

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 Adrian Bigg, British Horse Society

Of: Treveffa Farm, Treveffa, Zennor, St Ives, TR26 3BL

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 U6068 Grid Ref: SW80333989

to: Bridleway 21 Grid Ref: SW80733984

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

from:

to:

(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 ACCOMPANYING THIS APPLICATION IS LISTED BELOW

Signed: Dated: 1 July 2022.....

List of Evidence Documents

Ordnance Survey First Series

Sheet 31, 1813, National Library of Australia (Web) Publish Information

Ordnance Survey. One-inch to the mile, Revised New Series

Sheet 352, 1898, National Library of Scotland (Web)

Ordnance Survey, 25 inch to the mile

Sheet LXIV.11, 12, 1880, www.old-maps.co.uk/

Ordnance Survey. Six-inch to the mile

Cornwall Sheet LXIV.SE Surveyed: 1878, Published: 188, Surveyed: 1878, Published: 1888, National Library of Scotland (Web)

Ordnance Survey, 1:25,000, First Series

10/83 & Part of 10/93, 1951, National Library of Scotland (Web)

Bartholomew's Half Inch to the Mile Maps of England & Wales

Sheet 37, 1903, National Library of Scotland (Web)

Martyns Map

, 1748, Harvard Web

Inland Revenue Valuation Map - Finance Act 1908-1910

Map LXIV.11, 12 TNA Ref:128/5/722, 1910, National Archive

Parish Tithe Map Feock

Maps 7, 8., 1842, County Records Office

Land Registry 'Polygons' Map

, 2019, Land Registry

Land Registry 'Inspire' Map

, 2020, Land Registry

Our Path Reference: 305/A

Parish: Feock **Grid Reference:** SW805398

Application Details

Map of Path:

Route applied for shown in red dashes



Description of Path:

Path starts at County Road U6068 SW80333989 and ends at Bridleway 21 SW80733984

Old Hedged Lane connecting to Bridleway 21

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 to be obstructed.

This unsurfaced lane is in good condition and is used to access all properties and the bridleway 305/21. Regularly ridden and walked - good passing places.

Our Path Reference: 305/A Grid Reference: SW805398

Path starts at County Road U6068 SW80333989 and ends at Bridleway 21 SW80733984

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

Series 1 Sheet 31 1856, clearly shown as a through road. 1896 revision Sheet 352 - Path is clearly shown as a through road.

Ordnance Survey Maps - 25 inch England and Wales

LXIV.11, 12 1880, 1907. . Path is clearly shown as a road or lane, plot no. 761 . It is noted that the lane appears gated at the western end and bridleway 21 appears to be gated twice near its northern end. This would be for security of stock in both Higher and Lower Tresithick.

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales

Cornwall Sheet LXIV.SE 1888 Path is clearly shown as a road.

Ordnance Survey, 1:25,000 maps of Great Britain

Sheet 10/83 & Part of 10/93 Publication date: 1951 Path is clearly shown as a road.

Bartholomew's Half Inch to the Mile Maps of England and Wales

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 shown as a through road and including what is now bridleway 21

Martyns Map

Depiction of a route on the Martyns Map 1748 shows the existence of the route at that time. Given the small scale and age of this map, it is most likely that the route was significant and used by all. It is unlikely that footpaths would be depicted.

Road clearly shown extending to Tresithick from the west.

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 128/5/771 & 772 Path is included inside one large hereditament no 83. It should be noted that Bridleway 21 is also inside this large hereditament.

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.

Feock maps 7, 8. Route is Parcel 1396. App p22 is listed under heading 'ROADS CREEKS WASTES &c, Road and Waste from Penpoll through Tregoose to the Downs, including Point Lanes', no owner, occupier or tithe. 1396 is the same parcel number as other public roads in the vicinity. Very strong evidence of public road.

Parish Area Books

Not available/no plot descriptions

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 most of the path is registered, but it should be noted that all of the adjoining bridleway is also registered. One part of the lane is excluded from registration yet plots either side are all registered. This could suggest that other adjoining land owners have assumed ownership of the lane.

Summary and Statement of Reasons:

The Tithe map shows the path as a plot listed under 'Roads and Wastes' with no owner and no tithe. The plot is a single plot contiguous with other adjacent county roads. This is significant evidence of the status of the route, The route had no owner.

