

Highways

Highway Records

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Introduction to the Highway Records

- The Highway Records team are tasked to respond to enquiries made of Essex County Council in respect of extent and status of highways within the County.
- The Highway Record is made up of thousands of hard copy maps and legal documents.
- Enquiries can come from any source, for example members of the public interested in the status of the road they live on, solicitors requiring information for conveyancing purposes, internal enquiries from maintenance staff.
- Currently, we are receiving approximately 80 enquiries a week and all of these are responded to in writing. We do experience seasonal fluctuations and we have had around 150 enquiries per week during the summer of 2014.
- Enquiries are dealt with in date order of receipt with priority being given to those that may involve a matter of public safety, for example.

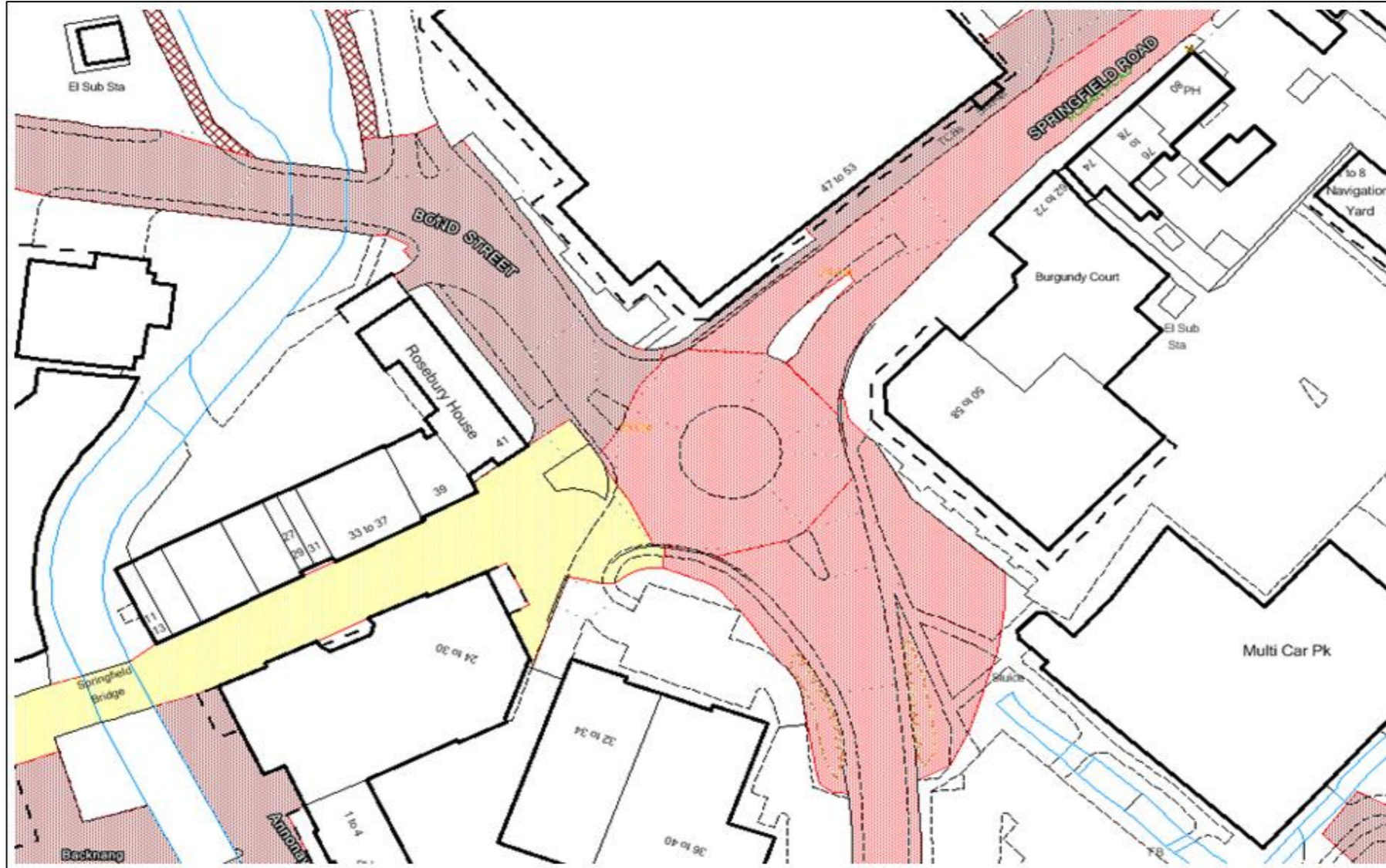
What does this involve?

