

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 B3283 Gridref: SW40322516

to: County Road B3315 Gridref: SW41242389

(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......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 tabruary 7070

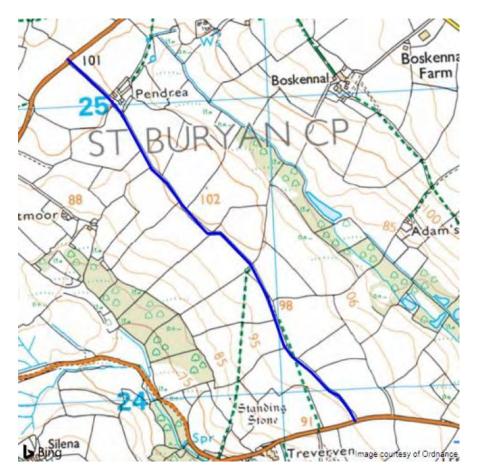
Application Details

Our Path Reference: 110/R02 Grid Reference: SW408245

Parish: St Buryan

Map of Path:

Route applied for is shown in blue.



Description of Path:

Path starts at County Road B3283 SW40322516 and ends at County Road B3315 SW41242389. The old wide lane, Crasken Lane, past Pendrea connects two B-Roads

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:

This very old named lane always has been ridden and walked regularly by all. Along one part of the lane there is a substantial raised stone side 'pavement' to avoid an area that may be flooded. It is joined by three definitive footpaths at various points along its length.

Our Path Reference: 110/R02 Grid Reference: SW408245 Path starts at County Road B3283 SW40322516 and ends at County Road B3315 SW41242389

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

Ordnance Survey First Series, Sheet 33 1856 route clearly shown as a road demonstrating the history and importance of the route. Similarly shown on the 1895 revision.

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

Cornwall LXXVIII.3 Surveyed: 1875 Path is clearly shown as a road or lane, single plot no. 1727.

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

Cornwall LXXVIII.NE & SE Surveyed: 1876 Published: 1887 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 or lane

Johnston's Motoring Touring maps of England and Wales

Clearly shown on 2in and 1957 3mi to an inch

<u>Martyns Map</u>

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.

Martyns Map 1748 - Clearly shown in same style as all other nearby public roads. 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.

IR128/5/943 - Southern end is excluded from hereditaments but most of the lane is clearly included in hereditament St Buryan 56.

Form 37 survey for hereditament 56 has been examined at Kresen Kernow and the remarks for plot 1727 state 'Right of Way through farm'. The Field Book at National Archive makes the statement that a 'main road runs' through the farm (hereditament) Please see separate Appendix I with detailed analysis and document images of Form 37 and Field Book.

We consider all this evidence is substantial proof that the lane is a highway.

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.

St Buryan - Path is clearly shown as plots 805 and 587. Apportionment 805 is described as 'Farm Lanes, Dwelling. Fold etc' and 587 is described as 'Lane'.

Parish Area Books

St Buryan - Plot no 1727 is described as 'Road'.

Other Evidence:

Definitive Map Records

Three definitive footpaths terminating at the Lane are suggestive that the lane was regarded as a public road. If it had a status lower than a road, eg footpath or bridleway, it would have been recorded on the definitive map. The Survey Schedules for FPs 29 and 31 give starting point or termination as Crasken Lane. The Definitive map and statement for FP 29 says 'FP from B3315 east of Selena to road south of Pendrea.' For FP31 the definitive statement says 'FP from B3315 east of Treverven House to road south of Pendrea'.

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 southern part of the lane 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 Inland Revenue map shows most of the road included in hereditament 56 Pendrea Farm. However the associated Form 37 Survey clearly identifies the lane as a 'Main Road through the farm' and for plot 1727 specifically remarks 'Right of Way through farm'. This is exceptionally good evidence of the status of the path as a road.

This evidence is confirmed by the tithe map describing the route as a Lane. The Area Book also describes the lane as Road.

The depiction of the lane on all old maps and especially the Martyns Map underlines the importance and likely status of the lane as highway.

The status of the path is further confirmed by the definitive map and statement and path surveys for the two footpaths that connect with the lane. The statements state that the paths connect to Crasken Lane and to 'Road' South of Pendrea.

It should be remembered that legislation states that definitive rights of way have to connect from highway to highway or to 'a place of popular resort'.

The fact that the lane is known as Crasken Lane indicates its importance and likely status. We submit that it must have been a route of more than purely private significance in order to be named. The large width of the lane (very wide for a farm lane) is indicative of its use and importance.

