

**OFFICER REPORT TO LOCAL COMMITTEE
(TANDRIDGE)**

**APPLICATION FOR A MAP MODIFICATION ORDER TO ADD A
FOOTPATH TO THE DEFINITIVE MAP AND STATEMENT FOR
SURREY FROM THE JUNCTION OF NETHERN COURT ROAD
WITH ULSTAN CLOSE TO SOUTHFIELDS ROAD,
WOLDINGHAM**

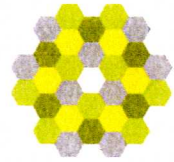
30 September 2011

ANNEX 2

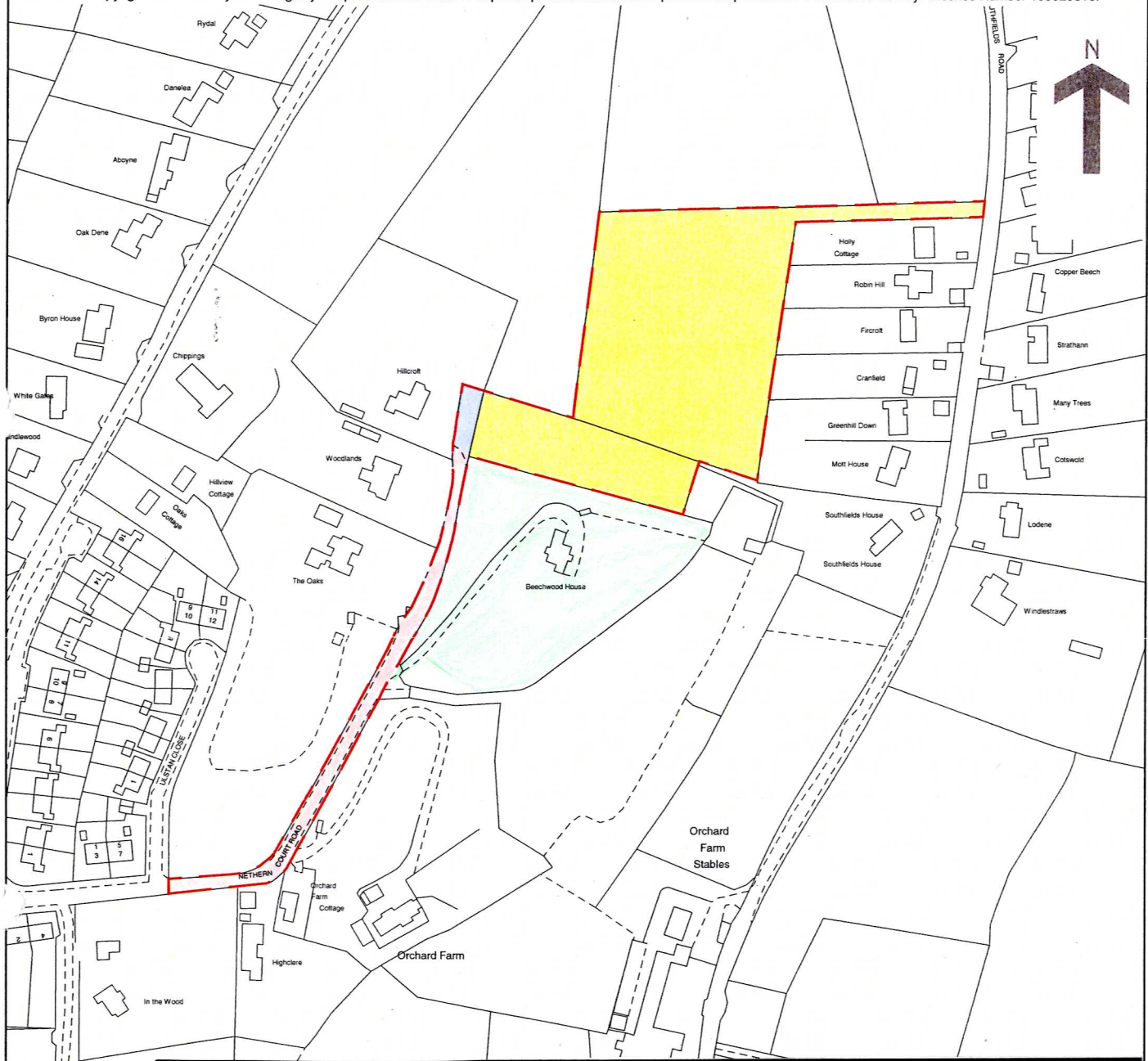
- 1. Plan showing land ownership**
- 2. Landowners' Evidence**

Land Registry Index map plan

Ordnance Survey map reference **TQ3755NW**
Scale **1:2500**
Plan prepared on **19/03/2010** at **00:00:01**



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Plan showing Land Ownership

This plan should be read in conjunction with result H60EJJB.

This plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.



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THE LORD CHRISTOPHER CBE

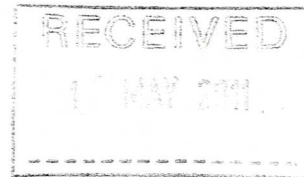
Tel: Woldingham (01883) 652243 - Fax (01883) 652537

BEECHWOOD HOUSE NETHERN COURT ROAD WOLDINGHAM SURREY CR3 7EF

2011/May/16/050083

Ref: AMGC/aps
13 May 2011

Ms Susan Briant
Surrey County Council
Countryside Access
County Hall
Penrhyn Road
Kingston upon Thames
Surrey KT1 2DY



Dear Ms Briant

Alleged Public Footpath Southfields Road to Nethern Court Road

Further to my letter of 4 May (copy attached), I have been provided with a copy of a "plan" of the alleged footpath which I have never seen before. What is not clear to me is whether the alleged footpath route has been **added recently** to an earlier drawing. It looks to me as though it may have been – the style and definition is stronger and different from other tracks and indeed Nethern Court Road itself.

Whether that is so or not, the indication that the alleged path exits on to Nethern Court Road over my land is not only news to me but rejected by me.

When I purchased Beechwood House in May 1981 it was largely unfenced and such fencing as there was, was in poor condition. At the end of 1989 we obtained our first dog and then fully fenced the whole plot. There was no indication of the alleged exit from my property and over the past 21 years I have not received any complaints or suggestions that I should restore or provide one.

As I have said before, the present owners of the land over which the alleged path goes reject any idea of it being officially recognised – the whole frontage is now fenced with a locked hunting gate and the previous owner, now deceased, had a sign post affirming the point which, as I informed you, "disappeared".

Again to the best of my recollection there was a somewhat rudimentary boundary wire fence on the Nethern Court Road boundary; this had been broken down at the end of the alleged public footpath.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'C' followed by a long horizontal line that tapers to the right.

The Lord Christopher CBE

THE LORD CHRISTOPHER CBE

Tel: Woldingham (01883) 652243 - Fax (01883) 652537

BEECHWOOD HOUSE NETHERN COURT ROAD WOLDINGHAM SURREY CR3 7EF

Ref: AMGC/aps

4 May 2011

Ms Susan Briant
Surrey County Council
Countryside Access
County Hall
Penrhyn Road
Kingston upon Thames
Surrey KT1 2DY

Dear Ms Briant

**Alleged Public Footpath from the junction of Nethern Court Road with Ulstan Close
through to Southfields Road, Woldingham**

Thank you for your two letters of 14 and 15 April.

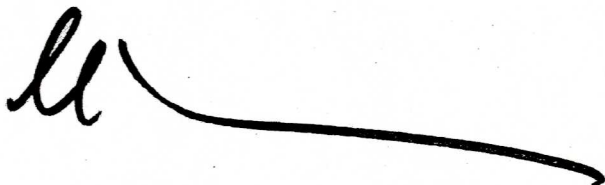
To the best of my recollection the sign was put up shortly after we moved to Woldingham in 1981. It "disappeared" a year or so later.

Again to the best of my recollection there was a somewhat rudimentary boundary wire fence on the Nethern Court Road boundary; this had been broken down at the end of the alleged public footpath.

