

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,¹ 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

¹ 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.