- Upon receipt of an enquiry, we assess what information we will need to refer to in order to respond.
- If the enquiry relates to a modern estate road, we would refer to the appropriate adoption documentation for that road.
- There would be no documentation relating to historic roads and therefore we refer to historic maps to determine where the highway boundaries would be. This requires layering old maps and the current OS map base on a light frame, plus in some cases referring to deeds where ECC has acquired land for highway purposes.
- The result is a composite plan, produced at scale and coloured to show the extent of highway.
- In addition to the office based research, we are often required to mark the highway boundary on site or provide technical advice in respect of highway law. We are required to give evidence in court on behalf of Essex County Council.

Management of the Records

- The records consist of a set of maps, coloured using the County colours to show all publicly maintainable highways in Essex – i.e. motorways, trunk roads, A roads, B roads, C roads, non classified roads, byways, bridleways and public footpaths, together with non-maintainable public highways where they are known.
- The records also consist of all documents received which update and amend the maps, for example stopping up orders, extinguishment and diversion of public rights of way, adoption notices and plans, Section 38 Agreements, Section 106 Agreements, Side Roads Orders, Compulsory Purchase Orders, Dedication Agreements.
- The records are supported by copies of all correspondence on highway record issues, which will include details of research carried out to establish the information provided to enquirer.
- The background system we currently use is called highnet. It consists of the centre line network of all publicly maintainable highways in the County, which have been digitised, which allows us to produce the road length statistics and the Section 36 List. It also consists of a database containing the grid reference, status, classification, speed limit, date of adoption, file references for each road.