The present owners asserted, what I hold, was their right to erect a more substantial boundary fence with a locked hunting gate. They did this shortly after they inherited the land a few years ago.

There is no question to my mind that there has ever been an authorised public footpath.

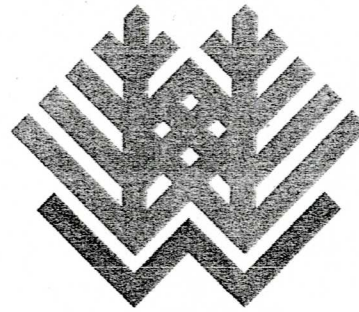
Yours sincerely



The Lord Christopher CBE

20.11/may/4/000066

RECEIVED
- 4 MAY 2011



WOLDINGHAM
ASSOCIATION

The Hermitage
Park View Road
Woldingham
Surrey
CR3 7DJ

Ms Susan Briant
Countryside Access Officer
Countryside Access
County Hall
Penrhyn Road
Kingston on Thames
Surrey
KT1 2DY

2nd May 2011

Dear Ms Briant

ALLEGED PUBLIC FOOTPATH FROM THE JUNCTION OF NETHERN COURT ROAD WITH ULSTAN CLOSE THROUGH TO SOUTHFIELDS ROAD, WOLDINGHAM.

Referring to your letter of 14th April 2011 to my predecessor as Chairman, Mr Keith Newell.

For the avoidance of doubt we would advise that the Association are the legal freeholders of the road and verges to Nethern Court Road referred to above and to Southfields Road.

The lands referred to have a caution placed on them by H.M. Land Registry following an inspection of the legal basis of the Association's ownership. The Title Number is SY 779200.

At no time has permission been sought from the Association or given for access to cross the verges to Southfields Road or to Nethern Court Road to facilitate a footpath or access for any other reason to the land lying between the two Roads. The double gate to this land facing Southfields Road and the single gate to this land facing Nethern Court Road have been installed recently.

Yours sincerely,

Geoffrey King
Chairman

2011/May/12/000062

THE WOLDINGHAM ASSOCIATION LTD
LIMITED BY GUARANTEE
REGISTERED IN ENGLAND No 65085



The Hermitage
Park View Road
Woldingham
Surrey
CR3 7DJ



WOLDINGHAM
ASSOCIATION

Ms Susan Briant
Countryside Access Officer
Countryside Access
County Hall
Penrhyn Road
Kingston on Thames
Surrey
KT1 2DY

10th May 2011

Dear Ms Briant

**ALLEGED PUBLIC FOOTPATH FROM THE JUNCTION OF NETHERN COURT ROAD
WITH ULSTAN CLOSE THROUGH TO SOUTHFIELDS ROAD, WOLDINGHAM.**

In response to your letter to me of 5th May 2011, I am advised that the double gate facing Southfields Road was erected in 2009. The single gate facing Nethern Court Road was erected in July 2008, I have photographs sent to me by e mails during the erection period clearly showing this date. For legal reasons of copyright I am unable to send you a copy but would be able to show this to you on site in due course if you wish.

Yours sincerely

A handwritten signature in cursive script that reads "Geoffrey King". The signature is written in dark ink and is positioned above the printed name and title.

Geoffrey King
Chairman

Daniel Williams Esq
Surrey County Council
County Hall
Penrhyn Road
Kingston KT1 2DY

Ham Cottage
Thornhill Road
Stalbridge
Sturminster Newton
Dorset DT10 2PS
31 January 2011

Dear Mr Williams

The request to modify The Definitive Map from junction of Nethern Court Road Woldingham (TQ35 373559) to Southfield Road Woldingham (TQ35 376562)

I write with reference to the application made by three parties to a right of way across land at Woldingham currently owned by my cousin Dodie Carter, my cousin Andrew Hutchison and his wife Jacky.

The land concerned was bought by my Grandfather Stanley Hutchison before the Second World War as an adjunct to his house and garden at "Hillcroft". As a child I visited my grandparents at "Hillcroft" at least monthly with my Father Denis Hutchison, until they moved out in 1967 and the house and garden – though not the land – was sold.

After the deaths of my Grandfather and Grandmother the land passed to my Father, his elder brother Ernest and younger brother Geoffrey. On my Father's death in 1995 his one third share passed to my brother Peter and myself. Then on my uncle Ernest's death, his one third share passed to my wife Pamela, my brother Peter, and Andrew Hutchison, Dodie Carter and their sister Judith Carey. The last three acquired their father Geoffrey's one third share when he died in 2000. My wife and I disposed of our shares in the land in 2006 to the present owners.

While my knowledge of the existence or otherwise of a footpath between the points concerned is not great, I can say that I can recall my Grandfather telling me that he had given permission to a very few people to cross his land between the points concerned, though I never saw anyone doing so. After my Father and uncles acquired the land my Father (a solicitor as was my Grandfather) told me that part of the land had been designated an SSSI, and that with his brothers he was taking steps to have notices put up at both ends of what was by then a largely overgrown track used by wild animals rather than a footpath. My Father discussed the wording of the notices with me; they were to read "Private Land No Public Right of Way Highways Act 1980". He subsequently told me that my uncle Geoffrey had put the notices up by the end of May 1988.

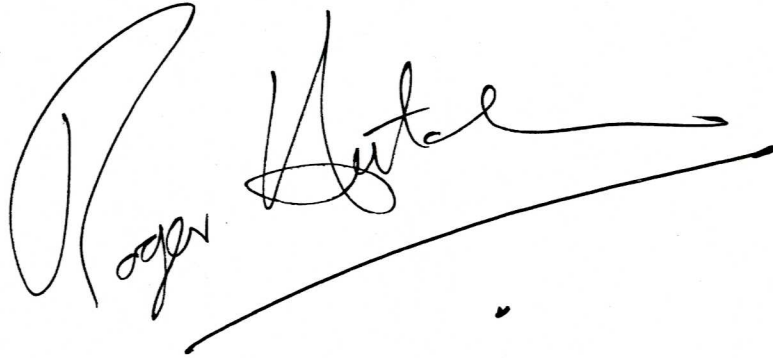
My wife and I, my brother and the three cousins mentioned above (with assorted other family members) visited the land in April 1997. The various family owners at that time decided that new

notices should be put up to make it clear that the land was private and that there was no right of way over it. I understand that my cousin Andrew Hutchison put up such notices.

I have no personal knowledge of what has occurred with regard to the footpath and notices after my wife and I disposed of our interests in the land in 2006.

Yours sincerely

Roger Hutchison

A handwritten signature in black ink, appearing to read "Roger Hutchison". The signature is written in a cursive style with a large initial "R" and a long horizontal stroke at the end. Below the signature is a long, thin horizontal line.

15, High Street,

Great Bedwyn,

Marlborough

Wiltshire

SN8 3NU

20TH August, 2011

22 AUG 2011

Countryside Access,

Surrey County Council

Penrhyn Road,

Kingston-upon-Thames

KT1 2DY

Dear Susan Briant,

a Dear Susan Briant,

ALLEGED FOOTPATH BETWEEN SOUTHFIELDS ROAD AND NETHERNCOURT ROAD.

Thank you for your letter of 16th August, and for the helpful information it contains.

Thank you also for sending the map of the alleged footpath. A study of the evidence forms submitted shows a wide variety of routes were allegedly taken through our land and through the neighbouring gardens. For instance, the witness statement of Mr Marc O'Brien, husband of one of the applicants, clearly shows that he approached our land, not by the route you have suggested, but via Hillcroft garden. It is significant that he entered our woodland at a distance of 49 metres away from the entry point on your map. The witness statement of one of his sons shows he took a similar route through Hillcroft garden. My question to you is "How widely can the entry point of an alleged footpath vary?" We deny that there was ever a single defined footpath from Nethern Court Road to Southfields Road.

