



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

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 C0294 Gridref: SW71784761

to: County Road U6056 Gridref: SW71854753

(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 *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:



Dated:

5 November 2019

Application Details

Our Path Reference: COR-2368 Grid Reference: SW718475

Parish: St Agnes

Map of Path:

Route applied for shown in blue



Description of Path:

Path starts at County Road C0294 SW71784761 and ends at County Road U6056 SW71854753

Old lane running between roads

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being applied for: Restricted Byway

Notes:

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

Path is believed to be walked and ridden.

The path had a temporary notice and closure (2009) giving clear indication that the public are expected to be using the path.

Our Path Reference: COR-2368 Grid Reference: SW718475

Path starts at County Road C0294 SW71784761 and ends at County Road U6056 SW71854753

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 significant road in common with current county roads, together with other two paths for which we have submitted separate applications.

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

Cornwall LVI.8 Published: 1880 Path is clearly shown as a road, as part of much larger plot number 3186. The brown shading signifies the significance of this road.

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

Cornwall LVI.NE Surveyed: 1878 - Path is clearly shown as a road.

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

SW74 Publication date: 1960 Path is clearly shown as a road.

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.

Map scale too small for path to be identifiable

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.

128/5/662 - 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. It is important to note the external bracing where the path crosses hereditament confirming the exclusion.

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, clearly shown coloured brown, no gates. Parcel 5116 in single plot with current County Roads. Apportionment p78, Roads and Wastes at Mount Hawke, no owner, occupier or tithe payable. Clear evidence of Public 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 path is excluded from registration yet plots either side are all registered.

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 one plot with adjacent current County Roads which is very good evidence of Public Road.

The OS 25 inch map showing the road as a separate plot as Road and shaded brown indicating the significance of the route. 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.

Further in 2009 a temporary closure was signed (pictured) that gives clear indication of the public status of this path.

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

Western end of the path. The path has a temporary notice and closure (2009) giving clear indication that the public are expected to be using the path.



Eastern end of path rather overgrown but clearly used.



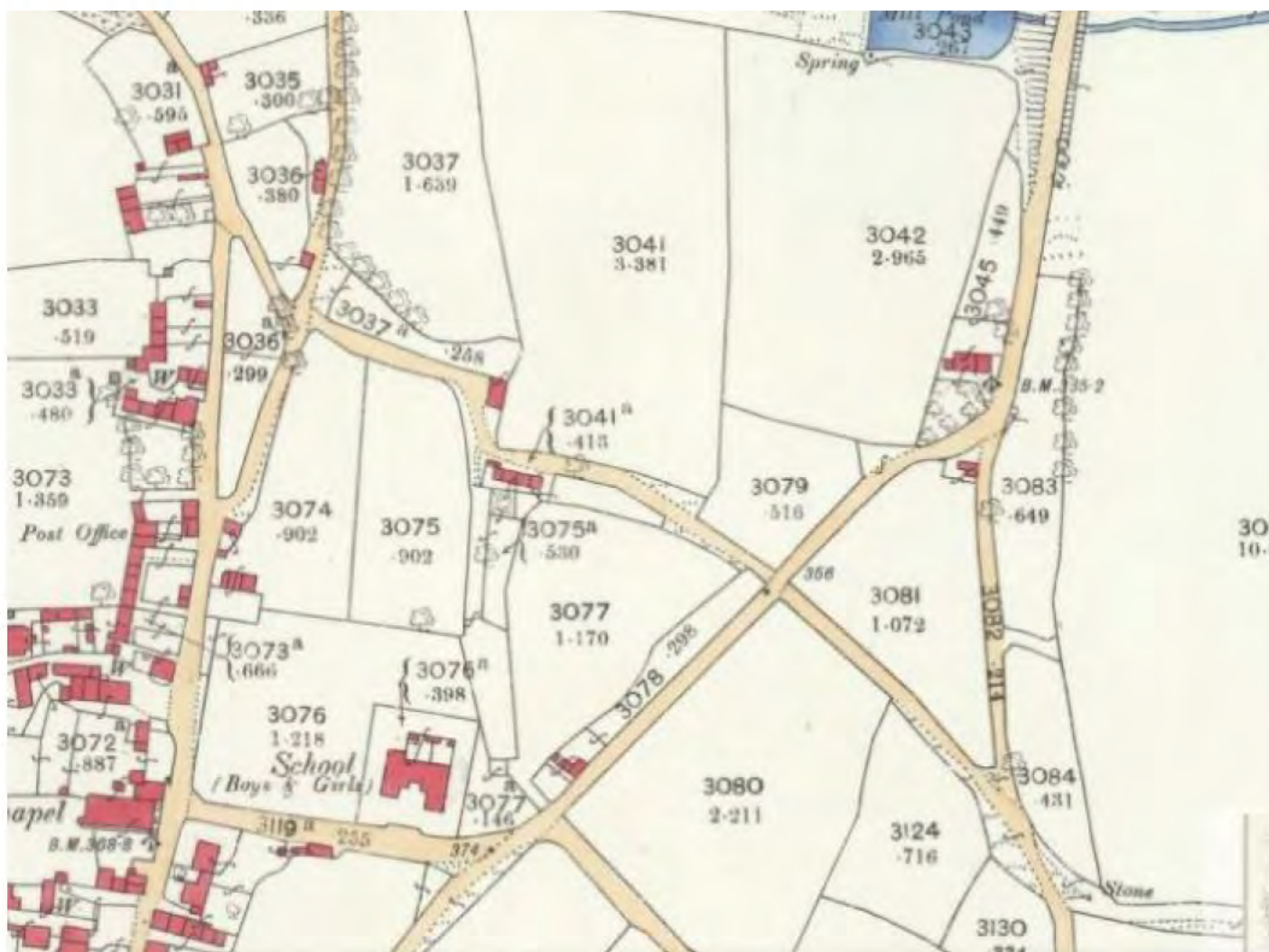
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

