

UNCORRECTED TRANSCRIPT

HOUSE OF LORDS
MINUTES OF PROCEEDINGS
taken before the
STANDING ORDERS COMMITTEE
on the
HOLOCAUST MEMORIAL BILL

Before:

Lord Gardiner of Kimble (The Chair)
Lord Jones
Lord McColl of Dulwich
Lord Naseby
Baroness Thomas of Winchester

Appearing on behalf of the Bill's promoter:
MR ROBBIE OWEN, of Pinsent Masons LLP, Agent for the Bill.

Appearing on behalf of Baroness Deech and Holocaust Survivors:
BARONESS DEECH.

Appearing on behalf of the London Historic Parks and Gardens Trust:
MRS HELEN MONGER.

Appearing on behalf of the Thorney Island Society:
MR DONALD PECK.

Appearing on behalf of the Buxton Family and the Thomas Fowell Buxton Society:
MR RICHARD BUXTON.

(3 pm)

1. **THE CHAIR:** Good afternoon. Welcome to this meeting of the House of Lords Standing Orders Committee, which has been convened to consider the Examiners' certificate relating to the Holocaust Memorial Bill. I ask whether any members of the committee have any interests to declare. No? Thank you.
2. The Examiners' certificate states that certain private business Standing Orders have not been complied with. Our task is to decide whether to dispense with those Standing Orders. The House of Commons Standing Orders Committee met on Tuesday 13 June. That committee decided to dispense with all relevant Standing Orders except for Standing Order 10, which was dispensed on condition that a second newspaper notice was published, in accordance with the requirements of that Standing Order.
3. We have received and read a statement from the promoters, and statements from Baroness Deech, Mrs Helen Monger, Mr Donald Peck and Mr Richard Buxton. I would like the statements to be read into the record.
4. I will ask Mr Owen and the memorialists to introduce themselves: Mr Owen first, followed by Baroness Deech, Mrs Monger, Mr Peck and Mr Buxton.
5. **MR ROBBIE OWEN:** Good afternoon, my Lord, and other members of the committee. I am a solicitor and parliamentary agent at the law firm Pinsent Masons LLP. I will be addressing the committee today on behalf of the Secretary of State.
6. **BARONESS DEECH:** Good afternoon and thank you for listening to us. I presume you wish to hear from us more fully later, rather than now.
7. **THE CHAIR:** Yes. If I may, this is to introduce yourselves so that we all know. I will then ask Mr Owen to proceed with the statement.
8. **BARONESS DEECH:** I will just add that as well as speaking for myself, I speak for a number of Holocaust survivors, with whom I am in constant contact.
9. **MRS HELEN MONGER:** I am director of the London Historic Parks and Gardens Trusts, one of your memorialists.

10. **MR DONALD PECK:** Thank you for hearing us. I am a resident of central Westminster, and I am here on behalf of the Thorney Island Society.
11. **MR RICHARD BUXTON:** I am a solicitor, although today I am appearing in a personal capacity on behalf of the Buxton family and the Thomas Fowell Buxton Society. As a solicitor, I was involved with the litigation relating to this matter.
12. **THE CHAIR:** Thank you all very much. We will proceed with Mr Owen, speaking to the promoter's statement.
13. **MR ROBBIE OWEN:** Thank you very much. You have mentioned the promoter's statement dated 15 June, and you will be relieved to hear that I am not planning to take the committee through every word of it. Thank you for putting it on the record.
14. I would like to go through the headline points in the hope that it will assist you and your colleagues on the committee by talking a little about the context to, and history of, the Bill, the Examiners' decision as to hybridity and the applicable Standing Orders. I will then take you through the actions that the Secretary of State has since taken in respect of non-compliance with the Standing Orders, and what has been done in that respect. I will then make a few concluding remarks, if that would be in order.
15. As the committee will be aware, the primary purpose of the Bill is to facilitate the coming forward of a memorial to commemorate the victims of the Holocaust and an associated learning centre at Victoria Tower Gardens by removing pre-existing legislative impediments, as well as to authorise the Secretary of State to incur expenditure in relation to the memorial and learning centre, wherever it may be located.
16. The Bill does not authorise any works or other operations to facilitate the memorial and learning centre. Instead, the usual consents, not least planning permission, will need to be obtained separately. The memorial and learning centre could not come forward without those consents.
17. The Bill was introduced into the House of Commons and given its First Reading on 23 February this year as a public Bill. The Government's aim is for the Bill to receive Royal Assent as quickly as possible with a view to completing the memorial and learning centre while Holocaust survivors are still living. As the committee will appreciate, there is some urgency, given this overarching aim.

