



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 _____ s

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: County Road U6009 Klegwin Gridref: SW39813467

to: Bridleway 5 Gridref: SW40373458

(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: 16 June 2020

Application Details

Our Path Reference: 114/R25 Grid Reference: SW401346

Parish: St Just-in-Penwith

Map of Path:

Route applied for shown in blue.dashes



Description of Path:

Path starts at County Road U6009 Kiegwin SW39813467 and ends at Bridleway 5 SW40373458

Route regularly ridden

Current Recorded Status:

Path is not recorded on the Definitive Map. Path is not recorded on the List of Streets.

Status being applied for: Restricted Byway

Notes:

Path is not believed to be obstructed.

Path is walked, ridden, cycled, Path is believed to be used by motors.

Our Path Reference: 114/R25 Grid Reference: SW401346

Path starts at County Road U6009 Kiegwin SW39813467 and ends at Bridleway 5 SW40373458

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, 1809 to 1913

First Series - Shown as a road. Sheet 351 - 1896 - Path is clearly shown as road in common with current county roads

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

Cornwall LXVII.11 Published: 1878 Path is clearly shown as a road or lane, plot no. 1015

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

Cornwall LXVII.SE Surveyed: 1876 to 1877 Path is clearly shown as a road or lane

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.

Sheet 37 - 1903 Path is clearly identifiable and shown as a road.

Martyns Map

Not shown

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.

IR 128/5/793 Shows path clearly excluded from adjoining hereditaments which is good evidence that the path was considered a public road. Also note the open braces across the lane confirming its 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 Just - Lane appears to be unnumbered

Parish Area Books

St Just Plot 1015 - 'Road'

Other Evidence:

Definitive Map Records

The lane is joined by FP 182 halfway along its length. The statement for FP 182 states '182 FP from FP 181, crosses corner of Tor Noon Common to east Keigwin Farm'. It is clear that the lane was considered to be a right way when the definitive map was drafted.

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 that no part of the path is registered. Some plots on both sides of most of its length are registered excluding the path. This is very suggestive of a 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.

The Tithe map shows the path un-numbered similar to many other county roads.

The OS 25 inch map and associated Area Book evidence gives plot as 'Road' re-enforcing this conclusion that it is a public road.

It is significant that a Definitive Footpath joins the path, which indicates strong understanding that at the time the map was drawn the path was considered to be Highway.

The Land Registry shows the path is excluded from registration. This is strongly suggestive of an ancient public highway.

The combination of the evidence from Old Maps, Inland Revenue map 1910, Tithe and Area Book 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

Start of route at Keigwin Farm



Aerial view of eastern end



OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

First Series - route shown A to B



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

Clearly shown as a road plot 1015



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

Clearly shown as a road



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

Clearly shown as a road



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

Path is excluded from hereditaments. Also note the open braces across the lane confirming its exclusion.



Tithe Records



Parish Area Books

Plot 1015

955	1.441	Pasture.	1006	.100	Houses and yard.
956	1.503	Pasture.	1007	.382	Houses, yards, &c.
957	1.183	Arable.	1008	1.706	Pasture.
958	.954	Arable.	1009	1.431	Arable.
959	1.391	Arable.	1010	.582	Arable.
960	.566	Pasture.	1011	1.846	Pasture.
961	1.253	Arable, &c.	1012	1.726	Pasture, &c.
962	2.000	Pasture, &c.	1013	1.912	Pasture.
963	1.719	Pasture, &c.	1014	1.221	Pasture, &c.
964	1.130	Pasture.	1015	1.072	Road.
965	.441	Rough pasture, &c.	1016	2.452	Pasture.
966	1.309	Road.	1017	1.143	Arable.

Land Ownership

LR polygons registered land in purple



Land Registry 'Inspire' Map



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.

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.

Definitive Map Records