



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 C0372 Gridref: SW70814713

to: County Road U6056 Gridref: SW71274698

(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:

20 August 2019

Our Path Reference: 318/R40 Grid Reference: SW710469
Path starts at County Road C0372 SW70814713 and ends at County Road U6056 SW71274698

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.

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.

IR128/5/661, 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

1880 Map



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



This is a detailed street map of a residential neighborhood in Minneapolis, Minnesota. The map shows a grid of streets with property lots and addresses. Key features include:

- Streets:** The map shows a grid of streets, including 59th St, 58th St, and 57th St. Other streets shown include 31st St, 32nd St, 33rd St, 34th St, 35th St, 36th St, 37th St, 38th St, 39th St, 40th St, 41st St, 42nd St, 43rd St, 44th St, 45th St, 46th St, 47th St, 48th St, 49th St, 50th St, 51st St, 52nd St, 53rd St, 54th St, 55th St, 56th St, 57th St, 58th St, 59th St, 60th St, 61st St, 62nd St, 63rd St, 64th St, 65th St, 66th St, 67th St, 68th St, 69th St, 70th St, 71st St, 72nd St, 73rd St, 74th St, 75th St, 76th St, 77th St, 78th St, 79th St, 80th St, 81st St, 82nd St, 83rd St, 84th St, 85th St, 86th St, 87th St, 88th St, 89th St, 90th St, 91st St, 92nd St, 93rd St, 94th St, 95th St, 96th St, 97th St, 98th St, 99th St, 100th St.
- Property Lots:** The map shows numerous property lots, each with a lot number and an address. For example, lot 3107 has address 318, lot 3152 has address 318, lot 3153 has address 318, lot 3154 has address 318, lot 3155 has address 318, lot 3156 has address 318, lot 3157 has address 318, lot 3158 has address 318, lot 3159 has address 318, lot 3160 has address 318, lot 3161 has address 318, lot 3162 has address 318, lot 3163 has address 318, lot 3164 has address 318, lot 3165 has address 318, lot 3166 has address 318, lot 3167 has address 318, lot 3168 has address 318, lot 3169 has address 318, lot 3170 has address 318, lot 3171 has address 318, lot 3172 has address 318, lot 3173 has address 318, lot 3174 has address 318, lot 3175 has address 318, lot 3176 has address 318, lot 3177 has address 318, lot 3178 has address 318, lot 3179 has address 318, lot 3180 has address 318, lot 3181 has address 318, lot 3182 has address 318, lot 3183 has address 318, lot 3184 has address 318, lot 3185 has address 318, lot 3186 has address 318, lot 3187 has address 318, lot 3188 has address 318, lot 3189 has address 318, lot 3190 has address 318, lot 3191 has address 318, lot 3192 has address 318, lot 3193 has address 318, lot 3194 has address 318, lot 3195 has address 318, lot 3196 has address 318, lot 3197 has address 318, lot 3198 has address 318, lot 3199 has address 318, lot 3200 has address 318, lot 3201 has address 318, lot 3202 has address 318, lot 3203 has address 318, lot 3204 has address 318, lot 3205 has address 318, lot 3206 has address 318, lot 3207 has address 318, lot 3208 has address 318, lot 3209 has address 318, lot 3210 has address 318, lot 3211 has address 318, lot 3212 has address 318, lot 3213 has address 318, lot 3214 has address 318, lot 3215 has address 318, lot 3216 has address 318, lot 3217 has address 318, lot 3218 has address 318, lot 3219 has address 318, lot 3220 has address 318, lot 3221 has address 318, lot 3222 has address 318, lot 3223 has address 318, lot 3224 has address 318, lot 3225 has address 318, lot 3226 has address 318, lot 3227 has address 318, lot 3228 has address 318, lot 3229 has address 318, lot 3230 has address 318, lot 3231 has address 318, lot 3232 has address 318, lot 3233 has address 318, lot 3234 has address 318, lot 3235 has address 318, lot 3236 has address 318, lot 3237 has address 318, lot 3238 has address 318, lot 3239 has address 318, lot 3240 has address 318, lot 3241 has address 318, lot 3242 has address 318, lot 3243 has address 318, lot 3244 has address 318, lot 3245 has address 318, lot 3246 has address 318, lot 3247 has address 318, lot 3248 has address 318, lot 3249 has address 318, lot 3250 has address 318, lot 3251 has address 318, lot 3252 has address 318, lot 3253 has address 318, lot 3254 has address 318, lot 3255 has address 318, lot 3256 has address 318, lot 3257 has address 318, lot 3258 has address 318, lot 3259 has address 318, lot 3260 has address 318, lot 3261 has address 318, lot 3262 has address 318, lot 3263 has address 318, lot 3264 has address 318, lot 3265 has address 318, lot 3266 has address 318, lot 3267 has address 318, lot 3268 has address 318, lot 3269 has address 318, lot 3270 has address 318, lot 3271 has address 318, lot 3272 has address 318, lot 3273 has address 318, lot 3274 has address 318, lot 3275 has address 318, lot 3276 has address 318, lot 3277 has address 318, lot 3278 has address 318, lot 3279 has address 318, lot 3280 has address 318, lot 3281 has address 318, lot 3282 has address 318, lot 3283 has address 318, lot 3284 has address 318, lot 3285 has address 318, lot 3286 has address 318, lot 3287 has address 318, lot 3288 has address 318, lot 3289 has address 318, lot 3290 has address 318, lot 3291 has address 318, lot 3292 has address 318, lot 3293 has address 318, lot 3294 has address 318, lot 3295 has address 318, lot 3296 has address 318, lot 3297 has address 318, lot 3298 has address 318, lot 3299 has address 318, lot 3300 has address 318.
- Grave Yard:** A 'Grave Yard' is located in the lower right portion of the map, near lot 3232.
- Other Features:** The map includes various other features such as '59th St', '58th St', '57th St', '56th St', '55th St', '54th St', '53rd St', '52nd St', '51st St', '50th St', '49th St', '48th St', '47th St', '46th St', '45th St', '44th St', '43rd St', '42nd St', '41st St', '40th St', '39th St', '38th St', '37th St', '36th St', '35th St', '34th St', '33rd St', '32nd St', '31st St', '30th St', '29th St', '28th St', '27th St', '26th St', '25th St', '24th St', '23rd St', '22nd St', '21st St', '20th St', '19th St', '18th St', '17th St', '16th St', '15th St', '14th St', '13th St', '12th St', '11th St', '10th St', '9th St', '8th St', '7th St', '6th St', '5th St', '4th St', '3rd St', '2nd St', '1st St', '0th St'.

Tithe Records

Part of plot 5116



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

COMMONS, ROADS, AND WASTES.			
5109	Common and Roads in Mithian, .	369	0 0
5110	Common and Roads in Trevellas, .	267	0 26
5111	Common and Roads in Goonlaze, .	251	2 34
5112	Prince's Common,	678	1 32
5113	Roads, Common, and Wastes { in Goonlaze, }	374	0 0
5117	Roads and Wastes in Lower { Trenithick, }	3	3 6
5114	Goosegarra Common,	81	0 20
5115	Gover Common,	40	2 19
5116	Roads & Wastes at Mount Hawke,	11	1 28
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 Trevisick, }	100	0 3
5123	Commons, Roads, and Wastes { in Towan, }	204	3 2
5124	Roads and Wastes in Mawla,	3	3 38
5125	Common at Stencose,	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.

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.