- 2 -

their view that the road was not a highway repairable. Consideration was given to the matter at that time as part of a review of the status of all the roads in the Borough.

6. It appears that maps prior to 1836 indicate the existence of a way but do not indicate expressly whether it was a private right of way or a public highway. This fact, and the fact that when the railway was constructed the roadway was left under the railway and a crossing existence over the railway, appear to be consistant with the Railway Executive are, in fact, prepared to allow any member of the public to cross the railway.

7. The Borough Surveyor is of the opinion that the road has never been used as a public highway but simply for the occupational use of and access to the lands north and south of the Cockshut. It is certainly not evident what use the public as such can have made of this way prior to 1836 as opposed to the use which may have been made of the way by persons in their private capacity in order to reach their own lands.

8. I note your reference to the fact that apparently no right of way was ever granted to the Southdown Tennis Club over the way; and your reference to the Hayton-with-Roby Ca

9. As you have referred to this Case in particular, I should summarise the relevant points of the Case as fo them :-

(a) The Justices decided on the facts that the lane was a highway repairable and that the Divisional Court was therefore wrong in allowing the Appeal against Justice decision; the Divisional Court would only have been right had there been no evidence to support the Justi decision.

(b) The Justices, it appears, had regard to the followi facts :-

(1) that the lane led to a hamlet in the 18th Centu

(2) that at the point where the lane left another a guide-stone was put up in 1776 saying "Road to Thingwall. No thorough by."

- 3 -

(3) The road had been open to the public ever since 1776, if not before.

(4) A document dated 1812 showed that a house had been conveyed without a conveyance of the lane or a right of way along the lane.

(5) No public money had been spent on mending the road.

(6) A tithe map of 1840 described the lane as an occupation road.

(c) Denning, L.J., referring to these facts, said that there were indications both ways.

(d) He also said that if a local authority desire to charge a frontager with the cost of making up a road under the Private Street Works Act, 1892, the burden is on the local authority to prove that it is a street which is a highway non-repairable. That is the legal burden which rests upon the local authority in such circumstances.

(e) Despite that legal burden, he said that if the local authority show that no public money had been spent on the road, then a provisional presumption arose that the road was not a public road. This is of course by no means conclusive.

(f) In this case the Justices came to a decision on the facts and therefore the question of the legal burden did not arise.

(g) Birkett, L.J., and Romer, L.J., agreed generally with Denning, L.J.

10. I agree with you that the Case is of interest in the present circumstances. Comments which I should make on it are these :-

(a) The absence of any repair of the road by the Council is admittedly a strong point against the highway being repairable.

(b) There is, so far as I am aware, no equivalent to the guide-stone in the present circumstances nor to the document of 1812.

(c) Whilst the lane in the Case led to a hamlet, one of the greatest difficulties from your Clients' point of view as I see it is that Cockshut Road does not lead to anywhere even now. It may well be that in 1835 it

continued ...

liability for the repair o

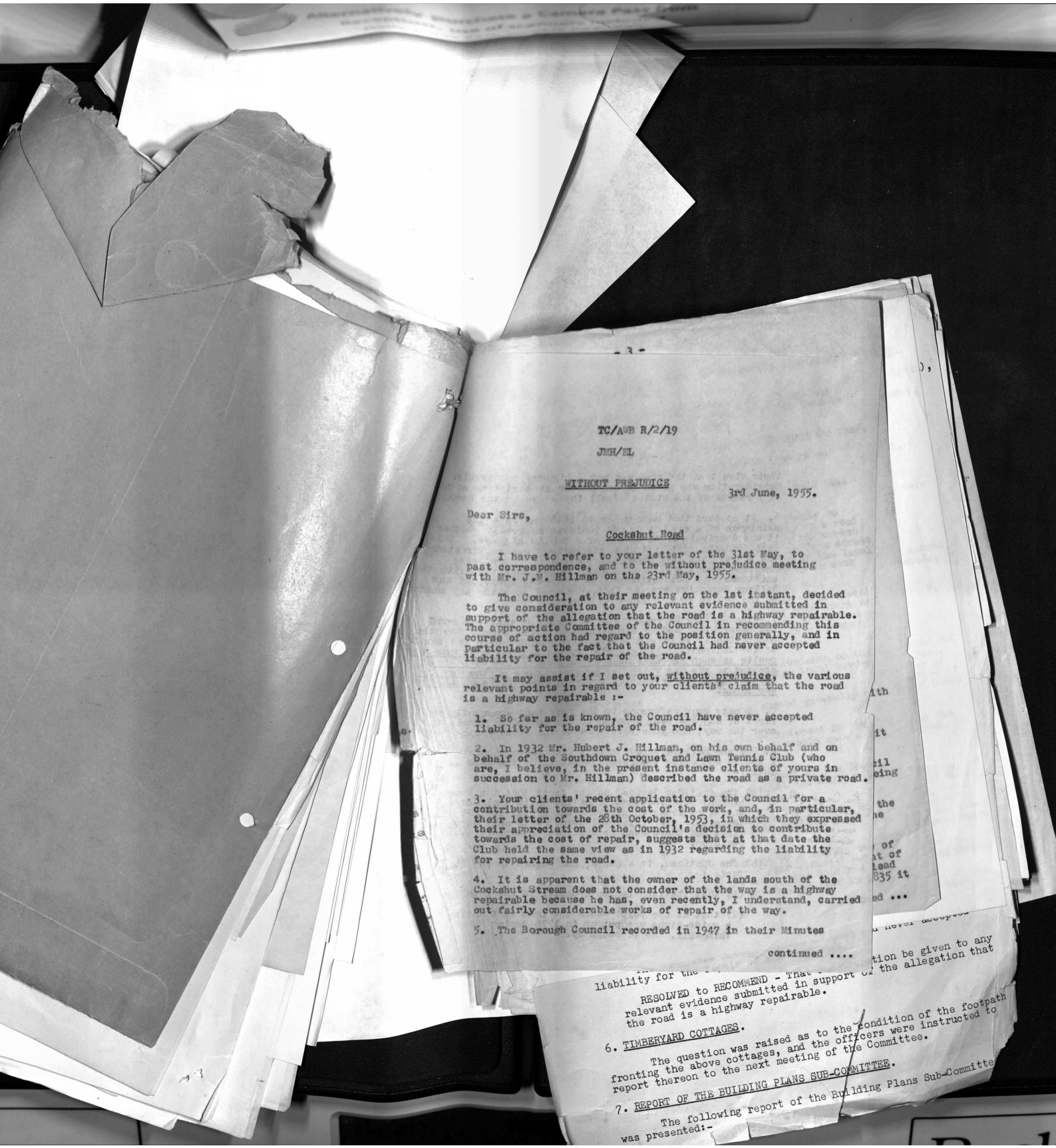
RESOLVED to RECOMMEND - That considera
relevant evidence submitted in support of the
the road is a highway repairable.

