

Report for: Cabinet Member decision – 26 August 2019

Item number: n/a

Title: Application by Slammin' Events to hire Finsbury Park to host a music festival in September 2019

Report authorised by : Stephen McDonnell, Director – Environment and Neighbourhoods

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Ward(s) affected: Harringay Ward

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

1. Describe the issue under consideration

- 1.1 This report seeks a determination of the application made by Slammin' Events (the Applicant) to hire Finsbury Park in order to stage Hospitality in the Park and Abode, a 2 day music event in September 2019.
- 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 Climate Change and Sustainability is recommended to:
 - (a) Consider, and take account of, the comments received from recognised stakeholders of Finsbury Park in response to the event notifications being sent as part of the decision making process.
 - (b) Authorise the Director – Environment and Neighbourhoods, to approve conditional in principle agreement to hire Finsbury Park to the Applicant for the events detailed in this report as set out in paragraph 6.4.

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 lengthy discussions with relevant authorities, including licensing 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 Finsbury Park (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 a limited number of major events each year. 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 events did not fall within any of the grounds set out in paragraph 5.3 of the Policy for automatic refusal.

6. Background information

Summary History of Events in the Park

- 6.1 Public events have been taking place in Finsbury Park since it first opened in 1869. In recent years, Finsbury Park has been the prime location for many international music acts, playing to large audiences within the open arena of the Park. This includes the first open-air symphony concert of the London Philharmonic Orchestra in 1948.

The Applicant

- 6.2 The Applicant has a successful history of organising events in the Park, having hosted a September weekend music event for the past five years. In addition, in 2017 and 2018 the Applicant has held a June weekend music event in the Park.
- 6.3 Over the last five years that these events have been held in the Park, over 100,000 people have attended and enjoyed the entertainment provided.

The Application

- 6.4 On 5th June 2018, the Council received an application from Applicant to hire the Park to stage Hospitality in the Park and Abode on 21st and 22nd September 2019. Both events comprise all day DJ hosted electronic music festivals. However, both events have attracted adverse feedback from stakeholders – see paragraph 7 below - and this forms an issue to be considered and determined by the Cabinet Member having regard to the Legal advice contained at paragraph 10.2 below.
- 6.5 The Applicant has applied to hire the space known as the bandstand field to facilitate the main event area for both events.

- 6.6 The bandstand field is a green expanse of grass which slopes gently down to the southern boundary of the park, creating a natural amphitheatre. This main field is encompassed by the internal park carriageway. Part of the carriageway was re-surfaced to motorway standards during the Heritage Lottery Funded restoration of Finsbury Park in 2004 to facilitate heavy, articulated vehicles and provides easy access to the areas to build the event infrastructure, with minimal need for crossing grass.
- 6.7 The total area used for this weekend of events equates to 11% of the Park. The remaining 89% of the Park remains open to the public at all times.
- 6.8 Daily attendance for both weekends of events is 12,500.
- 6.9 The areas used for quieter, informal recreational activity including all formally laid out horticultural spaces such as the Mackenzie and American Gardens in the northern section of the Park remain open and accessible to the general public while this event take place.
- 6.10 The latest data collected from people counters installed on the gates into Finsbury Park between 18th July and 11th September 2016 show that on average nearly 8,000 daily park visits were made. This is one of the Parks busiest times falling during the school summer holidays. No major events are allowed to take place during this time, as set out in the Policy at paragraph 5.2.2.
- 6.11 Many of these visits continue while this event take place, by ensuring that all public facilities including the sports courts, play areas, cafes and lake remain open.
- 6.12 It is a condition of hire that way-finding signage is put in place by the Applicant before, during the build and break, and on event days to inform people that facilities remain accessible to the public and thoroughfares used by park users remain open.
- 6.13 During the build and break for events and on event days all main thoroughfares are kept open to park users, except for a section of carriageway running between Finsbury and Hornsey Wood Tavern Gates, as this is where the production area for the event is located. Trackway is placed on the grass here, in parallel to the carriageway, providing an accessible pathway.
- 6.14 Continued use of the Park by park user groups during the times of this event is maintained.