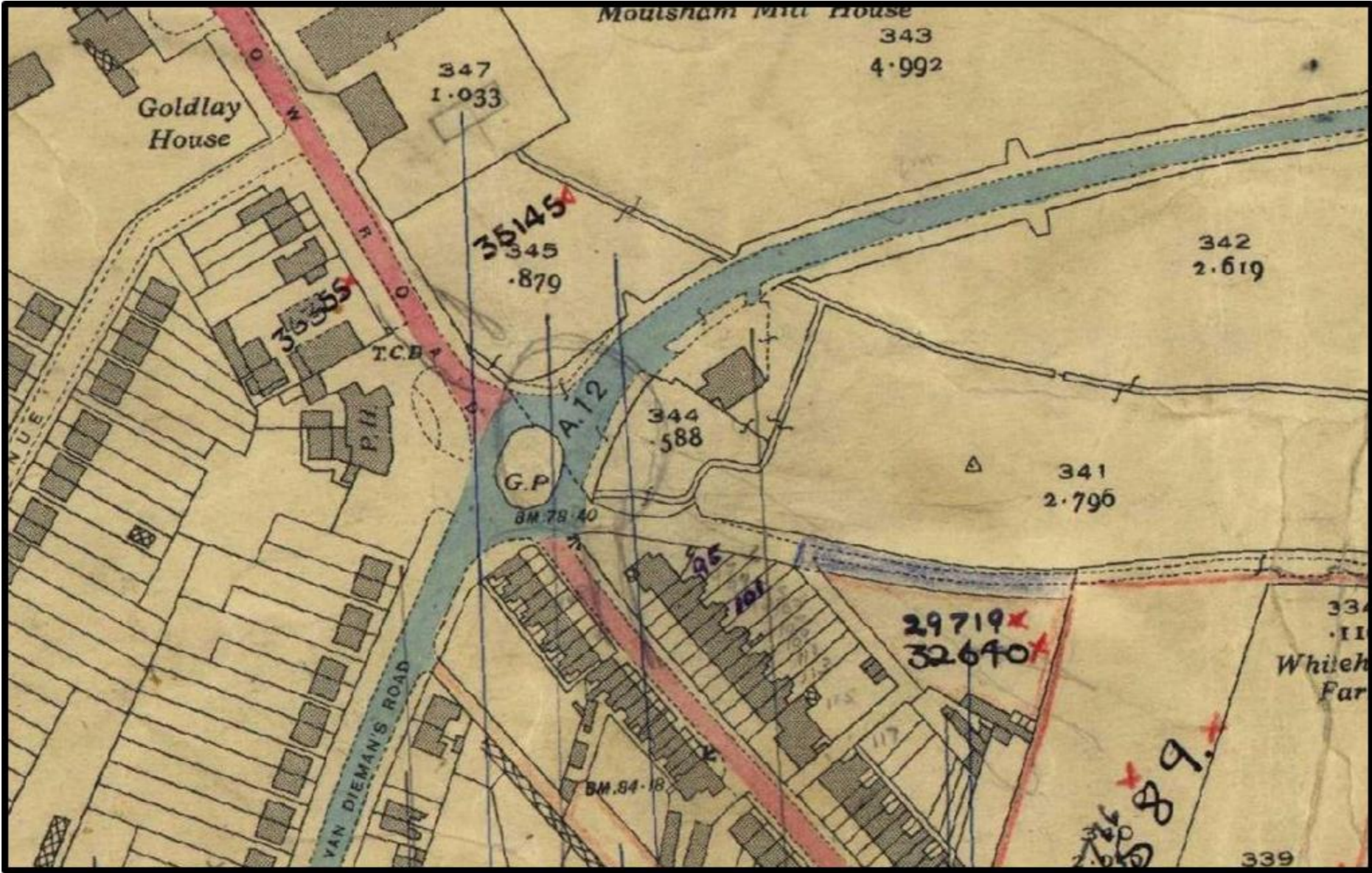
The digitised record



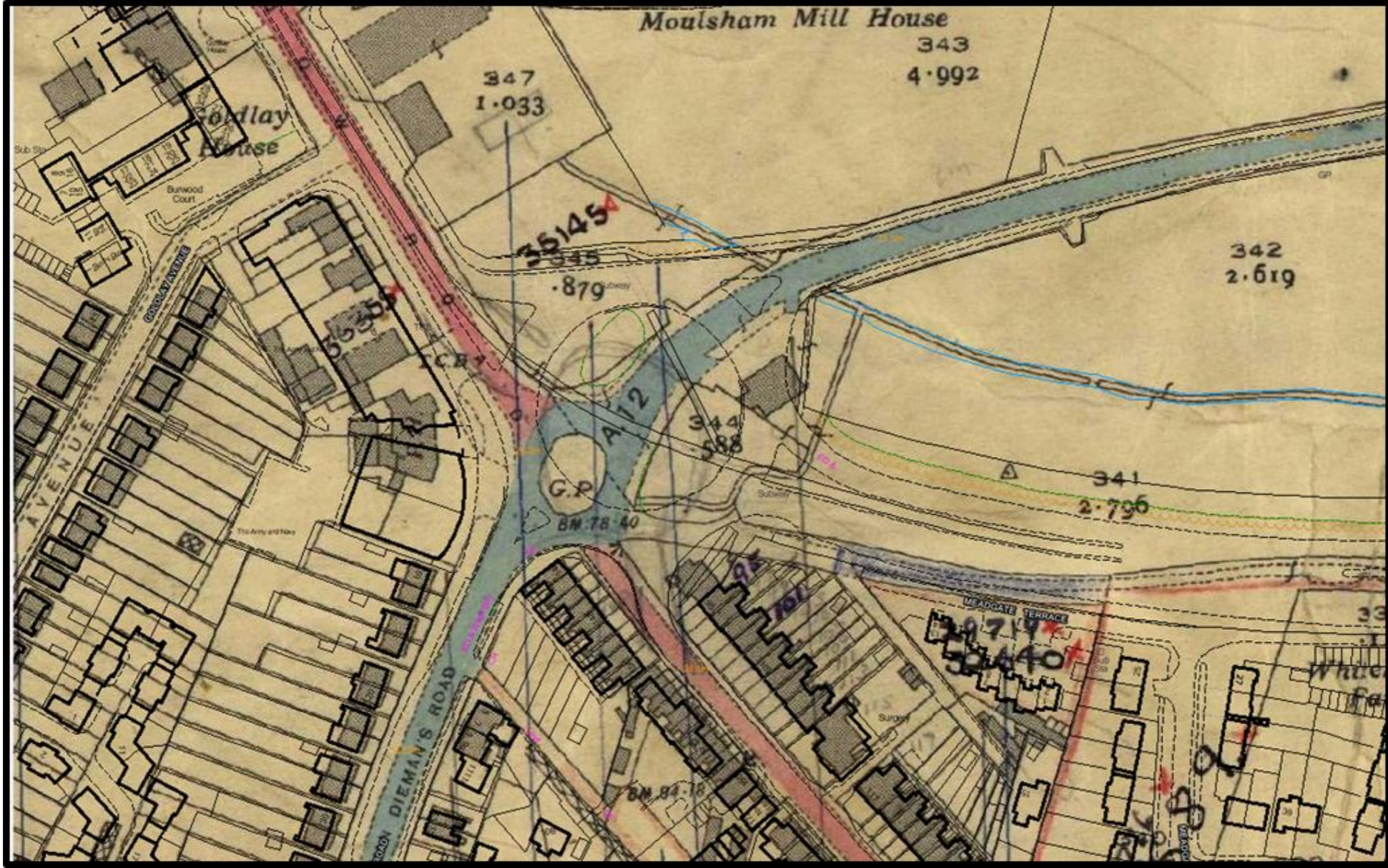
Historic boundaries

- In order to establish a highway boundary today, it is necessary to look at historical map evidence to see where the original boundaries were set out ideally as near to the date of the first Highways Act which was 31st August 1835.
- In practise it is usually only necessary to look at the 1920s County Series maps. There are occasions where this is not sufficient, however and we have to look at older editions of the Ordnance Survey, or even documents held at the Essex Records Office.
- Other documents include the Finance Act Map of 1910 which shows land that was subject to tax at that date, with public highway being excluded. If an area of land was shown not being subject to tax, the implication was that the Valuer treated it as highway.

Overlaying map data



Composite of historic and modern OS



Marking the highway boundary on site

We are often asked to interpret the map evidence on the ground and delimit highway boundaries on site, or assist the PROW officers in marking the routes of public footpaths etc. on site.

We prepare plans at an appropriate scale in the office and use these as a basis for measuring on site. Fixed points such as buildings are used where possible, from which to take measurements, however in rural situations this is not always possible.

The highway boundary or PROW is usually marked on the ground with wooden stakes or road marking paint and is often photographed to keep on record.

New Highways

- Roads that did not exist in 1835 can be created at common law can be dedicated as highway by the owner of the subsoil and acceptance by the public or by statute.
- Section 24 of the Highways Act 1980 gives the Highway Authority power to construct new highways, usually by means of a CPO (Compulsory Purchase Order). Once construction is completed, the road automatically becomes a highway.
- Section 31 provides for the dedication of land as highway after a minimum period of 20 years unhindered use by the public.
- Section 38 gives powers to the Highway Authority to adopt roads built by developers by agreement.
- Section 205 enables the Highway Authority to pass a resolution for the making up of a road under the Private Streetworks Code.
- Section 228 provides for the adoption of private streets by posting of notices.

New Highways cont.....

- Section 278 enable the Highway Authority to obtain financial contribution towards the cost of new highway works, new works within the existing highway limits or new lengths of road.
- Section 106 of the Town and Country Planning Act 1990 provides for the adoption of highways under a planning agreement.

Key Legal Points

“Once a highway, always a highway”

- If it was a public highway on 1st August 1835 or has been legally created since that date, it is a highway now.
- To stop being public highway, the rights of the public must be removed by legal order.
- Building a house or putting up a fence does not stop the highway being a highway.

A highway is a way over which the public may lawfully pass and repass. It must be open to the public at large, the public use must be as of right, it must be for passage and the public right of passage must follow a defined route.

Section 36 Highways Act 1980 says that a highway is a highway maintainable at the public expense if it existed prior to 31 August 1835 or it came into existence after that date. The Section 36 Register is a legal document maintained by ECC and published on the ECC website. It is updated monthly and re-issued in its entirety on 1st April each year, as required by law.

Common misconceptions

-It is very widely assumed that the Highway Authority is the owner of a highway. This is very rare and is usually only the case where land has been acquired for the construction of a bypass (for example) or land has been acquired to widen an existing highway.

-If a party claims title to the subsoil of a piece of highway land, they cannot enclose it or build upon it. In law, highway rights are paramount over any claim to subsoil ownership.

-Adverse possession does not apply to highway land, as in general the subsoil is not owned by the Highway Authority.

Ditches

- Ditches are usually not highway
 - Unless the land was purchased for a scheme and highway was created.
 - Ditches are there to prevent water drained from the surrounding land flooding the highway.
 - The public's right to use the highway is the right to 'pass and repass'. You cannot pass and repass a ditch without falling in so you can't establish highway rights.

Ditches



Open Ditch



Piped Ditch



Infilled ditch

The highway boundary is normally the roadside brow of a ditch, even where it has been infilled

Boundary Features



- Hedges
- Fences
- Walls
- Trees

Boundary Features

-Hedges – the boundary is usually the root of the hedge. Usually owned and maintained by the adjacent landowner.

