

1Third Party Submission: PINS Ref. CROW/5/M/04/ 2401 Fairy Dale

RA Ref. 14 area A Burdale

Case Officer: Shelley Hicks

**From: Martin Biggs
Area Access Officer
East Yorkshire & Derwent Area of the
Ramblers' Association Wynstow
7 Caedmon Close
York YO31 1HS
Tel 01904 42407**

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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: ‘From an ecological viewpoint, the site fails to meet the CA’s downland criteria since we are advised by our Ecologist Dr McLellan... that the site comprises non-qualifying, semi-improved grassland, woodland, a quarry feature and a garden predominantly.’

3.1.1 Previous Ecological Information. Dr McLellan does not identify the source of the survey supplied by the North East Yorkshire Ecological Data Centre, nor does he differentiate between information obtained from the 1999 report and that from his walk-over inspection of the site in January 2004. Fairy Dale and Burdale Quarry were surveyed in late July 1999 as a Site of Importance for Nature Conservation (SINC) by Martin Hammond (Bullen Consultants, Bradford). In the BioDAT report of this survey [1], of the 36.6 ha, 17.5 ha were classified as semi-improved grassland and 16.1 ha as unimproved, therefore it is incorrect for Dr McLellan to claim that “most of the site [was mapped] as semi-improved grassland. The report does state that “Parts of Fairy Dale have evidently received some agricultural improvement, with fairly species-poor swards of *Arrhenatherum elatius* and *Brachypodium pinnatum*”, but both these grasses occur in the NVC community CG2, and are thus indicative of unimproved calcareous grassland [2,3]. Other communities identified included: CG4 and CG7.

3.1.2 Compartment I. (Figs.1, 2a & 2c) The BioDAT citation [1] states that the quarry contains species-rich grassland with *Sanguisorba minor*, *Thymus praecox*, *Carlina vulgaris*, *Brachypodium pinnatum*, *Briza media* and *Festuca ovina*. The phrase ‘true unimproved grassland’ does not appear in the Act and MME [4] makes clear that the key consideration is the current composition of the grassland rather than the extent of disturbance in the past. The area of Burdale Warren adjoining (above) the quarry appeared to be set-aside and had been recolonised by *Primula veris*, *Gentianella amarella*, *Cirsium eriophorum* and *Brachypodium pinnatum*, all calcicolous indicator species. It is shown as calcareous grassland on the Phase I map. We think that, except for the area marked W on Fig.1a, Compartment I should be classified as predominantly unimproved calcareous grassland.

3.1.3 Compartment II. (Figs.1, 2a & 2c) In the Phase I Survey, location 5 (see Fig.1) was described as “steeply-sloping calcareous grassland”. The Phase II Survey [5] recorded 5 indicator species for quadrat Q133 (Fig. 1): *Campanula glomerata*, *Galium verum*, *Leontodon hispidus*, *Linum catharticum* and *Thymus praecox* and assigned it to CG7a.. The sward was classified as partly CG2. Photographs taken on 15 May 2004 (Figs 2a and c) and the aerial photograph (Fig.1b) show the presence of scattered scrub. We think that Compartment II should be classified as predominantly unimproved calcareous grassland.

3.1.4 Compartment III. (Figs.1, 2b & 2c) In the BioDAT citation [1] this area is described as “[having] a representative chalk grassland flora including *Helianthemum nummularium*, *Sanguisorba minor*, *Filipendula vulgaris*, *Scabiosa columbaria*, *Leontodon hispidus*, *Carlina*

vulgaris and *Briza media*.” We think that Compartment III should be classified as predominantly unimproved calcareous grassland.

3.1.5 Compartment IV. (Figs.1, 2b & 2c) All of the species listed by the appellant as found on the northwest facing slope occur in one or more of the NAC communities CG2, CG3, CG4 and CG7, which are communities characteristic of downland in the Yorkshire Wolds [3,5].

3.1.6 The photograph taken on 15 May 2004 (Fig. 2b) and the aerial photograph (Fig.1b) show no significant difference in the appearance of the swards of the southeast and northwest facing slopes. We think that Compartment IV should be classified as predominantly unimproved calcareous grassland.

3.1.7 Previous Management. Until recently, for several years the dale, except the former quarry, was subject to a Countryside Stewardship Scheme Agreement (Chalk and Limestone). This suggests that the site should be more akin to unimproved than improved calcareous grassland, because the specific objectives for these agreements include: conserve grassland and archaeological sites by adjusting grazing or scrub control; return cultivated areas to downland, especially where linked to existing grassland or to protect archaeology; create new access to open downland [6].

3.2 Ground 2: ‘The site is also non eligible in that it borders the walls of a dwelling house.’

We have no comment to make.

4 **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 part of the English downland. We think, on the basis of the information we have provided previously [7] and the additional information provided by us and Dr McLellan, that this area (apart from the small area W) qualifies as down as a result of its vegetation, which is predominantly unimproved calcareous grassland, and its degree of openness.

References

- [1] Biological Database & Information Management System (BioDAT), 1999-2000, Heritage Unit, Environmental Service, North Yorkshire County Council.
- [2] British Plant Communities, Vol 3, J.S. Rodwell (Ed.) CUP, 1992.
- [3] Access Inspectors’ Handbook, Annexe 5.4.2.
- [4] Mapping Methodology for England, Countryside Agency, (revised) July 2002.
- [5] A Survey of Chalk Grassland in Humberside and North Yorkshire, England Field Unit, Project 30, 1985.
- [6] DEFRA Topic Report on Calcareous Grassland Agreements, C Short, June 1999. .
- [7] Ramblers’ Association’s comments on the draft map, Map 14A, Burdale: Fairy Dale, June 2003.

5 Conclusion

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