

Report for: Cabinet Member decision – 24 February 2017

Item number: 4

Title: Application by Festival Republic Ltd to hire Finsbury Park for the Wireless Festival and Concert 2017

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

Lead Officer: Zoe Robertson, Head of Commissioning & Client
zoe.robertson@haringey.gov.uk, 020 8489 2223

Ward(s) affected: Haringay and Stroud Green Wards

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

1. Describe the issue under consideration

- 1.1 This report seeks a determination of two applications made by Festival Republic Ltd (1) to hire Finsbury Park over 3 days in July 2017 in order to stage the Wireless 2017 music festival, and (2) to hold a one day concert also in July 2017.
- 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

- 3.1 The Cabinet Member for Environment 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 1).
 - (b) Authorise the Assistant Director – Commercial and Operations, to approve conditional in principle agreement to hire Finsbury Park to the event promoters for the events detailed in this report as set out in paragraph 6.4.

(c) Agree that the conditions which are to be attached to any final approval of authority are as set out in the comments of the Assistant Director, Corporate Governance at paragraph 8.2.7 below.

4. Reasons for decision

- 4.1. Under the terms of the Policy, applications of the type detailed in this report are required to be determined with the prior agreement of the Cabinet Member.
- 4.2. If authority is given, then officers will give in principle agreement to the applicant for the event applications to progress. The events will then be subject to lengthy discussions with relevant authorities, including licensing before final agreement is given.
- 4.3. The rejection of the applications would have implications for the Parks Service budget, and reduce the opportunity for reinvestment into Finsbury Park (the Park) and other parks. 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

- 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 On 5th September 2016 and 15th December 2016, the Council received two applications from Festival Republic Ltd to hire the Park to stage the Wireless 2017 music festival on 7th, 8th and 9th July 2017, and to hold a one day concert on 1st July 2017. If approved, this would be the fourth successive year that the Wireless event has been held in the Park.
- 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 criteria applies:
- *“Expected attendance is over 10,000”*
 - *“Event lasts more than 2 days with 5,000 or more in attendance”*
- 6.6 Both of the criteria detailed above apply to these applications, and so hence this referral to the Cabinet Member.
- 6.7 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”*.
- 6.8. In discharging the requirement to consult, officers sent details of the applications to 36 stakeholder groups by e-mail dated 11th January 2017. 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 10 working days to respond.
- 6.9. Of the list of consultees, only those highlighted in green at Appendix 2 provided a total of 6 responses broken down as follows:
- (a) 2 responses were received from a ward councillor in Harringay ward, submitted on behalf of constituents
 - (b) 1 response was received from a ward councillor in Hackney, Brownswood Ward
 - (c) 2 responses were received from residents’ associations: Stroud Green Residents’ Association and Highbury Community Association
 - (d) 1 response was received from Islington Council
- 6.10. The comments are set out at Appendix 1. However, they can be summarised as being concerns around the consultation process; set up and take down of the events; the size of the event area; disruption to park users and local residents; event management and park reinstatement issues.
- 6.11. Officer responses to the comments are as follows:
- (a) Consultation Process

The stakeholder consultation was carried out as set out in the Policy (paragraph 5.1.6) which was confirmed as being adequate by the High Court as part of the challenge brought by the Friends of Finsbury Park to the 2016 event.

(b) Event area / set up and take down / disruption

Every effort is made to ensure set up and take down periods are sufficient for the safe installation of an event area, while retaining as much public access as possible. Detailed discussions take place with event promoters months in advance of the event to agree how a phased closure of the event space is managed as build progresses and to ensure vehicle movement through the park during these times is managed and controlled. These plans are shared with the Finsbury Park Event Stakeholders Group with any comments for improvement being discussed in detail with promoters.

The event area proposed for the first event (the concert) would take up approximately 20% of the park. This area would then be increased to prepare the event space for the Wireless weekend, equating to 27% of the park. The remainder of the park, including all facilities, stay open to the public at all times.

This area of the park is attractive to event promoters due to the large sloping expanse forming the perfect outdoor arena, with the carriageway facilitating the build and break of infrastructure.

(c) Reinstatement works

Festival Republic will pay a £15,000 refundable grounds deposit before moving onto site. 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.

In 2016 the Parks Service invested in new equipment and machinery allowing faster restoration of grass areas after events.

(d) Local event information

In 2016 event and contact information was greatly publicised to residents by all three councils, through various resources. Complaints received during Wireless 2016 were down by nearly 50% overall on the previous year, and down over 80% on 2014 demonstrating that the improvements that have been made were successful and further improvements will be made in 2017.

