

# Twitham Lane: application to record a part byway open to all traffic and part restricted byway, from Staple Road, Staple, to Twitham Hill

## Historical document analysis

### I. Introduction

#### A. Quick reference

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

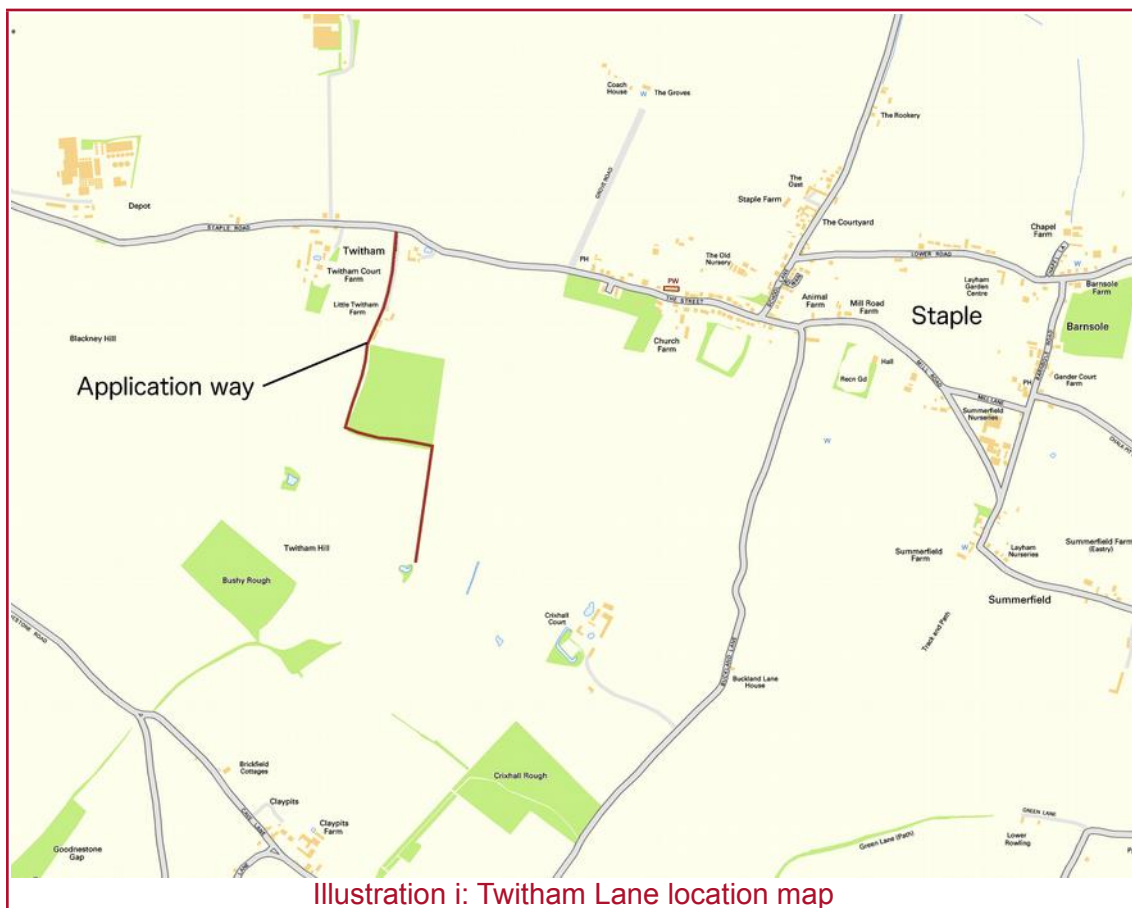


Illustration i: Twitham Lane location map

A.2. Existing recorded public rights of way comprised in application way: none

A.3. Parishes of: Wingham and Goodnestone

A.4. Ancient parishes of: Wingham and Goodnestone (including a detached part of Wingham parish)

A.5. Termination points: Staple Road, Staple at the turning into Pettocks Lane; and—junction of public bridleways EE269A and EE28 on Twitham Hill

A.6. Termination points Ordnance Survey grid references: TR26225679 and TR26275594

A.7. Postcode: CT3 1LP

A.8. Ordnance Survey Explorer sheet: 150

A.9. Ordnance Survey County Series 25" sheets: Kent XLVII/8 and 12

## B. The applicant

B.1. The application, the evidence for which is summarised in this document, is made by Hugh Craddock. 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 a public way, known as Twitham Lane, which connects Staple Road, west of Staple, to the junction of public bridleways EE269A and EE28 on Twitham Hill west of Crixhall Court. Part of the application way is recorded in the council's list of streets<sup>1</sup> as publicly maintainable. The way is not currently recorded on the definitive map and statement.

## 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) to record the application way in the parishes of Wingham and Goodnestone as a byway open to all traffic (between A and B as specified below) and a restricted byway (between B and F).

D.2. The way begins on Staple Road at the turning into Pettocks Lane at A (Ordnance Survey grid reference TR26225679), and proceeds south-southwest for 205m to Little Twitham Farm cottage at B (TR26195658), then south-southwest for 95m past Twitham Oast to C (TR26155650), then south and south-southwest for 230m along the west side of the field headland to D (TR26095627), then slightly south of east for 230m along the south side of the fenced headland to E (TR26325622), then passing through the hedge and turning slightly west of south for 300m to a junction with the enclosed lane at the junction of public bridleways EE269A and EE28 adjacent to the pond in a former quarry on Twitham Hill, at F (TR26275594). A total distance of 1,060m.

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

## E. Nomenclature

E.1. The nomenclature of places along the application way has evolved, and can be confusing. Neither the present name of the northern end of the application way, Pettocks Lane, nor the name probably attributable to it in the tithe apportionment (item IV.L below), Twitham Road, appears to be in widespread use, and neither appears in any of the histor-

<sup>1</sup> The list is of highways maintainable at public expense held under s.36(6) of the Highways Act 1980.

ical sources in this document summary (save in the tithe apportionment). Moreover, the Staple Road through Twitham may formerly have been referred to as the Twitham Road. And the provenance of the name 'Pettocks Lane' is uncertain.<sup>2</sup>

E.2. The Survey of estate lands and roads of Goodnestone (item IV.D below) contains a map (Illustration xiii) which marks part of the application way merely as 'Twitham', but elsewhere refers to it as 'Twitham Lane'. Minutes of the Easry Rural Sanitary Authority/Rural District Council highway authority (item IV.Q below) sporadically refer to the application way at 'Twitham Lane'.

E.3. This analysis refers to Twitham Lane on the basis of the name most frequently cited in historical sources.

E.4. The hamlet of Twitham, at the north end of the application way, now comprises Twitham Court (to the west of A) and Little Twitham farmhouse (to the east), while Little Twitham Farm and farm cottage are located at B. In the late nineteenth century, Twitham Court and Little Twitham farmhouse were shown on the Ordnance Survey County Series first edition as Twitham Farm and Lower Twitham Farm respectively, while the farm buildings on Twitham Hill, between E and F, were also known as Twitham Farm. It seems that the latter farm buildings were razed to the ground by a fire in the summer of 1875,<sup>3</sup> and not rebuilt (the site is now indistinguishable). Moreover, Greenwood's map of Kent (item IV.J below), dating from around 1820, refers to Twitham (in the vicinity of A) as 'Higher Twitham' and Twitham Farm (on Twitham Hill, between E and F) as 'Lower Twitham': it seems unlikely that the latter, located around 15m higher than the former, would have been referred to as 'Lower Twitham', and the names are probably transposed. Accordingly, this document will refer to the former farm on Twitham Hill as 'Higher Twitham Farm'.

E.5. There is also a Twitham Court northeast of Ash, between Weddington and Goss Hall. This was known until the late nineteenth century as Twithamhills Farm.

## F. Background

F.1. It is submitted that the application way is an old, minor part-field road between Twitham and Goodnestone, which also provided access to the farm buildings set back from the Staple Road at the north end of the way (including what is now known as Twitham Farm and the oast houses), and to the former Higher Twitham Farm on Twitham Hill. It would also have been used for journeys beyond Goodnestone, to Nonington, Ratling and Aylesham, when what is now recorded as bridleway EE269A was also a minor road. Once Higher Twitham Farm on Twitham Hill ceased to exist from the late nineteenth century, the significance of the road declined, and maintenance must have declined or ceased too (as to public maintainability: see items IV.Q and IV.V below).

F.2. By the early twentieth century, the way was still recognised as a public way (see East Kent mineral light railway at item IV.S and subsequent documents below). But the way was not recorded on the definitive map and statement in the 1950s, probably because base maps supplied by the county council to parish councils showed the way as a road included on the list of streets<sup>4</sup> which therefore did not require to be recorded on the definitive map. Subsequently, it appears that the way (from B to F) was erased from the

2 It may be a corruption of Pidduck, being a former owner of the land east of A to B

3 Reported as a fire 'at Twitham, a farm in the occupation of Mr. Page. ...Twitham being situated some distance from the village...' *Whitstable Times and Herne Bay Herald*, 19 June 1875.

4 See footnote 1 above.

council's records of public ways (see item IV.V below). Neither recorded on the definitive map, nor on the council's list of streets, the way beyond B fell into disuse at some time during the post-war period.

## 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*,<sup>5</sup> 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.<sup>6</sup>

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 highway reputation over many years, indicating that the route does indeed have highway status, and that the evidence shows that the status was of a carriageway.

G.4. There is no evidence that the application way has ever formally been considered for inclusion on the definitive map and statement for Kent. It appears that it was excluded from the draft map and statement prepared under Part IV of the National Parks and Access to the Countryside Act 1949 because it was considered to be part of the ordinary road network (see Highway inspector's map at item IV.V below). Therefore, there has been no discovery of evidence for the purposes of s.53(2) of the 1981 Act, and the evidence disclosed in this application is wholly new evidence.

<sup>5</sup> [2012] EWCA Civ 334.

<sup>6</sup> [Consistency Guidelines](#): para.2.17.

## H. Natural Environment and Rural Communities Act 2006

H.1. The application way between A and B is recorded as publicly maintainable in the list of streets held by Kent County Council under section 36(6) of the Highways Act 1980. It is therefore considered on the basis of its entry in the list of streets to be a public carriageway. The effect of section 67 of the Natural Environment and Rural Communities Act 2006, which would otherwise extinguish public rights for mechanically propelled vehicles, is excluded by virtue of subsection (2)(b) — 'immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980'. Accordingly, the way between A and B has been claimed as a byway open to all traffic.

H.2. Between B and F, the right to use mechanically propelled vehicles is likely to have been extinguished by section 67, and application therefore is made for a restricted byway.

## I. Points awarded

I.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*.<sup>7</sup>

### I.2. Points:

Item	Ref	Points	
		Bridleway	RB
Early C18 St John's College terrier (I)	IV.A	2	0
Early C18 St John's College terrier (II)	IV.B	0	0
C18 St John's College estate map	IV.C	0	2
Survey of estate lands and roads of Good-nestone	IV.D	0	3
Late C18 St John's College terrier	IV.E	0	0
Barlow-Hasted map of Kent	IV.F	1	0
Ordnance Survey, Mudge-Faden one-inch map of Kent	IV.G	1	0
Early C19 St John's College Downe Court map (I)	IV.H	0	0
Early C19 St John's College Downe Court map (II)	IV.I	0	0
Greenwood's map of Kent	IV.J	0	1
Ordnance Survey, one-inch Old Series map of Kent	IV.K	0	0
Tithe Act 1836	IV.L	0	3
Mid-C19 St John's College estate map	IV.M	0	0
Ordnance Survey boundary records	IV.N	0	1
Inclosure Act 1845: order of exchange	IV.O	0	0
Ordnance Survey County Series 1:2,500 maps	IV.P	0	1
Eastry Rural Sanitary Authority/Rural District Council highway authority	IV.Q	0	3

<sup>7</sup> Sarah Bucks and Phil Wadey, 2<sup>nd</sup> ed. 2017.

Bartholomew's map	IV.R	0	1
East Kent mineral light railway	IV.S	5	0
Finance (1909–1910) Act 1910	IV.T	0	5
Electricity Supply Acts 1882 to 1922	IV.U	2	0
Highway inspector's map	IV.V	0	3
Conveyance of 1982	IV.W	0	3
<b>Total points</b>		11	26

I.3. In the above table, it should be noted that some evidence has been rated as supporting only bridleway status, notwithstanding that the evidence is not exclusive of carriageway status. For example, the Barlow-Hasted map of Kent (item IV.F below) and the Ordnance Survey, Mudge-Faden one-inch map of Kent (item IV.G below) are rated as supporting bridleway status, but this is because it cannot be inferred with certainty that a way depicted on either map is a carriageway. However, the depiction on either map is also consistent with a carriageway.

## J. Width of application way

J.1. There are several evidential indicators to the width of the application way:

J.2. On the tithe map for Wingham (see item IV.L below), Twitham Road (as it appears to have been labelled) is given an area of 0a 1r 18p (0.147 ha). This appears to relate to that part in the parish of Wingham, of which 180m is wholly in the parish, and a further 180m is partly in the parish (the parish boundary passing down the centre line of the road). This suggests an average width of 5.43m.

J.3. On the Ordnance Survey County Series first edition map at a scale of 1:2,500 (item IV.P below, Illustration xxxvi), the application way in Wingham is identified as a separate parcel, of area 0.415 acres (0.168 ha). The parcel includes half the width of the application way where the way accommodates the parish boundary. This suggests an average width of 6.22m.

J.4. Beyond the parish boundary, in the parish of Goodnestone, the way is also recorded as a separate parcel, of area 0.739 acres (0.299 ha). However, this parcel includes a small area of land between the application way and the boundary of the oast houses, estimated to be around 0.041 ha in extent. Again, the parcel includes half the width of the application way where the way accommodates the parish boundary. The length of the way wholly within the parish of Goodnestone, as far as the southern edge of sheet XLVII/8, is 610m. This suggests an average width of 3.68m. However, if the width of the application way where it accommodates the parish boundary is assumed to be 6.22m, then the remaining part would have a width of 3.31m.

J.5. The section of the application way on sheet XLVII/12 is, on the first edition map, parcelled with what is now bridleway EE269A and it is not possible to assign an area, and therefore width, to the portion north of F. On the second and subsequent editions, the way is braced with the field within which it lies, and no calculation of width is possible other than by scaling from the width shown on the map.

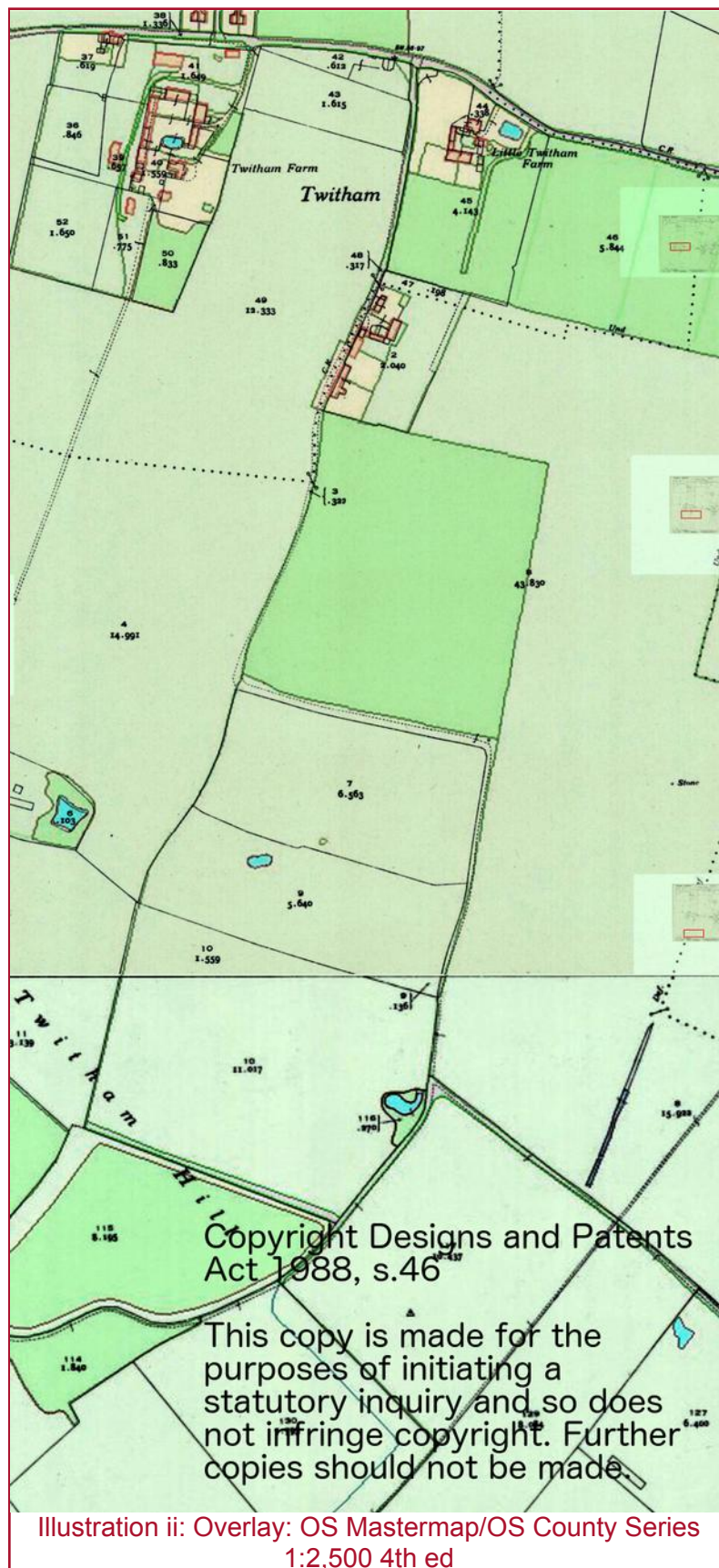
J.6. On the Ordnance Survey County Series fourth edition map, the area is given for the application way in the parish of Goodnestone as far south as the turn at D, being 0.322 acres (0.130 ha). Here again, the parcel includes a small area of land between the application way and the boundary of the oast houses, around 0.041 ha in extent, and half the



width of the application way where the way accommodates the parish boundary. The length of the way wholly within the parish of Goodnestone, as far as D, is 170m. This suggests an average width of 3.43m. However, if the width of the application way where it accommodates the parish boundary is assumed to be 6.22m, then the remaining part would have a width of 1.96m.

## K. Application alignment

(The following map is not the application map, for which, please see part II below)



K.1. On first blush, the field pattern traversed by the application way appears generally unchanged in terms of the relevant field boundaries. This is suggestive that the application way should adhere to the same boundaries today.



K.2. However, if the Ordnance Survey County Series 1:2,500 4th edition map published in 1946 (item IV.P below, Illustration xl) is overlaid onto the Ordnance Survey Mastermap, it becomes apparent that the field boundary between D and E is not consistent over time, and the present boundary has been set back further north. Consequently, the application way between D and E now falls along the northern headland of the field to the south.

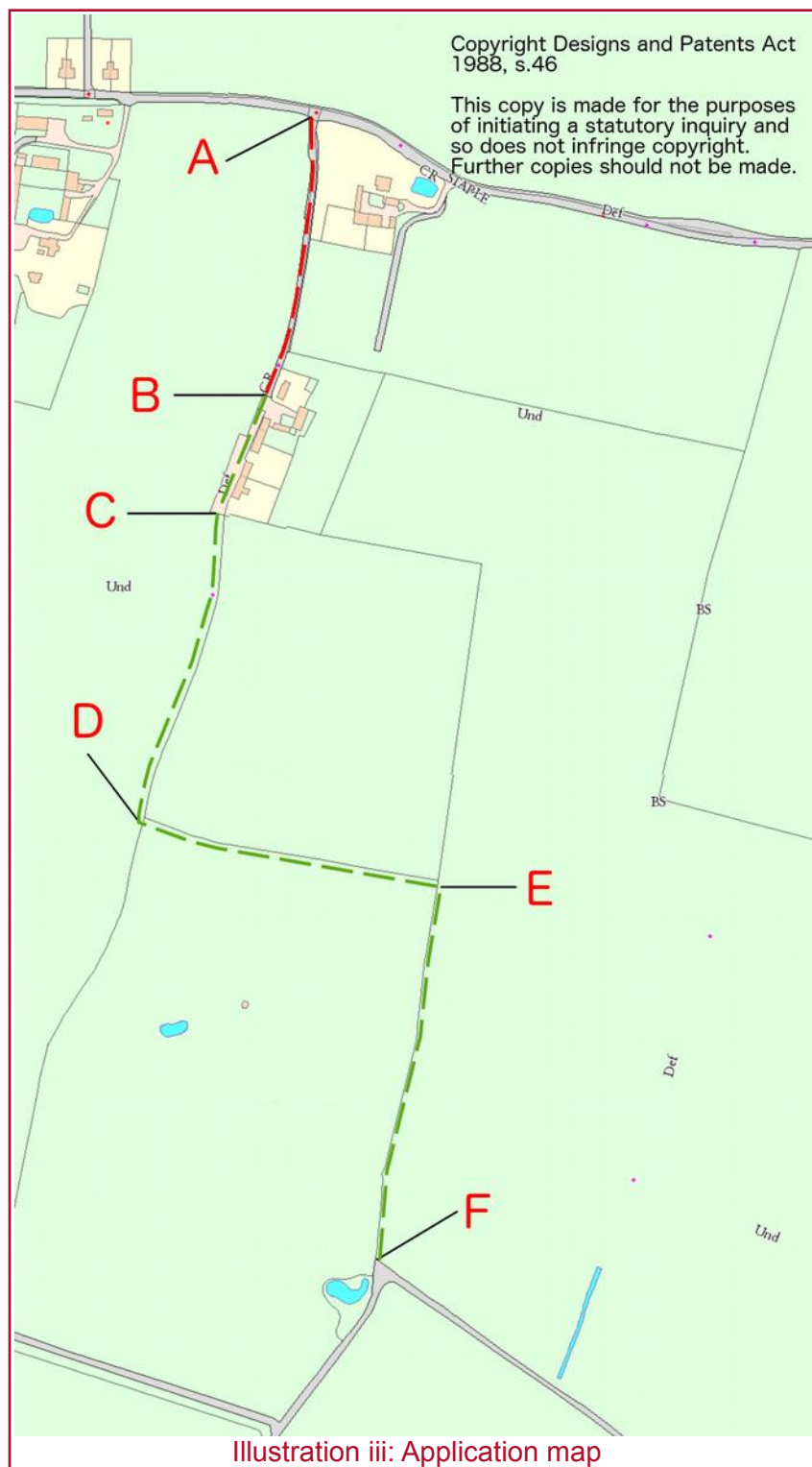
K.3. Between E and F, the position is more confused. There is some evidence from the overlay and on site that the present hedge may have been set back further east (at least in part), but the cartographic evidence is inconclusive, and the way has been claimed along the east side of the headland, consistent with historic mapping.

## L. Limitations

L.1. Neither the tithe map drawn up under the Tithe Act 1836 (item IV.L below) nor the Ordnance Survey County Series 1:2,500 maps (item IV.P below) shows any evidence of a gate across the application way.

L.2. Therefore it is sought that any order arising from this application should expressly provide to record in the definitive statement that no limitation is present on the way.

