

# THE DOWNS COMMITTEE

Clifton and Durdham Downs (Bristol) Act 1861

## Agenda

### 12. Public Forum (Pages 3 - 10)

Up to 30 Minutes is permitted for this item.

To consider items of Public Forum sent to the Downs Committee. Interested parties can submit:

- A written statement of approximately one side A4 no later than 12pm on Friday 11<sup>th</sup> November 2022.
- A maximum of 2 written questions (which will be answered verbally at the meeting) must be received 3 clear working days prior to the meeting. For this meeting, it means that your question(s) must be received no later than 5pm on Tuesday 8<sup>th</sup> November 2022.
- You will have the opportunity to ask one supplementary question arising directly out of each of the original questions or replies.

Please send submissions to Democratic Services at [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk).

Please note that your statements and questions will be sent to Committee Members and published on Council's website prior to meeting.

#### Democratic Services Section

3rd Floor Deanery Wing  
City Hall PO Box 3399  
College Green,  
Bristol BS1 9NE

#### Website

[www.bristol.gov.uk](http://www.bristol.gov.uk)

Amy Rodwell, Democratic Services Officer

Email: Amy.rodwell@bristol.gov.uk or [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk)

## Questions

### **Robert Westlake**

Questions to the Downs Committee on behalf of the Friends of the Downs and Avon Gorge.

Q1 No one would disagree that the dilapidated Downs dressing rooms are in urgent need of replacing or refurbishing. If this type of project should ever go ahead in the future will the Downs committee consider supporting all female teams on the Downs and make proper provision for accommodating women players in the dressing rooms?

Q2 At the last meeting of the Downs Committee there was some debate about the future of the redundant zoo's north car park. The impression was that the likeliest outcome was that it would continue as a car park but become a pay and display facility. Can the committee confirm: {a} That if this is the preferred option charging points for electric vehicles will be included and: {b} Whether there had been any debate on any possible alternative uses for this site?

### **Susan Carter**

Question 1: use of the Downs

Please could you give details of the use of land covered by the Downs Act as follows, in hectares and as a percentage of the whole, with a map if possible:

- Total area
- Woodland and scrub
- Bare rock face
- Football pitches, tag rugby pitches etc and their immediate surroundings
- Buildings, permanent car parks and roads
- Sites of temporary events and temporary car parks
- Wildflower meadows left unmown for some of the summer
- Other grassland areas left unmown for some of the summer
- Grassland kept cut short throughout the year, and always easily usable for walking and informal recreation.
- Other uses ( specify).

Question 2: membership of the committee

At its last meeting the committee accepted the following recommendations in relation to membership:

- Society of Merchant Venturer ( SMV) continuity to be ensured by including three of the four key leadership roles on the Committee ie Master of the day plus at least two out of the Senior Warden, Junior Warden, First Assistant;

- SMV selection to attempt to balance out nominations from those who live or work in Bristol, and careful consideration to be given to relevant skills sets. These to be made clear to the committee at the time of nomination;
- individuals to typically not serve more than six years but on an exceptional basis (and subject to agreement from the whole committee) an individual could serve up to nine years. In such circumstances, the committee would need to articulate why this individual should be an exception. Any deviation from the recommended terms of office to be on a 'comply or explain' basis.

Please could you explain how the SMV appointments reported on p4 of the reports pack comply with these criteria. Apart from the appointment of the Master, it is not obvious. (We are, however, familiar with the skills that Bevis Watts would bring to the Committee, and welcome them).

## Statements

Mark CD Ashdown

### **Statement to the Downs Committee - 14 November 2022**

We are advised that the Committee has sought a decision from the Secretary of State under section 5(1) of the Localism Act 2011. We assume that you have received legal advice that (as we and others have observed) the 1861 Downs Act prevents you from proceeding with the café/education booth proposal, even though it has been granted; hence your decision to take this route.

Here is why we say that this application cannot succeed:

Under the Localism Act 2011, the general power of competence is s.1(1): 'A local authority has power to do anything that individuals generally may do.' Section 8(1) defines a 'local authority' as:

- (a) a county council in England,
- (b) a district council,
- (c) a London borough council,
- (d) the Common Council of the City of London in its capacity as a local authority,
- (e) the Council of the Isles of Scilly, or
- (f) an eligible parish council;

The Downs Committee is none of these things.

Under s.5 (1) 'If the Secretary of State thinks that a statutory provision (whenever passed or made) prevents or restricts local authorities from exercising the general power, the Secretary of State may by order amend, repeal, revoke or disapply that provision.'

Again, this only refers to 'local authorities' (which the Downs Committee is not). What is more, no statutory provision prevents 'a *local authority*' from exercising the *general power* to build a café/education booth on the downs, because no-one has that power - the 1861 Downs Act prevents it.

