



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

of

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: Trewern Lane Gridref: SW42543159

to: A3071 County Road Gridref: SW42703191

(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: 23 June 2019

Documentary Evidence

Our Path Reference: 104/K1

Grid Reference: SW425317

Parish: Madron

Map of Path:

Claimed route shown in blue.



Description of Path:

Path starts at Trewern Lane SW42543159 and ends at A3071 County Road SW42703191

An old hedged lane for most of its way - southern end roughly surfaced top end unmade

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being claimed: Restricted Byway

Notes:

Path is not believed to be obstructed.

Path is believed to be walked, ridden and cycled

This lane is used for motor access to properties at the southern end.

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 351 - 1896 Path is clearly shown as a road.

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

Cornwall LXXIII.4 1875 Path is clearly shown as a road or lane, plot no. 1038.

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.

Sheet 37 - 1903 Path is shown as Road.

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.

IR 178/5/876 Path is not 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.

Madron Plot 2818 App. p42 'Road and Waste in Carthew' listed under the heading 'Roads and Waste' along with major roads

Parish Area Books

Madron Plot no 1038 is described as 'Road'

Other Evidence:

Land Ownership

Exclusion of a path from land registrations on either side is very indicative of public rights. However where an adjacent registration includes a path this does not give any indication against public rights. Land registrations sometimes deliberately or inadvertently extend ownership beyond that shown on the original deeds.

Land Registry: All except for one small fragment is not registered.

Summary and Statement of Reasons:

The Tithe map shows the path as a plot listed under 'Roads and Wastes' together with other current County Roads (minor and major) and no tithe payable. The OS 25 inch and associated Area Book evidence also gives plot as Road. Although the Inland Revenue map does not show the path excluded, this does not mean that path does not carry Highway Rights. The combination of the evidence from Old Maps, Area Book 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 from Trewern Lane



View from A3071



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

Clearly shown as road



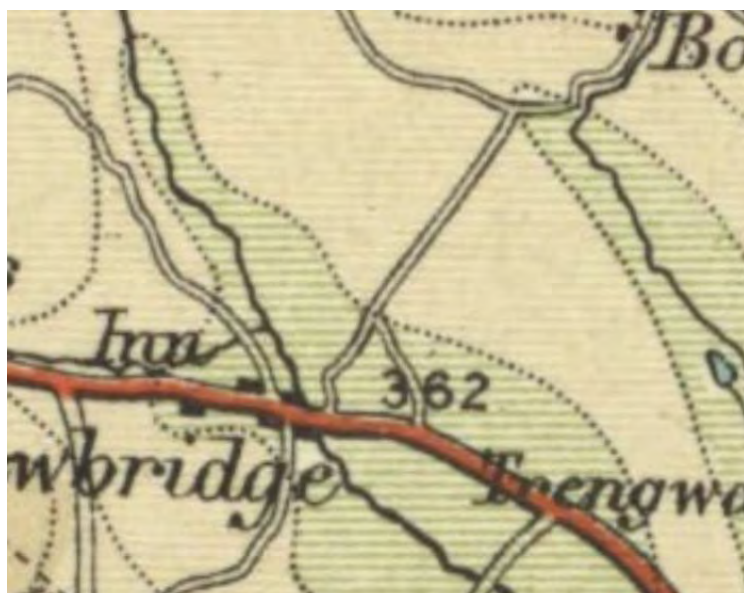
Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Plot 1038



