



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: Laity Lane Gridref: SW52143771

to: C0324 from Coach Road Gridref: SW52513749

(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 *historical evidence has been discovered to establish a public right of way*

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 IS ATTACHED

.....
.....
.....
.....
.....

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.....
.....
Sign **Dated:** 20 February 2020

Application Details

Our Path Reference: 113/I Grid Reference: SW524375

Parish: St Ives

Map of Path:

Claimed route shown in blue.



Description of Path:

Path starts at Laity Lane SW52363759 and ends at C0324 from Coach Road SW52163770

Ancient hedged unmade track from County Road to County Road

Current Recorded Status:

Path is not recorded on the Definitive Map

Path is not recorded on the List of Streets.

Status being applied for: Restricted Byway

Notes:

Path is not believed to be obstructed. Path is believed to be walked, ridden, cycled.

Our Path Reference: 113/I Grid Reference: SW524375

Path starts at Laity Lane SW52363759 and ends at C0324 from Coach Road SW52163770

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, 1809 to 1913

Sheet 351 - 1896 Path is clearly shown as a road.

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

Cornwall LXVIII.4 1877 Path is clearly shown as a road or lane, plot no. 644.

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

Cornwall LXVIII.NE 1877 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 Publication date: 1903 Path is shown as Road.

Martyns Map

Depiction of a route on the Martyns Map 1748 shows the existence of the route at that time. Given the small scale and age of this map, it is most likely that the route was significant and used by all. It is unlikely that footpaths would be depicted.

The old road is shown on Martyns map and is positively identifiable. The depiction of this route on the Martyns map is strong evidence of the existence and significance of the route at the time.

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 and lying between hereditaments, 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.

IR 128/5/802 Shows path as white between hereditaments or passing through a gap in the coloured boundary from an excluded section signifying that the section is also excluded as being continuation of the exclusion. This is good evidence that the path was considered a Public Road. To confirm the interpretation of the exclusion, the current county road to which it connects also crosses the hereditament via a gap in the boundary and is not listed on the associated Form 37 confirming its exclusion. Part of the plot of the claimed route is listed as 'Waste by Road' confirming the route itself being claimed is road and similarly excluded.

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.

Lelant - Plot 2112 Apportionment 'Road from Worvas to Trevothow'. Listed under 'Roads and Wastes' with no tithe payable.

Parish Area Books

Uny Lelant Plot no 644 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 shows the path is not registered. Land north abutting the path is registered. Land to the south is not registered.

Summary and Statement of Reasons:

All old OS mapping including Martyns Map and OS first series depicts the path as an enclosed lane, open and available for use at end of the nineteenth and beginning of the twentieth century. The OS 25 inch and associated Area Book evidence gives plot as 'Road' re-enforcing this conclusion.

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. There is no evidence to suggest that the exclusion should not be interpreted in this way.

The Tithe map shows the path as a plot listed under 'Roads and Wastes' with no tithe payable.

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

Entrance off Laity Lane



Entrance at eastern end (left of the gate)



OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

First Series 1856 path is shown as an important route



1896 version - shown in similar style to other county roads



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

Plot 644



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

Clearly shown as road



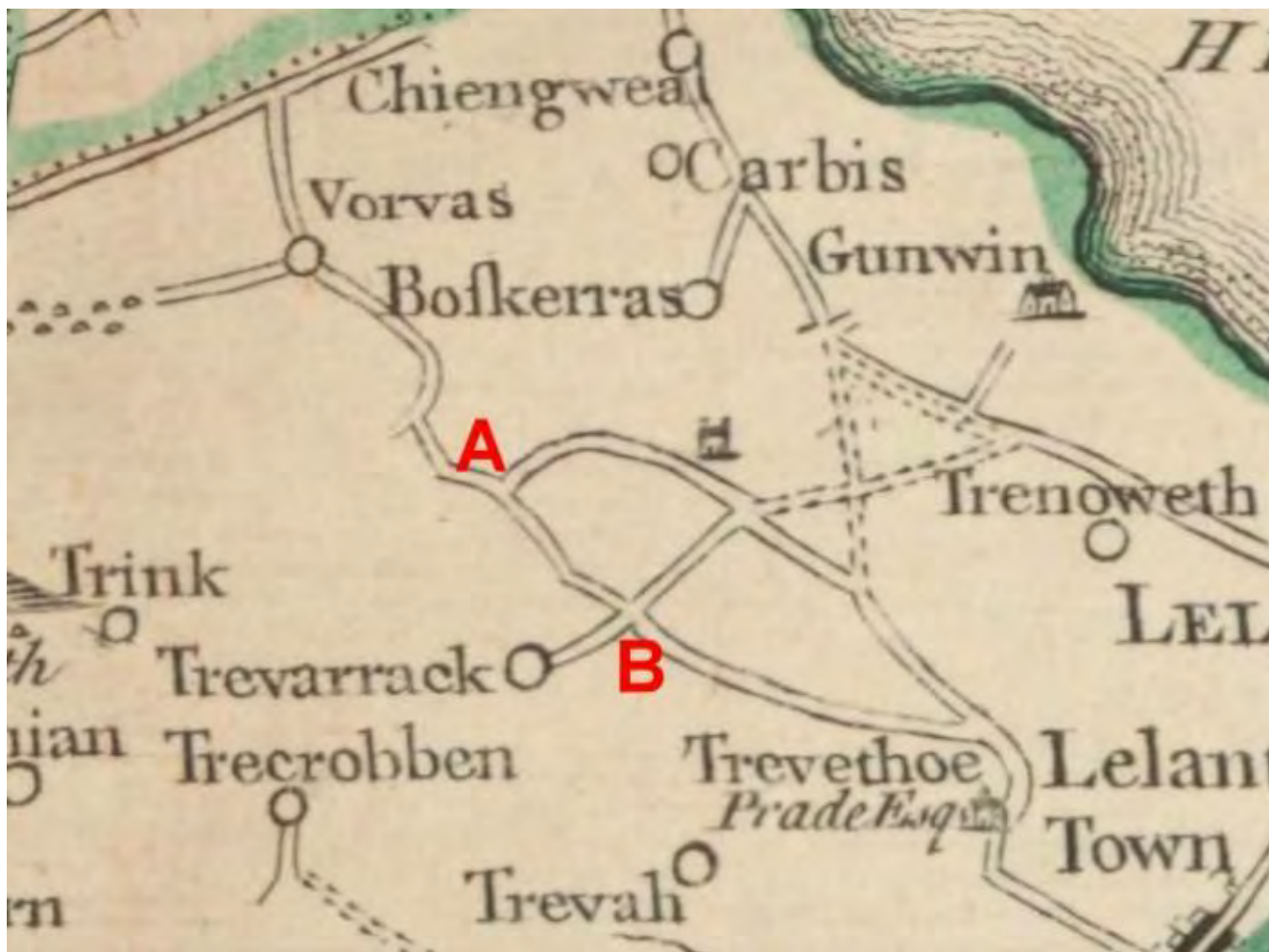
Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Clearly shown as road



