



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** a Restricted Byway

from: FP 113/25 Gridref: SW51843714

to: Laity Lane Gridref: SW52133771

(c) **Upgrading to** a Restricted Byway the footpath

from: Parish Boundary Gridref: : SW51843714

to: Laity Lane Gridref: SW52133771

(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

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

Signed:

Dated:

20 February 2020

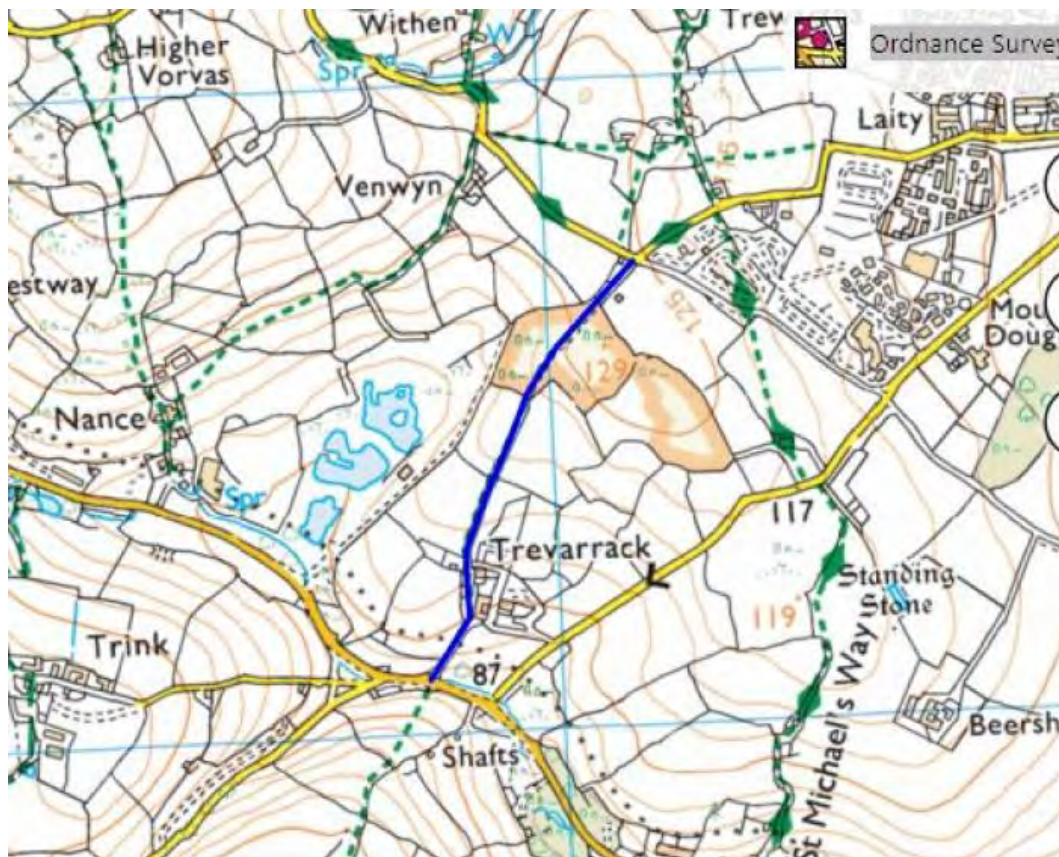
Application Details

Our Path Reference: 113/ZZ Grid Reference: SW518373

Parish: St Ives

Map of Path:

Claimed route shown in blue.



Description of Path:

Path starts at Coach Road SW51793708 and ends at Laity Lane SW52133771

The route is now an enclosed hedged lane for all its length.

Current Recorded Status:

Only part of the path is recorded on the Definitive Map and as Footpath.

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 and ridden, Path is believed to be used by motors.

The northern majority part of the route is recorded as definitive footpath down to the parish boundary past Trevarrack. But the old road from Trevarrack to the Coach Road is not recorded.

Our Path Reference: 113/ZZ Grid Reference: SW518373
Path starts at Coach Road SW51793708 and ends at Laity Lane SW52133771

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 with track across what was then croft.

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

Cornwall LXVIII.4 1877 Path is clearly shown as a road and mostly plot no. 686 and across 'rough pasture' plot 636

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

Cornwall LXVIII.NE Surveyed: 1877 Published: 1886 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 -Publication date: 1903 Path is shown as Road from Coach Road to Laity Lane

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 Path is not specifically excluded from the large hereditament but neither is the county road Trencrom Lane. There is a break in the colour band at the south end indicating exclusion from the hereditament but no break at the north end. Associated Form 37 lists plot 686 as lane. The continuation to the north could be included in the £40 deducted for Rights of Way.

