

Question 2 – the gate nearest to Hallaze Road is grid ref : SX03288 57057

The other gate nearest to Treskillin Road is grid ref : SX03447 57364

Question 4 – the path was only a narrow footpath until approx 12 years ago.

Question 5 – the styles were only put in by the gates when the cycle path was made – about 8 years ago

Question 7 – no notices until put up by angling club recently

Question 8 – only obstruction put up by angling club Dec 13 & Jan 14

Map – when filling in the map outlining the path around the lake remember the path to the larger beach area which then led out through the trees to join the main path.

If you need further assistance please phone me on 01726 850607 – and thank you again – Peter Clemo (Parish Councillor)

26 MAR 2014

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DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

PUBLIC PATH USER FORM

PLEASE READ THE NOTES ON THE BACK PAGE BEFORE COMPLETING THIS FORM

The aim of this research is simply to reach the truth of the matter, whatever that may be. Please answer all the questions as fully as possible. You should not withhold any information, whether it is for or against the claim for a public right of way. This is important if the information is to be of real value in establishing the status of the claimed way.

You should be aware that the completed Form may be used in the production of a report for determination purposes and as such would be designated a "background paper" and kept available for public inspection for a period of four years. You should also be aware that the information contained in this Form may be sent to any landowner or occupier affected by the application and may also be divulged to persons having a right to request details of documentary evidence taken into account when considering the claim.

1. DETAILS OF WITNESS

Full Name: Age:

Address: Tel No (day)

..... Tel No (eve)

Post Code Occupation

2. PATH DETAILS

Parish: District:

Believed Status of Path*: **Footpath**

Bridleway

Restricted Byway

Byway Open to All Traffic

[*Please delete as applicable]

From : Grid Reference.....

To: Grid Reference.....

THE MAP

A map clearly showing the route of the alleged way must be attached to this Form.
This map must be signed by you to confirm that you have seen and understood it.

3. USE OF ALLEGED WAY

- (a) Have you personally used the claimed way?
- (b) Where were you going to and from?
- (c) For what purpose?
- (d) When did you last use it?
- (e) Have you always followed the same route?
- If not, state the year you changed your route and why.....
- (f) Has your use of the way ever been in exercise of some private right?

YES/NO*

(For example to reach your own property)

If yes, please give full details including specific years and (if possible) dates during which you used it as a private right.

- (g) Is there any other information or documentary evidence, e.g. Enclosure Awards, Tithe Maps, Railway Maps, etc., which you think will support the claim?.....

If so, give details.....

- (h) Please complete the boxes below to show during which years you used the way as a public right of way, by what means you have used it and how many times a year you have used it.

YEARS DURING WHICH YOU HAVE USED THE CLAIMED WAY							
On Foot		On Horseback		In a Carriage		With a Motor Vehicle	
From (Year)	To (Year)	From (Year)	To (Year)	From (Year)	To (Year)	From (Year)	To (Year)

FREQUENCY WITH WHICH YOU HAVE USED THE CLAIMED WAY			
On Foot	On Horseback	In a Carriage	With a Motor Vehicle
No of times per Year	No of times per Year	No of times per Year	No of times per Year

- (j) Did you see anyone else using the path and by what means?

- (k) Do you believe the owner or occupier was aware the public was using the way?

YES/NO*

If YES, why?

[*Please delete as applicable]

4. DETAILS OF THE ALLEGED WAY

(a) How wide is the way at its narrowest? Where is that point?
.....
.....

(b) How wide is the way at its widest? Where is that point?
.....

(c) Has the way always run over the same route?
If it has been diverted, give details and dates
.....

5. STILES

(a) Are there, or have there been, any stiles on the way?
If so, state where, and mark on the Map attached.....

6. OPENABLE GATES

a. Are there, or have there been, any openable gates on the way?
If so, state where, and mark on the Map attached.....

7. NOTICES

(a) Have you ever seen notices on or near the way?.....
If so, when and where (Please mark locations on Map) did you see these notices and
what did they say?.....

8. OBSTRUCTIONS

(a) Have you ever known any obstructions preventing use of the way?
If so, state where, and mark on the Map attached.....

9. VERBAL NOTICE

(a) Were you ever told by an owner or tenant of the land crossed by the path or
anyone in their employment that the path was not public?

