

TO: 1. THE MEMBERS OF THE PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE

Councillors: Jackson, Daniels, Crew, Quartley, D Brown, Main and Cole

2. OFFICERS:

Christine Pouncett, Public Rights of Way Officer
John Roy, Team Manager, Road Safety, Walking and Cycling
Kevin Hill, Solicitor
Frances Horner, Solicitor

3. RECORDS: Minute Book, DSO, Intranet and spares.

**PUBLIC RIGHTS OF WAY AND GREENS
27th April 2009**

STATEMENTS/PETITIONS

NO.	SUBJECT	NAME	AGENDA ITEM NO.
1.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Mary Bannerman	5.
2.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Helen White, on behalf of the Castle Park User Group	5.
3.	Minutes of the Public Rights of Way and Greens Committee 19.01.09	Peter Gould	3.
4.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Councillor Bolton	5.
5.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Fraser Bridgeford	5.

QUESTIONS

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1.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Fraser Bridgeford
2.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Geoff Collard
3.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Mary Bannerman
4.	Application for Registration of Land Known as Castle Park as a Town or Village Green	Helen White

Castle Park Should be a Town Green

I have received and read the report of Vivian Chapman QC and note his Executive Summary. This states that “the Application fails because Castle Park was in 1978 appropriated onto the statutory purposes of s.164 PHA 1875 or s. 10 OSA 1906 which precluded subsequent recreational user by local inhabitants “as of right”.

However, it is not so simple. As paragraph 14 of the Report states, there is no evidence of any resolution expressly appropriating Castle Park for this purpose (although financial liability was subsequently transferred to the then Open Spaces & amenities Committee). Appropriation is necessary, as explained in para 173. But in this case the appropriation is implied, not actual, and this is the first time anyone has found appropriation to be “implied” by conduct in the history of the English legal system. If this were so, a local authority could at any time use any land for any purpose it wished (last three lines, paragraph 175) contrary to all the controls which the law places upon how councils can use land. If this application is rejected at the meeting of the Public Rights of Way and Greens Committee on April 27th, we will seek a judicial review of this decision.

The Commons Act 2006 lays down that a Green has to have been used for informal recreation for over 20 years by a substantial number of inhabitants of a locality or neighbourhood within a locality, as of right. But for this finding of an “implied” appropriation, the Inspector found that Castle Park met all the criteria for registration.

Castle Park is in the city central area, which in the Council’s own policy document is described as deficient in open green space. There is strong and prolonged opposition by the people of Bristol to any diminution in the area of Castle Park, and a firm belief that a central park is essential to the health and beauty of the City. As the number of residents in high-rise flats in the centre is increasing all the time, Bristol should cease its somewhat illogical opposition, and voluntarily declare Castle Park a Town Green. The council will remain the owners of the land but the people of Bristol will have the right to “engage in lawful sports and pastimes”. All the other activities which currently take place in Castle Park can continue and improve. Town Green status will simply preserve the Park as open space. That is the whole and sole purpose of “Green” status.

Mary Bannerman

Public Forum - Statement No. 2

This statement proposes that Bristol City Council recognise a precious and valuable resource right at the heart of our city. It calls for the council to preserve the Castle Park Site for all time by voluntarily affording the area town green status.

Castle Park is a key spot in the centre of our city. It is very highly regarded by the people of Bristol. This is reflected in the huge numbers who use and enjoy the whole space throughout the year, and of course the mass of popular support which the move to protect it has engendered.

It is a popular tourist site, steeped in history and the very birthplace of Bristol. By protecting the whole of the green space and awarding town green status, the area can contribute to the rich rewards which visitors bring when they experience a city which clearly fulfils their requirements as sight-seers.

The central area of Bristol has a shortfall of green space, it *'falls below the Quantity standard'* (1) as required by the Bristol Green Space Standards. The situation is made worse by the recent increase in high-rise flats and therefore residents in the central area. By preserving all the green space in Castle Park, the council will not amend the shortfall, however it will not exacerbate the problem it now has in redressing it.

In the past, council literature has recognised the contribution Castle Park makes to our environment, for example in 1990 a promotional leaflet acknowledged the park as a 'permanent green lung' in the centre of the city (2).

To answer the financial question, ground-breaking work has very recently been undertaken in the USA, for the city of Philadelphia. Monetary value was put on parks' contribution to pollution removal, reduced cost of managing storm water, property values, promoting human health, the benefits of greater community cohesion, tourism and the direct benefits to daily users. Philadelphia is more than three times the size of Bristol but some of the financial savings are very substantial and should give our planners cause for thought. For example,

'Air pollution is a significant and expensive problem, injuring health and damaging structures. The human cardiovascular (heart) and respiratory (lung) systems are affected with broad consequences for health-care costs

and productivity. In addition acid deposition, smog and ozone, increase the need to clean and repair buildings and other costly infra-structure.