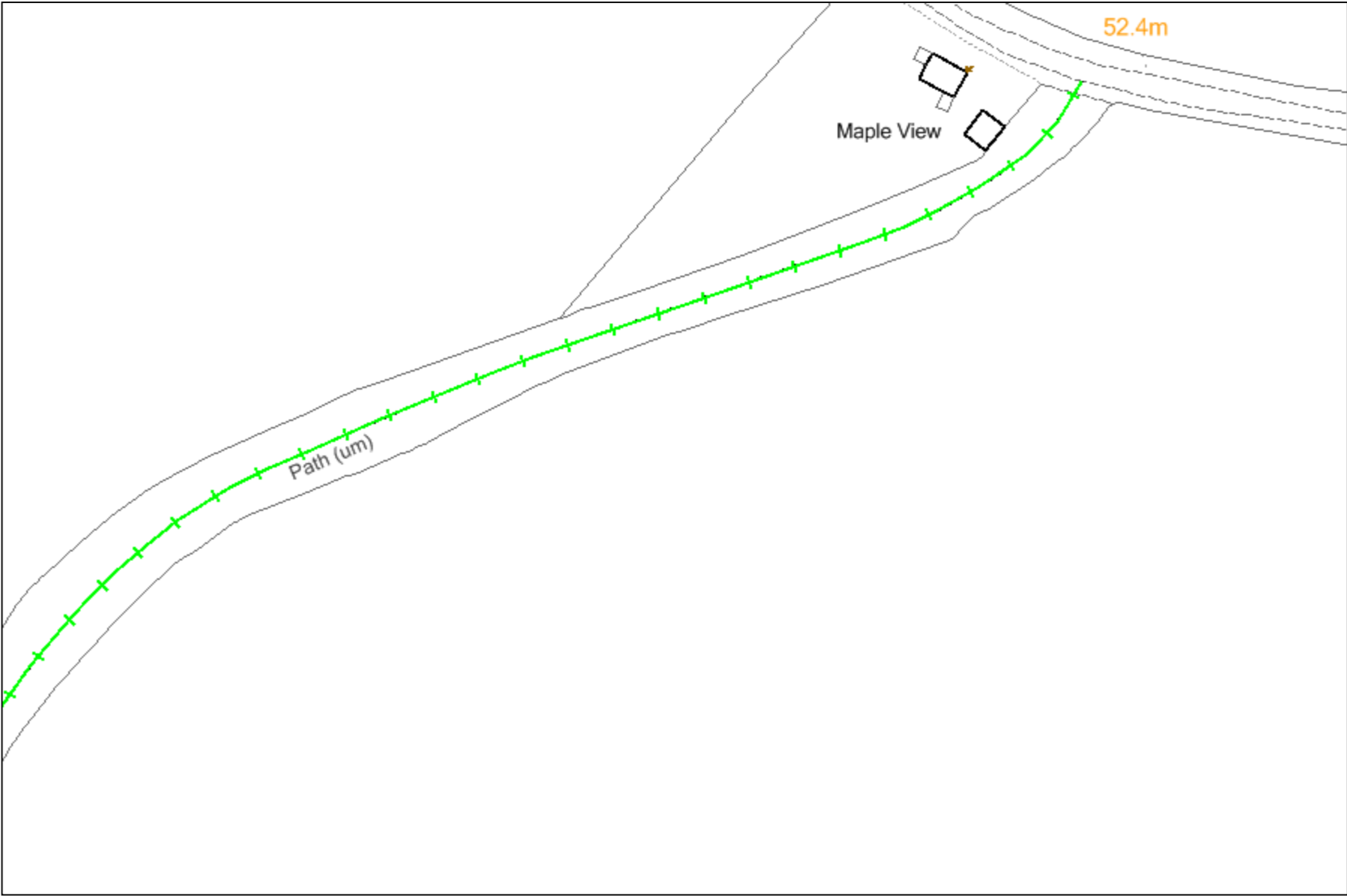
-Walls & Fences – the position of a fence or wall is not proof of the extent of highway. Usually owned and maintained by the adjacent landowner.

-Trees – some trees are the responsibility of the highway authority. Most are not.

