



Cornwall Council

Natural Environment

FORM OF APPLICATION FOR MODIFICATION ORDER

17 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: Byway Illogan 17 Gridref: SW64764210 .....

to: County Road C0344 Gridref: SW64874178 .....

(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 .....

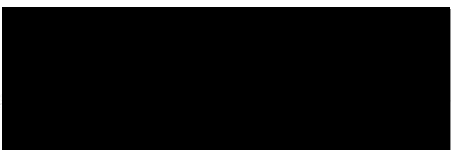
.....

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:

.....  
..... DOCUMENTARY EVIDENCE ATTACHED .....  
.....  
.....  
.....  
.....  
.....

Signed: .....  ..... Dated: 12 June 2019 .....

# Documentary Evidence

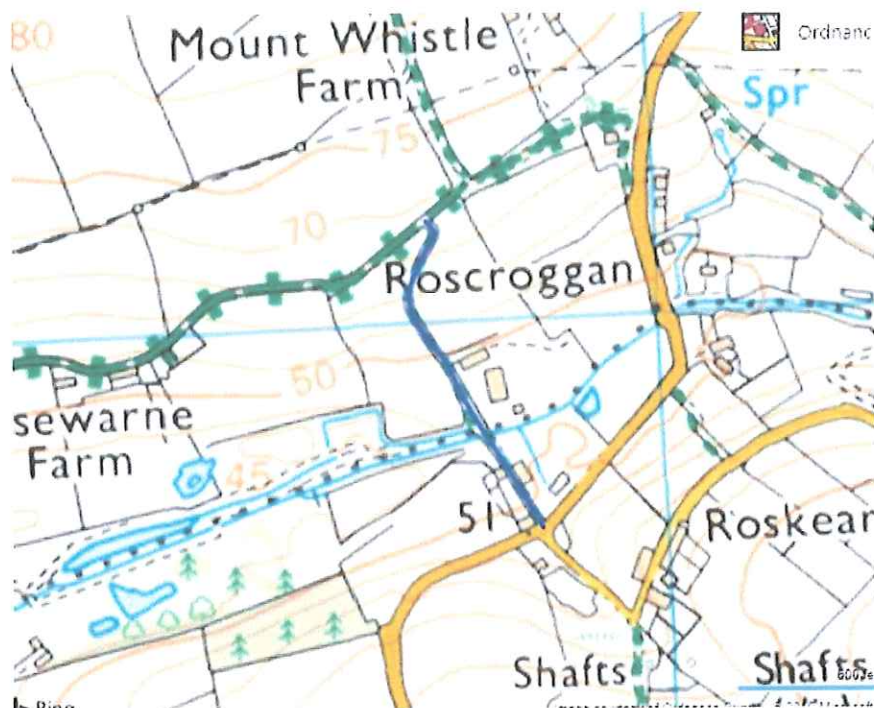
**Our Path Reference:** 214/G

**Grid Reference:** SW647420

**Parish:** Illogan

## Map of Path:

Claimed route shown in blue.



## Description of Path:

Path starts at Byway Illogan 17 SW64764210 and ends at County Road C0344 SW64874178

Southern half of the path is used by vehicles to access properties.

## 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  
Part of path is used by motors



## **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.5 Published: 1908 Plots 2400 and 630 unchanged form 1st edition map.

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

Cornwall LXIII.NW Surveyed: 1877 to 1878 - Shows path as road past and through stream works.

### **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 a 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.

IR 128/5/749 Shows path clearly excluded from adjoining hereditaments which is good evidence that the path was considered to be 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.

Illogan - Road is shown as Plot 415 - 'Parish Roads, Waste etc.' No owner and no tithe. Camborne, south of river. Path has separate plot number 977b - 'Waste'

### **Parish Area Books**

Illogan plot 2400 'Road'. Camborne Plot 630 '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 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 is 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 as a plot listed under 'Roads and Wastes'. The OS 25 inch and associated Area Book evidence gives plot as Road re-enforcing this conclusion. 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 also 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, 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.