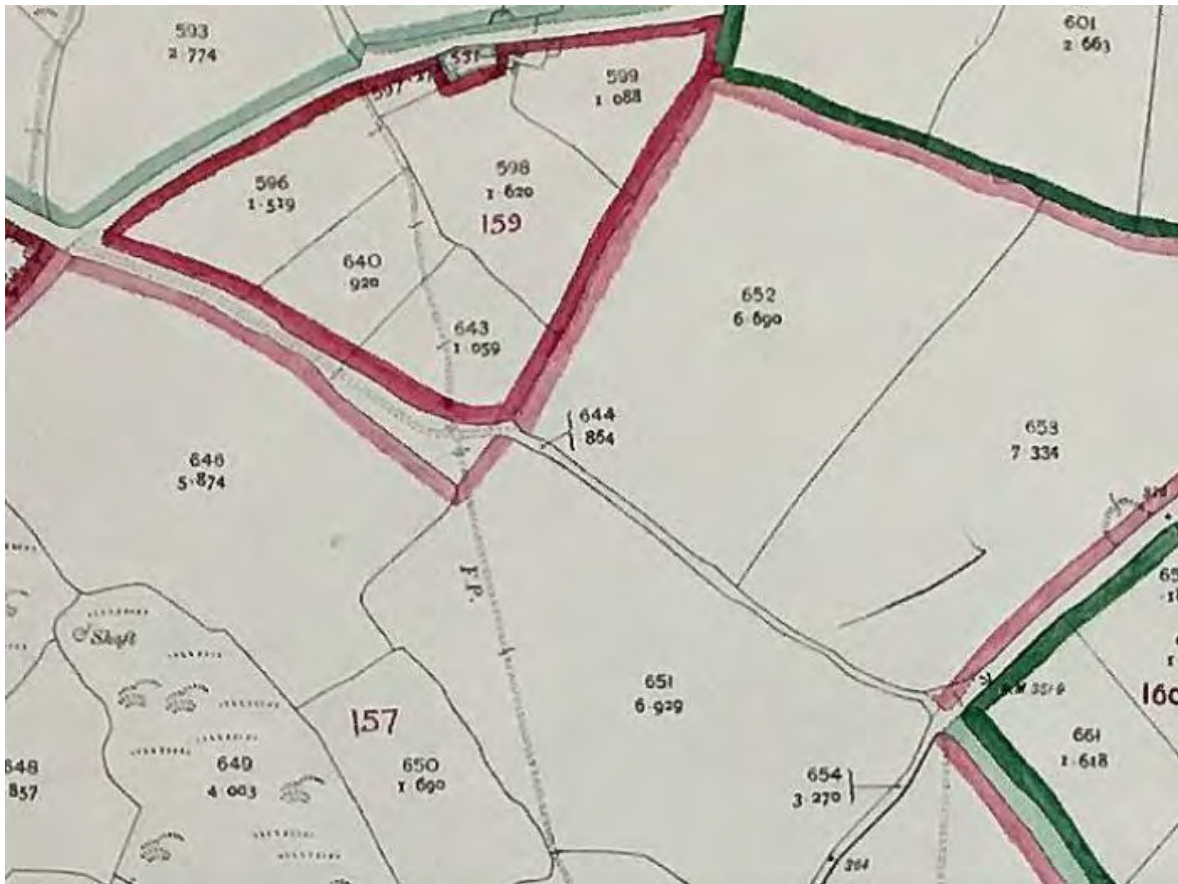
Martyns Map

Road is clearly identifiable A to B



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

Half excluded from hereditaments remainder passes through gaps in the red edge to allow the road through.



Parish of <i>Myny Seland</i>		Reference No. <i>157</i>		Farm.			
Schedule No.		<i>Trewarrack</i>					
Ordn. S. No.	Description	Timber	Area	Price per acre	Total		
					£	s.	d.
690	Buildings + Gard.		1.774				
721	Pasture		2.894				
691	Pasture		.939				
694	"		2.831				
688	"		4.022				
692	Arable		2.452				
695	Pasture		3.568				
696	"	Foot Path	4.040				
651	"	- -	6.929				
653	Arable		7.334				
652	"		6.690				
650	Pasture		1.690				
646	"		5.874				
648	"		1.857				
693	Arable		2.187				
687	Pasture		4.435				
686	Lane.		.367				
685	Pasture		2.981				
684	"		5.332				
689	" + Open		3.669				
719	" -		1.118				
713	Rough -		.561				
683	Pasture		6.278				
681	Croft.		1.147				
680	"		1.230				
634	"		1.056				
636	"		5.008				
647	"		1.941				
649	"		4.003				
724	"		1.328				
766	" + Waste		1.567				
767	Croft.		.478				
768	" + Arable		4.436				
769 ^a	Pasture		.431				
			102.647				

Parish of Uuy Selaut

Reference No. 157

Schedule No.

Trevarrack

Farm.

Orig. S. No.	Description	Timber	Area	Price per acre	Total		
					£	s.	d.
		Area	St. Ground				
			102.447				
777	Pasture		1.251				
776	"		.431				
781	"		.206				
780	"		.532				
779	Cottage Pasture		.410				
778	Pasture Orable	Foot Path	4.312				
725	Pasture		.250				
727	"	"	5.224				
726	"	"	9.151				
729	"	"	5.061				
728	"	"	2.530				
698	"	"	6.383				
701	"	"	7.931				
766	Waste by road		.500				
644	"		.200				
			146.819				
			3.276				
			17.040				
			146 2 3 11 p				

Tithe Records

Part of Plot 2112



Plot 2112 under 'Roads and Waste'

2116	Road and waste in d ^e	1 - 1 - 20
2117	Lane in nance	. 1 - 5
2112	Road from Wervod to Trevethon	4 - 1 - 10
2113	Road in Tera	. 2 - 20
2114	Road through Lantry	1 - 3 - 5
2115	Roads and wastes between Lantry and Tera	3 - 0 - 20

Parish Area Books

Plot 644 'Road'

589	1·478	Arable.	638	1·636	Pasture and furze.
590	3·841	Arable.	639	·360	Pasture.
591	2·739	Arable, &c.	640	·453	Arable, &c.
592	4·999	Rowl.	641	·467	Arable, &c.
593	2·774	Arable.	642	·890	Pasture.
594	2·662	Pasture, &c.	643	1·059	Pasture, &c.
595	·490	Arable, &c.	644	·870	Road.
596	·669	Arable, &c.	645	1·366	Arable, &c.
597	·333	Houses, gardens, &c.	646	2·872	Arable.
598	·730	Pasture.	647	1·941	Rough pasture, &c.
599	1·027	Arable.	648	1·857	Pasture.
600	3·043	Pasture.	649	4·003	Rough pasture, &c.

Land Ownership

LR polygons show no part of lane is registered (registered in 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.

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

National Library of Scotland on-line maps.

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.