Trees and shrubs have the ability to remove air pollutants such a nitrogen dioxide, sulphur dioxide, carbon monoxide and some particulate matter.

Leaves absorb gases, and particulates adhere to the plant surface.... Thus vegetation in city parks plays a role in improving air quality helping urban residents avoid costs associated with pollution.

The result of the Air Quality Calculator for the park system of Philadelphia is an economic savings value of \$1,534,000' (3)

Similar conclusions have been reached by our own government funded commission,

‘High quality green space can have a significant impact on the economic life of urban centres. ‘The presence of good parks.... becomes a vital business and marketing tool.’ (4)

Following the recent public inquiry into the into the town green application, the Inspector’s findings are revealing.

Mr Chapman, the Inspector, grants that all the major criteria for a successful town green application were met in this case. Further to this, the Inspector acknowledges that there was no express appropriation of the land, at all, in this case.

His recommendation relies on ‘implied’ appropriation of the land. This is the first time anyone has found an appropriation to be ‘implied’ by conduct in the history of the English legal system and is a decision which may well be overturned at judicial review.

In conclusion I call on Bristol City Council to use its vision, to acknowledge the wishes of the majority of its citizens, and to save itself huge financial costs and elect to make Castle Park a town green.

Helen White

- (1) Bristol’s Parks and Green Space Strategy, Bristol City Council: current document.
- (2) Castle Park public art leaflet, Designed and printed by Bristol city Council, 1991,
- (3) Philadelphia Parks Alliance, Philadelphia; The Trust for Public Land, San Francisco; The Center for City Park Excellence, Washington. <http://www.tpl.org/philaparkvalue> 2008.
- (4) The Value of Public Space, Commission for Architecture and the built environment. 2004

Public Forum - Statement No. 3

At the last meeting of PROW&G, I was given the answers to two questions about the Purdown Inquiry. The answer to the first question was a simple matter of fact

- 1 Q What was the cost of hiring a QC for the Purdown Inquiry:

A £7.500+VAT

The answer to the second question was tendentious, and as it is of general importance, I should like the committee to consider my rejoinder.

- 2 Q How can the hire of a QC be justified in a simple case where the opposition was not professionally represented?

A The case was not a “simple one “ as it involved the potential diversion of a footpath onto a school playing field. The outcome of the inquiry will have profound implications for the school in question . . . Instructing officers from the Children and Young Persons Team were of the firm opinion that the piece of land in question was vital to the proper running of the school...”

This is mere obfuscation. Council officers in the Education department may have thought the diversion was important for the smooth running of their Empire. That does not mean the case was legally complex. The relevant section of the Town and Country Planning Act is quite straightforward, the diversion has to be necessary for permitted development to take place. The Inspector disagreed with my argument that a path can cross a playing field but that was a judgment based on his opinion of what was practical, not on a fine point of law.

Whether the outcome of the Inquiry will have profound implications for the school, I doubt. That the Inquiry could by any ingenuity be challenged through the courts, I doubt even more.

A The fact that the applicants were not represented was immaterial.

Indeed, like the Ritz Hotel, the law is open to all however, you get a better suite, a better suit if your bill is met from the bottomless public purse. This is a question of Natural Justice. Courteous and helpful as Mr Blohm was, I

suggest he should not have been there at the public expense and insist that the determination of council officers in the education department, or any other department, to have their way does not justify silk.

Peter Gould

Castle Park: Application for Town Green Status

Dear Committee Members

I write to urge you to ignore the officer recommendation and support the application for Castle Park to have town green status.

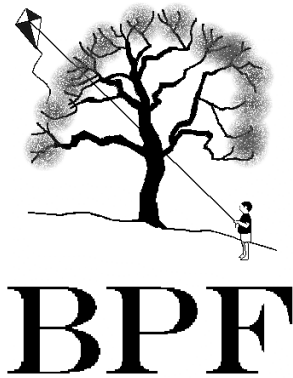
Castle Park is a vital piece of public space serving central Bristol, and it is completely obvious that it deserves to have enhanced protection.

Thousands of people signed a petition a couple of years ago opposing development on it. Huge numbers of people use it and enjoy it on a daily basis. Its name alone should tell you that it is a park, and should be preserved and enhanced as such.

