



## Mayor and Cabinet

### Report title: Blackheath Joint Events Policy 2021-2024

**Date:** 15 June 2022

**Key decision:** Yes.

**Ward(s) affected:** Blackheath (Lewisham); Greenwich West; Blackheath/Westcombe (Royal Borough of Greenwich)

**Contributors:** Contracts and Service Development Manager; Head of Parks Sports & Leisure

### Outline and recommendations

This report recommends the approval of a variation and extension of the existing Joint Events policy for Lewisham and Greenwich Councils for activities on Blackheath until 2024. The policy sets out the framework for how the two Local Authorities manage events on the Heath. In particular it restricts the maximum number of days that the Heath can be used for events. It also defines and restricts the number of large events on the Heath to two per borough per year. Other minor changes proposed to the Council's existing Blackheath Joint Events Policy 2017-2020 are set out under paragraphs 5.8 To 5.14.

### Timeline of engagement and decision-making

*The existing Blackheath Events Joint policy for Lewisham and Greenwich was adopted in 2017. Throughout 2021 both Councils worked on agreeing minor changes and consulting with the Blackheath Joint Working Party on the changes.*

## 1. Summary

- 1.1 This report details proposed changes to the existing Blackheath Joint Events Policy 2017-2020 and seeks approval to extend it to 2024. The suggested changes will streamline the Policy to allow small to medium size events to be managed more efficiently.

## **2. Recommendation**

- 2.1 That Mayor and Cabinet approve the proposed changes to the existing Blackheath Joint Events Policy Joint policy for Lewisham and Greenwich 2017-2020 in relation to events and activities taking place on Blackheath as set out in Appendix A and agree to extend it to 2024.

## **3. Policy Context**

- 3.1 The Council's Corporate Strategy 2018–2022 includes the following priority outcomes: Priority 1, Open Lewisham: "Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us."
- 3.2 We will therefore support events that bring our community together. Priority 6, Making Lewisham greener: "Everyone enjoys our green spaces and benefits from a healthy environment as we work to protect and improve our local environment."

## **4. Background**

- 4.1 The Blackheath Joint Events Policy requires refreshing to accommodate and acknowledge policy changes that have occurred.
- 4.2 Both Councils have taken the opportunity to agree minor changes that will enable events to be more efficiently consulted on, facilitated, and equitably shared between both Authorities.
- 4.3 The purpose of the Blackheath Joint Events Policy is to set out the consultative and event application process. The policy details the number and type of events permitted in order to avoid overuse of the Heath by events. See Appendix 1

## **5. Blackheath governance and changes to existing policy**

- 5.1 Blackheath is a historic green open space situated in a heavily populated area of south east London. It is dissected by the A2, which demarks the borough boundaries. Lewisham Council is responsible for land to the south of the A2 and the Royal Borough of Greenwich the land to the north.
- 5.2 Blackheath is a designated metropolitan common and has been recognised as a site of metropolitan importance for nature conservation. Its open spaces also provides a wonderful setting for outdoor recreation as well as a range of more formal events and activities.
- 5.3 Both Councils play a key role in the management, improvement and protection of the Heath by promoting its use for the enjoyment of residents and visitors. An example of this partnership is the joint Green Flag Award which covers both administrative areas.
- 5.4 The adoption of a joint events policy for Blackheath demonstrates the desire of both councils to work together in collaboration and partnership with the voluntary and private sectors and other public bodies. The intent is to develop new opportunities to enhance the quality and diversity of the Heath for the benefit of all who use and enjoy it.
- 5.5 The current policy was adopted in October 2017. It is proposed to be amended following input from Council officers, elected members and representatives of the local amenity societies via the BlackHeath Joint Working Party (BJWP)
- 5.6 The BJWP is a constituted group who's objects are: "2(a)To act as a forum for the Councils of the Boroughs of Lewisham and Greenwich...; 2(b)To advise on the content and implementation of any management plan or policy that either or both Councils shall from time to time devise for the Heath. 2(c) To act as a co-ordinator for events and

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activities on the Heath, and to give advice concerning major events and activities.”

