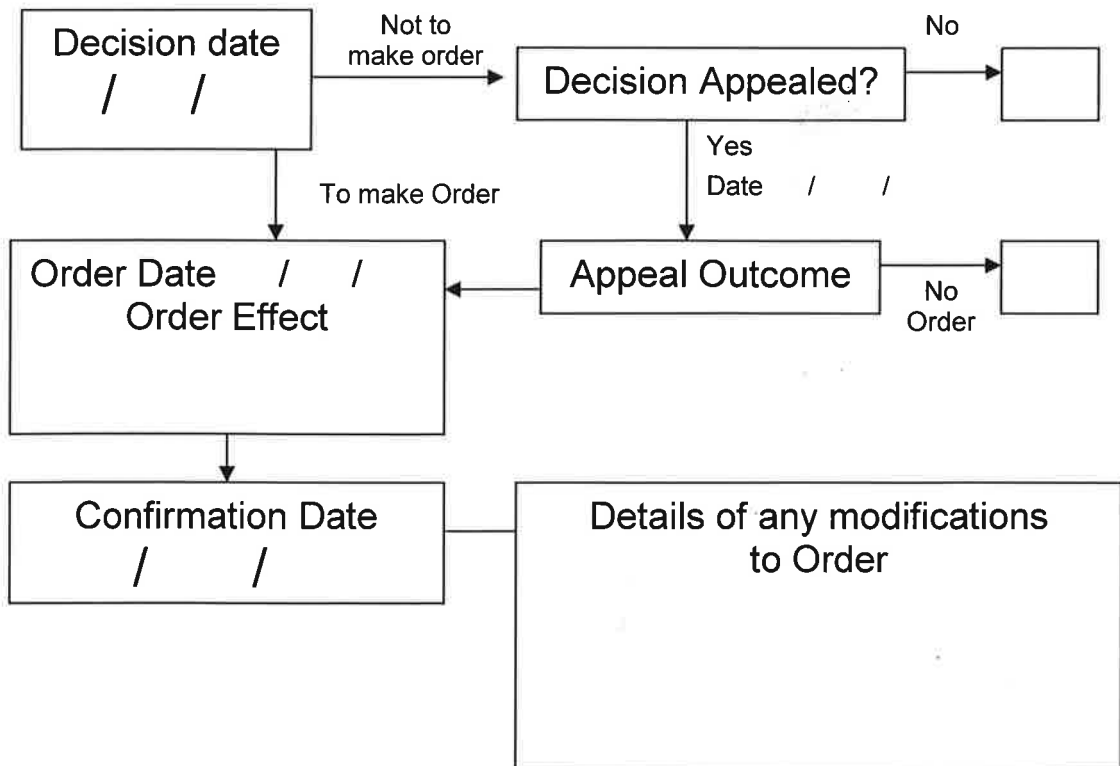


**REGISTER OF APPLICATIONS - MODIFICATION ORDERS**

**DETAILS OF APPLICATION**

District	<u>Oacorum</u> .....	File Name	<u>Flaunden 8</u>
Parish	<u>Flaunden</u> .....	Application Date	<u>9 / 10 / 10</u>
Grid References			
Application to	<u>upgrade</u> .....	Point A	<u>TL 0126 0011</u>
	<u>Flaunden BBS to RB</u> .....	Point B	<u>TL 0169 0018</u>
Applicant	<u>Dr P Wadley of BHS</u> .....		
	City	Town	Village
Nearest	<u>Hemel Hempstead</u> .....		<u>Flaunden</u>
Addresses of properties affected	House Name/Street	Postcode	
	<u>None</u> .....	.....	
	.....	.....	
	.....	.....	

**DETERMINATION (DECISION) OF APPLICATION**



## **Wildlife and Countryside Act 1981**

### **The Definitive Map and Statement of Public Rights of Way in Hertfordshire**

To: Hertfordshire County Council  
Of County Hall  
HERTFORD  
SG13 8DN

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the area by:

Upgrading to restricted byway the bridleway Flaunden 8 from Chenies Hill (county road) to Flaunden 17 RB,

and shown on the map accompanying this application.

I attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

- Dury and Andrews' Map of Hertfordshire (1766)
- Bryant's Map of Hertfordshire (1822)
- Ordnance Survey 1<sup>st</sup> edition 25" extract from map Hertfordshire 38 - 10.
- Ordnance Survey Book of reference for Parish of Flaunden, British Library.
- IR126/8/171, Inland Revenue valuation plan, The National Archives.
- MAF73/18/38, Ministry of Food landholdings plan, The National Archives.

