

Report for: Cabinet Member decision – 23 March 2018

Item number: n/a

Title: Application by the Labour Party to hire White Hart Lane Recreation Ground for the 'Labour Live' event in 2018

Report authorised by : Stephen McDonnell, Interim Director – Commercial and Operations

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Ward(s) affected: Woodside Ward

**Report for Key/
Non Key Decision:** Non Key Decision

1. Describe the issue under consideration

- 1.1 This report seeks a determination of an application made by the Labour Party to hire White Hart Lane Recreation Ground for a 1 day event in June 2018, in order to stage the 'Labour Live' event.
- 1.2 The application is required to be determined pursuant to the Council's Outdoor Events Policy (the Policy), which was approved by Cabinet on 17th December 2013, and implemented on 7th January 2014.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

- 3.1 The Cabinet Member for Environment is recommended to:
 - (a) Take note that no responses were received from recognised stakeholders of White Hart Lane Recreation Ground, in response to the event notification being sent as part of the decision making process.
 - (b) Authorise the Interim Director – Commercial and Operations, to approve conditional in principle agreement to hire White Hart Lane Recreation Ground to the event promoters for the event detailed in this report as set out in para 6.3.

(c) Agree that the conditions which are to be attached to any final approval of authority are as set out in the comments of the Assistant Director, Corporate Governance at paragraph 9.2.12 below.

4. Reasons for decision

- 4.1. Under the terms of the Policy, applications of the type detailed in this report are required to be determined with the prior agreement of the Cabinet Member.
- 4.2. If authority is given, then officers will give in principle agreement to the applicant for the event application to progress. The event will then be subject to discussions with relevant authorities before final agreement is given.
- 4.3. The rejection of the application would have implications for the Parks Service budget, and reduce the opportunity for reinvestment into White Hart Lane Recreation Ground (the Park). It would also mean that the wider cultural and economic benefits to the borough were lost.

5. Alternative options considered

- 5.1. In adopting the Policy, the Council established its commitment to using the Park for events. Accordingly, the only other alternative option which could be considered would be to reject the application. That option was rejected, on the grounds that the event does not fall within any of the grounds set out in paragraph 5.3 of the Policy for automatic refusal.

6. Background information

- 6.1 In January 2014, the Council adopted the Policy to recognise the value and benefit that a varied, and well managed, outdoor events programme can offer the residents of Haringey.
- 6.2 The Policy assists the decision making process behind building a sustainable and varied programme of events. It also seeks to protect the community and the parks and open space infrastructure and minimise or mitigate any negative impacts which events may cause.
- 6.3 On 11th January 2018, the Council received an application from the Labour Party to hire the Park to stage the 'Labour Live' event on Saturday 16th June 2018. They would move onto site on Saturday 9th June to prepare for the event, and move off site on Tuesday 19th June.
- 6.4 The Policy details the approval process for determining applications. Paragraph 5.2.3. of the Policy requires prior authority for the event to be given by the Cabinet Member as a non key decision before officers give in principle agreement whenever the following criteria applies:
 - *"Expected attendance is over 10,000"*
- 6.5 The criteria detailed above applies to this application, and so hence this referral to the Cabinet Member.

- 6.6 Due consideration as to the effects this event could have on the Park, park users and local residents has been given, with detailed plans in place to ensure inconvenience to the public is limited as much as possible, whilst ensuring the event provides increased recreational enjoyment within the Park environment.
- 6.7 The Applicant has applied to hire the whole of White Hart Lane Recreation Ground to facilitate the event area.
- 6.8 The Park consists of nearly 40,000m² of recreational grassland. There are no facilities within the park.
- 6.9 The build and break for the event will be carried out in phases, ensuring that as much of the event space as possible is kept open for as long as possible for public access.
- 6.10 Some pathways will remain open whilst the build and break of the event is taking place, to minimise disruption to park users. Signage will be displayed to ensure members of the public are pre-warned of any potential disruption. Maps will be displayed, providing alternative routes and parks to use.
- 6.11 Woodside Park is meters away from White Hart Lane Recreation Ground. Here recent investment has seen a new natural play area installed to compliment the two existing children's play areas. Woodside Park also offers nearly 40,000m² of open green space to allow for informal recreational activity.
- 6.12 A zonal plan of the site will be developed by the Applicant, and agreed by Officers, showing when each part of the space is due to be closed to public access and then re-opened. This is dependent on build requirements and with the utmost consideration of health and safety.
- 6.13 As part of the approval process, the Policy stipulates the need for consultation on the park hire application to take place. Paragraph 5.1.6. of the Policy states *"Consultation will involve all stakeholders, including Friends Group, Area Parks Managers, Ward Councillors, Cabinet Member for Environment and the members of the Haringey Safety Advisory Group. Other consultees may be added where appropriate to the specific park or open space"*.
- 6.14 In discharging the requirement to consult, officers sent details of the application to 10 recognised external stakeholder groups on 6 February 2018. Details of the consultees appears at Appendix 1 to the report. Recognised stakeholders including park user groups and councillors from Woodside Ward, plus internal council stakeholders and statutory bodies were given 10 working days to respond.
- 6.15 No responses were received from the stakeholder groups.
- 6.16 The Applicant has submitted an application for a Premises Licence to hold the event in White Hart Lane Recreation Ground, with a capacity of 19,999. This application will be subject to due process, with potential for it to be deemed granted on 22 March if no representations are received. If representations are received the matter will be determined by a Licencing sub-committee hearing.