18. The Bill was declared *prima facie* hybrid after its First Reading and referred to the Examiners of Petitions for Private Bills. Following an examination held in two parts on 17 April and 18 May this year, the Examiners found the Bill to be hybrid and that certain Standing Orders for private business applied to it.
19. I will make a preliminary point in response to submissions made by the memorialists, also on 15 June, which assert that there has been some negligence on the part of the Secretary of State in not concluding that the Bill was hybrid prior to its introduction, meaning that the applicable Standing Orders should have been complied with at that point.
20. The committee will be unsurprised to hear that those submissions are firmly refuted by the Secretary of State. He took advice, both internally and from his parliamentary agents, on the question of hybridity, and carefully considered that advice. The rationale for the Bill proceeding as a public Bill was set out in the submissions made before the Examiners, and the Secretary of State and his advisers had confidence in those arguments.
21. It is therefore submitted that, as a result, the rationale for the Bill proceeding as a public Bill was sound, notwithstanding the subsequent decision of the Examiners. It is worth noting, as set out in our written submissions before today's hearing, that the Examiners, in their statement of reasons for declaring the Bill hybrid, acknowledged the unusual nature of the question they were asked to opine on; I refer to this in our submissions. They referred particularly to the lack of a clear precedent and the highly unusual nature of the Bill. Therefore, we say that it was anything but a clear-cut position, at the time the Bill was introduced, that it should be considered hybrid.
22. I turn now to the Examiners' decision as to hybridity, and the applicable private business Standing Orders. As they set out in their statement of reasons, the Examiners concluded that the following Standing Orders applied to the Bill and had not been complied with: first, Standing Orders 4, 10 and 11, which concern the publication of notices; secondly, Standing Order 4A, which requires the Bill to be made available for inspection and sale; and, thirdly, Standing Orders 38 and 39, which concern the depositing of copies of the Bill with certain parliamentary offices, government departments, and other public bodies.
23. It is fully acknowledged that these Standing Orders had not been complied with, which is why the Secretary of State is respectfully seeking a dispensation from the committee today, but it is worth

making two preliminary points before I turn to consider each applicable Standing Order in turn.

24. The first of those points is that, given that the Bill has been introduced as a public Bill and the urgency of the timetable of the Bill for the reasons I have already given, the Secretary of State was never going to be able to comply with the specific dates for undertaking certain actions set out in the private business Standing Orders. These arise from the fixed timetable applicable to private Bills, which do not apply to hybrid Bills. As such, even if the Secretary of State had sought to comply with the Standing Orders before the Bill's introduction, I would have been appearing before the committee today to seek a dispensation in respect of time, as has been done on recent HS2 hybrid Bills, where such a dispensation has been given.
25. The second preliminary point is that it is submitted that the primary purpose of the Standing Orders is to ensure that persons who are specially and directly affected by the Bill are made aware of its passage through Parliament and, critically, are given advance notice of the ability to petition against the Bill. The petitioning process does not start until the Bill has been read for a second time in the House of Commons, which has not yet occurred. As such, the opportunity to petition against the Bill has not been missed. As we shall see, the Secretary of State has taken action to comply substantively with the Standing Orders to alert persons to this future opportunity.
26. Therefore, no prejudice has been caused by the non-compliance with the Standing Orders to date, given that the date for Second Reading, and therefore the petition period, has not yet been set.
27. It is also worth noting, which I hope provides comfort to a number of those who made submissions for the purposes of this hearing today, that by seeking a dispensation from the committee, the Secretary of State is not seeking to get away with taking no action at all in respect of the Standing Orders—far from it. Given the actions subsequently taken, which I will describe shortly, the Secretary of State does not consider there to be a need to withdraw the Bill at this stage and start the process again as suggested by various submissions that have been made, which I think I can safely say would not result in any substantive changes to the Bill, or indeed give persons any additional opportunity to object to the Bill that may have been missed, because, as I have said, no such opportunities have been missed.

28. Indeed, turning to the three tests referred to in our submissions for dispensation with Standing Orders, as set out in Erskine May, the Secretary of State considers that these have been met. This is primarily because, first, it is in the public interest for the Bill to proceed; secondly, the Secretary of State, as promoter, has not been negligent or acted carelessly in this matter; and, thirdly, no one has been adversely affected by non-compliance to date.
29. I turn to the actions that have been taken by the Secretary of State in respect of mitigation for non-compliance with these Standing Orders. The statement of reasons confirming the Examiners' conclusions that the Bill should be considered hybrid, and which Standing Orders therefore applied to it, was published on 22 May. As soon as it had been published, the Secretary of State considered what actions needed to be taken to mitigate non-compliance with Standing Orders and, in effect, substantively to comply with them. Actions were then taken which I will come on to describe.
30. Therefore, the position today is that the Secretary of State has now taken steps to substantively comply with the applicable Standing Orders, as set out in appendix 1 of our written submission.
31. First, in accordance with Standing Orders 4, 10 and 11, a notice was published on 9 June in the *London Gazette*. Secondly, in accordance with those same Standing Orders, notices were published on 9 and 16 June in the *Evening Standard* and *Westminster Extra*—so notices were published in two successive weeks, with a clear six days between the notices.
32. All the notices I have mentioned were headed with the short title of the Bill and contained a concise summary of the Bill, details of inspection locations, when objections can be made to the Bill in the form of petitions, and from whom further information can be obtained on the process. I can now provide for the committee hard copies of these notices, if it would assist.
33. **THE CHAIR:** We are just getting all the paperwork together, but please proceed.
34. **MR ROBBIE OWEN:** Next, in accordance with Standing Order 4A, hard copies of the Bill and the Explanatory Notes have been deposited at two office locations in London. One is the office of my firm, Pinsent Masons LLP, and the other is an office in the City of Westminster, which is the local government area within which the Secretary of State's principal office is located.

