

**Submission :** PINS Ref. CROW/8/M/04/3518 Deep Dale 1 (S of Cot Nab Farm)

**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](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 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 12 Bishop Wilton Wold (Area C and Area D)**

- 1 A submission form containing the text setting out the evidence for the inclusion of the site on the map.
- 2 A species list of grasses and herbs indicating the nature of the grassland
- 3 A map identifying the site marked with references to the text.
- 4 An aerial photograph of the site.
- 5 A map showing the extent of such features as the Grassland Inventory, SSSI's and Countryside Stewardship Agreements where these apply to the site (taken from [www.magic.gov.uk](http://www.magic.gov.uk))

**3 Comments on the Grounds of Appeal**

We disagree with the appellant's ground of appeal, which is:

**3.1 Ground** "... the appeal site consists predominantly of semi-improved and improved grassland which are non-qualifying vegetation types. Accordingly, this site fails the definition of Open Country set out within Section 1(2) of the CROW Act 2000."

**3.2 Comment** The appellant's contention that the site is predominantly semi-improved and improved grassland is based on the evidence of a vegetation survey, which he intends to submit at a later stage. Unfortunately the appeal timetable does not permit us to view this evidence prior to the deadline for presenting this submission. We therefore wish to give notice that we would hope to have the opportunity to comment on this survey at the hearing.

This site is a steep sided W facing valley to the northern end of the partly forested Deep Dale complex. A PROW runs along the top of the S side of the area before descending into the valley bottom. It affords extensive views.

Our current view, detailed in the evidence submitted at the draft map stage and referred to above, is based on

- (i) The Phase II Habitat Survey for the area records an extremely rich diversity of grasses and herbs of which 17 were calcicolous indicator species. The swards correspond to NVC CG4a/b which point clearly to the area being unimproved calcareous grassland.
- (ii) The whole site being part of the Bishop Wilton Deep Dale SSSI (1001357) the citation (1956 revised 1986 to exclude some plantations) for which provides much

added information on the diversity of species present. The Views about Management statement for this site (5 May 2003) from English Nature (EN) requires it to remain agriculturally unimproved and also specifies activities which need notification to EN. There is also an EN statement of Operations Likely to Damage the site which include application of fertilizer, herbicides or pesticides except to control weed species such as nettle, ragwort and gorse. The site was visited by English Nature in August 2003.

(iii) An aerial photographs taken in 2000.

(iv) The existence of a current Countryside Stewardship Agreement (Chalk and Limestone), since at least 1994, covering the southern part of the site. The existence of the agreement makes it likely that the site is more akin to unimproved than improved grassland because the specific objectives of such agreements include adjusting grazing and scrub control to conserve grassland and to return cultivated areas to downland.

(v) The site complies precisely with the description of the open character of 'down' as given in the Countryside Agency's Mapping Methodology (revised July 2002) being part of a steep-sided dale typical of the Yorkshire Wolds. This is clearly shown in the attached photographic view taken from the nearby PROW (3 Jan 2005)

(vi) Viewed from the S side of the site on 3 Jan 2005 almost all of the area, although grazed by sheep, is clearly unimproved.

We consider, on the evidence available to us, that the area is predominantly unimproved calcareous grassland.

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### **3.3 Conclusion**

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