6. TIMBERYARD COTTAGES.

The question was raised as to the cond
fronting the above cottages, and the officer
report thereon to the next meeting of the Co

7. REPORT OF THE BUILDING PLANS SUB-COMMIT

The following report of the Buildi
was presented:-



- 3 -

TC/AWB R/2/19

JMH/EL

WITHOUT PREJUDICE

3rd June, 1955.

Dear Sirs,

Cockshut Road

I have to refer to your letter of the 31st May, to past correspondence, and to the without prejudice meeting with Mr. J.W. Hillman on the 23rd May, 1955.

The Council, at their meeting on the 1st instant, decided to give consideration to any relevant evidence submitted in support of the allegation that the road is a highway repairable. The appropriate Committee of the Council in recommending this course of action had regard to the position generally, and in particular to the fact that the Council had never accepted liability for the repair of the road.

It may assist if I set out, without prejudice, the various relevant points in regard to your clients' claim that the road is a highway repairable :-

1. So far as is known, the Council have never accepted liability for the repair of the road.

2. In 1932 Mr. Hubert J. Hillman, on his own behalf and on behalf of the Southdown Croquet and Lawn Tennis Club (who are, I believe, in the present instance clients of yours in succession to Mr. Hillman) described the road as a private road.

3. Your clients' recent application to the Council for a contribution towards the cost of the work, and, in particular, their letter of the 28th October, 1953, in which they expressed their appreciation of the Council's decision to contribute towards the cost of repair, suggests that at that date the Club held the same view as in 1932 regarding the liability for repairing the road.

4. It is apparent that the owner of the lands south of the Cockshut Stream does not consider that the way is a highway repairable because he has, even recently, I understand, carried out fairly considerable works of repair of the way.

5. The Borough Council recorded in 1947 in their Minutes

continued ....

liability for the ... tion be given to any relevant evidence submitted in support of the allegation that the road is a highway repairable.

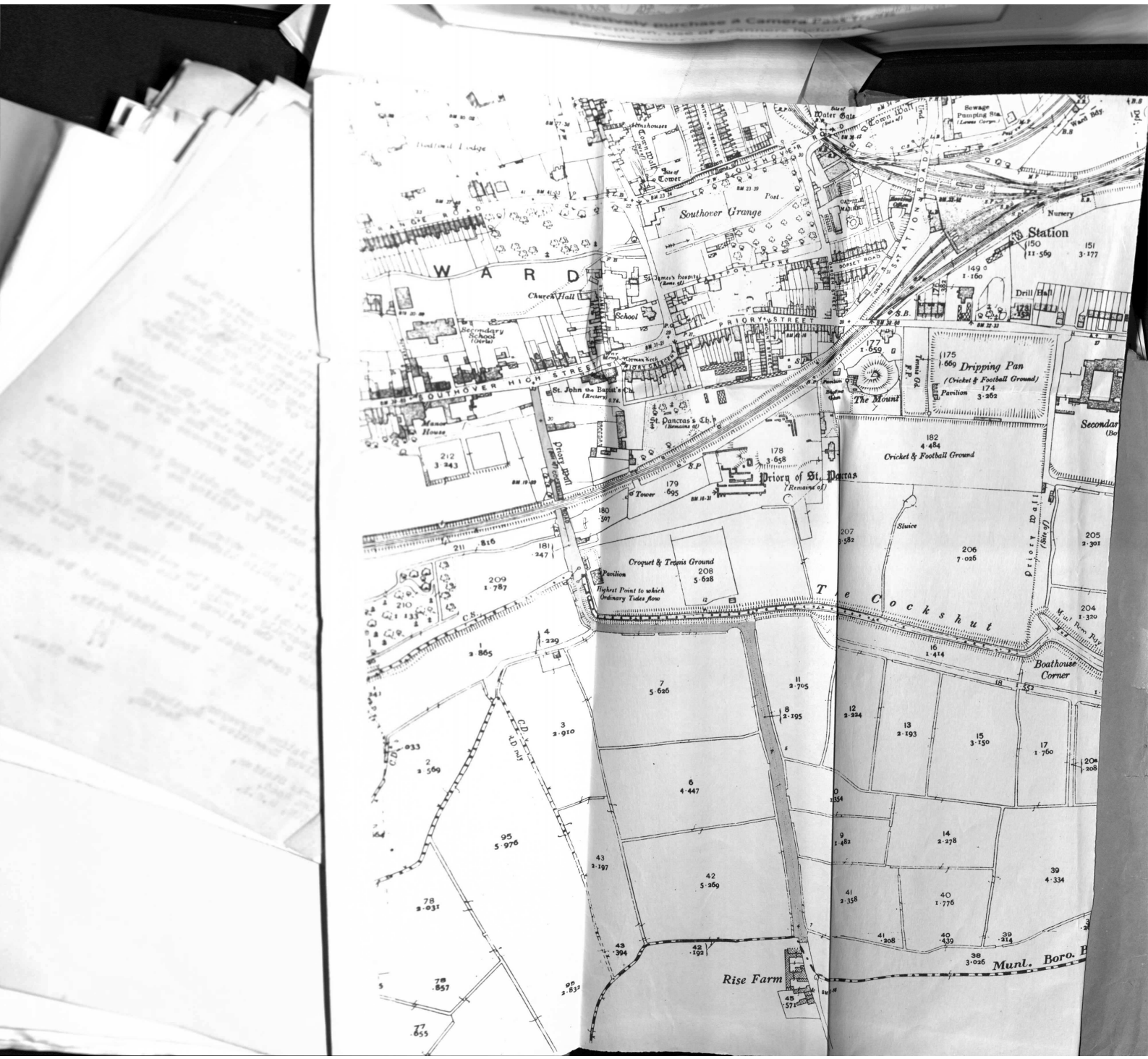
RESOLVED to RECOMMEND - That ...

6. TIMBERYARD COTTAGES.

The question was raised as to the condition of the footpath fronting the above cottages, and the officers were instructed to report thereon to the next meeting of the Committee.

7. REPORT OF THE BUILDING PLANS SUB-COMMITTEE.

The following report of the Building Plans Sub-Committee was presented:-



Southover Grange
Station
Nursery
Drill Hall
Church Hall
School
Secondary School (Girls)
PRIORY STREET
SOUTHOVER HIGH STREET
St. John the Baptist's Ch.
St. Pancras's Ch.
Manor House
Priory of St. Pancras
(Remains of)
Tower
Dripping Pan
(Cricket & Football Ground)
Pavilion
The Mount
Cricket & Football Ground
Sluice
Croquet & Tennis Ground
Pavilion
Highest Point to which Ordinary Tides flow
The Cockshut
Boathouse Corner
Rise Farm
Munl. Boro.
Priory Wall
Water Gate
Sewage Pumping Sta.

TC/MP R 2.19

7th June, 1955.

Dear Sir,

Cockshut Road

I enclose a plan showing the above road. The question has arisen as to whether this road was a public highway prior to 1836. I understand that railway lines were constructed across this road and the existing bridge built between 1840 to 1845. The bridge is a low one and I understand everybody or certain persons have the right to cross the railway line at this point, presumably because of the impossibility of getting vehicles of any height under the bridge.

