



Appeal Decision

Site visit made on 9 March 2005

by **Michael R Lowe BSc (Hons)**

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

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Date
25 May 2005

Appeal Ref: CROW/8/M/04/3084

Site Address: Land at Cleaving Coombe, north west of Londesborough Village, East Riding of Yorkshire

- 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 Mrs B M Ashwin, and is dated 16 July 2004.
- The provisional map was issued by the Countryside Agency (the Agency) under section 5 of the 2000 Act, and relates to the east of England (Region 8).
- 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 Agency have exercised their 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 such country, they should not have done so.

Summary of Decision: the appeal is dismissed.

The Appeal Site

1. The appeal site lies to the west of Londesborough Hill Road, to the north west of Londesborough Village and is known as Cleaving Coombe. The appeal site is an isolated area of open country on the provisional map. Within the area shown as open country is an 'island' of woodland which is not recorded as open country.

The Main Issue

2. I consider the main issue to be whether the appeal site qualifies as mountain, moor, heath or down (MMHD) as a result of its vegetation and general character. The Agency have stated that they have not exercised their 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 such country, accordingly this part of the ground of appeal does not apply.

Reasons

3. The appellant disputes that the appeal site is MMHD and lacks the character of downland. She submits that the land includes improved and semi-improved grassland and that parts of the site were arable land until reverted to grassland in 1983. Evidence of improvement measures include the grazing of the land by cattle and the control of thistles and nettles.

4. The Agency submit that the appeal site is 'down' as described in the Mapping Methodology¹ and comprises predominantly calcareous grassland with scattered regenerating trees, hawthorn scrub and terracettes. They rely on a survey conducted on 22 November 2004 which found the site comprised over 50% qualifying habitat, and less than 50% non qualifying habitat of improved and semi-improved grassland.
5. The Ramblers' Association submit that the appeal site is downland and produced an extract of the Yorkshire Chalk Grasslands Habitat Survey, phase II, carried out in 1982 and 1983. This survey indicated the unimproved nature of the grassland and was supported by the Ramblers' own surveys in August 2003 and January 2005.
6. At the site visit I observed that the appeal site included areas of improved and semi-improved grassland at the eastern end of the appeal site and in the lower part of the valley. However, in my view, the vegetation of the appeal site as a whole is predominantly unimproved calcareous grassland, that is to say that more of the appeal site qualifies as unimproved grassland than does not qualify as improved or semi-improved grassland. In my view the appeal site is generally within an open landscape. I therefore conclude on the main issue that the appeal site qualifies as MMHD as a result of its vegetation and general character.

Conclusion

7. Having regard also to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

8. For the above reasons I hereby dismiss the appeal and, in so far as it relates to the appeal site, approve the provisional map.
9. The appeal site is as illustrated on the map accompanying the appeal form.



INSPECTOR

¹ Countryside and Rights of Way Act 2000. Mapping Methodology for England. The Countryside Agency. Version 2 (31 October 2002).
