B	ur Ref: 318/R40	FORM
	Cornwall Council	
COUNCIL	FORM OF APPLICATION FOR MODIFICATION ORDER	
COONCIL	Wildlife and Countryside Act 1981	
Definitive Map	o and Statement for the former District / Borough* of Penwith / Ke Restormel / North Cornwall / Caradon*	rrier / Carrick /
To: Cornwall Counc	cil	
of: New County Ha	all, Treyew Road, Truro TR1 3AY	
I/We	ritish Horse Society	
of		
	Order under section 53(2) of the Wildlife and Countryside Act 1981 statement for the area by:	modifying the
(a) Deleting the <i>foot</i>	otpath / bridleway / restricted byway / byway open to all traffic*	
from:	Grid Ref	
to:	Grid Ref	
(h) adding Restrict	ted Byway	
(b) Adding Restricte		
(b) Hereing	oad C0372 Gridref: SW70814713	
from: County Roa	oad C0372 Gridref: SW70814713 oad U6056 Gridref: SW71274698	
from: <u>County Roa</u> to: <u>County Roa</u>		
from: <u>County Roa</u> to: <u>County Roa</u> (c) Upgrading to a		
from: <u>County Roa</u> to: <u>County Roa</u> to: <u>County Roa</u> (c) Upgrading to a from:	oad U6056 Gridref: SW71274698	
(c) Upgrading to a from: <u>County Roa</u> to: <u>County Roa</u> (c) Upgrading to a from: <u></u> to: <u></u>	oad U6056 Gridref: SW71274698	
(c) Upgrading to a from: <u>County Roa</u> to: <u>County Roa</u> (c) Upgrading to a from: <u></u> to: <u></u> (d) Varying /adding all traffic *	oad U6056 Gridref: SW71274698	ay/byway open to
(c) Upgrading to a from: <u>County Roa</u> to: <u>County Roa</u> (c) Upgrading to a from: <u></u> to: <u></u> (d) Varying /adding all traffic * from: <u></u>	ad U6056 Gridref: SW71274698	ay/byway open to
 (c) Plating from: <u>County Roa</u>to: <u>County Roa</u>to: <u>County Roa</u> (c) Upgrading to a from: <u>County Roa</u>to (d) Varying /adding all traffic * from: <u>County Roa</u>to 	ad U6056 Gridref: SW71274698 g to the particulars relating to the <i>footpath/bridleway/restricted byw</i> Grid Ref	ay/byway open to
 (c) Preading from: <u>County Roa</u>to: <u>County Roa</u>to: <u>County Roa</u>to: <u>County Roa</u> (c) Upgrading to a from: <u>County Roa</u>to: <u>County Roa</u>to (d) Upgrading / adding <i>all traffic *</i> from: <u>County Roa</u>to from: <u>County Roa</u>to 	pad U6056 Gridref: SW71274698 g to the particulars relating to the <i>footpath/bridleway/restricted byw</i> Grid Ref	ay/byway open to

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

DOCUMENTARY EVIDENC	E ATTACHED
Signed:	Dated: 20 Augurt 2019

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, mostly unenclosed moor. Sheet 352 - 1896 - Path is clearly shown as a road.

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

LVI.7, 8 1880, 1907 clearly shown as a road, no gates.

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

Cornwall LVI.NE Surveyed: 1878 to 1879 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.

Not shown on any edition.

Johnston's Motoring Touring maps of England and Wales

Not shown.

<u>Martyns Map</u>

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.

IR128/5/661, 662 uncoloured, clearly excluded from hereditaments, good evidence of 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.

St Agnes maps 9, 10 east end coloured brown, part of parcel 5116. Remainder not shown, part of huge area of common, parcel 5121, where roads and paths have not been mapped. Apportionment p78, 5116 Roads and Wastes at Mount Hawke, leading to 5121 Commons Roads and Wastes in Menegissey, no owner, occupier or tithe payable. Good evidence.

Parish Area Books

Not available/no plot descriptions.

Handover Maps 1929 Act

St Agnes1, 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.

The Land Registry shows that no part of the path is registered. Some plots on both sides are registered excluding the path.

Summary and Statement of Reasons:

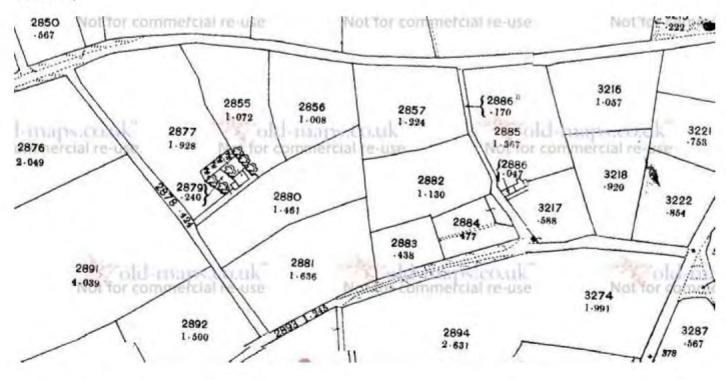
The Inland Revenue map shows all the road excluded from the adjacent hereditaments. This is very good evidence that it was excluded because it was a public road. The tithe evidence is that the east end was regarded as a public road but does not show the west part, which was all common and no doubt had public access (no tithes charged). The Ordnance Survey maps show that by 1880 it was an enclosed lane with no gates, suggesting that it was used by the public. The Land Registry shows the path is currently excluded from registration supporting this conclusion.

