

Our Ref: COR-2498	<b>Cornwall Council</b>	FORM 1
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# **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**

from:

to:

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

from: Byway St Just 117 Gridref: SW36263284 Gridref: SW36263284

to: Unrecorded Road at FP 119 Gridref: SW36603255 Gridref: SW36603255

(d) Varying /adding to the particulars relating to the footpath/bridleway/restricted  
byway/byway open to all traffic.

from: .....Grid Ref .....

to: .....Grd Ref .....

by providing that historical evidence has been discovered to establish a public right of way.

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

DOCUMENTARY EVIDENCE IS ATTACHED

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

Signed:

.....Dated: 6 August 2020.....

# **APPENDIX**

## **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.

## **Johnston's Motoring Touring maps of England and Wales**

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.

## **Definitive Map Records**

Cornwall Council/KK

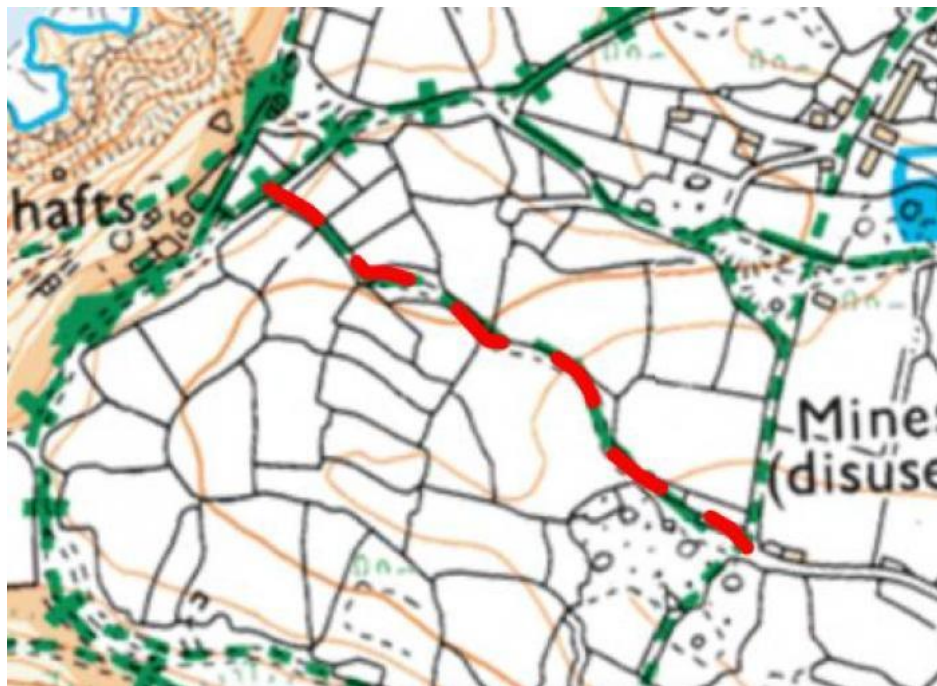
**Our Path Reference: COR-2498**

**Parish:** St Just-in-Penwith **Grid Reference:** SW364327

## Application Details

### Map of Path:

Route applied for is shown in RED DASHES



### Description of Path:

Path starts at Byway St Just 117 SW36263284 and ends at Unrecorded Road at FP 119 SW36603255

Bridleway following the route of the original vehicular track.

### Current Recorded Status:

Path is recorded on the Definitive Map as a Bridleway

Path is not recorded on the List of Streets.

**Status being applied for:** Restricted Byway

### Notes:

Parts of the definitive line of the bridleway are obstructed. Path is walked, ridden, cycled, This application connects to the route of our application reference 114/R17 for Restricted Byway. It is noted that the CC 2005 aerial view shows how the used route migrated off the definitive line.

Our Path Reference: COR-2498 Grid Reference: SW364327

Path starts at Byway St Just 117 SW36263284 and ends at Unrecorded Road at FP 119 SW36603255

## **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**

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.13 1878 - Path is clearly shown as a road or lane in single plot excluded from adjacent land. plot no. 1253.

It is important to note that the definitive bridleway follows exactly the route of the old road as drawn on this map.