- 5.7 The voting membership of the Working Party consists of the following: London Borough of Lewisham (3 Members); London Borough of Greenwich (3 Members); Blackheath Society (1 representative); Greenwich Society (1 representative); Westcombe Park Society (1 representative).
- 5.8 Changes proposed to the current policy are as follows: Visitor parking on the Heath is not permitted. This is intended to promote the use of public transport for those attending events on Blackheath.
- 5.9 The policy retains the annual meeting of the BJWP each October to review and conduct a debriefing session on the previous year’s events. It will also consider the programme for the following year.
- 5.10 The policy adds to this undertaking as follows: “Where applications are made to hold an event with less than one year’s notice, both Councils will consider their viability, in terms of planning and preparation lead in time, before sharing the application with the BJWP. Where timescales permits the event will be discussed at the next BJWP meeting. Where an approval is required sooner, a consultation will take place via email, with a separate events meeting being called if necessary.”
- 5.11 Minor changes have been made to the consultative duties of both authorities with respect to the approval process. The relevant Council will issue an events application form together with the BJWP’s pre-approval questionnaire. The pre-approval questionnaire will be considered by the BJWP, and the applicant may be required to present and answer questions from the group. Each Council will undertake further processes relevant to their respective Council approval process, prior to, or simultaneously to, consultation with the BJWP. This will include consultation with cabinet members, ward councillors and senior management.
- 5.12 Once recommendations from the BJWP have been received the Councils will consider the recommendations. They will then follow their respective application process and provide approval, or reject the application. The BJWP will be informed of the decision.
- 5.13 Annual and repeat events will be treated on an event by event/year on year basis and applications must be made at least each year, on advice of the respective Councils.
- 5.14 There are also a series of operational changes that reflect the different approaches that the respective authorities have with respect to a number of formal and/or legislative systems and procedures, such as: Premises licences and safety advisory groups; hiring tariff, deposits and conditions.
- 5.15 The amended Joint Events Policy retains the total number of event days. Each Council will allow no more than 90 days of event presence on their respective areas of the Heath. The London Marathon spans both sides of the Heath and therefore will not be included within the 90 figure.
- 5.16 The BJWP would like it to be formally noted that the continuation of the maximum of 90 days events on the Heath for each council, was opposed by the amenity societies who have always recommended a maximum of 90 days in total. Please see minutes of BJWP meetings held on 21st September 2021 and meeting 4th November 2021. (Appendix B and C respectively)
- 5.17 Officers acknowledge the views of the BJWP but consider that the current management of the Heath for events has not resulted in overuse and therefore recommend that the current 90 day limit for each Council is maintained.

## **6. Financial implications**

- 6.1 The Covid pandemic has a negative impact on the delivery of events on the Heath.

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- 6.2 Providing an event space and facilitating events on the Heath provides an opportunity for income generation.
- 6.3 Streamlining the event application process for small to medium sized events on the Lewisham side of the Heath will have limited impact as we already have a full calendar of planned events.
- 6.4 Any reduction in the total amount of event days will however have a significant negative impact on possible income generation.

