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7 January 2016

Ms Lesley Seary
Chief Executive
London Borough of Islington
222 Upper Street
LONDON N1 1XR

Dear Ms Seary

**RE: URGENT – UNLAWFUL PLANNING APPLICATION REFERENCE: P2015/4907/FUL.
WORKS AND CHANGE OF USE TO THE PUBLIC CONVENIENCES AT
CLERKENWELL GREEN.**

Once again I have been asked to submit formal objections to the development of the public conveniences at Clerkenwell Green by the Clerkenwell Green Preservation Society which would allow a possible privatisation of public space within an historic public space. Once again no prior public consultation appears to have taken place although I have become aware of some prior marketing of the property for private leasing.

The Clerkenwell Green Preservation Society and the Marx Memorial Library have previously objected to the privatisation of any part of this important and historic open space which has a long history of public use and open space from village green to a battlefield for the vote.

These objections were supported by Chris Smith the previous MP, Tristram Hunt now an MP for Stoke, Tony Benn now deceased, the local novelist Peter Ackroyd, SERTUC, and other trade unions, and very many others.

Clerkenwell Green still has a role and use for public assembly and leisure and any privatisation will fundamentally conflict with public assembly and open space use. This development for an A3 café or D1 use in this location would not be appropriate. The way it is being done is also contrary to many, recently adopted local development plan policies, which the Society has contributed to and supported. A separate detailed objection is being submitted to the Case Officer on full planning grounds.

It is all the more surprising that a Labour Authority would make such a proposal given past support by Chris Smith, the former MP.

However I would like to draw the Authority's attention to defects with the application which require remedy before it can, in my view be properly considered and to be lawfully decided.

It is extremely disappointing that the Applicants, Islington Council, despite knowing full well the local interest in the preservation of the Green and these conveniences, have not cared to consider consulting the local community, interested groups, or local residents first. Instead it appears to have just proceeded with an application without taking formal pre-application advice although some marketing may well have taken place without wider public knowledge.

This conduct is contrary to the guidance in the National Planning Policy Framework and National Planning Practice Guidance which stress pre-application advice and public consultations, and the adopted policies in the Finsbury Local Plan adopted as recently as 2013.

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Instead the Council, like so many sharp developers, have submitted an application when the public consultation has to be taken over the Christmas and New Year break.

This is in my experience, a new low in the conduct of any local authority, and all the more surprising it that it is a Labour Islington Council that is doing this.

Nevertheless the application has been made **and a Certificate A issued by the Agent.**

I have looked again at the Land Registry document, and as the Council has been previously informed, although the CGPS were never re-assured that the Council has ever had proper ownership rights to the underground conveniences, title being only being registered in 1995, it is only for the land edged red on the title plan, copy attached.

It can be seen very clearly from that title plan (enclosed) that even if the Council does have ownership of the land edged red on the title plan, the application site plan as submitted, (and I assume this is the site as needed to allow for the extensive structural and surface works proposed) clearly extends beyond the Council's extent of ownership on plan and will into and under the highway. Land beneath the surface highway is not the Council's to use underneath, as the well known Tunbridge case held.

Given Lord Denning's judgment in the more recent case of the Tithe Redemption Commissioners v Runcorn UDC 1991 and the "two top spits" decision, I am surprised the Council and the Agent have submitted a Certificate A with this application.

Issuing such a Certificate when the application site and likely works required to extend well beyond the area the title plan indicates means a Certificate B is required and the owners served Notice.

If issued in error then the Agent may wish to withdraw the application and re-submit with appropriate notice given to the owners.

It would therefore be very unfortunate if the Authority still proceeds to determine this application as currently submitted as **it is also statute barred from consideration of it and unlawful. (See Section 65(5) of the Town and Country Planning Act 1990 as amended).**

In passing, the works to the external walls need to be shown in more detail to be properly assessed as they are only shown on plan and the impact on the interior fitting properly shown on the as existing drawing as only the urinals to be retained are currently shown. Full structural details should be submitted if the Conservation Officer is to be able to make a proper assessment.

This is reasonably necessary as this is a heritage asset. No appropriate assessment has been submitted to justify the proposals.

Accordingly the application should be withdrawn so that:

- (a) Full prior consultation with the local community and interested groups can take place to accord with the NPPF and NPPG.
- (b) Fully detailed drawings of the existing and proposed can be made available and considered including the necessary extent of subterranean and other works and their impacts above and below ground.
- (c) Proper notifications are given to all subterranean owners so that an appropriate certificate issued and the subsequent application lawfully entertained.

I trust you will be able to confirm the application will be withdrawn and appropriate consultations follow? I await to hear from you.

Yours sincerely

Alan Wipperman BA MRICS MRTPI C Dip AF

Copies: Ms Ann Pembroke, Ms Helen Cagnoni CGPS Ltd.. Mr S Wortley Pinsent Mason.