



## Order Decision

Site visit made on 24 February 2026

by **James Blackwell LLB (Hons) PGDip, Solicitor**

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 12 March 2026

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### Order Ref: ROW/3357559

- This Order is made under Section 119 of the Highways Act 1980 and is known as the Milton Keynes City Council (Hanslope Footpath 11 (Part)) Public Path Diversion Order 2023.
- The Order is dated 14 March 2023 and proposes to divert part of a footpath within Hanslope, as shown on the Order Plan and described in the Order Schedule.
- There was one objection outstanding when Milton Keynes City Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

**Summary of Decision: The Order is confirmed.**

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### Preliminary Matters

1. The section of footpath 11 (FP11) which is proposed to be diverted runs through land owned by the applicant. The path commences at point A, and follows the driveway to the applicant's home and garden. It then passes adjacent to the house (Cuckoo Hill Cottage) and exits through to agricultural land to the rear.
2. Around this point, the affected route connects with two other footpaths: footpath 53 (FP53) runs in an easterly direction from point B; FP11 also continues on from point B, and connects with footpath 52 (FP52) which runs through open agricultural land to the west.
3. There has been extensive new housing in the local area within recent years, which is understood to have led to heavier usage of the Order route. The applicant has sought diversion of the footpath away from their home and garden, to help alleviate the impacts of this use on their privacy and security. The applicant also keeps a number of rescue horses within paddocks alongside the route, and there are understood to be various sensitivities around their care and wellbeing. The diverted route would avoid these paddocks, which the applicant says would help protect the horses' welfare.
4. Towards the rear of the applicant's property, users are currently guided between paddocks on a path which does not correlate directly with the line of the footpath recorded on the Council's definitive map and statement (DMS). Nonetheless, I have considered the proposed diversion by reference to the recorded route, which I was able to see clearly on my site visit.
5. Whilst there was one objection outstanding at the time the Order was submitted to the Secretary of State for confirmation, a further objection has since been received. I have considered both objections in reaching my decision. These objectors shall be referred to as the "First Objector" and "Second Objector" respectively.
6. The objectors question whether sufficient notice of the proposed diversion has been given. However, the Council has confirmed that all statutory notice

requirements have been met and photographic evidence attesting to the same has been provided.

7. The Second Objector also highlights that the neighbouring Rainbow Rise development is not shown on the Order plan, which they suggest could affect the Order's validity. Notwithstanding that the Council has confirmed that the map was accurate at the time the Order was made, the existing footpath and the proposed diversion can both clearly be discerned from the Order plan. In turn, I am satisfied this factor does not affect the interpretation nor validity of the Order.

### **Main Issues**

8. Section 119 of the HA 1980 involves three separate tests for an Order to be confirmed. These are:
  - Test 1: whether it is expedient in the interests of the landowner, occupier or the public for the footpath to be diverted. This is subject to any altered point of termination of the path being substantially as convenient to the public;
  - Test 2: whether the proposed diversion is substantially less convenient to the public; and
  - Test 3: whether it is expedient to confirm the Order having regard to the effect which: (a) the diversion would have on public enjoyment of the footpath as a whole; (b) the coming into operation of the Order would have as respects other land served by the existing public right of way; and (c) any new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it.
9. In determining whether to confirm the Order at Test 3 stage, (a) – (c) are mandatory factors. With regard to (b) – (c) of Test 3, the statutory provisions for compensation for diminution in value or disturbance to enjoyment of the land affected by the new footpath must be taken into account, where applicable. Regard must also be had to any material provision contained in the Council's Rights of Way Improvement Plan for the area under Section 119(6A). Other relevant factors are not excluded from consideration and could, for instance, include those pointing in favour of confirmation.

### **Reasons**

*Whether it is expedient in the interests of the owner, lessees or occupiers of the land and/or the public that the footpath should be diverted*

10. The diverted route would begin at point A and would run alongside the north-eastern perimeter of the applicant's property. This alignment is further from the main house and garden and also avoids the horse paddocks on the north-western side of the house. At point D, the diverted route would then utilise FP53 until it reaches point B to the rear of Cuckoo Hill Cottage.
11. The proposed diversion would clearly benefit the owner and occupiers of Cuckoo Hill House, as they would be able to enjoy their home and garden more privately and without interference from footpath users. The diverted route would also be further away from the paddocks alongside the house, which would help safeguard the welfare of the applicant's horses.