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

Cornwall LXVII.SW Surveyed: 1876 Path is clearly shown as a road/track.

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

10/33 - A 1951 - 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.

Path is shown as Road from Botallack to coast and looping back again.

#### **Johnston's Motoring Touring maps of England and Wales**

Shown as a road to the cliff area

## **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.

128/5/795 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 exclusion is in common with the byway at the western and unrecorded road at the eastern end. This is good evidence that the path was considered a public road.

#### **Tithe Records**

Path north of Wheal Owles is not shown. The road may post date the 1843 tithe.

#### **Parish Area Books**

Plot no 1253 is described as 'Road'.

## **Other Evidence:**

### **Definitive Map Records**

We have been unable to access the original path surveys (COVID19). It is noted that the CC 2005 aerial view shows how the used route migrated off the definitive line. The definitive line follows exactly the route of the road as depicted on the 1878 25 inch map.

## **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 nor why the path was only recorded as a bridleway.

The OS 25 inch map showing the path as a Road in a separate plot which is consistent with being of highway status. Also note the open bracing signifying the exclusion from the plots it passes through supporting the premise that it is a road. At that time, the primary mode of transport was pack horse, cart or carriage. It is inconceivable that any such available route would not be used for the transport of goods by horse drawn vehicles from the mine complex, and via the shortest route to hand.

All the old maps, which were intended for public navigation, show the route consistently as a road. This is very strong supportive evidence of the status of the route as a public road. It is important to note the whole route connects byway 11 to Truthwall Lane and beyond.

There is no evidence as to explain why the recorded status of the path differs from the connecting Byway 11 which is similar unmade road.

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

CC Aerial View with GIS of bridleway shown



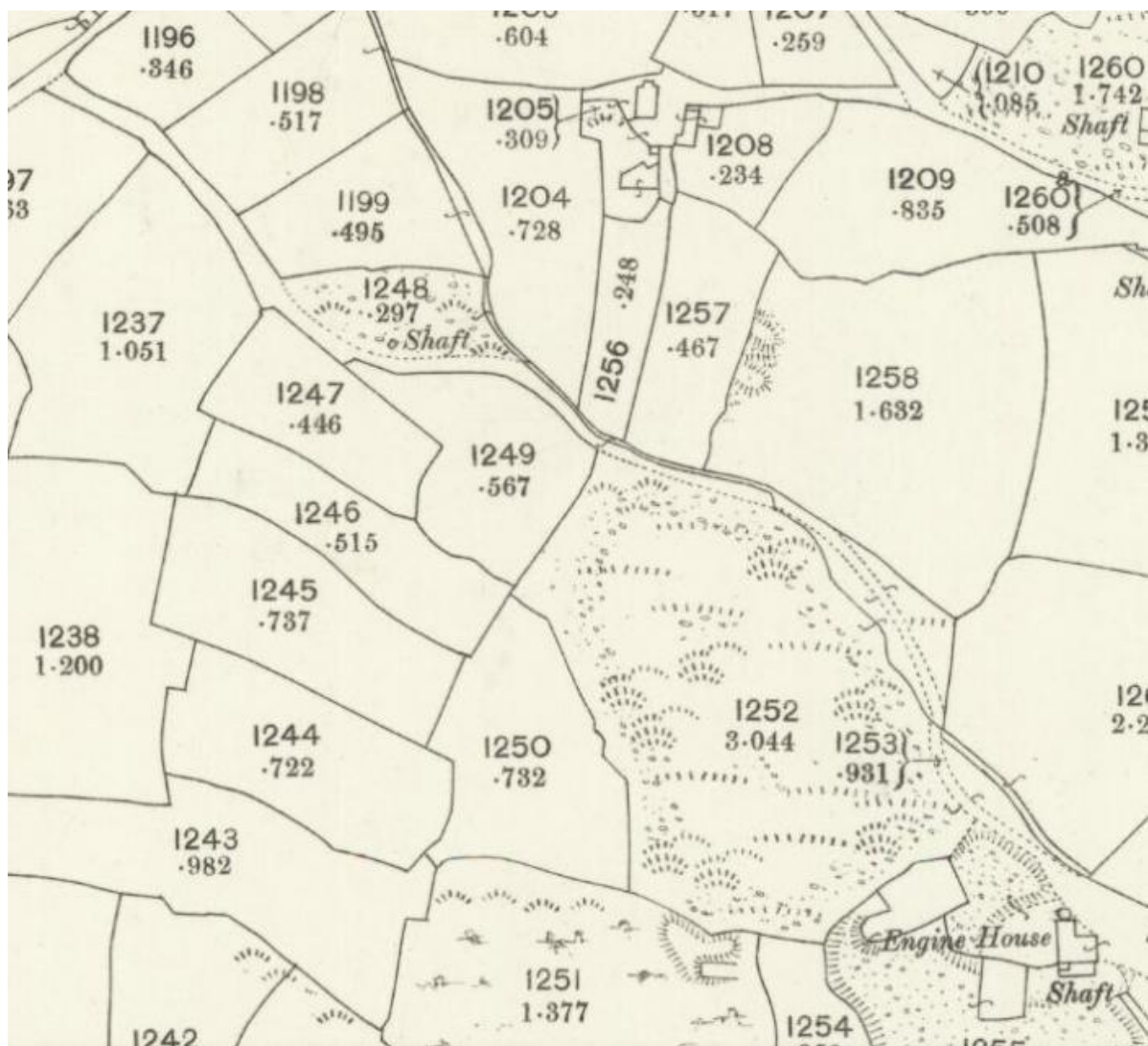
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