You will be aware that we were informed by a neighbour, Mrs Piper, whose garden abuts our land at the Southfields Road end, in September 2008 that she had seen two people, Mr John Osborne and Mrs Jane Torrance walking on our land at Woldingham and trimming plants in order to create a definable footpath. I later wrote to both these people, drawing to their attention that any clearance of SSSI designated land was illegal, and that the land was, in any case, private. After these letters were sent, all clearance ceased.

2-4-1

When I visited our land at Woldingham last month, there was no trace of any footpath, and the undergrowth had re-established itself to the extent recorded by Hamilton in 1986 and by Strutt and Parker in their Probate survey of 1997. I think it is important that you should revisit the alleged footpath before you write your report, in order for you to see for yourself. Though animal tracks lead hither and thither, there is no footpath leading from Southfields Road to Nethern Court Road.

You will also now be aware of the fact that Mrs Torrance has admitted that she saw my father go up a ladder to erect the Private Land signs he had prepared and varnished in 1988. This means that she cannot claim to have walked our land as of right. I think you should also be aware of the fact that some witnesses have attested that she denied walkers access to our land, drawing it to their attention that it was private land, whilst allegedly, at other times encouraging groups of ramblers to walk upon it as of right. At the time she was negotiating with Mr Williams, she was writing to us protesting that it was not her intention to register the footpath on the grounds that she was, at the time, trying to buy some of our land from us. She illegally cleared a strip of our SSSI land adjacent to her garden fence in 2001. The cleared strip was over 400 square metres in extent. We had to write a solicitor's letter to her and her husband drawing to their attention that this was private, SSSI land and that any clearance was illegal.

You have told me that you will let us see your draft of our landowner evidence, and we are grateful for this opportunity. We wish you to make it clear to the Committee that the four year delay in Surrey County Council contacting us the landowners robbed us of the potential to get evidence from our mother, Jean Hutchison, who knew the land from the 1930s when she married my father, who resided in the village and who, after my father inherited land from his father in the early 1970s, took a keen interest in the land. She could have added indisputable evidence about the fence at the Southfields Road entrance in 1979, and must have helped my father put up the Private Land signs in 1988.

My mother died in January, 2008. At that time we were totally ignorant of any intention that anyone was interested in applying for a map modification order in respect of the alleged footpath. We now know that Mr John Osborne had written to Debbie Spriggs on 2nd February, 2006 registering his "interest in recognising a footpath between Southfields Road and Nethern Court Road..." and the this letter was passed to Daniel Williams for a reply. The following month, I wrote to SCC asking about status of our land, and received a reply from Mr Williams as follows, "Dear Mr Hutchinson, (sic), Your message about rights of way was passed to me. I enclose a copy of the Definitive Map which shows all footpaths and bridleways (it showed no footpath or bridleway over our land) If the map does not cover all your land please give me a call. Regards, Daniel Williams, Countryside Legal."

We have as yet received no explanation as to why Mr Williams did not inform me at this early stage that he had received a specific approach from Mr Osborne only the previous month. As it was, it was over 4 years before we had official approach from SCC (and longer than this in the case of Dodie Carter) and then only in response to a telephone enquiry to your office by Jacky Hutchison. During this four years, not only did our mother die, but local activists were busily trespassing and clearing in order to create a footpath. It is surely not the correct procedure that Mr Williams, when he visited the land on 11th April 2007, chose to do so in the company not of the owners, but of Mrs Torrance.

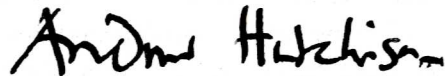
Did Mr Williams think to enquire whether she had the owners' permission to walk on the land? In fact she was trespassing.

Mr Williams is on record as saying that it is policy that, where a map modification is sought, SCC will approach the landowner "at an early stage". In fact, his approach took over 4 years. How does your department define, "at an early stage"? It is simply unjust that it took you four years to ask us, the landowners our views on the proposed map modification order. Please let us know your policy in this matter.

Since making contact with us in 2010, Mr Williams has been helpful, visiting the land in our company on 26th March last year and promising "to give us as much time as he gave the proponents of the footpath" However this does not remedy the situation, because it was too late to enable us to get a witness statement from our mother, to stop the clearance of our wood and the mounting of a local campaign. We request that the Committee be made aware of the fact that we were not treated fairly and have, as a consequence, been placed at a disadvantage.

I look forward to receiving your summary of our case, and ask that you shall include all the points I have made in this letter.

With kind regards,

A handwritten signature in black ink that reads "Andrew Hutchison". The signature is written in a cursive, slightly slanted style.

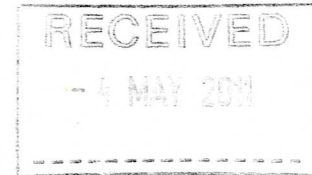
Andrew Hutchison on behalf of the three owners of our land at Woldingham

15, High Street,
Great Bedwyn,
Marlborough,
Wiltshire
SN8 3NU

27TH April, 2011

2011 May 14 / 000005

10:15 - 13:00
24.06.11
30.09.11 10:15



Ms Susan Briant,
Countryside Access,
County Hall,
Penrhyn Road,
Kingston upon Thames
Surrey KT1 2DY

Dear Ms Briant,

**ALLEGED PUBLIC FOOTPATH FROM NETHERN COURT ROAD TO
SOUTHFIELDS ROAD WOLDINGHAM**

Thank you for your letter of 14th April. My fellow landowners and I have already submitted detailed statements which members of the Surrey County Council local committee will have read before the meeting on 24th June.

In essence, I assert that:

“Private Land” Notices were erected at both Nethern Court Road and Southfields Road entrances to our land in 1988, 1997, and 2006. There is evidence that some of these were subsequently removed.

Two independent reports on our land both cast doubt on the existence of any established footpath across our land. I refer Henderson Report, 1986, *STATUS OF ROADS AND WAYS AT WOLDINGHAM* and to a Probate Survey by Strutt and Parker in 1997. Henderson wrote that “the alleged footpath (over our land) (is) much overgrown” and, although he made a determined effort to interview local people, concluded that there was “rather scanty information”. Strutt and Parker stated, “woodland and underwood have re-established themselves” and “There does not seem to be any significant trespass because entering the land is difficult.” We have informed Natural England that there have been recent attempts to cut back vegetation to create a pathway where none existed, in order to advance the case for a right of way. They confirm that this activity is illegal on SSSI land.

I and my co-owners are unhappy about the way that Surrey County Council officers have handled the issue. We consider it unfair that for years we were not informed that *Application for a Modification of the Definitive Map* forms were being drafted in connection with the alleged footpath over our land. We corresponded with Senior Countryside Officer in March 2006 (when he assured us that there was no public right of way over our land) and cannot

understand why he did not notify us of the *Application* until 2nd March 2010, even though he had been advising the protagonists of the footpath as early as 2007. My mother, Jean Hutchison, used to visit the land regularly from the 1970s onwards, and with her death in January 2008 a key source of evidence was lost. Had Surrey County Council kept us properly informed from the start, her evidence would have been available to your local committee, and would have proved conclusively that our land has always been recognised to be private land with no public right of way over it.

Secondly, we are not happy that the original *Application for a Modification*... forms all appear to have been altered at a later date to include Nethern Court Road. I believe that this was because applicants had been advised that a public right of way could not terminate in a private road. Now, for the first time, Ulstan Close is mentioned. Because there is good evidence of Private signs during the last 20 years, applicants are now looking at an earlier time period. Every effort appears to have been made to alter the terms of reference in order to facilitate the "pro footpath" case.

Thirdly, a close scrutiny of the *Application for a Modification*... forms shows clearly that one of the three signatories, Sandra O'Brien, took a quite different route though our land from the other two applicants (see her signed statement and route map dated 9. 9 09). This confirms our contention that, although some local people may occasionally have walked in our woods, and even made their way between Nethern Court Road and Southfields Road, they did not all follow the same route. Our woods have a multiplicity of interconnected pathways, mainly used by animals. (One of these pathways leads to the corner of Beau Coin Meadow, another to Slines Oak Road).

