



Cornwall Council

FORM OF APPLICATION FOR MODIFICATION ORDER

Wildlife and Countryside Act 1981

**Definitive Map and Statement for the former District / Borough* of Penwith / Kerrier / Carrick /
Restormel / North Cornwall / Caradon***

To: Cornwall Council

of: New County Hall, Treyew Road, Truro TR1 3AY

I/We [REDACTED] British Horse Society

of [REDACTED] 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:

(a) Deleting the footpath / bridleway / restricted byway / byway open to all traffic*

from:Grid Ref.....

to:Grid Ref.....

(b) Adding Restricted Byway

from: County Road U6169 Gridref: SX40887264

to: County Road C0507 Gridref: SX41227247

(c) Upgrading to a

from:

to:

(d) Varying /adding to the particulars relating to the footpath/bridleway/restricted byway/byway open to all traffic *

from:Grid Ref.....

to:Grid Ref.....

by providing that *historical evidence has been discovered to establish a public right of way*

and shown on the map accompanying this application.

* Please delete text as applicable

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

DOCUMENTARY EVIDENCE IS ATTACHED

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.....

Signed:

A black rectangular box redacting the signature.

Dated:

11 November 2019

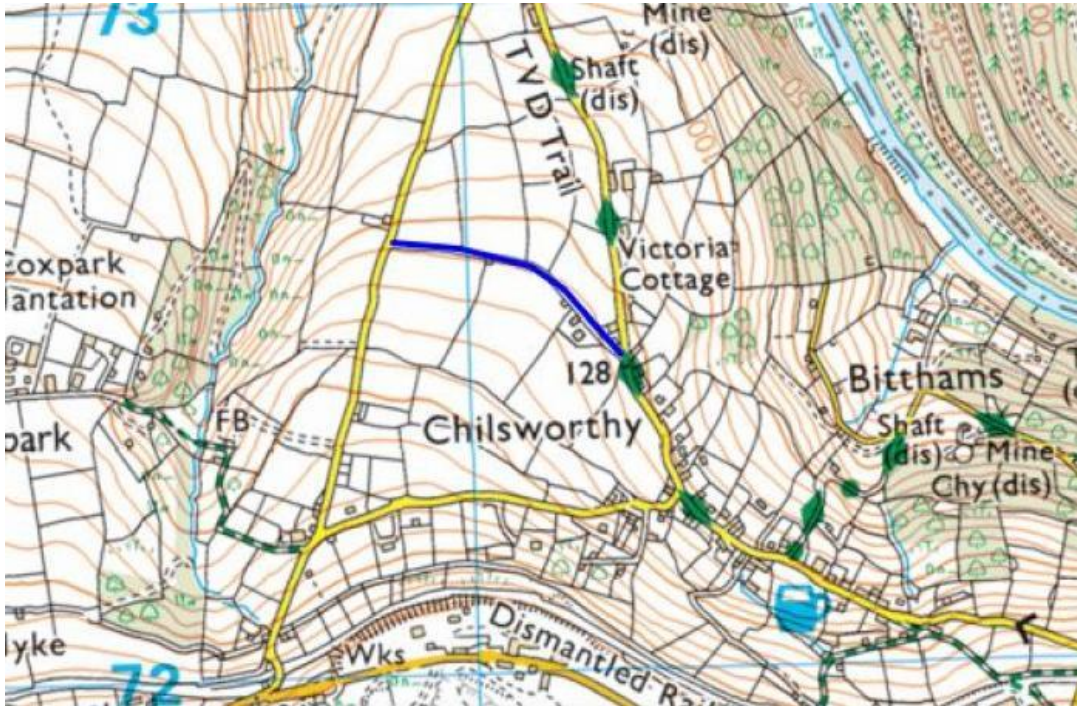
Application Details

Our Path Reference: COR-1867 Grid Reference: SX410726

Parish: Calstock

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at County Road U6169 SX40887264 and ends at County Road C0507 SX41227247

Old lane.

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being applied for: Restricted Byway

Notes:

It is not known whether the path is obstructed in any way.

