



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
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date
11/03/2005

Appeal Ref: CROW/8/M/04/3476

Land at Towthorpe Dale, Towthorpe, 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 about 9 hectares in extent and lies on the southern slope of Towthorpe Dale, to the north-east of Towthorpe.

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 contends that whilst the surrounding landscape is of chalk geology, the typical vegetation type of the appeal site is semi-improved grassland. Were it not for its inclusion in a Countryside Stewardship Agreement, the site would be more intensively grazed and managed. It is also claimed that the appeal site is incorrectly mapped as being within an open landscape since it has no views of undulating countryside but only linear views of the site itself.
5. The Agency submits that the vegetation of the appeal site is predominantly unimproved calcareous grassland with scattered regenerating trees and that it is generally of an open character, having good views from the top of the slope. Accordingly, it meets the criteria for classification as down contained in the *Mapping Methodology for England*.

6. Having noted the evidence produced by the parties and inspected the appeal site, I consider that the predominant vegetation is unimproved grassland, as claimed by the Agency. There is a wide belt of semi-improved grassland along the bottom of the dale but it forms distinctly less than half of the site's area. Accordingly, in terms of its vegetation, I find that the appeal site qualifies as down as described in the *Methodology*.
7. The general character of the appeal site is strongly influenced by the chalk geology of the area which produces an open undulating landscape typified by steep-sided dry valleys such as Towthorpe Dale. Whilst I note that extensive views are available to the west, north and east from the southern boundary of the appeal site, these are obviously more constrained lower down the slope where they are confined to limited views along the dale. This, however, is not untypical of a downland landscape and is a situation clearly envisaged in the *Methodology's* criteria for down. Consequently, I consider that the general character of the appeal site satisfies the second part of the main issue and qualifies it as down.

Other Matters

8. The appellant also claims that the Agency did not, in a number of respects, apply the *Methodology* correctly at the draft stage. However, except insofar as these matters impinge on the main issue, they do not fall within the scope of the statutory ground of appeal and have thus 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