

**1Third Party Submission: PINS Ref. CROW/5/M/04/ 2483 South Breckenholme Dale**

**RA Ref. 22 areas E & F Thixendale: South**

**Case Officer: Garry Thompson**

**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](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 and make the following comments:

#### 3.1 **Ground 1: '...the vegetation cover indicates that less than 50% of the area can be classified as down'**

3.1.1 **Compartment I:** (Figs.2b,c,d) Unimproved calcareous grassland, which is equivalent to Down, is defined by the Agency [1a] as the NVC communities CG1, **CG2, CG3, CG4, CG5**, CG6, **CG7**, CG8, CG9 and sometimes MG1, **MG5** or MG6, when these occur in mosaics with CG communities (communities occurring in calcareous grassland in the Yorkshire Wolds are boldface [2]). According to the Index of Species in Grasslands and Montane Communities, given in British Plant Communities (vol3)[3], the species found by Dr McLelland: *Agrostis stolonifera*, *A. capillaris*, *Holcus lanatus*, *Festuca rubra*, *Cirium arvense* and *Lolium perenne* occur in the communities CG2, CG3, CG4 and MG5, *Deschampsia cespitosa* in CG2 and MG5, *Poa trivialis* in MG6 and *P. annua* in MG5. Any calcicolous herbs would have been difficult to recognize on a walk-over in January. The presence of such a range of grass species is an indication of the naturalness of the sward. If the sward were semi-improved, between 25 and 50% of the cover would be expected to be rye grass (*Lolium perenne*) [1b]

3.1.2 **Compartment II:** (Fig.2a) The description given by Dr McLelland 'a mass of tor grass *Brachypodium pinnatum* ... with occasional hawthorn scrub and some sheep's fescue *Festuca ovina*' strongly suggests that this is the '*Brachypodium pinnatum* grassland' CG4 [3]. This community includes all swards in which *B. pinnatum* exceeds 10% cover. It occurs in zonation that reflect seral changes related to grazing intensity and it is very characteristic of the Chalk of the Yorkshire Wolds [3].

3.1.3 **Countryside Stewardship Scheme:** There has been no fertilization for 10 years and for most of that time the site has been in Countryside Stewardship. This suggests that the site should be more akin to unimproved than improved calcareous grassland, because 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 [4].

#### 3.2 **Ground 2: 'the land parcel is not an open character, being a steep sided area surrounded by arable land.'**

3.2.1 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 site (Figs.2a-d) is consistent with this description. Further support for this assertion is to be found on the entry for the Yorkshire Wolds on English Nature’s website, which states ‘the major concentrations of chalk grasslands are in the karst valleys...around Thixendale.’

3.2.2 The fact that the dale is surrounded by arable land is irrelevant. The site is a contiguous part of an extensive complex of dry, calcareous grassland valleys

**4 Summary:** We think that on the basis of the information we have provided previously [6] and the additional information provided by Dr McLellan, 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] Inspectors’ Handbook, (a) Annexe 5.4.2, (b) Annexe 5.4.3.
- [2] A Survey of Chalk Grassland in Humberside and North Yorkshire, England Field Unit, Project 30, M J Wiggington (coord.), 1985.
- [3] British Plant Communities, Vol 3, J.S. Rodwell (ed.) CUP, 1992.
- [4] DEFRA Topic Report on Calcareous Grassland Agreements, C Short, June 1999.
- [5] Mapping Methodology for England, Countryside Agency, (revised) July 2002.
- [6] Ramblers’ Association’s comments on the draft map, Map 22, areas C&D, Thixendale: South, June 2003.