



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/04/3166

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

Grid Ref 490574 439500

- 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 E Bayram and Son, and is dated 10 August 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 east of Sancton Village, to the south of Dale Road Track and north of Sancton Reservoir. The appeal site is adjacent to other land mapped as open country on the provisional map and the subject of other appeals.

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 appellants dispute that the appeal site is MMHD. They submit that the appeal site is a relatively small field, which is predominantly covered in shrubs and trees/woodland. The Agency submit that the appeal site is 'down' as described in the Mapping Methodology¹ and comprises predominantly calcareous grassland with scattered and dense regenerating trees and scrub. They rely on a survey conducted on 23 November 2004 which found the site

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

comprised over 50% qualifying habitat, and less than 50% non qualifying habitat of woodland and semi-improved grassland.

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 May and July 2003.
5. At the site visit I observed that the appeal site included a dense area of scrub and trees within the eastern part of the site and some small areas of semi-improved grassland. However, in my view, the vegetation of the appeal site as a whole is predominantly unimproved calcareous grassland and scattered thorn scrub. That is to say that more of the appeal site qualifies as MMHD than does not qualify as semi-improved grassland or woodland. 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

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

Formal Decision

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



INSPECTOR