

OPENING AND CLOSURE OF CAR PARKS ON THE DOWNS

Head of Service/Contact: Amardip Healy, Chief Legal Officer
Annexes/Appendices (attached): **Annex 1:** Car Parks location plans
Annex 2: Letter from TGMB dated 11 May 2020
Annex 3: Social Distancing Poster

Other available papers (not attached):

- Report to Special Meeting of the Conservators 22 July 2019, Access Arrangements for Car Parks.
- Cabinet Office Guidance: Staying alert and safe (social distancing) published 11 May 2020

Report summary

To consider whether the car parks on the Downs should now open to the public. To facilitate future decision making by agreeing a scheme of delegation for the opening and closing of the Car Parks managed by the Council on behalf of the Conservators in cases of emergency or urgency.

Recommendation (s)

The Conservators are asked to:

- (1) note the effect of Covid-19 on the support services provided by Epsom and Ewell Borough Council;**
- (2) note the letter from TGMB (Annex 2) and consider their request in relation to the availability of public car parking (Annex 1) on the Downs;**
- (3) consider and agree one option from the options set out at paragraph 2.6 of this report in relation to the opening and closing of the car parks on the Downs;**
- (4) consider the future management arrangements of the car parks managed by the Epsom and Ewell Borough Council on behalf of the Conservators and approve the following delegation to the Clerk to the Conservators:**

Epsom and Walton Downs Conservators
22 May 2020

- (i) **The Clerk to the Conservators, or their nominated deputy is empowered to take all necessary decisions in cases of emergency or urgency in relation to the opening or closing of any or all of the car parks on the Downs managed by Epsom and Ewell Borough Council.**
- (ii) **For the purposes of this delegation, emergency and urgency have the ordinary dictionary meaning of the words and may imply consideration of health and safety, legal and financial risk or that the interests of the Conservators may be compromised. In the absence of the Clerk to the Conservators, the nominated deputy will exercise emergency or urgency powers in the same way.**
- (iii) **In deciding whether or not to exercise the emergency or urgency delegation, the Clerk to the Conservators, or nominated deputy, should consider whether to consult the Chairman and Vice Chairman of the Conservators and have regard to their views if consulted.**
- (iv) **The Clerk to the Conservators shall always be entitled to refer matters for a decision to a meeting of the Conservators where it is considered by the Clerk expedient to do so.**

1 Background

Car Parks on the Downs

1.1 The Council manage a number of car parks on the Downs on behalf of the Conservators. The location of the car parks are identified on the plan at Annex 1. Some of the car parks are known or referred to in different ways. For the purposes of this report, all references will be in accordance with the names set used on the Plan at Annex 1.

1.2 The car parks which have previously been and can be opened to the public are set out in Table 1 below:

Table 1: List of available car parks

1.	Grandstand Road - View Point
2.	Grandstand Road - Laybys x 4
3.	Old London Road – Threshers Layby
4.	Old London Road – Top Car Park
5.	The Tea Hut Car Park
6.	The Downs keepers' Hut Car Park & the Tattenham Grass Extension

Epsom and Walton Downs Conservators

22 May 2020

- 1.3 It is important to reiterate that the land upon which the car parks stand, is not owned either by the Council or by the Conservators. There is a great deal of confusion in the minds of car park users and those who support those users as to both the Council's and the Conservator's roll and standing in relation to the provision and management of the car parks on the Downs.
- 1.4 Under normal operations, with the exception of the Top Car Park, the other car parks on the Downs managed by the Council on behalf of the Conservators are kept unlocked and are available for public use all year round with the exception of race days.
- 1.5 Access to the Top Car Park is prevented by a gate on the Old London Road which, under usual circumstances, is locked at 5pm in the winter and 9pm in the summer.
- 1.6 It is important to understand that both the capacity of each of the car parks and also their potential conflicts and challenges. Table 2 below provides a summary of this information:

Table 2: Car parks managed by the Epsom & Walton Downs Conservators

Name	Max Capacity	Conflicts and challenges
Grandstand Road - View Point	30	Potential for conflict with the Golf Course
Grandstand Road - Laybys x 4	2 - 5 cars each	Potential for conflict with the Golf Course
Old London Road – Threshers Layby	3 - 4	No conflict
Old London Road – Top Car Park	120	Anti-social behaviour, necessity to lock the gate at the Old London Road in the evenings
The Tea Hut Car Park	40	No conflicts
The Downs keepers' Hut Car Park & the Tattenham Grass Extension	50-60 & if further extension is used can go to 300	No conflicts with Downs keepers' Hut but using the extension and leaving open could result in anti-social behaviour from car drivers
Hyperion Car Park	30	Not used on the grounds of health and safety and anti-social behaviour from car drivers. Also used by race horses from one of the biggest and busiest yards as a safe crossing to and from gallops

Epsom and Walton Downs Conservators

22 May 2020

- 1.7 Following concerns several years ago about anti-social behaviour the Hyperion car park was closed. This led to increased pressure at certain times to have increased car parking capacity, which resulted in a report to a special meeting of the Conservators in July 2019, to enable the opening up of further parts of the Tattenham Enclosure for car parking in the summer months only.
- 1.8 At the time the delegated authority was also approved to consider requests from the land owner in relation to determining any request for modified hours or access to any of the car parks managed by the Conservators. Examples would include the making of any temporary road or street order, or the opening up of any car parking area. However if any change required permanent changes, then the matter would still need to go to the Conservators.

Covid-19

- 1.9 On the 16 March 2020, the Government introduced new and updated industry guidance on limiting the spread of Covid-19, following a change in approach to a 'delay' phase.
- 1.10 The guidance provided information for specific sectors, including schools and transport, on what precautions to take, what to do if someone develops symptoms and how to limit the spread of the virus. The aim was to slow the spread of the virus, reduce pressures on the NHS and protect the most vulnerable.
- 1.11 However, by 18 March 2020, the advice changed and schools were directed to close from 23 March 2020 until further notice. By 20 March further guidance was issued requiring the immediate closure of entertainment, hospitality and indoor leisure premises across the country to take place from the end of trading hours. In addition new measures further limit people's sustained social contact and the public were urged to stay at home and limit all but essential travel, with people who could work from home to do so. The aim again was to limit the spread of the virus.
- 1.12 The advice and guidance continued to be issued, on a daily basis. The Coronavirus Act 2020 was passed along with a wide variety of regulations, with the aim of delaying the spread of the virus.
- 1.13 On 20 March 2020 Council Officers reported an unprecedented number of people using the parks and open spaces across the Borough and on the Downs. There was clear evidence that large parts of the public were not observing the social distancing rules along with the advice to stay at home and not to gather in groups.

Epsom and Walton Downs Conservators

22 May 2020

- 1.14 By 23 March 2020 Council Officers became seriously concerned about the level of activity on the Downs and the impact of this on both public safety in terms of spreading the virus, the pressures this was placing on keeping the public away from the horses in training during the mornings and also on impact on the health and safety of staff officers including the Downskeepers who work on the Downs. This was all at a time when the primary focus of the Council was on supporting the Borough's most vulnerable residents as part of its civil contingency duties. The Council placed a number of posters on Downs setting out the guidance on social distancing, an example of a poster is included at Annex 3.
- 1.15 On 26 March 2020, Officers were given the authority to close Council owned car parks serving Council parks because of the failure of the public to follow social distancing guidance.
- 1.16 As a result, in consultation with the Council's Covid-19 Team (the emergency response team) following concerns raised by Surrey Police, all the car parks managed by the Council on the Downs were also closed.
- 1.17 To manage the threat to public safety when the gallops are in use, the messaging to the public was to encourage public use of the Downs after 12 noon daily, but to avoid the area entirely if possible. A range of messages and posters were used to ensure the message was disseminated as quickly as possible. This had a positive effect and public use reduced.
- 1.18 It is important to note that a number of other organisations who either own and or manage open spaces and parks, such as local authorities, the National Trust, closed their parks and open spaces to the public in response to the refusal of the public to follow the Government's guidance at the time. The message to the public to stay at home if possible, to limit outside activity and to follow social distancing requirements took some time for some elements of the public to observe.
- 1.19 On 13 May 2020, the Government changed its guidance in terms of how far people could travel for their time outside along with number of times people could go out for exercise.
- 1.20 It is important to note that the advice remains to
“... stay at home as much as possible, work from home if you can, limit contact with other people, keep your distance if you out (2 metres apart where possible), wash your hands regularly”.

