

# THE DOWNS COMMITTEE

Clifton and Durdham Downs (Bristol) Act 1861

**Reply to** Steve Gregory

To : Members of the  
Downs Committee

**Telephone**

**E-mail**

steve.gregory@bristol.gov.uk

**Date**

Friday, 8 September 2023

**The Lord Mayor and 6 City Councillors**

**The Master and 6 Merchant Venturers**

## Agenda

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

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 15 September 2023.
- 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 12 September 2023.
- You will have the opportunity to ask one supplementary question arising directly out of each of the original questions or replies.

**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)

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 Officer

Email: [steve.gregory@bristol.gov.uk](mailto:steve.gregory@bristol.gov.uk) or [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk)

Phone:

# **THE DOWNS COMMITTEE**

## **18 September 2023**

### **Public Forum**

#### **Questions**

Two questions received from Susan Carter

#### **Statements**

1. FODAG
2. Susan Carter

Susan Carter questions

Here are two written questions for the meeting from me, not DfP ( run out of time to consult):

**Question 1: nature conservation status**

Please could you confirm that the wildlife of the Downs is not generally regarded as being of global significance, as a member suggested at the last meeting? My understanding is that the Downs have been designated only as a Site of Nature Conservation Interest, by local ecologists. ( The cliffs and woods of the Gorge enjoy stronger, statutory protection as the Avon Gorge Site of Special Scientific Interest - a national designation - and the Avon Gorge Woodland Special Area for Conservation - a European designation).

**Question 2: cost of Sea Walls cafe proposal**

How much money and officer time was spent on the proposal to build a café at Sea Walls, (including all planning and common land applications, and the recent approach to the Secretary of State) broken down into:

- Architect and other professional fees
- Legal advice, including the time of the Council's legal officers
- Other officer time
- Any other costs.



**September 2023**

**Public Forum Statement**

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

FOD+AG remains committed to its core values to represent legitimate users of the Downs and to support the City Council and the Downs committee in the good governance of the Downs and Avon Gorge.

Last month FODAG representatives met with the Master, the Downs Supervisor and three members of our Police Neighbourhood Partnership team. The purpose of the meeting was to quiz the officers on how they police the Downs and look to how further improvements might be achieved. Some positive outcomes included an improved visible presence and better lines of communication. We now have direct email and telephone contact details to speed up reporting lines. Officers also accepted invitations to talk to the Downs Advisory Panel and FODAG's AGM. Officers explained the difficulty of priorities and managing finite resources but were keen to point out the importance of incidents being reported. Just over a week ago and to continue improving our working relationship with the Police FODAG joined local officers at a bike marking event and beat surgery at Seawalls.

FODAG has been busy recruiting new members by organising open events on the Downs, talking to people, finding out what concerns them passing on information on how the Downs work and how they can help us to help the Downs. To date we have successfully recruited a dozen new members.

FOD+AG are delighted that in a new poll conducted by Smart Energy UK Clifton Downs came out top as the local beauty spot most residents admired. Second was Ashton Court followed by Clevedon Pier. Victoria Bacon, Director at Smart Energy GB said: "It is clear that people in Bristol value the environmental benefits of their local hotspots as much as their beauty." "That's why it's so important that we find new and innovative ways to protect our environment".

When it comes to looking after the countryside, (86% per cent) are proud of the preservation work that goes into conserving our green spaces.

Repairs to the vandalised tongue and groove boarding at the Haven shelter have been completed and work to remove the graffiti will be undertaken in the next few weeks.

Last month FOD+AG volunteers were in attendance at the Bee and Pollination Festival held at the Botanic Gardens. FOD+AG are influential in monitoring the activities of our pollinators and carry out regular transects that feed into a national data base. In addition, a talk was delivered to the Friends of Old Snyed Park Nature Reserve.

FOD+AG has received a request from the Students Union to provide a day's volunteer labour for thirty students at the Downs. We will be identifying suitable tasks and the day is planned for sometime next month.