## 7. Legal implications

- 7.1 For the purposes of section 193 of the Licensing Act 2003 (“LA 2003”), an open space (whether or not enclosed by ropes or stakes,) such as the land at Blackheath is deemed to be ‘Premises’. As such, any events which are likely to be held there which may involve one or more ‘licensable activities’, for example the performance of a play, dance, live music, playing of recorded music, entertainment of a similar description, and/ or the sale of alcohol, requires a form of Licence to be granted by ‘the relevant licensing authority’ in advance of the proposed event(s).
- 7.2 ‘The relevant licensing authority’, (s. 99 LA 2003) for the granting of statutory Licences, in relation to any ‘premises’ is “(a) the licensing authority in whose area the premises are situated, or (b) where the premises are situated in the areas of two or more licensing authorities, each of those authorities.”
- 7.3 Whenever it is proposed to use ‘premises’ for one or more licensable activities, for an event which is likely to have no more than 499 people attending for a continuous period “not exceeding 96 hours...” (s.100 LA 2003), then an application by means of a Temporary Event Notice must be submitted to the ‘relevant licensing authority’. If the event is likely to have 500 or more people attending, then there is a statutory requirement to submit an application to the ‘relevant licensing authority’ for a Premises Licence (s. 16 LA 2003). In both instances, ‘the relevant authority’ will need to ensure that the correct time periods and procedures governed by the LA 2003 are adhered to. In both instances, there are statutory provisions for objections; in particular, as to who can make representations upon these applications, the relevant specific grounds for objecting and procedures for determining such applications.
- 7.4 Licensing Authorities, as defined by the Licensing Act 2003, section 3(1) are public authorities for the purposes of the Human Rights Act 1998. Accordingly, they are under a duty to act compatibly with Convention rights in the exercise of their functions. Article 6(1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law. The right to apply for a licence falls within the scope of civil rights and obligations in Article 6(1) because it relates to the applicants’ right to make a living and pursue commercial activity. Therefore, an applicant for such a licence has the right to have the application determined fairly in accordance with the guarantees contained within Article 6(1).
- 7.5 A premises licence is considered to be a possession for the purposes of the Human Rights Act 1998. However, the right to hold such a licence is not absolute. It is a ‘qualified right’. So, where the grant of a premises licence may affect the interests of local residents or others, in a significant way, then article 6(1) will be engaged. Thus the right to hold a licence may lawfully be interfered with where, for instance, it is in the interests of wider society to do so. Objectors’ rights under article 6(1) will not automatically be triggered merely because they wish to object. The question of whether they have a sufficient interest to engage article 6(1) is ultimately a question of fact.
- 7.6 The Council has powers under Article 7 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 (as

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amended by the Commons Act 2006) to in any open space (amongst other things) provide amusement fairs and entertainments including bands of music, concerts, dramatic performances, cinematograph exhibitions and pageants; provide meals and refreshments of all kinds to sell to the public; and set apart or enclose in connection with any of the matters referred to in this article any part of the open space and preclude any person from entering that part so set apart or enclosed other than a person to whom access is permitted by the local authority. The part of any open space set apart or enclosed for the use of persons listening to or viewing an entertainment (including a band concert, dramatic performance, cinematograph exhibition or pageant) is not to exceed in any open space one acre or one-tenth of the open space, whichever is greater.

- 7.7 Under Article 8, the Council may "subject to such terms and conditions as to payment or otherwise as they may consider desirable, grant to any person the right of exercising any of the powers conferred upon the local authority by Article 7 and to let to any person for any of the purposes mentioned in that Article ... any part of an open space set apart or enclosed, pursuant thereto". This enables the Council to hire out open space land for events and to enable hirers to do the things that the Council is permitted to do under Article 7.
- 7.8 There is a restriction on the exercise of powers under Articles 7 and 8 in relation to commons. Article 12 provides that in the exercise of powers conferred by Articles 7 and 8, the Council cannot, without the consent of the Minister "erect or permit to be erected any building or other structure on, or enclose permanently, or permit to be enclosed permanently, any part of a common". However, temporary enclosure is permitted without Ministerial Consent and it is therefore not envisaged that any event approved under a Joint Blackheath Events Policy will require Ministerial Consent.
- 7.9 The grant of permission to use the Heath granted by the Authorised Officer under a Joint Blackheath Events policy is a separate matter to any licence which has been obtained by an applicant under the Licensing Act 2003. The fact that an applicant has such a licence does not entitle them to actually hold the event on the Heath.
- 7.10 Blackheath is managed under a Scheme of Management made under the Metropolitan Commons Act 1866. Following the dissolution of the Greater London Council, management responsibility is split along the Borough Boundary between the Council and the London Borough of Greenwich, with each Borough having its own grounds maintenance arrangements.
- 7.11 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new Public Sector Equality Duty (the duty), replacing the separate duties relating to race, disability and gender equality.
- 7.12 The duty consists of the 'general equality duty' which is the overarching requirement or substance of the duty, and the 'specific duties' which are intended to help performance of the general equality duty.
- 7.13 The duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.14 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.

