



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/04/3475

Land at Scoar 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 29 hectares in extent and occupies both slopes of Scoar Dale, to the West of High College Farm.

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 maintains that the appeal site consists of semi-improved grassland and, despite being set within a chalk landscape, does not have the necessary open views of undulating countryside that are expected of down.
5. In contrast, the Agency states that predominant vegetation of the appeal site is unimproved calcareous grassland with regenerating trees and scrub. Non-qualifying vegetation in the form of semi-improved grassland and woodland forms less than half of the site which is also considered to have an open character with open vistas along and across the valley in accord with the criteria for down contained in the *Mapping Methodology for England*.
6. Having noted the evidence produced by the parties and inspected the appeal site, I am not persuaded that it contains any significant proportion of semi-improved grassland. Although there are two areas of woodland within the site, they are unfenced and must therefore be

considered as part of the whole. Accordingly, I consider that the predominant vegetation is the semi-natural, unimproved grassland which, with areas of scrub and scattered trees, covers the greater part of the steep slopes of the dale. The appeal site therefore meets the first part of the test implicit in the main issue and qualifies as down in terms of the *Methodology*.

7. The appeal site is set in generally open undulating countryside and, in my view, is itself open in character with long vistas down the length of the dale and shorter views across it. Steep-sided dry valleys such as that containing the appeal site are typical of downland landscapes based on chalk geology, with longer and broader views available only from the upper slopes and more limited views from the lower parts. The lack of open views from all parts of the site is a characteristic recognised by the *Methodology* in its description of down and I do not consider this to be a constraint on the assessment of its general character under the second part of the main issue.

Other Matters

8. The appellant also refers to the lack of access to the appeal site and its relationship to settlements, visitor attractions and public rights of way; however, such matters lie outside the terms of the statutory ground of appeal and have not been taken into account 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