

**BRISTOL CITY COUNCIL**

**Downs Committee**

**27<sup>th</sup> January 2014**

**Report of:** Ruth Quantock, Democratic Services Officer

**Title:** Response to issues raised in Public Forum Statements submitted to Downs Committee on 18<sup>th</sup> November 2013

**Ward:** Stoke Bishop / Clifton / Westbury on Trym

**Officer Presenting Report:** Ruth Quantock, Democratic Services Officer

**Contact Telephone Number:** 0117 9222828

**RECOMMENDATION**

That the Committee:-

- 1) Agrees that the Traffic Management Subgroup receives a six monthly update on Ladies Mile from Bristol Zoo Gardens in July each year.
- 2) Agrees to receive an annual update on Ladies Mile from Bristol Zoo Gardens in January each year.
- 3) Considers the inclusion of Declarations of interests on the agenda as a standard item.

**Summary**

At its meeting on 18<sup>th</sup> November 2013, the Downs Committee noted the contents of two Public Forum statements which had been received (Appendix A) and agreed that a report be brought back to the next meeting following further investigation of the issues raised.

This report set out the findings of the investigation into the issues raised and makes the above recommendations for the Committee's consideration.

**The significant issues in the report are:**

- The Five Year Seasonal Licence granted by the Downs Committee for Zoo Parking on the Downs
- Governance of Downs Committee

## Policy

1. The functions of the Downs Committee are governed by The Clifton and Durdham Downs (Bristol) Act 1861.

## Consultation

### 2. Internal

Robert Westlake – Downs Ranger  
Richard Bevan – Manager Park Estates, Cemeteries and Crematoria  
Peter Malarby – Senior Solicitor

### 3. External

Not applicable

## Context

4. The two public forum statements received by the Committee on 18<sup>th</sup> November 2013 are attached at Appendix A. The key issues relate to the five year seasonal licence granted by the Downs Committee for Zoo parking on the Downs and the governance of Downs Committee generally.

### 5. **The Five Year Seasonal Licence granted by the Downs Committee for Zoo Parking on the Downs**

- 5.1 At it's meeting on 28<sup>th</sup> January 2013, the Committee considered representation from S Carter on behalf of the Ramblers Society and the report of Tim Wilson, Director of Estates, Bristol Zoo Gardens. The decision to renew the licence for a further 5 years was not taken lightly. During the discussion it was noted that the issue had been discussed in considerable detail the last time it had come to the Committee in November 2009. The contributing factors to renew the seasonal licence were:-

- As one of the City's premier visitor attractions, bringing in significant revenue to boost the economy in Bristol, the Committee has been keen over the years to support the Zoo, which was a well run and responsible organisation. A balance needed to be struck, and it was suggested that the Committee would continue to closely monitor any damage to the grassland in the parking area and the Zoo's progress towards sustainable transport.
- The Committee did not want to be unduly obstructive, particularly in view of the good partnership working with the Zoo on the biodiversity/educational aspect of the Downs.
- If the seasonal licence was not agreed, the surrounding streets do not have the capacity to accommodate demand for parking spaces

on peak visitor days and could encourage illegal parking on the Downs. The Downs Committee would also lose the income from the rent paid (£8300 for up to 60 days per annum) which is re-invested into the day to day management of the Downs for the benefit of all users.

