

MINUTES OF ORAL EVIDENCE

taken before the

HOLOCAUST MEMORIAL BILL COMMITTEE

PETITIONS AGAINST THE BILL

Tuesday, 16 January 2024 (Afternoon)

In Committee Room 15

A video of the proceedings can be found [here](#).

PRESENT:

John Stevenson (Chair)
Keir Mather
Lia Nici
Angela Richardson
Karl Turner

FOR THE PROMOTER:

Christopher Katkowski KC, Counsel, DLUHC
Richard Turney, Counsel, DLUHC
Robbie Owen, Parliamentary Agent
Paul Downie, Witness, DLUHC

FOR THE PETITIONER:

1. Nicholas Brown

Exhibits referred to by the petitioner during the hearing can be found [here](#).

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(At 2.15 p.m.)

1. THE CHAIR: This is the second public meeting of the Holocaust Memorial Bill Select Committee. The Committee is bound by the instruction from the House, which is as following: that the Committee treats the principle of the Bill as determined by the House on the Bill's Second Reading as comprising the matters mentioned in paragraph 2, and those matters shall accordingly not be at issue during proceedings of the Committee. The matters referred to in paragraph 1 are: (a) the Secretary of State may incur expenditure for, or in connection with, (i) a memorial commemorating the victims of the Holocaust; and (ii) a centre for learning relating to the memorial; and (b) section 8(1) and 8 of the London County Council (Improvements) Act 1900 are not to prevent, restrict or otherwise affect the construction, use, operation, maintenance or improvement of such a memorial and centre for learning at Victoria Tower Gardens in the City of Westminster.

2. As the Bill does not remove the need for planning permission and all other necessary consents being obtained in the usual way for the construction, use, operation, maintenance and improvement of the memorial and centre for learning, the Committee shall not hear any petition against the Bill to the extent that the petition relates to: (a) the question of whether or not there should be a memorial commemorating the victims of the Holocaust or a centre for learning relating to the memorial whether at Victoria Tower Gardens or elsewhere; or (b) whether or not planning permission and all other necessary consents shall be given for the memorial and centre for learning or the terms and conditions on which they should be given.

3. We will now hear from the petitioner, Mr Brown.

Nicholas Brown

Submissions by Mr Brown

4. MR BROWN: Thank you. I will say very little, and it should be very short. I am going to say who I am, why I am here and what I would respectfully like the Committee to do to help me. As set out in my petition, I have lived in SW1 for 17 of the last 55 years. I have worked in Westminster for over 40 years. I am a roll A parliamentary agent since 1985 and still work in Parliament in that role, although I am now a

consultant, no longer a partner, at my firm.

5. There have been about 15 hybrid Bills since 1985 and I have been involved in acting for petitioners on 11 of those. I have also acted for the Government as government agent on the West Northants Joint Committee Order in 2007 and 2008.

6. Why am I here? As a Westminster person, man and boy, I am very keen to ensure that the gardens are kept as green as possible for as long as possible. It is a beautiful place. I walked round there before I came here this afternoon and it reminds me, as I wander round there, how beautiful it is and how quiet it is. Also there is a magnificent area at the far end, the southern end, where children play. There is a lovely play area there.

7. I am also here because, as I mentioned in the petition, my grandfather was the grandson of W.H. Smith. My grandfather's mother was W.H. Smith's daughter. W.H. Smith paid a considerable amount of money in those days to ensure that the gardens were used as gardens and kept as gardens in that way. I think it is a great shame that the Government wish to override such philanthropy and it is not a good idea, in my view, for the Government to do that sort of thing. It discourages philanthropy. If something is given generously and then overruled by the Government, within 120 years, that is a disappointment. That is why I'm here.

8. What I would like, respectfully, the Committee to do is to – if you would put up the amendment, please – amend the Bill along the lines set out in my amendment. I will not read it. I think it is very short. The purpose of it is to ensure that only part of the land and the gardens are ever used by the Government, the promoter. I will come to my plan in a second. No, perhaps we could put the plan up now. I apologise for this hand-drawn plan, but I think it is clear. The 'specified land' should be sufficient to build a very nice memorial and a learning centre, which is what I am not allowed to object to – which I quite understand – in that area hatched. That is why it is referred to as the 'specified land' on the plan and is also referred to as 'specified land' in the amendment to the Bill. If you would like to go back to the amendment, please.