The advice also remains that

“Do not leave home if you or someone you live with has any of the following: a high temperature, a new, continuous cough, a loss of, or change to, your sense of smell or taste”

Epsom and Walton Downs Conservators

22 May 2020

- 1.21 In response to easing of the restrictions on outside activity, many organisations are now starting to review their risk assessments and open up their parks and open spaces gradually and in step with government advice. However, some still remain closed.
- 1.22 The ability to allow the public to access car parks, is in some cases dependent on whether the car parks have facilities and require staff to open and close. To manage any car parks and facilities employers are required to ensure staff can work in a safe environment. At this time of intense pressure on resources, both because of illness and through redeployment of officers to civil contingency duties, the Council has to consider what services and support it can provide and needs to focus on.
- 1.23 At present despite barriers being in place stopping access to the car parks on the Downs, members of the public have decided to move the barriers themselves to gain access. Inevitably this approach evidences the concern that guidance and advice will not be followed by some.
- 1.24 Despite the car parks on the Downs being closed, there has been a significant increase in visitors since the lockdown eased. This is generating more litter and more fly-tipping which the Downskeepers have to remove. The team are also trying to keep the public away from the gallops in the morning, dealing with angry car drivers wanting to visit the Downs, along with trying to manage the many cases careless parking on the busy roads.
- 1.25 Many of the Council's Officers providing support and services on the Downs are in face to face contact with the public. They carry out their duties sometimes under very challenging and difficult circumstances, particularly where they are required to enforce closures and restrictions. There are many examples of aggressive behaviour towards staff. The posting of inaccurate information by some on social media does evidence the unpleasant environment which is being created around the safety concerns of keeping the car parks closed.
- 1.26 Although, there has not been a reported incident on the Downs as yet, elsewhere in the Country there are growing reports of the public not always respecting the work or the safety of front line service staff. The cases of assaults on staff is steadily growing.
- 1.27 The issue around the effect of number of visitors has been raised by the letter from TGMB (Annex 2). The influx of visitors to the Downs is putting the safety of both the public and the racehorses who use the gallops for training in the mornings, at risk. Some visitors using the Downs, despite the efforts to increase public awareness, have little understanding of the multi-use nature of the Downs particularly near the gallops in the mornings, something which is again being fuelled by some social media posts.

Epsom and Walton Downs Conservators

22 May 2020

1.28 The Council’s webpage on the Downs contains clear messages about safety issues. However, since the 11th May, the advice is now being ignored by many visitors.

2 Proposals

2.1 The relaxation of the restrictions on using outdoor spaces from the 13 May has led to an expectation by visitors to the Downs, that the Downs should operate as normal ie pre Covid 19. This has resulted in road safety concerns from the volume of visitors to the Downs travelling by car and leaving their cars parked on the main roads leading to the Downs.

2.2 The level of car use and visitors is also affecting other users of the Downs, be they the trainers who operate from the Downs, or those who use the bicycles, or those who arrive on foot.

2.3 The letter from TGMB, reflects their level of concern just as the statements around the easing of lockdown were made.

2.4 They raise these specific points :

2.4.1 “Prior to the lockdown measures, the training grounds saw a sudden and large increase in people accessing the Downs for the exercise during the hours of training (6.30 am – 12.00pm).

2.4.2 This in turn led to a greater concern surrounding health and safety on the Downs as there were more roaming the Downs as there were more visitors roaming the Downs who were unaware they were crossing a gallop which could result in a serious accident”.

2.5 As such the request from the TGMB is to close the Top Car Park but also makes reference to the “London Road car park” to remain closed. This latter reference should be to the old London Road Gate and not car park, since the Top Car Park is the car park off London Road, which can only be accessed by a gate.