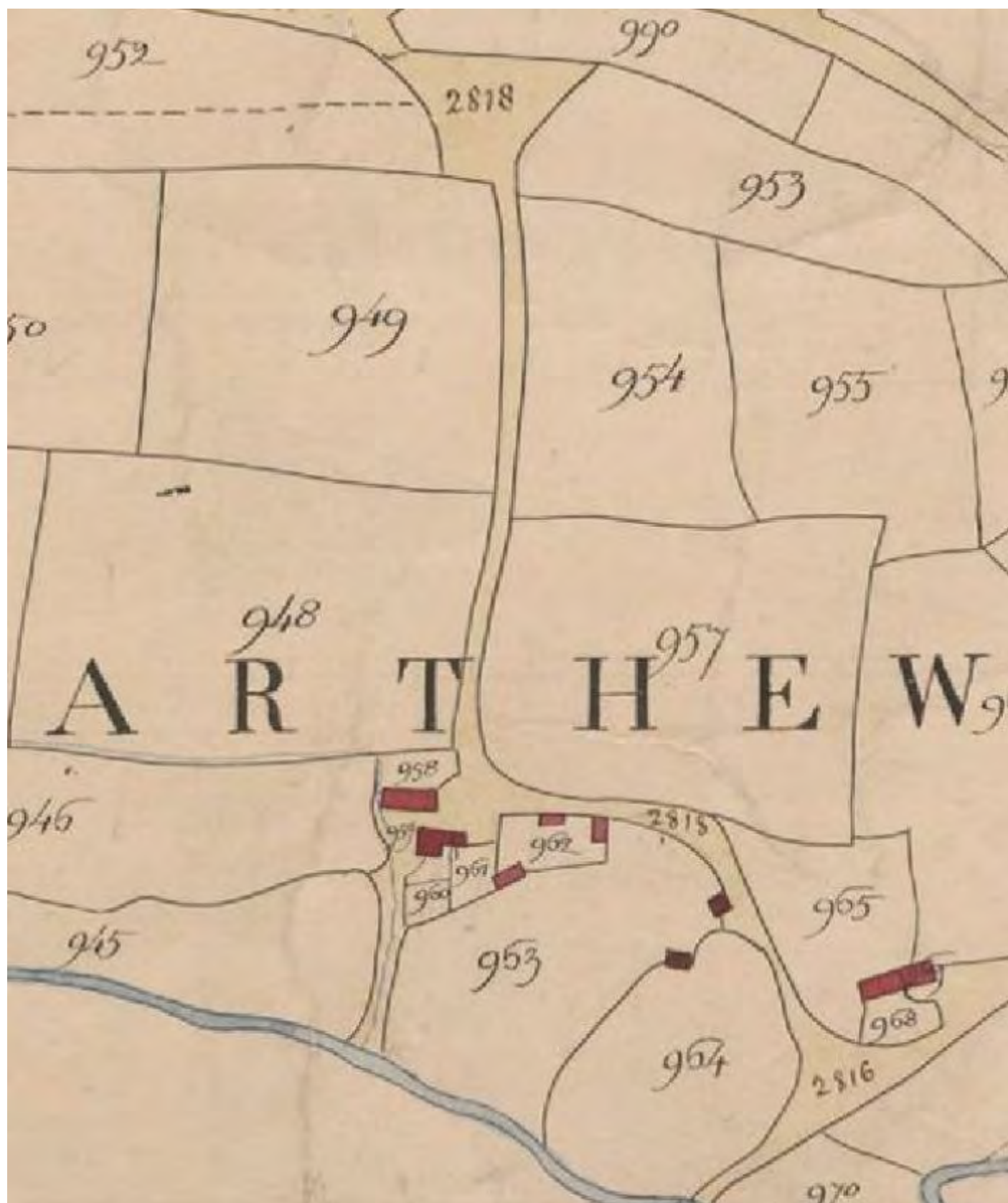
Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Clearly shown as road



Tithe Records

Plot 2818



Parish Area Books

Plot 1038

1033	2.840	Wood.	1083	1.227	Arable.
1034	.447	Wood.	1084	1.603	Arable.
1035	1.243	Pond.	1085	1.455	Arable.
1036	13.340	Wood, &c.	1086	2.303	Pasture.
1037	2.444	Pasture, &c.	1087	1.970	Pasture.
1038	1.003	Road, &c.	1088	1.721	Rough pasture, &c.
1039	.579	Houses, yards, &c.	1089	.249	Rough pasture.
1040	1.741	Pasture, &c.	1090	2.007	Arable.
1041	1.349	Arable.	1091	1.455	Arable.

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.

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.