



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: FP 318/39 Grid Ref: SW71024733

to: County Road C0372 Gridref: SW71274716

(c) **Upgrading to** a Restricted Byway the Footpath

from: Bridleway 34 Gridref: SW70674768

to: Unrecorded Road Grid Ref: SW71024733

(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/R37 Grid Reference: SW710473
Path starts at Bridleway 34 SW70674768 and ends at County Road C0372 SW71274716

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

1813 ed, clearly shown. This is exceptionally good evidence of the route as a significant road. also shown on Sheet 352 1896

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

LVI.7, 8 1880 clearly shown, 2 gates across. 1907 clearly shown, no gates.

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

Cornwall LVI.NE Surveyed: 1878 to 1879 [sht xx yyyy] Path is clearly shown as a road/track

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

10/74 - A Revised: 1906 to 1938; Originally published: 1951; [sht xx yyyy] Path is clearly shown as a road west partly unfenced.

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 Clearly shown as a road in common with bridleways 33 and 34.

Johnston's Motoring Touring maps of England and Wales

Redruth, clearly shown as road

Martyns Map

Road being claimed is clearly identifiable, running from the junction below what is now Mount Hawke. Very supportive evidence

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 hedged track clearly excluded from hereditaments. Unenclosed north west end included in hereditament. Hedged lane, 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 very wide swathe, brown track at east end, parcel 5120. Apportionment p78, Commons, Roads and Wastes, 5120 'Roads through Croft Prince, no owner' , SE end is Plot 5116 'Roads and Wastes in Mount Hawke'. All no occupier or tithe payable. This is very good evidence of public road including current bridleway (also plot 5120).

Parish Area Books

Not available/no plot descriptions

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. Plots on both sides are registered for most of the path to the east - suggestive of ancient highway (Apr 2019)

Summary and Statement of Reasons:

The Inland Revenue map shows major part of route is excluded from the adjacent hereditaments. The Tithe map shows all of the path as plots listed under 'Roads and Wastes'. This is very strong evidence. All the old maps show the route consistently as a road including Martyns map.. This is strong supportive evidence that the route has existed and been in use for a very long time. All the old maps are very consistent in showing the importance of the route and this is demonstrated by being depicted on Bartholmews and Johnstons maps which aimed for the motoring public. . The exclusion of the old lane from all adjacent Land Registry registrations is also 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

View of exit onto C0372



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

OS First Series 1813 -Whole of route including bridleway shown as a major road.