In view of these circumstances it appears that the Railway Company must have gone thoroughly into the status of Cockshut Road, (it was possibly known as Cockshut Lane or The Droveway) at about 1840 which is a critical time for the purpose of my investigations.

Needless to say, I shall be very much obliged if you are able to help the Council in this matter by telling me :

(1) What information you have which indicates that the road was or was not a public highway at the time the railway was built.

(2) Whether the right to cross the railway was granted to the public generally or only to the owners of the lands to the south of the railway.

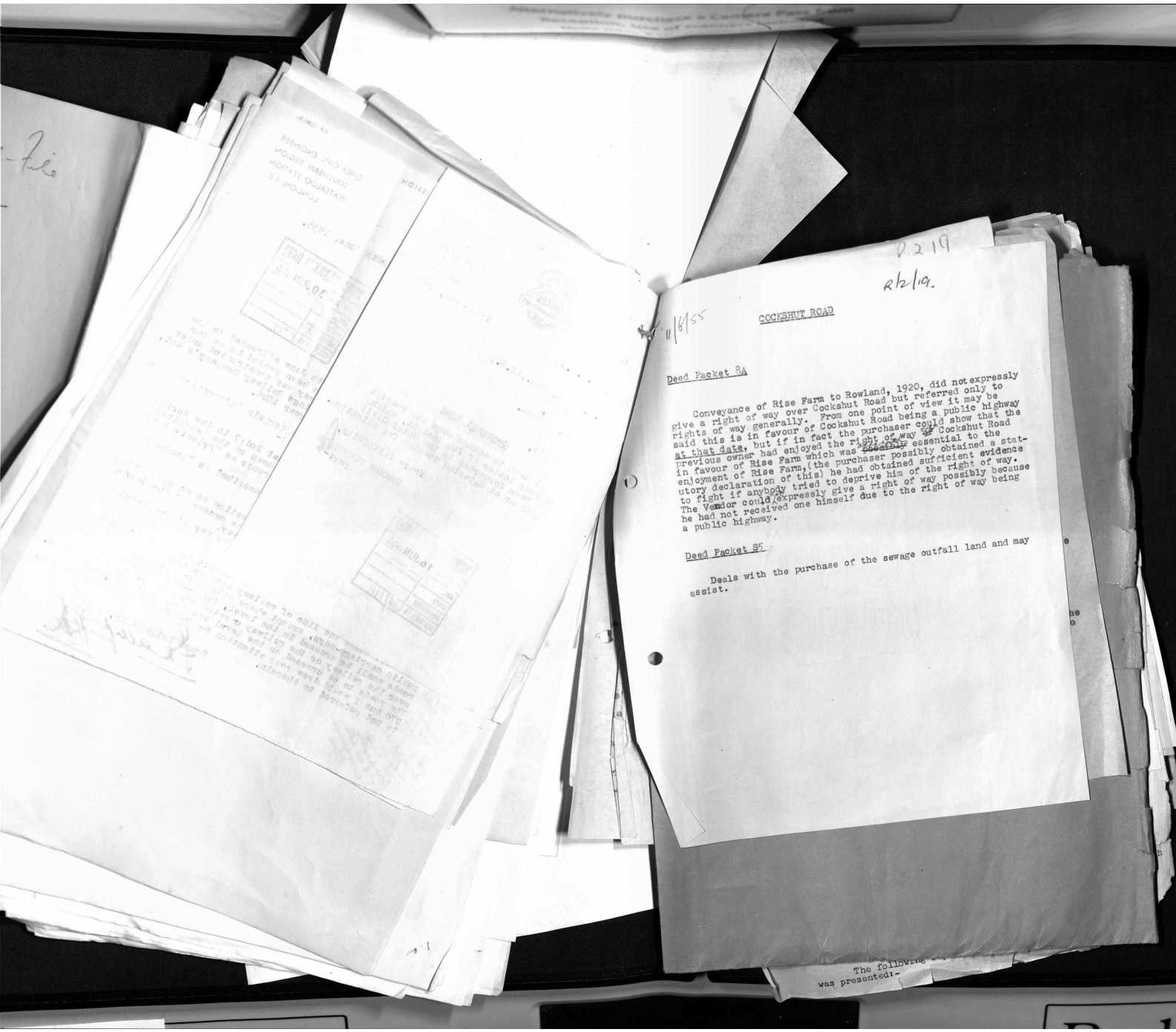
(3) Any other facts which you consider would be helpful.

Yours faithfully,

Town Clerk.

Estate & Rating Surveyor,
The Railway Executive - Southern Region,
ictoria Station,
lton Road,
NDON, S.W.1.

The following
was presented:-



P.219

RL/19.

11/8/55

COCKSHUT ROAD

Deed Packet 84

Conveyance of Rise Farm to Rowland, 1920, did not expressly give a right of way over Cockshut Road but referred only to rights of way generally. From one point of view it may be said this is in favour of Cockshut Road being a public highway at that date, but if in fact the purchaser could show that the previous owner had enjoyed the right of way ~~recently~~ essential to the in favour of Rise Farm which was ~~recently~~ essential to the enjoyment of Rise Farm, (the purchaser possibly obtained a statutory declaration of this) he had obtained sufficient evidence to fight if anybody tried to deprive him of the right of way. The Vendor could expressly give a right of way possibly because he had not received one himself due to the right of way being a public highway.

Deed Packet 85

Deals with the purchase of the sewage outfall land and may assist.

The following ... was presented:-

B.R. 7600/17 B.R. 12301/31.

BRITISH TRANSPORT COMMISSION

L.S. CAMPION, M.I.C.E.
Chief Civil Engineer
D. CANTRELL, M.I.C.E.
Civil Engineer
Telegraphic Address
ENGINEER WATERLOO RAIL LONDON
Telephone
WATERLOO 2442
Ext.

BRITISH RAILWAYS

CHIEF CIVIL ENGINEER
SOUTHERN REGION
WATERLOO STATION
LONDON, S.E.1

Our Reference NW/STA/283
Your Reference TC/MP.R.2.19.

28th June, 1955.

TOWN CLERK'S DEPT
REC'D 30 JUN 1955
ACK.
ANS'D
COMMITTEE
REFERRED TO

N.J.Heaney, Esq.,LL.B.,
Town Clerk,
Borough of Lewes,
Town Hall,
LEWES, Sussex.

Dear Sir,

Cockshut Road.

With reference to your letter of the 7th June addressed to the Region's Estate & Rating Surveyor, which has been passed to me for attention, I would inform you that the railway was constructed under the authority of the Brighton Lewes and Hastings Railway Company's Act, of 1844, and was opened for traffic in the year 1846.

