

Cabinet – Item 11.5



Report subject	James Road to Sheringham Road, record unprotected bridleway (currently blocked) as a Public Right of Way (PRoW)
Meeting date	11 September 2019
Status	Public Report
Executive summary	To obtain permission to permit an Order to protect the currently obstructed path from James Road to Sheringham Road as a Public Bridleway.
Recommendations	It is RECOMMENDED that: Permission is granted to create the order
Reason for recommendations	<p>It is a legal duty for all surveying authorities to make and maintain a Definitive Map and Statement for their area, to continually survey the area for possible Public Rights of Way, and to make Orders upon the discovery of evidence that a Public Right of Way has arisen from long use.</p> <p>Public Rights of Way can come into being for various legal reasons, however most commonly it is through statutory inference of dedication. In plain terms, if a path has been walked by the public uninterrupted for a period of 20 years, and the use has been without force, without deception and without having been granted a specific express permission from the landowner, then they acquire a right to pass and repass.</p>
Portfolio Holder(s):	Andy Hadley - Portfolio Holder For Transport and Infrastructure
Corporate Director	Bill Cotton - Corporate Director for Regeneration and Economy
Service Director	Julian McLaughlin, Growth and Infrastructure
Contributors	Zak Cusens - Rights of Way Officer - Regeneration and Economy
Wards	Alderney and Bourne Valley

Classification	For Decision
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Background

1. It was brought to BCP officer attention through an application made by a member of the public that such rights have arisen at the path between James Road and Sheringham Road.

The path appears on historic maps from 1931 onwards, labelled as a footpath from 1941 onwards. However, in 2017 the path was fenced off from the Sheringham Road end.

A non-statutory pre-order consultation has been carried out and has had mixed response with 10 people supporting the protection of the path and 6 people against the protection of the path.

Summary of financial implications

2. If the Order is contested, BCP Council could be required to go through a Public Inquiry, which would incur the costs of external legal representation.

Failure to make progress in complying with the duty placed on the authority to survey and prepare a map for a Public Right of Way could attract a Judicial Review procedure if an external party felt sufficiently aggrieved by lack of progress. There are several interest groups with interest in this matter. The minimum financial costs attached to a contested Judicial Review would be circa £30,000.

Summary of legal implications

3. Failure to make progress in complying with the duty placed on the authority to survey and prepare a map for a Public Right of Way could attract a Judicial Review procedure if an external party felt sufficiently aggrieved by lack of progress.

Summary of human resources implications

4. If the order is being contested the matter could escalate to the Planning Inspectorate for a decision and confirmation of the order, which in turn may result in a public enquiry. Legal representation would be required to represent as well as technical officer time. The Officers would also be required to notify all interested parties and host the inquiry.

Summary of environmental impact

5. No substantial environmental impact but would encourage modal shift leading to a slight reduction in carbon emission.

Summary of public health implications

6. This will have no substantial public health implications but would encourage modal shift with associated health and wellbeing benefits for users.

Summary of equality implications

7. An equalities impact assessment has been undertaken and identified that this will have positive benefits to persons regarding the following protected characteristics; age, disability and socio economic.

Summary of risk assessment

8. Failing to record Public Rights of Way could lead to the possible loss of paths, and in turn pedestrian and cyclist urban permeability. It would also prejudice BCP Council's key objectives as set out in chapter 2 of the Rights of Way Improvement Plan.

