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| **Order Decision** |
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| **by Nigel Farthing LLB** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 6 February 2024** |

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| **Order Ref: ROW/3278807** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The Oxfordshire County Council Spelsbury Byway Open to All Traffic No. 44 Modification Order 2021. |
| * The Order is dated 17 March 2021 and proposes to modify the Definitive Map and Statement (‘DMS’) for the area by upgrading a Footpath to a Byway Open to All Traffic at Dean Grove, Spelsbury, as shown on the Order Map and described in the Order Schedule. |
| * There were 30 objections outstanding when Oxfordshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation. * An Interim Order Decision was made on 28 June 2023. In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act notice has been given of the proposal to confirm the Order with modifications. |
| **Summary of Decision: The Order is confirmed subject to modifications set out in the Formal Decision of the Interim Order Decision dated 28 June 2023.** |
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Procedural Matters

1. This decision should be read in conjunction with the Interim Order Decision (“ID”) dated 28 June 22023. The ID proposed to confirm the Order with a modification of the status of part of Order route from a Byway Open to All Traffic to a restricted byway.
2. The proposed modification of the Order was advertised on 24 August 2023 requiring any response to be made by 21 September 2023. One representation was received in response to notice of the proposed modification.

**The Main Issues**

1. The main issues are set out in the ID. The issue now before me is whether there is any new evidence or argument sufficient to justify a departure from the findings of the ID.
2. The Order seeks to record the Order route as a byway open to all traffic. The ID proposes to modify the Order so as to record that part of the Order route between the points B and C on the Order map as a restricted byway on the grounds that the public’s right to use that section of the Order route with mechanically propelled vehicles was extinguished by reason of section 67 of the 2006 Act.
3. At this stage of the process, I am only entitled to consider evidence or representations which relate to that part of the Order which the ID proposes should be modified. I am not permitted to address or reconsider the evidence relating to the decision to confirm that part of the Order relating to the route between points A and B as this is unaffected by the proposed modification.

**Reasons**

1. The single representation received in response to notice of the proposed modification relates exclusively to that part of the Order route A to B and is therefore not material to my determination.
2. In the absence of any duly made and material representation to the proposed modification, and for the reasons set out in the ID, I conclude that the Order should be confirmed subject to modification detailed in the ID.

Formal Decision

1. The Order is confirmed subject to the modifications detailed in the ID.

Nigel Farthing

Inspector

