



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: Filtrick Lane U6041 Gridref: SW68473872

to: Loscombe Road C0103 Gridref: SW68873884

(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

.....  
.....  
.....  
.....  
.....  
.....

Signed: .....

A black rectangular box redacting the signature.

Dated: .....

5 November 2019

# Application Details

Our Path Reference: 205/R04 Grid Reference: SW686388

Parish: Carn-Brea

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at Filtrick Lane U6041 SW68473872 and ends at Loscombe Road C0103 SW68873884

Path is an old hedged lane - unsealed surface

Current Recorded Status:

Path is recorded on the Definitive Map

Path is recorded as Footpath on the Definitive Map.

Status being applied for: Restricted Byway

Notes:

Path is not obstructed.

Path is walked and ridden.

Our Path Reference: 205/R04 Grid Reference: SW686388

Path starts at Filtrick Lane U6041 SW68473872 and ends at Loscombe Road C0103 SW68873884

## 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 352 - 1896 - Path is clearly shown as road in common with current county roads

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

Cornwall LXIII.15 1880 - Path is clearly shown as a road or lane with no gates, plot no. 4067

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

Cornwall LXIII.SE Surveyed: 1878 Published: 1888 Path is shown clearly as road in common with current 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 37 - Cornwall Publication date: 1903 Path is clearly identifiable and shown as Road.

#### Geographia 2 inch Road Map

These half-inch to the mile maps were produced for use by motorists. These maps were popular and influential.

On this 1930s Path is clearly identifiable and shown as Road. Quote: 'This beautifully coloured series of Road Maps are indispensable to the Tourist or Business Man, whose destination is off the main road, as in addition to the first and second class roads being prominently indicated, other roads and tracks are very clearly shown'.

### 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.

128/5/759 IR 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.

Illogan map 1/11 parcel 415 App p26 Parish Roads, Waste, &c. No owner, occupier or tithe.

## Parish Area Books

Illogan Plot no 4067 is described as 'Road'.

## 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 plots either side are all registered.

## 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 as a plot listed under 'Roads and Wastes' in same plot as other county roads.

The OS 25 inch map showing the road as a separate plot as Road indicates the significance of the route. Further the old lane is depicted as having no gates to otherwise hinder or discourage usage by 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 combination of the evidence from Old Maps, Inland Revenue map 1910, Tithe and Area Book gives exceptionally 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

Entrance off Filtrick Lane



Exit onto Loscombe Road



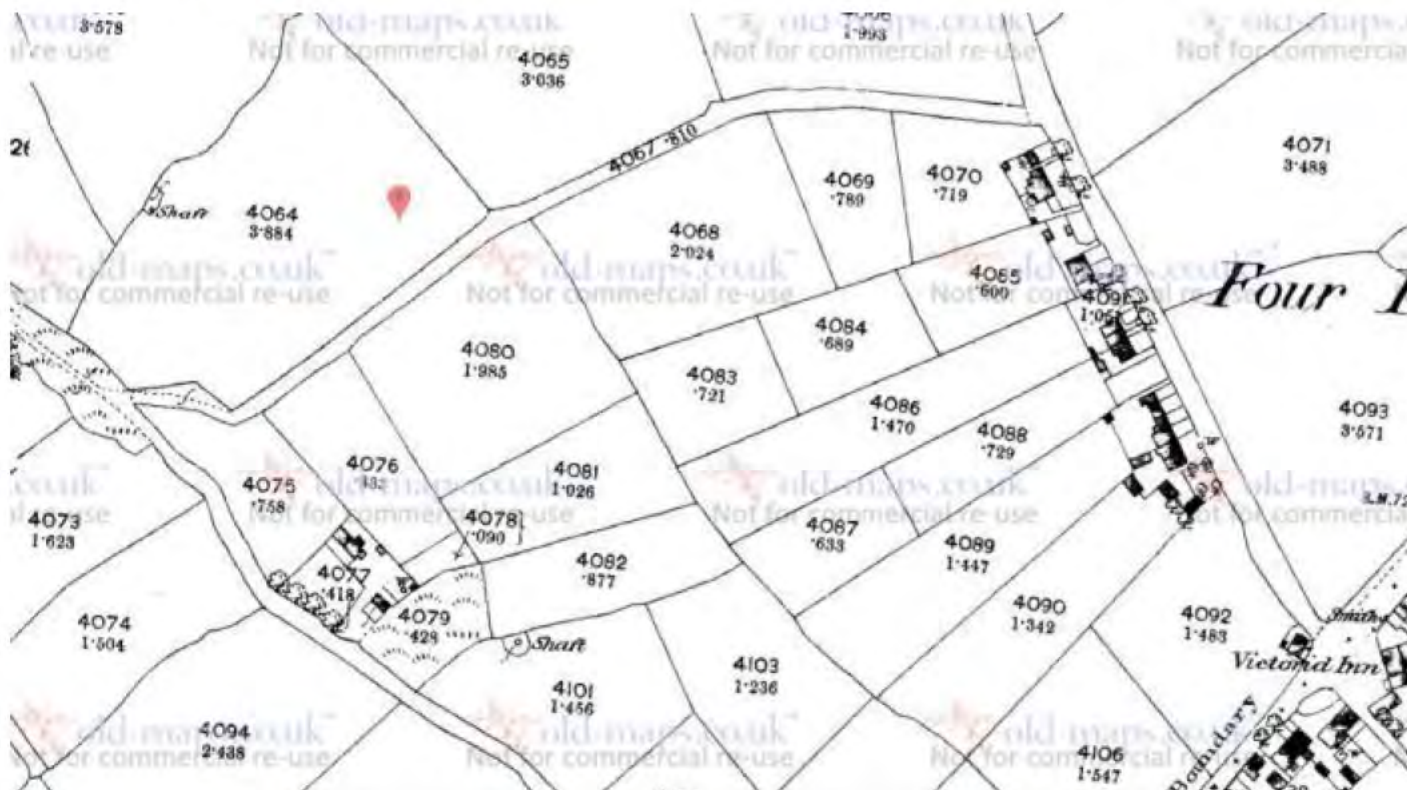
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

Clearly shown as a road



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

Path shown as plot 4067



## 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



Geographia 2 inch Road Map

Clearly shown as a road



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

Path is excluded from hereditaments



## Tithe Records

Plot 415 same plot as other county roads



Plot 415 Parish Roads and Waste

437 <sup>1</sup> / <sub>2</sub> House & Land Iregga	2	3	17	1	1	
438 Land Iregga Hills	11		27		15	
439 Houses and Gardens Bertreath	3		26			
440 Bertreath Cole Yard &c	22	3	15			
415 Parish Woods Wastes &c	43		21			
	4190	37	350	19	9	

## Land Ownership

LR polygons - Registered land in purple



LR 'Inspire' Map



## 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.

### Geographia 2 inch Road Map

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.