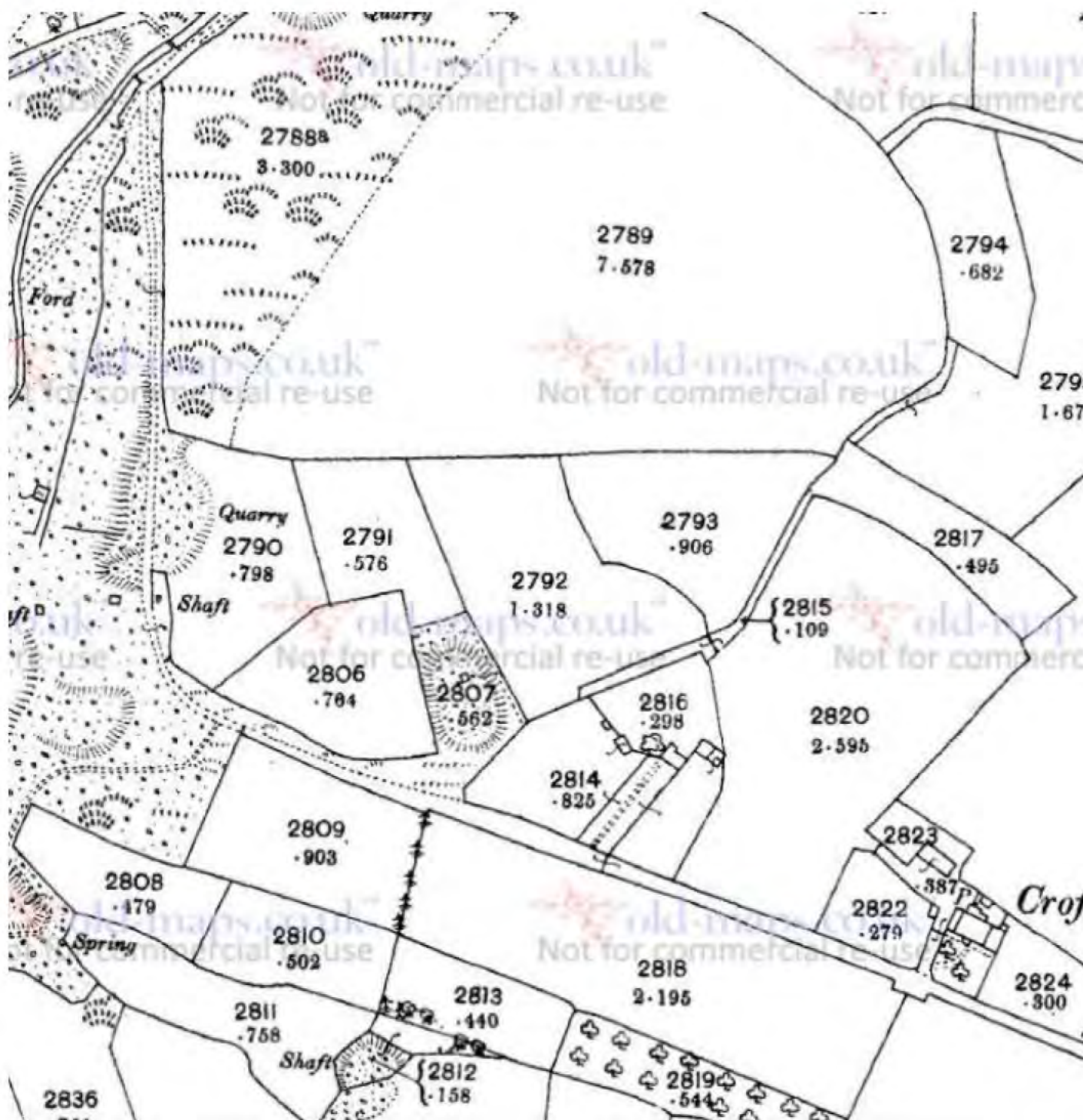


Sheet 352 : 1896 Clearly shown as a road



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

1880 North West Section



1880 South East Section



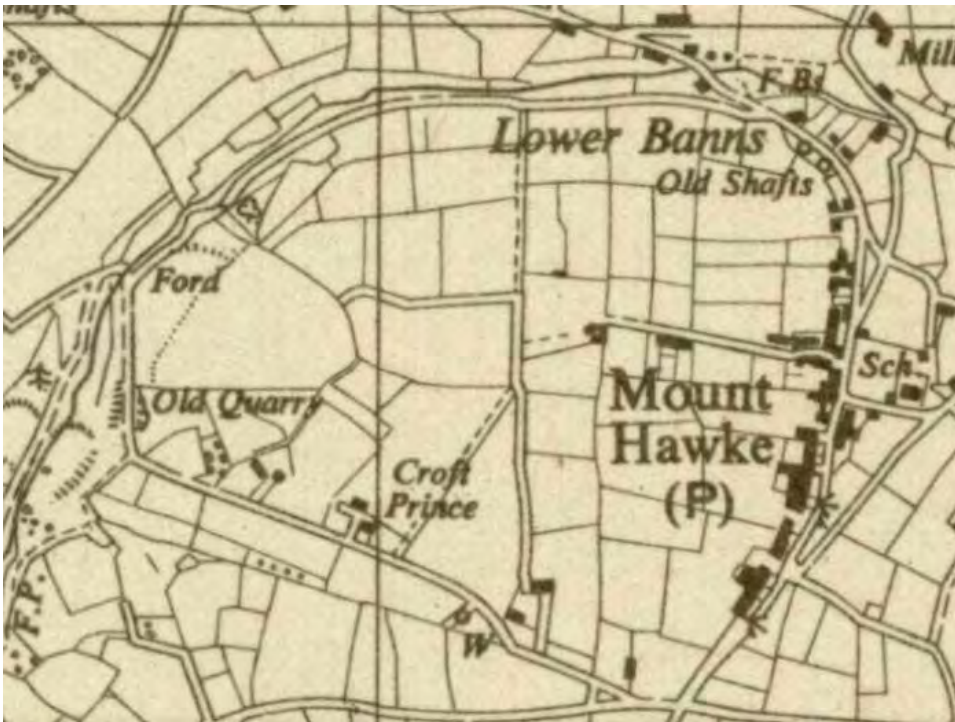
OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Clearly shown as a road and track across downs



