

Cornwall Council

23 AUG 2019

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 [REDACTED]

of [REDACTED]

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 U6056 Gridref: SW71144658

to: County Road C0025 Gridref: SW71404591

(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:Grid Ref.....

by providing that

.....

and shown on the map accompanying this application.

* Please delete text as applicable

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

.....DOCUMENTARY EVIDENCE ATTACHED

.....

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.....

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.....

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Signed:



Dated:

19 August 2019.

Application Details

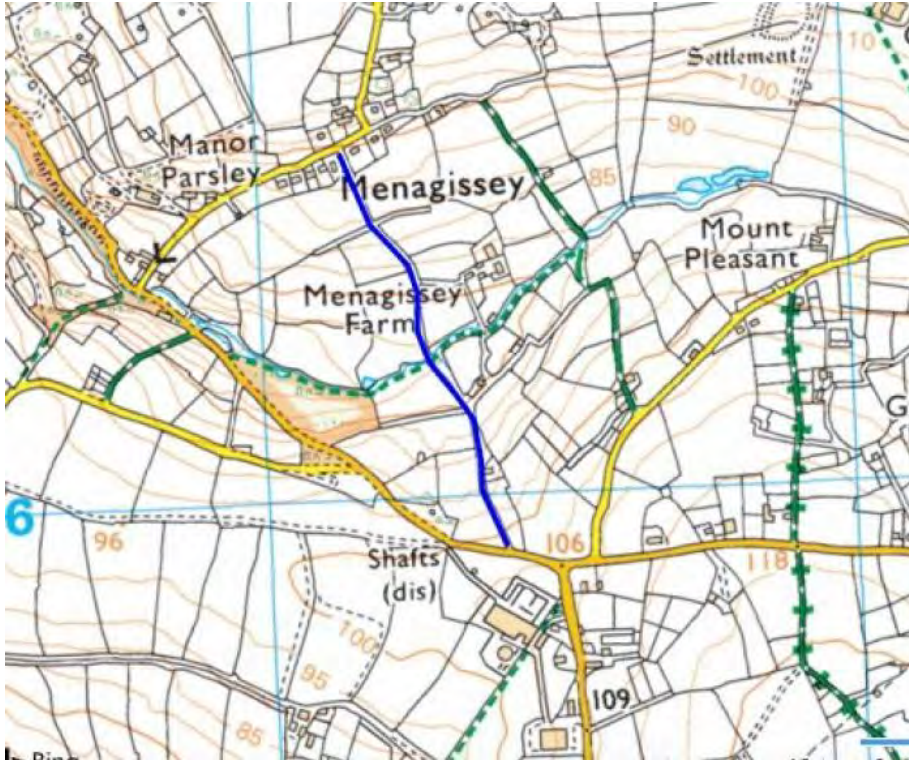
Our Path Reference: 318/R34

Grid Reference: SW712462

Parish: St Agnes

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at County Road U6056 SW71144658 and ends at County Road C0025 SW71404591

Old hedged lane

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being applied for: Restricted Byway

Notes:

Path is not believed to be obstructed.

Path is believed to be walked, and ridden
Parts believed to be used by vehicles.

Our Path Reference: 318/R34

Grid Reference: SW712462

Path starts at County Road U6056 SW71144658 and ends at County Road C0025 SW71404591

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, 1888 to 1913

Sheet 352 1896 - Path is clearly shown as a road.

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

Cornwall LVI.12 Published: 1907 [sht xx yyyy] Path is clearly shown as a road or lane, plot nos. 3762 and 3846.

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.

Sht 37, not shown on 1903 or 1922 edns. Shown as minor road on 1944 edn.

Johnston's Motoring Touring maps of England and Wales

Not shown.

Martyns Map

Not shown (all unenclosed land).

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, 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. It is often not easy to positively identify the routes of footpaths and bridleways for large hereditaments but it may be easier for smaller ones.

IR128/5/666 uncoloured lane, clearly excluded from adjoining hereditaments which is good evidence that the path was considered 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.

St Agnes map 10, 13 north and south ends only shown, rest is fields. Very slight evidence.

Parish Area Books

Not available/no plot descriptions.

Handover Maps 1929 Act

Not shown.

Other Evidence:

Land Ownership

Exclusion of a path from land registrations on either side is usually very indicative of ancient highway. However where an adjacent registration includes a path this does not give any indication against public rights. Land registrations may sometimes deliberately or inadvertently extend ownership beyond that shown on the original deeds.