35. The committee may well be wondering why the office in Westminster, or indeed another government office, is not the department's main office. The simple answer to that is security considerations; it is difficult for members of the public to easily access the departments and other government offices, so the decision was taken for the deposit location to be in the office of one of the department's contractors, where access is much less of an issue.
36. Copies of the Bill and the Explanatory Notes relating to it are available at both locations to be taken away by members of the public. I can also now provide the committee with signed certificates from both a colleague of mine and an official of the department, which confirm the deposit of the documents and their availability.
37. In accordance with Standing Order 39, copies of the Bill and Explanatory Notes were deposited electronically with a number of government departments and other public bodies, in accordance with Standing Order 1A. The list of these bodies is contained in appendix 2 of our written submission. I can provide the committee with a signed certificate from a colleague of mine, which confirms this.
38. Before coming to some concluding remarks, I will briefly address Standing Order 38. As set out in our written submission, having reflected on this, it is submitted that recent practice has been for this Standing Order not to apply to hybrid Bills: see the approach taken to the HS2 Bills, for example. This is because it has been accepted that Standing Order 38 applies strictly to Bills that are introduced by way of a petition—namely, private Bills—and this is not the case with hybrid Bills. However, the Bill, as with any government Bill, has been deposited with the office of the Clerk of the Parliaments. Therefore, there is, in effect, substantive compliance with the requirement of Standing Order 38(1).
39. By way of concluding remarks, as I hope can now be seen, the Secretary of State has now substantively complied with the Standing Orders that the Examiners found to apply to the Bill, except in two respects. The first is in relation to time, which, as I mentioned earlier, would have been impossible to do in any event, given that the timetable of the Bill is not determined by the Standing Orders, as it was introduced as a public Bill. The second is Standing Order 38, as I have just mentioned, which, it is submitted, does not apply to the Bill based on recent practice relating to hybrid Bills.

40. As a result, it is submitted on behalf of the Secretary of State that no prejudice has been caused to any party as a result of non-compliance with these Standing Orders to date. The requisite notices and other requirements have now been discharged, in advance of Second Reading of the Bill in the House of Commons, which is, in effect, the first time that persons specially and directly affected by it will have an opportunity to object to it by depositing petitions. That opportunity has not been lost.
41. We referred in our statement to the decision as to dispensation taken by the House of Commons Standing Orders Committee last week, as you mentioned in opening. It is worth commenting on the two conditions that we referred to in our statement.
42. In paragraph 14 of our statement, I referred to the condition of a second local newspaper notice being published. As I mentioned earlier, that was done last Friday on 16 June, in accordance with the requirement for six clear days to take place after the first notice was placed on 9 June.
43. The second matter, which we refer to in paragraph 15 of our submission, which the House of Commons Standing Committee referred to, was whether the promoter could contact the newspapers concerned to ask whether they could be given more prominence in the online versions. As I mentioned in the statement, we have done that, and the newspapers inform us that the position is that, within the normal requirements, nothing more can be done.
44. We have complied with the Standing Orders' requirement of local newspaper notices. The Standing Orders make no specific requirements in relation to online availability. The notices are available online, but are not always as easy to find as one might hope. The difficulty is that the Secretary of State is clearly not in control of how individual newspapers choose to make notices published with them available. We mentioned in the statement that, for example, the *London Gazette* notice is readily accessible if the title of the Bill is inputted into the relevant search box on that publication's website.
45. For these reasons, therefore, the Secretary of State respectfully requests that the committee dispenses with the need for strict compliance with the Standing Orders, to the extent that they have not been complied with to date, so that the Bill may proceed to a Second Reading. Thank you.

