

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 'Plantation' U6034 Grid Ref: SW65443686

to: Bridleway 34 Grid Ref: SW65293692

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

from: Bridleway 34 Gridref: SW65293692

to: County Road U6034 Grid Ref: SW65033697

(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:1 February 2021.....

List of Evidence Documents

Ordnance Survey First Series, 1813, National Library of Australia (Web)
Ordnance Survey. One-inch to the mile, Revised New Series, Sheet 352 -, Publication date: 1896, National Library of Scotland (Web)
Ordnance Survey, 25 inch to the mile, LXX.1, 1878, old-maps.co.uk
Ordnance Survey. Six-inch to the mile, Cornwall Sheet LXX.NW, _1877 to 1878, Published_ 1888, National Library of Scotland (Web)
Ordnance Survey, 1:25,000, First Series, 10/63 - A, Publication date: 1951, National Library of Scotland (Web)
Bartholomew's Half Inch to the Mile Maps of England & Wales, Sheet 37 -, Publication date: 1903, National Library of Scotland (Web)
Greenwood Map, Cornwall, 1829, davidrumsey.com
Geographia 2 miles to inch, Cornwall, circa 1920, British Horse Society
Inland Revenue Valuation Map - Finance Act 1908-1910, Map Sheet: Cornwall LXX.1 TNA No. 128/5/831
Parish Tithe Map, Camborne, 1843, County Records Office
Parish Tithe Apportionments, Camborne, 1843, County Records Office
Ordnance Survey Parish Area Book, Camborne, British Horse Society
CC GIS Map of Rights of Way, Cornwall Council
Land Registry 'Inspire' Map, Land Registry

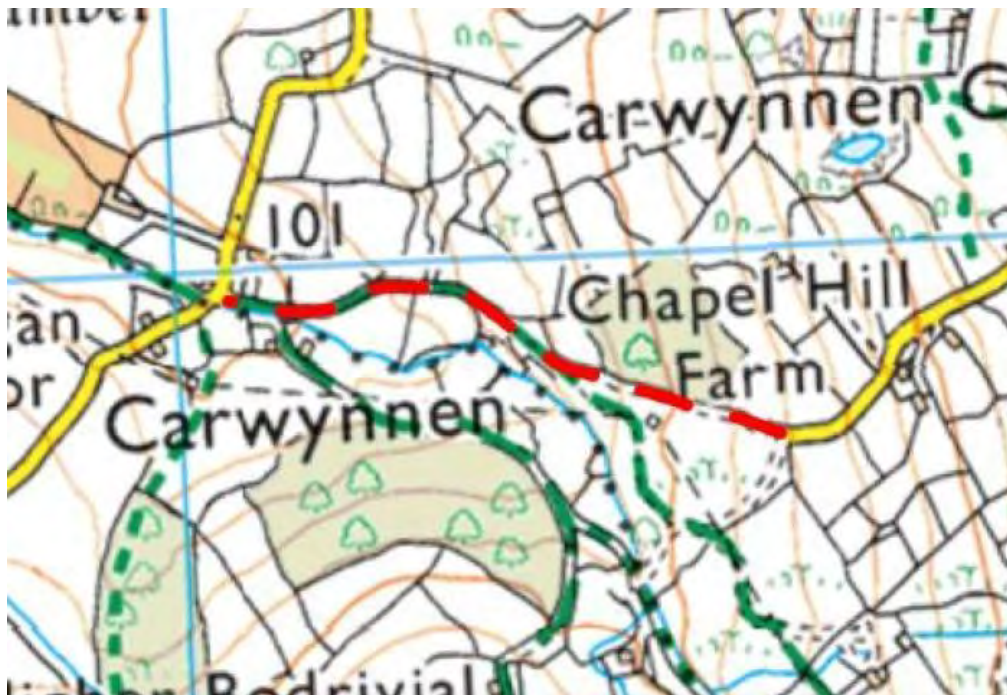
Our Path Reference: COR-1099

Parish: Camborne **Grid Reference:** SW652369

Application Details

Map of Path:

Route applied for is shown in RED DASHES



Description of Path:

Path starts at County Road U6034 SW65443686 and ends at County Road 'Plantation' U6034 SW65033697

Old Lane along edge of 'common'. The first half of the lane is Bridleway 34

Current Recorded Status:

Path is recorded on the Definitive Map

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, ridden and cycled.