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

View from B3283



View from B3315



View along the old wide lane



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

Ordnance Survey First Series, Clearly shown as a road.

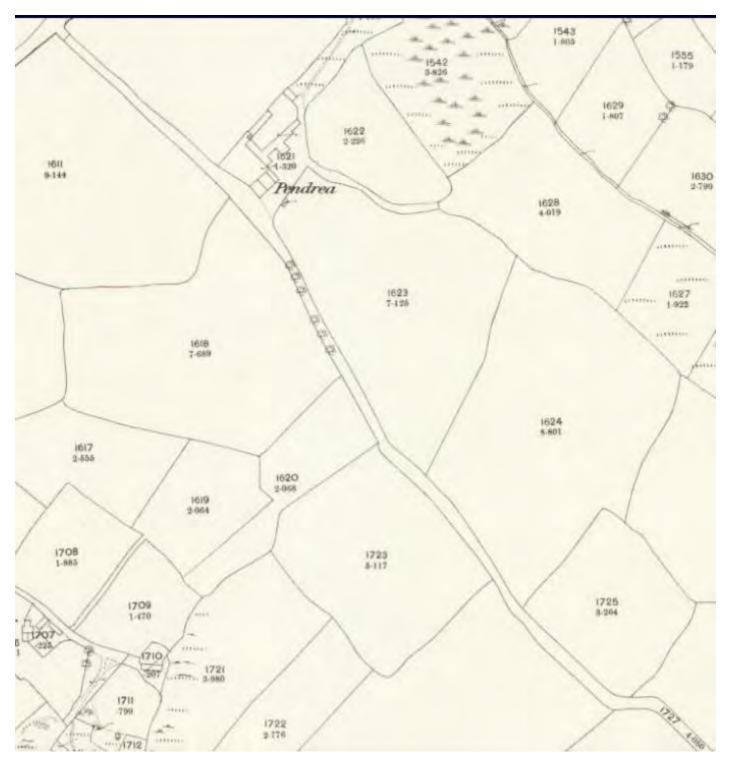


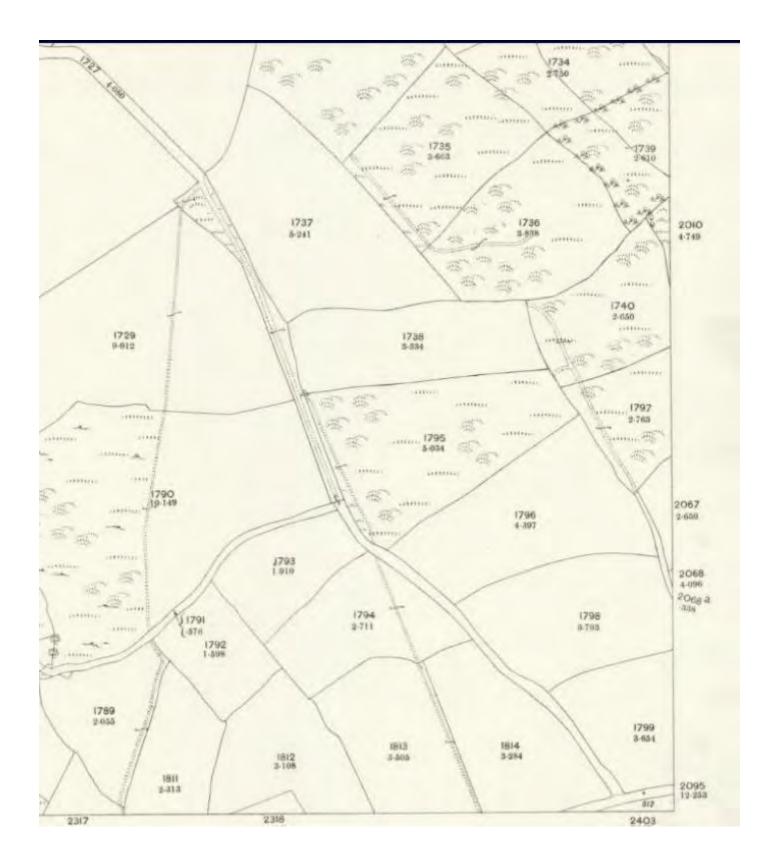
Sheet 358 - : 1895 clearly shown as road