9. That deals with the physical size, which I think should be kept to an absolute minimum to protect the land of the green park for all those who use it. My second point is that subsection 3 of my amendment ceases to have effect if the activities described,

i.e. the works, are not commenced by 31 January 2027. That is a temporal objection. In other words, if planning permission is granted, if this Bill is passed without any amendments, I would like to see work started no later than 31 January 2027 and I would like it completed by 31 December 2028. If for some reason it was decided not to proceed with the works – it is always possible; things change – then the land would remain protected under the London County Council (Improvements) Act 1900.

10. That concludes my opening remarks and I hope that was clear enough for you.

11. THE CHAIR: Thank you very much, Mr Brown. It is now the opportunity for the promoter to make comment. Mr Katkowski –

Response by Mr Katkowski

12. MR KATKOWSKI KC: Thank you, sir. I wonder if I could just start by clarifying something with the petitioner. I am ever so sorry, but I have got a sheet of amendments which had another amendment on it in relation to the local planning authority. I do not know whether that has been superseded.

13. MR BROWN: No, no. Do you want to put it up on the –

14. MR KATKOWSKI KC: It is there in the middle, isn't it?

15. MR BROWN: It is, yes.

16. MR KATKOWSKI KC: Sorry, I was just wondering whether –

17. MR BROWN: You are right; I should have read that part through. Thank you, Mr Katkowski. I would like the local planning authority to be consulted on this and also the consent of the local planning authority to be forthcoming. Planning is required. I believe it at the moment has gone beyond that stage but I would like to see that. Thank you for pointing that out.

18. MR KATKOWSKI KC: That's all right. The other question of clarification I had, I just wanted to understand the territorial restriction, the extent of the land restriction.

19. MR BROWN: Yes.

20. MR KATKOWSKI KC: Would you see that applying, as I understand it, to the

completed project, because as you will understand during construction we will need a lot more of the gardens than on completion?

21. MR BROWN: I have to say, I do not know the detail of it, but if you would like to put up on the plan on the screen, please. That is quite a large area and you can get to that area quite easily from Dean Stanley Street entrance, which is about two-thirds of the way down to the south. That was my thought process. I completely accept that this very unsophisticated drawing, albeit clear, is something that other petitioners, the promoters or the Committee might want to have improved. I do not expect this to be seen again.

22. MR KATKOWSKI KC: Thank you very much. Sorry to ask those couple of points of clarification.

23. MR BROWN: No, that is helpful.

24. MR KATKOWSKI KC: Thank you. There were three amendments which are sought. I wanted to say a few words about one or two of them and then I will need to call a witness on behalf of the promoter just to deal with evidential points concerning what is requested. Taking, in conceptual terms, the most straightforward one first, which is the territorial point, you will recall within my opening briefing I did mention – you directly asked me – what is in scope, and I did answer that the idea of restricting the extent of the lifting of the statutory obstruction was definitely in scope. We will hear evidence from my witness in a few moments' time in relation to this but, certainly as a concept, one can understand the point.

25. I just wanted to explain, on instructions, the way in which this works, as you will be very, very familiar, is that, if in due course the Committee expressed any interest in any such amendment, then the actual terms of the amendment would need to be discussed and settled by parliamentary counsel. Obviously, I would need to have the instructions of, in effect, the Government, the promoter of the Bill, the Secretary of State, in relation to that particular matter.

26. As I'm sure you will know, there are other petitioners who you are going to hear from, some of whom, in amongst the multitude of points they make, do raise a similar point about the territorial extent of the project. So I will call evidence on this in a few

moments' time but there is just a process that would need to be gone through if in due course the Committee expresses an interest in this idea. The petitioner is absolutely right, obviously: a plan which accurately captured the extent of the project would need to be drawn up. Indeed in the slide pack from the other day, which I am sure you still have available to you, slide 36 is a slide which shows the extent of the project in more accurate terms. That's just there.