Please let us know when you plan to visit our land. Please send us full details of the time and place of the local committee meeting in June, as we wish to be fully represented

Yours sincerely,

Andrew Hutchison

Andrew Hutchison (please note spelling of surname which was incorrect in your letter)

Copy to Woldingham Parish Council.

15 High Street,
Great Bedwyn,
Marlborough,
Wilts

SN8 3NU

7TH August, 2008

Dear Mr Osborne,

Thank you for your letter, and for sending the photos. I agree that the cowslips look a splendid sight. We enjoyed seeing them last spring.

I am sorry that you think we are encouraging people to walk on the land. In fact, as I think you know, there is not, and never has been a right of way over the land, and "Private Land No Public Right of Way" notices have been in place at both access points on the advice of our solicitor for some 10 years now. If anyone ignores these notices, they do so entirely at their own risk. Our insurance company has insisted that the land be properly fenced, and we cannot and do not encourage any member of the public to ignore the notices or to climb through the fence or over the gate.

I would be very pleased to send you a copy of the English Nature report when I receive it.

With kind regards,

Yours sincerely,

Andrew Hutchison

Dede has a copy of Osborne's letter to which this
is a reply. — (So have we!).

Copy,

4th August 2008

Weetwood
Southfields Road
Woldingham
Surrey
CR3 7BG
01883 653318
jandm.osborne@btinternet.com

Dear Mr Hutchinson

I was cleaning out my picture archive – digital cameras can be a disaster if you are blessed with the hoarding gene – and I thought you might like these for your archive.

The winter shot was just as you enter the woods at the top of Holly Cottage's garden. The cowslips are always a real show in the Beau Coin field now it is mown. I'm particularly chuffed with the shot of the Whitebeam as it was taken, hand held, from my back door step and enlarged. The panorama comes courtesy of a free piece of software.

I chatted to the fencing contractor as he was working and was glad he was aware of your encouragement for locals to use the path. The fence height is just right even for a chap of my creakiness; even my wife takes it in her stride! I reckon it will be a few years before I need call on the gate key you so kindly offered. I must say my grandchildren (three and five) treat the walk up through the wood to the village rather like Fawcett exploring the darkest Matto Grosso especially with all the turns and twists in the climb.

It was encouraging to hear English Nature's view of the site and of your hope to have an ecological survey and some restoration. Is that for both sites or just for the section nearer Slines Oak Road and below the Torrance's plot? If a report is eventually produced, I would be pleased to see a copy.

By the way, if you want any pictures taken, let me know.

Kind regards



Will send a
copy

From: NCR - (TQ35373559)
15 High Street,
Great Bedwyn
Marlborough,
Wiltshire,

To: Southfields Rd
TQ35 376562.



SN8 3NU

23rd May, 2010

2010/May/25/
000057

Dear Mr Osborne,

We are aware that you and others are trying to establish a public right of way between Nethern Court and Southfields Road. We are writing to remind you that until such a right of way is proved, we do not give permission for anyone to use our land as a thoroughfare between Nethern Court and Southfields Road. As our signs and locked gates clearly indicate, this is private land, and at present no right of way exists across it. Anyone to use the alleged footpath is therefore trespassing.

We have noticed that some clearance has taken place, especially at the two "entrances" to our land. Since our land is designated SSSI, any unauthorised clearance is an offence.

Yours sincerely,

Dodie Carter, Andrew and Jacky Hutchison,

Copy for Daniel Williams's SCC.

(This letter has been sent to Mr Osborne, Mr
Torrance & Mr O'Brien)

15, High Street,

Great Bedwyn,

Marlborough,

Wiltshire

SN8 3NU

7th April, 2010

2010 | Apr | 9 | 000015

Daniel Williams,
Surrey County Council,
County Hall,
Kingston upon Thames,
KT1 2DY

Dear Mr Williams,

Alleged footpath from Nethern Court Road to Southfields Road, Woldingham

It was good to meet you on 26th March, and to walk with you the several pathways that people and animals have been using to walk on and across our land one of which led to Beau Coin meadow. Even though there was evidence of considerable clearance since our visit last summer, there was not one definable footpath. Please let me know if you would like copies of the photos I took.

I send you herewith a copy of our solicitor's letter to Mr Torrance, dated 4th July 2001, written after their unauthorised clearance of our land earlier in that year. This makes it clear that they were to seek permission before going on our land and therefore constitutes a challenge to their use of the alleged footpath. I also enclose a copy of a letter I wrote to Mrs Torrance in October, 2008, clearly stating that our land is private, and that there is no public right of way over it.

I also enclose a copy of my father, Geoffrey Hutchison's reply to his brother Denis's letter asking him to get PRIVATE, NO PUBLIC RIGHT OF WAY signs made and erected at the Nethern Court Road, and Southfields Road "entrances" to their land. My father's reply, dated 16th May, 1988, makes it absolutely clear that my father had made the two notices, and was intending to varnish them and put them up. This is significant evidence that there were PRIVATE... notices in place in May 1988.

Please add these two copy documents to those I have already submitted.

With kind regards,

Yours sincerely,

Andrew Hutchison

Your Ref:
Our Ref: JF/CLT/44205.1
Email: jaf@taylorvinters.com

**TAYLOR
VINTERS**
SOLICITORS

COPY

Date: 4 July 2001
Tel: 01223 423444
Fax: 01223 420779

Mr Torrance
Hillcroft
Nethern Court Road
WOLDINGHAM
Surrey
CR3 7EF

Dear Mr Torrance

Land adjoining Hillcroft

I act for the current owners of the land adjoining your property at Hillcroft. I am attaching a copy of the plan showing the boundaries and measurements for your property from the Conveyance of 14 November 1967 when Hillcroft was originally sold to Mrs Rosemary Briere-Edney. I hope this plan and the measurements clarify the position of your boundaries for you.

On a visit by my clients on 10 June they discovered that you had been clearing land beyond your boundary, and going onto their property without permission.

If you anticipate that maintenance of your boundary may at times require access to my clients' land I would be grateful if you could provide details of maintenance work envisaged. I can then take my clients' instructions as to whether they would be prepared to give consent to limited access for this purpose.

However my clients cannot give consent for any clearing in contravention of the SSSI. They are very concerned about the contravention that has taken place and I am making enquiries about any obligation to report to the SSSI. I anticipate that you have details of the SSSI, but if not please confirm. Please note, therefore, that there is to be no further clearance on the land that you have already been working on.

I confirm that my clients will be visiting the land regularly to monitor the position.

Yours sincerely

JOCELYN FOX

Encs : Copy Conveyance plan

1278521v2

Not done
A long handwritten arrow points from the word "Not done" down to the right margin of the letter.

*Note: This letter proves that
Mrs T. was challenged in 2001
(& undermines what she says in
her statement (Items 8 & 9) dated
11/9/09.)*

Merlin Place
Milton Road
Cambridge CB4 0DP
Tel: +44 (0)1223 423444
DX: 122892 CAMBRIDGE 4
www.taylorvinters.com

2-7-1

15 High Street,
Great Bedwyn,
Marlborough,
Wilts

SN8 3NU

21st October, 2008

Dear Mrs Torrance,

As I think you know, there is not, and never has been a right of way over the land, and "Private Land No Public Right of Way" notices have been in place at both access points on the advice of our solicitor. If anyone ignores these notices, they do so entirely at their own risk. For this reason, I regret that we are not able to let anyone have a key to the gate that we have recently had installed.

Yours sincerely,

Andrew Hutchison

Old Laundry Cottage
16/5/88.

Dear Denis,

Hope you & Melvin enjoyed your Cornish holiday - weather reports indicate that you should have had plenty of warm sun.

Mr. Peter Tinning came up to Volungston on April 27th. He didn't bother to go down the track through the wood, but we walked down the diagonal one which leads from the end of the lane down to the SW corner of Hrischmann's meadow. He then forced his way through the undergrowth, getting to Paris like others cannot reach (see the advert. for somebody's beer on TV.) and he eventually got over the brow of the hill to Horner's face, finding 3 orchids, one common, one Early Purple (I think) and one which he couldn't identify because, like undiagnosed measles, it hadn't yet developed its spots. As regards the wood opposite Hrischmann's, he described it as "worthless" (his word) and I noticed that on his copy of the map he had dotted a line across from the SW. corner of Hrischmann's paddock

to include some of the woodland, through scrub habitats, ranging from beech woodland, to open grassland, characteristic of this part of Surrey.



