

Our Ref: 209/F	Cornwall Council	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 Opposite Lane to Higher Kenneggy Gridref: SW56282932 Gridref: SW56282932

to: A394 Newtown Farm Gridref: SW57342920 Gridref: SW57342920

(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: 24 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.

Martyns Map

Martyns Map online at Harvard University.

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.

Definitive Map Records

Cornwall Council

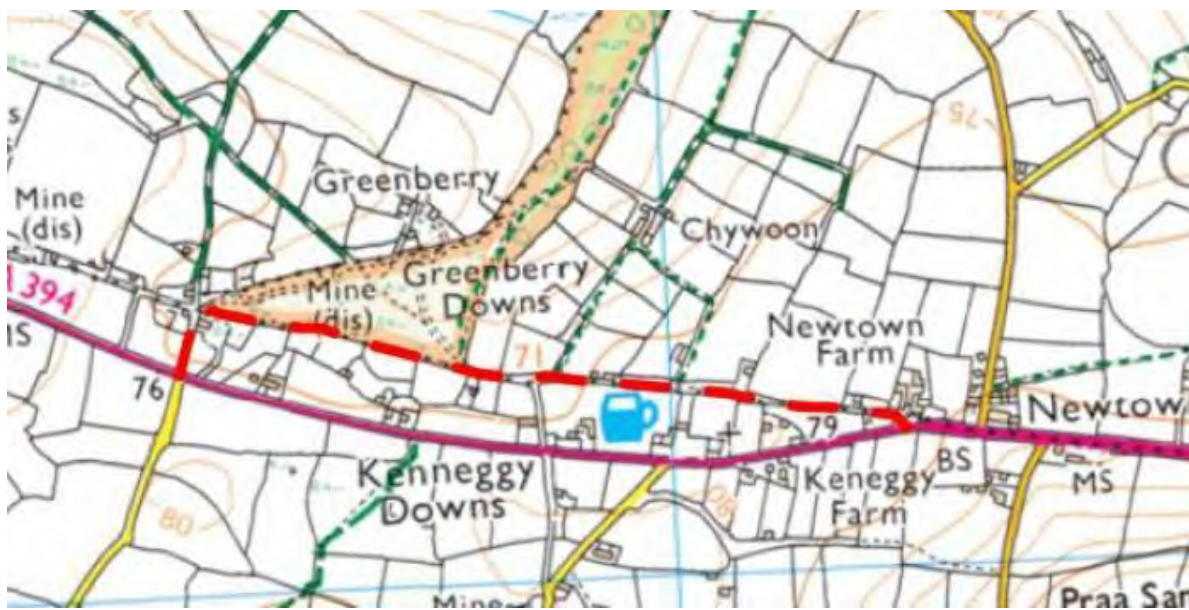
Our Path Reference: 209/F

Parish: Germoe **Grid Reference:** SW565293

Application Details

Map of Path:

Route applied for is shown in RED DASHES



Description of Path:

Path starts at A394 Opposite Lane to Higher Keneggy SW56282932 and ends at A394 Newtown Farm SW57342920

The Old Coach Road - Hedged lanes and unenclosed track across registered common

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, ridden. This was part of the original Old Coach Road pre 1839 Tithe Map, which ran through to the Falmouth Packet Inn. The western part runs along the southern edge of what was Chywoon Common but is now known as Greenberry (or Greenbury) Downs.

Our Path Reference: 209/F Grid Reference: SW565293

Path starts at A394 Opposite Lane to Higher Kenneggy SW56282932 and ends at A394 Newtown Farm SW57342920

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

First series 1856 only the current A road is shown. Sheet 358 - 1895 - The Old Coach Road is clearly shown along side the 'new' A394.

It should be noted that the old road follows the parish boundary. This demonstrates the history and antiquity of the route. Boundaries were often drawn along major highways.

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

Cornwall Surveyed: 1876 The old road is clearly shown.
Breage plots 1877, 1956 & Germoe plot 478 - All Listed as 'Road'

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

Cornwall LXXV.NW Surveyed: 1877 Path is shown clearly as road in common with current county roads

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

Cornwall LXXV.NW Surveyed: 1877 - Old Road is clearly shown

Martyns Map

Depiction of a route on the Martyns Map 1748 shows the existence of the route at that time. Given the small scale and age of this map, it is most likely that the route was significant and used by all. It is unlikely that footpaths would be depicted.

