



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

from:

to:

(c) Upgrading to a Restricted Byway the footpath

from: Laity Lane Gridref: SW51363855

to: Steeple Lane County Road Gridref: SW51563880

(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: 24 February 2020

Application Details

Our Path Reference: 113/E Grid Reference: SW515386

Parish: St Ives

Map of Path:

Path shown in blue



Description of Path:

Path starts at Laity Lane SW51363855 and ends at Steeple Lane County Road SW51563880

An old hedged packhorse track (A to B) leading to and across open common/moorland to Steeple Lane (at C)

Current Recorded Status:

Path is recorded as Footpath on the Definitive Map. Path is not recorded on the List of Streets.

Status being applied for: Restricted Byway

Notes:

Path may be obstructed at NE end.

Path is believed to be walked, ridden and cycled, but route across open land to reach Steeple Lane may have changed..

Our Path Reference: 113/E Grid Reference: SW515386

Path starts at Laity Lane SW51363855 and ends at Steeple Lane County Road SW51563880

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 - Penzance 1896 Path is clearly shown as a track.

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

Cornwall LXI.15 1884/1887 Path is clearly shown as a road or lane, plot nos. 29 and marked C.R. indicating that the parish boundary runs down Centre of 'Road'.

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 - 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 hedged part of the old lane is clearly drawn and identifiable on the map.

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 128/5/729 shows path clearly excluded from adjoining hereditaments indicating public road. Part on 128/5/730 is unclear.

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 Tithe - All of the route applied for is clearly shown as plot number 2119 and listed in apportionments as 'Road and Waste adjoining Saint Ives parish' with no tithe payable. Parish boundary runs down centre of old lane. The route is shown un-numbered on St Ives Tithe and is contiguous with, and runs into, what is now county road, Steeple Lane. See images with current road superimposed on the annotated tithe in the appendix.

Parish Area Books

Lelant Plot no 29 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 old lane part is excluded from registration yet plots either side are all registered. This is strongly suggestive of an ancient public highway.

Summary and Statement of Reasons:

The Tithe map shows all the path as a plot listed as a 'Road' in Lelant Tithe under 'Roads and Wastes' and un-numbered on the St Ives Tithe. This is exceptionally good evidence of the status of the whole path.

The Inland Revenue map shows most of the road excluded from the adjacent hereditaments. This is very good evidence that it was excluded because it was a public road.

The old OS mapping demonstrates that the path applied for was an enclosed lane, open and available for use in the nineteenth century and leading across open land to St Ives and Carbis Bay. At that time, the primary mode of transport was pack horse, cart or carriage. It is inconceivable that such a useful route would not be used by all including horses to get to Carbis Bay. It must be noted that Steeple lane, county road was depicted in similar fashion across the down land. Tracks across down land were freely used by all at that time.

The Area Book confirms that status of the path as 'Road'.

Land Registry shows the old lane part of the route is excluded from registration. This is strongly suggestive of an ancient public highway. The down land to the north is registered.

The combination of the evidence from Old Maps, Inland Revenue map 1910, Tithe and Area Book gives 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



Point where claimed route meets Steeple Lane (image 2011).

