

Our Ref: 114/R17	<b>Cornwall Council</b>	FORM 1
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**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: Bridleway 115 St Just Gridref: SW36603255 Gridref: SW36603255

to: County Road B3306 Gridref: SW36813249 Gridref: SW36813249

(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: .....Grd Ref .....

by providing that historical evidence has been discovered to establish a public right of way.

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

DOCUMENTARY EVIDENCE IS ATTACHED

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

Signed:

.....Dated: 28 July 2020.....

**Our Path Reference: 114/R17**

**Parish:** St Just-in-Penwith **Grid Reference:** SW367325

## Application Details

### Map of Path:

Route applied for is shown in RED DASHES



### Description of Path:

Path starts at Bridleway 115 St Just SW36603255 and ends at County Road B3306 SW36813249

Vehicular Track

### 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 obstructed. Path is believed to be walked, ridden, cycled, Path used by motors. Missing link to Bridleway.

This application is for Restricted Byway. The applicant is considering a separate application for the upgrade of the connecting Bridleway 155 to Restricted Byway.

Our Path Reference: 114/R17 Grid Reference: SW367325

Path starts at Bridleway 115 St Just SW36603255 and ends at County Road B3306 SW36813249

## **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 road in common with current county roads

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

Plot 1253 in common with bridleway 115 - note open braces

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

1887 revision Path is shown clearly as road in common with current county roads

#### **Ordnance Survey, 1:25,000 maps of Great Britain - 1937-1961**

Sheet 10/33 - A - 1951 - Route is shown as through road from Truthwall Lane out to the coast. Also note the old alignment of the B3306 still shown at that date.

#### **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 - The route is clearly shown as a road continuing Truthwall Lane to the coast and looping back to Botallack. That route is now Bridleway 115, Byway 112 and Bridleway 118. It also should be noted the major route of the B road appeared to be still along 'No Go By Hill'.

#### **Johnston's Motoring Touring maps of England and Wales**

The route is clearly shown as road from Truthwall Lane to the cliff.

## **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.

128/5/795 Path is clearly excluded from hereditaments

#### **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 Just Tithe - Route is the road from Truthwall to Wheal Owls Mine. Contiguous with Truthwall Lane and other County Roads, All Un-numbered. and no tithe All public roads in St Just are unnumbered with no tithe payable.

### **Parish Area Books**

St Just plot 1253 'Road'

## **Other Evidence:**

### **Definitive Map Records**

#### **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.

The Land Registry shows path 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 all of 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 un-numbered similar to and contiguous with other county roads with no tithe payable.

The OS 25 inch map shows the path as a Road in a separate plot together with Bridleway 115 and listed as 'Road' in the Area Book

Other old maps show the route as a road continuing Truthwall Lane out to the cliff.

It is significant that a Definitive Bridleway leads to old road otherwise it just joins footpaths, which indicates strong understanding that at the time the map was drawn the path was considered to be Highway as horse user would not have gone to the end and returned.

The Land Registry shows the path is excluded from registration. This is strongly suggestive of an ancient public highway.

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



Exit onto B3306 - note actual route crosses grass





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

Route is clearly shown as a road



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

Clearly shown as plot 1253 together with bridleway 115 by virtue of the open braces.



The very eastern part is plot 1684a in common with what was then the county road - now re-aligned to the east.



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

1887 - Route clearly shown as road.





## Ordnance Survey, 1:25,000 maps of Great Britain - 1937-1961

1951 Map - Route is shown as through road from Truthwall Lane out to the coast. Also note the old alignment of the B3306 still shown at that date.



## Johnston's Motoring Touring maps of England and Wales

Clearly shown as road from Truthwall lane to the cliff.



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

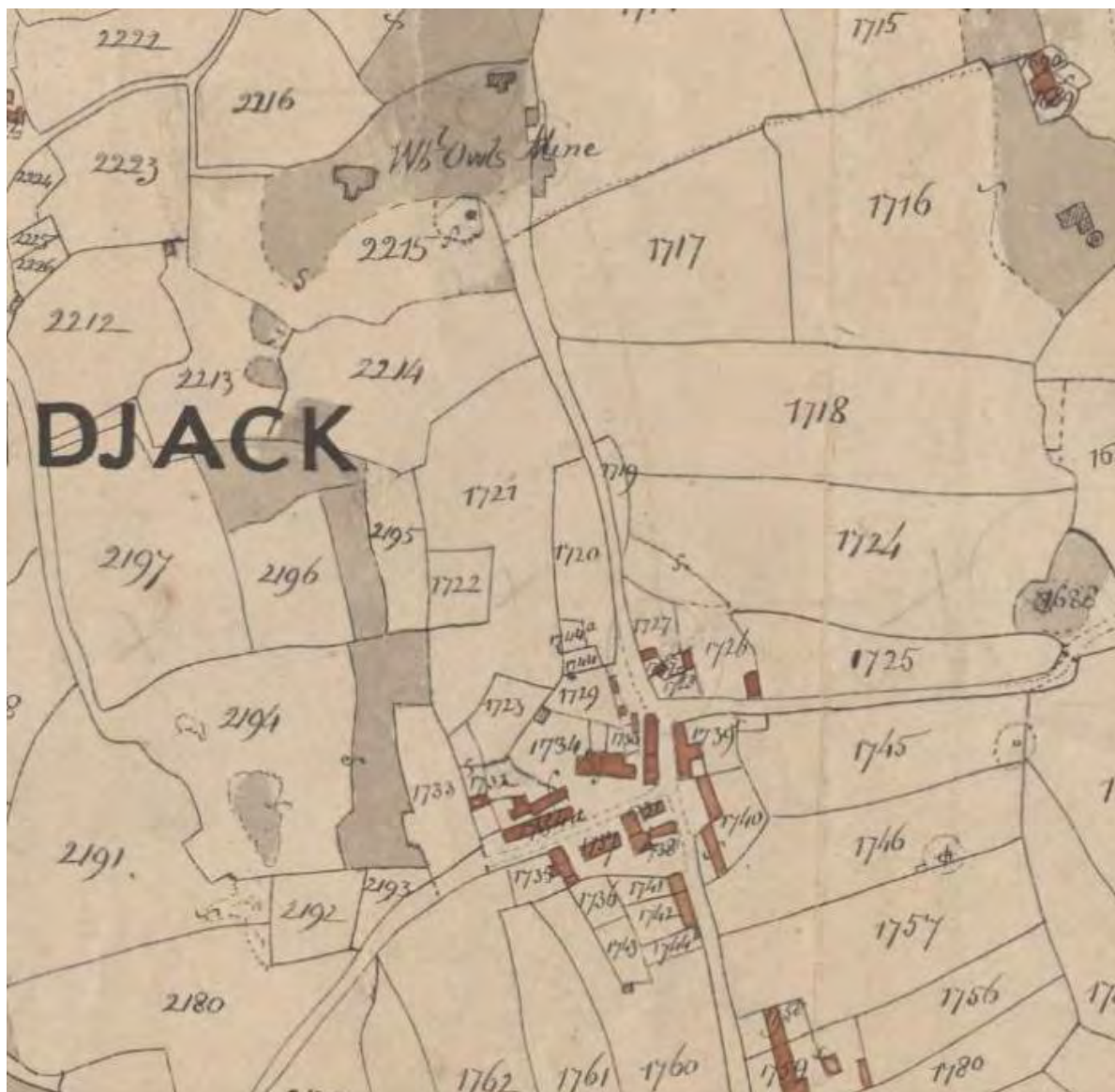
128/5/795 Path is clearly excluded from hereditaments