Land Register, no registered owner despite all adjoining land registered (Apr 2019). This is typical of an ancient highway.

Summary and Statement of Reasons:

The Inland Revenue map shows all the road excluded from the adjacent hereditaments. This is very good evidence that it was excluded because it was a public road. 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 exclusion of the old lane from all adjacent Land Registry registrations is indicative of ancient highway.

The combination of the evidence from Old Maps, Inland Revenue map 1910 and lack of ownership gives very 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

View of lane from U6056



View of lane from C0025



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

Clearly shown as a road

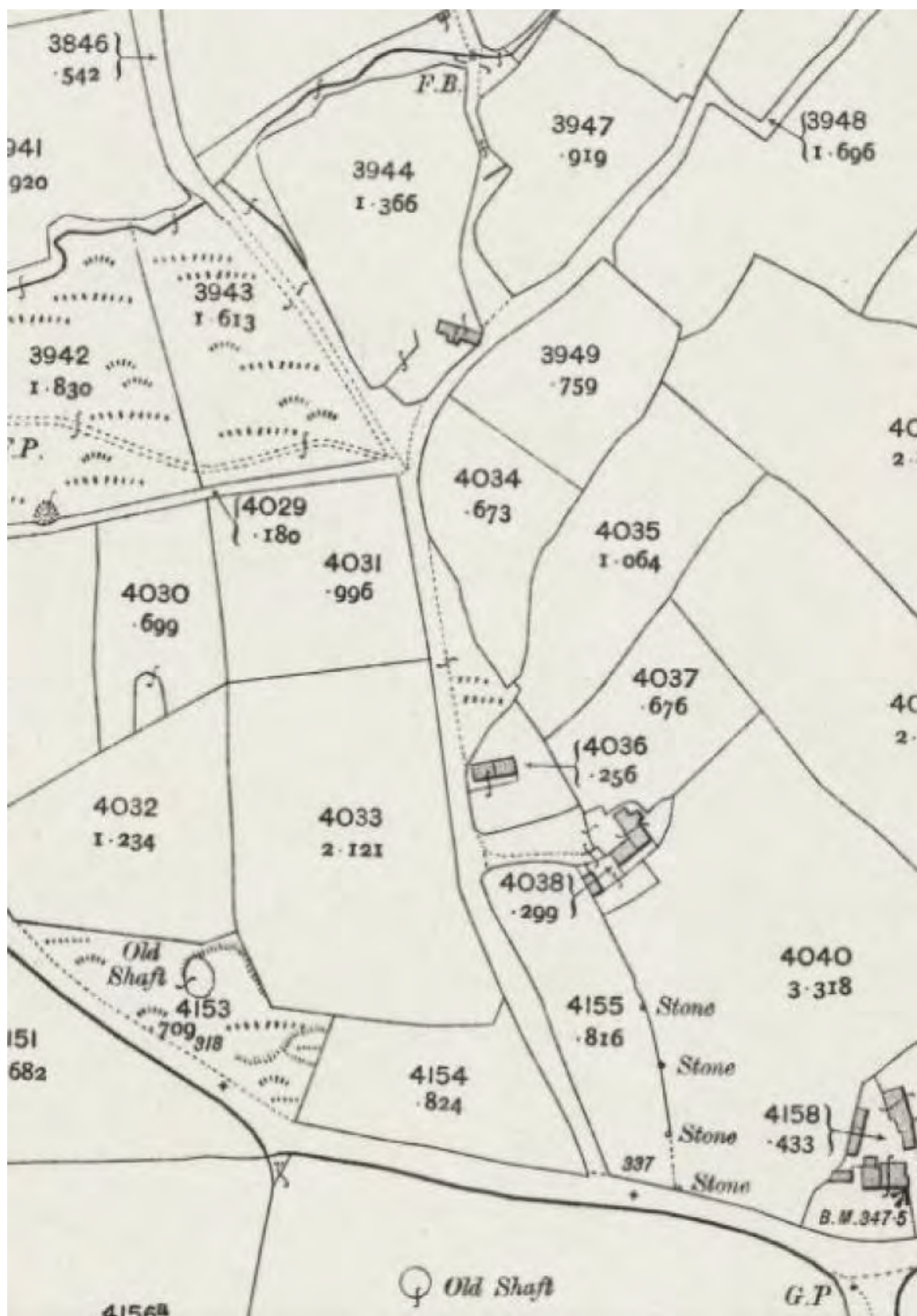


Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Northern Section - Note open brace where it crosses open land