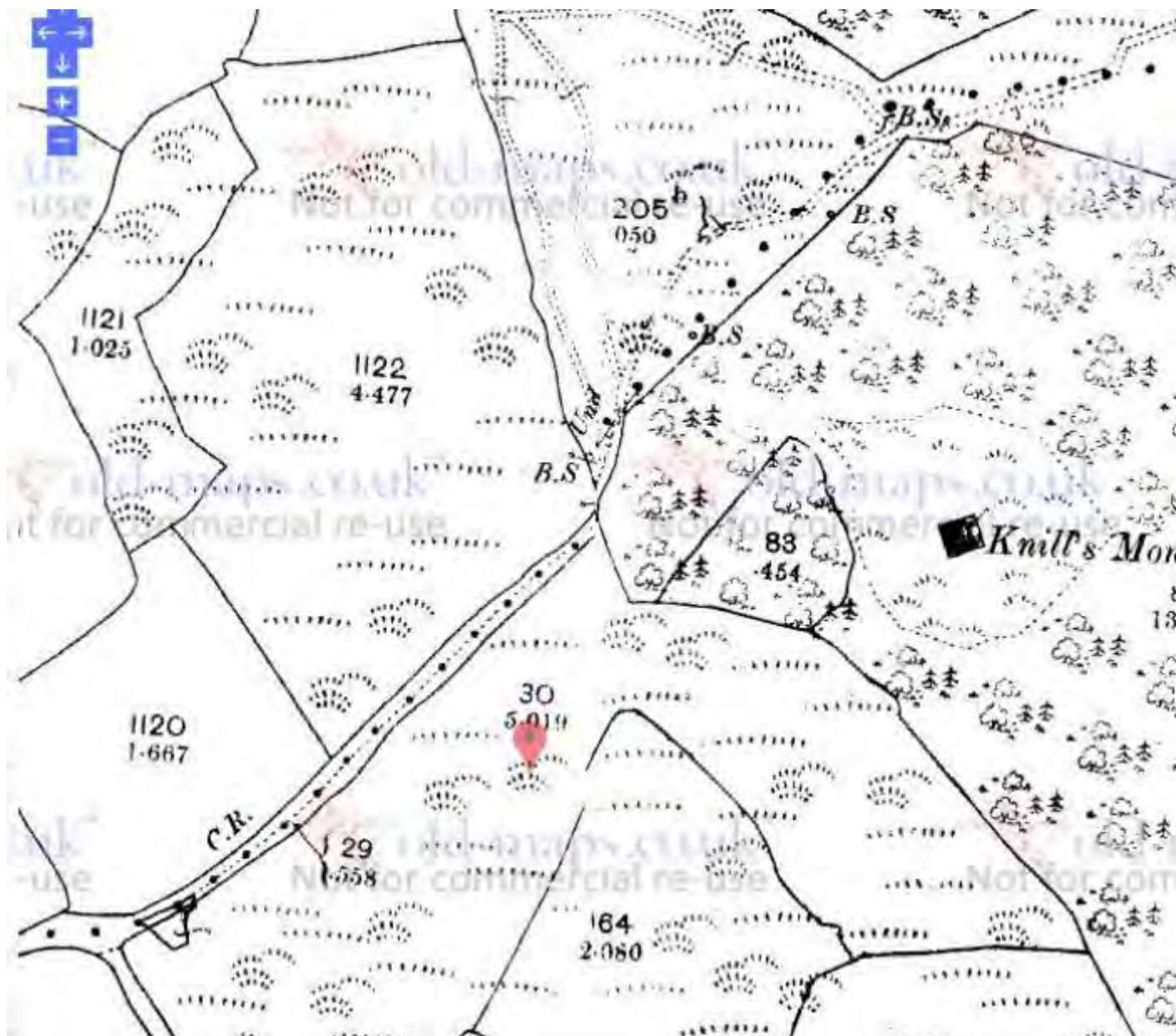




OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

Path is shown following the parish boundary





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

Path clearly shown leading to and across moorland



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

Complete route shown as road



Martyns Map

Enclosed lane is clearly shown leading to the moor.