1896 Revision



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

Shown in single plot 1253 and note open braces





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

Path shown as a through road



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



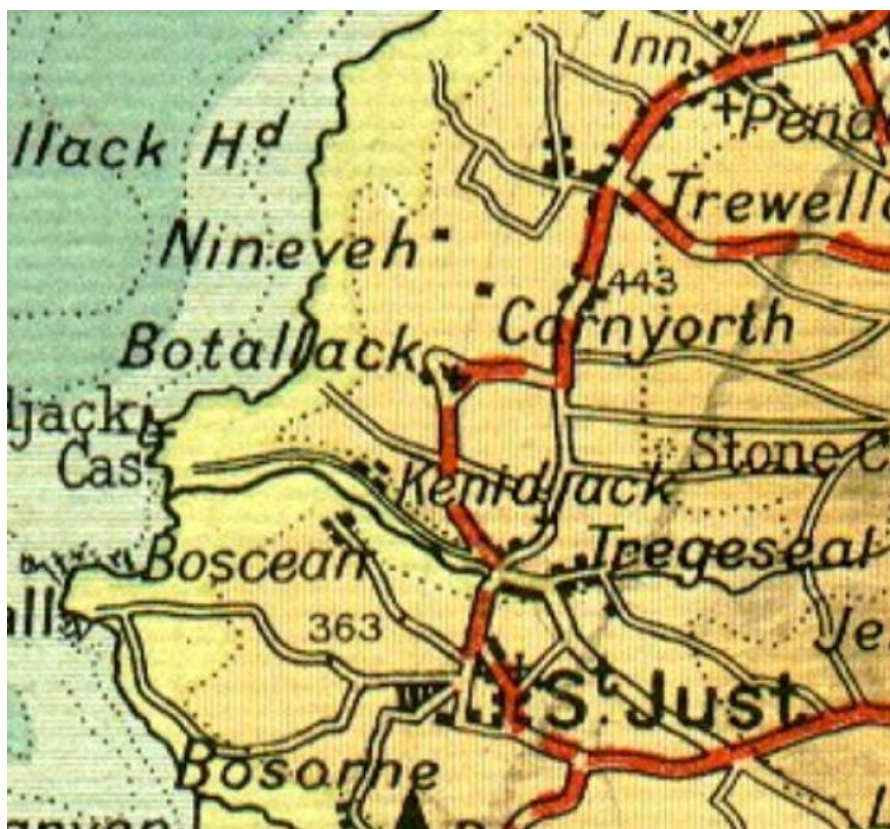
## Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Note that on this map it is shown in preference to the coastal byway indicating that it is a significant route.



