



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: Squires Lane County Road U6022 Gridref: SW64502741

to: Gipsy Lane County Road U6022 Gridref: SW64952769

(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:

10 August 2019

Application Details

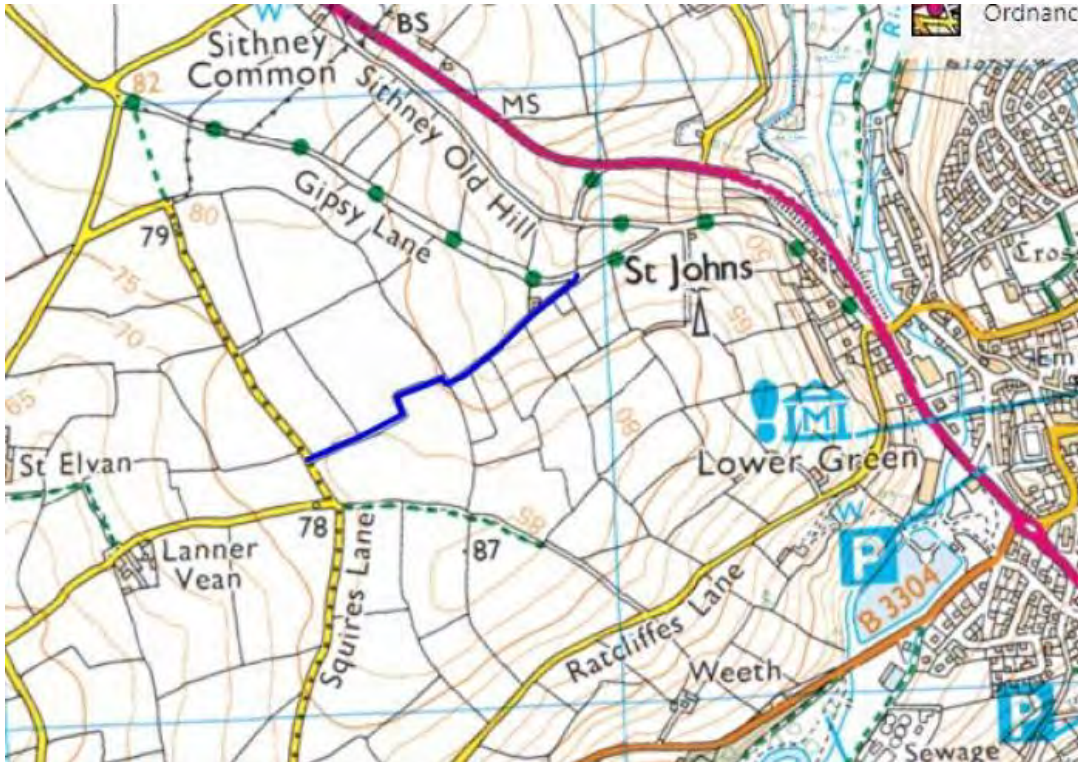
Our Path Reference: 213/D

Grid Reference: SW647275

Parish: Helston

Map of Path:

Path applied for shown in blue



Description of Path:

Path starts at Squires Lane County Road U6022 SW64502741 and ends at Gipsy Lane County Road U6022 SW64952769

Old Hedged lane

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being applied for: Restricted Byway

Notes:

Part of the path applied for is known to be obstructed at eastern end.
Path is walked, ridden and cycled.

In 2013 the landowner at the eastern end diverted the path running between his two plots onto a new path running north along his boundary. Local walkers and riders have been regularly using this new path instead. The landowner is happy to dedicate this new path. The applicant will accept the route being applied for to be diverted onto the new used path section provided by the landowner.

Our Path Reference: 213/D Grid Reference: SW647275
Path starts at Squires Lane County Road U6022 SW64502741 and ends at Gipsy Lane County Road U6022 SW64952769

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

Sheet 359 : 1895 Path is clearly shown as a lane.

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

Cornwall LXXVI.9 Surveyed: 1877 Path is clearly shown as a road or lane, plot no. 2125

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

Cornwall LXXVI.SW Surveyed: 1877 to 1878 Path is clearly shown as a road or lane.

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

SW62 Publication date: 1960 - 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.

Sheet 37 - Cornwall 1903 Path is shown as a 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.

IR128/5/921 not available on line - need to check CRO copy.

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.

Sithney map 8. Map slightly damaged. Road made up of several a plots -2814 (p75). - Road - with owner possibly tithe payable but not clear. Also plots 641, 642 (p17) 2877, (p77). which are all under Roads and Wastes with no owner, occupier or tithes payable.