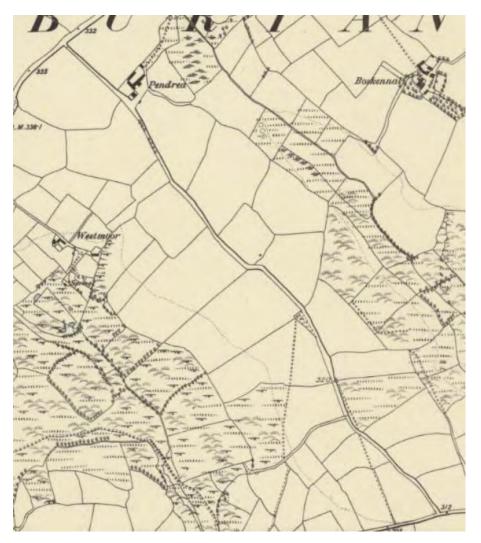
Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Plot 1727



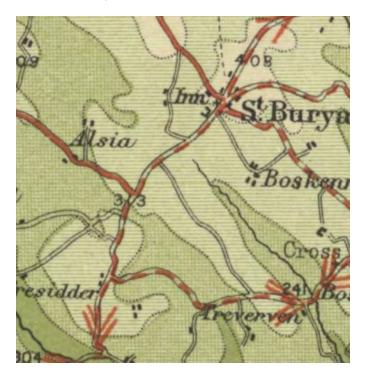


Clearly shown as road



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

Lane is clearly shown



Johnston's Motoring Touring maps of England and Wales

Lane clearly shown as a road

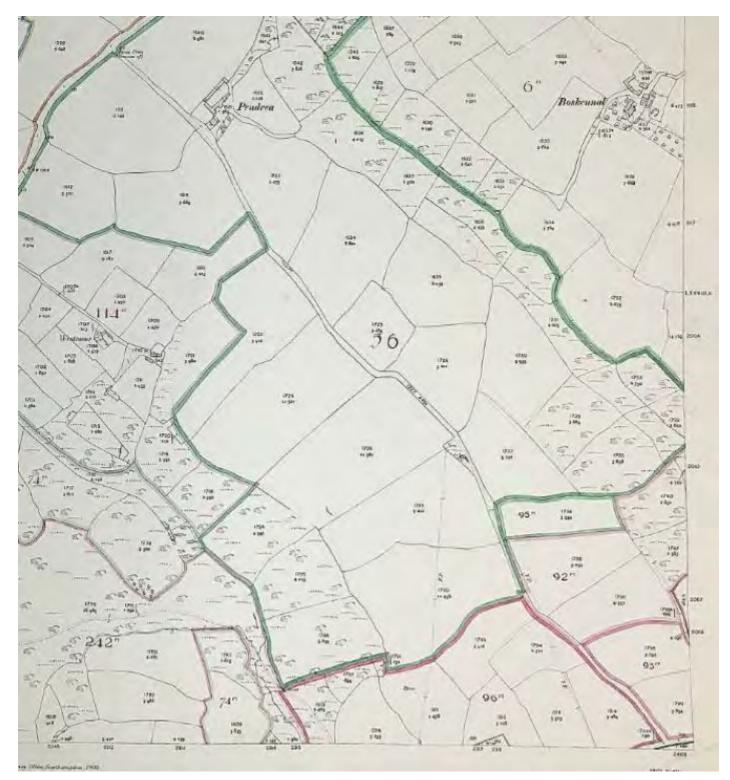


Martyns Map