The road is clearly shown along the route of our application which shows that this route is the old coach road of the time (1748).

Note that the later maps we have examined are 1857 onwards. We therefore conclude that the new route came into being sometime between 1748 and around 1850. - see Further Evidence below.

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 The Inland Revenue map shows the lane running south at the Western end to the A394 is excluded. The unenclosed section over Greenberry Downs is not excluded. Paths over Commons are very rarely excluded. The end section at the eastern end is excluded.

It should be noted that all unrecorded tracks going north from the A394 and joining the application route are also excluded.

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 Hilary Tithe 1843 - The old road from that parish (not part of this application) is shaded brown and note the further brown shading across the boundary which indicates it continues into Breage.

Germoe Tithe, the route crosses a large plot designated as Chywoon Common and Moor (this name appears to pre-date the current designation on current maps as Greenberry Downs. Note that the Common is Plot 705 listed in apportionments under Commons with no tithe payable

Germoe map 7, Road is coloured brown from common to Newtown Farm. Parcel 1071, Road.

Breage Tithe shows that the western part is included in plot 3664a in common with A394 and listed under Roads. No tithe. Half road that is below the parish boundary is labelled 3664a in two places.

All the tithe evidence indicates the route is public road.

Parish Area Books

The plot designations are as follows:

Breage 1877 - Road
Germoe 478 - Road
Breage 1956. - Road

Other Evidence:

Definitive Map Records

The old unrecorded road is joined by four public rights of way:

Byway St Hilary 112/20 to parish boundary
Footpath Germoe 209/1 to parish boundary
Footpath Germoe 209/2 to road west of Newtown
Footpath Germoe 209/3 to road west of Newtown

The destinations above are as given on the Definitive Map and Statement.

1, It is inconceivable that user would have just gone to the parish boundary and retraced their steps. The path clearly connected to the old road on the understanding that it was highway.
2. It should be noted that for footpaths 2 and 3 the termination is at 'road west of Newtown'. This clearly confirms it connects to a highway.

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Further Evidence

History of the Old Coach Road

The present A394 was probably authorised by Act of Parliament which would probably have included a plan. Kresen Kernow has an 1832 plan of several improvements to the Marazion to Penryn turnpike ref QSPDT/5/1 which could be relevant. It's the Helston Turnpike Trust. We cannot currently access this owing to COVID19.

A report from the Falmouth Packet newspaper, August 2014 by Balwest Heritage Society The present A394 was probably authorised by Act of Parliament which would probably have included a plan. Kresen Kernow has an 1832 plan of several improvements to the Marazion to Penryn turnpike ref QSPDT/5/1 which could be relevant. It's the Helston Turnpike Trust verifies the history of the old Coach Road and shows the route still in use. A copy of their report is attached.

It is important to note the Falmouth Packet Inn is at the western end of the route. This will have served and acted as a staging post for travellers.

Falmouth was associated most intimately with the Post Office who selected Falmouth in 1688 for the newly established mail boats service. Horse drawn wagons called Russells Wagons were used for transporting goods from the service. They no doubt used the previous old coach road before the old road (as shown on the 1839 Tithe) was superseded by the current route of the A394.

The Falmouth Packet Inn (or its predecessor) depicted as 'Beer House' on the Tithe would have been an important 'Service Station' at the time on the road to Penzance from Truro and Falmouth. Falmouth was the headquarters of the service where the largest number of Packet ships were stationed.

This all gives added weight to the evidence of the importance and use of the old road and with the Falmouth Packet being named such.

[ref History of the Post-Office Packet Service, Arthur H. Norway, 1895]

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 none of the path is registered. Much of the path is excluded from registration yet plots either side along most of its length are all registered. This is strongly suggestive of an ancient public highway.

Summary and Statement of Reasons:

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 Inland Revenue map shows both ends of the route as uncoloured track excluded from hereditaments. The section running along Greenberry Downs is within hereditament.

The Area Books also list the Route as 'Road'. When the definitive map was drawn it is clear that the route was considered to be a highway.

The Tithe map shows the path numbered with plots listed under 'Roads and Wastes' similar to and contiguous with other county roads. Germoe Tithe confirms the road plot in that parish runs from the parish boundary with St Hilary to 'New Town'.

