



Our Ref: 101/D

Cornwall Council

Natural Environment **FORM 1**

17 JUN 2019

**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** .....

**of** .....

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: Junction of unrecorded ways Gridref: SW59764102 .....

to: County Road 'Gwithian Road' Gridref: SW60003974 .....

**(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 .....

.....

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: .....

6 June 2019

# Documentary Evidence

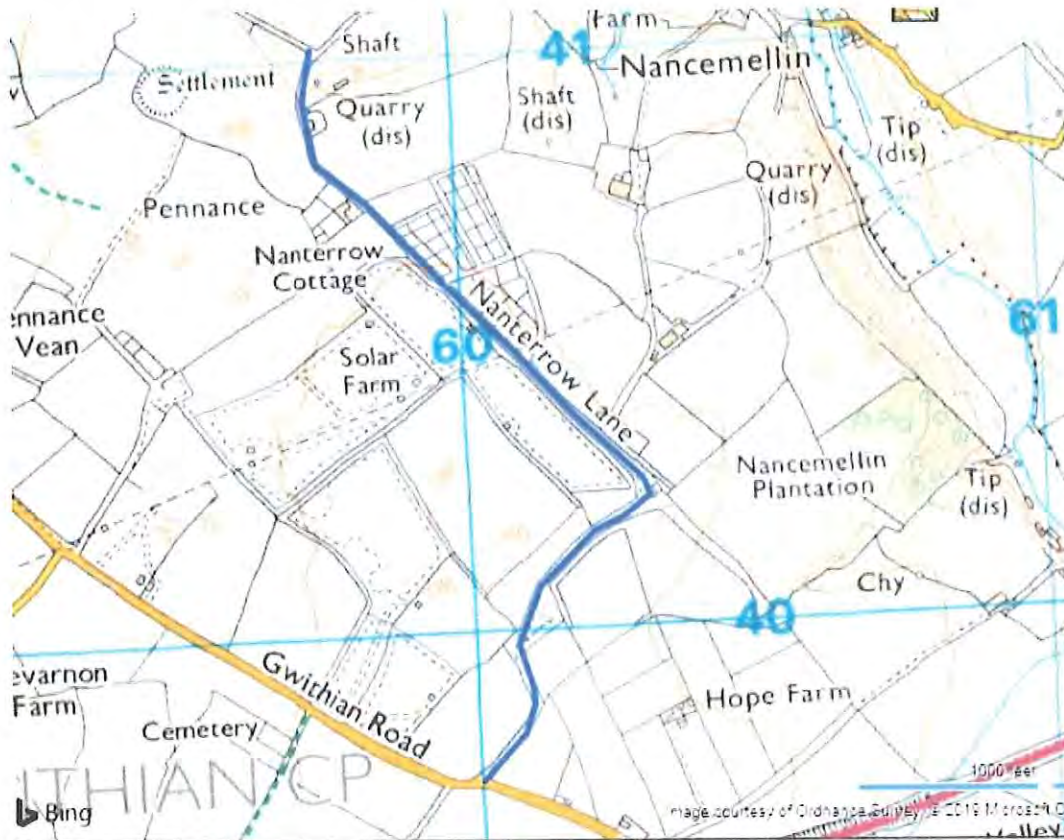
**Our Path Reference:** 101/D

**Grid Reference:** SW603402

**Parish:** Gwinear-Gwithian

## Map of Path:

Claimed route shown in blue.



## Description of Path:

Path starts at Junction of unrecorded ways SW59764102 and ends at County Road 'Gwithian Road' SW60003974

Unsealed vehicular track 'Nanterrow Lane'

## Current Recorded Status:

Path is not recorded on the Definitive Map

**Status being claimed:** Restricted Byway

## Notes:

Path is not believed to be obstructed. Path is believed to be walked

Path is believed to be cycled

Path is believed to be used by motors

Connects at northern end to junction of two unrecorded paths, our ref dmmo applications 101/B and 101/C.

## **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 351 - 1896 Path is clearly shown as road in common with current county roads

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

Cornwall LXII.11 Surveyed: 1876 All of path shown as plot 254.