FOD+AG will shortly be resuming regular deep litter clearance duties. This sees volunteers delving into less accessible areas of the Downs to remove accumulated rubbish.

Downs neighbours frequently comment about damage to the edges of the Downs caused by indiscriminate parking. A particular problem seems to be with contractors' vehicles wishing to park near the property that they are working on. FODAG has recently intervened in an incidence at Westbury Park where trucks and even a skip were parked on the Downs. A reminder from FOD+AG about Downs byelaws resolved the issue. We are planning a similar exercise for infringing vehicles parked on the Downs near Wills Hall.

The Downs Ambassadors continue their sterling work keeping an eye on what's going on at the Downs. These regular observations feedback to a coordinator for logging and when required appropriate action undertaken.

FOD+AG has recruited a committee secretary and will hold its AGM on the 6<sup>th</sup> December.

Robert Westlake

Chair.



# DOWNNS FOR PEOPLE

*For ever unenclosed, for all to enjoy.*

## Public forum statement: use of North car park

***This statement explains why the suggestion that the North car park should continue to be used by contractors is a non-starter. The car park is part of the Downs and parking can only be provided lawfully on the Downs for Downs users. Further, the Committee and the City Council gave an undertaking to the High Court in 2021 that they would not make arrangements for parking for non-Downs activities on the North car park. If they do not honour this undertaking, they will be in contempt of court. A KC's advice on this should not be necessary.***

### Background

1. The note from the Events and Finance Group for the Committee's meeting in June suggested the Master of the Merchant Venturers would liaise with the Downs Advisory Panel and Downs for People about keeping the site of the North car park as a car park for the use of visitors to the Downs.
2. In our June statement we said that there should be public consultation: in our view the site should be restored to an amenity use. We warned that we would be checking that the terms of the court order that brought our High Court challenge to an end were observed. The Committee would be in contempt of court and its members could go to prison if they provided parking for anyone other than those using the Downs.
3. The Events and Finance Group is now proposing that the site should continue to be used by contractors for about £40k a year. The minutes of the group's meeting record "concern that remaining open would be a breach of contract however this would only apply if there was disagreement between the parties." Two members of the group were to liaise with Downs for People "to ensure full inclusivity with the proposal to remain open". They outlined the Committee's financial difficulties to a member of Downs for People on 11 September. We sympathise and wish the Downs to prosper. To save further legal costs, we have set out our understanding of the legal obstacles to this proposal.

### Problems with proposal: unlawful and in contempt of court

4. The North car park cannot be used for parking by anyone other than Downs users after the end of this year because such a use would be unlawful. By allowing it the Committee would be in contempt of court.

### Unlawfulness

5. Under section 8 of the County of Avon Act 1982 the City Council can set aside land forming part of an open space which is under its management and control for car parking ***in the interests of persons resorting to the open space***. For the purposes of this section the Act provided that the Downs



should be deemed to be under the management and control of Bristol City Council. There are no other powers for anyone to allow parking on the Downs except along the roads.

6. *Downs for People* warned the Committee repeatedly that allowing the Zoo to park on the Downs was unlawful and could be challenged in the courts. When the Committee granted a twenty-year licence, we were obliged to seek judicial review. To the apparent surprise of the judge dealing with the case,<sup>1</sup> the Committee and the City Council engaged two top KCs to look at the legal arguments, at a cost of £143k. We are confident that the KCs will have advised that the parking was unlawful or we would not have been offered such a generous settlement just before the case was due to be heard in court. We received twice as much towards our costs as the court could have given us. ***The Committee does not need to seek more expensive legal advice on the lawfulness of parking by contractors. The earlier advice from their KCs will cover it.***

#### *Contempt of court*

7. Our High Court case was discontinued by means of a court order (attached). *Downs for People* agreed that the zoo could continue to use the North car park until the end of this year to give it time to dispose of its animals. Apart from this, the Downs Committee and Bristol City Council gave the Court an undertaking that they would not “make arrangements whose purpose is to allow persons to park on the North Car Park so as to undertake non-Downs activities”.