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- foster good relations between people who share a protected characteristic and those who do not.

7.15 These are often referred to as the three aims of the general equality duty.

7.16 The duty is a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

7.17 The Equality and Human Rights Commission (EHRC) have issued technical guidance for public authorities in England on the Public Sector Equality Duty. The guidance can be found at <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/> This Guidance provides practical approaches to complying with the Public Sector Equality Duty. The EHRC technical guidance is not a statutory Code, but may be used as evidence in legal proceedings to demonstrate compliance with the Public Sector Equality Duty.

## **8. Equalities implications**

8.1 A key policy aim of ‘Open Lewisham’ is that “Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us.”

8.2 Traditionally the Blackheath Fireworks has been provided free of charge. This event can attract up to one hundred thousand spectators from Lewisham and neighbouring boroughs.

8.3 The Council’s Parks Contractor in partnership with the Council actively encourage community based events on our side of the Heath as a means of encouraging a diversity of users. The annual kite flying event and events in support of the Blackheath Society are examples of this.

8.4 An events rate card is compiled and concessions will be offered to small community and charitable groups to ensure that a wide range of smaller events can take place on the Lewisham side of the Heath.

8.5 The Council’s parks contractor will offer help and assistance in completing the necessary application forms and assisting groups with the management of these events.

## **9. Climate change and environmental implications**

9.1 Not permitting event visitor parking on the Heath will have a positive effect on the environment and climate change as attendees will have to walk, cycle or use public transport to attend events.

9.2 The Council’s parks contractor will actively engage with event organisers to promote a sustainable event which may include an ecologist’s report to ensure the protection of the Heath and a transport plan to promote public transport.

9.3 In considering applications officers from both Green Scene and Glendale will be concerned with the environmental and ecological impact of the event, the accumulative impact of events during the year and the effect of the event on park users, residents and local businesses.

9.4 Applicants will be expected to have considered what impact their event may place on the Heath and to have practices which will mitigate against damage, for example providing metal track-way to reduce vehicle damage to grasslands.

9.5 In considering specific applications for Blackheath the BJWP will assess the application at the pre-approval stage.

9.6 In considering applications at the pre-approval stage, officers from both GreenScene and

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Glendale will be concerned with the level of noise emitted by an event. Applicants for major events with an attendance over 5,000 will be required to commission an independent acoustic survey and noise management plan which will be required as part of the detailed event management plan and discussed at the Council's ESAG who will agree a maximum decibel level allowed for the event.

## **10. Crime and disorder implications**

- 10.1 For large and major events the application, together with a detailed Event Management Plan, will be assessed by the Lewisham Events Safety Advisory Group (ESAG).
- 10.2 The ESAG is a multi-agency group, chaired by the Head of Environmental Health.
- 10.3 ESAG offers advice to the Council in relation to upholding reasonable standards of public safety at large and major events where the attendance is over 5000 people or less than 5000 if the events contains one of the following elements: the sale of alcohol; major funfair rides; the likelihood of major impact on local residents, businesses.

## **11. Health and wellbeing implications**

- 11.1 The hosting of cultural and/or entertainment events will have a net positive impact on health and wellbeing as it will provide a leisure activity which can improve individual's wellbeing.

## **12. Background papers**

N/A

## **13. Report author(s) and contact**

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Comments for and on behalf of the Executive Director for Corporate Resources

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## **14. Appendices**

Appendix A - Blackheath Joint Events Policy 2021-2024

Appendix B - Minutes of BJWP meeting 21st September 2021

Appendix C - Minutes of BJWP meeting 4th November 2021

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