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.

Uny Lelant - lower parts are plots 2107 and 2108 Apportionment describes both as 'Road through Trevarrack'. Note that plot 2107 included the current adjacent county road. Top part of route across rough land is not described but route shown as dashed line. It is important to note that the plot 633 the middle of three connecting plots is titled in Apportionments as 'Road Croft'. This would strongly suggest the presence of a road through the croft as the croft itself is not adjacent to any road. It should also be noted that the old route of the adjacent county road is through Trevarrack.

Parish Area Books

Lelant - Plot no 686 is described as 'Road'

Other Evidence:

Definitive Map Records

The definitive map shows most of the path recorded as Footpath but stopping at the parish boundary. Recorded rights of way have to connect Highway to Highway or connect to a 'Place of Public Resort'. It therefore was considered that the old road in the next parish was a highway.

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 - The majority of the land along the track is registered on both sides but excluding the lane. This is very supportive of the wide track of the route being public highway.

Summary and Statement of Reasons:

The OS 25 inch map showing the path as a Road in a separate plots indicates the significance of the route and associated Area Book evidence gives the plot as Road re-enforcing this conclusion. The other old maps show the existence and significance of the road.

The Tithe map evidence gives strong evidence and shows the southern part of the route applied for as highway and gives strong indication that the road continued across what was then unenclosed land to reach the road junction at the north.

The Inland Revenue map evidence is supportive but not conclusive.

All evidence shows that the route physically existed as an enclosed lane at the time of the turn of the century (circa 1900) At that time, the primary mode of transport was pack horse, cart or carriage. It is inconceivable that any such available route would not be used by all to get about, and via the shortest route to hand. We therefore submit that the status of the route is at least Bridleway.

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 from Coach Road



Entrance off Laity Lane



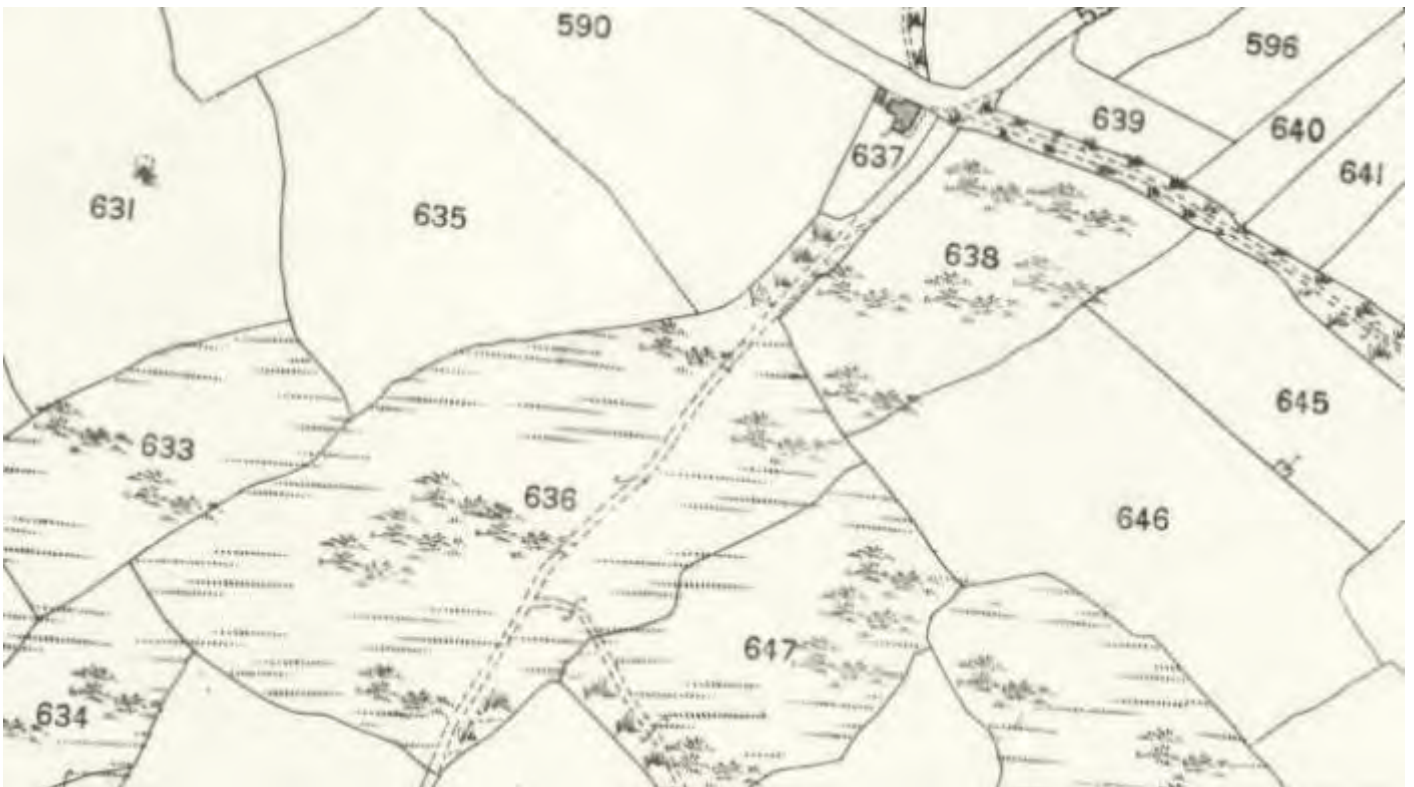
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

