



Appeal Decision

Site visit made on 9 September 2004

by John Conder BSc (Hons) Dip TP MRTPI

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

the Planning Inspectorate
09 Kite Wing
Temple Quay House
The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
mail: enquiries@planninginspectorate.gsi.gov.uk

date
7/10/2004

Appeal Ref: CROW/5/M/04/2427

Site Address: Land north of Manor Wold Farm, East Heslerton, Northumberland.

- This appeal is made under section 6(1) of the Countryside and Rights of Way Act 2000 (the 2000 Act) against the above land having been shown on a provisional map as open country.
- The appeal is made by Robert Ireland, and is dated 14 February 2004.
- The provisional map was issued by the Countryside Agency under section 5 of the 2000 Act, and relates to North East England (Region 5).
- The ground of appeal is that the land does not consist wholly or predominantly of mountain, moor, heath or down, and to the extent that the Countryside Agency has exercised its discretion under section 4(5)(b) of the 2000 Act to treat land which is not open country as forming part of an area of open country, it ought not to have done so.

Summary of Decision: The appeal is allowed in part and the map modified accordingly.

Preliminary Matters

1. The appeal site lies to the south of the village of East Heslerton and north of Manor Wold Farm. The Wolds Way long distance footpath runs along part of the appeal site's southern boundary. It is also crossed by a bridleway running roughly north-south from East Heslerton village and linking into the Wolds Way.
2. The Countryside Agency has subdivided the appeal site into four parcels, which it has illustrated in Annex B to its Statement of Case. Area A is shown to cover the majority of the appeal site. Area B is a north facing hillside on the south-east of the appeal site. Area C is a continuation of Area B on the south-west of the appeal site, whilst Area D is a small rectangular enclosure surrounded by Area A.
3. The Countryside Agency considers that Areas A and C have vegetation qualifying as down, and believe that these areas should be retained on the map of open country. It says that Area B is predominantly semi-improved grassland, whereas Area D is predominantly woodland, and that both these areas should, therefore, be removed from the map of open country.

The Main Issues

4. In determining whether the appeal site should have been mapped as open country, I consider the main issues to be:
 - a) the appropriateness of the subdivisions of the appeal site proposed by the Countryside Agency, and

- b) the extent to which each separate parcel I identify qualifies as mountain, moor, heath or down by virtue of its vegetation and general character including openness.
5. As the Countryside Agency did not in this case seek to exercise its discretion under section 4(5)(b) of the 2000 Act, I need not consider the second part of the ground of appeal.

Reasoning

6. I am satisfied that there are clear boundaries around the four areas identified by the Countryside Agency and that there are no other appropriate divisions to the land. However Area D is surrounded by Area A. and I will address this first.
7. Area D is a narrow separately fenced area in which a single staggered row of trees has recently been planted. These trees, which appear to be wholly or mainly hawthorn, are only just emerging from the top of their guard tubes and they do not, at this stage, have the character of woodland. Accordingly, I conclude that this area merely forms part of Area A and does not, by its small size and character, warrant separate consideration.
8. On my site inspection I noted that at the northern end of Area A/D (that is, the projection of the appeal site towards East Heslerton village) the vegetation appears to be semi-improved grassland. However, there is no sub-division between this small area and the remainder of Area A and accordingly I conclude it would be inappropriate to deal with it in isolation.
9. There has been considerable management in Area A/D, including the removal of scrub, but, nonetheless, the vegetation is principally calcareous grassland with scrub, particularly hawthorn, and scattered trees. The agricultural management and improvement that has taken place has not, I find, significantly changed the character of the grassland, which is species rich and typical of unimproved limestone grassland which qualifies as mountain, moor, heath or down. This part of the appeal site has open and sweeping views within and beyond it. It is clear to me that Area A/D is an open landscape and has the character of down. My findings for Area A/D are similar to that of the Countryside Agency, together with the Ramblers' Association and the Woldsway Project, although the latter two parties do not address this appeal by reference to the Countryside Agency's four areas.
10. The grassland sward within Area B is much more lush with less diversity of species than elsewhere on the appeal site, indicating that this area had been subject to agricultural improvement. Some of the steeper slopes and the areas around earthworks show less signs of improvement but these only constituted a small proportion of Area B. Accordingly I find, like the Countryside Agency, that this area is predominantly improved or semi-improved grassland that does not qualify as mountain, moor, heath or down and should, therefore, be excluded from the map of open country.
11. The upper, more southerly parts of Area C show some signs of agricultural improvement, as the grassland sward is lush and shows little species diversity. However, the north-facing slope forms the majority of the site and, in this area, there is little evidence of agricultural improvement. The grassland mix and species diversity indicate that this slope is unimproved calcareous grassland, which I find qualifies as down. Area C lies on an open hillside with sweeping views and has the typical open character of downland. I find that Area C as a whole qualifies by its vegetation and character as mountain, moor, heath or down.

Conclusion

12. I conclude, on the main issues that:

- a) The appeal site should be subdivided into the areas indicated by the Countryside Agency except that Area D should be considered as part of Area A.
- b) Areas A/D and C are composed of qualifying downland and are open in character, and have been correctly mapped as mountain, moor, heath or down.
- c) Area B is semi-improved grassland and has been incorrectly mapped as open country.

13. I have considered all other matters raised but have found none to carry sufficient weight to override my conclusions.

Formal Decision

14. For the above reasons, I hereby allow the appeal in respect of Area B and delete this part of the site from the map before it is issued in conclusive form, but dismiss the appeal in respect of Areas A/D and C as shown in annex B of the Countryside Agency's Statement of Case.

INSPECTOR