

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: Bridleway 115 Grid Ref: SW36603256

to: Bridleway 118 Grid Ref: SW36663277

(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 ACCOMPANYING THIS APPLICATION IS LISTED BELOW

Signed: Dated:28 April 2023.....

List of Evidence Documents

Ordnance Survey. One-inch to the mile, Revised New Series

Sheet 351 -, Published 1896, National Library of Scotland (Web)

Ordnance Survey, 25 inch to the mile

Cornwall LXVII.13, Published 1878, National Library of Scotland (Web)

Ordnance Survey. Six-inch to the mile

Cornwall LXVII.SW, _1876, National Library of Scotland (Web)

Ordnance Survey, 1:25,000, First Series, 10/33 -, Publication date: 1951, National Library of Scotland (Web)

Inland Revenue Valuation Map - Finance Act 1908-1910

Cornwall LXVII.13 TNA No, 128/5/795 National Archive

Parish Tithe Map

St Just, 1841, County Records Office

Ordnance Survey Parish Area Book

St Just, British Horse Society

Land Registry 'Polygons' Map

, Land Registry

Inspire Map

, Land Registry

Our Path Reference: 114/R16

Parish: St Just-in-Penwith **Grid Reference:** SW366326

Application Details

Map of Path:

Route applied for is shown in RED DASHES



Description of Path:

Path starts at Bridleway 115 SW36603256 and ends at Bridleway 118 SW36663277

Old Lane is a vehicular track used by all and for farm access. Northernmost part is less used by vehicles. The vehicular track follows an amended route at the northern end.

Current Recorded Status:

Path is recorded as Footpath on the Definitive Map.

Status being applied for: Restricted Byway

Notes:

Path is not obstructed.

Our Path Reference: 114/R16

Grid Reference: SW366326

Path starts at Bridleway 115 SW36603256 and ends at Bridleway 118 SW36663277

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

Sheet 351 - Published 1896 - Path is clearly shown as road in common with current county roads

Ordnance Survey Maps - 25 inch England and Wales

Cornwall LXVII.13 Published 1878 Plot 1263a - Plot includes all of the application route and part of Bridleway 118.

The route is part of the old road network of the mining era and connected Parknoweth and Wheal Owles mines.

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales

Cornwall LXVII.SW Surveyed: 1876 - Path is clearly shown as a road partly unfenced running north from Wheal Owles through Parknoweth Mine

Ordnance Survey, 1:25,000 maps of Great Britain

10/33 - Publication date: 1951 Path is clearly shown as a road.

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 appears to be excluded from hereditaments from the north downwards and including part of BW 118. Exclusion is confirmed by the break in the coloured boundary half way along the path. We note the inconsistency with there not being a break at the southern end joining BR 115. We have not checked KK copy.

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 1841 - Most of the route is shown as a path (dotted line) along or through parcels 1714, 1715, 1716 and 1717.

Parish Area Books

St Just Plot 1263a is described as 'Road'. It should be noted that path is in contiguous plot with what is Bridleway 115.

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.

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 OS 25 inch map shows the path as a Road in a separate plot indicating the significance of the route and associated Area Book lists the plot as Road.

The OS One Inch map confirms the existence of the route as a road.

The Inland Revenue map appears to show all of the road excluded from the adjacent hereditaments and by virtue of gaps in coloured boundaries. This is good evidence that it was considered to be a public road.

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

The path is currently recorded as a footpath, but the historical physical characteristics suggest a higher status. It was an important road connecting the Parknoweth and Wheal Owles mines and to the wider road network.

The combination of the evidence from Old Maps, Inland Revenue map 1910, and Area Book gives strong indication that the path is of status higher than footpath 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

The southern leaving bridleway 115



Aerial View of all of path. Note the vehicular track goes off to the right at the northern end. Also note slight deviation of the track off the footpath definitive line at the southern end.



OS One Inch Ordnance Survey Maps - One-inch England and Wales

Ordnance Survey. One-inch to the mile, Revised New Series, Sheet 351 -, Published 1896

Path is clearly identifiable and shown as a road.