- 5.2** The lack of public consultation by the Downs Committee has been raised in PF Statement 1. The Committee, as Landowners agreed to the licence in principle with the knowledge that this would be subject to planning permission which involves widespread statutory consultation to inform the final decision. The Downs Committee does not have a statutory duty to consult on its decision making. If it did wish to carry out consultation, there is no mechanism in place so the service would need to be bought in. This would reduce the amount of funding available for the day to day management and maintenance of the Downs.
- 5.3** Both PF statements request a review of both the licence and management of the car park to include the conditions imposed by the planning permission. These conditions are as follows:-
- Agree a Park & Ride Strategy (which is to be updated and agreed with the council annually)
  - Prepare, implement and continually update Travel Plans to reduce the number of visitors arriving by car.
  - The requirement to reduce the total number of days that Ladies Mile can be used in any one year to 55 in 2014, 50 in 2016 and 45 in 2017.
- 5.4** PF Statement 1 includes photographic evidence to suggest that the Zoo has breached the terms of its previous planning permission. It also considers £8000 to be a small amount to be paid by the Zoo for such a valuable asset and suggests the licence fee be re-negotiated, particularly if the terms of the new licence are breached in future.
- 5.5** Since the meeting of Downs Committee on 18<sup>th</sup> November 2013, the Director of Estates, Bristol Zoo Gardens has requested that an update on Ladies Mile be included on the agenda for the meeting on 27<sup>th</sup> January 2014 (agenda item 4). The report is designed to provide an annual update.
- 5.6** In addition to an annual report, the Downs Committee may consider it appropriate for the Traffic Management Subgroup of Downs Committee to receive a 6 monthly update to monitor any damage to the grassland in the parking area, to monitor the Zoo's progress towards sustainable transport and delivering the planning conditions. This would ensure that progress is heading in the right direction or provide an opportunity to

highlight any concerns to the Committee six months in advance of the annual report. If there are any signs of planning contravention at this stage, they can be raised with the relevant planning officer for further investigation and enforcement action where appropriate.

## **6. Governance**

**6.1** The functions of the Downs Committee are governed by The Clifton and Durdham Downs (Bristol) Act 1861 (Appendix B). The Act provides that the Downs should remain as a place for the public resort and recreation of the citizens and inhabitants of Bristol, and that a committee should be appointed to manage them.

**6.2** The Downs Committee is an Outside Body and is not a Committee of Bristol City Council. It is a joint committee made up of the Lord Mayor and six Members of Bristol City Council (elected by the Council) and the Master and six Members of the Merchant Venturers Society (elected by the Society)

**6.3** The agenda is not prescribed by the Act and there are no terms of reference. The Act states that the Committee may make rules for the conduct of their own business.

**6.4** Interestingly, the Act does not stipulate that the meetings are to be held in public. However the Downs Committee has agreed to hold meetings in public and the agenda has evolved to include public forum to encourage public participation.

**6.5** The issue of declaration of interests has been raised in PF statement 1. There is no statutory requirement for the Committee to declare a personal interest in issues being discussed, however it is recognised as good practice to provide greater transparency in decision making. The Downs Committee might consider the inclusion of Declarations of interests on the agenda as a standard item in order to act as a prompt.

## **7 Other Options Considered**

**7.1** Not applicable

## **8 Risk Assessment**

**8.1** Not applicable

## **9. Equality Duties**

9.1 Whilst the Committee is not bound by the Public Sector Equality Duties, it operates within the principle of section 149 Equality Act 2010. Before making a decision the Committee considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. In making decisions the Committee also has due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
  - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
  - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
  - tackle prejudice; and
  - promote understanding.

## **10. Legal and Resource Implications**

### **10.1 Legal**

The Clifton and Durdham Downs (Bristol) Act 1861 provides that the Downs should remain as a place for the public resort and recreation of the citizens and inhabitants of Bristol, and that a committee should be appointed to manage them. The recommendations contained in this report are within the powers conferred by this statute.

Since the Committee meeting of 18 November, a legal agreement under section 106 of the Town & Country Planning Act 1990 has been entered into in December 2013 between the Zoo and the Council. A 3 year temporary planning consent has also since been issued.

Briefly, the section 106 agreement has time scales by which the Zoo needs to comply (e.g. submission of travel plans) with on-going reviews and submission of a park and ride strategy within three months of the agreement (unless a longer period is agreed). There are also traffic and ecological monitoring requirements and provision for traffic surveys/data for the duration of the planning permission. The temporary permission also has conditions with time scales dealing with both pre commencement matters and post occupation management.

## **10.2 Financial**

### **(a) Revenue**

None directly arising from the report

### **(b) Capital**

None directly arising from the report

### **(c) Personnel**

None directly arising from the report

## **11. Appendices:**

Appendix A – Public Forum statements considered by the Committee on 18<sup>th</sup> November 2013.