2.9.1 Over

G. not sure about this, or whether
shoned get a name

to the junction between Hillcroft garden
Horne's land. In reply to my question as
the NCC had taken the whole area in, he
explained that the Northern end of our land
formed a bridge between the two valuable
areas (to them!) owned by Horne & Haishmann
but that the whole of our property was
included (by a sort of NCC logic, I suppose).
I said that this was pretty hard on the
land owners, to which I think it is fair
to say that he signified agreement. He is
going to contact the Surrey Botanic Society
and report "to his superiors" in full,
including your two letters. He seems to be
short of assistance, using a pool typist and a
pool car when he can get it (he came in his
own celish car this time) and we shall no
doubt have to follow up to keep things moving.

I have finished my signwriting on
the 2 notices + it only remains to gloss varnish
them + go and put them up. I will try to
arrange it at coffee time again!

Love to both
Graft

P.S. Jean, with a better memory
than mine, gives more detail + definition in her version attached



Stenwood

5.4.88

Dear Geoff

I think the notices, one each end of the "footpath", should read:-

PRIVATE LANA
NO PUBLIC RIGHT OF WAY
HIGHWAYS ACT 1980.

Can you cope?

If notices under the Act are defaced or torn down, our notices the Local Council. ∴ photographs are desirable, showing (a) the position (b) the text.

Yours

Dennis

ALLEGED FOOTPATH BETWEEN SOUTHFIELDS ROAD AND NETHERN COURT ROAD,
WOLDINGHAM

The land across which the alleged footpath runs was acquired by my grandfather in the middle of the last century. It passed from him to his three sons (my father Geoffrey, and his two older brothers Ernest and Denis) after he sold his Woldingham house, Hillcroft, in 1967. The land then passed to a family trust after the death of Denis (in 1995), and that of Ernest in 1997. Only after I became a joint owner, in 1997, did I acquire a detailed knowledge of the land. (In 2006 the land passed from the trust to my sister Dodie Carter (50%), my wife Jacky Hutchison (25%) and myself (25%). We three are the current owners).

Before 1997, (*see also Footnote below*) I have to rely on surviving correspondence between my father Geoffrey, and his brother Denis, a practising solicitor, who took a keen interest in the land especially after the owners of neighbouring properties started to appropriate parts of the family woodland by causing obstructions and moving fences. In particular, I have seen correspondence from my uncle indicating that, after our land was declared SSSI in 1986 documents sent to him by PC Tinning, Assistant Regional Officer, Nature Conservancy Council made it clear that that no member of the public (including the owners) was allowed even to walk on the SSSI land in case they caused damage to the protected vegetation. Correspondence on this matter between my uncle and the local council, and between him and the local MP; he was outraged that the land had been designated SSSI without the owners being consulted or informed, and that he was now being prevented from walking on his own land.

I never remember seeing any walkers during any of my (approximately monthly) visits to Hillcroft when my grandparents lived there. In 1986 R.D.N. Hamilton wrote a report, "STATUS OF ROADS AND WAYS AT WOLDINGHAM" He found no PRIVATE signs at either end of the alleged footpath, which was, he says, much overgrown, especially at the Southfield Road end, confirming my own recollection. His conclusion is "I have not felt that the rather scanty information put before me in relation to the claimed footpath from Nethern Court Road to Southfields Road has been sufficient to do more than raise a case for some more detailed investigation of the merits of this claim, and I have recommended that the Surrey County Council should investigate the claim."

As a consequence, presumably, of the strict line being taken by the Nature Conservancy Council in 1986, the then owners decided that they must commission and put up painted signs at the entrances to the wood. I have a letter (dated 5th April, 1988) from my uncle Denis to my father asking him to commission and install two notices, "one at each end of the "footpath"...reading..PRIVATE LAND NO PUBLIC RIGHT OF WAY HIGHWAYS ACT 1980." In order to comply with the SSSI designation, he felt it was our family duty as landowners to restrict public access. My father replied on 16th May 1988, "I have finished my signwriting on notices and it only remains to gloss varnish them and go and put them up. I will try to arrange it at coffee time again.!" There can be no doubt that PRIVATE signs, worded as above were erected at both the Southfields Road, and at the Nethern Court Road entrances, in May 1988.

In August, 1997 our land at Woldingham was surveyed for probate following the death of my uncle Ernest, by Strutt and Parker Chartered Surveyors, of Lewes. The surveyor found no evidence of any footpath. He commented that "woodland and underwood have re-established themselves"... "There does not seem to be any significant trespass because entering the land is difficult". He comments that "At (the) Southfields Road (entrance to the land) there is a gate..."

On 27th April, 1997 11 members of the Hutchison family visited the land at Woldingham. My notes of the visit record that "The former "footpath" which starts opposite the Hillcroft drive and follows the fence to the southern boundary of the wood has become overgrown with nettles and briars, and fallen into desuetude." My notes also record that I agreed personally to make 3-4 PRIVATE LAND..." notices to put at the entrances to our wood. I had these printed and laminated at Newbury College, where I was employed, and tacked them to pieces of wood which I nailed to tree trunks at the Nethern Court Road and Southfields Road entrances on my next visit.

06, I put professionally made PRIVATE LAND NO PUBLIC RIGHT OF WAY signs at the entrances to wood from Southfields Road and Nethern Court Road. These were nailed to tree trunks about 3 metres high using a ladder. Fences were erected by us as a requirement of the Third Party Liability Insurance that we have taken out.


During all of my visits to the land at Woldingham, I have never met any member of the public using the alleged footpath (nor, indeed, have I ever seen any person other than family members and friends walking anywhere on our Woldingham property).

During the last three years there has evidently been unauthorised clearance of the SSSI land by those determined to create a footpath where no right of way existed. Pebbles have been placed on the ground opposite the Hillcroft driveway in Nethern Court Road in an attempt to make walkers take this route into the wood (this is about 7 yards to the north of the route we took as children). The original entrance used by me, my sisters and cousins as children followed the fence which forms the southern boundary of our property. This cannot now be used as it is on land which, although registered to us as our property, has been fenced off and is being used as part of the garden of the neighbouring property.

FOOTNOTE. My mother, Jean Hutchison, knew and took a keen interest in the family land at Woldingham from 1939 until her death in January, 2008. With her passing a key source of first hand evidence was lost. I first contacted Surrey County Council in March 2006 asking whether any right of way existed over any part of our land. I receive a reply from Mr Daniel Williams, dated 27th March, 2006, enclosing a map (*Consolidated Definitive Rights of Way*,) showing no right of way then existed over our land. Had Mr Williams, who obviously knew that we were the owners, and where we lived, informed us at the time when he was first contacted by those wishing to establish a right of way, we could have obtained statements and other evidence from my mother. Mr Williams did not write to us over the alleged footpath until 2nd March 2010. Although, in his letter, he says, "Please accept my apologies for the extended delay in contacting you with regard to this matter", the opportunity to gather evidence from my mother has been lost.

Andrew Hutchison

23th March, 2010



Enclosures;

- Strutt and Parker report entitled, "Mr Ernest Stanley Hutchinson (sic) Deceased Land at Woldingham Manuscript letter from my uncle Denis Hutchison to his brother Geoffrey, my father, commissioning two Private Land signs.