Shown as an important through route

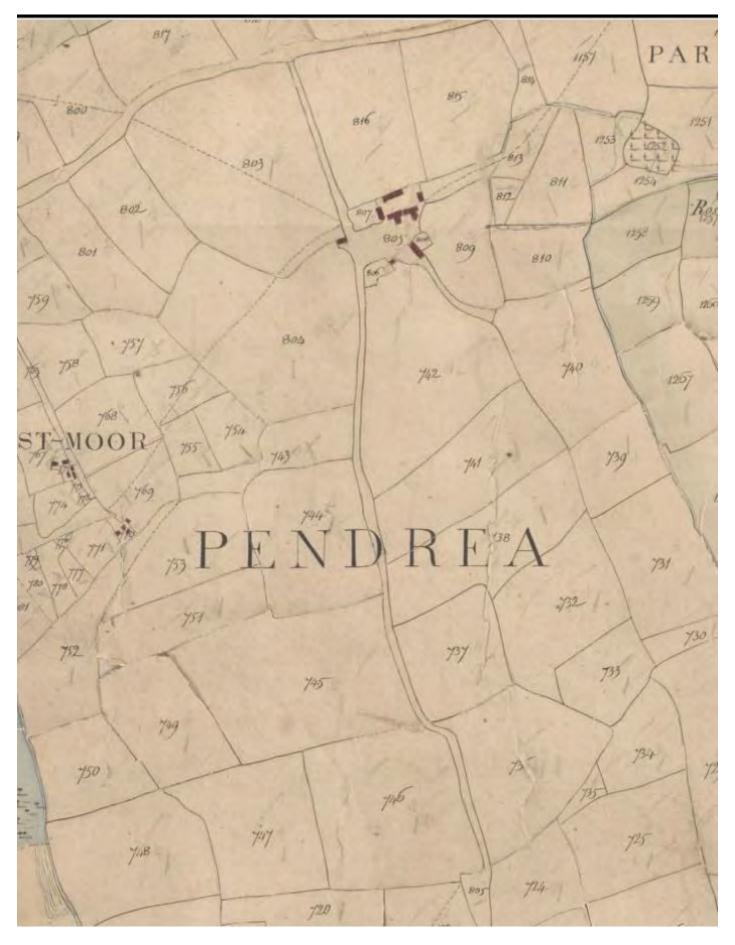
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Most of lane is included in hereditament 56

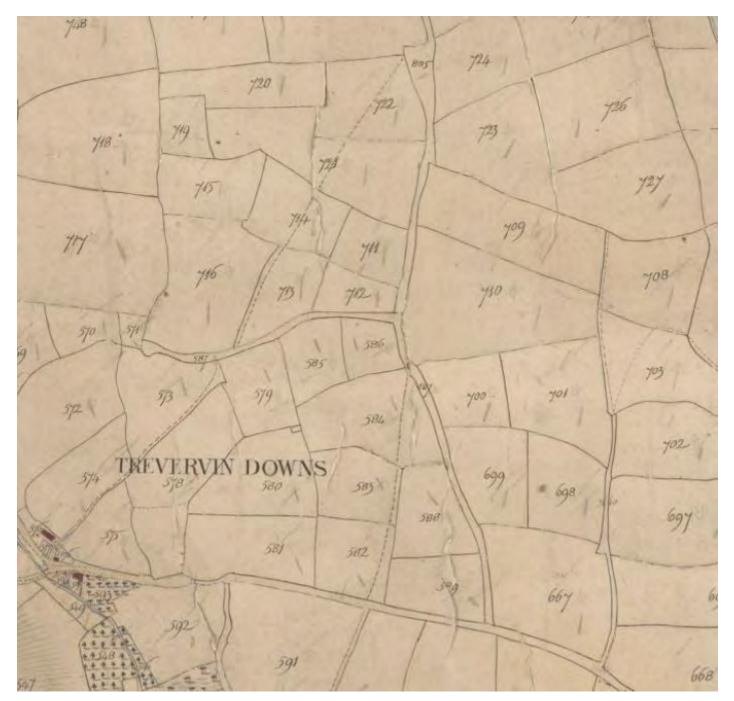


Tithe Records

Plot 805



Plots 805 and 587



Apportionments 805,587

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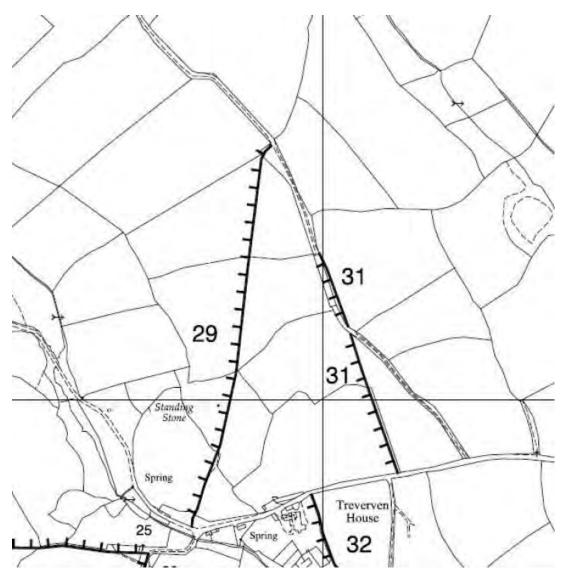
Parish Area Books

Plot 1727 'Road'