## II. Application map



Map centred on E at TR26325622

Scale: approx. 1:5,155 (when printed A4)

Application way is marked

— (RB)  
— (BOAT)

80m

### III. Along the way



Illustration iv: South of A



Illustration v: North of B: Little Twitham Farm Cottage



Illustration vi: South of C—hedge obstruction



Illustration vii: From D towards E



Illustration viii: North of F—site of Higher Twitham Farm



Illustration ix: F towards north

## IV. Evidence

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### A. Early C18 St John's College terrier (I)

A.1. **Date:** 1701

A.2. **Source:** St John's College archives<sup>8</sup>

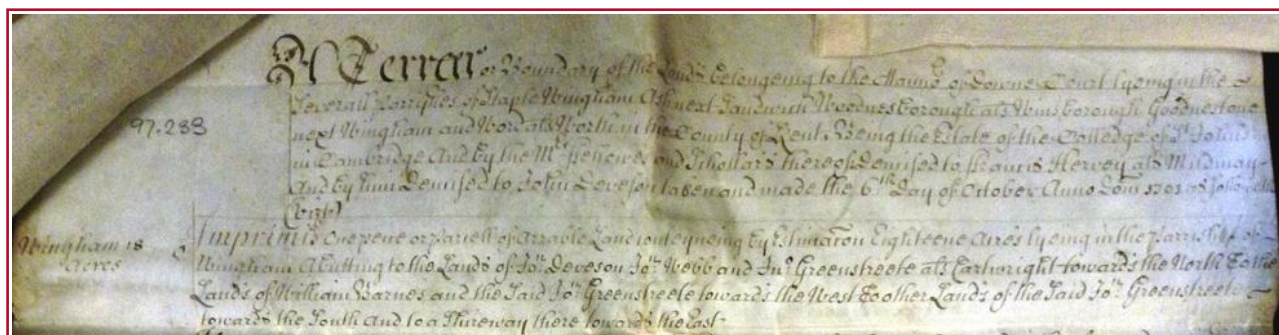


Illustration x: St John's College terrier 1701

A.3. **Description:**

A terrier or boundary of the lands belonging to the manor of Downe Court lying in the several parishes of Staple, Wingham, Ash next Sandwich, Woodnesbor-

<sup>8</sup> SJES/2/2/AHK/3/1/1/3



ough alias Winsborough Goodnestone next Wingham and ? in the county of Kent. Being the estate of the College of St John in Cambridge and by the Masters, Fellows and Scholars thereof demised to Francis Harvey alias Mildmay and by him demised to John Seveson taken and made the 6<sup>th</sup> day of October Anno Dom 1701 ? folio biz

*Imprimis* One piece or parcel of arable land containing by estimation eighteen acres lying in the parish of Wingham abutting to the lands of Doveson, Webb and Greenstreete alias Cartwright towards the North and the lands of William Barnes and the said Greenstreete towards the West and other lands of the said Greenstreete towards the South and to a shireway there towards the East.

A.4. **Conclusion:** The St John's College terrier describes a parcel of land, of area 18 acres, defined by the lands of other owners. These parameters locate the fields as the land of St John's College on the west side of the application way between B and D, and it is therefore the application way which is described as a shireway. A shireway is a public bridleway.<sup>9</sup> The terrier is therefore good evidence of the reputation of the application way (between B and D) as a bridleway.

A.5. **Points:**

Bridleway	Restricted byway
2	0

## B. Early C18 St John's College terrier (II)

B.1. **Date:** 1704

B.2. **Source:** St John's College archives<sup>10</sup>

<sup>9</sup> See, for example, [The Old Roads of England](#), Sir William Wilkinson Addison, 1980, p.162: 'Shireway: bridleway'; [A General Dictionary of Provincialisms](#), William Holloway, 1840, p.151: 'A bridle-way. S Sussex'; [A Dictionary of Archaic and Provincial Words](#), James Orchard Halliwell, 1855, vol.II, p.733: 'Shire-way: a bridle-way South'.

<sup>10</sup> SJES/2/2/AHK/3/1/1/5



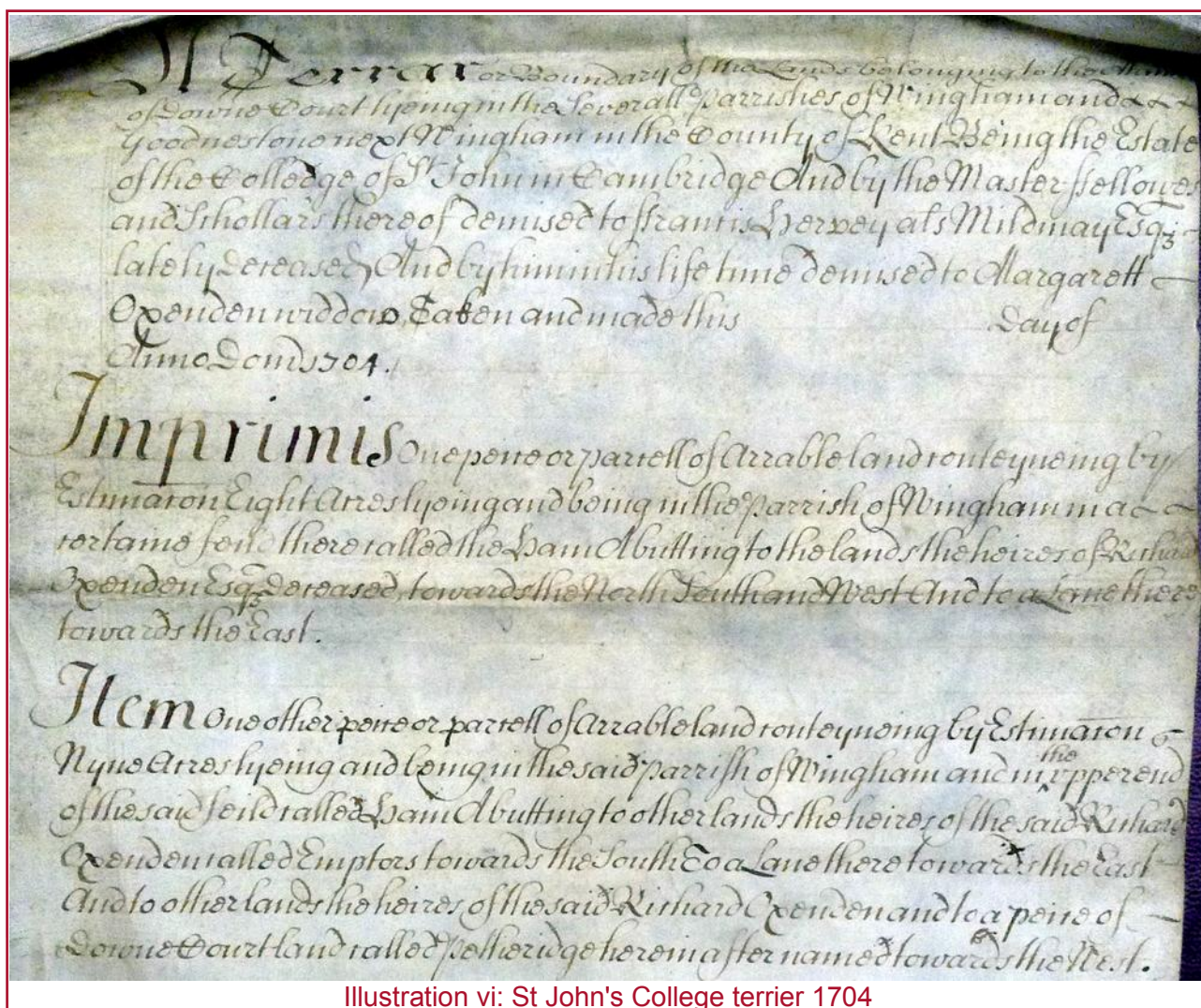


Illustration vi: St John's College terrier 1704

### B.3. Description:

A terrier or boundary of the lands belonging to the Manor of Downe Court lying in the several parishes of Wingham and Goodnestone Next Wingham in the County of Kent being the estate of the College of St John in Cambridge and by the Master Fellows and Scholars thereof demised to Francis Harvey alias Mildmay Esq lately deceased and by him in his life time demised to Margaratt Oxenden widow, ? And made this day of Anno Dom 1704.

*Imprimis* One piece or parcel of arable land containing by estimation eight acres lying and being in the parish of Wingham in a certain field there called the Ham abutting to the lands the heirs of Richard Oxenden Esq deceased towards the North South and West and to a Lane towards the East.

Item one other piece or parcel of arable land containing by estimation nine acres lying and being in the said parish of Wingham and in the upper end of the said field called Ham abutting to other lands the heirs of the said Richard Oxenden called Emptors towards the south, to a lane there towards the east, and to other lands the heirs of the said Richard Oxenden and to a piece of Downe Court land called Petheridge hereinafter named towards the west.



B.4. **Conclusion:** The St John's College terrier describes two parcels of land in Ham field, of combined area 17 acres, surrounded by the estate of the late Richard Oxenden. These parameters locate the fields as the land of St John's College on the west side of the application way between B and D, and it is therefore the application way which is described as a 'lane'. The description is consistent with the claimed status of the application way as a public road.

A Map and Description of several Pieces or Parcels of Arable and Pasture Land being in the several Parishes of Staple, Wingham, Ash, Woodnesborough, Goodnestone, and Word *alias* Worth, in the County of KENT. Belonging to St. John's College in Cambridge; and new in the Tenure or Occupation of the Reverend John Lynch D. D. Dean of Canterbury, or his under Tenants. 1736.

Surveyed by Henry Maxted and Edward Randall of Canterbury.

C.4. The estate map shows the application way between A and D as an enclosed lane (the depiction of the boundaries is suggestive of a lane enclosed by hedges). At D, a turning is shown to the east, which is marked, 'To Goodneftone'. The lane is coloured sienna, in common with a number of other lanes shown on the plan.

C.5. **Conclusion:** The estate map records the existence of the application way from A to beyond D as a physical feature in 1736.

C.6. The label attached to the way east from D as leading to Goodnestone is strongly suggestive that the way was considered to be public. In *Commission for New Towns & Another v JJ Gallagher Ltd*,<sup>12</sup> Neuberger J (as he then was) said, in the context of a determination whether Beoley Lane was a public carriageway:

It was agreed between both experts that the designation "from X" or "to X" on a road was indicative of highway status. A specific description of a lane as leading from one village to another, particularly when one bears in mind that it was a carriageway (albeit that its status as a public carriageway is in issue) does provide some support for the notion that it was a public carriageway.

The Consistency Guidelines,<sup>13</sup> in relation to tithe maps, state that: 'However, the annotation of a road 'to' or 'from' a named settlement is suggestive of public rights.' There is no reason not to apply the same observation to such an annotation on an estate map of this kind.

C.7. Of the various roads and lanes on the plan coloured sienna, all today are recognised as public roads, with the exception of the application way, Church Lane south from Staple church (which is the subject of an application to record the way as a public bridleway<sup>14</sup>), a turning south off Barnsole Road at Summerfield (labelled on the map as Drove Lane, and now recorded as a public footpath), and Dix's Farm Road off Barnsole Road at Summerfield Farm (labelled on the map as East Way, recorded north of Barnsole Road as a public footpath, and as a publicly maintainable road on the highway authority's list of streets for at least 100m in the opposite direction). The colouring of the application way therefore lends some support to its status as a public road, it being plausible that colouring was used to indicate highways.

C.8. **Points:**

Bridleway	Restricted byway
0	2

<sup>12</sup> [www.bailii.org/ew/cases/EWHC/Ch/2002/2668.html](http://www.bailii.org/ew/cases/EWHC/Ch/2002/2668.html)

<sup>13</sup> *Consistency Guidelines*: para.8.12.

<sup>14</sup> Application registered as PROW/DO/C390.



## D. Survey of estate lands and roads of Goodnestone

D.1. **Date:** 1767

D.2. **Source:** Canterbury Cathedral Archives<sup>15</sup>

### Goodnestone roads map

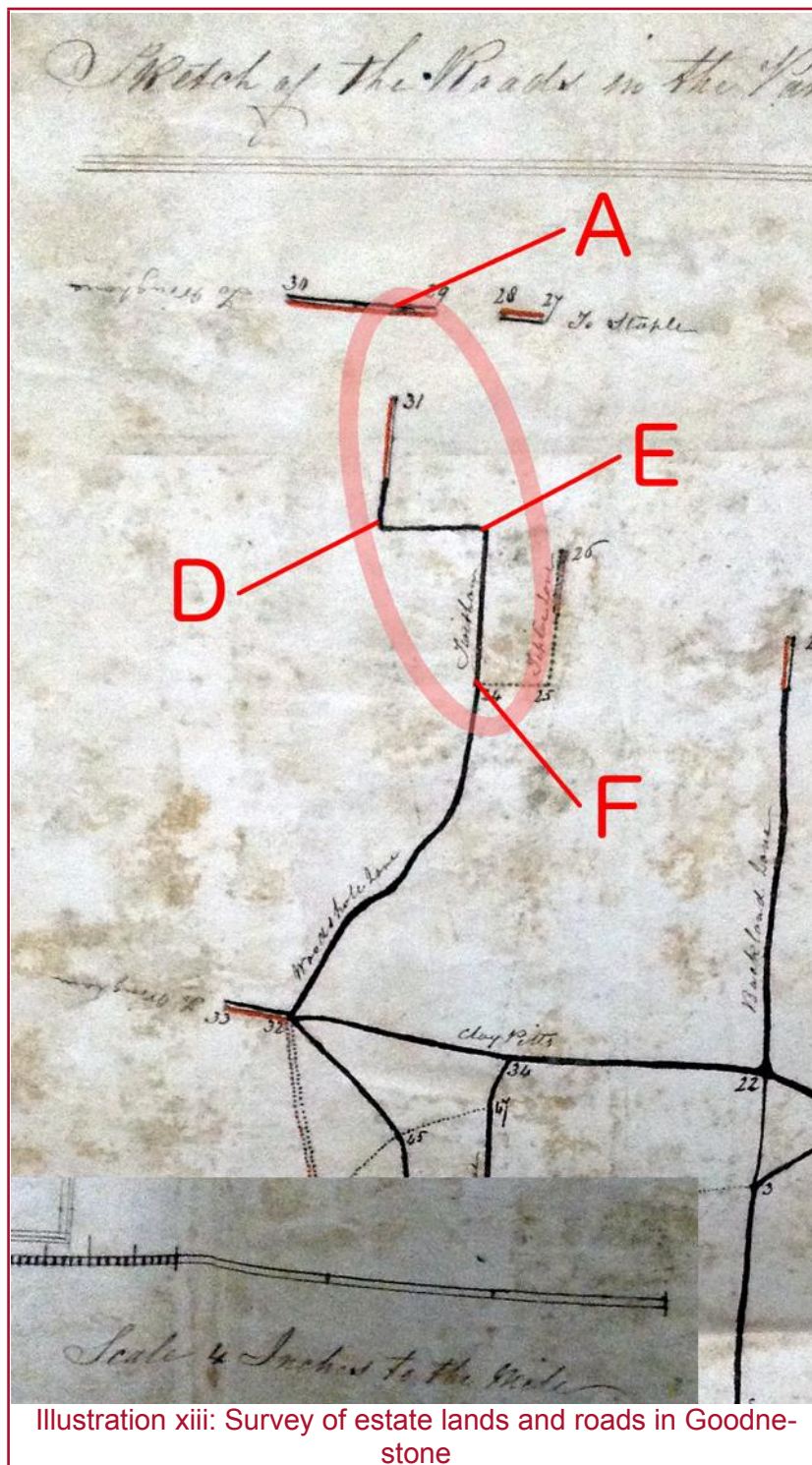


Illustration xiii: Survey of estate lands and roads in Goodnestone

## Goodnestone roads map key

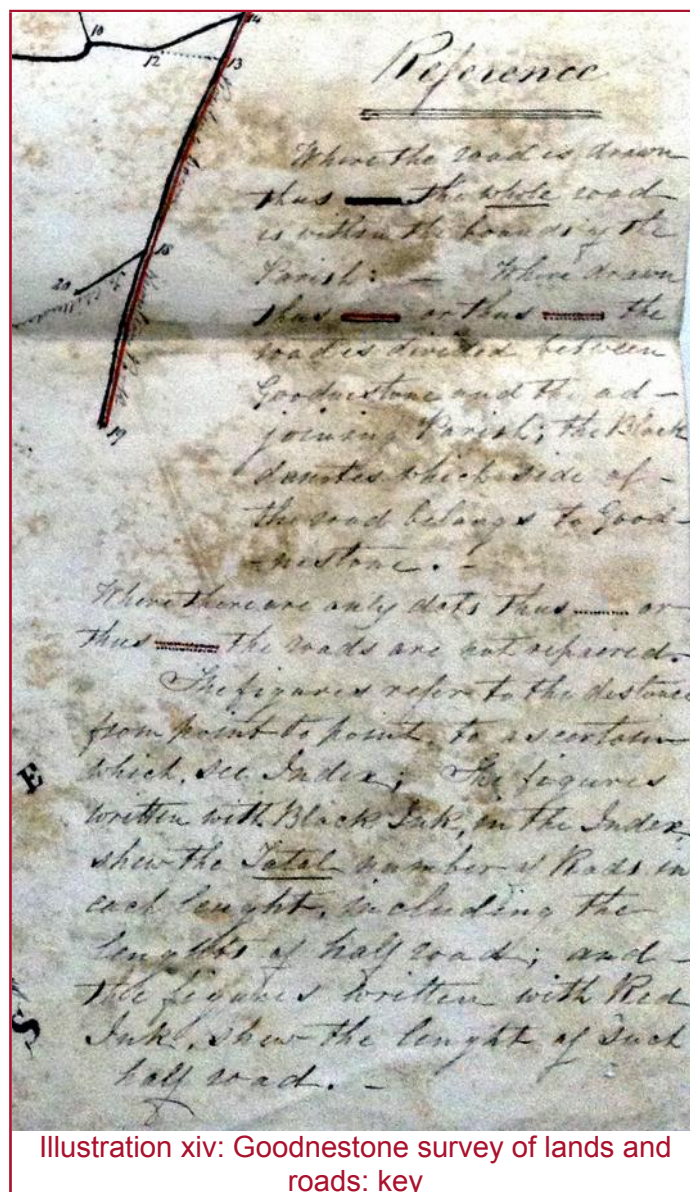


Illustration xiv: Goodnestone survey of lands and roads: key



## Description of lands map

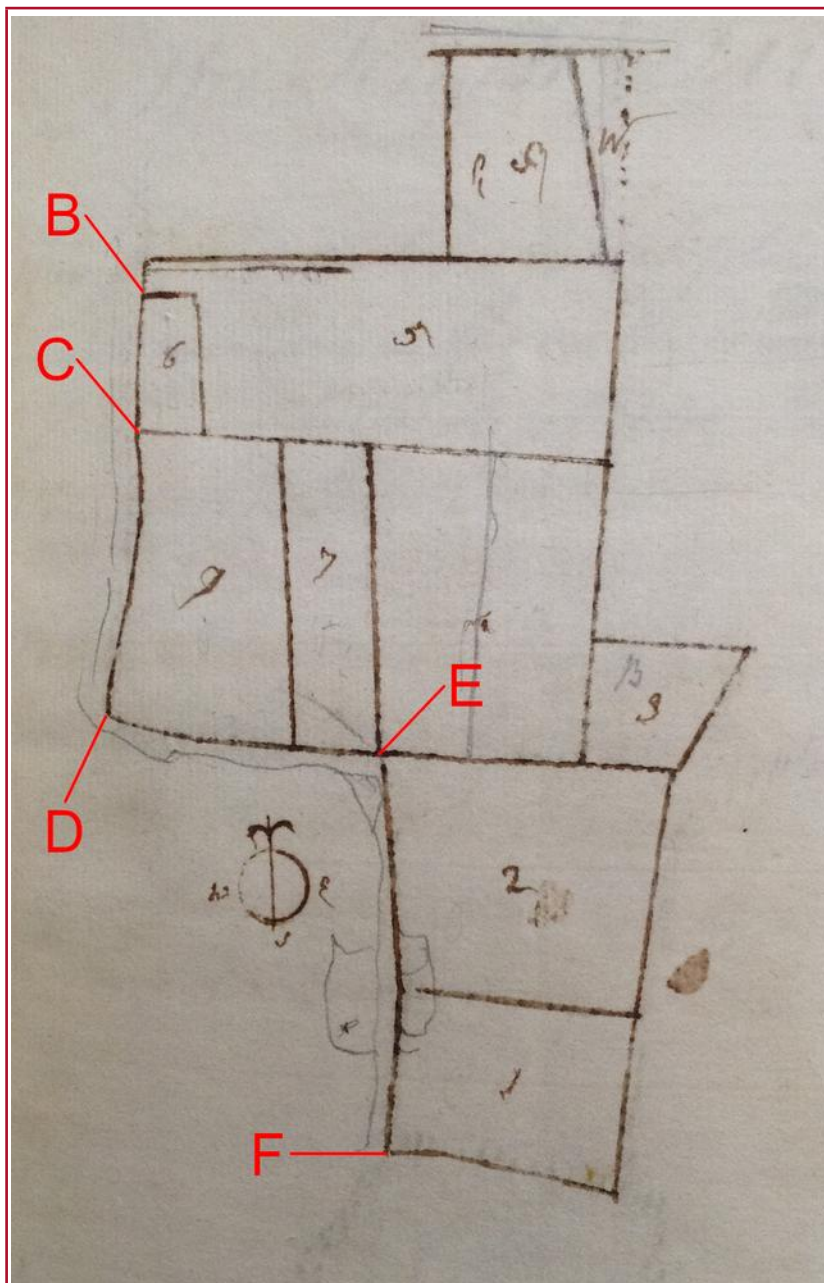


Illustration xv: description of lands map

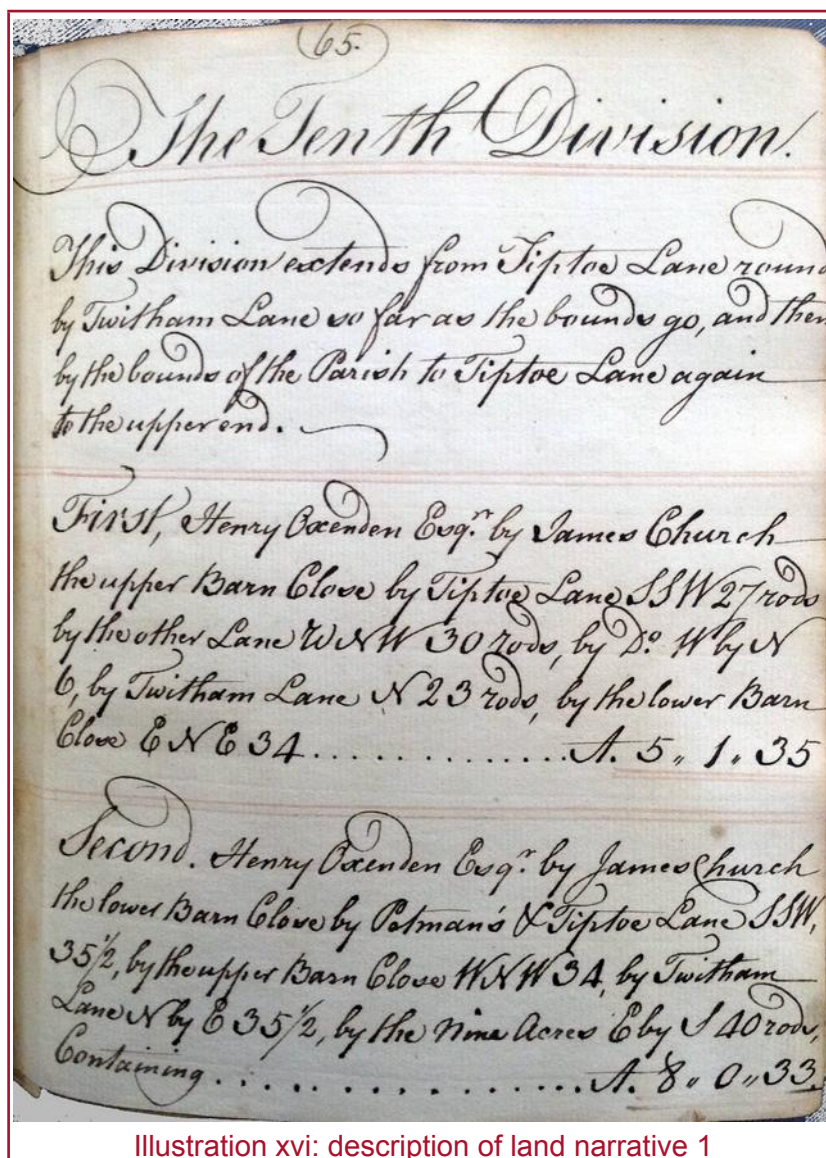


Illustration xvi: description of land narrative 1

## Description of lands narrative 2

(67.)  
Fifth. James Church's in part. — by himself  
the greatest part of a Piece in Twitham Field called the  
Ten Acres, by Sir W<sup>m</sup> Lynch's Land S by W 29 rods,  
by the Nine Acres & La. Pilcher's & Sayer's W 62 rods,  
by La. Pilcher's Orchard N by E 19, by S<sup>r</sup> House &  
Garden, W N W 8, by Twitham Lane N by E 2, by the  
other part of this Piece lying in Wingham near E 32  
rods, by Ditto N 2 1/4, then by Jos. Greenstreet's Land  
42 Rods, Containing. . . . . A. 10, 2, 12

