

WH/383/40/1

2 February 2022

TRO Team,  
Hazel House,  
Merrow Lane,  
Guildford  
Surrey  
GU4 7BQ

66 St James's Street  
St James's  
London  
SW1A 1NE

0370 777 6292  
info@rapleys.com  
rapleys.com

LONDON  
BIRMINGHAM  
BRISTOL  
CAMBRIDGE  
EDINBURGH  
HUNTINGDON  
MANCHESTER

Submission by Email

Dear Sir/Madam

**Re: Old London Road, Epsom – Proposed Prohibition of Vehicles Order – Representations on behalf of The Jockey Club**

We act on behalf of The Jockey Club and the Training Grounds Management Board ('the TGMB') and have been instructed to submit representations in support of the proposed Prohibition of Vehicle Order ('The Proposed Order') in order to ensure both the continued overnight security of Epsom and Walton Downs ('The Downs') and the safety of all users during the hours when racehorses are being trained in the morning.

**Background**

The Jockey Club is the owner of The Downs (which includes the Racecourse and racehorse training grounds) via the freehold of Epsom Downs and the leasehold of Walton Downs. It also manages the TGMB. The racehorse training grounds extends to circa 100 hectares and is the third largest racehorse training centre in the UK. Whilst The Downs are private property owned by The Jockey Club, they are governed by the local Act of Parliament - the Epsom & Walton Downs Regulation Act 1984 ('the 1984 Act') - which in turn is managed by the Epsom and Walton Downs Conservators ('the Conservators'). Epsom & Ewell Borough Council has six of the seats on the Conservators, The Jockey Club has three, and the Horserace Betting Levy Board has one.

Under the 1984 Act, the Conservators' principal obligations are:

- to ensure the training of racehorses; and
- to preserve The Downs in their natural state of beauty as far as possible.

Notwithstanding that The Downs are privately owned, the 1984 Act gives a right of access to the general public 'for free air and exercise on foot'. The Act and the associated bye-laws stipulate that the public's right of access on foot only exists where such access 'does not interfere with the training of horses' (i.e. the training of racehorses takes precedent over the public access if it results in any interference with the training). Over the years, the Conservators and The Jockey Club have worked to ensure the safety of *all* users of The Downs. In this regard, the Conservators previously put in place a Code of Conduct on the Epsom & Ewell Borough Council website informing that racehorses are being trained during the morning hours until noon all year

## ITEM 9

round and asking the general public to avoid exercising/accessing adjacent to the gallops when horses are being trained.

The 1984 Act requires the Conservators to make car parks available to the general public other than around race days, but it does not specify where on The Downs these should be. There are three car parks on The Downs, a small one behind the Tea Hut, a larger one beside the Downskeepers' hut, and The Top Car Park (also known as the 7 Furlong Car park) which is accessed via the Old London Road. The two car parks adjacent to Tattenham Corner are available for the public to use all year round, with the exception of race days, in order to encourage access to The Downs.

The Top Car Park has for many years been made available to the general public throughout the daytime. It was closed between 5.00pm and 6.00am in winter and between 9.00pm and 6.00am in British Summer. The night time closure was deemed necessary in order to address repeated anti-social behaviour issues owing to the location of the car park being more remote and furthest away from the built complex of the Racecourse. The shutting of the Top Car Park was facilitated by the closing of the section of Old London Road from Tattenham Corner Road by a Traffic Order (the same section as the Proposed Order). The relevant Order to regularise the night time closure was authorised by Epsom and Ewell Borough Council and there had been no issue or objection raised about the Order in the many years that it has been in place. However, when it was challenged in early 2021, it was discovered that the Order had not been completed as there was an administrative omission by the Local Authority to seal it. The Order was technically invalid, but it is a matter of fact that the night time closure of the road and the Top Car Park have long been established.

