

Our Ref: COR-1507	<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: A394 County Road Gridref: SW56202936 Gridref: SW56202936

to: Bridleway 20 St Hilary Gridref: SW56312942 Gridref: SW56312942

(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

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

Signer

.....Dated: 27 July 2020.....

## **APPENDIX**

### **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.

### **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.

**Our Path Reference: COR-1507**

**Parish:** Breage **Grid Reference:** SW562294

## Application Details

### Map of Path:

Route applied for is shown in RED DASHES



### Description of Path:

Path starts at A394 County Road SW56202936 and ends at Bridleway 20 St Hilary SW56312942

Hedged 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 not believed to be obstructed. Path is believed to be walked. Includes small part of Old Coach Road from Packet Inn and connects with application 209/F that includes the rest of the Coach Road to Newtown.

Our Path Reference: COR-1507 Grid Reference: SW562294

Path starts at A394 County Road SW56202936 and ends at Bridleway 20 St Hilary SW56312942

## **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 - Old Coach Road shown and the connecting lane is shown.

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

Cornwall LXXV.6 - 1876 - Route is Breage plot 1870 and also St Hilary plot 1190

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

Cornwall LXXV.NW Surveyed: 1877 Path is clearly shown as a connecting track or road.

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

10/52 – A - Publication date: 1950 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.

IR128/5/905 east-west part clearly excluded from hereditaments. North south part excluded by passing through gap in the hereditament boundary as is the A394.

### **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.

Breage map 9 route is parcel 3664a. Apportionment listed as 'Roads and Wastes at Higher Kenneggy'. St Hilary Tithe, the Old Coach Road section is shaded brown and probably part of apportionment 1492 'Roads at Colenso'.

### **Parish Area Books**

Breage plot 1870, St Hilary plot 1190. Both are described as 'Road'

## **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 old coach road part of the path is excluded from registration yet plots either side are all registered. The lane running south is registered to the land on the west.

## **Summary and Statement of Reasons:**

The OS 25 inch map showing the path as a Road in separate plots listed in Area Books as 'Road'.

The Inland Revenue map shows all of the road is 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 and Wastes'. The northern part of the route running east is part of the Old Coach Road that continues to Newtown. This Old Coach Road also extended west to the Falmouth Packet Inn.

It is significant that the old coach road part is excluded from all adjacent Land Registry registrations. This is very consistent with being 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

