

From: Amardip Healy AHealy@epsom-ewell.gov.uk
Subject: RE: Parking in front of Derby Arms
Date: 27 July 2018 at 17:12
To: Hugh Craddock (BHS/EWD) ewd@craddocks.co.uk
Cc: Liz Frost LFrost@epsom-ewell.gov.uk, Kathryn Beldon KBeldon@epsom-ewell.gov.uk

AH

Dear Mr Craddock

You have now confirmed you are considering judicial review. The Conservators as I understand it are not a public body, as such JR is not able as a form of legal action to review the decision making of the Conservators.

Kind regards

Mrs Amardip Healy
Chief Legal Officer

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From: Hugh Craddock (BHS/EWD) <ewd@craddocks.co.uk>
Sent: 27 July 2018 15:01
To: Amardip Healy <AHealy@epsom-ewell.gov.uk>
Cc: Liz Frost <LFrost@epsom-ewell.gov.uk>; Kathryn Beldon <KBeldon@epsom-ewell.gov.uk>
Subject: Re: Parking in front of Derby Arms

Dear Mrs Healy

Thank you for your email of 20 July. I am sorry that I was unable to respond sooner, as I have been away for a few days.

You ask if I will advise of the 'anticipated cause of action against the Conservators' and explain what actions are believed to be *ultra vires*. The answers to those questions are, as I have already said, quite clear from correspondence to date. However, your reply leads me to believe that you have not yet understood the flaws we have identified in the board's decisions, and that I should address these more clearly. I do so below. The questions are addressed to you in your presumed role as legal adviser to the clerk to the conservators.

1. Do you agree that the overriding duty of the conservators is 'to preserve the Downs so far as possible in their natural state of beauty...' (s.10 of the 1984 Act) and, if not, please explain why you disagree?
2. Do you agree, as stated in paragraph 2.7 of the report to the June meeting of the

conservators, that there is no right to use the areas designated for temporary parking under s.17 outside the periods specified in the Act and, if not, please explain why not?

3. Has the board exercised its discretion under s.25 to set apart the 'car park areas 2a and 6' as car parks for the purposes of that section, and, if not, on what authority does it claim to have made its decision taken at the June meeting?
4. Paragraph 2.10 of the Report refers to the duty of the board: 'to balance the competing interests of protecting the Downs whilst balancing the competing interests of all other the parties.' Do you assert that there is such a duty and, if so, what is your authority for that assertion?
5. You state that many of the facts asserted in my email (I assume that of 20 July, but please clarify) are incorrect. I shall be grateful if you will explain what are those errors of fact?

Your answers to these questions will help you and us determine whether or not the board is acting lawfully and, if it is, there is no question of a judicial review. Even if it is shown to be acting unlawfully, there is still no question of a judicial review provided the board acts promptly to correct any errors. Indeed, the Pre-Action Protocol for Judicial Review enjoins the parties to a dispute to seek resolution through discussion and negotiation. I therefore look forward to receiving your full response.

regards

Hugh Craddock

Hugh Craddock
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