Chartered Surveyors
Rural and Commercial Property
Consultants and Managers
National Estate Agents

Lewes
201 High Street Lewes Sussex BN7 2NR
Telephone 01273 475411 Facsimile 01273 478995
E-Mail: strutt.lewes@dial.pipex.com DX3102 Lewes

Head Office
13 Hill Street Berkeley Square London W1X 8DL Telephone 0171 629 7282

Miss J.A. Fox
Messrs Taylor Vintners
Merlin Place
Milton Road
CAMBRIDGE CB4 4DP

RECEIVED
2 AUG 1997
TAYLOR VINTERS

49 Ch. Rd
Brighton
BN3 2BE
19 August 1997
NJG/APK

Dear Miss Fox

**MR. ERNEST STANLEY HUTCHINSON DECEASED
LAND AT WOLDINGHAM**

I refer to my letter of 7th July and confirm that I have now had the opportunity of inspecting the land at Woldingham. I have had the benefit of the papers that have been sent to me, although there is quite a considerable amount of information on which I have needed to make assumptions.

I can report as follows:-

1. The Property

The land (edged in red on the attached plan) is an area of steeply sloping heavily wooded scrub land, extending to approximately 5 acres. This is my estimate based on the plans that have been provided and assumes that they are to an accurate scale.

It is probable that the land was once used as grazing land but over the years, woodland and underwood have re-established themselves. It is now almost impossible to view because it is covered in dense undergrowth.

JG Donald BSc FRICS	Banchory AD Hamilton MA Dip LE ARICS FAV RR Martland BA FRICS	Chester RBP Duncan MA FRICS FAV JPN Major FRICS PW Savie BSc MSc MCOB MAPM	London MJ Mc Andrew ARICS JHH Illingworth MPR Rimell	Newbury AG Chichester MA FRICS FAV JHS Preston FRICS RMJ Trustram Eve
JAN Laing FRICS DRP Cripps BSc FRICS JA Lauder FRICS PL Banks FRICS IRRV ACI Arb AC Ball FRICS RF Loder-Symonds FRICS N Aslin FRICS GC Ballin FRICS JR Dean FSVA WW Quarry BSc FRICS ARG Cane FRICS LM Lepper FRICS IRRV FAV GR Petherick FRICS RDS Herbert FRICS DR Leppard CP Lathrane FRICS	SWS Broke FRICS FAV AJL Burrows MA FRICS PJ Hutley FRICS FAV RD Pryor FRICS MW Verity MA ARICS FAV JF Bridgland BSc ARICS TI Page-Ratcliff	Edinburgh AJ Rettle FRICS AG Smith ARICS	London Residential RJ Bailey HJ Elston JR Shingles	Northalerton AN Argyle MA FRICS JA File ARICS FAV RC Taylor BSc
JH Anderson FRICS CJ Campbell BA FRICS RE Gardiner FRICS PG Lee DL FRICS RJ Wainwright FRICS FAV	Builth Wells FR Chester-Master BSc ARICS FAV PA Raymond-Barker FRICS NO Tyler FRICS	Exeter CA Huntington-Whiteley FRICS RD Thomas FRICS FAV	Market Harborough SJ King FRICS RL St B Vigne FRICS REW West FRICS	Norwich AC Brown BSc ARICS ERP Pratt MA FRICS FAV NJ Steele FRICS
Associates ARICS FAV	Canterbury SRT Backhouse R Crathorne MA ARICS FAV JI Farrell BSc (Agric) ARICS FAV	Grantham TP Bagge FRICS NP Simper NDA	Moreton-in-Marsh PA Beddows TD BSc ARICS FAV FRICS	St Albans LR Hickish FRICS JM Smallman
	Chemsford FRICS IRRV	Harrogate ROH Davies ARICS FAV JL Gloag FRICS		Salisbury RI Ashworth FRICS SR Butcher BSc AW Fortescue ARICS

2. Access and Boundaries

The boundaries of the land are very difficult to see and it seems there are few physical signs of the original boundaries on the ground.

Access can be gained from two entrances, either at Slines Oak Road or Southfields Road. At Southfields Road there is a gate to a road suitable for motor vehicles and that could be used as a vehicular access. The other access is rather less likely to be suited for motor vehicles, not least because it is on a very steep slope.

I assume that the ownership and responsibility for maintenance of the boundaries lies with the owners of the land and it would certainly be advisable for them to be clearly identified at some stage in the future. As a separate exercise, I have agreed that we would try to arrange this.

3. Planning

The land lies within Tandridge District and I have looked at their Development Plan. Part of the area has been scheduled as a Site of Special Scientific Interest (SSSI) which limits its use and means there is a requirement to inform the NCC of any potentially damaging operation.

The whole of the land lies within the Metropolitan Green Belt where there is a general presumption against any development. There are no Tree Preservation Orders listed but there is a general expression by the Planning Authority to conserve the spacious residential character of the area in and around Woldingham.

The combination of these factors leads me to conclude that there is no immediate prospect of any valuable change of use planning permission which needs to be considered when providing you with the valuation you require.

4. Present Use

The land is woody scrub land and I assume it produces no income. There does not appear to be any significant trespass because entering the land is difficult. I am assuming there are no outgoings of any sort to be paid by the landowners as this seems unlikely. I also believe there are no services laid to the land, although both water and electricity are probably available nearby.

5. Possible Uses

The only immediate realistic use for the land is amenity or if it were cleared, grazing.

It is in an area where there is a significant demand for horse and pony grazing and clearing an area to produce some grass might well be a sensible option.

6. Valuation

Taking account of all the factors that I have identified, the present value of the land is extremely low. It is in an area of high residential value and I have no doubt there would be interest from adjoining owners. There is the added complication of the undivided ownership into one-third shares which further reduces the value of the shares. I conclude that the valuation at today's date should be calculated as follows:-

5 acres at £1,000 per acre	£5,000
Less 15% discount for undivided shares	£750
Value of whole in undivided shares	£4,250
One-third share value - say	£1,400

At 1982 I think the value would have been somewhat lower but not significantly so. At that date I would value as follows:-

5 acres at £800 per acre	£4,000
Less 15% discount for undivided shares	£600
Value of whole in undivided shares	£3,400
One-third share value - say	£1,100

The only caution I would add is that it may be argued that an adjoining owner would be prepared to pay £5,000 to £10,000 per acre for it as accommodation land, less the cost of clearing it. This might amount to £1,000 per acre. It is not an argument that I would expect a District Valuer to pursue to vigorously given the very small values involved. Nevertheless, it would be something I would advise the owners to consider if they were seeking to sell the land today.

I hope that all of this provides you with the information you require but if there is anything further, please do not hesitate to contact me.

Yours sincerely,


N.J. GREENE

15 High Street,
Great Bedwyn
SN83NU
23rd March 2010

Dear Mr. Williams,

I believe that Surrey County Council should turn down the challenge to modify The Definitive Map from: junction of Nethern Court Road, Woldingham (TQ35 373559) to: Southfields Road, Woldingham (TQ35 376562).

I first visited the area on the 27th April 1997. I clearly remember a white sign with black lettering nailed to a tree (some 6 foot from the ground) at the entrance to the wood at Southfields Road saying PRIVATE LAND. My husband later supplemented this with a some signs made at Newbury College, one of which was placed at both entrances. I remember clearly that it was difficult to get into the wood because there was no defined path from Southfields Road. The narrow strip of land accessed from the highway was overgrown with holly, brambles, ivy and honeysuckle. I think that there was a broken down gate and fence at the Southfields Road entrance, as well as the sign. Going up the hill towards Nethern Court Road was difficult as there wasn't any obvious path; indeed we all fought our way up as best we could through the scrub and brambles using many different pathways. I would say that this route was **NOT** being used by any one at this time.

I continued to visit the site over the next few years. It was 10th June 2001 on another family visit, that we were horrified to see that contractors hired, as we later discovered, by Mr & Mrs Torrance were clearing a 12 wide area adjacent to their garden fence. The contractors had felled large trees taken up roots with JCBs and burning and ploughing our SSSI land. This is SSSI land, as they were trespassing and illegally clearing woodland a letter from Taylor Vintners solicitors was sent to them ordering them to desist from all operations on our land. This letter failed to stop them planting the area they had had cleared with grass seed, and planting on it a row of hornbeam trees. They continued to trespass and were again asked to stop going on the land.