12. Given the reasons for the diversion, Government Guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises (August 2023) (Private Dwellings Guidance) is relevant. This says:

*“Members of the public may not be comfortable following a path through a contained space of this type because doing so feels like infringing on the privacy of a house owner, or potentially disrupting, or being endangered by, activities within a farmyard or commercial premises. Such path alignments can deter people from exercising the public’s right to use the path”.*

13. Reflecting this guidance, the diverted route may also improve the enjoyment of many users, as it would no longer impinge on anyone’s personal or private amenity space. It may even result in some people using the diverted route who would otherwise have been deterred. The diversion would therefore be in the interests of such users.

*Whether any new termination point is substantially as convenient to the public*

14. The diverted route would still commence at point A, but would continue around the north-eastern perimeter of the applicant’s property until it meets FP53 at point D. At this point, users can follow the path around the south-eastern and south-western sides of the applicant’s property, where it then meets point B. Overall, this means the termination points of the diverted route would be substantially as convenient to the public.

*Whether the new footpath will not be substantially less convenient to the public*

15. The diverted route, including the stretch of FP53 needed to connect from point A to point B, would be approximately 68 metres longer than the existing route. Noting this route is primarily a recreational footpath, this increase is relatively minor, and would not result in a path which is substantially less convenient to the public.
16. Moreover, for users looking to reach Castlethorpe Road from point A, the diverted route would be shorter and more direct. For those users, the diversion would be more convenient (insofar as distance is concerned).
17. The objectors raise issue with the accessibility of the diverted route, as much of the existing path is tarmacked, whereas the new route would primarily be laid to grass. Whilst I note these concerns, the unaffected southern part of FP11, FP52 and much of FP53, are all mainly grassed or muddy footpaths. Therefore, unless someone is traversing FP11 from point A and then immediately turning back on themselves at point B, they would already need to continue along other sections of grassed or muddy paths. The proposed route would be no different in this regard. For most users, the surface of the diverted route would therefore not be substantially less convenient.
18. That being said, it is possible that a small number of people use the existing route solely on account of its tarmacked surface, for example, users with mobility issues. For those users, the grassed surface of the diverted route may be less convenient. However, in the context of the surrounding countryside setting where grassed paths are commonplace, I do not consider that any lesser convenience to these users would be substantial.

*The effect of the diversion on public enjoyment of the paths as a whole*

19. Along part of the affected route, users are afforded attractive views over the Tove Valley. The diversion would take users around a different side of the applicant's property, which means these views would be more restrictive. For some, this may detract from their enjoyment of the path.
20. However, similar views of the open countryside can still be obtained from the unaffected part of FP11 and from FP52, which leads on from FP11. For users continuing along either of these routes (or vice versa), any loss of enjoyment would therefore be minor.
21. As already highlighted, the diverted route would avoid the applicant's home and garden. For some users, this would improve their enjoyment of the route as they would no longer impinge on anyone's personal or private amenity space. This factor helps counteract any loss of enjoyment attributed to the reduced views over the valley.

*The effect of the diversion on other land served by the existing footpath and the land over which the new footpath would be created*

22. As already set out, the diversion would benefit the land served by the existing footpath, which is reflected in the applicant's support for the Order. Whilst some minimal vegetation clearance would likely be needed to accommodate the new path, these works would not be extensive. In turn, there is little to suggest the diversion would have an adverse impact on the land over which the new footpath would be created.

*Rights of Way Improvement Plan*

23. The Council says there are no provisions within its Rights of Way Improvement Plan which are relevant to consideration of the Order, and neither objector appears to contest this in their evidence.