Usage not known

Our Path Reference: COR-1867 Grid Reference: SX410726

Path starts at County Road U6169 SX40887264 and ends at County Road C0507 SX41227247

Documentary Evidence

Evidence from Maps:

Old maps provide very good evidence of the history of roads and other paths. Whilst such maps themselves do not record any user rights, any routes must have been significant enough to be mapped and the maps were intended for use by the public. If old maps clearly show the way marked as a road or old lane it is very good supportive evidence of the way being a road.

OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

OS First Series 1809 Sheet 25 - Path is clearly identifiable and shown as a road. Sheet 337 -: 1896 Path is clearly shown as a road.

Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Devon CV.9 published: 1884 Path is clearly shown as a road or lane, plot no.1427.

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Cornwall XXIX.NE Published: 1883 Path is shown clearly as road in common with current county roads

Ordnance Survey, 1:25,000 maps of Great Britain - 1937-1961

SX47 1947 - Path is shown in same style as other contemporary county roads.

Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

These half-inch to the mile (1:126,720) maps were produced with recreation use by motorists and tourists in mind, these maps were popular and influential.

Sheet 36 - 1903 Path is clearly identifiable and shown as Road.

Primary Evidence:

Inland Revenue Valuation Records - Finance (1908-10) Act 1910

These maps on their own can provide very good evidence of a RoW. If a track is uncoloured on the map and lying between hereditaments, this is very good evidence that it was excluded as being a public road. Footpaths and bridleways are usually included in the hereditament (plot area) but there is a deduction for them in the valuation. It is often not easy to positively identify the routes of footpaths and bridleways for large hereditaments but it may be easier for smaller ones.

IR128/5/340 Shows path clearly excluded from adjoining hereditaments which is good evidence that the path was considered a public road.

Tithe Records

The tithe maps and apportionments are an important source of information about the history and topography of a parish. They provide details of land ownership and occupation, and the type of cultivation of the land. They were produced in order to assess the tithe payable in cash to the parish church for the support of the church and its clergy. Roads were specifically excluded from tithe payments and thus can provide valuable evidence for the existence of Rights of Way. The tithe apportionment often describes public tracks as "Common, wastes and roads" or sometimes "Roads and rivers", which are all areas which generated no tithes for the church. Often such areas excluded from tithe are shaded in a sienna coloured wash. Tithe records can provide reputable evidence on their own taken in support of other standards of public records.

Calstock - Path is shown in the same unnumbered plot as adjacent county roads and not listed in apportionments.- no tithe payable

Other Evidence:

Land Ownership

Exclusion of a path from land registrations on either side is very indicative of public rights. However where an adjacent registration includes a path this does not give any indication against public rights. Land registrations sometimes deliberately or inadvertently extend ownership beyond that shown on the original deeds.

The Land Registry shows path is excluded from registration yet most plots either side are all registered. This is strongly suggestive of an ancient public highway.

Summary and Statement of Reasons:

The Inland Revenue map shows all of the road excluded from the adjacent hereditaments. This is very good evidence that it was excluded because it was a public road. There is no evidence to suggest that the exclusion should not be interpreted in this way.

The Tithe map shows the path un-numbered similar to and contiguous with other county roads. This is very good evidence of Public Road.

The OS 25 inch map showing the road as a separate plot as Road indicates the significance of the route. All the old maps, which were intended for public navigation, show the route consistently as a road. This is very strong supportive evidence of the status of the route as a public road. All evidence shows that the route physically existed as an enclosed lane at the time of the turn of the century (circa 1900)

The Land Registry shows the path is excluded from registration. This is strongly suggestive of an ancient public highway.

The combination of the evidence from Old Maps, Inland Revenue map 1910 and Tithe gives exceptionally strong indication that the path is highway and now should be recorded with Restricted Byway Status. There is no evidence to show that the path has not been dedicated. 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. While no single piece of evidence is necessarily conclusive, the applicant believes that taken as a whole the evidence demonstrates highway reputation.