All very early the old maps, Martyns map 1748 onwards, 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.

The inland revenue map appears to show the route is not excluded but that does not preclude the route having highway status.

Bridleway 21 connects to this old road which is the continuation of the bridleway to reach the county road. The route is much used by horses.

Given the many pieces of evidence which strongly support the premise that the path is most likely an old highway, we draw conclusion that the road is highway and should be recorded on the Definitive Map with Restricted Byway status. The combination of the evidence from the very Old Maps, and Tithe Map gives very 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 path at ebd of U6068



Aerial View of path.



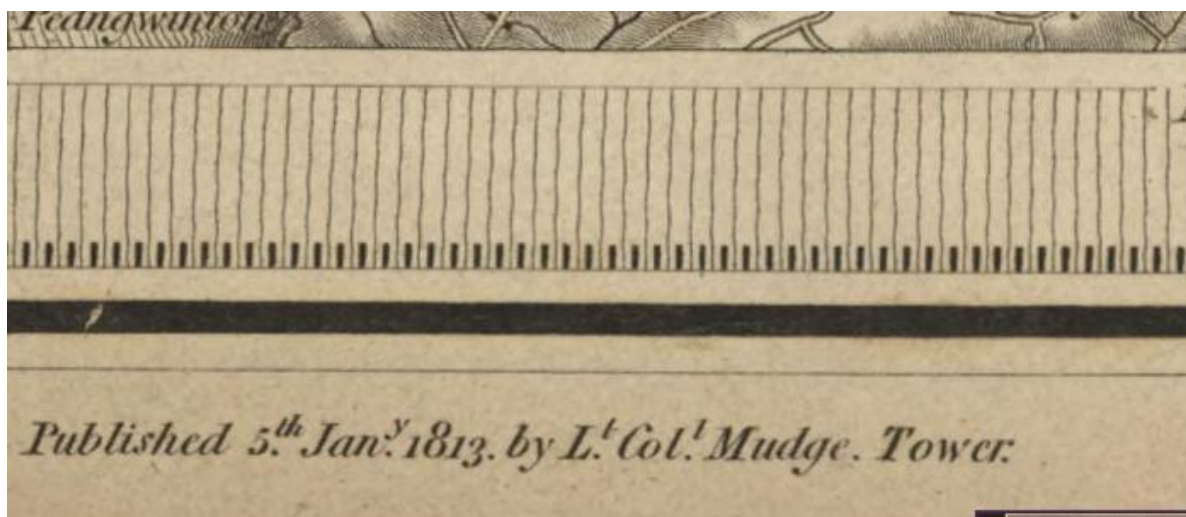
OS One Inch Ordnance Survey Maps - One-inch England and Wales

