



## 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: SW69743951 .....

to: Unrecorded RoW our Ref. 205/R02 Gridref: SW69743915 .....

(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/R01

Grid Reference: SW697393

Parish: Carn-Brea

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at County Road B3297 SW69743951 and ends at Unrecorded RoW SW69743915 (our Ref. 205/R02)

Gravel / Compacted track that is frequently ridden

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.

It connects to an old lane subject to a separate DMMO Application our ref 205/R02

Our Path Reference: 205/R01      Grid Reference: SW697393  
Path starts at County Road B3297 SW69743951 and ends at Unrecorded RoW our Ref. 205/R02  
SW69743915

## 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 a road.

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

Cornwall LXXVI.14 Surveyed: 1877 to 1878 Published: 1880 Path is clearly shown as a road or lane, Redruth plot 2999, Gwennap plot 3191, Illogan 3879

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

Cornwall LXIII.SE Surveyed: 1878 Path is clearly shown as a road centred on parish boundary C.R.

#### 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 a 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 Path is excluded from hereditaments (Note all of parish boundary is marked 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.

Redruth p12. Path is clearly shown as a 'road' plot number 3617 - half of road from Jacob's Mill to extent of parish and is included in apportionments under 'Roads, Rivers and Waste.' Illogan plot 415 - Parish Roads and Waste,

### Parish Area Books

Redruth - Plot no 2999 is described as 'Road'. Gwennap - Plot no 3191 is described as 'Road'. Illogan - Plot no 3879 is 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 path is excluded from registration yet plots either side are all registered.

### 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 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 of entrance from B3297



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

Clearly shown as a road





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

Plot Number 2999



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

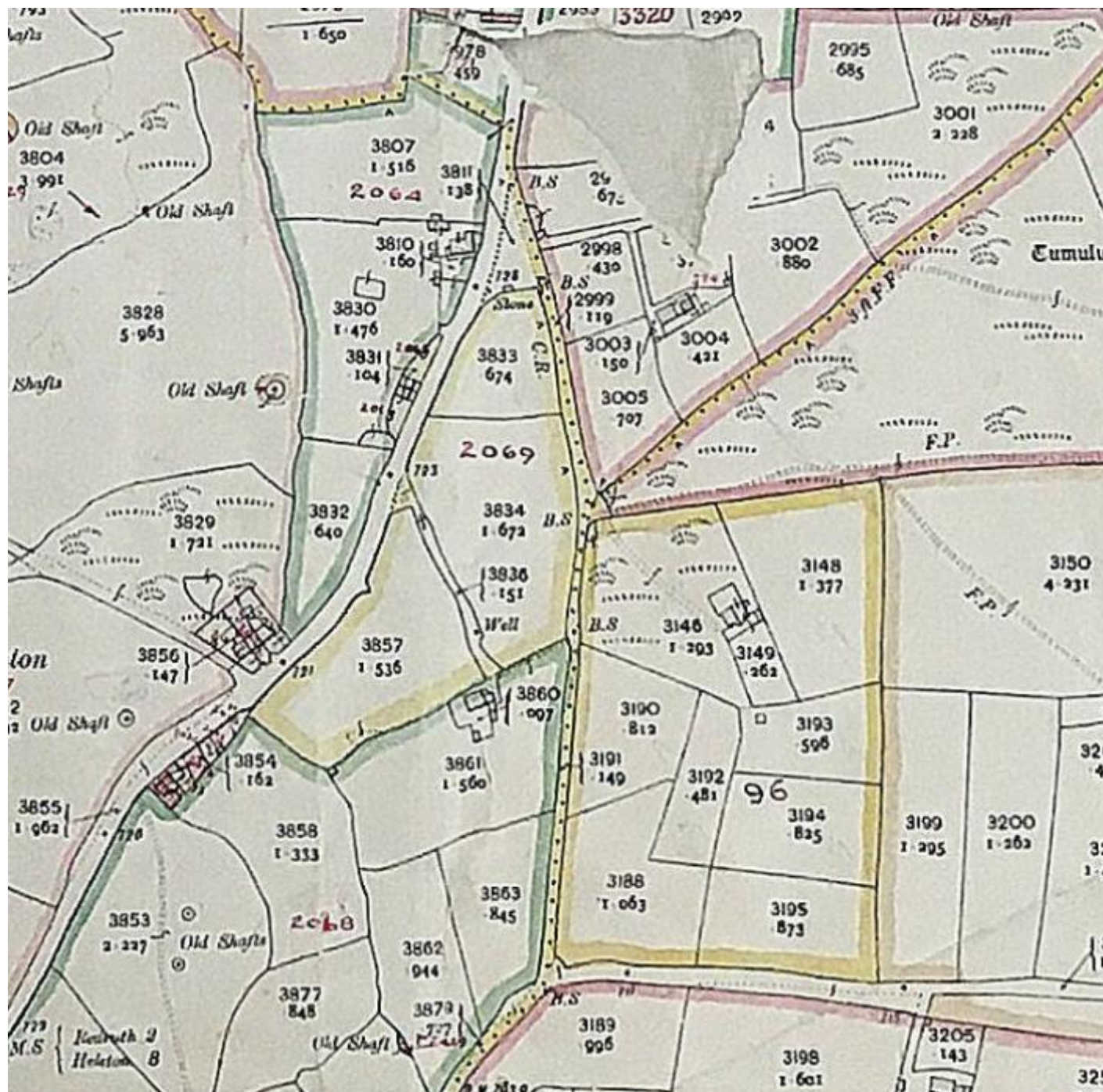
Clearly shown as part of the road network.





