

Downs Committee: 5 July 2021

Downs for People public forum statement: Downs Committee review

Summary

Observation over many years has shown that the Downs Committee is not fit for purpose. Its members do not understand its statutory remit, nor do they act in the open and accountable way expected of a public body. The Committee's failures led to our court case about parking on the Downs. This has probably cost Bristol City Council and the Committee about £250k.

To prevent more money being squandered and to safeguard the future of the Downs, the composition and operation of the Committee require urgent review. *Downs for People* would like to help with this. We would welcome an early opportunity to discuss the issues with some members of the Committee. (We are sorry that no one is available to present this statement on 5 July. But we know from experience that attendance would not lead to discussion)

Background

1. The Lord Mayor and some other members of the Committee may not be familiar with our court case against the grant of a twenty-year licence for the Zoo to park on the Downs. The background is given in our May news release, which is attached.

Problems

Failure to understand statutory remit

2. The court case revealed that the Committee did not understand its simple statutory remit under the 1861 Downs Act: to manage the Downs so that they "shall for ever hereafter remain open and unenclosed, and as a place for the public resort and recreation of the citizens and inhabitants of Bristol". Nor did the Committee understand that it was a statutory body whose decisions could be challenged in the courts. We infer from the generous offer made to us to settle out of court that the Committee will have received very clear advice from their barrister on both these points. ***We suggest that all members of the Committee ask to see this advice.*** (It is not clear from the minutes and papers for its meetings that the Committee has ever received information about the case other than its costs.)

Procedures

3. The Committee does not operate in the open and accountable way expected of a public body. Its procedures are defective in the following areas:

- **Consultation.** Consults very rarely and ignores requests for discussions.
- **Confidentiality.** Excessive secrecy. Failed to disclose basic information in our court case until ordered to do so by a judge.
- **Communication.** Because of excessive secrecy, decisions and discussions are not properly minuted and published.

- **Conflicts of interest/possible 'cronyism'.** Under pressure from *Downs for People*, the Committee introduced the customary 'declaration of interests' procedure in 2013. The procedure apparently now applies only to councillors, even though Merchant Venturers have close links to many institutions, including the Zoo. This may have led to 'cronyism'. For example, in 2009 and 2013, the Committee went through the motions of granting licences for zoo parking, even though short-term licences were unnecessary because a long-term licence was in force. The 2009 and 2013 licences do not appear to have been executed: the decisions to grant them were presumably just intended to support the Zoo's planning applications, possibly as a personal favour to the Zoo's then Chief Executive.
- **Committees.** Most effective discussion and decision-making now takes place 'behind closed doors' in the Events and Finance Sub-Group, chaired by the Master of the Merchant Venturers. Apart from the undesirable secrecy, it is not clear that the 1861 Act allows for delegation to sub-groups.
- **Council officer ownership.** While officers of Bristol City Council provide the Committee with various services, no one appears to 'own' the Committee, taking responsibility for its activities and ensuring it functions effectively.

Structure

4. Other problems arise because of the arrangements set out in the 1861 Downs Act:

- **Lack of councillor continuity.** The Lord Mayor, who chairs the Committee, changes annually. This makes it hard to grasp the issues. 'Ordinary' councillor members appear to change every three years. In contrast, as required by the Downs Act, two Merchant Venturer members change each year. Individual Merchant Venturer members can, however, stay on the Committee indefinitely. This is unbalanced: it leads to dominance by a few Merchant Venturers most of the time.
- **Lack of competence.** Members are not required to have any skills relevant to land management.
- **Costs allocation.** The 1861 provides for some costs to be met by the City Council, but none by the Society of Merchant Venturers. The Merchant Venturers can therefore exercise 'power without responsibility'.

Solution

5. The procedural defects identified in para 3 can be easily remedied. The Committee can simply decide to adopt better practices.

6. The structural problems described in para 4 are more difficult. Change to the composition of the Committee would require amendment of the Downs Act. Before embarking on any legislation, careful thought would need to be given to what needed to be changed and the possibility of unintended consequences.

7. There are management structures elsewhere, such as the Malvern Conservators, that could provide a useful model for the future. There might also be advantages in not defining the composition of any committee in statute.

Way forward

8. We wrote last month to the Lord Mayor, the Society of Merchant Venturers, and the leaders of all four political groups on the City Council, pointing out that the Downs Committee required review. The Lord Mayor invited us to make a public forum statement, as we are now doing. We received encouraging responses from the leaders of the Green and Conservative parties. We have been invited to a meeting with the Society of Merchant Venturers.

9. We suggest that a group should be established to review the operation of the Committee in more detail and to produce options on which there would be public consultation. *Downs for People* would like to be part of the review group. We suggest that the Open Spaces Society, Britain's oldest conservation body (founded shortly after the 1861 Act), with a long history of campaigning for the protection of commons, should also be involved.

10. We would welcome an opportunity soon to discuss the issues raised in this statement with members of the Committee.

Downs for People

2 July 2021