(e) Working with the community

Festival Republic has worked closely with a number of community groups in the local area such as Mind in Haringey and the Manor House Development Trust offering opportunities for local organisations to benefit from their presence in the park.

In 2016 Mind in Haringey fundraised over the three day Wireless weekend, raising nearly £5k from donations while offering help and advise to event goers.

Volunteers from the Manor House Development Trust took part in the volunteer host programme based outside the event area, engaging with event goers offering advice and information on the local area.

Further community involvement opportunities will be explored in 2017 to see if schools can be engaged in potential art projects based around the event.

(f) Number of events

The Policy allows for up to 5 major events (more than 10,000 attendees) to take place in the Park in one year, for a duration of no more than 3 days at a time. This number will not be exceeded.

Both of the proposed events fall within the 'major' event criteria and both will be ticketed.

(g) Noise monitoring

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

Noise and vibration complaints received in 2016 during Wireless were down nearly 50% on the previous year, and down 76% on 2014 indicating that new measures introduced to lessen the noise effects on residents, worked.

These measures included the introduction of extra sound buffering for Stage 3 to reduce noise emissions, and the use of new noise monitoring equipment and software enabling acoustic engineers to identify and isolate individual frequencies causing the most irritant to residents during the event, and adjust them accordingly.

(h) Anti social behaviour

Work will continue with partners to mitigate any anti social effects that may happen when so many people flux into an area, including the potential for LB Hackney to manage stewarding in their own residential streets.

Visitors to all events are aware they are not camping festivals. The campsite that was visible to park users during 2016 was completely separate to the events taking place and was dealt with by the relevant authorities, with the available powers.

(i) Capacity numbers

Festival Republic holds a premises licence for the Park to host events with capacity of up to 50,000. However, works to Finsbury Park station is taking place this year which will affect the ability to get event goers at that capacity away safely and within time to ensure roads are reopened as quickly as possible. Discussions have been ongoing with Festival Republic since their applications were received, which has resulted in attendance figures being decreased. These discussions will continue until all relevant authorities are satisfied with the proposed egress plan.

(j) Parking restrictions

Over the last couple of years different parking restrictions have been implemented in some of the Haringey roads adjacent to the Park. A parking impact study was undertaken by officers during Wireless 2016 with a view to implementing sufficient restrictions in 2017, addressing any issues that occurred.

6.12. In order to further assist the Cabinet Member, details of the overall picture in relation to other applications to stage large or major events in the Park is as follows.

6.13. A total of ten hire applications were received in 2016 from event organisers wanting to host large or major events in the Park between May and September 2017. Eight of these events have a capacity of 20,000 attendees or less and the remaining two events, including Wireless, have a capacity of circa 35,000 attendees.

6.14. Four of the applications were looking to take place within July but realistically only two of these could be accommodated. One application is for a six week summer beach destination that would run throughout the summer holidays.

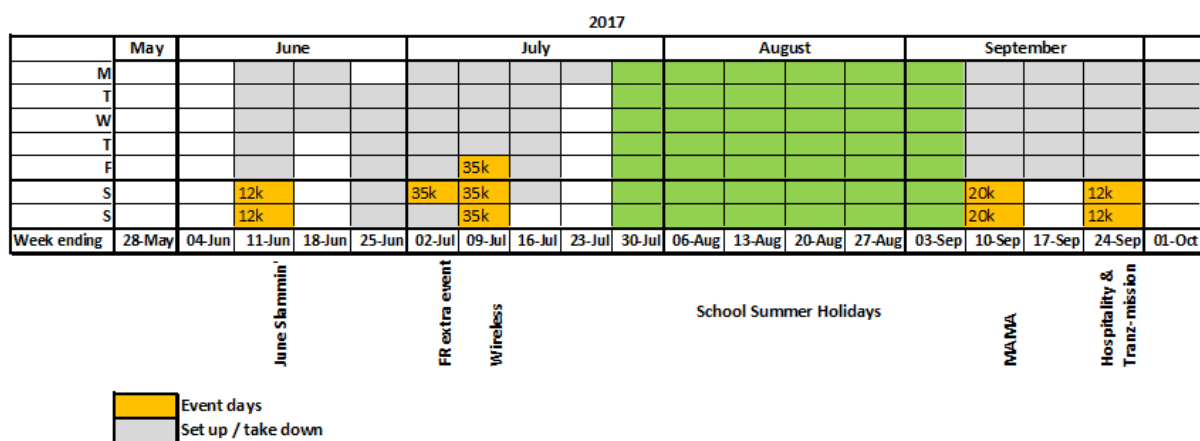
6.15. To date four applications have been withdrawn by the event organiser.