27. The second of the three amendments which is sought relates to the planning consent and the notion that the Bill should be amended so that the local planning authority – that is Westminster City Council – should be the authority that grants any consent. As you will know from the introductory briefing the other day, there is a live planning application and, to use the petitioner's words, it has gone beyond the city council because it has been recovered by central Government. The Minister has it waiting to be redetermined. Just as a matter of principle, we could not and would not, and it would not be right to, in any way say that any planning consent can only be granted by the local planning authority because that is not the way the system works.

28. For example, as is the case with the current project, that is being called in by central Government, as I have just mentioned, but even if there were to be a new planning application for a different memorial and learning centre, the local authority would consider that. And if they refused it, on an appeal it would end up in the hands of central Government, so one cannot have as a matter of principle a restriction that the consent can only be granted by the local planning authority because that would remove our rights under the planning legislation, which would not be right.

29. The third amendment that is sought is a time amendment and, again, I referred to this in my opening briefing the other day as potentially within scope. I am going to call evidence in just a very few moments' time as to why we would find this impossible to live with, so to speak, in relation to the time periods that are put forward and the concept.

30. Of the three, one is something which undoubtedly, as far as we are concerned, should not be pursued, and that is the local planning authority point. Territorial restrictions, I will call evidence about in a moment. If the Committee is interested in the notion, then in due course we can come back with an amendment and a plan. Temporal

time restrictions, we would find very, very difficult for the reasons which my witness will explain shortly.

31. So, sir, unless I can help you any more in relation to those introductory points, I would like to call a witness on behalf of the promoter to deal with the evidential points that support that.

32. THE CHAIR: Please proceed.

33. MR KATKOWSKI KC: Thank you very much indeed. The other day, we had a little place there for Mr Downie, and he has got his nameplate as well. Mr Downie, I know that you have taken the oath because I saw that happen with my own eyes the other day, but I wonder if you could just introduce yourself to the Committee as to who you are and what your role is in relation to this project.

Evidence of Mr Downie

34. MR DOWNIE: Thank you. I am Paul Downie; I am a deputy director in the Department for Levelling Up, Housing and Communities, and I am programme director for the Holocaust memorial programme.

35. MR KATKOWSKI KC: Thank you very much indeed. Without any further ado, if we can just deal with the two matters which do arise. That is first of all the idea of a territorial or geographical restriction in relation to the extent of the lifting of the restrictions in the 1900 Act to remove the obstacle to the Holocaust memorial and learning centre. The petitioner has very helpfully clarified that he would wish there to be some form of restriction on the extent of construction first, so can we deal with construction first of all?

36. You will recall the self-avowedly not entirely accurate plan, but the notion was floated that this plan, there or thereabouts, would show enough land for the project to be constructed. Can you just help the Committee as to what you would say about that, please?

37. MR DOWNIE: The first thing to say is that we have not yet appointed the construction contractors, the people we would need to work with to build the memorial, and it would be important that we do work with them to put in place plans for

construction. Until we have done that, we don't really have a high degree of expertise and knowledge of the detail of how that would be carried out. Assuming we get to that stage, which will assume we have got planning consent, we would expect planning consent to come with conditions such that we would have to agree with Westminster City Council as the planning authority a construction logistics plan. We would have to agree with them the details of how it would work.

38. It is worth saying that at the moment we think, because the construction involves fairly extensive excavations – I think Mr Katkowski showed a slide last week giving an indication of the extent of the excavation of the basement – there would also need to be space for a site compound, for offices for the people working on the site, and for machinery. We do think it is likely to take up a reasonable amount of the gardens, probably more than indicated even on that sketch plan. It is also true that the proposals involve landscaping of the whole gardens so at some stage we would expect to close off parts of the gardens, hopefully for fairly short periods of time, to relay turf, to put new paths down and to put new planting in place.