The Premises Licence

- 6.15 On the Sunday of the event, the Premises Licence requires that all music ceases at 10pm in consideration of the start of the working week. On the Saturday of the event, the music stops at 10.30pm.

Landscaping Issues

- 6.16 It is accepted that due to the high footfall experienced during events, some short-term damage to the grass will take place. Accordingly, a full 6-8 week restoration programme will take place following the event season to ensure the re-establishment of the grass in these areas.

The Outdoor Events Policy

- 6.17 In January 2014, the Council adopted the Policy, attached as Appendix 1, to recognise the value and benefit that a varied, and well managed, outdoor events programme can offer the residents of Haringey.
- 6.18 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.
- 6.19 Some of these restrictions as set out at paragraph 5.2.2 of the Policy specifically relate to the Park to ensure a balance of income generation and that of continued public use of the park through the busiest summer months is achieved. These restrictions include, but are not limited to, the following:
- *“Major scale events [more than 10,000 attendance] will be ordinarily limited to 5 per year, save where there is demonstrable community support for additional events*
 - *Duration of major scale events will be of 1 – 3 days per event*
 - *No major scale events will take place during the school summer holidays”*
- 6.20 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 whose portfolio includes this area of Council business - currently the Cabinet Member for Climate Change and Sustainability - as a non-key decision before officers give in principle agreement whenever the following criteria applies:
- *“Expected attendance is over 10,000”*
- 6.21 The criteria detailed above applies to this application, and so hence this referral to the Cabinet Member.
- 6.22 As part of the approval process, the Policy stipulates the need for consultation on the applications to take place. Paragraph 5.1.6. of the Policy states *“Consultation will involve all stakeholders, including Friends Groups, 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”*.
- 6.23 In discharging the requirement to consult, officers sent details of the applications to 36 external stakeholder groups by e-mail dated 17 December 2018. Details of the list of consultees appears at Appendix 2 to the report. Stakeholders including local resident associations, Hackney and Islington

council officers, park user groups and leaseholders; councillors from 6 adjoining wards including in Hackney and Islington; internal council stakeholders including licensing and emergency planning; and statutory bodies including the Metropolitan Police and London Fire Brigade were given 21 working days to respond.

7. Objections Received to the Application

7.1 Of the list of consultees, only those highlighted in green at Appendix 2 provided a total of 3 responses broken down as follows:

- (a) 1 response was received from a residents' association: Highbury Community Association
- (b) 1 response was received from Islington Council
- (c) 1 response was received from Try Tag Rugby

7.2 The comments are set out at Appendix 3. However, they can be summarised in the main as being concerns around number and duration of events; the effect on neighbouring boroughs; event area / set up and take down / disruption; environmental damage; ASB; noise; rubbish.

7.3 Officer responses to the comments are as follows:

Islington Council

7.4 As regards concerns over ASB, in the immediate area of the event and the resources available to deal with the issue should it arise, there is a clear commitment from the Applicant that this issue will be a focus in 2019. Discussions will be held at the SAG meetings to identify the required level of appropriate security and stewarding for this event.

7.5 Compared with other events held in the Park, this proposed event will have a much lower attendance capacity (12,500 daily). This has meant that in previous years, crowds have been contained within the event area and surrounding park with minimal effect on the local area, including the side streets off Seven Sisters Road.

7.6 In 2018, following feedback in 2017, the Applicant committed to allocating a security team to provide a visual presence to deter people loitering in the roads off Seven Sisters Road. The team provided a proactive deterrent for people loitering and also engaged with event attendees encouraging them into the event.

7.7 A resident phone line is provided and publicised to allow locals to report any issues associated with the events and for the Applicant to respond where necessary.

7.8 As regards concerns relating to overcrowding around local businesses and residents with a possible clash at the Emirates, on-going planning and discussions at the Safety Advisory Group will ensure that the impact of other events taking place nearby are factored into the planning of crowd

management. The Police and transport authorities are key authorities within these discussions.

- 7.9 Noise conditions are stipulated and adhered to as set out within Slammin' Events Premises Licence. If an individual or authority has sufficient evidence to suggest the licence holder is breaching their Licence conditions, then they are able to request a review of the said licence.