Illustration xvii: description of lands narrative 2



### Description of lands narrative 3

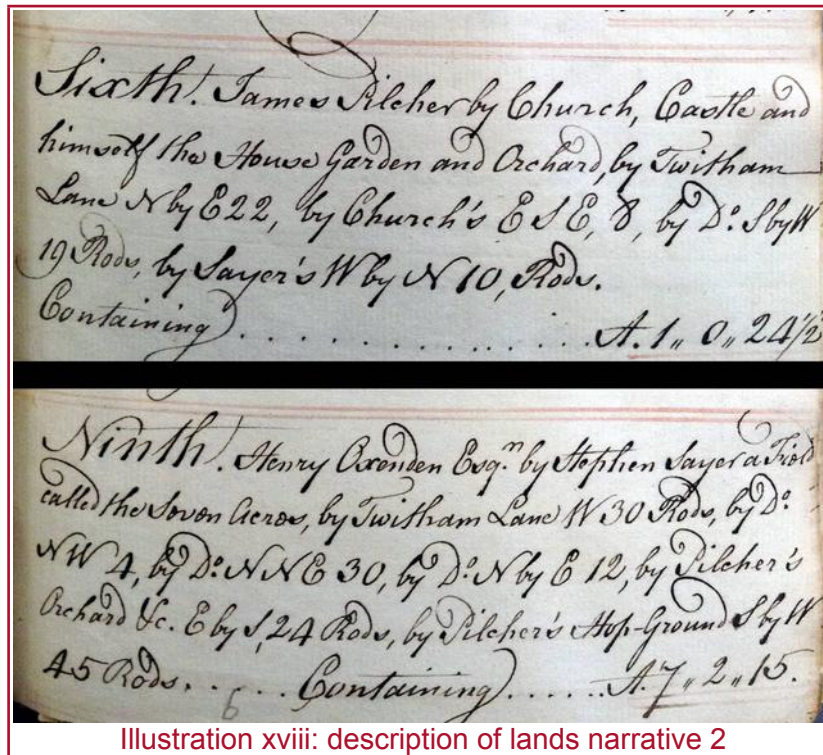




Illustration xviii: description of lands narrative 2



D.3. **Description:** Original scale: scale marked on map; orientation: unchanged (north).

D.4. The survey, published in the second half of the eighteenth century, is a comprehensive gazetteer of land holdings in the parish of Goodnestone and of the boundary of the parish, preceded by a map of the roads in the parish, classified according to whether they are publicly maintainable.

D.5. The map is annotated as follows:

#### Reference

Where the road is drawn thus — the whole road is within the bounds of the Parish: — Where drawn thus  or thus  the road is divided between Goodnestone and the adjoining Parish; the Black denotes which side of the road belongs to Goodnestone.

Where there are only dots thus  or thus  the roads are not repaired.

The figures refer to the distance from point to point. To ascertain which, see Index; the figures written with Black Ink, in the Index, shew the Total number of Rods in each length, including the lengths of half road; and the figures written with Red Ink, show the length of such half road.

D.6. The key indicates that publicly maintainable roads are shown in solid black, while roads which are not repairable are shown dotted black. A red edging indicates that maintenance is shared with a neighbouring parish.

D.7. The application way is included in the map insofar as it lies within the parish of Goodnestone, as a publicly-maintainable highway. The section edged in red between B

and a point south of C indicates that the maintenance of this section is shared with another parish (Staple).

D.8. In the description of lands for the ninth division of Goodnestone, a map showing the division includes the application way between B and F as a pencilled-in addition, together with Higher Twitham Farm. In the narrative, the application way is referred to as Twitham Lane (a conversion is given for the area of land and length of boundary):

#### The Tenth Division

This Division extends from Tiptoe Lane round by Twitham Lane as far as the bounds go, and then by the bounds of the Parish to Tiptoe Lane again to the upper end.

First, Henry Oxenden Esq.r by James Church the upper Barn Close by Tiptoe Lane SSW 27 rods [136m] by the other Lane WNW 30 rods [151m], by Do. W by N 6 [30m], by Twitham Lane N 23 rods [116m], by the lower Barn Close ENE 34 [171m].....A.5.1.35 [2.21 ha]

Second. Henry Oxenden Esq.r by James Church the lower Barn Close by Potman's & Tiptoe Lane SSW, 35½ [179m], by the upper Barn Close WNW 34 [171m], by Twitham Lane N by E 35½ [179m], by the Nine Acres E by S 40 rods [201m], Containing.....A.8.0.33 [3.32 ha]

...

Fifth. James Church's in part. — by himself the greatest part of a Piece in Twitham Field called the Ten Acres, by Sir Wm. Lynch's Land S by W 29 rods [146m], by the Nine Acres & Ja. Pilcher's & Sayer's W 62 rods [312m], by Ja.s Pilcher's Orchard N by E 19 [96m], by Do. House & Garden, WNW 8 [40m], by Twitham Lane N by E 2 [10m], by the other part of this Piece lying in Wingham near E 32 rods [161m], by Ditto N 2¼ [11m], then by Jos. Greenstreet's Land 42 Rods [211m], Containing.....A.10.2.12 [4.28 ha]

Sixth. James Pilcher by Church, Castle and himself the House Garden and Orchard, by Twitham Lane N by E 22 [111m], by Church's ESE, 8 [40m], by Do. S by W 19 Rods [95m], by Sayer's W by N 10, Rods [50m]. Containing.....A.1.0.24½ [0.47 ha]

...

Ninth. Henry Oxenden Esq.n by Stephen Sayer a Field called the Seven Acres, by Twitham Lane W 30 Rods [151m], by Do. NW 4 [20m], by Do. NNE 30 [151m], by Do. N by E 12 [60m], by Pilcher's Orchard &c. E by S, 24 Rods [121m], by Pilcher's Hop-Ground S by W 45 Rods [226m] Containing.....A.7.2.15 [3.07ha]

D.9. **Conclusion:** The survey is good evidence that the application way was regarded as a public road, publicly maintainable. The survey was prepared for Sir Brook Bridges, the then proprietor of the Goodnestone estate, and therefore may be taken to reflect the disposition of the land owner at the time.

D.10. The survey also defines the western boundary of the 'Tenth division' of the estate by reference to Twitham Lane. The narrative for the Tenth division does not expressly specify



that Twitham Lane is a public highway — but this is addressed in the aforementioned map of roads in the parish.

**D.11. Points:**

Bridleway	Restricted byway
0	3

**E. Late C18 St John's College terrier**

**E.1. Date:** 1793

**E.2. Source:** St John's College archives<sup>16</sup>

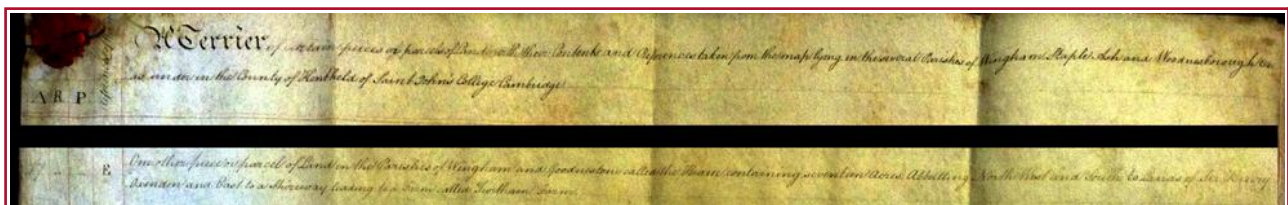


Illustration xix: St John's College terrier 1793

**E.3. Description:**

A terrier of certain pieces or parcels of land with their contents and references taken from the map lying in the several parishes of Wingham, Staple, Ash and Woodnesborough as [under?] in the County of Kent held by St John's College Cambridge.

...

17 [acres] E One other piece or parcel of land in the parishes of Wingham and Goodnestone called the Ham containing seventeen acres abutting North West and South to Lands of Sir Henry Oxenden and East to a shireway leading to a farm called Twitham Farm.

**E.4.** The label E applied to the parcel described above appears to be the same field labelled E in the Early C19 St John's College Downe Court map (I) at item IV.H below.

**E.5. Conclusion:** The St John's College terrier refers to the application way between B and D, adjacent to the parcel identified as E, as a 'shireway leading to a farm called Twitham Farm'. A shireway is a public bridleway (see paragraph A.4 above). The terrier is therefore good evidence of the reputation of the application way (between B and D) as a bridleway.

**E.6. Points:**

Bridleway	Restricted byway
0	0

(no more than two documents are scored from similar historical sources)

<sup>16</sup> SJES/2/2/AHK/3/1/1/7

## F. Barlow-Hasted map of Kent

F.1. **Date:** 1797–1801

F.2. **Source:** Kent County Archives, also available at [www.ancestry.com](http://www.ancestry.com)<sup>17</sup>: engraved by William Barlow in Edward Hasted's *The History and Topographical Survey of Kent*: published in 12 Volumes.



Illustration xx: Barlow-Hasted map

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

F.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 Wingham.

F.5. The Barlow map shows a way approximately south-southeast from the Staple to Wingham Road west of Staple, close to the boundary of the hundred of Downhamford with Wingham. The way joins another way which projects southwest from Staple Church, and continues south-southeast to a hill north of Crixhall Rough. The way then continues south-southwest over the boundary of Downhamford and Wingham.

<sup>17</sup> Indexed at [freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU\\_Pages/ENG\\_pages/ken.htm](http://freepages.genealogy.rootsweb.ancestry.com/~genmaps/genfiles/COU_Pages/ENG_pages/ken.htm)

F.6. **Conclusion:** The way shown on the Barlow map approximately coincides with the course of the application way. The three limbs of the ways centred on a point slightly to the northwest of F (as marked on the map) are likely to be the application way (to the north-northwest), the way (Tiptoe Lane, see Survey of estate lands and roads of Goodnestone at item IV.D above) from Church Lane opposite Staple Church to Higher Twitham Farm<sup>18</sup>, and what is now recorded as bridleway EE269A to Cave Lane. The way to Higher Twitham Farm joined the application way between E and F: accordingly, on the extract above, the southern termination of the application way (at F) is marked as coincident with the nominal representation of the summit of the hill to the north of Crixhall Rough.

F.7. The Barlow map provides some evidence of the existence of a public way along the course of the application way in the late eighteenth century. The map was widely commercially published, and would tend to show through routes which were public highways, whereas certain minor routes of questionable public status (such as the track from Knowlton to Tickenhurst, and the drive through Updown park) are shown with lines across the junction with public ways. However, as the application route is not shown as a principal road, it cannot be assumed that the status is any greater than bridleway.

F.8. **Points:**

Bridleway	Restricted byway
1	0

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

G.1. **Date:** 1801

G.2. **Source:** Mapco.net<sup>19</sup>: © Copyright David Hale and the MAPCO : Map And Plan Collection Online 2006–13

<sup>18</sup> See paragraph I.E.4 above for more about Higher Twitham Farm.

<sup>19</sup> [mapco.net/kent1801/kent31\\_02.htm](http://mapco.net/kent1801/kent31_02.htm) and [mapco.net/kent1801/kent31\\_03.htm](http://mapco.net/kent1801/kent31_03.htm)





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

G.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.

G.5. The Mudge-Faden map shows a way consistent with the alignment of the application way between A and F, enclosed on both sides. Spurs branch off from the way to the south (at D) and east (at E). At F, the way is shown continuing southwest to Cave Lane (along the route of what is now recorded as bridleway EE269A) and southeast towards Crixhall Court (along the route of what is now recorded as bridleway EE28).

G.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.

G.7. The application way is shown as an indirect, enclosed route between Twitham and Goodnestone, and is shown as open to both Staple Road at A and Cave Lane. The Mudge-Faden map provides some evidence for the existence of a public highway along the application way, although it cannot be stated with confidence that it is necessarily greater than a bridleway.

### G.8. Points:

Bridleway	Restricted byway
1	0

## H. Early C19 St John's College Downe Court map (I)

H.1. **Date:** 1800–20

H.2. **Source:** St John's College archives<sup>20</sup>

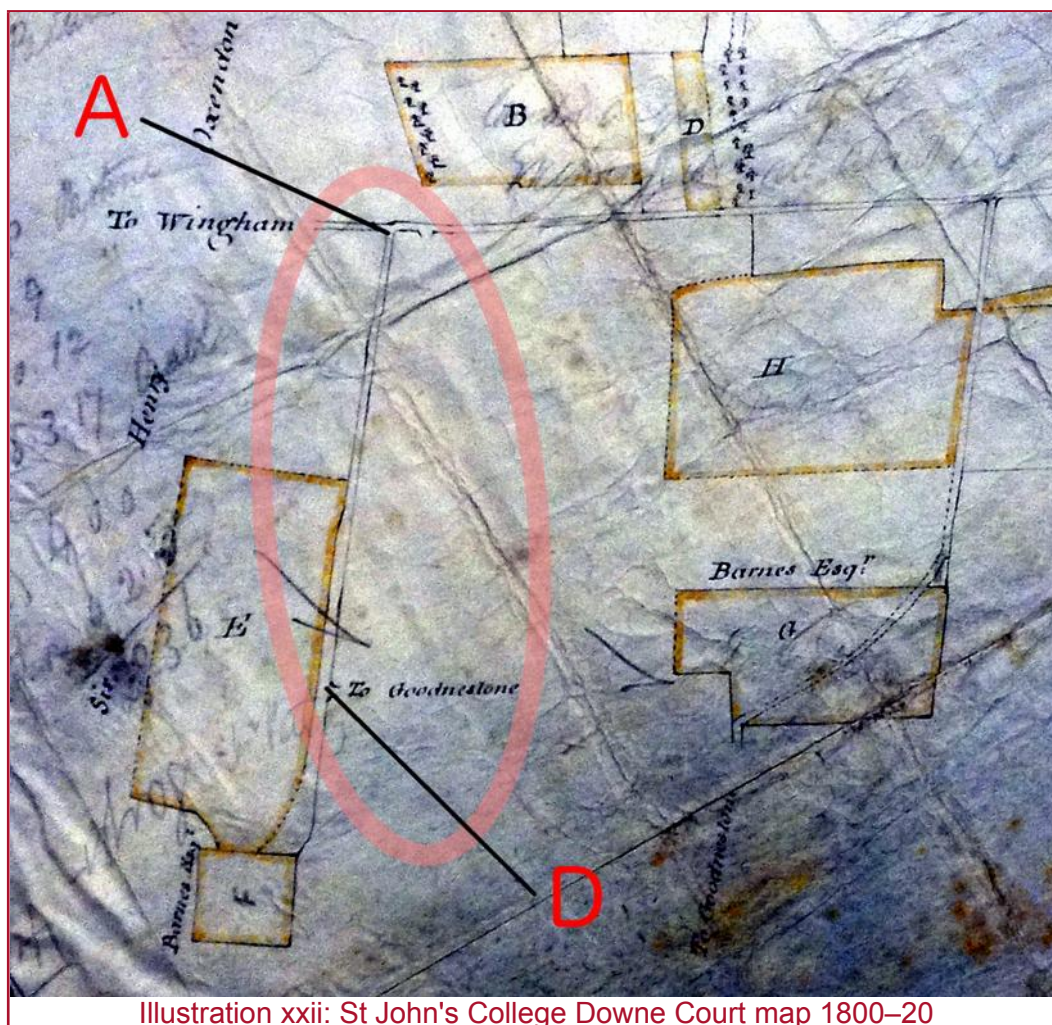


Illustration xxii: St John's College Downe Court map 1800–20

H.3. **Description:** The map is of the Downe Court estate of St John's College, Cambridge, showing lands held by or leased by the college. The map shows the application way between A and D as an enclosed road which also provides access to college land on the west side of the application way (this land continues in the ownership of the college to this day), labelled E and F on the plan. At D, a turning is shown to the east which is labelled 'To Goodnestone'.

H.4. **Conclusion:** The college estate map shows the existence of the application way between A and D as a physical feature. The label attached to the way east from D as

20 SJES/2/2/AHK/4/14



leading to Goodnestone is strongly suggestive that the way was considered to be public (see para.IV.C.6 above).

#### H.5. Points:

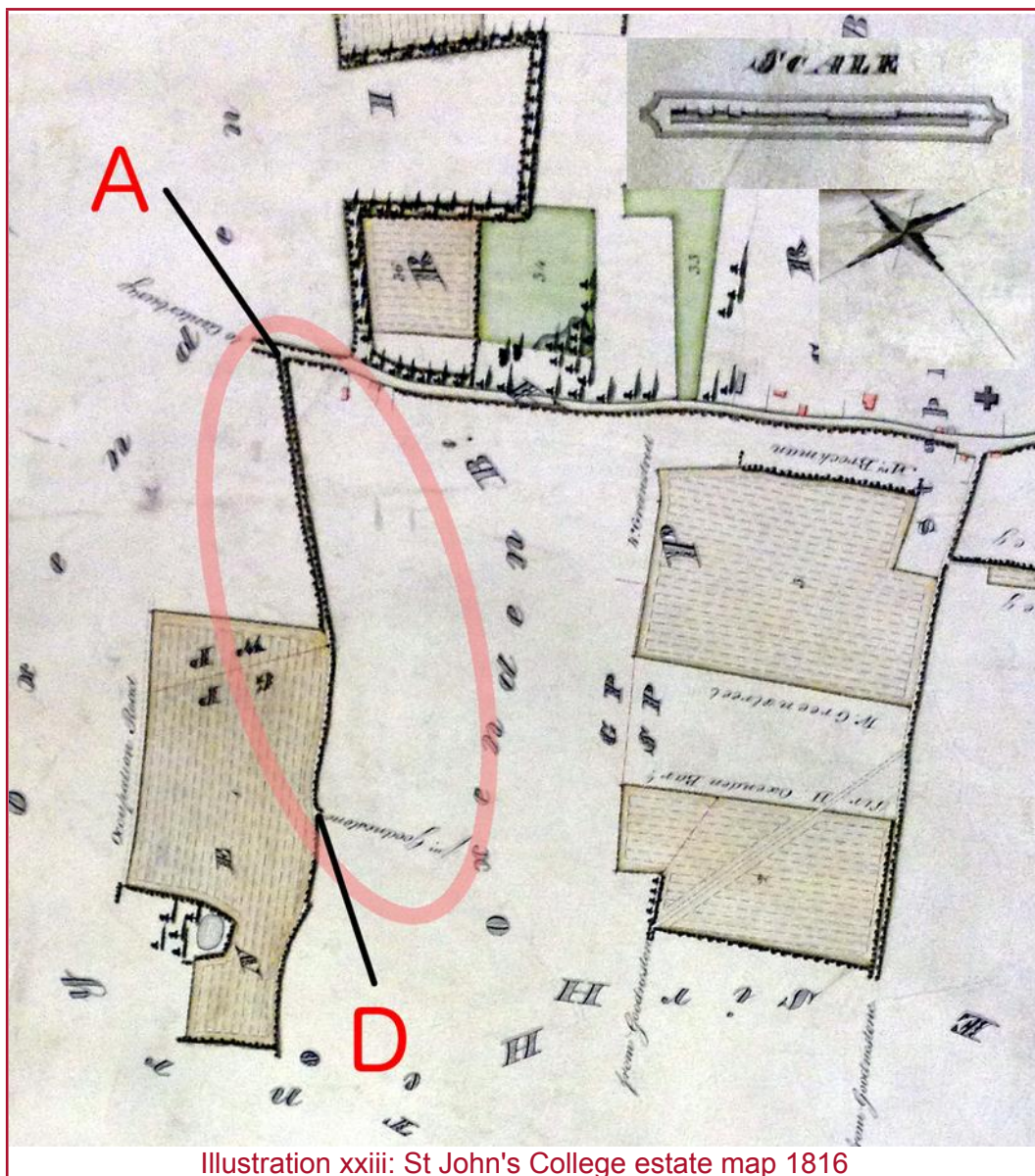
Bridleway	Restricted byway
0	0

(no more than two documents are scored from similar historical sources)

### I. Early C19 St John's College Downe Court map (II)

I.1. **Date:** 1816

I.2. **Source:** St John's College archives<sup>21</sup>



I.3. **Description:** The plan map is of the Downe Court estate of St John's College, Cambridge, showing lands held by the college. The plan shows the application way between A and C as an enclosed road which also provides access to college land on the west side of the application way. South of C, the application way is shown as enclosed on the east side, but open to the college land on the west side of the application way. At D, a turning is shown to the east which is labelled 'Fm. Goodnestone'.

I.4. **Conclusion:** The college estate plan shows the existence of the application way between A and D as a physical feature. The label attached to the way east from D as leading from Goodnestone is strongly suggestive that the way was considered to be public (see para.IV.C.6 above).