Clearly shown as road and unfenced track across croft



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

North section is road/track across croft

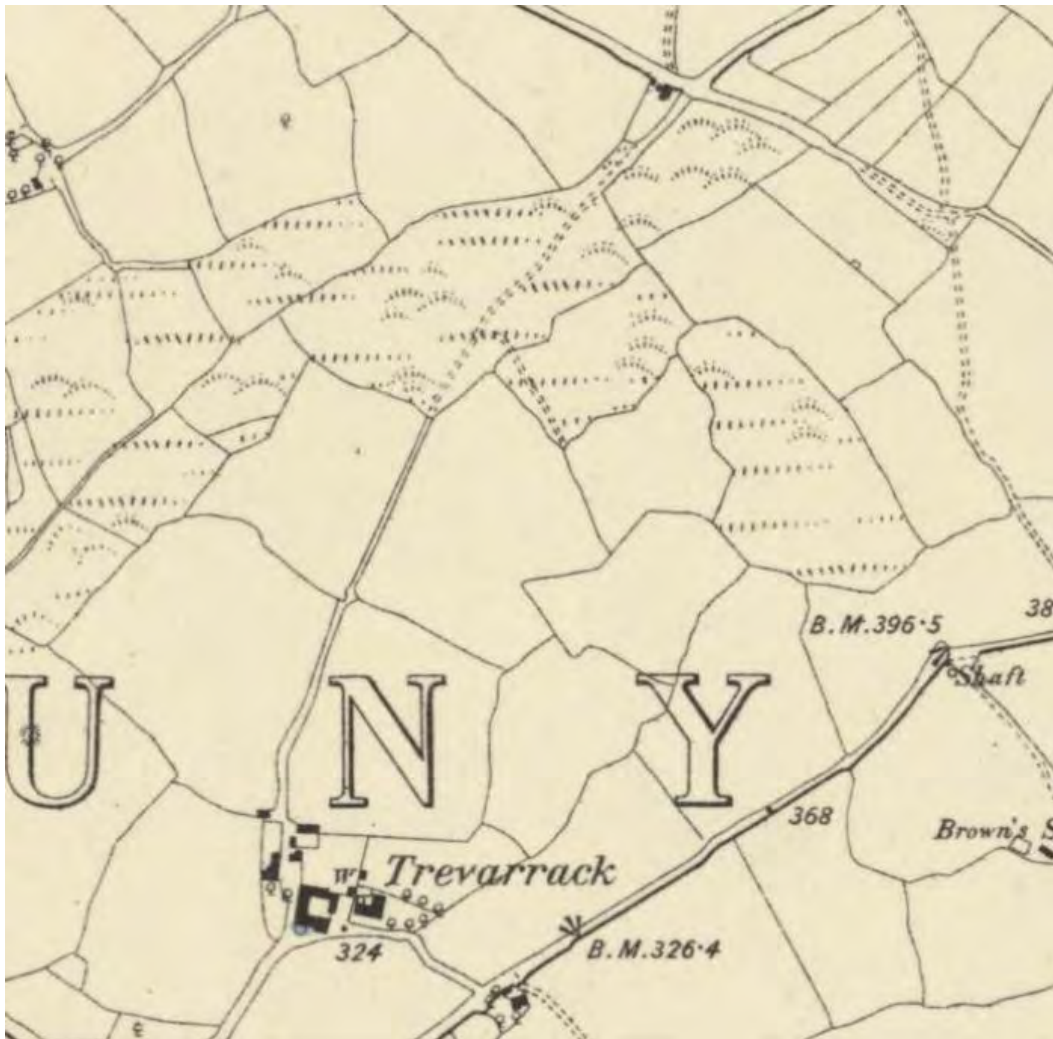


Southern Section