46. **THE CHAIR:** Thank you, Mr Owen, and thank you for the supplementary papers. It is particularly helpful to have sight of the two newspaper notices of 16 June, which obviously was an area that the committee in the other place expressed a view on as a condition. Do any members of the committee have any points they would like to raise?
47. **LORD NASEBY:** Mr Owen, I used to be in the advertising world. Do we know what the penetration of the *Westminster Extra* and the *Evening Standard* is in the relevant area that you are targeting?
48. **MR ROBBIE OWEN:** I do not have any particular figures to give you. All I can say is that that requirement in the Standing Orders is to publish in a local newspaper. The department considered this, with us, and the decision was taken, in case there were any issues with penetration, to publish notices in two local papers, in excess of the requirement. The *Evening Standard* is circulated throughout Greater London, I think I am right in saying. I imagine the *Westminster Extra* is a much more local publication, but we felt that together that was going to give ample coverage for what is a local matter. In fact, it would provide better coverage than going for one of the broadsheets like the *Times*, which is often the position taken with hybrid Bills.
49. **LORD NASEBY:** I have just one further question. I notice that the *Evening Standard* submission says, "online edition". Was there any online coverage that you are aware of?
50. **MR ROBBIE OWEN:** I am aware that, if you go online, you can find the notice. It is available there, as well as in print, of course.
51. **THE CHAIR:** Are there any other points for Mr Owen? No? Thank you very much indeed for your introduction and statement.
52. Would Lady Deech speak to her statement, mindful that Mr Owen has set out about the compliance, as it were? We would be very interested in hearing the views of the memorialists—our remit is somewhat narrow, as I am sure everyone knows—on the extent to which there is a feeling of non-compliance, given what Mr Owen has just said. Lady Deech, thank you for coming.
53. **BARONESS DEECH:** We are dealing with a substantive and significant issue of the rule of law and parliamentary procedure. The argument made on behalf of the Secretary of State, which is that it does not matter because now everybody knows and will have an opportunity, essentially drains all meaning from the Standing

Orders, because in every case one could simply say, "Well, all right, we didn't do it in time, but now you will have the opportunity to petition". That undermines the whole point of the Standing Orders.

54. At the same time, the Secretary of State is taking a very literal approach to the parts of the Standing Orders that require publication in hard copy in newspapers. I doubt very much whether any of the relevant people will have looked at it in *Westminster Extra*. I spent a great deal of time searching for it, and I knew what I was looking for. Unless you actually went online and typed into Google, "Holocaust Memorial Bill", you would not see it. I doubt that many of the interested people read the *Evening Standard* on a Friday, let alone *Westminster Extra*. I did find the *London Gazette*—I knew what I was looking for—but I had to log on and create an account and a password: you know how onerous these things can be.
55. So the literal approach is being taken to that—nothing online. At the same time, the point of the Standing Orders, which is to give notice in good time, is being set aside as if it were of no interest, draining those Standing Orders of meaning. My argument, and that of my fellow memorialists, is that the damage was done last year when the Court of Appeal found that the 1900 statute applied. That was the end of the matter; there was no further appeal. Naturally, those who objected to the memorial relaxed and failed to carry on raising money, trying to see Ministers and spreading the word. We have lost about eight months in which we could have been crowdfunding, as we have been, gathering objections and spreading the word among the Jewish community. The damage has been done, and it is no good saying, "Well, it doesn't matter now, because now you've heard about it".
56. I note also that the people with perhaps the biggest interest of all, the parliamentary authorities, do not seem to have been informed. As I mentioned briefly, they will have to cope with the refurbishment of Victoria Tower itself, with all the debris, as has been explained to me, all over Victoria Tower Gardens, and the relocation of the education centre, the lease of which comes to an end soon.
57. There is also restoration and renewal, and your Lordships know very well how many decades that is going to take. There will be jetties and scaffolding and all manner of huge works across Victoria Tower Gardens. Plus the memorial? This is almost impossible. It is not just a double whammy for the local residents; it is a quadruple whammy.

58. Again, I would argue that it is impossible that the Secretary of State could not have known that this was hybrid. We lived through a public inquiry three years ago that went on for months. Day after day, local people and groups came forward to explain why Victoria Tower Gardens was not a good location for them. The transcript is there; it was considered by the High Court and the Court of Appeal. The whole procedure was about the effect on local residents.
59. The Secretary of State could not have ignored that. It simply strains credulity that the department was unaware that this was an issue of great importance to local residents, and indeed to workers. All of us in this room may count ourselves as local workers who go forwards and backwards passing Victoria Tower Gardens every day.
60. Next, as a general argument, delay is not an issue. The argument that it must be built in time for the current survivors does not hold water. A memorial and museum, if built, is not for the handful of survivors still alive today; it is for future generations. Had there been a hurry, a memorial and museum could have been erected in an existing building years ago.
61. Moreover, just this morning the obituary appeared in the *Times* of a very well-known survivor, Ben Helfgott. He is quoted in that obituary as saying that he wanted a memorial and how very pleased he was that it had taken shape in the Imperial War Museum's Holocaust Galleries. He apparently was satisfied with that. Indeed, the Imperial War Museum was regarded at the outset as the appropriate location for a memorial and museum.
62. There are at least half a dozen Holocaust memorials and museums in this country—more, depending on how you count them. Indeed, there are 300 or so around the world. So in no practical sense is there any damage in delay. On the contrary, it would be a very good thing, because this issue, as your Lordships will be aware, has been divisive and most unpleasant, and the Secretary of State and the promoters of the project will not meet, discuss, or answer emails or letters.
63. A delay to construction, with the encouragement given to this by the Commons Standing Orders Committee, would finally enable us to talk and find a way forward with dignity and in a constructive mood, because the atmosphere now is inappropriate—that is too mild a word—for what needs to be present if one is building a Holocaust memorial.

