

Our Ref: COR-1114

Cornwall Council

FORM 1

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 Crowan 119 Gridref: SW65683522

to: Bridleway Crowan 118 Gridref: SW65923530

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

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 January 2021

Our Path Reference: COR-1114

Parish: Crowan **Grid Reference:** SW658352

Application Details

Map of Path:

Route applied for is shown in RED DASHES



Description of Path:

Path starts at Bridleway Crowan 119 SW65683522 and ends at Bridleway Crowan 118 SW65923530

Old Hedged Lane

Current Recorded Status:

Path is not recorded on the Definitive Map

Path is not recorded on the List of Streets.

Status to be applied for: Restricted Byway

Notes:

It is not known whether the path is obstructed in any way.

Usage not known

Our Path Reference: COR-1114 Grid Reference: SW658352

Path starts at Bridleway Crowan 119 SW65683522 and ends at Bridleway Crowan 118 SW65923530

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 31 1856 and Sheet 352 Publication date: 1896 - Path clearly shown as road on both maps. Adjacent bridleways are similarly shown.

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

Cornwall LXX.5 Surveyed: 1876 Path is clearly shown as a road or lane, plot no. 1607 contiguous with bridleway 118. Plot 1607 is described as 'Road'.

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

Cornwall LXX.NW Surveyed: 1877 to 1878 Route clearly shown as a road.

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

10/63 - Publication date: 1951 - Route clearly shown as road in common with other roads.

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.

Not shown

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'.

Path is clearly identifiable and 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.

IR128/5/835 and 836 - The lane is shown uncoloured and excluded from hereditaments. This is very good evidence of being excluded because it was a public road.

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.

Crowan Tithe - Path is clearly shown plot number 4128 and listed in apportionments as 'Lanes in Cargenwen' and listed under separate section 'Roads' with no tithe payable. All other county roads are listed in this section. Plot 4128 is common with all adjacent roads and bridleway around Cargenwen.

Parish Area Books

Crowan - Plot no 1607 is described as 'Road'.

Handover Maps 1929 Act

Helston - route is marked in yellow with blue overlay in common with adjacent bridleways. Yellow is defined as District Roads. Blue appears to be a qualification applied to several routes on the map that have subsequently been recorded as bridleway.

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 that no part of the path is registered. The plot to the north is registered excluding the path.

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 as a plot listed under 'Roads' with no tithe, the plot being the same as other current county roads in the vicinity and also adjacent connecting bridleways. The old OS mapping demonstrates that the path applied for was an enclosed lane, open and available for use at end of the nineteenth and beginning of the twentieth century and beyond.

The OS 25 inch and associated Area Book record the way as 'Road'.

The 1929 Handover Map appears to confirm that the way was publicly maintained.

The Land Registry shows the path is excluded from registration with ownership boundary running along the northern hedge of the path. Ownership often follows the line of old highways.

There is no evidence to show or suggest why the route is not a highway.

Adjacent paths with similar evidence are recorded as bridleway although evidence suggest they should have been recorded at least as byway. 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

Aerial View of old Hedged lane.



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

First Series 1856 route clearly shown as a road



1896 revision route is clearly shown as a road. Adjacent bridleways are similarly shown.