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

Clearly shown as road/track



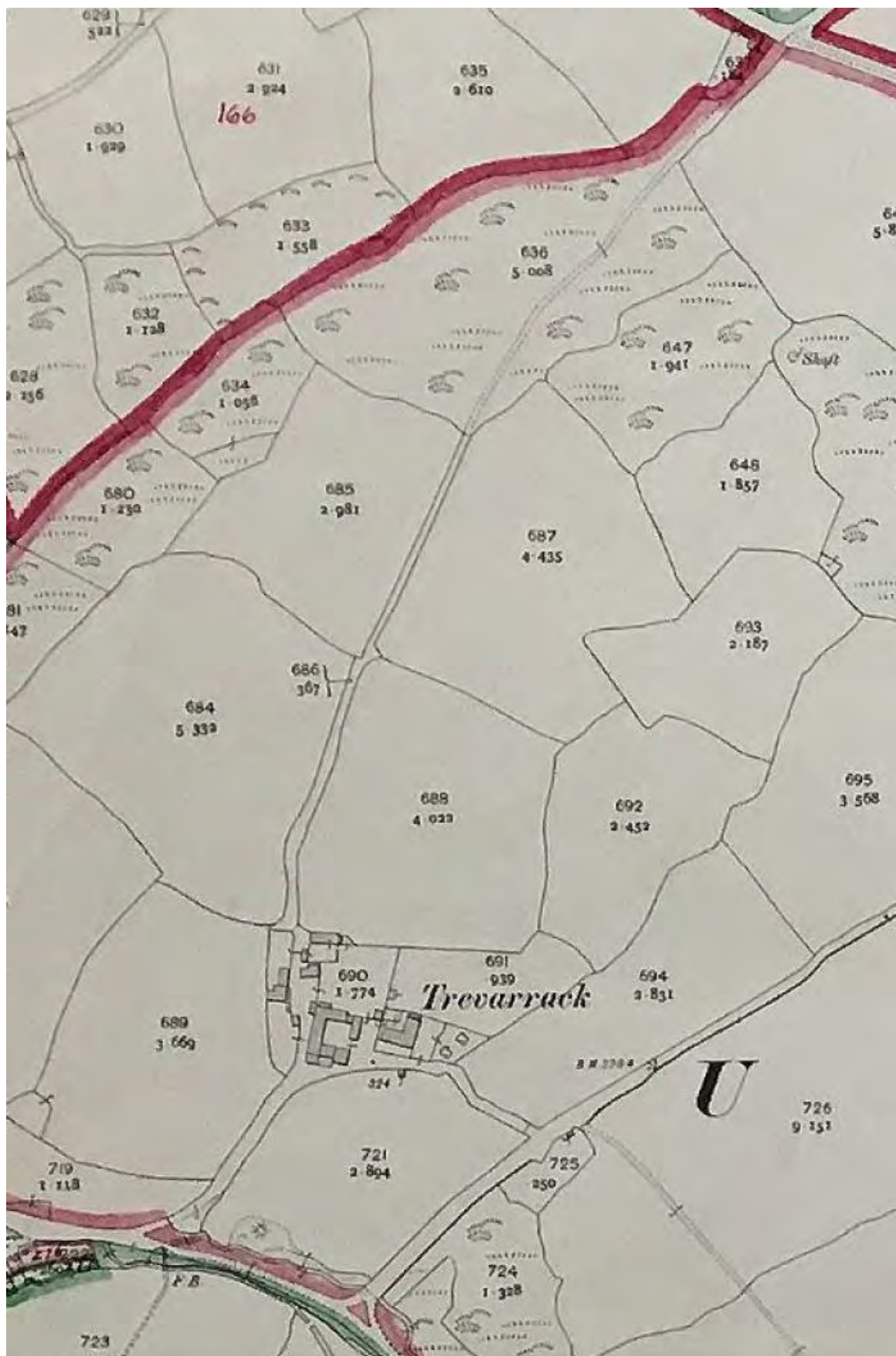
Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Shown clearly in similar style to other roads



