded from assessment (whereas it is excluded from assessment to the north of the upper railway crossing). It is unlikely that the railway bridge marked the limit of public rights along Tonford Lane.

O.13. In relation to the hereditament for Tonford Farm within which the application way is included, there are references to 'Footpaths & rights of way in favour of Howfield Farm', which may include footpaths CB456 and CB509, but may also include the application way and any private easements in favour of Howfield Farm.

O.14. In relation to Thanington Court Farm, the hereditament comprised land between the Canterbury Road and the River Great Stour,³⁰ and the record plan shows no footpaths or bridleways on this land save the application way. It may be that the entry in the field book that there were 'Believed to be some footpaths' relates to the application way.

O.15. The Finance Act records do not provide confirmation of public rights over the application way. Equally however, they are not inconsistent with such rights, which may be reflected in deductions given for 'footpaths' or 'rights of way'.

O.16. **Points:** 0

²⁸ 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.

²⁹ *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](#).

³⁰ Hereditament 247 was assessed with hereditament 214, but the entry in the field book for the latter hereditament makes separate note of, and deduction for, rights of way.

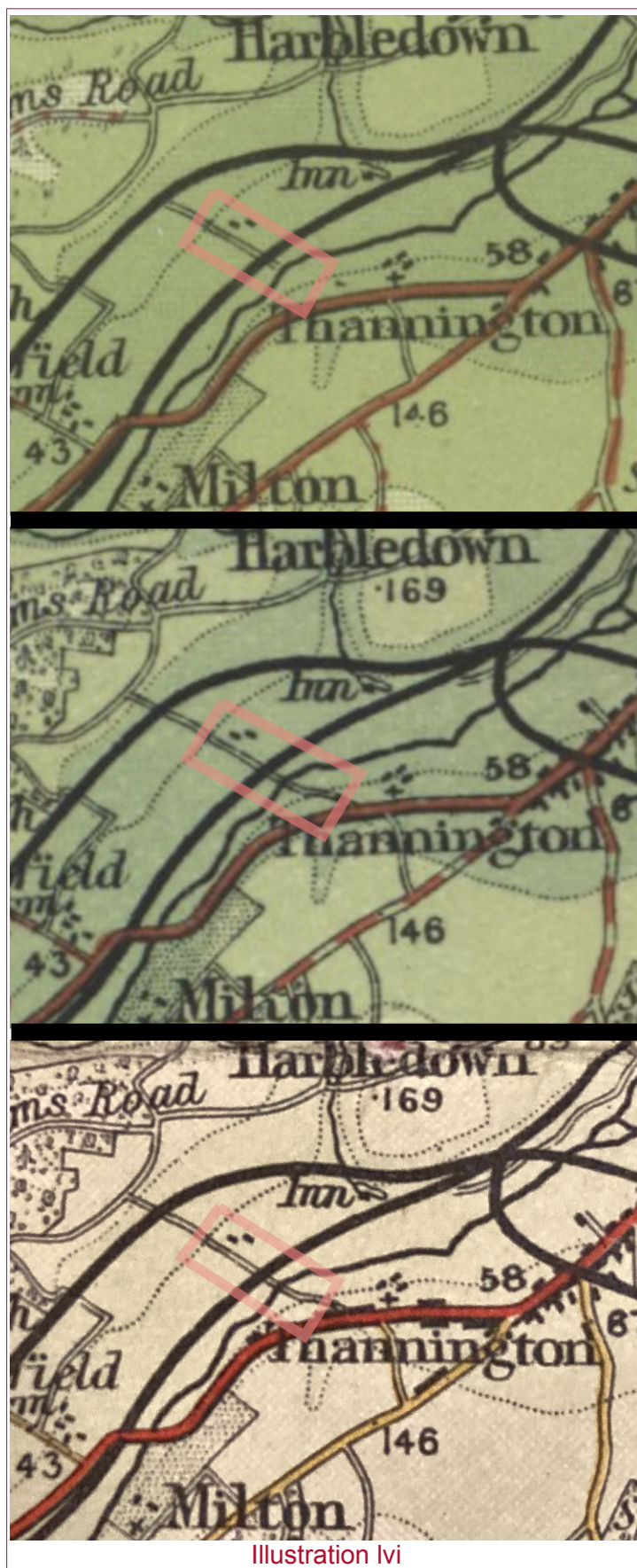
P. Bartholomew's map

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

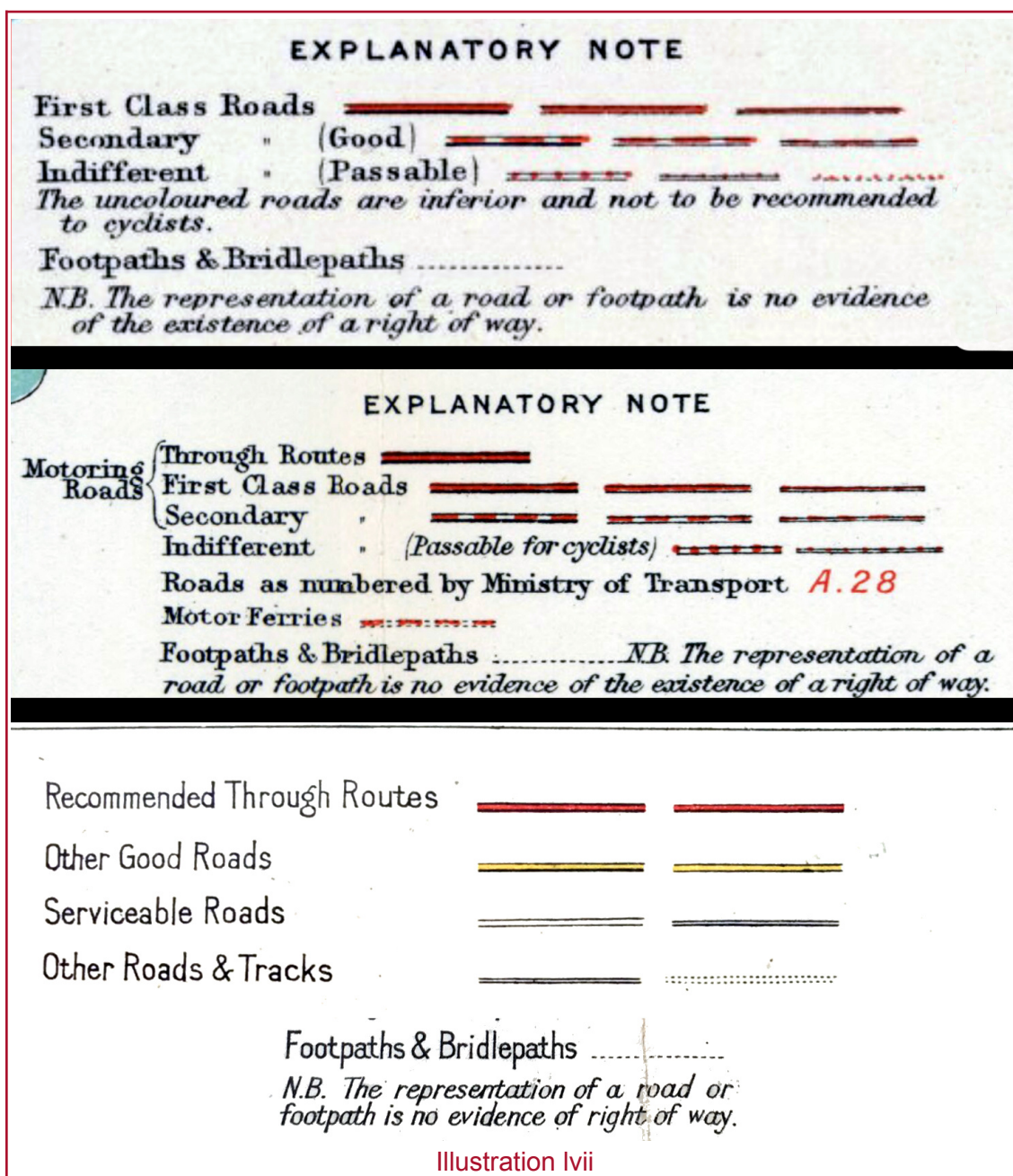
P.2. **Source:** National Library of Scotland³¹ (1904 and 1922); personal copy (1953 map)

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

Bartholomew's maps: 1904, 1922 and 1953 editions



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



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

P.4. The earliest shown edition of the Bartholomew's map dating from 1904 shows Tonford Lane lacking any continuation across the Great Stour. The omission is rectified on the later editions. On the 1904 map, the part of Tonford Lane which is depicted on the map is shown as an 'inferior' road 'not to be recommended to cyclists'; on the 1922 map, the application way remains as not 'passable for cyclists'; on the 1953 map, as either a 'serviceable road' or as 'other roads & tracks'.