In answer to your enquiry, I give below certain information which it is hoped will be helpful to your Council :-

(1) The roadway at the level crossing is that No1:7 in the Parish of Saint John the Baptist, Southover, shown on the Deposited Plans and described in the Book of Reference as "Private Road" with William Verrell as the Owner.
In the Deposited Section, the road is described as "Cockshut Lane Private Road".

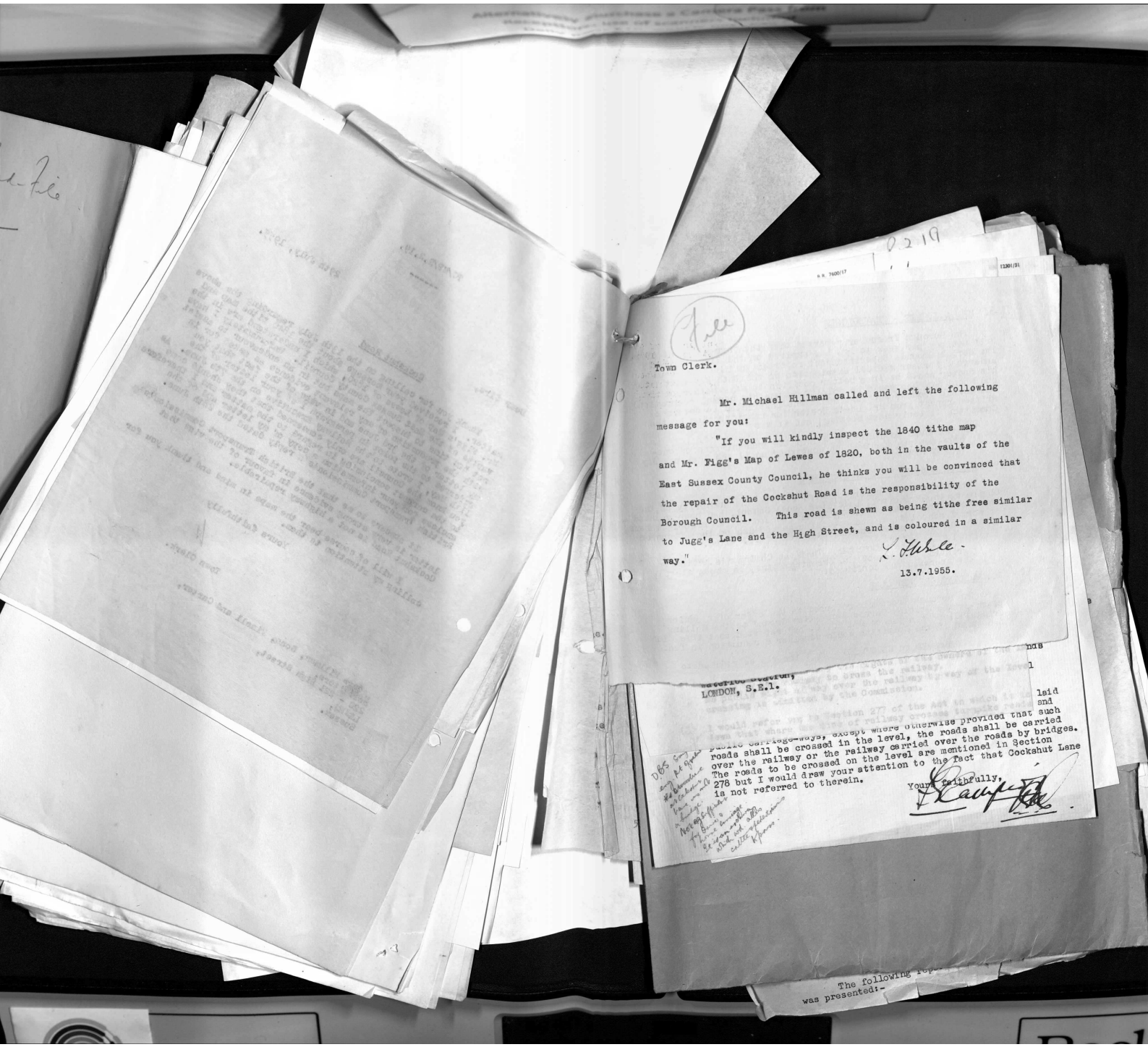
(2) The Commission regard the roadway in question as an occupation road and recognise only the rights of the owners of the lands served by the roadway to cross the railway.
No public right of way over the railway by way of the level crossing is admitted by the Commission.

(3) I would refer you to Section 277 of the Act in which it is laid down that where the line of railway crosses turnpike roads and public carriage-ways, except where otherwise provided that such roads shall be crossed in the level, the roads shall be carried over the railway or the railway carried over the roads by bridges. The roads to be crossed on the level are mentioned in Section 278 but I would draw your attention to the fact that Cockshut Lane is not referred to therein.

Yours faithfully,

L Campion

The following was presented:-



Town Clerk.

Mr. Michael Hillman called and left the following message for you:

"If you will kindly inspect the 1840 tithe map and Mr. Figg's Map of Lewes of 1820, both in the vaults of the East Sussex County Council, he thinks you will be convinced that the repair of the Cockshut Road is the responsibility of the Borough Council. This road is shewn as being tithe free similar to Jugg's Lane and the High Street, and is coloured in a similar way."

13.7.1955.

LONDON, S.E.1.

roads shall be crossed in the level, the roads shall be carried over the railway or the railway carried over the roads by bridges. The roads to be crossed on the level are mentioned in Section 278 but I would draw your attention to the fact that Cockshut Lane is not referred to therein.

Yours faithfully,

The following report was presented:-

TC/MP/R.2.19.

29th July, 1955.

Dear Sirs,

Cockshut Road

Thank you for calling on the 13th July regarding the above matter. I received your message about the 1840 tithe map and Mr. Figg's Map of Lewes of 1820, which I understand are in the vaults of the East Sussex County Council. Unfortunately I have not had time to inspect the maps but in an endeavour to assist with the production of any relevant evidence as asked for in my letter of the 3rd June and in view of the fact that you referred to the point in paragraph 1 of your letter of the 11th May, I wrote to the Railway Executive on the 7th June. As you know the Council are only concerned that they should come to the correct conclusion in regard to the matter and I therefore enclose for your information a copy of my letter and of the British Transport Commisionis's reply dated the 28th June.

It appears to me that the British Transport Commissionis's letter is very strong evidence in favour of the view that Cockshut Road is not a highway repairable.

