

Report for: Cabinet Member decision – 19 March 2021

Item number: N/A

Title: Application by Assembled GALA Ltd to hire a small space within Finsbury Park to host a performance led pop-up venue

Report

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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 an application made by Assembled GALA Ltd to hire Finsbury Park between May and September 2021 in order to host a performance-led pop-up venue.
- 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, Equalities & Leisure 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 (attached as Appendix 2).
 - (b) Authorise the Director – Environment & Neighbourhoods, to approve conditional in-principle agreement to hire Finsbury Park to the event promoter for the event and dates detailed in this report as set out in paragraph 6.4, BUT also (1) subject to the event being permissible under the then prevailing government legislation and guidance in relation to the Covid-19 pandemic, (2) with the agreement of the Council's Interim Director of Public Health and (3)

subject to the required permissions detailed at paragraphs 6.14 and 6.15 of the report being obtained.

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, Planning and Public Health - before final approval is given.
- 4.3 The rejection of the application would have implications for the Parks & Leisure 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 are lost.

5. Alternative options considered

- 5.1 In adopting the Policy, the Council established its commitment to using the Park to host 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 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”*
- 6.4 In December 2020, the Council received an application from Assembled GALA Ltd (the Applicant) to hire the Park to stage a performance led pop-up venue –

as detailed at paragraph 6.11 and 6.12 below - to be open between May and September 2021, with up to 200 attendees at any one time.

- 6.5 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 criterion applies:
- *“Organiser occupies a site for more than 14 days including setup and take down periods”.*
- 6.6 The criterion detailed above applies to this application, hence this referral to the Cabinet Member.
- 6.7 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.
- 6.8 If approved, this will be the first time the Applicant has hosted an event in Finsbury Park. However, the Applicant has an established background in the management and production of events including the GALA Festival held in Peckham Rye Park.
- 6.9 The Applicant has applied to hire a small grass section, located to the east of the McKenzie Garden, sitting centrally within the Park.
- 6.10 The location provides the perfect central space for infrastructure, including a temporary pavilion, with outside seating and bar and food areas. A number of temporary toilets will also be available. Access to the event will be free of any charge, and the site will be unfenced, allowing it to become an addition to the existing Park attractions and encouraging free-flow movement in and around the venue.
- 6.11 The space will be open from 12pm until 9pm, Wednesday to Sunday. At its core, The Open Arms concept is about ‘giving back’ to the local community through partnerships with local aid groups and charities, and additionally through employment opportunities.
- 6.12 The Applicant is in receipt of the Arts Council England’s ‘Cultural Recovery Grant’ and is looking to bring to life an activation that celebrates and supports the rich pool of local talent, as the country emerges from lockdown. The programme of entertainment will include live music, theatre and spoken word.
- 6.13 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 public access is maintained to the Park and all Council-managed facilities, whilst ensuring the event provides increased recreational enjoyment within the Park environment.

- 6.14 The Applicant is about to commence the application process for a premises licence to allow it to provide regulated activity including the sale of alcohol. This event will only go ahead with regulated activity, if the premises licence is granted.
- 6.15 Additionally, discussions with the Council's Planning Department will commence as planning permission will need to be in place due to the length of time the temporary 'Pavilion' will be in place.
- 6.16 The event will only go ahead if the two permissions detailed above are granted.
- 6.17 The total area used for hosting this venue equates to approximately 1% of the Park. The remaining 99% of the Park, and all other facilities, remain open to the public at all times.
- 6.18 Due to the low numbers within the venue at any one time (200), it is anticipated that any noise levels emanating from the onsite performances will be kept to a minimum, with minimal effect on park users, and local residents.
- 6.19 Visits to the Park will continue while this event takes place, by ensuring that all public facilities managed by the Council, including the ball courts, play areas, cafes and lake remain open.
- 6.20 During the build and break, disruption will be kept to a minimum with only the event space being affected. A path runs around the location, and this will be kept open and unaffected by the venue, at all times.

Consultation Exercise

- 6.21 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 Climate Change and Sustainability and the members of the Haringey Safety Advisory Group. Other consultees may be added where appropriate to the specific park or open space"*.
- 6.22 In discharging the requirement to consult, officers sent details of the Application to 38 external stakeholder groups by e-mail dated 5 February 2021. Details of the list of consultees appears at Appendix 1 to the report. Stakeholders include: local resident associations, Hackney and Islington Council officers, park user groups and leaseholders; Councillors from 6 adjoining wards including those in Hackney and Islington; internal Council stakeholders including licensing and emergency planning; and statutory bodies including the Metropolitan Police and London Fire Brigade. All stakeholders were given 10 working days to respond.
- 6.23 Of the list of consultees, one ('Edible Landscapes') asked for further information on the Application, which once supplied, didn't result in any comments being received. One stakeholder expressed an interest in exploring opportunities to work with the Applicant. Only those highlighted in green at Appendix 1 provided a total of 1 response broken down as follows:

(a) The Council's Licensing Team

- 6.24 The comments are set out in full at Appendix 2. However, they can be summarised in the main as being matters around events in a Pandemic.
- 6.25 Officer responses to the comments are as follows:

The Council's Licensing Team

Issues raised: events in a pandemic.