Dated: 9 Oct 10

Signature:

Applicant's Reference: EC567



**Wildlife and Countryside Act 1981**

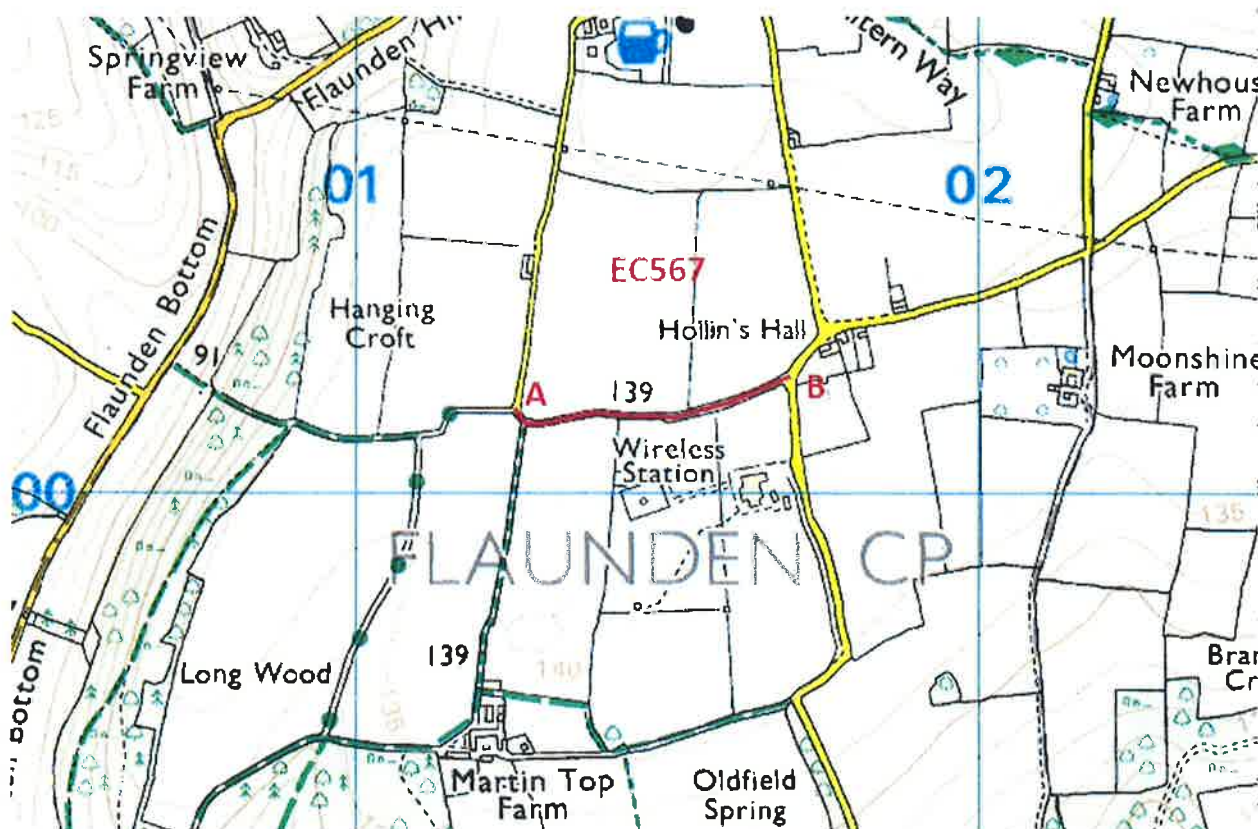
**Definitive Map Modification Order Application**

**For a route currently recorded as Flaunden 8 Bridleway to be recorded as  
Restricted Byway**

Applicant's Reference: EC567

**9 Oct 10**

1. My name is Phil Wadey, and I have been the British Horse Society's regional access and bridleways officer for the East of England since 1996. I am the applicant for the order, on behalf of the Society.
2. The application route runs from the county road (Point A in the plan below) to a junction with Chenies Hill (county road) at Point B. It is shown from A to B below in red. The route is currently recorded as Flaunden 8 BW on the definitive map (sheet 74) and statement for Hertfordshire.