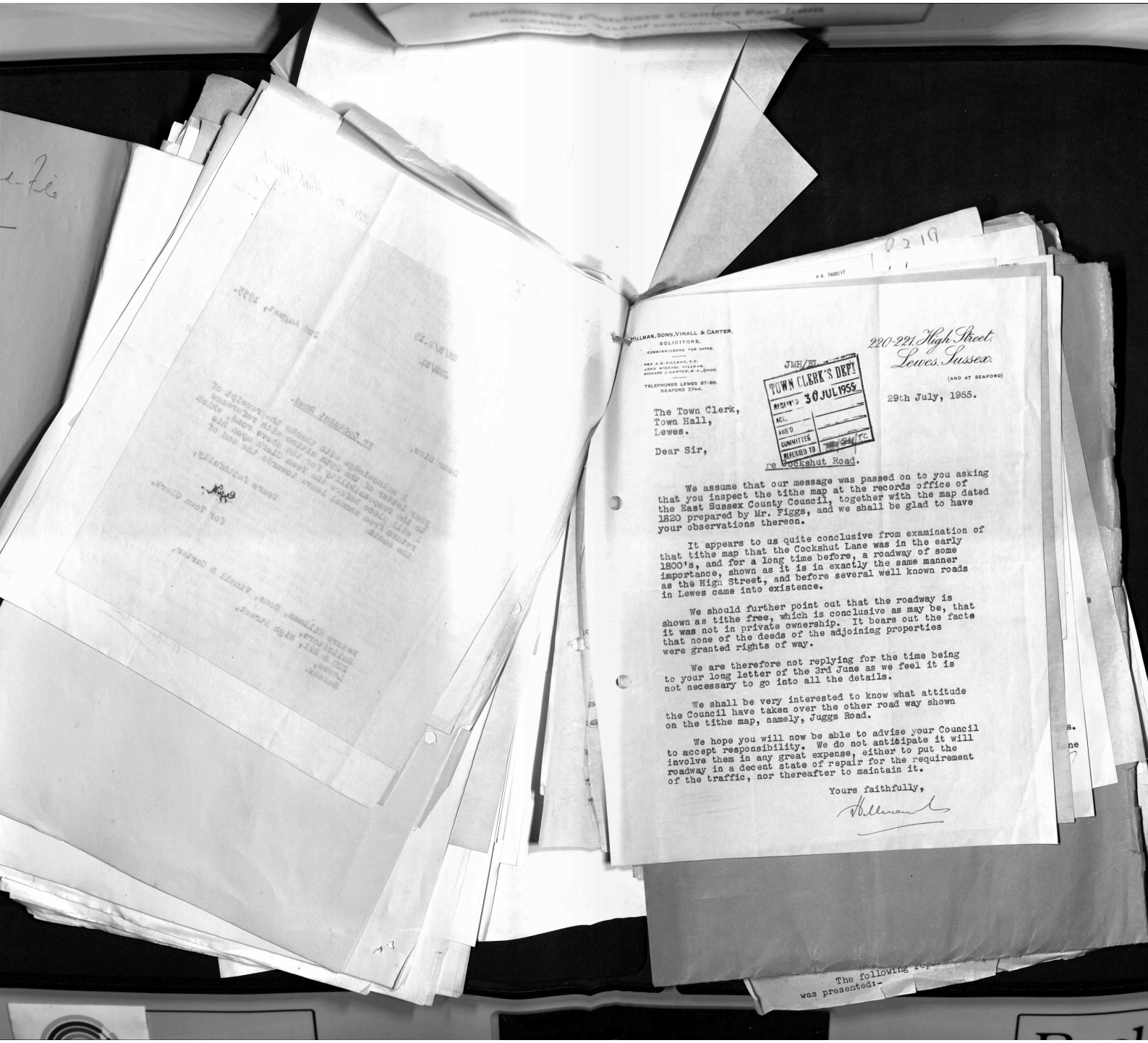
I will of course bear the maps in mind and thank you for calling my attention to them.

Yours faithfully

Town Clerk.

Messrs. Hillman, Sons, Vinall and Carter,
Solicitors,
220 - 221 High Street,
LEWES,
Sussex.

The following rep...
was presented:-



HILLMAN, SONS, VINALL & CARTER.
SOLICITORS,
COMMISSIONERS FOR OATHS.

REX A. E. HILLMAN, T.D.
JOHN MICHAEL HILLMAN.
RICHARD J. CARTER, M.A., (OXON)

TELEPHONES LEWES 87-88.
SEAFORD 2744.

JMH/EL

220-221 High Street,
Lewes, Sussex.
(AND AT SEAFORD)

TOWN CLERK'S DEPT.
RECEIVED 30 JUL 1955
ACK.
ANS'D
COMMITTEE
REFERRED TO

29th July, 1955.

The Town Clerk,
Town Hall,
Lewes.

Dear Sir,

re Cockshut Road.

We assume that our message was passed on to you asking that you inspect the tithe map at the records office of the East Sussex County Council, together with the map dated 1820 prepared by Mr. Figgs, and we shall be glad to have your observations thereon.

It appears to us quite conclusive from examination of that tithe map that the Cockshut Lane was in the early 1800's, and for a long time before, a roadway of some importance, shown as it is in exactly the same manner as the High Street, and before several well known roads in Lewes came into existence.

We should further point out that the roadway is shown as tithe free, which is conclusive as may be, that it was not in private ownership. It bears out the facts that none of the deeds of the adjoining properties were granted rights of way.

We are therefore not replying for the time being to your long letter of the 3rd June as we feel it is not necessary to go into all the details.

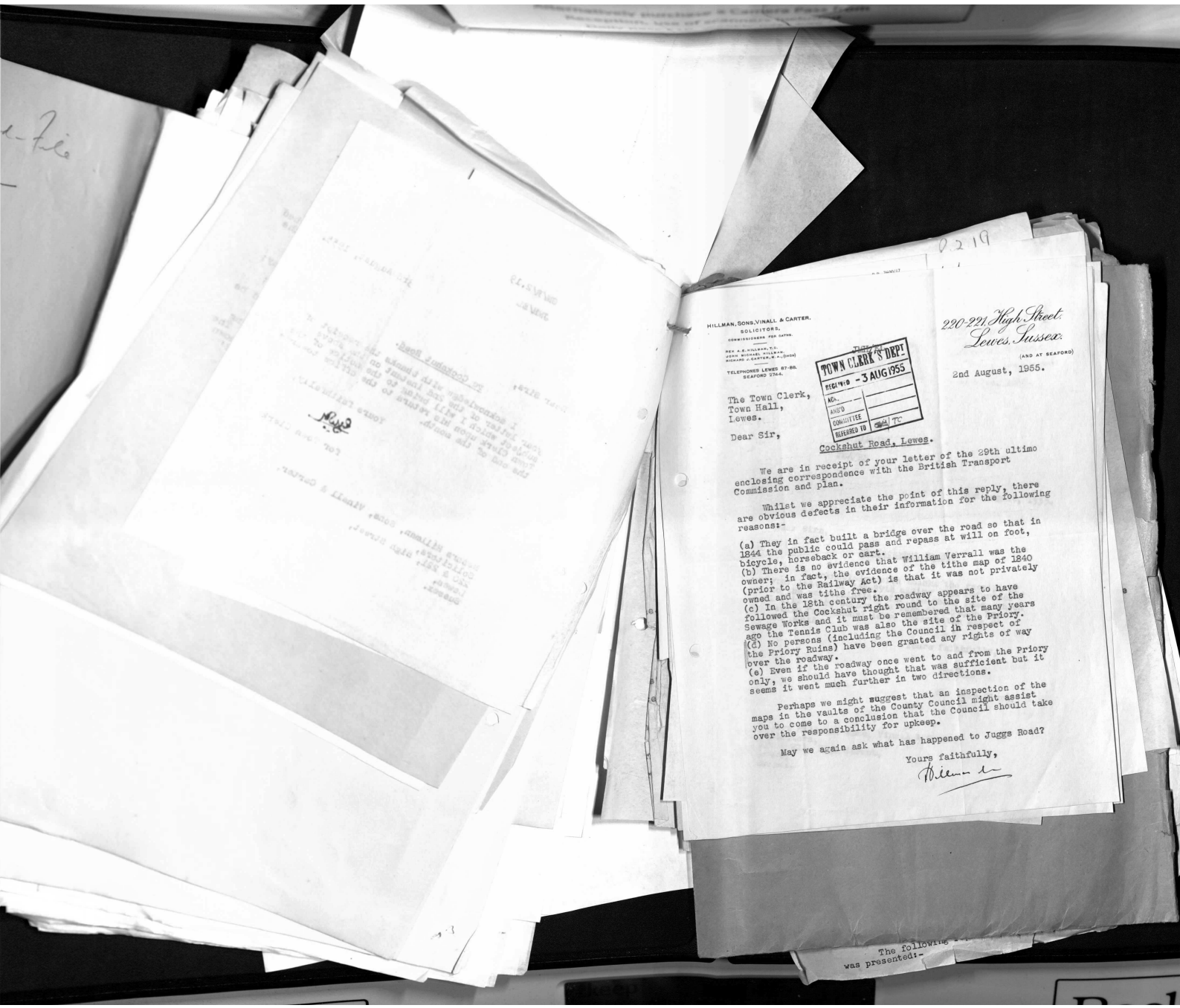
We shall be very interested to know what attitude the Council have taken over the other road way shown on the tithe map, namely, Juggs Road.