*Other Considerations*

24. The First Objector raises security and anti-social behaviour concerns with the proposed diversion, as the new route would run behind a number of houses comprised in the housing estate to the east. The objector also suggests the property value of these houses may be adversely affected. Whilst these concerns are noted, the tall fencing and hedgerow which separate the new route from these houses would help limit any privacy or security concerns in this regard. Notably, this arrangement is also not dissimilar to the unaffected part of FP11 running northwards from point A, which runs alongside a number of houses in the estate. Similarly, part of FP53 also runs behind other houses comprised in the Rainbow Rise development. In turn, the diversion would not introduce an arrangement which is unusual within the surrounding area.
25. The First Objector is concerned that the applicant may erect tall fencing and hedgerow along the diverted route, thereby creating an enclosed and uninviting footpath. However, this is largely conjecture - the applicant says that views towards the Tove Valley would be retained as part of the diversion, which implies the path would not be enclosed as suggested.

26. The First Objector contends that the diverted route may suffer from drainage issues due to its grassed surface. Nonetheless, the applicant highlights that extensive works have been carried out in recent years to improve the drainage on their land. Even so, drainage issues and waterlogged paths are not uncommon occurrences in countryside locations, and there is little to suggest such issues would be so severe in this location, so as to impact on the expediency of the Order.
27. The First Objector suggests alternative boundary treatments could be used along the existing footpath to achieve any necessary safeguard measures for the applicant's horses. However, noting the Private Dwellings Guidance referred to above, such measures would not overcome the other issues identified in terms of the privacy and security of the applicant's home and garden.
28. The First Objector says there are more preferable options for a diversion through the applicant's property than the route proposed. However, I must consider whether the diversion before me meets the relevant statutory tests, and not theoretical alternatives.
29. The First Objector also says the kissing gate used to access the existing footpath at point A is non-compliant with accessibility requirements. However, this gate would not form part of the diverted route if confirmed.
30. The Second Objector highlights that the diversion would result in changes to a Hanslope Jubilee Walk, which would necessitate amendments to the associated published information. Whilst this point is acknowledged, this factor would not materially affect the overall expediency of the Order.

*Conclusion on whether it is expedient to confirm the Order*

31. The diverted route, which is substantially as convenient to the public, would be in the interests of the landowner and other occupiers of Cuckoo Hill Cottage. This is because it would help preserve their privacy and security, and would also help safeguard their rescued horses. Whilst the diverted route may lead to some loss of enjoyment for certain users due to a reduced view over the Tove Valley, for others, their enjoyment would be improved as the path would no longer interfere with anyone's private home or garden. There is nothing to suggest the diversion would adversely impact land already served by the existing footpath, nor land over which the new footpath would be created. Moreover, there is nothing before me to suggest the diversion would conflict with any particular provisions of the Council's ROWIP. Overall, it is therefore expedient to confirm the Order.

**Other Matters**

32. There is little to suggest the diverted route would interfere with any area of forestry, nor any particular flora, fauna, geological or physiological features within the affected land. In terms of agriculture, the diversion would be beneficial, as the path would no longer run through the main paddock which accommodates the applicant's rescued horses.
33. The First Objector raises a number of issues with the correct alignment of FP53, specifically at the point it runs eastwards from point B. In particular, the objector says this part of the path was previously obstructed and not open for public use. They also contend that the route now available does not correlate directly with the recorded route on the Council's DMS. Whilst these points are noted, on my site

visit, this part of the footpath was unobstructed and available for use. Broadly, the available route also appeared to correlate with the route recorded on the DMS. In turn, and insofar as this Order is concerned, there is a clear and available footpath which can be used as part of the proposed diversion, and that remains the case irrespective of any minor discrepancies between the actual route used and the recorded route on the DMS.