6.16. Five applications are now at a stage where Cabinet Member approval is to be sought in principle to allow the park hire applications to progress. These are:

Event	Date	Duration	Capacity	Event
-------	------	----------	----------	-------

				Classification
June Slammin'	Saturday 10 & Sunday 11 June	2 days	12k	Major
Mama Group	Saturday 9 & Sunday 10 September	2 days	20k	Major
September Slammin' Hospitality & Tranz-mission	Saturday 23 & Sunday 24 September	2 days	12k	Major

6.17. If the above events were all to progress to fruition then the summer season would look like this:



7. Contribution to strategic outcomes

- 7.1. Hosting large music events within the Park contributes to supporting the local economy, developing the cultural offer in the borough and provides an opportunity for local people to enjoy this type of event with minimal travel.
- 7.2. The recommendations made will contribute to policy and practice primarily in relation to Priority 3 of the Corporate Plan: 'A clean, well maintained and safe borough where people are proud to live and work'.
- 7.3. In addition there are links to the Corporate Plan in relation to:
Priority 2: 'Enable all adults to live healthy, long and fulfilling lives'
Priority 4: 'Drive growth and employment from which everyone can benefit'
- 7.4. The Medium Term Financial Plan sets out a £600,000 increase in income during the period up to March 2018. All money raised by events is ring fenced back to the Parks budget to maintain and improve parks in the borough.

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

8.1 Chief Finance Officer (including procurement)

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

8.2 Legal

- 8.2.1 The Assistant Director, Corporate Governance has been consulted in the preparation of this report, and makes the following comments.
- 8.2.2 The law which governs the Council's powers to hire the Park in these circumstances was challenged in the High Court on an application for judicial review brought by the Friends of Finsbury Park against the decision to permit the application to stage Wireless 2016 in the Park.
- 8.2.3 The case was heard on 8th and 9th June 2016, and the judge delivered his judgment on 22nd June 2016. In summary, the judge ruled that the provisions of section 44 of the Public Health Amendment Act 1890; The Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 and section 145 of the Local Government Act 1972 – all of which govern the ability to permit entertainment in open spaces such as the Park – *“creates different powers for different places subject to different limitations”*. Accordingly, the judge went on to rule that *“s145 of the 1972 Act, of itself and standing alone, provides the Council with the necessary power to permit Wireless 2016 to take place in the Park”*.
- 8.2.4 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.
- 8.2.5 Whilst it is understood that the duration restriction does not apply to these applications, the events proposed will all require more than 10% of the Park to be closed off to the public in order to stage each event. Accordingly, it is for that reason why it is important for the Cabinet Member to be made aware of the fact that on 19th December 2016, the Court of Appeal granted the Friends of Finsbury Park permission to appeal on the 'legal powers issue'. The basis for the decision was because the issue *“raises a point of considerable importance for London local authorities and ought to be considered by the Court of Appeal.”*
- 8.2.6 It is understood that the appeal could be heard on a date between *“May to November (not including August and September)”* 2017. Officers have challenged a date before October / November 2017, on the basis that the court refused an application made by solicitors acting for the Friends of Finsbury Park for a hearing before this year's event takes place. In coming to that view, the reasons given in support of the decision were *“for the reasons given in the letter from Haringey LBC dated the 18th January 2017.”* Central to the letter of opposition, was *“the adverse impact of a hearing before the event was staged in terms of “significant concern that promoters will not be prepared to enter into contracts, incur the large expenses and enter into the third party commitments involved in planning the event”* and the consequential risk of irremediable economic losses which would accrue to the Council were promoters to withdraw their applications. As at the date of publishing this report, a date has yet to be fixed.

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

- (1) Approval is conditional on the outcome of the appeal to the Court of Appeal being to uphold the decision of the High Court
- (2) Approval is given subject to contract
- (3) Delegated authority is given to the Assistant Director, Commercial and Operations, acting on advice from the Assistant Director, Corporate Governance, to attach any other conditions as deemed appropriate

8.3 Equality

8.3.1 The Council has a public sector equality duty under the Equality Act (2010) to have due regard to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- 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.

8.3.2 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 don't share that religion/belief from attending the event or using the park more generally.

8.3.3 The Policy aims to strike a balance between ensuring that 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 events to contribute to our borough's cultural and leisure offer.

8.3.4 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.

9. Use of Appendices

- 9.1 Appendix 1 – Finsbury Park stakeholders' full responses to large / major park hire applications
- 9.2 Appendix 2 – List of Finsbury Park stakeholders who were consulted
- 9.3 Park B – Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972

10. 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>