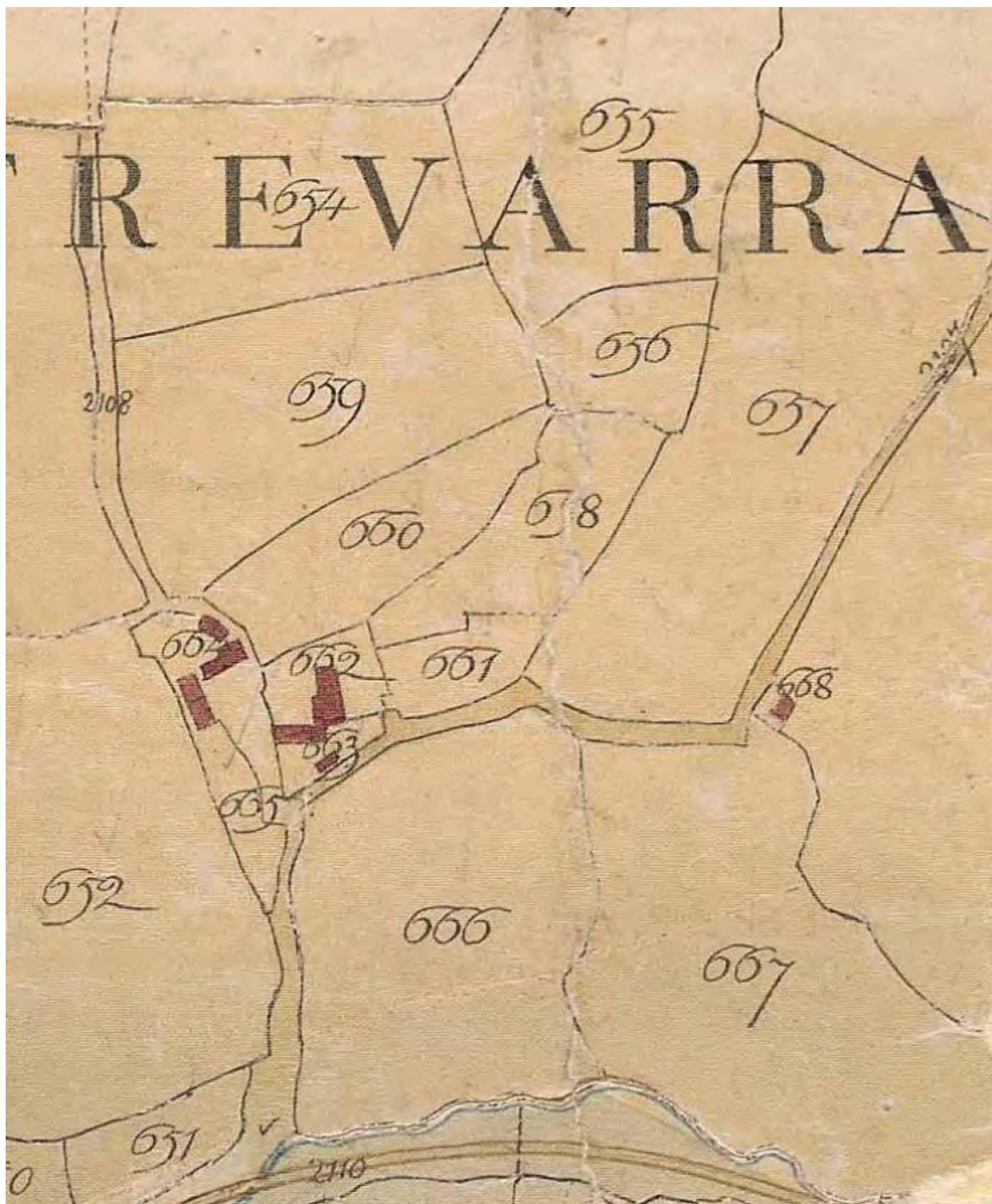
Inland Revenue Valuation Records - Finance (1908-10) Act 1910

Lane is not specifically excluded but passes through a gap in coloured boundary in similar fashion to nearby county road