We hope you will now be able to advise your Council to accept responsibility. We do not anticipate it will involve them in any great expense, either to put the roadway in a decent state of repair for the requirement of the traffic, nor thereafter to maintain it.

Yours faithfully,

Hillman & Co

The following re
was presented:-



HILLMAN, SONS, VINALL & CARTER.
SOLICITORS.
COMMISSIONERS FOR OATHS.

REX A.E. HILLMAN, T.D.
JOHN MICHAEL HILLMAN.
RICHARD J. CARTER, M.A., (Oxon)

TELEPHONES LEWES 87-88.
SEAFORD 2744.

220-221 High Street,
Lewes, Sussex.
(AND AT SEAFORD)

2nd August, 1955.

TOWN CLERK'S DEPT
RECEIVED - 3 AUG 1955
ACK.
ANS'D
COMMITTEE
REFERRED TO TC

The Town Clerk,
Town Hall,
Lewes.

Dear Sir,

Cockshut Road, Lewes.

We are in receipt of your letter of the 29th ultimo enclosing correspondence with the British Transport Commission and plan.

Whilst we appreciate the point of this reply, there are obvious defects in their information for the following reasons:-

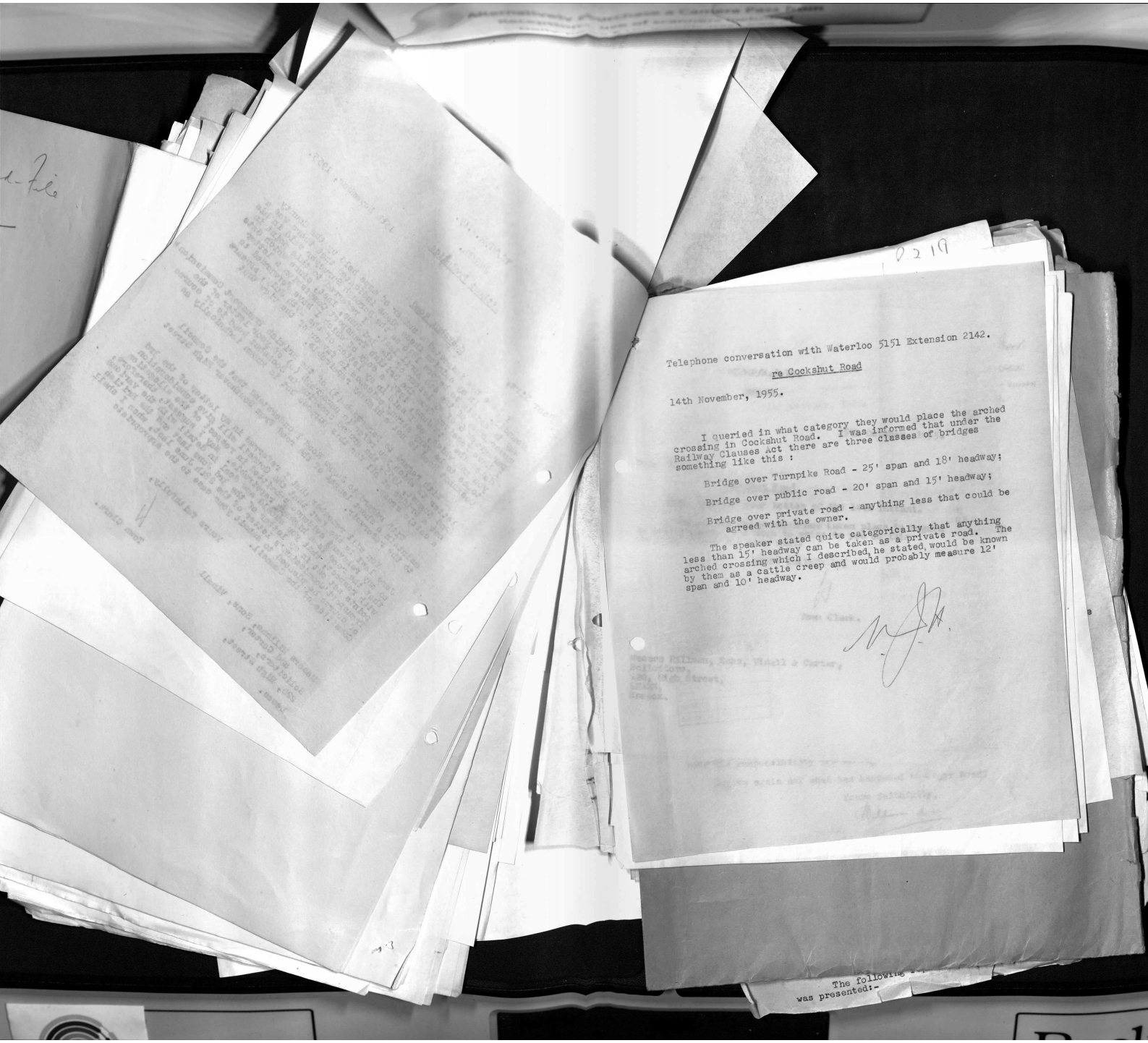
(a) They in fact built a bridge over the road so that in 1844 the public could pass and repass at will on foot, bicycle, horseback or cart.
(b) There is no evidence that William Verrall was the owner; in fact, the evidence of the tithe map of 1840 (prior to the Railway Act) is that it was not privately owned and was tithe free.
(c) In the 18th century the roadway appears to have followed the Cockshut right round to the site of the Sewage Works and it must be remembered that many years ago the Tennis Club was also the site of the Priory.
(d) No persons (including the Council in respect of the Priory Ruins) have been granted any rights of way over the roadway.
(e) Even if the roadway once went to and from the Priory only, we should have thought that was sufficient but it seems it went much further in two directions.