Clearly shown as a road



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

Shaded brown plot 3186



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

Clearly shown as a road



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

Path clearly shown as a road



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

Path is excluded from hereditaments. Note the external bracing where it passes through hereditament.



Tithe Records

Path shaded brown - plot 5116

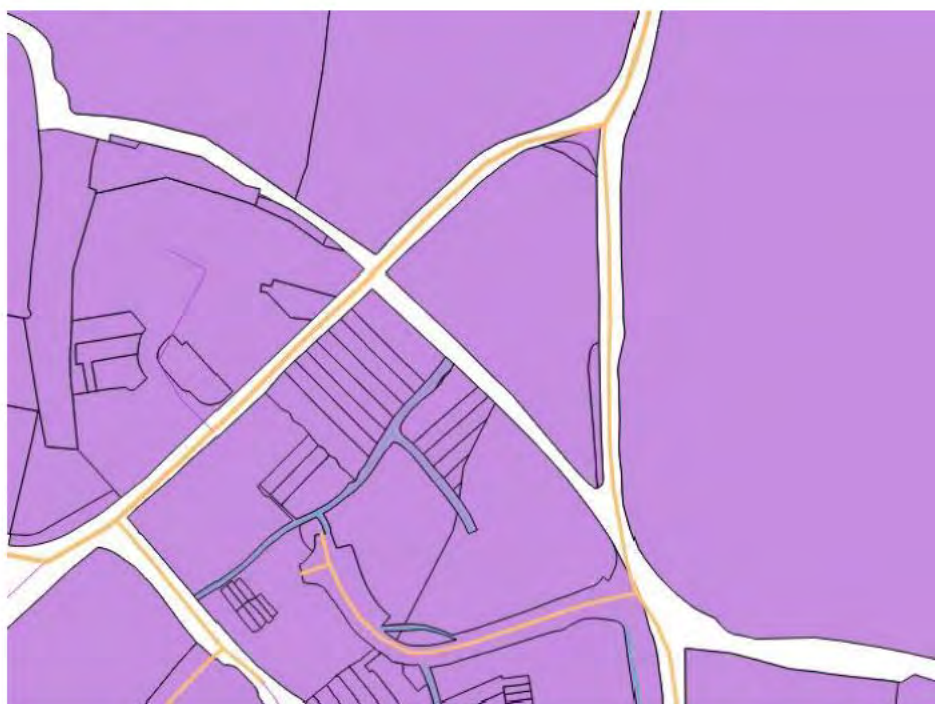


Plot 5116 under "Commons Roads and Waste" - No Tithe

		A.	R.	P.
	COMMONS, ROADS, AND WASTES.			
5109	Common and Roads in Mithian, .	369	0	0
5110	Common and Roads in Trevellus, .	267	0	26
5111	Common and Roads in Goonlaze, .	251	2	34
5112	Prince's Common,	673	1	32
5113	Roads, Common, and Wastes { in Gooncurr, }	374	0	0
5117	Roads and Wastes in Lower { Trenithick, }	3	3	5
5114	Goosegarra Common,	31	0	20
5115	Gover Common,	49	2	19
5116	Roads & Wastes at Mount Hawke, .	11	1	28
5118	Commons, Roads, and Wastes { in Mingoose, }	229	1	9
5119	Roads and Wastes in Banns,	9	2	14
5120	Roads through Croft Prince,	15	1	0
5121	Commons, Roads, and Wastes { in Menegissey, }	108	0	24
5122	Commons, Roads, and Wastes { in Trevissick, }	100	0	3
5123	Commons, Roads, and Wastes {	204	3	2

Land Ownership

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



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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.