



Appeal Decision

Site visit undertaken on 9 March 2005

by **P H Bentham-Hill BA 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
11/03/2005

Appeal Ref: CROW/8/M/04/3474

Land at Tun Dale and Frendal Dale, High College Farm, Millington, 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 J Weatherill, and is dated 3 September 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 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 such country, it should not have done so.

Summary of Decision: The appeal is dismissed.

The Appeal Site

1. The appeal site is some 18.46 hectares in extent and lies on the western slopes of Frendal Dale and Tun Dale, to the east of High College Farm; it is divided into two parcels by a post and wire fence.

The Main Issue

2. The main issue in my view is the extent to which the appeal site qualifies as mountain, moor, heath or down (in this case, down) as a result of its vegetation and other surface characteristics and its general character, especially its degree of openness.
3. The Agency has not exercised its discretion under s4(5)(b) of the 2000 Act to treat either the whole or any part of the appeal site which is not open country as forming part of a larger area of such country. This aspect of the statutory ground of appeal is therefore not at issue.

Reasons

4. The appellant states that although the appeal site is within a landscape of chalk and limestone geology, the vegetation consists typically of semi-improved grassland which would be more intensively grazed but for its designation as a Site of Special Scientific Interest. It is not accepted that the site lies within an open landscape as described in the *Mapping Methodology for England* as it is of an enclosed nature and has only linear views of the site itself.
5. The Agency asserts that the appeal site consists predominantly of unimproved calcareous grassland within an area of chalk geology and has an open character with views along and across the valley; as such, it is considered to be correctly classified as down in accord with the *Methodology* and therefore mapped as open country.

6. Having noted the evidence produced by the parties and inspected the appeal site, I am of the view that its predominant vegetation is characteristic of down. Although there is semi-improved grassland along the bottom of the dale and along the top of the steep slope, more than half of the site consists of unimproved grassland with areas of scrub, the latter being particularly evident in the northernmost of the two parcels.
7. The appeal site lies in area of chalk geology which produces an open undulating landscape dissected by dry valleys. Its general character is thus strongly influenced by the surrounding landform and, as part of such a steep-sided dry valley with open views across and along the dale (albeit that these are more limited from its lower slopes), the site is typical of a downland landscape as envisaged by the *Methodology* and accordingly qualifies under the second part of the main issue also.

Other Matters

8. The appellant raises a number of points regarding the accessibility of the appeal site and its relationship to visitor attractions and settlements but these considerations do not fall within the scope of the statutory ground of appeal and have accordingly carried no weight in my decision.

Conclusion

9. Having regard also to all other matters raised, including representations from the Ramblers' Association, I conclude that the appeal site is predominantly down and has been correctly mapped as open country and the appeal should be dismissed accordingly.

Formal Decision

10. For the above reasons, I hereby dismiss the appeal and, in so far as it relates to the appeal site, approve the provisional map without modification.



INSPECTOR