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





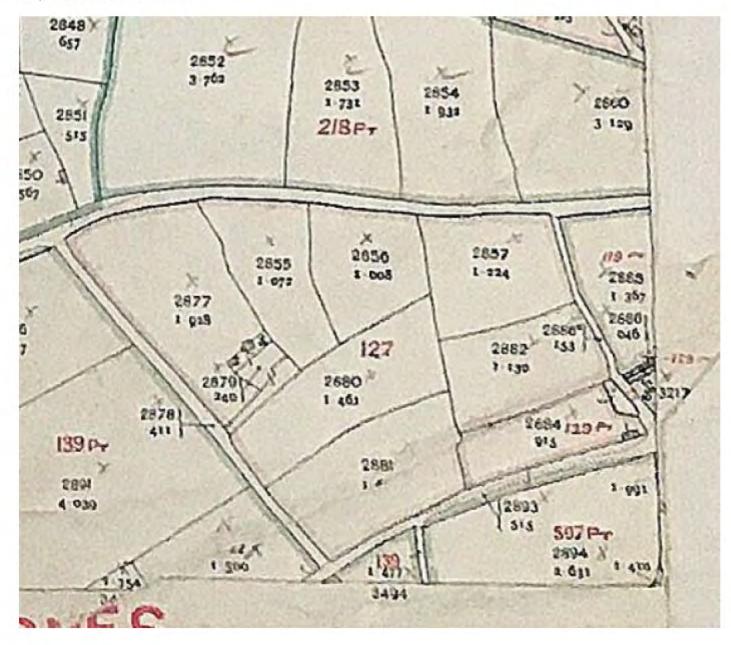
OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Clearly shown as a road

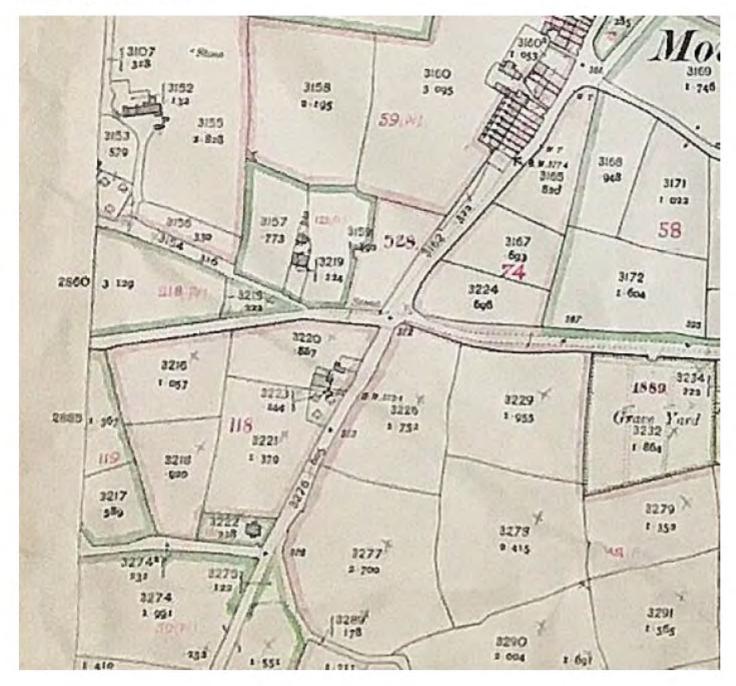


Inland Revenue Valuation Records - Finance (1908-10) Act 1910

Map 661 Western Section



Map 663 Eastern Section



Tithe Records

Part of plot 5116

4.670 a

5116 Roads and Wastes at Mount Hawke and 5121 Commons Roads and Wastes in Menegissey

the second s		1784	43.2	**	
	COMMONS, BOADS, AND				
	WASTES.				
5109	Common and Roads in Mithian, .	360	0	0	
5110	Common and Roads in Trevellas,.	2037	0	26	
3111	Common and Roads in Goonlaze,.	251	-	34	
5112	Prince's Common,	678	1	32	
5113	Roads, Common, and Wastes (in Guomeares,	374	0	0	
5117	Roads and Wastes in Lower ? Trenithick,	3	3	6	
\$114	Goosegwarra Common,	81	. 0	20	
6115	Gover Common,	40		10	
5116	Roads& Wastes at Mount Hawke,	11	I	20	
5118	Commons, Roads, and Wastes J in Mingoose,	220	1	9	
5119	Roads and Wastes in Banns,	57	2	14	
5120	Roads through Croft Prince	15	1	0	
5121	Commons, Roads, and Wastes 7 in Menegissey,	108	0	24	
-5122	Commons, Roads, and Wastes (in Trevissick,	100	o	8	
5123	Commons, Roads, and Wastes / in Towan,	204	I	2	
5124	Ruads and Wastes in Mawla	3	3	38	
6125	Common at Stencoose,	27	3	0	1 1 -

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.