



Order Decision

Site visit made on 4 August 2026

By Harry Wood BA (Hons) MA PhD MIPROW

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

Decision date: 10 August 2026

Order Reference: ROW/3370218

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Milton Keynes City Council (Stantonbury Footpath 17) Modification Order 2024.
- The Order is dated 13 February 2024 and proposes to modify the Definitive Map and Statement for the area by adding a public footpath as shown on the Order Plan and described in the Order Schedule.
- There were three objections 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.

Preliminary Matters

1. I have found it convenient to refer to locations marked on the Order Plan and have attached a copy of it to this decision, for reference.
2. The order making authority (Milton Keynes City Council, hereafter the OMA) submitted 15 user evidence forms in July 2026, after the deadline for representations. Although a version of the UEFs had already been submitted to the Inspectorate, these initial documents did not include the hand drawn plans that were appended to the original forms lodged with the OMA by the applicant in 2009. Having rediscovered the original UEFs as part of an archive digitisation project, the OMA then submitted them to the Inspectorate.
3. One of the objectors has requested that I reject these documents, asserting that introducing “old, archived documents at this late stage is unprofessional and improper”. While I can understand their concerns and accept that it is unfortunate that they were initially overlooked, I am satisfied that the hand drawn plans formed part of the UEFs as submitted with the 2009 application, and as such should be considered. I am also satisfied that all parties involved in the case have had the chance to comment on the resubmitted UEFs and I will take these representations into account.
4. Milton Keynes has a network of shared use paths called redways, including several near the Order Route. The OMA explain that such routes are “dedicated by agreement under section 38 of the Highways Act 1980 as cycleways open to public use by means of pedal cycles or on foot only”. These routes, which are unique to Milton Keynes, are not public rights of way and are not shown in the Definitive Map and Statement (DMS).

Main Issues

5. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) in consequence of the occurrence of an event specified in section 53(3)(c)(i), namely that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist. The legal test I am required to deploy is the balance of probability test. This is a stronger test than the reasonably alleged to subsist test to determine if an order should be made.
6. The evidence submitted in support of the Order relies on the presumption of dedication as set out in section 31 of the Highways Act 1980 (the 1980 Act). I must establish the date when the public's right to use the Order Route was brought into question. The evidence can then be examined to determine whether use by the public has been as of right and without interruption for a period of not less than 20 years. It is also necessary to consider whether there is sufficient evidence that there was no intention on the part of the landowner to dedicate public footpath rights during the relevant 20-year period.
7. Section 32 of the 1980 Act requires that documentary evidence is taken into consideration "before determining whether a way has or has not been dedicated as a highway", and that such weight is given to the evidence as "justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it was produced."

Reasons

Documentary Evidence

8. There is minimal documentary evidence in this case. Various photographs have been submitted by both the OMA and the objectors. These offer useful context to the user evidence, and for that reason are considered below.

User Evidence

When use of the claimed route was brought into question

9. The Order Route is a way through a corridor of woodland, running between the Blue Bridge housing estate to the east and the railway line to the west. It links two redways, beginning close to the Millers Way underpass (point A) and ending at a route known as Railway Walk (point D).
10. The OMA assert that there is no registered owner of the land over which the Order Route runs. Although various steps have been taken by adjacent homeowners (discussed below), there is no evidence before me to suggest that the landowner has taken any actions that have brought public rights into question over the Order Route. In such circumstances, the date of the relevant definitive map modification order application serves as a bringing into question for the purposes of section 31 of the 1980 Act. The application in question was submitted on 24 July 2009.
11. Taking 24 July 2009 as the appropriate date means that the relevant 20-year period is July 1989 to July 2009.

Whether the claimed route was used by the public as of right and without interruption