Entrance off A394

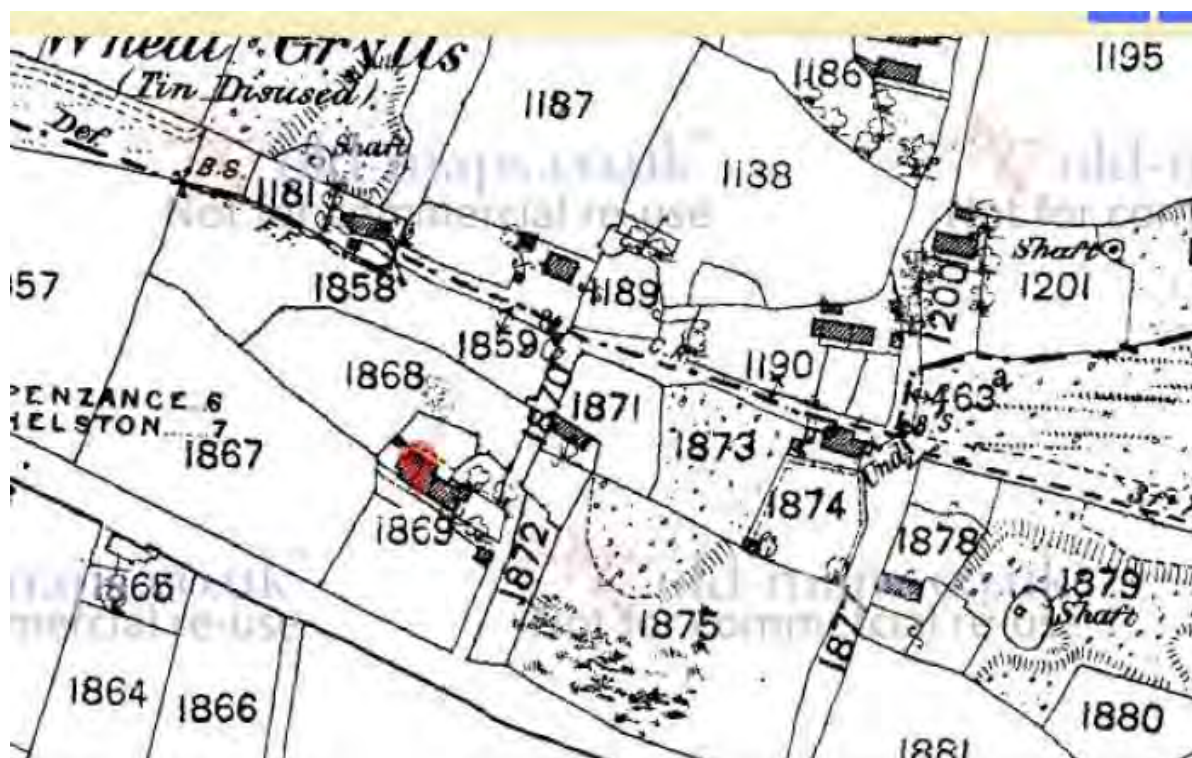


Aerial View of whole route.



Whole of Route is shown

Route is Breage plot 1870 and also St Hilary plot 1190





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

Path is clearly shown



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

Route is clearly shown as road



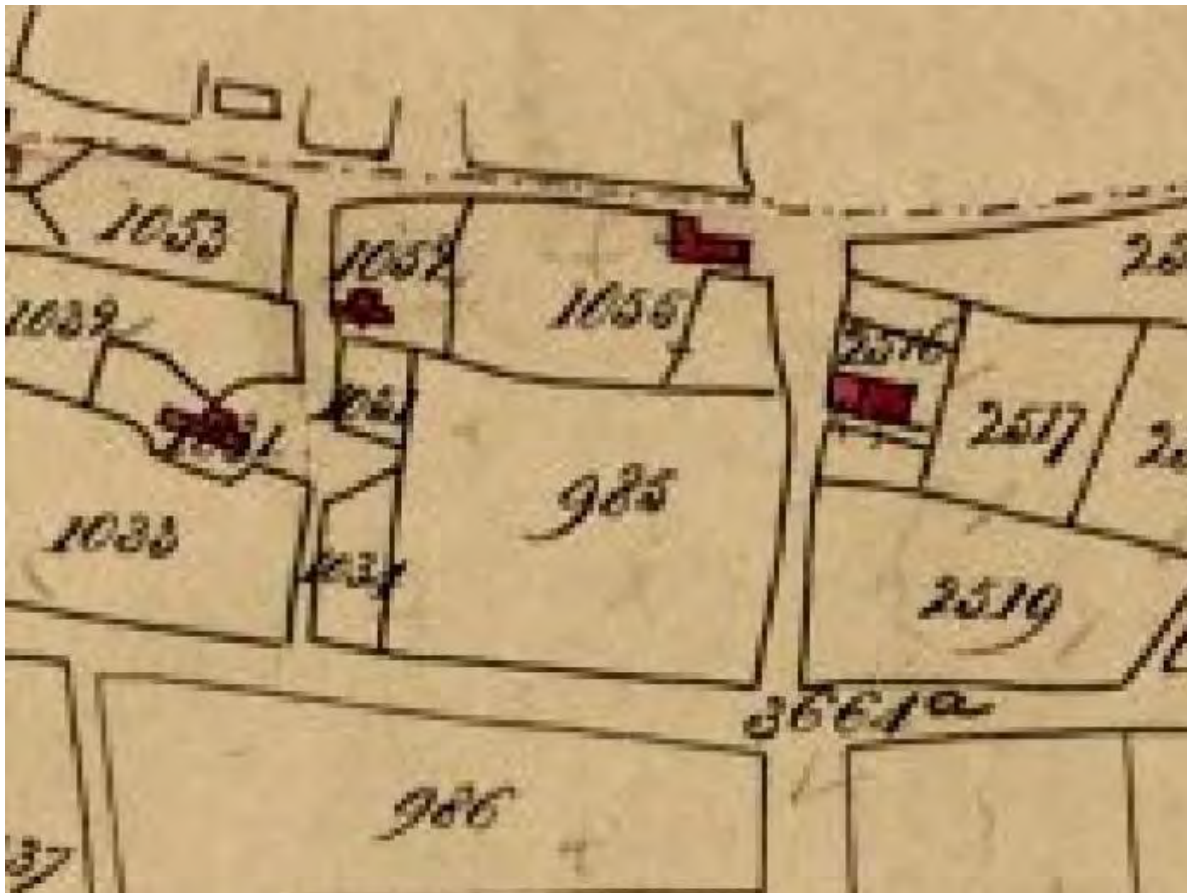
## Inland Revenue Valuation Records - Finance (1908-10) Act 1910