Parish Area Books

Sithney Plot no 2125 is described as 'Road'.

Handover Maps 1929 Act

Helston, clearly shown as a maintainable public road. Exceptionally good evidence.

Other Evidence:

Land Ownership

Exclusion of a path from land registrations on either side is very suggestive 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.

The Land Registry shows path is excluded from registration yet plots either side are all registered apart from one small unregistered plot.

Summary and Statement of Reasons:

The IR map is still to be examined. The Tithe map shows most of the path as a plot listed under 'Roads and Wastes'. The OS 25 inch and associated Area Book evidence gives plot as Road. The Helston 1929 Handover Map shows the path marked as a road maintainable at public expense. The combination of the evidence from Old Maps, Tithe Map, Area Book gives very strong indication that the path is highway and now should be recorded with Restricted Byway Status. This is totally confirmed by the marking of the path on the Handover Map as a maintainable road.

The Land Registry shows the path is excluded from registration re-enforcing this conclusion.

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 off Squires Lane



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

Clearly shown as a lane.



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

Clearly shown as a lane, plot 2125



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

Clearly shown as a lane.



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

Clearly shown as a lane.



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

Clearly shown as a road



Tithe Records

Eastern Half



Western Half



Apportionment 2814 'Road'

Numbers referring to the Plan.	NAME AND DESCRIPTION of LANDS AND PREMISES.	STATE of CULTIVATION.	QUANTITIES in STATUTE MEASURE.			Amount of Rent Charge apportioned to Lands, and to whom payable.			
						PAYABLE TO VICAR.		PAYABLE (IMPROVED).	
	<i>Lanier's Estate (continue)</i>	<i>Brought forward :-</i>	<i>59</i>	<i>1</i>	<i>18</i>	<i>£</i>	<i>s.</i>	<i>d.</i>	<i>£</i>
<i>2810</i>	<i>Head of Lane field</i>	<i>arable</i>	<i>45</i>		<i>10</i>				
<i>2811</i>	<i>Rows field</i>	<i>arable</i>	<i>3</i>		<i>7</i>				
<i>2812</i>	<i>Home culm</i>	<i>arable</i>	<i>1</i>	<i>1</i>	<i>1</i>				
<i>2814</i>	<i>Road</i>	<i>"</i>	<i>1</i>	<i>10</i>					
			<i>69</i>	<i>1</i>	<i>17</i>	<i>7</i>	<i>12</i>	<i>"</i>	<i>9</i>

Apportionments 641, 642 and 2877 under Roads and Wastes

Roads and Highways										
635	$\frac{1}{2}$ of Antion Cross lane	"	"	34						
636	$\frac{1}{2}$ Road adjoining No 564	"	"	1						
637	$\frac{1}{2}$ Road adjoining East end of No 565	"	"	8						
638	$\frac{1}{2}$ Road adjoining Northern end of No 566	"	"	7						
639	$\frac{1}{2}$ Road adjoining North end of No 566	"	"	9						
640	Part of White Lane	"	"	3						
641	$\frac{1}{2}$ Lane adjoining The field	"	"	1						
642	Part of Road	"	"	12						
643	Half Road adjoining Nos 567 and 568	"	"	26						
644	Part of Road	"	"	22						
645	$\frac{1}{2}$ Road adjoining No 567	"	"	20						
646	Part of Green Street Lane	"	"	6						
647	Part of Lane	"	"	9						
648	Road and part of River	"	"	20						
649	Walk and $\frac{1}{2}$ of River	"	"	8						
650	Walk and $\frac{1}{2}$ of River	"	"	11						
651	$\frac{1}{2}$ of River adjoining Nos 567 and 568	"	"	13						
				11						

[illegible]

Parish Area Books

Plot 2125 'Road'

2072	3.054	Arable.	2120	2.199	Arable.
2073	3.143	Arable.	2121	5.337	Arable.
2074	6.569	Pasture.	2122	4.722	Pasture.
2075	3.861	Pasture.	2123	3.590	Arable.
2076	2.870	Arable.	2124	1.938	Arable.
2077	1.853	Pasture.	2125	.818	Road.
2078	1.593	Pasture.	2126	1.131	Arable.
2079	2.545	Arable.	2127	2.081	Arable.
2080	1.883	Arable.	2128	1.028	Arable.
2081	.370	Arable.	2129	2.412	Arable.
2082	1.600	Arable.	2130	2.217	Pasture.

Handover Maps 1929 Act

Clearly marked in yellow as maintainable road.



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.

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.