



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

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: U6051 road, MawlaGridref: SW70204581

to: Bridleway 64Gridref: SW71344549

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

from: Bridleway 64Gridref: SW71344549

to: County Road C0025Gridref: SW71524548

(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

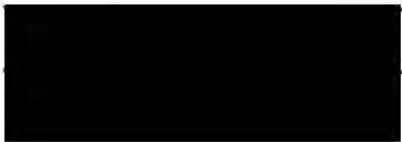
and shown on the map accompanying this application.

* 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 IS ATTACHED
.....
.....
.....
.....

Signed:



Dated:

14 August 2019

Application Details

Our Path Reference: 318/R39

Grid Reference: SW709456

Parish: St Agnes

Map of Path:

Route applied for shown in blue.



Description of Path:

Path starts at U6051 road, Mawla SW70204581 and ends at County Road C0025 SW71524548

Old hedged track - Tarmaced at Western End from Mawla

Current Recorded Status:

Only part of the path is 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, ridden and cycled

Parts of the path are believed to be used by motors

No gates, a steel post has been erected in recent times just west of Stencoose in the middle of the track, presumably to stop vehicular use. (Sept 2018) Path is joined by one definitive footpath along its length. The Eastern 200m is part of Bridleway 64.

Our Path Reference: 318/R39 Grid Reference: SW709456
Path starts at U6051 road, Mawla SW70204581 and ends at County Road C0025 SW71524548

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

Truro 1813 path is clearly shown; Sheet 352 - 1896 shown as a significant road

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

LVI.11, 12, 1880, shown, 2 gates. 1907 shown, no gates

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

Cornwall LVI.SE Surveyed: 1878 to 1879 - 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.

1903, 1922, 1944 all clearly show path as a minor public road

Johnston's Motoring Touring maps of England and Wales

Clearly shown as a Road

Martyns Map

Mawla, Stencoose and Goonearl shown but not linked. Not clear which route is represented.

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.

IR 128/5/665 shows path as white track clearly excluded from hereditaments; IR 128/5/666 appears to have inconsistency of exclusion colourings on the part recorded as Bridleway 6.

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 13, App p78, clearly shown, coloured brown. Parcel 5124 Roads and Wastes in Mawla, no owner, occupier or tithe payable. Also in common with roads at Eastern end Parcel 5113 Roads, Common and Wastes in Gooncare, no owner, occupier or tithe payable.

Parish Area Books

Not available/ no plot descriptions.

Handover Maps 1929 Act

St Agnes 2, not shown.

Other Evidence:

Definitive Map Records

Path is joined by FP 45 the Definitive Statement for which says 'from road east of Stencoose'. When the map was drawn the path was clearly considered to be a road. They would only connect it to a highway.

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. All adjoining land is registered.

Summary and Statement of Reasons:

The Inland Revenue map shows all the road excluded from the adjacent hereditaments except for confused map at Western end. This is very good evidence that it was excluded because it was a public road. The Tithe map shows the path as a plot listed under 'Roads and Wastes'. The Definitive Map Records refer to the path as 'Road' and a FP runs from it.

The combination of the evidence from Old Maps, Inland Revenue map 1910 and Tithe Map gives very strong indication that the path is highway and now should be recorded with Restricted Byway Status. The exclusion of the old lane from all adjacent Land Registry registrations is also indicative of ancient highway.