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

All of path is excluded from hereditaments



# Tithe Records

## Redruth Plot 3617



## Redruth Apportionment Plot 3617

3613	From the Road to Church to the Helstone Road,	2	13
3614	Helstone Road, to meet the Sellegan Road,	1	25
3615	On the Road to Helstone,	2	0
3616	Do. South to Jacob Mill,	1	1 30
3617	Half of Road from Jacob Mill's to Extent of Parish,		22
3618	From the Road to Stything to Helstone Road,		21
3619	Road from Stything to Helstone Road,	3	0
3620	„ and Waste at Johanna Morcom's Tenement,	2	11
3621	To Wheal Buller from Helstone Road,	1	18
3622	Branch of Devon Railway,	2	6



Illogan Plot 415



plot 415 omitted as being Road and Waste

Inhabitants		the Plot	LANDS AND PREMISES	CULTIVATION	STATUTE MEASURE			Meters			
W. Sillcock	Himself	414	House and Land	Brought Forward	1071	33	511	6	3		✓
W. Small	Himself	416	House and Land		7	3	21	6			✓
James Priderose	Richard Trathen	417	Land		5	3	55	6	9		✓
					3	31					

# Parish Area Books

Redruth Plot 2999 'Road'

2950	2.552	Rough pasture and refuse.	2994	.390	Arable.
2951	.302	Refuse.	2995	.685	Arable.
2952	1.327	Arable.	2996	.673	Pasture.
2953	.300	Arable.	2997	.097	Road.
2954	.303	Pasture.	2998	.430	Pasture.
2955	.470	Pasture.	2999	.119	Road.
2956	.482	Houses, gardena, &c.	3000	.342	Pasture.
2957	.833	Pasture.	3001	2.830	Rough pasture.
			3002	.880	Pasture.

Gwennap - Plot no 3191 is described as 'Road'.

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## PARISH OF GWENNAP.

No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
3190	.531	Pasture.	3239	.266	Furze, rough pasture, &c.
3191	.149	Road.	3240	1.470	Pasture.
3192	.481	Pasture.	3241	.538	Arable.
3193	.508	Arable.			

Illogan - Plot no 3879 is described as 'Road'.

3827	2.232	Arable, &c.	3875	.609	Pasture.
3828	3.079	Pasture, &c.	3876	.644	Pasture.
3829	1.859	Rough pasture, &c.	3877	.848	Pasture and refuse.
3830	.744	Pasture.	3878	.625	Pasture, &c.
3831	.104	Houses and gardena.	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	.349	Pasture.	3883	1.885	House and pasture.

## Land Ownership

Registered land is shown purple.



## LR 'Inspire' Map





## 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.