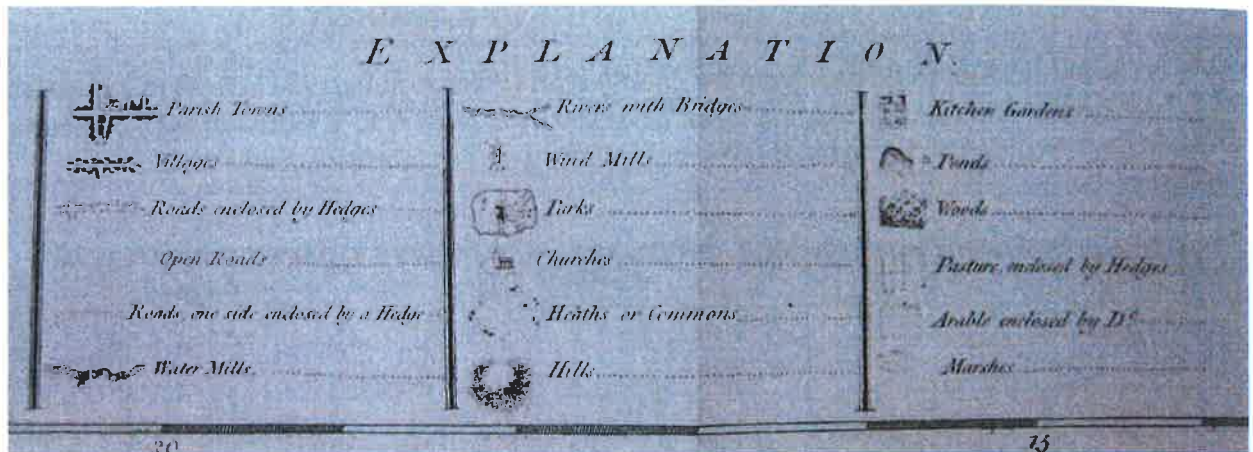


*Annotated extract from Ordnance Survey map © Crown Copyright 2010.*

#### DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

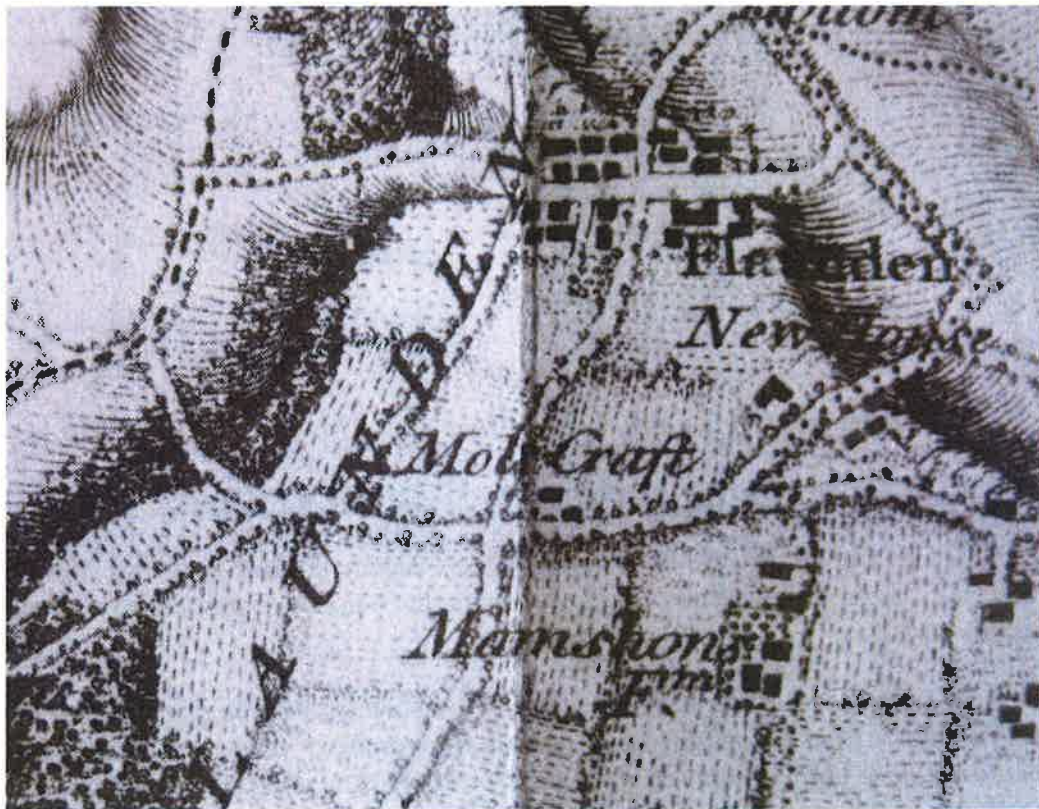
3. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist.
4. While no single piece of evidence is conclusive, the Society believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.
5. Dury and Andrews' Map of Hertfordshire (1766).
  - a. An original is held by the Hertfordshire Archives and Local Studies (HALS).