64. A delay would serve nothing but good, with some discussion. As I said, there is no hurry. There are at least six memorials already and it is not being done for the survivors. The ones I represent say that the location is not right. It is too small for what they want and yet too big for Victoria Tower Gardens. The Tory manifesto says that there should be a Holocaust memorial. It does not specify what sort. So I think we can set that aside for the moment.
65. That is all I have to say on the general issues. Thank you.
66. **THE CHAIR:** Thank you, Lady Deech. Any questions for Lady Deech from members of the committee? No? Thank you very much indeed for your statement. Mrs Monger, could you speak to the committee, please?
67. **MRS HELEN MONGER:** Good afternoon, Lords and Ladies of the Standing Orders Committee. As you are aware, I represent the London Historic Parks and Gardens Trust, a charity that seeks to champion the protection of historic landscapes across London. We trade as London Parks and Gardens and raise most of our running costs through memberships, donations, and events such as the annual London Open Gardens, which we successfully held the weekend before last.
68. For the record, and the avoidance of any doubt, London Parks and Gardens supports the noble ambitions of the sponsor department to deliver a fitting Holocaust memorial. However, the size of the proposed construction and the chosen location of the proposals before you require the suspension of environmental protections afforded to Victoria Tower Gardens, a grade 2 listed public park—a fact that we have drawn to the attention of the department since 2019 but have been repeatedly ignored throughout the planning process. Had the department heeded objectors’ warnings, the ambitions of the Holocaust Commission could have been expedited to the satisfaction of everyone before you now. That delay, resulting from governmental intransigence, is truly regrettable.
69. On this point, I pay tribute to my fellow memorialists before you, who have their various expertise to offer you, which adds to the concerns about the proposals, but I will focus on the ones for London Parks and Gardens.
70. Last week, in the House of Commons, I asked on behalf of London Parks and Gardens that the Standing Orders identified by the Examiners be upheld in the public interest. I am asking for this again today in the House of Lords. I gave three reasons last week:

the need to uphold democratic processes, as laid down by Parliament; inadequate consultation by the sponsor department; and poor legislative drafting and misleading documentation. I will not repeat the background to those reasons today, but I will emphasise a few points.

71. Campaigners were told at the planning inquiry that the site at Victoria Tower Gardens was chosen due to its juxtaposition to Parliament. The construction of the learning centre in the park, so close to Parliament, would permanently remind our parliamentarians and politicians of the virtues of democracy and the rule of law, providing a bulwark to totalitarian regimes.
72. The Government, in their current statement, suggest that they are now complying with the rules as laid down in the Standing Orders, so that any transgression they may have made or be making would be minor. If the Government's mission is to encourage democratic engagement, it is perverse to now seek to waive the very rules provided by Parliament to ensure that that necessary democratic process is fulfilled due to their inconvenience.
73. Further, as you can see in this room today, although off camera, the Government have a multitude of professionals at their disposal. That the Government, with all those resources available, chose erroneously to declare the Holocaust Memorial Bill a public Bill should not now be a justification for seeking an alternative and curtailed route since its declaration as hybrid.
74. The rules laid down by Parliament focus on public notices being given at a proper time and in a proper way. This was not done originally. Were this the only mistake in the delivery of this project it could be regarded as an oversight. However, the Government's professionals have systematically failed to respect any legal restrictions in their desire to deliver this poorly conceived project, resulting in a need for London Parks and Gardens, with its limited charitable resources, to take a successful challenge to the High Court last year. Our resources are now being carefully conserved, which is why you find me and not a professional legal adviser before you today.
75. Even on Friday, when the Government published their promised and belated second advertisement on page 20 of the *Evening Standard*, adjacent to "Labourers/Hod Carriers wanted" and other advertisements, they failed to produce the correct nomenclature. As an aside, I could not find an online version of the advert, despite indications by the agent to the House of Commons committee last week that every endeavour would be made to address this. In other

words, they are following the letter and not the spirit. Lord Naseby's question about penetration is extremely pertinent here.

76. The published advertisement, if you care to look at it, correctly declares that the Bill was introduced to Parliament as a public Bill, but then fails completely to acknowledge its hybrid status. Had it done so, the informed objector—we assume it would have to be an informed objector that would take note—would then have a greater understanding of why they were being directed to the Private Bill Office, otherwise it makes no sense.
77. Although this omission does not have a material consequence on procedures, it is yet again symptomatic of further sloppy handling of the project, which makes it so difficult for interested observers to feed in valuable information to the sponsor department at the appropriate time.
78. More seriously, however, at the introduction of the Bill, the Department for Levelling Up, Housing and Communities produced an erroneous briefing that it distributed to most MPs. Objectors produced a response to this as quickly as they could and had the assistance of the Father of the House's staff to help distribute our corrections, but we do not know how far that reached.
79. In my submission to the House of Lords, which you have before you, you will see that I included two documents in appendices 1 and 2, so that you may compare them side by side. Basic examples of errors that were perpetuated before MPs include claims that all the mature London plane trees, which are of historic interest to the park, will be protected, yet it was common ground during the public inquiry that 20 of those plane trees would have their roots cut and suffer long-term damage. Our rebuttal has never been acknowledged, and the sponsor department, despite numerous tabled Questions, has been incapable of clearly demonstrating the amount of green space in the park that would be lost to the overall structure, not just the 7.5% to the memorial fins. I therefore strongly recommend that it is not in the public interest for the Bill to be rushed through Parliament with this ongoing misinformation.
80. As well as misinformation, there is a distinct lack of information on one key matter. You are about to hear from the Buxton family about the lack of an environmental statement to accompany the Bill. We agree wholeheartedly with their concern. At a time when the Government acknowledge the need to address climate change and seek net zero, and where UK national planning policies suggest, in the National Planning Policy Framework, that urban historic green spaces should be protected, it is incomprehensible that a Bill that

