

Mr John Stevenson, MP
Chair,
Select Committee on the Holocaust Memorial Bill
House of Commons
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29 January 2024

Dear Mr. Stevenson

HOLOCAUST MEMORIAL BILL

We are writing to you on behalf of the Promoter of the Bill, the Secretary of State for Levelling Up, Housing and Communities, to respond to the request you put to Mr Christopher Katkowski KC at the fifth public session of the committee (23 January) for information about consultation on the selection of Victoria Tower Gardens as the preferred site for the Holocaust Memorial and Learning Centre. This letter also responds to the question from Angela Richardson MP at the seventh session (24 January) about meetings with Baroness Deech and other petitioners.

Consultation and engagement on planning matters

The development of plans for a new national Memorial to the Holocaust has been characterised from the beginning by efforts to involve people from a wide range of backgrounds and with diverse experience, and to seek even wider input through general consultation where it has made sense to do so.

The Holocaust Commission appointed by the Prime Minister in 2014 included representatives from all main political parties, as well as people with backgrounds in education, the arts, business and broadcasting. As part of its work, the Commission issued a Call for Evidence which prompted almost 2,500 responses.

In 2015 the Government set up the UK Holocaust Memorial Foundation to take forward the Commission's recommendations. Once again, the Foundation included representatives from all major political parties, alongside the Chief Rabbi and senior people with expertise in education, technology, property, philanthropy and in museum leadership.

The Foundation conducted a very extensive site search, which included publication of a request for suggestions of sites which might prove suitable. Only after considering around 50 possible sites did the Foundation conclude that Victoria Tower Gardens was uniquely capable of meeting the requirement for prominence, and should therefore be recommended to the Government.

General public consultation was not carried out at this stage of recommending a preferred site. In the absence, at that stage, of any clear proposals for what a Memorial would look like and how it would sit within Victoria Tower Gardens, as well as the absence of any alternative schemes, or alternative

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locations meeting the Foundation's aspirations, a general consultation exercise could not have been meaningful.

Very considerable efforts were made to consult widely as the proposals developed:

- After the international design competition reached the shortlist stage, in 2017 details of the 10 potential designs were published online and exhibited at the Victoria and Albert Museum in London and in Edinburgh and Cardiff. Comments on the shortlisted designs were invited from members of the public, those working in the field of Holocaust remembrance and education, and technical experts: this consultation informed the final decision on the chosen design.
- Following the selection (by a broad-based jury) of the design team, details of the chosen design, with an architectural model, were shown in a public exhibition in Church House, Westminster in September 2018 in order to seek feedback on the emerging design. More than 370 people attended that exhibition, and a further exhibition was then held in December 2018, also in Church House Westminster, to provide an opportunity for further review of proposals before submission of the planning application.
- Following submission and validation of the planning application in December 2018, comments could be submitted by the public via Westminster City Council's website forming the standard consultation required under planning law for any planning application, which is publicised in a prescribed way. The first consultation period opened in January 2019, with further consultations in April and October 2019 following amendments to the planning application. Around 4,500 comments were submitted, including around 3,000 that arose from the efforts of the Big Ideas Community Interest Company who were commissioned by the Promoter to raise awareness of the proposals and who made presentations at a range of residents' associations, schools and other local groups.
- A planning inquiry, chaired by an independent inspector, was held to consider the proposals in detail following call-in of the planning application by the Secretary of State. The inquiry met over 20 days in October-November 2020 with all sessions broadcast online. Several groups and individuals (including Baroness Deech, the Thorney Island Society and the London Historic Parks and Gardens Trust) registered as 'Rule 6' parties and were able to present detailed evidence and be represented by counsel who could cross examine the Promoter's witnesses.
- In addition, it was open to anyone to make oral representations to the planning inquiry. 69 people did so, and their representations were each recorded in the inspector's report to the Minister.
- All of those who participated in the Inquiry are listed in the Inspector's Report.