- b. This was made for sale to the public, and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished.



*Extract from Dury and Andrews' Map (1766) showing the Key.*

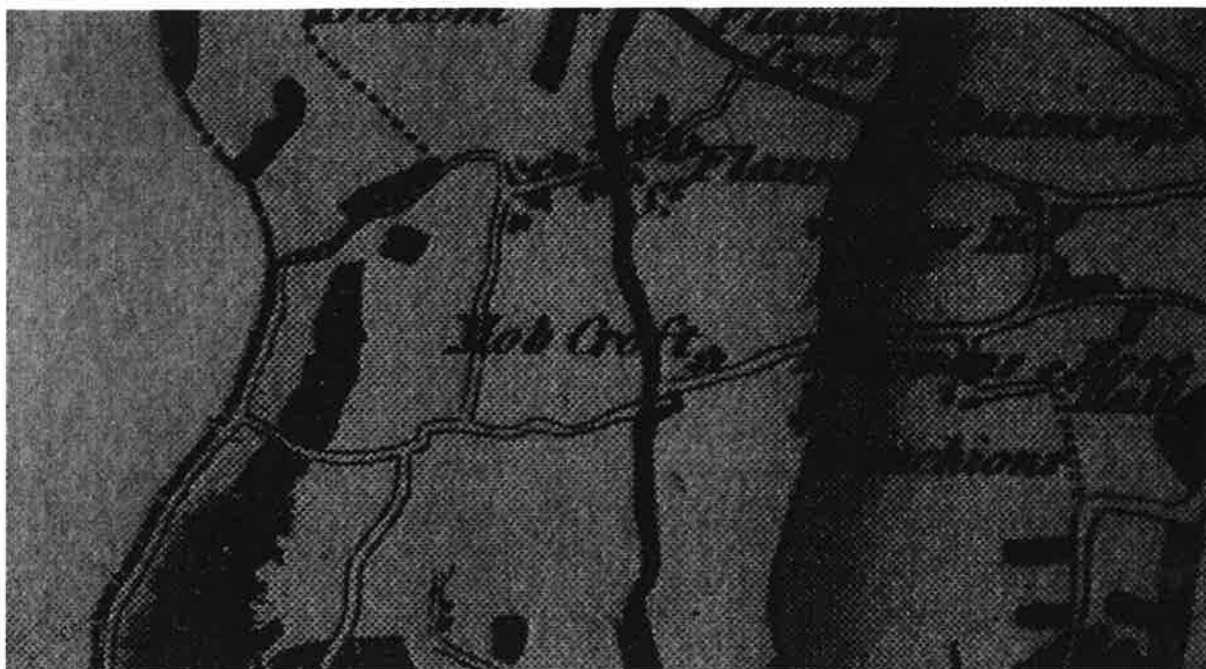
- c. The route from A to B (where all points are as shown in the maps at the start of this document) is shewn in the manner of 'Road[s] enclosed by Hedges'. This suggests that this part of the route was considered to have vehicular rights in 1766.



*Extract from Dury and Andrews' Map (1766).*

6. Bryant's Map of Hertfordshire (1822).
- a. An original is held by the Hertfordshire Archives and Local Studies (HALS).

- b. This was made for sale to the public, and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished.
- c. The route from A to B is shown in the manner of a 'Lanes and Bridleways'. This suggests that this part of the route was considered to have at least bridleway and more likely vehicular rights in 1822.