7. Contribution to strategic outcomes

- 7.1. Hosting events within the Park contributes to supporting the local economy, developing the cultural offer in the borough and provides an opportunity for local people to enjoy this type of event with minimal travel.
- 7.2. The recommendations made will contribute to policy and practice primarily in relation to Priority 3 of the Corporate Plan: 'A clean, well maintained and safe borough where people are proud to live and work'.
- 7.3. In addition there are links to the Corporate Plan in relation to:
Priority 2: 'Enable all adults to live healthy, long and fulfilling lives'
Priority 4: 'Drive growth and employment from which everyone can benefit'
- 7.4 All income generated through events held in White Hart Lane Recreation Ground, will be spent in the Park. In the first instance, this will assist with all management and maintenance costs associated with running the Park. Any surplus event income derived will be used to make improvements to the Park's infrastructure.

8. The Open Spaces Act 1906

- 8.1 It is currently unclear as to whether the council holds the White Hart Lane Recreation Ground as trustee under the Open Spaces Act 1906 (the Act). Accordingly, officers consider it prudent to act on the basis that the land is so held for present purposes.
- 8.2 All income generated through events specifically held in the Park, will be spent in the Park as required under the Act. In the first instance, this will assist with all management and maintenance costs associated with running the Park. Any surplus event income derived will be used to make improvements to the Park's infrastructure as set out in the Outdoor Events Policy at 8.2.5.
- 8.3 Given the concession made in relation to the Act, the Council is required to hold the land comprising the Recreation Ground on trust for the public. As such, in coming to a view on the Recommendations contained in the report, account has to be taken of the existence and impact of all material circumstances which arise from a decision to grant in principle approval for the events to take place prior to the Cabinet Member coming to a settled view. In so saying, the Cabinet Member will note that there have been no objections to the application notwithstanding the proposal is that all of the footprint of the Ground will be taken up to facilitate the event.

9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

9.1 Chief Finance Officer (including procurement)

This information is exempt and is attached as Part B of this report.

9.2 Legal

- 9.2.1 The Assistant Director, Corporate Governance has been consulted in the preparation of this report, and makes the following comments.
- 9.2.2 The law which governs the Council's powers to hire the Park in these circumstances was challenged in the High Court on an application for judicial review brought by the Friends of Finsbury Park (the Friends) against the decision to permit the application to stage Wireless 2016 in Finsbury Park.
- 9.2.3 The case was heard on 8th and 9th June 2016, and the judge delivered his judgment on 22nd June 2016. In summary, the judge ruled that the provisions of section 44 of the Public Health Amendment Act 1890; The Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 and section 145 of the Local Government Act 1972 – all of which govern the ability to permit entertainment in open spaces such as the Park – *“creates different powers for different places subject to different limitations”*. Accordingly, the judge went on to rule that *“s145 of the 1972 Act, of itself and standing alone, provides the Council with the necessary power to permit Wireless 2016 to take place in the Park”*.
- 9.2.4 The significance of that ruling, was that the restriction placed on the amount of the Park which could be enclosed or set apart to facilitate the event, and the duration for such enclosure as prescribed under the 1890 and 1967 Acts – *“one acre or one tenth of the [Park] whichever is greater” / “12 days in any one year, nor four [six in London] consecutive days on any one occasion”* – simply did not apply.
- 9.2.5 Having been refused permission to appeal by the judge, the Friends made an application to the Court of Appeal. On 19th December 2016, the Court of Appeal granted the Friends of Finsbury Park permission to appeal on the ‘legal powers issue’. The basis for the decision was because the issue *“raises a point of considerable importance for London local authorities and ought to be considered by the Court of Appeal.”*
- 9.2.6 The Court of Appeal also granted an application made by the Open Spaces Society for it to be heard in the appeal, on the grounds *that “The issue in the appeal is of importance to London open spaces and parks”*.
- 9.2.7 The appeal was heard on 2nd November 2017, and the judgment was delivered on 16th November 2017. All three judges dismissed the appeal, in ruling that the High Court judge had correctly identified what the legal power position was.
- 9.2.8 Having been refused permission to appeal, the Friends filed an application with the Supreme Court on 14th December 2017. Officers have since filed notice of objection to the application, and a decision is awaited.