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

Cornwall LXII.SE Surveyed: 1877 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.

Path is shown as Road.

### **Johnston's Motoring Touring maps of England and Wales**

Path is 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, 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.

IR 128/5/739 - Shows path as white between hereditaments or passing through a gap in the coloured boundary from an excluded section signifying that that section is also excluded as being continuation of the exclusion. This 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.



Gwithian Plots 555 p20 'Lanes and Waste', 215 p18 'Lanes and Waste', 532 p18 'Waste on Nanterrow Common', 139a p3 'Lane'. ALL are no tithes payable.

### **Parish Area Books**

Gwithian - Plot no 254 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 for most of its length.

### **Summary and Statement of Reasons:**

The Inland Revenue map shows all this named road as excluded from the adjacent hereditaments. This is very good evidence that it was excluded as being a public road. The Tithe map shows the path as plots listed as Roads, Lanes, Waste, all with no tithes payable. The Area Book lists it as 'Road'. The combination of the evidence from Old Maps, Inland Revenue map 1910 and Tithe Map gives very strong indication that the path is highway and now should be recorded with Restricted Byway Status. The Land Registry shows the path is excluded from registration re-enforcing this conclusion.

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 on to Gwithian Road



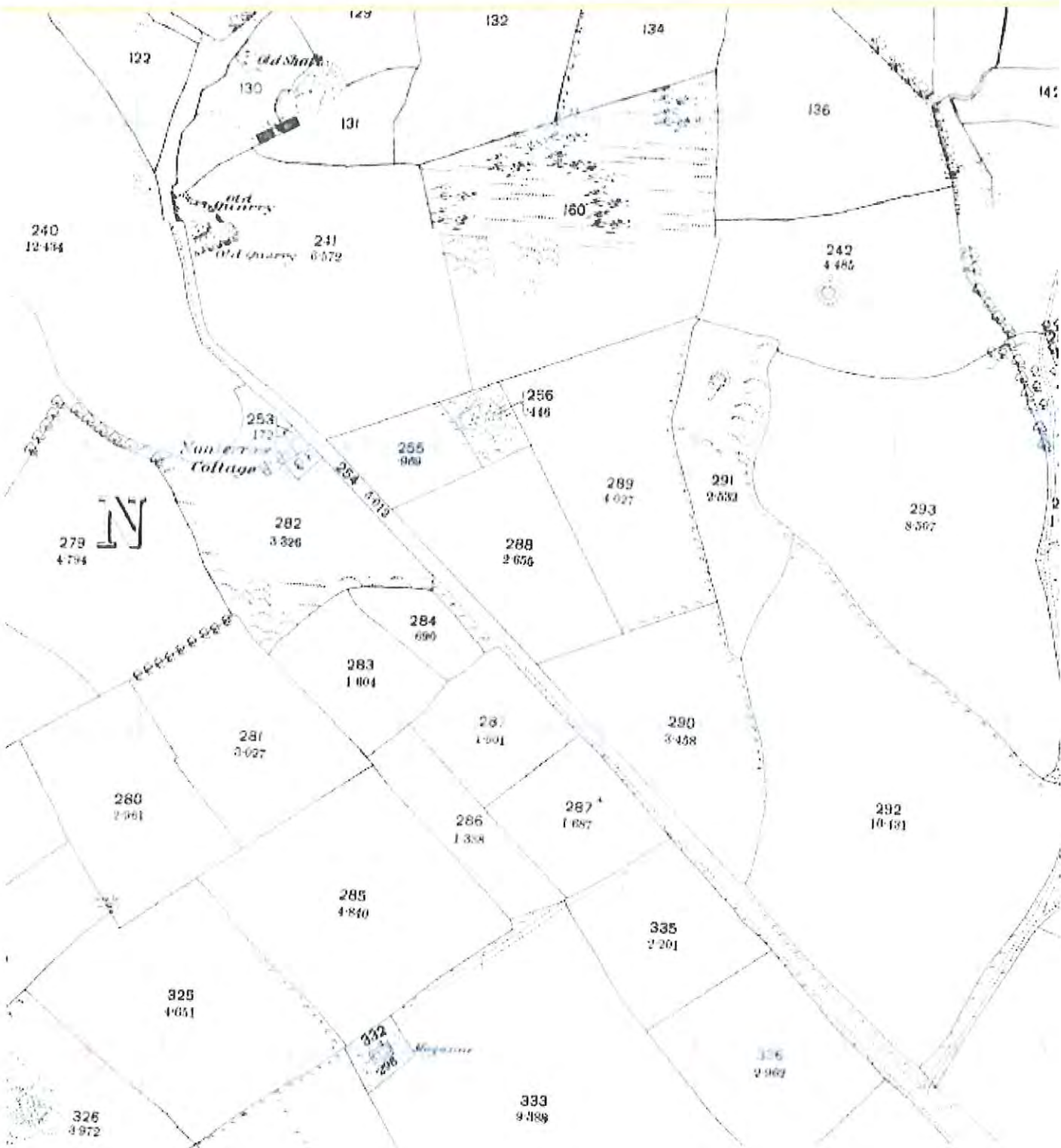
**OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913**