Ordnance Survey First Series, Sheet 31, 1813

Path is clearly shown as a through road through Tresithick



Publish Information



Ordnance Survey. One-inch to the mile, Revised New Series, Sheet 352, 1898

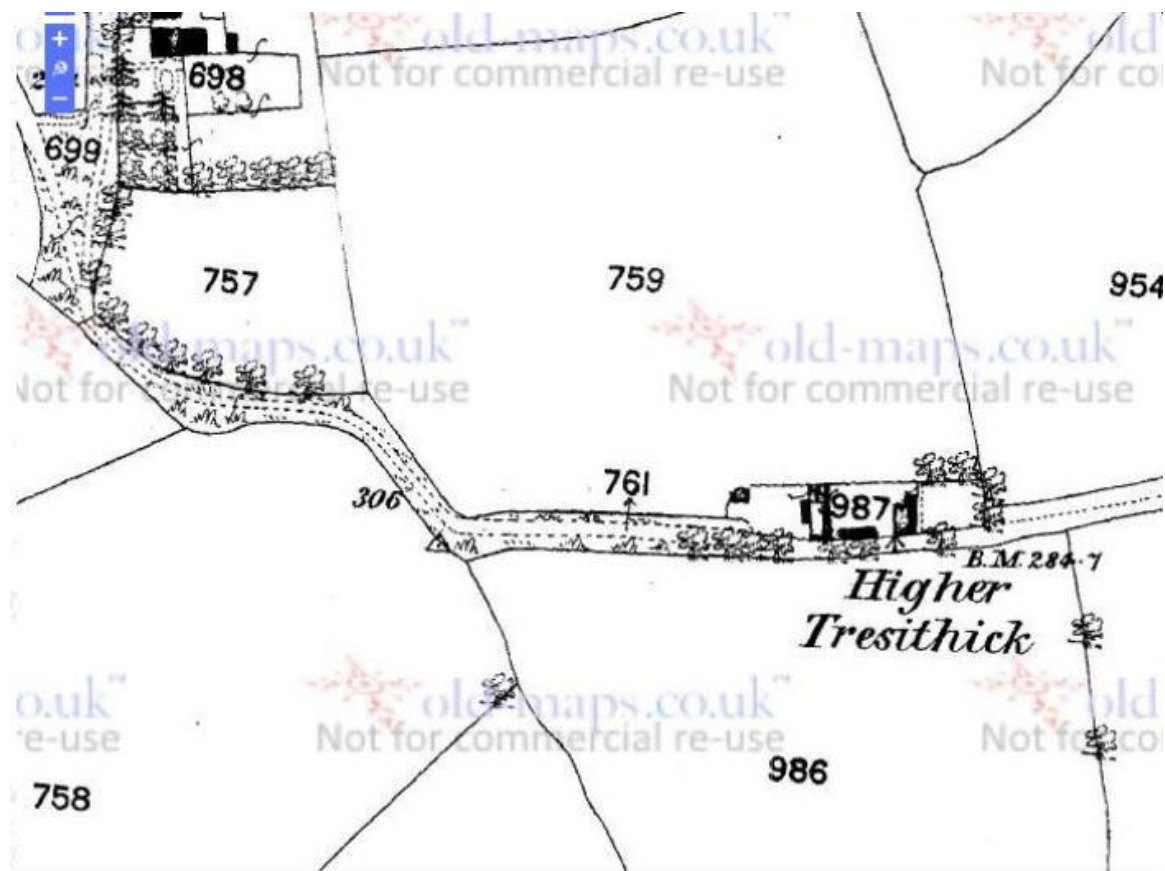
Route is clearly shown as a through road



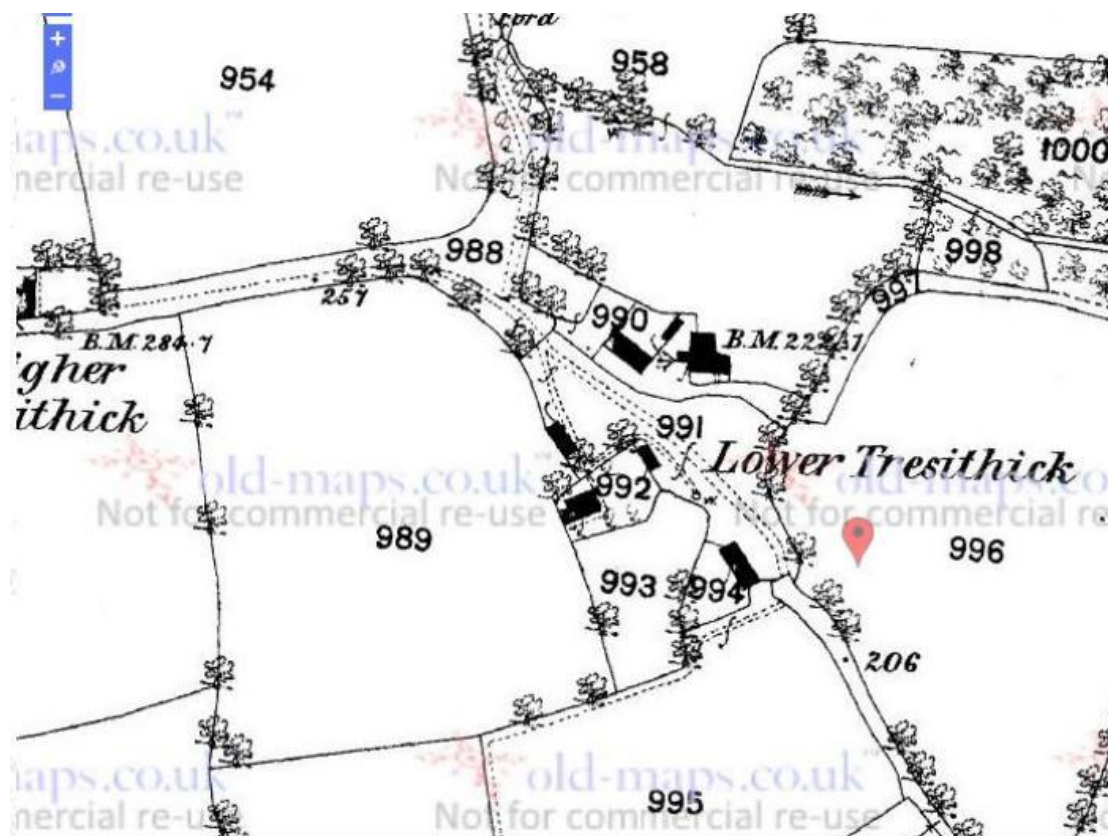
Ordnance Survey Maps - 25 inch England and Wales