12. 15 UEFs have been completed, recording use of the Order route between 1979 and 2025. Two of the UEFs record the use of two people, leading to a total of 17 users. Six people claimed use for the full 20-year relevant period.
13. A significant majority of users refer to dog walking as the primary reason for walking the Order Route. Other reasons given include general leisure, pruning trees and weeds, and enjoying the natural environment of the strip of woodland.
14. The frequency of use varied and included daily (three people), multiple times a week (three people), weekly (three people), and a range of more variable usages (including three users who did not specify their frequency of use). The most intensive period of use was 2007-2009, during which all bar one of the users claimed to have walked the Order Route.
15. The volume of use described appears consistent with a fairly well-used footpath on the edge of a residential estate.
16. One of the objectors argues that there is “a lack of verifiable evidence to demonstrate that this specific route has been used by the public for the statutory 20-year period”. They also point to the fact that log barriers were erected to prevent motorcycle use, an action they believe led to “a clear interruption of use”. It is not clear when these barriers were erected, though I note one of the UEFs (which were completed in 2009) suggests that obstructions had been placed “recently”. The objector has also provided several photographs of the Order Route area (taken in 2006) which they suggest confirm “the absence of any visible pathway at that time”.
17. The OMA highlight that the objector has not sought to challenge the specifics of the user evidence submitted. They also suggest that the log barriers were erected in 2025. Regarding the objector’s photographic evidence, the OMA assert that “none of the images provided show a clear and broad view of the area from which firm conclusions could be made”. They draw attention to an aerial photograph taken in 1980, which captures the woodland shortly after it was planted. The OMA contend that the trees were “clearly planted in obvious lines” with a path through the middle. They additionally emphasise evidence provided in one of the UEFs, where the user claims use of the Order Route prior to the construction of the adjacent houses. Although I note that there is a clear avenue of trees along much of the Order Route, this is not necessarily evidence that the woodland was planted with public access in mind.
18. When I visited the site in August 2026 the majority of the Order Route was open and available to walk. A short section between points C and D was blocked by large logs, though a path could still be seen on the ground, suggesting that this is a relatively recent development. A parallel section of path had developed to the north of this section, indicating that users may be diverting around this blockage. I am satisfied that the UEFs refer to use of the Order Route alignment rather than the parallel path. While I note the objector’s arguments regarding interruption of use, they have provided limited detail as regards the exact location of the barrier and the date of construction. Given the minimal reference to such barriers in the UEFs, I am satisfied that there was no interruption of use within the relevant 20-year period.

19. I have seen no evidence that indicates this use was by force or by stealth. None of the users recall asking for permission to use the Order Route, and I have seen no evidence to suggest that any of the users enjoyed private rights on foot over the Order Route. I am therefore satisfied that the claimed use was as of right.

Whether there was no intention to dedicate a public right of way

20. The ownership of the land over which the Order Route runs has not been established. One of the objectors (as discussed above) has attempted to block the way, but they have not explicitly claimed ownership of any part of the Order Route.
21. The same objector refers to erecting “No Entry” signs along the Order Route. Although the location of these signs has not been made clear, nor has the date they were erected been established, the objector asserts that they “have been repeatedly removed by members of the public, resulting in damage to my property”.
22. Section 31(3) of the 1980 Act makes clear that any sign “inconsistent with the dedication of the way as a highway” has to have been erected by “the owner of the land over which any such way [...] passes”. As the objector has not claimed ownership of the land over which the Order Route runs, such signs would not provide evidence of a lack of intention to dedicate highway rights. I also note that none of the UEFs refer to seeing a “No Entry” sign, which may indicate that the sign was erected outside of the relevant 20-year period.

Conclusions on the Section 31 tests

23. I have concluded that the relevant period is 1989 to 2009. I am satisfied that the user evidence is credible and indicative of regular public use of the Order Route. There is no evidence to suggest that this use was anything other than as of right, and there is no indication of interruption during the relevant period. There is no evidence of any actions by or on behalf of the landowner sufficient to convey to the public that there was no intention to dedicate a public right of way over the Order Route. Accordingly, I conclude that the tests are met and a public right of way subsists.

Other Matters

24. The objectors have raised several arguments in their representations that I have not considered above, including fears around the environmental impact of increased footfall should the Order Route be recorded as a public right of way, concerns about possible property devaluation, and the presence of the redway between Vienna Grove and Gardiner Court as an alternative route. While these concerns and suggestions are entirely understandable, they cannot influence my decision. My task is to establish whether public rights exist over the Order Route, and questions concerning the desirability or wider impact of such rights can have no bearing on this process.

Overall Conclusion

25. Based on all of the evidence before me I am satisfied, on the balance of probability, that a public footpath subsists along the entirety of the Order Route and that the DMS should be modified accordingly.

Formal Decision

26. I confirm the Order.

Harry Wood

INSPECTOR

Order Plan (not to scale)