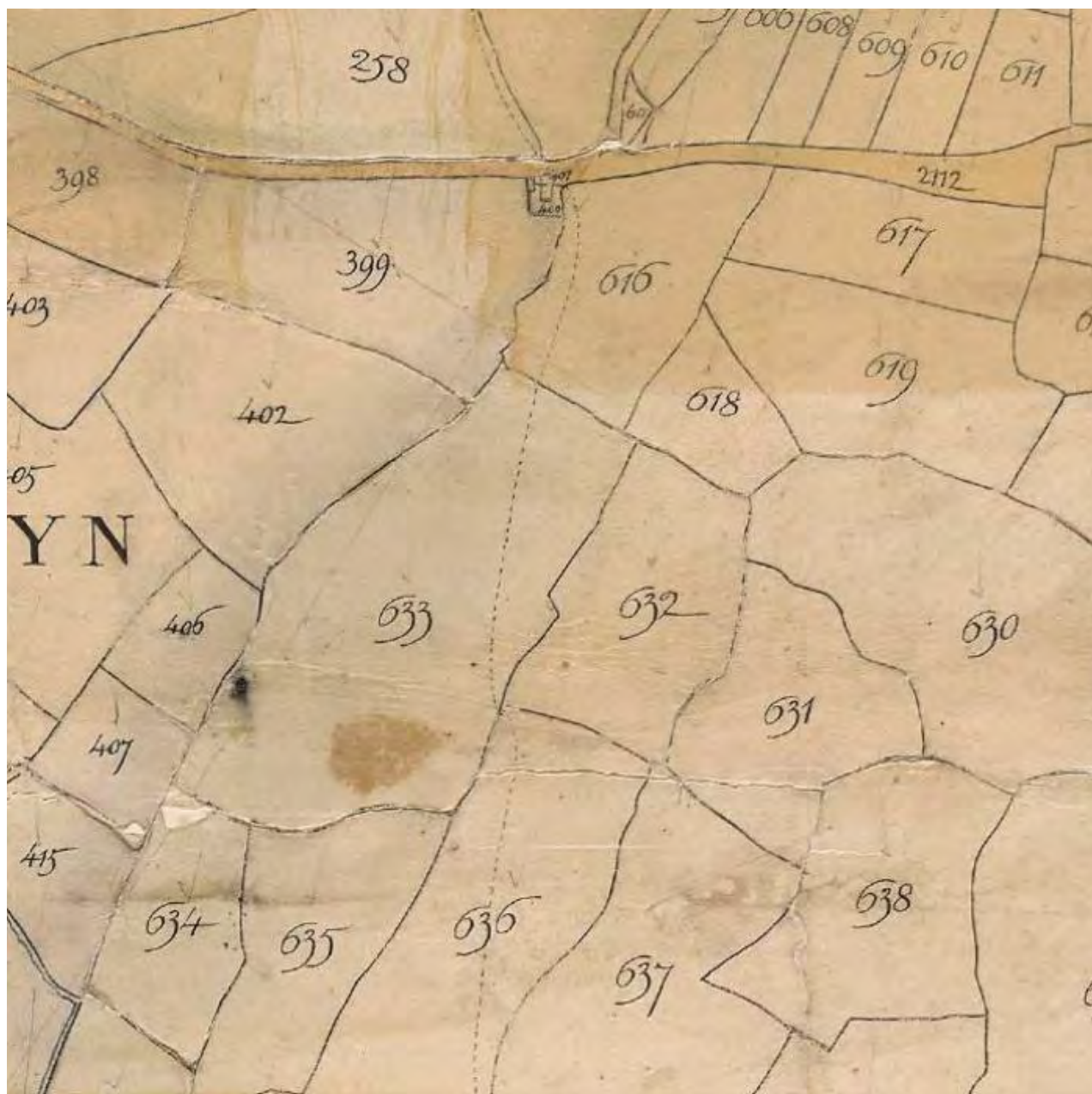


Tithe Records

Southern part plots 2108 & 2107 app. Described as 'Road through Trevarrack'



Path shown as dashed line - Northern part passes through plots plot 636 ,633 (Road Croft) and 616



Apportiinments

630	Great Croft	d ^o	5 3 50
631	Higher Bannell	d ^o	1 3 17
632	Bannell Croft	Purze	1 3 30
633	Road d ^o	d ^o	4 2 30
634	Higher Moor	d ^o	1 1 0

2104	d ^o to Glenhead		
2105	d ^o through Trencom		1 0 5
2106	Road through Trunk		1 2 24
2107	Road through Trevarack		1 0 16
2108	Road through d ^o		1 32
2109	Road in Beestheda		2 0
2110	Road and walls in Trencom		1 2 11

