



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: Unrecorded Lane (Our ref 318/R34) Gridref: SW71344615

to: Bridleway 318/46 Gridref: SW71554634

(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: 19 August 2019

Application Details

Our Path Reference: 318/R58

Grid Reference: SW714462

Parish: St Agnes

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at Unrecorded Lane (Our ref 318/R34) SW71344615 and ends at Bridleway 318/46 SW71554634

Old Hedged 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.
Path is walked, ridden and cycled.

Connects to unrecorded lane subject to a separate DMMO Application our ref 318/R34

Our Path Reference: 318/R58 Grid Reference: SW714462
Path starts at Unrecorded Lane (Our ref 318/R34) SW71344615 and ends at Bridleway 318/46 SW71554634

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 a road.

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

LVI.12 1880, 1907 clearly shown, same parcel as bridleway to the east and therefore probably the same character, no gates.

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

Sheet 352 1896 - Path is clearly shown as a road in common with current bridleway

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

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.

Not shown on any editions.

Martyns Map

Not 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, 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.

IR128/5/666 clearly excluded from hereditaments

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.

St Agnes map 14, clearly shown but not coloured. Probably parcel 5113, App p78, Roads, Commons and Wastes in Gooncare, no owner, occupier or tithe payable. Very Good evidence.

Parish Area Books

Not available/no plot descriptions.

Handover Maps 1929 Act

Not shown.

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.

Land Register, no registered owner despite adjoining land registered (Apr 2019). Indicative of ancient highway.

Summary and Statement of Reasons:

The Finance Act 1910 map gives very good evidence of a public road. The Tithe map shows the path as part of plot listed under 'Roads and Wastes' confirming this conclusion. Old OS maps indicate that the route has existed for a long period of time and the public are unlikely to have been excluded. The exclusion of the old lane from all adjacent Land Registry registrations is indicative of ancient highway. 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.

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

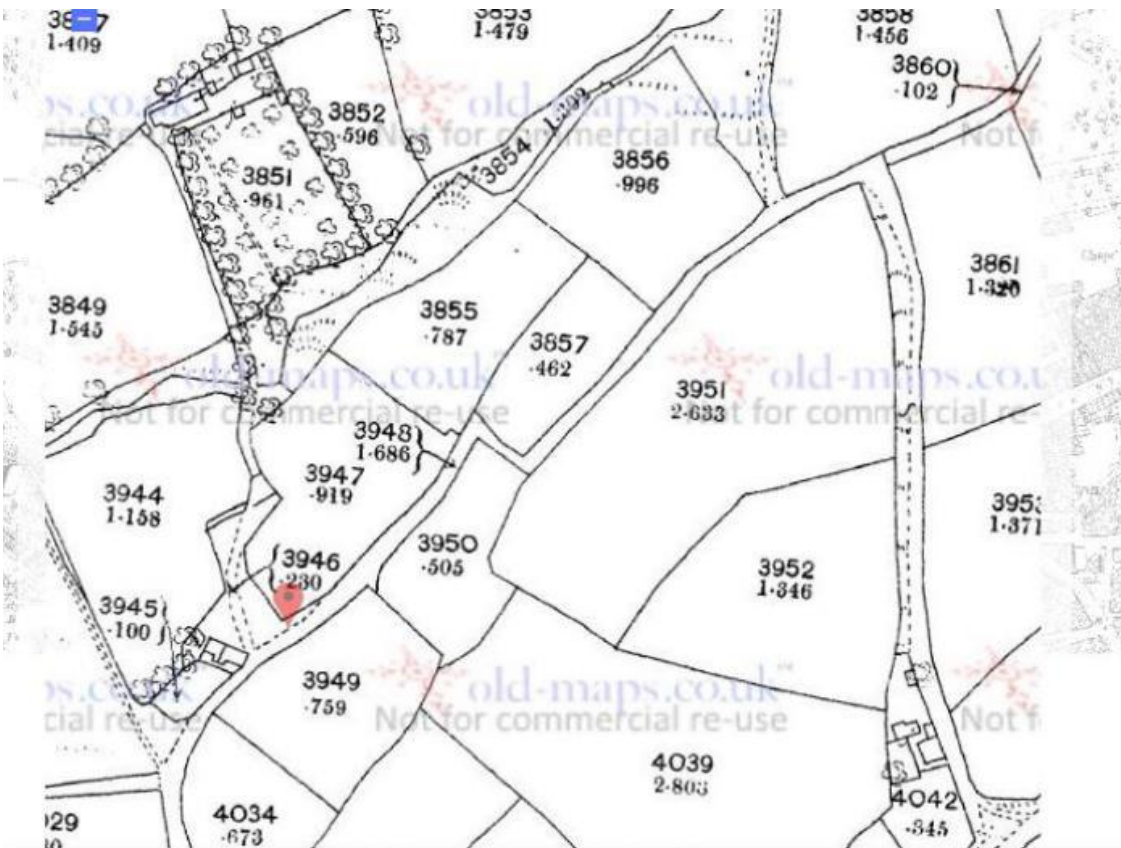
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