Appendix B – The Act can be accessed through the follow webpage link:

<http://www.bristol.gov.uk/page/leisure-and-culture/downs#jump-link-4>

**12. Background Papers:** None

**TO: THE MEMBERS OF THE DOWNS COMMITTEE**

**Councillors:** Lord Mayor F Choudhury, B Janke, S Townsend, C Smith, M Khan Davies, B Payne and P Abraham

**Merchant Venturers:** A Brown (Master), F Greenacre, C Curling, C Pople, A Densham, C Booy, A Brown and Sir J Tidmarsh

**Officers:** Robert Westlake, Downs Ranger  
Pete Watts, Event & Festival Officer  
Rosa Clark, Festivals, Community Arts and Films Manager  
Richard Bevan, Manager, Park Estates, Play and Crematoria  
Mike Allen, Finance Business Partner  
John Williams, Estates Business Manager  
Andrew Gordon, Estate Management Team leader

**Records:** Minute Book, DSO and spares.

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**DOWNS COMMITTEE**

**18<sup>th</sup> November 2013  
PUBLIC FORUM STATEMENTS**

| <b>AGENDA ITEM</b> | <b>ISSUE</b>                                | <b>NAME</b> | <b>STATEMENT NO</b> |
|--------------------|---------------------------------------------|-------------|---------------------|
| N/A                | Zoo parking on Downs                        | S Carter    | 1 (P3)              |
| N/A                | Use of The Downs by Bristol Zoo for parking | Cllr Morgan | 2 (P9)              |

## Downs Committee Annual Meeting 18 November 2013

### Downs for People Public Forum statement: Zoo parking on the Downs

#### Summary

This paper looks at action on Zoo parking in 2013. It proposes ways in which the Committee might operate more effectively, both in relation to the Zoo and more generally.

In relation to the Zoo, the Committee should:

- 1) ensure the Zoo complies with the terms of its licence from the Committee and its planning permission, by controlling and charging for parking as agreed;
- 2) re-negotiate the licence agreement for both the land off Ladies Mile and the main car park so that it receives proper financial re-imbusement;
- 3) endorse the planning committee's conclusion that parking off Ladies Mile should reduce to 45 days over the next three years, Park and Ride provision should be maintained, and travel plans agreed to reduce the number of visitors arriving by car.

More generally, the Committee should:

- 1) act in accordance with its statutory remit;
- 1) not approve activities that require planning permission on limited information in advance of consideration by a planning committee;
- 2) ensure members declare any interests relevant to subjects under discussion;
- 3) review its consultation procedures.

#### History

1. In recent years, the Downs Committee has considered Zoo parking on the Downs at the following meetings:

- **23 November 2009.** Agreed without a vote to grant a five-year licence for continued parking, despite objections from the Ramblers and in advance of a planning application being considered. In February 2010 a planning committee granted permission for three years, not the five years the Zoo had sought.
- **28 January 2013.** Agreed by nine votes to one to grant a further five year licence, despite the Ramblers pointing out that the existing licence still had two years to run. The Ramblers also suggested the Committee should defer a decision until it could take account of the responses to public consultation on the planning application.
- **22 April 2013.** Rejected a request from the Open Spaces Society (OSS) that the licence should be revoked. OSS pointed out that the information accompanying the Zoo's planning application differed materially from that provided for the Committee in January. In particular the Zoo had changed its travel plans to allow it to drop its Park and Ride service and to no longer attempt to reduce visitor car numbers.



2. A planning committee considered the Zoo's application in July. It decided to grant permission for a further three years, with the number of days' use reducing to 45 a year over that period. Permission was made conditional on - among other things - the Zoo continuing its Park and Ride service and drawing up travel plans to reduce car use. ***No agreement has yet been reached on the conditions so that the Zoo has been using the Ladies' Mile site without planning permission since May.***

## Zoo-related action

3. Downs for People and many others are firmly of the view that Zoo parking on the Downs is inappropriate and should have been stopped long ago. If parking is to continue for another three years, then the Downs Committee should ensure that it is managed properly and the Zoo pays a fair amount.
4. On ***management***, objectors to the planning application showed that the Zoo had breached the terms of its previous planning permission by:
  - a. parking on a larger area;
  - b. allowing parking after 6.30pm;
  - c. leaving the site unattended in the afternoon.