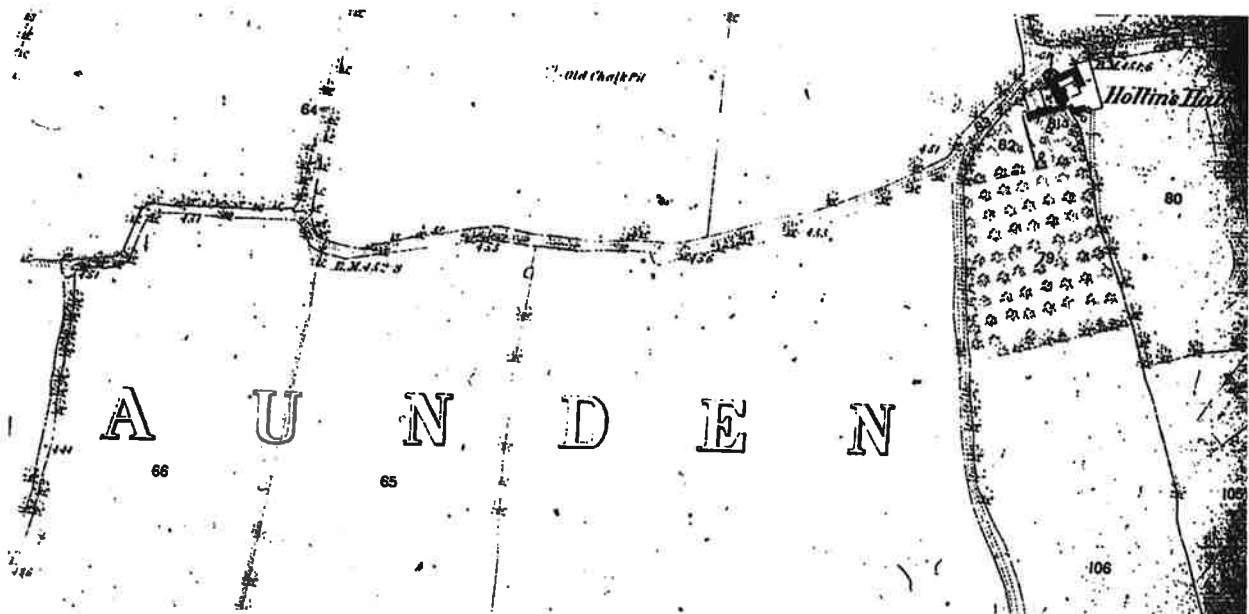


*Extract from Bryant (1822) showing the Key and the application route.*

#### 7. Ordnance Survey First Edition 25 inch.

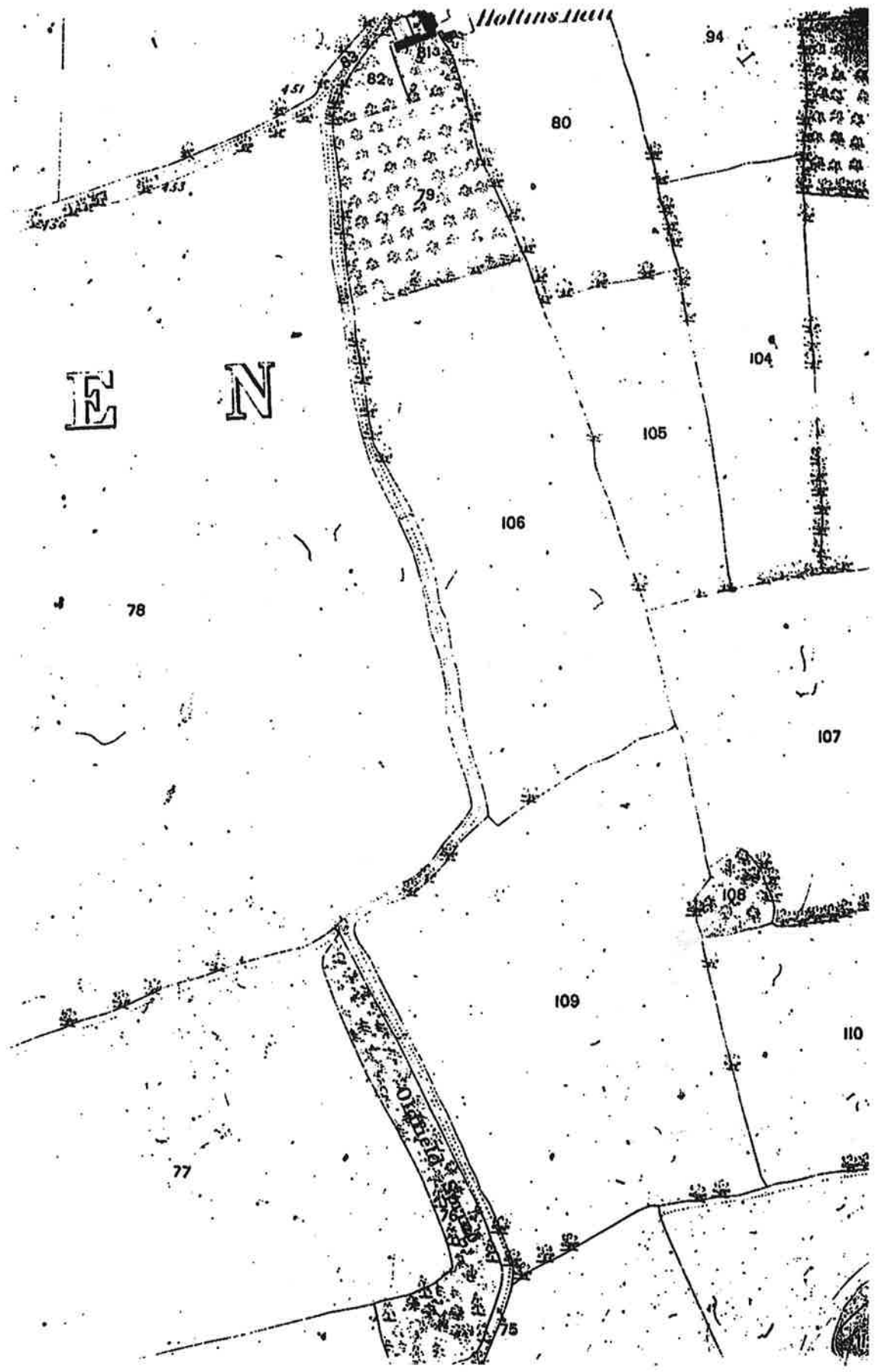
- a. Copies of the first edition Ordnance Survey 25" maps are held by the British Library. As well as originals, they have created microfiche copies, which can be inspected by the public. The extracts here are taken from the microfiche copies.
- b. The Ordnance Survey (OS) maps are not usually of use for rights of way purposes as they usually purport only to show physical features and not legal rights. However, the early maps in the first edition series contain valuable extra information when cross referenced to the Books of Reference, often called simply the 'Area Books', that that were published to go with them. The British Library holds these Books of Reference. These are indexed by parish.
- c. Two extracts of the first edition Ordnance Survey 25" maps (sheet Hertfordshire 38 – 10) are provided. The first shows the application route, and the parcel number 83 just to the east of Point B. The second shows Chenies Hill, and the parcel number 75 that applies to that road. Because parcel 75 clearly applies to Chenies Hill, it appears that parcel 83 applies to the application route and part of road passing Hollin's Hall. The Ordnance