Failure to give it town green status is likely to result in developers chipping away at its integrity.

As such, I repeat my request that you approve the application for town green status.

Charlie Bolton
Green Party Councillor
Southville



Bristol Parks Forum

representing resident led
park groups and citywide organisations
involved in protecting and improving
Bristol's green spaces

Public Rights of Way and Greens Committee, 27th April 2009

Castle Park

The inquiry into Castle Park as a town green is now over and Vivian Chapman's report has now been published. He found that for over the last twenty years there has **always** been substantial use of the park for recreational purposes. Castle Park, our town green, has been conclusively shown to have been used as a town green, and that the people of Bristol consider it to be their town green. It **is** our town green.

Can you afford today to forego the opportunity to preserve our town green for future generations? There is **no** reason, legal or otherwise, why you cannot take the decision today to make Castle Park our town green. At a time when people have lessening faith in politicians, I ask you to have the courage to take the **bold** decision to make Castle Park our city centre town green, preserving it for future generations, and halting the continual erosion of precious remaining green space within our city centre.

Many thanks. Be bold.

Fraser Bridgeford, Chair, Bristol Parks Forum

Contact Details: info@bristolparksforum.org.uk

Telephone: 0791 901 5774

Web www.bristolparksforum.org.uk

Notes

- Once we have our town green we can then start to work with Bristol Parks to improve the park through the Area Green Space Planning process.
- With Castle Park as a town green it does not stop any improvements happening within the park. What it does stop is any development within the town green boundary.
- Vivian Chapman's report found Castle Park to be a town green on all counts except one. It is in every sense a town green
- Scenes like the ones below mid afternoon last Monday in Castle Park will be a thing of the past if town green status is not given.



Typical Castle Park Spring View – also from last Monday



Bristol Parks Forum

Bristol Parks Forum was established by Bristol Parks as an umbrella organisation for community park groups and organisations in the city with an interest in their local parks and green spaces. The Forum now represents over 100 organisations.

The forum is supported by Bristol City Council but acts independently and is the only 'community voice' that is dedicated to all of Bristol's green spaces. The forum's three main roles are to:

- offer an opportunity to share ideas and experience
- act as a consultation body for the Bristol Parks service and other agencies
- influence decision-making, including the allocation of resources

Bristol Parks Forum <http://www.bristolparksforum.org.uk/>

QUESTIONS - 1

Questions from Fraser Bridgeford

Q1. What is the financial impact to the council if the town green application for Castle Park is accepted or rejected?

Q2a. Are each of the councillors on the committee aware that if the town green application for Castle Park is rejected then it will leave all of Castle Park unprotected for future generations and open to continued development pressure for ever?

Q2b. Are they comfortable to give Castle Park up in this way?

Q3. How much has the council had to spend to date on their objection to the Castle Park Town Green application?

Questions from Geoff Collard

As a long term resident of Bristol and almost daily user of Castle Park, I would like to ask the Public Rights of Way and Greens Committee to answer some questions before making their decision on the application for registration of Castle Park as a Town Green at their meeting on Monday 27th April.

Q1. Is the Committee legally entitled to make a decision less than 6 weeks before local elections to the city council? Considering that the stated aim of an application to register land as a Town Green is to protect and preserve the land as open undeveloped green space for the recreation of both present and future generations of local people (and others), and to prevent its loss through building or other development:
If the Committee were to decide (or recommend to the full Council) that the above application should be rejected:

Q2. How would the Committee justify such a decision given that it would go against Bristol City Council's own Parks and Green Space Strategy (adopted as recently as February 21st 2008) and their own policy document which describes the central area which the park is in as 'deficient in open green space'? How would they further justify it in the light of the Government's stated national policy to support and enhance biodiversity and public recreation?

Q3. How would the Committee explain to the people of Bristol its refusal to guarantee the protection for Castle Park (the only park in Bristol's city centre) which registration as a Town Green would bring, given that there is a greater need than ever for as much green space in the city centre as possible because of the increasing number of residents living there as a result of recent developments, many in newly built flats above ground level and without gardens, who need such green space for their health and welfare and for its inherent peace and beauty?

Q4. How would rejection of the application for registration of Castle Park as a Town Green square with the city council's claim that Bristol is a 'green' city when the consequence of a refusal could be the loss of some current green space in Castle Park?

Question from Mary Bannerman

Q1. As the sole & whole effect of Town Green status is to ensure the space concerned remains there for lawful sports and pastimes and not to limit its use in any way, do the Committee agree that this protection is desirable for Castle Park?