Highbury Community Association

- 7.10 As regards to the number of events taking place in the park, the Policy allows for up to five major events (10,000 or more attendees) to take place in the Park in any one year, for a duration of between 1-3 days at a time. This number will not be exceeded. Further, see paragraphs 6.4 – 6.14 above which comments on the footprint which will be taken up by the events, and the areas which will remain open and available to the public whilst the events are taking place. For those reasons, officers consider that to be proportionate balance between competing user demands.
- 7.11 As regards concerns over ASB, see the corresponding paragraph above in relation to the same complaint made by Islington Council.
- 7.12 As regards concerns over noise disruption, the Council is committed to working with event organisers to reduce the effects of noise from events on residents, and will continue to work with its own consultants, noise officers and all event organisers to improve the management of noise levels. Since operating in Finsbury Park, the Applicant has never exceeded the noise conditions stated in its Premises Licence.
- 7.13 As regards the concern over events taking place during exam time, this issue is addressed in more detail in the Equalities Impact Assessment (Appendix 4). However, all libraries in Haringey will remain open during the event period, allowing young people and adults an alternative quiet space to study or work.
- 7.14 As regards the damaged caused to the park, see paragraph 6.16 above in relation to the proposed post event restoration plan. In addition, Applicants are required to pay a refundable grounds deposit before moving onto site, to ensure any damaged caused during their hire of the site is rectified and paid for by them, at no cost to the Council.
- 7.15 The amount of deposit is determined by the type and size of the event, and is set out and agreed through the Council's process of setting its annual fees and charges. For a major, commercial event taking place in Finsbury Park this has been set at £15,000. This would only be refunded after any associated costs / damages have been paid. If costs / damages incurred come to more than the deposit amount, the event organiser is obliged through the park hire agreement to pay all outstanding costs.
- 7.16 As regards the loss of the Green Flag being testament partly to the negative impact from the major events, the Council does not believe this to be the case and nowhere in the Green Flag mystery shop reports provided by Keep Britain Tidy, is this evidenced. On 16 July 2019 it was announced that Finsbury Park had retained its Green Flag status.

Tri Tag Rugby

- 7.17 As regards the damage to the pitch used by Tri Tag Rugby, this area is not a designated space for this kind of sports activity. Although the Council allow Try Tag Rugby to use this space it is on the understanding that it is not an area managed to hire pitch standards. Alternative space within the borough is arranged for Try Tag Rugby to use when the events are taking place.

8. Determining the Application - The Open Spaces Act 1906

- 8.1 The income generated from the events is for the benefit of the Park itself, and is fundamental to keeping it open as a viable facility.
- 8.2 All income generated through events specifically held in the Park, will be spent in the Park as required under the Open Spaces Act 1906 (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 Policy at paragraph 8.2.5.
- 8.3 The above said, the Cabinet Member is made aware of the fact that the Council does have a statutory duty under the Act as trustee to hold the land comprising the Park 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.
- 8.4 Officers have set out the concerns from objectors and how they can be overcome, at paragraph 7 above. Officer responses to the concerns raised recognise that a large proportion of the Park will remain open whilst the events take place, and that the event days take up no more than 11% of the Park for less than 1% of the year / less than 3% of the year, including build and break days. These responses also take into consideration the outcome of the EqIA.
- 8.5 Due consideration as to the effects these events could have on the Park, park users and local residents has been given, with detailed plans in place to ensure public access is maintained to the Park and all facilities, whilst ensuring the events provide increased recreational enjoyment within the Park environment.
- 8.6 In order to further assist the Cabinet Member, details of the overall picture in relation to other applications to stage events which require Cabinet Member Approval in 2019 are as follows.
- 8.7 Five hire applications were received in 2018 from event organisers wanting to host large or major music festivals in the Park between May and September 2019. Three of these events have a capacity of 15,000 attendees or less and two events, have a capacity of circa 45,000 attendees.

- 8.8 To date one application has been withdrawn by Slammin' Events, who have made the decision not to progress the application for their June event.