Meetings with Baroness Deech and other petitioners

The Promoter's records show that Baroness Deech, together with Trudy Gold (who gave evidence to your committee in support of Baroness Deech's petition) met the Secretary of State on 30 November 2021 for a detailed discussion of the proposed Holocaust Memorial and Learning Centre. Baroness Deech was also present at a meeting hosted by Baroness Scott of Bybrook on 9 March 2023 to brief peers on the Holocaust Memorial Bill. Lord Pickles, co-chair of the UK Holocaust Memorial Foundation, was also present at that meeting.

Baroness Deech has written to Ministers on a number of occasions, setting out her wide-ranging objections to the proposed Memorial and Learning Centre. On 14 July 2023 Baroness Scott replied to Baroness Deech's letter of 26 June 2023 and offered a further meeting with Baroness Deech: the Promoter has no record of any reply from Baroness Deech to that letter.

The Promoter's Parliamentary Agent wrote to all petitioners twice in Q4 of 2023 in preparation for the Committee's proceedings and copies of the letters sent to Baroness Deech are appended to this letter. First, on 24 October 2023, when it was said:

"At this stage, the Promoter has not identified any potential amendments that petitioners intend to ask the Committee to make to the Bill which would not either encroach on the agreed principle of the Bill, or relate to a matter which should properly be dealt with in the planning process for the HMLC, both of which fall outside of the Committee's remit to consider."



That said, the Promoter notes that it has become common practice in recent hybrid bill select committees for promoters to give assurances and undertakings to petitioners and/or the committee, which provide commitments relating to how the promoter will exercise the powers contained in the Bill. The Promoter is open to considering, without prejudice to his position, what assurances and undertakings could be given, if appropriate, and so will take into consideration in preparing for the Committee any suggestions in this regard that you might wish to put forward”.

And then, on 13 and 14 December 2023, the Promoter's Parliamentary Agent wrote again to all petitioners, saying:

‘Given the above, the Promoter considers that the focus of the Select Committee’s hearings can be expected to be on non-planning’ matters, by which we mean matters that would not ordinarily be expected to be covered by any conditions of a planning permission for the HMLC that is issued and any related section 106 planning obligations agreement. These non-planning matters are anticipated to relate to the impact of the Bill on the private and local interests in VTG, and in this respect the Promoter is prepared in principle to consider providing commitments to petitioners relating to how VTG users will be affected during the construction stage and how the Promoter will engage with them during that time. The Promoter’s overriding aim, in conjunction with delivering the HMLC, is to enhance VTG so that they can continue to be appreciated by everyone living in, working in or visiting the area. The Promoter considers that such commitments could best focus around setting up consultative arrangements to allow the Promoter’s representatives to engage with users of VTG during construction, and introducing a formal complaints process to address any issues that arise during construction. The Promoter would welcome your response to these suggestions, including any comments you might wish to make regarding the detailed nature of any such commitments, and we would be happy to meet you to discuss them and these non-planning matters, if you would welcome that. A response by Thursday 04 January 2024 would be helpful given that the Select Committee is expected to start its hearings shortly thereafter.”

None of the petitioners provided any response specifically to the Promoter's suggestions about commitments, and until the Committee's proceedings on 24 January 2024 only Nicholas Brown had responded to the Promoter's December letter to confirm that he would be happy to meet with the promoter at a mutually convenient time to discuss the contents of the letter he had received and that he would be prepared to join a meeting with other petitioners if that would assist. Given the London Historic Parks and Gardens Trust and the Baroness Deech petitioners' indication during the Committee's proceedings on 24 January 2024 that they are now prepared to discuss these matters, the Promoter is making arrangements for a meeting to take place in the week commencing 29 January 2024.