Shown clearly in similar style to other roads

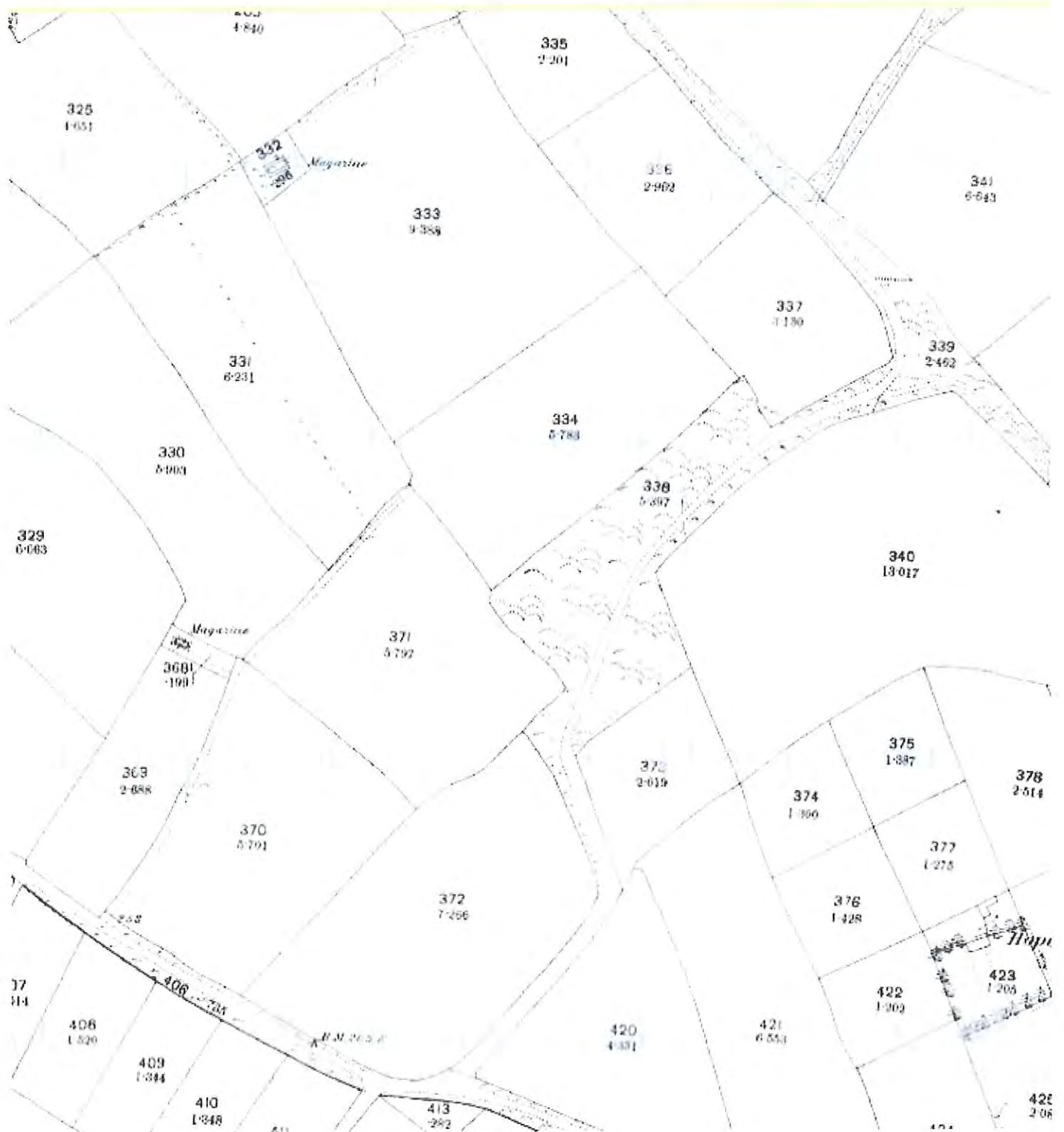


Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Plot 254



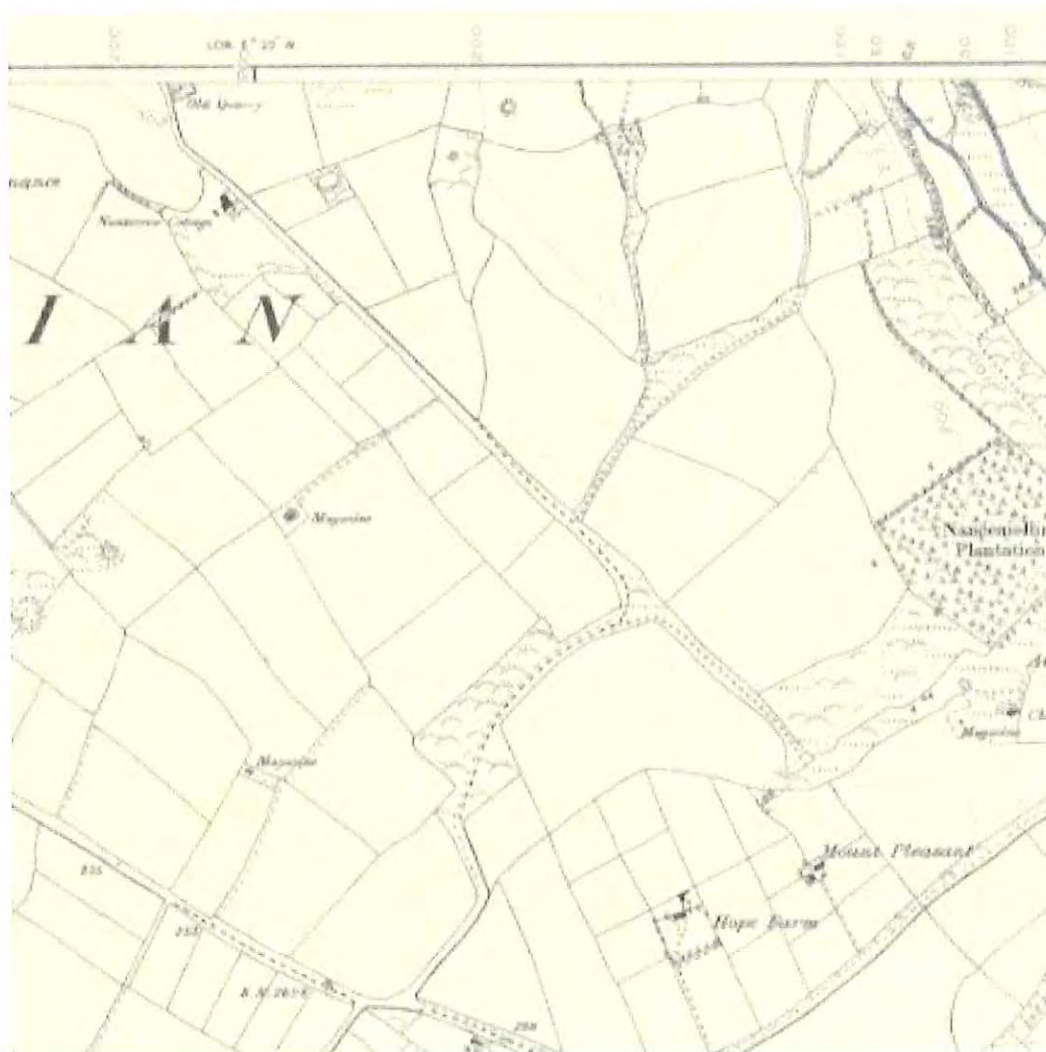
Plot extends through to Gwinear Road





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

Clearly shown as road



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



Johnston's Motoring Touring maps of England and Wales

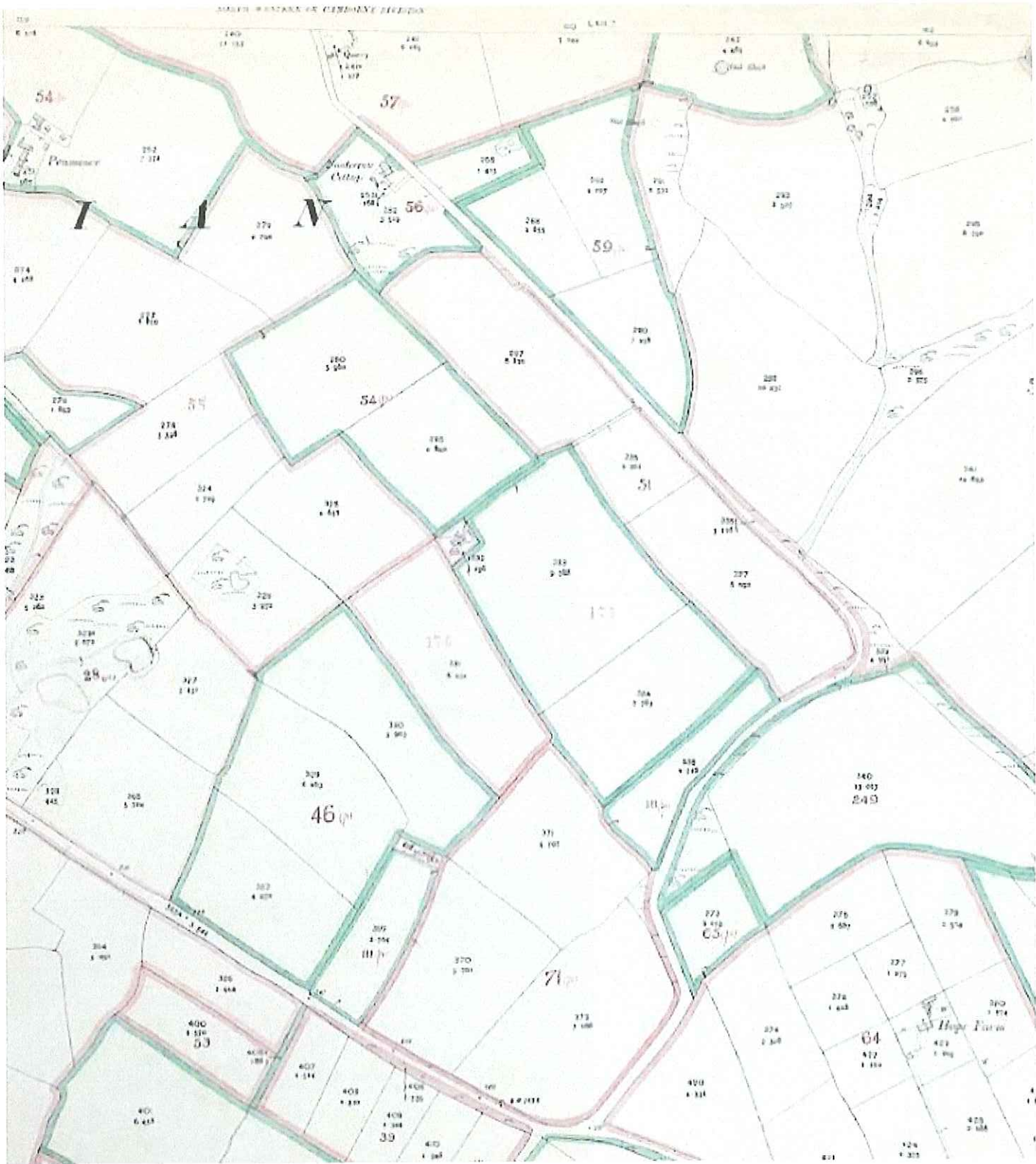
Clearly shown as road





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

All path is excluded from hereditaments or passes through break in boundary



# Tithe Records

Plots 532,139a





|      |                     | A. | B. | C. | D. | E. | F. | G. | H. | I. | J. |
|------|---------------------|----|----|----|----|----|----|----|----|----|----|
| 1260 | Common              | 21 | 3  | 14 |    |    |    |    |    |    |    |
| 1920 | Half of Lane        |    |    | 25 |    |    |    |    |    |    |    |
| 1920 | Lane                |    |    | 38 |    |    |    |    |    |    |    |