However, section 6 of the Act sets limits on the powers granted under section 5(1):

*(1) The Secretary of State may not make provision under section 5(1) unless the Secretary of State considers that the conditions in subsection (2), where relevant, are satisfied in relation to that provision.*

*(2) Those conditions are that—*

- (a) the effect of the provision is proportionate to the policy objective intended to be secured by the provision;*
- (b) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;*
- (c) the provision does not remove any necessary protection;*

*(d) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;*

*(e) the provision is not of constitutional significance.*

*(3) An order under section 5(1) may not make provision for the delegation or transfer of any function of legislating.*

*(4) For the purposes of subsection (3) a “function of legislating” is a function of legislating by order, rules, regulations or other subordinate instrument.*

*(5) An order under section 5(1) may not make provision to abolish or vary any tax.*

Subsections 2 (c) & (d) will apply in this case.

In addition, we also argue that the Committee will still have to ask the **Secretary of State for Environment, Food and Rural Affairs** under Section 38 of the Commons Act 2006 for consent to carry out restricted works on common land.

This is because, as we have already argued, the changes to the design of the building on the site (which we are contesting - see the annexed complaint), the late introduction of ecological and biodiversity evidence (which was not before the inspectors when they last considered this matter - even though it should have been) and the proposal for offsite BNG mitigation - yet to be agreed or finalised - means that the Committee's application is materially different from its last application under planning application 18/04727/F so that the November 2020 decision (COM/3246988) cannot stand as these matters were not before the Inspector at the time.

And even this consent is still given, the 1861 Downs Act still ties your hands.

**Bristol Tree Forum**

**06 November 2022**

# DOWNNS FOR PEOPLE

*For ever unenclosed, for all to enjoy*

## Public forum statement: future use of zoo car parks

### Summary

To avoid another legal challenge, the Downs Committee needs to give more thought to the future use of the zoo's car parks. The Committee must act in accordance with its statutory remit: to keep the Downs open and unenclosed for the public resort and recreation of the people of Bristol. The proposals for both the Ladies Mile site and the North car park are contrary to this remit. The Ladies Mile proposals would reduce the recreational value of the site, while those for the North car park are mainly intended to raise money. Both sites should be maintained as recreational assets, safeguarded in a recreation plan for the Downs as a whole.

### Detail

#### I: the Ladies Mile site

##### *Value for recreation*

1. The area off Ladies Mile used for zoo parking is one of the best parts of the Downs for informal recreation. Flat, away from the busiest roads, and with fine views, it has a distinct identity and feels self-contained. It is a perfect place for ball games and picnicking, safely accessed via the path from the pedestrian crossing in front of the zoo. It is criss-crossed by popular walking routes from which dogs and small children can stray at will.

2. The zoo's occupation of the site limited its use at peak times for fifty years. There has been very little parking for the past three years and it has been a joy to see how people have reclaimed the site. It is regularly used by school groups for games during the week and is well used by others too.

##### *Impact of the wildflower meadow proposals*

3. Downs for People (DfP) supports repairing the damage that zoo parking has done, as described in the annual ecological monitoring reports. But this must not reduce the recreational value of the land. **The suggestion that grass should be left long to deter motor traffic is unacceptable: this would also prevent ball games, picnicking, walking and other recreational uses.** Wildflower meadows can themselves be an attractive recreational asset, but this is not the place for them if accompanied by long grass. **The Downs must be left open: using vegetation as a barrier is as unlawful as using cars.** Extensive areas of the Downs have already been appropriated for meadows to which access is limited, including land on the opposite side of Ladies Mile. It is arguable that this has already gone too far. (See para 8 below).

##### *Deterring motor traffic*

4. There are plenty of techniques for preventing motor vehicles entering land without denying pedestrian access. Strategically placed logs and stones are effective. On the zoo parking site, the Committee could start by removing the gravelled entrances that make access easier.

## II: the North car park

5. The zoo's North car park outside its main entrance was taken from the Downs decades ago. Its use as a car park for an activity not on the Downs is unlawful. As part of the settlement that ended our High Court challenge, Downs for People agreed that the car park could be used by the zoo until the end of 2023. Its use after that is for the Downs Committee to decide, keeping its statutory recreational remit always in mind. Bristol City Council has powers under the County of Avon Act 1982 to provide parking for visitors to the Downs, but these powers do not have to be used.

