

Investec Derby Day 2020

Summary of Application

As you will be aware, following consultation with our many event stakeholders, the DCMS and in order to comply with current government guidance, sadly it has not proved possible to stage the Investec Derby Festival on 5th and 6th June as planned and these dates have consequently been cancelled.

At its meeting on the 27th January 2020, the Conservators approved, as is a requirement under the Act, for the Derby to be held on Saturday 6th June 2020.

The Conservators are now asked:

- (1) to approve an alternative date on which the Derby race would be run as part of a single day race meeting. At this stage, it is almost certain this would be a Saturday, no earlier than the first Saturday in July, and provisionally Saturday 4th July. In order to approach with a degree of flexibility, it is requested that Saturday's in both July and August approved. Notice of no less than 14 days will be given in advance of the proposed race day.

The race meeting would stage The Derby and Oaks races along with up to five other races. Race times are likely to follow a similar pattern to previous Derby Days e.g. 2pm – 5.50pm.

- (2) to approve an exclusion zone, as shown in *Appendix One*, around the perimeter of the Epsom Downs, created through the use of temporary fencing and supplemented with appropriate levels of Security.
- (3) to note that as a result of Item (2) above, the temporary suspension via Surrey County Council, for a 24hr period, of the following Footpaths and Bridleways as shown in Appendix 2 and identified as:-

FP48
FP49
FP50
FP51
BW65
BW127

In summary, to approve in principle, a single day race meeting at Epsom Downs to be held this Summer 'behind closed doors' (BCD), thus anticipating no public access within the Exclusion Zone (*see Appendix 1*).

Background

Due to the current COVID19 pandemic restrictions, the British Horseracing Authority (BHA) has currently suspended all horseracing in the UK and it will only re-commence in accordance with Government and Public Health guidelines.

The BHA has not set a new date for ending the suspension but plans are in place so that the sport is ready to resume as soon as is possible and appropriate, in consultation with government and alongside other sports.

Plans currently work towards a racing resumption in mid-May, if that is possible, and there is an assumption that it would initially be behind closed doors only, at a point when the safety of participants can be assured and the pressure on the health service allows.

Because of the very strong likelihood that restrictions on mass gatherings will continue, the BHA has decided that racing with crowds will not be possible until June at the earliest.

We are now working with the sport to explore our options to reschedule, at minimum, The Derby and the Oaks races onto a one day race meeting. These races are of vital importance as they form part of the 2020 Classic programme, which also includes the 1000/2000 Guineas at Newmarket, which has also been postponed, and were due to have been run in early May. These races are significant to the entire racing and breeding industry and not only to the respective courses that they are run at.

Behind Closed Doors

Assuming that the current Government lockdown restrictions are eased and consent for sport is given, it is our assumption that the BHA will have agreements in place that racing can resume but under specific requirements, in particular around social distancing and mass gatherings. It is using these assumptions that we believe that the only way to run The Derby and Oaks at Epsom would be to stage them behind closed doors. In the event that we cannot achieve this, we believe that the races could not and would not be staged at Epsom in 2020. The 2020 Derby and Oaks would have to be held elsewhere. This would obviously be hugely disappointing from a racing and breeding perspective but also for Epsom as a Borough, who have successfully hosted every Derby since 1780, other than during both World Wars.

If we are unable to gain permission to race behind closed doors at Epsom, it is probable that the entire Epsom fixture list for 2020 is in jeopardy. This will have significant commercial and reputational consequences to the racecourse and local training community.

Creating a behind closed doors event at Epsom is not straightforward. Whilst the racing operation within the main stands and equine areas (parade ring, stables and racecourse) would only be accessed by key operational staff, the Downs at Epsom are a very open space with the public having a legal right 'to air and exercise on foot' under S4 of the Epsom & Walton Downs Regulation Act 1984. A behind closed doors event at Epsom will not be possible unless the overall interpretation given to the Act permits one.

It is therefore via the Act itself that we seek Conservator approval for a race meeting behind closed doors.

Epsom & Walton Downs Act 1984

We believe that there is a widespread misconception (historically shared by many of us), that the right in S4 of the Act for the public to have access to 'air and exercise on foot over the Downs' is somehow of greater legal stature than any other rights granted elsewhere within the legislation.

The wording of S4 makes it clear that it is not an absolute right - it is 'Subject to the provisions of this Act...' and is further qualified via 'Provided that nothing in this section shall authorise any interference..with any...rights conferred upon the Company...by this Act.'

One such right of the Company is the right to hold authorised race meetings, as defined in S14 and further detailed in S17.

In an explanatory document produced by Epsom & Ewell Borough Council at the time of the 1984 Act, it states "one proviso (to the public right to air and exercise) is that the public's use shall not interfere with the rights conferred upon (the racecourse) and the Levy Board, principally to hold race meetings and to train racehorses."