The Tithe map evidence is unambiguous, and very specific, from all three parishes in showing the whole route as a public road.

The history and provenance of this route is unquestionable. It will also have served to the benefit of the mining activity that took place near and on Greenberry Downs in the 19th century.

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

Start of route of A394



Aerial View, Western Half



Aerial View Eastern Half



End of route on to A394 - note clear line of the old houses aligned to that route.



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

First Series 1856 Map appears to show only the current path of the A394



1895 - The Old Coach Road is clearly shown along side the 'new' A394.



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

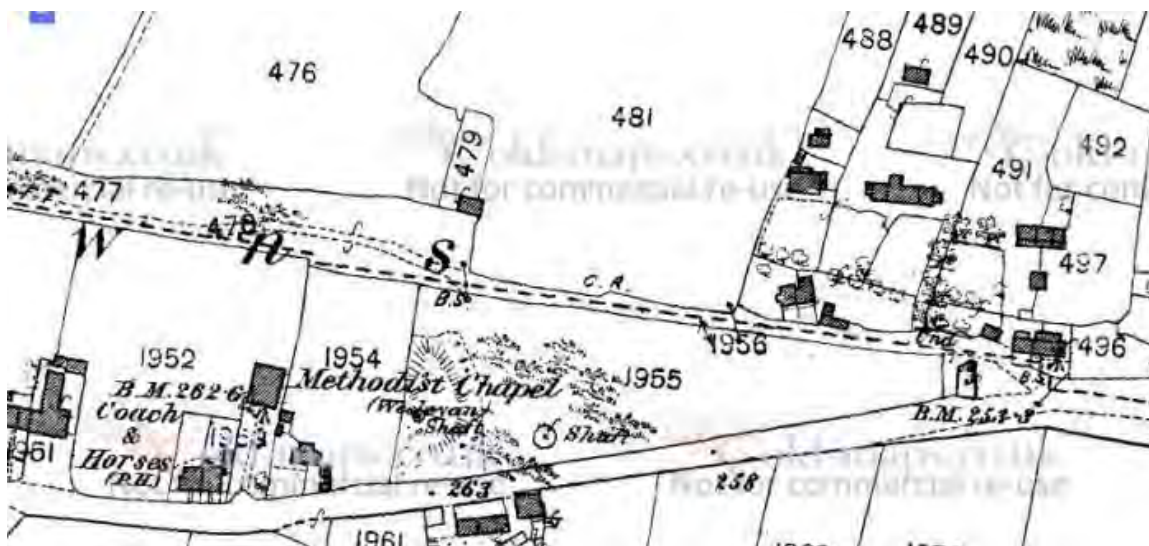
Western End Plot 1877



Middle section



Eastern End plot 1956 Breage, plot 478 Germoe (north side of road)



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

The whole of the old road is clearly shown.