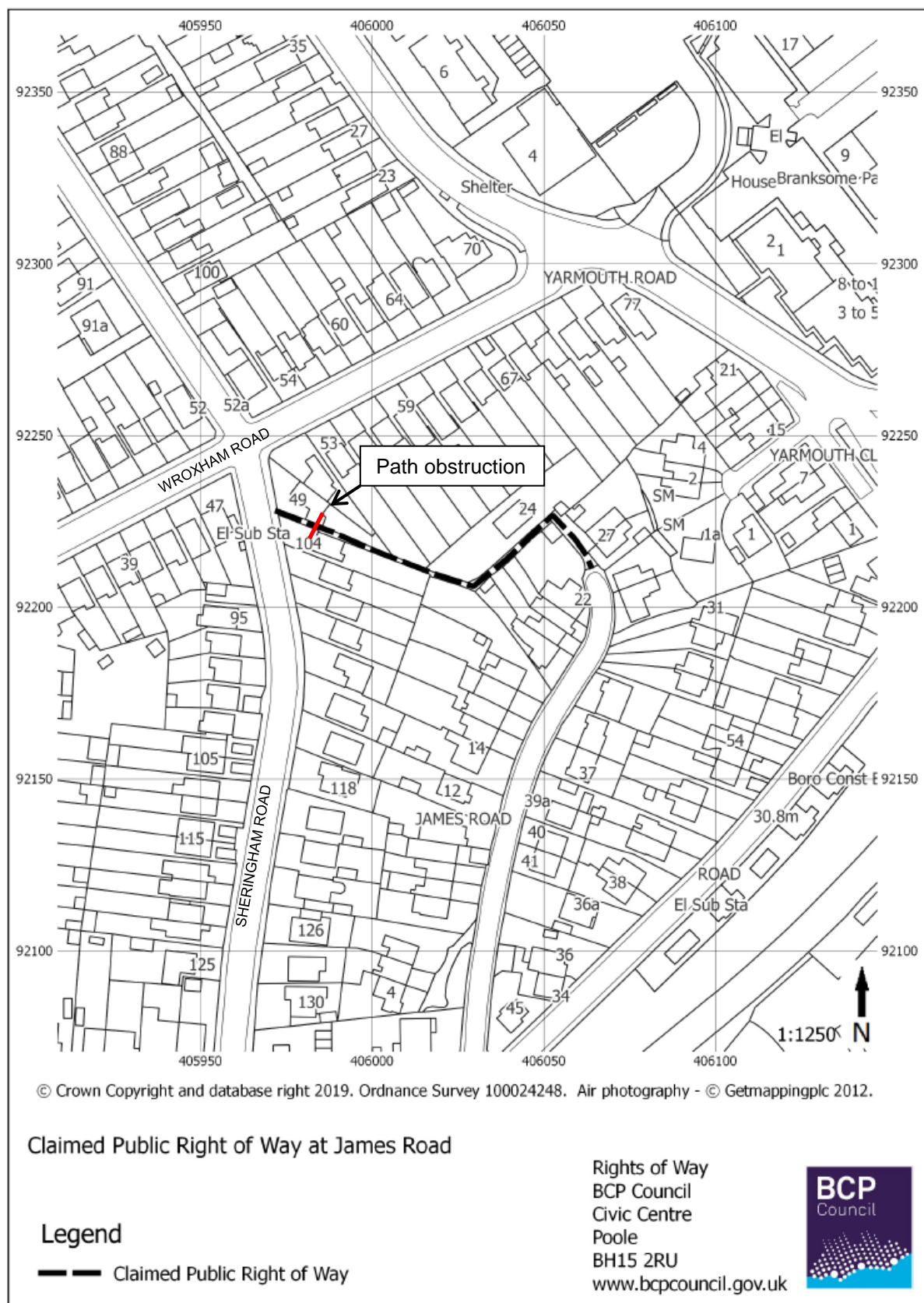
Background papers

Bournemouth and Poole Rights of Way Improvement Plan 2017-2026 (Legacy Policy) <https://www.poole.gov.uk/streets-and-travel/cycling-and-walking/public-rights-of-way/>

