

APPLICATION FOR FENCING: SPRING AND DERBY FESTIVAL RACE MEETINGS 2021

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| Head of Service: | Amardip Healy, Chief Legal Officer |
| Wards affected: | College Ward; Town Ward; Woodcote Ward; |
| Appendices (attached): | 1 - Application for fencing, Spring and Derby Festival Race Meetings 2021 |

Summary

To determine an application for fencing arrangements for the Spring and Derby Festival Race Meetings 2021.

Recommendation (s)

The Conservators are asked to:

- (1) Determine the application for fencing/secure area arrangements as set out in the application for consent, attached at the Appendix to this report.**

1 Reason for recommendation

- 1.1 Epsom Downs Racecourse is required to seek the consent of the Conservators for fencing on the Downs other than that permitted by the Epsom and Walton Downs Regulation Act 1984.

2 Background

- 2.1 At the meeting in January 2021 the Conservators noted and agreed dates for the racing calendar for Epsom Downs for 2021. The first two fixtures of the calendar are the Spring Race Meeting due to be held on the 20th April 2021 and the Derby Festival due to take place on the 4th and 5th June 2021.
- 2.2 The Racecourse is required to restrict spectator access to both of these fixtures in accordance with government guidance on the control of Covid-19.
- 2.3 To enable the exclusion/restriction of spectators in accordance with government guidance, the Racecourse has submitted an application for consent to fencing/secure area arrangements. This is attached as the Appendix to this report.

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- 2.4 Similar fencing arrangements were approved by the Conservators for the single day of racing held on the Downs last year, on 4 July 2020.
- 2.5 At the meeting in January 2021 the Conservators granted consent to an application from the Racecourse for extensions to the period permitted for fencing of the Lonsdale and Upper Tattenham Enclosures. The consent granted at that meeting does not cover the fencing proposed by the application presented with this report.

3 Risk Assessment

Legal or other duties

3.1 Impact Assessment

- 3.1.1 There is no requirement for the Conservators to risk assess the application as the risk management responsibility for racing events rests with the Applicant.

3.2 Crime & Disorder

- 3.2.1 None for the purposes of this report.

3.3 Safeguarding

- 3.3.1 None for the purposes of this report.

3.4 Dependencies

- 3.4.1 None for the purposes of this report.

3.5 Other

- 3.5.1 None for the purposes of this report.

4 Financial Implications

- 4.1.1 None for the purposes of this report.

- 4.2 **Section 151 Officer's comments:** None arising from the contents of this report.

5 Legal Implications

- 5.1 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:

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(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...”

5.2 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.

5.3 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.

5.4 **Monitoring Officer’s comments:** None arising from the contents of this report.

6 Policies, Plans & Partnerships

6.1 **Council’s Key Priorities:** Not relevant to this report.

6.2 **Service Plans:** Not relevant to this report.

6.3 **Climate & Environmental Impact of recommendations:** None.

6.4 **Sustainability Policy & Community Safety Implications:** None.

6.5 **Partnerships:** None.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Report to Conservators, 25 January 2021 Epsom Downs Racing Season 2021
- Report to Conservators, 12 May 2020, Variation to Derby Race Day

Other papers:

- Epsom & Walton Downs Regulation Act 1984
- Epsom and Walton Downs Byelaws