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

1876 Path is clearly shown as a road or lane with no gates, plot no. 1607 contiguous with bridleway 118



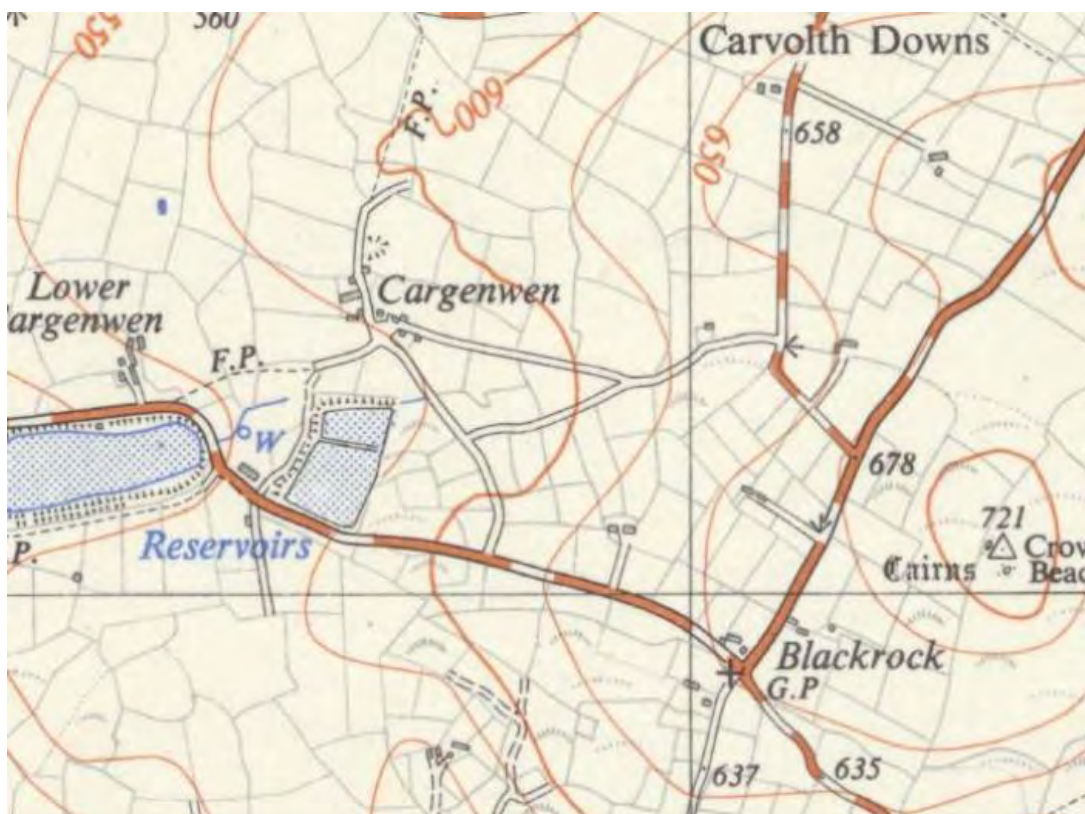
OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Route Clearly shown



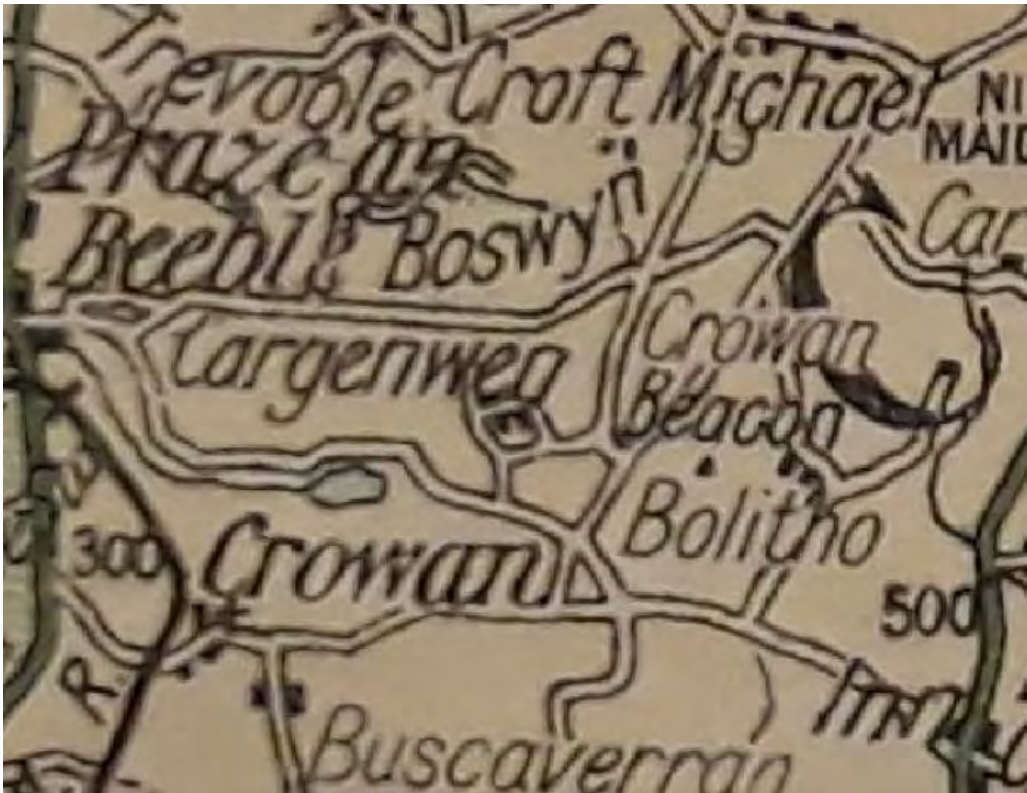
Ordnance Survey, 1:25,000 maps of Great Britain - 1937-1961

Route clearly shown as road in common with other roads.