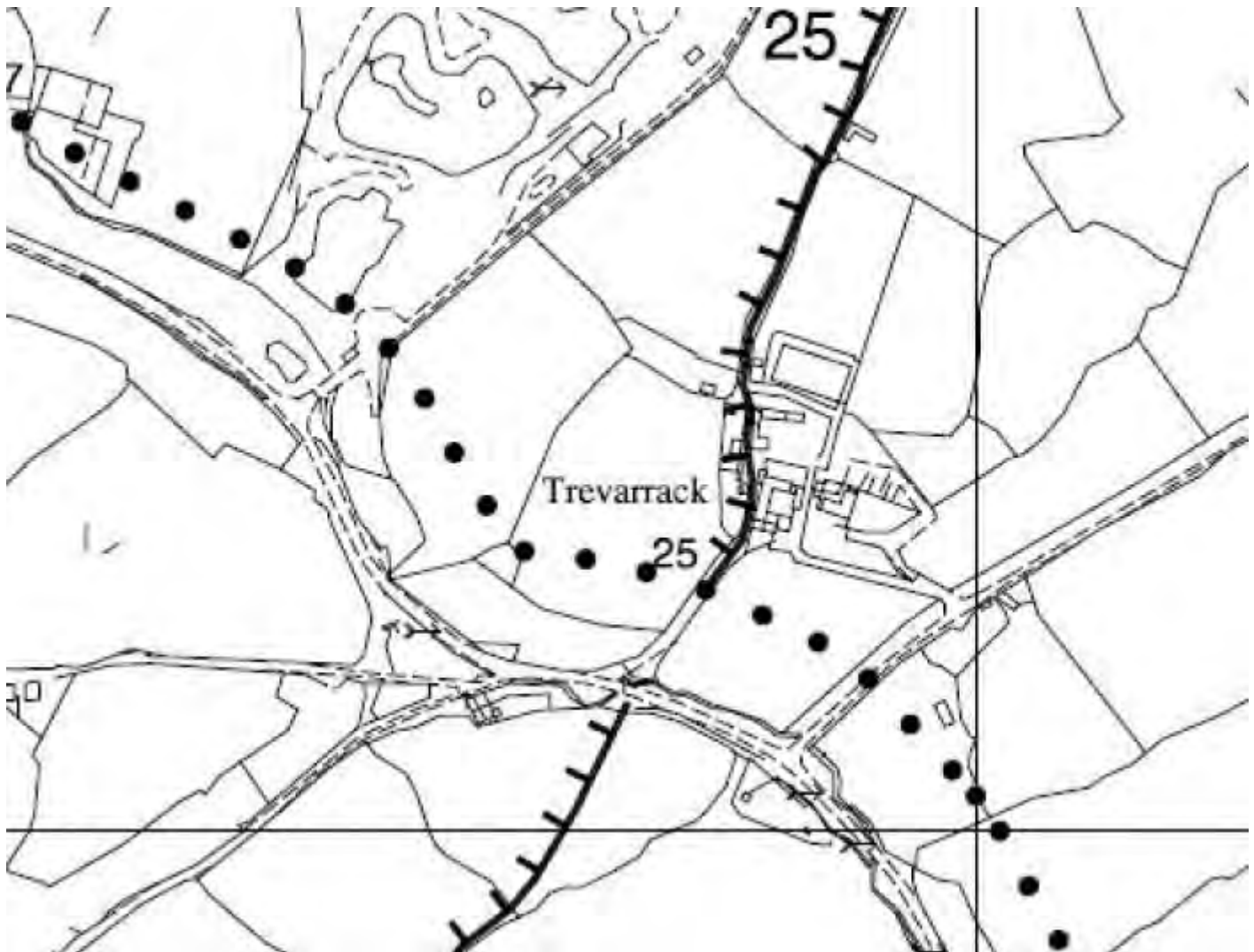
Parish Area Books

Plot 686 'Road'

681	1·147	Rough pasture, &c.	731	1·099	Pasture.
682	·198	Rough pasture.	732	3·730	Arable, &c.
683	6·080	Pasture, &c.	733	·626	Houses, yards, gar-
684	5·323	Arable.			den, &c.
685	2·981	Arable.	734	3·473	Pasture, &c.
686	·349	Road.	735	2·458	Arable.
687	4·435	Pasture.	736	2·081	Arable.
688	4·029	Arable.	737	3·759	Arable.
689	3·669	Arable, &c.	738	30·945	Arable, &c.
690	1·766	Houses, yards, gar-	739	5·123	Arable, &c.
		dens, &c.	740	1·100	Wood, &c.