These breaches are illustrated on the attached two sheets of photos.

***As responsible owners/managers, the Committee should ensure that planning conditions are honoured.***

5. On ***payment***, we understand that the Zoo gives the Committee a third of its takings from parking charges, about £8000 a year. *Takings would be increased if parking were controlled in the afternoons, when significant numbers of cars use the site free of charge.* Further, the Zoo claimed in a news release in July that it could lose over £500,000 a year if parking were no longer allowed. It did not produce any evidence to support this claim and our calculations suggest it would be much less. *Nonetheless, £8000 is a small amount to pay for such a valuable asset.* It is not clear why the Zoo should be making a profit from parking as well as from visitors' admission charges. The costs of operating the car park appear negligible: employing two men for only three hours even at peak times, plus maintenance of boundary ropes and a gravel path.

***The Zoo has repeatedly breached the terms of its licence, presumably rendering it null and void. The licence agreement should be re-negotiated so that the Zoo pays a fair amount. The basis of the Zoo's use of what is now its main car park should be examined too. This is also part of the Downs and presumably accounts for the further £24000 the Zoo gives the Committee annually. £65 a day seems wholly inadequate.***

6. At its meeting in April, some members of the Downs Committee said that they did not want to re-consider their January decision because the Planning Committee would look fully at the issues. ***Now that the Planning Committee has done so, it would be helpful if the Downs Committee made it clear that it supports the outcome :***
  - a. ***a reduction in the number of days on which parking will be allowed;***
  - b. ***the continuation of the Park and Ride scheme which the Zoo had wanted to drop; and***

- c. ***the preparation of travel plans to reduce the number of Zoo visitors arriving by car.***

## Other action

7. More generally, the Committee's actions in this case raise wider concerns. The Committee has reached decisions on grounds that are outside its statutory remit and sought to influence planning decisions on the basis of incomplete information. Its members have not had an opportunity to declare any personal interests in the issues under discussion, and amenity organisations and the public have not been consulted. These issues are explored in more detail below.

## Statutory remit

8. The Committee's statutory remit is narrow and specific: under the 1861 Act it is to manage the Downs "as a place for the public resort and recreation of the citizens and inhabitants of Bristol". It has no remit to support attractions like the Zoo which are not on the Downs, nor to provide parking for their visitors. In the case of the Zoo, the overwhelming majority of those parking on the Downs do not come from Bristol but from many miles beyond, mainly South Wales.
9. ***The Downs Committee should act in accordance with its statutory remit, not only as a matter of principle but to avoid legal challenge.***

## Relationship with the planning system

10. Planning committees have a much wider remit than the Downs Committee. They are obliged to take account of widespread public consultation and have the benefit of advice from highly-trained officers. The Downs Committee can play a useful role as landowner in ensuring that undesirable applications do not reach a planning committee. ***This is what should have happened in this case as use of the Downs for Zoo parking makes part unusable for recreation.*** If the Downs Committee does not think a use requiring planning permission is necessarily undesirable but has little information, then it should defer a decision until the planning committee has considered the case.
11. ***The Downs Committee should not approve activities requiring planning permission on the basis of limited information in advance of consideration by a planning committee,***

## Declaration of interests

12. Councillors are required to declare if they have a personal interest in issues about to be discussed in council committees. This is standard practice in many other organisations too, but not apparently a practice the Downs Committee follows.
13. It is therefore not clear what, if any, interest members of the Committee have in Bristol Zoo. It seems very likely that some will be Zoo members, eligible to park for £1 at Ladies' Mile, rather than the £3 charged to non-members, and with some interest in the Zoo's charges generally. Some may be (or may be related to) shareholders, who – among other things – elect the Zoo's trustees and are entitled to free admission.