Our Path Reference: COR-1099 Grid Reference: SW652369

Path starts at County Road U6034 SW65443686 and ends at County Road 'Plantation' U6034 SW65033697

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

Sht 31, 1813 Route is clearly shown as a through road

Sheet 352 - Publication date: 1896 - Route is clearly shown as a significant road and note the current bridleway running south (unfenced track)

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

LXX.1 1880 & 1908 all route is shown in single plot 2969, together with County Road Plantation to the east, no gates.

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

Cornwall LXX.NW Surveyed: Published: 1888 - Route is clearly shown with the road running along the edge of open land.

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

10/63 - A Publication date: 1951 - Route clearly shown as 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 - Route is shown as an important through road link together with current county road.

Greenwood Map (1786-1855)

Route is clearly shown as a through road

Geographia 2 inch Road Map

These half-inch to the mile maps were produced for use by motorists. These maps were popular and influential. Quote: 'This beautifully coloured series of Road Maps are indispensable to the Tourist or Business Man, whose destination is off the main road, as in addition to the first and second class roads being prominently indicated, other roads and tracks are very clearly shown'.

Route is clearly shown as 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.

IR 128/5/831 Shows path clearly excluded from adjoining hereditaments. It was most likely excluded because it was considered to be public road. There is no evidence to suggest otherwise.

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.

Camborne map 11, Western end is parcel 3608 route then crosses parcel 3551, to reach road parcel 1359. Apportionments show 3608 as 'Road and Waste, 3551 as 'Downs, rough pasture, owner' and 1359 as Road, Waste and Leat. No tithe on 1359, No tithe breakdown given for 3608 and 1359.

Parish Area Books

Camborne, Plot 2969, Described as 'Road' (in single plot with County Road)

Other Evidence:

Definitive Map Records

Cornwall Council GIS map shows unrecorded section of path clearly depicted as a wide track.

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.

First part of route is not registered

Summary and Statement of Reasons:

The Inland Revenue map shows all of the road excluded from the adjacent hereditaments. It was most likely excluded because it was considered to be public road. Adjacent public roads are similarly depicted. There is no evidence to suggest otherwise. The OS 25 inch map showing the path as a Road in a separate plot indicates the significance of the route. All the old maps, which were intended for public navigation, show the route consistently as a road. This is very strong supportive evidence of the status of the route as a public road.

The tithe map is inconclusive as the unrecorded section is 'Downs'. Path on such 'common' area were not often recorded on tithe.

We note that there is Chapel on the connecting road to the East. We submit that the public will have regularly used the route to go to the chapel from Carwynnen.

The evidence strongly suggests use as public road. The combination of the evidence from Old Maps, Inland Revenue map 1910 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 to Bridleway 34 off County Road



