

## **USE OF BARBECUES – PROPOSAL FROM EPSOM DOWNS RACECOURSE**

<b>Head of Service/Contact:</b>	Amardip Healy, Chief Legal Officer
<b>Annexes/Appendices (attached):</b>	<b>Annex 1</b> - Application from Epsom Downs Racecourse <b>Annex 2</b> - Examples of conditions of use
<b>Other available papers (not attached):</b>	Byelaws dated 24.9.2013 Minutes of meetings of the Epsom and Walton Downs Conservators: 27 January 2011, 13 October 2014.

### **Report summary**

To consider an application from Epsom Downs Racecourse for the use of barbecues at the Racecourse during Ladies Day, Derby Day and August Bank Holiday race meetings.

### **Recommendation (s)**

**The Conservators are asked:**

- (1) to consider the request from Epsom Downs Racecourse to hold barbecues at the Racecourse during Ladies Day, Derby Day and August Bank Holiday race meetings;**
- (2) to consider the options set out in this report at paragraph 2.10;**
- (3) if minded to grant conditional permission, to ask the Council to draw up a scheme, or a set of conditions for the use of barbecues at the Racecourse and to bring such proposed scheme / conditions of use, back to the Conservators for approval.**

## **1 Background**

- 1.1 In January 2011, following a request to hold barbecues at the Racecourse, the Conservators did not feel that they were able to agree to the proposal.

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1.2 The relevant Minute from that meeting reads as follows:

“BARBEQUES ON THE DOWNS DURING THE DERBY FESTIVAL. Rupert Trevelyan requested the Conservators to consider whether the use of barbeques should be permitted on The Hill during the Derby festival and August bank holiday race meeting. It was noted that Byelaw 2 (i) (g) currently made it an offence to light any fire on the Downs without the consent of the Conservators.

The proposal was discussed, and it was noted that a small, carefully maintained and cleared-away barbeque might not create any problems. However, it was expressed that in dry weather, even such a barbeque could potentially lead to a larger fire, in addition to the Conservators having no ability to control whether any barbeques permitted would be of appropriate size, or properly maintained. Concern was also expressed that if permission was granted for the Derby and bank holiday meetings, visitors to the Downs could potentially interpret this as a wider approval, and attempt to light barbecues/bonfires on other days.

The Clerk informed the meeting that the Conservators did not have the power to permit only barbecues (and not other fires, such as bonfires) on the Downs due to the wording of the byelaw. This only enabled the Conservators to provide consent to the “lighting of fires” if they so wished.

The Conservators agreed not to provide consent to the lighting of fires on the Downs during the periods requested.”

1.3 A further request was received for the October 2014 meeting, for barbecues on the Hill of the Racecourse for Ladies Day, Derby Day and August Bank Holiday race meetings. This request, though granted, was subsequently withdrawn by the Racecourse.

## 2 Proposals

2.1 Epsom Downs Racecourse has submitted a new proposal seeking approval for the use of barbeques on the Hill on 3 race days per year – Ladies Day, Derby Day and August Bank Holiday.

2.2 A copy of the proposal, including a plan outlining the proposed barbeque area, is attached at **Annex 1**.

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### Other public space examples

- 2.3 Epsom & Ewell Borough Council does operate successfully its own 'Barbeque for hire' scheme at Horton Country Park. However, the scheme only allows the onsite barbeques to be used. The use of disposable BBQs is not permitted in any public space within the Borough. Music, loud hailers or PA systems are not permitted on site and customers must bring their own charcoal. Although tents/gazebos are allowed (no larger than 2.4m x 2.4m), the nature and the protection of the Downs needs to be considered and would be different from that of Horton Country Park.
- 2.4 By way of other examples, the London Borough of Sutton, following complaints of anti-social behaviour, excessive littering, and air quality concerns, have now withdrawn their previous barbecue rental scheme, and it is now unlawful to light fires and barbecues in any of Sutton's parks.
- 2.5 Barbecue use in London Fields, Hackney has been suspended this year, as a result of damage, high volumes of rubbish and increases in air pollution in the park during the summer months.
- 2.6 In the case of London Fields, Hackney Council monitored air quality in and near the park during 2018. The results show that barbecuing is likely to be having a negative impact on local air quality, particularly at weekends. They have said:

“On 87% of the busiest days last summer, when residents reported high numbers of barbecues, levels of particulate matter exceeded the 'very high' Daily Air Quality Index (DAQI) criteria for one hour or more.