2.6 There are various options in relation to the operation of the car parks available for consideration. However, the options which address many of the issues raised, fall in the range of options set out in Table 3 below:

Table 3: Recommendation 3: Options

Option 1	to open the car parks referred to in paragraph 1.2 of this report, to the public immediately;
-----------------	---

Epsom and Walton Downs Conservators

22 May 2020

Option 2	to open the car parks referred to in paragraph 1.2 of this report, to the public in phases, with the Council deciding on the phasing which would include the Old London Road Car Park, known as the Top Car Park on the Plan at Annex 1, to open last;
Option 3	to open all the car parks referred to in paragraph 1.2 of this report, to the public with the exception of the Old London Road Car Park known as the Top Car Park on the Plan at Annex 1, which will remain closed;
Option 4	to keep all the car parks referred to at paragraph 1.2 of this report closed.

- 2.7 The considerations in relation to selection of the Options are incorporated within the body of the report. The only point to draw particular attention to is that if the Top Car Park is to open, it will not be locked at night.
- 2.8 The Council will not be marking the car parks with any social distancing markers, as this is not possible. However, if opened, there will be posters reminding the public of the requirements. It cannot be stressed enough that it will be the behaviour of the public which will dictate, as it has to date, whether the car parks if opened, can or should remain open.
- 2.9 Any consideration to open the car parks must allow for the car parks to be closed or reducing capacity if the public refuse to follow or respect Government guidance. To enable this to be actioned quickly a scheme of delegation is being recommended.
- 2.10 The proposed delegation to the Clerk to the Conservators, follows a very similar process in place for the Council in cases of emergency and urgency. The Council has delegation to its Chief Executive and Chief Operating Officer to take all necessary decisions in cases of emergency or urgency. During the current pandemic this delegation has allowed the Council to make the urgent decisions it has needed to without the need to call a meeting of a Committee.
- 2.11 The proposed delegation is not time limited, but is limited to decisions relating to the operation of the car parks in cases of emergency or urgency in relation to the opening or closing of the car parks on the Downs managed by Epsom and Ewell Borough Council.

3 Financial and Manpower Implications

- 3.1 There are no financial implications if the Top Car Park remains closed. If the car park is opened it will no longer be locked at night.

Epsom and Walton Downs Conservators

22 May 2020

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 There are no specific legal implications arising from the contents of this report.

4.2 The issues around whether all or some of the car remain open is an operational one based on the ability of the public to respect the Government's guidance on social distancing and the ability of the Council and the Police to manage the number of visitors in terms of both public safety of the visitors, staff and other users of the Downs.

4.3 **Monitoring Officer's comments:** none arising from the contents of this report.

5 Sustainability Policy and Community Safety Implications

5.1 The use of cars by large numbers of visitors to the Downs is not helpful to the climate change agenda and longer term this will need to be addressed.

6 Partnerships

6.1 None

7 Risk Assessment

7.1 The car parks on the Downs were closed in mid-March as a direct result of the large number of visitors refusing to follow Government guidance on social distancing and gathering in groups. The situation became so serious all the car parks were closed immediately.

7.2 With the easing of some of the guidance about outdoor activity, the Downs has again seen the refusal of large numbers of the public to respect Government guidance on social distancing. The level of visitors continues to present a risk and therefore, the pressure even if the car parks are fully or partially opened, will require close monitoring to ensure the safety of all users of the Downs.

7.3 To manage this risk, it is important to have a delegation in place which allows the car parks to be opened and closed as may be needed in cases of emergency and urgency in the event the public fail to abide by the Government's advice on social distancing.

Epsom and Walton Downs Conservators

22 May 2020

8 Conclusion and Recommendations

- 8.1 The opening and the closure of the car parks at the Downs has been driven by the behaviour of the public visiting the Downs. It is important those choosing to visit the area do so mindful of the Government's guidance and do not place unnecessary strain on local services, be those of the Council, the Police or other emergency services.
- 8.2 The Council has taken all appropriate action to raise public awareness of the guidance around social distancing and when it would be safer to visit some parts of the Downs. However, the advice was ignored by large numbers of the public, which resulted in the car parks being closed in March 2020. The Council will continue to raise awareness, however, there does need to be a change in behaviour of the visiting public, if the car parks are to remain open during the period of Government advice on Covid-19.
- 8.3 There is now intense pressure to reopen the car parks, however there has been no change in the advice on social distancing. As such the Council needs the ability to respond quickly to resolve public safety compliance issues as and when they arise, hence the recommendation for a delegation.

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