6. In earlier statements DfP has urged the Committee to look imaginatively at the use of the North car park site to maximise its amenity value. Many people walk along the zoo boundary and this route could be made into a tree-lined promenade. There is scope here for ornamental and native planting (to complement the proposed conservation centre in the lodge), information boards, sculptures, play facilities, 'pop up' refreshments and much more. ***To look only at the profit-making potential of continued parking conflicts with the Committee's statutory remit. It is unlawful and risks challenge.***

## III: need for a recreation plan

7. The work plan that the committee adopted in May provides for the preparation of a conservation plan. We have pointed out repeatedly that conservation can only be a secondary consideration for the Committee: its sole statutory remit relates to recreation and this must be its primary concern. ***The Committee needs to draw up a recreation plan.***

8. This plan will need to ensure that the Downs are kept open for recreation and that conservation and other projects do not prevent this. DfP is concerned about the extent to which leaving much of the Downs unmown for much of this summer interfered with walking routes, picnicking and informal recreation generally. ***The Committee needs to show that it is concerned too.***

*Downs for People*

*10 November 2022*





## **Statement of the Friends of the Downs and Avon Gorge.**

**November 2022**

FOD+AG welcomes the opportunity to update the Downs committee on our most recent events and some of the activities planned for the coming weeks.

We remain committed to our core values to represent fairly all legitimate users of the Downs and to support the City Council and the Downs Committee in the good governance of the Downs.

The Friends of the Downs and Avon Gorge committee met recently and high on the agenda was a debate about the proposed future Downs governance arrangement. This follows on from the Downs Committees decision in October to accept the seven recommendations contained within the paper entitled Downs Vision. The Friends committee voted unanimously to provisionally support the proposal and endorse the recommendations contained in the paper.

At the beginning of November, the 'Your Downs' group met. Representatives from FODAG along with the Avon Gorge & Downs Learning and Engagement Officer and the North Area Supervisor discussed recent and future projects. One outstanding item on the group's agenda was concern about the dangerous condition of a designated viewing area in the goat compound. The area has been in poor condition for some time and has previously been reported to senior Parks managers. Due most probably to financial restrictions and strict BCC spending controls funding has not been forthcoming to rectify the problem. FODAG's concern is a Health & Safety one whereby visitors are exposed to a potential trip hazard and the City Council possibly liable to a claim.

The Walking for Health Group led by Timothy Dowling has gained in popularity with further walkers joining the ranks. Recent numbers have seen around forty ramblers tramping the Downs every week. We are looking to recruit further walk leaders.

On the theme of walking, Local Nordic walkers regularly engage with FODAG to undertake guided walks and talks around the Downs. Previously we looked at trees of the Downs and last month the group were escorted around the goat compound and were fascinated to hear about the history of the livestock, the unique plants of the Gorge and about the ongoing conservation project to manage this interesting area.

A recent financial award of £1000 to FODAG from Forest Finance and linked to The Big Litter Event has permitted us to purchase a range of new equipment. Items

include new fluorescent jackets, specialist long reach litter pickers, edging shears and loppers. At the end of October FODAG Wombles joined with additional volunteers from Forest Finance and cleared litter from the Gorge and from the river bank.

In a joint enterprise with the Avon Gorge & Downs Wildlife Project we will again be hosting the ever-popular Christmas Star Party. The event will be located at Seawalls and will be an opportunity to view the Heavens using state of the art telescopes. To take advantage of possible clear skies three dates have been reserved. They are Tuesday 29th, & Wednesday 30th of November and the 1st December. Guests will be able to observe the Orion Nebula, learn how to spot the main winter constellations and enjoy hearing the stories written in the stars with a unique festive twist. Hot drinks and star shaped cookies will be provided for visitors.

FODAG working with the Avon Gorge & Downs Learning and Engagement Officer are seeking to enlist the services of a volunteer to look after the small Brunel Garden located at the Clifton end of the Suspension bridge. The garden contains the rare plants of the Avon Gorge and is currently maintained by one of the Zoo gardeners. This is likely to continue for the moment but in the interests of continuity, a handover to a volunteer would be good.

Due to Covid restrictions in recent years FODAG has been unable to hold a full in person Annual General Meeting. This year we are planning to resume and will meet on December 7<sup>th</sup>. At Redland Bowling Club. The current committee will stand down and all have indicated a willingness to stand for a further term. Members are encouraged to join the committee where there are vacancies.

FODAG are delighted to welcome as our principal guest speaker this year the chair of the Downs Committee. Councillor Paula O'Rourke. This will be the first occasion that the Chair of the Downs Committee has addressed FODAG members. A warm welcome is ensured.

Previously mentioned work to plant additional bulbs at the Thomas Memorial {top of Whiteladies Road} was completed at the end of October. Concentrations of Snowdrops and Grape Hyacinth should provide a real splash of colour for Spring 2023. The cost of the plants was met by a further financial grant awarded to FODAG.

Robert Westlake  
Chair  
Friends of the Downs & Avon Gorge