

CABINET



Report subject	PRoW Sub-report F - Elgin Road - Record track as a Bridleway.
Meeting date	9 October 2019
Status	Public Report
Executive summary	To obtain permission to create an Order to protect the path extending along Elgin 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):	Councillor 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	Penn Hill
Classification	For Decision

Background

1. As a surveying authority it is BCP Council's responsibility to constantly survey for and record Public Rights of Way. BCP Rights of Way officers observed a well-used track that forms part of Elgin Road and is used by walkers and cyclists.
2. The road appears on historic maps from the mid-20th Century onwards, however only two thirds of the length of Elgin Road is adopted as Public Highway with the North Eastern third remaining unadopted.
3. A non-statutory pre-order consultation has been carried out and no responses were received.

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 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

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

Summary of public health implications

9. 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

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 pedestrian and cyclist urban permeability and would prejudice BCP Council's key objectives as set out in chapter 2 of the Rights of Way Improvement Plan.

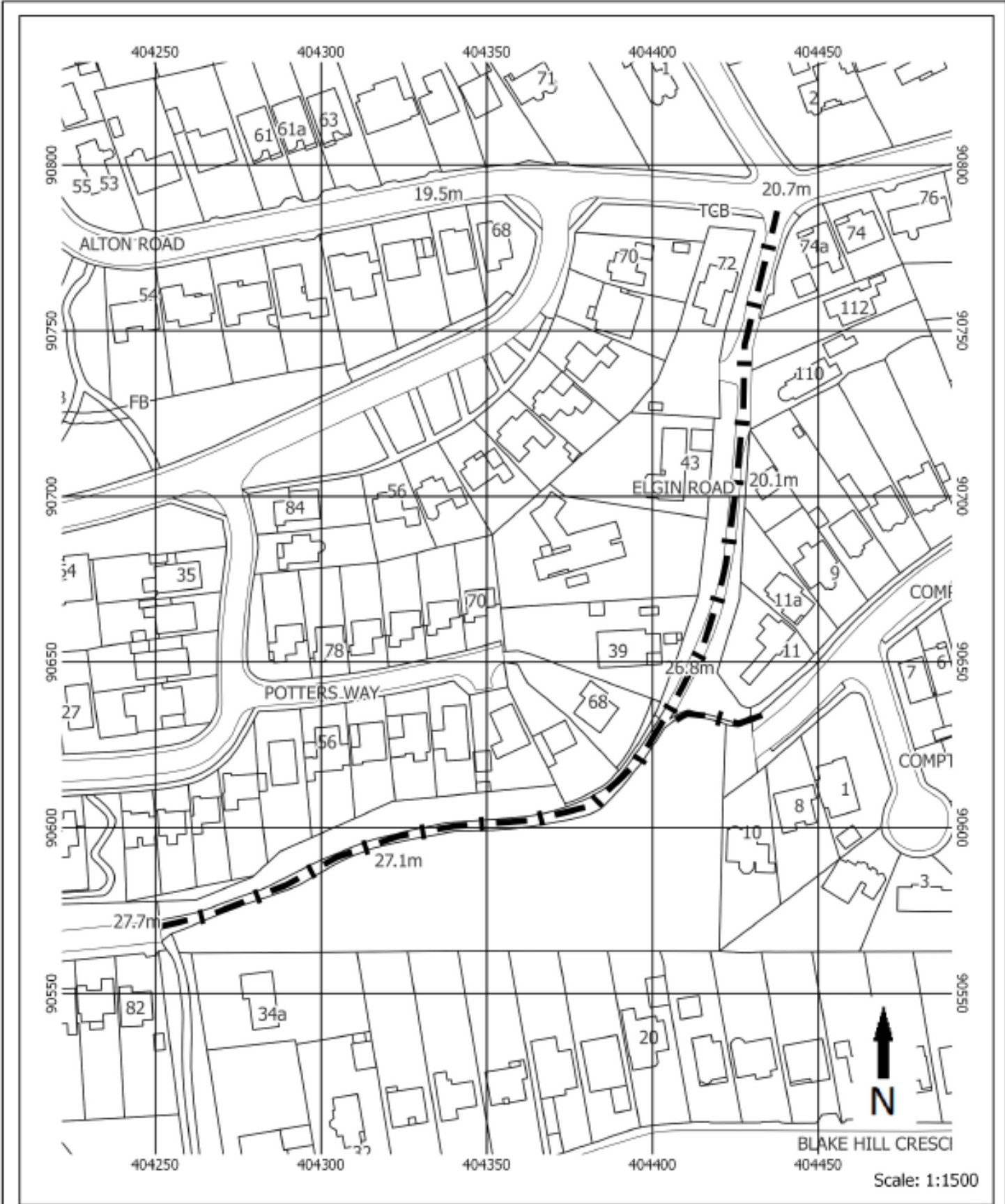
Background papers

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 A – Plan of Elgin Road Bridleway

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Key:

 Bridleway

Order Map

Public Bridleways
BR133 & BR134

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

