

Report for: Cabinet Member Signing – 31 March 2022

Title: Park Hire Applications for Funfairs in Finsbury, Markfield and Priory Parks and Ducketts Common 2022

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

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Ward(s) affected: Harringay, Hornsey, Muswell Hill and Seven Sisters

Report for Key/

Non Key Decision: Non Key Decision

1. Describe the issue under consideration

- 1.1 This report seeks a determination of five applications made by three different funfair operators including Manning’s Amusements Limited to hire (1) Finsbury Park between 28 March and 19 April 2022 and (2) Ducketts Common between 20 June and 04 July 2022; Manning’s Fairview Company Ltd to hire (3) Priory Park between 14 April 2022 and 03 May 2022 and (4) Markfield Park between 13 June and 27 June 2022; and Carters Entertainment Ltd to hire (5) Priory Park between 21 June and 5 July 2022, for funfair events.
- 1.2 The applications are required to be determined pursuant to the Council’s Outdoor Events Policy (the Policy), which was approved by Cabinet on 17 December 2013, and implemented on 07 January 2014.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

- 3.1 The Cabinet Member for Environment, Transport and the Climate Emergency is recommended:
 - (a) To consider, and take account of, the comment received from a recognised stakeholder of Finsbury Park in response to the event notification being sent as part of the decision-making process (attached as Appendix 2 to the report).
 - (b) To authorise the Director of Environment and Neighbourhoods, to approve conditional in-principle agreement to hire Finsbury Park, Ducketts Common, Markfield Park and Priory Park to the funfair operators for the events detailed in this report as set out in paragraph 6.5, subject to:
 - (i) the events being permissible under any then prevailing government legislation and guidance in relation to the Covid-19 pandemic, and

(ii) with the agreement of the Council's (interim) Director of Public Health.

(c) To authorise the Director of Environment & Neighbourhoods to enter into agreements and or to grant permissions to hire Finsbury Park, Ducketts Common, Markfield Park and Priory Park to the funfair operators (for the events detailed in this report as set out in paragraph 6.5) provided that the Director of Environment and Neighbourhoods is satisfied with the terms of any proposed agreements and permissions.

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 Applicants for the event applications to progress. The events will then be subject to discussions between the Applicant and the Council before final agreement is given.

4.3 The rejection of the applications would have implications for the Parks & Leisure Service budget and reduce the opportunity for reinvestment into Finsbury Park, Ducketts Common, Markfield Park and Priory 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 parks for a limited number of funfairs and circuses each year. Accordingly, the only other alternative option which could be considered would be to reject the applications. 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

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 Finsbury 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:

- *“Fairs will be limited to up to 3 occasions per year and where possible the location of fairs within the Park will be varied.”*

- 6.4 The Policy doesn't specifically specify the number of funfairs that can be held in other parks in the borough, as it is felt that these will be less in demand than Finsbury Park. In fact, on average, Ducketts Common hosts one funfair a year and Priory Park twice a year. In the past there has been little demand for Markfield Park, but in 2021 a trial funfair was held with positive comments received from the community.
- 6.5 The Council has received five park hire applications outlined below:
- 2 applications from Manning's Amusements Limited to hire (1) Finsbury Park to stage a 19-day family funfair in March / April 2022 and (2) Ducketts Common to stage a 10-day family funfair in June/July 2022;
 - 2 applications from Manning's Fairview Company Ltd to hire (3) Priory Park to stage an 11-day family funfair in April/May 2022 and (4) Markfield Park to stage a 9-day family funfair in June 2022;
 - 1 application from Carters Entertainment Ltd to hire (5) Priory Park to stage a 10-day family steam fair in June/July 2022.
- 6.6 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:
- (i) *"Event lasts more than 7 days"*
 - (ii) *"Organiser occupies a site for more than 14 days including setup and take down periods"*.
- 6.7 Both criteria above apply to all applications, hence this referral to the Cabinet Member.
- 6.8 Funfairs have been taking place across Haringey Parks for over 100 years.
- 6.9 All three applicants have a long and successful history of operating family funfairs in Haringey. Manning's Amusements Ltd has hosted funfairs in Bruce Castle Park for nearly 100 years, an Easter and summer bank holiday funfair in Finsbury Park for over 40 years and most recently in 2019 brought back the funfair to Ducketts Common. Similarly, Manning's Fairview Company Ltd has operated in Priory Park for over 40 years and Carters Entertainment Ltd has provided a traditional family steam fair in Priory Park for 35 years.
- 6.10 During that time thousands of people have attended and enjoyed the entertainment the funfairs provide.
- 6.11 Due consideration as to the effects these events could have on the parks, park users and local residents has been given, with plans in place to ensure public access is maintained to the Parks and all their facilities, whilst ensuring the events provide increased recreational enjoyment within the park environs.
- 6.12 To facilitate the event in Finsbury Park, Manning's Amusements Ltd has applied to hire a small section of the internal carriageway running between Finsbury and Hornsey Wood Tavern Gates, plus a small section of the grass known as the bandstand field, and a section of the grass field running parallel to Seven Sisters