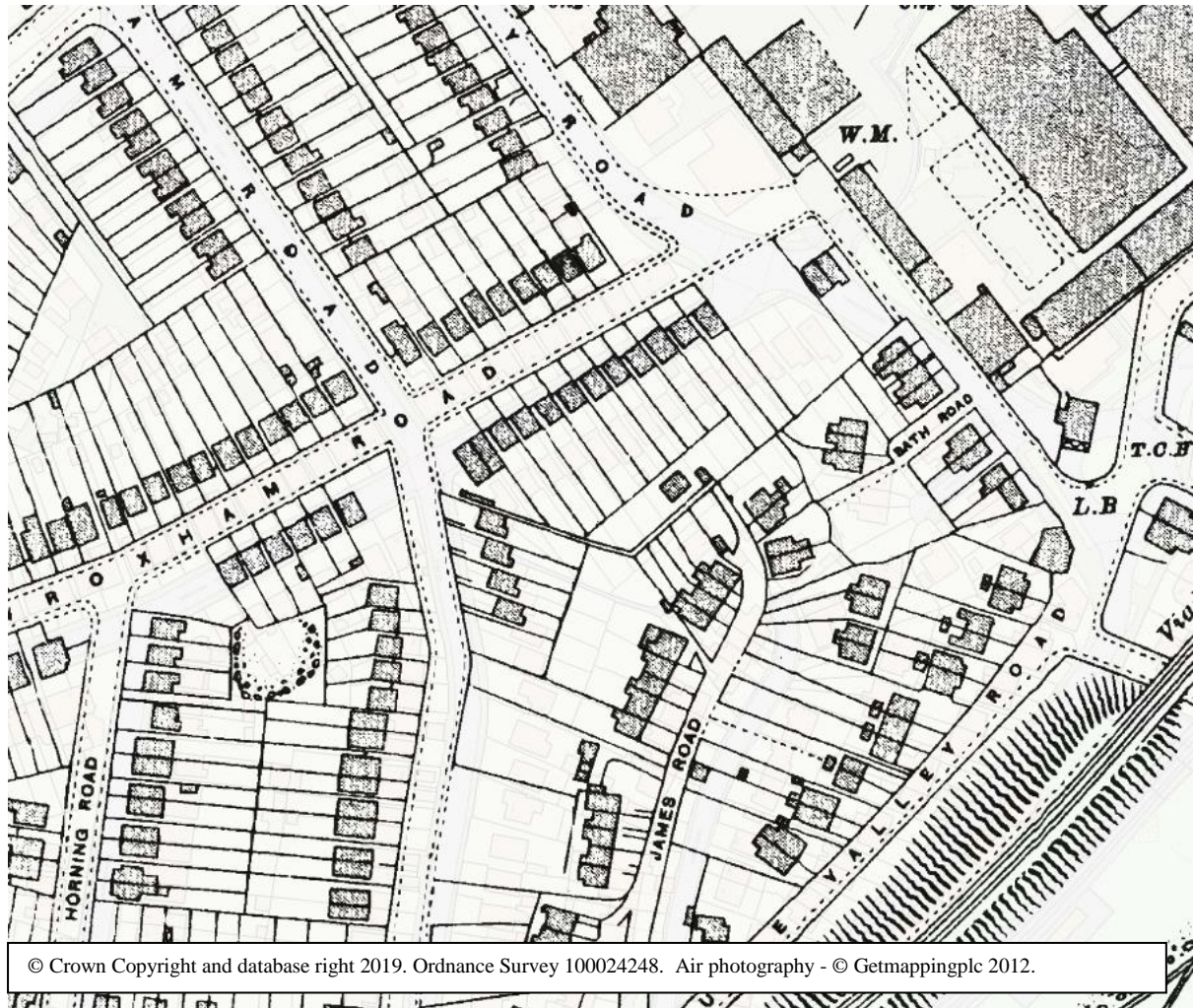
Appendices

- Appendix 1 - Plan of claimed path at James Road
- Appendix 2 - Screenshots of historic maps
- Appendix 3 - Summary of Consultation Responses

