

Third Party Submission: PINS Ref. CROW/5/M/04/ 2400 Whay Dale

RA Ref. 14 area C Burdale

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Date : 15 June 2004

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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 entirely comprises improved or semi-improved grassland.’

3.1.1 We note that the appellant does not challenge the CA’s criteria for recognising down.

3.1.2 Previous Ecological Information. The information referred to by Dr McLellan is presumably the Phase I survey. The target notes for locations 11 and 12 (Fig.1a) describe the dale as a steep-sided valley. There was no Phase II Survey.

3.1.3 Compartment I. It is not clear whether the botanical information provided by Dr McLellan refers to observations made by him during his ‘walk-over’ inspection of the site or is historical. Grasslands are difficult to classify because many of the species can only be identified in early summer. The dominant species, *Brachypodium pinnatum*, occurs only in the NVC communities CG2, CG3 and CG4, *Crataegus monogyna* only in CG3 and CG4 [1]. *Thymus sp* and *Sanguisorba minor* are indicator species for calcareous grassland [2,3]. The other species: *Deschampsia cespitosa*, *Festuca ovina*, *Dactylis glomerata*, *Agrostis capillaris* and *Cirsium arvense* occur in one or more of CG2, CG3, CG4, CG7 and MG5, which are communities characteristic of downland in the Yorkshire Wolds [1, 2]. We think that this compartment should be classified as predominantly unimproved calcareous grassland.

3.1.4 Compartment II. When Dr McLellan visited the site in January 2004 it is highly likely that more calcicolous species were present in the area, which he has classified as semi-improved neutral grassland, than he has recorded. He found *Brachypodium pinnatum*, *Arrhenatherum elatius*, *Festuca ovina*, *Dactylis glomerata*, *Agrostis capillaris* and *Cirsium arvense*, which occur in one or more of CG2, CG3, CG4, CG7 and MG5, which are communities characteristic of downland in the Yorkshire Wolds [1,2]. In the Phase I Survey, location 5 (see Fig.1a) was described as “steeply-sloping calcareous grassland”. The Phase II Survey recorded 5 indicator species for quadrat Q133 (Fig. 1a): *Campanula glomerata*, *Galium verum*, *Leontodon hispidus*, *Linum catharticum* and *Thymus praecox* and assigned it to CG7a. The sward was classified as partly CG2. The photograph taken on 15 May 04 (Fig.1c) shows the presence of scattered scrub. We think that this compartment should be classified as predominantly unimproved calcareous grassland.

3.1.5 Previous Management. The fact that the whole of the site has been subject to a Countryside Stewardship (Chalk and Limestone) agreement for 11 years suggests that the site is now 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 [4].

3.2 Ground 2: ‘The site is also fully enclosed and is therefore not open country’

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.’ The photograph taken in May 2004 (Fig 1c) shows the steep-sided scarp slopes and the sheltered, dry valley. We think that the visual characteristics of the site fulfill the criteria for openness.

3.3 Ground 3: ‘The site boundary on the west is within 20 metres of housing.’

We have no comment to make.

3.4 **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 being part of the English downland. We think that the information we have provided previously [6] and the additional information provided by us and Dr McLellan indicates that this 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] A Survey of Chalk Grassland in Humberside and North Yorkshire, England Field Unit, Project 30, 1985.
- [3] Access Inspectors’ Handbook, Annexe 5.4.7.3.
- [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, Ref.14, area C, Burdale: Whay Dale, June 2003.

4 Conclusion

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