



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: County Road B3297 Gridref: SW69343893

to: County Road C0028 Gridref: SW70383918

(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: 12 August 2019.

Application Details

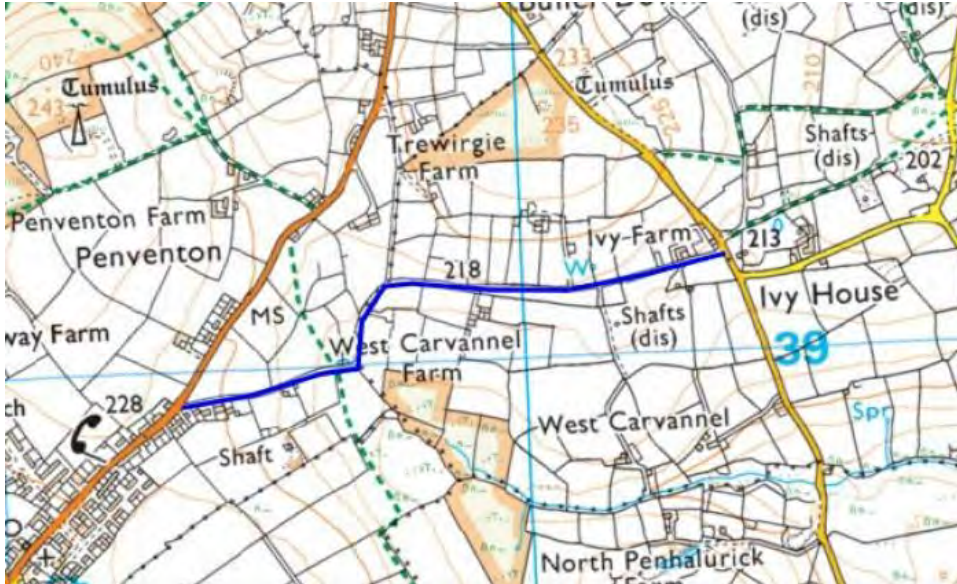
Our Path Reference: 205/R02

Grid Reference: SW697391

Parish: Carn-Brea and Lanner

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at County Road B3297 SW69343893 and ends at County Road C0028 SW70383918

Known as 'Deep Lane'

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being applied for: Restricted Byway

Notes:

Path is not believed to be obstructed.

Path is believed to be walked, ridden and cycled

This old lane is joined by another unrecorded RoW from the north, which is subject to another application our ref: 205/R01

Our Path Reference: 205/R02 Grid Reference: SW697391
Path starts at County Road B3297 SW69343893 and ends at County Road C0028 SW70383918

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 352 - 1896 - Path is clearly shown as road in common with current county roads

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

Cornwall LXIII.11 Published: 1880 Gwennap Path is clearly shown as a road or lane, plot no 3204 and Illogan plot 3879

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

Cornwall LXIII.SE Surveyed: 1878 Path is shown clearly as road in common with current county roads

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 and part of the road network.

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.

IR128/5/755 Shows path as white between hereditaments or passing through a gap in the coloured boundary from an excluded section signifying that that section is also excluded as being continuation of the exclusion. This is good evidence that the path was considered a public road. Note the parish boundary is marked separately in yellow

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.

Western End Illogan plot 415 in common with other county roads. Gwennap p9 plot 3524 - Common and Roads Pensignance. Listed in apportionments under 'Roads and Wastes' no tithe payable.

Parish Area Books

Gwennap - Plot no 3204 is described as 'Road'. Illogan - plot 3879 described as 'Road'.

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 that no part of the path has registered owners. Some plots on both sides are registered excluding the path. Section of the path at Eastern end has caution registered against it for right of vehicle access.

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 map shows the path as a plot listed under 'Roads and Wastes'. The OS 25 inch and associated Area Book evidence gives plot as Road re-enforcing 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. The Land Registry shows the path is excluded from ownership registration supporting 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 of lane from B3297