39. MR KATKOWSKI KC: Thank you very much indeed. The other day, when I opened the case, I did mention an intention to keep certain parts of the gardens open during construction. Could you just help the Committee with that, please?

40. MR DOWNIE: Yes. Ministers have previously said that the intention would be to keep reasonably large areas open as much as we can, that is safe to do and is practical. We have in mind particularly the path that is alongside the river. We think it ought to be possible to keep that path open for much, probably not quite all, but for much of the construction period, and for some of the land at the northern end of the gardens around the Burghers of Calais, we would hope to keep that available too.

41. MR KATKOWSKI KC: Let us move from construction to imagining a world in which we have planning consent for the project, the Bill has become an Act, and the project has been built and completed. Can we turn to the suggestion that there should be an amendment restricting, once the project is completed, the extent to which the 1900 legislation has been lifted, so to speak? Can you just help, please, as to anything you would like to say in evidence to the Committee in relation to that?

42. MR DOWNIE: Thank you. As Mr Katkowski has said, we have already drawn

plans and Mr Katkowski presented some to the Committee that show our expectation of what the completed development would look like and how much of the gardens it would take. Of course, all that will be subject to planning consents. We will only be able to construct what we get planning consent for. It will not be possible simply to develop other parts of the garden without planning consent, once it is granted. There is, of course, an issue which we do keep in mind, which is that we haven't got planning consent. We cannot assume that we will get planning consent; it is a separate decision that is out of our hands. If we were not able to get planning consent, we would want it at least to be open to Ministers at the time to consider whether alternative schemes could be brought forward for Victoria Tower Gardens.

43. It has, after all, been accepted even by a number of objectors that it could be an appropriate place for a memorial. If we had left restrictions in place that meant the memorial could only be built on a very specified area of the site, that would restrict the options that could then be considered.

44. MR KATKOWSKI KC: Can we just think about those two, the fork in the road, if you like? One road is that there is a project that is in front of the Minister for planning approval; we await his or her decision in due course. If the current project is granted planning permission, as matters stand at the moment, is the expectation that that is the project that would be taken forward?

45. MR DOWNIE: That is the expectation.

46. MR KATKOWSKI KC: Thank you very much indeed. In that eventuality, is it capable of being done to draw a line around the extent of the completed project?

47. MR DOWNIE: In principle, to an extent, yes. We have to be very careful with definitions of exactly what is included but, in principle, yes.

48. MR KATKOWSKI KC: Indeed so. The other fork in the road, of course, is that the planning consent which we seek is not granted. In those circumstances, would there be a decision letter that explains the reasons why the permission has not been granted?

49. MR DOWNIE: We would certainly expect that.

50. MR KATKOWSKI KC: Thank you. What would be the expectation, having

received such a decision, in relation to considering whether to bring forward a smaller memorial, for example, or a memorial in a different part of the gardens? What would be the expectation in relation to that? Would that be considered?

51. MR DOWNIE: I think it would be considered. We would have to go to Ministers and see how they wanted to proceed at that stage.

52. MR KATKOWSKI KC: Thank you very much indeed. The point, as I understand it, you were making is that, if you had a restriction that tied it to the project that is currently being pursued, is there a risk that that might not fit with some future project, if the current application is refused permission?

53. MR DOWNIE: That is exactly the risk.

54. MR KATKOWSKI KC: Thank you very much indeed. We can scratch our heads about that one but those are the points in relation to territorial restrictions. Can I move to temporal restrictions, time restrictions, next please and ask you about that? We have got two matters. One is the principle of the time restriction. We must start by a certain time; we must finish by a certain time. The other is the particular period which is referred to in the petitioner's amendment. Can we start with the principle, please? Forget the time period that is specified in the amendment at the moment but the principle.

55. MR DOWNIE: Again, we come back to the question of planning consent. When we had planning consent in July 2021, it came with a condition that the development had to be started within three years. We would expect to get the same condition if planning consent were awarded again. I understand it is a requirement in the Town and Country Planning Act 1990, the legislation that governs planning consent, that planning consent would come with a limit of three years unless an alternative is given in that particular case. We would expect there to be a requirement that we would commence the development within three years. Of course, it is the Minister's clear intention to get on with it as quickly as possible anyway. The express view has always been that we want the memorial completed as quickly as we can, particularly with a view to opening with Holocaust survivors present.