Ordnance Survey, 25 inch to the mile, Sheet LXIV.11, 12, 1880

Path is clearly shown as a road or lane, plot no. 761.



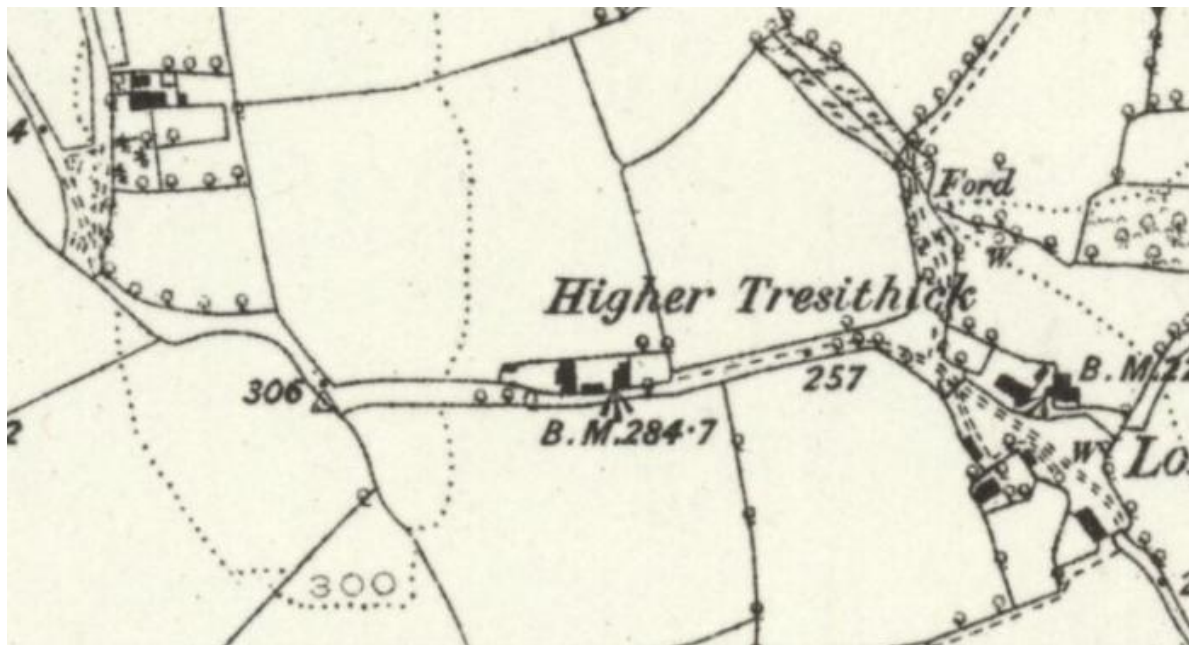
Eastern half showing connection to what is now Bridleway 21



OS Six Inch Ordnance Survey Maps - Six-inch England and Wales

Ordnance Survey. Six-inch to the mile, Cornwall Sheet LXIV.SE Surveyed: 1878, Published: 1888, Surveyed: 1878, Published: 1888