I.5. **Points:**

Bridleway	Restricted byway
0	0

(no more than two documents are scored from similar historical sources)

## J. Greenwood's map of Kent

J.1. **Date:** 1819–20

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

## Greenwood map

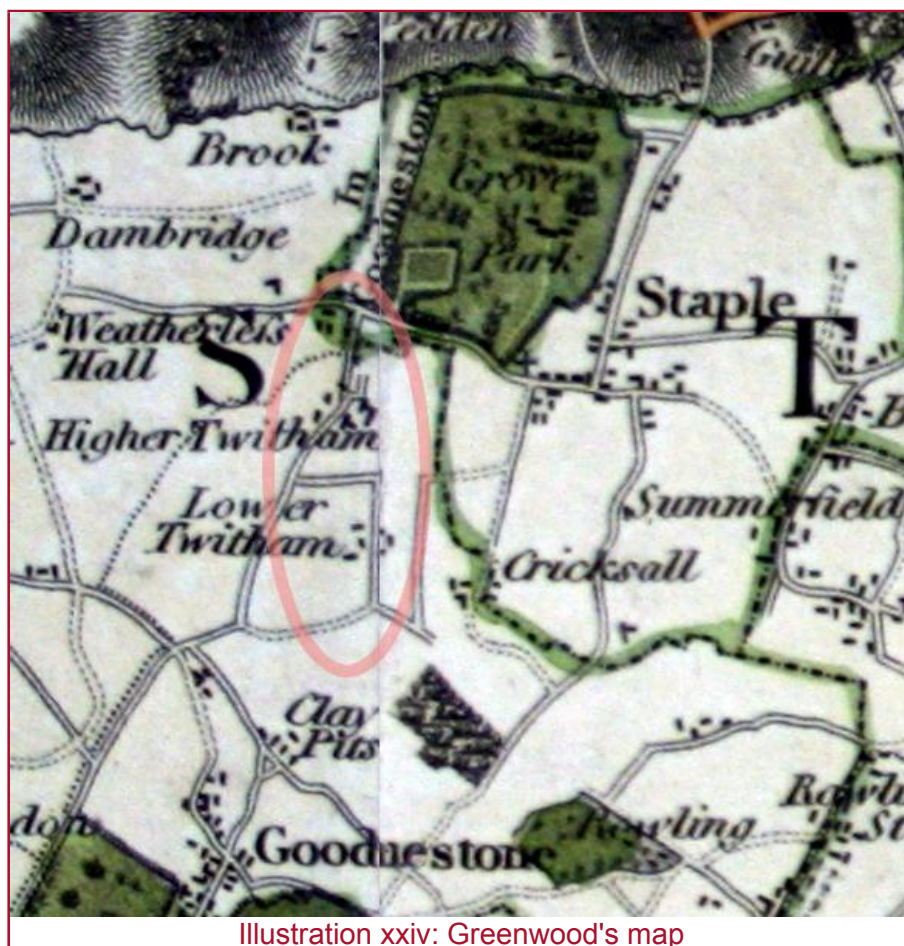


Illustration xxiv: Greenwood's map

## Greenwood map key

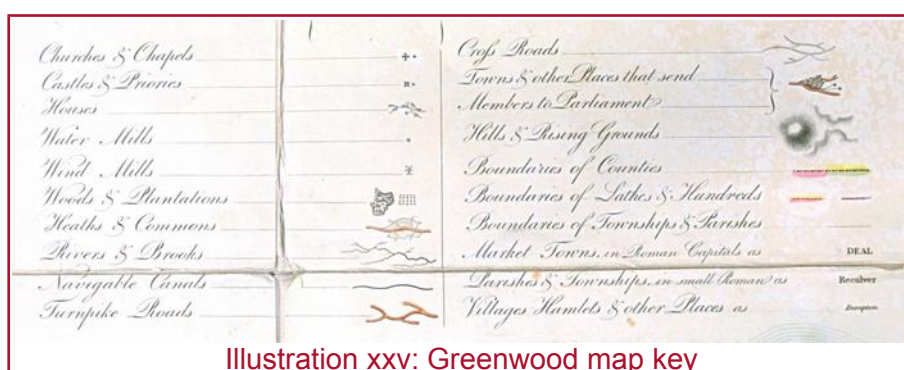


Illustration xxv: Greenwood map key

J.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.

J.4. Greenwood's map shows a way consistent with the alignment of the application way between A and F, enclosed on both sides. A spurs branches off from the way to the south (at D). At F, the way is shown continuing southwest to Cave Lane (along the route of what is now recorded as bridleway EE269A) and southeast towards Crixhall Court (along the route of what is now recorded as bridleway EE28). The way is described in the key as a 'cross road'.



J.5. **Conclusion:** Greenwood's map is good evidence for the existence of a defined way along the claimed route. The key describes the route as a 'cross road', which is suggestive of a public carriageway.

J.6. **Points:**

Bridleway	Restricted byway
0	1

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

K.1. **Date:** 1831

K.2. **Source:** National Library of Australia<sup>22</sup>.



Illustration xxvi: OS 1st ed 1" map

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

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

<sup>22</sup> <http://nla.gov.au/nla.obj-231917365>.

K.5. The map shows a way consistent with the alignment of the application way between A and F, enclosed on both sides. Spurs branch off from the way to the south (at D) and east (at E). At F, the way is shown continuing southwest to Cave Lane (along the route of what is now recorded as bridleway EE269A) and southeast towards Crixhall Court (along the route of what is now recorded as bridleway EE28)

K.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.

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

K.8. **Points:**

Bridleway	Restricted byway
0	0

(no points are scored as this map is repetitive of the Mudge-Faden map at item IV.G above)

## L. Tithe Act 1836

L.1. **Date:** 1841

L.2. **Source:** map — Kent County Archives; tithe award — Kent Archaeological Society<sup>23</sup>

<sup>23</sup> [www.kentarchaeology.org.uk/research/tithes/goodnestone-next-wingham](http://www.kentarchaeology.org.uk/research/tithes/goodnestone-next-wingham),  
[www.kentarchaeology.org.uk/research/tithes/wingham](http://www.kentarchaeology.org.uk/research/tithes/wingham).

## Goodnestone tithe map

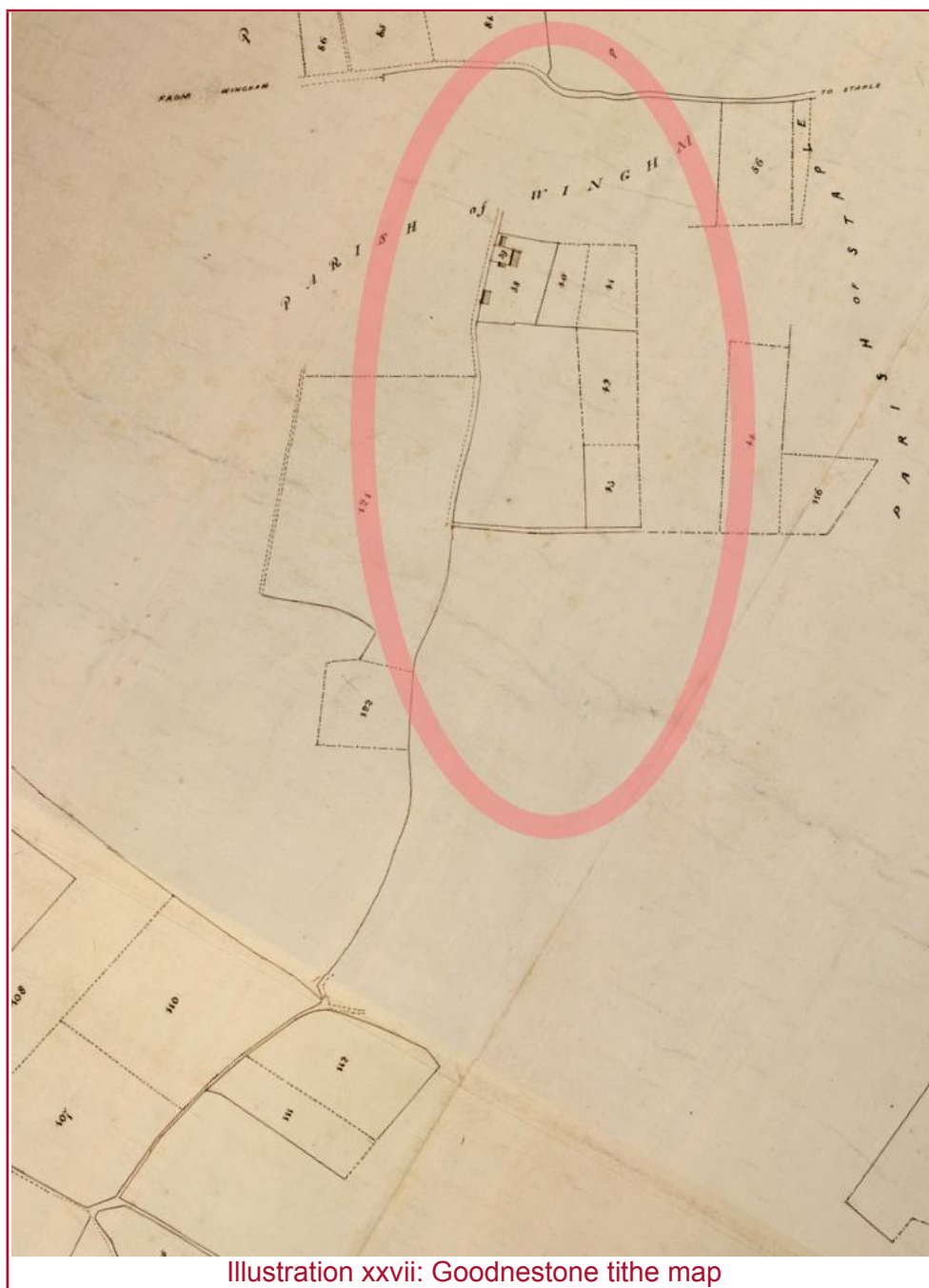


Illustration xxvii: Goodnestone tithe map

## Wingham tithe map

L.3. **Description:** The tithe map for Goodnestone (original scale: one inch to three chains: 1:2,376; orientation: rotated 300°) shows only part of the application way, between a point slightly north of B as far as E. The part of the application way north of B is in the parish of Wingham, and the part south of E was not assessed as subject to tithes, most probably because the land was then in ecclesiastical ownership. The map shows the application way between B and D as unenclosed on the west side and enclosed on the east side, and between D and E as enclosed on both sides. No tithe parcel number is



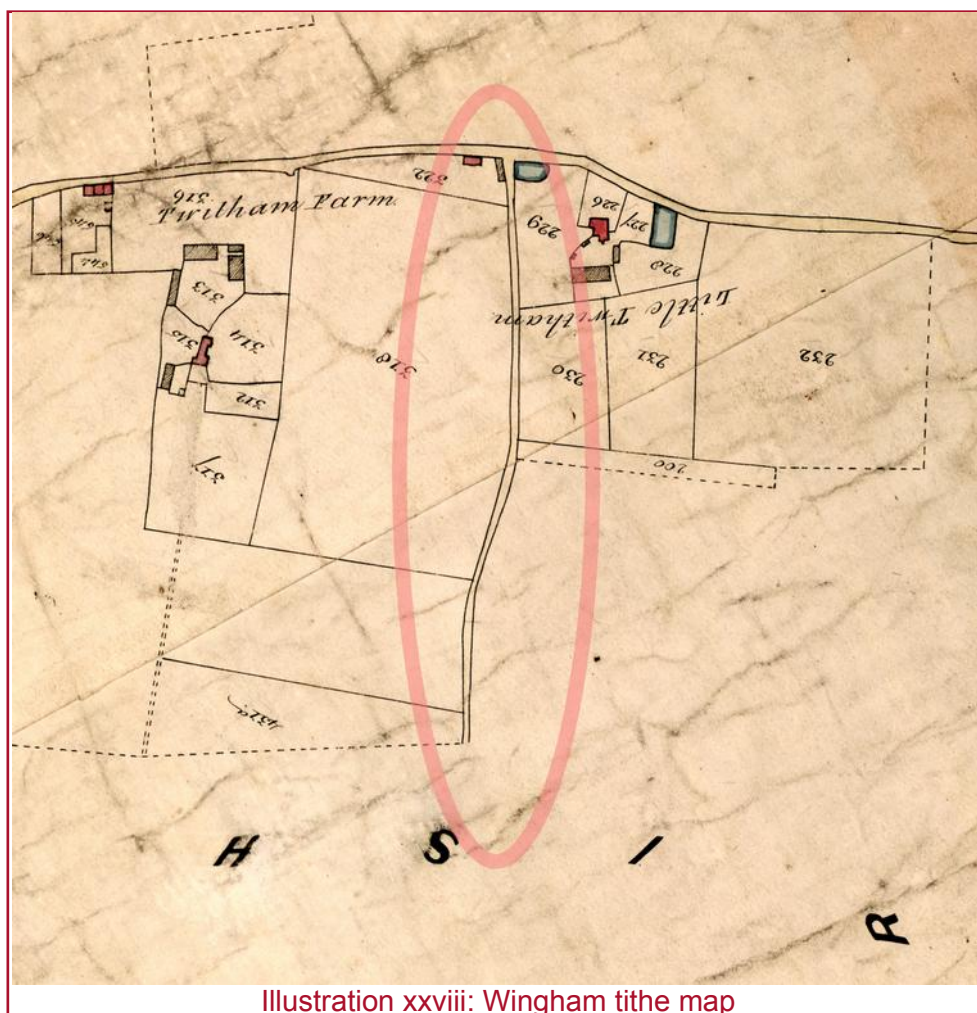


Illustration xxviii: Wingham tithe map

assigned to the part between D and E; it seems likely that the part between B and D was assessed as not titheable.

L.4. The tithe map for Wingham (original scale: one inch to three chains: 1:2,376; orientation: rotated 230°) shows a further part of the application way between A and a point mid-way between C and D. The application way is open to Staple Road at A, and shown as an enclosed way from A south through B and C (which are not identified) towards D. The way is shown coloured ochre, although the colour has faded. In the apportionment, roads are grouped under 'Roads, River and Waste Land' bearing parcel numbers including and above 615. However, in general, the parcel numbers for features in this group are not identified on the map itself. Two potentially relevant roads are identified in the book of apportionment:

Parcel no.	Entry	Area	
		given (imperial)	ha <sup>24</sup>
639	Road from Twitham Farm	0a 1r 37p	0.195
640	Twitham Road	0a 1r 18p	0.147

but neither parcel number is identified on the map.

<sup>24</sup> The value in hectares has been converted from the value in acres shown in the apportionment.

L.5. **Analysis:** The Wingham tithe apportionment lists the following roads:

Parcel no.	Tithe apportionment road	Area (a.r.p)	Area (Ha)	Matched road today	Est. length of roads	Of which, length of half roads	Est. average width
620	Witherdens Hall	1.2.11	0.645	Popsal Lane (RB EE63); FP EE166	720		9.0
622	Turnpike Road to Sandwich	9.0.21	3.714	A257	3130		11.9
623	Road to Ickham	0.2.3	0.213	Wingham Road	360		5.9
624	The Drove road	2.3.36	1.236	B2046 (part High Street, Adisham Road)	2500	220	5.2
625	Farm Road to Dean Park	0.2.28	0.298	Dene Farm Lane	510		5.8
626	Road to Wingham Wells & Neavy Downs	2.0.26	0.898	Wingham Well Lane	1880		4.8
627	Old Canterbury Road	0.3.11	0.341	Mill Road	560		6.1
628	Well Head Road	0.3.0	0.304	Watercress Lane	730		4.2
629	Road to Preston	1.1.31	0.612	Preston Hill	1200	470	6.3
631	Petts Road	0.2.24	0.284	Petts Lane (EE169)	550		5.2
632	Little Wenderton (Road)	1.3.18	0.770	Wenderton Lane	1730	790	5.8
634	Hearts Delight Road (Half Park)	0.0.30	0.103	Hearts Delight Lane	520		2.0
635	Green Lane road (Half Park)	0.1.25	0.187	EE269 (DMMO application to RB)	930	410	2.6
636	Goodnestone Road	1.1.21	0.578	part Goodnestone Road, EE178	2090		2.8
637	Crockshire Farm Road	3.1.21	1.387	Crockshard Lane/Hill; part Goodnestone Road	1250	160	11.9
638	Road to Staple	4.0.8	1.646	Staple Road	2690	810	7.2
639	Road from Twitham Farm	0.1.37	0.228	(Higher Twitham Farm to Staple Church)	780	455	4.1
640	Twitham Road	0.1.18	0.163	Petlocks Lane (DMMO application)	360	180	6.0
641	Old Workhouse Road	0.0.30	0.103	School Lane	140		7.3
642	Dambridge Farm Road to Brook	1.0.15	0.456	Dambridge Farm Road	1380		3.3
643	Road to Rushams	0.2.36	0.325	Rusham Road	740	30	4.5
644	Road from Neavy Downs to Blackney Downs	0.1.24	0.183	FP EE80	530		3.5
645	Road from Hearts Delight to Guiton	0.2.32	0.312	Nash Road	885	885	7.0
646	Drove Way Farm Road	0.1.36	0.224	BW EE150	260	260	17.3
647	Wamstone Road	0.3.1	0.307	Walmestone Road	960	530	4.4
648	Rd from Elmstone to Ash	0.2.17	0.260	Part Church Hill (Elmstone)	520	40	5.2
649	Rd from Elmstone to Ash	0.0.4	0.014	Part Church Hill (Elmstone)	50	50	5.5
650	Road from Perry Farm to four turnings	0.0.15	0.051	Perry Lane (but no part identified in parish)			

Illustration xxix: Wingham tithe apportionment: roads

L.6. One road listed in the apportionment has not been reliably identified: no.650, Road from Perry Farm to four turnings: the road appears to be Perry Lane, but no part of Perry Lane is shown as falling within the parish of Wingham on the Ordnance Survey County Series first edition map.

L.7. Of the roads listed, all of them are now public roads (including restricted byways), aside from the following:

- no.620 — one limb of Witherdens Hall (now FP EE166);

- no.635 — Green Lane Road (now BW EE269, and the subject of an application to upgrade to restricted byway<sup>25</sup>);
- no.639 — Road from Twitham Farm (*i.e.* Tiptoe Lane);
- no.640 — Twitham road (this application);
- no.644 — Road from Neavy Downs to Blackney Downs (now FP EE80);
- no.646 — Drove Way Farm Road (now BW EE150).

L.8. The adoption of colour for public ways is consistent with the nomenclature recommended by Lt Dawson to the Tithe Commissioners 'on the Nature, Scale and Construction of the Plans required for the Tithe Act'.<sup>26</sup> The application way is not expressly identified as one of the relevant roads listed in the book of apportionment (parcel numbers 639 or 640), but it seems likely that it is Twitham Road. Higher Twitham Farm subsisted on Twitham Hill until 1875, and it seems more likely that the 'Road from Twitham Farm' is the road forming the eastern boundary of the detached portion of Wingham south of Staple village, which now forms the drive to Crixhall Court, but which at that time also led to a spur to Higher Twitham Farm (Tiptoe Lane, which is depicted on the Wingham tithe map).

L.9. **Conclusion:** The roads listed in the apportionment appear in a section headed: *Roads River & Waste Land*, and are coloured sepia. However, of the roads identified, all of them are now recognised public roads or public rights of way, with the exception of nos.639 and 640, one of which is now the subject of an application to record on the definitive map and statement, and the other which is likely to be the subject of an application in the near future.

L.10. Private roads are separately identified on the map, and not coloured: see Poplar Walk (no.391a) at Wenderton, and the drive to Brook Farm at Staple.

L.11. Although not expressly labelled as public roads, it is suggested that only public roads were included in the relevant section of the apportionment, and that this conclusion is consistent with their being coloured sepia. Of those ways which were included in the list, but which are now not recorded as public roads or restricted byways, all of them have been recognised in other documents as public roads. The tithe map is therefore consistent with the application way having the reputation of a carriageway at the date of the survey.

L.12. The relevant part of the application way which lies across titheable lands in Goodnestone parish is shown on the tithe map for that parish as a road, in the same manner as other roads in the parish, which are today recognised as public roads or bridleways. The only exception is that the tithe map shows Green Lane at Rowling in the same manner as other roads: today, Green Lane is not recorded as a public road, but may well be an omission from the record of public ways. It therefore is reasonable to conclude that the tithe map recognises the application way between B and E as of at least the status of a public bridleway.

L.13. **Points:**

Bridleway	Restricted byway
0	3

<sup>25</sup> PROW/DO/C409.

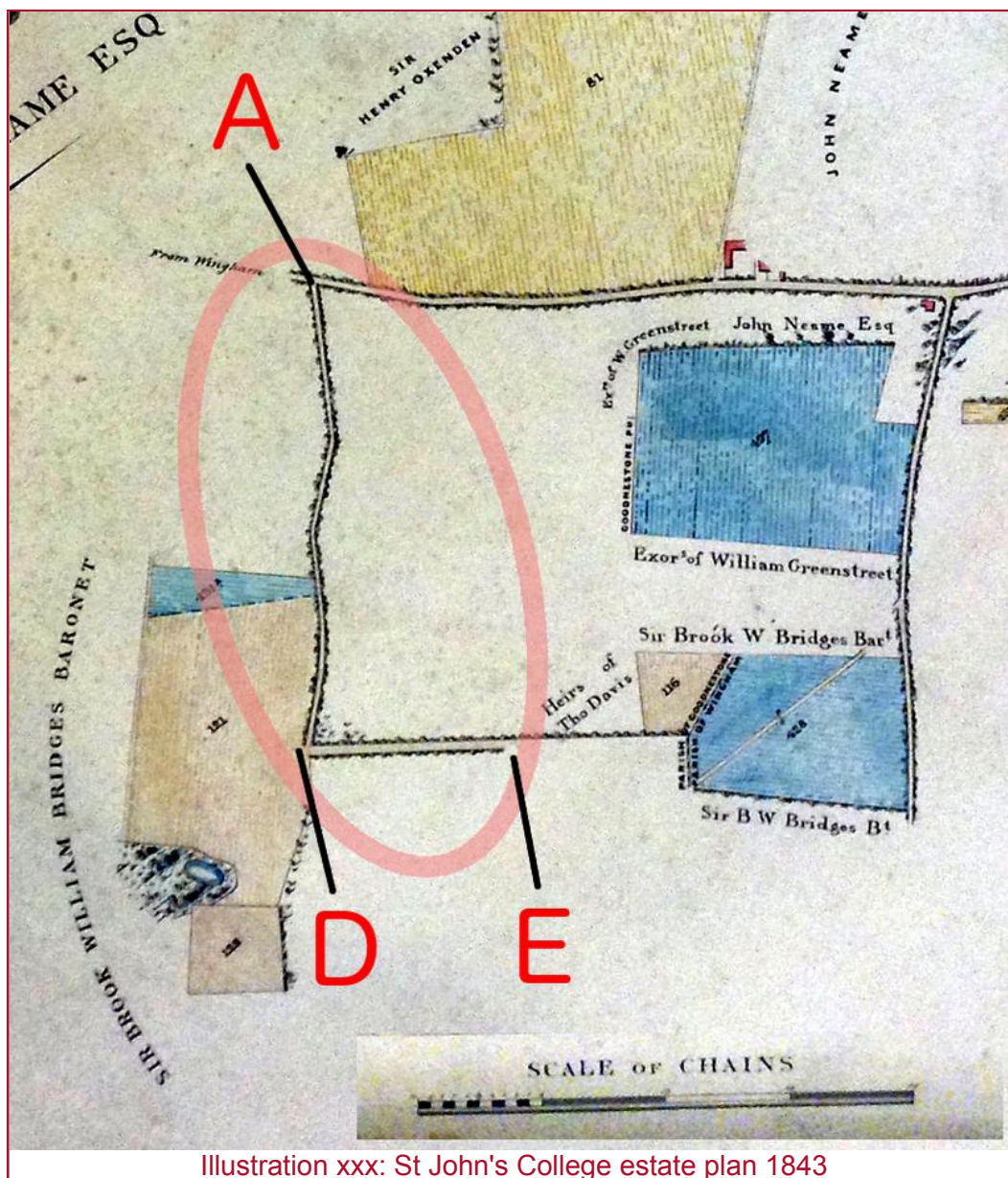
<sup>26</sup> Report dated 29 November 1836, and endorsed by the Commissioners on 4 January 1837. Turnpike, bye or cross, and bridle, roads were to be enclosed within two parallel lines, and coloured burnt sienna.