8. This is a court order, not a contract between the Downs Committee and Downs for People. Before agreeing to discontinue our court case in this way, we checked with our counsel how the order could be enforced. He said that anyone, not just members of Downs for People, would be able to apply to the courts for redress in the case of a breach. Any breach would constitute contempt of court for which the penalty could be imprisonment.

***9. Again expensive legal advice from a KC should not be necessary. The City Council's legal officers should be able to advise on the status of court orders.***

Downs for People

12 September 2023

---

<sup>1</sup> In his order of 12 November 2020 HHJ Cotter decreed that the maximum possible costs should be payable to DfP if we won in court, saying: “I have noted that the Defendants have retained two leading Counsel and the Claimant’s legal team will have to address any issues raised by either of them”. DfP was represented by a single junior barrister.

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ADMINISTRATIVE COURT

CO 3081/2020

BEFORE THE HONOURABLE MR JUSTICE HENSHAW

BETWEEN:-



THE QUEEN  
On the application of  
SUSAN CARTER

Claimant

-and-

(1) DOWNS COMMITTEE  
(2) BRISTOL CITY COUNCIL

Defendants

(1) THE MASTER WARDENS AND COMMONALTY OF MERCHANT VENTURERS OF THE  
CITY OF BRISTOL  
(2) BRISTOL, CLIFTON AND WEST OF ENGLAND ZOOLOGICAL SOCIETY

Interested parties

---

ORDER

---

UPON the parties having reached terms of settlement

AND UPON the Defendants undertaking that, save as provided for by this order, after the date of the order they will not

set aside land on the Downs for the purpose of allowing persons to park so as to undertake non-Downs activities or

make arrangements whose purpose is to allow persons to park on the North Car Park so as to undertake non-Downs activities

**IT IS ORDERED BY CONSENT THAT**

1. The application for judicial review be discontinued.
2. The Defendants (on a combined basis) pay the Claimant's costs to be taxed if not agreed up to a maximum of £60,000 (excluding VAT).

**AND IT IS DECLARED BY CONSENT THAT**

3. The effect of this order is stayed only to the following extent:-
  - (1) so that the Ladies Mile Car Park may be set aside for parking for non-Downs activities until (and including) 1<sup>st</sup> October 2022; and
  - (2) so that the North Car Park may be set aside for parking for non-Downs activities until (and including) 31st December 2023.
4. This order does not impose any obligation on either of the Defendants to:-
  - (a) check the purpose or purposes for which any person parks, has parked or will park on the Downs, including at the Ladies Mile Car Park and the North Car Park; or
  - (b) check whether those in any vehicle so parked have undertaken, are undertaking or will undertake non-Downs activities; or
  - (c) enforce any restrictions on car parking on the Downs.
5. For the avoidance of doubt, this order shall not affect in any way any right of parking on any road in or over the Downs.
6. This order and any breach thereof shall not give rise to any right to claim damages, loss, compensation or legal or other costs whatsoever.
7. In this order  
"the Downs" are Clifton and Durdham Downs  
"order" means each and every part of this consent order and the undertakings herein, but not the explanatory note

“the Ladies Mile Car Park” and “the North Car Park” are the car parks referred to as such in the pleadings in the claim

“non-Downs activities” are activities undertaken otherwise than on the Downs.

**The Hon. Mr Justice Henshaw**

**12<sup>th</sup> May 2021**

***EXPLANATORY NOTE***

*The Claimant challenged the grant of a licence and sub-licence under which an area on the Downs at Ladies Mile was set aside for parking for visitors to the Zoo for up to 28 days each year (with an option for additional days if planning permission were granted). The parties have reached agreement to settle this claim on the basis that the parking for non-Downs activities will be allowed at Ladies Mile until 1<sup>st</sup> October 2022 and at the North Car Park until the end of 2023, when the Zoo’s need for parking at these sites will cease. Apart from this use by the Zoo, the Defendants undertake not to set aside land on the Downs for the purpose of allowing persons to park so as to undertake non-Downs activities. On this basis, and subject to the further terms in the order, the Claimant has agreed to discontinue the claim.*