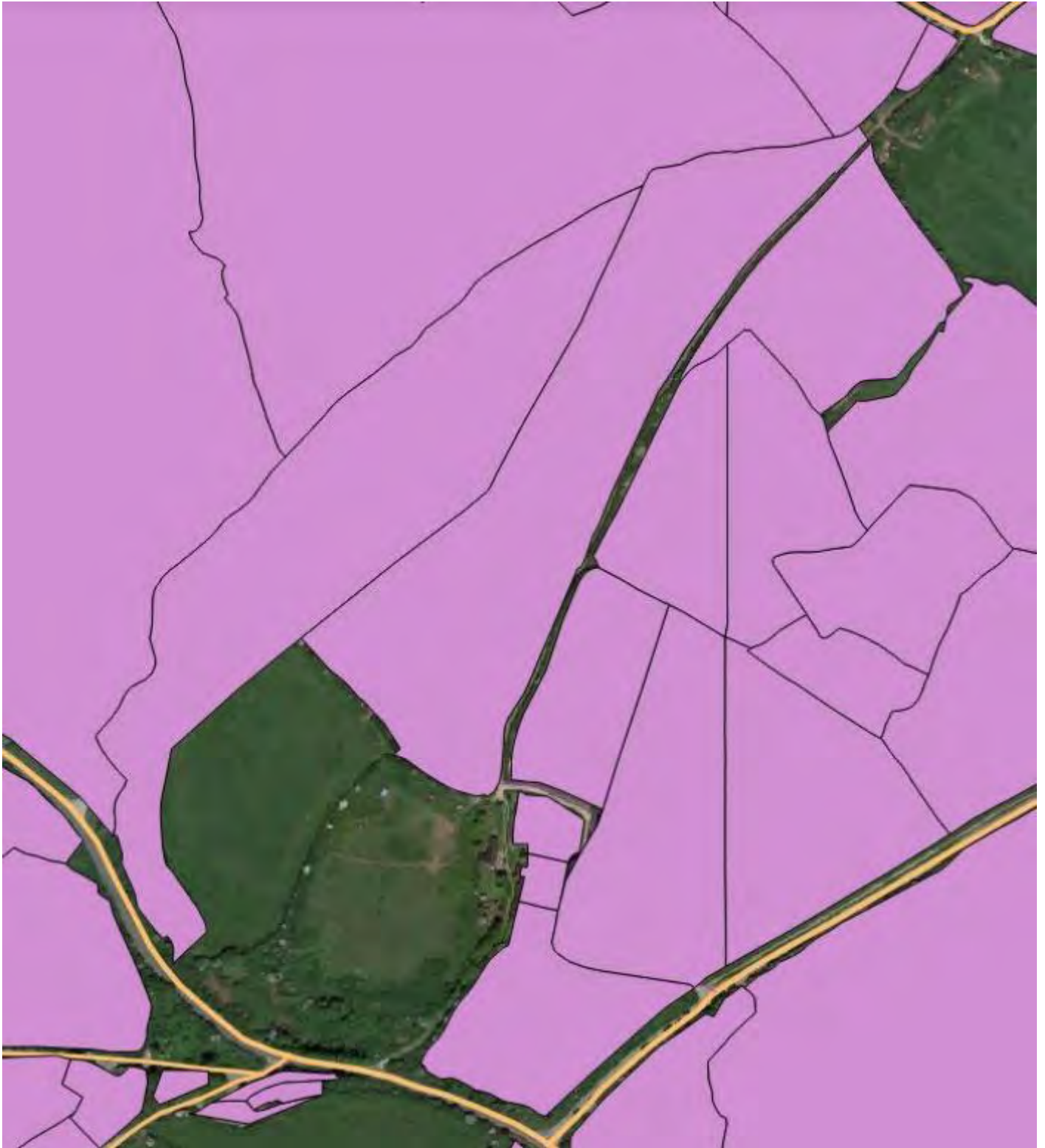
Definitive Map Records

The definitive map shows the recorded footpath stopping at the parish boundary after passing through Trevarrack



Land Ownership

Land Registry - None of the path is registered



[illegible]

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.

Definitive Map Records - Cornwall Council