



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]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**

from:

to:

(c) **Upgrading to a Restricted Byway the footpath**

from:Bridleway 3 Gridref: SW65632624

to:County Road Debigna Lane Gridref: SW66122617

(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

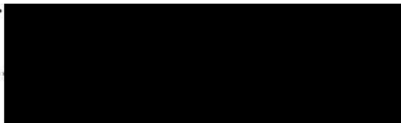
.....

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 ATTACHED
.....
.....
.....
.....

Signed:  Dated: 21 August 2019

Application Details

Our Path Reference: COR-0376

Grid Reference: SW658262

Parish: Mawgan-in-Meneage

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at Bridleway 3 SW65632624 and ends at County Road Debigna Lane SW66122617

Old Road through woodlands

Current Recorded Status:

Path is recorded as Footpath on the Definitive Map.

Status being applied for: Restricted Byway

Notes:

Path is not believed to be obstructed.

This footpath old lane is ridden

Our Path Reference: 219/F Grid Reference: SW658262
Path starts at Bridleway 31 SW65632624 and ends at County Road Debigna Lane SW66122617

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

Sheet 359 1895 Path is clearly shown as road in common with current county roads

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

Cornwall LXXVI.10 (Helston; Wendron) Surveyed: 1877 Path is clearly shown as a road or lane, plot no. 6135.

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

Cornwall LXXVI.SW Surveyed: 1877 to 1878 Path is clearly shown as a road.

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 37 - 1903 - Path is shown as Road leading to Helston.

Johnston's Motoring Touring maps of England and Wales

Path is shown as a significant 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, 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.

128/5/922 Colouring is not clearly defined on image of NRA map - worth checking Cornwall CRO and field books.

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.

Wendron s2 p9 path is Shown as plot 6550 in common with adjacent county roads. Apportionment p62 app, 6550 says 'Road'. individual tithes are not listed - assume no tithe payable.

Parish Area Books

Wendron - Plot no 6135 is described as 'Road'

Other Evidence:

Land Ownership

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

The Land Registry shows path is excluded from registration yet plots either side are all registered.

Summary and Statement of Reasons:

The Tithe map evidence is very strong as path is listed as road in common plot with current county roads. The OS 25 inch and associated Area Book evidence gives plot as Road re-enforcing this conclusion. 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. The exclusion of the old lane from all adjacent Land Registry registrations is indicative of ancient highway.

The combination of the evidence from Old Map, Tithe Map and owner ship records gives very strong indication that the path is highway and now should be recorded with Restricted Byway Status.

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.

APPENDIX I - Documents and Photos

Exit onto Debigna Lane



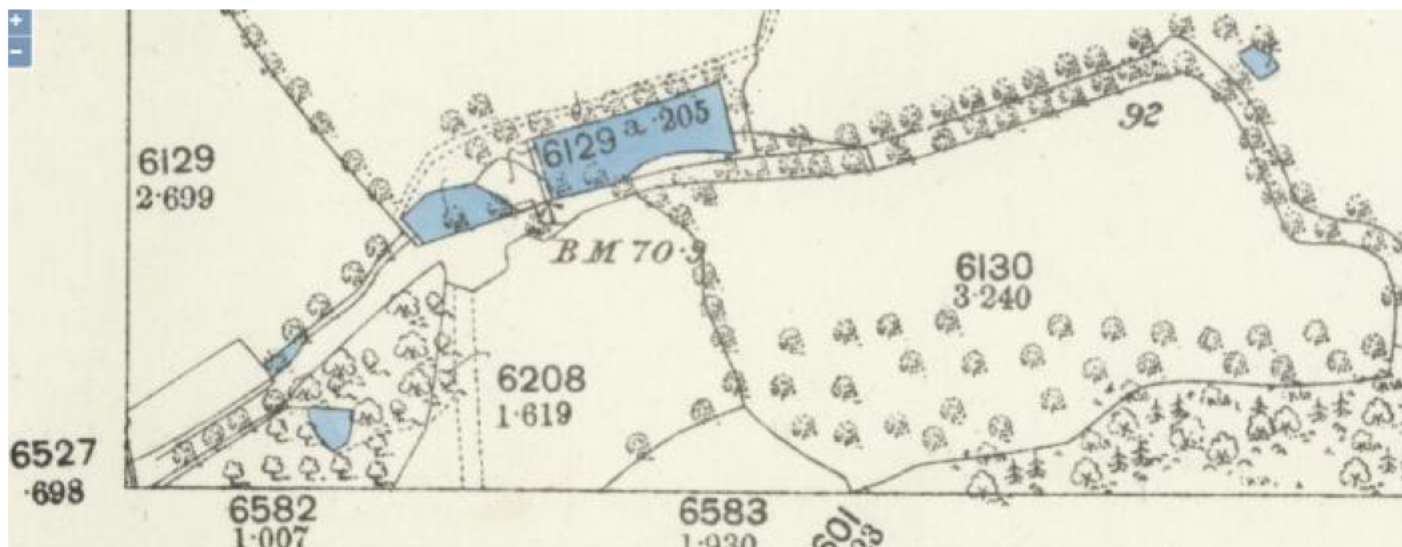
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