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 Mawla



Bridleway viewed from County Road C0025



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

Truro sheet, published 1813



1896 map clearly shown in common with other county roads





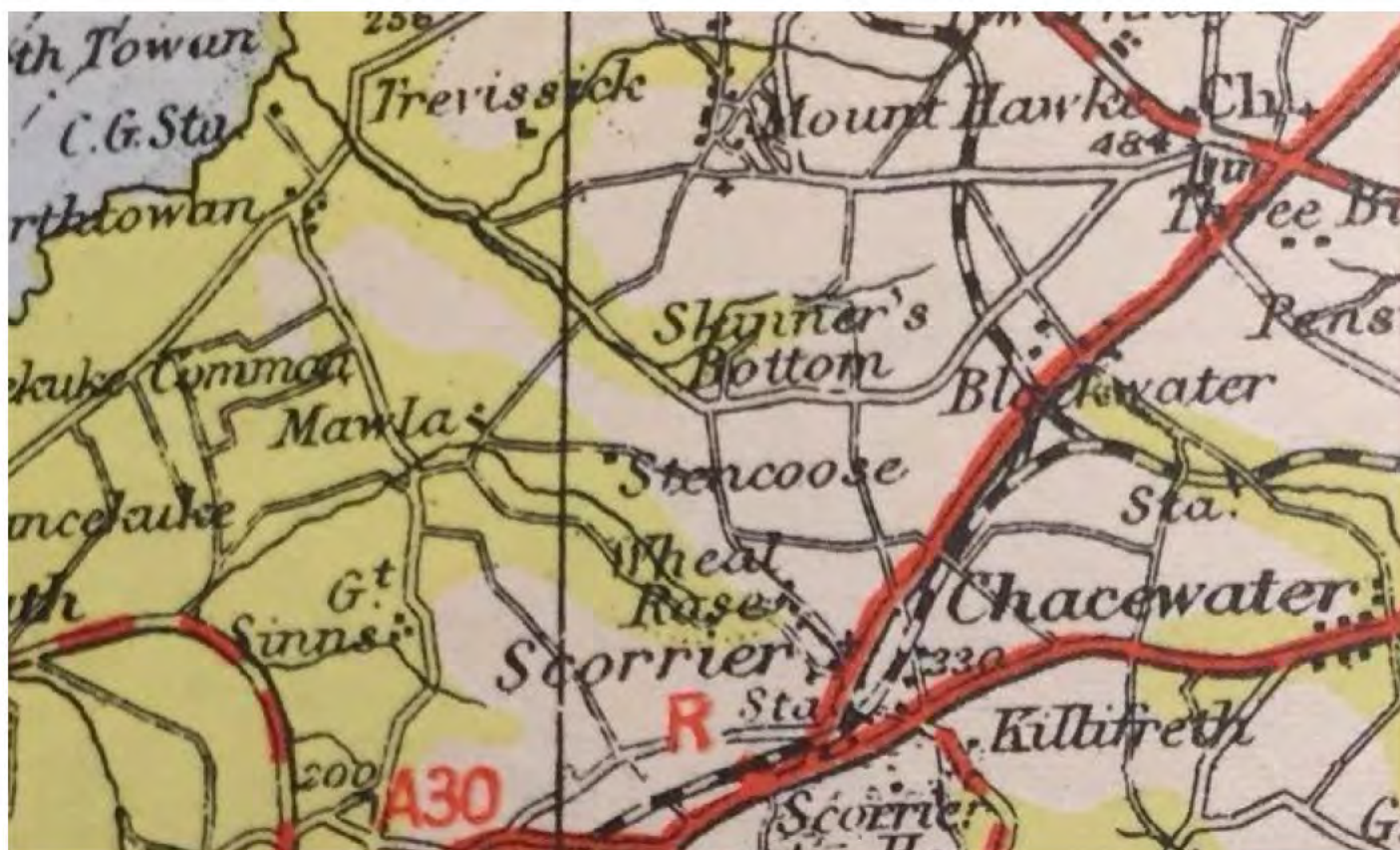
Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Clearly shown as a road



Johnston's Motoring Touring maps of England and Wales

Johnston 3 miles to 1 inch 1957 edition



Johnston 2" to 1 mile



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

IR128/5/665 on this section path is excluded from hereditaments



IR128/5/666 Breaks in green coloured boundary are inconsistent.



Tithe Records
St Agnes Parcel 5124



Eastern Section



78

Nos. referring to the Plan.	Name and Description of Lands and Premises.	Quantities in Statute Measure.		
		A.	R.	P.
	COMMONS, ROADS, AND WASTES.			
5109	Common and Roads in Mithian, .	369	0	0
5110	Common and Roads in Trevellas, .	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 Gooncare,	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 Menagissey,	108	0	24
5122	Commons, Roads, and Wastes { in Trevisick,	100	0	3
5123	Commons, Roads, and Wastes { in Towan,	204	3	2
5124	Roads and Wastes in Mawla,	3	3	33
5125	Common at Stencoose,	27	3	6
5126	Commons, Wastes, and Roads, { at Goonvren,	575	0	27
5127	Roads at Bolster,	2	0	24
5128	Road from Church Town to { Mingoose Downs,	4	1	30
5129	Road from Rosemundy to { Goonbell,	2	2	34
5130	Road at Goonbell,	3	2	

Definitive Map Records

Definitive Statement for FP 45 says from 'ROAD East of Stencoose'

44	BR from road south of Manor Parsley Farm to road north-east of Mawla	4'0" - 5'0"
45	FP from road east of Stencoose to road north-west of Wheal Rose	-
46	BR from road east of Menagissey to road north-west of Skinner's Bottom	10'0" - 12'0"

Cornwall GIS map shows FP 45 joining the path.



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.

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.

Definitive Map Records

Cornwall County Council