Aerial View of Route - West 60% of path is currently Bridleway



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

1813 first edition - route clearly shown - marked A to B



1896 Revision - Shown as a through road

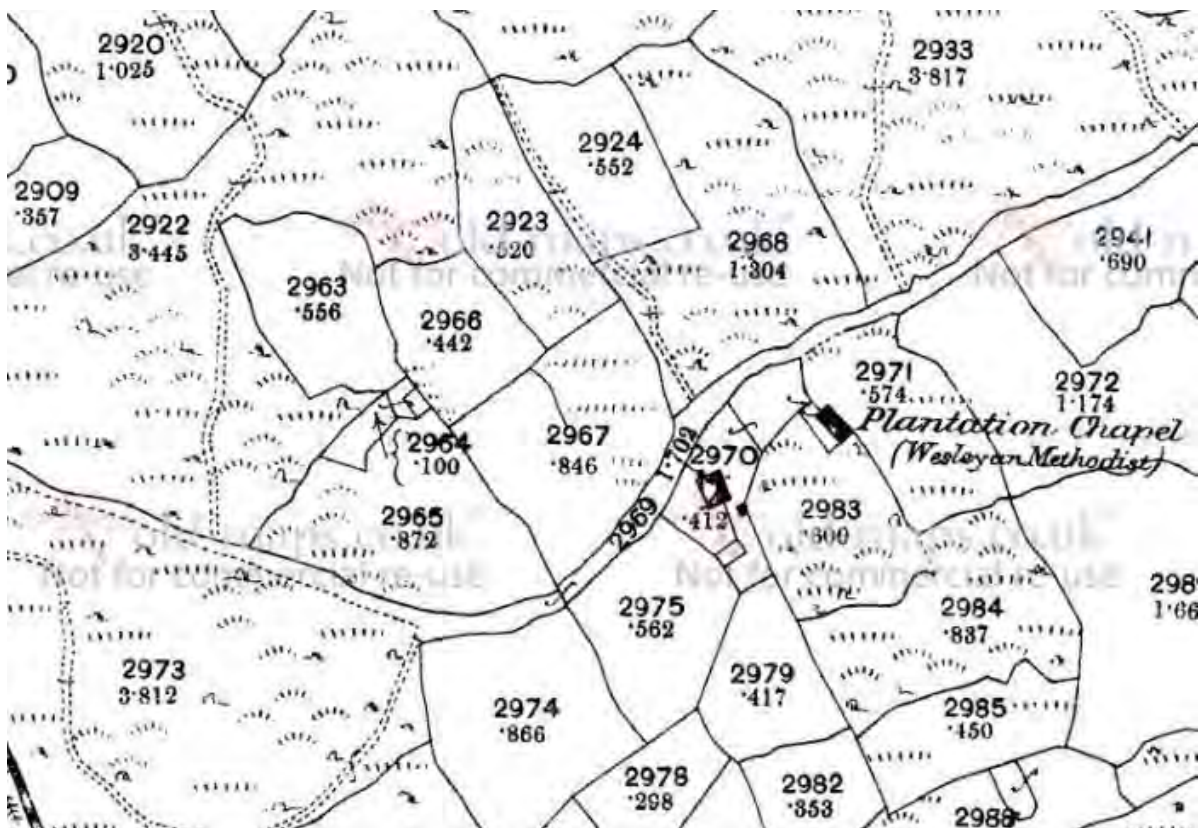


Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

1878 Revision Western Section



Eastern Section - note single plot number (2969) together with western section. Also note Wesleyan Chapel further up Road



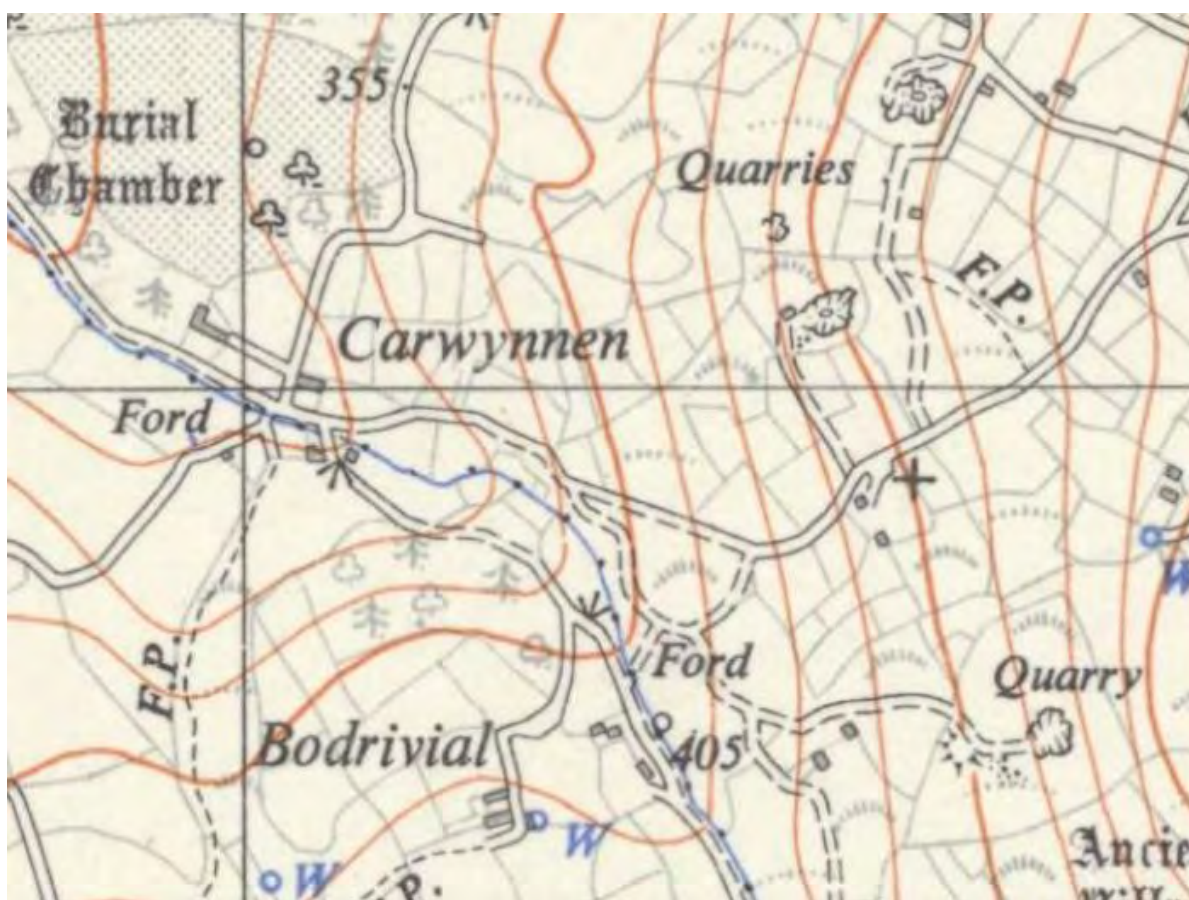
OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Route clearly shown as road part unfenced.