Geographia 2 inch

Path is clearly identifiable and shown as Road.



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

Path is clearly excluded form adjacent hereditaments



Tithe Records

Plot 4128 Lanes in Cargenwen



Apportionments list route under Roads section plot 4128 Lanes in Cargenwen - No tithe

4126	Lanes in Pello	1	2	5
4127	Lanes from Annanias to Black Rock	5	2	15
4128	Lanes in Cargenwen	23	-	15
(12) Roads forward		103	2	31

Parish Area Books

Plot 1607 'Road'

17

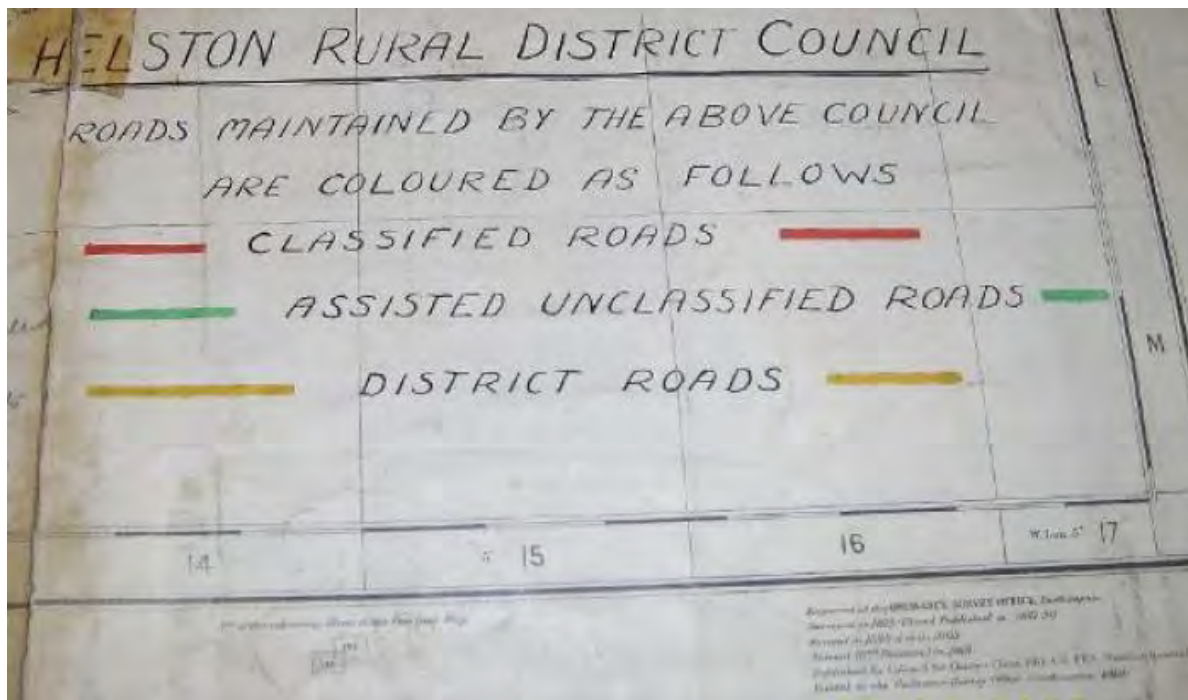
PARISH OF CROWAN.				
Area in Acres.	Remarks.	No. on Plan.	Area in Acres.	Remarks.
1-075	Furze.	1595	·794	Pasture.
1-608	Pasture.	1596	·764	Rough pasture.
1-747	Pasture.	1597	·676	Rough pasture.
1-280	Furze.	1598	2·476	Arable.
1-407	Pasture and furze.	1599	·509	Furze, &c.
1-802	Arable.	1600	2·278	Furze.
1-637	Pasture, &c.	1601	2·382	Arable.
1-818	Pasture.	1602	·604	Pasture.
1-101	Rough pasture.	1603	1·021	Arable.
1-420	Pasture.	1604	·686	Pasture.
1-082	Arable.	1605	2·304	Pasture.
1-205	Arable.	1606	1·569	Arable and pasture.
1-500	Pasture.	1607	·852	Road.
1-887	Pasture.	1608	1·289	Pasture.
1-916	Pasture.	1609	·316	Pasture.
1-284	Arable.	1610	·147	Houses, yard, garden, &c.
1-792	Pasture.	1611	·878	Arable.
1-772	Pasture.	1612	3·169	Rough pasture and furze.
1-966	Road.			
2-246	Arable.	1613	·567	Pasture.
1-711	Pasture.	1614	·469	Pasture.
2-608	Pasture.	1615	·066	Houses, gardens, &c.
			·056	Pasture.