Path appears excluded and southern leg excluded by virtue of padding through gap in coloured hereditament boundary.



## Tithe Records

Breage - path is included on one plot together with what is now the A394. Apportionment 3664a under roads



Breage Apportionment 3664a

COMMONS, ROADS, AND WASTES.				
3664A	Roads and Wastes, at Higher { Keneggy .....	....	12	0 9
3665B	Roads and Wastes, at Lower { Keneggy .....	....	7	3 9
3665A	The Beach .....	....	18	3 8
3666A	Roads and Wastes, at Pen- { treath, and Prah Sand .... }	....	40	2 12

St Hilary Tithe - one side of path is in St Hilary and is shaded brown in common with byway running north plot 1492





St Hilary Plot 1492 listed under Roads and Wastes - 'Roads in Colenso'

1483	Road in Abellack		1	2	20
1484	Road in Agnise			1	8
1485	Road on Saint Hilary Dunes		1	-	4
1486	Road on Saint Hilary Dunes		1	-	10
1487	Road on Saint Hilary Dunes		1	-	25
1488	Wash adjoining	3			
	Road in Colenso		1	2	15
1489	Road in Colenso		2	2	15
1490	Roads and Land in Colenso		2	1	25
1491	Road in Colenso		1	3	30
1492	Road in Colenso		1	1	24
1493	Road and Wash adjoining				
	Road in Colenso	3	2	1	10
1494	Road and Wash in Colenso		2	3	0

## Parish Area Books

Breage plot 1870

1819	2.639	Refuse, rough pas- ture, &c.	1865	.126	Pasture, &c.	191
1820	.288	Road.	1866	.440	Arable.	191
1820a	.244	Rough pasture.	1867	.775	Arable.	191
1820b	.331	Pasture.	1868	.380	Arable.	191
1821	.339	House and arable.	1869	.436	Houses, gardens, &c.	192
1822	.309	Arable.	1870	.150	Road.	192
1823	.107	Garden.	1871	.150	Pasture.	192
1824	1.365	Arable.	1872	.176	House, garden, &c.	192
			1873	.259	Refuse.	192

St Hilary plot 1190

1184	1.210	Pasture.			&c.	
1185	1.368	Pasture.	1231	3.928	Pasture.	
1186	.385	Houses, gardens, &c.	1232	1.530	Arable.	
1187	.844	Pasture.	1233	2.394	Rough pasture, furze, &c.	
1188	.809	Pasture.				
1189	.680	Houses, gardens, &c.	1234	.222	Rough pasture and furze.	
1190	.060	Road.				
1191	.409	Arable.	1235	.691	Rough pasture, furze, &c.	
1191a	.465	Arable.				
1192	.358	Arable.	1236	1.262	Arable, &c.	
1193	.886	Pasture.	1237	.541	Pasture.	