Survey show the application route joining the road passing Hollin's Hall as a continuous route, revealing nothing that could indicate a change of status at point B.



*Extract 1 from the Ordnance Survey first edition 25" map of the area, sheet Hertfordshire 38-10.*

d. In the entry for the Area Book for Flaunden, there is a description for land parcel 83. The description reads, "Road".



Extract 2 from the Ordnance Survey first edition 25" map of the area, sheet Hertfordshire 38-10.



## PARISH OF FLAUNDEN.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
78	42.377	Arable.	111	2.392	Wood.
79	2.837	Orchard.	112	10.504	Arable.
80	4.931	Arable.	113	10.315	Arable.
81	.606	Houses, yards, and garden.	114	8.583	Arable.
82	.382	Orchard.	115	.442	Road.
83	2.287	Road.	116	6.141	Wood.
84	14.287	Arable.	117	10.344	Arable.
85	8.821	Arable.	118	31.827	Pasture.
86	8.718	Arable.	119	.496	Wood.
			120	19.903	Pasture.

*Extract from The Book of Reference to the Plan of the Parish of Flaunden, published by the Ordnance Survey of England*

8. Ordnance Survey Boundary Books.

a. The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841. The OS Boundary Books, held at The National Archives ('TNA') in class OS 26, are the results of the Ordnance Survey's checking of the boundaries with the meresmen from the parish each side.

b. The routes are not close to a parish boundary, and so these records provide no inferences.