Questions from Helen White (Castle Park User Group)

Q1. Is the committee in a position to make a decision, regarding the Town Green Application, given that 27th April is less than six weeks before the council elections?

Q2. Can the committee explain why the council do not voluntarily make Castle Park a town green? (see letter dated 7th April for more background information)

Q3. How are the the council going to address the problem of the shortfall of green space in the central area of Bristol, as acknowledged in the Green Spaces Strategy Document? (reference as above for more information)

Questions from Fraser Bridgeford

Q1. What is the financial impact to the council if the town green application for Castle Park is accepted or rejected?

A1. There is no financial impact.

Q2a. Are each of the councillors on the committee aware that if the town green application for Castle Park is rejected then it will leave all of Castle Park unprotected for future generations and open to continued development pressure for ever?

A2a. Thank you for your question. However, it is not appropriate for Members to share their views on this matter prior to the formal debate.

Q2b. Are they comfortable to give Castle Park up in this way?

A2b. Thank you for your question. However, it is not appropriate for Members to share their views on this matter prior to the formal debate.

Q3. How much has the council had to spend to date on their objection to the Castle Park Town Green application?

A3. The legal costs to date in this matter, including a 6 day public inquiry, amount to £51,536.

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If the Committee were to decide (or recommend to the full Council) that the above application should be rejected:

A1. The Committee is legally entitled to make a decision regarding the matter because the purdah period does not prevent the Council from taking non-executive decisions, but in any event the purdah period starts on the day of the notice of the election, which is 28th April 2009.

Q2. How would the Committee justify such a decision given that it would go against Bristol City Council's own Parks and Green Space Strategy (adopted as recently as February 21st 2008) and their own policy document which describes the central area which the park is in as 'deficient in open green space'? How would they further justify it in the light of the Government's stated national policy to support and enhance biodiversity and public recreation?

A2. The Parks and Green Spaces Strategy is not within the remit of the Public Rights of Way and Greens Committee.

Q3. How would the Committee explain to the people of Bristol its refusal to guarantee the protection for Castle Park (the only park in Bristol's city centre) which registration as a Town Green would bring, given that there is a greater need than ever for as much green space in the city centre as possible because of the increasing number of residents living there as a result of recent developments, many in newly built flats above ground level and without gardens, who need such green space for their health and welfare and for its inherent peace and beauty?

A3. The Parks and Green Spaces Strategy is not within the remit of the Public Rights of Way and Greens Committee.

Q4. How would rejection of the application for registration of Castle Park as a Town Green square with the city council's claim that Bristol is a 'green' city when the consequence of a refusal could be the loss of some current green space in Castle Park?

A4. The Parks and Green Spaces Strategy is not within the remit of the Public Rights of Way and Greens Committee.

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Q1. As the sole & whole effect of Town Green status is to ensure the space concerned remains there for lawful sports and pastimes and not to limit its use in any way, do the Committee agree that this protection is desirable for Castle Park?

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A1. The Committee is legally entitled to make a decision regarding the matter because the purdah period does not prevent the Council from taking non-executive decisions, but in any event the purdah period starts on the day of the notice of the election, which is 28th April 2009.

Q2. Can the committee explain why the council do not voluntarily make Castle Park a town green? (see letter dated 7th April for more background information).

A2. There has been no decision as to this.

Q3. How are the the council going to address the problem of the shortfall of green space in the central area of Bristol, as acknowledged in the Green Spaces Strategy Document? (reference as above for more information).

A3. The Parks and Green Spaces Strategy is not within the remit of the Public Rights of Way and Greens Committee.

Questions for the Public Rights of Way and Greens Committee

Dear Lucy,

Re: Castle Park/Green

Here are some questions I wish to be asked of the Committee of the Public Rights of Way and Greens.

- 1) Please explain why it is necessary to build yet more paths across the green space.
- 2) Why do you intend to remove the mound along with the established, mature trees that are so used and enjoyed by people who use the green? Especially when there are already adequate paths to all important / necessary exits, complete with lighting and appropriate CCTV already installed?
- 3) Why do you not protect the green space by leaving all existing trees alone and not digging up anymore grass space that is much used and enjoyed? Particularly when there are so many proved benefits to people's health.
- 4) Why are the existing resources not used more? E.g. the bandstand and the old/ yellow, historical building near the children's play area.
- 5) Please explain why the children's play area had been allowed to deteriorate. Why has it not received so much as a lick of paint for many, many years?
- 6) How much are any new proposals going to cost? Who will be paying for any new developments?
- 7) Please explain if you still intend to build a foot bridge to Castle Green from the old brewery why you feel it necessary? And which paths and to where will it link up to?