## M. Mid-C19 St John's College estate map

M.1. **Date:** 1843

M.2. **Source:** St John's College archives<sup>27</sup>



M.3. **Description:** Original scale: as marked in chains; orientation: rotated by approximately 320°. Described as a:

Plan of an Estate in the Parishes of Staple-Worth-Wingham-Goodnestone Ash and Woodnesboro in the county of Kent Held under a Beneficial Lease from St Johns College Cambridge by John Neame Esq.

M.4. The estate map shows the application way between A and E. The way is shown as enclosed by hedges, with a light grey infill. At E, no turning is shown to the south, but the enclosure of the way ceases on the south side of the way, as does the light grey infill.

<sup>27</sup> SJES/2/2/AHK/4/6/1

M.5. **Conclusion:** The college estate map shows the existence of the application way between A and E as a physical feature. The light grey infill is used on the estate map to identify routes which are today recognised as public roads save for part of the application way, and Church Lane south from Staple church (which is the subject of an application to record the way as a public bridleway<sup>28</sup>). The map therefore provides some support for the status of the application way as a public road.

M.6. **Points:**

Bridleway	Restricted byway
0	0

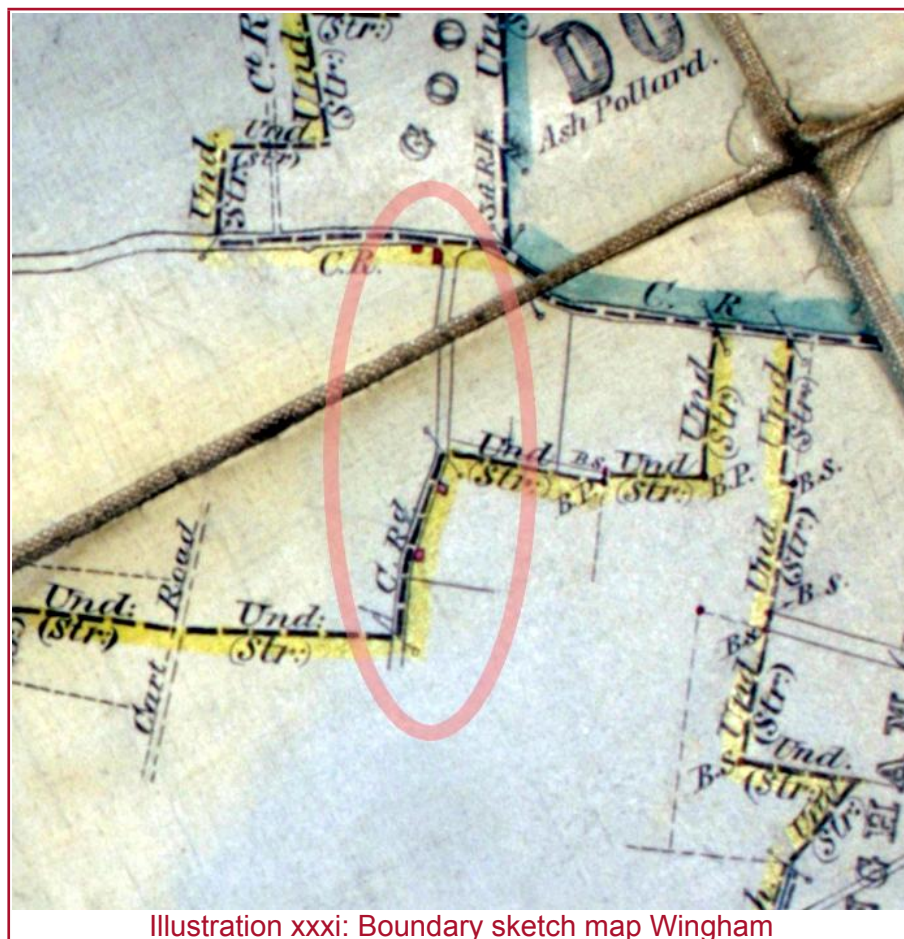
(no more than two documents are scored from similar historical sources)

## N. Ordnance Survey boundary records

N.1. **Date:** 1869–71

N.2. **Source:** National Archives<sup>29</sup>

### Boundary sketch map Wingham



28 PROW/DO/C390.

29 OS 27/2861, OS 28/328



## Boundary field sketch map Wingham

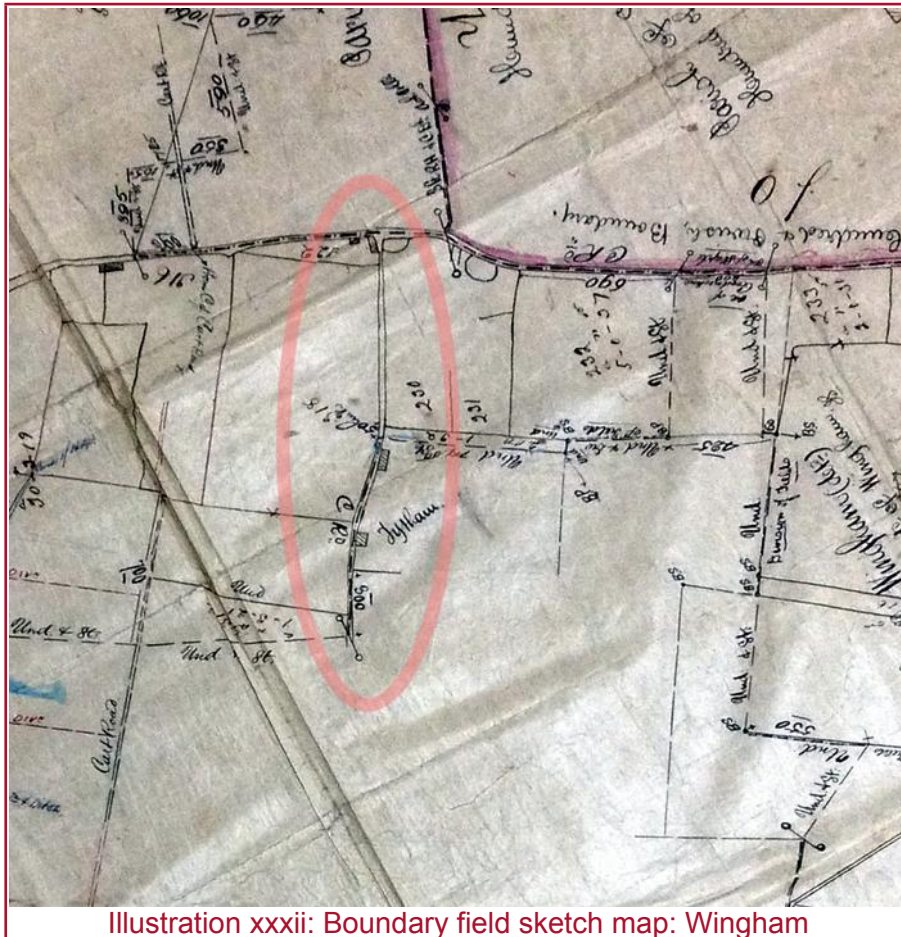


Illustration xxxii: Boundary field sketch map: Wingham

N.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 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).

N.4. The boundary sketch map for Wingham (Illustration xxxii: original scale: unknown; orientation: rotated 330°) depicts the boundary drawn along the application way from a point 25m north of B, to a point 90m<sup>30</sup> south of C. The application way is shown as an enclosed road, and the parish boundary is marked as following 'C.R.D.', i.e. centre of road. The boundary field sketch map for Wingham (Illustration xxxiii: original scale: as per tithe map; orientation: rotated 60°), which is based on the tithe map, marks the parish boundary in the same way.

N.5. **Conclusion:** The depiction of the parish boundary coincident with the application way between north of B to south of C, labelled 'centre of road', provides some support for the status of the application way as a public road. Such boundaries are usually long-established, being derived from manorial boundaries, and where they follow a road, the boundary tends to suggest that the road itself is of ancient origin.

30 Marked on the boundary field sketch map for Wingham as 300 feet.



N.6. **Points:**

Bridleway	Restricted byway
0	1

O. **Inclosure Act 1845: order of exchange**

O.1. **Date:** 1872

O.2. **Source:** National Archives<sup>31</sup>

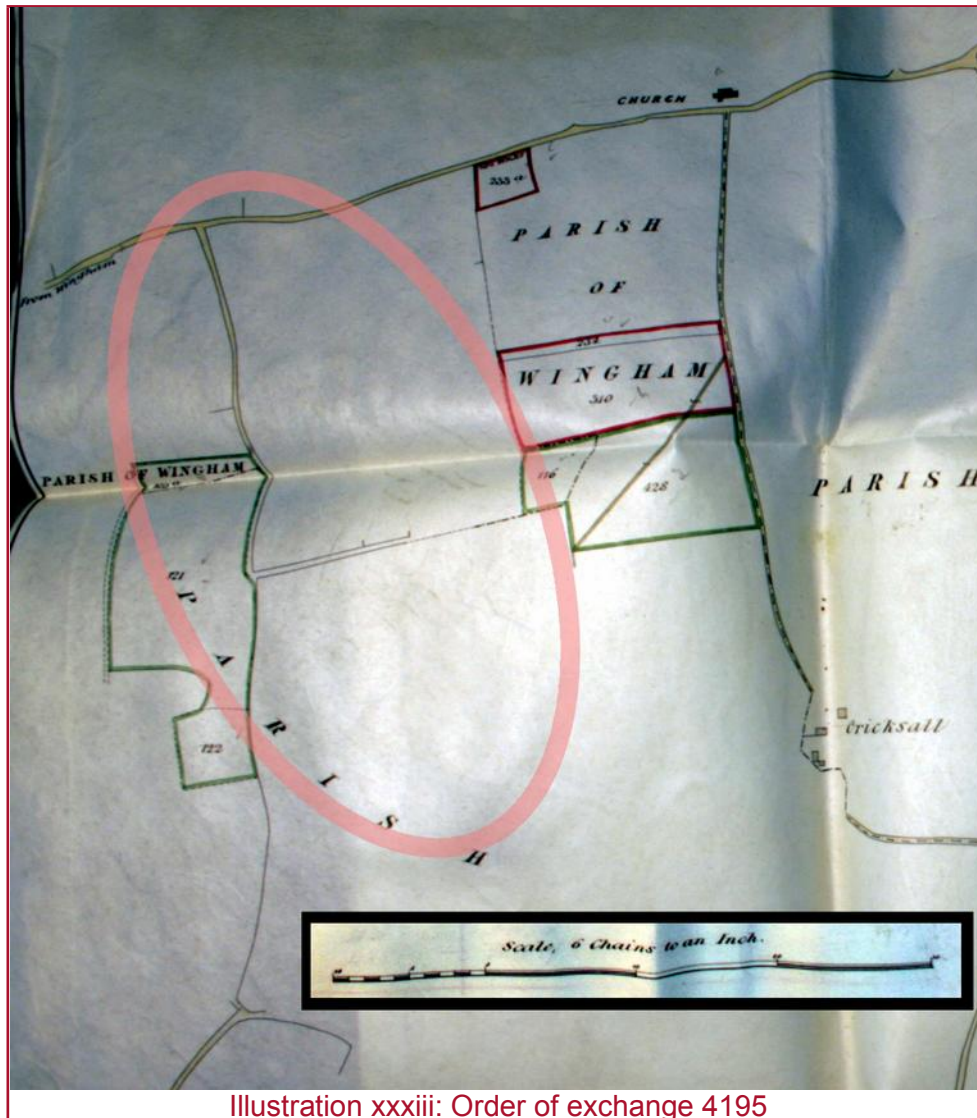


Illustration xxxiii: Order of exchange 4195

O.3. **Description:** An order of exchange was made by the Inclosure Commissioners in 1851 under section 147 of the Inclosure Act 1845, at the request of the owners of land who wished to make an exchange of their titles.

O.4. Under section 147, the Inclosure Commissioners were empowered to grant an exchange of lands between two different owners, where such lands were not subject to

31 MAF 11/82

inclosure (*i.e.* were not, for example, common land). The Commissioners were required to be satisfied, following public notice of the proposed exchange, that the exchange would be beneficial to the respective owners, and that the terms of the exchange were just and reasonable. Section 147 was used to overcome difficulties in conveyancing or defects in title at a time before such matters were generally addressed by legislation: it provided that the exchange was to be binding notwithstanding any incapacity or defect in title.

O.5. In the present case, an exchange was sought between land in the parishes of Staple and Wingham owned by the Rt Hon Brook William Lord Fitzwalter<sup>32</sup>, and land in the parishes of Woodnesborough, Goodnestone and Wingham owned by the College of St John the Evangelist, Cambridge. Among the lands owned by the College and given in exchange were parcels 120, 121 and 122, being arable land to the west of the application way between C and D.

O.6. The plan embodied in the order shows the application way from A to E. Between A and approximately C, the way is depicted as an enclosed road, coloured yellow. From C to D, the way abuts parcels 120 and 121 and is shown unenclosed on that side: the yellow wash appears to cease in the vicinity of C. Between D and E, the way is shown enclosed, but lacks a colour wash. Nothing is shown of the way south of E to F, this part of the order map containing no land to be exchanged, and therefore left uncompleted.

O.7. **Conclusion:** On this and other plans prepared under section 147 of the Inclosure Act 1845, a yellow or ochre colour wash can be used to denote ways which are either public roads or bridle-roads. On this plan, the status of the application way between A and D as a public road or bridle-road would be consistent with the expectation of rights of access to parcels 120 to 122 following the exchange.

O.8. It is not clear whether the colour wash used on the way between A and C is intentionally discontinued south of C, or whether the colour has faded — similar discontinuity can be seen in the continuation of Barnsole Road south of Summerfield, and in Sandwich Road south of the junction with the road from Rowling Court. If the colour wash is intentionally discontinued, this may be suggestive that the application way was regarded as a public road as far as C, but of inferior status south of C — it is unlikely that a highway was considered to terminate at a field boundary.

O.9. The order map is therefore of uncertain assistance in determining the status of the application way, but is very likely to denote a public road or bridle-road between A and C, and a highway, possibly of inferior status, between C and E.

O.10. **Points:**

Bridleway	Restricted byway
0	0

## P. Ordnance Survey County Series 1:2,500 maps

P.1. **Date:** various (see below)

<sup>32</sup> Sir Brook William Bridges Bt, and created Baron FitzWalter in 1868.

P.2. **Source:** Old-maps.co.uk<sup>33</sup>; National Library of Scotland<sup>34</sup>; British Library<sup>35</sup>  
OS 1:2,500 County Series 1<sup>st</sup> edition (published 1872) (sheet Kent XLVII/8)

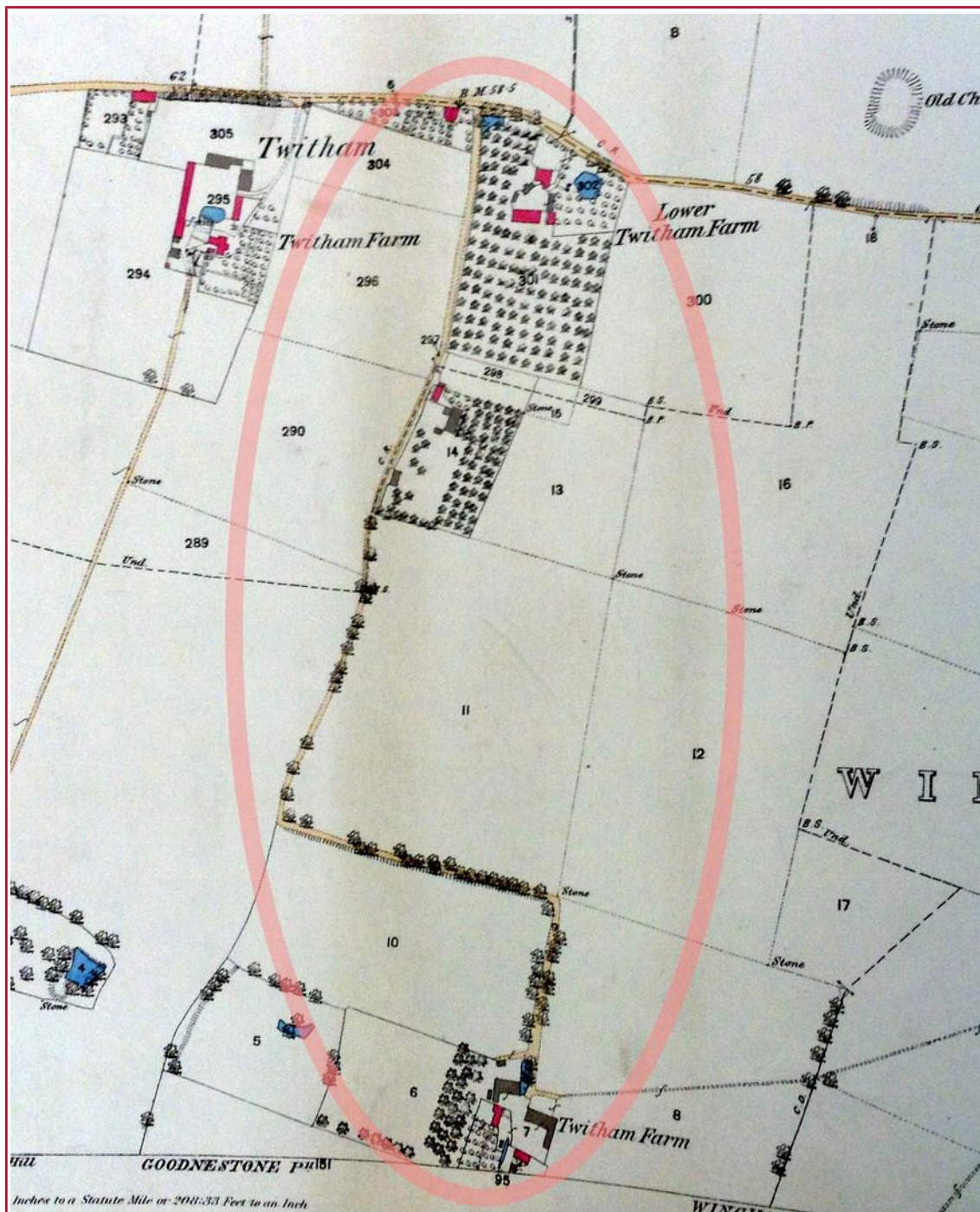


Illustration xxxiv: OS County Series 1:2,500 first edition

33 [old-maps.co.uk](http://old-maps.co.uk) (1<sup>st</sup> edition in black and white reproduction).

34 [maps.nls.uk](http://maps.nls.uk) (2<sup>nd</sup> and later editions).

35 1<sup>st</sup> edition in colour.



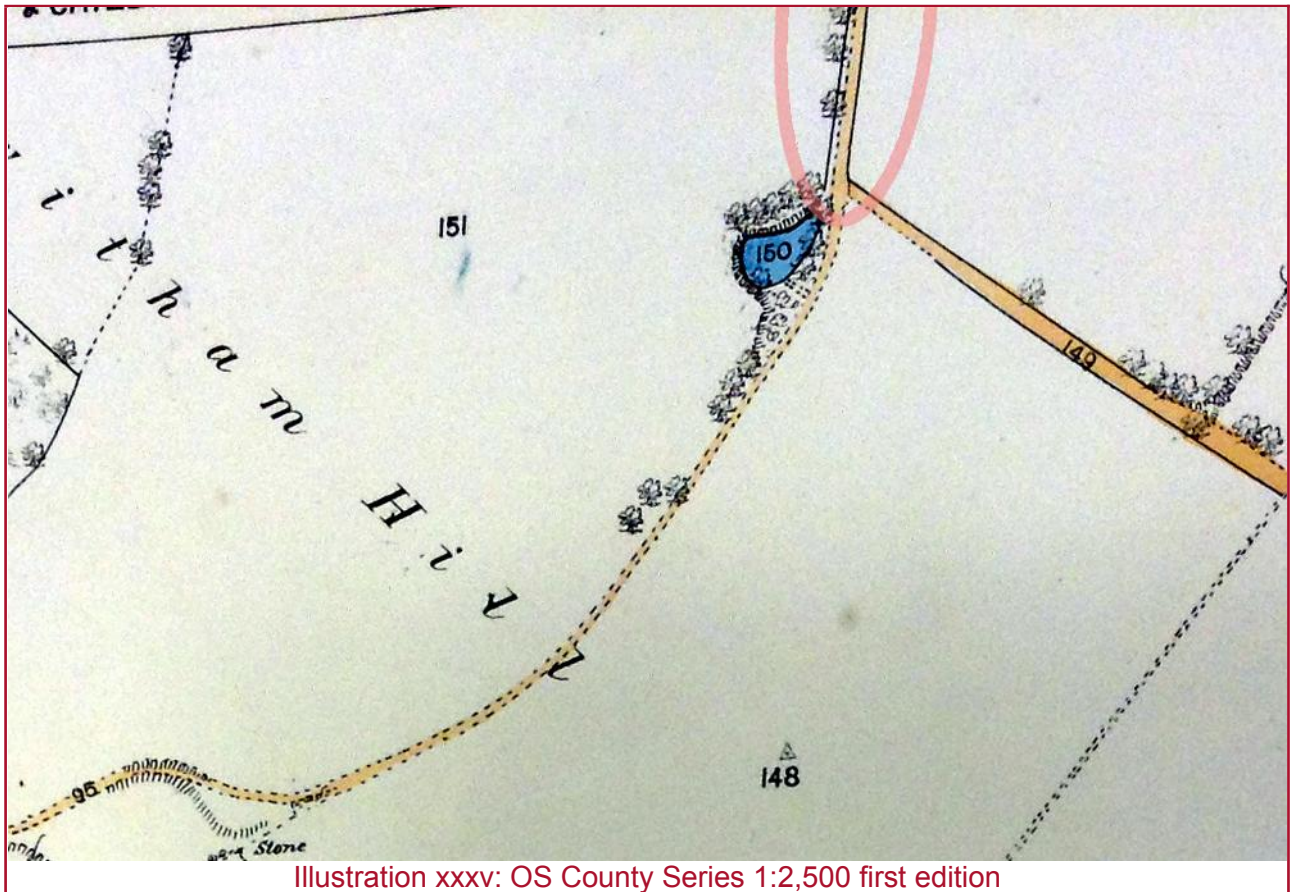


Illustration xxxv: OS County Series 1:2,500 first edition

OS 1:2,500 County Series 1<sup>st</sup> (published 1872) and 2<sup>nd</sup> (1898) editions

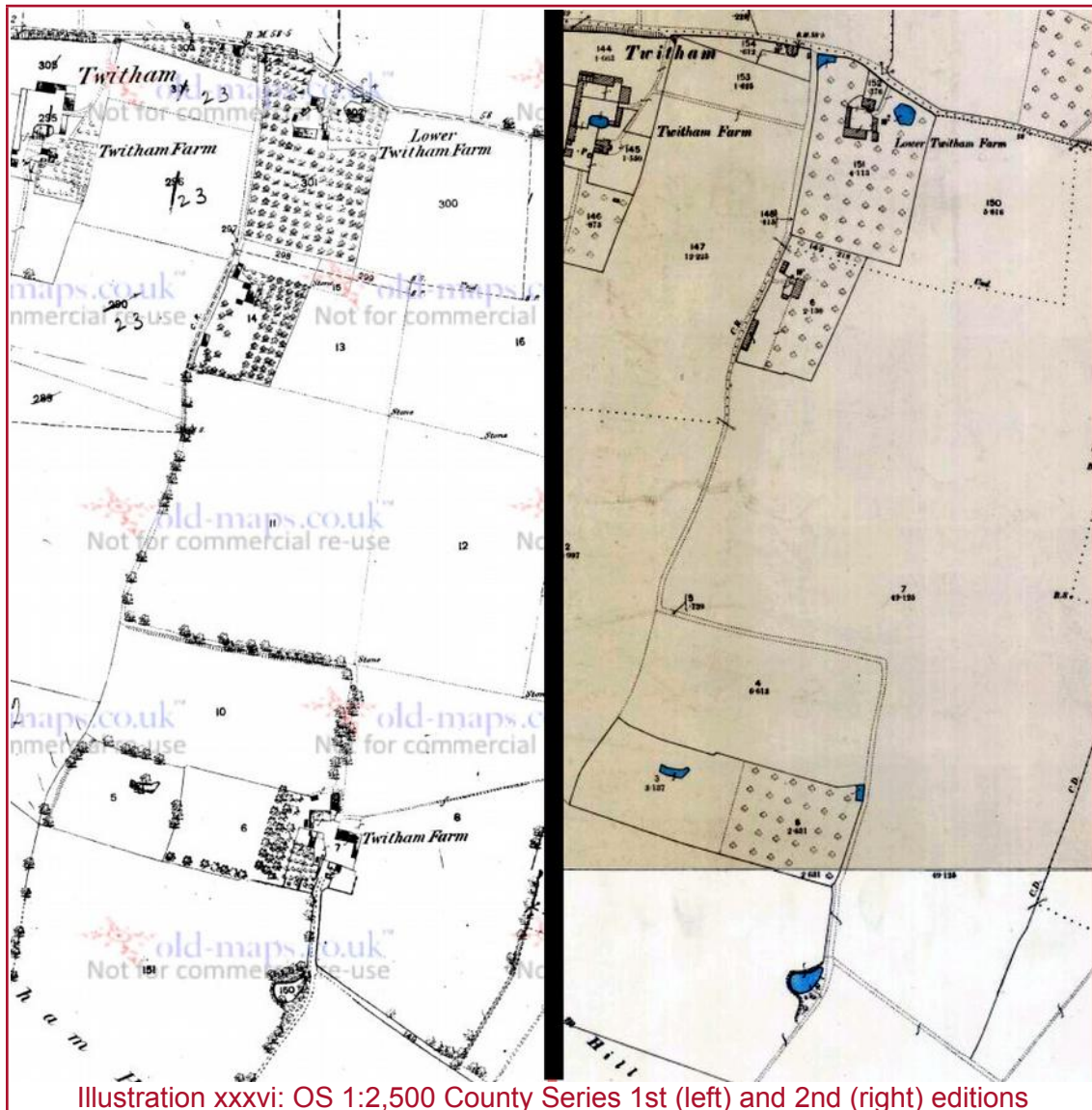


Illustration xxxvi: OS 1:2,500 County Series 1st (left) and 2nd (right) editions

OS 1:2,500 1<sup>st</sup> edition area book, Wingham

4 PARISH OF WINGHAM.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
295	1.525	Farmsteadings, &c.	334	1.238	Garden.
296	4.193	Hop garden.	335	16.909	Arable.
297	.415	Road.	336	9.503	Pasture.
298	.218	Garden (part of).	337	.514	House and garden.

