PROPOSED WORKS ON TOOTING BEC COMMON

APPLICATION REFERENCE NUMBER COM/3263104

THE GREATER LONDON PARKS AND OPEN SPACES ORDER 1967: ARTICLE 12

STATEMENT OF CASE

1. The works proposed are not covered by the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967.

2. The Council seeks to enclose and dispose of for private and commercial use an area of the common, thereby excluding members of the public currently able to use it freely and without restriction.

3. Such unrestricted and free use has always existed. Claims made about the Redgra pitch concerned being fenced are not true. Defra's commonland consents database has no record of permission being sought for enclosure of the pitch.

4. The Council has lost and failed to reconstitute the Commons register which is the legal record of land ownership and status changes.

5. The uses intended do not meet the test of public recreation. The applicant intends to enclose and fence off a part of the common for the use of a commercial company operating

coaching and training, and for football league competition. Such use of a metropolitan common is unlawful according to the Judgment in the Judicial Review case brought by Alexander Muir against Wandsworth Council.

6. A local football club, with which TFC, proposed lessee, has been in discussions has pretensions of rising up the leagues and has not disguised its intention to use the site as a centralised training base for its 23 teams. The council has failed despite requests to disclose the service agreement it has reached with the lessee so that the public, and indeed the Secretary of State, can assess how the site is to be used, how the public interest and public use, if any, is to be protected and moreover over a period of 25 years.

7. The application fails on all scores to meet criteria under Section 39 of the Commons Act 2006 which an application under Section 12 of the London Parks Act 1967 would have to meet.

8. **The interest of persons having rights in relation to, or occupying, the land.** While no commoners have been identified it must be the case that the public, on whose behalf the Council holds the Common in trust, have rights of use and access. Common Land Consents Policy Assessment Criteria refer specifically in paragraph 4.4 to "those with rights of access across the land". The public have such rights, which will be abolished.

9. **The interests of the neighbourhood**. Assessment Criteria para 4.4 refer to "Loss of existing use." It is undeniable that "local people will be prevented from the common….in the way they are used to." Not only that, the Triangle pitch is a much valued recreational resource for informal recreation of all sorts which would be denied them.

10. Under "Future use and enjoyment" the Assessment Criteria refer to whether the construction of the works would "interfere with the future use and enjoyment (whether by commoners, the public or others) of the land as a whole (e.g. will fencing sterilise part of the land). The rest of the Triangle Field would be impacted. Development of the application as a commercial floodlit facility surrounded by high fencing, with associated noise

disturbance would undoubtedly affect the surrounding area and make it less enjoyable to visit, walk or sit on. The Triangle Field is a special, tranquil and secluded part of Tooting Bec Common, for many a hidden gem, cut off from the surrounding city, with no adjacent roads or traffic, and with railway embankments serving as a buffer – both visual and psychological - against the urban landscape beyond. The area of the Triangle immediately adjacent to the site, currently enjoyed by families, will be particularly badly impacted and in effect sterilised.

11. **The public interest.** This is stated to include the public interests in nature conservation, the conservation of the landscape and the protection of public rights. Asssessment criteria in paragraph 4.5 ask what impact the proposal would have on recreation and access. The scheme would by its nature restrict or prevent access, and would be designed to do so. It would affect particularly those in an increasingly congested and densely populated city without access to gardens or other outside space, with clear Equalities Act implications.

12. The pitch is used and enjoyed by local people freely and without cost for a wide range of informal games and recreation. It would be a serious loss to the local community to remove this free and unrestricted facility and substitute for it a private operation to which the public would have limited access, and that principally on an organised and fee-paying basis. The pitch represents the only unenclosed dry all-weather exercise and recreation area on the whole common. It is a vital communal playground and social space.

13. Wandsworth previously removed the other Redgra pitch on the Common. It was also situated close to Streatham (Lambeth) residents.

14. With regard to Nature Conservation there is growing evidence of the impact of noise on wildlife, in particular bats. Taken together with the huge intensification in floodlighting, it is reasonable to conclude nature conservation will be adversely impacted.

15. With regard to Impact on the Landscape the result will be to damage its enjoyment, particularly “of the remaining part of the common”. The development is not “sympathetic to the continuing use and enjoyment of common land” as referred to in para 5.7. and

introduces "an urbanising feature into what will normally be an essentially open and natural setting".

16. **Other issues:**

17. **Flooding.** The common has become increasingly subject to flooding in recent years highlighted in a recent survey of users by the Management Advisory Committee, showing flooding as by far the highest area of complaint and "waterlogging" the top priority. Most of the common is affected taking it out of use. Consequently the Redgra pitch has a particular local importance as a dry exercise and recreation facility.

18. **Parking.** Wandsworth Council has failed to consider the traffic and parking implications. These are most likely to affect streets and residents in Lambeth. Wandsworth planners argue that the development is not a change of use but it is obvious that whether or not a change of use in formal planning terms it is a major intensification of use. Users will be travelling from outside the area, if only judging by the location of supporters.

19. **Failure to consult**. Consultation has been limited to the statutory minimum in respect of the planning application to Wandsworth Council.

20. **Unpopularity.** The extraordinary level of objection – some 1,000 individual letters objecting to the planning application, a similar level of objection to the Planning Inspectorate and an enormous petition – is a clear indication of how the local community sees this proposal and the importance they place on retaining unrestricted use. Again the MAC survey is instructive – Tooting Bec Common users state as most important a "green/natural space (88%), open space (87%) that has peace and quiet (51%)." Among the priorities mentioned are "the Triangle development". Analysis reveals 64 responses objecting to commercial development of the Common, almost all referring specifically to the current Triangle scheme. Only two responses supported the development.

21. **Disregard of Lambeth**. In its refusal to involve or consult Lambeth Council, apart from at the formal planning stage, Wandsworth has shown a disregard of the Duty to Cooperate under the Localism Act 2011. It has apparently forgotten that this part of Tooting Bec

Common belongs as much, if not more so, to the people of Streatham, Lambeth and that it holds the common in trust for all local communities not just those in Wandsworth.

22. The Triangle Field is on the doorstep of three Streatham wards – Thornton, Streatham Hill and St Leonard's whose residents are the only ones in any ward in the two boroughs to live adjacent to the Triangle and have direct access.

23. Tooting Bec Common once united with the rest of Streatham, has been transferred to Wandsworth Council by administrative convenience and accident. The arrangement does not reflect its history or context. Until 1992 the Common east of the railway line was in Lambeth, which misguidedly asked the Local Government Boundary Commission to move the area to Wandsworth. Wandsworth objected, calling for Lambeth to retain an influence over planning controls in matters affecting the Common. Awareness of the need to involve Lambeth on such a cross-border issue no longer pertains, even when Lambeth highways officers call for an assessment of the impact on Lambeth streets.

24. **Improper planning process.** Predetermination was evident on the part of the planning committee chairman, who failed to declare an interest despite being a director of Enable. Observers noted how he steered committee members to approval.

25. The Council has an added duty as the planning authority to determine cases in an even, democratic and objective manner when it has a financial interest. It stands to benefit from the commercial arrangement proposed.

26. The context of handing over public assets to a private company is that this helps enable Wandsworth maintain its crown of delivering the lowest council tax in the country.

Jeremy Clyne

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