56. There's no inclination to be slow and there would be a requirement to be starting

the development within three years anyway. It is not immediately clear what extra would be gained by having a provision in the Act as well.

57. MR KATKOWSKI KC: Thank you very much indeed. It is a matter of law that if we do obtain planning permission it will have, 'You must start within X years', and the default X is three years as the statute provides. What about completion? What is the position, please, in relation to the Secretary of State and completion?

58. MR DOWNIE: Broadly, and we've said this publicly previously as well, we expect construction to take round about three years. There would probably be an extra period for fitting-out before we could open. The aim would be to get through construction as efficiently and as quickly as we could. We would feel pretty uncomfortable about having a target date to complete with the risks of adding pressure on contractors to do something that might be unsafe. Of course, if we had a statutory limit on the lifting of the 1900 Act restrictions, we could find ourselves in a very awkward position if construction had not been completed and some of the disapplication of restrictions ceased and restrictions returned before the memorial was complete. It is not entirely clear to me, but we would end up in a bit of a muddle at that stage.

59. MR KATKOWSKI KC: Yes, yes. If you had built three-quarters of it, and then the restrictions come back into place, you have got a three-quarters building which is not allowed under the 1900 Act.

60. MR DOWNIE: Yes.

61. MR KATKOWSKI KC: Understood. If there were to be any time restrictions, if the Committee in due course thought there would be some utility in that in relation to this Bill, what do you say as to the notion that you should specify particular dates as opposed to referring to a condition under a planning consent? You will know that the petitioner has put forward 31 January 2027, you must start by, and then you must finish by 31 December 2028, which we've already said would not be long enough. Forget the actual dates, but if there were to be time restrictions would it make sense to actually nominate specific dates or not?

62. MR DOWNIE: I would say not, principally because we're not in control of when we might or might not get planning consent.

63. MR KATKOWSKI KC: Even if one does get planning permission, you've made the point about the length of time it might take the constructor to construct the project.

64. MR DOWNIE: Yes.

65. MR KATKOWSKI KC: When you were giving evidence about territorial restrictions – we dealt with that fork in the road – if we get our current project approved, that's one way. If we don't and another memorial comes forward, that's another way. Would that also apply to these timing points?

66. MR DOWNIE: It very much would. It's not a quick process to put together an alternative application and it would not be entirely within our hands as to how quickly another application was determined.

67. MR KATKOWSKI KC: Indeed. Thank you very much indeed. Was there anything you wanted to add in relation to those two amendments?

68. MR DOWNIE: I don't think so, thank you.

69. MR KATKOWSKI KC: Thank you very much indeed. Sir, that is the evidence I would wish to call on those points.

70. THE CHAIR: Thank you very much. Mr Brown, would you like the opportunity to ask Mr Downie any questions?

71. MR BROWN: I would, if I may. Thank you very much. Thank you, Mr Downie. You answered those very clearly and very helpfully, I thought. One question I perhaps missed: how long would it actually take to build and construct what you presently propose to build?

72. MR DOWNIE: Our current estimate is round about three years but, as I mentioned earlier on to the Committee, we do not yet have contractors in place and we would need to talk to them about it.

73. MR BROWN: The other point I wanted to make in regard to that: that is a very long time to keep a very nice part of green London under construction. Three years seems an awfully long time. Why is that, in particular? Is it because of the undergrounding?

74. MR DOWNIE: Yes. It is a relatively complicated building to construct; there needs to be excavation. One point which does take up quite a lot of time is the archaeological work that we're expected to do, which involves quite a lot of careful digging by hand, to quite a depth of ground. That takes up quite a chunk of time, many months, within the programme.