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

Route clearly shown as road and note the chapel marked to the east (cross)



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

Route clearly shown as road.



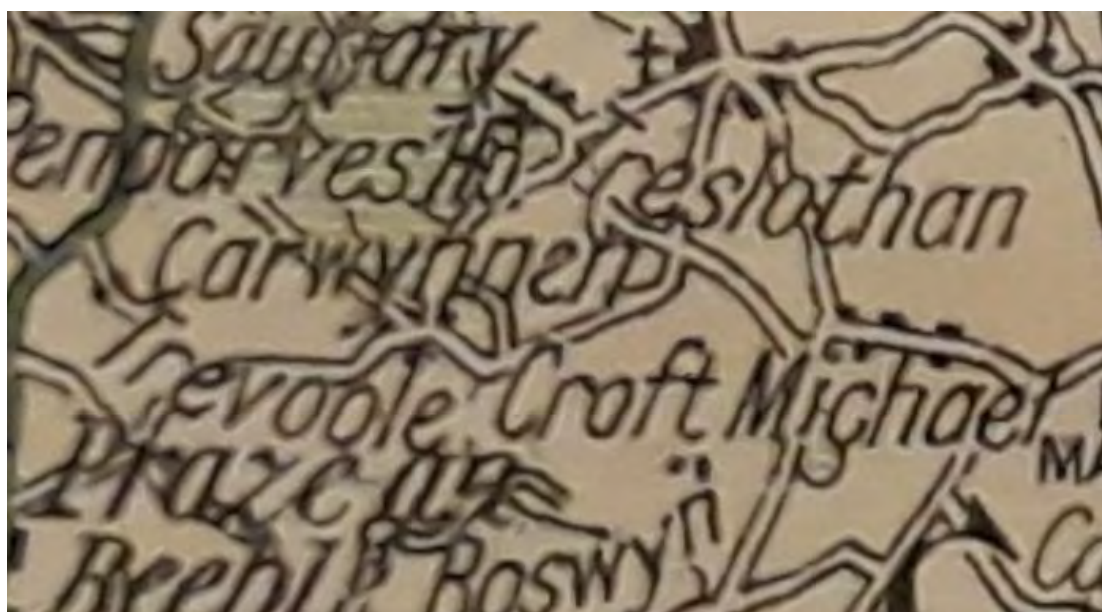
Greenwood Map (1786-1855)