### **Serious Concerns over the Safety of Users during the Racehorse Training**

When the pandemic related lockdown measures came into force, The Downs saw an unprecedented number of people accessing them for exercise, with many people travelling from afar by private cars. If local knowledge was reasonably strong, the majority of the people who had never visited The Downs prior to the lockdown, particularly those from outside the Borough, were unaware of the regulations regarding public access; that The Downs are not the common land that many perceive them to be; or even that racehorse training taking place on The Downs. With the combination of more people and the wider lack of awareness, there have been a number of incidents which could have resulted in a serious accident on the training grounds, causing injuries to members of the public, racehorses and/or their riders. This problem has not been fully resolved, despite the efforts of the Conservators, the TGMB, The Jockey Club and the Local Authority to inform and educate the public when accessing The Downs. As examples of this, the Borough Council allocated staff from the theatre in Epsom during lockdown to 'meet and greet' visitors, whilst the Racecourse has embarked on an awareness campaign via leafleting, social media, signage and other means. Yet the volumes of visitors to The Downs in the training hours continue to pose a serious risk to the safety of all users and is undermining the principal use of The Downs for racehorse training purposes as regulated by the 1984 Act and the Bye-Laws. The Act gives all users rights and obligations. The racehorse trainers have very specific and very clear primary rights during the training hours, and they need protection in order to maintain safety for all.

The Conservators did initially take action by approving the closure of the Old London Road crossing during the day as well as at night time. This did reduce the footfall around the training areas, but importantly it did not prevent the public from 'free air and exercise on foot', as is their right, as not only are there pedestrian access points but also the two car parks at Tattenham Corner remained open. In hindsight, it is acknowledged that the Conservators' belief that they could extend the closing hours was not backed up by the existing ( and flawed by lack of the seal) traffic Order.

### The Proposed Extension of Hours for the Closure of part of Old London Road to the Top Car Park

The restrictions that made a visit to The Downs one of the few places to enjoy air and exercise may have been lifted after the first phase of total lockdown was relaxed, but the reality is that The Downs have been discovered by more people and the footfall during the training hours is greater than it was prior to lockdown. Following the reopening of the Top Car Park after discussions with Surrey County Council in May 2021 last, it is clear that the increased access by the general public appears to have now been established and will continue to pose a safety risk during the morning racehorse training hours.

The Conservators discussed a number of options, including seeking permanent closure of Old London Road and the Top Car Park, but concluded that a compromise whereby the road and car park were open outside of night time and the training hours was the fairest solution for all users of The Downs. There was discussion in particular about the summer evenings, and a balanced view that a 7.00 pm closing time was fair for both users and the Downskeepers, even if it had previously been subject to a 9.00pm closure. Hence the current application to seek the Proposed Order was made.

The proposed extension of the closure hours to include the morning hours when racehorses are in training will undoubtedly help alleviate the serious safety issue by limiting the number of people entering the training grounds. Therefore, the Proposed Order is vital in order to keep all users of The Downs safe and to ensure that racehorse training is not undermined.

It should be noted that the racehorse training industry and the Conservators' absolute priority is to ensure that racehorse training can continue safely during the morning hours while facilitating the public to enjoy The Downs safely as much as possible. As such, The Jockey Club and the TGMB would not object if Surrey County Council decided to retain the change of the summer months closure hours to start from 9.00pm instead of the proposed 7.00pm (7.00pm being the recommendation of the Conservators) for the members the public to access the Top Car Park, so long as the Proposed Order covers the closure the road/Top Car Park during the morning hours when racehorse training is taking place.

The Jockey Club, as an integral member of the Conservators, is committed to ensure that the public can continue to access and enjoy The Downs 'for free air and exercise on foot'. Therefore, The Jockey Club has no plan to seek Conservator consent to limit or close the other car parks to the public with the exception of race days, or limit the public's access on foot. For the avoidance of doubt, the existing two car parks at Tattenham Corner will remain open for the public and there is no planned closure/restriction any time of the day. However, The Jockey Club supports the Proposed Order dealing with access to the Top Car Park in order to ensure that racehorse training can continue in a safer environment for all and as governed by the 1984 Act and its bye-laws.

It is respectfully requested that our representations are fully taken into account as part of the consultation.

Yours sincerely,

*Wakako Hirose*

Wakako Hirose (Feb 2, 2022 11:14 GMT)

**Wakako Hirose**

BA (Hons) DipTP MRTPI

Senior Associate - Town Planning

wakako.hirose@rapleys.com

07876 030418

This page is intentionally left blank