Eastern End joining current A394



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

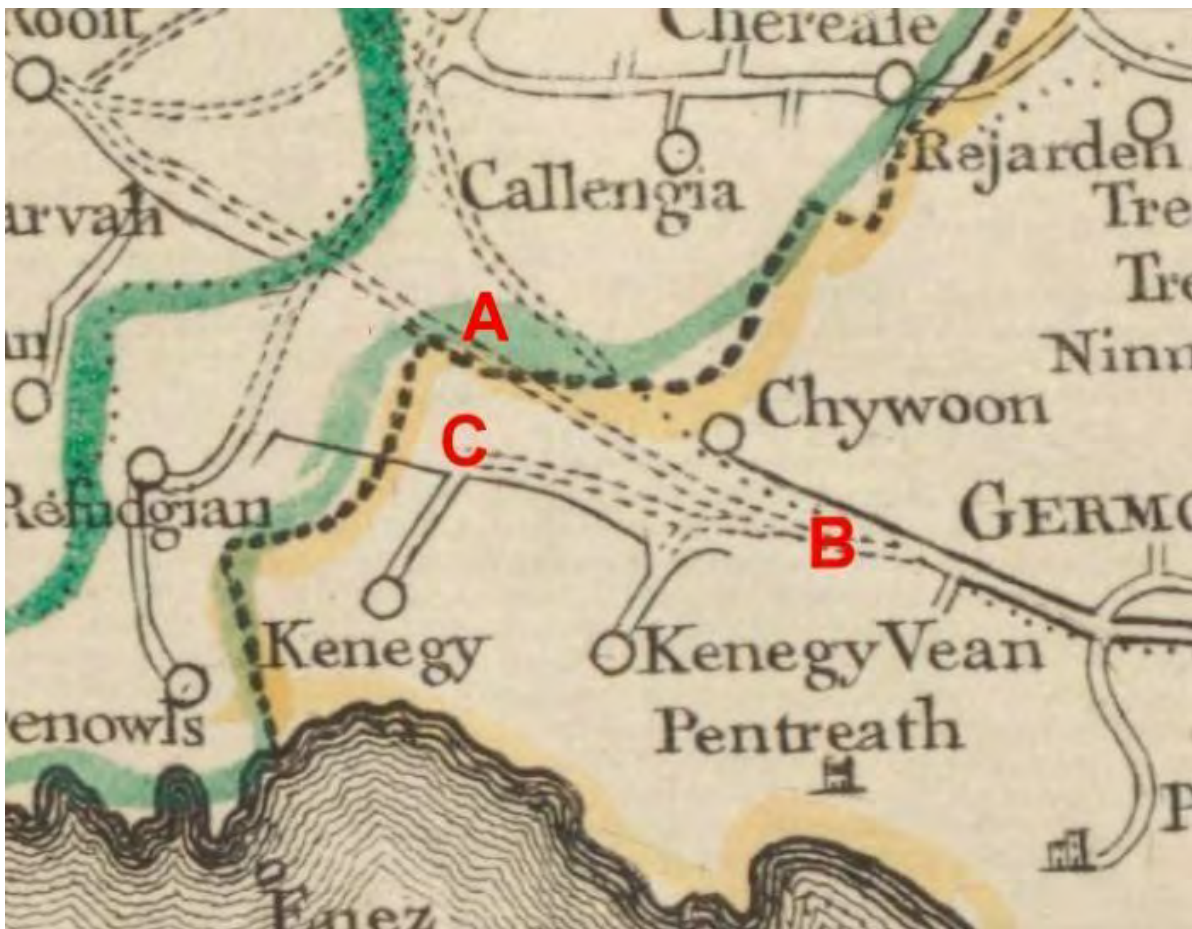
Route clearly shown along with the other old tracks.



Martyns Map

The route applied for is positively identified (A to B)

A separate path is shown to Kenegy it looks as though B to C could have been used as the route for the new replacement road.



Western half

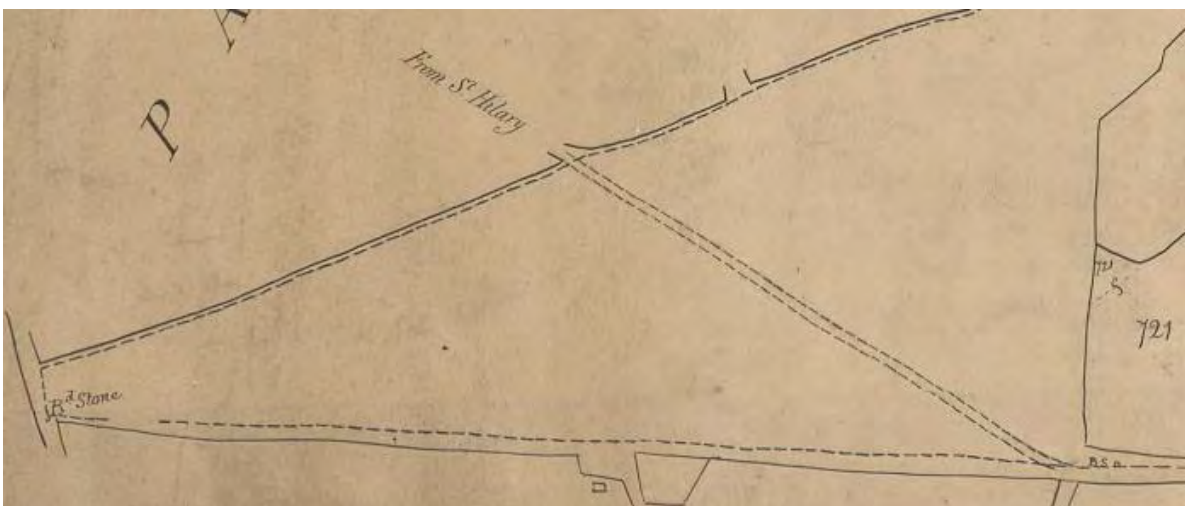


Tithe Records

St Hilary Tithe the old road shaded brown into the next parish (Breage) and labelled 'to Helston'



The route is shown running along southern edge of 'Chywoon Common and Moor' and together with the unrecorded bridleway connecting to the recorded bridleway over the parish boundary AND labelled 'from St Hilary'. Note however the road itself is included in plot 1071 under Roads.



