

## **EPSOM DOWNS RACING SEASON 2019**

<b>Head of Service/Contact:</b>	Amardip Healy, Chief Legal Officer
<b>Annexes/Appendices (attached):</b>	<b>Annex 1</b> – Fencing dates calendar
<b>Other available papers (not attached):</b>	Epsom and Walton Downs Regulation Act 1984 Epsom and Walton Downs Byelaws Epsom Downs Racing Season 2019 application letters Minutes of the meetings of the Epsom and Walton Downs Consultative Committee held on: 4 November 2002, 12 June 2010, 16 June 2015 and 28 September 2015

### **Report summary**

This report informs the Conservators of dates for race meetings in 2019 and presents a request from Epsom Downs Racecourse for consent for race meetings and extensions to the periods permitted for fencing, as required by the Epsom and Walton Downs Regulation Act 1984 and Epsom and Walton Downs Byelaws.

### **Recommendation (s)**

- (1) That the Conservators note the dates of the 2019 racing season for Epsom Downs detailed in paragraph 1.1 of this report, and grant their consent to the following meetings in accordance with section 14 of the Epsom and Walton Downs Regulation Act 1984:

**Thursday 4 July (Evening)**

**Thursday 11 July (Evening)**

**Thursday 18 July (Evening)**

**Thursday 1 August (Evening)**

**Sunday 29 September**

- (2) That the Conservators note that Epsom Downs Racecourse has applied to Surrey County Council for the temporary suspension of Footpath 50 as detailed in section 3 of this report.

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- (3) That the Conservators consider and determine an application from Epsom Downs Racecourse for consent under the Byelaw 2 (i) (a) to bring forward the start of the fencing period for the Upper Tattenham Enclosure and Lonsdale Enclosure for the Derby festival to 13 May 2019.
- (4) That the Conservators consider and determine an application from Epsom Downs Racecourse for consent under the Byelaw 2 (i) (a) to extend the fencing period for the Lonsdale Enclosure to enable fencing to remain in place between the dates of 12 – 19 June 2019.

### 1 Introduction

1.1 Epsom Downs Racecourse has informed the Clerk of the dates of its race meetings in 2019. These are as follows:

- Wednesday 24 April
- Friday 31 May (Ladies' Day)
- Saturday 1 June (Derby Day)
- Thursday 4 July (Evening)
- Thursday 11 July (Evening)
- Thursday 18 July (Evening)
- Thursday 1 August (Evening)
- Monday 26 August (Bank Holiday)
- Tuesday 27 August
- Thursday 5 September (provisional)
- Thursday 12 September
- Sunday 29 September

### 2 Applications for Evening and Sunday race meetings

- 2.1 Section 14 of the Epsom and Walton Downs Regulation Act 1984 (the Act) requires the consent of the Conservators for any race meeting to commence or continue after 7pm on any day, or at any time on a Sunday.
- 2.2 Epsom Downs Racecourse requests the consent of the Conservators to the following race meetings (also listed above):

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- Thursday 4 July (Evening)
- Thursday 11 July (Evening)
- Thursday 18 July (Evening)
- Thursday 1 August (Evening)
- Sunday 29 September

### 3 Application for temporary suspension of Footpath 50

- 3.1 Epsom Downs Racecourse has applied to Surrey County Council for the temporary suspension of Footpath 50 on 31 May and 1 June, over the Derby period. This Footpath crosses the Racecourse Track near to the Princes Stand/Lonsdale Enclosure, and a similar suspension has been granted by the County Council for the past 4 years. Whilst this is a matter for consideration by the County Council, the Conservators are notified for their information.

### 4 Applications for racing-related fencing

- 4.1 Specific elements of the racing-related fencing applications submitted by Epsom Downs Racecourse require the Conservators' consideration: an application for the extension of the fencing period for the Upper Tattenham Enclosure for the Derby weekend, and applications for the extension of the fencing period for the Lonsdale Enclosure. The details of these applications are set out in sections 5 and 6 below, and displayed in **Annex 1**.
- 4.2 Paragraph (4) (d) (i) of section 17 of the Act permits the Racecourse to erect fencing for the Upper Tattenham Enclosure, Lonsdale Enclosure (and other enclosures) 14 days prior to each race event, and requires its removal within 10 days after each race event, unless there is an overlap with the preparatory period for the next event. Fencing erected for the Enclosures outside these periods requires the consent of the Conservators under Byelaw 2 (i) (a).

### 5 Application for extension of the Upper Tattenham Enclosure fencing period

- 5.1 Epsom Downs Racecourse has requested permission for one extension to the fencing period for the Upper Tattenham Enclosure during the 2019 racing season. The requested extension is as follows:
- 5.1.1 A **4-day extension** to the set-up period for steel security fencing and turnstile blocks for the Upper Tattenham Enclosure between Monday 13 May – Thursday 16 May 2019. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is permitted to install this fencing from Friday 17 May 2019.

A similar extension to this was approved by the Conservators for 2018.