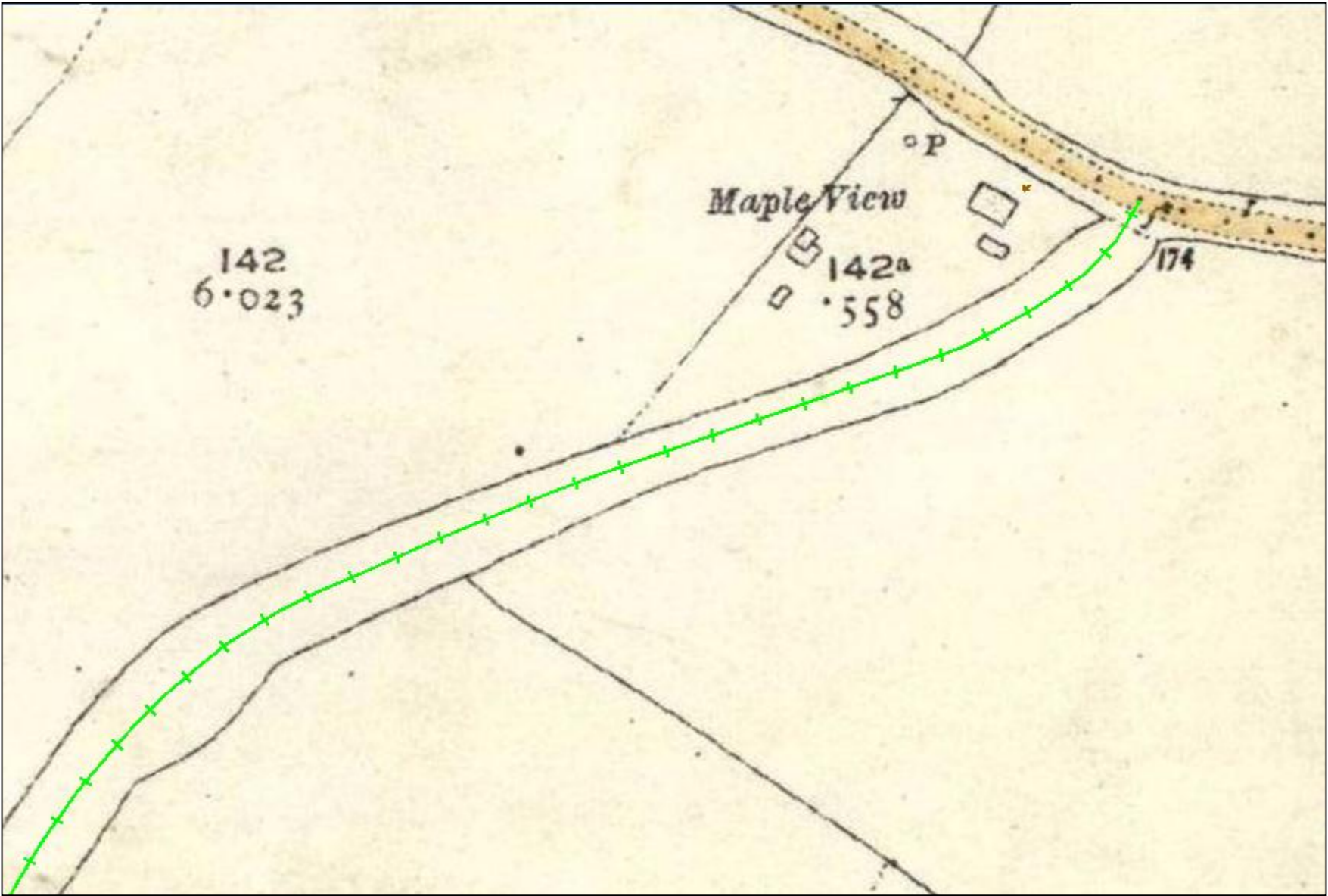
PROW research

- Public rights of way are researched in exactly the same way as any other highways (i.e. roads).
- We are often asked to research Definitive Map PROW to assist our colleagues in the PROW team.
- Many PROW have historic widths, just like historic roads would and we use historic map evidence to determine the widths accordingly.

Example of the historic width of a Bridleway



Modern OS layered with historic map



Chapman and Andre 1777



integrated expertise



Essex County Council

Old Series Ordnance Survey Circa 1819



Further in- depth research

- **Tithe Maps**
- **1910 Finance Act Map**
- **Railway Records**
- **Sales particulars**
- **Inclosure awards**
- **Estate plans**
- **Historic photographs**
- **Aerial photography**

The Future of the Highway Record

- We have recently acquired a huge volume of additional data from those districts who were former agents of ECC as Highway Authority.
- There is a long term project to integrate these records into the existing record and to have a fully catalogued database of all records held.
- The aim is to have a digital record which is available online for the public to view, however Essex is a large County and this is still some time away.
- The thousands of paper documents and legal agreements associated with the record would be scanned and held digitally in addition to the current hardcopies.

Questions