9. Contribution to strategic outcomes

- 9.1 Hosting large and major 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 these types of events with minimal travel.
- 9.2 The recommendations made will contribute to policy and practice primarily in relation to the Place section of the Borough Plan. This was adopted by the Council on 12 February 2019 and sets out priorities for Haringey.
- 9.3 'Place' within the Borough Plan commits to 'A place with strong, resilient and connected communities where people can lead active and healthy lives in an environment that is safe, clean and green.'
- 9.4 This can specifically be seen in Outcomes 9 and 11 as follows:

Outcome 9: A healthier, active and greener place

a) protect and improve parks, open space, and green space promoting community use:

- continue with partners to invest in our parks with over £15 million of improvements planned over the next five years, including new playgrounds and sports facilities;
- promote the use of our parks for a wide range of events and activities, including more community use.

Outcome 11: A culturally engaged place

a) Foster strong and diverse cultural activities:

- support a range of events in the borough, from sport at White Hart Lane and music festivals in our parks, through to activities in our libraries and community-led arts and culture in venues across the borough;
- safeguard and strengthen the borough's cultural heritage by effectively managing, investing in and encouraging access to our heritage assets, museums and libraries;
- protect and promote creative and cultural activity and infrastructure that enables people to gain skills and employment in creative industries and increase investment into the borough;
- support cultural organisations to attract more people to their offer so that there are more opportunities for everyone to connect to the arts and culture in the borough;
- celebrate what is distinctive about Haringey so that our residents are inspired to take part in the great culture on their doorstep and attract visitors from across London and beyond to join us.

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

10.1 Chief Finance Officer (including procurement)

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

10.2 Legal

10.2.1 The Assistant Director, Corporate Governance has been consulted in the preparation of this report, and makes the following comments.

10.2.2 The law which governs the Council's powers to hire the Park in these circumstances is set out in the following legislation:

- 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

10.2.3 The powers were considered by the High Court and the Court of Appeal in June 2016 and November 2017 respectively following a challenge brought to the Council's decision to permit the Wireless Festival to take place in Finsbury Park in 2016.

10.2.4 The High Court judge held that the legislation *"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"*.

10.2.5 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.

10.2.6 The Court of Appeal dismissed the appeal, in ruling that the High Court judge had correctly identified what the legal power position was.

The Current Application

10.2.7 Notwithstanding the Council's power to permit this event, specific account has to be taken of the fact that the Council holds the 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).

10.2.8 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 for the number of days proposed to facilitate the events applied for. In so saying, the attendance at music and dance events is itself recreational, and therefore within the statutory trust.

10.2.9 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. The analysis of the objections to the events, the comments made by officers on those objections, and the outcome of the EqlA are key to aiding the Cabinet Member in the decision making process.

11 Equality

11.1 The Council has a public sector equality duty under the Equality Act (2010) to have due regard 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;
- the three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/fait, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

11.1.1 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.

11.1.2 The Council's Events Policy ensures that event providers operate in accordance with the Equality Act and do not discriminate against groups who share a protected characteristic.

11.1.3 The Policy aims to strike a balance between ensuring that the parks, such as Finsbury Park, 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 major events and for these to contribute to the borough's cultural and leisure offer.

11.1.4 An equality impact assessment has been completed to accompany the Festival Republic Events application and can be found at Appendix 4. The assessment explores impact on residents in the immediate wards surrounding Finsbury Park: Stroud Green (LB Haringey), Harringay (LB Haringey), Brownswood (LB Hackney), Finsbury Park (LB Islington) as well as groups who shared protected characteristics.

11.1.5 The assessment identifies that children, women with children and people with disabilities will be, to a limited extent, impacted negatively by the proposal, as they are more likely to use the park. However, this needs to be balanced against the identified benefits for the community, improving equality of opportunities and fostering good relations. The Council is taking a number of actions to mitigate the negative impact on specific groups with protected characteristics arising from the events.

11.1.6 The council is committed to working with event organisers to reduce the effects of noise from 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.

12. Use of Appendices

12.1 Appendix 1 – Outdoor Events Policy

12.2 Appendix 2 - List of Finsbury Park stakeholders who were consulted

12.2 Appendix 3 – Finsbury Park stakeholders' full responses to large / major park hire applications

12.3 Appendix 4 – Equality Impact Assessment: Application by Slammin' Events Ltd to hire Finsbury Park for one weekend to host music festivals in September 2019

12.4 Part B – Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972

13. Local Government (Access to Information) Act 1985

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