Southern Section - Note open brace where it crosses open land



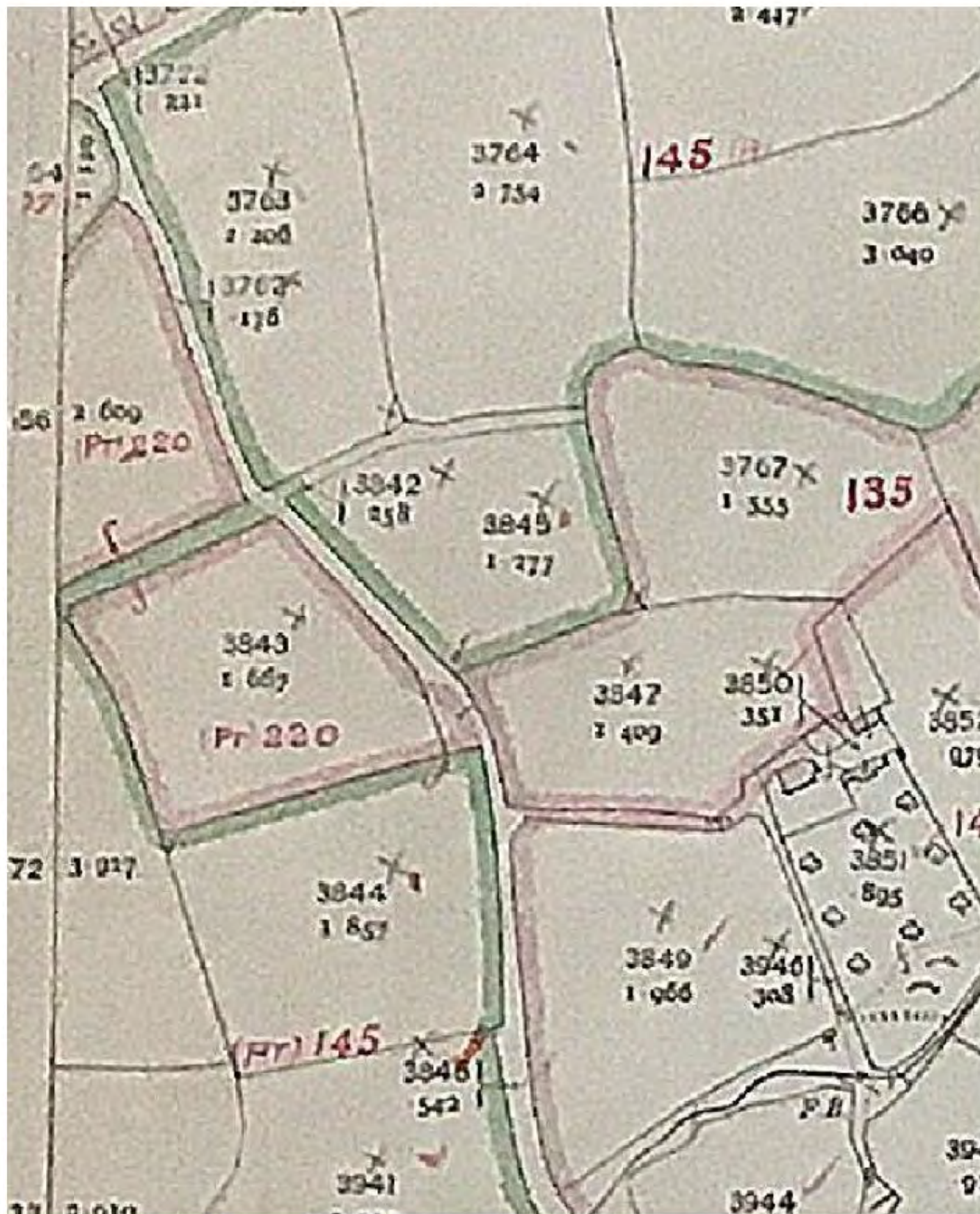
Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Map No. 37). - Publication date: 1944 - Shown as road



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

Northern Section - all excluded from hereditaments



Southern Section - all excluded from hereditaments



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.

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

National Library of Scotland on-line maps.

Johnston's Motoring Touring maps of England and Wales

Scanned paper copy British Horse Society.

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.

Handover Maps 1929 Act

Cornwall Council photographed copies.