P.5. **Conclusion:** The Bartholomew's maps from the first half of the twentieth century show that Tonford Lane was marked throughout from 1922 onwards, but not recommended to cyclists presumably on account of the ford.

P.6. Paragraph 12.41 of the consistency guidelines³² notes that:

...current evidence indicates that, although Bartholomew were highly regarded as map producers, they did not employ independent surveyors to carry out any surveys on the ground nor to determine the nature and status of the roads on their maps. Moreover, they do not appear to have examined the legal status of the routes on their Cyclists' Maps before colouring them for use as suitable for cyclists.

P.7. However, this seems to be a too simplistic approach: we do not know what criteria Bartholomew used to assess the suitability of individual roads for cycling, but it is unlikely that it may have made a decision using no more than published Ordnance Survey data, if its maps were to meet with a favourable reception among its target market of cyclists.

P.8. While the maps are not convincing evidence of public rights, it seems unlikely that an entirely private road, not subject to any public rights of passage, would have been depicted on two successive editions, subject to widespread appraisal and feedback particularly from cycling users.

P.9. **Points:** 1

Q. National Parks and Access to the Countryside Act 1949: draft map

Q.1. **Date:** 1950–54

Q.2. **Source:** Kent County Council (definitive map records)

Draft map



Illustration Iviii

Q.3. **Description:** original scale: 1:10,560; orientation: unchanged.

³² Planning Inspectorate: September 2015: www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines.

Q.4. Part IV of the National Parks and Access to the Countryside Act 1949 required surveying authorities to prepare definitive maps and statements of public rights of way in their areas. The initial stage was to prepare a draft map, primarily based on information supplied by parish councils.

Q.5. The application way was not identified as a right of way on the parish map for Thanington. On the draft map, Tonford Lane is shown throughout in yellow, indicating that, in the view of the county council, it was a maintained road.

Q.6. **Conclusion:** The draft map records the surveying authority's view that the application way was a publicly-maintainable road.

Q.7. **Points:** 2

R. Highway inspector's map

R.1. **Date:** 1952

R.2. **Source:** Kent County Council³³

³³ Highway inspector's map supplied by the council on request.