## Johnston's Motoring Touring maps of England and Wales

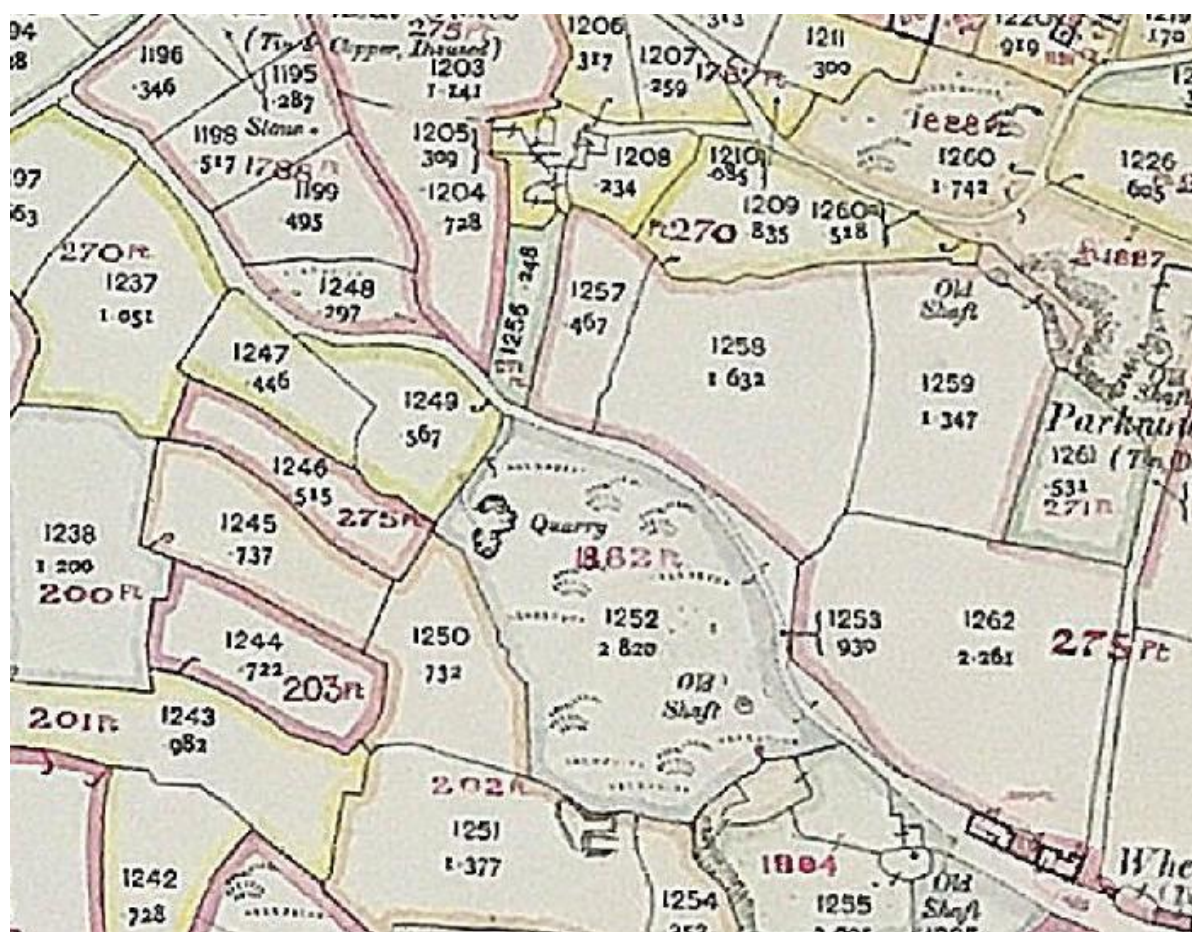
Shown as a road to the cliff area





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

All the route is excluded from hereditaments



## Parish Area Books

St Just - Plot 1253 'Road'

