

VARIATION TO DERBY RACE DAY

Head of Service/Contact:	Amardip Healy, Chief Legal Officer
Annexes/Appendices (attached):	Annex: Application for variation of 2020 Derby fixture.
Other available papers (not attached):	Report to Conservators, 27 January 2020 Epsom Downs Racing Season 2020 Epsom & Walton Downs Act 1984

Report summary

To note the current position with regard to holding sporting events at Epsom Downs Racecourse along with the potential for changes in approach. In the light of possible changes to arrangements, to determine an application for variation to the fixture date for the 2020 Derby.

Recommendation (s)

The Conservators are asked to:

- (1) consider the special circumstances affecting racing at Epsom Downs Racecourse;
- (2) note the current position in relation to the holding of a race day not open to the general public and the safe conditions requested for the holding of such an event at Epsom Downs Racecourse;
- (3) consider the request for a change to the date of the 2020 Derby with a flexibility of dates in July or August 2020 along with the fencing/secure area which is required, shown edged red on the Plan attached to the Annex;
- (4) to approve, if accepted,
 - (i) flexibility for the Derby to be held on a date in July or August 2020, with notice of such date to be given to the Clerk to the Conservators at least 3 days before the event occurs and

- (ii) **the details of the fencing/ secure area arrangements as set out in the Application for consent, attached at the Annex.**

1 Background

- 1.1 In January 2020 the Conservators agreed dates for the racing calendar for 2020. The Derby Festival was due to take place on the 5th to the 6th June. During the Festival there would be a number of key races run, the most significant of which is the Investec Derby which would have been on Saturday 6th June, along with several other races, including the Investec Oaks, which would have been on Friday the 5th June.
- 1.2 On the 12th March 2020 the Government confirmed that COVID19 was a global pandemic. At that time the Government was considering the question of banning major public events such as sporting fixtures.
- 1.3 On the 21st March the Government introduced business closure and health protection regulations, which came into effect a few days later. The effect of these regulations were to close some businesses from operating, introduce social distancing requirements and also define when the public were permitted to leave their homes. The regulations were supported with powers to prosecute.
- 1.4 The spread of Covid 19 has severely impacted the ability to hold any sporting events. The calendar for most sports events have been either cancelled until early June or until further notice.
- 1.5 Most sports are looking towards when the operation of the current lock down may be eased, or the terms of when the health protection regulations might be lifted. The situation is complex and constantly changing. It therefore consequently requires all sporting bodies and operators to manage their business continuity plans with as much flexibility as possible.
- 1.6 There are currently a number of discussions underway between the various sporting industries and Government in terms of how sport could be allowed to operate in a safe way if and when it was able to do so. This has resulted in an approach of sporting events being potentially held, in what has now been described as 'behind closed doors' (BCD). This means there would no public access or attendance, but would continue to be televised.

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2 Proposals

- 2.1 The Racecourse has requested the Conservators to consider a change to the date set for the Derby this year to facilitate the possibility, should it become available, to hold the Derby behind closed doors.
- 2.2 The details of the proposed arrangements for the Derby day are set out in the application from the Racecourse, attached as an Annex to this report. The application sets out the context, the justification for the proposed change and arrangements. The request before the Conservators is to approve the change in date to the 2020 Derby along with new fencing arrangements needed for the event.
- 2.3 The current date for the Derby is Saturday 6th June. The request is to move this date to a Saturday in July or August. Flexibility is requested in terms of fixing the actual date so as to allow a date to be set as soon as it possible to do so. If the Conservators fixed an actual date now and that date could not go ahead, a further meeting would need to be called to vary the date. By taking a flexible approach to fixing a date, would avoid the necessity of having to arrange a further meeting, which will invariably be at short notice. It would also provide some certainty to the Racecourse that they have the approval of the Conservators so as to enable the planning process in the event it were possible to proceed.
- 2.4 The Derby is a significant and iconic event within the Racing calendar. It has a long relationship with Epsom and the industry are keen for the event to take place this year and if possible for it to be run at Epsom. This is despite the logistical issues the Racecourse at Epsom presents to the Racing Industry in terms of its openness and its public accessibility against the requirements of what is needed to hold an event behind closed doors.
- 2.5 The arrangements for a new date will inevitably require a different approach to planning and delivery. Holding an event behind closed doors will require stopping the public being able to access the racecourse and paddock areas for a day. As a result, the Application sets out the extent of the extra steps and measures required, so as to hold the event at Epsom. The most significant difference from the normal Derby event would be the restrictions on use of public footpaths at the Racecourse. The need to have in effect, an exclusion zone would facilitate the ability to hold the Derby safely at Epsom. If this cannot be secured, then the Derby cannot be held at Epsom.
- 2.6 It would also mean the likelihood of no racing taking place at Epsom in 2020.

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- 2.7 If consent is granted for the variation to the date of the Derby, the Applicant also aims to run the Oaks race on the same day. The Oaks is currently set for Friday 5th June. Any new day will have both the Derby, the Oaks along with a number of other races run so as to secure a day of racing.

3 Financial and Manpower Implications

- 3.1 None for the purposes of this report.
- 3.2 **Chief Finance Officer's comments:** none arising from the contents of this report.

4 Legal Implications (including implications for matters relating to equality)

- 4.1 The arrangements for race days are set out in the Epsom and Walton Downs Regulation Act 1984 (the Act). Some arrangements are set out within the Act itself and some arrangements need the consent of the Conservators.
- 4.2 Section 14 of the Act, sets out the requirements for race meetings and highlights the need for the Conservators consent to the day on which the race known as the Derby is run.
- 4.3 Section 17 (3) allows, in effect, as landowner, the Racecourse to control access over the Downs to the race course and the paddock, and section 17 (4) (d) any necessary fencing.
- 4.4 It is important to note that the right of the public over the Downs is constrained in terms of the conditions set out in section 4 of the Act.
- 4.5 **Monitoring Officer's comments:** none arising from the contents of this report.

5 Sustainability Policy and Community Safety Implications

- 5.1 Not applicable.

6 Partnerships

- 6.1 Not applicable.

7 Risk Assessment

- 7.1 There is no requirement for the Conservators to risk assess the application as the risk management responsibility for racing events rests with the Applicant. The Applicant has confirmed that they would only run an event if the current restrictions on movement were eased or lifted.

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8 Conclusion and Recommendations

- 8.1 The Racecourse's application is to vary the day of the Derby and seek permission for fencing to enable the event to be held safely and securely. The reasons for the application and the approach being taken, are reflective of the context of the current challenging climate within which all businesses having to respond to and at some point to operate within. The advice from Government in terms of approach, is to give those who need it, the flexibility and support to ensure they are able to function and address their own industry's needs.
- 8.2 For the reasons stated in the Racecourse's application, the Derby is a key date in the racing diary and also significant within the horse breeding calendar.
- 8.3 Even though the costs of holding a behind closed doors event at Epsom are significant, the Application demonstrates the commitment of the Racecourse to the Industry to Epsom. If the Application is not granted, the Racecourse have confirmed that it will have a 'significant commercial and reputational consequences to the racecourse and the local training community'.

Ward(s) Affected: College Ward; Woodcote Ward;