Illustration xxxvii: OS 1:2,500 first edition area book Wingham

<p>PARISH OF GOODNESTONE,</p> <p>IN THE</p> <p>COUNTY OF KENT—(EASTERN DIVISION).</p> <p>HUNDRED OF WINGHAM.</p>					
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
1	40.813	Arable.	92	9.741	Arable.
2	13.960	Arable.	93	7.262	Arable.
3	1.983	Pasture, &c.	94	10.669	Wood (part of).
4	.110	Pond.	95	1.092	Road (part of).
5	2.538	Pasture, pond,	96	1.461	Old chalk pit.
6	2.643	Pasture.	97	7.104	Arable.
7	.959	Sheds, yard, &c.	146	7.192	Arable.
8	14.658	Arable.	147	8.211	Arable.
9	.795	Road.	148	16.717	Arable.
10	6.539	Arable.	149	.299	Road.
11	11.695	Arable.	150	.108	Pond.
12	9.325	Arable.	151	20.925	Arable.
13	2.710	Arable.			

Illustration xxxviii: OS 1:2,500 first edition area book Goodnestone



## OS 1:2,500 County Series 3<sup>rd</sup> (1907) and 4<sup>th</sup> (1946) editions



P.3. **Description:** Original scale: 1:2,500; orientation: unchanged (north).

P.4. All four editions of the Ordnance Survey's County Series 1:2,500 scale maps show the application way between A and F. The first edition (Illustration xxxvii) shows the way passing through Higher Twitham Farm between E and F, although the farm had been demolished and cleared by the time of the second edition.

P.5. On the first edition map sheet XLVII/8 (Illustration xxxvii), the application way is noted with parcel number 297 between A and B, and the area book for Wingham parish (Illustration xxxviii) records that the parcel is a 'Road' with an area of 0.415 acres (0.168ha). It appears that this parcel includes the way as far as the parish boundary, including the west side of the application way where the boundary runs along the centre of the road. The application way is also noted with parcel number 9 between the parish boundary and Higher Twitham Farm (which was located slight north of F), and the area book for Goodnestone parish (Illustration xxxix) records that the parcel is a 'Road' with an area of 0.795 acres (0.322ha).

P.6. On the first edition map sheet XLVII/12 (shown in composite form in Illustration xxxvii), the application way is noted as a continuation of parcel number 95, and the area

book for Goodnestone parish records that the parcel is a 'Road (part of)'. At F, the application way intersects with an enclosed lane in the direction of Crixhall Court (now bridleway EE28), which is noted with parcel number 149, also recorded as a 'Road'.

P.7. On a colour copy of the first edition map sheet XLVII/12 (Illustration xxxvi), the application way is coloured sienna throughout, except in the vicinity of Higher Twitham Farm.

P.8. **Conclusion:** The County Series maps show the application way as a physical enduring feature through the landscape, on a consistent alignment. The first edition map shows, by the use of a sienna colour-wash, that the application way was noted to have a metalled surface.<sup>36</sup> The entry in the area books published alongside the first edition, for the application way between A and F (and beyond) as a 'road', provides some support for its status as a public highway.

P.9. **Points:**

Bridleway	Restricted byway
0	1

## Q. Easry Rural Sanitary Authority/Rural District Council highway authority

Q.1. **Date:** 1886, 1894, 1907

Q.2. **Source:** Kent County Archives<sup>37</sup>

<sup>36</sup> '*Carriage drives* were tinted sienna on 1:2500 sheets produced before about 1880, and again from 1884 onwards... (SC, 25:6:1884) This instruction was presumably cancelled after 1889 or so.' *Ordnance Survey Maps—a concise guide for historians*, 3<sup>rd</sup> ed., Richard Oliver. However, in practice, it seems that colouring was not restricted only to 'carriage drives', but any road or path which was metalled.

<sup>37</sup> RD/Ea/H2 1884–93, p.41; RD/Ea/H3 1893–99, p.56; RD/Ea/H9; RD/Ea/Am4, p.168

Report book, 2 March 1886:

Quilton  
2<sup>nd</sup> March 1886  
To the Chairman & Members  
of the Country Highway Board

Gentlemen

With reference to the accompanying letter of Mr. Pidduck's as to Twitham Lane having been repaired in former years by the Highway Authority, I have seen a private book in his possession with 3 entries (small items) dated Feb 1886 separately for Team Labour, and also another book used by Mr. Mapsted when Surveyor, with entry dated April 1886 for Manual Labour charged against the Highway Board. Mr. Mapsted informed me Mr. Pidduck's Surveyor used to pick the road in, but he does not recollect of him putting in any materials.

road to be put in moderate repair JMR

Illustration xl: Surveyor's report to highways board

Report book, 4 December 1894:

Quilton 4 December 1894

Twitham Lane Warham Lane & Road Staple

Both of these roads require some materials. I hoped to have spared enough stones between Twitham & Staple Forge to have repaired them with, but they do so. Twitham Lane would take 12 fms/grade, and Grove Road 8 fms.

To be repaired

Illustration xli: Surveyor's report to highways board



Report book, 16 July 1907

Casthy July 16<sup>th</sup> 1907

To the Chairman & Members  
of the Casthy Rural District Council  
Gentlemen

I was asked by Mr N Miles of Twitham Farm Wingham To inspect a length of Road leading from Dambidge road by Mr Bidducks Farm to a Cast House. The road is repaired with flint to about 10 rods of the Cast. Mr Miles wishes to ask the Council for repairs as far as the Cast, I estimate it would require about 20 yds. Flint

Referring to the Council's report

Illustration xlii: Surveyor's report to council

Report book, 30 July 1907

Casthy July 30<sup>th</sup> 1907

To the Chairman & Members  
of the Casthy Rural District Council  
Gentlemen

In reference to the length of road by Mr Bidducks Farm Wingham. The Survey Committee recommend the road as far as the Cottage be in necessary repair as heretofore. But they consider, that, as there is no public traffic beyond that point, the Council would not be justified in undertaking to repair the road as far as the Cast,

See Minutes

Illustration xliii: Surveyor's report to council

## Council minutes, 30 July 1907

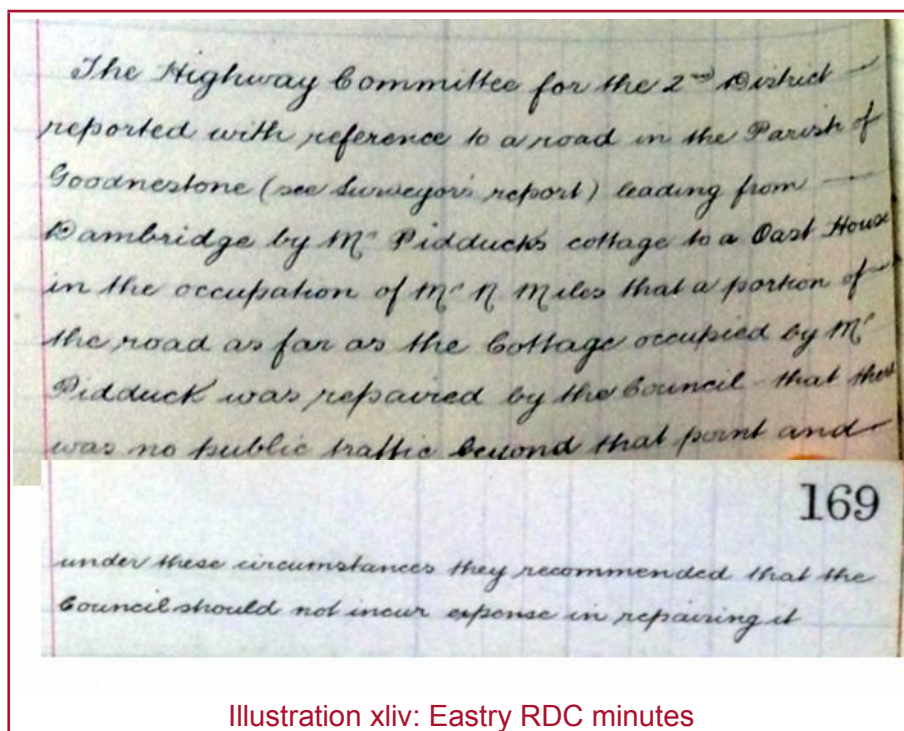


Illustration xlv: Eastry RDC minutes

Q.3. **Description:** The report books of 1886 and 1894 contain the reports of the surveyor of highways to the Eastry Rural Sanitary Authority. The relevant reports records as follows:

'Guilton

2<sup>nd</sup> March 1886

To the Chairman & Members  
of the Eastry Highway Board

Gentlemen

With reference to the accompanying letter of Mr. Piddock's as to Twitham Lane having been repaired in former years by the Highway Authority, I have seen a private book in his possession with 3 entries (small items) dated Feby/ 48 apparently for Team Labour, and also another book used by Mr. Majested when Surveyor, with entry dated April/52 for Manual Labour charged against the Highway Board. Mr. Majested informed me Mr. Pain when Surveyor used to pick the road in, but he does not recollect of him putting on any materials.'

and

'Guilton 4 December 1894

To the Chairman & Members  
of the Eastry Highway Authority

Gentlemen

...

## Twitham Lane Wingham and Grove Road Staple

Both of those roads require some materials. I hoped to have spared enough stones between Twitham and Staple Forge to have repaired these with, but e.<sup>d</sup> not to so. Twitham Lane would take 12 rods Beach, and Grove Road 8 rods.'

Q.4. The entry in the 1886 report book is annotated: 'Road to be put in moderate repair' and initialled; the entry in the 1894 report book: 'To be repaired'.

Q.5. In the tithe apportionment for Wingham and Goodnestone, William Piddock<sup>38</sup> is recorded as the occupier of the land to the east of the application way forming a rectangle approximately enclosed by B, D and E. It is reasonable to infer that the letter received by the council from Mr Piddock related to access to that land (whether by William Piddock or a descendant).

Q.6. A report for 6 November 1888<sup>39</sup> refers to flooding of the (main) road 'by the cottages close to Twitham Lane', and this is likely to refer to the semi-detached cottages which stood immediately to the west of the junction of the application way with Staple Road until after the Second World War. A report for 5 December 1893<sup>40</sup> refers to 'The pond in Mr Cook's meadow at the end of Twitham Lane...', which is a reference to the pond which remains east of the junction. These confirm that the references to Twitham Lane are to the application way.

Q.7. The report book for 16 and 30 July 1907 contains the reports of the surveyor to the Eastry Rural District Council:

Eastry July 16<sup>th</sup> 1907

To the Chairman & Members  
of the Eastry Rural District Council  
Gentlemen

I was asked by Mr N Miles of Twitham Farm Wingham To inspect a length of Road leading from Dambridge Road<sup>41</sup> by Mr Pidducks Farm to a Oast House. The road is repaired with flint to about 10 rods [50 metres] of the Oast. Mr Miles wishes to ask the Council for repairs as far as the Oast. I estimate it would require about 20 yds Flints.

Q.8. The report is annotated in the margin: 'Highway (No2) Committee to report'.

Eastry July 30<sup>th</sup> 1907

To the Chairman & Members  
of the Eastry Rural District Council  
Gentlemen

In reference to the length of road by Mr Pidducks Farm Wingham. The Survey Committee recommend that the road as far as the Cottage be kept in neces-

38 'Puddock' in the Goodnestone apportionment.

39 RD/Ea/H2, p.99.

40 RD/Ea/H3, p.30.

41 The reference to the 'Dambridge Road' appears to mean the road from Staple to Dambridge and Wingham (i.e. Staple Road).



sary repair as heretofore. But they consider that, as there is no public traffic beyond that point the Council would not be justified in undertaking to repair the road as far as the Oast.

Q.9. The report is annotated in the margin: 'See minutes'.

Q.10. The minutes of the council record on 30 July 1907:

The Highway Committee for the 2<sup>nd</sup> District reported with reference to a road in the Parish of Goodnestone (see Surveyor's report) leading from Dambridge<sup>42</sup> by Mr Pidduck's cottage to a Oast House in the occupation of Mr N Miles that a portion of the road as far as the Cottage occupied by Mr Pidduck was repaired by the Council that there was no public traffic beyond that point and under these circumstances they recommend that the Council should not incur expense in repairing it.

Q.11. **Conclusion:** The 1886 report refers to the maintenance and repair of 'Twitham Lane'. As the maintenance of the Wingham to Staple road was never in question, and as Mr Piddock's land abuts the application way, the complaint must relate to the application way, and confirmation is found in the 1888 and 1893 reports.

Q.12. The findings of the surveyor to the council that the application way had been maintained in the past, and the conclusion of the highways board that the 'road' should be put in moderate repair, is good evidence that the council considered the way to be a publicly maintainable highway. This is confirmed by the subsequent decision several years later to carry out further repairs. However, it cannot be said with certainty that the reports necessarily relate to the application way south of B.

Q.13. The 1907 reports clearly refer to the application way. However, the reports discuss repair of the way north of Twitham Oast (C) past Little Twitham Farm Cottage (B) to the Staple Road (A). The way north of Little Twitham Farm Cottage has always been recognised as publicly maintainable, and remains so today. However, the discussion implies that the way was recognised to be public south of B, but focused on whether it should be repaired by the highway authority. The surveyor reports that, 'there is no public traffic beyond' B, which appears to be a commentary on use (as opposed to rights), and it would be surprising if the highway authority was prepared even to consider maintenance of a way leading to and aside an oast house, but no further. Yet that the request was given active consideration suggests that the status of the application way as a highway beyond C was implicitly recognised.

Q.14. **Points:**

Bridleway	Restricted byway
0	3

## R. Bartholomew's map

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

<sup>42</sup> The reference to 'Dambridge' appears to be a slip for the 'Dambridge Road' referred to in the surveyor's report of 16 July 1907.

R.2. **Source:** National Library of Scotland<sup>43</sup>, personal collection<sup>44</sup>

<sup>43</sup> [maps.nls.uk/mapmakers/bartholomew.html](https://maps.nls.uk/mapmakers/bartholomew.html)

<sup>44</sup> 1953 map

Bartholomew's maps: 1904, 1922 and 1953





## Bartholomew's maps: keys

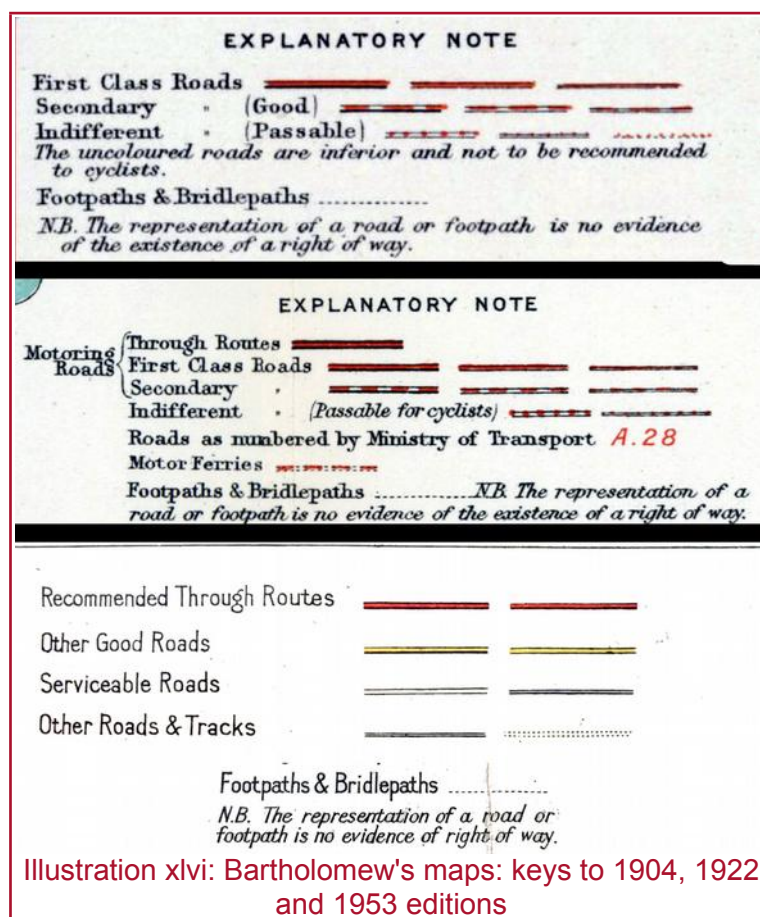


Illustration xlvii: Bartholomew's maps: keys to 1904, 1922 and 1953 editions

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

R.4. The application way is shown in the 1904 edition of the Bartholomew map as a 'Secondary Class Road (Good)', but in the 1922 edition as, in effect, unsuitable for cyclists. The 1953 edition shows the application way as a 'serviceable road'.

R.5. The first two editions are marked with the logo of the Cyclists' Touring Club (CTC), below which it is stated that: 'Roads revised by the Cyclists' Touring Club'.

R.6. **Conclusion:** The 1904 edition of the Bartholomew map suggests that the application way was assessed as a road suitable for cycling, and it remained as a 'serviceable' road by the time of the 1953 edition.

R.7. Paragraph 12.41 of the consistency guidelines<sup>45</sup> 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.'

45 Planning Inspectorate: September 2015: [www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines](http://www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines).

R.8. 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. And both maps are marked as having been revised by the CTC, which implies detailed local knowledge.

R.9. *Bartholomew's half-inch maps*<sup>46</sup>, by W J Riley, proposes that:

From the start [the maps] were earmarked 'for Tourists and Cyclists', and the roads were classified for 'Driving and Cycling purposes'. Cyclists were confined to public carriage roads until 1968. ...Clearly, the *raison d'être* of the maps was to guide travellers along public highways most suited to their mode of travel. It was *not* to encourage trespass.

R.10. The inclusion of the application way on the 1904 edition of the Bartholomew's half-inch map is good evidence of its status as a minor public road. Its later depiction in 1922 as a way unsuitable for cyclists is likely to reflect the way having been left unimproved, at a time when many minor roads had, by the time, been tarred.

R.11. **Points:**

Bridleway	Restricted byway
0	1

## S. East Kent mineral light railway

S.1. **Date:** 1910

S.2. **Source:** Kent County Archives<sup>47</sup>

<sup>46</sup> *Byway and Bridleway*, 1993, 9, p.37

<sup>47</sup> Q/RUm/1151.