## Tithe Records

Route is the road from Truthwall to Wheal Owls Mine. Contiguous with County Roads un-numbered.



## Parish Area Books

Plot 1253 Road

1201	·327	Rough pasture and furze.	1249	·567	Arable.
1202	·537	Arable.	1250	·732	Pasture.
1203	·604	Arable.	1251	1·377	Pasture, &c.
1204	·728	Pasture.	1252	8·044	Rough pasture, furze, &c.
1205	·809	House, rough pasture, &c.	1253	·931	Road.
1206	·817	Pasture.	1254	·852	Pasture.
1207	·259	Arable.	1255	2·150	Houses, arable, &c.
1208	·234	Pasture.	1256	·248	Arable.
1209	·835	Arable.	1257	·467	Pasture.
1210	·085	Pasture.	1258	1·632	Arable, &c.
			1259	1·347	Pasture, &c.

## Definitive Map Records

CC GIS Definitive map showing Bridleway 115 (green) and FP 116



CC GIS List of Streets shows end of route running across what is now grass



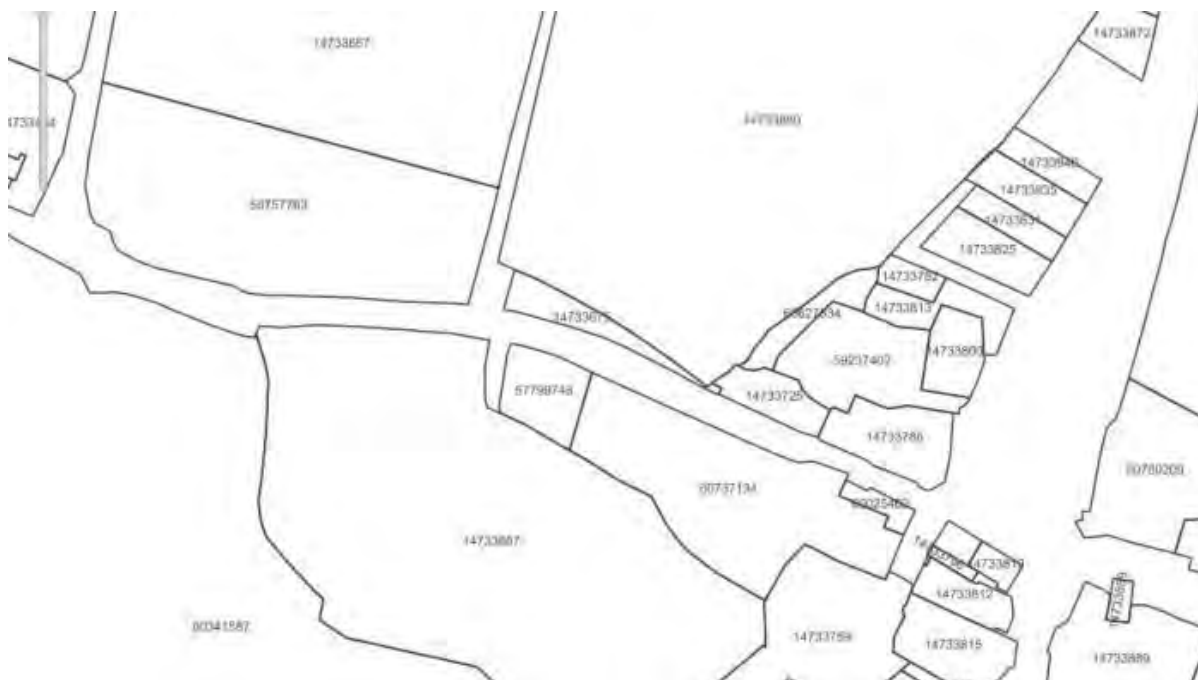


## Land Ownership

Registered land shown in blue (LR polygons)



### 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.

### **Ordnance Survey, 1:25,000 maps of Great Britain - 1937-1961**

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.

### **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.