seeks to lift those protections is not accompanied by such a statement.

81. In other words, although we understand that the committee cannot comment on the principle of the Bill, London Parks and Gardens firmly believes that parliamentary time would be far better used by using the current breach of Standing Orders as an opportunity to ask the Government to rethink their whole approach.
82. If the Standing Orders Committee does not see fit with this approach, London Parks and Gardens observes that the adverts suggest that there will be two opportunities to petition, lasting 25 calendar days each, once after the Second Reading in the House of Commons and the other after the First Reading in the Lords, or as decided by the Chairman of Committees.
83. London Parks and Gardens is grateful for these multiple chances. However, it would appreciate greater reassurance that not only may it petition on these occasions but its petition will be accepted by the subsequent committees for further consideration, along with a broad range of interested parties involving our fellow memorialists. At present, London Parks and Gardens has no such guarantee, although the Examiners' early report on hybridity makes clear that local residents should have a right to be heard.
84. I am open to answering questions about our submission before you today and thank you for your time in listening to our significant concerns about the ongoing handling of this project and the resulting Bill by its proponents. Everyone must play their part, and this is your opportunity to do so by using your powers to prevent the loss of historic parkland through a series of unfortunate mistakes and upholding the rules to secure better use of parliamentary time. The ambitions of this project could be resolved more quickly by compromise and genuine negotiation and without the need for and recourse to primary legislation. Thank you.
85. **THE CHAIR:** Thank you very much indeed. Could I ask for one clarification? I think you made a point about a mistake in the notice. Could you draw our attention to it?
86. **MRS HELEN MONGER:** It says, "The Bill has been introduced into the House of Commons as a public Bill". Then it goes on to say, "In the House of Commons, objection may be made to the Bill by depositing a Petition against it in the Private Bill Office during a period which begins", and so on. It does not explain why you would be going to the Private Bill Office unless it is hybrid. It does not say

that anywhere in its notice. My point is that it is a perfunctory notice. The Government have followed a tick-box exercise and they are not intent on encouraging people to participate in the democratic process to reason with them about the proposals.

87. **THE CHAIR:** Thank you, that is very helpful. Are there any other points from members of the committee?
88. **LORD NASEBY:** I do not live in London now, but I used to be the leader of the London Borough of Islington many years ago, so I understand a bit about parks and gardens. The real core of your objection is that the development is too large for this very prominent park and gardens. Am I right in understanding that?
89. **MRS HELEN MONGER:** You are absolutely right. We put in strong objections based on the historic significance of the park, which is our expertise. We believe that putting in the proposals as currently designed will result in the delisting of the park from grade 2. It was proposed at the planning inquiry by the planning inspector that the new building might be of such architectural merit that it might in future be listed, but our point is that once that building has been put right in the middle of the park, and the necessary security that will then follow, the use of the park for public enjoyment, quiet relaxation and amenity value will be all but drained.
90. **LORD NASEBY:** Given the international importance, I imagine, of the actual concept, has London Parks and Gardens been in a position to bring forward any alternative locations that it believes would be more appropriate?
91. **MRS HELEN MONGER:** We are not in a position to proffer alternative locations, but we are aware that the Holocaust Commission considered a whole host of locations, none of which included Victoria Tower Gardens. In fact, there was never any consultation about the choice of Victoria Tower Gardens. It was presented as a fait accompli when the designs went out to procurement with worldwide architects. That is half of the problem. That is where it stems from.
92. **THE CHAIR:** Are there any other points? No? Thank you very much, Mrs Monger, for making that statement. Mr Peck, could you speak to your statement, please?
93. **MR DONALD PECK:** Thank you for hearing us all. I am a member of the Thorney Island Society. Thorney Island is, of course, the part of Westminster where we are right now. The society is the amenity

society most directly concerned with the preservation of the heritage and green open space of this area, which includes Victoria Tower Gardens. I am also conscious of representing the views of the many local residents and local workers who made representations to the public inquiry, which took place nearly three years ago.