East Kent light railway deposited plan

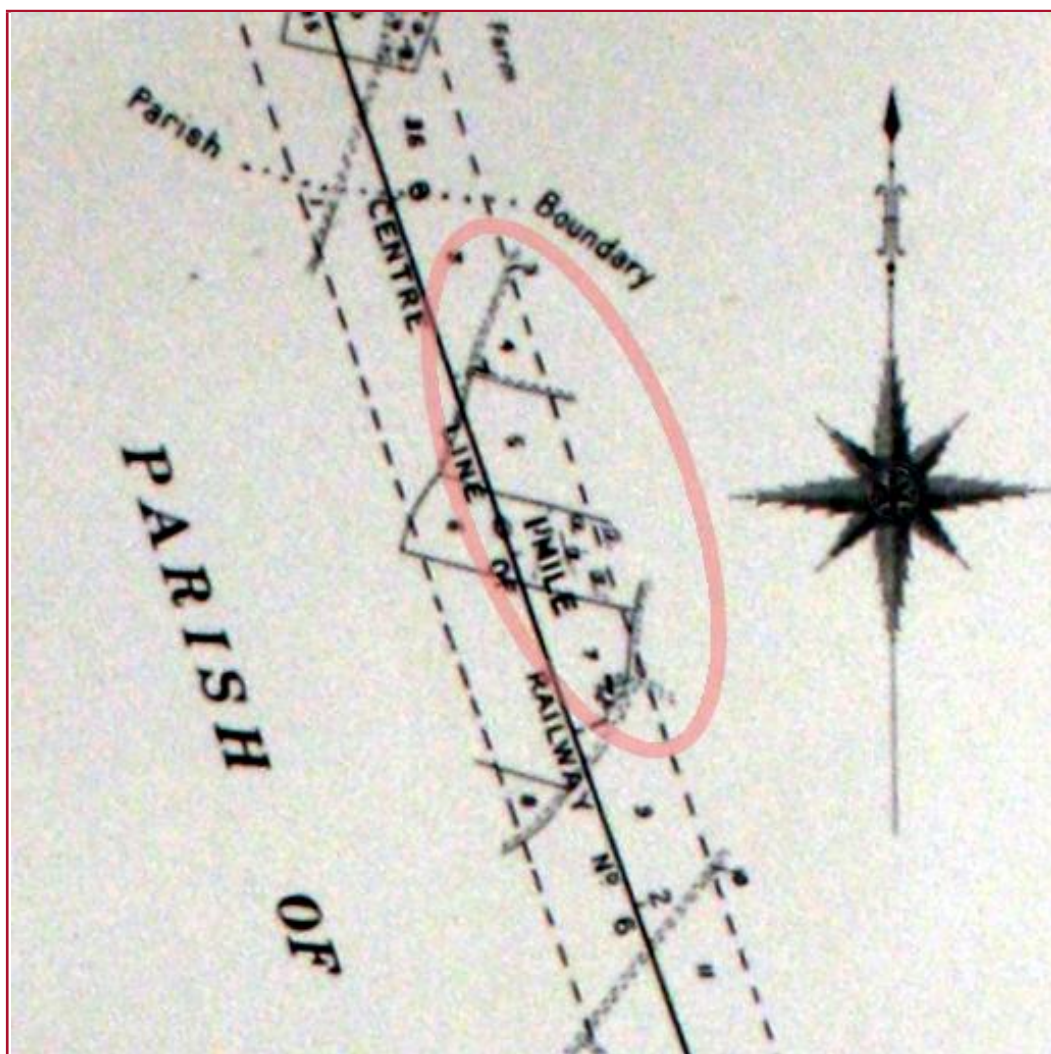


Illustration xlvii: East Kent Light Railway, line 6, deposited plan



## East Kent Light Railway book of reference

55

**EAST KENT MINERAL (LIGHT) RAILWAYS.**

Parish of GOODNESTONE, in the County of KENT.

**RAILWAY No. 6—continued.**

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
1	Arable and occupation road	Henry Fitzwalter Plumtre	.. ..	Noah Miles
2	Hopfield and arable	Henry Fitzwalter Plumtre	.. ..	Noah Miles
3	Public bridle road	The Eastry Rural District Council Frederick Spencer Cloke, clerk	.. ..	The Eastry Rural District Council
7	Arable, occupation road and pond	Henry Fitzwalter Plumtre	.. ..	George Nethersole
8	Arable and occupation road	Henry Fitzwalter Plumtre	.. ..	Henry Fitzwalter Plumtre
9	Arable	Henry Fitzwalter Plumtre	.. ..	George Nethersole
10	Bridle road	The Eastry Rural District Council	.. ..	The Eastry Rural District Council

Illustration xlviii: East Kent Light Railway, line 6, book of reference

S.3. **Description:** original scale: unknown; orientation: rotated 70°. Originally called the East Kent Mineral (Light) Railway when first proposed in 1909, the undertaking later became generally known as the East Kent Light Railway. The promoters included Kent Coal Concessions Ltd, the original promoter of the Kent coalfield. The railway was promoted under the Light Railways Act 1896. The 1896 Act required the deposit of plans and books of reference in connection with a submission seeking authorisation under the Act.

S.4. Line 6 was among the initial raft of proposals for a network of lines serving prospective East Kent collieries, and anticipated the development of a colliery in Goodnestone, but (unlike several lines proposed at this time) was authorised but not built.

S.5. The deposited plan for line 6 shows the application way within the limits of deviation from slightly south of B to west of D, and also marginally at E. The way is identified as parcel number 3 south of B, but is not otherwise labelled. In the book of reference for Goodnestone, parcel number 3 is identified as a 'Public bridle road', owned by Eastry Rural District Council (Frederick Spencer Cloke, clerk), and occupied by the same council. No label is attached to the application way in respect of the marginal intrusion into the limits of deviation at F. However, bridleway EE269A, which passes along the edge of parcels numbers 7 and 8 from south of F, is referred to in the book of reference as an 'occupation road' owned by Henry Fitzwalter Plumtre and occupied by George Nethersole (parcel 7) and by Plumtre (parcel 8).

S.6. **Conclusion:** Sections 46 to 48 and 59 of the Railways Clauses Consolidation Act 1845 were excluded from incorporation in the East Kent Mineral (Light) Railways Order 1910<sup>48</sup>. The order itself provided for the bridging of certain public roads, and for other public highways to be taken over the railway on the level (consistent with the minimal expectations of light railway construction and operation). In common with other crossings for ways which were not perceived as public roads, no specific provision is made in the elevation nor the order<sup>49</sup> for the crossing of the application way, and a level crossing would have been provided.

S.7. The plan and book of reference provide good evidence for the status of the application way between B and D as a public bridleway. The plan does not label the application way in respect of the marginal intrusion into the limits of deviation slightly short of F, but the plan also fails to label the field to the east.

S.8. The East Kent Light Railway's surveyor tended to record public highways with the lowest possible status: BOAT EE335 (part of plot 1 in Eastry) is also recorded as a public bridleway, and numerous other examples exist of roads and bridleways recorded as bridleways or footpaths.

S.9. **Points:**

Bridleway	Restricted byway
5	0

## T. Finance (1909–1910) Act 1910

T.1. **Date:** 1911

T.2. **Source:** National Archives<sup>50</sup>

<sup>48</sup> See art.3(1).

<sup>49</sup> See arts.21–23.

<sup>50</sup> IR 124/5/57 and 124/5/59 (Ordnance Survey map sheets XLVII/8 and 12) and IR 58/17323



## Finance Act maps XLVII/8 and 12

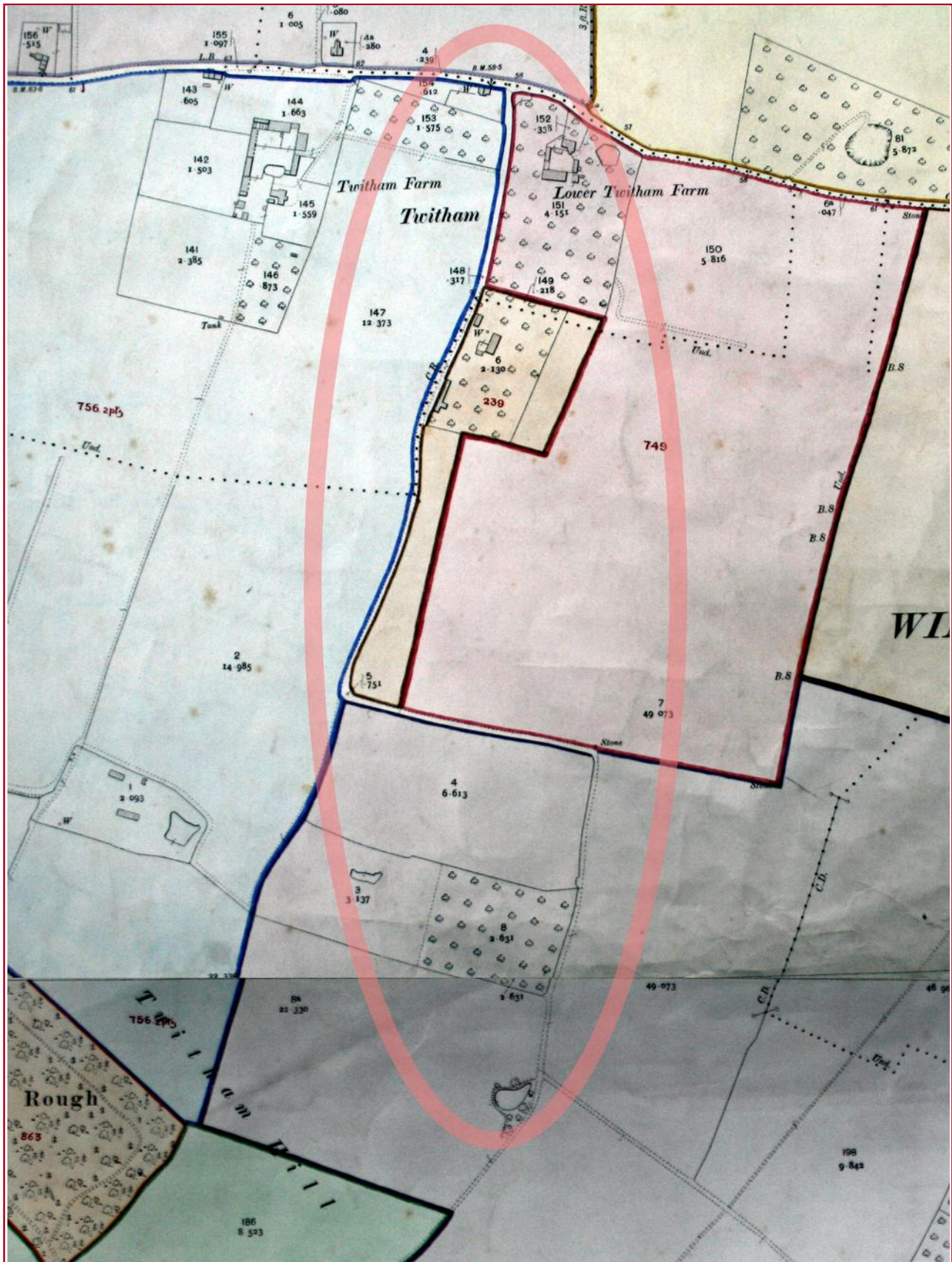


Illustration xlix: Kent Finance Act XLVII/8 and 12



## Adisham field book assessment unit 351a

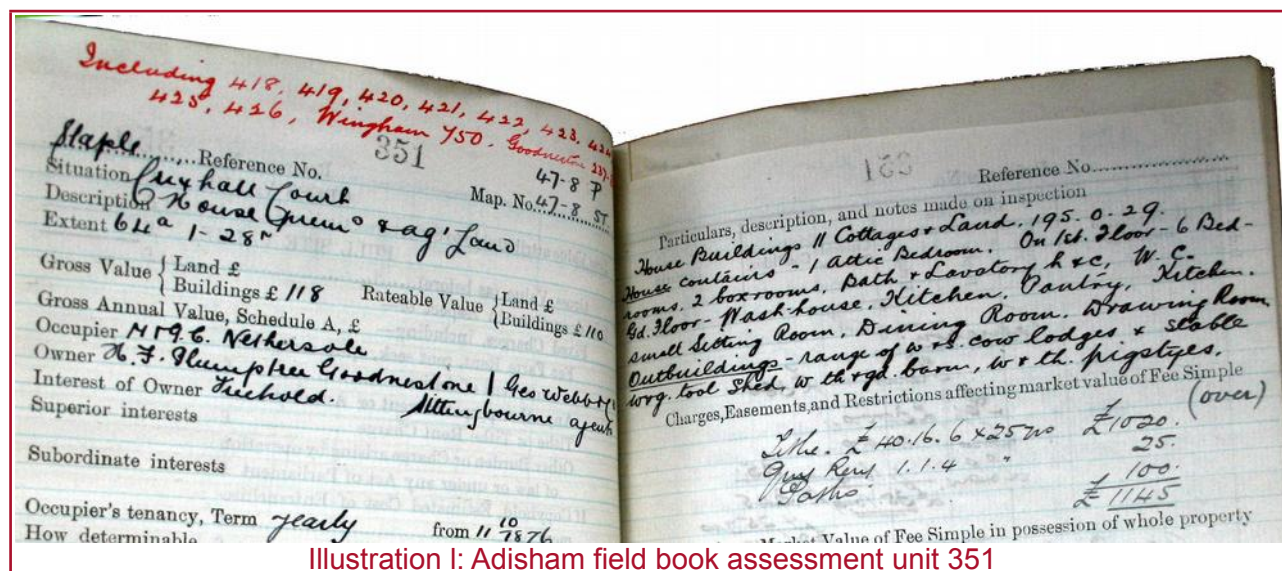


Illustration I: Adisham field book assessment unit 351

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

T.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.

T.5. That 'white roads' are some evidence of public, probably vehicular, status has been recognised in several cases in the superior courts:

- In [Fortune v Wiltshire Council](#), HHJ McCahill QC said (paras.753, 770), that:  
the probable explanation for sections A and B being untaxed is because they were regarded as a full vehicular highway. ...the treatment of Rowden Lane in the 1910 Finance Act Map is clear and cogent evidence that Sections A and B of Rowden Lane were acknowledged to be a public vehicular highway in 1910.

On [appeal](#), Lewison LJ upheld the judgment at first instance, observing (para.71):

The consensus of opinion, therefore, is that the fact that a road is uncoloured on a Finance Act map raises a strong possibility or points strongly towards the conclusion that the road in question was viewed as a public highway.

- In [Robinson Webster \(Holdings\) Ltd v Agombar](#), Etherton J said (para.47) said:  
The 1910 Finance Act map and schedule are, in my judgment, most material evidence in relation to the status of the Blue Land at that time. ... The fact that the Blue Land was not shown as falling within the hereditament of any private individual, but is shown as part of the general road network, in a survey which would have been undertaken by local officers of the Commissioners, and

following consultation with the owners of private hereditaments, is a most powerful indication that the Blue Land was at that time thought to be in public ownership and vested in and maintainable by the District Council, which was the highway authority.

- In [\*Commission for New Towns v JJ Gallagher Ltd\*](#), Neuberger J found (para.106) that:  
The maps are not unambiguous in this regard, and they appear to have been prepared in something of a hurry. ... Accordingly, at least if taken on their own, the Finance Act maps are of only slight value in tending to support the Commission's case [that the way is public].
- In [\*R \(on the application of Ridley\) v Secretary of State for the Environment, Food and Rural Affairs\*](#), Walker J said (para.65) that:  
The point of the Finance Act was to identify taxable land and, taking account of the cases mentioned, I consider that this [Chapel and Primrose Lanes being uncoloured and excluded from surrounding hereditaments] provides strong evidence that both Chapel and Primrose Lanes were recognised as public vehicular highways at this time.

T.6. 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...'<sup>51</sup>. 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).
- 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.

T.7. 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

<sup>51</sup> Discounts for easements affecting the land were separately requested and recorded in the valuation book.

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.

T.8. All land had to be valued unless it was exempted by the Act. S.94 provided harsh penalties for making false declarations.

T.9. The application way is shown uncoloured between A and E. Between E and F, the way is shown as part of the Crixhall Farm estate, hereditament 351 (which is shown in two parts and accounted for with hereditaments Adisham 418–426, Wingham 750 and Goodnestone 237). This estate is recorded with an area of 64a, 1r, 28p (26.072ha), and a deduction for 'paths' is given, amounting to £100.

T.10. **Conclusion:** The Finance Act map is good evidence that the application way between A and E was regarded as a public highway not subject to assessment.

T.11. Beyond E, the application way was an unenclosed field road, and therefore included within the hereditament of the Crixhall Farm estate. The Crixhall Farm estate enjoyed a substantial reduction of £100 for public rights of way across the estate. There are several rights of way today recorded on the definitive map and statement across the estate, and it is possible that others subsisted which are not today so recorded. It is therefore not possible with certainty to attribute the deduction (or any part of it) to the application way between E and F. However, on the basis that it could not have been assumed that the public way terminated at E, it is highly likely that the continuation of the way between E and F was recognised in the total deduction for the estate.

T.12. **Points:**

<b>Bridleway</b>	<b>Restricted byway</b>
0	5

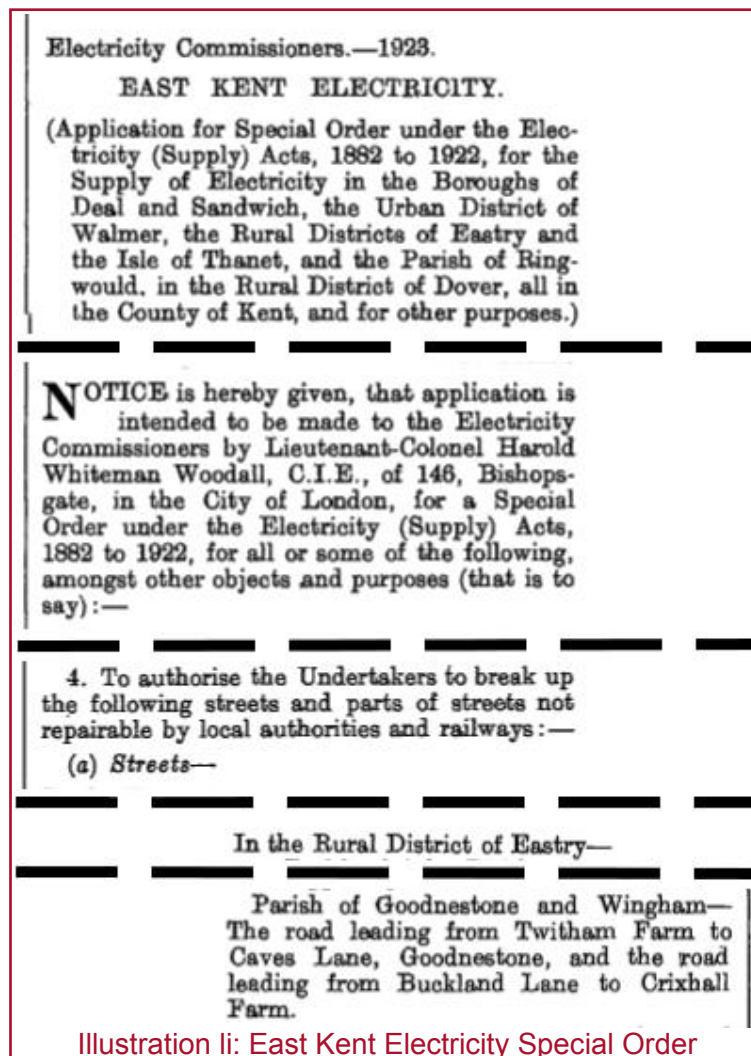
## U. Electricity Supply Acts 1882 to 1922

U.1. **Date:** 1923

U.2. **Source:** London Gazette<sup>52</sup>

52 Issue 32873, p.7140: [www.thegazette.co.uk/London/issue/32873/page/7140](http://www.thegazette.co.uk/London/issue/32873/page/7140).





U.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 Goodnestone, is:

| The road leading from Twitham Farm to Caves Lane, Goodnestone, ... .

U.4. **Analysis:** The road referred to must be the application way, from A to F, and then to Caves Lane along the course of bridleway EE269A. The farm now known as Twitham Court was formerly known as Twitham Farm, and is so named on every Ordnance Survey map up until (and including) the 1977 National Grid 1:10,000 scale. Higher Twitham Farm, sometimes referred to as Twitham Farm, was located just north of F, but ceased to exist in 1875<sup>53</sup>. That farm cannot be the farm referred to in the notice of the order, both because by the date of the notice, it had ceased to exist for half a century, and also because the electricity undertaker had no purpose in seeking powers to lay electricity cables to a remote field on Twitham Hill — the undertaker wished to lay cables connecting potential consumers in Staple and Goodnestone.

U.5. 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 applic-

<sup>53</sup> See paragraph I.E.4 above.

ation 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.

U.6. The Electricity (Supply) Acts 1882 to 1922 incorporate:

- [Electric Lighting Act 1882](#)
- [Electric Lighting Act 1888](#)
- [Electric Lighting Act 1909](#)
- Electricity (Supply) Act 1919
- [Electricity \(Supply\) Act 1922](#)

U.7. 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.

U.8. 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'.

U.9. 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.

U.10. 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.

U.11. The draughtsman of the Electric Lighting Act 1909 appeared to be uncertain of the definition of 'street': section 3 refers to 'roads' which are defined in section 25 of the 1909 Act so as to include any street as defined in the 1882 Act. Given that 'street' is so defined to include a 'road', it is not clear what the draughtsman contemplated might be achieved by this circular provision.

U.12. 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.

U.13. The Lord Chancellor, Lord Halsbury, said in *Mayor of Tunbridge Wells v Baird and Others*<sup>54</sup>, in the context of the extent of the vesting in the highway authority of the surface of a highway maintainable at public expense<sup>55</sup>:

"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".

U.14. 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	<a href="#">TR319603</a> to <a href="#">TR323602</a>	Now known as Castle Road: restricted byway EE43A; title unregistered
ii. White House Drove Road	<a href="#">TR318604</a> to <a href="#">TR319613</a>	Unrecorded ('private street' in NSG); title unregistered
iii. Rubery Drove Road	<a href="#">TR314607</a> to <a href="#">TR315613</a>	Unrecorded; registered title
iv. Potts Farm Drove Road	<a href="#">TR301609</a> to <a href="#">TR304621</a>	Public footpath EE49; registered titles
v. the road leading from Sandhill Farm to Cooper Street	<a href="#">TR298604</a> to <a href="#">TR304602</a>	Public footpath EE52; title unregistered
vi. the road leading from Lower Goldstone to Red House Ferry	<a href="#">TR294611</a> to <a href="#">TR296625</a>	Now known as Goldstone Drove; public footpath EE55; part title unregistered

54 [1895–9] All ER Rep Ext 2006

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

vii. the road leading from Ash Main Road to Poulton Farm (Poulton Lane)	<a href="#">TR281582</a> to <a href="#">TR281577</a>	Part adopted road, part public bridleway EE193; title unregistered
viii. the road leading from Durlock Road to Ash-Canterbury Main Road	<a href="#">TR275577</a> to <a href="#">TR268582</a>	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	<a href="#">TR274615</a> to <a href="#">TR274624</a>	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	<a href="#">TR275598</a> to <a href="#">TR280607</a>	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	<a href="#">TR313537</a> to <a href="#">TR309529</a>	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	<a href="#">TR302545</a> to <a href="#">TR285552</a>	BOAT EE109; part unregistered
<i>Parish of Eythorne—</i>		
xiv. the road leading from Upper Eythorne to Brimsdale Farm	<a href="#">TR283491</a> to <a href="#">TR280491</a>	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,	<a href="#">TR262568</a> to <a href="#">TR255555</a>	Part adopted, part unrecorded, part public bridleway EE269A; land unregistered
xvi. the road leading from Buckland Lane to Crixhall Farm	<a href="#">TR269554</a> to <a href="#">TR267556</a>	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	<a href="#">TR346512</a> to <a href="#">TR342507</a>	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	<a href="#">TR333509</a> to <a href="#">TR343501</a>	Public footpath EE422; title registered
<i>Parish of Nonington—</i>		
xix. the road leading from Holt Street to Nonington Mill	<a href="#">TR262521</a> to <a href="#">TR268517</a>	Now known as Mill Lane; adopted road; unregistered title
xx. the road leading from Gooseberry Hall to Young Wood, Goodnestone (Pilgrims Way)	<a href="#">TR266530</a> to <a href="#">TR259538</a>	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	<a href="#">TR312506</a> to <a href="#">TR311511</a>	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	<a href="#">TR252616</a> to <a href="#">TR249618</a>	Unrecorded; unregistered title
<i>Parish of Ripple—</i>		
xxiii. the road leading from Winkland Oaks Cottages Ripple to Dover Hill Sutton	<a href="#">TR342482</a> to <a href="#">TR334488</a>	Public footpath EE427; title registered
<i>Parish of Sholden—</i>		
xxiv. the road leading from Walnut Tree Farm (Sholden) to Sandwich Bay	<a href="#">TR371545</a> to <a href="#">TR360572</a>	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	<a href="#">TR256630</a> to <a href="#">TR266630</a>	Restricted byway EE485
<i>Parish of Sutton—</i>		



xxvi. the road leading from Sutton Court to Maydensole Farm (near Napchester)	<a href="#">TR334493</a> to <a href="#">TR314476</a>	Public footpath EE417; part unregistered
<i>Parish of Wingham—</i>		
xxvii. the road leading from Dambridge Farm to Brook Farm (Brook Road).	<a href="#">TR249571</a> to <a href="#">TR260571</a>	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	<a href="#">TR308561</a> to <a href="#">TR331576</a>	Part was known as Black Lane (Sandwich), now St Barts Road; part public footpath 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	<a href="#">TR323574</a> to <a href="#">TR331576</a>	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,	<a href="#">TR329568</a> to <a href="#">TR334560</a>	Now known as Coventon Lane; public bridleway EE236; part unregistered title
xxxi. the road leading from Deal and Sandwich Main Road to Temptye Farm,	<a href="#">TR328564</a> to <a href="#">TR341565</a>	Public bridleway EE236; part unregistered title
xxxii. the road leading from Blue Pigeons Farm to Sandwich Bay	<a href="#">TR344566</a> to <a href="#">TR355575</a>	Public bridleway EE232; part unregistered title

U.15. 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.

