



Cornwall Council

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**

from:

to:

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

from: County Road C0196 Gridref: SW71034977

to: FP St Agnes 22 Gridref: SW71144961

(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 *historical evidence has been discovered to establish a public right of way*

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 IS ATTACHED

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

Signed:

A black rectangular box redacting the signature.

Dated:

5 November 2019

Application Details

Our Path Reference: COR-2339 Grid Reference: SW710496

Parish: St Agnes

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at County Road C0196 SW71034977 and ends at FP St Agnes 22 SW71144961

Old Lane

Current Recorded Status:

Path is recorded as Footpath on the Definitive Map.

Status being applied for: Restricted Byway

Notes:

Footpath 22 is subject to DMMO Application Our Ref: 318/R50

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

Path walked.

May be overgrown

Our Path Reference: COR-2339 Grid Reference: SW710496

Path starts at County Road C0196 SW71034977 and ends at FP St Agnes 22 SW71144961

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 346 - 1895 Path is clearly shown as a road.

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

Cornwall LVI.3 Published: 1880 Path is clearly shown as a road or lane, plot no. 1530

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

Cornwall LVI.NE Surveyed: 1878 to 1879 - 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. 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.

IR 178/5/658 IR IR Shows path as white between hereditaments or passing through a gap in the coloured boundary from an excluded section signifying that that section is also excluded as being continuation of the exclusion. This 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 - Path is clearly shown as a 'road' plot number 5126 together with county roads and included in apportionments under 'Roads, Rivers and Waste.' and describes as 'Commons Wastes and Roads in Goonvrea'

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 route exists as a separate unregistered lane outside of the registered land on either side. This is strongly suggestive of an ancient public highway.

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. There is no evidence to suggest that the exclusion should not be interpreted in this way.

The Tithe map shows the path as a plot listed under 'Roads and Wastes' in common with other County Roads.

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.

The combination of the evidence from Old Maps, Inland Revenue map 1910, Tithe 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 from County Road (to Footpath)



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

Plot 1530



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

Clearly shown as a road

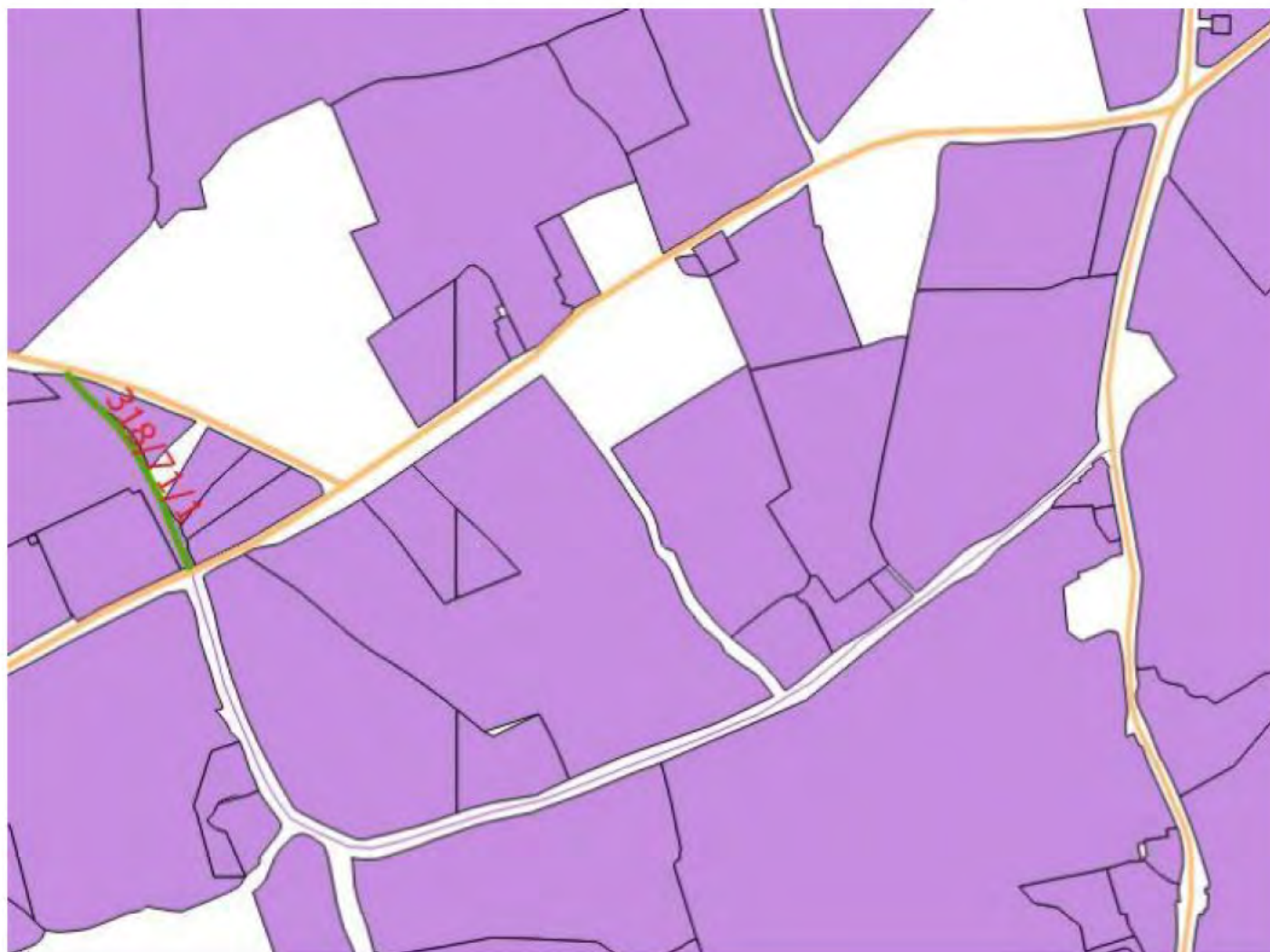


Plot 5126 - Commons Wastes and Roads in Goonvrea

5122	in Trevissick, }	100	0	3
5123	Commons, Roads, and Wastes in Tewan, }	204	3	2
5124	Roads and Wastes in Mawla, }	3	3	38
5125	Common at Stencoose, }	27	3	6
5126	Commons, Wastes, and Roads, at Goonvrea, }	575	0	27
5127	Roads at Bolster, }	2	0	24
5128	Road from Church Town to Mingose Downs, }	4	1	30

Land Ownership

Land Registry polygons shows the route excluded from registrations (in purple)



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.

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

Photographed at National Archive - British Horse Society.

Tithe Records

Cornwall Record Office, CD copies.