

Submission : PINS Ref. CROW/8/M/04/ 3449 Brubberdale Hill

Case Officer : Dan O'Brien

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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 the document entitled "Habitat classification systems and data sets used". We have supplied Jenny Tynan at the PINS office with an electronic copy of this document and she has undertaken to produce and distribute copies to each inspector and all the parties to an appeal where we have submitted evidence.
- 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 wherever this was possible 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.

The inspector should have the following documents in relation to this appeal, under the heading

RA Map 8 Brubberdale (area E)

- 1 A submission form containing the text setting out the evidence for the inclusion of the site on the map.
2. A map identifying the site marked with references to the text.
3. An aerial photograph of the site.
4. A map showing the extent of such features as the Grassland Inventory and Countryside Stewardship Agreements where these apply to the site (taken from www.magic.gov.uk)

3 Comments on the Grounds of Appeal

We disagree with the appellant’s following grounds of appeal:

3.1 Ground 1

The vegetation is not consistent with the definition of MMHD in MME.

The vegetation of this site is predominantly unimproved calcareous grassland (see details in paragraph 3.2). The Countryside Agency (CA) identifies unimproved calcareous grassland as ‘down’.

3.2 Ground 3

The site is predominantly improved and semi-improved grassland.

The Phase II Habitat Survey [3] shows the area to be unimproved calcareous grassland supporting National Vegetation Classification (NVC) communities CG2 and CG4 (see previous RA submission 8 for details). Of the herbs recorded 4 are indicator species: fairy flax *Linum catharticum*, salad burnet *Sanguisorba minor*, lady’s bedstraw *Galium verum* and bulbous buttercup *Ranunculus bulbosus*. Additionally, crested hair-grass *Koeleria macrantha*, quaking grass *Briza media*, yellow oat-grass *Trisetum flavescens*, downy oat-grass *Helictotrichon pubescens*, red fescue *Festuca rubra* and sheep’s fescue *F. ovina*, grasses which are typical of calcareous grassland, are recorded. The

Inspectors' Handbook [2a] states that some of these species are characteristic of unimproved calcareous grassland.

During a visit to the site in December 2004, ant hills and tussocks of tor grass *Brachypodium pinnatum* were seen on the steeper slopes of the dale. Tor grass is present on many unimproved dale sides in the Yorkshire Wolds and together with the ant hills indicates unimproved calcareous grassland.

3.3 Ground 4

The site does not have the general characteristics of 'open country'.

There are extensive views both up and down the dale from this site which complies with the description of 'down' given in the CA's Mapping Methodology (revised July 2002) which 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 have enclosed photographic evidence to support our view that the area does have the general characteristics of 'open country'

3.4 Summary

The CA'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)
- (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 here, this area qualifies as 'down' because its vegetation is predominantly unimproved calcareous grassland, and it can be described as open country.

3.5 Conclusion

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

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 .8 area E Brubberdale,

October 2003.

[5] Mapping Methodology for England, Countryside Agency, (revised) July 2002.