Lower half of path is excluded from hereditaments

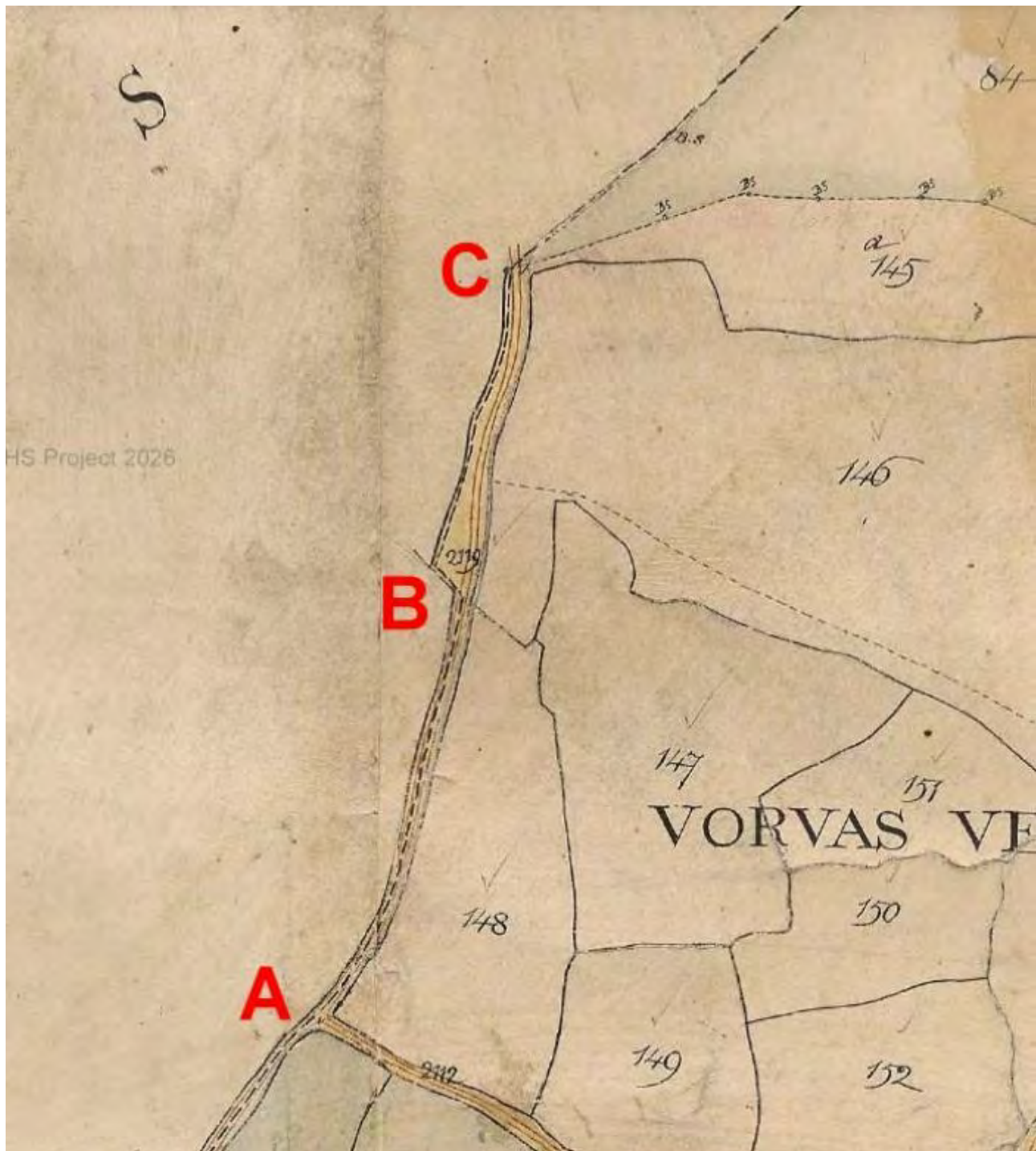
[illegible]

128/5/730 Not clear if the top part of the path is excluded - poor quality map.