Clearly shown as a road connecting to Bridleway 21



Ordnance Survey, 1:25,000 maps of Great Britain

Ordnance Survey, 1:25,000, First Series, 10/83 & Part of 10/93, 1951

Clearly shown as a through road



Bartholomew's Half Inch to the Mile Maps of England and Wales

Bartholomew's Half Inch to the Mile Maps of England & Wales, Sheet 37, 1903

Clearly shown as a through road



Martyns Map

Martyns Map, 1748

Path is clearly shown as a road to Tresithick



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

Inland Revenue Valuation Map - Finance Act 1908-1910, Map LXIV.11, 12 TNA Ref:128/5/722, 1910

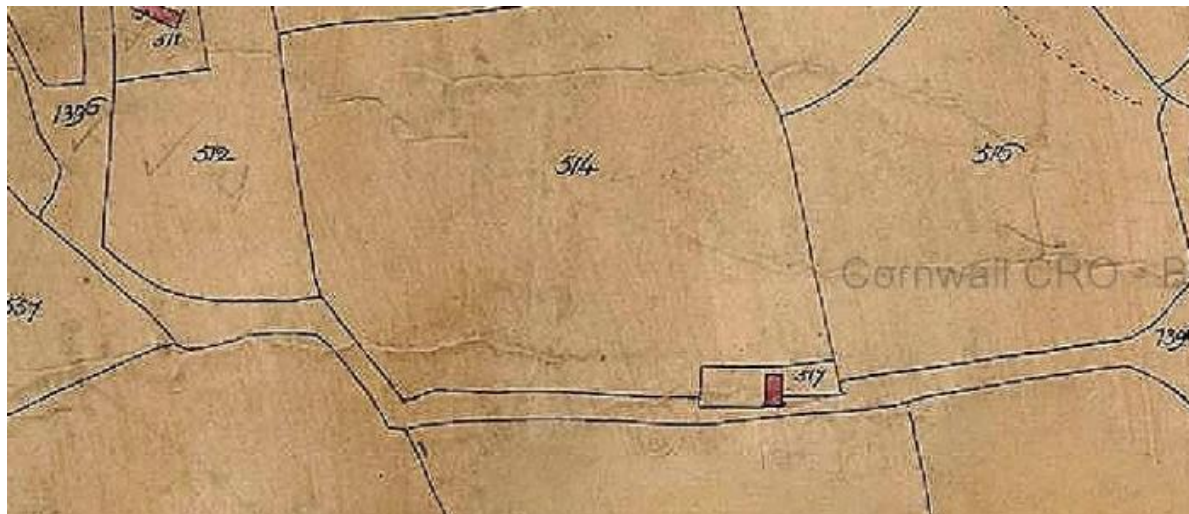
128/5/772 Path is inside hereditamnet 83 together with BW 21



Tithe Records

Parish Tithe Map Feock, Maps 7, 8., 1842

Path is in apportionment 1396



Apportionment 1396 under Roads, Creeks and Waste

1393	including Harcourt Lane } Do. from Come-to-good } to Penpoll	3 0 30	
1394	Mill Pool and Waste	3 1 8	
1395	Trolver Lane	2 28	
1396	Road & Waste from Pen- } poll through Tregoose } to the Downs, including } Point Lanes	12 3 0	
698	Tregoose Lanes	1 1 20	
695	Railway and Waste from } Narabo to Point	3 3 0	
1397	From Turnpike Road to } Devoran	3 1 0	
1398	Railway from Gate to } Devoran	2 4	
1399	Middle Devoran Lane and } Waste	2 33	
		405 2 18	