Clearly shown as a significant road

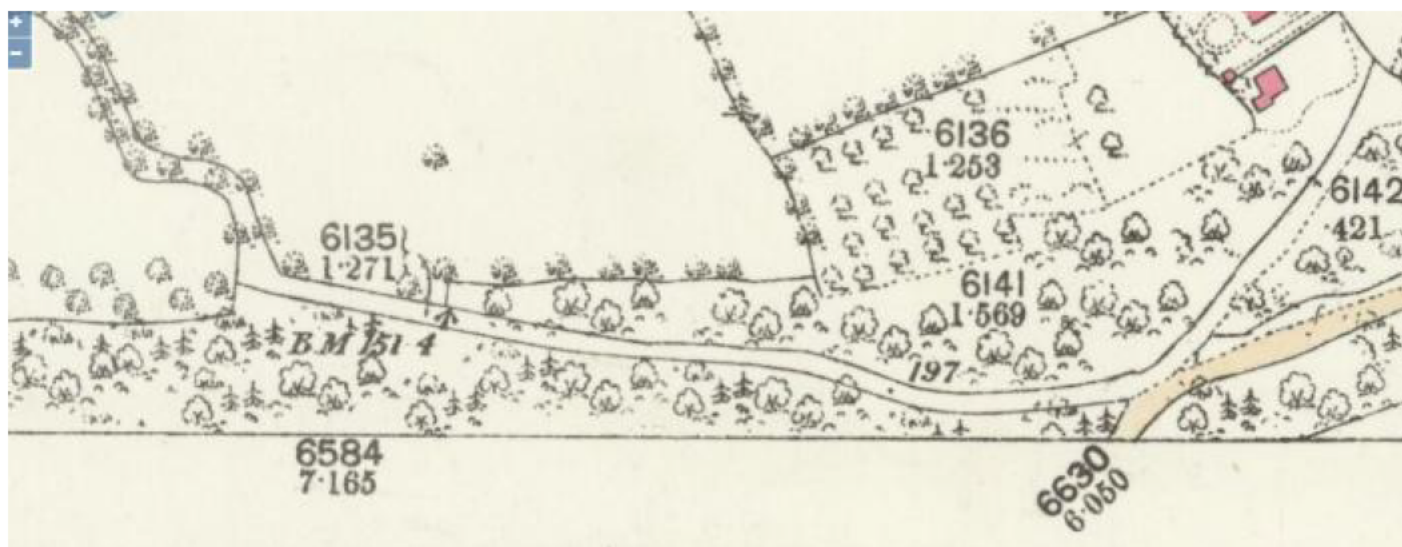


Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Western Section Plot 6135



Eastern Section Plot 6135



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

Clearly shown as a road



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

Clearly shown as a road



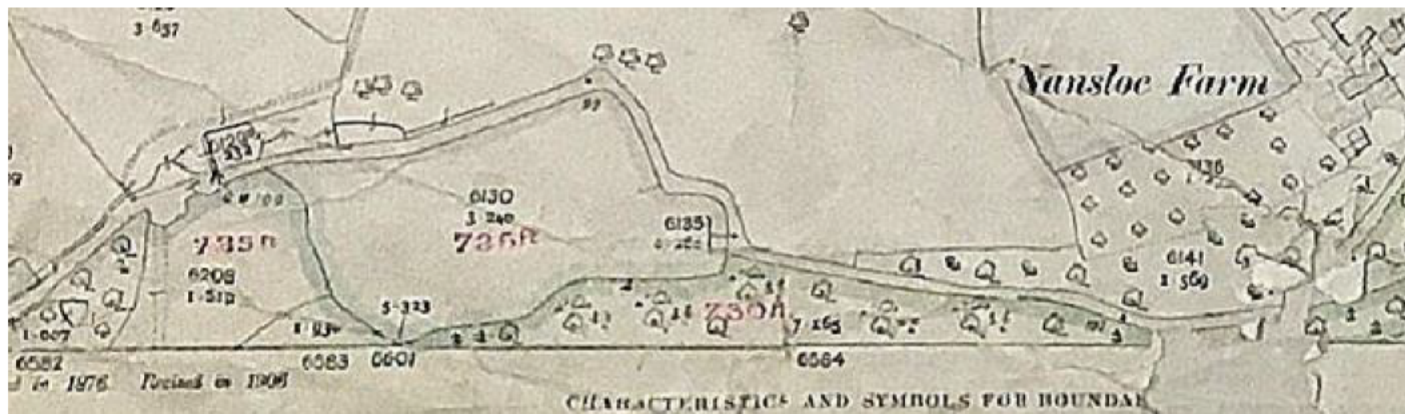
Johnston's Motoring Touring maps of England and Wales

Clearly shown as a significant road



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

Hereditaments markings a bit unclear



Tithe Records

All of path is plot 6550



Path is in single plot with current roads plot 6550



Apportionment 6550 'Road' tithe detail not shown

EGLOSDERRY,				2	0	20	0	6	8	0	5	1
6550	Boads											
6551	Lower Ring Field			8	0	25						
6552	Middle Ring Field	Arable		3	0	0						
6553	Higher Ring Field	Pasture		4	2	21						
6554	Higher Gate Field	Pasture		5	3	38						
6555	Lower Gate Field	Arable		3	3	23						
6556	Mowhay Field	Pasture		5	2	13						

Parish Area Books

Wendron Plot 6135 'Road'

6132	3.068	Houses, wood, gar-	6183	.635	Houses, gardens, &c.
		dens, &c.	6184	1.884	Arable.
6133	2.167	Pasture, &c.	6185	.276	Road.
6134	3.365	Pasture.	6186	1.070	Arable.
6135	1.271	Road.	6187	2.393	Arable.
6136	1.253	Orchard, garden, &c.	6188	2.991	Arable.
6137	.501	Road.	6189	3.150	Pasture.
6138	6.187	Pasture.	6190	8.374	Rough pasture.
6139	.228	Orchard.	6191	2.894	Pasture.
6140	1.624	Houses, yards, &c.	6192	1.478	Pasture.

APPENDIX II - Evidence Sources

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

National Library of Scotland/Vision of Britain on-line maps.

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

National Library of Scotland or old-maps.co.uk on-line maps.

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

National Library of Scotland on-line maps.

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

National Library of Scotland on-line maps.

Johnston's Motoring Touring maps of England and Wales

Scanned paper copy British Horse Society.

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

Photographed at National Archive - British Horse Society.

Tithe Records

Cornwall Record Office, CD copies.

Parish Area Books

National Archive --scanned Google/British Horse Society.