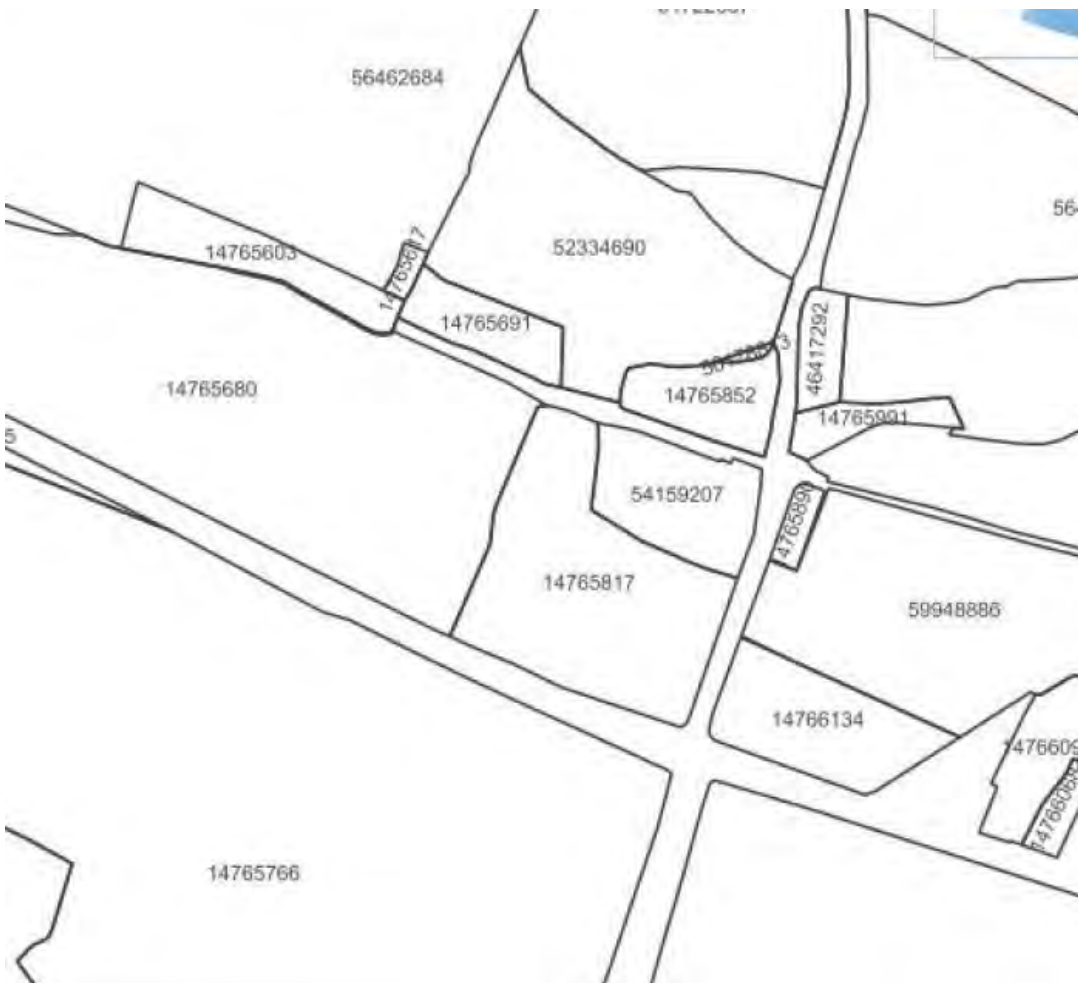


## Land Ownership

Registered land is shown in blue (LR polygon data)



LR 'Inspire' map



## **APPENDIX II - Evidence Sources**

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