YES/NO*

If so, please give details.....
.....

(b) Have you ever been stopped or turned back when using the way?

YES/NO*

If so, state when and by whom and where this took place and give particulars.....

(c) Are you aware of anyone else being stopped or prevented from using the
way?.....

10. PERMISSIVE USE

(a) Were you working for any owner or occupier of land crossed by the way at the time when you used it, or were you then a tenant of any such owner? YES/NO*

If so:

- (i) Give particulars and dates
- (ii) Say whether the owner or occupier ever gave you instructions as to the use of the way by the public and, if so, what the instructions were.

(b) Have you ever obtained or been granted permission to use the route?

YES/NO*

If so, from whom? When?.....

For what

purpose?.....

.....

11. ADDITIONAL INFORMATION

If you can provide any other particulars, information or documents in relation to the claimed right of way that you consider would be helpful in reaching a decision as to whether or not a Modification Order should be made refer to them here
[Continue on a separate sheet if necessary]

12. DECLARATION

I hereby declare that to the best of my knowledge and belief my answers to the above questions are true.

I am/am not* willing to attend a Hearing, Public Inquiry or Court to give evidence on this matter, if this should prove to be necessary.

[*Please delete as applicable]

If you are unwilling to do so, please give reasons:.....

Signature **Date**

Witness to Signature

NOTE - Publication of Personal Information

The data is collected by Cornwall Council ("the Council") in accordance with the data protection principles in the Data Protection Act 1998. The purpose for collecting the data is to carry out the functions of the Council under its statutory duties under the Wildlife and Countryside Act 1981.

Information given by you on this Form, including your personal data, may be disclosed to third parties as required by the Freedom of Information Act 2002 or in pursuance of the Council's functions detailed above. If you do not want your personal data to be disclosed, please tick this box.

NOTES

- I. You should complete this Public Path User Form personally.
- II. All questions must be answered.
- III. The usual method of providing evidence for the addition or upgrading of a claimed way is for members of the public to provide evidence of 20 or more years of uninterrupted use of the way as of right prior to the date that public rights were brought into question, pursuant to Section 31 of the Highways Act 1980 which states:
 - A. "Where a way over any land, other than a way of such a character that use of it by the public could not give right at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was not intention during that period to dedicate it".
 - B. The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by notice or otherwise".
- IV. It is important that the way is shown to follow a defined route and not be an area over which the public have wandered at large.
- V. You may be personally interviewed in connection with the information given in this Form. The data is collected by Cornwall Council ("the Council") in accordance with the data protection principles in the Data Protection Act 1998. The purpose for collecting the data is to carry out the functions of the Council under its statutory duties under the Wildlife and Countryside Act 1981. The Council may disclose any information given by you on this Form including your personal details to third parties as required by the Freedom of Information Act 2002 or in pursuance of the Council's functions detailed above.
- VI. **The details contained in this Form may be used as evidence in further proceedings, and the you should be prepared to support the information by being willing to attend to give verbal evidence, in the future, at a Hearing or Local Public Inquiry.**
- VII. A landowner can successfully refute a claim for the addition of a way if he/she can prove that either the way was used with his/her express permission only, or that he/she has prevented access to the way, or that he/she has erected notices to counter any suggestion that there had been any intention to dedicate the way as a public right of way.
- VIII. **A Map clearly showing the route of the alleged way must be attached to this Form. You must sign the Map to confirm that you have seen and understood it.**

Wildlife and Countryside Act 1981- Modification of Definitive Map
of Public Rights of Way
Map Annexed to Public Path User Form. Claimed Right of Way
at Treskilling China Clay Works, Treverbyn & Luxulyan CP



Scale 1:3,000

203250 000000

203500 000000



57250 000000

57250 000000

57000 000000

57000 000000

I confirm that I have marked this plan
to show the route that I have used.

SIGNED:..... DATED:.....

The precise line of an existing right
of way can only be determined by
reference to the Definitive Map. This
plan has been reproduced by
transposing the Definitive Map of
Rights of Way on to a different scale.
Cornwall Council can accept
no responsibility for any error or
inaccuracy which may arise from the
transposition of the Rights of Way to
a different scale.

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