The data suggests that barbecuing also resulted in longer periods (two or more hours) of 'very high' localised levels of particulate matter pollution during the summer of 2018.

The increasing popularity of London Fields has led to a number of management issues, including, scorched grass, littering and high volumes of rubbish, noise and the use of sound systems, illegal trading, aggression and intimidation towards staff, and people urinating in public.”

Source: <https://news.hackney.gov.uk/barbecue-use-in-london-fields-suspended-this-year/>

- 2.7 However, this will be related to high numbers of people regularly using the Park and the nature of the local area (ie: limited access to private outdoor space). The proposal from Epsom Downs Racecourse is for limited days only and therefore the same experiences affecting London Fields and Sutton are unlikely to be the case at the Racecourse.
- 2.8 Some of the key issues for consideration are:

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- smoke from barbeques,
- littering and safe disposal of barbeques and hot ashes,
- damage which may be caused not just by the barbeque, but also from the erection of windbreaks and parasols.

2.9 These risks can be managed, for example, if barbecues are raised on a pedestal or legs, it prevents the grass getting burnt and maintains the physical appearance of the space. To properly manage the risks, any grant would require a scheme or conditions of use to be in place.

2.10 The options open to the Conservators include:

2.10.1 refuse permission;

2.10.2 grant permission without any conditions;

2.10.3 grant conditional permission;

2.10.4 grant a time limited conditional permission.

2.11 If a conditional permission is considered appropriate, then the conditions or scheme for the use of barbeques would need to be drafted and agreed before any final permission is granted.

2.12 If minded to grant conditional consent, then the Conservators are asked to consider the following matters:

2.12.1 the type of conditions which need to be proposed. To assist, copies of examples of other schemes have been included at **Annex 2**.

2.12.2 who will be responsible for enforcement of any such conditional grant;

2.12.3 an annual report to the Conservators by way of update on the use of barbeques by the Racecourse;

### **3 Financial and Manpower Implications**

3.1 Should the Conservators agree for a scheme to be permitted, it will require additional support both in terms of costs of producing and promoting a scheme, and also in terms of its enforcement, should this fall to the Conservators.

3.2 Chief Finance Officer's comments: None for the purposes of this report.

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

- 4.1 The Downs are regulated by the Epsom & Walton Downs Regulation Act 1984. The purpose of the Act is to protect the Downs and put in place arrangements for its management.
- 4.2 Section 11 of the Act allows for the making of byelaws. The Conservators have made such byelaws and the current set of byelaws were approved in accordance with the statutory process on the 24 September 2013.
- 4.3 The current byelaws, provide at byelaw 2(i) (g) the ability of the Conservators to grant consent to the lighting of fires on the Downs,
- “2. (i) A person shall not, without the consent of the Conservators, on the Downs:
- (g) camp or light fires”
- 4.4 There are a number of local examples where the use of barbecues is permitted, and others where such permission has now been withdrawn. If the Conservators are minded to grant a conditional consent, then the conditions or a scheme for the use would need to be drafted.
- 4.5 The granting of any conditional permission does not set a precedent for other applications. As with any application for permission, it will need to be considered on its own merits. The refusal of any permission does not carry with it any rights of appeal.
- 4.6 **Monitoring Officer’s comments:** none arising from the contents of this report.

### 5 Sustainability Policy and Community Safety Implications

- 5.1 None.

### 6 Partnerships

- 6.1 None.

### 7 Risk Assessment

- 7.1 A decision to permit the lighting of fires in an area would inherently carry with it a level of risk to both people and property. Any decision to permit such, must be accompanied with sufficient processes and safeguards to ensure that these risks are mitigated and managed.
- 7.2 Reported issues relating to the use of barbecues in other locations have included anti-social behaviour, excessive littering and air quality concerns. Any decision to permit will need to ensure such matters are fully addressed.

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### **8 Conclusion and Recommendations**

- 8.1 The Conservators are requested to consider the proposal submitted by Epsom Downs Racecourse. If minded to grant a conditional permission, the Conservators are asked to consider the nature of such conditional permission both in terms of its duration and also use and enforcement.

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