As regards the points made on the pandemic, it is accepted that this presents a very real and significant threat as to whether or not the event proposed by the Applicant for 2021 will be able to go ahead in its current form. It is for that reason why Recommendation 3.1(b) is drafted in the way it is.

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 these types of events with minimal travel.
- 7.2 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.
- 7.3 '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.'
- 7.4 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.

7.5 The recommendations made, will also contribute directly to the 'Economy' outcomes detailed in the Borough Plan: 'a growing economy which provides opportunities for all our residents and supports our businesses to thrive', through an increase in spend in local businesses, by those attending events; use of local suppliers; and providing job creation for local people.

8. The Open Spaces Act 1906

8.1 The income generated from events such as this 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 Outdoor Events Policy at 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 the sub-paragraphs under 6.21 above.

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 interim Head of Legal and 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 settled in a High Court challenge for judicial review brought by the Friends of Finsbury Park (the Friends) against the decision to permit the application to stage Wireless 2016 in the Park.

- 9.2.3 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 The Friends then appealed to the Court of Appeal. However, the appeal was dismissed on 16th November 2017, with all three judges ruling that the High Court judge had correctly identified what the legal power position was.
- 9.2.6. The Friends then sought permission to appeal to the Supreme Court. However, that application was dismissed on 26th June 2018 on the grounds that it “does not raise an arguable point of law”.

The Current Applications

- 9.2.7 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 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).
- 9.2.8 The Council conceded that the 1906 Act did apply. 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 events applied for. In so saying, the attendance at events such as the one applied for, is itself recreational, and therefore within the statutory trust.
- 9.2.9 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 and the comments made by officers on those objections, are key to aiding the Cabinet Member in the decision-making process.

9.3 Equality

- 9.3.1 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/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.
- 9.3.2 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 do not share that religion/belief from attending the event or using the park more generally.
- 9.3.3 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.
- 9.3.4 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 events and for these to contribute to the borough's cultural and leisure offer.
- 9.3.5 An equality impact assessment screening tool has been completed to accompany the Assembled GALA Ltd applications and can be found in Appendix 3. The screening tool explores the potential impact that the decision to allow the proposed Application could have if it is agreed. As this is deemed to be none, a full equality impact assessment has been deemed unnecessary.
- 9.3.6 The proposed decision is to take account of stakeholder feedback on Assembled GALA Ltd's application to hire Finsbury Park for a pop-up event between May and September 2021, and to authorise the Assistant Director Direct Services to approve the conditional, in-principle agreement to hire Finsbury Park to the Applicant.
- 9.3.7 This has the potential to impact residents of Harringay and Stroud Green wards, as well as residents of the bordering Brownswood and Finsbury Park wards in Islington and Hackney. Although the profile of residents is not consistent across all four wards, on average there are more women (who are likely to be primary carers) and individuals from BAME groups in these wards, than in England.

- 9.3.8 The objective of the proposed decision is to allow Assembled GALA Ltd to host a pop-up venue with the aim of providing Finsbury Park visitors, presumed to predominantly comprise local residents, with the opportunity to enjoy cultural events and thereby to foster cohesion in the community, whilst showcasing local aid groups and charities. It is anticipated that this will result in improved levels of mental wellbeing, social inclusion and employment opportunities for all those who attend.
- 9.3.9 However, given the increased numbers of women in the surrounding area and the resulting possibility that there may be more families, it is recognised that the proposal may have a negative impact on them, as they may feel less comfortable visiting, or less able to access the park, with young children. The proposal may also differentially impact BAME communities, who may feel culturally excluded or have difficulties understanding alternative signage erected to redirect users away from the event location in trying to access other parts of the Park. However, the event will be time-limited and confined to approximately 1% of the Park, leaving the remainder open and accessible to all. Signage will also be appropriately designed using symbols to make sure that it is easily understood by individuals for whom English is not their first language, who are more likely to be from a BAME background. Therefore, any potentially negative impacts will be mitigated against, and the proposed decision represents a proportionate means of achieving a legitimate aim.
- 9.3.10 As an organisation, using a public space, Assembled GALA Ltd will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty, as stated above. Appropriate contract management arrangements will be established to ensure that delivery of the event does not result in any preventable or disproportionate inequality. The Council is committed to working with the Applicant to reduce all potential effects that events may have on park users and residents living near the Park and will enforce the individual conditions that accompany the park hire including those related to reducing disruption etc.

10. Use of Appendices

- 10.1 Appendix 1 – List of Finsbury Park stakeholders who were consulted
- 10.2 Appendix 2 – Finsbury Park stakeholders' full responses to the park hire application
- 10.3 Appendix 3 – Equality Impact Assessment Screening Tool
- 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

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