

Submission : PINS Ref. CROW/8/M/04/ 3514 Megdale(part 2)

Case Officer : Sarah Harper

From : Martin Biggs
Area Access Officer
East Yorkshire & Derwent Area of the
Ramblers' Association
Wynstow
7 Caedmon Close
York YO31 1HS

Tel 01904 424072

Date : 5 January 2005

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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 previously 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 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 18 South Wold Brow (part of area B)

- 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)

3 Comments on the Grounds of Appeal (part of area B)

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.

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

- (i) The vegetation evidence quoted in the Phase II Habitat survey.
- (ii) Aerial photographs taken in 2000.
- (iii) The listing in the Grassland Inventory and the fact that a Countryside Stewardship Agreement.(Chalk and Limestone) has covered the site since at least 2003. The latter fact 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.

We have been unable to make a site visit, as there is no PROW which would give us access to the area.

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

3.3 Conclusion

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