9. Ordnance Survey Object Name Book.

a. The Ordnance Survey needed a reliable way of determining the names put on their maps. They recorded the authority for the names and the modes of spelling. Their record books give other information.

b. There is no name on the Ordnance Survey map, and so there would be no entry or description in any Object Name book. No inference can be drawn.

10. Inland Revenue Valuation.

a. The Finance (1909-10) Act 1910 provided for land valuations to take place across the country so that the increase in its value could be taxed. Deductions from the assessable value could be claimed by landowners where the land was crossed by a footpath or bridleway. Where a vehicular highway crossed land, it was usually omitted from the valuation, and shown on the Inland Revenue's plans as a 'white road'.

b. The extracts below are from the records that were passed from the IR Valuation Offices to The National Archives at Kew.

c. Document IR 126/8/171 has Hertfordshire 38-10 as its base map. It shows the application route as a white road, separate from adjacent hereditaments. This is clear

evidence that the route was a public vehicular highway at the time of the valuation. It is the same manner of depiction as the unclassified county road that runs northwards from its western end, and as the route heading westwards from the western end, which is the subject of the Hertfordshire County Council (Flaunden 17) Modification order 2007 that recorded that route as a restricted byway (following objections, and consequent assessment by the Secretary of State's Inspector).



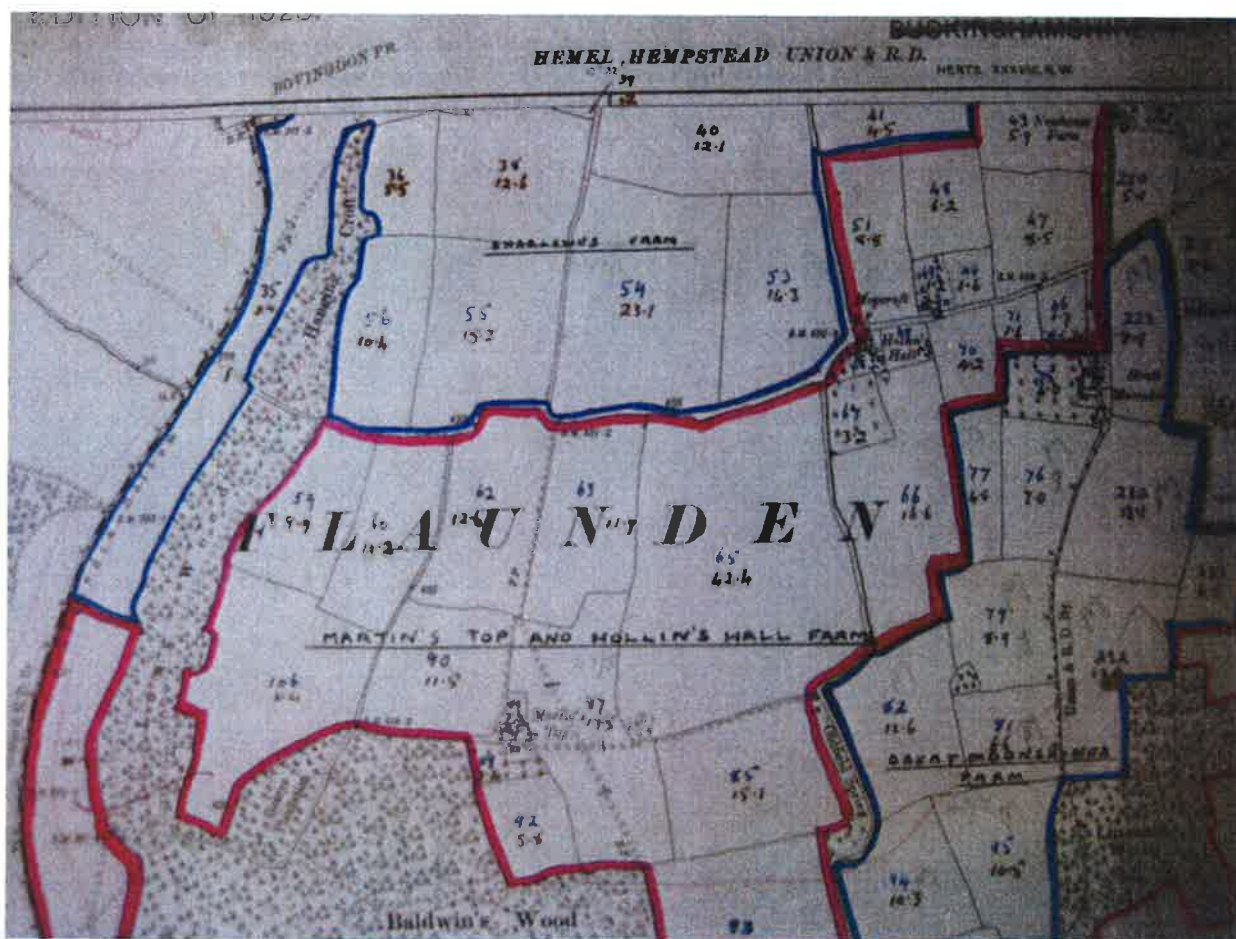
*Extract from IR 126/8/171, Hertfordshire 38-10, held at The National Archives.*

