

Submission: PINS Ref. CROW/6/M/04/ 3491 Millington Pasture

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4 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.

5 Methodology

5.1 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 the PINS office with an electronic copy of this document and they have undertaken to produce and distribute copies to each inspector and all the parties to an appeal where we have submitted evidence.

5.2 Geological evidence: we have cited the National Landscape Typology Definitive Attributes Survey (Magic 2004) as geological proof of the calcareous nature of the

underlying soil where it applies to the site being submitted whenever this was possible.

5.3 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’.

5.4 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 19 Millington Dale, Areas A, B, D, F, G, H, K, L, M & N”.

5.4.1 A submission form containing the text setting out the evidence for the inclusion of the site on the map.

5.4.2 A list of grasses and indicator species used to classify the grassland, taken from the Phase II Habitat survey (Wiggington 1985).

5.4.3 A map identifying the site marked with references to the text.

5.4.4 An aerial photograph of the site taken during the summer of 2000..

5.4.5 A map showing the extent of land mapped as a Site of Special Scientific Interest and the area included in the Grassland Inventory, taken from the Magic website (Magic).

6 Comments on the Ground of Appeal

Ground: “Most of the sites are predominantly semi-improved or improved grassland” and “the sites do not have the aspect of open country”

6.1 We disagree with the appellant’s ground of appeal, and consider that the land predominantly comprises semi_natural (unimproved) grassland in an area of chalk geology within an open landscape.

General Character

6.2 The appeal sites (see Fig.1) are part of the complex of valleys north of the village of Millington. These dales are of both geological and biological interest comprising an exceptionally fine system of deeply incised dry valleys in the chalk karst of the Yorkshire Wolds. As described in the SSSI citation (SSSI 1986), dry valleys are a major feature of the chalk karst, and this system is the finest in England being deeply cut, branching, undisturbed and complete in a small area. Head deposits and slope morphologies are well preserved and there is a complex of springs at the valley foot. Much of the valley system is occupied by unimproved chalk grassland exhibiting a range of community types on the varying slopes and aspects. The boundaries of the SSSI are shown in Fig.4.

6.3 The sites' steep valley slope topography is typical of the Yorkshire Wolds' chalk landscape and extensive views are available from the sites themselves across undulating countryside and along the valleys (see Figs.5&6). We think that this complies precisely with the description of the open character of down given in MME (2002, paragraph 68, footnote 10).

6.4 The appeal site forms an integral part of a larger area of land which consists wholly or predominantly of MMHD (in this case down).

Vegetation cover

6.5 The appellant's view, based on evidence that we have not seen, is that none of the sites' cover is qualifying cover for down. We consider the grasslands on the sites are more correctly classified as unimproved (predominantly calcareous) grassland, based on Phase II habitat survey data (Wigginton 1985) and the SSSI citation (SSSI 1986). The underlying geology is chalk.

6.6 All the sites are mapped in the grassland inventory (Magic 2004) (see Fig.3), which indicates that they were surveyed as part of the Survey of Chalk Grassland in Humberside and North Yorkshire (Wigginton 1985). In this Phase II habitat survey, the species were recorded in quadrats Q159-176 at locations in the appellant's sites 1, 2, 3 & 6, shown in Fig.3, and analysis of the data showed that the vegetation corresponded at each location to either CG2 or CG4. Both of these communities are listed in the AIH (2004, Annexe 5.4.2) as being characteristic of unimproved calcareous grassland.

6.7 The Phase II habitat survey (Wigginton 1985) also listed the number of herbs, grasses and calcicolous indicator species used in the survey. The data corresponding to each of the appellant's sites are shown in Table 1.

6.8 In the "Guidance Notes for MMHD" (AIH 2004, Annexe 5.4) section 7.3 tabulates the "Key Plant Indicator Species for Downland in England". Of the 20 species listed, only 11 were reported for the whole of the Yorkshire Wolds in the Phase II habitat survey (these form a subset of the indicator species used in that survey) (Wigginton 1985, section 6.4.3). All, except 2, of these key indicator species were found in the appeal sites 1-3 by the Phase II habitat survey and the details are given in Table 2.

