

DOWNNS FOR PEOPLE

For ever unenclosed, for all to enjoy.

Public forum statement: draft minutes of Events and Finance Sub-Group meeting 30 January 2024

Summary *The draft minutes of the meeting mis-represent both the legal constraints on the use of the North car park and the High Court challenge by Downs for People. The Committee needs to take careful note of the legal constraints. The Master of the Merchant Venturers is asked to ensure the minutes are corrected in all respects.*

Detail

1. The draft minutes of the January meeting of the Events and Finance Sub-Group (agenda item 6) record that requests to use the North car park from the Bristol Film Office and Clifton College had been refused because such uses “would not be consistent with the Consent Order which settled Mrs Carter’s litigation. “

There are three errors in this statement:

- the Consent Order is not the main legal obstacle to these uses: they are fundamentally unlawful;
- the litigation was undertaken by *Downs for People*, not “Mrs Carter”;
- no Mrs Carter has been involved.

The legal constraints

2. Use of the North car park by the Bristol Film Office or Clifton College would certainly be contrary to the terms of the order which discontinued our High Court challenge. If the Committee breaches that order, they will be in contempt of court. But the order did not impose a new constraint: instead it provided an exemption for the North car park for a limited period from the provisions of the 1861 Downs Act.

3. Under the Downs Act, the Downs must “remain open and unenclosed, and as a place for the public resort and recreation of the citizens and inhabitants of Bristol”. The Downs Committee has only one statutory duty: to ensure that the Downs are managed and regulated in a way that achieves this. Permitting parking on the Downs is unlawful except insofar as the County of Avon Act 1982 provided that the City Council could set aside land for parking by “persons resorting” there ie for activities taking place on the Downs.

4. ***The provision of a base for film units or a pick up and drop off zone for Clifton College would be unlawful under the 1861 Act irrespective of the Consent Order.*** *Downs for People* sought judicial review of the decision to grant a twenty year licence for zoo parking on the Downs on the grounds that it was unlawful. The Committee will have received legal advice to this effect when it offered to settle out of court.

Responsibility for litigation.

5. The High Court challenge to the Committee's decision was made by the group *Downs for People (DfP)*, not by an individual. Susan Carter is a member of Downs for People who agreed to be named in the proceedings. She explained in a witness statement to the court: "Because DfP is an unincorporated association, we have been advised to bring these proceedings in my name on behalf of DfP to avoid any procedural challenge". To make it absolutely clear that it was a group, not an individual, challenge, DfP sought an order capping their costs liability to £10,000, rather than the £5000 applicable to challenges by individuals.

6. *The minutes need to be amended to refer to litigation by Downs for People, not by Susan Carter.*

Name of claimant

7. The name of the claimant in the High Court challenge is Susan Carter. No title is necessary (nor indeed any reference to the claimant). Susan Carter's preferred title is Ms Carter: Mrs Carter is incorrect.

Downs for People

7 March 2024