Route is clearly shown as a through road



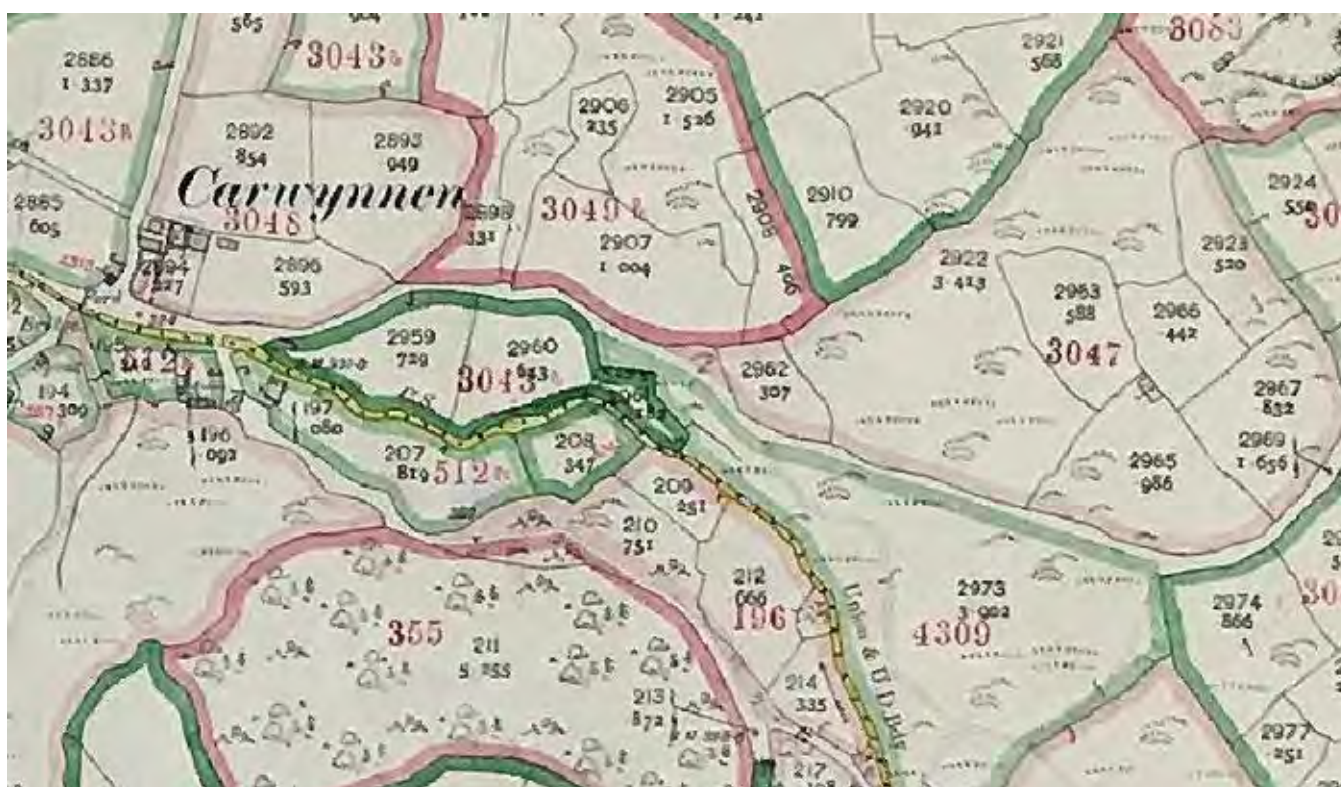
Geographia 2 inch

Route is clearly shown as road



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

IR128/5/831 Shows all of route excluded similar fashion to connecting County Roads



Tithe Records

Western End is Plot 3608



Eastern End of Route is open area plot 3551



For completeness we show the county road it connects to which is plot 1359



Apportionments 3608 3551 and 1359

	referring to the Plan.	and Premises.	Cultivation.	Statute Measure.	several Lands, & payable to the Rector.
				A. R. P.	£. s. d.
tinued,)	3605	Town Field,	Brought forward,	9 1 17	
	3606	Orchard,	Arable,	1 2 34	
	3607	House and Garden,	Orchard,	2 8	
	3608	Road and Waste,	Garden,	18	
	3610	Top Meadow,	Waste,	1 30	
	3611	Orchard Field,	Arable,	1 2 4	
			do.	1 2 5	
				15 0 36	£2 4 6

	Field.			A. R. P.	
		COMMONS AND WASTES.			
....	1358	Wastrel,		14	
	1359	Road, Waste, and Leat, ...		3 0 30	
	3471	Croft an croe,		22 0 35	
				25 1 39	
		BERIPPER.			

	3559	House, Yard, Garden, & Mowhay,	Homestead,	1 20	
				1 3 6	£0 7 8
.....	3551	Downs,	Rough Pasture,	4 0 26	
	3608	Round Field,	Arable,	2 35	
	3612	Middle Field,	do.	2 35	
	3609	Under Meadow,	do.	2 20	
.....	3552	Stumps and Waste,	Waste,	1 27	
Sincock, }	3616	House, Yard, Garden, and Lane,		23	
				6 3 6	£0 8 7

Parish Area Books

Plot 2969

PARISH OF CAMBORNE.					
			31		
No. on Plan.	Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
2920	1.025	Houses, rough pasture, &c.	2969	1.702	Road.
2921	.590	House and pasture.	2970	.412	Houses, gardens, &c.
2922	3.445	Rough pasture, &c.	2971	.574	Rough pasture.
2923	.520	Rough pasture.	2972	1.174	Arable.
2924	.552	Pasture, &c.	2973	3.812	Rough pasture, &c.
2925	2.078	Rough pasture, &c.	2974	.866	Arable.
2926	.230	Pasture, &c.	2975	.562	Pasture.
2927	.550	Arable.	2976	4.202	Rough pasture, &c.
			2977	.251	Arable.