6.9 Although no species-specific information for the appeal sites 4-9 was provided in the Phase II habitat survey, site 4 was found to contain 25 herbs, 12 grasses and 1 indicator species; site 5, 23 herbs, 11 grasses and 9 indicator species; site 6, 38 herbs, 15 grasses and 11 indicator species (Wigginton 1985, Table 14). No data was recorded for the small sites 7-8.

6.9.1 *Brachypodium pinnatum* tor-grass was recorded in the Phase II habitat survey in sites 1 and 3 and probably occurs in parts of the other sites. An argument advanced at appeal hearings in mapping Region 5 was that the presence of tor-grass was due to

historic agricultural improvement. This argument was, however, rejected in the case of the Appeal Decision CROW/5/M/04/2487 on the ground that it is “...far more likely to have resulted from a reduction in agricultural inputs, including grazing, rather than indicating any persistent evidence of historic improvement.” In support of this view, we remark that *Brachypodium* is a constant species of the CG4 NVC plant community and it “...is essentially associated with an absence or relaxation of grazing in predominantly calcicolous swards.” (Rodwell 1992) and one of the key plant indicator species according to AIH (2004, Annexe 5.4.7.3). It was also suggested that fertilizer run-off from arable fields results in an increase in *Brachypodium*, however, a recent study concluded that the growth of *Brachypodium* did not increase significantly as a result of nitrogen addition but was adversely affected by simulated grazing treatment (Wilson 1995). It is difficult to see how an increase in *Brachypodium*, which is unpalatable to sheep, could be regarded as agricultural improvement.

6.9.2 The aerial photograph (Fig.2), indicates that there is scattered scrub in some parts of the area and that it has the appearance of unimproved grassland. It suggests that there has been no significant agricultural improvement since the Phase II habitat survey.

6.9.3 We therefore consider that the cover is correctly classified as predominantly unimproved (calcareous) grassland.

7 Overall Conclusion

Our overall conclusion is that the appeal sites qualify as down by virtue of both their vegetation and their general character, and were therefore correctly mapped as open country on the Provisional Map.

References

- AIH, *Access Inspectors' Handbook*, 2004.
- Short, C, DEFRA Topic Report on Calcareous Grassland Agreements, June 1999.
- Magic Project, DEFRA, website www.magic.gov.uk.
- MME, *Mapping Methodology for England*, Countryside Agency, 2002.
- Rodwell, J.S, *British Plant Communities*, Vol 3, 1992, CUP.
- SSSI, Milling Wood & Pasture, Site of Special Scientific Interest, 1986.
- Wiggington, M J, *A Survey of Chalk Grassland in Humberside and North Yorkshire*, England Field Unit, Project 30 1985.
- Wilson, E.J., Wells, T.C.E., Sparks, T.H., *Journal of Ecology*, Vol 83, 5, 823, 1995.

Table 1 Botanical Data from Phase II

Habitat Survey (Wiggington 1985)

Appellant's Site	Phase II area (see Fig.3)	NVC community	No. herbs	No. grasses	No. indicator species
1	G	2c	45	13	14
1	H	4c	52	12	16
1	K	-	27	11	14
1	M	-	40	14	14
1	D	4c	51	17	16
2	F	2c	50	14	15
3	E	2d	26	10	12
4	A	-	25	12	1
5	N	-	23	11	9
6	B	4c	38	15	11
7, 8 & 9	M	-	40	14	14

Table 2 **Key Indicator Species for Downland** (according to AIH Annexe 5.4.7.3)

Appellant's Site	1				2	3
Phase II area	D	G	H	M	F	E
<i>Avenula pratensis</i>					✓	
<i>Brachypodium pinnatum</i>	✓	✓				✓
<i>Briza media</i>	✓	✓		✓	✓	✓
<i>Helianthemum nummularium</i>		✓		✓	✓	✓
<i>Linum catharticum</i>		✓		✓	✓	✓
<i>Sanguisorba minor</i>	✓	✓	✓	✓	✓	✓
<i>Scabiosa columbaria</i>		✓		✓	✓	
<i>Succisa pratensis</i>				✓	✓	✓
<i>Thymus praecox</i>					✓	

TKH 30 December 2004