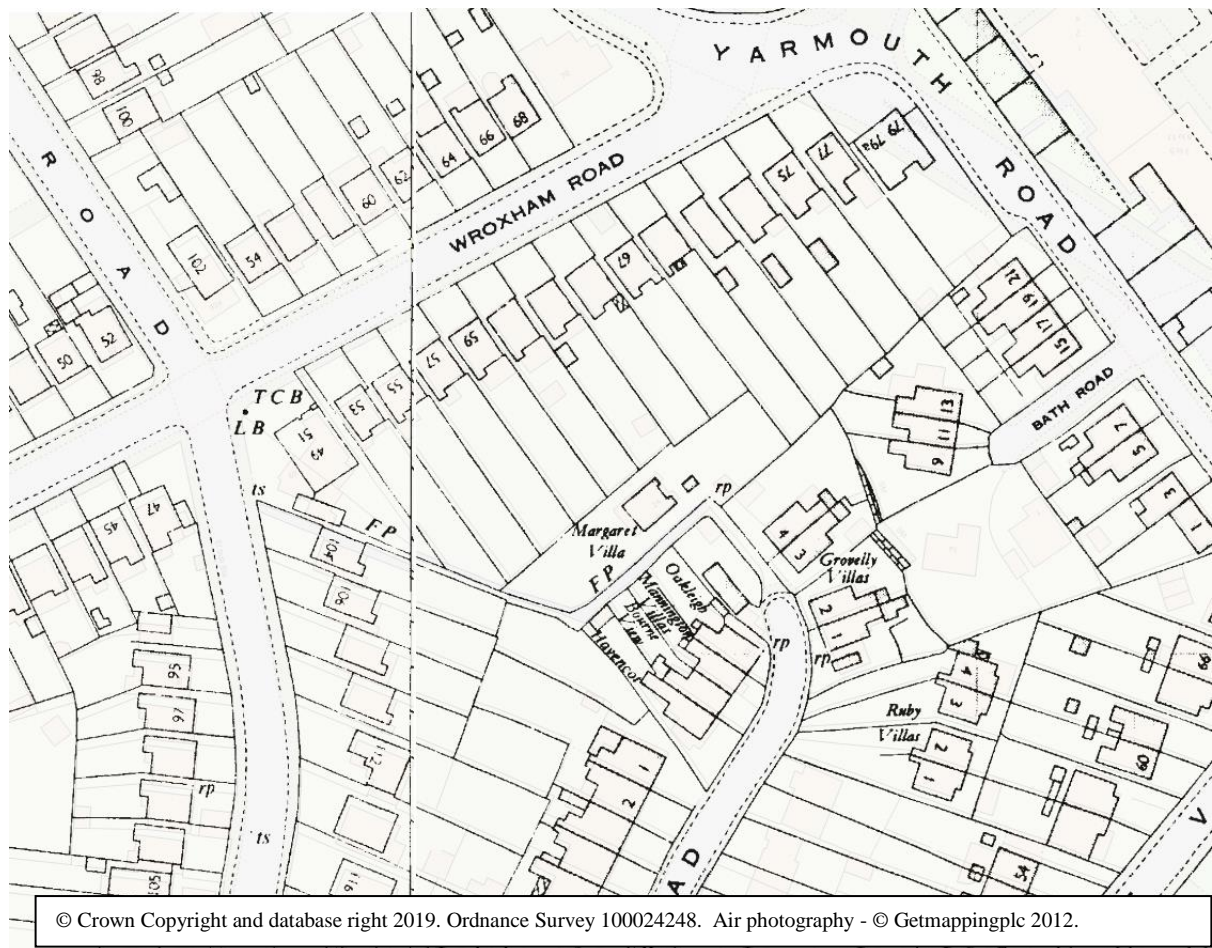
Appendix 1



Appendix 2

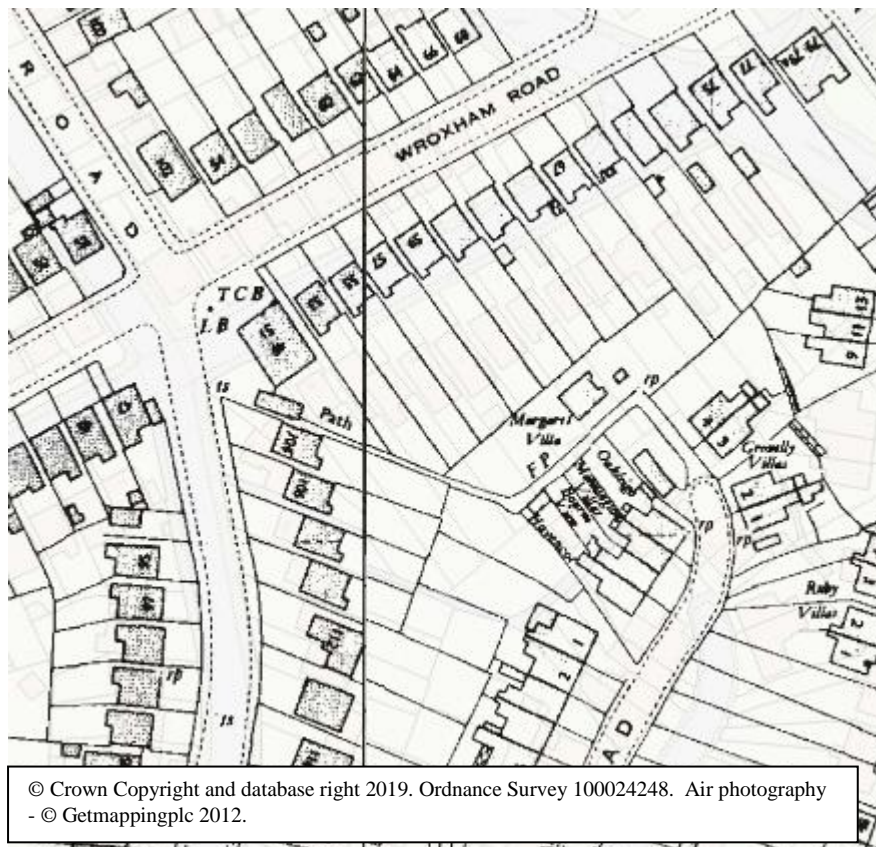


OS Maps 1931 – 1940



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OS Maps 1951 - 1960



OS Map 1961 – 1980

Appendix 3

Summary of Representations

The Advertisement prompted:-

- 6 Objections including legal representation from a resident affected by the creation of the path.
- 10 people giving evidence of their usage of the path.

All of the objections state they have never seen anyone using the path and to their knowledge the path is private either because that is what they were told by residents or because they have never noticed it.

The evidence received in support of the path totals up to 61 years continuous use on foot.

If members wish to see the responses they are available within normal office hours Monday – Friday in room 159 at the Civic Centre in Poole.