Ordnance Survey Maps - 25 inch England and Wales

Ordnance Survey, 25 inch to the mile, Cornwall LXVII.13, Published 1878

Route is shown as plot 1263a that also includes part of brideway 118



OS Six Inch Ordnance Survey Maps - Six-inch England and Wales

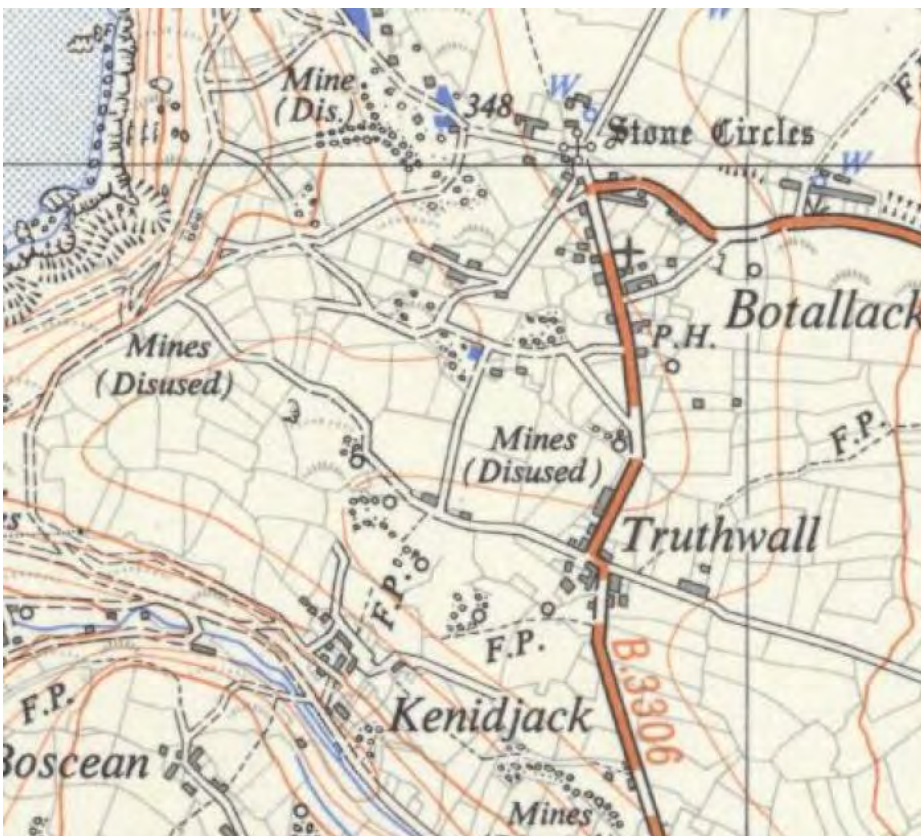
Ordnance Survey. Six-inch to the mile, Cornwall LXVII.SW, _1876

