

NOTE TO CONSERVATORS

Re: Epsom and Walton Downs Regulation Act 1984 & Proposed Amendments

1. Advice has been obtained by JCR from leading Counsel John Steel KC concerning the questions asked by EEBC of the Conservators in its Report dated 22 June 2026 concerning whether any proposed amendments may be required to the Epsom and Walton Downs Regulation Act 1984 (“the 1984 Act”) in the context of Local Government Reorganisation (“LGR”) and the transfer of functions from Epsom and Ewell Borough Council (“EEBC”) to East Surrey Council on 1 April 2027.
2. The Conservators are familiar with the background. In short, the present LGR process appears to provide a limited opportunity to seek amendments to the 1984 Act. Any proposed amendment must therefore be modest, targeted and capable of being justified as necessary, or very close to necessary, for the smooth transition to the successor council and the continued effective management of the Downs. It must obtain the support of both the existing Council EEBC and the shadow Councillors of ESC.
3. The amendment concerns the power of the Conservators to install physical speed reduction measures at crossing points on public rights of way where necessary for safety. This is required because of the increased use of cycles, electrically assisted pedal cycles (“EAPCs”), e-scooters and other conveyances on the Downs, particularly where bridleways or other public rights of way cross gallops used by racehorses in training.
4. The amendment proposed is ‘minor’ in terms of its wording (i.e. a “minor amendment” in Parliamentary drafting terms) but is important in the context of the current safety of users of the Downs and what the Conservators have and do not have power to do. It also gives the Conservators power to minimise liability and risk which the Conservators have as managers of the land.
5. Leading Counsel has considered other possible amendments but considers that they may be too controversial and or extensive and would even if supported by both sets of councillors, be unlikely to be supported by the government, MHCLG. Other amendments would be formalities, such as changes in the names of the Council and would be carried out by the Council EEBC and MHCLG in any event.

The proposed amendment

6. The proposed amendment to the 1984 Act is in two parts as follows:

- a) In section 10 (c) of the 1984 Act add the words “including speed reduction measures for conveyances on a public right of way” after the words “and other structures” before the words “for the purposes of their functions under this Act:”
 - b) In section 2 add the following interpretation: “conveyance” means any vehicle or other means of transporting persons or goods² and includes any motorcycle, cycle, electrically assisted pedal cycle (EAPC), powered transporter, scooter, cart, carriage, buggy or other form of conveyance, whether motorised, horse-drawn or otherwise.
- 7. The rationale for the amendment is that a real and increasing safety issue has arisen on the Downs. Racehorses in training may be travelling at approximately 25 to 30 mph and may have little or no warning of a cyclist, EAPC or other user crossing a gallop. A collision at such speed could have very serious, and potentially fatal consequences for the rider, horse and other user.
- 8. Existing controls are not sufficient. Signage has been erected and Byelaw 18 establishes right-of-way rules at crossing points of the gallops, but these measures do not physically require cyclists or other users to slow down or dismount before crossing. Near misses have occurred and the Conservators as managers of the Downs should take a precautionary and preventative approach before a serious accident occurs.
- 9. The difficulty is that section 10(c) of the 1984 Act gives the Conservators a conditional power to construct and maintain certain structures for the purposes of their functions, but legal advice indicates that this may not clearly extend to physical barriers, bollards, chicanes, step-over gates or other speed-reduction measures on a bridleway or public right of way as they would be an obstruction for which under other legislation the Conservators would be liable, potentially criminally. The proposed amendment is necessary to put the matter beyond doubt.
- 10. The amendment is deliberately limited. It does not seek to remove public rights of access or to prevent lawful use of public rights of way. It would simply confirm that the Conservators may install proportionate speed-reduction measures for conveyances where reasonably necessary, subject to the existing safeguards and consents required under the (new replacement) Act.
- 11. The proposed definition of “conveyance” is also important. The issue is not confined to conventional bicycles. It includes EAPCs, powered transporters, e-

scooters, carts, buggies and other means of transport, whether motorised or otherwise. A broad definition is required to ensure that the Act remains effective as technology and patterns of use change.

12. The amendment should therefore be advanced as a necessary safety clarification arising from modern conditions which were not within the contemplation of Parliament in 1984. It would assist the Conservators and East Surrey Council in continuing to manage the Downs safely and effectively, while preserving the statutory balance between public recreation, racehorse training, the Derby and the protection of the Downs.
13. Other possible amendments concerning membership, governance, finance, staffing and operational support may require discussion, but they should not distract from this principal amendment. The recommended course is to seek support for this necessary targeted amendment as the clearest and most defensible change within the present LGR process.