Perhaps we might suggest that an inspection of the maps in the vaults of the County Council might assist you to come to a conclusion that the Council should take over the responsibility for upkeep.

May we again ask what has happened to Juggs Road?

Yours faithfully,

The following
was presented:-



D219

Telephone conversation with Waterloo 5151 Extension 2142.

re Cockshut Road

14th November, 1955.

I queried in what category they would place the arched crossing in Cockshut Road. I was informed that under the Railway Clauses Act there are three classes of bridges something like this :

Bridge over Turnpike Road - 25' span and 18' headway;

Bridge over public road - 20' span and 15' headway;

Bridge over private road - anything less that could be agreed with the owner.

The speaker stated quite categorically that anything less than 15' headway can be taken as a private road. The arched crossing which I described, he stated, would be known by them as a cattle creep and would probably measure 12' span and 10' headway.

The following
was presented:-

TC/MP/R.2.19.

JMH/EL.

Without Prejudice

15th November, 1955.

Dear Sirs, Cockshut Road

I have now inspected a number of maps held by the County Council. In my opinion these plans indicated that there was a way in existence before 1836 as the Borough Surveyor said in his memorandum of the 4th April last. I referred to this point in Paragraph 6 of my letter of the 3rd June, last, since which date I have received from the British Transport Commission a letter dated the 28th June, 1955, a copy of which I have forwarded to you and which, as I said in my letter of the 29th July, appears to me to be very strong evidence in favour of the view that Cockshut Road is not a highway repairable.

With regard to paragraph (3) of the British Transport Commission's letter to which you refer in paragraph (a) of your letter of the 2nd August, 1955, the arched crossing in Cockshut Road is of course not a bridge at all for this purpose but is known technically as a cattle creep.

With regard to Juggs Road I understand that the Council maintain a short length of the road from Southover High Street to the reservoir.

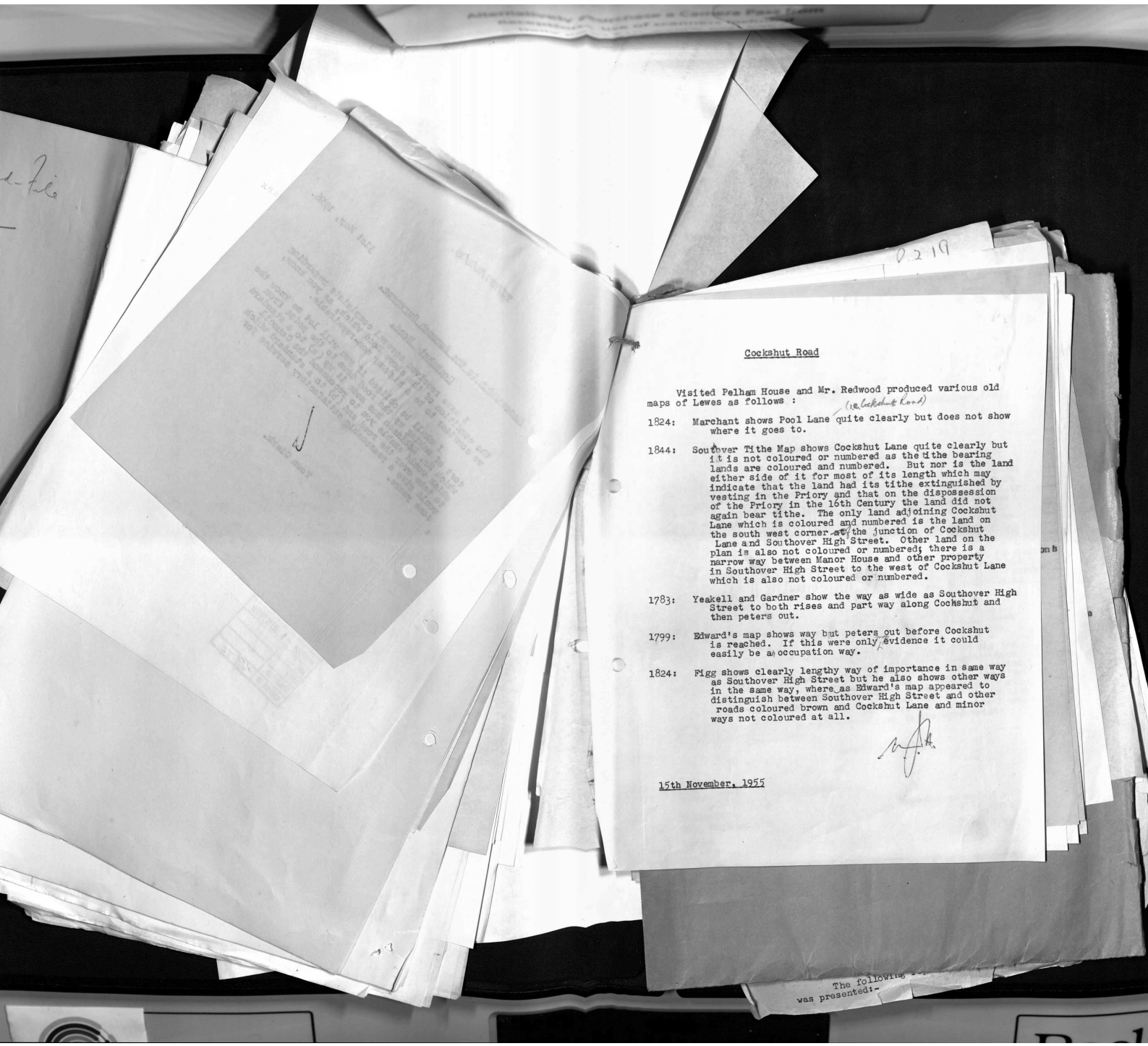
You will remember that I referred in my letter of the 3rd June last to the fact that the Council will give consideration to any relevant evidence submitted in respect of the allegation that the road is a highway repairable. May I suggest, therefore, with respect, that you should now deal in detail with the various points set out in my letter of the 3rd June last and the British Transport Commission's letter of the 28th June last, when I shall of course be pleased to submit your case to the appropriate Committee of the Council.

Yours faithfully,

Town Clerk.

Messrs Hillman, Sons, Vinall
and Carter,
Solicitors,
220, High Street,
Lewes.

