

From: Hugh Craddock (BHS/EWD) ewd@craddocks.co.uk
Subject: Re: Parking in front of Derby Arms
Date: 19 July 2018 at 16:48
To: Amardip Healy AHealy@epsom-ewell.gov.uk
Cc: Liz Frost LFrost@epsom-ewell.gov.uk, Kathryn Beldon KBeldon@epsom-ewell.gov.uk
Bcc: Alex Stewart alexstewart013@gmail.com



Dear Mrs Healy

Thank you for your email of 14 July

I'm afraid I can do no more than reiterate the request I made in my email to the chairman 25 June, as it appears to have been overlooked:

'I am sure you will agree that it is not unreasonable to ask for an explanation of the powers on which a statutory body relies in taking a decision of this kind, particularly where, as here, the powers conferred on the board are limited and confined to those set out in the 1984 Act. Our request is all the more apposite where the report to the board was unclear about the powers relied upon, and appeared to suggest that the board intended to establish new public car parks. We are, in short, entitled to know the statutory foundation for the board's decision. Please would you confer with officers and arrange for a reply which addresses the point? If the board cannot answer this straightforward question, it suggests that the board has made a decision which it has no power to make.'

You have replied that these points were addressed in the report to the Conservators, and that we will not agree on interpretation. But the report was ambiguous, and we do not need to agree on interpretation, but we do wish to know, and are entitled to know, the board's interpretation of the powers on which it relies.

There are two possibilities. The first is that the board is relying on the powers in s.25 of the 1984 Act to provide public car parks in parking areas 2a and 6. That would be consistent with the tenor of the report to the June meeting. If so, then there is no doubt that the board may act under s.25. The uncertainty lies in its powers to provide car parks which are open at restricted times, to be determined by a third party, and potentially open for restricted classes of user. In those circumstances, until we have seen the detailed plans, we acknowledge it is not possible to assess whether the board might be acting unlawfully.

On the other hand, if the board denies that it is acting under s.25, then that raises the question of what powers in the alternative it is acting under. As we can identify none sufficient, we conclude that the board would be acting *ultra vires*, which would call for immediate action.

Please would you advise which it is? I have asked, and do now ask on the third occasion, for a statement of the powers under which the board seeks to act. That is a perfectly reasonable request to make, and you have already replied twice without addressing it. If, on this third occasion, you fail to address it, we shall have to consider moving quickly to pre-action protocol, which will engage you and us in unnecessary expense — particularly if the board relies on s.25, and we must await sight of the management plan to decide on our next steps.

I look forward to your early reply.

regards

Hugh Craddock

| On 14 Jul 2018, at 11:45, Amardip Healy <AHealy@epsom-ewell.gov.uk> wrote:

Dear Mr Craddock

Thank you for your recent email to the Chair of the Conservators, which has been forwarded to me for response.

I believe your points were addressed in the report to the Conservators and matters have now moved on in terms of decision making. I think we can both accept that we will not agree on the interpretation of the relevant provisions.

However, I hope we are both in agreement on the matters which currently affect all users, namely that of the work of the Horse Race Betting Levy Board before it is disbanded later this year.

You will be aware from the meetings that the Conservators have been trying to elicit a response on the state and maintenance responsibilities for the hack sand routes for some time. Although the Board is now acknowledging correspondence, we appear some way off a definitive position. Could I ask if we could all focus our energies on resolving this issue as a matter of urgency in light of its critical nature.

Kind regards

Mrs Amardip Healy
Chief Legal Officer

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Hugh Craddock

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