On another occasion as as we were walking up the hill from Slines oak Road nearing Nethern Court Road I was frightened by a large Alsation dog running out of Hillcroft house (the gate was not closed). It was clearly acting as a guard dog not only for Hillcroft, but also to our property. I do not believe any member of the public would have used that entrance to the wood whilst that dog was at large.

If some members of the public accessed the wood they did so in the knowledge that they were trespassing on private land. There has recently been evidence of unauthorised tree cutting (a huge ash tree opposite the Hillcroft drive was felled and the timber removed). Gravel similar to that used on the Hillcroft drive was used to define a new entrance onto the land in the last 3-4 years.

Most people living in the vicinity did not access the land. They have for the most part known this to be private land as the notices clearly indicated.

I have read my husband Andrew's statement, also dated 23rd March, 2010, and I agree with all that he has said.

Yours sincerely,

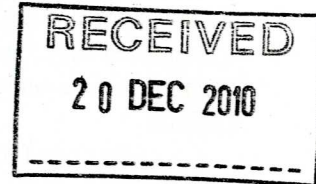
J.R. Hutchison.

Jacqueline Hutchison

134, Thoday Street,
Cambridge
CB13AX

20/11/10

Daniel Williams,
County Hall,
Penrhyn Road,
Kingston, KT1 2DY



Dear Daniel Williams,

RE: the challenge to modify The Definitive Map from junction of Nethern Court Road, Woldingham (TQ35 373559) to Southfields Road, Woldingham (TQ35 376562.)

I write in response to the application made by three parties to a public right of way across land at Woldingham, made last November, 2009, and of which I received notification from you on 5/4/10. We subsequently had a long and useful telephone discussion. My reply has been delayed due to a serious head injury that I sustained in the summer, as I have informed you on the telephone.

There has never been a public right of way over the land I believe, and I shall detail in this letter steps taken over the years to proclaim it as private land. I understand that there is an alternative public footpath from Southfields Road up the hill and local people can obviously utilise that when they wish to get from Southfields Road to the village. The land has been in my family for many decades. My grandparents lived at Hillcroft until the 1960's and my grandfather, a solicitor by profession, bought the land that surrounded the house in the middle of the twentieth century. I oppose the application.

I do not know if my grandfather did ever give permission for anyone to have access to the land and I have no recollection of ever seeing anyone walking across it. There was no clear path other than one that looked as if it had been made by animals. It changed course over time, and there were numerous paths across the land and through the undergrowth. As children we visited on a regular basis. We used to play on the land but more often in the garden. If we had seen anyone on the land I think I would have remembered as it would have seemed strange, perhaps a bit frightening.

After the house was sold, there were periods when I didn't visit. The land passed into the ownership of my father and two uncles. In the 1980's part of the land was decreed a SSSI. At this point the three brothers were very concerned to "do the right thing" believing that any damage caused would be their responsibility. One of my uncles was also a solicitor.

In 1986 R.D.N. Hamilton wrote a report on the status of roads and highways in Woldingham. I am informed that he found the alleged footpath much overgrown especially at the Southfield Road end.

In a letter dated 5/4/1988, my uncle asked my father to erect two private notices, one for the Nethern Court Road end and one for the Southfields Road end of

the land. This he did. We have a letter from him to my uncle dated 15/5/88 saying that the notices were almost finished and when he had gloss varnished them he would be going to put them up. He was always a true man of his word. I remember the notice at the top of the land, not at the bottom though, but I didn't go down there for a long period.

After our Uncle Ernest died in 1997, myself, my siblings and my cousins (five of us) inherited his portion of the land. In a report for Probate that followed his death, the surveyor did not find any evidence of a footpath. I am informed that he commented that: "woodland and undergrowth have re-established themselves" and "there does not seem to be any significant trespass because entering the land is difficult."

After our father died in 2000 we inherited his share as our cousins had inherited their father's share a little earlier. We created a family Trust and then in 2006 the land came into the ownership of my brother and sister-in-law, Andrew and Jacky Hutchison, and myself.

From then on we visited the land in a different capacity, as the owners. By now the fencing of an adjacent property had moved twelve feet – I understand that the land registry map indicates that this is indeed the case. We have since then entered the land slightly to the North of the old entrance. There have over time been various paths through the wood between the two points. Sometimes the vegetation would dictate the path, for example a fallen tree would prevent an earlier path. Sometimes there were what were obviously animal paths, there were times when there was a more clearly defined path, and times when the undergrowth was thick and almost impenetrable.

As a point of information, there were occasions when there was clearing on the land that we had not agreed to. One such occasion was in 2001 that resulted in a solicitor's letter, and the other in the last couple of years. We have made Natural England aware of these events because of the SSSI status of the land.

My brother Andrew put up notices indicating private land and no right of way in 1997 and replaced them in 2006, again at both ends of the land. There does not appear to be a twenty-year period between 1988 and the present day when there has not been a sign to this effect.

We were advised to take out third party insurance. We duly did this promptly, and were asked by the insurance company to fence the land. Most of it was already fenced, but we put fencing and a gate where there had been none before adjacent to Hillcroft at the end of Nethern Court Road. We replaced fencing at the Southfields Road end and put a gate. It may be this action that has prompted the application as before then perhaps people informally walked across the land over the various paths that there were.

I hope this is useful.

Yours sincerely,

A handwritten signature in black ink that reads "Dodie" followed by a long, sweeping horizontal line.

Dodie Carter

15, High Street,
Great Bedwyn
Marlborough
Wiltshire,
SN8 3NU

30TH August, 2011

David McNulty
Surrey County Council,
County Hall
Penrhyn Road,
Kingston-upon-Thames,
Surrey, KT1 2DY

Dear Mr Mc Nulty,

ALLEGED PUBLIC FOOTPATH FROM THE JUNCTION OF NETHERN COURT ROAD WITH ULSTAN CLOSE
THROUGH TO SOUTHFIELDS ROAD, WOLDINGHAM.

We wish to lodge a formal complaint about the time lapse of more than 4 years in informing us, the landowners, that local residents were in negotiation with your Countryside Access department about establishing a public right of way over our land. Although your senior countryside officer, Daniel Williams tells us that Surrey County Council "adopts a completely neutral stance to all claims made", we believe that, in our case, we have been treated unfairly. Our mother, potentially a key witness with a detailed knowledge of our land, of its fences, and of Private Land signs, since the late 1930s, died in January 2008. At that time we had not been informed and were in fact totally ignorant that there was any proposal to establish a public footpath by map modification order, even though the County Council had been aware since February 2006 of a local resident's interest in registering a footpath. Had we been kept informed by SCC, we would have obtained a detailed witness statement from her before she died.

2.14.1

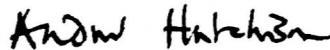
Our letter of 20th August of this year to Susan Briant contains details of our grievances, and I enclose a copy with the relevant paragraphs highlighted.

We discussed our grievances with Mr Daniel Williams when we met him at our land on 26th March last year, and submitted a detailed account of them in the letter of 20th August. We have yet to receive a convincing explanation of the extended delay in contacting us, the landowners. It seems to us that SCC has everything to gain from implementing its policy of informing landowners "at an early stage" in order that they shall have an equal opportunity with the proponents of the footpath to produce evidence. Where this policy is not pursued there is a danger that officers will spend many hours in ignorance of the fact that, as in our case, there is strong evidence that the landowner has taken steps to ensure that the public realise that their land is private.

For reasons which were never made clear to us, Daniel Williams seems to have been replaced as our case officer by Susan Briant. We wish to make it clear that we have no complaint to make against Susan Briant who (in spite of the shortcomings of her letter of 24th August) has generally been efficient and prompt in all her dealings with us.

Please will you send me a copy of your Equal Opportunities Policy, and Complaints Procedure.