Shown clearly as a road



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

1880 Map



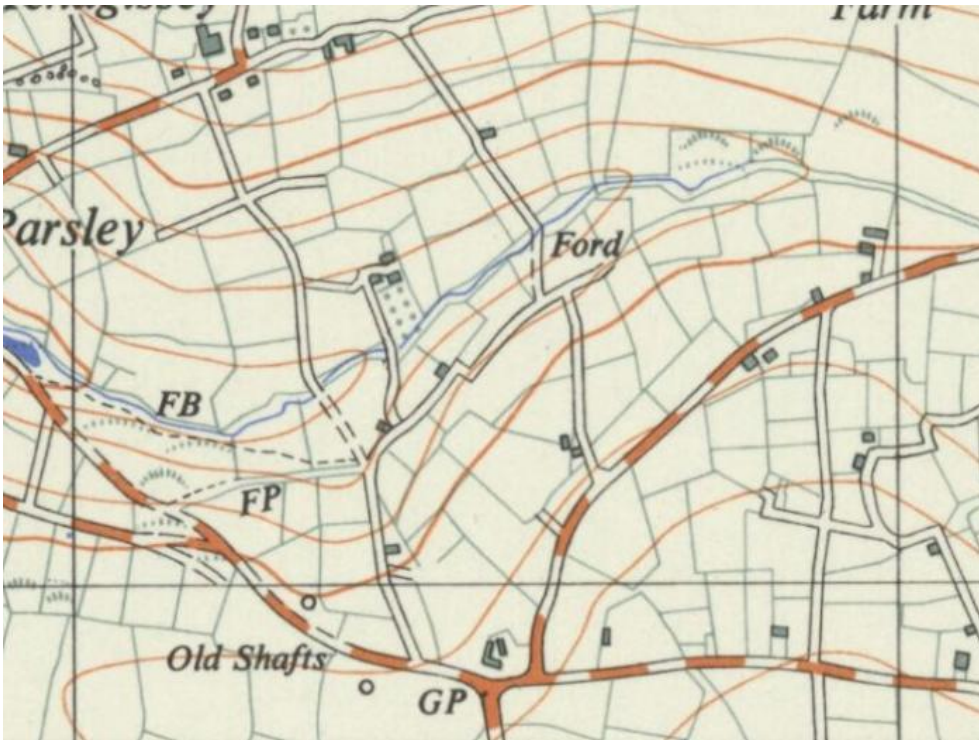
OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Shown clearly as a road