| 660  | Green Lane          | 1  |    | 1  |    |    |    |    |    |    |    |
| 1010 | Lane                |    | 7  | 7  |    |    |    |    |    |    |    |
| 700  | Lane                |    |    | 1  |    |    |    |    |    |    |    |
| 790  | Lane                |    |    | 20 |    |    |    |    |    |    |    |
| 1390 | Lane                |    | 3  | 1  |    |    |    |    |    |    |    |
| 1270 | Lane                |    | 1  | 1  |    |    |    |    |    |    |    |
| 1130 | Lane and Town place |    | 1  | 22 |    |    |    |    |    |    |    |
|      |                     | 21 | 2  | 5  |    |    |    |    |    |    |    |

Plots 555, 532 and 215

| <u>Connerton Tourns</u> |                            |  |  |    |   |    |  |  |  |
|-------------------------|----------------------------|--|--|----|---|----|--|--|--|
| 554                     | Waste on Connerton Tourns. |  |  | 37 | 1 | 9  |  |  |  |
| 555                     | Land & Waste               |  |  | 7  |   | 35 |  |  |  |
| 556                     | Half of Land & Waste       |  |  |    |   | 26 |  |  |  |
|                         |                            |  |  | 44 | 3 | 30 |  |  |  |

|      |                         |  |  |    |   |    |  |  |  |
|------|-------------------------|--|--|----|---|----|--|--|--|
| 532  | Waste on Sinterroulemon |  |  | 2  | 3 | 19 |  |  |  |
| 532a | do on Trivarnen & Her   |  |  | 7  | 3 | 11 |  |  |  |
| 215  | Land and Waste          |  |  | 5  | 1 | 15 |  |  |  |
|      |                         |  |  | 14 |   | 45 |  |  |  |

## Parish Area Books

Plot 254

|     |         |                            |     |       |                             |
|-----|---------|----------------------------|-----|-------|-----------------------------|
| 200 | 6.008   | Arable, &c.                | 245 | 1.404 | Pasture, &c.                |
| 201 | 2.953   | Arable, refuse, &c.        | 246 | .879  | Rough pasture, &c.          |
| 202 | 280.330 | Houses, rough pasture, &c. | 247 | 5.062 | Arable.                     |
| 203 | .376    | Rough pasture.             | 248 | .202  | Orchard.                    |
| 204 | 4.785   | Pasture, &c.               | 249 | 4.486 | Arable, &c.                 |
| 205 | .796    | Pasture.                   | 250 | 3.670 | Arable, &c.                 |
| 206 | 3.528   | Pasture, &c.               | 251 | .823  | Houses, yards, pasture, &c. |
| 207 | 2.652   | Pasture, &c.               | 252 | 7.124 | Arable.                     |
| 208 | 1.241   | Arable.                    | 253 | .172  | Houses, garden, &c.         |
| 209 | 3.499   | Pasture, &c.               | 254 | 5.012 | Road.                       |
| 210 | 1.312   | Pasture.                   | 255 | .969  | Arable.                     |
| 211 | 1.346   | Arable.                    | 256 | .446  | Refuse, &c.                 |
| 212 | 3.056   | Arable, &c.                | 257 | .108  | Wood.                       |

## **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**

Old-Maps.co.uk

### **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.