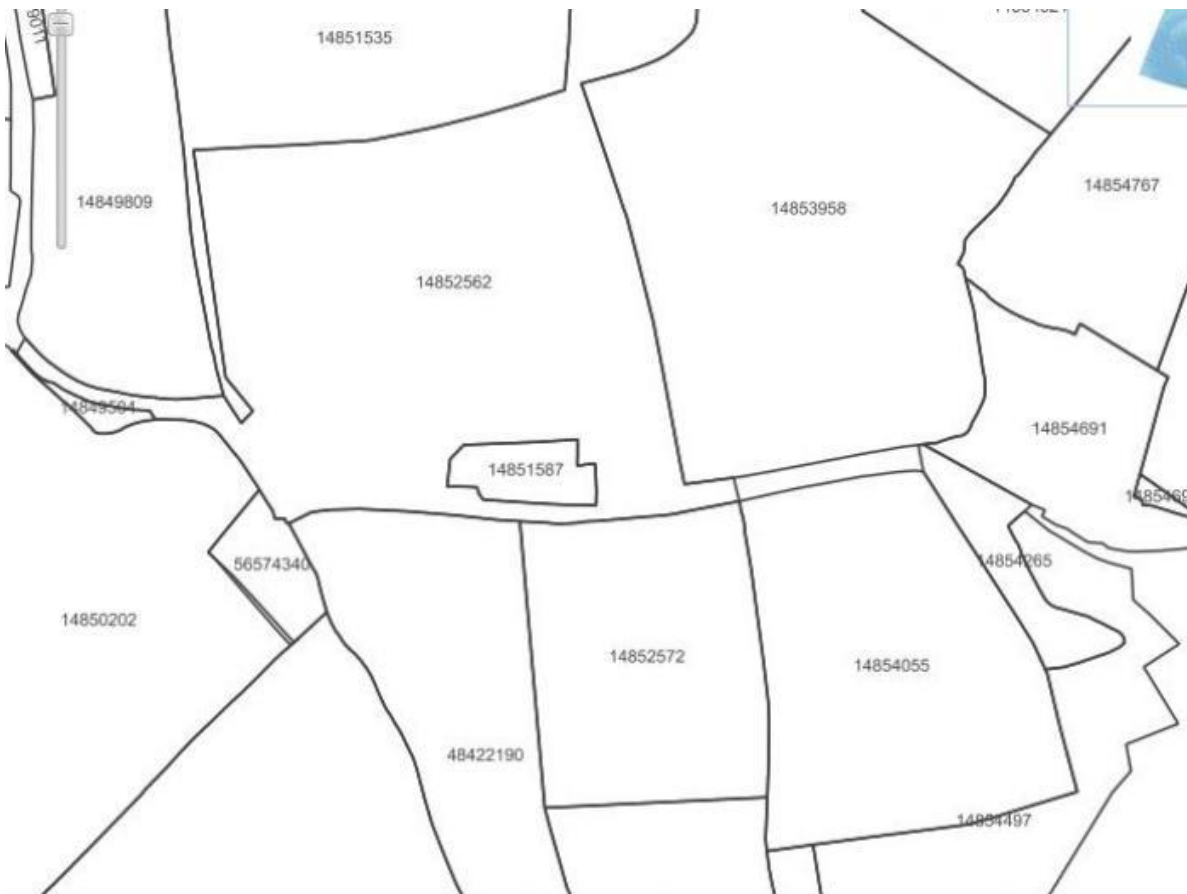
Land Ownership

Land Registry 'Polygons' Map, 2019

LR polygons showing registered land in blue



Land Registry 'Inspire' Map, 2020



APPENDIX II Evidence Documents

List of Evidence Documents

Ordnance Survey First Series, Sheet 31, 1813, National Library of Australia (Web)

, Publish Information

Ordnance Survey. One-inch to the mile, Revised New Series, Sheet 352, 1898, National Library of Scotland (Web)

Ordnance Survey, 25 inch to the mile, Sheet LXIV.11, 12, 1880, www.old-maps.co.uk/

Ordnance Survey. Six-inch to the mile, Cornwall Sheet LXIV.SE Surveyed: 1878, Published: 188, Surveyed: 1878, Published: 1888, National Library of Scotland (Web)

Ordnance Survey, 1:25,000, First Series, 10/83 & Part of 10/93, 1951, National Library of Scotland (Web)

Bartholomew's Half Inch to the Mile Maps of England & Wales, Sheet 37, 1903, National Library of Scotland (Web)

Martyns Map, 1748, Harvard Web

Inland Revenue Valuation Map - Finance Act 1908-1910, Map LXIV.11, 12 TNA Ref:128/5/722, 1910, National Archive

Parish Tithe Map Feock, Maps 7, 8., 1842, County Records Office

Land Registry 'Polygons' Map, 2019, Land Registry

Land Registry 'Inspire' Map, 2020, Land Registry