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### 6 Application for extension of the Lonsdale Enclosure fencing period

6.1 Epsom Downs Racecourse has requested permission for two extensions to the fencing period for the Lonsdale Enclosure during the 2019 racing season. The requested extensions are as follows:

6.1.1 A **4-day extension** to the set-up period for steel security fencing and turnstile blocks for the Lonsdale Enclosure between Monday 13 May – Thursday 16 May 2019. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is permitted to install this fencing from Friday 17 May 2019.

A similar extension to this was approved by the Conservators for 2018.

6.1.2 An **8-day extension** to the fencing period for steel security fencing and turnstile blocks for the Lonsdale Enclosure **between Wednesday 12 June – Wednesday 19 June 2019**. Under paragraph (4) (d) (i) of section 17 of the Act, Epsom Downs Racecourse is required to remove this fencing on 12 June 2019, before it is permitted to re-install it on Thursday 20 June 2019.

A similar extension to this was approved by the Conservators for 2018.

### 7 Summary and calendar

7.1 A summary of the fencing extensions requested is included in the table below. A calendar of fencing dates is also attached as **Annex 1** to this report.

Fencing location	Fencing extension requested	No. of days requested	Requested/granted in 2018?
Upper Tattenham Enc.	13 – 16 May	4 days	Yes. Granted.
Lonsdale Enc.	13 – 16 May	4 days	Yes. Granted.
Lonsdale Enc.	12-19 June	8 days	Yes. Granted.

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### 8 Previous decisions

- 8.1 A fencing-period extension in advance of the Derby Festival has been requested by the Racecourse and granted by the Conservators for the past 17 years, following an initial application by the Racecourse in advance of the 2002 Derby Festival. This initial decision was made by the Conservators following advice from the Clerk that whilst the Act did not specifically empower them to vary the fencing period, as long as they acted within their general duty to protect the Downs and did not authorise any activity which would prevent the public from exercising their rights of access, they were not prohibited from considering it.
- 8.2 The Conservators have subsequently considered and approved similar extensions in each year they have been requested.
- 8.3 The Epsom and Walton Downs Consultative Committee has considered the fencing extensions granted by the Conservators at its meetings on 4 November 2002, 12 June 2010, 16 June 2015 and 28 September 2015. At the meeting of 28 September 2015 the Committee received a report inviting its views on the fencing extensions granted for 2015. In response to this invitation, one Member of the Committee expressed that they did not agree with the view that the Conservators had powers under the Act or Byelaws to approve fencing extensions. The view of the Council's officers with regard to the legal powers available to the Conservators is detailed in section 9 of this report, below.

### 9 Financial and Manpower Implications

- 9.1 None for the purposes of this report.
- 9.2 **Chief Finance Officer's comments:** None for the purposes of this report.

### 10 Legal Implications (including implications for matters relating to equality)

- 10.1 Landowners generally would normally be permitted to erect temporary fences without consent. However, the erection of such structures on the Downs is prohibited by virtue of the byelaws made under the 1984 Act. Specifically, byelaw 2(i) provides that:
- “A person shall not, without the consent of the Conservators, on the Downs:
- (a) enclose any part of the Downs or erect any building shed or other structure thereon or construct any roads or parking places,
- (b) place any tent stall show exhibition swing roundabout or other like thing...”
- 10.2 The above restriction is subject to Section 17, which, notwithstanding the byelaws, grants rights to the racecourse to erect fencing in the preparatory period/racing period.

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10.3 The proposal in this case is beyond the rights granted under section 17 and therefore requires the consent of the Conservators under the Byelaws. In deciding whether to grant consent, the Conservators will need to have regard to their primary duty under Section 10 of the 1984 Act to preserve the Downs, noting the company's rights under section 17, and consider what impact granting consent would have on the preservation of the Downs, and on the rights of the public over the Downs.

10.4 **Monitoring Officer's comments:** None arising from the contents of this report.

### **11 Sustainability Policy and Community Safety Implications**

11.1 None for the purposes of this report.

### **12 Partnerships**

12.1 None for the purposes of this report.

### **13 Risk Assessment**

13.1 To mitigate potential impact upon Downs users, Epsom Downs Racecourse has undertaken to provide a work schedule for all fencing to the Clerk prior to its installation.

13.2 To mitigate the impact of the requested extension to the fencing period for the Lonsdale Enclosure, Epsom Downs Racecourse has undertaken to fasten open gates at both ends of the Enclosure between race meeting dates, to enable free access of the area by all Downs visitors.

13.3 The Conservators have considered and approved similar fencing-period related extensions for the past 17 years. No issues relating directly to the extensions have been encountered during this time, and it is therefore considered that the risks relating to granting them are low.

### **14 Conclusion and Recommendations**

14.1 The Conservators are requested to consider and determine the applications from Epsom Downs Racecourse for evening and Sunday race meetings, and the extension of the fencing period as detailed in sections 2, 5 and 6 of this report.

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