75. MR BROWN: If you think it is going to be three years and planning permission is going to be three years, why is it not reasonable to put a deadline on this? What I, and possibly other petitioners, do not want to see is this land blighted by the ability of a Secretary of State to come forward at any time, with any planning permission, over this land. You have impliedly said, even if planning permission was granted in the way that it is presently put forward, you might reconsider a better idea, have a better idea, having seen what petitioners have come up with – not me, others. You may change your mind and have something better.

76. On the one hand, of course, some petitioners are going to find that very helpful and encouraging, but on the other hand I, personally, might find it the opposite in the sense that giving the Secretary of State carte blanche to use this nice piece of land whenever he or she wants for something like this – a memorial – causes us a problem. I'm sure you see that.

77. MR DOWNIE: Thank you. I would like to make a couple of points in response to that. One is that Ministers are absolutely firmly committed to the current proposal. There is no intention at this stage to change the proposal, to come up with a better idea. We think this is the right proposal for this space at this time. The scenario in which we would be considering alternatives is the one in which planning consent is refused. We're not expecting another scenario in which we would be looking to alternatives.

78. The second point I want to make is that the idea of carte blanche does not really stack up. Getting planning consent is quite difficult. Victoria Tower Gardens, even without the 1900 Act in place, is subject to all sorts of restrictions and protections. Our planning application was put in at the very end of 2018. It was 2021 before consent was given, which is just an indication of how much work, how much scrutiny, planning applications go through. The idea that we could come up with another one which, of course, could only ever be for a Holocaust memorial and learning centre – we are not

seeking to lift the restrictions from the 1900 Act for any other type of development – so there seems to be no practical prospect of coming up with any further proposal other than the one we are putting forward, unless that is refused, in which case Ministers would want to consider alternatives.

79. MR BROWN: The very worst scenario from my point of view is that you get planning permission and you take three years, you build and take up quite a large part of the garden. Do you accept that the rest of the garden should maintain the restrictions?

80. MR DOWNIE: Yes. I can see a number of risks in terms of unintended consequences from retaining restrictions that the 1900 Act would put in place around the gardens, things like the definition of what constitutes the memorial. We know there will be a memorial, we know there will be an underground learning centre, there will be a kiosk, there will be a playground. Being absolutely precise about which parts of the new development that we put in place are covered by the Act could create complications which might lead to future challenges and difficulties.

81. That question aside, what I would say is that we intend to construct the memorial and learning centre as proposed, and that is all we intend to do. We do not intend to come back and make significant changes at a later stage, if that is what you are suggesting.

82. MR BROWN: No, I was not suggesting that. What I am suggesting is that, because of that view, there is no reason not to maintain the protection over the rest of the land, and that seems to me a simple point to concede.

83. MR DOWNIE: I'm nervous to concede it for you, just because of the unintended consequences point. Arguably, I would say the fact that we are not repealing section 8 of the 1900 Act shows that we accept that the restrictions – we want it to be maintained as a garden open to the public, so that is why we are not seeking to repeal the provisions of the Act. We expect the rest of Victoria Tower Gardens to remain as a garden open to the public.

84. MR BROWN: Thank you, sir.

85. THE CHAIR: Thank you very much. Mr Katkowski, do you have any questions

to ask?

86. MR KATKOWSKI KC: Just in re-examination, so to speak, yes. Mr Downie, can I just return to that very last point? The project as it currently stands – underground learning centre, above ground memorial, courtyard, entrance pavilion – all as described the other day when we opened the case. That is the memorial and learning centre. Otherwise, within the gardens, various works are proposed as was explained when we opened. There are new paths, re-laid paths, revamped children's play area and a repositioned and new café kiosk.

87. MR DOWNIE: Yes.

88. MR KATKOWSKI KC: Yes. If, in due course, the Committee expresses an interest in there being a territorial restriction on the extent of the completed project, would it be a matter for parliamentary counsel to consider exactly which parts of the overall scheme would need to be in play, so to speak?