Breage Tithe - Western section



Eastern Half - Germoe Tithe



Eastern Half - Breage Tithe



Germoe Apportionment – single apportionment for for whole of route.

Plot listed under Roads - no tithe

1071- 'From Boundary Line adjoining St Hilary to New Town Village'

1070	Half the Turnpike Road from new town leading to Helstone	9	3	6
1071	From Boundary line adjoining St Hilary to New Town Village	1	2	0
1072	From Road N. of St. Hilary to parish boundary in			

Parish Area Books

Western end 1877 'road'

1823	•107	Garden.	1872	•176	House, garden, &c.
1824	1•365	Arable.	1873	•259	Refuse.
1825	1•312	Pasture.	1874	•209	Houses, garden, &c.
1826	•299	Arable.	1875	•986	Pasture, furze, &c.
1827	•351	Pasture.	1876	1•017	Arable.
1828	•829	Arable, &c.	1877	•199	Road.
1829	•286	Houses and gardens.	1878	•288	Houses, gardens, &c.
1830	•412	Arable.	1879	1•029	Arable, refuse, &c.
1831	4•462	Arable.	1880	•220	Arable.
1832	•834	Arable.	1881	•661	Pasture.

Breage plot 1956

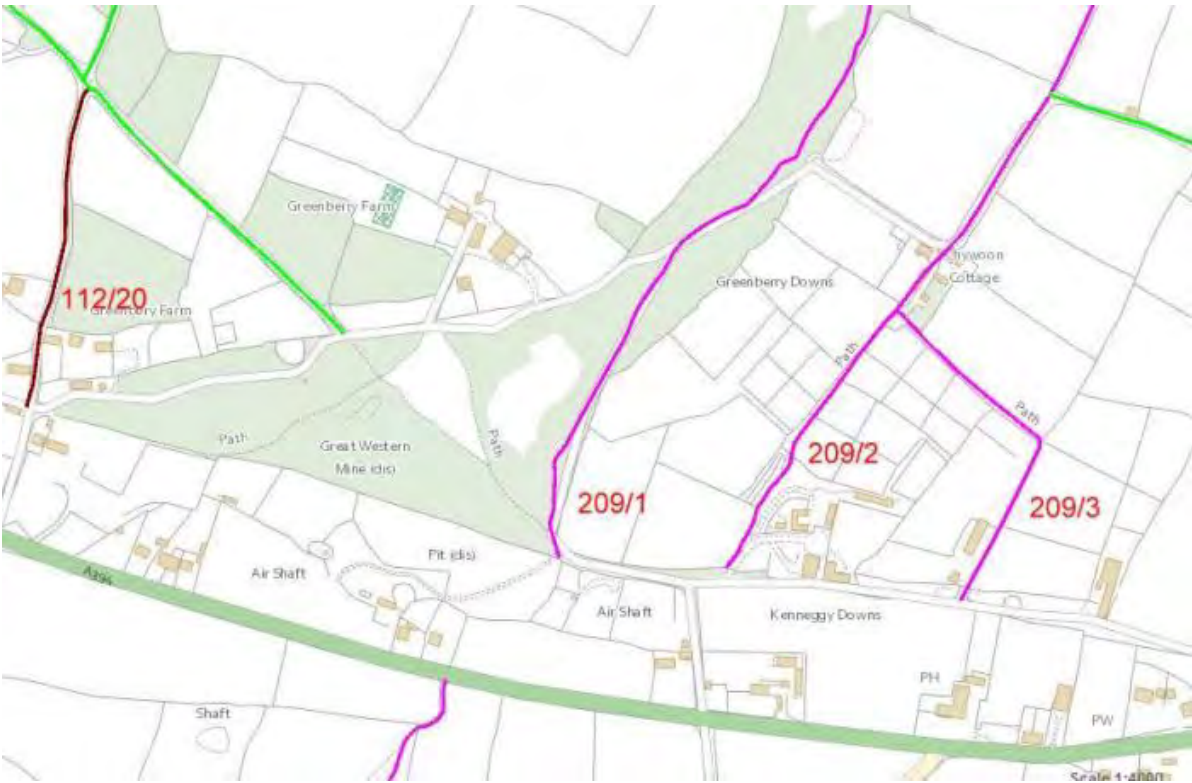
1900	1•004	Arable.	1952	1•451	dens, &c.
1901	•627	Pasture.	1953	•410	Arable.
1902	1•075	Pasture.	1954	•682	Houses, gardens, &c.
1903	•940	Pasture.	1955	•682	Arable.
1904	•158	Pasture.	1956	2•076	Arable, furze, &c.
1905	•116	Houses and yard.	1957	•255	Road.
1906	•964	Arable.	1958	•793	Arable, &c.
1907	•168	Pasture.	1959	•433	Pasture.
1908	1•156	Pasture.	1960	•413	Pasture.
1909	•680	Arable.	1961	•969	Arable.
1910	•555	Pasture.		•200	Garden.