Yours sincerely

RJV Owen, Partner of Pinsent Masons LLP
Parliamentary Agent for the Secretary of State for Levelling Up, Housing and Communities

APPENDIX

BY E-MAIL AND POST

Baroness Deech

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24 October 2023

Dear Baroness Deech,

HOLOCAUST MEMORIAL BILL - HOUSE OF COMMONS SELECT COMMITTEE HEARINGS

We write on behalf of the Secretary of State for Levelling Up, Housing and Communities, who is the Promoter of the Holocaust Memorial Bill (**the Bill**), which was introduced into the House of Commons in February 2023. The Bill provides, among other things, that sections 8(1) and 8(8) of the London County Council (Improvements) Act 1900 do not prevent or restrict construction or operation of a Holocaust Memorial and Learning Centre (**HMLC**) in Victoria Tower Gardens, Westminster.

As you will be aware, the Bill has now been committed to a Select Committee of the House of Commons (**the Committee**). Prior to its second reading in the House of Commons in June 2023, the Bill was found by the Parliamentary authorities to be hybrid, which meant that those persons specially and directly affected by the Bill were given the opportunity to petition against it. The petitioning period ended on 24 July 2023, and the next stage of the Bill is for petitioners who have a right to be heard to appear before the Committee. At the time of writing, the Select Committee is yet to be appointed and no timetable for hearings has been set. You were one of the parties to deposit a petition within the time limit and your petition has been considered in detail by the Promoter.

Petitioners against a hybrid Bill do not have an automatic right to have their petitions considered by the Committee. Instead, their petitions must allege and prove that their property or interests are directly and specially affected by one or more provisions of the Bill, and that they therefore have a "right to be heard" by the Committee (often referred to as "standing"). The Promoter has the right to challenge the Petitioner's right to be heard if it is considered that the petition fails to demonstrate that their property or interests are directly and specially affected by the Bill. The Promoter set out his position on challenging petitioners' standing in respect of the Bill in a note published on the Department for Levelling Up, Housing and Communities' website on 4 July 2023.¹ This note set out the principles that the Promoter would take into account when considering whether to make a standing challenge. Ten petitions against the Holocaust Memorial Bill were deposited. The Promoter has had regard to his July note but in the interests of expediency and the efficient use of the Committee's time, he has decided not to challenge your right to be heard, or the right to be heard of any of the other petitioners.

¹ <https://www.gov.uk/government/publications/holocaust-memorial-bill-note-of-promoters-position/holocaust-memorial-bill-the-right-of-petitioners-to-be-heard-by-the-house-of-commons-select-committee-note-of-promoters-position>

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The Promoter reserves the right to consider his position on challenges to standing afresh, in relation to any petitions that are deposited against the Bill in the House of Lords.

The Promoter is of the view that a number of the points made in your petition concern matters which are not within the remit of the Committee to consider. At the second reading of the Bill on 28 June 2023, the House of Commons approved the principle of the Bill and gave an Instruction to the Committee. The House agreed that the Committee would not hear points raised on a petition that challenged the principle of the Bill. The House agreed that the following matters fell within the principle of the Bill:

- 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; and
- b) whether or not planning permission and all other necessary consents should be given for the memorial and centre for learning, and the terms and conditions on which they should be given.

At the Committee hearings, the Promoter intends to question points made by petitioners which he considers are not within the remit of the Committee, relating to matters such as the site selection process and decision to locate the HMLC in VTG, the design of HMLC and the inclusion of a learning centre as part of HMLC.

At this stage, the Promoter has not identified any potential amendments that petitioners intend to ask the Committee to make to the Bill which would not either encroach on the agreed principle of the Bill, or relate to a matter which should properly be dealt with in the planning process for the HMLC, both of which fall outside of the Committee's remit to consider.

That said, the Promoter notes that it has become common practice in recent hybrid bill select committees for promoters to give assurances and undertakings to petitioners and/or the committee, which provide commitments relating to how the promoter will exercise the powers contained in the Bill. The Promoter is open to considering, without prejudice to his position, what assurances and undertakings could be given, if appropriate, and so will take into consideration in preparing for the Committee any suggestions in this regard that you might wish to put forward.