Highway inspector's map

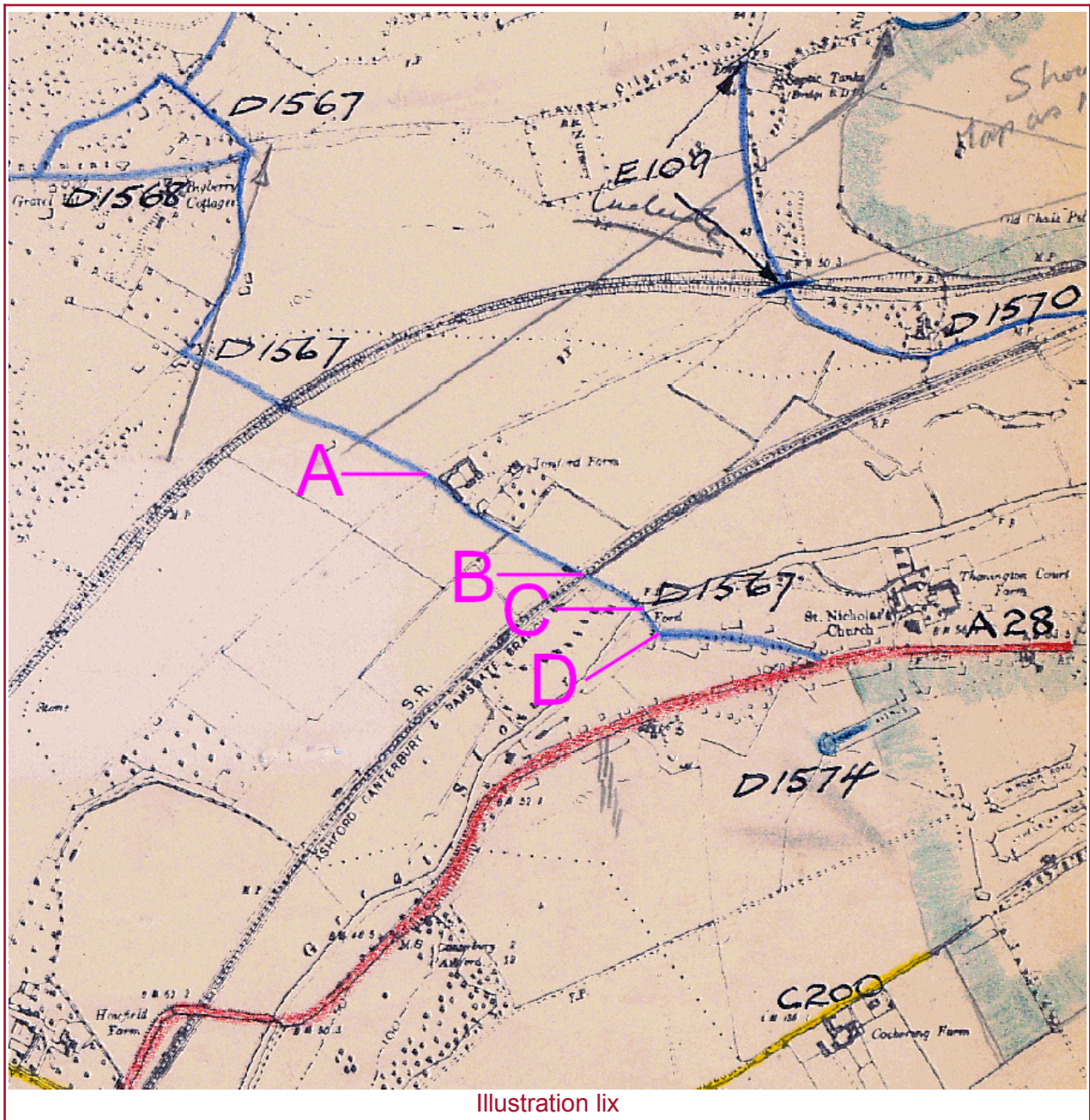


Illustration lix

Highway inspector's notes

Sheet 253

KENT COUNTY COUNCIL - ROADS DEPARTMENT.
Schedule of MAINTAINED unclassified county roads.
COUNTY DIVISION NO.

KCC
HDT
1896

Route No.	6 th Sheet(s)	Description.	Mileage.
D1567 6	XLVI NW	From D1566 north of Bigberry Cottages, southward and south-eastward via Tonford Lane to Thanington Road A28 at Canterbury City Boundary.	1.08 1148.25

Illustration 1x

R.3. **Description:** original scale: 1:10,560; orientation: unchanged.

R.4. The county council, as highway authority, prepared in 1952–53 a map of all roads in the county which were under the control of the council. It seems likely that these roads were publicly maintainable, but the council interprets those shown with a dashed blue line as non-maintained — *i.e.* not maintained as a matter of practice by the highway authority.

R.5. The highway inspector's map shows the application way as a public road, with the reference number D1567. The way is continuous between Bigbury Hill and the main road at Thanington.

R.6. The notes for D1567 record Tonford Lane as one of the:

MAINTAINED unclassified county roads

R.7. **Conclusion:** The inspector's map shows that the application way was considered to be a public highway which was publicly maintainable. It is plain from the context that the map was intended to identify only public carriage roads.

R.8. A way cannot cease to be a publicly-maintainable highway save by a legal order. If the way was considered in 1952 to be publicly-maintainable, it must remain so today. The record is good evidence that the application way in 1952 was considered to be a public road.