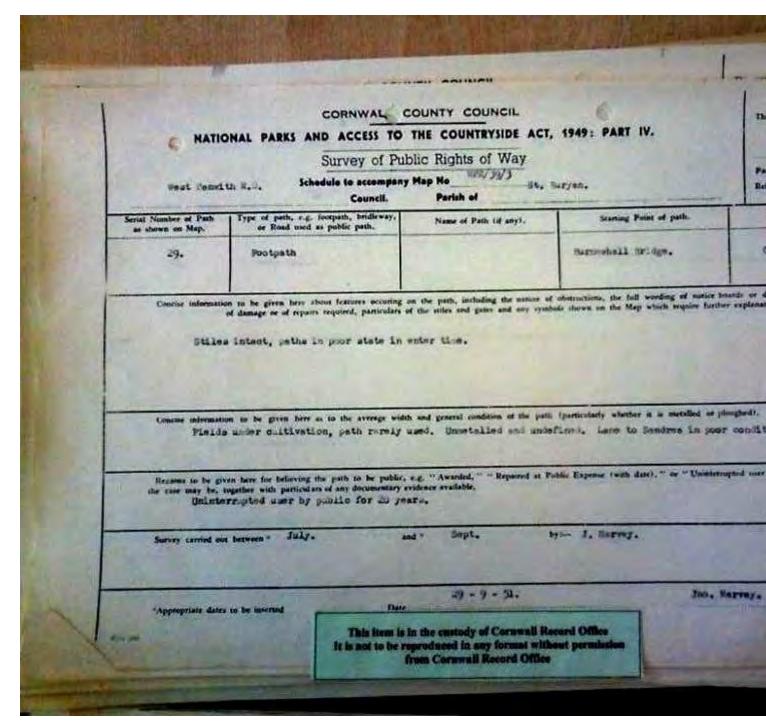
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1680	5-622	Arable.	1723	5-117	Arable.
1681	1-201	Pasture.	1724	11.529	Pasture.
1682	6.709	Pasture.	1725	3.264	Arable.
1683	2.303	Arable.	1726	5-211	Arable.
1684	1.985	Arable.	1727	4.080	Road.
1685	1.399	Arable.	1728	11.882	Arable.
1686	.972	Pasture.	1729	9.012	Pasture, &c.
1687	+450	Road.	1730	5.995	Pasture, &c.
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1690	1-905	Pasture.	1732	6-220	Pasture, &c.
1691	5.933	Arable, &c.	1733	.448	Rough pasture.
1692	3.224	Rough pasture and	1784	2.750	Rough nesture furre

Definitive Map Records

Definitive map showing FPs 29 and 31 and Crasken Lane



FP survey says destination of path Crasken Lane



Survey of FP 31 states Starting Point of path is Crasken Lane to Treverven

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Land Ownership

Registered land in purple - bottom part of old lane is NOT registered





<u>Appendix II</u>

Detail of Inland Revenue 1910 Map and Assessments

1. Overview

The southern 200m of the lane is excluded from hereditaments lying between hereditaments 93 and 96.

The next 130 metres appears to be included in hereditament 92.

The remaining 1300 metres is included within hereditament 56 pertaining to the holding of Pendrea Farm.

Hereditament 56 Pendrea Farm.

The hereditament is of area 242 acres in total with the route being applied for running broadly through the middle of the hereditament. The old farmhouse sits on the eastern side of the old lane near the northern end.

The lane applied for is a single plot number 1727 of area 4.094 acres.

Hereditament 92

The hereditament is drawn to include a short section of the old lane running along side plot numbers 1795 and 1796. Plot 1795 contains what is now a public FP running in the field alongside the lane. The lane is a separate plot from these appears to be braced with the main lane plot 1727

2. Examination of the Valuation Survey and Field Book for Hereditament 56

- Forms 37 St Buryan Cornwall Records Office Cat. No. DV/3/9/7
- The Valuation Survey (Form 37) describes the old lane (plot 1727) as 'Road'.
- The remark against this plot is "Right of way through farm"
- There is a deduction of £26 specified for "Public Rights of Way or User".
- The whole area of the old lane is included in summary under Buildings and Roads.
- Field Book for the hereditament in the National Archive Cat. No. IR 58/85362

The description of the hereditament in the Field Book is:

- 'Good quality dairy and feeding farm. Good land and Buildings *situated on both sides of good main road.*'
- The lane subject to the application is the only 'road' through the hereditament.
- The book also confirms £26 deduction for "R of Way Rds footpaths £1 x 26YP"
- Note the specific reference to Rds (Roads) in this statement.

3. Examination of the Valuation Survey and Field Book for Hereditament 92

Hereditament 92, from coloured boundary, includes a short section of the lane. the Form 37 plot survey sheet for this plot lists the lane (1727) as Croft and Waste.