Exit of lane onto C0028



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



Western Half



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

Clearly shown as a road



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

Clearly shown as part of the road network



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

Western Half - excluded from hereditaments



Eastern Half - Excluded by virtue of passing through gaps in coloured boundaries



Tithe Records

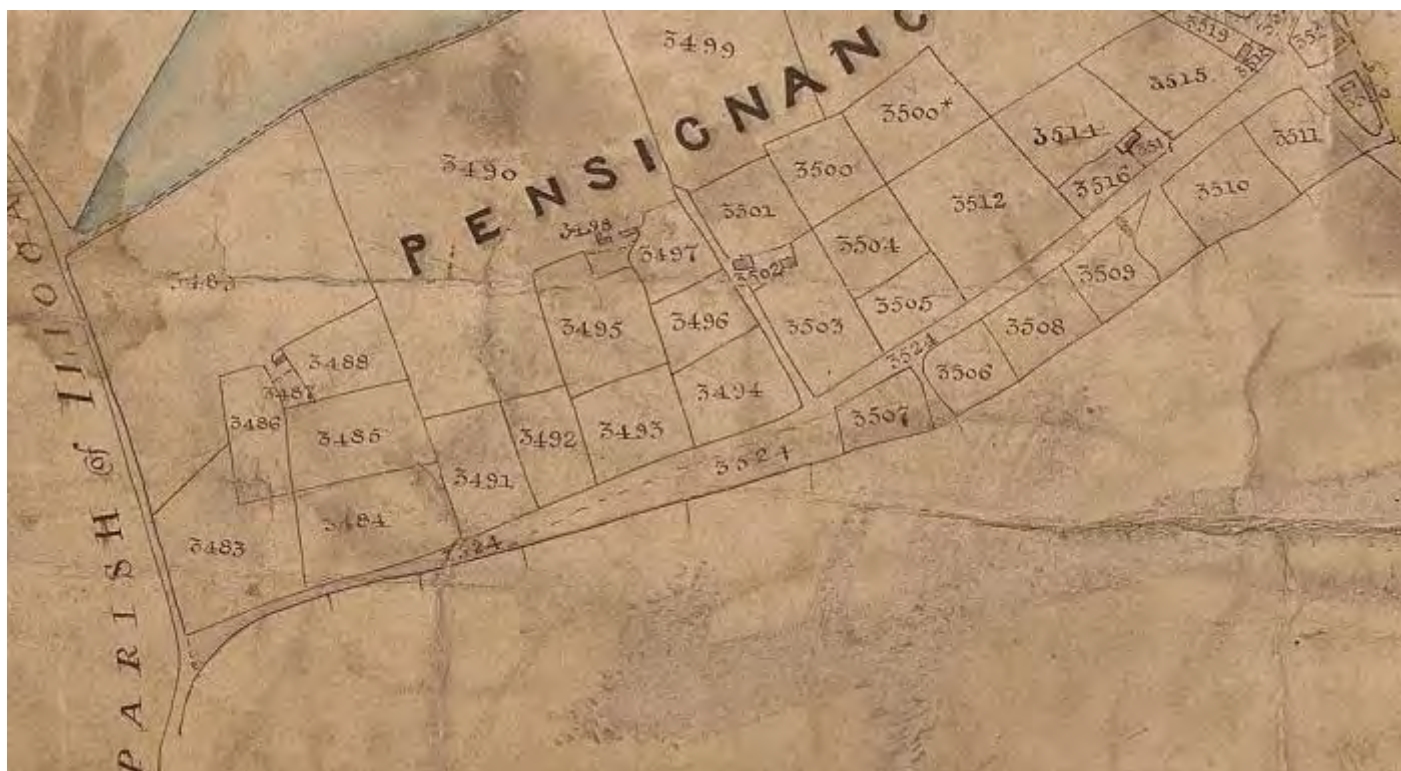
Western End – Illogan



Illogan -Plot 415 excluded from apportionments

Lesseholders		No. Plat.	LANDS AND PREMISES	CULTIVATION	STATUTE MEASURE			Acres		
					+	+	+	+	+	+
W. Seibert	Himself	414	House and Land	Brought Forward	107	38	341	6	3	
W. Anall	Himself	416	House and Land		7	3	21	6		
James Endeaux	Richard Graham	417	Land		5	3	35	6	9	
					3		31			

Eastern Half Gwennap plot 3534



plot 3524 listed under Roads And Wastes

3198	Railroad, and Roads, Trevarth	2	2	4
3199	Road and Waste Trevarth Bawden	1	0	15
3216	Wastrel at Tresavean	1	1	18
3233	Tresavean Mine Waste and Roads	38	1	13
3257	Mine Waste	2	0	18
3361	Common and Roads Pensignance	4	3	26
3524	Creglaze Common	15	2	9
3525	Common at Lannarth	2	2	22
3554	Part of Lannarth Common & Roads	21	1	11

Parish Area Books

Illogan plot 3879

3827	2-232	Arable, &c.	3876	609	Pasture.
3828	3-079	Pasture, &c.	3876	644	Pasture.
3829	1-869	Rough pasture, &c.	3877	848	Pasture and refuse.
3830	744	Pasture.	3878	625	Pasture, &c.
3831	104	Houses and gardens.	3879	727	Road.
3832	631	Pasture and refuse.	3880	2-843	Arable.
3833	674	Arable.	3881	2-986	Pasture.
3834	901	Arable.	3882	2-992	Pasture.
3835	849	Pasture.	3883	1-885	House and pasture.

Gwennap plot 3204

3199	1-295	Arable.	3247	1-173	Pasture.
3200	1-262	Pasture.	3248	838	Pasture.
3201	1-406	Pasture.	3249	212	Houses, yard, garden, &c.
3202	324	Houses, gardens, &c.	3250	672	Pasture.
3203	1-260	Arable.	3251	912	Pasture.
3204	1-157	Road.	3252	863	Pasture.
3205	151	Pasture.	3253	669	Pasture.
3206	1-165	Pasture.	3254	1-836	Pasture, refuse, &c.
3207	182	Road.	3255	1-108	Arable.
3208	063	Houses, garden, and yard.	3256	1-826	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.

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.

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.