89. MR DOWNIE: Yes. We would ask parliamentary counsel to come up with definitions that would potentially work.

90. MR KATKOWSKI KC: Thank you, Mr Downie. That is all I wanted to ask in re-examination.

91. THE CHAIR: Thank you very much. Do any members of the Committee have any questions of either Mr Brown or Mr Downie?

92. MR TURNER: Just very briefly, Chair, if I may. Thank you, Mr Downie. Do you anticipate any conditions on any construction contract requiring the accessibility of the public to use the park during the build? Would that be a condition of a contract you might think about adding in?

93. MR DOWNIE: We would certainly consider that sort of approach. We have always been clear, we want to keep as much of the park open as we can, that is safe to do so and that is consistent with it being built efficiently. We would expect to work with our contractors to find out ways to do that and we would expect to work with Westminster Council, and probably with the Royal Parks as well, who manage the gardens, to try to identify what we could do, what would be safe to do.

94. MR TURNER: And in terms of the time that it might take to construct, would that be something you would want to add into a contract? Would you want to include the requirement for it to be completed within the period that you're –

95. MR DOWNIE: We'll certainly set expectations about how long it would take. I would be slightly nervous about putting very firm requirements on it. For safety reasons, we don't want to put in place incentives that might compromise the safety of the construction phase.

96. MR TURNER: What about penalty clauses in the contract?

97. MR DOWNIE: Yes, we'd be in that territory if we thought there were unnecessary delays.

98. MR TURNER: Thank you, Chair.

99. THE CHAIR: Thank you. Angela?

100. MS RICHARDSON: Thank you, Chair. Mr Brown, thank you for your amendments. For the consideration of the Committee, do you consider your amendments to be related to each other and, therefore, considered en bloc, or would you like the Committee to consider each amendment individually?

101. MR BROWN: Thank you, madam. I would like them to be considered individually because they are separate. My learned friend, counsel for the Government, has dealt with one that he objects to and throws out of the window – the planning consent one. I do not necessarily agree with that, but he does not object in principle to the other amendments. The detail of them, he certainly does, so I would be very happy if some parts were acceptable to the Committee; that would be welcomed by me. I suspect other petitioners have also come up with amendments which may draw on this, or be better, and they will certainly have better plans.

102. MS RICHARDSON: Thank you.

103. THE CHAIR: Mr Downie, just out of interest, how long do you think it would be after Royal Assent that you would get planning consent?

104. MR DOWNIE: It is very difficult to know. We are on the other side of the ethical

wall so we cannot talk to our colleagues who are advising the Minister on the planning side. We hope it will not be too long, but it is certain to be months and it could be longer, but I would not like to pretend that I know any detail.

105. THE CHAIR: It would be a Minister re-examining what is already there.

106. MR DOWNIE: That is my understanding, yes. The inspector's report is there. I would expect the bulk of the material that the Minister would wish to consider is in the inspector's report. We are expecting that he will give us and other parties the opportunity to put other information forward that they may think is relevant, but we think the inspector's report is what he needs fundamentally to make that decision.

107. THE CHAIR: When it comes to the construction of the memorial, is it possible that you could have an allocation of where the memorial is going to be and an allocation of land you need for the works during the construction? You would effectively be identifying two different sites.

108. MR DOWNIE: Yes. The difficulty with that is that we will not know that until we have the contractors in place, which we will not do before planning consent, which cannot happen before the Bill is passed. There is a sequencing problem there.

109. THE CHAIR: Thank you. Does anybody else have –

110. MR MATHER: Yes, if I may, one last question just on Karl's point about requiring a contracted construction company to do all they could to facilitate access. Which would be most likely, do you think, out of mandating a construction company to do so, or asking them to do everything in their power to ensure that that is the case? I suppose there is a difference between it being mandated and being assured.

111. MR DOWNIE: I think, in practice, we are more likely to be under the second of those two, because we do not envisage being in a position where we simply hand over to the contractor the task of building it. We want to stay close and be talking to them about their plans and making sure they are developed in consultation with us.

112. THE CHAIR: Thank you very much, everyone. That concludes this afternoon's proceedings. Thank you in particular to Mr Brown for giving your evidence and thank you to everyone.