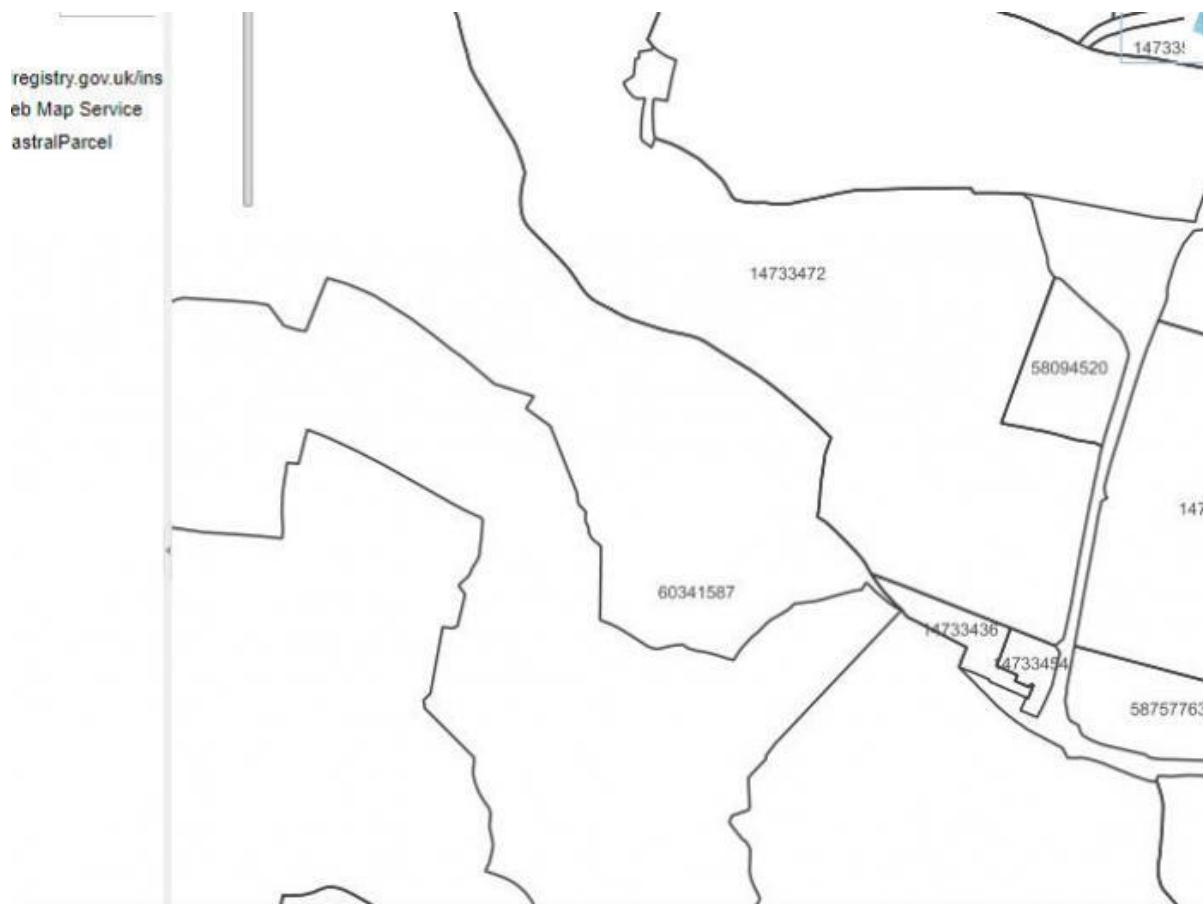
1201	·327	Rough pasture and furze.	1249	·567	Arable.
1202	·537	Arable.	1250	·732	Pasture.
1203	·604	Arable.	1251	1·377	Pasture, &c.
1204	·728	Pasture.	1252	8·044	Rough pasture, furze, &c.
1205	·309	House, rough pasture, &c.	1253	·931	Road.
1206	·317	Pasture.	1254	·352	Pasture.
1207	·259	Arable.	1255	2·150	Houses, arable, &c.
1208	·234	Pasture.	1256	·248	Arable.
1209	·835	Arable.	1257	·467	Pasture.
1210	·085	Pasture.	1258	1·632	Arable, &c.
			1259	1·347	Pasture, &c.

## Land Ownership

LR polygons showing un-registered parts.



## LR 'Inspire' Map



## **APPENDIX II - Evidence Sources**

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