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

Clearly shown as a road in common with existing bridleways



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

Clearly shown as a road in common with bridleways 33 and 34



Johnston's Motoring Touring maps of England and Wales

Shown connecting through Trevissick using BW 33



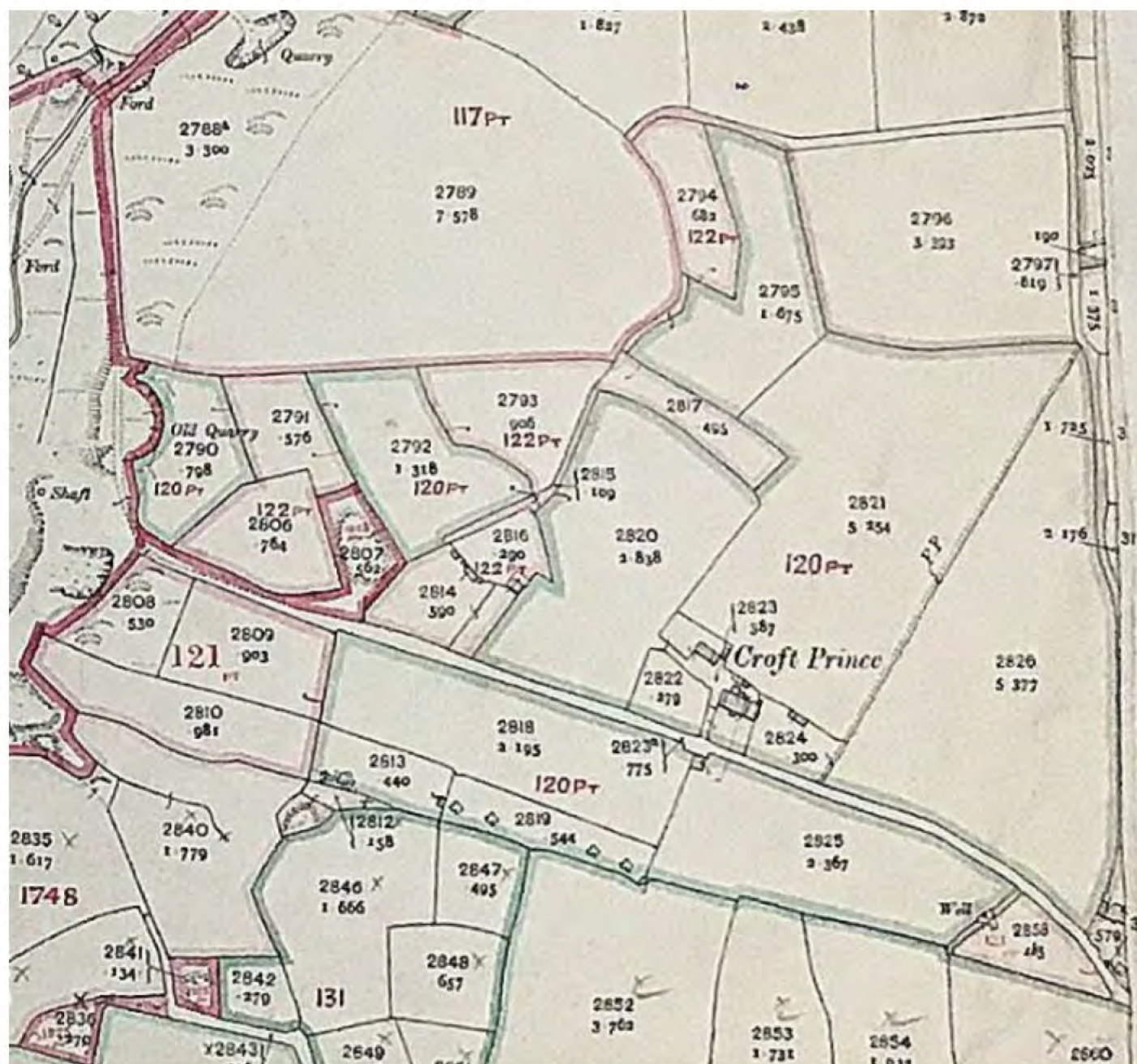
Martyns Map

RB applied for is clearly identifiable



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

Sh 661 Western and Northern Part



Sh 662 Eastern end.



Tithe Records

North western section plot 5120 together with what is now bridleway 34

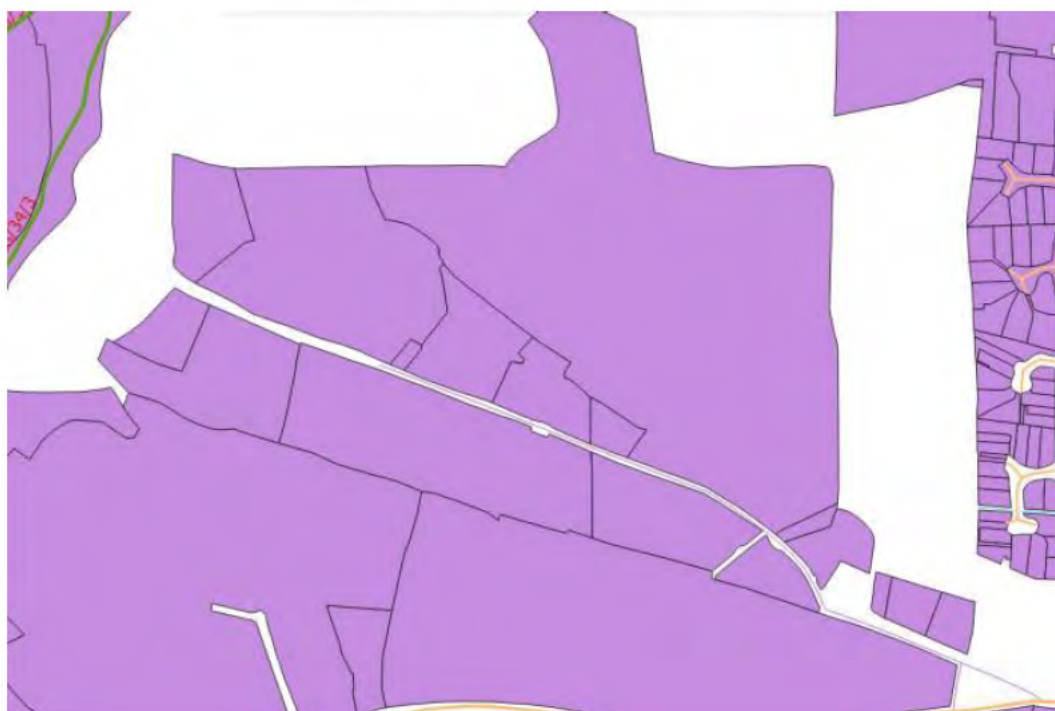


Apportionments - Plots 5116 and 5120 both under Roads and Wastes -no tithe or occupier

COMMONS, ROADS, AND WASTES.				
5109	Common and Roads in Mithian, .	369	0	0
5110	Common and Roads in Trevellas,.	257	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	6
5114	Goosegwarra Common,	51	0	20
5115	Goyer Common,	49	2	19
5116	Roads & Wastes at Mount Hawke,	11	1	26
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 Stenceose,	27	3	6

Land Ownership

Registered land is shown purple.



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.

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

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.