



Cornwall Council

03 JUN 2019

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**

from:

to:

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

from: County Road C0100 Gridref: SW71693904

to: County Road U6052 Gridref: SW71733851

(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:

EVIDENCE DETAIL AND STATEMENT OF CASE IS ATTACHED

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

Signed:

A black rectangular box redacting the signature.

..... Dated: 25 May 2019

Documentary Evidence

Our Path Reference: COR-1201

Grid Reference: SW716388

Parish: Lanner

Map of Path:

Claimed route shown in blue.



Description of Path:

Path starts at County Road C0100 SW71693904 and ends at County Road U6052 SW71733851

Old Hedged Lane with hamlet of Trethellan Water at Southern end.

Current Recorded Status:

Path is recorded on the Definitive Map

Path is recorded as Footpath on the Definitive Map.

Status being claimed: Restricted Byway

Notes:

Path is not believed to be obstructed.

Path is walked, ridden and cycled.

It is shown on the OS Explorer and OS Land Ranger Maps as Bridleway, but on Cornwall Council's Definitive Map as Footpath No 619/23. Cornwall Council acknowledged to the British Horse Society that a mistake appears to have been made but to date have failed to rectify it.

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 road in common with current county roads

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

Cornwall LXIII.16 1908 Path is clearly shown as a road or lane, in separate plot

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.

Not shown on this map

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 128/5/756,760] 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.

Gwennap Plot 5245 - Apportionment under Roads and Waste, 'Roads at Crowgelf, Trethellan Gear Bevincose and Trebowling'.

Parish Area Books

Not Available

Other Evidence:

Definitive Map Records

The First Edition of the Definitive Map (held by BHS Cornwall) shows the path as a BRIDLEWAY labelled 181. The current DM 1995 shows it as Footpath.

Land Ownership

The Land Registry shows path is excluded from registration yet plots either side are all registered.

Summary and Statement of Reasons:

The Inland Revenue map shows all the road excluded from the adjacent hereditaments this is very good evidence that it was excluded as being a public road. The Tithe map shows the path as a plot listed under 'Roads and Wastes'. 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. It is significant that the old lane is excluded from all adjacent Land Registry registrations.

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.