

PARKING ON LAND IN FRONT OF DERBY ARMS

Report of the: Clerk to the Conservators
Contact: Simon Young
Annexes/Appendices (attached): Annexe 1 – Request from the Racecourse
Annexe 2 – Map showing the affected area
Other available papers (not attached):

REPORT SUMMARY

This report draws the attention of the Conservators to a request from the Epsom Downs Racecourse for permission to park cars on land in front of the Derby Arms public house at times when events are being held at the Racecourse.

RECOMMENDATION (S)

- (1) It is recommended that the Conservators decide whether, in principle, they might be minded to agree to the request from the Epsom Downs Racecourse for consent to use the area for parking at times in addition to those already permitted, and, if so,**
- (2) Determine what process should be followed to consult representatives of hack riders who may be affected by the proposal, as well as members of the public.**

Notes

1 Background

- 1.1 The area of land in front of the Derby Arms public house is known by the Epsom Downs Racecourse as “Car Park 6”. Annexe 1 sets out a request from the Racecourse for consent to use this area for parking for certain events. The area concerned is shown as cross-hatched on the map at Annexe 2.
- 1.2 The land is part of the area shaded on the Signed Map as being a “Hack Area”, and the perimeter of the land adjacent to Derby Arms Road is shown on the Signed Map as a “Hack Ride”.

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- 1.3 Section 15 of the Epsom & Walton Downs Regulation Act 1984 provides that:
“(1) Subject to the provisions of this Act, and of any byelaws made under this Act, members of the public shall have right of access for air and exercise on horseback over the rides and areas shown for that purpose on the signed map...”
- 1.4 The area of land is shown on the Deposited Map as being shaded green and hatched yellow (possible site for grandstand and paddock), with the perimeter, now bounded by Derby Arms Road, Ashley Road and Downs Road shown coloured green and hatched green (parts to be open to pedestrian traffic).
- 1.5 Under the 1984 Act, the “preparatory period” for the purposes of this report is 14 days immediately before the commencement of a racing period; and, a “racing period” means the days on which horse racing takes place on the Downs during any authorised meeting. An “authorised meeting” means race meetings authorised by the Jockey Club (up to a maximum of 16 days per year). The Company essentially means the operator of the Epsom Downs Racecourse.
- 1.6 Section 17 of the 1984 Act provides:
“Notwithstanding anything contained in this Act or in any byelaws made under this Act, the Company may hold and conduct horse races at authorised meetings on the Downs and - ...
(4) during the preparatory period and the racing period and subject as hereinafter mentioned during the intervening period the Company may erect and maintain or permit the erection and maintenance of or set apart and provide and control -
(a) on any portion of Epsom Downs coloured green on the deposited map (except such parts thereof as are coloured green and hatched green on the deposited map which shall remain open to pedestrian traffic...
(i) any temporary parking places, temporary enclosures and temporary omnibus stations with approaches thereto:
Provided that such temporary parking places, temporary enclosures and temporary omnibus stations, with the exception of such posts as are used to form the parking places and enclosures, shall be removed as soon as practicable (and in any case within 10 days) after the end of each authorised meeting and shall not be again erected before the next following preparatory period;...”
- 1.7 Section 17 means that Car Park 6 may be, and is in fact, legitimately used by the Racecourse as a car park for the two weeks prior to and during any authorised meetings, without the need for any other consent first being obtained from the Conservators or otherwise.

- 1.8 Outside of the preparatory period and racing period, use as a car park is not generally permitted. The byelaws made in 2013 by the Conservators under the 1984 Act provide that:
“2(i) 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...
(f) drive or place any carriage cart motor car or other vehicle other than upon public carriageways or use any part of the Downs as a parking place...
21 *Any person who without reasonable excuse contravenes any of these byelaws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”*
- 1.9 Car Park 6 has, in fact, been used for car parking in relation to events for a number of years. The Racecourse is not aware of any issues or incidents having arisen in respect of the car parking use. The Racecourse wishes to regularise this use, and for it to continue as and when required in relation to events taking place. The Racecourse intends to implement the parking use in such a way as to ensure that suitable routes are identified and kept clear so that hack riders continue to have the ability to pass through the area.
- 1.10 Depending on the number of days per year on which the car park is used, it is possible that planning consent may be required, but that will be a matter for the Racecourse and the Council as Local Planning Authority to consider. If the site is used up to four times per month, this might be considered to be a material change of use requiring planning permission. However, if a regular pattern of such use has been in place for several years, it may already be lawful.
- 1.11 At the meeting of the Epsom & Walton Downs Consultative Committee on 26 September 2016, this matter was touched upon, and a hack rider representative indicated that he used the land concerned, particularly to pass from one part of the Downs to another.

2 Proposals

- 2.1 It is proposed that the Conservators be asked whether they are minded to agree in principle to the Racecourse proposal. If not, the matter will not proceed. If so, then there is a need to decide how the matter will be determined.
- 2.2 Although there is no legal requirement to do so, there is a clear expectation that, as the proposal affects to some degree a hack ride/hack area, that the representatives of hack riders be consulted, and their representations taken into account before a decision is taken whether to give consent to the additional car parking use. An assurance to that effect was given at the Consultative Committee referred to above.

2.3 It is also considered to be important to give the wider public the opportunity to comment on the proposal.

2.4 It is considered that such consultation could involve contacting all members of the Consultative Committee and seeking their views, as well as contacting ward councillors and such other groups as are considered appropriate. The consultation could also be publicised via the Council's website. The period of consultation should be sufficient to enable interested parties to have the opportunity to consider and respond to the proposals. The consultation could run for, say, 6-8 weeks and the matter be reported back to the next meeting of the Conservators on 19 April 2017.

3 Financial and Manpower Implications

3.1 There are no financial or manpower implications for the Conservators arising out of this report.

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

4.1 The legal implications have been considered in the body of the report.

5 Risk Assessment

5.1 There are risks that hack riders and cars will come into conflict if the area remains open to hack riders at the same time as it is used as a car park. Whilst it does not appear that this has caused problems to date, if the car parking use is regularised and intensifies, the risk of this happening is greater. It is therefore considered to be important that the arrangements for operation of the car park contain specific appropriate provisions for managing this risk.

5.2 There is a risk to the reputation of the Conservators if the proposal is determined without sufficient consultation with those who may be affected or interested.

6 Conclusion and Recommendations

6.1 The Racecourse is proposing to regularise and (potentially) increase the use for parking of an area of the Downs which is already legitimately used for parking in relation to horse race meetings. It is considered that the Conservators should determine whether such usage might be appropriate in principle, and, if so, should proceed to consult on the proposals before making a final decision.

WARD(S) AFFECTED: College Ward; Woodcote Ward;