R.9. **Points:** 3

S. Highway authority list of streets

S.1. **Date:** 2003–2014

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

Kent list of streets 2003 (1)

Gazetteer Detail	
FUBZ	D1567 TONFORD LANE
	820 m NORTH EAST KENT
UNCLASSIFIED SINGLE C/WAY FROM AGENCY BDY TO PARISH BDY	R Created THANINGTON WITHOUT CANTERBURY HU
Proposed No NSG Ref 5601428	Unadopted No Map sheet TR15NW From OSGR To OSGR
Adoption detail	
Date Ref	HIC No

Illustration Ixi

Kent list of streets 2003 (2)

Gazetteer Detail	
FTFH	D1567 TONFORD LANE
	461 m NORTH EAST KENT
UNCLASSIFIED SINGLE C/WAY FROM PARISH BDY TO J/W D1566	R Created THANINGTON WITHOUT CANTERBURY HU
Proposed No NSG Ref 5601428	Unadopted No Map sheet TR15NW From OSGR To OSGR
Adoption detail	
Date Ref	HIC No

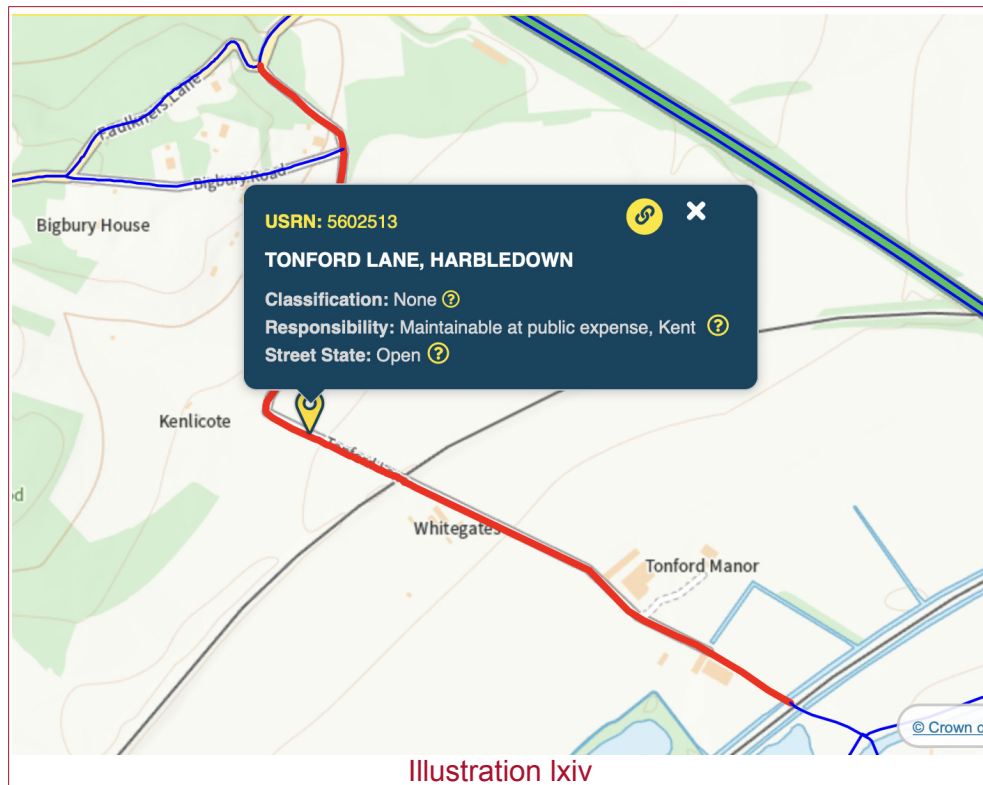
Illustration Ixii

Kent list of streets 2019

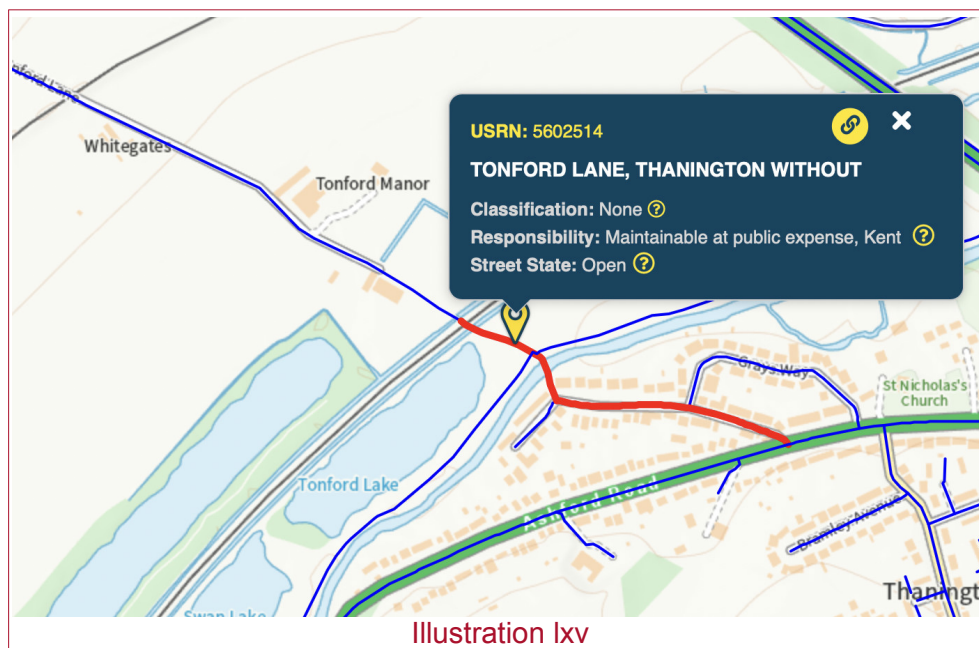
STREET NAME TONFORD LANE			
USRN	5602513		
TOWN	HARBLEDOWN	DISTRICT	CANTERBURY
STATUS PUBLICLY MAINTAINABLE HIGHWAY (WHOLE ROAD)			
STREET NAME TONFORD LANE			
USRN	5602514		
TOWN	THANINGTON WITHOUT	DISTRICT	CANTERBURY
STATUS PUBLICLY MAINTAINABLE HIGHWAY (WHOLE ROAD)			

Illustration Ixiii

Kent National Street Gazetteer 2020 (1)



Kent National Street Gazetteer 2020 (2)



S.3. **Description:** Every highway authority must keep up to date a list of streets in its area which are publicly maintainable.³⁴ 'Street' is defined to include a highway.³⁵

S.4. A street authority must keep a register of streets³⁶ to enable information to be recorded relating to street works. The register must include every street for which the street authority is the highway authority.³⁷ The highway authority is the street authority for a 'maintainable highway', being a highway maintainable at public expense.³⁸ The data from the street works register are compiled into a local street gazetteer (which in turn are made available in the national street gazetteer).