Tithe Records

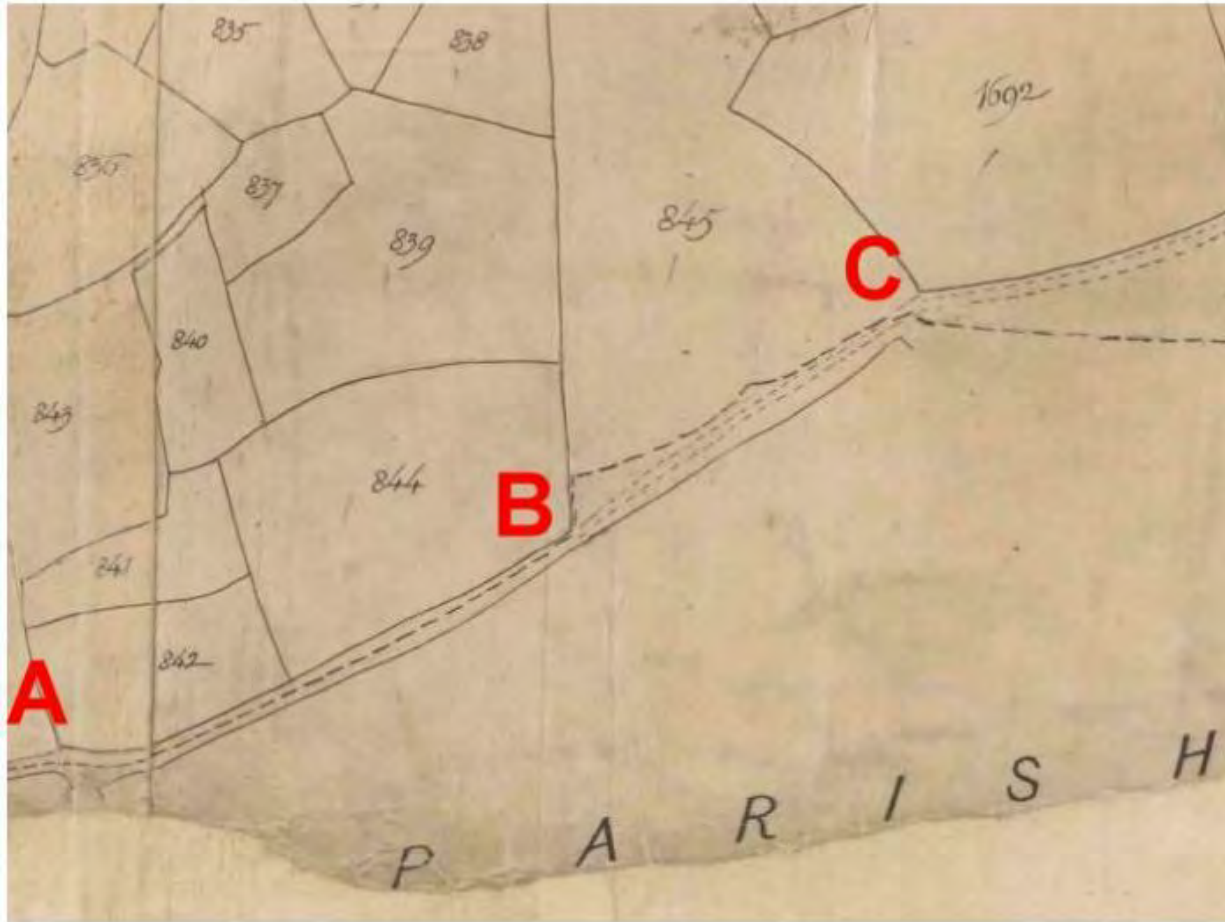
Lelant Tithe - Whole of Route applied for is plot 2119



