



# Appeal Decision

Hearing held on 7 April 2005

**by Roger Vickers BA (Hons).**

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

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Date  
09 May 2005

**Appeal Ref: CROW/8/M/04/3548**

**Site Address: Land known as School House Dale, near Sledmere, East Yorkshire.**

- This appeal is made under section 6(1) of the Countryside and Rights of Way Act 2000 (the Act) against the above land having been shown on a provisional map as open country.
- The appeal is made by Sir Tatton Sykes and is dated 31 August 2004.
- The provisional map was issued by the Countryside Agency (the Agency) under section 5 of the said 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 Countryside Agency have exercised their discretion under section 4(5) (b) of the 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.**

## Preliminary Matters

1. During the hearing it became apparent that evidence would be most usefully presented at the appeal site. At an appropriate point in the proceedings the hearing was therefore adjourned to continue on site.

## The Appeal Site

2. The appeal site forms a dale, running approximately west to east from an unclassified road between Sledmere and Wetwang. The site has a surface area of something approaching 20 hectares and adjoins woodland on most of its boundaries. Adjoining land is not mapped as open country.

## The Main Issue

3. The main issue is the extent to which the appeal site qualifies as down as a result of its vegetation and general character, including openness. There is no evidence that the Agency have exercised their discretion under section 4(5) (b) of the Act, so the second part of the ground of appeal does not need to be considered.

## Reasons

4. All parties agree that in line with the Agency's published Mapping Methodology for England (the methodology) improved and semi-improved grassland should not be mapped as open country. However, the appellant says that the methodology is not sufficiently robust to differentiate between improved and semi-improved grassland. As a result, the Agency tends to regard improved grassland as semi-improved and semi-improved grassland as unimproved. In response, the Agency and the Ramblers' Association say that it is

unnecessary to make a distinction between the two improved types, as both are non-qualifying and readily recognisable from unimproved grassland.

5. Defra Guidance 3.13 suggests that it is appropriate to use the methodology as a starting point when considering appeals. Paragraph 70, footnote 11 of the methodology suggests that improved and semi-improved grasslands will be less species rich than unimproved grasslands. Paragraph 5.9 of the Access Inspectors Handbook (March 2004), points out that there may be overlaps between improved and semi-improved grassland but that it is not necessary to distinguish between them. Following this advice I make no distinction between improved and semi-improved grassland, but recognise that an appeal site containing a predominance of either or both will not qualify as open country.
6. The appellant suggests that to arrive at a true classification, it is helpful to place semi-improved grassland on a continuum between improved grassland, at one end of a scale, and unimproved flower rich grassland at the other. An ecological and landscape assessment is produced, which describes the appeal site as a long and in parts, steeply sided dale with a short spur running to the south. Artificial fertiliser and herbicides are applied to the site and it is commercially grazed by sheep. The appellant says that this has led to improved grassland along the dale bottom and although the dale sides are less improved and flower rich, these are best described as semi-improved.
7. I saw that level areas along the valley bottom, near to a spur at the eastern end of the site and a fairly level area around the entrance from the road contain a predominance of semi-improved or improved grassland. However, the valley sides form much the greater proportion of the appeal site and these sometimes slope quite steeply. The transition from the vegetation on the level areas to that on the slopes is not always uniform and there are some small patches of non-qualifying vegetation on parts of the sloping land. Despite this the predominant vegetation on the valley sides is unimproved calcareous grassland, with some scattered scrub. I noted that tor grass is very common and quite dense in places but in others is less so and here the vegetation is quite species rich. Adopting the appellants suggested continuum, I reach the conclusion that the vegetation present on the valley sides is much nearer natural and unimproved rather than improved. This finding is broadly consistent with the views of the Agency and the Ramblers' Association. I conclude that much more than a half of the appeal site contains a predominance of qualifying vegetation and that by reason of this it is down.
8. Turning to general character, the appellant acknowledges that the site is within an area of chalk geology, but says that it is entirely enclosed by woodland and that mature trees hang over some of its boundaries. Although it is recognised that isolated higher parts of the site may afford views of surrounding countryside, the appellant says that the overall impression is one of enclosure. I saw that when standing near to the trees these limit views out of the site at that particular point, but they do not interfere with views in other directions. As well as views, stretching for several miles to the west, from the northern valley slope views across and along the valley floor can stretch to around 800 metres. Despite the presence of woodland on much of the site's boundaries, its overall size and the described views provide a sense of openness. This finding is broadly consistent with submissions made by the Agency and the Ramblers' Association and also accords with the open character definition contained in the methodology. I therefore conclude that the appeal site is down by reason of its general character, including openness.

**Conclusion**

9. Having regard to the above and also to all other matters raised, I conclude that by virtue of its vegetation, character and openness, the appeal site is down and correctly shown as open country on the Provisional Map. The appeal therefore fails.

**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. The appeal site is as shown at Annex A within the Agency's statement of case.

 Roger Vickers.

INSPECTOR

**APPEARANCES**

**FOR THE APPELLANT**

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MR P F Till	North Yorkshire Law Bondgate Helmsley YO52 5BS
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Col. A Wilson	Sledmere Estate Office Sledmere, Driffield YO62 5BS
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**FOR THE AGENCY**

Mr A Best	Appeals Officer Countryside Agency 1 Redcliff Street Bristol BS1 6NP
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**THE RAMBLERS' ASSOCIATION**

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**DOCUMENTS**

Document 1.	List of persons present at hearing.
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