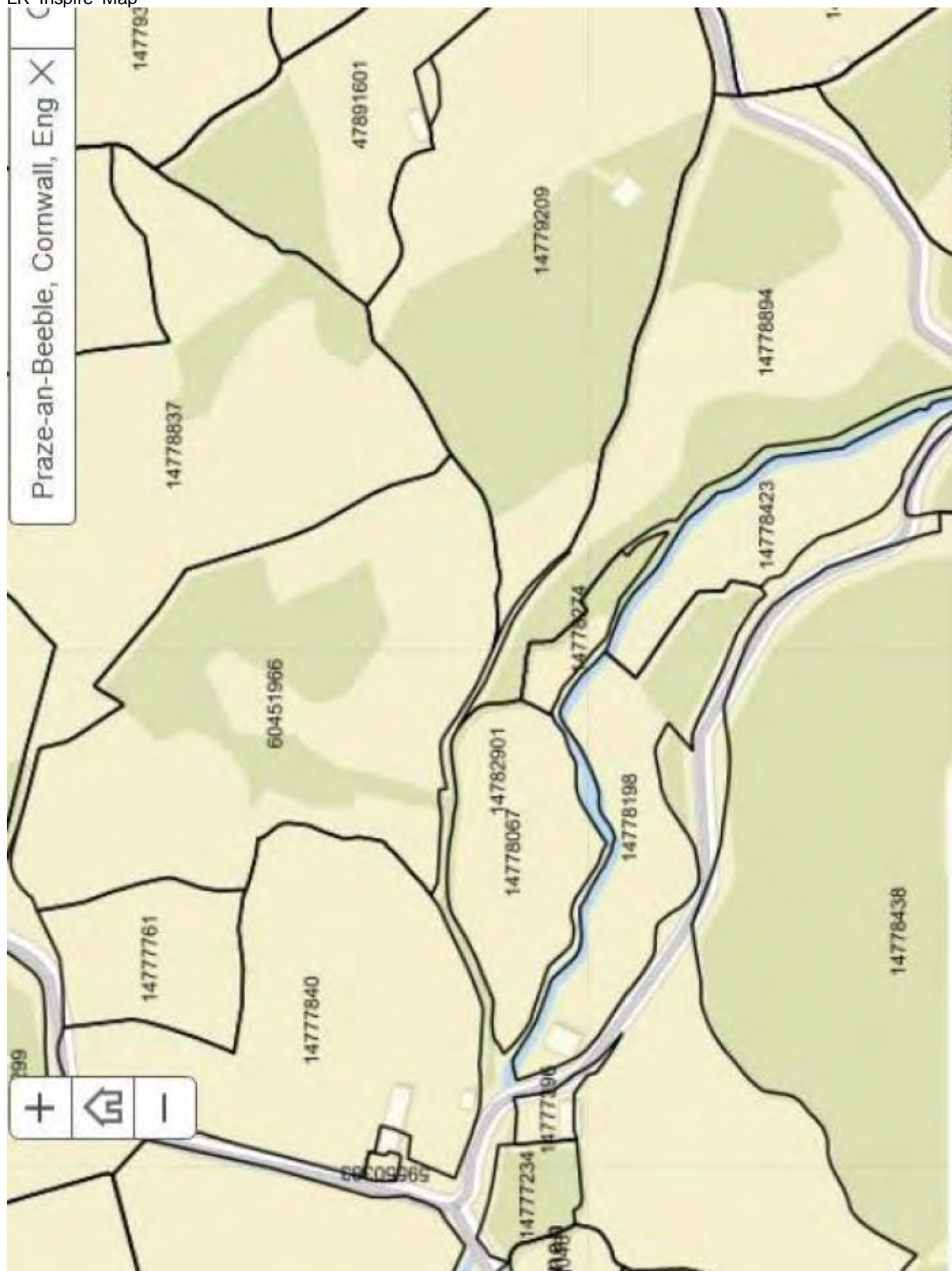
Definitive Map Records

Cornwall Council GIS map shows unrecorded section of path clearly depicted as a wide track



Land Ownership

LR 'Inspire' Map



APPENDIX II - Evidence Sources

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Parish Tithe Map, Camborne, 1843, County Records Office

Parish Tithe Apportionments, Camborne, 1843, County Records Office

Ordnance Survey Parish Area Book, Camborne, British Horse Society

CC GIS Map of Rights of Way, Cornwall Council

Land Registry 'Inspire' Map, Land Registry