

Record of Decisions

Gillard Road, Brixham – Public Path Creation Order

Decision Taker

Cabinet on 12 May 2026

Decision

That Cabinet recommend to the Adjourned Annual Council meeting on 14 May 2026:

1. that the Divisional Director for Place Strategy be requested to exercise his delegated powers to authorise the making of a Public Path Creation Order under Section 26 of the Highways Act 1980 in respect of the footpath at/off Gillard Road, Brixham shown edged red on the plan shown on Appendix 1, attached to the submitted report; and
2. that the Divisional Director for Place Strategy, in consultation with the Cabinet Member for Place Development and Economic Growth, be given delegated authority to confirm the Order if there are no objections or objections are withdrawn. In circumstances where there are objections, the Divisional Director for Place Strategy shall seek confirmation of the Order from the Secretary of State.

Reason for the Decision

The proposal supports the delivery of Torbay's vision for a healthy, happy, and prosperous community by safeguarding a safe, reliable, and accessible walking route for everyday use. Protecting this link strengthens neighbourhood connectivity, promotes active travel, and contributes to improved health outcomes and community participation, in line with the Community and People theme.

Implementation

The decisions above will be considered at the adjourned annual Council meeting on 14 May 2026.

Information

The walking route alongside and connecting from Gillard Road, Brixham is currently a permissive path, meaning public access is allowed at the discretion of the landowner and can be withdrawn at any time. Risk to the route emerged when the land, previously owned by Torbay Coast and Countryside Trust (TCCT), entered liquidation and was offered for sale, creating uncertainty over the future of public access.

While Torbay Council manages and maintains the Public Rights of Way (PROW) network recorded on the Definitive Map and Statement, permissive paths are not legally protected and fall outside the Council's statutory responsibilities. As a result, continued public access to this well-used and valued route cannot be guaranteed, particularly following changes in land ownership.

Without formal designation, there is a real risk that the community could lose a safe and important walking link relied upon by residents and visitors. Designating the route as a PROW would secure its long-term availability, provide legal protection, and ensure it can be properly maintained as part of the wider network.

Alternative Options considered and rejected at the time of the decision

Continuing to rely on voluntary landowner permission would require no immediate legal or resource commitment and may preserve access in the short term. However, public access would remain unsecured and could be withdrawn at any time, particularly following the sale of the land, with a real risk of the route being lost.

Seeking a long-term permissive access agreement with new landowners would allow continued use without establishing a Public Right of Way (PROW) and would be less administratively complex. However, access would remain non-permanent, could still be withdrawn in future, and would carry no statutory maintenance obligation, potentially resulting in inconsistent path quality.

Alternatively, entering into a Public Path Agreement under Section 25 of the Highways Act 1980 would secure the route as a PROW through voluntary dedication. However, following the land sale, ownership is expected to be fragmented, making negotiations complex and potentially prolonged.

Is this a Key Decision?

Yes

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

14 May 2026

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet