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**Third Party Submission:** PINS Ref. CROW/5/M/04/ 2347 Nine Springs Dale

**RA Ref. 12 areas A & B Nine Springs 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](http://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, which is:

**Ground** ‘The appeal site consists predominantly of improved or semi-improved grassland and accordingly does not qualify as open country MMHD ....’

#### 3.1 Compartment 1

3.1.1 Southern section. The species recorded by Dr McLellan, in his report enclosed with the appeal, included: *Arrhenatherum elatius*, *Dactylis glomerata*, *Cirsium arvense*, *Agrostis stolonifera*, *Cynosurus cristatus* and *Deschampsia cespitosa*. These occur in one or more of the NVC communities: CG2, CG3, CG4, CG7 and MG5 [1], i.e. in both calcicolous and some neutral (mesotrophic) grasslands. The Inspectors’ Handbook [2a] states that these communities are characteristic of unimproved calcareous grassland. A view of the northwestern fork of the dale is shown in the photograph in Fig.1c.

3.1.2 Mid section. *Festuca ovina*, *F. rubra* and *Agrostis stolonifera* occur in one or more of CG2, CG3, CG4, CG7 and MG5 [1]. In order to support his claim that the grassland is semi-improved, Dr McLellan would need to provide evidence that the abundance of *Lolium perenne* (rye grass) was greater than 25% [2b], which he does not.

3.1.3 Northern section. Dr McLellan states that this ‘shows calcareous characteristics’. In addition to the 7 calcicolous grasses recorded in the other sections, he also records *Brachypodium pinnatum*, which only occurs in calcareous grasslands CG2, CG2 and CG4 [1] but not neutral grasslands, and which is listed as a ‘key plant indicator species’ for downland in England [2c]. The mosses: *Rhytidiadelphus triquetrus* and *Homalothecium lutescens* are characteristic of the chalk grassland communities CG2, CG3 and CG7. *R. triquetrus* does occur in the calcifugous communities U4, U13, U14, U15 and U17 but *H. lutescens* I does not [1]. In any case, no calcifugous communities were recorded in the Phase II Survey for the Yorkshire Wolds [3].

3.1.4 Aerial photograph. This suggests that the area is similar to compartment 2 and is unimproved grassland.

3.1.5 In summary, we think that compartment I should be classified as predominantly unimproved calcareous grassland.

## 3.2      **Compartment 2.**

3.2.1      We agree with Dr McLelland's conclusion that this compartment should be classified as wholly unimproved calcareous grassland.

3.2.2      Openness. The view of the eastern bank is shown in the photograph in Fig.1d. From the higher parts, along the eastern edge of the dale, there is a view down the valley and a more distant one over typical Yorkshire Wolds chalkland. The description of down given in MME [5] 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." We think that the visual appearance of this area is consistent with this description.

3.2.3      Previous Management. The botanical evidence suggests that, despite the application of fertilizer up to 1998, the current composition of the grassland in is more akin to unimproved grassland than improved.

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, on the basis of the information we have provided previously [4] and the additional information provided by us and Dr McLellan, that this whole area qualifies as 'down' as a result of its vegetation, which is predominantly unimproved calcareous grassland, and its degree of openness.

## **References**

- [1] British Plant Communities, Vol 3, J.S. Rodwell (Ed.) CUP, 1992.
- [2] Inspectors' Handbook, (a) Annexe 5.4.2, (b) Annexe 5.4.3, (c) Annexe 5.4.7.3.
- [3] A Survey of Chalk Grassland in Humberside and North Yorkshire, England Field Unit, Project 30, M J Wiggington (Coordinator), 1985.
- [4] Ramblers' Association's Comments on the Draft Map, Ref.12, areas A & B, Nine Springs Dale, June 2003.
- [5] Mapping Methodology for England, Countryside Agency, (revised) July 2002.

## **4 Conclusion**

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