Yours sincerely,



Andrew Hutchison for the 3 landowners

Enclosures: My letter of 20th August 2011 to Susan Briant

Her reply to me, dated 24th August

My response to her dated 26th August

If telephoning please ask for: Susan Briant
Tel : 020 8541 7634
e-mail : susan.briant@surreycc.gov.uk
Our ref : CO10395
Your ref :

Mr A Hutchison
15 High Street
Great Bedwyn
Marlborough
Wiltshire
SN8 3NU

Countryside Access
Marrow Depot
Marrow Lane
Guildford
Surrey
GU4 7BQ

6 September 2011

Dear Mr Hutchison

ALLEGED PUBLIC FOOTPATH FROM THE JUNCTION OF NETHERN COURT ROAD WITH ULSTAN CLOSE THROUGH TO SOUTHFIELDS ROAD, WOLDINGHAM

Thank you for your letter dated 30 August 2011 to Mr McNulty concerning your complaint about the council's handling of the above claim. I have been asked to conduct an investigation into this matter and can provide the following response.

In February 2006, the council received an e-mail from the late Mr John Osborne saying that he 'would like to register with Surrey County Council our interest in recognising a footpath between Southfields Road, Woldingham and Nethern Court Road, Woldingham'. Mrs Debbie Spriggs (Countryside Access Manager, (County Hall)) spoke to Mr Osborne on the same day. The content of the telephone conversation is not recorded but it seems that Mr Osborn was aware that the land was in the process of being sold at that time. Following their conversation Mrs Spriggs sent an e-mail to Daniel Williams (for information), informing him that she had spoken to Mr Osborne and that it was her understanding that Mr Osborne would not make a formal claim unless the new owner of the land prevented access to the path. As far as I am aware, Mr Williams did not contact Mr Osborne in February 2006. The council receives a great many enquiries from the public of this nature and not all mature into a formal claim. It is not our policy to investigate any claims other than those formally submitted following the procedure set out in Schedule 14 Wildlife and Countryside Act 1981. As far as the council was concerned no further action was required at this stage.

In March 2007, Daniel Williams received a letter from Mrs O'Brien expressing her 'concern at the erection of 'Private No Public Rights of Way' signs and fencing at either end of a footpath that runs between Southfields Road and Nethern Court Road'. The letter requested information on the procedure 'to claim this footpath as an established right of way'. I attach a copy of his reply. You will note that Mr Williams says he visits the site 'before sending out any further correspondence with regard to the process of making a claim'. The site visit took place on 11 April 2007 and Mr Williams wrote to Mrs O'Brien on 13 April 2007 advising her of the required procedure (copy attached). The formal Schedule 14 application was not received until 3 November 2009. Mr Williams spoke to Mrs Hutchison on 5 November 2009 and followed up this conversation with a letter on 2 March 2010. In that letter Mr Williams apologised for the delay in contacting you and he enclosed some guidance on the procedures that the council is required to follow. The person making the formal application is required to notify the landowners concerned and to serve notice on them. The council does not notify the landowners until the formal Schedule 14 application is received and accepted.

I note that the plan attached to the O'Brien family user evidence forms shows that they proceeded some 29 metres north of point 'B' (as shown on drawing no 3/1/535/H4) before turning in a generally north easterly direction to point 'C'. All the plans submitted by the O'Brien family show use of the claimed route from point 'A' - 'B' and from point 'C' - 'D'. Seventy-five user evidence forms were submitted to support the application and the majority of these claim use of the route as shown on drawing no. 3/1/535/H4. Although the council has interviewed some of those completing forms it is not our policy to interview everyone who completed a form and as you will note from the flow charts sent under separate cover, if an order is made and advertised, any person may submit an objection and the matter may then be forwarded to the Secretary of State for a decision. I attach a copy of the case 'Fernlee Estates Limited v City & County of Swansea and the National Assembly for Wales' [2001] EWHC Admin 360 in which it was held that where a route from one point to another goes across open land the route need not follow a precise path. The Inspector, Mr Hamilton described the route as 'well trodden' and users describe the path as well defined. It may be that the public have also acquired a right over a route running from a point 29 metres north of point 'B' through to point 'C' and the route running from Slines Oak Road (as shown in your photograph no. DSC01851) through your land, but these routes are not the subject of this investigation.

I note your comment that the alleged footpath is now overgrown but the claim deals with whether the public have acquired rights during the relevant period (i.e. at least 20 years prior to the date of challenge). If the matter goes to public inquiry then the Inspector will look at the relevant period and not at the current state of the path. Mr Williams met you on site in March 2010 and I made several visits to Nethern Court Road and Southfields Road earlier this year. As any visit now is outside the relevant period it is unlikely to assist the Committee but if you consider that there is some evidence relating to the period of use (1950 - 2009) you wish to show me on site I am happy to meet you there.

Section 289 (1) Highways Act 1980 (HA 1980) empowers officers to 'enter on any land for the purpose of surveying that or any other land in connection with the exercise ... of any of their functions' (see Mr Williams' letter dated 2 March 2010 attached). An officer may undertake a site visit alone or in the company of the landowner or the applicant. Section 289 (1) HA 1980 does not extend to the applicant and members of the public and any person entering the land concerned do so at their own risk and of their own volition. In this particular case Mrs Torrance of Hillcroft, Nethern Court Road, (the property opposite point 'B' on the claimed route) showed Mr Williams where the claimed route started and finished. The formal application had not been received at this stage and, as stated above, not all enquiries result in a formal application. There is no legal requirement for the council to notify the landowner before making an initial site visit for a potential claim.

In your letter dated 20 August you say you wrote to the council in March 2006 'asking about the status' of your land. You say that Mr Williams replied enclosing a copy of the Definitive Map showing all footpaths and bridleways and asking you to call him if the extract did not show all your land. There is no record of this communication on our file. I should be grateful if you could send me a copy please. The Definitive Map is conclusive as to what it contains and not to what it omits. The claimed route is not shown on the map as it is not currently recorded as a public right of way. That does not mean however, that the public have not acquired rights over the route. Mr Williams outlined how rights may be acquired in his letter dated 2 March and you have subsequently been sent a copy of the flowcharts outlining the procedure and a copy of the Annex to the committee report which gives guidance on the legal issues concerned. As stated above, our understanding in February 2006 was that Mr Osborne would not make a formal claim unless the new owner of the land prevented access to the path.

I attach a copy of Schedule 14 Wildlife and Countryside Act 1981. Paragraph 2 states that 'the applicant shall serve a notice that the application has been made on every owner and occupier of any land to which the application relates'. Under the Act, the council is not required to notify the landowner(s) and consequently there is no date by which this must be done (paragraph 5 your letter dated 26 August refers). The conversation between Mr Williams and Mrs Hutchison took place 2 days after receipt of the formal application. I attach an extract from the Rights of Way Statement for Surrey which outlines our policy in this matter.

Mr Williams delegated the case to me in the normal course of our operations. As I said in my letter dated 5 May 2011 I am sorry not to have the benefit of your late mother's evidence.

I have dealt with your complaint at stage 1 of our complaints procedure (please find enclosed a copy of 'Comments, Compliments & Complaints' which explains this procedure)

If you are unhappy with the decision reached at stage 1 please contact our Customer Relations Team who will arrange for a further investigation. Their contact details are:

Customer Relations Team
3rd Floor Conquest House
Wood Street
Kingston
KT1 1AB
Email: county.complaints@surreycc.gov.uk
Phone: 020 8541 9100 or 9811

We will record this complaint as closed if we do not hear from you within four weeks from the date of this letter.

Yours sincerely

Susan Briant
Countryside Access

Please note that in the interests of open government and under the Freedom of Information Act 2000 and related legislation, we may be required to disclose any correspondence, including any response by you, to third parties upon request, although any personal information you provide will be processed in accordance with the Data Protection Act 1998.

What if I am not satisfied with the outcome of my complaint?

You can contact the Local Government Ombudsman for advice at any time. Further information is available on their website at www.lgo.org.uk or on their advice line: 0845 602 1983

Monitoring Satisfaction

To enable us to continue to improve our service we, or someone on our behalf may contact you in the next six months to monitor how satisfied you were with the way your complaint was handled. If you do not wish to take part please contact the Customer Relations Team.