



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 Restricted Byway

from: Banns Road U6056 Gridref: SW71594774

to: Penhall Lane U6056 Gridref: SW71614771

(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

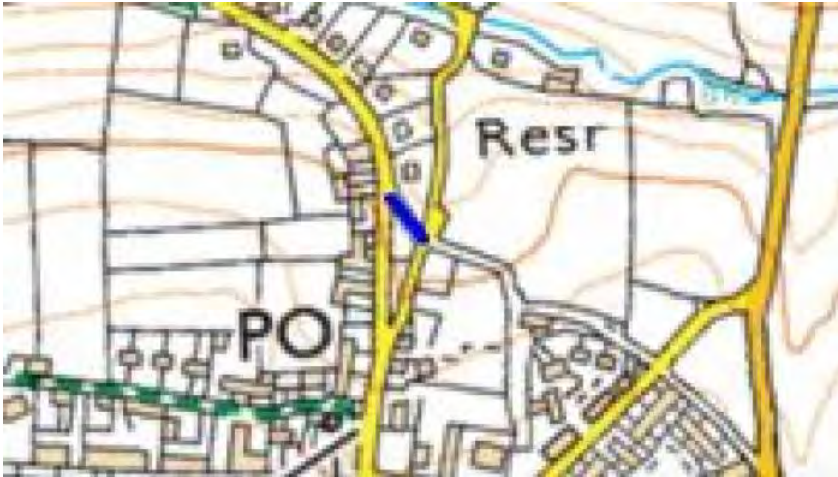
Application Details

Our Path Reference: COR-1493 Grid Reference: SW716477

Parish: St Agnes

Map of Path:

Route applied for shown in blue



Description of Path:

Path starts at Banns Road U6056 SW71594774 and ends at Penhall Lane U6056 SW71614771

Old hedged track

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being applied for: Restricted Byway

Notes:

Path is believed to be obstructed.

Path appears very overgrown (2009)

Our Path Reference: COR-1493 Grid Reference: SW716477

Path starts at Banns Road U6056 SW71594774 and ends at Penhall Lane U6056 SW71614771

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 2939. 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.

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.

IR 128/5/662 Shows path 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, 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.

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 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.

May 2017 no registered owned, land both sides 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.

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 at northern end



Exit at Southern end



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

Clearly shown as a significant road



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

Shaded brown plot 2339



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



Tithe Records

Plot 5116

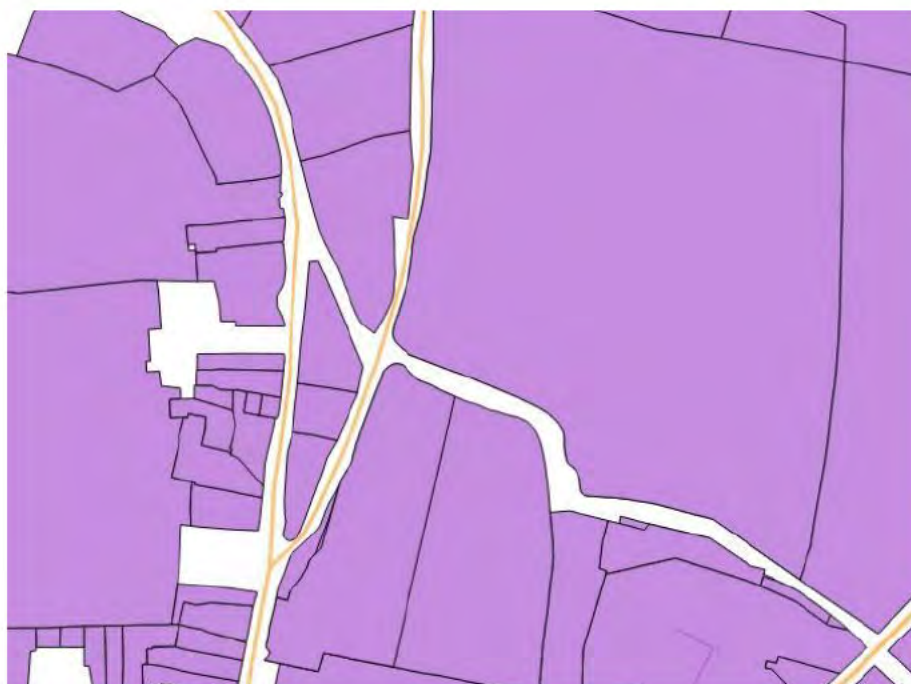


Plot 5116 listed under "Commons Roads and Waste" - No Tithe

| COMMONS, ROADS, AND WASTES. | | A. | R. | P. |
|-----------------------------|------------------------------------------------------------|-----|----|----|
| 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 | Goosegwarra Common, | 81 | 0 | 20 |
| 5115 | Gover Common, | 40 | 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 } in } | 204 | 3 | 2 |

Land Ownership

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



Land Registry 'Inspire Map'



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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.

Geographia 2 inch Road Map

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.

Parish Area Books

National Archive --scanned Google/British Horse Society.

Handover Maps 1929 Act

Cornwall Council photographed copies.