### **Overall Conclusion**

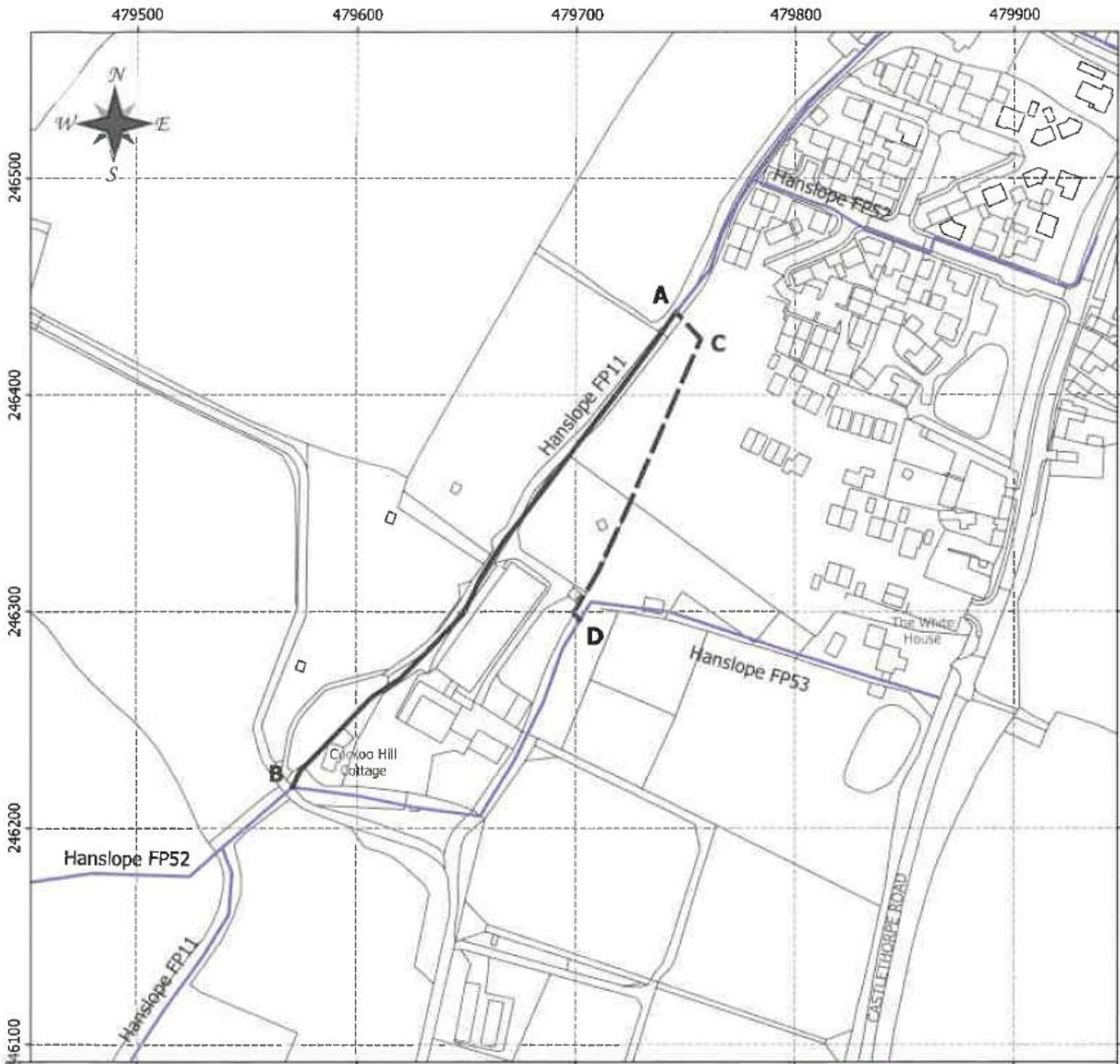
34. Having regard to the above and all other matters raised in the written representations, I conclude that the Order should be confirmed.

### **Formal Decision**

35. I confirm the Order.

*James Blackwell*

Inspector



Map referred to in Milton Keynes City Council  
(Hanslope Footpath 11 (part)), Public Path Diversion Order 2023

The common seal of Milton Keynes City Council  
was hereunto affixed in the presence of:

CATHERINE STEPHENS  
AUTHORISED SIGNATORY



Key:	A - B	Proposed Extinguished	Scale 1:2,500 @A4P
	A - C - D	Proposed Diversion	
	Unaffected Public Footpath	Unaffected Public Bridleway	



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