The Current Applications

- 9.2.9 During the course of the hearing in the Court of Appeal, the Friends and the Open Spaces Society introduced new representations not made in the High Court, concerning the fact that the Council holds Finsbury Park on trust for the enjoyment by the public as an open space pursuant to section 10 of the Open Spaces Act 1906 (the 1906 Act).

9.2.10 The Council conceded that the 1906 Act did apply. However, as stated above, it is not clear whether the Act applied in this case, but erring on the side of caution, officers are proceeding on the basis that it does. Accordingly, in coming to a view on the Recommendations contained in this report, the Cabinet Member is required to consider whether in light of the duty held under the 1906 Act, it would still be reasonable to exercise the power under section 145 of the Local Government Act 1972, to close off part of the Park to facilitate the event applied for.

9.2.11 Any decision reached by the Cabinet Member is required to be one which is balanced, rational and in the interests of all park users in terms of an overall assessment of the benefits and detriments of public recreation in relation to different sections or user groups within the community. In the absence of any objections to the event being submitted by recognised stakeholders, the outcome of the EqIA (attached as Appendix 2) is key to aiding the Cabinet Member in the decision making process.

9.2.12 Given the outstanding decision on the question of a further appeal - and notwithstanding the fact that the law remains as found by the High Court and the Court of Appeal unless or until it is overturned on appeal – it is important that the Council takes all necessary, proportionate and reasonable steps to protect its position when considering all applications in the interim. Accordingly, if the Cabinet Member is minded to adopt the recommendations in this report, then the following non-exhaustive list of conditions should also be attached to any approval to permit these applications:

- (1) Approval is conditional on the outcome of any appeal to the Supreme Court – assuming that the appeal is heard on a date prior to the events - being to uphold the decision of the Court of Appeal
- (2) Approval is given subject to contract
- (3) Delegated authority is given to the Interim Director Commercial and Operations - acting on advice from the Assistant Director, Corporate Governance - to attach any other conditions as deemed appropriate

9.3 Equality

9.3.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

9.3.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 9.3.3 An equality impact assessment was completed to accompany the decision in December 2013 to adopt Haringey's Outdoor Events Policy which governs the assessment of event applications to Finsbury Park. The policy does not permit events where the sole purpose is as a religious act of worship. The impact assessment acknowledged that this restriction could have the effect of discouraging religious or belief organisations from using the park for major worship based events. However, it reasoned that this restriction could be justified because such religious/belief based events by their very nature could exclude others who don't share that religion/belief from attending the event or using the park more generally.
- 9.3.4 The Policy aims to strike a balance between ensuring that parks can be used as a community asset for all groups to access for the majority of the year, against the need to generate income from hosting events and for these events to contribute to our borough's cultural and leisure offer.
- 9.3.5 The council is committed to working with event organisers to reduce the effects of events on all residents living near the park, and will enforce the individual conditions that accompany the event's permission including those related to reducing disruption, number of days (including set up) and maximum event space.
- 9.3.6 An Equalities Impact Assessment has been completed to accompany the Labour Party's application. The assessment identifies that children, women with children, and people with disabilities will be impacted negatively by the proposal, as they are more likely to use the park or to have access to normally accessible thoroughfares restricted. However, the Council and the event organiser will be taking a number of actions to mitigate equality issues arising from the event, and so the disproportionate impact of the event on those with protected characteristics will be minimal.

10. Use of Appendices

- 10.1 Appendix 1 – List of White Hart Lane Recreation Ground stakeholders who were consulted
- 10.2 Appendix 2 - Equality Impact Assessment: Application by the Labour Party to hire White Hart Lane Recreation Ground for the 'Labour Live' event in 2018
- 10.3 Part B – Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972

11. Local Government (Access to Information) Act 1985

- 11.1 Haringey Outdoor Events Policy - <http://www.minutes.haringey.gov.uk/documents/s48887/OEP%20-%20CLEARED%20COVERING%20REPORT.pdf>