



Appeal Decision

Site visit made on 6 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
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Appeal Ref: CROW/8/M/04/3494

Site Address: Land known as Oxlands Dale, near Huggate, 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 Mr P J Finn and is dated 1 September 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.

The Appeal Site

1. The appeal site consists of two land parcels which are approximately equal in size. One parcel, Oxlands Dale runs from the south-east towards the north-west where it adjoins land known locally as Big Dale, which turns south-west and terminates in a narrow valley point just to the east of Huggate village.

The Main Issue

2. The main issue is the extent to which the appeal site qualifies as down as 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

3. The appellant says that to be classed as open country the appeal site must consist wholly or predominantly of mountain, moor, heath or down and the enclosed nature of the appeal site prevents it qualifying under any of these categories.
4. The appellant provides no evidence as to the vegetation present on the appeal site, other than to point out that since 1994, in order to enhance its habitat and conservation value, the site has been managed under the Countryside Stewardship scheme. I saw areas of semi-improved grassland along the valley floors of each parcel, along a plateau near to the south west of Oxlands Dale and at the narrow south-western end of Big Dale. However, more steeply sloping ground accounts for the larger part of both dales and although I noted

isolated amounts of clover and other occasional signs of improvement on the valley sides, these are dominated by unimproved calcareous grassland and patches of tussocky tor grass. This finding is broadly consistent with the views of the Agency and the Ramblers' Association, and also accords with the description of down contained within the Agency's published Mapping Methodology for England (the methodology). I conclude that very much more than a half of the appeal site contains a predominance of qualifying vegetation and that by reason of this it is down.

5. Turning to general character, the appellants suggest that the appeal site is enclosed. I saw that although the sites boundaries are marked by well maintained fencing, given its size and topography, these do not detract from a sense of openness. The site forms a part of a typical limestone landscape and views are sometimes restricted by steeply sloping valley sides or adjacent woodland. However, other views are available along the valley bottoms, while the higher parts of the site and areas nearest to Huggate Village afford views which sometimes stretch for many miles across undulating countryside. This finding is broadly consistent with the views of 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.

Other Matters

6. The appellant says that the area of the appeal site is well served by public footpaths and that public access onto the appeal site as a whole would be detrimental to land management and its use for the training of racehorses. He also suggests that training racehorses and shooting activity on the land may present a danger to the public when exercising access rights. These matters do not provide a relevant ground of appeal and I have not considered them in reaching my decision. However, provision is made elsewhere in the Act that may address the appellants concerns.

Conclusion

7. 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

8. 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.



INSPECTOR