

# CABINET



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| Report subject              | <b>PRoW Sub-report E - Parkstone Heights - Record unprotected path as a Bridleway.</b>   |
| Meeting date                | 9 October 2019   |
| Status                      | Public Report  |
| Executive summary           | To obtain permission to permit an Order to record the path leading through Parkstone Heights as a Public Bridleway.  |
| <b>Recommendations</b>      | <b>It is RECOMMENDED that:</b><br><br><b>Permission is granted to create the order</b>   |
| 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 used 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> |
| <b>Portfolio Holder(s):</b> | Councillor Andy Hadley (Portfolio Holder For Transport and Infrastructure)   |
| <b>Corporate Director</b>   | Bill Cotton (Corporate Director for Regeneration and Economy)  |
| <b>Service Director</b>     | Julian McLaughlin, Growth and Infrastructure   |
| <b>Contributors</b>         | Zak Cusens - Rights of Way Officer - Regeneration and Economy  |
| <b>Wards</b>                | Parkstone  |
| <b>Classification</b>       | For Decision   |

## **Background**

1. Through the continuous survey of the Definitive Map, BCP Rights of Way officers discovered that there exists a length of path that links two sections of highway at Parkstone Heights. The path currently lacks a highway designation.
2. The path appears on historic maps from the mid-20<sup>th</sup> Century onwards, illustrated as the central third of Parkstone Heights. There is no evidence that the path has been obstructed for any significant length of time that would indicate a lack of intention to dedicate.
3. A non-statutory pre-order consultation has been carried out. All four public responses were receptive to the idea of recording the path as a public right of way and provided evidence of use of the path by walkers and cyclists.

## **Summary of financial implications**

4. 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.
5. 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**

6. 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**

7. 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 may be required as well as officer time. The Officers would also be required to notify all interested parties and host the inquiry.

## **Summary of environmental impact**

8. No substantial environmental impact, but the proposal would encourage modal shift leading to a slight reduction in carbon emissions.

## **Summary of public health implications**

9. No substantial public health implications, but the proposal would encourage modal shift with associated health and wellbeing benefits for users.

## **Summary of equality implications**

10. An equalities impact assessment has been undertaken and there are no significant negative impacts identified, although the proposal could have some positive benefits for those who cannot drive.

## **Summary of risk assessment**

11. The risk attached to failing to record Public Rights of Way would be the possible loss of paths, which would reduce urban permeability to pedestrians and cyclists and would prejudice BCP Council's Rights of Way objectives as set out in chapter 2 of the Rights of Way Improvement Plan.

## **Background papers**

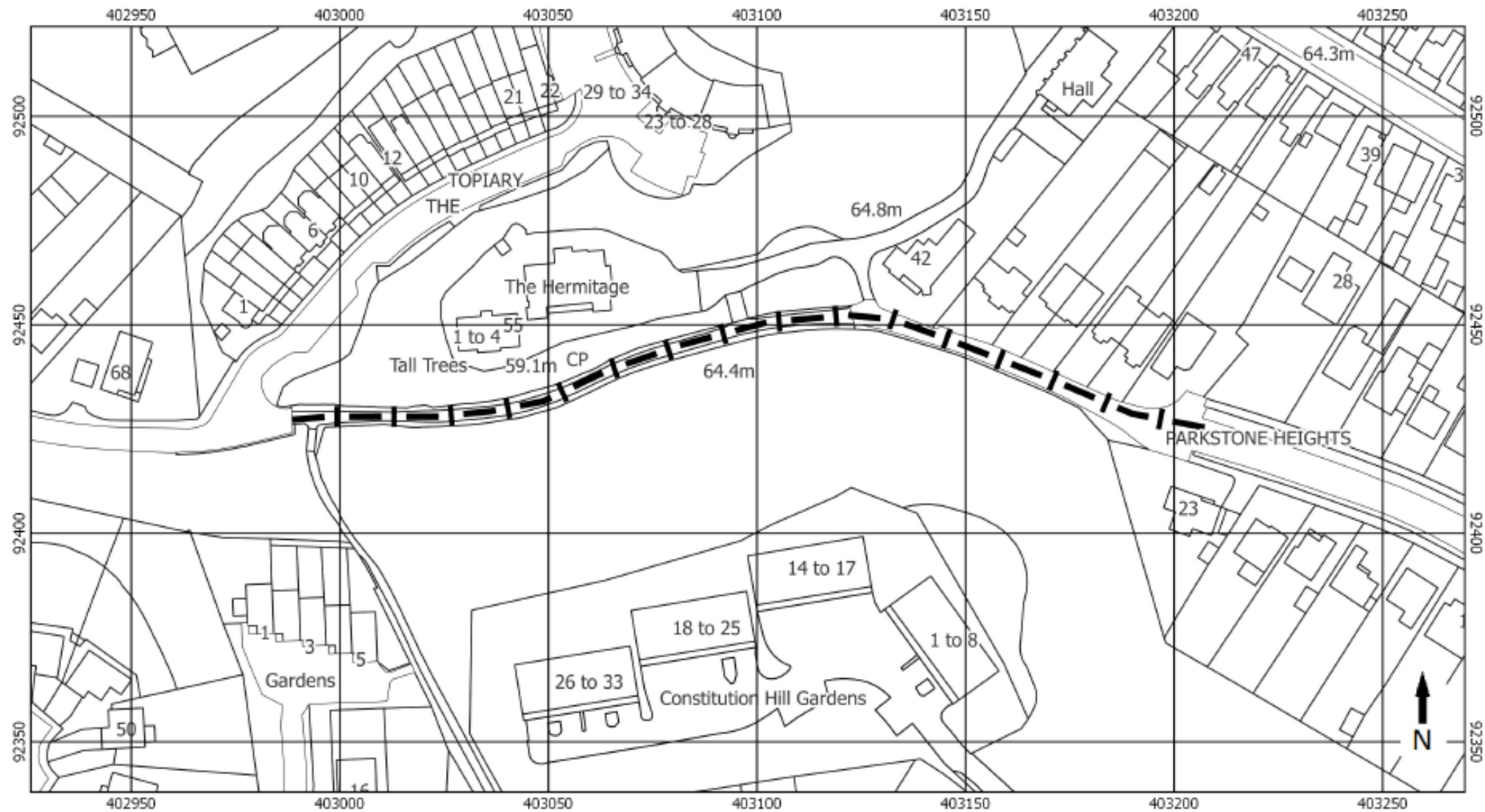
Bournemouth and Poole Rights of Way Improvement Plan 2017-2026

<https://www.poole.gov.uk/streets-and-travel/cycling-and-walking/public-rights-of-way/>

## **Appendices**

Appendix A – Plan of claimed route

Appendix A: Plan of claimed route



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Scale: 1:1250

Key:  
— | — Bridleway

Order Map  
Public Bridleway BR132

BCP Council  
Civic Centre  
Poole  
BH15 2RU  
bcpCouncil.gov.uk