14. ***The Committee should require members to declare any relevant interests in issues under discussion.***

### ***Consultation procedures***

15. Consultation with interested organisations, individuals, and the general public is another standard practice that the Committee appears not to have adopted. It should do so.

16. ***The Committee should review its procedures and introduce appropriate consultation.***

### **Conclusions**

17. The Committee has allowed an undesirable activity to continue all this year and appears willing to allow it for ever. Its decisions have been premature, ill-informed and inconsistent with its statutory remit. It needs to improve its procedures to reach better decisions, more transparently.

Susan Carter  
Downs for People

13 November 2013

## PHOTOS SHOWING ZOO PARKING IMPACTS AND LACK OF CONTROLS

Good Friday, 29 March 2013



Ground not fit for parking. Damage from previous years visible. Ugly tape on site.

**11.30 am: the Zoo's two car parks are full. Angry and anxious visitors left roaming the streets looking for parking places.**

May Day Holiday, Monday 6 May 2013



**12 noon:** 350 cars already, and the barrier comes down. Attendant explains barrier does not indicate parking limits. *They can usually get 700 cars on to the site. Likely to be only 650 that day because diseased tree cordoned off.*



**3.15pm:** car park unattended. No indication that it is for Zoo visitors. Cars coming and going.

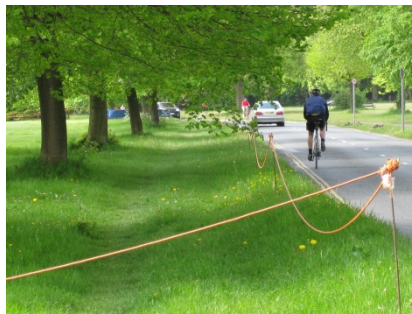
**Right two photos show parking well beyond the area given planning permission: 60 extra cars fronting Ladies Mile and 115 in neat rows behind. About 1000 cars will probably have used the site that day.**

## May Day Holiday, Monday 6 May cont



**6.30pm:** parking should have ended. Car park still unattended.  
**Over a dozen cars parked on the grass, visible from far away.**

## Spring Bank Holiday weekend and half-term week, 25-31 May 2013



**10.30am :** All ready to receive visitors (in their clouds of dust). Lots of cord, blocking walking routes.



**10.30am-1.45pm:** Cars pack the cordoned off area (larger than that with planning permission) and some drive beyond. **By 2pm (every day) the attendants have gone, leaving only an exit sign.**



**2pm onwards:** Zoo visitors and others park where they can, without paying. **6.45pm:** dogwalkers arrive. **8pm:** walkers have to climb across cordons now blocking entrance. Cordons in place all week.

**We want the people of Bristol to enjoy all the Downs, all year round...**

**Public Forum Statement on use of The Downs by Bristol Zoo for parking**

Cllr Glenise Morgan (Henleaze)

As a former Downs Committee member and supporter of the Downs as a space for recreation and enjoyment by all of Bristol's citizens, I am concerned by reports of a failure by the Zoo to both fulfil the conditions required for planning permission and to manage the car parking of its visitors on the Downs grassland.

I have supported the Zoo's licence applications in the past, in the belief that they were being proactive in seeking alternative arrangements. I also recognise the logistical difficulties of getting a family to the Zoo, burdened by all the equipment associated with travelling with small children. However, the Downs has licensed Zoo parking since the 1960s when it was used for only six days a year. The latest planning application, in March, was for 60 days for a further five years: 10 times the original number of days.

This is an appropriate time to review both the licence and management. Bristol is one of our most congested cities; much of this comes from commuters and visitors such as those who visit the Zoo. There is more emphasis than ever on exercise and use of green spaces for health and wellbeing.

Bristol has been chosen as European Green Capital for 2015. It would be a most appropriate aspiration to see by summer 2015 a turnaround in the number of Zoo visitors that are parked on the Downs. We wish to be a friend to the Zoo but now need to be a critical friend. I believe that needs this Committee, as well as Planning, to take steps to ensure that effective action, not just promises of action, actually takes place.

Please support a review of the Zoo's licence and management of parking on the Downs.