Thank you.

Yours sincerely,
Harvey Tadman

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Answers to Questions from the Rights of Way and Green Spaces Committee

1. Please explain why it is necessary to build yet more paths across the green space.

Castle Park has a confusing system of footpaths. Proposals to improve the layout of paths will aim to increase legibility of access within the park whilst at the same time raising the visual quality of the park environment and provide links to new developments around the park and public transport such as the ferry stop. Footpaths will be upgraded as and when necessary. If new paths are required BCC will investigate the option of laying new paths on the historic pattern of streets as identified in the Castle Park Conservation Management Plan as long as they follow desire lines and help to improve access through the park.

2. Why do you intend to remove the mound along with the established mature trees that are so used and enjoyed by people who use the green? Especially when there are already adequate paths to all important/necessary exits, complete with lighting and appropriate CCTV already installed?

It is proposed that limited grading will take place to the mound adjacent to the play area to give a greater sense of openness and provide better surveillance of the play area. Further grading of the central mound would be required in preparation for the realignment and continuation of the of the footpath along the former route of Castle Street linking the bridge over the moat path and the riverside walkway. The mature trees on the mound would not be removed unless they were suffering from disease, had become dangerous or are reaching the end of their lives.

3. Why do you not protect by the green space by leaving all existing trees alone and not digging up anymore grass space that is much used and enjoyed? Particularly when there are so many proved benefits to peoples health?

Any improvements to the park will aim to improve the overall quality of the park whilst maintaining it as a green and open space.

4. Why are the existing resources not used more? E.g. The bandstand and the old yellow historical building near the childrens play area?

The yellow building is the vaulted chambers and it is a scheduled ancient monument. It has been used in the past to accommodate park rangers and was once a restaurant. It is proposed that the vaulted chambers is partially or wholly used as a base for the Castle Park depot in future. If it is only partially used as a depot then any remaining space could be used to accommodate another use such as an information point for visitors to the park. The area adjacent to the rear of the vaulted chambers will be

used as the yard area for the depot.

5. Please explain why the childrens play area had been allowed to deteriorate. Why has it not received so much as a lick of paint for many, many years?

The childrens play area is getting on for 15 years old and therefore it is reaching the end of its life. Once funding becomes available it will be replaced. At the moment it is retained in a safe condition.

6. How much are any new proposals going to cost? Who will be paying for any new developments?

The first phase of proposals are likely to cost in the region of £2m. However a 10 year improvement plan for the whole of the park will be developed and this could have a cost of up to £10m depending on the proposals it includes.

Larger scale improvements will be funded from capital budgets. Levels of funding available as part of the capital spending programme are currently limited however, Bristol Parks will seek to increase the overall level of funds available by applying to external organisations such as the Big Lottery and English Heritage. Other funding for improvements will come from the sale of low value green space as outlined in the PGSS. In addition funding will be available through section 106 agreements.

7. Please explain if you still intend to build a foot bridge across to castle Green from the old brewery why you felt it necessary? And which paths and to where will it link up?

The new foot bridge was part of the development of the old Courage brewery site and independent from the improvements to the park in that the bridge. It was proposed that the bridge would link to the main foot/cycle path along the waters edge and is the responsibility of the Courage Site developers to construct. The landing of the proposed bridge from the courage site on the riverside path in Castle Park would need to be carefully designed to allow for an increase in pedestrian and cycle flow along the path and across the bridge.

104 Croydon House,
Croydon Street,
Easton,
Bristol. BS5 0DX.

23rd April, 2009.

Dear Ms. Flemming,

I wish to make a statement with the view to it being read out at to the councillors when They debate the future of Castle Park Green at the Council House this coming Monday.

As some of you will be aware by my address, I live in a tower block on Lawrence Hill roundabout. Obviously I have no garden. There is also a huge lack of trees, grass and animal life. Nor is there much in the way of green space to relax or for recreation be it with a ball, kite or somewhere safe to take young children to sit, play have picnics or simply enjoy a walk in relatively natural green surroundings.

What we do have is noise from motor vehicles, sirens trains bus at the but station and nosey police helicopters. We also have endless stretches and views of concrete, brick and tarmac. In conjunction to visible and aural assault we must also suffer constant attack from almost intolerable air pollution nigh on 24 hours a day.

This can only be injurious to our health, mental, physical , emotional and spiritual. Castle Park Green is like a green oasis to us, a place to relax, unwind and gain strength for The fast on-coming events of Bristol City life.

Yours sincerely,

Harvey Tadmán