4. Summary, Conclusions and Evidence of Highway

The field book and valuation survey gives unequivocal evidence that it was believed that the 'road' which is subject to this application was a public right of way of highway status. The plot number of the road is accompanied by the remark : 'Right of Way through the farm'.

The farm is described as 'lying either side of a main road'. It should be noted that in the context of this statement the 'farm' is the whole of the hereditament being valued.

The valuation evidence is consistent and conclusive in how it describes the route subject to the application.

It should also be noted that the plots which have what are now definitive footpaths running through them have the simple remark 'footpath' against them (apart from hereditament 92).

5. Images of the documents examined

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Plot 56 Field Book Held in National Archive (4 images)

Reference No..... Particulars, description, and notes made on inspection a puality dairy & feeding farm d F Buildings. siluck on both sides of food main road-Charges, Easements, and Restrictions affecting market value of Fee Simple May Har footfacts & 1 × 26 yp. E 26. May Har footfacts & 1 × 26 yp. E 26. Libr 16/5/0. × 26 yp. any 424 460 Jand Lax & 6.000 × 26 yp. [156. 6166 Valuation .- Market Value of Fee Simple in possession of whole property Reps Ins. 57 16.6 Reps Ins. 57 16.6 376 × 26yr. com 2066 616 Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and 27000 other things growing on the land 102 cc 2 735. bsac from a from so for 1000 450 £ 6550 Difference Balance, being portion of market value attributable to structures, timber, &c.£ 900 Divided as follows:--Buildings and Structures.....£ 900 Machinery£ Timber....£ Fruit Trees£ Other things growing on land£ Market Value of Fee Simple of Whole in its present condition (as before)£ 7450 Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:-Charges (excluding Land Tax). July£ 424 .

Dimensions Less Value Index letter Cubical Condition Description of Buildings Remarks Contents Depth Gross He A Davelling House. Fendrea. J. B. Mirang C. Coro Shed (16) E Fatting S (13) E Mixing Ho. for Riggs food. (Store or a Fait Less dedu 5.9.25.8 11 Fixed Fee I Pigo peus (5) Do Do (4) Stables (5) Course Box. An G Tit Stables H Calves pew () Falling Shed (2) - Rules b. Cow Shed (24) Coff Over. Implement Codge Machine No. (all Pau Jury). Ot. If Co Enguie Ho. (galy Roit. bollage. (Pare-au-Cady.) 5 Rooms Do 07 m N Publ Q Ow Shed (8) Mixing Run. Roft. Over. R Do (6) Loose Box S Brown (2) Righ Ease Ron Pegaries (3) mixing Run Rest Pendra. Parc-au-Cady Less Val (2 Val V P Ex accoun "Davelling No. 1st Floor: - 6 Rooms Ground Floor 5. Do. Poarch (front Hack). Coal House water in. also Cottage on Pentra. STS. Good. 151 Hoor 3 Rooms. Ground Hoor. 3. Do.

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	Reference No£ 7900	
	Reference No£ 7900 GROSS VALUE£ 7900 Hor &c (as before) £ 900	M
221	timber, &c. (as before) £ 900	the state of the s
	GROSS VALUE£ 900 Less Value attributable to Structures, timber, &c. (as before) £ 900 FULL SITE VALUE£ 7900	100 C
	Less Value and FOLE Cristian Formation Formati	La faite
	Less Value attributable to Structure ULL SITE VALUE£ 7900 Gross Value (as before)	and and and
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	Fee Farm Rent,	August the second
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	Capital Expenditure	and the second
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22.0	For further reference as to Apportionments &c., see	
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Remarks

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Reference No..... Particulars, description, and notes made on inspection wood quality dairy & feeding vod land & Buildings. silve 14/3/36. Itouse a builtings in fin repair. Tend will fromed Charges, Easements, and Restrictions affecting market value of Fee Simple May Rats forfacts \$ 1 x 26 yp. 226. Licher 16/5/8. x 26 yp. oay 424 460 Land Lax \$ 6.0000 x 26 yp. 156. Valuation .- Market Value of Fee Simple in possession of whole property in its present condition

Plot 92 Form 27 Survey Sheet

	No. 92.	17. Jun	Arra	Prior	Total		
Ond. 30 No.	Description	Timber		date	x In]	d.	
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	Summary	i					1

APPENDIX III - 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.
Johnston's Motoring Touring maps of England and Wales
Scanned paper copy British Horse Society.
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.
Definitive Map Records - Cornwall Council