Handover Maps 1929 Act

Helston - route is marked in yellow with blue overlay in common with adjacent bridleways.



Key - yellow is district road.



Land Ownership

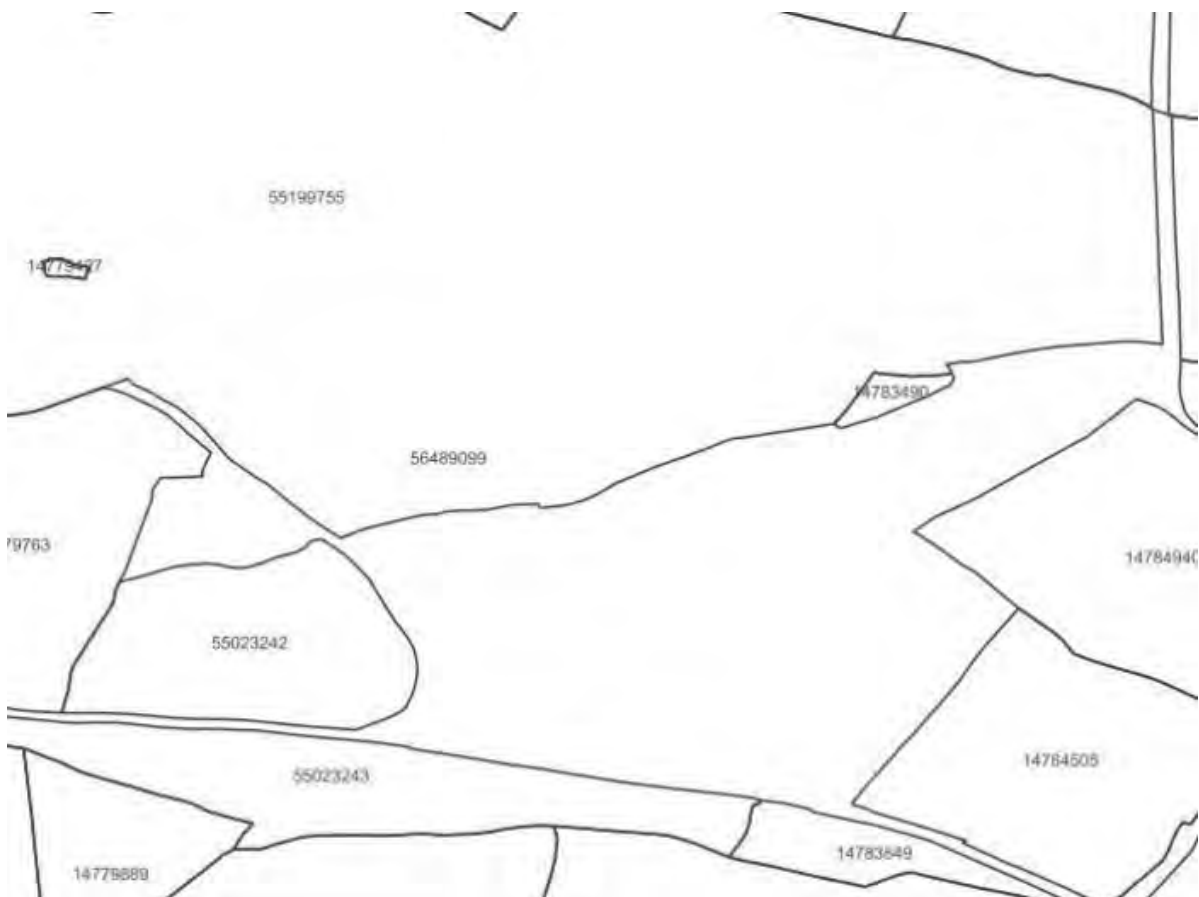
Land Registry Polygons show that the land to the north of the lane is registered but not the lane itself



LR polygon Boundary on OS Map. Track has no registered owner



LR '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.

Geographia 2 inch

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.

Handover Maps 1929 Act

Cornwall Council photographed copies.