

**1Third Party Submission: PINS Ref. CROW/5/M/04/ 2480 Back Warren Dale
RA Ref. 8 Hanging Grimston Wold & Deep Dale**

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1 Introduction

This submission is made on behalf of the Ramblers' Association (RA) in the interests of those who wish to exercise the right to enter and remain on access land for the purposes of open air recreation as conferred by the Countryside and Rights of Way Act 2000 (CROW).

The submission seeks to prove that the site qualifies as 'down' under the terms of the CROW Act and that the appeal is invalid.

2 Methodology

2.1 Botanical evidence: the botanical evidence consists of an analysis of historical survey data which was supplemented by site visits by a team of specially trained volunteers. The basis for this analysis is fully described in Annexe A, 'Habitat classification systems and data sets used'. All the submissions were edited by Sonia Donaghy BSc and Tom Halstead BA DPhil.

2.2 Geological evidence: we have cited the National Landscape Typology Definitive Attributes Survey (taken from www.magic.gov.uk) as geological proof of the calcareous nature of the underlying soil where it applies to the site being submitted.

2.3 Topographical evidence: we have described the topography of the site as observed from the site visits and in many cases have submitted photographs to support our view that the area does qualify as

‘open country’. We have also cited countryside stewardship agreements and archaeological evidence where appropriate.

2.4 **Previously submitted** evidence: much of the evidence referred to above was submitted to the Countryside Agency (CA) at the Draft Map stage. Where this is the case, we have simply summarised the main points in this submission as we understand that the CA will have sent copies of all such evidence to the inspector.

3 Comments on the Grounds of Appeal

We disagree with the appellant’s Grounds of Appeal and make the following comments:

3.1 **Ground 1: ‘...the vegetative cover indicates that less than 50% of the area can be classified as down.’**

3.1.1 The Habitat map provided by Dr McLellan appears to give detailed information, but the source of the data and when they were collected is not stated. It seems unlikely that Dr McLellan could have drawn this on the basis of observations made on a walk-through inspection of the site in January.

3.1.2 General description. Since the upper part of the dale is a dry valley, the description ‘...coming down into a flood plain area...’ is inappropriate. The wet area is fed by springs.

3.1.3 Compartment I. The presence of an assortment of grassland species is characteristic of unimproved grassland. Of the 16 species listed by Dr McLellan, 11 occur in one or more NVC communities CG2, CG3, CG4, CG7, and 3 (*Poa annua*, *Poa trivialis*, *Rumex obtusifolium*, *Juncus effusus* and *Juncus inflexus*) in MG 5 [1]. The NVC communities CG2, CG3, CG4, CG7 and MG5 (when associated with CG) are communities characteristic of downland in the Yorkshire Wolds [2a,3]. Ponds are an associated vegetation type of downland [2b]. We think that this compartment should be classified as predominantly unimproved calcareous grassland.

3.1.4 Compartment II. We agree with Dr McLellan that this compartment is unimproved calcareous grassland.

3.1.5 Compartment IV. Scattered hawthorn (*Crataegus monogyna*) is a primary vegetation type of downland [2b]. We think that this compartment should be classified as predominantly unimproved calcareous grassland.

3.1.6 Compartment III. Of the 10 species listed by Dr McLellan, all except *Ranunculus ficaria* occur in one or more NVC communities CG2, CG3, CG4, CG7 and MG 5, communities characteristic of downland in the Yorkshire Wolds [2a,3]. We think that this compartment should be classified as predominantly unimproved calcareous grassland.

3.1.7 The land subject to appeal comprises one parcel, but it is convenient to divide it into two areas, A and B, as shown on Figs.1 and 2. The area marked C is not under appeal.

3.1.8 Two photographs (Fig. 2a & b) taken in April 2003 show the vegetative cover on part of A. This area comprises Compartments I, II, III and IV and on the basis of the botanical evidence discussed above (3.1.4 - 3.1.6) we think that it is predominantly unimproved calcareous grassland with scattered scrub. This is supported by the aerial photograph (Fig.1b), which suggests that this area is similar in appearance to the area C, which is mapped as open country.

3.1.9 Area B comprising Compartments I and IV is less species-diverse but, on the basis of the botanical evidence discussed above (3.1.4 - 3.1.6) we think that it is more akin to unimproved grassland than improved. This is supported by the photograph (Fig.1c) and by the aerial photograph (Fig.1b), which suggest that this area is similar in appearance to the area A,

3.1.10 The appeal site forms part of a wider area, including Deep Dale and Hanging Grimston Dale, that is predominantly down.

3.2 Ground 2: ‘...the land parcel is not of open character, being a steep-sided area surrounded by arable land’.

3.2.1 The description of down given in MME [3] is as follows: “In describing down as being ‘generally within an open landscape’ we mean that, whilst individual land parcels might comprise enclosures of varying size, they will be part of a typical chalk or limestone landscape, sometimes with open vistas across undulating countryside and sometimes comprising steep-sided ‘scarp’ slopes and dry valleys with more limited views.”

3.2.2 A recent photograph (Fig.1c), taken in May 2004 from the south-facing side of the dale, shows the site is steep-sided valley. Two other photographs (Fig.2) taken in April 2003 from the top of area A also show the open character of the site and also the vista to the west over the Vale of York. We think that the visual characteristics of the site satisfy the criteria for openness described above (see 3.2.1).

3.3 **Summary.** The Agency’s criteria for identifying Down include (a) the equivalence of ‘down’ to ‘unimproved calcareous grassland’, which in the Yorkshire Wolds particularly is represented by the NVC communities CG2, CG3, CG4, CG5, CG7 and MG5 (where it occurs in mosaics with CG communities), and (b) the recognition of the Yorkshire Wolds as being part of the English downland. We think that the information we have provided previously [4] and the additional information provided by us and Dr McLellan indicate that these criteria are satisfied for this area.

References

- [1] British Plant Communities, Vol 3, J.S. Rodwell (Ed.) CUP, 1992.
- [2] Access Inspectors’ Handbook, (a) Annexe 5.4.2, (b) Annexe 5.4.7.1.
- [3] A Survey of Chalk Grassland in Humberside and North Yorkshire, England Field Unit, Project 30, 1985.
- [3] Mapping Methodology for England, Countryside Agency, (revised) July 2002.
- [4] RA’s Comments on the Draft Map, Ref. 8, Hanging Grimston Wold and Deep Dale, June 2003.

4 Conclusion

We therefore conclude the Countryside Agency has correctly mapped the area as open country on the Provisional Map.