11. Ministry of Food National Farm Survey (1941-42).

a. These records are held at The National Archives in Kew. They are maps prepared in conjunction with the individual farm records of the National Farm Survey conducted by the (then) Ministry of Food (subsequently the Ministry of Agriculture, Fisheries and Food). The maps show the extent of each farm, or other agricultural holding, with its boundaries. The area of each farm is indicated on the map by the use of a colour wash, and its code number is added in black ink. The relevance of these records is that where an application route runs between holdings, it is excluded from the holdings. Where the land in the same holding exists on both sides of a highway, it is not excluded.

b. This application route is on base map Hertfordshire XXXVIII SW. The relevant document reference at TNA is MAF 73/18/38. We can see that the application route falls between holdings and is excluded. (We note that Chenies Hill, going south from Point B falls in land on either side which is in the same holding, and so is not excluded.)

- c. The applicant draws the conclusion that the application route was considered to be public vehicular highway at the time of the survey.



*Extract from Ministry of Food Farm Survey Map XXXVIII SW*

### CONCLUSIONS

12. In short, all the evidence produced for the application route suggests that vehicular rights existed at the times the various pieces of evidence were created. While no single piece is conclusive of highway status, the fact that every standard piece of evidence leans towards vehicular rights means that, on the balance of probabilities, such rights existed prior to the commencement of the Natural Environment and Rural Communities Act 2006.

### REQUEST

13. The Society requests the surveying authority to add the route to the definitive map as a byway. (The type of byway – restricted or open to all traffic – will depend on the application of the Natural Environment and Rural Communities Act 2006).

P D Wadey PhD LLB MIPROW  
Regional Access and Bridleways Officer – East of England  
The British Horse Society

## Wildlife and Countryside Act 1981

### The Definitive Map and Statement of Public Rights of Way in Hertfordshire

#### Certificate of Service of Notice of Application for Modification Order

To: Hertfordshire County Council  
Of County Hall  
HERTFORD  
SG13 8DN

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Dated: 28 Nov 2010

Signature:

Applicant's Reference: EC567  
HCC Reference: DAC/123



#### **Schedule of persons on whom notice was served**

- The owners and occupiers of the land crossed by the route shown as Flaunden 8 on the definitive map and statement for Hertfordshire maintained by the County Council.

Section 53(5) of and Schedule 14 to the  
**Wildlife and Countryside Act 1981**

The Definitive Map and Statement of Public Rights of Way in Hertfordshire

To

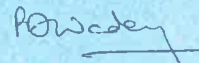
The owners and occupiers of the land crossed by the route shown as Flaunden 8 on the definitive map and statement for Hertfordshire maintained by the County Council.

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby give notice that on 11 October 2010, I made application to the Hertfordshire County Council of County Hall, Hertford SG13 8DN that the definitive map and statement for the area be modified by:

Upgrading to restricted byway the bridleway Flaunden 8 from Chenies Hill (county road) to Flaunden 17 RB,

Dated: 27 Nov 10

Signature:



Applicant's Reference: EC567

HCC Reference: NH/123

**Note not forming part of the Statutory Notice**

The Definitive Map and Statement of Public Rights of Way in Hertfordshire is a record of rights of way in the County.

This application has been made because it appears that a public right of way exists which has not been recorded in the Definitive Map and Statement.

A definitive map modification order will not create new rights but will just record those rights which already exist.

This application is made in order to assist the County Council to meet its statutory duty to record public rights of way.

For further information, please contact the Hertfordshire County Council Definitive Map team on 01992 55 55 55 and ask for 'definitive map team'.