It could clearly not have been, nor was reasonably envisaged at the time of passing the 1984 Act, of a circumstance whereby the S4 public right of access might conflict with the ability to stage a race meeting, but that is where we currently are in these unprecedented times.

The Company has the right to hold race meetings under S14, with Conservators approval required 'in respect of the day on which the horse race known as The Derby is run', so that requirement is applicable here.

Under S17(3) the Company may, 'notwithstanding anything contained' in the Act, 'during the racing period, control access over the Downs to the Race Course and Paddock'. The entire extent of the racecourse that would be in use behind closed doors is within Epsom Downs as defined, and to which we would need to 'control access' in order to race.

The 1984 Act ultimately contains a combination of rights, duties and restrictions but we consider that its primary intention was, and still is, to preserve and strengthen the historic rights of the racing and training industry.

As the Act made its way through the House of Lords during May 1982, in support of the draft Bill, Lord Wigg (who had been Levy Board Chairman 1967-1972) said "In our view it is of prime importance that all users of the Downs - hack riders, trainers, pedestrians, picknickers - all have a right and somebody has to balance those rights, and that should be the Epsom Council, the elected representatives".

Physical implementation of a Behind Closed Doors Event

Assuming that appropriate approval is obtained to stage a behind closed doors race meeting at Epsom, the racecourse and key partners would ensure that access to relevant parts of the Downs and outer enclosures was denied. It would not be necessary to exclude pedestrians from all parts of the wider Downs, only to those areas that could see gatherings of people who may gain a vantage point to watch the racing.

Our plans to stage a one day race meeting would mean that access to the Downs and outer enclosures would not be available to anyone not deemed as essential to the race meeting operation e.g. members of the public. However, the plans that we have drawn up would mean that this access restriction was only in place for 24hrs (0001hrs – 2359hrs).

Trainers wishing to exercise their horses on the morning of the race meeting would be permitted access and no additional restrictions would be placed upon them.

In order to facilitate the creation of a sterile area, a number of measures would be implemented across the site. Through a fully conducted site survey, these measures would take the form of:-

- 1) Fencing and pedestrian barriers placed around the perimeter of the site, including at the various crossing points onto the Hill and surrounding areas. This control measure would be in place for the 24hr period and whilst it may be erected/dismantled outside of this period, pedestrian access would be made available. *Please see Appendix 1*
- 2) Sufficient Security and Stewarding staff would be placed around the perimeter of the site in order to maintain the sterile area and also provide information to any member of the public who may seek to gain access.
- 3) We are in dialogue with Surrey & Sussex Police to support our Security & Stewarding teams and to ensure any support would not have an adverse effect on their current demands around existing duties. Payment for the Policing resource remains a racecourse cost under the Special Police Services agreement through the National Policing Guidelines.
- 4) Our own racecourse control room would provide clear, live data through CCTV and aid the overall operation to ensure a safe and sterile area is maintained.
- 5) Due to the proposed change of date and the need to race behind closed doors, we have already spoken with Charlie Cooper around the Travellers attendance. He has made assurances that the travelling community would not attend and suggested that if we felt it beneficial, he would be on-site during the event to deal with any eventualities. This would be communicated as a positive piece to our local residents, in particular those in Langley Vale.

Communications Strategy

Should permission be granted to stage The Derby and Oaks at Epsom behind closed doors, a very clear and informative communications strategy will be produced by the racecourse in conjunction with The Jockey Club, the British Horseracing Authority and EEBC (including Conservators). We will require a multi-channel communication strategy, targeting the racing industry and the local community, working with all parties to ensure the message is clear and is broadcast effectively.

During these unprecedented times, we need to ensure that there is understanding as to the importance of running The Derby and Oaks. It is not simply a commercial exercise for the racecourse but is vitally important to the many other stakeholders within the industry e.g. Owners, Trainers, Jockeys, Breeders and the myriad of others involved within the sport. However, it is also important to remember that the commercial stability of the racecourse helps support and sustain the local economy in many areas, in particular the local training industry and in the year round maintenance of the Downs through the Precept.

We understand that some local residents may feel aggrieved that they cannot access the Exclusion Zone to enjoy their normal jog, dog walk etc. but our messaging will be clear that this is for a strict 24hr period and that other areas around the Downs will remain open and accessible.

We understand that many local (and perhaps less local) residents will feel disappointed that they cannot share with us the day and view the races in areas where they have previously congregated. Our messaging will be clear and state that whilst it is obviously not something we have wanted to do, running The Derby and Oaks behind closed doors at Epsom is important to both the racing community and the Borough of Epsom. Sadly, the only safe way to do this during this period of social distancing, is the creation of a sterile, behind closed doors facility. They will however be able to watch the racing live on ITV.

