

## **Cornwall Councillor Report – St Austell Bay Parish – June 2022**

I couldn't start without mentioning the extraordinary Platinum Jubilee celebrations that took place across Cornwall on the first weekend of June. I was honoured to attend events in all of the parishes I represent. In Duporth I was pleased to attend the Jubilee Big Lunch event and read a Proclamation. I regret I was unable to attend the Charlestown beacon lighting celebration due to lighting the one in Carlyon Bay that happened at the same time, but it looked amazing! These events encapsulated everything that is good about our communities and it was brilliant to see so many people enjoying themselves – a fitting tribute to the unprecedented 70 years of service of our Queen. Thank you to everyone who helped organise this amazing weekend.

Further to the update on the South West Coast Path issues around Charlestown, and since I posted my most recent update on this, which was to be read out at the meeting this evening, today I have had confirmation that Cornwall Council has just received an update from the Rambler's Association, who are the sole remaining objector, indicating that they they are prepared to withdraw their objection if further conditions are met, which Cornwall Council hopes they should be able to achieve.

Regardless of what people think about this situation I would also like to highlight the issue of the continual vandalism, which does anything but help what we are trying to achieve by formalising the routes. The barriers and padlocks are being repeatedly vandalised almost daily leaving the path open for the public to access, which is criminal damage, trespassing on private land, a cost to the public purse by repairing/replacing the barriers so frequently, and a significant safety risk by using the sections that are closed due to cliff instability.

So please don't do it!

I have written to the Ramblers myself and am awaiting a reply, and am hopeful with the continued hard work and diligence of Cornwall Council and Cormac, that this will be resolved soon.

In OTHER Charlestown footpath news:

Cornwall Council is about to consult extensively on recording a 'new' footpath in Charlestown (WCA 524).

In 2005 the authority received an application to record a public footpath over Quay Road, Charlestown. This was supported by witness statements attesting to use of the way on foot. Given the backlog of outstanding cases & the length of time legal cases of this type often take to resolve, that claim has only now reached the top of the Council's priority list & hence its turn for processing.

As part of its investigation the Council not only considers evidence provided by the applicant, but is also expected to research historical documentary sources. In doing so it has discovered further evidence of higher rights, in this case the District Valuation map emerging from the Finance Act 1910 shows the way to be uncoloured

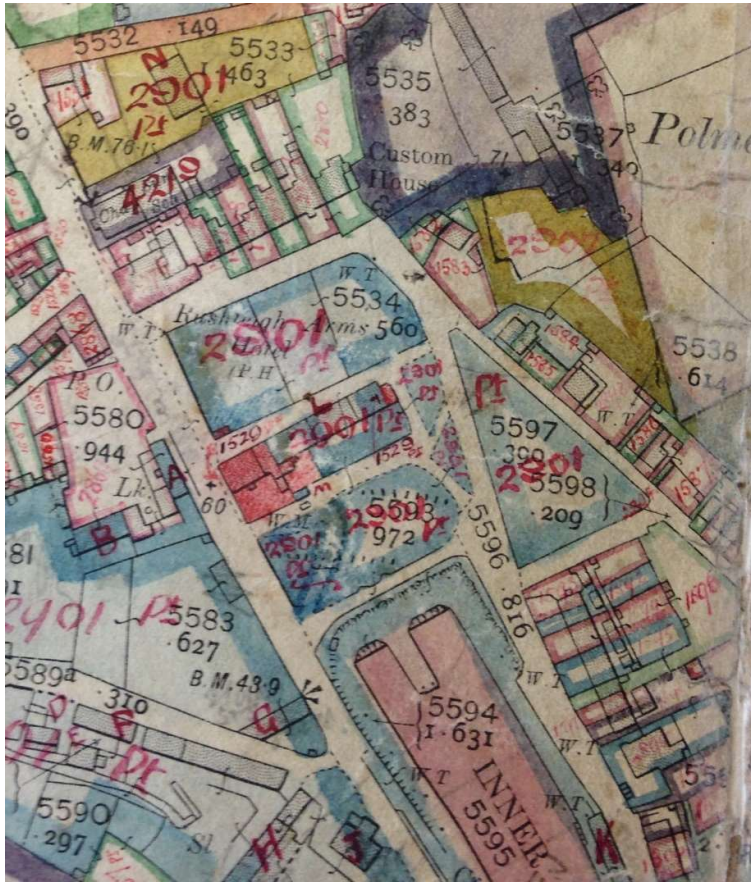
& therefore exempt for tax purposes. This points heavily towards the fact that the way enjoyed some form of public access previously & was almost certainly a carriageway historically.

Understanding the Natural Environment & Rural Communities Act 2006 extinguished unrecorded rights for mechanically propelled vehicles, if the surveying authority ultimately determines to make an order to modify the definitive map & statement, none of the exemptions in the above Act are likely to be met, so it can only propose to add the route as a Restricted Byway.

However, it's not just the application route that this applies to, but several additional routes linked to Quay Road. Although these were not part of the original application, provisions in Section 53 of the Wildlife & Countryside Act 1981, the relevant legislation, is clear that when the authority discovers evidence which (when considered with all other relevant evidence available to them) shows that a right of way not shown on the map & statement is reasonably alleged to subsist requires the map to be modified.

It doesn't say anything about how that evidence is discovered & as it appears on the same DV map mentioned above, the Council cannot deny it exists. As we have a statutory obligation to consider it, the additional routes will be included in the consultation that the authority intends to conduct shortly.

Given experience tells us the overriding concern of landowners, both directly affected & adjacent, is the possible restrictions an order might impose on their ability to drive to their properties, perhaps the most important thing to explain is when rights landowners previously believed existed are extinguished under subsection 67(1) of the NERC Act 2006, it is worth noting that subsection 67(5) of the 2006 Act provides a private right of way for mechanically propelled vehicles for those persons who have reasonable need for access by mechanically propelled vehicle to land in which they have an interest and this extends to landowners, occupiers, tenants and includes lawful visitors to the land including business, trade or professional. Other private, or prescriptive rights are not affected.



Finally, at County Hall I was delighted to be re-elected unanimously and unopposed as Chairman of the Children and Families Overview and Scrutiny by councillors from across the political spectrum. We have an excellent committee and working ethos and I am pleased that members put their trust in me to chair it for another year.