Path clearly shown as a road



Ordnance Survey, 1:25,000 maps of Great Britain

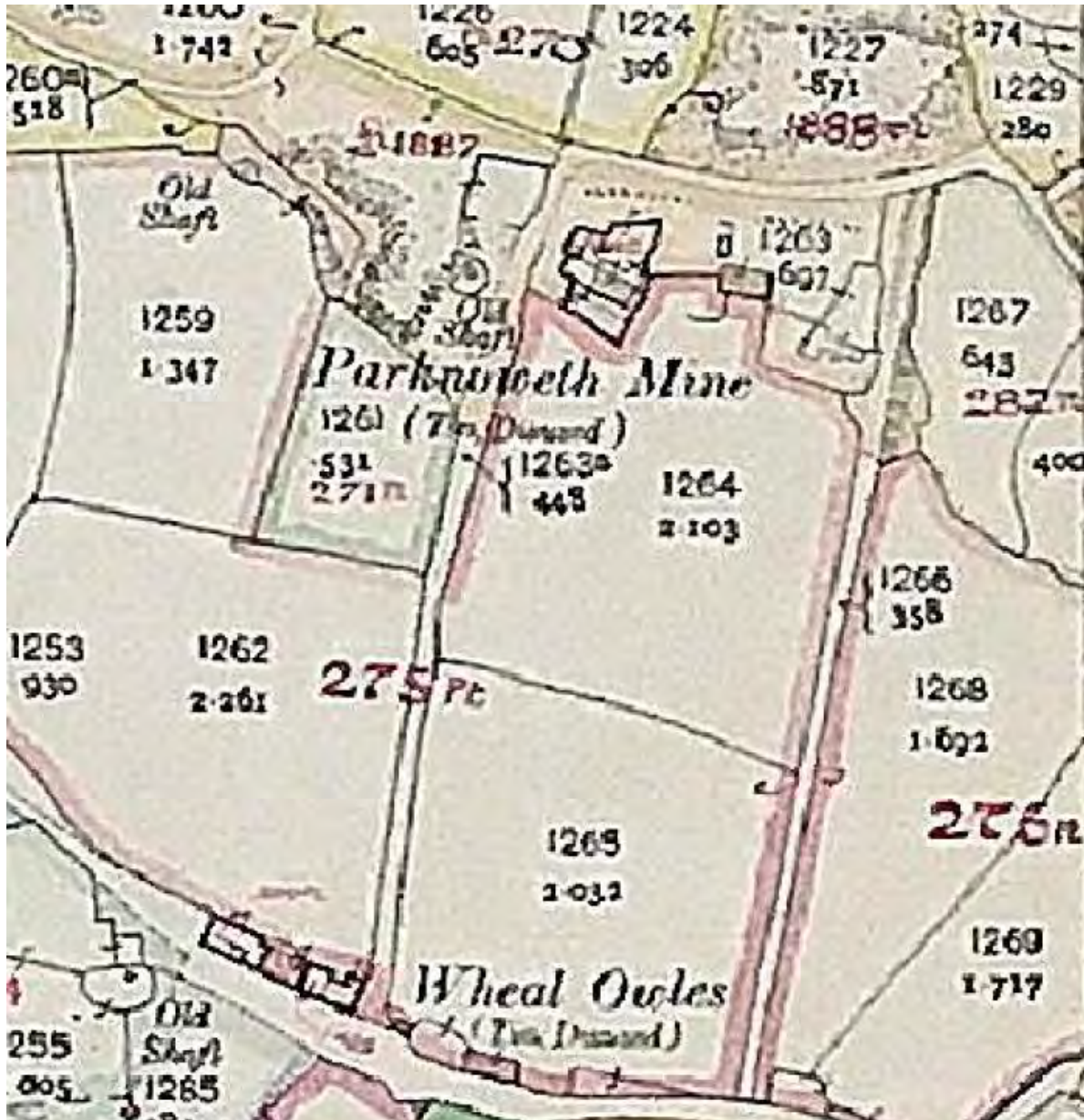
Path clear shown as part of the road network



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

Inland Revenue Valuation Map - Finance Act 1908-1910, Cornwall LXVII.13 TNA Number: IR 128/5/795

Route appears to be excluded by virtue of break in pink boundary, but confused by continuous pink line at southern end.



Tithe Records

Parish Tithe Map, St Just, 1841

Route is shown as a dotted line along or through parcels 1714, 1715, 1716 and 1717.



Parish Area Books

Ordnance Survey Parish Area Book, St Just

Plot 1263a is described as 'Road'

1211	·300	Arable.	1260	1·742	Houses, rough pas-
1212	·813	Arable.			ture, &c.
1213	·274	Pasture.	1260a	·508	Road.
1214	·398	Pasture.	1261	·531	Arable.
1215	·603	Arable.	1262	2·261	Pasture, &c.
1216	·477	Houses, rough pas-	1263	·737	Houses, rough pas-
		ture, &c.			ture, gardens, &c.
1217	·197	Arable.	1263a	·600	Road.
1218	·186	Arable.	1264	2·063	Pasture, &c.
1219	·177	Arable.	1265	2·032	Pasture, &c.
1220	·597	Houses, gardens, &c.	1266	·358	Tramway.
1221	·147	Arable.	1267	·643	Pasture, &c.
1222	·310	Pasture, house, &c.	1268	1·692	Pasture.
1223	·356	Arable. &c.	1269	1·717	Arable.

Land Ownership

Land Registry 'Polygons' Map

Land Registry polygons (blue) show that the path is not registered and including connecting bridleways.





APPENDIX II Evidence Documents

List of Evidence Documents

Ordnance Survey. One-inch to the mile, Revised New Series, Sheet 351 -, Published 1896, National Library of Scotland (Web)

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Inland Revenue Valuation Map - Finance Act 1908-1910, Cornwall LXVII.13 TNA Number: IR 128/5/795, National Archive

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Land Registry 'Polygons' Map, Land Registry

Inspire Map, Land Registry