- Road. This equates to 4% of Finsbury Park. The remaining 96% of the Park remains open to the public at all times.
- 6.13 To facilitate the event in Ducketts Common, Manning's Amusements Ltd has applied to hire the large green space towards the southern end of the Park. This equates to 31% of Ducketts Common. The remaining 69% of the Park remains open to the public at all times.
- 6.14 To facilitate the event in Priory Park, Manning's Fairview Company Ltd has applied to hire the large green space which is opposite the café. This area equates to 14% of Priory Park. The remaining 86% of the Park remains open to the public at all time.
- 6.15 Carters Entertainment Ltd will be based in the same position as the above funfair.
- 6.16 Manning's Fairview Ltd base the funfair in Markfield Park on a section of the large grass field, which uses approximately 25% of this area. All facilities, and the remaining 75% of grass within the park remain open and accessible to the public at all times.
- 6.17 Attendance numbers for each of the events are expected to be no more than 1,000 per day in Ducketts Common, Markfield Park and Priory Park, and no more than 1,500 per day for Finsbury Park.
- 6.18 Public visits continue, unaffected by these events taking place, by ensuring that all public facilities including the sports courts and play areas remain open.
- 6.19 Continued use of all parks by user groups during the times of the funfair is maintained. Indeed, it could be said that the funfairs provide entertainment that actually attracts more people into the parks.
- 6.20 During the build and break for the Finsbury Park event and on event days all main thoroughfares are kept open to park users, except for the small section of carriageway running between Finsbury and Hornsey Wood Tavern Gates in Finsbury Park, as this is where the main event is located. Trackway is placed on the grass here, in parallel to the carriageway, providing an accessible pathway for members of the public to use.
- 6.21 It is accepted that due to the footfall experienced during the funfairs in all parks, some short-term damage to the grass may take place. This is greatly influenced by the weather during the operation of the funfair. Restoration works will take place if and where needed to ensure the re-establishment of the grass. Any works needed will be paid for by the Applicant as set out in the park hire terms and conditions.

Consultation Exercise

- 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 event applications to external stakeholder groups in October 2021 (Manning’s, Finsbury Park) and January 2022 (all other applications). Details of the list of consultees appears at Appendix 1 to the report. Stakeholders including local resident associations, Hackney and Islington council officers (for Finsbury Park), park user groups and leaseholders; councillors from adjoining wards (where applicable); internal council stakeholders including licensing and emergency planning; and statutory bodies including the Metropolitan Police and London Fire Brigade were given 10 working days to respond.
- 6.24 Of the list of consultees, only one stakeholder commented on the application made by Manning’s Amusements Ltd to hire Finsbury Park.
- 6.25 The comment from Finsbury Park Parkrun can be viewed in full at Appendix 2. In summary, they raised no objections to the funfair taking place, however, would appreciate efforts are made to ensure they can continue with their Saturday morning runs by making the funfair operator aware of the run and by avoiding any associated traffic movement while running.
- 6.26 Officers welcome the general acceptance of the funfair and understand there is a pro-active need for a joined-up approach to limit disruption to the weekly Parkrun activities. Officers will continue to work with Parkrun and the funfair operators to ensure that the run can take place, as we recognise the value that Parkrun brings to the local community.

7. Contribution to strategic outcomes

- 7.1 Hosting large and major events within the parks 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.

8. The Open Spaces Act 1906

8.1 The income generated from these events is for the benefit of each Park 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 each 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.

9. Statutory Officers comments (Director of Finance (including procurement), Head of Legal and Governance, Equalities)

9.1 Finance (including procurement)

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

9.2 Legal

9.2.1 The 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 a 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”.
- 9.2.7 It should be noted that in the event that any of the parks are to be used for the holding of funfairs for more than 28 days in total in a calendar year, then there will be a need to first obtain planning permission.

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.

Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

- 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 the borough's parks. 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.
- 9.3.3 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 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 to contribute to the borough's cultural and leisure offer.
- 9.3.5 An equality impact assessment has been completed to accompany the application from Manning's Amusements Ltd to use Finsbury Park which can be found in Appendix 3. This is due to a small section of carriageway being used by the Applicant, as detailed at sections 6.20, which could have an impact on accessibility. The assessment explores impact on residents with protected characteristics, in particular those living in wards immediately surrounding Finsbury Park: Stroud Green (LB Haringey), Harringay (LB Haringey), Brownswood (LB Hackney), Finsbury Park (LB Islington).
- 9.3.6 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 and have accessibility needs. 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.
- 9.3.8 The events will not affect current access to Ducketts Common, Markfield Park and Priory Park. All existing entrances and exits in the park will remain open during the event days, including the set up and dismantling phases. In addition, the proposed events will not affect the existing footpaths in the park, ensuring that park users with accessibility needs, such as disabled people and parents with young children, are not subject to changing routes within the park. Access to and within the parks will be maintained throughout the events.
- 9.3.9 Therefore an equality impact assessment is not required as the proposed events for Ducketts Common, Markfield Park and Priory Park is not assessed as having a significant impact on groups who share protected characteristics. The proposed events will not affect access to and within the park, allowing park users to use 69% (Ducketts Common), 90% (Markfield Park) and 86% (Priory Park) of the remaining space, which includes all of the park's facilities for children, young people and adult park users.

9.3.10 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.

10. Use of Appendices

10.1 Appendix 1 – List of stakeholders who were consulted

10.2 Appendix 2 – Stakeholder's full responses to park hire notification

10.3 Appendix 3 – Equality Impact Assessment: Application by Manning's Amusements Ltd to hire Finsbury Park for a family funfair in March/April 2022

10.4 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>