S.5. The first Illustration Ixi and second Illustration Ixii show extracts from the list published in 2003 for the Canterbury district, showing two entries for Tonford Lane, numbered D1567 (consistently with the entry in the Highway inspector's map at item IV.R above). The first relates to the length between the parish boundary and the D1566 (Bigbury Road); the second to the length between the parish boundary and the 'agency boundary'. The lengths given for each, at 461m and 820m respectively, do not precisely correspond with the expected lengths, but in practice, the measurements given in the list of streets seldom do. Moreover, the position is complicated by the realignment of the parish boundary between Thanington and Harbledown, which follows the southern boundary of the Canterbury to Faversham railway line (*i.e.* the higher of the two lines), but formerly crossed Tonford Lane at the right-angled corner north-west of the present boundary.

34 Highways Act 1980, s.36(6).

35 S.329(1) of the Highways Act 1980 provides that "street" has the same meaning as in Part III of the New Roads and Street Works Act 1991"; s.48(1)(a) provides that "street" means...any highway...".

36 New Roads and Street Works Act 1991, s.53, and the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (SI 2007/1951), r.4.

37 Item 1 of the table in r.4(5) of the 2007 Regulations.

38 S.49(1)(a) of the 1991 Act. 'Maintainable highway' is defined in s.86(1) of the 1991 Act.

S.6. The third Illustration lxiii shows an extract from the list published in 2020, now containing two entries for the two parts referred to in the local streets gazetteer, under references USRN 5602513 for the length north-west of the lower railway line, and USRN 5602514 for the length south-east of the lower railway line, across the ford, to the Ashford Road.

S.7. The fourth Illustration lxiv and fifth Illustration lxv are extracts from FindMyStreet.co.uk, which replicates the National Street Gazetteer, which in turn is a compilation from local street gazetteers. This source records Tonford Lane being publicly maintainable throughout.

S.8. **Conclusion:** The extracts demonstrate that the application way is recorded as a highway maintainable at public expense.

S.9. **Points:** 2