Conclusion & Recommendation

This application seeks approval for a scheme to enable in principle a single race meeting at Epsom Downs to be held this summer, at an exact date to be confirmed, 'behind closed doors', and at which The 2020 Derby and Oaks would be run. Given the fluid nature of this, the flexibility to approve the Derby on a Saturday in July or August is requested.



EPSOM DOWNS

A Jockey Club Racecourse

Appendix One

Key

-  Exclusion Zone
-  Stables Area / Pull-Up Area (outside Downs area)



Epsom Downs Racecourse, Epsom Downs, Surrey KT18 5LQ
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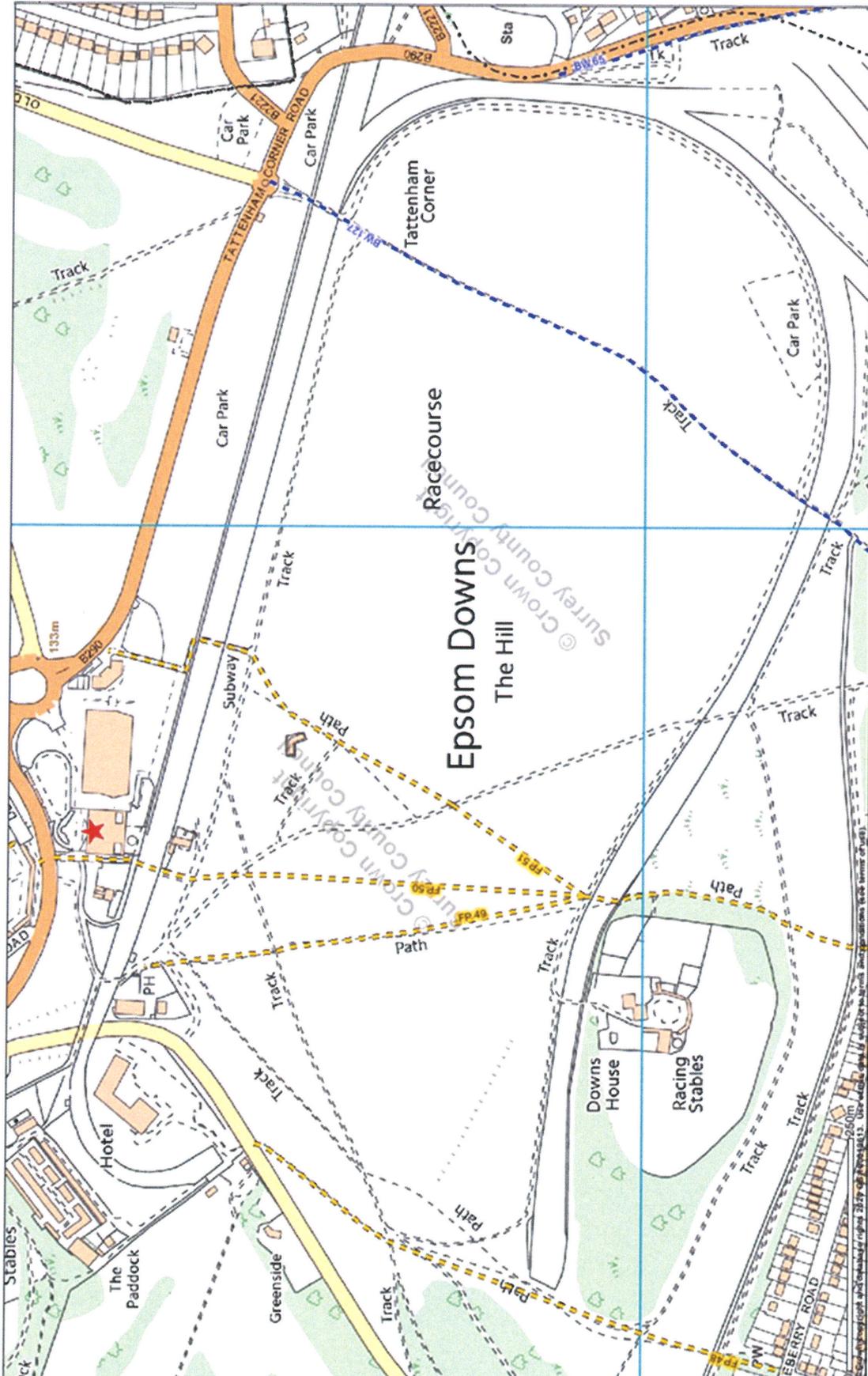
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EPSOM DOWNS

A Jockey Club Racecourse

Appendix Two



Epsom Downs Racecourse, Epsom Downs, Surrey KT18 5LQ

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