

Report for: Cabinet Member decision – 22 March 2024

Title: Park Hire Applications for Funfairs in Finsbury Park and Ducketts Common 2024 - 2028

Report authorised by: Barry Francis, Director of Environment and Resident Experience

Lead Officer: Sarah Jones, Events & Partnerships Manager
sarah.jones@haringey.gov.uk, 07967 969672

Ward(s) affected: Haringgay

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

1. Describe the issue under consideration.

- 1.1 This report seeks a determination of several applications made by Manning's Amusements Limited (the Applicant) to hire Finsbury Park for a period in March/April and August, and Ducketts Common in June each year, between 2024 and 2028, in order to stage a family funfair.
- 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 17th December 2013, and implemented on 7th January 2014.

2. Cabinet Member introduction

Not applicable.

3. Recommendations

The Cabinet Member for Culture, Communities and Leisure is recommended:

- 3.1 Pursuant to Contract Standing Order 16.02, to authorise the Director of Environment and Resident Experience to
 - (1) approve conditional, in-principle agreement to hire Finsbury Park and Ducketts Common to the Applicant (for the events detailed in this report as set out in paragraph 6.5) and
 - (2) agree the park hire terms and conditions to hire Finsbury Park to the Applicant (for the events detailed in this report as set out in paragraph 6.5) provided that the Director of Environment and Resident Experience 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. It is considered that this decision is non-key because it is (a) not likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on

communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

- 4.2 With respect to (b) the impact of the proposed decision on communities is not considered to be significant because the area does not comprise an area of two or more wards. Whilst some Finsbury Park events sometimes receive strong local feeling from a section of the community, there is active engagement and opportunity for stakeholders to feedback. Also, any impacts of the events are not significant and have no lasting effect given the short duration of the events during the year. It is worth noting that no feedback was received during the recognised stakeholder notification period.
- 4.3 If authority is given, then officers will give in-principle agreement to the Applicant for the event applications to progress. The events are subject to discussions with relevant authorities – including the Police - before final agreement is given.
- 4.4 The rejection of the applications would have implications for the Parks & Leisure Service budget and reduce the opportunity for reinvestment into Finsbury Park and Ducketts Common. 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, in past years, Ducketts Common has only hosted one funfair per year.

- 6.5 The Council has received three park hire applications from the Applicant to host three funfairs per year (2 for Finsbury Park and 1 for Ducketts Common), to run from 2024 until 2028 as outlined below:
- to hire (1) Finsbury Park to stage an Easter family funfair (lasting approximately 17 days) in March / April 2024-2028
 - to hire (2) Finsbury Park to stage a summer family funfair (lasting approximately 17 days) in August 2024 - 2028
 - and to hire (3) Ducketts Common to stage a summer family funfair (lasting approximately 10 days) in June/July 2024-2028.
 - all periods of hire also include a build and break period of approximately 5 days.
- 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 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 The Applicant has a long 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.
- 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 Attendance numbers for each of the events are expected to be no more than 1,000 per day in Ducketts Common and no more than 1,500 per day in Finsbury Park.
- 6.15 Public visits continue, unaffected by these events taking place, by ensuring that all public facilities including the sports courts and play areas remain open.
- 6.16 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.
- 6.17 During the build and break for the Finsbury Park events 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, 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.
- 6.18 It is accepted that, due to the footfall experienced during the funfairs in both parks, some short-term damage to the grass may take place. This is greatly influenced by the weather during the operation of the funfairs. 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 general terms and conditions.

Consultation exercise

- 6.19 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”*.
- 6.20 In discharging the requirement to consult, officers sent details of the event applications to external stakeholder groups (Finsbury Park Stakeholder Group and Ducketts Common Stakeholder Group) in October / November 2023. 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.
- 6.21 Of the list of consultees, none of the stakeholders made any comments on the application made by Manning’s Amusements Ltd to hire either Finsbury Park or Ducketts Common between 2024 – 2028.

7. Contribution to strategic outcomes

- 7.1 Hosting events within 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 Corporate Delivery Plan 22/23 and 23/24, however much of this is focused on Theme 7: Culturally rich borough, which sets out how the Council will build a fairer, greener borough by 2024.
- 7.3 Theme 7: 'Culturally rich borough' within the Corporate Delivery Plan 'prioritises this because of the role we know that arts, culture and heritage will play in helping us to build a vibrant and inclusive economy, welcoming and inclusive neighbourhoods and communities, and healthy and fulfilling lives for our residents'.
- 7.4 This can specifically be seen in the following intermediate outcomes:
- The Council will have a more fully developed vision for the role of arts, culture and heritage in the borough which reflects what is important to Haringey's diverse communities, creates wider opportunities for residents and attracts the interest of visitors;
 - Celebrating and inspiring will enhance Haringey's cultural reputation and profile in London and beyond;
 - There will be an increase in resident, cultural sector and community collaboration and participation in arts and culture.

8. Carbon and Climate Change

- 8.1. Haringey Council has been a leader in carbon dioxide (CO₂) reduction and in its work on climate change. The borough delivered its target of 40% (and exceeded by 3%) carbon reduction by 2020 from its 2005 baseline. It has a better performance than neighbouring authority areas and officers will continue to work with hirers to ensure that all events are delivered as sustainably as possible.
- 8.2 The Applicant is fully aware of the importance of protecting the environment and limiting its carbon emissions and is guided by its own Green Policy.
- 8.3 It accepted that funfairs can generate a considerable amount of waste from operations and so hirers are required to recycle all waste. The Applicant also ensures that all refreshments and food sold at its events is provided in containers that can be recycled, whilst also striving to cut out all single use plastics from not only food concessions, but operational activities.
- 8.4 Whilst many changes have already been implemented to ensure the fair is 'cleaner', the Applicant does accept that some changes will take longer. It has already introduced a rolling replacement programme of its older vehicle fleet, replacing them with newer technology to reduce emissions, as is the generator fleet. Hydraulic systems have been replaced with the latest inverter drive systems which generate power rather than waste it, and this technology, coupled with its investment in power distribution infrastructure has allowed regenerated power to be used elsewhere.

8.5 Lighting for all attractions and facilities use LED controlled displays, cutting energy consumption by 80%.

9. The Open Spaces Act 1906

9.1 The income generated from these events is for the benefit of each park and is fundamental to keeping them open as viable facilities.

9.2 All income generated through events specifically held in Finsbury 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.

9.3 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.

10. Statutory Officers' comments

10.1 Director of Finance (including procurement)

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

10.2 Assistant Director for Legal and Governance

10.2.1 The Assistant Director for Legal and Governance has been consulted in the preparation of this report.

10.2.2 The law which governs the Council's powers to hire Finsbury 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.

10.2.3 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”*.

10.2.4 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.

10.2.5 The Friends of Finsbury Park 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.

10.2.6 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”.

10.2.7 The Assistant Director for Legal and Governance sees no legal reasons preventing the Cabinet Member for Culture, Communities and Leisure from approving the recommendations in the report.

10.3 Equality

10.3.1 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.

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

10.3.3 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 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.

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

10.3.5 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.

10.3.6 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 2. This is due to a small section of carriageway being used by the Applicant, as detailed at sections 6.17, 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).

10.3.7 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 proposed event in Ducketts Common will not affect current access to the site. 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.

10.3.9 Therefore an equality impact assessment is not required as the proposed event for Ducketts Common is not assessed as having a significant impact on groups who share protected characteristics. The proposed event will not affect access to and within the park, allowing park users to use 69% of the remaining space in Ducketts Common, which includes all of the park's facilities for children, young people and adult park users.

10.3.10 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.

11. Use of appendices

11.1 Appendix 1 – List of stakeholders who were consulted.

11.2 Appendix 2 – Equality Impact Assessment: Application by Manning's Amusements Ltd to hire Finsbury Park for family funfairs to be held in 2024-2028

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

12. Background papers

12\s.1 Haringey Outdoor Events Policy -

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