The following ... was presented:-



Cockshut Road

Visited Pelham House and Mr. Redwood produced various old maps of Lewes as follows : (i.e. Cockshut Road)

1824: Marchant shows Pool Lane quite clearly but does not show where it goes to.

1844: Southover Tithe Map shows Cockshut Lane quite clearly but it is not coloured or numbered as the tithe bearing lands are coloured and numbered. But nor is the land either side of it for most of its length which may indicate that the land had its tithe extinguished by vesting in the Priory and that on the dispossession of the Priory in the 16th Century the land did not again bear tithe. The only land adjoining Cockshut Lane which is coloured and numbered is the land on the south west corner at the junction of Cockshut Lane and Southover High Street. Other land on the plan is also not coloured or numbered; there is a narrow way between Manor House and other property in Southover High Street to the west of Cockshut Lane which is also not coloured or numbered.

1783: Yeakell and Gardner show the way as wide as Southover High Street to both rises and part way along Cockshut and then peters out.

1799: Edward's map shows way but peters out before Cockshut is reached. If this were only evidence it could easily be a occupation way.

1824: Figg shows clearly lengthy way of importance in same way as Southover High Street but he also shows other ways in the same way, where as Edward's map appeared to distinguish between Southover High Street and other roads coloured brown and Cockshut Lane and minor ways not coloured at all.

15th November, 1955

The following ... was presented:-

T/RFJ/R/2/19.

31st May, 1956.

Memorandum to the Borough Surveyor.

Cockshut Road.

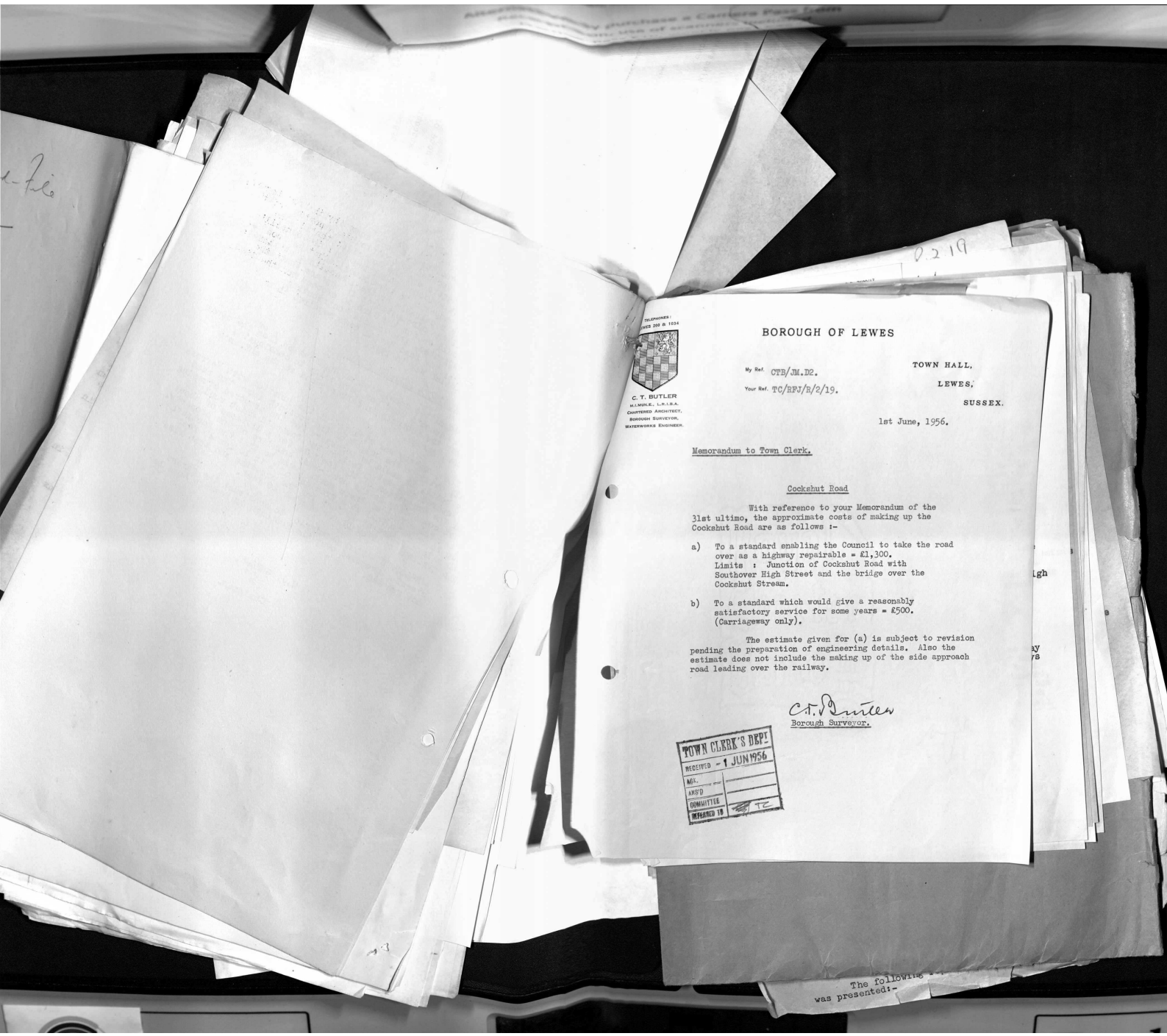
I have received several complaints regarding the condition of the above Road which, as you know, we consider to be a highway non-repairable.

I shall be obliged if you will let me know the cost of making up the road down to the point from which Mr. Robinson has made it up (a) to a standard which would enable you to recommend the Council to take over the road and (b) to a standard which would give a reasonably satisfactory service for some years.

Town Clerk.

15th November, 1955

The following
was presented:-



TELEPHONES: LEWES 200 & 1034

C. T. BUTLER
M.I.MUN.E., L.R.I.B.A.
CHARTERED ARCHITECT,
BOROUGH SURVEYOR,
WATERWORKS ENGINEER.

BOROUGH OF LEWES

My Ref. CTB/JM.D2.
Your Ref. TC/RFJ/R/2/19.

TOWN HALL,
LEWES,
SUSSEX.

1st June, 1956.

Memorandum to Town Clerk.

Cockshut Road

With reference to your Memorandum of the 31st ultimo, the approximate costs of making up the Cockshut Road are as follows :-

a) To a standard enabling the Council to take the road over as a highway repairable = £1,300.
Limits : Junction of Cockshut Road with Southover High Street and the bridge over the Cockshut Stream.

b) To a standard which would give a reasonably satisfactory service for some years = £500.
(Carriageway only).

The estimate given for (a) is subject to revision pending the preparation of engineering details. Also the estimate does not include the making up of the side approach road leading over the railway.

C. T. Butler
Borough Surveyor.

TOWN CLERK'S DEPT
RECEIVED - 1 JUN 1956
ACK.
ANS'D
COMMITTEE
REFERRED TO TC

The following ... was presented:-