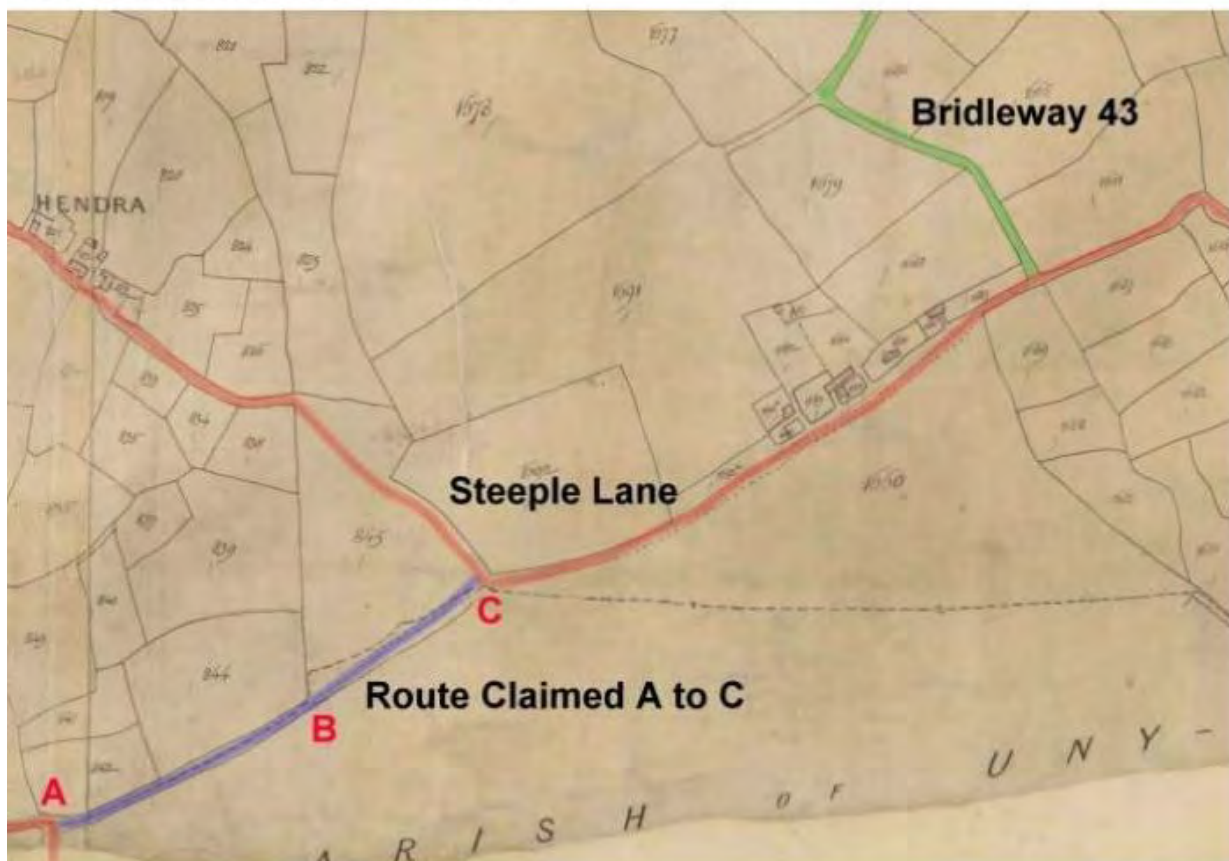
Apportionment 2119 'Road and Waste adjoining Saint Ives Parish'

2116	Road to Trevelthou	3	20
2117	Road to Moorvas	3	35
2118	Road to Moorvas Creast	1	6
2119	Road and Waste adjoining Saint Ives Parish	3	15
Carried forward		10	0 13

St Ives Tithes - roads are unnumbered



View showing current roads and bridleway



Parish Area Books

Uny Lelant Plot no 29/29a 'Road'

22	2·448	Rough pasture, &c.	59	·363	Garden, &c.
23	5·990	Rough pasture, &c.	60	2·387	Pasture.
24	·852	Rough pasture.	61	2·284	Arable.
25	8·270	Rough pasture, houses, &c.	62	1·616	Arable.
26	12·154	Rough pasture, &c.	63	1·438	Pasture, &c.
27	1·494	Arable.	64	1·617	Pasture, &c.
28	2·370	Pasture.	65	1·786	Arable.
29	·558	Road.	66	2·205	Arable, &c.
30	5·019	Rough pasture, &c.	67	·241	Arable.
31	2·425	Arable, &c.	68	·591	Arable, &c.
32	1·892	Pasture, &c.	69	·804	Arable, &c.
33	1·672	Road.	70	·114	Road.
34	1·215	Pasture, &c.	71	1·277	Arable, &c.
35	2·160	Arable.	72	·850	Arable.

Land Ownership

Old lane unregistered (registered purple)



Land Registry '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.

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.