Please note that we are sending this letter just to you, as lead petitioner and agent for your co-petitioners, but we will assume you will share it with your co-petitioners.

Yours sincerely,

RJV Owen, Partner of Pinsent Masons LLP

Agent for the Secretary of State for Levelling Up, Housing and Communities

BY E-MAIL

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13 December 2023

Dear Ms Peck, Ms Monger and Baroness Deech,

HOLOCAUST MEMORIAL BILL - HOUSE OF COMMONS SELECT COMMITTEE

Thank you for your letters dated 31 October and 6 November 2023, sent on behalf of the London Historic Parks & Gardens Trust, the Thorney Island Society and Baroness Deech.

We have considered both letters in detail with the Promoter's representatives and are of the view that the majority of the matters raised in them, and indeed in your petitions against the Bill, relates to the principle of the Bill. This principle was debated and settled by the House of Commons during the Bill's second reading on 28 June 2023.

After second reading, the House approved an Instruction motion to the Select Committee. The Instruction is clear that the Committee should 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 should be given for the memorial and centre for learning, or the terms and conditions on which they should be given.***

As you will no doubt be aware, it is established convention that select committees should not consider matters which relate to the principle of the Bill, and in this case the House set out in the Instruction what it considers the principle of the Bill to be and to include.

Instead, the Select Committee has been appointed to hear submissions from petitioners whose private or local interests are specially and directly affected by the Bill. These "private and local

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interests” were defined in the Report from the Examiners of Petitioners for Private Bills and Statement of Reasons (18 May 2023), which sets out the reasons why the Bill was found to be hybrid. The Examiners found that each member of the public has a private interest in Victoria Tower Gardens (**VTG**) which is affected by the Bill, and that the private interests of those who live close to VTG are affected differently from the private interests of other members of the public.

In particular, your letter of 6 November asserts that the location of the Holocaust Memorial and Learning Centre (**HMLC**) is not pre-determined by the Bill and that the only reference to VTG in the Bill is an indirect one, meaning that it is open for the Committee to consider the questions, first, of whether the HMLC should be located in VTG at all; and secondly, whether the Memorial and the Learning Centre should be co-located in VTG.

It is the Promoter’s view that these matters clearly go to the principle of the Bill and are therefore outside the scope of matters the Select Committee can be expected to consider, given the clear wording of the Instruction.

Given the above, the Promoter considers that the focus of the Select Committee’s hearings can be expected to be on ‘non-planning’ matters, by which we mean matters that would not ordinarily be expected to be covered by any conditions of a planning permission for the HMLC that is issued and any related section 106 planning obligations agreement. These non-planning matters are anticipated to relate to the impact of the Bill on the private and local interests in VTG, and in this respect the Promoter is prepared in principle to consider providing commitments to petitioners relating to how VTG users will be affected during the construction stage and how the Promoter will engage with them during that time. The Promoter’s overriding aim, in conjunction with delivering the HMLC, is to enhance VTG so that they can continue to be appreciated by everyone living in, working in or visiting the area.

The Promoter considers that such commitments could best focus around setting up consultative arrangements to allow the Promoter’s representatives to engage with users of VTG during construction, and introducing a formal complaints process to address any issues that arise during construction. The Promoter would welcome your response to these suggestions, including any comments you might wish to make regarding the detailed nature of any such commitments, and we would be happy to meet you to discuss them and these non-planning matters, if you would welcome that. A response by Thursday 04 January 2024 would be helpful given that the Select Committee is expected to start its hearings shortly thereafter.

Finally, it would assist us to know if you are intending to make a joint case to the Select Committee on your three petitions, or if you will be appearing separately.

Yours sincerely,

RJB Owen, Partner of Pinsent Masons LLP

Agent for the Secretary of State for Levelling Up, Housing and Communities