Plot 478 'Road'

474	1•849	Arable.	523	•556	Yard, &c.
475	1•364	Pasture.	524	1•883	Pasture, &c.
476	2•692	Pasture, &c.	525	•325	Houses, yards, and garden.
477	1•091	Houses, pasture, &c.	526	•535	Road.
478	•655	Road.	527	3•845	Pasture, &c.
479	•109	House, garden, &c.	528	6•328	Pasture, &c.
480	2•159	Arable.	529	2•989	Pasture, &c.
481	3•819	Arable.	530	1•520	Pasture.
482	•367	Arable.			

Definitive Map Records

Cornwall Council GIS Definitive Map



Germoe Definitive Statement for footpaths 1, 2 and 3

1	FP from road south of Millpool to Parish Boundary (Keneggy Downs)	5'0"
2	FP from road south of Millpool via Chywoon to road west of Newtown	5'0"
3	FP from Chywoon Farm to road west of Newtown	5'0"

St Hilary Statement for bridleway 20 says runs from parish boundary.

20	BW from Parish Boundary east of Falmouth Packet to junction with BR's 15, 21, 22 and 25	-
21	BR from Parish Boundary north of Keneggy Downs to junction with BW 20 & BR 22 & BR 25	-

Other Evidence

Report from Falmouth Packet August 2014 of Balwest Heritage Society
This verifies the history of the old Coach Road and shows the route still in use.

From The Falmouth Packet 20th August 2014

Germoe and Praa Sands - Balwest Heritage Society

On Friday, July 25 the Balwest Heritage Society were blessed with another beautiful warm evening for an informative walk to Greenberry Down in the Parish of Germoe. Around 20 members and guests met at Newtown Farm where local farmer Godfrey Piper began an entertaining excursion into local history. Godfrey's talk began with an explanation of the history of the site and the extensive range of buildings that now make up Newtown Farm.

A significant feature of the site is that the frontage of the building is parallel to the alignment of the Old Penzance to Truro Coach Road. At some time in the distant past the road from Penzance to Truro was re-aligned to the current A394 route between Rosudgeon and Newtown (which is generally about 50m to the south of the Old Coach Road). The Old Coach Road forms the Parish Boundary between Germoe and Breage and is now a green lane that is impassable in places during wet periods. It was along this lane that Godfrey led us past Kenneggy Downs towards Greenberry Downs. Sid Geake, equipped with detailed maps and diagrams, managed to identify many of the 29 known mining sites along the lane. And where historical information was ambiguous, Godfrey was able to fill in the gaps. The mines at the western end were generally within the Wheal Grylls mining sett, however all were eventually consolidated into Great Western Mines. There is plenty of evidence that these mines were productive and profitable. And at Greenberry Downs there is a large area of sandy heath land that was created by the crushing activity of the Wheal Grylls Stamps. Heather and gorse are gradually reclaiming this once barren area, and the exposed sand currently provides a great play area.

Section along edge of Greenberry Downs Common looking east - The original path can be seen close to and parallel to the field and boundary.



Land Ownership

Registered ownership in blue (LR polygons)



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.

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