



Our Ref: 214/F

Cornwall Council

FORM 1
Natural Environment

FORM OF APPLICATION FOR MODIFICATION ORDER

19 JUN 2019

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 C0288 Mount Whistle Road Gridref: SW64754243

to:Byway Illogan 17 Gridref: SW64804214

(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:

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Signed:  Dated: 13 June 2019

Documentary Evidence

Our Path Reference: 214/F

Grid Reference: SW647423

Parish: Illogan

Map of Path:

Claimed route shown in blue.



Description of Path:

Path starts at County Road C0288 Mount Whistle Road SW64754243 and ends at Byway Illogan 17 SW64804214

Wide Hedged Lane - much of the lane used by vehicles to access land.

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 believed to be walked, ridden and cycled

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 a road.

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

Cornwall LXIII.1 & 5 Published: 1880 Path is shown in a single plot 2382.

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

Cornwall LXIII.NW Surveyed: 1877 to 1878 Path is clearly shown as a road through wide common drove.

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 - Cornwall 1903 Path is shown as Road.

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.

On the southern map sheet, although map is damaged, the lane is clearly excluded from hereditaments. On the northern map sheet the path seems to have its own hereditament. The two IR 128/5/745 and 749 - maps do not appear compatible. But the lane does appear to be excluded from adjacent hereditaments.

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.

Illogan - Route of path can clearly be seen over Downs. Southern end is enclosed. Plot numbers 208, 209 listed in apportionments as Commons and Waste, Tolvadon and Magor Downs. It appears to be an 'old drove road' indicated by its width and leading to a common. Therefore the way will undoubtedly have higher rights than just on foot.

Parish Area Books

Illogan Plot no 2382 described as 'Road'.

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 that no part of the path is registered.

Summary and Statement of Reasons:

Summary not Available

APPENDIX I - Documents and Photos

Entrance off Mountwhistle Road