94. The Thorney Island Society and its members are not in any way opposed to the building of an appropriate memorial to the Holocaust. Let me say that up front. However, this committee needs to be aware, as you have already heard from some of my colleagues, that there has been a strong element of consistency in the approach taken by the Government to this project over the last seven and a half years. Their approach has been one of deliberate minimisation of public engagement, consultation and dialogue with any of the affected and interested parties.
95. In fact, it was the Thorney Island Society that first drew the Government's attention to the existence of the protections of this public land, Victoria Tower Gardens—the very protections which this Bill expressly seeks to remove. That was four and a half years ago, and it took the Government three and a half years and a lot of legal expense in the High Court and the Court of Appeal to come to the realisation that those protections actually existed and were important. The Government can hardly ever claim that they are not the cause of the delays that this project has suffered. Indeed, the Government have shown clearly that they consult only in a reluctant and minimalist fashion on this project, which is exactly why they deliberately breached these Standing Orders.
96. I remind the committee, if it is not aware, of the sympathetic attitude taken by the Chair of the Standing Orders Committee in the other place to the points made by this memorialist and others last week about the lack of consultation by the Government and her desire to communicate with the Government on that matter, even though the committee took the view that these Standing Orders were, as you stated, conditionally dispensed with by that committee.
97. I do not advocate creating any further confusion in this House, but I request that this committee too gives to the Government whatever instructions it is empowered to give them to ensure that the case against this Bill and the petitions likely to be launched by interested parties, and the speeches they will give in Parliament, are heard to the maximum extent possible. Thank you very much.

98. **THE CHAIR:** Thank you. Are there any questions to Mr Peck? No. Thank you very much. That is very helpful. Mr Buxton, would you speak to your statement, please?
99. **MR RICHARD BUXTON:** Good afternoon. Thank you for hearing me. Those I represent have a special interest in the matter, as the setting of the memorial in Victoria Tower Gardens to the abolition of slavery, which was seen through Parliament by our ancestor in 1833, will, under the Secretary of State's current plans, be harmed and would in any event be dwarfed by the proposed Holocaust memorial. The Buxton memorial, which fits well in the gardens in line with existing legislation, must be respected and protected along with the abolition of slavery, which it commemorates.
100. The committee has my statement. As you will see from it, my focus today is on what I consider to be a crucial legal error in the way the Secretary of State is presenting the Bill. That in turn affects his compliance with Standing Order 38 and, as I will explain, with Standing Orders 4A and 39. I will ask the committee to use its powers to correct that error by not dispensing with those Standing Orders. I respectfully submit that it would be wrong to allow the Bill to proceed without doing so.
101. Overall, my point is that the Explanatory Notes that were deposited with the Bill are plainly incorrect, because they fail to recognise that the Bill would be environmental law as defined in the Environment Act 2021. I make this point first in relation to Standing Order 38, as that is the Standing Order that specifically requires provision of Explanatory Notes—it is in Standing Order 38(2).
102. The Secretary of State claims that Standing Order 38 does not apply at all to this Bill because it is hybrid, not private. In the House of Commons, the advice given in advance to the committee—that it had been found to be such—was found applicable by the Examiners. That cannot be undone, but the pragmatic way forward was for the committee simply to dispense with the application of that Standing Order. That might be the prerogative of that committee, and it might be the prerogative of this one, but in so doing it must appreciate that it is acceding to the progress of a Bill in Parliament that, on its face, contains a false premise, and that cannot be right.
103. This House has the opportunity now to ensure that the error is corrected before it proceeds any further by ensuring compliance with, rather than dispensation of, Standing Order 38, so I respectfully invite the committee to do that.

104. To allege this sort of error by the Secretary of State is obviously very serious, but the point is clear. At the heart of this matter is that the natural environment of Victoria Tower Gardens will be radically altered and reduced by the proposed Holocaust memorial and the huge underground learning centre, including for several years of construction.
105. The 1900 Act, which was held by the courts to apply, is intended to protect that environment. The Bill before you is expressly designed to remove that protection. Although the Secretary of State is aware of the point, as it was raised in the House of Commons, he has said nothing to defend his position on it, either in Written Statements or today.
106. As my statement, which you have before you, shows, Section 20 of the Environment Act 2021 clearly applies. That is because in a case like this, where environmental protection of practically any sort is reduced, the Secretary of State is obliged by the Act to make a Written Statement to the House acknowledging that before the Second Reading. We are dealing with what is included within the definition of “natural environment” in the Act, with a reduction in environmental protection as defined—something the Act expressly requires to be addressed—and with environmental law, which is mainly concerned with environmental protection.
107. We are squarely within the ambit of Section 20, but in the Explanatory Notes of the Bill, which Standing Order 38 requires, although it is called there a “printed memorandum”, the Secretary of State states just the opposite. He says at paragraph 10 that the Bill, if enacted, would not be environmental law. That is plainly wrong, because it seeks to remove the environmental protection provisions of the London County Council (Improvements) Act 1900, which had been held by the High Court and the Court of Appeal to apply here. The Secretary of State must surely act to reflect what the law obliges him to do when introducing a Bill into Parliament. He is in danger of making the same sort of error as he did in not acknowledging the relevance of the 1900 Act in the first place.
108. Although Explanatory Notes are not expressly requirements of other Standing Orders, the Secretary of State is as at pains to say in his statement that Standing Orders 4A and 39, about deposit of the Bill and so forth, have been complied with and that this includes the deposit of Explanatory Notes. So even if Standing Order 38 were to be regarded as irrelevant, the purported compliance with the other Standing Orders mentioned and relying on the Explanatory Notes must include those notes being legally correct, and, as I have explained, they simply are not.