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

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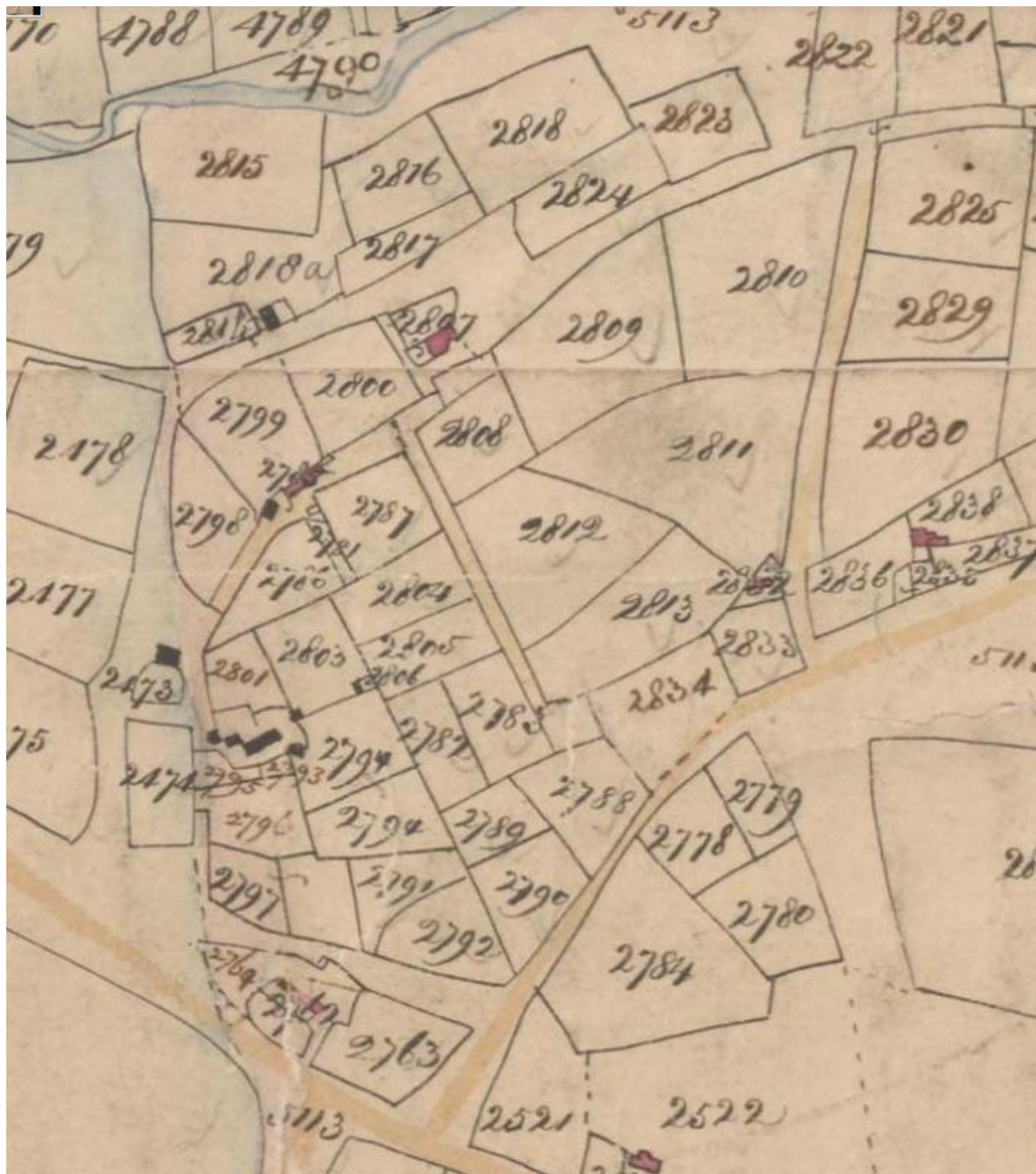
Inland Revenue Valuation Records - Finance (1908-10) Act 1910

All of path excluded from hereditaments



Tithe Records

Shown as part of plot 5113



Plot 5113 under Roads and Wastes

	COMMONS, ROADS, AND WASTES.	A.	R.	P.
5109	Common and Roads in Mithian, ..	369	0	0
5110	Common and Roads in Trevellas, ..	267	0	26
5111	Common and Roads in Goonlaze, ..	261	2	34
5112	Prince's Common,	673	1	32
5113	Roads, Common, and Wastes } in Goonlaze, }	374	0	0
5117	Roads and Wastes in Lower } Trenithick, }	3	3	5
5114	Goosegarra Common,	31	0	20
5115	Geyer Common,	49	2	19
5116	Roads & Wastes at Mount Hawke, ..	11	1	23
5118	Commons, Roads, and Wastes } in Mingoose, }	220	1	9

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.

Martyns Map

Martyns Map online at Harvard University.

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.

Handover Maps 1929 Act

Cornwall Council photographed copies.