

**Submission :** PINS Ref. CROW/8/M/04/3521 Whitekeld Dale

**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 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.
- 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 31 Deep Dale (Northern part 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](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.

Deep Dale is a long valley running from North to South to the east of

Givendale This appeal refers to the steep east facing slope situated north east of Castle Field which is surrounded by plantations at its northern end. There is currently no public access.

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

(i) Aerial photographs taken in 2000.

(ii) The National Landscape Typology attributes for the area are RLE

(iii) The existence of a Countryside Stewardship Agreement. (Chalk and Limestone grassland) for the whole area . The fact that a CSA has covered the site since at least 2001 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.

(iv)The site complies precisely with the description of the open character of 'down' as given in the CA's MME (revised July 2002) being part of a steep-sided dale typical of the Yorkshire Wolds. This is shown in the attached photographic view taken from the nearby Minster Way. (1 Jan 2005)

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.