U.16. 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.

U.17. 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, four (apart from the application way, xv) are under application to be recorded as restricted byways (xii, xviii, xxiii, xxviii), and one is the likely subject of future applications (xxvi).

U.18. **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 A and F (and beyond to Cave Lane) as a public way, privately maintainable, of at least the status of bridleway.

U.19. **Points:**

Bridleway	Restricted byway
2	0

## V. Highway inspector's map

V.1. **Date:** 1952

V.2. **Source:** Kent County Council<sup>56</sup>

<sup>56</sup> Highway inspector's map supplied by the council on request; draft definitive map under council reference: FP/R70/100

## Highway inspector's map 1952

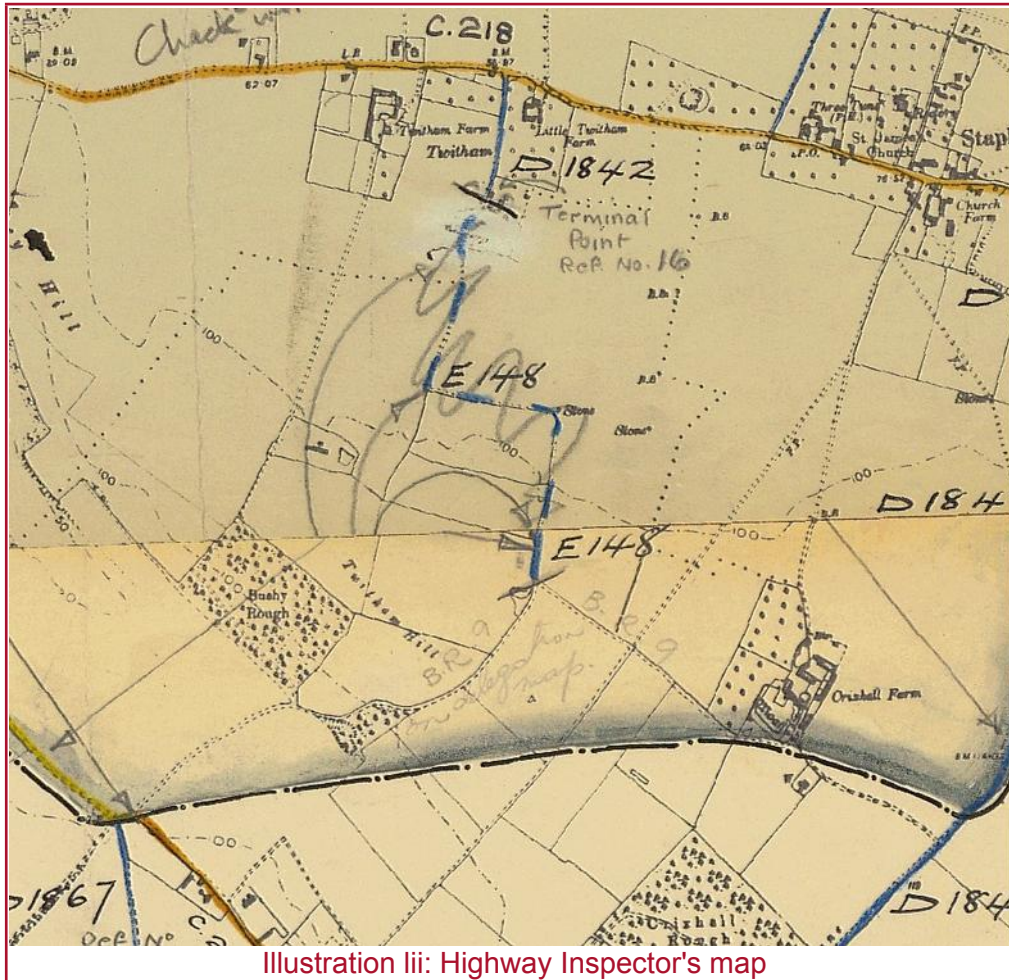


Illustration lii: Highway Inspector's map



## Draft definitive map

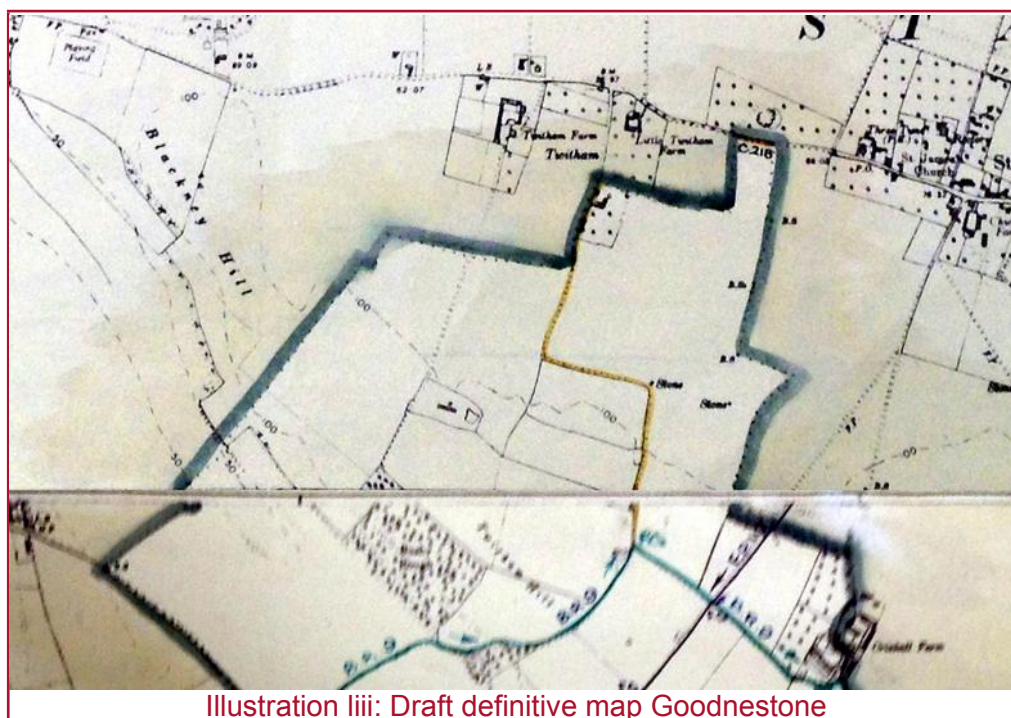


Illustration liii: Draft definitive map Goodnestone

V.3. **Description:** highway inspector's map — original scale: 1:10,560; orientation: unchanged.

V.4. The highway inspector's map shows the application way as an unsealed publicly maintainable highway, with the reference numbers D1842 (approximately between A and B) and E148 (between B and F). The way recorded with reference E148 has, at a subsequent date, been crossed out in pencil.

V.5. On the draft definitive map for Goodnestone, the application way is depicted in yellow, meaning that it was recognised as a publicly maintainable road which therefore did not need to be recorded on the definitive map.

V.6. A request was made to the highway authority in January 2017 for information about the entry of Pettocks Lane in the highway inspector's map, and its deletion.

Question 1<sup>57</sup>: Any markings shown on the map not included in the scanned image — in particular, the annotations obscured by the overlay of OS sheet XLVII/12 over the margin of sheet XLVII/8, which explain or illustrate the pencilled arrows towards the E148.

We have reviewed plan reference XLVII/12 and the plan it was overlaid with (please note that this is XLVII/16 and not XLVII/8). The annotations on plan XLVII/16 by the termination of E148 state 'BR9 on delegation map' and above this in the margin of this plan there is a note that states 'please ignore this wash along Superintendent's District Boundary. This was a draughtsman's error.' There is also another note in the margin with one arrow pointing towards the E148 and one arrow towards the division boundary and this states 'for query regarding this stretch see sheet XLVII N.E.' In pencil beneath this note it

57 This and the following questions were posed by the applicant.

states 'Not maintained' and this has been initialled. Please note that XLVII N.E is the same as XLVII/12. Please see point 2 for the notes relating to the E148.

Question 2: Any information which records or explains why the E148 was crossed out from the map

The annotations on plan XLVII/12 explaining why the E148 was crossed from the map state 'Is this a maintained road as indicated on HQ Blue line – did not make it as publically maintainable.' In pencil beneath this note it states 'Not maintained' and this has been initialled. Our interpretation of these notes is that the E148 was crossed from the plan as it was not considered to form part of the publicly maintainable highway.

Question 3: Any information which records or explains why the D1842 was redrawn to terminate (at its southern end) at 'Terminal Point Ref No 16'.

It is unclear if the termination point of the D1842 was redrawn and so we are unable to comment regarding this. It is our interpretation that any markings to this area were due to human error. We have found records relating to the length of the D1842 that states that it starts from C218 at Twitham southwards for 700 feet (approximately).

Question 4: Any information which records or explains any other substantive alterations in the entry for Pettocks Lane (whether the E148 or the D1842) in the list of streets held by the council under s.36(6) of the Highways Act 1980 since the date of the map.

We are not aware of any alterations in the entry for Pettocks Lane (whether the E148 or the D1842) in the list of streets held by Kent County Council and we can find no record of any changes being made to USRN 11300959 (Pettocks Lane, Wingham) which means that no actions have been recorded against this Street in at least the last ten years. The two road numbers you refer to (E148 and D1842) are references to Unclassified Road Numbers which were the backbone of the previous CHART based Street Referencing System used before the USRNs became the legally required method of recording all streets.

Question 5: Any information about a legal event (such as a stopping up order or a cessation of public liability to maintain order) which bears on the status of Pettocks Lane as publicly maintainable.

Our records indicate that there are no recorded stopping up orders or a cessation of public liability to maintain order at this location.

V.7. **Conclusion:** The inspector's map shows that the application way between B and F was formerly considered to be a public highway, and was allocated an unclassified road number consistent with its being publicly maintainable. The authority for the deletion of the application way between B and F is unclear, but it may be that evidence was found that the way, although a highway, was not publicly maintainable: see, for example, item IV.U above.

V.8. **Points:**

Bridleway	Restricted byway
0	3

## W. Conveyance of 1982

W.1. **Date:** 1982

W.2. **Source:** HM Land Registry

W.3. **Description:** In 1982, Miss M O Kimberly bought Twitham Oast from trustees,<sup>58</sup> together with a parcel of land from the Goodnestone estate surrounding the Oast on the east side of the application way.

W.4. The conveyance of Twitham Oast from trustees purports to comprise the Oast House building, together with a strip of land comprising the application way approximately between B and C.

W.5. A copy of the conveyance is at annexe A (p.77 below).

W.6. Paragraph 1 describes the conveyance as:

...Subject to the rights of the public over the road or way known as Twitham Lane Wingham aforesaid...

W.7. **Conclusion:** The conveyance of Twitham Oast was expressly made subject to public rights over the application way, described as a 'road or way'.

W.8. **Points:**

Bridleway	Restricted byway
0	3

<sup>58</sup> The trustees were John Drinkwater QC and Peter Anthony Palmer. The conveyance states that they acquired the land on a conveyance from the Goodnestone estate in 1967.



## X. Annexe A

Copy of the conveyance of 1982 (see item IV.W above), pp.1–7.

9

INLAND REVENUE

31. MAR. 1982

FINANCE ACT 1931

33

**This Conveyance** is made the

*Twenty fourth* day of *February* One Thousand Nine

Hundred And Eighty Two BETWEEN JOHN DRINKWATER Q.C. of Meysey Hampton

Manor Near Cirencester Gloucestershire and PETER ANTHONY PALMER of

12 Bedford Row London WC1R 4DN (hereinafter called "the Vendors") of the

one part and MARJORIE OLIVE KIMBERLEY of 60 Priory Gardens Hanger Lane

Ealing London W.5 (hereinafter called "the Purchaser") of the other

part

W H E R E A S :

(1) The Vendors are seised of the property hereinafter described for an estate in fee simple in possession subject as hereinafter mentioned but otherwise free from incumbrances and hold the same as trustees upon trust to sell the same and to stand possessed of the net proceeds of sale and the net rents and profits until sale upon trust

(2) The Vendors in exercise of the said trust for sale have agreed with the Purchaser for the sale to her of the said property for a like estate at the price of FOURTEEN THOUSAND POUNDS

NOW THIS DEED WITNESSETH as follows :-

1. IN pursuance of the said agreement and in consideration of the sum of FOURTEEN THOUSAND POUNDS paid by the Purchaser to the Vendors (the receipt whereof the Vendors hereby acknowledge) the Vendors as Trustees hereby convey unto the Purchaser ALL THAT piece or parcel of freehold land situate at Wingham Near Canterbury in the County of Kent

TOGETHER WITH the East House erected thereon or on some part thereof

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Illustration liv: conveyance p.1

and known as "Twitham Oast" Wingham aforesaid shown for the purposes of identification only on the plan annexed hereto and thereon edged red SUBJECT to the rights of the public over the road or way known as Twitham Lane Wingham aforesaid TOGETHER ALSO with the rights set out in the First Part of the First Schedule hereto but EXCEPT AND RESERVED the rights set out in the Second Part of the First Schedule hereto TO HOLD the same unto the Purchaser in fee simple

2. THE Purchaser so that this covenant shall be for the benefit and protection of the adjoining or neighbouring property of the Vendors or any part or parts thereof hereby covenants with the Vendors that she will at all times hereafter observe and perform the covenants contained in the Second Schedule hereto

3. IT IS HEREBY AGREED AND DECLARED that nothing herein contained or implied shall be deemed to confer on or grant to the Purchaser any easement of way drainage light air or other easement or right which would or might interfere with or restrict the free use of the Vendors' adjoining or neighbouring property for building or any other purpose whatsoever

4. THE Vendor hereby acknowledges the right of the Purchaser to the production of the documents specified in the Third Schedule hereto (the possession of which is retained by the Vendors) and to delivery of copies thereof

5. IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds TWENTY THOUSAND POUNDS

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first before written

Illustration Iv: conveyance p.2



THE FIRST SCHEDULE hereinbefore referred to

PART I

RIGHTS TO BE CONVEYED

(a) The right for the Purchaser and her successors in title from time to time as required to enter upon the adjoining or neighbouring land of the Vendors for the purpose of inspecting repairing and maintaining the fence erected by the Purchaser between the points marked 'F' and 'H' and 'H' and 'G' on the plan annexed hereto and for the purpose of inspecting repairing and maintaining the fence erected by the Vendor between the points marked 'K' and 'L' on the said plan upon giving reasonable previous notice of the intention so to enter to the Vendors or other the owner or occupiers for the time being of the said land of the Vendors the Purchaser causing no unnecessary damage to the said land of the Vendors and making good any damage caused

PART II

RIGHTS TO BE EXCEPTED AND RESERVED

(a) an exception and reservation to the Vendors and their successors in title and all persons authorised by them of all easements quasi-easements rights or privileges now exercised or exercisable over the land hereby conveyed by the occupiers of adjoining or neighbouring land or which had the land hereby conveyed and any adjoining land of the Vendors been in separate ownership would have been easements rights or privileges

(b) the right for the Vendors and their successors in title in fee simple for the benefit of the Vendors' adjoining or neighbouring property the right for the Vendors and their successors in title to enter upon the land hereby conveyed for the purposes of making maintaining repairing

or making connections with the drainage water soil gas and electricity systems on the land hereby conveyed \_\_\_\_\_

(c) all subsisting rights in relation to the extraction of coal and other minerals and all subsisting rights ancillary thereto including (but without prejudice to the generality of the foregoing) those contained or referred to in a Lease dated the Thirtieth day of July One Thousand Nine Hundred And Twenty Three and made between Henry FitzWalter Plumtre of the first part The Reverend Charles Pemberton Plumtre and Henry Western Plumtre of the second part and Pearson and Dorman Long Limited of the third part as varied by an Agreement dated the Twenty Ninth day of June One Thousand Nine Hundred And Thirty Two and made between The Right Honourable Henry FitzWalter Baron FitzWalter of the first part Henry Western Plumtre Albert Leslie Wright and Edward FitzWalter Wright of the second part and Pearson and Dorman Long Limited of the third part so far as the same affect the property hereby transferred \_\_\_\_\_

THE SECOND SCHEDULE hereinbefore referred to

(a) The Purchaser and those deriving title under her will forever hereafter maintain the hedge between the points marked 'D' and 'A' on the plan annexed hereto \_\_\_\_\_

(b) The Purchaser and those deriving title under her will forever hereafter maintain and keep in good repair the fence between the points marked 'K' and 'L' on the plan annexed hereto \_\_\_\_\_

(c) That within one month of the Purchaser removing the hedges between the points marked 'F' and 'E' and 'E' and 'G' on the plan annexed hereto (permission for which is hereby granted by the Vendors) for the sight lines required by Kent County Council the Purchaser will at her own

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Illustration Ivii: conveyance p.4

expense level the land at the corner of Twitham Lane and Staple Road grade the bank into the field leaving the site suitable for agricultural purposes and erect a pig netting fence between the said points which said fence the Purchaser and those deriving title under her will forever thereafter maintain

THE THIRD SCHEDULE hereinbefore referred to

<u>Date</u>	<u>Document</u>	<u>Parties</u>
11th October 1967	CONVEYANCE	The Rt. Hon. FitzWalter Brook Plumptre Baron FitzWalter (1) John Drinkwater and John Marshall Barwick (2)
13th October 1969	DEED OF APPOINTMENT	The Rt. Hon FitzWalter Brook Plumptre Baron FitzWalter (1) John Drinkwater (2) George Geoffrey Milburn Stokes (3)
27th February 1979	DEED OF APPOINTMENT	The Rt. Hon. FitzWalter Brook Plumptre Baron FitzWalter (1) John Drinkwater Q.C. (2) George Geoffrey Milburn Stokes (3) Peter Anthony Palmer (4)

SIGNED SEALED AND DELIVERED by the said }  
JOHN DRINKWATER in the presence of :- }

*Allen Collier*  
2, Harcourt Buildings,  
Temple, E.C.4.  
Barristers clerk.

*John Drinkwater*



SIGNED SEALED AND DELIVERED by the said )  
PETER ANTHONY PALMER in the presence of:)

*John B. Lee*  
12 Bedford Row,  
London,  
VICIR 4DN  
Secretary

*Peter Anthony Palmer*

SIGNED SEALED AND DELIVERED by the said )  
MARJORIE OLIVE KIMBERLEY in the presence )  
of :-

*Marjorie O. Kimberley*  
Ivy Cottage, 66 Station Rd  
Barnes SW13 0LP

*Marjorie O. Kimberley*

*Chartered Accountant*

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Illustration lix: conveyance p.6

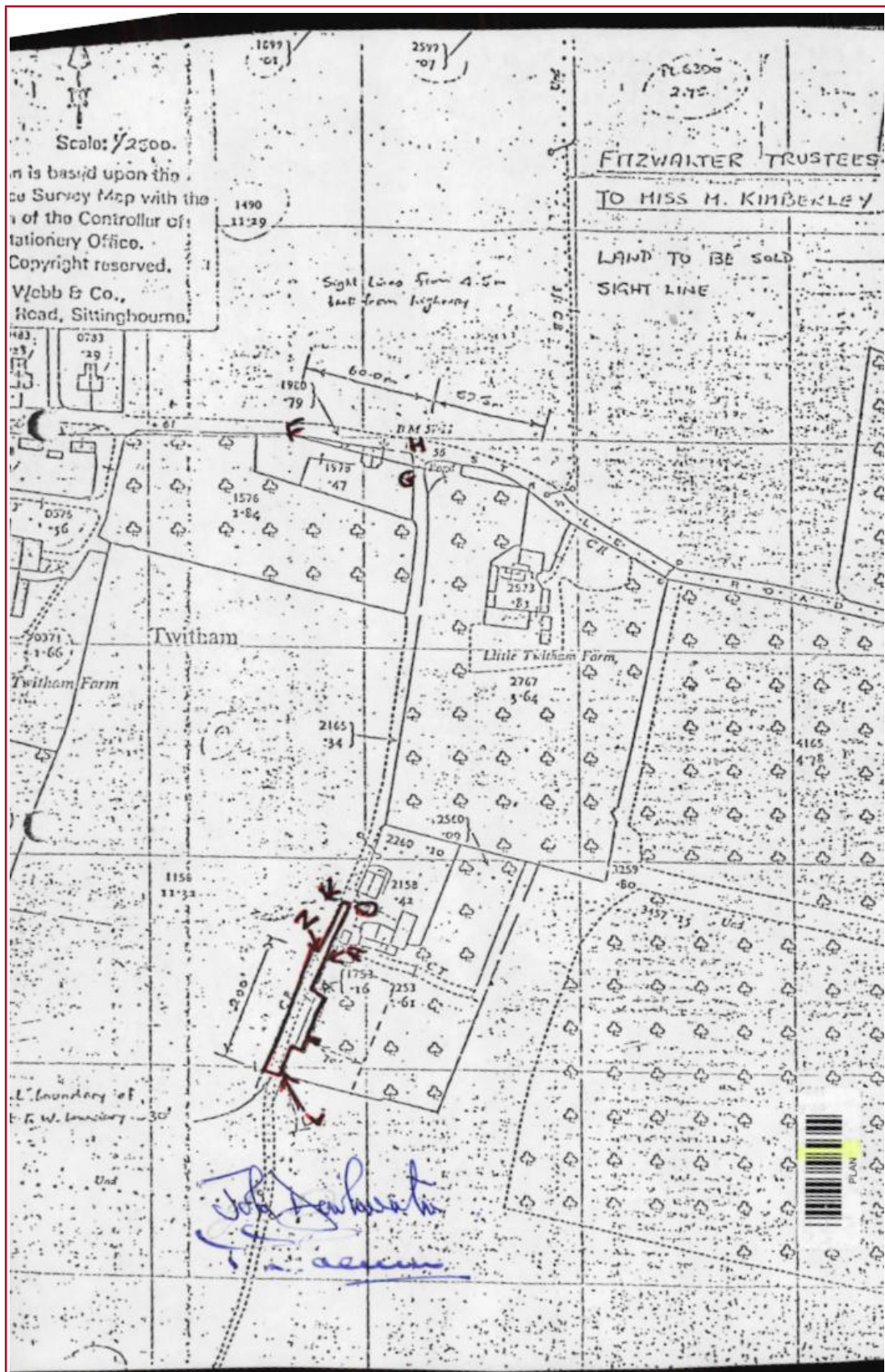


Illustration 1x: conveyance p.7