



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 U6056 Gridref: SW71194662

to: Bridleway 318/46 Gridref: SW71394667

(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

Our Path Reference: 318/P Grid Reference: SW712466
Path starts at County Road U6056 SW71194662 and ends at Bridleway 318/46 SW71394667

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

Truro 1813 not shown. Sheet 352 - Falmouth (Hills) Publication date: 1907 Shown together with north connection.

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

LVI.8, 12 1880, 1907 clearly shown, part same parcel 2552 as present road to the west indicating the same character. 1880 2 gates, 1907 1 gate.

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.

Sht 37, 1903, 1922, 1944 shown as part of and contiguous with BW46

Johnston's Motoring Touring maps of England and Wales

Not shown.

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 path is 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 10, clearly shown coloured brown, parcel 5121. Apportionment p78 5121 Commons, Roads and Wastes in Menagissey.

Parish Area Books

Not available/no plot descriptions.

Other Evidence:

Definitive Map Records

Path is joined by bridleway 318/46 clearly refers to the path as a ROAD. Bridleway would only have been joined from a Highway when map was drawn.

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 Inland Revenue map shows all the road excluded from the adjacent hereditaments. This is very good evidence that it was excluded because it was a public road. The Tithe map shows the path as a plot listed under 'Roads and Wastes'. 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 Land Registry shows all the path is registered, but it should be noted that all adjoining bridleway and byways are also registered.

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.

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

Clearly shown as a road included in plot 3552



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

Clearly shown as a road including BW46



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

Path shown uncoloured between hereditaments



Tithe Records

Plot 5121



Apportionments Plot 5121

COMMONS, ROADS, AND WASTES.			
5109	Common and Roads in Mithian, .	360	0 0
5110	Common and Roads in Trevellas, .	267	0 26
5111	Common and Roads in Goonlaze, .	251	2 34
5112	Prince's Common,	673	1 32
5113	Roads, Common, and Wastes { in Gooncare, }	374	0 0
5117	Roads and Wastes in Lower { Trenithick, }	3	3 5
5114	Goosegarra Common,	81	0 20
5115	Gover Common,	40	2 19
5116	Roads & Wastes at Mount Hawke, .	11	1 20
5118	Commons, Roads, and Wastes { in Mingoose, }	220	1 9
5119	Roads and Wastes in Banns,	9	2 14
5120	Roads through Croft Prince,	15	1 0
5121	Commons, Roads, and Wastes { in Menegissey, }	108	0 24
5122	Commons, Roads, and Wastes { in Trevissick, }	100	0 3
5123	Commons, Roads, and Wastes { in Towan, }	204	3 2
5124	Roads and Wastes in Mawla,	3	3 33
5125	Common at Stencoose,	27	3 6

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.

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.

Definitive Map Records

Cornwall County Council