109. So I ask the committee to resolve this error. I suggest that this is done by expressly requiring compliance with Standing Order 38 or, if that is for other reasons to be dispensed with, by proper compliance with Standing Orders 4A and 39. I respectfully suggest that it would be wrong to dispense with compliance with those on the basis that the work has been done when plainly it has not.
110. To be clear, in the light of something that Mrs Monger said, I am not seeking what, in the legal trade, is called an environmental statement at this stage. That is a technical later step. I am looking for just an acknowledgement by the Secretary of State that this is environmental law which he is introducing.
111. On a different note, I note the Secretary of State's desire for haste in this matter. I and those I represent here—and others, as indicated already—would like the matter to be resolved too, but it cannot, in fairness, be rushed. The Secretary of State has been aware since at least July 2019 of the difficulty faced with the 1900 Act. I know that for a fact, because I put him on notice of it then, and it may well have been earlier. That was confirmed by the High Court in April 2022 and upheld by the Court of Appeal in July 2022. The Secretary of State then took six months to introduce a two-clause Bill in February this year. He can hardly claim urgency in this matter from any standpoint.
112. This is a matter where Victoria Tower Gardens has enjoyed protection for more than 120 years, and the primary purpose of any memorial must be, as Baroness Deech argues, for the long-term future. We have every sympathy for the marking of the Holocaust in some appropriate way. It is an exceedingly sensitive issue and one where the adage of "more haste, less speed" applies.
113. I trust that you will give weight to our concerns about the Environment Act 2021 and the Secretary of State's legal duties. I would be happy to answer any questions that you have if that would help but, in any case, thank you very much for hearing me.
114. **THE CHAIR:** Thank you very much indeed, Mr Buxton. Are there any questions from the committee?
115. **LORD NASEBY:** First, you alleged there was a false promise.
116. **MR RICHARD BUXTON:** Premise.

117. **LORD NASEBY:** I understood the word to be—. Well, I wrote down “false promise” from the Secretary of State.
118. **MR RICHARD BUXTON:** I meant premise, my Lord. In other words, on a false basis.
119. **LORD NASEBY:** Exactly what was that false premise?
120. **MR RICHARD BUXTON:** The false premise is that the Secretary of State says in his Explanatory Notes that the Bill “does not contain provision which, if enacted, would be environmental law for the purposes of section 20”. I say that that is a false premise on which this Bill should proceed.
121. **LORD NASEBY:** Thank you. That answers the third question I had, because those two are linked. The other area I need to make sure I understand is that you are saying that work has not been done regarding Standing Orders 4A and 39. That is what I wrote down. Could you clarify that again for me?
122. **MR RICHARD BUXTON:** What I am saying is that the Secretary of State says that he has complied with the various Standing Orders. I have drawn attention to Standing Order 38, because that specifically requires this Explanatory Memorandum, which is in fact sent in with the Bill.
123. Mr Owen says in his statement on Standing Orders 4A and 39, which are regarded as relevant—there is no dispensing of those because they are not applicable, unlike possibly Standing Order 38—that the Explanatory Notes are deposited with the Bill. I am saying that the Explanatory Notes—the note I have just read out—contain the same misleading, false or whatever information.
124. **THE CHAIR:** Are there any further points? Thank you very much for the statements that we have been given and the discussion that we have had. Obviously, the committee would now like to go into a private session. It would be very helpful if we could clear the committee room, if you would be prepared to wait in the committee corridor. We obviously have some discussion to have. I hope it will not be inordinately long, but we need to have a discussion, given the points made this afternoon. Thank you very much. We hope to call you back as soon as we can.

The Examination went into private session at 3.58 pm.

The Examination resumed at 4.20 pm.

125. **THE CHAIR:** Thank you very much indeed for waiting outside. We are now in public session again. First, the committee very much appreciates the statements that have been made and the strength of feeling that has been expressed by the statements from the memorialists. I said deliberately that we are in public session. The views that have been expressed today will have been heard and I am sure there will be other opportunities elsewhere for these views to be expressed.
126. I should say again that this committee has a narrowness of looking at the requirements of the Standing Orders. It is on that basis that we came to a decision that the Standing Orders referred to in the Examiners' certificate—namely, Standing Orders 4, 4A, 10, 11, 38 and 39—should be dispensed with. In reference to Standing Orders 4, 4A, 10, 11 and 39, we are also mindful of our requirement to look at what the Standing Order says and what has been done by the promoters to seek to remedy what obviously were the issues at large.
127. I thank all those who attended today. I recognise, as does all the committee, the forceful points that have been made. We are mindful of our technical requirements to look at this in terms of the Standing Orders. I therefore have to say that the committee now stands adjourned.

The Examination was adjourned at 4.22 pm.