



# 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/04/3144**

**Site Address: Land at Sancton Dale, Sancton, East Riding of Yorkshire**

**Grid Ref 490850 439730**

- 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 RC Shucksmith, and is dated 20 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 allowed in part, and the provisional map is modified accordingly.**

## The Appeal Site

1. The appeal site lies east north east of Sancton Village, to the south east of Dale Road Track. The appeal site is adjacent to other land mapped as open country on the provisional map and the subject of other appeals. The appeal site is described by the appellant as three fields. Two of these fields are steeply sloping. The third field is a small area of level land at the foot of the slope.

## The Main Issue

2. I consider the main issue to be whether the appeal site qualifies, wholly or in part, 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. He submits that the steeply sloping land has been improved by harrowing, weed spraying, fertiliser application and scrub clearance and that the lower level land has been part of an arable rotation until 1988. The

Agency submit that the appeal site is 'down' as described in the Mapping Methodology<sup>1</sup>. The Agency have divided the appeal site into two parts and submit that both these parcels comprise predominantly calcareous grassland with scattered regenerating trees and hawthorn scrub. They recognise that the lower level land is non qualifying but submit that, because there is no adequate boundary between this land and the qualifying land, the whole appeal site should be considered as predominantly qualifying vegetation.

4. 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 December 2004.
5. At the site visit I observed that the appeal site comprised predominantly unimproved grassland and scattered scrub on the sloping land, although part of the higher and flatter land had been scarified. In the parcel identified by the appellant on the lower flat land I observed that this had been scarified recently and lacked any indication of being unimproved grassland. This parcel is partly divided from the sloping land by an old fence, and is clearly separable by the break of slope. In my view the appeal site is generally within an open landscape. I therefore conclude on the main issue that only part of the appeal site qualifies as MMHD as a result of its vegetation and general character.

### **Conclusion**

6. Having regard also to all other matters raised, I conclude that the appeal should be allowed in part.

### **Formal Decision**

7. For the above reasons I hereby allow the appeal in part and, in so far as it relates to the appeal site, approve the provisional map subject to the deletion therefrom of the land shown cross hatched black on the plan attached hereto.



INSPECTOR

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

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Plan showing land to be deleted from the provisional map