

CABINET



Report subject	PRoW Sub-report G - Cornelia Gardens to Kingsmill Road - Record path as a Public Bridleway.
Meeting date	9 October 2019
Status	Public Report
Executive summary	To obtain permission to create an Order to protect the path from Cornelia Gardens to Kingsmill 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 come into being through 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>

Portfolio Holder(s):	Councillor Andy Hadley (Portfolio Holder For Transport and Infrastructure)
Corporate Director	Bill Cotton (Corporate Director for Regeneration and Economy)
Contributors	Zak Cusens - Rights of Way Officer - Regeneration and Economy
Wards	Canford Heath
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 have observed a well-used path that runs parallel to Dorset Way (A3049) that appears to have been in existence for at least 20 years and is used by walkers and cyclists.
2. A consultation was carried out and the responses were entirely supportive of the proposal.
3. This route is a vital off road link for residents of Canford Heath for both leisure purposes and commuting, as the path can significantly reduce travel times into Poole. Following an informal survey of users, the most common use of the path is as a safe route to Canford Heath Infant and Junior Schools.

Summary of financial implications

4. In the event that the Order is contested, BCP Council would be required to submit the Order to the Planning Inspectorate, possibly leading to Public Inquiry, which might incur the costs of external legal representation if needed.
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 who would have the financial resources to start a procedure, and the minimum financial costs attached to a contested Judicial Review would be £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. There are several interest groups who would have the financial resources to start a procedure.

Summary of human resources implications

7. There are no likely human resource implications arising from the proposal, however there is a small risk of a contested order requiring officer time to prepare for a Planning Inspectorate procedure.

Summary of environmental impact

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

Summary of public health implications

9. The proposal will have no substantial public health implications but may help 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

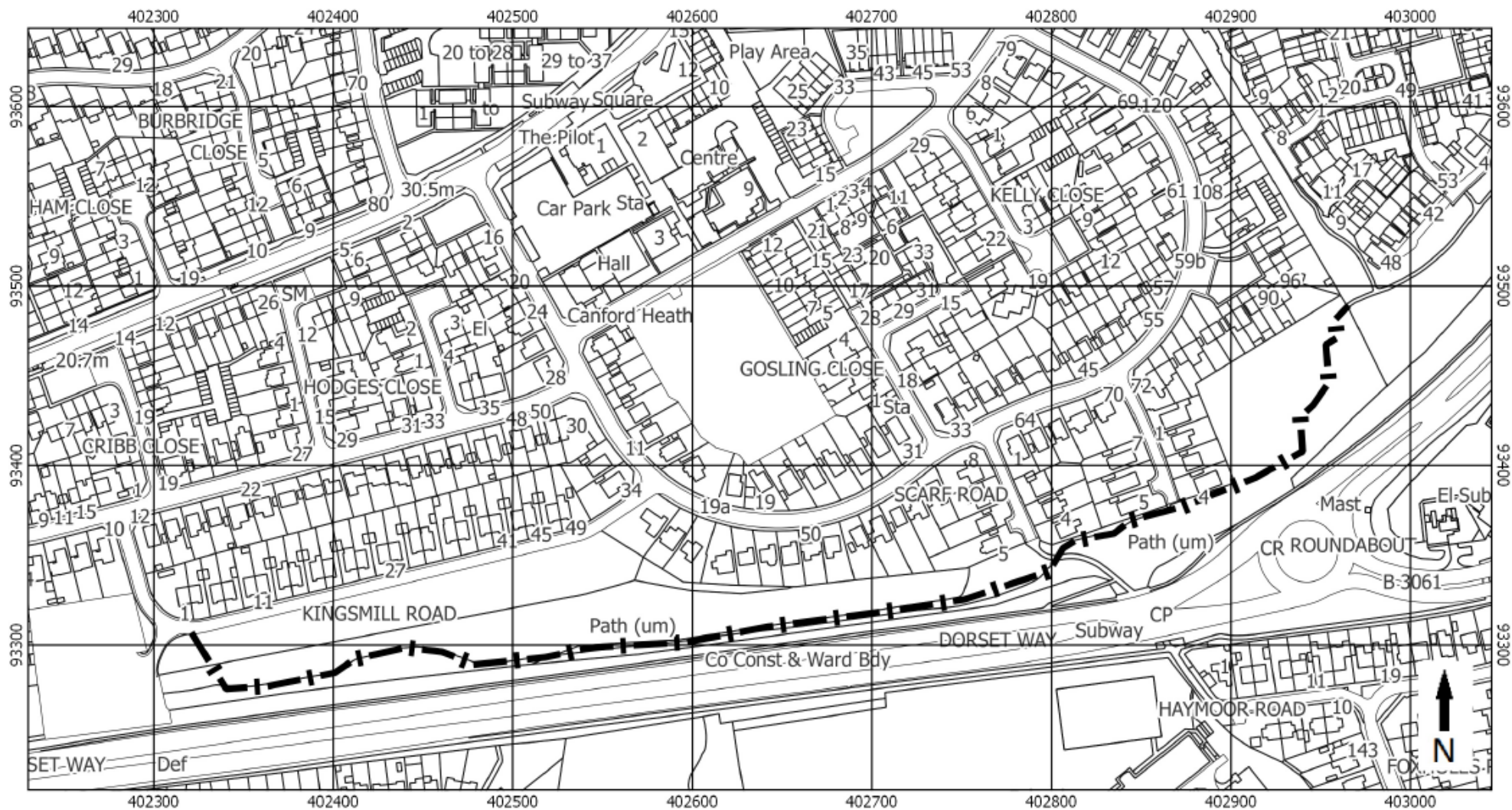
Bournemouth and Poole Rights of Way Improvement Plan 2017-2026

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


Appendices

Appendix A: Map of Bridleway

Appendix A: Map of Bridleway



© Crown Copyright and database right 2019. Ordnance Survey 100024248. Air photography - © Getmappingplc 2012. Scale 1:3000

Key:
 Bridleway

Order Map
Public Bridleway BR131

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

